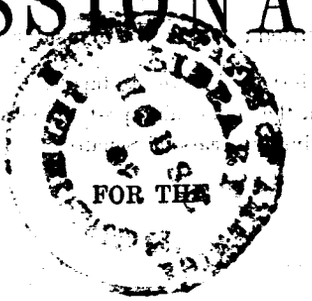
CONGRESSIONAL GLOBE



SECOND SESSION FORTIETH CONGRESS.

PART I.

IN THE SENATE OF THE UNITED STATES,

THURSDAY, *February* 21, 1867.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

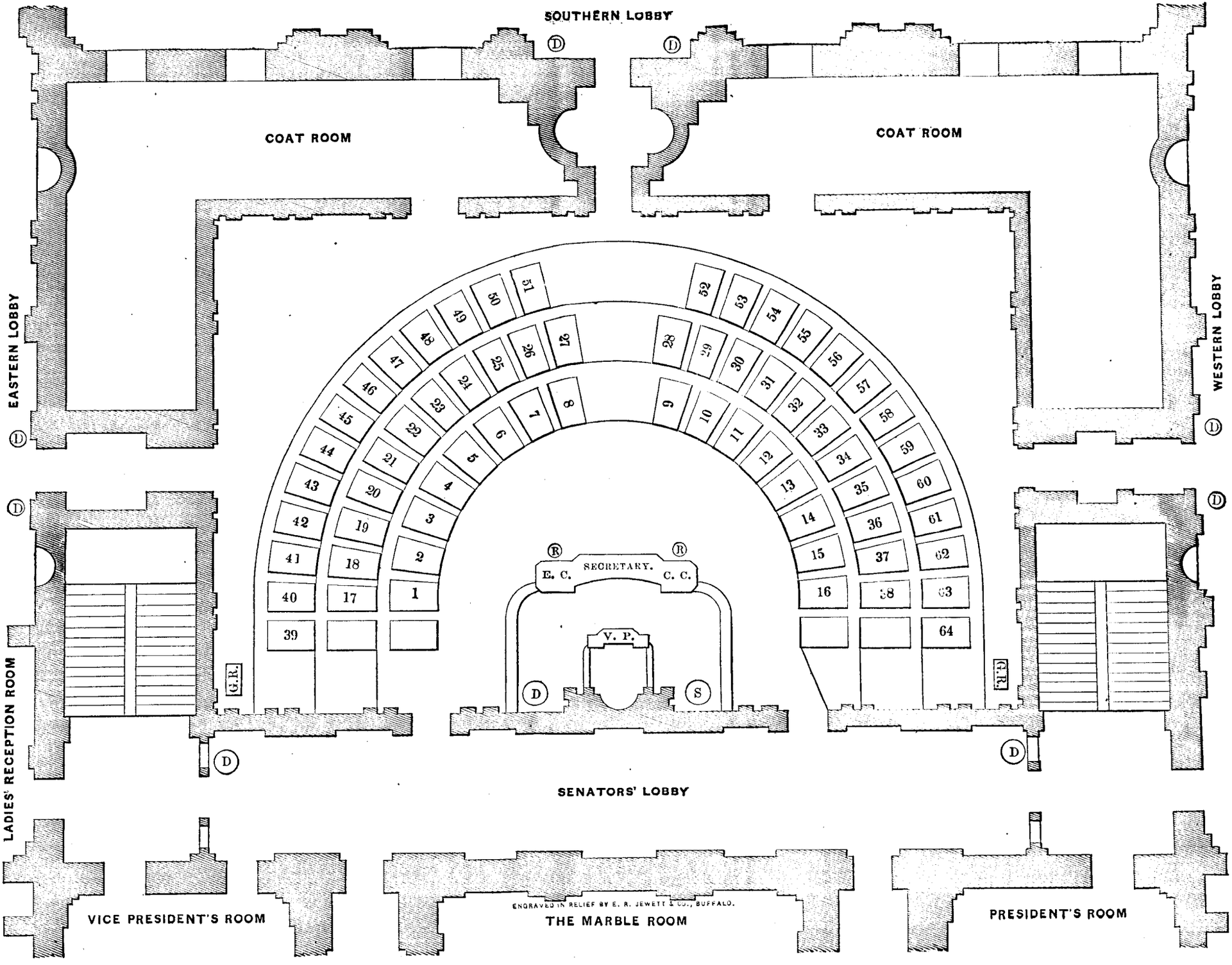
Resolved, That the Secretary of the Senate is hereby directed to furnish to the official publishers of the Debates in Congress, to be inserted therein at the close of each session, the name and post office address of each Senator, and of each officer of the Senate, with a diagram of the Senate Chamber showing the seats of Senators.

IN THE HOUSE OF REPRESENTATIVES,

SATURDAY, *February* 16, 1867.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House be directed to furnish to the publishers of the Globe at each session of Congress a list of the members of the House of Representatives, with their post office address, and the number of the seats occupied by the same.


SOUTHERN LOBBY
COAT ROOM
COAT ROOM
EASTERN LOBBY
WESTERN LOBBY
LADIES' RECEPTION ROOM
SECRETARY.
E. C.
C. C.
V. P.
G.R.
G.R.
SENATORS' LOBBY
VICE PRESIDENT'S ROOM
THE MARBLE ROOM
PRESIDENT'S ROOM
ENGRAVED IN RELIEF BY E. R. JEWETT & CO., BUFFALO.

74

Name and Post Office Address

OF

Each Senator and of each Officer of the Senate, Second Session Fortieth Congress.

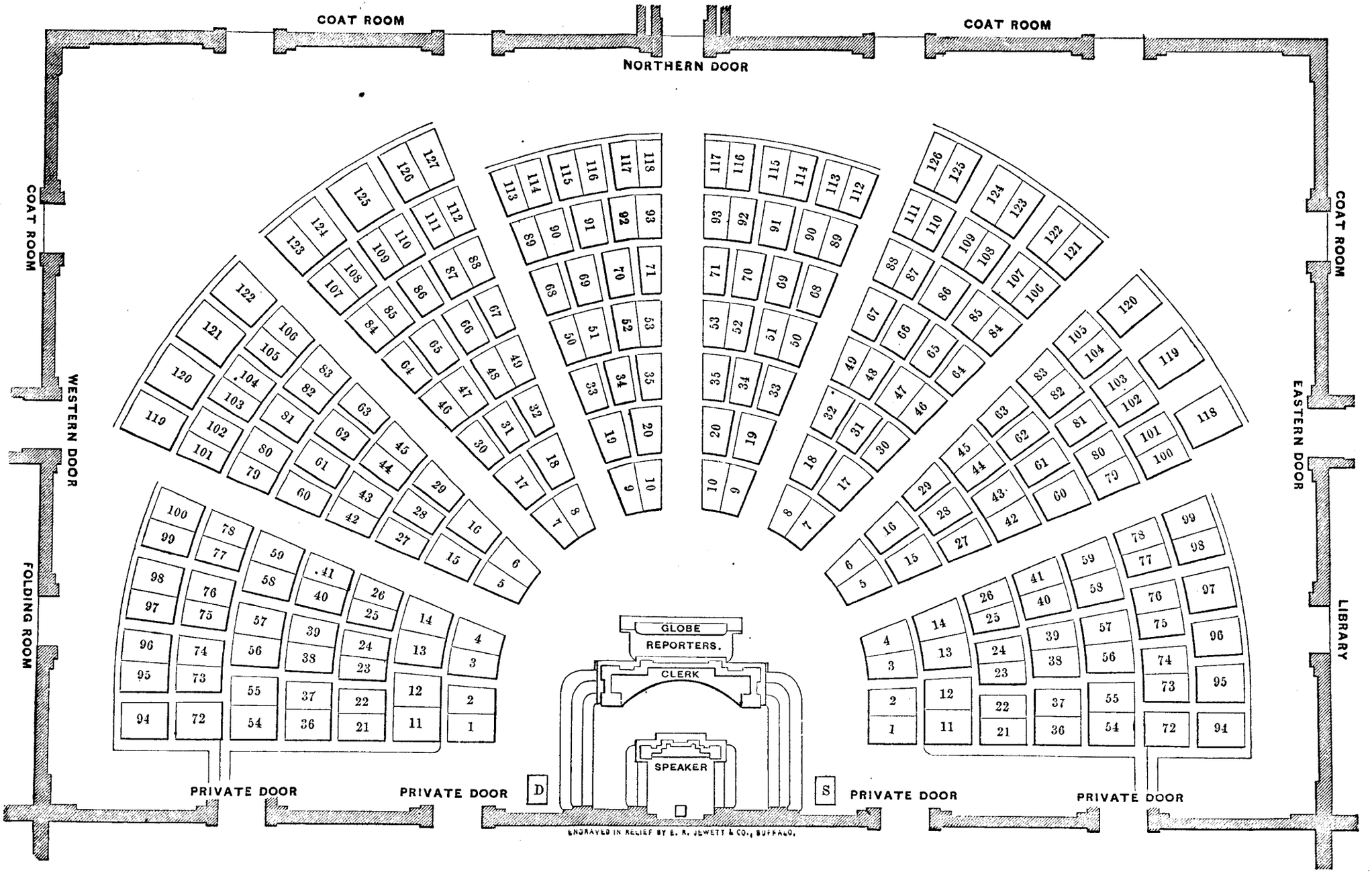
BENJAMIN F. WADE, President of the Senate *pro tempore*, Jefferson, Ohio.

Name.	Post Office Address.	Seat.	Name.	Post Office Address.	Seat.
Abbott, Joseph C.	Wilmington, North Carolina	60	Morrill, Justin S.	Strafford, Vermont	4
Anthony, Henry B.	Providence, Rhode Island	5	Morton, Oliver P.	Indianapolis, Indiana	10
Bayard, James A.	Wilmington, Delaware	38	Norton, Daniel S.	Winona, Minnesota	11
Buckalew, Charles R.	Bloomsburg, Pennsylvania	32	Nye, James W.	Carson City, Nevada	46
Cameron, Simon.	Harrisburg, Pennsylvania	42	Osborn, Thomas W.	Tallahassee, Florida	17
Cattell, Alexander G.	Camden, New Jersey	25	Patterson, James W.	Hanover, New Hampshire	53
Chandler, Zachariah.	Detroit, Michigan	44	Patterson, David T.	Greenville, Tennessee	62
Cole, Cornelius.	San Francisco, California	14	Pomeroy, Samuel C.	Atchison, Kansas	13
Conkling, Roscoe.	Utica, New York	54	Pool, John.	Raleigh, North Carolina	37
Conness, John.	Georgetown, California	3	Ramsey, Alexander.	St. Paul, Minnesota	43
Corbett, Henry W.	Portland, Oregon	12	Rice, Benjamin F.	Little Rock, Arkansas	41
Cragin, Aaron H.	Lebanon, New Hampshire	50	Robertson, Thomas J.	Columbia, South Carolina	63
Davis, Garrett.	Paris, Kentucky	66	Ross, Edmund G.	Lawrence, Kansas	31
Dixon, James.	Hartford, Connecticut	27	Saulsbury, Willard.	Georgetown, Delaware	58
Doolittle, James R.	Racine, Wisconsin	51	Sawyer, Frederick A.	Charleston, South Carolina	64
Drake, Charles D.	St. Louis, Missouri	19	Sherman, John.	Mansfield, Ohio	29
Edmunds, George F.	Burlington, Vermont	6	Spencer, George E.	Decatur, Alabama	16
Ferry, Orris S.	Norwalk, Connecticut	2	Sprague, William.	Providence, Rhode Island	30
Fessenden, William Pitt.	Portland, Maine	26	Stewart, William M.	Virginia City, Nevada	52
Fowler, Joseph S.	Nashville, Tennessee	36	Sumner, Charles.	Boston, Massachusetts	47
Frelinghuysen, Frederick T.	Newark, New Jersey	21	Thayer, John M.	Omaha, Nebraska	55
Grimes, James W.	Burlington, Iowa	7	Tipton, Thomas W.	Brownsville, Nebraska	18
Harlan, James.	Mount Pleasant, Iowa	20	Trumbull, Lyman.	Chicago, Illinois	22
Harris, John S.	Vidalia, Louisiana	61	Van Winkle, Peter G.	Parkersburg, West Virginia	34
Henderson, John B.	Louisiana, Missouri	28	Vickers, George.	Chestertown, Maryland	35
Hendricks, Thomas A.	Indianapolis, Indiana	33	Warner, Willard.	Montgomery, Alabama	0
Howard, Jacob M.	Detroit, Michigan	45	Welch, Adonijah S.	Jacksonville, Florida	1
Howe, Timothy O.	Green Bay, Wisconsin	23	Whyte, William Pinkney.	Baltimore, Maryland	15
Kellogg, William Pitt.	New Orleans, Louisiana	39	Willey, Waitman T.	Morgantown, West Virginia	59
McCreery, Thomas C.	Owensboro', Kentucky	57	Williams, George H.	Portland, Oregon	8
McDonald, Alexander.	Little Rock, Arkansas	40	Wilson, Henry.	Natick, Massachusetts	24
Morgan, Edwin D.	New York, New York	48	Yates, Richard.	Jacksonville, Illinois	49
Morrill, Lot M.	Augusta, Maine	9			

Officers of the Senate.

George C. Gorham	Secretary	Washington, D. C.
William J. McDonald	Chief Clerk	Washington, D. C.
D. W. C. Clarke	Executive Clerk	Burlington, Vermont.
George T. Brown	Sergeant-at-Arms and Doorkeeper	Washington, D. C.
Isaac Bassett	Assistant Doorkeeper	Washington, D. C.




COAT ROOM
COAT ROOM
NORTHERN DOOR
COAT ROOM
COAT ROOM
WESTERN DOOR
EASTERN DOOR
FOLDING ROOM
LIBRARY
GLOBE
REPORTERS.
CLERK
SPEAKER
D
S
PRIVATE DOOR
PRIVATE DOOR
PRIVATE DOOR
PRIVATE DOOR
ENGRAVED IN RELIEF BY E. R. JEWETT & CO., BUFFALO.

Name and Post Office Address

OF THE

Members of the House of Representatives, Second Session Fortieth Congress.

SCHUYLER COLFAX, Speaker, South Bend, Indiana.

Name.	Post Office Address.	Occupation.	Seat.
Adams, George M.	Barboursville, Kentucky	Gentleman	85 east.
Allison, William B.	Dubuque, Iowa.	Lawyer	107 west.
Ames, Oakes	North Easton, Massachusetts	Manufacturer	5 east.
Anderson, George W.	Louisiana, Missouri	Lawyer	50 east.
Archer, Stevenson	Belair, Maryland.	Lawyer	15 east.
Arnell, Samuel M.	Columbia, Tennessee.	Lawyer	88 west.
Ashley, Delos R.	Austin, Nevada	Lawyer	91 east.
Ashley, James M.	Toledo, Ohio.	Lawyer	83 west.
Axtell, Samuel B.	San Francisco, California	Lawyer	33 east.
Bailey, Alexander H.	Rome, New York		26 west.
Baker, Jehu.	Belleville, Illinois	Lawyer	57 east.
Baldwin, John D.	Worcester, Massachusetts.	Editor	69 east.
Banks, Nathaniel P.	Waltham, Massachusetts	Lawyer	40 west.
Barnes, Demas	Brooklyn, New York	Merchant	11 east.
Barnum, William H.	Lakeville, Connecticut	Manufacturer	47 east.
Beaman, Fernando C	Adrian, Michigan	Lawyer	3 west.
Beatty, John	Cardington, Ohio.		91 east.
Beck, James B.	Lexington, Kentucky		64 east.
Benjamin, John F.	Shelbyville, Missouri	Lawyer	53 east.
Benton, Jacob.	Lancaster, New Hampshire	Lawyer	55 west.
Bingham, John A.	Cadiz, Ohio	Lawyer	6 east.
Blackburn, W. Jasper.	Homer, Louisiana		117 east.
Blaine, James G.	Augusta, Maine	Editor	49 west.
Blair, Austin	Jackson, Michigan	Lawyer	93 west.
Boles, Thomas	Dardanelle, Arkansas.		73 west.
Boutwell, George S.	Groton, Massachusetts	Lawyer	63 west.
Bowen, C. C.	Charleston, South Carolina		117 west.
Boyden, Nathaniel.	Salisbury, North Carolina		38 east.
Boyer, Benjamin M.	Norristown, Pennsylvania	Lawyer	16 east.
Bromwell, Henry P. H.	Charleston, Illinois.	Lawyer	80 west.
Brooks, James	New York, New York	Editor	86 east.
Broomall, John M.	Media, Pennsylvania	Lawyer	81 west.
Buckland, Ralph P.	Fremont, Ohio	Lawyer	10 east.
Buckley, Charles W.	Montgomery, Alabama		123 east.
Burr, Albert G.	Winchester, Illinois.	Lawyer	32 east.
Butler, Benjamin F.	Lowell, Massachusetts	Lawyer	46 west.
Butler, Roderick R.	Taylorsville. Tennessee		96 west.
Cake, Henry L.	Tamaqua, Pennsylvania	Coal Operator	11 west.
Callis, John B.	Huntsville, Alabama		115 east.
Cary, Samuel F.	Cincinnati, Ohio	Farmer	83 east.
Chanler, John W.	New York, New York	Lawyer	37 east.
Churchill, John C.	Oswego, New York	Lawyer	103 west.
Clarke, Reader W.	Batavia, Ohio	Lawyer	28 west.
Clarke, Sidney	Lawrence, Kansas	General Business	36 west.
Clift, J. W.	Savannah, Georgia		56 east.
Cobb, Amasa.	Mineral Point, Wisconsin.	Lawyer	34 west.
Coburn, John.	Indianapolis, Indiana	Lawyer	51 west.
Cook, Burton C.	Ottawa, Illinois	Lawyer	44 west.
Corley, Simeon	Lexington, South Carolina		101 east.
Cornell, Thomas.	Rondout, New York	Banker	89 west.
Covode, John	Lockport, Pennsylvania	Farmer and Manufacturer	82 west.
Cullom, Shelby M.	Springfield, Illinois	Lawyer	123 west.
Dawes, Henry L.	Pittsfield, Massachusetts	Lawyer	60 west.
Delano, Columbus.	Mount Vernon, Ohio		116 east.
Deweese, John T.	Raleigh, North Carolina		104 east.
Dixon, Nathan F.	Providence, Rhode Island	Lawyer	40 east.
Dockery, Oliver H.	Mangum, North Carolina		106 east.
Dodge, Grenville M.	Council Bluffs, Iowa	Civil Engineer	110 west.
Donnelly, Ignatius	Hastings, Minnesota	Lawyer	27 west.
Driggs, John F.	East Saginaw, Michigan	General Business	92 west.
Eckley, Ephraim R.	Carrollton, Ohio	Lawyer	70 east.

Name.	Post Office Address.	Occupation.	Seat.
Edwards, W. P.	Butler, Georgia		80 east.
Eggleston, Benjamin	Cincinnati, Ohio	Merchant	53 west.
Ela, Jacob H.	Rochester, New Hampshire	Printer	114 west.
Eldridge, Charles A.	Fond du Lac, Wisconsin	Lawyer	30 east.
Eliot, Thomas D.	New Bedford, Massachusetts	Lawyer	62 west.
Farnsworth, John F.	St. Charles, Illinois	Lawyer	4 west.
Ferriss, Orange	Glenn's Falls, New York	Lawyer	85 west.
Ferry, Thomas W.	Grand Haven, Michigan	Lumberman and Banker	31 west.
Fields, William C.	Laurens, New York	Manufacturer and Merchant	120 west.
Finney, Darwin A.	Meadville, Pennsylvania	Lawyer	-
Fox, John	New York, New York	Real Estate Agent	17 east.
French, John R.	Edenton, North Carolina		103 east.
Garfield, James A.	Hiram, Ohio	Lawyer	108 west.
Getz, J. Lawrence	Reading, Pennsylvania	Editor	13 east.
Glossbrenner, Adam J.	York, Pennsylvania	Editor and Printer	14 east.
Goliaday, Jacob S	Allensville, Kentucky		66 east.
Goss, James H.	Union Court House, South Carolina		99 east.
Gove, Samuel F	Griswoldsville, Georgia		-
Gravely, Joseph J.	Stockton, Missouri	Lawyer	52 east.
Griswold, John A.	Troy, New York	Banker	51 east.
Grover, Asa P.	Owenton, Kentucky		87 east.
Haight, Charles	Freehold, New Jersey	Lawyer	46 east.
Halsey, George A.	Newark, New Jersey	Manufacturer	25 west.
Hamilton, Charles M.	Marysville, Ohio	Lawyer	110 east.
Harding, Abner C.	Monmouth, Illinois	Lawyer	24 west.
Haughey, Thomas	Decatur, Alabama	Doctor	-
Hawkins, Isaac R.	Huntington, Tennessee	Farmer	100 west.
Heaton, David	Newbern, North Carolina		107 east.
Higby, William	Calaveras, California	Lawyer	60 east.
Hill, John	Boonton, New Jersey	Merchant	90 west.
Hinds, James	Little Rock, Arkansas		72 west.
Holman, William S.	Aurora, Indiana	Lawyer	12 east.
Hooper, Samuel	Boston, Massachusetts	Merchant	2 east.
Hopkins, Benjamin F.	Madison, Wisconsin	General Business	38 west.
Hotchkiss, Julius	Middletown, Connecticut	Manufacturer	24 east.
Hubbard, Asahel W.	Sioux City, Iowa	Lawyer	39 east.
Hubbard, Chester D.	Wheeling, West Virginia	Banker	17 west.
Hubbard, Richard D.	Hartford, Connecticut	Lawyer	79 east.
Hulburd, Calvin T.	Brasher Falls, New York	Farmer	56 west.
Humphrey, James M.	Buffalo, New York	Lawyer	45 east.
Hunter, Morton C.	Bloomington, Indiana	Lawyer	102 west.
Ingersoll, Ebon C.	Peoria, Illinois	Lawyer	33 west.
Jenckes, Thomas A.	Westerley, Rhode Island	Lawyer	61 east.
Johnson, James A.	Downieville, California	Lawyer	8 east.
Jones, Alexander H.	Ashville, North Carolina		105 east.
Jones, Thomas L.	Newport, Kentucky		102 east.
Judd, Norman B.	Chicago, Illinois	Lawyer	32 west.
Julian, George W.	Centreville, Indiana	Lawyer	57 west.
Kelley, William D.	Philadelphia, Pennsylvania	Lawyer	65 west.
Kellogg, Francis W.	Mobile, Alabama		54 west.
Kelsey, William H.	Geneseo, New York	Lawyer	8 west.
Kerr, Michael C.	New Albany, Indiana	Lawyer	29 east.
Ketcham, John H.	Dover, New York	Farmer	29 west.
Kitchen, Bethuel M.	Martinsburg, West Virginia	Farmer	1 east.
Knott, J. Procter	Lebanon, Kentucky		65 east.
Koontz, William H.	Somerset, Pennsylvania	Lawyer	19 west.
Laflin, Addison H.	Herkimer, New York	Manufacturer	86 west.
Lash, Israel G.	Salem, North Carolina		23 east.
Lawrence, George V.	Monongahela City, Pennsylvania	Farmer	20 west.
Lawrence, William	Bellefontaine, Ohio	Lawyer	64 west.
Lincoln, William S.	Owego, New York	Merchant and Manufacturer	58 west.
Loan, Benjamin F.	St. Joseph, Missouri	Lawyer	70 west.
Logan, John A.	Carbondale, Illinois	Lawyer	50 west.
Loughridge, William	Oskaloosa, Iowa	Lawyer	13 west.
Lynch, John	Portland, Maine	Merchant	111 east.
Mallory, Rufus	Salem, Oregon	Lawyer	68 east.
Mann, James	New Orleans, Louisiana		-
Marshall, Samuel S.	McLeansboro, Illinois	Lawyer	18 east.
Marvin, James M.	Saratoga Springs, New York	Hotel-keeper	41 east.
Maynard, Horace	Knoxville, Tennessee	Lawyer	5 west.
McCarthy, Dennis	Syracuse, New York	Merchant	134 west.
McClurg, Joseph W.	Linn Creek, Missouri	Merchant	69 west.
McCormick, James R.	Ironton, Missouri		35 east.
McCullough, Hiram	Elkton, Maryland	Lawyer	42 east.
McKee, Samuel	Mt. Sterling, Kentucky		118 west.
Mercur, Ulysses	Towanda, Pennsylvania	Lawyer	77 west.
Miller, George F.	Louisburg, Pennsylvania	Lawyer	37 west.
Moore, William	May's Landing, New Jersey	Farmer	116 west.
Moorhead, James K.	Pittsburg, Pennsylvania	Manufacturer	59 west.
Morrell, Daniel J	Johnstown, Pennsylvania	Manufacturer	75 west.
Morrissey, John	New York, New York	Banker	78 east.
Mullins, James	Shelbyville, Tennessee	Farmer	10 west.
Mungen, William	Findlay, Ohio	Lawyer	93 east.
Myers, Leonard	Philadelphia, Pennsylvania	Lawyer	91 west.
Newcomb, Carman A	Tunnel, Missouri	Horticulturist	34 east.
Newsham, Joseph P.	Francesville, Louisiana		-

LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES—Continued.

Name.	Post Office Address.	Occupation.	Seat.
Niblack, William E.	Vincennes, Indiana	Lawyer	4 east.
Nicholson, John A.	Dover, Delaware	Lawyer	27 east.
Norris, Benjamin W.	Montgomery, Alabama		109 east.
Nunn, David A.	Brownsville, Tennessee		99 west.
O'Neill, Charles.	Philadelphia, Pennsylvania	Lawyer	68 west.
Orth, Godlove S.	Lafayette, Indiana	Lawyer	17 west.
Paine, Halbert E.	Milwaukee, Wisconsin.	Lawyer	47 west.
Perham, Sidney.	Paris, Maine	Farmer and Teacher.	16 west.
Peters, John A.	Bangor, Maine	Lawyer	23 west.
Phelps, Charles E.	Baltimore, Maryland	Lawyer	67 east.
Pierce, Charles W.	Demopolis, Alabama		124 east.
Pike, Frederic A.	Calais, Maine	Lawyer	105 west.
Pile, William A.	St. Louis, Missouri	Clergyman	122 west.
Plants, Tobias A.	Pomeroy, Ohio.	Lawyer	61 west.
Poland, Luke P.	St. Johnsburg, Vermont.	Lawyer	18 west.
Polsley, Daniel.	Point Pleasant, West Virginia.	Lawyer	71 east.
Pomeroy, Theodore M.	Auburn, New York.	Lawyer	101 west.
Price, Hiram.	Davenport, Iowa.	Banker	2 west.
Prince, C. H.	Augusta, Georgia.		108 east.
Pruyn, John V. L.	Albany, New York.	Lawyer	20 east.
Randall, Samuel J.	Philadelphia, Pennsylvania	Merchant	7 east.
Raum, Green B.	Harrisburg, Illinois.	Lawyer	6 west.
Robertson, William H.	Katonah, New York	Lawyer	76 west.
Robinson, William E.	Brooklyn, New York.	Lawyer	9 east.
Roots, Logan H.	De Vall's Bluff, Arkansas.		97 west.
Ross, Lewis W.	Lewiston, Illinois.	Lawyer	81 east.
Sawyer, Philetus.	Oshkosh, Wisconsin.	Lumberman	41 west.
Schenck, Robert C.	Dayton, Ohio.	Lawyer	48 west.
Scofield, Glenni W.	Warren, Pennsylvania.	Lawyer	30 west.
Selye, Lewis.	Rochester, New York.	Manufacturer	98 west.
Shanks, John P. C.	Jay, Jay county, Indiana.	Lawyer	119 west.
Shellabarger, Samuel.	Springfield, Ohio.	Lawyer	66 west.
Sitgreaves, Charles.	Philipsburg, New Jersey.	Lawyer	25 east.
Smith, Worthington C.	St. Albans, Vermont.	Manufacturer.	74 west.
Spalding, Rufus P.	Cleveland, Ohio	Lawyer	9 west.
Starkweather, Henry H	Norwich, Connecticut	Lawyer	78 west.
Stevens, Aaron F.	Nashua, New Hampshire	Lawyer	113 west.
Stevens, Thaddeus.	Lancaster, Pennsylvania	Lawyer	-
Stewart, Thomas E.	New York, New York.	Lawyer	59 east.
Stokes, William B.	Liberty, Tennessee	Farmer	67 west.
Stone, Frederick	Port Tobacco, Maryland.	Farmer	43 east.
Sypher, J. Hale.	New Orleans, Louisiana.		115 west.
Taber, Stephen.	Roslyn, New York	Farmer	48 east.
Taffe, John.	Omaha, Nebraska	Lawyer	43 west.
Taylor, Caleb N.	Bristol, Pennsylvania.	Farmer	7 west.
Thomas, Francis.	Frankville, Maryland.	Lawyer	19 east.
Tift, Nelson.	Albany, Georgia		119 east.
Trimble, John.	Nashville, Tennessee.	Lawyer	87 west.
Trimble, Lawrence S.	Paducah, Kentucky.		84 east.
Trowbridge, Rowland E.	Birmingham, Michigan	Farmer	14 west.
Twichell, Ginery.	Brookline, Massachusetts.	Railroad Manager	104 west.
Upson, Charles.	Coldwater, Michigan	Lawyer	35 west.
Van Aernam, Henry.	Franklinville, New York	Surgeon and Physician	39 west.
Van Auken, Daniel M.	Milford, Pennsylvania	Lawyer	8 east.
Van Horn, Burt.	Lockport, New York	Manufacturer and Farmer.	92 east.
Van Horn, Robert T.	Kansas City, Missouri	Printer	88 east.
Van Trump, Philadelph.	Lancaster, Ohio	Lawyer	49 east.
Van Wyck, Charles H.	Middletown, New York.	Lawyer	22 west.
Vidal, Michael.	Napoleonville, Louisiana		-
Ward, Hamilton.	Belmont, New York.	Lawyer	44 east.
Washburn, Cadwalader C.	La Crosse, Wisconsin.	Lawyer	106 west.
Washburne, Elihu B.	Galena, Illinois.	Lawyer	45 west.
Washburn, Henry D.	Clinton, Indiana	Lawyer	1 west.
Washburn, William B.	Greenfield, Massachusetts.	Manufacturer	79 west.
Welker, Martin.	Wooster, Ohio	Lawyer	34 west.
Whittemore, B. F.	Darlington, South Carolina		100 east.
Williams, Thomas.	Pittsburg, Pennsylvania	Lawyer	112 west.
Williams, William.	Warsaw, Indiana.	Lawyer	121 west.
Wilson, James F.	Fairfield, Iowa	Lawyer	109 west.
Wilson, John T.	Tranquillity, Ohio	Farmer	84 west.
Wilson, Stephen F.	Wellsboro', Pennsylvania	Lawyer	26 east.
Windom, William.	Winona, Minnesota	Lawyer	22 east.
Wood, Fernando.	New York, New York.	Merchant	31 east.
Woodbridge, Frederick E.	Vergennes, Vermont	Lawyer	71 west.
Woodward, George W.	Wilkesbarre, Pennsylvania.	Lawyer	28 east.
Young, P. M. B.	Cartersville, Georgia		-

THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTIETH CONGRESS;

TOGETHER WITH

AN APPENDIX,

COMPRISING THE LAWS PASSED AT THAT SESSION;

Entered according to Act of Congress, in the year 1868, by
F. & J. Rives & Geo. A. Bailey,
In the Clerk's office of the Supreme Court of the District of Columbia.

A SUPPLEMENT,

EMBRACING THE PROCEEDINGS IN THE TRIAL OF ANDREW JOHNSON.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1868.

Entered according to Act of Congress, in the year 1868, by
F. & J. Rives & Geo. A. Bailey,
In the Clerk's office of the Supreme Court of the District of Columbia.

THE CONGRESSIONAL GLOBE.

FORTIETH CONGRESS.
SECOND SESSION.

IN SENATE.

MONDAY, *December* 2, 1867.

This being the day prescribed by the Constitution of the United States for the meeting of Congress, the Senate assembled in the Senate Chamber, in the Capitol, at the city of Washington, at twelve o'clock m.

The PRESIDENT *pro tempore* (Hon. BENJAMIN F. WADE) having declared the first session of the Fortieth Congress adjourned without day, added: The time having arrived, also, when the second session of the Fortieth Congress is to assemble, Senators will please come to order.

SENATORS PRESENT.

The following Senators were present: From the State of

Maine—Hon. William Pitt Fessenden and Hon. Lot M. Morrill.

New Hampshire—Hon. James W. Patterson.

Vermont—Hon. George F. Edmunds and Hon. Justin S. Morrill.

Massachusetts—Hon. Charles Sumner and Hon. Henry Wilson.

Rhode Island—Hon. Henry B. Anthony.

Connecticut—Hon. James Dixon and Hon. Orris S. Ferry.

New York—Hon. Roscoe Conkling and Hon. Edwin D. Morgan.

New Jersey—Hon. Alexander G. Cattell and Hon. Frederick T. Frelinghuysen.

Pennsylvania—Hon. Charles R. Buckalew and Hon. Simon Cameron.

Delaware—Hon. James A. Bayard.

Maryland—Hon. Reverdy Johnson.

Ohio—Hon. John Sherman and Hon. Benjamin F. Wade.

Indiana—Hon. Thomas A. Hendricks and Hon. Oliver P. Morton.

Illinois—Hon. Lyman Trumbull and Hon. Richard Yates.

Kentucky—Hon. Garrett Davis.

Tennessee—Hon. Joseph S. Fowler and Hon. David T. Patterson.

Missouri—Hon. Charles D. Drake and Hon. John B. Henderson.

Michigan—Hon. Zachariah Chandler and Hon. Jacob M. Howard.

Wisconsin—Hon. James R. Doolittle.

Iowa—Hon. James W. Grimes and Hon. James Harlan.

Minnesota—Hon. Daniel S. Norton and Hon. Alexander Ramsey.

California—Hon. Cornelius Cole and Hon. John Conness.

Oregon—Hon. Daniel Corbett and Hon. George H. Williams.

Kansas—Hon. Samuel C. Pomeroy and Hon. Edmund G. Ross.

West Virginia—Hon. Peter G. Van Winkle and Hon. Waitman T. Willey.

Nevada—Hon. James W. Nye and Hon. William M. Stewart.

Nebraska—Hon. John M. Thayer and Hon. Thomas W. Tipton.

NOTIFICATION OF ORGANIZATION.

On motion of Mr. ANTHONY, it was

Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

The PRESIDENT *pro tempore* appointed Mr. ANTHONY and Mr. HENDRICKS as the committee on the part of the Senate.

HOUR OF MEETING.

On motion of Mr. ANTHONY, it was

Ordered, That the hour of the daily meeting of the Senate be twelve o'clock meridian until otherwise ordered.

RECESS.

Mr. ANTHONY, (after a pause.) I move that the Senate take a recess until one o'clock.

The motion was agreed to.

The PRESIDENT *pro tempore* again called the Senate to order at one o'clock.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. EDWARD MCPHERSON, its Clerk, announced that a quorum of the House of Representatives was assembled and that the House was ready to proceed to business.

The message also announced that the House had appointed Messrs. E. B. WASHBURNE of Illinois, Mr. N. P. BANKS of Massachusetts, and Mr. J. V. L. PRUYN of New York, a committee on the part of the House to join the committee appointed by the Senate to wait on the President of the United States and inform him that a quorum of each House is assembled, and that Congress is ready to receive any communication he may be pleased to make.

TAXES ON JUDICIAL SALARIES.

Mr. DRAKE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform the Senate whether any part of the salary of any judge of any court of the United States has been withheld by the Treasury Department for taxes, and if so by what authority the same has been withheld.

INDIAN POLICY.

Mr. WILLIAMS submitted the following resolution for consideration; which was ordered to lie on the table and be printed:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of adopting the following as the future policy of the Government toward the Indians, excepting those now on reservations and those who have adopted the customs of civilization:

1. To provide for said Indians two reservations of suitable size and productiveness to contain and support them, one on the east side of the Rocky mountains for all the Indians between said mountains and the Mississippi river; the other on the west side of the Rocky mountains for all the Indians between said mountains and British Columbia.

2. To make no further recognition of their distinct nationalities by treating with tribes and bands or the heads of tribes and bands, to make no further recognition of their right to the country over which they roam by purchasing or proposing to purchase the same; to make no further promise for payment to them of money, property, or annuities in any shape or form.

3. To make it known to all of said Indians as the settled and inflexible policy of the Government that they are to go upon said reservations, to be there provided for, protected, and taught the arts of civilized life; and to make it further known and understood by said Indians that they are to have no alternative but to choose between this policy of the Government and extermination.

4. To provide that all Indians, without respect to their tribal relations, voluntarily surrendering themselves or captured in war shall be taken, placed, and kept on said reservations, to be the wards of the Government, controlled and managed at its discretion.

5. To provide that all existing Indian superintendencies, agencies, and reservations shall be dispensed with as soon as practicable and the Indians connected therewith consolidated with the others upon said reservations.

ASSISTANT SECRETARY OF THE TREASURY.

Mr. THAYER. I offer the following resolution:

Resolved, That the Secretary of the Treasury be directed to inform the Senate if Edmund Cooper did assume the duties of the office of Assistant Secretary of the Treasury upon the 30th of November, and if so under what law or by what authority, if any, he was allowed to do so.

I ask for its present consideration.

Mr. BUCKALEW. I object.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 156) to establish a National School of Mines; which was read twice by its title.

Mr. STEWART. I move that the bill be printed and referred to the Committee on Mines and Mining.

The PRESIDENT *pro tempore*. There are no committees appointed for this session. The bill, perhaps, had better lie on the table at present. The order to print will be made if there be no objection.

Mr. STEWART. Very well.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian Islands; which was read twice by its title and ordered to lie on the table.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 157) for the repeal of tax on cotton; which was read twice by its title and ordered to lie on the table and be printed.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 158) to grant certain privileges to actual settlers on lands ceded to the United States by Osage Indians in Kansas; which was read twice by its title and ordered to lie on the table.

MESSAGE FROM THE PRESIDENT.

Mr. ANTHONY. The committee appointed to wait upon the President of the United States and inform him that the two Houses were organized and ready to receive any communication it might be his pleasure to make have performed the duty devolved upon them, and the President replied that he would communicate in writing to-morrow at twelve or half past twelve o'clock.

Mr. POMEROY. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 2, 1867.

This being the day fixed by the Constitution of the United States for the meeting of the second session of the Fortieth Congress, the House of Representatives met at twelve o'clock m., and was called to order by the Speaker, Hon. SCHUYLER COLFAX, of the State of Indiana, who said:

In conformity to the Constitution the Fortieth Congress convenes to-day in its second session. The Chaplain will address the Throne of Grace.

Rev. C. B. BOYNTON, Chaplain of the House, offered prayer as follows:

Almighty God, our Father who art in heaven, we come to worship Thee as King of nations, supreme on earth as Thou art in heaven, and we implore, in the name of Jesus Christ, Thy Son, our Mediator, a blessing upon our nation, represented in part by the public men now before Thee. O God of nations, may Thy benediction rest this day upon our country. May every interest of this great people be remembered of Thee. Wilt Thou care for them all and give success to every proper effort made in every department of human industry? Grant, we beseech Thee, O Lord God, that every one of our American interests may be guarded by Thee to-day, who art the keeper of our American Israel. We implore Thee, O Lord, to grant a special blessing unto these legislators now assembled to begin a new session, a new career in the public duty to which they have devoted themselves by the voice of the people; and as Thou hast been pleased to give them wisdom in time past to settle properly, as we believe, so many great questions, arm them anew with wisdom from on high to meet each great issue that shall be presented hereafter, so that all shall be done not only to the satisfaction of their fellow-men and of their own consciences, but also so as to meet the approval of our God. And as the American policy twines itself now more and more with great moral and religious considerations, may there be no faltering in reference to any great measure, but may all be done so as best to secure every proper right of man, and so as to honor and glorify God.

We pray Thee, O God, that Thou wilt remember the Speaker of this House. As Thou hast been pleased to enable him in time past to discharge his great duties so honorably unto himself and satisfactorily to others, wilt Thou give him all needed support and wisdom for the future.

We pray Thee to remember and bless the Senate of the United States. Bless the President also; bless all his advisers, and remember those who judge, so that the united action of the departments of this Government may best secure the great interests and welfare of the country, and also honor God.

We pray Thee to remember, O Lord, our population in all its needs. Remember not only the prosperous, but the poor and the sick and the needy. Remember those who mourn; remember those who are degraded and corrupted, for they are still our fellow-men, and Thou, O Jesus Christ, hast died for them. We pray Thee that Thou wilt put in operation such causes as shall relieve, elevate, refine, and save. May Thy kingdom with all its beneficent influences be established over the whole land, and may all nations speedily come to the knowledge of the truth, for Jesus' sake. Amen.

CALL OF THE ROLL OF MEMBERS.

The SPEAKER. The Clerk will call the roll of members by States, to ascertain whether a quorum is present.

The Clerk called the roll, and the following members answered to their names:

MAINE.

John Lynch,	John A. Peters,
Sidney Perham,	Frederick A. Pike.
James G. Blaine,	

NEW HAMPSHIRE.

Jacob H. Ela,	Jacob Benton.
Aaron F. Stevens,	

VERMONT.

Luke P. Poland.

MASSACHUSETTS.

Thomas D. Eliot,	George S. Boutwell,
Oakes Ames,	John D. Baldwin,
Samuel Hooper,	William B. Washburn,
Benjamin F. Butler,	Henry L. Dawes.
Nathaniel P. Banks,	

RHODE ISLAND.

Thomas A. Jenckes,	Nathan F. Dixon.

CONNECTICUT.

Julius Hotchkiss,	Henry H. Starkweather.

NEW YORK.

William E. Robinson,	James M. Marvin,
John W. Chanler,	William C. Fields,
James Brooks,	Addison H. Laflin,
William H. Robertson,	Alexander H. Bailey,
John H. Ketcham,	John C. Churchill,
Thomas Cornell,	Dennis McCarthy,
John V. L. Pruyn,	Theodore M. Pomeroy,
John A. Griswold,	William H. Kelsey,
Orange Ferriss,	William S. Lincoln,
Calvin T. Hulburd,	Henry Van Aernan.

NEW JERSEY.

John Hill.

PENNSYLVANIA.

Charles O'Neill,	George W. Woodward,
Leonard Myers,	George F. Miller,
William D. Kelley,	Adam J. Glossbrenner,
Caleb N. Taylor,	Daniel J. Morrell,
Benjamin M. Boyer,	Stephen F. Wilson,
John M. Broomall,	John Covode,
J. Lawrence Getz,	James K. Moorhead,
Henry L. Cake,	Thomas Williams,
Daniel M. Van Auken,	George V. Lawrence.

MARYLAND.

Hiram McCullough,	Charles E. Phelps,
Stevenson Archer,	Francis Thomas.

OHIO.

Benjamin Eggleston,	John T. Wilson,
Samuel F. Cary,	Philadelph Van Trump,
Robert C. Schenck,	George W. Morgan,
William Lawrence,	Martin Welker,
William Mungen,	Tobias A. Plants,
Reader W. Clarke,	John A. Bingham,
Samuel Shellabarger,	Ephraim R. Eckley,
Cornelius S. Hamilton,	Rufus P. Spalding,
Ralph P. Buckland,	James A. Garfield.
James M. Ashley,	

KENTUCKY.

George M. Adams.

TENNESSEE.

Horace Maynard,	Samuel M. Arnell,
William B. Stokes,	Isaac R. Hawkins,
James Mullins,	David A. Nunn.
John Trimble,	

INDIANA.

William E. Niblack,	Henry D. Washburn,
Michael C. Kerr,	Godlove S. Orth,
Morton C. Hunter,	Schuyler Colfax,
George W. Julian,	William Williams,
John Coburn,	John P. C. Shanks.

ILLINOIS.

Norman B. Judd,	Shelby M. Cullom,
John F. Farnsworth,	Lewis W. Ross,
Elihu B. Washburne,	Albert G. Burr,
Abner C. Harding,	Samuel S. Marshall,
Ebon C. Ingersoll,	John Baker,
Burton C. Cook,	John A. Logan.
Henry P. H. Bromwell,	

MISSOURI.

William A. Pile,	Robert T. Van Horn,
Carman A. Newcomb,	Benjamin F. Loan,
Joseph J. Gravely,	John F. Benjamin,
Joseph W. McClurg,	George W. Anderson.

MICHIGAN.

Fernando C. Beaman,	Thomas W. Ferry,
Charles Upson,	Rowland E. Trowbridge,
Austin Blair,	John F. Driggs.

IOWA.

James F. Wilson,	William Loughridge,
Hiram Price,	Granville M. Dodge,
William B. Allison,	Asahel W. Hubbard.

WISCONSIN.

Halbert E. Paine,	Charles A. Eldridge,
Benjamin F. Hopkins,	Philetus Sawyer,
Amasa Cobb,	Cadwalader C. Washburn

CALIFORNIA.

Samuel B. Axtell,	James A. Johnson.
William Higby,	

MINNESOTA.

William Windom,	Ignatius Donnelly.

OREGON.

Rufus Mallory.

KANSAS.

Sidney Clarke.

WEST VIRGINIA.

Chester D. Hubbard,	Daniel Polsley.

During the call of the roll,

Mr. ELDRIDGE said: I rise to a question of order. I understood the Chair directed the Clerk to call the roll in the order of the admission of the States into the Union. I wish to know why Tennessee is called before Ohio, Indiana, Illinois, Missouri, and other States.

The SPEAKER. The gentleman is mistaken. The Chair did not order the Clerk to call the States in the order of their admission into the Union, but in their order on the list.

The roll-call was then completed.

The SPEAKER. One hundred and forty-six members have answered to their names. A quorum is present, and business will be suspended to receive a message from the Senate of the United States.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that a quorum of the Senate had assembled, and that the Senate was ready to proceed to business.

The message further informed the House that the Senate had adopted the following resolution:

Resolved, That a committee consisting of two members be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

Ordered, That Mr. ANTHONY and Mr. HENDRICKS be the committee on the part of the Senate.

COMMITTEE TO WAIT ON THE PRESIDENT.

The SPEAKER laid before the House the message from the Senate.

Mr. WASHBURNE, of Illinois, offered the following resolution; which was read, considered, and agreed to:

Resolved, That a committee of three be appointed on the part of this House to join such committee as has been appointed on the part of the Senate to wait upon the President of the United States and inform him that a quorum of the two Houses of Congress have assembled, and that Congress is prepared to receive any communication he may be pleased to make.

The SPEAKER appointed Mr. WASHBURNE of Illinois, Mr. BANKS, and Mr. PRUYN the committee on the part of the House.

MESSAGE TO THE SENATE.

Mr. WASHBURNE, of Illinois. I move that a message be sent to the Senate to inform

that body that a quorum of the House has appeared.

The motion was agreed to.

KENTUCKY ELECTION.

Mr. DAWES, from the Committee of Elections, to whom were referred the memorial of George D. Blakey, claiming to have been duly elected on the 4th day of May last a Representative from the third congressional district in Kentucky, and the credentials of G. S. Holladay, claiming to have been elected a Representative from the same district on the 7th day of August last, submitted a written report, concluding with the following resolutions:

Resolved, That George D. Blakey is not entitled to a seat in this House as a Representative from the third congressional district in Kentucky.

Resolved, That the oath of office be now administered to G. S. Holladay, and that he be admitted to a seat in this House from the third congressional district in Kentucky.

The report was laid upon the table, and ordered to be printed.

Mr. DAWES. I move that these two gentlemen be permitted, under the rules of the House, to address the House upon the subject-matter of these resolutions when they shall come up. I propose to call them up on Wednesday.

The motion was agreed to.

DRAWING FOR SEATS.

Mr. MAYNARD. I rise to a question of privilege. I beg leave to call the attention of the House to the fact that when seats were drawn for at the commencement of the last session six States were unrepresented here, and their members of course were not here to participate in the drawing. It operates quite hardly upon those of us who were not here, as we found on our arrival to take our seats.

Previous to the war, up to the Thirty-Sixth Congress, the practice had been, I believe, uniform to make the drawing of seats extend for but a single session. That is, to my mind, manifestly fair to all concerned. The inequality in the advantage of seats in different parts of this Hall is so great that it seems to me gentlemen ought to have more than one chance. I have, therefore, prepared a resolution which is the same as I find on the Journal of the House offered at the meeting of the second session of the Thirty-Fifth Congress, with the addition that it provides for the rescinding of the resolution of the 4th of March last for the drawing of seats at that time.

The Clerk read the resolution, as follows:

Resolved, That the Clerk of this House, immediately after the passage of this resolution, place in a box the name of each member and delegate of the House of Representatives, written on a separate slip of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the member or delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed vacant if left unoccupied before the calling of the roll is finished.

Mr. MAYNARD. Before calling the previous question, I will modify my resolution so as to provide that the seats occupied by the senior member from Pennsylvania [Mr. STEVENS] and the senior member from Maryland [Mr. THOMAS] be excepted from the operation of this resolution.

Mr. EGGLESTON. And the senior member from Ohio, [Mr. SPALDING.]

Mr. MAYNARD. Yes, sir; I will also include the senior member from Ohio [Mr. SPALDING] and the senior member from Illinois, [Mr. WASHBURNE.] I now call the previous question.

Mr. SPALDING. Does not this require a two-thirds vote?

The SPEAKER. A majority vote of the House can rescind a resolution of the House of last session.

Mr. LAFLIN. I rise to a question of order. My point of order is that on the 5th of March last this House passed a resolution providing for the drawing of seats for the Fortieth Congress; and therefore it is not now in order to introduce the resolution offered by the gentleman from Tennessee, [Mr. MAYNARD.]

The SPEAKER. The Chair overrules the point of order upon the ground that the majority of the House can rescind any resolution which it previously passed whenever resolutions are in order. This has always been held to be a privileged resolution, and the majority can now pass it and rescind the former resolution.

Mr. ROBINSON. I rise to a question of order, that the resolution now before the House is not a resolution to rescind, and I would also observe that two or three days hence, when the Kentucky members and the other Tennessee members come in here, we will have to reconsider again. It would be well to let this resolution lie over until all the members are admitted.

The SPEAKER. The Chair would maintain the point of order, but is informed by the gentleman from Tennessee [Mr. MAYNARD] that the Clerk did not read the whole resolution, but omitted inadvertently a portion interlined. The Clerk will read that portion of the resolution which was omitted.

Mr. BROOMALL. I ask that the entire resolution be now read. It has been modified since it was offered, and I would like to hear it read as it now stands.

The resolution as modified was read, as follows:

Resolved, That the resolution of March 6, 1867, relating to the drawing of seats in the House, be rescinded, and that the Clerk of the House, immediately after the passage of this resolution, place in a box the name of each member and delegate of the House of Representatives written on a separate slip of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the member or delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat after having been selected shall be deemed vacant if left unoccupied before the call of the roll is finished: *Provided further*, That Mr. THADDEUS STEVENS, Mr. ELIHU B. WASHBURNE, Mr. THOMAS, and Mr. SPALDING be permitted to retain the seats at present occupied by them.

Mr. LYNCH. Would it be in order to move to amend the resolution so as to provide that the gentleman from Tennessee [Mr. MAYNARD] shall be allowed to retain his present seat? [Laughter.]

The SPEAKER. Such a motion would not be in order pending the call for the previous question.

Mr. SPALDING. I move that the resolution be laid on the table.

The question was taken; and upon a division there were—ayes 69, noes 68.

Before the result of the vote was announced, Mr. MAYNARD called for the yeas and nays on the motion to lay the resolution on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 64, not voting 41; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Beaman, Bingham, Boutwell, Boyer, Bromwell, Brooks, Broomall, Buckland, Burr, Butler, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Cullom, Dodge, Eckley, Eldridge, Eliot, Ferriss, Ferry, Fields, Getz, Gravely, Griswold, Harding, Hooper, Hulburd, Hunter, Judd, Kelley, Kelsey, Kerr, Ketcham, Laflin, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marvin, McCarthy, McClurg, McCullough, Morrell, Mungen, Myers, O'Neill, Paine, Perham, Pike, Pile, Plants, Pomeroy, Robinson, Ross, Schenck, Shellabarger, Sitgreaves, Spalding, Upson, Van Aernam, Van Trump, Ward, Cadwalader C. Washburn, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—77.

NAYS—Messrs. Adams, Allison, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Benjamin, Benton, Blaine, Blair, Cary, Cobb, Coburn, Dawes, Driggs, Eggleston, Ela, Farnsworth, Garfield, Glossbrenner, Hamilton, Hawkins, Higby, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Julian, Logan, Loughridge, Mallory, Maynard, Miller, Moorhead, Mullins, Newcomb, Niblack, Nunn, Orth, Peters, Phelps, Poland, Polsley, Price, Sawyer, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taylor, Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, and Woodward—64.

NOT VOTING—Messrs. Baldwin, Banks, Barnes, Barnum, Dixon, Donnelly, Finney, Fox, Haight, Halsey, Hill, Holman, Richard D. Hubbard, Humphrey, Kitchen, Koontz, Lincoln, Mercur, Moore, Morgan, Morrissey, Nicholson, Pruyn, Randall, Raum, Robertson, Scofield, Selye, Smith, Thaddeus Stevens, Stewart, Stone, Taber, Taffe, Thomas, Twichell, Burt Van Horn, Van Wyck, Elihu B. Washburne, Wood, and Woodbridge—41.

So the resolution was laid on the table.

Mr. ELDRIDGE. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

Mr. MAYNARD. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 63, not voting 41; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Bailey, Beaman, Benjamin, Bingham, Boutwell, Boyer, Brooks, Broomall, Buckland, Burr, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Cullom, Dodge, Eckley, Eldridge, Eliot, Ferriss, Ferry, Fields, Getz, Gravely, Griswold, Harding, Hooper, Hulburd, Hunter, Judd, Kelley, Kelsey, Kerr, Ketcham, Laflin, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marvin, McCarthy, McClurg, McCullough, Morrell, Mungen, Myers, O'Neill, Paine, Perham, Pike, Pile, Plants, Pomeroy, Robinson, Ross, Schenck, Shellabarger, Sitgreaves, Spalding, Thomas, Upson, Van Aernam, Van Trump, Ward, Cadwalader C. Washburn, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—78.

NAYS—Messrs. Adams, Allison, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baker, Benton, Blaine, Blair, Bromwell, Cary, Cobb, Coburn, Dawes, Dixon, Driggs, Eggleston, Ela, Farnsworth, Garfield, Glossbrenner, Hamilton, Hawkins, Higby, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Julian, Lincoln, Loughridge, Mallory, Maynard, Miller, Moorhead, Mullins, Newcomb, Niblack, Nunn, Orth, Peters, Poland, Polsley, Price, Sawyer, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taylor, Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, and Woodward—63.

NOT VOTING—Messrs. Baldwin, Banks, Barnes, Barnum, Butler, Donnelly, Finney, Fox, Haight, Halsey, Hill, Holman, Richard D. Hubbard, Humphrey, Kitchen, Koontz, Logan, Mercur, Moore, Morgan, Morrissey, Nicholson, Phelps, Pruyn, Randall, Raum, Robertson, Scofield, Selye, Smith, Thaddeus Stevens, Stewart, Stone, Taber, Taffe, Twichell, Burt Van Horn, Van Wyck, Elihu B. Washburne, Wood, and Woodbridge—41.

So the House laid on the table the motion to reconsider the vote by which the resolution of Mr. MAYNARD was laid on the table.

DELAYS IN PAYMENT OF BOUNTIES.

Mr. WASHBURN, of Indiana. I ask unanimous consent to submit the following resolution:

Resolved, That the special committee of last session to investigate delays in the payment of soldiers' bounties under the act of July, 1866, be continued, with authority to send for persons and papers, and with leave to report at any time.

Mr. SPALDING. I object.

Mr. WASHBURN, of Indiana, subsequently said: I have modified my resolution by striking out "with" and inserting "but without;" so as to read "but without authority to send for persons and papers," &c.; and with this modification the gentleman from Ohio [Mr. SPALDING] withdraws his objection to the resolution.

There being no objection, the resolution was received and adopted.

PORT WASHINGTON, WISCONSIN.

Mr. ELDRIDGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of improving the harbor at Port Washington, in the State of Wisconsin, and making an appropriation therefor by Congress.

RIGHTS OF CITIZENS ABROAD.

Mr. ROBINSON. Mr. Speaker, I rise to a question of privilege, connected with the one I had the honor to submit a few days ago. I offer the following resolution:

Resolved, That the Committee on Foreign Affairs be instructed to inquire into the conduct of William B. West, American consul at Dublin, in Ireland, regarding American prisoners in that city, and to report thereon forthwith, to the end that if he has been guilty of conduct which would be liable to impeachment this House may take measures to have articles of impeachment presented to the Senate.

Mr. FARNSWORTH. I rise to a point of

order. I make the point that this is not a question of privilege. If the rule is to be extended so far, any member may rise up every day and make the same question.

The SPEAKER. The gentleman from Illinois rises to a question of order, that as the resolution does not positively propose impeachment of this consul it is not a question of privilege. The Chair sustains the point of order. The resolution previously offered by the gentleman from New York was a question of privilege, because it proposes direct impeachment.

Mr. ROBINSON. I will modify my resolution so that it will provide this consul shall be impeached for high crimes and misdemeanors.

The SPEAKER. That is a question of privilege, and can be introduced for reference or action.

Mr. ROBINSON. Mr. Speaker, since I addressed the House on Monday last on the question of the rights of American citizens in Great Britain, some facts and circumstances pertinent to that question not then familiar to me have come into my possession, involving the charge of great dereliction of duty on the part of William B. West, the American consul at Dublin, in Ireland, which I propose to lay before the House, that they may be sent to the committee having this matter in charge.

Captain Patrick J. Condon, of New York city, in a letter to me dated November 24, 1867, says:

"I wish you to read the correspondence which I send between Mr. Adams, Mr. West, and myself. There were between ninety and one hundred of our citizens in prison with me last year, whose cases were identical with my own, the military record of several of whom I inclose and vouch for. As for myself I believe you are aware I shared the gloom and the glory of the Irish brigade from its organization until its consolidation without losing a battle or a march."

This Captain Condon, whom I saw go forth to the war as captain of one of the companies of the sixty-third regiment New York volunteers, was thrown into jail in Ireland and kept there subject to the grossest indignities, not being convicted or even legally accused of any crime, for five months, and was finally compelled by force to leave the British dominions under an escort of police from the jail to the steamer on which he returned to the United States which he had so gallantly served and which were so grossly insulted in his person. American citizens and soldiers who had shed their blood and periled their lives in defense of the Union were marched like felons from a British dungeon escorted by constabulary, and banished from British territory without hearing or redress. And in this disgraceful proceeding our consul at Dublin, Mr. West, failed to perform his duty and was guilty of the greatest misdemeanor of which a consul could be guilty.

Captain Condon was arrested in Dublin February 23, 1866, and with two others confined in Chancery lane police station four days and three nights, in a filthy cell, without any sleeping accommodations, and not till the night of the 26th was he transferred to the better but still loathsome accommodations of Kilmainham. Papers proving his citizenship were found upon him, and in place of aiding him were taken from him. On the 9th of March he wrote to Consul West claiming the protection of his Government. Consul West did not reply so promptly as he should have done. After being in jail two months, April 21, 1866, Condon received a letter from the consul stating that he was urging the attention of the lord lieutenant to the case, and hoping for some favorable reply. One week afterward he received another letter from Consul West, stating that—

"The lord lieutenant is decidedly unfavorable to the recognition by him of your [Condon's] claim to be a citizen of the United States; yet, inasmuch as there may be a long delay in the settlement of this question of allegiance, should the Irish executive be disposed to liberate you conditionally, it will be for you to consider whether it be not expedient to accept the terms that might be offered."

To this Captain Condon replies, April 30, 1866:

"As I have no doubt this question of allegiance will cause a dispute between both Governments, I, sir, will abide the issue, well believing that my Government will take a bold and dignified stand on this important question."

Nine days afterward the consul writes that press of business prevented his earlier attention, but he would still continue to use his best exertions.

After waiting another month, having been now over three months immured, Captain Condon received a note from the consul asking him to procure a certificate of his naturalization, although he had informed the consul three months previously that the papers proving his naturalization had been taken from him on his arrest, and could have been easily procured in an hour from the detective police office in Dublin, where they were afterward found, on application.

The following are the closing letters of the correspondence:

UNITED STATES CONSULATE,
DUBLIN, *July* 4, 1866.

SIR: I am happy to inform you that his excellency the lord lieutenant has been pleased to order your liberation on condition that you return direct to the United States.

In haste, yours, obediently,

WILLIAM B. WEST, *Consul.*

Mr. PATRICK J. CONDON, *Mountjoy Prison.*

Captain Condon to Consul West.

MOUNTJOY PRISON, *July* 10, 1866.

SIR: On the 4th instant the governor of this prison read for me my conditional discharge, which was in substance as follows: that I should go from here to Queenstown under police escort, and there take passage in a packet ship for the United States direct, and not return to Ireland within a reasonable time. I immediately refused to accept of my release on those conditions, and informed the governor that I had business of considerable importance to myself to arrange in this country and in Scotland before leaving Europe; and also that I wished to go under medical treatment for a short time, as my health was much impaired by confinement. Your letter of the 4th reached me on the 5th instant, which left me no other alternative than to recall my non-acceptance of release by acceptance of the conditions offered. Now, sir, I wish to be informed by you if those conditions are accepted of for me by the United States Government. If they are, I shall conclude that grave and pressing reasons have urged upon it the humiliating necessity of consenting to have its citizens (who are neither charged nor convicted of any crime) marched like common malefactors through the thoroughfares of a foreign country to its very confines, and thence banished. I say if such necessity exists I bow my head to the stroke; but if not, I shall sooner find a grave here, which I am very likely to do if I am kept much longer in confinement, as my health is bad, than accept of terms which would lessen me even in my own estimation. I respectfully demand that you send this letter, or a copy of it, to our minister to London, the reply to which I will anxiously look for. I prefer adopting this course of sending to him through you than writing to himself direct.

Very respectfully, yours,

PATRICK J. CONDON.

Mr. WILLIAM B. WEST, *United States Consul.*

Consul West to Captain Condon.

UNITED STATES CONSULATE,
DUBLIN, *July* 12, 1866.

SIR: I beg to acknowledge the receipt of your letter of the 10th instant, received by last night's post, and in reply inform you that my letter to you of the 4th instant was intended merely as an official notice to you of your liberation, and the conditions thereof, so far as I was informed by this Government. In reply to your question, the terms of your release, that you should be escorted to the ship by police, which I learned for the first time from your letter, are accepted for you by the United States Government. I have to say that I received no authority to accept or reject any conditions that this Government may think necessary to impose for your release, and am in no way responsible for the action of the Irish executive in relation to such conditions, which it will be entirely for you to consider the expediency of accepting or not.

I have, as you requested, forwarded a copy of your letter to Mr. Adams.

I am, sir, your obedient servant,

WILLIAM B. WEST, *Consul.*

Mr. PATRICK J. CONDON, *Mountjoy Prison.*

UNITED STATES CONSULATE,
DUBLIN, *July* 14, 1866.

SIR: I have, as you wished, transmitted your letter to me to Mr. Adams, and now inform you that my reply thereto is approved of by him. I can now only express my regret that the authorities should have thought so unfavorably of your case as to impose conditions on your liberation to which you object. I shall, however, continue my services on your behalf, whenever a favorable opportunity shall be presented for doing so.

I am, sir, your obedient servant,

WILLIAM B. WEST, *Consul.*

Mr. PATRICK J. CONDON, *Mountjoy Prison.*

On the 19th of July, 1866, after five months' imprisonment, the last two weeks being at hard labor, and three days on bread and water, for cheering in his prison for the United States on the 4th of July, this American citizen and soldier, not having committed any crime, not even accused of doing so, was marched between two of the constabulary through the country to Cork and banished the country.

Another case was that of General Denis F. Burke, who acted as secretary of the soldiers' meeting at Cooper Institute, New York, on the 23d ultimo; a man who, in the graphic language of General Halpine, in speaking to that meeting, had three times won the rights of citizenship, once by the regular form of naturalization, and twice afterward by honorable discharges from the American Army, in which he had participated in forty-two general engagements. This gallant officer, who bears the memorials of his services on his breast, perforated by confederate bullets, shortly after the conclusion of the war went to Europe to recruit his shattered health, accompanied by his young and delicate wife. After traveling for awhile through France and Germany, he determined to visit his native land, to see old friends, and gladden the eyes of his beloved companion with a sight of the savage grandeur of Donegal and the beauteous scenery of Killarney and Wicklow. But from the day on which he set foot on Irish soil he was persistently dogged by British spies, and, after a few weeks, was arrested and cast into prison, where he, an invalid, remained for seven months, while his sick wife was left alone, in a strange land, to appeal for discharge and redress through Mr. Consul West. But the appeals of the devoted wife were as ineffectual as the manly remonstrances of her gallant husband; and when at length he was released through other influences, he was accompanied on board a steamer by a policeman and sent back to America, on condition that he should never again set foot on the soil that gave him birth; and on the day of his discharge from Mountjoy jail—being escorted by armed policemen on board a vessel just about sailing for America—he knew no more what he had been arrested for than he knew before his arrest; and he was a gentleman who, at that time, had never sat in any Fenian circle. This outrage was but one of many hundred precisely resembling it.

Another case was that of John H. Rogers, arrested in Dublin February 18, 1867. The following extracts from a long letter addressed to me, and which I received from him on Thursday last, I beg leave to read:

"As one of your constituents I take the liberty of placing before you a copy of the correspondence between William B. West, Esq., United States consul, Dublin, Ireland, and myself, a native American citizen of these United States, and late a political prisoner in Mountjoy convict prison, Dublin.

"As you will observe from the correspondence, the prisoner, whoever he may be, whether a native or a naturalized citizen of the United States, will derive as much benefit by at once appealing to the director of the prison to obtain his release as he will by calling to his aid the representative of the United States.

"I was immured some months without any positive charge against me.

"I now ask why was the position of consul at Dublin created? What rights are guarantied an American citizen when arrested and imprisoned on foreign soil, who has committed no act against the Government by which he is imprisoned?

"On the 29th of May, 1867, I took my departure between two police officers from the Irish bastile. At every prominent station on the route I was requested, on the plea of 'stretching the limbs,' to parade before the eyes of to me ubiquitous detectives; and more especially was this the case at Queenstown, where for hours the steady gaze of the entire corps was fastened on me, whose only crime, in fact, was that my dress and appearance denoted the American. Had I committed the most heinous crime known in the calendar more effective measures could not have been taken, not only to lessen the chance of escape, but to imprint on the minds of her majesty's myrmidons the countenance of your humble servant, which had already been taken by the artist connected with the prison, and which now adorns the gallery as No. 544. The length of time passed by me in prison was three months and a half, during which time, owing to close confinement and prison diet, my health has suffered considerably; and in this connection I would state that during the time above mentioned I was brought in contact with many naturalized Americans, men who to the best of their ability fought for our glorious flag, but in prison were denied the right of native Americans, and in

one case, although armed with no less than three separate honorable discharges from the Army and Navy of the United States, the applicant failed to obtain his release.

"Once more, and now through you, do I indignantly protest against the manner of the treatment of citizens of this Republic, arrested on mere suspicion, thrown into prison, confined twenty-two out of the twenty-four hours, miserably fed, denied the rights and respect due them, paraded before perjurers, pimps, and other vile characters. I feel the stigma cast upon myself as an American, and also the humiliation attached to the acceptance of the imposed conditions, and through you, as my Representative in Congress, do I protest against the action of William B. West as United States consul at Dublin." * * * * "On behalf of other Americans still incarcerated in Mountjoy and other prisons in Ireland I place this in your hands, hoping it will have the desired effect to alleviate their distress and obtain for them that boon which Americans pride themselves upon—liberty.

"In closing I merely remark that as a native American I have conscientiously discharged my duty to myself and to others, native and naturalized, who still remain incarcerated in her Britannic majesty's dominions."

These extracts give the points in the correspondence between himself and Consul West. The day after his arrest he demanded an instant and unconditional release.

Three days afterward the consul states he would not be justified in taking measures for his relief without evidence of his citizenship and proof of his birth in the United States; and concludes that of course he assumes he had in no way been implicated in the Fenian movement. Indeed, Consul West seemed to say that if he (Rogers) had been implicated in the Fenian movement he would not interfere in any way to give him the benefit of his American citizenship. April 16 Consul West had received proof of his being a native citizen, and wrote to him that he had so informed the secretary of the lord lieutenant, requesting—

"That in case you were found not to have transgressed any law of this country he would be pleased to order your release at the earliest moment, to which I have received a reply asking me, for the information of his excellency, if on being released you would undertake to return at once to the United States, which evoked my letter to you of the 13th of April."

The consul in this letter of April 13 had asked Rogers if he would comply with such request of the lord lieutenant to leave the country on being released, but that in complying with that condition he (Rogers) should act on his own judgment. Rogers asked to obtain leave to remain in Dublin one month. This through the consul was denied. This young American citizen, charged with no crime, unconvicted and unaccused, was gravely informed that he could be released on being conveyed by the constabulary to the port of embarkation, never to show his American face again in her majesty's dominions, or he was to remain in jail indefinitely during the pleasure, or rather displeasure, of the British authorities; and Consul West, without any hint that he could otherwise be released or that he would demand his release, left him to take his choice; and concludes:

"You were left by me at perfect liberty to accept or reject, as you had the right to do, any terms that were offered to you as the condition of your release."

Here was this young American, in a loathsome jail, without money, out of health, unconvicted, unaccused, informed that he could choose between indefinite imprisonment and ineffable degradation, and neither consul nor minister seemed even to think that there was any alternative but craven submission.

In closing his correspondence with Mr. West, Rogers says, May 26, 1867:

"On next Wednesday morning I take my departure from this country, threatened with rearrest in case I return. I cannot close this letter without expressing, as a native-born citizen, my unqualified disapproval of the treatment I have received by the United States Government." * * * * "Indisputable as were the proofs of nativity, yet I have failed to receive that which was guarantied, namely, protection from imprisonment in case I had not transgressed the law of the country wherein imprisoned, but instead of which forced to sign a discharge which is repugnant to the feelings of every American. However, this is a matter between the American people and their Government, and I leave this disputed question, being well assured that the voice of the people will ultimately prevail, and the right of the citizen will be protected on foreign soil.'

It will be seen that Rogers mentions the number of his picture as 544, and that Condon says that some ninety or one hundred American citizens were in prison with him. These statements may give some idea how crowded British prisons are with unconvicted and unaccused American citizens, whose groans echo through the filthy cells and against the damp walls of their dungeons, and American consuls and American ministers are as deaf as those walls to those groans of their suffering countrymen.

Captain Condon gives the names of a few of these prisoners, with their services to our country: Colonels John H. Gleason, Irish brigade; Denis F. Burke, Irish brigade; John N. Byron, Irish brigade; Michael Kirwin, Jersey cavalry; Captains James Moran, third Rhode Island infantry; Lawrence O'Brien, ninth Connecticut volunteers; John Warren, sixty-third Irish brigade; Joseph Gleeson, at surrender of Lee; J. Emmet Quinn, John Carroll, James A. Byrnes, D. C. Moynahan, Michael O'Brien, Daniel J. Mykins, Thomas H. O'Brien, James Bible, Thomas M. Holden; Lieutenants Maurice Fitzharris, Army of Potomac; Eneas Doherty, John Joyce, John J. Nolan; Sergeants Patrick Smith, Army of Potomac, artillery; William J. Nicholson.

All these officers and soldiers were held in Irish prisons from five to eighteen months without any charge being made against them. I might mention that Captain Condon returned to Ireland in 1867; was four months again in jail, then tried and acquitted, and yet was kept several weeks in jail after acquittal.

I might mention that since I addressed the House on Monday last I received a letter from Colonel Nagle, dated Kilmainham jail, Dublin, November 14, 1867, in which he says:

"Circumstanced as I am here I cannot enter upon any argument to show how monstrous is the doctrine announced and the right sought to be established over the words and acts, yea, even the thoughts of American citizens, by the British Government—an assumption of power which, if allowed, strikes at the very root of our whole American system, declares one third of our people subjects of foreign Powers, proclaims our naturalization laws a farce, or worse, a deceitful fraud, inducing men to renounce all foreign allegiance, (which, according to English law, is an act of treason,) and exacting of them all the duties and burdens of citizenship, and, when the issue is made, neglects or refuses to give them the protection guarantied by our Government. But I cannot think for a moment that so momentous a question will be permitted to remain unsettled, or that the Government and people of the United States will allow Colonel Warren to become another victim to the despotic rule of British authority, which first drives patriotic men from the land of their birth to seek that prosperity and freedom and justice denied them by her oppressive laws, and now proclaims her right to still hold them as subjects, and place a seal upon their lips and chains upon their limbs, and consign them to the convict prison for daring to express their abhorrence of the power which has despoiled and desolated their native land. No! America must, for her own honor, meet this issue. This question must be settled, our citizens must be respected, and their liberty held inviolate."

He then goes on to state the facts in his own case, requesting me to bring it before Congress; and that if allowed, he will forward a memorial to both Houses of Congress. His trial is put off to the Sligo assizes in April next. He will then be nearly a year in prison in solitary confinement, subject to the same treatment with convicted felons. He is kept in prison while the Government is purchasing or suborning witnesses for the informer's fees and the perjurer's reward; offers of money, liberty, and official position are made to prisoners to swear against their fellow-prisoners, and threats of transportation or the convict gang if they fail to testify.

I intended to recapitulate the facts in other cases, but enough has been said to call the serious, prompt, and energetic attention of all branches of our Government to this subject.

To show the inconsistency of the British Government upon this doctrine of perpetual allegiance, I will here read a letter sent from the Foreign Office to the mother of a naturalized citizen of America asking action on their own theory that he was still a subject. It was written ten or eleven years ago, and reads thus:

FOREIGN OFFICE, *January* 8, 1857.

MADAM: I am directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 15th ultimo, inclosing a representation which you have addressed to the Secretary of State of the United States, with the view of obtaining compensation from that Government for the murder of your son at Grenada, in Nicaragua. Your son, it appears, though by birth a subject of her majesty, emigrated to the United States in the year 1842, and in the twenty-first year of his age, with the intention of permanently residing there, and becoming a citizen of that Republic; he subsequently became naturalized as a citizen of the United States, and took the oath of allegiance to that Government; and he proceeded to and established himself at Grenada as a citizen of the United States. It is not clear from your letter whether, before or at the time of his murder, he had taken any part in the war of which Nicaragua is the theater; but at all events at the time of his death he considered himself to be a citizen of the United States, and as such sought protection from their flag by hoisting it over his door.

Under such circumstances Lord Clarendon, however much he may regret the loss you have sustained, feels himself compelled to decline to make any application to the Government of the United States on your behalf. Your son as far as in him lay, deliberately renounced his connection with this country, and died a citizen of the United States. It must therefore be left to that Government to act as it may think proper with regard to your application.

I am, madam, your most obedient, humble servant,

G. HAMMOND.

MRS. LAWLESS, 5 *Sydney avenue, Black Rock, Dublin.*

I rejoice to say that this subject of protecting American citizens against the doctrine of perpetual allegiance is creating great excitement throughout the country. I tried to rouse public attention to it at our last meeting. On the first day of our present meeting, on the 21st of last month, I made a more successful attempt. Two days afterward, November 23, a meeting in Cincinnati, estimated at fifty thousand persons, passed the following resolution by unanimous acclamation:

"*Resolved*, That it is the sense of this meeting to request the members of Congress from Ohio to use their efforts to present and have passed a resolution instructing the United States Government to take immediate action in relation to all American citizens, whether by birth or adoption, who are now in the British dungeons of Canada, Ireland, and England, and who have been convicted by packed juries and partial judges for no crime but being suspected of Fenianism."

On the same evening, November 23, a mass meeting of soldiers of our late war, estimated at seven thousand, assembled at Cooper Institute, in the city of New York, at which a committee was appointed to visit this city to urge this matter on the attention of Congress. At that meeting the following resolutions were adopted, as the next morning's Herald reports, with loud, long, and repeated applause:

"Whereas according to the Constitution and laws of the United States of America the adopted citizens thereof are entitled to all the rights and privileges, as well as subject to all the responsibilities, of those who have acquired their citizenship by the mere "accident of birth;" and whereas it is the obvious duty of the American Government to protect the lives and liberties of all the citizens of this Republic, and to vindicate and enforce to the fullest extent their just rights and privileges as such whenever or wherever violated, at home or abroad, whether by private individuals or by regularly organized Governments; and whereas should any citizen of this country be charged with violating the laws of any foreign country he is entitled to a trial before a jury composed one half of citizens or subjects of such foreign country resident therein and one half of persons who owe no allegiance to the Government of said foreign country; and whereas Colonel John Warren, a citizen of these United States, having been accused of a violation of the laws of Great Britain, has been recently refused that common right by which all American citizens are entitled to be tried by a mixed jury, composed half of British subjects and half of foreigners; and whereas many citizens of the United States, of native as well as foreign birth, have been unjustly and arbitrarily incarcerated in British prisons, where many of them lie still immured without having any specific charge preferred against them; and whereas the Government of the United States is bound in duty, in honor, and in gratitude to take prompt and effective measures for the redress of the manifold wrongs which our fellow-citizens have suffered at the hands of the British authorities: Be it therefore,

Resolved, That the Irish-born citizen soldiers of this Republic are in a peculiar manner concerned to press upon Congress and the Government the great question of their actual standing as American citizens raised by the late arrests and criminal trials in Ireland and England. Those Irish-born soldiers who have but recently emerged from the horrors and slaughter of a great war in defense of the flag of their adopted country, which flag they did fully believe would give them its protecting shelter against the claims to their allegiance of any Power on the face of the earth, except only the United States of America; and,

Resolved, That in forswearing all allegiance and obedience to the sovereign of England—as they were

required to do by American law before admission to citizenship—the Irish citizen soldiers aforesaid did truly believe that the Government which exacted such an oath, and thereupon granted naturalization, bound itself by that act to assert and vindicate in every place and against every Power whatsoever its right to require such abiuration, and to confer a new citizenship equal in every respect to that of a native-born American; and,

Resolved, That in certain late proceedings of the British Government—in the arrest without charge and long imprisonment without trial of large numbers of American citizens, and in the refusal to accord to others when brought to a pretended trial the privilege of a mixed jury, half foreigners and half British subjects, and in the present imprisonment and penal suffering as convicts of our fellow-citizens thus tried and convicted—we see a distinct and authoritative denial on the part of that Government (whose authority we were required to renounce on oath) of the right of the Government of the United States to naturalize us, as well as of our right to renounce an allegiance always odious to us; and,

Resolved, That as naturalized citizens and soldiers of the United States, held to all the duties, services, and responsibilities of other citizens, which duties and services we have to the best of our ability discharged both on the field of battle and in the walks of private life, we the officers and soldiers of the late Irish brigade, Corcoran legion, and other Irish military organizations, hold ourselves entitled to request of our Government some effectual action with a view to define our position; and,

Resolved, That the thanks of this meeting be hereby tendered to Hon. WILLIAM E. ROBINSON for the prompt and unsolicited action he has taken in bringing this all-important question before the Congress of the United States.

At another immense meeting, estimated at ten thousand, held at Cooper Institute, New York, on Tuesday last, November 26, similar resolutions with similar enthusiasm and applause were adopted, after eloquent speeches by Judge Charles P. Daly, Horace Greeley, General Cochrane, Hon. John McKeon, Hon. A. Oakey Hall, and others, a distinguished committee, including the speakers mentioned, was appointed to come to Washington to urge the measures which I have proposed upon the attention of Congress.

The applause with which the proposed action has been received is not only enthusiastic but unanimous. The very few and very despicable grumblers are unheard amid the enthusiasm with which this proposition is received—to declare and vindicate American protection to American citizens throughout the world.

Mr. LOGAN. I would like to inquire, if the honorable gentleman will permit me, whether the information he now presents to this House in reference to outrages perpetrated upon American citizens has at any time been communicated to the President or to the Secretary of State?

Mr. ROBINSON. Not to my knowledge. I understand that the case of Captain Condon was sent to the President of the United States, but what has been done by the Government in his behalf I do not know.

Mr. LOGAN. If there has been no communication of these facts made to the proper authorities, then there ought not to be any charges made against the legislative branch for not taking steps for the relief of our citizens abroad.

Mr. ROBINSON. I am not making any charges against this House or this Congress. I believe that they will do their duty. I am only doing mine in bringing this matter before them. If I am very earnest in my expressions it is because I feel deeply on this subject.

Mr. Speaker, when we take favorable action on this question in this House there are gallant soldiers lying in American graves, Mulligan, Corcoran, and the eloquent Meagher, "of the sword," around whose tombs the echo of that action will sound in murmurs sweet and soothing to their silent ears. And there are brave soldiers living to whom it will be good news. It will be good news to the gallant general who interrupted me a moment ago; I refer to General LOGAN, of Illinois. The English doctrine of once a subject always a subject does not only extend to the naturalized citizens, but, as I understand, also to the second generation. Now, suppose the hero of the Shenandoah valley, General Sheridan, or General LOGAN, whose swords flashed the light of victory upon so many battle-fields, should visit Ireland, and England should take the fancy to put them in prison and keep them there for words spoken or acts done in their own land, it would be within the strict interpretation of English law. In the cases I have referred to the extension of the doctrines to the second generation seems to have been given up, but it seems only to be held in abeyance.

This is a question of importance to thousands of soldiers who have risked their lives in defense of the American banner; men who have friends, property, and interests at home; men who think, and very justly, that they deserve the protection of the flag they fought for. I stand not here to declare and never have claimed that any American citizen has the right to visit England and violate her laws; but I do say that any of our citizens, traveling abroad on business or pleasure, ought to be protected at all hazards from outrage or insult.

I have said this question is more important than any that may come before Congress, and we must settle it. We are going to make a change in the law of nations. I have said on a former occasion that the American law which allows a man to separate himself from the soil on which he was born shall become incorporated as a recognized article in international law. We have purchased territory in various parts of the continent. Away in the frozen regions of the far northwest we have acquired an immense territory, and from the midst of a region of the ocean where tornadoes have swept islands out of existence it is reported that we have made another purchase. I do not want to abuse England; I only want to have her take care of herself and let other nations alone, particularly this country and Ireland. She has no business in Ireland. She never conquered her, never got a foothold there except by fraud, which vitiates and annuls all contracts.

Now, I want to keep up this idea of purchasing territory, and I want to give England notice that we will purchase Ireland, our people being in sympathy with her in heart and soul. Seven centuries of English rule in Ireland, seven centuries of desolation worse than the seven plagues mentioned in the Apocalypse surely have been enough to have glutted the vengeance of any nation. Let us, then, purchase Ireland if she is willing; if not let us take her and annex her to ourselves. Why should we not do so? Why should we not go east when we have gone so far to the west with our dominion that over a part of our territory to-day is not the 2d of December? We are now acting on two days, and if we should annex Ireland we shall take three days in the calendar. [Laughter.] England, as the world knows, for seven centuries has been unable to manage Ireland. Let her get out of the way and let us annex that country, allowing her to send Representatives and Senators to the Congress of the United States.

Although this is the only resolution which I shall bring before the House on this subject at present, yet I hope there will be a resolution offered by some one or some measure presented by the committee to pay the expenses of these American citizens who have been illegally detained and imprisoned. The family of Colonel Warren, who served in the American war, are starving in New England, in Boston, for want of food. I think we ought to pay the expenses of these citizens; and I intend, at the proper time, to move to refer this whole matter to the committee, with instruction that at its first meeting it shall pass a resolution declaring that our American minister shall demand that all American citizens now under sentence who did not get the full benefit secured to aliens by English law shall either be allowed a new trial or be immediately released. I do not think any lawyer will say that that is unreasonable.

I do not wish to liberate any man who is accused of crime, but I say we are derelict to duty and craven if we do not instantly demand that every American citizen, native or adopted, now in loathsome confinement in British jails shall be liberated unless charges of crime are already filed against him; and if that is not granted let the American minister come home and breathe his native air, and be prepared to stand up like a man, and not be trembling all over like a jelly. [Laughter.]

I have done my duty. I have called attention to this subject before. Twenty-five years ago I brought it before the Senate of the United States, where it was referred to a committee and slept the sleep of death. Again in 1848, in connection with Mr. Devin Reilly, who then with myself published a paper called the New York People, I brought up the subject of outrages perpetrated by British authority upon American citizens when that authority was engaged in putting down the rebellion of Smith O'Brien and others. As soon as I came to Congress, where it had been neglected, wishing in this capacity, at least, to do something for the benefit of the country, I brought the subject before the House, and the House passed a resolution calling for all the correspondence in relation to these imprisonments. The Secretary of State, through the President, refused to furnish that information on the ground, I believe, that it would not be for the public good. I say that we have the right, and I trust that the Committee on Foreign Affairs will insist on getting all this correspondence into their hands, and, if need be, we can consider it in secret session of the House.

I can say in sitting down, as I said in rising, that I hope the House will do me the justice to believe that I would not under any pretense get the floor to trifle with the time of the House. I have done what I could to excite the attention of this people and to call that of this House to the subject, and I can only say that when this thing is accomplished, when the true doctrine which we announce here to-day and will hereafter insist upon, shall become incorporated in international law, and its vitality shall be recognized throughout the world, though I may have departed before that time, my memory may live among those who have advocated it. And in that hour of triumph for American ideas, and may be the hour of Ireland's independence, although—

"I, too, shall be gone; yet my name shall be spoken
When Erin awakes, and her fetters are broken."

Mr. ROSS. I wish to ask the gentleman if he does not think that our citizens in Ireland have been protected from the kind of oppression which he alleges about as well as our citizens in the United States have been protected from the same kind of oppression for the last few years.

Mr. ROBINSON. I have my own ideas about that, and at all proper times I am willing to answer, but I desire to keep this matter as clear as possible of party feeling. I know that the gentleman from Illinois does not expect me to answer his question.

Mr. JUDD obtained the floor.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. WASHBURNE, of Illinois, from the joint committee appointed to wait on the President and inform him that Congress had convened and was ready to receive any communication from him, reported that the committee had performed that duty, and were advised by the President that he will send in a message to-morrow at half past twelve o'clock.

SURVEYOR GENERAL OF UTAH, ETC.

Mr. HOOPER, of Utah, by unanimous consent, introduced a bill to create the office of surveyor general for the Territory of Utah, and establish a land office in said Territory, and extend the homestead and preëmption laws over the same; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ADMISSION OF DESERET.

Mr. HOOPER, of Utah, also, by unanimous consent, introduced a bill for the admission of Deseret into the Union; which was read a first and second time, and referred to the Committee on the Territories.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The House then resumed the consideration of the resolution offered by Mr. ROBINSON.

Mr. JUDD. Mr. Speaker, I have listened with attention to the detail of grievances made by the honorable gentleman from New York, [Mr. ROBINSON,] and I say here and at this time that any member of this House who can listen to that detail of wrongs and not feel his blood flow a little quicker through his veins is not the American citizen that I supposed him to be.

The question presented by the honorable member from New York is not solely an Irish question; it is not a Fenian question; it is a question of nationality; it is a question of the protection of our rights and the rights of our citizens when they venture to go from the land of their adoption.

I propose, with the permission of the House, to give at this time a little history of the action of our executive government upon this question, and to call the attention of the House and of the country to its vacillation and want of dignity at times, and the entire absence of that protection that we are bound to extend to every man who has sworn allegiance to our Constitution and to the Government of this country.

My friend from New York has called the attention of the House to one of the most important questions that can come before it—the protection of the citizen when business or pleasure calls him to foreign lands. The honor and dignity of the nation is involved in that question, and to neglect or delay action at the present time, with all the facts that are now presented, will sink this proud country almost out of the list of nations. If we are not able to defend the rights of our citizens when abroad let us declare this to the nation and the world, and take the contumely that would follow such a declaration. From the first foundation of our Government its policy has been to invite emigrants to these shores, holding out to them not only the inducement of a home and plenty, but that greater boon—citizenship—which in our country means the right to govern themselves. We say by our Constitution and laws that they may own and possess property, and may aspire to any office in the gift of the people except that of President of this Republic. We require of and impose upon them all the duties and responsibilities of that position, and no distinction is made between the native-born and naturalized citizen in the security and protection of their rights at home. Is there any reason why the same protection should not be extended to both classes when they visit foreign lands? The mere statement of the question ought to be its answer in every right-thinking republican mind. And although this is so, the actual fact is not so, and I desire to show to this House not only that the fact is not so, but some of the reasons why it is not so. When you confer citizenship you demand of the new comer an oath of allegiance, and also the following abjuration:

"And that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, State, or sovereignty whatever, and particularly to Victoria, the Queen of Great Britain and Ireland, of which country he has hitherto been a subject."

This oath, taken and entered of solemn record, determines the status of the person taking it. He becomes a citizen, and under our Constitution and laws his rights are as certain, fixed, determined, and complete as that of the native born. There are no qualifications, no conditions. You do not say to him that he shall stay at home and never travel abroad. There is no conditional citizenship. In looking over our past records upon this question the public officials seem to have shrank from enforcing these rights. There is a principle or theory in relation to government claimed by some of the nations of Europe that if allowed to be enforced destroys entirely the quality of absolute American citizenship. There is not a civilized nation that does not in some form recognize the right of a person to change his domicile or expatriate himself. The doctrine of perpetual allegiance is derived from the dark ages, the time when Governments were maintained for the benefit of rulers and not for the people. Sovereigns were everything; subjects were nothing.

In these days some of the military Governments of Europe seek to enforce this rule, and to-day Great Britain and Prussia say to the citizens of the United States, "True it is, you are citizens of the United States, but still you are subjects of our kings," and they act upon it. It is not with those nations a mere theory, Mr. Speaker. In Prussia our citizens are compelled to do military duty for a Government the allegiance to which we have compelled them to abjure under oath, and although Great Britain does not demand military service she does more than that. Her courts deny rights to our citizens that are given to every other nation in its tribunals. Kent and Story have partially recognized the pretensions of these foreign Governments. They were too near the time of our separation from the mother country. Lawyers educated under the common law system, full of precedent, they apparently subscribed to that which they found in the English books. It seems to me if they had reflected upon the oath required of every one before they became citizens, namely, "And that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, State, or sovereignty whatever, and particularly to William I, King of Prussia," and then kept in mind that our Government had from its foundation invited foreigners to take this oath, they would hardly have stated, even inferentially, that the persous taking it owed any perpetual or any other allegiance to the country they have foresworn.

That the House may be more forcibly impressed with the operations of this foreign theory, I wish to recur to a few cases that have occurred and passed into history. In the case of the forcible incorporation of John Philip Knoche, a naturalized citizen, into the army of Prussia, in 1840, Mr. Wheaton refused aid to such person on his own responsibility, and in the following terms:

"But, having returned to the country of your birth, your native domicile and national character revert, so long as you remain in the Prussian dominion."

Mr. Everett, as Secretary of State, approved of this doctrine of Mr. Wheaton, and in a dispatch to Mr. Barnard, minister to Prussia, dated January 14, 1853, says:

"His departure is of the nature of an escape from her laws; and if at any subsequent period he is indiscreet enough to return to his native country he cannot complain if those laws are executed to his disadvantage."

But these cases continued to multiply, and our Government at last began to appreciate the importance of this question. The case of Koszta, taken from an Austrian vessel in the bay of Smyrna, aroused public attention. Secretary Marcy's justification was placed on the ground that Austria was a violator of neutral territory; and that agitation awoke public attention to the importance of this question. General Cass, as Secretary of State, in 1859, in a communication addressed to our minister at Berlin, enunciated the true American doctrine. He says:

"The moment a foreigner becomes naturalized his allegiance to his native country is severed forever. He experiences a new political birth. A broad and impassable line separates him from his native country. He is no more responsible for anything he may say or do or omit to say or do, after assuming his new character, than if he had been born in the United States. Should he return to his native country he returns as an American citizen and in no other character. In order to entitle his original Government to punish him for an offense, this must have been committed while he was a subject and owed allegiance to that Government. The offense must have been complete before his expatriation. It must have been of such a character that he might have been tried and punished for it at the moment of his departure. A future liability to serve in the army will not be sufficient; because before the time can arrive for such service he has changed his allegiance and has become a citizen of the United States. It would be quite absurd to contend that a boy brought to this country from a foreign country, with his father's family, when but twelve years of age and naturalized here, who should afterward visit the country of his birth when he had become a man, might then be seized and compelled to perform military service because if he had remained there throughout the intervening years, and his life had been spared, he would have been bound to perform military service. To submit to such a principle would be to make an odious distinction between our naturalized and native citizens."

Mr. Speaker, General Cass enforced this doctrine wherever and whenever a case came under his observation. The difference between the pure lawyer and the statesman is shown clearly when contrasting the views of Kent and Story, with those of Cass.

After this declaration of the policy of our Government by General Cass the Government of France, equally a military Government with the others, acquiesced in that opinion, and in 1860 its courts decided that by taking an oath of allegiance to a foreign Government a French subject lost his character as a citizen of France, and that none but French citizens could serve in the French army. The adjudication in the case of Zeiter ended all controversy with that Government upon this question. Our representative at that Court believed that a power higher than the court molded its judgment. If so, there was far-seeing wisdom in it.

The Prussian Government still holds to the doctrine of perpetual allegiance, and your citizens are forcibly seized and compelled to service. Notwithstanding the traditional friendship between that nation and ours, this cause of irritation remains and is increasing every year. The ties of fatherland will call back the young man to see the land of his birth and the home of his father. Prussian authority puts these men by force into its army, and men that bear honorable scars in defense of their adopted country are subjected to this humiliation and injustice, notwithstanding the protest of your Government through its diplomatic representatives. The humiliation of that position I have felt as the representative of this Government, and my opinions are of record, and I will ask permission of the House to read extracts from two of my dispatches to the present Secretary of State, showing my actions and opinions:

"LEGATION OF THE UNITED STATES,
"BERLIN, *September* 30, 1861.

"SIR: I have the honor to call the attention of the Government to the case of Jacob Spandau, reported in dispatches Nos. 4 and 6 from this legation. A final answer has been received from the Government of Prussia, declining to discharge him from the Prussian army, a copy of which is hereto attached, (No. 1.)

"As the issue is distinctly made by that Government's refusing a release of a citizen of the United States from enforced military service in the Prussian army, I propose to restate the facts as laid before the Department in my previous dispatches.

"Jacob Spandau in the year 1853, and at the age of seventeen, obtained leave from the local authorities to go to Hamburg for four months to see some relatives, and went from there to the United States, and remained in the United States until July of this year. He became a citizen of the United States, and in July last returned to his native town, Ryczywol, in the province of Posen, to visit his parents, and was immediately notified to report himself at Obornick to be incorporated into the army, and has been compelled to serve in the Prussian army in spite of his citizenship and the remonstrances of this legation, and is forced to wear the uniform and fight the battles of a Government whose allegiance the Government of the United States required him solemnly and under oath to renounce before admitting him to citizenship.

"The laws of Prussia require every Prussian subject who has attained the age of twenty full years to serve in the army, and all the young men of that age must in that year present themselves to the military commission of their circle to be examined as to fitness and be incorporated into the army.

"It is thus apparent that the Prussian Government has compelled a citizen of the United States to serve in its army when at the time he left Prussia he was not owing military service and could not for years be required to perform it. I am not disposed to submit to any such proposition unless specially instructed so to do. Prussia, as the leading Power of Germany, can mold and form the policy of most all the other German States, and if its policy is submitted to every little petty principality may commence a system of terrorism against our citizens which will effectually prevent any of them visiting the home of their childhood or the graves of their fathers. The principle adopted by the Government is a violation of the principles of international law on the question of allegiance, as understood by us, and makes the conferred citizenship, by virtue of naturalization, a partial and conditional right. We require faith and allegiance, but give no protection to citizens free from the reproach of crime. I cannot better express my feelings than by an extract from one of the young man's (Spandau's) letters to me: 'I wish to God that I would have been on the side of my friends and cousins who have fallen in the battle in Missouri, and the same bullet had killed me ere I have to suffer so much as I do here.'"

In reporting another case I wrote:

"LEGATION OF THE UNITED STATES,
"BERLIN, *February* 28, 1862.

* * * * "The right of expatriation must be insisted upon in all cases where the military obligation or duty has not attached by an actual summons for service, and the protection to the citizens of the United States under our treaties with the Prussian and other German Governments ought to be enforced. Large numbers of Germans, some of whom have actually seen service in the war against the rebellion, are coming to Germany, and the demands for protection by the legation are very frequent. I have in all cases advised the parties of the risk that they are about to encounter, and promise them all the aid that is in my power. I have adopted a course of proceeding that has already saved several parties from the grasp of the authorities. Parties arriving at their homes, the passports issued to them by the United States Government are demanded of them for deposit by the local police, the police believing that so long as they retain the passports they are sure of the parties when they want them. I have advised the young men that if they come to Berlin I have authority to give them passports." * * * * "I cannot shut my eyes to the fact that our present position has an effect upon the potency of demands that may be made upon the European Governments, notwithstanding such Powers may be friendly; and I am consoled with the belief that our darkest days are over, and that the opinions and desires of our Government will soon be heeded on this side of the ocean."

The present Secretary of State holds the same views enunciated by General Cass. In reply to my urgency upon this question he wrote, under date of 3d April, 1862:

"DEPARTMENT OF STATE,
"WASHINGTON, *April* 3, 1862.

"SIR: Your dispatch of February 28 (No. 19) has been received. I fully approve your proceedings in regard to the cases of the naturalized American citizens of German birth who have solicited your protection from the laws of Prussia which require them to perform military service.

"Your views upon the general subject involved in those cases are very just, as well as patriotic; and under circumstances different from those with which we are surrounded it would be a pleasant duty to authorize a more decided activity on your part in regard to it. It is obvious, however, that the subject is one which deeply affects the pride and natural sensibility of our own country; and when it shall once have been opened we must proceed with such firmness as would probably involve an inquiry into the probable consequences of a failure in obtaining the assent of the Prussian Government to the positions we should put forth."

And in July of the same year he wrote:

"The views of this Government were correctly stated by you, and the position we have assumed will be maintained. The question is one, however, which for the present we must suffer to remain undisturbed; not because we feel less interest in it than has been felt heretofore, but because the attention of the Government and people of this country is now engrossed with weightier matters. When a fitting time shall arrive it will be taken up and discussed with the Powers interested in a spirit let us hope, that will insure a prompt and satisfactory disposition of it."

This evil spirit would not down, Mr. Speaker. Cases constantly occurring called from the Secretary of State the following, under date of 7th March, 1863, and it ended my discretion in the matter:

"DEPARTMENT OF STATE,
"WASHINGTON, *March* 7, 1863.

"SIR: Your dispatch of the 2d ultimo, No. 40, has been received. Your proceedings in the cases of Apelt and Kloss are approved; and your observations upon others of a similar class, especially with regard to those whose protection is invoked by parties who have returned to Prussia with the evident intention of remaining there permanently, are very just. It is easy to be foreseen that serious difficulties and embarrassments may arise if the appeals of such persons for our protection against the operation of the military laws of Prussia should be indiscriminately pressed upon the attention of that Government. Instances have occurred where Europeans who have become naturalized citizens of the United States have left the country when their services were required, and returned to Europe to avoid needful military duty here, and then have invoked the protection of the United States to screen them from military duty there. *Henceforth you will make no further applications in these military cases without specific instructions.*"

I call the attention of the House, Mr. Speaker, to these extracts for the purpose of showing the present position of the question, and not of complaining of the Secretary, as I believed then and still think the course dictated by him was politic and wise. Surrounded as we then were, and pressed upon these questions by our citizens in trouble, I can readily understand why the Secretary of State, while approving of acts and opinions, should think there would be more coolness and prudence in Washington than in Berlin, and that we must bear these wrongs while rebellion was stalking throughout the land. I submitted, and was compelled thereafter to ask as a favor what ought to have been demanded as a right; and I believe that in every instance occurring during my service the Prussian Government sooner or later, for cause or as a favor, discharged the individuals from service, but never abandoned its position.

We have treaties with Prussia and most other nations guarantying the right of our citizens to travel and sojourn in their respective dominions in pursuit of pleasure and business. Our trade with that kingdom is increasing daily. But the free enjoyment of these rights are refused to the naturalized citizen. Children taken to America with their parents before the age of discretion, on returning are subjected to the performance of military duty, and in one instance the son of a consul of the United States, taken to the United States at the age of six years, was notified in March, 1862, while in Berlin pursuing his studies, to tender himself for enrollment in the army. It is by virtue of this same claim of perpetual allegiance that Great Britain is now hanging and imprisoning men who have never violated a law of that nation, unless their laws are of binding force within these United States. Take the case of Colonel Meany, acknowledged by the prosecution to have done no criminal act within the kingdom of Great Britain, and he is refused the benefit of the law of that realm extended to every other nationality except that of the American citizen. The laws of England allow a foreigner on trial upon a criminal charge the benefit of having a jury in part of foreigners. Do you suppose, Mr. Speaker, that Colonel Meany would have been convicted and sentenced for fifteen years for words and acts said and done in New York with one half of that jury loyal Americans? If this construction of the law is submitted to, there are several gentlemen now representing constituencies on this floor that I would advise not to go on British soil. British courts of justice start with the presumption that an Irishman is an outlaw. Her legislation has invited them to resistance by oppression of years of duration; and not contented with the oppression of those that still remain in that island they seize an American citizen and condemn him, not for any act done within their jurisdiction, but because he was born there—this same person having at our request sworn allegiance to the Government of this country, and abjured all allegiance to that of Great Britain.

Irish political trials before a British court are a mockery and by-word in history. It remains to be seen whether the United States will submit to such insults and mockery of justice.

It was the same with courts and juries in the mock trials instituted in her courts under the pretense of punishing her subjects for a violation of her neutrality laws in aiding the rebellion against this Government. Her courts did not and could not administer law justly. Interest, prejudice, and hostile feeling to this country entered the courts of that realm and controlled their deliberations and discussions. Irish trials for semi-political offenses and American attempts to punish the aiders and abettors of the rebellion against our country stand relatively upon the same footing in British courts. I do not deny the principle that a foreigner guilty of an offense against the laws of the country where he resides is to be tried and punished according to those laws. But those laws must be fairly and impartially administered, and if there is a refusal of justice or a perversion of law it is the solemn duty of this Government to protect the citizen against such acts even to the last arbitrament of nations. Honor, duty, dignity, all concur in this. I hope for our common humanity that the reports of arbitrary and unlawful proceedings are untrue or exaggerated. I cannot believe that the representative of the United States has allowed these things to pass without protest. It is not in the heart of a true American to stand by and silently submit to such wrongs, and I do hope that when the State Department furnishes the correspondence we shall ascertain that efforts were made to protect our citizens. The duty to see that the law is properly administered even to the most guilty is clear and paramount. The adoption of a policy upon this question of allegiance cannot longer be postponed. Every day adds to the embarrassment and increases the wrongs to our citizens. These prosecutions in England demand investigation on the part of our Government. It is its duty to see that law is not perverted to produce convictions. The rule of law that one can be tried only where the offense is committed is as old as the civilized administration of justice in England.

I repeat, Mr. Speaker, that the embarrassments growing out of this doctrine are increasing very rapidly. My successor in Prussia reported that since the close of the war as many as one hundred persons in a single month applied to him for advice as to how they should act. To settle this conflict on the basis of Americanism would possess for me more attraction than the reputation of having purchased a hemisphere. I regard the protection of national citizenship as far above the acquisition of territory; and so I believe the future historian will write it. At the time of the rebellion in Ireland in 1848 there were arrests and imprisonments of American citizens without process, and long confinements without trial or the preferment of charges; and our then minister, Mr. Bancroft, did protest against such wrongs in the name of the American people. Then, as to-day, citizens of the United States, not guilty of any violation of the laws of that realm, filled its prisons. I cannot better close these remarks than by placing side by side the pretensions of the two Governments. I find among the foreign news in the New York papers of Saturday last the proceedings of the court when passing sentence upon Halpin and others. Called upon to know why sentence should not be passed upon them, the accused claimed that the privileges of American citizenship had been denied them, and that the law had been perverted to convict them in refusing the kind of jury authorized by British statutes. The Lord Chief Justice answered that complaint in the following language:

"The Lord Chief Baron, in passing sentence, referred to the claims of the prisoners of their American citizenship. He said that according to British law they who were born under the allegiance of the British Crown cannot, by an act of their own, or by the act of any other country or Government, be absolved from their allegiance. It might be, he said, a calamity to persons circumstanced as the prisoners at the bar appeared to be, in accepting the privileges accorded by the Government of another State. They did that which created a conflict between two duties."

Mr. Speaker, this is the latest enunciation of that doctrine of perpetual allegiance, and under it Halpin is now serving out his term of imprisonment. To this declaration of Mr. Lord Chief Justice I will quote the eloquent language of Mr. Bancroft, used in the protest I have referred to and addressed to Lord Palmerston in January, 1849:

"Thus, then, by the Roman law, by the law of France and of Germany, by the law of the civilized world, by the policy adopted by Great Britain itself in its colonies, foreigners become in naturalization as '*natural born.*' The United States cannot consent to a denial of this accepted doctrine of ancient and modern nations. Once naturalized, the persons adopted by America are no longer Bavarians, nor Prussians, nor Frenchmen, nor Englishmen. They are Americans. Wherever they are found, in whatever pursuit they are engaged, on land or on board ship, at home or abroad, everywhere they are Americans. This the United States have promised; this their faith and honor are pledged to make good."

At the declaration "I am a Roman citizen" the shackles fell and barbarians paused in their persecutions. Is the Republic of modern times, whose armed democracy has made a continent tremble with its tread, to be trifled with? Is the appeal "I am an American citizen" to be treated with contumely and contempt? Decide, ye Representatives of the people!

Mr. BANKS. I move that the pending resolution be referred to the Committee on Foreign Relations; and upon that motion I call for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to refer was agreed to.

LEAVE OF ABSENCE.

Mr. HIGBY asked and obtained leave of absence for his colleague, Mr. AXTELL, for one week.

EXTRA COMPENSATION TO CLERKS, ETC.

Mr. LOGAN, by unanimous consent, introduced a bill to extend the joint resolution giving additional compensation to certain employés in the civil service at Washington, approved February 28, 1867; which was read a first and second time, and referred to the Committee on Appropriations.

D. B. ALLEN AND COMPANY.

Mr. FARNSWORTH, by unanimous consent, introduced a bill to provide for the payment of D. B. Allen & Co., for services in carrying the United States mail; which was read a first and second time, and referred to the Committeee on the Post Office and Post Roads.

EXAMINATION OF DEPARTMENT RECORDS.

Mr. JULIAN, by unanimous consent, introduced a joint resolution to allow members of Congress to inspect papers in the Post Office Department; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

CONTRACTION OF THE CURRENCY.

Mr. INGERSOLL. I desire to make a privileged motion, that the House now adjourn. Before submitting that motion I will state that my object is to enable the Committee of Ways and Means to have an opportunity to consider the bill to prohibit the further contraction of the currency. I understand that it is the desire of a majority of that committee that they have time this afternoon.

Mr. WASHBURNE, of Illinois. I would suggest to my colleague [Mr. INGERSOLL] that we can accomplish his purpose equally as well by simply granting the committee leave to sit during the sessions of the House.

Mr. INGERSOLL. That is very true; but as that has not been proposed by any one, I trust the House will adjourn for the purpose I have indicated.

Mr. SCHENCK. I would inquire of the Chair whether there is any order of the present Congress authorizing the Committee of Ways and Means to sit during the sessions of the House?

The SPEAKER. There is not.

Mr. SCHENCK. Then I move that the committee have that privilege.

No objection being made, it was ordered accordingly.

Mr. INGERSOLL. I insist upon my motion that the House now adjourn.

Mr. ROSS. I would like to ask my colleague [Mr. INGERSOLL] if he has not time to report the bill he was instructed a few months ago to report, prohibiting the sale of ardent spirits in the District of Columbia? [Laughter.]

Mr. INGERSOLL. I am not aware that any such bill is required by the members of this House.

The question was upon the motion to adjourn.

The motion was agreed to; and accordingly (at two o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c.; were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Wade H. Griffin, administrator, &c., of Cahawba, Alabama, in regard to notes not stamped without fraudulent intent.

By Mr. CARY: The petition of Mrs. Bridget O'Conner, widow of Richard O'Conner, private company K, Merrill's horse, asking for relief.

By Mr. EGGLESTON: A memorial of W. G. Burrows, protesting against the Government of the United States continuing in the stationery business.

By Mr. FERRY: The petition of Captain T. H. Benton Hazleton, of the fourth Michigan cavalry, praying for payment of award for the capture of Jefferson Davis, so-called president of the late confederate States.

By Mr. GARFIELD: The petition of George Wilson for an appropriation as compensation for his services in detecting the Camp Douglas conspiracy.

By Mr. GETZ: Six memorials, signed by 561 citizens of Berks county, Pennsylvania, remonstrating against the passage of any law by Congress which will interfere with regulation of the right of suffrage in the State of Pennsylvania by the people thereof, and extend the right to vote to persons of color, in violation of the provisions of the constitution of said State.

By Mr. HOPKINS: The petition of Major T. F. Stevens, asking for the passage of a law crediting him with a certain sum.

By Mr. INGERSOLL: Papers in the case of John F. Winslow.

By Mr. LAWRENCE, of Ohio: The petition of the Capitol watchmen, for an equalization of their compensation with the Capitol police.

By Mr. MALLORY: The memorial of Mary E. Harris and others for relief.

By Mr. PERHAM: The petition of citizens of Auburn, Maine, for a pension to Cyrus D. Wood.

By Mr. SCHENCK: The petition of Hugh Monson, of Stafford county, Virginia, praying to be relieved from penalties incurred by participation in the late rebellion.

Also, the petition of John A. McDonald, of Chatham county, North Carolina, praying to be relieved from liabilities incurred by participation in the late rebellion.

By Mr. TRIMBLE: The petition of Daniel Hodge and other colored citizens of Tennessee, praying for compensation due them from the United States Government.

By Mr. WINDOM: A petition of citizens of the District of Columbia for a charter for a horse railroad from the intersection of Seventeenth street and Pennsylvania avenue, running north on said Seventeenth street to its intersection with K street, and thence along Connecticut avenue to Boundary street, and along Taylor's lane in a northwesterly direction to or near the county line of the District.

IN SENATE.

TUESDAY, *December* 3, 1867.

Prayer by Rev. E. H. GRAY, D. D.

Hon. AARON H. CRAGIN, of New Hampshire, appeared in his seat to-day.

CORRECTION OF THE JOURNAL.

The Secretary read the Journal of yesterday.

Mr. BUCKALEW. I move to amend the Journal by striking out the word "honorable" wherever it occurs as a prefix to the names of the members who were present yesterday.

Mr. JOHNSON. I would inquire of the Chair for information—he can obtain it from the Clerk—if the term has been used heretofore in the Journals of Congress?

The PRESIDENT *pro tempore*. I am told that it has been the uniform practice ever since the Government was organized.

Mr. JOHNSON. I do not think it ought to be changed, then.

Mr. BUCKALEW. If any member of the Senate is anxious to retain this practice in particular I certainly have no strong opinion about it. I think there is great impropriety in our making up the Journal in that way, which we are daily supposed to vote upon and adopt, and for that reason I have submitted the motion. This practice grew up as an act of the Clerk or Secretary of the Senate. It was never adopted by the Senate. There is no rule on the subject. I confess I have always, in looking over the Congressional Journals, felt a little nervous at seeing this parade of an unnecessary addition to the names of the members of the body; and now, in the beginning of the Fortieth Congress, at its first regular session, I supposed, by a quiet vote without debate, it might be dropped.

Mr. CONNESS. I should like to inquire of the Senator whether this movement of his is intended as a plank in the Democratic platform in the coming election or not? [Laughter.]

Mr. BUCKALEW. I have never been concerned in making platforms, and never expect to be.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania, to amend the Journal by striking out the word "honorable" wherever it appears before the names of members.

The motion was agreed to.

STANDING COMMITTEES.

Mr. ANTHONY. Before the morning business comes in I will move to proceed to the election of standing committees, and then the business can be referred as it comes in. I move that the Senate now proceed to the election of the standing committees of the body.

The motion was agreed to.

Mr. ANTHONY. I ask the unanimous consent of the Senate that the rule which requires the committees to be elected by ballot be dispensed with.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the rule is dispensed with.

Mr. ANTHONY. I send a list of committees to the desk, which I nominate.

The Secretary read the list, as follows:

On Foreign Relations—Messrs. Sumner, (chairman,) Fessenden, Cameron, Harlan, Morton, Patterson of New Hampshire, and Johnson.

On Finance—Messrs. Sherman, (chairman,) Morgan, Williams, Van Winkle, Cattell, Henderson, and Morrill of Vermont.

On Appropriations—Messrs. Morrill of Maine, (chairman,) Grimes, Howe, Wilson, Cole, Conkling, and Guthrie.

On Commerce—Messrs. Chandler, (chairman,) Morrill of Maine, Morgan, Sprague, Corbett, Patterson of Tennessee, and Doolittle.

On Manufactures—Messrs. Sprague, (chairman,) Pomeroy, Yates, Cole, and Dixon.

On Agriculture—Messrs. Cameron, (chairman,) Cattell, Morton, Tipton, and Guthrie.

On Military Affairs and the Militia—Messrs. Wilson, (chairman,) Howard, Sprague, Cameron, Morton, Thayer, and Doolittle.

On Naval Affairs—Messrs. Grimes, (chairman,) Anthony, Cragin, Nye, Frelinghuysen, Drake, and Hendricks.

On the Judiciary—Messrs. Trumbull, (chairman,) Stewart, Frelinghuysen, Edmunds, Conkling, Johnson, and Hendricks.

On Post Offices and Post Roads—Messrs. Ramsey, (chairman,) Conness, Pomeroy, Van Winkle, Harlan, Morrill of Vermont, and Dixon.

On Public Lands—Messrs. Pomeroy, (chairman,) Stewart, Edmunds, Cattell, Williams, Tipton, and Hendricks.

On Private Land Claims—Messrs. Williams, (chairman,) Howard, Ferry, Norton, and Bayard.

On Indian Affairs—Messrs. Henderson, (chairman,) Morrill of Maine, Ross, Corbett, Thayer, Buckalew, and Doolittle.

On Pensions—Messrs. Van Winkle, (chairman,) Edmunds, Trumbull, Fowler, Tipton, Davis, and Bayard.

On Revolutionary Claims—Messrs. Nye, (chairman,) Chandler, Howe, Patterson of Tennessee, and Conness.

On Claims—Messrs. Howe, (chairman,) Willey, Frelinghuysen, Howard, Morrill of Vermont, Cole, and Davis.

On the District of Columbia—Messrs. Harlan, (chairman,) Sumner, Henderson, Willey, Patterson of New Hampshire, Corbett, and Patterson of Tennessee.

On Patents and the Patent Office—Messrs. Willey, (chairman,) Sherman, Thayer, Ferry, and Norton.

On Public Buildings and Grounds—Messrs. Fessenden, (chairman,) Trumbull, Grimes, Ferry, and Johnson.

On Territories—Messrs. Yates, (chairman,) Nye, Cragin, Fowler, Ramsey, Ferry, and Davis.

On the Pacific Railroad—Messrs. Howard, (chairman,) Sherman, Morgan, Conness, Ramsey, Stewart, Wilson, Harlan, and Drake.

To Audit and Control the Contingent Expenses of the Senate—Messrs. Cragin, (chairman,) Drake, and Buckalew.

On Engrossed Bills—Messrs. Fowler, (chairman,) Sumner, and Norton.

On Mines and Mining—Messrs. Conness, (chairman,) Stewart, Chandler, Anthony, Yates, Conkling, and Guthrie.

Joint Committee on Printing—Messrs. Anthony, (chairman,) Ross, and Johnson.

Joint Committee on Enrolled Bills—Messrs. Ross, (chairman,) Patterson of New Hampshire, and Dixon.

Joint Committee on the Library—Messrs. Morgan, (chairman,) Howe, and Fessenden.

Joint Committee on Retrenchment—Messrs. Edmunds, (chairman,) Williams, and Buckalew.

Joint Committee to Revise and Fix the Pay of the Officers of the two Houses—Messrs. Fessenden, (chairman,) Sherman, and Buckalew.

To Examine the Claims and Accounts for Repairs and Furnishing the Executive Mansion—Messrs. Harlan, (chairman,) and Norton.

On Ordnance—Messrs. Howard, (chairman,) Cameron, and Drake.

On Revising the Rules of the Senate—Messrs. Anthony, (chairman,) Pomeroy, and Edmunds.

Mr. EDMUNDS. I notice in the reading of the list of the Senate members of the Committee on Retrenchment that only three are named. The committee, since that print was made, probably has been increased to four. Hon. Mr. PATTERSON, of New Hampshire, was the other member of the committee. I move to amend the list, as I presume the omission is merely inadvertent, by adding the name of Mr. PATTERSON, of New Hampshire, to that committee.

The PRESIDENT *pro tempore*. That amendment will be made, no objection being made. The question is on the adoption of the list of committees which has been read.

The list was adopted.

PETITIONS AND MEMORIALS.

Mr. NYE presented the petition of Margaret Riddle, widow of George Read Riddle, praying to be remunerated for property taken by the military forces of the United States and applied to their use; which was referred to the Committee on Claims.

Mr. HARLAN presented the memorial of M. N. Radovich, praying payment for the charter of his boat Diana for the conveyance of troops, and payment for the value of said boat, it having been lost in the Government service; which was referred to the Committee on Claims.

Mr. POMEROY presented a petition of citizens of Connecticut, for the passage of immediate legislation to secure to women equal suffrage in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. FERRY presented the petition of Julius W. Knowlton, late second lieutenant of company C fourteenth regiment Connecticut volunteer infantry, for compensation for services rendered as commanding officer of that company from June 4, 1863, to January 11, 1864; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Connecticut, praying that a pension be granted to Charles McElroy, late a private in company K seventeenth regiment Connecticut volunteers; which was referred to the Committee on Pensions.

Mr. ANTHONY presented the petition of Mary H. Burke, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Trevett Abbott, lieutenant commander United States Navy, praying that he may be restored to the list of active officers of the United States Navy; which was referred to the Committee on Naval Affairs.

Mr. CRAGIN presented the petition of Lydia P. Diggins, of Cornish, New Hampshire, aged eighty-four years, widow of Martin Diggins, a revolutionary pensioner, praying for an increase of her pension from seventy dollars per annum to the same amount allowed the widows of revolutionary soldiers married prior to 1800; which was referred to the Committee on Pensions.

Mr. CHANDLER presented the petition of George H. Mott, private of company D fourth Michigan cavalry, praying that the reward for capturing Jefferson Davis may be paid to his captors; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS presented a memorial of clerks and other employés in the civil service at Washington, praying for an extension of the joint resolution approved February 28, 1867, granting them additional compensation; which was referred to the Committee on Appropriations.

Mr. THAYER presented a petition of citizens of Nebraska, praying for the establishment of a tri-weekly mail route between Nebraska City and Lincoln, in that State; which was referred to the Committee on Post Offices and Post Roads.

BILLS REFERRED.

On motion of Mr. CONNESS, the joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian Islands was taken from the table and referred to the Committee on Naval Affairs.

On motion of Mr. ROSS, the bill (S. No. 158) to grant certain privileges to actual settlers on lands ceded to the United States by Osage Indians, in Kansas, was taken from the table and referred to the Committee on Indian Affairs.

On motion of Mr. STEWART, the bill (S. No. 156) to establish a national school of mines was taken from the table and referred to the Committee on Mines and Mining.

PRESIDENT'S ANNUAL MESSAGE.

Mr. ROBERT JOHNSON, the President's Secretary, appeared below the bar, and said: Mr. President, I am directed by the President of the United States to deliver to the Senate a message in writing.

The document having been handed to the Chair and opened, was announced to be the President's annual message.

The Secretary, [JOHN W. FORNEY, Esq.,] read the message. [It will be published in the Appendix.]

Mr. ANTHONY submitted the following resolution; which, under the rule, was referred to the Committee on Printing:

Resolved, That the message of the President of the United States, with the reports of the heads of Departments, without the accompanying documents, be printed, and that three thousand additional copies be printed for the use of the Senate.

FINANCE REPORT.

The PRESIDENT *pro tempore* laid before the Senate the annual report of the Secretary of the Treasury on the state of the finances; which, on motion of Mr. SHERMAN, was referred to the Committee on Finance, and ordered to be printed.

Mr. SHERMAN. In connection with that report I wish to submit what I believe is the usual motion, that three thousand extra copies be printed. That motion, I believe, under the rules, must go to the Committee on Printing.

The PRESIDENT *pro tempore*. The motion will be so referred.

CURRENCY REPORT.

The PRESIDENT *pro tempore* also laid before the Senate the annual report of the Comptroller of the Currency; which, on motion of Mr. SHERMAN, was referred to the Committee on Finance, and ordered to be printed.

BILL INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 159) relating to the Western Pacific railroad; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

THE NATIONAL BANKS.

Mr. MORTON. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Treasury be requested to report to the Senate the amount and character of taxes collected from the national banks for each year since their establishment, and the amount of taxes levied and collected by the several States upon the stock of said banks as nearly as it can be ascertained; also the amount of bonds deposited with the Government as security for national bank currency, with the amount of interest paid thereon annually in gold, and the value thereof in legal-tender notes.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. MORRILL, of Vermont. I suggest to the Senator from Indiana that he amend the resolution by including in the amount of national taxes paid by these banks the amount paid in the form of licenses.

Mr. MORTON. I will accept the suggestion, and modify the resolution by inserting the words "including the amount paid for licenses."

The resolution, as modified, was agreed to.

REFERENCE OF THE MESSAGE.

On motion of Mr. SHERMAN, it was

Ordered, That so much of the annual message of the President and the accompanying documents as relates to the finances be referred to the Committee on Finance.

On motion of Mr. SUMNER, it was

Ordered, That so much of the President's message as relates to foreign relations be referred to the Committee on Foreign Relations.

TERRITORY OF NEW MEXICO.

Mr. TIPTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of so amending the organic act of New Mexico as that the Governor shall have no greater power over the legislation of said Territory than the President of the United States has, under the Constitution, over the legislation of Congress.

THE PUBLIC DEBT.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the joint resolution (S. R. No. 66) pledging the faith of the United States to the payment of the public debt in coin or its equivalent, which I had the honor to introduce at the last session.

Mr. FOWLER. I do not mean to object to the consideration of that resolution, but I hope the Senator from Vermont will defer it for a few days.

Mr. POMEROY. I understand that there is no intention of proceeding with its consideration to-day; but if it be now taken up and the Senate then adjourns it will be in order for to-morrow. I suppose that is the intention.

Mr. EDMUNDS. Certainly.

The motion was agreed to.

Mr. POMEROY. Now the resolution being taken up, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 3, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

COLORADO MILITIA.

The SPEAKER laid before the House a communication from the Secretary of War *ad interim*, transmitting a statement of the Adjutant General's Office, relative to the settlement of the accounts of the Colorado militia who were employed in the military service in 1864 and 1865; which was referred to the Committee on Military Affairs, and ordered to be printed.

SCHUYLKILL ARSENAL.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a communication from the Quartermaster General, submitting a plan and estimate for repairing the wharf at Schuylkill arsenal, Pennsylvania; which was referred to the Committee on Military Affairs, and ordered to be printed.

ARSENAL AT ROCK ISLAND, ILLINOIS.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a draft of a joint resolution explanatory of certain acts in relation to the arsenal at Rock Island, Illinois; which was referred to the Committee on Military Affairs, and ordered to be printed.

OFFICERS OF ENGINEER DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a communication from the Chief of Engineers, recommending the passage of an act for the settlement of the accounts of certain officers of the engineer department; which was referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC BUILDINGS IN NEW YORK, ETC.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting, in compliance with a resolution of the House of the 26th ultimo, a statement relative to buildings leased by the United States in New York and Brooklyn for public purposes; which was referred to the Committee on Military Affairs, and ordered to be printed.

ADMISSION OF DESERET.

Mr. HOOPER, of Utah. I ask that the Journal be amended touching the bill which I introduced yesterday for the admission of Deseret into the Union. That bill was, as I understood, ordered to be printed, although it is not so journalized.

The SPEAKER. The Chair did not understand the gentleman as desiring the bill printed. If there is no objection, the printing of the bill will be ordered.

There was no objection.

COMMON SCHOOLS FOR THE DISTRICT.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I have understood that the select committee to which was referred during the last session the bill to establish a system of common schools for the District of Columbia has expired with the close of that session. I therefore ask consent to reintroduce that bill, that it may be again referred to a select committee.

There being no objection,

Mr. STEVENS, of Pennsylvania, introduced a bill to establish a system of common schools for the District of Columbia; which was read a first and second time.

The SPEAKER. If there is no objection, this bill will be referred to a select committee of five, to consist of the same members that composed the similar committee during the last session.

There was no objection, and the bill was so referred.

PARTITION OF TEXAS.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to introduce a resolution relating to the partition of Texas.

The SPEAKER. Is there objection?

Mr. ELDRIDGE. Let the resolution be read.

The Clerk read as follows:

Resolved, That the Committee on Reconstruction be instructed to inquire into the expediency of dividing the territory lately known as the State of Texas into two or more States, to be admitted into the Union when duly qualified.

Mr. ELDRIDGE. I think that one State of Texas is enough to be held under despotic government. I object to the introduction of the resolution.

Mr. STEVENS, of Pennsylvania. The resolution proposes merely an inquiry.

The SPEAKER. The resolution proposes to refer an inquiry to the committee on reconstruction, the effect of which would be to revive that committee.

Mr. ELDRIDGE. I insist on my objection.

TAX ON SPIRITS.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to introduce a resolution concerning the tax on spirits.

The SPEAKER. The resolution will be read for information, after which objection can be made.

The Clerk read as follows:

Resolved, That the Committee of Ways and Means be instructed to inquire into the propriety of so amending the revenue laws as to ascertain and assess the value according to the capacity of the vessel instead of the present mode.

There being no objection, the resolution was introduced and adopted.

INSPECTION OF POST OFFICE RECORDS.

Mr. JULIAN entered, for future consideration, a motion to reconsider the vote by which House joint resolution No. 99, to allow members of Congress to inspect papers in the Post Office Department was referred to the Committee on the Post Office and Post Roads.

CENSUS IN CONQUERED TERRITORY.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to offer a resolution relative to a census in conquered territory.

Mr. CHANLER. I object.

Mr. STEVENS, of Pennsylvania. I desire to make a statement in regard to this resolution. It is a House resolution inquiring into the expediency merely of taking this census, so that we may be ready for the admission of these States when they are prepared to come into this Union. It is in order that there may be no delay when they have shown their fitness for admission.

Mr. CHANLER. I do not think the necessities of the case as presented by the chairman of the committee ought to change my views. I do not think at this time the census of these States can be taken; certainly not by the chairman of the committee, who denies their existence as States. Unless they are States, unless they have their former territorial limits, this motion is entirely out of order. The people of a State do not exist when there is no State.

Mr. STEVENS, of Pennsylvania. I will not take up the time of the House. I only desire to facilitate the admission of these States. I offered the resolution that we might be ready provided they should come with satisfactory constitutions.

Mr. WASHBURNE, of Illinois. Has the morning hour commenced?

The SPEAKER. It has.

LEAVE OF ABSENCE.

Mr. COVODE. Mr. Speaker, I have been requested by my colleague, Mr. FINNEY, who is lying dangerously ill in Switzerland, to ask for him indefinite leave of absence.

There was no objection, and it was ordered accordingly.

KENTUCKY ELECTION CASES.

Mr. COOK. I rise to a question of privilege. I submit from the Committee of Elections a report on the cases of certain claimants for seats in this House from Kentucky. As I shall move it be now considered, I ask that the report may be read.

The Clerk proceeded to read the report.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by his Private Secretary, ROBERT JOHNSON, Esq.

KENTUCKY ELECTION CASES—AGAIN.

Mr. MAYNARD. I move that the further reading of the report in the Kentucky cases be suspended, and as the chairman of the Committee of Elections has given notice that he will to-morrow call up another Kentucky case let this report go over till then, when we can have it before us in print and carefully examine it.

Mr. COOK. I have no objection to that.

Mr. ELDRIDGE. I hope that will not be done. These gentlemen ought not to be kept longer waiting. If this report seats any of them let them be sworn in this day.

Mr. COOK. The reading of the report has nearly been concluded.

Mr. MAYNARD. I do not think that the House is ready to act upon this report until it has gone through the usual form of being printed.

Mr. BOYER. Let the motion be so modified as that the reading of the report shall only be suspended till after the reading of the President's message.

Mr. MAYNARD. I shall object to the report being considered until it is printed. To-morrow is the earliest time in which that can be done, and I persist in my motion.

Mr. CHANLER. I understand the gentleman from Tennessee withdraws his motion until the report is read.

Mr. MAYNARD. I suppose the understanding of the Speaker will be the understanding of the House. I cannot undertake to furnish understanding for all of my friends.

The SPEAKER. After the reading of the President's annual message and its reference to the Committee of the Whole on the state of the Union this report will come up unless its postponement is insisted on.

Mr. BURR. I rise to a question of order. Is it in order to interrupt the reading of a privileged report with a motion to postpone?

The SPEAKER. It always has been usual to suspend the pending business before the House to read the annual message of the President when it is received.

Mr. MAYNARD. As this will give rise to debate, I move that the reading of the report be suspended, and the Clerk now proceed to read the President's annual message.

The motion was agreed to.

PRESIDENT'S ANNUAL MESSAGE.

Mr. SCHENCK. I rise to a privileged question. I understand the paper now presented to the House is the annual message of the President of the United States. Now, I wish to call the attention of the House and the country to the fact that this message is printed this morning in many of the leading papers in our great cities. I hold in my hand the Baltimore Gazette, containing a copy of the message in full. It is a paper addressed to the Senate and House of Representatives of the United States, as required by the Constitution. It is sent to Congress in the exercise of a constitutional duty. I hold it to be disrespectful to the Congress of the United States that this paper should first make its appearance in the public prints of the country before being communicated to Congress itself, to which it is directed. Rumor says that some hanger-on about the White House or some favored individual has made traffic of it and sold it in the different cities. If that be the case it renders it more disrespectful to the Congress of the United States and the law-making power.

I will not object to the message being read, though I might properly do so under these circumstances, because we owe respect to the great office which that man holds although we

may not to the incumbent. I withdraw, therefore, any question of privilege that I might make in regard to the propriety of reading it.

Mr. WASHBURNE, of Illinois. I call for the regular order.

Mr. GETZ. I desire to make a single remark in reference to what the gentleman from Ohio has said about disrespect. The publication of this message in advance of its delivery to Congress is certainly an act of disrespect; but who is the guilty party? The President of the United States in sending out this message in advance of its official promulgation has done nothing more nor less than has been done by his predecessors; but it has always been done under an express or implied pledge of honor that the document should not be published until its official publication was announced. Now, as a member of the Press, I deeply regret that that pledge of honor has been violated, and violated foolishly, I think, for "the game is not worth the candle," just to gratify a feverish desire for "the news" a few hours ahead of time.

Mr. COVODE. If the House will allow me, I will explain the matter.

Mr. SCHENCK. I submitted no motion.

The SPEAKER. The Chair so understood.

Mr. COVODE. I will explain the matter. The House will feel interested in knowing——

The SPEAKER. Does the gentleman from Illinois withdraw the demand for the regular order?

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. COVODE. For the purpose of showing that this message has been sold in open market.

Mr. FARNSWORTH. I insist upon the regular order.

The Clerk proceeded to read the President's annual message. [It will be published in the Appendix.]

Mr. SCHENCK. Mr. Speaker, I move that the President's message be referred to the Committee of the Whole on the state of the Union, and printed. I propose, inasmuch as there is an absolute necessity for turning our attention to many other things than the general discussion of the subjects the message contains, to call the previous question on this motion. But before I do so I must be allowed to submit a remark or two in reference to the circumstances under which the message comes to us.

There is a great deal in this message which I think will command the assent of most of us. There is a great deal more, especially in that part which relates to the reconstruction of the States that have been in rebellion, breathing, as it does, a spirit not only of defiance, but, I may even say, of contempt toward Congress, which, I apprehend, will not pass, when we come to discuss the contents of the message in committee, without challenging criticism and comment.

But when the message first came in—it is to that I wish now to refer—I spoke of it as being highly disrespectful that the annual message of the President of the United States should find its way into the public prints of the country, in at least all the leading cities, before it had been communicated to the Congress to which it is addressed. I do not wish to be understood as charging that the President himself was directly a party to such disposition made of the message. I did say then, and I am somewhat confirmed in that belief by information which I have had since, that, with or without the President being a party to the arrangement, persons in his confidence have made traffic of the message and made money in thus selling it to be carried to different points and published thus in advance.

The gentleman from Pennsylvania [Mr. GETZ] made an explanation that it is the custom to commit in trust to those around the President copies of the message in advance in order that it might be published simultaneously with its communication to Congress, and that somebody, to his regret, has abused the confidence of the President. It may be that is all there is of it. If so, it is only another instance, I am afraid, of the remarkable fact that the President's associations are of such a character that he finds his confidence frequently abused by those whom he trusts.

There is another thing, very small, perhaps gentlemen may think, and yet somewhat significant in one circumstance attending the communication of this message to us. I hold in my hand, as all other gentlemen do, what may be considered as the official printed copy prepared at the Treasury Department. It has a title-page, which describes it as the "Message of the President of the United States to the two Houses of Congress at the commencement of the *regular* session of the Fortieth Congress." I do not know what is intended by that. The Congress of the United States, on the 22d day of January last, passed an act to fix the time for the regular meetings of Congress, the first section of which provides—

"That in addition to the present regular times of meeting of Congress there shall be a meeting of the Fortieth Congress of the United States, and of each succeeding Congress thereafter, at twelve o'clock m. on the 4th day of March, the day on which the term begins for which the Congress was elected, except that when the 4th day of March occurs on Sunday then the meeting shall take place at the same hour on the next succeeding day."

It seems to have been thought by the Congress of the United States that they were adding another to the already existing number of regular meetings of the Congresses of the United States, and doing it by law.

Mr. ROSS. I rise to a question of order. I would inquire what question is before the House?

The SPEAKER. A motion to print the President's message, which is debatable.

Mr. SCHENCK. I do not know who is responsible for this title-page; but it looks to me as if somebody, also having the confidence of the President, in preparing this message for our use, has undertaken a petty fling at Congress by an intimation at the very threshold, upon the very face of the document sent to us, that the legislation by Congress fixing the regular meetings of the body from time to time is not regarded legitimate or within its power under the Constitution.

Now, as I said before, I meant to confine myself simply to a matter or two connected with the circumstances under which the message comes to us, and not to debate the contents or character of the message itself. I hope gentlemen, therefore, will excuse me if I feel it necessary, under these circumstances, to move the previous question, and let the message go to the Committee of the Whole on the state of the Union, where we can discuss everything that relates to it.

Mr. LOGAN. I ask the gentleman to allow me to introduce a resolution based on one portion of the message, which I think it would be proper to act on immediately. I think the gentleman will see the propriety of it when he hears it read.

Mr. SCHENCK. I will hear what the gentleman from Illinois has to propose: but in doing so I wish to remark that it has been, so far as I know, the invariable practice to refer the message first to the Committee of the Whole on the state of the Union, and afterward to bring into the Committee of the Whole any resolutions it may be thought proper to offer with reference to the distribution of the parts of the message.

Mr. LOGAN. I will state what my object is, and the resolution can be read, and then if the gentleman objects to it of course I will not press it. It is based upon this portion of the message:

"Where an act has been passed according to the forms of the Constitution by the supreme legislative authority, and is regularly enrolled among the public statutes of the country, executive resistance to it, especially in times of high party excitement, would be likely to produce violent collision between the respective adherents of the two branches of the Government."

Being a man of peace myself; being very sorry, indeed, that any ill-feeling has ever arisen between two branches of the Government—the legislative and executive——

Mr. ROSS. I rise to a question of order. I desire the debate to be confined to the question before the House.

The SPEAKER. The Chair overrules the point of order upon the ground that upon a motion to print the message the whole message and every subject embraced in it is before the House.

Mr. LOGAN. I was expressing a feeling which I believe every other member shares. I am very sorry that any feeling should exist between the different departments of the Government that should cause a fear that a collision might occur at any time, and in order that this thing shall be avoided—because it certainly ought to be avoided—I will offer the resolution which I send to the desk to be read. I think it will entirely avoid any difficulty between the executive and legislative departments of the Government.

Mr. SCHENCK. I will yield to have it read for information.

Mr. ELDRIDGE. I object to the reading.

The SPEAKER. The resolution can be read as a part of the speech of the gentleman from Ohio, who is entitled to the floor for one hour.

Mr. ELDRIDGE. It certainly cannot be germane to the printing of the message.

The SPEAKER. The Chair has already decided that the motion to print brings up the entire message for discussion.

Mr. ELDRIDGE. Does that admit of an independent resolution in reference to the message?

The SPEAKER. It does admit a resolution in regard to the message. The House could take up the message, debate it, and refer it to the various committees, or debate it till the end of the session without referring it. A motion to print opens the entire question, like a motion to refer. The resolution will be read.

The Clerk read Mr. LOGAN's resolution, as follows:

Resolved, That the corps of pages that now constitute the "military force" of this House be, and the same is hereby, abolished, to the end that the civil conflict so vividly described in a communication published in the morning papers and signed "Andrew Johnson" may be avoided.

[Laughter.]

Mr. SCHENCK. I now call the previous question.

Mr. ROBINSON. Will the gentleman yield a moment?

Mr. SCHENCK. I must insist upon the message taking the usual course.

Mr. COVODE. I ask the gentleman to yield to me for a moment. I desire to explain something in connection with the manner in which the message comes before us.

Mr. SCHENCK. I will yield for that purpose, but for no other.

Mr. COVODE. When I attempted to obtain the floor before the message was read, my object was not to discuss the contents of the message, but the manner in which it was got first before the country, and afterward before the House. My object then did not appear to be understood. I was going to state, and did state—though probably not fully understood—that the message had been obtained by a direct purchase made from one of the President's surroundings; that a hundred dollars was paid for it, and it was thereupon telegraphed to the country. The party who thus sold the message obligated himself to give out no other copies. Instead of keeping faith with the purchaser, he sold the message to others at a reduced price, creating a confusion in the market. [Laughter.] This wholesale purchaser was deprived of the profits that would necessarily have accrued to him in retailing it had he controlled the matter as he expected when he paid his hundred dollars.

Mr. GETZ. I would ask when this purchase was made?

Mr. COVODE. Yesterday evening.

Mr. GETZ. I desire to state one fact. On Sunday evening I was assured by a gentleman from the White House that a copy of the message had been mailed to my office in Reading, Pennsylvania, of course under an obligation

that it should not be disclosed until it was officially presented to Congress.

Mr. COVODE. This arrangement was of a different character altogether.

Mr. GETZ. I will guaranty that the obligation was not violated in the case to which I have referred, at any rate.

Mr. ROBINSON. I ask the gentleman to yield to me for one minute.

Mr. SCHENCK. I cannot yield further.

The previous question was seconded and the main question ordered; and under the operation thereof the President's message was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SCHENCK moved to reconsider the vote by which the message was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MAYNARD. I move that ten thousand extra copies of the President's message be printed for the use of this House.

Mr. BOYER. I move to amend so as to make the number twenty thousand copies.

Mr. ROSS. I move to make it fifty thousand copies.

The SPEAKER. The motions for printing extra copies will be referred to the Committee on Printing under the law.

REPORT OF SECRETARY OF TREASURY.

The SPEAKER laid before the House the annual report of the Secretary of the Treasury for 1867; which was referred to the Committee of Ways and Means, and ordered to be printed.

REPORT OF COMPTROLLER OF CURRENCY.

The SPEAKER also laid before the House the fifth annual report of the Comptroller of the Currency; which was referred to the Committee on Banking and Currency, and ordered to be printed.

SINKING FUND.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in reply to a resolution of the House of November 25, 1867, relative to the amount of any sinking fund set apart under the act of February 25, 1862; which was referred to the Committee of Ways and Means, and ordered to be printed.

KENTUCKY MEMBERS—AGAIN.

The Clerk resumed the reading of the report of the Committee of Elections in relation to the members-elect from the State of Kentucky. The report concluded with the following resolution:

Resolved, That James B. Beck, Thomas L. Jones, A. P. Grover, and J. Proctor Knott are entitled to seats as members of this House from the State of Kentucky.

Mr. COOK. I move that the report just read be laid on the table and printed.

The motion was agreed to.

Mr. COOK. I now call the previous question on the adoption of the resolution.

Mr. MAYNARD. Is it in order at this time to move a postponement of this resolution until to-morrow?

The SPEAKER. It would be should the previous question not be seconded.

The previous question was then seconded, upon a division—ayes seventy-five, noes not counted; and the main question was ordered.

Mr. COOK. I will now yield a few minutes of my time to my colleague on the committee, the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. I desired simply to say that I fully concur in the conclusion reached by the committee and in all of the statements of the evidence made in this report; but I am not able to concur in some of the propositions of law and of policy stated in the report. I desire to say simply that much in order to place myself right upon the record, and nothing more. I will not interfere with the progress of the business of the House by making any further remarks.

Mr. COOK. My colleague on the committee, the gentleman from Missouri, [Mr. McCLURG,] desired me to state that he did not concur with the majority of the committee in the reasoning of the report and the conclusions to which they have arrived.

The resolution reported by the Committee of Elections was adopted.

Mr. COOK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The gentleman whom the House, by the resolution just adopted, has declared to be entitled to seats as Representatives from the State of Kentucky, will present themselves at the Speaker's desk to take the oath of office.

Messrs. JAMES B. BECK, ASA P. GROVER, and J. PROCTOR KNOTT presented themselves, and were duly qualified by taking the oath prescribed by law.

REPEAL OF TAX ON COTTON.

Mr. SCHENCK. Mr. Speaker, I report back from the Committee of Ways and Means joint resolution H. R. No. 195, for the repeal of the tax on cotton; a resolution of the Legislature of Tennessee in relation to the tax on cotton; a resolution of the Chamber of Commerce of Cincinnati, recommending the repeal of the cotton tax, and the resolution offered by the gentleman from Maine [Mr. BLAINE] for the repeal of the tax on cotton. The committee having prepared a bill covering this whole subject, which I am now ready to report, I move that the committee be discharged from the further consideration of these papers, and that they be laid on the table.

The motion was agreed to.

Mr. SCHENCK, from the Committee of Ways and Means, reported a bill to provide for the exemption of cotton from internal tax; which was read a first and second time.

The bill, which was read in full, provides that all cotton grown in the United States after the year 1867 shall be exempt from internal tax.

The SPEAKER. The bill is now before the House for consideration.

Mr. SCHENCK. I hope that I shall not be considered as trespassing too much upon the indulgence of the House if I should ask the consideration of this bill, relating to a matter in which the public generally feels a great interest at this time. I propose to ask that it be considered in the House; and after presenting a very brief statement on my part, to be followed by nothing else so far as I am concerned, unless it be rendered necessary by a debate which may spring up, I shall ask that we adopt, by unanimous consent, the ten-minutes rule, in order that there may be a business discussion upon the subject, and that, at the same time, the previous question not being called, an opportunity may be afforded for any appropriate amendment which any gentleman may think proper to offer to the bill.

Mr. FARNSWORTH. I wish to ask the gentleman from Ohio [Mr. SCHENCK] whether he will allow an amendment to repeal the tax upon sugar?

Mr. SCHENCK. No, sir; I shall strictly insist that amendments be confined to the subject-matter before the House, and that, as the bill is limited to one special tax nothing which is not germane to the bill shall be considered in order. If I am not right in this construction of the rule, I beg to be informed upon the point now by the Speaker, and I will call the previous question.

Mr. FARNSWORTH. I suppose that as the bill relates to taxation any amendment in reference to that subject would be in order.

Mr. SCHENCK. If the bill is to be considered open for any amendment in relation to any tax I should like to be informed of that fact.

The SPEAKER. The Chair will answer the question suggested by the gentleman from Ohio, [Mr. SCHENCK.]

Various propositions in regard to the repeal of the cotton tax have been referred to the Committee of Ways and Means, and the committee now report a bill entitled "A bill to provide for the exemption of cotton from internal tax." Amendments must be governed by the title of the bill.

Mr. FARNSWORTH. But, Mr. Speaker, cannot the title of the bill be amended as well as the body of the bill?

The SPEAKER. It can; but the Chair will rule that amendments on any other subject will not be in order to this bill.

Mr. FARNSWORTH. It will be in order as soon as the title is amended?

The SPEAKER. The title is the last thing to be voted on in this House.

Mr. SCHENCK. If the other things cannot be got into the bill there will be no need to amend the title.

Mr. CHANLER. What will be the effect of the proposition of the gentleman from Ohio on the debate on this bill? If it prevails will it limit all debate to ten minutes? Or does it apply to the whole bill?

Mr. SCHENCK. There are but few words in the bill.

The SPEAKER. The debate is only limited to ten minutes to each member.

Mr. SCHENCK. My proposition is not to confine debate to an aggregate of ten minutes, but that each member shall be limited to ten minutes.

There was no objection, and it was ordered accordingly.

Mr. SCHENCK. I will now, as I am called upon to do so, reply to the gentleman from Illinois, [Mr. FARNSWORTH,] that the tax upon sugar and all other subjects will not fail to have the attention of the committee. We have only confined action to this subject of the tax on cotton because there are special reasons for it.

Now, sir, I will but say in reference to this tax on cotton, every one knows and understands it to have been an exceptional tax and a departure from the ordinary principle which prevails in our legislation in the United States not to impose a burden upon an agricultural product. The tax on the part of those who voted for it, of whom I was one, under the original proposition was considered justified in some degree, perhaps as a war measure, or rather as a measure following upon the heel of the war and relating to matters which had been affected by the disturbance of the country. It was also supported on the ground there was but little revenue to be derived from the southern part of the country except through a tax of this kind. And it was justified generally by the anomalous condition of all that was then existing and in a measure exists up to this time in that part of the country. The time has now arrived, I believe, in the general judgment of the country, and certainly in the unanimous judgment of the Ways and Means Committee, to remove that tax. And it will be observed we propose to remove it prospectively. If this matter had come up for consideration as long ago as September last, when the cotton crop of the present year was just coming into market, and when it had not passed from the hands of the grower, it is not impossible the committee might have recommended to the House to make the law take immediate effect upon its passage; but the condition of things has very much changed since that date. The cotton crop of the United States is variously estimated by official authority—the cotton crop I, mean, of the present year—from one million nine hundred thousand to two million seven hundred thousand bales. The tax last year was about twenty-three million dollars. It appears to have been closely collected, inasmuch as that is about the amount of the tax which would have been derived if faithfully paid upon the whole crop of that year. There is no reason to believe the tax will not be as faithfully and as successfully collected during the present year. But of these bales raised during the present year it is known at least one fifth has gone forward and been put upon the market. It is presumed on good authority by the committee that a large pro-

portion of the crop besides one fifth has passed from the original holders and growers of the crop. This being the case, if we pass an act to take effect immediately from the date of its passage the consequence will be, while the growers, and particularly the small growers, have parted with their crop, and it has gone forward and is now in the hands of the cotton factors and brokers, they would derive no benefit from the passage of such a law. They have already parted with their interest in cotton, and to pass a law to take effect immediately would benefit only the large holders of cotton, who would have a profit equal to the tax of two and a half cents per pound. If, therefore, we pass a law applying to the subject from the date of its passage, it would seem to involve, as one of its equities, that there should be refunded to all these producers, and other parties, perhaps, also who have paid the tax, whatever tax they have already paid to the Government.

The committee believe that that is not only inexpedient, but in a great degree impracticable. They believe if such a law were passed the consequence would be that perhaps in less than five minutes from the time it was shown to be the determination of Congress there would be flashed over the wires in all directions to agents at the South instructions to pass all over the cotton region and buy of the small growers, including many freedmen and others knowing little of their rights or of the legislation of the country, at five, ten, fifteen, or twenty dollars, every claim for the tax to be refunded. That would be worse, perhaps, in one of its aspects than the bounty granted to the soldiers, so much of which stops in the hands of claim agents instead of reaching the meritorious soldier himself.

But without expanding the argument upon this subject, or stating the reasons which operated on the minds of the committee, I have but to repeat that they consider it inexpedient and impracticable to order the refunding by law of the five or six millions or more already paid into the Treasury. If we do not wish, therefore, to legislate to the advantage of the cotton brokers, factors, and those who are speculating in this article, it seems to me that although it may operate hardly on those engaged in producing the present crop of cotton there is no way of avoiding that consequence except by making our legislation prospective. While we do not by this give exactly the relief, or to the full extent, which is expected or desired by those who seek to repeal the tax, whether growers or holders, we knock off the shackles, take away the burden which has afflicted this interest, and set out free hereafter, so that arrangements can be made, capital advanced, and everything else done that shall look to the production of the article in future years.

And the truth is, there is reason for looking upon this as a great burden, because cotton in the United States is not produced in such great quantity compared to that which comes from all other parts of the world, as to control the market of the world. Putting on or taking off a tax of two and a half cents in the United States has been found to affect the grower, the holder, and the trader in the article here, without materially affecting the price of the article in the market at Liverpool. Cotton is not king in this country now, as once it used to be. It can scarcely aspire to be considered as one of the royal family. Liverpool controls the market of the United States, instead of being controlled by it. The cotton brought from India particularly, and to some small extent from other quarters of the world, seems to dam up the channels of commerce there, so that the effect flows back upon the United States instead of the foreign market being affected by the product here. Cotton being low in price, therefore, at the place where it is grown, little, if at all, exceeding ten cents per pound, the consequence is two and a half cents is entirely too heavy a tax, if we impose any at all.

But when I was speaking of the reason for the imposition of the tax formerly I might have adverted to the then large, and, in some sense, fictitious price of cotton which enabled the grower to bear a burden of this kind which he is unable to do now.

[Here the hammer fell.]

Mr. BROOKS. In the main I perfectly concur in the remarks of the chairman of the committee; that is, I insist upon our retracing our steps, because this matter of the taxation of cotton to the extent of $23,000,000 per annum is a bounty to that extent for the products of Great Britain in her India possessions and the products of Egypt and Brazil. Indeed, the percentage or premium which we give to the foreign cotton by our tax is computed by the Treasury agent, Mr. Wells, to be over fifty per cent., while by cotton brokers and commercial men it is computed to amount to seventy-five per cent. Hence, admitting this tax to have been a mistake, in which all agree, the only difference is when we shall correct the mistake. In regard to that I differ from the honorable chairman of the committee.

Now is the accepted time, and now is the day, in my opinion, while in the opinion of the majority of the committee this doing right is to be postponed till the crop of another year, and there is to be a continuance of this wrong for a year from now. Hence I propose as a substitute for the bill reported by the committee what I send to the desk.

The Clerk read the substitute, as follows:

Strike out all after the enacting clause, and insert in lieu thereof the following:

That on and after the passage of this act the internal revenue tax of two and a half cents per pound on raw cotton shall be abolished.

And be it further enacted, That no American manufactured cotton goods shall be entitled to the benefit of existing drawbacks unless shipped within ninety days after the passage of this act.

Mr. BROOKS. I propose to put the repeal into operation on and after the passage of this act, and do away with all drawbacks for cotton that has passed out of the hands of the planters. The whole saving of the duty under this substitute goes for the benefit of the holders of the cotton or the planters. It is an immediate repeal, except on that which has passed into the hands of the traders and speculators.

Now, I have the authority for this bill of our very intelligent Commissioner of Internal Revenue, Mr. Wells. He says in his report: "The cotton tax was a temporary measure: it ought to be repealed at the earliest moment." He says again: "The tax on cotton should no longer be adhered to;" and he gives the reasons. He says that owing to the recent completion of many hundred miles of railroads in India the world's supply of cotton has been greatly increased, and therefore he urges a prompt removal of the existing duty. That is the authority of that very intelligent officer of the revenue.

In addition to this, let me say that the present condition of the southern country, affecting not alone the white population, but the negro population also, is such that this relief would be a matter of the greatest moment to both classes of the people, black and white. It is not true, strictly and technically true, that when a crop of cotton passes from the hands of the planter or workmen it immediately goes into the hands of the purchaser; for much of the crop is sold under mortgage, and the price of the cotton often depends on the price which the factor or commission merchant receives, and who settles with the producer.

No inconsiderable portion of the southern crop has been produced by negroes on shares. They receive a certain proportion of the cotton produced, and this reduction of tax is not alone for the benefit of the white man, but also for that of the negro, who has become an actual producer of cotton, not only for himself, but a producer on shares with his employer.

I think, therefore, that we may divest ourselves of all prejudice in discussing this question, and look equally to the interests of the whites and the blacks; and in so doing I might cite a mass of testimony which I have here, but which it is impossible for me to cite in ten minutes, to show that the condition of the cotton-growers of the southern country, both white and black, is now deplorable. All their calculations upon the value of cotton have been misplaced. They had no doubt that they were to receive twenty cents per pound for their cotton, while they are now receiving but ten and eleven cents. They have given enormous prices for bacon, and enormous prices for all the implements which are necessary to raise a crop of cotton, and they now find all their calculations misplaced. I hold in my hand one letter as a specimen, written to me from Georgia. The writer says:

"I do not write in behalf of any but the planters, all of whom planted with the expectation of realizing twenty cents for their cotton, and who gave their hands high wages and bought supplies at the most extravagant prices, paying twenty-five cents for bacon per pound, and $2 25 per bushel for corn, which from their impoverished condition had to be bought on time, with the most exorbitant interest charged on such advances, (two and a half per cent. per month;) and as security for such advances the planter was compelled to give liens on his growing crop, and mortgages besides on all his real and personal estate. So you can imagine from the great decline in cotton what must be the terrible condition of the southern country; and as cotton is now worth from ten to thirteen cents with the tax paid you will readily see of what vitality it is to a great agricultural people that they should not be compelled to render up one fourth, one fifth, or one sixth of their year's labor—their bread and meat—in the tax of two and a half cents per pound."

I have not time to read further, but he goes on to show that it is as much for the interest of northern manufacturers of cotton, woolen, and iron goods of all kinds, of northern raisers of mules, of northern producers of hogs, and of all these products which are sold by the West into the southern country—that it is as much for the interest of northern and western men to sustain and encourage the market in the southern States as it is for the people of the South to have this relief.

And one great cause of the depression now existing in northern manufactures and in northern and western trade is the deplorable condition of the whole southern country. Unless it is relieved by some such means as this they will find it utterly impossible to obtain the means of carrying on the next crop, of buying from the West the raw material or labor, or of buying from the North the manufactures which they need. It is for the interest of all sections of the country, of the North and West as well as of the South, not to defer doing what we all admit to be right; but to do it at this hour and at this moment.

There will be no refunding under my proposition. The bill will take effect only when it shall have passed Congress. There is no retroactive step; there is no looking backward. But there will be an admonition to the planters of the South to hold on to their cotton, and not sell it until they can receive the benefits of this act.

Now, I implore the House, in behalf of that great body of people who have no representatives on this floor to speak for themselves, and who are therefore the more entitled to the considerations of this House, however we may disagree with them as to other matters—I implore the House to extend to them the relief which suffering humanity of all classes require, which it is for our interest to give, which will redound to our profit, and which will be for the common good of all our country. I conjure the House, in behalf of the great interest in cotton, which has no protection against the rivalry on the other side of the ocean, in Egypt, and in India, to extend a helping hand to it; and if it cannot be made a king in this country, at least it can be made that wonderful article of export by which our ships of the North have been laden, our commerce has been increased, and our merchants have hitherto been vastly enriched.

[Here the hammer fell.]

Mr. COVODE. I regret to see that the arguments on this cotton question appear to be all on one side. I had not intended to say one word on this subject; but when I perceive that the only difference between members is whether the tax on cotton shall be taken off

immediately or at the end of the year I desire to say a few words with regard to the effect such action will have upon other great interests of the country.

In regard to the tariff on wool and woolens, I was mainly instrumental in getting together at Syracuse, and afterward at New York, the parties interested for the purpose of harmonizing their views upon the subject. The measure was brought before Congress and passed; but it has failed to have the desired effect. I will tell you why. The tariff upon wool had the effect to reduce its price in the wool-growing countries from which we purchased. The effect was that the French and English manufacturers have taken that very wool to Europe, manufactured it there, and then imported the goods into this country, bringing in them from fifty to seventy per cent. of shoddy, which has resulted in great injury to the wool-growers in this country.

And now a measure is brought forward to remove the tax from cotton. Those gentlemen who have observed the price of cotton and of wool for the last six or seven years are well aware that when the price of cotton was high the price of wool was high, and a fair return was received by the wool-grower. When cotton was up to a high figure there was no difficulty in selling wool at a high price. But now that cotton is low the wool-grower cannot sell his wool at any price that will compensate the producer. The proposition now is to remove the tax upon cotton, which is acting to that extent as a protection to the wool-grower. I am sorry to see my friend from Ohio, [Mr. SCHENCK,] who is interested in the prosperity of wool-growers, taking, in this way, indirect action against their interest.

I am familiar with this subject. I have studied it for years. I am one of the directors of the National Manufacturing Association, and I also took an active part in getting up the wool-growers' organization and bringing together the wool-growers of the United States in convention to agree upon the amount of duty that they would recommend to the Commissioner of Internal Revenue, which was afterward adopted. Now, it is proposed, at this period, when the wool interest is as much depressed as I have ever known it to be at any time since I have been in the business, (and that is over forty years,) to take from the wool-growers this little protection of two and a half cents per pound, reducing the tax imposed upon the disloyal portion of the country and adding to the burden of taxation borne by the loyal portion of the country. I cannot let a measure of this kind go through without entering my protest against such a policy.

If we could adopt this measure, Mr. Speaker, without imposing additional burdens upon the loyal people I would say nothing, but in reducing the tax upon one article you must increase it on another, or your revenue will fall short. I ask gentlemen to hesitate before they thus enter upon a policy of taking off taxes in the face of the fact that the revenues of the country are falling off at such a rate that we may soon be left without money to pay the interest on the public debt. To my certain knowledge we may as well abolish our revenue offices in many parts of the South if we remove this tax.

Besides, sir, here is a tax that we can collect. This tax may too be high; if so, I would agree to reduce it. But, sir, we must collect tax somewhere. We have the power to collect the tax on cotton. The Government has failed in collecting the tax on whisky; yes, I say "failed." The country knows that the Government is a failure in that respect. We must hold on to some sources of revenue; we must continue some of these taxes that we can collect.

Mr. Speaker, I had not expected to say anything on this subject. I have made these remarks simply for the purpose of calling the attention of the House to it.

Mr. LOGAN. Mr. Speaker, in reference to this question I certainly agree with the chairman of the Committee of Ways and Means. The reason, as I understand, for releasing cotton from tax, now or hereafter, is that it is taxed when other articles of a similar character are not, and that it is so depreciated at this time that it cannot bear this tax. The question is, whether it is best to take the tax from cotton now or to relieve the next crop from taxation. In arriving at a just conclusion upon this subject our object, in my judgment, should be to relieve the poor man and the producer, not to benefit the speculator. If we intend to relieve the producer or advance his interests we cannot, in my view, do it by releasing the present crop from taxation, but we may accomplish the object by exempting the next crop, thereby holding out inducements for the production of an increased quantity.

I will state what I understand to be the facts in regard to the growth of cotton. The crop is planted in the spring, in July it blooms, and it is gathered in September and October. There are three pickings of the crop. When the poor man, producing one or two bales of cotton, has his crop ready for picking, and finds it necessary to employ hands for that purpose, the money for their employment is furnished by the speculator, to whom the crop when picked in the seed is delivered at a stipulated price. Throughout the various cotton-raising States almost the entire crop is sold in the seed to the speculator or to the ginner of cotton. This I know is the case in my own section of the country, for I reside in a district where cotton is produced. Perhaps some gentlemen may be astonished at the statement; but in the district where I reside we produce about twenty thousand bales of cotton annually. The producer of small crops of cotton sells his crop in the seed. He sold it this year at three cents a pound in the seed, which is estimated to be equivalent to nine cents a pound when the cotton is ginned, three pounds of the seed being equal to one pound of ginned cotton. At the present time the cotton crop of the United States, at least two thirds of it, has passed out of the hands of the cotton-growers who grow small crops and is in the hands of the speculators.

If, then, you take off the tax on cotton at this time whom do you benefit? Not the grower, for under the Treasury circulars you exempt the cotton from tax in the raw state, and only impose it when the cotton is carried forward for shipment. It is then taxed in the bale two and a half cents per pound. It is taxed in the hands of the purchaser and not in the hands of the grower, unless the producer ships his own cotton, which is hardly ever the case. How does it operate? The purchaser buys the cotton at three cents per pound in the seed, and he has to pay the tax of two and a half cents per pound. That increases the price to five and a half cents per pound. So, then, the cotton taxed is the cotton in the hands of the purchaser. If you take off the tax now what do you do? You increase the profit of the cotton speculators two and a half cents per pound.

I will state that there are southern men here who know something about the raising of cotton; perhaps more than I do. But I have studied the subject. I have raised cotton myself. I raised this year fifty bales upon my own farm in southern Illinois. I know something about the raising of cotton in Illinois and along the Mississippi river, and I know that it is the best cotton-producing land in this country. You will find the small farmers, or planters, as they are called, sell their crops of cotton before the cotton is picked, because they are in such condition they are compelled to sell their crop before it is ready for market, even before it is sent to the gin to be ginned. When it passes from their hands into the hands of the merchants, or brokers, or speculators in New York or elsewhere, the grower has no more interest in it.

These cotton factors have their hands upon every crop of cotton before it is matured, that is, the crops of cotton which are raised by poor people; and if you take off the tax now you benefit the purchaser and not the producer. I say to this House that you may ask the cotton brokers in Broad street, New York, to-day and they will tell you they are in favor of taking off the tax at this time. They have looked forward to the removal of this tax, and each one of them has from two thousand bales upward stored in the bonded warehouses. According to the circular from the Treasury Department they are allowed ninety days to pay the tax after shipment. If you take off the tax now, the ninety days not having expired, they will be relieved from the payment of the tax at all. In that way you benefit not the cotton grower, but the cotton broker. I left home in October, and before I left at the depot where cotton is received in my county, nearly every producer of cotton in that section who had a few acres in that product was obliged to sell, and it was sold at three cents per pound in the seed. The only men there holding cotton are those who have large farms and who have large quantities of cotton on hand. The speculators have bought it up in large quanties in the hope that holding on to it their profits may be greatly increased by the removal of the tax of two and a half cents per pound. This is my experience on the subject. There may be some few growers who yet hold on to their cotton. We all know how it is. We know that all the cotton in the great cotton marts of Mobile, Charleston, Memphis, New Orleans, and New York belongs to the purchasers, and when you remove this tax you benefit them to the extent of the tax.

[Here the hammer fell.]

Mr. BLAINE. Mr. Speaker, I happened during the past summer to fall in with a company of gentlemen who were engaged in the production of cotton in India, and in the conversation which took place these men, representing large houses in London, admitted with admirable candor that in the course of four or five years they hoped to establish the cotton culture in India upon a firm basis, if the States, as they call us, would only keep up the tax on cotton raised here.

That is the universal calculation with the Anglo-Indian cotton interest, that if we are guilty of the superlative folly of taxing one of our leading raw products, we shall build up in distant lands a successful competitor with ourselves. Every penny tax that we lay on our cotton the English people regard as a two-penny premium on the production of the plant in their own Oriental colonies.

I submit, if the gentleman from Pennsylvania [Mr. COVODE] finds the wool interest as depressed as he says he does, it will hardly do for him to invoke Congress to destroy the cotton interest entirely in order that the wool interest may have a partial revival. If the gentleman's argument amounts to anything at all we ought to double the cotton tax and utterly extinguish it, and then there would be an admirable chance for wool. I would like to ask him, as a Representative from Pennsylvania, with what kind of a face he and his colleagues came into this House two years ago and demanded that the internal revenue tax should be taken off coal, and the tariff increased on imported coal, as my friend from Illinois [Mr. INGERSOLL] reminds me.

Mr. KELLEY. The gentleman will permit me to say that his friend from Illinois is mistaken.

Mr. INGERSOLL. My friend will allow me to say that I think the records will bear me out in the assertion that the Pennsylvania delegation, at any rate many of them, did ask Congress to increase the tariff on Nova Scotia coal. And the gentleman from Pennsylvania will——

Mr. BLAINE. I cannot let my ten minutes be consumed by allowing my friends to have a side discussion. I have nothing to do with their dispute. I am not calling Pennsylvania to account for asking that the internal revenue duty be taken off from their coal. I voted for taking it off. It never ought to have been on. It is wrong to tax any of these products. It is just as wrong to tax cotton as it was to tax

coal, or as it would be to tax wool, or hay, or wheat, or hemp, or any other raw product. But I say it comes with a bad grace for the representatives of the woolen interest to come here and ask that the cotton interest, with its manifold advantage to the commercial, manufacturing, and industrial interests of the country, should be choked off in order that a sort of galvanized, speculative life might be put into the wool interest. [Laughter.] My own district is largely interested in the growth of wool; but I am sure that no one of my constituents ever dreamed that his own interest could be promoted by destroying another of the great leading interests of the nation. Fair play for all and a fair chance for all is the principle which shall govern my vote in this as in other cases.

Mr. BARNES. Mr. Speaker, it seems to be admitted by the honorable chairman of the Committee of Ways and Means and by others who have spoken on this subject, that we have got to take off the tax now imposed upon cotton; that the principle of imposing such a tax is wrong, and that the interests of the country were not subserved by the levying of that tax. And yet it is undertaken to defend that wrong and unjust principle by continuing the tax for another year.

It is stated by the gentleman from Illinois [Mr. LOGAN] as a reason for continuing the present tax that two thirds of the crop of 1867 has already changed hands. Sir, I have papers before me, as I presume every other gentleman has, of both a public and of a private character, showing perfectly conclusively that not twenty-five per cent. of the present crop has changed ownership. We have circulars and memorials of chambers of commerce, boards of trade, and corporations which are entitled to credit, informing us that the planters have been unwilling as yet to part with their crop. And we know, so far as information has been received, that every planter in the South who has been able to hold a pound of cotton has relied not only upon the generosity but upon the good sense of Congress to repeal this obnoxious and iniquitous tax at an early day. They have not only petitioned Congress, but they have waited under the pressure of financial distress to avail themselves of this just act at our hands. They have told us in substance, as has been referred to by the gentleman from Maine, [Mr. BLAINE,] that they considered us no longer in this regard as an American Congress protecting American industry, but as a British Parliament. They referred to this tax upon cotton as a British measure.

Sir, if we had no other reason than that, we might let it pass. But this measure was received with indignation by the whole people of the South. The curse of our tax, like chickens, has come home to roost. We of the North share in the desolation of the southern States. Our trade is prostrate, and our industries of every character are stagnant from the Penobscot to the Mississippi, and from the Atlantic to the Pacific ocean. Every department of business is partaking of this great lethargy which results from unwise legislation.

I would reply to the argument of the honorable gentleman from Pennsylvania, [Mr. COVODE,] who says that this measure of relief would imperil the interest on the public bonds, and that we are in danger of being unable to pay the interest on the public debt, by saying that if we continue to act on these principles which cramp the productive industry of the country, as we are now doing, well may we fear that we shall not be able to pay the interest on the public debt. Why, Mr. Speaker, if during the last year we had not taxed this great interest of cotton, but, by leaving it untaxed, had stimulated its production to another million bales, the hundreds and thousands of millions of articles of northern production which the southern people would have consumed would have drawn into our exchequer taxation which would have outnumbered the tax we get on cotton a dozenfold and over.

I repeat, Mr. Speaker, that the principle of sustaining this wrong for another year—for it is admitted to be a wrong by every gentleman in this House—has no analogy in any of the revenue bills which have passed this body in the last six years. How was it when the wants of this Government required increased revenue to be derived by levying increased taxes upon tea, coffee, wool, and upon every article which is imported? Was the law-making power of this Government prevented from imposing these additional duties on the ground that it would benefit those who had the articles on hand? To my certain knowledge when the tax was increased on the article of tea sufficient notice was given in advance of the intended increase to enable one firm in the city of New York, by telegraphing to San Francisco and dispatching the news to Shanghai, to make $1,000,000 on what they had on hand. We can neither reduce nor increase the duty upon any article in this great country but that it must work in both directions, to the advantage of individuals and to the disadvantage of individuals. But the question is, shall we do a national injustice to a class of the community who have been desolated by war and are not able to bear this onerous taxation by telling them that this tax upon cotton shall not be repealed now, but shall be repealed next year? If we do, the same degree of stagnation which has prevailed in the markets of the South since this year's cotton crop began to move will prevail for another year, and no man will part with another pound or bale of cotton until it is wrung from him by the force of necessity. The loss to the community generally will far outweigh the gain that can be made by any number of speculators on the cotton now in their hands. And let me inform the House that it is not true to any great extent that the cotton is held by speculators. In some instances, doubtless, small planters have been compelled to part with their cotton, but more frequently they have raised money on it as in the case of any other description of property.

[Here the hammer fell.]

Mr. MULLINS. Mr. Speaker, I propose offering a few views for the consideration of the members of the House in regard to the question now presented. We seem at present to be split, and split by a New York wedge. There can be no doubt of the repeal of the cotton tax, provided we let the machine go along without throwing blocks in the way and turning to the right and to the left and getting it off the track.

Mr. Speaker, it is not now and never is my purpose to malign or misrepresent or abuse legislative bodies for having passed this law or that law or the other. Sufficient unto the day is the evil thereof. The question of the propriety or impropriety of removing this tax is one that has unquestionably addressed itself to the mind of every member of this House. There are reasons, and doubtless they were stronger when the tax was imposed than they are now, why a tax should be placed on cotton. The States where the cotton is mainly produced are the States that dragged this Government into rebellion, and cotton was the great lever that was made use of to accomplish that end. Cotton was declared to be king, and the negro slaves of that country who raised nineteen twentieths of the cotton were made the lever to work up the public mind, and that brought about the difficulty.

The negro man who raised the cotton never went into the rebellion. He is to-day, as he has ever been, loyal to the Government. I live in a cotton country, and I know how it was before the rebellion, and I know how it is now. The negro man now, as before the war, is raising twenty pounds out of every twenty-one pounds that are raised. He is a cultivator of the soil, raising the raw material, and, like all other laboring men, has no other capital but his own labor. It is impossible for him to have a great deal of money. What is the consequence, then, inasmuch as his physical labor is all that he has to depend upon? He hires himself out for a certain portion of the crop, which he has to dispose of as he best can, and at once, in order to procure food and clothing for his wife and children; and thus it is that to-day nineteen twentieths of the cotton of that country is out of the hands of the men who produce it; it has gone to the cotton agents, who have control of it even before it is picked.

Although the tax on cotton is not directly paid until the cotton is shipped, yet it is bought with the prospective knowledge that the tax is to be paid, and in that way the producer is made to bear the burden of the tax. Now if we pass the bill proposed by the gentleman from New York, [Mr. BROOKS]—and he says now is the time to pass it, that the tax should be removed at once—the class who are really entitled to be protected or benefited by the repeal of this tax will derive no benefit from it, but the speculator will derive all the advantage. I will not say these speculators live in New York, for New York is not a manufacturing State to any great extent; they do not raise the cotton there, but there is where it goes.

Now let me state what has come under my own observation, and within my own congressional district. The moneyed Shylocks control that country; they have mortgages on all the large plantations in my district, and they hire the negroes there by the hundred and by the thousand. And what are they doing? They are paying the people so much cotton, or its equivalent in other articles. The negroes have had to plant the cotton, and then they are obliged to sell their share of it for their every-day necessities, to these land-owners, or the men who hold the mortgages, and thus the laborers will be deprived of the benefits of this bill. If I could see the justice of this bill I would go for it, but I cannot.

And another thing, which comes right home to the door of the American people. If you take the tax off cotton, where will you let the burden then fall? Upon wool. For my part, God knows I do not like to press very heavily upon wool just now; I would rather it should press upon me; I need it. Now, it is the policy of the American people to do what? Do not deprive the people of the great foreign market. Take the tax off every character of raw material raised in the United States. Protect your people against the foreign brokers and Shylocks who are cutting them down in the market everywhere. There has been a heavy tax on cotton, and it has developed the whole cotton region of British India. It is bringing up the eastern country. To-day the system is well matured. I am advised by the results of investigations carried out in my State, by the commercial board of Memphis, that our cotton is being driven from the European market by the tax which has been levied upon it by this Government.

[Here the hammer fell.]

Mr. ELA. I cannot favor either the proposition reported from the Committee of Ways and Means or the substitute proposed by the gentleman from New York, [Mr. BROOKS.] In the first place it is proposed to take from the internal revenue of the country one fifteenth part of the whole amount derived from excise without making any provision for decreasing the expenditures of the Government. Now, whenever we come to that point when the expenses of the Government can be so reduced that we can relieve the people of this burden of taxation let us do it by exempting the ten or fifteen bales of cotton of the small producer instead of exempting the whole amount of cotton raised in the country. And why? Because this is the only method by which we can ever compel France and England to pay any portion of our national debt. If we retain the tax upon cotton those countries will in fact be compelled to contribute to the payment of our debt.

Gentlemen talk about the cotton of India driving our product from the markets of the world. Have they observed the fact that while the year before last our percentage of the cotton going into the Liverpool market was

very small, we last year furnished fifty-three per cent. of all the cotton imported into England? We shall continue to go on in that direction until we resume our old position as the cotton-producing nation of the world.

Again, sir, by removing this tax on cotton we shall inevitably depress still further the manufactures of the country, already seriously depressed. By means of the drawback upon the excise tax, now allowed to the manufacturer of cotton, we have been enabled to commence the exportation of cotton manufactures. If the gentleman from New York [Mr. BROOKS] will consult the columns of his own journal he will find by the returns from week to week and from month to month that we have commenced the exportation of coarse and heavy cotton goods. Thus we obtain money from abroad in return for our cotton and the labor expended in its manufacture, instead of exporting bonds or gold to pay for the products of foreign labor. By removing the tax upon cotton we strike out one fifteenth part of all the revenue derived from internal taxation; and I doubt whether there will be left in the South sufficient objects of taxation to pay the expense of assessing and collecting taxes there. If we adopt this measure we had better abandon altogether the idea of levying taxation in that section of the country. Before taking a step in this direction we would do well to pause and consider carefully whether we can dispense with so large a portion of our internal revenue and still maintain the faith and credit of the Government.

Mr. GARFIELD. Mr. Speaker, the cotton tax was when imposed admitted to be an entirely exceptional mode of taxation. It was understood on all hands to be a temporary measure, defensible only on the ground of our great necessities, and because the price of cotton was so unusually high that it was believed this tax would for a short time be levied and fall principally upon the consumer, and not operate as a local tax upon production. For the first year it probably worked in that way, and was a tax valuable to the Government, and not injurious to productive industry. It, however, was always in danger of being considered a sectional and therefore an odious tax. It was explicitly declared at the time of its passage a temporary measure to meet a great emergency, and intended to last only until the falling price of cotton should demand its removal. Now the price has fallen. The conditions under which it was intended in the first place to remove the tax exist at the present time. I am therefore, on the general ground of justice, in favor of its repeal.

Mr. BUTLER. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Yes, sir.

Mr. BUTLER. This tax gives the Government $25,000,000 of revenue. Now, if we remove this tax on cotton on what other interest of that section does the gentleman propose to collect that amount? If I find there is any other interest upon which it would be less burdensome I do not know that I should seriously object.

Mr. GARFIELD. We are not bound to find $25,000,000 anywhere. If the South have not a sufficient amount of property, such as is generally subject to taxation, on which to raise $25,000,000, it is conclusive that we ought not to levy that amount of tax on them. If, on the contrary, we can in the legitimate way, as we do in other portions of the country, raise the requisite revenue from the South, I am sure the Committee of Ways and Means will consider and report in favor of such measures of taxation as will secure it.

I insist, sir, that the cotton tax was at the time it was imposed declared to be exceptional, and the terms and conditions upon which it was founded having now passed away, we are no longer entitled to exact it.

Now, sir, in the next place I affirm, as a matter of statesmanship, the continuation of this tax on cotton is in a high degree injurious to the great cotton interests of this country. I cannot agree with the gentleman from New Hampshire, [Mr. ELA,] who speaks in behalf of the spinning interest, that we are in the ascendant to such a degree that we can hold our place in the cotton production of the world with this tax retained. It is palpably evident for the last six years we have been losing the first place among the cotton-growers of the world. It is perfectly manifest from the clear and able report of the special commissioner of the revenue that we have fallen off in the product of cotton this year from what it was even last year. Six years ago we produced seven eighths of the cotton crop of the world, and to-day we produce only about one half. England developed the culture of cotton in India, Egypt, and South America to a degree that makes it a question whether we can ever regain our rank among the cotton-growers of the world. We cannot afford to give a bounty to Europe to encourage the growth of foreign cotton. We cannot afford to create for the spinners of the world a better cotton market in Asia than our own. We cannot afford to lose the exchange which our cotton brings us for the sake of the revenue which we derive from this two and a half cents per pound on home-grown cotton.

I am, therefore, on the ground of national policy, in favor of removing this tax. But I rose to speak more particularly in regard to the amendment offered by the gentleman from New York, [Mr. BROOKS,] to which I trust the House will not agree. In a letter received by me only two days ago a very full statement is made of the condition of the cotton product in the United States, and it agrees perfectly with the remarks which fell from the gentleman from Illinois, [Mr. LOGAN,] not now in his seat. There is in it a further statement which I think ought to be in the possession of this House. It is this: in expectation that the tax would be repealed the cotton speculators and shippers have bought up from the farmers and planters all over the South a large part of their cotton, and that cotton thus purchased is in one of two conditions, either it has been shipped to some bonded warehouse and has not paid the tax, lying there in the hands of the speculators to be taken out and sold when the tax is removed or the tax on it has been paid. In regard to this latter class I am told a large combination has been formed, with a man who once ran for the vice presidency of the United States at its head, and notices have been circulated among the planters that they will undertake to restore the tax already paid for half of the proceeds. If we repeal the law, to take effect immediately, it will open the way for an equitable demand upon us to refund the tax already collected on the crop of 1867. If, then, this tax should be refunded, these speculators will get one half of the two and a half cents per pound that has already been paid in. These circulars are scattered broadcast through the South at this time, and men who are in charge of the matter are urging their friends to press upon all the members of Congress to hurry the bill through now, before "this radical and prodigal Congress," as they call us, has so depleted the Treasury that they cannot find money enough to answer the demands of their schemes. Let the repeal apply, therefore, only to the cotton which shall be grown hereafter. It will avoid complication in the administration of the law, injustice to those concerned in cotton raising, and corruption and fraud on the part of those who have formed the scheme to which I have referred.

Mr. NIBLACK. Mr. Speaker, I do not propose to go over the ground occupied by the gentlemen who have preceded me in respect to the cotton tax. I have always been opposed to it for the reason that influences the gentleman from Ohio. In the first place it was an exceptional tax, so conceded; in the next place I thought it unjust and impolitic. So long as cotton commanded a high price this tax was not so much felt. It was not a matter of so much consequence to the producer when this tax was put on as it has assumed to be during the present depressed condition of the cotton interest. Still it was an impolitic measure. Being opposed, therefore, to this tax from the beginning, my first impulse was to agree to something like the proposition of the gentleman from New York, [Mr. BROOKS,] to take off the tax at once. On examining the question, however, I came to the conclusion that we could not do so justly without refunding to those who have already paid taxes upon the present year's crop. Upon inquiry at the Treasury Department, and at the office of the Commissioner of Internal Revenue, I ascertained further that this act could never be carried out without great trouble and considerable cost, and even then perhaps not very satisfactorily. I also ascertained, upon inquiry of those who are more familiar with the subject of cotton-growing than I am, that by this time the greater portion of the small producers, the poor men who are engaged in growing cotton, have already parted with their crop and paid the tax on it, or at least have sold it at a price corresponding to the addition of the tax. In that view of the case, to adopt the proposition of the gentleman from New York [Mr. BROOKS] it seems to me would have the effect to take from these people the amount they have already paid in taxes. It would be a discrimination against men who are least able to submit to the loss.

Mr. BARNES. Will the gentleman allow me to ask if the tariff act of 1846 did not levy a duty on tea, and if the tariff of 1852 (I think) did not repeal that duty; and further, if the Government ever undertook to refund any loss that resulted to those who had paid the duties which the Government had taken off?

Mr. NIBLACK. My recollection is not clear on those points, and I cannot attempt to go into them now. It matters not what may have been done in the past on this subject of taxation, or the tariff, or whatever else may pertain to the financial interests of the country. I am coming at this as a present question, and, as I remarked, we cannot adopt the proposition of the gentleman from New York [Mr. BROOKS] without discriminating against a class of producers least able to submit to this loss. That is the whole ground of my objection to it. I came to the conclusion first for the purpose of promoting harmony in the committee, and next on a practical and at the same time a fair and equitable way of disposing of the question, to allow this repeal to apply to the crop hereafter to be grown. Consequently I agree with the proposition reported by the chairman of the committee, and shall feel compelled to vote to sustain it as the best we can do under all the circumstances.

Mr. ALLISON. Mr. Speaker, the only practical difference that I observe among gentlemen on this question is with reference to the time when this proposed exemption shall apply. Now I am not surprised at the distinguished gentleman from New York, [Mr. BROOKS,] nor his colleague, [Mr. BARNES,] proposing to make the tax take effect immediately, because the effect of such legislation would be in the interest of their immediate constituents—an interest, in my judgment, equal to $10,000,000. It is a question, therefore, with us whether we will follow their lead in that kind of legislation, or whether that $10,000,000 shall continue in the Treasury of the United States.

Now, if this tax is an unjust one, (and I am inclined to think, indeed I believe at the present time that cotton cannot be produced with profit in this country with a tax of two and a half cents per pound,) if it is an unjust tax then it should be refunded to the producer of the cotton, and not to the men who have gambled on our legislation for the last thirty days. Therefore, if this tax is to be removed at all, inasmuch as its removal cannot benefit the men who have produced the article by their toil, let us see to it that the Treasury of the United States receives the benefit of the tax until the crop of 1868 is produced.

For myself I would have been opposed to introducing any bill upon this question of cotton until we considered the general subject of a reduction of taxation were it not for the fact

that there is a cry coming up to us from the southern States that if we decide to remove this tax we should do so immediately for the purpose of stimulating the production of cotton next year in this country. It is only for that reason that I am willing now, at this early day of the session, without a consideration of the general subject of taxation, to take up the question of the cotton tax at all. It is not in the interest of the speculators in this article that we are hurrying this measure forward for the consideration of the House. But while I agree to this, I am amazed at my honorable friend from Pennsylvania, [Mr. COVODE,] who, contrary to all his instincts and past history on this subject, proposes a measure of protection here for the benefit of the producers of cotton in India, and strikes a direct blow at the producing interests of this country—the laboring interests of this country—whereby he seeks to take from the labor of this country $25,000,000, if this tax is taken from the producers of this cotton.

Now, one word in reply to what the gentleman from New Hampshire [Mr. ELA] had to say upon this subject. He says that we ought not to take this cotton tax off, ought not to exempt this article from taxation, unless we are ready to impose the burden upon some other classes of products in this country. For myself I am in favor of a further reduction of taxation. I am in favor of striking at a single blow the taxes off every manufactured product of this country except articles of luxury, such as whisky and tobacco. I tell him that we will not take off $100,000,000 of taxation, because we only received for the year ending July, 1867, $66,000,000 from this source of revenue; and I believe that we can take off that entire tax and thus stimulate the production and energies of the country so as to receive a compensation from other branches of industry. I am not, therefore, afraid of decreasing the revenue by taking off this cotton tax, or by relieving other branches of industry from taxation.

But not only that. The message of the President of the United States, which has just been laid before us, informs us that after paying $99,000,000 of the public debt during the last year we have a surplus revenue, including import duties and taxes, over and above the expenses of the Government amounting to $143,000,000; and if there is any one thing which this House of Representatives should turn its attention to it is relieving the people from this excessive burden of taxation, and to some extent, at least, relieving the Treasury of the United States of the enormous load which it is carrying now, of nearly two hundred million dollars in the shape of surplus revenue.

I believe, therefore, that this tax should be taken off; not off the crop produced this year, but off the crop produced in the year 1868, and then the men who are entitled to the benefit of this exemption will receive it, to wit: the poor men who produce cotton in the southern and in the northern States.

I promised to yield a portion of my time to the gentleman from Missouri, [Mr. PILE,] and I will now do so.

Mr. PILE. Mr. Speaker, I believe I do not mistake the conviction of this House in understanding that this tax will, by a vote of the House, be removed, and hence upon the general question there need not a word be said. The only point of difference seems to be as to when the tax shall be removed. I desire to say a word on that point.

The principle by which we should be guided I take to be this, namely, that if, upon an examination of the subject, we are of opinion that a majority of the cotton produced this year is now in the hands of the producers, and that by removing this tax now the men, or a majority of them, whose sweat and toil is in the cotton will be benefited, then we ought to remove the tax now, notwithstanding the fact that some speculators may be benefited by such removal. If, upon the other hand, we are of opinion, and the sources of information convince us, that the majority of the cotton produced this year has passed out of the hands of the producers and is now in the hands of speculators and traders, and that the majority of the men engaged in the production of cotton during the past year will not be benefited by this removal of the tax at once, then we ought not to remove it.

So far as my information extends, running through Arkansas, southwestern Missouri, and northwestern Texas, it is to the effect that the producers have in most cases retained possession of the cotton, in many instances securing advance money on the cotton, as indicated by the gentleman from Illinois, upon contracts agreeing to deliver the cotton to the purchaser, but to deliver it to him at their own option, between the time of the contract and the 1st of March next, at the market price when delivered.

The major portion of the cotton produced in this section is, therefore, now in the hands of the producer. They have received advances through the trader and purchaser, the price of the cotton to be fixed at the time the cotton is delivered.

All concede that the producer of cotton during the past year has labored under great embarrassment and difficulty from the high price of labor and material, and that he cannot, in the most favorable condition of the market, realize a fair remuneration for his capital and his labor. If this be true, and this cotton, or the greater portion of it, is now in the hands of the producer, as I believe it is, it seems to me clear that the tax ought to be removed, and to be removed at once.

[Here the hammer fell.]

Mr. GRISWOLD obtained the floor.

Mr. FARNSWORTH. If the gentleman from New York [Mr. GRISWOLD] will yield I will submit a motion to adjourn.

Mr. GRISWOLD. I will yield for that purpose.

CONSTITUTIONAL AMENDMENT.

Mr. ASHLEY, of Ohio. Before the motion to adjourn is made I desire to enter a motion to reconsider the vote by which the House, on yesterday, referred to the Committee on the Judiciary a joint resolution introduced by me, proposing an amendment to the Constitution of the United States.

The SPEAKER. The motion to reconsider will be entered upon the Journal.

Mr. FARNSWORTH. I now move that the House adjourn.

The motion to adjourn was agreed to; and accordingly (at four o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BUCKLAND: The petition of N. B. Mason, private company A seventy-second Ohio volunteer infantry, for return of money taken from him while a prisoner of war.

Also, the petition of Isaac Leonard, private twenty-second United States infantry, for increase of pension.

Also, the petition of A. W. Lucky and 47 others, citizens of Ottawa county, Ohio, for the improvement of the mouth of the Portage river.

By Mr. CARY: A memorial one hundred and fifty-two feet in length, signed by citizens representing the leading mercantile firms, agriculturists, and workingmen in Vanderburg county, Indiana; St. Louis county, Missouri; Massac and Pope counties, Illinois; Livingston and Calloway counties, Kentucky; Marion district, South Carolina; Franklin, Napier, and Leon counties, Florida; Calhoun, Galveston, and Lockhart counties, Texas; Jefferson, Lauderdale, Colbert, Mobile, Montgomery, and Elmore counties, Alabama; Independence, Cross, and St. Francis counties, Arkansas; Richmond, Robeson, Orange, New Hanover, Anson, Columbia, and Duplin counties, North Carolina; Chickasaw, Madison, Hinds, Holmes, Carroll, Bolivar, and Covington counties, Mississippi; Memphis, Hardin, Davidson, Franklin, Carroll, Madison, and Benton counties, Tennessee; Bibb, Fulton, Troup, Walton, Houston, Decatur, and Thomas counties, Georgia; New Orleans, Madison, and St. Mary's parishes, Louisiana.

By Mr. EGGLESTON: The petition of G. Heavencourt and 13 others, brewers, of Cincinnati, Ohio, praying that a discount of fifteen per cent. be allowed on the purchase of revenue stamps instead of seven and a half per cent., as now provided by law.

By Mr. GETZ: The memorial of 115 citizens of Windsor township, Berks county, Pennsylvania, remonstrating against the passage of any act by Congress extending the right of suffrage to persons of color in said State contrary to the will of the people thereof.

By Mr. JENCKES: The petition of Lyman L. Swan, for allowance of pay under act of March 3, 1865.

By Mr. JULIAN: The petition of 18 citizens of Louisiana, praying a forfeiture of the lands granted to southern railroads in 1856, and that they be opened to homestead entry and settlement.

Also, the petition of 42 citizens of Wayne county, Indiana, praying Congress to grant to the Indians the rights of citizenship, of ownership of the soil, to sue in the courts of the United States, and other particular and general relief.

By Mr. PERHAM: The petition of James Welch, for increase of pension.

By Mr. PIKE: The petition of R. C. Jones, for extra allowance for services.

IN SENATE.

WEDNESDAY, *December* 4, 1867.

Hon. TIMOTHY O. HOWE, of Wisconsin, appeared in his seat to-day.

Prayer by Rev. EDWARD EGGLESTON, of Chicago, Illinois.

The Journal of yesterday was read and approved.

CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate resolutions of the Legislature of the State of Nebraska ratifying the amendment proposed by Congress as the Fourteenth Article of the Constitution of the United States; which were ordered to lie on the table.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of a convention of Federal officers and soldiers from the State of Kentucky, protesting that certain battle-flags presented to them and placed in the hands of the Governor of the State of Kentucky for safe keeping shall not pass into the possession of persons whom they consider as disloyal citizens; which were referred to the Committee on Military Affairs and the Militia.

Mr. WILLEY presented the petition of Joel E. Parr, praying for compensation for property taken and destroyed by the military forces of the United States in the year 1864; which was referred to the Committee on Claims.

Mr. CHANDLER presented resolutions of the Legislature of Michigan in favor of an appropriation of money to improve the harbor at the mouth of the Sheboygan river; which were referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Michigan in favor of the substitution of even for odd sections in the appropriation of lands to aid in the construction of a wagon-road from Grand Rapids to Mackinaw, and a wagon-road from Saginaw City to the same point; which were referred to the Committee on Public Lands.

He also presented the petition of James St. John, praying for an appropriation for the payment of the reward offered for the capture of Jefferson Davis; which was referred to the Committee on Military Affairs and the Militia.

Mr. FRELINGHUYSEN presented additional papers in relation to the claim of A.

Burwell for property taken and used by the United States Army at Vicksburg; which were referred to the Committee on Claims.

Mr. HENDERSON presented the memorial of the Chamber of Commerce of New Orleans, praying aid for deepening one or more of the outlets of the Mississippi river, and in the rebuilding of the levees of the Mississippi river, the removal of obstructions to the navigation of the Mississippi, Missouri, and Ohio rivers, and the construction of canals or railways across the Isthmus of Central America; which was referred to the Committee on Commerce.

Mr. POMEROY presented additional papers in relation to the claim of Charles and Henry W. Spencer for the loss of their trading-boat "O. K.;" which, with the papers on file relating to the same subject, were referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was

Ordered, That the memorial of Frederick Vincent, administrator of James LeCaze, late of the firm of LeCaze & Mallet, praying the payment of a balance due for advances made by them during the revolutionary war, be withdrawn from the files of the Senate and referred to the Committee on Revolutionary Claims.

Mr. CONKLING. I move that H. H. Booly have leave to withdraw certain testimonials and papers heretofore filed and referred to one of the committees of the Senate. They consist of letters received recommending him, upon which action was taken, in regard to a pension. He wishes now to withdraw them that he may have the originals to use.

The PRESIDENT *pro tempore*. Has there been any adverse report in the case?

Mr. CONKLING. No, sir. I ought to have stated that there was no adverse report. Favorable legislation was had on the subject.

The PRESIDENT *pro tempore*. The order will be made of course.

PRINTING OF A REPORT.

Mr. CONNESS. I move that the reply of the Secretary of the Treasury to a resolution of the Senate adopted on Friday last in relation to certain captured and abandoned property, an order for the printing of which was rescinded on Monday, be printed for the use of the Senate.

The motion was agreed to.

POINT SAN JOSÉ MILITARY RESERVATION.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Acting Secretary of War be requested to communicate to the Senate copies of any reports in the War Department from the commanding officer of the division of the Pacific concerning the reduction of the military reservation of Point San José, together with copies of any maps connected with such report.

PRESIDENT'S ANNUAL MESSAGE.

Mr. DRAKE. I offer the following resolution:

A concurrent resolution in relation to the annual message of the President of the United States.

Resolved by the Senate, (the House of Representatives concurring,) That the President of the United States, in declaring in his annual message to the two Houses of Congress at the present session that the acts heretofore passed by those Houses in relation to the reconstruction of the insurrectionary States "are not only objectionable for their assumption of ungranted power but many of their provisions are in conflict with the direct prohibitions of the Constitution," and that those acts are "as plainly unconstitutional as any that can be imagined," has transcended the just limits of his constitutional prerogative to "give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient;" that the use of such language by him in his official character is, in our judgment, calculated to derogate from the rightful authority of the law-making power of the nation and to incite insubordination, if not violent resistance, to laws which it is his duty as President to "take care shall be faithfully executed;" that, as between the Congress and the President, the former is the exclusive and final judge, in the first instance, of the conformity of its acts to the Constitution; and that when any act has been passed by two thirds of both Houses over the President's objections any subsequent official denouncement of it by him as unconstitutional, in the absence of any adjudication to that effect by the supreme judiciary of the nation, is a departure from official propriety, and a breach of official obligation, justifying and calling for distinct reprehension on the part of the Senate and the House of Representatives.

This being a concurrent resolution I suppose that under the rules of the Senate it will properly lie over till another day.

The PRESIDENT *pro tempore*. It will lie over if it is objected to of course.

Mr. DRAKE. I ask that it lie on the table and be printed.

The PRESIDENT *pro tempore*. That order will be made.

AMERICAN AND BRITISH CLAIMS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, copies of any correspondence between the Government of the United States and the Government of Great Britain relating to existing claims of these Governments on each other.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States in response to a resolution of November 26 calling for the correspondence with Mr. Motley, late minister to Austria; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a report of the Acting Secretary of War in response to a resolution of November 27, including papers relating to the case of Fitz John Porter, late an officer of the Army; which, on motion of Mr. SUMNER, were referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a communication of the Secretary of the Navy, in obedience to the act of March 2, 1867, transmitting a report of a board of naval officers appointed to investigate the claims of contractors for building vessels of war and steam machinery under contracts made between May 1, 1861, and January 1, 1864; which was referred to the Committee on Naval Affairs, and ordered to be printed.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 160) extending the provisions of the pension laws to provost marshals, deputy provost marshals, and enrolling officers killed or wounded in the discharge of their duties; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 161) to amend an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the several acts amendatory thereto; which was read twice by its title.

Mr. WILSON. I will simply say that this bill is to change that provision of the law which requires that a majority of all the registered voters should vote at an election in order to effect a result, and to provide that a majority of the votes actually cast shall determine the result. The effect of the present provision has been precisely what I supposed it would be when we passed the original act, and what I and others then predicted. I propose to change the law so that a majority of the votes cast shall determine the result in adopting the constitutions that have been formed. I move that the bill be printed and referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 162) for the relief of the heirs of Simeon Castro and their assigns; which was read twice by its title, and referred to the Committee on Private Land Claims.

BLADENSBURG TURNPIKE ROAD.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred several petitions of citizens of the District of Columbia, praying that the proprietors of the turnpike road between the city of Washington and the boundary line of the District of Columbia at Bladensburg may be compelled to comply with the requirements of their charter, have instructed me to report them back, and ask to be discharged from their further consideration. On looking into the law it will be found that the act of 1810, under which this road was chartered, provided that if the corporation should at any time suffer the road to be out of repair it should be liable to be presented for such neglect before any court of competent jurisdiction, and on conviction subjected to a fine of $100; and the corporation is also subjected by its charter to a suit for damages sustained by any person in consequence of a want of repair of the road; and a subsequent act, passed in 1863, makes it the duty of the levy court of the District to inquire and decide whether any road in the county of Washington, held by any incorporated company, has been and is at the time of such inquiry kept in the condition required by the charter thereof, and if not, to take legal proceedings to acquire possession of the same as other county roads.

This being the law, the committee were of opinion that there was ample authority for compelling this corporation to put the road in repair or for condemning it through the levy court and making it a county road. According to the statements of the petitions the road is very much out of repair and should receive the attention of the levy court; but in the opinion of the committee no legislation is necessary, and they therefore ask to be discharged from the further consideration of the subject.

The report was agreed to.

QUORUM OF THE SUPREME COURT.

Mr. TRUMBULL, from the Committee on the Judiciary, reported a bill (S. No. 163) declaring what shall constitute a quorum of the Supreme Court, and asked for its present consideration.

The bill was read twice and considered as in Committee of the Whole, by unanimous consent. It provides that any number of the justices of the Supreme Court of the United States, not less than five, and being a majority of the court, shall constitute a quorum.

Mr. TRUMBULL. I will state the reason for the bill. The court formerly consisted of ten members, and at that time the law required six to constitute a quorum. As the law now stands the court is to be reduced to seven, as vacancies occur; it is already reduced to eight; and the justices of the court, I am informed, find a difficulty in making up the quorum of six; and it will be still more difficult when there are but seven on the bench. One or two of the judges at this time are unwell, and of the whole number, eight, it requires six to constitute a quorum. This bill provides that five shall constitute a quorum, there being now but eight judges, and that it shall also require that many even when the court is reduced to seven.

The bill was reported to the Senate without amendment.

Mr. JOHNSON. The bill is the same, I suppose, with the one determined upon by the committee?

Mr. TRUMBULL. Yes, sir.

Mr. JOHNSON. Fixing the quorum at five?

Mr. TRUMBULL. Yes; five.

Mr. JOHNSON. It is very desirable it should pass. The court was very near being without a quorum to-day, and the probability is, in the present condition of things, that it may be often without a quorum during the session.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

EXECUTIVE BUSINESS.

Several messages of an executive character were received from the President of the United States, by Mr. R. JOHNSON, his Secretary.

PRINTING OF PRESIDENT'S MESSAGE.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print the message of the President of the United States, with the reports of the heads of Departments, without the accompanying documents, and three thousand additional copies, have instructed me to report it back without amendment, and recommend its passage; and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That the message of the President of the United States, with the reports of the heads of Departments, without the accompanying documents, be printed, and that three thousand additional copies be printed for the use of the Senate.

Mr. HOWARD. Is that a resolution reported by the Committee on Printing?

The PRESIDENT *pro tempore*. It is.

Mr. HOWARD. I would rather it should lie over.

Mr. ANTHONY. I think it had better be disposed of now. The objection of the Senator comes too late. There was no objection made to the consideration of the resolution, and it was before the Senate. I do not care what is done with it; but I will state to the Senator that this is merely a resolution to print the message and the reports of the heads of Departments without the accompanying documents.

Mr. HOWARD. I should like to have the resolution reported again.

The Secretary read the resolution.

Mr. HOWARD. Mr. President, under ordinary circumstances I should not make a single remark on such a resolution as this; but, considering the nature of the message itself, which was sent to both Houses of Congress yesterday, I am obliged to say now in my place that I cannot vote for the printing of the President's message. I do not think it is worthy of that attention, especially as to the extra number which the resolution calls for. I listened with as much attention as I was able to bestow yesterday to the reading of that strange document, and since then I have perused it myself in my room carefully; and, without going into any discussion of the merits of the document, I am obliged to say now that I regard it, so far as it treats of the reconstruction acts of Congress, as a libel upon Congress and upon every member of the body who, by vote or word, favored those enactments. I will not appropriate the public moneys for publishing, nor will I myself be instrumental in publishing to the world what I regard as a most singular and wanton libel on the two Houses of Congress who enacted those laws, and a libel on the laws themselves. I look upon that document as an insidious but unmistakable invitation to the people of the rebel States to use violence in resistance of that legislation, and of course as such it is an act on the part of the President entirely unconstitutional and revolutionary in its character. For these reasons, very briefly stated, I cannot vote for the printing of the President's message, so-called.

Mr. ANTHONY. I am quite indifferent what disposition the Senate makes of this resolution. It is important that all resolutions for printing should be disposed of promptly, because it is very inconvenient to keep the type standing. The President's message and all the documents included in this resolution are printed under an act of Congress. This resolution is to print the usual number of extra copies, three thousand, which is much less than the old number, of the reports of the heads of the Departments, without the documents. I suppose we are not going to establish a precedent that the Senate will print nothing but what it approves. If so, it will at least have the good effect of cutting down the expenses of the printing considerably.

Mr. CAMERON. Mr. President, there was one part of the President's message which we heard read yesterday which I approved; it was the suggestion recommending economy in our expenses. I believe with him that we should begin to reduce the expenses of this Government. We cannot begin at a better time than now, and we cannot do it at a better place than in the public printing. I have no doubt that with very little care we shall serve all our constituents properly, as they should be, with documents and save at least $1,000,000 in the course of a year. I do not know what the printing has cost lately, but I am aware that it has grown up to an immense sum. The cost of the printing of Congress some fifteen years ago, including paper and everything else, amounted to about seven or eight hundred thousand a year. I believe it has got up to some millions now. I can see no use in printing these extra documents and then encumbering our desks and our committee-rooms with them. Everybody before this time has read the President's message. It has been published in the newspapers, and a sufficient number has been printed by the public printer to supply the Senators who may desire to have some extra copies to send to their constituents. I do not know how many are printed of course under the law, but I believe a couple of thousand. Surely, then, there is no necessity for these additional copies. It cannot be intended as a compliment to the President to print these extra numbers, but the truth is it has become a habit, and, like all other bad habits which Senators and Representatives have become accustomed to, the ordering of this printing is done without reflection. It is time that we should begin to economize. The taxes have become more than the people can bear, and we must begin somewhere. It would be wise to show that we begin here at home, in our own household, and therefore I oppose the printing of these extra numbers now, and I shall continue during my service here to try to reduce the expenses of printing.

Mr. ANTHONY. It might be well to print that part of the message of which the Senator from Pennsylvania approves. The document might be printed in detachments, and each Senator might send forward to his constituents as much of it as he approves of.

I rise merely to say that I am glad to have an opportunity to correct a very prevalent error which has gone over the country, much to the damage of the reputation of Congress for economy. It is not true that the printing of Congress is larger now than it was a great many years ago when the country was much smaller, and when the objects to which the public printing was directed were much less numerous. The printing now, which swells up to millions, is the printing not only of the two Houses of Congress, but for the Departments. The printing for the Treasury Department is enormous. Of course all the blanks for the Internal Revenue Bureau, and all the books in which the returns of the internal revenue officers are kept, are printed at the Congressional Printing Office, and their cost goes into the expense of printing. This printing undoubtedly might be done cheaper elsewhere than here; it might be done cheaper in Hartford or in Boston than in Washington; but there is a very great reason for having it all done here, because it is essential that the blanks shall be uniform, that they shall be identical, and that the blanks which are sent out to the different officers and the books which contain the returns should be printed not only in the same style, but upon the same plates. It tends to accuracy and to responsibility, and to the verification of the accounts. It is for that reason that the Committee on Printing never have recommended that these blanks should be printed elsewhere, where they could undoubtedly be printed cheaper. But the printing of Congress—the printing of the two Houses of Congress alone is less to-day than it was six or eight years ago, leaving out the cost of paper. The price of paper is much higher than it was before, and the price of labor is much higher also; but leaving out the price of paper and including the price of labor, which is double what it was six years ago, the total cost of the printing is less than it was then.

It has been so common throughout the country, so common in all the newspapers, to represent the increase in the cost of the public printing as attributable to the extravagance of Congress that I am happy to be able to correct the error.

Mr. SUMNER. I move to strike out the words relating to the President's message, so that if there are extra copies printed they may be the reports of the Departments, to which, so far as I know, there is no objection. There is really a reason, independent of economy, why we should not circulate extra copies of the President's message. It has already been characterized as a libel; unquestionably it is a libel; it is an incendiary document, calculated to stimulate the rebellion once more and to provoke civil war. It is a direct appeal to the worst passions and the worst prejudices of those rebels who, being subdued on the battle-field, still resist through the aid of the President of the United States. It is the evidence of a direct coalition between the President and the former rebels. If Jefferson Davis were President of the United States he could not send to this Chamber a message different in character. I have often said that Andrew Johnson was the successor of Jefferson Davis, and this message is a complete confirmation of all that I have heretofore said. I hope the Senate will not put its hands into the public Treasury in order to circulate over the country a document which is so offensive to Congress, and which, just in proportion to its influence, is calculated to arouse the worst sentiments throughout the rebel States. I move to strike out the words relating to the President's message.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is moved to strike out the following words: "the message of the President of the United States;" so as to make the resolution read:

Resolved, That the reports of the heads of Departments, with the accompanying documents, be printed, and that three thousand additional copies be printed for the use of the Senate.

Mr. JOHNSON. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BUCKALEW. I shall be very happy on all occasions to follow my colleague in support of material reforms, and especially reforms in public expenditures. As I understand the subject under consideration, the publication of the proposed three thousand additional copies of the President's message and the accompanying reports involves simply the paper and press-work. The cost of composition is already incurred, and the matter is at the Printing Office ready to be used for this additional publication. As to the amendment which the Senator from Massachusetts has proposed, it will be for gentlemen who think with him as to the political sentiments of the message to determine their votes for themselves. It occurs to me that it would be giving undue or untimely prominence to the differences of opinion which exist concerning the message to adopt his motion. Be it remembered, sir, that this message proposes to Congress the repeal of certain laws which were enacted in the month of March and in the month of July last. The President, under his clear constitutional power to recommend to Congress such measures as he may think important to the public interest, recommends the repeal of those laws, and as a reason for that repeal he goes on at length to submit an argument against their constitutionality. Now, sir, all that is perfectly legitimate; and to describe that argument of his as a libel on Congress or as a libel on those laws is an abuse of terms. There is certainly no impropriety in the fact that he denounces those laws as unconstitutional when he appeals to us to repeal them, because it is in the legitimate course of the argument which arises upon his recommendation.

Whether his views upon that subject agree with the views of us all or not is nothing to the purpose. If we disagree with him in opinion

we shall meet him in debate; we shall be heard by the country, and the people to whom we are both responsible will judge between us.

I have said thus much on this single point for the purpose of meeting the ideas which were suggested by the resolution offered this morning by the Senator from Missouri, [Mr. DRAKE,] and of meeting the somewhat unusual remarks which have been submitted by the Senator from Massachusetts, [Mr. SUMNER.] It is very true that the President has stated his political views on the condition of the country and with reference to the legislation which should obtain in Congress strongly and clearly; but during the session upon which we are entering I doubt not that there are many members upon this floor and many members in the other House of Congress who will express themselves with equal warmth as strongly and as clearly on the opposite side that great question of reconstruction from that which the President maintains.

Mr. WILSON. Mr. President, nothing, I am sure, is to be gained by refusing to print the President's message according to the usual custom of the Senate. I go quite as far as any one in condemnation of the tone, temper, and doctrines of the message, but I think we are not justified in departing from the ordinary practice of this body. The message is an assault of the President of the United States upon the Congress of the United States for attempting by legislation to take the governments of the rebel States out of the control of traitors into whose keeping he had placed these governments. The writer of this message seems to have forgotten altogether the action of the President in 1865, and as the Senator from Vermont [Mr. EDMUNDS] suggests to me, he seems almost to have forgotten that we ever had any rebellion at all. The message remembers to forget that President Johnson in the summer and autumn of 1865 assumed and exercised constitutional powers for the exercise of which he now condemns the legislative branch of the Government. If the President's reconstruction policy was within the provisions of the Constitution surely the reconstruction policy of Congress is within the provisions of the Constitution. If the President without the authority of law could fix the terms and conditions for the reconstruction of the rebel States surely Congress, the law-making power of the Government, could determine the terms and conditions of reconstruction.

There have been two policies of reconstruction before the country: the President's policy and the policy of Congress. After four years of civil war, after burying three hundred and fifty thousand men, the rebel States were conquered and the rebels subjugated. These rebel States were completely disorganized, without governments or public officers. President Johnson recognized and proclaimed that fact. Without the authority of law he inaugurated a policy which put the ten conquered rebel States completely back into the hands of the rebels our military forces had subjugated. Yes, sir, Andrew Johnson adopted a policy that put the rebel States as completely into the hands of unrepentant traitors as they were when Jeff. Davis was at Richmond and Lee held and guarded the rebel capital. That was a crime against the country that ought to be condemned by every patriotic man in the land. Such was the fatal policy of President Johnson—a policy to which he has inflexibly adhered.

The effect of the President's policy was to put the loyal men of the South, who were true to their country through all the dark days of the civil war, under the ban of successful and dominating treason, and to put the freedmen in the condition of serfdom, into a condition quite as wretched and degrading as was involuntary servitude. From those once conquered States, restored by Andrew Johnson to the control of rebels, there came to us a cry of agony, a voice of supplication, demanding the interposition of Congress and the protection of the national Government. Congress heard that cry; the country heard it; the world heard it; the God of the universe heard it; but President Johnson could not hear it. Congress investigated and deliberated; a joint committee of the two Houses, composed of gentlemen of distinguished talent and character, reported the facts, and Congress, after giving the President's policy a trial of nearly two years, adopted the policy of reconstruction against which the President now hurls his denunciations. This reconstruction policy of Congress immediately carried peace and comparative law and order into and through the rebellious States. The officers of your Army, the superintendents of your Freedmen's Bureau, and gentlemen of intelligence and character bear testimony that the immediate effect of the reconstruction measures of Congress was to give greater protection and security to life, liberty, and property. There is more liberty in the rebel States under the reconstruction policy of Congress than has existed there for more than a generation; more freedom of thought, of speech, and of action for the whole body of the people there or for anybody visiting those States. Sir, I took up this morning a report of General Swayne, a son of Judge Swayne of the Supreme Court, a gentleman of the highest character and whose opinions are entitled to great consideration. General Swayne is superintendent of the Freedmen's Bureau in Alabama. Speaking of the passage of the reconstruction acts which the President denounces, General Swayne says:

"A general amendment in the treatment of the freedmen signalized the fact, and has been steadily progressing. The sense of coming power brought immediate respect. A new and summary process menacing those ruffians who eluded or defied the civil law brought a degree of order which has been a sensible relief. The very passage of the bill, regarded as a punishment by those who were opposed to it, has vindicated those among them who had previously insisted upon justice, and brought a new responsibility to bear on those who had been pandering to the animosities of race.

"The freedmen themselves promptly took new heart at the improvement in their prospects. Laboring with as much industry as ever, they seem to study with more zeal, to have new confidence in trying to improve. Already they have been admitted to the jury box, and some of them employed in the lower branches of the public service, so that they have little need to fear injustice in the future."

Other superintendents and agents of the Freedmen's Bureau and the officers of your Army stationed in the rebel States all concur in proclaiming that the reconstruction measures of Congress have had the most salutary effect and have worked the most beneficial results. The effects of the President's policy and of the policy of Congress are clear to the comprehension of the country. The President's policy put the subjugated rebel States back into the control of traitors; the congressional policy is taking those States out of the control of rebels and putting them into the control of loyal and patriotic men. The President's policy wrought oppression, wrong, insult, and outrage to the loyal white man and to the black man; the reconstruction policy of Congress has brought and is bringing order, protection, security, and liberty. The President's policy has failed, has been abandoned, and will not be revived. The policy of Congress is progressing, will be inflexibly adhered to, and will be consummated. The President may, as he does in his message, recommend its abandonment, but the Congress of the United States will firmly adhere to its plan of reconstruction. The friends of a united country, the friends of impartial liberty and of equal justice, will organize and reconstruct those rebel States, and nearly all of those States will be represented before the 4th day of July next in both Houses of Congress by patriotic, liberty-loving, and loyal men.

The statement of the President in this message that the black men of the South, enfranchised by Congress, knew only enough to deposit their votes where they were told to deposit them is a libel upon the seven hundred thousand black men whose hands have been weaponed with the ballot. Sir, how stands the great fact? These enfranchised black men without property, without homes, surrounded by the great landholders, the cultivated, the intellectual men, sometimes called the "natural leaders" of the South—men who had held them and their ancestors in bondage, who owned their humble cabins, the ground they trod upon, in whose employment they are, were in positions to be swayed and controlled by love, authority, interest, and fear. When Congress passed the reconstruction acts the rebel presses and leaders appealed with the utmost confidence to these enfranchised black men. We were told quite as confidently as we were told in other days that the black men would not fight against their old masters that the black men of the South would vote as they were directed by their old masters. The rebel leaders, the great landholders, the old slave-masters uttered honeyed words and brought to bear every seductive influence they were master of to win a controlling influence over the enfranchised black men. Even Wade Hampton, the representative of the white aristocracy of South Carolina, led off with Beverly Nash, the black man. He graciously admitted that the colored people ought to have the right of suffrage, and he appealed to them to unite with him and the men of his class. Others joined in these appeals; the black men were told on the stump in public speeches by these men, the great land-holders and late slave-masters, that they had played together in childhood, that they had fished and hunted together, and they were invoked to give their votes to the conservatives; yet all those influences utterly failed. When flattery, persuasion, and cajolery failed they were threatened. They were told that there might be a war of races, that they might be turned out of employment, their families driven from their cabins. Thousands of these poor men without property have been turned from their homes, dismissed from employment for the votes they gave, and yet that body of enfranchised men, in spite of every oppression brought to bear upon them, have voted as patriotism, liberty, justice, and humanity dictated.

Since the morning of creation no body of men have shown more self-sacrificing devotion to principle, more of the virtues of patience and endurance, than the seven hundred thousand black men of the rebel States, into whose hands Congress had placed the ballot. Whoever says otherwise slanders and maligns them. In spite of all the misrepresentation and slanders that have been sent to the press to deceive the people of the loyal States, these black men have borne themselves with patience, modesty, and prudence, shown the same fidelity to the country they did during four years of civil war, and they are entitled to the sympathy, respect, and admiration of loyal America. They have trusted in God, have given their prayers, their hopes, and their wishes to their country, and have voted for unity and freedom. These black men into whose hands Congress has put the ballot, never to be wrenched from them by President or rebel, with the loyal white men and the few repentant rebels will bring the rebel States back into these Chambers and thus rebuke this assault of the President of the United States upon Congress for attempting to save that section of the country from rebel domination.

Sir, I say to the writer of this message, to its supporters and defenders, to expectant rebels, that the Fortieth Congress will not repeal the reconstruction acts; that we shall not retreat a single inch from the positions we have assumed. Congress will stand like a rock by the reconstruction acts. Let everybody understand that. I have undoubted faith that the loyal people, black and white, of the rebel States, and the men compromised by the rebellion who want to see their States restored to their practical relations with the Government, will carry into effect the reconstruction measures of Congress. Then we shall see who will push the loyal men of those States out of these Chambers. The policy of Congress will in a few months be an accomplished fact; the rebel States will be in the keeping of loyal and

patriotic men. We shall then see who will denounce a patriotic Congress for adopting a policy that took the governments of the rebel States out of the control of unrepentant rebels, into whose hands a recreant President had placed them.

Mr. DIXON. Mr. President, if it were possible to suppress the message entirely, to keep it out of sight, to prevent its being read by the American people, I should not be surprised at the motion which has been made. If the Senator from Michigan [Mr. HOWARD] could prevent the people of the United States from reading the arguments contained in this document I do not know that I should consider him, from his stand-point and occupying his position, very unreasonable. Standing here now as the advocates of a system of measures condemned by the people, confessedly in a minority, as those Senators now are—in a minority of the people of the United States, as shown by their latest verdict, rebuked, repudiated by the people—my friend [Mr. CONNESS] smiles; I shall soon come to his case—I am not surprised in the least that there should be a desire to suppress arguments and information of the character contained in this message. If the question were only whether it should be printed I should be willing to leave it where the Senator from Massachusetts who last spoke has left it, for the Senate to decide. I think that entirely immaterial. The public have read it; it has been spread before the people of the United States, and I should be satisfied to leave it there if the other Senator from Massachusetts and the Senator from Michigan had not denounced the document in language which, to my mind, I will not say is improper in this body—that is not for me to say—but denounced it in a manner which I think it does not deserve.

Now, what have they said? The Senator from Michigan begins by saying it is a libel, and I think he said an insult to the Congress of the United States. The Senator from Massachusetts said he had often said, had been in the habit of saying, that the President of the United States was a traitor equally guilty with Jefferson Davis.

Mr. SUMNER. That is not what I said. I said the successor of Jefferson Davis.

Mr. DIXON. The successor of Jefferson Davis—how? In his principles, of course. The Senator does not claim that he is the successor in office. He says the President is the successor of Jefferson Davis and equally guilty, and still he complains that the President has been guilty of a libel. It struck me at the time that if there was any competition of vehement language between the President and that Senator it would be very easy to decide who in vituperation had the advantage. He who denounces the President as a traitor and the successor of Jefferson Davis is not the man to complain of any severity of language on the part of the President of the United States.

Now, sir, what is this message? Is it deserving of the severe attacks which have been made upon it by these two distinguished Senators? Is it a libel? Is it violent in language? Does it show, as the Senator from Massachusetts says, bad temper? In the first place, what is the duty of the President? The Constitution says that he shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. It has always been customary for the President of the United States at the opening of a session of Congress to send in a formal message, to give that information annually, or at each session, with that formality and solemnity which attaches to this document. He has now done it. I confess that I can see nothing of violence or ill temper, much less of a libelous character, in this message. He expresses strong opinions—with regard to what? With regard to the constitutionality of certain laws now on the statute-book. Why, sir, is it the first——

The PRESIDENT *pro tempore*. The morning hour having expired it becomes the duty of the Chair to call the attention of the Senate to the unfinished business of yesterday, which is the joint resolution (S. R. No. 66) pledging the faith of the United States to the payment of the public debt in coin or its equivalent.

Mr. SUMNER and others. Let this matter go over.

Mr. POMEROY. The unfinished business, I suppose, is before the Senate, and I hope we shall proceed with it. It does not need any vote to call it up.

Mr. TRUMBULL. I move that the order of business be postponed in order that the Senator from Connecticut may go on with his speech.

Mr. EDMUNDS. I have no objection to the order of the day being laid aside informally in order to finish this matter, but I do not wish it to lose its place. Will not that be satisfactory?

Mr. TRUMBULL. Certainly; I merely made the suggestion in order to enable the Senator from Connecticut to conclude his speech.

Mr. POMEROY. It may be laid aside informally, but this debate is interminable and it will not be concluded to-day, probably.

Mr. JOHNSON. There is nobody going to speak except the Senator from Connecticut.

Mr. POMEROY. Oh, yes; there will be a good many after he gets through, I presume. Laying the unfinished business aside informally will not close the debate. I should not like to have the Senator from Connecticut broken off in the middle of his speech, but there will be other remarks made on this subject, and we may as well go on with the unfinished business.

Mr. SUMNER. I see no objection, of course, to the Senator from Connecticut finishing his remarks, to which we all listen with so much interest, but I doubt the expediency of continuing this discussion to-day to the exclusion of the question presented by the Senator from Vermont. That question bears directly on the national credit. It is a profitable discussion. It is one which must end, I trust, in substantial advantage to our country. What is the other? It is a proposition to pay a compliment to a President of the United States who I submit, deserves no such compliment. I hope, therefore, that the discussion of the question of printing the message will not be continued to-day to the exclusion of the more important one relating to the national finances, although I for one am always glad to listen to my friend from Connecticut.

Mr. DIXON. I had no intention of making a speech. My remarks are entirely called out by what was said by the Senator from Massachusetts, and I should be glad, I confess, to be allowed to conclude them. I think this is the time to reply to that severity of remark in which the Senator has indulged in what he has called an "unprofitable discussion," commenced by himself.

The PRESIDENT *pro tempore*. The question is on postponing the order of the day.

Mr. EDMUNDS. I hope it will not be postponed. I am willing that by unanimous consent it be laid aside informally, to enable my friend from Connecticut to finish his remarks.

The PRESIDENT *pro tempore*. By common consent the order of the day will be postponed informally for the purpose of enabling the Senator on the floor to conclude his speech. The Chair hears no objection.

Mr. DIXON. Mr. President, when the morning hour expired I was going on to say that it was no unusual thing for the President of the United States to speak of the constitutionality of a law. The statute-book is full of laws of questionable constitutionality in the opinion of some men; and certainly if a law is supposed to be unconstitutional no better reason can be given for its repeal; nor is it any reflection upon Congress to say that a bill is unconstitutional. The President says that he has the misfortune to differ from Congress. That, too, has been my severe misfortune; I have been compelled to differ from Congress. Is that criminal on my part? Is it disrespectful in me to say so? Was it disrespectful when I objected to the passage of this very bill on the ground that it was so palpably unconstitutional that for me to vote for it would be a violation, a conscious, known violation of my official oath? Did anybody say that was disrespectful? And when the bill passed was I bound to say then that I thought it constitutional? Have we come to that that the opinions of a Senator or a President with regard to the unconstitutionality of a measure cannot be expressed in earnest language? It seems to me the Senator from Michigan, with all his ability, with all his acuteness, will not be prepared to say this. I think I have heard him on this floor not only question the constitutionality of laws on the statute-book, but convince those who listened to him that he was right.

What, then, is the objection to the spirit of this document? The Senator says the President provokes resistance, insidiously, covertly provokes resistance to this act. I confess I cannot see that. If it is done it is done so insidiously as to escape my vision, and I do not know that the people of the South are any more likely to see it than we are here. The President takes pains to declare that all that he says with regard to it is said with respectful deference to Congress. Let us see what he does say:

"On this momentous question and some of the measures growing out of it I have had the misfortune to differ from Congress, and have expressed my convictions without reserve, though with becoming deference to the opinion of the legislative department."

Now what is "becoming deference" may perhaps be a subject of difference between the Senator from Michigan and the President. The Senator may demand more deference and a more deferential attitude on the part of the President than he himself would be willing to return. I do not know that he would do so, though he has expressed himself somewhat warmly; but I do not think that in the long list of the shining virtues of that Senator deference toward the President of the United States would be the most conspicuous. The President proceeds to say:

"Those convictions are not only unchanged but strengthened by subsequent events and further reflection. The transcendent importance of the subject will be a sufficient excuse for calling your attention to some of the reasons which have so strongly influenced my own judgment. The hope that we may all finally concur in a mode of settlement, consistent at once with our true interests and with our sworn duties to the Constitution, is too natural and too just to be easily relinquished."

If the President is too sanguine in that hope, if he is too confiding, if he believes too readily that Congress will bow to the will of the nation as expressed at the ballot-box, certainly it is not matter of condemnation and is not disrespectful. It may be that he is too sanguine. I think he is. I confess I have no hopes, for one, that Congress will retrace its steps. I think that probably the advice of the Senator from Massachusetts [Mr. WILSON] will be followed, and that Congress will adhere to its measures; but if the President sees fit to express a hope to the contrary I am not prepared to condemn him, nor am I prepared to say that in that there is anything disrespectful to Congress, nor do I think the Senator himself on reflection will consider it so. The President then goes into an argument, certainly one of great ability. He says:

"Being sincerely convinced that these views are correct I would be unfaithful to my duty if I did not recommend the repeal of the acts of Congress which place ten of the southern States under the domination of military masters. If calm reflection shall satisfy a majority of your honorable bodies that the acts referred to are not only a violation of the national faith but in direct conflict with the Constitution, I dare not permit myself to doubt that you will immediately strike them from the statute-book."

Is it necessary to argue that there is nothing in that disrespectful, much less libelous? Where is the libel? Where is the charge upon Congress of not having been actuated by motives of public policy and public good? Let the Senator if he can point it out. The

President then states "another reason for retracing our steps," which he says:

"Will doubtless be seen by Congress in the late manifestations of public opinion upon this subject. We live in a country where the popular will always enforces obedience to itself, sooner or later. It is vain to think of opposing it with anything short of legal authority, backed by overwhelming force."

Certainly the President does not intimate that he proposes to oppose the last expression of popular will; it is, so far as he is concerned, in his favor:

"It cannot have escaped your attention that from the day on which Congress fairly and formally presented the proposition to govern the southern States by military force, with a view to the ultimate establishment of negro supremacy, every expression of the general sentiment has been more or less adverse to it."

Now, will Senators say that the remark that this was done "with a view to the ultimate establishment of negro supremacy" is disrespectful to Congress? Was not that your view? Was not that the object? Has not the Senator from Massachusetts [Mr. WILSON] to-day avowed it? Has he not declared in express language that "we put the destinies of that portion of the country in the hands of the blacks"—I took down his very words.

Mr. WILSON. No, sir; I said in the hands of the black men, the loyal white men who were true to the country, and repentant rebels.

Mr. DIXON. The Senator said that the President had doubted the competency of the black men to vote, not of the repentant rebels to vote. That was the question upon which he was speaking, and he then went on to show that they were competent because they had not been influenced by Wade Hampton but had voted with the Republican party, and then he said "these men in whose hands we put the destinies of that portion of the country have shown themselves competent." The report of the debate will, I think, show that I am right.

Mr. WILSON. The Senator will certainly find that I included in my remark the loyal white men of that part of the country, and I spoke also of repentant rebels, because many of the rebels are working and toiling for the reconstruction policy of Congress as hard as any other class of men. Some of them who were in the military service and attained the position of major general in the rebel army have used all their influence this year to carry our policy, and in some of the States men who have been leaders, who have been compromised by the rebellion, and cannot vote or hold office, have done this.

Mr. DIXON. Well, sir, with regard to that question, whether those States are under the control of the black population, it is unnecessary to make any remark. It is a notorious, acknowledged fact. How is it that seven hundred thousand black men govern the South; how is it that they govern the white population, ten million in number, of that country, unless your law has provided that they, and they alone, shall control the ballot-box? Sir, it is not my objection solely to your bills that some portion of the black men are by them permitted to vote. There is a greater objection than that. You have not only by your bills permitted the blacks of the South, the emancipated slaves, to vote, but you have actually disfranchised a great proportion of the white men of that portion of the country.

Mr. EDMUNDS. May I ask in how many of the southern States the blacks are in the majority according to the registration?

Mr. DIXON. I think the Senator will find that in the recent elections under the registration made by authority of these reconstruction acts, so-called, the blacks control the southern States.

Mr. EDMUNDS. That does not answer the question. I was asking my friend, according to the registration, not according to the voting, in how many of the States does it appear that the negroes are in the majority of registered voters.

Mr. DIXON. It possibly may be in some of these States that on examining the registration you may find the whites in the majority.

Mr. EDMUNDS. You will in almost every case.

Mr. DIXON. But, as the Senator very well knows, if you take a mass of black men, or of any other men, and let them start, for example, with eighty thousand votes, it is very easy for them and very natural to gain some strength from those on the other side. It is not certain that the whites and the blacks are entirely divided by the line of color, but the Senator will find it very nearly so. All the accounts in the papers which we have received on both sides have stated that the blacks vote in a body and the white men as a general thing in another body; and not only that, but the Senator cannot be blind to the fact that wherever a black man has had the audacity, or the courage, or the treachery, call it what you will, to vote for the conservative or white ticket, he has been personally abused and insulted by the blacks. That is well known.

But, sir, the complaint seems to be that the President says that the object of Congress was to place these States under black supremacy. That has been the result. The Senator from Massachusetts, as I understood him, justified and avowed this. At all events the result has been so. I think, therefore, the President cannot be accused of any want of respect to Congress in saying that that was the intention and object of the law, if that is the fair meaning of his language. He says that these acts were passed "with a view to the ultimate establishment of negro supremacy." I think Congress is bound to be supposed to have had in view what was the natural and necessary consequence of the act.

But I read further from the message:

"The affections of this generation cannot be detached from the institutions of their ancestors. Their determination to preserve the inheritance of free government in their own hands, and transmit it undivided and unimpaired to their own posterity, is too strong to be successfully opposed. Every weaker passion will disappear before that love of liberty and law for which the American people are distinguished above all others in the world.

"How far the duty of the President 'to preserve, protect, and defend the Constitution' requires him to go in opposing an unconstitutional act of Congress is a very serious and important question, on which I have deliberated much, and felt extremely anxious to reach a proper conclusion."

That subject was brought to the attention of the President necessarily; he could not avoid it. The question was raised by others. He was charged with a design to nullify and disregard the acts of Congress with regard to reconstruction on the ground that they were unconstitutional. That has been said in both Houses of Congress. It has been said in the public prints everywhere. It has been supposed by some that he would not think it his duty to execute those acts. He says it is a subject which he has considered:

"Where an act has been passed according to the forms of the Constitution by the supreme legislative authority, and is regularly enrolled among the public statutes of the country, executive resistance to it, especially in times of high party excitement, would be likely to produce violent collision between the respective adherents of the two branches of the Government. This would be simply civil war; and civil war must be resorted to only as the last remedy for the worst of evils. Whatever might tend to provoke it should be most carefully avoided."

Is that advocating the doctrine of opposing the execution of the laws? He is giving a reason for enforcing the act. He has enforced it. He believes it to be unconstitutional; he told you so in his veto message; but notwithstanding that, it is in his judgment his duty, it being on the statute-book, to consider it so far as his executive action goes, a constitutional law of the land. I opposed these bills as unconstitutional. When I, in my capacity as a Senator, have unavailingly resisted a law on its passage, am I not to submit to it as a law of the land? Because I believe it to-day to be unconstitutional shall I refuse to be governed by it to-morrow, if it be enacted? That is not my doctrine. That is not the President's doctrine. He says:

"A faithful and conscientious magistrate will concede very much to honest error, and something even to perverse malice, before he will endanger the public peace; and he will not adopt forcible measures, or such as might lead to force, as long as those which are peaceable remain open to him or to his constituents."

The President, I think, may very well say that he is at this day subject to the attacks of men governed either by "honest error" or "perverse malice." I read further:

"It is true that cases may occur in which the Executive would be compelled to stand on his rights, and maintain them, regardless of all consequences. If Congress should pass an act which is not only in palpable conflict with the Constitution, but will certainly, if carried out, produce immediate and irreparable injury to the organic structure of the Government, and if there be neither judicial remedy for the wrongs it inflicts, nor power in the people to protect themselves without the official aid of their elected defender; if, for instance, the legislative department should pass an act, even through all the forms of law, to abolish a coördinate department of the Government; in such a case the President must take the high responsibilities of his office and save the life of the nation at all hazards."

That is a hypothetical case, an extreme case.

Mr. HOWARD. Who is the "elected defender?"

Mr. DIXON. The Senator, I suppose, knows as well as I do. Is it a crime for the President of the United States to say that he is a defender of the Constitution? Is that the charge? Certainly I have thought sometimes that it was a crime in the minds of some men that it was not only proof of guilt but guilt itself to advocate the Constitution and to defend it. Does the Senator mean to say that that is disrespectful to the Congress of the United States?

Mr. HOWARD. If the Senator will allow me I will say this just here: that I do not consider that language, "the elected defender," as being particularly disrespectful to Congress. I simply say in answer to the question that I think the expression as used by the President in his message is arrogant and unauthorized; that it is not constitutional language. He is no more the defender of the Constitution than I am here in my place. He is invested with more powers, to be sure, but his obligation is precisely the same, and I think, therefore, it is in very bad taste for the President of the United States to assume that he is "the elected defender" *par excellence* of the Constitution. It is an assumption on his part by which he seeks to place himself above the law-making power and to become its dictator.

Mr. DIXON. The Senator says it is "arrogant," "presumption," "in bad taste" on the part of the President of the United States to call himself the defender of the Constitution: that it is unconstitutional language. Let us see the oath which he is required by the Constitution to take:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and *defend* the Constitution of the United States."

That is the very language of his oath. What is a defender of the Constitution but a man who is bound to defend it? Is that arrogant language? Now will the Senator say that that oath throws no light on that subject? It is a very different form of oath from that which the Senator himself takes. He takes no such oath. The Constitution only requires a Senator to swear to support the Constitution. Why was the oath in the two cases expressed in different language? If the President of the United States sees fit to declare himself, after having sworn to defend the Constitution, its "elected defender," I can see nothing in that disrespectful to Congress, nor can I see anything arrogant in it. It is his duty to defend the Constitution of the United States in all proper, legal, and constitutional modes.

He says that "if the legislative department should pass an act" "to abolish a coördinate department of the Government," "the President must take the high responsibilities of his office, and save the life of the nation at all hazards."

Does any Senator doubt that? Are there not cases when the President of the United States is bound to assume high responsibilities

to save this nation? What did we say when Abraham Lincoln found himself in a position in which he was bound to defend the Constitution of the United States and save this Government from destruction without law, and, as some said, against law? If anything which President Lincoln ever did endeared him to the hearts of the American people it was his taking the responsibility in April, 1861, of defending the Constitution of the United States against rebels who attacked it, although he was not then sustained and supported by the proper laws. We actually made the laws afterward. We passed bills of indemnity; we legalized his acts, although at that time technically illegal, and we sustained and justified him. Now, I think nobody will deny that if it were possible to suppose that Congress could under any circumstances be guilty of passing an act to abolish the office of President of the United States, one of the coördinate departments of this Government—a thing which I do not suppose possible, and which the President of the United States only hypothetically states in his message—it would be the duty of the President to resist it. Of course this is a point which needs no argument and no illustration.

Sir, I have said this much because the President has been charged with ill temper, with disrespect, and with arrogance in this message. I think he is not liable to that charge. I think the message is respectful in its form and correct in its reasoning, as it is acknowledged to be of unsurpassed ability. I know that the President expresses himself warmly. He is a man of earnest convictions, and believing what he says to be true he declares it in earnest and expressive language; and no doubt he is somewhat strengthened—and it is natural that it should be so—by the fact that the people of the United States in their recent elections have stamped on this reconstruction policy their condemnation in the clearest and most explicit manner.

When this popular reaction commenced—and I may claim, perhaps, that it commenced in Connecticut—it was said that it was only local. When in the State of Maine there was found to be a change of public sentiment, so great as to somewhat alarm gentlemen on the other side, it was then declared to be merely on a question of local police—a question whether *cider* should be sold in the State of Maine by the farmers! Sir, the wave swept on; it went across the continent. In California an election took place; and then it was said the result there was occasioned solely by local causes, that there was no real change of sentiment in the people of that State, although my respected and honored friend from California [Mr. CONNESS] found his policy so far rebuked that a Legislature was chosen which, with all his personal popularity and all his abilities, it is to be feared by his friends will not reëlect him to the Senate.

The next election, I think, was in the State of Pennsylvania. There also was a change in the popular verdict. And then we heard from the State which had been deemed the very Gibraltar of Republicanism—the State so ably represented by him who now presides over this body. Why, sir, if there was supposed to be a rock in the midst of the ocean of politics that could resist the pressure of all the waves that might beat against it, it was the rock of Ohio. If any man had six months ago predicted that Ohio would repudiate the doctrines of ultra-radicalism, and not only that, but most unfortunately for the Radical party, repudiated the Presiding Officer of this body, he would have been scouted as a false prophet. I say it with all due respect, but I do say it, that there never was a result and never can be a result in this country showing so entire and radical a change of public sentiment as the result of the recent contest in the State of Ohio. I will not allude to the change of men; but I call the attention of the Senate to the vote in that State on the question of permitting colored men to exercise there the right of suffrage. If there is any State in the Union where colored men might be permitted to vote with safety, and where they ought to be permitted to vote, it is the State of Ohio. But what was the verdict of the people of that State? On, as I understand, the largest vote ever cast in the State, they gave 50,000 majority against it. Will the Senator from Massachusetts say that if the State of Ohio is not prepared for colored suffrage within her own borders, she is in favor of enforcing it on Georgia, or South Carolina, or Virginia. Is that kind of injustice to be perpetrated? If it is right in the South is it not right in Ohio? We have then a good right to argue that the people of Ohio are against this idea of negro supremacy everywhere, not only in Ohio, but at the South.

The next election, I think, was in New Jersey, on the same day with that in New York. I certainly do not find it agreeable to allude to these matters, but it seems necessary that I should. Here are two Senators from New Jersey on this floor. No man feels for them more respect than I do; but can they deny that they are misrepresenting to-day the opinions of the State of New Jersey? Sir, if New Jersey could speak her voice it would not be what is spoken by those two respected and distinguished Senators. What their duty is they know; it is not for me to say. I have not one word to say on that subject; but the attention of the American people should be called and must be called to the fact that those who are warring against the President of the United States are themselves misrepresenting their own constituents.

Now we come to New York, the Empire State, the State so ably represented by the honorable Senator on my left [Mr. CONKLING] and the honorable Senator on my right [Mr. MORGAN.] The latter Senator made a speech at the opening of the campaign, and one of great ability, in which he presented the issues to the people of the State of New York. He told them that the question of reconstruction was to receive their verdict. What did my other friend from New York do? We all remember his celebrated speech at a State convention in that State, over which he presided. No man who hears him and no man who reads him can fail to remember what he says. I allude to his speech on that occasion to show that the question was presented to the people of the State of New York with great ability, in the first place by my respected friend on the right, [Mr. MORGAN,] and then again by the Senator on my left, [Mr. CONKLING,) and what was the verdict of that State? We have been told by a great man who is a prominent candidate for the Presidency of the United States, not by his own avowal, not by his own acceptance, but by the action of public meetings, not as yet the candidate of any party, and who perhaps never will be, that the will of the people is the law of the land; and when that distinguished citizen made use of that remark it was taken up as the cry of the Republican party. "The will of the people is the law of the land." Then what is the will of the people?

Sir, this is not a subject for trifling. It is not a subject for taunts and exultation. It is our duty here faithfully to inquire what is the will of the American people, and it is with that view that I call your attention to the election in the State of New York. The largest vote ever cast by any party in New York, larger than that given for the lamented Lincoln, larger than any given before it in any State or any presidential election for any one party or cause was cast against these reconstruction measures. I will not say, for I wish to be entirely candid, that that vote was altogether in defense of the President of the United States. There may have been men who voted with the majority in that State who did not believe in the President's policy, but their vote was against the reconstruction policy of Congress. The question before the Senate, so far as any question is raised, is whether these reconstruction measures ought to be maintained on the statute-book. A majority of the people of the State of New York, consisting of fifty thousand, giving the largest vote ever cast by any party in that State, rendered their solemn judgment against them. Does any Senator here deny it? Does any Senator doubt it? And still we are told that these measures must and shall be persisted in. I have supposed so. I never had any doubt of it.

I am aware that Senators may consider it their duty to persevere in what they regard to be right without reference to what may seem to be popular or unpopular. I have done that myself; I may do it again. Every Senator must judge for himself what is the duty of the Senate. That is a matter which is left to each Senator. But this I say: that when the question is asked, what do the people wish; what is the popular voice on this subject; what is the opinion of the American people? no man who looks at the recent elections can doubt that it is against the policy of Congress.

Perhaps the Senator from Massachusetts may think it disrespectful that I have not alluded to the election in his own State. Far be it from me to pass over Massachusetts with any sort of neglect. I think that election was perhaps as significant of the great change in popular sentiment as even that of New York; but still the vast influence of that Senator and his colleague was able to keep a popular majority of the State on their side, although I am told the present Legislature would reëlect neither of them had their terms expired.

Sir, I have said this much solely with a view of expressing my sentiments with regard to the character of this message. I was surprised, I was astonished, when the Senator from Michigan declared it arrogant and insulting, and when the Senator from Massachusetts echoed the same opinion. That it is disagreeable and painful to those Senators I can easily suppose. It is always disagreeable to see our faults, if faults we have, placed in order before us. A strong argument against our own opinions excites sometimes indignation; especially if it is expressed in earnest and warm language; but in this case the President has restrained himself. If he speaks in anger, he certainly restrains that anger within the bounds of a proper self-control. He speaks with due moderation and due respect for Congress, although compelled to condemn its policy. And the unanimous voice of the country is that this message and the entire series of messages which have come from President Johnson since he has been in office have never been surpassed in ability by the State papers of any Administration since the adoption of the Constitution. Such papers can never be suppressed or concealed by the refusal of the Senate to print them.

Mr. HOWARD obtained the floor.

Mr. EDMUNDS. I now propose with the consent of my friend from Michigan to call for the order of the day.

Mr. HOWARD. Very well.

THE PUBLIC DEBT.

The PRESIDENT *pro tempore*. The order of the day being called for, the joint resolution (S. R. No. 66) pledging the faith of the United States to the payment of the public debt in coin or its equivalent, is before the Senate as in Committee of the Whole.

Mr. EDMUNDS. Mr. President, the subject-matter of this resolution, I think we shall all agree, is one of immeasurable importance, because the consequences of our action on the subject (especially if it should unfortunately be in one direction) cannot be foretold. It is a subject that in my judgment it is fit and indeed necessary that we should declare our position upon now. The resolution does not relate to the detail of finance; it does not propose specific methods to alleviate the distressed financial condition of the country; but it simply defines to all the citizens and creditors of the United States and to the world the existing position that we hold with reference to a large share of our public debt which was incurred under the stress and pressure of a rebellion.

I know it is said by some gentlemen that a

discussion of this subject is premature; that we are leaping before we come to the stile; and that we ought to wait until our bonds shall have become payable, until the United States shall have been, by the terms of them, required to provide the means of payment, before we raise the question as to the species of money in which they are to be settled. That would have been true had not men occupying official positions of great influence and importance volunteered to advance the doctrine and spread it industriously through the prints of the country that the obligations of the United States in respect to the particular class of securities named in this resolution was not an obligation to pay in coin or money, but was only a kind of contract of renewal to change a debt bearing interest into another debt not bearing interest.

Now it is said by all those who hold these species of securities, and I think by all those who largely participated in the events which produced them, that this would be an impeachment of the public faith, a direct and volunteer dishonor of the solemn pledges of the Government under the circumstances. I think so; and thinking so, we should in my judgment allow no motives of mere policy to induce us to hesitate for a moment in declaring exactly where we stand.

I know it may be said that a new loan can be negotiated a great deal easier if we hold up over the heads of the holders of our present debt a doubt as to the character of the money in which they are to be paid; but I think all honorable men would scorn resorting to any such inducements as that, provided it be true, as I think I can demonstrate, that we owe this debt in real money. Fairness and good faith in the long run, Mr. President, will be found to be the best policy, even of the Government as well as of individuals.

The outstanding debt of the United States at this time altogether is, as is reported by the Secretary of the Treasury, $2,692,199,215 12. Of this large debt, the class of securities known as five-twenties, which are obnoxious to the criticism that is made upon the statutes authorizing them, as it is claimed, and including the sixes of 1881 under the act of July 17, 1861, which would be obnoxious to the same criticism if the statute is to be so construed, amount to $690,341,800. The legal tenders, as they are called, or "United States notes" as they are termed in the statutes authorizing them, now outstanding amount to $371,783,597. This is our condition; and the first question is the question of fact or law as to the true construction of the statutes which have authorized these loans. How would a court of law construe them if the United States stood in the position of an individual who could be sued in the courts and have the question of its liability determined by the rules of judicial construction? We know that we cannot be sued in the courts, and therefore there is the higher reason for our being especially careful how we trifle with the construction of our statutes or refine upon their meaning when we are considering our relations to those who have become our creditors, because there is no appeal from our decision.

These statutes are a series of war measures beginning with the act of 17th July, 1861, which for the convenience of myself and of Senators, to save time in turning over books, I have abstracted, being careful to use the language of the statutes in the condensed abstract that I have made of them.

The act of July 17, 1861, (Statutes, volume twelve, page 261,) which provided for the first issue of seven-thirties, &c., enacted in its ninth section that "the faith of the United States is hereby solemnly pledged for the payment of the interest and the redemption of the principal of the loan authorized by this act." Nothing was said in terms as to its being paid in coin. Indeed, at that time there was no currency in circulation which the law considered or authorized to be used as a legal tender for anything. By force of the law gold and silver was the money of the country, and the only money of the country, which a debtor could compel his creditor to receive in payment of his debt.

The act of August 5, 1861, (volume twelve, page 313,) amendatory of the previous act of July 17, made further provision on the subject of the issue of the bonds and securities, but said nothing in terms on the subject of payment in coin.

The act of February 25, 1862, (volume twelve, page 345,) authorized the Secretary of the Treasury to issue on the credit of the United States $150,000,000 of legal-tender notes, payable to bearer, and provided that they (together with the old demand notes) should not exceed at any time $150,000,000, and made them a legal tender for all debts except duties on imports, and of all claims and demands against the United States of every kind whatsoever, "except for interest upon bonds and notes, which shall be paid in coin;" and it made those notes convertible into five-twenty bonds at the option of the holder. It also authorized the issuing of $500,000,000 of the bonds of the United States, commonly called five-twenties, for the purpose of funding these legal tenders and other floating debt.

The fifth section of the act provided "that all duties on imported goods shall be paid in coin," "and the coin so paid shall be set as a special fund, and shall be applied as follows:

"*First.* To the payment in coin of the interest on the bonds and notes of the United States.

"*Second.* To the purchase or payment of one per cent. of the entire debt of the United States, to be made within each fiscal year after the 1st day of July, 1862, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt as the Secretary of the Treasury shall from time to time direct."

This is the act under which the first issue—and a very large issue—of what are called the five-twenty bonds was made. These are the securities—one class of them—which it is now said are only payable in the currency of the Government, in its own promissory notes to be issued on demand, without interest, from time to time. That is to say, the proposition of those who contend for it is that these legal-tender notes which are authorized in this act of 1862, and which the act of 1862 expressly provides, may be converted into bonds, are, nevertheless, to be used for the payment of the very bonds that the statute authorized the creation of to pay the notes. That is the proposition; and in the face of the fifth section, which plighted the faith of the United States to the setting apart of all the coin duties on imports as a special fund, not only to pay the interest on these bonds, but also to redeem one per cent. per year of the principal of them from time to time.

Now, looking at that act from that date, the time of its passage, would any lawyer say, would any judge say that its fair import and meaning was that the five-twenty bonds, which were created as a fund to take up the legal tenders with, were after all payable in those very same notes that they were provided to take up? It seems to me only necessary to state the proposition to carry with it its own refutation. I take it we shall all agree that in the construction of a statute of this kind the public creditor has a right and the public faith at the same time compels us to look at the language of the act from the point of time when it spoke. If the act of February 25, 1862, meant when it passed, as it said, that these legal-tender notes were to be converted into five-twenty bonds, instead of meaning that the five-twenties should be converted into legal-tender notes, then it means so now; and no act of the Government, if it should undertake it could without dishonor make it mean anything else.

The act of July 11, 1862, (volume twelve, page 532,) authorized the further issue of $150,000,000 of legal tender notes, convertible, as in the prior act, into five-twenty bonds at the pleasure of the holder. That accounts for $300,000,000 of the legal tenders; and Senators will recollect that $400,000,000 is the utmost extent to which we can possibly go by existing acts.

The act of March 3, 1863, (volume twelve, page 709,) authorized the Secretary of the Treasury to borrow $300,000,000 for that fiscal year, and $600,000,000 for the next, on bonds running at least ten and not more than forty years bearing interest, (payable in coin.) The second section of the same act authorized the issue of $400,000,000 of Treasury notes, at two and three years, the interest payable in lawful money, and also the issue of $150,000,000 of United States notes, making the total authority to issue, in terms, $450,000,000 instead of $400,000,000, as I just now said; but the acts required that $50,000,000 should be always held as a reserve, so that the practical authority was for $400,000,000. The language of the act on the subject of interest is, "and the interest on said Treasury notes and on certificates of indebtedness and deposit hereafter issued shall be paid in lawful money."

It is not disputed under the act of 1863 that the bonds issued under that act are payable in coin, because the act expressly says so, and an argument is attempted to be derived from the fact that it does say so, that the act of the year before means something else because it does not use that expression. I have said already that the act of the year before must speak from the time it was enacted, and if it meant that the bonds of the United States were then payable in coin, it must continue to mean so although Congress the year afterward may have introduced the word "coin" into the subsequent legislation in describing other bonds. But, sir, there was a special necessity (as I am now speaking upon the face of the act itself) that the word "coin" should be introduced into this act of the 3d of March, 1863, because it also provided by the language which I have read that the interest, and in some cases the principal, of the Treasury notes should be payable "in lawful money," and therefore it would be suitable and proper, although probably not absolutely necessary, that in order to distinguish the one from the other the word "coin" should have been introduced in regard to the bonds. That may be so.

But it is claimed that this construction is an erroneous one, because these legal tenders, these United States notes, are made, by the language of the acts authorizing their issue, a legal tender for all debts public and private; and it is undertaken to establish the doctrine, inasmuch as this debt of the United States comes within the literal meaning of the term "a public debt," that the act which authorized the issue of the bonds to pay the legal tenders with must mean that they were also to be a legal tender for that debt. I think I have shown, I think the reflection of any Senator or citizen will show him on looking at the language of these acts, that such a construction would be a most unjust and a forced one, and the reason is, as I have said, that while it was necessary and proper to use this general language in making the legal-tender notes applicable to all classes of transactions, yet, when you look at the whole of the statute, as you must to get at the real meaning of it, you will find that this special provision which was made as to the disposition of the legal tenders as between the Government and the holders of them, and the use to which the five-twenty bonds should be put, demonstrate that Congress had no intention in the use of that language to declare that the legal tenders should be used to pay the bonds with.

The act of June 30, 1864, (volume thirteen, page 218,) by its first section authorized the Secretary of the Treasury to borrow on the credit of the United States $400,000,000, on coupon or registered bonds redeemable after five years and before forty years, provided that this loan should bear an annual rate of interest payable semi-annually in coin, and authorized the Secretary of the Treasury "to dispose of the same for lawful money of the United States, or coin, or Treasury notes," &c. The second section authorized the Secretary of the Treasury to issue $200,000,000 of Treasury notes in lieu of an equal amount of the notes or bonds provided

for in the preceding section, payable on or after three years, with seven and three tenths per cent. interest, and "payable in lawful money at maturity," and provided that those made payable, principal and interest, at maturity should be a legal tender, and authorized their disposition for lawful money. The same section further provided as follows:

"Nor shall the total amount of United States notes, issued or to be issued, ever exceed $400,000,000, and such additional sum, not exceeding $50,000,000, as may be temporarily required for the redemption of temporary loan."

In that act Congress undertook to do two things: it undertook to provide for a further issue of long bonds in the ordinary way, and it undertook to provide further for the issue of Treasury notes as a temporary expedient to raise money. In order to show that it was not the intention of Congress to pay those Treasury notes in coin, but to renew them in the form of its legal-tender indebtedness, a provision was expressly inserted in order to carry that construction, and it made use of this exceptional and statutory term of "lawful money," as applied to the Treasury notes, in order to guard against the presumption which would otherwise have arisen that whatever the United States promised to pay in money must be paid in money, and not in further promises to pay again. So that I contend, and I think justly, upon well-known rules of construction, that even the act of June 30, 1864, passed after these legal tenders had been created, upon the face of it, and aside from any extrinsic considerations whatever, fairly bears the construction that that part of the loan, the public debt, the five-twenty bonds which it authorized, and which it pledged the faith of the United States to pay in dollars, in the language of the statute, means dollars, and that when it comes to the next section and provides for the issuing of temporary notes it found it necessary, in order to distinguish that liability from the other, to declare in express terms that instead of that loan being paid in coin, in the money of the Constitution and of the country, it should be paid in what was called the "lawful money;" that is to say, the legal-tender notes of the United States.

Is not that a fair construction, sir? Can any other fair and legitimate construction be drawn from the language of that act? Most certainly not; and you will find, and Senators will find, as you run through the whole series of these war acts of finance, that the distinction between "lawful money" and the real money of the country is kept up in almost every act. Wherever Congress has intended by the law to pay in lawful money, as you will call it, or rather to renew in lawful money, to change one security for another, it has said so. In order to authorize the Secretary of the Treasury to receive this species of money upon subscriptions for loans, it has been necessary to insert the provision that the Secretary of the Treasury may receive bids on these loans and take for them lawful money, certificates of deposit, and whatever else would not, by the general sense of the term, be money without the authority of Congress to the Secretary of the Treasury to receive it.

The meaning of these terms and the limitation upon this general provision that the legal tenders are to be received for all debts public and private, is strongly fortified when you turn to the twentieth section of the national bank act. Nobody has yet contended that the national bank notes are a legal tender and receivable for the dues of the United States to the holders of our bonds; and yet Senators will find when they turn to the twentieth section of the bank act that it uses in respect to any debts due from the United States precisely the same language that is used in the statutes authoring the legal tenders, and that is, that they shall be receivable for all debts due from the United States to any creditor of the United States. This only fortifies the conclusion which is drawn from all these statutes that wherever Congress intended to hold out to the public creditor the fact that he was not to receive his pay in money, in the real money of the country, it found it fit and necessary to say that he should receive it in what was, for the time being, called the lawful money of the United States.

The act of March 3, 1864, (volume thirteen, page 13,) supplementary to the act of March 3, 1863, authorized the Secretary of the Treasury to borrow on the credit of the United States, in lieu of so much of the loan authorized by the act of 1863, $200,000,000 on coupon or registered bonds, to be dated March 1, 1864, redeemable after five years and payable not more than forty years after date in coin.

The act of January 18, 1865, (volume thirteen, page 425,) authorized the issue of Treasury notes in lieu of bonds unsold under the act of June 30, 1864, and provided that the whole amount together should not exceed $400,000,000, and with the further proviso that that act should not authorize the issue of legal-tender notes in any form beyond the balance unissued under the second section of the prior act.

The next was the act of March 3, 1865, (volume thirteen, page 468.) That authorized the Secretary of the Treasury to borrow, on the credit of the United States not over $600,000,000 on bonds or Treasury notes, the bonds not to run less than five nor more than forty years, and the notes convertible into bonds at the option of the holder, "and the principal, or interest, or both, may be made payable in coin, or in other lawful money," the coin-interest not to exceed six per cent., the lawful-money interest not to exceed seven and three tenths per cent., and it was provided that nothing therein contained should be construed to authorize the further issue of legal-tender notes in any form.

Here, again, Mr. President, in the next series of this legislation, we find that, in order to distinguish between the payment of one class of indebtedness and the other, Congress is careful to provide that the Secretary may have a discretion, that he may borrow in the regular way on these bonds in coin, or he may borrow with the privilege of renewing, that is, paying in lawful money; and in the one instance the interest shall be one thing, and in the other another.

The act of April 12, 1866, (volume fourteen, page 31,) which was the last one in the series, in amendment of the act of March 3, 1865, authorized the Secretary of the Treasury to receive any kind of Treasury notes or other obligations in exchange for any of the bonds authorized by that act, and required that the proceeds should be used only for retiring the obligations of the United States, and that nothing in the act should be construed to authorize the increase of the public debt.

This is the whole series, and we have in every one of them something that points to the distinction all the time existing between "lawful money," as it was called, the United States notes payable on demand without interest, and the general funded bond debt of the United States. As I have said, every act had in it a provision which was necessary authorizing the Secretary of the Treasury to receive lawful money, as it is styled, on subscriptions. We have in almost every one of the acts—every one in which it was intended—the expression that interest may be paid or principal may be paid in lawful money; and we have, as I have shown, in the act of 1862, the express provision that instead of the bonds being convertible into United States notes, exactly the reverse, that the United States notes should be convertible into bonds at the pleasure of the holder. I am not ignorant of the fact that afterward Congress passed a law requiring the holders of those legal-tender notes, the $300,000,000 of the first two issues under the acts of February 25 and July 11, 1862, to present them for conversion within a very short time, or otherwise the right to conversion would be lost; but that only put a stop upon the circulation of the notes; it did not alter the obligation of the United States as to the bonds at all, I take it.

In corroboration of this view, upon the face of these statutes alone, looking as we must over the whole range of them to get at the real meaning, we find that as the various issues went on and as the public creditors, and men of business, and all classes of the community who reflected grew more and more uneasy at the exuberance of the issues, Congress declared over and over again, and at last in the most solemn and formal way, (which they have so far, I am glad to say, stood upon as an unalterable resolution,) that the whole issue of legal-tender notes should never exceed in any event more than $400,000,000, while the bonds which some propose to pay with them are nearly twice that amount. It is true it may be said it does not require all this money to pay the bonds because you need not pay them all at once, but if creditors are obliged to receive their pay in a depreciated currency it will be of great interest to them which shall be the first one to get his bond converted, so that he can invest his depreciated money in real estate or something that will stand until the crash that will come shall be over.

I have thus endeavored to show, Mr. President, upon principles of mere legal reasoning, upon the face of the statutes themselves, as if it were an indifferent question affecting the public honor, as if it were merely a simple question of construction upon a subject of entire indifference, that the legal meaning of those statutes, drawn from the statutes themselves, and from nothing else, just as a court would be asked to construe such statutes, even if a court could be drawn to so narrow a view as that, imposes upon us the absolute obligation to redeem these bonds and securities of the United States in the hard dollars which are the coin of the country.

Mr. CRAGIN. With the consent of the Senator from Vermont, I will move that the Senate now go into executive session.

Mr. EDMUNDS. I have no objection to that.

Mr. COLE. If the Senator from New Hampshire will allow me, I will move that the further consideration of this resolution be continued to-morrow.

Mr. EDMUNDS. That will be the effect of this motion under the rules. It will come up at one o'clock to-morrow.

EXECUTIVE SESSION.

On motion of Mr. CRAGIN, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 4, 1867.

The House met at twelve o'clock m. Prayer by Rev. MANSFIELD FRENCH.

The Journal of yesterday was read and approved.

GOVERNMENT FUNDS IN NATIONAL BANKS.

Mr. KELLEY. I ask unanimous consent to offer a resolution for present consideration.

Mr. WASHBURNE, of Illinois. I have no objection to make if the regular call of committees is made.

The SPEAKER. The first business in order is the consideration of the unfinished business of yesterday, relating to the repeal of the cotton tax.

Mr. WASHBURNE, of Illinois. Very well. I will not object to the resolution.

Mr. KELLEY. I offer the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to this House the amount of Government funds that remained on deposit in national banks on the first day of each month from the 30th of June, 1866, to the 31st of October, 1867.

Mr. ELDRIDGE. I would suggest to the gentleman from Pennsylvania [Mr. KELLEY] to modify his resolution so that the report shall specify the amount held by each bank. As the resolution now reads it merely requires the aggregate amount of funds held. I desire that the report shall specify the amount held by each bank.

Mr. KELLEY. I have no objection to mod-

ifying my resolution by adding the words, "specifying the amount held by each bank."

The resolution, as modified, was then adopted.

KENTUCKY MEMBER.

Mr. ADAMS. I rise to a question of privilege. My colleague, Mr. JONES, who was not present yesterday when the other members from Kentucky were sworn in, is now present. I ask that he be now sworn in.

Mr. THOMAS L. JONES then presented himself, and was duly qualified by taking the oath prescribed by law.

HOUSE RESTAURANT.

Mr. SCHENCK. I desire to offer a resolution, which I hope will be now considered, on account of the emergency of the case. I will, if there be no objection, explain to the House the reason for the resolution at this time. It is in regard to the restaurant for this House, kept by a colored man. Formerly the refreshments in the room on the floor below this Hall were sold by some person under the direction or appointment of the Speaker, I believe. A year ago, more or less, less I believe, a resolution was passed directing that instead of the privilege of this restaurant being let out in that manner, at the discretion of the Speaker and under his supervision, it should be let to some person who would contract to pay the highest price for the privilege. It was put up, and was bid off for $1,000 by a colored man of the name of Penny, who is now keeping it. He bid that amount under the impression that he would be permitted, as had been permitted before, to sell liquors, spirits. That, however, was prohibited by the action of the two Houses, and it was found that keeping the restaurant was a losing business; there being, I regret to say, more demand for liquids than solids.

Mr. KELLEY. Having been.

Mr. SCHENCK. There having been more demand for liquors, as suggested by a gentleman near me.

This man, therefore, came forward and requested, through the chairman of the Committee of Appropriations, [Mr. STEVENS, of Pennsylvania,] to be released from his contract. He was released, he supposing it to be only a release from the payment of the thousand dollars. Instead of that the resolution abolishes the whole contract, and to-morrow the Clerk, under the existing order of the House resolution adopted some months ago, is to let out the contract again. In the mean time this man has been at some expense in making his preparations for keeping the restaurant, and wishes to go on with it.

So far as I am concerned I would prefer the repeal of the resolution authorizing the letting out of this restaurant to the highest bidder, because I believe that the effect of this system is to impose an additional charge upon those who frequent the place to eat or drink; for the keeper must make by his profits enough to pay the rent. But in view of the possibility that the original resolution may not be repealed, unless it may be by amendment to the proposition I now present, I offer the resolution which I send to the Chair.

The SPEAKER. Before the Clerk reads this resolution the Chair will state to the gentleman from Ohio [Mr. SCHENCK] that he was mistaken in regard to one point affecting the action of the Chair. The gentleman stated that prior to the letting out by order of the House the restaurant keepers were allowed to sell spirituous liquors. During the four years that have elapsed since the present occupant of the chair was first elected Speaker no spirituous liquors or wines have been sold or given away at the restaurant within the knowledge of the Chair. Such sale has been prohibited by him. He did not, however, prohibit the sale of malt liquors; that is, ale and beer. But a joint rule, adopted at the last session by both branches of Congress, prohibited the sale of malt as well as spirituous liquors in the Capitol, which of course effected a change in regard to the keeping of the restaurant. During the whole administration of the present occupant of the chair no spirituous liquors or wines have been allowed to be sold in the restaurant.

Mr. SCHENCK. I simply spoke from the information which I had from the chairman of the Committee of Appropriations, [Mr. STEVENS, of Pennsylvania.]

Mr. ELDRIDGE. In view of the late expression of sentiment in Massachusetts would it not be well to modify the resolution in that particular?

The SPEAKER. That is a matter for the consideration of both branches of Congress.

The resolution offered by Mr. SCHENCK was read, as follows:

Resolved, That James Penny, who contracted formerly to keep the restaurant under the House of Representatives, and whose contract was afterward, under a resolution of the House, surrendered by him, be permitted to resume his said contract on the same terms upon which it was originally made with him, except that he shall be required to pay only $200 for the privilege, and shall be allowed to sell beer and malt liquors.

The SPEAKER. The Chair will state that the last clause of the resolution proposing to allow the sale of beer and malt liquors would not be in order even by unanimous consent, being in conflict with a joint rule, which can be rescinded only by the concurrence of both Houses.

Mr. SCHENCK. I move that this resolution be referred to the Committee on the Rules, simply expressing a request that the committee will report to-day, because the poor fellow who keeps the restaurant will be sold out to-morrow morning unless some action be taken to-day by the House.

The motion of Mr. SCHENCK was agreed to; and the resolution was referred to the Committee on the Rules.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the resolution was referred. I submit this motion for the purpose of suggesting to my friend from Ohio [Mr. SCHENCK] that I do not know that it would be possible for the Committee on the Rules to consider this subject to-day. I think the question requires very thorough consideration, and that the committee ought to report some proposition which shall put this restaurant on a very different footing from that on which it has been carried on heretofore. I hope something will be done by which the difficulty to which the gentleman from Ohio refers will be obviated. The letting of the restaurant can be postponed for a few days. I suppose we have that power.

Mr. GARFIELD. We have frequently by resolution authorized the suspension in such cases. I make the motion that the Clerk be directed to suspend the letting of the restaurant for several days.

There was no objection, and it was ordered accordingly.

Mr. WASHBURNE, of Illinois, withdrew the motion to reconsider.

PROTECTION OF AMERICAN CITIZENS.

Mr. CULLOM, by unanimous consent, submitted the following preamble and resolutions; which were read, and referred to the Committee on Foreign Affairs:

Whereas the doctrine has been announced by high authority in the British Government that that Government has the exclusive authority to determine the question of the validity of American citizenship, and that British subjects who remove to the United States and become citizens thereof remain British subjects still, owing their allegiance to the British Crown; and whereas as the United States Government recognizes no gradation among American citizens, all being entitled to the same rights of protection from the United States, whether native born or naturalized: Therefore,

Be it resolved by the Senate and House of Representatives in Congress assembled, That all American citizens, native or naturalized, are entitled to and shall receive the protection of the United States as such citizens, and that no claim made or set up by any foreign Government over naturalized American citizens upon the ground of the allegiance of such citizens which may have existed prior to such persons becoming citizens of the United States shall be recognized as destroying or weakening the right of such citizens to the protection of the United States.

Resolved, That the United States Government will at all hazards protect the rights of all persons, from whatever land they may come, who become citizens of the United States, whether at home or abroad.

Resolved, That it is the duty of the President to see to it that American citizens, native born or naturalized, who may be in other lands upon lawful pursuits, shall not be unlawfully deprived of their liberties, subjected to military service of the country in which they may be sojourning, or otherwise deprived of any rights belonging to them as such American citizens.

REPEAL OF COTTON TAX.

Mr. CHANLER. I call for the regular order of business.

The SPEAKER stated that the business in order was House bill No. 207, to provide for the exemption of cotton from internal tax, on which the gentleman from New York [Mr. GRISWOLD] was entitled to the floor.

Mr. GRISWOLD. Mr. Speaker, I rise to submit a few remarks on the question now before the House, mainly because of the position I occupied at the time the tax was imposed. When the House considered and decided that matter I differed with the members of the Committee of Ways and Means in regard to the policy of imposing a tax upon cotton. It will be remembered, sir, at that time cotton was bringing in market from forty to fifty cents per pound, and had brought that price for at least a year prior to that time. It will be remembered further that it had then the command of the English market; that American cotton was consumed in England to an extent of not less than eighty per cent. of the whole consumption in Great Britain. It was regarded at that time, under all these circumstances, as an interest which could well stand the imposition of a tax of two and a half or three cents per pound. I took the ground upon the floor, differing from the distinguished gentleman from Massachusetts, and from what I considered the best authority, I claimed at a shilling sterling the American cotton would control the market in England and be the cotton of cheap consumption. Now, Mr. Speaker, the condition of things has changed entirely. Cotton, instead of being an exception to the products of the soil which could stand taxation, is really the one exception against imposition; that is to say, there is no product of the soil which to-day will not bear a direct tax better than the article of cotton. And now, sir, instead of supplying eighty per cent. of the whole consumption in England, it has been reduced to forty per cent. According to the able report of Mr. Wells, the special commissioner, it was reduced eight per cent. in 1864. It is evident at the present rate cotton cannot be produced except at a loss, and considering that fact and the fact of the importance of that product to this country there can be no difference in this House, I think, as to the policy of removing that tax. I beg to assure my colleague [Mr. BROOKS] that the motive at the time was not to punish the South. Congress was then engaged in searching out avenues by which it could fill its Treasury. As I said before at the price cotton then brought it could well bear a tax of two and a half cents per pound. I believe there was no member of the Thirty-Eighth or Thirty-Ninth Congresses who was animated at all by a desire to punish the South in imposing that tax.

Now, Mr. Speaker, that condition of things, in my judgment, is reversed entirely. I agree with the Committee of Ways and Means that policy and justice demand that this tax should be removed. The only question seems to be as to the time of the application of this law. I beg here to say that I would with pleasure vote for the substitute offered by my colleague [Mr. BROOKS] if I could be convinced that the growers of cotton would get the benefit of the reduction. But from the best judgment I have been able to form I believe that not one third of the cotton producers of the present year would derive any advantage from the proposed release of the tax. In that state of the case I am forced to vote for the proposition reported by the chairman of the committee and against the substitute offered by my colleague.

I make these remarks partly to justify my own course heretofore in this matter, and to place myself on record as in favor now of the reduction of the tax, as I was in favor of imposing it when it was imposed. I yield the

remainder of my time to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. Mr. Speaker, I ask for the brief remnant of the gentleman's time, that I may say to the gentleman from New Hampshire, [Mr. ELA,] who begged us not to remove this tax until we put first a specific one on something else to give us the amount it yields, that I learn from the President's message that we raised by excessive taxation in the fiscal year 1866–67 $144,000,000 more than was necessary to pay the current expenses and the interest on our debt; and that the repeal will be in so far a mitigation of a great evil, that of unduly taxing the industry of the country while we are prostrated by the effects of the war.

I want again to congratulate the country upon the announcement made by my distinguished friend from Iowa, [Mr. ALLISON,] a member of the Committee of Ways and Means, that he is ready not only to repeal this tax, but that he believes the interest alike of the Government and of the people demands the removal of all direct taxes on the productions of our industry save spirituous and malt liquors and the production of tobacco. When we go that far we shall have taken a great step in promoting the interests of the country, agricultural and commercial as well as manufacturing. Sir, we are becoming a cotton importing country, and we shall become much more so if we do not repeal this tax. One of the most intelligent manufacturers of Philadelphia, who has just returned from Europe, writes me as follows:

"In the great Exposition at Paris were samples from seventy-two different localities, four from the United States. Our sea island was, of course, the finest and longest in the collected world of cotton, but between our sea island staple there were from other countries twenty samples superior to New Orleans middling.

"They have planted the seed of our sea island long staple in India, Egypt, Asia Minor, Algeria, Italy, Africa, and many other countries, and are getting a grade of cotton which surpasses our middling Orleans.

"Growing cotton in these countries has now got fully established as the best thing those people ever have, or probably ever can do, and they will continue to grow cotton superior to most of ours, no matter what the price. The South has lost, by her treason, the best thing she had—the control of the cotton market, and I fear she will never get it back until our price is down to five cents for a year or two, and our people must prepare to grow it for that or to manufacture all they cannot sell North, for Europe can get along without our cotton, I am sorry to say."

This statement relates only to the increased improvement in the fiber of foreign cotton. The inventive genius of Great Britain and the Continent has also been busy in working the overthrow of our monopoly. Improved machinery now spins and weaves the shortest fiber of Surat, and instead of requiring three pounds of American cotton to one of Indian the proportion is said to have been reversed so accurately that one pound of American suffices to mix with three of Indian.

In this new condition of things we have, as I have said, become large importers of cotton grown in other lands. We furnish but one third of the supply for trans-Atlantic looms and spindles, and import from six to ten million pounds of foreign cotton, embodied in foreign fabrics for the wear of our cotton-growing and other citizens. Nor are our own spindles and looms strangers to the foreign fiber. During the last four years our imports of foreign raw cotton have been as follows:

	Pounds.	*Value.*
1863	3,374,846	$674,312
1864	26,475,957	8,668,917
1865	3,024,282	1,816,608
1866	6,276,887	1,323,178

The removal of this tax may be a boon to the people of the South, but I do not advocate it as such. The interests of the people of the whole country demand its removal, and I regret that there are what seem to the committee insuperable objections to its immediate repeal. Those objections are entitled to grave consideration, and yielding my personal wishes I will vote for the bill as reported.

Mr. ARCHER. Mr. Speaker, I would not trespass upon the time of the House, nor would I delay the passage of so righteous a law as that which the House has now under consideration, except that the southern cotton-growing States have no Representatives here, and except for the fact that I happen to know from personal observation a great deal of the practical working of cotton-growing in the States of Arkansas, Mississippi, and Louisiana.

The question that is now before the House, the real question, is, whether or not the tax shall be repealed as applied to the crop of 1867. That I say is the real question before us, because the indications which have been given by the members of this House show plainly that this tax is to be repealed. Now, so far as I can judge from the views expressed by members of the House, the only objection which exists to the repeal of the tax for 1867 is that the speculators might be benefited by the repeal, while the producers, who are now suffering so much, would not be benefited by it.

Now, Mr. Speaker, the real fact is that only about one fifth of the cotton crop has yet gone into the market; certainly not more than one fifth has yet passed from the hands of the producers. I speak from the information which I have derived from the Commissioner of Internal Revenue. In September $305,000 were collected on the crop of 1867, and $985,000 in the month of October; in the month of November last year the taxes paid amounted to $8,000,000 —I am now speaking in round numbers—so that if during this November there has been paid into the Treasury of the United States an amount equal to that which was paid in November, 1867, one fifth of the crop has not yet passed from the hands of the producers.

Now, sir, I would advocate the passage of the amendment offered by the gentleman from New York, [Mr. BROOKS,] except that I think it would give rise to great complications in requiring the Government to refund to the producers who have already sold their cotton the amount which they have paid; but if we pass an amendment, which I understand will be offered to this bill, providing that the raw material in the hands of the producer shall be exempt from taxation, then, sir, I think we will do a service not only to the people of the South, but to the country at large.

Mr. LOGAN. I would ask the gentleman if the raw material in the hands of the producers is not now exempt until sale or shipment.

Mr. ARCHER. It would not be under the bill reported by the Committee of Ways and Means, if I understand it. This bill, I think, exempts the crop of 1868, but not the crop of 1867.

Mr. LOGAN. It is not, however, under the instructions of the revenue department, taxable in the hands of the producer in its own district except on shipment or sale.

Mr. ARCHER. That is the way I understand it.

Mr. LOGAN. That is the rule of the revenue department.

Mr. ARCHER. With regard to the class of people who would be benefited by the removal of this tax, let me say that its removal would benefit the very poorest class of the people of the South. And why? Because, sir, the people who own the gins in the southern country are the large planters. They first gin their own crop, and after the ginning of their crop then their gins are at the disposal, either for hire or otherwise, of their poorer neighbors, and the very class of people who now in the southern country hold the crop is the poorer class of the people. I repeat that almost all the crop, or at least four fifths of the crop of cotton in the southern States, is now held by the producers, and the figures from the internal revenue department show that fact. In October, 1866, the amount of internal revenue paid on cotton was $1,871,000; in October, 1867, it was $985,000, showing that the producers hold $1,000,000 more of the cotton of 1867 than they held of the cotton of 1866. They have held it back in the belief that a law of this character would be passed, and that they would be saved from almost utter ruin. The figures show that the amount of tax paid on cotton in 1866 was $23,769,000, and not more than $4,000,000 have come in this year.

The great object to be accomplished by the repeal of this tax is to relieve the producers who now hold the raw cotton from the payment of this $20,000,000. Sir, the assistance that would be given to them by the remission of that amount of tax would enable them to go on and raise the cotton crop of 1868. Without this relief almost utter ruin and desolation will spread over the whole southern country. I would appeal to the members of this House in behalf of the poorer classes of the South, and in that appeal I include not only the white population, but the freedmen also. They, sir, are now raising cotton in the South, in many instances on shares, and they can barely eke out a subsistence, and I do most earnestly hope that this just measure will be passed with an amendment to repeal the tax for 1867 upon the raw material in the hands of the producer.

[Here the hammer fell.]

Mr. MAYNARD. It has long been an accepted axiom in political economy that imposts are always and necessarily paid by the consumer and not by the producer. If I believed in that doctrine I should not only oppose remitting the present tax on cotton, but I would be in favor of increasing it to five or ten cents per pound, and giving the American the advantage over the foreign manufacturer of a drawback. But I do not believe in the doctrine; it is not true.

This tax is paid in the first instance by the producer, and it depends altogether upon circumstances whether any of the burden falls upon the consumer. This is one of the instances where the impost is not to be paid by the consumer. The price of cotton is regulated by the price it commands in the Liverpool market, which will not be affected the fraction of a farthing per pound whether we repeal this tax or not, except as its continuance or remission might have a tendency to increase or diminish the aggregate of its production.

The tax is paid by and falls upon the actual laborer; he who follows the plow, handles the hoe, and picks the staple from the boll. It falls very largely upon the colored laborer and upon the poor white man; as expressed by the Legislature of Tennessee recently, "upon employés and small producers."

When this tax was imposed there was an artificial or rather an unnatural state of affairs in the cotton market that made it right to impose the tax. The price of cotton at that time bore no sort of proportion to the expense of producing it, and besides, inside the Federal lines that was obviously the only thing you could tax. That condition of things has passed away, and comparing the present price of cotton with the tax imposed it now amounts to about twenty per cent. of the gross product and not of the net product. And that is a burden that labor and industry nowhere can sustain.

Aside from personal inconvenience and affording present relief I do not believe that remitting this tax would ultimately benefit the southern portion of the country particularly. The effect of it would be to limit the production of cotton to the best and most valuable cotton lands, compelling the people of the South to vary their agricultural labor, and to devote their lands to the production of grain and other products of the soil, including, if my friend from Pennsylvania [Mr. COVODE] will allow me to say so, wool, which can be produced of perhaps finer qualities in that portion of the country than in any other. So that ultimately I believe the pecuniary condition of the South would be far improved from what it was at any former period. But for the advantage of the entire country it is important that the cotton-producing region should be encouraged in the production of cotton, otherwise that region not only ceases to be a market for the West and the North, but it becomes a very formidable rival.

As to the question whether this tax shall be removed from the crop of 1867 or whether it

shall be prospective and apply to cotton hereafter grown it seems to me it is one in which the laborer who has raised the crop of 1867 has but little interest. It seems to me to be simply a question between the Treasury of the United States, that is to say, the tax-payers of the country, and the speculators in cotton and that portion of the producers who are the best able to hold on to their crop, and consequently the best able to pay the tax.

The gentleman from Maryland [Mr. ARCHER] has referred to information he has derived from the Commissioner of Internal Revenue. Now I submit to his consideration whether it is possible for that officer to know anything about the subject. He may know the amount of revenue which has been derived from this source, and that is all the information he has or can have on the subject. He has no means of knowing any more than you or I or any one else how much cotton has passed from the hands of the producer and is in the hands of other parties. I apprehend that when the facts are ascertained, if ever they are, it will be found that in regard to the producers, the laboring men, either by the receipt of wages for their labor or in pay for cotton which the bare necessities of life compelled them long ago to dispose of, a large proportion of the crop of 1867 has gone into the hands of middle men. So that if we remit the tax upon that which has not paid the tax we simply put the money into the pockets of that class of dealers.

Again, I ask what justice would there be in relieving those who have not paid the tax and holding on to that portion of the tax which we have collected? If we remit the uncollected portion of the tax for the present crop we shall be met with an appeal which we cannot resist to restore the amount of the tax to those who have already paid it. The difficulties in which such a measure would involve us would be endless, to say nothing of the horde of harpies, Shylocks, and "shysters" who would succeed in fattening upon the two, three, four, or five million dollars to which these claims would amount.

I am of opinion that the tax should be remitted. It is exceptional in its character. It is a tax upon labor which labor cannot afford to pay anywhere or under any circumstances. I think that we should pass now a bill prospective in its operation, so that those who are at the present time preparing for the next crop will make their arrangements in view of the repeal of the tax. Thus the production will be stimulated and the next crop will be much larger than it otherwise would be.

I know it may be argued that a large cotton crop is not a very desirable thing; that a million and a half bales would produce as much money as three million bales; that the greater the quantity of cotton the smaller the price. This is undoubtedly true; but it does not follow that three million bales of cotton are not more valuable, will not make more yards of cloth, will not go further to benefit mankind than a million and a half bales; nor does it follow that an increased crop will not better aid us in regaining—with regard to this product—the command of the market of the world.

Mr. WINDOM. Mr. Speaker, I have no speech to make on this question; but I hold in my hand a circular which was referred to yesterday by the gentleman from Ohio [Mr. GARFIELD] as having been very thoroughly circulated through the South; and as this circular has some bearing upon the amendment offered by the gentleman from New York [Mr. BROOKS] and will tend to exhibit the speculation which has been undertaken on this subject, I desire the Clerk to read it.

The Clerk read as follows:

AUGUSTA, GEORGIA, ——, 1867.

M————:

DEAR SIR: An association of capitalists, politicians, and lawyers has been formed for the purpose of having the unconstitutional tax on cotton, which has been paid or may be paid to the United States, refunded if possible.

They propose to prosecute the claims at their own risk and expense. The claimant is to incur *no expense in any event*, and is to receive one half of the tax recovered. The other half is to be used for the payment of all expenses incurred. We are to have a liberal commission out of the half retained.

The plan is to have as large an amount as possible of these claims presented to the Court of Claims for its judgment as soon as possible, so that they may reach Congress shortly after its next session commences. The Treasury *is now full*. It will probably be depleted by congressional appropriations during the session. It is therefore strongly desirable that we should get the bill before Congress *ere the Treasury shall have been emptied*. Those whose claims are thus presented and passed upon by the court and Congress at an early day may be paid when later claimants fail. The proof required will probably consist of affidavits identifying the cotton and the collector's receipt, or copies of entries on his books. On this point we will advise you more specifically hereafter, if it becomes necessary. If you conclude to turn your claim over to us you can sign the blank contract inclosed, before a witness, and return it to us. We will immediately send you a receipt expressing our obligations to you as contracting parties. *We are assured by our friends at the North that the Court of Claims will certainly pronounce this tax unconstitutional, and that if we hasten to get the claims before Congress we will succeed.* If we succeed, the money is to pass through our hands, and we are to be responsible for its faithful application. We would like to have your claim, and as many as you can influence. If you sign the contract send us the name of your factor or agent, if cotton was sold by an agent, together with marks, number of bales, &c.

Joint Contract.

This covenant and agreement made and entered into by and between the persons whose names are hereunto subscribed as parties of the first part, and Hersehel V. Johnson & Company as parties of the second part: witnesseth, that the parties of the first part, for the purpose of recovering the taxes heretofore or which may hereafter be paid as a tax on cotton, under the internal revenue laws of the Federal Government and Treasury regulations, and in consideration of one dollar paid to them by the parties of the second part, do hereby individually and collectively contract with the parties of the second part that they may, in the Court of Claims of the United States, or in such other manner and form as they may deem expedient, recover and have refunded all such taxes as have been or may hereafter be paid by parties of the first part, with full power to demand and receive and in our individual or firm names receipt for the same; and that the parties of the second part may act more efficiently we hereby agree and covenant to furnish the parties of the second part all papers or other evidence in our power necessary to prove the payment of such tax. The parties of the first part further contract that the parties of the second part shall have and receive one half of what may be recovered of said tax. And the parties of the second part agree and contract that they will conduct and prosecute such claims at their own risk and expense, and that they will pay over to each of the parties of the first part one half of any and all sums which shall be recovered and received by them on such claims.

A separate obligation to this effect of even date with these presents will be given by the parties of the second part. This —— day of ——, 1867.

Witnesses. *Parties' Names.*

Mr. WINDOM. As this contract contemplates the recovery of all the tax that has been paid or may be hereafter paid, I think that if any gentlemen want to enter into that copartnership they had better vote for the amendment of the gentleman from New York, for that amendment seems to be in harmony with this project. The friend who has transmitted this document to me states in his letter that he has from these parties themselves a statement that they already have the control of claims amounting to $20,000,000; so that this is a very handsome speculation.

I yield the remainder of my time to the gentleman from Illinois, [Mr. BAKER.]

Mr. BAKER. Mr. Speaker, I desire to state in the briefest possible form the several considerations which make it entirely clear to me that the tax on cotton ought to be repealed, and the reasons why I think the repeal should not apply to the present crop.

1. It appears to me that the power to levy such a tax may not be perfectly clear. The Constitution provides that "no tax or duty shall be laid on articles exported from any State." Now, when we reflect that an immense preponderance of the cotton crop is exported from the country, and when we reflect that the object of this provision of the Constitution was to foster our exports by relieving them from the burden of "tax or duty," it appears to me, in the absence of special investigation of the point, that there is room for a possible doubt as to whether this tax was laid in conformity with the object and spirit of the Constitution.

2. It is a tax upon the production of labor in its primary form; a species of taxation which depresses labor, which impedes the creation of wealth, and which ought never to be resorted to by any Government save on critical and imperative occasions.

3. It is a tax which loads our commerce with a dead weight in its attempt to compete with the foreign production and supply of cotton, thus tending to lessen the gross quantity of our annual exports, and to increase the balance of trade against us and in favor of foreign countries. It is needless to say that such a result must be injurious to our whole people.

4. It is a tax upon an article eminently necessary and of universal consumption—an article which contributes immensely to the comfort, the health, the civilization of the great mass of the people. The production of no such article should be taxed, except, it may be, on occasions of extreme public necessity.

5. It is in effect a direct tax upon the agricultural labor of a poverty-stricken section of our country. I hear much by way of report and know something by observation of the pitiable poverty of an immense portion of the people of the South, whether white or black. This tax upon their productive labor ought to be removed, whether we look to considerations of humanity or to considerations of a sound public policy.

As to the time when the repeal should take effect I think the committee have solved the problem about as wisely and justly as possible under all the circumstances of the case. Not forgetting the interests of capital as invested in the culture or purchase of the present crop, I look mainly to the great body of the laborers who have produced the crop. The latter is the largest fact in the case, and should exert a controlling influence upon our legislation affecting it. And considering first that labor has already produced the present crop for a compensation graded down in reference to the burden of the tax; and secondly, that a large portion of the crop has already found its way into the hands of purchasers, under purchase prices, in like manner graded down, I agree with the committee that the existing crop should not be included in the operation of the proposed repeal.

I will add that in my judgment the removal of this tax will not draw with it the necessity of making it up by an increase of taxation in some other direction. On the contrary, by proper retrenchment—which may probably be extended largely to every branch of the public service—by limiting taxation to the actual needs of the Government, including the surplus in the Treasury, and by looking to the growth of population and increase of wealth for the future reduction and payment of the public debt—we may very materially reduce the general scale of internal taxation.

[Here the hammer fell.]

Mr. COVODE. I move to amend the bill by striking out all after the words "shall be," and to insert in lieu thereof these words: "subject to an internal tax of one cent per pound."

Mr. McCARTHY. Mr. Speaker, I have several reasons for opposing the repeal of the cotton tax at this time. I do not believe it is a premium for cultivating cotton in Egypt or Brazil; for with all the stimulus of high prices the increase of production is too small to enter into competition with us. I also hold it is not a premium to British capital for producing cotton in India. We have the advantage in climate, soil, and seed, in the quantity and quality of the product and in labor—free labor. Under the stimulus and knowledge that its fruits and earnings are its own its success has astonished all.

Only the second year after the war, labor, leaping from bondage to freedom, has produced nearly three fourths the amount of the greatest yield of any year before the war; in addition a vast increase of all the cereal grains. Before the war an effort was made by interested British capital to increase the cultivation of cotton in India. Several experienced southern planters were employed and sent to India for that purpose. Selecting the best lands, with full

supply of means, and with great skill and experience, they tried the experiment, and after three years' trial failed, not being able to produce over one fourth to one third per acre, and nearly the same decreased ratio in quality compared with American cotton, our production; for, thank God, the whole country is ours, one and indivisible. And to-day, after years of the most powerful stimulus, with prices almost fabulous, with a powerful nation at its back, the production in India is still, both in the yield per acre and the quality of cotton, a failure compared with ours. No power but that of God himself can overcome the difficulty in India, for the dry season sets in at the time the cotton boll begins to fill, making short fiber and staple and a short crop. No European fabric except coarse cottons, mainly colored, are made entirely of India cotton. For all other fabrics our cotton is and must be mainly used. In the opinion of experienced cotton dealers and spinners our cotton, for quality alone, is able to bear on all exported from three to five cents tax per pound. I believe the consumption of our country is ordinarily about one million bales, leaving more than half the present crop for exportation.

When we have this great source of wealth in a kind of production which is a necessity and profit to the world why not make other nations pay a share of our debt and taxes? Sound wisdom would seem to dictate that we take advantage of all our great gifts so bountifully lavished upon our common country by an overruling Providence.

The retention of this tax does in a measure protect the wool-growers; and while furnishing $20,000,000 of revenue to the Government also adds so much to the cost of manufacturing in Europe, and operates as a protection here at home. I am not prepared to criticise the motives of those who advocate this measure; but an examination will prove that it will benefit not so much the cotton-grower as the dealer, the shipper, and the British manufacturer. How far these interests are to have special favors time may tell. Before this $20,000,000 of revenue is taken off I want to know how it is to be replaced. Is the remission of this tax to impose additional burdens upon other interests that are equally a necessity and are equally suffering, (to which I object,) or is the deficiency of revenue to be made up by economy and retrenchment? Common justice demands that all the necessary interests of our country should share the burdens of taxation equally. I claim that the Committee of Ways and Means should hold this question in abeyance until they can show how this deficit of $20,000,000 is to be made good.

Mr. BROMWELL obtained the floor, but yielded to

Mr. NUNN, who said: I move to amend the substitute as follows:

Insert after the word "abolished" these words: "on all cotton on the farm where grown, and the property of the producer at the time of the passage of this bill."

Mr. Speaker, it is with feelings of great embarrassment and no small degree of reluctance that I shall attempt to address the House in a few brief remarks so early after becoming a member of this honorable body; but coming as I do from the State of Tennessee, which I have the honor in part to represent upon this floor, and which State is largely interested in this question, I deem it my duty. While it is almost universally conceded and generally desired that the cotton tax should be removed, the question at issue seems to be whether the tax shall be repealed immediately or shall take effect in future. While the argument that the sharp, shrewd cotton speculator, anticipating the repeal of this tax, has gone forward and purchased large quantities of cotton, hoping to realize great profits from the labor of the poor white and colored men who have produced the cotton, comes with great force and should be respected, it is also true that the poor laborers, white and colored, looking with an eye of faith to this Radical Congress for a repeal of this cotton tax, have clung to their crops with a tenacity worthy of their faith, and have the same at their farms and homes waiting anxiously for this repeal proposed. And while I do not propose to aid the speculator I do wish to assist the producer, who has raised and held his cotton at great expense. But gentlemen argue that the greater portion of the producers have parted with their crops. Admit that to be true, is that any reason why those who have never parted with their crops should not have the benefit of the repeal? Because we cannot aid the dead ought we to refuse to assist the living? I therefore offer this amendment, hoping it will meet with a favorable consideration.

Mr. BROMWELL. Mr. Speaker, as to the question whose hands is this cotton in I have no doubt from all I know from persons engaged in raising cotton in different parts of the South there is not one producer of small means in ten who holds his cotton to-day without its being subject to such a control by the factor or the merchant as to take it out of his hands before this relief can be applied. I understand the mode of producing cotton down South on the plantations of the least importance is that the factor furnishes the capital; it is paid out for labor and provisions and the factor's claim is held as a first mortgage or lien upon the property and the crop, and the cotton passes into his hands as early in the season as he requires.

It may be said the larger growers have held on to their property. If gentlemen here insist on this relief on the ground of inability to pay the tax what does it signify that the larger planters have held on to their cotton? What relief is to be given to those who have not held on to their cotton? As to the poor whites and the poor blacks of the South every one knows that for the most part they work by the month on the cotton plantations; and they have no interest whatever in this question of cotton, nor can they have unless they work on shares.

But, Mr. Speaker, what I wish to speak to now is particularly this: it might be inferred from the language of gentlemen here that Congress has been guilty of improvident legislation in levying this tax on cotton. How was this thing regarded? The gentleman from Ohio, [Mr. GARFIELD,] then on the Committee of Ways and Means, tells us it was done as a temporary expedient. For what reason should this Government, as a temporary expedient, tax and oppress and impoverish the beginning of industry in one of the great staples of the country I am at a loss to understand. Yet the gentleman says it was adopted as a temporary expedient, but the time has now arrived to repeal it. What is there in the present condition of things that could have been anticipated then which demands the repeal of the tax now except that a remarkable and unlooked-for change has taken place in the market value of this staple abroad and the vicissitudes of the season have been unfavorable to our planters? Cotton is usually raised on large plantations, involving a large outlay of capital. The men who left the North and engaged in the culture of cotton employed a large capital—sometimes from two to three hundred thousand dollars. They embarked in it as they would in any other enterprise involving a large outlay of capital and in which they expected to realize a profit. In that light the production of cotton was as legitimate a subject of taxation as anything else involving the investment of capital. As to the smaller producers, as well as all others, it was supposed, from the very high price to which the staple had risen, and which it was likely to maintain in the market, that they could well afford to pay it; and believing too strongly in the southern doctrine that cotton was king, Congress was induced to levy the tax, which of course was to be taken off if found to be inexpedient. Since that day circumstances have occurred which no Congress could foresee. It was not known that the cotton-bug was to ravage all the region of the Mississippi and that an unprecedented flood would bring distress upon the planters. They are now in distress, but what will be the effect of taking the tax off at once as proposed? It would not alleviate the distress of those whose cotton has passed out of their hands. Does not every man know who is familiar with the subject of cotton growing that the grower raises it, as it were, for another? Without the merchant or factor there would be little planting carried on. As I have understood the merchant or factor holds the first lien, even prior to the wages of the hands; they will have paid the tax, if anybody, and they will call upon you to refund. And if you refund the tax what is it but adding to the profits of those who adventured their capital in the production of it, or who have bought it in the market at low prices? What signifies it that there has been but $4,000,000 of the tax paid out of the $23,000,000? Does anybody suppose that the tax is paid in on every pound as fast as it is put under lien or under contract? Doubtless if there be $4,000,000 already collected on the new crop more than two thirds of it must be in second hands. I doubt if one tenth part of it is left to-day under complete control of the men who raised it.

[Here the hammer fell.]

Mr. MOORHEAD. Mr. Speaker——

Mr. SCHENCK. If the gentleman will give way I will state to the House that I propose, after my colleague on the committee [Mr. MOORHEAD] shall have finished his remarks, that the debate be limited to five minutes, with the understanding that I am to have the usual time allowed to reply to the various points presented after the previous question shall be seconded.

No objection being made, it was ordered accordingly.

Mr. MOORHEAD. Mr. Speaker, after the discussion we have had on this subject, and particularly after the exposure made in the paper sent to the desk by the gentleman from Minnesota, [Mr. WINDOM,] I do not suppose there is any danger of this House voting for the substitute. That is the main question—whether the tax shall be taken off of the present crop or off the new crop. I think it has been clearly shown that if we make the release take effect immediately after the passage of the act it would inure to the benefit of cotton speculators, and not of cotton producers. But I do not think there is any danger of the House acting in that way. I will therefore turn my attention to another branch of the subject, and particularly to the remark of the gentleman from Illinois [Mr. BROMWELL] who last addressed the House. He appeared to speak as if he considered this tax in its inception an outrage, and as if it was very wrong for the Committee of Ways and Means to report a tax for a temporary purpose.

Now, I differed with my friend from Ohio [Mr. GARFIELD] on this question when the tax was put on. I did not go for it as a temporary expedient. I went for it honestly and in good faith, believing that there was no article in the United States upon which we could with more propriety place a tax than cotton. And why? Because I believed we had in a great measure a monopoly of the production of this article, particularly of the finer quality. I did not believe there was any article in the world that could compete with it, and I believed from the very high price cotton had been selling at during the war that we could put a tax of five and even of ten cents a pound upon it—indeed I advocated a tax of ten cents—without affecting the grower. I thought if nature and Providence had given us a soil and climate to produce the article so much better than any other part of the world it was right and proper that we should make those who enjoyed the benefit of it in other countries help us to pay the tax. For that reason I went for it. That being my position I now yield with very great reluctance to taking this tax off, and I only do it because I believe that it is a matter of necessity. I do it because I believe a continuation of the tax will affect the production of cotton in this country. That is the point with me, and the only one that would induce me to vote to take

off this tax. As has been shown here, from the encouragement given to the production of cotton in other countries during the high prices they are now able to produce it nearly as cheaply as we can, and if the tax were continued it would encourage them to go on and flood the market with cotton and drive our cotton out; and the result would be that the production of cotton would, in a great measure, cease in this country and the large cotton-planters would turn their attention to the production of the cereals; they would plant corn and wheat and other articles instead of cotton.

Well, now, I think that no calamity could befall our country greater than that would be. We want cotton as a matter of export to give us exchange. We are continually importing largely, entirely too largely, from foreign countries. We must have something to settle the balance, something to pay a portion of our debts, and I will go as far as any man in this House to encourage the production of cotton so that we may have a cotton crop to pay a large portion of these debts without drawing so largely on our gold and silver.

I therefore, with some reluctance, agreed to take the tax off, and that is the reason why I cannot go with my colleague from western Pennsylvania, [Mr. COVODE,] who has offered an amendment to reduce the tax to one cent. I believe, from facts which have come to my knowledge within a few days past, that even a tax of one cent on cotton would to a certain extent cripple the production of the article and affect the coming crop. I am, therefore, for taking the tax off entirely.

I now yield the remainder of my time to my colleague, [Mr. MILLER.]

Mr. MILLER. Mr. Speaker, I rise mainly to move to recommit this bill to the Committee of Ways and Means, so that it may be reported with the general tax bill, in order that all subjects of taxation may be considered together. I see no hurry in considering this branch of the subject at this time. I agree with the committee who, through their chairman, [Mr. SCHENCK,] reported this bill, that it should not exempt the tax of the year 1867, for otherwise it would open the door to all manner of frauds on the Treasury to fill the pockets, not of the honest producer, but that of the speculator. As to the tax on cotton, I think Congress acted wisely when it was imposed, and not, as the gentleman from Maine [Mr. BLAINE] says, "guilty of superlative folly." That gentleman recently returned from a pleasure trip to Europe, and while there says he happened to fall in with a company of gentlemen who were engaged in the production of cotton in India, and that these men in the conversation admitted with admirable candor that in the course of four or five years they hoped to establish the cotton culture in India upon a firm basis if the States, as they called us, would only keep up the tax on cotton raised here. This declaration of those foreigners I look upon as intended as a kind of scare to us, and I do not think they will find the American people so easily frightened; besides, what is it to us if they raise cotton in India, Egypt, Brazil, &c.? We can find ample sale for all we can raise; and indeed I would prefer instead of selling our cotton abroad in its raw state that we manufacture it in our own country; and if our manufacturing establishments have that protection afforded them which they deserve we can compete with the world. There is no reason why we should send the raw material to Europe and then purchase it back in a manufactured state, with more than one hundred per cent. added. I trust, Mr. Speaker, that the day is not far distant when factories will be established in every part of our southern States. I do not want to be understood that I desire any unfair discrimination against the late rebellious States, but I would ask on what are the $23,000,000 of tax now imposed on cotton to be placed if this part of the revenue law is to be repealed? None of the gentlemen who are so zealous for its repeal have undertaken to inform us; and this satisfies me the more how wrong it is to undertake to act on this prior to reporting of the general tax bill. When that is taken up, if we can exempt cotton from tax without doing violence to other interests of our country I will most cheerfully vote for it, but I am opposed singling it out at this time as a special object of favor.

It is well known, Mr. Speaker, that cotton has been the great monopoly of our country; in fact it has been denominated as "king cotton." In the late rebellion it was on the faith of that article that the rebel confederacy was enabled to obtain a large loan in Europe to sustain them in carrying on the war against our Government; and as we have entailed upon the country an enormous debt contracted to sustain this Republic it is right and just that the southern States should at least contribute a portion to alleviate the northern States from the heavy taxation imposed upon them. In my opinion if we do not impose a small tax upon cotton we will derive little or no revenue from the southern States; for it is not very likely that the speculators in cotton will return any income for taxation. They will no doubt manage in some way to elude it. I do not mean the humble producer, but the large monopolies. I am sorry to say if this bill is forced to a vote at this time I will feel constrained to vote against it, though I would be perfectly willing to favor the reduction of the tax, and perhaps to take it off altogether, if I could once see what are the taxes intended by the Committee of Ways and Means upon other subjects of taxation. I cannot go it blind on so important a subject; and therefore, Mr. Speaker, I move to remit this bill to the committee with instructions to report this subject of cotton with the general tax bill, hoping that when the whole subject is before the House justice may be done by imposing a tax fairly on all sections of our country to raise the sum the Government may require.

[Here the hammer fell.]

Mr. MILLER. I move to recommit this bill with the pending amendments.

Mr. BURR obtained the floor, but yielded to Mr. PILE, who said: I desire to offer the following amendment to the original bill:

Strike out all after the enacting clause and insert these words:

That on and after the passage of this act the internal revenue tax of two and one half cents per pound shall be removed from all raw cotton which shall up to that time continue to be the property of and in the possession of the producer thereof.

The SPEAKER. That amendment would not be in order even if the motion to recommit was not pending, because there is already pending a substitute offered by the gentleman from New York, [Mr. BROOKS.]

Mr. LAWRENCE, of Ohio. I move to amend the bill by adding to it a section, as follows:

And be it further enacted, That the Court of Claims shall not have or entertain jurisdiction of any claim to recover back any tax paid or which may be paid on cotton.

The SPEAKER. The motion to recommit being made, no further amendment to the bill is now in order. And even should that motion be withdrawn or voted down this amendment would not be now in order. There is a substitute for the bill pending as well as an amendment to the substitute. There is also an amendment to the bill pending, offered by the gentleman from Pennsylvania, [Mr. COVODE,] to reduce the tax on cotton to one cent per pound instead of repealing it altogether. And no amendment is in order but an amendment to the amendment.

Mr. LAWRENCE, of Ohio. I desired more particularly to bring my amendment to the consideration of the House with a view to offer it whenever it shall be in order.

The SPEAKER. That amendment would not be in order until all the pending amendments shall have been disposed of. The gentleman can move to amend the motion to recommit by adding instructions to the committee to insert what he has read.

Mr. LAWRENCE, of Ohio. I will make that motion.

Mr. PILE. I move to amend the amendment to the motion to recommit by instructing the committee to substitute for the bill the provision I read a few moments since.

Mr. BURR. In the limited space of five minutes very little can be said by any one in explanation of any vote he may propose to give upon this subject. Whatever may have been the original necessity or policy of imposing the tax of two and a half cents per pound upon cotton, there seems to be at present an almost uniform consent to release so much of cotton as shall be raised hereafter from the operation of that tax.

One gentleman yesterday designated the imposition of this tax as a war measure. All agree that it was a measure for the purpose of giving immediate financial relief to the Government. Now, I suggest that it is about time for us to cease war measures, and give our attention more to measures which shall make for peace. An objection has been made to relieving the present crop from the tax heretofore imposed for the reason that a large proportion of the crop of the present year, it is alleged, has passed from the hands of the producers and is now in the hands of speculators. That may be a partial argument against relieving the present crop of the burden of that tax. But inasmuch as gentlemen have urged heretofore, and it is worthy of all consideration, that the producers are the men who ought to receive the fostering care of the Government; and inasmuch, further, according to the opinion of all parties a proportion at least of the crop of the present year still remains in the hands of producers, I am for extending to them, even though they should have, as is alleged, one third only of the moneyed value of the crop so produced, the whole measure of relief that I would be in favor of extending under other circumstances to all producers of cotton. I therefore favor the amendment submitted by the gentleman from New York, [Mr. BROOKS,] which amendment by an immediate repeal releases the present and all future crops of cotton from this oppression and unequal taxation.

It has been urged by those who oppose this measure of relief that we are realizing from this source of revenue annually $25,000,000 wherewith to pay the current expenses of the Government; and the question has been asked from what source can we receive compensation for the revenue which will be cut off by this measure of relief? If this can be obtained from no other source, I would suggest to honorable gentlemen that, by turning their attention to measures of peace, by repealing the military bills of the last session, they can save in the current expenses of the Government between one and two hundred million dollars per annum. Hence there need be no objection on the ground of loss of revenue to releasing this productive branch of industry from the taxation which is to-day crushing it to the earth.

I would like, if time would permit, to present an additional reason why I shall favor the most radical measures in the direction of the repeal of this tax on cotton. I will refer simply to the fact that, in my judgment, this tax is in violation of more than one provision of the Constitution of the United States. In that instrument it is provided that "no tax or duty shall be laid on articles exported from any State." This tax of two and a half cents per pound on cotton, without any provision in the original act by which any drawback can be realized on the article when exported either is a "tax" or a "duty;" and if it is either, it is in violation of this clause of the Constitution, inasmuch as cotton is an article exported from several of the United States.

Furthermore, the Constitution provides that "no capitation or other direct tax" (this I hold to be a direct tax) "shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken." As this is not a tax laid in proportion to any census or enumeration taken by the officers of the Government, but is a tax upon a special branch of industry,

a tax upon the product of a particular section of the Union, not a general but a special tax, not uniform but partial and discriminating in its operation, it is a sectional measure, and whether originating as a war measure or not, is obnoxious in my judgment to the provisions of the Constitution to which I have referred, and should therefore be repealed.

[Here the hammer fell.]

Mr. MARSHALL. Mr. Speaker, in the time allotted to me I can of course present my views but very briefly and imperfectly upon the question now before the House for discussion. It is unquestionably a subject of very great importance. I have so regarded it from the time when the question as to this cotton tax was first brought before the Congress of the United States. I considered the imposition of this tax originally as wrong, as unconstitutional, as against all sound policy; and in my judgment then and now it should never have been adopted by Congress. It is a tax exceptional in its character, in violation of the spirit as well as the express provisions of the Constitution, which have been referred to by my colleague, [Mr. BURR.] That this measure is in clear and palpable violation of the Constitution has I think been demonstrated; and I do not propose at this time to go into the argument on that subject; indeed it would be impossible to do so in the time allowed me. Any gentleman who will investigate the subject without prejudice must, it seems to me, come to the conclusion that this tax originally was unwarranted by the Federal Constitution, and was against every principle of sound policy. If this be so, the tax ought not only to be repealed so far as it may affect crops hereafter to be produced, but the repeal ought to take effect instantly; and I do not see any force in the objections which gentlemen have urged in reply to the argument in favor of the immediate repeal.

It is said that repeal at this time will produce but little benefit to the producer, and all the benefits will accrue to the speculator, factor, and those trading in this production. Sir, to a greater or less extent every change in taxation produces inequalities and injustice, whether the tax be increased or decreased. This only shows the necessity for some uniform and consistent system of taxation which will be permanent in its character. If you increase the tax on whisky at this time you would benefit one portion of the community and injure another. If you reduce it the result will in this respect be the same; it will benefit some while it will injure others. So it is in regard to every subject of taxation.

A large proportion of this production of cotton is in the hands of producers; but if there was only one pound remaining in the hands of a producer I say that not one cent should be taken from an American citizen by the operation of a law passed in violation of the Constitution and opposed to every principle of sound policy in legislation. It was contrary to the principles of taxation established in this Government from its foundation to the present time. And, sir, if it had been believed by the framers of that instrument that under it Congress would claim the right to select articles of this character for taxation by which one section might be oppressed and impoverished, or its chief productions crushed out of existence, that Constitution would never have been adopted.

A contract of a combination of speculators has been brought in here for the purpose of effect upon the House at this time. That properly should not influence the vote of a single member. If this tax is taken off now the movement of these speculators will be checkmated so far as the tax to be collected hereafter is concerned. The purposes of this combination as detailed here is to proceed before the Court of Claims and Congress to recover the tax which they claim has been unconstitutionally collected. There is of course nothing wrong or illegal in this. But it is plain to the simplest comprehension that the more tax collected the greater will be the speculation, if there is any speculation in it. By this repeal, then, you defeat their purpose so far as future collections are concerned. By continuing this tax you only play into the hands of these speculators.

[Here the hammer fell.]

Mr. KERR. Mr. Speaker, I desire briefly to say that, having been originally opposed to this law and the imposition of this tax, because I believed it to be wrong, I am now opposed to its continuance and in favor of its repeal, because in my judgment now as at the time the law was enacted it is unconstitutional and the tax unjust. I oppose it also because it is based upon no sound principle of public policy, and operates with great severity upon one section of the country. It utterly disregards the constitutional injunction that "no tax or duty shall be laid on articles exported from any State." Cotton is chiefly an article of export. It was the beneficent purpose of the framers of our organic law, knowing as they did that the vast extent of our country embraced soil and climate suited to the production of almost every article needed for the support of mankind, that the products of our soil should enjoy free competition with those of all other countries. It was not intended that they should be subject to any such tax as this. If cotton can be so taxed, so also can wheat, and hemp, and tobacco, and all other products of the soil, in the raw material, and if they can be taxed one cent per pound or ten cents per bushel then the power to tax them is unlimited, and may be exercised according to the changing views of Congress or the mere whims or prejudices of party.

I insist that such a tax has no warrant in the Constitution, and ought to be repealed. I am in favor of its unconditional repeal, without reference to any collateral issues or suggestions made to-day touching the effect of that repeal. In other words, I hold it is never too soon for this House or this Congress to undo or annul any unconstitutional and unjust act.

This tax on cotton is one of two things: it is either a duty, an impost, or an excise, or it is a direct tax as defined in the Constitution and by the decisions of the Supreme Court. If it is a duty, impost, or excise, and not a direct tax, then, under the express language of the Constitution, it should be assessed on the principle of uniformity, bearing equally upon all articles of like general character throughout the country, for that instrument declares that "all duties, imposts, and excises shall be uniform throughout the United States." But this tax is not so assessed. It is confined to one article in its crude and unmanufactured form, and that article is confined to and produced only in one section of the country. But no one will contend that this tax is in fact or law a duty, impost, or excise. It is fair to presume that if the House had so considered it the tax would have been very differently imposed.

If it is a direct tax then it is obnoxious to the objection that it is not imposed upon the States according to their population, because the Constitution declares that "no capitation or other direct tax shall be laid unless in proportion to the census." That it is a direct tax I think admits of but little doubt, and therefore it should be apportioned among the States, if it is to be imposed at all. But I know of no precedent for the direct taxation of agricultural products, and I do not believe there is any authority for any Federal tax upon them in kind. It is admitted by all that Congress cannot impose a tax directly upon land in kind, and collect it of the individual owner in the first instance. I hold that the agricultural products of the land sustain the same relations to the taxing power as the land itself. If taxes are to be imposed directly upon the land, or its products in kind, they should therefore be apportioned among the States, and, upon the most obvious principles of justice and equality, they should be imposed in equal measure upon all the land or all the agricultural products of all the land in the country, and not upon some exceptional article produced in one section alone.

I object to this tax because it is imposed according to no rule laid down in the Constitution. It is imposed upon a principle that is in its very nature arbitrary, and it cannot be anything else. It is imposed on one article produced in one section of this country, and on a principle essentially sectional in its character and in its bearing. I submit, therefore, it is in direct violation of the principle, the spirit, and letter of these provisions of the Constitution.

Now, then, Mr. Speaker, if this House has the power to impose this exceptional tax, then one section of the country has placed in its hands a power by which, when it finds it has a predominance in this body, it may oppress by discriminating legislation every other section of the country.

The North, the East, and the West may oppress the South to-day; to-morrow the East and the middle States in combination with the South may oppress the great West by levying a similar tax upon the products of that section of the country. In other words I mean that whenever this principle of the arbitrary right of Congress to impose taxes upon the products of the soil of this country becomes a part of the fundamental law of the land, then there will be no longer any security against this sort of unequal, unjust and sectional legislation of which this tax on cotton was and is so appropriate and dangerous an example.

I submit, therefore, that, in view of the decisions of the court of last resort in this country and the opinions of the early fathers of the Republic on this great question, it is clear that this tax on cotton was in its inception, as it is to-day, an illegal, unequal, unjust, and above all an unconstitutional tax, and ought to be repealed.

Mr. SCHENCK. Mr. Speaker, I shall now demand the previous question, but I wish to make it apply to the pending amendments and not to the bill itself. I will explain why. The arguments submitted by gentlemen against the constitutionality of this tax implies a recognition of the right of persons to seek to recover back what they have paid in some form. I shall therefore leave the bill open to one more amendment, which my colleague [Mr. LAWRENCE] wishes to offer to prohibit suits upon claims for the recovery back of the tax already paid.

The SPEAKER. It will be necessary for the gentleman from Pennsylvania [Mr. MILLER] to withdraw the motion to recommit before any further amendment can be offered.

Mr. MILLER. I withdraw my motion for that purpose.

The SPEAKER. The motion to recommit being withdrawn the amendment to add instructions falls with it.

The previous question was then seconded on the pending amendments, and the main question ordered.

Mr. SCHENCK. Does my right to reply to the various points inure now?

The SPEAKER. The gentleman can take his hour now or upon the bill itself.

Mr. SCHENCK. I have already indicated my object in calling the previous question upon the pending amendments only. It is that I may let in and have voted upon by the House an amendment, to be proposed by my colleague, to prohibit suits recovering back, upon any pretext whatever, any tax that may have been paid upon cotton. I will not go now into the constitutional argument with which the gentlemen on the other side have closed this debate. I have maintained from the beginning that the tax on cotton, as one of the agricultural products of the country, is an exceptional tax—a departure from the general policy of the United States, which has been not to tax the products of the soil until they have changed their form by process of manufacture.

Gentlemen have put their constitutional argument, as I understand, upon the ground that

this is a sectional tax affecting the product of one region of the country; that although it is a tax which applies in general terms to cotton wherever grown, yet as the fact is that it is only grown in certain latitudes, it becomes therefore a constitutional question, measured not by the terms of the law itself, but by the fact. What will follow from the admission of a doctrine of that kind? Why, that a tax on corn or wheat or flour or any other article not grown in every corner of the United States will be a sectional tax, and therefore unconstitutional. A tax upon coal would be unquestionably a sectional tax on this theory, because there are not beds of coal underlying all the States or sections of the country. That, sir, is a measure or a standard of constitutional law to which I cannot accede, and I therefore put my argument for the repeal of the tax, either present or prospective, upon the ground that it is expedient to make such a repeal, and not upon any such constitutional teaching as that.

Now, Mr. Speaker, the first thing to inquire in regard to this cotton tax is the mode of its collection or payment. It is seldom or never paid by the grower of the cotton, unless he combines the character of merchant with that of producer. At this time—and it will be more so hereafter—the business of cotton raising is running into the hands of small growers, and in proportion as that comes to be the case there will be less and less payment of the tax directly. There is very little of it now paid directly to the officers of the Treasury by the grower himself. How then is it paid? The middle men or the agents of the merchants pass through the country and make their contracts with the growers with advances to the growers, and under these contracts, as was explained yesterday by the gentleman from Illinois, [Mr. LOGAN,] most of the growers dispose of their cotton. How is it transported? Under the present tax law, after it has been purchased, or whether purchased or not, it has been found expedient in the practice of the revenue department to constitute every cotton-growing district in the United States, as it were, a bonded warehouse, and no tax is charged upon cotton until it is removed from that district, and it is removed from that district under a bill of lading—it was formerly a bond—which bill of lading is from the assessor of the district to the collector of the district in which is the port or place where the cotton is to be delivered. For instance, a district in the State of Mississippi may have cotton grown within it which is sold to be transported to the district which includes the city of Mobile. A bill of lading is taken for that cotton, and it is carried to Mobile under that bill of lading, the Government holding the cotton as its security without the necessity of a bond. The tax is not paid until it arrives at this place, and the tax is then paid, not by the grower, who has actually parted with his interest, but by the person who has become the purchaser; and thus at Mobile, at New Orleans, at Memphis, and at Savannah, these four principal points, nearly all the tax on cotton has been collected.

Now, how is it with regard to the tax for the present year? The statistics we have from the revenue department show that in the months of July and August there was collected the sum of $963,071 77, being equivalent to a collection upon 80,255 bales. In the months of September and October, applying particularly to the present crop, even yet more, the amount collected was $1,288,529 32, being equivalent to 128,852 bales. But no returns have been had at present for the month of November. In November the tax has been collected much more rapidly, the cotton then commencing generally to move under this system of transportation which I have described; and every reason exists for believing that about five or six millions of the tax has already been paid.

Then in what condition does that leave the tax-payer upon this product as to the fact of the relation of one or the other interested in the crop to this case? In the first place, the laboring man, who had assisted in growing and picking the cotton, is not at all interested in the question whether you should take the tax off now or not. His wages have been paid to him monthly.

Mr. BARNES. Will the honorable gentleman yield to allow me to ask him a question?

Mr. SCHENCK. Yes, sir.

Mr. BARNES. I would like to inquire if it is not universally considered and generally believed and known to be a fact that since the month of November it has been understood throughout the southern States that the law taxing cotton would be repealed, and that it has almost entirely resulted in the non-sale of this product?

Mr. SCHENCK. No, sir.

Mr. BARNES. And is not that one of the reasons why we have no returns before us for November?

Mr. SCHENCK. No, sir. It is generally understood and believed, I think, that cotton has gone forward in a good degree or lies in the hands of the growers under contracts for the purchase of it by parties who, not being the growers, are interested in having this tax taken off.

I might have explained—and the gentleman brings me back to that point—that when these bills of lading go forward with the cotton, by a rule of the Department the tax is to be paid whenever the holder shall himself part with or make a sale of the cotton; provided, however, he shall not have more than ninety days for that purpose; and under the ninety days' rule a large proportion of the cotton is now being held up by those who have become the purchasers either at the place where it was grown or at the city to which it has been carried, in order to see whether they will not before the end of the ninety days be relieved from paying the tax, and thus make an additional profit of two and a half cents upon the cotton they have bought. I suppose that to be the fact.

Mr. ARCHER. Will the gentleman yield to me for a moment?

Mr. SCHENCK. I have given full opportunity to gentlemen to be heard, but I will yield.

Mr. ARCHER. I would ask the gentleman if this is not the usage in New Orleans and Mobile? The commission merchant sells the cotton and applies the proceeds of it to the payment of debts. The commission merchant does not purchase it from the producer, but he sells it to a third party, and then applies the proceeds to the payment of the debts which the producer owes. The price is fixed at the time of the sale by the purchaser, and not by the producer.

Mr. SCHENCK. The system, as I understand it, sometimes fixes the price at the time of purchase; but very frequently some prospective date is agreed upon, and the cotton is to be paid for at the price it will command on that day.

Mr. ARCHER. My experience, from what I have seen in that part of the country, is that the commission merchant makes advances to the producer and sells the cotton, the price being fixed at the time the sale is made.

Mr. SCHENCK. I was going on to speak of the parties interested in the growing of cotton. In the first place, the repeal of this tax will be of no benefit to the actual laborer. The time when the gathering of the crop ceased was the end of his interest. He has received his monthly wages and is gone. Who next will be affected by this measure? Will it operate favorably upon the grower of the cotton, who is himself the owner or the renter of the soil, and interested in that way in the crop? It may in the case of a few large growers who are able, by their command of capital, to combine the character of merchant and grower to a certain extent. But that is not the case to any great extent in the present destitute condition of the South. Almost all growers are in that condition of difficulty in regard to their financial matters that they are compelled to sell their crops, and to sell them early. This has been peculiarly the case with the small growers, including the freedmen and others who cultivated small patches of cotton.

Now, it is particularly the case that the most necessitous have sold their cotton already. If you take off the tax from the present day the consequence will be that, though you may relieve some growers who have the most capital and who have been enabled to hold on to their cotton, you will not relieve the laborers and the small necessitous growers, who have been compelled, almost universally before this time, to sell and realize upon their cotton.

Let me state this fact in regard to the growers generally. A great many communications have been received by the Committee of Ways and Means, many letters have been addressed to myself, in connection with the idea that as chairman of that committee I would especially have the duty to perform of looking into these matters. In the first place, I find these general facts inferred from and learned from the communications thus poured in upon us: first, that the growers, merchants, and all want the tax repealed; secondly, that the growers insist that, the tax being repealed, there shall be a refunding to them of the tax that has been paid, and they are indifferent about the repeal of the tax unless it is accompanied by a provision to refund. On the other hand, the merchants, who also want the tax repealed, are indifferent about the refunding of the tax that has been paid, but are especially anxious to have the tax repealed. My inference is that each speaks according to his understanding and knowledge of the existing facts which affect his own interests. The merchant knows that if the tax is repealed he gets the benefit of that two and a half cents per pound included in his profits, for he has contracted for his cotton at so much less than he would have had to pay but for the anticipated tax to be paid by the grower.

The grower also, as a general rule, wants the tax repealed, but he wants it repealed with the condition that there shall be a refunding of the tax already paid, because he and his neighbors generally have parted with their interest, and the repeal will be no advantage to them unless provision for refunding be made.

This is the state of facts which the committee found to exist; and I for one am frank to say that while on the 1st of last September, before the new crop had begun to be moved or had been made to a great extent the subject of purchase and contract, I might have voted for the repeal of this tax to take immediate effect, yet at this time, when transactions in reference to the crop have advanced so far, I cannot vote for a measure of that kind with satisfaction to myself unless we along with it provide for refunding the tax to the most necessitous class, those who have experienced most of the burden in connection with this matter. I am unwilling to vote for a bill of that kind, because I believe it both inexpedient and impracticable thus to refund. The benefit of such a measure would not inure to those who ought to be benefited. The claims for the amount of tax already paid would be bought up by the sharks who are now eagerly watching for such a measure; and they would get the benefit of such legislation, not those who should receive its advantages. Hence, while I favor the repeal of the tax I hold that if this repeal is to operate equitably all must be put upon the same footing as regards the present crop and all upon the same footing as regards the future crop. I therefore prefer the bill as we have reported it from the committee, making the repeal of the tax, as an act of expediency in reference to affairs at the South, the condition of the country, the demands of this industrial interest, prospective, so that the growers of cotton may know what they are to expect hereafter, and that thus industry in that quarter may be stimulated, without any measure which may operate unequally with respect to the position of affairs this year.

It has been asked, "Why do the committee report a bill in reference to one special tax?" Some gentlemen have been almost indignant at the idea that, if any portion of the people are to be relieved of the burden of taxation, those at the South, who have perhaps least claim upon the Government in that direction, are to be the first to receive such relief. I will tell gentlemen why cotton has been selected as the first subject of action by the committee. It is not because the committee intend that their efforts to relieve the burdens of taxation now resting upon the people of the country shall be confined to that one article. I concur with my friend and colleague upon the committee, the gentleman from Iowa, [Mr. ALLISON,] that one of the measures demanding the early attention of Congress (and it is one which shall receive my hearty concurrence) is to relieve manufacturers generally of a great number of small taxes which are scarcely so onerous as they are vexatious and annoying, and many of which hardly pay the cost of collection. I agree that we may perhaps carry our legislation to such an extent that the whole internal revenue of the country may be collected from some eight or ten sources, embracing spirits, tobacco, licenses, stamps, and a few other matters which I need not enumerate.

The bill upon this special subject has been presented at this time not on account of any disposition on the part of the committee to give the preference, invidiously or without reason, to cotton, but because a large amount of cotton is now held by the commercial community, those who hold it waiting to see whether or not it is to be relieved from this tax; and in this condition of things the grower, the merchant, and the spinner of cotton all unite in imploring Congress to legislate upon this subject, so that this cotton, whether taxed or untaxed, may be set free. They desire to know at an early day what is to be the policy of Congress in relation to this matter. And having concluded that among the articles to be relieved from taxation cotton would be one, for reasons already sufficiently and thoroughly argued here, we came to the conclusion there was a necessity for immediate action, in order that the cotton policy might be settled for the benefit of the grower, the merchant, and the manufacturer.

Then, again, gentlemen have asked why it is we take so large a burden of taxation from the South, amounting last year to over twenty-three million dollars, and likely to reach $25,000,000 this year, when the South has paid little or no tax at all from other sources. Gentlemen are, in the first place, mistaken as to the fact; but if the fact were so it does not abate anything of the argument founded in justice and the condition of the country and in a return to the policy of the Government not to tax directly the products of the soil. But gentlemen are mistaken in regard to the amount of tax paid at the South. It is true the South has not paid internal revenue tax in anything like the same proportion in which payments have been made, considered in the aggregate, in other parts of the country; but to a greater extent in their condition, impoverished as they are by their own mad conduct, they have been able to pay much more than I had supposed. I hold in my hand a table, calculated up to this day, from the internal revenue department, and I find while the receipts from cotton in 1866 were $17,000,000 in the southern States the receipts from other sources were nearly six millions; and while the receipts from cotton in 1867 in the southern States—nearly all paid at the four principal ports I have mentioned—were $23,000,000 in round numbers, they increased their tax paid upon other articles to over $10,500,000. Thus they more than doubled between 1866 and 1867, and are increasing still, and will continue to increase. But my word for it, Mr. Speaker, if you adopt the policy in reference to cotton, stimulating its production under the present changed condition of things, you will find cotton in the South not grown hereafter as heretofore, by large planters, controlling as their principal capital a great amount of labor, and owning, as they did, the laborers themselves, but you will find this cotton grown in patches as our corn and other products are grown in the northern States by the men and their boys and the few hired laborers they may be enabled to employ, black and white, and thus there will be a large industrial interest throughout that country cared for, protected, and not burdened, just as the interest engaged in growing the cereals in the northern States is in like manner protected, cared for, and left unburdened by your legislation.

I do not know but I am protracting these remarks beyond any necessity of the occasion. I understand my colleague on the committee, the gentleman from New York, [Mr. BROOKS,] desires to submit some remarks, and I will give him a portion of my time if he will say how much he wants.

Mr. BROOKS. About fifteen or twenty minutes.

The SPEAKER. The gentleman from Ohio has thirty minutes left.

Mr. SCHENCK. I yield for fifteen minutes.

Mr. BARNES. I would like to inquire of the honorable gentleman from Ohio, the chairman of the Committee of Ways and Means, whether he can tell us the comparative receipts for any given time last year and the same time this year at the port of New Orleans?

Mr. SCHENCK. I will after awhile.

Mr. BROOKS. Mr. Speaker, the amendment I have submitted to this House as a substitute for the bill reported by the committee involves two propositions, and only two, and I state them explicitly because they have been misrepresented in debate. The first is to take off the duty on cotton on the passage of the act. It involves no refunding, no restitution of taxes paid whatsoever. It takes no money out of the Treasury, but keeps in the Treasury whatever there is. It has no retrospective effect whatsoever. The second proposition I have offered is that in the matter of manufactured goods, where two and a half cents is now allowed as a drawback on the exportation of cotton goods it shall cease within ninety days after the passage of this act. These are the two propositions involved in my substitute, and hence he who entertains the idea that there is to be any refunding of money, any drawbacks whatsoever, or any restitution under this proposition mistakes its whole tenor and character.

Now, my colleague, the chairman of the committee, admits that if this proposition had been submitted in September last he would have voted with me for the immediate passage of an act to stop the collection of the tax of two and a half cents per pound. In other words, he lays down a proposition which he admits to be right, but which he hesitates to carry into immediate execution. Now, if it be right to take off the tax on cotton at all, as is generally admitted, I agree with him that we ought to go back and take it off upon the whole crop from the 1st of September last. But that involves so much embarrassment to the Treasury Department, so many inquiries, and opens so wide the door for fraud that I have contented myself with refraining to ask for a remission of the tax wherever the cotton has passed out of first hands, and with limiting my proposition only to the remission of the tax upon cotton in the hands of holders and producers.

There is a great mistake prevailing in the House, which is easily corrected by statistics if gentlemen will give their attention to the subject, as to the amount of cotton now in the hands of the producers. It is susceptible of as easy demonstration as any proposition in arithmetic. It is as easy to ascertain the present condition of the holders of the crop, within a few hundred bales, as it is to do a sum in addition or subtraction.

We know by statistics—which I have in my hand—from New Orleans, Mobile, Savannah, and Memphis, and all the cotton ports of this country, the number of bales of cotton that have come from the producers up to the 29th of November. The returns by mail and by telegraph show that out of an estimated crop of two million seven hundred thousand bales not one fifth has yet passed out of the hands of the producer or cotton holder into the hands of the trader or speculator.

On the 22d of November the returns received by mail at New York showed only two hundred and eighty-four thousand and forty-six bales received at the different cotton ports of the South. The telegraph to November 29 brings up the additional returns and shows that on that day only four hundred and seventy-five thousand bales had passed from the hands of the producer into the hands of the trader; and though some of this cotton was in transit on the great rivers of the Southwest yet it is safe to say that not half a million bales out of the two million seven hundred thousand bales have as yet gone into the hands of the trader or speculator; so that it is here proved by actual returns which can be known to everybody that less than one fifth of the crop on the 29th of November had passed from the hands of the grower. Four fifths of the crop at this moment is, therefore, in the hands of the producer; and hence I hold that it is wise to repeal the duty. It is right not only to repeal it for four fifths but for five fifths; and it is our bounden duty, upon the arguments even of those who have contended on the other side that the laborer, the producer only, should receive the profit, to give to four fifths of these holders the benefit of the remission of this tax.

The necessity of taking off this duty is as great on the present crop as it will be on a future crop. Nothing has been more destructive to the commercial interest or the freighting interest of New England, to the great agricultural interest of the West, or to the manufacturing interest of the North than this levy of $23,000,000 on the cotton growth of the South, for it has taken from our ships, our ocean marine, the control of the cotton trade of the world and given it to our rival on the other side of the ocean, Great Britain.

I hold in my hand a table of the exports from Bombay, only one of the cotton ports of India, from October 1, 1864, to October 13, 1867, the returns of which show, in substance, that while Bombay exported eight hundred and two thousand eight hundred and forty-four bales of cotton in 1864, in consequence of the rivalry which we had been encouraging in India by the protection we had given them in taxing our crops—an amount of protection admitted to be fifty per cent. by the special commissioner of internal revenue, and believed to be seventy-five by others well qualified to judge—the aggregate had run up to one million one hundred thousand seven hundred and nine in the short space of four years. And this is from the port of Bombay alone.

I also hold in my hand a table showing the decline in American cotton, and in that of India, of Brazil, of Egypt, and of the West Indies, a table which is too long for me to read, but which shows, in substance, that while the decrease in price has been fifty-nine per cent. on New Orleans middling from 1866 to 1867, on Indian cotton it has been only fifty-four per cent., on Brazilian cotton fifty-four and a half per cent., on Egyptian cotton fifty-nine per cent., and on West Indian cotton only fifty-five per cent.; or, in other words, American cotton has declined a greater percentage than any other variety in the world excepting the cotton of Egypt, and this has been in a great degree the effect of the bounty which our tax has recently been giving to the product of India, Brazil, and the West Indies.

This table not only shows that it is wise to repeal this tax, but that it is wise to repeal it now at this day and hour, and not give Great Britain an additional protection of from fifty to seventy-five per cent. on its cotton for a year from this date.

I appeal, therefore, to the ship owners of New England, to the producers of the great

West, and to the manufacturers of the central States to repeal this tax, which all admit to be unwise, and I appeal to them to do now at this very moment what they all admit will be wise hereafter.

I have another table before me, showing the product of the crop in Texas, and showing an actual loss to the producer of a bale of cotton of four hundred and seventy pounds, valued in gold at $51 70. It shows that the cost of it before it starts from the plantation is $20 30, leaving him but $31 40 for his product. The expense of transporting it to the depot, where it can be sent by railroad to Galveston, is $22 64, leaving him in gold only $8 76 for all the work which he has furnished, the implements for cultivation, the pay of freedmen, the cost of plowing, and all the other expenses of raising the cotton. This shows that under the existing taxation it is impossible for the cotton producers of the South to live. Though their crop has been large they have in the main been ruined by that crop, and they are without the means of cultivating cotton for the future unless this Congress comes to their relief and exempts them from the tax.

Now, Mr. Speaker, after these statements, which I have made as brief as possible, I am loth, very loth, to refer to an insinuation made by the honorable gentleman from Minnesota [Mr. WINDOM] on this subject, an apparent insinuation that I am the organ of traders and speculators, or, in the new vocabulary which he and another gentleman upon this floor use, of "strykers," and "suckers," and "sharks," and "shysters," and other sibilant sus-surrations [laughter] which were poured forth by the honorable gentlemen on those who are only trying to do right.

Mr. MAYNARD. I would like to explain that in what I said I did not refer to the gentleman from New York, but to a class of claim agents, so called, who go about through the country.

Mr. BROOKS. I only complain, then, of the gentleman for using words of New York city manufacture, which ought never to have extended to Tennessee, and which have not yet got into Worcester's or Webster's Dictionary. [Laughter.]

But the gentleman from Minnesota [Mr. WINDOM] caused to be read here a contract between certain persons holding cotton who desire to test the constitutionality of the tax upon cotton, a perfectly legitimate and legal purpose, but I know not how the honorable gentleman infers that I am in any way connected with it, or why that contract, out of order, utterly unconnected with this subject, should have been introduced on the floor of this House in connection with this debate, unless it was meant to insinuate that in offering my amendment I was the organ of "shysters," and "sharks," and "strykers," &c.

I do not know in what school the honorable gentleman from Minnesota [Mr. WINDOM] has been educated. His position upon the Committee on Indian Affairs, which, often brings him in connection with those whom he denominates shysters, sharks, and strykers, may have educated him in all the rascality which often surrounds the Indian department of the Government; and there he may have been taught to apply to others the education in which he has been trained himself. *Honi soit qui mal y pense.* I know nothing of any such things.

Nobody has any right to make any such allegations against me. I am the organ of no one and nobody. I have never been upon this floor such organ and never will be. I stand here not for my New York constituency alone or for the cotton planters alone; I stand here in favor of my whole country, our common country, for all parts of it, from Passamaquoddy to the Rio Grande. I contend that all sections are interested in the immediate repeal of this destructive cotton tax, which injures our manufacturing and agricultural interests. I argue, therefore, that now is the proper time to repeal that tax.

[Here the hammer fell.]

Mr. SCHENCK. I now yield five minutes of my time to the gentleman from Illinois, [Mr. HARDING.]

Mr. HARDING. If I had much to say I could not say it in five minutes. I design upon this occasion however, merely to submit a remark or two upon some points which have been made in this debate.

I remember, as of yesterday, when the able gentlemen who constituted the Committee of Ways and Means introduced before this House for its approval this measure for the imposition of a tax upon cotton. But I do not remember, with some gentlemen upon that committee, that it was proposed as a temporary measure, as a war measure, or as a temporary expedient. On the contrary, I remember, and I think very distinctly, that the able financier at the head of the Committee of Ways and Means [Mr. MORRILL] put it upon the distinct ground—and he had voluminous statistics to support his position—that the American people had the monopoly of cotton in the markets of the world, and I yet believe in the correctness of the conclusion to which that gentleman arrived. I agree with the gentleman from New York, [Mr. MCCARTHY,] who sits before me, and who, to my mind, made a very able and conclusive argument upon this subject, that we yet maintain that monopoly in the markets of the world.

It is true, as that gentleman stated, that the production of cotton in Asia has proved a failure, has proved ruinous to those who have engaged in that enterprise. Look at the great cotton houses in England who have failed by reason of the depreciation of cotton. I hold that the present low prices of cotton and of wool are not owing to this tax upon cotton, the price of the one as much as the price of the other. These materials, and the fabrics which are manufactured from them, were stimulated by the high prices consequent upon the war, until the immense products of them glutted the markets of the world. That is a fact; and it is for that reason, and not because of taxation, that the price of cotton is low in the Liverpool market.

Pass this bill, take off prospectively this tax of two and a half cents per pound, and what will be the result? Not a bale of cotton will be sent forward to market until next year, and with the next crop. The present crop of cotton will be mingled with the next, and will thus find its way into the market exempt from the tax of two and a half cents per pound. Not a bale of the present crop will be moved, because the removal of the tax will be a premium for its retention equal to almost fifty per cent. of its value. I would infinitely prefer the proposition of the gentleman from New York [Mr. BROOKS] to this prospective relief, because that would permit the cotton to go forward immediately, while this will operate as a premium for the holding of it, to be sold with the next crop. Gentlemen may think that this can be prevented, that measures can be taken for distinguishing the present crop from the next crop; but I tell them that by very simple machinery the two crops can be so mingled that no detection could discover the difference.

Again, Mr. Speaker, this measure will not relieve the laboring masses of the South; it will merely increase the profits of the lords of the cotton domain. The passage of this bill will simply enlarge the rent-roll of those who own the soil. Their rent will be in proportion to the profits which labor can wring from the soil. All the advantages will accrue to the owners of the cotton domain.

I believe that we can well afford to maintain this tax. It has not so affected the price of cotton and cotton fabrics as to prevent this article of universal necessity from being very cheap indeed. The argument of gentlemen here would imply that this tax operates onerously upon those who use cotton manufactures. But this is not so. Cotton and cotton goods are cheap, and wool is so low in price that if I did not hope for relief from the present glut in the market I would advise my constituents to make a burnt offering of their sheep. [Laughter.]

[Here the hammer fell.]

Mr. ROBINSON. I ask the gentleman from Ohio [Mr. SCHENCK] to allow me one minute.

Mr. SCHENCK. I will do so with the stipulation that the gentleman shall not say anything about "the Green Isle," [laughter,] but shall confine his remarks to the cotton tax.

Mr. ROBINSON. I accept the stipulation. I shall refrain from referring to anything green. I will for the present waive the higher subject and confine myself to the lower. I shall not, at present, ask the gentleman to elevate his thoughts to the subjects involved in the "Green Isle" question, but he will yet follow me on that question as he has come up to my position on the cotton tax.

Mr. Speaker, the observation has been made on this floor that the repeal of this tax ought not to apply to the present crop because it is mainly in the hands of speculators. I wish to say that I rejoice to see so many members coming over to my view of this question. On the 18th of last July (see Congressional Globe, first session Fortieth Congress, page 719) I made an effort in this House to prevent the very thing which these statesmen around me are now trying to remedy. I endeavored on that day to bring before the House a joint resolution to repeal this tax; but I could not secure sufficient coöperation in the effort to enable me to get the yeas and nays on the motion to suspend the rules, leading gentlemen on the other side objecting.

[Here the hammer fell.]

Mr. SCHENCK. The House being impatient to get at other business, I do not propose to protract this argument any further, but will confine myself to quoting, in illustration of one or two points which I have already mentioned, a communication which I have received from a gentleman from the South, who is connected with this interest and familiar with it.

In explanation of the fact that purchasers are producing the appearance of things now existing, he states that "the cotton as a general thing is already picked and baled, and is purposely detained under transportation permits at the local depots for the purpose of creating the impression that the crop is short."

In reply to the remarks of the gentleman from Illinois, [Mr. HARDING,] and as showing that this measure is not for the especial benefit of the large planters, but will advance the interests of a totally different class of men, I wish to call the attention of the House to a further statement, also contained in this communication:

"In many instances in the vicinity of Macon, Georgia, five bales were produced to the hand, and in one instance ten bales to the hand. This shows that when the affairs of the States are settled, and the laborer performs his duties with that sense of responsibility prevailing in the North, handsome crops may be produced."

In this connection I want simply to remark they were in the olden time satisfied with one bale to a hand, and yet when it has gone into the hands of small growers, freedmen, and others, they have, either upon rented land or upon patches of their own, produced more than four or five bales to the hand. And that is the condition of things I want brought about to stimulate the production of cotton in that way.

Now, sir, I give way to have the vote taken on the amendments.

The SPEAKER stated that the debate was terminated, and the first vote would be on Mr. COVODE'S amendment to strike out all after the words "shall be," and to insert a provision to reduce the tax on cotton to one cent per pound.

The amendment was disagreed to.

The question then recurred on Mr. NUNN'S amendment to Mr. BROOKS'S substitute by adding these words:

Insert after the word "abolished" these words:
On all cotton on the farm where grown and the property of the producer at the time of the passage of this bill.

The amendment was disagreed to.

The question then recurred on Mr. BROOKS's substitute, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That on and after the passage of this act the internal revenue tax of two and a half cents per pound on raw cotton shall be abolished.

And be it further enacted, That no American manufactured cotton goods shall be entitled to the benefit of existing drawbacks unless shipped within ninety days after the passage of this act.

The House divided; and there were—ayes 37, noes 103.

Mr. BURR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 120, not voting 25; as follows:

YEAS—Messrs. Adams, Archer, Arnell, Barnes, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Gravely, Grover, Haight, Hawkins, Holman, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCullough, Morgan, Mungen, Newcomb, Nicholson, Nunn, Phelps, Pile, Pruyn, Randall, Robinson, Sitgreaves, Stone, Taber, Van Auken, Van Trump, and Woodward—41.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Barnum, Beaman, Benjamin, Benton, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Griswold, Halsey, Hamilton, Hill, Higby, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Miller, Moore, Morrell, Mullins, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Price, Robertson, Sawyer, Schenck, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taylor, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—120.

NOT VOTING—Messrs. Axtell, Bingham, Finney, Fox, Harding, Asahel W. Hubbard, Kitchen, Laflin, Loan, Mercur, Moorhead, Morrissey, Niblack, Pomeroy, Raum, Ross, Scofield, Selye, Shellabarger, Taffe, Thomas, Twichell, Burt Van Horn, Wood, and Woodbridge—25.

So the substitute was rejected.

During the vote,

Mr. WARD stated that his colleagues, Mr. VAN HORN and Mr. SELYE, were detained at home by illness in their families.

The vote was then announced as above recorded.

The SPEAKER stated that the previous question had exhausted itself, and the question recurred on ordering the bill to be engrossed and read the third time.

Mr. SCHENCK. Before calling the previous question I will yield to my colleague to offer an amendment.

Mr. LAWRENCE, of Ohio. I move to add to the bill the following section:

And be it further enacted, That the Court of Claims shall not have or entertain jurisdiction of any claim to recover back any taxes which have been paid or may be paid on cotton.

Mr. BROOKS. I shall reserve the point of order on that amendment.

Mr. HOOPER, of Utah. I ask the gentleman to yield to me to offer this amendment:

Provided, That the cotton raised in Nevada, Utah, and Arizona, being for home consumption, be exempted from taxation from and after this date.

Mr. SCHENCK. I suppose the only object of the gentleman is to get his amendment in the Congressional Globe. I am glad it goes there, but I cannot yield to allow it to be offered. I now yield to the gentleman from Pennsylvania [Mr. MILLER] to move to recommit.

Mr. MILLER. I renew my motion to recommit.

Mr. SCHENCK. I now move the previous question on the pending amendment and the bill.

The previous question was seconded, and the main question ordered.

The question being taken on the motion to recommit the bill and pending amendment to the Committee of Ways and Means, it was disagreed to.

The question recurred on the amendment of Mr. LAWRENCE, of Ohio, to add a section prohibiting suits in the Court of Claims.

Mr. WASHBURNE, of Illinois. I wish the gentleman had enlarged the scope of his amendment.

The SPEAKER. The House is acting under the operation of the previous question.

Mr. BINGHAM. I hope the amendment will be voted down.

Mr. WASHBURNE, of Illinois. I ask unanimous consent that the gentleman be permitted to modify his amendment so as to prevent the Court of Claims from taking jurisdiction of any of these cotton claims.

Mr. LAWRENCE, of Ohio. That is a different subject.

The SPEAKER. It is not germane to the bill.

Mr. WASHBURNE, of Illinois. It ought to be.

Mr. BROOKS. I make the point of order upon the amendment of the gentleman from Ohio, [Mr. LAWRENCE,] that we do not know how far it goes. It may interfere with cases now before the Court of Claims.

Mr. SPALDING. Is debate in order?

The SPEAKER. It is not. The Chair overrules the point of order made by the gentleman from New York.

Mr. ELDRIDGE. I hope I may be allowed to inquire——

The SPEAKER. Debate is not in order.

The question being taken on the amendment of Mr. LAWRENCE, of Ohio, there were—ayes 56, nays 81.

Mr. LAWRENCE, of Ohio. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 69, nays 93, not voting 25; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Benjamin, Benton, Blaine, Blair, Boutwell, Bromwell, Broomall, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dawes, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Fields, Gravely, Halsey, Hill, Higby, Hopkins, Hulburd, Hunter, Kelsey, Ketcham, George V. Lawrence, William Lawrence, Lincoln, Loughridge, McClurg, Miller, Moore, Newcomb, Orth, Paine, Perham, Pike, Plants, Robertson, Sawyer, Schenck, Shanks, Spalding, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—69.

NAYS—Messrs. Adams, Allison, Archer, Arnell, Bailey, Baker, Barnes, Beaman, Beck, Bingham, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Cullom, Dixon, Dodge, Eldridge, Farnsworth, Ferriss, Garfield, Getz, Glossbrenner, Griswold, Grover, Haight, Hamilton, Harding, Hawkins, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Jenckes, Johnson, Judd, Julian, Kelley, Kerr, Knott, Koontz, Laflin, Logan, Lynch, Mallory, Marshall, Marvin, Maynard, McCarthy, McCullough, Moorhead, Morgan, Morrell, Mungen, Myers, Niblack, Nicholson, Nunn, O'Neill, Peters, Phelps, Pile, Poland, Price, Pruyn, Randall, Robinson, Ross, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taylor, Thomas, Trimble, Trowbridge, Van Auken, Van Trump, Henry D. Washburn, William B. Washburn, Welker and Woodward—93.

NOT VOTING—Messrs. Axtell, Barnum, Butler, Finney, Fox, Humphrey, Jones, Kitchen, Loan, Mercur, Morrissey, Polsley, Pomeroy, Raum, Scofield, Selye, Shellabarger, Aaron F. Stevens, Taffe, Twichell, Burt Van Horn, Stephen F. Wilson, Wood, Woodbridge—25.

So the amendment was disagreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WARD. I demand the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 146, nays 20, not voting 20; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Baily, Baker, Baldwin, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Blair, Boutwell, Boyer, Bromwell, Brooks, Broomall, Buckland, Burr, Cake, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Fields, Garfield, Getz, Glossbrenner, Gravely, Griswold, Grover, Haight, Halsey, Hamilton, Hawkins, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Johnson, Jones, Judd, Julian, Kelley, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, Mallory, Marshall, Marvin, Maynard, McClurg, McCullough, Moore, Moorhead, Morgan, Morrell, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pile, Plants, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Ross, Sawyer, Schenck, Shanks, Sitgreaves, Smith, Spalding, Stewart, Stokes, Stone, Taber, Taylor, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—146.

NAYS—Messrs. Benjamin, Benton, Butler, Cornell, Covode, Ela, Ferriss, Harding, Higby, Jenckes, Kelsey, Lynch, McCarthy, Miller, Pike, Poland, Starkweather, Aaron F. Stevens, Thaddeus Stevens, and Ward—20.

NOT VOTING—Messrs. Axtell, Banks, Dixon, Finney, Fox, Asahel W. Hubbard, Kitchen, Loan, Mercur, Morrissey, Pomeroy, Raum, Scofield, Selye, Shellabarger, Taffe, Twichell, Burt Van Horn, Wood, and Woodbridge—20.

So the bill was passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. ROBERT JOHNSON, his private Secretary.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed the following resolution:

Resolved, That the joint Committee on Ordnance on the part of the Senate appointed at the last session, and consisting of Mr. HOWARD, Mr. CAMERON, and Mr. DRAKE, be, and they are hereby, reappointed.

Resolved, That the joint Committee on the part of the Senate appointed at the last session to revise and fix the pay of the officers of the two Houses, consisting of Mr. FESSENDEN, Mr. SHERMAN, and Mr. BUCKALEW, be, and they are hereby, reappointed.

Resolved, That the joint Committee on Retrenchment on the part of the Senate appointed at the last session, and consisting of Mr. EDMUNDS, Mr. WILLIAMS, Mr. PATTERSON of New Hampshire, and Mr. BUCKALEW, be, and they are hereby, reappointed.

Resolved, That the joint Committee on the part of the Senate appointed at the last session to examine accounts for repairs to the Executive Mansion, consisting of Mr. HARLAN and Mr. NORTON, be, and they are hereby, reappointed.

LIST OF PARDONS.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith a final report from the Attorney General, additional to the reports submitted by him December 31, 1866, March 2, 1867, and July 8, 1867, in reply to a resolution of the House of Representatives December 10, 1866, requesting "A list of the names of all persons engaged in the late rebellion against the United States Government who have been pardoned by the President from April 15, 1865, to this date; that said list shall also state the rank of each person who has been so pardoned, if he has been engaged in the military service of the so-called confederate government, and the position, if he shall have held any civil office under said so-called confederate government; and shall also state whether such person has at any time prior to April 14, 1861, held any office under the United States Government, and if so what office, together with the reason for granting such pardon, and also the names of the person or persons at whose solicitation such pardon was granted."

ANDREW JOHNSON.

WASHINGTON, *December* 4, 1867.

The message and the accompanying report were referred to the Committee on the Judiciary and ordered to be printed.

QUARTERMASTER'S DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War *ad interim* transmitting a communication from the Quartermaster General relative to the condition of the funds requisite for carrying on his department; which was referred to the Committee on Appropriations, and ordered to be printed.

MILITARY ACADEMY.

The SPEAKER also laid before the House a letter from the Secretary of War *ad interim* transmitting a communication from the Inspector of the Military Academy, proposing certain legislation relative to that institution; which was referred to the Committee on Military Affairs, and ordered to be printed.

BUILDINGS IN ST. LOUIS.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim* transmitting, in compliance with a resolution of the House of the 26th ultimo, a statement of buildings rented or leased in St. Louis for military purposes.

Mr. WASHBURNE, of Illinois. I move that that communication be referred to the Committee on Appropriations and printed.

Mr. PILE. It should be referred to the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois. I would like to have the statement read.

The Clerk read the statement accompanying the letter of the Secretary.

Mr. WASHBURNE, of Illinois. I think it may as well go to the Committee on Military Affairs, as I see it involves no appropriation. I move that it be so referred and printed.

The motion was agreed to.

CONTRACTORS FOR NAVAL VESSELS, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with the act of March 2, 1867, the report of a board of naval officers appointed to investigate the claims of the contractors for building vessels, &c.

Mr. PIKE. I move that the communication with the accompanying report be referred to the Committee on Naval Affairs and printed.

The motion was agreed to.

PRESIDENT'S MESSAGE.

The SPEAKER. The Chair has been requested to lay before the House a communication from several correspondents who have seats in the reporters' gallery of this House. The Clerk will read the communication if there be no objection.

The Clerk read the communication, as follows:

WASHINGTON, D. C., *December* 4, 1867.

SIR: As the publication of the President's message in many of the papers of the country, in advance of its presentation to Congress, has been made the subject of comment and discussion in the House, and as it is regarded as disrespectful both to the Congress and the President, we, the undersigned, special correspondents, resident in Washington, respectfully ask that the matter be referred to some appropriate standing committee for investigation, in order that the responsibility of any breach of honor or good faith may be fixed, and that it may likewise be known who acted from mercenary motives, which are charged as being the cause of such alleged violation of honor and good faith.

We have the honor to be, very respectfully, your obedient servants,

W. B. SHAW,
Chicago Journal.
L. L. CROUNSE,
New York Times.
JAMES R. YOUNG,
New York Tribune.
W. SCOTT SMITH,
New York Evening Post.
J. MACFARLAND,
Evening Press Association.
WILLIAM W. WARDEN,
Philadelphia Ledger and Baltimore Sun.
R. K. ELLIOT,
Philadelphia Age.
GEORGE W. ADAMS,
New York World.
H. V. N. BOYNTON,
Cincinnati Gazette.
ED. P. BROOKS,
Philadelphia Press.

Hon. SCHUYLER COLFAX, *Speaker of the House of Representatives.*

Mr. WILSON, of Iowa. That request being in tone respectful to the House, I suppose it may as well be referred to a committee with instructions to report whether the request should be complied with. I therefore move that it be referred to the Committee on the Judiciary with such instructions.

The motion to refer was agreed to.

JOINT COMMITTEE ON RETRENCHMENT.

The SPEAKER, by unanimous consent, laid before the House the following message from the Senate:

IN SENATE OF THE UNITED STATES,
December 3, 1867.

Resolved, That the joint Committee on Retrenchment on the part of the Senate appointed at the last session, and consisting of Mr. EDMUNDS, Mr. WILLIAMS, Mr. PATTERSON of New Hampshire, and Mr. BUCKALEW, be, and they are hereby, reappointed.

Mr. WASHBURNE, of Illinois. I move the reference of this resolution to the Committee on appropriations.

The SPEAKER. This matter properly needs no reference. By reference to the Journal of the House of the 7th of March last it will be seen that the Senate sent a message to the House requesting concurrence in their action continuing the joint Committee on Retrenchment during the Fortieth Congress, which request was complied with. That was probably overlooked by the Senate. The message will therefore lie on the table if there be no objection.

Mr. WASHBURNE, of Illinois. I can see no objection to making the reference I have indicated.

Mr. RANDALL. I would like to ask the gentleman from Illinois [Mr. WASHBURNE] what object he has in view in asking for this reference. It is merely information of the action of the Senate in reappointing this committee. [After a pause.] In the absence of any answer from the gentleman I would say to him——

Mr. WASHBURNE, of Illinois. I can explain to the gentleman if he will yield.

Mr. RANDALL. Certainly.

Mr. WASHBURNE, of Illinois. I suppose it may be proper to refer the resolution to some committee in order that they may inquire whether it is best or not to continue this committee. If the matter has been passed upon and is beyond the action of the House, then perhaps there can be no use in sending the resolution of the Senate to any committee.

The SPEAKER. The action of the two Houses in continuing this committee can only be rescinded by a concurrent resolution of both Houses.

Mr. RANDALL. I see the dilemma the gentleman has placed himself in by endeavoring to cast an insinuation upon this committee that they will ask for some appropriation. I would inform him that their action lies in an entirely different direction. They are endeavoring to save money, and in no event will they ask for any appropriation.

Mr. WASHBURNE, of Illinois. I do not see why the gentleman from Pennsylvania [Mr. RANDALL] should understand me as implying any such thing by the motion I have made. I am very certain that any committee of which he is a member will do all in its power to save appropriations and effect retrenchment. I only desired that the subject might be examined by some committee. If the matter has passed beyond the jurisdiction of the House the concurrent resolution had better be laid on the table.

The SPEAKER. It will be laid on the table, if there is no objection.

There was no objection.

JOINT COMMITTEE ON ORDNANCE.

The SPEAKER also laid before the House a message from the Senate, transmitting the following extract from its Journal:

IN THE SENATE OF THE UNITED STATES,
December 3, 1867.

Resolved, That the joint Committee on Ordnance on the part of the Senate, appointed at the last session, and consisting of Mr. HOWARD, Mr. CAMERON, and Mr. DRAKE, be, and they are hereby, reappointed.

Attest: J. W. FORNEY, *Secretary.*

The SPEAKER. The question is on concurring with the Senate in this resolution.

On the question there were—yeas 62, noes 34.

Mr. BOYER. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBINSON. Mr. Speaker, is it in order to move that the House adjourn?

Mr. SPEAKER. It is.

Mr. ROBINSON. I make that motion.

Mr. MAYNARD. I desire to inquire what would be the effect of adopting now the motion to adjourn.

The SPEAKER. The calling of the yeas and nays would be the unfinished business tomorrow morning.

Mr. MAYNARD. I think we may as well dispose of this question now.

Mr. ROBINSON. I insist on the motion to adjourn.

The motion was agreed to; and accordingly (at three o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. GARFIELD: The petition of Keziah Holman, of Lenox, Ashtabula county, Ohio, widow of Andrew Holman, for a pension.

By Mr. JENCKES: The petition of Levi K. Joslin and 525 others, praying for the settlement of international disputes by arbitration.

By Mr. KELSEY: The petition of Milo D. Codding, of Rochester, New York, for patenting a hundred items of mechanical structures.

Also, the petition of said Milo D. Codding, for grants of lands for educational purposes.

By Mr. LAWRENCE, of Pennsylvania: The petition and documents of Jonathan Jessupp, postmaster at York, Pennsylvania, in reference to the robbery of the post office at that place.

By Mr. MYERS: The petition of Mrs. Jane Naylor, widow of Benjamin B. Naylor, pilot of the monitor Patapsco, who was killed by the explosion of a torpedo, for the passage of an act to grant her a pension.

By Mr. PERHAM: The petition of David V. Sewall and Joseph J. Jackson, for bounty.

By Mr. UPSON: The petition of Joseph B. Clarke, of Dowagiac, Michigan, praying for an amendment of the laws granting pensions to widows of deceased soldiers in certain cases.

IN SENATE.

THURSDAY, *December* 5, 1867.

The Journal of yesterday was read and approved.

LAWS OF NEW MEXICO.

The PRESIDENT *pro tempore* laid before the Senate the laws of the Territory of New Mexico, passed by the Legislative Assembly at the session of 1866–67; which were referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented resolutions of the Legislature of Minnesota, in favor of a grant of land to aid in the construction of a railroad from the falls of St. Anthony to a point of junction with the Northern Pacific railroad, on the Red river of the North; which were referred to the Committee on the Pacific Railroad.

Mr. HARLAN presented a petition of citizens of Washington city, District of Columbia, praying for such action as will suspend the execution of the contracts for the erection of a new jail in and for the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. FRELINGHUYSEN presented a petition of citizens of Burlington, New Jersey, for the enactment of proper laws for the relief of the Indian tribes, that all the rights of citizenship be conferred upon them, and an investigation of the official conduct of all Government officers who have had anything to do with Indians; which was referred to the Committee on Indian Affairs.

Mr. ANTHONY. I present the memorial of Captain Charles Hunter, United States Navy, who was dismissed from the service for having

performed his duty too faithfully, but has since been honorably restored, asking for the compensation of his grade between the time of his dismissal and his restoration.

The PRESIDENT *pro tempore*. What disposition does the Senator wish to make of it?

Mr. ANTHONY. The Senator from Iowa [Mr. GRIMES] thinks it should go to the Committee on Claims: but it seems to me it should be referred to the Committee on Naval Affairs.

Mr. GRIMES. Oh, no; it is a claim, a demand for pay.

Mr. ANTHONY. Very well; I move its reference to the Committee on Claims. I will not have it go to the Committee on Naval Affairs if the chairman is opposed to its going there.

The motion was agreed to.

Mr. HOWE presented a petition of John Lockwood, praying compensation for cotton destroyed by a colony of freedmen placed upon his farm by order of General Davidson in April, 1865; which was referred to the Committee on Claims.

Mr. TRUMBULL. I present the petition of several persons who are watchmen, gardeners, and laborers employed by the Commissioner of Public Buildings and Grounds, asking that they may have the benefit of the twenty per cent. which was allowed to other officers and employés of the Government and which they think they are entitled to under the resolution of Congress on that subject, but which it seems they have been unable to get at the Treasury Department. I understand that a similar petition has gone to the Committee on Appropriations, and I ask that this take the same direction.

It was so referred.

Mr. WILSON presented a petition of William Trevor, for an increase of pension; which was referred to the Committee on Pensions.

Mr. POMEROY presented a petition of Isaiah Walker, a Wyandotte Indian, alleging that he had purchased from the Government and received a patent for ferry privileges and a landing on the Kansas river near its mouth, and that the same have been taken away by State legislation, and praying that he may be reimbursed for losses sustained by him in consequence of this legislation of the Legislature of Kansas; which was referred to the Committee on Indian Affairs.

Mr. JOHNSON presented a memorial of the Board of Trade of Baltimore in favor of the repeal of the tax on cotton; which was referred to the Committee on Finance.

BILLS INTRODUCED.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 165) to authorize the conversion of registered bonds into coupon bonds; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 166) for the relief of the owners of the land within United States survey No. 3,217 in the State of Missouri; which was read twice by its title, referred to the Committee on Private Land Claims, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos bay to Roseburg, in said State; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

ROBBERY OF PAYMASTER GLENN.

Mr. CONNESS. I offer a resolution, and ask for its present consideration:

Resolved, That the Paymaster General be requested to report to the Senate the proceedings and findings of the Board appointed to investigate the circumstances of the robbery of Major George E. Glenn, Paymaster United States Army, at Fort Boisé, Idaho Territory.

There being no objection, the Senate proceeded to consider the resolution.

Mr. VAN WINKLE. I do not wish to make any objection to the resolution, but I think it should be differently worded. I think the call ought to be on the head of a Department, and not on a subordinate; it ought to be on the Secretary of War instead of the Paymaster General.

Mr. CONNESS. I have considered that point, but I believe it is usual to call on the Paymaster General for this class of information.

Mr. VAN WINKLE. I merely make the suggestion. I do not move any amendment.

The resolution was agreed to.

RECONSTRUCTION OF SOUTHERN STATES.

Mr. WILLEY submitted the following resolution: which was considered by unanimous consent, and agreed to:

Resolved, That the General of the Army of the United States furnish to the Senate a statement showing the number of white voters and also the number of colored voters registered in each of the States subject to the operation of the acts of Congress commonly called the reconstruction acts; also how many of said white voters and how many of said colored voters so registered cast their votes in favor of, and how many against, the calling of the convention provided for in said acts; also how many of said white voters and how many of said colored voters in each of said States failed to cast their votes either in favor of or against the calling of said convention; also, as far as may be practicable, the number of white persons and also the number of colored persons in each of said States who were disfranchised and rendered incompetent by said reconstruction acts to vote upon the call of said convention; and also as far as may be practicable the number of white persons in each of said States who were entitled to be registered but who failed to apply for registration.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, in which it requested the concurrence of the Senate.

ASSISTANT DISTRICT ATTORNEYS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Attorney General be instructed to report for the information of the Senate how many assistant district attorneys he has appointed in the several districts of the United States, what their names are, and the amount of salary paid them; also whether any persons appointed assistant district attorneys had previously been rejected; and if so, the date of such rejection, and of subsequent appointment.

NAVY-YARDS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee of Naval Affairs be instructed to inquire what changes have been made in the organization of the several navy-yards of the United States in the various civil departments thereof; whether such changes have added to their efficiency for the transaction of business, and whether the expense of their maintenance has been increased or decreased thereby; and to report what legislation, if any, is necessary for the improvement of the system in force, and for the more judicious and economical expenditure of the public money.

HOUSE BILL REFERRED.

The bill (H. R. No. 207) to provide for the exemption of cotton from internal tax was read twice by its title, and referred to the Committee on Finance.

PRINTING OF PRESIDENT'S MESSAGE.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the resolution that was pending yesterday in the morning hour, for the printing of the President's message, and I hope the Senate will dispose of it at once. The debate, I suppose, can just as well take place on the resolution introduced by my friend from Missouri [Mr. DRAKE] as on this one, and it is rather desirable that we should know at once whether the resolution is to pass or not before the type now in the Printing Office shall be distributed.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That the message of the President of the United States, with the reports of the heads of Departments, without the accompanying documents, be printed, and that three thousand additional copies be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts [Mr. SUMNER] to strike out the words "the message of the President of the United States with," so as to confine the printing to the other documents; and on that question the yeas and nays have been ordered.

Mr. HOWARD. I had intended to say a word further on the subject which is called up for consideration by the resolution, but I shall postpone any remarks which I have to make until a future day and endeavor to make them whenever my friend from Missouri shall call up his resolution. I shall, however, vote for the amendment offered by the honorable Senator from Massachusetts to this resolution.

The question being taken by yeas and nays resulted—yeas 9, nays 36; as follows:

YEAS—Messrs. Cameron, Chandler, Howard, Howe, Pomeroy, Ramsey, Sumner, Thayer, and Wade—9.

NAYS—Messrs. Anthony, Buckalew, Cole, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Hendricks, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ross, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—36.

ABSENT—Messrs. Bayard, Cattell, Fowler, Guthrie, Nye, Saulsbury, Sprague, and Yates—8.

So the amendment was rejected,

The resolution was agreed to.

EQUAL RIGHTS.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate bill No. 141, a bill that was introduced by me on the first day of the late meeting of Congress.

The motion was agreed to; and the bill (S. No. 141) for the further security of equal rights in the District of Columbia was considered as in Committee of the Whole. It provides that the word "white," wherever it occurs in the laws relating to the District of Columbia, or in the charter or ordinances of the cities of Washington or Georgetown, and operates as a limitation on the right of any elector of the District, or of either of those cities, to hold any office, or to be selected and to serve as a juror, shall be repealed, and that it shall be unlawful for any person or officer to enforce, or attempt to enforce, that limitation after the passage of the act.

Mr. SUMNER. This bill is in the precise terms of a bill that passed both Houses of Congress on the last day of the last meeting in July, and which, after being duly enrolled, was sent to the President. It was not returned by him before the rising of Congress, and I introduced this precise copy on the first day of our late meeting. At the suggestion of the Senator from Illinois I forebore calling it up for consideration in order to await the expiration of eleven consecutive days of meeting of the Senate, to see if within that time the bill would be returned to Congress with or without his objections. It was not returned. Since then I have addressed a letter to the Department of State to ascertain if the bill had been sent there. The answer of the Department I received yesterday. I send it to the Chair and ask to have it read.

The Secretary read as follows:

DEPARTMENT OF STATE,
WASHINGTON, *December* 4, 1867.

SIR: I have the honor to acknowledge the receipt of your letter of this date inquiring if an act entitled "An act for the further securing of equal rights in the District of Columbia," passed by both Houses of Congress and sent to the President on the 20th of July last, has been filed in the Department of State. In reply I have the honor to inform you that no such act has been received at or is on file in this Department.

I have the honor to be, sir, your obedient servant,
WM. H. SEWARD.

Hon. CHARLES SUMNER, *United States Senate*.

Mr. SUMNER. As the act which passed both Houses at the last session has failed for the want of the signature of the President, I propose now simply to renew what was done during the last session of Congress, and to present the act again for the signature of the President.

Mr. POMEROY. I shall be willing to vote for this bill as it is, considering that it has already passed both Houses; but I must say that it is very imperfect; it is very far from reaching the whole case. We seem to have been in the habit of doing things by piecemeal. First, by one bill we get the colored man into a car, and then we give him the right of suffrage, and we do a little at a time. This simply relieves his disabilities so far as relates to being a juror and holding office in this District, but it does not strike out the code which is in this District. It is not a clean thing. It does not do what ought to be done. Perhaps there may be some other bill upon which we can attach amendments that shall cover the whole ground. There is an old code in this District that came down to us from Maryland, which operates as an infringement on the rights of the colored people aside from preventing them from holding office and from being jurors, to which two things this bill is restricted.

Mr. WILSON. In what respect?

Mr. POMEROY. The old code and practice affected them in many respects. I think colored men are to be dispersed if there are too many of them together after a certain hour of the night. Then a man of my complexion, or about like mine, is prohibited from contracting matrimony with a person of a darker complexion. There are all sorts of prohibitions upon the rights of citizens. All such restrictions ought to be stricken from the code of the capital of this nation. There ought to be no such distinction on our statutes. This bill only gives the right to hold office and the right to be jurors; but as it has passed both bodies once I shall not move an amendment. I am willing to go for what I can get piece by piece. I think, however, it would be better for us to bring in one bill to make a clean sweep of the whole legislation on this subject, and end it. I want to arrive at a conclusion some time.

Mr. SUMNER. I would simply say, in reply to my friend, that, as I have the honor of being upon the Committee on the District of Columbia, I propose that the subject to which he now calls attention shall not be neglected in that committee. What they may finally authorize with reference to the District I cannot venture to say. I introduced the present bill, however, in the language which you have heard, because it had passed both Houses in this language, and I thought on the present occasion it was not expedient to raise any further question. I agree with my friend precisely in all his aims, but I shall try to content myself at the present moment with the bill in the actual form which it has.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. HENDRICKS. Mr. President, I ask for the yeas and nays on the passage of this bill; and I desire to say but a very few words. I was a little surprised to hear the Senator from Kansas say that he would vote for this bill as it is, though he desires that it should go much further. I had understood that the people of his State at the recent election had in a very emphatic manner pronounced against this policy so far as that State was concerned, and had said in such distinct terms as to leave no question upon that point that the negro population should form no part of the political community of that State; indeed, they went so far as to say that they ought not to be allowed to vote in that State. A like expression—that they ought not to be allowed to vote—has been given in some other of the northern States. This bill goes much further than that, and proposes to add to the measure which was adopted two or three sessions ago, giving them the right to vote, the further right to hold office in this District, a much higher privilege, I suppose, at least so far as it affects us; it is an equal privilege, anyhow.

Mr. President, in voting upon laws for the District of Columbia I have always felt it obligatory upon me to vote for such laws as I would be willing to vote for my own people at home for their government. The Congress of the United States, under the Constitution, enacts the laws for this District; but inasmuch as the people of the District have no voice in our selection, I think we ought only to vote for such laws as we know to be agreeable to our own folks, to say the least of it. If the people of a State have rejected a proposition by a decided majority, and we know that the white population of the District agree with the people of that State, I do not well see how a Senator can impose such a law upon the people of the District.

It is not my purpose to discuss the question, but simply to call attention to the fact that the expression of opinion in the northern States in the recent elections has been very emphatic against this policy. Notwithstanding the bill passed at the last session, it is not necessary that we should now pass it, for the pleasure of the people had not then been so emphatically made known as it now has been.

Mr. JOHNSON. I do not think there is any member of the body who would more willingly give to the people of color in this District and throughout the United States every privilege necessary to their protection than myself; but notwithstanding that, I have been unable in the past to bring myself to the conclusion that the allowance of the right of suffrage to this class of our population is politic, to say the least, or is demanded upon any ground of principle. That right, according to my understanding of it, is the creature of positive law, not one of the inalienable rights with which we are endowed, and may or may not exist in any particular community as that community may think is advantageous or not advantageous to the interests of the whole.

But the objections to the measure upon your table, sir, in my view, are much stronger than those which were applicable to the other question of granting them the right of suffrage. From the consequences of the exercise of that right there is comparatively, as far as the general public is concerned, little to be apprehended. The large numerical majority of white people in the United States is perhaps a security against any serious disadvantage which might happen to the country at large. But that is not the case as far as concerns the measure upon your table. In that we and all our constituents of the white race have a very direct interest. We are to be tried civilly and criminally, we and our constituents, if we are charged with having violated any right, private or public; and the question for the Senate to decide is whether we are willing to have ourselves tried by a jury of black men for the most part just emerged from slavery, without the capacity absolutely necessary to a faithful and intelligent discharge of that duty. And it is more especially important in relation to criminal cases, because in cases of that description the jury may, in the exercise of its power, decide conclusively for itself, disregarding the opinion of the court; and thus our citizens and ourselves may be subjected to a judgment over which there is no revising power practically pronounced by twelve ignorant black men.

But that is not all. The number of the black race in this District is very large and promises to become larger. It may be able to elect out of its own numbers to every office, judicial or otherwise, that is not now to be filled by the Executive with the consent of the Senate. We may give them the authority to elect their magistrates; we may give them the authority to elect their judges; there is nothing to prevent it; and then we should be placed in the condition of having a tribunal to decide upon our rights, civil and criminal, constituted of persons of that race alone. Now, for one, although as I said in the beginning, I would secure them in the possession of every right which a man has the authority to claim as a right, I am against giving to them a privilege which may be exercised to the detriment of the rest of the public, and which is not at all necessary to the vindication of all of their own rights.

I forbear to say anything of the recent elections, because I suppose that the result of those elections is known to us all, particularly to the member from Massachusetts [Mr. SUMNER] and to my friend from Kansas, [Mr. POMEROY.] All, therefore, that I will suggest upon the subject is that they afford us at least a premonitory symptom that the policy which we have adopted in the past upon the subject of the black race is not altogether palatable to the people of the United States; and as we are but their servants when we come to the conclusion that they have indicated their will in that way it becomes us, as I think, in obedience to the popular will, to halt and not further to press on in a system of legislation grown, as I think, to be so obnoxious to the public sentiment.

I forbear to say more, Mr. President; but in the name of justice and on the part of the people of this District, in very respectful terms I beg leave to protest against the passage of such a measure as the one before you.

Mr. POMEROY. Mr. President, I only wish to remark that if what has been said be true, as I think it is, that the colored people are very numerous in this District, it is worthy of consideration that they, too, have rights. They are to be tried by somebody, and it may be quite as objectionable to them to have their rights adjudicated by twelve ignorant white men as it is for white men to have their rights adjudicated by twelve ignorant black men. If this argument is good for anything as against the negro, it is equally so as against the white man, because intelligence, loyalty, or patriotism is not confined in this District nor anywhere to any class or any color. If a Senator is in favor of giving to this class of persons all the rights that are given to white men, then this is one of the rights certainly to be given. There is no State in the Union where a man has the right to be an elector, where he has a right to vote, that he cannot be voted for. In the nature of the case the man who carries the ballot, in all the States of this Union outside of this District, has the right himself to be elected. This is one of the facts that stare us in the face, that under our own legislation we have made electors of a class, and yet they are not allowed to hold office themselves. This bill remedies that defect.

In reply to my friend from Indiana [Mr. HENDRICKS] I have only to remind him that some years ago when the State of Indiana voted so largely against the sentiment of the Democratic party as represented by the honorable Senator I do not find that he resigned his seat. He did not relinquish his principles; he did not abandon his position because his State went against him. I never knew a man who had convictions abandon them because all or even a majority of the people of his own State did not adopt them for the moment. We have for twenty-five years learned "to labor and to wait," and results come in due time. Quite a portion of the people of my own State (and very excellent people they are) are from Indiana; and they brought with them prejudices against color and against negroes. Some of the western States for many years had been disgraced by black laws; and many of their people brought to our new State the prejudices thus engendered, and as a matter of course they vote for years under such influences; but, after all, this is only a question of time: another election on the subject will make "all things even."

Mr. WILSON. The Senator from Indiana

and the Senator from Maryland remind us of the result of the recent elections. I would suggest to those honorable Senators and to other Senators on the other side of the Chamber that it would be well to manifest a little modesty in their exultation over the result of the elections of this year. I have not forgotten, and I hope that they have not forgotten, that during the past six years quite a number of Senators have sat in this Chamber who have often been reminded by the votes of the people that they were speaking and voting contrary to the expressed opinions of the people of the United States and of the States they represented. I remember, too, that in 1862, after Mr. Lincoln had issued his proclamation of emancipation, and when State after State had faltered in the support of his policy, the Senators came into this Chamber and often reminded us that the policy of emancipation had been condemned by the voice of the people. Believing then that the policy of freedom was just, wise, and patriotic, having confidence in the ultimate judgment of an intelligent and patriotic people, we calmly bided our time, waited for the sober second thought of the people; it came quickly, and we moved forward to the accomplishment of our lofty purposes. We now turn with abiding confidence to the sober second thoughts of the people, and we await the results of the great struggle next year between the contending forces of impartial justice and unreasoning prejudice.

Generations of slavery poisoned the very fountains of our being, filling us with unreasoning prejudices against a wronged and hated race. These wicked prejudices against the African race have been quickened and intensified by the great political struggle through which the nation has passed and is passing. Slavery has been undermined and overthrown, and the civil and political rights of millions of men have been secured by a series of legislative and executive measures. A great political party has struggled with unreasoning prejudice and passion against the series of measures that have set our country free and lifted the emancipated bondman up to the rights and privileges of American citizenship. The great party whose glory it is that it broke the fetters of nearly five million bondmen, lifted them from the degradation of chattelhood to the lofty level of manhood and citizenship, and made the nation free, has not been and is not now wholly free from the cruel and wicked prejudices engendered by the slavery of the African race. From the day when the Senator from Illinois [Mr. TRUMBULL] submitted in the Senate the proposition to make free slaves used by rebels for military purposes, a measure which Mr. Breckinridge declared was the beginning of the "loosing of all bonds," to the measure now pending there has been a portion of the Republican party who have doubted, hesitated, faltered, and sometimes joined their political enemies in vain efforts to defeat the great work of their political friends. When we passed the bill abolishing slavery in the national capital; when we swept away the fugitive slave law; when we armed black men to fight the battles of the country; when we made their wives and children free; when we adopted the great constitutional amendment that made the Republic forever free, we had Republicans in Congress and Republicans out of Congress who doubted, hesitated, and shrank from the glorious work imposed upon them by the needs of their country and the providence of God.

When Mr. Lincoln issued the immortal proclamation of emancipation there were at least a quarter of a million of Republicans who folded their arms, stood still, and saw the heart of their great leader burdened by a series of defeats. Those very men, after a little hesitation, rallied again to the calls of duty. On every one of the long series of executive and legislative acts by which slavery was abolished and the rights of the freedmen secured there have been Republicans who have lingered in the rear, but who have applauded the great victories after they had been achieved. The defeat of manhood suffrage in several of the States this autumn is another evidence of the melancholy fact that all the members of the great party that has achieved so much for impartial liberty and equal rights have not conquered their prejudices. Instead of shrinking from duty now, of abandoning our cherished convictions, we should accept the great fact and appeal to the heart, reason, and conscience of the people to rise above unreasoning prejudices and do unto others as they would that others should do unto them. The lesson taught us by the recent elections is one of unselfish devotion to principle, unwavering firmness, and ceaseless activity.

During the past six years the nation has moved forward with wonderful rapidity in the career of progress. So rapidly have we moved that we can hardly realize how much has been achieved for freedom, elevation, and improvement. All the time there has been a class of men connected with the public press or accustomed to address assemblies composed of the most advanced and enlightened of our people, who have continually declared that the people have been in advance of the Congress of the United States. It is not strange that gentlemen accustomed to the applause of the cultivated and the refined, to the approving smiles of ladies and gentlemen, above the low and vulgar prejudices of color or race, should in their zeal have reproached Congress for what may have often appeared to them timidity, treachery, or cowardice. But the truth is, and truthful history will so record it, that from the opening of the great rebellion to this day Congress has been ahead of the people. On every question concerning the liberties and the rights of the African race the Republicans in Congress have been in advance of the people. These late elections, like the elections in 1862, demonstrate the fact that the Republicans in Congress are in advance of the Republicans out of Congress. These elections show us that the country was not so right for manhood suffrage as we had thought it to be, that there were thousands of Republicans who were more or less influenced by the wicked prejudices against men of the African race. Unreasoning prejudices must be conquered and the people educated to the high standard of doing equal and exact justice to all men. The people of the United States have yet to learn much ere they are swayed by that generous, pure, and Christian democracy that lifts up the poor and lowly.

Our great purpose is to make the citizens of the United States equal in rights and privileges; to make the Declaration of Independence the living faith, the practical policy of the nation. When that great work is completed—and the great struggle will go on until it is completed—intellect, character, and worth will win their proper places and wield their legitimate influences. Let all men in the country, then, who love liberty and justice; all who are for peace and prosperity; all who wish to see the country rapidly advance in prosperity, power, and glory, adhere more firmly than ever to the only policy that can lift the nation upward and carry it forward.

I assure the Senator from Indiana and the Senator from Maryland that the recent defeats of the Republican party afford abundant reason why we should be firmer than ever in maintaining the right. After four years of uninterrupted successes we have been checked in our onward march. Like an over-confident army moving carelessly forward, we have been sharply checked, doubled up, and thrown back a little. I am confident these little checks will do us all a great deal of good. When we are moving forward in the accomplishment of our great work it is sometimes a question whether we shall take one step or two steps forward. We may differ about the rapidity of our movements, but I am sure there can be no differences among us when we are asked to retreat. I will not consent to retract, qualify, or retreat a single inch, but I will maintain our position with more firmness than ever. Let Senators hear and understand, let the country understand, that the Republican party of the United States takes no steps backward.

The PRESIDENT *pro tempore*. The morning hour having expired it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. SUMNER. I hope my friend from Vermont [Mr. EDMUNDS] will allow that to be passed over informally until we take a vote on this question.

Mr. EDMUNDS. I have no objection if we can come to a vote without further debate; otherwise I think we may as well go on with the regular order.

Mr. SUMNER. If any Senator wishes to debate the bill I shall not press it now.

The PRESIDENT *pro tempore*. It can be postponed by common consent; otherwise the Chair will proceed under the rules.

Mr. SUMNER. I do not understand that there is to be any further debate.

Mr. HENDRICKS. In saying there will be "no further debate" the Senator is mistaken. If he means by that an elaborate discussion of the question he is right as far as I am concerned; but I have got a little to say to the Senate on the subject.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate, on which the Senator from Vermont [Mr. EDMUNDS] is entitled to the floor.

THE PUBLIC DEBT.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 66) pledging the faith of the United States to the payment of the public debt in coin or its equivalent.

Mr. EDMUNDS. Mr. President, I endeavored to show yesterday, when I had the honor of addressing the Senate, that by the strict letter of the loan laws, to which alone, if I correctly understand their position, the favorers of this new way of paying the national debt appeal for a justification of their course, the debt of the United States of the character which we are now discussing is payable by force of those statutes in the real money, the constitutional coined money of the country; and I endeavored to maintain that independent of any historic testimony, independent of any light to be drawn from the debates that attended the passage of those acts, and independent of the contemporaneous construction and action of the officers of the Government in carrying out those laws. Indeed, it is contended by one of the distinguished leaders of this new movement, a distinguished gentleman of Massachusetts, that on a question of this kind we are not entitled to look beyond the letter of the law; that we are bound, in construing these statutes, to be blind to the march of events; that when an appeal is made, as in claiming this payment an appeal only can be made, to the honor and good faith of the nation, because we are not the subject of coercive measures in measuring what we are to do by the standard of honor and good faith, we must be blind to the circumstances under which we entered into those engagements; and that we have no right to ask ourselves what we ourselves understood in the passage of these laws, and what we gave every widow and trustee and mechanic and farmer in the country who advanced their little savings to us when we wanted them to understand, was the construction of these laws, but that we must stand by the very letter of the statute itself.

Mr. President, I dissent entirely from any such proposition. Even in courts of law, where coercive measures are resorted to, and where the judicial sense holding aloft the scales of justice impartially is said by the legend to be blind and to see no other considerations than the law itself—even in such cases every gentleman who is a member of the bar knows,

and every man who has ever sat upon a jury knows, that it is the constant and the necessary course of jurisprudence that the judges in interpreting a statute must place themselves in the shoes of the lawgiver; they must examine the contemporaneous history in order to find the true interpretation of the law; and if there be any doubt upon the letter of the law they must follow it in its historic course onward in its execution; they must find how those who were acting under it understood it; they must find how those who placed their faith upon it understood it; and then the measure of doubt, if there be any, upon the letter of the statute is resolved according to justice and good faith.

Now, what is this history? The debates on the passage of these various measures through the two Houses after the creation of legal tenders had raised the possibility of a question as to the species of currency or money in which the bonds of the United States should be discharged, plainly show that it was the intention and expectation of all parties and of gentlemen of all varieties of views as to the policy to be pursued by the Government in raising money; that the issue of legal tenders was to be limited in amount and of temporary duration, and that long before the Government would be required to pay its bonds the currency of the country would be gold and silver, or paper money convertible into gold or silver on demand. A distinguished member of the House of Representatives from Pennsylvania, the then chairman of the Committee of Ways and Means, [Mr. STEVENS,] on the 19th of December, 1862, in a speech on the subject of the finances of the country, said, referring to the difficulties in which the Government was then placed, and the necessity of providing some immediate measures to bridge over the financial gulf that then seemed to exist:

"The Committee of Ways and Means were expected to provide the means without any suggestions from any quarter to aid them. After careful deliberation the committee, rather, as it turned out, the one half of them, determined to inaugurate a system of national currency consisting of legal-tender notes, receivable in all transactions between individuals and between individuals and the Government, and convertible into bonds of the United States, bearing six per cent. interest, payable semi-annually in lawful money, and redeemable in twenty years in gold or silver coin. The issue of $150,000,000 of such notes was authorized, and of $500,000,000 of twenty-year bonds.

"The system was simple in its machinery and easily understood. It formed a uniform currency, sustained by the faith of the Government."—*Congressional Globe, Thirty-Seventh Congress, third session*, page 145.

The gentleman then proceeded to give a synopsis of a bill introduced in December, 1862, by himself upon this subject:

"It was intended to restore the law just to the condition in which it left the House of Representatives, and nothing more.

"The first section provides that the Secretary of the Treasury shall pay off and cancel all the five-twenty bonds, and all others whose interest is payable in gold, and to exchange new bonds for them on such terms as shall be agreed on, or pay them in legal tenders.

"Certain money editors have professed to see in this a violation of public faith, which promised the payment in gold. Nothing is more false. It proposed to lift these bonds, by negotiation with the holders, at such rates as could be agreed on. If the holder declined to sell, he would be entitled to receive his interest in gold, according to the original contract. I suppose no man could be found in this House base enough to propose repudiation. None but a very stupid man could so misread the bill. True, it proposed to issue no more bonds of that kind, and repealed the law authorizing it." * * * *

"What business has anybody to inquire whether in our future issue of bonds we intend to pay the interest in coin or legal tender? It is enough for them to know that in contracts already executed the Government will keep its faith." * * * * "Having restored the law to its original shape, it proposes to raise money to pay the pressing debts due to depositors and gold-bearing bonds, the pay due soldiers, and other expenses, by issuing legal-tender notes, not exceeding $200,000,000 beyond those already authorized, and to issue $1,000,000,000 of bonds bearing six per cent. interest, payable semi-annually in lawful money, and redeemable in twenty years in coin."—*Ibid.*, page 146.

The same gentleman in the course of the debate on the passage of the bill to which he was then referring, the act of February 25, 1862, repeatedly over and over again, he being then chairman of the Committee of Ways and Means, said that this debt was payable in coin; not that it was then disputed in the House of Representatives that it was so payable, but he was speaking to the country; he was appealing to every man who had a dollar to lend, or a horse, or a cow, or any supplies to furnish to the Government; and he was showing them over and over again the value of this investment, which would draw an interest in gold, and at the end of twenty years would be returned in gold. No man when that bill passed on the 25th of February, 1862, had asserted in Congress, so far as I am able to discover from the debates, that it bore any other construction than that which I now contend for; and the observations of this justly distinguished gentleman were devoted, as I have said, not to convincing the House that that was the purport and meaning and interpretation of the law, but to let the country know what a splendid investment was being provided for those who had money to lend or supplies to furnish.

The act of March 3, 1863, which first introduced the express provision in terms that the principal of the debt should be payable in coin, did not, as reported by the Committee of Ways and Means in the House of Representatives, contain that provision; and the whole debate upon the consideration of the bill in that body, as of all the prior bills, most plainly shows that it was the expectation of all persons, and was treated as a matter of course, that the public debt of the United States would be paid in that commodity which is recognized by the universal consent of mankind as money, namely, gold and silver. A few quotations from those debates will demonstrate the truth of what I have stated.

Mr. Spaulding, of New York, in the course of an able and elaborate speech on the subject, said that the bonds of the United States could not be negotiated to the extent desired for gold, "not because your bonds are not as good, dollar for dollar, as gold, but because the whole amount of gold in the country that could be had for circulation does not probably exceed $250,000,000;" and in advocating the further issue of greenbacks convertible into these same bonds, he quoted from letters of Jefferson, written in 1813 and 1814, as follows:

"In such a nation there is one and only one resource for loans sufficient to carry them through the expenses of a war, and that will always be sufficient and in the power of an honest Government punctual in the preservation of its faith. The fund I mean is the mass of circulating coin. Every one knows that, although not literally, it is nearly true that every paper dollar emitted banishes a silver one from circulation.

"A nation, therefore, making its purchases and payments with bills fitted for circulation thrusts an equal sum of coin out of circulation. This is equivalent to borrowing that sum; and yet the vendor receiving payment in a medium as effectual as coin for his purchases or payments has no claim to interest. And so the nation may continue to issue its bills as far as its wants require and the limits of the circulation will admit."

"Treasury notes," says Mr. Spaulding, "issued by the Government, he [Jefferson] regarded as a loan from the people, without interest, and the only available resource in time of war." He urged ample taxation as a basis for Government paper issues, and adds:

"That in the interval between war and war, all the outstanding paper should be called in, coin be permitted to flow in again, and hold the field of circulation until another war should require its yielding place again to the national medium."—*Congressional Globe, Thirty-Seventh Congress, third session*, page 288.

In the further debate of the bill Mr. STEVENS said:

"It would be fair, I suppose, to state that my amendment proposes to pay for these bonds at the end of ten years in coin, but to pay the interest in currency; while the bill of the Committee of Ways and Means proposes to redeem the bonds in currency."

Mr. Horton, a distinguished and leading member of the Committee of Ways and Means at that time, replied:

"I cannot state what the gentleman asked me to state, because, according to my view, it is not correct. The bill of the Committee of Ways and Means does not contemplate paying in paper."

Mr. STEVENS again said:

"Then the Committee of Ways and Means and I do not agree as to its meaning."

Mr. Horton replied:

"I speak only for myself, and I appeal to the bill. The policy of the bill is to pay the interest in coin, and to collect the imports in coin, and to redeem the bonds in twenty years in coin. We hold out the idea that we shall get back to the true basis as soon as we possibly can, and we cling to every rope that will aid us in getting back."—*Ibid.*, page 388.

Mr. Walker, of Massachusetts, said:

"It is my intention to propose, if opportunity is offered, a substitute or amendment [to the bill] which shall provide that the Treasurer be authorized to issue $300,000,000 in circulation bonds of various denominations of five dollars and upward, bearing interest at the rate of six per cent. semi-annually, payable, principal and interest, at the end of three years in the lawful currency of the United States; convertible at any time into six per cent. coupon bonds having twenty years to run, and receivable for all Government dues except duties on imports."—*Ibid.*, page 338.

Thus it will be seen that the proposition on the opposite side of the financial question was to change the report of the committee to a bill which should provide for issuing a species of currency that should be expressly payable in the kind of promises which we call "lawful money."

My present colleague, [Mr. MORRILL,] in a clear and able exposition of the principles upon which the bill proceeded and of the necessities and duties of the Government, urged the necessity of keeping at all times as near as possible to specie payments, and of so adjusting the finances of the country as to return at the earliest period to the safe and solid basis of the entire convertibility of whatever circulated as money into gold or silver coin, and he treated the subject as if it were understood on all hands that the payment of the principal of the Government debt must of necessity be in real money. The same leading idea runs through the whole debate.

The contest in the House of Representatives having waxed warm over opposing plans of finance not touching this precise question, and the leading advocate of a plan which was not in favor with the majority of the House having insisted that the bill in the form in which it then was would leave the bonds to be paid in currency, the sale and disposition of the five-twenties under the act of 1862, then already authorized, and which was going forward, was suspended on account of the fear of persons, created by this assertion, so that before the bill came to its final passage it seemed necessary, as a mere matter of precaution and quiet, to insert specifically the provision that the bonds should be paid in coin, which was accordingly done on motion of Mr. Thomas, of Massachusetts.

That, Mr. President, was the first time when the word "coin" was introduced into these bills as describing the species of money in which the principal of the debt should be paid, and the causes that led to it were what I have stated. The Government was in great distress; this debate had waxed hot, and it was contended by the advocate of another plan that the virtue of his over that of the Committee of Ways and Means was that his did provide in terms for the ultimate payment of the principal in gold, although for the interest in lawful money; and the consequence of that was, as I have said, that the whole disposition of the five-twenties of 1862, which the Government required to dispose of day by day to meet its wants, was stopped on account of the panic that was created; and therefore it was that, in this ten-forty act of 1863 the word "coin" was at last inserted from the very precaution that it was necessary then to take because of the doubt that had been attempted to be thrown on the construction of the previous act.

Upon that subject I beg leave, with the permission of the Senate, to read an extract from a letter that I have recently received from a distinguished banker who was largely connected with the disposition of the Government bonds at that time. He says:

"I believe that there is not an instance on record so far as I know (except a few cases of poor broken down countries) where this principle has been violated, or where it has been thought necessary to insert a coin provision in any bill authorizing a loan until

the precedent was made by our own Government during the war in the case of the ten-forties."

That is the act to which I have just referred.

"We have acknowledged this principle by paying, during the darkest days of the war, in coin a portion of the loan that fell due, and are about to pay in January next, in coin, a larger loan. Both of these loans were created twenty years since, and in the acts creating them there is not contained a word about their being specially paid in coin. Why? Because of the principle above stated, which, until the recent raids of gentlemen whom I will not name, has never been questioned.

"It was the recognition of this great principle that caused me to advertise all the loans that we sold during the war as being payable, principal and interest, in coin. In this I was sustained by frequent letters from the Secretaries of the Treasury, Messrs. Chase, FESSENDEN, and McCulloch. You will doubtless recollect that during the darkest days of the war, when I was striving to raise funds for the payment of our armies and the supplies needed by the sale of the five-twenty loan—that at this critical period Mr.—— deliberately arose in his seat and introduced a bill providing for the payment of our debt, principal and interest, in currency. As he was the chairman of the Committee on Ways and Means and the recognized mouthpiece of the Treasury Department the result of the introduction of this bill was for the moment deplorable. The news flew like wildfire, sales of the loan was suspended, and many threw their bonds upon the market; and although the project was at once disavowed by the Secretary of the Treasury, and by Congress also, yet the mischief was done. I, as the agent of the Government, was put to an enormous additional expense, and weeks of delay occurred in the payment of vouchers and for the services of the Army."

Mr. COLE. I should like to inquire the author of the letter, if the Senator feels at liberty to give his name.

Mr. EDMUNDS. The author of the letter is Mr. Jay Cooke, who was the Government agent in the sale of the bonds. The panic that I have described, the trouble into which we got on account of the agitation of this question over the ten-forty act of 1863, was followed by the action of the executive branch of the Government upon the subject—the agents of the Treasury, the Secretaries of the Treasury, and every other person connected with the Government in the disposition of the five-twenties. After this ten-forty act of 1863 was passed, it being impossible to raise much money under it, for very few millions were taken at first, it was necessary to do something to have the five-twenties of 1862 taken, which were then the only available means (besides these ten-forties of 1863, which would not go very fast,) to meet our necessities and pay the Army. What was done? The Treasury Department issued letter after letter, the agents of the Government issued advertisement after advertisement, calling the attention of the people to the fact that the five-twenty loan was payable in coin, principal as well as interest. On the 26th of May, 1863, Mr. Harrington, the Assistant Secretary of the Treasury, wrote a letter, which I will read, and you will notice that this followed the passage of the act of March 3, 1863, the ten-forty act, which contained the provision for payment in coin:

TREASURY DEPARTMENT, *May* 26, 1863.

* * * * The five-twenty sixes being payable twenty years from date, though redeemable after five years, are considered as belonging to the permanent loan, and so are also the twenty-year sixes, (1881,) into which the three-year seven-thirties are convertible. These bonds will therefore be paid in gold.

Very respectfully,

GEORGE HARRINGTON,
Assistant Secretary of the Treasury.

SAMUEL H. WALLEY, Esq.,
President Revere Bank, Boston.

The letter contains another clause on the subject of the seven-thirty temporary notes, which it is not necessary to read in this connection. On the 15th of February, 1864, the Assistant Secretary of the Treasury, Mr. Field, wrote as follows:

TREASURY DEPARTMENT, *February* 15, 1864.

GENTLEMEN: Your letter of the 12th instant, relative to the funds in which the five-twenty bonds will be redeemed, has been received.

I am directed by the Secretary to say that it is the purpose of the Government to pay said bonds, like other bonds of the United States, in coin, at maturity.

Very respectfully, M. B. FIELD,
Assistant Secretary of the Treasury.

Messrs. BARCLAY & LIVINGSTON, *New York.*

Jay Cooke & Co., the authorized agents of the Government in the sale of these bonds, in their advertisement, say:

"This is a six per cent. loan, the interest and principal being payable in coin, thus yielding about eight per cent. per annum at the present premium on gold. It is called five-twenty from this fact: that while the bonds may run for twenty years, yet the Government has the right to pay them off in gold at par at any time after five years."

Spencer Vila & Co., authorized Government agents in Boston, say in their advertisement:

"When the Government redeems these bonds they must be paid in gold."

Brewster, Sweet & Co., also authorized Government agents, urge the public—

"to invest in this popular loan, where principal and interest are payable in gold."

And other agents to the same purport.

On the 18th of May, 1864, Secretary Chase wrote the following letter, and it was when the act of June 30, 1864, which did not contain the word "coin," was under consideration, and it was made use of in the House of Representatives by Mr. HOOPER, from the Committee of Ways and Means, upon that very point, to show to the House that it was unnecessary to insert in the act of June 30, 1864, the word "coin:"

TREASURY DEPARTMENT, *May* 18, 1864.

SIR: Your letter of the 13th instant, making inquiries in regard to the kind of currency with which the five-twenty years six per cent. bonds and the three years seven-thirty per cent. notes are to be redeemed, has been received.

It has been the constant usage of the Department to redeem all coupon and registered bonds, forming part of the funded or permanent debt of the United States, in coin, and this usage has not been deviated from during my administration of its affairs.

All the Treasury notes and other obligations forming part of the temporary loan are payable, and will be redeemed, in lawful money, that is in United States notes, until after the resumption of specie payment, when they also will doubtless be redeemed in coin or equivalent notes.

The five-twenty sixes, payable twenty years from date, though redeemable after five years, are considered as belonging to the funded or permanent debt, and so also are the twenty years sixes, into which the three years seven-thirty notes are convertible. These bonds, therefore, according to the usage of the Government, are payable in coin.

The three years seven-thirty Treasury notes are part of the temporary loan, and will be paid in United States notes, unless holders prefer conversion to payment.

Very respectfully, S. P. CHASE, *Secretary.*

In the special Treasury advertisement in May, 1864, of the ten-forty bonds, those that under the terms of the act authorizing them were payable in coin, there is this said, speaking of the whole class of funded debt, including the five-twenties:

"It is believed that no securities offer so great inducements to lenders as the various descriptions of United States bonds. In all other forms of indebtedness the faith or ability of private parties or stock companies or separate communities only is pledged for payment, while for the debts of the United States the whole property of the country is holden to secure the payment of both principal and interest in coin."

No exception is made against the five-twenty bonds of 1862, or against the five-twenties that were then about to be issued under the act of 1864.

The next Secretary of the Treasury, Mr. FESSENDEN, in his report to Congress in December, 1864, says:

"Though forced to resort to the issue of paper for the time, the idea of a specie basis was not lost sight of, as the payment of interest on long loans in coin was amply secured. And though in several of the acts authorizing the issue of bonds at long periods payment of the principal at maturity in coin is not specifically provided, the omission, it is believed, was accidental, as there could have been no intention to make a distinction between the different classes of securities in this regard."

In November, 1866, Mr. Secretary McCulloch writes as follows:

TREASURY DEPARTMENT, *November* 15, 1866.

GENTLEMEN: Your favor of the 13th instant is received. I regard, as did also my predecessors, all bonds of the United States as payable in coin. The bonds which have matured since the suspension of specie payments have been so paid, and I have no doubt that the same will be true with all others. This being, as I understand it to be, the established policy of the Government, the five-twenty bonds of 1862 will either be called in at the expiration of five years from their date and paid in coin, or be permitted to run until the Government is prepared to pay them in coin.

I am, very truly, yours,
H. McCULLOCH, *Secretary.*

Thus it will be seen, Mr. President, that following the panic created by the discussion over the act of March 3, 1863, and which forced us, as a matter of precaution, to insert the word "coin," (which was wholly unnecessary to carry that legal effect, as I think I demonstrated yesterday,) the Treasury Department and the financial officers of the Government, who were being urged by the people and by the cries of the Army to furnish the material of warfare, again appealed to the people to restore the confidence which had been lost by that panic to invest in the five-twenties, the only available security we had; and they did so on the faith of these public representations put forth to the country.

At these times, Mr. President, had the distinguished citizens of Massachusetts and Pennsylvania and Ohio, who are now foremost in trying to convince the people that these obligations are not due in real money, united in such an appeal to the public as they now do, can they themselves believe that our soldiers, whose interests they are now so careful of, would have been fed, clothed, and supplied as they were from the proceeds of these very bonds? I can hardly suppose that they would. I think that those who are now foremost in pressing this new idea upon the country would have been the last in those days of distress to tolerate its being pressed upon the country by anybody, because we needed the money. I do not at all impugn the motives of gentlemen who are desirous of having the Government adopt this view. They are honorable men. They have, however, I think, done a great wrong to the country.

"They, that have done this deed, are honorable;
What private griefs they have, alas, I know not,
That made them do it; they are wise and honorable,
And will, no doubt, with reasons answer you."

But that they have inflicted a blow upon the faith the people have in the credit of the Government and in the honor of the representatives of the people and of the Administration there cannot be any doubt.

It being plain, therefore, that by the fair legal construction, as well as by the contemporaneous construction of these statutes, these bonds are not payable in other securities of the United States, but are payable in general in what is known over all the world as money, let us consider the effect that the payment of these bonds in money or the acknowledgment of our obligation to pay them in money would have upon the prosperity of the country, and inquire whether there is any injustice to the poor man or any inequality in the burdens that he bears, as related to those of the rich man, in resorting to such a course.

All men alike, both rich and poor, are equally interested in the prosperity of the whole mass of society, and neither can be long prosperous unless the other are also. It is as necessary to the one as to the other that the medium of their exchanges, capital for labor, or product for product, should be steady, constant, and of equal value to each. There can be possibly no antagonism of real interests between the two. It is the highest interest of each that a dollar should be a dollar in reality as well as in name; and, as is now well known, nothing but gold or silver is recognized among mankind as that universal representative and equivalent which possesses the highest intrinsic value itself, as well as measures and represents all other values. The philosophy and experience of civilization have demonstrated this absolutely, and the idea that is now broached in some quarters of putting forth an unlimited amount of paper promises to pay, in some form or other not immediately convertible into gold and silver, has, although it has been sometimes advanced by visionaries, been long since exploded.

Happily for the advancing good sense of mankind, notions of this sort have not been much advanced for nearly two hundred years; but any one who has the curiosity to study the history of finance will be amused, if not enlightened, by recurring to the famous John Law schemes toward the close of the seventeenth century, when schemes of this kind were put forth with such apparent zeal and seriousness as to have for a time deluded not only

their authors but the community at large, and we shall find that publications were put forth with such taking titles as these: "Tradesman's jewel, or a safe, easy, speedy, and effectual means for the incredible advancement of trade and multiplication of riches by making bills become current instead of money;" and "An easy plan for raising revenue without taxes by creating banks," and other books with similar titles, which fairly state the purport of their contents. Every student of history knows that in those times such schemes as these were actually put in the process of experiment, and that for a time the interests of society seemed immensely to flourish thereby; trade was brisk, labor in great demand, prices high, and everybody rejoiced in what was supposed to be an industrial and commercial millennium. But it was soon found that there was as inflexible a moral law of the universe controlling the operations of men as there were natural laws which certainly punish in the end any transgression of their rules; and the bubble burst, and the general result was that both the poor and the rich (who had generally by that time become poor themselves) were involved in much greater distress and depression than they ever had been before.

Somewhat later, but in the same line of reasoning, if it can be called such, it was attempted to be maintained in England, when the question of the weight and denomination of her coins was under consideration, that the value of coins depends on the stamp affixed to them by Government, and consequently money may be of as much value to all intents and purposes when it is coined lighter; which is another method of stating the proposition that is now again advanced, that the promise of Government to pay in something besides specie is just as good as the specie itself, because it has the stamp of the Government upon the paper. "This gross and unaccountable error," says the celebrated Mr. McCulloch, of Great Britain, "destroyed the influence of tracts and publications on the subject of finance which would otherwise have been valuable." On the other hand, during the same period men of the highest reputation for intellectual ability and for learning, and who had studied the philosophy of government and of trade, maintained that the universal equivalent and representative of all things relating to the pecuniary transactions of men must be that metal, in whatever form or denomination it might be put, which, by the common consent of mankind the world over, was the most precious and the least changeable, namely, gold or silver; and that there could of necessity be no new or royal road to prosperity by the emission of promises to pay. John Locke, whose works I believe are conceded to be a boon to mankind, speaking on this subject, furnishes the key to the whole problem of our industrial and pecuniary condition. If we but ponder and earnestly act upon it there will be little need of fear or dispute on the subject I am specially discussing. He says:

"A kingdom grows rich or poor just as a farmer doth, and no otherwise. Let us suppose the whole Isle of Portland one farm, and that the owner, besides what serves his family, carries to market to Weymouth, and Dorchester, &c., cattle, corn, butter, cheese, wool or cloth, lead, and tin, all commodities produced and wrought within his farm at Portland, to the value of £1,000 yearly, and for this brings home in salt, wine, oil, spice, linen, and silks to the value of £900, and the remaining £100 in money. It is evident he grows every year £100 richer, and so at the end of ten years will have clearly got £1,000. If the owner be a better husband, and, contenting himself with his native commodities, buy less wine, spice, and silk at market, and so bring home £500 in money yearly, instead of £1,000 at the end of ten years he will have £5,000 by him, and be so much richer. He dies, and his son succeeds—a fashionable young gentleman that cannot dine without Champagne and Burgundy, nor sleep but in a damask bed, whose wife must spread a long train of brocade, and his children be always in the newest French cut and stuff; he, being come to the estate, keeps on a very busy family; the markets are weekly frequented, and the commodities of his farm carried out and sold as formerly, but the returns are made something different. The fashionable way of eating, drinking, furniture, and clothing for himself and family requires more sugar and spice, wine and fruit, silk and ribbons than in his father's time; so that instead of £900 per annum he now brings home of consumable commodities to the value of £1,100 yearly. What comes of this? He lives in splendor, it is true; but this unavoidably carries away the money his father got, and he is every year £100 poorer. To his expenses beyond his income add debauchery, idleness, and quarrels among his servants, whereby his manufactures are disturbed and his business neglected, and a general disorder and confusion through his whole family and farm. This will tumble him down the hill the faster, and the stock which the industry, frugality, and good order of his father had laid up will be quickly brought to an end, and he fast in prison. A farm and a kingdom, in this respect, differ no more than as greater or less. We may trade and be busy and grow poor by it unless we regulate our expenses. If to this we are idle, negligent, dishonest, malicious, and disturb the sober and industrious in their business, let it be upon what pretense it will, we shall run the faster."—*Locke's Works, London edition of* 1801, pages 19, 20.

Again he says:

"The necessity, therefore, of a proportion of money to trade depends on money, not as counters, for the reckoning may be kept or transferred by writing, but on money as a pledge, which writing cannot supply the place of; since the bill, bond, or other note of debt I receive from one man will not be accepted as security by another, he not knowing that the bill or bond is true or legal, or that the man bound to me is honest or responsible, and so is not valuable enough to become a current pledge, nor can it by public authority be well made so, as in the case of assigning of bills; because a law cannot give to bills that intrinsic value which the universal consent of mankind has annexed to silver and gold."—*Ibid.*, page 22.

Again, writing on the subject of the proposed raising of the denomination of money in Great Britain, which was proposed with a view to prevent the exportation of specie from that country and to relieve the burdens upon industry, he says:

"All, then, that can be done in this great mystery of raising money is only to alter the denomination, and call that a crown now which before, by the law, was but a part of a crown. For example: supposing, according to the standard of our law, five shillings or a crown were to weigh an ounce, (as it does now, wanting about sixteen grains,) whereof one twelfth were copper and eleven twelfths silver, (for thereabouts it is,) it is plain here it is the quantity of silver gives the value to it. For, let another piece be coined of the same weight, wherein half the silver is taken out, and copper or other alloy put into the place, every one knows it will be worth but half as much; for the value of the alloy is so inconsiderable as not to be reckoned. This crown now must be raised, and from henceforth our crown-pieces coined one twentieth lighter; which is nothing but changing the denomination, calling that a crown now which yesterday was but a part, namely, nineteen twentieths of a crown; whereby you have only raised nineteen parts to the denomination formerly given to twenty. For I think nobody can be so senseless as to imagine that nineteen grains or ounces of silver can be raised to the value of twenty; or that nineteen grains or ounces of silver shall at the same time exchange for or buy as much corn, oil, or wine as twenty, which is to raise it to the value of twenty. For if nineteen ounces of silver can be worth twenty ounces of silver, or pay for as much of any other commodity, then eighteen, ten, or one ounce may do the same. For if the abating one twentieth of the quantity of the silver of any coin does not lessen its value, the abating nineteen twentieths of the quantity of the silver of any coin will not abate its value. And so a single threepence or a single penny being called a crown will buy as much spice or silk or any other commodity as a crown-piece, which contains twenty or sixty times as much silver, which is an absurdity so great that I think nobody will want eyes to see and sense to disown."—*Ibid.*, page 83.

The application of these observations to the proposition to imprint upon a piece of paper the word "dollar" with the expectation of making it a dollar will be easily seen. Discussing the same subject he defines and explains most clearly the true nature of money as follows:

"Silver is the instrument and measure of commerce in all the civilized and trading parts of the world.

"It is the instrument of commerce by its intrinsic value.

"The intrinsic value of silver, considered as money, is that estimate which common consent has placed on it, whereby it is made equivalent to all other things, and consequently is the universal barter or exchange which men give and receive for other things they would purchase or part with for a valuable consideration; and thus, as the wise man tells us, money answers all things.

"Silver is the measure of commerce by its quantity, which is the measure also of its intrinsic value. If one grain of silver has an intrinsic value in it two grains of silver has double that intrinsic value, and three grains treble, and so on proportionably. This we have daily experience of in common buying and selling; for if one ounce of silver will buy, *i. e.* is of equal value to, one bushel of wheat two ounces of silver will buy two bushels of the same wheat, *i. e.* has double the value.

"Hence it is evident that an equal quantity of silver is always of equal value to an equal quantity of silver.

"This common sense as well as the market teaches us; for silver being all of the same nature and goodness, having all the same qualities, it is impossible but it should in the same quantity have the same value." * * * * * * * *

"By this measure of commerce, namely, the quantity of silver, men measure the value of all other things. Thus, to measure what the value of lead is to wheat, and of either of them to a certain sort of linen cloth, the quantity of silver that each is valued at or sells for needs only be known; for if a yard of cloth be sold for half an ounce of silver, a bushel of wheat for one ounce, and a hundred weight of lead for two ounces, any one presently sees and says that a bushel of wheat is double the value of a yard of that cloth, and but half the value of a hundred weight of lead.

"Some are of opinion that this measure of commerce, like all other measures, is arbitrary, and may at pleasure be varied by putting more or fewer grains of silver in pieces of a known denomination, namely, by making a penny or a shilling lighter or heavier in silver in a country where these are known denominations of pieces of silver money. But they will be of another mind when they consider that silver is a measure of a nature quite different from all other. The yard or quartmen measure by may rest indifferently in the buyer's or seller's or a third person's hands, it matters not whose it is. But it is not so in silver; it is the things bargained for as well as the measure of the bargain, and in commerce passes from the buyer to the seller as being in such a quantity equivalent to the thing sold; and so it not only measures the value of the commodity it is applied to but is given in exchange for it as of equal value. But this it does, as is visible, only by its quantity, and nothing else; for it must be remembered that silver is the instrument as well as measure of commerce, and is given in exchange for the things traded for; and every one desiring to get as much as he can of it for any commodity he sells, it is by the quantity of silver he gets for it in exchange, and by nothing else, that he measures the value of the commodity he sells.

"The coining of silver, or making money of it, is the ascertaining of its quantity by a public mark, the better to fit it for commerce."—*Ibid.*, pages 139, 140, 141.

This is true in practice as to our own gold and silver coin; our coins always have been, and are still, defined by law to contain in each denomination, be it a dime, a dollar, or an eagle, a certain named weight of silver or gold. They do not contain or import any promise to pay any sum to the holder, nor do they on their face or by law embrace the idea of any change into anything else. They are the ultimates of value, *the* money of the Government, as distinguished from the paper promises to pay money, which the exigencies of the rebellion induced us to call for certain purposes "lawful money."

Again says Mr. Locke:

"Credit will supply the defect of it" (*i. e.*, the absence of money) "to some small degree, for a little while. But credit being nothing but the expectation of money within some limited time, money must be had or credit will fail."—*Ibid.*, page 148.

Another writer, Mr. Harris, in the middle of the eighteenth century, whose essays on the subject have since been standard authority, says:

"To avoid the great inconveniences of mere barter, a material or commodity that should be universally accepted in exchange for all other things was soon agreed upon; and this is what we call money. As soon as this invention became established, men reckoned the value of their goods by money, and the terms, prices, buying and selling came in use; a greater or less quantity of money going to the purchase of all things, in proportion to the respective values which before had been set upon them, as well in respect of that commodity now made money as of one another. Thus money is a standard measure by which the values of all things are regulated and ascertained; and is itself, at the same time, the value or equivalent by which goods are exchanged, and in which contracts are made payable. So that money is not a pledge, to be afterward redeemed, but is both an equivalent and a measure, being in all contracts the very thing usually bargained for, as well as the measure of the bargain."

Again, in speaking of how money differs from other measures of value and also from commodities, he says:

"In the idea of money the quality of the material is supposed to be unchangeable, and to be universally or everywhere the same; and therefore the material being once fixed or agreed upon, all that is to be included in the idea of money is the quantity only of that material, as in other standard measures, whether of weight or extension; and the only essential difference betwixt them is this, that money is not only a measure but also an *equivalent*, and as such passes from one to another; while other measures may rest indifferently in the buyer's or seller's or a third person's hands, it matters not whose they be.

"Money also differs from all commodities in this, that as such its value is permanent or unalterable; that is, money being the measure of the values of all other things, and that, like all other standard measures, by its quantity only, its own value is to be deemed invariable; and all contracts or engagements are to be deemed fully discharged and satisfied by

the payment of the specific quantity or sum of money agreed upon, without having any regard to the value of money with respect to other things, at the different times of contracting and discharging of debts.

"This is a fundamental characteristic of money, without which it would lose its use as such; nor can money with any propriety be considered as being subject to vary in its value without referring it to something else as a standard, and thereby departing from its use as money, and making it a mere commodity." * * * * * * * * *

"A nation secluded from the rest of the world might indeed fall upon various methods of supplying the use of money. And we see that some of our plantations make a shift without any money, properly so called, using only bits of stamped paper of no real value. But wherever that material which passeth as or instead of money hath no intrinsic value arising from its usefulness, scarcity, and necessary expense of labor in procuring it, there private property will be precarious, and so long as that continues to be the case it will be next to impossible for such people to arrive at any degree of power and splendor."

Our own issues of this stamped paper fully exemplify this. Since their issue they have changed and fluctuated in the scale of depreciation, descending in substantial ratio to the increasing volume of the issue and rising with the prospect of their redemption and their gradual withdrawal from a value of about thirty-three cents to the dollar to about seventy-one cents, their present rate. With such vibration is it strange that trade and industry have become greatly checked? He adds:

"There is a very wide and essential difference betwixt money and bills. The one having an intrinsic value is in all contracts and dealings the equivalent as well as the measure. Bills are nothing but mere promises or obligations of payment. And even public bills, for such only usually pass as money, have only a local credit, being limited to the territories of the State that issues them, and depending merely upon their faith; those that are in private hands are, to say no worse, subject every day to be debased by the creation of more new bills; for bills while they pass as money partake so far of its nature that the more or for a greater sum there are of them in currency the less will be the value of any given bill or a bill for a given sum.

"Some of our plantations have severely felt the ill effects of those weak, unjust, and destructive measures of increasing the quantities of bills; while the Philadelphians, by keeping sacredly to a certain number or sum-total of bills, have not only preserved their credit among themselves, but even extended it to some of the neighboring provinces, where, I am informed, a Philadelphian bill will fetch more than one of their own made for the same or a like sum.

Again he says:

"Laws cannot regulate or alter the value of money.

"Silver being made money, and thereby becoming, as it were, a commodity universally coveted, wherein every one deals, and to which every one hath a right, according to his respective share of property, no set of men have it in their power to settle, alter, or in anywise regulate the value of money; nor can laws do anything in the case otherwise than as by their influence they may increase or diminish the whole quantity in circulation, and so affect the value of a given sum or the prices of things."

The distinguished Mr. Huskisson, a member of Parliament in the early part of the present century, when the great contest was going on upon the subject of forcing the Bank of England to return to specie payments, produced some treatises which have since stood as leading and absolute authorities, and which, after the few years of the heat of that contest were passed, no man in England, so far as I am aware, has been found bold enough to dispute. He opens one of his treatises with this maxim, quoted from Locke:

"It is the interest of every country that the standard of its money, once settled, should be invariably and immutably kept in perpetuity; for whenever that is altered, upon what pretense soever, the public will lose by it." "Men in their bargains contract not for denominations or sounds, but for the intrinsic value."

He proceeds to say:

"The various definitions of the word money, and the different acceptations in which that word is used in the ordinary transactions of life, have contributed to produce much of the doubt and uncertainty which prevail at this moment respecting the state of our currency.

"Money, in the popular sense, is frequently considered as having no other value than one purely arbitrary and conventional. It is sometimes defined to be the representative of all other commodities, and sometimes the common measure of them. These definitions are both incomplete, as applied to money, because they are equally applicable to every description of currency, whether consisting of the precious metals, of paper, or of any other article.

"It is of the essence of money to possess intrinsic value.

"The quality of representing commodities does not necessarily imply intrinsic value, because that quality may be given either by confidence or by authority. The quality of being a common measure does not necessarily imply intrinsic value any more than the possession of a foot rule implies the power of acquiring whatever it enables to measure. Money, or a given quantity of gold or silver, is not only the common measure and common representative of all other commodities, but also the common and universal equivalent.

"Paper currency has obviously no intrinsic value.

"A promissory note, under whatever form or from whatever source it may issue, represents value. It does so inasmuch as it is an undertaking to pay in money the sum for which it is issued.

"The money or coin of a country is so much of its capital. Paper currency is no part of the capital of a country. It is so much circulating credit.

"Whoever buys gives, whoever sells receives, such a quantity of pure gold or silver as is equivalent to the article bought or sold; or if he gives or receives paper instead of money he gives or receives only that which is valuable only as it stipulates the payment of a given quantity of gold or silver. So long as this engagement is punctually fulfilled, paper will of course pass current with the coin with which it is thus constantly interchangeable. Both money, therefore, and paper promissory of money, are common measures and representatives of the value of all commodities. But money alone is the universal equivalent; paper currency is the representative of that money.

"Of paper currency, however, there are two sorts: the one resting upon confidence, the other upon authority. Paper resting upon confidence is what I have described as circulating credit, and consists in engagements for the payment, on demand, of any specific sums of money, which engagements, from a general trust in the issuers of such paper they are enabled to substitute for money in the transactions of the community. Paper resting upon authority is what, in common language, is called paper money, and consists in engagements issued and circulated under the sanction and by the immediate intervention of the public power of the state.

"Paper, such as alone used to be current in Great Britain, before the restriction on the bank, was strictly circulating credit. The paper current in Austria, Russia, &c., is properly denominated paper money." * * * * * * * * *

"Laws, however severe, cannot alter the inherent and essential qualities which determine the relations of value. They may, indeed, impose the same denomination upon values essentially different, but the difference will not be the less perceived: for no restraint upon human actions can permanently or effectually countervail the nature of things. When, therefore, the currency of the country consists partly of gold of standard weight and the remainder of a paper currency, in fact depreciated, but clothed by law with the character of a legal tender, the denomination fixed for such paper currency being the same as for the coin, the latter will have an irresistible tendency to escape from the depreciation in which it is by law retained, so long as it continues in the character of coin; and either by melting or exportation it will recover its intrinsic value.

"This doctrine will, perhaps, be best illustrated by reference to a remarkable period of our history, and to the proceedings of the English Parliament at a period to which, by common consent, Englishmen look back as a time when the theory of our Government in all its parts was best understood, and the principles of justice and good faith, on which all free Governments must rest, were most scrupulously practiced.

"Toward the end of the seventeenth century the current coin of this country had been reduced, by clipping and other practices, about thirty per cent. below the standard of the mint. At that time the pieces new from the mint had no more value as currency than this debased coin, though no man, I apprehend, could now by any sophistry, however ingenious, convince either himself or his neighbor that the latter was really of the same value as the former. One consequence was, that the pieces of full weight disappeared as fast as they were issued, just as our guineas now disappear; another, that the exchange was permanently from twenty to thirty per cent. against this country, as it is now from fifteen to twenty; a third, that guineas (silver being the then legal tender, and the silver coin that which was debased) rose to thirty shillings each, as they have now risen to upward of twenty-four, measured in our new legal-tender bank paper; and a fourth, that silver which could be sworn off for exportation was, as exportable gold is now, at a premium.

"But how little do nations profit by experience! The same fallacious explanations which are now given were then offered to the public. The same delusive plans of relief were suggested. The balance of trade or the balance of payments was said to be against us. To this was attributed the unfavorable course of exchange; to the unfavorable course of exchange the exportation and melting down of the standard coin, and the high price of bullion at home. The remedy proposed was, in the language of the day, 'to raise the value of our money,' with a reference to the scarcity and consequent high price of bullion, and the specific plan suggested was, to coin an ounce of silver into 6*s.* 3*d.* instead of 5*s.* 2*d.* These doctrines and this plan were supported by official characters of the greatest reputation and practical knowledge, and by persons of the most extensive experience in trade. Fortunately the fallacy of them was detected and exposed, and the Government of that day was rescued from the adoption of a pretended remedy which would have perpetuated the injustice and aggravated the calamities for which it was confidently offered as a cure."

Need I remind the Senate or the country how perfect the parallel is between the state of things thus described and our own condition at this time? The same delusive expedients are again proposed which, age after age, the experience of nations has demonstrated to be wholly unsound. He proceeds to say:

"Paper money issued in the name of the State in aid of its own exchequer and in compulsory payment of its expenses, such as has been resorted to in various parts of the world, is happily unknown to this country. Such paper is in the nature of a forced loan, which in itself implies a want of credit. From this circumstance alone it falls below par, and its first depreciation is soon accelerated by the necessity of augmenting the issues in proportion to their diminished value. Thus an excess of paper coöperates with public mistrust to augment its depreciation. Such was the fate of the paper issued by the American Congress in the war for their independence; more recently of the *assignats* in France; and such is now the state of the paper of the banks of Vienna and Petersburgh. Whereas the state of our currency, in regard to its diminished value, is no other than it would be if our present circulation being retained to the same amount were by some sudden spell all changed to gold, and by another spell, not less surprising, such part of that gold as by its excess created a proportionate diminution in its value here with reference to its value in other countries could not by exportation or otherwise find its way out of our separate circulation. It is excess not relievable by exportation."

These discussions and arguments were made on the question of the resumption of specie payments by the Bank of England, which by the act of 1797 was relieved from paying specie upon its notes, but they were not made a full legal tender between man and man. Debtors were only freed from arrest upon tendering them in payment of their debts, but the creditor could, if he chose, still proceed to an action against the property of the debtor and enforce full payment in coin. The consequence of that was that the depreciation of the bank notes did not go on with that rapidity which would have been the result if they had been an absolute legal tender and not thus indirectly convertible into coin.

At that time (1809) the depreciation of bank notes had only reached five or six per cent.; and those who were in the interest of the bank and those who were in favor of an inflation of the currency to a still greater extent, endeavored to demonstrate that there was in fact no depreciation at all, admitting in the whole line of the dispute that if such a fact to any considerable degree existed it would be a most alarming indication of the state of the currency. Unfortunately a majority of Parliament came to the conclusion that there was in fact no depreciation, and therefore refused to pass the bill providing for the resumption of specie payments by the bank. The theories of those of opposite opinions to Mr. Huskisson were thus turned into actual experiments, and the result must demonstrate either their correctness or their fallacy.

The result was, as we all know, that the depreciation continued to increase in equal ratio to the increasing expansion hastened by that very action of Parliament, so that within ten years, before the bank resumed payments in specie, it had reached twenty or twenty-five per cent.—producing in 1816 a fresh crash, breaking nearly half the banks in the kingdom—an amount of depreciation sufficiently obvious to be discerned even by those who ten years before had maintained that it did not exist at all. Since that time I believe there has not been any difference of opinion among bankers, merchants, or statesmen in Great Britain as to what is depreciation or as to what is money.

What, then, do our bonds, payable generally, and our United States notes, which are usually called greenbacks, promise to pay? A one-dollar United States note promises to pay (upon the faith pledged in the acts, and by necessary implication without them) one dollar to the bearer of the note on demand at the Treasury. Now, what is that dollar the payment of which is thus promised? Is it another promise precisely like the first; that is, another one-dollar note; so that if two citizens were to come to the Treasury at the same time, each with a one-dollar note for payment, the faith of the United States would be kept by telling them to exchange their notes with each other, whereby

both would be paid and the promise contained in each of the notes fully performed? Would it be characterizing such a transaction too strongly to call it a mockery? And yet the promise in our securities (save when they are on their face expressed to be payable "in lawful money," *i. e.*, in United States notes) is in precisely the same form and has precisely the same nature. The Government is a debtor, and it must stand like all other debtors. Its promise to pay money without qualification is something more than a promise to renew its debt in some other form by its own notes; and a promise to pay in United States notes is only an engagement on the part of the Government and its creditor who receives such a promise to renew and extend the debt in that form. It is of course perfectly fair and lawful if it be agreed to by both parties, but it would be the height of injustice, in substance repudiation, to force it, either directly or indirectly, on the creditor who has not agreed to it.

To hold, then, that our bonds are payable in such a way would be to declare that those who furnished the Government with credit and supplies in its great necessity, upon interest-bearing bonds due at a certain time, understandingly contracted that those bonds should be paid in the notes of the United States, not bearing interest, and payable in nothing but themselves! It is true that a Government may sometimes, in the stress of a great crisis, provide that as between its citizens its own promises to pay money shall be taken for the time being as and for the money itself; but no man can fail to see that to carry such a provision into the operations of the Government itself would be to provide for a currency not to be redeemed by anybody, and which I need not take time to show would be fatal to the industry and prosperity of the community. If it be otherwise mankind have been blind for many ages, and we should hasten, as indeed some in effect seem to propose, to issue Government notes payable only in themselves by constant renewals, enough not only to pay off our national debt but to pay off all private debts too. Surely if Government has in its hands means of such easy beneficence it sadly fails in its duty if it omits to put it in practice.

I have alluded incidentally to some of the instances where experiments of this nature or analogous thereto, have been resorted to. It may not, perhaps, be useless to state them more fully.

The lessons of history in our own country ought to be decisive on a question of this character. The continental American paper began with an issue of $3,000,000 in July, 1775. In one year the issues were increased to $20,000,000; yet they still circulated without any considerable depreciation. In December, 1777, they were multiplied to $70,000,000, and were then fallen to half their nominal value; yet the issue still went on, and in October, 1779, there were $200,000,000 passing at ninety per cent. loss, and in the next year the issue ceased, as this paper was no longer accepted at any value whatever. We all know the distress and difficulty of the country for years and years after the peace, arising from the very exuberance and inconvertibility of those promises to pay which had gone by the name of money. I do not say that this course of procedure in the time of the Revolution was not the best, or rather had not the least of evil of any that could have been resorted to. I express no opinion upon that point. But it is plain that nobody after the peace thought that the industry and commerce of the country could be revived and its burdens lightened by a continuance of the experiment. By the act of 1790 steps of the opposite character were inaugurated to eradicate the evil.

The same fallacious and disastrous means of supporting public credit and of carrying on the operations of society were resorted to more than fifty years before that time in several of the colonies. In the colony of Massachusetts Bay, money (if it can be called such) of this character was issued about the year 1714 or 1715. It entered into the politics of that period, and the matter is thus described by a correct writer of the history of those times:

"A third party, though very opposite to the private bank, yet were no enemies to bills of credit. They were in favor of a loan of bills from the Government to any of the inhabitants who would mortgage their estates as a security for the repayment of the bills with interest, in a term of years, the interest to be paid annually and applied to the support of Government. This was an easy way of paying public charges, which, no doubt, they wondered that in so many ages the wisdom of other Governments had never discovered. The principal men of the Council were in favor of it, and it being thought by the first party the least of two evils they fell in with the scheme, and after that the country was divided between the public and private bank. The House of Representatives was nearly equally divided, but rather favorers of the private bank from the great influence of the Boston members in the House, and a great number of persons of the town out of it. The controversy had a universal spread, and divided towns, parishes, and particular families.

"At length, after long struggle, the party for the public bank prevailed in the General Court for a loan of £50,000 in bills of credit, which were put into the hands of trustees and lent for five years only to any of the inhabitants at five per cent. interest, one fifth part of the principal to be paid annually."—*Hutchinson's History of the Province of Massachusetts Bay*, volume two, page 208.

It was found in a year or two that the distresses of the people were increasing, and in 1716, on the arrival of a new Governor—

"In his first speech to the General Court, November 7, he puts them in mind of the bad state of the trade of the province, an important article of any people's happiness, owing, as he supposed, to the great scarcity of money, and recommends the consideration of some effectual measures to supply this want and thereby to restore trade to a flourishing condition. This was pointing out to them a further emission of Government's bills, and the Representatives, pleased with so easy a method of obtaining money, soon determined upon a second loan of £100,000 for ten years, to be put into the hands of commissioners appointed for each county in proportion to their taxes, This provision being made by the Government there was the less pretense for private persons or companies issuing their bills; but it gave no relief to the trade, the whole currency soon depreciating to that degree as, with this addition, to answer the purposes of money very little more than if it had not been made. The Governor became sensible of it, and recommended to them to provide against it, which they were not able to do, and many of them would not have been willing if they had been able, being in debt, and by means of the depreciation discharging their debt by a nominal sum perhaps of not more than one half the real value of the debts. He soon found the effects of it upon his own salary, which they refused to advance as the bills sunk, and having recommended this measure in a public speech it became more difficult afterward to refuse repeating it."—*Ibid.*, page 217.

Things ran on in this way till 1721, when, at the opening of the session of the Colonial Assembly, the Governor in his speech recommended measures to prevent the depreciation of the currency, but—

"They refused directly or virtually every proposal. The House tell him, in their answer, 'they had passed a bill for issuing £100,000 more in bills of credit.' This alone had a direct tendency to increase the mischief, but they add that 'to prevent their depreciation they had prohibited the buying, selling, and bartering silver at any higher rates than set by act of Parliament.' This certainly could have no tendency to lessen it. Such an act can no more be executed than an act to stop the ebbing and flowing of the sea. It would probably carry away and keep out all silver and gold."—*Ibid.*, page 245.

About this time instructions from the Crown to the Governor put a restraint upon the issuing of bills of credit except for necessary charges. The historian from whom I have been quoting says:

"This instruction was not occasioned by the bad effect of bills upon the currency, as later instructions and acts of Parliament have been, but by a complaint from merchants trading to New York of an act of Assembly there for issuing bills equal to forty thousand ounces of plate, which were all applied to the Governor as a gratuity over and above his stated salary, to the Council for pretended services at the Revolution near thirty years before, and to the House of Representatives for their services. After the bills were in private hands, to revoke the act would work injustice, but to prevent such acts in any colony for the future circular instructions were ordered to the several Governors."—*Ibid.*, page 245, note.

As the years passed by these bills of credit could not be redeemed, and the general complaint of the scarcity of money revived the old spirit for increasing the currency by a further emission of bills, in regard to which this historian says:

"It would be just as rational when the blood in the human body is in a putrid, corrupt state, to increase the quantity by luxurious living in order to restore health. Some of the leading men among the Representatives were debtors, and a depreciating currency was convenient for them."—*Ibid.*, page 327.

An expedient for a further issue, notwithstanding the restraint of the orders of the Crown, was soon found. Instead of a bill providing for fortifications of the colony, as had been proposed by the Governor—

"Another was prepared with a specious title, 'An act for raising and settling a public revenue for and toward defraying the necessary charges of the Government by an emission of £60,000 in bills of credit.' This was done to bring it within the words of the instruction, which restrained the Governor from consenting to the issuing bills of credit except for charges of Government. The interest of four per cent., or £2,400, was to be applied annually to the public charges and gave color for issuing the principal sum of £60,000. The Lieutenant Governor was prevailed upon to sign it, and the same day the House made the grant of his salary and the usual allowance to the judges, most of whom were members of the Council, and to the other officers of the Government."

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"The eagerness of the body of the people for paper bills, more easily acquired in this way than the righteous way of industry and frugality, no doubt facilitated a compliance, on the part of the Council and the Lieutenant Governor in the passage of the bill."—*Ibid.*, page 328.

Things went on from bad to worse until 1737, when by death and from other causes there was considerable change in the Council, and our historian proceeds to say:

"Toward the end of the year a great clamor arose against the Governor for adhering to his instruction about paper money, and against the three Representatives for their pernicious principles upon the subject of paper money, and at the town election for 1739 three others were chosen in their stead, two of them professedly disaffected to the Governor and promoters of popular measures; the third, although of great integrity, and for that reason desirous of a fixed currency, yet, in his judgment against reducing the paper money, and a favorer of schemes for preventing its depreciation." * * * * * * * *

"A general dread of drawing in all the paper money without a substitution of any other instrument of trade in the place of it disposed a great part of the province to favor what was called the land bank or manufacturing scheme"—

This was the scheme of the famous John Law in England—

"which was begun or rather revived in this year, 1739, and produced such great and lasting mischiefs that a particular relation of the rise, progress, and overthrow of it may be of use to discourage and prevent any attempts of the like nature in future ages. By a strange conduct in the General Court they had been issuing bills of credit for eight or ten years annually for charges of Government, and being willing to ease each present year they had put off the redemption of the bills as far as they could, but the Governor being restrained by his instruction from going beyond the year 1741, that year was unreasonably loaded with thirty or forty thousand pounds sterling taxes, which, according to the general opinion of the people, it was impossible to levy, not only on account of the large sum, but because all the bills in the province were but just sufficient to pay it, and there was very little silver or gold, which, by an act of Government, was allowed to be paid for taxes as equivalent to the bills, A scheme was laid before the General Court by the author of this history, then one of the Representatives of Boston, in which it was proposed to borrow in England, upon interest, and to import into the province a sum in silver equal to all the bills then extant, and therewith to redeem them from possessors and furnish a currency for the inhabitants, and to repay the silver at distant periods, which would render the burden of taxes tolerable by an equal division on a number of future years, and would prevent the distress of trade by the loss of the only instrument, the bills of credit, without another provided in its place. But this proposal was rejected. One great frailty of human nature, an inability or indisposition to compare a distant though certain inconvenience or distress with a present convenience or delight is said by some strangers, who come among us from Europe, to be prevalent in Americans so as to make it one of their distinguishing characteristics."—*Ibid.*, pages 392, 393, 394.

Another scheme proposed was the foundation of a bank which should emit £150,000 in bills upon mortgages of persons' private property, and not convertible into money. The pretense was that by thus furnishing a medium and instrument for trade, not only the inhabitants in general would be better able to procure the province's bills of credit for their taxes, but trade, foreign and inland, would revive and flourish.

"Men of estates and the principal merchants in the province abhorred the project and refused to receive the bills, but great numbers of shop-keepers who had lived for a long time before upon the fraud of a depreciating currency, and many small traders gave credit to the bills. The directors, it was said, by a vote of the company, became traders, and issued just what bills they thought proper without any fund or security

for their ever being redeemed. They purchased every sort of commodity, ever so much a drug, for the sake of pushing off their bills, and by one means or other a large sum, perhaps fifty or sixty thousand pounds, was abroad."—*Ibid.*, page 391.

The year 1741 when, by the order of the Crown, these bills must be paid off by taxation, arrived; and the grand affair was to settle what was to be done with the bills of credit, and it resulted in their being finally taken in at a great discount, and to that extent virtually adding repudiation to the great loss and injury of those in whose hands they happened to be, the poor as well as the rich. This was done by an act about the year 1749, "providing for the exchange of bills at a certain valuation and for establishing in their place a silver currency." This was done, and the historian says:

"The apprehension of a shock to trade proved groundless; the bills being dispersed through every part of the province, the silver took place instead of them, a good currency was insensibly substituted in the room of a bad one, and every branch of business was carried on to a greater advantage than before."—*Ibid.*, page 449.

These two instances in our own history and under the same unchanging laws of social science ought to be sufficient to restrain us from committing or continuing a similar error. But the experience of other countries, in every instance in which such expedients have been resorted to, demonstrates precisely the same thing. The English instances have been alluded to. The progress of the French *assignats* was similar. In April, 1790, the first issue took place to the amount of 400,000,000 francs: in September, 1791, they had been multiplied to nearly fifteen hundred million, and in fifteen months more to 2,300,000,000 francs; and the issue continued with increasing rapidity till they were totally discredited. Similar circumstances occurred in connection with the issues of the Austrian Government; but I have not the material at hand to speak definitely of the sums issued.

Other instances more or less analogous might be multiplied indefinitely; but surely enough have been cited to show that if any value is to be placed upon the lessons taught by human experience under precisely similar and unvarying circumstances governed by laws which are at all times and everywhere the same—I mean the general laws of what may be called the nature of trade and intercourse—it is the highest duty of this Government, entirely independent of what construction it may put upon the contracts it has already made, instead of declaring that we may or ought to discharge our obligations by further issues of paper, to devote itself assiduously to the restoration of currency in this country to its real standing as the equivalent and representative of gold and silver in all transactions. Why, with our eyes open, and in spite of these lessons of experience, should we walk steadily forward in the same downward path which our own ancestors have trodden before us, until at last in still greater distress we shall be obliged of necessity to elevate ourselves into prosperity once more, through much more severe sacrifices than any we can be possibly called upon to make at this time?

It is perfectly true, as was said by a distinguished Representative from the State of Ohio [Mr. CAREY] on a recent occasion, in delivering a speech to the laboring men of Washington, that the money which is good enough for the soldier and the laborer is good enough for the bond-holder. But the truth which I have endeavored to present is that this money as it is called is not good enough for the soldier and the laborer, or for the bond-holder either. It is not good enough for anybody, because it is not what it purports to be. It is only a promise either to pay a dollar in money, which cannot now be performed, or which it is thought cannot now be performed, or else it is a promise to pay nothing whatever except a perpetual renewal of itself; and the consequence is that every pound of tea or coffee, and every ounce of salt, and every pair of boots and shoes, and every article of clothing that the soldier or the laboring man is obliged to buy, costs him, paid for in this way, nearly once and a half as much as it would cost him were the paper dollar that he holds in his hand a real one the real representative of a dollar in coin.

It has been speciously urged by another gentleman who believes that our present evils are to be cured by a further recurrence to the same agencies that have produced them, that as the bond-holders and creditors of the Government lent and advanced paper of this depreciated character for the bonds and securities that they hold, it is but simple justice that they should be paid in the same sort of money. So far as the Government is concerned, if our promise and obligation is to pay this sort of money, that is perfectly true; but if our promise and obligation is to pay, as I have shown, in money, by the force of the statutes and by the nature of the promise and by the contemporaneous understanding of all classes of the community, and by the action of the financial officers of the Government, then it is not true.

But what were the real circumstances under which these bonds and securities were issued? Is it true in substance that the persons who furnished horses and wheat and guns and munitions of war, clothing, and money to the Government, did take advantage of its necessities to wring from it a hard bargain, and did only render these services to the Government in the depreciated and half-way method that is thus suggested? So far as the sales of articles to the Government were concerned, real things were advanced, and not depreciated currency. The labor and the materials were paid for by the Government in this currency, and it got all and the very sort of thing that it contracted for, and it cannot justly, therefore, now speculate out of the want of credit which its own paper at that time had. The whole body of the community at that time in that respect bore the burden of this depreciation, and stood up under it as well as they could; and the whole body of the community in the same operations paid off with this currency obligations and debts then existing which had been incurred before, and which, without this depreciated currency, were and would have been payable in coin or its equivalent. So that when we turn to that part of the currency which was paid into the Treasury in its depreciated condition by the artisans, the farmers, the tradesmen, the widows, as well as by the bankers and men of wealth who came forward to the support of the Government in its time of doubt and trouble, we find that they received this money from their debtors who used it at its face value, sometimes depreciated so that three dollars were worth only one of coin, to discharge debts that were justly and honestly due in gold and silver. These citizens, small and great, rich and poor, thus receiving their dues, lent us this currency that the Government had furnished to them. Is it just, under such circumstances, that they should now be told, "You must be paid in this same depreciated currency for what you have advanced, because you have speculated out of the depreciation?"

I think a detailed examination of the whole history of this currency in any section of the country would show that the evils and the advantages (for it had at the time its advantages, as every other necessary expedient has) were very fairly distributed over the whole body of the community. In some respects the holders of the wealth of the country gained by it; in others they lost largely in the ways I have named. In some respects the laborers and the furnishers of produce and supplies gained by it in the stimulation which such issues always produce to production and trade for the time being; and in other respects, in the enhanced price of all the commodities they were obliged to buy or consume, they lost. So that I believe no man can justly say that one class of the community more than another has profited or lost by this unfortunate necessity to which we were obliged to resort during the rebellion.

I know that such themes and such assertions are always the fruitful topics of those who would introduce new schemes or aspire to political success by arraying one section or one class of a community or a country against another. The laborer is sought to be convinced that injustice is practiced upon him, because merely justice, according to the faith and promise of the nation, is practiced toward some person more fortunate than he; and he is asked to join in a crusade against the creditor of the Government and against its credit, because the species of currency which the Government has furnished to him is not what it ought to be. And in this connection I wish to repeat to the honest, sober, and reflecting laboring men, the great body of the people, what I incidentally mentioned in an earlier part of my remarks, that their interests, which are the real interests of society, that their welfare and their prosperity cannot be attained or advanced by any act of injustice toward any creditor of the Government by any act of unfairness or of arbitrary power toward any other person or part of the community.

Human experience has proved, as moral considerations would also prove without experience, that the welfare of society depends upon the harmonious and friendly coöperation of all its parts for the common good, and that it can never be advanced by doing injustice toward one portion of its people in order to remedy an injustice which rests upon another; but rather by the united and friendly effort of both to relieve such injustice existing, and to elevate the depressed classes and conditions of society to the level of those who are in better condition, rather than to destroy those who are fortunate in order that they may experience a misery common to all.

A writer, whose simple lyrics have touched the hearts of millions, has well defined the true relations that in a happy and prosperous state exist between the two classes of the community:

"Then none was for a party,
Then all were for the State;
Then the great man helped the poor,
And the poor man loved the great."

In what I have said, Mr. President, I have endeavored, without working upon the passions or prejudices of any man or class of men, and without the use of any harsh expressions or epithets or phrases calculated to appeal to the fancy or prejudice of those who may hear me, rather than to their reason, to set forth as briefly as I could the true considerations which it appears to me demonstrate the propriety of passing the resolution which I have introduced, and of passing it now. In so doing I have drawn largely from the long train of witnesses and events giving historic testimony upon the subject, that furnish impregnable reasons and indisputable examples for my conclusions; which are:

1. That the public faith is clearly pledged to this payment by the words of the statutes alone.

2. That whether so or not the contemporaneous interpretation of these statutes on their enactment and in the public action of the officers and agents of the Government under them bind us by every consideration that can appeal to our honor to stand by that interpretation.

3. That considerations of the highest expediency, independent of our contracts, compel us to pay in real money rather than to expose the people to the disasters that must follow the infusing of many millions more of depreciated, and in such a case constantly depreciating, currency into the channels of business.

4. That the payment in real money, or rather the formal admission of our duty so to do—for in that case the actual payment can be made as gradual as is desired—involves not one currency for the bond-holder and another for the people, not "gold for one and rags for the other," as the cry of some is, no denial of the fact that "money good enough for the soldier and laborer is good enough for the bond-holder," but it involves the certain consequence of making in a short time the paper currency of the country convertible into gold and silver at par, in the hands of all.

In the enthusiasm of our loyalty and courage

we have conquered the armed enemies of the Republic. Let us now bear with equal loyalty, courage, and manly fortitude, the humbler but still weighty consequences and burdens that are the inevitable fruits of war still lingering in the haunts of peace.

Mr. COLE. In opposing this resolution it may be as well at the outset to disclaim any desire to pay the national debt by an inflation of the national currency, or faster than it shall fall due, or in any manner not in strict accordance with the utmost good faith. I likewise disclaim any purpose to tax the non-taxable Government securities without the consent of their owners, or in violation of the promises contained in the laws. And so far as I am aware nobody expects, or has the least reason to fear a repudiation, directly or indirectly, of one dollar or one cent of the obligations of the United States. All this talk about repudiation is better calculated to operate upon the fears than the judgments of men; it has no foundation in fact, none whatever.

This disclaimer is, perhaps, rendered advisable by reason of the spirit that has characterized the discussion of this question outside of Congress, not by anything that has occurred here. The Senator from Vermont [Mr. EDMUNDS] has presented, in a most unexceptionable manner, the only really pertinent argument that has yet appeared on his side of the case. Like a sound lawyer, as he is, he has deigned to refer to the statutes, and has sought to sustain his views without a resort to denunciation.

The Secretary of the Treasury, on the contrary, has in his recent report indulged in some quite severe strictures against those who disagree with him as to the manner in which a certain portion of the public debt is payable under the law. And the venerable ex-Secretary of the Treasury, that distinguished financier of a former generation, Robert J. Walker, in his recent report is exceedingly severe upon the opponents of his views and theories. Much of this, however, so far as he is concerned, must be set down to generous zeal and habits contracted in another age—the golden age of American finances. This worthy citizen in his lately published address has endeavored earnestly to serve the public, and if he has not succeeded in improving the national credit he has at least run great risk of bankrupting his own imagination. Those who cannot indorse his ideas must nevertheless admire the passionate ardor which he brings into their advocacy. He and the honorable Secretary and the Senator from Vermont agree perfectly as to what ought to be done to insure a safe issue out of our financial troubles, but the misfortune still is that nobody can do the desired thing.

According to the November statement of the Secretary of the Treasury $1,778,000,000 of the public debt bear interest payable in coin. If "doubts have been raised as to the duty and propriety of discharging" the principal of such debt in coin, none exists as to the manner in which the interest shall be paid. All agree upon the validity of the obligation to discharge that in gold, because it is so "nominated in the bond;" the law requires it. It is only the principal of a portion of the public debt that the resolution of the Senator from Vermont is intended to affect. To this attention is especially invoked, and since it concerns full three fourths of the entire public indebtedness, the resolution, which will have all the force of a law, ought to and doubtless will receive the most careful consideration. Further time to investigate would have compensated in some degree for a want of skill in financial affairs; but without much forethought a few plain propositions may be submitted.

The exact present amount of the six per cent. five-twenty bonds cannot be readily ascertained. The monthly statement of the Secretary of the Treasury for December has not yet been published, but since the conversion of Treasury notes into these bonds has been going on rapidly during all of the month of November it is safe to say that they amount now to $1,600,000,000. I include in this sum the $139,155,650 issued in the form of seven-thirty Treasury notes under the acts of 1861, and afterward, under the latter of those acts—the one of August 5—converted into bonds. There may be some discrepancy about the present form of this portion of the indebtedness, but I find the fact of their conversion noted so early as on the Secretary's statement of May 31, 1865, and I cannot therefore be mistaken about it.

It will be observed that a very large share of the public debt—about two thirds of the whole—is in the form of these six per cent. five-twenty coin-interest bonds; and the magnitude of this question has not been at all exaggerated by any one, nor can it easily be. I agree with all the Senator from Vermont has said upon this head, but not so in reference to his arguments. He asserts that the principal of these bonds should be paid in coin, because the seven-thirty Treasury notes and other lawful-money securities are convertible into them, and that it would be absurd to have such a provision if the bonds themselves were afterward redeemable in lawful money.

But it seems to me the inducement for making the change is found in several other independent facts: first, the bonds bear an interest in coin while the notes bear interest payable in any lawful money; and, second, the bonds run for twenty years, the notes for but three. Again, there is a difference in the value of the six per cent. interest in coin and the seven and three tenths interest in currency, and finally the bonds are non-taxable securities, while some of the convertible notes are taxable. These considerations show that the provision for conversion of other securities into bonds is not altogether absurd, even upon the hypothesis that the principal is not redeemable in coin or its equivalent.

Another argument is deduced from section five of the act of February 25, 1862, which reads as follows:

"That all duties on imported goods shall be paid in coin, or in notes payable on demand heretofore authorized to be issued and by law receivable in payment of public dues; and the coin so paid shall be set apart as a special fund, and shall be applied as follows:

"*First.* To the payment in coin of the interest on the bonds of the United States.

"*Second.* To the purchase or payment of one per cent. of the entire debt of the United States, to be made within each fiscal year after the 1st day of July, 1862, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt, as the Secretary of the Treasury shall from time to time direct.

"*Third.* The residue thereof shall be paid into the Treasury of the United States."—*United States Statutes-at-Large*, page 346.

It is claimed that the second subdivision of this section provides a fund out of our coin receipts to liquidate these bonds. But it can hardly have escaped attention that different language is used in the two subdivisions of this section. In the first it is provided that the revenues arising from imports shall be applied "to the payment in coin of the interest," and in the second subdivision that they shall be applied "to the purchase or payment of one per cent. of the debt." That is, after the 1st day of July of each year, the total amount of the public debt shall be ascertained, and a sum in coin equal to one per cent. of the whole shall be set apart, out of the duties on imports, and be made a sinking fund for the purchase of a portion of the public debt. The word purchase occurs twice in that connection, and is significant of a different intention on the part of the law-makers from that which is claimed for this section.

Now, the principal of these bonds is payable in coin or it is not. If it is so payable under existing laws, as is distinctly assumed in the preamble to the resolution, then there can be no real necessity for the passage of the resolution; for the allegation is not that anybody is seeking to evade the law; it is only that "doubts have been raised as to the duty and propriety" of a certain course in reference to them. But the very fact that this resolution has been brought forward is some sort of a confession that they are not so payable, and that further legislation is necessary to make them payable in coin.

But if, on the other hand, the principal is not payable in coin or its equivalent, it becomes a very serious question whether we ought in this manner, or in any manner, to so alter the law as to declare it payable in coin, or otherwise than as the law now prescribes. For whatever we do in this regard, our action, after all, will neither liquidate the debt nor increase our ability to liquidate it. At best, the resolution, if passed, will only amount to a declaration of intentions; not, however, a vain and inoperative declaration, for it will have the effect, if any effect at all, to bind us absolutely to discharge in coin a vast debt, which otherwise would be redeemable in such lawful and current money, whether gold, silver, or Treasury notes, as we are able to pay or to borrow when it falls due.

This most important acknowledgment, which is to add hundreds of millions to our present burdens, will apply wholly to an existing indebtedness, for it is not pretended that there is one dollar of new consideration moving the Government thereto. It is to be an act of pure generosity, undertaken professedly for the purpose of strengthening our national credit.

The case may be stated in this way: by reason of our owing $2,500,000,000 our credit is thirty per cent. below par. In order to demonstrate that it ought to be at par, and to prove to the world that we are in a sound financial condition, we will magnanimously add without consideration some seven hundred millions to the sum of our indebtment. If a reputation for solvency is to be reached in that direction it is just as easy, while we are about it, to go a little further and render the matter of our ability to pay still more certain.

But we are told that if we do this generous act we can hereafter, in case of need, borrow money with greater facility. It does not, however, appear very clearly that we ought to borrow trouble about the future. Most likely we shall have enough of our own in the form of taxation and other exactions in order to meet what we already owe. At any rate "sufficient unto the day is the evil thereof."

But if loosely adding this large amount to the existing pressure upon our Treasury will increase our ability to obtain money in open market upon still further securities it argues a most incomprehensible difference between public and private financiering. Any business firm or person in the world would at once break down under such a policy.

It is assumed for this occasion that the public laws relating to this subject are not ambiguous, and need no interpretation by additional action of Congress. They were plain enough at the time of the investments, otherwise capitalists would have withheld their funds. It is not usual for financiers to dispose of their money on doubtful securities. It is alleged, however, that another and higher motive than a mere pecuniary one entered into and became a part of these transactions. That may be so; but whether the promise of a large gold interest, together with a prospect of speedy return to specie payments, was the controlling inducement for these investments, or whether they were made with a patriotic desire to sustain the Government, cannot now be accurately determined. It is my firm belief, however, notwithstanding the extreme circumspectness with which the lenders selected their securities, that both these considerations entered into the loans. At all events these creditors, patriotic as they are, have the double satisfaction of beholding a restoration of the Government, upon which their all depended, and of receiving their regular interest semi-annually in gold. Far be it from me to detract from their generous love of country by a vote which would in effect declare that their motives in making the loans were entirely sordid. The Republic is scarcely less indebted to them for its preservation than to those other patriots who periled their lives on bloody fields and in prison pens; and it is hoped

that the time is not distant when the national currency shall be equal to gold, dollar for dollar; and then these creditors will be further rewarded by being reimbursed with money at par for the depreciated currency they loaned the Government in her time of need.

The Secretary tells us that "liberal subscriptions were regarded as evidence of loyalty," and "that they were paid for in a depreciated currency was not the fault of the subscribers." To both of these propositions I readily accede; but would their loyalty be outraged, or would it be a fault in the borrower, if their loans were returned to them in that same currency, if such was the contract?

If these loans of a "depreciated currency" were really made with the "distinct understanding," as the Secretary asserts, that they were to be returned, principal and interest, in coin, it goes much further to prove financial shrewdness on the part of the lender than his loyalty and patriotism.

Under the act of March 3, 1863, and the supplementary act of March 3, 1864, the Secretary of the Treasury was authorized to issue the ten-forty bonds, and to make them redeemable, principal and interest, in coin. The amount of this description of bonds, issued under this authorization, and still outstanding, is believed to be less than two hundred millions. The Secretary's authority, in the laws referred to, went only to the issuance of the bonds, he had no discretion as to the character of the money in which they shall be made redeemable.

The advocates of the theory that all other bonds of the Government are likewise payable in coin will not contend that the same state of facts exists in reference to the five-twenties. The utmost that can be claimed for any of these is that the Secretary had discretion to make them payable in coin or in other lawful money. Without conceding, except for the argument, that he had such discretion, it may well be claimed that he has exercised that discretion and exhausted his authority in the premises by actually making them payable in the lawful money of the United States. Had he made them, on their face, payable in coin they would not have been so in fact unless the law under which they were issued contained the authority. The law is a part of the contract, and by it all the world is put upon the notice as to the extent of the authority of the Secretary, who is but the agent of the Government, and can only bind it within the scope of his authority.

Let us now refer to the several laws relating to this subject, to the end, that we may ascertain, if possible, the extent of the Government's obligation. The act of July 17, 1861, and the act supplementary thereto of August 5, 1861, under which $189,155,650 in bonds had been issued up to the last of May, 1865; the act of February 25, 1862, under which, prior to the same date, May 31, 1865, $514,780,500 had been issued; and the act of June 30, 1864, under which, within the same time, $90,789,000 in bonds had been issued, will all be searched in vain to find the least authority for discharging the principal of the debts created by them in other or different currency from that provided for the payment of all other obligations "public or private, except, of course, duties on imports and interest on the public debt," and the principal of the ten-forty bonds.

In addition to the bonds above described, there had been issued, before the month of June, 1865, under the law of March 3, 1863, $75,000,000 in bonds payable in 1881, and bearing interest at six per cent. but whether the principal of them was dischargeable in coin like the ten-forties issued under the same law, or whether like the other bonds they were redeemable in lawful money, does not appear. But since there was no authority in the law of 1863 to make other than coin bonds it is presumed they are of that class, though bearing six per cent. interest and payable in eighteen years. Leaving these out of the calculation there was on the last of May, 1865, of this five-twenty class of indebtedness only $794,725,150.

The Senator from Vermont, in his calculation on yesterday, makes the sum of these five-twenties issued prior to 1865 only a little over six hundred and ninety millions. But he possibly excludes from his figures the $50,000,000 and the $139,000,000 issued under the acts of 1861, and includes the $75,000,000 of the 1863 issue. Clearly, I am within the facts when I say there was not to exceed $794,725,150 in five-twenty bonds in June, 1865.

This was some time after the war had ended and when retrenchment should have begun, but nevertheless by changing debt bearing interest in lawful money and debt bearing no interest into debt bearing interest in coin, this description of indebtedness has been more than doubled. It has grown in these two years and a half from less than eight hundred million dollars to upward of sixteen hundred million dollars. Had this taken place during the exigencies of the war, it would have been of a piece with the many other desperate schemes of those times, but it is difficult to detect the wisdom of that financiering which adds a large amount, perhaps twelve or fifteen millions, to our annual interest debt in time of peace, and when it could have been avoided. This remark is intended to apply not more to the honorable Secretary than to the legislation which conferred upon him the authority, indicated the course, and gave the discretion. The law of March 3, 1865, under which most of these conversions have taken place, and under which they are now going on, expressly provides that—

"Any Treasury notes, or other obligations bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act."

And it is contended that the bonds authorized by that act are payable, not only interest in gold, but principal also. The clause, if any, from which this construction is deduced reads as follows:

"And the interest on such bonds shall be payable semi-annually; and on Treasury notes authorized by this act the interest may be made payable semi-annually or annually at maturity thereof; and the principal, or interest, or both, may be made payable in coin or in other lawful money."

The latter part of this sentence, in which the word "coin" occurs, relates to the Treasury notes, the description of securities last before mentioned; and such is evidently the opinion of the Secretary of the Treasury, for in his recent report (page 33) he declares that—

"The acts of March 3, 1863, and March 3, 1864, are the only acts which state expressly that the bonds to be issued under them shall be payable in coin."

On the following page, after referring to the act of February 25, 1862, he adds that—

"Subsequently all interest-bearing notes were made payable in lawful money, but no change was made in the form of the obligation of the bonds. Thus the seven and three tenth notes issued after that date, the five per cent. notes, and the compound-interest notes were made payable in lawful money, while the bonds, not being so made payable, have been recognized by Congress, by the Treasury Department, and by the people as payable only in coin."

Here I must be allowed to controvert these assertions. Congress has made no such recognition, except as to the ten-forty bonds. Congress could make no such recognition, unless by enactment or resolution, and in neither way have they done it. The Secretary supports this part of his assertion by citing the speeches of individual members of Congress rather than their solemn acts, and the Senator from Vermont falls into the same line of argument. They both quote from the voluminous Congressional Globe instead of from the Statutes-at-Large.

If the "Treasury Department" has recognized these five-twenty bonds as payable only in coin it does not so appear from anything that has been done by the Secretary himself, or the Assistant Secretary, or the Treasury agent within the line of the legitimate duty of each. Nor does it appear wherein or on what occasion the people have given in their recognition of this new idea touching the five-twenty bonds. The people have not yet recognized those bonds as payable, principal as well as interest, in gold, unless we shall have established our credit, and are paying gold when they shall be presented for payment near the end of this century. But if within the scope of the law of 1865 the interest and the principal of those bonds is included, then both the bonds and the notes "may be made payable in coin or in other lawful money;" that is to say, in either, at the option of the payer. But if the Secretary has it in his discretion to make the bonds and the notes both payable in the one description of money, that is, in coin only, he must needs in some manner indicate the exercise of that discretion; and if it does not appear upon the face of the bonds that they are redeemable in coin they must be taken as payable in any "lawful money." Again, if the word coin is applicable to both bonds and notes, and the Secretary, having the discretion, should so exercise it as to make any portion payable in coin, it would necessarily extend to all; for the words "principal or interest" apply to Treasury notes as well as to bonds, and not to the one to the exclusion of the other. The principal of these Treasury notes has never been made payable in coin; neither can the principal of the bonds, which are issued under the same law with them, be made so payable.

The holders of them have no right at this time to demand a declaration from Congress that they shall be redeemed "in coin or its equivalent;" and unless we shall have reached a specie basis before they fall due, it would be most unreasonable in them to expect the Government to sell its depreciated securities to buy coin in order to return to them gold dollars for the depreciated paper dollars which they loaned. Their interest they will punctually receive in coin and the principal likewise, if twenty years hence, when the demands are payable, we can raise the coin, and who doubts that we can?

If it was unsound policy to convert our non-interest-bearing debt and debt-bearing interest in currency into bonds with interest payable in coin, how much more unsound will it be to convert the principal of that debt, which is payable in lawful money, into a debt wholly payable in coin. To do this while a dollar in coin is worth in the market one dollar and forty cents in paper money, would be in effect adding temporarily, and perhaps indefinitely, forty per cent. to that debt. This can be of no advantage to anybody; not even to the bondholder himself. The bare proclamation of this fact, instead of enhancing the value of his chattel, will in my judgment produce the opposite effect. It must inevitably postpone the time of our arrival at a specie basis, and as a consequence the day when these bonds will be paid in gold—a day which is sure to come if we permit it, but equally sure to elude every attempt like this to force it.

The opinion of the mover of this resolution as to the effect it will have upon the public credit differs from my own as widely as the zenith from the nadir. In my judgment a more direct step toward repudiation could not be taken. Instead of strengthening it must surely undermine the public faith in the proportion that it adds to our burdens.

It does not exactly appear wherein this mercurial thing called credit differs, whether applied to a Government or an individual; and is it not plain that the credit of an individual, though solvent, might be utterly ruined by the judgment of a competent tribunal, that his business obligations, though not due till years hence, were dischargeable "in coin or its equivalent?" A similar effect must follow any authoritative declaration by Congress that these public securities must be paid in coin or its equivalent.

The public faith, like private credit, is vulnerable, and even now languishes under the wounds inflicted by the rebellion. At one time it was so far depressed that our most solemn promises passed currently for less than forty cents on the dollar of gold. The payment of the principal in specie was not then discussed nor scarcely thought of. The chief solicitude was how to avoid so great a volume

of indebtedness as to render these securities utterly worthless. The value of confederate paper money was then determined by dry measure, and there was much fear lest ours should reach the same standard of value. But wise management, aided by military successes, improved our credit and happily we avoided any absolute financial catastrophe.

Emerging from a war, which was nothing less than a struggle for national existence, the Government began immediately to liquidate its obligations at the astonishing rate of from one to two hundred million dollars a year. These payments were made in the ordinary currency of the country, the same as the Army and Navy and all the servants of the people receive when paid their wages at home. Did this fact impair the public credit? So far from it our credit never improved with greater rapidity, and its improvement was in direct proportion to the reduction of the volume of our indebtedness. Had the same policy continued we would have been much nearer to a specie basis to-day than we are, and nearer by far than we shall ever be brought by a declaration that our securities are payable "in coin or its equivalent."

The credit of the public, like that of an individual or company, depends upon the extent of its indebtedness and its ability to pay, and not upon a facility for making promises; and how that credit is to be improved by an acknowledgment that the debt really amounts to hundreds of millions more than is justly or lawfully owing passes comprehension. The gentleman from Vermont will concede that such an operation by a person or firm would be ruinous. Instead of relieving from embarrassment it would entirely destroy the credit of any private party, and I repeat that the honest creditor of the country—not the speculator—has no interest in the passage of this resolution.

It is well enough to let well enough alone. If we do not wound the faith of the country by these worse than vain declarations, the bondholders and other public creditors will in due time receive their pay in coin, principal and interest, dollar for dollar. But every movement of this sort, intended though it may be, to hasten specie payments will only postpone the time of their coming. The harvest will yield but straw and chaff if gathered too soon. Sound public credit is a plant of gradual growth. Let it ripen. It cannot be matured by this hot-house process of direct congressional action. Justice, honesty, economy, and the encouragement of industry are the elements, the sun, the wind, and the rains that bring it to perfection.

The country is often reminded that "the faith of the United States is solemnly pledged for the payment of the interest and the redemption of the principal" of these five-twenty bonds, and the fact that such a pledge exists is readily conceded. But what is the public faith? What but the public credit? When used in this manner the words faith and credit are convertible terms, and our faith, our credit stands pledged for the redemption of the bonds. It was with that understanding the creditors took them, and with the same understanding they are now held. Unfortunately at this present time our credit is considerably below par. But when again it shall be at par, or better than gold, as it has been, still our credit will remain pledged for the payment of all public debts, principal and interest. But the public faith is pledged in another respect, and that is, that we shall not impair our credit by increasing our actual obligations and thus diminish our ability to pay our honest debts.

This resolution proposes once again to solemnly pledge the faith of the United States, not as heretofore, to the full extent of the credit of the Government, but this time still further, if that were possible, even to the payment of "the public debt" "in coin or its equivalent." This novel proposition will bear examination. The public debt amounts to $2,500,000,000, the equivalent of this sum, while gold commands a premium of forty per cent., is just $3,500,000,000; and this sum is the "equivalent" which it is proposed to pledge the faith of the United States to pay. A large portion of the debt is now payable, at the option of the Government. If it were all payable and the Government should elect to discharge it in pursuance of this pledge we should certainly have to pay in some "equivalent;" for we have not nor could we raise $2,500,000,000 in coin.

After we had so discharged the public debt we should owe precisely $3,500,000,000; and as the faith of the United States would still be pledged to pay the public debt in coin or its equivalent, and if the national credit were not at all injured by this splendid financial operation, and gold still commanded a premium of only forty cents on the dollar, we should have to issue this time, in promises to pay as the "equivalent," just $4,900,000,000, and the next time nearly $7,000,000,000. This line of demonstration might be pursued, like some of Robert J. Walker's theories, down to the year 1901; but the very first step in it shows that such a pledge of the public faith would destroy the public credit.

We have very little to pledge besides the credit of the United States. Of this the Congress and not the creditors are the guardians, and it behooves us to look well to its preservation. It will never be improved by presenting an inducement to every bondholder to maintain as great a difference as possible between Government notes and coin, until he can receive his "equivalent" in the former. Better far to leave the debt as it is, so that it will be to the advantage of every creditor to preserve the faith of the Government. He will know that upon a restoration of confidence, and not otherwise, he will receive every dollar in coin—not its equivalent—but the full face of his bond in pure gold, as he now receives his interest. Let him be content with his golden eggs as they come and not suffer himself to be deluded by his avarice into destroying the source from whence they spring.

Mr. SHERMAN. I desire to submit a motion to refer this joint resolution to the Committee on Finance. I was not present and had not the good fortune to hear the opening remarks of the Senator from Vermont, although I have read them in the newspapers. There are one or two inaccuracies or rather omissions in them which at the proper time I may supply; but this is only a part of a great and difficult question, and I think we ought not to act upon it hastily. Therefore, unless some Senator desires to speak on the merits of the proposition, I shall move its reference to the Committee on Finance.

Mr. HENDRICKS. I had prepared an amendment, which I wish to submit, to go with this resolution to the committee, but I have not got it in the form I desire. I suppose this subject can just as well lie over until to-morrow.

Mr. SHERMAN. If the Senator wants to offer an amendment I have no objection.

Mr. SUMNER. That can be offered on a subsequent day.

Mr. SHERMAN. Certainly, it can be offered hereafter and referred to the committee.

Mr. HENDRICKS. I would rather offer it as a substitute for the resolution, and let it go to the committee with the resolution.

Mr. SHERMAN. The Senator can do that at his pleasure, but this matter had better be disposed of, as it may stand in the way of other business, and the Senator can offer his amendment at any time.

Mr. HENDRICKS. I do not wish to discuss it. My purpose is to present my view in the amendment that I suggest, and that is all at present. Therefore, if there is no other business before the Senate, I move that the Senate do now adjourn.

Mr. SUMNER. I hope the Senator will withdraw that motion to allow us to dispose of of the bill that was under consideration this morning.

Mr. SHERMAN. The Senator from Indiana can accomplish his purpose just as well by allowing this resolution to be referred, and then sending his amendment to the committee subsequently. That is very often done, and I can see no reason for keeping this subject before the Senate at present.

Mr. HENDRICKS. I do not see any reason for a vote on that proposition this evening. If it is considered important I will waive it.

Mr. SUMNER. You have no objection to the reference?

Mr. HENDRICKS. Of course I have no objection to the reference, but I wish the amendment to go with the resolution.

Mr. SHERMAN. I have no objection, if it will accommodate the Senator, to let it go with the resolution. The motion to refer can stand for the present.

The PRESIDENT *pro tempore*. Does the Senator from Indiana withdraw his motion to adjourn?

Mr. HENDRICKS. Yes, sir.

Mr. SUMNER. I now move that the Senate proceed with the consideration of the business that was under consideration at the expiration of the morning hour, that we may get a vote upon it.

The PRESIDENT *pro tempore*. The joint resolution before the Senate is not yet disposed of.

Mr. SHERMAN. I move to postpone that resolution, on which my motion to refer is entered, I presume, until to-morrow.

The motion was agreed to.

EQUAL RIGHTS.

Mr. SUMNER. Now I move that the Senate proceed with the consideration of the business under consideration at the expiration of the morning hour.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 141) for the further security of equal rights in the District of Columbia.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, upon which the yeas and nays have been ordered.

Mr. HENDRICKS. I thought they were merely asked for, but not ordered.

Mr. SUMNER. They were asked for by the Senator, and I had an impression that they were ordered.

Mr. HENDRICKS. I may be mistaken.

The PRESIDENT *pro tempore*. The Clerk informs me that they were actually ordered.

Mr. HENDRICKS. I have but one remark to make upon this bill than what I have already said. In my reference to the elections that took place this fall I do not speak of the general elections, and I hope that no Senator will suppose that I would be guilty of the bad taste of referring to an election in any boasting way. The results that I referred to were the votes given by the people at the recent elections upon the question submitted to them whether they desired the negroes to have the right to vote in the States. That distinct proposition was submitted to the people in the form of a constitutional amendment in the State of Kansas, or in some legislative form; in the State of Ohio in the form of a constitutional amendment: in the State of Minnesota in some form—exactly what the form was I do not now recollect; but these three States gave the expression of their people upon that question, and I expressed my surprise that a Senator coming from either of those States should force upon the people of this District a policy in regard to the colored race which had been repudiated by the people of his own state. We legislate for the people of the District not merely to gratify our personal pleasure, not because we can pass a law; but because, in our judgment, it is for the good of the District and for the credit of the country that the law should be passed; and as I said before, when I vote upon a bill that affects the people of the District of Columbia, when I cannot get their instruction on the subject, I certainly would be delighted to follow the instruction given by the people at home.

The Senator from Kansas [Mr. POMEROY] reminded me of the fact that since I took my seat here in 1863 there had been an expression once or twice, perhaps, in the State of Indiana contrary to the view of the party with which I act; but the Senator was not able to point out a single instance in which my action here had been contrary to the known will of the people of Indiana. I think he will be unable to find a single instance in which my vote in the Senate has been in conflict with any well expressed opinion of the people of the State of Indiana; but I do not choose to discuss that. He referred to the fact that I had not resigned when there had been a change for the time being in popular opinion in my State. I have never heard of any case of resignation under such circumstances. It has never been understood that a man yields his position in the Senate merely because of the result of a popular election; but if the Legislature gives an instruction to a Senator, many hold that the instruction must be obeyed or the Senator resign. There has been no such case presented to me. I do not choose, however, to explain or vindicate here any course of mine upon any such question. That is between me and the folks at home.

I regard this as an important measure. Why have the people of Ohio, of Kansas, and of Minnesota recently, and the people of Wisconsin and of Connecticut formerly, but in later years, said that the negroes ought not to be allowed to vote? In those States the negro population is small compared with the white population; they never can override them at any popular election, and therefore no public inconvenience, no serious public harm, could be apprehended from allowing them the right to vote in those States. But in the District of Columbia the negro population almost equals, I believe, the white population, and I think at some election recently the negro vote was larger than the white vote; so that here it is a very important question. As I think, it is like that question which is now being considered, and considered very earnestly, by the American people: whether the southern white population shall by legislative interference and military power be placed under the government and control of the negroes. It is a very different and more important question in the District of Columbia whether the negroes shall have the political power than it is in the State of Ohio, where the white race, notwithstanding this privilege might be extended to the negroes, would maintain its supremacy.

I am opposed to this policy which subjugates the white race to the colored race. Now, this bill proposes not only that negroes shall be allowed to hold office, and I suppose any office in the District of Columbia, but that they shall be allowed to sit upon the juries. Of course it will follow that they may be judges. The spectacle will then be presented of negro courts to try cases. It is not in accordance with my taste, and I think not in accordance with the taste of the people I have the honor in part to represent; and as I would not vote that the people of Indiana should be thus governed, I will not vote to govern thus the people of the District of Columbia. What I think is right and fair and honest to the people of Indiana I think is right and fair and honest toward the people of this District.

Mr. MORTON. Mr. President, my colleague has made one remark which I do not desire to have misapprehended by the Senate, and I rise not from any desire to criticise his course, but simply to have a correct understanding. He says that he has not by his votes in the Senate gone in favor of any proposition which has been declared against by the people of Indiana, and not against any proposition which has been declared in favor of by them, as I understood him.

Mr. HENDRICKS. Not exactly.

Mr. MORTON. That was substantially it, as I understood the Senator. The people of Indiana in the elections of 1864, both the State and presidential election, declared strongly in favor of the policy of prosecuting the war and putting down the rebellion by force of arms. They declared against the policy of a suspension of hostilities for the purpose of opening negotiations with the confederate authorities. During that canvass also the question of the abolition of slavery by an amendment of the Constitution of the United States was freely and fully discussed, and the public sentiment by a majority of thirty thousand was unquestionably manifested in favor of that proposition. In 1866 the constitutional amendment of that year, known I believe as the fourteenth article, was a direct issue all over our State, and the people of Indiana declared in favor of it by a majority of some fifteen thousand. The policy in opposition to it was maintained I believe ably by my colleague in common with his whole party in that State. I shall not now refer to the manner in which my colleague has voted in the Senate on these questions; I simply desire to state what has been the policy of the people of Indiana as manifested by overwhelming majorities in 1864 and 1866.

One word now in reference to the elections that have recently took place, Mr. President. It was yesterday said by the Senator from Connecticut [Mr. DIXON] in the discussion of another question, that New York by fifty thousand majority had declared against the policy of reconstruction that has been adopted by Congress. I must be allowed to say that I differ entirely from that Senator in regard to the effect and in regard to the character of that election. It is true there is a large number of Republicans in the northern States who are opposed to negro suffrage in their own States. It results from a prejudice which has not yet been conquered. They argue in this way, that there is no necessity for negro suffrage in Indiana and in other northern States for the protection of the colored race or even for the safety of the country, but events have forced them to the conviction that there is a necessity for it in the southern States; and therefore many persons who I know are opposed to negro suffrage in Indiana or Ohio, because they say there is no necessity for it there, are equally strong in favor of it, for the purpose of sustaining loyal State governments in all the southern States. If the question was submitted to the people of New York as to whether the negroes of the South should be allowed to vote for the purpose of overcoming the rebel majority down there, I have no doubt they would declare by a majority of more than fifty thousand that they were in favor of it, first, for the protection of the negroes themselves, and secondly for the public safety.

Now, sir, in regard to the District. There is understood to be a large majority of the white people who, if they did not actually take part in the rebellion, at least strongly sympathized with it, and are exceedingly hostile to the policy of Congress and to conferring any rights on the colored race. If the question was submitted to the people of Kansas or to the people of Indiana whether full political power should be conferred upon the colored citizens of the District of Columbia, I have no doubt that each State would decide in favor of it by a large majority.

It may be said that this is inconsistent. I grant it, and I regret, under the circumstances, that the fact is so; but still I think no inference can be drawn against the policy of Congress, either in regard to this District or in regard to the South, from the recent elections. It is well known that they turned entirely upon other questions.

Mr. HENDRICKS. Mr. President, my colleague has referred to the canvass of 1864, in which he says one of the questions mainly discussed and on which the people did vote was a vigorous prosecution of the war. I do not know what he means by that reference. He refers to no vote of mine in the Senate on that subject. If he means to say that I supported General McClellan upon the Chicago platform and his letter of acceptance, he is right. I did support him. That was in the canvass at home. I did it with what of energy I possessed; but why my colleague should refer to that in connection with the observation which I made that the Senator from Kansas had been unable to point out any case in which my action in the Senate was in conflict with the expressed opinion or desire of the people of Indiana, I am not able to perceive. I took my ground openly in that contest. The views that I expressed are in some instances preserved.

He also says that in 1866 in the State of Indiana the constitutional amendments then proposed were approved by the people. I voted against those constitutional amendments here in the Senate, but any expression of the people of Indiana in regard to them had then not been given. In the canvass of 1866, while I admit that the proposed constitutional amendments were largely discussed, I think I may refer to the Senator's speech, which was the opening speech of the campaign, and by all odds the ablest speech, in which, while he did discuss that question and the propriety of the proposed constitutional amendments, I think he will admit that more than three fourths of the address which he made then to the people was upon a very different subject—an appeal to the people against the Democracy of the State as unworthy of their confidence, and largely illustrated by that style of literature which was then very powerful, which seemed to justify the description of Democrats as "copperheads" and "traitors;" but I thank God and the judgment of the country that the time has passed when that sort of appeal finds a power with the people, and I think from this on as it was in the canvass of 1867 the question will be who is in the right, and not who can use the most opprobrious epithets toward the other.

My colleague thinks that the people of Indiana are willing that the people of the District of Columbia should be forced to submit to negro suffrage when they are not willing to submit to it themselves, and he says that in that the people of Indiana are not consistent. I am not prepared to say that the people of Indiana, upon so grave a question as that, would deliberately place themselves in an inconsistent position. I think if the question could be submitted to the men of Indiana whether the negroes of the South, under a policy which clothes all the negroes with the right to vote and strips a portion of the white population of that right, so as to give the supremacy to the negroes, I think if that question could be submitted to the people of Indiana such a policy would be defeated by a majority unknown in the politics of that State.

I knew that my colleague considered it an act of inconsistency to force this policy on the South and not to assume it at home, for I had observed his very able speech at Columbus in the recent canvass in which he declared to the people of Ohio—I cannot give his words, nor can I express the idea nearly as well as he expressed it—but he substantially declared to the people of Ohio that, supporting this policy of enfranchising the negroes in the South, if they refused to do it in Ohio they would be naked to the scorn and condemnation of the world. Well, sir, they saw fit to stand in that immodest attitude, which my colleague described, by, I think, about fifty thousand majority. Now, how can he say that a people, fair, honest, and generous, who would repudiate a policy when applied to themselves as being unworthy of them, unjust to them, unsafe to their institutions, would force that same policy upon another people, upon the District of Columbia? This District was no part of the rebellion. This District was always, during the war, within the lines and within the power of the General Government. Then why can my colleague say that the voters of Indiana would repudiate negro suffrage at home and yet would vote for it in the District of Columbia? I cannot believe that they would be thus inconsistent; and as I believe that at home the people are opposed to this, I am opposed to it for the District of Columbia. If my colleague and I to-day were in the Legislature of Indiana, how would we

vote upon the subject? He was the Governor of the State for years, and he delivered his messages, and he never called upon the people of Indiana to amend their constitution so as to enfranchise the negroes. His party was largely in the majority in the Legislature, and yet they took no substantial steps to amend the constitution of the State so as to allow this that is claimed as a right to the negroes. They would never venture upon it as a political test at home, were seeking all the while to avoid it, hoping that there is that sentiment in the people which will induce them to force upon another community that which they will not accept for themselves.

Now, I submit to Senators is that right? If it is right to refuse the negroes the franchise in the State of Indiana where there are not many but few compared with the entire white population, is it right to force it upon the people of the District of Columbia where their vote is a much more important one, the numbers being so much larger? Upon that question my colleague and I differ. I think the people of Indiana would not, if the question was submitted to them in any substantial and distinct form, vote to force negro suffrage upon the people of the District of Columbia, nor do I believe if they had the power to express their views upon the subject that they would force it upon the southern States.

Mr. MORTON. Mr. President, I have not taken part in this debate for the purpose of making any criticisms on my colleague; nor do I desire now to enter into such an argument. But, sir, when the Senator says that the time has come, and he thanks God for it, when the opprobrious epithets to which he referred toward the men who have been in this rebellion——

Mr. HENDRICKS. No, sir; I did not say that.

Mr. MORTON. The Senator did not hear me out, quite. I understood him to say that the time had come when opprobrious epithets toward the men who have been in this rebellion and those who have sympathized with them in the North as we understand them to have sympathized——

Mr. HENDRICKS. I did not say that, either.

Mr. MORTON. That, I understood to be the idea of the Senator.

Mr. HENDRICKS. No, sir.

Mr. MORTON. The Senator said that the time had passed when the epithets which had been applied toward the Democracy of the North—if the Senator will accept that statement of it—could not be any longer used. I think the Senator will find himself mistaken. I think the popular hatred of this rebellion, and the hatred of those who aided and abetted it in the North, is just as strong as it ever was; and the idea that this feeling has passed away and subsided will be found to be a mistake. It may sometimes sleep; while the people have their minds diverted to some other questions they may turn aside incidentally, and for a time even act with the other party; but, sir, in ten years from this time that feeling will be stronger than it is to-day, and twenty years hence, in my opinion, it will be overwhelming; and the next generation will entertain it far more strongly than the present.

But, Mr. President, that is unimportant to the present purpose. The Senator's position may be stated briefly thus: the Senator acted with the Democratic party of Indiana and the North; he was and is a prominent and distinguished leader. If that party was in favor of the prosecution of the war and of putting down the rebellion, and in favor of the adoption of the measures necessary for that end, then the Senator was in favor of that; if that party was not, then the Senator was not, because he was and is in harmony with his party.

Mr. President, in regard to the inconsistency of enforcing negro suffrage at the South and not doing it at the North I said—and I said what is a fact, and the Senator's intelligence will accord to the truth of it in a moment—that there are men everywhere in the North who are opposed to enfranchising the negroes in the northern States on account of their prejudices against them on the ground of color, and who say there is no necessity for it in Indiana, there is no necessity for it in New York, there is no necessity for it in Ohio, because there the negroes are protected anyhow in the enjoyment of their rights, and they say there is no necessity for it there on account of the public safety.

That is the argument they use. I do not accord with it myself; but the same men are just as earnestly in favor now of negro suffrage in the South as any other class of men, because events have proved that it is necessary in order to the establishment of legal and loyal State governments down there, not because they love the colored man in the South better than they love him in Indiana or Ohio, but because public events have shown that loyal State governments cannot be established and maintained in the late rebel States without his vote; and perhaps the same feeling prevails in regard to the government of this District—the domestic government created here by charter. It is believed that a very large majority of the white voters here are disloyal—have either participated actually or sympathized earnestly with the rebellion; and for that reason I undertake to say that the majority of fifty thousand who voted against negro suffrage in Ohio would vote for it in the District of Columbia, because they believe that here it is a necessity to the establishment of a loyal domestic city government.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, on which the yeas and nays have been ordered.

The yeas and nays were taken; and resulted—yeas 32, nays 8; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Conkling, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Fowler, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Willey, Williams, and Wilson—32.

NAYS—Messrs. Buckalew, Davis, Dixon, Doolittle, Hendricks, Johnson, Norton, and Patterson of Tennessee—8.

ABSENT—Messrs. Bayard, Cole, Conness, Frelinghuysen, Grimes, Guthrie, Nye, Patterson of New Hampshire, Pomeroy, Saulsbury, Sprague, Van Winkle, and Yates—13.

Mr. BUCKALEW. I move an adjournment.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 5, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. HUBBARD, of Iowa, the reading of the Journal of yesterday was dispensed with.

DUBUQUE AND SIOUX CITY RAILROAD.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced a bill extending the time for the completion of the Dubuque and Sioux City railroad; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PAPERS WITHDRAWN.

Mr. LOUGHRIDGE, by unanimous consent, obtained leave to withdraw from the files of the House papers in the case of Captain J. H. Eates.

Mr. CLARKE, of Kansas, by unanimous consent, obtained leave to withdraw from the files of the House papers in the case of Benjamin Holliday.

PERSONAL EXPLANATION.

Mr. GETZ. I ask unanimous consent to make a personal explanation.

There being no objection, leave was granted.

Mr. GETZ. I see by the telegraphic reports of Tuesday's proceedings in the House, as published in the New York and Philadelphia papers, that the remarks I made in reply to what was said by the gentleman from Ohio, [Mr. SCHENCK]—I regret that he is not now in his seat—relative to the surreptitious publication of the President's message in advance of its transmission to Congress were printed as a part of that gentleman's remarks. The two do not fit together at all, and make him appear to contradict himself—a blunder which all of us here, who know his political shrewdness and sagacity, are well aware he would not be likely to fall into with his eyes open, and he never sleeps at his post. By this botched piece of typographical dove-tailing the gentleman from Ohio starts out as the accuser of the President—a character in which he is perfectly at home—and ends by becoming his defender, which I believe he has never undertaken, although I do not utterly despair of seeing him engaged in so good a work at no very distant day—

"For while the lamp holds out to burn"—

It would be, perhaps, unparliamentary to finish the quotation. As I presume the gentleman from Ohio is no more willing to adopt my words than I am to adopt his I have thought it proper to make this brief explanation.

ROBERT V. KELLER.

Mr. GRAVELY, by unanimous consent, introduced a bill for the relief of Robert V. Keller, of Neosho, Missouri; which was read a first and second time, and referred to the Committee of Claims.

Mr. GRAVELY also submitted sundry papers on the same subject; which took the same reference.

THE MILLIKEN CASE.

Mr. ARNELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the House the report of General George H. Thomas in the case of one Milliken, a returned rebel, arrested at La Grange, Tennessee, for violation of his parole, and released from military custody by Judge Trigg, of the United States court, on writ of *habeas corpus*.

SINKING FUND.

Mr. WILLIAMS, of Indiana, by unanimous consent, introduced a bill to fund the interest-bearing debt of the United States and to provide for a national tax thereon and the distribution of the taxes collected to the several States, in lieu of State or local taxation, and to provide a sinking fund for the payment of the public debt, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ARMY SUBSISTENCE DEPARTMENT.

Mr. MYERS, by unanimous consent, introduced a bill to increase and fix the subsistence department of the Army of the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

EXEMPTION OF HAND-LOOM PRODUCTS.

Mr. MYERS also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of exempting from tax all articles the products of hand-looms, and to report by bill or otherwise.

PUBLIC SCHOOLS IN THE DISTRICT.

Mr. ELIOT, by unanimous consent, introduced a joint resolution declaratory of an act entitled "An act relating to the public schools of the District of Columbia," approved July 23, 1866; which was read a first and second time, and referred to the Committee for the District of Columbia.

RECONSTRUCTION.

Mr. PAINE, by unanimous consent, introduced a bill to amend an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the several acts amendatory thereto; which was read a first and second time, and referred to the Committee on the Judiciary.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. PILE, by unanimous consent, submitted the following memorial; which was referred to the Committee on Commerce, and ordered to be printed in the Congressional Globe:

The memorial of the Chamber of Commerce of New Orleans to the Honorable the Senate and House of Representatives of the United States, respectfully shows:

That all occasion of political or sectional difference between the people of the northern and southern States having been submitted to, and decided by, the arbitrament of war, it has become the duty of all who united in that supreme appeal to accept the result in good faith; to abide by the terms of capitulation, and to employ the agencies of the common Government to restore harmony, and relieve the country from the effects of such unexampled destruction of life and property.

The result of the war is proclaimed to be the supremacy of the Federal Government. The Federal debt and Federal taxes are declared paramount obligations, and the State highways subject to Federal control.

The Federal Government is administered by and for the benefit of a majority of the persons interested.

To avail themselves, therefore, of the principles thus established, your memorialists apprehend that it will only be necessary to show that the interests represented by them are in a proper sense of such national importance as to justify public legislation for their aid. In this point of view it becomes proper to submit these interests in review. Your honorable body can thus decide how far you will be warranted in extending to them the same protection which you have bestowed upon other interests, similar, but not superior in importance.

The irresistible power of the Mississippi river, and the vast expense attending the restraint of its waters, renders this work a heavy burden on those who cultivate its borders. They complain that the tax of labor necessary to maintain this great work should be imposed entirely upon them. They say to those beyond reach of inundation, You should contribute by lending State credit, because you derive from the land reclaimed or protected an increased revenue. This argument has prevailed in this State. It has been especially forcible since the freed citizen, who owns no land and has no fixed habitation, cannot be expected to labor in the protection of the lands of others without compensation for doing so. If, then, all the citizens of Louisiana consent to bear their proportion of the tax to repair the levees, why should not the principle be extended further? This national work should be a national charge.

General Humphrey, by order of the War Department, made a survey of the levees on the lower Mississippi, with a view to their immediate repair. The complete and permanent repair of all the levees would require, it is estimated, for the State of Arkansas, $1,200,000; Mississippi, $1,500,000; Louisiana, $1,200,000; total, $3,500,000. Of the country which these levees would save from overflow General Humphrey remarks:

"The area thus protected amounts to 34,700 square miles, of which a mere narrow strip along the banks of the river and along a few bayous has been opened for cultivation. Of this area 12,300 square miles are below Red river, and belong to the sugar region. Under a proper system of drainage one third of it may be eventually opened and cultivated, or 2,500,000 acres."

A formal application for the reparation of the levees has been made by the State authorities of Louisiana and is now pending before Congress. It presents the whole equity of the claim. It furnishes the entire statistics of the extent of the injury and the means of reparation. Your memorialists will not trespass upon its precincts by restating its arguments. They refer to, indorse, and adopt it. But we may state that the riparian proprietors are themselves unable to replace the levees. The State authorities have authorized the issue of State bonds and State agents have endeavored to negotiate a sale without success. In this emergency the sole trust of Louisiana is upon the aid of Congress. It is to be hoped it will be granted in the endorsement of the State bonds and in the renewal of the swamp-land grant to the States bordering upon the Mississippi and its tributaries.

But as a strictly commercial representative the Chamber of Commerce may be allowed to present the national importance of the various interests dependent upon the reparation of the levees and the removal of obstructions to river navigation.

THE SUGAR CROP OF LOUISIANA.

Louisiana is the only one of the States which produces cane sugar in quantity—the product at one time equaled about three fourths of the whole sugar consumed in the United States. Were its past production restored—which cannot be done without the reparation of the levees—it would even now amount to forty per cent. of the whole consumption. To furnish some idea of the extent to which this important interest has been damaged we give the number of tons produced in 1851, 1864, 1865, and 1866, with the number of plantations at the same periods:

	1861.	1864.	1865.	1866.
Crop..... hhds.....	449,000	6,668	14,790	39,000
No. of plantations.....	1,291	175	188	347

It will then be seen that the sugar plantations of Louisiana numbered in 1866 very little more than one fourth of those worked in 1861, and that the crop of 1866 was scarcely more than one tenth the weight of that of 1861. The value of the crop of 1861 was paid chiefly in eastern merchandise and western provisions.

The destruction of the free-grown sugar of Louisiana has thrown the United States upon the slave-grown sugar of Brazil and Cuba. It has destroyed a home market for American manufactures and other products, and compelled the importation of specie to pay for what was formerly paid for in our own products. To show that the American sugar supply is only paid to a small extent with domestic products and domestic currency, we adopt from the report of the New York Chamber of Commerce the statement of sugar and molasses imported into and produced by the United States for the year 1865–66. It will show the wants of the American people and the ability of the country to supply them with this important social necessity.

"The total consumption of raw sugar of all kinds in the United States may be stated at 412,000 tons."

A detailed statement of the sugar consumed in 1865 is thus given:

	Tons.
Total foreign sugar	345,809
Home crop of cane sugar	5,000
Maple sugar, estimated	30,000
Sugar made from molasses at refineries	22,300
Total	403,109

We may then safely assume that the sugar annually imported amounts to 350,000 tons. This at 8.3 cents per pound, gold, would amount to $58,100,000, including duty.

The molasses imported the same year was 34,335,038 gallons, which at thirty-two cents per gallon would amount to $10,987,212 16.

This aggregate of $69,087,212 16 was paid for in gold, less the value of American products exported to the sugar countries, and which may be safely estimated at not exceeding $10,000,000 per annum.

The State of Louisiana produced before the war 449,000 hogsheads, or 225,000 tons. Estimating the total annual consumption of the United States as stated it would appear that Louisiana is capable of producing about forty per cent. of the sugars consumed in the United States, or of saving to the nation the exportation of at least $24,000,000 in gold, or its equivalent.

THE COTTON CROP.

We need not add to this common loss the value of cotton produced under protection of the same levees. This cotton may be made elsewhere, but the river lands of Louisiana inundated without hope of reclamation there is no other field within the jurisdiction of the United States in which cane sugar can be produced in quantity.

The general diminution of the cotton crop affects every one who wears cotton. It is an interest of too much material importance to require discussion here. It may be remarked that the tax on cotton production is a specific burden which bears very heavy upon the Northwest. This tax tends to reduce the profits of the planter. When the culture of cotton is profitable the planter finds it more advantageous to employ his labor more exclusively in cotton, thus making a large market for western stock and provisions. When the value of cotton declines the planter first produces his own provisions and then employs his surplus labor in the production of cotton. This effect of the decline in the price and profits of cotton is visible in the reduced shipment of provisions to the southern States.

The removal of obstructions in the Mississippi from its highest navigable point to the Balize.

In the statement and argument which follows New Orleans is rather a witness than a principal party. The true petitioner and claimant is the whole valley and tributaries of the Mississippi. It is, moreover, the vast and productive region which is now expanding to the gorges of the Rocky mountains, and deploying its immigrant columns along the Red river of the North. Even the Columbia region, soon to be occupied by a highly civilized people, can obtain tropical products in no manner so conveniently as by the Mississippi. The population of the Northwest interested in this commerce with the tropics has been estimated recently at 17,000,000. The values created by them for exportation are very little short of $100,000,000.

The values imported are of proportionate magnitude. But why trouble you with statistics? Estimate the wealth and influence of this region as you will and it will more than verify by its progress the grandeur of your predictions. In the language of Mr. Burke, when imploring Great Britain to preserve the mother and colonies as an imperial unit he cited the unexampled growth of the colonies: "While you pause to make the figures the facts are upon you." The value, the power of that great valley is incalculable. It is in, of, and around you. It came to the field at your call to overwhelm with its irresistible numbers and resources all military resistance, and it will come to the polls with a force as decisive when it demands that the channel which iron-clads or chain-booms could not close shall not be sealed hermetically by the silent accumulation of—mud. These vast productions, this numerous people have openly charged that they are at the mercy of certain artificial lines of transportation lying between them and the markets of the world. They complain that these lines combine to raise the freight on their products, insomuch that the bushel of wheat which cost to the producer ten cents must pay other twenty cents transportation to the eastern and Atlantic market cities. These lines have of late years taken more than half the tonnage between the Mississippi valley and the Atlantic.

This powerful interest demands the free navigation of the Mississippi—free from tolls, transshipment or delay. They want the use of this great safety-valve and waste-gate, that whenever the artificial and corporate ways shall combine to exact too large a share of their products for this transmission to market they may open the vast free thoroughfare and escape the monopoly.

The interior interest likewise complains that the vast trade in the tropical products, composed chiefly of groceries exchanged for provisions exported from that interior in payment are condemned by river obstructions to pass across to and from the eastern Atlantic cities for export and import. That the flour of Iowa should cross the Mississippi to go to New York, and the coffee of Brazil seek the western consumers by the same indirect channel is unnatural.

That the freight which should be paid to the steamboat interests of Cincinnati, St. Louis, and New Orleans, and the railroads of Chicago and Illinois should pass to eastern railroads and shipping is a diversion of the legitimate resources of one section to enrich another. So far as this perversion of the course of trade is the result of enterprise and intelligence it is commendable and not to be complained of, but when the Government, by large grants of public lands to railroads and canals, by privileges of direct importations in bond, by granting subsidies and mail contracts to steam lines—when to this is added the failure of Congress to make appropriations adequate to open and keep open the Mississippi outlets—then the people of the great Northwest deem they have a right to complain, and your memorialists must sympathize with and support them in their appeal for redress.

THE UPPER OBSTRUCTIONS.

Your memorialists by no means content themselves with asking that the obstacles at the mouth of the Mississippi should be removed. They are sensible that an immense trade belonging to the upper Northwest is now restrained by the obstructions at the Des Moines and other rapids of the upper rivers. They know that northern enterprise desires to take this vast trade directly across to the Atlantic ports; but the Northwest has appealed to Congress for aid in the removal of these obstructions. This appeal requires neither argument nor exposition at our hands. Nothing more is necessary than for us to wish them success, and to give the assurance that New Orleans desires alike the removal of every obstacle to navigation from the mouth of the Mississippi to its sources.

CHARACTER OF BALIZE OBSTRUCTIONS.

The report of General McAllister to Major General A. A. Humphreys, Chief of Engineers United States Army, will afford the most authentic and impartial opinion as to the character of the impediments at the Balize. This report states that "the character of the work is such that it is not susceptible of entire and permanent completion, the waters of the river being always heavily laden with sediment, the channels across the bars at its mouth rapidly fill to their original dimensions, or compel cessation of work upon them."

PROBABLE COST OF THE WORK.

The same report says: "It is very desirable that at least one of the channels should have a depth of twenty feet; estimating for this depth instead of eighteen feet, as above, the required appropriation would amount to $200,000 for the single channel." But your memorialists having laid down the principle that the obstructions should be removed have only to refer to the estimates made by the authority to which they have before referred. The work should be done by the Federal Government, and whether it cost two hundred thousand dollars or a million dollars neither affect the national obligation nor the national interest.

This capital sum or annuity charged upon the population and wealth of the whole Union would be almost an imperceptible contribution. Levied as a special tax on New Orleans and the tonnage of the Mississippi river, it would be a permanent charge upon trade, almost as fatal to its increase as the physical obstructions it has been applied to remove.

VALUES IN TRANSITU.

The total values imported from the interior and New Orleans in 1866-67 are estimated at $168,343,569, being less by $33,378,600 than for the year preceding. This difference may be attributed in good part to the decline in the price of cotton, which, while the weights were nearly equal, differed in price $42,672,786. The imports paying duty were valued at $11,129,779. The values imported coastwise can only be estimated conjecturally. We think $40,000,000 a liberal amount. There was then last year a value *in transitu* to and through New Orleans amounting to more than two hundred and twenty million dollars; estimated to comprehend more than half the values annually exported by the whole United States. These sums are only indications of the commercial value which might be conducted through the same channel properly improved.

THE COFFEE TRADE.

We may here especially refer to the importation of coffee, which is consumed in great quantities in the Northwest, and at a cost much enhanced by the obstructions which have contributed to drive this important article to the Atlantic ports, thus charging the interior with additional freight. From the same authority quoted before we learn that the total coffee consumed in the United States in 1865 was 128,146,356 pounds. "Before the war," says the report, "the western States drew the bulk of their supplies of coffee from New Orleans by their natural and cheaply traversed highway, the Mississippi river." "In 1859 the consumption of New Orleans exceeded any other port, including even that of New York." What a change has taken place! New York, including the coastwise receipt, has received nearly eighty-four and three fifths of the whole coffee import of the country. The stock imported into New Orleans last year was 82,175 bags against 267,000 in 1860, while Cincinnati has imported as much as 120,000. What

has occasioned this diversion of the western coffee supply from its "natural and cheaply traversed highway?" We answer, in part of the obstructions of the Balize, and in part the subsidy of $150,000 per annum given by Congress to support a steam line between New York and Rio Janeiro. To the intent then that the removal of obstructions from the mouth of the river will enable the Northwest to import its coffee on better terms than at present that section is interested in the work.

THE SHIPPING INTEREST.

It will not be proper to confine the importance of removing these obstructions to the interests already referred to. The shipping of New England once carried the crops of the South and the products of the Northwest. The tonnage of the port of New Orleans has declined greatly, and it is to be regretted that the shipping interests of the United States has been diminished somewhat in the same proportion, but the owners of shipping are interested in having access to as many ports as possible. They suffer greatly from the obstructions, which sometimes detain whole trade fleets at the Balize. Your memorialists certainly hope that the representatives of the commercial ports of the southern Atlantic will aid their application with their votes. To enable you to appreciate, however, the present importance of this port, they add the estimate of the same authority heretofore cited. General McAllister says:

"On this point the following statement of the number and tonnage of vessels entering the port of New Orleans through the mouth of the Mississippi river during the last fiscal year is respectfully submitted, with the remark that the number and tonnage stated will, without doubt, be greatly exceeded by those of succeeding years, for the reasons above stated.

Number of American vessels from foreign ports, 159, tonnage	74,116
Number of American coastwise vessels, 1,561, tonnage	892,459
Number of foreign vessels, 482, tonnage	156,565
Total number of vessels, 2,202.	
Total amount of tonnage	1,123,140

This is certainly an interest of sufficient consequence to New York and Boston to justify their representatives in opening additional harbors for its employment.

THE PACIFIC TRADE.

The opening of the Mississippi has assumed a new yet analogous consequence since the development of the Pacific trade with the United States. In addition to the values passing between our eastern ports and Asia by the open sea we may add that of California, estimated last year at more than six million dollars, and that by way of the Isthmus of Panama. There are twenty-two steamers per month which arrive at and leave Panama for different parts of the world. One hundred and fifty thousand tons of freight annually make the transit between the two oceans, while fifty millions of bullion also pass the isthmus. The trade is increasing enormously, and will soon be so great that a double track railroad will not be sufficient to do the business.

The fabulous productions of the Indies, the teas and tissues of China and Japan, are now to be conducted by American enterprise. The Northwest demands its share of this trade. It must supply and be supplied on the same terms with the most favored part of the Republic. This Asiatic commerce must traverse an ocean more than three times the width of the Atlantic. Shall it then be delivered to the Northwest by the monopoly of a single railroad? Having had the experience narrated in this memorial in regard to the eastern trade, shall the Northwest encounter the same as to the western trade? The reasoning employed to open the river on national account as a guarantee against exactions in the European trade applies with the same force with regard to the Asiatic trade. In this inevitable competition with Europe the United States must prepare to remove the obstacles which the European Governments have expended so much to avoid.

ISTHMUS OF SUEZ

The Emperor Napoleon has procured from the Government of Egypt the exclusive right to connect the waters of the Mediterranean and Red sea by a ship-canal. Already have the contractors marked and completed a pioneer work which allows the passage of light craft. This has involved immense expenditure, and such is the momentous character of the enterprise that no amount will be spared until the commercial marine and the navies of the world shall be conveyed by a route so short and safe as to supersede the stormy capes and dangerous coasts of Africa. England has made every effort to secure the control of, or even a participation in, this way to her Indian empire, but her great rival holds the key, and it may not be wrested from her. Not impossibly the possession of this pathway and its fortifications may determine not merely the mastery of the commercial position, but the ownership of the Indian empire.

ISTHMUS OF CENTRAL AMERICA.

The United States has a similar problem. The navigation of the Pacific ocean around Cape Horn involves a great distance and danger. New Granada conceded to an American company the right to construct an inter-oceanic railway, but the Government of the United States, with an inexplicable generosity, insisted on admitting all other nations to a coprotectorate and copartnership in the use of this way. The franchise will soon expire, and New Granada offers it again for sale at a price greatly enhanced by private enterprise of international protection. The American people, and especially those of the Northwest, have a right to ask whether the Federal Government proposes to continue the coprotectorate policy. Is Darien to be opened for universal use by American capital? Shall Nicaragua, Chiriqui, and Tehuantepec be free to the use of all nations on similar terms, while an American vessel must pay the tribute and comply with the terms imposed by France for the passage at Suez? The people of the United States will not be content to see their productions restricted in the European markets while every Power in Europe passes our doors on their way to and from the most profitable field of American commerce. The Northwest now desires to share in the tropical and citra-tropical trade. It desires a share of the Asiatic trade. To receive its fair proportion of these it will require: 1. The removal of all obstructions to the Mississippi navigation. 2. The free and exclusive use of the Isthmian transit. With these facilities, the provisions and precious metals of Iowa and Montana, and the manufactures of Cincinnati and St. Louis, may be exchanged against the tropical products of Asia and America.

FEDERAL AID TO STEAM LINES.

The practice of developing foreign trade by granting public subsidies to steam lines has been introduced by England and copied by the European Powers and by the United States. Great Britain owes her retention of the West India and Mexican trade entirely to the regularity with which her communications are kept up by the British West India steam-packet lines, sustained at a cost to the Government of more than a million dollars annually. The Cunard line, subsidized to the amount of nearly seven hundred and fifty thousand dollars per annum, has superseded the American steam line to Liverpool because the United States has withdrawn its allowance to the Collins line. France has organized the general Trans-Atlantic Steamship Company under an outfit loan of $5,000,000, and a heavy annuity in addition. The United States has agreed to pay the mail-packets between New York and Rio Janeiro $150,000 for twelve round trips per annum, the Government of Brazil stipulating payment of an equal sum on the same terms. Congress has given to California a contract by which her Pacific Mail Steamship Company receives $500,000 per annum for twelve round trips between San Francisco and China. Besides, the steam lines between New York and San Francisco by way of Panama receive large mail pay and liberal compensation for the transportation of men, munitions, and other articles of the Government. There is a proposal before Congress that it shall indorse the bonds of the Commercial Navigation Company of New York for $3,000,000, with a grant of all postage to accrue from certain transatlantic lines proposed to be operated by that company. It must not be forgotten that the Government enhances the value of its residuary domain and increases its military strength and taxable values by granting lands and a subsidy of about sixteen thousand dollars per mile to the Pacific Railroad Company.

It is in no spirit of discontent that your memorialists ask what manifestation is there in the action of the Federal Government to secure the commerce of the countries lying around the Gulf of Mexico and the Spanish main. In what has Congress shown its appreciation of this vast natural market for western products, and of this great source of western supplies? If the Government would subsidize a line of steamers across the Gulf to connect the river trade at New Orleans with the foreign ports referred to, and especially with the Pacific trade at the Isthmian crossings, the Northwest would derive such advantages of imports and exports as would redound to the immediate and immense advantage of the Federal Treasury.

Your memorialists, therefore, respectfully offer a recapitulation and summary of those demands in which the city of New Orleans, as the mart and metropolis of the South, unites with the great West and Northwest in presenting for your consideration. They respectfully request that the accompanying bills may be reported for discussion and adoption:

1. A bill appropriating the sum of —— million dollars to be applied to ascertaining and executing the best mode of deepening one or more outlets of the Mississippi river, so as to insure at all times the passage of the largest vessels required by American commerce.

2. A bill making adequate appropriations to remove all obstructions to the navigation of the Mississippi, Missouri, and Ohio rivers, to such points as may be deemed of national importance.

3. A bill to restore the broken levees along the Mississippi river, by giving the endorsement of the Federal Government upon the bond of the State of Louisiana to an amount not exceeding —— million dollars, upon such terms of interest, maturity, and liquidation as Congress may see proper. The appropriations to be applied and expended under the direction of the Federal Government.

4. Joint resolutions impressing upon the Executive the propriety of negotiating treaties for the right of exclusive and free way by one or more routes for the Government and people of the United States across the Isthmus of Central America.

5. A national appropriation for the construction of one or more canals or railways across the Isthmus, to be open to the use of American citizens on just and equitable terms.

6. The negotiation of such reciprocating and other conventions with the American States and nations as may give to the citizens of the United States the right to exchange their productions against those of such other nations without the impediment of revenue and commercial regulations which now embarrass and to a great extent prevent it.

ALFRED MOULTON, *President.*
A. C. WAUGH, *Secretary.*

REDUCTION OF THE CURRENCY.

Mr. SCHENCK. I am directed by the Committee of Ways and Means to report back House bill No. 147, for the further reduction of the currency, and several other joint resolutions and bills on that subject, and to move that the committee be discharged from their further consideration and they be laid on the table.

The motion was agreed to.

Mr. SCHENCK. I now desire to report a bill.

The SPEAKER. The Chair will state that when the Committee of Ways and Means is regularly called they will be entitled to another morning hour.

Mr. SCHENCK. I only ask to report a bill upon this same subject to be recommitted and printed. It is a bill to suspend further reduction of the currency. I give notice that I will call it up at the earliest day possible—to-morrow or soon after.

The bill was read a first and second time, and ordered to be printed and recommitted to the Committee of Ways and Means.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a bill to facilitate the restoration of the late rebel States, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

TIME OF ELECTING REPRESENTATIVES.

Mr. ASHLEY, of Ohio, by unanimous consent, also introduced a bill to fix the time for the election of Representatives and Delegates to the Congress of the United States, and for other purposes; which was read a first and second time, and referred to the Committee of Elections.

ACTING ASSESSORS AND COLLECTORS.

Mr. KERR, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the law on that subject as to give to assistant assessors and collectors of internal revenue respectively during the time they shall perform the duties of acting assessors and collectors in districts in which there are no assessors and collectors by reason of death, resignation, removal, or other cause, the same compensation that is now by law paid to assessors and collectors respectively, and to report by bill or otherwise.

STEAMBOAT INSPECTION.

Mr. WASHBURNE, of Illinois, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to this House the items of expenditure for salaries of supervising and local inspectors under the act of the 30th of August, 1862, for the better protection of lives of passengers on vessels propelled in whole or part by steam; and also the amount of fees collected and paid in under the various provisions of law in regard to the subject; and whether any prosecutions were instituted against any persons connected with the steamboat "Commodore" for alleged violations of law, and if not, the reasons why such prosecutions were not instituted.

PENSIONS.

Mr. LOGAN, by unanimous consent, introduced a bill allowing pensions to soldiers or the widows of soldiers of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and the War of 1812.

JAMES C. HEWETT AND OTHERS.

Mr. WARD, by unanimous consent, introduced a bill to provide bounty for James C. Hewett and six others, members of company F thirty-fifth New York volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

PERSONAL EXPLANATION.

Mr. WINDOM. I ask unanimous consent to make a personal explanation.

The SPEAKER. If there is no objection leave will be granted.

There was no objection.

Mr. WINDOM. As the gentleman from New York [Mr. BROOKS] to whom my remarks will have reference is not now in his

seat I ask consent to defer what I wish to say until he shall come in.

The SPEAKER. If there be no objection, the gentleman from Minnesota [Mr. WINDOM] will be recognized as entitled to the floor when the gentleman from New York [Mr. BROOKS] is in his seat.

There was no objection.

Mr. WINDOM subsequently said: With nearly nine years' experience on this floor this is the first time I have ever risen for the purpose of personal explanation, and I would not do so now but for the remarkable exhibition which occurred yesterday afternoon in my absence. Desiring what I have to say this morning should be said in the presence of the gentleman to whom my remarks apply rather than behind his back, as his were made behind my back yesterday, I have waited until the gentleman is present. I ask the Clerk to read from the Daily Globe my remarks of yesterday.

The Clerk read as follows:

"Mr. WINDOM. Mr. Speaker, I have no speech to make on this question; but I hold in my hand a circular which was referred to yesterday by the gentleman from Ohio [Mr. GARFIELD] as having been very thoroughly circulated through the South; and as this circular has some bearing upon the amendment offered by the gentleman from New York, [Mr. BROOKS,] and will tend to exhibit the speculation which has been undertaken on this subject, I desire the Clerk to read it." * * * * * *

"Mr. WINDOM. As this contract contemplates the recovery of all the tax that has been paid or may be hereafter paid, I think that if any gentlemen want to enter into that copartnership they had better vote for the amendment of the gentleman from New York, for that amendment seems to be in harmony with this project. The friend who has transmitted this document to me states in his letter that he has from these parties themselves a statement that they already have the control of claims amounting to $20,000,000, so that this is a very handsome speculation."

Mr. WINDOM. Mr. Speaker, those are all the remarks that I made upon the subject yesterday, and not one word was changed by myself from the reporter's notes. I ask the Clerk to read now the remarkable comments made by the gentleman from New York [Mr. BROOKS] in my absence yesterday evening.

The Clerk read as follows:

"Now, Mr. Speaker, after these statements, which I have made as brief as possible, I am loth, very loth, to refer to an insinuation made by the honorable gentleman from Minnesota [Mr. WINDOM] on this subject, an apparent insinuation that I am the organ of traders and speculators, or, in the new vocabulary which he and another gentleman upon this floor use, of 'strikers,' and 'suckers,' and 'sharks,' and 'shysters,' and other sibilant sus-surrations [laughter] which were poured forth by the honorable gentleman on those who are only trying to do right." * * * * * *

"But the gentleman from Minnesota [Mr. WINDOM] caused to be read here a contract between certain persons holding cotton who desire to test the constitutionality of the tax upon cotton, a perfectly legitimate and legal purpose, but I know not how the honorable gentleman infers that I am in any way connected with it, or why that contract, out of order, utterly unconnected with this subject, should have been introduced on the floor of this House in connection with this debate, unless it was meant to insinuate that in offering my amendment I was the organ of 'shysters,' and 'sharks,' and 'strikers,' &c.

"I do not know in what school the honorable gentleman from Minnesota [Mr. WINDOM] has been educated. His position upon the Committee on Indian Affairs, which often brings him in connection with those whom he denominates shysters, sharks, and strikers, may have educated him in all the rascality which often surrounds the Indian department of the Government; and there he may have been taught to apply to others the education in which he has been trained himself. *Honi soit qui mal y pense.* I know nothing of any such things.

"Nobody has any right to make any such allegations against me. I am the organ of no one and nobody. I have never been upon this floor such organ, and never will be. I stand here not for my New York constituency alone or for the cotton-planters alone; I stand here in favor of my whole country, our common country, for all parts of it from Passamaquoddy to the Rio Grande."

Mr. WINDOM. Mr. Speaker, as I have already stated, when these remarks were made by the gentleman from New York I was absent, and I did not return until after he had taken his seat. I went at once to the reporters and asked to see the copy of what he had said, that I might then reply to it if there was anything to which I took exception.

I do not rise to find any special fault with the gentleman from New York, but his comments on my remarks were so especially complimentary and so very kind in their spirit that I feel as if I ought to apologize to him, and I rise partly for that purpose. I would beg the House to bear in mind the remarks which have been read as coming from myself yesterday and I will ask where there is any sort of foundation for any such inference as the gentleman has taken to himself. I said nothing which could in the slightest degree have a personal application, as I believe, to the gentleman from New York. I certainly intended no such thing and I was astonished when I found in the Globe this morning that he had applied them to himself.

He accuses me of using language here which I defy him or any other gentleman to find in any remarks that I have ever made in this body. I have never alluded to any members of this House or to anybody else as "shysters," and "sharks," and "strikers," and "suckers." That is not my style, and I cannot imagine why the gentleman should have been so sensitive upon this point; nor can I imagine why he should have been so sensitive to a charge of having connection with the company to which I referred.

He intimates that my connection with the Indian committee has so brought me in association with rascals that my suspicions—I believe that is the sum and substance of it—have become somewhat sharpened. Well, Mr. Speaker, sharpened as my wits and suspicions may have been by watching the rascals by whom I may have been surrounded, I did not yesterday, at the particular time that I made my remarks, suspect that the gentleman had anything to do with this company. And, Mr. Speaker, I will say further that my experience with rogues generally, not only about the Indian committee but elsewhere, is that they are universally sensitive, and universally incline to make application to themselves of general remarks on the subject of rascality. My experience on the Indian committee has taught me that much at least. I know that is the case with Indian rogues.

I do not know that it is true with regard to cotton rogues. I cannot say how that is, but in Indian matters if you find a man who is peculiarly sensitive watch him, for very likely he has something to do with jobs and suspicious contracts, and very probably has his hands behind him turned up ready to receive something.

Now, I make no insinuations against the gentleman from New York, and I accept none. I do not think he meant to charge me with dishonesty; he simply meant to say that having had a good deal to do with rogues I am suspicious of them. I accept the compliment paid me in that regard.

The gentleman says he does not know in what school I have been educated. It is easy to ascertain, from the remarkable language he usues, in what school he has been educated. He speaks of the language which he ascribes to myself as being "sibilant sus-surrations," which means, as I interpret it, "the hissing whispers of a copperhead." I know in what school he has been brought up, because no other man has ever heard so much of that as he, or knows so well the language which properly describes it. I apprehend that no other man in this House ever saw those words before. I had to look in the dictionary to find out what they meant. But the gentleman having heard the "hissing whispers" of his copperhead constituents for the last four or five years understands it perfectly.

I will say nothing more upon this subject. I hope the gentleman will accept my apology. [Laughter.]

Mr. BROOKS. I would ask permission to say a few words in reply to what the gentleman from Minnesota [Mr. WINDOM] has said.

There was no objection.

Mr. BROOKS. The gentleman from Minnesota [Mr. WINDOM] may be and undoubtedly is smart and witty, and if he had said anything offensive to me I am so entirely disarmed as to be utterly incapable of any anger or feeling on account of it.

I dare say the gentleman has been educated in a very good school, and if he is satisfied with it I am. And upon that subject we will not enter into any discussion here upon this floor. What led me to notice at all the remarks of the gentleman was his introduction here of an extraordinary contract, or form of contract, upon the part of certain gentlemen in Georgia, lawyers, at the head of whom is Herschel V. Johnson, one of the most distinguished lawyers of the South. He is a man who, whatever may have been his political affiliations, as a jurist occupies the highest position. He proposes as a lawyer to test the question of the constitutionality of the cotton tax, through the Court of Claims, or some other court, in order to obtain a decision upon that subject, by which those who had paid the tax would have a legal right to the refunding of the sum paid, provided the law was declared to be unconstitutional. It is a legitimate operation on the part of Mr. Johnson, or of any other lawyer, at any time to test the constitutionality of a law.

The language of the gentleman in connection with that of the gentleman from Tennessee, [Mr. MAYNARD]—who, however, disclaimed any intention of personality in his remarks, and, therefore, who entirely disarmed me from making any reply—the language of the gentleman from Minnesota [Mr. WINDOM] in introducing the form of contract was—

"As this circular has some bearing upon the amendment offered by the gentleman from New York, [Mr. BROOKS,] and will tend to exhibit the speculation which has been undertaken on this subject, I desire the Clerk to read it."

Now, I could not see the bearing of it, or see why the circular was introduced, for I do not propose to test the constitutionality of the cotton tax. But I propose the immediate repeal of the cotton tax; that is all I propose.

In the course of his remarks the gentleman went on to say:

"I think that if any gentlemen want to enter into that copartnership they had better vote for the amendment of the gentleman from New York, for that amendment seems to be in harmony with this project."

Now, I see no "harmony" at all. There is not the least "harmony" between testing the constitutionality of the cotton tax and the repeal of the cotton tax. Hence I could not see why the gentleman introduced this long contract and sought to connect it with my amendment.

Mr. WINDOM. Will the gentleman allow me, as we have got on so good terms, to explain in what way I thought the two things were "in harmony?"

Mr. BROOKS. Certainly.

Mr. WINDOM. Just before I rose the gentleman from Tennessee [Mr. MAYNARD] had remarked that if we should adopt the amendment of the gentleman from New York relieving from tax those who have not paid the tax on this year's crop of cotton it would afford ground for a most forcible argument that those who have paid the tax for this year should have the money refunded. I claim, Mr. Speaker, that such an argument would be most reasonable, and hence I hold that the amendment of the gentleman from New York was strictly in harmony with the copartnership to which I referred. I did not refer to the gentleman as personally having anything to do with that project. I simply meant to say that the tendencies of the amendment were in that direction.

As the gentleman has yielded to me, I desire while on the floor to read an extract from a letter on this subject, written by a gentleman whom I know to be perfectly reliable. I will not give the name of my correspondent, because I apprehend it would be unpleasant to him; but I will read the extract which caused me to send to the Clerk's desk the contract read yesterday:

"I have learned from parties who are disinterested and from one of the partners himself, that he and his colleagues in this State already have in their possession over ten millions of these claims, while their partners and agents in Alabama have upward of twenty millions, and expect to have eighty millions in all ready to present to the Court of Claims by the 1st of December. They allege that it is an unconstitutional tax, from the fact that in almost every instance it has been a direct export duty.

"They will importune Congress and use $30,000,000 of their claim to carry the measure through. Forty millions will be returned to the tax payer, and the other ten will be retained for services rendered. One of the 'influential northern friends' alluded to is ——— ———, of New York."

Not the gentleman now on the floor.

"I send you this information so that you may be thoroughly posted when the time comes for you to act, that you may be enabled to checkmate and prevent the execution of the deep-laid plan, which is calculated to embarrass the Government and bankrupt the Treasury."

Now, if that be the plan, it seems to me that I was justified in saying that it looked like a large speculation—I meant a speculation on the part of those engaged in it—I did not mean to imply that the gentleman from New York was engaged in it.

Mr. BROOKS. Notwithstanding the explanation of the honorable gentleman from Minnesota I cannot get it into my head how testing the constitutionality of the cotton tax has anything to do with the enactment of a law by Congress for the repeal of the tax. One question is to be decided by a judicial tribunal, a court of law, the other by a legislative tribunal, the Congress of the United States. Nor can I see by what logical process the gentleman connects the two propositions or supposes that one is connected with the other.

What led me further to remark upon this subject was a subsequent remark by the honorable gentleman from Pennsylvania, [Mr. MOORHEAD,] who said:

"Mr. Speaker, after the discussion we have had on this subject, and particularly after the exposure made in the paper sent to the desk by the gentleman from Minnesota, [Mr. WINDOM,] I do not suppose there is any danger of this House voting for the substitute."

The gentleman from Pennsylvania speaks of the paper which was read as an "exposure," and connects it with the remarks made by the gentleman from Minnesota; and this confirmed my supposition that the gentleman intended his remarks for me.

Now, Mr. Speaker, nothing is less desired on my part than any personal controversies of this sort upon the floor of this House. In the whole course of my legislative career I have never made a personal attack upon any gentleman on this floor unless I have been provoked to it. I hope I shall never so far forget my own dignity and the dignity of this House as to indulge in any unprovoked personal attacks. But on no occasion, at no time, here or elsewhere, do I intend in my legislative career to be assailed in my honor without replying to the best of my ability.

I have an apology, therefore, to make to the gentleman from Minnesota if I have misrepresented or misunderstood his remarks as he has explained I have. I am glad he has given us both an opportunity to understand each other and to put ourselves right before the country.

SYMES VS. TRIMBLE.

The SPEAKER laid before the House evidence in the Kentucky contested-election case of Symes *vs.* Trimble; which was referred to the Committee of Elections.

M'KEE VS. YOUNG.

The SPEAKER also laid before the House evidence in the Kentucky contested-election case of McKee *vs.* Young; which was referred to the Committee of Elections.

POST OFFICE APPROPRIATIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting a copy of a letter from the Postmaster General relative to the appropriations for the service of the Post Office Department; which was referred to the Committee on Appropriations, and ordered to be printed.

QUESTION OF PRIVILEGE.

Mr. DAWES. I rise to call up a question of privilege.

Mr. HOOPER, of Massachusetts. I ask leave to introduce a resolution and permission to say a few words in explanation of it.

Mr. DAWES. I beg my colleague not to ask my indulgence to that extent, for I am now interfering with what is understood to be the business of the House to-day.

Mr. HOOPER, of Massachusetts. I will only ask leave to introduce the resolution without asking to have any action on it.

Mr. DAWES. I suggest to my colleague that he withhold his resolution until I get through, and I have no doubt the House will permit him then to make his remarks.

Mr. HOOPER, of Massachusetts. I withdraw it for the present.

JOINT COMMITTEE ON ORDNANCE.

The SPEAKER stated the first business in order was the unfinished business of yesterday, which was on concurring with the Senate in the appointment of a joint Committee on Ordnance, on which the yeas and nays were ordered.

The Clerk read the message of the Senate, as follows:

IN THE SENATE OF THE UNITED STATES,
December 3, 1867.

Resolved, That the joint Committee on Ordnance on the part of the Senate, appointed at the last session, and consisting of Mr. HOWARD, Mr. CAMERON, and Mr. DRAKE, be, and they are hereby, reappointed.

Attest: J. W. FORNEY, *Secretary*.

Mr. DAWES. I suggest that the order for the yeas and nays be withdrawn.

Mr. ROSS. I object to the withdrawal of the order for the yeas and nays. I do not think we need any ordnance committee. We need much more a committee on plowshares and pruning-hooks.

Mr. LOGAN. If I have permission before the vote is taken I should like to make an explanation in regard to the committee on the part of the House.

The SPEAKER. The question is debatable.

Mr. LOGAN. Mr. Speaker, I will not detain the House but a short time. I am myself not disposed to have a great number of investigating committees, and especially where there would seem to be no necessity for them. But why objection is made to this particular committee is something I cannot understand. It is a committee which was organized during the last session for the purpose of investigating the manner in which ordnance was made and furnished to the Government, and all the matters connected therewith. I certainly would be glad to be relieved from the labors of that committee, but I do think it is of some importance. We have investigated the subject up to the present time, not with closed doors but so that every one might know what we were doing. We have developed a state of facts which I think ought to be known to the country. There are many things with which members of this House are not conversant and which have been disclosed before that committee. The evidence shows that great frauds have been perpetrated upon this Government in contracts for ordnance and other munitions of war.

The evidence before the committee shows that certain gentlemen who have been connected with this department have speculated and defrauded the Government while they have been officials acting for the Government. The evidence shows that in no single instance where a man has come to Washington with an invention for guns, either for field-pieces or heavy ordnance, has he had any attention given to him unless he belonged either to the Army or the Navy. I will give one instance, a poor man in Chicago, in my own State, invented a gun and brought it to Washington. It is now lying in the navy-yard, having been fired a few times, no attention being paid to it. A man who served in the department for forty years testifies before that committee that his patent was stolen, and England furnishes the guns to this country known as Armstrong guns which were invented by John P. Atwater, of Chicago. The evidence does show that at different times inventors in this country who were poor men have been defrauded and cheated out of their inventions, which afterward have been found issued in somebody else's name. All these facts are before the committee and much more will be developed if we are permitted to continue the investigation.

There is another important fact that the country, or at least this House, ought to know. I became conversant with it some years ago. We have two ordnance departments, one connected with the Army and the other with the Navy Department. Now I defy any gentleman to show me one gun or one shot or shell from the Army that has ever been made by contract for the Army of the same size as those of the Navy. I would like some gentleman to tell me why that is so. You cannot take a gun from one of your forts and put it on one of your vessels and fire your naval ammunition from it. If the Navy has a hundred-pounder or a fifteen-inch gun, the same contract made with the same man on the part of the Army will result in the furnishing of a gun a little less in calibre, so that you cannot use the same ammunition. Can any one tell why that is so? There is no reason for it, I apprehend, except to keep up two distinct departments at great expense to this Government, so that two rings that are organized in this country may be run, the people knowing nothing about it.

I have investigated this ordnance question for the last few years sufficiently to satisfy me that greater frauds are perpetrated in connection with this than with almost any department of this Government, because it is the most expensive department. Now, why gentlemen want this committee discontinued when we have only just got into the evidence and are beginning to develop the facts, I do not know. I do not want to continue the committee unnecessarily, because it will be an expense to the Government; but the reason I introduced the resolution in this House at the time I did to have this committee appointed was that on the field I had seen such frauds perpetrated in the ammunition furnished to our men that I was determined, if it was ever in my power, to have the matter investigated to see where the responsibility lay. I believe the facts we are developing to-day will disclose to the country how the frauds were perpetrated.

I assert here to-day that more of our own men were killed in the late war by our own ammunition, fired from our own light and heavy field-pieces, than were killed by the heavy and light artillery of the enemy. The cause of it was the frauds perpetrated on this Government and submitted to by its officials. These are facts that will come before the country. Let the country know who is responsible for these things. Men have taken contracts who are connected with the Army. You are having guns made to-day for the use of the Army and Navy that are the invention of some men directly connected with one or the other of these departments. Indeed no other men can have an opportunity of getting such contracts. For this reason I want the committee continued.

There is another reason why I desire the continuance of the committee. It is to examine the question thoroughly and report to this House whether or not it would not be better to consolidate these two ordnance departments. Instead of having one in the Navy and another in the Army procuring guns of different caliber it may be considered preferable to have but one ordnance department, so that our Navy may use the same guns and ammunition that are used in the forts, and our forts may use the same that are used in the Navy. I am inclined to think it would be better to consolidate these two departments into one, at the head of which we should have a good officer. It would certainly save the Government millions of dollars. I desire that this investigation should be continued and the facts reported to Congress, so that we may decide whether it is not best to consolidate the two departments into one. Therefore I am in favor of concurring in the action of the Senate in continuing the committee.

Mr. WASHBURNE, of Illinois. My colleague says that some gentleman from Illinois made a motion to non-concur.

Mr. LOGAN. I understood so.

Mr. WASHBURNE, of Illinois. I made no such motion.

Mr. LOGAN. I was misinformed, then. I take it back.

Mr. WASHBURNE, of Illinois. I made no such motion, and I did not know to whom my colleague referred.

Mr. LOGAN. I thought you did; and that was the reason I referred to you.

Mr. DAWES. I demand the previous question.

The previous question was seconded and the main question ordered, being upon concurring in the resolution of the Senate, upon which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 26, not voting 34; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Hamilton, Harding, Hawkins, Hill, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marshall, Marvin, Maynard, McCarthy, McClurg, Miller, Moore, Moorhead, Morrell, Mullins, Mungen, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Polsley, Price, Randall, Robertson, Sawyer, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taylor, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—126.

NAYS—Messrs. Archer, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Grover, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Morgan, Niblack, Nicholson, Phelps, Pruyn, Robinson, Ross, Taber, Van Auken, and Woodward—26.

NOT VOTING—Messrs. Adams, Baldwin, Barnes, Barnum, Bromwell, Butler, Chanler, Finney, Fox, Griswold, Haight, Kitchen, Knott, Logan, McCullough, Mercur, Morrissey, Poland, Pomeroy, Raum, Schenck, Scofield, Selye, Shellabarger, Stokes, Stone, Taffe, Twichell, Burt Van Horn, Ward, William B. Washburn, Thomas Williams, Wood, and Windom—34.

So the resolution was concurred in.

Mr. DAWES moved to reconsider the vote by which the resolution of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

KENTUCKY CONTESTED ELECTION.

Mr. DAWES. I rise to a question of privilege. I call up the report of the Committee of Elections in the case of the third congressional district of Kentucky. I ask that the resolutions reported by the committee be read.

The Clerk read the resolutions, as follows:

Resolved, That George D. Blakey is not entitled to a seat in this House as a Representative from the third congressional district in Kentucky.

Resolved, That the oath of office be now administered to J. S. Golladay, and that he be admitted to a seat in this House as a Representative from the third congressional district in Kentucky.

Mr. DAWES. Mr. Speaker, I will content myself with a simple statement of this case, and then, if no one desires to speak upon it, I will ask a vote.

The claimant, Blakey, claims to have been elected to this seat at the regular election for Representatives in Congress in Kentucky on the 4th day of May last. The claimant Golladay claims to have been elected to this seat at a special election held subsequently thereto, on the 7th day of August last. It therefore became necessary, first, to inquire into the legality of the claim of Blakey, without regard to the claim of Golladay.

Blakey claims to have been elected to this seat upon the grounds which I will state. At the election on the 4th day of May last he and the late Elijah Hise were the only candidates voted for. The vote at that election stood as follows: for Mr. Hise, 7,740; for the claimant, 1,201. The election was held on the 4th day of May. According to the law of Kentucky the board of canvassers, whose duty it was to count the votes and certify the result, met on the 27th day of May. Previous to their meeting, and four days after the election, to wit, on the 8th day of May, Mr. Hise, who had received seven thousand and odd votes, deceased. It is claimed by Mr. Blakey that when the board of canvassers met on the 27th day of May, he being the only living person for whom votes had been cast for Representative in Congress, it was the duty of the canvassers to have certified that he had a majority of the votes cast at that election and that he is entitled to hold and retain the seat. I merely state the proposition. The views of the committee upon that proposition are set forth in a document which has been before the House for some days, being report No. 1 of this session of Congress. It is sufficient for the purpose of the committee that I simply state this claim.

The second ground upon which Mr. Blakey claims the seat is this: by the law of the State of Kentucky the officers of election are all to be appointed in the month of May previous to the day of election by the county courts in the several counties.

A subsequent law requires this county court, in the appointment of these officers of election, to distribute them among the two political parties, if such there be, in the State of Kentucky; so that each party shall have more or less of these judges of election at each precinct in the State, provided there are in each precinct such persons of that political party. It is claimed by Mr. Blakey that in eleven of the twelve counties which compose that congressional district this law was disregarded by the county judges; and that in the appointment of the officers of election the law was complied with in only one county, while in the others the great majority, if not all of the officers of election were taken from the party to which the opposing candidate, Mr. Hise, belonged.

Mr. Blakey did not prove before the committee that there did exist in the several precincts members of his own party from whom these appointments could have been made. But the committee heard him upon the question whether, if he had already proved this much, he would still be entitled to the seat. The committee were of opinion that, assuming there were in each of the precincts persons belonging to each of the political parties, so that the county judges could, if they were so disposed, comply with the letter of the law, and assuming that the non-compliance with the law would make void the election in any precinct where the failure to comply with it existed, still the result which he claimed, namely, his own election to this seat, would not follow.

The reason briefly is this: Mr. Blakey claims that this non-compliance with the law existed in eleven of the twelve counties, and that out of the nearly nine thousand votes cast at this election only seven hundred and odd of them were cast in conformity to this law; and that of that seven hundred and odd, he received a majority of nineteen. And the claim is that the committee shall set up and the House shall sanction the proposition that these seven hundred votes out of the nearly nine thousand votes shall be considered as the result legally of the election in that district, and that the choice of a Representative for that district shall be given to the nineteen majority out of seven hundred votes in the whole vote of a few short of nine thousand.

The committee were of opinion, assuming to be true all that Mr. Blakey claimed touching the law, that it would not follow that any such election could be set up, but that it would be the duty of the House to hand back this election to the people, and permit them again, in conformity to law, to make choice of their Representative; and that if that conclusion follow, it had been done at the special election held in August.

The third point upon which Mr. Blakey claims his seat is this: that Mr. Hise was known in his district to be disloyal, and was voted for by rebels and rebel sympathizers; and on the other hand that he himself was known to be loyal and was voted for by the loyal voters in the district. Upon this point no evidence was offered to the committee, and no reason was given why there was a failure to support that allegation by evidence. The committee were of the opinion that they were not authorized, nor would the House be authorized, to assume that any person claiming to be elected a member of this House was disloyal but that it was necessary to support by testimony any such allegation as was made in this memorial; they therefore came to the conclusion that they were not called upon to pass on the other proposition made by Mr. Blakey; that if Mr. Hise was disloyal it would follow that all the votes cast for him should be treated as a nullity, and therefore Mr. Blakey would stand elected.

The committee, therefore, have not found it necessary to pass upon that proposition, and they considered it their duty not to pass upon it for this reason: that it was not necessary to pass on that question, and there being other claimants to seats in this House upon similar grounds, there seemed to the committee to be a propriety in their hearing all parties upon that point before a decision upon it was asked of the House. Therefore, upon the three points and propositions of the claimant, Mr. Blakey, the committee were unanimously of the opinion that he was not entitled to this seat. There being no reason why the claimant, Mr. Golladay, should not be admitted to the seat except this claim of Mr. Blakey, it followed, in the opinion of the committee, that Mr. Golladay was entitled to be sworn in. Therefore it is that the committee have recommended these two resolutions to the House. If no gentleman desires to be heard upon the question, I hope the House will come to a vote upon the resolutions at once.

Mr. MAYNARD. Mr. Speaker, the claimant, Mr. Blakey, desires to address the House, and has prepared himself with that view. It certainly is not the usage of this body to reject any applicant unheard. I trust Mr. Blakey will be allowed to address the House at the present time.

Mr. DAWES. I do not desire to press the demand for the previous question now if any gentleman desires to be heard.

Mr. PAINE. The House yesterday unanimously consented that Dr. Blakey and his opponent should address the House.

The SPEAKER. The Chair was about to state the fact that the House has already granted its consent that Mr. Blakey and Mr. Golladay shall address the House.

Mr. BLAKEY. Mr. Speaker, profoundly grateful for the courtesy in admitting me to the temporary privileges of a seat on this floor as a claimant of a seat, and especially for the privilege now extended of being heard in this behalf, I have only to say that as an earnest of my high appreciation of this privilege I promise to consume no more public time than seems essential to do justice to the ponderous interests involved, and in entering upon a duty so responsible would respectfully ask that you hear me for my cause and respect me for the honor of my constituents.

When, in the course of human events, the loyal element of a loyal district knocks at the door of the Council House of this great nation through a loyal Representative and is told by a committee to whom his claims to recognition have been referred that he cannot be admitted a decent self-respect, added to a due deference to the opinions of the committee and a high appreciation for the opinions of this House demand that the reasons for the obtrusion, if you please so to regard it, shall be given.

In coming before this august assemblage of

wisdom and patriotism in the discharge of so responsible an obligation, so fraught with interest to the present and unborn generations, I feel that it is truly unfortunate for me as well as others that the task had not devolved upon one more competent to the great interests involved.

I confess to a great degree of embarrassment on this occasion, not though because of the existence of a doubt upon my mind as to the paramount rights of the loyal element of my district (whose representative I have the honor to be) to be represented, but because of the fact that the small number, comparatively speaking, who took the hazard of casting their votes for me has suggested doubts as to my rights and the rights of the loyal men of my district; and while I confess to regret that the number is so small I rejoice that in view of all the disabilities and dangers that environ them that the number is so large. I rejoice, too, in the fact that the small vote cast for me gives ample testimony that I have not found favor in the sight of that national felon, the Democratic party.

I am before you, gentlemen, from a district which may emphatically be recognized as a territorial district. When it is remembered that Bowling Green, the center or capital of the third congressional district, was also the capital of the provisional government of Kentucky, when in 1861–62 rebels and traitors held undisturbed possession and control over not only the third district but large portions of other districts of the State—there they had their constitution, their governor, their legislature, and their judiciary; there they gave and executed laws and edicts with as arbitrary and absolute power as they did at either Montgomery or Richmond; there they set the laws of the State and nation at defiance; there rebels and traitors by hundreds and thousands have been enfranchised since the close of armed hostilities, while hundreds and thousands of loyal men, most of whom hied at war's alarm and rushed to the scenes of danger and of death, are disfranchised, denied a voice in those things which concern their lives, liberty, and property—no marvel, then, that the little band of loyal men in my district should send up the Macedonian cry for help. They believe, sir, that you have the right under the Constitution to palsy the arm of every traitor in the land, that he may be disabled from casting a ballot; they believe, sir, that you have the same right to enfranchise every loyal man in the land, and that posterity will not hold you guiltless if you fail or falter in these things, and that your early action in fulfilling your engagements to guaranty to each State a republican form of government is demanded. For this the loyal men of my district have sent me here.

It is not expected that I shall here or elsewhere reflect the wishes of any save the loyal men of my district. For this, and this alone, I am here, claiming a seat under circumstances which I believe is without a parallel in the history of our country. I come, sir, claiming the seat by virtue of an original election, claiming that the election held on the 4th day of May last in the third and all other districts in Kentucky for Representatives in the Fortieth Congress was the only election for that purpose held in the district or State sanctioned by law. That election was held by virtue of an act of the Legislature, and not by order of the Governor. At that election Mr. Hise and I were the only candidates. On the fourth day thereafter, namely, the 8th day of May, Mr. Hise committed suicide. At that time no certificate of the result in the several counties had been made out and sent to the examining board at Frankfort, the place designated by the law for ascertaining the result. Now, let nineteen days pass by, during which Mr. Hise slept the sleep that knows no waking, and we find this examining board, composed of the Governor, Secretary of State, &c., counting up the votes, with the view of ascertaining the result. Now, let it be borne in mind that the law of the State of Kentucky makes it the duty of this board of examiners to make out three certificates of the result, filing one in the office at Frankfort, sending one to the person elected, and one to the Clerk of the House of Representatives. Did they do this? They did not; they rather preferred to do the business that belonged to others. Well, I think I have read or heard of a man somewhere who by neglecting his own and attending to the business of others squandered a fine estate and bankrupted a fine reputation.

Those gentlemen with the plain statute setting out their duties; knowing, as they must have known, that Congress, through its Speaker alone, can determine or declare vacancies in this House, refused to send the certificate to the only person living for whom a single vote had been cast. They assume or usurp the rights which belongs to Congress and declare a vacancy in this House, so certify to the Governor, and he issues a writ of election. I have often thought that could the vail which concealed this official board of dignitaries from the public gaze be drawn aside that a telling scene would appear. The Governor in the chair might be seen announcing the unwelcome fact that though a large majority of the votes had been cast for the late Mr. Hise, yet it is true, as claimed by Mr. Blakey, he is the only living person for whom votes were cast at that election. Here the attorney general might be seen rising with a letter in hand from Mr. Blakey, and asking the question as to Mr. Blakey's right and their duty in the premises. Objections were doubtless forcibly urged against a strict construction of this law. The effect would be most disastrous upon our prospects in the North. Says one, it is known throughout the whole North that Blakey is a radical Republican; that he voted and made speeches for Lincoln in 1860; that he was a member of the convention which first nominated him. Says another, it is equally notorious that he voted for Frémont in 1856. Says another, nor is it less notorious that in 1852 he made abolition speeches and canvassed a large portion of the State as an electoral candidate for Hale and Julian; and in 1851 canvassed the State as a candidate for Lieutenant Governor on the ticket with C. M. Clay. Says another, yes, and he was the emancipation candidate for the constitutional convention in 1849.

It would mark an epoch in our history if a man with such a record were to obtain justice at the hands of a committee of Democrats, whose chief delight in the past and at present has been in dealing out bitter denunciations against every political organization which has looked to universal freedom as a cherished, irresistible event, and whose chairman omits no opportunity to brand the party with which I have been associated for twenty years as rebels and traitors, and this House as an unconstitutional body. I trust that I violate no rule of this House or the committee-room in alluding to what I deem a very extraordinary scene which occurred in the committee-room, to which, by invitation of the chairman, I repaired some days since to state, as I supposed, the grounds upon which my claim is based. I was very soon followed by a Mr. Golladay and Mr. ADAMS, both from Kentucky. With my views as to the business of this committee of this House you may imagine my surprise when informed by the honorable chairman of the committee that I could have an hour and Mr. Golladay an hour to reply to me. Can it be that Mr. Golladay, after having volunteered to canvass several of the counties in the district in Mr. Hise's behalf previous to the May election, being the only man in the district who attempted a reply to any speech I made in the canvass, has now volunteered his services to resist my claim before this House?

What can a proceeding so extraordinary mean? Can it be that he is here as the executor or administrator, with the will annexed, of my late competitor, whose seat I intended to contest had he lived? It may be that he is here acting as attorney for the Commonwealth of Kentucky. But my competitor having died, leaving me the only person voted for at the May election, (Mr. Golladay only known in the canvass and election as an ardent supporter, though a personal enemy, of Mr. Hise,) throws around the proceeding a feature which to my mind is without a parallel in parliamentary proceedings.

I did not understand Mr. Golladay in his brief reply to my remarks before the committee to allude to any claim or pretended claim which he set up to the seat. Nor do I deem it necessary to say, here or elsewhere, that he can possibly have no claim to the seat except a bogus claim, gotten up in a spirit of utter contempt and defiance of the laws of Congress. I say this in no spirit of unkindness to Mr. Golladay, but out of a feeling of deep solicitude that this House in preserving its dignity may preserve its self-respect. By saying to Mr. Golladay's friends that when their services are needed in conducting the business of this House you will advertise them of the fact, say to them:

"Their act did not o'ertake their bad intent;
Therefore must be buried as an intent,
Which perish'd by the way."

In a word, say to the rebel authorities and voters of Kentucky, "Thus far shalt thou go, and no farther."

I grant that with the construction which I place upon the law under which I claim the seat that abuses might arise. The same may be said of many other laws. I beg the indulgence of this House for a moment while I notice the main objection in this case, which is, that a majority of the votes polled were cast against me.

Now, I submit to this House a question, the solution of which may settle or throw some light on this part of the subject. Suppose you that Mr. Hise had lived, and that in due time prescribed by law, say within thirty days after he had received the certificate of election, I had served him with a notice to contest his seat upon the ground of disloyalty, and that he, fearing the result, had resigned to the Governor of the State, would that impair my right to contest the seat? Surely not. Suppose that the Governor, regardless of my right to contest the election, thereupon assuming that I have no rights in the premises, declares a vacancy and orders another election. In the mean time I (acting under the counsel of the best authority in Kentucky or in this House that Congress has the exclusive right to declare vacancies in all such cases) treat the proceedings as are instituted by such assumption with indifference; and when I come here am met by a man claiming a seat by virtue of such assumption, and by the ruling of the committee am required to recognize him as my peer. Against such proceeding and such recognition I deem it only necessary to enter my solemn protest, and say to you here that if you adopt this very novel precedent, and should hereafter find yourselves involved in trouble on account thereof, I can say to you—

"Thou canst not say, I did it; never shake
Thy gory locks at me."

The Committee of Elections, whose report I have just read, seem to have taken the same view of the law of Kentucky as taken by the board of examiners, namely, that they had only to count the votes and certify the result. In this conclusion I beg leave respectfully to dissent from the opinions of both; for there is nothing more clearly set forth as a duty of the board than that they should "send a certificate to the person elected." This duty, though, they did not perform; but on the contrary declared a vacancy in this House. In this they leave undone their own work, and without the slightest authority or sanction of law, either State or national, do the work which belongs exclusively to this House.

And now, Mr. Speaker, it is in no captious spirit that I enter my solemn protest against the recognition on the part of this House of such an assumption, coming, as it does, from a State whose people went largely into the rebellion, and to this day have never been conquered. Recognize this assumption and you at once part with one of the dearest

rights that belong to this House. Yield it, and in a little while you will be required to yield the right of judging as to the election returns and qualifications of members of this House. I am not sure if that right is not already very seriously called in question. Let these concessions be made, and in a little while Kentucky will be the South Carolina of this nation.

The committee say, "If Elijah Hise had received a majority of votes legally cast when the polls closed." That fact is unalterably fixed. I think I have shown to the satisfaction of any man not seeking objection that I received a majority of votes legally cast in the district, as I will show you presently.

Now, suppose that when the poll-books of the election held on the 4th of May last came to be examined and counted up on the 8th of May, and then again on the 27th of May it had been ascertained that a large majority of the votes had been cast in a captious spirit or otherwise for Peter Stuyvesant, or some other imaginary character not representing any person on earth, and that I was the only person for whom a single vote had been cast, can there be a reasonable doubt that the certificate of election should have been awarded me? As further evidence that I was entitled to the certificate I refer you to the law defining the duties of the board of examiners, and submit to this House the question: if it had been the intention of the framers of this law that the examiners should withhold the certificate from the only person on earth for whom votes had been cast simply because he had not received a majority of the votes in the district, or of those polled in an election at which there were various other candidates, for other offices, would they not have added a proviso to the effect that in case of the death of the person receiving the highest number of votes previous to the day on which the final count is made, that then, and in that event, the board of examiners shall certify the fact to the Clerk of the House of Representatives, that a new election may be ordered to fill the vacancy thus occasioned? With such a proviso as this their duty would have been clearly defined, and I would have been estopped from setting up any claim to the certificate at their hands. But, sir, in the absence of such proviso I insist that my right to it is beyond controversy.

This brings me to touch briefly upon a phase of this subject of great delicacy. I have ever thought in making tracks over the ashes or dust of the dead our steps should be light; and were it not that I am addressing myself to the interests and welfare of the living I should here turn aside from the main points upon which (as I declared before the death of Mr. Hise) I intended to contest his seat. From my speeches during the canvass Mr. Hise and his friends were bound to know that I did not regard him or any other disloyal man eligible to a seat in this Hall. And none knew better than Mr. Hise that when I commence a good work it is my custom to carry it out. Mr. Hise, on the day after he heard that I was a candidate, declared in writing his intention to quit the world, giving as a reason that he would not be allowed to take his seat if elected. This, however, was not known to me or any one else until some time after the death of Mr. Hise. No one knew better than he did that the seat would be awarded him if legally elected, unless proof of ineligibility on the score of disloyalty were made against him. No one knew better than Mr. Hise that such proof could be made, and when the unenviable attitude opened upon his sensitive mind his giant intellect became unstrung, and he is at once a *felo de se*. He retires from the scene. Were it not that the rights of the loyal men of the country need to be vindicated I would gladly throw a vail over the faults of the dead.

But for this I would have gladly buried them with his bones, leaving the good deeds of his life to live after him. By reference to the proof in this case it will be seen that Mr. Hise said the union of these States ought to be dissolved, and that he was recognized throughout the entire struggle as being in sympathy with the rebels; that he has time and again denounced the Union Army as a set of vandal hordes led by Sherman and Grant, pillaging and plundering and murdering our citizens of the South. I refer you also to a speech delivered by him in this House last winter, and distributed with a liberal hand all over my district, for evidence most conclusive that his sympathies had all the while been with rebels and traitors, while at the same time he had been nursing his wrath against the day of wrath, against the loyal men of the country, especially the Union soldiers. Now, sir, had Mr. Hise lived I would have relied upon getting the seat upon the ground of his ineligibility, a fact which he virtually admits in his dying words; and being thus admitted, I have not deemed it necessary to encumber the case with proof to sustain an admitted fact.

Then, sir, I urge that Mr. Hise being ineligible, the admission of which was sealed by his own blood at his own hands, and being equally well known throughout the district that he was not a legal candidate any more than Jeff. Davis or John C. Breckinridge would have been, and that every vote cast for him, being cast in a menacing spirit of defiance to this House, should be regarded as thrown away as effectually as if cast for Jeff. Davis. This principle of law is well settled by the celebrated case given in the fifteenth and sixteenth volumes of Cobbett's History of Parliamentary Law, in the celebrated case of Wilks & Luttrell, in which Wilks, after being denied his seat in Parliament several times for disloyalty to the Crown, finally was returned (as some have been returned here, in a captious spirit of defiance) with a majority of five to one, when the seat was given to his loyal opponent Luttrell, in which not only the dignity of Parliament and the self-respect of its members were fully sustained and vindicated but the action approved by the attorney general and by Lord North. This precedent thus sustained became at once the law of the realm, included in the laws of Great Britain, and by our law, not being local in its character, was made the law of this land, and to this day stands unrepealed.

This very principle of law was observed and acted upon in the State of Kentucky during the rebellion by the Federal authorities of this Government to the entire satisfaction not only of the authorities at Washington, but of the great loyal heart of the State and nation. Why, sir, in those days such men as now come here knocking at the door of this House with certificates of election in their hands were not allowed to "stand for office." It was deemed a misdemeanor for men attainted with the high crime of disloyalty to presume to aspire to an office—they were assigned to "back seats." And, sir, to this day men who aided or encouraged, counseled or countenanced, or even adhered to those engaged in the rebellion are by law of the State precluded from holding the insignificant offices of judge, clerk, or sheriff of an election; and I here boldly assert without the fear of successful contradiction that Mr. Hise was not and Mr. Golladay (who claims to have been elected as his successor) is not eligible to fill either of those three minor offices the duration of which is from one to two days, and the salary from one to two dollars. My judgment is certainly greatly at fault if it is not a long and well-settled principle of law in this country that votes cast for a man known to be ineligible to office are no better than votes thrown away, illegal, null, and void.

Now, Mr. Speaker, all that I deem necessary to say in conclusion upon this branch of the subject is, that had I, like Mr. Hise, sympathized with and encouraged or adhered to those engaged in armed rebellion to overthrow this Government, and then had, as he did, from the house-tops and in high places, waged a war of words and bitter denunciation against the three coördinate branches of this Government, from the 4th day of March, 1861, to the celebrated vetoes, &c., of the present incumbent of the executive chair, charging gross violations of the Constitution upon all, charging at the same time the high crimes of rapine, plunder, and murder upon the soldiers of the Union Army, from Grant and Sherman to the humblest private; and had I, like Mr. Golladay, "amply atoned" for every loyal thought or word that he may have held or uttered previous to the fall of Fort Sumter—I presume he will not claim to have held any since—and then have volunteered his services against me and for Mr. Hise by making the humiliating acknowledgment, as he did, "unfortunately for you and unfortunately for me we have been in the minority in the great and bloody contest just closed"—this, too, while that noble sentiment, so full of patriotism, uttered by Daniel Webster, namely, "Union and liberty, one and inseparable, now and forever," was lingering upon my lips; and then, again, had I, as he did, in responding to the idea very common among loyal men, that "treason should be made odious and traitors punished, and rebels assigned to back seats," said, "Talk to me about dimming the splendor that encircles the brow of Robert E. Lee and others! As well talk about wresting yon bright luminary from its orbit;" I say had I come before the people of the third district saying these or like things, I could have received as many votes as were cast for either Mr. Hise or Mr. Golladay, provided my previous course had been consistent with these sayings, as theirs had been. But, sir, the people of my district and State know full well that—

"I had rather be a dog, and bay the moon"

than be a traitor to a country for which my father fought.

I now pass to another point in this controversy, and shall proceed at once to show by reference to abstracts of and extracts from the poll-books of the election and affidavits, that in all the precincts of the several counties in this district where the laws of the State were observed, I obtained a majority of the votes. It will be seen by the Revised Statutes of Kentucky, first volume, page 456, that the judges, clerks, and sheriffs of all elections are required to be selected equally from the two parties in the State. Had this law been observed I, as the representative of the Union Republican party, should have received at least one half the votes cast by the election officers. But instead of this in eleven of the twelve counties of the district out of two hundred and ninety-two election officers Mr. Hise received 210 votes and I received 23, 59 not voting. Can any man, even my Democratic friends over the way, recognize such an election as legal? Was there ever exhibited such an utter disregard of the laws of the State?

In the twelfth county, namely, the county of Monroe, out of twenty-eight election officers I received 14 votes and Mr. Hise 9, 5 not voting. In this county I obtained a majority of votes. Now, I ask you to traverse three of the principal counties in the district in which there were ninety-two election officers, of whom 79 voted for Mr. Hise and not one for me. Let us now step over into two other counties in which there were forty-eight election officers, 38 of whom voted for Mr. Hise and 2 for me. We now go into two other counties in which there were fifty-six election officers, 40 of whom voted for Mr. Hise and 4 for me, two in each.

In the remaining four counties Mr. Hise got 53 votes while I got 17.

Now, it only remains that we step over into the pure atmosphere of Monroe county, where the people have not yet become a law unto themselves. Here we find that out of twenty-eight election officers 9 voted for Mr. Hise and 14 for me. In this county, where the law was observed in the main, I had a majority of votes, as will be seen by reference to the certificate of the clerk and of the examining board.

I now invite you to an examination of the election of the whole district from another stand-point. We look in vain into the counties of Logan, Warren, Simpson, Allen, Barren, Hart, and Cumberland for a single precinct in which the law was observed. In no precinct in all these counties was there as many as two

election officers, and in but very few as many as one belonging to the Union party. And now I ask you to cast an eye over the remaining five counties, Russell, Monroe, Clinton, Todd, and Metcalf. In them we find twelve precincts, (six of which are in Monroe,) in each of which there were two, the legal number of Union men serving as officers of election. At these twelve precincts, as the records on file will show, I received a majority of the votes cast.

I now call your attention to another statute of Kentucky, approved March 15, 1862. See Myers' supplement, page 197, in which it is clear to every mind that those men who adhered to, or aided, or counseled those engaged in the rebellion are not eligible to the office of judge, clerk, or sheriff of an election.

Under this law not only are a large proportion of those election officers in eleven of the counties rendered ineligible on the score of disloyalty, but in two of those twelve precincts, at each of which two Union men were appointed. Throw the votes of those precincts out, and I am elected by a majority of 61 votes.

Now, Mr. Speaker, in view of the facts in this case—facts fully sustained by record proof and by the affidavits of as good men as the country affords—can it be that this House, which, by the Constitution and laws of the country, is made the judge of the election returns and qualifications of its members, hesitate to sanction elections legally held by men legally appointed? Can you hesitate to disregard and discountenance elections whenever held when it is shown that the law made to govern and control the election has been wholly disregarded?

Why, sir, to recognize an election under such circumstances would be a virtual repeal of the only law upon our statute which recognizes the Union men of Kentucky as entitled to any political rights. It substantially provides that the rebel Democracy shall not be deemed one of the parties in the State; and I do hope that the Congress of the United States will be the last body of men on earth to take a step in the direction of making this law inoperative.

Now, Mr. Speaker, I think I have shown that wherever the law in my district was observed or adhered to I received majorities, and that where it was violated or disregarded the majorities were cast against me.

To this view of the subject the committee object, upon the ground that "there is no precedent for fixing upon the district representatives determined by so small a proportion of the votes cast." I confess to have studied the history of contested elections in this country to but little purpose if the precedents are not numerous wherein seats upon this floor have been given to those who had received majorities of votes cast at elections legally held. I claim to have such majority, and if the loyal and legal voters of my district (when civil law was overthrown a few years since by an armed rebellion, and when rebels and traitors have not yet learned to respect the laws of the land or the rights of loyal men) are to be denied representation on this floor when it is shown that they are the only men in the district who have conformed to and complied with the laws, simply because they are not counted by thousands instead of hundreds, I shall conclude that this House, like the committee, have learned to despise the day of small things. And I ask this House if it would be just to the loyal men of the greater portion of Monroe and small portions of Russell, Clinton, Metcalf, Cumberland, and Todd counties, where the law was obeyed and where only I received majorities, to slam the door of this House in their faces and bid them begone, simply because the rebels and traitors of other counties and precincts set the law of the land at naught? Would this be drawing a just discrimination? I ask you to show me a precedent for such a step. And if this House establish such a precedent I shall most devoutly pray that it may never be followed by your successors.

Now, I grant you that if the Constitution or laws of the country required that a man should receive ten thousand or five thousand votes I should not have been before you as a claimant. But having, as I have shown, received a majority of the votes cast at the several precincts where the election was legally held, I cannot believe that this House will hesitate to accord me the seat. On the contrary, you should and I think will seize it as a favorable opportunity to "teach transgressors the law."

Now, Mr. Speaker, and gentlemen of this Council House of this great nation, I feel that I have in my feeble manner presented a claim to a seat on this floor which will entitle me to be recognized as the peer of any member of this House. I feel, sir, in view of my political record for the last twenty years, when it is remembered that my position has been prominent in the front rank of the advance guard of the friends of Union and liberty, I have but few peers in this House.

As such I come before you in the name of as loyal a band of men as breathes the vital air. In their name I present a valid, legal claim, supported by certified proof drawn from the records of the country. I felt in April last, when I consented to enter the canvass against Mr. Hise, that I had accepted a trust of no ordinary character. I feel now that so far I have, to the best of my abilities, discharged my solemn obligations, my responsible duties.

It now devolves upon you, gentlemen of the House, sitting as a high court, to judge of election returns, &c., of my district, and in this is involved questions of a momentous character. Admit me, and you at once recognize as valid every vote cast in this district where the election was legally held. Admit me, and you at once recognize the only man or person (known on earth at the time the votes were counted and when the certificate should have been issued) for whom a single vote had been cast for Congress at the May election; admit me, and thereby meet the wishes and gladden the hearts of every loyal man in my district; admit me, and thereby meet the expectations of every rebel in my district, for they know that my claim is founded upon the principles of eternal justice. On the other hand reject me, and thereby gladden the great rebel heart of the nation; reject me, and thereby rejoice the Knights of the great Golden Circle; reject me and thereby give a recognition to the rebels and traitors of my district and State who have become a law unto themselves, not regarding Union men as having any rights that they are bound to respect; reject me, and thereby drive from your doors one upon whose lips Union and liberty has long loved to linger; reject me, and you drive from your doors one who is here as the advocate of equal rights to all and exclusive privileges to none; reject me, and you drive from your doors one who wishes to have the honor of hoisting in this consecrated Hall a banner to be called the banner of good conscience, inviting all to rally under it, bearing in letters of living light this inscription: "Impartial suffrage to all loyal men;" reject me, and thereby make a humiliating concession to rebels and traitors. Will you do this? Can you do it? To this I feel that this House might respond through her Speaker, "Is thy servant a dog that he should do this thing?"

I am aware, Mr. Speaker, that every channel through which menaces, threats, denunciations, and abuse could pass from Kentucky touching the relative claims of claimants and contestants has been called into requisition. This House has been denounced in no measured terms because of the action taken in July last. Your committee, sir, which visited Kentucky, composed of gentlemen who are the peers of the best men of the State, were shamefully ridiculed and dubbed the smelling committee; and this, too, by the leading recognized organs of the rebel as well as Union Democracy; and in a most menacing, defiant tone has it been said, "We dare you to reject the members-elect; you dare not admit the contestants; you dare not impeach the President; you dare not reconstruct the State of Kentucky." Well, I believe, I know there are some men in this House "who have souls to dare that which they have the will to do," and I wish to add one or more from Kentucky to this number. I wish to be an officer on board the great ship of state upon her first voyage, bearing that beautiful banner with this inscription: "The loyal man's Government." Let the old ship of state be launched with that motto floating at her mast-head, and my word for it, if you will cast your mind's eye up into the precincts of the glory-land you will see Washington and Adams, Franklin and Madison, Jackson, Webster and Clay leaning over the high battlements of heaven, looking down with approving and exultant smiles, while the sainted martyr, with the fallen braves, would raise their voices attuned anew, singing, "Roll on, roll on." Let the old ship of state, thus newly rigged, be launched upon the waves of time as a missionary to the world, and at no distant day you may see the American coat of arms, the bird of liberty, extending her pinions so that the tip of one will rest on the north and the other on the south pole, leaving in their tracks the remains of crumbled thrones and trampled crowns, while, like the bow of hope, she will hold her culminating point in the heavens, and shed her redeeming radiance upon the evening of the world.

And now, Mr. Speaker, in view of the report of the committee adverse to my claim, I am tempted to ask leave to withdraw my application; but a silent monitor reminds me in plaintive tones to remember that in all my former struggles for union and liberty I have never surrendered, and that the great loyal heart of my district and State demand that I should, as their advocate, know no such word as fail. I catch the sentiments of the poet when he said—

"They never fail who fight in freedom's cause;
The block may suck their gore,
Their heads may sodden in the sun,
Their limbs be strung to city gates or castle walls,
But still their spirits walk abroad."

Mr. GOLLADAY. Mr. Speaker, I had not expected to be called on to say anything today, nor had I proposed to do so under any ordinary range of debate in this case. It had not occurred to me that my friend, who is contesting the seat from my district, was serious in his application; and even now I am not convinced that he is really in earnest. And I wish to apologize to this House for his rambling and incoherent sermon, as his case is not adapted to his *rôle*, however well it may suit his fancy. Richard is not himself to-day. If he can but be heard hereafter upon this subject he will tell you a tale that will

"Make each particular hair stand on end."

In so far as the legal argument is concerned, there is nothing left for me to say. The report of the able and distinguished Committee of Elections has preferred an argument which embraces so fully the legal points in this case that it would be an act of supererogation in me to add a single word to what they have said on that subject. Indeed, Mr. Speaker, I had not proposed to trespass upon the courtesy of the House by saying one word in opposition to my friend or in favor of myself, regarding as I do, the report before the House, as covering every practical and legal point in this case. But the remarkable and unjust speech which my friend has made upon one particular branch of this subject compels me to say a word or two in reply upon this point. I could, if I thought it necessary or proper, go over the whole argument in vindication of the claim which I prefer, and in opposition to that presented by my friend; but such a proceeding on my part would be superfluous and would not be tolerated by the patience of this House. Hence what little I have to say shall be said in as few words as possible.

It is always painful to me to be opposed even in interest to a personal friend; and I confess that the unjust reflections which my friend indulged with reference to myself because I am here in accord with the wishes of

my district and the statute laws of my State to assert my claim to a seat in this House, make me feel somewhat unpleasant. He reflects on me because I make this contest. I have no controversy with him of a personal or political character. The contest which I have with him is entirely legal, and grows solely out of the fact that he comes here preferring a claim without any plausible pretense even of justice or of law—a claim which, if recognized by this House, would entirely preclude me from the exercise of my rights under a legal election to a seat in this body, and strike the sovereign right of representation from one of the proudest districts in Kentucky.

Mr. Speaker, my friend, in some of his remarks, seemed rather by insinuation to reflect upon my loyalty. I shall not undertake to enter into a diatribe upon the subject of his loyalty, or my loyalty, or anybody else's loyalty. No such question is involved in this controversy. At another time, and upon another theater, and under different circumstances, the discussion of such a question might be proper; but it would not be proper here and now. My remarks shall be confined entirely to my friend's charges against the loyalty of Hon. Elijah Hise, now deceased, which he presses in a style and manner as unbecoming as unjust, in my estimation.

He charges in direct and positive terms disloyalty and treason against Elijah Hise. Has he furnished before the committee or to this House one single solitary letter, one single deposition, one particle of proof to convict Mr. Hise of disloyalty or treason? And, Mr. Speaker, I was surprised to hear him use language of this purport, and it is the very language he used: "That Elijah Hise said the Union of these States ought to be dissolved." Where and before what community of statesmen or of men, before what tribunal on earth did such a sentiment as this fall from the lips of Elijah Hise? You cannot find it in any speech made by him upon the stump in the State of Kentucky or elsewhere. He never uttered such sentiments as my friend has attributed to him. I do not intend on this occasion to indulge in any eulogy of Elijah Hise. He needs no eulogy at my hands. Kentucky needs no defense for such a man here or elsewhere. His name and fame has passed to history and is a part and parcel of the history of the United States, and to that record I proudly refer, as his successor, as the best answer to such charges as have been made against him on this floor by my friend—charges that, unsupported as they are, must fall to the ground and pale before the splendor of his reputation as a patriot, a statesman, and jurist, who loved his whole country, and in that love prided himself upon his adherence to the Constitution and the laws made under it.

Now, sir, I notice that some months ago Elijah Hise made a speech upon this floor, from which I will make an extract:

"Mr. DRIGGS. Does the gentleman hold that they were States three years ago?

"Mr. HISE. Yes, sir; I do. I hold that 'once a State always a State.' And here I do not mean to be misunderstood. I have always and under all circumstances been opposed to any attempt upon the part of any portion of the States to sever their connection with the other States. I have always insisted that such an attempt was wrong in theory and most inexpedient and injudicious in practice. Instead of ever favoring the severance of the States I have been, from the very earliest period of my political existence, ever since I had any knowledge of the character and framework of our institutions and Government, opposed to any severance of the States. I have looked forward hopefully to the period when this Government, qualified and limited, should be extended over the whole continent of North America, from the Gulf of Mexico to the Arctic ocean, from the Atlantic to the Pacific; when the whole continent, divided into States, would be members of our Confederacy and all united together."

Is that the language of treason? Is that the language of disloyalty? If so I beg you in God's name to reject me in your votes as being a traitor too.

Again in another speech he spoke as follows:

"Mr. HISE. No, sir. I am against dividing the Union under any circumstances. Where the forms of the Government are preserved; where the framework and system of the Government remains; where the functionaries of the Government continue to be selected in the manner prescribed in the Constitution, I am not for violently breaking off and resorting to disunion or secession and rebellion. No, sir, I would endure error, I would endure corruption, I would endure usurpation, in the hope that as long as freedom of the press and of discussion remain, with speech and reason still left free to combat error, a remedy for all these evils might be found by change of rulers, effected peaceably and without revolution under the Constitution itself and according to the means of relief it might furnish."

These are Mr. Hise's sentiments. Do they furnish any proof of his disloyalty? And yet that is the kind of argument most relied upon by my friend to induce you to give him a seat on this floor, and to reject me.

But, sir, I have been led into making a speech which I had not intended to do. I did not believe my friend was really serious. I do not propose to rehearse the arguments of the able Committee of Elections in their report. I am perfectly willing to abide by that report without reference to anything I may say. But I will say, however, that hereafter I may, when I get my seat, find it necessary further to speak of Mr. Hise. Until then I shall not trespass further upon the courtesy of the House, but leave it to them to determine this case as they think right and just.

Mr. DAWES. I now call for the previous question.

Mr. COBURN. I ask the gentleman to yield to me to submit a substitute for the resolution of the committee.

Mr. DAWES. Let it be read.

The Clerk read as follows:

Recommit to the Committee of Elections with instructions to inquire, first, into the fact whether the opposing candidate, Elijah Hise at the time of said election was by reason of disloyalty, disqualified to hold such office and so known to be by the persons who voted for him.

Second, into the fact whether J. L. Golladay, who claims said office at the time of the election for which he claims his seat, was by reason of disloyalty disqualified to hold such office, and so known to be by the persons who voted for him.

Mr. DAWES. I do not yield.

Mr. COBURN. Then I hope the previous question will not be sustained.

Mr. DAWES. I will state why I do not yield. It is not that I desire to exclude for a moment any investigation into the loyalty of the claimant, Golladay, and the gentleman, when he hears the second resolution read, will see at once that he can arrive at that part of his instructions without recommitting this report. As regards so much of the instructions as require the committee to examine into the loyalty or disloyalty of Mr. Hise I am not willing to have the resolutions recommitted to the committee to inquire into that until I make a statement to the House.

In my opinion it cannot help the case of this claimant Blakey if he should show Mr. Hise to be a traitor for this reason; it does not follow, in my opinion, that the claimant Blakey is elected to the House of Representatives because his opponent, who received a majority of the votes, was ineligible to this House. That is a proposition that never has been sanctioned in an American legislative body. It never was sanctioned, so far as I know, in the world but once, and then by the British House of Parliament in a single instance; but they were convinced within two years that they had made a mistake, and by a solemn resolution they reversed their decision. To say that because a person happens to be ineligible to office all the men who voted for him are to be disfranchised, and those only who voted for the eligible candidate are to have a voice in the election, is a proposition that I do not desire to have this House sanction by a vote until they understand the facts in the case.

Within my own short period of service in this House a gentleman appeared here receiving a majority of the votes of his district before he was twenty-five years of age. By the Constitution of the United States he was ineligible to the office. He sat in his seat silent and without the administration of the oath of office until he arrived at the age of twenty-five years. Although the parties happened to be so divided in this House in exciting party times that there was a tie between them time and again on the vote, yet it never occurred to the man who received the vote being eligible to the office that under the administration of affairs in Congress he could claim that seat.

Mr. MAYNARD. Will the gentleman allow me a single question?

Mr. DAWES. Yes, sir.

Mr. MAYNARD. Supposing an elector knowingly and intentionally casts his vote for one who is disqualified, does it in a defiant spirit, is it not the same as though he had cast a blank in the ballot-box?

Mr. DAWES. Mr. Speaker, when the law of the land declares that when any elector shall have cast his vote in a captious and rebellious spirit for a man he knows to be ineligible to office he thereby becomes disfranchised, then will follow what my friend from Tennessee says, and not till then. A man is not to be disfranchised as an elector because he votes in what in my opinion is a captious or a rebellious spirit. He has a right to vote according to the dictates of his own judgment, not mine. If he is an elector according to the law of the land which creates and defines his qualifications as such it is not for me to say that his vote shall have no force or effect because he voted in a way which to my mind is factious and rebellious.

Mr. MAYNARD. I ask the gentleman if we are not made under the Constitution the exclusive judges of the character of the election and we are not to decide for ourselves whether an elector throws away his vote knowingly and intentionally, and if he does it it is certainly not to be counted.

Mr. DAWES. Most certainly by the Constitution of the United States we are made the sole judges of elections of members of Congress, and there is no appeal from our decision. That makes it incumbent upon us to decide whether an elector is qualified, not according to what we think ought to be his qualifications, but according to what we think is the law under which he votes. It is not within our constitutional power, although there is no appeal from us, to prescribe what ought to be the qualifications of a voter in Massachusetts. It is not for us to say that because the voters in that State are limited and defined by a qualification which does not meet our judgment, therefore we can prescribe a new qualification and limit the franchise according to a distinction that we will make after the election is over.

Mr. MAYNARD. I perceive that I do not make myself understood by the gentleman. The question is not one as to the qualification of the voter, but whether, in point of fact, the elector has cast a vote. Suppose the vote was cast, for example, for a woman, whose sex notoriously disqualifies her; suppose, as was suggested by the claimant, Mr. Blakey, it was cast for some fictitious person not known to exist, and so known by the elector; is it not to be taken, and must we not take it, as an intentional and designed throwing away of the vote? The question is not whether the elector is qualified, but whether in point of law he has voted at all, having thrown his vote in a direction where he knew and intended it should not be made available. That is the point.

Mr. DAWES. That is quite another point from the one just raised by the gentleman from Tennessee, and it has no application to the case before the House. It is hardly worth while for me to consume the time of this House and trespass upon its patience by undertaking to discuss with my learned and distinguished friend from Tennessee abstract questions which have no application to the case before the House. The question before the House is as to the instructions proposed to be given to the committee. If the House thinks there is any ground to suspect that Golladay is a traitor, I raise no objection, nor does the committee, to the full examination of his case. But the other part of the instructions contemplates an inquiry whether Mr. Hise, because of dis-

loyalty, was ineligible to a seat in this House, and it is to that point, and that solely, that I am addressing the House. Suppose Mr. Hise was as black a traitor as Jeff. Davis himself, it does not follow that seven thousand legal voters in the State of Kentucky and in that district are to be disfranchised and no voice of theirs to be heard in the election of a Representative, and that a man who received only 1,201 votes out of 9,000 votes is to be made a Representative by a vote of this House.

I admit what the gentleman from Tennessee says, that we have the power to say that anything is a vote, or that anything is not a vote. But, sir, in our admiration for the character, the boldness, the sincerity, and the honesty of this claimant, I submit to the House whether it is safe for us to set a precedent here that will just as surely "return to plague the inventor" as that the sun rolls over our heads. It is only when we are called upon to walk up to the line of duty and law, when we have such a case as this presented to us, that it is worth while for anybody to urge upon this House to take heed what precedents it sets here. We are in no danger of setting bad precedents when our inclinations and our hearts go along with the law and with the evidence. The danger only arises when our inclinations and our hearts and our sympathy and admiration are all in conflict with what our convictions of the law and the evidence are; and my anxiety is lest this House should be led away from the law and should set up a precedent of which, when they look at it hereafter, they will see not only the danger but the impropriety and unsoundness.

Mr. MAYNARD. If the gentleman will allow me, I will simply remark that he is a very poor lawyer who cannot find principles of law sufficient to justify him in doing what he feels and knows to be right. But the point to which I wish to ask the gentleman's attention is this: whether under the existing state of the law of our Government respecting the qualifications of members of Congress a vote knowingly, intentionally, purposely, and designedly cast for a rebel who was disqualified and known to be so was not just as much thrown away as though it had been cast for a woman or for a fictitious name?

Mr. DAWES. Mr. Speaker, I can understand my friend from Tennessee. I know how difficult it is for me to enter into his feelings, or to enter into that effort of his to see everything in the light in which a man from his stand-point is likely to see it. But I cannot see how we are going to sit here in judgment upon what were the motives or objects of the elector when he puts his ballot into the ballot-box and say whether he put his ballot into the ballot-box in a factious spirit or not, or whether he voted for Elizabeth Cady Stanton, for instance, in order to insult the House of Representatives because he knew that she was not eligible to the office.

I know of no other rule than that rule of law which has governed every court in passing upon a contested election, that the ballot itself is conclusive evidence of what was the voter's intention, and no evidence outside of that can control it.

I know of no court which has ever passed upon that question that ever hesitated a moment in laying down as a doctrine that the ballot, and the ballot alone, was the conclusive evidence of the voter's intention. And for us to be engaged here in these times upon any such vague and unprofitable pursuits as inquiring into what was the motive of the electors, and whether or not the electors, 7,741 of them, in the third district of Kentucky, were prompted by a factious spirit or not to such an extent that by their folly and their faction they are disfranchised, I think is not justifiable by any thing involved in this case.

Mr. COBURN. Will the gentleman yield to me for a few moments?

Mr. DAWES. Certainly.

Mr. COBURN. I did not suppose that the announcement of these simple instructions to the committee would lead to such emphatic and earnest remarks at this time as have just been made by the gentleman from Massachusetts, [Mr. DAWES.] The proper time for such a discussion as has just been made, it seem to me, would be after examination had been made by that committee whether or not this man was disloyal, and was so known to be by the electors of that district. The simple question now is whether this House will proceed with the inquiry. Then after examination has been made by the committee and they have answered the question that the man Hise was disloyal, the effect of that fact upon the election will come up, but not till then.

It seems to me that it is proper for us to look now into that question, just as if the electors of that district had voted for Jeff. Davis, or had voted for Queen Victoria, or for any other person who was totally ineligible, or had cast blank votes.

Now, if in a spirit of recklessness, or of rebellion, or of opposition to law and to reconstruction, or to the proper carrying-on of the Government, the citizens of any State refuse to vote for a citizen authorized to hold the office, are we to say that they have the right to disfranchise their district, or perhaps disfranchise a whole State? It may be that in the progress of reconstruction a majority will yet be found in some of these States who have been in rebellion who will refuse to vote for any man who can take a seat here. Yet are these States to stay out forever unreconstructed and unrepresented? It seems to me not; it would be bad policy, it would be unsound and not according to our republican form of Government. If the majority of the people are unwilling in a legal and regular way to go into an election, then let those who are loyal, who do obey and regard the Constitution, who are willing to go into the election take the power in their hands.

The majority by such action say to the minority "You may rule," and they should under such circumstances rule, and in all instances where they disqualify themselves by treason from voting and taking part in the Government or stubbornly refuse to share in its management by voting what is in effect a blank ballot. And I ask would the voting of blank ballots invalidate an election?

We have reconstructed the rebel States upon these very principles; we have acted upon these principles for the last six months—upon the great general principle that those men should have the power who recognize the law and are willing to come up to its requirements. And with us, in all elections, those who vote tickets which are not blanks control them, and no others.

I say, then, let us inquire into the fact whether or not these people at the time of the election knew that Mr. Hise was disloyal. The fact can be shown from general reputation if he was disloyal or not. It is not necessary to make an inquiry as to the opinion of every particular citizen, but the committee can inquire whether it was generally known and generally understood that this man was voted for because he was disloyal.

Mr. DAWES. I think the House fully understands this case. I will simply add that in this report the committee were unanimous. I now call the previous question.

Mr. MAYNARD. I would inquire of the Chair whether, if the previous question should not be sustained, it would be in order for the gentleman from Indiana [Mr. COBURN] to move to recommit with instructions?

The SPEAKER. That motion would then be in order.

Mr. MAYNARD. Then I hope the previous question will not be seconded.

The previous question was then seconded, upon a division—ayes 102, noes 22.

The main question was then ordered, which was upon adopting the following resolution:

Resolved, That George D. Blakey is not entitled to a seat in this House as a Representative from the third congressional district in Kentucky.

Resolved, That the oath of office be now administered to J. S. Golladay, and that he be admitted to a seat in this House as a Representative from the third congressional district in Kentucky.

Mr. MAYNARD. I call for the yeas and nays on the adoption of the resolutions.

The yeas and nays were not ordered.

The resolutions were adopted.

Mr. DAWES moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The gentleman whom the House, by the resolution just adopted, has declared entitled to a seat as a member will now be sworn in.

Mr. GOLLADAY presented himself, and was duly qualified by taking the oath of office prescribed by law.

IMMIGRATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting, in compliance with the act of July 4, 1864, a report of the Commissioner of Immigration relative to foreign immigration, the expenditures of the Immigration Bureau, &c.; which was referred to the Committee on Commerce, and ordered to be printed.

PROPERTY AT HARPER'S FERRY.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Attorney General, submitting, in compliance with a resolution of the House of March 26, 1867, an abstract of the title of the United States to the property at Harper's Ferry, with his opinion thereon; which was referred to the Committee on the Judiciary, and ordered to be printed.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The next business in order is the question of privilege which was postponed till yesterday after the morning hour, being the following resolution reported from the Committee on the Judiciary:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

On this question the gentleman from Massachusetts [Mr. BOUTWELL] has the floor. Before the gentleman proceeds with his remarks the Chair desires to make an announcement to the House and the spectators in the gallery.

In view of the disorderly manifestations made last week when the report of the committee on this subject was presented, the Chair desires now to say that if such demonstrations be repeated in the galleries he shall order them to be cleared, although he knows that thereby the innocent will suffer with the guilty. He is determined that the order of this House shall be maintained, and a proper respect be paid to this body by those who are allowed to witness its deliberations. If, therefore, any manifestation of approbation or disapprobation be made in the galleries, the Chair will order to be cleared that part where it occurs, or the whole of the galleries. And the Chair will state further, that if, as was the case last week, members upon the floor indulge in manifestations of approval or disapproval, either during the debate or its termination, however the question may be decided, the Chair, if he can ascertain what gentlemen are guilty of such violation of the rules, will state their names to the House, the effect of which will be to bring the matter before the House for such action as it may see fit to adopt in view of the contempt of its rules.

Mr. BOUTWELL. Mr. Speaker, I shall feel obliged to ask the indulgence of the House for an addition to the time allotted to me under the rules. If it should be the pleasure of the House to grant me that indulgence I shall be glad to know it now.

Mr. FARNSWORTH. It has always been the usage of the House, in granting an extension of time to limit it, and not to grant additional time exceeding one hour.

Mr. ELDRIDGE. I desire to say that I

presume there will be no objection on the part of myself and those around me to allowing the gentleman whatever time he may desire. But I prefer to see how he may conduct himself during his first hour—whether he exhibits his usual good nature or indulges in abusive language, and at the end of the hour we can decide whether he ought to be allowed to continue.

Mr. BOUTWELL. I trust that, in view of the many expressions of the gentleman from Wisconsin [Mr. ELDRIDGE] in favor of liberty, he would not desire me to speak under any kind of duress. I think I may appeal to him to withdraw his objection.

Mr. ELDRIDGE. I understand that the gentleman will simply speak under the duress of the rules of the House.

Mr. SPALDING. I move that the gentleman from Massachusetts [Mr. BOUTWELL] be allowed an additional hour.

The SPEAKER. It requires unanimous consent; and the gentleman from Wisconsin [Mr. ELDRIDGE] objects. A motion to suspend the rules cannot be entertained except on Monday after the morning hour.

Mr. ELDRIDGE. I presume I shall withdraw the objection when the gentleman's hour expires.

SEVERAL MEMBERS. Withdraw it.

Mr. ELDRIDGE. Is it proposed to give him unlimited time or another hour?

The SPEAKER. One hour in addition to the usual hour.

Mr. ELDRIDGE. I withdraw my objection.

The SPEAKER. If there be no objection the gentleman will then be entitled to two hours.

There was no objection and it was ordered accordingly.

Mr. BOUTWELL then proceeded to address the House. [See Appendix.] At the end of fifty-five minutes and before Mr. B. had concluded—

Mr. EGGLESTON said, if the gentleman will yield for the purpose, I will move an adjournment.

Mr. BOUTWELL. I will yield for that purpose.

The SPEAKER. The Chair understood the motion of the gentleman from Massachusetts [Mr. BOUTWELL] last week to be that the report of the committee be made the special order after the morning hour.

Mr. BOUTWELL. If the House should now adjourn, with this question pending, will I be entitled to the floor to-morrow immediately after the reading of the Journal?

The SPEAKER. According to the original motion, as the Chair understood it, making this subject a special order, it would come up after the morning hour. The only way in which any business can be transacted during the pendency of this debate would be to have it come up after the morning hour.

Mr. BOUTWELL. I presume my remarks would not interfere with the morning hour to-morrow; and I would prefer to go on immediately after the reading of the Journal.

Cries of "agreed," "agreed."

Mr. SCHENCK. I would appeal to the House to make this subject the special order of the day each day after the morning hour, so as to save the morning hour for business.

Mr. WASHBURNE, of Illinois. If that should be done, it may occur some days that in consequence of the interposition of particular business the morning hour would not commence at all, or at all events not until late in the day. I hope the gentleman from Massachusetts [Mr. BOUTWELL] will be permitted to go on immediately after the reading of the Journal to-morrow.

The SPEAKER. If the gentleman from Massachusetts shall insist upon it this would come up as unfinished business should the House adjourn upon it now. And it would remain in force as unfinished business, to come up immediately after the reading of the Journal, to the exclusion of all other business until this debate shall terminate.

Mr. FARNSWORTH. And it will continue from day to day in that order until disposed of?

The SPEAKER. It will.

Mr. BOUTWELL. I think I must insist upon its being regarded as unfinished business. I will now yield to a motion to adjourn.

The SPEAKER. Before that motion is made, if there be no objection, the Chair will lay before the House certain executive communications.

No objection was made.

REVENUE FROM DISTILLED SPIRITS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the resolution of the House of July 8, 1867, a statement of the amount of revenue received from the tax on distilled spirits from each collection district, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

ESTIMATE FOR WAR DEPARTMENT.

The SPEAKER also laid before the House a commuication from the Secretary of the Treasury, transmitting copies of letters from the Secretary of War *ad interim*, submitting estimates to be used in lieu of those heretofore sent; which was referred to the Committee on Appropriations, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. LAWRENCE, of Ohio, asked and obtained indefinite leave of absence for his colleague, Mr. SHELLABARGER, on account of indisposition.

Mr. EGGLESTON. I move that the House now adjourn.

The motion was agreed to; and accordingly (at three o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Lieutenant John L. Brown, of Crossing, La Porte county, Indiana, and 572 others, soldiers of Indiana, praying for the equalization of bounties.

By Mr. ADAMS: The petition of Captain Joseph Bullow, late of the twelfth Kentucky cavalry, for pay for the damages to his farm by the establishment of Camp Burnside thereon.

Also, petition in favor of the president, directors, &c., of the Bardstown and Louisville Turnpike Road Company, for compensation for bridges burned by order of General William Nelson, commanding district of Kentucky in 1862.

By Mr. BROOMALL: The petition of Thomas Romer, a black man, residing in the district of country lately known as the State of Florida, asking such a change in the naturalization laws as would permit him to become a citizen.

By Mr. FARNSWORTH: The petition of Julia A. Mix, for an increase of pension.

By Mr. GARFIELD: The petition of 82 citizens of Ashtabula, Ohio, asking the House of Representatives to impeach the President of the United States.

By Mr. NICHOLSON: A memorial of the city council of Wilmington, Delaware, asking for an appropriation for the improvement of Christiana river.

By Mr. STOKES: The petition of R. Walsh, of Memphis, Tennessee, for redress for losses sustained by alleged unjust imprisonment.

Also, the petition of W. J. Smith, praying compensation for damages sustained during the late war.

By Mr. VAN AERNAM: The petition of Rev. E. L. Boing, praying that a pension be granted Mrs. Catharine Buchanan.

By Mr. WASHBURN, of Massachusetts: The petition of John A. Fisher, jr., of North field, Massachusetts, asking a pension for the minor children of the late William Stebbins.

By Mr. WELKER: Petitions of sundry citizens of Washington city in relation to the location and erection of the new jail in the District of Columbia; also, certain papers connected therewith; also, the proceedings of the board of common council of the city of Washington in reference to said new jail.

IN SENATE.

FRIDAY, *December* 6, 1867.

Prayer by Rev. G. P. M. KING, of Massachusetts.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the Constitutional Convention of Louisiana, in favor of the repeal of the tax on cotton; which was referred to the Committee on Finance.

Mr. MORGAN. I present the memorial of the New York Chamber of Commerce, asking for the repeal of the tax on cotton. As a bill has already passed the House of Representatives for that purpose, and is now before the Committee on Finance, I move that this petition be referred to that committee.

The motion was agreed to.

Mr. MORGAN presented the memorial of the Chamber of Commerce of the State of New York, praying an amendment of the act of March 14, 1866, entitled "An act to extend the time for the withdrawal of goods for consumption from public stores and bonded warehouses, and for other purposes," so as to permit the withdrawal of any goods, wares, or merchandise for consumption at any time within three years from the date of importation on payment of the duties and charges to which they may be subject by law at the time of such withdrawal without addition thereto; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of citizens of New London, Connecticut, praying for immediate legislation to secure to women equal suffrage with men in the District of Columbia and wherever the jurisdiction of Congress extends; which was referred to the Committee on the Judiciary.

Mr. PATTERSON, of Tennessee, presented a petition of citizens of East Tennessee, representing that they were soldiers in the war of 1812, and praying to be allowed pensions; which was referred to the Committee on Pensions.

Mr. WILLIAMS presented the petition of B. F. Dowell and others, praying to be allowed pay and expenses for two companies of Oregon volunteers called into service to suppress Indian hostilities in 1864; which was referred to the Committee on Claims.

He also presented four petitions of citizens of Linn and Benton counties, Oregon, praying for the establishment of a mail route from Brownsville to Newport, on the bay of Yaquina, in said State; which was referred to the Committee on Post Offices and Post Roads.

Mr. CORBETT presented a petition of citizens of Oregon, praying that compensation be made to Jacob Leabo for services rendered as one of the express guard to accompany Joseph Meek across the Plains in 1848, from Oregon Territory to Washington city, the expedition being a military necessity, and for property lost or abandoned on the Plains; which was referred to the Committee on Indian Affairs.

Mr. TIPTON presented the petition of officers, detectives, and employés of the board of police of Washington city praying to be included in the joint resolution giving twenty per cent. additional compensation to certain Government employés; which was referred to the Committee on Appropriations.

Mr. HARLAN presented the petition of Robert Robinson, formerly special agent of the Post Office Department, praying the allowance of the usual compensation for services rendered from August 28, 1858, to December 31, 1858;

which was referred to the Committee on Post Offices and Post Roads.

Mr. CONKLING presented the resolutions of the Continental Council No. 13, Union League of America, respecting the financial and political condition of the country; which were ordered to lie on the table.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 168) for the relief of George E. Glenn, additional paymaster United States army; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 169) to amend an act entitled "An act making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes," approved March 2, 1867; which was read twice by its title.

Mr. CORBETT. I move to refer the bill to the Committee on Indian Affairs.

Mr. GRIMES. It purports to be a bill amending an appropriation act, and it should go to the Committee on Appropriations.

Mr. CORBETT. I will state to the Senator that this bill is an amendment of an act which requires money to be paid to the actual owners of certain certificates in 1862 and 1863, many of whom are now dead. It is desired to strike out that restriction and to pay the holders of these claims, who have paid their money for them, and who have been kept out of the money for a number of years. It is a matter that pertains to Indian affairs, and I desire that the Committee on Indian Affairs should examine it and see whether it is proper and right to make this amendment of the law.

Mr. GRIMES. The whole Indian appropriation bill pertains to Indian affairs and to no other subject. The bill that this is in amendment of pertains to the same subject that this does. That bill, of course, came from the proper committee having charge of appropriations, and that reference would be proper now. I would also state that the Senator's colleague had introduced a bill covering the same ground substantially which has been referred to the Committee on Appropriations.

Mr. CORBETT. At this session?

Mr. GRIMES. Yes, sir.

Mr. CORBETT. I withdraw my motion.

The bill was referred to the Committee on Appropriations.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 170) to provide for deficiency of expences incurred in the survey of Indian reservations; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 171) to carry into effect a judgment of the Court of Claims in favor of the late Asbury Dickins; which was read twice by its title, and referred to the Committee on Claims.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 172) making further provision for widows and heirs of officers of the Navy, and for establishing naval life insurance; which was read twice by its title.

Mr. GRIMES. I desire to say that I introduce that bill at the instance of an officer of the Navy of great merit, who has drafted it, and without committing myself to the provisions of the bill itself. I confess that although I have casually read them, I am not sufficiently acquainted with them to know whether it is such a measure as I can support; but I think it is proper that it should receive the consideration of the Committee on Naval Affairs, and I therefore move its reference to that committee.

The motion was agreed to.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 71) to suspend the operation of so much of the act approved April 12, 1866, as provides that the Secretary of the Treasury may retire and cancel of United States notes $4,000,000 per month; which was read twice by its title, and referred to the Committee on Finance.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 173) for the relief of Ana M. Rolas y Robaldo, widow of Francisco Robaldo; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

UNEXPENDED BALANCES IN THE TREASURY.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to inform the Senate whether, since the 23d day of June, 1860, any unexpended balances of appropriations for the objects named in the laws making such appropriations have been used to supply or on account of any deficiency of any other item in the same department or office, or have been transferred to any other account or used for any other purpose, and if so by what authority.

LOAN TO REDEEM THE FIVE-TWENTIES.

Mr. CORBETT. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of reporting a bill to authorize the Secretary of the Treasury of the United States to contract a loan and issue bonds of the United States for the same, redeemable at the pleasure of the Government, after twenty years, and payable in forty years, bearing interest at the rate of five per cent. per annum, principal and interest payable in gold coin, and to place the same upon the market for the purpose of redeeming the United States bonds commonly called five-twenties as they mature.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CORBETT. Mr. President, I present this resolution with a view of referring the subject to the Committee on Finance. I wish to show the holders of the five-twenty bonds that we intend to keep the pledged faith of the Government in regard to its funded debt. Where payment in coin is so expressed we will pay in coin; and where that has not been expressed heretofore in the laws, let us place upon the market a long loan, and redeem the outstanding bonds in that way. It will certainly be impossible for us at the end of five years to redeem the vast amount of five-twenty bonds in gold coin, but the bond-holders can have them funded into a long loan, the interest at five per cent., and those bonds cannot be taxed.

I have no doubt the funding of them into a long loan at a low rate of interest will be satisfactory to the people and to the bond-holders. It is generally understood that the municipalities and States have no power to tax the United States bonds under the Constitution of the United States. It has been so repeatedly decided by Chief Justice Marshall, and subsequently in later times in the Supreme Court of the United States, while Mr. Taney was Chief Justice. I believe it is generally conceded that the municipalities, counties, and States have no power to tax the bonds of the United States; therefore I think that a long loan should be obtained giving the Government time to rally and to return to specie payments. I think that when we once inaugurate a system for returning to specie payments it will cover this whole ground, and there will be no reason and no necessity for passing resolutions pledging the faith of the Government to pay the principal and interest in gold coin. But it is proposed by this resolution that they so pledge themselves for a loan which is to be at a low rate of interest, and to redeem one now outstanding at a large rate of interest. We are perfectly aware that large amounts of these bonds are now going to Europe, being exported instead of the products of the country; that they are being purchased at the rate of seventy-five cents on the dollar, and that we are paying six dollars a year on every seventy-five dollars, making eight per cent. interest per annum. If a loan such as I propose could be placed upon the market with the pledge of the Government to pay principal and interest in coin, I have no doubt it would be successful at the rate of five per cent. and would satisfy the people and the European bond-holders. That will be a low rate of interest for us to obtain money at, and will be equivalent to a national tax upon the bonds of one per cent., so that the holders who now receive six per cent. would receive but five.

I claim that the States have no right and no power under the Constitution to tax our bonds in any shape or form. If we concede that point we place it out of the power of the Government, in time of distress, in time of rebellion or internal commotion, or when it is necessary to protect ourselves from attacks from abroad, to negotiate loans at favorable rates. The importance of the power in the General Government to exempt its bonds from State taxation may be readily seen. It is an essential element in the welfare, prosperity, and strength of the country. I think we should consider this whole matter with a view to the future and not to the present. Many expedients are brought forward to relieve us from the heavy taxation to which we are subjected; but whatever we adopt should not be a policy which will be to the detriment of the Government. Whatever is done should be well considered, and with a view to the future. Our credit is now trembling and the people are hesitating about United States stocks. There is a doubt as to whether they are to be paid in United States gold coin, as to whether it is a fundamental rule established by the Government that the bonds shall be so paid. The act of Congress under which the bonds were issued is certainly not very plain on that point; but I have no doubt that at the time the act was passed the rate of interest then fixed was considered to be a low rate, in view of the troubles by which we were surrounded, and that it was generally considered that the bonds would be payable in United States gold coin. I hope such an act as is indicated in the resolution will be presented here at an early day; and I think it will meet the whole difficulty in which we are now involved in regard to the five-twenty bonds. I hope the whole subject will be carefully considered by the Committee on Finance.

The resolution was agreed to.

PRESIDENT'S ANNUAL MESSAGE.

Mr. DRAKE. I move to take up the concurrent resolution in relation to the annual message of the President of the United States which I offered the day before yesterday, not for the purpose of entering upon its discussion now, but for the purpose of fixing a time for its discussion.

The motion was agreed to.

Mr. DRAKE. I move that the consideration of this resolution be postponed until Tuesday next at one o'clock, and that it be made the special order for that day at that hour; and that if the consideration of it be not completed on that day it be made the special order for the following days, at the same hour, until disposed of.

Mr. SHERMAN. I object to making it a special order. I have not the slightest objection to the Senator postponing the resolution until Tuesday, and he no doubt can call it up on that day, but to make a special order now might embarrass other public business. I trust the Senator will be satisfied with accomplishing the purpose he desires in the way I have suggested. If we simply postpone the resolution he can call it up on Tuesday without any trouble; but to begin at this period of the session to make matters special orders from day to day might embarrass the public business and be of evil example.

Mr. DRAKE. I am perfectly willing to accord with the suggestion made by the honorable Senator from Ohio. If the Senate will make the resolution the order of the day for Tuesday next at one o'clock it will answer my views.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that the further consideration of the resolution be postponed until Tuesday next at one o'clock, and made the special order for that day.

Mr. DOOLITTLE. I believe it is unusual in the Senate to make anything of this sort a special order. I have no objection to the resolution being postponed until the time indicated, and then it will come up of itself, and the honorable Senator will have an opportunity to speak on the question.

Mr. DRAKE. I do not wish to do anything that is unusual in the Senate. If I have made a proposition which is unusual, of course the Senate will pardon me because I am not so well acquainted with the usages of the Senate as those who have been here longer. But I do not understand it to be unusual; and I submit to the Senate whether it is so. Perhaps the Senator from Wisconsin may be mistaken on that point.

Mr. POMEROY. I do not think there is anything unusual in proposing to make a special order. The only objection is that the unfinished business of the preceding day has precedence, and will supersede it. If it be left as the unfinished business it will come up the next day as a matter of course.

Mr. DRAKE. I have withdrawn that part of the motion which contemplates making the resolution a special order for any time after Tuesday. All I ask is that it be made a special order for Tuesday at one o'clock.

Mr. POMEROY. I have no objection to that; but the unfinished business of Monday will take precedence of it, and you cannot get it up, if it be made a special order.

Mr. DRAKE. I will run that risk.

The PRESIDENT *pro tempore*. To make this resolution a special order, will require a two-third vote of the Senate, under the rules.

Mr. SHERMAN. There can be no objection to the Senator from Missouri calling up this resolution on Tuesday, and making any remarks he desires to make upon it. But to make it a special order is, I think, rather unusual. I think he will accomplish his purpose by having it postponed until Tuesday at one o'clock. If that be done, he will be allowed, according to the uniform courtesy of the Senate at this stage of the session, to call it up on that day, and make his remarks; and its further consideration will then be at the pleasure of the Senate.

Mr. DRAKE. I am perfectly willing to agree to anything that is according to the usage of the Senate in this matter. I merely wish to have it understood that the resolution will not be called up for consideration until that time; and then I desire, if it be the pleasure of the Senate to allow me, to be heard upon the resolution.

The PRESIDENT *pro tempore*. Does the Senator modify his motion?

Mr. DRAKE. I modify the motion so as simply to postpone the consideration of the resolution until Tuesday at one o'clock.

The motion was agreed to.

ASSISTANT SECRETARY OF THE TREASURY.

Mr. THAYER. I move to take up for consideration the resolution I offered on Monday last calling for information in reference to the appointment of Edmund Cooper as Assistant Secretary of the Treasury.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. THAYER on the 2d instant:

Resolved, That the Secretary of the Treasury be directed to inform the Senate if Edmund Cooper did assume the duties of the office of Assistant Secretary of the Treasury upon the 30th of November, and if so under what law or by what authority, if any, he was allowed to do so.

Mr. THAYER. I move to amend the resolution by adding to it the following:

Or whether the said Cooper has been appointed Assistant Secretary of the Treasury, either before or since the present session of Congress, or whether he has performed duties as Assistant Secretary of the Treasury; also, the nature of the commission given to said Cooper, and the length of time it is to run.

The amendment was agreed to.

Mr. BUCKALEW. I objected to this resolution the other day, thinking it was a matter appropriate to executive session. However, on further reflection, I believe I shall interpose no objection to its consideration.

Mr. POMEROY. There is one clause or the resolution which I do not see how the Secretary of the Treasury can answer. A person may have been appointed and the Secretary of the Treasury not know it, because we have been in session long enough for appointments to be made. They may have been made without the official knowledge of the Secretary of the Treasury. In his official capacity he cannot know whether a person has been appointed until he has been confirmed. He may reply by saying that he does not know anything about it, but he cannot reply that the thing has been done.

The resolution was agreed to.

THE PUBLIC DEBT.

Mr. SHERMAN. I move to take up the joint resolution which was pending yesterday, and which was then postponed at the request of the Senator from Indiana.

The motion was agreed to; and the consideration of joint resolution (S. R. No. 66) pledging the faith of the United States to the paying of the public debt in coin or its equivalent was resumed as in Committee of the Whole.

Mr. HENDRICKS. I suppose the pending motion is that to commit, made by the Senator from Ohio.

Mr. SHERMAN. I withdraw that motion to enable the Senator to offer his amendment.

Mr. HENDRICKS. I propose as a substitute for the resolution the following:

Whereas the public debt of the United States, except where otherwise provided by law, was contracted and incurred upon the faith and credit of the United States that the same would be paid or redeemed in the lawful money of the United States, which was declared by Congress to be a legal tender for all debts public and private, except duties on imports and the interest on the public debt; and whereas it is not good policy nor just to the people that Congress shall pledge the faith of the United States to a mode of payment more burdensome than the laws require: Therefore,

Be it resolved, &c., That the public debt of the United States, except where the law provides for the payment of coin, shall be paid and redeemed in the lawful money of the United States, and the faith of the United States stands pledged accordingly.

Mr. HENDRICKS. The object in offering this measure is that both propositions may go to the committee for its consideration. One proposition is presented forcibly in the resolution of the Senator from Vermont. The opposite construction of the laws I have undertaken to present in the substitute. I desire simply to say that it is not my purpose in the amendment to express any opinion as to whether the indebtedness that was contracted prior to the passage of the legal-tender law is controlled in its payment by the provisions of the legal-tender law or not.

Mr. SHERMAN. I now renew the motion I made yesterday to refer the joint resolution and amendment to the Committee on Finance, stating that the Committee on Finance have already partly considered this subject, and are now engaged in reviewing the whole matter, and will report at an early date after full and ample consideration. I therefore move its reference to the Committee on Finance.

Mr. EDMUNDS. I do not think that this resolution, or the substitute offered by the Senator from Indiana, is one that in its nature requires the investigation of a committee, as it is a simple declaration of an existing fact. At the same time, as ever since I have had the honor to occupy a place in this body I have stoutly insisted that every important proposition which is brought forward in this body ought to go to a committee for investigation, I am willing to apply my own theories to my own practice, and therefore I entirely accede to the motion of the Senator from Ohio that the subject should go to the Committee on Finance.

The motion to refer was agreed to.

INTERNATIONAL MONETARY CONFERENCE.

Mr. SHERMAN submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be directed to communicate to the Senate a copy of all correspondence between the Government of the United States and that of France in respect to the international monetary conference held in June and July last, with a copy of any instructions to and reports from the delegate in the conference from the United States.

ADJOURNMENT TO MONDAY.

On motion of Mr. BUCKALEW, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

EXECUTIVE SESSION.

Mr. HENDERSON. I move that the Senate do now adjourn.

Mr. CATTELL. I hope the gentleman will allow us to have a short executive session to-day. We desire to make a report from the Committee on Finance.

The PRESIDENT *pro tempore*. Does the gentleman from Missouri withdraw his motion?

Mr. HENDERSON. Yes, sir.

Mr. CATTELL. I move, then, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 6, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CAPITOL REPAIRS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior in relation to a deficiency in the amount appropriated to cover the cost of repairs and alterations in the old portion of the Capitol for the fiscal year ending June 30, 1867; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The first business in order is the consideration of the unfinished business of yesterday, being the question of impeachment; upon which the gentleman from Massachusetts [Mr. BOUTWELL] is entitled to the floor for one hour and five minutes.

Mr. SCHENCK. I wish to make an appeal to the gentleman from Massachusetts to permit me to get a vote of the House on an important bill. I ask the gentleman—I know I am requesting a very great favor, and I would not request it under ordinary circumstances—whether he will allow me to ask a vote on the bill (recommitted to the committee but which I propose to report back for action now) suspending the power of the Secretary of the Treasury to contract the currency. It is a short, simple bill, understood by every one, and can be voted upon without debate.

Mr. BOUTWELL. I should be very glad to accede to the request of the gentleman from Ohio, [Mr. SCHENCK,] but I think that, in the very nature of the case, there must be pretty large debate on the measure which he mentions, and if the question is once opened I do not see how the debate is to be stopped. I hope, therefore, the gentleman will excuse me for declining to accede to his request. He can embrace some other opportunity, which I dare say will occur early, to bring before the House the bill to which he refers.

Mr. SCHENCK. I proposed to call the previous question, so that the question could be decided without debate.

The SPEAKER. The pending resolution, being a question of the highest privilege, supersedes the morning hour, if the gentleman having charge of it insists that it shall do so. The gentleman from Massachusetts [Mr. BOUTWELL] insisted last evening on this subject being considered the unfinished business, and coming up this morning to the exclusion of the morning hour.

Mr. SCHENCK. Under the circumstances I will not press the request.

Mr. HOOPER, of Massachusetts. I wish to appeal to my colleague [Mr. BOUTWELL] to allow me perhaps only five minutes, certainly not more than ten, that I may offer a resolution which I consider very important, and may make a few remarks in explanation of it. If the matter leads to any debate I will withdraw the resolution at the end of ten minutes.

Mr. BOUTWELL. Will my colleague state to the House the nature of the resolution?

Mr. HOOPER, of Massachusetts. It is a resolution proposing to instruct the Committee of Ways and Means and the Committee on Appropriations in reference to the revenues and expenditures of the Government. I will not occupy more than ten minutes.

Mr. BOUTWELL. Does my colleague intend to ask a vote of the House on the proposition?

Mr. HOOPER, of Massachusetts. I will not if it occupies time. If it is likely to lead to any debate I will withdraw the resolution.

Mr. BOUTWELL. I am unwilling, Mr. Speaker, to refuse to accede to the request of my colleague; yet gentlemen around me think that the question could perhaps be as well considered on some other day.

Mr. HOOPER, of Massachusetts. I wish merely to bring the subject to the attention of the House.

Mr. BOUTWELL. I will yield for ten minutes, upon condition that the gentleman shall withdraw his proposition at the expiration of that time unless the question should then be disposed of.

The SPEAKER. The gentleman from Massachusetts [Mr. HOOPER] asks unanimous consent to introduce a resolution and speak in regard to it for not more than ten minutes. Is there objection?

Mr. ROSS. I would like to hear the resolution read, the right to object being reserved.

The Clerk read as follows:

Resolved, That in the opinion of this House the amount of revenue annually collected by taxation should not exceed $300,000,000; that the Committee of Ways and Means be instructed to report a bill so to reduce the revenue from internal taxes and the tariff duties to $300,000,000; and that the Committee on Appropriations be instructed not to exceed that amount, including the interest on the public debt, in the appropriations reported to the House.

Mr. SPALDING. I do not know that I shall oppose this resolution, but I would like an opportunity to discuss it, and I must object to its introduction with any understanding restricting debate.

The SPEAKER. The gentleman from Ohio [Mr. SPALDING] objects to the introduction of the resolution, and it cannot be entertained.

Mr. BROOKS. I ask the gentleman to yield to me.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

Mr. BOUTWELL. There are objections on all sides, and I must proceed. I must subject my own good nature to the will of the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill (S. No. 141) entitled "An act for the further security of equal rights in the District of Columbia;" in which he was directed to ask the concurrence of the House.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The first business in order is the question of privilege, being the following resolution reported from the Committee on the Judiciary:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

On this question the gentleman from Massachusetts [Mr. BOUTWELL] is entitled to the floor.

Mr. BOUTWELL resumed his remarks. At the end of one hour and five minutes the hammer fell.

The SPEAKER. The two hours of the gentleman from Massachusetts [Mr. BOUTWELL] have expired.

Mr. WILSON, of Iowa, obtained the floor, but yielded to

Mr. EGGLESTON, who moved that an additional hour be allowed to Mr. BOUTWELL.

No objection was made, and the time of Mr. BOUTWELL was extended accordingly.

Mr. BOUTWELL then concluded his remarks. [See Appendix.]

Mr. WILSON, of Iowa, then addressed the House. [See Appendix.] In closing, he moved that the subject be laid on the table.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will not ask a vote after only two speeches have been heard. It is the most extraordinary thing I ever heard of.

The SPEAKER. The motion is not debatable except by unanimons consent.

Mr. FARNSWORTH. I desire to ask the Chair a question.

The SPEAKER. Is it a parliamentary question or otherwise?

Mr. FARNSWORTH. A parliamentary question.

The SPEAKER. The Chair will hear it.

Mr. FARNSWORTH. I desire to know whether, if the subject be laid on the table, it will prevent any gentleman from calling it up as a question of privilege and moving the impeachment of the President?

The SPEAKER. If this subject be laid on the table no gentleman can call up this report. He can propose to impeach the President or any other officer of the Government on any day during the session, and that could be done even though the President should have been impeached and acquitted by the Senate.

Mr. SCHENCK. Will it be in order, in connection with this motion, to propose to present a gold medal to Andrew Johnson?

The SPEAKER. No debate is in order. Does the gentleman from Iowa insist on his motion?

Mr. WILSON, of Iowa. I do.

Mr. KELSEY. I ask the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. LOGAN. I move that the House do now adjourn.

Mr. MAYNARD. Before the House acts on that motion I desire to make another of higher privilege. I move that when the House adjourns it adjourn to meet on Monday next.

The SPEAKER. That motion has priority of the motion to adjourn.

Mr. ASHLEY, of Ohio. I demand the yeas and nays on the motion to adjourn over.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 105, not voting 20; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, **James M. Ashley, Baker, Beaman, Benjamin,** Benton, Blaine, Boutwell, Broomall, Butler, Churchill, Sidney Clarke, Cook, Covode, Cullom, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Fields, Garfield, Glossbrenner, Halsey, Harding, Higby, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Jenckes, Judd, Kelley, George V. Lawrence, Loan, Logan, Lynch, Maynard, McClurg, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Schenck, Aaron F. Stevens, Thaddeus Stevens, Stokes, Thomas, Trimble, Upson, Robert T. Van Horn, Ward, Thomas Williams, William Williams, John T. Wilson, Windom, and Woodward—62.

NAYS—Messrs. Adams, Allison, Ames, Archer, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beck, Bingham, Blair, Boyer, Bromwell, Brooks, Buckland, Burr, Chanler, Reader W. Clarke, Cobb, Coburn, Cornell, Dawes, Dixon, Dodge, Eggleston, Ela, Eldridge, Ferry, Getz, Golladay, Grover, Haight, Hamilton, Hawkins, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Johnson, Jones, Julian, Kelsey, Kerr, Ketcham, Knott, Koontz, Laflin, William Lawrence, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCarthy, McCullough, Miller, Moore, Morgan, Mungen, Niblack, Nicholson, Nunn, Paine, Perham, Peters, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Ross, Sawyer, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Taylor, Trowbridge, Van Aernam, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, and Woodbridge—105.

NOT VOTING—Messrs. Cake, Cary, Finney, Fox, Gravely, Griswold, Holman, Richard D. Hubbard, Humphrey, Kitchen, Lynch, Mercur, Morrissey, Pomeroy, Raum, Scofield, Selye, Shellabarger, Smith, Thaddeus Stevens, Taffe, Thomas, Twichell, Burt Van Horn, Stephen F. Wilson, and Wood—26.

So the motion to adjourn was not agreed to.

During the call of the roll,

Mr. LAFLIN said: My colleague, Mr. BURT VAN HORN, is detained from his seat by his own sickness and the sickness of his family.

The question then recurred upon the motion of Mr. LOGAN, that the House adjourn.

Upon this motion the yeas and nays had been ordered.

The question was then taken; and it was decided in the negative—yeas 54, nays 107, not voting 26; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Benjamin, Benton, Bromwell, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Donnelly, Driggs, Eckley, Ela, Farnsworth, Harding, Higby, Hunter, Ingersoll, Judd, Kelley, Kelsey, Loan, Logan, Maynard, McClurg, Miller, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Pile, Ross, Schenck, Shanks, Aaron F. Stevens, Stokes, Trimble, Trowbridge, Robert T. Van Horn, Ward, Welker, Thomas Williams, and William Williams—54.

NAYS—Messrs. Adams, Allison, Ames, Archer, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Cornell, Dawes, Dixon, Dodge, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Halsey, Hamilton, Hawkins, Hill, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Jenckes, Johnson, Jones, Julian, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCarthy, McCullough, Moore, Moorhead, Morgan, Mungen, Niblack, Nicholson, Nunn, Paine, Perham, Peters, Phelps, Pike, Plants, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Sawyer, Sitgreaves, Spalding, Starkweather, Stewart, Stone, Taber, Taylor, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, John T. Wilson, Windom, Woodbridge, and Woodward—107.

NOT VOTING—Messrs. Boutwell, Cake, Finney, Fox, Gravely, Griswold, Holman, Richard D. Hubbard, Humphrey, Kitchen, Lynch, Mercur, Morrissey, Pomeroy, Raum, Scofield, Selye, Shellabarger, Smith, Thaddeus Stevens, Taffe, Thomas, Twichell, Burt Van Horn, Stephen F. Wilson, and Wood—26.

So the motion to adjourn was not agreed to.

The question recurred upon the motion of Mr. WILSON, of Iowa, to lay on the table the subject of impeaching the President.

Mr. SCHENCK. I move that when the House adjourn to-day it be to meet at half past eleven o'clock to-morrow; and upon that question I ask for the yeas and nays.

The SPEAKER. That motion would require unanimous consent, as the rules fix the hour of daily meeting at twelve o'clock noon.

Mr. SCHENCK. Then I move that when this House adjourn to-day it be to meet on Monday next; and upon that resolution I call for the yeas and nays.

The yeas and nays were ordered.

The question was upon the motion that when the House adjourn to-day it be till Monday next.

Mr. SCHENCK. As this is an important matter I move a call of the House; and upon that I ask for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were upon a division—ayes twenty-four.

Before the negative was counted,

Mr. SCHENCK said: I ask for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. SCHENCK and Mr. WILSON, of Iowa, were appointed.

The House again divided; and the tellers reported that there were—ayes thirty-five, noes not counted.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

The SPEAKER. The first question will be upon the motion to adjourn till Monday next, which takes precedence of the motion for a call of the House. Upon this motion the yeas and nays have been ordered.

The question was taken; and it was decided in the negative—yeas 50, noes 106, not voting 31; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baker, Beaman, Benjamin, Benton, Boutwell, Broomall, Cake, Churchill, Sidney Clarke, Coburn, Cook, Cornell, Covode, Driggs, Eck-

ley, Ela, Farnsworth, Ferriss, Gravely, Halsey, Harding, Higby, Judd, Kelley, Kelsey, William Lawrence, Loan, Logan, Maynard, McClurg, Myers, Newcomb, O'Neill, Orth, Ross, Schenck, Shanks, Aaron F. Stevens, Stokes, Trimble, Robert T. Van Horn, Ward, Thomas Williams, William Williams, and Woodward—50.

NAYS—Messrs. Adams, Allison, Archer, Bailey, Baldwin, Banks, Barnes, Barnum, Beck, Bingham, Blaine, Blair, Boyer, Bromwell, Brooks, Buckland, Burr, Carey, Chanler, Reader W. Clarke, Cobb, Cullom, Dixon, Dodge, Donnelly, Eggleston, Eldridge, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Hamilton, Hill, Holman, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Johnson, Jones, Julian, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Marshall, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Mungen, Niblack, Nicholson, Nunn, Paine, Perham, Phelps, Pike, Pile, Plants, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Sawyer, Sitgreaves, Spalding, Starkweather, Stewart, Stone, Taber, Taylor, Trowbridge, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, and Woodbridge—106.

NOT VOTING—Messrs. Ames, Butler, Dawes, Eliot, Finney, Fox, Hawkins, Jenckes, Kitchen, Loughridge, Lynch, Mallory, Mercur, Morgan, Morrell, Morrissey, Mullins, Peters, Pomeroy, Raum, Scofield, Selye, Shellabarger, Smith, Thaddeus Stevens, Taffe, Thomas, Twichell, Burt Van Horn, Stephen F. Wilson, and Wood—31.

So the motion that when the House adjourns to-day it be till Monday next was not agreed to.

The question then recurred on the motion of Mr. SCHENCK, that there be a call of the House, on which the yeas and nays had been ordered.

Mr. SCHENCK. I desire to ask the House, by unanimous consent, to permit me and any other gentleman who may desire it to speak for three or five minutes in explanation of the position that we have taken, and then this whole matter can be ended and the majority of the House can dispose of the question as they deem proper.

The SPEAKER. Does the gentleman desire to ask consent for other gentlemen as well as himself?

Mr. SCHENCK. I desire it for myself and for at least one other gentleman, my friend from Illinois, [Mr. LOGAN.] I desire only five minutes, not to debate this question at all, but to state why we have felt constrained to make this opposition to the taking of the vote now. If we be allowed the opportunity to make such a statement we will then yield and permit the vote to be taken.

The SPEAKER. Is there objection to permitting gentlemen to make the statement indicated?

Mr. RANDALL. Yes, sir; I object.

Mr. ROBINSON. I rise to a parliamentary question. Inasmuch as the leading charge against the President of the United States is that he is obstructing the action of Congress; and inasmuch as under the Constitution a member of Congress is a civil officer, would it be in order for me now to move, as a privileged question, that the gentleman from Ohio [Mr. SCHENCK] be impeached for obstructing the action of Congress, and that he be suspended from office during the pendency of that motion? [Laughter.]

The SPEAKER. It would not be in order. The pending motion is that there be a call of the House, on which motion the yeas and nays have been ordered.

The question was taken; and it was decided in the negative, there being—yeas 47, nays 114, not voting 26; as follows:

YEAS—Messrs. Anderson, Arnell, James M. Ashley, Baker, Benjamin, Benton, Boutwell, Bromwell, Broomall, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Eckley, Ela, Farnsworth, Gravely, Harding, Higby, Hunter, Kelley, Kelsey, Loan, Logan, Maynard, McClurg, Morrell, Mullins, Nunn, O'Neill, Orth, Ross, Schenck, Shanks, Aaron F. Stevens, Thaddeus Stevens, Stokes, Thomas, Trimble, Robert T. Van Horn, Ward, Thomas Williams, William Williams, and Woodward—47.

NAYS—Messrs. Adams, Allison, Ames, Archer, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Reader W. Clarke, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Halsey, Hamilton, Hawkins, Hill, Holman, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kerr, Ketcham, Knott, Koontz, Laflin, William Lawrence, Lincoln, Mallory, Marshall, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Mungen, Myers, Niblack, Nicholson, Paine, Perham, Peters, Pike, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Sawyer, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Taylor, Trowbridge, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, and Woodbridge—114.

NOT VOTING—Messrs. Delos R. Ashley, Finney, Fox, Griswold, Richard D. Hubbard, Kitchen, George V. Lawrence, Loughridge, Lynch, Mercur, Morgan, Morrissey, Newcomb, Phelps, Pile, Plants, Pomeroy, Raum, Scofield, Selye, Shellabarger, Taffe, Twichell, Burt Van Horn, Stephen F. Wilson, and Wood—26.

So a call of the House was not ordered.

Mr. LOGAN. I desire to make a statement to the House.

The SPEAKER. It requires unanimous consent to make a statement. The gentleman has the right to make a motion.

Mr. LOGAN. If there is unanimous consent I will make a proposition.

Mr. RANDALL and Mr. ELDRIDGE objected.

The SPEAKER. Objection being made, the gentleman from Illinois [Mr. LOGAN] cannot proceed.

Mr. ELDRIDGE. I would not object except that I do not wish the gentleman to have an opportunity to make an explanation of an hour.

Mr. LOGAN. I do not want an hour; not even five minutes.

Mr. BURR. I object on the ground that remarks are not in order.

Mr. ROSS. I trust that I may be permitted to make a suggestion.

Mr. BURR. I object.

Mr. WARD. I move that the House do now adjourn; and on that motion I demand the yeas and nays.

Mr. LOGAN. I believe I have the floor.

The SPEAKER. The gentleman can make his motion.

Mr. LOGAN. I believe the objection was withdrawn to my making a proposition.

The SPEAKER. It was renewed by the gentleman's colleague, [Mr. BURR.]

The House divided on ordering the yeas and nays; and there were—ayes twenty-nine; not one fifth of the last vote.

Mr. WARD called for tellers.

Tellers were ordered; and Messrs. WARD, and WASHBURNE of Illinois were appointed.

The House again divided; and the tellers reported—ayes thirty-four; more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 101, not voting 24; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Benjamin, Benton, Boutwell, Bromwell, Broomall, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Donnelly, Driggs, Eckley, Ela, Eliot, Farnsworth, Gravely, Harding, Higby, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Maynard, McClurg, Miller, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Pile, Ross, Schenck, Shanks, Aaron F. Stevens, Stokes, Taylor, Thomas, Trimble, Trowbridge, Upson, Robert T. Van Horn, Ward, Thomas Williams, William Williams, and Windom—62.

NAYS—Messrs. Adams, Allison, Ames, Archer, Axtell, Bailey, Banks, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Cornell, Cullom, Dixon, Dodge, Eggleston, Eldridge, Ferris, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Halsey, Hamilton, Hill, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Jones, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCullough, Moore, Moorhead, Morgan, Mungen, Niblack, Nicholson, Perham, Peters, Phelps, Pike, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Sawyer, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, Van Aernam, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—101.

NOT VOTING—Messrs. Butler, Dawes, Finney, Fox, Hawkins, Hooper, Kitchen, Lynch, McCarthy, Mercur, Morrissey, Plants, Pomeroy, Raum, Scofield, Selye, Shellabarger, Thaddeus Stevens, Stone, Taffe, Twichell, Burt Van Horn, Stephen F. Wilson, and Wood—24.

So the House refused to adjourn.

Mr. LOGAN. If I can have unanimous consent of the House I will make a proposition.

Mr. BURR. I objected before and I object now.

Mr. WASHBURNE, of Illinois. I hope my colleague will not object, but hear what the proposition is.

The SPEAKER. How long does the gentleman want?

Mr. LOGAN. Two minutes.

There was no objection, and it was ordered accordingly.

Mr. LOGAN. I propose to the Republicans and Democrats who opppose impeachment that they allow those who are in favor of it five minutes each to state the reasons for their votes, and the same to the other members if they want it.

Mr. BOYER. How many of them are there?

Mr. LOGAN. I do not know.

Mr. SPALDING. I object.

Mr. JULIAN moved that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 103, not voting 28; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Benjamin, Benton, Boutwell, Bromwell, Broomall, Butler, Cake, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Driggs, Eckley, Ela, Eliot, Farnsworth, Gravely, Harding, Higby, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Maynard, Morrell, Mullins, Myers, Nunn, O'Neill, Orth, Pile, Ross, Schenck, Shanks, Aaron F. Stevens, Stokes, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Thomas Williams, and William Williams—56.

NAYS—Messrs. Adams, Allison, Ames, Archer, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Reader W. Clarke, Cook, Cornell, Dixon, Dodge, Eggleston, Eldridge, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Halsey, Hamilton, Hawkins, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Johnson, Jones, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Loughridge, Mallory, Marshall, Marvin, McClurg, Miller, Moore, Moorhead, Morgan, Mungen, Niblack, Nicholson, Paine, Perham, Peters, Phelps, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Sawyer, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Taylor, Van Auken, Van Trump, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, Woodbridge, and Woodward—103.

NOT VOTING—Messrs. Dawes, Finney, Fox, Asahel W. Hubbard, Jenckes, Kitchen, Lynch, McCarthy, McCullough, Mercur, Morrissey, Newcomb, Pike, Plants, Pomeroy, Raum, Scofield, Selye, Shellabarger, Sitgreaves, Thaddeus Stevens, Taffe, Thomas, Twichell, Burt Van Horn, Cadwalader C. Washburn, Stephen F. Wilson, and Wood—28.

So the House refused to adjourn over till Monday next.

Mr. LOGAN. I now renew my proposition to the House.

The SPEAKER. Is there objection?

Mr. RANDALL. I object.

Mr. LOGAN. I move a call of the House.

Mr. WARD. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 103, not voting 35; as follows:

YEAS—Messrs. Anderson, Arnell, James M. Ashley, Baker, Beaman, Benton, Boutwell, Bromwell, Broomall, Butler, Cake, Sidney Clarke, Cobb, Coburn, Covode, Donnelly, Eckley, Ela, Harding, Higby, Hunter, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughridge, Maynard, McClurg, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Pile, Schenck, Shanks, Aaron F. Stevens, Stokes, Thomas, Trowbridge, Robert T. Van Horn, Ward, Thomas Williams, and William Williams—49.

NAYS—Messrs. Adams, Allison, Ames, Archer, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beck, Bingham, Blaine, Blair, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Reader W. Clarke, Cook, Cornell, Dawes, Dixon, Dodge, Driggs, Eldridge, Farnsworth, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight,

Hamilton, Hill, Holman, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Mallory, Marshall, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Morgan, Mungen, Niblack, Paine, Perham, Peters, Phelps, Pike, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Sawyer, Sitgreaves, Spalding, Starkweather, Stewart, Stone, Taber, Upson, Van Aernam, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Windom, Woodbridge, and Woodward—103.

NOT VOTING—Messrs. Delos R. Ashley, Benjamin, Churchill, Cullom, Eggleston, Eliot, Finney, Fox, Gravely, Halsey, Hawkins, Richard D. Hubbard, Kitchen, Lynch, Mercur, Morrissey, Nicholson, Plants, Pomeroy, Raum, Ross, Scofield, Selye, Shellabarger, Smith, Thaddeus Stevens, Taffe, Taylor, Trimble, Twichell, Burt Van Horn, Van Wyck, Henry D. Washburn, Stephen F. Wilson, and Wood—35.

So the motion was disagreed to.

Mr. MYERS. I desire unanimous consent to offer a resolution.

Mr. BOYER. I object.

Mr. MYERS. I ask to have it read for information.

Mr. BOYER. I object.

Mr. MYERS. I will then submit it to the Speaker, and ask him if it is in order.

The SPEAKER. Having examined the resolution, the Chair will state that it is not in order for one reason, if no more; and that is that a motion is now pending to lay on the table the resolution reported by the majority of the committee.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio. I desire to enter a motion to reconsider the vote by which the bill to facilitate the restoration of the late rebel States, and for other purposes, was referred to the Committee on the Judiciary.

The SPEAKER. The motion will be entered on the Journal.

TIME OF ELECTING REPRESENTATIVES.

Mr. ASHLEY, of Ohio. I also wish to enter a motion to reconsider the vote by which the bill to fix the time for the election of Representatives and Delegates to the Congress of the United States, and for other purposes, was referred to the Committee of Elections.

The SPEAKER. That will also be entered.

IMPEACHMENT OF THE PRESIDENT—AGAIN.

Mr. JULIAN. I now renew the motion that the House adjourn.

Mr. SCHENCK. I ask that the minority may be permitted to occupy five minutes each, as many as desire to speak on this subject.

Mr. WASHBURN, of Indiana. How many?

Mr. ASHLEY, of Ohio. There are not many who want to speak.

Mr. RANDALL. I object.

Mr. PAINE. I ask unanimous consent to make a proposition in no wise connected with the subject before the House, but which ought to be disposed of.

Mr. RANDALL. I object.

Mr. WARD. I demand the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 86, not voting, 34; as follows:

YEAS—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benton, Boutwell, Broomall, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Donnelly, Driggs, Eckley, Ela, Eliot, Farnsworth, Gravely, Harding, Higby, Hulburd, Hunter, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughridge, Maynard, McCarthy, McClurg, Miller, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Schenck, Shanks, Aaron F. Stevens, Stokes, Taylor, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Thomas Williams, William Williams, John T. Wilson, and Windom—67.

NAYS—Messrs. Adams, Allison, Ames, Archer, Axtell, Banks, Barnes, Barnum, Beck, Bingham, Blair, Boyer, Buckland, Burr, Cary, Chanler, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Ferriss, Ferry, Fields, Garfield, Getz, Golladay, Griswold, Grover, Haight, Halsey, Hawkins, Hill, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Mallory, Marshall, Marvin, McCullough, Moore, Moorhead, Morgan, Mungen, Niblack, Peters, Phelps, Poland, Polsley, Price, Randall, Robertson, Robinson, Sawyer, Sitgreaves, Smith, Spalding, Stewart, Stone, Taber, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, Woodbridge, and Woodward—86.

NOT VOTING—Messrs. Anderson, Bailey, Benjamin, Blaine, Bromwell, Brooks, Eggleston, Eldridge, Finney, Fox, Glossbrenner, Hamilton, Hooper, Kitchen, Lynch, Mercur, Morrissey, Nicholson, Plants, Pomeroy, Pruyn, Raum, Ross, Scofield, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Taffe, Twichell, Burt Van Horn, Van Wyck, Stephen F. Wilson, and Wood—34.

So the House refused to adjourn.

Mr. PILE. I move that when the House adjourns it adjourn to meet on Monday next.

The question was put, and there were—ayes 64, noes 68.

Mr. MAYNARD. I demand tellers.

Tellers were ordered; and Messrs. MAYNARD and ELDRIDGE were appointed.

The House divided; and the tellers reported—ayes 65, noes 81.

Mr. MAYNARD. I call for the yeas and nays.

The yeas and nays were not ordered.

So Mr. PILE's motion was disagreed to.

Mr. PILE. I move that the House do now adjourn.

Mr. RANDALL. I call for tellers on that motion.

Tellers were ordered; and Messrs. PILE and RANDALL were appointed.

The House divided; and the tellers reported—ayes 85, noes 63.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 77, not voting 30; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Benton, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Gravely, Halsey, Harding, Higby, Hooper, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loan, Logan, Loughridge, Maynard, McCarthy, McClurg, Miller, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Polsley, Ross, Sawyer, Schenck, Shanks, Aaron F. Stevens, Taylor, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, and John T. Wilson—80.

NAYS—Messrs. Adams, Archer, Axtell, Bailey, Banks, Barnes, Barnum, Beck, Bingham, Blair, Boyer, Brooks, Burr, Cake, Cary, Chanler, Cornell, Dawes, Dixon, Dodge, Eldridge, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Hawkins, Hill, Holman, Hopkins, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Ketcham, Knott, Laflin, George V. Lawrence, Lincoln, Lynch, Mallory, Marvin, McCullough, Moore, Mungen, Niblack, Peters, Phelps, Poland, Price, Pruyn, Randall, Robertson, Robinson, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Woodbridge, and Woodward—77.

NOT VOTING—Messrs. Blaine, Reader W. Clarke, Finney, Fox, Hamilton, Asahel W. Hubbard, Hulburd, Jenckes, Kitchen, Marshall, Mercur, Moorhead, Morgan, Morrissey, Nicholson, Plants, Pomeroy, Raum, Scofield, Selye, Shellabarger, Thaddeus Stevens, Stokes, Taffe, Twichell, Burt Van Horn, Van Wyck, Stephen F. Wilson, Windom, and Wood—30.

So the motion was agreed to; and thereupon (at five o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COVODE: The petition of sundry citizens of Indiana county, Pennsylvania, for a post route from Armagh to Heshbon, in said county.

By Mr. FERRY: The petitions of J. D. Dillenback, Don G. Lovell, Marcus W. Bates, and 50 others, praying for the passage of the "soldiers' equalization bounty law," allowing such additional amount as shall make up $300 bounty for each man, without the deduction of local bounties.

By Mr. HALSEY: The petition of Samuel Earl, of New Jersey, a soldier in the war of 1812, for a pension.

By Mr. HUBBARD, of West Virginia: The petition of Mary Ann Berry, of Wood county, West Virginia, asking that the children of James Heatherby, deceased, may be placed on the pension-roll as her wards.

By Mr. KERR: The memorial and abstract of Robert McCrary, for relief as a third assistant engineer, for injury received in the military service of the United States.

By Mr. SCHENCK: The memorial of John McClure, of Arkansas, for an amendment to the reconstruction laws.

Also, the petition of Sarah Jane Rogers, of Preble county, Ohio, widow of Hugh S. Rogers, praying for a pension.

Also, the petition of the mechanics in the quartermaster's department, Washington, District of Columbia, asking to be included in the bill before Congress giving twenty per cent. additional compensation to the employés of the Government.

HOUSE OF REPRESENTATIVES.

SATURDAY, *December* 7, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CALIFORNIA AND NEVADA VOLUNTEERS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War *ad interim* relative to California and Nevada volunteers discharged from service in New Mexico, Arizona, and Utah; which was referred to the Committee on Military Affairs, and ordered to be printed.

THE TRIAL OF CAPTAIN WIRZ.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War *ad interim*, transmitting, in compliance with a resolution of the House of April 16, 1866, a summary of the proceedings, &c., in the trial of Henry Wirz; which was referred to the Committee on the Judiciary, and ordered to be printed.

REPORT IN THE CASE OF MILLIKEN.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War *ad interim*, in reply to a resolution of the House of the 5th instant, stating that the report of General Thomas in the case of Milliken, a returned rebel, is in the hands of the Attorney General; which was referred to the Committee on the Judiciary, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. DRIGGS. I move that indefinite leave of absence be granted to my colleague, [Mr. BLAIR.]

The motion was agreed to.

IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The first business in order is the consideration of the unfinished business of yesterday, being the report of the Committee on the Judiciary in the matter of the charges against the President of the United States, the pending question being on the motion of Mr. WILSON, of Iowa, to lay on the table the following resolution reported by the committee:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

Mr. WARD. Would it be in order for the minority to ask for the yeas and nays on that motion?

The SPEAKER. The yeas and nays have already been ordered.

Mr. WARD. I did not know whether it would be permitted.

Mr. INGERSOLL. Is any other business now in order?

The SPEAKER. No other business is now in order. On Monday next, during the morning hour, the States and Territories will be

called for bills and joint resolutions for reference to their appropriate committees.

Mr. LOGAN. I desire to submit a proposition to the House.

Mr. SPALDING. I object; and call for the regular order.

The SPEAKER. The regular order is the motion to lay on the table the resolution reported from the Committee on the Judiciary.

Mr. INGERSOLL. If the motion to lay on the table is not carried will it then be in order to move a postponement of the consideration of this subject?

The SPEAKER. That motion will then be in order.

Mr. INGERSOLL. That will be the next in order?

The SPEAKER. It may not be the next motion in order; but that motion will then be in order.

Mr. LOGAN. I move a call of the House; and upon that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes twenty-seven.

Before the noes were counted,

Mr. KELSEY called for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. LOGAN and ROBINSON were appointed.

The House again divided; and the tellers reported that there were—ayes 33, noes 67.

So, one fifth voting in the affirmative, the yeas and nays were ordered.

The question was then taken upon ordering a call of the House; and it was decided in the negative—yeas 46, nays 98, not voting 43; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Baker, Benjamin, Benton, Boutwell, Bromwell, Broomall, Churchill, Cobb, Coburn, Covode, Eckley, Ela, Harding, Higby, Asahel W. Hubbard, Hunter, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughridge, Maynard, McClurg, Mullins, Newcomb, O'Neill, Orth, Pile, Schenck, Shanks, Aaron F. Stevens, Stokes, Thomas, Trimble, Trowbridge, Robert T. Van Horn, Ward, Thomas Williams, William Williams, and Stephen F. Wilson—46.

NAYS—Messrs. Adams, Archer, Delos R. Ashley, Axtell, Bailey, Barnes, Barnum, Beck, Bingham, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Reader W. Clarke, Cook, Cullom, Dawes, Dixon, Dodge, Driggs, Eggleston, Eldridge, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Halsey, Hamilton, Hawkins, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Johnson, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Marvin, McCarthy, McCullough, Moorhead, Morgan, Mungen, Niblack, Nicholson, Nunn, Paine, Perham, Peters, Phelps, Pike, Plants, Polsley, Price, Pruyn, Robertson, Robinson, Ross, Sawyer, Sitgreaves, Smith, Spalding, Starkweather, Stone, Taber, Taylor, Upson, Van Aernam, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—98.

NOT VOTING—Messrs. Ames, James M. Ashley, Baldwin, Banks, Beaman, Blaine, Blair, Butler, Cake, Sidney Clarke, Cornell, Donnelly, Finney, Fox, Hulburd, Jenckes, Jones, Kitchen, Lincoln, Lynch, Mallory, Marshall, Mercur, Miller, Moore, Morrell, Morrissey, Myers, Poland, Pomeroy, Randall, Raum, Scofield, Selye, Shellabarger, Thaddeus Stevens, Stewart, Taffe, Twichell, Burt Van Horn, Van Wyck, Windom, and Wood—43.

So the motion that there be a call of the House was not agreed to.

The question recurred upon the motion to lay the resolution on the table.

Mr. LOGAN. I rise to a privileged question, and ask to have read to the House a paragraph I have marked in the paper I now send to the Clerk's desk.

The SPEAKER. There is already a question of privilege pending before the House. No other question of privilege can be entertained, except by unanimous consent.

Mr. LOGAN. Then I ask unanimous consent.

Mr. SPALDING and others objected.

Mr. LOGAN. I now renew my proposition to the House: that if the minority, those in favor of impeachment, are allowed ten minutes in which to discuss this question, and give their reasons for what they are now doing, they will withdraw all further opposition to a vote upon this question.

Mr. SPALDING. I object.

Mr. SAWYER. Oh, give them ten minutes.

Mr. SPALDING. I will not give them a single minute now.

Mr. LOGAN. Then I move that the House now adjourn; and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 46, nays 106, not voting 35; as follows:

YEAS—Messrs. Anderson, Arnell, James M. Ashley, Baker, Benjamin, Benton, Boutwell, Bromwell, Broomall, Butler, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Eckley, Farnsworth, Harding, Higby, Hunter, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Maynard, McClurg, Mullins, Myers, Newcomb, O'Neill, Orth, Pile, Schenck, Shanks, Aaron F. Stevens, Stokes, Thomas, Trimble, Trowbridge, Robert T. Van Horn, Ward, Thomas Williams, and William Williams—46.

NAYS—Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Axtell, Bailey, Baldwin, Barnum, Beaman, Beck, Bingham, Blaine, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Reader W. Clarke, Cullom, Dawes, Dixon, Dodge, Driggs, Eggleston, Ela, Eldridge, Eliot, Ferris, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Hamilton, Hawkins, Hill, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Johnson, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Loughridge, Marshall, Marvin, McCarthy, McCullough, Moorhead, Morgan, Mungen, Niblack, Nicholson, Nunn, Paine, Perham, Peters, Phelps, Pike, Plants, Poland, Polsley, Price, Pruyn, Randall, Robertson, Robinson, Ross, Sawyer, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Taylor, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—106.

NOT VOTING—Messrs. Banks, Barnes, Blair, Cake, Cook, Cornell, Donnelly, Finney, Fox, Halsey, Hooper, Asahel W. Hubbard, Ingersoll, Jenckes, Jones, Kitchen, Lynch, Mallory, Mercur, Miller, Moore, Morrell, Morrissey, Pomeroy, Raum, Scofield, Selye, Shellabarger, Thaddeus Stevens, Taffe, Twichell, Burt Van Horn, Stephen F. Wilson, Windom, and Wood—35.

So the motion to adjourn was not agreed to.

The question then recurred on the motion to lay the resolution on the table.

Mr. LOGAN. If the chairman of the Judiciary Committee [Mr. WILSON, of Iowa] will withdraw the motion to lay on the table and allow the vote to be taken under the previous question on the resolution of the minority, we will withdraw further opposition and allow the vote to be taken.

Mr. WARD. All we want is a square vote.

Mr. LOGAN. We will make no opposition at all if gentlemen will give us a square vote on impeachment.

Mr. WILSON, of Iowa. In order to end this contest I am willing, if the gentleman will not object to seconding the previous question and ordering the main question, to withdraw the motion to lay on the table, so that a vote may be taken immediately upon the resolution reported by the majority of the committee.

Mr. LOGAN. Very well, sir. I only wish to say further, if the gentleman from Iowa will allow me, that——

The SPEAKER. The motion to lay on the table has been withdrawn, and the gentleman from Iowa [Mr. WILSON] is in possession of the floor.

Mr. ELDRIDGE. I suggest to the gentleman from Iowa that a vote be taken on both propositions, so as also to lay the subject on the table.

Several MEMBERS. Oh, no.

Mr. WILSON, of Iowa. I withdraw the motion to lay on the table, and move the previous question on the resolution of the majority of the committee.

Mr. LOGAN. I desire, before the vote is taken, to say just one word——

Several MEMBERS. No, no.

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from Illinois, [Mr. LOGAN?]

Mr. WILSON, of Iowa. No, sir. I understood the gentleman's proposition to be this: that if I would withdraw the motion to lay on the table no further opposition would be made to coming at once to a vote on the resolution of the majority of the committee. I propose to accept that proposition, and I therefore withdraw the motion to lay on the table and demand the previous question on the resolution reported by the majority of the committee.

Several MEMBERS. That is right.

Mr. LOGAN. I wish to make a statement; it is certainly not debate. The proposition of the gentleman is perfectly satisfactory. I desire to take no advantage of him. We have the power to obstruct the taking of a vote as long as we choose; a sufficient number of members are willing to do it. We have been refused the right of saying one word on this question; but hereafter we shall take an opportunity to give our views to the House. I assent to the gentleman's proposition that the vote be now taken on the resolution under the previous question.

Mr. WILSON, of Iowa. Now, Mr. Speaker, I suppose we shall come immediately to a vote.

The previous question was seconded and the main question ordered; which was upon agreeing to the resolution reported by the majority of the Committee on the Judiciary.

The resolution was read, as follows:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

Mr. WILSON, of Iowa. I call for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Before the Clerk proceeds with the call of the roll the Chair will state, as he did day before yesterday, that any manifestations of approval or disapproval of this vote in the galleries will be followed by the expulsion of the persons in the galleries or of that portion where the disorder occurs.

The question was taken; and it was decided in the negative—yeas 57, nays 108, not voting 22; as follows:

YEAS—Messrs. Anderson, Arnell, James M. Ashley, Boutwell, Bromwell, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Eckley, Ela, Farnsworth, Gravely, Harding, Higby, Hopkins, Hunter, Judd, Julian, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughridge, Lynch, Maynard, McClurg, Mercur, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Pile, Price, Schenck, Shanks, Aaron F. Stevens, Thaddeus Stevens, Stokes, Thomas, Trimble, Trowbridge, Robert T. Van Horn, Ward, Thomas Williams, William Williams, and Stephen F. Wilson—57.

NAYS—Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Beaman, Beck, Benjamin, Benton, Bingham, Blaine, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Cook, Dawes, Dixon, Dodge, Driggs, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Halsey, Hamilton, Hawkins, Hill, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Johnson, Jones, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Marshall, Marvin, McCarthy, McCullough, Miller, Moorhead, Morgan, Mungen, Niblack, Nicholson, Perham, Peters, Phelps, Pike, Plants, Poland, Polsley, Pruyn, Randall, Robertson, Robinson, Ross, Sawyer, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Taylor, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—108.

NOT VOTING—Messrs. Barnes, Blair, Cake, Cornell, Finney, Fox, Jenckes, Kitchen, Mallory, Moore, Morrell, Morrissey, Pomeroy, Raum, Scofield, Selye, Shellabarger, Taffe, Twichell, Burt Van Horn, Windom, and Wood—22.

So the resolution was rejected.

During the vote,

Mr. LAFLIN stated that Mr. CORNELL was paired with Mr. CAKE, and that the latter would vote for while the former would vote against impeachment.

Mr. COVODE stated that his colleague, [Mr. MORRELL,] who was compelled to leave the city, requested him to state that if present he would vote for impeachment.

Mr. MYERS stated that being prevented from offering a resolution censuring the President he would vote in the affirmative.

Mr. HULBURD stated that his colleague [Mr. VAN HORN] was detained from the House by the illness of a member of his family.

Mr. BROOMALL stated that Mr. SCOFIELD was detained from the House by the sickness

of his wife, and that if present he would on this question vote right. [Laughter.]

Mr. WILLIAMS, of Pennsylvania. He stated to me that if here he would vote ay.

Mr. LAWRENCE, of Ohio, stated that his colleague [Mr. SHELLABARGER] was detained at home by indisposition.

Mr. MILLER. Mr. Speaker, I ask to say a word in regard to the vote I am about to give. When I read the able majority report of the Judiciary Committee on impeachment of the President it struck me favorably. I then made a careful examination of the evidence laid before us, and thought Andrew Johnson had been guilty of betraying the party that elected him to a position which, on the assassination of the lamented Lincoln, enabled him to occupy the presidential chair, and has otherwise behaved badly. Still I have been unable to find evidence sufficient to warrant a conviction of such high crimes and misdemeanors as will sustain impeachment, and therefore am constrained to vote no. I vote no because I do not think the evidence is strong enough to warrant impeachment. [Laughter.]

Mr. ELDRIDGE. I wish to say that is the reason why I voted no. [Renewed laughter.]

Mr. HOOPER, of Massachusetts. I wish to state that my colleague [Mr. TWICHELL] is absent on account of important business.

Mr. BROOMALL. How would he vote?

Mr. HOOPER, of Massachusetts. He would, as has been said of Mr. SCOFIELD, vote right. [Laughter.] He would vote in the negative.

The vote was then announced as above recorded.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BOYER. I move to adjourn.

Mr. WASHBURNE, of Illinois. I hope my friend will withdraw that motion for the present.

Mr. BOYER. I withdraw it.

Mr. SCHENCK. I wish to call up a bill to prevent further reduction of the currency.

The SPEAKER. This is private bill day; but the House is aware of the fact that notice was given that an important bill from the Committee of Ways and Means would be called up to-day.

Mr. SCHENCK. If the House agrees to the recommendation of the Committee of Ways and Means the bill to prevent reduction of the currency can be disposed of in a few minutes; then we can go into Committee of the Whole on the state of the Union and allow gentlemen to continue the discussion of the currency, with the understanding that no business shall be done after the vote on the bill has been taken.

Mr. GARFIELD. Does the gentleman intend to allow debate?

Mr. SCHENCK. I will respond to that when the Committee of Ways and Means is called. I propose to report back this bill, which consists of only about twenty words. I will ask if the committee is already called?

The SPEAKER. It is. The morning hour has now commenced.

REDUCTION OF THE CURRENCY.

Mr. SCHENCK. I report back from the Committee of Ways and Means House bill No. 213, to suspend the further reduction of the currency, with a recommendation that it do pass.

The bill was read. It provides that from and after the passage of this act the authority of the Secretary of the Treasury to make any reduction of the currency by retiring or canceling United States notes shall be, and hereby is, suspended.

Mr. SCHENCK. I will state that this bill is reported by the unanimous instruction of the Committee of Ways and Means. It is an exceedingly short bill, as short as we could make it, and covers the whole ground of a proposition upon which every one has thought more or less, and in the discussion of which most have engaged, if not here at least elsewhere. Under the instruction of the committee I will ask immediate action upon this subject, and for that purpose I intend to demand the previous question. Before doing so, I wish to remark that it is no purpose of the committee to prevent, but rather to court a general discussion of this currency question, and upon reporting a general bill relating to the currency and kindred subjects it is the purpose of the committee to throw the whole subject open for general discussion. What they ask now is simply action upon this one point which relates to the contraction of the currency, upon which we suppose all minds are made up.

Mr. INGERSOLL. I ask the gentleman to yield to me a moment.

Mr. SCHENCK. I will do so.

Mr. INGERSOLL. On the first day of the present session I introduced a bill which I had carefully prepared, which proposed to repeal the section of the law passed April 12, 1866, authorizing the Secretary of the Treasury to retire from circulation $4,000,000 of currency a month. That bill, which was referred to the Committee of Ways and Means, provides for the repeal of so much of the act of April 12, 1866, as authorizes the retiring ing of the currency. The second section provides—

"That from and after the passage of this act the further reduction of the currency by retiring or canceling United States notes shall be, and hereby is, prohibited."

This bill was referred to the committee.

Mr. SCHENCK. I did not yield for an argument.

Mr. INGERSOLL. I merely wish to state the facts in connection with it. I do not desire to find fault with the committee, but I desire justice shall be done me and every other member of the House. When a bill is referred to a committee which contains the essential features of the bill reported back by the committee for action by the House it is but fair and just that it should have some recognition as the bill introduced by the author. This bill reported by the chairman of the Committee of Ways and Means contains almost *verbatim* the second section of my bill. I challenge a comparison. In each the authority or power of the Secretary of the Treasury is suspended and further contraction of the currency prohibited.

The bill which I introduced, in addition to suspending the power of the Secretary, repeals that portion of the law which authorizes the retiring of the currency, but the bill reported by the committee does not so repeal it. And why does it not do so? Simply because those who favor contraction, or expect to favor it hereafter, believe it to be an easier task to repeal the act reported by the committee which simply suspends the functions of the Secretary for the time being, to be revived hereafter simply by repealing this act. The bill that I introduced, and which was referred to the committee, upon which they have so far made no report, repeals that part of the law *in toto*, and prohibits the further retiring of the currency. Now I offer my bill, with the leave of the chairman of the committee, as a substitute for the report of the committee. I ask that it be read.

Mr. SCHENCK. I do not propose to yield to allow the amendment to be offered. It may be read for information.

Mr. INGERSOLL. Let my bill be read.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That so much of an act entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved April 12, 1866," as authorizes the Secretary of the Treasury to retire United States notes to an amount not exceeding $4,000,000 in any one month, is hereby repealed.

SEC. 2. *And be it further enacted*, That from and after the passage of this act the further reduction of the currency by retiring or canceling United States notes shall be, and hereby is, prohibited.

Mr. PRUYN. Will the gentleman from Ohio yield to me?

Mr. SCHENCK. Not till I take some notice of the remarks made by the gentleman from Illinois, [Mr. INGERSOLL.] As I said in the beginning, it is not the purpose of the committee themselves to discuss this bill which I have reported back. We waive for the present all purpose of doing so, intending that there shall be an open discussion hereafter upon the general subject of the currency if the House desire it. But if I reply to the gentleman from Illinois it will not be in the nature of debate upon the bill. What he remarks is in the nature of complaint against the course pursued by the committee. He has succeeded in showing that his bill is in one of its features very different from the bill reported by the committee. That ought to satisfy him why we have not reported his bill. If the bill reported by the committee were precisely the same and the phraseology only altered, which he does not claim, then there might possibly be some ground of complaint.

But the gentleman from Illinois will permit me to explain to him that, although with his usual vigilance in representing fairly his constituency and the country he presented this matter at an early day, yet he has not been alone; we have had referred to us some ten or twelve resolutions and bills relating to this particular subject, all about substantially the same, asking a repeal of any law giving the Secretary of the Treasury power over this subject. After considering the whole of them we were enabled to harmonize the opinions of the committee and we believed that we would be able to harmonize opinions in the House by presenting a bill of our own in the shape that we have reported; and if gentlemen will take the trouble to refer to the bill, which is printed and upon their files, they will find that it is all summed up in the single brief, terse provision that all the power of the Secretary of the Treasury given to him by law to reduce the currency of the country by retiring or canceling United States notes be, and the same is hereby, suspended, and that is the whole of it. It covers not only the section of the bill which relates to the four millions a month, but it covers all the power that has been given to the Secretary of the Treasury.

Mr. INGERSOLL. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. INGERSOLL. Will the gentleman explain to the House what objection he has, or the committee has, to repealing the act conferring authority upon the Secretary of the Treasury to retire and contract the currency?

Mr. SCHENCK. I am not authorized to refer to the discussion that took place in the committee covering this whole ground.

Mr. INGERSOLL. What is your own objection?

Mr. SCHENCK. I have no particular objection to inform the gentleman. So far as I am concerned I would readily vote for his bill. I will also readily and cheerfully vote for the bill which the committee has presented, a little more so for the reason that I have discovered that this will harmonize more generally the opinions in the House, as it did in the committee.

Mr. PRUYN. I would like to ask the gentleman a question.

Mr. SCHENCK. I have already stated, and I repeat at the request of some gentlemen who have made the inquiry, that the committee is unanimous in reporting this particular bill in its present form.

Mr. PRUYN. In view of the statement made by the chairman of the Committee of Ways and Means, that it is the intention of that committee to mature and present a bill to this House covering the whole ground, I would inquire of him whether it would not be judicious to limit the operation of this suspension until the 1st day of May next. I think the country

will be taken by surprise by action of this kind, indefinite in its character.

Mr. SCHENCK. We thought not in the committee, and have therefore made the suspension indefinite, thus making it necessary for the law-making power to act again before this authority can be restored to the Secretary of the Treasury.

Mr. PRUYN. I would like to move to amend the bill by adding the words "until the 1st day of May next."

Mr. SCHENCK. I do not propose to give way for amendments if I can get the previous question.

Mr. PRUYN. Then accept the amendment.

Mr. SCHENCK. Nor do I propose to accept any amendment.

Mr. GARFIELD. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. GARFIELD. I wish to know if I am to understand from what the gentleman says that they propose to settle by a definite law this great question of financial policy, under the operation of the previous question, without debate, and then allow members to debate it at their leisure in the Committee of the Whole after the bill has been passed. I ask him if it is proposed to revoke and overturn the declared financial policy of Congress, which has been followed during the last three years, without debate?

Mr. LOGAN. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. I am holding the floor by the courtesy of my colleague, but I am ready to answer any question.

Mr. LOGAN. I will ask the gentleman if he was not in favor of settling the impeachment question in that way?

Mr. GARFIELD. After nine months' opportunity, in which the gentleman has done his best, the question has been settled this morning; and if he will allow the House four hours for the discussion of this great financial question we will be content. The whole party of these gentlemen, who felt so outraged this morning, were fully heard both in the report and the speech of the gentleman from Massachusetts, [Mr. BOUTWELL.] On the subject before us no debate whatever is to be allowed.

Mr. SCHENCK. In answer to the interrogatory of my colleague, [Mr. GARFIELD,] which contains a stump speech in its belly, [laughter,] I will say that the committee have gone only this far: they believe the House is prepared, the opinion of members upon the one side or the other made up, on the single proposition in regard to continuing in the Secretary of the Treasury the authority to further contract the currency. We put that one proposition to the House. If the House is not prepared to act upon it now, but wish to discuss it fully, as well as to discuss other things connected with finances, which they will have the opportunity to do hereafter, then they will vote down the previous question.

Mr. GARFIELD. Will my colleague permit me to submit a proposition to the House?

Mr. SCHENCK. I will hear it.

Mr. GARFIELD. I desire to obtain permission to offer the following resolution, and thus have the whole subject of currency considered together. If the pending bill required a suspension of contraction for a limited term I should not think it so unreasonable, but we are asked to repeal utterly the Secretary's authority to reduce the volume of the currency. I ask that the following resolution may be considered:

Resolved, That the bill forbidding the further contraction of the currency be recommitted to the Committee of Ways and Means, and that they be instructed to report to this House such legislative measures as shall most speedily and safely lead to resumption of specie payments.

Mr. SCHENCK. I am not disposed to yield the floor to permit that resolution to be offered. We will give our attention to all these matters in due time, and will try to do the best we can. When I call the previous question the House will understand that it means simply this: I put this question to the House of Representatives, Are you ready to vote now upon the single proposition in regard to the contraction of the currency?

Mr. LOGAN. Will the gentleman allow me to make an inquiry of his colleague, [Mr. GARFIELD?]

Mr. SCHENCK. Very well.

Mr. LOGAN. I desire to ask the gentleman this question; he said, "this party who have had nine months to prosecute the impeachment of the President." I would like to know to what party he refers, and to what party he now belongs, in that state of the case.

Mr. GARFIELD. If the gentleman pleases I did not say "party;" I said "these gentlemen." If I made a mistake in calling them "gentlemen" I am very sorry; but I do not think I made a mistake. I made no reflection upon any political party.

Mr. STEVENS, of Pennsylvania. I would refer the gentleman to the party of the Masonic Temple of Boston.

The SPEAKER. Debate in regard to impeachment is not in order on this bill.

Mr. SCHENCK. I now call the previous question.

Mr. INGERSOLL. Will the gentleman yield to me for an inquiry?

Mr. SCHENCK. As the gentleman seems to be very anxious to put to me an interrogatory I will yield to him. I hope he will make but an inquiry.

Mr. INGERSOLL. As this is a question of great importance, deemed so not only by the country but by every member of this House, I appeal to the gentleman to allow a vote to be taken upon my bill, for I believe a majority of the House are in favor of it.

Mr. DAWES. I object to the form of the inquiry. [Laughter.]

Mr. SCHENCK. I am acting under the instructions of the Committee of Ways and Means. I now renew the demand for the previous question.

The previous question was seconded, upon a division—ayes 94, noes 31.

The main question was then ordered, and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

The question was then upon the passage of the bill.

Mr. SCHENCK. I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. PRICE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 127, nays 32, not voting 28; as follows:

YEAS—Messrs. Adams, Allison, Anderson, Archer, Arnell, James M. Ashley, Axtell, Baker, Banks, Barnes, Barnum, Beaman, Beck, Benjamin, Benton, Bingham, Boutwell, Boyer, Bromwell, Brooks, Buckland, Burr, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eldridge, Farnsworth, Ferriss, Ferry, Fields, Golladay, Gravely, Griswold, Halsey, Hamilton, Harding, Hawkins, Hill, Higby, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Hulburd, Hunter, Ingersoll, Jones, Judd, Julian, Kelley, Kelsey, Kerr, Ketcham, Knott, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moorhead, Morgan, Mullins, Mungen, Myers, Newcomb, Niblack, Nunn, O'Neill, Orth, Paine, Perham, Pile, Plants, Polsley, Robertson, Ross, Sawyer, Schenck, Shanks, Smith, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, Taylor, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—127.

NAYS—Messrs. Ames, Delos R. Ashley, Blaine, Broomall, Dawes, Eliot, Garfield, Getz, Glossbrenner, Grover, Haight, Hooper, Richard D. Hubbard, Humphrey, Johnson, George V. Lawrence, McCullough, Peters, Phelps, Pike, Poland, Price, Pruyn, Randall, Sitgreaves, Spalding, Taber, Van Auken, Ward, Elihu B. Washburne, William B. Washburn, and Woodward—32.

NOT VOTING—Messrs. Bailey, Baldwin, Blair, Cake, Chanler, Cornell, Finney, Fox, Chester D. Hubbard, Jenckes, Kitchen, Mallory, Marshall, Moore, Morrell, Morrissey, Nicholson, Pomeroy, Raum, Robinson, Scofield, Selye, Shellabarger, Taffe, Twichell, Burt Van Horn, Windom, and Wood—28.

So the bill was passed.

Mr. SCHENCK moved to reconsider the vote just taken, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOAN AND CURRENCY LAWS.

Mr. SCHENCK. At the Treasury Department there was printed some time ago a pamphlet containing the acts of Congress relating to loans and the currency from 1842 to a year or two ago. This pamphlet is out of print, and very few copies can be obtained. I move that there be printed one thousand copies of this pamphlet, it being first brought down to the present time. This motion will of course be referred to the Committee on Printing.

Mr. ALLISON. I ask the gentleman from Ohio [Mr. SCHENCK] to modify his motion so as to include all loan laws from 1790 to the present time. There are but very few such laws passed between 1790 and 1842, and it would be convenient to have all laws of that class included in a single pamphlet. The additional expense would be very small.

Mr. SCHENCK. I accept the suggestion of the gentleman from Iowa, [Mr. ALLISON,] and include it in my motion.

Mr. BARNES. I move as an amendment to the motion of the gentleman from Ohio, that five thousand copies of this pamphlet be printed.

The SPEAKER. The original motion and the amendment will both be referred under the law to the Committee on Printing.

Mr. GARFIELD. It seems to me it would be exceedingly convenient, and would involve very little additional expense, to have included in this pamphlet a table showing what amount has been issued under each of these loan laws.

Mr. WASHBURNE, of Illinois. I would like to know who is to get this thing up.

The SPEAKER. The Chair will suggest that this additional matter not now included in the pamphlet referred to will have to be prepared by some person.

Mr. SCHENCK. I would propose that the whole thing be prepared under the direction of the Committee of Ways and Means.

The SPEAKER. The motion, with the amendment, will be referred to the Committee on Printing.

ORDER OF BUSINESS.

Mr. SCHENCK. A number of gentlemen who wish to be heard in the Committee of the Whole on the state of the Union, and a number of others who desire that no further business shall be done to-day, in order that they may attend to business in the Departments, have requested me to move that the House now go into the Committee of the Whole on the state of the Union, with the understanding that no vote shall be taken.

POSTMASTER GENERAL'S REPORT.

Mr. FARNSWORTH. I ask the gentleman from Ohio to yield to me.

Mr. STEVENS, of Pennsylvania. I have no objection to going into the Committee of the Whole on the state of the Union provided we first act on resolutions distributing the President's message.

Mr. SCHENCK. I have no objection to that.

Mr. FARNSWORTH. I desire to offer a joint resolution which will give rise to no debate and to which there will be no objection. It is a joint resolution authorizing the Postmaster General to print an additional number of his report. I ask that the Clerk read the letter of the Postmaster General.

The Clerk read as follows:

POST OFFICE DEPARTMENT,
WASHINGTON, *December* 6, 1867.

SIR: I have the honor to inform you that the number of copies of the annual report of the Postmaster General, authorized by law for the use of the Post Office Department, is inadequate for the necessary distribution thereof to postmasters and other officers of the postal service; and to request that authority may be given to print an additional supply of five hundred copies of the last report with the accompanying tables and exhibits, for the use of this Department.

I am, very respectfully, your obedient servant,
ALEX. W. RANDALL,
Postmaster General.

Hon. JOHN F. FARNSWORTH, *Chairman of Committee on Post Offices and Post Roads, House of Representatives.*

Mr. WASHBURNE, of Illinois. I ask whether it is usual for the head of a Department to come here for the printing of additional copies of his report?

Mr. FARNSWORTH. The law only authorizes a certain number, and the Postmaster General says it is not sufficient.

Mr. WASHBURNE, of Illinois. I think it should go to the Committee on Printing.

Mr. FARNSWORTH. This is in reference to Department printing.

Mr. WASHBURNE, of Illinois. Let the Post Office Department print the report and bear the expense, and not charge it upon the contingent fund of the House, which is now large enough.

Mr. FARNSWORTH. The Committee on Printing has nothing to do with the Department printing.

Mr. SCHENCK. If it does not go to that committee under the rule it can be sent there by motion.

Mr. FARNSWORTH. It ought not to go to the Committee on Printing, which has nothing to do with the printing of the Departments. If it goes to any committee it should be referred to the Committee on the Post Office and Post Roads.

Mr. MAYNARD. Does this come from the committee?

Mr. FARNSWORTH. No, sir; it comes from the Postmaster General. He says the law does not authorize the printing of enough.

Mr. MAYNARD. The gentleman is chairman of the Committee on the Post Office and Post Roads, and I ask whether this comes from him as chairman or merely as a member of the House?

Mr. FARNSWORTH. Merely as a member of the House. I did not think it demanded the attention of the committee.

Mr. MUNGEN. If this be referred to the Committee on Printing, and they report in favor of it, will the expense come out of the contingent fund of this House?

The SPEAKER. That will depend upon the language of the resolution when it comes back.

Mr. MAYNARD. I move that it be referred to the Committee on the Post Office and Post Roads.

The House divided; and there were—ayes 50, noes 68.

So the amendment to refer to the Committee on the Post Office and Post Roads was rejected.

Mr. FARNSWORTH. The Committee on Printing has nothing to do with the Department printing, and it is a silly motion to refer it to them. That committee has no earthly jurisdiction of the subject. The Committee on Printing is authorized to take jurisdiction of matters pertaining to the printing of the House of Representatives. The law authorizes the Postmaster General to print a certain number, which is not enough, and this resolution is to provide for a sufficient number.

Mr. SCHENCK. Did not my friend assure us this would not give rise to debate?

Mr. FARNSWORTH. I did not suppose it would. I did not suppose any one would object to it. I say in resistance to the motion to refer to the Committee on Printing that that committee has nothing to do with it.

The question was put on referring the motion to the Committee on Printing; and there were—ayes 68, noes 55.

Mr. BURR demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. BURR and WASHBURNE of Illinois.

The House divided; and the tellers reported—ayes 61, noes 48.

So the motion was referred to the Committee on Printing.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the motion was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILEAGE.

The SPEAKER laid before the House a communication from the Sergeant-at-Arms concerning disputed questions as to the operation of the mileage laws; which was referred to the Committee on the Judiciary.

D. S. PARKER AND F. MATHEWS.

Mr. HAIGHT, by unanimous consent, introduced a joint resolution for the relief of David Stout Parker and Forman Mathews, owners of the schooner Twilight; which was read a first and second time, and referred to the Committee of Claims.

PRESIDENT'S MESSAGE.

Mr. SCHENCK. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the President's annual message.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the President's annual message.

Mr. STEVENS, of Pennsylvania. I submit the following resolutions:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the finances, to the receipts into the Treasury, and the public expenditures, to the revision of the revenue, to the public debt, and the ways and means of supporting and meeting all the public liabilities of the Government, be referred to the Committee of Ways and Means.

Resolved, That so much of said message and accompanying documents as relates to carrying on the several Departments of the Government, to the necessary appropriations therefor, to deficiencies in the appropriations, and to mail transportation by ocean steamers, be referred to the Committee on Appropriations.

Resolved, That so much of said message and accompanying documents as relates to banks and banking and currency, be referred to the Committee on Banking and Currency.

Resolved, That so much of said message and accompanying documents as relates to commerce be referred to the Committee on Commerce.

Resolved, That so much of said message and accompanying documents as relates to the public domain be referred to the Committee on Public Lands.

Resolved, That so much of said message and accompanying documents as relates to the Post Office Department be referred to the Committee on the Post Office and Post Roads.

Resolved, That so much of said message and accompanying documents as relates to the reëstablishment of courts in districts where their authority has been interrupted, and to all judicial proceedings, be referred to the Committee on the Judiciary.

Resolved, That so much of said message and accompanying documents as relates to the public expenditures be referred to the Committee on Public Expenditures.

Resolved, That so much of said message and accompanying documents as relates to agriculture and to the Department of Agriculture, be referred to the Committee on Agriculture.

Resolved, That so much of said message and accompanying documents as relates to the management of Indian affairs be referred to the Committee on Indian Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Army of the United States, to provisions for a peace establishment, and to coast and lake defenses, be referred to the Committee on Military Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Navy of the United States be referred to the Committee on Naval Affairs.

Resolved, That so much of said message and accompanying documents as relates to our foreign affairs, together with the accompanying correspondence, be referred to the Committee on Foreign Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Territories of the United States be referred to the Committee on Territories.

Resolved, That so much of said message and accompanying documents as relates to pensions and the Pension Bureau be referred to the Committee on Invalid Pensions.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the State Department be referred to the Committee on Expenditures in the State Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Treasury Department be referred to the Committee on Expenditures in the Treasury Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the War Department be referred to the Committee on Expenditures in the War Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Navy Department be referred to the Committee on Expenditures in the Navy Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Post Office Department be referred to the Committee on Expenditures in the Post Office Department.

Resolved, That so much of said message and accompanying documents as relates to the militia be referred to the Committee on the Militia.

Resolved, That so much of said message and accompanying documents as relates to the Pacific railroad be referred to the Committee on the Pacific Railroad.

Resolved, That so much of said message and accompanying documents as relates to roads and canals be referred to the Committee on Roads and Canals.

Resolved, That so much of said message and accompanying documents as relates to the District of Columbia be referred to the Committee for the District of Columbia.

Resolved, That so much of said message and accompanying documents as relates to the subject of reconstruction be referred to the joint Committee on Reconstruction.

Resolved, That so much of said message and accompanying documents as relates to the subject of freedmen and freedmen's affairs be referred to the Committee on Freedmen's Affairs.

Resolved, That so much of said message and accompanying documents as relates to the subject of the Atlantic telegraph be referred to the Committee on the Post Office and Post Roads.

Resolved, That so much of said message and accompanying documents as relates to the coinage and weights and measures of the United States be referred to the Committee on Coinage, Weights, and Measures.

Mr. ROSS. I rise to a point of order. I do not think there is any Committee on Reconstruction now, and one of these resolutions proposes to refer a portion of the message to the Committee on Reconstruction.

The CHAIRMAN. The Chair is informed that there is such a committee.

Mr. ROSS. I did not know it. I do not think there is, and I think that part of the resolution is out of order, and should be stricken out.

Mr. BROOKS. There is no such committee; it is dead.

The CHAIRMAN. The Chair overrules the point of order; for by a vote of the committee, concurred in by the House, such a reference to the Committee on Reconstruction would revive the committee by the force of the vote.

Mr. ROSS. I move to strike out that part of the resolutions.

Mr. STEVENS, of Pennsylvania. I merely want to say—I will not discuss the question—that we shall have new States coming in, perhaps from week to week for ten weeks, and they must be referred somewhere, and it was thought better to refer them where such matters have been referred heretofore.

Mr. ROSS. It occurs to me that it is a very unusual course for a single member, in a resolution of this kind, to resuscitate and revive a committee when the question has not been passed upon by the House. There is no Committee on Reconstruction, and it is not proper that one should be created in this way.

Mr. STEVENS, of Pennsylvania. I will modify the resolution by striking out the word "joint."

The CHAIRMAN. Does the gentleman from Illinois insist on his motion?

Mr. ROSS. Yes, sir, I do. I understand that the resolution proposes a reference to the Committee on Reconstruction.

Mr. STEVENS, of Pennsylvania. The same as we had last year.

Mr. ROSS. As I understand it, no Committee on Reconstruction has been ordered this session. It seems to me that it is not in order to refer anything to a committee that is not in existence; and, in addition to that, that it is inexpedient and unwise to revive the Committee on Reconstruction.

The fact must be apparent, Mr. Chairman, that this so-called Committee on Reconstruction has been a committee to prevent reconstruction. If it had not been for the action of the committee purporting to have charge of the subject matter of reconstruction this country would years ago have been reconstructed. They have been an obstacle in the way. They have stood in the way of the wise and judicious and prudent measures of the Executive for the reconstruction of the Union, and I do not want that committee to obstruct reconstruction any longer.

Mr. STEVENS, of Pennsylvania. In order to do away with all difficulty, as there must be some committee, I will strike out "Committee on Reconstruction" and insert "a select committee of nine."

Mr. ROSS. I do not see that that alters the matter at all. It still gives us a Committee on Reconstruction by the action of the gentleman from Pennsylvania. The House has not determined that we want any such committee. It is a covert way of attaining an end to attempt to create a new committee in the distribution of the message and accompanying documents. I think it is unwise and contrary to parliamentary usage, and it should not be tolerated by the House.

I call upon you, Mr. Chairman, and the House to take notice of the fact that this Committee on Reconstruction has stood in the way of the reconstruction of the Union. They have been the obstacle that has prevented the wise and judicious and salutary measures inaugurated by the President of the United States to give peace, harmony, and concord to our distracted country. And now, sir, the time has come when the voice of the people has been heard upon these great questions, and I call upon their Representatives to heed their warning voice. Why, sir, by a solemn act of this body this day we have decided against the action of this reconstruction committee. We have decided by a vote of about two to one against the iniquitous acts of this Committee on Reconstruction and in behalf of the wise and benign policy inaugurated by the President of the United States for the purpose of producing peace and harmony and concord in our country. I am gratified that the House is taking notice of the action of the people upon this subject.

Mr. SCHENCK. Will the gentleman yield to me a moment?

Mr. ROSS. For a question.

Mr. SCHENCK. When we went into the Committee of the Whole it was with the understanding that no vote should be taken——

Mr. ROSS. I have not asked for any vote.

Mr. SCHENCK. A motion to lay aside these resolutions and report them to the House, just as the discussion which has began upon it now, opens up the whole subject. I only ask to have it generally understood that no vote upon these resolutions, or amendment to them, or upon any other subject, shall be taken to-day.

Mr. ROSS. I do not ask any vote upon the question; I only want that this part of the resolution shall be stricken out. I was only congratulating the House and the country upon the fact that they were taking heed to the action of the people and the country.

Mr. SCHENCK. I want to ask to have the same understanding in the Committee of the Whole there was in the House, that there should be no vote taken to-day.

Mr. STEVENS, of Pennsylvania. Let this vote be first taken.

Mr. ROSS. I was only congratulating the House and the country upon the ameliorated and hopeful condition of the country on our assembling at this session of Congress. It is well known to you, Mr. Chairman, and a majority of the members, that if the question which we have just passed upon by so large a majority, in sustaining the action of the President and his Cabinet and the Union men of the country in behalf of the restoration of the Government—if that vote had been taken in the month of July there would not have been thirty men upon the other side of the House who would not have given their votes in favor of impeachment. But a great and salutary change has come over this country within that short space of time. During the last few years we have had dark and gloomy times in this country. The hearts of patriots have feared and trembled lest the form of government left us by our patriotic fathers was to be frittered away by their degenerate and unworthy sons. But the people have come most gloriously to the rescue of our imperiled and endangered institutions.

Sir, the first light that broke in upon us amid the surrounding darkness that overshadowed our political horizon was from the star that rose in the East. Glorious old Connecticut first broke the gloom that hung over our beloved country. I feel thankful to the old State of Connecticut, to her gallant leaders. It was not long before that was responded to most gloriously from the far West. California, with her golden sands, broke the darkness that overshadowed that part of our political horizon and light appeared in the West.

And how was the heart of the patriotic Union people of this country animated and encouraged when the great central State spoke out in a voice not to be misunderstood. The old Keystone State threw off the incubus that had borne her down.

Then the glorious State of Ohio, with her fifty thousand majority of voters in behalf of disunion, in favor of a dissolution of our Government, has been brought back to the right path by the action of the people. These victories have had a most salutary effect upon the action of this Congress.

Then my friend near me [Mr. SITGREAVES] reminds me that we should not forget New Jersey, who has come to the rescue; and if my friend from Maryland [Mr. THOMAS] was in his seat I would congratulate him upon the fact that the State of Maryland has also come to the rescue of the Union.

Nor should we omit to mention that the gallant State of Kentucky, educated in the principles of free government and constitutional liberty by the teachings of her Clays and Crittendens, has by an unprecedented majority given unmistakable evidence of her devotion to the Union. But the most significant of all is the Empire State; nobly has her patriotic sons breasted the furious storm and turned back the surging waves of fanaticism and despotism that threatened to engulf her. Let the people take courage; all is notl ost that is in danger. Wherever their voice has been heard upon these great issues before the country they have spoken out in triumphant tones, and have declared that this Government is to be preserved in its purity as it was handed down to us by our fathers.

Mr. McCLURG. How about Tennessee?

Mr. ROSS. Tennessee is still unfortunately under the rule of the bayonet; and I believe my friend from Missouri [Mr. McCLURG] who has called my attention to the State of Tennessee was one of those who voted at the last session of Congress to take twenty-five thousand stand of Government arms and send them down to the Brownlow government in Tennessee, that the free white men of Tennessee might be kept from the polls, and that the negro population, aided by a few degenerate white men, might control the elective franchise in that State. But, Mr. Chairman, I look forward with hopeful anticipation to the time when the dark cloud which now obscures the political horizon in Tennessee shall be lifted, and when the State which was the home and is now the grave of Jackson will permit free suffrage to the white men of that Commonwealth.

Now, Mr. Chairman, I do not claim that these great political victories, in which I feel so much pride and gratification, are to be regarded or claimed as Democratic victories. By no means. They are victories of the people. They are victories of the overburdened downtrodden masses of this country. They are victories in behalf of the people, in favor of restored Union, and against the unconstitutional, profligate action of Congress. Sir, I have great confidence that the people will right these questions; that the time is not far distant when gentlemen on the other side will not only retract their odious measures upon the cotton tax, upon the contraction of the currency, and upon the impeachment of the President, but will repeal the obnoxious and unconstitutional measures which have placed one third of the people of this Union, with ten of her sovereign States, beneath the iron heel of military despotism. I look forward hopefully to the day when that state of things will be inaugurated in this country; when these unwise and illegal acts shall be swept from the statutes of the country by the free voice of an outraged and indignant people.

But, sir, I said that we did not claim these as Democratic victories. Could we of the Democratic party have carried the State of Ohio with her forty or fifty thousand majority against us? By no means. It is the Union-loving Republicans coming to the rescue and standing side by side and shoulder to shoulder with the patriotic Democracy that have assisted in gaining these great victories.

Sir, this Government is to be preserved. I have felt at times within the last few years very much discouraged. The patriotic, Union-loving people of this country have been sad and disheartened as they saw an apparent indorsement of the unconstitutional measures inaugurated in this Congress. But sir, we should not despair of the Republic or become discouraged. I have great confidence in that overruling Providence that guides and directs the destinies of men and of nations. Sir, the same overruling Providence that directed Washington and his little band in gaining for us our liberties, the same overruling Providence that gave wisdom to our patriotic forefathers in shaping a form of government unequaled in any other country; the same overruling Providence that led the children of Israel out of captivity and conducted them safely for forty years amid their journeyings, that enabled them to drink water from the solid rock, that fed them with manna by the wayside, that guided them by a pillar of fire and a pillar of cloud, is still watching over the destinies of this Government, and will not permit it to perish.

We have abundant cause to feel thankful for these things; and, Mr. Chairman, as this is a season of the year in which it is customary for us to give expression to our gratitude and thankfulness, it is appropriate that we should, as members of the House of Representatives and representatives of a great and glorious country, unite our voices in praise to the overruling Providence that has guided and directed the people of this country to throw off the incubus of despotism which so seriously threatened our political institutions, that has put it into the hearts of the people to favor a reconstructed Government, that we may have peace and prosperity and harmony throughout the length and breadth of our land. These prospects are favorable; and I trust that Congress will heed them and will look at them in the proper light. As our fathers rejoiced after a seven years' struggle for the liberty they achieved, so let us, after a struggle of like duration, make our grateful acknowledgments that we are about to rescue our free institutions from the hands of those who would overthrow or despoil them.

I am gratified at the favorable results already obtained. I was pleased yesterday to hear the gentleman from Massachusetts [Mr. BOUTWELL] declare that the tenure-of-office bill was acting badly and would have substantially to be repealed. And I expect in a few days some

gentleman will propose to repeal the reconstruction acts and permit the people of the South to be represented in these halls of Congress. Then good feeling and brotherly love will be inaugurated once more in this our country. Then the heavy weight of taxation will be lifted from the shoulders of the people.

Mr. Chairman, I was glad to hear the chairman of the Committee of Ways and Means say this odious and onerous taxation which the last Congress fastened on the shoulders of the people should be removed. It is attributable to the voice of the people which carried his district against him by a handsome majority. He has taken notice and will govern himself accordingly.

I will call the attention of the gentlemen who fastened unnecessary burdens upon this country by passing a bill providing for a standing army of eighty thousand men——

Mr. HARDING. I simply desire to ask my colleague whether, in view of the prostitution and prostration of the majority of this House, the present amnesty policy of the President will not extend to us all. [Laughter.]

Mr. ROSS. I am in favor of amnesty to all. I only call the attention of the country to the action of the Committee on Military Affairs. It may not be recollected, but at that time I proposed to instruct the committee that the Army should not consist of more than twenty-five thousand men. It was voted down by the House. Some Republicans said, "Propose thirty-five thousand and we will vote for it." I proposed thirty-five thousand, but still I was voted down. The committee went on and prepared a bill providing for eighty thousand men, and it was carried. Eighty thousand men in a time of profound peace when there was no necessity for such an army!

Mr. MULLINS. You make a mistake, and I wish to correct it. You said you were addressing the House on the military bill; you were addressing yourself to the providence of God over the people. [Laughter.]

Mr. ROSS. I was addressing myself to the fact that the providence of God was with us and that the people were also with us. I do not think there is any conflict between the people and the providence of God. They are both on the same side, in favor of restoring the Government to its former integrity and harmony.

What necessity was there for such a vast army of eighty thousand men when there was not a hostile squadron within our limits? Why did gentlemen fasten upon us a military establishment consisting of eighty thousand men? The majority of this House did it. They will retract from it. If my memory serves me the Secretary of War reports that the expense of that Department amounts to about seventy-seven million dollars in a time of profound peace.

Mr. NEWCOMB. Will the gentleman from Illinois yield for a moment?

Mr. ROSS. Yes, sir.

Mr. NEWCOMB. I hold in my hand a Western paper containing the following paragraph:

"There is an old gentleman living in Claremont county, Illinois, who believes that the earth is flat and that the Democratic party is the only hope of the country."

Will the gentleman inform this House whether he is the person alluded to?

Mr. ROSS. I do not care to be interrupted with such impertinent remarks. I do not wish the thread of my remarks broken.

We are in the presence of auspicious circumstances, and I feel like taking all these deluded men on the other side by the hand, because I see repentance depicted in their countenances. [Laughter.] I see they are sorry for what they have done. I have no doubt of it. They have shown symptoms of repentance, and I am willing to take them on probation as we take them in the great Union party. We are for the restoration of all the States to the Union. The people have spoken in our favor.

Now, Mr. Chairman, I have no disposition to continue this debate, although I would be much pleased to have other men participate in it. I think we should have, in this season of thanks, thanksgiving for the restoration of the Union. I submit, Mr. Chairman, the committee over which you preside submitted a very sensible report.

Now, I would have been glad if these things had come about when you voted out Mr. BROOKS and Mr. Voorhees. But these elections have had a salutary effect upon the Committee of Elections, and you now conclude that men who are legally elected from the State of Kentucky, although since last July they have been held off at arm's length, and the doors of the House of Representatives closed in their faces, are now entitled to take their seats on this floor.

Mr. ELDRIDGE. If my friend will allow me, as he was just speaking about thanksgiving, I wish to give him notice that at Casparis's there is to be a raffle for a turkey this evening. I thought perhaps he would want to go in. [Laughter.]

Mr. ROSS. I will excuse my friend, presuming that he has an engagement there, so that he can go at once. [Laughter.] I have no wish whatever to detain him from any arrangement which he has made for that occasion. [Laughter.]

Mr. STEVENS, of Pennsylvania. Let it stop now.

Mr. ROSS. My venerable friend, for whom I have a great respect, suggests that he would like to have the floor upon this subject, and in view of the great services he has rendered to the country as chairman of the Committee on Reconstruction I will yield to his request.

Mr. STEVENS, of Pennsylvania. I only desire to say that I presume everybody understands this question, and I have been very much pleased with the eloquent remarks of the gentleman across the way. He is right in many of his points, especially where he referred to the little party with which he acted this morning. [Laughter.] I hope we will now proceed to business.

Mr. SCHENCK. I move that the committee rise for the purpose of terminating debate on the resolutions.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the sate of the Union, according to order, had had under consideration the state of the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

Mr. SCHENCK. I move that the House again resolve itself into the Committee of the Whole on the state of the Union; and pending that motion I move that all debate, so far as the resolutions are concerned, terminate in one minute.

Mr. FARNSWORTH. That will stop all debate on the message.

The SPEAKER. No; only on the resolutions.

Mr. GARFIELD. I move that when the House goes into the Committee of the Whole on the state of the Union no other subject be voted upon but the resolutions.

The SPEAKER. That has been understood; after that is disposed of there is to be no further business done.

Mr. BOYER. I move that the House adjourn.

On the motion to adjourn there were—ayes 48, noes 57.

Mr. BOYER demanded tellers.

Tellers were refused.

So the motion was disagreed to.

The question being taken on the motion of Mr. SCHENCK, that when the House again resolve itself into the Committee of the Whole on the state of the Union all debate on the resolutions be terminated in one minute, it was agreed to.

Mr. SCHENCK. I now move that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. DAWES in the chair) and proceeded to the consideration of the President's annual message.

The pending question was on the motion of Mr. ROSS to strike out the resolution in relation to the select Committee on Reconstruction.

Mr. BUTLER. I desire to offer an amendment to the resolutions by inserting the following:

Resolved, That so much of the President's message as relates to the payment of money for the Russian possessions which are the subject of negotiation between the several Governments be referred to the Committee on Appropriations.

Mr. STEVENS, of Pennsylvania. I did not put that in, because the rule is that that goes to the Committee on Foreign Affairs without any special reference. It does not go to the Committee on Appropriations.

The CHAIRMAN. All debate is now closed on the resolutions.

The question being taken on Mr. BUTLER'S amendment, it was disagreed to.

Mr. SCHENCK. I move that the resolutions be laid aside, to be reported to the House.

The motion was agreed to.

The CHAIRMAN. Under the order of the House there will be no vote taken on the resolutions in the House until after the morning hour on Monday, and there will be no vote taken in the committee to-day.

Mr. MULLINS. I move that the committee rise.

Mr. SCHENCK. I hope not.

The CHAIRMAN. The Chair is informed that several gentlemen desire to speak.

Mr. MULLINS. I withdraw my motion.

Mr. WASHBURN, of Wisconsin. I am anxious to enlighten the House a little on the subject of some of our recent land purchases. It will necessarily require that I shall have my full hour to do so. My colleague [Mr. PAINE] asks me to yield to him, and I will do so with the understanding that I shall have the floor when he gets through.

No objection was made.

Mr. PAINE. Mr. Chairman, the gentleman from Massachusetts [Mr. BUTLER] thinks that the Government of the United States ought to redeem the five-twenty bonds in legal-tender notes as rapidly as the latter can be absorbed as currency by the business of the country. He bases this scheme of redemption upon what he is pleased to term the contract made by the Government with the holders of those bonds on the 25th day of February, 1862, and contained in the act of that date, authorizing the issue of these bonds and legal-tender notes. He stands upon the contract. He declares that by this contract, whether interpreted according to its spirit or to its strict letter, these five-twenty bonds are made payable in legal-tender notes. That I may not in the slightest degree misrepresent him I will state his position exactly in his own words. In his speech delivered in this House on Tuesday of last week he said:

"The only proposition which I hold in common with Mr. Pendleton is that by the law of the land and by the legal interpretation of the words of the contract five-twenty bonds are payable, not in coin, but in lawful money of the United States. I hold, as I suppose he does, that, by the letter, by the spirit, and by the justice of the contract, the five-twenties are payable in the lawful money of the United States.

"I enunciate, as my first proposition, and one that I shall endeavor to enforce on the House and the country, that every dollar of indebtment of the United States which is contracted by the acts of Congress making it payable in coin shall be paid in coin although it takes the last dollar to pay it; but every debt contracted not payable in coin shall be paid in the lawful money of the United States, such as you paid your soldiers with and such as you furnish to your citizens; such as alone is now used as money of the Government, and upon which alone you impress the image and superscription of the Government as a guarantee that it shall hereafter be made good.

"You must take it upon the letter, and I have never yet found any man bold enough—until my friend from Maine exhibited a degree of courage much superior to any bravery required to face Minie bullets in the field—bold enough to insist that the letter of the law did not authorize payment of the principal of the five-twenty bonds in lawful money of the United States. What is the contract by law?"

I cannot quite agree with my friend to the full extent of his able argument upon this most important subject. In my reply to that argument I also shall stand upon the contract contained in the act of February 25, 1862. I shall not to-day oppose his scheme, either upon the ground that public faith pledged otherwise than by the law itself would be violated by its adoption or upon grounds of public policy; but I shall, in what I have to say to-day, rest my opposition exclusively upon the contract originally made. Those who differ with the gentleman from Massachusetts have this advantage over him. He must in order to maintain his position not only demonstrate that it is grounded upon the contract, but also that it is consistent with public faith and public policy. He must fortify his position on all three of these points to make it secure. But they can conquer his position by a successful attack on either one of these three points. To-day I will narrow the controversy down to the single question whether the law makes the five-twenties payable in greenbacks or gold. I will stand, as does the gentleman, by the contract. He rests his case upon no alleged sovereign power of the Government untrammeled by any constitutional inhibition respecting the obligations of contracts to determine the medium in which it will pay its debts without regard to the original promise, but holds the Government to its bargain. So on the other hand I will stand by the contract; I will not inquire whether his scheme is defensible on grounds of public policy or consistent with the public faith pledged to the bond-holders by Secretaries or loan agents or individual Representatives or individual Senators.

I ask, then, your careful attention to the letter and spirit of this act. The gentleman correctly cites the material provision of the legal-tender section in these words:

"*And such notes herein authorized* shall be receivable in payment of all demands against the United States of every kind whatsoever except for interest upon bonds and notes, which shall be paid in coin."

These are the words upon which the gentleman rests his case. If his scheme is founded upon a rock, this is the rock upon which it is founded. There is none other. The gist of the argument is brought within the narrowest possible limits. It is actually brought, sir, within the scope of two short, plain words. The gentleman believes that the words "all demands" in this clause include the principal of the five-twenty bonds authorized by the act, and that therefore all the five-twenty bonds issued under that act are payable in greenbacks. But the gentleman who so earnestly avows his right to insist upon the letter and spirit of the law seems to me not to have correctly interpreted either the letter or the spirit of the law.

The act provides for an issue of $500,000,000 of five-twenty bonds, and for an issue of $150,000,000 of legal-tender notes, and he reads this clause which I have cited, and which he also cited, as if it provided in general terms that all of these bonds should be payable in greenbacks. He interprets the law as if it stood substantially in these words: "The Secretary of the Treasury is hereby authorized to issue $500,000,000 of five-twenty bonds, and also greenbacks *ad libitum*, and said bonds shall be payable in greenbacks." But, sir, such is not the law written in our book of statutes. Here is the law in substance as it actually stands; the Secretary of the Treasury is hereby authorized to issue $500,000,000 of five-twenty bonds. He is also authorized to issue $150,000,000 of United States notes.

"*And such notes herein authorized* shall be receivable in payment of all demands against the United States of every kind whatsoever except for interest upon bonds and notes, which shall be paid in coin."

It is that identical issue of $150,000,000 of United States notes which this act makes receivable for all demands against the Government except interest upon bonds and notes, and it is that identical issue only. The act does not provide that all demands except interest shall be payable in greenbacks. It does not provide that this issue of $500,000,000 of five-twenties shall be payable in greenbacks. It does not provide that greenbacks generally and without limit shall be receivable for all of these bonds—or for a part of these bonds—for all demands against the United States except interest on the bonds and notes, or in fine, for any demands against the Government or against any other debtor. But what it does provide is precisely this: that a certain issue of greenbacks authorized, specified, and limited in that act shall be receivable in payment of all demands against the United States except interest upon notes and bonds. That issue amounted to $150,000,000 and not one dollar more. In the clearest possible language the maximum was fixed at that sum. I will give you, sir, the exact words of the act:

"The Secretary of the Treasury is hereby authorized to issue on the credit of the United States $150,000,000 of United States notes, not bearing interest, payable to bearer at the Treasury of the United States, and of such denominations as he may deem expedient—not less than five dollars each."

Here, then, is the contract on which my friend from Massachusetts stands. It is a contract which does not make $2,000,000,000 of greenbacks receivable for bonds, nor $1,000,000,000, nor even $500,000,000, but only makes $150,000,000 receivable for all demands except interest. And it impresses this character not upon any mass of that amount taken at random or by choice from that and other issues, but solely upon the specific issue of $150,000,000 authorized by the act of February 25, 1862.

Now, sir, admit for the sake of argument that the words "all demands" import precisely what the gentleman understands them to import; close your eyes if you can to the context, to every provision irreconcilable with this interpretation, and where do you leave the gentleman from Massachusetts? You leave him lustily struggling to redeem $500,000,000 of five-twenty bonds with $150,000,000 of United States notes. You leave him panting in sweat and dust over the herculean task of swallowing $500,000,000 of bonds into a stomach equal in capacity and digestive power to $150,000,000 only. I thought, while an eye-witness of his administration in New Orleans in 1862, that whatever difficult work the skill and talent and resources and industry of mortal man could accomplish might be confidently intrusted to his hands; but I did not for one moment imagine that he could achieve such a miracle as to pay $500,000,000 of bonds with only $150,000,000 of greenbacks. If he can do that, sir; if he has any such magician's wand or lamp of Aladdin as that, deeply as I shall deplore his departure from this Hall, I hope and pray that he may be speedily promoted to the head of the Treasury, to pay our debts and end our troubles.

But, Mr. Chairman, my friend is fertile in expedients, and he will be ready with some plan either to contract the debt or expand the means of payment, either to shrink the bonds or swell the greenbacks. Perhaps he will call our attention to the last clause of the first section of the act of February 25, 1862, to these words:

"And such United States notes" * * * * "may be reissued from time to time as the exigencies of the public interests shall require."

Perhaps he will tell us that he proposes to make from time to time accumulations of greenbacks and therewith redeem the five-twenties by installments. It may be that he will propose, after using these United States notes once in the redemption of $150,000,000 of the bonds, to recover possession of them and use them again, and to repeat this process until all the bonds are redeemed, and thus realize this brilliant conception of the illustrious warrior who proposed to conquer an army single handed by taking his enemies one at a time. But, sir, he will encounter difficulties in that attempt which no human ingenuity can surmount, obstacles which not even his great talents will be able to move a single inch. Consider the case. Let us see our new Secretary of the Treasury proceed to business in the redemption of five-twenty bonds by installments. He finds that the act makes these five-twenties redeemable at the pleasure of the United States after five years and payable twenty years from date. He reads that provision in these words:

"To enable the Secretary of the Treasury to fund the Treasury notes and floating debt of the United States, he is hereby authorized to issue on the credit of the United States coupon bonds or registered bonds to an amount not exceeding $500,000,000, redeemable at the pleasure of the United States after five years, and payable twenty years from date, and bearing interest at the rate of six per cent. per annum, payable semi-annually."

He concludes to avail himself of this option to redeem an installment say of $50,000,000. He procures either from his internal revenue officers or from the sale of gold $50,000,000 in greenbacks, and sits down to notify the holders of the $50,000,000 of bonds that no interest will be paid upon them after a certain day named, and it will accordingly be prudent for them to exchange them at the Treasury for greenbacks. Then, sir, his agony begins. There are in his strong box $50,000,000 of greenbacks. There are $500,000,000 of bonds of that issue outstanding. How shall he frame his notice? If he had funds sufficient to redeem the whole, and proposed to redeem the whole, the case would be a very simple one indeed. He would so frame it as to notify all holders of five-twenty bonds of that issue to present them for redemption on a day certain, beyond which interest would not be paid. But he can draw no such notice now, because he has only $50,000,000 of greenbacks; and if the whole issue of bonds is presented for redemption he can only redeem ten per cent.; and to demand their presentation for redemption without the means to redeem—to stop the interest upon such demand, would be knavery too indecent to be thought of for a single moment. How can he escape from this dilemma? Sir, he can only escape from it by backing square out of it. He cannot, of course, notify the holders of these bonds that he will redeem ten per cent. of the amount of each bond on the designated day. He cannot notify the holders of certain series or numbers that he will redeem such bonds on the day named. For this act does not, like some of the English acts, authorize the designation of certain numbers for redemption by installments. If such a provision had been contained in this act under which the bonds were issued no holder could complain of injustice, because he would have taken and held his bonds subject to such provision. The order of redemption thus established would have become an element in fixing the relative values of the different series and numbers. But to pass a law authorizing such discrimination at this late day would be an outrage only inferior in enormity to an attempt on the part of a Secretary to make such a discrimination without authority of law.

What, then, can the gentleman from Massachusetts do? He must either wholly abandon his scheme of redemption and quit the Treasury in disgust and permit us to welcome him back to this House, or he must give notice of redemption to the holders of the entire issue of five-twenty bonds. But in that case, having only $50,000,000 of greenbacks, he must purchase the remaining $100,000,000 and then add thereto $350,000,000 in gold. And in purchasing these greenbacks whether for this purpose or for the purpose of redemption by installments, he would be disgusted to find that as soon as it became generally known that the particular issue of $150,000,000 greenbacks, provided for by the act of July, 1862, was so highly distinguished above all the other outstanding greenbacks as to be sought for to subserve the purpose of gold in the redemption, they would approximate so near to gold in value as to leave the Government little or no advantage in their use.

Our new Secretary of the Treasury must purchase $350,000,000 of gold to be added to his $150,000,000 of legal-tender notes in order to accomplish his redemption of the five-twenty bonds, unless he shall use for that purpose some

other legal tenders than that specific issue for which the act provides. But that the gentleman will not, of course, venture to undertake. He will shun that expedient for two reasons: in the first place he has promised to stand by the contract, and the contract, even upon his own construction of it, holds him with a grasp which he can not shake off to the issue nominated in the act; and in the second place, if he had not given us this promise, so many times repeated, he could not violate the contract embodied in the law without perpetrating an outrage from which his sense of justice would certainly restrain him.

This is the outrage which he would be compelled to perpetrate if he should in lieu of the $350,000,000 of gold use in the redemption of the first issue of $500,000,000 of five-twenties any other greenbacks than the original issue provided for in the same act. He does not claim—he cannot claim—that the words "such notes herein authorized" cover notes not therein authorized. He cannot claim, and does not claim, that either the letter or the spirit of the contract makes any other notes legal tender for the redemption of those particular five-twenty bonds. Granting, then, for the sake of argument, that the contract does authorize him to use that identical issue for that purpose; granting that the original holders of those bonds did, when they lent their money to the Government, agree to receive $150,000,000 greenbacks in part payment of the principal of the $500,000,000 bonds; granting that these bond-holders did agree to receive three tenths of the principal of that loan back in greenbacks, what right have we to force them to accept the balance—$350,000,000—in greenbacks, which balance they never did agree to accept in greenbacks—which balance we certainly promised to pay in gold, whatever may be said of the $150,000,000 covered by the gentleman's legal tenders? What right have we to compel them to receive their entire demand in greenbacks because they agreed to receive three tenths of it in greenbacks?

These bond-holders might well have been very willing to lend their money upon a contract which required them to take, accept in payment, thirty per cent. of greenbacks, and yet altogether unwilling to lend it upon a contract which compelled them to accept one hundred per cent. in greenbacks. They might very readily have taken a loan which secured them seventy per cent. in gold and yet have utterly refused a loan which secured them not a penny in gold. They might well have said we will consent that $150,000,000 of United States notes shall be legal tender on this $500,000,000 loan, for these notes if limited in amount to $150,000,000 cannot fall in value much below gold, but we will not consent that $500,000,000 of notes shall be legal tender for this loan, for in that case we do not know what may become of our money, still less will we consent to lend our money for greenbacks if an unlimited quantity is to be hereafter thrown upon the country to depreciate still further the medium in which our bonds are to be redeemed.

Suppose, sir, that the gentleman himself should lend his own money upon a contract which secured to him seventy per cent. in gold and yet compelled him to accept thirty per cent. in something which might be of less value than gold, and his debtor should finally attempt to pay him in full in something of less value than gold. Why, sir, not even his characteristic serenity of temper would be able to bear with patience such a wrong. But, Mr. Chairman, admitting his construction of the law to be correct this is exactly the outrage which he would inflict upon the holders of the original issue of $500,000,000 of five-twenty bonds if he should compel them to receive in greenbacks not only the $150,000,000 which they did agree to receive but also the $350,000,000 which they did not agree to receive.

I say, then, Mr. Chairman, that the gentleman from Massachusetts cannot, even upon his own construction of the act of February, 1862, justify the issue of $350,000,000 of new greenbacks for the redemption of the original issue of five-twenties, or justify the use of any other issue of greenbacks, than that authorized by said act for such redemption, if, in fulfillment of his solemn and oft-repeated promises, he stands by the contract embodied in the act. But if he shall resort for his justification to the sovereign powers of the Federal Government; if he shall assert that, unlike the State governments, it has the power to impair the obligation of contracts, the power to declare what shall be and what shall not be money, what shall be and what shall not be legal tender, if he shall assert that it has the power to make greenbacks legal tender for debts due from citizen to citizen in gold, and thereby to impair the obligation of contracts between individuals, that it has the same power to make greenbacks legal tender for debts originally due from itself in gold, and thereby to impair the obligation of its own contracts; if he shall assert all this he will open the door to a discussion which he has hitherto avoided, upon which I shall not this day enter. If the gentleman shall ever make this change of base after he shall have successfully demonstrated the existence of these constitutional powers claimed he will still be confronted by the great questions of public faith and public policy which it has been no part of my purpose on this occasion to consider.

I confess, then, Mr. Chairman, that I can find in the clause of the act on which my friend so confidently relies no solid foundation for his scheme for the redemption of the five-twenty bonds, even if I leave out of view the other features of the bill and admit that the words "all demands" include interest on the bonds.

But, sir, I cannot overlook the other features of this bill in attempting to arrive at its true meaning. They are entitled to consideration equally with this clause. Whatever may be said of the statements or acts or promises of individuals, whether legislators or Secretaries or loan agents as means of arriving at the actual contract in this case, no man can deny that for this purpose every provision of the act itself is to be carefully and fairly scrutinized.

I will not on this occasion enter upon such a scrutiny. But I am satisfied that it will disclose features altogether inconsistent with the construction given by the gentleman from Massachusetts to this act.

Mr. WASHBURN, of Wisconsin, obtained the floor.

Mr. BLAINE. If the gentleman will yield to me I will move that the committee rise.

Mr. WASHBURN, of Wisconsin. I will yield for that purpose.

Mr. BLAINE. I move that the committee do now rise.

Mr. ROSS. I ask the gentleman to withdraw that motion for a few minutes. I desire to put a question to the gentleman from Wisconsin, [Mr. PAINE,] who has just addressed the House, and to make a remark or two.

Mr. BLAINE. I withdraw the motion for that purpose.

The CHAIRMAN. It will be understood, if there is no objection, that the gentleman from Wisconsin [Mr. PAINE] yields the remainder of his hour to the gentleman from Illinois, [Mr. ROSS.]

Mr. ROSS. If I understood correctly the remarks of the gentleman from Wisconsin, [Mr. PAINE,] the reason he gave why we cannot lawfully pay the five-twenty bonds in lawful currency is that we had at the time the law was passed but a limited amount of greenbacks. My question is this: suppose he should give me his note for ten thousand bushels of corn, payable in one year, and should have only one thousand bushels on hand, would he be limited to the corn he had on hand, or could not he raise or purchase more for the purpose of paying me when his note matured?

Mr. PAINE. Very likely I could; but when the Government makes a contract to issue $500,000,000 of five-twenty bonds for the purpose of raising money to carry on its operations, and agrees that $350,000,000 shall be payable in gold, and $150,000,000 payable in greenbacks, I can see no authority for any man to assume that the Government has a right to say that the creditors of the Government shall receive $500,000,000 in greenbacks because some of the creditors agreed to receive $150,000,000 in greenbacks.

Mr. ROSS. As I understand the law, the interest of the five-twenty bonds was payable in coin and the principal in the lawful money of the United States. It seems to me that if we pay in the same kind of currency that we agreed to pay in, though we did not have it on hand at the time the contract was made, we are complying with the contract.

Mr. PAINE. I have attempted to show that that act did not authorize the Government to use anything in the payment of the $500,000,000 of bonds except the identical $150,000,000 of greenbacks provided for in that law.

Mr. WASHBURNE, of Illinois. I would ask my colleague [Mr. Ross] if he is in favor of a further issue of greenbacks and further depreciating the currency of the country?

Mr. ROSS. Mr. Chairman, I do not know that I can give my colleague a direct answer to that question at this time. I expect at some future day to lay my views upon this subject more fully before the House; but I will say now for the information of the gentleman that I believe the principal of the five-twenty bonds, according to the contract, may be lawfully and legitimately paid in the lawful currency of the country.

Mr. WASHBURNE, of Illinois. The gentleman can go on and talk about that; but first, I want a distinct answer to my question, whether he is in favor of further depreciating the currency by issuing additional greenbacks?

Mr. ROSS. I was going on to tell my colleague what I am in favor of.

Mr. WASHBURNE, of Illinois. Well, I want to know about that.

Mr. ROSS. I believe that this debt should be paid in greenbacks; that is, as far as we may lawfully and legitimately do it without a violation of the public faith. [Laughter.] I am not in favor of violating the faith of the Government. I do not believe that an individual can afford to act dishonestly, and much less the Government. I believe in responding to the demands of those with whom we have contracted to the uttermost farthing, just as we have contracted, and I am not willing to go any further.

I know some gentlemen say that this debt was erroneously contracted, that we never received any proper consideration for it; that we were swindled, in fact. But our agents in Congress contracted the debt, and it is our duty to pay it, whether we believe the debt rightfully contracted or not; that is my doctrine.

Now, in relation to the depreciation of the currency. I am not in favor of contracting the currency; I will say that much. And I believe that a little watering of the currency just at this time would do us no particular damage.

Mr. WASHBURNE, of Illinois. How much?

Mr. BLAINE. How much "watering" can we stand?

Mr. ROSS. Certainly as much as we can take up by taxation each year. We can stand at least double the amount of currency we have now.

Mr. BLAINE. Or about fourteen hundred million dollars?

Mr. ROSS. Certainly.

Mr. SPALDING. I desire to ask the gentleman a question.

Mr. ROSS. Very well.

Mr. SPALDING. I would ask the gentleman if he believes United States bills to be a constitutional currency?

Mr. ROSS. I will state to my former Democratic friend from Ohio [Mr. SPALDING] that as a general principle I think gold and silver the proper currency of the country.

Mr. SPALDING. The gentleman does not answer my question. I asked him if he considered United States bills a constitutional currency.

Mr. ROSS. The party in power issued and the Government appeared to acquiesce in it, and I am not disposed to find fault with it. In my judgment it is an erroneous policy for us to resume specie payments at present; I am not in favor of it, and I will tell you why. When you come to specie payments you enhance the value of Government bonds about thirty-three per cent., and to that extent and in that degree you will enhance the burden of the people of this country to pay them.

Now, as a representative of the tax-payers of this country I am not willing to give my vote to increase the burdens of the people thirty-three per cent. above what our people ask us to do.

Mr. BLAINE. Then the further we get away from specie payment the lighter will be the burdens of the people.

Mr. ROSS. I have no disposition to inflate the currency so as to materially affect or derange the business of the country or to make our money worthless. But in the first place I would withdraw the $300,000,000 of national currency held by banks without any adequate equivalent, as we lose by this arrangement about eighteen million dollars per annum in gold, equivalent to some twenty-six or twenty-seven million dollars in lawful money, which is given to the banks and should be saved to the tax-payers of the country.

Mr. PRICE. Will the gentleman from Illinois [Mr. Ross] allow me to ask him a question?

Mr. ROSS. I have no objection.

Mr. BLAINE. I believe I have the floor.

The CHAIRMAN. The gentleman yielded to the gentleman from Illinois.

Mr. BLAINE. I yielded to allow him to answer a question.

The CHAIRMAN. The gentleman has the right to reclaim the floor whenever he pleases.

Mr. BLAINE. I think I will do so now, and let the question be taken on my motion that the committee now rise.

The question was then taken on the motion that the committee rise, and it was not agreed to.

The CHAIRMAN. The gentleman from Illinois [Mr. Ross] will proceed.

Mr. ROSS. I was going on to say——

Mr. GARFIELD. Will the gentleman yield to me for a moment?

Mr. ROSS. Not at present; I want to lay down my policy. [Laughter.] In the first place I say that by withdrawing the national bank circulation we would save $18,000,000 in gold, or its equivalent in paper, $27,000,000, each year, and in that way reduce the debt so much.

Mr. PRICE. Right here will the gentleman allow me to ask him a question?

Mr. ROSS. Certainly.

Mr. PRICE. I would ask the gentleman how he proposes to save $18,000,000 in gold on the issues of the national banks when the Comptroller of the Currency states from the record that these banks are paying back into the Treasury of the Government $16,000,000 a year?

Mr. ROSS. We all pay taxes to the Government.

Mr. PRICE. I want the question answered, if it can be.

Mr. ROSS. Very well.

Mr. PRICE. It is admitted that the banks pay back into the Treasury $16,000,000 a year.

Mr. ROSS. They pay upon the property they have, as we all pay taxes upon the property we have.

Mr. PRICE. But they pay $16,000,000 a year to the Government. If that is stopped how is the gentleman going to save $18,000,000 in gold on their circulation?

Mr. ROSS. I am not advised as to the amount of taxes paid by the banks. They probably pay taxes on property owned by them subject to taxation, but the gentleman certainly will not contend that they pay taxes on their bonds deposited, nor will he say that we cannot save $18,000,000 in gold by taking up $300,000,000 of five-twenty six per cent. gold-bearing bonds, which can be done by withdrawing $300,000,000 of the national bank currency and supplying its place with greenbacks.

Now, Mr. Chairman, I have been inadvertently and unexpectedly drawn into these remarks in relation to this financial question. I have no hesitation in expressing my opinions upon these questions. I believe, as I have already stated, that this debt should be paid in full according to the original contract. I know gentlemen argue that these bonds are not subject to taxation, and are therefore odious; that we were swindled by shoddy contractors and men of that class during the progress of the war. But, sir, suppose we admit it—admit it to its fullest extent—I regret that some gentlemen with whom I have been in the habit of acting take the ground that this debt for such reasons should not be paid, but would favor repudiation. Sir, I reject any such doctrine. I hold that it is the duty of the Government to discharge its obligations to its creditors according to the contract which has been made. I was going on to say that I would first reduce the national debt by taking up $300,000,000 of five-twenty bonds, by withdrawing the currency from the banks and issuing $300,000,000 in legal-tender notes to supply their place. They draw no interest and do not expand the currency. We save $18,000,000 in gold by thus withdrawing this currency from the national banks and furnishing legal-tender currency in lieu of it. But I observe that a gentleman who formerly filled the position of Secretary of the Treasury, Robert J. Walker, said a short time ago that if we do this the legal tenders will fall. Why will they fall? What is the security for the currency of the national banks? It is the national Government, which is pledged to pay those notes. And the faith of the national Government will still be pledged to pay the greenbacks; and it is a fallacy to suppose that the greenbacks will depreciate, unless we very greatly increase the volume of the currency in the country.

Mr. GARFIELD. Will the gentleman allow me to ask him a question?

Mr. ROSS. Yes, sir.

Mr. GARFIELD. I do not wish to interrupt at all the gentleman's train of thought; but he made one remark in regard to which I would like him to answer an inquiry. He said that if we should resume specie payments it would increase by about thirty-three per cent. the value of the Government bonds, and therefore the total weight of the debt. Admitting that, for the sake of argument, to be true, I wish to ask him whether it would not also increase the value of labor and the wages of labor in the same proportion—whether laboring men everywhere would not get the advantage to the same extent as the increase which he says would be added to the bulk of the debt?

Mr. ROSS. I think it would have directly the contrary effect. If we return to specie payments it reduces the value of property and labor, it reduces the value of everything in the country; and still the debt to be paid remains the same. Now this is a question which I think is very easy of comprehension.

Mr. GARFIELD. Does the gentleman mean to say that a resumption of specie payments would increase the price of flour and other provisions, would enhance the cost of living, and would in that way bear heavily upon the laboring man?

Mr. ROSS. I think it would.

Mr. GARFIELD. In other words, flour would cost more in gold than it costs now in paper?

Mr. ROSS. No, sir; I did not at first understand the gentleman's question; it would cost less; but the wages of labor would also be reduced. Prices would all go down together, except bonds.

Mr. GARFIELD. And the gentleman thinks that it would hurt the general interests of the poor man to have the prices of living go down all over the country?

Mr. ROSS. I do not think it would affect the gentleman's salary at all unless we affect it by act of Congress. [Laughter.] But wages generally throughout the country would come down very much.

Mr. GARFIELD. One other inquiry——

Mr. ROSS. I prefer to go on with what I was saying.

Mr. Chairman, I would then take the balance of the national debt and divide it into six, eight, or ten portions. I would provide that this amount should be paid in the legal currency of the country—the same in which our individual debts are paid. The amount taken up by taxation at the end of each year I would destroy; and I would continue to issue year after year until the bonds now out had been taken up in that way.

I would not greatly inflate the currency; but, sir, it may be inflated to some extent without injury to the country. I see by the papers published in Chicago that the warehouses are filled with grain and cannot be moved for want of capital. We need more money in the country than we have. The legitimate business of the country requires it. Gentlemen say that an increase of the currency will operate badly. How will it operate badly? We know that when money is abundant improvements go on and business is active. Who will be injured by an increase of the currency? Suppose that the laboring man pays double as much for his flour and his pork and the various necessaries of life, do not his wages double correspondingly? And when money is scarce improvements stop, trade and manufactures languish, consequently the mechanic and laborer is thrown out of employment. It can make but little difference to them how cheap provisions are if by stringency in the money market they are thrown out of employment and have nothing to pay for it.

Mr. WASHBURNE, of Illinois. I desire to make an inquiry of my colleague.

Mr. ROSS. I will hear it.

Mr. WASHBURNE, of Illinois. I think my colleague is entirely mistaken as to the effect of this dilution of the currency upon the interests of labor; but I am glad that he has put himself upon the record to-day as in favor of diluting the currency still further. That principle, I presume, will be the platform of his party in our State. I wish to ask my colleague what has been the effect of this policy upon the laboring men of his district and of my district? What do the statistics show? They show that since we have undertaken this system of diluting the currency, while everything the laboring man purchases has increased ninety-three per cent., his wages have increased only sixty-three per cent. And this will be the effect all the way through. The more the currency is diluted the worse it will be for the great interests of labor; and if the gentleman wishes——

Mr. ROSS. I did not give way for a speech.

Mr. WASHBURNE, of Illinois. I had the floor and yielded to my colleague [Mr. Ross] that he might answer a question which I put to him. Instead of returning the floor to me he has gone on with a speech.

Mr. ROSS. I did not understand that my colleague had the floor.

Mr. WASHBURNE, of Illinois. Certainly I had.

The CHAIRMAN. The gentleman from Illinois in front of the Chair [Mr. Ross] holds the floor by the courtesy of the gentleman from Wisconsin, [Mr. PAINE,] and is entitled to the remainder of that gentleman's hour.

Mr. WASHBURN, of Wisconsin. I believe I am entitled to the floor.

The CHAIRMAN. The gentleman's colleague [Mr. PAINE] yielded the remainder of his hour to the gentleman from Illinois in front of the Chair, [Mr. Ross.]

Mr. WASHBURN, of Wisconsin. I was recognized by the Chairman, and my friend from Maine [Mr. BLAINE] asked me to yield for a motion to adjourn.

The CHAIRMAN. The gentleman from Wisconsin [Mr. WASHBURN] rose and was recognized by the Chair. The gentleman from Illinois [Mr. ROSS] then rose and desired to put an interrogatory to the gentleman's colleague, [Mr. PAINE,] who resumed the floor with the consent of his colleague [Mr. WASHBURN, of Wisconsin] for the purpose of yielding to allow the interrogatory to be put. The gentleman from Illinois, [Mr. ROSS,] in the opinion of the Chair, gained the floor for the remainder of the hour to which the gentleman from Wisconsin first upon the floor [Mr. PAINE] was entitled. The latter gentleman has the right to reclaim the floor whenever he pleases; but unless he does so the Chair rules that the gentleman from Illinois is entitled to the floor till the expiration of the hour.

Mr. ROSS. I only want to set myself right on this question. I was about to answer the interrogatory of my colleague, [Mr. WASHBURNE, of Illinois.] He speaks about the effect which an expansion of the currency has on labor in my State. Now, I would say to him that since the inauguration of the policy of withdrawing from circulation $4,000,000 monthly of the people's money wages have been greatly reduced in my State. The policy which my colleague [Mr. WASHBURNE, of Illinois] has been in favor of, and which he helped inaugurate, is to take up the people's money that draws no interest and leave the bonds exempt from taxation and still drawing interest. I suppose the gentleman has some bankers in Galena that he represents, and he thinks it is right to look after their interest as well as that of the rest of his patriotic constituents.

Now I am willing to stand and abide by whatever contract the Government made in relation to this currency. I think it made a bad bargain. We provided in the first place for issuing these bonds which were taken up by the capitalists when they did not pay over forty or fifty cents on the dollar for them. When the Government was in a strait these money loaners and bond-holders took advantage of its necessity. They not only furnished us a depreciated currency worth not more than half what it is now for our bonds, but they said: "You must exempt those bonds from the ordinary tax in the country." And my colleague consented to it. Consequently now in his own town if the citizens want to build a school-house and get together and vote a tax on their property for it those of his constituency who have their thousands and hundreds of thousands invested in United States bonds do not pay a dollar of tax on these bonds either for the school-house or paying the teachers, though their children get the benefit of the school, while poorer men, who own no bonds, have to pay all the tax. Now, sir, I am opposed to taking away the people's money on which we pay no interest and keeping these bonds which draw gold interest fastened on the country.

But what further advantage do you give these bond-holders? They say, "We have taken your bonds, you have exempted them from taxation, now we ask you in addition to permit us whenever we deposit $100,000 of Government bonds in the Treasury of the United States to take out $90,000 in currency." What is the result? Why, in the first place, their bonds are exempt from taxation; then they draw six per cent. interest in gold, which is equivalent to twelve per cent. on the original investment; then they loan out their currency, in my colleague's district, at ten per cent. Now, let us compute the amount of interest they realize. First, twelve per cent., reducing it to currency; then six per cent. more, and then ten per cent. from the loan of the currency, making twenty-eight per cent. on the investment, without liability to taxation.

Such is the policy my colleague seeks to continue. He supposes that the party to which he belongs will place itself upon that platform. I tell him if he undertakes to stand on the bond-holders' platform he will find himself almost alone, his party will be very select in the State of Illinois. He cannot carry his colleagues of the same political faith with him because the people will not indorse or sanction such an iniquity. The people of this country cannot stand it to have one fourth of the property exempt from taxation. Bonds of the United States must be subjected to the usual rate of taxation. And how are you to do it? By paying them off according to the original terms of the contract—the interest in gold and the principal in the same kind of money that we received for them, and the same we contracted to pay.

My colleague knows that when his constituents in Galena loaned gold to individuals to be paid in gold by contract they were compelled to accept greenbacks in payment, and that, too, by his vote. He voted that the soldiers in the Army should be paid in greenbacks.

Mr. WASHBURNE, of Illinois. Will my colleague allow me to inquire whether he voted that the soldiers should be paid in anything?

Mr. ROSS. I voted to increase their pay to twenty dollars per month and my colleague voted against it.

Mr. WASHBURNE, of Illinois. No, sir! I beg pardon.

Mr. ROSS. He is willing to turn off the lame and decrepit soldiers, their widows and children, with greenbacks, but insists upon paying coin to the bond-holders. But, sir, I apprehend his party will be very slack in paying off the bonds in gold, for the people are speaking on this subject. Now I have too great a regard for the good of the country and interest in its prosperity to wish to see anything done that will injure the material interest of the people. But the currency of the country is under the control of Congress and may be increased or diminished as the business and exigencies of the country may require. I would commence at once retiring the national bank currency, and with the $300,000,000 of greenbacks issued to take its place I would take up $300,000,000 of bonds, thereby reducing the national debt to that amount and save $18,000,000 per annum in gold paid as interest. Then let us commence paying off these five-twenty bonds as we can, according to the original contract, and in that way in a short time we can wipe out our debt. That is what we want. It is very desirable that we should in some legitimate way get rid of this debt.

I will admit to my friend from Ohio, [Mr. SPALDING,] who asked me a question just now, that I was not very favorably impressed by the overthrow of what was regarded as the old Democratic doctrine in the issue of these legal-tender notes. I did not believe in it at the time. But this is an age of change and progress, and if anything is proposed that commends itself to my judgment I am willing to approve it let it come from what party it may. I think now that it is a fortunate circumstance for the country that we have got greenbacks, and that by the terms of our contract we may lawfully use them in the liquidation of the most of our public debt. It will help us, as the Representatives of the people, to roll this heavy burden off the shoulders of the tax-payers of the country. It is legitimate and proper that it should be done. Why not then inaugurate it at once? Let us take the honor of it. If we do not do it, the succeeding Congress will. The next Congress elected will be in favor of paying the debt as contracted in the legal currency of the country, and gentlemen cannot prevent it. Let us make a virtue of necessity, then, and at once inaugurate the system of paying off this debt.

We have got to retrench the expenses of the Government; we have got to fall back on the old Democratic platform which my friend from Ohio [Mr. SPALDING] and I stood upon many years ago; we have got to lop off extra expenses; we have got to reduce the Army to a peace establishment; we have got to repeal the odious acts of reconstruction that are now in operation in the South; and when all that is done the way is open for us to get rid of this debt.

Mr. SPALDING. I would like to ask my Democratic friend to what extent he contemplates issuing these greenbacks. I understand him to propose, in the first place, to take up the circulation of the national banks and then to pay the bonds. What will it all amount to?

Mr. ROSS. To pay the bonds?

Mr. SPALDING. What will be the whole amount of greenbacks?

Mr. ROSS. Well, I have made a little computation of that, but I did not expect to be called upon to speak on this subject to-day, and I have not got my figures here. I think it might be divided into six or eight payments.

Mr. SPALDING. How much would it be altogether in greenbacks?

Mr. ROSS. I would pay about that much a year.

Mr. SPALDING. How much a year?

Mr. ROSS. About one sixth or one eighth of the entire sum each year, and what I took up in taxation I would retire.

Mr. SPALDING. Would you take up all the circulation of the national banks in greenbacks?

Mr. ROSS. Certainly I would.

Mr. SPALDING. Their bills?

Mr. ROSS. Every one of them. I would take up every dollar of national currency that the banks have in greenbacks.

Mr. SPALDING. Then the only question is how much the greenbacks will be worth. That is the only question.

Mr. ROSS. I think they will be worth about as much as they are now. As the national debt is paid off the value of the greenbacks would increase.

Mr. BLAINE. What are you going to run the Government with if you take up all the taxation in that way?

Mr. ROSS. We have the machinery to grind it out, and we can make more greenbacks. [Laughter.] I want to get rid of the bonds as speedily as possible without materially disturbing the business of the country. I do not want to do any injustice to the bond-holder. Far be it from me. He should be paid according to the contract. I do not want to pay it off so fast as to greatly injure him.

Now, sir, by inaugurating a policy of this kind it appears to me that we will do a great benefit to our constituents, that we will not do any injustice to the men who hold the bonds. There is neither justice nor sound policy in discriminating between the public creditors; all should fare alike, and this odious distinction cannot be obviated until the national debt is paid and all property alike subject to the burdens of taxation for national, State, and municipal purposes.

I sincerely hope that so desirable a result may be speedily obtained without doing injustice or injury to the public creditors, or impairing the credit or tarnishing the national honor. [Here the hammer fell.]

Mr. WASHBURN, of Wisconsin, resumed the floor, but yielded to

Mr. BLAINE, who renewed the motion that the committee rise and report to the House the resolutions in regard to the President's annual message.

The motion was agreed to; so the committee rose, and the Speaker having resumed the chair,

Mr. DAWES reported that the Committee of the Whole on the state of the Union, pursuant to order, had under consideration the Union generally, and particularly the annual message of the President, and had instructed him to report sundry resolutions in relation to the distribution of the message and accompanying documents to the various standing committees of the House, with a recommendation that the same be adopted.

Mr. WASHBURNE, of Illinois. I move that the House now adjourn.

The motion was agreed to; and accordingly

(at three o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOUTWELL: The petition of Chauncey L. Knapp and others, citizens of Massachusetts, asking for an increase of the compensation paid to jurors.

Also, the petition of P. L. Moen and 150 others, of Worcester, Massachusetts; of Merritt Gibson and 30 others, of Eden township, Iowa; of Samuel Spearing and 70 others, of Jacksonville, Florida; and William Howland and 41 others, of Cayuga county, New York, asking for the impeachment of Andrew Johnson.

By Mr. STOKES: The petition of A. B. Rowden.

By Mr. CLARKE, of Ohio: The petition of Henry Jenks asking compensation for services as collector of internal revenue in the sixth district of Ohio.

By Mr. EGGLESTON: The memorial of J. M. Dair, of Ohio, praying an amendment to the law in regard to the shrinkage on whisky.

By Mr. FERRY: The petitions of John W. Dunn, Giles Townsend, Sylvester Chase, Frank C. Dillenback, and 48 others, praying for the passage of the "soldiers' equalization bounty law" making up $300 bounty for each man irrespective of local bounties.

By Mr. GARFIELD: A communication from Major General J. C. Frémont, asking the passage of a bill giving pay to his staff.

By Mr. HULBURD: The petition of John Mills, of Franklin county, New York, for a pension.

By Mr. PAINE: The petition of S. F. Bennett and others, for a pension to Owen Griffin, of Delavan, Wisconsin.

By Mr. PERHAM: The petition of clerks in the quartermaster's department for increase of pay.

By Mr. SCHENCK: The resolution of the central committee of the Republican party of Louisiana, praying Congress to intervene and save the loyal people of that State from "the step backward to slavery and rebel rule," arising from General Hancock's revocation of the order of his predecessor, General Sheridan, in relation to juries.

Also, the petition of Samuel J. Matthews, of Arkansas, praying to be relieved from his disability under the laws relating to reconstruction of the rebel States.

IN SENATE.

MONDAY, *December* 9, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Paymaster General of the United States Army, communicating, in compliance with a resolution of the Senate of the 5th instant, the proceedings and findings of the board to investigate the circumstances of the robbery of Major Glenn at Fort Boisé, Idaho; which was referred to the Committee on Claims.

He also laid before the Senate a report of the Attorney General, communicating, in compliance with a resolution of the Senate of the 5th instant, a list of the assistant district attorneys appointed in the several districts of the United States, and the amount of salary paid them; which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 2d instant, information in relation to the withholding of a part of the salary of judges of the courts of the United States for taxes; which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of the Treasury, in compliance with a resolution of the 6th instant, in relation to the transfer of appropriations and the use of unexpended balances; which was ordered to lie on the table, and be printed.

LAWS OF DAKOTA.

The PRESIDENT *pro tempore* laid before the Senate copies of the general laws, memorials, and resolutions of the Territory of Dakota, passed at the sixth session of the Legislative Assembly, begun and held at Yankton, the capital of the Territory, on Monday, December 4, 1866, and concluded January 12, 1867; which were referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate resolutions of the Legislature of Maine in favor of impartial suffrage in all the States of the Union, for annulling the present State governments of the recent rebel States, and the adoption of the necessary steps for instituting loyal State governments; which were read, ordered to lie on the table, and be printed.

Mr. FESSENDEN presented the petition of John C. Evans, for compensation for services rendered as assistant assessor of the first division first district of South Carolina; which was referred to the Committee on Finance.

He also presented the petition of William J. Clark, for compensation for services as assistant assessor of internal revenue of the second division first district of South Carolina; which was referred to the Committee on Finance.

Mr. SUMNER. I present resolutions of the Commonwealth of Massachusetts in favor of such assistance to the Northern Pacific railroad as will insure its immediate construction and completion. It is customary that resolutions from Legislatures of States should be read. I do not ask that these should be read, but I move that they be referred to the Committee on the Pacific Railroad, and I trust that my friend the chairman of that committee will take notice of that.

The motion was agreed to.

Mr. SUMNER. I offer the petition of James Narcom, now of Norfolk, in Virginia, and formerly mayor of Edenton, in North Carolina, in which he sets forth certain losses of his that occurred by the destruction of his property by United States troops. He sets forth the circumstances, and also that he all the time was a very strong Union man. The petition is vouched by papers and certificates signed by leading citizens and by officers of the United States. Of course this belongs to a very large class of cases, being claims made by Union citizens for losses that occurred through the action of our troops. I do not undertake to express any opinion in advance on the question, but I move the reference of this opinion to the Committee on Claims.

The motion was agreed to.

Mr. SUMNER. I offer the memorial of sundry citizens, stockholders and bondholders of the Central Branch Union Pacific Railroad Company, who petition Congress in behalf of that company, setting forth a grievance to which they are now subject through a hasty act of legislation by Congress, and asking for a remedy, as follows:

"Your memorialists therefore pray that Congress may declare, by joint resolution or otherwise, 'that nothing contained in the act of Congress approved July 3, 1866, relating to the Union Pacific railway, eastern division, shall deprive the central branch Union Pacific Railroad Company (assignee of the Hannibal and St. Joseph Railroad Company) of its right to continue its road westerly from the terminus of the one hundred miles specified in the act of Congress incorporating the Union Pacific Railroad Company, approved July 1, 1862, to a connection with the Union Pacific railroad as one of the branches thereof; but said central branch Union Pacific Railroad Company shall continue its road westerly from the termination of the one hundred miles aforesaid to a connection with the Union Pacific railroad at the one hundredth meridian of longitude upon the same terms and conditions in all respects as are now provided for the construction of the Union Pacific railroad.'"

This memorial is signed by Erastus Corning, of Albany; William C. Wetmore, John A. Stewart, William Butler Duncan, C. S. Parsons, Henry Day, Wm. H. Scott, and Effingham H. Nichols, of New York; Nathaniel Thayer, George S. Hale, Wm. Claflin, R. M. Pomeroy, and J. W. Brooks, of Boston; and E. B. Phillips, of Chicago. I move the reference of this memorial to the Committee on the Pacific Railroad.

The motion was agreed to.

Mr. MORTON. I am requested to present a petition for the repeal of the tax on cotton, said to be one hundred and fifty-six feet long and to contain about ten thousand signatures. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. CAMERON presented the memorial of S. R. Franklin, commodore United States Navy, praying to be restored to his original position on the Navy Register; which was referred to the Committee on Naval Affairs.

He also presented the petition of Alexander W. Foster, praying the passage of a law regulating the election of Representatives in Congress so as to secure the rights of minorities; which was ordered to lie on the table.

Also, papers in relation to the claim of John A. Wilcox, of the fourth United States cavalry, for compensation for Government funds stolen from him on the 15th of February, 1867; which was referred to the Committee on Claims.

Also, the petition of Hannah Tyndall, Hannah Lewis, and Susan Phipie, praying that the widows and orphans of seamen, marines, sailors, and others serving in the Navy of the United States may receive the same benefits as are now enjoyed by relatives of soldiers as regards bounty; which was referred to the Committee on Claims.

Mr. POMEROY presented the petition of citizens of Oberlin, Ohio, praying legislation to secure to woman equal suffrage with man in the District of Columbia, and wherever the jurisdiction of Congress extends; which was referred to the Committee on the Judiciary.

Mr. JOHNSON presented a petition of citizens of Washington city, District of Columbia, praying a charter for the purpose of locating and building a railroad from the city of Washington by Brookville and Oweing's Mills to intersect the Northern Central railroad at or near Freeland, near the Pennsylvania State line; which was referred to the Committee on Commerce.

He also presented the petition of Elenora B. Watkins, of Maryland, praying that her pension be allowed from 1840, at the time of her husband's death, he having been a captain in the revolutionary army; which was referred to the Committee on Pensions.

Mr. WILLEY presented a memorial of the Board of Trade of Norfolk, Virginia, for the repeal of the present tax on cotton; which was referred to the Committee on Finance.

Mr. COLE presented the petition of James R. Lowe, late consul to Tehuantepec, Mexico, for compensation on account of losses and expenses incurred in being prevented by reason of the disturbed condition of the republic of Mexico from reaching his place of destination after proceeding a portion of the way by the usually traveled route; which was referred to the Committee on Foreign Relations.

Mr. EDMUNDS presented a petition of Lois Clark, daughter of Abraham Lawrence, deceased, who was a soldier in the revolutionary war, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. DRAKE presented the petition of William H. Murphy, of Farmington, Missouri, for additional compensation for carrying the mail on post route No. 10686, in the State of

Missouri; which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred the petition of James St. John, praying for an appropriation for the payment of the reward offered for the capture of Jefferson Davis; the petition of George H. Mott, fourth Michigan cavalry, praying that the reward offered for the capture of Jefferson Davis may be paid to the captors; the petition of members of the veteran corps of California, praying payment for transportation from their place of discharge to the place of enlistment; the petition of Julius H. Knowlton, late second lieutenant company C fourteenth Connecticut infantry, praying for compensation for services as commanding officer of that company from June 4, 1863, to January 11, 1864; and the petition of certain citizens of Colorado making claims on the Government, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 79) relative to the purchase of Hall's carbines, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 127) in relation to additional bounty, reported it with an amendment.

He also, from the same committee, to whom was referred a bill authorizing the payment of the first regiment (S. No. 78) Iowa cavalry, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. WILSON. I am also directed by the same committee, to whom was referred the bill (S. No. 93) to authorize the retirement of Major General Ethan Allen Hitchcock, to ask that the committee be discharged from the further consideration of the subject, and I move the indefinite postponement of the bill.

Mr. FOWLER. I should like to have that bill considered at the proper time before the Senate, but not now.

Mr. WILSON. If the Senator desires it I shall not press action on the motion now.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rules.

NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill to remove the disabilities of certain citizens of Alabama, two hundred and eighty-four in number, recommended by General Pope and General Swayne.

BILLS INTRODUCED.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 174) for the relief of Mrs. Emma Wilson of the State of Indiana; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, minor children of La Fayette Cameron, deceased; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 176) in aid of the Union Pacific Railway Company, eastern division, supplemental to an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and the acts amendatory thereof; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 72) for the relief of John M. Broome and others, the band of the twelfth Kentucky infantry; which was read twice by its title, and referred to the Committee on Claims.

RANK IN THE ARMY.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the propriety of so amending the act entitled "An act declaring and fixing the rights of volunteers as a part of the Army," approved March 2, 1867, as to include previous service in the Marine corps in establishing relative rank in the Army; also, as to the propriety of authorizing the Secretary of War to take into consideration in all cases previous rank as well as previous service in determining the position of an officer.

CAPTURED AND ABANDONED PROPERTY.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish to the Senate the names and residences of all individuals to whom any property or its proceeds in the custody of the Department or any of its agents as captured and abandoned property was released or given up; to state also in his answer the nature, kind, quality, and value of the property released or given up to said parties respectively, and the amount of money returned to each of said individuals, and whether as preliminary thereto such individuals have been required to pay any fee or compensation of any kind to any attorney or other person; and also to report to the Senate the evidence upon which said property was released or proceeds paid over to such persons respectively, and under what law or authority such property was released or paid over; and also to state whether any of such property was released or its proceeds paid over to persons who had been engaged in rebellion against the United States or who had given aid and comfort to such rebellion, and whether before releasing such property or returning its proceeds the Department required the claimants to establish their loyalty by competent proof; and also a copy of any correspondence which has taken place between the Department and the Court of Claims or any of its officers in regard to judgments by said court or the payment thereof in what are known as cotton cases.

PAPERS WITHDRAWN.

On motion of Mr. FRELINGHUYSEN, it was

Ordered, That Susan Ten Eyck Williamson have leave to withdraw her petition and papers.

THE CURRENCY.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 213) to suspend further reduction of the currency, in which the concurrence of the Senate was requested.

The bill was read twice by its title, and referred to the Committee on Finance.

RELATIONS WITH BRITISH AMERICA.

Mr. RAMSEY. I send a resolution to the Chair, and I desire to have it considered at this time.

The Secretary read the resolution, as follows:

Resolved, That the Committee on Foreign Relations is hereby directed to inquire into the expediency of a treaty between the United States and the Dominion of Canada, which shall contain the following provisions:

First. That a duty of five per cent. *ad valorem* shall be imposed upon all importations from Canada being the exclusive production or manufacture of Canada to the United States, or from the United States to Canada, which shall be substituted for the existing tariffs of the respective countries.

Second. That the excise duties of the United States and of Canada shall be assimilated by concurrent legislation.

Third. That the navigation of the great lakes and of the canals and channel of the St. Lawrence river shall be forever free and open to the citizens of the United States and of Canada.

Fourth. That Canadian vessels in American ports shall be entitled to all the privileges of American vessels in Canadian ports.

Fifth. That the fisheries of the Atlantic coast shall be free to the citizens of both countries.

Sixth. That a common system of laws regulating copyrights, patent rights, and rates of postage, shall be extended over both countries.

Seventh. That Canada, with the consent of Great Britain, shall cede to the United States the districts of North America west of longitude 90° on the conditions following, to wit:

1. The United States will pay $6,000,000 to the Hudson Bay Company in full discharge of all claims to territory or jurisdiction in North America, whether founded on the charter of the company or any treaty, law, or usage.

2. The United States will assume the public debt of British Columbia, not exceeding the sum of $2,000,000.

3. To aid the construction of the Northern Pacific railroad from the western extremity of Lake Superior to Puget's sound, the United States, in addition to the grant of land heretofore made, will guaranty dividends of five per cent. upon the stock of said company, provided that the amount of stock guarantied as aforesaid shall not exceed $20,000 per mile, and Congress shall regulate the securities for advances on account thereof.

4. The northwest territory shall be divided and organised into Territories of the United States, not less than three in number, with all the rights and privileges of the citizens and government of Montana Territory so far as the same can be made applicable.

Mr. RAMSEY. Mr. President, this is but a resolution of inquiry, and I trust it may be considered at once. We are informed that a member of the Government of Canada is about to present to Parliament a bill for the extension of the dominion of Canada to the Pacific ocean. The authorities of British Columbia having applied for admission to the Canadian confederation, the passage of such an act by the Parliament at Ottawa, with the assent of the queen in council, will consummate the annexation of northwest British America to Canada. The people of the Selkirk settlement, northwest of Minnesota, and the people of British Columbia on the Pacific coast, would prefer admission to the American Union; and I believe it has become the duty of the American Congress to indicate openly and distinctly the terms and conditions which we are willing to offer as an alternative to the Canadian overture. I ask a reference of this important question to a committee of the Senate. I have framed the resolution of inquiry to include the provisions of a new and enlarged treaty of commercial reciprocity between the United States and Canada, which, if acceptable to the Governments at Washington and Ottawa, might not only result in a desirable extension of our institutions in northwest America, but would go far to remove all grounds of offense and antagonism of interests between the communities planted in the valley of the St. Lawrence.

Mr. HOWARD. I should be glad if the Senator from Minnesota would state what number of inhabitants there are in the Selkirk settlement on the Red river.

Mr. RAMSEY. About fifteen thousand.

Mr. GRIMES. I should like to see the resolution in print before I vote on it.

Mr. RAMSEY. Then I ask to have it printed and referred.

Mr. GRIMES. It struck me, from hearing the resolution casually read, that it embraced several incongruous subjects.

Mr. CONNESS, [to Mr. GRIMES.] Call for the reading of the first paragraph, and you will get at the character of it.

Mr. GRIMES. Let the resolution be read.

The Secretary again proceeded to read the resolution.

Mr. GRIMES. I object to the consideration of that resolution looking to another reciprocity treaty, to which I am utterly opposed.

The PRESIDENT *pro tempore*. Objection being made, the resolution will go over under the rules.

OFFICERS OF THE SENATE.

Mr. SUMNER. I send a resolution to the Chair, which I ask to have considered now:

Resolved, That the Committee on the Pay of Officers of the Senate be instructed to consider the expediency of defining the duties of the Sergeant-at-Arms of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. I find that there is nothing in the rules of the Senate which defines precisely the duties of the Sergeant-at-Arms. Among the rules I find this:

"41. When acting on confidential or executive business, the Senate shall be cleared of all persons except

the Secretary, the principal or executive Clerk, the Sergeant-at-Arms, and Doorkeeper, and the assistant doorkeeper."

Nothing is said with regard to his duties, but it is assumed that he is to be in attendance on the Senate during executive session. By a reference to Webster's Dictionary, which I suppose may be considered as good an authority on the question as any that can be cited, I find the following definition of "Sergeant-at-Arms:"

"In legislative bodies an officer who executes the commands of the body in preserving order and punishing offenses."

"In preserving order:" of course that assumes that he has a fixed place in the Chamber precisely as the President has a fixed place in the Chamber. Such would seem to be the reason of the case. If we go to the history of the Senate, we shall find that it is in entire harmony with this definition. When I first came into the Senate, now many years ago, the Sergeant-at-Arms always occupied the seat at the right of the Chair, and he took it as regularly, I think, as the President took his own seat, and there he continued with very slight intermissions during the whole session of the Senate. When a message was received from the President, or from the other House, it was by the Sergeant-at-Arms that the messenger was welcomed and presented to the Senate. All this has been latterly changed. The seat of the Sergeant-at-Arms still continues in this Chamber, but to my eye always vacant. As much as I am in my seat, and I believe I am in it as much as any Senator is in his seat, I have it to say that I have never once seen the present Sergeant-at-Arms occupying his seat in this Chamber. Other Senators of sharper sight than myself may possibly have seen him; but if he has been there, I think it has been only as a page may have been there; I have seen a page sitting in the seat; or perhaps as a Senator may have been there, for I have seen Senators sitting there. Habitually, he never has been there; nor am I aware that he has ever performed any of the duties to which I have already referred of receiving the messenger of the President or of the other House. It seems to me the Senate should consider whether it is proper to define the duties of this officer. It may be that it is best that we should abandon those old ideas which gave him his name and his distinctive character and hand those over to the Doorkeeper; I am inclined to think otherwise. If any light can be derived from other legislative bodies, I believe I cannot be mistaken when I say that the Sergeant-at-Arms, or the officer corresponding in character to the Sergeant-at-Arms, is always in attendance upon the legislative body to which he belongs. He is in the nature of a marshal or sheriff. It is his business to keep order in the Chamber and otherwise to give directions to the officers in the Chamber. They are all under his order. If we go across the sea to the British Parliament we shall find that the Sergeant-at-Arms there has a fixed place; that he always enters the Chamber with the Speaker and leaves it with the Speaker. I take it that it was from his duties and from his name that the office in the Senate was derived.

I hope that the committee will take this subject into consideration. Possibly it may be expedient simply by resolution to determine these duties; possibly their opinion may be indicated without any such formal proceeding; but I desire to call their attention to it.

Mr. HOWE. I have no objection to any committee of this body being called upon to define the duties of the Sergeant-at-Arms, or the duties of any other officer of the body whose duties it is supposed are not well understood; but I should be very sorry to have this resolution go to the committee with any intimation that the Senate thought it was the duty of the Sergeant-at-Arms to occupy a permanent seat in this body for any purpose whatever. I do not believe it is the duty of the Sergeant-at-Arms to preserve order in this body. I think that it is the duty of the Presiding Officer.

Mr. FESSENDEN. Under the direction of the body.

Mr. HOWE. In accordance with the definition he is to execute the commands of the Senate. I do not think he can interfere at all except by command of the Senate.

Mr. SUMNER. Then he ought to be present.

Mr. HOWE. Or by command of some officer who presides in the Senate, and he ought to be within reach of the Senate. I will say in reply to the Senator from Massachusetts, unquestionably; but the point is, as I understand it is made by the Senator from Massachusetts, and it is to that point I address myself, that he should sit here somewhere, a constant and solemn admonition to the Senate of the United States. I do not want to see any such admonition. I do not want to see him reconstructed into a standing threat or a sitting threat. [Laughter.] My own idea is that the Senate can behave tolerably well without him, quite as well without him as with him, and we can dispense with that little piece of machinery. I think the Presiding Officer of this body will be able to bring into subjection, to subjugate (to use a word which is a good deal in vogue in these days) so many of us as undertake to be a little refractory. If my friend, the honorable Senator from Massachusetts, cannot be reduced to order by any such means, I have no objection to detailing the Sergeant-at-Arms to assist the President for his especial benefit, [laughter;] but so far as the rest of us are concerned I hope we are inclined to dispense with his services in that direction.

Mr. TRUMBULL. The rule to which the Senator from Massachusetts refers speaks of the Senate being cleared during an executive session "of all persons except the Secretary, the principal or executive Clerk, the Sergeant-at-Arms, and Doorkeeper, and the assistant doorkeeper." I do not know precisely why the Senator from Massachusetts has singled out the Sergeant-at-Arms. Perhaps there are other officers who by this rule are required to be in the Senate that are also sometimes absent. The Senator never has seen with his own eyes the Sergeant-at-Arms in his seat here; has he seen at all times the other officers named in the rule in their places in the Senate? It is singular that a resolution should be offered and a reason given for it that the Sergeant-at-Arms is not always in executive session, when the same rule names several other officers who may not always have been in executive session either, and about whom nothing is said.

Now, sir, the duties of the Sergeant-at-Arms are doubtless such as the Senator from Massachusetts has described, but they are to be performed by him and under his direction. He does not personally perform all the duties devolved upon the Sergeant-at-Arms. He is the executive officer of the Senate, and he acts through others. I do not know the precise number, but I suppose there are forty men under the employment of the Sergeant-at-Arms, some standing at the doors of your galleries and at the doors of this Chamber to execute a rule that none but certain privileged persons are admitted on this floor during the sessions of the Senate. The Sergeant-at-Arms cannot stand guard at every one of these doors, and we all know that it is absolutely necessary that somebody should stand at the doors; for time and again, Mr. President, you have seen persons rush into this Chamber over the rule of the Senate, because there was not a sufficient force at the doors to stop them, and it may be that, in the opinion of the Senator, it is necessary to confine the Sergeant-at-Arms to that chair in order that persons may be brought into this Chamber over the rules of the body. But, sir, a rule of this body declares that certain persons only shall be admitted here. How is that to be executed by the Sergeant-at-Arms when confined to his seat in yonder chair?

I have not served in this body as long as the Senator from Massachusetts. I found him here when I came a dozen and more years ago. He has had, therefore, more experience than I have had; but when I came Mr. McNair was Sergeant-at-Arms of this body, and Mr. Jones, a very pleasant and agreeable gentleman, was about that time assistant doorkeeper. Mr. Jones, according to my recollection, always announced the message from the House of Representatives. The exceptions were rare when Mr. McNair did it in person. It was almost uniformly done by Mr. Jones, as every Senator who was here at that time will bear me witness.

I have no objection to the resolution of the Senator from Massachusetts, that any committee shall inquire what the duties of the officers of this body are, but I have objection to singling out one officer; and therefore, if the resolution is before the body, I move to amend it by inserting "the Secretary and other officers of the body."

Mr. SUMNER. I have no objection.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts modify his resolution?

Mr. SUMNER. I have no objection to the modification.

The PRESIDENT *pro tempore*. It will be so modified.

Mr. JOHNSON. I ask for the reading of it as modified.

The Chief Clerk read the resolution, as follows:

Resolved, That the Committee on the Pay of Officers of the Senate be instructed to inquire into the expediency of defining the duties of the Secretary, Sergeant-at-Arms, and other officers of the Senate.

Mr. CONNESS. If the object and effect of this resolution, when adopted, should be to increase the number of officers (and that seems to be the object, if it have any) pending the consideration of executive business, I think it would be a very bad thing to do.

Mr. FESSENDEN. My friend will excuse me a moment. The committee referred to in the resolution had a meeting this morning, and came to the conclusion that it was advisable to ask the two Houses to enlarge their powers somewhat, and instructed me to draw a resolution to that effect and have it passed through the Senate, if it could be passed, and sent to the House of Representatives. I have not had time yet to draw one, and if this resolution lies on the table I design to do so as soon as I can have an opportunity to draw it up to my own satisfaction. I hope that this resolution will lie on the table.

Mr. SUMNER. Is there any objection to this?

Mr. FESSENDEN. I do not say that I have any objection; but it will be noticed that this is a mere resolution of this body, and the committee referred to is a joint committee; the resolution which I propose to draw up will be in its nature joint, to be passed by both branches. It is, perhaps, a little questionable how far this body alone can instruct a joint committee, and I merely made the suggestion that perhaps this might as well lie on the table until I offer the resolution to which I have alluded. However, I have no wish about it; I merely made the suggestion.

Mr. CONNESS. I was only going to observe that if the effect of this resolution should be to increase the number of officers who should be present pending the consideration of executive business it would be by no means an improvement, because somehow or other nearly all the transactions that take place in executive session become known to the public at large almost immediately after the adjournment of the Senate. Now, Mr. President, without desiring to impute the communication of the information to which I refer to the officers of this body who may be present at the executive sessions of the Senate, they, the officers, and ourselves of course must hold that that information never transpires through Senators, for honorable Senators would never communicate anything that they are solemnly pledged not to communicate;

and, therefore, disagreeable as the implication may be, it must by the relative official position of Senators and officers fall upon the officers, they being second, at least in rank. If it is to be considered as falling upon the officers, I think it would be a very bad thing to increase their number pending the consideration of executive business. I think it would be wiser to decrease their number than to increase it; and I hope, if this resolution in any manner has such an effect, that it will not be passed; otherwise I have no objection to it of course.

Mr. GRIMES. I move that the resolution lie on the table.

Mr. SUMNER. Will the Senator withdraw that motion? I want to make an observation.

Mr. GRIMES. I withdraw the motion.

Mr. SUMNER. I am astonished that the Senator from California can have seen any such purpose or consequence in the resolution as he foreshadows. Certainly it did not enter into my mind. So far as I had his point in view, I was looking, if anything, to a diminution of officers rather than to an increase.

My object was very simple. It was to call the attention of the Senate to a point which is very obvious and which, if I may judge from conversation on the floor, there is occasion for the consideration of, and that is the duties of one of our officers. The Senator from Illinois has added to my resolution an inquiry with regard to the duties of other officers. Very well, I have no objection. I welcome the inquiry: but then the Senator, if he looks now at the Chair, must see the reason for my resolution. There on one side of the Chair is a faithful officer of the Senate [Mr. BASSETT] in his place where he ought to be, where he constantly is; on the other side of the Chair, the seat which should be occupied by the Sergeant-at-Arms is vacant. That is the fact at this moment; that is the living testimony. Now, it does seem to me that it is worthy of inquiry whether that seat should always be vacant. It may be that it is advisable to keep it there as a vacant seat; never fill it. It may be that the duties of Sergeant-at-Arms can be better performed by a system of perambulation which was that that seemed to be marked out by the Senator from Illinois; but that was not the original idea with regard to the officer; that is not the idea which we have borrowed from other legislative bodies. According to the true idea, he has a fixed place on the floor.

Now, as there seems to be no objection to the resolution as one of inquiry, I hope that it may be referred to the committee. If Senators are very anxious not to have it go to the committee I do not wish to persist.

Mr. CHANDLER. Let it lie on the table.

Mr. SUMNER. Let it be referred.

Mr. GRIMES. I do not care what becomes of it so that we get rid of it in some way.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. EDMUNDS. I move that it be referred to the special committee on the officers of the two Houses.

Mr. SUMNER. The resolution is addressed to that committee.

Mr. TRUMBULL. I should have said nothing more about the resolution but for the repeated statement that the Sergeant-at-Arms is compelled to sit in a particular chair. I do not know what chair the Senator from Massachusetts alludes to. I believe at this moment there are upon both sides of the Presiding Officer officers of the Senate. I do not know what chair the Senator has in his mind. I am not aware that there has been any dereliction of duty on the part of the Sergeant-at-Arms, or any difficulty in seeing him at any moment. I believe he has been a most faithful and efficient public officer. He is never out of the building, I think, during the sessions of the Senate. He is ever watchful to see that the officers of the Senate do their duty. Somebody must do it. Somebody must oversee and take charge of the various employés of the Senate. I have supposed, and still suppose, notwithstanding what the Senator from Massachusetts says, that it is the duty of the Sergeant-at-Arms to do that to see to the order of everything connected with the Senate. It is his duty, I suppose, to take charge of the committee rooms, through the subordinates whom he employes, and of the post office, and of everything connected with this end of the building; and as a matter of course it would be impossible for him to do this and properly discharge his duties, if he sat, as the Senator says he should sit, in a particular seat. So far as my recollection goes no Sergeant-at-Arms ever did that in any legislative body of which I have had any knowledge. I have not had the good fortune, it is true, to see the British Parliament in session, nor to see how the Presiding Officer is accompanied into the British Parliament by the Sergeant-at-Arms. I believe it was the custom some years ago, and it may be now for aught I know, in the State of Massachusetts for the judge of the court to go to the court-house preceded by the sheriff with a drawn sword and a cocked hat.

Mr. JOHNSON. It is now in some of the States.

Mr. TRUMBULL. That may be the custom still; and I presume it grows out of that custom with which the Senator from Massachusetts is familiar, that he wants to see that ceremony here. We in the West are less formal. The sheriff finds his own way to the court-house at the hour when the court is about to meet, and the judge finds his way from the hotel or from his residence and requires none of that performance.

Mr. SUMNER. Is not the sheriff always in court?

Mr. TRUMBULL. No, sir; the sheriff is not always nor usually in court. He is hardly ever in court in my part of the country. The duties of his office in the court-room are performed by the crier and by deputies who are appointed for that purpose. I suppose it is because the Senator from Massachusetts has visited the Houses of Parliament, and has witnessed from childhood up this array in the county seats in Massachusetts of the sheriff with his drawn sword and cocked hat and regimentals marching in front of the judge, that he supposes, Mr. President, that you cannot find your way to your seat in this body without a similar accompaniment. Now, really, in all seriousness, I think it would be about as distasteful to the present Presiding Officer of the Senate to be thus heralded in and out as to anybody that I know of. Why this assault upon one of the officers of the Senate in this way, singling him out, and condemning him for not doing a thing which in my judgment he ought not to do? There is an invidiousness in making such an assault to which I object.

Does the Senator, when he looks toward the Chair and sees that the Sergeant-at-Arms is not in his chair, miss no other officer from his seat in this body? Does he say a word about that other officer? Has he lisped a word about his absence from executive session or open session? Not a word. The reason why such an attack is made upon a faithful officer of the body I do not know. I have certainly no objection to the resolution—no objection to its going to a committee—but when the report comes in, so far as I am concerned, neither the present incumbent nor any Sergeant-at-Arms shall have his duties defined to be to sit in a particular chair. He could not discharge the duties devolved upon him as the executive officer of the body if he did sit there.

The PRESIDENT *pro tempore*. The question is on the motion to refer the resolution to the select Committee on the Compensation of Officers.

The motion was agreed to.

PROCEEDS OF CONFISCATED PROPERTY.

Mr. HENDERSON. I offer the following resolution, and ask for its present consideration:

Resolved, That the President of the United States is requested to cause to be communicated a copy of such instructions as may have been issued for the seizure of estate, property, money, stocks, credits, and effects of any persons by virtue of the act of July 17, 1862, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;" and also, a statement of all moneys received into the Treasury on account of such property seized as aforesaid and condemned and confiscated under the said act, including the title of each case, the name of the original owner, of the purchaser under decree of sale, and of the marshal, clerk, or other officer by whom respectively the proceeds of sale in each case may have been paid into the Treasury, and the amount of money actually paid in each and every case into the Treasury of the United States.

Mr. FESSENDEN. I should like to make a suggestion to my friend from Missouri. If he designs to get by his resolution any particular information that he requires I think he will have no difficulty in getting it by an application to the Treasury Department, or by making a specific call for it. But a resolution in such general terms, covering such broad ground, will undoubtedly cause a great deal of labor. It will probably take a number of clerks a considerable length of time to furnish the information required. These general calls, made without knowing precisely what labor the answering of them will involve, and resulting in getting a mass of information which perhaps was not desired by the mover, occasion sometimes a great deal of trouble. I would suggest to my friend, therefore, if he had not better put his resolution in a narrower shape, or inquire of the Treasury Department what time it will probably take to obtain the information and how much labor it will involve. Such calls frequently devolve on the Department a great deal of labor and a great deal of expense consequent on that labor, without amounting to very much in the end, and they frequently produce much information that is not sought for and which would not be obtained if the call had been sufficiently definite at first in pointing out what was wanted. I think, therefore, the Senator had better make some inquiry before he offers the resolution, and perhaps he can then put it into shape which will answer all his purposes without entailing so much trouble on the Department.

Mr. DOOLITTLE. In reference to this particular case I have no objection to the resolution offered by the honorable Senator from Missouri; but I desire to remark that in my opinion it would be better to have all these resolutions of inquiry go to some one of the committees of the Senate. Resolutions of inquiry which go to the Departments calling for information are drawn usually in haste, and in their terms are so general as to create an immense amount of labor to be done by the Departments. If they should go to committees in the first place, and be considered by the committees before the resolutions were adopted, it would be a wiser course in my opinion. Then a committee looking a matter over could see whether it was best to go into the general inquiry proposed or not. I think we should save thousands of dollars to the Government if resolutions of inquiry that pass here without anybody paying attention to them went to the committees for consideration before the Senate committed itself to their adoption.

Mr. HENDERSON. I have drawn the resolution asking the President for this information because it will have to come from different Departments of the Government. One branch of the information called for must come, of course, from the Attorney General's office, and the other from the Treasury Department. The chief labor that will be involved in answering the resolution will be imposed upon the Attorney General's office. I think my friend from Maine will find that no great difficulty will be experienced at the Treasury Department in giving the information required so far as that Department of the Government is concerned. The resolution asks for information as to the amount of money paid into the Treasury, and the cases in which it was paid in, under one act, the act of July 11, 1862. It does not extend to cases under the act of March 12, 1863. My information is that the amount paid

into the Treasury does not exceed four or five hundred thousand dollars under the confiscation proceedings, or rather the proceedings against the person, under the act of July 17, 1862.

Mr. FESSENDEN. I think the Senator is mistaken. My impression is, that after I went into the Treasury Department there were a vast amount of cases under that act—a very large number.

Mr. HENDERSON. The Senator went into the Treasury in July, 1864.

Mr. FESSENDEN. Proceedings were going on under the act of 1862, and the number of cases was very extensive. I am quite confident that it would take a very long time and involve very great labor to answer the resolution.

Mr. HENDERSON. I do not wish to put the Department to any very great trouble nor the Government to expense.

Mr. FESSENDEN. If the Senator would have his resolution referred to the Committee on Finance, of which he is a member, it could be examined by the committee, and he would soon see how to frame it so as to call for precisely what he wants.

Mr. HENDERSON. I have no objection to that course in this case, and I will make the motion that the resolution be referred to the Committee on Finance.

Mr. DAVIS. I rise to make a single general remark, and that is to express my dissent to the course suggested by my honorable friend from Wisconsin, and which seems to have been accepted by the honorable Senator from Missouri.

Mr. HENDERSON. Not by any means.

Mr. DAVIS. I protest against the principle and practice being adopted in the Senate of submitting all resolutions calling for information from the Departments to the committees of the Senate. The committees are, of course, strongly party according to the predominance of party in the body. They never were more strongly and exclusively party than at present; but I make no particular remark in relation to the present constitution of the committees of the Senate; it is a matter about which I feel the profoundest indifference. I utterly protest against the principle that all resolutions calling for information which Senators may seek of the various officers of the executive department of the Government shall be submitted to the committees of this body in the first place to decide whether they shall be sent to the department or not, now or at any future time. It would be eminently injudicious and mischievous, in my judgment, to submit the sources of information to any such power to stifle them as that would be.

Mr. President, my opinion in relation to this Administration and to the party in power, and in relation to all parties and all Administrations, is that there ought to be the freest response to all proper calls for information from the executive Departments at all times. I think the good of the country requires it; a proper responsibility and check upon the Administration requires it, and a proper regard to the public interests in all the various Departments requires it. I utterly protest against any such principle being adopted by the Senate as that which has been announced by the Senator from Wisconsin.

Mr. FESSENDEN. I do not see the difficulty that is suggested by my friend from Kentucky. The business of the Senate is undoubtedly in the hands of the majority of the Senate always. The Senator cannot contend that as a matter of right or a matter of propriety any one Senator is entitled at any time to have passed by the Senate any resolution calling for information that he sees fit to offer, because Senators may make calls that are very improper and that the majority of the Senate would not sanction. The business of the Senate must necessarily always be in the hands of a majority of the Senate, and of course there is a party majority always, for as a general rule there always must be a majority and a minority.

Now, sir, what disadvantage does a Senator labor under who desires to make a call on a Department by having his resolution referred to a committee? He may contest the report of that committee when it comes in if he sees fit. It only passes out of the hands of the majority of the body into the hands of a majority of a committee for the time being. Perhaps he may as well be heard in one place as the other, and better before a committee where a question arises of the kind that I have suggested.

To an ordinary call for information I never, or at least very seldom, make an objection. I think there is an impropriety in the very character of the thing itself. I agree with the honorable Senator from Kentucky that it is essential that there should be the utmost freedom with reference to obtaining information from the President and from the Departments, and in very few cases should information that is called for be refused. It is only when it seems that the public interest will be better served by withholding the information or by not calling for it, and that is to be judged of by the body itself. I happen to know (and that is the reason why I make the objection) that very frequently a Senator who desires to get at a particular fact makes a call covering a very broad ground, involving not only that which he wishes to obtain but a vast deal of immaterial matter that he himself does not desire. The consequence is that during the sessions of Congress the time of clerks in the Departments who should be attending to other duties is taken up for the most part in copying off a great deal of irrelevant matter which nobody cares anything about. This exposes the Departments to a great deal of inconvenience and necessarily to a great deal of expense. Consequently when resolutions are drawn in broad terms, which I perceive from the limited knowledge I have on the subject are to involve great labor and great expense for no particular object but to get at a fact which may be called for in such a way as to get that and nothing more, I desire that there should be an investigation that the Senate may see what is and what is not necessary, what the Senator making the call does desire and what he does not desire. This information can be easily obtained in the present case, and it was for that reason that I suggested to the Senator from Missouri to refer his resolution to a committee of which he is a member. There he can define more accurately what it is his desire to get. It is the last thing in my wish at any time to prevent a Senator's getting all the information he may require upon any subject which is proper to be communicated to the Senate and made public; but I hope for the reason I have stated that the motion of the Senator from Missouri to refer his resolution to the Committee on Finance, which is the proper committee to consider these subjects, will be adopted by the Senate.

Mr. CONNESS. I do not propose to continue this discussion, but I wish to say one word upon the subject. Since I have been in the Senate I have offered few resolutions calling for information; I certainly have not abused my privileges in that respect; but I protest that every Senator is entitled to information in the possession of the Departments for his proper use, to guide him in the performance of his proper duties, and that no further embarrassments should be placed in the way of the obtainment of that information than the judgment of the Senate when the resolution is offered. Its reference to a committee first necessarily means delay, delay which he is not prepared for, and stands in his way and the way of the performance of his duties. More than that, both in a party sense and otherwise, it may be made a means of shutting off all information from a Senator. If the honorable Senator from Kentucky, belonging to an opposite party from myself, should offer, as he has in my opinion on some occasions offered, resolutions calling for information with a view to party advantage, I should be prepared to vote against the passage of his resolutions when offered; but I should be entirely unwilling to establish the practice, or have that Senator or myself or any other Senator subjected to the practice of the reference to committees of resolutions calling for information.

Mr. DAVIS. I am aware, as the honorable Senator from Maine has suggested that unnecessary and often very inconvenient calls are made upon the Departments for information; but I think from the practice generally a much greater amount of public good arises than of evil. If a resolution upon its face, in itself, is evidently and obviously improper, or too extensive, or subject to any other objection, upon the suggestion being made to the Senate the resolution can be modified so as to come down to the measure of propriety. But, Mr. President, what I maintain is this principally, that every Senator who wishes to have information is entitled to the prompt and immediate judgment of the Senate itself, without any reference to a committee whether his call be proper or ought to be allowed. We know that it is often the case in the management of party affairs that a reference to a committee is made the means of stifling a subject and burying it; and that such would be the result of a change of the rule according to the suggestions of my friend from Wisconsin I doubt not. If it did not take place while the present party are dominant it is certain to take place in the future.

Mr. President, I think there is a needless mystery, to a considerable extent, about the affairs of our Government and its administration. I do not believe in this mystery at all in relation to any matters connected with Government. I believe in revelation, in light, in having the fullest and freest understanding by the people of our country in relation to every interest and matter of Government; and when a Senator asks for information, and can show reasonably that that information is important for his own guidance, as suggested by the honorable Senator from California, or important to the interests of his constituents, or to the correction of any abuse in administration, or as a necessary check, or from any other proper motive, I am for a prompt and liberal consideration by the Senate itself of his call without referring it to any committee whatever.

I do not object to any course which the honorable Senator from Missouri may deem proper to accept in relation to his particular call in this case. I think it is a proper and a valuable call. His resolution may be too extensive. If it is so, restrict it, and let it go in a convenient as well as a valuable form to the Department. What I object to, and what I intend to protest against now and forever, is the idea that the information which the Senate may get, or which a Senator may ask for, shall be at all hampered or stifled by the reference of that call as a matter of right or of practice to a committee of the Senate.

Mr. SHERMAN. The resolution now pending I have read carefully, and I do not see any necessity for the reference of it to the Committee on Finance or any other committee. Many resolutions of inquiry do, it is true, involve a great deal of labor in preparing answers, and it is sometimes a useless labor, because the information is already contained in documents heretofore printed for our use. I have often noticed calls for information when that very information was already upon our tables in the shape of public documents. But this is a resolution pertinent and clear, and can be easily answered. It calls for the instructions of the Executive Departments to different officers in regard to the proceedings under a particular law for the seizure of certain property during the war. Those directions must be brief comparatively, and must be in print. It also requires a statement of the amount of money received by different officers of the Government, and the amount disbursed, showing the amount in their hands.

Mr. FESSENDEN. A statement of each case.

Mr. SHERMAN. Simply a statement of accounts to show that in the hands of certain officers there is a considerable amount of

money which ought to be transferred to the Treasury, I presume.

Mr. HENDERSON. Yes, sir.

Mr. SHERMAN. If so, it is legitimate and proper, and I see no objection to it; and it is a resolution which it will not require much time to answer, because the number of those officers must be comparatively few. I hope, therefore, the resolution will be passed without a reference.

Mr. DOOLITTLE. This matter of calling for inquiry or information is a matter that either belongs to the Senator who offers the resolution calling for it or to the Senate. If it belongs to the Senator it is a matter of right and the Senate has nothing to say about it. But if it belongs to the Senate, the Senate certainly needs some information by its being examined by a committee to determine whether it is a useless proceeding involving unnecessary expense or not. Here is a controversy at once, and between two most distinguished members of this body. The honorable Senator from Maine says this resolution will of necessity involve a very large amount of labor in the Department; the honorable Senator from Ohio says it will not. We want a committee just to consider that point, to make a little inquiry to see whether it does or does not involve that, because we have not thought on the question. The resolution is sprung upon us here in a moment, and it is insisted by the honorable Senator from Kentucky that as a matter of right a Senator is entitled to have his resolution passed.

Mr. DAVIS. I have not taken that position at all.

Mr. DOOLITTLE. The Senator's position is that it should not be referred.

Mr. DAVIS. I have said this: that it is right and would be more just to a member of the Senate that his resolution and the propriety of his call should be considered by the Senate itself rather than by any committee.

Mr. DOOLITTLE. Of course it must be considered by the Senate if the Senate are to vote upon it, or be passed without any consideration. If it is to be considered it had better be considered by a committee and all the facts in relation to it ascertained. As for any advantage that can be obtained in a political way by refusing to pass a resolution of inquiry I believe the party that should refuse it, unless there were some good reasons for refusing it, would be the party to suffer. I have no fear that any members of the majority in this body would dare to refuse a call for any proper information which I as a Senator or any other Senator should desire to obtain. For political considerations they would not dare to undertake to cover up anything which was hidden in the Departments; and no committee when they come to act would be controlled by any such considerations. The effect of such a course would be against the party that should dare to object to information; but the committee would look into the question simply in reference to other matters, as for example, whether the information was not already published. How do we know? Because one Senator assumes to introduce a resolution to call for certain information are we to presume that the information is not already published in some other document? Let the committee look into that, and see how the fact is for the purpose of saving trouble to the Department and expense to the Government. It was with that view that my suggestion was made that all these resolutions of inquiry had better go to some committee. The committee must report either for or against a resolution referred to them, and when they bring in their report either for it or against it, if there is any political advantage that is sought by either party seeking to cover up any transaction it can be tested then just as well on the report of the committee as to be tested in the open Senate on the first introduction of the resolution. I do not fear being strangled by a majority of this body if they choose in committee to report against any information that I desire to obtain. I think if they undertook it they would be the sufferers.

Mr. CHANDLER. I move to postpone the present and all prior orders for the purpose of proceeding to the consideration of Senate joint resolution No. 69.

Mr. HENDERSON. I hope the Senator will allow my resolution to go to the committee. I do not object to the reference suggested by the Senator from Maine, but there is certain information that I desire to obtain.

Mr. FESSENDEN. If the Senator from Missouri moves the reference of his resolution, I suppose no one will object to its going to the committee.

Mr. CHANDLER. Very well, I waive my motion for the present.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Missouri to refer the resolution submitted by him to the Committee on Finance.

Mr. NYE. I wish to know whether the reference of this resolution to the Committee on Finance is to be taken as a precedent, which is to be followed in other cases of resolutions making inquiries of the heads of the Departments? ["No."] If it is I object.

The PRESIDENT *pro tempore*. This motion determines nothing except the disposition of this resolution.

Mr. HENDERSON. I hope it will be referred and that that course will not be considered as a precedent in any other case.

The PRESIDENT *pro tempore*. All these resolutions are under the control of the Senate and will be, whatever is done with this.

The motion to refer was agreed to.

GREAT BRITAIN AND ABYSSINIA.

Mr. CHANDLER. I renew my motion.

The motion was agreed to; and the joint resolution (S. R. No. 69) to preserve neutrality between the Government of Great Britain and the King of Abyssinia was read the second time, and considered as in Committee of the Whole.

Mr. CHANDLER. Mr. President, when I offered this resolution the other day I hoped there would be no objection to it and I made no remarks upon it. As I have stated, it is almost an exact copy of the proclamation of neutrality issued on the 14th day of May, 1861, by the Government of Great Britain as between the United States and certain rebels against the Government of the United States. There is but one change made in the resolution as offered by me from the original proclamation of neutrality as issued by Great Britain on the 14th day of May, 1861; and that was, as I stated, to change the name of "the Government of the United States of America" to that of "the Government of Great Britain," and to change the name of "the so-called Confederate States" to "King of Abyssinia." I then in the last sentence of the resolution condense what takes several paragraphs of closely printed matter in the British proclamation of neutrality, into a single sentence. This being all the change made from the British proclamation in the resolution as offered by me, I could see no reason why the resolution should not have been passed promptly and unanimously at that time.

This is a resolution of reciprocity, reciprocating to the Government of Great Britain the courtesy extended to us in 1861. It may perhaps be called retaliatory—retaliating, if you please, if that word is preferred to reciprocating, the same treatment upon the Government of Great Britain that she volunteered to us in our time of trouble. Some gentlemen upon this floor and some members of the press have called this a very good joke. Mr. President, it is the furthest possible remove from a joke; or if it be a joke, it is the most serious and the most practical ever perpetrated on earth, save one, and that was the original issuing of the proclamation of neutrality in 1861 by the Government of Great Britain. That, sir, was a more serious and a more practical joke, if this be a joke, than this; and that joke, if it were such, cost this nation two hundred thousand lives and $2,000,000,000 in money, for no man pretends that the rebellion would ever have taken head but for the proclamation of neutrality issued by the Government of Great Britain on the 14th day of May, 1861. But for that proclamation of neutrality the rebellion would have been put down in less than twelve months. And when I state the number of lives that that joke cost and the number of thousands of millions of dollars that it cost I put it inside the mark, for it was more than two hundred thousand lives and more than two thousand million dollars that that practical joke cost the Government of the United States.

More than that, sir; that proclamation placed upon the water and the land a flag that had never existed upon the water or upon the land until that proclamation was issued. That proclamation recognized a flag that had neither land nor water to float upon. The rebel States were in precisely the same situation that the Devil was when he took our Saviour up into a high mountain, showed him all the kingdoms of the earth, and promised to give them to him if he would fall down and worship him. Why, sir, the Devil did not own enough to bury him on; neither did the rebel confederacy. Every foot of land and water within their limits belonged to the United States, and when Great Britain, by that proclamation, called the rebel flag into existence, it committed an act of hostility against this Government that has never been paid, never been wiped out, never been retaliated for, and never can be, as my friend [Mr. NYE] suggests.

Mr. President, what was the situation of the United States when that proclamation was issued by the Government of Great Britain? We had been at peace with all the world for a long series of years; we had been at peace with Great Britain for nearly half a century. Our intercourse with Great Britain had been of the most friendly and intimate kind. We were her best customers; the commerce between Great Britain and the United States was greater than that between Great Britain and any other nation on earth. The old irritation had been forgotten, and we looked upon Great Britain with a friendly eye, as our maternal ancestor, if you please to call her so, our mother. Why should Great Britain thus volunteer to recognize rebels who neither owned a foot of land or water on earth? Sir, the wish was father to the thought that this Government was or would be destroyed. The rebels at that time had achieved no victories. They had bombarded, it is true, a fort garrisoned by some seventy or eighty soldiers, but they had no armies in the field, no fleets on the ocean, no powers as a nation. They were simply rebels against a friendly Government when Great Britain issued the proclamation that cost us two hundred thousand lives, $2,000,000,000, and a thousand ships, and which reduced us from the second commercial Power on earth to the fourth or fifth. I do not mean to say that these British pirates actually destroyed a thousand ships, but I have a list of the vessels that were either captured and taken from us or burned and those that changed their flags, and they amount, I think, to one thousand and seventy; it is over a thousand ships that we lost in consequence of that proclamation of neutrality.

There are some strong points of resemblance between the two cases to which I allude, to wit, the condition of the United States and the rebel States, and of Great Britain and the king of Abyssinia, to which I shall call the attention of the Senate ere long.

My course upon this proclamation and its results has been at least consistent from the first. In 1862 I proclaimed on every stump that I had occasion to speak from that every dollar of property destroyed by English pirates under the rebel flag should be paid for, satisfactorily settled, or retaliated for. On the 14th of December, 1864, I offered a resolution in this body directing the Secretary of State to make out a bill for every ship destroyed by these British pirates, with interest upon the amount from the date of destruction to the date of presentation of the bill, and asked the

Senate to pass it. I have before alluded to that resolution. My judgment then was, and is now, that had that resolution passed both Houses of Congress unanimously that bill would have been paid within six months. Then we were not a Power to be trifled with. We then had over six hundred ships of war in commission and fifty-four thousand sailors on board of them. Those ships were armed, provisioned, and manned, and we could have assembled the largest fleet that the world ever saw in twenty days. But, sir, that resolution I believe went to the Committee on Foreign Relations and was never heard from after.

During the year 1865 the rebellion was brought to a close; our armies were disbanded; our ships were put out of commission, and we then were not prepared to demand at the cannon's mouth a settlement of these claims; and in the winter of 1865 I offered a resolution in this body declaring non-intercourse until those claims should be paid. I believed then, and I believe now, that had that resolution of non-intercourse been passed our "Alabama" claims would have been paid within six months from its passage; but, sir, it was not.

In the winter of 1866 I again moved that our neutrality laws be so changed as to conform to the British construction of their neutrality laws. Sir, had we abolished all of our neutrality laws I believe that then those claims would have been paid. When I first offered that resolution I was anxious for the payment of the claims. We were then expending a thousand million dollars a year or more, and forty or fifty millions was a matter to us of some consequence, and I desired to replenish our Treasury. Had Great Britain come up and promptly paid those claims and apologized to the Government for the wrong she had done us I might, perhaps, have been willing to lay aside other considerations and other damages; but, sir, she did not meet us in a friendly or conciliatory spirit. She refused to recognize our claims; she would not consider them even; she threw them out of court. And now, sir, the day has gone by when I desire to hear the Alabama claims ever again alluded to. What I was then willing to accept I would to-day utterly repudiate.

Sir, the Alabama claims were but a small moiety of the damage done to us by her proclamation of neutrality. Every ship that went to sea during those four years of war paid ten per cent. for a war risk. There was an item in dollars and cents, and a large one, that should have been added to the Alabama claims. In addition to that are the $2,000,000,000 that that proclamation cost us, the thousand ships that it cost us, and the two hundred thousand lives. Great Britain can never restore those two hundred thousand lives, but she can pay the $2,000,000,000, and she can pay the Alabama claims, and she can pay all other losses. Those claims are all added up in one round sum, $2,000,000,000 in all, and they are to-day a first mortgage on every acre of land that Great Britain owns on this continent or the adjacent islands, and they are good security. I am not only satisfied with the claim but I am satisfied with the security. We are informed that the Secretary of State has bought one or two little islands down somewhere in the Gulf of Mexico. I give notice that I will never vote one single dollar to pay for another acre of land until that mortgage has been foreclosed, until we have taken possession of the property and see whether we want any more. The claim is a good one and the security is good for the whole amount. It is good for the $2,000,000,000; it is good for the thousand ships; it is good for the Alabama claims; and it is good for all claims that we have against them. And, sir, when we have shut Great Britain off from this continent and the adjacent islands it will satisfy the national honor as well.

The national honor is not satisfied with dollars and cents. We have been wounded in a way that dollars and cents will never satisfy; but when we own this continent, or at least the portion of it that Great Britain now holds, when we have foreclosed that mortgage and taken possession and own the whole, our national honor as well as our national claims will all be satisfied; and I now give notice that the Alabama claims will never again be alluded to by me until the time arrives to foreclose that mortgage; then, sir, you will find me ready.

But, sir, this question of neutrality has nothing at all to do with the Alabama claims. I said there were some strong points of resemblance between these two cases. As I explained at first, this resolution is identical with the proclamation; they are both the same. If this is not good statesmanship, then it is because Great Britain has set us a bad example; the statesmanship is hers, not ours; I simply propose that we shall follow her pattern.

The Bible teaches us, "whosoever shall smite thee on thy right cheek, turn to him the other also." That, so far as individuals are concerned, if they have arrived at a high state of Christian perfection, is undoubtedly a good Christian rule; but nations have no souls, and nations must be punished on this earth for national sins. Therefore the divine injunction does not apply to nations. There is no hereafter for a nation. Hence from the earliest ages down to the present time national sins have been visited by national judgments. God has from time to time used nations to punish other wicked nations; but where the instrument used was itself a criminal the crime was punished, although the agent may have been for the time being the agent of the Almighty. We had our national sins, and we have suffered a terrible national punishment. God, in His infinite mercy and goodness and judgment, used Great Britain to punish us with; but does that exempt Great Britain from punishment for her sins? Sir, she must be punished for her national sins as we have been punished for our national sins.

As I said a moment ago, the contest between Great Britain and Abyssinia and the contest between the Government of the United States and the rebels have several points of similarity. The so-called rebel States lay adjacent to the route of the commerce of the United States. Abyssinia lies right on the great highway of the English commerce with the East. England almost controls the commerce of the China seas and the Indian ocean. The Government of Abyssinia lies right on the route of English commerce. The rebels had no flag on land or water, nor did they own any land or water. The kingdom of Abyssinia was an old kingdom when England was first recognized as a Government. Abyssinia has had a flag for thousands of years, but for the last few years she has had no flag upon the water. Pass this resolution, sir, and you put the Abyssinian flag upon the ocean as Great Britain put the rebel flag upon the ocean. They do not need that their flag should be recognized on land. It is already a recognized flag, and has been, as I said before, for thousands of years.

Then, again, there is another reason why we should exercise perfect neutrality in the contest between these Powers. It seems that this is simply a matter of court etiquette. There have been some love passages, it seems, between the king of Abyssinia and the queen of Great Britain. In God's name, what have we to do with the loves and amours of kings and princes? The king of Abyssinia considers that his proposition was not treated with proper respect. I do not know anything about that and am not disposed to interfere. The king of Abyssinia claims to be a lineal descendant of King Solomon, and that his kingdom has existed from the days of Solomon. Whether he conferred honor upon the little island of Great Britain by proffering his hand to the queen of Great Britain I am not prepared to say. I am not prepared to decide that question. I think that perfect neutrality should be exercised by this Government in a case of that kind. Let kings and princes and queens settle their little love affairs in their own way, and let us exercise perfect neutrality.

Again, sir, as I said before, by recognizing the flag of the rebels England created them into a maritime power, and every single ship that appeared under the rebel flag was an English ship, manned by English sailors, armed with English guns, provisioned with English provisions, and sailing from a British port. In the four years that the rebellion lasted they did us a vast amount of injury. Now, sir, if we should pass this resolution we recognize a flag that has been recognized on land for thousands of years and we create a maritime power on the ocean that did not exist before.

Sir, we have precedent for this. It is not more than three years since the present Secretary of State sent to me as chairman of the Committee on Commerce and desired that the Congress should pass a resolution recognizing the Swiss flag upon the ocean. Said I, "How can Switzerland launch her flag upon the ocean? She has no seaport." "That is true," said Mr. Seward, "but she has a flag upon the land and is entitled to a flag upon the ocean if she can launch it, and it would be an act of friendly courtesy between two republics that that flag should be recognized by the United States, although the Swiss republic has no seaport." Sir, the passage of this resolution would be an act of friendly courtesy to a Power with which we, if we have any relations, are upon friendly relations.

During the prevalence of the rebellion American chronometers became so cheap in the British market that there was absolutely no sale for them at all. They were offered for ten cents on the dollar of the cost, and found no purchasers. Here permit me to say that I am told the king of Abyssinia is a very enterprising gentleman; that he has already an agent on his way to this country with commissions, and that there are ample funds ready here now to put afloat a fleet that will, perhaps, be advantageous to the king of Abyssinia—a matter with which we have nothing to do, as a matter of course; but, sir, I shall be most happy to welcome the Abyssinian flag, and I will exercise absolute neutrality between the belligerents. If an Abyssinian man-of-war were to chase a British ship-of-war into one of our ports I would bring her to under the guns of our fort, and if she attempted to raise an anchor or to get up steam until that British ship-of-war had had twenty-four hours to get away I would sink her; I would do just what Great Britain did to us. Whenever a ship-of-war of ours chased a rebel steamer into a British port anywhere on earth they brought the American ship-of-war to, under the guns of their forts, and they would not permit her to leave that port until the rebel cruiser had had twenty-four hours within which to get away. I would serve the Abyssinians in the same way. If they attempted to get up steam, or even to lift their anchor, I would sink the Abyssinian ship-of-war that was chasing a British ship; and I would do the same on the other side. I would observe perfect neutrality. I am in favor of giving Great Britain a dose of her own medicine, and not a homeopathic one, either. [Laughter.]

Now, sir, why should we not pass the resolution? Why should we not give Great Britain her own proclamation of neutrality? Why should we not let her realize what our sufferings were? If she has any claims it does not affect our mortgage on the British possessions; she must settle with the king of Abyssinia. If Abyssinian war ships should do as the rebel cruisers did, illuminate old ocean from the North to the South pole and from the Chinese sea to the Gulf of Mexico and throughout all the Pacific ocean with British commerce, it is no concern of ours; Great Britain must settle with the king of Abyssinia, not with us; we have nothing to do with it.

Why, Mr. President, three months after the last rebel army surrendered more than thirty of our whaling ships were burned in sight of the Arctic ocean. When that British ship returned to Great Britain they brought her to under the guns of Liverpool, and they sent a

British officer on board to inquire who the men were who had thus in violation of the laws of war and after the war had ended been committing depredations upon our commerce. Well, sir, there was not a single British subject among them all. So we are informed by the British officer who went on board. They asked one man where he was from, and he said, "be jabers he was a Spaniard," [laughter,] and they let him go. They asked another man where he was from, and he said he was a Dutchman; and so they went around, and there was not a British subject there! Not one was ever brought to punishment. Well, sir, if the king of Abyssinia should happen to enlist any seamen in any of our ports it would be a violation of neutrality, you know, but we have an example set by Great Britain which I trust would be literally and strictly followed, and that perfect neutrality would be exercised by this Government during the continuance of the war. I have no doubt that if you will pass this resolution we shall have the pleasure of welcoming from ten to fifty Abyssinian ships of war within one hundred days from the passage of the resolution, and I have not the slightest doubt that foreign chronometers will be as cheap in our markets in six months as American chronometers were in Great Britain in 1863 and 1864. I hope, sir, that the resolution will pass.

Mr. ANTHONY. I confess, Mr. President, that I fell into the prevalent error of supposing that the resolution of the Senator from Michigan was intended as a grave jest: but the speech in which he has enforced it, and his reference to previous propositions introduced by him of graver expression if not of more serious purpose, leave no doubt that he is quite in earnest in the deductions which he drew of our relations with Great Britain. I agree with the Senator from Michigan that great wrongs have been suffered by us at the hands of the English Government. The facts do not permit us to doubt that if the governing class of England did not desire the destruction of the nation which was the great ally of their own in civilization and its great competitor in commerce they were at least indifferent to it. This desire, however ungenerous, was not unnatural. For half a century the power of the United States, their marvelous growth and prosperity, their unprecedented development of natural resources, their advancement in manufactures and the mechanic arts, and their tonnage, already rivaling that of Great Britain, had been a standing menace to aristocratic institutions; and it is not to be denied that, under successive Democratic Administrations, our Government had sometimes manifested more of the insolence of assured power than of its calm and conscious dignity; and that by the hasty retraction of great pretensions against a strong Power, as in the Oregon case, and by the stringent enforcement of very doubtful claims against a weak Power, as in the Mexican case, it had created a damaging impression of the insincerity and aggressiveness of its foreign policy; although it is equally true that in this respect England was not the Power to cast the first stone at us. I can concede enough to the natural selfishness of human nature to excuse an English duke for desiring the destruction of the Government that continually told to the world how much greater comfort and prosperity to the masses of the people could be secured under republican than under aristocratic institutions. But there is no excuse for the manner in which the English Government enforced its unfriendly feeling toward us. There is no excuse for the manner in which it falsified its traditional policy against slavery, and allied itself in sympathy with a rebellion that was undertaken in the interest of slavery and prosecuted for the perpetuity and enlargement of the system of human bondage. There is no excuse for the conduct of England in reversing her own judicial decisions, and in forcing upon us an interpretation of national law which she had refused to accept from others, and which her greatest jurists had solemnly repudiated, when it was attempted to be applied to her. The Senator from Michigan cannot feel more than I do the wrong and injustice that England has thus practiced upon us. But I differ altogether from him as to the mode of redress. I can see only evil in violent or in irritating measures. A formal declaration of non-intercourse with England or the repeal of our neutrality laws, both of which he has proposed and advocated with his customary power and earnestness, would be the first step toward war. The irritation, the mutual aggressions that would follow such acts, would inevitably lead to hostilities. Perhaps my friend from Michigan would not object even to proceeding to that extremity. The financial distress, the injury to our trade and industry which would follow a declaration of war would be greater, even before a gun had been fired, than the sum of all the claims that we have upon England, while the mutual destruction of war itself would sweep the commerce of both nations from the ocean, and impose upon both countries taxation whose annual burden would be greater than the total demand that we now make. These considerations, great as they would be, are not, of course, to be weighed in the scale with the national honor, but I do not conceive that the national honor demands any such violent measures.

No, sir; I am for a different kind of war. In one of the attempts to negotiate a peace with Mexico, after the conquest of our arms, it was proposed that any future war which might unhappily break out between the two countries should be conducted on Christian principles. Some study of the Scriptures, imperfect and insufficient, I admit, has not enabled me to discover the mode of carrying on flagrant hostilities, on both sides, upon Christian principles. But I think that we can best prosecute our claims upon England by such a warfare. Let us punish her as God punishes. Let the legitimate consequences of her own acts be the penalty which she pays for the great wrong that she has inflicted upon us. The new principles of national law upon which she has insisted were for her advantage and for our disadvantage at the time, but in the future, in the complications which must arise, in the hostilities that are sure to break out, will "return to plague the inventors." They will lighten up the ocean with her blazing commerce, and will throw the carrying trade into our hands, as they have once thrown it into hers, by the acts of piratical cruisers, fitted out in her ports, built with her capital, manned with her seamen, armed with her munitions, and escaped by the easy connivance of her officials.

This will be a result flowing naturally and inevitably from her own interpretation of national law, for which we are in no way responsible, but which we protested against and which she forced upon us. She has fixed the legislation that is necessary to carry out neutral obligations, and has measured the vigilance which a belligerent may demand of a neutral Power. We have been compelled to accept these when they were designed for our destruction; we shall have the right to claim them when they will be for our advantage. The triumph of the American arms over the rebellion, the restoration of the Union, the ability to sustain the burden of the debt incurred in the war, were elements not taken into consideration when the aristocracy of England forced the Government into the concession of belligerent rights to the rebels, and to the practical repudiation of neutral obligations to us.

Their purpose was to prove by our destruction the instability and insecurity of republican institutions. Let it be our great revenge to show that they are stronger than aristocratic institutions; that a Government which rests on the broad basis of the popular will is not only more beneficial in its results but more certain of its continuance than a Government that is poised upon a dynasty. History has few sublimer spectacles than that of a great people long devoted to the pursuits of peace, and it was apprehended somewhat enervated by them, suddenly springing to arms in defense of their nationality; turning to the uses of war all the arts and all the resources of peace; and then when the object of the war was accomplished subsiding at once into the avocations which they had left, changing their armories into machine-shops, their transports and war ships into vessels of commerce; their armies melting into the mass of the community, filling the workshops, cultivating the fields, and engaging with their old steadiness in the multifarious pursuits of trade and of productive industry. It was predicted that with the victorious close of the war a spirit of restlessness would arise, an impatience of peaceful industry and an eagerness for military enterprises, which, if no legitimate outlet were furnished for it, would break out in filibustering expeditions and aggressions upon feeble States.

How all these predictions have been falsified! How nobly has the American soldier returned to the character of the American citizen, and how readily will he again assume the character of the soldier when his country calls him to arms. In this assurance is our great defense. We know that we have all the elements of a great military organization slumbering in the workshops, in the fields, and in all the forms of peaceful industry, and that they will arouse at the tap of the drum. We know that we have the resources to put it in the field, and to maintain it there. No Power wishes to attack us now. No Power that has injured us, when our strength had not been fully vindicated, but regrets it, although she may not be willing to confess it.

I have intimated the way in which I think we should retaliate upon England. Let us do it here at home. We have already shown that we are so strong that we cannot be conquered; let us show that we are as strong in the arts of peace as we are in the arts of war. Let us make the country so desirable to live in, so rich in the rewards of industry, so attractive to foreign capital and foreign labor, that they will seek investment and employment in the development of our unparalleled natural resources, and will add daily to our greatness and our strength. Let us transfer to Lowell and Providence and Pittsburg the workshops and factories which are now manufacturing and fabricating for us in Manchester and Glasgow and Birmingham; let us furnish from our own prairies the food which the men engaged in these labors consume; let us put into our own Treasury the taxes which they pay; let us add to our national wealth the earnings which they accumulate; let us hold up to the world the example of a great, a prosperous, and a magnanimous people, accomplishing in a century, under free institutions, more than any monarchy has effected in all its life; let us by the economical management of our finances and by the gradual extinction of the public indebtedness lighten the burdens of taxation and make the Government again the cheapest, as it always has been the best, on the face of the earth.

This, Mr. President, is the way in which I would make war upon England. This is a mode of war which enriches instead of devastating, which builds up instead of tearing down, which makes no orphans and no widows. It is a war upon Christian principles, a war upon the principles of common sense, of true political economy, of civilization and humanity—a war which leaves us nothing to regret, nothing to mourn over, nothing to pay for.

But I would go even further than this in the direction opposite to that indicated by the Senator from Michigan. I regard the present as an auspicious time for introducing into the recognized national law those ameliorating principles for which the United States have long contended; which will deprive war of much of its barbarism and remove it from piracy on the ocean as it has been removed from brigandage on the land.

The congress of Paris in 1856 agreed to abolish privateering; but as this was one of the acknowledged rights of war the abolition applied only to those who were parties to the congress, or who should otherwise accede to

it. This modification of the law of nations left private property on the ocean still exposed to capture by vessels of war, and the manifest result of our accession to it would have been to place us at disadvantage with the great naval Powers; for then our Navy was small, and our reliance in case of war was largely upon private armed vessels. It would have been a surrender of the mode of naval warfare in which we were strongest, while that in which the other Powers were strongest remained against us. It would be very little satisfaction to an American merchant that his ship was burnt by a public vessel of war rather than by a private one. The United States had already opened negotiations with several Powers for important ameliorations of the laws of naval warfare; and the Paris congress bound the adhering parties to make no treaties with other Powers for any partial accession to the propositions. All the propositions must be taken or none. The effect was to cut off the United States from the whole or to drive us to the abandonment of the only mode of warfare which placed us on an equality with the other great Powers. Mr. Marcy in a dispatch of great force and clearness defined the position of the United States. They would not surrender the "militia of the seas" unless the other Powers would concede the freedom of the seas. We were ready to take the broad and magnanimous ground that private property should enjoy the same immunity on the water as on the land, that seizure by public and by private vessels, except of articles contraband of war, should be alike surrendered. This great advance in civilization was rejected. The parties to the Paris congress invited us to surrender our means of annoying their commerce while they retained all their means of annoying ours, and unless we would agree to this they declined any stipulations with us on the subject.

Subsequently, after the rebellion broke out, Mr. Seward signified his inclination to accept the propositions, unfavorable as they were to us, relying upon the general progress of the nations in the direction of the American doctrines upon naval warfare, and judging that the present disadvantage in which we would be placed in regard to foreign Powers would be compensated by the safety of our commerce from rebel cruisers. But the other Powers declined our accession to their own propositions, unless we excepted the rebel States, whose belligerent rights they had acknowledged. They maintained in these States consuls whose *exequaturs* came from Washington. They refused to receive from these States ministers who waited in the ante-chambers of the principal courts of Europe, but they would not admit our right to bind the rebel States by new treaties.

Of course the negotiation fell through. And now the time has come when we are as strong upon the sea as upon the land, when we can protect our commerce, and can carry destruction to the commerce of our enemies with or without privateering; when we are equal under any uniform system of maritime law to any emergency which we may be called to meet. Now the other Powers are naturally disposed to receive with greater respect our suggestions, and now we are less under the necessity of providing by law for the security which we can enforce by arms. And now is the time for us to resume the broad and magnanimous ground that we stood upon before we had developed our naval power; now is the time for us, in the interests of commerce, of international intercourse, and of civilization, to urge the amelioration of maritime warfare to the full extent that we proposed when, from the greater proportion of our commercial interests to our naval strength, we required them more than we do now.

It would be a wonderful illustration of the providence that brings good out of evil if among the compensations of the terrible conflict through which we have passed it should come that the peaceful commerce of the nations should be relieved from the barbarous system that has come down to us, and the freedom of the seas be secured to the whole world.

Mr. JOHNSON. Mr. President, I cannot see what possible good the United States by the adoption of this resolution will bring about. All that it declares is that the Abyssinians will be treated as a belligerent in the war now going on as between Abyssinia and England. The effect of such a declaration may be to cause England trouble, but I suppose if she is to be injured at all by it it will only be by the inducement which the resolution will hold out to some of our own people to enter into the service of Abyssinia upon the ocean and prey upon the commerce of England under the flag of Abyssinia. What possible advantage is to result to the United States from that I am at a loss to perceive. It may, on the contrary, result seriously to our disadvantage. If our citizens who may engage in such enterprises should be captured and should be treated as England might think proper to treat them, the consequence might in the end be that we should be involved in a war with England. Mr. President, I cannot imagine any greater calamity that can fall upon the cause of freedom and upon the material interests of the two countries than a war between that Government and our own.

I say this in no belief that we should not emerge from that war with honor; but we should have added to our public debt in all probability an enormous amount; and we have now one which puzzles the statesmen of the day to know by what means it is to be met. It presents the question of the day; and, if my friend from Michigan will pardon me for saying so, it is one to which he should bring his undivided attention. It is much more important to the interests and the honor of the United States than anything that can occur by any resolution that may be passed having reference to the difficulties existing between Abyssinia and England.

But besides the calamity of increased debt, and the calamity of having our own commerce, in the event of a war between England and ourselves, suffer upon the ocean, as it would surely do, I think that the cause of human liberty would be very much damaged. We have it here at heart, and we think that our institutions are the best for its protection and for its perpetuity; but no one who has read English history I think can fail to come to the conclusion that all the great principles upon which human freedom stand, social and individual, are there to be found. That she has committed faults is undoubtedly true, because her Government has been administered by humanity; but that all the individual rights, as far as they can be protected by a system of enlightened jurisprudence, are there protected, and that every political right necessary to the enjoyment of actual liberty is there to be found in a measure, though not to the extent to which they are enjoyed here, I suppose every student of her history will admit.

There is another thing that has always made me exceedingly sensitive upon any proposition which may involve us in a serious controversy with that kingdom. We are of the same race, speaking the same language, students of the same history, inheriting the same renown, and stand now as lights before the world for its illumination in all the great doctrines of political freedom.

Her management of Ireland is subject, as I think, to very serious objection. In my judgment, not now for the first time formed, but formed long since, it principally grows out of the establishment of her church and insisting upon its being supported by the Catholics of Ireland. The calamities brought upon that country years and centuries ago I believe would have been forgotten if a different policy in relation to her church establishment had been adopted and a kind and conciliatory policy in all other respects had taken the place of what appeared to be a harsh and rigid policy. So much upon the general question.

Now, Mr. President, I think with the honorable member from Michigan and with, as I think, almost every intelligent man in the United States, without calling in question the right which England had on the 14th of May, 1861, to acknowledge belligerent rights to the confederates, that in doing it she committed a gross error; she took a step unkind toward the United States and suicidal almost to herself if she had, as it was supposed, accomplished the purpose of bringing about a separation of our own country into two or more confederacies. I think, also, that she has violated the neutrality which, notwithstanding her acknowledgment of belligerent rights, she owed to the Government of the United States and to the confederates, in permitting the cruisers who subsequently sailed under the flag of the confederates to leave her ports under the circumstances in which they did leave them, and to prey upon our commerce. In relation to the particular outrages committed by one of them, the Alabama, it is, as I think, perfectly evident, and can be demonstrated by the correspondence, that England had knowledge sufficient to authorize and to demand upon her part the exercise of all her vigilance and her power in time to prevent the Alabama from getting out of the port and going to the ocean. The secretary for foreign affairs at that time who, by his descent, ought to have been the friend of the United States—I mean the present Earl Russell—apparently—I say apparently because I can hardly believe that he really designed it—apparently wished to interpose all the delays that he could before he interfered, so as to increase the ability of the cruiser to leave the waters of England. Without acting himself upon the evidence before him, which was not only persuasive but conclusive, that she was about to be used for the purpose of preying upon our commerce, he referred the questions to the legal officers of the Government, and they were either not in London or they took the delay which enabled the vessel to leave the port of Liverpool.

In my opinion, therefore, nothing is more clear than that England owes it not only to us but to her own honor to pay every dollar of the losses which American citizens sustained in consequence of the cruise of that vessel. The honorable member of course knows, as we all know, that those claims are now the subject of negotiation between our Government and the Government of England. It has been proposed to refer them to arbitration. In my judgment they should be adjusted in that way if the parties cannot themselves agree. But now an additional obstacle is interposed. We insist—it is not for me to say whether wisely or not, nor am I prepared to say—we insist that the proposition to refer these claims should be coupled with a proposition to refer the question whether England had a right on the 14th of May, 1861, to acknowledge the confederates as belligerents and to accord to them belligerent rights. The Senate will at once see, and I think the country will see, that whether she did or did not act properly in acknowledging such belligerent rights is a question which in no manner affects our right to demand of her the payment of all the damages suffered by our citizens by the cruise of the Alabama.

But if the two things are to be considered as connected, and our Government (meaning now by the "Government" the executive department of the Government) seem so to think, then I submit to the honorable member from Michigan whether he is not affecting injuriously the claim. He proposes to acknowledge now belligerent rights to Abyssinia. He proposes, therefore, to use his own language, that we shall "retaliate" upon Great Britain in that particular. If the admission of belligerent rights is proper and the existence of belligerent rights in the confederacy authorized England to suffer the Alabama to leave her ports then there will be no foundation for the claim against England for the losses occasioned by her career.

A word more and I shall have done. Now, between the two nations, with the single excep-

tion of which I have just spoken, the most friendly relations exist upon the part of the Governments as well as of the people. Whatever may have been the feeling at the first or the second war in the past, it is now certain that they are willing, and not only willing but solicitous, to avoid any real cause of conflict. I submit, under these circumstances, to my friend from Michigan, whether it is politic to adopt a resolution which may be understood as indicating a feeling on the part of the legislative department of the Government hostile to the Government of England; not hostile because of the claims which we make for the wrongs done us in the case of the Alabama, but hostile upon general principles; whether it will not show that we mean to retaliate when she apparently regrets that she ever gave cause for such retaliation. Peace between the two nations is the interest of both. Peace between the two is the interest of humanity. Peace between the two is in the interest of constitutional freedom; and for one I never will cast a vote which the honor of my country may not render absolutely necessary which shall be calculated in any way to endanger its continuance.

Mr. CHANDLER. Mr. President, the Senator says truly that both nations speak the same language and are of similar origin. This would have been a good argument to use to Great Britain on the 14th day of May, 1861, though perhaps as the Senator from California [Mr. CONNESS] suggests she ought to have remembered that fact at that time; but, sir, the British Government did not remember that fact, and they went on and committed this act of hostility. Now the Senator from Maryland says that they are prepared to settle our claims, and that they are sorry for the wrongs they have done us. I have yet to see the first symptoms of sorrow on the part of Great Britain. When we proposed to refer these claims to some friendly Power they rejected the proposition with scorn; they said they would not refer them, and threw us out of court. Now, with retaliation hanging over their head and the probability that in this, their first war, other nations may recognize belligerent rights on the part of their antagonists, they are willing to refer.

Mr. President, nations neither give nor receive credit for magnanimity. Great Britain has been a bullying Power for the last one hundred years; she has bullied all weak Powers and humbly submitted to all strong Powers. She is ready to call the king of Abyssinia to account; she will be slow to call the United States to account.

The Senator says this may lead to war. Why did it not lead to a war when the process was originated by Great Britain? Why did we not declare war if this be a cause of war? If it is a cause of war now it was a cause of war then, and it is too late for her to come in and consider this, her own act, a *casus belli*.

Sir, I have heard Englishmen make this remark, "You dare not punish a traitor nor dare you resent an insult." Perhaps, Mr. President, that may be true, but I hope it is not. God knows we have been insulted enough for the last six years without having that taunt thrown into our teeth. We have not punished a traitor, and perhaps we dare not resent a national insult; but if such be the case God save the nation.

Mr. SUMNER. Mr. President, it seems to me that this discussion is somewhat premature. The subject which has been so gravely discussed, especially by my friend from Maryland, has already been referred to Congress by the President of the United States in his annual message. There is a weighty passage there to which sufficient attention was hardly given when the message was read. It is as follows:

"No arrangement has as yet been reached for the settlement of our claims for British depredations upon the commerce of the United States. I have felt it my duty to decline the proposition of arbitration made by her majesty's Government because it has hitherto been accompanied by reservations and limitations incompatible with the rights, interests, and honor of our country. It is not to be apprehended that Great Britain will persist in her refusal to satisfy these just and reasonable claims, which involve the sacred principle of non-intervention—a principle henceforth not more important to the United States than to all other commercial nations."

In this paragraph the whole subject of our claims on Great Britain, and also, I may say, of her claims upon us is opened for consideration. This has already been referred to the Committee on Foreign Relations of the Senate. In addition to this reference I may add that we have reason to expect every day a message from the President covering all the correspondence relating to these claims. Under these circumstances it seems that I do not express myself too strongly if I say that any discussion of the main question is entirely premature. For myself, I am not disposed to anticipate the conclusion of the committee, to go on in advance, even by way of reply, to the argument of my friend from Michigan, or by way of following what has been said so well by my friend from Maryland. It seems to me we had better, for the moment, wait. Let the committee consider the subject. It will be their duty. I have no doubt that in due time they will make a report. What it may be of course I cannot anticipate. The subject I will say, however, is one of the most important in its bearings on our foreign relations that has ever been presented to Congress, touching, as it does, a question between the United States and Great Britain, and concerning also important principles of the law of nations. It is for us to consider how we shall interpret this great law of nations that is binding, as it is, on ourselves and also on all other Powers. Mindful we must be that any conclusion which we shall reach will not be merely for ourselves, nor merely for an individual case, but will be the establishment of a principle that will pass into the law of mankind. Under such circumstances I say again I am not disposed to precipitate this discussion. I am not sorry that it has been opened as it has been to-day. The case has been presented. That is something. But I hope that the Senate for the present will not proceed any further, and, if no other Senator has any remarks to make, I will move that the Senate proceed to the consideration of executive business.

Mr. NYE. I have only a word to say before we take the course suggested by the Senator from Massachusetts. About four years ago a resolution embodying substantially what this resolution proposes now was referred to the Committee on Foreign Relations, and has been there ever since, and there it will be forever I have no doubt. Sir, this is a question in which the people of this nation feel a deep and an abiding interest, and I hope if this resolution takes that direction that the committee who have slumbered so long—for three or four long years—over a resolution embodying the same principle precisely, will awake to the interests of the country and give us a report. It is a long slumber for that resolution. The poor men who were a few years ago in wealth, but who are now reduced to poverty by the outrages committed on our commerce, are suffering for the necessaries of life. I confess that I have a great glory in the power of my country; but it seems to be utterly powerless when it is proposed to punish a traitor or to call a powerful foreign nation to an account for that which no other nation save themselves would have dared to do.

The honorable Senator from Maryland seems to think this is magnanimous. It is. It is a magnanimity that the people of this country do not feel quiet under. It is a magnanimity displayed, I believe, when the circumstances of the case do not demand it. Two years ago, in making a voyage from my home here, five or six captains of whale ships were on the vessel with me; and how were they sent home? Without a dollar in their pockets; sent by the proper officer from the Sandwich Islands to San Francisco; and through all that tropical region they had not one dollar with which to buy ice sufficient to cool the water they drank. Citizens of this great Republic, men who had dared the dangers of even the frozen ocean in order to bring you the means to increase your wealth and power and strength, men whose every pulsation beat high for the glory and perpetuity of their country, are to-day put aside by the promise that the whole question shall be referred to the Committee on Foreign Relations. Sir, in the name of these sufferers I bespeak at the hands of the noble and magnanimous chairman of that committee immediate action.

I do not think that a little lesson would be lost on England. I think there should be at any rate a slight sort of intimation from the legislative body of this nation that we look upon her efforts and the subterfuges to which she resorts to get rid of the payment of this debt at least with disfavor. I think it is due to the importance of this question that it should have early and earnest action from the proper sources. And if the President's message is true in that respect—and I have no doubt it is—the whole matter stands now where it did three years ago; and it stands now where it will stand five years from this time unless the power that moves this country takes hold of it itself. The correspondence on this subject—I have read it with some care—has been a very harmless amusement between the two countries. It has displayed great power and skill in presenting the case on the one side by our great statesman and diplomat, and fully matched on the side of the proper British officer in warding off the blow, and coming to no issue at all. Here we stand, after three years, with a despoiled commerce, with individual wrongs which can never be fully compensated; men who have been sacrificed and are now in their graves that can never be reached; and we are told, finally, by my ever ready friend on my left [Mr. SUMNER] that the Committee on Foreign Relations design at some time to make a report; but what it will be he does not know. These people desire to know what this report is going to be. They should have known before now what the report is to be. They should be made to know that the sentiment of this Congress to a man is in favor, if they reflect duly the will of their constituents, of demanding and receiving the amount that is due to the owners of our suffering shipping.

Mr. President, the Senator from Michigan told a startling truth when he said that a thousand sail of our commerce was lost. When I was last in the city of San Francisco I saw with my own eyes American ships, built in our own ports, sailing under the Dutch flag, because when in foreign ports they dared not come out with our own colors at the masthead. Sir, it is a humiliation that makes my very blood stand still, that our glorious old stars and stripes, upon our hulls built by American hands, should be lowered to the Dutch flag for fear of the aggressions of British piracy. I say "British piracy." Others may call it by a milder name, and if my friend [Mr. SUMNER] should characterize it in his most honeyed phrase he would mean the same thing that I do. I have never studied in the school of diplomacy that uses honeyed words in which daggers are concealed. Sir, it was piracy, and this nation demands that action should be taken. Whether the resolution of my friend from Michigan shall be adopted I care not; but I do care that this question shall have some kind of consideration, and that it shall receive the action of the Committee on Foreign Relations. The stars and stripes that these men have pulled down have heretofore had quite a significance. The stars by their brilliant light have illuminated every pathway of commerce in this nation and every other. They have periled every ocean and have sought out every channel of commerce. The stripes are slightly emblematical of the tribute our fathers paid to England when she undertook to impress our seamen. There was a joyous shout throughout the monarchical and

imperial world when the stars and stripes had to be lowered upon our own ships, but it was a sickening sensation to an American who loves his country and his flag.

I beg to suggest one idea to this committee, that the sooner they act upon this great question, as it is now all afloat again in the nation, and give direction by their combined talent and action—and no abler committee exists in this body—it will be hailed by those who have suffered as I have described as an omen of a better time and an omen of the reëstablishment of the power of our flag upon the sea. At this moment particularly, when we are struggling with the nations of the world to open new channels of commerce, when we stand three thousand miles nearer the Indies than any other Government from our geographical position, it is due to the energy of our ship-builders and navigators that they should have an intimation at least that our flag is to be respected where ever it goes, and that an insult to the flag will be resented by the power of the nation.

No nation on earth is more careful of her flag than is England, and the slightest insult to her flag makes every Englishman's hair stand on end. Sir, I honor that feeling of old England, and an insult to our flag is as great a wrong as is an insult to hers; and while we are in the struggle for the mastery of the commerce of the seas, it should be avowed by this Government that the flag shall be everywhere respected. and if necessary the law of retaliation, which the honorable Senator from Maryland will admit is one of the laws incident to war and recognized in the code of nations, shall be adopted. That is the doctrine I want to stand upon.

The suffering people to whom I have referred have endured their sad condition long enough. Not only have there been these injuries to individuals, but there has been open and defiant insult to our flag. England issued her proclamation of neutrality even before the rebellion knew that it was born itself, and at the same time gave birth to a flag that had no waters to float on, and gave a national character to ships that had no ports to resort to. This is a thing which has made a deep and lasting impression upon the American mind. I am for conquering them, as my friend from Rhode Island is, by peace, but I am for having them pay up to the starting point of this race in peace. I have not quite floated into that atmosphere of political millennium that my friend from Rhode Island has. I wish I could see things as he sees them; but, sir, I see in my vision the ocean yet illuminated by the lurid light of our despoiled merchantmen. Let England pay these damages and then I will start in the race of peace with her. Let her pay the men who have been despoiled of their property and make a national acknowledgment to an insulted and injured flag and then I will strike hands with England; then, as was said by one of her most eloquent men here the other night, let England and America strike hands in peace and they will be as resistless as two united Niagaras; let them come together in arms and the clash would be as destructive as it is beautiful to anticipate their influence in peace.

But, sir, a nation or a man never won favor of an opponent by crouching and sitting down under an injustice. While England would like right well to see that policy pursued now, because it would be good for her coffers, she would always despise the nation that did it. While England is bold, she is magnanimous too. While she struck at our flag and was glad to see it lowered because it was towering as high as hers in the commercial world she would forever despise her offspring if we submitted tamely to an insult; and I inherit so much of English feeling. I would not do her a wrong, nor shall she do us a wrong, so far as my action goes.

The honorable Senator from Maryland says we owe a great debt. So does she. She is no more able to go to war than we are, and she has no more desire for it. She has tested on two different occasions the prowess of American arms, and we had our quit-claim written in her best blood on the plains of Yorktown; and in the war of 1812 she received another lesson that taught her our power. God forbid that there should be any recurrence of it! But I insist upon it that this question should be settled, and settled now. The course of conduct this nation is to pursue should be marked out by this great and leading Committee on Foreign Relations. It will redound to their own glory and to the glory of this nation and to a wholesome settlement of the existing difficulty and the prevention of future difficulties.

Mr. HOWE. Mr. President, if I had not heard any argument upon this resolution I should not know what reason to assign for not voting for it. How the character of Great Britain, or its Government, or its conduct during the late rebellion is involved in the consideration of this resolution I do not understand; and yet somehow or other it is the burden of the debate which has thus far taken place upon it. Nothing up to this point of time has been said about the conduct of Abyssinia or of its Government. There are two Kingdoms or Powers referred to in the resolution, and what it proposes is in terms this, and no more than this: to declare "our determination to maintain a strict and impartial neutrality in the contest between the said contending parties," to wit, the Government of Great Britain and the king of Abyssinia, "granting to the flag of each belligerent the same rights, privileges, and immunities, both upon land and water."

If we do any less than just what this resolution proposes what then will be the just consequences? It is urged here that if we do grant the same rights, privileges, and immunities to both, it will be a cause of war on the part of Great Britain. Will it not be just as much a cause of war on the part of Abyssinia? And if we are necessarily involved in a war with one of these Powers for granting the same privileges to both shall not we necessarily be involved in war with both of them?

Nay, but, Mr. President, suppose we refuse to pass this resolution, and grant privileges to Abyssinia which we do not grant to Great Britain, I suppose everybody will agree that that would be a cause of war on the part of Great Britain. Suppose we grant privileges to Great Britain that we refuse to grant to Abyssinia is it any less cause for war on the part of Abyssinia? Well, but why should we offer a cause of war to one Power that we do not offer to the other? Manifestly for no reason in the world that I can conceive except that one may be stronger than the other.

Much has been said about the magnanimity which becomes this great Republic. That is not the sort of magnanimity that becomes any republic or any Power, to offer an insult or an injury to a weak Power that you would not to a strong one.

If it be true that this measure is adopted as a measure of retaliation upon Great Britain for any wrong that she has committed upon our rights heretofore, then I should hesitate about going for it. As a measure of retaliation I do not like it. Abyssinia is a kingdom—no doubt about that; everybody agrees to that—governed by a king. I believe they say he is a legitimate, lineal descendant; I do not know whether legitimate or not, but a lineal descendant from Solomon and Sheba. His country is a kingdom; but after all it is not exactly the kingdom that I should select for an ally if I were to undertake to practice retaliation upon Great Britain. It has a population I believe of about three millions, I have no doubt very worthy people; but the revenues of the kingdom are limited. What is to be said of its prowess I do not yet know. We shall know better before this war with Great Britain is concluded. But the revenues of the king, I think, are quite restricted. They say he only gets about $300 a year. He is undoubtedly a very worthy gentleman. It is said that he ekes out his salary asking by making umbrellas. That is becoming in a king who has not a revenue equal to his state. After all, I must repeat what I said before, that it is not exactly the Power I should seek for an ally in the "mill" which my friend from Michigan proposes to get up at the earliest practicable period with Great Britain. So that if this be really a measure of retaliation I should not be inclined to go for it. I do not look upon it in that light at all. I say Abyssinia is a kingdom. How can we refuse to do precisely what this resolution says we shall do, observe the same conduct toward the one that we do toward the other; extend the same privileges to one that we do to the other?

Mr. President, what this resolution proposes, if I understand it, bears no similitude to the conduct of which we complain in Great Britain. We never complained of Great Britain because she professed or observed neutrality between ourselves and any other nationality on earth in war. What we complained of was that while we were a friendly Power so far as she was concerned, had treaties which we had faithfully observed with her, she raised the standard of neutrality (if that be not an Irish bull) between us and a portion of our own citizens in rebellion against us claiming the name of a nation, but a name not conceded to them by any Power on earth, either by ourselves or by the Government of Great Britain, which professed that neutrality. That is what we complained of. We do not seek to constitute a nation to fight Great Britain by this resolution. There are two nations; we made neither of them; we do not seek to make either of them; we take them as we find them. Which is the stronger I do not know, though I have a pretty decided opinion on that point. We do not propose to make one of them stronger or weaker by this. Taking them as we find them, if I understand the resolution, it proposes simply to extend the same rights and privileges to each. Now if the chairman of the Committee on Foreign Relations or the honorable Senator from Maryland can tell me why we are not compelled to do that independent of the resolution I shall be glad to hear. Until they do inform me upon that point I shall feel bound to vote for the resolution.

Mr. SUMNER. I have moved that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The question is on that motion.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. SUMNER. I hope the question will be taken on my motion.

Mr. HENDRICKS. I was not aware that there was any business to be done in executive session.

THE CURRENCY QUESTION.

Mr. MORRILL, of Vermont. If the Senator from Indiana will withdraw his motion, I desire to move that Senate bill No. 148 be made the special order for Wednesday next at one o'clock. I wish to occupy the attention of the Senate for a short time on that bill.

Mr. HENDRICKS. I withdraw the motion.

Mr. DOOLITTLE. I must object to making the bill a special order. That matter was talked of generally the other day, and I thought it was the decided opinion of the Senate that special orders should not now be made.

Mr. MORRILL, of Vermont. I will not insist upon making it a special order, but will simply move that the bill (S. No. 148) to raise the value of legal-tender notes to par be postponed until Wednesday next at one o'clock.

The PRESIDENT *pro tempore*. The Chair will entertain that motion by general consent.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. HENDRICKS. I renew my motion to adjourn.

Mr. CAMERON. I hope that we shall not adjourn just now. There are many nominations

pending in executive session, and I hope we shall proceed to the consideration of executive business.

Mr. HENDRICKS. I did not understand there was any executive business of consequence, but if it is important to have an executive session of course I shall not insist on an adjournment now. I withdraw the motion.

The PRESIDENT *pro tempore*. The question recurs upon the motion of the Senator from Massachusetts, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 9, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

M'KEE VS. YOUNG.

The SPEAKER, by unanimous consent, laid before the House evidence in the contested election case of McKee *vs.* Young; which was referred to the Committee of Elections.

LAWS OF DAKOTA TERRITORY.

The SPEAKER also, by unanimous consent, laid before the House a copy of the laws of the Territory of Dakota; which was referred to the Committee on the Territories.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order during the morning hour is the calling of States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by motions to reconsider. The call will begin with the State of Maine.

JOHN KING ROBINSON.

Mr. PERHAM presented a joint resolution of the Legislature of the State of Maine relating to the assassination of John King Robinson at Salt Lake City; which was referred to the Committee on the Territories, and ordered to be printed.

NORTHERN PACIFIC RAILROAD.

Mr. PERHAM also presented a joint resolution of the State of Maine in favor of the Northern Pacific Railroad Company; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

MANUFACTURES.

Mr. PERHAM also presented a joint resolution of the Legislature of the State of Maine in relation to manufactures; which was referred to the Committee on Manufactures, and ordered to be printed.

DEFENSES OF MAINE.

Mr. PERHAM also presented a joint resolution of the Legislature of the State of Maine relating to the defenses of the State; which was referred to the Committee on Military Affairs, and ordered to be printed.

DECIMAL SYSTEM OF WEIGHTS, ETC.

Mr. PERHAM also presented a joint resolution of the Legislature of the State of Maine in relation to Moses B. Bliss's new decimal system of weights and measures and currency, together with an explanation of the system; which was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

SYMPATHY WITH THE CRETANS.

Mr. PERHAM also presented a joint resolution of the Legislature of the State of Maine expressing sympathy with the Cretans in their struggle for independence; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

STATE CERTIFICATES OF HONOR.

Mr. STEVENS, of New Hampshire, introduced a joint resolution authorizing the transmission through the mails free of postage of certain certificates of the Legislature of New Hampshire; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

DAVID DUHIGG.

Mr. POLAND introduced a bill for the relief of David Duhigg; which was read a first and second time, and referred to the Committee of Claims.

AMELIA A. LOCKE.

Mr. KELSEY introduced a bill for the relief of Amelia A. Locke; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PERPETUATION OF TESTIMONY.

Mr. FERRISS introduced a bill to perpetuate testimony in the courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

RESTORATION OF NATIONAL BANKS.

Mr. VAN WYCK introduced a joint resolution authorizing the Comptroller of the Currency, with the approbation of the Secretary of the Treasury, in certain cases to revoke the order appointing a receiver to take charge of any bank, and to restore said bank to the owners thereof; which was read a first and second time, and referred to the Committee on Banking and Currency.

POST ROUTES IN NEW YORK.

Mr. CHURCHILL introduced a bill to establish certain post routes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

IMPROVEMENT OF EAST RIVER, ETC.

Mr. BARNES introduced a joint resolution for removing obstructions to navigation in East river and Hell Gate, in the port of New York; which was read a first and second time, and referred to the Committee on Commerce.

GOVERNMENT BUILDINGS, BROOKLYN.

Mr. BARNES also introduced a joint resolution to provide Government buildings in the city of Brooklyn, New York; which was read a first and second time, and referred to the Committee on Appropriations.

LIBRARY PRIVILEGES.

Mr. WELKER introduced a joint resolution extending the privileges of the libraries to the justices of the supreme court of the District of Columbia; which was read a first and second time, and referred to the joint Committee on the Library.

PENSION LAWS.

Mr. WELKER also introduced a bill to amend the several acts relating to pensions; which was read a first and second time, and referred to the Committee on Pensions.

ISLANDS IN GREAT MIAMI RIVER.

Mr. LAWRENCE, of Ohio, introduced a bill in relation to islands in the Great Miami river; which was read a first and second time, and referred to the Committee on Public Lands.

RAILROAD FROM WASHINGTON TO CINCINNATI.

Mr. EGGLESTON introduced a bill to charter the Washington and Cincinnati National Railroad Company; which was read a first and second time, and referred to the Committee on Commerce.

POST ROUTE IN OHIO.

Mr. SPALDING introduced a bill to establish a post route from Copley to New Portage, in Summit county, Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SAMUEL M'BRIDE.

Mr. ARNELL introduced a bill for the relief of Samuel McBride, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

ROBERT T. KIRKPATRICK.

Mr. TRIMBLE introduced a bill authorizing the Secretary of War to audit and pay the claim of Robert T. Kirkpatrick, a loyal citizen of Nashville, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

TAXATION OF MANUFACTURES.

Mr. WILLIAMS, of Indiana, introduced a bill to exempt from taxation all manufactured goods where the product produced or manufactured shall not exceed $5,000 per annum, except certain manufactured articles specified; which was read a first and second time, and referred to the Committee of Ways and Means.

ROBERT M'CREARY.

Mr. KERR introduced a bill for the relief of Robert McCreary; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PAY OF ASSISTANT ASSESSORS, ETC.

Mr. KERR also introduced a bill to regulate the compensation of assistant assessors and assistant collectors of internal revenue in certain cases; which was read a first and second time, and referred to the Committee of Ways and Means.

AMENDMENT OF PENSION LAWS.

Mr. HARDING introduced a joint resolution to amend the pension laws; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AMELIA PARSONS.

Mr. COOK introduced a bill granting a pension to Amelia Parsons, widow of Captain Nathan Parsons, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POST ROUTES.

Mr. COOK also introduced a bill to establish certain post routes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

RIGHTS OF NATURALIZED CITIZENS.

Mr. COOK also introduced the following joint resolution in relation to the rights of naturalized citizens; which was read a first and second time, and referred to the Committee on Foreign Affairs:

Resolved by the Senate and House of Representatives, &c., That whenever a person of foreign birth becomes naturalized as a citizen of the United States, under and in pursuance of the Constitution and laws thereof, such citizen is absolved from all allegiance to any foreign sovereignty; and that it is the duty of the Government of the United States to secure to each naturalized citizen as full and adequate protection against the claim of any foreign State to his service or duty as it affords to the native-born citizens of the United States.

CANAL AND SEWERAGE COMPANY.

Mr. INGERSOLL introduced a bill to incorporate the Georgetown and Washington Canal and Sewer Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

WITHDRAWAL OF GOVERNMENT BONDS.

Mr. BROMWELL introduced a joint resolution authorizing the Secretary of the Treasury to use $4,000,000 per month in greenbacks to procure bonds and destroy the same; which was read a first and second time, and referred to the Committee of Ways and Means.

WILLIAM H. HARNER.

Mr. LOGAN introduced a joint resolution reinstating William H. Harner, and allowing him the same bounty as though he had not been mustered out under order of June 7, 1862; which was read a first and second time, and referred to the Committee on Military Affairs.

LONGEVITY RATION.

Mr. LOGAN also introduced a joint resolution computing the time to which the longevity ration extends in accordance with service rendered as non-commissioned officers or privates;

which was read a first and second time, and referred to the Committee on Military Affairs.

REFUNDING OF INCOME TAX.

Mr. LOGAN also introduced a joint resolution requiring the Military Committee to inquire into the justice and expediency of reporting a bill refunding the income tax collected from officers of the Army and Navy during the war; which was read a first and second time, and referred to the Committee of Ways and Means.

RECORD OF DEEDS.

Mr. WASHBURNE, of Illinois, introduced a bill to provide for the record of deeds in the clerk's office of district and circuit courts, United States; which was read a first and second time, and referred to the Committee on the Judiciary.

PAYMENT OF CLAIMS.

Mr. WASHBURNE, of Illinois, also introduced a bill to prevent the payment of certain claims; which was read a first and second time, and referred to the Committee on Appropriations.

MARIE AND APOLLONIA HASSENDABEL.

Mr. PILE introduced a bill for the relief of Marie and Apollonia Hassendabel, of St. Louis, Missouri; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN A. KECK.

Mr. BENJAMIN introduced an act granting a pension to John A. Keck, late a private in the third Missouri cavalry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

QUIETING TITLE.

Mr. NEWCOMB introduced an act quieting doubts in relation to the validity of the titles to four tracts of land in the State of Missouri; which was read a first and second time, and referred to the Committee on Private Land Claims.

OFFICE OF ASSISTANT TREASURER.

Mr. NEWCOMB also introduced an act to abolish the office of Assistant Treasurer of the United States, authorized by act of Congress, approved March 3, 1863, and for other purposes; which was read a first and second time, and referred to the Committee on Retrenchment.

WAGON-ROAD GRANTS IN MICHIGAN.

Mr. FERRY presented a joint resolution of the Legislature of the State of Michigan, asking for substitution of even for odd sections in the appropriations of lands already made for wagon roads in the State of Michigan; which was referred to the Committee on Public Lands, and ordered to be printed.

IMPROVEMENT OF SHEBOYGAN RIVER.

Mr. FERRY also presented the joint resolution of the Legislature of Michigan, asking for an appropriation to improve the harbor at the mouth of Sheboygan river, in said State; which was referred to the Committee on Commerce, and ordered to be printed.

LAKE SUPERIOR SHIP-CANAL.

Mr. DRIGGS introduced an act defining the acts granting lands to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior, approved March 3, 1865, and July 3, 1866; which was read a first and second time, and referred to the Committee on Public Lands.

WAGON-ROAD GRANTS.

Mr. DRIGGS also submitted a joint resolution of the Legislature of the State of Michigan in relation to a grant of land to build wagon roads in said State; which was referred to the Committee on Public Lands, and ordered to be printed.

SHEBOYGAN HARBOR.

Mr. DRIGGS also submitted a joint resolution of the Legislature of the State of Michigan asking a money appropriation to improve the harbor of Sheboygan river, in said State; which was referred to the Committee on Commerce, and ordered to be printed.

RESUMPTION OF SPECIE PAYMENT.

Mr. LYNCH introduced a bill to provide for the resumption of specie payment; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CURRENCY.

Mr. LYNCH also introduced a bill to provide against undue expansions and contractions of the currency; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ADDITIONAL BOUNTY.

Mr. BUCKLAND introduced a bill to amend the twelfth and thirteenth sections of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

NEW POST ROUTE.

Mr. BUCKLAND also introduced a bill to establish a post route from Greensburgh Cross Roads to West Mill Grove, Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TAXING THE CURRENCY.

Mr. WILSON, of Ohio, introduced a bill to authorize State authorities to tax non-interest bearing United States notes; which was read a first and second time, and referred to the Committee on the Judiciary.

ADAM CARRELL.

Mr. WILSON, of Ohio, also introduced a bill to grant a pension to Adam Carrell, of Gallipolis, Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POSTAL CONTRACTS.

Mr. LAFLIN introduced a joint resolution providing for the printing of the postal contracts of the Government; which was read a first and second time, and referred to the Committee on Printing.

MILTON ANDERSON.

Mr. LOUGHRIDGE introduced a bill to grant a pension to Milton Anderson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHEROKEE LANDS.

Mr. LOUGHRIDGE also introduced a bill to prohibit the sale of the Cherokee lands in a body, and providing for the sale thereof; which was read a first and second time, and referred to the Committee on Public Lands.

COMMON SCHOOLS IN THE DISTRICT.

Mr. LOUGHRIDGE also introduced a bill to grant land for the aid of common schools in the District of Columbia; which was read a first and second time, and referred to the Committee on Public Lands.

BANKRUPT ACT.

Mr. PAINE introduced a bill to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; which was read a first and second time, and referred to the Committee on Patents.

Also, another bill with the same title; which was read a first and second time, and referred to the same committee.

JOHN GESTIGER.

Mr. SAWYER introduced a bill for the relief of John Gestiger; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PACIFIC RAILROAD.

Mr. WASHBURN, of Wisconsin, introduced a bill to amend an act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean and to secure the Government in the use of the same for postal, military, and other purposes, approved July 1, 1862,' approved July 2, 1864;" which was read a first and second time, and referred to the Committee on the Pacific Railroad.

ELLEN M. STANSBURY.

Mr. DONNELLY introduced a bill granting a pension to Ellen M. Stansbury; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RECONSTRUCTION.

Mr. WINDOM introduced a bill to amend an act entitled "An act to provide for the more efficient government of the rebel States, and to facilitate restoration," passed March 2, 1867; which was read a first and second time, and referred to the Committee on the Judiciary.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated by Mr. ROBERT JOHNSON, his Private Secretary.

JAMES S. PORTER.

Mr. HUBBARD, of West Virginia, introduced a bill for the relief of the heirs of James S. Porter, late of Hancock county, West Virginia; which was read a first and second time, and referred to the Committee of Claims.

GEORGE TRUAX.

Mr. HUBBARD, of West Virginia, also introduced a bill for the relief of George Truax; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES L. DICKENSON.

Mr. HUBBARD, of West Virginia, also introduced a bill for the relief of James L. Dickenson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY B. CRAIG.

Mr. HUBBARD, of West Virginia, also introduced a bill for the relief of Mary B. Craig; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LAND DISTRICT IN COLORADO.

Mr. CHILCOTT introduced a bill to establish an additional land district in the Territory of Colorado; which was read a first and second time, and referred to the Committee on Public Lands.

SOLDIERS' DISCHARGES.

Mr. DODGE introduced a bill to furnish certain soldiers and sailors therein designated with honorable discharges; which was read a first and second time, and referred to the Committee on Military Affairs.

POST ROUTES IN IDAHO.

Mr. HOLBROOK introduced a bill to establish post routes in the Territory of Idaho; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SURVEY OF BOUNDARY OF IDAHO.

Mr. HOLBROOK also introduced a bill authorizing a survey of the southern boundary line of the Territory of Idaho; which was read a first and second time, and referred to the Committee on Public Lands.

JURISDICTION OF JUSTICES IN IDAHO.

Mr. HOLBROOK also introduced a bill amendatory of the organic act of Idaho Territory by extending the jurisdiction of justices of the peace; which was read a first and second time, and referred to the Committee on the Judiciary.

ASSAY OFFICE IN IDAHO.

Mr. HOLBROOK also introduced a bill to locate and establish an assay office in the Territory of Idaho; which was read a first and second

time, and referred to the Committee on Appropriations.

INDIAN DEPREDATIONS IN IDAHO.

Mr. HOLBROOK also introduced a bill to reimburse the people of the Territory of Idaho for losses sustained by Indian depredations and for moneys expended in protecting their property against hostile Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. HOLBROOK also introduced a bill to reimburse the citizens of Wosco, Umatilla, Union, Grant, and Baker counties for losses sustained by Indian depredations; which was read a first and second time, and referred to the Committee on Indian Affairs.

NATIONAL CURRENCY.

Mr. VAN TRUMP introduced a joint resolution providing for an amendment of section thirty of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" which was read a first and second time.

Mr. VAN TRUMP. I ask that the joint resolution be read.

The joint resolution was read. It instructs the Committee on Banking and Currency to inquire into the expediency of so amending the thirtieth section of the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, as to render absolutely void all contracts for taking, receiving, reserving, or charging a greater rate of interest than is provided for in said section, and that they report by bill or otherwise.

The joint resolution was referred to the Committee on Banking and Currency.

BILLS AND JOINT RESOLUTIONS.

The SPEAKER. The Chair desires, inasmuch as many joint resolutions are introduced which ought to be bills, to call the attention of members to the paragraph on this subject on page 99 of the revised edition of Barclay's Digest, which shows the distinction between joint resolutions and bills and the ancient practice on the subject. It will be seen that many things are now introduced as joint resolutions which ought to be in the shape of bills.

QUESTION OF ORDER.

Mr. SCHENCK. I rise to a question of order.

The SPEAKER. The Chair will hear it, although he cannot see what question of order can interfere with the morning hour on Monday.

Mr. SCHENCK. It relates to the reference of a bill this morning. We are engaged in referring bills not to be brought back by motions to reconsider; and I do not know any way of reaching the matter unless it be by a question of order; and I submit to the Speaker whether I cannot make such a question.

The gentleman from Maine [Mr. LYNCH] introduced a bill which was read by its title and at once referred to the Committee on Banking and Currency; it is a bill for the gradual resumption of specie payments, containing, among other things, a provision for the issuing of $50,000,000 of bonds, of denominations not exceeding fifty dollars, with coupons, payable at the discretion of the Secretary in five years, or to run for forty years, with provisions also in regard to other matters. I take it that this matter belongs properly, I might almost say exclusively, to the Committee of Ways and Means. I know the difficulty since the committees have been separated of determining in some instances the exclusive jurisdiction of each committee in matters relating to finances; but I think in the whole body of this bill—certainly in that part of it which relates to the subjects to which I have referred—there is a clear instance of encroachment upon the jurisdiction of the Committee of Ways and Means.

The question of order I make is against the reference of this bill to the Committee on Banking and Currency. It may be that the question was not raised in time.

The SPEAKER. The Chair overrules the point of order. An amendment to the motion to refer would have been in order at that time, but it cannot now be referred to another committee except by bringing the bill back into the House and re-referring it. The Chair is of the opinion that the subjects to which the gentleman refers are properly within the jurisdiction of the Committee of Ways and Means.

Mr. SCHENCK. We did not know the contents of the bill until after it was introduced and referred. I will submit a motion, which I think will be in order, perhaps, that the Committee on Banking and Currency be instructed to report this bill forthwith back to the House, with a view to having it referred to the Committee of Ways and Means.

The SPEAKER. That motion is not in order during the morning hour.

Mr. SCHENCK. Then I give notice that at the proper time I will submit such a motion.

The SPEAKER. The next business in order during the morning hour is the call of States and Territories for resolutions.

CODIFYING STATUTES OF UNITED STATES.

Mr. POLAND submitted the following resolution; which was read, considered, and agreed to:

Resolved, That a committee, consisting of five members of this House, be appointed by the Speaker, to which committee shall be referred the report of the commissioners heretofore appointed to revise, simplify, arrange, and consolidate the statutes of the United States.

Mr. POLAND moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TEST-OATH FOR CONVENTIONS.

Mr. BOUTWELL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to consider the expediency of so amending the law as to require members of constitutional conventions in the unreconstructed States to take the oath usually known as the test-oath, and to report thereon by bill or otherwise.

LIMIT OF REVENUE AND EXPENDITURES.

Mr. HOOPER, of Massachusetts. I desire to submit the following resolution:

Resolved, That in the opinion of this House the amount of revenue annually collected by taxation should not exceed $300,000,000; that the Committee of Ways and Means be instructed to report a bill so modifying internal taxation as to reduce the revenue from internal taxes and the tariff duties to $300,000,000, and that the Committee on Appropriations be instructed not to exceed that amount, including interest on the public debt, in the appropriations reported to this House.

I ask the indulgence of the House to make a few remarks on this resolution.

The SPEAKER. During the morning hour on Monday the Chair cannot ask unanimous consent for any purpose whatever. And if a resolution gives rise to debate it will go over under the rule.

Mr. HOOPER, of Massachusetts. Then I call the previous question on the adoption of the resolution.

Mr. WASHBURNE, of Illinois. I think the gentleman from Massachusetts [Mr. HOOPER] is too extravagant in the matter of appropriations. I think they can be placed at a less sum than that.

Mr. HOOPER, of Massachusetts. As there seems to be some difference of opinion upon the subject of the resolution I will withdraw it for the present, with the hope that the House will allow me to introduce it when I can have some time in which to explain it.

The resolution was accordingly withdrawn.

PRINTING OF BILLS—HOUR RULE.

Mr. ELIOT. I submit the following resolution, upon which I call for the previous question:

Resolved, That the Committee on the Rules be directed to inquire whether it is not expedient to provide by amendment of the rules that consent of the House shall not be asked for leave to print bills or joint resolutions before they are reported on by the committees of the House, and to report by bill or otherwise.

Mr. WASHBURNE, of Illinois. I ask my friend from Massachusetts [Mr. ELIOT] to withdraw the call for the previous question, that I may offer an amendment, which I think will secure the assent of the House, directing the Committee on the Rules to inquire also into the expediency of providing a rule forbidding the Presiding Officer from entertaining any proposition to extend the limit of debate now allowed by the hour rule. I think this practice of suspending the hour rule has gone far enough.

Mr. ELIOT. I yield to allow the amendment of the gentleman from Illinois to be entertained; and I renew the demand for the previous question.

Mr. GARFIELD. I ask the gentleman to put into the resolution a direction that the committee inquire into the expediency of repealing the hour rule altogether.

Mr. ELIOT. The gentleman from Ohio [Mr. GARFIELD] can offer a resolution to that effect when his State is called.

The previous question was seconded, and the main question ordered; which was first upon the amendment offered by Mr. WASHBURNE, of Illinois.

On the amendment there were—ayes 41, noes 64.

Mr. WASHBURNE, of Illinois. I call for tellers.

Tellers were ordered; and Mr. WASHBURNE of Illinois and Mr. MAYNARD were appointed.

Mr. PRUYN. I rise to a point of order: that this House cannot, by any action of its own, undertake to limit and restrict its powers when it is assembled here in pursuance of the Constitution and the laws; and any proposition to the effect that the Chair shall not put a question which it is within the power of the House to decide upon is, I submit, out of order, and should not be entertained by the Speaker.

The SPEAKER. The Chair overrules the point of order, on the ground that all the rules in the Digest are restrictions upon the powers of legislation, prescribing certain days when reports of committees shall be received, and certain times when other busines shall be done; and it is provided that the rules shall not be suspended, except on Mondays after the morning hour.

Mr. PRUYN. That is true; but this motion proposes to prescribe, not a regulation, but a positive rule of exclusion and prohibition; and such a rule, I submit, we have no right to adopt.

The SPEAKER. This proposed rule is analogous to one of the provisions of the national Constitution, which declares that all the States combined shall not have power to change the Constitution so as to interfere with the equal representation of the States in the Senate of the United States—an absolute prohibition upon the entire Republic.

Mr. PRUYN. Well, I did not know before that the rules of this House stand on the same footing as the Constitution of the United States.

The SPEAKER. They do not. The Chair mentioned that only as an analogous case.

Mr. PRUYN. In my view, this House, when assembled under the Constitution of the United States, can do anything within the range of its constitutional powers.

The SPEAKER. The Chair overrules the point of order.

The House divided; and the tellers reported —ayes 34, noes 74.

So the amendment of Mr. WASHBURNE, of Illinois, was not agreed to.

The question then recurring on the adoption of the resolution of Mr. ELIOT, there were, on a division—ayes 35, noes 60.

Mr. ELIOT demanded the yeas and nays.

Mr. WASHBURNE, of Illinois. Let us have the yeas and nays, so that we may see who are in favor of throwing the public money away on this unnecessary public printing.

Mr. FARNSWORTH. Let the resolution be again read.

The resolution was again read.

The House divided; and there were—ayes 16, noes 69; not one fifth of those present.

Mr. ELIOT demanded tellers on the yeas and nays.

Tellers were ordered; and Mr. ELIOT and Mr. BROOKS were appointed.

The House again divided; and the tellers reported—ayes thirty; more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 71, not voting 52; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Bingham, Boutwell, Boyer, Brooks, Broomall, Churchill, Cobb, Cook, Dixon, Eckley, Eliot, Farnsworth, Ferry, Fields, Garfield, Getz, Gravely, Haight, Holman, Chester D. Hubbard, Hulburd, Hunter, Julian, Kerr, Ketcham, Koontz, Laflin, George V. Lawrence, Loughridge, Marvin, McCarthy, McClurg, Mercur, Moorhead, Newcomb, Paine, Perham, Pike, Plants, Polsley, Robertson, Sawyer, Spalding, Starkweather, Stewart, Thomas, Trowbridge, Upson, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, and Stephen F. Wilson—64.

NAYS—Messrs. Adams, Allison, James M. Ashley, Axtell, Barnes, Barnum, Benjamin, Benton, Bromwell, Buckland, Burr, Butler, Cary, Reader W. Clarke, Sidney Clarke, Coburn, Cullom, Dodge, Driggs, Eldridge, Ferriss, Golladay, Grover, Hamilton, Harding, Hawkins, Hill, Higby, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Jenckes, Jones, Judd, Kelley, Kelsey, Knott, William Lawrence, Loan, Logan, Lynch, Mallory, Maynard, Morgan, Mullins, Mungen, Myers, Niblack, Nicholson, Nunn, O'Neill, Orth, Peters, Pruyn, Robinson, Smith, Aaron F. Stevens, Stokes, Taber, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Thomas Williams, William Williams, John T. Wilson, Wood, Woodbridge, and Woodward—71.

NOT VOTING—Messrs. Beck, Blaine, Blair, Cake, Chanler, Cornell, Covode, Dawes, Donnelly, Eggleston, Ela, Finney, Fox, Glossbrenner, Griswold, Halsey, Hotchkiss, Humphrey, Johnson, Kitchen, Lincoln, Marshall, McCullough, Miller, Moore, Morrell, Morrissey, Phelps, Pile, Poland, Pomeroy, Price, Randall, Raum, Ross, Schenck, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Thaddeus Stevens, Stone, Taffe, Taylor, Trimble, Twichell, Burt Van Horn, Van Wyck, Ward, James F. Wilson, and Windom—52.

So the resolution was rejected.

The SPEAKER stated that the morning hour had expired.

MEXICAN AFFAIRS.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in compliance with a resolution of the House, a report from the Secretary of State in regard to alleged bodies of men organized in the United States for the purpose of avenging the death of the Archduke Maximilian, &c.; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

PRESIDENT'S MESSAGE.

The SPEAKER stated that the first business in order was the consideration of the following resolutions, submitted by Mr. STEVENS, of Pennsylvania:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the finances, to the receipts into the Treasury, and the public expenditures, to the revision of the revenue, to the public debt, and the ways and means of supporting and meeting all the public liabilities of the Government, be referred to the Committee of Ways and Means.

Resolved, That so much of said message and accompanying documents as relates to carrying on the several Departments of the Government, to the necessary appropriations therefor, to deficiencies in the appropriations, and to mail transportation by ocean steamers, be referred to the Committee on Appropriations.

Resolved, That so much of said message and accompanying documents as relates to banks and banking and currency be referred to the Committee on Banking and Currency.

Resolved, That so much of said message and accompanying documents as relates to commerce be referred to the Committee on Commerce.

Resolved, That so much of said message and accompanying documents as relates to the public domain be referred to the Committee on Public Lands.

Resolved, That so much of said message and accompanying documents as relates to the Post Office Department be referred to the Committee on the Post Office and Post Roads.

Resolved, That so much of said message and accompanying documents as relates to the reëstablishment of courts in districts where their authority has been interrupted, and to all judicial proceedings, be referred to the Committee on the Judiciary.

Resolved, That so much of said message and accompanying documents as relates to the public expenditures be referred to the Committee on Public Expenditures.

Resolved, That so much of said message and accompanying documents as relates to agriculture and to the Department of Agriculture be referred to the Committee on Agriculture.

Resolved, That so much of said message and accompanying documents as relates to the management of Indian affairs be referred to the Committee on Indian Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Army of the United States, to provisions for a peace establishment, and to coast and lake defenses, be referred to the Committee on Military Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Navy of the United States be referred to the Committee on Naval Affairs.

Resolved, That so much of said message and accompanying documents as relates to our foreign affairs, together with the accompanying correspondence, be referred to the Committee on Foreign Affairs.

Resolved, That so much of said message and accompanying documents as relates to the Territories of the United States be referred to the Committee on the Territories.

Resolved, That so much of said message and accompanying documents as relates to pensions and the Pension Bureau be referred to the Committee on Invalid Pensions.

Resolved, That so much of said message and accompanying documents as relates to the expenditures in connection with the State Department be referred to the Committee on Expenditures in the State Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Treasury Department be referred to the Committee on Expenditures in the Treasury Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the War Department be referred to the Committee on Expenditures in the War Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Navy Department be referred to the Committee on Expenditures in the Navy Department.

Resolved, That so much of said message and accompanying documents as relates to expenditures in connection with the Post Office Department be referred to the Committee on Expenditures in the Post Office Department.

Resolved, That so much of said message and accompanying documents as relates to the militia be referred to the Committee on the Militia.

Resolved, That so much of said message and accompanying documents as relates to the Pacific railroad be referred to the Committee on the Pacific Railroad.

Resolved, That so much of said message and accompanying documents as relates to roads and canals be referred to the Committee on Roads and Canals.

Resolved, That so much of said message and accompanying documents as relates to the District of Columbia be referred to the Committee for the District of Columbia.

Resolved, That so much of said message and accompanying documents as relates to the subject of reconstruction be referred to a select Committee of nine on Reconstruction.

Resolved, That so much of said message and accompanying documents as relates to the subject of freedmen and freedmen's affairs be referred to the Committee on Freedmen's Affairs.

Resolved, That so much of said message and accompanying documents as relates to the subject of the Atlantic telegraph be referred to the Committee on the Post Office and Post Roads.

Resolved, That so much of said message and accompanying documents as relates to the coinage and weights and measures of the United States be referred to the Committee on Coinage, Weights, and Measures.

Mr. WASHBURNE, of Illinois, demanded the previous question.

Mr. BROOKS. There are some ten or fifteen resolutions?

The SPEAKER. Yes, sir.

Mr. BROOKS. Then I shall ask for a division.

Mr. BUTLER. I ask leave to offer an amendment.

Mr. WASHBURNE, of Illinois. I withdraw the previous question for that purpose.

Mr. BUTLER. I submit the following amendment:

Resolved, That so much of the President's message as calls attention of Congress to the payment of money under treaty with Russia be referred to the Committee on Appropriations.

Mr. WASHBURNE, of Illinois. I now renew the demand for the previous question.

Mr. BANKS. I trust the previous question will not be seconded. That part of the message ought to go to the Committee on Foreign Affairs.

Mr. WASHBURNE, of Illinois. I withdrew the demand for the previous question, and the reason I did so was to allow the amendment to be made referring this subject to the appropriate committee, the Committee on Appropriations, so that committee should report the appropriation if any at all shall be reported. I see no propriety in the reference to the Committee on Foreign Affairs.

Mr. BANKS. The Committee on Appropriations is created for the purpose of considering appropriations for carrying on the several departments of the Government, but appropriations to execute treaties are excluded from the general reference to them. Their business is with reference to the current expenditures of the Government. Appropriations for the execution of treaties are excluded from the business of that committee except it be by a special order. Now there may be cases where it would be appropriate that a question of this kind should go to the Committee on Appropriations, as, for instance, in regard to the execution of a postal treaty, or something of that kind. But this is a question exclusively relating to the foreign affairs of the country, and belongs therefore to the Committee on Foreign Affairs, and not to any other. It is excluded from the business of the Committee on Appropriations by the language of the rule, unless there is a special reference.

Mr. WASHBURNE, of Illinois. I would like to have the gentleman point out the rule which prevents the Committee on Appropriations from taking jurisdiction of this subject.

Mr. BANKS. I do not say that by the special order of the House they may not have jurisdiction of it. What I say is the Committee on Appropriations is organized for the purpose of considering appropriations relating to the current expenditures of the different departments of the Government, and not matters of this nature.

Mr. WASHBURNE, of Illinois. I take issue with the gentleman as to the scope of the jurisdiction of the Committee on Appropriations. I contend they have jurisdiction of this whole question of appropriations, and there is no subject which should more appropriately go to that committee than this demand upon the people to pay $7,500,000 for a piece of worthless territory. It is the Committee on Appropriations that passes upon these things. The House has made the committee for that purpose, and to take this matter away from it would be to ignore what the House has intended the committee should act upon. I yield to the gentleman who offered the amendment, who desires to say a word.

Mr. BUTLER. I was led to offer this resolution because I wanted in the beginning to assert the privileges of this House, to wit: that we shall have the right to say what of the people's money shall be appropriated, how it shall be appropriated, and for what object, without the intervention of any other department of the Government binding us. Therefore, these appropriations of money asked for by the President should take the course that every other appropriation does; for if we send this to the Committee on Foreign Affairs we admit tacitly that we are bound by the action of the Executive and the Senate whenever they appropriate any amount of money.

Mr. BANKS. If my colleague will allow me, the effect of his motion is exactly the opposite of what he seeks. If this is referred to the Committee on Appropriations it treats the purchase as a completed and absolute thing. If it is referred to the Committee on Foreign Affairs it leaves the whole question open for the consideration of the House.

Mr. BUTLER. I am sorry to take issue with my colleague on this question. Everything that relates to the treaty is excluded from the resolution, which reads:

"So much of the President's message as calls the attention of Congress to the payment of money under treaty with Russia."

The rest of the message about Russia I have not asked the House to interfere with; let it

all go to the Committee on Foreign Affairs. But when money is asked to carry out a treaty then the Committee on Appropriations, in my judgment, is the proper organ of this House, to report to us what appropriations shall be made. I am aware there has got to be a feeling abroad that the Senate can by treaty bind this House to spend the people's money. I wish to have that fully considered. It is a very grave question; because, if the President and Senate by agreeing together can borrow as much money as they please by treaty, and if they can expend as much money as they please by treaty, and this House has no control over it, then the whole revenues and expenditures of the Government are placed in those departments of the Government and taken away from the House, where the Constitution has wisely placed the control of that subject. If the President and Senate by a treaty of reciprocity can alter our revenue law, and this House has no control over their action, then they have got full control of the revenues of the country; and when they have got control over the spending and the raising of money I think it is time we should go home; we are of no use here. When they seek to get entire control over the money that we are to get from customs and imports, it is time for us to take a stand. I do not mean to say whether I shall or shall not vote for this purchase; but I do mean to say that the House should stand upon its privilege, where the Constitution has placed it, and should assert its entire independent control over the expenditures of the nation. Let nobody else take it away from us by any implication or any side wind whatever.

Mr. FARNSWORTH. I ask the Clerk to read the seventy-sixth rule of this House, which settles this question. By that rule all questions in regard to the appropriation of money for treaties should go to the Committee on Appropriations.

The Clerk read as follows:

"It shall be the duty of the Committee on Appropriations to take into consideration all executive communications and such other propositions in regard to carrying on the several departments of the Government as may be presented and referred to them by the House. In preparing bills of appropriations for other objects the Committee on Appropriations shall not include appropriations for carrying into effect treaties made by the United States; and where an appropriation bill shall be referred to them for their consideration which contains appropriations for carrying a treaty into effect and for other objects they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects."

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me a moment?

Mr. WASHBURNE, of Illinois. Certainly.

Mr. STEVENS, of Pennsylvania. I merely rise to justify my own action. When I had charge of these resolutions on Saturday this very question arose. I was aware of the rule. I have been long enough on the Committee on Appropriations to know that we could not include an appropriation to carry a treaty into effect in a general appropriation bill, and hence it was that I agreed that this matter should go where such matters have always gone, to the Committee on Foreign Affairs; or if the House should see proper to raise a special committee for this purpose I have no objection. But here is the rule which has been acted on ever since the foundation of the Government; this kind of appropriation has never been allowed to be mingled up with other appropriations. By the Constitution a treaty is a paramount law of the land, and an appropriation to carry it out is treated differently from ordinary estimates for the ordinary appropriations of the Government.

Now I have no feeling about this matter one way or the other. I do not care at all how it may be decided. So far as the appropriation is concerned I shall of course vote to make the appropriation. When the Constitution, which is the paramount law of the land, declares that we owe a debt, I should be ashamed to refuse to pay it.

Mr. WASHBURNE, of Illinois. Let me say in reply to the gentleman from Pennsylvania that this seventy-sixth rule does not conflict in the least particular with the amendment offered by the gentleman from Massachusetts, [Mr. BUTLER,] and I think the gentleman from Pennsylvania will agree with me when he hears it read. What does it provide? Merely that "in preparing bills of appropriations for other objects the Committee on Appropriations shall not include appropriations for carrying into effect treaties made by the United States." That is all of the first part of the rule—that the committee shall not include an appropriation for carrying out a treaty in another appropriation bill. Of course the Committee on Appropriations would obey that injunction of the rule. But it does not take from the committee jurisdiction over the subject of this appropriation as well as every other.

Mr. BLAINE. I beg the gentleman from Illinois to remember that the language of the rule implies that the subject must go to the Committee on Appropriations, and the committee is merely restrained and restricted from reporting it in the same bill with other appropriations.

Mr. WASHBURNE, of Illinois. I was coming to that when I should read the other part of the rule, which is as follows:

"And where an appropriation bill shall be referred to them for their considertaion"—

implying that such a bill may be referred to them—

"which contains appropriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects."

Sir, there is nothing in that rule which precludes the Committee on Appropriations from considering the subject; but, on the other hand, as the gentleman from Maine justly remarks, it implies that the Committee on Appropriations are to have jurisdiction of and to consider this subject. I now demand the previous question.

Mr. BANKS. I trust the gentleman will allow me a moment.

Mr. WASHBURNE, of Illinois. I withdraw the previous question for a moment.

Mr. BANKS. Each clause of this rule forbids the action of the Committee on Appropriations on this subject. The first clause limits the business of the committee to appropriations for carrying on the Departments of the Government. This is not one of them. The second clause requires that when an appropriation bill is referred to them which includes an appropriation for the execution of a treaty it shall not be reported to the House in that bill.

Mr. WASHBURNE, of Illinois. Let me ask my friend right here if that does not imply that the Committee on Appropriations has jurisdiction of such a bill?

Mr. BANKS. I have already said that it is within the power of the House to refer this matter to any committee—to the Committee on the Territories or the Committee for the District of Columbia, or any other committee, as well as to the Committee on Appropriations; but the rules of the House expressly excludes this class of business from the Committee on Appropriations.

Mr. WASHBURNE, of Illinois. No, sir.

Mr. BANKS. Yes, it does.

Mr. WASHBURNE, of Illinois. Read the rule.

Mr. BANKS. I have read it.

Mr. WASHBURNE, of Illinois. Read it again.

Mr. BANKS. It excludes it; and whenever an appropriation bill including an appropriation of this kind is referred to the committee they are forbidden to report it in that bill. I desire to make another remark. To refer this question to the Committee on Appropriations has exactly the opposite effect to that presented by my colleague from the Essex district, [Mr. BUTLER.] It, in a word, limits the action of the committee to more or less. It treats the action of the Executive and of the Senate, in the establishment of that treaty, as a complete established fact, leaving nothing for the House to do except to make the appropriation, whereas by referring it to the Committee on Foreign Affairs it treats it solely as an unfinished matter, relating to the foreign affairs of the country, and leaves the House to determine upon it.

Mr. SPALDING. I desire to ask a question of the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. Very well.

Mr. SPALDING. I would ask the gentleman whether, in the absence of any directions from the House, the Committee on Appropriations has any right to report a bill appropriating money to pay for this Territory.

Mr. WASHBURNE, of Illinois. They certainly have, if the President's message is referred to the committee for consideration; that gives them jurisdiction.

Mr. SPALDING. Exactly, after being referred to them.

Mr. BLAINE. I ask leave to read the rule, in order to show that my friend from Massachusetts [Mr. BANKS] entirely misapprehends the purport of the rule, I think.

"It shall be the duty of the Committee on Appropriations to take into consideration all the executive communications and such other propositions in regard to carrying on the several departments of the Government as may be presented and referred to them by the House."

Mr. BANKS. For "carrying on the several departments."

Mr. BLAINE. That includes every possible communication in regard to the expenditure of the Government. Then the rule goes on to limit the action of the committee, as follows:

"In preparing bills of appropriations for other objects, the Committee on Appropriations shall not include appropriations for carrying into effect treaties made by the United States."

That is, they shall report them separately. It goes on still further:

"And where an appropriation bill shall be referred to them for their consideration, which contains appropriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects."

That shows that the whole matter is within the jurisdiction of the Committee on Appropriations, and that this rule limits them in the mere mode of their report.

Mr. BUTLER. Will the gentleman from Illinois yield to me for a few minutes?

Mr. WASHBURNE, of Illinois. Certainly.

Mr. BUTLER. I would not trouble the House again but for a remark which fell from my friend from Pennsylvania, [Mr. STEVENS.] He assumes apparently, if I understand him correctly, that a treaty made by the President, with the advice of the Senate, is the paramount law of the land; "the supreme law of the land," I believe is the phrase employed in the Constitution. Now, a treaty made by the President, with the advice and consent of the Senate, which is capable of self-execution, is the supreme law of the land; but a treaty made which requires legislative action to put it into operation is not the supreme law of the land, and we are not in any way bound by it.

Mr. PRUYN. I would ask where the authority for that is to be found?

Mr. BUTLER. I knew somebody would want to know, and so I sent for the book. It will be found by reference to 2 Peters' Reports that the matter was decided by the Supreme Court. And Judge McLean, in 5 McLean's Reports, went over the whole subject.

Mr. PRUYN. The gentleman says the Supreme Court has decided it.

Mr. BUTLER. It is in 2 Peters.

Mr. PRUYN. The gentleman said "Supreme Court."

Mr. BUTLER. Does the gentleman know for whom Peters reported? He reported for the Supreme Court of the United States, and I read from the case of Foster and Elam *vs.* Neilson, 2 Peters, 244, as follows:

"A treaty is in its nature a contract between two nations, not a legislative act. It does not generally

effect of itself the object to be accomplished, especially so far as its operation is infra-territorial, but is carried into execution by the sovereign power of the respective parties to the instrument.

"In the United States a different principle is established. Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the legislature whenever it operates of itself without the aid of any legislative provision. But when the terms of the stipulation import a contract, when either of the parties engage to perform a particular act, the treaty addresses itself to the political, not the judicial department; and the legislature must execute the contract before it can become a rule for the court."

And Judge McLean, of the seventh circuit, decided as follows:

"A treaty under the Federal Constitution is declared to be the supreme law of the land. This, unquestionably, applies to all treaties where the treaty-making power without the aid of Congress can carry it into effect. It is not, however, and cannot be the supreme law of the land when the concurrence of Congress is necessary to give it effect. Until this power is exercised, as where the appropriation of money is required, the treaty is not perfect. It is not operative in the sense of the Constitution, as money cannot be appropriated by the treaty-making power. This results from the limitations of our Government. The action of no department of the Government can be regarded as a law until it shall have all the sanctions required by the Constitution to make it such. As well might it be contended that an ordinary act of Congress, without the signature of the President, was a law, as that a treaty which engages to pay a sum of money is in itself a law.

"And in such a case the Representatives of the people and the States exercise their own judgments in granting or withholding the money. They act upon their own responsibility, and not upon the responsibility of the treaty-making power. It cannot bind or control the legislative action in this respect, and every foreign Government may be presumed to know that so far as the treaty stipulates to pay money the legislative sanction is required."

Now, I say again, for the information of my friend from New York, [Mr. PRUYN,] that this exact point was decided in 2 Peters, in the case of Foster *et al. vs.* Neilson.

Mr. WASHBURN, of Wisconsin, and Mr. FARNSWORTH addressed the Chair.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURNE] is entitled to the floor, and will state to whom he yields.

Mr. WASHBURNE, of Illinois. I yield to the gentleman from Wisconsin [Mr. WASHBURN] for a moment.

Mr. FARNSWORTH. I desire, before the gentleman from Wisconsin proceeds, to put a question to the gentleman from Massachusetts, [Mr. BUTLER.] Suppose that the President, with the advice and consent of the Senate, makes a treaty with an Indian tribe, that treaty providing for the payment of annuities; is not such a treaty the law of the land before Congress has voted appropriations to pay those annuities?

Mr. BUTLER. If I understand the question of my friend from Illinois, [Mr. FARNSWORTH,] it is whether the annuities can be paid before Congress makes an appropriation to pay them.

Mr. FARNSWORTH. No, sir; my question is, whether such a treaty is not a law of the land before Congress appropriates the money to pay the annuities.

Mr. BUTLER. It is not an operative law of the land. That is the exact point decided in 2 Peters.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, as to the validity of a treaty which requires legislation to carry it into effect I wish to call the attention of the House to some precedents. I find that this very question arose at the time of the consideration of Jay's treaty in 1794. That treaty required legislation for its execution. President Washington was called upon by the House of Representatives for information in regard it, and he refused to give it, taking the ground which is now taken by the gentleman from Pennsylvania, [Mr. STEVENS.] The House, however, overruled him by a vote of nearly two to one, and adopted this resolution:

"*Resolved*, That it being declared by the second section of the second article of the Constitution that 'the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided that two thirds of the Senators present concur,' the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

This resolution was adopted in 1794 by the very decisive vote of 57 to 35, Mr. Madison, Mr. Gallatin, and many other distinguished men being in Congress at the time and voting for the resolution.

This question was also discussed at the time the treaty for the acquisition of Louisiana came up for consideration, when the proposition to pay for Louisiana was before Congress. The whole question was at that time gone over; and the friends of that treaty admitted that the House had a perfect right to refuse the appropriation if they deemed it proper to do so. Mr. Randolph, who was one of the strongest advocates for the treaty and the appropriation to carry it out, used this language:

"Does not the President of the United States submit this subject to Congress for their sanction? Does he not recognize the principle, which I trust we will never give up, that no treaty is binding until we pass the laws for executing it; that the powers conferred by the Constitution on Congress cannot be modified or abridged by any treaty whatever; that the subjects of which they have cognizance cannot be taken in any way out of their jurisdiction? In this procedure nothing is to be seen but a respect on the part of the Executive for our rights; a recognition of a discretion on our part to accord or refuse our sanction. Where, then, is the violation of our rights?"

So far as the precedents go, I think that they do not sustain the position of the honorable gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. INGERSOLL. I rise to a question of order: whether the present discussion is germane to the question before the House, or in other words, whether the whole subject as to the power of this House with regard to treaties is brought before the House for consideration at the present time on the motion to refer?

The SPEAKER. The Chair overrules the point of order. The motion to refer always opens the whole question for debate.

Mr. INGERSOLL. If that be so, I suggest to my colleague [Mr. WASHBURNE, of Illinois] that he withdraw the demand for the previous question, so that we may have this question settled now upon full discussion.

Mr. WASHBURNE, of Illinois. I propose so soon as the gentleman from Wisconsin [Mr. WASHBURN] shall have concluded—and he has already occupied about the whole of the brief time I yielded to him—to give five minutes to the gentleman from Ohio, [Mr. SCHENCK.] I propose then to demand the previous question and let the House decide whether the debate shall go on. If the House desires the discussion to proceed further I shall be perfectly content.

Mr. WASHBURN, of Wisconsin. I do not desire to occupy the attention of the House any further. It was merely with the view of answering the remarks which fell from the gentleman from Pennsylvania [Mr. STEVENS] that I sought the floor at this time.

Mr. STEVENS, of Pennsylvania. I have always been of the opinion that the treaty-making power could not regulate the commerce of the country or interfere with anything of that kind which the Constitution has not given to them, but wherever the subject-matter is within their jurisdiction and they have made a perfect treaty which has been ratified we are bound to carry it out, and if it creates a debt and we do not pay it one year we will another. Congress has nothing to do with the making of treaties except to carry them into effect if made in pursuance of the Constitution by the treaty-making power.

Mr. WASHBURNE, of Illinois. I now yield for five minutes to the gentleman from Ohio.

Mr. SCHENCK Mr. Speaker, so far as the question of reference is concerned the rule, I think, makes that clear. The first clause of the rule refers this, among all other appropriations asked for by Executive communications, to the Committee on Appropriations. The second part of the rule only defines how they are to perform their duty; that is, they are to keep an appropriation under a treaty separate from other appropriations.

I speak only to a question which we must come to when the report of a committee comes in—the question how far we are bound to carry out unquestioningly this treaty made by the President and the Senate; and I speak now because I utterly protest against the doctrine which has just been announced, that the amount stipulated to be paid by this treaty with Russia has become, like any regularly contracted obligation, a debt binding on the United States. I protest against the asserted power of the President and Senate to bind this House of Representatives hand and foot, so that when they agree for payment to be made under any treaty we on our part are not to consider the propriety of making the appropriation. Gentlemen in quoting the Constitution have omitted an important clause:

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land."

That is the language of the Constitution. Shall be the supreme law of the land if "made under the authority of the United States."

Mr. Speaker, this brings us to consider a question which underlies the whole subject. What treaties may the President and the Senate make as "under the authority of the United States?" What is the United States? A State, a nation. But a State consists of three elementary or component parts: a people, a territory which they inhabit, and an organized government within the limits of that territory for that people. When the President and Senate make treaties the intendment of the Constitution, as I read it, is that those treaties must relate to matters which lie within the authority given to them by the United States. What concerns the United States as an existing Government, they may treat of; and within that limit, perhaps, make "supreme law;" but when they go outside of this and seek to disturb or change any one of these elementary ingredients of the United States, then the whole power and authority of the Government in all its functions and coördinate departments must be exercised and consulted to give validity and assent to such change. If they change our country, if they change our people, if they undertake by treaty to change our form of government, they are not making treaties under the authority of the United States, but are passing beyond the scope of their agency.

The President and Senate might make a treaty to buy a Japanese island for $1,000,000,000, and according to the doctrine taught here, that $1,000,000,000 would have to be paid without question, for the President and Senate agreeing to such treaty it becomes, as is claimed, a part of the law of the land, the *supreme law* of the land, and creates a debt we are bound to pay. They might agree to make all the Japanese by such a treaty citizens of the United States, thus disturbing another of the elementary properties of the State, the people of which the nation is composed, and we should be bound to consent to it. I protest now against every doctrine of that sort, and may desire to be heard more at length when we come to discuss the treaty itself. I am not called upon now to declare what my vote on the proposed appropriation may be, but I will never support it on the ground of obligation on the House of Representatives which has been assumed. We are not concluded, and cannot be, by the action of the President and Senate, nor precluded from our own consideration of and judgment upon the whole character of the negotiation they have made.

Mr. WASHBURNE, of Illinois, renewed the demand for the previous question.

Mr. INGERSOLL called for tellers.

Tellers were ordered; and Mr. INGERSOLL and Mr. ROSS were appointed.

The House divided; and the tellers reported —ayes 70, noes 40.

So the previous question was seconded, and the main question was then ordered to be now put.

Mr. ROBINSON. I call attention to the first part of the rule, by which it is provided that it shall be the duty of the Committee on Foreign Affairs to take into consideration all matters which concern the relations of the United States with foreign nations.

The question was on agreeing to the amendment of Mr. BUTLER.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 82, not voting 32; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Bailey, Baker, Barnum, Beaman, Benjamin, Benton, Blaine, Broomall, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Dawes, Dodge, Donnelly, Eggleston, Ela, Farnsworth, Garfield, Gravely, Halsey, Hamilton, Harding, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hunter, Julian, Kelley, Kelsey, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, McClurg, Mercur, Moorhead, Newcomb, Nicholson, Nunn, Paine, Perham, Pike, Pile, Polsley, Price, Schenck, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taylor, Thomas, Upson, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, and Wood—73.

NAYS—Messrs. Adams, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Bingham, Boutwell, Boyer, Bromwell, Brooks, Buckland, Burr, Chanler, Coburn, Cullom, Dixon, Eldridge, Eliot, Ferriss, Ferry, Fields, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Hill, Higby, Hooper, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Judd, Kerr, Ketcham, Knott, Koontz, Laflin, Lincoln, Mallory, Marshall, Marvin, Maynard, McCarthy, Morgan, Mullins, Mungen, Myers, Niblack, O'Neill, Orth, Peters, Phelps, Plants, Pruyn, Randall, Robertson, Robinson Ross, Sawyer, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stewart, Taber, Trimble, Van Aernam, Van Auken, Robert T. Van Horn, Henry D. Washburn, Stephen F. Wilson, Woodbridge, and Woodward—82.

NOT VOTING—Messrs. Beck, Blair, Cake, Cornell, Covode, Driggs, Eckley, Finney, Fox, Griswold, Hopkins, Asahel W. Hubbard, Kitchen, Lynch, McCullough, Miller, Moore, Morrell, Morrissey, Poland, Pomeroy, Raum, Scofield, Selye, Shellabarger, Stone, Taffe, Trowbridge, Twichell, Burt Van Horn, Van Wyck, and Ward—32.

So the amendment was disagreed to.

Mr. BANKS moved to reconsider the vote by which the resolution was disagreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurred on agreeing to the resolutions reported by Mr. STEVENS, of Pennsylvania.

Mr. BROOKS. I demand a separate vote on the one relating to a select committee of nine on reconstruction.

The SPEAKER. That will be reserved.

The rest of the resolutions were agreed to.

The question recurred on agreeing to the resolution reserved, as follows:

Resolved, That so much of the President's message and accompanying documents as relates to the subject of reconstruction be referred to a select committee of nine on reconstruction.

Mr. GETZ. Would it be in order to move to amend that resolution?

The SPEAKER. It would not. The House is acting under the previous question.

On agreeing to the resolution there were—ayes 45, noes 35; no quorum voting.

Mr. ALLISON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 43, not voting 32; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Finney, Garfield, Gravely, Halsey, Hamilton, Harding, Hawkins, Hill, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Polsley, Price, Robertson, Sawyer, Schenck, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—112.

NAYS—Messrs. Adams, Archer, Axtell, Bailey, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, Morgan, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Taber, Van Auken, Van Trump, Wood, and Woodward—43.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Blaine, Blair, Cornell, Covode, Driggs, Fox, Griswold, Asahel W. Hubbard, Jenckes, Kitchen, McCullough, Miller, Moore, Morrell, Morrissey, Poland, Pomeroy, Raum, Scofield, Selye, Shellabarger, Aaron F. Stevens, Stewart, Stone, Taffe, Taylor, Twichell, Burt Van Horn, Ward, Windom, and Woodbridge—32.

So the resolutions were adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXCUSED FROM COMMITTEE SERVICE.

The SPEAKER. Several gentlemen have asked to be excused from service on committees on account of serving on others, namely: Mr. SITGREAVES, of New Jersey, from the Committee on Mines and Mining; Mr. NICHOLSON, of Delaware, from the Committee on Public Buildings and Grounds; Mr. STEWART, of New York, from the Committee on Expenditures in the War Department; and Mr. HULBURD, of New York, from the Committee on Expenditures on the Public Buildings.

No objection was made, and the gentlemen named were excused from service.

TAXES FROM NATIONAL BANKS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the resolution of the House of the 30th ultimo, reports from the Treasurer of the United States, the Register, and the Commissioner of Internal Revenue, relative to the amount of taxes received from national banks during the last fiscal year.

Mr. ALLISON. I move that the communication be referred to the Committee of Ways and Means, and printed.

Mr. RANDALL. I move as an amendment that it be referred to the Committee on Banking and Currency. It appropriately belongs to that committee.

The amendment was disagreed to.

Mr. ALLISON's motion was agreed to.

LAND GRANTS TO SOUTHERN RAILROADS.

Mr. JULIAN, by unanimous consent, reported back from the Committee on Public Lands a bill to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes, and moved that it be recommitted to the Committee on Public Lands, and printed.

Mr. WASHBURNE, of Illinois. I wish the committee would extend the bill still further, so as to include all the States. I think it is time to stop this thing.

Mr. JULIAN's motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. BROOKS, leave was granted for the withdrawal from the files of the House of the papers in the case of Mrs. General Smith.

THE CURRENCY.

Mr. HUBBARD, of West Virginia, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of so amending the act entitled "An act to provide a national currency secured by a pledge of United States bonds and to provide for the circulation and redemption thereof," as to extend its advantages to all persons who will comply with its provisions, and to restrict the issuing of bank notes to any bank to an amount not exceeding two thirds of its capital stock, and that they have power to report by bill or otherwise.

PACIFIC RAILROAD.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to this House a copy of his communication, referred to in his last annual report, touching the right of the central branch of the Union Pacific Railroad Company to construct their line of road from its intersection with the vacated line of the Union Pacific Railway Company, eastern division, and along such vacated route to the one hundredth meridian of longitude, and to receive therefor a subsidy in lands and bonds; also a copy of his decision on the right of the San Francisco and San José Railroad Company to lands and bonds by reason of the construction of their road.

THE VOTE ON IMPEACHMENT.

Mr. BARNES. I desire to ask the unanimous consent of the House to record my vote against impeachment on the vote taken on Saturday.

The SPEAKER. That would require a suspension of the rules.

Mr. BARNES. I move a suspension of the rules.

Mr. WOOD. I desire also to record my vote.

Mr. WASHBURNE, of Illinois. Can that proposition be received?

The SPEAKER. Only by a suspension of the rules.

Mr. WASHBURNE, of Illinois. I would like to have the rule on the subject read.

The SPEAKER. That rule can be suspended as well as all others.

Mr. BARNES. I have here a list of several gentlemen who desire to record their vote.

Mr. ELDRIDGE. I move to amend the proposition so as to allow all gentlemen who have not voted on that question, and who are present, to record their votes.

The SPEAKER. The Clerk will read the 29th rule.

The Clerk read the rule, as follows:

"No member shall vote on any question in the event of which he is immediately and particularly interested, or in any case where he was not within the bar of the House when the question was put. And when any member shall ask leave to vote, the Speaker shall propound to him the question: 'Were you within the bar before the last name on the roll was called?' and if he shall answer in the negative the Speaker shall not further entertain the request of such member to vote: *Provided*, however, that any member who was absent by leave of the House may vote at any time before the result is announced."

Mr. WASHBURNE, of Illinois. If this proposition shall be received, that rule is a perfect nullity, because any gentleman can come in on Monday and move to suspend the rules to allow him to vote. I think we should put a stop to that practice.

Mr. ELDRIDGE. I move to amend the proposition of the gentleman from New York [Mr. BARNES] so that all may be allowed to vote who were absent on Saturday.

Mr. BARNES. I accept the amendment.

The question was upon the motion of Mr. BARNES, as modified, to suspend the rules.

Mr. ELDRIDGE. Upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 89, nays 50, not voting 48; as follows:

YEAS—Messrs. Adams, Archer, James M. Ashley, Axtell, Baker, Banks, Barnes, Barnum, Beck, Bingham, Blair, Boutwell, Boyer, Bromwell, Broomall, Burr, Cary, Chanler, Coburn, Cook, Cullom, Dixon, Donnelly, Driggs, Eckley, Eldridge, Farnsworth, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Hamilton, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kerr, Knott, Koontz, George V. Lawrence, William Lawrence, Loan, Mallory, Marshall, Maynard, McClurg, Morgan, Mungen, Niblack, Nicholson, O'Neill, Orth, Paine, Peters, Poland, Polsley, Price, Pruyn, Randall, Robinson, Ross, Sawyer, Shanks, Sitgreaves, Spalding, Stewart, Taber, Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, Henry D. Washburn, William B. Washburn, Thomas Williams, Windom, and Wood—89.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Bailey, Baldwin, Beaman, Benjamin, Benton,

Buckland, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Dodge, Ela, Ferriss, Hawkins, Higby, Hulburd, Hunter, Judd, Kelley, Kelsey, Ketcham, Laflin, Lincoln, Logan, Loughridge, McCarthy, Mercur, Mullins, Myers, Nunn, Perham, Pike, Plants, Schenck, Starkweather, Aaron F. Stevens, Stokes, Upson, Van Aernam, Cadwalader C. Washburn, Elihu B. Washburne, Welker, William Williams, James F. Wilson, John T. Wilson, and Woodward—50.

NOT VOTING—Messrs. Anderson, Blaine, Brooks, Butler, Churchill, Cornell, Covode, Dawes, Eggleston, Eliot, Finney, Fox, Griswold, Halsey, Harding, Hill, Hooper, Richard D. Hubbard, Kitchen, Lynch, Marvin, McCullough, Miller, Moore, Moorhead, Morrell, Morrissey, Newcomb, Phelps, Pile, Pomeroy, Raum, Robertson, Scofield, Selye, Shellabarger, Smith, Thaddeus Stevens, Stone, Taffe, Taylor, Thomas, Twichell, Burt Van Horn, Ward, Stephen F. Wilson, and Woodbridge—48.

So the rules were not suspended, two thirds not voting in the affirmative.

Mr. ELDRIDGE. I ask leave for the gentleman from Ohio [Mr. VAN TRUMP] to print some remarks he has prepared upon the subject of impeachment; they relate only to the constitutional question involved in that subject.

Mr. BROOMALL and others objected.

COTTON TAX.

Mr. CARY. I ask unanimous consent to withdraw sundry petitions in relation to the repeal of the tax on cotton, which I presented the other day and had referred to the Committee of Ways and Means. I ask this for the purpose of having the same presented in the Senate, where the bill relating to that subject is now pending.

No objection was made, and leave was accordingly granted.

SUPPLIES OF NAVAL TIMBER.

Mr. CHANLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be, and hereby is, directed to furnish to this House at an early day tabular statements of the amount and value of seasoned timber fit for building vessels of war now stored in each of the dock-yards and navy-yards of the United States.

Also, to inform this House by a similar statement, of the amount and value of green timber which has been bought by the Navy Department for the construction of vessels of war, and for other purposes, during each year from 1860 up to date.

Mr. SPALDING. I move that the House now proceed to the business on the Speaker's table.

The motion was agreed to.

REPAIRS OF PRESIDENT'S HOUSE.

The first business on the Speaker's table was the following resolution of the Senate:

Resolved, That the joint committee on the part of the Senate appointed at the last session to examine accounts for repairs of Executive Mansion, consisting of Mr. HARLAN and Mr. NORTON, be, and they are hereby, reappointed.

Mr. SPALDING. I move that the Speaker be directed to appoint the committee on the part of the House.

The motion was agreed to.

The SPEAKER accordingly appointed as said committee on the part of the House Messrs. SPALDING, BEAMAN, and GLOSSBRENNER, being the committee of last session.

PAY OF CONGRESSIONAL OFFICERS.

The next business on the Speaker's table was the following resolution of the Senate:

Resolved, That the joint committee on the part of the Senate appointed at the last session to revise and fix the pay of the officers of the two Houses, consisting of Mr. FESSENDEN, Mr. SHERMAN, and Mr. BUCKALEW, be, and they are hereby, reappointed.

Mr. WASHBURNE, of Illinois. I move that a committee on this subject on the part of the House be appointed.

The motion was agreed to.

The SPEAKER accordingly appointed Messrs. WOODBRIDGE, ECKLEY, and MCCULLOUGH as the committee on the part of the House, being the committee of last session.

QUORUM OF SUPREME COURT.

The next business on the Speaker's table was Senate bill No. 163, being "An act declaring what shall constitute a quorum of the Supreme Court;" which was taken from the table, read a first and second time, and referred to the Committee on the Judiciary.

EQUAL RIGHTS IN DISTRICT OF COLUMBIA.

The next business on the Speaker's table was Senate bill No. 141, being "An act for the further security of equal rights in the District of Columbia;" which was taken from the table and read a first and second time.

Mr. WILSON, of Iowa. I ask that this bill be now put upon its passage. I am informed that it is precisely like a bill that was passed by the House at the last session.

The question was upon ordering the bill to be read a third time.

Mr. HOLMAN. I call for the reporting of the bill in full.

The bill, which was read at length, provides that the word "white" wherever it occurs in the laws relating to the District of Columbia or in the charter or ordinances of the cities of Washington or Georgetown, and operates as a limitation on the right of any elector to hold any office or to be selected and to serve as a juror, be repealed; and it is declared unlawful for any person or officer to enforce or attempt to enforce such limitation after the passage of this act.

Mr. WILSON, of Iowa. This bill is in the precise language of one which was passed by the House at the last session, and therefore I have asked that it be put at once on its passage. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and read the third time.

The question then recurred on the passage of the bill.

Mr. WILSON, of Iowa. I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 38, not voting 44; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Halsey, Hamilton, Harding, Hawkins, Holman, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laflin, William Lawrence, Lincoln, Logan, Loughridge, Lynch, Maynard, McClurg, Mercur, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Price, Robertson, Sawyer, Schenck, Shanks, Smith, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Windom—105.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Mallory, Marshall, Morgan, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Taber, Van Auken, Van Trump, Wood, and Woodward—38.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Barnum, Blair, Cake, Cary, Sidney Clarke, Cornell, Covode, Finney, Fox, Gravely, Griswold, Hill, Higby, Hotchkiss, Asahel W. Hubbard, Kitchen, George V. Lawrence, Loan, Marvin, McCarthy, McCullough, Miller, Moore, Morrell, Morrissey, Pile, Pomeroy, Raum, Scofield, Selye, Shellabarger, Spalding, Stone, Taffe, Taylor, Twichell, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, Stephen F. Wilson, and Woodbridge—44.

So the bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRIAL OF ALBERT M. D. C. LUSK.

Mr. WILSON, of Iowa, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to.

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, the record of the trial by military commission, under the provisions of the reconstruction acts, of Albert M. D. C. Lusk, of Louisiana, in New Orleans, in August last, for the murder of a negro boy; also copies of all papers connected with or relating to the case; also a statement of his action thereon.

REVENUE AND EXPENDITURES.

Mr. HOOPER, of Massachusetts. I ask unanimous consent to offer a resolution, and to occupy not more than ten minutes, perhaps not more than five, in explaining my reasons for offering it. The resolution, which has already been read to the House, is as follows:

Resolved, That in the opinion of this House the amount of revenue annually collected by taxation should not exceed $300,000,000; that the Committee of Ways and Means be instructed to report a bill so modifying internal taxation as to reduce the revenue from internal taxes and the tariff duties to a sum not exceeding $300,000,000; and that the Committee on Appropriations be instructed not to exceed that amount, including the interest on the public debt, in the appropriations reported to the House.

The SPEAKER. Does the gentleman introduce it for the purpose of action now?

Mr. HOOPER, of Massachusetts. I will make a few remarks and leave it to the action of the House.

Mr. ELDRIDGE. I have a resolution on the same subject which I should like to have read and considered by the House at this time.

Mr. BROOKS. I do not know that there will be any objection to the gentleman from Massachusetts being heard.

Mr. PRUYN. I have no objection, provided some person on this side of the House is allowed to speak in reply for ten minutes.

The SPEAKER. Does the gentleman object?

Mr. PRUYN. I do not. If the gentleman is heard some one on this side ought to be heard in reply.

Mr. HOOPER, of Massachusetts. I move to suspend the rules so that I may have the privilege of addressing the House for ten minutes.

The motion was agreed to.

Mr. HOOPER, of Massachusetts. Mr. Speaker, it has always been considered that this House held the purse-strings of the nation and should determine the amount of money that the people be called upon to furnish for the use of the Government, as well as the mode in which it should be furnished. Upon this theory the practice is based of originating all money bills in the House of Representatives.

During the recent war of the rebellion Congress was necessarily obliged to depend on the Departments for information as to the amount of money that would be required by the Government. But the time has now returned when it becomes the duty of this House to judge and determine the amount of money that should be required for the purposes of the Government. With the assistance of the able reports from the several Departments which have been laid before the House there can be no difficulty in possessing all the information to form a just conclusion in regard to the amount that should be drawn by taxation from the people.

The first effective step to keep down the expenditures of the Government and to secure an economical administration is to limit the revenues to the sum required for that purpose; and never was this more important than at this time, when the industrial interests of the country are oppressed almost beyond precedence by the continuance of those heavy burdens of taxation which they cheerfully bore while the war rendered them necessary, but which the people now claim to be no longer necessary.

It appears by the report of the Secretary of the Treasury that the revenue for the year ending 30th June, 1867, was $490,000,000, and he estimates the revenue for the year ending 30th June, 1868, at $417,000,000, and for the year ending 30th June, 1869, $381,000,000. The expenditures for 1867 were $346,000,000, and are estimated for 1868 at $393,000,000, and for 1869 at $372,000,000. The Secretary of the Treasury adds, however, that he is hopeful—

"That Congress will take means to largely reduce expenditures in all branches of the service, so that a steady reduction of the debt may be continued."

If the internal revenue laws are enforced the

taxes may be reduced $100,000,000 without reducing the whole revenue below $300,000,000. It seems to me that Congress should have something to do with the estimates for future expenditures, and should, as the Secretary hopes, take measures to largely reduce expenditures in all branches of the service; but I think it should be done for the purpose of relieving the people from a portion of the heavy taxation which now weighs down the industry of the country and not for an immediate reduction of the public debt.

The only way to secure economy in the expenditures is to diminish the supplies, and in doing that the heavy burden of taxation which is now weighing upon the people will be lightened. The best way to increase the money in circulation is to diminish the amount exacted from the people; by taking off $50,000,000 from the taxes that much is left in the possession of the people, which they can use for other purposes.

I now demand the previous question on the resolution.

Mr. BAKER. I will first ask the gentleman a question. It arises out of the construction of the sentence, "in the opinion of the House the amount of revenue annually collected by taxation should not exceed $300,000,000," and it is resolved that "the Committee of Ways and Means be instructed to report a bill so modifying internal taxation as to reduce the revenue from internal taxation to $300,000,000." I suggest it be amended so as to read "a sum not exceeding $300,000,000."

Mr. HOOPER, of Massachusetts. I think that is the reading of the resolution now.

Mr. BAKER. I think not.

Mr. HOOPER, of Massachusetts. I accept the modification.

Mr. ELDRIDGE. I propose the following amendment:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of abolishing all internal taxes except on the articles of whisky and tobacco, and of readjusting the tariff on the basis of revenue alone, and that said committee report thereon by bill or otherwise.

The SPEAKER. If the rules be suspended that can then be offered as an amendment.

Mr. ALLISON. I discover the gentleman from Massachusetts instructs the Committee of Ways and Means to reduce the internal taxation to $300,000,000. Why not modify it so as to include the tariff as well? Reduce both to that sum.

Mr. HOOPER, of Massachusetts. My particular object is to reduce the internal taxation, but it does not exclude the object the gentleman has in view. I move to suspend the rules to enable me to introduce the resolution.

Mr. STEVENS, of Pennsylvania. Would it not be convenient for the gentleman to specify the expenses to which it should be applied—how much for each item?

Mr. HOOPER, of Massachusetts. I propose to leave it to the Committee on Appropriations, of which the gentleman is chairman, in whom I have great confidence.

The rules were not suspended.

LAND OFFICE REPORT.

Mr. DONNELLY. I ask unanimous consent to introduce the following resolution:

Resolved, That with a view to the encouragement of immigration and the more rapid settlement of the public lands of the United States the Committee on Public Lands be instructed to inquire into the expediency of preparing an abstract of the report of the Commissioner of the General Land Office, made at the commencement of the present session of Congress, to be printed and distributed through the consuls of the United States in Europe to all such persons as may apply therefor.

Mr. WASHBURNE, of Illinois. I object.

The objection was subsequently withdrawn, and the resolution was adopted.

INCREASE OF PENSIONS.

Mr. WASHBURN, of Indiana. I ask unanimous consent to introduce the following resolution:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of allowing an increase of pensions to the widows of deceased soldiers, for children under sixteen by their former husbands, as long as they provide for the same.

Objection was made.

MARINE TORTS.

Mr. NIBLACK. I ask unanimous consent to introduce the following preamble and resolution:

Whereas it has recently been decided by the Supreme Court of the United States that the State statutes attempting to confer jurisdiction on State courts by proceedings strictly *in rem*, against vessels of twenty tons or more burden, employed in commerce and navigation between certain ports and places in different States, are void; and whereas by reason of the great distance between the ports of many of the States and the places in which the district courts of the United States for the respective districts are held a large proportion of persons having claims in rights of action against lost vessels from marine torts or marine contracts are left without any practical or adequate remedy: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire what legislation is necessary to afford persons thus having claims or rights of action against such vessels for marine torts and on marine contracts convenient, speedy, and adequate remedies against the same, and to report by bill or otherwise.

Mr. PILE. I object, unless the resolution is modified so as to read "to inquire into the expediency."

Mr. NIBLACK. It is simply "what legislation is necessary;" that is all it amounts to.

Mr. PILE. I do not so understand it.

Mr. NIBLACK. I will modify it so as to read "what legislation, if any, is necessary."

Mr. PILE. I prefer the other form.

Mr. NIBLACK. Well, I will modify it as the gentleman suggests.

The resolution, as modified, was adopted.

POSTAL CONVENTIONS.

Mr. BANKS. I ask unanimous consent to introduce the following joint resolution:

Resolved by the Senate and House of Representatives, &c., That the Secretary of State be authorized and directed to cause the several postal conventions made with foreign countries under the provisions of the act of March 3, 1851, or which may hereafter be made, to be published in the same manner and upon the same terms as is prescribed for the publication of the treaties and laws of the United States.

Mr. LAFLIN. I suggest to the gentleman from Massachusetts that this is in terms the same as a joint resolution that was referred this morning to the Committee on Printing. I think this should be referred to that committee.

Mr. BANKS. I have no objection to its reference.

The joint resolution was read a first and second time, and referred to the Committee on Printing.

CHANGE OF REFERENCE.

On motion of Mr. SCHENCK, by unanimous consent, from the Committee of Ways and Means, that committee was discharged from the consideration of House bill No. 39, to authorize the Commissioner of Internal Revenue to adjust the accounts of Mark Howard; and the same was referred to the Committee of Claims.

Also, from the consideration of a letter from the Secretary of War *ad interim*, transmitting a draft of a joint resolution explanatory of certain acts relating to the armory and arsenal at Rock Island, Illinois; and the same was referred to the Committee on Military Affairs.

Also, from the consideration of a joint resolution and petition for the relief of John Sedgwick, collector of revenue; which was referred to the Committee of Claims.

Also, from the consideration of supplementary estimates of General U. S. Grant for military services; and the same was referred to the Committee on Appropriations.

Also, from the consideration of the petition of the mechanics of the Quartermaster General's department in relation to twenty per cent. additional compensation; and the same was referred to the Committee on Appropriations.

CAPTURE OF JEFFERSON DAVIS.

Mr. PAINE, by unanimous consent, introduced a bill to provide for the distribution of the reward offered by the President for the capture of Jefferson Davis; which was read a first and second time, and referred to the Committee of Claims.

SAUGATUCK HARBOR.

Mr. UPSON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of improving Saugatuck harbor, at the mouth of the Kalamazoo river, in the State of Michigan, and of making an appropriation for that purpose, and to report by bill or otherwise.

PUBLIC LANDS.

Mr. JULIAN. I desire to offer the following resolution:

Resolved, That in order to carry into full and complete effect the spirit and policy of the pre-emption and homestead laws of the United States the further sale of the agricultural public lands ought to be prohibited by law, and that all proposed grants of land to aid in the construction of railroads, or for other special objects, should be carefully scrutinized and rigidly subordinated to the paramount purpose of securing homes for the landless poor, the actual settlement and tillage of the public domain, and the consequent increase of the national wealth.

Mr. JULIAN. I wish to submit some remarks on this resolution.

The SPEAKER. Debate arising on the resolution, it goes over.

DEPARTMENT OF AGRICULTURE.

Mr. TROWBRIDGE. I offer the following resolution:

Resolved, That the Commissioner of Agriculture be instructed to report to this House the present condition of the Department of Agriculture and what legislation is necessary to enable him to so reorganize that Department as to place it on a footing commensurate with the vast interest committed to its charge.

Mr. GARFIELD. If the gentleman from Michigan will allow me to make one suggestion in regard to the resolution he has offered, I wish to state a fact to the House. There is lying to-day at the Department of Public Printing a pile of unbound volumes of the Agricultural Report for the year 1866, which pile would weigh two hundred and ten tons, and the covers are not yet on. It would take a train of two hundred and ten Army wagons, each carrying a ton load, to take away that pile of books now lying there, probably to the imminent danger of the breaking down of the building and the destruction of life; at least it is so alleged.

Now, this is one of the many places where it seems to me this Congress ought at once to lay its hands upon the expenditures of the Government, and I trust that the Commissioner of Agriculture and the committee on that subject will make a very thorough work of reducing the expenses without impairing the efficiency of this most important department of the Government.

Mr. ROSS. I object to further debate.

Mr. DAWES. I hope the committee will not forget the enormous expenditure on the new building up here in the Smithsonian grounds.

The SPEAKER. Debate is not in order.

The resolution was adopted.

PAY OF DEPUTY COLLECTORS AND ASSESSORS.

Mr. HOPKINS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to inform the House the names of such deputy collectors and assistant assessors under the internal revenue laws as have been required by law to discharge the duties of collectors and assessors in the several districts without being appointed in the usual way; the length of time each has so discharged said duties, and the amount of compensation received by each while acting as assessor or collector, and the amount they would have been entitled to receive had they discharged the duties of said offices by virtue of appointments in the usual manner.

AMENDMENT OF PENSION LAWS.

Mr. HOPKINS also, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of so amending the pension laws as to embrace the cases of death of all Union soldiers who died or were killed while on furlough or absent from their commands by authority of the proper officer or officers.

LEAVE OF ABSENCE.

On motion of Mr. NEWCOMB, leave of absence for an indefinite time was granted to Mr. GRAVELY on account of sickness.

SUPPLY OF ARMS TO LOYAL CITIZENS.

Mr. MUNGEN. I ask the unanimous consent of the House to offer the following preamble and resolution:

Whereas on the second page of the pamphlet entitled "Report of the Second Auditor of the Treasury, December 2, 1867," there appears an item of expenditure of several hundred dollars on account of "supplying arms and munitions of war to loyal citizens in revolted States:" Therefore,

Be it resolved by the House of Representatives of the United States, That the Secretary of the Treasury be instructed to report forthwith to this House the facts connected with this expenditure; who such loyal citizens were; the evidence of their loyalty; whether they were white or colored; and the name of the State or States which were in revolt when such expenditure was made.

Mr. MAYNARD. I object.

LEAKAGE INDICATOR.

Mr. LOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the propriety and expediency of requiring all American steam and sail vessels to provide themselves with some alarm gauge or indicator of leakage or water in the hold of said vessel during any trip made with passengers on board.

And then, on motion of Mr. HOLMAN, (at three o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. AXTELL: The petition of J. M. Hogan, for relief for losses on the plains from Indian depredations.

By Mr. BROOMALL: The petition of Charles B. Tanner, late first lieutenant of United States volunteers, asking payment for military services rendered after the date of his commission and before its reception by him.

By Mr. BUCKLAND: The petition of Henry K. Hulburt, private seventy-second regiment Ohio volunteer infantry, for relief.

By Mr. EGGLESTON: The report of the commissions (appointed by the Governor of the State of Ohio) on the claims caused by the raid of John Morgan through said State.

By Mr. FARNSWORTH: The memorial of Moses B. Bliss, for the adoption of his system of measures, weights, and coins.

By Mr. GOLLADAY: The petition of trustees of the Southern College, Bowling Green, Kentucky, for relief.

By Mr. HOOPER, of Massachusetts: The petition of New England manufacturers of cheroots and short sixes to reduce the internal tax on cheap cigars.

By Mr. HUBBARD, of West Virginia: The memorial of Isaac D. Winters, William H. Riggs, and others, asking the passage of a joint resolution explanatory of the thirteenth section of the act of July 28, 1866.

By Mr. KELLEY: The petition of manufacturers, throwsters, dyers, and others, interested in the silk trade at Paterson, New Jersey, asking the repeal of the five per cent. tax levied on their industry by the revenue law and suggesting the resort to tax on sales to be collected by stamps.

By Mr. MARVIN: The petition and additional papers in the case of Herman J. Ehle, of Canajoharie, New York, heretofore referred.

By Mr. PERHAM: The memorial of Mrs. Susan Ten Eyck Williamson, for pension.

By Mr. PHELPS: The memorial of Jacob Brandt, jr., of Baltimore, Maryland, president of Powhatan Steamboat Company, for payment of balance due for the loss and hire of their steamboat Pocahontas, impressed into the military service of the United States.

By Mr. MYERS: The petition of David B. Champion, late private of company A one hundred and eighty-fifth regiment Pennsylvania volunteers, for back pension.

Also, the petition of Mary E. Stone, widow of Richard F. Stone, deceased, formerly corporal of company F fourth regiment New Jersey volunteers, afterward clerk in the ordnance department, who was killed by the explosion of an ordnance boat, for pension.

By Mr. SCHENCK: The petition of Abner Johnson, as father of James Johnson, praying for a pension.

Also, the petition of D. McCarthy, of Ohio, praying that brandy distilled from rhubarb may be put on the same footing of exemption as brandy distilled from grapes within the United States.

By Mr. WILSON, of Ohio: The petition of Adam Carrell, of Gallipolis, Ohio, asking for a pension on account of disability incurred in the secret service of the United States during the rebellion.

IN SENATE.

TUESDAY, *December* 10, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 6th instant, information in relation to the appointment of Edmund Cooper as acting Assistant Secretary of the Treasury; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. MORGAN. I present a memorial of the Chamber of Commerce of the State of New York on the subject of a return to specie payments. The memorial is accompanied by a carefully compiled statement exhibiting the lowest and highest premium on gold compared with the lowest and highest prices of several of the leading United States stocks for each month in the years 1864, 1865, 1866, and up to November 20, 1867. As these tables are of considerable value, I move that the memorial be printed and referred to the Committee on Finance.

The PRESIDENT *pro tempore*. The motion to print will go to the Committee on Printing under the rule, and the memorial will be referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent for the Treasury Department, be covered by warrant into the United States Treasury, reported it without amendment.

Mr. CRAGIN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution of the 25th ultimo for the payment of the salaries now due the clerks of committees and special messengers and pages retained during the recess, reported it without amendment.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 141) for the further security of equal rights in the District of Columbia.

The message also announced that the House had concurred with the Senate in the reappointment of the joint committee to examine accounts for repairs to the Executive Mansion, and appointed Mr. R. P. SPALDING of Ohio, Mr. F. C. BEAMAN of Michigan, and Mr. A. J. GLOSSBRENNER of Pennsylvania, the committee on its part.

The message further announced that the House had concurred in the appointment of a joint committee to revise and fix the pay of the officers of the two Houses, and had appointed Mr. F. E. WOODBRIDGE of Vermont, Mr. E. R. ECKLEY of Ohio, and Mr. H. MCCULLOUGH of Maryland, the committee on its part.

POST OFFICE REPORT.

Mr. RAMSEY. I offer the following resolution, and ask for its present consideration:

Resolved, That five hundred extra copies of the report of the Postmaster General be printed for the use of the Post Office Department.

There are not sufficient for circulation among the various post offices of the country, as now allowed by law.

The PRESIDENT *pro tempore*. The resolution will go to the Committee on Printing under the rules.

MILEAGE OF SENATOR RIDDLE.

Mr. RAMSEY. I offer a resolution:

Resolved, That the Secretary of the Senate be instructed to pay to Mrs. Margaret Riddle, widow of the late Hon. George Read Riddle, late Senator from the State of Delaware, the mileage to which the Senator would have been entitled at the commencement of the present session of Congress.

The PRESIDENT *pro tempore*. Does the Senator ask for its present consideration?

Mr. RAMSEY. Yes, sir.

Mr. GRIMES. It must go to the Committee to Audit and Control our Contingent Expenses, under the rule of the Senate.

The PRESIDENT *pro tempore*. It will go to that committee under the rule.

UNION PACIFIC RAILROAD AND BRANCHES.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to furnish to the Senate a statement setting forth—

First. The amount of United States bonds issued to the Union Pacific Railroad Company and its branches, including the Central Pacific Railroad Company, under the act of 1862 and the amendments thereto, the dates at which the same were issued, the company to which they were delivered, and the sections of road in respect to which they were granted.

Second. The account between the United States and said company and each of the said branches, including the Central Pacific Company, setting forth the amount of interest paid by the United States on such bonds and the amount of interest repaid to the United States by said company and each of said branches, including the Central Pacific Company, and the mode of repayment, whether in cash or the transmission of dispatches and transportation of the mail and supplies, as provided by the charter.

Third. The length of the line on each road already completed and accepted, designating the locality.

AMERICAN AND BRITISH CLAIMS.

Mr. SUMNER. I offer a resolution, which is in the nature of a supplement to a resolution adopted by the Senate a few days ago on my motion, and I ask for its present consideration:

Resolved, That in answering the resolution of the Senate of the 4th instant, calling for correspondence relative to claims against Great Britain, the President of the United States be requested, if compatible with the public interest, to furnish a copy of all the correspondence and other papers, not hitherto published in this country, touching the recognition of belligerent rights by that Power at the beginning of the late rebellion, and also touching the depredations on the commerce of the United States by the Alabama and other vessels, built, armed, equipped, and manned in Great Britain; and that, if convenient, he cause the Secretary of State to prepare an index to all correspondence and documents on these subjects.

The resolution was considered by unanimous consent, and agreed to.

BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 73) for the relief of the Columbia Turnpike Company, for use and occupation of their road during the late rebellion; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 177) regulating the rights of property of married women in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 178) to remove the disability of certain citizens of Alabama; which was read

twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILSON also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 179) to facilitate the settlement of the accounts of disbursing officers; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 180) relating to United States notes; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 181) to establish certain post roads in the State of Oregon and Washington Territory; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 74) in relation to consular appointments; which was read twice by its title, and referred to the Committee on Naval Affairs.

RECONSTRUCTION ACTS.

Mr. DOOLITTLE. I ask the consent of the Senate to be allowed to offer an amendment to the bill (S. No. 162) to amend an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the several acts amendatory thereto.

The PRESIDENT *pro tempore*. The amendment may be received informally.

Mr. DOOLITTLE. The bill to which the amendment which I now present is proposed was introduced by the honorable Senator from Massachusetts, [Mr. WILSON.] I wish to have this amendment referred to the Committee on the Judiciary and printed. It is very short, but it contains a very important proposition.

In making this motion to refer I desire simply to state that the bill introduced by the Senator from Massachusetts is probably one of the most important bills which has been presented at the present session, and is perhaps the most important bill that will come before Congress for consideration at the present session: a bill to amend the acts of reconstruction as they are applicable to the States of the South. The proposition offered by the Senator from Massachusetts is a very important one, providing that the constitutions to be adopted in those States shall be adopted, not by a majority of the registered voters, but by a majority of the actual voters. To that bill I propose an amendment in the shape of a proviso, providing that the persons who do not possess the qualifications required by the laws and constitutions of the several States previous to the rebellion, in order to be permitted to vote at any election for the ratification of a constitution or of officers under it, shall be possessed of one of the following qualifications: first, shall have served in the Army of the United States for the period of one year or more; or second, shall be possessed of sufficient education to enable him to read the Constitution of the United States, and to subscribe his name to an oath to support the same; or third, shall be possessed of a freehold estate in his own right or the right of his wife of the value of $250.

Mr. President, if the measure of the Senator from Massachusetts is to be pressed upon the consideration of Congress, as I have no doubt it is, this proviso is a very important one to be adopted, which possibly might bring peace to that distracted country if Congress should be disposed to adopt it. I shall not now go into the consideration of the question, but I simply state that I believe the bill offered by him is very important. It anticipates a fact which undoubtedly is likely to occur, that the constitutions being formed are not to be adopted by a majority of the registered voters. It is opening the question anew, and as a matter of course when that question is reopened it is all-important that Congress should take a position which the people of the country will be able to sustain. I move that my proposed amendment be printed.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

Mr. WILSON. Before the matter passes from the Senate I wish simply to say that the amendment I moved to the law, by the bill referred to by the Senator from Wisconsin, was merely to strike out that very strange provision we put into the law requiring a majority of all the voters registered to vote at the elections. I thought then it was a provision which must operate against the friends of reconstruction, and it looked at one time as though it would be fatal to immediate reconstruction in some of the States. There are, however, nine States that have voted for conventions and have elected their delegates.

I am satisfied that everything pertaining to reconstruction has gone on exceedingly well, far better than any member of either House had a right to expect; that the elections have been fair and orderly, as much so as in the other States; that as a general rule the conventions are conducting themselves quite as well as other conventions do, and I have undoubting faith that they will make good constitutions and that those constitutions will be adopted, whether we pass the amendatory bill introduced by me or not. It is possible that in one or two of the States the friends of reconstruction may fail, but I doubt whether they will fail in any.

I have no doubt that before the close of this session of Congress eight or nine of those States will be represented in both Houses. The great measure of reconstruction needs no essential change, especially in the direction indicated by the Senator from Wisconsin. I thought it was a great mistake to put in the provision to which I have alluded, and I should like to see it stricken out. It was my own judgment also that it was a mistake to disfranchise anybody. I thought the amendment put on the original bill by the House of Representatives, which provided for disfranchisement of a small class of persons, was a mistake, and I have never entertained any other opinion about it. I believe fully that that provision has operated to prejudice people's minds against the reconstruction measure; but the work of reconstruction is going on, its success is a certainty, a fixed fact, is sure of triumph in spite of all that may be done against it anywhere. It is to me a matter of the most profound gratification that the work is going on so well, that it will be completed, that those States will soon be represented in these Chambers; and I hope the prosperity of that section of the country, and the peace and repose of the whole country, will follow and soon be manifest to the people of all sections of the country and all classes of the people.

Mr. CONNESS. I trust as this is a great subject, and has been so called by both Senators, that they will be magnanimous enough to allow other Senators to have something to say about it and something to do with it, and that the bill presented by the honorable Senator from Massachusetts will be allowed to come up in its regular order for discussion, and come here without being prejudged or the necessity for it or the contrary declared by the eminent author of the bill. This business is one indeed, as they have stated, of great consequence, and I feel a small degree of responsibility for the vote that I cast on it. I shall be ready to review the case and vote again when the question comes up legitimately and the bill is under consideration.

Mr. DOOLITTLE. The Senator from California certainly does not mean to say that I have gone into a discussion of the merits of the bill. I have simply said that it was a very important measure, and I supposed that the Senator from Massachusetts in introducing the bill meant something. I do not know from the purport of his present speech whether he really means to insist upon the passage of his bill or whether he means to abandon it. I supposed that he was in earnest, that he meant something in introducing a bill so important; and therefore taking him to be in earnest, as I supposed he was, because I had a right to suppose it, I am very much in earnest when I propose this proviso to his bill. That is all I desired to say, without discussing the merits of the separate propositions. When that question shall come legitimately before the Senate I hope that I may have an opportunity to be heard, and certainly I have no desire to prevent other Senators from being heard on the question.

Mr. DAVIS. I think, Mr. President, that much of the great good that has come to the country in the last six months has resulted from the previous great evil that had been done. If it was my theory of morals that evil should be done that good might come of it I would want the bill to which the Senators have referred to pass. The great issue, and the greatest issue that has ever been before the people of the United States, is now looming up in all of its grand proportions, and that is, whether the Government of the United States shall be a white man's Government or a negro Government, and the thunders of the vast majority of the American people pronounced in the recent elections have already decided that question. Sir, the Government of this country was made by white men, it has always continued to be a white man's Government from the beginning, and will be to the end; and those who seek to establish a contrary power of government in this country will find themselves crushed into dust. If the honorable Senator from Massachusetts and the advocates of negro government want that question to be decided by the people unmistakably let them bring out their Fred. Douglass as their next candidate for the Presidency; and where would he and his followers, negroes or whites, be? Driven like chaff before the whirlwind of American indignation.

Sir, the people of America have already decided that a miserable white minority of less than one fifth of the people of the United States, with all the negroes in it, shall never appoint a President for the white men of the United States. The white men of the United States will rally in the proportion of three fourths or four fifths of the white people of America to decide this important point: that a negro electoral vote, appointed by negro governments, forced by usurped power upon the people of the southern States, shall never appoint for them a President of the United States. When the time comes and that grand issue is to be met from North to South, from East to West, in every part of the United States will gather the white people, the hosts of the Caucasian race, and they will put this mushroom negro power that has loomed up in such large and monstrous proportions in the last year or two under their feet, and its allies will be driven into political and social nonentity. Sir, if my desire for the overthrow of the Republican-Radical party, which is the strongest desire that ever nestled in my bosom, was now to guide my decisions I would wish that this bill and every other atrocity to foist the negroes into the mastery of our country and of our Government should be brought up and passed by the forms of law through Congress.

I hope that the honorable Senator from Massachusetts will press his measure. If the majority here are disposed to force it through the Senate and the other House of Congress upon the white people of America, I want it done. That will be the great test, and I want that test to come quickly, promptly. If I am to be a slave with my white countrymen under the *régime* and the government that will thus be established I cannot know it too soon; but I have no apprehension that that will ever be my deplorable destiny.

Mr. STEWART. Mr. President, from the remarks that have just fallen from the Senator from Kentucky one would suppose who did not know anything about the fact that the Union

party had undertaken to govern this country by the negro vote. I have heard this before. I have heard it from the stump. I have heard this effort for the last year to frighten the American people and to make them believe that they would be governed by the negroes; that if the negroes voted at all they would govern this entire country. I suppose that in the United States there is one person in ten that is of African descent, rather a small minority to control this great Government! I do not suppose that anybody in his senses has really any sincere alarm about negro government. I think stating the issue in that form manifests a very strong desire to avoid the real issue. The real issue before the country, the real issue that will be before the country next fall, is whether this country shall be governed by loyal men, by its friends, by those who stood by it in the hour of its peril, or whether it shall be turned over to traitors and its enemies, that they may go on with the work of destruction; that they may visit punishment upon the friends of the Government. That is the real issue, and yet we hear from every source that the issue is to be whether one tenth of the American people being colored shall tyrannize over nine tenths!

It is said that a great sin has been committed by the Union party in conferring the franchise upon the negro. I have nothing to say of the justice or humanity of the law; but how was it brought about? Who brought it about? Who forced the necessity upon Congress and upon the Union party? I believe that every Union man had settled this proposition in his mind, and I believe that every man who loves his country still adheres to the proposition, that it is unsafe to place the power of this Government in rebel hands while they are still unrepentant. I believe that is the voice of the American people, and I believe that we were instructed by the overwhelming votes that we received from time to time that we must accomplish that end. There is no doubt about that. All say that; but some now get up strange definitions of loyalty. All that is necessary to see what the issue is and to clear it of all embarrassments is to reflect for one moment upon the history of the transaction.

In the first place, Congress found organizations in existence in the South that were in rebel hands, that were persecuting loyal men, that were obstructing the process of law. In fact, there were no loyal governments in the South. How did we commence? We commenced by attempting to relieve the difficulty without negro suffrage. We passed the civil rights bill. The President vetoed it. It was opposed in the South; it was declared unconstitutional by the judges in the South; it was not executed. Civil rights were denied to the negroes, which all the Democrats now say they ought to have. They say they will give them civil rights. Why did they not give them civil rights under the civil rights bill and execute that law? The President had vetoed it and the reasoning of his veto message was followed by those who had charge of the execution of the law.

We then passed a Freedmen's Bureau bill. That was inoperative except in the immediate presence of the military commanders. The objection made to these measures was that they were unconstitutional. All admitted the justice of the civil rights bill, but it was opposed on technical grounds. Congress then sought to remedy that difficulty, and how? By proposing a constitutional amendment which denied the power of the State organizations to deprive any citizen of his civil rights, with other provisions. This was submitted to the States; and this was rejected by the rebels; rejected by the Johnson party; rejected by the Democrats. They said they would not give our loyal black men in the South civil rights, that they would not have them protected; that they would not give them the aid of the machinery of the Government; that they would not allow loyal men to be protected in the South. In other words, they repudiated every proposition for constitutionally guarantying to each citizen of the United States his civil rights. What was to be done next? There were in the South a large mass of people, black and white, who were loyal to this Government, who were oppressed by this unjust refusal on the part of the Democratic party and those operating with them, who were denied their civil rights, to whom there was no protection——

The PRESIDENT *pro tempore*. It is the duty of the Chair at this hour to call up the unfinished business of yesterday.

Mr. STEWART. I shall be through in two or three minutes.

The PRESIDENT *pro tempore*. By common consent the Senator may proceed. The Chair hears no objection.

Mr. STEWART. I say it then became necessary either to provide loyal governments or surrender the southern country to the hands of rebels and rebel sympathizers, leaving loyal men unprotected by any law—leaving them to the generosity of the rebels who had been exasperated against the negro and against the southern loyalist by our action in suppressing the rebellion and liberating slaves. Were we to turn our friends—those who had been true to the Union—over to the tender mercies of those who had made war upon the Union; to turn them over to the tender mercies of their exasperated enemies who refused to sanction any law whereby they were to be protected in their civil rights? What was done then? Congress passed reconstruction acts, whereby they conferred the right of suffrage, not upon the blacks alone, but upon the whites, excluding a very small class, whereby they placed in the hands of the oppressed and the persecuted the power of self-protection. You say that this was unconstitutional. You say that this was usurpation. It is said in the President's message to be usurpation. I am sorry that the President of the United States has used that argument in view of his own conduct; in view of the fact that he undertook to set up governments himself with restrictions which involved the exercise of the identical power that Congress has exercised. There is no party that can say it is free from the exercise of this power.

Andrew Johnson, above others, acted upon the theory that the rebel governments in the South were not merely voidable, but absolutely void, and that new organizations must be created, and he created them. He, the Executive, undertook to exercise these functions alone, and I say it comes with an ill grace from him to declare that Congress, the legislative power of the Government, had not equal authority with him alone as President. When you come to the question of power it is a strange constitution that can always be invoked in aid of rebellion, in aid of oppression, in aid of wrong, but has no element in it whereby justice can be maintained, whereby the Union can be preserved, whereby the loyal men of the country have a right to say who shall control it. It is a strange instrument that is always invoked in aid of wrong and oppression. The Constitution of the United States, when fairly construed, it seems to me, has in it those elements that will protect the weak against the powerful who would oppress them, and that secure to all men their rights. If it is not such an instrument, if it is an instrument of wrong and oppression and secession and rebellion, and only protects those engaged in tearing down this Government, it is worth very little to humanity, very little to civilization.

I repudiate altogether the charge that Congress has attempted to set up negro governments. I affirm that they, as they were in duty bound to do, have undertaken to inaugurate loyal governments, governments that will be friendly to our institutions. They have undertaken to preserve our institutions in the hands of their friends. That is all. Who is to be alarmed by the cry that one negro in ten of our population is to govern this country? That is a pretty watchword with which to go before the people. It only needs to be stated to show how absurd it is. It is an appeal to a low prejudice for the purpose of placing the Government in the hands of rebels. And what purpose have they in view? Have we ever thought of that? Is it certain that they will not avenge their supposed wrongs on your loyal soldiers? Is it certain that they will not refuse to pay the pensions due to your widows and orphans? Is it certain that they will not repudiate your national debt? Is it certain that they will not claim pay for the slaves we have emancipated? I have heard the Democratic theory stated by a good many Democrats, many of whom in private conversation say that the mission of the Democratic party is to place everything back where it was before the war, wipe out the debt, reënslave the negroes, and pay for what damages have occurred. Until they get some of these theories out of their heads it seems to me it is but right and proper that we should enfranchise the men who are friendly to the Government, who will sustain our institutions, who have been tried and true. I wish it distinctly understood that I have no fear of the American people being frightened out of their wits on account of a few colored people being allowed to vote. I do not think the people of the South will be much frightened about it. It may be that the modern Democracy will be alarmed, for its courage has been very much shaken during the war. It never had much faith in itself, and I think it quite likely that modern Democracy will be afraid of the negroes. I am not surprised at that. It ought to be afraid of itself. It is afraid to trust anybody, even itself. It certainly is not going to scare the American people and induce them to drive the friends of the Union from power because a few loyal negroes are allowed to vote for their own protection in the South.

Mr. DRAKE. Mr. President——

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now properly before the Senate. It is the joint resolution (S. R. No. 69) to preserve neutrality between the Government of Great Britain and the king of Abyssinia.

Mr. CHANDLER. As the resolution of the Senator from Missouri was specially assigned for to-day at one o'clock, I will move to postpone until to-morrow the unfinished business of yesterday, so that that Senator may proceed with his remarks.

The motion was agreed to.

Mr. DOOLITTLE. I hope with the consent of the Senator from Missouri that the order to refer my amendment may be made, so that it may go to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. It will be done by common consent if there be no objection. The Chair hears none.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had appointed Mr. JOHN A. LOGAN of Illinois, Mr. BENJAMIN F. BUTLER of Massachusetts, and Mr. ROBERT C. SCHENCK of Ohio, as the members on the part of the House of the joint Committee on Ordnance.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 141) for the further security of equal rights in the District of Columbia; and it was signed by the President *pro tempore* of the Senate.

PRESIDENT'S MESSAGE.

Mr. DRAKE. I now move that the resolution which I offered on the 4th instant in regard to the President's message be taken up.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Concurrent resolution in relation to the annual message of the President of the United States.

Resolved by the Senate, (the House of Representatives concurring,) That the President of the United States in declaring in his annual message to the two Houses of Congress at the present session that the acts heretofore passed by those Houses in relation to the

reconstruction of the insurrectionary States "are not only objectionable for their assumption of ungranted powers, but many of their provisions are in conflict with the direct prohibitions of the Constitution," and that those acts are "as plainly unconstitutional as any that can be imagined," has transcended the just limits of his constitutional prerogative to "give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient;" that the use of such language by him in his official character is, in our judgment, calculated to derogate from the rightful authority of the law-making power of the nation, and to incite insubordination, if not violent resistance to laws which it is his duty as President to "take care shall be faithfully executed;" that as between the Congress and the President the former is the exclusive and final judge in the first instance of the conformity of its acts to the Constitution; and that when any act has been passed by two thirds of both Houses over the President's objection, any subsequent official denouncement of it by him as unconstitutional in the absence of any adjudication to that effect by the supreme judiciary of the nation is a departure from official propriety and a breach of official obligation justifying and calling for distinct reprehension on the part of the Senate and House of Representatives.

Mr. DRAKE. Mr. President, nothing but a sense of duty could have led me to introduce this resolution. If it was a mistaken sense of duty I alone am responsible for it. But I do not apprehend that the judgment of the Senate, much less that of the loyal men of the country, will pronounce me in error. I see pretty clearly, I think, the objection which lies at the threshold to the unusual character of such action as this on the part of the two Houses of Congress; but I see, too, more clearly the extraordinary occasion; and my rule is always to suit the action to the occasion. I do not believe in raising a tempest

"To waft a feather or to drown a fly,"

nor in resisting a tempest with cobweb defenses. If an assault is worth resisting it is worth resisting effectually. The first question then is whether the blows and kicks which the President bestows so freely upon Congress are worthy of notice, or whether we shall rub the hurt with the salve of senatorial dignity and say no more about it. As to blows and kicks in general, by all means take to the salve; it is so much more soothing and comfortable and demands so little effort in the application; but as to the particular blow referred to in this resolution, I can see no way of escape with decency from resistance and reprisals. For, sir, great principles, underlying the workings of the Government, are involved; and when that is the case silence on the part of Congress would, in my judgment, be hardly short of criminal.

The Senate will not have failed to observe that this resolution refers only to a single point in the President's multifarious indictment against the reconstruction acts heretofore passed by Congress over his vetoes, namely, his unqualified denouncement of them as unconstitutional. In addition to the two instances of this quoted in the resolution there are in the message two others where the charge is repeated in less direct though not less emphatic terms; one where he says:

"If calm reflection shall satisfy a majority of your honorable bodies that the acts referred to are not only a violation of the national faith but in direct conflict with the Constitution, I dare not permit myself to doubt that you will immediately strike them from the statute-book."

The other, where he says:

"To demonstrate the unconstitutional character of these acts I need do no more than refer to their general provisions."

The case is, then, that of the Chief Executive of the nation, who is charged by the Constitution "to take care that the laws be faithfully executed," formally and unreservedly declaring laws to be unconstitutional which have been passed by both Houses of Congress in the manner prescribed by the Constitution; which stand upon the statute-book of the nation as rules of action for him and all other men; and which he has in every way until now acknowledged his official obligation to carry into execution. Now, however, he plants himself against them, and takes a position from which he cannot consistently proceed to execute them. For if it be true that they are "in direct conflict with the Constitution," if they are, as he avers, "as plainly unconstitutional as any that can be imagined," then of course and of necessity they are utterly and absolutely void, and he is not bound to execute nor is anybody bound to obey them. And so the world is advertised by the Chief Magistrate of this nation that the nation's Congress, in the matter of these acts, is a mere body of usurpers, doing not only what the Constitution gives them no power to do, but what it forbids their doing.

And not the least remarkable and challenging feature of this advertisement is its newness in the history of our Government. Never before, I believe, has a President ventured to declare unconstitutional an existing act of Congress which he was bound to execute, and which was in process of execution under his hand. I do not forget that some thirty-five years ago President Jackson, in vetoing the bill to extend the charter of the Bank of the United States, denied the constitutional power of Congress to create such a bank, and so, in effect, denied the constitutionality of the charter proposed to be extended; but that was in no sense a case like the present. That charter was not a rule of action for communities or individuals, but a grant of certain franchises to certain persons under certain regulations. With it the President had no executive connection, except, if my memory be correct, to appoint a portion of the directory of the bank to represent the stock held in it by the Government. When the bill came before him to renew that charter he expressed, as he was entitled to do, his opinion of its unconstitutionality; and he did that, not because of any new and peculiar features of that bill, but on constitutional grounds, which, if well taken, were fatal to it, and to the original charter as well. The wide difference between that case and the present cannot but be apparent to all.

Senators will not fail to note also the great difference between the President's position in the case presented in this resolution and in that of his stating in a veto message his objections to a bill laid before him for his approbation. There he acts as a part of the law-making power, and has an undoubted and unrestricted right to present and urge his objections in every form he chooses to devise that is respectful to Congress, and with all the force he is master of; and it would be merely absurd to attempt to limit him where he is unlimited by the Constitution, and cannot be limited by any statute law or by any other law than that of his own judgment. But when his objections have been presented, and Congress has overruled them, and passed the bill by constitutional majorities over his veto, then the whole position of things is changed; what was before a bill, a *projet* of a law, has become an act, a law, binding on him as on all others, and in regard to it he is no longer a law-maker, but a mere executive officer, with no more right than any other man to refuse it obedience, but, on the contrary, bound to obey and to make others obey it, whether as an individual he regards it constitutional or not. The Constitution gives him no option, no discretion on that point; he must go forward and see it "faithfully executed."

This is so plain, so far beyond controversy or question, so familiar to us all, that Senators may wonder why it is stated so circumstantially and pointedly; but there is reason for it. It enforces my next proposition, that an officer charged with the execution of a law is under obligation to avoid any impairment by his word or act of its moral force, and much more to avoid any word or act which will invite or instigate its violation. He has not a shadow of right to denounce it as void while attempting to enforce it. In such case his private opinions are, to be sure, his own, and no man shall say that he has not a right to them; but the Government has also a right in the case, the right to demand that he keep his opinions to himself.

The vital force of a statute in a constitutional Government is in its conformity to the fundamental law. The officer who attempts to execute with his hands a law which with his mouth he denounces as invalid and nugatory, because "in direct conflict with the Constitution," stamps his own act as a willful assumption of unlawful authority, and invites resistance to it and to the Government he professes to represent. Transcendently true is this when he is the Chief Executive of the country, and when, by the Constitution under which he acts, he is invested also with the absolute power of reprieve and pardon. Then his denouncement of the law as unconstitutional has the double effect of inviting resistance and promising immunity from punishment for that resistance. It is not within the range of our conceptions of human treachery and meanness—great and instructive as have been our lessons on those points in recent years—that a resistance to law invited by a Chief Magistrate should go unpardoned by him. We cannot doubt that in such case the offender would snap his fingers at the law, at courts, civil or military, at prisons and gibbets; or that the Executive would snap his, which would be all the same. In either case it would be the work of the latter—the greater criminal of the two.

Here, then, is the plain and, without exaggeration, the startling position of the case presented in this resolution. The President of the United States, by bold, direct, unqualified, attacking assertion, in his annual message to Congress proclaims to that body, to the nation, and to the world that certain laws which had been passed by Congress and which he is bound by the Constitution to see "faithfully executed" are unconstitutional; yea, "as plainly unconstitutional as any that can be imagined." And what gives very uncommon, and, perhaps, strangely fearful import to this declaration of implacable hostility to, if not indeed of open war upon those laws is the inflammable condition of a part of the country to which that declaration is made. Had it come forth at a period of peace—peace, I mean, under the surface as well as on it—when there was no inflammability in the public mind, when there were no "dogs of war" panting to be "let slip" again, when there were no bloodshot eyes peering around the horizon for a breach through which blood-stained hands might again seize the nation's throat, it might have been passed by in silence, if not in contempt, without perhaps any serious result. But let us face the stern and rigid fact, and forecast the possible consequences.

This declaration goes forth to a people who but the other day were in open, unprovoked, treasonable war against the country and Government of which this President is now the official head. In the hearts of the great mass of those who were engaged in that war there is not now, there has not for seven years been, one throb of love for that country or Government; but every throb has been one of bitter, implacable, savage hate to both, and to the people that defend them. That they are not in arms now is wholly and only because they can see no ray of hope to light them on to the deadly work of the Union's destruction. Your life, Mr. President, mine, those of all the Republican Senators and Representatives now assembled in this Capitol, were not as long as that of so many lighted candles if that people had the power to wreak the vengeance that burns in their hearts. Nothing but the strong arm of law and that wielding the musket and the saber, keeps them from bloodshed and havoc. At such a time, with such a people, over such a magazine of explosive elements, the President of the United States finds no better occupation for his time and the modicum of talent for mischief with which he is unhappily endowed than to hurl at Congress denunciations of their laws, every one of which feeds the smoldering fires of a rebellion only put out of glaring view, not extinct.

The sum of the matter, then, is that the President has in effect issued an executive proclamation in these words: "I, Andrew

Johnson, President of the United States, do hereby proclaim and make known to all rebels that 'the so-called reconstruction acts are as plainly unconstitutional as any that can be imagined,' and are therefore null and void; that those acts 'bind you hand and foot in absolute slavery;' that you are wrongfully subjected to 'a strange and hostile power;' that I am not bound to execute laws which are unconstitutional; and that, though for prudential reasons I deem it best to keep up the appearance of executing them, yet I hereby grant and proclaim full and universal amnesty, in advance, of all penalties for any acts of violent resistance by you to these laws."

Mr. President, honor and truth forbid that I should knowingly bring a false charge against even the presidential night-mare that crouches upon the heaving breast of this nation! Not one feather's weight would I unjustly add to the awful account he has to render—an account such as I would not have charged against me for all the wealth and honors and power of earth. But where is the difference in spirit between this supposed proclamation and the message which was read in this Hall a week ago? If I saw a difference I would acknowledge and show it; but I see none in that respect. A wide difference I admit there is between the legal effect of the two, but not in their spirit; nor, as I believe, in their intent. And now, sir, in the full view of the people of the United States, I ask, what would this Senate, what would the House of Representatives, what would the country say and do had the President actually issued a proclamation in those words? Would we be content to sit here in silence over such an insult to the two Houses of Congress and to the nation they represent? Are we so used to presidential shoulder-hitting that we will neither fend off nor strike back? Not so, sir—with pride and reverence I say it—not so has brave, loyal, radical Missouri taught me.

Sir, I have earnestly questioned myself—not as an individual, or as a citizen, or as a partisan, but as a Senator of the United States—as to how I should treat in debate so grave and unprecedented a violation of propriety and duty on the part of the nation's Chief Magistrate. Should I denounce him in such terms as this crowning outrage of a long series would justify, what good would come of it? So far as he is concerned, about as much, I suppose, as if I were to spend the same length of time in belaboring a double-skinned rhinoceros; and so far as the Senate or country is concerned, none at all. Were I, if competent, to paint in deeper and darker colors than have ever before depicted his faithlessness to himself, to his previous history, and to his declared principles and purposes; his treachery to those who, laying aside party preferences, magnanimously elevated him, for the sake of his exceptional and pronounced loyalty, to the position whence, through an inscrutable Providence, he was transferred to the seat of power; his abandonment, in the very hour of its straitness and perplexity, of the cause of the Union he had so vociferously professed to love; his disregard of the Constitution he boasts of ever carrying about with him, and leaves with everybody as he goes, till he has left it all behind; and last, but by no means least, his cruel abandonment of the oppressed and lately helpless race to which he vauntingly proclaimed himself a Moses; what would it amount to? The Senate knows it all by heart; the country knows it all *ad nauseam;* it has all passed into the sewers of history; and why fish it out? Not in any such way did I deal with this matter in drafting this resolution; not so do I propose to deal with it now.

As far as possible I leave out of view the man and deal with the thing. I treat it in the resolution, and propose to treat it here, as a grave and weighty subject of constitutional law, whose intrinsic importance springs not from the man, but from the great office he holds, and from the use he has made of that office to buffet a coördinate branch of the Government, and to weaken before the people the constitutional force and influence of its acts. I do not speak for our justification against aspersion, nor for the maintenance of mere dignity, but for the vindication of the rightful authority of the two Houses in which abides the supreme power of this nation, and for the defense of that Constitution which makes both President and Congress, and by which, at last, both President and Congress must stand or fall. In this spirit I will now proceed to consider, as briefly and compactly as I can, in the order in which they arise, the several propositions advanced in the resolution.

The first is that the President in declaring in his annual message to the two Houses of Congress at the present session that the acts heretofore passed by those Houses in relation to the reconstruction of the insurrectionary States "are not only objectionable for their assumption of ungranted power, but many of their provisions are in conflict with the direct prohibitions of the Constitution," and that those acts are "as plainly unconstitutional as any that can be imagined," has transcended the just limits of his constitutional prerogative to "give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

Observe, sir, the wholly unqualified character of the words he used—"assumption of ungranted power," "in conflict with the direct prohibitions of the Constitution," "as plainly unconstitutional as any that can be imagined." No suggestion of a doubt as to the right or the propriety of his addressing such language to Congress; no recognition whatever of the possibility of mistake on his part; no intimation of any room for appeal from his fiat; but rude, dogmatical, defiant dash of the offensive words into the teeth of Congress; as if he had said, "You, Senators and Representatives, arrogate to yourselves authority which does not belong to you; you have done things which the Constitution directly prohibits your doing; nothing can be imagined more unconstitutional than your acts; you are but a mere band of usurpers, ignorant of the very A B C of the Constitution; I alone know what the Constitution is and what you have a right to do."

That, sir, is an unexaggerated paraphrase of the language which this President has had the audacity to address to this Congress. There is not a Senator on this floor, there is not a man living, who can show when or where any other President ever dared so to flout the body which wields the power of the American people. I will not stop to discuss the question of politeness, decency, or dignity, but will look only at that of official prerogative. Whence gets he the right to send such words to us? Will it be contended that he has a right to say to us anything he pleases? Is there really no limit anywhere to be found to presidential insolence toward Congress? If there is not, then, indeed, is ours a pitiable condition; then, indeed, is exhibited to the world the anomalous spectacle of a body wielding the sovereignty of a mighty nation defenseless against the assaults of one whose duty it is as an individual to obey, and as an officer to obey and execute its laws. Will it be said that the Constitution requires him to "give to the Congress information of the state of the Union," and that it is therefore his duty to tell them that in "the state of the Union" he finds that they are usurpers, and that laws which they had passed over his veto are mere nullities? To give information is to impart knowledge; and is it to be supposed that the Constitution meant that his denunciations of what Congress had done, done with deliberation, and notwithstanding previous similar objections from him, were to be regarded as imparting knowledge to them on the state of the Union? If so, then have the people sent here a body of men from all parts of the country whose highest distinction is ignorance of their own duties and of the Constitution, and placed in the presidential chair one whose most important vocation is to be their pedagogue. No, sir, the Constitution gives life to no such absurdity, and his audacious words to Congress find no warrant in his constitutional duty to give it "information of the state of the Union."

But it will doubtless be urged that under the constitutional injunction to him "to recommend to their consideration such measures as he shall judge necessary and expedient" he may say to Congress anything he sees fit and we cannot help ourselves. Let us examine and see if indeed this be so. Without hesitation I admit that he may recommend to Congress upon the ground of expediency the repeal of any law upon the statute-book; for expediency in legislation is a changing thing, governed by circumstances which are ever changing. For the present purpose and for the sake of the argument merely I will assume that he may recommend such repeal upon the ground of the want of constitutional authority in Congress to pass the law. Do I hereby concede the whole case? Very far from it. Observe the language of the resolution, "has transcended the *just* limits of his constitutional prerogative." Suppose that he has a right to recommend the repeal of a law because he regards it as unconstitutional, the question whether in so doing he transcends the just limits of his prerogative depends upon how he does it and the circumstances under which it is done. As to the how, I reiterate my previous position that he has no right to do it in such a way as to emasculate the moral force of the law as a binding obligation upon men, and to invite resistance or hostility to it. No greater assault can be made by an executive officer upon the law-making power and the force and obligation of all law than for him to head the hue and cry against the validity of a statute which it is his duty to execute. And such an assault is all the more heinous when there is an already existing spirit of insubordination which will by it be intensified, and may by it be quickened into actual and active opposition if not open rebellion. And such was the precise condition of a large portion of this country when in this message he hurled his denunciations of the reconstruction acts at the two Houses of Congress.

Every word of those denunciations has sounded in rebel ears like the trumpet of resurrection from under the power of a vindicated Constitution and a triumphant Union. Every word of them has tended to teach rebels that Congress is a band of reckless and tyrannical usurpers. Every word of them has said to rebels, "Come unto me, Andrew Johnson, all ye that are weary and heavy laden under the burdens of this arrogant band of usurpers called Congress, and I will give you rest." And now, sir, if it is within "the just limits of his constitutional prerogative" thus to denounce the power to which he, like all other men in this land, is subject, where is the outmost verge that he will mark to that prerogative? What is to come next? Who here can tell? Who knows that this is the last step he meditates? What is the meaning of his "deliberating much" upon, and discussing in his message the question, "how far the duty of the President to 'preserve, protect, and defend the Constitution' requires him to go in opposing an unconstitutional act of Congress?" What reason was there for his talking about "executive resistance to an act passed according to the forms of the Constitution by the supreme legislative authority?" What has that Congress done, or proposed to do, to call for his dark hint of "forcible measures, or such as might lead to force?" And what possible justification exists for his insolent declaration, "that cases may occur in which the Executive would be compelled to stand on its rights [against Congress, of course] and maintain them, regardless of all consequences?" Sir, low as may be our estimate of the man who sends such words to us, they are, as the words of a President, ominous. To my view they are the guarded and insidious expression of a more than half-

formed purpose of mischief, put forth to feel whether the pulse of Congress would flutter, and whether that of the rebels of the South and their Democratic and other allies in the North beats full and strong for the "forcible measures" which for months past we have heard of in the whisperings of the air, but upon which we now know from himself he has "deliberated much, and felt extremely anxious to reach a proper conclusion." Sir, put it all together, and see whether in the light of calm and deliberate judgment it means, or can mean aught else than if he had said in so many words, "Could I but see the end assured as I would have it, you band of usurpers should be driven from the Capitol at the point of the bayonet."

But it may, and I suppose will, be said that at last, when you have made the most and worst of it, he has but expressed his opinion, and that he, as well as anybody else, is entitled to his opinion and to express it as a ground for his recommendation of the repeal of those acts. But I hold it not true that he has merely expressed an opinion: he has asserted a fact. The constitutionality or unconstitutionality of a law is as much a fact as its existence, and is just as capable of being asserted. The assertion either way may be right or wrong, but still it is an assertion of fact. Had the President, in recommending the repeal of those acts, addressed Congress in some such terms as these: "I have heretofore expressed to you the opinion that the reconstruction acts are unconstitutional, but you nevertheless passed them over my objections. Though still of that opinion, I acknowledge the supreme authority of Congress, and hold them, as long as they stand on the statute-book, to be valid laws, and will faithfully execute them; but I recommend you to reconsider your decision, and if you can adopt my opinion repeal them," nobody would have seen in such a mode of renewing his objections anything but an expression of opinion which, however unauthorized, as I will presently attempt to show, would not probably be regarded as a fit subject for reprehension. But between that and the language used in this message there is a manifest difference—just the difference which all men recognize between an expression of opinion and a hard, stubborn, overbearing assertion of fact, which was beyond doubt expected, if not designed, to make upon the southern rebels and their northern sympathizers and allies the distinct impression that the unconstitutionality of those acts was no longer open to discussion as a matter of opinion, but had been crystalized into a fact. The difference between the two is as that between firing a gun with a blank cartridge and firing it with a double-shotted charge. Read the message, and test the accuracy of this version of it; and having found it accurate can you hesitate to declare that in thus asserting as a fact the unconstitutionality and therefore the nullity of these acts while they still stand unrepealed he "has transcended the just limits of his constitutional prerogative?"

The next proposition of the resolution is:

That the use of such language by him, in his official character, is, in our judgment, calculated to derogate from the rightful authority of the law-making power of the nation, and to incite insubordination, if not violent resistance, to laws which it is his duty, as President, to "take care shall be faithfully executed."

That the two Houses of Congress are the law-making power of this land, or, in the language of this message, "the supreme legislative authority," need not be enforced as a proposition of constitutional law here or elsewhere; the Constitution settles that. But it does seem necessary to teach some people that all men in the nation, especially officers of the Government, and, above all, the President of the United States, are under direct obligation to uphold the rightful authority of this supreme Legislature. And it also seems necessary to teach a good many people that whatever acts are passed by that body must be held by all men to have been passed in the exercise of its rightful authority until otherwise declared by the body itself or by the supreme judiciary of the nation. Tom, Dick, Harry, Andrew, or Jeremiah may question and discuss the expediency or constitutionality of any of its acts—for we are but men, and like other men may err—but whoever holding an executive office under the Government says or does aught with the purpose of exciting hostility or disaffection to the law-making power itself derogates from its rightful authority. Especially is this true when the act or word proceeds from the President of the United States. More especially is it so when he brings a direct and unqualified accusation against Congress of violating the Constitution. And most especially is it so when the accusation is made at a time when Congress is struggling with a mighty evil, and can get no help from the President but that which he is compelled reluctantly to give, and when he stands before the nation as the avowed antagonist of Congress, so far as he dares to be, and as the acknowledged champion of those upon whom bears the legislation which he declares to be "as plainly unconstitutional as any that can be imagined." Such is the posture of affairs in this country now.

Sir, Congress is still struggling with the rebellion. The day has not yet come when it can be said to be at an end. True, as the President says, "the execution of the laws is not now obstructed or opposed by physical force;" but why not? Simply because the physical force that we have is more than the rebels could muster. Were it otherwise, another week would not pass before the torch of war would be passed from hill-top to hill-top through all rebeldom. The fire of a burnt edifice is not put out when the edifice falls; but long after the live coals are there, needing only fuel to break out again in flames. So with the South to-day. But even if not so, still the rebellious, blood-thirsty, revengeful spirit is there; and there, too, is a once enslaved but now emancipated race of four million American citizens, whom their former masters would to-day, if they could, reduce again to a practical slavery, differing only in name from that to which the American nation gave the death-blow. Who stood between that race and that practical reënslavement? Did this President? No, sir; no! Left to him and his policy they were as helpless and hopeless as a lamb in the jaws of a famished wolf. He deserted them in their extremity; and where could they look for help but to the Senators and Representatives of the great people that had disenthralled them? They did look to us; they stretched out their hands imploringly to us; they called to us out of the depths, and we saw and heard; and, sir, to the immortal honor of the American Congress, we answered them—answered them by spreading the ægis of the Constitution between them and the storm-cloud of oppression and wrong that hung over them, and by enacting, in spite of this President's veto, laws which secured to them not only freedom but the civil and political rights of free citizens. Under those laws there has been exhibited one of the most remarkable developments which human history has recorded. That enfranchised people, belonging to a race which this President says "have shown less capacity for government than any other race of people," and "a constant tendency to relapse into barbarism wherever they have been left to their own devices," have taken hold of the work of self-government as no people ever did before who had been like them suddenly released from a condition of slavery and disfranchisement and lifted to freedom and enfranchisement.

As they exhibited during the war a patient forbearance to their enslavers, a self-restraint which is the world's marvel and admiration to-day, and will be in future ages, and a devotion to the Union which resisted all terrors and all blandishments, so now they are displaying a sagacity, a strong though uncultivated sense, a firm and resolved purpose, a wise and prudent moderation, and an understanding of the true principles of republican government as far above the "poor white trash" about them as the political status of the latter was above theirs when the negro was but a slave and a chattel and the poor white trash was a freeman and a voter. And though the President of the United States affirms it to be "admitted that the blacks of the South are so utterly ignorant of public affairs that their voting can consist in nothing more than carrying a ballot to the place where they are directed to deposit it," yet it is a luminous and pregnant fact that they always know which ballot makes them men and which would make them, for all practical purposes, slaves. And it is not less remarkable, and far more pregnant of the future supremacy of loyalty in that region, that they always know which is the ticket of liberty and Union and which is that of slavery and disunion. And here, sir, is the sting. The power of disloyalty, rebelism, and caste in that region is to be ground into the dust under that long black heel which political ethnologists of the Democratic stripe point to in derision as the infallible sign of the negro's inferiority; and with the help of the black man State governments, loyal to the Constitution and the Union, are to be soon erected where, but for his enfranchisement, they would not have been established for a generation to come, if ever.

Now for the point. While this great work, unprecedented in human annals, is going on, and the future peace of the nation hangs upon the success of this conversion of a race of slaves into enfranchised citizens and of the effort to lay new foundations of government in the South, whose corner-stones should rest, not, like that of the rebellion, upon what Alexander H. Stephens called "the great truth that the negro is not equal to the white man," but upon the great and living principle that before the law all men are equal, all are white; and when the mighty current of events was sweeping away all the barriers of pride, and oppression, and aristocracy, and rebelism, and caste, as resistlessly as Sherman's grand march to the sea swept away the rebels in his path, then comes like a thunderbolt from the President of the United States the proclamation that the laws enacted by Congress, upon which this great deliverance rests, are unconstitutional, null, and void!

And now, sir, let Senators, in the light of their knowledge of the past seven years' history and of the present condition of the South, consider the effect of these words in that region. Effect there they were designed to have, and must have. Will they promote there the work provided for in these laws? Will they tend to break down rebelism and subdue the fiery spirit of insubordination there? Will they encourage and strengthen loyalty and patriotism there? Will they remove obstacles to reconstruction there? Will they promote the Union cause there? To ask these questions is to answer them. You, and I, and all of us, and all the country, know that not one of them can be truthfully answered in the affirmative, but every one must be answered in the negative. Sir, the simple, incontestible truth is that this denunciation of the action of Congress can have no other effect than to embarrass the work of reconstruction; to plant obstacles where the President should have smoothed the way; to feed the spirit of rebelism and incite insubordination where he should have discountenanced, and, if need be, suppressed both; to stir up feud where he should have inculcated peace, and to teach rebels that there is no punishment for violent resistance to the reconstruction acts while the pardoning power is in his hands.

The next proposition of the resolution is, "that, as between the Congress and the President, the former is the exclusive and final judge, in the first instance, of the conformity of its acts to the Constitution." This necessarily results from the supreme legislative authority of Congress. Over its legislative action the President has, by the Constitution, not the least power, except that when a bill is pre-

sented to him for his approval he may disapprove and return it to the House in which it originated. At that point his agency in legislation terminates. Up to that point he has a right of opinion and judgment upon which he may properly base official action. If he consider the bill unconstitutional, and return it to the House where it originated, and more than one third of that or the other House coincide with him, the bill fails; but if two thirds of both Houses differ from him and pass the bill again, it becomes a law.

And now, Mr. President, we come to the very gist of this whole question of executive prerogative; and I am constrained by the best reflection I have been able to bestow upon the subject to take a position which, so far as my information extends, has not before been taken, but which I see not how to avoid. In the earlier portion of my remarks, in discussing another point, I assumed, for the then present purpose, and for the sake of the argument merely, that the President might recommend to Congress the repeal of a law on the ground of want of constitutional authority in that body to pass it. I now deny not only that he has any right under the Constitution to make any such recommendation, or any right to any opinion, as President, adverse to the constitutionality of any law passed by Congress; but is concluded as President on that subject by the judgment of Congress in passing the act; and that whatever opinion he may have after such passage must be simply that of an individual, and not of the President.

This seems to me to result, by invincible necessity, from the very fact that Congress is "the supreme legislative authority" under the Constitution. Take the case of an act passed by that body and approved by the President. Such an act necessarily conveys in its very passage the judgment, formally entered of record in the archives of the nation, that Congress had constitutional authority to pass it. No executive officer of the Government, from the President down, has any right, as an officer, to any other judgment or opinion than that so entered of record; but every such officer is not only bound by it, but must officially make it his own. Take, then, the case of an act passed by the constitutional majority of both Houses over the President's objections. No one will question that, as an act, it is just as much a law as if it had been signed by the President, and therefore is just as much a judgment passed by the supreme legislative authority upon the question of its constitutional power to enact the law. And if the President's objection to the bill as presented to him should be, as in the case of the reconstruction acts, that there is no constitutional power to enact it, then is it, in my view, beyond the possibility of successful question that the judgment of that supreme authority has been, so far as he is concerned, finally and conclusively rendered and entered, and that, too, a second time after a rehearing and reargument.

And now, sir, as long as that judgment stands unreversed, either by the supreme legislative authority itself or by the supreme judiciary of the nation, I unhesitatingly say that no executive officer in the nation has any conceivable right to dispute or question the constitutionality of the law; nor any right, as an officer, to any other judgment or opinion than that it is fully, clearly, to every intent, and beyond all doubt, constitutional. He is, as an officer, absolutely precluded, barred, silenced on that point. Recognize any other doctrine and you unsettle the whole basis of the constitutional power of the supreme legislative authority of the nation. If the President may, as President, express the opinion that an act passed by Congress, with or without his approval, is unconstitutional, why may not any other executive officer under the Government; and if one, or two, or twenty, why not all? And if the President may, as President, denounce such an act as "in direct conflict with the Constitution," "as plainly unconstitutional as any that can be imagined," why may not all the executive underlings from Maine to the Pacific do likewise? Has he an exclusive privilege of such denunciation, or any such privilege at all? If so, whence does he derive it? From the Constitution? Show me the article, section, sentence, line, or word which gives it to him, directly or inferentially. I deny that it can be found. I deny that there is any such solecism there as is conveyed in the idea that the supreme legislative authority can be so defied by its mere ministers. As well talk of the arm disputing the volition of the will.

I could, Mr. President, enlarge upon this topic by way of argument and illustration; but it is sufficient for the present purpose thus briefly and distinctly to state the conclusions at which I have arrived. They are my clear and definitive judgment on an important constitutional question, in regard to which I have consulted no partisan animosity, prejudice, or bias, but simply the true nature of our form of government and the provisions of our Constitution. Upon such a question I cannot consent to twist the Constitution out of shape to suit a temporary or a partisan purpose. If the conclusions I have reached should be concurred in by the Senate then there can be no difficulty in passing this resolution, or even one couched in stronger terms. For, sir, if it be true that the President has no right to express an official opinion adverse to the constitutionality of an act of Congress passed over his objections urged on that ground, much less to denounce it in the unmeasured terms which he has employed in this message, then it follows that the President of the United States has used his high office to thrust before us the private opinions of Andrew Johnson, who, as an individual, is no more to us than any other man that walks the streets of the city of Washington; and, indeed, a good deal less than many others daily to be met there. Is not such a use of his office a direct "departure from official propriety?" Is it not a "breach of official obligation?" Is it not in derogation of the rightful authority of the law-making power of the nation? In fact, might it not justly be treated as a direct breach of the privileges of the two Houses of Congress?

That it is all this I have no remaining doubt, and I trust the Senate has none. If so, but one question remains, whether, admitting it all, it justifies and calls for reprehension from us. That it does I have as clear a conviction as on any other point I have discussed. How can we pass it by and be true to our high position as a part of the body which wields the supreme legislative power of the American nation? Is it to be henceforth understood that Congress can be brow-beat, objurgated, denounced, and insulted in State papers that are read over the whole civilized world, and that it has not self-respect enough to vindicate its constitutional privileges?

Sir, for one I cannot forget that this is the Senate of the United States; and what nobler or more august name is to be found among the Governments of earth? I would preserve its august character in the sight of this nation and of the world by a calm, dignified, and constitutional assertion of its rightful prerogatives against executive encroachment whenever and however attempted. If the Senate should agree with me in this course, the lesson is taught once for all to this President and to his successors that not with impunity can the Senate and House of Representatives of the United States of America in Congress assembled be made the subject of executive insolence. If, however, the Senate should differ from me I shall, while regretting it, still have the consciousness of having done what came home to me as a duty to the high trust reposed in me by a noble State, to the Congress in which I am honored with a seat, and to the country I try to serve with sincerity and fidelity.

Mr. JOHNSON. Mr. President, there are many things in the speech of the honorable member from Missouri which I think should not be passed unnoticed by those who entertain opinions different from his own. Unless the Senate feel fatigued—and if they do, in that respect they are in the condition in which I feel myself—I will proceed at once; but I presume it would be more agreeable to the body that the subject should be postponed until to-morrow.

Mr. SHERMAN. If the Senator desires it, I will move the postponement of this subject until the day after to-morrow. To-morrow is already set apart for a special order.

Mr. JOHNSON. I have no objection to that.

Mr. GRIMES. What special order?

Mr. SHERMAN. The Senator from Vermont [Mr. MORRILL] has a special order for to-morrow.

Mr. FESSENDEN. His bill was not made a special order, but the Senator from Vermont gave notice that on that day he should like to speak on his own bill, and by common consent it will undoubtedly be given to him.

Mr. SHERMAN. I move then to postpone the further consideration of this resolution until the day after to-morrow at one o'clock.

Mr. JOHNSON. I have no personal objection, if it is the pleasure of the Senate, to postpone it until the day after to-morrow. I would prefer not to go on now for the reason I have just stated; but if the Senate prefer that I should proceed at once I will do so as well as I am able.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, to postpone the further consideration of this subject until Thursday next at one o'clock.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 10, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

UNITED STATES TONNAGE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Assistant Secretary of State inclosing a letter from Mr. James Birkhead, formerly a leading merchant of Rio Janeiro, explaining the cause of the diminution of the tonnage of the United States; which was referred to the Committee on Commerce, and ordered to be printed.

SALARIES OF INSPECTORS, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 5th instant, a report of expenditures for salaries of supervising and local inspectors, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

RELIEF OF AMERICAN SEAMEN.

The SPEAKER also laid before the House a communication from the Secretary of State, transmitting, in compliance with the act of March 2, 1799, a report relative to the relief and protection of American seamen; which was referred to the Committee on Commerce, and ordered to be printed.

COLUMBIA HOSPITAL FOR WOMEN, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a report of the directors of the Columbia Hospital for Women and Lying-in Asylum; which was referred to the Committee on Appropriations, and ordered to be printed.

SIMS VS. TRIMBLE—ELECTION CONTEST.

The SPEAKER also laid before the House additional evidence in the election contest of Sims vs. Trimble, of Kentucky; which was referred to the Committee of Elections.

A. SHERMAN.

Mr. McCARTHY asked and obtained leave to withdraw the papers in the case of A. Sherman.

COMMITTEES APPOINTED.

The SPEAKER announced the following committees:

Select Committee on Reconstruction—Thaddeus Stevens of Pennsylvania, George S. Boutwell of Massachusetts, John A. Bingham of Ohio, John F. Farnsworth of Illinois, Calvin T. Hulburd of New York, Fernando C. Beaman of Michigan, Halbert E. Paine of Wisconsin, James Brooks of New York, and James B. Beck of Kentucky.

Select Committee on Revision of the Laws of the United States—Luke P. Poland of Vermont, Rufus P. Spalding of Ohio, Thomas A. Jenckes of Rhode Island, Orange Ferriss of New York, and George W. Woodward of Pennsylvania.

Joint Select Committee on Ordnance—John A. Logan of Illinois, Benjamin F. Butler of Massachusetts, and Robert C. Schenck of Ohio.

APPOINTMENTS TO FILL VACANCIES.

On Committee on Mines and Mining—J. Proctor Knott of Kentucky.

On Committee on Public Buildings and Grounds—Thomas L. Jones of Kentucky.

On Committee on Expenditures of War Department—J. S. Golladay of Kentucky.

On Committee on Expenditures on Public Buildings—Asa P. Grover of Kentucky.

ARSENAL AT CHEYENNE, DAKOTA.

Mr. DODGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That in order to carry out the recommendations of the General of the Army and Secretary of War, as made in his annual report, the Committee on Military Affairs inquire into the expediency of establishing a United States arsenal for supplying troops on the plains at the Government distributing depot and military post of Fort David Russell, located at Cheyenne, Dakota Territory, and that they report by bill or otherwise.

CHARLES PITCHER

Mr. COOK, by unanimous consent, introduced a bill for the relief of Charles Pitcher; which was read a first and second time, and referred to the Committee of Claims.

BANK SCALES, WEIGHTS, AND BALANCES, ETC.

Mr. HOOPER, of Massachusetts, by unanimous consent, introduced a bill to provide for the sealing of scales, weights, and balances, used by national banks, navy-yards, and custom-houses; which was read a first and second time, and referred to the Committee on Coinage, Weights, and Measures.

ACCOUNTS OF SERGEANT-AT-ARMS.

Mr. ALLISON. I rise to a privileged question. The matter to which I desire to call the attention of the House this morning refers to an officer of this House—the Sergeant-at-Arms. On the 2d of December I received from him a communication, which I send to the Clerk's desk, and ask to have read.

The Clerk read as follows:

OFFICE OF SERGEANT-AT-ARMS
HOUSE OF REPRESENTATIVES,
December 2, 1867.

DEAR SIR: Allow me to call your attention to matter personal to myself, which I feel should be brought to the attention of the House.

Near the close of the July session of the present Congress the House of Representatives ordered several committees of investigation; but owing to the fact that both Houses of Congress had decided not to enter into any general legislation at that session no appropriation was made to defray the expenses of such committees.

The chairmen of the several committees called upon me, as the executive officer of the House, to furnish the necessary funds to enable them to proceed at once to inquire into such matters as had been committed to them, which request I complied with, so far as I was able to borrow and secure funds for them to use. The strictest economy was necessarily practiced in conducting all of these investigations; yet notwithstanding everything like extravagance has been avoided certain newspapers have been publishing all sorts of falsehoods in regard to the expense of these committees, and some of them of a personal and abusive character in relation to myself. And in one instance the New Hampshire Patriot, a newspaper printed at Concord, New Hampshire, in an article published on the 6th day of November last, charged me with having presented and had allowed large bills for liquors, cigars, extra mileage, &c., thereby attempting to create the impression that I was managing the affairs of the office of Sergeant-at-Arms in an extravagant and corrupt manner.

Now, sir, I desire to say to you, and through you to the House, that such charges are false and entirely without foundation. No bills for liquors, cigars, or other extravagances have ever been allowed since I have been in office. And in order to satisfy all beyond question and put a stop to these and other accusations I desire you to ask the House to have some committee examine into the affairs of my office, both with reference to myself and my predecessors, feeling confident that such examination will prove beyond question that I have done more work than any of my predecessors, and at as little relative expense to the Government.

Should the House see fit to have such an examination no expense need be incurred, as the necessary papers are on file, and any witnesses I may desire I will furnish at my own expense.

I remain, with respect, your obedient servant,
N. G. ORDWAY,
Sergeant-at-Arms House of Representatives.

Hon. WILLIAM B. ALLISON.

Mr. ROSS. I would inquire whether this is a privileged question.

The SPEAKER. The Chair will decide that question when he hears the motion or resolution which he presumes the gentleman from Iowa [Mr. ALLISON] is about to submit.

Mr. ALLISON. Certain charges have been made in regard to the official conduct of the Sergeant-at-Arms. For myself, I have faith in the fidelity of this officer. But inasmuch as these charges have been publicly made, and inasmuch as it is the desire of this officer that an investigation of his accounts should take place, I think the matter should be referred to some committee, especially in view of the fact that I find in my mail this morning, as I presume other gentlemen find in theirs, a circular from one J. W. Wilkinson, containing a series of charges against this officer. This circular is printed, and I will not detain the House by asking to have it read at the Clerk's desk. I move that the letter of the Sergeant-at-Arms, together with the charges contained in this printed circular, be referred to the Committee of Accounts for examination and report.

The SPEAKER. The Chair thinks that this is a question of privilege, as it involves a question concerning the fidelity of one of the officers of the House.

Mr. ALLISON. I demand the previous question upon my motion.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. ALLISON was agreed to.

Mr. ALLISON moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING LOAN AND CURRENCY LAWS.

Mr. LAFLIN. I am directed by the Committee on Printing to submit the following resolution; on which I demand the previous question:

Resolved, That there be printed for the use of the House one thousand extra copies of the acts of Congress relating to loans and currency from 1842 to 1867, inclusive, including all loan bills passed since 1790, and the amount issued under them; the compilation of which shall be made under the direction of the Committee of Ways and Means.

Mr. WASHBURNE, of Illinois. If the gentleman from New York [Mr. LAFLIN] will withdraw for one moment the demand for the previous question I desire to ask him what will be the cost of preparing and printing this document—how large a document it will be.

Mr. LAFLIN. In all probability the cost of printing will not exceed sixty or seventy dollars. As to how much it will cost to compile the pamphlet I refer my friend from Illinois to the chairman of the Committee of Ways and Means, [Mr. SCHENCK.]

Mr. SCHENCK. The expense of preparing the pamphlet will be just nothing at all. Is that satisfactory to the gentleman from Illinois?

Mr. WASHBURNE, of Illinois. Yes, sir, it is. I am glad to be satisfied for once by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. GARFIELD. I suggest to the gentleman from New York a change in the phraseology of the resolution. The resolution provides, I believe, that this pamphlet shall include a statement of the amount issued under each loan law. I think it should include a statement of the amount authorized in each case as well as the amount actually issued.

Mr. LAFLIN. I accept the suggestion of the gentleman, and modify the resolution accordingly. I now renew the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution, as modified, was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENT OF WITNESSES.

Mr. McCLURG. I ask unanimous consent to submit, under the instructions of the Committee on Southern Railroads, a resolution.

Mr. WASHBURNE, of Illinois. I call for the regular order.

Mr. MAYNARD. Does not the Committee on Southern Railroads by its constitution have the right to report at any time?

The SPEAKER. The Chair has not the Journal before him to ascertain that fact.

Mr. MAYNARD. Such is my belief.

The SPEAKER. Perhaps the chairman of the committee can state whether the committee has that power or not.

Mr. McCLURG. We have the right to report at any time.

The SPEAKER. Then it is a privileged report.

The Clerk read the resolution, as follows:

Resolved, That the Clerk of the House be, and is hereby, authorized to pay two witnesses, Mr. Gould and Mr. Pickercil, of New York city, who have this day testified before the select Committee on Southern Railroads.

Mr. SPALDING. I believe that is right.

The resolution was adopted.

PERSONAL EXPLANATION.

Mr. PRUYN. Mr. Speaker, I ask unanimous consent when General BUTLER is in his place to make a brief statement by way of personal explanation in reference to a certain matter which occurred in the House yesterday.

There was no objection; and it was ordered accordingly.

ORDER OF BUSINESS.

The SPEAKER stated that the morning hour had now commenced.

Mr. MAYNARD. I rise to a question of order. At the close of the morning hour yesterday, if my recollection serves me, the Speaker was calling the several States for resolutions. My point is that call must be resumed to-day where it left off.

The SPEAKER. It will be resumed, under the rules, on next Monday.

The Speaker then proceeded to call the committees for reports.

MILO D. CODDING.

Mr. JULIAN, from the Committee on Public Lands, made an adverse report on the petition of Milo D. Codding, for grants of lands for educational purposes; and the same was laid on the table.

Mr. JULIAN, from the same committee, moved that the Committee on Public Lands be discharged from the further consideration of the petition of Milo Defouz Codding, of the city of Rochester, in the State of New York, for the passage of a special act for the patenting of one hundred items of mechanical structures, and the same be referred to the Committee on Patents.

The motion was agreed to.

MICHIGAN AND WISCONSIN LAND GRANTS.

Mr. DRIGGS, from the Committee on Public Lands, reported back House joint resolution No. 91, concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin, with the recommendation that it do pass.

The Clerk read the joint resolution *in extenso*. The first section provides that a failure to grade twenty miles of the roads within two years from the passage of the act entitled "An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin," approved on the 3d day of March, 1865, and twenty miles additional thereof in each year thereafter, as required by said act, shall not cause any forfeiture or reversion to the United States of any lands granted to the said States or either of them to aid in the construction of the railroads described; provided, that said companies or either of them shall fully complete their said railroads in the manner required by law on or before the 31st December, 1872, at which time a failure shall forfeit the lands to the United States.

The second section further provides that the Commissioner of the General Land Office be, and he hereby is, authorized and directed to cause a patent, in due form of law, to be issued to the Chicago and Northwestern Railway Company, in pursuance of a resolution passed by Congress granting the same to the State of Wisconsin, approved April 25, 1862, and an act of the Legislature of Wisconsin, approved June 16, 1862, granting the same to said company for eighty acres of land of the Fort Howard military reserve, as the same was surveyed and approved by said commissioner on the 11th of June, 1864.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Michigan does not propose to pass this joint resolution under the previous question. I wish to meet the further grant of land to railroads at the threshold. I want the bill fully considered before I am called upon to vote on it.

Mr. DRIGGS. I am entitled to the floor, and if the gentleman wants any information he can ask me any question.

Mr. WASHBURNE, of Illinois. Perhaps the House will force me to that. But I desire to see whether the House will permit a gentleman who holds the floor from a committee to hold it to the exclusion of every one else except at his pleasure.

Mr. DRIGGS. I have not called for the previous question, and I do not hold the floor oftener than the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. Nor to as much purpose.

Mr. DRIGGS. I have presented this joint resolution by the unanimous vote of the Committee on Public Lands. It is simply a bill extending the time for two years to the Chicago and Northwestern Railroad Company to complete the road from Green bay to Escanaba. They ask no additional lands, and there is no grant involved in the joint resolution. They propose to complete the road by 1872 or forfeit all the lands to the Government.

There is another clause in the bill which provides that the Government shall issue patents to this railroad company for lands granted by act of Congress in the Fort Howard reservation for depot purposes merely. The company are in possession of the ground erecting their depots, and now the commissioner cannot issue patents without additional legislation. The bill is all right; there is no catch about it. The committee have unanimously reported it. If the gentleman wants any information my friend from Wisconsin [Mr. HOPKINS] is familiar with the subject and probably he will enlighten him. I will waive the demand for the previous question to allow the gentleman from Illinois to say a word.

Mr. WASHBURNE, of Illinois. I was in hopes the gentleman would not call the previous question on this bill without permitting the subject to be considered by the House at length, and letting us determine now the policy we are going to pursue in regard to these grants, and whether we are going to give additional privileges to railroads that have already got these grants.

In the first place Congress made a grant for the purpose of building this road. Instead of building it as the company should have done they have neglected to do it, and now they come and ask that we will keep this amount of land out of the market two years longer for their benefit. Instead of permitting settlers to come in and purchase the land or take it under the homestead act this joint resolution proposes to give it to this railroad company in opposition to the interests of the people. I do not know what reason can be given why this extension should be made to this company which has had such a vast grant. I am opposed to it, and I hope the House will now, when these bills come in, in the first instance, put a stop to this system of extravagance, which is unparalleled in the history of the world. I desire members of the House to read the report of the Commissioner of the Land Office and of the Secretary of the Interior in regard to the empires which have been granted away to these corporations and taken away from the people.

Mr. DRIGGS. How long does the gentleman want to speak?

Mr. WASHBURNE, of Illinois. How long does the gentleman propose to allow me?

Mr. DRIGGS. The gentleman says he does not know any reason why this should be extended. I can give him the reasons.

Mr. WASHBURNE, of Illinois. The reasons the gentleman has given are not satisfactory to me, and I trust they will not be satisfactory to the House.

Mr. DRIGGS. I will tell the gentleman, if he does not know, why this grant should be extended. This road runs one hundred and twenty miles through a wilderness. The company have already built a very long road from Escanaba, at the head of Green bay, to Negana, some sixty-five miles. In consequence of the immense amount they have done, and the difficult country through which the road passes, they require a little additional time, and this bill works a forfeiture if they fail. I now demand the previous question.

The previous question was seconded—ayes 63, noes 33.

Mr. WASHBURNE, of Illinois. I move to lay the bill on the table, and on that I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 111, not voting 41; as follows:

YEAS—Messrs. Adams, Baker, Bingham, Broomall, Chanler, Reader W. Clarke, Coburn, Cook, Cullom, Dawes, Dixon, Ela, Garfield, Harding, Holman, Johnson, William Lawrence, Logan, Marvin, McCullough, Mercur, Moorhead, Mullins, Randall, Ross, Schenck, Scofield, Sitgreaves, Spalding, Starkweather, Stewart, Taylor, Ward, Elihu B. Washburne, and Wood—35.

NAYS—Messrs. Allison, Ames, Archer, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Banks, Barnes, Barnum, Beaman, Beck, Benjamin, Benton, Boutwell, Boyer, Brooks, Buckland, Burr, Cake, Cary, Churchill, Sidney Clarke, Cobb, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Ferriss, Fields, Fox, Getz, Glossbrenner, Golladay, Haight, Hamilton, Hawkins, Hill, Higby, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Jones, Judd, Julian, Kelsey, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Loughridge, Lynch, Mallory, Marshall, Maynard, McCarthy, McClurg, Morgan, Morrell, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Plants, Polsley, Price, Pruyn, Robertson, Robinson, Sawyer, Shanks, Smith, Aaron F. Stevens, Stokes, Taber, Trimble, Trowbridge, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—111.

NOT VOTING—Messrs. Anderson, Axtell, Baldwin, Blaine, Blair, Bromwell, Butler, Cornell, Covode, Ferry, Finney, Gravely, Griswold, Grover, Halsey, Hulburd, Jenckes, Kelley, Kitchen, Loan, Miller, Moore, Morrissey, Peters, Phelps, Pike, Pile, Poland, Pomeroy, Raum, Selye, Shellabarger, Thaddeus Stevens, Stone, Taffe, Thomas, Twichell, Upson, Burt Van Horn, Van Wyck, and Woodbridge—41.

So the House refused to lay the joint resolution on the table.

The main question was then ordered.

Mr. DRIGGS. I will now yield for a moment to my friend from Indiana, [Mr. JULIAN,] the chairman of the Committee on Public Lands.

Mr. WASHBURNE, of Illinois. How can the gentleman do that after the previous question has been seconded?

The SPEAKER. Because the gentleman reported the joint resolution and is entitled by the rules to one hour to close the debate.

Mr. DRIGGS. If the gentleman objects I will not give way.

The SPEAKER. The gentleman from Michigan is entitled to one hour.

Mr. DRIGGS. I would prefer that the vote should be taken without further consumption of time, but I will yield to the chairman of the committee if he desires it.

Mr. SPALDING. I prefer to hear from the chairman of the committee.

Mr. JULIAN. I have but a word or two to say with reference to this proposition. The House will bear me witness that I have uniformly withstood all extravagant and improper legislation on the subject of railroad land grants. This, however, is a measure simply extending the time a year and a half to a road which the parties are in good faith doing their utmost to complete. They ask no additional grant of lands, but only an extension of time. They have built over two hundred miles of the road already, as I understand, and in granting what is asked we shall simply conform to the ordinary policy of Congress in like cases.

The joint resolution also provides for the execution of a patent for eighty acres of land under a law of Congress of 1862, which inadvertently failed to provide for it. The tract is already granted by the Government, to be used as a depot for the road, and the provisions to which I refer only carries out the intention of Congress as clearly expressed in the act of 1862.

Mr. WASHBURNE, of Illinois. Will my friend from Indiana be good enough to have the law read which he proposes to have amended in this indirect way?

Mr. JULIAN. I would have no objection if I had the law before me, but I have not. But the fact is as I have stated. It is simply to correct a defect in the law of 1862, and carry out the obvious intention of Congress. That is all I have to say.

Mr. SPALDING. I desire to ask the chairman of the Committee on Public Lands one question. I wish to know if we renewed this grant in 1865, or whether the original grant was made at that time? I recollect voting upon it at one time.

Mr. JULIAN. My recollection is that the grant was made in 1856 or 1857.

Mr. SPALDING. And renewed in 1865? How many times has it been renewed?

Mr. JULIAN. I am not able to say certainly whether it has been renewed or not. I know of no renewal.

Mr. DRIGGS. I now insist on the vote.

Mr. ROSS. I desire to ask the gentleman whether there are any more public lands in the State of Michigan.

Mr. DRIGGS. If there are none it cannot affect this measure, for it grants none.

Mr. ROSS. I supposed from the grants which have been made to the State within the last four years that there were no more there.

Mr. DRIGGS. The gentleman should distinguish between a measure that appropriates lands and one that appropriates none.

Mr. WASHBURNE, of Illinois. I ask the gentleman to yield to me for a moment to make an explanation.

Mr. DRIGGS. No, sir; I insist on the question.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the passage of the joint resolution, and I call the attention of the House to the second section of the act which it is proposed to amend.

The SPEAKER. The gentleman from Illinois is not in order.

The main question was then ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURNE, of Illinois. I now demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 108, nays 39, not voting 40; as follows:

YEAS—Messrs. Allison, Ames, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beaman, Beck, Benjamin, Benton, Boyer, Buckland, Burr, Cake, Churchill, Sidney Clarke, Cobb, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Ferriss, Fields, Fox, Getz, Glossbrenner, Golladay, Grover, Halsey, Hamilton, Hill, Higby, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Jones, Judd, Julian, Kerr, Ketcham, Knott, Koontz, George V. Lawrence, Lincoln, Loan, Mallory, McCarthy, McClurg, Moorhead, Morrell, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Pile, Plants, Polsley, Price, Pruyn, Robertson, Robinson, Sawyer, Schenck, Shanks, Smith, Aaron F. Stevens, Stokes, Taber, Thomas, Trimble, Trowbridge, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—108.

NAYS—Messrs. Baker, Bingham, Boutwell, Broomall, Cary, Chanler, Reader W. Clarke, Coburn, Cook, Cullom, Dawes, Dixon, Ela, Garfield, Haight, Harding, Hawkins, Holman, Hulburd, Kelley, Kelsey, William Lawrence, Marvin, McCullough, Mercur, Mullins, Pike, Poland, Randall, Ross, Scofield, Sitgreaves, Spalding, Starkweather, Thaddeus Stevens, Stewart, Taylor, Ward, and Elihu B. Washburne—39.

NOT VOTING—Messrs. Adams, Anderson, Blaine, Blair, Bromwell, Brooks, Butler, Cornell, Covode, Ferry, Finney, Gravely, Griswold, Hooper, Kitchen, Laflin, Logan, Loughridge, Lynch, Marshall, Maynard, Miller, Moore, Morgan, Morrissey, Peters, Phelps, Pomeroy, Raum, Selye, Shellabarger, Stone, Taffe, Twichell, Upson, Burt Van Horn, Van Wyck, James F. Wilson, Wood, and Woodbridge—40.

So the joint resolution was passed.

Mr. DRIGGS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POSTMASTER GENERAL'S REPORT.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported a joint resolution to authorize the Postmaster General to print five hundred extra copies of his report and accompanying documents; which was read a first and second time.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FARNSWORTH. I call for the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INSPECTION OF POST OFFICE PAPERS.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back, with a recommendation that the same do pass, a joint resolution to allow members of Congress to inspect papers in the Post Office Department.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It makes it the duty of the Postmaster General to allow Senators and Representatives in Congress to examine and copy all papers and recommendations for office, pertaining to all appointments and removals of postmasters, post offices, and other postal matters in their several States and congressional districts.

Mr. FARNSWORTH. This resolution is I think precisely like one passed by the House last winter, and not acted upon by the Senate. I am directed by the committee to report it back to the House with a recommendation that it do pass. I now yield to the gentleman from Indiana, [Mr. JULIAN,] who introduced it.

Mr. JULIAN. I desire to make but a single statement in reference to this joint resolution which I had the honor to introduce at this session. I have frequently had business in the Post Office Department; and although I have generally had access to papers there when I have asked for it, it has for some time past been with evident reluctance on the part of the officials, and frequently after an inspection of the papers, before they were allowed to come into my hands. I submit, sir, that members of Congress should be allowed free access to these papers, and the right, which is denied us, to copy particular papers or documents which may enlighten the people respecting the management of this great department of their business. The propriety of this may be seen in a case to which I take leave to refer.

The facts were these: a poor orphan girl had been removed from the office of postmistress in one of the towns in my district. Her salary was between four and five hundred dollars, and she had an aged mother who is a cripple for life, and a blind sister, both dependent upon her salary for support. One hundred and fifty-three ladies of the village and its vicinity, and one hundred and fifty male citizens joined in remonstrating against her removal, besides the county clerk, auditor, treasurer, recorder, and I think all the leading men of the place. No charges of official misconduct or negligence were filed, or even hinted by the First Assistant Postmaster General, who was fully informed by myself of all the facts of the case. Under these circumstances the incumbent was removed at the request of M. L. Bundy, David Kilgore, and Solomon Meredith, three followers of Andrew Johnson, all non-residents of the town and county, and the latter a resident of Montana and an office-holder under this Administration. One of these pretended gentlemen put on file the false assertion that the incumbent had two brothers employed as clerks at good salaries in the Departments here, which assertion the First Assistant Postmaster had the best of reasons for knowing to be false.

Having obtained access to the papers in the case, I found on file among them an offer in writing of a sum of money to the Second Assistant Postmaster General if he would give the applicant, who was the writer, the office. I could find no other reason for the removal of the incumbent and the appointment of another except the offer of this bribe. The writer, I remember, stated that the letter was confidential, and requested the officer addressed to read and then burn it. I do not say, Mr. Speaker, that the bribe was operative; but the facts I have stated seemed to reveal a *prima facie* case of that sort; and it supplied to my mind a very strong reason why members of Congress should have access to papers on file in the Post Office Department. The people have a right to look behind the scenes in these and like cases.

Mr. BOYER. I desire to ask the gentleman from Illinois [Mr. FARNSWORTH] whether the rule which he now proposes to enact was the rule which prevailed during the administration of Mr. Lincoln; or is it a new rule which is to be applied for the first time to the administration of President Johnson?

Mr. FARNSWORTH. I am not personally aware what rule was followed during the administration of Mr. Lincoln. So far as I am concerned, I never, during the administration of Mr. Lincoln, applied to be allowed to inspect papers when I was denied the opportunity.

It seems to me it is but right that every Senator and Representative should have the right to examine papers appertaining to postmasters and post offices in their respective States and districts. Members of Congress are expected by their constituents to look after these matters. They are held by their constituents responsible in a great measure for the appointment and removal of postmasters and everything appertaining to postal affairs in their respective districts. It is only just and right, therefore, that they should be allowed to examine papers on file and to take copies of them, if they choose to do so.

I believe the morning hour is about to expire, and I call the previous question.

The SPEAKER. Only four minutes of the morning hour remain.

Mr. WARD. I desire, with the consent of the gentleman from Illinois [Mr. FARNSWORTH] to put a single inquiry to the gentleman from Indiana, [Mr. JULIAN.] I desire to know whether he intended to say that the Second Assistant Postmaster General had been in any way connected with the appointment of which he spoke. I do not understand that such appointments come within the province of that officer.

Mr. JULIAN. I answer the gentleman that by some mistake the letter in question was directed to the Second Assistant Postmaster-General and by him it was properly handed over to the First Assistant, in whose office I found the paper on the files of the Department.

Mr. FARNSWORTH. I call for the previous question.

Mr. MUNGEN. Will not the gentleman yield to me for a moment?

Mr. FARNSWORTH. I have not time.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled the bill (S. No. 141) entitled "An act for the further security of equal rights in the District of Columbia;" which was thereupon signed by the Speaker.

CHANGE OF A NAME.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back with an amendment the bill (S. No. 143) entitled "An act to change the name of Samuel Chase Barney, jr., to that of Samuel Chase De Krafft."

The amendment reported by the committee was read, as follows:

Add as a new section the following:

That any person being a resident of the District of Columbia, being desirous to have his or her name changed, may file a petition in the Supreme Court of the said District of Columbia, setting forth therein the reasons therefor, and also the name desired to be assumed. Notice of the filing of said petition, containing the substance and prayer thereof, shall be published for three consecutive weeks in some newspaper in general circulation published in said District, prior to hearing of said petition. The said Supreme Court, or the justice holding the civil term thereof, on proof of such notice, and upon such showing as may be deemed satisfactory, may change the name of such applicant, according to the prayer of such petition.

Mr. INGERSOLL. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment reported by the committee was agreed to.

The bill, as amended, was ordered to a third reading, read the third time, and passed.

On motion of Mr. INGERSOLL, the title of the bill was amended by adding the words "and for other purposes."

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONFISCATION.

The SPEAKER. The morning hour has expired; and the House resumes the consideration of the bill (H. R. No. 29) relative to damages done to loyal men, and for other purposes, generally known as "the confiscation bill." On the 19th of March last this bill, pending a motion to reconsider its reference to the Committee of the Whole on the state of the Union, was postponed till the second Tuesday of December. The gentleman from New York, [Mr. CHANLER,] who was on the floor at the time the bill was postponed, is now entitled to the floor for one hour.

Mr. STEVENS, of Pennsylvania. I have no objection to that. I wish merely to say that I hope when the gentleman is done he will not press it to a vote, as I am too feeble to remain here to-day, but let it go to the Committee of the Whole on the state of the Union.

Mr. CHANLER. My object in rising was to submit a motion to refer the bill to the appropriate committee, with instructions to strike out the enacting clause.

The SPEAKER. That can be done in the House.

Mr. WASHBURNE, of Illinois. I rise to a point of order. Does the gentleman who holds the floor propose to go on to-day?

Mr. CHANLER. I do.

Mr. BANKS. I ask the gentleman to yield to me to offer a resolution of inquiry.

Mr. CHANLER. I yield for that purpose, if the resolution does not give rise to debate.

SALE OF PUBLIC VESSELS.

Mr. BANKS. I ask unanimous consent to submit the following resolution:

Resolved, That the President be, and is hereby, requested, if not inconsistent with the public interest, to inform the House of Representatives what public vessels have been sold since the close of the war, stating the times when sold, the names of the vessels, the amount received therefor, the class to which they belonged, and whether sold at public or private sale.

Mr. MUNGEN. I object.

MONEY IN THE TREASURY.

Mr. INGERSOLL. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee of Ways and Means are hereby directed to invent the ways and means necessary to unlock and put in circulation the enormous amount of $138,176,820 93 now locked up by the Secretary of the Treasury in the vaults of the United States Treasury, or such part thereof as is not absolutely required to pay the interest on the public debt.

Mr. GARFIELD. I object.

Mr. INGERSOLL. I withdraw it for the present.

CONFISCATION—AGAIN.

Mr. STEVENS, of Pennsylvania. I appeal to the gentleman from New York, [Mr. CHANLER,] when he has finished his remarks, that he will allow this question to be postponed for a month. I find I am unable to stay in the House.

Mr. CHANLER. That matter has been brought to my attention, and I have been requested by gentlemen on this side not to yield to a motion to postpone as I did before.

The SPEAKER. The gentleman from Pennsylvania only desires the postponement after the gentleman from New York has submitted his remarks.

Mr. ELDRIDGE. The gentleman from Pennsylvania is not desirous that the motion to postpone shall be made until all have been heard who desire to speak on the subject.

Mr. CHANLER. I have no objection myself to the postponement of this bill at the request of the gentleman from Pennsylvania; but when that gentleman opened this debate he expressly stated that he was anxious to know the verdict of the people. That verdict has been pronounced, and pronounced against him.

The SPEAKER. The gentleman will now proceed with his speech.

Mr. CHANLER. My object in entering on a discussion of this bill is to meet that part of the plan proposed by the gentleman from Pennsylvania to which he alludes in his opening remarks when he addressed this House in March last:

"Mr. Speaker, I am about to discuss the question of the punishment of belligerent traitors by enforcing the confiscation of their property to a certain extent, both as a punishment for their crimes and to pay the loyal men who have been robbed by the rebels, and to increase the pensions of our wounded soldiers. The punishment of traitors have been wholly ignored by a treacherous Executive and by a sluggish Congress. I wish to make an issue before the American people, and see whether they will sanction the perfect impunity of a murderous belligerent, and consent that the loyal men of this nation, who have been despoiled of their property, shall remain without remuneration, either by the rebel property or the property of the nation.

"To this issue I desire to devote the small remnant of my life. I desire to make the issue before the people of my own State, and should be glad if the issue were to extend to other States. I desire the verdict of the people upon this great question. This bill is important to several classes of people."—*Mr. Stevens's Speech.*

As to that part of the subject which refers to the pensions of our wounded soldiers by confiscation and the payment of losses by loyal citizens I do not think the gentleman really means what he says, nor can he suppose seriously that there is property enough liable to confiscation under his bill to do all he proposes.

I shall therefore limit myself to the real spirit and intention of the bill as declared in the opening remarks of the gentleman just quoted, and as manifested by the whole tenor of the speech and provisions of the bill.

It is not very clear from the remarks of the gentleman on what precise law either of nations or of this Government he proposes to base his proposition. Vague statements and blind glimpses at history seem to furnish the material for his argument, and as I endeavor to hit this slippery subject I hope to be excused by the House if the course I take seem to it weary and eccentric. The huntsman cannot choose, but must follow the track of the wild animal he seeks to destroy or drive from his neighborhood, say a fox for instance. The gentleman appears at first to rest his argument on the act of Congress of July 17, 1862:

"I proceed to consider the bill. By the act of 17th July, 1862, treason is made punishable by death or some smaller punishment, at the discretion of the court. Before punishment can be inflicted for treason or misprision of treason the party must be duly convicted in a court of the United States. Not so with the balance of the bill. All the rest of that law (after the first four sections) refers to persons engaged in the belligerent army, or officially connected with the government known as the 'confederate States of America,' or to those who voluntarily aided that power. While that law supposed that most of the people composing that army and government were traitors, yet they are dealt with in all the provisions which refer to confiscation merely as belligerents making an unjust war. The forfeitures which follow from a conviction for treason are left to the operations of the common law.

But further on in his speech he abandons that untenable stand, and throws himself headlong on the laws of war:

"But it matters not what you may think of the efficiency of the act of July 17, 1862. The laws of war authorizes us to take this property by our sovereign power—by a law now to be passed. We have a subdued enemy in our power; we have all their property and lives at our disposal. No peace has been formed. No terms of peace or of reconciliation have been yet proclaimed, unless the proclamation of the President can make peace or war. The Constitution denies him any power in either case. Then, unless Andrew Johnson be king, the terms of peace are yet to be proclaimed. Among those terms, as we have shown, we have a right to impose confiscation of all their property—to 'impoverish' them, as Andrew Johnson has told us; to 'divide their large farms and sell them to industrious men.' This is strict law and good common sense."—*Mr. Stevens's Speech.*

He runs through history like a bull in a crockery shop, smashing the well-established precedents and fixed opinions of the authors he quotes into a mass of unintelligible stuff fit only for the use the gentleman makes of it to fill up a bad hole in his logic. And then he ends in a whine over "certain gentlemen" who "seem hard to learn either from the writings of learned publicists or from the passing and visible events of the present age."

Confiscation, as known and practiced in history seems to be reasonably divided into two kinds:

1. That customary among conquerors over foreign alien enemies.

2. That statutory confiscation usual among Governments in dealing with refractory citizens, individually or in organized communities.

We have to do, in my opinion, only with the second kind of confiscation in shaping our policy toward the States lately in rebellion.

Confiscation is a method by which a conqueror robs his foes and rewards his friends. Two distinct acts are done by it, and two distinct motives actuate it. One result is sought by it, namely, security to the State established by the conqueror. All confiscation is robbery; it is the tool of the tyrant and the oppressor, who under the law of might creates his title to that which was another's. History is filled with examples of confiscation. Founded in violence, sustained by fraud, and sanctioned by necessity, it has become one of the established methods by which States are overthrown and maintained. Revolutions, civil wars, conspiracies, assassinations, work the decay of dynasties, parties, and States; but by confiscation the victor seizes the spoils, and holds possession by the right of arms. Confiscation and proscription have moved hand in hand through all the changes and fluctuations of empire, and have come down to us heavy with crimes of past ages and stained with the blood and burdened with the wrongs of uncounted thousands whom man's inhumanity to man has made to mourn. The Roman triumvirs divided the empire and doomed their dearest friends to assassination in the same breath. The genius and eloquence of Cicero could not save him from the doom which partisan hate decreed against him. The empire of Augustus was cemented with blood and enriched by the wealth of obnoxious men, proscribed by his partisans in a spirit of revenge and avarice. Roman liberty lost her last great advocate in the death of Cicero; Roman empire began when the spirit of liberty was silenced by the edict of proscription and confiscation. All along the highway of history are strewn magnificent monuments reared to commemorate this mighty wrong by the successful tyrant of the era. No reader of the inscriptions which they bear can leave their perusal without cherishing a hope that in his day no ruthless tyrant shall rob him of his patrimony, his freedom, or his life. Confiscation is one of the hideous monsters chained to the car of grim-visaged war and never should be let loose to raven for its prey. It legitimately is only an instrument of terror and should not be let loose to destroy. In time of peace it should be nowhere seen or heard; savage, cruel, destroying, it has no place among civilized, humane and law-abiding men in times like these.

"Of all despotic Governments there is none that labors more under its own weight than that wherein the prince declares himself proprietor of all the lands, and heir to all his subjects. Hence the neglect of agriculture arises; and if the prince intermeddles likewise in trade all manner of industry is ruined.

"Under this sort of government nothing is repaired or improved. Houses are built only for the necessity of habitation; there is no digging of ditches or planting of trees; everything is drawn from but nothing restored to the earth; the ground lies untilled, and the whole country becomes a desert.

"Is it to be imagined that the laws which abolish the property of land and the succession of estates will diminish the avarice and cupidity of the great? By no means. They will rather stimulate this cupidity and avarice. The great men will be prompted to use a thousand oppressive methods, imagining they have no other property than the gold and silver which they are able to seize upon by violence, or to conceal. To prevent, therefore, the utter ruin of the state, the avidity of the prince ought to be moderated by some established custom. Thus, in Turkey, the sovereign is satisfied with the right of three per cent. on the value of inheritances. But as he gives the greatest part of the lands to his soldiery, and disposes of them as he pleases; as he seizes on all the inheritances of the officers of the empire at their decease, as he has the property of the possessions of those who die without issue, and the daughters have only the usufruct, it thence follows that the greatest part of the estates of the country are held in a precarious manner."—*Montesquieu's Spirit of Laws*, vol. 1, book 5, chap. 14.

"In moderate governments it is quite a different thing. Confiscations would render property uncertain, would strip innocent children, would destroy a whole family, instead of punishing a single criminal.

"In republics they would be attended with the mischief of subverting equality, which is the very soul of this government, by depriving a citizen of his necessary subsistence.

"There is a Roman law against confiscations, except in the case of *crimen majestatis*, or high treason of the most heinous nature.

"It would be a prudent thing to follow the spirit of this law, and to limit confiscations to particular crimes. In countries where a local custom has rendered real estates alienable, Bodin very justly observes that confiscation should extend only to such as are purchased or acquired."—*Montesquieu's Spirit of Laws*, vol. 1, book 5, chap. 15.

GENERAL APPLICATION.

Blood for blood, eye for an eye, life for life cries the fierce spirit of vengeance. Put up thy sword and let us reason together, says the spirit of mercy. Give me thy sword, commands divine justice, for vengeance is mine. The conqueror sheaths his sword under the plea of justice, but issues an edict of confiscation against all who dared to brave his power. Poverty, disgrace, despair, famine, death by slow degrees, succeed the swifter methods of the sword. The spotless ermine of the law covers this relentless instrument of tyranny, and day by day the homes once happy, the fields once smiling in requital to honest toil, the mill whose busy hum sang of plenty in the land, the factory where every comfort was wrought out in turn by skill and ingenuity—in fine, civilization, art, industry, all stop as the solemn voice of the crier reads out the law which banishes the citizen from his house, the laborer from his field, the farmer from his homestead. Whole districts have been made desolate, towns depopulated, whole races banished and crushed into abject insignificance by the laws of confiscation. Does the mover of this bill propose France as an example of the application of this principle? Has the brief sketch of Robespierre given by one of England's late historians so charmed his heart and mind that he, too, would lead a new people on the old cruel, skeleton-covered road of confiscation? The thing is not even original. There is something apish and brutal in it, but nothing human that is not revolting and bad as applied by successful demagogues in past ages to the unfortunate victims of revolution.

"Consider Maximilien Robespierre, for the greater part of two years what one may call autocrat of France. A poor, sea-green (*verdâtre*) atrabiliar formula of a man; without head, without heart, or any grace, gift, or even vice beyond common, if it were not vanity, astucity, diseased rigor (which some count strength) as of a cramp; really a most sea-green individual in spectacles, meant by nature for a Methodist parson, of the stricter sort, to doom men who departed from the written confession; to chop fruitless shrill logic; to contend and suspect, and ineffectually wrestle and wriggle, and on the whole to love, or to know, or to be (properly speaking) nothing. This was he who, the sport of wracking winds, saw himself whirled aloft to command *la première nation de l'univers*, and all men shouting long life to him; one of the most lamentable, tragic, sea-green objects ever whirled aloft in that manner in any country, to his own swift destruction, and the world's long wonder."—*Carlyle's Essays*, vol. 4, page 7.

ITS GENERAL RESULT AND PAST HISTORY.

As Alaric the Goth, "the scourge of God," trampled in the dust the proud power of the fallen empire of Augustus Cæsar,

"And quenched in blood the brightest gem
That glittered in their diadem,"

so has the ruthless course of confiscation in retribution cursed the weak inheritors of land taken from a conquered people. The *sans-culottes* of France plundered and guillotined the loyalists of their day until the wealth of France was destroyed and her blood wasted in fruitless wars, fought by ragged soldiers, until a tyrant, wise, ambitious, and powerful, like the morning star in glory, "shone brightly over the nations and disappeared among the distant isles of the sea." In his turn he robbed the heirs of the *sans-culottes* of wealth, liberty, and life. The statistics of France show that Napoleon's wars literally exhausted the population of the empire, and left her at the mercy of her enemies when the fortune of war drove the great Napoleon a fugitive from Waterloo. English Henry VIII covered the scaffold with a hecatomb of victims to his lust, avarice, and cruelty, to establish a church which should sanction crime, and to secure a legislation that could cringe to his despotic will. From the tyranny, cruel executions, and confiscation of vast estate, Henry destroyed the power of the nobility, crushed the Catholic Romish priesthood, intimidated the Parliament. But Smithfield martyrs and all the victims of bloody Mary's reign rose as witnesses to rebuke the follies and oppressions of Henry; and it is not far-fetched to assume that the Puritans who beheaded Charles I sprung from those whose blood flowed on the scaffold raised by Henry, and learned the true duties of freemen from his licentious confiscation of land and property, bestowed on hungry partisans and unscupulous adventurers.

Confiscation is one of the evil practices of parties which made Alexander blush before the robber. It belongs to the rubbish of history and should be branded with the seal of infamy which has been fixed by modern civilization on the inquisition, slavery and piracy. No free people can practice them and preserve their liberty. No wise Government should tolerate them—no virtuous nation will pour such poison into the minds of its children, or blot its statistics with such damning proof of man's degradation and brutality.

Justice has no voice in such hue and cry after the vanquished in a time of profound peace and above all at a time when reconstruction of the Union is the known wish of this whole nation and the avowed object of our present legislation. It is strange that by such acts as these the party which has carried this Government through the war of the rebellion should so dim the brightness of its fame and so lower its high standard of "good will toward all, and malice toward none." Weak human nature with ruling passion strong in death! Why should this old man persecute the white race by a law which must desolate the homes of innocent women, harmless children, and impotent old men? Let the annals of grim and gray barbarism and time-honored tyranny answer why. Cruelty seems so strong an element in our nature that not even the glow of complete triumph can soothe to rest nor magnanimity soften it into toleration for our fellow-man. From the time of Pharoah, who perished in the Red sea catching at straws he denied the Hebrews in Goshen, to the day when Napoleon was eaten up by a cancer and chagrin on the mean little island of St. Helena with Sir Hudson Lowe for a comforter, and even to this hour hardness of heart have had its glory and its shame, its short triumph and long sorrow.

Mr. STEVENS in his speech asks and answers himself.

"Is there anything in the practice of nations to condemn this confiscation? Nothing; but everything to justify it. When a city of people in alliance with Rome conspired to levy war against her, on being conquered she was not unfrequently deprived of half her population and their lands taken and given to Roman colonists. Where all is justly forfeited, including their lives, to leave them a part is great mercy. I need not cite the examples of Greece and Macedonia. They were severer than Rome. Now, I would not exact much personal punishment. I have never believed in bloody penalties. I have long since adopted the milder views of Boccaria and Montesquieu. But when I say that, it does not mean impunity to criminals. Heavy pecuniary punishments should take the place of personal inflictions. Rome at one time decreed that no blood should be shed except in hostile conflict. But for making war on the republic and lesser crimes she interdicted to the "malefactor fire and water," which was the form of her sentence of banishment. Such banishment involved the forfeiture of all their estate, real as well as personal. While they allowed the malefactor to depart with life they reduced him to poverty. Such was the fate of Cicero when he went into exile. It was from the study of this Roman law, no doubt, that our learned President took the idea contained in his speech, "traitors must be impoverished." He will, I hope, pardon us for not being hard-hearted enough fully to carry out his wishes."

Memorable examples of the softening of the heart of nations under the trials of experience teach us our duty to-day.

TREATMENT OF CONQUERED NATIONS BY THE REPUBLIC OF ROME.

"The Romans generally commenced by treating their provinces with mildness. The Government of Sicily was arranged on a basis which certainly did not augment the burdens on the inhabitants. The tribute imposed on Macedonia was less than the amount of taxation which she had paid to her own kings; and there is no reason for supposing that the burdens of the Greeks, whose country was embraced in the province of Achæa, were increased by the conquest. The local municipal administration of the separate cities was allowed to exist, but in order to enforce submission more readily their constitutions were modified by fixing a census which restricted the franchise in the democratic commonwealths."—*Finley's Greece under the Romans*, p. 28.

LAWS REGULATING CONFISCATION BY KINGS OF ENGLAND.

"In 1691 an attempt was made to render our law of treason more definite, just, and humane. But it was not until 1695 that the law on this point, assented to by William III, obtained its place in our statute-book. To us the Government of William may seem strong. But during some years the most intelligent men about him were far from regarding the new order of things as perfectly secure. The Jacobites were restless, noisy, and insolent, and besides men of that description whose imbecile fanaticism and malignant treason were belched forth everywhere, the fact that a busy intercourse was going on between the court of James at St. Germains and his friends in this country was not wholly unknown to the statesmen of either party. To make the law of treason greatly more favorable to culprits in such circumstances demanded some wisdom and courage, but after considerable deliberation the thing was done. The new law provided that the accused should have a copy of the indictment five days before trial; that the names of the jurors should be given to him two days before; that he should be allowed the benefit of counsel; that the witnesses in his favor might be examined upon oath and be compelled to make their appearance, and that overt acts of treason must be proved by two witnesses deposing to the same act, or to some act of the same significance relating to the same treason. It was provided also that judgment on a peer should be pronounced by the whole peerage, and not by any selection from that body made by the Government. In this enactment we see a near approximation to the law as it now stands. But even under William the manner of conducting such trials was not wholly free from irregularity and harshness. In the next reign the law became still more liberal. But the safety of state offenders in our history has generally resulted from the force of enlightened public opinion more than from the letter of our law."—*Vaughan's Revolutions in History*, vol. 3, p. 569.

CONSTITUTIONAL VIEW.

Confiscation is the punishment for high treason. Such has been the practice of all Governments. It is but fair, therefore, when confiscation is proposed by a Government against its citizens, or any part of them, that treason is the crime for which such customary punishment is inflicted. The Constitution expressly provides for such cases. The commentators fully define the intent and meaning of its provisions on that head, and without entering into any further examination of the practice of our Government in cases of treason and confiscation, I shall now simply quote the opinions of leading jurists, and leave the subject with them.

First in order naturally comes the definition of the crime, and then its punishment. In fixing what constitutes treason the framers of the Constitution remembered their own great wrongs, and the great danger they had run in the struggle to redress them. They had a natural and just horror of constructive treason, the plastic nature of which had helped many a tyrant to power and robbed many a free state of its peace. They therefore made treason odious, but at the same time rendered constructive treason not only odious, but impossible.

PUNISHMENT OF TREASON.

That the safety of the State might be secure in the hands of its legislature, Congress was empowered to punish treason against the Union. But fearful lest the partisan spirit of an elective body might abuse the power of punishment by persecuting the opponents of the majority for political opinion rather than for treasonable acts, and renew the horrors of internecine partisan war under the pretense of punishing state criminals, a limit was put upon the power of Congress to punish treason. The children's teeth were not to be put on edge because their fathers had eaten of sour grapes. Nor was a political scaffold erected under the shadow of the Constitution to stain the land that Constitution was created to keep sacred as a refuge of tolerant men. Homeless orphans and houseless widows were to bless, not curse, the men who fought so long and thought so much and labored so well to redress the wrongs of Governments and establish the safety of the people.

WHAT IS TREASON? EVIDENCE, CONVICTION, AND PUNISHMENT OF.

"In this connection it seems proper to state the origin and purpose of that definition of treason which is found in the Constitution, and which was placed there in order on the one hand to defend the supremacy of the national Government and on the other to guard the liberty of the citizen against the mischief of constructive definitions of that crime. In order, therefore, to free the definition of treason

of all complexity and to leave the power of the States to defend their respective sovereignties without embarrassment, the convention wisely determined to make the crime of treason against the United States to consist solely in acts directed against the United States themselves.

"With respect to the nature of the evidence of this crime the committee provided that no person should be convicted of treason unless on the testimony of two witnesses. But to make this more definite it was provided by an amendment that the testimony of the two witnesses should be to the same overt act, and also that a conviction might take place on a confession made in open court. The punishment of treason was not prescribed by the Constitution, but was left to be declared by the Congress, with the limitation, however, that no attainder of treason should work corruption of blood or forfeiture except during the life of the person attainted."—*Curtis's History of the Constitution*, vol. 2, pp. 384-387.

Punishment of posterity for the treason of their fathers:

"The reason commonly assigned for these severe punishments, beyond the mere forfeiture of the life of the party attainted, are these: by committing treason the party has broken his original bond of allegiance and forfeited his social rights. Among these social rights that of transmitting property to others is deemed one of the chief and most valuable. Moreover, such forfeitures, whereby the posterity of the offender must suffer as well as himself, will help to restrain a man not only by the sense of his duty and dread of personal punishment, but also by his passions and natural affections; and will interest every dependent and relation he has to keep him from offending. But this view of the subject is wholly unsatisfactory. It really operates as a posthumous punishment upon them, and compels them to bear, not only the disgrace naturally attendant upon such flagitious crimes, but takes from them the common rights and privileges enjoyed by all other citizens where they are wholly innocent and however remote they may be in the lineage from the first offender. It surely is enough for society to take the life of the offender as a just punishment of his crime without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service by which their supposed injuries may be redressed, or their hereditary hatred gratified."—*Story's Commentaries on the Constitution*, chap. 28, sec. 655.

EXAMINATION OF THIS BILL.

Having spoken on the general character of confiscation laws and the punishments usual among civilized nations, I now shall ask for the attention of the Speaker to the character, object, and effect of this particular measure.

Sir, it is a legal lineal offspring of that body of laws which sent the commissioners of Herod to every household to fetch him the young child whom he feared. It is of the same kind as those memorable laws of Spain which drove the Moors from their homes in Andalusia; and of that edict of France which sent Protestant Huguenots to this land and everywhere out of their native land in search of a home.

It is the same kind of law, in a written form, as the crude laws of conquest issued by the commissioners of the king of Dahomey, of Congo, or any barbaric absolute monarchs of Central Africa, which strips every prisoner of every right to live save at the option of the conqueror. The object is the same, the effect the same—revenge! revenge! revenge! and all in the name of justice under the cover of law, cruel, bad law, terrible dire vengeance, carrying desolation and ruin in its course, bleareyed justice seeing only the avenues of wrong and cruelty.

This measure is not only intolerant, unjust, unwise, and despotic, but it is unnecessary; not only unnecessary, but impossible. It cannot be carried into effect even if passed by Congress, signed by the President, and sanctioned by the Supreme Court.

Sir, the people of this Union would repeal it in open convention, as a blot on the statute-book of a free and enlightened nation.

The time has passed for such laws. Although some gentlemen on this floor cannot see it, or will not see it, the war is over in the South, in the East, in the West, and above all, in the North.

When this bill was introduced there was a party in power, on this floor at least, capable and perhaps willing to pass it.

It was one of a long series of indictments which, as the great dragon "swinges the horrors of his twisted tail," was to close in upon the white race of the southern States and to strangle them into a torpor worse than death—the torpor of political subordination to the negro. This is the tail of this horrid monster of political atrocity; it carries the sting which was to rob the white race of all political vitality in the future. Its fiery breath was to light up the flames of another civil war of races, the prize to the conquering race to be the public lands in the southern States. That the negro might be stronger and more irresistible for evil in this conflict, the Secretary of War is, by this bill, made monarch of the black kingdom of Dixie. Supreme and mighty lord, serene, invincible sovereign and commander-in-chief of the black armies which were and may hereafter be enrolled into our services, armed and equipped, without law of Congress, but on the mere general order of the War Secretary. That money might be had for this black horde without additional tax the lands confiscated by this bill are to be sold, always, however, under the commission of this sovereign Secretary of War, who shall make a trust fund of a large part of the proceeds of the sale to keep the families of his black warriors in hog and hominy, while the throats of white citizens are being heroically cut or their starved bodies stuck with black bayonets.

PREAMBLE OF

A bill relative to damages done to loyal men, and for other purposes.

Whereas it is due to justice, and as an example to future times, that some proper punishment should be inflicted on the people who constituted the "Confederate States of America," both because they, declaring an unjust war against the United States for the purpose of destroying republican liberty and permanently establishing slavery, as well as for the cruel and barbarous manner in which they conducted said war, in violation of all the laws of civilized warfare, and also to compel them to make some compensation for the damages and expenditures caused by said war: Therefore,

But, sir, this bill is too full of interest, too sparkling with radical genius, and too glowing with radical philanthropy to be passed over without special notice of at least some of its sections. Mr. Speaker, Burke said in regard to the wholesale decrees of the British Parliament against the American rebels of 1776, "You cannot make out an indictment against a whole people."

But, sir, here is another indictment actually written and printed. Mr. Burke never met with such a master mind as the one which framed this bill. He certainly could never have thought that a portion of the descendants of the rebels of 1776 would imitate Lord North and his Tory majority in doing stupid and impossible things. But times change, and we change with them.

Whoever in future ages shall visit the ruins of this Capitol to search our archives for records of republican government as here administered, and shall study the causes of our ruin and read this law, mindful of the lessons taught by our fathers in their own struggle—whoever, I say, shall do this will be justified in refusing to believe that the people who made this law and the patriots of 1776 are the same race of men.

Why, Mr. Speaker, certain critics who have found many supporters now declare that we have fallen already into a premature political decay and have no claim to the wise prudence, sagacious toleration, and even-handed justice of the framers of our Constitution.

If such critics and their school need proof we have here conclusive evidence strong as Holy Writ that we are at least leaving the path of duty and wisdom which our fathers marked out; and we have our leaders here to-day who have taken us astray. This bill is their work and not the act of the people. The people are firm to their faith in the principles and provisions of that Constitution. The overwhelming majorities against the Republican party have settled that question forever.

Mr. Speaker, what a tyrant's plea is this preamble for licensing every crime under the sun, in the name of justice! It is an artful evasion of the Constitution of the United States, which expressly defines treason, fixes the manner of trial and conviction, but limits the power of Congress to declare the punishment for treason.

By declaring the "people who constituted the confederate States of America" belligerents, in the second section of the bill, thereby making them amenable to the law of nations and putting them out of the pale of the Constitution, the framer of this bill seeks to punish in an unconstitutional manner a portion of the people of the United States avowedly guilty of treason by levying war against the United States and in adhering to her enemies.

SEC. 2. *And be it further enacted*, That the President shall forthwith proceed to cause the seizure of such of the property belonging to the belligerent enemy as is deemed forfeited by the act of 17th July, A. D. 1862, and hold and appropriate the same as enemy's property, and proceed to condemnation with that already seized.

"I suppose none will deny the right to confiscate the property of the several belligerent States, as they all made war as States; or of the confederate States of America; for no one ever denied the right of the conqueror to the crown property of the vanquished sovereign, even where the seizure of private property would not be justified by the circumstances.

"Here is a belligerent made up of men whose crimes had forfeited all their rights, independently of their belligerent liabilities. But beyond that the case of republics is very different from absolute Governments, where the people are responsible for nothing, are guilty of nothing. The sovereign and his estate may well be distinguished from his subjects and their estates.

"Ten States of this Union have cast off their allegiance, and by the common acknowledgment of all have forfeited all their rights under the Constitution. To become again legitimate States in the Union, so as to entitle them to equal rights with the other States, the Constitution requires the sanction of Congress."

[*Speech of Mr. Stevens.*

This bill is an effort at constructive treason, to wreak partisan vengeance by aid of sophistry. Who were the people who "constituted the confederate States of America" when they formed the confederacy? Plainly a portion of the people of the United States.

Their act of confederation and rebellion was treason. Their crime is clearly defined, their manner of trial established by the Constitution, and on conviction Congress has the power to inflict punishment, provided always that no attainder of treason can work corruption of blood or forfeiture except during the life of the person attainted.

If "the people" who constituted the confederate States of America were not citizens of the United States at the time of their waging war against the United States who were they? Where did they conspire? How come they to be in possession of the "ten States that formed the government of the so-called confederate States of America," named immediately in the first section of this bill?

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the public lands belonging to the ten States that formed the government of the so-called "confederate States of America" shall be forfeited by said States, and become forthwith invested in the United States.

The preamble charges this people who constitute the confederate States of America with proposing to destroy republican liberty. Where was this republican liberty established which they purposed to destroy? Certainly every child can inform the gentleman from Pennsylvania. The whole history of the rebellion, the prominence of its leaders in the Congress of the United States at the outbreak of rebellion, their resigning from every branch of this Government while citizens and even Representatives of those ten States, fixes the facts.

The second section, therefore, of this bill is *brutum fulmen*.

The President dare not consistently with his oath to maintain the Constitution "forthwith proceed to cause the seizure of the property belonging to the belligerent enemy" and hold and appropriate the same as enemies' property. Nor can the President appoint the two commissions or more for each of the "said confederate States," to adjudicate and condemn the property aforesaid, as proposed in the third section.

A title to such property could not be secured to any purchaser in any court; and a standing

army costing this country per annum the value of all the land so seized would not be able to insure peaceable possession for the ten years contemplated in the fourth section.

But, grant for sake of argument if you like, that this can all be done as contemplated by this bill. Why should it be done? For whom is this free gift of the public lands of this Union made?

The fourth section declares "that out of the lands thus seized and confiscated the slaves who have been liberated by the operations of the war and the amendment to the Constitution, or otherwise, who resided in said confederate States on the 4th day of March, 1861, or since, shall have" these lands. Now, Mr. Speaker, admit that the two or three hundred thousand negroes who fought in the Union Army, under the training and command of white officers, at the expense of our people overburdened with taxation, deserve a reward and recognition for their valor and sacrifices during the war, what has that to do with the slaves who resided in the confederate States in the service of our enemies—in the confederate army a great majority of them—during the war? The reward is rather due to the laboring men of the Union who were not slaves, and will not be classed with slaves, but who were as faithful to this Union as the most gallant soldier in our Army ever was.

If you propose to reward the negro slaves of the southern rebel who stood faithful to his master until our brave soldiers drove both slave and slaveholder to submission, and compelled an unconditional surrender, why, Mr. Speaker, have not the whole people of the Union who remained faithful to this Government in the day of danger and trial been considered in this bill? Why this invidious distinction in favor of slaves and freedmen, to the insult and neglect of the loyal white men of the country? Under what claim to truth does this bill declare, in the preamble, "it is due to justice" that this act should take effect to endow land, to clothe, to house, and to feed slaves, while our public credit is pledged to defray the expenses of the war which freed these very slaves? Allow, as the zealous Radicals claim, that our victories were won by the negro troops; allow that the white race did not free the black slave of the South by his valor, suffering, and fortitude; allow the history of this war to be a lie as written on the tombs of our gallant soldiers of the free States who fell on every battle-field of the South, and left mourners at every hearth of the North, East, and West. Allow all this. Still are we to give away the land of our common inheritance to slaves who never raised a hand to fight for their own freedom?

"If the war had been between two regular Governments, both of which survived the war, the victors, in the treaty of peace, would require the vanquished to pay all such damages, as well as all the expenses of the war. If neither had conquered the other they would probably be silent and each bear his own loss. Congress is dictating the terms of peace. If she does not provide for these meritorious claimants she will be bound in honor to pay them out of the national Treasury. If she does not, individuals will be wronged and the nation dishonored. This bill is very merciful toward a cruel, outlawed belligerent, who, when their armies were dispersed, would gladly have compromised if their lives were saved. Those who will be affected by this bill will not exceed seventy thousand, out of a population of six million whites, for this is a people of aristocrats and subjects—of a proud nobility and a cringing, poor peasantry. These seventy thousand persons own about three hundred and ninety million acres of land out of the five hundred millions in the confederate States. This, together with the town property, cannot be worth less than $10,000,000,000. This estimate includes no man's property who was worth less than $10,000; nor does it include any personal property, which may, perhaps, swell it to $12,000,000,000. The fine proposed would be but one twentieth of their estates."—*Speech of Mr. Stevens.*

ECONOMICAL VIEW.

What will all this cost? What is the value of the land proposed by this bill to be given to the slaves of the ten confederate States? In the present disturbed condition of that section it is perhaps impossible satisfactorily to answer this question. An approximate estimate alone can now be made. The figures offered are taken from the best available sources:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
December 9, 1867.

SIR: I am in receipt of your communication, dated the 6th instant, requesting a statement as to the number of acres of public land in the States lately in rebellion, and the approximate value of those acres in money.

There are only five of these States in which the United States own public lands. The names of these, the quantities remaining undisposed of on the 30th June, 1867, and the money value at $1 25 per acre, the minimum price, are shown in the first three columns. The fourth column indicates the aggregate of certain swamp selections, claimed under the swamp grant of September, 1850, within these States, which have not been approved. These selections form no part of other swamp lands, which years ago were approved to those States, as shown on page 68 of the annual report of the General Land Office for 1866.

States.	Acres unsold and unappropriated up to 30th June, 1867.	Value at $1 25 per acre, the minimum price.	Acres selected as swamp, subject to approval.
Florida.....	17,540,374.00	$21,925,467	889,629.70
Alabama.....	6,915,081.32	8,643,851	476,918.93
Mississippi...	4,930,893.56	6,163,616	2,002.98
Louisiana.....	6,582,841.54	8,228,551	2,948,033.22
Arkansas.....	11,757,662.54	14,697,077	1,368,660.80
Total.....	47,726,852.96	$59,658,562	5,685,284.63

I am, sir, very respectfully, your obedient servant,
JOS. S. WILSON, *Commissioner.*

Hon. JOHN W. CHANLER, M. C., *House of Representatives.*

What will the commissioners together with the trustees awarded for in section four of this bill cost this Government? It will come to over one hundred and twenty-five thousand dollars per annum to put the machinery of the fourth section into operation, allowing that under the present circumstances and condition of affairs in the late rebellious States such a plan is possible.

SEC. 4. *And be it further enacted*, That out of the lands thus seized and confiscated the slaves who have been liberated by the operations of the war and the amendment to the Constitution, or otherwise, who resided in said "confederate States" on the 4th day of March, A. D. 1861, or since, shall have distributed to them as follows, namely: to each male person who is the head of a family, forty acres; to each adult male, whether the head of a family or not, forty acres; to each widow who is the head of a family, forty acres; to be held by them in fee-simple, but to be inalienable for the next ten years after they become seized thereof. For the purpose of distributing and allotting said land the Secretary of War shall appoint as many commissions in each State as he shall deem necessary, to consist of three members each, two of whom at least shall not be citizens of the State for which he is appointed. Each of said commissioners shall receive a salary of $3,000 annually and all his necessary expenses. Each commissioner shall be allowed one clerk, whose salary shall be $2,000 per annum. The title to the homestead aforesaid shall be vested in trustees for the use of the liberated persons aforesaid; trustees shall be appointed by the Secretary of War, and shall receive such salary as he shall direct, not exceeding $3,000 per annum. At the end of ten years the absolute title to said homesteads shall be conveyed to said owners or to the heirs of such as are then dead.

What will the trustee system cost? By this system proceeds of the sales of the public lands are to be kept for the exclusive use and benefit of these slaves and the other blacks who may now reside in the ten confederate States, and nominally for the benefit of the pensioners of the Government and to pay damages done loyal citizens during the war.

It is utterly impossible to calculate, even approximately, the cost of carrying out this portion of the bill, or to estimate the expense of preserving the right of the grantors under this act should a military force be required to assist the officers herein appointed.

SEC. 5. *And be it further enacted*, That out of the balance of the property thus seized and confiscated there shall be raised, in the manner hereinafter provided, a sum equal to fifty dollars for each homestead, to be applied by the trustees hereinafter mentioned toward the erection of buildings on the said homesteads for the use of said slaves; and the further sum of $500,000,000, which shall be appropriated as follows, to wit: $200,000,000 shall be invested in United States six per cent. securities; and the interest thereof shall be semi-annually added to the pensions allowed by law to pensioners who have become so by reason of the late war; $300,000,000, or so much thereof as may be needed, shall be appropriated to pay damages done to loyal citizens by the civil or military operations of the government lately called the "confederate States of America."

What will be the probable cost of carrying out the provisions of this bill by force of arms should a war of races ensue? What will it cost to prevent a war of races if this bill be enforced by the Secretary of War? These are all questions which should be answered before this bill becomes a law. Of the whole probable expense to the people of this Union of carrying out this scheme no reliable calculation can be made and none can reasonably be stated at this time of confusion in the States to which it is to apply.

It remains to consider if we can bear this probable extra expense now? For an answer to this question I refer the House and country to the chairman of the Committee on Appropriations, who better than any man in the country ought to know what our liabilities and assets at this time are. He brought in this bill while chairman of the Committee on Appropriations, and after having served several years as chairman of the Committee of Ways and Means.

POLITICAL VIEW—BALANCE OF POWER IN CONGRESS.

Mr. Speaker, there remains a point in this debate which seems to me too important to be passed in silence.

Is there any political object in this bill? Perhaps not; but I think assertions made by leading Radicals here warrant the supposition that some such object underlies the bill. From a political point of view this bill is one of the many like measures to create and keep the negro vote for the Republican party. Having created the negro constituency by previous laws, it is now proposed to bribe that constituency to vote for the Radical leaders.

A Protestant negro constituency in the Africanized southern States is to be pitted in the political arena against the Catholic white immigrant at the North, the East, and the West. Four million blacks are to be bought at the rate of many hundred millions of money vested in land grants. The whites are to shift for themselves; they cannot be bought. They know how to govern themselves and vote for themselves. They know the value of freedom from long possession, and the power of the ballot from long use and experience.

Sir, I pronounce this bill to be a monster of injustice to the living and an outrage against the fair fame of the dead heroes of the Union armies. Suppose this act to become a law. How are you to enforce it? What will be the result of such enforcement? Has the gentleman who proposes this measure not seen enough of bloodshed and civil strife? Can the land have no rest from the curses which this rebellion has already put upon her, but a new cause of bloodshed and destruction in every form must be inaugurated here? Will the war of races in the South be any less fatal to our prosperity because we bring it about? Sir, this bill to me seems a mad, bad, worthless plan to deluge the South in blood. It can have no other result. It will cost millions of treasure, thousands of lives, and years of public distress in every department of life. The black man must work for his own living, earn his own wages, and buy his own land. This Government has no power and no right to make a special pensioner of him. If he has not manhood enough to thrive by his own industry let him quit the soil and make room for his betters: they are coming from every land by thousands every day and dwell in every city of the North.

The African has no time-honored experience of the power and value of the ballot, and scarcely knows where to go with it, and for whom to deposit it, except a white man shows him the way. The European brought the right to vote with him. His ancestors used it for centuries to choose their representatives to control their governments and to rebuke their kings. The African savage or the African slave, whether in America or Africa, knows nothing about this sacred symbol of individual liberty

and representative government. He is as dependent on the white man in these things to-day as he was when he first landed on our shores. He is yet in his pupilage, and must be taught how and for whom to vote.

This bill, Mr. Speaker, proposes to secure his gratitude for the Radical leaders and bribe his vote. It is clearly liable to this charge. It is thought by this scheme to check the political power of the Democratic party of the free States and build up a petty African principality in the ten southern States under the dominion of certain political religious fanatics.

Such a scheme must fail. It is a wicked and weak plot. It is treason against the people. It is a political heresy against the tolerant principles of the Constitution. It may bring about a war of races or a mixed war of races and religions, but it never can restore this Union or maintain this Government as formed by the Constitution.

Sir, the dominion of this continent belongs to the white man. He formed the nations which now extend across it. He developed the civilization which those nations protect and adorn. His is the mastery, and you might as well seek to check this planet in its course around the sun as to curb the white man in his dominion in America. The white race is fulfilling the destiny of their race and the law of their God. This bill from this point of view is too feeble to deserve but a passing notice. But the gentleman who introduced it has held great power in this House, and is held in great esteem by the party in power, or lately in power, in this Government. His word was almost law here but a few short months ago. He has declared on this floor that to say that this Government is a white man's Government is blasphemy. He has championed the black race here and has boldly advocated an equality of the races—always apparently, however, turning his back on the poor Indian and Asiatic.

The gentleman's discriminations do him honor, and his zeal may yet be crowned with success.

Against the efforts of himself and his party it is the chief satisfaction of the Democracy to labor, and perhaps not always in vain.

But, if such bills as this become laws under the efforts of any political party, I believe that party will perish or this Union will pass into a military despotism.

A constituency created, maintained, and provided for in land and homesteads by the Government they are called on to elect is a monstrous anomaly, and is only fit for tyranny. The present system of military departments, the Freedmen's Bureau, this bill, all its kith and kin, are the schools in which the freedmen of the South have learned their duties as citizens. Dependent on the General Government for everything, they have learned to look to it for all they want, and have not the faintest knowledge of the responsibility of the Government to them. Such, sir, is the balance of power proposed by this measure.

What a resemblance does this crazy plot to preserve partisan supremacy offer to the similar plan of the great protector of England, Oliver Cromwell! He, sir, had fanatics enough to deal with. He had traitors of all sorts ready at hand, and had the power and will to hang them at short notice. He, too, held the balance of power, not by yielding to fanatics but by using them; not by wasting the public treasure and domain but by enlarging it; not by making his authority ridiculous by throwing pearls before swine but by rendering the name and dignity of a citizen and freeman still more famous, formidable, and honored than ever before in England. This Congress has been called the Rump Parliament; I doubt the justice of the fling. Where is the statesman who can shape the fanatical madness of this House to some useful end and make its acts in peace worthy of the deeds of our armies and navies in battle? Certainly not by wastefully throwing away millions of acres of public lands on the slaves of the leaders of the late rebellion and excluding the families of the white heroes who fell in your service from possessing any share of those lands unless they consent to mix with a race still fettered in mind by the manacles of slavery, though bodily ransomed by our laws.

"It is not possible that a correct judgment should be formed with regard to the conduct of Cromwell in these proceedings without a careful attention to the character and relations of the parties into which the nation was at that time divided. The Independents throughout the country were with Cromwell, and they were especially strong in the army, both among officers and men. Opposed to them were the Royalists, the Presbyterians, and the rigid Republicans, who were severally bent on establishing their respective schemes, all of which, either intrinsically or from circumstances, were so many schemes of tyranny. Cromwell resisted all these combinations, partly by aid of the minority throughout England who were attached to his rule, and especially by means of the army.

"The language of the Protector in so doing was: the majority of the old adherents to the Stuarts are in no temper to be very considerate about the liberties of the country, either civil or religious, if once in a position to return to their old courses; the Presbyterians, for the greater part, have become indifferent to the great cause of civil right, and disposed to set up an ecclesiastical machinery not a whit less oppressive than that of Laud and his coadjutors, and would hail at once a Stuart king who should promise them power in that form; while the Republicans, if in theory more favorable to freedom, being so small a minority, could not be expected to retain ascendency for a month without resorting to the miserable hypocrisy of upholding the iron rule of a military oligarchy under the specious name of a Commonwealth. Cromwell maintained accordingly, and with manifest justice, that for the present an enlightened regard to the interests of the nation required that the most vigorous efforts should be made to prevent the complete success of any one of these parties, and to balance them against each other, so as to bring them at last to some common ground of settlement. His experiments in convening his several parliaments were all designed to facilitate such an adjustment of differences by mutual concession as should be most in accordance, in the circumstances, with mutual right and duty. Unhappily in his time the enmities of the several factions were not to be so far controlled, either by reason or humanity, as to allow the country to realize the prosperity and greatness which it might have derived from his large and equitable policy. The source of those acts of despotism observable in the government of England during the Protectorate will be found mainly in the circumstances now mentioned. Cromwell, like most men who have risen to supreme power without being born to it, became an arbitrary ruler from the necessities of his position.

"When his parliaments refused supplies the salvation of the State depended on his extorting them by the sword. In the spring of 1655 he did not hesitate to place many of the leading nobility and gentry under arrest until they should find bail for their peaceable conduct. But at that moment the land was known to be covered with a network of conspiracy, either royalist or republican. It was at that juncture, too, that the ordinance was published which declared every royalist worth a hundred a year liable to pay a tenth of his income to the support of the Government. It was to collect this assessment that the Protector's major generals were invested with their large powers in the districts committed to their oversight. Cromwell intrusted this service to men for the most part in whose discretion he had the greatest confidence. But where there was much known disaffection the burden no doubt often fell very grievously. The hope of the Protector in convening his third parliament in the following year was, that supplies being thus obtained for the exigency, such 'arbitrary proceedings, so unacceptable to the nation,' might come to an end."—*Vaughan's Revolutionary History*, vol. 3, pp. 392-395.

Mr. Speaker, the people have spoken in reply to the invitation of the gentleman from Pennsylvania. He said on the 19th March last:

"To this issue I desire to devote the small remnant of my life. I desire to make the issue before the people of my own State, and should be glad if the issue were to extend to other States. I desire the verdict of the people upon this great question."

Sir, the gentleman has received the verdict. He has been found guilty, and the country breathes freely and naturally once more, after the horrors of a long and bloody war; after a fierce political strife; after enduring with long-suffering patience the ceaseless cry for blood, vengeance, and robbery from the gentleman and his followers on this floor. The black flag which they hoisted over this Capitol must come down. Hoist the Union Jack, and say to the ship of State: "Sail on, thou glorious ship, freighted with the hopes and happiness of millions. The curse of piracy and outlawry and confiscation shall not rest on our people. We are free and united, and, with God's help, will share our blessings with our brother man."

PERSONAL EXPLANATION.

Mr. ELDRIDGE obtained the floor.

Mr. CHANLER. I intended to submit a motion, but I yield so that the gentleman from Wisconsin may be heard.

Mr. PRUYN. I rise to a question of order. The House granted me leave to make some remarks of a personal nature when the gentleman from Massachusetts [Mr. BUTLER] should be in his place.

Mr. ELDRIDGE. I should much prefer the gentleman should wait till I had finished my remarks.

The SPEAKER. The House granted unanimous consent to the gentleman, but that does not permit him to take a gentleman off the floor.

Mr. PRUYN. Will I be entitled to the floor when the gentleman concludes his speech?

The SPEAKER. It would then naturally revert to the gentleman from Pennsylvania, who has given notice that he would move to postpone this question.

Mr. ELDRIDGE. I am permitted to occupy this floor by the courtesy of the gentleman from Pennsylvania, to whom I have given a promise when I finished my remarks to move to postpone the further consideration of this bill to the 21st of January next.

Mr. PRUYN. Very well. I will take the floor when the gentleman takes his seat.

CONFISCATION—AGAIN.

Mr. ELDRIDGE. Mr. Speaker, it is time the Union was restored. It is time the people were enjoying the fruits of the victory won in its name and on its behalf. It is time the nation on whose account, in whose interest, and by whose power and valor the battle was fought should be allowed to rest, to repose, to recuperate. The bloody and terrible war of more than four years duration ended almost three years ago. The hellish passions it engendered, the vengeance it evoked should have ended with the war. Pernicious passion, vengeful hate, all the destructive and malignant appliances of war are incompatible with peace. More than two and a half years ago every army of the confederates surrendered, and every confederate soldier gave up his arms and sued for peace. Since that day no war weapon has been raised, no armed man has lifted his finger against the national authority, but all, all without exception submit themselves to the Constitution and laws of the United States and have or are ready to renew their allegiance to them. These were the terms demanded from the beginning of the war to the end; these were the terms of surrender. Why then is not the Union, the object of the war, restored? Why is not the oppressive foot of the conqueror taken off the bowed neck of the conquered, and the future liberty, prosperity, happiness, and unity of the Republic reëstablished and assured?

Sir, in answering these questions the historian, the faithful, the impartial historian, will prefer a most fearful indictment against the party that has had control of this Government. It will be a record of cruel despotisms, of wicked usurpations, of violated law, of broken faith, of unfulfilled promises, of rights disregarded, of constitutions overthrown, and of civil liberty trampled under foot—and all in the interest of mere party.

The restoration of our country to its former happy state has, since the war ceased, been at all times and wholly in the hands and power of the Republican party. It alone is responsible for all that has been done and all that has been left undone. It elected the President and it elected the majority of Congress. It has agreed with both the President and Congress. Since the majority of the party began to differ with the President it has had no defined policy of restoration. Congress has not dared to commit itself to any terms upon which the confederate States may be permitted representation.

It seems to be afraid the terms might be

accepted and scorns a finality. It spends its time in angry contentions with the President, and in devising schemes for opposing him and deluding the people. It will be happy indeed for the country if while a Republican Congress is wrangling with a Republican President and seeking to defeat his policy of restoration for party ends alone the golden opportunity, yea the last opportunity, for restoring the Union and saving constitutional government shall not have passed forever. If it does not, it will not be owing to the wisdom, forbearance, or generosity of this Congress. It has met every submission of the confederates, every overture of peace and reconciliation, with greater and more onerous exactions. More cruel and exorbitant demands are made whenever it is believed they can be enforced. Its stern, unrelenting power alone is the measure by which their humiliation and oppressions are to be determined. And now it is proposed by the veteran leader of the majority, [Mr. STEVENS, of Pennsylvania,] by a bill which he introduced in this House on the 20th day of March last, to confiscate their property by act of Congress. In his speech on that day he says:

"The punishment of traitors has been wholly ignored by a treacherous Executive and by a sluggish Congress." * * * * "To this issue I desire to devote the small remnant of my life."

Mr. Speaker, when I listened to the venerable gentleman in that speech, tottering as he seemed on the brink of the grave, so full of bitterness and uncharitableness, I could but feel that the "remnant of his days," whether great or "small," were better spent in the exercise of that charity and forgiveness with which alone he could expect the favor of the final Conqueror, our divine Master.

In his speech he lays down this most extraordinary proposition:

"The laws of war authorize us to take this property by our sovereign power; by a law now to be passed. We have a subdued enemy in our power; we have all their property and lives at our disposal."

This is the foundation idea, that "the laws of war authorize us to take this property by our sovereign power; by a law now to be passed." The propriety of such a law I might answer to the satisfaction of this House and the gentleman himself by a quotation from the ablest statesman here, who, if not always, is generally consistent with himself. The gentleman referred to, on the 11th day of December, 1866, as reported in the Globe of that day, says:

"I do not believe that it becomes this nation; I do not believe that it is safe for us to undertake to pass laws by which we can or may be able to punish men, however guilty, who could not be punished under the law existing when the crimes were committed." * * * * "I am aware that the traitors in the South, if tried under our existing Constitution and laws, will not one of them be convicted."

That is from THADDEUS STEVENS. What, then, is this legal proposition that is so plain, the principle of which is to be taken as conceded, that needs no argument, that rests solely on assertion? It is simply this and nothing less: the God of battles has given us the victory over the rebellion, and ten or twelve million human beings—our countrymen—men, women, and children, lie conquered at our feet, and we have the right to dispose of them as we see fit. "We have all their property and lives at our disposal." The proposition is most atrocious. I deny it *in toto*. In the name of the Union, our common country, its cherished memories and sacred hopes, which the war, if not a failure on our part, has saved undivided and unbroken, I deny it; in the name of our Constitution, yet living and in force, however much ignored, scorned, and disregarded, I deny it; in the name of the common laws of nations, those maxims of justice, enlightened reason, and humanity, tempered and softened by our Christian religion, which no people can disregard without national dishonor, I deny it. There is no law, human or divine, by which "we have all their property and lives at our disposal." If the war had been a war for conquest and subjugation, so declared and prosecuted against a foreign nation, and it had surrendered in like manner, no law could be found for disposal of the lives of a whole people. Could they all be disposed of into slavery? How often have we heard the gentleman assert that there was no law for slavery? Could we by the laws of war, by the laws of nations, or by any other law of man or God, dispose of their lives upon the scaffold or the block? How many men, women, and children would the civilized nations of the earth allow us to hang as conquered belligerents before they would unite together to destroy our power as a nation of barbarians and outlaws? How many lives would the tenets of the gentleman's religion allow him to dispose of upon the block? Let us bring the question to some practical test—100,000, 20,000, or 10,000? What number will satisfy his thirst for blood? One half the smallest number taken by this Government, now the war has ended, would bring upon us the reproach, if not the execrations of the civilized world. Yet the gentleman tells us—

"This bill, it seems to me, can be condemned only by the criminals and their immediate friends, and by that unmanly kind of men whose intellectual and moral vigor has melted into a fluid weakness which they mistake for mercy, and which is untempered with a single grain of justice, and to those religionists who mistake meanness for Christianity, and who forget that the essence of religion is to 'do unto others what others have a right to expect from you.' It is offensive to certain pretentious doctors of divinity who are mawkishly prating about the 'fatted calf, the prodigal son, and the forgiving father.'"

Now, I do not know in the opinion of the gentleman in which class the views I entertain will place me, nor do I care. Every faculty of my mind and every feeling of my heart condemns that measure. The gentleman in his advocacy of it ignores the Constitution, disregards the law of nations, perverts the laws of war, and mars and mangles the most sacred precepts of religion. "Do unto others what others have a right to expect from you," he says. When did that "become the essence of religion?" The confederates, from their knowledge of the gentleman and his party, may have a right to expect the passage of this bill, the confiscation of all their property, and the disposal of all their lives upon the gibbet; but the Christian religion will not justify it. The gentleman's friends may have the "right to expect," from the promise which he made at the opening of his speech, that he will devote the "remainder of his days" to the taking of property from the southern white man and giving it to the southern black man. The black man, too, may expect it from him. But the Christian world will scarcely agree that it is in accordance with the "essence of religion."

Undoubtedly the present purpose of this bill is not so much to destroy, dispose of the lives of those people as to reach and appropriate their property. Avarice, accursed avarice, that would feast and grow rich upon robbery and spoliation; that infernal greed that made merchandise of the wants and woes of the soldier and his family, that fed him on spoiled meat and clothed him in shoddy, and robbed his wife and little ones of his scanty earnings while he was fighting the battles of the Republic, is the mainspring, the inspiring motive. But the right to dispose of their lives rests upon the same authority, is as clear, and is asserted with the same positiveness, as the right to dispose of all their property. The same law that subjects the property subjects the life to the disposal of the conqueror. If the one is in our power so is the other. If we can dispose of the one by act of Congress we can of the other also. The gentleman says:

"The laws of war authorize us to take this property by our sovereign power, by a law now to be passed. We have a subdued enemy in our power; we have all their property and lives at our disposal."

The laws of war! A new source from which Congress is to derive sovereign powers! Where are these laws of war, and how do they read? If the gentleman means the laws of nations, I insist they do not and cannot confer any such powers upon Congress. His quotation from Vattel relates to a case between two different nations, and refers to the ancient, not the modern rule. The same author says, page 454:

"Formerly in conquests even individuals lost their lands, and it is not at all strange that in the first stages of Rome such custom should have prevailed." * * * * "But at present war is less terrible to the subject."

In relation to civil war Vattel says, page 491:

"A sovereign having conquered the opposite party and reduced it to submit and sue for peace, he may except from the amnesty the authors of the troubles and the heads of the party; may bring them to trial and, on conviction, punish them." * * * * "The danger of committing great injustice by the hastily punishing those who are accounted rebels, the tumult of discord and the flame of a civil war little agree with the proceedings of pure and sacred justice: more quiet times are to be waited for. It will be wise in the prince to secure his prisoners till, having restored tranquillity, he is in a condition of having them tried according to the laws."

Not according to a law to be made, but by the law of the land as it existed when they rebelled. The modern rule, when one nation is conquered by another, is thus stated by Wheaton, page 596:

"By the modern usage of nations, private property on land is exempt from confiscation, with the exception of such as may become booty in special cases. This exemption extends even to an absolute and unqualified conquest of the enemy's country."

So Justice Marshall states the law in 7 Peters, page 86:

"It may not be unworthy of remark that it is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usages of nations which has become law would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confiscated and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other and their rights of property remain undisturbed."

Thus the authorities concur, and they might be greatly multiplied. I have no doubt they contain the settled law and usage of nations at the present time. The rules of ancient warfare have improved as the nations have progressed. The benign influences of the Christian religion have been dispelling the darkness and barbarities of the past. Indiscriminate butcheries and sweeping confiscations cannot find justification in the laws and usages of modern civilization. This bill must go back for its precedents, if not for its advocates, to the days of savage cruelty and Roman barbarism.

But it is said that the right and power of the Government to make these confiscations is not now an open question; that this was settled by the act and discussions of 1862. I am aware that the subject was much and ably discussed at that time. The arguments, however, in favor of that bill failed to satisfy even President Lincoln, so that if Congress had not passed the joint resolution construing, qualifying, and restricting its provisions he would have finally vetoed it as in violation of the Constitution. The Constitution then had not been as now altogether ignored. That great unknown, unexplored, boundless "outside" had not been discovered.

Even the gentleman from Pennsylvania, now repudiating the Union and the Constitution altogether in their application to the people of the southern States, then had lucid intervals, and on such occasions would recur to its provisions. In his speech at that time advocating confiscation, he sought for authority in the Constitution and claimed it was there; and he found, also, the appalling power in a certain contingency to proclaim a dictator. He said:

"If no other means were left to save the Republic from destruction, I believe we have the power under the Constitution, and according to its express provision, to declare a dictator, without confining the choice to any officer of the Government. Rather than the nation should perish, I would do it; rather than see the nation dishonored by compromise, concession, and submission; rather than see the Union dissevered; rather than see one star stricken from its banner, all other things failing, I would do it now."

And, sir, not seeing at the moment just the right man to fill the important position of dictator under the Constitution, and distrusting,

as he was known to distrust at that time the martyred President Lincoln, whom he now so eloquently eulogizes, in a moment of inspired vision I suppose he discovers the old Democratic hero of New Orleans, and exclaims, "Oh for six months' resurrection of the flesh of stern old Jackson!" This is not the first time in the history of this rebellion that the Democracy and its leaders have been invoked to save the Republic. More than once the appeal was made to the Democracy, Save us or we sink.

But many of the worst features of this bill were carefully avoided in that. The argument most strongly urged and relied upon was that it was a war measure—necessary for subduing the rebellion, and that it was competent to use any and all the means within the reach of the Government for putting an end to the war. It was scarcely contended that it was to be a permanent measure or be prolonged beyond the continuation of actual war. It was to be executed in conjunction with and in aid of the Army, and would cease to be operative when peace should be restored. The gentleman from Pennsylvania took this view of the subject in 1861, and he used this language, which will be found in the Globe of August 2:

"I say it is constitutional and according to the law of nations in time of war. I admit that if you were in a state of peace you could not confiscate the property of any citizen. You have no right to do it in time of peace, but in time of war you have the right to confiscate the property of every rebel."

The state of things upon which the main argument in favor of confiscation in 1861 and 1862 were predicated no longer exists. The war is over, the rebellion is subdued, the contest of the sword is ended, a state of peace has come, and, as was said by Chief Justice Chase in opening the court at Raleigh, "the national civil jurisdiction is fully restored." And now, sir, in a time of profound peace, with the courts all open and their jurisdiction fully restored by act of Congress, it is proposed to confiscate the property of all that people, the people of ten States, combatants and non-combatants, men, women, and children—all, indiscriminately, are to be made by it subjects of legal plunder; nay, to be by the act itself actually robbed and plundered of their estates, real, personal, and mixed! No trial, no inquiry, no investigation, no examination to ascertain or determine individual guilt or liability. No explanations, no exculpations, no defenses, no mitigating circumstances, no conditions, no qualifications, no discriminations, no adjustments! Without justice, without mercy, without sympathy, without forgiveness—all, *en masse* by the thousand, by the million, condemned, despoiled, stripped by one inexorable law—and that law not upon the statute-books, not in the hands of the people, not even as in ancient times, posted beyond the reach of their eye-sight; no, not even yet in existence, but hereafter to be ordained and enacted! "By a law now to be passed." Was there ever a proposition so terrible, so atrocious! Blackstone says in his Commentaries, volume 1, page 145:

"To bereave a man of life or by violence to confiscate his estate without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole kingdom."

Who can contemplate such acts in this free Republic without alarm, without consternation? Who can support or justify such a measure without a loss of reason? Can any man doubt that it is in direct and palpable violation of that provision of the Constitution that no person shall "be deprived of life, liberty, or property without due process of law." Is the Congress hereafter to dispose of all the dearest rights of American citizenship? Are its acts henceforth to be the American "due process of law?" Are its edicts to dispose of our lives, our liberties, and our property? Is it to usurp all judicial power and condemn to death and confiscate the property of the people by communities, by States, by wholesale? Can we, dare we, thus perversely and wantonly reject the wisdom and experience of our ancestors and trample under foot not only our own Constitution but the sanctified charter of both British and American liberty?

But that is not the only provision of the Constitution in the way of the passage of this bill. History admonished the fathers of the Republic that in times of great excitement, in times of high party feeling and passion, revengeful and vindictive laws for the punishment of acts not before deemed crimes or deserving of punishment might be enacted. They anticipated these times—they anticipated this kind of legislation, and prohibited it by providing that "No bill of attainder or *ex post facto* law shall be passed." It was contended that the act of 1862 was not a bill of attainder or *ex post facto*. But there can be no doubt that this is obnoxious to both objections? This is a bill of attainder and *ex post facto*.

What is a bill of attainder? The Supreme Court at its last session determined this very question in the case of Cummings *vs.* the State of Missouri. It says:

"A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If the punishment be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution bills of attainder include bills of pains and penalties. In these cases the legislative body, in addition to its legitimate functions, exercises the powers and office of judge."

In this definition all must agree. It can make no difference whether the act is aimed at a single individual by name or at a class or at all the people of a particular locality. The Supreme Court has also determined what is an *ex post facto* law. In Fletcher *vs.* Peck, Chief Justice Marshall defines it to be—

"A law which makes an act punishable in a manner in which it was not punishable when it was committed. Such a law"—

said that distinguished and eminent judge—

"may inflict penalties on the person, or may inflict pecuniary penalties which swell the public treasury. The legislature is then prohibited from passing a law by which a man's estate, or any part of it, shall be seized for a crime which was not declared by some previous law to render him liable to that punishment."

Says Justice Field:

"The Constitution deals with the substance, not shadows. Its inhibition was leveled at the thing, not the name. It intended that the rights of the citizen should be secured against deprivation for past conduct by legislative enactment, however disguised."

Is there any room for doubt that this is a bill of attainder and *ex post facto*? It has all the elements, all the essentials, of both. It is completely within the definition of the Supreme Court. The gentleman certainly cannot deny it. It is recited in the preamble of his bill "that it is due to justice that some proper punishment should be inflicted on the people who constituted the confederate States." The gentleman who introduced it opened his speech by announcing that he was "about to discuss the question of the punishment of belligerent traitors." It is then a legislative act inflicting punishment; punishment for an act already committed; punishment for past conduct; punishment for crime new or additional to that now provided for by law; punishment of "belligerent traitors"—new crime and new penalty, and all without trial.

Sir, if that whole people are criminals, if they are all traitors, and it is desirable to try them all for treason and punish them, the Constitution empowers us to do it. It provides the mode of trial and limits the punishment. There must be indictment, arraignment, jury trial "by due process of law." Then, upon conviction and judgment, and not till then, the punishment, the penalties and forfeitures of treason may be imposed. There is no constructive treason, no implied guilt, no presumed crime. These are the safeguards, thank God, that our fathers were considerate enough to throw around the American citizen. These were the sacred protections they secured for his rights of person and property. His life, his liberty, and his property were not left to be the prey of caprice and passion, but were surrounded, guarded, and secured by irrepealable law. Trial by jury is the sacred birthright of every citizen of the Republic. It is a right older than the Constitution, older than the Republic. It was not born of or created by the Constitution, but is imbedded and secured in it as an indispensable requisite of liberty and free government. It cannot be stricken down or denied in the person of the weakest or humblest, the most deserving or the greatest criminal, without endangering the right itself—without jeopardizing the liberties of all.

Let it not be said this is a plea on behalf of traitors, of one in sympathy with treason; the malignant resort of the black-hearted wretch to divert the attention of those whose liberties he imperils by a false and malicious issue upon him who warns of danger. I will not shrink from the issue, however or by whomsoever maligned. That I reverence the Constitution I cannot, I will not, deny. The wisdom and importance of its provisions were never more manifest than now; obedience to them all never can be more imperative. It points the only way out from the darkness and dangers that now encompass and threaten us. Its principles vitalized in the Government, cherished and upheld by the people, brought us all the prosperity and glories of the past, and afford us the only rational hope of the future. It is the great conservator of republican liberty, and he who would destroy it or weaken it in any of its provisions, or counsel or encourage its disregard, is a malefactor, an enemy not of his country only, but of the human race.

Mr. Speaker, it is amazing that it should seem to be necessary or important at this day to restate these elementary principles of our Government. But it is in utter violation and disregard of all these provisions, nay, even of the Constitution itself, that these confiscations, are to be enforced. The power to confiscate by act of Congress, the power to establish military governments over States, and the power to exclude States from representation, are all derived from the same source, and none of them are found in the Constitution. They rest upon that heresy original with the gentleman from Pennsylvania, now generally adopted by his party, that the southern States are out of the Union, that the war prosecuted avowedly for the sole purpose of subduing the rebellion and saving the Union conquered the States and all the people of the States, and that the Government now holds them as conquered provinces and the people as conquered, subjugated people under the law of nations and "outside of the Constitution."

This is the shrewd device, the cunning invention, by which Congress grasps and invests itself and is to exercise ungranted and prohibited powers, by which all constitutional restraints and limitations are removed, and the lives, liberties, and property of one third of the Republic placed in the absolute power of Congress. Never was there a theory so false to every principle of our Government, so unfounded in our laws, and yet so insidious and dangerous to our liberties. It has in it all the elements of corruption and meanness, by offering a great people and a rich and beautiful country as lawful booty and plunder, enlists in its support not only the greedy and mercenary politician but all the rapacious thieves and spoilsmen of the land. It is, it can be nothing less than an atrocious and infamous bribe.

But what is, what can be the object? what is gained by arguing the confederate States "out of the Union, outside of the Constitution?" We have just drenched the country in blood, filled every house and hamlet with mourning, and piled debt and taxation upon the people mountain high to keep them from going out voluntarily. This was the issue, the grand, the mighty struggle. They fought to get out, we to keep them in. They fought to abrogate the Constitution, we to sustain and enforce it. They struggled to leave the Union and break away from the restraints of the Constitution, we met them at the threshold and drove them back, sword in hand, and forced them to

remain and acknowledge its supremacy. Sir, there never was a more audacious and unfounded assumption of power than that by which Congress claims the right to confiscate the property and hold and govern the people of those States under the laws of nations "outside of the Constitution."

The laws of nations have no application to them since the war closed; and the laws of nations cannot, under any circumstances, interfere with or supersede the fundamental law of the nation itself. They profess only to prescribe the rules and maxims by which one nation should regulate its conduct toward another and not the conduct of the nation toward its own people, toward itself. They do not regulate or interfere with the interior polity of nations or with their several internal departments. They cannot confer upon the President, the Supreme Court, or Congress, any powers whatever which they do not possess by virtue of the Constitution. They have no application as between the citizen and the nation itself; the laws of nations are all without exception limitations and not grants, intended to control the excited passions and cruel dispositions of nations in their intercourse with each other and in the prosecution of war. They apply to wars, civil as well as foreign, because while the war rages the civil law cannot be enforced and for the purpose of lessening the calamity of war and rendering it less cruel and terrible.

They then are restrictions and limitations upon the excited passions and ferocious cruelties which war never fails to excite. They enjoin respect for the flag of truce, spare the lives of prisoners, prohibit the slaughter of women and children and enforce the principles of kindness and humanity. And these are among those belligerent rights, the mutual concession of which in the prosecution of the war, as it is claimed, divided the Union and placed all the people of the confederate States as conquered belligerents at our feet "outside the Constitution"—their property and lives at the disposal of this Congress. Was there ever a greater absurdity or a doctrine more fatal to the permanency and preservation of the Republic? It utterly precludes the idea of the Government ever by force of arms suppressing an insurrection or putting down a rebellion. The Government is foreever powerless to save the Union by war, by force of arms. Let opposition to the Government by arms arise for any cause in any State of the Union, and the Government attempt to put it down, if it shall become sufficiently formidable to entitle the insurgents to belligerent rights according to the laws of nations, and those rights shall be conceded, the State when the Government shall have conquered will be out of the Union and the people "outside the Constitution" with no rights except only such as Congress, according to its supreme will and pleasure, may graciously concede.

No scheme was ever devised by the wit of man by which the States and all State and local governments were so fearfully imperiled, and by which the central Government could so surely and certainly absorb and usurp all the reserved rights and powers of the States and people. Every time a State goes out or is excluded its Representatives and influence disappear, and the power of the central Government is proportionably increased. Suppose enough of the people in each of the remaining States of the Union with the exception of the State of Massachusetts, (and she with the prospect of preying upon all the rest, would of course remain loyal,) finding the growing pretensions and exactions of the General Government intolerable, should rebel, seize all their State governments, form new and hostile ones, and should even against a majority of the inhabitants, the regular Army of the United States, the volunteers of Massachusetts, the President, Congress, the Supreme Court, the District of Columbia, and all the Federal office-holders, hold out until by the laws of nations the contending parties should become belligerents and the rebellion should then be subdued. According to the doctrine now contended for all the States with the one exception would be out of the Union, conquered provinces, and all the people, loyal and disloyal, would be conquered belligerents "outside of the Constitution." Massachusetts would then be the Union—the United States. Her two Senators would compose the Senate and the ten able gentlemen on the other side, the House of Representatives. They together would be the Congress, and this Congress would then constitute "the Government," and it would be what my friend from New York [Mr. BROOKS] denominated "homogeneous," "decidedly homogeneous."

Then, sir, would commence the work of "reconstruction" at the point of the bayonet. The insurgent States could be held "outside the Constitution" till they would conform their Governments to the views and requirements of the Congress. They would, of course, be required to provide for high protective tariffs for all goods manufactured in Massachusetts and the impeachment of the President by irrepealable law, consent to be taught by Massachusetts school-marms, give forty acres, suffrage, and a mule to all her surplus old maids, and then this Congress, "by its sovereign power, by a law now to be passed," would be prepared for general "mild" confiscation.

Mr. Speaker, "the Union" is a Union of States—living, distinct, defined, organized States. It never has lived, and it never can live, except in the life of the States. It depends, and must forever depend, for its life and being upon the life and being of the States. States not territorial or exercising territorial dominion merely, not provinces, not dependencies, but governmental, constitutional States—States with rights and powers and duties and obligations; States having lives and property and rights and liberty to guard, protect, and defend; States alike free, sovereign, independent, coequal States. Of these States "the Union" of the Constitution was and could only have been formed and created. To preserve them is to preserve "the Union;" to protect them is to protect the Union; to save them is to save the life of the Union, "the life of the nation." To do this, to preserve these States with all their original attributes, qualities, rights, and privileges unimpaired against all assailants, all "comers," was the high and holy purpose for which the Union was formed. It was not created by and of the States to kill them, but to save them; not to devour them, but to preserve them; not to conquer them, but to protect them; not to subjugate them, but to uphold them. To destroy one of these States or permit it to be destroyed is to destroy or permit to be destroyed the Union itself.

Vattel (page 62) declares—

"The preservation of a nation consists in the duration of the political association of which it is founded." * * * * "If a nation is obliged to preserve itself it is no less obliged carefully to preserve all its members."

The law of self-preservation, then the highest obligation of man or nations, requires this nation to save and preserve the members of which it is composed. It cannot permit a State to die or be killed, to destroy itself or be destroyed, to break away or be torn away from the Union, without permitting its own destruction. Not to be able or willing to save one of the States is not to be able or willing to save itself; to be able to save it and for any cause, and under any pretense not to do it, is self destruction.

Sir, there are gentlemen in this Congress who were never quite satisfied with the Union or with the Constitution, who have always chafed and fretted under their restraints. It is to avoid these restrictions and limitations, to give unlimited indulgence to the passions and excitements aroused by the war and an unrestricted field for plunder and confiscations, that power is sought for Congress "outside the Constitution." But what is meant by governing the States and people of this nation outside the Constitution? By what warrant? By what authority? By what law?

"Outside the Constitution!" Where is "outside the Constitution?" What are its boundaries; what its limitations; what its height and depth, its length and breadth; who governs, and who are the governed? No department of this Government has any power except in and by the Constitution; neither the President, the Supreme Court, nor Congress. The Constitution is the supreme law to all the members of the national Union—the source of all political authority, of all governmental power. It is the only source of power. Outside of it you have no President, no judiciary, no Congress, no Union, no Government, no people to be governed. Nor has the war abrogated it or any of its provisions, or released any department or officer or citizen from obligations of obedience to it, or added a whit to the powers or privileges it confers. It may have been, it has been ignored, disregarded, violated; but it stands to-day as it did at the beginning—the sole warrant of federal or national power, with the full right and express power to vindicate its offended majesty whenever and wherever it has been disregarded or encroached upon. All and every officer of the Government must act in its name and by its authority. It is their only warrant of power; it is their only shield and protection.

Let the President, the judiciary, or Congress go outside of it, exercise a jurisdiction not granted, a control over any citizen not conferred, or take from him life, liberty, or property by any law not based upon or authorized by it, it is crime no less atrocious than murder or treason.

"Outside the Constitution" there is no law, no justice, no protection, no safety. All is confusion, anarchy, oppression, and tyranny. You hear the "tinkle" of that "little bell," and the insolent boast that it is more potent than the voice of kings and queens. You hear the clank of the doors of forts, prisons, and bastiles as they are swung to and fro by the cringing tools of power to receive the victims waved in silence to unpronounced and unknown doom. You hear the drum-beat summoning in mockery the doomed to martial judgment, and the click of the spring touched by the bayonet that launches their souls into eternity. You hear the voice of arbitrary and unrelenting power silencing the tongues of those who complain, tearing them from country, from home, from wife, from children, and sending them into exile. You see the judge on the bench confronted and execution upon his judgments stayed by the sword, the public press controlled or destroyed, the sanctity of home invaded, the temples of religion closed, and the voice of him appointed to administer its consolations silenced.

Happily no department of this Government except Congress makes any pretensions or claim to powers not found in the Constitution. But liberty and the Constitution may well stand appalled at the usurpations and fearful pretensions of Congress. Claiming, by some means unknown to the Constitution, to have discovered the "will of the people" and to have been commissioned to execute that will, it is a constant and ever-present menace to the other coördinate departments. In the name of the "will of the nation," not as expressed in the Constitution but in some manner satisfactory to Congress, it has assumed the functions of both the Executive and the judiciary. It claims the right to make the law, to adjudicate its construction, and to carry it into execution. It is not only rapidly and surely absorbing and swallowing up all the legitimate powers of this Government, but its usurpations and pretensions will if unchecked soon not only deprive the States of all rights but will rob the people of all their rights and liberties. Already this Congress claims the exclusive authority over ten States and the right to rule and govern twelve million people by the sword.

The States of Maryland, Delaware, and Kentucky are threatened, and soon will be all those that do not vote in accordance with the views of Congress.

Sir, the will of this nation is to be found in the Constitution and Congress is bound to obey it as there expressed. This is a country of written Constitution and laws with a judicial department to interpret them and an Executive to execute them. In the ever-memorable words of Justice Davis in the case *ex parte* Milligan:

"By the protection of the law, human rights are secured; withdraw that protection and they are at the mercy of wicked rulers, or the clamor of an excited people."

Constitutions and laws are made for times of great excitement—made to control the impulses of passion and to guard the people from the unrestrained will of those who are appointed to rule over them. The wisdom of their adoption is demonstrated by the unfounded claim of Congress to rule "outside" of them. It is indeed strange that Congress should put forth any such claim—especially in the light of that decision of the Supreme Court. On this question it is no divided opinion, no partisan expression. It is the calm and deliberate judgment of the majority and minority of every member of the highest national tribunal. It is the solemn utterance of the law by the voice of authority. Justice Davis, writing the opinion for the majority, further declares:

"The Constitution of the United States is law for rulers and people equally in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances."

For the minority Chief Justice Chase says:

"We agree in the proposition that no department of the Government of the United States, neither President, nor Congress, nor the courts, possess any power not given by the Constitution." * * *
"But neither can the President in war more than in peace intrude upon the proper authority of Congress, nor Congress upon the proper authority of the President. Both are servants of the people whose will is expressed in the fundamental law."

What now becomes of this flippant talk of the powers of Congress "outside of the Constitution" and "the will of the nation" except as found and expressed in it? This decision of the Supreme Court ought to set at rest at once and forever all these pretentious claims of ungranted powers. There are powers enough in our Constitution, powers enough for war and powers enough for peace; powers enough for our rulers and powers enough for the security of the people's rights. No greater calamity can befall this nation than for the people to acquiesce in this claim of Congress to derive powers "outside the Constitution."

It matters not that Congress is composed of many individuals. The despotism of numbers is the worst of all despotisms. The responsibility is divided and rests upon no one. Like a corporation, Congress has no soul, no heart, no conscience, no sympathy. It never relents, it feels no sorrow, it is moved by no compassion, it has no tears. The people have no protection, their rights no security, their liberties no safety except in the written law. Congress must have no *carte blanche*, no "outside" discretion, no undefined power, no unexpressed unwritten will of the nation to execute.

Mr. Speaker, I have no words to express the horror with which these measures "outside the Constitution" fill me. A great and free Republic like the United States establishing a pure, simple, unmitigated despotism over one third of the nation! Ruling absolutely by the sword, no law, no restraint, no rule but the will of the commander! and that will unexpressed, undefined, and unrestrained, and that, too, in a time of profound peace. How long will it be borne? how long will the people submit? how long will they crawl at the foot of power? Is it peace, is it submission, or is it that quiet, that indifference, that torpor, that dumbness that follows despotism? There is no war; there is no insurrection; there is no rebellion; there has been none for almost three years. By what right are the laws of war enforced? by what right does Congress dispose of life, liberty, and property? by what right is the sword of power upheld? The majestic voice of the civil law is no longer silenced by the clangor of arms; it commands the sword to its scabbard and the warrior to the plow. There are no longer any belligerents, and Congress has no belligerent rights. The law and the Constitution speaking by the voice of your own favorite Chief Justice Chase, declares that—

"Congress cannot establish and apply the laws of war when no war exists. When peace exists the laws of peace must prevail."

Away, then, with your belligerent pretensions, your military despotisms, and your martial confiscations. Unloose your bloody jaws; your enemy has submitted, and the war is over. Restore your Government; make good your promise to save the Union by which you secured the sacrifices of so many patriotic lives.

Mr. Speaker, it ought to be enough to condemn all these measures of military governments and belligerent confiscations that they are the desperate resort of a political party to perpetuate its party power; that they are all devised, not by statesmen in the interest of the country, but by politicians in the interest of party. No man in his right mind can believe that one dollar of money arising from these proposed confiscations will ever reach the Treasury for the purpose of increasing pensions, paying the losses of the war, or lessening the burdens of taxation.

It will, as it is intended, crush, distress, and destroy the white population of the South without availing the finances, the treasury—anything. I say as it is intended, for there can be no doubt the purpose of all these measures is to destroy the property-holders and build up a negro Republican party, and subject all the people of those States to the supreme authority of the negro race.

Hence the gentleman from Pennsylvania says in his speech before referred to with regard to his bill:

"The fourth section provides first that out of the lands thus confiscated each liberated slave who is a male adult, or the head of a family, shall have assigned to him a homestead of forty acres of land, (with $100 to build a dwelling,) which shall be held for them by trustees during their pupilage." * *
"Whatever may be the fate of the rest of the bill I most earnestly pray that this may not be defeated." * * * * * * * * * * * *
"It were well if all their large estates could be sub-divided and sold in small tracts. No people will ever be republican in spirit and practice where a few own immense manors and the masses are landless."

Thus it will be seen this is the purpose nearest his heart—the main object he has in view. But he is not alone; the Republican party is with him. About the same day of his speech, immediately after the second reconstruction bill was passed, "The Union Republican Congressional Committee at Washington" issued an address entitled "The policy of Congress in reference to the restoration of the Union," for distribution in the southern States. In that address it is claimed that the negro race "is indebted to the Republican party for its elevation to a position of equality," and that

"The negroes on their side cannot hesitate to support the party and the principles by whose labors and influence their redemption has been accomplished." "The owners of large estates should divide and subdivide their lands and sell them at reasonable rates to those who need them and can improve them." * * * * "This is a common right, and cannot be denied with safety to society."

This is the avowed position of the Republican party. And it hastens to inform the negro of what it has done for him, what it will do, and what it expects of him in return. The party gives him favorable legislation, money, and lands, and "expects him" in return to give the Republican party his vote and support. The negro is indebted—he cannot hesitate to support the party. His vote was the consideration; the Republican party has performed and is performing, and he cannot hesitate to keep it in power. Was ever wanton more brazen and demonstrative? Did corruption ever press the bribe more unblushingly or persistently?

And thus is forced upon us the great and painful fact that all these "outside" measures are in the interest and for the purpose of keeping in power a political party; that the Government of the Constitution is wickedly put aside by partisans for partisan ends. Negroes are elevated to a position of equality and notified that the estates of the white man cannot remain undivided "with safety to society;" that these estates should "be divided and subdivided" and sold at reasonable rates, or confiscated by act of Congress and given to them for homes. This is "the policy of Congress in reference to the restoration of the Union," as declared by the congressional committee. Five absolute military despotisms in ten States; negro equality; negro supremacy, and agrarian confiscation. Is this the promised Union, the consummation of all our hopes? Was it this for which we struggled so long and sacrificed so much? For which half a million brave men laid down their lives? For which so many tears were shed, so many hearts broken, so many homes made desolate? No, sir, no; it is the fatal scheme of radicalism run mad; it is the dark, desperate plunge "outside the Constitution." It is usurpation; it is lawlessness; it is anarchy; it is revolution. Revolution against the Union; revolution against the Constitution; revolution against republican government; revolution against American liberty. Ten States, ten sovereign States, have gone down before it; their governments are all swept away. One third of the Republic, twelve million people, are without any civil government; their constitutions and laws are set aside or trodden down by the heel of military power. Their lives, liberties, and property are in the hands of despots.

And the revolution still goes on! Other States are menaced, other citizens are threatened, other powers are usurped, other rights denied. The boundaries of the Constitution passed, its restraints removed, its barriers overcome, human passion swells and surges uncontrolled. There is no right so ancient, none so venerable, none so sacred as not to be uprooted and overborne. Property will have no security, liberty no protection, life no safety. Law-makers become law-breakers must expect the common doom. The lessons they teach once learned they will invoke the law in vain. Having sowed the whirlwind they, too, will reap the storm.

Sir, the people of this country owe their past prosperity, happiness, and national renown to our written Constitution. In its maintenance the Republic has had its life and growth, and in its abandonment or subversion it will find its grave. The faith of this nation is pledged to the preservation of the Union created by it; it is pledged, solemnly pledged, to guaranty to every man, woman, and child every right, every privilege, every immunity covered by its provisions. You cannot hold any portion of the people of this nation in subjugation to the other. You cannot deprive any citizen of life, liberty, or property without due process of law. You cannot confiscate or take from any one his estate or any other right by act of Congress. Any one or all these things will cover this nation with eternal infamy and disgrace.

But, sir, these measures are not violations of the most vital provisions of your Constitution only, they are not violations of the sacred pledges under which your armies were raised and the war prosecuted only, they violate that most sacred and holy of all human treaties, the stipulations by and under which your conquering generals secured the surrender of the arms and armies of the confederacy; they violated the terms of the parole by which the confederate soldier laid down his weapons and retired to his home, to be thenceforth undisturbed so long as he peacefully obeyed the laws in force; they violate an agreement, the value and strength of which rests in the national faith and the national honor, and to violate which dishonors every officer, soldier, and citizen of the Republic, and sullies the character of the nation itself; they are, in fact, a wanton and treacherous violation of the peace which Grant and Sherman agreed upon, and so far as the nation is concerned, an unprovoked renewal and continuation of the war.

Mr. ELDRIDGE, having occupied an hour, was allowed by unanimous consent fifteen min-

utes more to finish his speech. He then moved to postpone the further consideration of the subject until Tuesday, January 21, after the morning hour.

The motion was agreed to.

Mr. CHANLER moved to reconsider the vote by which the further consideration was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SOUTHERN RAILROAD GRANTS.

Mr. JULIAN entered a motion to reconsider the vote by which the House recommitted to the Committee on Public Lands House bill No. 237, to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. HAIGHT.

PERSONAL EXPLANATION.

Mr. PRUYN obtained the floor to make a personal explanation.

Mr. SCHENCK. I ask the gentleman to allow me a moment to take the sense of the House in regard to adjournment for the holidays.

Mr. PRUYN. I will, with the understanding that I may have the floor to-morrow morning. At the request of the gentleman from Massachusetts [Mr. BUTLER] a few moments ago I agreed to give way, if such was the feeling of the House this afternoon, to a motion to adjourn. I am laboring under a severe headache now.

No objection was made, and it was understood accordingly.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. SCHENCK. I desire the sense of the House on the question of adjournment for the holidays, and for that purpose I will submit a resolution. I offer it, after consultation with my own committee, and with other gentlemen, chairmen of committees and others. The Committee of Ways and Means propose, if the House shall adjourn as is provided in the resolution, to leave a sub-committee to continue some work on the tax bill on which we are engaged. I do not know what provisions are made by other committees, but with a view to bringing the matter to an issue and understanding what the House desires I submit the following resolution:

Resolved, (the Senate concurring,) That when the two Houses adjourn on Friday, the 20th instant, the President of the Senate and the Speaker of the House of Representatives shall declare their respective Houses adjourned until Monday, the 6th of January next.

Members will remember that Christmas and New Years come in the very middle of the week, on Wednesday, thus breaking each of the weeks by adjournment from the Friday preceding. By this resolution, at the close of the week preceding Christmas, members living at a distance and desirous of going home can have an opportunity to do so, arriving there in advance of that holiday. The whole period of adjournment will be fifteen days, Congress being in session on the 20th of December and on the 6th of January. It is shorter than we took last year, but I think quite long enough. Four of these days being holidays and Sundays, leaves eleven working days that will be included in the recess. I call the previous question on the resolution.

Mr. LAWRENCE, of Ohio. Will the gentleman yield to me for a moment?

Mr. SCHENCK. I think I would rather take the sense of the House on the resolution. If I yield to one I may be asked to yield to others, and so open a debate.

Mr. FARNSWORTH. I move to lay the resolution on the table.

The motion was put; and there were—ayes sixteen.

Mr. LAWRENCE, of Ohio. I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. KELSEY asked for tellers on ordering the yeas and nays.

Tellers were refused.

So the resolution was not laid on the table.

The previous question was then seconded and the main question ordered on agreeing to the resolution.

Mr. LAWRENCE, of Ohio. I call the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered.

The resolution was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSTITUTIONAL AMENDMENT.

Mr. ASHLEY, of Ohio. I rise to a privileged question. I call up the motion to reconsider the vote by which a joint resolution proposing an amendment to the Constitution was referred to the Committee on the Judiciary. I call up the motion merely for the purpose of making a few remarks, and not for action at this time.

Mr. WARD. I ask the gentleman to give way for a motion to adjourn.

Mr. ASHLEY, of Ohio. No, sir; I shall not occupy much of the time of the House.

The SPEAKER. The gentleman gives notice that he will not ask a vote of the House to-day, and the Chair infers that no business will be done after this time.

Mr. ASHLEY, of Ohio. Mr. Speaker, at the July session I introduced a joint resolution proposing an amendment to the Constitution of the United States, hoping that a discussion of the question would lead, at this session, to the adoption of a proposition securing the ballot to all citizens qualified to discharge the duties of an elector. That proposition was intended to take the place of the amendment submitted to the States by the Thirty-Ninth Congress, and known as Article 14. It contained an educational clause which declared that—

"After the 4th day of July, in the year of our Lord 1876, all citizens of the United States thereafter becoming twenty-one years of age, and all who may thereafter be naturalized, shall be required to read and write the English language as a qualification to vote."

I now propose to strike out that clause and substitute in its place this paragraph on the subject of education:

"Each State shall establish and maintain, by equitable taxation, a thorough and efficient system of free public schools throughout the State, sufficiently numerous for the accommodation of all the children of the State."

With the exception of this change, the proposition as now submitted is substantially the same as it was when first proposed. The entire amendment, as it now reads, is as follows:

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State or Territory wherein they reside.

SEC. 2. Every citizen of the United States twenty-one years of age and upward (except Indians not taxed and persons *non compos*) shall be an elector in any State or Territory in which they may have resided one year next preceding the election at which they shall offer to vote. Each State shall prescribe uniform rules for the annual registration of electors, and provide by law against fraud at elections, and may disfranchise any person for participation in rebellion against the United States, or for the commission of an act which is felony at common law. Each State shall establish and maintain, by equitable taxation, a thorough and efficient system of free public schools throughout the State, sufficiently numerous for the accommodation of all the children of the State.

SEC. 3. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 4. Representatives in Congress shall be apportioned among the several States according to the number of inhabitants in each.

SEC. 5. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any State, who was a member of any Legislature or convention which passed an ordinance of secession, and who voted therefor, or who held a commission above the rank of captain in the insurgent army during the rebellion, or who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a concurrent vote of two thirds of each House, remove such disability.

SEC. 6. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 7. That Congress shall have power to enforce by appropriate legislation the provisions of this article.

I have adopted in this proposition all that I regard as most valuable in the amendment proposed by the Thirty-Ninth Congress. To my distinguished colleague [Mr. BINGHAM] is due the credit of first presenting to this House what now constitute the third and sixth clauses of this article.

When I introduced this proposition last July I did not expect to obtain a report from the Judiciary Committee, to which it was then referred, nor did I attempt to secure action by the House upon it at that session. Both Houses by concurrent resolution had decided by a very large majority that they would entertain no business except propositions designed to strengthen and perfect the reconstruction acts of Congress: and a majority had determined to remain here but a few days, so that no legislation except an amendment to those laws was possible at that session. I expected, however, when submitting that proposition to have the attention of the country specially called to the question of suffrage as a national question, and to the necessity of securing the ballot to every citizen of the United States without distinction of race or color, whether native or foreign born. Of course I refer to citizens who are guiltless of crime and who are competent to discharge the ordinary duties of life among a civilized people.

Believing that the qualification for suffrage should be uniform in all the States, and that the great privilege of the ballot ought to be secured by constitutional provision to every American citizen rather than by State law, I voted with great reluctance for the amendment submitted by the Thirty-Ninth Congress because it did not secure the ballot but left the question to the States with a kind of coercive, bribing, penal clause, which seemed to me unworthy of that Congress. It will be remembered that we simply provided for the loss of Representatives in this body from any State in proportion to the number of citizens which it might without cause disfranchise, thus recognizing the right of a State to disfranchise citizens of the United States who were guiltless of crime—citizens for whom we professed a desire to secure the privileges of the ballot. Had we at that time submitted a proposition securing the ballot to every citizen it would have been adopted by all the States more readily than they adopted the amendment which we did submit, and we would have escaped the just charge of being constitutional tinkers, and been spared the humiliation of the so-called reverses which have overtaken us in Ohio and in other States. That proposition, however, was of a piece with all our patch-work and make-shift during the war and since on this subject of reconstruction. Not by our wisdom, or statesmanship, or foresight, but by the folly of the enemy have we succeeded thus far. But for the blunders and crimes of the rebel leaders during the war and after its close, and the lack of ability on the part of their northern allies to take advantage of our folly, we would have failed during the war and been in a minority as a party to-day. This is a humiliating confession, I admit, and I make it with regret and only because it cannot be truthfully denied.

If the rebel States had adopted the amendment submitted by the Thirty-Ninth Congress,

they would at once have secured a recognition of their *quasi* rebel State organizations, set up by the usurpations of the acting President, and thus have obtained full representation in both Houses of Congress, with the rebel element in control of their State governments and the loyal white and black men of the South would have been under their feet. This accomplished, by again joining hands with their northern allies they would have taken possession of the national Government in 1868. No man was more thankful than I that they rejected our propositions. Only by their rejection of that proposed amendment were we saved from a doom as certain as the coming of November, 1868.

I want the national Constitution to be the shield of every citizen, so that when a man truthfully declares, "I am an American citizen," it shall command the respect of the world. I want the supreme sovereignty of the nation to secure to every citizen the self-protecting power of the ballot, so that no State may deprive him of this grandest prerogative of American citizenship; so that a mere change of residence from one State to another may not operate practically as a removal to a foreign land.

Mr. Speaker, the need of the nation is reconstruction on a basis which shall be honorable and enduring; a reconstruction which shall not be temporary, but fundamental. We have had tinkering amendments enough proposed to the Constitution, and all admit that our several reconstruction acts have been at best but patchwork. What we need is a constitutional amendment, demanded alike by our convictions and necessities; an amendment which shall confer and guaranty the ballot. Anything short of this is a delusion and a snare.

With a magnanimity unexpected by our late enemies, and never equaled in human history, we have exempted from punishments and from confiscations the great body of those who were engaged in the late rebellion. We have by all our official acts shown a readiness to forgive the past and bury in a common grave the vindictive feelings begotten by the war. Without yielding any of the great purposes for which we sacrificed so much in life and treasure we nevertheless have always been ready to extend a hand to all who would swear anew their fidelity to the old flag and the Government of Washington. We have stood day and night at the door to welcome back to the old mansion the repentant and the erring. When Tennessee returned all will remember the words of joy and gladness which arose from heart and lips as the Congress of the nation welcomed her back. So shall it be with every repentant citizen and State. Having overthrown their confederate national and rebel State governments, and made millions of slaves citizens, it is our duty as statesmen legislating for the present and the future to conform our national Constitution to our new condition as a nation, so that with those who were but recently our enemies in war we may become one people under a Constitution based on the convictions, the experiences, the necessities, and the aspirations common to all who are truly American.

With this object in view I have introduced this joint resolution, and hope Congress at this session may submit it to the States for their ratification. If not this proposition, then some proposition securing citizen suffrage.

My purpose is to secure to every citizen born in this country or naturalized in pursuance of its laws the high privilege of the American ballot. I desire this, not only as a means of self-protection to the citizen, but to secure a national recognition in the Constitution of the fundamental principles upon which our Government was organized, which is that "all men are created equal" and "that all Governments derive their just powers from the consent of the governed." I am confident that a full recognition of this idea will give the nation peace, stability, security, power, and national unity and national glory.

This provision would not secure the ballot to barbarians, to uncivilized Indians or Indians while in the tribal relation, nor to persons *non compos*, but to all citizens "not disqualified," as John Stewart Mill expresses it, "by their own default." Treason or felony ought to be a disqualification in every civilized State to the exercise of the privilege of an elector, at least for a number of years after the commission of the crime. I have therefore declared that those who commit treason or felony may be disfranchised, but provided that Congress may at any time by a two-thirds vote relieve them from such disability.

The ballot secured, it is no less the duty of the Government to see that the will of the citizen is not nullified by fraud. The shameless manner in which frauds are now perpetrated and with comparative impunity in almost every State of the Union, and the will of the majority often defeated, is a disgrace which ought not longer to be tolerated. To aid in protecting the honest citizen I have provided that each State shall annually cause a registration to be made of all electors within its jurisdiction. A careful examination of criminal statistics will show that nineteen twentieths of all the fraudulent voting in this country is perpetrated by men who cannot read their ballots, while it is well known that not one in fifty of all who are guilty of fraudulent voting are ever arrested or convicted.

Recognizing the truth of the declaration that "there can be no safety for a republic except in the intelligence, virtue, and allegiance of its citizens," I have provided that every child shall be secured in its right to attend school until it acquires the rudiments of an education in the language of the country. I have substituted this clause in place of the one providing an educational test, as affording a better promise than we now have for securing in the future a population homogeneous, intelligent, and loyal. Only with such a population can our Government have safety and stability. The educational test clause is objected to, because it is claimed that the mere fact that an elector can read and write in the language of the country, or in the language of any civilized nation, will not of itself qualify him to vote. Admit all this, and more, and it proves nothing. All will concede that as a rule those who read and write comprise ninety-nine hundredths of the intelligent among every civilized people. All men who are unable to read and write I admit are not necessarily so ignorant as to be disqualified for the ballot, while some who can read and write are fearfully ignorant.

The admitted rule, however, is universal that civilization and education are inseparable. Reading and writing, therefore, in the language of any of the admitted civilized nations which are in use in this country, might be made a qualification for the privilege of the ballot without hardship and without injustice. Indeed, it seems to me that the great body of thoughtful men in this country will admit that if the Government went further and required all native-born citizens becoming of age after a given period, say after 1876, to read and write our language as a qualification to vote, it would be both prudent and just. This would disfranchise no one who is now a voter, however ignorant, and only those now under thirteen years of age would be affected by it.

It must be conceded, in view of all that has transpired in the political history of this country, that we have been remarkably liberal in the bestowal of American citizenship.

When it is remembered that citizenship, as we of the Republican party contend, makes the person on whom it is conferred a member of this great nation, that the privilege of franchise, which we contend ought also to be conferred and guarantied with citizenship, constitutes him the equal of the native born citizen; that it gives him a power and a dignity such as no other nation can confer; that with this citizenship, he has rights and duties, privileges and immunities, which cannot be taken away, "except by his own default;" when all this is remembered it seems to me that no fair-minded man could object to establishing in the future a standard for suffrage which all will admit would be for the benefit of all, a standard attainable by all except the uncivilized or idiotic and insane; a standard simply requiring each elector to read the ballot he proposes to vote, and which would exclude no one of any race or nationality except for the commission of crime.

Certainly that Government would be regarded as wise and liberal in its bestowal of citizenship and the privileges of the ballot which provided that aliens from a civilized State becoming citizens should enjoy all the rights and privileges pertaining to native born citizens, including the privileges of the ballot, on the simple condition that they read and write the language of the country of their adoption. If, therefore, we should at any time hereafter prescribe for aliens becoming citizens the same standard which we prescribed for native born citizens as a condition to the privilege of the ballot, there could be no charge of partiality or injustice.

But, Mr. Speaker, I am satisfied that a majority of the liberal men of the country (a class from whom I do not propose to separate) deem it inexpedient or impracticable at present to require an educational test as a condition to the privileges of the ballot. All will unite, however, in demanding that the national Constitution shall contain a provision making it obligatory on every State to provide and maintain in active operation the best of public schools at the expense of the State, from which no child of the Republic shall be excluded.

The number of voters in this country who cannot read and write our language, or indeed any language, is frightfully large, and is increasing. In the absence of an educational test as a qualification for suffrage we must have compulsory education at the public expense or there is danger ahead. We are now carrying more dead weight in the shape of ignorance than we care to admit. Our national safety demands other and additional security. Civilization has the right to protect itself against barbarism. Ignorance is the handmaid of barbarism, and barbarism in control of the ballot-box will imperil the nation's life.

Sir, I would as soon think of trusting a madman with a lighted torch in a powder magazine and expect safety and security to all around it as to intrust the destiny of a free Government like ours to the control of a people without education and beyond the reach of the civilizing influences of a Christian civilization.

No man can overstate the inestimable value of education. I am confident that without the maintenance of free public schools in this country the people could not long be secure in civil or religious liberty. Knowledge is power, and every man of experience recognizes the fact that knowledge gives increased stability to popular government and greater security to life, liberty, and property. Let the people be properly educated, and they may safely be intrusted with the administration of government and the control of all material and moral questions which affect the interests of mankind.

Mr. Speaker, I do not claim that none but the highly educated should vote and rule the State. I know something of the self-protecting power and educational influence of the ballot. I understand something of the way in which the thoughts of men are quickened, broadened, and carried beyond the mere contemplation of their own private interests to the higher interests of the State by the frequent use of the ballot. I know, too, that it compels men who are seeking to influence or secure the votes of electors to aid in educating them by public discussions and the frequent distribution of printed matter in support of their ideas. Thus a thousand channels of thought are quickened that but for this necessity would lie dormant, and the mind of the voter, when forced into conflict with ideas, such as must be presented to carry conviction, becomes broader and more comprehensive.

As I would not willingly surrender my privilege of voting, so I would not withhold that

great privilege from any one guiltless of crime who is qualified for the discharge of the ordinary duties of life. The ballot in the hands of intelligent men is powerful for good. In the hands of ignorant, depraved, and criminal men it is powerful for evil, and society has the right to protect itself.

I would withhold the ballot from no citizen of mature years, black or white, native or foreign born, without good cause. I plead for the equal rights of all before the law. I ask the ballot for all (except such as are *non compos*) who are not disqualified by their own default. I know the ballot is the poor man's buckler and shield. I know that it insures him protection and justice; that it gives him dignity and power, and makes the Government his agent and protector instead of his master and oppressor.

Mr. Speaker, I hope the time has come when all Republicans will agree that there shall be an end to temporizing. The nation has been divided and distracted long enough by our half-way measures. Instead of compromising or retreating because of our recent so-called reverses, I am for making an advanced movement upon the enemy. To retreat is impossible without dishonor. To encamp upon our late battle-field and attempt to remain there by entrenching is certain defeat. An advanced movement is our only hope. If after a manly battle we should fail it would not be as disastrous to us as a party or to the nation as a dishonorable surrender now. But if we are faithful and true to the rights of citizens and the material interests of the nation we cannot fail. Better, far better, that every so-called Republican who, for the sake of temporary success in our coming national struggle, contemplates lowering the Republican banner, on which is inscribed "Liberty, Equality, Justice," should go over and join the enemy at once than that, as a party, we should listen to the unmanly suggestion proposing such a surrender.

Sir, if, after all the loyal white and black men of the South have done for this nation during the late rebellion, the Republican party should now abandon them, I must abandon it. I believe we ought not to triumph if we prove false to our principles. I believe we shall triumph if we have fidelity and manly courage.

The vital, all-important question of citizenship suffrage must be met and settled. No question of finance, of tariff, or taxation, nor even of impeachment, if that should, after what has transpired, ever become possible, must be permitted to supersede this. He who is a citizen of the nation, if qualified for the ordinary duties of civilized life, and guiltless of crime, must have the franchise conferred and its privileges guarantied in every State. I have no hope of securing this except by an amendment to the national Constitution. Let this be done with promptness, and the States now being reorganized relieved from the provision of law which requires them to adopt the amendment to the Constitution submitted by the Thirty-Ninth Congress, and they will adopt with acclamation such a proposition as I have submitted, and a sufficient number of States now represented in Congress would ratify it to make it part of the national Constitution. This accomplished, and reconstruction on the basis of liberty and justice will have been secured, and peace and national prosperity will bless the land and all its inhabitants.

One observation more, Mr. Speaker, and I will detain the House no longer.

In his recent message the acting President assumes that, if the late rebel States could not lawfully act upon the amendment submitted by the Thirty-Eighth Congress, proposing the abolition of slavery throughout the United States, that "Congress committed a political absurdity" in submitting that amendment to them for their ratification.

Sir, Congress was guilty of no such absurdity. It was the unauthorized assumption of the acting President which sent the proposed amendment to the *quasi* rebel State governments, created by his will, and in conformity with proclamations issued by himself in violation of law. Sir, I agree that the ratification of that amendment by the late illegal State governments of the South, organized by the usurpations of the acting President, is of no validity. I hold that their ratification of that amendment was not necessary to make it part of the national Constitution.

The States which during the war maintained their fidelity to the Constitution and the Union constituted the nation, and a ratification by three fourths of those States of that amendment made it part of the Constitution.

The unwarranted "assumption" of the acting President in demanding the ratification of that amendment by the illegal State governments which he had organized, and Mr. Seward's "assumption" in issuing a proclamation declaring the amendment ratified by the votes of said rebel States, undoubtedly could not give validity to that amendment after Congress had declared that the governments in said States were illegal and unconstitutional governments.

Sir, Congress neither authorized the acting President nor his prime minister to do any such act. To prevent the validity of that amendment ever being questioned it will be necessary, as soon as constitutional State governments are organized under our reconstruction acts, for the first Legislature which meets in each, after the recognition by Congress of their reorganized State governments, to ratify and adopt the amendment submitted by the Thirty-Eighth Congress proposing the abolition of slavery throughout the United States. This is the shortest and safest way to settle for all time to come the validity of that amendment, and save those who come after us the necessity of answering such sophistry as was employed by the writer of the recent message.

I now withdraw the motion to reconsider.

On motion of Mr. INGERSOLL, (at four o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of Mrs. Sophronia Phelps, for a pension.

By Mr. BECK: The petition of R. E. Finnell, of Frankfort, Kentucky, for pay for raising troops, &c.

Also, the petition of Colonel Sanders D. Bruce, late of the twentieth Kentucky volunteer infantry, for arrears of pay which accrued before muster into United States service.

By Mr. BURR: The petition of the county court of the county of Macoupin, State of Illinois, for privilege of importing iron and other material for a public building free of duty.

By Mr. GARFIELD: The petition of officers and soldiers who have suffered amputation, asking for legislation to provide for furnishing them artificial limbs at stated periods.

By Mr. GOLLADAY: The petition of Lieutenant B. R. Wallace, late of the twentieth Kentucky volunteer infantry, for pay as second lieutenant prior to muster into United States service.

By Mr. GROVER: The petition of James H. Bunn, for services on board of United States transport, where he lost a leg from a shot from the enemy.

By Mr. KELLEY: The petition of the owners and operatives of the Kennebeck Mills, Philadelphia, Pennsylvania, praying for the repeal of the internal taxes on cotton and all kinds of textile fabrics.

Also, the petition of the owners and operatives of the Ringgold Mills, Philadelphia, Pennsylvania.

Also, the petition of the owners and operatives of the Glenriddle Mills, Delaware county, Pennsylvania.

Also, the petition of the owners and operatives of the Kelleyville Mills, Delaware county, Pennsylvania.

Also, the petition of the owners and operatives of the Coaquannock Mills, Philadelphia, Pennsylvania.

Also, the petition of the owners and operatives of the Warwick Mills, Philadelphia, Pennsylvania.

By Mr. PAINE: The petition of George Williamson for remission of certain duties on iron.

IN SENATE.

WEDNESDAY, *December* 11, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read.

Mr. SHERMAN. I desire to state that the Secretary calls my attention to the fact that a joint resolution reported by me yesterday is really lying on the table, it having been reported at the close of the last session. I therefore move that the Journal be corrected by striking out that entry. The joint resolution is before us, and I shall call it up in the course of the day.

The PRESIDENT *pro tempore*. That correction will be made, no objection being made.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 143) to change the name of Samuel Chase Barney, jr., to that of Samuel Chase De Krafft, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following joint resolutions, in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin;

A joint resolution (H. R. No. 99) to allow members of Congress to inspect papers in the Post Office Department; and

A joint resolution (H. R. No. 119) to authorize the Postmaster General to print five hundred extra copies of his report and accompanying documents.

The message further announced that the House had passed a concurrent resolution that when the two Houses adjourn on Friday, the 20th instant, the President of the Senate and Speaker of the House of Representatives shall declare their respective Houses adjourned until the 6th of January.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from D. H. Rucker, acting quartermaster general, transmitting a general order, published by authority, which contains the names of soldiers interred in cemeteries of the States of New York, Virginia, Illinois, Missouri, and the Territories of Utah and Colorado; which was referred to the Committee on Military Affairs and the Militia.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair will present to the Senate a petition signed by about eight hundred citizens living round about Grand Traverse, Michigan, complaining that there are many defects in what is called the homestead law; that it operates greatly to the disadvantage of settlers on the public lands under that law, and earnestly praying that it may be so corrected in the particulars suggested by them as to remove those defects. This petition will be referred to the Committee on Public Lands, if there be no objection.

It was so referred.

The PRESIDENT *pro tempore*. The Chair has also received the proceedings of a large meeting held in Faneuil Hall, Boston, December 7, 1867, consisting of more than six thousand citizens, in which they complain at great length of the treatment they receive as adopted citizens in England, saying that they are deprived of their rights in many particulars, and setting them forth at great length in a preamble and resolutions too numerous and too long

to read or to recapitulate, and earnestly praying that the rights of adopted citizens may be defined by law, representing it as a subject of very great importance, and one that ought immediately to be taken up and settled, as the matter seems to be unsettled. The preamble and resolutions will be referred to the Committee on Foreign Relations, if there be no objection.

They were so referred.

Mr. MORRILL, of Maine, presented the petition of William B. Wedgwood, asking the aid of Congress in diffusing a more general knowledge of our Government and laws among the masses of the people, and offering to Congress a donation in aid of such object; which was referred to the Committee on the Library.

Mr. JOHNSON. I beg leave to present the memorial of Mr. Stephen G. Montano, a citizen of the Government of Peru, who states that under the mixed commission which was held by the authority of a treaty between the two Governments he was allowed a certain sum against the United States. There were claims against Peru by citizens of the United States which were also allowed, and those claims were paid by Peru in coin. He states in his memorial that the amount of the award in his case the Secretary of State insists he has a right to pay in our depreciated currency, and, under protest, he has received payment in that currency. He prays that Congress may by act authorize or direct the Secretary of State to pay in coin. I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. DOOLITTLE. I present the memorial of the trustees of the Taylor Orphan Asylum of Racine, in the State of Wisconsin, praying that the tax which is now imposed upon bequests to orphan asylums may by law be removed. I move the reference of this memorial to the Committee on Finance, and I hope that the honorable Committee on Finance will concur in the views of the petitioners, as it seems to me perfectly just that a bequest for the benefit of orphans ought not to be taxed.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILLEY, it was

Ordered, That William H. Harman have leave to withdraw his papers from the files of the Senate, and that they be referred to the Committee on Finance.

REPORT FROM A COMMITTEE.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian islands, reported it without amendment.

BILLS INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 182) declaring null and void acts of confiscation or forfeiture, passed by the late rebel authority; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 183) for the relief of William H. Harman; which was read twice by its title, and referred to the Committee on Finance.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 184) granting a pension to Mrs. Ann Corcoran; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 185) for the relief of the Bartholomew county Agricultural Society, in the State of Indiana; which was read twice by its title, and referred to the Committee on Claims.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 187) additional to an act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 188) for the relief of towns in the State of Nevada; which was read twice by its title, and referred to the Committee on Private Land Claims.

OFFICERS OF CONGRESS.

Mr. FESSENDEN submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate, (the House of Representatives concurring,) That the select committee of the two Houses to revise and equalize the pay of the employés of each House be authorized to report by bill, joint resolution, or rule such provisions or regulations as may be necessary or proper for rearranging and defining the duties of officers or persons employed by each House or under their joint authority, for reducing the number of such employés, and generally for securing a reduction of the expenses and the more economical expenditure of the contingent fund of each House.

CAPTURED AND ABANDONED PROPERTY.

Mr. SHERMAN. I move that the Senate proceed to the consideration of House joint resolution No. 19, directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury.

Mr. EDMUNDS. Let the resolution be read at length for information.

The Secretary read it, as follows:

Whereas there is now in the hands of the Treasurer of the United States, as special agent of the Treasury Department, several million dollars, the proceeds of property captured during the rebellion, which money is under the control of the Secretary of the Treasury, and as it now stands may be disposed of in settling claims preferred by the alleged former owners of said captured property without the sanction of Congress; and whereas it is considered proper that such claims should not be settled and paid without first receiving the approval of Congress: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all moneys thus held by the Treasurer of the United States shall at once be covered by warrant into the United States Treasury, only to be drawn out by authority of law.

Mr. SHERMAN. Perhaps I ought to state, as this subject may not be familiar to the Senate, that at the first session of the present Congress this resolution passed the House of Representatives and came to the Committee on Finance of the Senate and was there considered; but, on a statement made by the Secretary of the Treasury and the Assistant Secretary, it was deemed better to postpone action upon it until the present session, because it was said that some of the funds embraced in this joint resolution depended upon the result of certain suits pending in the courts, and there were certain expenses that accrued in the management of the fund that ought to be paid and adjusted before the balance was carried into the Treasury. Therefore the Committee on Finance recommended that it be postponed until the present session. The committee are of opinion that there is now no real objection to its passage. The expenses of the fund have probably been adjusted. The special committee who have had the matter in charge seem to have come to the same conclusion by reporting the resolution early in the last session. If there is any necessity for any more of this fund, it can be met by an appropriation. I therefore hope that the resolution will pass.

The PRESIDENT *pro tempore*. The first question will be on taking up the joint resolution for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. EDMUNDS. The statement of the Senator from Ohio as to what has been done about this matter is correct. After this House resolution was passed the subject was referred to the joint select Committee on Retrenchment, and a sub-committee of that general committee addressed a letter to the Secretary of the Treasury requesting him to suspend any further payments until the matter should be investigated. I am informed and believe that on the receipt of that letter he did suspend payments and has not paid out any money since. The committee at this session instructed me to report a joint resolution of this nature, but which is somewhat more broad than the joint resolution from the House, and which I think will effectuate the purpose that we have in view more completely. It will be noticed that the House resolution only applies to money that is in the hands of General Spinner as special agent. There were a good many hundred thousand dollars, and I suspect there are now, in the hands of somebody in New York, which was put up as special bail or security, or for some analogous purpose, concerning some suit that was brought about certain cotton, and I have reason to believe that there are sundry sums in the hands of officers of the Government and employés of the Government here and there which have been received as the proceeds of captured and abandoned property, that have not been actually paid into the Treasury. There may be good reasons, and probably there are in some of the cases, why they should retain these moneys or some part of them for compensation, or for commissions, or something of that sort; but still it was thought best by the committee, who instructed me to report a resolution on the subject, which is Senate joint resolution No. 67, that we should provide that all moneys in the hands of any officer, whether the Treasurer or whoever he might be, should be covered into the Treasury; and I think so still. I therefore move to amend the House resolution, as that will be the quickest way of getting at it, by striking out all of it, and inserting as a substitute two sections, the first of which is the printed joint resolution reported by the Committee on Retrenchment, and the next one an additional section which I have drawn to enforce the provisions of the first.

That all moneys which have been received by any officer or employé of the Government, or any department thereof, from sales of captured and abandoned property in the late insurrectionary districts, under color of the several acts of Congress providing for the collection and sale of such property, and which have not been already covered into the Treasury, shall be immediately paid into the Treasury of the United States, together with any interest which has been received or accrued thereon.

And be it further resolved, That if any officer or person having the custody, possession, or control of any money derived or arising from the sale or other disposition of any such property mentioned in the preceding resolution, shall convert the same to his own use, or shall refuse or neglect for a space of thirty days next after the passage of this resolution to pay the same into the Treasury of the United States, or shall in any way pay away or dispose of the same otherwise than by paying the same into the Treasury as aforesaid, shall be deemed and held guilty of embezzling the public money of the United States, and shall be punished therefor by imprisonment for a term of not more than ten years, and shall pay a fine equal to the sum so embezzled.

Mr. SHERMAN. I have no objection to that amendment, but it does not yet embrace all the cases that may come up. The question arose as to whether a certain other class of cases ought not to be covered by this resolution; and the Committee on Finance, having the matter recently under consideration, proposed not to act on that until they got other information. It is alleged that a considerable amount of property has been sold by some Departments of the Government not captured or abandoned, and therefore not embraced within the amendment of the Senator from Vermont, which may be held now in the hands of accounting officers and not covered into the Treasury. If that be true—and we have not yet examined to ascertain whether it is true—those cases ought to be embraced in the same resolution.

Mr. FESSENDEN. Why not refer the

matter back to the Committee on Finance for examination?

Mr. SHERMAN. There seemed to be a necessity to have something done in regard to captured and abandoned property, so that that money might be covered into the Treasury, and we are not prepared to legislate in regard to other matters on which we have not full information.

Mr. EDMUNDS. I was aware of what my friend from Ohio suggests, that there were other cases where a good deal of money ought to be covered into the Treasury; but the committee who instructed me to report the resolution which I have moved as an amendment had no authority over those cases, as our jurisdiction was confined strictly to captured and abandoned property, and hence the resolution I reported applied exclusively to that. I think the amendment I suggest does cover all the cases of captured and abandoned property, while the House resolution, it is quite clear, does not.

Mr. TRUMBULL. I trust that the amendment will be adopted for this reason, if for no other: the House resolution reported by the Committee on Finance carries with it an implication, and perhaps a direct recognition, that the Treasury Department has authority over this money, when I think it is very clear from the law that it has none. The preamble to the resolution reads:

Whereas there is now in the hands of the Treasurer of the United States, as special agent of the Treasury Department, several million dollars, the proceeds of property captured during the rebellion, which money is under the control of the Secretary of the Treasury, and as it now stands may be disposed of in settling claims preferred by the alleged former owners of said captured property, without the sanction of Congress.

Now, sir, I deny every one of the inferences to be drawn from that recital. I ask what the Senate will think when I turn them to the law—which I will do in a moment—which says expressly that every dollar realized from this abandoned and captured property shall be paid into the Treasury of the United States. By what authority does the Treasurer hold millions subject to be paid out by the Secretary of the Treasury? Why, sir, the statute which authorized the sale of this abandoned property says in so many words that the proceeds shall be paid into the Treasury of the United States. You are now only reiterating what is already the law.

The act of the 12th of March, 1863, which directed the Secretary of the Treasury to appoint a special agent or agents "to receive and collect all abandoned or captured property in any State or Territory or any portion of any State or Territory of the United States designated as in insurrection against the lawful Government of the United States," in its second section declares "all sales of such property shall be at auction to the highest bidder, and the proceeds thereof shall be paid into the Treasury of the United States." That is the law under which this captured and abandoned property was taken by the Treasury agents, and that law declares in so many words, as clear as language can declare it, "the proceeds thereof shall be paid into the Treasury of the United States." The law went on further to provide how persons having claims against this property could have them satisfied; and how, sir? By holding the property outside of the Treasury, and violating the law, and allowing the Secretary to distribute it? Not at all; but in the third section it declares:

"And any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims, and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the reduction of any purchase money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof."

Could language make the law more plain as to the duty to be performed by the Secretary of the Treasury and the Treasury agents? The Secretary of the Treasury had no authority to hold that money, amounting, as I see by an official report which I have before me, to more than thirty-four million dollars! The captured and abandoned property taken possession of and sold amounted to more than thirty-four million dollars, which the law said in so many words should be paid into the Treasury of the United States. And now, sir, after that property has been sold and has been kept out of the Treasury for years, a resolution comes in with a preamble declaring that the "money is under the control of the Secretary of the Treasury to dispose of in settling claims." Why, sir, it is not and never was under the control of the Secretary of the Treasury to dispose of a dollar of it in settling claims against the Government of the United States. There was but one way in which such claims could be settled; and I was astonished when my attention was called to this within a few days to see how this money had been managed. That there might be no doubt about this, after the Treasury Department had been holding this money, not paying it, as the law required, into the Treasury of the United States, but holding it on special deposit, the Secretary of the Treasury submitted the question to the Attorney General whether he had not authority to adjudicate claims. It was a very plain law, it seems to me; but the question was submitted to the Attorney General in 1865 by the Secretary of the Treasury to know if he could not by some management of this kind keep the money out of the Treasury of the United States and go on and pay these claims.

Of course the Attorney General could give but one opinion, and I have his official opinion dated the 5th day of July, 1865, in which he says:

"Property of the foregoing character"—

That is, property which was seized by the Treasury agents and sold—

"thus turned over to a Treasury agent, and in that manner 'received' by him, must be dealt with as the second section of the act provides; that is, it must be sold, and its proceeds paid into the Treasury, there to await the action of the Court of Claims, when duly invoked."

That was the opinion of the Attorney General more than two years ago; and near the conclusion of the opinion he says:

"I am, therefore, of opinion, in reply to your inquiry, that jurisdiction cannot be conferred upon a commission appointed either by the President or the Secretary of the Treasury, to examine the claims in question, and to make restoration of the proceeds of so much of this cotton as may belong to loyal claimants."

Here was the official opinion of the law officer of the Government, given in July, 1865, that the money arising from the proceeds of this property must be paid into the Treasury of the United States; and yet the document I hold in my hand shows that since that time and since that official opinion was given hundreds of thousands of dollars have been paid to claimants by the Secretary of the Treasury. And now, after a lapse of two years, a resolution comes in here that virtually sanctions this action. Why, sir, I hold in my hand an official report from the Secretary of the Treasury which shows that at the date when it was made, the 2d of March last, there had been paid out $2,210,476 96 in money.

Mr. FRELINGHUYSEN. Without the cases going through the Court of Claims?

Mr. TRUMBULL. Yes, sir; they never went to the Court of Claims; but the money was paid out by the Treasury of the United States, and the money was not "covered" into the Treasury, as they say.

Mr. DRAKE. If the Senator from Illinois will permit me I will give him a fact in regard to this matter.

Mr. TRUMBULL. I shall be very happy to hear if there is any fact to excuse it.

Mr. DRAKE. Not at all; I am not going to excuse it; but I simply wish to state a fact in connection with the remark just made by the honorable Senator. There should be in the Treasury now, under the law to which he has referred, a sum of nearly three hundred and eighty thousand dollars from one single lot of cotton, which parties who claim it have been besieging the Treasury for a year past or more to get the Secretary of the Treasury to adjudicate that they have a right to it, and to pay them the money, though there is a suit pending in the Supreme Court of the United States now about it.

Mr. TRUMBULL. Besides this more than two millions of money which has been paid by the Secretary of the Treasury to claimants, he has also restored, as this report shows, nine thousand five hundred and sixty-six bales of cotton which had been seized, and rumor says that a great deal more has been restored. The official report, however, shows nearly ten thousand bales restored, and over two millions of money paid to claimants; and what is perhaps the most astounding of all, if there could ever be any question of his authority, is that this should have been continued after the Secretary had asked the opinion of the law officer of the Government and he had answered officially that the Secretary had no authority to do it; and now in 1867, in December, we have got to pass a law to compel the payment into the Treasury of the United States of money that ought to have been paid in there years ago; and I thank my friend from Vermont for proposing to attach a sanction to that law which shall bring somebody to justice if there is a refusal to execute it.

I am, therefore, utterly opposed to the preamble of the House resolution; but it seems to me that now, as stated by my friend from Missouri, even to-day, two years and a half after the opinion of the Attorney General, the Secretary of the Treasury is entertaining jurisdiction of a claim for cotton about which a suit is pending in the courts.

Mr. DRAKE. I beg pardon of the Senator from Illinois; I do not say he is entertaining jurisdiction, but I say that he has been besieged for more than a year past by outside claimants of that cotton, and has been entertaining for consideration the question whether he can properly decide that it belongs to them.

Mr. SHERMAN. I will state to the Senator from Illinois that I did not make a very careful examination of this matter, because it did not lie within the province of the Committee on Finance; but it is due to the Secretary of the Treasury to remark that, as I understand, since the opinion of the Attorney General no decision has been passed by the Treasury Department upon any of these claims; but there are two claims pending in the courts, and a certain amount of money in the control of the Treasurer has been allowed to lie to await the decision of those two claims. That was the condition of affairs when I looked into the subject for the first time last April. Since that time no claims have been allowed. There are claims for expenses in gathering this cotton together, and taking care of it, and selling it, &c., that have been adjusted from time to time. That has been done, I believe, for some four years by different Secretaries of the Treasury. I know since the passage of this resolution by the House no claims have been adjusted under this law, and I think none for the last two years.

Mr. TRUMBULL. The Senator from Ohio evidently has not looked carefully into the official documents that have already been communicated to the Senate or he would not have made the statement which he has just made. I stated in my remarks a moment ago that the Attorney General's opinion was dated on the 5th day of July, 1865, and that since its date hundreds of thousands of dollars had been paid. The Senator from Ohio could not have been listening to my remarks. I have in my hand the official report from the Treasury Department, and I will read one item. On the 14th of June, 1865, nearly a year after the date of the Attorney General's opinion, $44,719 95 were paid to "Jerre Walters, and others;" and if the Senator will look through the re-

port he will find hundreds of thousands of dollars paid since the date of this opinion, as appears by the dates of the allowances which are given in this document which I have in my hand.

Sir, it is very apparent to me that this whole transaction is unwarranted by the law, and if the Senator from Ohio will look he will also see that the Attorney General gave it as his opinion in the document to which I have referred that this property "must be dealt with as the second section of the act provides; that is, it must be sold and its proceeds paid into the Treasury, there to await the action of the Court of Claims when duly invoked." The Senator from Ohio knows that has not been done, because he has got a resolution here to day to compel the payment of the money into the Treasury, when here was the official opinion of the Attorney General more than two years ago that it must be dealt with in that way. Why it is not paid in may seem very strange, and it certainly does to me. A portion of the Secretary's report says:

"All moneys realized from the sales of property under the act in question and other similar acts not repaid to claimants as set forth in statements A and B, or disbursed as expenses of collecting and disposing of the same, as provided by law, have passed into the hands of the Treasurer of the United States"—

That was not the law—

"and have also been regularly covered into the Treasury of the United States as receipts from captured and abandoned property, except the sum of $500,000 now on deposit with the Farmers' Loan and Trust Company of New York, to secure the sureties on a bond required to be given by Simeon Draper, late cotton agent at New York, in a suit against him and now pending in New York, instituted by the firm of of Dennistoun & Co. to recover the proceeds of alleged blockade cotton taken by agents of the Government and shipped to Mr. Draper for sale; and except also about seven hundred thousand dollars which remains uncovered for the payment of expenses incident to the collection, care, and disposition of such property," &c.

Showing that a portion of this money is deposited in some bank in New York. It further appears from this report that the whole amount of the proceeds of the sales of this captured and abandoned property was more than thirty-four million dollars. What do you think the net proceeds were? What do Senators, if they have not looked into it, suppose it cost to seize and sell $34,000,000 worth of property? It cost the modest sum of $10,000,000 to do it! Only $10,000,000 to sell $34,000,000 of cotton, and, besides that, $500,000 kept on deposit and $700,000 more withheld in order to meet some other expenses yet!

My object in rising was to call attention to this extraordinary state of things as disclosed by these papers and to give my support to the amendment offered by the Senator from Vermont. I trust we will take action, if action be necessary. I think the law is plain enough, and has been all the time, but I was unwilling to have this preamble to the House resolution passed, because it contains a sanction of these illegal transactions.

Mr. EDMUNDS. I only want to occupy the attention of the Senate for a moment. While I agree in the main with what my distinguished friend from Illinois has said, I think he does a little injustice to the Secretary of the Treasury as to the construction of this law, or rather as to the Secretary's construction of it. I construe the law exactly as the Senator from Illinois does, and I cannot comprehend how anybody else could have construed it otherwise; but it appears from the documents submitted that it was for a long time held in the Treasury Department under the advice of its solicitor, from the time of the passage of the act of 1863 down to 1865, by preceding Secretaries as well as the present one, that the Department and its agents might decide in the first instance whether the property in their hands came within the statute; that is to say, whether it was captured or abandoned. Being captured or abandoned, it was plain it must be sold and the proceeds put into the Treasury; but if they were satisfied that it was neither captured nor abandoned, but had got into the hands of Treasury agents improperly and by mistake, they might deliver it up, or if sold deliver up its proceeds. That was the decision of the Department. Then comes the opinion of the Attorney General of July 5, 1865, which was promulgated in answer to an inquiry of the Secretary of the Treasury as to his power or that of the President to institute a commission to try these questions under the statute. The Attorney General decided, and very rightly, that neither the President nor the Secretary of the Treasury had any such authority. He then goes on to say that it is difficult to define what is abandoned property, and devotes the rest of his communication exclusively to the question of what is captured property; and he holds that any property which has been seized by any officer or soldier of the United States (referring in that particular case to the seizure by General Sherman at Savannah of thirty-eight or forty thousand bales) is captured property within the strict meaning of the term; and whether rightfully or wrongfully captured, the Treasury agents must take it from the soldier and turn it into the Treasury. He is silent as to abandoned property.

Now, it is known as a matter of history, and simple justice to the Secretary requires me to say it, that the Treasury agents in all those States, without the assistance of the military, without a soldier ever touching it, gathered together immense quantities of cotton; and I am afraid a good many of them absorbed immense quantities besides; but that is neither here nor there at this present moment. They gathered it together. The found it abandoned, as it might be said. They found it in sheds and in gins and in warehouses and everywhere, and gathered it together. Then came forward claimants who said they were loyal, and that they had not abandoned this property; that they had been driven from their plantations by the rebels themselves, for illustration, and asked to have it restored. The Secretary of the Treasury, under the advice of the solicitor, and pursuing the practice of his predecessors, did entertain questions of that kind, and authorized them to be decided by his subordinates. I think he made a grave mistake upon the law; but it is due to him, as to this part of it which is called abandoned property, to say that this opinion of the Attorney General did not interfere with the course of practice that had been adopted in the cases acted on before that time. As I said before, I agree entirely with the Senator from Illinois that it is all wrong, and that only one construction can be put upon the law; but it is only doing simple justice to the Secretary to make this explanation, which may or may not, for I have not looked into the details to see, furnish some clue to the action that has been taken upon these cases since the opinion of July 5, 1865.

Mr. FESSENDEN. After the remarks that have been made on this subject, which have come upon me somewhat by surprise, with reference to the course that has been pursued, I should like to have a little time to look into it, and I therefore move that the further consideration of this resolution be postponed until to-morrow.

The motion was agreed to.

MESSENGERS AND PAGES.

Mr. CRAGIN. I move that the Senate proceed to the consideration of the resolution reported by me yesterday from the Committee to Audit and Control the Contingent Expenses of the Senate for the payment of the salaries of the clerks of committees now due and the special messengers and pages retained during the recess. I apprehend it will take only a moment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the following resolution:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to pay the salaries now due to the clerks of committees and special messengers and pages retained during the recess by special resolution, out of the contingent fund of the Senate or any fund not otherwise appropriated.

The Committee to Audit and Control the Contingent Expenses of the Senate reported the resolution with an amendment, to strike out all after the word "resolved" and insert the following:

That the Secretary of the Senate be, and he is hereby, authorized to pay the salaries now due the special messengers and pages retained during the recess by special resolution, and clerks of committees, out of the contingent fund of the Senate.

The amendment was agreed to.

The resolution was reported to the Senate as amended, and the amendment was concurred in. The resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

CHANGE OF A NAME.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 143) to change the name of Samuel Chase Barney, jr., to that of Samuel Chase DeKrafft. The amendments were read, as follows:

Add as a new section the following:

That any person being a resident of the District of Columbia, being desirous to have his or her name changed, may file a petition in the Supreme Court of the said District of Columbia, setting forth therein the reasons therefor, and also the name desired to be assumed. Notice of the filing of said petition, containing the substance and prayer thereof, shall be published for three consecutive weeks in some newspaper in general circulation published in said District, prior to hearing of said petition. The said Supreme Court, or the justice holding the civil term thereof, on proof of such notice, and upon such showing as may be deemed satisfactory, may change the name of such applicant, according to the prayer of such petition.

Amend the title by adding: "and for other purposes."

The first amendment was concurred in.

Mr. ANTHONY. It seems to me that where the substantial title of a bill is so small and the other purposes are so large the title ought to be altered so as to read: "A bill to authorize any person in the District of Columbia to change his name." You will never find the act by the title given there.

The PRESIDENT *pro tempore*. Does the Senator move an amendment to the title?

Mr. ANTHONY. Yes, sir. I move to amend it so as to read: "A bill to provide for changing the names of persons in the District of Columbia."

The amendment was agreed to.

The second amendment of the House, as amended, was concurred in.

POSTMASTER GENERAL'S REPORT.

The joint resolution (H. R. No. 119) to authorize the Postmaster General to print five hundred extra copies of his report and accompanying documents was read twice by its title.

Mr. RAMSEY. I should like to have that resolution disposed of at once. It will take but a few minutes. It simply authorizes the printing of five hundred additional copies of the Postmaster General's report for the use of the Department, which is now so extended that they have not copies enough.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. ANTHONY. I do not think the form of that resolution is right. The object of it is perfectly proper. The law now authorizes the publication of fifteen hundred extra copies.

Mr. GRIMES. Let us hear the resolution read. The title may not describe it properly.

The Secretary read it, as follows:

Be it resolved, &c., That the Postmaster General be, and he is hereby, authorized to cause to be printed five hundred copies of his annual report and accompanying documents and exhibits for the use of his Department, to be paid for from the funds of the Post Office Department.

Mr. ANTHONY. I think the form of the resolution ought to be altered. If it is allowed to lie over for a while I will suggest an amendment.

Mr. GRIMES. I move its reference to the Committee on Printing.

The motion was agreed to.

HOUSE RESOLUTIONS REFERRED.

The following joint resolutions from the House of Representatives were severally read

twice by their titles, and referred as indicated below:

A joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin—to the Committee on Public Lands; and

A joint resolution (H. R. No. 99) to allow members of Congress to inspect papers in the Post Office Department—to the Committee on Post Offices and Post Roads.

ADJOURNMENT FOR THE HOLIDAYS.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution from the House of Representatives:

Resolved, (the Senate concurring,) That when the two Houses adjourn on Friday, the 20th instant, the President of the Senate and the Speaker of the House of Representatives shall declare their respective Houses adjourned until Monday, the 6th of January next.

Mr. SUMNER. Let that lie over.

Mr. GRIMES. Why not act on it now?

Mr. SUMNER. We do not want to act on it now.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

SUFFRAGE TO COLORED MEN.

Mr. SUMNER. I have in my hands a petition which I have received since I have been in the Chamber this morning, which, with the permission of the Senate, I will present now. It is from General James S. Brisbin, of the Army of the United States, and thirty thousand colored men of Kentucky, in which they ask that Congress would grant to them the right of suffrage; and they add: "It is believed by your petitioners that their enfranchisement will arrest the cruel spirit of robbery, arson, and murder in Kentucky, as it most evidently has done in more southern States." They conclude: "Hoping that this our humble petition may be kindly received, and our prayer granted, we will ever pray." I ask the reference of this petition to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. DAVIS. Before that memorial is referred I ask leave to make a single remark upon it. It contains a false and a foul libel upon the State of Kentucky.

REPORT OF COMPTROLLER OF CURRENCY.

Mr. SHERMAN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed five thousand copies of the report of the Comptroller of the Currency, without the detailed reports—four thousand for the use of the said Comptroller and one thousand for the use of the Senate.

THE CURRENCY.

Mr. MORRILL, of Vermont. I move to take up Senate bill No. 148.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 148) to raise the value of legal-tender notes to par.

Mr. MORRILL, of Vermont. Mr. President, the present bill was introduced with the hope, after it shall have been referred to the Committee on Finance and be there perfected, of reaching a practical remedy for some of the evils which serve at present to distract the mind and embarrass the industry of the people. I have faith in the efficacy of the proposition to do all it proposes to do on its face. If it does that it will do much. It will make obsolete any question as to the impregnability of the public faith. It will silence the demagogues who prate about one currency for bondholders and a cheaper one for pensioners and day-laborers. It will extinguish the fear which depreciated paper money begets of an ultimate bastardy and disownment by its own progenitors. It will put the real capital of the country permanently at work. It will make it possible to adjust our tariff on fixed principles. It will make our national banks really national and no longer institutions extensively perverted to private speculations. And last and most important, it will by at once reducing Government expenditures and the cry for increased pay, largely reduce taxation, and by increasing the productive power of the country, now held the fettered slave of every cash-paying nation of the world, it will add untold millions to the national wealth. If we would resuscitate the drooping energies of our people and enable them to pay taxes easily let us give them a sound currency, not inferior to any in the world. Most unquestionably this is one of the first and highest duties of legislators. Failing in this, we shall fall short, attempt what we may.

An increase of currency adds nothing to the capital of the country, but by its very increase creates a wild and disordered demand for it, which, though profusely fed, can never be wholly satisfied. Not unlike the drunkard's thirst, still unquenched no matter how much he may drink, the thirst for paper money expansion cannot be cured by expansion.

The subjects we are most urgently called upon to discuss are the public debt, the currency, and taxation. Fortunately we can do this when our people, unlike those of France and England, are not clamoring for bread. The harvest for the season is over, and if not a very great one is certainly not a deficient one. For our own use we have enough and something to spare. Our mines steadily increase in number and in their products. Our manufacturers and merchants, if doing a business less remunerative in consequence of overestimating southern ability for consumption and underestimating the recent pressure from over-production in foreign markets, have by adhering to the pay-as-you-go system maintained a solid credit, and are in no danger of bankruptcy. On the whole, the material interests of the country are in a more prosperous condition than could have been reasonably anticipated so early after the conclusion of a long and expensive war. If there is discontent with taxation, even when it is enforced at the minimum rate, as there always will be more or less, it is not extraordinary that there should be murmurs while it has only just begun to recede from the maximum rate. Larger evils having passed away the lesser become more conspicuous.

Within the last two years we have surrendered internal taxes which might have yielded had they not been repealed $125,000,000, or more than half of all we collected in 1865 or should under existing laws collect in 1868. This should be counted as some relief, and what more is possible must now be granted. It is common for some who have not even passed through the horn-books of taxation, and I am sorry to say for some from whom less flippancy might have been expected, to denounce the system of taxation to which Congress resorted in a sudden and great emergency as "intolerable" and even "execrable." The fact that for four years its great purpose of sustaining the credit of the country was secured is wholly kept in the background. The fact that in two years after the close of the war, or from September, 1865, notwithstanding the reduction of rates and the numerous exemptions granted, it furnished means to pay $266,185,121 43 of the war debt is quite ignored. The fact, in spite of the heavy burden of continuous taxation and the prodigious withdrawal of labor to the field of war, that our people steadily increased their wealth for five successive years, is never alluded to. The fact that its distribution was so fairly and equitably made that no section or State has ever complained of inequality is not even mentioned. To be sure some of these critical growlers have themselves proposed schemes of taxation, but it is profoundly to be hoped that the country may never be so unfortunate as to be compelled to put them to any practical test. The present internal revenue law, as a permanent system, need not be argued as perfect. Its defects in time of peace which may be readily seen, are not, however, irremediable. But the past is secure. It was a success, though the soured passion of disloyalty howled then and whimpers now. After emancipation, during this memorable epoch, there has been no work done by Congress—and Congress worked on this subject almost as a unit—which will receive more honorable mention in future history.

But our present solicitude is to lighten taxation. This is more pleasant labor for us and more agreeable to our constituents than the unrelenting task of searching for new objects from which to wring an increase of revenue, and I have no doubt of its successful accomplishment.

First, there should be, I will not say a ferocious, but I will say, as I have heretofore often said, a sharp curtailment of all Government expenditures. For pensions and for a small increase of the Army something must be added, but beyond that let us return to the scale existing before the war. We can reduce our expenses in almost every direction without injury to the public service. It may be advisable to pay our revenue officers liberally and then have penal statutes to send every one who may be guilty of fraud or peculation to the cell provided for criminals without *benefit of clergy* and beyond the hope of pardon.

This being done, it will be no longer folly to strive to obtain such revenues as we may need from a half dozen articles. At the outset not only were these identical articles strained to their utmost point of production, but there had to be an indiscriminate muster for duty of the entire industry of the country. Nothing less would insure success and prevent the loud clamor which a contrary course would have raised against the class of exempts. In the money circles we had no friends abroad, and those at home, unused to such perils, stood back aghast and the Government had to rely upon the power to lay and collect taxes. Now, with our machinery somewhat perfected and with our wants compressed and fixed, we may hope ere long to obtain from a few articles all that may be needed for our ordinary expenditures.

The next question which seems ordained to vex the public is that of the currency, and upon this there are so many masters dead, so many more living, that I can scarcely hope for a patient hearing before a body to whom the subject is not new, and especially as I shall not attempt to please the ear but rather appeal to the sober sense of the Senate. An inconvertible currency never has been and never will be successfully employed, unless strictly used for a temporary purpose and rigidly limited in its duration. If there has been, tell me when and where? It is possible the case of Great Britain may be cited during the twenty years' war against Napoleon, but the British Government issued no legal tenders and nothing at all to pass as money of any sort. There was a restriction imposed on the Bank of England in 1797 against paying cash or specie for its notes; the bank all the while doing nothing but a legitimate banking business, not much expanding its issues, lending very little to the Government, and keeping its bills at par, or about par, with gold for ten years thereafter; and yet Mr. Pitt studiously and continuously caused it to be understood, so long as he lived, that the restriction was a temporary measure, renewed from year to year, and at last extended until the war should be ended. Finally an act was passed that the restriction should be removed in 1823, but the bank soon asked as a favor to be permitted to resume two years earlier, and when that time approached there was no difference between the price of gold and the Bank of England notes, nor was there any run upon the bank for specie. And yet there were years during the suspension when, with only £20,000,000 or $100,000,000 of inconvertible notes issued, it required beyond the capital and prestige of the bank the whole strength of the credit of Great Britain, supported by the patriotism of all her people to sustain the load. The victory of Waterloo, by which so large a chapter in the world's history has been changed, had Grouchy been as many hours in advance of Blucher as the latter was in advance of the

former, would not have been won, and the Bank of England notes, before and since, in such high repute, might have gone with other broken promises, whose wrecks are strewn on the shores of the history paper money.

Paper money ceases to have value whenever the promisor becomes unable or unwilling to pay it on demand, and in the case of a Government, beyond the reach of legal compulsion, depreciates more from a manifested unwillingness than from present actual inability. Inability is often caused by temporary circumstances and may be out-lived and conquered, but an unwillingness to stand by plighted faith is a plunge from which there is no hope of a resurrection.

It is well to remember that at the time when the first batch of legal-tender notes were proposed the right to issue them was disputed by some of the oldest and ablest statesmen in this body, and the authority relied upon and prominently brought forward in the other House to support the right of such an issue was that it was a *war measure*. The several States being expressly forbidden to make anything but gold and silver a legal tender, and the Constitution nowhere authorizing the General Government to do that which was forbidden to the States, it was conceded that by implication, at least, the power to issue paper as legal tender—denounced in all countries as an unmitigated scourge—had been wisely and intentionally withheld. It was in a great emergency, perhaps, justifiably exercised as a civil right brought into use when necessary to the full power of making war.

Peace has now returned, although a qualified peace, and it must be admitted, even while we inherit all the legacies of the war, that whatever virtue there might be in the original argument as a war measure, it no longer has force and should be mustered out of service. Certainly it will not cover an increased issue of paper money and can only be decently made to cover an honorable retreat or the retirement at the first reasonable opportunity of what still "lags superfluous on the stage." The war powers of the Constitution, however priceless in war, should not be called forth upon weak and insufficient occasions or in time of peace.

The Government is no longer swelling the business of the country by spending $800,000,000 per annum, an eager purchaser in all markets, but is reduced to a mere seller of the old blankets, blue overcoats and old junk left by the war, and does not require banking facilities sevenfold greater than those furnished by the old United States Bank.

I do not propose to retire the legal-tender issues now, and never with merciless rigor, regardless of the vast interests involved, but let them be raised to par and then be retired, when no longer useful, quietly but surely to the end. It may be some years before we shall see the last of this paper money, but if we can make and keep it equal in value to gold and silver its greatest evil will have been overcome. Give the country the ample notice contained in this bill and its practical operation will be followed by no disaster, but rather by great good to all the business interests of the country.

The first section of the bill proposes to fix some time when the legal-tender notes may be presented to the Treasury to be paid in actual cash. It is important to fix by positive law some day when the greenback currency shall be made equal to coin. It is the uncertainty shrouding this point which creates the great disparity between paper and coin. Such an act would inspire so much of confidence that from the day of its passage the inequality now existing between legal-tender notes and coin would gradually diminish, and by the time fixed for redemption—probably before—it would disappear and coin would be worth no more than legal tenders.

This time is placed (July 4, 1869) so far ahead as to give ample notice by which such preparation can be made as will secure the country from any panic or commercial disaster. Merchants and business men would behold the metes and bounds, and could have that forecast over their future transactions which is so essential to all healthy trade. In fact, the general stagnation in trade which now prevails almost throughout the world has wrought such a depression in prices that a return to the specie standard would not bring much if any further reduction in values. The time is most opportune, therefore, for the inauguration of the policy. I do not propose or expect at once to retire any considerable amount of the legal-tender currency; that is now, perhaps, not necessary; but I do propose to increase its value to par. When that is done if there is too much currency afloat the excess will be very easily absorbed in the funded debt of the United States.

There may be timidity in some quarters lest the Government should fail in the attempt proposed. I do not admit that it would not be best to try, even though complete success should not be absolutely free from doubt, but there need not be the slightest apprehension about the success of any well-considered plan of resumption. Our most vulnerable point would be the foreign exchanges, and this point was never more strongly fortified. The wants of the Treasury compel us to maintain a high revenue tariff and will so continue to do for some years. This alone powerfully tends to check over-trading. The demand for gold to pay for the foreign cost of merchandise obviously cannot be excessive while such a state of things exist, and the demand will grow less day by day as the time arrives when paper and coin shall be brought upon the same level. Importers could not fail to see that merchandise imported with gold even at a very small premium must be sold at a loss compared with that imported when gold and paper money should be on a perfect equality. We have also a million and a half of stalwart men just released from war and restored to the industrial employments of life, besides a large number of foreign immigrants constantly arriving. These will so increase American products that there will be less need of purchasing the products of foreign labor. There is, then, no danger that imports will be swelled to that extent likely to turn exchanges against us. On the other hand our exports have been rarely in a more promising condition. By the report of the Bureau of Statistics I see that our exports for the four months preceding August 31, 1867, in currency value, were $145,728,364, or at the rate of $437,185,092 per annum. Embraced in this amount there will be found the following articles:

Coal oils	$6,747,334
Naval stores	1,537,100
Breadstuffs	14,718,824
Cotton	37,857,147
Tobacco	15,754,579
Wood and lumber and manufactures of wood	4,525,125
Provisions and tallow	11,187,926

These are sources which will not dry up, and some of them must be largely augmented. Breadstuffs are but just harvested, and the demand in France and England has not been so great for years. The high prices there will be likely to draw from us all we can spare—twice the amount for which a foreign market is usually found, or as much as fifty millions. Our cotton crop will be larger this year than last, and but a small portion of it has yet been shipped. Moreover, later shipments will be likely to bring higher prices as the entire shipments of East India cotton to Great Britain in 1866 were 615,302,240 pounds, while they fall off to 331,951,200 pounds in the first nine months of 1867. The shipments for the season from India are nearly over, having been rushed forward rapidly to secure high prices; but those from the United States have only just commenced. I see no reason why our general exports may not for the year to come exceed our imports by a considerable balance. It would certainly seem to be safe to calculate that exchange will not be turned against us on account of liquidating any indebtedness for a balance of foreign trade. If this be so, from what other quarter can the exchanges be adversely affected? The interest on that portion of our debt due abroad will have to be paid. And here, fortunately, the products of our gold and silver mines promise to be inexhaustible. It is not a high estimate to set down the future annual product at $100,000,000. Of this we can and do easily part with one half, or $50,000,000, which is much more than enough to pay the interest that is now or likely to be due abroad on United States debts. But the doubter may still ask, May not something happen to send our securities home and flood our own markets? Is it likely that making our securities better will induce foreigners to part with them? They are not held by speculators. The Rothschilds and the Barings only buy American securities to supply their customers, not to hold themselves; and their customers will be eager for more the moment we demonstrate—not our ability, for that has already been proudly exhibited, but that we are not demoralized by paper money and do not propose its perpetual and mischievous domination.

It is the apprehension of some great folly like this, fatal not more to the reputation than to the productive power of any country, which causes our securities to sell at thirty per cent. discount abroad. But when our paper money is elevated to an equal rank with hard cash, instead of that fact having a tendency to convert the holders of American bonds abroad into sellers, it will convert their neighbors also into purchasers, and the demand for them will thereby be extended, as there will be no other safe loan in Europe which can be so profitably held.

It may be still insisted that we cannot resume at so early a period as that named in the bill proposed because the holders of our bonds abroad would be induced to send them home to realize present gains. If it were true that foreign bond-holders would prove so short-sighted and forget that their interests are identical with our own in sustaining the credit of the country this argument will never have less force. Are not our bonds going abroad daily? Most certainly they are, and will continue to do so while we cling to a currency worth thirty or forty per cent. less than that of other nations, unless our credit becomes utterly ruined by hopeless and chronic expansion. Restore our currency to par, though our bonds might still go abroad, the country would get a full equivalent for them, whereas for every hundred millions now sent abroad thirty millions of property is transferred from America to Europe without any compensation. They honorably acquired what they have got, but should have no more on such terms. Restore our currency to a sound cash basis, and, if it were desirable, we might place a loan abroad on much more advantageous terms and at a much lower rate of interest than we are now paying.

Our bonds are held abroad mostly by men of small capital—by men who have read our story and who are at heart our friends, and not enemies, of republican institutions. Many of them, perhaps, hold such bonds as funds by which they hope, at no distant day, to transplant themselves from the fatherland to our shores here to find their future and happier homes. The people of the German nations love and trust us. Shall we doom such men to come to grief—the victims of misplaced confidence? I would not by any act of mine retard that German flood of industrious and thrifty people which flows and must for years continue to flow hitherward in increasing volume, unless it is checked by our own folly. From this quarter we derive a large proportion of our most valuable immigrants. Here the common people reposed faith and confidence in us when the crowned heads of Europe would have banded together to dismember the Republic but that they vainly imagined Jefferson Davis alone with his backers to be fully equal to the unworthy task. The organs of regal opinions abroad denounced our securities as worthless, and the London Times does not yet in its daily list of the prices of stocks even name

United States bonds, although more of them may be daily transferred there than of almost any other stock. Let it have its reward in the future dividends it may collect upon its confederate stock! The masses will believe and trust us, and they should not be disappointed.

We are now passing through the ordeal which our aristocratic adversaries charge as being the fatal stumbling-block of all popular Governments, or a crisis for the maintenance of public credit in a popular assembly of the people. The adoption of any course which for the present seems grievous such adversaries proclaim to be an impossibility, however wise and profitable its future results may promise. This will prove to be a stupendous slander I have no doubt. The best way to lessen permanently our taxation is to press on steadily, not rashly, to a resumption of cash payments, or to the point of making legal tenders equivalent to gold and silver. Until then hardly any legislative proposition can be mooted that a majority will not consider worth within thirty or forty per cent. of par, and as that is equal to the value of our currency it stands a good chance of being carried. But when our appropriations are reckoned equal to hard cash they will not be squandered. Besides this, the whole expenses of the country—its purchases for the Army and Navy—would be at once reduced to something like ancient limits. Let us here challenge public confidence by taking the first step toward specie resumption, and then, if the work is done kindly and courageously at the Treasury Department, as every inducement would urge, resumption will follow without inflicting injury upon any class of the community.

There is another question which deserves consideration. What would be the effect of a general war in Europe? It is true that the Roman question and the Eastern question may at any moment provoke a war of continental proportions, and France and Prussia have old sores, not readily healed, liable to arouse national wrath upon the slightest touch. But it should be remembered that these causes have been tested. The danger here has been imminent for a year past, and far more imminent than at present. Great preparations have been made with a prospect of immediate war, and and yet United States securities abroad all appeared to be in safe harbors and maintained a firm anchorage. None were sent home, and why should they be? With the exception of Prussia all these European nations are already so deeply involved in debt that any further increase presses hardly upon their credit. War would compel a lavish use of their credit, and such use would weaken the value of their own securities and at the same time give relative strength to those of the United States. It is difficult to see how our credit should be made to suffer from the misfortunes of others, and it is far more likely to profit thereby.

Any alarm on the point about our bonds being thrown back upon us being thus quieted, as it deserves to be, it would appear that there is nothing in our condition or that of foreign nations which could by any probable chance turn foreign exchanges against the United States for some time to come. This would be our greatest danger, and I thing we may feel that we are fully insured against all peril from that direction. There is one item of strength of peculiar and marked distinction which deserves not to be overlooked, which is that we may fairly estimate an annual addition to our population from foreign sources of 250,000 persons —the number last year was 323,767—and these are estimated to bring into the country not less upon the average than eighty dollars *per capita* in hard money, amounting to the sum of $20,000,000.

It remains now to consider what will be our resources at home on July 4, 1869, to meet the demands which will press upon us if this bill should be adopted.

From the most reliable estimates we have, including that of the Mint, there was in the country not less than $275,000,000 of coin in 1860. Now, if we can ascertain what has been produced since that time and what has been exported over and above the imports, we may very accurately reach the amount in the country at the present time.

I will take the estimate which Mr. J. Ross Browne has furnished to me as the most reliable of any within my reach, and agreeing very nearly with that in the President's message, although I am strongly inclined to think it an under-estimate, as it is very little more than was known to have been produced ten years earlier. Mr. Brown estimates the aggregate amount produced from 1860 to 1867, inclusive, at $500,643,853.

The amount brought into the country by immigrants during the same period of time is too large to be omitted. I am indebted to the Bureau of Statistics for the following statement;

Immigrants arriving into the United States.

1861	112,705
1862	114,475
1863	199,811
1864	221,535
1865	248,603
1866	323,767
1867 (including nine months of 1867)	231,759
	1,452,655

Almost one million and a half persons thus added in this brief and troublous time to our population! In numbers this vastly more than supplies our losses during the late war. Those coming from the German nations and from the Canadas bring with them all their little properties and all their hard money, and those coming from Ireland are considerably better than formerly, so that this class now really add something to the wealth of the country besides their bone and muscle. I do not think it any exaggeration to estimate the sum brought into the country by immigrants during the last seven years at $100,000,000. Eighty dollars per head is the usual estimate, but I prefer to throw off some odd millions and thus to provoke no challenge to any of my figures. This will make for the sum total from all sources $875,000,000.

From this must be deducted first the balance of exports of gold and silver.

	Imports.	*Exports.*
1860-61	$46,339,611	$29,791,080
1861-62	16,415,052	36,887,640
1862-63	9,584,105	64,156,611
1863-64	13,115,612	105,244,350
1864-65	9,810,072	67,643,226
1865-66	10,700,092	86,044,071
1866-67	22,308,345	60,975,186
	$128,272,889	450,742,164
		128,272,889
Net balance exported		$322,469,275

In consequence of a large importation of goods in the early part of the present season, when importers based their calculations upon very heavy crops both of wheat and of cotton, then generally anticipated, there is to be added an unusually large amount of specie exported in July and August, although the drain subsided in August.

July		$15,320,293
August		2,948,081
		18,268,374
	Less imports.	
July	$1,197,893	
August	1,134,631	2,332,524
Balance		$15,935,850

An allowance should be made for what has been used in the arts and manufactures, or, in round numbers, say the sum of $50,000,000; and this—considering we import so large a share of our most valuable jewelry—is, perhaps, a liberal allowance. Then it is to be considered how much gold and silver escaped from the South of which we have no account. Much was hoarded there throughout the rebellion, and much was brought in for cotton sold to the blockade runners; yet it is probable, while the South never had capital so as to be able to keep on hand at any time a large surplus of coin, that there was less gold and silver brought into the rebel States from abroad than what was sent out, even if we except the last remittance received by us through Mr. Davis. Through contraband trade the South unquestionably obtained a good deal of gold, as well as other supplies, from the North, not counterbalanced by the "contrabands" going North; and it will be proper to allow for a balance which may have been exported from the South over and above its receipts of not less than $25,000,000. Then it is reasonable to allow liberally for such amounts as may have been carried out of the country by travelers in their personal baggage over and above what has been received in a similar manner, and not accounted for in the table of exports. If this should be set down at $20,000,000 it would most likely cover the amount. At present travelers going *from* preponderate over those coming *to* our country; but every year the difference may be expected to decrease, and when the Pacific railroad is finished the preponderance is likely to be changed forever. The New World will not soon cloy its visitors. The last deduction to be made is for silver and other coin carried into the British Provinces to make purchases, of which it is possible incomplete accounts are kept. Over what has in a similar way been brought into the United States, this may be estimated at $10,000,000.

This will make the account stated as follows:

Amount of gold and silver on hand 1861		$275,000,000
Products 1861 to 1867, inclusive		500,000,000
Brought here by immigrants in seven years,		100,000,000
		875,000,000
Deduct gold and silver exported	$322,469,275	
Deduct gold and silver exported July and August, 1867	15,935,850	
Used in arts and manufactures	50,000,000	
Balance of exports from rebel States	25,000,000	
Not accounted for by travelers going abroad	20,000,000	
Incomplete accounts of silver and other coin exported to the British Provinces	10,000,000	
		443,405,125
		$431,594,875

This shows, as I think, beyond all successful controversy, with liberal allowance for possible inaccuracies, that there is in round numbers not less than $400,000,000 of specie in the country now waiting to be called forth from its inglorious retreats to its former fields of honor and usefulness. The measure proposed will liberate this large amount of circulating medium, locking up at the same time only an inconsiderable amount of legal tenders, and money will not be less abundant in one month after paper shall have been elevated to the rank of cash than it was before. To the specie must be added $300,000,000 of national bank currency, making $700,000,000, and to this must be added over $300,000,000 of United States notes, making in all a currency in some form of $1,000,000,000! Surely there need not be any apprehension that we shall not have currency enough to discharge all the functions that money can discharge, or conduct all the business of the United States, though bounded on the south by hurricanes and earthquakes around St. Thomas, and on the north by the glaciers of Alaska and the icebergs of the north pole.

From the time of Amsterdam banking to this day one dollar in specie has been reckoned enough in all countries upon which to base a circulation of three dollars in bank paper, and in the United States a much less sum has always sufficed for any banks in fair credit. The United States notes may amount to about three hundred and fifty millions, but of that one hundred millions are now held by national banks, and when for all purposes made equal to coin the banks would still retain not less than seventy-five per cent., and possibly more, of all they now hold. These banks will have added to their stock of coin three semi-annual receipts of interest on their bonds and cannot need more, except in rare cases, for the prompt

and safe conduct of their business so long as legal tenders are left outstanding for their use. With no unusual drain from abroad, it must be borne in mind that our stock of the precious metals will be increased by one hundred to one hundred and fifty millions within the next eighteen months through the regular products of our domestic mines. Under such circumstances the Government, backed by its improved credit and its actual resources of specie on hand, will possess ample means to meet all demands that can arise, and will not be likely to have even one half of its supplies exhausted ere public confidence is restored and United States notes are brought up to the full and true standard of value as measured throughout the world.

Then as to the effect the measure will have upon the tariff: it cannot but be beneficial. Now, though duties are placed so high as to tempt the smuggler in many instances and thus foil both revenue and protection; and though so high as in time of peace to be felt as oppressive, thereby breeding opposition to even moderate and reasonable protection, even such a tariff fails in a large measure to secure the home markets to American manufacturers, simply because depreciated paper money so cripples them that cheap production is impossible, and Americans are wholly unequal to the race with any people who use money having an intrinsic value. Taxation unquestionably is a load sensitively felt by all and keenly felt by manufacturers competing with untaxed products, and in any adjustment of the tariff beyond the requirements of a normal condition, an additional percentage to the duties will have to be conceded to enable business to sustain taxation or American manufactures will soon become extinct. No manufactures can flourish at the same time with redundant paper money unless the latter is all the time expanding, and when it ceases to expand or begins to contract then they famish and die. Where a depreciated currency exists there can be no health for them; there they have no continuing city or abiding place.

The effect on agriculture and husbandry is not less unsatisfactory. Beyond the labor of the family the business yields no encouragement and the products of hired labor rarely more than equal the wages paid out. The moderate crops for two seasons past have secured comparatively good prices, but they would have been good under a system of cash payments, and the annual income of farmers deducting expenses has been small. The price of wool is down to a hard money price, but railroad freights are not. The expanded paper money lengthens the road from New York to St. Louis, and from Boston to Chicago, as well as all over the country, forty per cent., and sometimes more than that. The wheat, wool, hogs, and cattle going from Chicago to Boston or New York, and all returning freights, are charged at rates equal to fourteen hundred miles, or more, instead of one thousand. This may be fun for the railroads, but it is death to the agriculturist and the husbandman. For all practical purposes it removes the splendid grain-growing region of the great Northwest back under the cold shade of the Rocky mountains. The railroads may be able to endure it, but can the farmer? Competing railroads cannot be extemporized under the reign of an inflated currency. Whatever monopolies exist will be perpetuated.

With an exclusively paper currency the interior and remote parts of the Union are not benefited even by that fertility, followed by exhaustion, which it gives to the places where it usually floats and a more lavish diffusion occurs. Unlike gold and silver, it is discontented in a poor man's pocket, and does not seek rest and a home, but, fickle as the wheel of fortune, when it quits places of large capital for a summer excursion, it is sure to return at the earliest telegraphic hint. It is the popular leader of extravagance, and as naturally runs away from the rural districts as it flows to the centers of luxury and dissipation. Expand it as much as you please, and it will mainly hover and circle around the seats of wealth, and cannot be made to dig ditches or to build ships.

I had occasion last year to discuss a kindred question, and proved, as I thought, that, by failing to use gold and silver as coin, for which purpose it is usually required, and is of most value, we had greatly diminished its price when measured by other commodities, while at the same time we had augmented the price of everything else. How oppressively this weighs upon the States and Territories producing the precious metals will be seen at a glance. If there were no other cause, this alone is sufficient to interpret the political revolution that has recently occurred on the Pacific coast, and its warning is, be wise in time.

California is a young State and full of enterprise, yet prior to the rebellion she found it necessary to contract a debt for which high rates of interest were paid. Massachusetts is an old State, full of wealth and renown, and not less moved by enterprise, but was able to contract debts at a low rate of interest. Both of these gallant States—one on the Atlantic and one on the Pacific—have paid all interest as it fell due on their debts in good old-fashioned hard money. California, to her imperishable honor be it said, though hardly out of her teens and peopled by those who rushed there to get gain, has not been willing to leave to Massachusetts—the Puritan growth of centuries—the undivided glory of maintaining the public morals and a conscience above the obligation. California deserves well of the Republic!

With a depreciated and redundant currency the poor man is driven to the wall. He has nothing to be affected but the price of his labor, which, though inconsiderable in value, never rises so as to keep him relatively in no worse condition than he was before, or to compensate him for the increased cost of living. Purely moneyed capital, as well as labor, is at once depreciated by any actual redundancy of the currency. But then moneyed capital is mobile, easily shifted, "wiser than the children of light," and always contrives to take care of itself. With an excess of currency, when there is a diminution of any article of necessity, moneyed capital at once monopolizes it, and the public are the victims of speculative extortions. The propertied capitalist, however, under like circumstances, enriches himself at the expense of both the poor man and the moneyed man. This deranges the proportions of the capital of the country and paralyzes production. There is much trade, not for consumption, but for speculation and very little addition to the general wealth. The capitalist of any sort has his eyes at all times fixed on a financial barometer to learn whether it is settled fair or whether a storm is indicated, and then adjusts his investments in advance of his neighbors, so as to reap the profits of an expansion or avoid the loss of a contraction. The poor man has no retreat, but stands exposed to any wind that may blow. The largest real estate owner in the city of New York may favor the largest amount of paper currency, and having all his property in real estate, and no patriotic sixpence in United States bonds, might advocate the payment of the latter in greenbacks. His immense property and annual rents have more than doubled by the excessive issues of legal-tender money, and he gratefully adheres to the policy which gives him the largest monopoly and control in the value of the net results. New house-builders with paper money cannot compete with old hereditary landlords.

The second section in the bill and the others following it are intended as auxiliaries to aid and support the principle to be carried out by the first section. There can be no doubt that whenever we raise the United States notes to par the Government must be in possession of the means to give and take coin or paper on equal terms. To this end it must have a liberal supply of coin on hand. There is no doubt, also, that this reserve of coin exerts an immense and salutary power upon the credit of the Government. Without it neither bonds nor paper of the United States would maintain anything like their present value. In round numbers the Government has now $82,000,000 of gold while its own demand paper afloat amounts to over three hundred and fifty million dollars. It is doing a banking business on a gigantic scale, and to maintain the credit of its issues for circulation it must hold a strong reserve of specie. The Bank of France is very strong in its coin, and the Bank of England, also, sustained by the credit of Great Britain, for it issues no bills which are not represented by either coin or consols, has a much larger reserve of specie in proportion to its liabilities than that held in the Treasury of the United States.

Such a reënforcement of the credit of the country is as indispensible here as it is in France or England, and cannot be either wisely or safely abandoned anywhere. But there is complaint made that this may be increased to an excessive amount, or suddenly diminished through the power of the Secretary of the Treasury to sell gold or to hoard it at his option. I do not think there can be any excess upon the 4th of July, 1869, as it will be seen (by the statement of December 1, 1867,) that after deducting that deposited and which is liable to be withdrawn any day upon gold certificates there will not remain in the Treasury but $82,289,244 69, and there is $14,690,941 80 of public debt of 1847 and 1848 to be paid the coming year, so that, after paying the semi-annual interest now constantly falling due, there will not be more than about one hundred million in specie, if so much, in the Treasury on July 4, 1869, and of that at least $25,000,000 will be due and paid out for the July interest on the public debt.

While it may be expected that the banks, and almost the entire community, will tender their good offices to aid a general return to the true standard of value, the Government must be in a condition to defy any combination of the gold gamblers, whose occupation would be gone the moment depreciation of paper money ceased to exist. Those having capital would be exposed, should they make any attempt to break down the Government under such circumstances, to such extreme hazards that they would avoid it, and those without capital would not be likely to find any parties willing to lend "greenbacks" for such purposes.

The section will prevent any sales being made by the Secretary of the Treasury, except at certain periods and in ascertained amounts known to everybody. With no law about it, I do not suppose any Secretary of the Treasury would transcend the limits proposed by the first section of the bill, but that full information may be possessed by the public of the precise policy which is to be pursued, I think it may be as well to fix it in the form of law, and thus remove any uncertainty which now hangs over the subject.

The third section provides that banks having on hand less than twenty per cent. in specie of their capital shall, until July, 1869, retain the specie interest paid to them on their bonds.

On the 1st of October last the amount of specie held by the national banks was $10,256,130 30, and this sum would be increased by the addition of about thirty million dollars, as it is very desirable it should be, by the section proposed. There would be no suspension of the payment of dividends earned and no loss to the banks, except that of the premium on the interest paid by the Government, as the specie retained could not be sold, but would be counted as part of their reserve, and legal tenders would be issued in lieu of the same.

This is a gain from which they have hitherto largely profited, but which it will not be pretended ever to have been contemplated as a part of a permanent system of banking, and having already excited the public jealousy, should be joyfully surrendered at the earliest moment. If the national banks are ever to bring up their own currency to par, where is there a more feasible mode? And they ought to be willing, if it were necessary, to make

some sacrifices to bring up the United States bonds which they own to their full nominal value, as they infallibly would be by the same process.

The fourth section provides that national banks having issued bills of the denomination of five dollars or less, shall be required to pay them whenever demanded in coin, and may pay larger bills in United States notes or coin, as they please. Specie has been so long hoarded that whenever it again comes into use there must be some places where moderate sums can be readily obtained, or the demands upon the United States Treasury would be too frequent, and in the aggregate too large, and yet it would not appear to be wise to require the banks at once to pay coin for all their bills while United States notes remain a legal tender; and they must remain a legal tender as long as they are expected to circulate. At some future time they can be easily retired by fixing a time for repealing their legal tender qualifications, and then if it shall be found that the present circulation of the national banks is insufficient for the wants of the country, and the national banks shall in the mean time commend themselves to the country, such circulation can be increased by enlarging the number of national banks. At the present time the Secretary of the Treasury is not contracting the currency, nor is it to be under the practical operation proposed by this bill, and it is unnecessary through sheer contraction to force paper money by its scarcity alone up to the value of specie. As it may be found convenient, or as it can be done without distress to the money market, I expect that some small part of our $700,000,000 of paper currency will be retired, as it should be, before the 4th of July, 1869; but as the Government will then have the power to hold, if it chooses, all the notes for which payment may be demanded in coin, as well as all that may be paid in for bonds or taxes, I do not think it would be judicious or necessary to create any stringency in the money market in advance, and it is probable that a confident and easy money market would encourage rather than endanger resumption. If there should be found an excess of currency it would be readily absolved by the Treasury.

The fifth and last section of the bill imposes a penalty of forfeiture upon any national bank which shall fail to comply with any provisions in the bill affecting them, and in such cases authorizes new banks in lieu of those closed up, with an equal amount of capital, in those States now having less than their proportion of the whole amount now authorized by law. The propriety of this section I think will commend itself without further explanation.

A recent writer upon our finances, who always deserves to be read for his array of facts and figures as well as for the luxuriance of his style of handling such subjects, whether you assent to all his propositions or not, has suggested the propriety of a gold loan in Europe of $250,000,000, in order that the Government might be strong enough to meet all demands upon a resumption of specie payments, and at the same time keep up an abundance of money at home. This plan would largely increase our indebtedness abroad, involving, if negotiated now, a sale of three hundred and fifty millions of bonds for two hundred and fifty millions of gold, and would create such a disturbance in foreign money markets as at once to turn the exchanges against us, and the gold thus obtained would be likely to go back, much of it, in the same vessels that brought it over as well as again when the loan became due.

The plan of the bill now before the Senate, it is true, contemplates the temporary use of the legal-tender notes for some time longer, but it also contemplates, besides being vastly less expensive in its inception, their elevation to par. That done, the greatest evil of their presence would be obviated and their ultimate absorption into the funded debt would be secured, awaiting only the convenience of the Government as to the time when it may be done. The bill under consideration relies upon our own strength, while the other proposition to which I have referred, though patriotic in its purposes, is a proclamation of weakness from the outset and a reliance upon foreign aid.

I think I have shown that we are able to resume specie payments and make our paper worth what it purports to be—dollar for dollar in cash. Let us not endure the unpardonable reproach of not having the "unconquerable will" to do it.

When we have raised legal-tender paper to par we shall so reform the national banks that all clamor for their total destruction will cease. To be sure they will miss the premium they now obtain upon the gold interest received upon their bonds, and their dividends will be thus much curtailed, but we shall restore them to their legitimate functions as banks of *discount* as well as of circulation. Hitherto they have been too exclusively institutions to make money for their stockholders rather than associations to lend capital for the accommodation of the public or to men engaged in ordinary business. Having incurred wide-spread hostility by so doing, they should promptly amend their course and combine their interests with those of the public or they will lose all chance to demonstrate that the system as a national one possesses, as it does possess, many admirable qualities. The present national system of banking owes its chief vices to the fact that the currency the banks are forced to use, without their fault as yet, is far below the standard of gold and silver. If these associations shall be found perpetuating these vices by resisting efforts made to elevate their notes to par they will do it at their own peril, and in due time find that they have committed suicide.

Bankers doing a regular business throw out all long and all speculative paper. They accept nothing which is not based upon actual transactions, and usually nothing having more than ninety days to run. But now business is so much demoralized that speculative paper, backed up by collaterals ranging from gold bullion down to fancy copper stocks, drives even the gilt-edged business paper out of bank parlors on to curb-stones. Redeeming their paper nowhere, banks may take long or renew short paper at will. Neither the honest trader nor the industrious manufacturer can compete with such surroundings—with the bulls who trample upon him and the bears who squeeze him—unless like them he becomes a gambler, differing only in the character of his stakes. Regular trade affords no such profits as dealers in corner lots and watered fancy stocks expect to reap and regular business men cannot afford extra rates of interest or constructive charges for exchange, and therefore they are excluded from banks by shoddy patrons and do "not stand before mean men." Those having capital of their own dare not launch it upon any adventure without a margin of two or three profits, not knowing how the character of the currency may change ere the account shall be closed. What old India merchant now dares risk a cargo from the East to arrive a year hence? What manufacturer can predict whether he will be solvent or insolvent six months from now if he invests his capital in anything in particular to be then ready for market?

It is a lamentable fact that this deficiency in the intrinsic value of our so-called money is fast undermining the public and private integrity of character of our people. Merchants cannot continue in business unless they acquire an aptitude for the calculation of chances; and officers in the revenue service of the country, it is to be feared, too frequently calculate the chances as to whether they can make most *for* or *against* the Government. And bankers, lost in the sweeping current, forget banking and turn brokers. It is time this state of things should be checked, though it should subject us to some inconvenience as it need not to any at all.

I have spoken sharply of the practices of some of the national banks not because I wish to overthrow the system, as that, in my judgment, would be a stupendous blunder. We must have chartered banking institutions to lend money, and if these are not granted by the United States the several States will again be allowed to occupy the ground. That seems to me now very undesirable. All banks authorized to issue bills make some profits on their circulation. It is this credit which serves to increase the lending capital of the country, and in the United States is imperatively needed, especially in the young and growing States. The amount of circulation allowed to the national banks is more restricted than any other banking law ever imposed by the General Government or by the several States. Heretofore circulation has been permitted at the rate of two or three dollars for one of capital. Under the present national system it is in all cases less than dollar for dollar, or in no case more than ninety per cent., and for banks of large capital very much less. If we are to have banks at all they must be allowed some circulation. The great question is to have it at all times kept good, and to that end the stockholders of the national banks pledge a larger amount of United States bonds for its security, which at once become subject to taxation although held exempt before. In point of safety there can be nothing suggested more sound. As a uniform currency it must be conceded never to have been excelled. In its general exemption from losses through counterfeits it is also a distinguished success.

There is a hue and cry, as malevolent as it is ignorant, about the loss to the Government by permitting these national banks to issue bills for circulation while the Government pays interest upon the bonds deposited, which the last report of the Comptroller of the Currency ought to shame into silence. At the risk of being tedious I will give a brief extract from Mr. Hulburd's report:

"The national banks are compelled by law to hold constantly in reserve a certain per centage of their circulation and deposits in United States legal-tender notes. The amount thus held permanently in reserve is never less than $150,000,000, (generally about $180,000,000,) and is a gratuitous loan to the Government. The banks get no interest on it. It is so much of their capital unproductive, invested in non-interest-bearing notes of the Government.

"The case may be stated thus:

"The banks have loaned to the Government as follows:

For bonds deposited to secure their circulation, bearing six per cent. interest	$250,000,000
Bearing five per cent	90,000,000
Permanent reserve of legal tenders	150,000,000
Total loan to the United States	$490,000,000

"For which they receive—

Six per cent. interest on $250,000,000	$15,000,000
Five per cent. interest on $90,000,000	4,500,000
Total	19,500,000
But they refund in taxes	16,000,000
Leaving	$3,500,000

which the Government pays the banks for a loan of $490,000,000—a little less than three fourths of one per cent.

"But there is still another aspect of this case:

"The banks are held rigidly accountable for the interest they receive on money honestly loaned to the Government when it needed money, and they claim credit for the money loaned to the Government without interest. They hold these $150,000,000 in obedience to the mandates of the law, while money is worth to them six per cent. They therefore give the Government the use of the money; that is to say—

Six per cent. on $150,000,000 non-interest-bearing United States notes held permanently in reserve	$9,000,000
They pay in the shape of taxes	16,000,000
Total	25,000,000
They receive interest from the Government	19,500,000
Leaving	$5,500,000

which the banks actually pay as a bonus to the Government for the privilege of circulating their own notes. The fact should not be overlooked, in this connection, that the banks have deposited $340,000,000 with the Treasurer as security for their issues. Now, the United States could not possibly buy over three hundred millions of these bonds without an actual addition of thirty or forty millions of greenbacks to the amount it is proposed to issue in lieu of three hundred millions of national bank notes. The result would be, either that the Government would fail to save $2,400,000 interest on forty millions of its bonds which it could not purchase, or it would have to try the dangerous and unnecessary experiment of again inflating the currency."

There is but one qualification which seems proper to me to make to this statement. Of

the amount which the banks pay in the shape of taxes $7,949,451 have been paid to the States, and this, perhaps, should not be included in the $16,000,000 credited to them by the Comptroller. But even with this amendment the Government cannot be charged with any favor to the banks (after deducting Mr. Hulburd's $5,500,000, which he thinks is a bonus actually paid by the banks to the Government, from the $8,000,000 of State taxes paid) beyond the sum of $2,500,000, and that the banks render a full and generous equivalent for this sum in their services to the public in the reduction of the prices of exchange and to the Government in the collection, transmission, and disbursement of United States revenue, ought to be truthfully and cordially acknowledged.

Let Congress—as the lurking purpose in some quarters has been disclosed—at this time and in this age of the world, unprompted by any overruling necessity—deliberately add $200,000,000 to our currency, or even issue United States notes to an equal amount with and in place of the notes of national banks, throwing $375,196,650 of United States bonds, now held by the banks, at once for sale upon our own money markets for whatever price they would bring, and the effect would be deplorable. After that, if legal tenders brought fifty cents on a dollar, it would be as much as could reasonably be expected, and confidence in our financial integrity would receive such a shock that it would not be surprising if legal tenders were to be wholly rejected as a currency by the people, except so far as they could be forced into circulation by positive law and by existing contracts. A return to the barbarism of barter-trade would speedily infect the whole country. Contracts payable twelve months ahead would have no assignable value. But I have no apprehension of this now. Procrastinate resumption of specie payments and how much the appetite for more paper money may grow upon what it feeds, who can tell? All the danger hinges upon whether we take the right and proper step to-day or not.

The time chosen to carry this bill into effect, July 4, 1869, is believed to be opportune. It will not be a rash movement, being placed beyond the presidential campaign, and cannot be dragged into the region of politics; or, if it should be, it would be at the peril of opposition. The people are not all weaned from the attractiveness of a little coin in their pockets, and will not object to a measure which heralds its return to their daily sight. The elevation of our money to the old and true standard cannot be objected to by any party when it is to be done not only without any revulsion of the money market, but done with a view of avoiding the revulsion which threatens delay and is ever imminent while paper money is the reigning deity of the hour. Private indebtedness is not likely to be ever less than it is now, and should an expanded currency prevail as a permanent policy, such indebtedness would rapidly increase and block up the way forever against resumption, or, if resumption were to be essayed, it would be at the sacrifice of the debtor to the creditor class of the country, a catastrophe which now can be avoided.

Of course other important measures will be expected to be reported from the Committee of Finance respecting our national debt, but whatever they are I feel sure they will not conflict with this. It cannot be denied that the measure proposed, if it can be carried, is a full and complete practical remedy for very many and the greatest of the vexed questions which loom up in our pathway, and I invoke the deliberate judgment of the Senate upon the substance of the bill.

Mr. President, it will be a sad day when any fact shall dim the credit of our country. National credit is of slow growth, but it may be dwarfed in the twinkling of an eye. While we preserve our public credit unsullied there is no one among all the nations of the earth we need either to fear or to envy. Public credit is the very apple of the eye of our Government. Put that out and we are doomed to grope about as a blind and helpless giant. Should we be lured by the prospect of temporary gains to swerve from the standard of true national honor so far as to make irredeemable paper, without intrinsic value, a *permanent legal tender*, or so far as to employ the smart excuse of the pettifogger for the avoidance of a contract—to vary it not only from the understanding of all parties except the Government but from the understanding of all who negotiated for and spoke in behalf of the Government—from that moment we fall to the lower ranks in the scale of nations, not merely in the public judgment of the world but literally and practically whenever next called upon to confront equals or inferiors. No more to be trusted at home or abroad, our Government would be an easy prey to any enterprising foreign foe or to any courageous domestic faction. Public credit is the life-blood of a great people. Cast suspicion upon it, and, stabbed at the fountain, all life and greatness oozes out and is gone forever. A republic may not be generous but it cannot afford to be mean. A nation cannot be sued in courts of law but it must be just before the great tribunal of mankind at large.

We have just achieved one of the grandest victories, martial and moral, recorded in the history of nations. No more formidable rebellion was ever more brilliantly started or more brilliantly subdued, and while subduing this we fought and conquered slavery, the giant sin of ages, in its last and mightiest stronghold. It was thus we saved our country now and forever one and indivisible. Our salvation was bought with a great price. Let us not begrudge the price. Our reputation is too exalted for us to consent to have it tarnished by withholding a jot or tittle of what we promised to those who supplied the means to pay and reward the defenders of our country. Sir, I have yet to believe that any class of our people will shrink from the manly maintenance of the public credit from whatever quarter it may be menaced. As a Government all our pride in the past and all our hope in the future rises or falls with the life or death of public credit. Its brightness, like feminine virtue, survives no eclipse, and once obscured is gone forever. If politicians should prove faithless I would appeal to that mighty host who risked their lives to maintain the honor and glory of their country, confident that they will recognize a foe even though he should come into camp wearing a Federal uniform. If bankers and men of wealth should prove penurious and recreant to duty I would appeal to the humble poor, to those having nothing but what they daily earn by the sweat of the brow, having nothing but the proud name of an American citizen, and I should feel confident that no party could survive any position tending to impeach the good name of the American people or to destroy the luster of their history.

I move that the bill be referred to the Committee on Finance.

Mr. CORBETT. Before the bill is referred to the Committee on Finance I wish to make a few remarks.

Mr. GRIMES. As the Senator from Oregon desires to address the Senate on this subject, if he will give way I will move that the Senate proceed to the consideration of executive business. That will leave him with the right of the floor to-morrow.

Mr. CONNESS. I hope the Senator will first allow me to call up a resolution on the table, which was reported this morning. Let this measure be postponed until one o'clock to-morrow.

Mr. FESSENDEN. Let it go over as the unfinished business.

Mr. CONNESS. If that course be pursued, then, with the consent of the Senator from Oregon——

The PRESIDENT *pro tempore*. Does the Senator from Oregon yield the floor for this motion?

Mr. CORBETT. I give way.

Mr. JOHNSON. I wish to remind the Senate that there is an understanding that another matter shall be taken up to-morrow, and I trust it will be convenient to the honorable member to postpone this measure until the day after to-morrow.

Mr. MORRILL, of Vermont. As the Senator from Indiana [Mr. MORTON] also desires to speak on this bill, I move that it be postponed until day after to-morrow, being Friday next.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 155) granting a certain right of way to the Hudson River West Shore Railroad Company;

A bill (H. R. No. 273) to amend the act of April 10, 1806, for establishing rules and regulations for the government of the armies of the United States; and

A joint resolution (H. R. No. 12) directing the Secretary of War to furnish certain muster-rolls to the different States.

House bills Nos. 155 and 273 and House joint resolution No. 12 were read twice by their titles, and referred to the Committee on Military Affairs and the Militia.

REAR ADMIRAL H. K. THATCHER.

Mr. CONNESS. I move take up for consideration the joint resolution reported this morning by the Committee on Naval Affairs.

The motion was agreed to; and the joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian islands was considered as in Committee of the Whole.

Mr. SUMNER. I would ask if this resolution has been referred to a committee? I have no recollection of its passing through a committee.

Mr. CONNESS. It was referred to and has been reported by the Committee on Naval Affairs.

Mr. SUMNER. I was not aware of it.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

On motion of Mr. GRIMES, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 11, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

DEFICIENCY IN PENSION APPROPRIATION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Pensions asking for a further appropriation to supply a deficiency for the current fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER also, by unanimous consent, laid before the House a preamble and resolutions unanimously adopted at a mass-meeting of citizens held at Faneuil Hall, Boston, on Saturday evening, December 7, 1867, on the subject of the rights of American citizens, native and adopted, while traveling in foreign countries, and asking the recall of such foreign ministers and other officers of the Government as have not protected American citizens abroad; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

The SPEAKER. By unanimous consent the gentleman from New York [Mr. PRUYN] is now entitled to the floor to make a personal explanation.

PAY OF BAILIFFS AND CRIERS.

Mr. CARY. By the courtesy of the gentleman from New York [Mr. PRUYN] I ask the unanimous consent of the House to introduce a bill extending the provisions of the act entitled "An act fixing the compensation for bailiffs and criers of the courts of the District of Columbia."

No objection was made; and the bill was received, read a first and second time, and referred to the Committee on the Judiciary.

PERSONAL EXPLANATION.

Mr. JULIAN. I rise to a question of privilege. It relates to a paragraph in the Washington correspondence of the New York Tribune of the 9th instant, which I wish to have read.

The SPEAKER. The paragraph will be read, and after that the Chair will rule whether it is or is not a question of privilege.

The Clerk read the paragraph, as follows:

"Of the fifty-seven members who voted for the resolution it must not be thought that all sincerely desired the impeachment of the President. The Indiana delegation, which voted almost solidly in the affirmative, did so in the belief that some future deed of the President would justify their course. Others voted for impeachment, well knowing that it could not be carried, on the principle that their action would seem bold, and might be quoted with effect in future canvasses. Had the passage of the resolution depended on the votes of these gentlemen they would have been found against it; but there were probably forty men who were convinced that the testimony justified the House in bringing the President to a trial, though they did not undertake to usurp the functions of the Senate in judging of his innocence or guilt."

The SPEAKER. The Chair is not able to ascertain what question of privilege is involved in that paragraph.

Mr. JULIAN. The question of privilege which I suppose arises is the statement of the correspondent as to the action of the Indiana delegation and the motives of that action.

The SPEAKER. The Chair rules that that is not a question of privilege according to the construction placed on it by all the gentlemen who have occupied this Chair. It is a case where gentlemen usually ask unanimous consent to make a personal explanation; but it certainly is not a question of privilege.

Mr. JULIAN. Then I ask unanimous consent to make a personal explanation.

Mr. PRUYN. How long does the gentleman desire?

Mr. JULIAN. But a few minutes.

No objection was made.

Mr. PRICE. Will the gentleman from Indiana [Mr. JULIAN] permit me to ask him a question before he proceeds with his explanation?

Mr. JULIAN. Certainly.

Mr. PRICE. I would ask the gentleman whether the extract he has had read was not written by one of the men professing to be loyal, who is now security for Jeff. Davis, who runs at large because he is on his bond?

Mr. JULIAN. I do not know as to that fact. It appears in the Washington correspondence of the New York Tribune. This is certainly a remarkable display of the freedom of the press, and I must claim the right to refer to that portion of the extract which relates to the Indiana delegation. The writer says we voted for impeachment because we believed "that some future deed of the President would justify" our course. Sir, I do not speculate about the future deeds of the President. I know the past, and in the light of the past the Indiana delegation judged of their duty, and acted. That the President will pause in his career of maladministration and crime I do not for a moment believe. His capacity for evil stands out in frightful disproportion to his other gifts. He is a genius in depravity, and not merely "an obstinate man who means honestly to deal with" the problem of reconstruction. His hoarded malignity and passion have neither been fathomed nor exhausted, and will not be during his term of office. If I may judge of the effect of the President's late message of defiance, acting on the inflammable temper of southern rebels, and followed swiftly by the strong vote of this House renouncing its jurisdiction over his crimes, I can have no hesitation in believing that a new dispensation of rapine and misrule will be the result. This will be morally and logically inevitable; and while I respectfully commend it to the consideration of gentlemen who voted *against* impeachment, I desire to say in behalf of myself and the five of my colleagues who voted with me that in the vote we gave we assumed no jurisdiction whatever over acts of the President which have not yet transpired. We had neither the right nor the disposition to do this, but were governed by the following among other good and sufficient reasons—

Mr. WOOD. I rise to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. WOOD. My question of order is whether, when a gentleman has obtained unanimous consent to make a personal explanation, it is in order for him to go on and make a speech upon impeachment?

The SPEAKER. The gentleman is very well aware that under the rule when a gentleman obtains unanimous consent to make a personal explanation he is entitled to the floor for one hour. The gentleman from Indiana [Mr. JULIAN] rose, as he stated, to a question of privilege. The Chair, after hearing the ground upon which the gentleman based his question, ruled that it was not one of privilege. The gentleman then asked unanimous consent to make a personal explanation, and there was no objection.

Mr. WOOD. So long as the gentleman from Indiana [Mr. JULIAN] confines himself simply to a personal explanation he is in order. But when he transcends that privilege of the House and goes into a discussion of the merits of a question which the House has passed upon then he is not in order.

Mr. JULIAN. I am not doing that.

The SPEAKER. When the House grants unanimous consent to a gentleman to make a personal explanation it is very difficult for the Chair to limit him.

Mr. WOOD. Then we on this side of the House will avail ourselves of the same privilege and discuss anything we please.

The SPEAKER. That is for the House to determine, and not for the Chair. The gentleman from Indiana [Mr. JULIAN] will proceed.

Mr. JULIAN. We voted to impeach the President because he usurped the power to call conventions, set up governments, and decided the qualifications of voters, in seven of the States lately in rebellion.

Because he recognized these governments, thus unconstitutionally established by himself, as valid civil governments, and condemned and denounced Congress for lawfully exercising the powers and performing the acts which he exercised and performed, in violation of law and of the Constitution.

Because he created the office of provisional governor, as a civil office, which is unknown to the Constitution, and appointed to such office in the rebel States notorious traitors, well knowing them to be such, and that they could not enter upon the duties of the office without the crime of perjury.

Because he deliberately trampled under his feet a law of Congress enacted in 1862, prescribing an oath of office, and which law he was sworn to execute, and appointed to offices, under the laws of the United States, men who were well known to him as traitors, who could not take the oath required.

Because he refused to execute the confiscation laws, and the laws against treason, and by the most monstrous abuse of the pardoning power in innumerable instances has made himself the powerful ally and best friend of the conquered traitors of the South, whose unmatched crimes have thus utterly defied even the ordinary administration of criminal justice.

Because the power of impeachment, as defined in the Constitution, clearly comprehends political offenses, like those of which the President has been proved guilty in the case recently before the House, and would otherwise be an empty and unmeaning mockery, leaving Congress wholly powerless to protect the nation against the most wanton acts of Executive maladministration and lawlessness.

And because, finally, in the language of the majority of the Judiciary Committee, he has "retarded the public prosperity, lessened the public revenues, disordered the business and finances of the country, encouraged insubordination in the people of the States recently in rebellion, fostered sentiments of hostility between different classes of citizens, revived and kept alive the spirit of the rebellion, humiliated the nation, dishonored republican institutions, obstructed the restoration of said States to the Union, and delayed and postponed the peaceful and fraternal reorganization of the Government of the United States."

Sir, these are some of the reasons which compelled six of the Indiana delegation to vote "solidly in the affirmative." We had no occasion to carry our researches into the future in order to find a justification for our votes. And I desire to say, sir, as emphatically as I can, that under our view of the evidence and the law there was but one alternative left us. We could not allow our sense of duty, under the oaths we have taken, to be swayed by any calculations as to the effect of impeachment upon the finances of the country, or upon our own party relations, or upon the success of the Republican party next year. Neither could we pause to consider whether the impeachment would be sustained in the Senate, or whether it would provoke the President to renewed acts of violence and render him more devil-bent than before. We had nothing whatever to do with considerations of this character. Sir, impeachment is not a policy, but a solemn duty under the Constitution, which expressly provides for its performance. The New York Tribune itself says that "impeachment is the constitutional safeguard between the people and a dictatorship. To regard the Presidency as an intact, independent office, responsible only to the moral influence called 'the people,' and to a political mob called 'a convention,' is to make our ruler as absolute as the emperor of China."

Sir, not to impeach in a case fairly requiring it is itself an act revolutionary and rebellious in its character. So the Indiana delegation believed, and so they acted under their sworn duty of fidelity to the Constitution of the United States. And having so believed and acted they have no apologies to make, no man's pardon to beg, and no favors to ask in any quarter. In common with the fifty-seven members who voted in the affirmative, and the one hundred and eight who voted in the negative, we shall be judged by the people. None of us can "escape history," and for one I am perfectly willing to accept its final verdict. I only beg leave to say, in conclusion, that if the leading newspapers of the country had allowed the people to see the report in full of the majority of the Judiciary Committee, the correspondent of the Tribune would probably have felt less inclined to volunteer an apology for the Indiana delegation, which is as dishonorable to himself as to them.

POST ROUTE IN MARYLAND.

Mr. ARCHER, by unanimous consent, introduced a bill to establish a certain post route; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

INSPECTION OF OIL IN PENNSYLVANIA.

Mr. MOORHEAD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to furnish this House with a copy of the report of John Miller, special revenue agent, made in regard to the inspection of oil in the twenty-second district of Pennsylvania, and the testimony taken in relation thereto.

PERSONAL EXPLANATION.

Mr. PRUYN. I trust it will be borne in mind by the House that the reason of my asking permission to make a personal explanation in regard to the matter about which I propose to speak, arose from the fact that when the subject was under discussion on Monday last I was prevented from getting the floor by objections made on the other side of the House. If I could have had it then for ten minutes I should have said what I wanted to say. But not having the opportunity then, and not standing in a true light in the record contained in the Globe, I asked this permission. I shall occupy the attention of the House, I trust, but a very short time; and the importance of the subject may perhaps justify me in hoping that members will at least give consideration to the authorities to which I may refer them, if they do not regard my individual views as worthy of attention.

In the discussion which took place on Monday last in regard to the reference of that part of the President's message which relates to the payment to be made to the Russian Government under the late treaty for the purchase of Russian America, the gentleman from Pennsylvania [Mr. STEVENS] said that "by the Constitution a treaty is a paramount law of the land," and that so far as the appropriation in question is concerned he should "of course vote to make" it, and he further remarked:

"When the Constitution, which is the paramount law of the land, declares that we owe a debt I should be ashamed to refuse to pay it."

The gentleman from Massachusetts [Mr. BUTLER] rose specially to notice these remarks, and said:

"A treaty made by the President, with the advice and consent of the Senate, which is capable of self-execution is the supreme law of the land; but a treaty made which requires legislative action to put it into operation is not the supreme law of the land, and we are not in any way bound by it."

When this statement was made I at once inquired for the authority on which it was founded. The gentleman from Massachusetts admitted that he had expected this, as well he might from the novelty of the position he assumed. Passing by the fact that in giving the information—which he very emphatically repeated for my especial benefit—that a decision of the Supreme Court of the United States in Peters's Reports was the foundation for his statement, and forgetting, no doubt, for the moment the existence of Peters's Circuit Court Reports, to which I alluded. Let us look at the case cited that we may know what it is. I will state it very briefly. The question arose under a grant of land in West Florida made by the Spanish Government before the cession of the province to France. In the treaty between France and this country the protection and confirmation of these titles were provided for; and the point was, whether the language used in the treaty was in itself a confirmation of title, or whether it was an engagement to confirm by legislation. The court took the latter view of the case and held—what? "that we (the House of Representatives or Congress) are not in any way 'bound by it,' as the gentleman from Massachusetts claims? No; but simply that "the legislature must execute the contract before it can become a rule for the court"—a decision which I confidently submit in no way supports the extreme position taken by the honorable gentleman from Massachusetts.

It would be idle for me, Mr. Speaker, to deny the power—I may call it the physical power—of this House to refuse to make the appropriation needed to pay the amount which this Government has by a solemn contract made with all the formalities required by the Constitution, agreed to pay to Russia for the territory referred to. We come here, take our seats from day to day, adjourn, and do nothing. We may refuse to appropriate money to pay the salaries of the President, of the judges, of our foreign ministers, of all the officers of Government; we may refuse to pay the Army and the Navy; but does our refusal or neglect to do our duty impair the obligations to do it? If so every debtor in the community may take the same ground, and we should soon have "a new way to pay old debts." The honorable gentleman from Massachusetts, in support of his views, cites another case decided by Judge McLean in the circuit court of the United States. I regret that the volume of reports referred to happens to be out of its place on the shelves of the library, and I have not been able to ascertain the facts presented to the court, and on which its opinion was based. But let us look at the extract from the opinion cited by the gentleman from Massachusetts. Does it in any way authorize the inference that we are not bound to respect the honorable obligation imposed upon the country by a treaty regularly made with a foreign Power? I say "honorable," for no obligation against Government can be called a legal one in the strict sense of the term. The Government cannot be brought into court and made to respond to its liabilities as an individual may be. But because the obligation is honorable only is it the less binding? In the code of morality among civilized nations it is for this very reason placed on even a higher footing than if it were simply a legal liability to be enforced, if need be, by the tribunals of the country. Could Russia do more than she has done? That Government could not come to this House to make a treaty with or through us.

She contracted with this Government in the only way acknowledged by our Constitution; and are we now to say that we will not do our duty and take the necessary action to carry out the contract in good faith on our part? If we thus act we will certainly forfeit our honor and disgrace our Government in the eyes of the civilized world. I am quite aware, Mr. Speaker, of the principle that if a treaty be made by fraud or undue influence, or if one party exercises duress over the other to his own advantage, like all other contracts such a treaty will thus be vitiated, especially in a court of morals and honor. But do the gentlemen from Massachusetts and Illinois, who gave the House to understand they would oppose this appropriation, mean to say that the Senate—by whom this treaty was confirmed almost unanimously—acted under undue influence, or that improper and unworthy considerations controlled their votes, or that they acted under duress? Until I hear them distinctly make such charges I will not believe that they intend to make them. And yet, unless they do proceed on the assumption of such or other like causes I venture to say that there is no commentator on our Constitution of conceded reputation, and no one of the eminent jurists of our country who has discussed this subject, whose views will support them in their position. It may be said, and I so understood the gentleman from Illinois, that by the treaty too large an amount was agreed to be paid for this territory. But were we called on to determine that question? It was of necessity to be settled by the treaty-making power; and if so settled in good faith—and this has not been questioned—we are honorably bound by it.

The gentleman from Massachusetts, in referring to the clause in the Constitution which declares treaties to be part of the supreme law of the land, was understood by me to throw a doubt on the proper execution of this treaty. He commented on the words "United States," intimating that Congress, as representing the United States, must confirm treaties. If he will look again at that clause he will find it to speak of laws and treaties made "under the authority of the United States." Congress are to enact the laws, but the President and Senate are to make treaties. Each in its sphere is supreme.

This is not the time nor am I now prepared to discuss at large many of the views which this question presents. I may do so at some future day when the main question comes before the House. But before closing I wish to advert briefly to some standard authorities on this subject.

In England the power to make treaties rests exclusively with the Crown. Blackstone, in volume one, chapter seven, page 256, speaking of this, says:

"It is also the king's prerogative to make treaties, leagues, and alliances with foreign States and princes; for it is by the law of nations essential to the goodness of a league that it be made by the sovereign power, and then it is binding upon the whole community; and in England the sovereign power, *quoad hoc*, is vested in the person of the king. Whatever contracts, therefore, he engages in, no other power in the State can legally delay, resist, or annul; and yet, lest this plenitude of authority should be abused to the detriment of the public, the constitution (as was hinted before) hath here interposed a check by the means of parliamentary impeachment for the punishment of such ministers as from criminal motives advise or conclude any treaty which shall afterward be judged to derogate from the honor and interest of the nation."

I have not the time to comment on the discussions on this subject which led to the adoption of the provision in our Constitution in regard to the treaty-making power which was vested in the President by and with the advice and consent of the Senate, but will read what Mr. Jay said on this subject in the sixty-fourth number of the Federalist:

"Others, though content that treaties should be made in the mode proposed, are averse to their being the supreme law of the land. They insist and profess to believe that treaties, like acts of assembly, should be repealable at pleasure. This idea seems to be new and peculiar to this country; but new errors as well as new truths often appear. These gentlemen would do well to reflect that a treaty is only another name for a bargain, and that it would be impossible to find a nation who would make any bargain with us which should be binding on them absolutely, but on us only so long and so far as we may think proper to be bound by it. They who make laws may without doubt amend or repeal them; and it will not be disputed that they who make treaties may alter or cancel them; but still let us not forget that treaties are made not by one only of the contracting parties, but by both, and consequently that, as the consent of both was essential to their formation at first, so must it ever afterward be to alter or cancel them. The proposed Constitution therefore has not in the least extended the obligation of treaties."

Now, when Mr. Jay spoke here of treaties he spoke of them in the sense in which they were understood in Europe, for up to that time we had no other definition of treaties. We had no standard authors to whom to refer except those who treated on the common law of England; and I have already read the remarks made on this subject by Blackstone, the writer of highest repute on the laws of England.

Now, as to the view which might be taken under certain circumstances as to the corruption of the treaty-making power, Mr. Jay says:

"As to corruption, the case is not supposable. He must either have been very unfortunate in his intercourse with the world or possess a heart very susceptible of such impressions who can think it probable that the President and two thirds of the Senate will ever be capable of such unworthy conduct. The idea is too gross and too invidious to be entertained. But if such a case should ever happen, the treaty so obtained from us would, like all other fraudulent contracts"—

this is the point to which I have already referred—

"be null and void by the law of nations."

I will now ask the attention of the House to a short extract on this subject from Judge Story's Commentaries, section fifteen hundred and nineteen:

"In regard to the objection, that the arrangement is a violation of the fundamental rule, that the legislative and executive departments ought to be kept separate, it might be sufficient to advert to the considerations stated in another place, which show that the true sense of the rule does not require a total separation. But in truth the nature of the power of making treaties indicates a peculiar propriety in the union of the Executive and the Senate in the exercise of it. Though some writers on government place this power in the class of executive authorities, yet it is an arbitrary classification; and if attention is given to its operation it will be found to partake more of the legislative than of the executive character. The essence of legislation is to prescribe laws and regulations for society; while the executive of those laws and regulations and the employment of the common strength, either for that purpose or for the common defense, seem to comprise all the functions of the executive magistrate. The power of making treaties is plainly neither the one or the other. It relates neither to the execution of subsisting laws nor to the enactment of new ones; and still less does it relate to the exertion of the common strength. Its objects are contracts with foreign nations, which have the force of law with us; but as to the foreign sovereigns have only the obligation of good faith. Treat-

ies are not rules prescribed by the sovereign to his subjects, but agreements between sovereign and sovereign. The treaty-making power, therefore, seems to form a distinct department, and to belong properly neither to the legislature nor the executive, though it may be said to partake of the qualities common to each."

I have read this extract for the purpose of meeting the proposition maintained on this floor by the gentleman to whom I have referred, that this House, as a part of the legislative power of the nation, ought of necessity to take some part in the formation of treaties, and that they are not, in the cases referred to, complete and perfect until ratified or consummated by our action. I will trouble the House with only one other extract from Judge Story, which is in direct confirmation of the position taken by Mr. Jay in the number of the Federalist to which I have referred. I read from Story's Commentaries, section 1513:

"The constitutional check of requiring two thirds to confirm a treaty is, of itself, a sufficient guarantee against any wanton sacrifice of private rights, or any betrayal of public privileges. To suppose otherwise would be to suppose that a representative republican Government was a mere phantom; that the State legislatures were incapable or unwilling to choose Senators possessing due qualifications, and that the people would voluntarily confide power to those who were ready to promote their ruin and endanger or destroy their liberties. Without supposing a case of utter indifference or utter corruption in the people, it would be impossible that the Senate should be so constituted at any time as that the honor and interests of the country would not be safe in their hands. When such an indifference or corruption shall have arrived it will be in vain to prescribe any remedy, for the Constitution will have crumbled into ruins, or have become a mere shadow, about which it would be absurd to disquiet ourselves."

I will read only one other extract. It is from Chancellor Kent's Commentaries on the Constitution, volume 1, page 286:

"The question whether a treaty constitutionally made was obligatory upon Congress equally as any other national engagement would be, if fairly made by the competent authority, or whether Congress had any discretionary power to carry into effect a treaty requiring the appropriation of money, or other act to be done on their part, or to refuse it their sanction, was greatly discussed in Congress in the year 1796, and again in 1816."

Chancellor Kent here refers to the authority which one of the gentlemen on the other side quoted, and which at first view would seem to bear in favor of the position he assumed; but Chancellor Kent's views on this question will, I think, satisfy gentlemen that the view then taken by the House of Representatives was not sound:

"The House of Representatives at the former period"—

that is in 1796—

"declared by resolution that when a treaty depended for the execution of any of its stipulations on an act of Congress it was the right and duty of the House to deliberate on the expediency or inexpediency of carrying such treaty into effect. It cannot be mentioned at this day without equal regret and astonishment that such a resolution passed the House of Representatives on the 7th of April, 1796. But it was a naked abstract claim of right never acted upon; and Congress shortly afterward passed a law to carry into effect the very treaty with Great Britain which gave rise to that resolution.

"President Washington, in his message to the House of Representatives of the 30th of March, 1796, explicitly denied the existence of any such power in Congress; and he insisted that every treaty duly made by the President and Senate, and promulgated, thenceforward became the law of the land.

"If a treaty be the law of the land it is as much obligatory upon Congress as upon any other branch of the Government or upon the people at large, so long as it continues in force and unrepealed. The House of Representatives are not above the law and they have no dispensing power. They have a right to make and repeal laws, provided the Senate and President concur; but without such concurrence a law in the shape of a treaty is as binding upon them as if it were in the shape of an act of Congress, or of an article of the Constitution, or of a contract made by authority of law. The argument in favor of the binding and conclusive efficacy of every treaty made by the President and Senate is so clear and palpable that it has probably carried very general conviction throughout the community; and this may now be considered as the decided sense of public opinion. This was the sense of the House of Representatives in 1816, and the resolution of 1796 would not now be repeated."

I might, Mr. Speaker, enlarge my remarks, but the circumstances will not justify me in doing so. If the appropriation necessary to carry out the treaty with Russia is to be opposed in this House, the subject I have no doubt will be fully discussed, and I may then ask the attention of the House to some additional views in regard to it. I have at this time presented those now advanced in consequence of my inability to obtain the floor on Saturday last, and am obliged to the House for its kindness in giving me this opportunity to do so. As the gentleman from Massachusetts [Mr. BUTLER] has informed me that he wishes to reply to what I have said, I am willing now to give him the floor, if the House do not object, with the understanding that I may resume it when his remarks are closed, should I wish to do so.

The SPEAKER. A gentleman holding the floor by consent for personal explanation cannot transfer it to another member.

Mr. PRUYN. The gentleman from Massachusetts would like to make reply.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

SOUTHERN RAILROADS.

The SPEAKER. The morning hour has now commenced.

Mr. McCLURG. Mr. Speaker, the Committee on Southern Railroads have directed me respectfully to report that they have concluded the taking of testimony on all the points embraced in the instructions of the House, except as to the expediency of declaring forfeited lands granted in aid of railroads in Florida, Alabama, Mississippi, Louisiana, and Arkansas, in which case the testimony is now being procured through the War Department from the military commanders in those portions of the South. The testimony already taken I now report, and move that it be laid on the table, and ordered to be printed.

The motion was agreed to.

FIRST PRESBYTERIAN CHURCH.

Mr. KOONTZ, from the Committee for the District of Columbia, reported back House bill No. 161, to incorporate the congregation of the First Presbyterian church of Washington, with an amendment.

The amendment was read, as follows:

Add the following as an additional section:

And be it further enacted, That Congress reserves the right to alter, amend, or abolish this charter at pleasure.

The amendment was agreed to; and the bill as amended was ordered to be engrossed and read a third time; and it was accordingly engrossed and read the third time.

Mr. KOONTZ demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. KOONTZ moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. BUTLER. I desire to ask the consent of the House to put some few authorities before the House in answer to the gentleman from New York, [Mr. PRUYN.] His course puts me to the necessity of asking to make a personal explanation.

Mr. WASHBURNE, of Illinois. If my colleague from the Charleston district is heard I will not object.

Mr. WOOD. Some gentlemen here desire to make personal explanations, and I shall object unless the same privilege is granted to every member of the House.

Mr. BROMWELL. If the House allows me to make an explanation I will say it will be entirely personal in its character. I will not abuse the privilege.

Mr. WOOD. Does it refer to the question just discussed?

Mr. BROMWELL. No, sir.

Mr. WASHBURNE, of Illinois. I hope it will be granted.

Mr. ALLISON. How much time does the gentleman want?

Mr. BROMWELL. Not more than five minutes.

The SPEAKER. There being no objection, the gentleman will proceed.

Mr. BROMWELL. Mr. Speaker, I have had on many occasions——

Mr. HIGBY. Mr. Speaker, I objected in time to the gentleman's making an explanation.

The SPEAKER. If the gentleman from California insists that he made the objection in time, the gentleman from Illinois cannot proceed.

Mr. BROMWELL. I hope the gentleman will not insist.

Mr. HIGBY. Do I understand that it is in relation to some misstatements personal to himself?

Mr. BROMWELL. Entirely personal—about my voting on the impeachment question.

Mr. HIGBY. I withdraw the objection.

The SPEAKER. The gentleman from Illinois will proceed.

Mr. BROMWELL. I am not here, Mr. Speaker, to make an explanation as to what newspapers say about me or my conduct here or elsewhere. Although on several occasions I might have done so with as great propriety as many others, for there have been in every my own district papers which have spoken of me in the most unjust and scurrilous terms, yet I never have mentioned and never would mention their names here; because there are generally many more people in this House than will ever see those papers if I let them alone, [laughter,] and they speak of me precisely as they would describe a good man. I have no desire to expand their circulation or advertise them in any manner. And more than that, I have nothing to say in the way of complaint of the New York Tribune. In my district no man can be elected to Congress if he cannot stand the New York Tribune and say nothing about it. [Laughter.]

But what I wish to say is this: that after filibustering here two days as one of the fifty-seven members who struggled for a fair hearing and a direct vote on impeachment, myself and two other gentlemen who acted together on that question have been published throughout the West as having been absent or dodged on that occasion. In making up the reports of the Associated Press, the line which contained the names "BUTLER, BROOMALL, and BROMWELL" seems to have been left out. The defective report went to the papers in St. Louis, Chicago, and Cincinnati, which altogether circulate through every portion of my district. Relying upon the truth of that report the Chicago Republican publishes an editorial in which it mentions the name of the distinguished gentleman from Massachusetts [Mr. BUTLER,] the gentleman from Pennsylvania [Mr. BROOMALL,] and myself, as having been absent or dodged the vote. I do not wish to be put in any such category as that of members who dodged the vote or who voted on the wrong side. [Laughter.] It is true, the Chicago Tribune, which claims proprietorship of public opinion in the Republican party in my State, congratulates the country on the happy result of the impeachment question. I thank God I have no occasion to apply this congratulation to myself. I want none of it. I had the honor to sit here and vote before God and man, on my oath as a member of this House, and with my knowledge of the law of the land as a lawyer, such as I may be, that Andrew Johnson is guilty of high crimes and misdemeanors, and should be impeached therefor. And, sir, had that resolution been drawn by me it would have contained, first, a section declaring him guilty, and secondly, that he deserved to be impeached. And on the first proposition there would have been, as I have good reason to believe, one hundred votes or more in the affirmative.

But I do not wish to go beyond the permission of the House, as I speak by the courtesy of every member. I have only this to say further: that it has been my object in approach-

ing this impeachment question to withhold my judgment and preserve my mind in such a condition that I could vote understandingly and properly upon it to the best of my ability. For this reason I have neither lectured on impeachment nor referred to it in any speech either before I was elected or since. I have striven to avoid, in making up my determination, the impulse of party spirit or blind malice on the one hand, and the use of that sharp cutting of legal ratiocination which some casuistical expert gentlemen of high attainments in this House seem inclined to use, and who are never better pleased with their own legal prowess than when they can cut so close as to pierce the Constitution between the joints of its harness.

[Here the hammer fell.]

RECONSTRUCTION.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of the bill to amend an act entitled "An act to provide for the more efficient government of the rebel States, passed March 2, 1867, and the several acts amendatory thereto;" and the same was referred to the Committee on Reconstruction.

HUDSON RIVER WEST SHORE RAILROAD.

Mr. KETCHAM, from the Committee on Military Affairs, reported back, with the recommendation that it do pass, a bill granting a certain right of way to the Hudson River West Shore Railroad Company.

The bill gives the consent of the United States to the Hudson River West Shore Railroad Company to locate, construct, and operate its railroad on the shore line across the property belonging to the Government at West Point, in the State of New York, upon such location and under such regulations as shall be approved by the Secretary of War.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. KETCHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BREVET RANK IN THE ARMY.

Mr. DODGE, from the same committee, reported back, with the recommendation that they do not pass, bill of the House No. 66, to amend the act of April 10, 1806, for establishing rules and articles for the government of the Armies of the United States; and joint resolution of the House No. 117, to amend an act approved April 10, 1806, for establishing rules and articles for the government of the Armies of the United States; and the same were laid on the table.

Mr. DODGE, from the same committee, reported a bill to amend the act of April 10, 1806, for establishing rules and articles for the government of the Armies of the United States; which was read a first and second time.

The bill repeals the sixty-first article of the act of April 10, 1806, and provides that from and after its passage commissions by brevet shall only be conferred in time of war and for distinguished conduct in the public service in the presence of the enemy, and that all brevet commissions shall bear date from the particular action or service for which the officer is breveted.

Mr. DODGE. I move the previous question.

Mr. BROOKS. I think this bill ought to be printed before we proceed to act upon it. It changes one of the articles of war, and what that article is I do not know.

Mr. DODGE. I will explain. The bill repeals the sixty-first article providing that an officer can assume command under his brevet rank in mixed commands. It meets the approval of the Secretary of War and the unanimous approval of the Committee on Military Affairs.

The other provision of the bill was that hereafter no appointment by brevet shall be made except for service in the field and shall then date from that particular service. I now move the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MUSTER-ROLLS.

Mr. DODGE, from the same committee, reported back, with an amendment, joint resolution of the House No. 12, directing the Secretary of War to furnish certain muster-rolls to the different States.

The joint resolution directs the Secretary of War to furnish, on the application of the adjutant general of any State, certified copies of the muster-in and muster-out rolls of any organization of volunteers from such State serving in the late war for the suppression of the rebellion on the representation of such adjutant general that said rolls have not been returned by United States mustering officers to his department.

The committee reported an amendment, to strike out the words "adjutant general" where they occur, and insert "Governor" in lieu thereof.

The amendment was agreed to.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WEEKLY PAYMENTS OF THE ARMY.

Mr. HAWKINS, from the Committee on Military Affairs, reported back a resolution in regard to paying the Army once a week, and asked that the committee be discharged from its further consideration.

The motion was agreed to; and the resolution was laid on the table.

CITIZENSHIP OF INDIANS.

Mr. GARFIELD, from the Committee on Military Affairs, reported back a petition of citizens of Wayne county, Indiana, praying Congress to grant to the Indians the rights of citizenship, of ownership of the soil, to sue in the courts of the United States, and other particular and general relief, with a recommendation that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Indian Affairs.

The recommendation of the committee was concurred in.

PAY OF COMMITTEE CLERKS.

Mr. GARFIELD. I am directed by the Committee on Military Affairs to submit the following resolution:

Resolved, That the joint Committee on the Pay of the Employés of the two Houses of Congress be directed to inquire into the expediency of fixing the pay of clerks of the committees of this House by law, and that they report by bill or otherwise.

I will explain in a few words the object of this resolution. There was a resolution sent to our committee, I suppose as a matter of information, informing us of the action of this House in reference to the pay of clerks of certain committees. That led me to look into the matter; and the committee have suggested the action embraced in the resolution, in consequence of the following state of facts:

There are three classes of clerks of committees of this House, that is, classified according to the mode in which they are paid. One class of clerks are paid an annual salary; but the same salary is not paid to all the clerks that come within that class, though all are paid by the year. A second class are paid six dollars per day each during the sessions of Congress. And a third class are paid four dollars a day each during the sessions of Congress.

Now there appears to be no general equitable arrangement by which these various clerks of committees are paid. For instance, under the action of the House, taken on the motion of the gentleman from Illinois [Mr. WASHBURNE] a few days ago, the clerk of the Committee on Military Affairs has his salary reduced to four dollars per day instead of six dollars per day, which he received during the last two Congresses, the Thirty-Eighth and Thirty-Ninth Congresses. That clerk has perhaps as much labor to perform as any other clerk of committee, with the exception, it may be, of two other committees in the House, and yet he is put down in the lowest class of pay of any clerks of the House.

Now, I object to the mode by which this matter is settled. One man slips in a resolution quietly in a thin House by which the clerk of his committee shall have a certain salary, and another man, watching a favorable opportunity, slips in a resolution in regard to his clerk; and the consequence is that we have four different payments to clerks, some by the year and some by the day, and in a manner that does manifest injustice.

I therefore, by the order of the Committee on Military Affairs, ask that this resolution be passed directing the proper committee having charge of the salaries of the officers of the Senate and the House to bring in a bill regulating the pay of the clerks of the committees of the House and putting them upon some equitable basis. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CASHIERED ARMY OFFICERS, ETC.

Mr. GARFIELD, from the Committee on Military Affairs, reported back, with a recommendation that the same do pass, House bill No. 201, being a bill relating to officers of the Army dismissed or cashiered by sentence of a general court-martial.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that no officer of the Army of the United States who has been or shall hereafter be cashiered or dismissed from the service by the sentence of a general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service except by a reappointment confirmed by the Senate of the United States.

Mr. GARFIELD. I presume that this bill requires no explanation. If any gentleman has any question to ask I will cheerfully answer it. If no gentleman wishes to propound any inquiry I will call the previous question on the bill.

Mr. NIBLACK. I beg to inquire of the gentleman whether in this proposed legislation the committee had not in view the case of some individual, rather than the general principle.

Mr. GARFIELD. I will say to the gentleman that the bill, as he will see, is perfectly general in its terms, and makes no sort of allusion to any individual. It is, of course, designed to apply to any case that may arise; and being in its terms as "broad and general as the casing air," it will perhaps apply to many cases. Certainly, it seems to me, it ought to apply to all cases coming within its terms; and I am glad to say to the gentleman that the bill was passed unanimously in the Committee on Military Affairs, there being a full attendance of the committee.

I will, however, while on the floor, say that there has arisen during the late war a custom never known before in the military service, of restoring officers after they were fully and

legally out of service. This has occasioned very great disarrangement of the order of affairs in the Army, and great dissatisfaction. When an officer is out of the service, and his place is perhaps filled by another appointment, he cannot be put back into the service without disturbing the relative rank of all the officers below him. Such restorations are a manifest injustice to the officers in the service, as well as a disturbance of the duly approved decisions of regular military courts. It seems to me that there can arise no case in which the rule laid down in the bill ought not to apply. If there should be any such case the way will be open, as provided in the bill, for the reappointment of the officer by the President and his reconfirmation by the Senate.

Mr. NIBLACK. I beg to inquire of the gentleman whether the bill is retrospective in its operation or only prospective.

Mr. GARFIELD. It is of course prospective, only prospective. I do not myself believe that the President has, under the Constitution, any right to restore to the Army an officer who has once been regularly dismissed by a regularly approved finding of a court-martial. I hold in my hand extracts from opinions of the Attorney Generals, given on four different occasions, from 1843 down to a period five years ago. The opinions of the Attorney Generals have been uniformly that the President cannot thus restore military officers. The custom which has grown up during the emergencies of the late war, and which probably may be continued now, operates as a wrong to the Army, and will, unless corrected, be, I think, a peculiarly dangerous precedent for the future. In my view, this bill should be passed rather as a declaration of what the law is, though there is no distinct statutory provision—a declaration of what the Constitution teaches in this matter—a declaration of the construction uniformly adopted in the decisions of the Attorney Generals, than the making of a new law.

Mr. NIBLACK. I will say to the gentleman very frankly that I was induced to make my inquiry in consequence of a sort of impression which seemed to prevail in the minds of members around me, that this bill is intended to operate more particularly on the case of General Fitz John Porter, a case which has acquired some prominence before the country.

Mr. GARFIELD. I do not hesitate to say that if it be conceivable that in the case of an officer dismissed from the Army so long ago as 1862, cashiered and forever disqualified, by the duly approved sentence of a court-martial, from holding any office of trust or profit under the United States, the President would attempt, after such an interval of time, to restore, by mere proclamation, such officer to the service, then it would be in my view the best possible reason why we ought to pass such a bill as this. I call the previous question.

Mr. DAWES. I ask that the bill be again read.

The bill was again read.

Mr. DAWES. Mr. Speaker, while I agree with every word which the gentleman from Ohio has said, I suggest the form of his bill leaves the inference fairly to be drawn up to this hour, and up to the passage of this bill, it would have been legal so to restore officers. In order to avoid any such inference he should put his bill in form of a declaratory act rather than in the form of a bill forbidding it hereafter.

Mr. LOGAN. I desire to know whether the effect of this bill is not to give power to the President to appoint officers which he has not power now to appoint?

Mr. GARFIELD. I do not so understand it. It has been long settled as a matter of military jurisprudence that the mere sentence of cashiering does not carry with it disqualification from holding office. The sentence must say the officer is cashiered, and also there must be a special clause declaring disqualification from further holding office. This does not change the law in that regard.

Mr. LOGAN. That is not the point. It is now the law if the court-martial does put in their decision that the party cashiered shall not in the future hold office in the United States, military or civil, he is then deprived of the right of ever holding office. Under this bill it is provided he shall not hold office unless reappointed by the President. Does not this bill take away the sentence of not holding office and give power to the President to reinvest him with the power to hold office?

Mr. GARFIELD. Not at all. If it did I should be opposed to it.

Mr. LOGAN. Let the bill be again read.

The bill was again read.

Mr. LOGAN. Now, Mr. Speaker, I insist my position is correct. Under this bill the President will have power to reinvest a man with the power of holding office after having been declared by the sentence of a court martial he should be disqualified for ever after from holding office. It says they shall not hold office were they have been cashiered except the President shall reappoint and the Senate confirm them. That exception, if I understand the construction of law, does give power to the President to reinvest a man with the right to hold office of which he had been divested by court-martial. Now in order that the law may be so drawn, that there will be no dispute about it, I will move, if the gentleman will allow me, to recommit the bill to the Committee on Military Affairs. Let the committe reexamine the subject and I think it will be found the chairman is mistaken in his opinion.

Mr. GARFIELD. It does certainly imply that the President of the United States, by and with the advice and consent of the Senate, may restore a person to military office by appointment who has been merely dismissed or cashiered.

Mr. LOGAN. Certainly.

Mr. GARFIELD. Mere dismissal or mere cashiering does not, I affirm, take away from any officer the right to hold office. It is only where he is expressly sentenced that he shall not be qualified to hold office that such disability can be incurred. Therefore the declaration that with the consent of the Senate the President may restore persons by reappointment who have only been dismissed or simply cashiered does not extend his power over persons who, in addition to being cashiered, have been by express sentence of court-martial disqualified from ever holding office. That is a separate and distinct thing not included in the words "dismissal" or "cashiered," and therefore is not touched upon in this bill.

Mr. LOGAN. Will the gentleman let me ask him a question? Is it not the rule now when we speak of a man being disqualified from holding office hereafter that it is the penalty which follows being cashiered?

Mr. GARFIELD. No, sir.

Mr. LOGAN. If you examine the law you will find it.

Mr. GARFIELD. I have examined the law both as a member of a court-martial and as a member of the Committee on Military Affairs, and it has been long ago adjudged as a matter of military jurisprudence that the simple sentence of dismissal or cashiered does not carry with it any future disqualification.

Mr. LOGAN. Is not this disqualification from holding office a penalty which follows cashiering?

Mr. GARFIELD. Not at all, unless expressed in the sentence.

Mr. LOGAN. Certainly; I understand that; but the word "cashier" carries with it, as I understand, the power to disqualify from holding office.

Mr. GARFIELD. That is where the gentleman is mistaken. The decisions of the courts-martial have long settled that the word does not carry that power.

Mr. LOGAN. But where the court cashiers does it not imply the power of the court to affix that as a penalty following the cashiering?

Mr. GARFIELD. Well, they have that power anyway.

Mr. LOGAN. That being the case I insist that by this bill as reported, where an officer has been cashiered and deprived of holding office hereafter, by virtue of the finding of the court-martial, the President would have the power to reappoint him, with the advice of the Senate, although the court-martial had decided that he never should hold either civil or military office in the United States. This is giving to the President a power that he now has not under the law. I therefore desire to have the bill amended in that particular.

Mr. GARFIELD. I have no objection to that.

Mr. LOGAN. Then I move to recommit the bill to the Committee on Military Affairs, with instruction to make that amendment.

Mr. PAINE. Before that is done I desire to ask a question of the chairman of the committee.

Mr. GARFIELD. If the gentleman from Illinois will withdraw the motion I will renew it in a moment.

Mr. LOGAN. I will do so.

Mr. PAINE. I wish to inquire of the chairman of the committee as to the effect of this bill in a case of this kind: where an officer is tried by court-martial under charges which could properly be punishable by dismissal from the Army and he is acquitted by the court, but the reviewing officer disagreeing with the court and disapproving its findings dismisses the officer from the Army, I would like to know whether the effect of this bill is to prevent the President from restoring that officer who has been dismissed from the Army under such circumstances.

Mr. GARFIELD. Not at all. By the act of July, 1862, the President of the United States was empowered summarily to dismiss without trial. He granted that power to some subordinate commanders, and it was exercised to a very great extent during the war, so that hundreds of officers were dismissed by their commanding officers without trial. Now that law has been repealed, and there is no power vested at this time in any officer to dismiss a subordinate officer of the Army without the authority of the court-martial. In case a court-martial should find a man innocent and the finding should be disapproved and the officer dismissed, that would be a summary dismissal which is now forbidden by law. But even though it were not forbidden by law it would nevertheless be a summary dismissal and not such a dismissal as is contemplated in this bill, in accordance with the decision of the court-martial.

Mr. PAINE. One more question which concerns the character of officers of the volunteer army. Take the case of an officer who was dismissed pursuant to sentence of a court-martial near the close of the war. Now it might be very desirable for such an offieer to have the disgrace removed although he might have no desire to be reappointed. Would the effect of this bill be to prevent the President removing the disgrace following the sentence of the court-martial?

Mr. GARFIELD. Not in the least. The President may declare, as is declared in orders now every day, that the findings of a certain court-martial are revoked and the officer honorably dismissed, the dismissal to date from the decision of the court, two or four years ago. That merely takes off the stain. But what we propose in this bill is, however much he may do in removing the stain from an officer, by way of revoking the finding, that he shall not restore him to service without the consent of the Senate—he shall not have power to thrust a man back into the Army who by regular, due course of judicial proceeding has been put out. That is all.

Mr. MUNGEN. I desire to ask the chairman of the committee if this bill would apply to a case which I will state—the case of a friend of mine who was colonel of one of the Ohio regiments. Charges were preferred against him by a subordinate officer, desirous, as I suppose, of getting his place. Those charges were sent to the War Department in the sum-

mer of 1862, and he was summarily dismissed by order of the Secretary of War on the 3d day of July. He was never tried by court-martial, and I believe there is no record on file which had the approval of the President. I wish to know if this bill would stop an application now pending to remove that stigma and permit him to have an honorable discharge.

Mr. GARFIELD. My colleague will see that this bill does not touch such a case at all. It is confined exclusively to cases where the officer was tried by general court-martial and the finding regularly and formally approved dismissing him or cashiering him. It would not touch the case of an officer who was dismissed by summary process, and therefore the case to which the gentleman refers would not be in the slightest degree affected by it.

Mr. MUNGEN. The point is whether an order of the Secretary of War is not of as high authority as the decision of a court-martial.

Mr. GARFIELD. No, sir; that case does not lie within the range of this bill at all. At the suggestion of the gentleman from Illinois [Mr. LOGAN] I am now willing that the bill shall be recommitted.

Mr. PAINE. I move to amend the instructions to be given to the committee on the recommitment so as to require them to insert in the bill a proviso that it shall not be so construed as to prevent the President from removing the stigma from the name of an officer.

The SPEAKER. The Chair did not understand the gentleman from Illinois [Mr. LOGAN] as moving instructions to the committee.

Mr. LOGAN. No, sir; I only move to recommit the bill.

Mr. PAINE. Then I withdraw the amendment.

The bill was then recommitted to the Committee on Military Affairs.

THE FENIAN TRIALS.

Mr. BANKS. I ask leave to present a letter from the Secretary of State in answer to a resolution of the House, and ask that it be read.

The Clerk read the letter, as follows:

DEPARTMENT OF STATE, *December* 10, 1867.

Hon. N. P. BANKS, *Chairman of the Committee on Foreign Affairs, House of Representatives:*

I have the honor to acknowledge the receipt of your letter of the 9th instant, accompanied by a copy of a resolution passed by the House of Representatives November 25, 1867, calling for information in relation to the trial and conviction of American citizens in Great Britain.

In reply I have the honor to inform you that as it is not usual or in conformity with law to remove such papers from the archives of the Department, it will be necessary to have them copied. This, with all the diligence which may be used by the extra force which will be required for the purpose, will consume much time, as the documents are very voluminous.

I have the honor to be, sir, your obedient servant,
W. H. SEWARD.

Mr. BANKS. I move the reference of the letter to the Committee on Foreign Affairs. I may say in addition to what is said in the letter, that the Secretary supposes that at the meeting of Congress after the recess the papers will be ready.

Mr. BANKS's motion was agreed to.

EXTRA PAY OF GOVERNMENT EMPLOYÉS.

Mr. WELKER. I am instructed by the joint Committee on Retrenchment to report the following resolution:

Resolved, That the Secretary of the Treasury, the Secretary of War, the Secretary of the Interior, the Secretary of the Navy, the Secretary of State, the Postmaster General, the Attorney General, the Superintendent of Public Printing, and the Commissioner of Agriculture be directed to furnish to this House the aggregate amount of the twenty per cent. allowance to the clerks and employés of their respective Departments for the year ending June 30, 1867, under the act of Congress authorizing the payment thereof.

Mr. ROBINSON. Does that refer to the Treasury Department?

The SPEAKER. It is a report from the joint Committee on Retrenchment.

Mr. ROBINSON. Ought not these matters to go to the different committees on the expenditures of the Departments? Is this a general committee?

The SPEAKER. The Committee on Retrenchment has general jurisdiction of this subject, while the several Committees on the expenditures of the different Departments have specific jurisdiction.

Mr. ROBINSON. I intended at some time to bring up this subject. Either these committees should be abolished or this general committee should not take the whole of these matters into consideration.

The SPEAKER. These committees on the expenditures of the various Departments have had referred to them such portions of the President's message and accompanying documents as relate to their duties.

Mr. WELKER. I do not see any difficulty growing out of this resolution. It simply asks for information. I was directed by the committee to report this resolution and ask for its adoption. The information when received will go to all these other committees as well as to ours. Of course we do not propose to assume exclusive jurisdiction of this question, or at all to interfere with these other committees.

Mr. ROBINSON. When this subject comes up on the reply to this resolution I will have something to say.

The resolution was then adopted.

B. B. FRENCH.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported back the petition of B. B. French for an allowance for services rendered in the office of Commissioner of Public Buildings after said office was by law abolished, with a recommendation that the committee be discharged from its further consideration, and that the same be referred to the Committee of Claims.

The recommendation of the committee was concurred in.

ADVERSE REPORTS.

Mr. COBB, from the Committee of Claims, reported adversely upon the petition for the relief of Aquilla Lockwood, the petition in the case of Samuel Strong, and the petition of Mrs. Jane Nave, with a recommendation that the committee be discharged from the further consideration of the same, and that they be laid on the table.

The recommendation of the committee was concurred in.

Mr. COBB moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Massachusetts, from the same committee, reported adversely upon the memorial of N. M. D. Lathrop, the petition of Mary E. Seay, and the memorial of five hundred inhabitants of the town of Chambersburg, praying for an appropriation to reimburse them for damages done by the rebel General McCausland, with a recommendation that the committee be discharged from their further consideration, and that the same be laid on the table.

The recommendation of the committee was concurred in.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HARDING, from the same committee, reported adversely upon the petition of D. S. Beckstressor, with a recommendation that the committee be discharged from its further consideration, and that the same be laid on the table.

The recommendation of the committee was concurred in.

INDIAN LANDS IN KANSAS.

Mr. VAN WYCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to inform this House whether the title to the Indian lands in the State of Kansas have been extinguished, or what part thereof; when the same were so extinguished; who purchased said lands; at what price; whether the sale thereof was publicly advertised, or in what manner were they disposed of; also, if any were sold by contract to furnish copies of the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the amendment of the House of Representatives to the bill of the Senate No. 143, to change the name of Samuel Chase Barney, jr., to that of Samuel Chase DeKrafft; and that the Senate had agreed to the amendment of the House to the title of said bill, with the following amendment: amend said amendment so that the title of the act shall be "An act to provide for the changing of names of persons in the District of Columbia," in which the concurrence of the House was requested.

The message further informed the House that the Senate had passed the following resolution, in which the concurrence of the House was requested:

Resolved by the Senate, (the House of Representatives concurring,) That the select committee of the two Houses to revise and equalize the pay of the employés of each House be authorized to report by bill, joint resolution, or rule such provisions or regulations as may be necessary or proper for rearranging and defining the duties of officers or persons employed by each House or under their joint authority, for reducing the number of such employés, and generally for securing a reduction of the expenses and the more economical expenditure of the contingent fund of the House.

UNION PACIFIC RAILROAD.

The SPEAKER laid before the House a communication from the acting Secretary of the Interior, transmitting, in answer to a resolution of the House of the 9th instant, certain papers in relation to the Central Branch Union Pacific Railroad Company, and the San Francisco and San José Railroad Company; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

WASHINGTON MONUMENT.

The SPEAKER also laid before the House a memorial of the Washington Monument Society, praying for national aid to complete the Washington Monument; which was referred to the Committee on Appropriations.

UNION PACIFIC RAILWAY.

Mr. CLARKE, of Kansas. I ask unanimous consent to introduce for reference a bill in aid of the Union Pacific Railway Company, eastern division, supplementary to an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes."

Mr. WASHBURNE, of Illinois. I call for the reading of the bill.

The Clerk proceeded to read the bill, but was interrupted by

Mr. PIKE, who said: I object to the introduction of this bill, because I do not wish further time consumed now in reading it.

CIRCUIT COURT AT ERIE, PENNSYLVANIA.

Mr. SCOFIELD, by unanimous consent, introduced a bill providing for holding a circuit court at the city of Erie, Pennsylvania; which was read a first and second time, and referred to the Committee on the Judiciary.

PERSONAL EXPLANATIONS.

Mr. WARD. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on the Rules be instructed to report a rule that will confine members who obtain leave to make personal explanations to the legitimate objects of a personal explanation.

Mr. WASHBURN, of Indiana. I object.

ORDER OF BUSINESS.

Mr. BANKS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the President's annual message, on

which Mr. WASHBURN, of Wisconsin, was entitled to the floor.

PURCHASE OF RUSSIAN AMERICA, ETC.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, at an early day after the assembling of this House at the November session I submitted the following resolution:

"*Resolved*, That in the present financial condition of the country any more purchases of territory are inexpedient, and this House will feel itself under no obligation to vote money to pay for any such purchase unless there shall be more urgent and pressing necessity than now exists."

The resolution, though objected to by the chairman of the Committee on Foreign Affairs, was passed by a very decisive vote. On being interrogated by him as to what I meant by the resolution, I stated that I intended it as a notice to whom it might concern that this House would sanction no treaty for the acquisition of territory that did not commend itself to its judgment. I stated at the same time that I did not intend the resolution to apply to the purchase of Walrussia, for though my own mind was made up on that subject I presumed that there were gentlemen who would feel that they were not sufficiently advised of the merits of the resolution if it had that application. I now desire to occupy the attention of the committee upon a proposition that must soon come before the House for its action. I mean an appropriation to pay for Russian America. Immediately after the adjournment of Congress at the March session the President convened the Senate in executive session and submitted a treaty for the purchase of that country. With such secrecy had the treaty been negotiated that the whole country was taken by surprise when the announcement was made public. No man in the United States had asked for the negotiation of this treaty or that that country should be acquired. There was no public sentiment in favor of it, and not a single newspaper in the whole length and breadth of the land had ever advocated it. Yet, sir, in the absence of all this and upon his own motion the Secretary of State enters into a contract to pay the Government of Russia the sum of $7,200,000 in gold for a tract of country—in regard to which he knew little or nothing—that we did not need, that nobody wanted, and as far as known was utterly worthless.

When the treaty came up for ratification in the other end of the Capitol the strongest argument made in its favor was that as the treaty had been negotiated, not to ratify it would subject us to the imputation of bad faith and trifling with the czar of Russia and justly give him offense. This will be the argument that will carry the appropriation through this House if any shall do so. But, Mr. Chairman, that argument shall not influence me, and I hope that it will not influence anybody in this House, but that the Secretary of State may be given to understand that the Representatives of the people have other duties to perform than the sanctioning such extravagance and folly as this. Emboldened by his success in this Russian purchase, report has it that, having exhausted the regions of perpetual snow and ice, he has turned his attention to the tropics, and has negotiated another treaty proposing to pay a still larger sum, also in gold, to purchase if possible a more worthless possession than Russian America. But of that I do not wish to speak now to any extent. If it should ever come to the point when we are asked to make an appropriation to pay for it I will attempt to demonstrate the utter worthlessness of an acquisition made to meet the pretended wants of our Navy in a region where tornadoes and earthquakes are the constant fear of the inhabitants, and where the yellow fever prevails all the year round. As this last purchase, if reports are to be relied upon, is fast assuming proportions likely to be as embarrassing as this treaty with Russia now is, I beg to read a brief description of the island of St. Thomas. I read from a book entitled "The West Indies and the Spanish Main," by Anthony Trollope, published in 1860.

On page 232, in speaking of St. Thomas, he says:

"Things ought not, if possible, be all bad with any man, and I cannot imagine what good can accrue to a man at St. Thomas if it be not the good of amassing money. It is one of the hottest and one of the most unhealthy spots among all these hot and unhealthy regions. I do not know whether I should not be justified in saying that of all such spots it is the most hot and the most unhealthy." * * * *

"They cannot understand at home why we dislike the inter-colonial work so much,' said the captain of one of the steamships to me. By inter-colonial work he meant the different branch services from St. Thomas. They do not comprehend at home what it is for a man to be burying one young man after another; to have them sent out and see them mown down in that accursed hole of a harbor by yellow fever. Such a work is not a very pleasant one.

"Indeed this is true. The life cannot be a very pleasant one. These captains themselves and their senior officers are doubtless acclimated. The yellow fever may reach them, but their chance of escape is tolerably good; but the young lads who join the service, and who do so at an early age, have at the first commencement of their career to make St. Thomas their residence, as far as they have any residence. They live, of course, on board their ships; but the peculiarity of St. Thomas is this: that the harbor is ten times more fatal than the town. It is that hole up by the coaling wharves which sends so many English lads to the grave."

Speaking of the town he says:

"As seen from the harbor the town looks like a panorama exquisitely painted. The air is thin and transparent, and every line shows itself clearly. As so seen the town of St. Thomas is certainly attractive. But it is like the Dead sea fruit: all the charm is gone when it is tasted. Land there and the beauty vanishes."

But, sir, my object, as I have before said, is not to speak now of this "accursed hole of a harbor," nor of the negotiation which is said to be pending with one of the rajahs of Borneo for the purchase of a part of that island, but against the appropriation asked for to pay for Walrussia.

I ask the attention of the committee while I state some of the reasons why this treaty should not receive the sanction of the House.

If I shall succeed in showing that the country is utterly worthless and God-forsaken, or not being entirely without value, that we could have had all the benefits of it without the expense of purchasing it and the never-ending expense of holding and governing it, I think I may safely claim the judgment of the House against making any appropriation to pay for it.

I have before me what purports to be a copy of article four of the late treaty with Denmark. It is a curiosity in its way, and I beg leave to have it read. It will be readily seen on reading of the last paragraph that the honorable Secretary does not intend that this House shall have anything to say upon so trifling a subject as acquiring territory, for if he has stipulated for the possession of these islands, as soon as the treaty is ratified by the Senate, without waiting for the payment of the money, and thus placing us in the same embarrassing position with Denmark that we are now with Russia, it is by no means certain that the Senate will not ratify the treaty. I think they will; for if they could swallow Walrussia so easy these little Virgin isles cannot go hard with them.

Mr. BANKS. I submit, Mr. Chairman, that as the gentleman presents this as the fourth article of a treaty of which we have no official knowledge he ought to explain to us in what manner it comes into his possession.

Mr. WASHBURN, of Wisconsin. It is an article purporting to be the fourth article of the treaty with Denmark. How it came into my hands is unimportant. I assure the gentleman that I came by it honorably. I wish to call the attention of the committee to the peculiar phraseology of this article, particularly the last clause, which shows, I think, the intention of the Secretary of State, if he can get the ratification of the Senate, to ignore this House altogether.

The fourth article of the treaty is as follows:

"Immediately after the payment by the United States of the sum of money stipulated for in the fifth article of this convention, his majesty the king of Denmark will appoint an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States the territory, islands, property, and appurtenances which are ceded as above, including any fortifications or military posts which may be in the ceded territory, and for doing any other act which may be necessary in regard thereto. But the cession with the right of immediate possession is nevertheless to be deemed complete and absolute on the exchange of ratifications without waiting for such formal delivery. Any Danish troops which may be in the territory or islands aforesaid shall be withdrawn as soon as may be reasonably and conveniently practicable."

To a proper understanding of the character of the country ceded by the treaty with Russia I beg your indulgence while I advert briefly to the early discovery of it, and recount some of the impressions it made upon the minds of the early navigators, for to them we must go for the most reliable information in regard to this country; for strange as it may seem, though nearly one hundred and thirty years have elapsed since it was discovered, it was said by the strongest advocate of the treaty that at the time of this negotiation—

"No country upon the globe, unless, perhaps, Greenland and the interior of Africa, was as little known as Russian America."

It is now over one hundred and twenty-seven years since Vitus Behring, a Dane in the service of Russia, discovered the coast of Russian America. Leaving Kamtchatka in June, 1740, the expedition, consisting of two well appointed ships, set sail on their voyage of discovery. The St. Paul, under the command of Captain Behring, and the St. Peter, under Captain Tschirikow.

For some time it is said that the two vessels kept together, but a violent storm and fog coming on they were separated and saw each other no more. The expedition was supplied with several men of science, naturalists and botanists, who were to report on the natural history and botany of the countries discovered. Captain Behring appears to have discovered the continent July 18, 1741, in latitude 58° 28′. The country was described as "having terrible high mountains and covered with snow." Evidently that part of the country first discovered did not tempt him long, for, remaining two days only, he sailed southward, passing among the Aleutian islands and making several landings, the other ship sighting the coast July 15, 1741, at about where Sitka or New Archangel is situated. Captain Tschirikow sending his mate and long boat ashore with ten men, with a small cannon and small-arms, for the purpose of inquiring into the country and procuring water, the same disappeared in a wooded bay and returned no more. Not understanding the cause of their detention he dispatched his small boat in command of the boatswain, with a complement of men well armed, in pursuit. That boat disappeared and was never again seen, but soon after the natives appearing left no doubt as to their fate. Such were the inhabitants that peopled that coast at the time of its discovery, and whose descendants are so soon to be made citizens of the United States. That they have in no way improved since then I will presently show. Tschirikow, as if disgusted with his discovery, made no further attempt to land, but sorrowfully sailed for home. Adverse winds and storms prevailed, but at last he reached Kamtchatka, October 9, with a crew diminished from seventy to forty-nine, and history does not inform us that this gallant captain saw anything in the country that could tempt him to its shores again. Captain Behring, it is safe to presume, was equally disgusted, for, in the language of the most learned, able, and eloquent gentleman that has ever spoken on the subject of Russian America, while Captain Tschirikow was hurrying home as fast as the tempestuous seas would allow—

"Behring was driven, like Ulysses, on the uncertain waves. A single tempest raged for seventeen days, so that Andrew Hosselburg, the ancient pilot, who had known the sea for fifty years, declared that he had never seen anything like it in his life. Scurvy came with its disheartening horrors. The commodore himself was a sufferer; cables snapped, anchors were lost, and at last the tempest-tossed vessel was cast upon a desert island without a name, where the commodore, sheltered in a ditch, and half covered with sand as a protection against the cold, died December 8, 1741."

This all took place in that delightful climate and on that calm and placid sea of which we have heard so much of late, but of which we

knew so little until the recent discoveries of the Secretary of State.

The title of Russia dates from these discoveries, but so little did Russia think of them that no official of that Government set foot upon that inhospitable shore for forty years afterward, and on the maps published in St. Petersburg in 1776 showing the possessions of the Russian empire no mention of Russian America is made. This I learn from the learned gentleman that I have heretofore quoted. What report was made by the scientific men who accompanied the expedition I have not been able to ascertain, but had there been any which could have given us a favorable idea of the discovery the learning and researches of the advocate I have quoted would have brought it to light. All that I have been able to learn from the source from which I derive many of my facts, is that Steller, the faithful naturalist who accompanied the expedition, discovered a blue jay, with which discovery he was so much delighted that he gave it his own name. If any word of commendation of the countries discovered by Behring and Tschirikow ever escaped from either of these officers, or any person belonging to the expedition, the proof of it I think does not exist. I pass over a period of from forty to sixty years from the date of the discovery, during all which time Russia did not think it worthy of occupancy or a place on her maps, and I think that it cannot be said that the country was occupied by any Russian until the close of the last or the beginning of the present century, when the Russian American company took possession. The possession of Russia has been hardly more than nominal from that day to the present.

In 1811 Humboldt, in giving the position of the Russian factories on the coast, said that they were "nothing but sheds or cabins employed as magazines of furs, and that the term 'Russian possession' should not make us think that the country was really a Russian province." No better evidence of the estimation in which the country is held by the Russians can be found than in the fact that, according to the statement of the governor, up to 1839 only two hundred and forty-six Russians inhabited the whole country. Later reports, coming down to 1851, make a population of Russians of five hundred and five. The latest report, in 1860, makes the number of Russians "some hundred." That the country is utterly worthless and God-forsaken we may conclude, were other evidence wanting, from the fact that it has taken over sixty years to swell the white population to a few hundred, and of the character of that Russian population you can readily judge when told, as you are by Russian authority, that "the greater part of the inferior officers of the different settlements were Siberian criminals and malefactors, and adventurers of various kinds," all of which we can readily believe, for it is hard to see how any man not an outlaw would ever voluntarily settle in that country.

All the evidence we have in regard to the country goes to show its inhospitable and worthless character. Unfortunately the information we possess is of the most meager and unsatisfactory kind. The senatorial advocate, whom I have before quoted, says of it:

"Perhaps no region of equal extent upon the globe, unless we except the interior of Africa, or possibly Greenland, is as little known. Here I do not speak for myself alone. A learned German, whom I have already quoted, after saying that the explorations have been limited to the coast, testifies that 'the interior, not only of the continent, but even the Island of Sitka, is to-day unexplored, and is in every respect *terra incognita*.'" * * * * "Another writer of authority speaks of the interior as a 'mystery;' and yet another says that our ignorance with regard to this region would make it a proper scene for a chapter of 'Gulliver's Travels.'"

And yet this country which he declares to be almost wholly unknown he was willing to vote $7,200,000 in gold of the people's money to pay for. Long before Russia had reduced this country into possession, the French, under La Perouse, had visited the coast, and reported that if his Government had any disposition to occupy the country there was no one who could object. But they did not see fit to occupy it, and the inference is that they did not regard it as worth having. Probably his description did not allure his Government, as he declared that "the deep valleys of the Alps and Pyrenees did not present so frightful a picture as did that country."

Spain could with safety have disputed with Russia the honor of being the first discoverer. Certainly she once contemplated setting up a claim, but sending out an expedition to explore the coast in 1789 her claim was never again asserted, and I make no doubt that both France and Spain abandoned their pretensions simply because they regarded the whole country as absolutely valueless. Certain it is that the whole civilized world were content to allow Russia to possess and occupy it. The universal Yankee nation, ever awake to its own interests, and not overscrupulous in regard to acquiring new territory, never turned its eyes in the direction of Russian America. The propriety of its acquisition had never been mooted or discussed anywhere in the country. No newspaper had ever advocated it. No public man had ever publicly advocated it. Nobody demanded it. Nobody wanted it. Nobody had any information in regard to it. The press and the people of the Pacific coast, though generally considered as pretty wide-awake and knowing what they wanted, had not thought it was a desirable thing that we should possess it. Yet in the absence of all these things; in the absence of any knowledge of the country purchased the Secretary of State undertakes to wrench from our tax-ridden people the large sum of $7,200,000 in gold regardless of their wishes and in wanton disregard of the general welfare.

The hint upon which the honorable Secretary appears to have acted came from the Legislature of the Territory of Washington in the shape of a memorial, as follows:

To his Excellency ANDREW JOHNSON,
President of the United States:

Your memorialists, the Legislative Assembly of Washington Territory, beg leave to show that abundance of codfish, halibut, and salmon, of excellent quality, have been found along the shores of the Russian possessions. Your memorialists respectfully request your Excellency to obtain such rights and privileges of the Government of Russia as will enable our fishing vessels to visit the ports and harbors of its possessions to the end that fuel, water, and provisions may be easily obtained, that our sick and disabled fishermen may obtain sanitary assistance, together with the privilege of curing fish and repairing vessels in need of repairs. Your memorialists further request that the Treasury Department be instructed to forward to the collector of customs of this Puget sound district such fishing licenses, abstract journals, and log-books as will enable our hardy fishermen to obtain the bounties now provided and paid to the fishermen in the Atlantic States. Your memorialists finally pray your Excellency to employ such ships as may be spared from the Pacific naval fleet in exploring and surveying the fishing banks known to navigators to exist along the Pacific coast from the Cortes bank to Behring straits, and, as in duty bound, your memorialists will ever pray.

Passed the House of Representatives January 10, 1866.
EDWARD ELDRIDGE,
Speaker House of Representatives.

Passed the Council January 13, 1866.
HARVEY K. HINES,
President of the Council.

You all know how easy it is to obtain memorials from State Legislatures to Congress. Those who have lived in Territories know that it is still easier there. Well, it would seem that there was somebody in Washington Territory who knew there was a law giving bounties to fishermen. Doubtless some genius from Nantucket, Cape Cod, or Passamaquoddy, who had experienced the beneficent influences of the fishing bounty laws, (laws which paid a bounty for fish whether you caught them or not,) had settled in Washington Territory. Knowing how easy it was to make money by catching fish as well where they were not as where they were, he had conceived the idea of having the bounties transferred to the Pacific coast, and procured the memorial to be passed which I have read. No man was so insane in the Washington Legislature as to propose that our Government should buy that country. They knew that if there was anything there worth having it was only the right to fish, and that that right could be had for the asking. Indeed, at that very moment they exercised the right of fishing on that coast without molestation, and the real object of the memorial was to obtain the fishing bounty; but whatever the object was, it furnished no excuse for the unauthorized and unwarrantable action of the Secretary of State.

Who gave him the right to squander millions of the money of the people at this time of general financial distress, and to so complicate us with a foreign Power that it was urged as an excuse why the treaty should be ratified that we would offend Russia if we did not? I utterly repel any such reason, and regard as not entirely creditable the reason set forth in the treaty itself for making it, namely, "To strengthen the friendly relations existing between the two countries," as though this great nation in order to preserve friendly relations with another Power were bound to purchase at its own price the worthless possessions of that Power. If necessary to purchase the friendship of Russia in this way we shall next be told that to preserve the friendship of England or France we must buy some of their worthless possessions, and if the Secretary of State sees proper to put us in for a few hundred millions the people who pay the bills must not complain.

I shall be told that this treaty having been negotiated and ratified by the parties named in the Constitution for the negotiation and ratification of treaties it would be a breach of the public faith not to appropriate the money; and were this a treaty of peace perhaps it would be an act of bad faith; but this is no such treaty, but a treaty for the acquisition of territory, which the Constitution in no way provides for. Mr. Jefferson admitted that the purchase of Louisiana found no warrant in the Constitution, and he only justified it on the ground of imperious necessity. No such necessity exists here. I utterly deny that the Representatives of the people are under any obligations to vote money to carry out this treaty unless it commends itself to their judgment. Nor will it be cause of offense to Russia if we fail to make an appropriation and confirm the action of the President and Senate.

The czar has a minister here who has lived in this capital for twenty years. He speaks our language, and should be by this time somewhat familiar with the workings of our Government. He knew perfectly well when he was overreaching our Secretary in his land trade that the Secretary was promising what he had no power to perform without the aid of this House. He knew that before the trade could be finally consummated the Senate and House had both to act favorably on the subject. As a faithful minister he has no doubt notified his august master that the trade is not concluded until it has received the sanction of all parties concerned, and that the most important power to be consulted in this country is the people, and that he must not regard the case as settled until the final power had pronounced judgment. That it would justly give offense if we refuse to make an appropriation I deny; that it would be a grievous disappointment to find that he had not rid himself of this inhospitable and worthless country and bagged $7,200,000 in gold at the same time I admit. But it is something that he had a right to look for, and I have no doubt does look for, for I am sure that he has a better opinion of us than to expect us to vote money to pay for such a purchase as this. Could you intercept the dispatches of the Russian minister to his master I have no doubt that you would find that the czar has been fully informed that he must not regard the trade as consummated until it had received the sanction of the popular branch of the Government and that such sanction was more than doubtful.

Finding, then, no excuse for voting this money in the fact that the treaty has been negotiated and that Russia will be offended if we do not sanction it, I pass to the only question that can govern me, and that is, is it a desirable acquisition, and is it worth the money? I answer no. On yesterday, while

the discussion of the reference of that part of the President's message pertaining to this subject was pending, the honorable gentleman from Pennsylvania [Mr. STEVENS] took occasion to intimate that as this treaty had been negotiated and confirmed, this House had no alternative but must vote the money. This same doctrine has been enunciated here to-day by the honorable gentleman from New York, [Mr. PRUYN.] The discussion yesterday brought up the gentleman from Massachusetts, [Mr. BUTLER,] who controverted that position, and by his courtesy I called attention to some precedents on this subject; and as this controversy is likely to turn upon this very point of the right of the House in regard to treaties which require legislation before they can be carried into execution, I may be pardoned for referring again to those precedents.

In 1794 the British treaty, more commonly known as Jay's treaty, came up for consideration in the House. Edward Livingston offered a resolution calling upon the President for information in regard to the treaty. It was resisted by those gentlemen who took the view now taken by the gentlemen from Pennsylvania [Mr. STEVENS] and New York, [Mr. PRUYN.] A very lengthy and exhaustive discussion followed, and the resolution passed by a vote of 57 to 35. Among those voting for it were the well-known names of Edward Livingston, James Madison, William B. Giles, Nathaniel Macon, and other distinguished men. In the progress of the discussion Mr. Gallatin said:

"To what would a contrary doctrine lead? If the power of making treaties is to reside in the President and Senate unlimitedly; in other words, if in the exercise of this power the President and Senate are to be restrained by no other branch of the Government, the President and Senate may absorb all legislative power. The Executive has then nothing to do but to substitute a foreign nation for the House of Representatives and they may legislate to any extent." * * * * "He should not say that the treaty is unconstitutional, but he would say that it was not the supreme law of the land until it received the sanction of the Legislature."

Mr. Madison said:

"It was important, and appeared to him to be a decisive view of the subject, that if the treaty power alone could perform any one act for which the authority of Congress is required by the Constitution it may perform every act for which the authority of that part of the Government is required." * * * * "It was to be presumed that in all such cases the Legislature would exercise its authority with discretion, allowing due weight to the reasons which led to the treaty, and to the circumstances of the existence of the treaty. Still, however, this House in its legislative capacity must exercise its reason; it must deliberate, for deliberation is implied in legislation. If it must carry all treaties into effect, it would no longer exercise a legislative power. It would be the mere instrument of the will of another department, and would have no will of its own." * * * * "He thought the President and Senate would be as likely to make a bad treaty as this branch of the Government would be to throw obstructions in the way of a good one after it was made."

Mr. W. B. Giles, of Virginia, said:

"That he believed the House had a right, and if it was a right it must be also their duty, to oppose its execution by all the constitutional means in their power, as legislators, if they found it upon mature deliberation contrary to the interests of the people and the honor of the nation.

"The other check over the treaty-making power, he noticed, was the power of making appropriations, the exercise of which is specially vested in Congress. He begged leave to call the attention of the committee to this part of the subject. The Constitution says that no money shall be drawn from the Treasury but in consequence of appropriations made by law. This is no doubt intended as a check, in addition to those possessed by the House. It is meant to enable the House, without the concurrence of the other branches, to check, by refusing money, any mischief in the operations carrying on in any Department of the Government." * * * * * * *

"If the President can, by the assistance of a foreign Power, legislate against the rights of the House to legislate, and his proceedings are to be binding on the House, it necessarily destroys their right to the exercise of discretion."

I might read much more to the same point, but the opinions of three such distinguished statesmen as Madison, Gallatin, and Giles are enough for the present. And here I cannot but express my deep regret at the departure of my distinguished friend from New York, [Mr. PRUYN,] who is a bright and a shining light in the Democratic party, from the early teachings of such genuine Democrats as those whose opinions I have read.

This was the doctrine held by the House then, and good doctrine it was, and if it is only acted up to now there can be no doubt as to the fate of this treaty.

General Washington, then President, returned a message in answer to the resolution, in which he took the ground now assumed by the gentleman from Pennsylvania, [Mr. STEVENS,] but the House overruled him by a vote of 57 to 35, and passed the resolution which I read yesterday, but which I will read again:

"*Resolved*, That it being declared by the second section of the second article of the Constitution that 'the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided that two thirds of the Senators present concur,' the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress: and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

The same question arose in 1803, at the time the treaty was up in the House for the purchase of Louisiana, and it was conceded by the strongest friends of the treaty that the House had a perfect right to refuse to appropriate money to execute the treaty if it disapproved of it, and that was clearly the sense of the House. Even many of the Federalists, who took opposite grounds in 1794, conceding it, though they voted money to execute the treaty because it was commended to their judgment. (See Annals of Congress, first session Eighth Congress.)

The discussion on that occasion was very able, and is very instructing at this time. I cannot quote what different men said, but will quote a single paragraph from Mr. Randolph, a strong friend of the treaty. Said he:

"Does not the President of the United States submit this subject to Congress for their sanction? Does he not recognize the principle, which I trust we will never give up, that no treaty is binding until we pass the laws for executing it; that the powers conferred on Congress by the Constitution cannot be modified or abridged by any treaty whatever; that the subjects of which they have cognizance cannot be taken in any way out of their jurisdiction? In this procedure nothing is to be seen but a respect on the part of the Executive for our rights—a recognition of a discretion on our part to accord or refuse our sanction."

The possession of this Russian territory can give us neither honor, wealth, or power, but will always be a source of weakness and expense, without any adequate return. The annual cost of holding this country will be about as follows:

1. Interest on purchase money in currency, say $10,000,000 at seven and three tenths per cent	$730,000
2. Annual cost of government, with military power to protect it, not less than	3,000,000
Total yearly expense	$3,730,000

Where is the advantage or profit that can justify this great annual outlay? Is it in its climate and soil? I have before me a map made to illustrate this subject by that chronic department of the Government, the Coast Survey. By that it appears that from the line of British Columbia, in latitude 54° 40′, up to latitude 60°, a distance of over three hundred miles, and embracing all the country nearly that is not a region of perpetual snow and ice, the territory acquired is merely the coast line. Sir George Simpson, president of the Hudson's Bay Company, who had explored the coast and was perfectly familiar with the subject, says that nowhere is this tract over thirty miles wide. He voyaged along the coast between the island and the main, making frequent landings, in 1841, and his descriptions, I have no doubt, are entirely accurate. I beg leave to read from his "Overland Journey Round the World," leaving Fort Simpson September 1. He says, on page 123:

"We came to anchor for the night at the southern entrance of the Canal de Revilla. Both mainland and islands became more and more rugged as we advanced, rising abruptly from the very shores in the form of lofty mountains, with the ocean at their feet and the snow on their summits. In perfect keeping with the coast, the inland region consists of some of the wildest scenery in nature, of Alpine masses, in fact thrown together in tumultuous confusion. So uneven, in short, is the whole country, that within any reasonable distance of a stream, or a lake, a level site for a fort can hardly be found. Moreover, this land of rocks is as difficult of access, excepting on the immediate margin of the sea, as it is impracticable in itself."

Again, on page 126 he says:

"Starting again at five o'clock in the morning, with a foul wind and thick fog, we run through Stephen's passage, and when the mist cleared sufficiently for the purpose, the land on either side displayed to us mountains rising abruptly from the sea, and bearing a glacier from every ravine. Earlier in the season these glaciers would have been concealed by the snow; but now they showed a surface of green ice."

On page 134 he says:

"During our four days at Sitka, with the exception of a part of a day, there was one continued fall of rain." * * * * "In the morning when we got under way (September 13) the weather was cold and squally, while a little snow that fell in the night had partially whitened the green ice that filled the ravines in the mountains, and the channels were traversed by many restless masses which had broken off from the glaciers. In short, nothing could exceed the dreariness of this inhospitable coast."

This description of Sir George Simpson, as well as those of La Perouse, Cook, and the tempest-tossed Behring, fully justified the lines of Campbell, in his Pleasures of Hope:

"Lo! to the wint'ry winds the pilot yields,
His bark careering o'er unfathomed fields,
Now far he sweeps, where scarce a summer smiles,
On Behring's rocks, or Greenland's naked isles:
Cold on his midnight watch the breezes blow,
From wastes that slumber in eternal snow,
And waft across the waves' tumultuous roar,
The wolf's long howl from Oonalaska's shore."

The accuracy of this description is called in question by the learned authority so often alluded to, who declares that Campbell "libeled this coast," and in proof of it he cites some author who says "that reindeer, bears, wolves, and ice foxes are not found on these islands." If that be so, all that I can say is, so much the more credit to the wolves, and shows that they have more sense than some men. I presume that wolves do not live there, for it is hardly to be supposed that a respectable and sensible wolf would inhabit such a country if he could find any other place to stay in. But I think "the waves' tumultuous roar" was pretty well established by Behring, the first discoverer, and his ancient pilot, while the last voyager there, General Rousseau, if he did not hear the wolf howl, did experience a most terrible tempest on board the United States steamer Ossipee, which lasted several days and caused all on board to despair of ever reaching Sitka. One more word as to climate and I pass on. I quote from the same senatorial authority:

"The forests at Sitka are so wet that they will not burn, although frequent attempts have been made to set them on fire. The houses, which are of wood, suffer from the constant moisture. In 1828 there were twenty days when it rained or snowed continuously; one hundred and twenty when it rained or snowed part of the day, and only sixty-six days of clear weather. Some years only forty bright days have been counted. Hinds, the naturalist, records only thirty-seven 'really clear and fine days.' A scientific observer who was there last year counted sixty. A visitor for fourteen days found only two nautical observations could be made; but these were as fine as he had ever known in any country.

"The whole coast from Sitka to the peninsula of Alaska seems to have the same continuous climate, whether as regards temperature or moisture."

The correspondent of the New York Tribune, writing from Sitka, October 25, says:

"Meanwhile the weather has been unremittingly dubious. It was well the ceremonies of the transfer were held immediately on the arrival of the commissioners. Since then there has not been an hour of pleasant weather. In a word, Sitka is the region of incessant storms, dripping forests, dank masses, dense mud, and drifting mists. There Pluvius reigns with undisputed sway. It is the paradise of ducks and sea-gulls, of salmon and shell-fish. Three Arizona miners, disgusted with the aridity of that sunny region, and yearning for the sight of a cloud, if no bigger than a man's hand, decided last June to come to Sitka. They arrived just in time to enjoy the delightful humidity of August, the rainfall averaging about an inch daily. The desire of their souls has been satisfied. This opens the way for me to say a few things on the subject of meteorology. We have now been here seventeen days. Of those one was sunny, two cloudy without rain, seven partially, and seven

constantly rainy. According to the Russian meteorological tables, the average amount of rain falling during the past fourteen years has been 85¾ inches annually—a little less than Senator SUMNER's figures. May, June, July, January, and February are the driest months. All the rest are rainy, and August, October, December, and March intensely so. According to the measurement of Mr. Treskovsky, of the Russian Observatory, over twenty-one inches of rain fell during last August. On the 26th of that month he reports a fall of three inches. When the sun does break through the clouds it is laughable to see the cattle, mules, dogs, cats, and hens, as well as human beings, seek the brief sunshine, and bask in its transient warmth. These constant rains are especially annoying to the soldiers. Since the transfer of the territory they have been detailed from the steamer, twenty-five at a time, to serve on guard about town. Returning last night, after a four hours' endurance of the pitiless storm, one honest Celt, as he came dripping from the boat up the gangway, vented his indignation by exclaiming, 'Be Jasus, who bought this country? It wasn't me!'"

A fine climate truly, according to the showing of the friends of the treaty, where it rains three hundred days in the year. It is admitted that the cereals cannot be grown there, and that the inhabitants, even the most wealthy, live almost entirely on fish. Domestic animals are nearly unknown. The hog, for the lack of vegetable food, feeds on fish, rendering its flesh disgusting and unpalatable. "Neat cattle are unknown, except in one instance it is recorded 'a cow grazed for several years upon Oonalaska, and was then lost in the mountains.'" I have before me the voyages of La Perouse round the world in the years 1785, 1786, 1787, and 1788, published in London in 1798. He visited this coast in 1786. I have also before me the voyages of Captain Cook, published in London in 1784. Cook visited the coast in 1778. I should be glad, had I time, to read some of their descriptions, but must content myself by calling attention to the views which they give of the coast. La Perouse furnishes fifteen and Cook nine views of this coast. They will give the House a better idea of the country than any words of mine can. These views, in nearly every instance, represent the coast as rising abruptly from the sea, composed of barren rocks, and presenting the wildest and most forbidding appearance.

I invite their inspection by those who desire to become better acquainted with the character of our future possessions. In some instances there appears to be a little timber fringing the coast, with a background of bare and lofty mountains. Facts are worth a thousand theories in regard to isothermal lines. Cook found snow on the coast as late as June 8, south of where the peninsula of Aliaska joins the mainland. On the 26th of May, when near Cape Elizabeth, he says, on page 386, volume two:

"This land was everywhere covered with snow, from the tops of the hills down to the very sea beach."

La Perouse on the 3d of July, in latitude 59°, found the head of Behring's bay "covered with pieces of ice."

On arriving upon that coast about the last of June, 1786, he says, on page 67, volume two:

"The sight of land, which generally gives rise to the most agreeable sensations after a long voyage, failed, in the present instance, to produce the same effect upon us. Those immense heaps of snow, which covered a barren land without trees, were far from agreeable to our view."

While all must admit that the climate and soil is most forbidding, fully justifying the poet Campbell, whose muse, after exploring "earth's loneliest bounds," settled on this coast as furnishing the most perfect picture of inhospitality and desolation, yet I shall probably be pointed to the fur trade as affording a mine of wealth from which we are to be repaid all our outlays. But, sir, the statistics furnished by the friends of the treaty prove that the fur-bearing animals are fast being exterminated. It is a trade that cannot be increased, but must become less and less every year, as it has for years past. According to reliable statistics furnished by the friends of the treaty, the total value of furs sold for nine years, from 1850 to 1859, was 1,704,149 roubles, or equal to $1,281,862; equal to $145,465 per annum. As but a small part of that sum can be net profit, it will readily be seen that the fur trade can do but little in reimbursing our vast outlay.

Another will point me to the vast forests of timber which the imagination has pictured as existing there. I answer that there is no proof that the timber is extensive or valuable. On the contrary, the proof is entirely the other way. Whatever valuable timber there may be is situated below the peninsula of Aliaska, and skirting the coast to the southern boundary, and you will bear in mind that I have already shown that that part of the coast ceded is only thirty miles wide, and most of that inaccessible mountains. Captain Cook says that in visiting Norton sound they saw a "coast covered with wood, an agreeable sight," leaving us to infer that it was not a common sight on that coast; but he says that on walking to the interior "no trees were found over six or eight inches in diameter." At other times he speaks of the coast; being entirely destitute of timber, and covered with snow to the very water's edge the last of May. Other navigators in speaking of the timber in the region of Sitka, though mentioning the presence of large trees, express doubts in regard to the quality of it.

But why should we go to these frozen regions and upon these rugged mountains in pursuit of timber when we have hundreds of miles further south, in Washington Territory, upon Puget sound, inexhaustible forests of the finest timber in the world? A correspondent of the New York Herald writing from Sitka, in October, says the only value of the country is in its furs and fisheries, leaving timber out entirely.

Are you to find your reimbursement in the mineral productions of the country? If so, the evidence of their existence is unknown. Some years ago a report of the discovery of gold on the river Stikine in this territory sent a large number of California miners there, but after a thorough prospecting of the country they returned home bitterly disappointed and without any gold. Other metals in any quantity remain to be discovered. W. H. Dall, chief of the scientific corps of the Western Union Telegraph Company, reports that after many months' search he had found "a small seam of coal thirty miles below the bend of the river Youkon," but does not intimate that it is of any value. But I again inquire, why go to these inhospitable regions in pursuit of the precious metals when we have mines that a thousand years cannot exhaust nearer home? Should the country finally become ours it is greatly to be hoped that the precious metals will not be found there, but that our miners will remain and develop what we already possess.

Another will tell you that it is in the fisheries that we are to be reimbursed for the purchase and its vast annual outlays; and here I am compelled to admit that this coast abounds in a great abundance and variety of fish. The early navigators so declare, and they are confirmed by that recent and most intelligent observer, Sir George Simpson; but in speaking of the salmon, the fish best known and most abundant at Sitka, he says that "they are so inferior, however, in richness and flavor to such as are caught further southward that they are not adapted to exportation." The fish are plenty, no doubt of that; but how, I would inquire, are they to be cured in a climate where by the confession of the friends of the treaty it rains three hundred days in the year? It is simply impossible.

But, sir, there has never been a day since Vitus Behring sighted that coast until the present when the people of all nations have not been allowed to fish there, and to cure fish, so far as they can be cured in a country where they have only from forty-five to sixty pleasant days in the whole year. England, whose relations with Russia are far less friendly than ours, has a treaty with that Government by which British subjects are allowed to fish and cure fish on that coast. Nay, more, she has a treaty giving her subjects forever the free navigation of the rivers of Russian America, and making Sitka a free port to the commerce of Great Britain. Can any one doubt that Russia, our best friend, would have given us like privileges had we asked them?

As the fisheries are, in my judgment, the only thing valuable there (if indeed they are of any value, which may be well questioned) how much better for us to have enjoyed the privileges given to the subjects of Great Britain without the vast outlay in buying and the never-ending expense in governing and holding the country?

The last consideration presented why we should annex this country is that it will extend republican institutions and the blessings of free government to the people of that distant country; and this makes it proper that I should make you a little better acquainted with our future fellow-citizens. Of the Russian population I have already shown that they are largely Siberian criminals and malefactors. Of the native population, all accounts represent them as a most savage and inhuman race of beings. Sir George Simpson says of them, that—

"They are numerous, treacherous, and fierce, capturing and destroying two forts on the same day near Sitka, and butchering the unfortunate garrisons."

Again, he says:

"Immediately under the jaws of the fort at Sitka, there is a village of Sitkaguoays, or people of Sitka, who are a subdivision of the great tribe of Thlinkitts. They are the most wretched Indians in appearance that I have ever seen, being bedaubed with filth and paint, and covered with the scars of syphilis."

Other voyagers fully confirm his representations. The great advocate of the treaty thus speaks of them:

"For generations they have been warriors, prompt to take offense and vindictive, as is the nature of the Indian race—always ready to exact an eye for an eye and a tooth for a tooth. This character has not changed. As was the case once in Italy, the dagger is an inseparable companion. Private quarrels are common. The duel is an institution. So is slavery still, having a triple origin in war, purchase, or birth. The slave is only a dog, and must obey his master in all things, even to taking the life of another. He is without civil rights; he cannot marry or possess anything; he can eat only the offal of another, and his body when released by death is thrown into the sea. A chief sometimes sacrifices his slaves, and then another chief seeks to outdo him in this inhumanity. All this is indignantly described by Sir Edward Belcher and Sir George Simpson. But a slave once a freedman has all the rights of a Koloschian. Here, too, are the distinctions of wealth. The rich paint their faces daily; the poor renew the paint only when the colors begin to disappear.

"These are the same people who for more than a century have been a terror on this coast. It was Koloschians who received the two boats' crews of the Russian discoverer in 1741, as they landed in one of its wooded coves, and no survivor returned to tell their fate. They were the actors in another tragedy at the beginning of the century, when the Russian fort at Sitka was stormed and its defenders put to death, some with excruciating torture. Lisiansky, whose visit was shortly afterward, found them 'a shrewd, bold, though perfidious people,' whose chiefs used 'very sublime expressions,' and swore oaths, like that of Demosthenes, by their ancestors living and dead, 'calling heaven, earth, sun, moon, and stars to witness, particularly when they want to deceive.' (Voyage, p. 16.) Since then the fort has been repeatedly threatened by these warriors, who multiply by reënforcements from the interior, so that the governor in 1837 said, 'Although seven hundred only are now in the neighborhood seven thousand may arrive in a few hours.'"—*Belcher's Voyage*, vol. 1, p. 94.

La Perouse, in speaking of them (and it is admitted that they have not changed for the better) says, on page 134, volume two:

"I will, however, admit, if it be desired, that it is impossible for a society to exist without some virtues; but I am obliged to confess that I had not the penetration to perceive them. Quarreling continually among themselves, indifferent to their children, and absolute tyrants over their women, whom they incessantly condemn to the most painful labor." * * * * "These women are the most disgusting of any on the earth."

Such are the people over whom it is proposed to extend republican institutions. With an Indian war on our hands that is costing us untold millions it is proposed to pay $7,200,000 for a country where none but malefactors will ever live, and where we are likely to be at constant war with the savages. For these reasons I am opposed to voting money to execute this treaty, nor shall the fact that the territory has been delivered over to this Government change my purpose. I regard the action of the Secretary of State in receiving the territory before it was

paid for as a clever device intended to coerce the action of this House, and I trust that you will give him such a rebuke as will be a lesson to all future Secretaries, and teach them that the popular branch of the Government has not and does not intend to relinquish the rights that properly belong to it. I believe that it is the sober judgment of nine tenths of the members of this House that this territory ought not to have been purchased, at least at the present time. That judgment I hope they will adhere to, and leave the Secretary who has sought to force you into a false position to explain himself to Baron Stoekel, and get out of the scrape he has got into as best he can. In trying to place us in a false position his own true position is likely to be exposed. The country looks to this House to put a stop to all extravagant and unnecessary appropriations, such as this and all akin to it would be. If money must be squandered neither my constituents or the country shall reproach me with its having been done by any vote or agency of mine, and if at any time hereafter any indignant tax-payer shall put to me the same question that was propounded by the honest Celt at Sitka he shall have a like answer, "that it was not me."

Mr. BROOMALL obtained the floor, but yielded to

Mr. PRUYN, who said: Mr. Chairman, I sympathize with the gentleman from Wisconsin [Mr. WASHBURN] in the wish which he has just expressed to economize the expenditures of the Government; and if the majority in this House, the majority of the party in power, had been willing to listen to the suggestions and the propositions which emanated from the minority in this House in years past, we should have saved money enough fifty times over to pay for the purchase of Russian America, St. Thomas, and all the other purchases that the Government has contemplated making.

In the remarks which I made this morning in regard to this question I looked at it simply with reference to the question of obligation, and maintained that, when the proper branches of the Government have united in making a treaty according to the forms of the Constitution this House is bound to respect their action, unless it can be shown that such action was corrupt or fraudulent, or that the Senate acted under duress, in which cases, as was stated by Mr. Jay in the number of the Federalist to which I referred this morning, we would be at perfect liberty to disregard the treaty.

As to the value of this property, whether Russian America be worth a dollar or $50,000,000, as to what its climate is, and what the character of its population may be, I will say nothing. I suppose the Senate had fully informed themselves on these points before they ratified the treaty as they did almost by unanimous consent. And if I recollect correctly, the speech of Senator SUMNER, to which the gentleman has referred, so exhaustive on this subject, and covering the same ground, stated conclusions different from those of the gentleman from Wisconsin.

Now, sir, the time will come on the discussion of this subject in this House when we shall all be prepared on these points. I am not prepared to go into such details now. I am not prepared to say whether this was a valuable acquisition to the Government; but I supposed there was involved in it not only those considerations, considerations of honor, of national position, and of national strength, but also a desire on the part of the Government to extend its institutions as far as possible over the whole American continent.

Mr. MAYNARD. Will the gentleman from Pennsylvania allow me to put a question to the gentleman from Wisconsin?

Mr. BROOMALL. Certainly.

Mr. MAYNARD. I have no doubt the Government of the United Kingdom, knowing the embarrassment we are under, and the difficulty we find in paying for it, would be willing to take the bargain off our hands and pay Russia the amount we agreed to pay, and pay us a small bonus in addition. I ask the gentleman whether he would be willing to see our Government make such a transaction?

Mr. WASHBURN, of Wisconsin. I will answer it in the first place by asking another question. What reason has the gentleman to believe that Great Britain has any desire to make that purchase?

Mr. MAYNARD. In the first place, from the general purpose to get all the land she can everywhere under the sun increasing *a priori*. Again, without pretending to have any more precise information than the gentleman himself, I refer to the pricking up of ears in England when it was known this treaty was on foot and we were likely to make the purchase.

Mr. WASHBURN, of Wisconsin. The gentleman says his information is based upon the fact that Great Britain is struggling to take possession of all the land under the sun. I say this land cannot be considered as being under the sun. [Laughter.] But I do not know that England is desirous of obtaining any worthless purchases—securing the possession of land that will prove a source of weakness instead of a source of strength. I do not suppose she would take it even if we gave her $7,200,000 instead of her giving us that amount.

Mr. PAINE. I ask leave to say one word.

Mr. BROOMALL. If it does not come out of my time.

The CHAIRMAN. It will, unless there be unanimous consent.

Mr. BROOMALL. I do not yield if it comes out of my time.

There was no objection.

Mr. PAINE. I will consume but a few minutes. While I entirely agree with my colleague and shall vote when the time comes against the appropriation to pay for this purchase of territory, I must say I was sorry to hear his incidental remark to the discredit of the Coast Survey. I believe the services of the Coast Survey were most valuable to the Government during the war. I do not see how we could have carried on the war on the sea-coast if it had not been for the Coast Survey. It cannot be said those services were of the same value to the enemy, for while they were acting on the defensive we were acting on the offensive. We could not have carried on war operations upon the sea-coast without the services of this important and valuable department.

Mr. WASHBURN, of Wisconsin. I understand that my colleague takes exception to what I said in regard to the Coast Survey. I do not wish to enter into a discussion of this subject now. It was a matter to which I gave attention when I was here before, and I know something about it. When the appropriation comes up for the Coast Survey I shall wish to be heard. I will then take issue with my colleague. So far as my observation extended during the war—but I shall yield to my colleague on this point—the Coast Survey maps were useless on the coast of Texas, and we were compelled to depend upon the pilots there. But as I have said, I will not go into that question now.

Mr. BROOMALL. Mr. Chairman, it is well that the press and the people, legislators and their constituents, are directing their attention to the condition of the public finances. With an immense funded debt upon which we are paying interest at the rate of eight or nine per cent., much of it held abroad, and more constantly going there to pay for luxuries which we would be better without; with every species of property and every business interest overburdened by taxation; with prices decreasing, and the wages of labor decreasing in a greater ratio; with debts increasing by the steady reinstatement of the credit system, and even the same debt increasing in actual amount by the gradual appreciation of the currency, it is well that the public mind is being awakened to the dangers that threaten, that if not avoided they may at least be mollified, and that all the remedies within our reach may be sought out, tested, and applied.

In times like these it is natural that every one should have his peculiar scheme of finance, the precise remedy for all existing evils, some of them, too, without the pain which is always supposed to be the necessary accompaniment of recuperation, and ranging from those having many features in common to those diametrically opposite.

Among the various schemes proposed, that of the gentleman from Massachusetts [Mr. BUTLER] stands peculiarly prominent. Public attention has been directed to it for some months by adroit articles in the papers, combatted by articles which made up in asperity what they may have lacked in adroitness. Since the meeting of Congress that scheme has been set forth in an able speech by its inventor, which if not sound was at least specious, blending truth and error so ingeniously that it is not always easy to see the line dividing them.

I look upon this scheme as dangerous because it is plausible, because it sets off the apparent interests of the many against the real interests of the few, and because it promises that financial impossibility—an easy road from a depreciated currency to specie payments. I intend, therefore, to examine its leading features and to follow them to their necessary results.

It is easier to tear down systems than to build them, easier to point out defects in other men's theories than to establish unassailable ones ourselves. It is only fair, then, that I should set up a scheme of finance of my own, that others may have the advantage of attack of which I now avail myself, and this I intend to do before I conclude.

The gentleman from Massachusetts has been assailed with great bitterness for proposing to pay the principal of the bonds now falling due at the option of the Government, in legal-tender notes. In order not to be misunderstood, I will say in advance that I cannot consent to the payment of any portion of the funded debt, principal or interest, in depreciated currency against the will of the holders. But I cannot denounce that proposition as repudiation unless I had some harsher term to apply to the daily transactions of the Government.

If it be repudiation for the Government to force its creditors to take in full payment its own depreciated paper, then has every forced payment of any debt in that currency since its first depreciation been an act of repudiation.

When the soldier, who enlisted under a contract to receive a certain number of dollars monthly pay and bounty, and who gave the services and the blood which he contracted to give in full—when the soldier was forced to take in full payment the paper which the Government caused to be depreciated after his enlistment, the gentleman from Maine [Mr. BLAINE] sat in his seat here and raised no cry of repudiation. Is the claim of the man who loaned depreciated paper to the Government at par and who for five years has been receiving interest upon it as if he had loaned the full face of his bond in gold more sacred than that of the soldier upon whose side of the contract there was no discount?

I repeat I do not maintain that it is right to pay the principal of these bonds in depreciated paper, but I do maintain that that debt stands upon no higher ground than any other; that if the Government is bound, in law or morals, to pay that debt in the currency of the commercial world it is equally bound to pay every other debt in the same currency. The repudiation does not lie at the door of the gentleman from Massachusetts. He is but applying to one class of public creditors the rule which the Government applies to all others. He sees no ground for a discrimination in their favor; neither do I. The contract under which these men loaned their money is found in the act of Congress authorizing the loan. The object of the bond is to show who the particular creditor is and how much he loaned. The terms of loaning were unalterably fixed in the act itself.

If the bond should be found to set out different terms it would be simply so far void. It makes no difference what was promised by the Secretary of the Treasury or his agents in negotiating the loan. It makes no difference what Senators and members of Congress said before, during, or after the passage of the act. Congress can only speak by enactment, and no other department of Government can speak authoritatively on this subject at all. Therefore the contract is to be found upon the statute-books, and it is to be construed according to the rules of law.

Now what was the contract? The enactment on which the loan is based, the second and third sections of the act of February 25, 1862, simply authorizes the borrowing of so much money at a given rate of interest and for a specified time. It says nothing about the kind of money in which either interest or principal shall be paid. There is no room for any other inference, then, than the legal one, that the whole was to be in the lawful money of the country, and what that is the lender must look to the laws of the country to find out.

It is an attribute of sovereignty to coin money and to make it a legal tender for the payment of debts. This power has been exercised by all Governments, sometimes to the great injury of their subjects or citizens. The particular policy has often and justly been complained of, but the right has never been denied. It was in the exercise of this power that our own Government, in adjusting the relative values of gold and silver coins, long ago cut down the latter about one ninth of its former value, and thus compelled creditors to take in full payment about eight ninths of their just claims.

What, then, is the lawful money of the country? By the laws as they now stand we have two kinds, gold coin of a certain weight and fineness for the payment of duties upon imports and interest upon the public debt, and paper promises for the payment of all other debts and obligations, public and private.

It makes no difference in the legal rights of these parties that this new kind of money was adopted before they loaned to the Government, and was the very kind of money which they did loan to the Government; but it takes from them all cause of complaint upon the score of fairness. If we had borrowed when gold was the only lawful money, and had afterward created a different species of less value to pay in, we might have been accused of foul dealing, though in doing so we would only have followed the repeated example of Governments older than ours, and of much greater pretensions.

Can the creditor complain that he had no notice of the new money when the very act that authorized the loan created the new money? Can he complain that he had no notice when he loaned the new money, every note of which told him in language he could not mistake that he must take all his pay in it except the interest? He hoped the new money would soon be as good as coin, but he knew that it might not be. In taking the bond he took that risk, and, as I will show, he took the bond at a rate which fully paid him for the risk. He is disappointed, but all other creditors, public and private, are also disappointed, and he is entitled to no especial consideration or commiseration.

Much has been said here and elsewhere about the bad faith of paying the principal of the five-twenty bonds in currency. But there are two sides to this question. If this Government owes the money in gold it should pay it in gold; if it owes it in currency it should pay it in currency. It is just as bad faith to pay the money of the people to those who are not entitled to it as to refuse to pay it to those who are. We administer this money as trustees, and bad faith toward the *cestui que* trust is worse, if different at all, than bad faith toward a stranger.

Let us look at the question squarely. Now I admit the agents of the Government who negotiated the loan promised the lenders that the principal should be paid in gold. I admit that the chief one of them, Mr. Jay Cooke, in a letter which was published at the time, even went so far as to say that Congress had already made provision for the payment of the principal in gold. Strange that nobody else was ever able to find the provision! It is not pretended that these agents had legal power to vary the contract, but it is said that Congress, the only body authorized to bind the Government in the premises, acquiesced in the declaration of these agents by silence. Truly a novel mode of binding the Government to pay money! Hardly even an ingenious invention in the way of legislation. But was Congress silent? It had already spoken in the enactment that authorized the loan. It is constantly speaking in that enactment, published as it is to the world and made legal and binding, and continuing notice to everybody. More than that; Congress circulated far and wide on the back of every legal-tender note issued its notice that the principal of these bonds was to be paid in currency, and its caution to everybody not to believe the false promises of these agents.

Now, I would very much regret to believe that the holders of these bonds took them under a misapprehension that the Government had bound itself to pay the principal in gold. But did they do so? Were they deceived, or rather did they not know that these agents were hired to sell the bonds for a commission upon the amount sold? And did they not, therefore, rather look upon those promises and declarations as upon those of any other vender of commodities.

Now, I propose to show that these creditors have not been deceived. I propose to do this, not by their words—for a man's words are not always to be implicitly relied on in matters touching his interest—but by their acts—acts committed under a balance of interest, repeated so frequently, and continued through such length of time as will eliminate all material error.

What I propose to show is, that the original holders of the loan took it as one the principal of which was to be paid in currency, and that the loan has since that time passed from hand to hand in the markets of the country and abroad, and is at this time passing as one the principal of which is to be paid in currency.

The bonds which are now maturing at the option of the Government were issued pursuant to the act of February 25, 1862. They were made payable in five years, though not demandable until the expiration of twenty. This was the act which created the new money, the legal-tender notes, called currency to distinguish them from coin, though with no great propriety. The loan, amounting to $514,780,500, was all taken in currency and at par. I do not remember at what date after the passage of the act the negotiation began, probably about July 1, 1862. Up to June 30, 1863, $168,880,250 had been negotiated. An additional amount of $341,900,250 was negotiated during the year ending June 30, 1864, and the remaining $4,000,000 during the following thirteen months.

Now, during the year ending June 30, 1863, the average price of gold was $137 83, and as the interest was payable in coin the average rate of interest at which the loan was taken during that year was $8 27 per $100. This was the rate which the lenders had a right to expect, but the rate actually received for that year was still more. The average price of gold in the November and May following, when the interest was payable, was $163 75, so that the rate actually received for that year was $9 82 per $100. And all this, too, was over and above all taxation except the small pittance of income tax, amounting to but five or six cents per $100 of loan.

The average price of gold during the year ending June 30, 1864, the year in which nearly all the remainder of the loan was taken, was $158.08. The rate of intererest, therefore, which the parties had a right to expect was $9 48½, and the rate actually received, governed by the average price of gold in November and May of that year, was $9 78½.

If the advocates of this claim of the five-twenty bond-holders are to be believed, here was a contract under which the Government borrowed $100 at an average rate of $9 08 per annum, with a promise to pay $151 33 at the maturity of the bond if the currency system should continue the same, and with no possibility of loss if it should not.

Now, sir, bear in mind that during all this time there was the usual amount of borrowing and loaning going on in the community at six per cent. for permanent loans, payable, both interest and principal, in currency; loans which were subject to United States, State, and municipal taxation to more than twenty times the amount of income tax on the public bonds.

Were the people afraid to trust the Government? Why, it could purchase in the markets on time on the same terms with individuals. All its promises to pay in currency passed on even more favorable terms than the average similar ones of individuals. Its gold certificates, which were promises to pay gold, always passed for about the price of gold. More than all this, the public faith in the Government fulfilling its promises to the letter was tested and proved by placing the seven-thirty notes in the market side by side with these bonds. The notes bore a less rate of interest than the bonds. They were avowedly payable, principal and interest, in currency. Yet they were taken at par and with great avidity. You will say they were convertible into the bonds. True; and this might make them as good as the bonds, but no better. Yet they were taken in preference to the bonds, and difficulty was experienced in inducing the holders to part with them for the bonds.

Upon this branch of the argument, therefore, we have the facts that the original holders paid for the bonds in currency; they took them at a price which could only be justified upon the hypothesis that the principal was to be paid in currency; they had before them the acts of Congress which expressly told them that the principal was to be paid in currency; they took them at the same rate and side by side with the obligations of the Government known to be payable in currency and bearing a less rate of interest, and finally the gold certificates of the Government always sold in the same market for the price of gold. If after all this anybody will say that those original holders believed the Government to be bound to pay the principal in gold at maturity he will exhibit less faith in the intelligence of the bond-holders than I have.

I verily believe that the original takers of the loan expected the principal to be paid in gold or its equivalent, because it was then the general opinion that we would return to specie payments before the maturity of the bonds. But the same expectation was indulged in by all those who made long loans, public or private, and the Government is no more responsible for the disappointment in the one case than in the other. They took the risk, and at least the public creditors have been well paid for taking it.

I will now proceed to show that the present holders of the bonds, those who are passing them from hand to hand in the markets of the country and abroad, buy, sell, and hold them as bonds, the principal of which is to be paid in currency at maturity, and that nobody would be as much surprised as these very holders by the announcement that the Government was about to pay them in gold. The data upon which I rely is drawn from the transactions of these holders and dealers. I assume that they are men of intelligence, competent to calculate the value of their particular commodity, and that the sale prices as reported fluctuate around or rather oscillate alternately past the actual value as calculated. I take the transactions of 1866 in preference to those of 1867, partly because I can get the entire year, partly because the tendency toward prostration of business during the present year may have affected the data, and lastly, because the very discussion of the question has probably raised the

hopes of holders, and therefore, also, the prices of bonds.

In 1866 the average price of five-twenty bonds was $105 46. Part of this amount is due to the accruing interest, which varied from nothing to six months' arrears, making an average of three months, $1 50 in gold. The average price of gold during that year was $141 66. The interest portion of the price, therefore, was $2 12, leaving the part due to principal about $103 34. Now, the problem to be solved is, upon what hypothesis was the principal of the bond worth no more than $103 34 on July 1, 1866, the average date of the year? The interest being payable in gold would make the principal worth more than $100. If the principal were also payable in gold at maturity the bond should have been worth its face in gold $141 66, as compared with other Government and individual securities in the same market. That hypothesis, therefore, will not do. Let us look further. These bonds, as I have already intimated, are maturing. Now, supposing them to be payable in currency on January 1, 1868, what would $100 of them have been worth on July 1, 1866, with gold at the average rate during that year? This is simply a matter of calculation. Any one who will take the trouble to make it will find that a bond of $100, bearing gold interest, and with gold at the average price of the year, the principal payable in currency on January 1, 1868, was worth on July 1, 1866, just $103 95, sixty-one cents more than the average price of the year. If payable on January 1, 1869, and even allowing for the fall of gold until its average price for the entire time would be only $130, the value on July 1, 1866, would be $105 02.

One cannot examine a single list of quotations in the daily papers without being convinced that the holders of these bonds have no expectation of being paid in anything but currency at the maturity of their bonds. In that of November 23, 1867, gold is quoted at 139⅛, and five-twenties at 108. About seventy cents of this is due to accruing interest, leaving the price of the principal $107 30. Some of this is probably due to the hopes raised by this discussion; but let that pass. A calculation will show that with gold at that price, the bonds were worth just those figures on that day if they are to be paid in currency in three years and a half, before the expiration of half the time allowed for the option of the Government. By the same report the seven-thirty notes are quoted at 105⅞, not two dollars per hundred less than the five-twenties. Now this difference is due to the difference of interest, the former being $7 30 and the latter $8 35, strengthening the inference that the holders expect both to be paid at maturity in the same currency.

It has been asked why the ten-forty bonds are constantly quoted from five to ten dollars less per $100 than the five-twenties if the latter are not to be paid as the former are, in gold at maturity. The answer is easy. The ten-forty loan is at five per cent. in gold, the principal payable in gold at the end of ten years, but not demandable until the expiration of forty years. Now it is not to be presumed that the Government will pay those bonds before the end of the forty years. While six per cent. bonds are outstanding it would be folly to pay five per cent. ones before payment can be demanded. If we shall have returned to specie payments within that period, the provision for the payment of the principal in coin is of no value to the holder. All other debts will then be paid in the same manner. In that event we have simply a five per cent. loan and a six per cent. loan placed side by side in the market, and the entire difference is accounted for.

The average price of the ten-forty bonds in 1866 was $96 69. Of this $1 25 in gold or $1 77 in currency was due to accruing interest, leaving $94 92 as the market price of the principal. Taking the middle date of July 1, 1866, and assuming that we will arrive at specie payments by a gradual process in ten years from that date, and that the bonds will not be paid until their final maturity, I have taken the pains to calculate the true value of those bonds on that day, counting money to be worth six per cent. per annum, and I find it to be $94 46, just forty-six cents less than the average price for the year. It would seem that the dealings of the brokers' board are based either on nice calculations or remarkably good guessing.

A bond, the principal and interest of which is payable in gold, ought to be in no way affected by the depreciation of the currency. What difference could it make to the holder of such a bond if the inflationists should succeed in bringing about the state of things once existing in France, when it took ten thousand francs in paper to pay for a single dinner? Such a bond at six per cent. ought in this country always to be worth par in gold, and it would be to-day.

Having shown, as well as I am able to do it, that the proposition of the gentleman from Massachusetts is no more open to the charge of repudiation than is any payment of public indebtedness in depreciated paper, and that these bond-holders have no right to expect, and never did expect, payment of their principal in any currency except what may be legal tender at the time of payment, I proceed to that portion of his scheme of finance from which I entirely dissent.

He assumes that there is now no redundancy of currency; that such redundancy would be impossible if currency and interest-bearing bonds were readily convertible into one another at the pleasure of the holder. He proposes to issue $300,000,000 more of legal-tender notes, and a similar amount of bonds bearing a low rate of interest, which shall be placed in convenient public depositories, so that any man having more money than he needs in his business may "at any day and any hour" exchange it for bonds, and reconvert the bonds into currency whenever he may need it.

This scheme the gentleman calls "an automatic financial system, self-regulating, or rather regulated by the great law of supply and demand," and under it he says "there can be no redundancy of currency," no inflation, no depreciation.

I would like to be informed whether there is any other test of the redundancy of a currency than the price at which it passes in the universal currency of the commercial world. I certainly know none other. What is meant by a redundant currency? Let us first settle that question. Let there be no dispute about the meaning of words. While the prices of other things are measured in currency, currency itself has also its price. This is measured in the prices of all exchangeable commodities, and is governed by the laws of trade, founded upon the relation between supply and demand, like all other prices. If there should be more than is needed for the wants of the community the price will go down, if less, the price will rise.

It is impossible to tell except by the experiment how much money is needed by a community, and even the experiment will only enable us to fix the amount within wide limits between which it will fluctuate. There are too many elements of uncertainty in the problem. So much depends upon the habits of the people and upon the oscillations between overconfidence and unreasonable distrust that the amount varies with different communities of equal size, and with the same community at different periods of time. But whatever the required volume of currency is its aggregate purchasing power cannot be permanently increased by increasing the volume. Put $100,000,000 of gold afloat in a community already supplied, and the first effect would be to stimulate business and to raise prices. This would make the community worse to buy in and better to sell in. Exports would fall off and imports would increase. The final result would be that the excess would go abroad to pay the balance of trade, and the volume of currency would remain as at first with the old prices restored. But if no part of the increased volume can go abroad, as, for example, if the whole should be in irredeemable paper, then the final result would not be reached. The rise of prices would go on as before and continue until the purchasing power of the entire mass would be reduced to what it was before the increase of volume. When the equilibrium is restored by the former of these processes, that is, by the export of gold, it is manifest that there would not be too much money in the community. When it is restored by the latter, by depreciation, it is equally plain that there would not be too much money. There would be alternations of tight and easy money markets as in ordinary times, but business would be transacted with a lower measure of value.

The effect of depreciating the currency may be likened to shortening the yard-stick. When an equilibrium is reached, and prices have accommodated themselves to the new measure, there would be precisely the same amount of cloth sold, but there would be more yards of it.

It is impossible that there should be permanently too much currency in any community at the price at which it will pass when time shall have enabled the laws of trade to fix that price. No matter what the volume is there is some price at which it will pass and not be in excess.

We have, it is said, about seven hundred millions of currency. From the lapse of time and other circumstances we may infer that it has found its proper price measured in exchangeable things. That price is about seventy cents to the dollar. We are using, therefore, an aggregate purchasing power of $490,000,000 at the gold standard. This is probably about what we require.

Now, it is plain that we have too little currency at fifty cents to the dollar, too much at one hundred cents to the dollar, and just about enough at seventy cents.

To say that we have too much or too little currency is to talk nonsense, unless we put in expressly or by implication the element of price. We have too much to pass at par, but not too much to pass at the price at which it passes. When we speak of a redundant currency the price is embraced within the proposition by implication; we mean there is too much of it to pass at its nominal value in the currency of the commercial world.

I therefore deny the first proposition of the gentleman from Massachusetts. I affirm that our currency is redundant, and as the only legitimate evidence upon the question on either side I point him to the reports of the money markets of our country and Europe for the proof of my assertion.

It seems a financial paradox to some that there should be at the same time a redundancy of currency and a tightness in the money market, but the application of a few plain principles solves the whole difficulty. No matter what the volume of currency is, as soon as prices have become adapted to it an equilibrium is produced, the stimulating effect of inflation has ceased, and the laws of trade operate upon the entire mass as if there had been no inflation, making alternately plenty and scarcity, owing to the changing wants and habits of the people. When this period is reached the community is only using its natural aggregate purchasing power, which would be the same whether measured in sovereigns, francs, dollars, or legal-tender notes.

In cases of inflation it is only during the process of adaptation of prices to the new measure that money is superabundant and that business is unnaturally stimulated. When the adaptation is once established the reaction alone, without a diminution of volume, would produce a scarcity of money. This, however, would only be temporary, and would be the first of the oscillations between plenty and scarcity at the new standard of value. With continued diminution of volume this scarcity would continue with varying intensity until the community had compensated by financial distress all

the artificial prosperity consequent upon the inflation.

I now come to the "automatic, self-adjusting system of finance." The gentleman proposes to issue $300,000,000 more of legal-tender notes, and to place the like amount in bonds at a low rate of interest in the hands of public depositaries, so that the notes and bonds may be mutually exchanged at the convenience of holders. A man having too much money for his business will take it to a public depository and exchange it for a bond. When he needs the money for his business he will return the bond and take up his money. Thus no more money will be in circulation at any time than the wants of business require. This is the scheme and what it promises. It looks ingenious; so do some of the contrivances for perpetual motion; but, like those contrivances, the machine will not work.

In the first place, how will the gentleman get the man who has more money than he needs to loan it to the Government on call at a low rate of interest when he can loan it to his neighbor on call at the full rate? How will we get men to take the four per cent. Government loan at par when they can get the five per cent. gold loan at about par, and after keeping it as long as they wish sell it at an average advance of about the accruing interest?

In an average condition of business what proportion of the men of the country do not, in their own opinion, need more money in their business, and when they get more do not, in their own opinion, need still more? Probably not one in a thousand; certainly not one in a hundred. According to the doctrine of chances, then, if the $300,000,000 were all out, $297,000,000 would be in the hands of those who would put it into general circulation, and the remaining $3,000,000 in the hands of those who have no desire to use it. How much of this small sum would go to the public depository? Some holders would make permanent investment in Government bonds or on mortgage; some would buy land; some build houses. Only that small portion of it which the holders desired to loan on call would run the smallest risk of going to the public depository. And the holders of that could always do better by loaning it to their neighbors on call. Somebody always needs or thinks he needs money.

The self-adjusting machine might be ready to start for years, but it would not start, and the gentleman would find the bonds lying quietly in the public vaults and the notes put into general circulation further to depreciate the already depreciated currency. The result may be easily foreseen. If we have $1,000,000,000 of currency when we need but an aggregate purchasing power of $500,000,000 at the gold standard, as soon as prices have become adapted to the new measure of value the currency would pass for only fifty cents to the dollar.

Let us now suppose that the machine would work, that all the money which people do not need and do not think they need would find its way into the public depositories. What would be the result? Every business man has a reserve of some amount, governed by the character and amount of his business and the amount of his prudence. It is impossible more than to guess at the aggregate amount of these reserves, but it must be a very large sum of money. Hardly a man in the community has none. Many have thousands of dollars. It would not be strange if the aggregate amounted to $200,000,000. This would be thirty dollars per man to those legally capable of doing business. I speak not now of bank reserves, nor of individual reserves deposited in banks. These reserves are absolutely useless to the holders except to meet some expected or feared necessity. Now there is no function which these bonds could perform to as much profit to individuals as to fill the place of these reserves. And if they should leave the public depository at all they would find their way in time into these reserves, by virtue of that law of trade which carries all commodities to the place where they are of the greatest value. This would relieve the currency now performing that function, and put it into general circulation further to inflate the already inflated volume.

Besides all this, what would there be to hinder the bonds themselves from being used as currency? Being readily convertible into legal-tender notes they would be quite as good as bank notes in this respect. While the interest remained inconsiderable they would pass at their face value like the compound-interest notes, and when the interest became worth collecting they would be returned to the depository and exchanged for new ones. Taking all these things into consideration, the scheme of the gentleman from Massachusetts may be set down as an inflation of the currency to about the extent of his $300,000,000 of issue.

I have said that I will not single out the proposition of the gentleman from Massachusetts to be especially denounced as repudiation. Yet there is repudiation somewhere. I hold in my hand a paper containing these words, "The United States promise to pay the bearer ten dollars at the Treasury of the United States at New York." This paper bears the signature of the Treasurer of the United States, and was issued pursuant to an act of Congress. There is no future time of payment fixed, hence the note is due now and has been due ever since its issue. To ascertain what I am entitled to I examine the laws of the country existing at the time of the passage of the act, and I find that a dollar was a gold coin of a fixed weight and degree of fineness. I now take the paper to the place where payment is promised and demand ten of those coins and am refused. I can get ten promises to pay each one dollar, but I want no more promises; I want the money and cannot get it. I can pay my taxes with the paper, but I owe none. I can pay my neighbor the debt I owe him, and he dare not refuse to take it in full payment for the ten dollars in coin which he lent me half a dozen years ago. But this only substitutes my neighbor for myself, who will then have the same claim against the Government, which the Government will in like manner refuse to pay. Here is the repudiation—a debt acknowledged, presently payable, demanded, and refused to be paid.

Now there are $371,745,916 50 of these promissory notes outstanding, all due, all demanded, and thus far all repudiated. Let the Government fulfill these promises, and all question about the kind of money in which the five-twenty bonds shall be paid will be at an end. It has been held by the judicial tribunals that the Government has the legal right to issue these promises, but I deny that it has the moral right to dishonor them. It may make them a legal tender for all debts, public and private, but when they themselves come to be demanded it is repudiation to refuse payment.

It will not do to say that these notes are payable in currency. That is not payment, it is but exchanging one legal tender for another, one promise to pay for another. It is but renewing the paper. What is promised is payment, not exchange nor renewal.

This is general, wholesale repudiation, operating, not on a few wealthy creditors, but upon the entire community, and upon the poor in a greater degree than upon the rich, in proportion to their capacity to bear it. The laboring man who has earned his dollar demands payment of his employer. The employer offers him a claim against the Government. This he refuses upon the very good ground that he cannot trust the Government. It has already refused to pay the debt, and he cannot buy bread with it except at a ruinous sacrifice. He applies to the courts of justice, but he finds them closed against him by the stern edict of the Government. It will not let him sue his employer. It takes upon itself to pay the debt and then repudiates it. He is told that at some time in the far future the Government will pay him. As a good and confiding citizen he is bound to believe this; but he cannot wait. Hunger is the most powerful of all compromisers of claims, and he is forced to submit to the sacrifice.

The maimed soldier, whose form tells us at what cost he purchased the pittance the Government promises him; the pensioned widow, whose wasted life and desolate home attest the considerations which she gave the Government for what it is pleased to term its bounty—these people may point us to the dishonored promises to pay in which they are compelled to receive that which it is mockery to call payment for what they rendered to the country; and grave legislators look on and see no repudiation there.

I have been greatly astonished to see, coming from the quarter it does, a proposition to borrow $250,000,000 of gold in Europe and put it in circulation in lieu of that amount of the legal-tender notes, with the confident assertion that it would restore specie payments, that it would relieve the present financial embarrassments, and that it would remain in the country, stimulating business and restoring prosperity to every branch of public interests.

Let us examine how this scheme would work. Now the first promised result would undoubtedly be brought about. The redemption and cancellation of $250,000,000 of legal-tender notes would certainly raise the remainder to par with gold, with or without the substitution of that amount of coin. Without the substitution, because our $700,000,000 of currency would thereby be reduced to $450,000,000. We are now using an aggregate purchasing power of about $490,000,000 at the gold standard. Such a reduction would leave a margin of at least the difference which the operations of trade would fill with gold. With the substitution of that amount of coin specie payment would be resumed, because a mixed currency of coin and notes can only be used when the notes are redeemable in gold.

But I deny both the second and third of these promised results. The first effect of the operation would be to increase our aggregate purchasing power to $700,000,000. Prices would remain nominally as they are now, but really they would be three sevenths higher, because they would be at the gold standard. This would make our markets the best in the world to sell in and the worst to buy in. As a consequence imports would increase enormously and exports fall off, except as to gold, which would be the only profitable article of export. Very soon our aggregate purchasing power would be reduced to what it is now, and then the equilibrium would be restored. But in the mean time the gold would have all gone abroad, and we would be in precisely the condition in which we would be by the simple withdrawal and cancellation of that amount of currency.

My objection to this plan is that it proposes a foreign loan of gold for which we would get nothing ultimately but foreign fabrics and luxuries.

Now what would be the effect upon the business interests of the country? A general fall of prices would have accompanied the export of gold, and the excess of imports over exports of other commodities would only have ceased when prices had so fallen here that our markets had become as good to buy in as to sell in. Now it is this very fall of prices of all commodities all over the country that makes the trouble about resuming specie payments. It is the commencement of this fall of prices consequent upon the contraction now going on that causes the present financial embarrassments. Nobody buys or builds in a falling market. What merchant lays in a stock of goods with the certainty of having to sell them at a lower price than cost? Who manufactures knowing that labor and material are cheapening every day? Therefore it is that during contraction mills and machinery are idle, and laborers are hunting work and are unable often to obtain it upon terms that will barely support existence.

The road toward specie payment is no easy road. No matter what ingenious contrivances are resorted to the goal cannot be reached except through terrible privation and suffering, especially on the part of the laboring masses of the people, who have nothing to fall back upon, and who have been the more unfitted for the new condition of things by habits the direct consequence of the false prosperity of the recent years of inflation.

The man who expects our currency to reach the gold standard without producing terrible financial calamities and wide-spread distress among the poor had better make up his mind to be disappointed. All history, all sound theories upon finance unite to prove the thing an utter impossibility.

But a return to specie payment is a necessity. Nothing but the time and the manner are left to us to choose, and, like everybody else, I have my scheme embracing these elements. The principle of it is set forth in a bill of a dozen lines in the hands of the Committee on Banking and Currency; and I will now devote a little time to explaining its details and the results which, according to my opinion, it promises.

Setting out, as I do, from the stand-point that there is a redundancy of currency, and that the redundancy for any given point of time is measured approximately by the amount of depreciation, I propose a reduction of the volume of legal-tender notes.

Satisfied that the best time for an immediate resumption of specie payments has gone by, and that, however desirable it might be, the people will not submit to an immediate resumption, I propose that it shall be gradual. And believing that many of the evils of contraction will be lessened by the adoption of a rule that shall be known and understood by everybody, that shall not be dependent upon the caprice or even the judgment of any one man, and that shall operate most when most needed, I propose to let the fact as well as the amount of contraction be governed from time to time by the market price of legal-tenders.

Following out these ideas, the bill provides that the Secretary of the Treasury shall cause to be redeemed and canceled all legal-tender notes presented for redemption in sums not less than one hundred dollars each at one hundred dollars in gold for one hundred and forty dollars in notes during the first month after the passage of the act; one hundred and thirty-nine and a half during the second month; one hundred and thirty-nine during the third, and so on, reducing the redemption price fifty cents per month until it reaches one hundred dollars. This process would bring about specie payment in six years and eight months.

The advantages of this plan are: 1. That everybody would know when contraction was going on, and would know what legal tenders would be worth to him in the markets of the world at any given point of time in the future. Loans would be made and sales on time would be effected with reference to that price. A note at four months would be worth two per cent. more by the appreciation of the currency it was to be paid in. Hence sales on time and loans would be made on better terms to the purchaser and borrower.

2. The contraction would not be made as now at the arbitrary will of the Secretary of the Treasury, but would be governed by the laws of trade. If currency is in demand the price would go up, and there would be no redemption; if in excess, the price would go down and redemption would follow. Thus the contraction would occur when the business interests of the country could best bear it.

3. After the plan had been in operation a few months, the relative values of gold and notes would be fixed by it within very narrow limits, and the business of gold gambling would in a great measure be broken up. There would be no profit in hoarding gold, because it would become of less and less relative value, nor in hoarding notes, because the appreciation would be less than the interest on the amount.

This plan is not open to the charge of repudiation, because the redemption would always be voluntary on the part of the note-holder. An individual may fairly buy his own paper in open market at a discount. So may the Government. It may be the previous fault of the individual that this can be done. So it is that of the Government. The purchase of the paper in both cases is the commencement of the remedy. It appreciates the value of what remains.

I do not contend that this plan will avoid the financial embarrassments necessarily incident to contraction. That can only be done by the man who will invent a scheme by which it will be easy for debtors to pay in coin debts contracted in depreciated currency. But I do contend that it will lessen those embarrassments by pointing them out beforehand, and by keeping the money market in that condition which will force the community to make ready for them.

I know that plans for the redemption of the currency meet with little favor at this time in this body. I know there is a party here, and not a small one, in favor of issuing many millions more of these dishonored promises to pay. I know there is a clamor for expansion coming here from different parts of the country, but I warn gentlemen not to mistake it for the voice of the people. It comes from the mere surface of the body politic, that portion of it not yet sobered from the intoxication of the late expansion; the traders, the dealers, the brokers, who made all the profit out of the inflation, and who fear their occupation is gone; the bond-holders, who naturally wish to continue the system by which they get enormous rates of interest out of the Government. These people are always the first to be heard in the halls of legislation, and now I admit their voice is for inflation.

But let us not be deceived. This voice is not the voice of the people. Beneath this intoxicated surface of the community are the great producing masses of the country, people who received little or no benefit from the inflation, but upon whom the inevitable reaction is already falling with a heavy hand; men who ask only that the dollar which they daily earn and daily expend for bread shall be made the honest dollar of the country by the Government fulfilling its promises to pay. Beneath this noisy surface, too, are the men of small means, the savings of a life of toil, the widows, the orphans, and the old men living on fixed incomes, and the Government pensioners, all of whom find their small incomes taxed thirty per cent. by our failure to pay the notes due, demanded, and dishonored.

Those people constitute the great body of the community, long suffering and slow to anger, but capable when combined and aroused of overturning administrations, dynasties, and thrones. Their voice rarely reaches the ear of Government, but when it does, there is no other sound audible. In other countries these people are heard in popular outbreaks which rarely fail ultimately of the result. Here they speak at long intervals through the ballot-box, and I warn gentlemen that if we allow ourselves to be led away by this senseless and selfish clamor for expansion our seats here will soon be filled by those who will repudiate this repudiation of the Government, and who will demand that it shall pay these millions of promises due, demanded, and dishonored, to the uttermost farthing.

Mr. NIBLACK. I desire to propound a question to the gentleman, pertinent to a single point. I desire to know whether he considered it repudiation on the part of the Government when, some years ago, it compelled its creditors to take greenbacks on gold contracts, and also compelled the soldiers to take greenbacks for their pay?

Mr. BROOMALL. The gentleman has wholly mistaken my position. I do not say it is repudiation for the Government to compel its own creditors or any other creditors to take legal tenders. I say it is repudiation to refuse to pay the legal tenders when they become due and payment is demanded.

Mr. WASHBURNE, of Illinois. At the close of the speech of my colleague [Mr. Ross] on Saturday, I was unable to get the floor to reply before the adjournment. In asking the question which I did of him and upon which his speech was founded, whether he was in favor of a further issue of paper money by the Government, and a consequent depreciation thereof, the gentleman declared himself in favor of a further depreciation of the currency.

It was that admission I desired to obtain of him; and I now hold him to his declaration before his constituents and before the country. He stands committed to a policy most fatal and destructive to every interest of the laboring classes and to the best interests of the country. It is a policy that is paralyzing business, destroying confidence, and leading to universal bankruptcy and ruin. It is the policy of the stock-gamblers, the shysters, the bankrupts, of stock-speculators, and gold-eaters of Wall street, in whose interest my colleague seems to be acting; a policy which may enable that class of people to get rich, but which must impoverish his and my constituents; a policy to make the rich richer and the poor poorer; a contrivance for absorbing the hard earnings of the laboring classes of his district; a warfare against their industry, frugality, and economy. It is a policy which has plundered the laboring men, for while, as I said on Saturday, it has increased the price of the commodities they must consume ninety-three per cent., their wages have been increased only sixty-three per cent.

The gentleman saw fit to speak of me as being in the interest of the banks. I do not know what warrant he had so to speak of me in that regard. Did he suppose I was in the interest of the banks because he had called upon me to aid him at the Treasury Department in getting national banks for his Democratic constituents?

He spoke of me as wishing to pay off the widow and the discrepit soldier in depreciated paper currency and the bondholders in gold. Sir, I will not permit the gentleman to set a back fire and then escape under cover of the smoke he has raised. I will not here discuss the question of the taxation of the Government bonds further than to say that if they are taxable why has not the gentleman brought in a bill for that purpose—for he has been here during all the period of our legislation upon that subject? Is it because it will affect the interests of his Democratic national banks which he represents in Pike, Schuyler, Brown, and Fulton? If he thinks the bonds can be taxed let him bring in his bill for that purpose; let the law be passed, and then let the question of its constitutionality be submitted to the Supreme Court.

But the gentleman proposes further to dilute the currency by issuing untold millions more of irredeemable paper. He called it "watering the currency"—a sort of "swill-milk" operation, [laughter,] which, when applied to milk, is made by the statutes of many of the States a punishable offense; but unfortunately there is no punishment by statute for the man who is guilty of "watering the currency," of inflating the paper money of the country, although it is robbing the people and poisoning the very fountains of their wealth and prosperity.

Let the gentleman be held to his "swill-milk" policy; let him not try to squirm out of the effect of the policy which he has boldly announced as the platform he is to stand upon. I ask the constituents of the gentleman to look into the scheme of paper rags which he is so much in love with—paper worth even now but seventy cents on the dollar; and following the example of the rebels he proposes to go on "watering" it until it will take a bushel of it to buy a breakfast; until there will be no possibility of the redemption of a single dollar of it, and the whole amount be wiped out like the old continental money, or like the the French assignats at the time of the French Revolution.

My colleague did not tell the House how he

was going to pay his greenbacks, except by his answer to the question of the gentleman from Maine, [Mr. BLAINE,] that when one batch was used up he would grind out another batch. Let the gentleman's scheme be carried out, and there would have to be issued and thrown upon the country five hundred million dollars more of irredeemable paper money; and what would be the inevitable, indisputable result? Our money, now worth seventy cents on the dollar, would become worth only fifty cents. Every dollar of every man, woman, and child in my colleague's district would be depreciated twenty cents, and they would in that process be compelled to contribute that twenty cents on every dollar they possessed to carry out this fatal and criminal scheme—a scheme of again flooding the country with wild-cat, stump-tail, red-dog shinplasters, following the example of the rebels, and leading to the result which was obtained by the bogus confederacy, when, after issuing their immense volume of worthless currency, they could find only one avenue of escape, but one way of extricating themselves, and that was by declaring by law that all issues of money up to a certain date should be declared valueless.

The gentleman spoke of a great reaction. The greatest reaction I know of in our State was in his own district in 1866 when he was elected by some six hundred majority over General Lippincott, while in 1864 he had some four thousand majority. That, sir, is a "reaction" worth talking about. Perhaps this is the manner my colleague has selected to revenge himself for that "reaction," upon friend and foe alike, by inaugurating legislation so destructive to all their interests.

But what would he do with the "widow" and "decrepit soldier" under his scheme? I understand the gentleman's sympathy for the widow and decrepit soldier; I know the value of his crocodile tears. [Laughter.] Where was his sympathy during the war? Was it shown in his vote against the Army bills and enrollment bills? Was it in his vote against the bill punishing guerrillas and bushwhackers for assassinating and murdering his soldier constituents? They already receive under his rag-money policy but seventy cents on the dollar, and he proposes to reduce that seventy cents to fifty cents. That is the gentleman's scheme by which the pensioned widow and wounded soldier are to have their pensions reduced twenty cents on the dollar below the amount they now receive?

Why does my colleague want to strike that blow at the soldiers of the Republic, who upheld our banner through carnage and blood upon all our battle-fields, and finally saved the life of the nation? Is it because he had no sympathy with the cause for which they fought? If that is the platform upon which my colleague means to go before his constituents in another canvass he will be spewed out by all parties so utterly that it may become necessary for him to obtain a certificate that he was a candidate at all. He may satisfy the soldiers in his district by reducing their pensions from seventy cents on the dollar, where his policy has already carried them, to fifty cents; but for the brave soldiers of my district it will be my struggle so to appreciate the currency that they may receive their one hundred cents on the dollar in full, instead of fifty cents, which the gentleman proposes for his soldier constituents.

But there is another effect of the gentleman's rag-currency scheme. It is to drive out from the pockets of the people all the gold and silver of the country. It seems the gentleman does not want gold for his constituents. Irredeemable paper rags are good enough for them, in his estimation. His policy seems to be to float into the hands of the moneyed aristocrats of Wall street and of Europe all the gold in the country, by draining it from the people and putting it into the over-gorged pockets of the aristocrats. I know the banks of the gentleman's district want inflation; they do not want the time to come when they will have to pay their bill-holders in money, and the gentleman's inflation scheme is in their interest, while it is so flagrantly opposed to the interests of all other classes. He, therefore, stands here as the champion and representative of the national bank interest in that regard. Well, sir, if he deems it more important to protect the interests of the banks than of the people he is at liberty to follow the course of policy which he has marked out.

I want to get back to a specie basis as soon as it can possibly be done without prejudice to the business interests of the country. The country can have no solid prosperity till we get to a specie basis. I want my colleague to bring forward his bill and show how the bonds can be taxed, and explain why he has not brought it forward before. As to the banks, I intend to do that which shall be for the public interest; and if that interest requires the Democratic banks in his district to wind up, that result must be accomplished. Let the gentleman now bring forward a bill on that subject and let us see what he proposes; whether he proposes to turn the Government into a great rag mill here at Washington, build up a colossal one-man money power, destroy the local institutions of the country, center the entire moneyed interest of the country in Wall street, or return to the old rotten State bank system of wild-cat and stump-tail under which the people of Illinois lost no less than six million dollars.

The gentleman spoke of what he called my policy. Sir, after making a rag-money platform for himself he cannot make any platform for me. I have my own views, and I am responsible for them. The honor, the faith, and good name of the Government must be sustained at all hazards, at whatever cost or consequences. A nation that breaks its faith merits, as it will receive, the reprobation of the civilized world, and be held up as infamous through all coming ages. If I could depart from the example of that honored and noble State which I in part represent on this floor I should consider myself her most degenerate son. I hope no true Illinoisan will forget her history, nor the lesson she has taught upon this subject. I look back to the time when I saw my State oppressed with a debt of untold millions, for which she had derived no corresponding benefit; a debt incurred by the most prodigal and reckless legislation to carry out the wildest schemes ever invented by man. And in a time of suspension of specie payments and of irredeemable paper money I saw our people groaning under a weight of debt and of taxation, prostrated by hard times, their banks broken, and financial ruin on every hand. I saw the credit of the State impaired, her interest unpaid, her bonds sold at seventeen cents on the dollar. A few base men then dared to propose repudiation; they declared they would pay the bond-holders only the amount they had actually paid for the bonds.

But, sir, to the eternal honor of that people be it said, notwithstanding the magnitude of the debt, and the manner in which it was contracted, notwithstanding their impoverished condition, the masses of the people rose up and said the debt should be paid to the last farthing, and the honor of the State maintained. That action challenged the respect of the world, and from that period forward we entered upon a career of prosperity and glory without a parallel in history. Our bonds are to-day above par, and the credit of the State is scarcely surpassed by that of any State in the Union. My policy would be never to permit a further robbery of my constituents by false and irredeemable paper money. I am for the largest possible reduction of taxes consistent with sustaining the honor and credit of the country in carrying on its operations. I stand here now where I always have stood, to resist all profligate and extravagant appropriations, and to oppose to the extent of my feeble ability all schemes of public plunder.

Mr. MAYNARD obtained the floor.

Mr. BUTLER. I ask the gentleman to yield to allow me to put a single question.

Mr. MAYNARD. Certainly.

Mr. BUTLER. I desire to ask the gentleman from Illinois [Mr. WASHBURNE] if he is in favor of paying the five-twenties in gold?

Mr. WASHBURNE, of Illinois. I am in favor of precisely what I have stated in my speech. [Laughter.]

Mr. ALLISON. With the consent of the gentleman from Tennessee [Mr. MAYNARD] I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union, according to order, had had under consideration the state of the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian islands, in which the concurrence of the House was requested.

Mr. HOLMAN. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ASHLEY, of Ohio: The petition of William W. Holden and others, citizens of North Carolina, for relief, &c.

By Mr. BINGHAM: The petition of the Society of Friends, Martha E. Tyson, Lucretia Mott, Samuel M. Janney, Joseph Cope, and others, praying a change in Indian policy.

By Mr. BROOMALL: The memorial of the the representatives of the several yearly meetings of the religious Society of Friends, earnestly asking an entire change in the treatment of the American Indians on the part of the Government, substituting the law of kindness for that of the sword, excluding from among them all dealers in intoxicating liquors, affording them protection against the intrusion of white settlers, and encouraging benevolent efforts to improve and enlighten them. The memorialists offer their services gratuitously to further the object of the memorial.

By Mr. ECKLEY: The memorial of the Society of Friends in behalf of the Indians.

By Mr. HARDING: The petition of John H. Findlay, a soldier disabled by wounds in the war of the Revolution, for a pension.

By Mr. HILL: The petition of Jonathan H. Perry, for pension.

Also, the petition of Hannah Moore, for pension.

By Mr. HUBBARD, of Iowa: The petition of citizens of Iowa relating to the swamp lands of Dickinson county of said State.

By Mr. KELLEY: The memorial of Captain William B. Whiting, praying that the grade of Admiral on the retired list be created and conferred on Rear Admiral Charles S. Stewart.

By Mr. KETCHAM: The petition of Mrs. Almira Ambler, of Dutchess county, New York, for relief.

By Mr. MOORHEAD: The petition of A. Guckenheimer & Brother, and Joseph S. Finck, praying for a reduction of the tax on whisky, &c.

By Mr. PAINE: The memorial of the mayor, aldermen, and councilors of Milwaukee, respecting improvements of harbor of that city.

By Mr. PRICE: The petition of the Society of Friends, through their representatives, now assembled in conference in the city of Baltimore, on behalf of the Indians.

By Mr. WASHBURN, of Massachusetts:

The petition of David Howe, second special officer in the provost marshal's office in Boston, Massachusetts, praying for a pension.

Also, the petition of Mrs. Anna H. Prott, widow of the late Major Wheelock Prott, praying for a pension.

IN SENATE.

THURSDAY, *December* 12, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HOWARD presented a petition of assistant engineers of the United States revenue service, praying that assistant engineers of the revenue service may receive full and formal commissions to which their positions and the services required of them entitle them as a mark of rank and as a distinction from other officers made simply by appointment or warrant, and a revision of the laws relative to the distribution of prize money among revenue officers so as to include them, according to rank, among those entitled to receive it; which was referred to the Committee on Commerce.

Mr. SUMNER. I present a petition numerously signed by colored citizens of Pennsylvania, in which they ask as American citizens the adoption of a law investing all men with the equal exercise of the elective franchise in all the States. They set forth that this is positively required by the fourth article of the Constitution, section four, which declares that "the United States shall guaranty to every State in this Union a republican form of government," thus, as they say, emphatically enjoining it on Congress as the representatives of the American people. I offer this petition, and move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. POMEROY presented the petition of Harvey Spalding, sub-contractor under a contract of Henry S. Bulkly, praying that the Secretary of War be directed to give effect to the judgment of the accounting officers of the Treasury in the case of Henry S. Bulkly, Treasury settlement No. 3,002, which was admitted for payment by the Second Comptroller of the Treasury on the 2d of April, 1867, and that he be directed to issue his requisition therefor upon the Treasury; which was referred to the Committee on Claims.

He also presented a petition of women of Minnesota, praying immediate legislation to secure to woman equal suffrage with man in the District of Columbia and wherever the jurisdiction of Congress extends; which was referred to the Committee on the Judiciary.

Mr. ROSS presented a petition of citizens of Kansas, *bona fide* settlers on the Cherokee neutral lands in that State, praying for the enactment of such laws in relation to those lands as will set aside the provisions of the treaty with the Cherokee Indians and bring the land into market as Government land, to be taken by homesteads, preëmptions, or entered in the usual way; which was referred to the Committee on Public Lands.

Mr. DAVIS presented a petition of members of the Board of Trade of Louisville, Kentucky, asking aid from the United States to reconstruct the levees on the Mississippi river in the cotton region; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, to report it back with a recommendation that it pass; and I desire to say that if it is the pleasure of the Senate I shall call it up to-morrow.

Mr. SHERMAN, from the Committee on Finance, to whom were referred various memorials praying for the exemption of cotton from internal tax, asked to be discharged from their further consideration; which was agreed to.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 150) to provide for the payment of D. B. Allen & Co. for services in carrying the United States mails, reported it without amendment.

PAPERS WITHDRAWN.

On motion of Mr. DAVIS, it was

Ordered, That the memorial of the heirs of Benjamin R. Milam be withdrawn from the files of the Senate, and that it be referred to the Committee on Claims.

HUDSON RIVER WEST SHORE RAILROAD.

Mr. HOWARD. The Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 155) granting a certain right of way to the Hudson River West Shore Railroad Company, have had the same under consideration, and have directed me to report it back without amendment and ask the concurrence of the Senate therein; and I desire to say that there are certain reasons why the Senate should take this bill up now and act upon it finally. I therefore ask the unanimous consent of the Senate to put it upon its passage at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to give the consent of the United States to the Hudson River West Shore Railroad Company to locate, construct, and operate its railroad on the shore line across the property belonging to the Government at West Point, in the State of New York, upon such location and under such regulations as shall be approved by the Secretary of War.

Mr. HENDRICKS. I wish to inquire if that bill has been reported from the Committee on Military Affairs.

The PRESIDENT *pro tempore*. It has been.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DEPARTMENTAL CONTRACTS FOR STATIONERY.

Mr. PATTERSON, of New Hampshire. I am instructed by the joint select Committee on Retrenchment to report a joint resolution limiting contracts for stationery and other supplies in the Executive Departments to one year, and I ask that it be acted upon at this time.

By unanimous consent the joint resolution (which is S. R. No. 75) was read twice and considered as in Committee of the Whole. It provides that it shall not be lawful in the present unsettled state of prices for any of the Executive Departments to make contracts for stationery or other supplies for a longer term than one year from the time the contract is made, and whenever propositions for supplies have been solicited the parties responding to such solicitation shall be duly notified of the time and place of opening the bids, and be permitted to be present either in person or by attorney, and a record of each bid shall then and there be made.

Mr. TRUMBULL. I wish to inquire if that resolution has been considered by a committee?

Mr. PATTERSON, of New Hampshire. It is reported from the Committee on Retrenchment.

Mr. TRUMBULL. I have no objection to it.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 189) to amend the various acts establishing the Navy Department of the United States; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

CAPTURED AND ABANDONED PROPERTY.

Mr. SHERMAN. I move to take up the joint resolution which was pending yesterday during the morning hour, and then postponed at the request of the Senator from Maine.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer as special agent of the Treasury Department be covered by warrant into the United States Treasury, the pending question being on the amendment of Mr. EDMUNDS to substitute for the joint resolution the following:

That all moneys which have been received by any officer or employé of the Government, or any department thereof, from sales of captured and abandoned property in the late insurrectionary districts, under or under color of the several acts of Congress providing for the collection and sale of such property, and which have not been already covered into the Treasury, shall be immediately paid into the Treasury of the United States, together with any interest which has been received or accrued thereon.

And be it further resolved, That if any officer or person having the custody, possession, or control of any money derived or arising from the sale or other disposition of any such property mentioned in the preceding resolution, shall convert the same to his own use, or shall refuse or neglect for a space of thirty days next after the passage of this resolution to pay the same into the Treasury of the United States, or shall in any way pay away or dispose of the same otherwise than by paying the same into the Treasury as aforesaid, shall be deemed and held guilty of embezzling the public money of the United States, and shall be punished therefor by imprisonment for a term of not more than ten years, and shall pay a fine equal to the sum so embezzled.

Mr. FESSENDEN. Mr. President——

Mr. EDMUNDS. With the consent of my friend from Maine I wish to state, in addition to what I said yesterday, that I have acquired further facts connected with the operations of the Treasury Department in relation to captured and abandoned property since yesterday from responsible sources, and I think it due to the Secretary of the Treasury, as a matter of justice to him, that they should be publicly stated.

The PRESIDENT *pro tempore*. Does the Senator from Maine give way?

Mr. FESSENDEN. Certainly.

Mr. EDMUNDS. The Secretary of the Treasury under the acts of Congress upon this subject was instructed to employ agents in his discretion to collect together all captured property, with certain limitations defining what captured property was, and all abandoned property in the insurrectionary districts. Pursuant to that authority he sent a great many agents into the southern States during and immediately after the close of the war, who gathered together everything that they could lay their hands upon; and then the question came up by a great many claimants asking to have the property restored. They asserted their loyalty, and that they had not abandoned their property, that they were driven away by the rebels, as I suggested yesterday; and a variety of reasons were set forth why this property should not be held. As was stated yesterday, the Secretary of the Treasury, Mr. Chase, took the opinion of the Solicitor of that Department as to whether he had any authority to give up anything that his agents had once laid their hands upon. The Solicitor decided that he had; that he must decide in the first instance whether his agents had exceeded their instructions or not.

The Senator from Illinois [Mr. TRUMBULL] yesterday stated that, in his opinion, that was an erroneous construction, and it was in mine; but it was acted upon, under the advice of that officer, by Mr. Chase. It was followed by the successor of Mr. Chase, Mr. FESSENDEN. It was then followed by Mr. McCulloch. It appeared yesterday, from the printed report, made in March, 1867, of the cases of seizure, and from the letter of Attorney General Speed attached to that, which was read, that there was submitted in July, 1865, to Attorney General Speed the question whether the President had authority to establish a commission to consider those cases, particularly as it related to what was called the Savannah cotton—a very large amount seized in Savannah by General Sherman and captured by his troops. The Attorney General decided that, it having been

clearly captured by the military authorities, it was not within the jurisdiction of the Secretary of the Treasury to do anything about it other than to sell it and turn over the proceeds (which I take to mean the amount of money realized after deducting the necessary expenses of the collection and sale) into the Treasury. It was suggested by my friend from Illinois that the Secretary of the Treasury had, in defiance of that opinion, gone forward and still continued after that to act upon the same class of cases, and to make allowances of money and to give up property in spite of that opinion. I suggested yesterday the possibility of its turning out that the cases which were acted upon afterward came under the other branch of the statute, that is, the abandoned-property branch, and that the question as to that might possibly stand upon a different footing in the opinion of the law officers of the Treasury and of the Government. I find on inquiry this morning that such is the fact, and that after this opinion of the Attorney General the Secretary of the Treasury gave up no cotton and the proceeds of no cotton which came within the scope of the opinion, with the exception of three or four instances where the military authorities in the South themselves interfered with the Treasury agents in clear cases of mistake, and advised the Treasury agents, the generals who made the seizure, to give it up, they having made a mistake. There are a few such exceptions to the literal truth of what I have just stated.

Then I have been furnished—and to present it was the purpose for which I arose—with this letter from the Attorney General, dated April 24, 1866, covering the other branch; that is, defining the duties of the Secretary in respect to the abandoned cotton—this miscellaneous mass that was picked up wherever they could lay their hands upon it, not by the military, but by the agents of the Treasury:

ATTORNEY GENERAL'S OFFICE, *April* 24, 1866.

SIR: I have the honor to acknowledge the receipt of a bundle of papers containing the claim of Colonel John S. Williams for three hundred and thirty-four bales of cotton, seized by the Treasury agents, with an indorsement that they are for my consideration.

As no legal question has been asked, I suppose it is intended that I should express an opinion as to the legality and propriety of holding the cotton seized by the Treasury agents.

The facts, as disclosed in this bundle of papers, are substantially as follows:

The three hundred and thirty-four bales of cotton were the property of Joseph P. Billups. When Billups was from home, having left authority with no one to sell and dispose of this cotton, his father assumed authority to make a contract with the so-called confederate government for it. Under the contract so made by the father the cotton was entered upon the books of the confederate government as the property of that government. Joseph P. Billups, as soon as informed of this pretended contract by his father, repudiated and denied it. No agent of the confederate government ever had possession of the cotton. It continued to remain in the possession and under the control of Joseph P. Billups or his agents.

After the fall of the so-called confederate government and the surrender of its armies, and after Joseph P. Billups had been pardoned by the President, the Treasury agents seized the cotton as the property of the confederate government, because they found it entered upon the books of that government. Prior to this seizure by the Treasury, Billups had sold the cotton to Colonel John S. Williams.

This cotton was not captured by the military forces of the United States and turned over by them to the Treasury agents, nor was it seized by the Treasury agents as abandoned property; but the Treasury agents took it, believing it to be the property of the confederate government.

If it was in truth the property of the confederate government the Treasury agents were right in seizing it; and *prima facie* it was their property. But if it was not the property of the confederate government, if it was not abandoned property, and if it had not been captured by the Army of the United States, the agents of the Treasury Department would not be right in holding the cotton.

The agents, though right in making the seizure, cannot be justified in holding on to the property after it is made manifest by the proofs, as in this case, that the cotton did not fall within any of the predicaments before mentioned.

As the cotton was not the property of the so-called confederate government, had in fact never become a part of the common fund upon which the rebellion rested, and was neither abandoned nor captured, I think it should be restored.

With highest respect, &c., I have the honor to remain, JAMES SPEED,
Attorney General.

To the PRESIDENT.

This letter, in my opinion, on the subject of abandoned property fully exonerates the Secretary of the Treasury (who is not a lawyer or a judge, I suppose) from any personal blame in acting upon it or in supposing himself to have jurisdiction to decide whether his agents had made mistakes. I should not myself put that construction on the law; but I think we should be doing him a little injustice to blame him in acting upon an opinion from the regularly appointed law officer of the Government.

Mr. FESSENDEN. Mr. President, I think that no little misunderstanding has prevailed among members of Congress with reference to the course that has been taken in relation to captured and abandoned property under the acts that have been referred to; and that misunderstanding has been aggravated by a great deal of talk out of doors by individuals, many of whom are disappointed in their desire to accomplish certain schemes with reference to that property, and disappointed on account of the agency of the Treasury Department or those connected with it. Undoubtedly in the management of such a very large affair as the disposal of captured and abandoned property has been, involving, as you see by the reports, some thirty-five million dollars which have been received out of it, there has been a great deal of abuse and a great deal of accident and misfortune. This property was scattered all over the confederate States, taken by different individuals, and many people were plundering it; many persons connected with the Army were seizing it, and using it according to their discretion; and, with a view to bring it within some sort of regulation these laws were passed putting the whole matter under the control of the Secretary of the Treasury, and devolving upon him a very vast labor, to be performed through agents to be selected as well as he was able to select them, and to be held to such accountability as he was able to subject them to.

It may be very well imagined that under such circumstances it was a work of no little difficulty. I have to say with reference to my short experience—an experience of eight months in the management of this property—that it occasioned me a great deal of embarrassment and trouble. I have been informed by the present Secretary of the Treasury that the embarrassment and trouble that he has had consequent upon the close of the rebellion connected with it, scattered as it was all over the southern country and much of it in England, have been very great. One can have no just conception of the trouble and difficulty and annoyance to which he has been subjected on account of it. I have no doubt that in saying this he tells the truth; and I have no doubt either that, as regards the Secretary and his principal agents, so far as my own experience and my own observation have gone, this business has been conducted with a great deal of anxious care to make the most that was possible out of it.

Now, sir, upon looking at the statute of 1863, it will be seen that it devolves upon the Secretary of the Treasury the burden of taking charge of all this property and managing it through his agents; and one or two questions arise on the phraseology of the statute as to what is to be done, which I would leave to the fairness and the clearness of apprehension of my honorable friend from Illinois, [Mr. TRUMBULL,] who certainly will agree with me, I think, as to the construction to be put upon it. It says, for instance, that the proceeds of the sales "shall be paid into the Treasury of the United States." What "proceeds" does that mean? Does it mean that the gross sum received on sales shall be paid into the Treasury of the United States, and then that every little bill for expenses connected with it, the pay of agents and all, shall be left to an appropriation to be made by Congress through the Committee on Claims for their payment? Or does it mean that the Secretary of the Treasury shall receive that money and that he shall pay the expenses consequent upon it, and that the net proceeds shall be paid into the Treasury of the United States? The view which the Secretary of the Treasury, Mr. Chase, had when he framed the first rules and regulations with reference to the matter, was that it was the proceeds after deducting the necessary expenses of collecting the money. He framed rules which were printed and which clearly show what his intention was, and the ground upon which he acted with reference to it. The view that he took of it is clearly set forth in the last letter which has been read from the present Secretary of the Treasury. It was this: that he was to receive captured and abandoned property.

A question arose in his mind undoubtedly, because his action shows it, as to what his powers were. If property was seized by one of his own agents as having been abandoned, and it should be clear to him that it never had been abandoned at all, and that fact should be made to appear, what was he to do? Was he, because one of his agents had erroneously and under perhaps a mistaken view of his power, seized that property, to hold that it should be sold at auction for whatever it might bring, under any circumstances that presented themselves, and that the proceeds of that individual sale should be at once paid into the Treasury of the United States, leaving all the expenses unsettled, and leaving the person injured to come to Congress or the Court of Claims for relief? Mr. Chase held differently. He held that if it should be made clearly to appear that one of his agents, instead of seizing abandoned property, had seized property which had not been abandoned, it was his duty to deliver it up in certain cases, and thus save not only the sufferings of innocent persons but save also the consequent expense to the United States which would be involved in getting the money back.

With regard to captured property he, as the report which has been referred to states, had some doubt. He doubted whether with regard to captured property he had the same power to decide. In consequence of that doubt he referred the question to the law officer of the Treasury Department, and that law officer gave an opinion in which he held that the same rule did apply to captured property, that the Secretary had a right to inquire whether the property had been really captured or not, and if it had not been captured so to decide. The last section of the law of 1863, as you will see on looking at it, shows that much property might be received from persons who were in the military service which was not captured property. We all know—it was a matter of great complaint at the time—that those officers in various places were in the habit of taking property wherever they could find it, if they believed—and in many cases, perhaps, where they did not believe—that it belonged to rebels, and using it, as they said, for the purposes of the Government, and in many instances, probably, for their own purposes. The sixth section of the act of 1863, which implies what I have just stated, says:

"That it shall be the duty of every officer or private of the regular or volunteer forces of the United States or of any officer, sailor, or marine in the naval service of the United States, upon the inland waters of the United States, who may take or receive any such abandoned property."

Not "captured property," but any officer or person in the military or naval service "who may take or receive any such abandoned property"—a great many of them, as I said before, took possession in many cases of property which they considered to be abandoned—was commanded by this act to turn it over to the agents of the Treasury. I have only read a part of the section, but I have stated the substance of it, and I refer to it in order to show the fact that the possession of property of this kind by military persons did not necessarily imply that it was captured property within the meaning of the law, because they were in the habit of taking possession of property as abandoned. Those cases were probably very frequently returned as captures, and on inquiry the Secretary might ascertain that instead of being captured property it was property seized by the officer finding it, and that it really ought not to have been seized at all, never having

been abandoned in any shape or form, and therefore ought to be delivered up not only for the sake of the individual as a matter of justice and right, but for the benefit of the Government itself. That was the construction which was put upon it.

Surely the Senator from Illinois would not hold that the proceeds of every piece of property must immediately, as soon as the property is sold, be put into the Treasury. When a sale was made, the custom was, I think, to deposit the proceeds, if it was convenient to do so, in one of the deposit banks, and draw out the money in gross sums and hand it over to the Treasurer of the United States. Every act of this sort must receive a reasonable construction, and the construction which the Secretaries put upon it was, I suppose, simply this: that the proceeds of the property, after deducting the necessary expenses, should go into the Treasury of the United States; and with a view to that, and illustrating it, in the act of 1864, in order to do away with all doubt upon the subject, it is especially provided that the proceeds, after deducting all necessary expenses connected with the matter, shall be paid into the Treasury of the United States. That is the law as I found it. The act of 1864 was passed just before I went into the Treasury Department. I found that law in existence, and I was called upon by the law itself, being then at the head of the Department, to frame a set of rules and regulations under that law, which principally had reference to a new system, the purchasing system, as it was called, and which was a very admirable one, and succeeded admirably well, and perhaps should have been continued longer; at any rate, I think it would have been better, more for the interest of the Government, if it had been continued longer.

Being obliged to make a new set of regulations, I took and I had a right to take under that law, for it was much more specific, precisely the view which had been taken by the Secretary before me. I do not know how it happens that the opinion of the Solicitor of the Treasury, which was obtained by my predecessor, is indorsed by me. What brought that about I do not know. It was not necessary that I should do so for my own guidance certainly. Probably some circumstance occasioned it which has now passed from my recollection, but I did approve it. I did not see at that time the distinction existing between captured and abandoned property. I came to the conclusion that, although in a case of a clear capture I had no right to interfere in any way, which was undoubtedly the opinion the other Secretaries had, yet that upon the question whether property was captured, whether it in reality had been taken in that way, or whether it had been received by one of my agents under the circumstances set forth in the sixth section of the act of 1863, it was my prerogative as Secretary of the Treasury having the matter in my hands to decide. I reserved the right to decide whether or not it came within the description of captured or abandoned property. But, notwithstanding that was my opinion, and notwithstanding that I approved the opinion of the Solicitor, I have been looking over the list of cases furnished, including those decided by myself, which I think number about twenty, and I find that in no case that I decided, and I do not see any decided by the other Secretaries, where property was ever delivered up in a case of capture. Certainly I never delivered up any such property. On the contrary, the Senator will find on looking over the list that two or three of the claims that came before me were rejected on the ground that the property was captured and not abandoned. The reasons given in most cases were that it had been wrongfully taken or had been given by the owner for transportation to a military officer, and that it thus got into the possession of the Department. There were frequent cases of that description, where it was brought in for loyal men by the quartermaster's department, and in consequence of that came into the possession afterward of the agents of the Treasury, and many of those cases, a long schedule of them in the report, were of course such that the Secretary of the Treasury could not and the Government could not with any decency pretend to retain the property.

The opinion of the Attorney General quoted yesterday was upon another question, and he is very clearly right that where property was fairly captured property the Secretary of the Treasury or the President had no power whatever to order a commission to settle whether it ought to be given up or not. That is a question to be settled in another tribunal: but with reference to these small matters that had taken place before that I held, as the other Secretaries of the Treasury held, that the question in the first instance must be decided by the Department or its agent. Take the case of a Treasury agent: he was called upon to receive certain cotton or certain sugar or other property, for it was not confined to cotton alone, but cotton, being the principal article, is generally alluded to. The officer himself might decide, "I will not take that property: it does not come within the description which I am authorized by law to take." If, however, in the exercise of his discretion he did take it, and an appeal was made to his superior officer, the Secretary of the Treasury, is it possible the construction can be put upon the law that all the Secretary of the Treasury could do, however it may have been received, even if it had been taken or received under a misapprehension of the facts, where it was clearly not captured or abandoned, was to sell it and put the proceeds into the Treasury? Was he passing beyond the bounds of his duty in saying that it was not clearly within the description of the statute and ought to be delivered up?

I can say generally, from my own knowledge, so far as I am concerned, and I believe it is true in regard to the other Secretaries, that the most scrupulous care was exercised. So far as the action of my predecessor came under my observation it certainly was, and I know I exercised the most scrupulous care about delivering up property, and was careful to deliver it only in very clear cases. I know that the doubt, if there was a possibility of a doubt, was always given to the Government, and the parties claiming were remitted to the remedy provided by the statute of 1863, which it is not said shall be the only remedy; but that law says they may appeal within a certain time to the Court of Claims for its decision. So great was the care exercised in relation to these matters that the interior workings of the arrangements of the Treasury Department were so fixed as to guard if possible against any erroneous decisions. There is a bureau, not a bureau established by law, but a part of the office of the Secretary of the Treasury, consisting of officials under his immediate supervision, set aside for the purpose of investigating these claims. A very intelligent gentleman was placed at the head of it, and is there now. He has three or four clerks under him, one a very good lawyer. Every case of a claim coming into the Treasury from any source for any property of this kind was at once referred to that particular individual who had it in charge. A detailed statement of the case itself, of all the facts as proved, of the evidence in relation to it, of the law as applicable to it, the provisions of the statute under which it came, was required in all cases to be submitted to the Secretary of the Treasury for decision. So far as I was concerned, I am perfectly ready to assert that no decision was made until I had carefully examined it myself, both the facts and the law as stated, and read the whole of it, trusting nothing to the first opinion of the gentleman who had the matter in charge. It sometimes happened, I cannot say how frequently, that where he had decided in favor of a claim I decided against it, and very possibly, on the other side, where he decided against claims I may have decided in favor of them. All I have to say is that I decided as well as I knew how.

Now, sir, the information which has been furnished to Congress with reference to this subject has been quite ample. I do not know whether my friend from Illinois has seen the report made in reply to a call of the House of Representatives at the last Congress, contained in House Executive Document No. 97, Thirty-Ninth Congress, second session.

Mr. TRUMBULL. Yes, sir; I have it before me.

Mr. FESSENDEN. The Secretary of the Treasury there explains very fully how this whole matter was conducted. I will read a few extracts from that report. On page 3 the Secretary says:

"During the summer of 1865 considerable cotton was brought forward by the owners and voluntarily abandoned by the agents upon their assurance that the Secretary would promptly hear their cases, and, if satisfied of their loyalty and ownership he would at once release it. This mistake was promptly corrected by the then Secretary, who felt that it would be unjust to parties who had voluntarily delivered their property to agents of the United States upon such assurances to retain it and send them to the Court of Claims for relief. He therefore directed releases to be made in all such cases upon payment of the expenses incurred, the internal revenue tax, and other Government dues."

That comprehends a considerable number of cases which I think the Senator will find in schedule A, annexed to the report.

"Under the system of contracting with parties for collecting, putting in order for shipment, and delivering at designated points, many irregularities also occurred. Contractors, anxious for gain, were sometimes guilty of bad faith and peculation, and frequently took possession of cotton and delivered it under contracts as captured or abandoned, when in fact it was not such, and they had no right to touch it under their contracts or under the acts of Congress. Residents and others in the districts where these peculations were going on took advantage of the unsettled condition of the country, and, representing themselves as agents of this Department, went about robbing under such pretended authority, and thus added to the difficulties of the situation by causing unjust opprobrium and suspicion to rest upon officers engaged in the faithful discharge of their duties. Agents, also sometimes imposed upon, and sometimes misunderstanding their duties, frequently received or collected property and sent it forward, which the law did not authorize them to take. Persons thus wrongfully deprived of their property followed it and appealed to the Secretary for its restoration. These appeals were considered by the Secretary, and if he was satisfied that the property was not such as the acts authorized the agents to receive or collect he ordered that it or its proceeds should be returned to the owner. But this again led to other complications. The success of the *bona fide* applications by owners opened to bad men an opportunity for gain by imposing on the Department in representing that cotton which had come to its possession had been wrongfully taken from them by the agents, and petitioning for its release. They submitted with their petitions proofs which, although seemingly conclusive, were often false. Thus the applications made in good faith and in which the parties were fairly entitled to relief, and those made in bad faith upon fair seeming though false proofs to defraud the Government, forced upon the Department great care and labor. It was often very difficult, if not impossible, to discriminate between fraudulent and *bona fide* cases, and no duty devolving upon the present Secretary has caused him more perplexity and care and anxiety than that connected with this subject."

Again:

"After the surrender of the armies of the rebellion, the Secretary desired to recall all agents engaged in executing the acts of Congress relating to captured and abandoned property, and to receive and dispose of only such as should be delivered by military forces to customs officers at shipping ports, and circular directions were given accordingly on the 27th of June, 1865.

"But it was urged that the cotton and other property which belonged to the so-called confederate government was scattered all through the lately insurrectionary States, and that the rapid withdrawal of the military forces would render it impossible for them to take possession of this property and deliver it to shipping points. It was also urged that all property belonging to the so-called confederate government at the time of the surrender should be considered and treated as captured property, and that the plain duty of the Secretary of the Treasury, under the acts of Congress above referred to, required him to collect and dispose of it."

It was under that view that the Secretary undertook to see what he could secure abroad, where cargoes, one cargo especially, of cotton, had arrived, and been seized by one of our consuls there, which had been sold by the confederate government after the collapse of the rebellion. Again, on page 5 he says:

"It is proper to state that judicial proceedings have been commenced, and in several cases are still pending, prosecuted for the recovery of property which had been taken and disposed of as captured property,

These are vigorously defended, and special counsel is generally engaged to assist the United States District Attorney in protecting the interests of the Government therein."

On the same page there is an item as to "captured property," which I will read.

Captured Cotton.

"Number of bales of cotton received as captured.....156,337

Number of bales improperly taken, or detained as captured and released..... 18,485

"(It is proper to say in explanation of this item that after the surrender the Secretary was reliably informed that large quantities of cotton, which had been claimed by the so-called confederate government, were being stolen and otherwise wrongfully taken by individuals, and that he thereupon directed agents to take possession of, and detain for investigation, all cotton which they had good reasons to believe should be treated as captured, and to promptly examine into the facts, and if satisfied that it was captured, to forward it as such, or if not so satisfied, to deliver it back to the persons from whom it was taken. But the agents were required to report their action in all such cases, and hence a large quantity of such cotton seems to have been treated as captured, when the fact is that it was merely detained for examination, and was released to owners upon failure by agents to show a right to treat it as captured property.)"

I have read these extracts simply to show the Senate the circumstances under which the different Secretaries were placed at different times with reference to this property and the principles they adopted for their government, first adopted by Secretary Chase, followed up by myself in the short time I was in the Department, and since that time by the present Secretary. You will see the almost infinite variety of circumstances under which this property came into the *quasi* possession of the Secretary and under his control, and the infinite variety of cases upon which he was called on to act in consequence of it. The course of action marked out by Secretary Chase he is responsible for. On examination of that course in framing the new rules and regulations I approved it and followed it, and Mr. McCulloch, the present Secretary of the Treasury, has done nothing more than follow in the track thus marked out for him by his predecessors. If he is really liable to be severely dealt with for the course he has taken, that same liability rests upon me and upon my predecessor, Mr. Chase. We are as worthy of blame as he is, and for one I cannot consent to stand here and see him called to account for acting on the same principles upon which I acted myself without coming forward to take my share of the blame whatever it may be.

Now, sir, with reference to the proceeds of cotton, I have some memoranda to which I will allude. Instead of there being millions held back, as stated, I think, by the honorable Senator from Ohio——

Mr. TRUMBULL. The preamble to the resolution, which passed the House, states that.

Mr. FESSENDEN. It is incorrect in point of fact. In the first place, in regard to the agents themselves, so far as money in their hands is concerned, that matter is pretty much all settled up; it is running to its dregs; and the Secretary states in his report all the money in his hands which has been kept out of the Treasury or not covered in, as it is called. There are two items of that sort. One is a sum of $500,000 which was deposited with the sureties of Mr. Draper, in New York, under the circumstances which I will state, and the Senate can judge whether that action was correct or not. Mr. Draper was the agent that I sent down to Savannah at the time of the capture of that place to take charge of the large quantity of cotton there. He was there, I believe, when I went out of office, pursuing his course of duty. When he got back to New York, and the property came, and he took possession of it, a suit was commenced against him in the State courts for a very large amount. It was believed (and Senators will judge with what propriety it may be believed in regard to some of the New York courts) that the feeling was unfriendly to the United States and to all these laws, and that the United States would not stand a fair chance of getting justice done there. Consequently it was decided to remove that case, if possible, into the circuit court of the United States.

In order to do that under the law of New York it was necessary to give a bond, the exact tenor of which I do not know. Mr. Draper, at any rate, was ordered to give a bond in a certain sum. He could not give it; could not get bondsmen unless he could give them security, and the Secretary of the Treasury decided that as it was a question regarding the property of the United States, as the suit was for the benefit of the United States, Mr. Draper being merely the agent, it was proper to take some of the same property which he had received for his security, and it was deposited with his sureties. The greater part of it, as I understand—$400,000—has been released. One hundred thousand dollars is retained in reference to some other matters of the same description I have spoken of, and the $400,000 will be probably covered into the Treasury. With regard to the other item—$700,000—it was retained on another principle, and has not been covered in. There are suits pending all over the country against the agents of the Treasury Department, and Mr. McCulloch has been sued himself, in connection with Mr. Draper, in the Savannah suits, in the State courts of New York. These suits amount to $7,000,000. The writs have not been served on him, but they threaten to serve them on him if he ever comes within their jurisdiction. There are divers claims of one kind and another against this fund. The Secretary seems to have thought that it was proper for a while to hold out of the Treasury a certain amount of that money to cover the claims of different descriptions that are made against officers, and the expenses incident to closing up the concern.

It is very strange, if we could trust the Secretary of the Treasury with $35,000,000, as it seems from the result of these laws we have done, that we cannot trust in the hands of the Treasurer of the United States a fund out of the Treasury until the matter has been settled up according to the law of 1864, which says that the proceeds, after deducting expenses, &c., shall be paid into the Treasury. Whether it is too much or too little with regard the real liabilities that are resting upon these officers, it is perhaps for Congress to judge; but it would seem to be very improper to men exposed as the agents of the Government are, with the unfriendly feeling that exists in many courts toward these laws and the inclination which some of the judges have shown to decide the whole of them to be unconstitutional and to hold the agents personally responsible, that they should be left to meet all these things in the first place, and then left to the tender mercies of Congress to go to the Committee on Claims and suffer for years before they can get their accounts settled or get repaid. The Secretary of the Treasury, I apprehend, had the impression that he had a right to withhold a certain amount of this money until the matter was settled up and all expenses paid, leaving it in the hands of the Treasurer of the United States, not in his own, and not to cover it into the Treasury, the result of doing which would be to send every man who had a claim upon that fund to settle it here in Congress.

I understand—and I will appeal to my friend from Vermont, the chairman of the Committee on Retrenchment, if he were here, for the truth of my statement—that all the claims for captured and abandoned property, except some half dozen, are settled. The Secretary himself made a statute of limitations, fixed a time beyond which he would not go and look into these cases; but half a dozen cases were not sufficiently examined. Those persons had their cases pending before the Secretary, and while so pending they have been submitted to the Committee on Retrenchment, and that committee has been considering them to see whether it is proper that they should be paid. It will be very hard upon these claimants if we should now order this money to be paid into the Treasury. The two years fixed by the act of 1863 have expired, and they cannot go to the Court of Claims, and they will have to come to Congress. The Secretary of the Treasury, instead of insisting on settling these half dozen claims that are left, just handed them over to the committee of which my friend from Vermont is chairman to say whether on the whole they ought not to be paid.

There is another reason why something should be retained. Does my friend from Illinois know—I think he has been informed—that there are claims to the amount of about fifteen million dollars pending in the Court of Claims for property captured principally? Who have we got there to defend those suits for that vast amount of property? We have two or three assistant solicitors, with the salary of about two thousand five hundred dollars each, I believe. There is no fund provided for collecting the testimony from different parts of the country with reference to this class of cases. There is in reality nothing provided by Congress for the adequate and proper defense of the interests of the United States in these suits, involving so large an amount of money. What was the Secretary of the Treasury to do under these circumstances? He decided that before all this money had been covered into the Treasury he would take it into his own hands to see that that difficulty was removed so far as to furnish an adequate defense. I believe there is no appeal from the decisions of the Court of Claims in these cases. There is no knowing what the decision may be. This is a matter that may require some special legislation, and I would call the attention of my friend the chairman of the Judiciary Committee to that particular subject. I think it needs action. The Secretary, however, decided that he would retain additional counsel in order to defend these cases, and would pay him out of the fund in his hands which arose from this property. He considers that a part of the expenses pertaining to this business. If gentlemen consider that too liberal a view they differ with me. If I had been Secretary of the Treasury and I found all these suits pending and all these difficulties arising, and I found a fund in my hands under this branch of the law which said I should pay the proceeds into the Treasury after deducting the expenses, I would give a broad construction to it and trust to the good understanding of Congress and its confidence in me to say whether I was not right in defending the interests of the Government in those suits and paying the expenses out of that fund until at least Congress provided a different course. I do not know that I should not be trespassing upon the rights of Congress if I were to do so and making a false construction of the statute itself; but it does not seem so to me.

I wish to call the attention of my friend from Illinois to another thing. He stated yesterday that the expenses had been $10,000,000, and he gets it from this fact, that the gross amount received is a little over $34,000,000, while the net amount paid into the Treasury is $24,742,000, making the difference about $9,500,000. Perhaps my friend did not notice that of that amount $3,500,000 consists of money absolutely paid out under the law of 1864. By that law the Treasury Department was authorized to buy property in the insurrectionary districts, and to give seventy-five per cent. of its market value in New York to the persons from whom it was bought, the Treasury taking twenty-five per cent. That was substantially the law; and nobody could buy the products of that part of the country but the Treasury Department. It was in reference to that matter that the regulations were made to which I have referred. While I was at the head of the Treasury Department in the account to which the Senator referred credit is given for the property we got in that way to the amount of $3,500,000, and on the other side of the account what was paid in order to get it, the twenty-five per cent. is charged; and this $3,500,000, therefore, should be deducted from the Senator's statement of the

expenses. Then there was released to claimants property amounting to $1,300,000, so that the actual expenses of collection were $4,469,000, being about four and a half millions. Whether that was too much or too little it is not for me to say. Undoubtedly there were some losses; undoubtedly there were many frauds; and with the great variety of agents that were employed it would be very strange if it were otherwise. Undoubtedly the expenses were enormous; we know them to have been so. The expenses of transportation were very great.

There were a great many things in connection with the business which involved expenses that had to be met in one way or another. When the items come to be examined and it is found that there has been either corruption or gross carelessness on the part of the accounting officers of the Treasury—for the bills all went through the accounting officers, and they settled the accounts for what we paid—it will be time enough then to rebuke the Secretary for his management of this great fund. All I have to say is, that so far as I am aware, or know anything about the facts, I do not believe any money has been intentionally misapplied by anybody or has been lost through the carelessness of the officers at the head of the Treasury Department or connected with the Department itself. Many agents undoubtedly were bad agents, proved to be so, and from the nature of the case it could not well be otherwise.

As I see that my friend from Vermont is now in his seat, I will ask him whether there are not some half a dozen cases which the Secretary states are the only cases remaining before this matter can be closed up, which were submitted to the committee of which he is chairman, beginning with the case of Rosecranz and others?

Mr. EDMUNDS. There are three or four or five, I do not know the precise number, a small number of cases, that were under consideration under this practice at the Treasury Department when the attention of the subcommittee having particular charge of this subject of the committee of which I am chairman was called to the matter; and that subcommittee, as I stated yesterday, addressed a letter to the Secretary, it not being convenient at that time to take the opinion of Congress upon it, asking him to suspend any payments until some further steps should be taken about it, either until the sub-committee should investigate and be satisfied that the allowances claimed were perfectly equitable, or until Congress should take some further action. As I said yesterday, it is due to the honor and good faith of the Secretary to say that he complied, not only promptly, but cheerfully. He said that he was perfectly willing to do it, and was desirous of having the advice of Congress, or of any committee they chose to appoint. Those claims, therefore, have stood unpaid since. The sub-committee to which I have referred has been investigating one or two of them, and I believe is engaged in that yet. Whether it is best to let that sub-committee continue to investigate and have them disposed of in this summary way, or to let them go through the regular course provided by law, will be for the Senate to say.

Mr. FESSENDEN. The Senate will observe, with regard to these half a dozen cases, that the claimants have already lost their right to appeal to the Court of Claims by lapse of time, although the cases have been before the Treasury Department, and have been considered there, as I understand, as meritorious cases. Consequently, if this resolution passes and everything is paid into the Treasury, the result will be that their cases cannot be considered except by coming to Congress.

Mr. EDMUNDS. Have they not already applied to the Court of Claims?

Mr. FESSENDEN. I understand not. They relied with so much confidence on the justice and clearness of their cases that they have lost their remedy, and if this resolution be passed before those claims are disposed of it will have the effect of cutting them off. I understand that is the only objection in the way of passing it. There is no objection to it on the part of the Treasury Department. It is only in reference to these few claims where it is thought the property or its proceeds ought to be delivered up that there is believed to be any occasion for withholding it for the present.

Mr. EDMUNDS. I have no objection to its being allowed to lie over until those cases can be further investigated.

Mr. TRUMBULL. I have.

Mr. FESSENDEN. I know my friend from Illinois is a very sanguine man and he will not consent to anything of that description, but will push the matter through. I shall not make the request, though I think it no more than justice and right that it should be deferred for a few days until the committee of this body and of the other House that has these cases under examination shall say whether they ought to be paid or not; and when they have decided that question there will be no objection on the part of anybody to passing the resolution.

But, sir, my opinion is that it will be hardly justice and right to insist that all the moneys under the control of the Secretary of the Treasury, with all these liabilities upon him, there being only two sums reserved and the objection applying to but one shall be paid at once into the Treasury, leaving some of the expenses unpaid, leaving all these liabilities upon the officers of the Government who have been sued before the courts to be disposed of as they may be disposed of, and leaving the Secretary himself liable to suit. I do not suppose any of this money was retained by him on his own account, for I believe there is a law which authorizes his protection; but why leave him liable to all the vast claims that may be made against him under the confusion that has arisen out of this state of things?

Now, sir, my object, so far as I am concerned, is attained. After the rather severe remarks made yesterday by my friend from Illinois with regard to the general management of this business I felt somewhat restive, because I had my part of it. I really do think that very great injustice is frequently done to officers of the Government who are charged with very important, very onerous, and very embarrassing duties by listening to every suggestion that may be made of impropriety of conduct before it is investigated by a committee; without looking into all the facts connected with it, and thus prejudicing the public mind against what may have been and is presumed to have been an honest discharge of public duty. I know with regard to this particular subject it is the most embarrassing one that has come before the Secretaries of the Treasury from the beginning of the war. The troubles and vexations we had in reference to it were almost enough to drive any man crazy. I know that I discharged my duties with regard to it, according to my understanding of the law, to the best of my ability and the best of my judgment. Nobody doubts that Mr. Chase did; and I say here there is nothing, absolutely nothing, in my belief, in the conduct of the Secretary of the Treasury who succeeded me, and who is at present Secretary of the Treasury, in his administration of it that should call for anything but praise for the exertions he has made to make the most of it and to manage the affair, multifarious and troublesome as it was, to the best advantage of all concerned.

Mr. SHERMAN. I would not detain the Senate a moment in regard to this matter but for a single remark made by the Senator from Illinois yesterday. When I spoke yesterday I did not speak from the record or with the official papers before me. I made the declaration that after the opinion of Attorney General Speed had been given the Secretary of the Treasury had conformed his conduct to that opinion. Much to my surprise, the Senator from Illinois at once corrected me in that statement, and said that that could not be so, and referred to the official document before him as proof that I was mistaken in my declaration, and stated that I could not have read it. I had read the papers, and made the statement in consequence of my general recollection of what was contained in the official papers, and also from the statements made to me by the Secretary of the Treasury himself when I was examining into the matter in the Treasury Department. I was therefore very much surprised when the Senator corrected me by stating that; but in the very document which lay on his table before him, in the report of the Secretary, the Secretary himself says precisely what I did. He says:

"This opinion of the Attorney General has since governed the action of this Department as to cases considered as fairly coming within the purview of the same."

That was all I said. The Secretary himself, in the very document the Senator referred to, makes the same declaration that I did.

Mr. TRUMBULL. Where does the Senator read from?

Mr. SHERMAN. From page 3 of the letter of the Secretary of the Treasury to the Senate:

"In accordance with the views above stated, the cases specified in statement B, hereto annexed, have been examined and allowed by the present Secretary and his immediate predecessor in office. Upon due proof of any unlawful taking of private property by agents of the Department, the facts being shown by satisfactory affidavits, the reports of agents, or by other adequate written evidence, the agents holding such property have been ordered to restore the same to the owners, or the proceeds, if not actually covered into the Treasury, have been paid to them by order of the Department."

All that I said, and what is now shown to be true, is this: that the Secretary had complied with the opinion first of the Solicitor, until that was modified by the opinion of the Attorney General, and then had complied with the opinion of the Attorney General, and had simply followed the same course of action as his predecessors, and therefore he could not properly be blamed for anything he had done.

Now, in regard to the merits of the proposition, when this resolution came from the House I was appointed a sub-committee of the Committee on Finance to examine into the matter. I did so, and I found that of the $34,000,000, the proceeds of abandoned and captured property, $24,700,000 had been covered into the Treasury, and the balance had been expended, with the exception of $1,200,000, $500,000 of which was deposited to secure a bond given by the collector of New York when he seized the property captured by General Sherman, and $700,000 was still retained in the hands of the Treasurer, but not covered into the Treasury technically, to pay expenses that were then accruing and also to settle a few unadjusted claims believed to be equitable in themselves, but which had not been determined. The Secretary expressed his willingness at once to allow this money to be covered into the Treasury, when as a matter of course it would be beyond his power or order, but made the statement that until these matters were disposed of it could not properly be done. The Committee on Finance, I believe without a division, agreed that it was better to postpone any final action upon the House resolution until sufficient time was allowed to settle these unadjusted accounts. As a matter of principle it is wrong to retain special funds of this kind in the power of anybody. We all felt the force of that. The Secretary of the Treasury ought not to have it within his power to draw from any fund at pleasure. It should only be done by warrants drawn in accordance with the appropriations, so that the two Houses or some proper court might pass upon his action. There is no doubt about that; and therefore this fund ought to be removed as soon as possible from the control of the Secretary of the Treasury. However, under the special circumstances stated by him to us in his report, we deemed it proper to continue the matter until this session. But it seems now that since that time another committee of the body has to some extent delayed the settlement of these claims. That was a fact not known to me. Still I think if this resolution should pass

and this money be covered into the Treasury, there will be no practical difficulty in getting an appropriation from Congress to pay the claims that may have arisen and may properly be included under the law.

Mr. FESSENDEN. You cannot get an appropriation to pay claims under these different laws. It is always a matter of practical difficulty and delay.

Mr. SHERMAN. I know that; but it seems to me time enough has elapsed since this property has been taken to settle all these matters.

Mr. FESSENDEN. But they have not been settled, and I have stated the reason why they have not been settled.

Mr. SHERMAN. I know they are not settled, and it seems they are not settled because a committee of this body requested that they should not be settled; and that may be a reason for postponing the matter for a while. Still I agree with the Senator from Illinois that these funds ought not to be continued, and that money ought not to be allowed to lie as a special fund outside the Treasury proper.

Mr. FESSENDEN. There is no doubt about that as a general principle.

Mr. SHERMAN. No one would suppose that a fund should lie there, subject to the order of the Secretary of the Treasury, except in an extraordinary case, like the case of captured and abandoned property. If the whole proceeds of this property had been transferred at once to the Treasury we should not have realized $10,000,000, because without a large expenditure of money for transportation, for expenses in gathering it up, paying men, as a matter of course nothing would have been realized. It was necessary to keep it open in such a way that the expenses might be drawn from the fund. I therefore have no doubt that the opinion given by the Solicitor is substantially correct; that it was only designed that the net results of this abandoned property, and even of the captured property, should go into the Treasury, and as a matter of course until the net results were ascertained by the settlement of all the claims for expenses the money could not be covered into the Treasury. Still it does seem to me that sufficient time has elapsed now to settle all these accounts so that the balance might be closed. If the Senator from Maine thinks a little further time should be allowed, I have no objection to letting the subject stand for a little while; but it seems to me that this fund ought to be disposed of and settled in a short time.

Mr. FESSENDEN. I do not think the Senator or any Senator can possibly misunderstand me. I agree fully with all that he has said with reference to the propriety and necessity in all cases of having money go into the Treasury and be covered just as quick as possible, and within my experience it has been so; but for the reasons stated a certain amount of this fund, what was supposed to be necessary in order to pay the very great expenses of collecting the property, was retained because there was not the possibility of providing for them otherwise without coming to Congress for an appropriation to that effect. In other words, it was thought that the law required only that the net proceeds, after paying all expenses, should be paid into the Treasury, leaving the fund to be managed by the Secretary as a prudent man, paying the great mass into the Treasury, but keeping enough in his hands to meet the current expenses of the business itself.

Mr. JOHNSON. I believe the morning hour has expired, and the business that was to come up to-day at one o'clock will now be in order.

Mr. SHERMAN. I will move that the joint resolution under consideration be postponed until Monday next.

Mr. TRUMBULL. I hope not.

Mr. SHERMAN. The Senator from Maryland is entitled to the floor on another matter, and I merely make this motion to keep the subject before the Senate.

Mr. TRUMBULL. If the Senator from Maryland claims the floor as a matter of courtesy due to him, and is prepared to make an argument, I do not wish to interpose; but I think, after what has been said, that this is a matter that ought to be proceeded with, and it is a matter of very considerable importance. I should like to hear from the Senator from Maryland whether he insists upon speaking to-day. If he does I shall not interpose.

Mr. JOHNSON. I do not insist upon it, but I would prefer speaking now. There will be quite time enough I suppose for the honorable member to speak on the particular measure now before the Senate after I shall have closed. I move that the subject before the Senate be laid over informally.

Mr. SHERMAN. I move its postponement until Monday. I think there is a special order for to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion to postpone until to-morrow.

Mr. TRUMBULL. Will it come up in the morning hour as unfinished business?

The PRESIDENT *pro tempore*. Not unless it is left the unfinished business. There may be other unfinished business.

Mr. TRUMBULL. Then I will ask that it be laid aside informally until the Senator from Maryland concludes his remarks.

The PRESIDENT *pro tempore*. That can be done by common consent.

Mr. SHERMAN. I think the question had better be put on my motion to postpone until Monday. I assure the Senator from Illinois that I will keep it before the Senate if I can until the matter is disposed of in some way.

Mr. TRUMBULL. Has the Senator any objection to its coming up when the Senator from Maryland is through?

Mr. SHERMAN. If that is done I know it will be crowded off because there is a special order for to-morrow upon which Senators desire to make speeches.

Mr. TRUMBULL. I think this is a more important matter than the discussion of subjects that have no practical bearing upon our legislation, and I do not think it ought to be crowded off.

Mr. SHERMAN. I submit that it had better be postponed until Monday.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the further consideration of the subject before the Senate until Monday next.

Mr. TRUMBULL. I hope not. A postponement until to-morrow is long enough.

Mr. FESSENDEN. The motion of the Senator from Ohio is to postpone until Monday.

Mr. TRUMBULL. If he makes that motion I appeal to the Senate not to sustain it, and on that motion I will make some remarks.

Mr. JOHNSON. There is no objection, I suppose, to its going over until to-morrow morning.

Mr. TRUMBULL. I will not object to its going over until to-morrow if more time is required to consider it, but I hope it will not be postponed for a longer period.

Mr. SHERMAN. I have no objection; but I know the Senator will be crowded off by another matter to-morrow, and he will gain nothing. However, I do not care. Let it be postponed until to-morrow, if the Senator insists upon it.

Mr. JOHNSON. Let it be passed over informally.

Mr. SUMNER. I suggest that it be taken up in the morning hour to-morrow.

Mr. JOHNSON. I have no objection.

Mr. SUMNER. It can be taken up at a quarter after twelve, and we shall have nearly an hour then for it.

The PRESIDENT *pro tempore*. Does the Senator from Ohio modify his motion?

Mr. SHERMAN. Yes, sir.

The PRESIDENT *pro tempore*. It is now moved to postpone the further consideration of the subject before the Senate until to-morrow.

Mr. TRUMBULL. I have no objection to that.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 161) to incorporate the congregation of the First Presbyterian church of Washington, and a joint resolution (H. R. No. 120) in regard to the publication of postal conventions made with foreign countries, in which the concurrence of the Senate was requested.

PERSONAL EXPLANATION.

Mr. DRAKE. With the consent of the honorable Senator from Maryland, before he proceeds with his remarks, I ask for a minute or two to make a personal explanation if the Senate will allow the privilege.

Mr. JOHNSON. Certainly.

The PRESIDENT *pro tempore*. The Chair hears no objection.

Mr. DRAKE. Mr. President, I know of no circumstances which would lead me to trouble the Senate with a personal explanation in regard to any outside attack upon me, based on my action in this body; or in regard to any such attack on the ground of my public action before coming into this body, except the particular one which I now deem it proper thus to notice.

In the National Intelligencer of the 9th instant, and also in that of the 10th instant, and in the New York World of yesterday, there was published a charge against me which appeared recently in the Cincinnati Commercial, in a letter from its Washington correspondent, whose *nom de plume* is "Mack." The Intelligencer, to give more authenticity to the charge, publishes in connection with it the name of the writer; and it therefore assumes the character, not of an ordinary newspaper assault, but of an attack by a responsible individual. Even this, apart from the nature of the allegation, would not justify this notice of it, but taken in connection with that and with the fact that in this region my previous history is unknown, in my opinion it does. The charge is in relation to my action in the Legislature of Missouri, and is in the following words:

"On one occasion he supported and voted for a proposition to sell into slavery every free negro and his and her descendants who had come into the State since 1847, or who should thereafter come into it. Those who are curious on this subject will find Mr. DRAKE'S vote recorded on it in the journal of the House of Representatives of Missouri for the session of 1858-59, which can be found in any well-regulated public library. Not content with warning free negroes against entering the State in the future, this measure enacted that every one of that unfortunate class already there should be caught by the sheriff and put up at public auction."

No one could read this statement without being impressed with the belief that I voted for such a "proposition" to become a law. It was, doubtless, designed to produce that belief, and so far as it was so designed I feel that it would not be just to myself or to the State I have the honor to represent to allow it to pass without thus publicly pronouncing it totally and unqualifiedly false. And that the Senate may see its total falsity in that respect I ask to be permitted very briefly to state the facts of the case.

In August, 1859, I was elected by the people of the county of St. Louis a representative in the General Assembly of Missouri, to fill a vacancy, and took my seat as such in November of that year. I had not previously been a member of that body.

In the previous winter, when I was not a member, the House of Representatives had passed a bill in relation to free negroes and mulattoes. After I took my seat there came to the House from the Senate a substitute for that bill, which contained a section in these words:

"Every free negro or mulatto over the age of eighteen years who shall be a resident of this State on and after the first Monday in September, in the year 1861, shall be reduced to slavery."

When this substitute came before the House a motion was made (not by me) to amend it

by striking out that section and inserting in lieu thereof the following:

"Every free negro or mulatto over the age of eighteen years who shall have emigrated to and settled in this State since the 17th day of May, 1847, and his descendants, and who shall be a resident of this State on and after the first Monday in September, 1861, shall be reduced to slavery."

The difference between this and the other section is in the limitation of the effect of the provision to those who had emigrated to and settled in that State after the 17th of May, 1847, which day was named, because there then took effect a law forbidding the emigration to that State from any other State or Territory of any free negro or mulatto. When I was called upon to vote upon that amendment I was in this position: if I voted for it, and it should be adopted, the operation of the bill, in the event of its becoming a law, would be confined to a comparatively few, and in fact to a small number; if I voted against it, and it should be defeated, the other section would be retained, which proposed to reduce to slavery every free negro or mulatto over the age of eighteen years who should be found in the State on and after the first Monday of September, 1861. I had no hesitation in voting for the amendment, and it was incorporated in the bill; but I never voted for it to become a law, but, on the contrary, voted against the whole bill on its final passage. In the following February, at a called session of the Legislature, the same bill was brought up again, when I voted against it again at every stage and upon its final passage.

This statement will satisfy the Senate that the charge is, as I said before, totally and unqualifiedly false, so far as it implies that I voted for such a proposition to become a law.

PRESIDENT'S ANNUAL MESSAGE.

Mr. JOHNSON. I now move that the Senate proceed with the order of the day.

The motion was agreed to; and the Senate resumed the consideration of the concurrent resolution submitted by Mr. DRAKE on the 4th instant in relation to the annual message of the President of the United States.

Mr. JOHNSON addressed the Senate in opposition to the resolution. [See Appendix.]

Mr. GRIMES. I move that this subject be postponed until to-morrow, and that the Senate proceed to the consideration of the resolution of the House of Representatives in regard to an adjournment over the holidays.

Mr. BUCKALEW. I should like to speak for about five minutes on this subject, and I would just as soon go on to-day. I am not anxious though about it.

Mr. GRIMES. Let it go over.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa to postpone the further consideration of the resolution before the Senate until to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 155) granting a certain right of way to the Hudson River West Shore Railroad Company, and it was signed by the President *pro tempore* of the Senate.

HOUSE BILLS REFERRED.

The bill (H. R. No. 161) to incorporate the congregation of the First Presbyterian church of Washington was read twice by its title, and referred to the Committee on the District of Columbia.

The joint resolution (H. R. No. 120) in regard to the publication of postal conventions was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of November 25, a report from the Secretary of State communicating information in regard to the formation and functions of the Government of the United States of North Germany; which was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the Secretary of War, *ad interim*, in reply to the resolution of the 4th instant, transmitting a report of the Adjutant General of the Army relative to the reduction of the military reservation of Point San José, California; which was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the Secretary of War *ad interim*, transmitting a letter of the Commissary General of Subsistence respecting an increase of the officers of the subsistence department of the Army; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War *ad interim*, transmitting, in accordance with law, a statement of contracts made by the quartermaster's department from February 1, 1867, to November 30, 1867; which was referred to the Committee on Military Affairs and the Militia.

He also laid before the Senate a communication from the Secretary of War *ad interim*, stating that in his reply to the resolution of November 27 respecting the case of Fitz John Porter, a copy of a letter addressed to the General of the Army by William B. Franklin, dated September 21, 1867, was transmitted, in which the words "we would not believe Pope or Roberts under oath" should be changed to "we would not believe two of the principal witnesses for the Government under oath."

The communication was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter of the Acting Commissioner of Indian Affairs relative to the importance of making sale of a portion of the reservation of the Otoe and Missouri Indians for their benefit; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, in answer to a resolution of the 12th instant calling for certain information in relation to bonds issued to the Union Pacific Railroad Company and branches; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. GRIMES. I now move to take up the House resolution in regard to adjournment.

Mr. SUMNER. Let the resolution be read.

The Secretary read the resolution adopted by the House on the 10th instant, as follows:

Resolved, (the Senate concurring,) That when the two Houses adjourn on Friday, the 20th instant, the President of the Senate and the Speaker of the House of Representatives shall declare their respective Houses adjourned until Monday, the 6th of January next.

Mr. SUMNER. I would ask whether we had better proceed with that resolution to-day? Is it not better to put it off until next week? We shall then see the condition of the public business and whether it will be expedient for us to adjourn at the time proposed and for so long a term. I think we can determine that question much better then than we can now. Some Senators may have made up their minds now; but I confess that I do not see my way to the adoption of so broad a resolution as that proposed.

Mr. GRIMES. So far as I am individually concerned I care nothing about it. I have called up this resolution at the instance of a good many members of the House of Representatives who want to know whether the Senate is likely to concur in the resolution or not, so that they may make their arrangements accordingly. I do not expect to avail myself of the privilege it will bestow on me if adopted, of returning to my home during the holidays, as I never have done so before. But I am well aware that whether we pass it or not no business of any description will be transacted here during the holidays. For five or six years after I came to this body I voted constantly against adjourning over the holidays, and the only result was that I myself, in company with a minority of the Senators, was compelled to tramp between my boarding-house and the Capitol every third day in order to adjourn the Senate over for that period of time; but no business was transacted, and a few men, perhaps, were deprived of the comfort of going home to their families. We know that we have not any pressing business now to do. The character of the business which we are now transacting is such that it had better not be transacted. I do not say that of the speeches, because I have no doubt they will enlighten the country considerably; but I think it would be better for the country if Congress should adjourn over from to-day until after the holidays expire.

Mr. FESSENDEN. I have always been opposed to these resolutions any further than they adjourned over the immediate holidays without taking additional time; but I do not feel disposed to make any remarks on the subject. I wish simply to ask for the yeas and nays, as I desire to put myself on record against this proposition, as I have against all similar ones heretofore.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Iowa that the Senate proceed to the consideration of the resolution of the House of Representatives.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on concurring in the resolution.

Mr. FESSENDEN. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SUMNER. Before the vote is taken, I wish to call the attention of the Senate to one possible consequence of the adjournment proposed. There is a bill now in the hands of the President entitled "A bill for the further security of equal rights in the District of Columbia." It is the second time that it has been sent to the President. The first time it experienced the fate of what is called a pocket veto. Now the question is whether the Senate will give the President the opportunity of another pocket veto on this same bill. If we adjourn at the time proposed it certainly will expose the bill to the danger of that treatment. I think, therefore, under the circumstances, it would be advisable for the Senate to continue in session at least eleven days from the sending of the bill to the President so that it need not be treated in that way. I move, therefore, to amend the resolution by striking out "Friday, the 20th," and inserting "Tuesday, the 24th" as the day on which we shall adjourn.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on concurring in the resolution of the House of Representatives.

The question being taken by yeas and nays, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Buckalew, Cameron, Cole, Cragin, Davis, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Maine, Norton, Ross, Sherman, Stewart, Tipton, Van Winkle, and Wiley—18.

NAYS—Messrs. Conkling, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Morgan, Morrill of Vermont, Patterson of Tennessee, Pomeroy, Ramsey, Sumner, Thayer, Trumbull, Wade, Wilson, and Yates—20.

ABSENT—Messrs. Anthony, Bayard, Cattell, Chandler, Conness, Corbett, Fowler, Guthrie, Howe, Morton, Nye, Patterson of New Hampshire, Saulsbury, Sprague, and Williams—15.

So the resolution was not concurred in.

Mr. DOOLITTLE subsequently moved to reconsider the vote, and his motion was entered.

EXECUTIVE SESSION.

Several messages of an executive character were received from the President of the United States, by Mr. JOHNSON, his Secretary.

On motion of Mr. SHERMAN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 12, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PUBLIC BUILDINGS IN NEW MEXICO.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a report on the condition of public buildings in the Territory of New Mexico; which was referred to the Committee on Appropriations, and ordered to be printed.

REPORT OF THE COMPTROLLER OF CURRENCY.

The SPEAKER, also by unanimous consent, laid before the House a letter from the Comptroller of the Currency, asking the printing of additional copies of his report; which was referred to the Committee on Printing.

DEPRESSION OF SHIPPING INTERESTS.

Mr. ELIOT, by unanimous consent, submitted the following resolution:

Resolved, That the Committee on Commerce be directed to inquire into the causes which have produced the present depression of the shipping interests of the United States, and whether our maritime interests do not require a remission of internal duties on the materials entering into the building of vessels, or some legislation to facilitate the transfer of foreign vessels to American owners, and to report by bill or otherwise.

Mr. GARFIELD. I would ask the gentleman to include in his resolution an inquiry whether a resumption of specie payment would not be valuable to the interests of commerce.

Mr. ELIOT. No, sir.

The resolution was adopted.

ZEPHANIAH KNAPP.

Mr. WOODWARD, by unanimous consent, introduced a bill for the relief of Zephaniah Knapp, of Pittston, Luzerne county, Pennsylvania; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

AUDITOR OF DEPARTMENT OF AGRICULTURE.

Mr. BEAMAN. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of creating an officer, to be denominated the auditor of the department of agriculture, whose duty it shall be to pass upon all accounts of and claims against said Department, and to report by bill or otherwise.

Mr. HOLMAN. I object, and call for the regular order of business.

PUBLICATION OF POSTAL CONVENTIONS.

Mr. LAFLIN, from the Committee on Printing, reported a joint resolution in regard to the publication of postal conventions made with foreign Governments; which was read a first and second time. The joint resolution authorizes and directs the Secretary of State to cause the several postal conventions made with foreign Governments, under the provisions of the act of March 3, 1851, or which may hereafter be made, to be published in the same manner and upon the same terms as is prescribed for the publication of the treaties and laws of the United States.

Mr. MAYNARD. I would like to inquire of the chairman of the Committee on Printing [Mr. LAFLIN] whether it is contemplated by this joint resolution that these postal conventions shall be printed in the "Statutes-at-Large," now published by Little & Brown?

Mr. LAFLIN. The intention of this resolution is to provide an omission in the act of March 9, 1867. That act simply provided for the publication of the treaties and laws of the United States. By a decision of the proper authorities these postal conventions do not come under the head of treaties. It is deemed desirable by the Post Office Department that a special enactment should be made by Congress authorizing the publication of these postal conventions. It is proposed to have them published in the same way and by the same authority that our treaties and laws are to be published. No power is given to any one that he does not now possess in relation to the publication of treaties and laws. I do not see how any one can object to it.

Mr. BANKS. Will the gentleman allow me to make a statement?

Mr. LAFLIN. Certainly.

Mr. BANKS. I desire to say that the Post Office Department has entered into an agreement or sort of treaty with the North German Union, Swiss Confederation, and colonial government of Hong Kong, to carry letters at a freight charge of five cents instead of fifteen cents as formerly. There is no authority to publish these postal conventions, because they are neither treaties nor laws. They cannot therefore be published by the State Department. No additional appropriation is necessary. All that is required is authority to make the formal publication. I trust the resolution will pass.

The joint resolution was then read the third time, and passed.

Mr. LAFLIN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. BUCKLAND asked and obtained indefinite leave of absence for his colleague, Mr. HAMILTON, on account of sickness.

ORLAF E. DREUTZER.

Mr. MYERS, from the Committee on Foreign Affairs, reported back, with a recommendation that the same do pass, Senate bill No. 89, for the relief of Orlaf E. Druetzer, late consul of the United States to the kingdom of Norway.

The question was upon ordering the bill to be read a third time.

The bill was read at length. It directs the Secretary of the Treasury to pay to Orlaf E. Dreutzer, late consul at Bergen, the sum of $837 47 in coin, for consular salary from November 4, 1865, to May 24, 1866, less the amount of consular fees received by him during that time.

Mr. MYERS. I ask that the report accompanying the bill be read.

Mr. HOLMAN. As this bill proposes to make an appropriation, I reserve the right to make the point of order on it that it must first be considered in Committee of the Whole.

The report was read.

Mr. HOLMAN. I raise the point of order that this is an appropriation bill, and must first be considered in Committee of the Whole.

The bill was accordingly referred to the Committee of the Whole, and placed on the Private Calendar.

PENSIONS TO SOLDIERS OF 1812, ETC.

Mr. PERHAM. I have here several bills, memorials, &c., which by mistake have been referred to the Committee on Invalid Pensions, when they should have been referred to the Committee on Revolutionary Pensions and of the War of 1812. I am instructed by the committee to ask that they be discharged from their further consideration, and that they be referred to the Committee on Revolutionary Pensions, &c. They are as follows:

House bill No. 197, to authorize the Secretary of the Interior to place the name of Edward Kindred, of Peoria, Illinois, on the pension-rolls;

The petition of M. P. Shoek, praying for a pension to John Butler;

The petition of James Welsh, for an increase of pension;

House bill No. 216, allowing pensions to soldiers and the widows of soldiers of the war of 1812;

The petition of citizens of Lehigh county, Pennsylvania, for a general pension law for the benefit of the surviving soldiers and widows of soldiers of the war of 1812;

The petition for the relief of John Seward of the war of 1812;

The petition of Daniel Hausers and others, soldiers and widows of soldiers of the war of 1812, for pensions;

The petition of James Preston, of the city of Philadelphia, a soldier of the war of 1812, asking for a pension;

The petition of William Connelly, ninety years old, asking remuneration for services rendered in the war of 1812;

The petition of John Grubb, of Loudoun county, Virginia, a soldier of the war of 1812, praying the passage of a pension law for the benefit of soldiers of the war of 1812; and

Resolutions of the Legislature of the State of New York relative to pensions for soldiers of the war of 1812.

The recommendation of the committee was concurred in; and the various papers were referred to the Committee on Revolutionary Pensions and of the War of 1812.

The call of committees was concluded, no further reports being presented.

EDUCATION AND LABOR.

Mr. BAKER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the subject of education and labor, be referred to the Committee on Education and Labor.

MARINE HOSPITAL IN ILLINOIS.

Mr. LOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be, and are hereby, instructed to inquire into the expediency of locating at Cairo, or some other suitable place in the State of Illinois, the marine hospital formerly located at Paducah, Kentucky, and destroyed during the late rebellion.

SALE OF PUBLIC VESSELS.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be, and is hereby, requested, if not inconsistent with the public interest, to inform the House of Representatives what public vessels have been sold since the close of the war, stating the times when sold, the names of the vessels, the amount received therefor, the classes to which they belonged, whether they were sold at public or private sale, the amount expended upon said vessels separately since the close of the war, and by what authority such sales have been made.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHTS OF NATURALIZED CITIZENS.

Mr. PILE, by unanimous consent, presented resolutions adopted by a mass meeting of citizens of St. Louis, Missouri, in relation to the right of naturalized citizens to national protection; which were referred to the Committee on Foreign Affairs.

CANAL AROUND FALLS OF THE OHIO.

Mr. KERR. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency and propriety, in view of the interest of commerce on the Ohio and other western rivers, of making an appropriation to aid in the construction of a canal around the falls of the Ohio river, on the Indiana side thereof, which shall possess sufficient capacity for the safe, convenient, and expeditious passage of vessels of the largest tonnage used on said river, and to report to this House the facts and considerations which shall control their conclusions in the premises, and also to report by bill or otherwise their recommendations on the subject.

Mr. EGGLESTON. I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had

passed without amendment the bill (H. R. No. 155) entitled "An act granting a certain right of way to the Hudson River West Shore Railroad Company."

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER, as the regular order of business, proceeded to call the States, beginning with Massachusetts, for the introduction of resolutions.

PUBLIC DOCUMENTS FOR MEMBERS.

Mr. CHURCHILL submitted the following resolution:

Resolved, That the Clerk of the House be authorized and directed to procure and deliver to Hon. William E. Finck, Sidney T. Holmes, and GEORGE W. JULIAN, members of the Thirty-Ninth Congress, such volumes of the documents to which they are entitled under the eighteenth rule of the House as have been lost or stolen from the mails in the course of transmission.

Mr. WASHBURNE, of Illinois. In consequence of the noise around me I did not hear the whole of this resolution. I ask that it be reported again as it may affect me.

The resolution was again read.

Mr. WASHBURNE, of Illinois. I hope that it will be amended so as to apply to all the members; and when that is done I shall move that the resolution be laid on the table. [Laughter.]

Mr. CHURCHILL. I ask unanimous consent to make an explanation.

There was no objection, and it was ordered accordingly.

Mr. CHURCHILL. The rule of the House permits the Clerk to deliver to each member of Congress bound volumes of documents printed during the session. Those intended for the gentlemen named in the resolution were lost or stolen from the mails last summer, and were never received by them. They desire to make their sets complete, but the Clerk cannot send them these volumes without the order of the House, which is the design of this resolution.

Mr. ALLISON. I ask the gentleman to amend his resolution so as to include any other member whose books may have been lost.

Mr. WASHBURNE, of Illinois. On filing an affidavit of such loss.

Mr. CHURCHILL. I accept the modifications suggested. I demand the previous question.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 24, noes 55; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. CHURCHILL and Mr. ROSS.

The House again divided; and the tellers reported—ayes 42, noes 59.

So the resolution was disagreed to.

TAX ON FAMILY CRESTS.

Mr. CHANLER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be requested to levy a tax on family crests and coats of arms worn as ornaments upon vehicles or household furniture actually in use, and report by bill or otherwise.

RECONSTRUCTION.

Mr. BROOKS. I submit the following resolution:

Resolved, That the Secretary of War be requested to furnish the House with copies of all general orders which have been promulgated by the several commanders of the five military districts, or pentarchies, at the South, and of all special orders, or parts thereof, issued either by said commanders or by any of their subordinate officers for the execution of the reconstruction laws, or in anywise relating thereto.

The SPEAKER. This being a call for executive information it requires unanimous consent.

Mr. WARD. I object.

The SPEAKER. It then lies over under the rules.

DEMOCRATIC VICTORIES.

Mr. GETZ. I submit the following preamble and resolution:

Whereas it is reported that the cities of Boston, in Massachusetts, and Pittsburg, in Pennsylvania, have elected Democratic mayors; and whereas such elections are indicative of a spirit of disloyalty in the citizens of said cities, which demands prompt suppression: Therefore,

Be it resolved, That the select Committee on Reconstruction be instructed to inquire whether the States in which the said elections were held have republican forms of government, or do not need reconstruction.

Mr. BALDWIN rising to debate the resolution it went over, under the rules.

ALBANY PUBLIC BUILDING.

Mr. PRUYN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That it be referred to the Committee on Appropriations to inquire into the expediency of making an appropriation for the purchase of a suitable site and the erection of a proper building thereon, at Albany, in the State of New York, for the accommodation of the United States courts, the post office, and custom-house at that place.

DEPARTMENT SOLICITORS.

Mr. LAWRENCE, of Ohio, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law that solicitors in the Departments of the Government, and other law officers, shall all constitute a part of the Attorney General's department.

PERSONAL EXPLANATIONS.

Mr. GARFIELD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Rules be directed to inquire into the expediency of adopting a rule that members having received consent of the House to make personal explanation shall confine their remarks strictly to personal matters.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BOUNTY.

Mr. WILSON, of Ohio, submitted the following preamble and resolution, and demanded the previous question on its adoption:

Whereas much well-founded complaint exists among soldiers on account of not receiving the bounty provided by the act of July 28, 1866; and whereas the last session of the present Congress appointed a committee on soldiers and sailors bounties, to inquire into the cause of delay, which committee up to this time has made no report: Therefore,

Resolved, That said committee be, and they are hereby, directed and required at the earliest possible day to report to this House the result of their investigations.

Mr. WASHBURN, of Indiana. I ask consent to make an explanation.

Mr. WARD. I object.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

SERVICE OF VOLUNTEER OFFICERS.

Mr. ASHLEY, of Ohio, introduced a joint resolution in relation to retaining certain volunteer officers in the service; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORGANIC ACT OF NEW MEXICO.

Mr. ASHLEY, of Ohio, also introduced a bill to amend the organic act of the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Territories.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio, also introduced a bill to facilitate the restoration of the late rebel States, and for other purposes; which was read a first and second time, and referred to the Committee on Reconstruction.

NAVY-YARD AT ERIE, PENNSYLVANIA.

Mr. SCOFIELD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the propriety of locating a navy-yard and naval depot at the city of Erie, Pennsylvania.

TREATIES WITH FOREIGN NATIONS.

Mr. SPALDING submitted the following resolution:

Resolved, That it being declared by the second section of the second article of the Constitution that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur, the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress according to its sound discretion.

Mr. SPALDING. It will be noticed that this resolution is in the language of the resolution of 1796 adopted by Congress when they considered Jay's treaty. I move that the resolution be referred to the Committee of the Whole on the state of the Union so that we may have something upon which to discuss this question in the committee, and I wish it understood that I do not commit myself against any appropriation required by any treaty at all.

Mr. SPALDING'S motion was agreed to.

GOVERNMENT OFFICES IN NEW YORK CITY.

Mr. SCHENCK submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas it appears from the report submitted by the Secretary of War in reply to a resolution of this House, that the several subordinate establishments in and about the city of New York for the accommodation of the quartermaster, commissary, clothing, ordnance, and medical bureaus of the War Department are now separate and distinct, and in some instances quite remote from each other, thereby involving great expense, at the present time to an annual expenditure of over one hundred thousand dollars, and which must cause also great inconvenience and delay: Therefore,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of requiring the Secretary of War to concentrate the offices and storehouses of the said several bureaus at some convenient place within the harbor of said city or on the navigable waters thereof: *Provided*, That suitable warehouses, docks, piers, and basin can be obtained at a saving of expense to the Government.

PAYMENT OF UNITED STATES BONDS.

Mr. CARY submitted the following resolution:

Resolved, That in the opinion of this House the Secretary of the Treasury should not provide for the immediate payment of the bonds issued under the act of January 28, 1847, redeemable after December 31, 1867, amounting to $7,160,200; and those issued under the act of March 31, 1848, redeemable after July 1, 1868, amounting to $8,020,941 80; but that payment should be postponed until coin and legal-tender notes shall be of the same commercial value.

Mr. SCHENCK. I move that that resolution be referred to the Committee of Ways and Means.

Mr. CARY. I have no objection to that reference.

The motion was agreed to.

ABOLITION OF LAND OFFICES.

Mr. CARY introduced a bill to abolish the land offices at Chillicothe, Ohio, Indianapolis, Indiana, and Springfield, Illinois; which was read a first and second time, and referred to the Committee on Public Lands.

EUROPEAN TRIP OF THE MIANTONOMOH.

Mr. LAWRENCE, of Ohio, submitted the following resolution:

Resolved, That the Secretary of the Navy be directed to furnish to this House the entire expense of the late trip to Europe of the iron-clad Miantonomoh, which shall embrace in detail all the items, and out of what fund the said expense has been paid.

The SPEAKER. This being a call for executive information it requires unanimous consent for its consideration this day.

Mr. BROOKS. Objection was made to the

consideration of a similar resolution offered by myself, and I therefore object to this one.

The SPEAKER. The resolution goes over under the rule.

RETIRED LIST OF THE NAVY.

Mr. SCHENCK. I ask consent to introduce a bill supplementary to and explanatory of certain acts of Congress relating to officers of the Navy.

Mr. CHANLER. I object, unless the bill is read.

Mr. ROSS. I object to the reading of the bill.

ORDER OF CALLING STATES.

The SPEAKER. There being no further resolutions or bills from the State of Ohio, resolutions from the State of Tennessee are next in order.

Mr. ELDRIDGE. I rise to a question of order. I suppose the States should be called in the order of their admission into the Union. Now, if that be the case, under the rule of construction given to the action of the House by the majority, the State of Wisconsin should be called before the State of Tennessee.

The SPEAKER. The call is proceeding this morning, as it always has proceeded, in the order in which they are printed and called by the Clerk. The recollection of the Chair in regard to historical matters and dates is not very accurate, but his inpression is that Tennessee was admitted into the Union in the order in which it is now called.

Mr. ELDRIDGE. I suppose that was so; but I do not understand that to be the decision of the majority of this House.

Mr. FARNSWORTH. I rise to a point of order. The gentleman from Wisconsin [Mr. ELDRIDGE] exhausted the wit of that remark the first time he made it, some days ago.

Mr. ELDRIDGE. If that is an objection to saying anything the gentleman from Illinois [Mr. FARNSWORTH] was played out years ago.

The SPEAKER. There is no point of order involved in the remarks of the gentleman.

REPRESENTATIVES TO HAYTI, LIBERIA, ETC.

Mr. MAYNARD submitted the following resolution, upon which he called the previous question.

Resolved, That the Committee on Foreign Affairs be, and they are hereby, instructed to inquire into the propriety and expediency of providing by law that the diplomatic and consular representatives of this Government to Hayti, Liberia, and other parts of Africa shall be selected from citizens of African descent, with leave to report by bill or otherwise.

The previous question was seconded, and the main question ordered.

The question was upon adopting the resolution.

Mr. CHANLER. I call for the yeas and nays on adopting the resolution.

The question was taken upon ordering the yeas and nays; and upon a division there were —ayes 24, noes 59.

So, one fifth voting in the affirmative, the yeas and nays were ordered.

Mr. SCHENCK. I rise to a question of order; that by the law under the Constitution it is not in order to make any distinction between citizens of this country.

The SPEAKER. The Chair overrules the point of order, as it is not a parliamentary question of order.

The question was upon the adoption of the resolution.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the main question was ordered.

Mr. CHANLER. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 86, nays 52, not voting 49; as follows:

YEAS—Messrs. Allison, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Dixon, Dodge, Driggs, Eckley, Eggleston, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Koontz, George V. Lawrence, William Lawrence, Logan, Loughridge, Marvin, McCarthy, Mercur, Moore, Moorhead, Morrell, Myers, O'Neill, Paine, Perham, Pike, Pile, Polsley, Pomeroy, Price, Robertson, Sawyer, Schenck, Scofield, Smith, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—86.

NAYS—Messrs. Arnell, Delos R. Ashley, Axtell, Bailey, Barnes, Beck, Boyer, Bromwell, Brooks, Burr, Cary, Chanler, Eldridge, Farnsworth, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Loan, Marshall, Maynard, McClurg, McCullough, Mullins, Mungen, Newcomb, Niblack, Nicholson, Nunn, Pruyn, Randall, Robinson, Ross, Shanks, Sitgreaves, Spalding, Stewart, Taber, Trimble, Van Auken, Van Trump, Ward, Wood, and Woodward—52.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Barnum, Blaine, Blair, Boutwell, Cake, Coburn, Cornell, Covode, Donnelly, Finney, Gravely, Griswold, Haight, Hamilton, Hill, Richard D. Hubbard, Ketcham, Kitchen, Laflin, Lincoln, Lynch, Mallory, Miller, Morgan, Morrissey, Orth, Peters, Phelps, Plants, Poland, Raum, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Stone, Taffe, Thomas, Twichell, Upson, Robert T. Van Horn, Thomas Williams, and Woodbridge—49.

So the motion to reconsider was agreed to.

The question then recurred on seconding the demand for the previous question.

Mr. WASHBURNE, of Illinois. I rise to make an inquiry of the Chair. If the previous question should not be seconded, will it not be in order to move to refer the resolution to the Committee on Foreign Affairs?

The SPEAKER. It will be.

Mr. MAYNARD. I withdraw the call for the previous question, and move to refer the resolution to the Committee on Foreign Affairs. On this motion I demand the previous question.

Mr. CHANLER. I move that the resolution be laid on the table, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 68, nays 77, not voting 47; as follows:

YEAS—Messrs. Archer, Delos R. Ashley, Axtell, Baker, Barnes, Barnum, Beck, Benjamin, Bingham, Boyer, Brooks, Buckland, Burr, Chanler, Reader W. Clarke, Driggs, Eggleston, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Halsey, Harding, Hawkins, Hooper, Hotchkiss, Chester D. Hubbard, Humphrey, Johnson, Jones, Judd, Kerr, Knott, Koontz, George V. Lawrence, Loan, Mallory, Marshall, McClurg, McCullough, Mercur, Moore, Mungen, Myers, Newcomb, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Spalding, Stewart, Taber, Taylor, Van Auken, Van Trump, Wood and Woodward—63.

NAYS—Messrs. Allison, Arnell, Bailey, Baldwin, Banks, Beaman, Boutwell, Bromwell, Broomall, Butler, Cake, Cary, Churchill, Cobb, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Eckley, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Higby, Hopkins, Asahel W. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Julian, Kelley, Kelsey, Laflin, William Lawrence, Logan, Loughridge, Marvin, Maynard, McCarthy, Moorhead, Morrill, Mullins, Nunn, O'Neill, Paine, Perham, Pike, Pile, Pomeroy, Price, Robertson, Sawyer, Scofield, Shanks, Smith, Stokes, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, and Windom—77.

NOT VOTING—Messrs. Adams, Ames, Anderson, James M. Ashley, Benton, Blaine, Blair, Sidney Clarke, Coburn, Cornell, Covode, Finney, Garfield, Gravely, Griswold, Haight, Hamilton, Hill, Holman, Richard D. Hubbard, Ketcham, Kitchen, Lincoln, Lynch, Miller, Morgan, Morrissey, Orth, Peters, Plants, Poland, Polsley, Raum, Schenck, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, Thomas, Twichell, Upson, Robert T. Van Horn, John T. Wilson, and Woodbridge—47.

So the House refused to lay the resolution on the table.

The question then recurred on the motion of Mr. MAYNARD, that the resolution be referred to the Committee on Foreign Affairs.

The motion was agreed to.

The SPEAKER. The morning hour has expired.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year; in which the concurrence of the House was requested.

ADJOURNMENT TILL MONDAY.

Mr. WASHBURNE, of Illinois. I rise to a privileged question, and move that when the House adjourn to-day it be to meet on Monday next. There appears to be no business on the Calendar. No appropriation bills have been reported.

The motion was agreed to.

IRON-CLAD VESSELS.

Mr. PIKE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be, and is hereby, authorized to relinquish to the builders of such iron-clad vessels as in his judgment are not required by the interests of the service, the vessels constructed by them upon their refunding to the Government the amount paid to the said builders, they relinquishing all claim upon the Government for losses in their construction: *Provided*, That if any of the vessels have sustained injuries, the Secretary of the Navy may by a board of officers appraise the damages and abate the amount so ascertained from the sum to be refunded as herein provided.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I was about to move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union. But I will withhold that motion for a short time at the suggestion of gentlemen who wish to introduce resolutions and bills. Some gentlemen also desire that there shall be an understanding that after the House shall have resolved itself into the Committee of the Whole no further business shall be transacted to-day. The gentleman from Iowa suggests it would be better to call the States through.

The SPEAKER. The Chair is doing that as rapidly as possible.

WEST TENNESSEE DISTRICT COURT.

Mr. NUNN introduced a bill to provide for the appointment of judges for the district court of the district of West Tennessee; which was read a first and second time, and referred to the Committee on the Judiciary.

NATIONAL CURRENCY.

Mr. WILLIAMS, of Indiana, introduced a joint resolution to amend an act authorizing the issue of national currency, and for other purposes, approved February 25, 1863; which was read a first and second time, and referred to the Committee on Banking and Currency.

FALLS OF OHIO SHIP-CANAL.

Mr. KERR submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency and propriety, in view of the interests of commerce on the Ohio and other western rivers, of making an appropriation to aid in the construction of a canal around the falls of the Ohio river, on the Indiana side thereof, which shall possess sufficient capacity for the safe, convenient, and expeditious passage of vessels of the largest tonnage used on said river, and to report to this House the facts and considerations which shall control their conclusions in the premises, and also to report by bill or otherwise their recommendations on the subject.

Mr. COOK. I think that resolution ought to go to the Committee on Roads and Canals.

Mr. KERR. It does go there.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

MARGARET HUSTON.

Mr. KERR also introduced a bill to grant a pension to Margaret Huston; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EXTENSION OF BOUNTY ACT.

Mr. WASHBURN, of Indiana, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs

be instructed to inquire into the expediency of extending the bounty act of 1856 to the widows of those soldiers who have died since the passage of said act.

SOUTHERN SWAMP-LAND GRANTS.

Mr. JULIAN submitted the following resolution:

Resolved, That the Secretary of War be directed to report to this House the information called for by its resolution of July last, respecting the disposition of the swamp lands of the southern States; which information has not yet been communicated.

The SPEAKER. This being a call for executive information it requires unanimous consent.

Mr. BROOKS. I object, as a similar resolution offered by me was objected to.

MRS. MARY BROWN.

Mr. HARDING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to report, if they deem it advisable, a bill for the relief, by a pension or otherwise, of Mrs. Mary Brown, widow of John Brown, deceased, late of tenth regiment Illinois cavalry.

JOHN H. FINLAY.

Mr. HARDING also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions are hereby requested to report to this House on the justice and expediency of granting a pension to John H. Finlay, late a private in company G second Illinois cavalry, United States volunteers.

SALE OF PUBLIC VESSELS.

Mr. COOK submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be directed to inform the House, in connection with the information this day called for in relation to the number and price of the public vessels sold since the war, whether any of the vessels so sold were captured from the enemy during the war and upon which prize money was paid by the United States, and if so, the amount of prize money so paid, the date of payment, and the price for which the vessels were sold.

REDUCTION OF ARMY.

Mr. ROSS submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the report of the Secretary of War shows that the expense of the Military Department of the United States amounts to about seventy-seven million dollars, being more than the entire expense of administering the national Government in its earlier and better days; Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reducing the Army to a peace establishment, and thereby relieve the tax-payers of the useless and unnecessary burdens of a large standing Army in time of peace.

REVENUE ON DISTILLED SPIRITS.

Mr. BURR. I offer the following resolution:

Resolved, That the Commissioner of Internal Revenue be directed to inform the House at the earliest practicable moment the amount of revenue on distilled spirits collected in the State of Illinois for the six months ending November 30, 1867, and the proportion of such revenue received from each collection district in said State.

The SPEAKER. This being a resolution calling for executive information it requires unanimous consent for its consideration to-day.

No objection was made.

Mr. PILE. I suggest to the gentleman that the direction should be to the Secretary of the Treasury, and not to the Commissioner of Internal Revenue. I think it is not customary to call upon subordinate officers for information.

Mr. BURR. Such resolutions have been passed; and I think it more likely to meet with a prompt response. I call the previous question on the resolution.

The previous question was seconded, and the main question ordered.

The question was put on agreeing to the resolution, and no quorum voted.

Mr. BURR. If it will remove objection, I will modify the resolution so as to make it a call upon the Secretary of the Treasury.

Mr. PILE. I have no objection to that.

The resolution was agreed to.

THE IMPEACHMENT INVESTIGATION.

Mr. BURR. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Clerk of this House be, and he is hereby, directed to report to this House, at his earliest convenience, the several amounts paid out of the contingent fund for expenses caused by the investigation of the charges against the President before the Judiciary Committee; also to whom and for what service said several amounts were paid.

Mr. BUTLER. I object.

FRANCIS DAINESE.

Mr. FARNSWORTH submitted the following resolution:

Resolved, That a select committee of three members of this House be appointed by the Speaker to inquire into and report to this House the facts in regard to the charges in the accompanying communication of Francis Dainese, and that said committee have power to send for persons and papers and examine witnesses upon oath.

Mr. FARNSWORTH. I ask unanimous consent to make a statement to the House.

No objection was made.

Mr. FARNSWORTH. The charges contained in the accompanying memorial are quite voluminous, and the House could scarcely have them read. I wish to state to the House that I do not desire, if this resolution shall be adopted, to be placed upon the committee; but I think it due to the memorialist that a committee should be raised, and that these charges should be investigated, for if half what he states is true there has been a case of very gross oppression which can scarcely find its parallel in the history of the country.

Mr. DAWES. Against whom are the charges?

Mr. FARNSWORTH. The charges are against the United States consul in Egypt, Mr. Hale, and, in connection therewith, somewhat reflecting upon the Secretary of State. I will state to the House that the investigation by the committee will not require the sending to Egypt for witnesses or anything of that sort.

Mr. DAWES. Will the gentleman tell us what the memorialist charges Mr. Hale with?

Mr. FARNSWORTH. I was about to say. He charges Mr. Hale with issuing an attachment upon some five or six hundred thousand dollars' worth of goods which he had taken to Egypt for sale at the suit of parties residing in the city of New York. I think the committee will find that the consul had no jurisdiction of the case whatever. But if he had the parties in New York who commenced that suit likewise commenced a suit in the city of Washington by attachment, Mr. Dainese owning property in the District of Columbia and in the neighboring State of Maryland. Mr. Dainese returned to Washington, appeared, and defended that suit. The suit was dismissed as soon as he appeared. He then went to New York, where these parties resided, and commenced a suit against them. They answered it, and he obtained from the State court there a writ of injunction enjoining the parties, whose name is Allen, I think, from further prosecuting their cause in Egypt, but requiring them, if they had any suit to bring, to bring it here where the parties reside, and where Mr. Dainese has plenty of property to answer their suit.

Notwithstanding that, and notwithstanding the injunction has been served upon Mr. Hale, the consul in Egypt, he refuses to surrender the property, and still holds it there locked up; nor can Mr. Dainese procure an order from the Secretary of State to the consul there to release them. His property is bound up in Egypt by the mandate of this consul without any jurisdiction whatever, and he is without any redress. I think it is due to him that this matter should be investigated.

Mr. DAWES. What objection has the gentleman from Illinois [Mr. FARNSWORTH] to having this resolution referred to the Committee on Foreign Affairs?

Mr. MAYNARD. What information has the gentleman received concerning this matter upon which he can rely?

Mr. FARNSWORTH. I can vouch for a portion of the statement, because I have seen the record in the case of the suit in New York.

Mr. DAWES. The gentleman from Illinois [Mr. FARNSWORTH] and myself are well acquainted with the claim of this Dainese. I hope the gentleman will consent to have this matter referred to the Committee on Foreign Affairs. I think he will find this like a claim which this Mr. Dainese has been prosecuting before Congress for the last twelve years, very much more on paper than anywhere else.

Mr. FARNSWORTH. I have no objection to having this matter referred to the Committee on Foreign Affairs if they will consider it. I desire, however, that the House of Representatives shall direct the committee to investigate the case.

Mr. DAWES. I have the utmost confidence in the Committee on Foreign Affairs, as I should have in any committee that might be raised on the gentleman's motion. I am for giving Mr. Dainese an opportunity to be again heard here.

Mr. FARNSWORTH. This is exactly similar to many other cases on which select committees have been raised. However, I have no objection to referring this matter to the Committee on Foreign Affairs, and will modify the resolution to that effect.

The resolution, as modified, was then adopted.

PAY OF A DECEASED MEMBER.

Mr. RANDALL, by unanimous consent, submitted the following resolution; which was read, considered, and unanimously agreed to:

Resolved, That the Sergeant-at-Arms is hereby authorized to pay to the widow of Charles Denison, late a member of this House from Pennsylvania, the amount of compensation which would have been due to the late member to July 4, 1867, and to further pay the amount of funeral expenses in the burial of the deceased, which payments shall first be approved by the Committee on Accounts of this House.

REDUCTION OF THE ARMY.

Mr. GARFIELD. I move to reconsider the vote by which the House referred to the Committee on Military Affairs a resolution submitted by the gentleman from Illinois, [Mr. ROSS.] Upon examining that resolution I find that it is disrespectful in terms both to the Secretary of War and to the general management of public affairs. I call the previous question on the motion to reconsider.

The resolution was read, as follows:

Whereas the report of the Secretary of War shows that the expense of the Military Department of the United States amounts to about seventy-seven million dollars, being more than the entire expense of administering the national Government in its earlier and better days: Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reducing the Army to a peace establishment, and thereby relieve the tax-payers of the useless and unnecessary charges of a large standing Army in time of peace.

Mr. ROSS. I had no intention whatever to reflect on General Grant. The gentleman from Ohio [Mr. GARFIELD] assisted in getting up the military bill, and the gentleman is responsible for his portion of the $77,000,000 expended if there is any question about the great expense of the Army. General Grant had nothing to do with it.

Mr. GARFIELD. I insist upon the call for the previous question.

The previous question was seconded and the main question ordered.

The question was then taken upon the motion to reconsider; and upon a division there were —ayes 59, noes 26; no quorum voting.

Tellers were ordered; and Messrs. GARFIELD and ROSS were appointed.

The House again divided; and the tellers reported that there were—ayes 73, noes 33.

So the motion to reconsider was agreed to.

The question recurred upon the adoption of the resolution.

Mr. GARFIELD. I move that the resolution be laid on the table.

Mr. ROSS. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided

in the affirmative—yeas 70, nays 65, not voting 52; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, Bailey, Baker, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Dawes, Dixon, Dodge, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Halsey, Hawkins, Hill, Hooper, Hulburd, Ingersoll, Jenckes, Kelley, Kelsey, Laflin, William Lawrence, Mallory, Maynard, McCarthy, Moore, Moorhead, Morrell, Mullins, Myers, O'Neill, Paine, Peters, Poland, Pomeroy, Robertson, Sawyer, Scofield, Smith, Spalding, Taylor, Trimble, Burt Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Welker, William Williams, James F. Wilson, John T. Wilson, and Windom—70.

NAYS—Messrs. Axtell, Baldwin, Barnum, Boyer, Brooks, Burr, Cary, Chanler, Coburn, Cullom, Donnelly, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Harding, Higby, Hotchkiss, Humphrey, Hunter, Johnson, Jones, Judd, Julian, Kerr, Knott, Koontz, George V. Lawrence, Loan, Logan, Marshall, Marvin, McClurg, McCullough, Mercur, Newcomb, Niblack, Nicholson, Nunn, Perham, Polsley, Price, Pruyn, Randall, Robinson, Ross, Shanks, Sitgreaves, Aaron F. Stevens, Stewart, Stokes, Taber, Trowbridge, Van Aernam, Van Auken, Van Trump, Ward, Henry D. Washburn, William B. Washburn, Thomas Williams, Stephen F. Wilson, Wood, and Woodward—65.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, James M. Ashley, Barnes, Beck, Blair, Boutwell, Butler, Cornell, Covode, Eggleston, Ela, Finney, Gravely, Griswold, Haight, Hamilton, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ketcham, Kitchen, Lincoln, Loughridge, Lynch, Miller, Morgan, Morrissey, Mungen, Orth, Phelps, Pike, Pile, Plants, Raum, Schenck, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stone, Taffe, Thomas, Twichell, Upson, Robert T. Van Horn, Van Wyck, and Woodbridge—52.

So the preamble and resolution were laid on the table.

During the vote,

Mr. BLAINE said: Mr. Speaker, I desire to say that the first day of this session I offered a resolution for the reduction of the Army, which was referred to the Committee on Military Affairs; therefore I vote in the affirmative.

Mr. INGERSOLL. I vote in the affirmative for the same reason. I am against the "whereas" and in favor of the resolution.

The vote was then announced as above recorded.

Mr. BAKER. I offer the following preamble and resolution; and demand the previous question on their adoption:

Whereas it is on every account expedient that the military establishment of the United States should be as small and economical as is compatible with the real and absolute needs of the country: Therefore,

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reducing said military establishment of the United States in conformity with the foregoing preamble.

Mr. GARFIELD. I hope that will pass.

The previous question was seconded and the main question ordered.

Mr. INGERSOLL. I demand the yeas and nays.

Mr. ROSS. No one objects to the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 130, nays none, not voting 57; as follows:

YEAS—Messrs. Allison, Arnell, Axtell, Bailey, Baker, Banks, Beaman, Beck, Benjamin, Benton, Bingham, Blaine, Boyer, Bromwell, Brooks, Broomall, Buckland, Burr, Butler, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Fox, Garfield, Getz, Glossbrenner, Golladay, Grover, Halsey, Harding, Hawkins, Hill, Higby, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Jones, Judd, Julian, Kelley, Kelsey, Kerr, Knott, Koontz, Laflin, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Mallory, Marshall, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Paine, Perham, Peters, Pile, Poland, Polsley, Pomeroy, Price, Pruyn, Randall, Robertson, Ross, Sawyer Scofield, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Stewart, Stokes, Taber, Thomas, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodward—130.

NAYS—0.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Baldwin, Barnes, Barnum, Blair, Boutwell, Cake, Cornell, Covode, Eckley, Eldridge, Finney, Gravely Griswold, Haight, Hamilton, Asahel W. Hubbard Richard D. Hubbard, Ketcham, Kitchen, Lincoln Lynch, McCullough, Miller, Morgan, Morrissey, Mungen, Orth, Phelps, Pike, Plants, Raum, Robinson, Schenck, Selye, Shanks, Shellabarger, Starkweather, Thaddeus Stevens, Stone, Taffe, Taylor, Twichell, Upson, Van Auken, Robert T. Van Horn, Thomas Williams, and Woodbridge—57.

So the preamble and resolution were unanimously agreed to.

Mr. BAKER moved to reconsider the vote by which the preamble and resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SWAMP-LAND GRANTS.

Mr. BROMWELL. Mr. Speaker, I have a resolution of inquiry which I wish to introduce, and I ask the House for five minutes to explain it. If the House understand its merits I think it will be adopted.

The Clerk read as follows:

Whereas certain swamp lands have heretofore been granted by the United States to the several States in which they lie, and said lands, or some portion of them, afterward disposed of by the United States by permitting military bounty land-warrants to be located on the same; and in lieu thereof warrants have been issued to such States, which in some cases are of no value to such States, for the reason that the public lands in such States have been sold by the United States: Therefore,

Resolved, That the Committee on Public Lands be, and they are hereby, instructed to inquire into and report to this House the expediency of providing by law for the issuance of warrants to such States to be located on any of the public lands in lieu of the lands disposed of by the General Government; and that said committee have leave to report by bill or otherwise.

Mr. ALLISON. I object.

Mr. BROMWELL. I withdraw the resolution for the present.

IRON-CLAD VESSELS—AGAIN.

Mr. JUDD. I desire to move to reconsider the vote authorizing the Secretary of the Treasury to sell certain iron-clad vessels.

The Clerk read the resolution, as follows:

Resolved, That the Secretary of the Navy be, and is hereby, authorized to relinquish to the builders of such iron-clad vessels as in his judgment are not required by the interests of the service, the vessels constructed by them, upon their refunding to the Government the amount paid to the said builders, they relinquishing all claim upon the Government for losses in their construction: *Provided*, That if any of the vessels have sustained injuries the Secretary of the Navy may, by a board of officers, appraise the damages and abate the amount so ascertained from the sum to be refunded as herein provided.

Mr. BLAINE. I ask the gentleman from Illinois to allow me to say a single word.

Mr. JUDD. Very well.

Mr. BLAINE. I was not in the House when the resolution was passed and know nothing about it; but I observe my colleague [Mr. PIKE] who offered it is not now present. I suggest, therefore, that the motion to reconsider be entered, and it can be called up at any time when my colleague, the chairman of the Committee on Naval Affairs, is present.

Mr. JUDD. If I supposed it would place the gentleman's colleague in a false position I would yield to the suggestion. The resolution was passed *sub silentio*, and I am sure that the resolution would not have passed if the House had heard and understood the last clause in reference to damages.

The SPEAKER. The Chair is informed that the gentleman from Maine intended to refer the resolution to the Committee on Naval Affairs. If there be no objection it will take that reference now.

There was no objection, and it was referred accordingly.

FRAUDS ON THE REVENUE.

Mr. INGERSOLL. I ask unanimous consent to submit the following preamble and resolution:

Whereas the most gigantic frauds are perpetrated against the revenue of the country by illicit distillation of high wines and whisky: Therefore,

Be it resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of providing by law for the total destruction of all high wines and whisky which may be seized as having been manufactured in fraud of the revenue laws.

Mr. WARD. I would suggest as an amendment that all high wines and whisky be abolished.

Mr. ELDRIDGE. I object.

E. B. HOAG.

Mr. INGERSOLL introduced a bill for the relief of E. B. Hoag; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

EXEMPTION OF INCOMES.

Mr. INGERSOLL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be hereby instructed to inquire into the expediency of exempting from paying tax all incomes which do not exceed $2,500 per annum.

Mr. INGERSOLL moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADJOURNMENT TILL MONDAY.

Mr. WASHBURNE, of Illinois. I desire to make a suggestion to the House for the benefit of the gentleman from Ohio, [Mr. LAWRENCE,] who acquiesced in the motion to adjourn over till Monday with the expectation that he and the gentleman from Tennessee [Mr. MAYNARD] would have an opportunity to make speeches in the Committee of the Whole on the state of the Union to-day. It is so late now that neither gentleman wants to go on. They propose that by unanimous consent there shall be a session of the House to-morrow for speeches only.

Mr. MAYNARD. I would prefer myself to submit my remarks this evening.

The SPEAKER. The Chair understands that the gentleman from Ohio [Mr. LAWRENCE] would prefer to make his speech to-morrow.

Mr. LAWRENCE, of Ohio. Allow me to say a single word, and I will state what I desire. Nearly an hour ago the gentleman from Illinois [Mr. WASHBURNE] moved that when the House adjourn it adjourn to meet on Monday next. He at the same time stated that he would immediately move to go into Committee of the Whole on the state of the Union to give an opportunity to gentlemen who desired to speak to make their speeches. That was nearly an hour ago. It is understood that the gentleman from Tennessee [Mr. MAYNARD] proposes to speak, and I believe it is understood that I shall follow him. It is perfectly manifest that there is not time now for two speeches, and if we adjourn over till Monday we are delayed, and time is lost which might possibly be profitably employed. I therefore appeal to the House to rescind the resolution to adjourn over till Monday in order that we may have a session for speeches to-morrow. If there should be any time left this evening after the gentleman from Tennessee gets through, I will commence my speech, but it is not possible I should finish it this evening, and under these circumstances I hope that by unanimous consent we shall have a session to-morrow.

Mr. GLOSSBRENNER. I object.

Mr. ELDRIDGE. I desire to make a suggestion.

Mr. WASHBURNE, of Illinois. I will yield for that purpose.

Mr. ELDRIDGE. There seems to be a misunderstanding as to who has the floor immediately after the gentleman from Tennessee, [Mr. MAYNARD.] The gentleman from Ohio [Mr. VAN TRUMP] thinks that he has the floor then.

The SPEAKER. The chairman of the Committee of the Whole has charge of that matter. The Chair has no control over speeches in Committee of the Whole.

Mr. ELDRIDGE. That may make a difference in the arrangement.

Mr. WASHBURNE, of Illinois. I insist on my motion to go into Committee of the Whole on the state of the Union.

Mr. SCOFIELD. I move that the House do now adjourn.

The SPEAKER. Before the House adjourns the Chair has a number of communications from the Executive Departments which he desires to present.

Mr. SCOFIELD. I withdraw the motion to adjourn for that purpose.

Mr. WASHBURNE, of Illinois. I will waive my motion until the Chair presents the communications.

SALE OF AN INDIAN RESERVATION.

The SPEAKER laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs relative to the importance of selling a certain Indian reservation; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ARMY CONTRACTS.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, in compliance with the acts of April 21, 1808, and July 17, 1862, transmitting a statement of contracts made by the quartermaster's department from February 1 to November 30, 1867; which was referred to the Committee on Military Affairs, and ordered to be printed.

APPROPRIATION FOR RECONSTRUCTION.

The SPEAKER also laid before the House a letter from the Secretary of War *ad interim*, transmitting a communication from the Paymaster General asking for a further appropriation for reconstruction purposes in the third military district; which was referred to the Committee on Appropriations, and ordered to be printed.

INCREASE OF FORCE.

The SPEAKER also laid before the House a letter from the Secretary of War *ad interim*, transmitting, with his concurrence, a communication from the Commissary General asking an increase of officers of that branch of the service; which was referred to the Committee on Military Affairs, and ordered to be printed.

MILITARY OFFICES IN SAN FRANCISCO.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, in reference to an appropriation for a building at San Francisco for the use of military offices in that city; which was referred to the Committee on Appropriations, and ordered to be printed.

GOVERNMENT BONDS BOUGHT, SOLD, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the act of April 12, 1866, a statement of five-twenty and seven-thirty bonds bought, sold, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

LOUIS M. GOLDSBOROUGH.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of the 26th ultimo, relative to the fact of Louis M. Goldsborough having been appointed an acting lieutenant while a midshipman in the Navy, whether he drew the pay of the increased rank, &c.; which was referred to the Committee on Naval Affairs, and ordered to be printed.

WILLIAM ST. MARIE.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, in regard to the claim of William St. Marie, for compensation for information furnished in the Surratt case; which was referred to the Committee of Claims, and ordered to be printed.

Mr. ELIOT moved to reconsider the various votes by which the several executive communications were referred to appropriate committees; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same, namely:

An act (H. R. No. 155) granting a certain right of way to the Hudson River West Shore Railroad Company.

ADJOURNMENT OVER TILL MONDAY.

Mr. DAWES. There are so many gentlemen desirous of speaking in the Committee of the Whole that I will move to reconsider the vote by which the House agreed to adjourn over until Monday next, and ask that by unanimous consent to-morrow be devoted to debate as in the Committee of the Whole.

Mr. GLOSSBRENNER. I object.

Mr. DAWES. Then I move to reconsider the vote by which the House agreed to the motion to adjourn over.

The question was taken; and upon a division there were—ayes 73, noes 33.

So the motion to reconsider was agreed to.

The question recurred upon the motion to adjourn over.

Mr. WASHBURNE, of Illinois. I withdraw the motion.

Mr. DAWES. I now ask that by unanimous consent to-morrow be devoted to speaking as in the Committee of the Whole, no business to be transacted, and the right to adjourn from to-morrow till Monday next to be reserved.

No objection was made; and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I now renew the motion that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the President's annual message.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the President's annual message, on which Mr. MAYNARD was entitled to the floor.

TENNESSEE—RECONSTRUCTION.

Mr. MAYNARD. Mr. Chairman, I ask the indulgence of the House to vindicate the State government of Tennessee. It has been unjustly assailed; and I should be wanting in duty to the people I represent did I let the assaults pass without reply. The first to make an attack was the gentleman from New York, [Mr. BROOKS.] I give his words at length. He is making objection to the admission to seats in this House of the entire delegation of the State—a challenge to the array:

"My second point is, that I object to the swearing in of the whole delegation, upon the ground that there does not exist, and did not exist at the time of this election in the State of Tennessee, a republican form of government such as is required by the Constitution of the United States to entitle a State to a representation upon the floor of this House. Without entering at any great length into this point at the present time, the substance of my argument is grounded upon the elective franchise law of the State of Tennessee, passed in 1865. I object upon the ground that the elective franchise law of Tennessee, under which these gentlemen are said to have been elected, disfranchises a large portion of the white population—a majority of the white population of the State of Tennessee; that these members thus elected under that State franchise law of the State of Tennessee were elected by 55,000 negro votes, 45,000 white voters only voting, and that there were disfranchised in the State of Tennessee in that election from forty to forty-five thousand white voters; 100,000 voters controlled that election, 55,000 of whom were negroes; 45,000 whites being voted down, and 40,000 white voters disfranchised, who could not vote at all under the law of the State. I object to them upon the ground that an oligarchy exists and reigns in the State of Tennessee, and that it is not such a republican form of government as the Constitution prescribes and ordains. And therefore I object to the swearing in of the whole delegation upon the principles which I have here alleged."

This attack is certainly from an unexpected source. Scarcely two years ago, at the assembling of the last Congress, in which he had the honor of taking a seat, I was present with my colleagues seeking admission as Representatives of Tennessee under the same government which he now so vigorously arraigns, administered principally by the same men, and elected under the franchise law of 1865. I shall not easily forget how chivalrously he sprang forward as our champion, nor how his melodious voice rang in indignation at our exclusion; certainly not the kind things personal to myself with which he interlarded the debate. And when, the other day, we came to the door, bearing credentials signed by the same Governor, impressed by the same great seal, affixed by the same hand, and were met at the threshold by the gentleman, like a sentinel angel, sword in hand, forbidding our entrance, I confess to a little of the *et tu Brute* feeling.

The next attack comes from the gentleman from Illinois, [Mr. MARSHALL,] speaking to the same point. His language is this:

"Another observation and I have done. The whole State government of Tennessee as at present organized and administered is a disgrace to the American nation and to the civilization of the age. What ought to be the action of the House in regard to the entire delegation claiming to represent that State here I will not undertake to argue; but, sir, it is a notorious fact, and can be proved if necessary, that Union soldiers, men who fought in the Union Army in Tennessee during the entire war, have been excluded and driven from the polls and not permitted to vote under the Brownlow usurpation because they would not put their hands upon their mouths and their mouths in the dust, and bow their knees suppliantly to the negro government established there, and which lords it over the white freemen of that once noble and illustrious State. For that, and that alone, Union soldiers all over the State, I charge it here, and it can be proved if the House will order an investigation, have been driven or excluded from the polls simply and solely because they would not crook the pregnant hinges of the knee to the negro and the negro-worshiping oligarchy in that most outrageously misgoverned of all States in the civilized world."

These be brave words, and coming from one who stood up for us and our government so manfully in the last Congress cannot fail to fill us with regret at the loss of such a friend.

I come down to the gentleman from Wisconsin, [Mr. ELDRIDGE.] I refer solely to the order of time. He is speaking to no particular point, but uses this language toward the government of Tennessee:

"The gentleman undertakes to justify his State and defend its government. He says his State has been attacked here. What! the old sovereign State of Tennessee attacked here in this House? By no means. It is only that infamous State government that the gentleman and his friends have set up on the foundation of the old and once glorious State of Tennessee that has been attacked—that government which no honest, no upright, or just man can justify or defend that has been attacked. Why, sir, who has attacked the State of Tennessee? My friend from Illinois [Mr. MARSHALL] did not. He did attack the present government—the Brownlow government—there, and told this House and the country that it was a despotism and a disgrace to the civilization of the age. And I concur in that sentiment. The oppression there would shame a despotism anywhere on the face of God's earth, and the gentleman cannot deny it. The gentleman says they enfranchised the negroes and disfranchised white rebels only. How did you do it? I would ask him. Did you disfranchise them according to your constitution and laws? Or did you enfranchise and disfranchise by the despotic hand of power—by your Brownlow bayonets? The government now enforced was never established by the voluntary will or choice of the people."

To the same effect is the language of another gentleman from Illinois, [Mr. ROSS,] who says, "We all know the government in Tennessee was established by the bayonets there;" and on a subsequent day he reiterated the statement in a more amplified shape:

"Mr. MCCLURG. How about Tennessee?

"Mr. ROSS. Tennessee is still unfortunately under the rule of the bayonets, and I believe my friend from Missouri, [Mr. MCCLURG,] who has called my attention to the State of Tennessee, was one of those who voted at the last session of Congress to take twenty-five thousand stand of Government arms and send them down to the Brownlow government in Tennessee, that the free white men of Tennessee might be kept from the polls, and that the negro population, aided by a few degenerate white men, might control the elective franchise in that State."

This is the impeachment against our State government, and these are the impeachers. In examining the charges negatively, it is well to remark that no complaint is made of any social or civil rights violated; of any person of whatever opinion, condition, or color, unprotected in life, liberty, person, reputation, property, or business; of any crime unpunished, or any individual wrong unredressed. It is a significant fact that with respect to these primary and fundamental offices of govern-

ment it is not alleged that the laws are not impartially made and impartially administered. Whatever failures there may have been in this regard are chargeable to the foes and not to the friends of the government—to its opponents, and not to its supporters. Such exceptional cases have probably not attracted the notice of the gentlemen, at least they have not referred to them.

In its last analysis the accusation against us resolves itself into this: that the gentleman's friends, the rebels and enemies of the government, are not allowed to vote, while their opponents, loyal men and ever true to the Government, are allowed to vote. It is their rebel ox that is gored. This is the head and front of our offending; the *fons malorum et origo*.

My purpose is to disclose the state of the franchise in Tennessee, that it may be seen whether the complaints against it are or are not well founded.

When, at the convening of the last Congress, my colleagues and myself presented our credentials to the House as Representatives from Tennessee, signed by William G. Brownlow as Governor, with the great seal of the State affixed, the question at once arose, how came he to be the Governor of Tennessee, and by what authority does he affix her great seal to public official documents—a question involving in its solution the validity of the organization assuming to be the restored government of that State—a mixed question of fact and law? To refer it, in the first instance, to a committee for examination and report was, under the circumstances, usual, if not of course. The House Committee of Elections might properly enough have been charged with it, as had been done with similar questions in the two preceding Congresses. But as the same inquiry, substantially, arose in each House, there was certainly nothing extraordinary in referring it, as was done, to a joint select committee of the two Houses.

To assist and facilitate their labors I, in connection with three of my colleagues, Messrs. Cooper, Leftwich, and STOKES, submitted a memorial to the two Houses, embodying the organization of our restored government and its public acts to that time. In that document we united in expressing the opinion "that the said government is republican in form as well as in spirit"—the same government, be it known, which the gentleman from New York [Mr. BROOKS] now denies to be "a republican form of government such as is required by the Constitution of the United States to entitle a State to a representation upon the floor of this House," and which the gentleman from Illinois [Mr. MARSHALL] denounces as "a disgrace to the American nation and to the civilization of the age."

The organization of the government (to be found at pages 5 to 13, Report No. 30, first session Thirty-Ninth Congress) was effected by "certain articles amendatory of the constitution of the State and the schedule thereto appended" proposed by "a large and respectable convention of the free and loyal people of the State" and ratified by popular vote at the ballot-box. One of these articles provides that "the qualification of voters and the limitation of the elective franchise may be determined by the General Assembly" (the legal name of the Legislature of Tennessee) "which shall first assemble under the amended constitution."

The Legislature addressed itself very early to the business thus referred to it, and the result was the franchise act of 1865, which the gentleman from New York [Mr. BROOKS] declares to be the substance of his argument against the constitutionality of our State government. To his argument from this source there is a twofold reply: the one *ad hominem* to himself already given, the other of fact that the law of 1865 has since been materially and essentially modified.

After the investigation and report of the committee, the House, with but twelve votes in the negative, passed a preamble and resolution in substance affirming the constitutionality and validity of our State government, and declaring the right of the State under it again to be represented in Congress by her Senators and members-elect. Of those voting in the negative, three were from Massachusetts, three from Missouri, two from Pennsylvania, and one each from Rhode Island, Indiana, Wisconsin, and California, whose opposition was occasioned by the failure of our Legislature to enfranchise the colored men, lacking apparently the patience, possibly the prescience to perceive that there, as the whole country over, it was but a question of time. Among the affirmative voters I find the suggestive names of the gentleman from Wisconsin [Mr. ELDRIDGE] and one of the gentlemen from Illinois, [Mr. ROSS;] the other [Mr. MARSHALL] was not in his seat, and the gentleman from New York [Mr. BROOKS] had ceased to be a member of the House. So far, then, as three, at least, of the gentlemen are concerned, the time for challenging our State government is obviously passed, and they are concluded.

As I have just observed, the franchise act of 1865 has undergone important modifications. For a better comprehension of the present state of the law I will cite two supplementary acts passed, the one on the 25th of February, the other on the 8th of March, 1867:

"*Be it enacted by the General Assembly of the State of Tennessee*, That every male inhabitant of this State, of the age of twenty-one years, a citizen of the United States, and a resident of the county wherein he may offer his vote six months next preceding the day of election, shall be entitled to the privilege of the elective franchise, subject to the following exceptions and disqualifications, to wit:

"1. Said voter shall never have borne arms against the Government of the United States for the purpose of aiding the late rebellion, nor have voluntarily given aid, comfort, countenance, counsel or encouragement to any rebellion against the authority of the United States Government; nor aided, countenanced, or encouraged acts of hostility thereto.

"2. That said voter shall have never sought or voluntarily have accepted any office, civil or military, or attempted to exercise the functions of any office, civil or military, under the authority or pretended authority of the so-called confederate States of America, or of any insurrectionary State whatever, hostile or opposed to the authority of the United States Government, with the intent and desire to aid said rebellion or insurrectionary authority.

"3. That said voter shall never have voluntarily supported any pretended government, power, or authority hostile or inimical to the authority of the United States, by contributions in money or property, by persuasion or influence, or in any other way whatever: *Provided*, That the foregoing restrictions and disqualifications shall not apply to any citizen who may have served in and been honorably discharged from the Army or Navy of the United States since the 1st day of January, 1862, nor to those who voted in the presidential election in November, 1864, or voted in the election for 'Ratification or Rejection,' in February, 1865, or voted in the election held on the 4th of March, of the same year, for Governor and members of the Legislature, nor to those who have been appointed to any civil or military office by Andrew Johnson, military governor, or William G. Brownlow, Governor of Tennessee, prior to June 5, 1865; all of whom are hereby declared to be qualified voters, upon their complying with the requirements of this act: *Provided*, That this latter clause shall not apply to any commission issued upon any election which may have been held."

—

"*Be it enacted by the General Assembly of the State of Tennessee*, That in all State, district, county, and all other civil elections, such aliens as have resided more than one year in the United States, and more than six months in the State of Tennessee, shall have the right of the elective franchise: *Provided*, That such person shall have previously declared their intention to become citizens of the United States, and that they shall not have participated in the late rebellion."

By collating these acts it will be seen that in Tennessee the elective franchise, or right to vote in all elections, national, State, county, district, and municipal, is conferred upon every male inhabitant twenty-one years old, a citizen of the United States, or an alien who has resided more than a year in the United States and has previously declared his intention to become a citizen, and a resident of the county where he shall vote six months next preceding the day of election, who has never voluntarily, by bearing arms or in any other way, aided rebellion against the Government of the United States; who has never sought or voluntarily accepted or attempted to exercise the functions of any office, civil or military, in hostility to the Government of the United States, and has never voluntarily supported any Power hostile to the Government of the United States by material, moral, or other aid, unless he shall have served in and been honorably discharged from the Army or Navy since January 1, 1862, or shall have voted at the presidential election in November, 1864, or at one of the elections held in February and March, 1865, to decide upon the reorganization of our State government, (elections at which everybody was invited to vote, according to the old qualifications, who would make oath to be loyal in the future,) or shall have held civil or military office under Andrew Johnson as military governor, or William G. Brownlow as Governor of Tennessee, prior to June 5, 1865, the date of the first franchise act. In a word, every man is enfranchised who has not been a traitor, or whose treason has been condoned for some of the causes just enumerated. No man remains unenfranchised except a traitor who has not taken up arms against the rebellion or embraced the threefold opportunity given him for repentance.

The principal change from the act of 1865 will be seen to have been the admission to the polls of two new classes of voters: colored men and unnaturalized foreigners. Previously, I need hardly say, colored men were entirely prohibited from voting; and foreigners until six months after they had been naturalized under the laws of Congress. It may be proper to add that our law makes provision for having the qualifications of the voter judicially ascertained and his name registered.

From this exposition of the law it is readily seen how little ground there is for the charge of negro supremacy, that the black man is made to take precedence of the white man, or whatever more offensive form of statement can be devised to pervert and misrepresent the odious fact that a black patriot is allowed to vote and some white traitors are not. The qualifications prescribed for the voter in Tennessee give no clue or indication of the complexion of her people. They may be all white, all black, or neither white nor black. Nothing is anywhere said about their color. No one is enfranchised as a colored man; no one is unenfranchised for being or not being a white man. And yet this is but a return to the first State constitution of 1796. By that instrument no reference is made to the color or race of the voter; and as a historic fact white men and black men voted side by side for forty years. It will remain with the great name of Andrew Jackson inscribed among its chief authors as a monument of equal rights, left by the fathers of the State for the guidance of their children. After thirty years under a different polity the present generation have reëstablished the original practice and recognized and adopted the simple and beautiful formulary of civil liberty—the equality of all men before the law.

The attention of the House has been invited by the gentleman from New York [Mr. BROOKS] to an array of figures designed to show that the political control of the State is in the hands of the blacks, casting fifty-five thousand votes, and forty-five thousand white voters, leaving forty thousand white voters who could not vote under the law. If such were indeed the state of the case it is not easy to perceive how it would affect the character of the government for republicanism. I am not aware that any of the fathers of the Republic, the framers of the Constitution, or the writers in the Federalist, regarded the form of our Government as in any degree affected by the complexion of the voter. They seem to have regarded that a republican government in which the rulers are chosen by a considerable body of voters, representing the different classes and interests of the community. But the gentleman's statistics are wide of the mark. By the last census (1860) the blacks constituted not far from one fourth of the entire population of the State. Placing the elective capability of the State at one hundred and forty

thousand votes, as the gentleman does, and perhaps not far out of the way, the colored vote would be thirty-five thousand, very nearly the number actually polled at the last election: the entire vote cast being about one hundred thousand, and the white vote numbering sixty-five thousand.

The Governor's majority being upward of fifty thousand, it follows that he was elected by the white vote alone, and would have been elected had the franchise been extended to the entire male population of age to vote. The white vote at the last election was larger than has sometimes been cast at State elections, considerably larger than was cast for Jeff. Davis, in November, 1861, as president of the southern confederacy. In the eastern part of the State, the oldest and most populous part, there is not a large colored element and the unenfranchised rebels are few. In those portions of the State where the rebellion was the strongest the black population is the most numerous. These facts taken together show why so few comparatively, less than two fifths, of the whites are unenfranchised.

Still, gentlemen will say, the disagreeable fact remains that black men can and do vote and that there are white men who cannot. I shall not here and now discuss the subject of colored suffrage. He who supposes that four million free people, with votes enough to elect thirty members of Congress, are to be permanently excluded from the polls, now that the abrogation of slavery has rendered their exclusion no longer a pecuniary necessity, has studied American politics to very little purpose. Do not suppose I disregard or misapprehend the results of recent elections, apparently decisive of the point. I do not. These results are only apparent. We have but to look a moment at the adverse majorities. In the first place, there is a large political party whose past record is so hostile to the colored man, and whose treatment of him has been so grossly unjust and cruelly mean, that they are hopeless of obtaining his vote if enfranchised; their opposition is a political necessity. They have nothing to lose by opposition, even if they gain nothing by it. One of their organs in my own State frankly declares:

"We shall lose nothing by a bold avowal of our unqualified opposition to negro suffrage and of our intention when we come into power, as we shall surely do, of taking away from the negroes the power of ruling white men."

Having attempted in the canvass of last summer, with infinite self-denial and sacrifice of self-respect, to secure the colored man's vote, and having met with universal and humiliating failure because they could not successfully disguise their insincerity, these people now display their true colors, and resist the vote certain, if cast, to be against them. Then coöperating with them in this matter, though by no means of them, is a class of respectable, very respectable, well-to do people, who are afraid of being radical. The same kind of people have always opposed the extension of suffrage. They were opposed to extending it to poor people, people without property, and consequently without interest in the Government, having nothing but themselves, their wives, and children to be protected and cared for by it. They were bitterly opposed to extending it to foreigners, the down-trodden of the Old World despotisms. They oppose extending it to ignorant persons and persons wearing dirty clothes, unwholesome, whose touch would soil kid gloves. They are a close, safe, prudent generation, afraid of expansion, territorial or financial. They were alarmed at the purchase of Louisiana and of Florida, at the acquisition of Texas, New Mexico, and California; they shiver at the name of "Walrussia," and swelter at the thought of a naval station in the West Indies. They were doubtful of greenbacks; they are still doubtful of greenbacks. They see no security in any currency unless on a specie basis, with a superstructure of gold, and that hid safely away in broken tea-pots or worn-out stocking legs. They are the slow, plodding jog-trot, unprogressive folk, who everywhere and at all times bring up the rear of the column in the world's forward march, and require immense pricking and kicking to keep them from straggling and getting lost. They delight to be called Conservatives, for the most conservative Republicans or Union men. If the truth must be told, they lack faith in the people, and are not at all confident of the perpetuity and vitality of republican government and free institutions.

They are not yet quite ready to let the colored man go even pace with them to the ballot-box; but they will be entirely ready, depend upon it, within less than twelve months. For before that time they will have seen that no man, not even the mightiest of generals, can be President, and no party can retain power that repels the support of this portion of the American people.

Many of the objections to negro suffrage, ignorance, subjection to the control of former masters, venality, timidity, and liability to deception, have been refuted by the colored people themselves when they have been brought fairly to the test. The election last summer in Tennessee was such a test. Both sides entered the contest with apparently equal confidence of being supported by this class of recently enfranchised voters. Nor did the chances seem very unevenly balanced. If on one side were the moral advantages arising from opposition to the rebellion, which looked to their perpetual slavery, and support of the war which resulted in their emancipation, and from securing to them civil and political rights including this, the greatest, of voting; on the other side were the social and material advantages arising from old habitudes, early companionship, and family rearing, and from present employment and the tenancy of land, giving plausibility to the profession of being the colored man's "best friend."

The canvass opened in April and continued with ever-increasing activity through the months of May, June, and July to the 1st of August. Piles of documents, appealing both to their reason and to their prejudice, were printed and circulated among them; speakers of their own color, and white, and in the interest of each party, traversed the State from the mountains to the Mississippi, everywhere addressing eager and attentive crowds. Barbecues, processions, music, and inscribed banners were among the paraphernalia of the campaign. Yet in spite of sophistry and misrepresentation, of appeals to appetite and cupidity, to the recollections of childhood and early domestic associations, of threats of violence and loss of home and employment, of trick and fraud and cunning, of tickets substituted and falsely read, and of simulated and counterfeit tickets, and the other schemes of artful and unscrupulous electioneering, the great body of these men voted according to their own judgment and conviction. Not one in a hundred the State over, I venture to say, but cast his ballot at the dictation of his own will. Men went to the polls unawed and unaffected by threats against their lives, and with full assurance that as the penalty for the day's work they would be driven out of their homes, with their families, as beggars upon the world. Who will say that these people shall be debarred from the ballot-box as unfit to take part in the great work of self-government? Let him who thinks himself impeccable and infallible, and his own patriotism above reproach, cast the first stone at them.

It is intimated, however, that the results of our elections are attributable to armed intervention, or as one gentleman expresses it, "the Brownlow bayonets." This is but a faint echo here of one of the noisiest electioneering clamors of our opponents. What are the facts? Although the State government, from the time of its reorganization, had unresisted and uninterrupted jurisdiction, there were certain localities where the fragments of the defeated rebellion had collected too formidably for the ordinary agencies of the law. Crime, red-handed, went abroad with impunity. In one county, for instance, a Senator and his son were assassinated and the offenders not even brought to trial. In another, six white Unionists were slain, and the murderers went unpunished. In a third, thirteen colored men were put to death, and the man-slayers went free. To remedy this evil and to strengthen the arm of the civil law the Legislature authorized the Governor to provide a limited militia force, to be used "when, in his opinion, the safety of life, property, liberty, or the faifthul execution of law" might require it. Under this authority the Governor organized, all told, less than two thousand men, (about seventeen hundred,) a force absolutely contemptible if intended for overawing the population, more than one half of whose men of the arms-bearing age had during the war served in one army or the other, and were still not unprovided with weapons, but sufficient, and, as experience has shown, efficient to repress desperadoes and keep the peace. So strict has been their discipline that very few charges of misbehavior have been made against them, even by the most rancorous enmity. These have been promptly investigated, and, when well founded, as promptly punished. But I have yet to hear of a single instance where a soldier interfered at the polls or elsewhere to secure a vote by one who was not a legal elector, or to prevent a vote by one duly qualified to cast it, or to compel a vote against the voter's own inclination and choice. I defy the most captious to point one out, much more to establish it. The charge that Union soldiers all over the State were driven from the polls is not merely untrue, it is simply absurd.

I have not yet considered what, after all, is the most grievous complaint against us—our failure to enfranchise unrepentant rebels. To discuss this subject fully and in all its bearings would require a treatise. It would be folly to attempt it with these other matters in the compass of an hour's speech. I shall content myself, therefore, with the statement of certain propositions, for the maintenance of which it requires no great courage or self-assertion to challenge all comers.

Under our system of government State citizenship is inseparable from national citizenship. One cannot owe allegiance to a State and not at the same time owe allegiance to the nation; nor can he repudiate the latter without also repudiating the former. The right of self-expatriation has been constantly asserted and conceded by us. The southern secessionists were at liberty, if they wished, to throw off their allegiance to the United States. In that case they must have taken up a permanent residence beyond their jurisdiction and renounced the protection and all other advantages of American citizenship, both under the State and national governments. Had they done this and nothing more there would have been no cause of complaint. They would have been transformed from citizens to aliens and become the citizens or subjects of such foreign Government as they might adopt.

But this they did not do. They renounced their allegiance to the Government of the United States, declaring that they were no longer and would be never more citizens of this Government, and by swearing allegiance to another power, and by every other act of renunciation they were capable of, labored to make their declaration good. They voluntarily cast aside their citizenship and made themselves aliens. As such we must treat them, and either readmit them to a participation with us in the State and General Government or not at our discretion. But they did more than this. They attempted by arms to dismember the nation, to subvert the Government, and to set up another and hostile power within its territorial limits; thus by the commission of treason making themselves criminals as well as aliens. In their twofold character of criminals and aliens they must be dealt with by the Government; and whether as criminals or as aliens our power over them under the Constitution is absolute and complete. We may punish them as criminals, and refuse to enfranchise them as aliens, or

we may grant them "universal amnesty and universal suffrage," or either of them only, as we may think proper. A presidential pardon may relieve them as criminals; it cannot enfranchise them as aliens. There is no legal or necessary connection between the two characters they have assumed, and none between the methods of our treatment in reference to each.

If, from considerations of policy or humanity, we forbear to chastise them for their crimes, it by no means follows that we must reinstate them in the rights and privileges and franchises of citizenship. We may do so or not according to our judgment of what is for the best. And if we decide not to do so, neither they nor their friends on this side of the water or the other have any just cause for complaint. In Tennessee the men charged with the work of inaugurating the restored government did not think it for the best that these persons should be reëstablished in political power, which in many localities would have implied supremacy and control. And here I might let the matter rest as one that has been decided by the only authority competent to make the decision. It is a part of our political history that those who have framed State governments have also fixed the qualifications of the voters under their respective governments, whether they should be able to read, as in Massachusetts, or should have $250 of taxable property, as in New York, or ten negroes and five hundred acres of land, or should be white and not black, and men, not women or boys. In our case no new or unusual power has been exercised.

I cannot, however, pass unnoticed the obloquy that has been heaped upon the men intrusted with this power and responsible for its exercise. They have been stigmatized as low-bred, ignorant, fanatical, revengeful, a burlesque upon statesmanship, and I know not what else besides. They may not have been statesmen. If by that word be signified men who have lived by holding office and been fed by the State, politicians by trade and demagogues by instinct, most of them certainly were not. They had lived in the deep retirement of private life, and came up from their farms, their workshops, and their merchandise. Their own affairs had left them neither time nor desire to seek official station. The rebellion and its creatures they understood thoroughly. They had studied them in rebel prisons, in the ranks of the Army, and hidden in the recesses of the mountains, the dens and caves of the earth. But statesmen or not, they have done the work of statesmen, and have done it exceedingly well.

They took hold of the government when it was very weak and under the greatest discouragements. The State was heavily in debt, her credit gone, and the sources of her revenue dried up. Her lines of railroad, built principally on her credit, and relied upon largely to sustain it, were worn out by the war and in the hands of the military authorities. Justice had closed her tribunals, and the law of the strongest was the law of the land. Religion had fled from her altars, and the churches been turned into hospitals and barracks or burned by the soldiers for fuel. Education had left the seats of learning, and the children were growing up unlettered and ignorant. Friends were timid and few; foes many and bold. Where they had a right to look for support they found only too often cold indifference or bitter opposition. One who should have been a nursing father was an implacable enemy. Even here where they boastfully said, Surely our friends will give us welcome, they were kept long waiting and in suspense, exposed to the jeers and taunts of their adversaries, very galling and hard to bear.

It matters little to me whether it be said that these earnest and unpretending men were deficient in sagacity to perceive these obstacles, or that, perceiving them, they could not appreciate their appalling magnitude. They addressed themselves vigorously and patiently to overcoming them. The rebel debt, including every charge upon the State by rebel authority, they rejected. All other obligations, however burdensome, were assumed. The unpaid interest, amounting to twenty-five per cent. of the debt proper, was funded. Current and accruing interest was provided for and punctually paid. They appealed to the war-stricken people for money, and they did not appeal in vain. They smote the rock of public confidence and streams of revenue gushed out. The railroad system, relieved at length from military control, was at great cost revived and set running. The courts were reopened and pleas, civil and criminal, everywhere entertained. The churches and school-houses were rebuilt. Industry and private enterprise revived. Trade yielded anew its accustomed profits; labor went no longer unrewarded; the plowman was once more afield, secure of reaping where he had sown, and of eating of what he reaped. Friends grew hopeful and confident; foes became cautious and respectful. Opposition in high places was silent; and here, at last, they obtained the much-desired and all-essential recognition, not rendered twice grateful surely by being given quickly. Remember, I beseech you, the great discouragements under which their work was carried on. Constantly assailed and rarely defended; oppressed much with that sickness of heart which comes of hope deferred; vexed with meanness, and falsehood, and dishonesty, for which they were held responsible, but which they could not prevent; beset on the one hand by enthusiasts with novel and untried theories, on the other by flatterers aiming at unworthy ends, their way was anything but a path of delights.

Another source of constant annoyance, from which their reputation abroad suffers to this day, was the tribe of hostile newsmongers, continually inventing facts to their prejudice, which they had candid friends enough to believe and bewail.

"Of all the plagues, just Heaven, thy wrath can send,
Save, oh save me from the candid friend."

These were the men, such the surroundings, and so great the work—*tantæ molis erat*—that established the restored government of Tennessee upon the two cognate principles: in civil matters, the equality of all men before the law, and in matters political, universal suffrage for loyal men.

The latter principle, if I have not misapprehended the record of my friend from Illinois, [Mr. MARSHALL,] will not fail to meet his approval. During a debate in this House which occurred in March of last year, between him and a then colleague, (Mr. Kuykendall,) he expressed himself in this wise:

"Mr. KUYKENDALL. I would like my friend from Illinois [Mr. MARSHALL] to answer this question. He says that he thinks the time will come very soon when this test-oath should be repealed. Now, if Mr. Breckinridge should be elected a member of this House from the State of Kentucky by a majority of the qualified voters of the district, and was willing to take the oath to support the Constitution of the United States, would the gentleman vote to give him a seat upon this floor?

"Mr. MARSHALL. I would not. I would have these questions properly referred, so that the merits of each individual presenting himself might be thoroughly and properly considered. I believe that those States are entitled to representation. I have already said that I would not vote for the admission of those men whom I believe to be guilty of having originally concocted treason and deliberately plotted the destruction of this Government."

This covers the whole ground. If Mr. Breckinridge, as the gentleman from Illinois [Mr. MARSHALL] maintains, is disqualified by his treason from taking a seat here in person, he is disqualified from taking it by proxy. The same principle which would exclude himself would exclude his representative. If he is unfit to hold a place in this body he is also unfit to vote for another to hold it for him. And the same principle which excludes John C. Breckinridge from the ballot-box also excludes every other rebel in the land. Let us, then, hear no more of constitutional rights assailed, and of proscription and tyranny suffered in the case of men whose crimes have already cost the nation, first and last, upward of five billions of money, and scarcely less than half a million of dearest lives.

I know it will be said—it has been said and is said—by some who do not dissent from these views of the legal question, that a wise policy requires us to pursue a different course; and much do we hear in praise of magnanimity, forbearance, and the kindred virtues. Magnanimity at the expense of justice is a merit akin to liberality with other men's money and contrition for other people's sins. We have just passed through a gigantic civil war, involving not only the existence of this Government, but of all popular government. Having triumphed, our first duty is obviously to those who stood by us and sustained our cause, especially in that part of the country which was the actual theater of war. Justice compels us to protect them, and to see that under no circumstances and nowhere shall they be subjected to the domination of a class of defeated men, who hate them with a hatred intensified sevenfold by the knowledge of what part they bore toward compassing their defeat. "Negro domination," says the President, "worse than military despotism." While I deny that the reconstruction of civil government in the southern States under the laws passed by Congress can be justly characterized as a "domination," negro or other, yet if compelled to choose between "negro domination" for rebels and rebel domination for negroes and loyal whites, I should not be long in making the choice. The country has had some experience upon this subject.

One of the earliest acts of the present Administration is, in the language of the recent message—

"To dictate what alterations shall be made in the constitutions of several States; to control the elections of State legislators and State officers, members of Congress, and electors of President and Vice President; arbitrarily declaring who shall vote and who shall be excluded from that privilege; to dissolve State Legislatures and prevent them from assembling; to dismiss judges and other civil functionaries of the State, and appoint others without regard to State law; to organize and operate all the political machinery of the States; to regulate the whole administration of their domestic and local affairs according to the mere will of strange and irresponsible agents sent among them for that purpose."

I do not say with the message that "these are powers not granted to the Federal Government," nor that "their exercise is a usurpation," and "the most dangerous of political crimes." Whether so intended or not, the result was to place ten States, for the time being, under rebel domination. To know what this means we need only to recur to the massacres of Memphis and New Orleans and to a thousand other unpunished massacres, assassinations, and outrages all over the South less conspicuous and bloody, but equally atrocious. The objects of these enormities were, I dare assert, in every instance, either negroes, native white Unionists, Federal soldiers, or northern men. And more, I defy the minions of these pseudo governments and their defenders and apologists to show from their records where a single perpetrator has been held either civilly or criminally responsible. Such was rebel domination in the South, and such would it have been to-day had not a "usurping" Congress interposed the strong arm of national authority for the protection of the defenseless and the oppressed; and such it will be throughout the land should it ever get the control of Federal power.

This suggestion falls upon unwilling and therefore unbelieving ears. Let us not deceive ourselves. Throughout the northern States there is, and was during the war, a numerous party only less hostile to the Government than the southern rebels. Theirs was a partisan malignity which hated an authority that they and theirs could not control. They were not traitors only because an adherence to domestic enemies, giving them aid and comfort, was judicially held not to be treason within the meaning of the Federal Constitution. Their ardent sympathy with the rebels often assumed a more active and guilty alliance. Aided by defection and disaffection they have succeeded during the summer and fall in carrying several important elec-

tions. And it is worthy of remark that the men whose opposition to the war and to every measure looking to the suppression of the rebellion was the most declared and marked—men ostracized or imprisoned for their disloyalty—are still the tolerated and recognized leaders of their party. In a combination of this party, headed by these leaders and the southern rebels, under the lead of their late chieftains, it requires little political sagacity to foresee who would take the control. It was such a combination that had the possession of the Government for years before the war; it is exactly this combination that is struggling for its possession now. The gentleman from Illinois [Mr. Ross] the other day called it the "Union" party. "Reunion" would be better. We who were on the ground at least know who controlled it, yea, who domineered it when in power before, and the same influence would control it again. Douglas is dead, and he has left no successor. This mongrel northern party which is yet to receive its name, hostile to Congress and yet afraid to take the responsibility of supporting the President, contains no element of resistance capable to withstand the sway of the old southern masters. Restored once more to their former ascendency the country would be as completely subjected to rebel rule as if Grant had surrendered to Lee and the Richmond officials had been installed in this capital.

And what then? Few of us have forgotten when, last year, Congress, as a condition of settlement, offered to the defeated rebels of the South an amendment to the Constitution so moderate and reasonable as to seem almost a concession of the chief points in controversy, how disdainfully, spitefully, and contumeliously it was rejected, spurned, spit upon by their State Legislatures. Their "honor" would not allow them, they arrogantly said, to ratify a measure disqualifying from office their trusted and honored leaders. Suppose these same men, with their retinue of confederates and their copperhead, anti-war, anti-draft, anti-tax, negro-hating allies of the North, once had the control of the national Government, think you that the same "honor" would tax its supporters and friends to pay the public debt contracted for their own subjugation, or to pension the maimed and disabled soldiers, or the widows of soldiers fallen in the same cause? Think you, again, that "honor" would not require its enemy, the hated Yankee, loaded with every opprobrious and odious epithet, to be burdened for the payment of another debt contracted in the sacred cause of southern independence; for the payment and pensioning of another army of soldiers, and their widows and children, for service under the very men advanced to power? Would not "honor" demand uncounted millions for negroes emancipated and for damages sustained from the soldiers of the Republic, assessed on rebel estimates and established by rebel proof?

The revenue and resources of the country would be treated precisely as if they had been seized by the bayonets of the conqueror. Humanity and religion would interpose to rescue the black race from the destructive effects of emancipation, and mercifully remand it back into slavery. A reading of the Constitution would prevail declaring every act of the Government since 1861, while ten States were unrepresented, to be unauthorized and illegal, and therefore void. The reaction would not stop here. Grant and Sherman and Thomas and Sheridan would be made to give place to Lee and Johnson and Bragg and Kirby Smith; and Farragut and Porter and Goldsborough to Semmes and Hollins and Buchanan, and the Army would be filled with recruits from the confederate service. In short, the southern confederacy would be inaugurated, with its capital at Washington, and its power coextensive with the limits of the United States. I say these things would be, because the tone of the rebel sentiment, wherever it finds expression, indicates unmistakably that it lacks only the opportunity and the power to do all this, and a great deal more. So believing, the men who ordained the restored government of Tennessee did not esteem it wise or safe to confer either the power or the opportunity.

But how long, I am asked, is this disqualification to last? Longer, much longer, I fear, than any of us could desire. Individual exceptions there are worthy of the largest and most generous confidence. Let us hasten to extend it to them. Unhappily they are only exceptions. If I read and hear and see aright, the vast majority of those engaged in the rebellion are to-day as hostile to the Government and its friends as in the bitterest moment of the strife. Time does not assuage their anger, and forbearance is construed into timidity. Historical examples do not encourage us to hope for great improvement during this generation. How long before the Jacobites became reconciled to the house of Hanover, or the old *noblesse* to the Napoleonic dynasty? It is not in the nature of things that passions such as were engendered during the four years' war should easily or at once subside. They will not. Hence they must he held in check and restrained until time, which medicines all public maladies, shall have wrought out a cure. It will require but a few beats of the pendulum which marks the reckoning of our national life. Meanwhile let such a policy be pursued that no one shall find advantage in keeping alive the memories and sentiments of the rebellion or in boasting of the part he bore.

Before taking my seat I beg to be heard briefly in behalf of my assailed colleagues; one from the eastern, and four from the middle portions of the State. In the outset, and generally, I remark that both before and during the war all of them were publicly known and regarded as friends of the Government and enemies of the rebellion. No man's light was hidden under a bushel in those days. His record was known and read of all men. Often it became necessary to avoid overt acts, that could be produced in evidence by enemies; sometimes to simulate overt acts that could be appealed to in disproof by friends. In short, to do nothing, and to avoid everything which, in the phrase of that time, could be "taken hold of." It was a desperate game that they played, the pursuers and the pursued, and the stakes were liberty and life. It is the grossest injustice at this day to array these expedients of strategy and finesse and insist upon giving them a literal interpretation. As I have not been subjected to personal assault I can speak more freely in behalf of my injured friends.

The case of my colleague from the first district, (Mr. Butler,) not yet admitted to his seat, is before the Committee of Elections, and delicacy forbids that I should seem to forestall their investigation. I will await their report. The charges against the Representatives from the fourth [Mr. Mullins] and the fifth [Mr. Trimble] were indignantly denied by them upon the spot. The Representative from the sixth district [Mr. Arnell] was not present to hear the charge made against him, but denied it with equal emphasis after having taken his seat. No proof, I undertake to say, will ever substantiate these accusations. They are simply untrue.

My long-time friend and associate from the third district [Mr. Stokes] has been singled out, both in the House and out of it, and on more occasions than one has been the subject of unkind remark. The matter laid to his charge is a private letter, written in confidence in the spring of 1861, to a personal friend, then and ever since a loyal Union man. It is not alleged that ever he committed a disloyal act, or uttered a disloyal or even doubtful word to his most intimate friend. On the other hand it is matter of notoriety that all his acts and utterances, both in public and private, were unequivocal and clear in their loyalty.

Mr. ELDRIDGE. Will the gentleman from Tennessee [Mr. Maynard] permit me to interrupt him at this point?

Mr. MAYNARD. I prefer not to yield now; I have nearly concluded my remarks.

Mr. ELDRIDGE. I desire to ask the gentleman to allow to be read a letter from Mr. A. E. Garrett, of his State, in reference to the individual of whom he is now speaking.

Mr. MAYNARD. I cannot yield for that purpose.

I care not to inquire whether the letter of Colonel Stokes was written in a moment of despondency that sometimes overtook the stoutest hearts, or of anger, enkindled by some of the falsehoods with which the very atmosphere was loaded, or by what means the rebels got hold of it and published it to the world. Their object is plain enough. It was the same which now moves them, here and elsewhere, to drag it out for the arraignment of the writer and those united with him in political action; the same which assails every good and great cause through the infirmity of its chief advocates. Nobody was misled by the letter, or put in doubt. Had it been a whispered word, buried deep in the earth, it could not have signified less. It did not stop its author for an hour in his denunciations of the rebellion, and, when denunciation failed, in rushing to arms for its suppression. The debate here the other day has called forth a letter which I will read in illustration of these views:

STATE OF TENNESSEE,
HOUSE OF REPRESENTATIVES,
NASHVILLE, *November* 25, 1867.

MY DEAR SIR: That no injustice may be done you, I inclose a letter you wrote me January 7, 1861, which discloses the patriotic emotions of your heart at that early day. "Hold on to the old ship, the stars and stripes; never, no, never give it up; but let us rally under the old flag, and if need be let us die with it." Noble sentiments, uttered to a friend in full sympathy with them. * * * *

Very truly, yours, W. BOSSON.

Hon. W. B. STOKES.

The communication referred to by Mr. Bosson was written from this capital under the murky skies of January, 1861. Aside from the present inquiry it assumes additional interest as indicative of our feelings and opinions during that anxious period. I will therefore append it to my remarks.

I will now give the gentleman from Wisconsin [Mr. Eldridge] the reason why I declined a few moments since to allow to be read a letter to which he referred. The writer of that letter is a personal enemy of Colonel Stokes. I think it would be doing great injustice to both gentlemen for me to give way for a communication such as is likely to come from him to be interpolated in my speech.

Mr. ELDRIDGE. I hope the gentleman from Tennessee does not intend to reflect upon the character of Mr. Garrett.

Mr. MAYNARD. I have nothing to say, except what I have already stated.

Mr. ELDRIDGE. I understand that Mr. Garrett is a gentleman of integrity and high character.

Mr. MAYNARD. I have nothing to say beyond what I have said as the reason why I declined to yield for the purpose the gentleman from Wisconsin desired. I do not mean to be drawn into an outside discussion.

Such is the government of Tennessee and such the principles and the men belonging to it and sustaining it. I have instituted no comparisons. I have pointed to no contrasts. However inviting the field of retort, I have not been tempted to enter it. It is of little profit to meet accusation with counter-accusation. They whom we represent ask no such defense at our hands. They have labored for nearly seven years to disenthrall their State from the usurpations of her rebel officials and to restore her once more to her allegiance. She was the second in population and wealth, in geographical position and for military strategy the first of the States involved in the rebellion. She was the first to shake off the manacles of treason and to nestle again under the folds of the old flag. In the great work of emancipation which has not only wrought out the deliverance of our own bondmen but has redeemed the Mexican peon and the Russian serf, and

has loosened the fetters of the Cuban and the Brazilian slave, in the mighty progress of ideas which marks this as the grandest epoch in the world's history, Tennessee has led the advance. Her place, like that of her sons in the great campaigns of the war, has been on the skirmish line. She holds her position with a steady hand and a level eye, expecting and confident that she will be supported by all true men South and North who believe in the great principles which she has been the first practically to assert.

[APPENDIX.

WASHINGTON, D. C., *January* 7, 1861.

DEAR FRIEND: Yours of the 27th ultimo is to hand, and allow me to thank you, for it is refreshing indeed to one so far from home, and at this particular crisis. It affords me much pleasure to hear you are almost unanimous for the Union. I regret that there is one secessionist in my district, but I suppose there are a few.

South Carolina and the other cotton States are acting badly, and justly deserve the condemnation of every patriot. All the South Carolina members have left, and others say they will leave in a short time. Our trouble in settling all this difficulty, is the extreme men, both North and South. The latter is the worst of the two. They say they do not want any compromise, will accept none, but out of the Union they intend to go, headlong, regardless of consequences. They say they did not come here to make any concession or compromise, but come and are staying to forward secession and dissolve the Union. This has evidently been their intention for years past. We who are for the perpetuity of the Union have a hard time. We have both extremes to fight. I sometimes feel that all is lost—am almost ready to give up the old ship. But then a new idea will strike me. I go forward again. We got up a meeting of border States, free and slave, and the committee appointed have agreed upon a plan of adjustment, something like the Crittenden proposition, that you have no doubt seen. I am of opinion that it can be put through and save the country. Great God! the idea of breaking up this—the best Government on earth—is horrible! Ought we not to make concession and compromise? Ought we not to exhaust every remedy? Ought we not to wait and consult the people first? I think so. The cause of all this trouble does not grow out of the form of our Government—it is not the fault of the Constitution, the Union, or the laws. No! but it is bad men—traitors to their country—disappointed office-seekers, ambitious demagogues, and corrupt politicians.

Can we not afford to endure a little for a time to save the country? Our fathers suffered the hardships of a camp-life for seven long years to gain our independence and freedom. Our glorious Constitution was agreed upon and adopted by concession and compromise. Then, ought we not to try to imitate the example of them? There is but one way to save the country, and that is in a bold stand for our rights in the Union and not out. I say we can save it, and will do it. Let us stand to our post like men, like patriots, and put down fanaticism North and secessionism South.

I have already wrote more than I intended when I commenced, and will close by making one appeal to you and our friends; that is, to hold on to the old ship—the stars and stripes. Never! no, never give it up; but let us rally under the old flag, and if need be, let us die with it. For one, I will never give it up. Write me often. Tender my best wishes to your good lady.

I will send you a copy as desired, soon.

Your friend,

W. B. STOKES.

WILLIAM BOSSON.]

Mr. VAN TRUMP obtained the floor.

Mr. BROOKS. Will the gentleman yield to me for a moment?

Mr. MARSHALL. I would ask the gentleman to yield to me for a moment, if the committee will permit me at this time, by unanimous consent, to make a few remarks.

Mr. VAN TRUMP. I would have no objection to yielding to either the gentleman from New York [Mr. BROOKS] or the gentleman from Illinois [Mr. MARSHALL] if it were not to be taken out of my time.

Mr. PAINE. If it will be agreeable to the gentleman from Ohio, [Mr. VAN TRUMP,] and he will yield to me for that purpose, I will move that the committee now rise. The gentleman will have an opportunity to make his remarks to-morrow.

Mr. VAN TRUMP. I will yield for that purpose if it is the pleasure of the committee to rise now.

Mr. PAINE. I move that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union, according to order, had had under consideration the state of the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

GETTYSBURG ASYLUM GIFT ENTERPRISE.

Mr. VAN WYCK. I ask unanimous consent to submit a resolution at this time, and to make a few explanatory suggestions thereon. I will first ask that the resolution be read.

The resolution was read, as follows:

Resolved, That the Commissioner of Internal Revenue be directed to report to this House the reasons why the supervisors of the scheme known as "The Gettysburg Asylum for Invalid Soldiers" have been exempted from the payment of the special tax or duty on the lottery called by them "a gift enterprise."

Mr. VAN WYCK. I ask unanimous consent to submit that resolution for consideration at this time, and to make a few remarks upon it.

No objection was made.

Mr. VAN WYCK. Were it not that this scheme has sought to throw around itself the apparent indorsement of the State of Pennsylvania and of the General Government to give it character I would not deem it necessary that it should be noticed in this House. It appears that this scheme was started in the month of March last, originating evidently in New York city, but the charter was obtained from the Legislature of Pennsylvania.

At that time the Commissioner of Internal Revenue exempted the scheme from the payment of the special tax required by the revenue law. But that was not sufficient for these gentlemen. The scheme seemed to drag awhile, and then they renewed it again a few weeks since. At that time they succeeded in bringing to their aid the Postmaster General of the United States. From him they have obtained a letter directed to his twenty thousand postmasters in the United States, asking them to aid this "truly charitable and patriotic enterprise." These gentlemen, therefore, hold themselves forth to the world as being incorporated by the State of Pennsylvania, with the protection of the revenue department in their exemption from taxation, and as now having the assistance of the Postmaster General of the United States, who asks all his postmasters to give their aid to this enterprise. Yet it is to-day one of the most infamous frauds and swindles that has ever been sought to be perpetrated under the guise and mantle and pretense of charity for our disabled soldiers and for the children of deceased soldiers.

Now if the House will allow me a moment to state—and I do so not so much for the information of the House as for the protection of the people of this country against a fraud and swindle—I will state in a word or two the nature of this scheme.

It is proposed by the managers of this enterprise to give away various sums of money and also many presents. The first present is "a splendid farm," which they value at $60,000. Now it so happens that this "splendid farm" lies in my own congressional district, and instead of its being worth $60,000 it would not sell to-day for $6,000. These swindlers have organized together and under this pretense of charity of which I have spoken they seek to put $54,000 into their own pockets, while they give away to somebody this farm, which is not worth $6,000. It would be a curse to any man who has to take it, particularly if in order to take it he has to remove from where he may be now doing a lucrative business.

Last summer they advertised this farm as being worth $60,000 with the stock upon it. It was said to be a valuable farm of two hundred acres. There was a pond, too, which abounded, I suppose, in porgies and bullheads. They said that the stock would pass with the farm. Now, in the advertisements to the postmasters all over the country they do not propose to include the stock. I presume the place last summer did not raise enough to support the stock, and they had to be taken off. Only the bare farm is now advertised as worth $60,000, when, as I have said, it is not worth $6,000.

And the Postmaster General recommends postmasters throughout the country to aid in this patriotic and charitable purpose. The balance of the prizes consist in diamonds; and that ought to have struck the attention of the Commissioner of Internal Revenue as well as the Postmaster General there was fraud in this thing. They advertise an immense amount of diamonds. These diamonds do not belong to the association. The diamonds, or pretended diamonds, belong to a tobacconist in the city of New York. There is no doubt as to the mode in which they came into his possession. These gentlemen, very much like those who get up gift enterprises, were in collusion with jewelers, who certified that these were valuable jewels, pure diamonds; and then they induced this tobacconist to advance $200,000 on them. In a little while he discovered that they were not pure diamonds, and in order to save himself he took an interest in this matter. The whole thing is, as I have characterized it already, a fraud and a swindle; and we ought not to allow $1,200,000 to be taken out of the pockets of honest people.

The resolution was agreed to.

Mr. VAN WYCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the lable.

The latter motion was agreed to.

SAMUEL CHASE DE KRAFFT.

The SPEAKER laid before the House House bill No. 143, to change the name of Samuel Chase Barney, jr., returned from the Senate with an amendment to make the title read as follows: "An act to provide for changing the names of persons in the District of Columbia."

The amendment was agreed to.

OWEN GRIFFIN.

Mr. PAINE, by unanimous consent, introduced a bill for the relief of Owen Griffin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

TEXAS JUDICIAL DISTRICTS.

Mr. LAWRENCE, of Ohio. I wish to introduce a bill which has been drawn by a gentleman in Texas. I do not wish to be understood as committed to it. It is a bill to increase the number of judicial districts in Texas.

The bill was received, read a first and second time, and referred to the Committee on the Judiciary.

EXEMPTION FROM TAX.

Mr. KERR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law as to exempt from payment of stamp duty all official bonds executed to or for the use of corporations, societies, and associations of any kind organized for social, educational, religious, charitable, or benevolent purposes, with leave to report by bill or otherwise.

CAPTURE OF JEFF. DAVIS.

Mr. DRIGGS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the committee to which was referred the report of the Secretary of War on the subject of awarding the bounty offered for the capture of Jeff. Davis be directed to report to this House as soon as possible, so that the amounts due the soldiers who captured him may be paid.

N. A. SHUTTLEWORTH.

Mr. HUBBARD, of West Virginia, by unanimous consent, introduced a bill for the relief of N. A. Shuttleworth, of Harrison county, West Virginia; which was read a first and second time, and referred to the Committee of Claims.

SHAKERS.

Mr. ELDRIDGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Commissioner of Interal Revenue be directed to inform this House whether under the peculiar arrangements of the Shaker institution at New Lebanon, New York, it has been decided and is

being carried out in practice that the statutory allowance of six hundred or one thousand dollars should be made to each male covenanting member in the assessment of the income tax. And, if any such decision was made, when and by whom was it made, and has the practice since conformed to the principle of such decision, and whether the same rule prevails in the other eighteen Shaker communities in the United States; and whether the same rule prevails in the social, free-love, or other similar societies; and whether this rule is applied in cases of corporations, or trusts held by trustees for other religious societies, and in cases other than religious societies, including guardianships, and the reasons for such decisions and distinctions, and at whose instance such decisions were made.

IMMIGRATION OF CHINESE, ETC.

Mr. JOHNSON. I ask unanimous consent of the House to offer the following resolution:

Resolved, That the Judiciary Committee of the House be hereby directed to inquire whether the Congress can by legislation prevent the immigration and importation of Chinese and Mongolians into our country, and to report by bill or otherwise.

Mr. SPALDING. I object.

On motion of Mr. SPALDING (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: The petition of citizens of Pennsylvania, members of the Equal Rights Association, praying for such legislation as will guaranty to every State of the Union a republican form of government, and secure to all citizens equal civil and political rights.

By Mr. EGGLESTON: The petition of Ira Neville, mate of the steamer Lancaster No. 3, praying for a portion of the prize money awarded to vessels for the destruction of four rebel crafts at Memphis, in June, 1862.

By Mr. FERRY: The petition of Edwin Mabie, late of fourth Michigan cavalry, praying for payment of award offered for the capture of Jefferson Davis, late president of the so-called confederate States.

By Mr. HAWKINS: The petition of Martha E. King, praying for relief.

By Mr. KELLEY: Memorial of 44 citizens of Philadelphia, Pennsylvania, praying for the adoption of a law investing all men with the equal exercise of the elective franchise in all the States.

By Mr. KERR: The memorial of Adam Hardt, for adjustment of certain claims against the Government of the United States.

By Mr. KITCHEN: The petition of Joseph W. Hitchcock, of Ellisburg, Jefferson county, West Virginia, for an increase of pension.

By Mr. MORRELL: The petition of citizens of Pennsylvania, members of the Equal Rights Association, praying for such legislation as will secure to every State of the Union a republican form of government, and to each citizen equal civil and political rights.

By Mr. POLSLEY: The petition of Philo N. Platt, of Fayette county, West Virginia, for damages for property taken by United States troops during the war of the rebellion.

IN SENATE.

FRIDAY, *December* 13, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Society of Friends assembled in conference at the city of Baltimore, praying that just and humane measures may be pursued by the Government toward the Indians; which was referred to the Committee on Indian Affairs.

Mr. WILSON. I present the petition of John Warren, a citizen of the United States, now a convict in a British jail, sentenced as a Fenian, asking the interposition of the Government of the United States. He sets forth that he is a citizen of the United States, and that he has been tried and convicted for offenses committed while he was in the city of New York. He sets forth at full length the facts of the case and sends the petition here. I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. WILSON presented a petition of citizens of Alabama, praying for the repeal of the tax on cotton; which was ordered to lie on the table.

He also presented a petition of Mary Gaither, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of late colored soldiers, praying for an amendment to the laws relating to the payment of bounty through the Freedmen's Bureau; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented two petitions of citizens of Pennsylvania, for the passage of a law investing all men with the equal exercise of the elective franchise in all the States; which were referred to the Committee on the Judiciary.

Mr. POMEROY presented a petition of one hundred citizens of Salem, Ohio, for immediate legislation to secure to woman equal suffrage with man in the District of Columbia and wherever the jurisdiction of Congress extends; which was referred to the Committee on the District of Columbia.

Mr. SUMNER. I present a petition from the officers of the Pennsylvania Equal Rights League, on behalf of the League, in which they call the attention of Congress to the Constitution of the United States, and the obligation the United States is under to guaranty to every State in this Union a republican form of government; and they petition Congress to see that that guarantee is carried out by an amendment of the Constitution or otherwise. I ask the reference of this petition to the Committee on the Judiciary.

It was so referred.

Mr. SUMNER. I also offer a petition from a meeting of the delegates of the colored soldiers of the State of Kentucky, in which they say that they represent thirty thousand colored men who served in the Army of the United States from the State of Kentucky during the late war, and they ask Congress to secure to them equality of bounty. They say: "We respectfully call the attention of your honorable body to the Schenck equalization bounty bill," which they recommend. I ask the reference of this petition to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. DRAKE presented the petition of Phillip J. Brown and others, citizens of the United States, praying Congress to adopt a law investing all men with the equal exercise of the elective franchise in all the States; which was referred to the Committee on the Judiciary.

He also presented the petition of C. A. Richards and others, praying Congress to adopt a law investing all men with the equal exercise of the elective franchise in all the States; which was referred to the Committee on the Judiciary.

Mr. YATES presented the petition of John J. Outley and others, photographic artists of St. Louis, Missouri, praying the repeal of the tax of five per cent. on gross receipts of their business; which was referred to the Committee on Finance.

He also presented a memorial of the citizens of Mt. Carroll, in the county of Carroll, in the State of Illinois, against a reduction of the volume of currency; also against legislation which will compel the national banks to redeem their notes in New York, and restraining them from paying interest on balances deposited in New York; which was referred to the Committee on Finance.

Mr. HOWE presented the memorial of L. C. P. Cowper, of Virginia, praying compensation for the destruction of his library by the troops of the United States; which was referred to the Committee on Claims.

He also presented the memorial of Asa Price, of the county of Norfolk, Virginia, praying compensation for cattle destroyed by troops of the United States; which was referred to the Committee on Claims.

He also presented the memorial of Ann E. Hodges, of Portsmouth, Virginia, praying compensation for damages done to her farm by the troops of the United States; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. DAVIS, it was

Ordered, That the memorials of John J. Anderson and John W. White be withdrawn from the files of the Senate, and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. CRAGIN. The Committee on Territories, to whom was referred the bill (S. No. 24) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes, have had the same under consideration, and instruct me to report it back without amendment, with a recommendation that it pass; and I wish now to give notice that I shall call up this bill at an early day and urge its adoption.

Mr. GRIMES. What is it about?

Mr. CRAGIN. I will state. It is a bill of more than ordinary importance, more than its title indicates. Its object is to punish and prohibit polygamy in the Territory of Utah, and to remove certain other abuses there. It has been prepared with very great labor and care and after much study, and I invite Senators to examine it previous to the time when I may call it up.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin, reported it back without amendment.

Mr. ANTHONY. The Committee on Printing, to whom was referred a motion to print a memorial of the Chamber of Commerce of New York on the subject of a return to specie payments, have instructed me to report it back and recommend its adoption. It is not customary to print memorials, but there is some statistical information in this one, which, in the opinion of some Senators on the Finance Committee, it will be important to place in the hands of Senators, and will cost but thirty dollars. The Committee on Printing therefore recommend its printing.

The report was agreed to.

REPORT OF COMPTROLLER OF CURRENCY.

Mr. ANTHONY. The same committee, to whom was referred a resolution to authorize the printing of additional copies of the report of the Comptroller of the Currency without the detailed reports, have instructed me to report it back without amendment and recommend its passage; and I ask for its present consideration.

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That there be printed five thousand copies of the report of the Comptroller of the Currency without the detailed reports, four thousand copies for the use of the said Comptroller and one thousand for the use of the Senate.

POST OFFICE REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred the joint resolution (H. R. No. 119) to authorize the Postmaster General to print five hundred extra copies of his report and accompanying documents, have instructed me to report it back with an amendment as a substitute and recommend its passage. It is desirable that this resolution should pass at once, if it is to be passed at all, as the type is standing; and I believe it met the assent of the Senate when it was before the body the other day, except that there was some error in the form. I therefore ask for its present consideration.

There being no objection, the Senate, as in

Committee of the Whole, proceeded to consider the joint resolution.

Mr. ANTHONY. I presume it is only necessary to read the substitute, as the original resolution was read the other day.

The PRESIDENT *pro tempore*. The amendment only will be read.

The Secretary read the amendment, which was to strike out all after the resolving clause of the joint resolution and to insert the following:

That hereafter it shall be the duty of the Congressional Printer to cause to be printed and bound three thousand copies of the reports of the Postmaster General, instead of twenty-five hundred copies as provided by the act approved July 27, 1866; and that so much of that act as conflicts with the above provision be, and is hereby, repealed; and this resolution shall apply to the report for the present year.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed.

On motion of Mr. ANTHONY, the title of the joint resolution was amended so as to read "a joint resolution to authorize the printing of five hundred additional copies of the report of the Postmaster General."

BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 191) for the establishment of a post route from Lawrence, Kansas, to Galveston, Texas; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 192) to incorporate the Potomac Navigation and Transportation Company of the District of Columbia; and

A bill (S. No. 193) to incorporate the Washington City Insurance Company; which were severally read twice by their titles, and referred to the Committee on the District of Columbia.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 194) supplementary to an act to incorporate the National Safe Deposit Company of Washington in the District of Columbia, approved January 22, 1867; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 195) for the relief of George W. Gibson; which was read twice by its title, and referred to the Committee on Pensions.

COTTON TAX.

Mr. SHERMAN. If there is no further morning business, I move to take up the bill reported by me yesterday from the Committee on Finance to repeal the cotton tax.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax. It provides that all cotton grown in the United States after the year 1867 shall be exempt from internal tax.

Mr. SHERMAN. It is scarcely necessary for me to explain the necessity or the reasons for this bill, because those reasons are matters of public notoriety known to most Senators. We have an official report from the special commissioner of revenue, Mr. Wells, strongly urging it, and setting forth very cogently the reasons why the tax should be repealed. He recommends its repeal not only for the next year, but for the present year. The bill comes to us from the House of Representatives in its present form, and does not affect the tax on cotton grown during the present year, but only applies to the future crop. As preparations are now being made all over the South for the next year's crop it is important that the action of Congress on this subject should be definitely fixed before any adjournment for the holidays. It is urged by many persons in the South, some of whom are here, that the planters should know now before the holidays whether or not it is advisable for them to proceed to raise cotton next year or other crops, as during the holidays or at the beginning of the new year they make their contracts with their hands with a view to the labor to be employed during the year. I hope, therefore, the subject will be acted upon.

If Senators desire any further information I have official documents here, and quite a number of letters on the subject, showing the absolute importance of repealing this tax. The price of cotton has now gone so low that it is said that even without the tax it will not pay the expense of raising it. I have letters from gentlemen for whom I can vouch, who removed from the State of Ohio and went South, and who have done all they could to develop that region of country by the raising of cotton, who say that at present prices there is an actual loss of money with the utmost care on their part, and if they are compelled to pay the tax even for the present year they will be ruined in some cases. As, however, the House bill does not propose to relieve them from the tax for the present year the Committee on Finance thought it was scarcely worth while to propose to amend the proposition, as there would probably be great division of opinion upon it here, and there had been a vote already taken on it in the other House. The committee, therefore, reported the bill without amendment.

Mr. MORRILL, of Vermont. I was not expecting that this bill would come up this morning, and therefore I am not prepared to submit some few remarks that I desire to make on the bill when it shall be up for consideration. I happen to be one of those who think it is a very great mistake to act upon the subject of internal taxes piecemeal. I think we had far better have the whole subject before us, so that we may know what taxes we can relieve and what not. In this instance I do not coincide with the action either of the House of Representatives or of the Finance Committee. I think it would be much wiser, and it would be a greater relief to the South to take the tax off manufactured cotton rather than off the raw material. There are quite a number of facts and statistics which, without occupying a great deal of time, I should like to submit to the Senate when the bill comes up for action. I hope therefore it will be put over until Monday. If I had known it was coming up this morning I should have been as well prepared to-day as I shall be at any time.

Mr. SHERMAN. I gave notice when I reported the bill from the Committee on Finance that I would call it up this morning.

Mr. MORRILL, of Vermont. I did not happen to hear the chairman at that time.

Mr. SHERMAN. If the Senator desires to address the Senate on the subject I have no objection to the bill going over; but I think the question ought to be settled before the holidays for the reasons I have stated and which are obvious.

Mr. MORRILL, of Vermont. I only ask that it be put over to Monday. I do not want to occupy the time of the Senate for over fifteen or twenty minutes.

Mr. JOHNSON. I have not the slightest objection to its going over until Monday, but before that is done I wish to offer an amendment that the Senate may consider of it, and that is, that the provisions of the bill shall apply also to the crop of the past year. As it stands it relieves taxation only on the crop to be grown hereafter. In my opinion, and I shall endeavor to state the reasons for it when the question is again before the Senate, the relief ought to be applied to the present crop. I give notice that I shall propose to amend the bill in that particular on Monday.

Mr. POMEROY. I do not know that I shall object to the bill being postponed until Monday, but I hardly think the Senate will care for any further facts from the committee, because the Senate by its action last year showed that it was not in favor of this tax. By a yea and nay vote we struck it off on my own motion; but members of the House insisted upon it, and it was put upon the bill, and finally agreed to in a committee of conference, and we accepted the report of the committee. I am confident, as I have always been, that this tax discourages production. I have many acquaintances in the South, and I am sure that you cannot get northern men to go down there and raise cotton while this tax is imposed, and if they cannot raise it I do not suppose any will be raised. I am anxious to come to a vote and strike off the tax. I think, however, it might act injuriously to strike it off from the present crop, because that has got out of the hands of the producers to a great extent, and is in the hands if not of speculators, of merchants who did not produce it. They have bought it with the tax paid, and I do not think we should interfere with their arrangements. I do not like laws that are retrospective. Let this repeal be prospective and apply only to the crop raised hereafter. If applying it to this year's crop would relieve the producer I should not object; but it is beyond that now, it is too late for them; we cannot relieve them. We cannot relieve the man who raised the cotton and lost money in doing it. It has got into other hands. I say let the repeal be prospective and relate to the crop hereafter raised.

Mr. MORRILL, of Vermont. I merely ask that the bill be postponed until Monday. I am aware that the opinion of the Senate is adverse to that which I entertain; and pretty much all I desire is to do what the lawyer said he wanted to do after the court had decided against him—"I only want to show what a fool Blackstone was." [Laughter.]

The motion to postpone was agreed to.

ADJOURNMENT TO MONDAY.

Mr. POMEROY. I move that when the Senate adjourn to-day it adjourn to meet on Monday next.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House concurred in the amendment of the Senate to the amendment of the House to the title of the bill (S. No. 143) to change the name of Samuel Chase Barney, jr., to that of Samuel Chase DeKrafft.

ADDITIONAL BOUNTY.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 127) in relation to additional bounty. As it came to the Senate the bill provided—

That the widow, minor children, or parents, in the order named, of any soldier who shall have died after being honorably discharged from the military service of the United States, shall be entitled to receive the additional bounty to which such soldier would be entitled if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, and the said provisions of said act shall be so construed: *Provided, however*, That such widow, minor children, or parents shall only be entitled to receive such additional bounty in case where such soldier, if living, would be entitled under the provisions of said act to receive the same.

The bill, having been referred to the Committee on Military Affairs and the Militia, was reported with an amendment to strike out all after the enacting clause and insert the following:

That if a person entitled as a soldier, or as heir of a soldier, to the bounty provided by sections twelve and thirteen of the act making appropriations for the civil service, approved July 28, 1866, has died or shall die before receiving said bounty, it shall be paid to the heirs of the soldier as designated in said act in the order therein named, and to none other.

Mr. WILSON. The bill which comes to us from the House of Representatives was passed to supply an omission in the law granting this bounty. Under that law as it stands if a soldier who is entitled to the additional bounty applies for it and the papers are all made out, and even his check is signed and ready to be delivered to him, if he happens to die before he actually gets possession of it his widow or his children cannot receive the benefit of it. The act will take at least three years for its execution, and of course during that time a large number of soldiers entitled to additional bounty will die, as many have already died, and as the law now stands their families who are left in need cannot get the benefit of the bounty. The object of this bill is to secure the bounty to the families of soldiers who are entitled to it.

The House of Representatives passed the bill at the last session, in July. I had some doubts about the form of it, and went up to the Department and consulted with Mr. Brodhead on the subject, and the amendment proposed by the committee is in the form that is sanctioned by the Department as covering precisely what is needed and is a better form than the form of the House bill, more careful and guarded both in regard to the rights of the parties and the safety of the Treasury. I hope the amendment will be agreed to.

Mr. MORRILL, of Vermont. May I ask the chairman of the Committee on Military Affairs how much money this will take out of the Treasury?

Mr. WILSON. I cannot tell the Senator how much. In 1866 we passed an act giving to all soldiers who had been in service a certain time an additional bounty of $100. This amendment provides that where soldiers entitled to that bounty who have made applications for it have died or shall die before the actual payment their wives and their children shall receive the bounty which they would have received if they had lived. If these persons all lived of course they would draw the bounty. Dying, they leave families, and the families should receive the bounty, and will do it under this bill. There must be several hundred thousand men entitled to this additional bounty, not less than seven hundred thousand, and it will take three years before all the claims can be examined and paid. The act has been in operation now nearly a year and a half, and the Department have got about half through, as I understand. There are several hundred, perhaps a few thousand, of the soldiers entitled to bounty who have died, and will die, during that time; and it is thought as a matter of justice, to carry out the original purpose and intention of the law, that the wives and children of those soldiers who die and who are entitled to the bounty should receive it. As I said, the House passed the bill at the last session, and I sent it up to Mr. Brodhead, and the amendment has been drawn with a view to cover the exact case.

Mr. WILLIAMS. I think this amendment needs an additional explanation, or it will be found very difficult to construe it so as to make it intelligible and effective. I find that it provides "that if a person entitled as a soldier or as heir of a soldier" "has died or shall die before receiving said bounty, it shall be paid to the heirs of the soldier" so that the amendment provides that if the heir of a soldier dies the bounty shall be paid to "the heirs of the soldier." I do not exactly understand that phraseology, and it may lead to confusion. I should like to hear from the chairman of the Committee on Military Affairs what explanation he gives of that language.

Mr. WILSON. I understand it to mean this: that where the soldier dies or the soldier's wife dies before the papers are completed and the money paid, it shall go to the other heirs in the order named in the act; that is, to the father, mother, and children, in order.

Mr. JOHNSON. If I understand the amendment, the soldier may be dead and the particular person living be his heir to whom the bounty is to be paid; but if he dies, or if he should have died after the death of the father, the bounty is to be paid not to his heirs but to the heirs, whoever they may be, of the soldier. That depends upon the laws of the States.

Mr. WILSON. No; the law sets forth exactly who the heirs are, and this amendment says they shall take in the order named in the law.

Mr. EDMUNDS. I move to amend the amendment reported by the committee, in line eighteen, by striking out the words "or as heir of a soldier," so as to make it read "that if a person entitled as a soldier to the bounty provided by sections twelve and thirteen," &c.

The object of my amendment is this: I think the Military Committee is right, if the original law was right, in providing for the case of a soldier who dies after the passage of the original act, because by the original act it was provided that the widow, if the soldier coming within the scope of the law had died, or if she was dead, the minor children, or if both were dead, the parents should receive the bounty; but it did not provide for the case of a soldier dying after the passage of the act who was then entitled. But the amendment proposed by the committee introduces these words: "that if the person entitled as a soldier or as heir of a soldier shall die," then the heirs of that heir shall take. The result of that would be that if the soldier were dead before the passage of the act, his widow were dead, his children were dead, and his parents were dead, his heirs in general would take this bounty. That is going altogether beyond what any bounty or pension law ever went before, I think. My amendment is designed to limit it to what seems to have been the accidentally omitted case in the original passage of the act, to the heir of the soldier himself; and the original act as it stands will secure it to the widow and minor children and parents, if they continue to live. If they all die, then I think it ought to lapse into the Treasury.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

COURT-MARTIAL PROCEEDINGS.

Mr. JOHNSON. I beg leave to submit the following resolution:

Resolved, That the Secretary of War be requested to transmit to the Senate the proceedings of the general court-martial convened at West Point, New York, by special orders, No. 254.

Mr. SUMNER. I should like to know to what that refers particularly.

Mr. JOHNSON. I understand that the disposition made of sentences found by that court, it is understood, was such as is calculated to injure the service, and such as perhaps the law as it now stands did not authorize, or if it did, that the law in that particular should be corrected. What it was for I do not know; I have no means of ascertaining whether it was a sentence adverse to the cadet or favorable to the cadet. My own opinion is on the general subject of these courts-martial that there ought to be by law some further provisions than are to be found in our statutes now. What will be the character of the papers transmitted under this resolution I do not know.

Mr. WILSON. I should like to have the resolution lie over to-day, and I will inquire into it.

Mr. JOHNSON. I have no objection.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over under the rule.

ADJOURNMENT FOR THE HOLIDAYS.

Mr. DOOLITTLE. Yesterday I entered a motion to reconsider the vote of the Senate against the resolution which came from the House of Representatives on the subject of an adjournment. I wish to call up that motion now; it may as well be disposed of at this time as any other.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves that the Senate now proceed to the consideration of the motion to reconsider which was made by him.

Mr. SUMNER. I should like to have the yeas and nays on the reconsideration.

Mr. DOOLITTLE. I think it had better be reconsidered first, and then it will be on the table and open to amendment.

The motion to proceed to the consideration of the subject was agreed to.

The PRESIDENT *pro tempore*. The question now is on reconsidering the vote by which the resolution of the House of Representatives was rejected.

Mr. HENDRICKS. When the resolution was defeated yesterday I thought I would not vote to reconsider. I voted for the resolution because I have observed the fact that there is never anything done during the holidays, and it is not worth while to be here pretending to legislate when nothing is done. I have always voted to adjourn over for the holidays. I thought yesterday that perhaps some Senators would like to have the adjournment upon my vote and the votes of some others without voting for it themselves; but I have changed my mind on that subject, and am satisfied that no gentleman could be influenced by any such notion, and I will vote according to my views now to reconsider, and then if it is thought better to make the adjournment for a shorter time we can do so. Last year we adjourned from the 20th of December to the 3d of January. I would be willing to agree to that now, but it would be scarcely worth while to meet on Saturday. The 3d, I believe, would come on Saturday. This resolution proposes the 6th. I do not know that it is necessary to meet much before the 6th. It is a matter of no importance to myself whether it is the 3d or the 6th. The 6th, I believe, would be Tuesday.

Mr. BUCKALEW. Monday.

Mr. HENDRICKS. It is not worth while to meet earlier than that, but I am not particular about it. I shall vote for the reconsideration.

Mr. MORTON. I cannot see any necessity or any propriety in an adjournment over sixteen days. We have not been here so long that it has become necessary to go home to see our friends or to attend to business. A number of Senators will not go home; they will be compelled to remain here anyhow. It might suit the convenience of others to go home. But if we now adjourn over sixteen days it but adds sixteen days to the length of this session next summer when we shall really want to be at home and when we shall be tired of staying here. It really seems to me like trifling to go home for sixteen days now after having been here so short a time. It seems to me that an adjournment of one week over Christmas and over New Year would be entirely sufficient. So far as I am concerned, I should prefer no adjournment at all; but if it be proposed to adjourn from before Christmas to over New Year I shall not object to that, but an adjournment of sixteen days, during which time there will be nothing done in committee or any other way, virtually destroys the usefulness of the session that has gone before and what we are now doing. Everything will have to be begun *de novo* when we meet again. I think if this has been the practice it is a practice that would be "more honored in the breach than in the observance." There is much business of great importance pressing upon this Congress, business that ought to be attended to speedily, that cannot very well bear a postponement of sixteen days, and I do not think that the public will justify this course, in adjourning over sixteen days, unless there is some better reason given for adjourning over the holidays.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which this resolution was rejected.

Mr. EDMUNDS. On that let us have the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. I wish to say a word in reply to the Senator from Indiana, [Mr. HENDRICKS,] who says that we shall not do anything during the holidays. I think it is manifest that we shall not do anything during the holidays if we adjourn over them every time. To adjourn over will be a conclusive way of determining the fact that nothing will be done. Now, here we are, as is said by the Senator from Indiana, [Mr. MORTON,] only three or four weeks from home, at a time of the year when there is no malaria, unless it is a political malaria, and when, if anybody has any work in him, it is a good time to evolve it. There are plenty of subjects upon our table and in committees demanding the attention of Senators, and if we choose we can give them the attention that they deserve now; and I know of no reason why we should adopt the practice, or continue the practice, if there has been one, of adjourning from before Christmas until after New Year. We can adjourn over Christmas day, and we can work between that and New Year, and adjourn over New Year's day, if it is a holiday here, although in my country New Year's day is occupied by the courts in administering justice, and by public bodies who have occasion to do public business. But no matter for that; it is very easy to adjourn over a day and to work the rest of the time; but I think it would be setting a very poor example to the people of the country who are eager that we should do something to relieve the stagnant and distressed condition of industry and of commerce for us to fold up our arms and take a gay holiday of even a week. Business is ready for our action. If it were not, if there was nothing on the table, nothing in committee, it would be very well to adjourn; but now is the time, when the weather is cool, and when we are fresh from our constituents, and when we are ready to work, to do it; and I do hope that the Senate will adhere to its vote of yesterday and reject this resolution.

Mr. GRIMES. Mr. President, these manifestations of economy and patriotism and industry are exceedingly refreshing and pleasant, especially to those of us who have been here eight or ten years and seen every new member that came make similar exhibitions. I used to make them myself for several years, as I stated to the Senate yesterday. I came here with the idea that I was going to be partially instrumental in reforming the manners and habits of the Senate, and that we would be successful in securing industrious habits here during the holidays. But after making that vain effort for four or five years I concluded, although I was so far removed from home that it was impossible for me to go home during the holidays, and I never have done so, that it was far better for the public interests that I should allow those to go home who chose to go than to let the legislation dribble along in the way that it always did during the few years that we continued ostensibly in session.

Now, sir, it is said that the public business demands our immediate attention. What kind of public business is it that we are engaged in? We are making speeches upon the resolution of the Senator from Missouri, [Mr. DRAKE;] we are discussing the question of neutrality between Great Britain and Abyssinia. A new rebellion has broken out in China, and I apprehend that some member will introduce a resolution declaring neutrality between the emperor of China and the rebels who have taken up arms against him. Is this the kind of legislation required by the country? Is this the species of speeches that we shall continue to indulge in if we remain in session here during these holidays?

What is the business before the Senate? What is the business before the committees? I understand that there is a bill which is proposed to be reported back by the Finance Committee upon some subject in relation to the funding of the bonds of this country. Nobody desires that we shall act upon that before the holidays. I do not think, for my own part, that it is desirable that that committee should themselves make a report until the public sentiment of the country shall become a little formed and consolidated and crystalized in order that we may know precisely what it is. I am perfectly content that gentlemen may remain here and make their speeches on finance and other questions; but I am in favor of allowing those men —and I am not one of them, for I shall leave the city—who choose to go home in order to bring their families here and to enjoy the festivities of the holidays, to have that privilege, instead of compelling them to remain here and dribble through the holidays, as I have been compelled to do, in pursuance of my own vote, I confess, upon several occasions, and transact no public business whatever.

There was some reason for this objection to adjourning when Congress was paid by the day and we adjourned for ten, twelve, or fifteen days, drawing eight dollars a day during the session; but now since we are paid by the year the public do not care whether we perform this duty in the month of December or the month of April.

Mr. EDMUNDS. I think they do.

Mr. GRIMES. The Senator thinks they do. I do not believe they do. I believe, and if I was a constituent I should be thoroughly satisfied that Congress would perform its public duty better in March and April than it would at this time.

And, Mr. President, it does not do members of Congress any harm to go home in the latter part of December and consult their constituents. I have seen men come back to Congress very much invigorated when they returned after an absence of five or six days; and I want to give every gentleman who desires, or who I think needs to be invigorated by coming in contact with his constituents, an opportunity to be thus invigorated.

Mr. EDMUNDS. I advise my friend from Iowa to go home on his own speech as soon as possible so that he may come back invigorated. He seems to have got very much fatigued in the three weeks that we have now been at work.

Now, sir, to the serious affair that we are discussing, because it is serious. I admit that I do not expect to do much in the way of legislation; it becomes the older members like my friend from Iowa to do that; but I want him to do it. He is at the head of an important committee—the Committee on Naval Affairs.

Mr. GRIMES. We have not got anything in the world to do.

Mr. EDMUNDS. I can invite his attention any afternoon to a great many abuses in that Department which nobody but he can reform. I feel free to say that if he will devote himself to an investigation of the Navy Department—and it is not any worse than any other; it is so in all Governments and all countries—during the holidays he can report a bill at the end of them that will save us millions of money a year. He can cut down the expenditures of that Department. He can investigate the facts. He can do great service to his constituents as well as to mine by working now while there is an opportunity. That is the fact about it.

It is perfectly idle for us to say that we are wasting our time by discussing questions of finance or questions of our foreign relations. Whatever any Senator thinks it necessary to bring to the notice of this body, whether it be the Senator from Missouri, or Michigan, or Vermont, or Iowa, it is fair and reasonable should have a respectful hearing at some time. It may as well be heard now as at any other time, I take it, if speeches are to be made. We shall have accomplished so much; and speeches I suppose do not grow short by putting off the time of their delivery: they do not get much condensed, I suspect. So that really, speaking in all seriousness about this business, we are following a delusion when we undertake, after coming back here after a summer's vacation, at the end of three weeks to take two weeks out of the middle of the winter under the name of holidays, when everybody knows that the business of the country except on two days goes forward in every shop and in every foundry and in every store and on every farm exactly as it does at any other time in December and January. It is a pure delusion to talk about two weeks of holidays. They do not exist in point of fact. It is true that gentlemen who have nothing to do and plenty of champagne and cigars may conclude to make a week of it, as the saying is; but the people whom we represent do not do anything of that kind, and if we have anything to do, as clearly we have, we ought not to lose so much time.

Mr. CAMERON. I have generally voted for these adjournments for two reasons. In the first place, whether I voted for them or not they would take place. Then, as I can go whenever I please any evening and be back the next day, I think it would be acting unfairly to gentlemen who live much further from the seat of Government than I do, who cannot go home in a day or two, not to grant these adjournments. Sir, I have a great love and reverence for these good old Christmas times. I have had a house of my own for over forty years and never have I spent a Christmas from home. Never have I failed to have every one of my family around me on that day. I brought first my children, and now I bring my children and their children, and I would not miss going home for Christmas for any consideration except some very high public duty.

There is no doubt that we shall do just as much business if we adjourn for the holidays as we shall do by staying here. I believe that once in my long experience we refused to adjourn over the Christmas holidays, and then two, three, or four gentlemen came up here every day and met and gravely adjourned and walked down the avenue again; and they talked about Congress having not adjourned that time and how much money it had saved. We shall not save a cent by continuing here.

Besides, sir, I agree very much with the Senator from Iowa on the subject of information upon the great question that is now agitating the country—that of the revenue, of the currency, and of our public debt. I think the public mind is not properly formed upon that subject. I require information, and to get that information I desire to have time. I, for one, am willing and determined to devote as much time to those great questions as any gentleman here can; and never will I agree to any legislation which shall not provide for paying fully every cent of money which we promised to pay during the troubles of our war, and paying it in the currency of the world. I believe the public thinks well on this subject, but yet there is some difference, and I want time for that difference to concentrate upon the right point. I am for the adjournment now; I do not care whether it is for a week or two weeks. I do not think the shorter or longer time will make a bit of difference to the public.

Mr. DOOLITTLE. I voted against this resolution because I thought an adjournment of sixteen days was too long. In doing so, however, I did not commit my judgment to vote against what I deem a reasonable adjournment for the holidays. I believe that an adjournment has been in accordance with the ordinary practice of Congress, and in my experience I have never known where the adjournment was refused that it amounted to any practical good. Practically the Congress is not in session during the holidays, whether we resolve to adjourn or not; the quorums are not here; members are absent from the House and the Senate. On my first entrance into the Senate I felt very much like my honorable friend from Indiana [Mr. MORTON] and my honorable friend from Vermont, [Mr. EDMUNDS,] disposed to oppose an adjournment over the holidays, but I find from experience, what I doubt not they will find in an experience of eight or ten years, that practically there

will be an adjournment of Congress during those days whether the resolution passes or not; the members will not be here. Therefore I think it better to agree upon some adjournment. When the vote on the resolution is reconsidered gentlemen can consider the question and fix the time. It seems to me that sixteen days is too long, and that ten days should be sufficient. It is for that reason that I make the motion to reconsider, so that the Senate can have the question before them again and fix a proper and reasonable adjournment.

Mr. MORTON. It is possible that after being here as long as the Senator from Iowa and some others I may become willing to embrace every reasonable opportunity for an adjournment; but, sir, can any Senator point out either to an old or a new member any necessity for an adjournment of sixteen days? What is the necessity for it? What is the reason for it? Why had we better waste sixteen or twenty days at this time than any other? I think the argument of the Senator from Iowa in favor of this adjournment, that members may go home and become refreshed by communing with their constituents, would be a good argument in favor of adjourning over at the end of every month. It seems to me that there is nothing in that argument. The people now are looking to Congress and not Congress to the people; and the people will be strengthened in their confidence in Congress if Congress shall address itself to the business of the nation instead of adjourning over sixteen days. Why, sir, we have been holding two or three sessions here; we had one in March and April; we had one in July; we came back in November, and now it seems there is nothing to do and we can afford to adjourn over some sixteen or twenty days. The people will fail to perceive any reason in this, I am very sure.

The Senator from Iowa says that this might make some difference if the members of Congress were paid by the day. I ask him if there are not at least one hundred employés about this Capitol who are retained here during the session of Congress who are not retained during the vacation who will be paid during those sixteen days, and who will be paid for sixteen or twenty days longer next summer on account of this adjournment? These temporary adjournments do not deprive these men of their pay, but inasmuch as they prolong the general session they add just that much to the expenses of Congress.

The Senator from Iowa inquires what business it is that requires us to be present now on this occasion. He asks, is it for the purpose of hearing prosy debates? Why, Mr. President, do you expect to cut off these debates by adjournments? If you do, you had better adjourn without day now. You will have these debates after the holidays. Senators will be heard, and cannot be prevented from being heard. If you postpone these debates, there will be just that much more accumulation of talk to be had after the holidays. These debates will be had; members will be heard upon these various questions; and I say let them go on now; it will save just that much time hereafter, and we shall get to the business of the country sooner. But I submit to my friend from Iowa that this is a peculiar time; that there is new legislation pressing upon this country, perhaps more importunately than at any former period, and the people are looking to us now with an anxiety with which they have not looked heretofore, and if, instead of attending to their wants and endeavoring to ascertain what shall be done, we adjourn over for sixteen or twenty days, they will not be satisfied, and they ought not to be.

Mr. GRIMES. I am perfectly well aware that the people are anxious that there should be some sort of legislation, especially in regard to internal taxes, and perhaps external taxes; but the Senator from Indiana ought to know that we have not the power to act on that subject. All bills on those questions must originate in the House of Representatives, who have sent us this resolution to adjourn for sixteen days by a majority so large that there were not adverse votes enough in the body even to call for the yeas and nays. What, therefore, can we do in regard to such legislation as that? That is the very kind of legislation that the people ask us to act upon, and we are perfectly powerless and cannot act upon it.

Mr. DAVIS. It has been my fortune to have been a member of Congress during a great many sessions, and I never have known a session that did not continue too long. I am told that in some countries the family physicians are paid not while their patients are sick, but while they are well, and for the length of time that they are well. I think if there was a rule adopted that Congress should be paid somewhat upon the same principle it would be much better for the people and much more acceptable to them. [Laughter.] My experience is that the longer the two Houses sit the more business they do; and if ever the old saying that "the world is governed too much" has been verified in any country and by any governing body, I think that is the experience of this country with relation to Congress. I think myself that the people of the country are looking not to Congress to do anything more, because they have given up the hope of its doing anything well hereafter. Their complaint is that Congress has done too much, and greatly too much, instead of doing too little. I think that these sessions of Congress in continuing their length and the industry and diligence with which they do business are the cause of the most serious apprehensions to the people that now possess them. If this Congress will just set the example, if it was possible now to pass the appropriation bills, modify the internal revenue, simplify it, prevent its frauds, reduce its excessive rates upon articles, and adjourn *sine die*, I think the whole people of America would hail it and thank it for such a course of action. My honorable friend from Indiana suggested that if we take this recess, we had better take a recess every month. I think we had. I think it would be better for the interests of the country and more acceptable to the country if Congress should take a recess, if necessary, every month.

Mr. MORTON. One word in answer to the Senator from Kentucky. He only wants a few changes made. He indorses the present state of things, as I understand.

Mr. DAVIS. You misunderstand me.

Mr. MORTON. He thinks only a few things are required to be altered, and then it will be better for the country for Congress to adjourn.

Mr. DAVIS. I am satisfied that the people will alter the present state of things, and I am content to leave it to them.

Mr. MORRILL, of Vermont. I desire merely to say that I concur with the Senator from Wisconsin. I voted against the proposition yesterday simply because the adjournment proposed was for too long a time. I know from my own experience that it will be futile to attempt to retain a quorum of either branch of Congress from the 25th of December to the 1st of January; but sixteen days seem rather a longer stretch than I have ever known to be taken on such an occasion, and therefore I shall be in favor, if the proposition should come up in any way so that I can vote for it, of reducing the time to ten days, adjourning from Monday, the 23d of December, to Friday, the 3d of January. I shall therefore vote for the reconsideration, and if an amendment reducing the number of days from sixteen to ten, or something like that, shall be offered I shall vote for it.

Mr. SHERMAN. I hope the Senate will not make two bites of a cherry. There is no use in our adjourning from Friday the 20th until Monday the 23d. It certainly is an adjournment from Monday for ten days. There will be scarcely any one here on Monday, and those of us who, like myself, will spend the holidays in Washington will be compelled to come up here without probably meeting a quorum. There is no business pending before the Senate that is so pressing upon the attention of the Senate. I know of no such bill. There are but two or three bills on our table; and by the constitutional provision which requires that the House of Representatives shall originate tax bills we cannot discuss or talk about any questions of taxation until they come to us from the House. In regard to other measures there is no great hurry, and I do not know anything that the Senate can do if they refuse the House this adjournment.

I suppose the adjournment proposed is longer than usual because Christmas comes in the middle of the week. If we met on Friday the 27th and adjourned to Monday, and then from Monday over New Year we should not practically sit till the 6th of January. This adjournment proposed is from the Friday before Christmas until the Monday after New Year. I do not think it is worth while for us to amend the resolution. Although I shall stay here every day during the holidays, I have voted for this resolution and shall continue to do so, for I never have known during the thirteen years I have been in Congress any good to result from attempting to keep the two Houses in session during the holidays. I never have known a quorum of either House to be present except during the memorable contest when Mr. BANKS was a candidate for Speaker, when an attempt was made to continue the session during the holidays. Generally members perhaps are in a happy condition, but certainly not in very good condition always for the public business.

I am a great supporter of Christmas. I believe that mankind need a holiday, and that great holiday at the close of the year which is observed by all the nations of Christendom, by white and by black, by poor and by rich, when families are united together again, I think ought not to be broken. I do not desire to see Congress in session during the holidays. I do not believe the people desire to see us here, and I know that if we are here we shall not be doing any good; so I shall vote for the longest time. As the House seem to have arranged it carefully by adjourning for a reasonable time before Christmas until after New Year, I think we had better let the resolution stand as they have sent it to us.

Mr. CONNESS. I have only to add simply whatever weight one vote may have to what has been said by the Senator from Ohio. This idea of undertaking to retrench us by abolishing the holidays because they unfortunately have no holidays in Vermont—a very excellent State—I am not in favor of sustaining. I am not in favor of being retrenched to that extent.

Mr. EDMUNDS. Or any other.

Mr. CONNESS. Nor, the Senator replies, to any other extent.

Mr. EDMUNDS. No; I said, "or any other."

Mr. CONNESS. "Or any other," the Senator amends. When the honorable chairman of the Committee on Retrenchment shall bring his measures here he will be a better judge of the extent to which I am in favor of retrenching. I shall not object that in the mean time, while the ordinary festivities that liberalize the mind and fertilize the soul are carried on, the honorable Senator shall remain here studying up, studying down, and studying through everything comprehending retrenchment. I hope he will, for in that I know he is a master, and his services will be valuable.

I do not see much economy in the suggestion made by my friend by my side [Mr. MORRILL, of Vermont] of meeting here on Friday and adjourning to Monday, in place of giving those three days to members within which to return to their homes and join their friends. I was not here yesterday when the vote was taken on this resolution. I shall vote for the adjournment proposed, and now for the reconsideration.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which the resolution was rejected.

The question being taken by yeas and nays, resulted—yeas 26, nays 15; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Cole, Conness, Corbett, Cragin, Davis, Dixon, Doolittle, Grimes, Hendricks, Howe, Johnson, Morrill of Maine, Morrill of Vermont, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Sherman, Trumbull, Willey, and Yates—26.

NAYS—Messrs. Conkling, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Howard, Morgan, Morton, Sumner, Thayer, Tipton, Wade, and Wilson—15.

ABSENT—Messrs. Bayard, Cattell, Chandler, Fowler, Guthrie, Henderson, Ross, Saulsbury, Sprague, Stewart, Van Winkle, and Williams—12.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on concurring in the resolution.

Mr. DOOLITTLE. I move to amend the resolution so as to make the adjournment from Monday, the 23d of December, to Friday, the 3d of January.

Mr. CONKLING. I should like to inquire of the Senator from Wisconsin whether he really thinks that in point of legislative time he will gain anything at all by the difference between Friday and Monday as the day on which the recess shall begin. I am opposed to this adjournment myself, and I do not make the inquiry with a view to govern my own vote, but rather with a view of calling the attention of Senators to the fact that while there will be some inconvenience imposed by the change proposed, nothing at all is likely to be gained. The houses will not sit on Saturday and nobody will feel bound to stay here for the fraction of a day on Monday, so that really the sessions will disappear beforehand, and yet the advantage and convenience of the proposed adjournment will not take place.

Mr. FESSENDEN. I shall vote against this amendment for the reason stated by the honorable Senator from New York. Everybody knows that here, now, during the regular session, we often adjourn from Thursday to Monday, and almost always from Friday to Monday. Therefore, if the amendment prevail, we shall probably lose next Friday and Saturday, as every Senator sees that the next Monday will be lost. If the resolution is to pass at all, if we are not to do as we used to do, and that is, when the day before Christmas comes adjourn over for two or three days, and then adjourn over again so as to give simply a week, which I think is proper, and which ought not to be denied; if we are to make any change from that, which was the custom formerly, and I think was the correct custom, we may just as well adjourn from Friday as from Monday, because nothing will be gained by changing the day, and by fixing Monday instead of Friday injustice will be done to Senators who want to go home, and will go; but the result will be that they will lose their *per diem* if they go before Monday. If the time is to be lost at all events, I think we might as well adjourn from Friday. I shall therefore vote against the amendment, and I shall afterward vote against the resolution.

Mr. DOOLITTLE. It is simply a question of opinion among Senators. If they think proper to vote down the amendment very well. There is so much force in the statement of the honorable Senator from New York and the honorable Senator from Maine that it does not make much difference whether we make this amendment or not. I shall vote for the original resolution if the Senate vote down the amendment, because I think an adjournment will become necessary, and if I cannot have it restricted to ten days I shall vote for sixteen days, in order to allow the adjournment to take effect. But my answer to the honorable Senators is that for the purpose of taking this adjournment Congress could sit on Friday and Saturday next, and on returning after so long an adjournment they could commence their sessions upon Friday the 3d of January, and sit both on that day and on Saturday, the 4th. To be sure it is unusual to sit on Saturday, but for the sake of so long an adjournme members of Congress would be satisfied to advance the public business by sitting on Saturday then as we sometimes do when the public business requires it. For this reason I move the amendment.

Mr. FESSENDEN. I desire to inquire whether this amendment is divisible. I think fixing the 3d of January as the day of reassembling will give ample time for members to get back, and that part of the amendment I would agree to, but the other part I would not. I ask the Chair if the question is divisible?

The PRESIDENT *pro tempore*. The question can be divided.

Mr. FESSENDEN. I ask that it be divided.

The PRESIDENT *pro tempore*. Then the question is on the first branch of the amendment, to strike out Friday, the 20th of December, and insert Monday, the 23d.

Mr. GRIMES. It does not occur to me that it is very advisable to divide the question or to adopt either branch of the proposition of the Senator from Wisconsin. In the one case if we adopt the latter part of the proposition we should meet here on Friday, and everybody knows we shall not have a quorum on Friday, and we may just as well leave the members who do go home to their families have until Monday as to attempt to meet here on Friday and cause them to have a deduction of their pay for that day. If we adopt the amendment as proposed by the Senator from Wisconsin, members from portions of Illinois and the whole of Iowa cannot reach their homes before Christmas. The system that used to prevail of adjourning over day to day for a week was a very good system under the census of 1850, but we must remember that the census of 1860 has introduced changes into the constitution of the House of Representatives, and there are some in the constitution of the Senate. There are thirty or forty more members of the House of Representatives who cannot reach their homes according to the old system of adjournment, and hence the necessity of this change which has been proposed of making the adjournment one adjournment in order to enable them to enjoy the same comfort and advantages that the members on this side of the Alleghany mountains enjoy.

Mr. FESSENDEN. Why not adjourn ninety days to allow members from the Pacific States to go home on the same principle?

Mr. GRIMES. I suppose we should if they had a controlling voice in the House of Representatives. I have no doubt they would have the adjournment made to suit themselves just as the House of Representatives now propose to have the adjournment to suit their convenience in place of the convenience of a few Senators and Representatives along the Atlantic coast.

Mr. FRELINGHUYSEN. Mr. President, I voted against this long adjournment; but this amendment, as I understand it, is simply to add two Fridays and Saturdays and Sundays to the time we are to be in session. Those days are hardly of enough value to the country to induce us to refuse to concur in the time that the House has fixed. I think that that ought to have some consideration. I shall vote against the amendment.

The PRESIDENT *pro tempore*. The question being divided—

Mr. FESSENDEN. I withdraw the call for a division. Let us vote on the whole at once.

The PRESIDENT *pro tempore*. The question then is on the amendment of the Senator from Wisconsin.

Mr. ANTHONY. Before I vote on this amendment I should like to know how some of those Senators who have opposed the resolution from the House and who have declared themselves opposed to this amendment of the Senator from Wisconsin are going to vote. If they are going to vote down both propositions I shall be disposed to stand with him; otherwise I shall go with them and vote down this.

Mr. EDMUNDS. You will ascertain when the vote is taken.

Mr. ANTHONY. I am surprised when I look around the Senate to see that I have got to be one of the old Senators, and I think, therefore, my remarks ought to be listened to by some of the young gentlemen here, with the respect that is due to experience. [Laughter.] Mr. President, we never do anything during the holidays. That is as settled as anything in the traditions of the Senate. We can never do anything during that period. When I first came here, before my friend from Iowa had ceased to be virtuous, and when he recommended that we should remain over the holidays, we used to adjourn from Monday to Thursday, and then from Thursday to Monday, and on Thursday and on Monday four or five Senators would come here to vote to adjourn. There would be no quorum in attendance; or if perchance on some day there was a quorum, something slipped through which never would have been done if the watch-dogs of the Treasury were here. Nothing is ever done during the holidays except perchance something that ought not to be done. As has been justly said by the Senator from New Jersey, who I fear is going to vote against the resolution anyhow, this amendment merely takes from the time of adjournment two Fridays, two Saturdays, and a Sunday, when of course we should do nothing. There is no practical difference between the original resolution and the amendment, so far as the actual sessions of the Senate are concerned and so far as the business of the Senate is concerned.

Mr. DRAKE. Mr. President, I really think that the junior members of this Senate are under very great obligations to these old gentlemen here for instructing them in their duties.

Mr. ANTHONY. They do not seem to take it very kindly though.

Mr. DRAKE. I do not know but that some of these days the light of the Senate may, in the course of Providence, be lost by the departure from among us of the honorable Senator from Iowa, [Mr. GRIMES,] and that we may all have to join in singing those elegiac verses that tell of a "good old soul" who was dead and would be seen no more. As it is not in order to call names on this floor, I will not undertake to repeat the first two lines of that old song; its memory is fresh with all of us. But, sir, after the very amiable castigation which the honorable Senator from Iowa [Mr. GRIMES] has given to the Senator from Missouri, and after all the instruction we have had this morning from gentlemen who have been here so long, informing us that at this particular season of the year the Congress of the United States becomes of no account whatever, and that all the virtuous purposes of the junior members of the Senate cannot make it of any account on the face of the earth during the Christmas holidays, I feel constrained to change my position on this subject, and vote for the longest period of adjournment, that the Senator from Iowa may go home to Iowa and find himself invigorated, and that the honorable Senator from Pennsylvania [Mr. CAMERON] may go home and gather his children and grand-children, and great grand-children, which I suppose he has, [laughter,] around him at his fireside.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Wisconsin.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on concurring in the House resolution.

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. I voted against this resolution yesterday, and moved a reconsideration. When I did so I thought we could arrange it to make the adjournment shorter than sixteen days, but I find that these holidays come at that particular period when, from all that is said by Senators, it is impossible to do anything unless they allow the full sixteen days. I shall therefore change my vote.

The yeas and nays being taken, resulted—yeas 24, nays 19; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Cole, Conness, Cragin, Davis, Doolittle, Drake,

Grimes, Howe, Johnson, Morrill of Maine, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ross, Sherman, Tipton, Van Winkle, Willey, and Williams—24.

NAYS—Messrs. Chandler, Conkling, Corbett, Dixon, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Howard, Morgan, Morrill of Vermont, Morton, Sumner, Thayer, Trumbull, Wade, Wilson, and Yates—19.

ABSENT—Messrs. Bayard, Cattell, Fowler, Guthrie, Henderson, Hendricks, Ramsey, Saulsbury, Sprague, and Stewart—10.

So the House resolution was concurred in.

Mr. ANTHONY. I desire to say that my colleague, [Mr. SPRAGUE,] who did not answer to his name, is detained at his home by illness.

Mr. HENDRICKS. I desire to say that I was called out of the Senate for a moment at the time the vote was taken. If I had been present I should have voted for the resolution.

THE CURRENCY.

On motion of Mr. CORBETT, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 148) to raise the value of legal-tender notes to par, the pending question being on the motion of Mr. MORRILL, of Vermont, to refer the bill to the Committee on Finance.

Mr. CORBETT. Mr. President, much has been said and written upon the subject of resuming specie payments. It is a subject of vital importance to our people, to our financial standing abroad, and to our permanent prosperity as a nation at home. I propose to discuss the bearing that the present system has upon our agricultural, manufacturing, and commercial interests, and our intercourse with other countries.

It must be obvious to every observing mind that the large amount of irredeemable paper currency issued during the war is the source of all our trouble in returning to an international gold currency. To foreign Governments and creditors our balances must be paid in gold or its equivalent, if the trade be against us, as it has been for some years past. At the present time, our vaults being very lean of gold, we have resorted to payment in interest-bearing six per cent. bonds, for each dollar of which foreign capitalists are paying us say seventy-five cents in gold. For every seventy-five dollars in gold we are paying foreign capitalists annually six dollars in gold interest, making eight per cent. per annum in gold. It would seem that this is a very large interest to pay to our foreign neighbors when they are borrowing money in their own countries for from three to four per cent. per annum. The question now arises, how shall we stop this enormous drain of gold and United States securities? So long as gold and these securities are a cheaper remittance than other products of our labor, just so long will our importers ship gold or United States stocks, thereby making us a constant and heavy contributor of the precious metal to the gold centers of Europe. Let us now see if a gradual resumption will not remedy this growing and alarming evil.

The first step toward resumption should be to issue gold notes in similar denominations to the legal-tender notes, that shall be payable on demand. There should at the present time be issued and put in circulation not to exceed ninety per cent. of the amount of gold held by the Treasury of the United States. Exclusive of the amount held by the Treasury subject to gold certificates issued by the Treasury our receipts from customs are now about fifteen million dollars in gold per month. Let the Secretary of the Treasury be authorized to sell these gold notes to the extent of $7,000,000 a month for legal-tender notes; the legal tenders received in payment therefor to be retired from the circulating medium of the country, the gold notes taking the place of the legal-tender currency. These gold notes would be a representative of something tangible, would be used to pay duties on imports, used by the banks as a reserve to redeem their own paper, used as a circulating medium on the Pacific coast, used by people traveling to and from the Pacific, and to foreign countries to some extent. The Treasury not being permitted at any one time to circulate in gold notes more than the ninety per cent. of the specie on hand this would make them always good for the gold.

This would practically reduce the present currency, and increase a currency the value of which is represented by the gold in the Treasury, thereby nearly doubling the amount of gold and its representative and decreasing legal tenders about one third, which must necessarily bring them nearer one price or value. It would cause more gold to flow into the Treasury on the Atlantic as well as the Pacific slope.

I estimate that the Secretary of the Treasury could issue $90,000,000 of these gold notes during the coming year, which, if sold prudently—say $7,000,000 a month—would probably bring on an average thirty per cent. premium, making a profit to the Government of $27,000,000, which would be equivalent to contracting the legal-tender notes $2,250,000 per month for twelve months. In other words, it would withdraw $117,000,000 legal-tender notes and substitute therefor $90,000,000 gold notes. This will be one step toward a gold basis, and a very important one. It will gradually and imperceptibly bring us nearer the gold standard in all articles manufactured and in all articles of produce, and enable us more nearly to compete with our foreign neighbors and to export our surplus products in place of our gold and United States stocks, thereby enabling us constantly to increase our gold and our gold notes and decrease our legal-tenders, until our Government circulating paper currency shall be based upon the gold in the United States Treasury, and that, in my judgment, is the true basis.

The United States Treasury should always be prepared to meet its notes, on demand, in gold. When that is the case our Government stocks will be worth dollar for dollar in gold. This will actually save to the country during the next four years, in estimated exports of our United States stocks, by the increased value upon them, say upon $600,000,000 of United States bonds, the sum of $150,000,000. What should we think of a business man who should continue to issue his notes and never pay them, and who should live beyond his income, or, in other words, be constantly expending more money than he was earning? How long would his credit continue after it was known to his creditors? This is exactly the position that we now occupy as a nation; and what is true of an individual is true of a nation. We must stop giving our notes to our foreign neighbors; we must stop sending the gold out of the country. This we can do when a step toward resuming specie payments is taken. It then becomes a necessity to retain the gold in the country and in our vaults in order to meet our gold notes. When we take this step the banks will be obliged to prepare to resume specie payments, and the sooner they prepare to meet this contingency the better for them. The longer the Government and the banks defer the day for resumption the more difficult it will be, for the following reasons:

Our receipts of specie from the Pacific are being very much reduced.

The total amount received at New York from January 1, 1866, to November 20, 1866, was...	$38,297,350
The total amount received at New York from January 1, 1867, to November 20, 1867, was...	25,490,634
Making a decrease from the Pacific for ten months and twenty days of...	$12,806,716
Our export of specie for 1864 amounted to..	$100,321,371
Our net import of specie for 1864 amounted to...	8,192 633
Export over import of specie for 1864...	92,128,738
Our export of specie for the year 1865 was...	$64,618,124
Our net import of specie forthe year 1865 was...	6,784,970
Total net export of specie for 1865...	57,833,154
Our export of specie for the year 1866 was...	$82,643,374
Our net import of specie for the year 1866 was...	7,299,395
Carried forward...	$149,961,892
Amount brought forward...	$149,961,892
Export over import of specie for 1866...	75,343,979
Our export of specie for the year 1867 was...	$55,116,384
Our net import of specie for the year 1867 was...	16,405,483
Export over import of specie for 1867...	38,710,901
Total export over import of specie for four years...	$264,016,772

Our total production of gold, from the most reliable data, from 1848 to 1860 is estimated to have been... $716,500,000
From 1861 to 1867, inclusive... *457,500,000

Total product since 1848...	1,174,000,000
Total exports for 1849 to 1867, inclusive...	$921,250,000
Imports for same time...	217,250,000
Export over import...	704,000,000
Leaving product over export...	470,000,000
Add specie in country previously...	100,000,000
Making...	570,000,000
Deduct consumption in the arts, and amount taken abroad during the rebellion and by individuals traveling, say...	330,000,000
Only leaving in the country at this time...	$240,000,000

Then look at our immense importation of merchandise valued in gold at place of shipment.

In 1864...	$316,447,283
Deduct merchandise exported, gold value, estimated...	108,855,824
Leaving to be paid for in gold...	207,591,459
Deduct net gold export for 1864...	92,128,738
Leaving to be paid for in United States stocks...	115,462,721
Add ninety-seven per cent. premium on gold for 1864...	111,998,839
Total amount of bonds exported 1864...	$227,461,560
The import of merchandise for the year 1865 was...	$238,745,580
Deduct merchandise, gold estimate, exported in 1865...	160,657,539
Leaving to be paid for in gold...	78,088,041
Deduct gold exported for 1865...	57,833,154
Leaving to be paid for in United States stocks...	20,254,887
Add average premium on gold, sixty-one per cent., for 1865...	12,355,481
Amount of United States stocks exported for 1865...	$32,610,368
The imports of merchandise for the year 1866 was...	$434,812,066
Exports of merchandise, gold estimat e, for 1866...	329,968,836
Leaving to be paid for in gold...	104,843,230
Deduct exports for the year of specie...	75,343,979
Amount to be paid for in United States stocks...	29,499,251
Add average premium on gold, forty-two per cent., for 1866...	12,389,685
Amount of United States stocks exported for 1866...	$41,888,936
The imports of merchandise for the fiscal year of 1867 were...	$389,968,838
Exports of merchandise for 1867 were...	279,357,732
Leaving to be paid for in gold...	110,611,106
Deduct net gold exported for 1867...	38,710,901
To be paid for in United States stocks...	71,901,205
For United States stocks at seventy-five cents on the dollar, add one fourth,...	17,975 301
Amount of United States stocks sent to Europe...	$89,876,506
Imports of merchandise for July, August, and September, 1867...	$91,000,000
Export of merchandise for same time...	66,200,000
Leaving to be paid for in gold...	24,800,000
Deduct gold exported...	11,800,000
To be paid for in United States stocks...	13,000,000
For discount add one fourth...	3,250,000
Amount sent to Europe in three months..	$16,250,000
Exports over imports of gold, total for four years ending June 30, 1867...	$264,016,772
Add export for three months, ending September 30...	11,800,000
Making for four years and a quarter...	$275,816,772

*Coined, $309,750,000.

Add to this our amounts of United States stocks for the same time, namely:

In 1864	$227,461,560
For fiscal year 1865	32,610,368
For fiscal year 1866	41,888,936
For fiscal year 1867	89,876,506
For July, August, and September, 1867	16,250,000
	408,087,370
Add the specie	275,816,772
Making balance of trade against us	$683,904,142

or for four years and a quarter nearly seven hundred million dollars, for which we are paying gold and our securities. How long shall this continue? Just so long as a system of inflated and irredeemable currency continues. When we reflect that our population is increasing very rapidly while our gold circulating medium is constantly decreasing, it is truly alarming. Add to this the United States stocks, being sent to Europe, and we may well be startled and look to the ultimate result with great anxiety and apprehension. Upon the Pacific slope where the products of the country have been kept at a gold standard, they have been enabled to ship a larger amount of grain by half, according to their population, than the Atlantic slope, thereby retaining to a great extent their gold at home. Large amounts of gold are now accumulating in their vaults. This, in a great measure, would have been the result on the Atlantic if you could have retained your gold standard. True, the currency would have gone up and down according to circumstances, whereas all the products of the country would have retained a fixed gold value and been exported instead of the gold. You would not have estimated your values upon an inflated currency, thereby deceiving yourselves and cheating yourselves out of this immense amount of gold that has been flowing like the Gulf stream, touching, like it, upon your shore, then swept along in the resistless current until it is deposited in a foreign land.

How, then, shall we guide the flow of the golden current to our own country, so that it will remain within the bosom of our Commonwealth? Only by a fixed gold standard. We regard ourselves as the greatest wheat-producing country in the world, and yet Russia exports to England forty per cent., Prussia nineteen per cent., and America only ten per cent.

The following comparative table shows the quantity of some of the principal articles of produce left at tide-water from the commencement of navigation to and including the 22d of November, in the years indicated:

	1865. *Canal opened May 1.*	1866. *May 1.*	1867. *May 6.*
Flour, barrels	801,500	371,800	388,600
Wheat, bushels	8,651,700	5,471,600	8,659,308
Corn, bushels	16,463,400	24,284,400	15,288,500
Barley, bushels	3,643,600	5,494,000	3,422,300
Oats, bushel	9,389,500	9,154,400	8,190,400
Rye, bushels	974,800	1,215,700	840,400
Malt, bushels	466,700	374,000	372,100
Beef, barrels	9,464	1,400	580
Pork, barrels	15,102	23	899
Bacon, lbs	1,273,100	-	34,400
Butter, lbs	761,400	852,100	536,900
Lard, lbs	1,996,000	107,000	1,235,300
Cheese, lbs	13,760,500	7,172,000	6,243,900
Wool, lbs	571,100	495,400	351,800

It will be observed from the above table that our products are rather decreasing than increasing at tide water, the great channel through which our exports go to reach the sea, and our exports must decrease while our imports are nearly or quite as heavy as usual. Why should this be the case? Our country certainly is equal in its capacity for production to any other; and therefore anything we can do to cheapen our products will tend to greater exportation and greater saving of gold and silver. The same rule likewise applies to cotton and also the kind of heavy cotton goods exported to the China market. Whatever will tend to cheapen their production will tend to retain our gold and silver in the country and cause it to flow toward the Atlantic. Other examples and statistics might be cited to show the importance of bringing our currency back to a specie basis. A continued inflation will only tend to make our financial affairs still more uncertain as time progresses, and when the crisis does come it will be wide spread and ruinous. Let us check ourselves while there is yet time.

The following table from the Bureau of Statistics will show the amount of cotton exported since and including 1856:

	Gold Value.
1856	$128,300,000
1857	131,500,000
1858	131,300,000
1859	161,400,000
1860	191,800,000
1861	34,000,000
1862	1,000,000
1863	4,800,000
1864	6,300,000
1865	3,300,000
1866, (thirty cents per pound,)	199,500,000
1867, (twenty-one and three fourth cents per pound	143,900,000

You will observe that the amount of merchandise exported in 1866 was $329,968,836, of which the cotton exported was $199,500,000, leaving for all other products, aside from gold and United States stocks, only $130,468,836. For the year 1867 we exported merchandise, $279,357,732. Deduct cotton exported—$143,900,000; leaving for all other products, aside from gold and United States stocks, $135,457,732. The price of cotton in 1866 averaged thirty cents per pound, gold; in 1867, twenty-one and three fourth cents per pound, gold. For the fiscal year 1868 I estimate the price in gold to average twelve and a half cents per pound. If we add one fourth to the quantity exported last year, and estimate that to be the export for the fiscal year ending June 30, 1868, it will yield us in gold $90,126,436.

Therefore I do not look to so large an export as the honorable Senator from Vermont, [Mr. MORRILL.] I think as heretofore our balances will be paid in gold and United States stocks, leaving us further from specie payment at the end of the fiscal year 1868 than we were at the end of this fiscal year.

If we would build our foundation strong and permanent we must commence to clear away the rubbish, remove the shifting sands, and dig until we strike the bed rock of specie. Build upon that rock, issue your paper currency upon that, let it be little or much, so that the people can see that there is a paper currency that will draw gold whenever presented. This will be something; it will be a commencement. Putting off the day only makes our destruction the more sure. How easy it is to quiet the clamor of drunken men if you will only listen to their intreaties for more poison! Is that any reason why we should give it them, when we know it is slowly but the more surely leading them on to destruction? Sir, the nation is intoxicated! Shall we continue to give them financial poison or say stop until they return to reason?

In what do we pay the balance against us? It is paid in gold or United States stocks. What will be the result when the gold and United States stocks are all exhausted? Can we then resume specie payment? I think not. As a war measure the Government had a right to issue its notes, and make them temporarily a legal tender for the purposes of carrying on the war; but it cannot be with truth assumed that it was the intention of the Government to substitute this species of currency so as to supersede entirely an international currency, a currency so long recognized by our own country, and the only kind of currency regarded as money by the other great commercial nations with whom we deal. If it had been so contemplated Congress would not have made a distinction in the currency by making the duties on imports payable in gold. It was only intended as a measure of temporary necessity, and it was undoubtedly the intention of the Government to return to specie at the earliest practicable moment. While the present state of depreciated currency exists none but unsound, unwise, and venturesome traders will invest their money in the products of the country for the purpose of export, with the prospect of finding when they return to our market that what they have brought in return will not bring them as much in gold as the cargo with which they started, in consequence of the depreciation of our currency. Therefore it is a great hinderance and drawback to the increase of our commercial and shipping interests. This legal-tender currency acts, with the consequent cost of exchanging gold for legal tenders and legal tenders for gold, as a protective tariff to foreign countries. It enhances the price of every kind of product to such an extent as almost to preclude our competition with them.

To expect a continued expansion until every private speculator disposes of his stock, and until every one disposes of his goods on hand that have cost him too high in consequence of a depreciated currency, would be simply ruinous. Each imagines he is losing money. The whole trouble lies in the fact that he has estimated legal-tender notes as money, whereas they are only a promise to pay at a convenient season, and when he sells those for real money, gold, he finds the legal-tender stock on hand, like his other notes and accounts, will not bring dollar for dollar, and that he must look to his large profits incidental to an inflated currency to supply the deficiency, as he does to his profits on goods to meet his losses on bad accounts.

The stringency of the times compared with the time when there was a much larger amount of currency in circulation must be attributed to some extent to a transition from an inflated to a sound gold basis, and to a greater extent to the speculation and over-trading of the community incident to the plethoric currency that has existed for the few years past. Previous to the war we were not able to prevent this over-trading and the results that ensued; neither can we do it now unless we continue to blow up the bubble of our currency and expand it to suit popular clamor, and if we do so it is only a question of time how long it will float or how soon it will burst and fall to the ground.

Therefore, I appeal to your good judgment to look beyond the present, look to the future, to the permanent and abiding prosperity of this great and powerful nation. Let not other nations sap the foundation from beneath our feet while we sleep in fancied security upon our beds of greenbacks; while they, with the cunning of a Shylock, are giving us all the rope we ask, hoping that one day we shall hang ourselves. For every seventy-five cents of gold obtained we are giving one dollar, and one day we or our descendants must pay the full amount of them; and I say let them be paid in full, but let us give as few more obligations as possible, unless dollar for dollar is paid us in gold.

The exact amount of United States stocks and gold coin together exported each year cannot be less than $150,000,000 over and above our imports.

I have had the honor to submit to the Senate a bill which I desire to have referred with the pending measure to the Committee on Finance. It is Senate bill No. 154, to provide for the issue of gold notes in place of legal-tender notes and to facilitate resumption of specie payment. It is intended as a first step, to be followed in due time by others. The plan proposed, if adopted, will act as a check upon itself and upon the people. If they over-trade and do not produce sufficient to pay the balance of exchange in some other product than gold and United States stocks they will feel the stringency. If they do produce and export sufficient to pay the balance of trade against us, then gold will increase in our vaults, and gold bills and bank bills will become more abundant, and general prosperity and renewed confidence will be placed upon a firm and substantial foundation.

Upon the question of bank currency I have to remark that the Government of the United States in time of peace has no right to take the interest-bearing bonds of the banks and give in lieu therefor its notes irredeemable and payable at no stated time and based upon no system of international currency, and bearing no interest. How did the men of capital, the laborers, the manufacturers, the widows and orphans composing these bank associations

obtain these United States bonds? As a usual thing they were not the people that made their money out of the war, but those who had previous to the war associated themselves into incorporated companies for the purpose of facilitating the industrial business of the country. Their circulating medium was secured upon interest-bearing State bonds, bonds and mortgages on real estate, and upon productive real estate itself. These assets of the banks were converted into United States bonds, believing them a better investment and better security for their bill-holders, and paying them an interest equivalent to that they were getting from their other sources. Can any man in his right senses assume that the Government has a right to take the bonds and mortgages and the productive real estate in which the money of the widows and orphans and the savings banks of our poor people are invested, and give them a piece of paper bearing no interest? And yet this is in effect the proposition urged by some of our leading men. It is simply and absolutely repudiation. After absolutely compelling them to adopt the national bank currency system by heavy taxation, now you ask them to give up their established business and surrender their bonds and take your notes payable at no particular time, bearing no interest, and dispose of them as best they can. If that is public faith it has reached a low standard.

The outlines of this banking system adopted by the Government were in operation in New York State. The security there required by law were New York State or United States stocks; and I have known the five per cent. stocks to be worth 115, and that in the days of specie payment. The system is one that requires a certain amount of our stocks to be held in our own country. These our foreign neighbors cannot purchase at any price. Do away with the system, throw the stocks upon the market, and they will disappear gradually but surely, while the legal tenders bearing no interest will remain. Foreign capitalists will thereby hold $300,000,000 more of our bonds, for which they will have paid us $225,000,000 in their silks, satins, and champagne, and we shall pay them annually for forty years to come $18,000,000 gold per annum, making the snug little sum of $720,000,000. By such a step you would take away the prop that you have reared in every State of the Union, and through which you are braced by all the combined capitalists of the country, and through them all the earnings of the saving and frugal who compose the bone and sinew of our country.

There are two ways in which we can return to specie payment; one is the way indicated by Senate bill No. 154, which I propose to bring before the Senate at this time in the nature of a substitute in place of Senate bill No. 148, offered by my friend from Vermont, [Mr. MORRILL,] with a view also of having it referred to the Committee on Finance. This bill at first glance may not appear to fully cover the case, and yet when examined closely I think it is all we require at this time. The first section provides—

That the Secretary of the Treasury be, and he is hereby, authorized and directed to issue and keep in circulation gold notes, payable in gold or silver coin on demand at the Treasury of the United States, of such denominations as may be most convenient for circulation, to an amount not to exceed ninety per cent. of the gold and silver that may be in the Treasury.

SEC. 2. That the Secretary of the Treasury be, and he is hereby, authorized to sell $7,000,000 of said gold notes each and every month after the 28th day of February, 1868, the said notes to be sold for legal-tender notes to the highest bidder or bidders, at such time or times and in such amounts as the Secretary of the Treasury may deem best for the public interest: *Provided*, That at no time shall there be placed in circulation an amount to exceed ninety per cent. of the amount of gold in the Treasury, exclusive of that in the Treasury for which gold certificates have been issued; and the amount of legal-tender notes received in payment for gold notes shall be withdrawn from circulation.

It will be observed that by the provision of these sections, while the Secretary of the Treasury is directed to keep in circulation ninety per cent. of the coin in the Treasury, he cannot at any time place in circulation to exceed ninety per cent., if any portion of these gold notes should be presented and paid, thereby putting the gold in circulation. The gold notes so presented will be retained until the gold again accumulates, so that they can be again paid out. The receipts from customs being nearly twice the amount per month that it is proposed to issue in gold notes, we shall thus at all times keep sufficient in the Treasury to meet all demands for interest and other purposes. When you prepare thus far to resume specie payments the result follows that the banks will do the same. They will either hold their reserve in legal-tender notes or gold notes; as the legal-tender notes become scarce they will increase in value.

There are in circulation of legal tender, aside from fractional currency, the sum of	$356,000,000
Deduct reserve held by banks	60,000,000
	296,000,000
Deduct amount which the $90,000,000 gold notes will retire, estimated at	117,000,000
and you have left in circulation	$179,000,000

It must, therefore, very much enhance the value of the remainder. This amount could easily be managed. By the system proposed it is believed that within two years sufficient gold would flow into the Treasury to redeem $75,000,000 more. There being then left but $100,000,000 legal tenders in circulation, I estimate that they would be nearly on a par with gold and gold notes.

You may ask, what will the banks do all this time? My answer is that they have a large surplus of profits from which they must take to purchase gold in foreign markets and assist in every way they can to forward products out of the country instead of gold. They who are enjoying these privileges secured to them must do something toward turning the balance of trade in our favor. This they will be compelled to do for their own protection.

The third section provides—

That as soon as any portion of said gold notes are placed in circulation, the Secretary of the Treasury be, and he is hereby, required to suspend any further contraction of the currency than may be effected by this act.

This provision suspends contraction of the $4,000,000 a month, and substitutes a contraction of about $2,000,000 to $2,250,000 per month. You may say that these gold notes will not go into general circulation. My response is that they will answer a great want in New York city, where all purchases of foreign goods are now made for gold, and furnish a paper currency to the Pacific coast based upon gold. It would require for that coast alone thirty to forty millions. This would give you the specie as a basis to issue more gold notes and retire more legal tenders.

The fourth section provides—

That the gold notes issued by the provisions of this act may be held by banks as a reserve in place of the same amount of legal-tender notes; that the said gold notes shall in all cases be counted as a part of the bank reserve required by law, and shall be in every respect lawful money and equivalent to gold, receivable for customs and for the interest on the public debt.

This provision explains itself. In case of scarcity of legal tenders the banks can provide themselves with gold notes to hold as a reserve instead of legal-tender notes. They can also be used by individuals to pay their taxes upon a gold basis, where they are made up in that way, as is the case on the Pacific coast; and those or gold coin would so be paid if the next section is adopted, which provides—

That where individuals, corporations, companies, or firms make up and return their income based upon gold, the Secretary of the Treasury may require their income to be paid in like currency.

This section is intended to make the income in gold larger by a portion of the taxes being paid in gold, as would be the case on the Pacific.

Another plan would be by a foreign loan. This I do not feel willing to advocate at this time. It would add to our debt perhaps $200,000,000, upon which we should be paying interest annually. I shall for the reasons I have stated urge the passage of the bill introduced by me.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to refer the bill before the Senate to the Committee on Finance.

The motion was agreed to.

On motion of Mr. CORBETT, the bill (S. No. 154) to provide for the issue of gold notes in place of legal-tender notes, and to facilitate resumption of specie payment, was referred to the Committee on Finance.

EXECUTIVE SESSION.

Mr. POMEROY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

WITHDRAWAL OF PAPERS.

Mr. DOOLITTLE. Before the doors are closed, or while they are being closed, I ask leave to make a motion that the Committee on Finance be discharged from the further consideration of the memorial of the Taylor Orphan Asylum of Racine, Wisconsin. I am informed by a gentleman of the committee that it should properly be first presented in the House of Representatives, as it affects the revenue laws and asks for a change in the revenue laws. I therefore ask to have the committee discharged from its further consideration in order that I may have it presented in the House of Representatives.

The PRESIDENT *pro tempore*. The Chair will put the motion, saying at the same time that this idea of doing business after the order is made to clear the galleries is never understood very well.

Mr. DOOLITTLE. It can be done by unanimous consent.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the committee will be discharged from the further consideration of the memorial referred to by the Senator from Wisconsin.

Mr. DOOLITTLE. I now ask leave to withdraw the memorial for the purpose of presenting it to the House of Representatives.

The motion was agreed to.

EXECUTIVE SESSION.

The Senate thereupon proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 13, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

Mr. COBURN. I have been requested to state that my colleague [Mr. ORTH] was absent yesterday in consequence of sickness.

LEAVE OF ABSENCE.

The SPEAKER. The Chair has been requested to ask leave of absence for an indefinite time for Mr. KELSEY and Mr. BOUTWELL.

There was no objection, and the leave was granted.

EXTRA PAY TO GOVERNMENT EMPLOYÉS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in compliance with the resolution of the House of the 11th instant, relative to the amount of the twenty per cent. allowance to the clerks and employés in his Department for the year ending June 30, 1867.

Also, similar communications from the Attorney General and the Superintendent of Public Printing.

The communications were severally referred to the joint Committee on Retrenchment, and ordered to be printed.

INDEX OF DOCUMENTS AND REPORTS.

The SPEAKER also laid before the House the following letter from the Clerk of the House, which was laid on the table:

CLERK'S OFFICE HOUSE OF REPRESENTATIVES,
WASHINGTON, D. C., *December* 12, 1867.

SIR: I have the honor to report that in compliance with a resolution of the House of Representatives of February 7, 1866, I have had prepared and depos-

ited in the Library of the House a digested index of the executive documents and reports of committees of the House of Representatives from the year 1839 to the close of the Thirty-Ninth Congress, corresponding with the index of the same documents from the commencement of the Government to the close of the Twenty-Fourth Congress, for which no appropriation will be required.

Very respectfully, your obedient servant,
EDWARD McPHERSON,
Clerk of the House of Representatives.

Hon. SCHUYLER COLFAX, *Speaker of the House of Representatives.*

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed the following-named bill and joint resolution, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 127) in relation to additional bounties; and

Joint resolution (H. R. No. 119) to authorize the Postmaster General to print five hundred extra copies of his report and accompanying documents.

ADJOURNMENT OVER.

Mr. FARNSWORTH. I move that when the House adjourns it adjourn to meet on Monday next.

The motion was agreed to.

Mr. ELDRIDGE. I move to reconsider the vote by which the House agreed to adjourn over, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FARNSWORTH. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the President's annual message.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. FARNSWORTH in the chair,) and resumed the consideration of the President's annual message, on which Mr. VAN TRUMP was entitled to the floor.

IMPEACHMENT.

Mr. VAN TRUMP. Mr. Chairman, there is some consolation in the reflection that although we in the minority may be silenced by the gag of the previous question in the ordinary course of legislation involving the highest interests of the country, yet there is still left to us what was left to the persecuted ones of old, the right of sanctuary, which we happily find here in this *olla-podrida*, this saturnalia of debate, this new Alsatia of the Committee of the Whole on the state of the Union! Sir, the remedy is absurd; but we are compelled to choose the least of two evils. It is here, and in this way, we may occasionally reach the ear of the country upon the great questions in which the people, in these modern days, are so deeply interested, and upon the rightful determination of which may hang the future destinies of the Republic. To a person not acquainted with the practice of this House it may seem out of place and out of season to discuss measures already passed upon, and to reply to speeches which have been printed and gone into circulation days ago. But, sir, we must take things as they are, ratified by custom if not by common sense. As a member of the minority in this House, and in times like these, I am not content to let grave political fallacies go upon the record of debate unanswered and uncontradicted, and let them pass into history unexposed and unrefuted. Such is not the duty of the hour; these are times of transition and revolution; and that member has no business here if he has the power of speech at all, who does not perform his duty by his voice as well as his vote, whenever the opportunity offers for its performance.

Sir, we are standing upon unstable ground, and in slippery places. We sit here as legislators in no ordinary times. We live in no common-place age of the world, however much common men may guide and control the great events of the country. We are surrounded by difficulties which cannot be easily overrated; and are rapidly approaching events which are destined to have a marked influence upon the future destiny of free institutions. We are beset with dangers which the most obtuse apprehension cannot fail to comprehend. The delicacy of the situation is only equaled by the unwisdom of its management on the part of those who are alike responsible for its existence and the terrible results which may flow from it. There is, sir, a most marked discordance between the grave importance of the crisis and the spirit which seeks to govern and control it. Passion instead of reason, prejudice instead of common sense, mere partisan tactics instead of a clear-sighted and broad-minded statesmanship, rule the great destinies of the hour, and shape the whole mass of legislation with an unrelenting and inexorable domination. All independent opinion, all individual will, action, conviction, are thrown beneath the crushing wheels of the party Juggernaut upon every subject involving the question of the restoration of the country from the ravages of a great civil war. Men naturally conservative in their political instincts; men disposed to stop short in pushing things to their last extremity, by the mere force of party drill, and under the imperious decrees of that outside but hidden tribunal which rules with a rod of iron the majority on this floor, are driven and dragooned into an unwilling support of measures which in the quiet chambers of their consciences they condemn and abhor. The fact that so serious a question as that of deposing the Chief Magistrate of the country by a process which was never dreamed of being resorted to in the wildest periods of partisan frenzy in all the past history of the Government could be entertained and prosecuted for no higher purpose than the accomplishment of party ends, shows a degree of recklessness and political revenge which, in my opinion, does not augur favorably for the peace and security of the future.

I cannot tell, Mr. Chairman, no man can tell, how long this revolutionary spirit may last or what may be its results in the future. If we look to other and kindred periods in the history of revolution; if we look with open eyes and thoughtful minds to that revolutionary movement in England which began with the wrongs and usurpations of James I and ended with his unfortunate but misguided son Charles I; or to that more horrid ebullition of passion which had its imperceptible but none the less actual beginning with the corrupt and arbitrary reign of Louis XIV and its bloody termination long afterward with Louis XVI, in France, we shall have presented to our observation beacon-lights to warn us and to guide us if we are wise in the timely avoidance of that dark and perilous path which leads to inevitable revolution, in the factious and unconstitutional assaults of one department of Government upon another. Nothing sooner kindles the fires of civil discord, nothing more effectually paralyzes all trade and commerce and throws the finances of a people into ruinous disorder, than a struggle between the executive and legislative power of a nation, in which at last one or the other must go down. A constitutional fabric of Government which had stood for centuries in England went down in the suicidal antagonism of such a conflict. It is more than folly, Mr. Chairman, it is madness to suppose that we are beyond such dangers or exempt from such consequences. Forms of government do not essentially change the principles of human nature or give any new or cardinal objects to human motives. God Almighty has stamped His eternal law alike upon all peoples and all forms of government. His fiat is beyond our powers of repeal. If we violate this law of our being, either as individuals or as nations, we must accept its consequences as a penalty for our disobedience, whether we live in a republic or under a monarchy. Thus far our Government has withstood this wonderful pressure. And yet, while it has apparently preserved its external formulas, no candid man will deny that it has undergone the most radical transformations in its spirit and fundamental principles. It has undergone great and startling changes, not only in its administrative functions but also in its constitutional organism. While we may not hope, Mr. Chairman, ever to be able to bring it back to its original condition, such as it was when passed into our hands by our fathers, it should be the aspiration of every true patriot, the earnest effort of all good men of all parties, to prevent a total subversion of its principles by usurpation. To do this there must be a crushing rebuke by the people of the lawless purposes of the party now in power. Those purposes are so patent "that he who runs may read." A wild and revolutionary spirit, perhaps the natural result of a great and demoralizing civil war, has marked with an intense malignity the policy of that party which has held the reins of power in the inauguration, in the progress, and since the termination of that war.

Mr. Chairman, if I did not know that party spirit is one of the strongest and most absorbing passions in the human heart I would be wholly at a loss to comprehend why it is that the radical portion of the Republican party is so desperately bent upon breaking down one of the great departments of the Government. Sir, it is not a long while ago that they stood in quite a different relation to that same department. Abraham Lincoln, recognizing the supremacy of the Radicals, could arrest men without warrant of law; imprison them for an indefinite period without trial or accusation; order the trial of civilians by courts-martial away from the seat of war, and where the civil tribunals had uninterrupted jurisdiction; suppress the liberty of speech and of the press; exile free-born American citizens with the same unchallenged facility that the czar of Russia could expatriate his serfs to the snows of Siberia; decide upon the status of sovereign States, as in his proposed reconstruction of Arkansas, with the flourish of a pen and with as little ceremony as he would call a session of his Cabinet council; all this was done and much more, and yet we never heard a whisper of impeachment from men who now so much adore the Constitution that they shudder at the thought of a veto, or go into spasms at the removal of a village postmaster. But now how changed is the scene. With a President in the chair of State of their own choice; a man who had unflinchingly stood by and sustained them in all their administrative policy during the war; a man who had braved all the fierce hatred and threatened violence of his southern fellow-citizens, with whom he had radically differed upon the question of secession and the erection of an independent southern confederacy; a man who, if he did not approve, certainly never publicly disavowed any of the lawless and unconstitutional proceedings of President Lincoln and his Cabinet adopted during the great conflict of arms upon the miserable and untenable plea of a "war necessity. This man with this record thus to commend him to their favorable consideration, when the war was over and the southern people had thrown down their arms and submitted themselves to the Federal laws and constitutional authority of the country, because he wanted, in the full spirit of the high trust of his place, to put the restoration of the Union upon civilized and Christian grounds by binding these States once more together in an equal and common interest in all the great rights and privileges of a common Constitution for the benefit of the white man instead of the negro, they are determined to crush and degrade, at the expense of all law, in violation of the Constitution, and in defiance of public opinion.

Sir, I do not stand here, nor do I claim the right to stand here, as the special defender of the President; but, sir, I cannot sit silently here in my place in this House as one of the Representatives of the people and see a great constitutional remedy, a grand judicial tribunal intended by the Constitution to sit as a just and dignified arbiter between the people and a

real criminal in the presidential office, converted and perverted into a mere partisan political machine to wreak party vengeance upon a man in that high place for being more faithful to the Constitution than he was to his party at a time when that Constitution was ruthlessly assailed by almost every act of the party which is now persecuting him. I owe to the present incumbent of the presidential office no party allegiance except the common duty to defend him when he is assailed for doing what I believe to be right, and to stand by and support him when he stands by and supports the Constitution of my country. He has no claim upon me to do more; and no good man can discharge his plain duty to the people and do less. No, sir; I sustain the President from no motives of party. The party to which I belong, and of which I am proud, has been in no way recognized by him in the administration of the Government. He has distributed the great patronage of his place more to their opponents than to themselves. If he has taken any step at all toward party it has been more to create a new one than to affiliate with ours. All this the Democratic party has seen and felt; but with a magnanimity of feeling and a nobleness of purpose which does it the highest honor it has sustained him everywhere in his efforts to uphold the Constitution and to restore the Union. He has fought the battle bravely, unflinchingly, hopefully. There never was a higher instance of self-will, a loftier defiance of danger and its consequences, or a more self-possessed and dignified assertion of right, against the formidable odds of organized and dominant power in such a crisis, than was exhibited in this Hall the other day when the manly sentiments of his annual message fell upon your startled ears like a thunderbolt from a clear sky. From that moment impeachment was dead. No one who witnessed that most remarkable scene but saw and felt where victory and triumph belonged. We support Andrew Johnson, not because he is of us, but because he is with us in asserting the great principles of the Constitution. Without surrendering a single line of its organization, and without abandoning a single principle by which it is governed, the great Democratic party of the country will now as heretofore stand by and sustain him in his noble but unequal struggle with the enemies of liberty and law.

Sir, you may persecute him with all your party spite; you may attempt to degrade him in the eyes of the world; but you will, as a party, have very much to improve your temper and elevate the motives by which you are actuated, if you do not want to insure him a triumph which will make you look ridiculous enough in all that time to come which will retain the memory of the history you are now making. Sir, the honorable gentleman from Tennessee, [Mr. MAYNARD,] in his speech on yesterday, made the assertion that the "copperheads," as he had the refined and cultivated taste to designate the Democrats, were "afraid to stand by and support the President." Afraid to stand by and support him, sir, when he is right! When and where? Not in this Hall, certainly. Let the gentleman point out the time when the President stood against the Radicals, and consequently by the Constitution, the little Spartan band of Democrats on this floor ever failed to stand by and support him. Sir, fear is a word not to be found in the Democrat's vocabulary. I do not know what the local experience of the gentleman may be "way down in Tennessee," but in Ohio, in the darkest days of that reign of terror which equaled that of Danton and Robespierre in everything except its blood; when bastiles and bayonets ruled supreme over the law; when by fraud as well as force the State elections were carried against them by one hundred thousand majority, the Democratic party never quailed before its unrelenting foe, never yielded an inch of its ground, or compromised a single iota of its principles.

If the President of the United States had been really guilty of any offense intended by the Constitution to be punished by impeachment and this House, standing as the popular exponent of the will of the nation, in a decorous earnestness and with a dignity of manner befitting the occasion, had determined to submit articles of impeachment against him, I know of no ceremony belonging to the administration of the Government presenting a sublimer spectacle than such a high and solemn proceeding. Such a scene with such a cause presented in this magnificent Hall would have been in harmony with our historic recollections of the great impeachments for the high crimes and misdemeanors of a Bacon, a Strafford, and a Hastings. But no man who witnessed the remarkable scene enacted in this Hall a few days ago will carry with him any very lasting impression either of its dignity or its solemnity. The tableau presented on that occasion did not very forcibly remind one of the antique grandeur of Pym in presenting the report for an impeachment of the Earl of Stafford, or the magnificent port of Burke in his thrilling peroration to the charges against Warren Hastings in the English House of Lords. Ah! no, Mr. Chairman, our acting was more a farce than a drama; it presented much more of the ridiculous than the sublime; it would require the histrionic genius of a Quin rather than that of a Kemble to render its true spirit. Whatever of dignity which might have belonged to it was certainly not improved by the good-humored face of an honorable gentleman peering over the shoulder of the Clerk, while reading so much of the majority report as the House was willing to tolerate before dinner. It was not such a scene, Mr. Chairman, with its burlesque applause from the sable Olympians thick crowding the galleries above and around us, as was anticipated by some of our friends on the other side of the House who had been "longingly counting the days when Congress should meet" to consummate its performance. Why was it, sir, that these ceremonies created no feeling of solemnity or dignity? Why was it that before one tenth of the report of the majority in favor of impeachment was read to the House the reading was ordered to be dispensed with? Sir, I can tell you why it was. It was because there was a general and instinctive impression among those who were present that the whole thing was a miserable party sham, got up for political effect to save a sinking cause, and that there was no reasonable or probable ground for its prosecution. It was because whatever of life had been infused into it by the galvanic batteries of party interest or of party hatred had long since been squeezed out of it by the indiscretion of its friends, and it was dragged into this House a lifeless, disgusting corpse, when it should have been decently interred in the sheltering privacy of the committee-room.

Mr. Chairman, this process of impeachment, under our Constitution, of the Chief Magistrate of a great nation, standing, as the Executive does, as one of the highest depositaries of national dignity, was not intended to be converted into a little piece of party machinery for the purpose of exposing and punishing party delinquencies and party peccadilloes on the part of one of its members; but it was contemplated to be, when there was a just, or even an apparent cause for the exercise of its solemn jurisdiction, a great national criminal proceeding, in behalf of the people and for the benefit of the people, to punish and depose a bad and wicked President for high crimes or high misdemeanors against the laws or the Constitution of the country. This power of impeachment was inserted in the Constitution by as earnest and far-seeing a body of men as ever met in a deliberative assembly, after the most patient and profound consideration as to its uses and purposes. Looking to the danger of its being used and controlled for party purposes in periods of high party excitement the great question before the Convention was, whether it should be given to the Senate or to the Supreme Court. Sir, time will have to decide whether the selection was a wise one or not in view of the danger of political influence and prejudice. While this power was in the main copied from the British constitution, like every other legal institution which we borrowed from the mother country, it was intended to be molded and exercised and modified in accordance with the great difference which existed both between the executive and the legislative powers of the two countries. In England there is no power of impeaching the king as the executive branch of the Government; for the reason that, by a legal fiction in their constitution, the "king can do no wrong." The power of impeachment originated in England, as a part of the judicial power in their constitution, in order to check and punish the usurpations and rapacity of the great ministers of the Crown in times of great corruption and usurpation. It had its origin away back as far as the twelfth century, in an appeal to the throne, instead of the legislature. Gradually, as the House of Commons rose into importance, it was transferred to the more popular branch of the Government. By the common law, when the person of the wrong-doer was amenable to this special jurisdiction by reason of his official civil character, as the incumbent of some public office, all crimes, from those which incurred the death penalty down to those punishable by fine only, were impeachable before the House of Lords of the English Parliament. This, sir, is quite a different jurisdiction from that of the Senate of the United States, the important reasons for and the consequences of which I shall allude to hereafter.

The honorable gentleman from Massachusetts [Mr. BOUTWELL] was struck with an uncommon admiration of the rules of practice and the law of the jurisdiction which govern the English House of Lords as a high court of impeachment. Sir, that body has no analogy to the Senate of the United States as a like court of impeachment upon a question of jurisdiction, because both courts are regulated by constitutions and laws widely dissimilar and peculiar to each country and not to both alike. If I understand honorable gentlemen correctly, they claim the case against the Earl of Macclesfield, tried in 1725, as sustaining their view of what the law should be in an impeachment under our Constitution. Sir, I am willing to abide by the principles settled in that case. I have had but little time to examine it, but if I can appreciate the case it does not at all decide that an impeachment will lie on an offense not indictable at the common law or by statute. A careful examination of the case, which, with the single exception of the great case against Warren Hastings, is perhaps one of the most elaborate and important cases of impeachment ever tried in England, I think will show that every one of the twenty-one articles exhibited against him was based upon some crime, declared to be such either by statute or at common law. The learned and eminent counsel for the earl argued strenuously that some of the acts complained of did not come within the purview of the statute or the common law. Why did they do so? They did so for the same reason that the minority of the Judiciary Committee in their counter report, now upon our tables, maintained, that none of the acts charged against the President came within the meaning of the terms used in our Constitution. If the position of the English lawyers or of the minority of the committee here is correct, then the impeachment must fail in either case, for the reason that there is no act declared by the law to be a crime upon which to support the articles.

The point raised by counsel in the House of Lords was simply a question of statutory construction, in their judgment upon which the lords might or might not be correct. It would not touch the question now mooted, to wit: the necessity for an indictable offense to support impeachment unless expressly so decided; that is to say, if it had been claimed by the Earl of Macclesfield that the acts he was charged with did not come within the meaning of the statute

or the common law, and that therefore there was no jurisdiction, and upon such question thus made the House of Lords had decided that notwithstanding the acts charged did not come within the statute or the common law yet they still had jurisdiction over him by impeachment upon an unindictable offense, the case would have been in point, if the Senate of the United States is bound or should be bound by their decisions as authority. Now, Mr. Chairman, the point is that the articles were based upon acts made criminal by the law of England, and no question was made by any of the Crown lawyers that the earl was liable to impeachment outside of the statute or the common law. On the contrary, the whole force of their argument was to show that every act charged in the articles were indictable offenses, either by the statutes of 12 Richard II, 5 Edward VI, 14 Edward III, or by the common law. All this shows, Mr. Chairman, that both counsel and court in that case were trying Thomas Earl of Macclesfield by the rules and penalties of some known and positive law, and not by the loose and vague and shadowy rule enunciated in the majority report, to wit: "those canons of interpretation that are supposed to rule in the construction of the fundamental laws of a great State."

Mr. Chairman, I propose mainly to confine myself to the consideration of some of the legal and constitutional questions which lie at the foundation of an impeachment of a President of the United States. In doing so, sir, I shall endeavor to treat the subject fairly, and with as much fullness as the brief period I have had for investigation has permitted to me. Sir, it belonged to the House of Representatives to have considered well every step it took in relation to the late impeachment. To have committed an error or perpetrated a wrong would leave the country without remedy; for it is a proceeding from which there is no appeal and to which no writ of error lies. We sit here, even in this House, in the *quasi* character of a grand inquest of the nation, and more as jurors than legislators. We should, therefore, if that were possible in times like these, divest ourselves of all passion and prejudice; and, above all, we should avoid all usurpation of powers whatever.

Mr. Chairman, the late proceeding was the first time in the history of the Government that a President of the United States was sought to be impeached for a crime under the Constitution; and the pertinent and leading question presented to the legal mind is, what are the crimes contemplated by the Constitution for which an impeachment will lie against the Chief Magistrate of the nation? Did the framers of the Constitution intend to include only the higher grade of crime, or did they mean to adopt, as a fit subject-matter of impeachment, the entire scale of penal offenses, from treason down to a simple assault and battery? Or still further, did they intend, by the language used, to comprehend unindictable as well as indictable public wrongs? The language of the Constitution is:

"The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

It is claimed by the advocates of impeachment that any misdemeanor of even the lowest grade, or at least that any act which would have been a misdemeanor at the common law, is covered by and included in this clause of our Constitution. I shall show, sir, before I take my seat, that the common law can have nothing to do in fixing the body of the crime, either in a constitution or a statute, in this country. The true reading of this clause, in my opinion, will apply the qualifying term "high" as well to misdemeanors as to crimes. In this sense it should be construed to read "or other high crimes and high misdemeanors." If the framers of the Constitution had not intended this they would have simply said "or other crimes and misdemeanors." This construction of their intention is the more manifest for the reason that they had already indicated, in specific terms, a class of high crimes, to wit: "treason and bribery," as a ground for impeachment. In this collocation, too, of specific crimes of a high grade, the use of the word "other" has a marked significance. They had already designated a class of high crime, and to this they superadd "or other high crimes and misdemeanors," clearly showing, to my mind, that they intended to qualify misdemeanors by the term "high" as well as that of "crimes" generally; for if they intended to include as impeachable offenses misdemeanors of the lowest grade it was wholly superfluous in that connection to qualify the term "crimes" at all, because all crimes would, *ex necessitate*, be included, high as well as low, without the use of the qualifying term. Sir, if we look into the proceedings of the Convention which framed the Constitution in 1787 we will find that the word "misdemeanors" was inserted as a representative term to denote an offense of a much higher grade than is now claimed by the honorable gentleman from Massachusetts [Mr. BOUTWELL] in his argument before the House, and by the majority of the committee in their report. Let us look in upon the proceedings of that venerable body of men who sat in Independence Hall in 1787 and we will have some light thrown upon this important question. On the 13th day of June, 1787, Mr. Gorham, a delegate from the State of Massachusetts, in behalf of the grand committee appointed to present a plan for a Constitution, and upon the executive branch of the Government, reported that the President "be ineligible a second time, and to be removable on impeachment and conviction of 'malpractices or neglect of duty;'" which was not agreed to. Afterward another report was made, declaring the President to be impeachable for "treason and bribery."

On the 18th day of June, 1787, Colonel Mason, of Virginia, moved to add after the word "bribery" the word "maladministration." Mr. Gerry, of Massachusetts, seconded the motion. Objection being made by Mr. Madison and Gouverneur Morris, Colonel Mason withdrew "maladministration" and substituted the words as they now stand in the Constitution, to wit: "other high crimes and misdemeanors." It is quite unfortunate, Mr. Chairman, that no debates are reported on these transactions; but the simple proceedings themselves are so pointed and significant that there can be no misapprehension about them. It is clear that no mere maladministration or neglect of duty, no difference of opinion or action on party measures, or no bad faith to party obligations, such as are so elaborately alleged against the President in the long catalogue of charges which concludes the report of the majority, was intended by the framers of the Constitution. It is equally clear, to my mind at least, that they were looking to and providing against the commission of some high crime or high misdemeanor, in a wicked and willful violation of the Constitution itself, or of some positive law, as a just ground of impeachment of the President.

This conclusion is sustained by a recurrence to the English view of an impeachment. Dwarris, in his work on statutes, page 250, says: "Impeachment is properly reserved for extraordinary crimes and great offenders."

But it is said, Mr. Chairman, that whatever difficulty exists in this regard under the Constitution, the doctrine of the common law of crimes is to be applied to it by way of interpretation and construction. Now, sir, what I unhesitatingly assert here in opposition to what is claimed in the report of the majority, is that no resort can be had to the common or unwritten law to fix the character or grade or measure the body of the offense comprised in the language "high crimes and misdemeanors," as used in the Constitution. In regard to the two specific crimes, "treason" and "bribery," as enumerated in the same clause, I admit an impeachment would lie without any enabling statute; because in such case, or at least so far as the constitutionally defined crime of treason is concerned, it would belong to that class of cases in which it is said the Constitution would execute itself *proprio vigore*.

But what I maintain is this: that before an impeachment can be founded upon that clause in the Constitution which declares that a civil officer of the United States may be impeached for "high crimes and misdemeanors" there must be a declaratory law of Congress defining, in clear and specific terms, the particular crimes and misdemeanors for which such civil officer shall be impeachable. An impeachment is a high criminal procedure, and, with a partial exception as to the technical rules of pleading, all the strictness of the criminal law is applicable to such proceeding. A crime intended as a ground for an impeachment must be defined, whether in the Constitution or by statute, with clearness and certainty. Its criminal essence, whether in definition or description, cannot be hidden or covered up in general or ambiguous terms. A statute undertaking to attach a penalty or fix a punishment upon such general words of description of the *corpus delicti* as "high crimes and misdemeanors" would be void for uncertainty; or at least it would be wholly inoperative, because it could not be executed. And now, Mr. Chairman, can this difficulty in the Constitution in the absence of an enabling statute be overcome by a common-law interpretation? It cannot, sir, for several reasons. In the first place, allow me to say that if the common law of criminal jurisprudence did prevail in this country by adoption from England—which I shall show does not—it could not help us, for the reason that while it might instruct us as to what were misdemeanors under the *lex non scripta* of that country, it could hardly, as the offspring of monarchical government, be so well educated in the genius of our public institutions as to inform us what would be a proper political crime here worthy of impeachment. I take it, sir, that the period rests long in the future, unless the principles of the Republican party shall become firmly and lastingly impressed upon this Government, when the infamous legal doctrines attempted to be established in the trials of Sidney and Russell, of the Seven Bishops, and of other trials of like character which I cannot now call to mind will be sought to be applied in the trial of an American citizen upon any political offense whatever. The citation of English political authorities established in the spasms of revolution, or a reference to decisions which were announced when a Scroggs or a Jeffries disgraced the English bench, ought not to have much weight before an American court of impeachment, or be treated with much respect by the House of Representatives when sitting as a grand inquest to impeach an American civil officer under a written Constitution.

These, sir, are some of the reasons why the common law ought to have nothing to do with a proceeding by impeachment in this country. But I shall now proceed to show, Mr. Chairman, that we have in fact no national common law in this country, either civil or criminal. The judiciary act of 1789, which provides that "the laws of the several States, except where the Constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply," is an implied declaration by Congress that we have no Federal common law whatever, as drawn from the common law system in England. The colonists undoubtedly brought the common law with them in their character of separate colonists, so far as the same was applicable to and congenial with their new situation. It followed them as a right which belonged to them in the mother country. The theory of this itinerant character of the common law in its application to the emigration of the colonists was founded upon the idea of a personal right following the person of the colonist to his new home in the western wilds. Prior to

the adoption of the Federal Constitution the several States existing under the Articles of Confederation were recognized as independent nations in every important political sense. Each had its own separate system of jurisprudence, including the common law inherited from the mother country; and therefore, as between themselves or in relation to a system which should be common to all, there was no common law other than that public international law which exists among all civilized Governments. This separate system of colonial common law existing in the several colonies as distinct and independent political organizations was not combined or transformed into any general or federal system by the adoption of the national Constitution, for the reason that the individuality of the several colonies was preserved in the continuing sovereignty of the States in the formation and ratification of the Federal Constitution, nothing being surrendered to the General Government but what was specified in the instrument creating it. But apart from this modest States right view of the question, and which may fall harshly on the delicate tympanums of our friends on the other side of the House, I will here state the fact that an eminent American law writer, who hails from the region of the honorable gentleman who heads the majority report, [Mr. BOUTWELL.] puts the non-existence of a national system of common law in this country upon much broader and more elementary grounds. Mr. Bishop in his popular work on American criminal law asserts:

"That no organization or mutation of Governments either creates or annihilates law; but that all laws existing before exist afterward, until altered or modified by the new legislative power. If, therefore, the State governments had been entirely superseded by the national upon the formation of the Constitution this would have brought into being no law and destroyed none; but whatever was law in the several States would have remained such in their particular localities. In other words, no national common law would have been introduced, but as many distinct systems of local law would have continued in force as there were States of which the new nation was composed."

There is then, Mr. Chairman, in this country, mauger the assertion of a majority of the Judiciary Committee of this House, no national common law outside of certain rules of practice and evidence, either in civil or criminal jurisprudence, by which the Federal courts or this House, sitting, not strictly in its legislative capacity, but as a *quasi* grand inquest charged with the duty and powers of impeachment, or the Senate charged with the judicial duty of trying the case, are to be governed and controlled. Mr. Wharton, in his work on criminal law, closes his review of the question in these words:

"But however this may be on the merits, the line of recent decisions puts it beyond a doubt that the Federal courts will not now take jurisdiction over any crimes which have not been placed directly under their control by act of Congress."

Whatever doubts, Mr. Chairman, may have existed in the early judicial history of the country upon this question, the latest decisions of our highest courts have settled the proposition beyond all controversy. I have time to notice but one or two of them. The case of the United States against the New Bedford bridge, in the circuit court of the United States for the first circuit, and reported in Woodbury & Minot's Reports, page 401, distinctly decides these propositions: that a grant of powers to Congress in the Constitution over certain subjects in general terms does not invest any particular courts with that authority until Congress shall confer it by a law, except in some specified powers given in the Constitution to the Supreme Court; that the common law cannot be resorted to for aid in giving jurisdiction to the courts of the United States; and that the grant of power to Congress to regulate foreign commerce and the declaration that the judicial power shall extend to all cases of admiralty jurisdiction do not enable a Federal court to punish any act as a crime unless some part of the Constitution or a treaty or some law of Congress makes it a crime. I need not make an argument to show how the principles recognized in this New Bedford bridge case may be made to apply with all the force of the closest analogy to the general and undefining language used in the Constitution as to impeachable offenses other than those of treason and bribery. The principles to be applied to the two cases are identical. In the case of the United States against Lancaster, reported in 2 McLean's Reports, page 431, Mr. Justice McLean makes the following remark:

"The Federal Government has no jurisdiction of offenses at common law. Even in civil cases the Federal Government follows the rule of the common law only as adopted by the States respectively. It can exercise no criminal jurisdiction which is not given by statute, nor punish any act criminally except as the statute provides."

I need not multiply authorities; such is undoubtedly the law. And yet, Mr. Chairman, the majority of the Judiciary Committee who have submitted their report to this House, feeling the point of the difficulty, have struggled hard to maintain the position that an impeachment is to be supported in this country by the principles of the common law as drawn from the judicial systems of another country whose political offenses are, in most cases, the very antipodes of ours, compelling them to assume the monstrous proposition that the terms "high crimes and misdemeanors," as used in our Constitution, are to be interpreted and enforced by the same canons of construction. The honorable gentlemen who compose that majority more than intimate a doubt, in the very face of the highest authority, whether even the common law of crimes is not cognizable in the Federal judicial courts; but in order to escape the difficulty of their own doubt they ingeniously, but not very logically, assume the ground that there is a distinction as to the rules of construction between a crime mentioned in a statute and one embodied in a constitution. Sir, it is a distinction without a difference. I know of no such discriminative construction in relation to the same thing in different instruments.

[Here the hammer fell.]

The CHAIRMAN. The hour of the gentleman from Ohio has expired.

Mr. LAWRENCE, of Ohio, moved that further time be allowed his colleague, which was agreed to.

Mr. VAN TRUMP. Mr. Chairman, I thank the committee for this very handsome manifestation of their kindness and courtesy.

I am aware, Mr. Chairman, that Judge Story, with that strong disposition to theorize and to run into speculative disquisitions upon the great subject of Federal powers which marked his character as a law writer upon the Constitution, has expressed his dissatisfaction, and perhaps even his doubts, upon this question of a common law system in the Federal jurisdiction. But when he wrote his Commentaries on the Constitution a number of the cases, and particularly the great case of the State of Pennsylvania against the Wheeling Bridge Company, had not been decided, and which have at last settled the question with such clearness as ought to preclude all future discussion. But as against the doubts of Judge Story, even at that early day, I feel that I would not do full justice to the question if I did not quote the deliberate opinion of one whose abilities as a constitutional lawyer were unsurpassed, and who has been justly denominated the father of the Constitution. I of course mean Mr. Madison. Upon this subject he has written as follows. The Clerk will please read those portions in the book I now send him designated by pencil marks.

The Clerk read as follows:

"In the State prior to the Revolution it is certain that the common law under different limitations made a part of the colonial codes. But whether it be understood that the original colonists brought the law with them or made it their law by adoption, it is equally certain that it was the separate law of each colony within its respective limits, and was unknown to them as a law pervading and operating through the whole as one society.

"It could not possibly be otherwise. The common law was not the same in any two of the colonies; in some the modifications were materially and extensively different. There was no common legislature by which a common will could be expressed in the form of a law, nor any common magistracy by which such a law could be carried into practice. The will of each colony, alone and separately, had its organs for these purposes.

"This stage of our political history furnishes no foothold for the patrons of this new doctrine.

"Did, then, the principle or operation of the great event which made the colonies independent States imply or introduce the common law as a law of the Union?

"The fundamental principle of the Revolution was that the colonies were coördinate members with each other and with Great Britain of an empire united by a common executive sovereign, but not united by any common legislative sovereign. The legislative power was maintained to be as complete in each American parliament as in the British Parliament. And the royal prerogative was in force in each colony, by virtue of its acknowledging the king for its executive magsitrate, as it was in Great Britain by virtue of a like acknowledgment there. A denial of these principles by Great Britain and the assertion of them by America produced the Revolution.

"Such being the ground of our Revolution, no support nor color can be drawn from it for the doctrine that the common law is binding on these States as one society. The doctrine, on the contrary, is evidently repugnant to the fundamental principle of the Revolution."

Mr. VAN TRUMP. Now, Mr. Chairman, the distinct point I make is this: that if the Constitution of the United States has failed to confer, or has purposely not conferred, upon the Federal courts any common law jurisdiction either in civil or criminal cases—and that is a question which I claim has been settled by the authorities I have considered—then the proposition must be equally true that the Senate of the United States, in its strictly judicial character as a high court of impeachment, is also without such common law jurisdiction, and especially so in regard to criminal proceedings. Learned and honorable gentlemen certainly will not claim on this floor that there may and should exist a direct and irreconcilable conflict between the rules of law in relation to the trial of high crimes and misdemeanors as administered in the Supreme Court of the United States and the Senate of the United States, both sitting strictly as judicial tribunals under the same Constitution. The framers of the Constitution—such men as Madison and Hamilton and Martin and Wilson—never intended such horrid discord as that. Sir, I would not, if I could, add anything to the very able argument contained in the minority report of the committee that the Senate as a court of impeachment is strictly a judicial tribunal; that its whole power is limited to the trial of the facts and the pronouncing of the judgment upon the crimes proved or failed to be proved; and that they are not authorized by the exertion of a legislative power in making new crimes or adding new penalties not so declared in the Constitution or by any prior law of Congress. Sir, the very form of their special oath constitutes them a judicial tribunal. The fact, too, that in an impeachment of the President the Chief Justice of the United States shall preside at the trial gives to the Senate a still more direct and distinctive judicial character. For what purpose does he so preside? Undoubtedly to declare the law, to administer the rules of practice and of evidence, and to pronounce the judgment. All these are naked judicial acts, and it is absurd to suppose or assume that the Senate can go one inch beyond these powers. I therefore assert here in my place, as a Representative of the people, and from my most solemn convictions as a lawyer, that there can be, in the present state of the Constitution and the laws, no impeachment of a President of the United States except for the specified crimes of treason and bribery. It was undoubtedly contemplated by the framers of the Constitution in their use of the general and undescriptive terms "high crimes and misdemeanors," (admitted to be so contemplated both by Story and Rawle in their Commentaries,) that the legislative power of the nation should enumerate, in criminal statutes passed for that purpose, the particular acts for the willful commission or omission of which the President or other civil officers should be impeached. It is, therefore, unsound reasoning and a wholly untenable and illogical position on the part of

the majority of the committee to assume that because Congress has heretofore failed to provide this legislation, an arbitrary and lawless use of power must be resorted to in order to supply the deficiency. The *casus omissus* may be unfortunate, but its legal consequences must be inevitable.

Mr. Chairman, there is another branch of this impeachment project, alluded to by the distinguished gentleman from Massachusetts [Mr. BOUTWELL] in his opening speech the other day, which is entitled to some consideration, especially as a bill upon the subject has been introduced into this House by the honorable gentleman from New York, [Mr. KELSEY,] and still pending in committee, as a fit companion-piece to the impeachment itself. I allude to the design of suspending a President of the United States from his office during trial. I am the more disposed to give it some attention as a general proposition for the reason that, while the gentleman from Massachusetts seemed to abandon, or at least to have some doubts upon, the question of power to decree a direct suspension, he at the same time claimed a prerogative in Congress which in effect amounted to the same thing, the so-claimed constitutional power to deprive him of nearly all his great executive functions. I was perfectly astounded to hear the learned gentleman intimate in his argument that the President might be deprived by Congress of the command of the Army and Navy of the United States! Where do honorable gentlemen get their ideas of this most extraordinary power of suspension? Have they resorted to the English precedents? The practice of that country, even in the most arbitrary reigns, will not sustain them. Neither Lord Bacon nor the Earl of Macclesfield, although impeached for the highest crimes, and holding the highest public trusts, were suspended from their offices pending the impeachments against them, although the trial of the celebrated Lord Chancellor lasted from the 15th of March until the 3d of May, 1620. If such had been the practice in England it is not probable that Sir Edward Coke, the most bitter and implacable enemy of Bacon, would have let the opportunity escape him of moving his suspension during trial. And yet as to these two eminent men thus impeached, or as to any mere subordinate ministerial officers of the Government, none of the unforeseen disastrous consequences would result from their suspension such as might flow from a suspension of the functions of a person holding the supreme executive power of a Government like ours.

I know, sir, it may be said that while they do not in England suspend the official functions of the alleged delinquent they do or may order his arrest. It is true, sir, such has been the occasional practice of the English Parliament in cases where the supreme executive power has not been involved. But these English precedents have no authority here, even in relation to subordinate offices, much less where the individual impeached embodies in his person the supreme executive power of the nation. The case of Charles I presents no analogy to the question now before us. It is true he was arrested and deprived of his kingly office, but it was not by suspension; it was the utter abolishment of the office itself by revolution. The precedent of arrest in England has no analogic application to the presidential office in this country for another reason: in that country, unlike the constitutional provisions for the impeachment of the President here, the punishment in many cases is more than a removal from office. A peer in England may be impeached for murder before the House of Lords: corporeal punishment is the penalty for such crime. In order to inflict this the body, the person charged with the crime, must be present. Hence the necessity of an arrest in order to secure the fruits of judgment. But not so where the judgment to be pronounced, and the only judgment which can be pronounced except that of acquittal, is limited to removal from office and the disqualification to hold office. To secure the fruits of such judgment or the infliction of such penalty requires no *corpus*, no person to be present, upon whom to execute the sentence of the law. This question of arrest and, upon failure to give bail, imprisonment for high crimes and misdemeanors upon an impeachment came up in the case of Sir Edward Seymour, treasurer of the navy to Charles II, in 1680. Upon articles being presented against him it was moved in the House of Commons that he be taken into custody by the sergeant-at-arms. But the House, although strongly excited against him by party feeling, hesitated to order him into custody, and appointed a committee to search for precedents and report thereon. Three precedents were reported: those of Sir Giles Mompesson, Sir John Bennett, and Sir William Penn. Upon an order for his being taken into custody Sir Edward entered bail for his appearance. During the pendency of the proceedings the Parliament was prorogued, and it does not appear that the case was ever resumed by a subsequent Parliament.

Mr. Chairman, the bill to which the honorable gentleman from Massachusetts [Mr. BOUTWELL] has alluded, and which he in effect indorses, because he propounded substitutional measures in harmony with it and equally lawless and unconstitutional, belongs to that class of legislation rendered infamous in history denominated "bills of pains and penalties" in English revolutionary legislation, and which were instances of the assumed transcendent power of Parliament to punish offenses otherwise than according to preordained law, and by a discretionary severity instead of an inviolable rule. Sir, what does this bill propose to do? It presents the most extraordinary proposition in criminal law—to punish before conviction and judgment. There is no lawyer on this floor who will deny that such is its effect. It proposes to suspend the official functions of the President of the United States the moment articles of impeachment are presented against him by the House of Representatives. The Constitution, which is the fountain of legislative power, provides that—

"Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States."

Now, sir, will any man contend for a moment that a President of the United States can be removed from his office without a judgment judicially pronounced by the Senate of the United States, sitting as a court of law under the Constitution, to declare him guilty of the facts as charged? And would not a suspension of his powers as President, under a law passed for that purpose, be in legal effect a removal from office *pro hac vice*? In case of such suspension some person other than the President-elect would have to exercise the powers and discharge the duties of the office; so that in fact as well as in law the suspension would be removal in all its consequences—a thing which the Constitution declares shall not be done unless by the judgment of the forum where the trial is had.

Sir, if the honorable gentleman from Massachusetts [Mr. BOUTWELL] had not by way of a proposed substitutional aggression, in substance if not in form, elaborated his argument to deprive the President of his constitutional power rather than his office pending the impeachment, I do not know that I should have said anything upon the question of this most extraordinary bill at this time. But at any rate this proposition, whether the honorable gentleman is in favor of it in form or not, stands right behind impeachment, and if you had been able to have carried the one, the other would have followed as a matter of course. "Removal from office" is an essential if not the major part of the judgment or sentence to be pronounced upon conviction. That must be the sentence of the Senate sitting as a high court of impeachment whenever legal guilt is established of a crime intended to be thus punished by the fourth section of the second article of the Constitution. Any attempt to suspend a civil officer of the Government or to remove him from his office, or to deprive him of his powers prior to the final judgment of impeachment, would be clear and palpable violations of the provisions of that section. The language of the Constitution is so clear and concise that it is impossible to misapprehend it. It declares that—

"The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

It is clear, therefore, that a conviction of the alleged crime is the predicate for the ouster from office. The removal must have that foundation to rest upon else it is a naked and downright usurpation, a lawless and despotic exertion of power thus, in advance of judgment and conviction, to execute the penalty of the law by depriving the President of his office or power conferred upon him by the suffrages of the people. "Disqualification to hold office" in the future is the only other and at the same time secondary ingredient of the judgment, and is provided for in another section of the Constitution. Removal from office and disqualification to hold office, in this country, unlike it is in England, is the whole substance of the punishment in a trial by impeachment. When the dignity and importance of the presidential office is taken into consideration it is not likely that much difference of opinion will exist among lawyers upon the question as to which branch of the sentence contains the essential portion of the penalty. It rests undoubtedly in the sequestration of the power and dignity of the high office then held and enjoyed by the party impeached.

Now, Mr. Chairman, if these propositions are true, and the Congress of the United States, in the mere wantonness of partisan political power, should perpetrate the enormous outrage of suspending the President, or stripping him of his power pending his trial, are you not heaping upon the head of an innocent man, (for it is an undoubted and enlightened principle of the criminal law, in every form of its administration, to presume a man innocent until found guilty;) are you not, I say, enforcing, out of time and without authority, all the essential punitory consequences of a solemn judicial judgment of guilt subsequently pronounced against the suspended officer?

There is another reason, Mr. Chairman, why the doctrine as now claimed cannot be sustained. Such a law would be void under that provision of the Constitution which denies to Congress the power to pass *ex post facto* laws. For a long time in the early judicial history of the country there was a struggle between able and learned legal minds whether this provision of our Constitution did not apply as well to civil as to criminal statutes. But it has at last been settled that it is to be limited to criminal statutes only. I accept the principle as it now exists. Now, sir, what is this process of trial by impeachment but a criminal proceeding, nakedly and unqualifiedly so? Is it anything else? Is it not, in effect, so declared in the Constitution; and is not example and punishment its whole object? An unprejudiced mind will have no trouble on these propositions. The common and general definition of an *ex post facto* law is where by statute an act is declared a crime and made punishable as such when it was not a crime when done. The definition is imperfect, or at least it is incomplete; and in order to show that this is so in its application to the bill alluded to by the gentleman from Massachusetts upon the question now under consideration, I will only have to notice an expansion of the doctrine as laid down in some of the modern decisions, and especially one in the Supreme Court of the United States. If we were confined strictly to the original definition as we find it in some of the elementary books it might be said with some degree of seeming force that the acts of the President claimed to be criminal were declared by the Constitution to be crimes, or

were by construction included in the general declaration, the punishment of which was fixed in and by the Constitution prior to the criminal acts done, and therefore not *ex post facto*; and that as the punishment provided for in the law was the same as that in the Constitution the objection of retrospective legislation could not apply. Such a position, sir, would be more ingenious than sound. The rule as it now prevails is not limited to apply only to such cases where there is a difference in the *quantum* or the degree of punishment imposed; it equally applies where there is a change in the manner of the punishment. The Supreme Court of the United States, in the case of Fletcher against Peck, 6 Cranch, 138, furnishes this definition of the doctrine:

"An *ex post facto* law is one which renders an act punishable in a manner in which it was not punishable when it was committed."

The unanswerable objection to the legislation proposed is, that since the alleged criminal acts were done it provides, in legal effect, for an additional penalty to that which existed by virtue of the provisions of the Constitution when the acts complained of were done or refused to be done. It has been repeatedly decided that not the slightest degree of penalty or punishment can be added by a law *ex post facto*. When, however, the punishment provided for in the subsequent statute is in mitigation of that provided for in a previous one the rule does not apply. There can be, sir, no valid reason given why this doctrine should not apply to proceedings by impeachment as a criminal prosecution. This is the spirit of the modern decisions in regard to the *ex post facto* clause in our Constitution. Sir, I consider this question so important in the matter we now have under consideration for the first time in the history of the Government that I cannot refrain from noticing two very recent decisions by the supreme court of New York in which that court pushed the doctrine even a step further. In that State, in 1860, the statute providing the punishment for homicide in the first degree was repealed, and by the repealing act the penalty was changed from death to imprisonment for life; and it was declared in the repealing statute that offenses already committed should be punished under the new law. The court held that the old law being unqualifiedly repealed there could be no punishment under it whatever; neither on the other hand could the new punishment be inflicted for the reason that this would be punishment by a law *ex post facto*. (Hartung *vs.* People, 22 New York, 95; Shepherd *vs.* People, 25 New York, 406.)

Such, Mr. Chairman, is the law on this subject established by modern courts in a strict and eminently wise construction of the Constitution in relation to criminal jurisprudence in this country, superinduced by a vivid recollection of the enormous wrongs of English legislation in their revolutionary periods, when confiscation of property, test-oaths of office, or religious belief, and bills of attainder were hurled at political opponents with a malignant profusion and bitterness such as we have seen exhibited here among ourselves by a like vindictiveness of party feeling in these our own modern days. In this connection, sir, I cannot refrain from quoting a remarkable passage from the celebrated Dr. Paley. In speaking of this principle of law he says:

"This fundamental rule of civil jurisprudence is violated in the case of acts of attainder or confiscation, in bills of pains and penalties, and in all *ex post facto* laws whatever in which Parliament exercises the double office of legislature and judge. And whoever either understands the value of the rule itself or collects the history of those instances in which it has been invaded, will be induced, I believe, to acknowledge that it had been wiser and safer never to have departed from it. He will confess, at least, that nothing but the most manifest and immediate peril of the Commonwealth will justify a repetition of these dangerous examples. If the laws in being do not punish an offender let him go unpunished; let the legislature, admonished of the defect of the laws, provide against the commission of future crimes of the same sort. The escape of one delinquent can never produce so much harm to the community as may arise from the infraction of a rule upon which the purity of public justice and the existence of civil liberty essentially depend."

Mr. Chairman, from the brief examination I have made of the subject since the opening of this debate I am satisfied beyond the shadow of a doubt resting upon my mind that Congress is forbidden by the Constitution to pass a law which shall attempt to suspend the President in his high office during the progress of a trial by impeachment and in advance of the only judgment which can be pronounced in such proceeding. But, sir, argument is of no avail. It seems to me that we are to have no end to innovation, no modification of that reckless and radical spirit which is assailing and breaking down all the safeguards and barriers of the Constitution. That Constitution has long ceased to be even a stumbling-block in the way of those who are determined to revolutionize the Government and transform it into a centralized and powerful despotism. The American people, like many a people before them, are now fearfully realizing the truth of the historical maxim that revolutions never go backward. No, sir, revolution takes no backward step while it can step at all. Like the avalanche upon the mountain side, revolutionary action for a time gains power in its downward course by the accumulation of the very ruin which it creates, until its fury is spent or its whole movement is broken upon some more powerful counter-obstacle. That obstacle, thank God, is beginning to manifest itself, not in the march of battalions or the gleam of bayonets, but in that higher and grander movement, the uprising of a great and free people, who are at last determined through the peaceful but potent power of the ballot-box to bring back the Government to its ancient moorings, and to hurl from power and place those who have betrayed their confidence and disregarded their interests. The wings of the lightning only a few hours ago wafted to us the glorious intelligence that the people of Boston and Pittsburg, those two strongholds of radicalism, had risen up in their might and rebuked the wild and revolutionary spirit which rules in this Capitol. Sir, I would advise the Radical leaders on this floor to take heed to these timely admonitions. If they would give peace and quiet to the country, or desire to secure to themselves peace and forgiveness hereafter, let them retrace their steps at once, give just and equal laws to all sections of the country, and thus put an end to this eternal agitation.

Mr. LAWRENCE, of Ohio, next obtained the floor, and said: I propose in a part of my remarks to reply to the able argument of my distinguished colleague, [Mr. VAN TRUMP;] but before I proceed to do so the gentleman from Pennsylvania [Mr. WOODWARD] desires to occupy fifteen minutes upon the law of impeachment. If it be the pleasure of the committee to grant him that time without encroaching upon mine I shall be perfectly satisfied. I move that the gentleman from Pennsylvania have leave to proceed fifteen minutes.

The CHAIRMAN. If there is no objection, the gentleman from Pennsylvania [Mr. WOODWARD] will have leave to speak fifteen minutes, without encroaching upon the hour to which the gentleman from Ohio [Mr. LAWRENCE] is entitled.

There was no objection.

Mr. WOODWARD. Mr. Chairman, I do not wish it to be supposed that my remarks will be in reply to my friend on the right [Mr. VAN TRUMP] as to the general views which he has taken of this question. I consider them both wholesome and timely; and I have nothing to say in reply to them. What I wish to say has reference to the legal question to which he has alluded; and in respect to that I believe he has presented the argument as well as it can be presented.

It seems to me that in the circumstances in which we stand we are in great danger of making a bad precedent. A preposterous proposition to impeach the President of the United States is brought forward, and in the zeal of gentlemen to condemn it and get rid of it I think there is danger of our marring the face of the law. I entirely concur with those gentlemen who voted against that proposition; but I do not concur with very many members of the political party with which I act in regard to the law of impeachment.

I find this impeaching power in the Constitution to be a popular power—a power designed for the protection of the rights of the people against their rulers, and one that should be liberally construed and in proper cases freely used. The Constitution was made by the people and for the people, and not for the rulers. Now, sir, it is provided in the Constitution that all civil officers may be impeached for "treason, bribery, or other high crimes and misdemeanors." As I understand the argument of the gentleman from Ohio, [Mr. VAN TRUMP,] he would cut out from that provision the words "and other high crimes and misdemeanors," and maintain that the President or any other civil officer of the Government is impeachable only for the crimes of treason and bribery. I think we have not the right thus to emasculate the fundamental law. We are to take it as it is written, and we are to hold the President of the United States and all other civil officers impeachable for "treason, bribery, or other high crimes and misdemeanors"—taking the meaning of those words not merely in their common-law sense, nor yet in the sense of the parliamentary law, but in the sense of the Constitution of the United States. The whole question is, what do those words mean in our Constitution?

Mr. VAN TRUMP. With the gentleman's permission I would remark that what I meant to say was that, in the absence of any legislative enactment specifying what particular acts come under the general terms "high crimes and misdemeanors," an officer cannot be impeached for such acts.

Mr. WOODWARD. I entirely concur with the gentleman that the courts of the United States have no common-law criminal jurisdiction; that the only crimes punishable by Federal law are those which the Federal law has defined to be crimes; but I do not agree that the words "crimes and misdemeanors" as used in this constitutional provision are to be limited to such statutory offenses.

Mr. VAN TRUMP. The gentleman will permit me to inquire how he would go about framing an indictment upon the general terms "high crimes and misdemeanors."

Mr. WOODWARD. I would observe, sir, that this provision is not a provision for indictments, but a provision for impeachment. That is the answer to the gentleman. There is no indictment to be framed for "high crimes and misdemeanors." The question is, for what offenses may a civil officer be impeached?

Now, let us try to get at the meaning of this word "misdemeanor," because after all the discussion must come down to that. I submit that the constitution of Pennsylvania, formed in 1790, soon after the adoption of the Constitution of the United States, defined that word "misdemeanor" as employed in the provision for impeachment. The constitution of Pennsylvania defines it to mean a "misdemeanor in office." It says:

"The Governor and all civil officers under this Commonwealth shall be liable to impeachment for any misdemeanor in office."

I submit, sir, that that is an interpretation of the word "misdemeanor" as used in the Federal Constitution, and that we should understand by that word a misdemeanor in office, a violation of any of the tacit or express conditions upon which the office is held, whether or not that violation be indictable under the criminal law of England or the criminal law of the United States. It may be such an offense or it may be something which is not indictable under either of those codes.

I am very happy to find, Mr. Chairman, that this opinion has the most respectable authority. I have before me Curtis's History of the Constitution, from which I will read a short extract in regard to this impeaching power:

"Among the separate functions assigned by the Constitution to the two Houses of Congress are those

of presenting and trying impeachment. An impeachment, in the report of the Committee of Detail, was treated as an ordinary judicial proceeding, and was placed within the jurisdiction of the Supreme Court. That this was not in all respects a suitable provision will appear from the following considerations: although an impeachment may involve an inquiry whether a crime against any positive law has been committed, yet it is not necessarily a trial for crime; nor is there any necessity in the case of crimes committed by public officers for the institution of any special proceeding for the infliction of the punishment prescribed by the laws, since they, like all other persons, are amenable to the ordinary jurisdiction of the courts of justice in respect of offenses against positive law. The purposes of an impeachment lie wholly beyond the penalties of a statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from its functions he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense aganist positive law has been committed, as where an individual has from immorality or imbecility or maladministration become unfit to exercise the office."

Now, I suppose that to be a fair construction of the Constitution and law in regard to impeachment; and I cannot help thinking that if the lawyers of this House would apply their minds to a true analysis of this subject they would come to this conclusion. For an office bears in the law a very striking analogy to a franchise. They are both ranked by all the elementary writers as incorporeal hereditaments. They both proceed from the grant of the sovereign power. They both exist in the hands of the subject or citizen for the limited purposes for which they are granted. They are both governed by very much the same principles of law. And in regard to franchises (which are generally held in this country by corporations, but which may be held by individuals) the law is well settled that they are always held upon the tacit condition that there be no misuse or abuse; and for misuse or abuse they are forfeitable.

It is well settled that it is a tacit condition of a grant to a corporation that the grantees shall act up to the end or design for which they were incorporated; and hence through neglect or abuse of its franchises a corporation may forfeit its character as for conditions broken or a breach of trust. It must be willful abuse or improper neglect, something more than accidental negligence, excess of power, or mistake in the mode of exercising an acknowledged power. It is said a single act of abuse or willful non-feasance may be insisted on as ground of total forfeiture; but a specific act of non-feasance not committed willfully or negligently, nor producing mischievous consequences to any one, and not contrary to any particular requisition, slight deviations from the provisions of a charter would not necessarily be either an abuse or misuse.

Such is the law of franchises. Now, offices which are similar in their elementary nature to franchises are held, I submit, by a similar tenure; and inhering necessarily in that tenure is the tacit condition that there shall be no "maladministration," as Mr. Curtis calls it—no misuse or abuse, as we would say in the case of a franchise.

Now, impeachment under our constitution is the means by which the people enfore this remedy against a defaulting officer, just as a *scire facias* or *quo warranto* is the remedy for enforcing their rights against a defaulting corporation. If a corporation or an individual holding a franchise from the Legislature may forfeit that franchise for misuse or abuse, so, I hold, may any individual holding an office forfeit it for misuse or abuse or misdemeanor, which the constitution of Pennsylvania says means misdemeanor in office — doing that which should not be done, or leaving undone that which should be done. This, it seems to me, is the true exposition of the meaning of the word "misdemeanor" as employed by our constitution.

It will be objected to this view—it has been already objected on this floor—that that does not sufficiently confine the power of impeachment, and that in times of high party excitement, as an honorable gentleman says, Congress would be engaged in nothing but impeachments.

Mr. DAWES. I would ask the gentleman if he holds that the word "high" in the Constitution is applicable to misdemeanors as well as crimes?

Mr. WOODWARD. I think it is. I think it applies to both crimes and misdemeanors, and is employed to designate crimes or misdemeanors in office. The word "high" is used because the offense is to be one committed in office.

Mr. DAWES. Then does it not follow that every misdemeanor committed in office is a high misdemeanor? Does the gentlemau mean to say that every misdemeanor in office is a "high misdemeanor?"

Mr. WOODWARD. I mean to say that every misdemeanor in office is a high misdemeanor defined and limited as we define and limit the laws of corporations in regard to franchises.

Mr. BROOMALL. Will the gentleman allow me?

Mr. WOODWARD. My time is limited. I hold the floor by the courtesy of the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. BROOMALL. I was going to move that the gentleman's time be extended.

Mr. DAWES. I hope there will be no objection to the gentleman occupying as much time as he wants.

The CHAIRMAN. If there be no objection the time of the gentleman from Pennsylvania will be extended.

No objection was made.

Mr. VAN TRUMP. As I differ from the honorable gentleman, for whose opinion I have the highest regard, I wish to inquire whether, if the word "high" applies to misdemeanors as well as to crimes, it is not left to the court to measure and decide how high the misdemeanor should be?

Mr. WOODWARD. We talk about the "high sheriff," and I believe the common law uses that term in regard to the first sheriff while there are a series of under sheriffs. Perhaps the word "high" here does not mean much more than in that case. I think that as a matter of construction the word "high" would undoubtedly apply to misdemeanors as well as crimes, and I have no objection to calling any misdemeanor by a man in office high in the meaning of the Constitution. It is a high crime and misdemeanor to violate the condition upon which any man holds a public office. That is my proposition. Of course, sir, it must be a willful violation, knowingly done, and it must be to the prejudice of somebody, either the public or an individual; but where a public officer, of whatever grade, does willfully pervert his office to the prejudice of the public or of an individual, I hold that he has committed a high misdemeanor.

Mr. DAWES. Will the gentleman allow me to put an inquiry?

Mr. WOODWARD. Yes, sir.

Mr. DAWES. I would ask the gentleman how he reconciles that last position with the citation from Curtis which he has read, to the effect that a man may be impeached for imbecility in office? If it must be a willful departure from the duties of the office how can it be possible that a man may be impeached for imbecility in office?

Mr. WOODWARD. Well, sir, Mr. Curtis was speaking there of the conditions upon which offices are held. He enumerates perhaps more fully and accurately than I have done the modes in which offices shall be forfeited, and he mentions imbecility. I certainly do not mean to argue that imbecility is either a high crime or a misdemeanor, though Mr. Curtis treats it as within the impeaching power. I am limiting my observations to the very words of the Constitution.

And now, sir, I proceed to notice the only objection to this interpretation of the Constitution which has impressed me—the danger of an abuse of impeachments in times of high party excitement. Gentlemen fear we would be occupied with impeachments most of our time, and that through prejudice and passion there would be danger of great wrong to faithful officials. Sir, I do not share those fears. I think we can safely trust our political institutions, and that we have no occasion to cramp and confine them lest they hurt somebody.

I think what we have seen in this House and in this country within the last week shows that we have no occasion to emasculate the Constitution in order to protect a worthy officer from partisan feeling. Notwithstanding the great prejudice against the President of the United States, a large majority of this House, upon the best exposition and showing the Committee on the Judiciary could make, resolved not to go into the matter of impeachment. And had he been brought before the Senate, composed of a majority of the same political complexion of this House, no man doubts that upon that showing he would not have been convicted. Most assuredly no impeaching body would have convicted any officer upon a mass of evidence so irrelevant and inconclusive as that. The circumstances of this very case show that there is no such danger as gentlemen suppose.

Suppose a public officer has been guilty of crimes and misdemeanors, or of a failure to perform properly all the duties of his office. He has been brought before the constitutional judges of his country; he has had a fair trial with all the forms of common law; he has been defended by counsel, and has been fully heard. Now, are we to assume that the constitutional tribunal for the trial of official offenders would be any more corrupt or incompetent, or any more likely to be swayed by partisan considerations than the courts of the country would be? It seems to me that it is an impeachment of our institutions to hold any such doctrine. But if we admit that a majority of this House would wantonly impeach an innocent man from partisan considerations, and that two thirds of the Senate would convict an innocent man under the influence of partisan passion, then let me remind gentlemen that there is a corrective that lies entirely beyond the House of Representatives and the Senate, and the Supreme Court of the United States, and all the other tribunals and Departments of the Government; and that is the people themselves. If such an outrage as gentlemen fear should occur, there is a power in this country who would impeach the impeachers and reverse their decree.

That has already been done more than once. Mr. Van Buren was rejected by the Senate, when nominated to a foreign mission, from political and partisan considerations, and the people made him President. The Senate of the United States condemned General Jackson; the people came forward and expunged that resolution. The people are always watchful of their public officers, and nothing more surely meets their disapprobation than the prosecution of a faithful officer. If he cannot get justice of the Senate and the House of Representatives, he can surely obtain justice from the people.

Now, believing, as I do believe, that this proposition to impeach President Johnson was, as I have already said, utterly preposterous, I nevertheless say that if the fury of party passion had carried a majority of this House and two thirds of the Senate to the result of convicting President Johnson, you would have seen how the people would have pronounced their verdict upon such action.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. WOODWARD. Certainly.

Mr. ELDRIDGE. The gentleman suggests that there is a remedy in the people. I wish to know, if the President had been impeached and removed from office, how the wrong to him could ever have been redeemed?

Mr. WOODWARD. Beyond all controversy, the people would have reëlected President Johnson if he had been impeached.

Mr. ELDRIDGE. But the Constitution prohibits him under such circumstances from ever holding office again.

Mr. WOODWARD. The people would have reëlected him, nevertheless; they would have reversed that decision.

Mr. ELDRIDGE. But how could they reverse that decision?

Mr. WOODWARD. The title of the man whom they should elect to office may be questioned: he may not be competent to enter upon the duties of his office. But I am speaking of the popular judgment in opposition to a wrong judgment which may be pronounced by the constitutional tribunal of the Government. I say the people would have reversed that judgment: whether they could have conferred the office of President upon him again is a question for the lawyers.

I think we are not to be frightened from a true construction of the Constitution of the United States by an improbable or remote contingency. What have we heard in answer to this? I confess I do not understand any argument drawn from the common law of England or the parliamentary law of impeachment to be applicable to this question under our Constitution. Then what is the result? The result must be that we must construe the Constitution more liberally—liberally enough to secure a faithful administration of the offices which the people have established, not for the officers, but for themselves, and which they have hedged around and guarded by constitutional provisions and guarantees.

Mr. DAWES. If the gentleman is not annoyed by these interruptions, as I am seeking light and listening with profound attention and respect, I desire to ask, in view of his remarks just made, whether there are not many provisions of the Constitution of the United States inoperative until there has been legislation in reference to the measure of their operation? And may not the same thing be true of this provision for impeachment, that while the power is lodged in the Constitution, yet it is so lodged that it may be comparatively inoperative without legislation under it; and may it not be so designed by the framers of the Constitution that the full scope and effect of this provision of the Constitution, like that in reference to naturalization and other kindred provisions of the Constitution, are to be defined and measured within the limits of the Constitution by such legislation from time to time as may be deemed wise and necessary?

Mr. WOODWARD. Undoubtedly the gentleman is right as to many provisions of the Constitution. The Constitution can do no more than outlive the powers which the legislative department carry into effect. But I do not think this is one of those. It seems to me this provision, so to speak, executes itself; that it is capable of being executed without legislation. The action on the part of the House of Representatives strictly resembles the action of a grand jury in presenting bills of indictment, and the action of the Senate resembles the action of the judicial body under the criminal code. No general statute having defined impeachable offenses, and from their nature being incapable of antecedent definition, it must be left to some judging power to decide what are high crimes and misdemeanors, and whether, in a given case, they have been proved, and this power, with us, is the Senate. Such I submit is the character of this provision of the Constitution. All that is necessary to be done is for the grand jury to present the indictment and for the court of last resort to pass upon it—the extent of its jurisdiction in the premises being determinable by itself, as always must be the case with courts of last resort.

I owe the gentleman from Ohio [Mr. LAWRENCE] an apology for consuming more time than it was stipulated I should occupy, but I have been interrupted with questions.

Mr. GARFIELD. Allow me to make an inquiry. I have listened with profound attention and respect to the gentleman's remarks. I wish to know whether I am right in understanding him to say when the Senate is sitting as a high court of impeachment it is in the power of the Senate to determine by its own judgment alone what constitutes high crimes and misdemeanors, and they are to have no guide, either in the statute law or in the common law, which shall limit and control the meaning of these terms; that whatever in the judgment of that body at that particular moment of time is a high crime and misdemeanor may be so regarded, and they can for that judgment of their body turn out of office? Is the President protected by no defined law so that at any moment in his official career he has no other protection than the pleasure and opinion of two thirds of the Senate of the United States?

Mr. WOODWARD. I will answer the gentleman by saying I understand the Senate of the United States in the case he supposes to be exclusive and final judge of the impeachable character of offenses tried before it; that they are to proceed according to the principles of common law and common sense and common justice, no man in his senses will doubt. If you can suppose the Senate will violate the ordinary proceedings of a court of justice, which I admit is not a supposable case, the gentleman's case may arise. I have endeavored to indicate, not to argue, that every man in office holds his office subject to the impeaching power under the Constitution; that that impeaching power is in its nature a popular power in defense of popular rights, and is therefore entitled to be liberally construed. While the gentleman may suppose many cases of hardship and danger and wrong, I submit to him there is no practical danger. It is more likely unfaithful officers will go unimpeached than that a faithful man will be impeached. There is no practical danger. I stand upon the history of the country; there has been no effort to impeach any man which was not authorized by the common voice. The danger we are now in is of making a bad precedent, and it is that danger which has induced me reluctantly and unexpectedly to enter into this debate.

Mr. BOYER. I should like to ask my colleague a question suggested by the inquiry propounded by the gentleman from Massachusetts. I should like to ask my friend whether he believes the legislative power could define an offense as impeachable, create an impeachable offense, which was not already defined and created by the words of the Constitution? That is, whether the Constitution does not fix and limit high crimes and misdemeanors for which the President can be impeached, and whether it can be possible for the Legislature to pass an act which would create or make a crime other than those already comprehended in and defined by the words of the Constitution?

Mr. WOODWARD. I do not know that I precisely understand my friend's point. I suppose no man can be impeached for that which the Constitution does not make a crime or misdemeanor. The Legislature cannot add to or subtract from the constitutional provision. We were born under it and I suppose will die under it.

What does the Constitution contemplate as a high crime or misdemeanor? That is the question we are discussing. Shall we answer that question by going to the common law of England? It has been shown by my friend from Ohio [Mr. VAN TRUMP] why that should not be done. The Federal Government has no common law—certainly no common law in regard to crime. In the extract which was read from the Madison papers the grounds and reasons of this position are exhibited. The colonies brought over all the common law that was brought. The States succeeding to the colonies had all the common law of England that was adapted to their circumstances and that was ever imported into this country. The Federal Government was an after-thought. It imported no common law. It has no common law and so in respect to crimes the Federal courts have decided.

From this fact in the criminal jurisprudence of the United States I deduce very much of my argument. I say it is incredible that the people of this country in adopting their Constitution meant merely to guard themselves against such delinquencies of public officers as should be indictable under the narrow criminal code of the United States. I say that such a construction restricts this constitutional provision far too much. And this is the view of Mr. Curtis. If a man in office has committed an indictable crime, let him be indicted; and that will remove him from office; that will send him to the penitentiary or the gallows. You do not need the impeaching power for the criminal offender. But what if an officer has not committed an indictable offense, and yet has done that which by common consent violates the purposes for which his office was instituted? If I understand my friend from Ohio [Mr. VAN TRUMP] and other gentlemen to whom I am extremely sorry to find myself opposed, and for whom I entertain great respect, such an official must go unwhipped of justice, because, forsooth, the wrong which he has committed has not been defined in the criminal statutes of the United States! In other words, the people have no power of protecting themselves against a delinquent or unfaithful public officer, except, indeed, by defining as an indictable offense every possible delinquency, every possible act of maladministration, and thus imbedding it in their criminal law.

I have no idea that the people of this country entertained any such view in adopting the Constitution. And I repeat that the only cause of my interest in this discussion, the only reason why I have taken part in it is that I perceive a disposition to so narrow and limit and restrict this most valuable provision of the Constitution as, in my judgment, virtually to emasculate the Constitution and deprive the people of one of their most important safeguards and securities. It was for the purpose of expressing my doubts of the soundness of all such views and my general concurrence in the legal argument advanced the other day by the honorable gentleman from Massachusetts [Mr. BOUTWELL] that I sought the floor on this occasion.

Mr. BOYER. I desire, before my colleague takes his seat, to ask him one further question, in continuation of the inquiry I have already put.

Mr. LAWRENCE, of Ohio. I should be very glad to permit the continuance of the discussion to which we have been listening; but I yielded in the first place for only fifteen minutes; and I think I must resume the floor.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WOODWARD] was extended, and he is entitled to an hour from the commencement of his remarks. Does he surrender the floor unconditionally, or does he yield to his colleague, [Mr. BOYER?]

Mr. WOODWARD. I surrender the floor, that the gentleman from Ohio, [Mr. LAWRENCE,] on whose kindness I have too far trespassed, may proceed with his remarks.

Mr. LAWRENCE, of Ohio. Mr. Chairman, when the resolution was before the House, at an early day in this session, declaring that the President of the United States should be impeached of high crimes and misdemeanors, I sought an opportunity to present my views in support of it; but the privilege of general debate was denied. I would not now occupy time in discussion but for the grave importance of the subject itself, and the responsibility which in part rests on me of vindicating the report of the Judiciary Committee in relation to impeachment. If it were possible to hide the crimes of the President from posterity I would draw the vail of charity over them and let them pass unpunished and unnoticed into oblivion forever.

I appreciate and respect the motives of gentlemen here who concede the President's guilt; but in view of other and pressing duties, of the brevity of his term of office, of the majority in Congress opposed to "his policy"—rendering him, as it is alleged, almost powerless for evil—deem impeachment unnecessary and "inexpedient."

But I dissent from the idea that constitu-

tional duties should be omitted for purposes of present and temporary expediency. On this great subject I would—

"Nothing extenuate,
Nor aught set down in malice,"

but I would maintain unimpaired the just powers and rights of the people and of every department of the Government against all encroachments, at all hazards; and for this posterity would rise up and call us blessed.

There is time for every duty, and none should be omitted. Rather than this should happen I would have Congress remain in continuous session to the 4th day of March, 1869.

No just man would urge impeachment to gain political party advantages, or because the President does not sanction the policy of Congress, for this, like any infraction of the Constitution, might "return to plague the inventors."

But a just impeachment for a sufficient cause may save the nation from future wrongs and even revolutions, for the people cannot and will not long endure the assumption of imperial power without redress either in the forms of the Constitution or by others less peaceful. This is the lesson which the world's history teaches; and if we close our eyes to the fact, our own neglect—the omission to impeach—may in a thousand forms "return to plague the inventors," if it may not bequeath us a heritage of despotism. The history of this country and of England for two centuries affords ample guaranty that the day of unjust impeachment is past. The danger rather lies in the failure to employ this high conservative power when demanded by the public safety. (Story's Constitution, 744.)

The overshadowing power and patronage of the President, with offices, honors, and emoluments to gratify ambition and avarice all at his command to tempt the unscrupulous and bribe them to his support, may yet overthrow the power of the people, and the nation at last fall an easy prey to executive corruptions and encroachments.

Mr. Chairman, it may be there are some who are awed into submission by the threatening tone of the President's annual message. If this be so it is high time that we should cease "to take counsel of our fears" and deliberate only on our duties. The time will never come when a President shall dare to resist the judgments of the Senate or when the people will lack courage to enforce them.

WHAT WILL BE SHOWN.

And now, sir, I proceed to inquire, not as to *all*, but what are *some* of the high crimes and misdemeanors of which the President has been guilty; and then I will endeavor to show that these are impeachable within the letter and spirit of the Constitution.

HISTORICAL SUMMARY.

Andrew Johnson became President April 15, 1865. On the 26th of May the last of the rebel armies surrendered and flagrant war ceased. (President's message, December 18, 1865.) In seven of the insurrectionary States *rebel* State governments then existed and none other. The so-called "Johnston-Sherman" arrangement of April 18, proposing that these rebel State governments should be recognized was disapproved by President Johnson, and by military orders they were swept out of existence. (Impeachment evidence, 707, 714, 400, 410.) The people of these States were thus left without any civil State government.

A GRAVE QUESTION.

By whose authority civil State governments should be reëstablished, the *time* when, and the *terms* were the gravest questions of civil administration ever presented to the people of the Republic. They involved the inquiry whether the structure of governments could be reared, the civil and political rights of millions of people be determined, and the terms of restoration be dictated by presidential power without law, in defiance of Congress and the people alike of the loyal and the disloyal States.

WHAT THE PRESIDENT DID—USURPATION OF POWER.

On the 29th of May, 1865, the President appointed a provisional governor for North Carolina by proclamation, and required him—

"At the earliest practicable period to prescribe such rules and regulations as may be necessary and proper for convening a convention, composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof; and with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government, and to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence: *Provided*, That in any election that may be hereafter held for choosing delegates to any State convention, as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken the oath of amnesty, as set forth in the President's proclamation of May 29, A. D. 1865, and is a voter qualified as prescribed by the constitution and laws of the State in force immediately and before the 20th day of May, 1861, the date of the so-called ordinance of secession; and the said convention when convened, or the Legislature that may be thereafter assembled, will prescribe the qualification of electors and the eligibility of persons to hold office under the constitution and laws of the State."

And the President directed—

"That the military commander of the department, and all officers and persons in the military and naval service, aid and assist the said provisional governor in carrying into effect this proclamation."

The oath of amnesty was as follows:

"I, ——, do solemnly swear, (or affirm,) in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves: so help me God."—*Senate Executive Document No. 26, first session Thirty-Ninth Congress.*

Six other similar officers were appointed by like proclamations for Mississippi, Georgia, Texas, Alabama, South Carolina, and Florida.

The President assumed the power to create the office of provisional governor, although it was unknown to the Constitution or laws; to regulate the qualifications of electors and officers in the work of reorganization; enfranchising rebels who would take the oath he prescribed and disfranchising the freedmen. By his proclamations and instructions afterward given he caused State governments controlled by and in the interest of rebels to be established in these States, never submitted to a vote of the people, and which deprive the great body of the loyal citizens of all political privileges.

If the President had power to do this he might have dictated one government for all the rebel States as well. ("Americus" in "The Right Way" of February 10, 1866; Federalist, Nos. 69–75.)

HIS USURPATION DECIDED BY CONGRESS AND THE SUPREME COURT.

Congress has twice solemnly, under the sanction of official oaths, and by majorities of more than two thirds in each House, declared this work of the President a usurpation, and the State governments of his creation illegal, and in that declaration the distinguished gentlemen from Iowa [Mr. WILSON] and from Vermont [Mr. WOODBRIDGE] most cordially united.

The preamble to the act of Congress of March 2, 1867, known as the "reconstruction act," and which provides a mode of establishing lawful State governments to supersede these creations of the President, is in these words:

"Whereas *no legal State governments* or adequate protection for life or property now exist in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until *loyal and republican State governments can be legally established:* Therefore," &c.

And by the supplementary act of July 19, 1867, it is—

"Declared to have been the true intent and meaning of the act of the 2d day of March, 1867, entitled 'An act to provide for the more efficient government of the rebel States,' and of the act supplementary thereto, passed on the 23d day of March, in the year 1867, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas, were not legal State governments; and that thereafter said governments if continued, were to be continued subject in all respects to the military commanders of the respective districts and to the paramount authority of Congress."

Either Congress is wrong or the President is guilty of usurpation.

The Supreme Court has decided that the power of reorganizing State governments is exclusively in Congress, and the President is therefore guilty of an unparalleled and monstrous usurpation. (7 Howard Reports 1, Mississippi case, April 15, 1867, United States Supreme Court.)

THE PRESIDENT ADMITS HIS USURPATION.

These emphatic declarations of Congress and of the courts forever remove all pretext for justifying the President on the ground that a "*state of war*" existed which authorized "temporary military" government. (19 Howard, 194; Attorney General's letter, January 4, 1866.) But if military government could be set up by the President during flagrant war or the state of war succeeding it, it could only be done through military officers and not by civil provisional governors unauthorized by any law. But a temporary military government to exercise power only *as such* is one thing—its employment to create a permanent civil State government is quite different—and the civil government of its creation is yet another thing. And it was this consummation which the President sought and accomplished.

The President, through his Secretary of State, in telegrams of July 24 and September 12, 1865, the former to the provisional governor of Mississippi and the latter to the provisional governor of Florida, declared as to one:

"The government of the State will be provisional only until the civil authorities shall be restored with the approval of Congress;"

And as to the other:

"It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress."

ADDITIONAL USURPATION.

But the usurpation of establishing State governments to prejudge the duties of, and to be thrust upon Congress, is aggravated by the *additional substantive crime, that the President repeatedly recognized and treated as legal and entitled to all the rights of valid States these illegal organizations not only before Congress had acted on the subject, but after their approval and recognition had been refused.*

During the administration of President Lincoln Congress had repeatedly asserted their *exclusive* right to control reorganization. (Senate Report 127, second session Thirty-Eighth Congress; Sherman's speech, Senate, February 26, 1866; Globe, volume 60, (1861–62,) pages 3091, 3138; Globe, volume 59, 2447, 2596; Act February 9, 1863; 12 United States Statutes, 646.)

Congress first met, under President Johnson's administration, December 4, 1865. On that day the President's annual message, referring to his plan of reconstruction, said:

"It is not too much to ask, in the name of the whole people, that on the one side the plan of restoration shall proceed in conformity with a willingness to cast the disorders of the past into oblivion; and that on the other the evidence of sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution, which provides for the abolition of slavery forever within the limits of our country." * * * * "Indeed it is not too much to ask of the States which are now resuming their places in the family of the Union to give this pledge of perpetual loyalty and peace." * * * * "The amendment to the Constitution being adopted, it would remain for the States, whose powers have been so long in abeyance, to resume their places in the two branches of the national Legislature, and thereby complete the work of restoration. Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

Looking back from the position we now occupy, it is apparent that the President's purpose was to declare that the adoption of the constitutional amendment abolishing slavery, which

he had required as a condition to restoration, would entitle the rebel States as of right to be deemed legal States; and that Congress could only inquire into the regularity of elections as from other States. (Senate Executive Documents 26, first session Thirty-Ninth Congress.)

Mr. MUNGEN. Will the gentleman permit a question right here?

Mr. LAWRENCE, of Ohio. Certainly.

Mr. MUNGEN. Was not the constitutional amendment alluded to in the remarks of my colleague submitted to these States with the consent and concurrence of Congress?

Mr. LAWRENCE, of Ohio. It was not. Congress never submitted any constitutional amendment to any one of these illegal creations of the President. It was the work of his Secretary of State. Congress never authorized or sanctioned it. Is the gentleman answered?

Mr. MUNGEN. Not quite. I wish an answer whether that constitutional amendment abolishing slavery was not a *sina qua non* with the radical portion of the Republican party with whom my colleague acts? Was not the abolition of slavery in those States one of the things which Mr. Lincoln said should be done? Does not my colleague indorse Mr. Lincoln?

Mr. LAWRENCE, of Ohio. Congress adopted a joint resolution proposing an amendment to the Constitution abolishing slavery in the several States of the Union. When the Thirty-Ninth Congress passed a joint resolution proposing additional amendments to the Constitution of the United States to be submitted to the States entitled to act on the question of ratification it was undoubtedly understood and required by Congress that before any State should be "restored to its practical relations in the Union" the constitutional amendment abolishing slavery should be adopted. But Congress never lent its sanction in any form to the submission of the constitutional amendment abolishing slavery to any of the State organizations existing in the rebel States; and if any of these organizations ratified any constitutional amendment it could have no legal effect and no force until Congress should afterward recognize the State which had ratified it, and thus by the doctrine of "relation"—a principle well understood by lawyers—the ratification would be made valid. If Congress recognizes and validates an illegal State Government the recognition would relate back so as to give effect to its prior ratification of the constitutional amendment. The amendment abolishing slavery was adopted without the ratification of any of the illegal State governments set up by the President, for they were not entitled to be counted in determining the number of the States necessary to ratify any amendment.

Mr. MUNGEN. I should like to know whether the gentleman disavows the acts and conclusions arrived at by the United States district and circuit courts—Federal courts authorized by the power of Congress?

Mr. LAWRENCE, of Ohio. I have never claimed that the rebel States are not in the Union. The geographical States are all in the Union, and their people are all in the Union; but I have high authority for saying that the State governments which once existed in those States have been swept out of existence. So Andrew Johnson declared in seven solemn proclamations appointing seven provisional governors for those States.

Now, as to the question of my colleague. The judicial acts of the United States circuit and district courts are all valid. I say that they are valid no matter whether the State governments exist there or not; for the existence of the State government is not necessary to the validity of the judicial acts of these courts. The destruction of a State government cannot withdraw the power of the national courts, exercised under the Constitution and laws of Congress. The people of a State may destroy their State government, but they cannot destroy the right of the national courts to exercise jurisdiction.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. LAWRENCE, of Ohio. Certainly.

Mr. ELDRIDGE. I should like to inquire of my friend from Ohio where he finds authority under our Constitution and laws for a circuit court, unless in an organized and existing State?

Mr. LAWRENCE, of Ohio. I will thank my colleague on the Judiciary Committee to point me to that clause of the Constitution or any act of Congress which requires that a State government shall continue to exist in order that the district and circuit courts may continue to exercise their rightful jurisdiction. Under the Constitution and by law circuit and district courts are organized in the States, but they are organized for the geographical States, or rather for districts which may consist of a geographical State or a part of such State. But where a State government has once existed and it has been overthrown by rebellion or abandoned by the people or otherwise destroyed, its extinction does not invalidate or destroy the existence of the national courts in that district. Why, Mr. Chairman, during the rebellion the original government of the State of Virginia was overthrown, but the district court for the State of Virginia continued its session at Norfolk during the whole war. And will my colleague on the Judiciary Committee maintain that there was any legal State government in that State under our national Constitution during the rebellion?

Mr. ELDRIDGE. I think there was when their Senators and Representatives sat in this House and in the Senate.

Mr. LAWRENCE, of Ohio. That does not answer my inquiry. I inquire of my friend from Wisconsin whether during the whole period of the rebellion there was a State government in the State of Virginia which in his judgment was a lawful State government under the Constitution? Where a State government exists and a Senator or Representative in Congress is elected under it, his title to the office, with a right to sit in Congress, may continue after the State government is destroyed. It was upon this principle that Senators and Representatives continued in Congress after the rebellion had destroyed the State governments under which they were originally elected.

Mr. ELDRIDGE. The gentleman from Ohio puts a question to me without answering the one I put to him. But I will say to the gentleman that I believe there has never been a time since the organization of the Federal Government when the State of Virginia has not been a living State in this Union.

Mr. LAWRENCE, of Ohio. Then, Mr. Chairman, I understand the gentleman maintains that the rebel State government, every officer of which swore hostility to your Constitution, was a lawful State government under our system.

Mr. ELDRIDGE. No, sir.

Mr. LAWRENCE, of Ohio. If that be Democracy I hope the people of this country will understand it, and then we will know that an organized rebellion is the kind of State government which is recognized and adopted by the Democratic party as a lawful State government. For the rebel State government in Virginia supplanted the preëxisting loyal State government and became for a time the only State organization there.

Mr. ELDRIDGE. Well, now, Mr. Chairman, I have said no such thing as the gentleman from Ohio declares. I joined with him. My State joined with his State to put down the rebels in all of the States that were in rebellion against this Government for the very purpose of preserving those States, not for the purpose of destroying them, not for the purpose of keeping them out of the Union, but for the sole purpose of keeping them in the Union. And that is my Democracy.

Mr. LAWRENCE, of Ohio. Mr. Chairman, I agree with my friend that the purpose of the war against the rebellion was to preserve the Union and keep the States in the Union, but that does not answer the question which I put to the gentleman. A State is always geographically in the Union until, by some act recognized by the political departments of the Government, the consent of the political power has been given for its separation from the Union; that is to say, the geographical State is in the Union. But will any gentleman contend that a State government may not be broken up and destroyed? And when a State government is broken up and destroyed is there then any political State, any State organization under our Constitution, and is a geographical State out of the Union because it ceases to have a State government?

Now, sir, what is the condition of Virginia? A convention in the State of Virginia passed an ordinance of secession early in 1861; the preexisting State government in that State was destroyed; its officers were driven out of power and place, and they were superseded by other officers under a constitution framed, not for a State of this Union, but of the rebel confederacy of Jeff. Davis, and admitted into the rebel confederacy under the constitution of the confederate States of America. Its governor, its members of the legislature, all its officers, from the highest to the lowest, had taken an oath to support the constitution of the confederate States of America and of the rebel State government, and they were leagued in hostility for the overthrow of our Constitution and our Government, and they waged war and enacted laws for the purpose of detaching Virginia and the other rebel States from our Union forever. And does my friend maintain for one moment that that State organization, with its rebel governor at its head, its laws made by men who had sworn eternal hostility to our Constitution, and recognizing no allegiance to our Government whatever—does he maintain that that is a State government under our Constitution, and that immediately upon the suppression of the rebellion that State government was entitled to be recognized as the State government of the State of Virginia? That is precisely what occurred in the State of Virginia. The government which existed at the time of the adoption of the ordinance of secession was swept out of existence, and another hostile State government was organized there. What I maintain is that that government never was a State government of this Union, and I have as authority for saying that it was not Andrew Johnson, who in his solemn proclamation said that "the rebellion in its revolutionary progress had deprived the people of the rebel States of all civil State governments."

Mr. ELDRIDGE. I believe I am not interrupting the gentleman so as to annoy him.

Mr. LAWRENCE, of Ohio. Not the slightest. I have spoken too often to be annoyed by interrogatories.

Mr. ELDRIDGE. I do not wish to do it. I intended to have put another question to him, the converse of the one which I first put, which was, whether he knew of any circuit court of the United States ever having been organized or existing anywhere except in a State? I wish to put the converse of that to him now, whether he knows of any circuit court of the United States ever having been legally organized or existing in any Territory of the United States? And before he answers that question I wish to say to him that I prefer that he should answer the question categorically which I now put to him. I wish to know of him whether he considers the State of Virginia was a living State, a political State of the Union, of the United States, at the time when the State of Virginia consented to the formation of the State now denominated West Virginia.

Mr. LAWRENCE, of Ohio. The gentleman puts to me two questions, and I will endeavor to answer them *seriatim*. The gentleman and I do not differ in the opinion that it is within the constitutional competency of Congress to establish courts in the Territories of the United States. When a Territory has passed from its territorial form into the form of a State and is admitted into the Union of these States it then becomes the duty of Con-

gress to organize circuit and district courts in that State.

If these courts are once organized I maintain that the overthrow of that State government by a rebellion or by any other instrumentality whatever does not of itself affect or overthrow the existence of the circuit courts and district courts which Congress has established for that State. That is the position which I occupy, and that is precisely the condition of the State of Virginia during the rebellion. The State government which existed there was overthrown; the State government, whose officers recognized our Constitution, was overthrown; but the district court continued its sessions at Norfolk, Virginia, during the whole time of this rebellion; and no gentleman upon either side of Congress ever for one moment claimed that the judicial acts of that court were not valid simply because there was in that State no State government acknowledging its allegiance to the national Government. No law has ever established circuit and district courts of the United States except in geographical States having at the time lawful State governments.

And now I proceed to answer the next question of the gentleman. If I understood the gentleman, he desires to know whether at the time Congress consented to the admission of West Virginia into this Union, or to the division of the State of Virginia into two States, one of which was West Virginia, there was a vital, living State organization recognized by the political Government, the only power under our Constitution which has the right to determine whether there be an existing State government, and what is the established government of and in a State.

For a time there was such a State government in the State of Virginia professing to be a State government for the whole, but in fact only capable of exercising jurisdiction over a portion of the territory of the State; over all of that which is now West Virginia, and some additional territory. This government was installed at Wheeling by a voluntary convention of the people soon after the original State government at Richmond was supplanted by the rebel State organization. It was incapable of extending its jurisdiction over the entire State because the rebel armies and the rebel State government had possession of the eastern portion of the State of Virginia. And that State government, exercising this jurisdiction over the western portion of the State, was recognized by the political departments of the Government as a vital, living State government. And their determination was conclusive upon all the other departments of the Government, and there is no authority which can go back of the recognition which the political departments of the Government gave to it.

And now, supposing I may anticipate the question which the gentleman from Wisconsin [Mr. ELDRIDGE] is about to put to me, I will say that that vital, living State government which was once recognized by Congress afterward perished. After the State was divided by creating the State of West Virginia the prior government known as the "Wheeling government" removed its headquarters to Alexandria, Virginia, only seven miles from the national capital. But the rebel armies had acquired such possession of the territory over which that State government claimed to exercise jurisdiction that it was limited to a county or two around Alexandria; and it became so utterly insignificant that Congress ceased to recognize it, and it ceased to be a vital, living State government under our Constitution.

Mr. ELDRIDGE. I believe that it is by the consent of the gentleman from Ohio [Mr. LAWRENCE] that I further interrupt him.

Mr. LAWRENCE, of Ohio. Certainly. I am always gratified to listen to my distinguished friend from Wisconsin, and am quite willing to respond as well as I can to any questions he may propound.

Mr. ELDRIDGE. I will agree not to interrupt him again. I wish now to ask the gentleman from Ohio if the same identical State of old Virginia, which consented to the division of the State and the formation of West Virginia, has not from that time on to the present moment existed with the same Governor and substantially the same State officers, and whether it does not to-day exist, and whether it has not from the beginning up to this time had the same State government that it had when it gave that assent?

Mr. LAWRENCE, of Ohio. When Lee surrendered his army, early in 1865, Governor Peirpoint, who had maintained his little establishment of a State government at Alexandria, removed to Richmond and went into possession of a kind of State government there, which has continued ever since. But Congress has refused to recognize it, and there is no such thing as a vital, legal State organization under our system which is recognized by the political department of the Government. And this government to which he refers never having had that recognition, although it is a *de facto* government, it is not a legal State government.

Mr. ELDRIDGE. I will, with the permission of the gentleman, make one further inquiry of him. I wish to know at what time and by what act Congress ceased to recognize the State of Virginia?

Mr. LAWRENCE, of Ohio. When Congress refused to receive Senators and Representatives from that State under that State organization. From that moment it ceased to be a legal State organization. And Congress by other acts refused to recognize it. I believe the gentleman and the Democratic party of the country, during the existence of the Alexandria State government, denied its validity. It became so insignificant that neither Congress nor any political party regarded or recognized it as an established or valid State government.

Mr. ELDRIDGE. Why was that done by Congress? Why did Congress at that particular time refuse to receive those Representatives? Why did it change its policy? When was that?

Mr. LAWRENCE, of Ohio. I am not here to give reasons for what Congress did, but I am here to state facts. I state this as conclusive of the question that the Supreme Court has said it rests with Congress to determine what is the established government in a State; and when Congress has determined the question that is the end of it.

Mr. ELDRIDGE. Then, as I understand my friend, the State of old Virginia ceased to be a State by virtue of a decision of Congress, and not by the action of the State?

Mr. LAWRENCE, of Ohio. The State of Virginia ceased to have a State government after her ordinance of secession was adopted. It was overthrown by the rebellion and supplanted by a rebel State government organized and set up in place of the prior loyal State government. Its lawful State government ceased to be a government at all by the violence and unlawful acts of her people. Subsequently a new State government was organized in the western part of Virginia which was recognized by Congress, but up to the organization of the Wheeling government there was a period of time when Virginia ceased to have a lawful State government at all. And after the State of West Virginia was erected and the original Wheeling government removed to Alexandria it, too, as I have said, perished, or became so insignificant that Congress refused to recognize it as a valid government.

I now resume the thread of my remarks. On the 4th of December, 1865, the day the President sent to Congress his annual message, a resolution was introduced in the House, amended in the Senate, and agreed to in the House December 13, in these words:

"*Resolved by the House of Representatives*, (the Senate concurring,) That a joint committee of fifteen members shall be appointed" * * * * "who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise."

The joint committee was appointed on the part of the House December 14, and on the same day that body—

"*Resolved*, That" * * * * "no member shall be admitted from either of the so-called States until Congress shall declare such States or either of them entitled to representation."

On the 18th December, 1865, the Secretary of State, with the President's sanction, declared the amendment to the Constitution abolishing slavery, adopted by the ratification of the requisite number of States, including the rebel States of South Carolina, Alabama, North Carolina, Georgia, Arkansas, and Tennessee, thus recognizing them as valid States, though their ratification was not as a question of constitutional law essential. On the 19th of February, 1866, the President, in his veto message of "the Freedmen's Bureau bill," said in relation to the rebel States:

"It is hardly necessary for me to inform Congress that in my own judgment most of those States, so far, at least, as depends upon their own action, *have already been fully restored and are to be deemed as entitled to enjoy their constitutional rights as members of the Union.*"

On the 20th February the House adopted a resolution, concurred in by the Senate, March 2, as follows:

"*Resolved*, That" * * * * "no Senator or Representative shall be admitted into either branch of Congress from any of the said States until Congress shall have declared such States entitled to representation."

On the 3d of April, 1866, the President recognized North Carolina as a State by issuing to that State agricultural college land scrip for nearly two hundred and seventy thousand acres of land under the act of July 5, 1862. (Evidence, page 815.)

This was met by a joint resolution of Congress, approved by the President March 30, 1867, prohibiting the further issue of scrip and with a preamble, as follows:

"Whereas on the 3d day of April, 1866, by the authority and direction of the President of the United States, agricultural college scrip, covering nearly two hundred and seventy thousand acres, was issued and delivered to the State of North Carolina under the act of Congress of July 5, 1862, providing for agricultural colleges; and whereas by the same authority the General Land Office is now preparing to issue scrip in like manner to the States of Virginia, Georgia, and Mississippi; and whereas said action of the President takes for granted that said States are restored to their proper constitutional relation to the Union, and are to be recognized in all respects as entitled to the rights of the other States of the Union, *which question Congress alone can rightfully determine*: Therefore, *Be it resolved*," &c.

On the 18th June, 1866, the joint Committee on Reconstruction made their report, proposing an amendment to the Constitution and other measures of reconstruction.

On the 22d June, 1866, the President, in his message declaring hostility to the amendment, said:

"That of the thirty-six States which constitute the Union eleven are excluded from representation in either House of Congress, although, with the single exception of Texas, they have been entirely *restored to all their functions as States in conformity with the organic law of the land*, and have appeared at the national Capitol by Senators and Representatives, who have applied for and have been refused admission to the vacant seats."

And in his veto message of July 20, 1867, he said of his State governments that—

"Executive recognition, as is well known, has been frequent and unwavering."

The President had in November, 1866, recognized the government of Georgia as a State by a sale to it of railroad property of the United States to the amount of $472,944 66. (Evidence 191-247.)

THE APOLOGY—IT FAILS.

For all this the minority report on impeachment furnishes what may be regarded as an attempted *apology* and a *defense*.

The *apology* is that Cabinet ministers, holding office by the tenure of the President's will, assented to his proclamations, all supposing, however, that "what was being done" would last no "longer than until Congress would meet and either ratify or establish some other form of government," that "it was the original purpose of the President to act in conjunction with Congress," and that "the first official

notice which Congress received of the President's change of purpose was contained in his first annual message" of December 4, 1865. (Minority Report, 78-81.)

Mr. WILSON, of Iowa. I should like to ask the gentleman a question here, and it is this: if the President of the United States, in the reorganization of the rebel States, had imposed upon them and exacted from them all the conditions which the Congress of the United States had prescribed, would the gentleman stand here to-day and demand his impeachment for so doing?

Mr. LAWRENCE, of Ohio. Mr. Chairman, in the case stated by my friend, the able and distinguished chairman of the Committee on the Judiciary, I would stand here to-day and say the President had been guilty of usurpation. Congress has again and again affirmed, as has the gentleman from Iowa, that the President had no power to take one of the steps he has taken for the reorganization of the governments of these rebel States. I therefore say that he is guilty of usurpation; but if the President had submitted his work to the approval of Congress, stating that what he had done was unauthorized, but that it had been done for the purpose of submitting it to our approval, I am not prepared to say in that view of the case that I would regard him as I now do. But that is not the case we are now considering. I am urging impeachment on a different state of facts.

Mr. WILSON, of Iowa. I understand the gentleman is contending for principle; and I submit that he has not answered my question. It may be I did not submit it clearly, or he has misapprehended it.

Mr. LAWRENCE, of Ohio. Will the gentleman from Iowa state the question again?

Mr. WILSON, of Iowa. I did not ask him what Congress would have done if the President had submitted his acts for approval, but I did ask whether if the President had insisted that the rebel States should do all that Congress demanded at their hands he would now ask this House to proceed with the impeachment of the President for so doing.

Mr. LAWRENCE, of Ohio. Mr. Chairman, that question does not arise now, because the President has done no such thing; and I am urging impeachment upon the facts as they are, and not the hypothetical case put by the gentleman from Iowa.

Mr. WILSON, of Iowa. The gentleman will pardon me. If the President had done what I have suggested his exercise of power, usurped power, would have been much greater than it has been in his dealing with these rebel States; and I ask the gentleman whether, if he would not be prepared to demand his impeachment for the exercise of greater power, why does he demand it in the exercise of less?

Mr. LAWRENCE, of Ohio. Mr. Chairman, I am willing to give my opinion on the hypothetical case suggested. I stand in my place to-day to say that if the President had usurped the great powers of Congress, as suggested, even though for a legitimate purpose and to accomplish a result which Congress desired, I would vote for his impeachment and removal from office, for he would be in that event a usurper unworthy the support of Congress or of anybody. Is the gentleman answered?

Mr. WILSON, of Iowa. I should like to know, in the light of the answer the gentleman has made, how he can justify his vote in favor of the indemnity bill passed by the Thirty-Ninth Congress?

Mr. LAWRENCE, of Ohio. The indemnity bill, Mr. Chairman, was designed to give validity to acts which were claimed to be legal without it.

Mr. WILSON, of Iowa. No, sir.

Mr. LAWRENCE, of Ohio. Yes, sir. It was to indemnify officers of the United States against suits in courts that might differ with us in opinion and hold that the acts of those officers were unauthorized. The indemnity bill established no new law. It was, in my view, simply declaratory of what the law was without it.

Mr. WILSON, of Iowa. I would ask the gentleman whether the indemnity act does not, in its terms, go beyond the officers to whom he has referred—whether it does not expressly confirm and ratify all the acts of the President that were embraced within its terms?

Mr. LAWRENCE, of Ohio. Yes, sir; certainly it does. And the President did no act confirmed by that law, as I now remember it, which would not have been valid without it. But the acts validated, if they were validated by that law, were not acts of usurpation such as the gentleman has described, or such as those of which Andrew Johnson has been guilty.

Mr. WILSON, of Iowa. I would ask the gentleman whether some of the acts embraced within the terms of the indemnity act had not prior to its passage been pronounced unlawful and unconstitutional by the Supreme Court of the United States.

Mr. LAWRENCE, of Ohio. Mr. Chairman, the Supreme Court of the United States has made more than one decision which I do not believe to be good law. And besides that, I will say to the gentleman from Iowa I do not claim that for every illegal exercise of power it would be the duty of this House to present articles of impeachment against the officer guilty of it. This House, by parliamentary law and usage, may prefer articles of impeachment, may carry them to trial and conviction before the Senate, and at that point may cease the prosecution and decline to ask the Senate to render judgment; and the Senate can then render no judgment. The House can thus in its discretion exercise clemency in the nature of a pardoning power. I conceive that there may be, especially during a terrible rebellion, some illegal acts not endangering any great right of the nation, and yet committed under circumstances which would properly demand that we should not prefer articles of impeachment, or if we preferred them for the purpose of settling a principle, that we would be justified, nevertheless, in not going the whole length of demanding conviction and judgment. Cases might arise where it would be proper for Congress to indemnify officers against the consequences of even acknowledged illegal acts. Congress might do this, and at the same time impeach to vindicate a principle.

Mr. Chairman, I resume again the line of argument which I had marked out for myself.

When the President declared that his measures of reconstruction were "subject to the decision of Congress" he conceded his usurpation of the law-making power of the nation, and no assent of advisers could relieve him of his deliberate and acknowledged overthrow of the Constitution. But his advisers were induced to believe that his original purpose was to submit all to "the approval of Congress;" and their acquiescence is no apology for him if he never entertained such purpose, or having entertained it afterward abandoned it to accomplish a criminal purpose, built upon the work to which they assented. It is legitimate to infer from his subsequent acts that his original purpose was to consummate his scheme regardless of Congress. If he only contemplated temporary governments, for what purpose did his proclamations require his provisional governments to create State governments? The testimony proves that the original purpose of the President was to restore the rebels to power. (Evidence, page 781, of Stanley Matthews.) But the crime of the President does not stop here. Congress has repeatedly affirmed and the Supreme Court has determined that—

"Under the Constitution it rests with Congress to decide *what government is the established one in a State;* for as the United States guaranties to each State a republican government CONGRESS must necessarily decide *what government is established* in a State before it can determine whether it is republican or not."—*7 Howard*, 1.

With full knowledge of this the President has *himself decided* the creations of his own usurpation to be the lawful and established governments in these States, and treated them as such. And all this was without the assent and against the declared opinions of General Grant and Secretary Stanton that the State governments set up by the President should be temporary and could not legally continue—

"Any longer than until Congress would meet, and either ratify or establish some other form of government;"

And that—

"The whole subject of reconstruction, and the relation of a State to the Federal Government, is subject to the controlling power of Congress."—*Evidence*, pp. 835, 406.

THE DEFENSE.

But the minority report suggests as a defense that—

"The reconstruction policy of the President cannot succeed except through an approval by Congress. Such an approval would destroy every element of crime involved in it; for it would then be the act of the Government of the United States. If it do not receive the sanction of Congress it cannot present a perfected crime. The present Congress will continue until the close of the President's term of office. It will not approve his plan—success in his alleged crime is thus rendered impossible."

Mr. Chairman, the fault may be mine, but I cannot perceive either wisdom, logic, or law in this entire proposition. It holds success or failure in usurpation alike guiltless. It maintains that if an end is accomplished by an acceptance or ratification secured through the influence of power, patronage, the force of circumstances, or the difficulties of avoiding or rejecting it, all the illegal means employed to attain it are sanctified though never approved. Though every penal code of the civilized world defines as crime every unsuccessful assault upon the person with intent to commit a felony, yet according to this logic an unsuccessful attempt to subvert the Constitution is in the law of impeachment alike sacred and guiltless. It holds that success in crime removes its guilt and its penalties, while failure incurs neither. It makes usurpation the most desirable and least hazardous of all official acts.

It is enough to say that every step the President has taken in his scheme of reconstruction is itself a "perfected crime" which no palliation can excuse and no logic justify.

FORBEARANCE OF CONGRESS NO JUSTIFICATION.

Finally on this subject the minority report concludes that—

"However wrong or unlawful the acts of the President in the creation of those governments may be regarded"—

he cannot be impeached, and so—

"held criminally responsible in the presence of their permissive existence by Congress, and the use to which it has put the results of his improper and illegal acts."

The logic of this is that "improper and illegal acts" are not impeachable if they come under such false pretenses or are of such appalling magnitude as to wring from Congress a temporary "permissive existence;" or if briefly employed by Congress to right the wrongs they inflict!

These usurpations commenced on the 29th of May, 1865. By law Congress could not assemble until December 4, unless sooner convened by the President. He misled the people and quieted their fears by assuring them his policy was "an experiment" "subject to the power of Congress." (Report of Carl Schurz, with President's message, December 18, 1865; Senate Executive Document 26, first session Thirty-Ninth Congress, pages 60, 105; Senate Executive Document 2, first session Thirty-Ninth Congress, page 2.)

When Congress met, the illegal governments were in operation; but they have never yet been recognized by Congress as valid. For more than a year Congress sought by "constitutional amendments," by the "civil rights bill," and other measures, to affix *terms* and *conditions* which would lead to the ultimate modification and ratification of the illegal governments.

At last, by the "reconstruction acts" of

March 2, March 23, and July 20, 1867, these governments are declared "illegal," divested of the character they assumed of *State* governments, are given a "permissive existence" as "*provisional governments*" only, but subject to military control, until new, valid, and legal governments shall be established as therein provided.

And this is alleged to operate as a *pardon* of the impeachable crimes of the President! The utter fallacy of this defense must be manifest when there is no pretense that, by the Constitution, statute or common law, or parliamentary usage, the power of impeachment is lost by mere lapse of time or by any use the law-making power may make of the results of usurpations.

LINCOLN'S POLICY.

It has been intimated that President Johnson only carried out the plan of reconstruction of President Lincoln. But this is effectually disproved by the evidence. President Lincoln only appointed one provisional governor—Edward Stanley—for North Carolina, May 19, 1862, and who resigned January 9, 1863, without attempting to set up any State government. But this led to the act of Congress of February 9, 1863, designed to prohibit the appointment or payment of such officers. (Volume 59, Globe, 2447, 2596; volume 61, Globe, 1862–63, page 565; volume 60, Globe, 3091, 3138; Constitution, article two, section two, clause two.)

President Lincoln afterward assigned brigadier generals to duty as military governors, charged with raising troops and other military services. They were not authorized to call conventions or organize governments, but that was left to be the voluntary work of the loyal people. (Speech of Lawrence in House, July 20, 1867; House Reports 16, second session Thirty-Ninth Congress; House Miscellaneous Document 55, first session Thirty-Ninth Congress; Evidence, 885, 725, &c.)

Mr. Lincoln never had decided on or submitted to his Cabinet "any plan for the reorganization of the rebel States." (Evidence, 404, 378; Lincoln's speech, April 11, 1865.)

But President Johnson appointed *provisional* governors, to hold during his pleasure, in violation of the Constitution, which limits appointments to "*offices established by law.*" He fixed their salaries by his will and paid them out of the Treasury in violation of law, or by taxes illegally assessed from the people. (Act of February 9, 1863; 12 United States Statutes, 646, section two; Senate Executive Document 26, first session Thirty-Ninth Congress, pages 11, 3; Evidence, pages 40, 373, 698; Constitution, article two, section two, clause two.)

The President in his last annual message denounces the "military reconstruction acts" as unconstitutional, because they assume—

"To dictate what alterations shall be made in the constitutions of the several States; to control the elections of State legislators and State officers, members of Congress and electors of President and Vice President by arbitrarily declaring who shall vote and who shall be excluded from that privilege; to dissolve State Legislatures or prevent them from assembling; to dismiss judges and other civil functionaries of the State, and appoint others without regard to State law; to organize and operate all the political machinery of the States; to regulate the whole administration of their domestic and local affairs according to the mere will of strange and irresponsible agents, sent among them for that purpose—these are powers not granted to the Federal Government or to any one of its branches. Not being granted, we violate our trust by assuming them as palpably as we would by acting in the face of a positive interdict; for the Constitution forbids us to do whatever it does not affirmatively authorize either by express words or by clear implication. If the authority we desire to use does not come to us through the Constitution, we can exercise it only by usurpation; and usurpation is the most dangerous of political crimes."

Yet these are the high crimes of which the President himself has been guilty. (Impeachment Evidence 701, 966; Senate Executive Document 26, first session Thirty-Ninth Congress; House Executive Document 68, second session Thirty-Ninth Congress, page 8; House Report 16, second session Thirty-Ninth Congress, page 16; McPherson's Political Manual for 1866–67, pages 16, 17.)*

Congress has done and is doing by authority of the Constitution and laws what the President did without and in violation of all law, and in the face of that eternal truth proclaimed by the great Burke, that there does not exist—

"In all the human race a power to make the government of any State dependent upon individual will."—7 *Burke's Works*, 486, *volume* 1, *supplement.*

ONE OF THE CHIEF CRIMES.

Chief among the crimes against the Constitution and laws, then, are these: that on the "extraordinary occasion" presented by the surrender of the rebel armies, the President refusing to "convene both Houses of Congress," in order that he might usurp powers exclusively belonging to them, created the office of provisional governor, defined its duties, and imposed their performance on men holding by the tenure of his pleasure on a salary fixed by his will and paid in violation of law:

That he instituted a military or provisional government through the agency of unauthorized civil officers in seven States, not merely for purposes of military government but to usurp the rightful and exclusive power of Congress of establishing civil governments:

That by such unauthorized agencies he established civil State governments in seven States without the sanction of the people or the authority of Congress:

That notwithstanding Congress steadily refused to recognize or ratify such illegal State governments "the President by repeated acts declared them established in conformity with the Constitution and recognized them as such."

And though it is impossible now to present all the evidence taken by the Committee on the Judiciary, yet it proves that the President abused his lawful powers to accomplish his usurpations and make them successful. His military power, the veto power, the power of appointment to and removal from office, the power of amnesty and pardon were all degraded to accomplish his ends. For the same purpose he refused to faithfully execute the laws for the punishment of treason and surrendered to rebels the nation's property of the value of many million dollars.

MAGNITUDE OF THE CRIMES.

These are crimes of no small magnitude. They attempted the overthrow of the legislative power of the nation on the most momentous subject which ever called for its exercise. They attempted to lay the foundation of empire over a large portion of the continent; to dispose of the rights and liberties of millions of people in a mode disapproved by Congress and the majority of the nation; to dispense with the safeguards imposed by the "constitutional amendment" prescribed by Congress as a condition of restoration, affecting the very structure of the Government and relieving it of asserted liability for thousands of millions of debt incurred in aid of rebellion, and from accountability for the emancipation of slaves. (See proposed Constitutional Amendment to be Article XIV; Minority Report on Impeachment, 83.)

History has given us the contests between the despotism of executive power on one side and the rights of the legislative power of the people on the other. It has given us the struggles of the ages between privileged classes and the people demanding their equal and inalienable political rights. It has given us the struggle between the rights of labor and the ascendency and control of accumulated capital. But Andrew Johnson has given the world at one view all that is odious in this triple contest, for as President he is a usurper seeking to reinstate the dethroned slave oligarchy as a privileged class, controlling the wealth and wielding the political power of the States against the rights of man and the interests of humanity. Compared with his the crimes of Scroggs and Jeffries and Hastings pale into utter insignificance. If the American Congress, awed into submission, or unwilling to meet its greatest duty, fails to apply the constitutional remedy for these crimes against law, civilization, and the human race itself, the eternal verdict of impartial history will be that it is the gravest error of our times.

[Here the hammer fell.]

Mr. ELA obtained the floor.

Mr. LAWRENCE, of Ohio. I would be greatly obliged to my friend from New Hampshire [Mr. ELA] if he would yield, that my time may be extended.

Mr. ELA. How long does the gentleman desire?

Mr. LAWRENCE, of Ohio. I would prefer not to be limited as to time.

Mr. BURR. I hope there will be no objection to extending the gentleman's time half an hour.

Mr. LAWRENCE, of Ohio. I prefer to have an hour, although I may not occupy it all.

The CHAIRMAN. Is there any objection to allowing the gentleman from Ohio an additional hour?

There was no objection.

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* The following official telegraphic correspondence shows the scope of the proclamation of April 2, 1866, in the opinion of the President:

AUGUSTA, GEORGIA, *April* 7, 1866.

Major General O. O. HOWARD:

Does the President's recent proclamation remove martial law in this State? If so, General Brannan does not feel authorized to arrest parties who have committed outrages on freed people or Union refugees. Please answer by telegraph.

DAVIS TILLSON,
Brigadier General of Volunteers.

—

Answer.

ADJUTANT GENERAL'S OFFICE, WAR DEPARTMENT,
WASHINGTON, *April* 17, 1866.

The President's proclamation does not remove martial law, or operate in any way upon the Freedmen's Bureau in the exercise of its *legitimate* jurisdiction. It is not expedient, however, to resort to military tribunal in any case where justice can be attained through the medium of civil authority.

E. D. TOWNSEND,
Assistant Adjutant General.

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To Governor Worth, of North Carolina.

WASHINGTON, D. C., *April* 27, 1866.

TO GOVERNOR WORTH: I am directed by the President to inform you that by his proclamation of April 2, 1866, it was not intended to interfere with military commissions at that time or previously organized, or trials then pending before such commissions, unless by special instructions the accused were to be turned over to the civil authorities. General Ruger has been instructed to proceed with the trial to which you refer; but before the execution of any sentence rendered by said commission, to report all the proceedings to the War Department for examination and revision. There has been an order this day prepared, and which will soon be issued, which will relieve and settle all embarrassment growing out of a misconstruction of the proclamation, of which I will send you a copy.

EDMUND COOPER,
Acting Private Secretary to the President.

—

Order in Relation to Trials by Military Courts and Commissions.

[General Orders, No. 26.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *May* 1, 1866.

Whereas some military commanders are embarrassed by doubts as to the operation of the proclamation of the President, dated the 2d day of April, 1866, upon trials by military courts-martial and military offenses, to remove such doubts it is ordered by the President that—

Hereafter, whenever offenses committed by civilians are to be tried where civil tribunals are in existence which can try them, their cases are not authorized to be, and will not be, brought before military courts-martial or commissions, but will be committed to the proper civil authorities. This order is not applicable to camp-followers, as provided for under the sixtieth article of war, or to contractors and others specified in section sixteen, act of July 17, 1862, and sections one and two, act of March 2, 1863. Persons and offenses cognizable by the Rules and Articles of War, and by the acts of Congress above cited, will continue to be tried and punished by military tribunals as prescribed by the Rules and Articles of War and acts of Congress hereinafter cited, to-wit:

Sixtieth of the Rules and Articles of War. All sutlers and retainers to the camp, and all persons whatsoever serving with the armies of the United States in the field, though not enlisted soldiers, are to be subject to orders according to the rules and discipline of war. * * * * * * *

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

Mr. GETZ. Will the gentleman allow me, before he resumes his argument, to ask him one question?

Mr. LAWRENCE, of Ohio. Certainly.

Mr. GETZ. Under what authority did Andrew Johnson himself act as provisional governor of Tennessee?

Mr. LAWRENCE, of Ohio. He never was provisional governor. He was a military governor. He was appointed a brigadier general in the Army, confirmed by the Senate, and assigned to military duty in Tennessee. When he got to Tennessee he never ventured to issue a proclamation to set up civil government. Civil government, as established in Tennessee, was the work of voluntary conventions of the people. Mr. Johnson did not attempt to control them in that respect—to dictate who should and who should not vote, or otherwise to interfere with the voluntary work of the people.

Mr. GETZ. Then I understand the gentleman to say that Governor Johnson (for as such I have always understood him to have acted in Tennessee) was merely a military officer.

Mr. LAWRENCE, of Ohio. Merely a military officer—a brigadier general.

Mr. GETZ. I thank the gentleman for the information.

Mr. BOYER. Does the gentleman from Ohio [Mr. LAWRENCE] contend that the President ought to have left these States of the South, after the rebellion had ended, without any lawful government at all?

Mr. LAWRENCE, of Ohio. Mr. Chairman, the President should have preserved order by military power until he could assemble Congress; for the Constitution declares it his duty to convene Congress on "extraordinary occasions," and there never was so extraordinary an occasion in the history of this country as that which happened when the rebel armies surrendered, yet the President refused and failed to assemble the Congress in order that he might usurp the functions of the law-making power.

Mr. BOYER. I desire to ask the gentleman whether he does not know, and whether it is not a conceded fact, that President Lincoln intended to pursue precisely the same course with reference to the establishment of provisional governments in the lately insurgent States, and that it was not his intention to convene Congress?

Mr. LAWRENCE, of Ohio. Mr. Chairman, there is no evidence that President Lincoln had any such purpose. On the contrary, the testimony taken before the Judiciary Committee in this matter of impeachment proves that President Lincoln never had determined upon any plan of reconstruction, and that he never had submitted to his Cabinet any plan whatever.

Mr. BOYER. Does it not appear from the testimony of Mr. Stanton, and the testimony of Mr. Speed, and the testimony of General Grant, that the North Carolina proclamation of President Johnson had been agreed upon in the Cabinet of Mr. Lincoln but a short time before his death as a proclamation to be issued by him for the very purpose for which President Johnson afterward did issue it?

Mr. LAWRENCE, of Ohio. No, Mr. Chairman; no such thing. The North Carolina proclamation was the work of Secretary Seward in substance. Secretary Stanton, according to the testimony, had prepared the plan of a proclamation before the death of President Lincoln, but it never was approved either by President Lincoln or by any member of his Cabinet.

Mr. BOYER. Does it not appear by the testimony of Mr. Stanton before the Judiciary Committee that the proclamation issued by President Johnson in the North Carolina case was substantially the proclamation which he had drawn up and submitted to Mr. Lincoln, and which had been approved by him as well as by General Grant as the basis upon which a provisional government should be established in North Carolina?

Mr. LAWRENCE, of Ohio. General Grant never approved of any proclamation, nor of the draft of any proclamation. How far Mr. Secretary Stanton's proclamation was similar to the North Carolina proclamation does not appear in the testimony, but it does appear that President Lincoln never sanctioned it and that it never had the approval of his Cabinet.

Besides that, Mr. Chairman, I am not prepared to say but that during flagrant war, as an exercise of the war power, for temporary purposes, the war power may set up a government for the purpose of crippling the enemy or governing his conquered territory. But to set up a temporary government as a war measure to cripple the enemy for temporary purposes is one thing, but to attempt by military power to set up a permanent civil State government is a totally different thing.

Mr. ELDRIDGE. I wish to know of the gentleman from Ohio if he has examined the case in 9 Howard, which he will find on page 216, which decided that "on the conquest of a country the President may establish a provisional government which may ordain laws and institute a judicial system which will continue in force after the war is ended, until it is modified by the legislation of Congress or by the Territorial government which has been established there."

Mr. LAWRENCE, of Ohio. I know the case.

Mr. ELDRIDGE. One moment before the gentleman goes on. As I understand the decision in that case, it relates to the conquest of a territory or a country, and of course it relates to foreign countries; and I wish here to say that I do not admit that these ten States are in that condition, and now outside of the Union, and in a territorial condition, as in the opinion of the gentleman from Ohio they are. But I understand the decision of the Supreme Court to have been that upon the conquest of the territory known now as the State of California, the President, independently of Congress, had a right to establish a government there which should continue in force until by act of Congress or by a territorial government established under the authority of Congress, that government, provisionally established by the President, should be absolutely changed.

Mr. LAWRENCE, of Ohio. I am familiar with the decision referred to by my colleague on the Judiciary Committee, and I will state my view of what was established in that case. Publicists and writers on international law and public law all say that war is either flagrant, or it may consist of what is called a state of war; *non flagrante bello sed non dum cessante bello*. We do not, I think, differ about that. It was simply decided in the California case, to which the gentleman refers, that while a state of war continues, the military power, through military officers recognized by law, may set up temporary provisional governments to be controlled by military power until Congress suall determine that a state of war has ceased and that peace is restored. That is what was done in the case of California. That was, besides, a foreign country, acquired by conquest during the Mexican war, and over which neither territorial nor State government had yet been organized. The power there exercised was a war power and no more, not professing to establish any government to continue or be recognized in any form as a permanent civil government.

Now, sir, Andrew Johnson did not attempt the exercise of the same power exercised in California, but a very different one. In the first place he acted through civil officers, backed up by the military power; his provisional governors were civil officers.

In the next place he not only professed to establish provisional governments, but he established provisional governments and then provided for their abolition, and declared that they should create permanent State governments. Now, sir, there is a wide difference between provisional governments for temporary military purposes as provisional governments and the establishment of provisional governments for the purpose of creating permanent civil State governments. And it is this feature of the measures of the President that constitutes the highest elements of crime in his stupendous usurpations.

Mr. ELDRIDGE. I wish to say to the gentleman from Ohio [Mr. LAWRENCE] that he misapprehends the case I have cited from 9 Howard's Reports.

Mr. LAWRENCE, of Ohio. Oh, no; not at all.

Mr. ELDRIDGE. I read from the syllabus of the case. That case decides that after peace, after war has ceased——

Mr. LAWRENCE, of Ohio. After flagrant war has ceased.

Mr. ELDRIDGE. The gentleman cannot find that word in the case. After war has ceased, the court decided that the government which the President had established, and which by law he might establish, should continue—it does not say how long, but that it shall continue—until Congress shall by some act of its own abrogate that government, or until it shall establish a territorial government, which territorial government shall abrogate the government established by the President in his capacity as Commander-in-Chief of the Army and Navy. Now the gentleman makes a distinction which the case does not make. It says "after peace," and "when peace exists." I take it that then there is no war actual nor war in cessation. And if Congress does not see fit to change the act of the President and to abrogate the government which he has set up, nor to establish a territorial government which shall abrogate that government, then I maintain that within the authority of the case in 9 Howard, to which I have referred, the government set up by the President will continue, I care not if it be ten or twenty years, until it be abrogated by Congress or by a territorial government legally established and organized by Congress.

Mr. LAWRENCE, of Ohio. I have given my view of that case. The gentleman happens to differ with me; the question is one now for the lawyers, who shall read the case in connection with other authorities upon the subject and then determine who is right. But the gentleman seems to forget that the President denies the power of Congress to set aside the State governments of his creation while the authority he cites fully recognizes the right of Congress exclusively to reconstruct civil government.

Now, I should be glad to ask the gentleman from Wisconsin [Mr. ELDRIDGE] a question. The minority of the joint Committee on Reconstruction, headed by one of the ablest among all the able lawyers of this country, REVERDY JOHNSON, in his report submitted to Congress in 1866, did not venture to say that Andrew Johnson had power to take the steps for reconstruction which he has done.

And now, does the gentleman from Wisconsin claim that the President had the power to take the steps which he did take in this work of reorganization? If he does, he is the first man among all the lawyers of this country who has ever had the courage to claim any such thing.

Mr. ELDRIDGE. The gentleman propounds to me a question, and I will answer it as briefly as I can.

Mr. LAWRENCE, of Ohio. I hope the gentleman will do so.

Mr. ELDRIDGE. The gentleman asks me a question, and I hope he will allow me time to answer it.

Mr. LAWRENCE, of Ohio. I asked the gentleman a question and he is entitled to the time necessary to answer it.

Mr. ELDRIDGE. I will answer the question. The gentleman asks me whether the President had power, if the United States Army or the Government of the United States can make conquest of territory, to establish a provisional government in that territory. According to 9 Howard he can do so, and that government will continue until it is abrogated by Congress, or by a territorial government established by Congress. Now, sir, Congress

exercised a wise discretion in not rushing hastily through this matter, but in giving it due time and reflection.

Now, I think that that answers the gentleman fully. He asks me, however, in regard to a particular point, whether the President had the power to establish these governments or not. I will in reply say this: whether the President had the power or not, both General Grant and Mr. Stanton agreed with the President that it was necessary to have some government in the southern States; and the governments established under the authority of the President would exist until Congress should establish other governments there, which up to the present day Congress has not done. The President simply organized governments in those States, (which, if the gentleman's view that they are Territories be correct, the President has the right to do;) and those governments will stand until Congress shall change them. Congress has never yet dared to change those governments; and so far as that is concerned, although we have had reconstruction committees and all that sort of thing, those governments are to-day the only civil governments existing in those States.

Mr. LAWRENCE, of Ohio. Mr. Chairman, I have never claimed that those States were Territories. I have constantly denied any such doctrine. I have maintained that they are geographical States without lawful State governments, entited to have a republican form of Government guarantied to them by Congress, whose duty it is to provide by law for the establishment of permanent State governments.

The gentleman did not answer my question. I want to know whether, in his opinion, the President had power to appoint provisional governors—merely civil officers—when the Constitution says that he shall appoint no officer unless the office is first created by law? The gentleman is silent upon that subject. I want to know whether the President had power to set up provisional governments, not merely to be temporary, but with a view to create a permanent State government? The gentleman does not answer that question.

Mr. ELDRIDGE. I will answer the question. I never believed that the President had power to establish any such government in any organized and existing State of this Union. My own position has always been that those States exist within the Union; and that the people themselves—neither the President nor Congress—should reorganize their governments; that the loyal people themselves have the right to get together and set their State government again in motion. That is my position.

Mr. LAWRENCE, of Ohio. Then, Mr. Chairman, I am glad to find that my distinguished friend from Wisconsin agrees with me that these acts of the President are monstrous usurpations. I welcome him to the ranks of those who denounce the man at the White House as a usurper, a violator of the Constitution, and guilty of high crimes against the people of all the States.

Mr. ELDRIDGE. And, Mr. Chairman, I think, so far as that is concerned, that Congress and the President are *in pari delicto*—that they stand together as infamous usurpers of ungranted powers.

Mr. LAWRENCE, of Ohio. Mr. Chairman, there was one remark of the gentleman that I did not answer. He said that Congress had established no civil governments in these States. Congress has given validity to a State government in Tennessee. It has provided by law for the establishment of loyal State governments in all the rebel States; and under our laws State governments will be organized.

Mr. BOYER. Will the gentleman allow me to ask him a question?

Mr. LAWRENCE, of Ohio. Certainly.

Mr. BOYER. If the State governments which existed at the time the Thirty-Ninth Congress assembled were illegal, why was it that Congress neglected to take measures for substituting legal governments until near the close of the second session of that Congress?

Mr. LAWRENCE, of Ohio. I will answer that question. When we came here we found this work of the President on our hands. We immediately appointed a committee to investigate the question whether it was expedient to go to work to hedge in those State governments and throw guards around them, thus building upon the work of the President, or whether it was better to wipe all out and begin *de novo*. It took the Reconstruction Committee some time to report. They did not report, I believe, till June, 1866. It was a great subject, involving the establishment of governments over eleven States of this Union; and it was a subject worthy of grave and deliberate consideration. We tried for a time the plan of giving validity to those State governments by exacting constitutional amendments as conditions precedent to restoration. We tried to protect the loyal men in those States by our Freedmen's Bureau bill and the civil rights bill. But we found that all these efforts failed, and at last we were driven to the necessity of doing the work from the ground up, and providing by law for the establishment of new State governments.

Mr. BOYER. I have one more question to ask the gentleman, and that is whether he does not think if all these States had subordinated themselves to the doctrines of the Republican party, as did the State of Tennessee, Congress would have considered the work which had been done by the President of the United States lawful and proper enough to build upon, and upon which to have admitted representatives of those States, as Congress has done in the case of Tennessee?

Mr. LAWRENCE, of Ohio. Ah, Mr. Chairman, if the President had reconstructed those States in the form in which they ought to have been reconstructed I think Congress would have ratified his illegal work, but his crime and usurpation would have been none the less.

Mr. ELDRIDGE. Would Congress have adopted the crime?

Mr. LAWRENCE, of Ohio. No, sir; not the crime—they would have accepted its results—they would have made that lawful which was not lawful before.

I now resume my argument and proceed to notice other crimes of the President.

DISPENSING WITH THE TEST-OATH.

The act of Congress of July 2, 1862, provides that—

"Every person" * * * * * "appointed to" * * * * * "office" * * * * * "shall, before entering upon the duties of such office, and before being entitled to any of the salary thereof take an oath"—

known as the "test-oath," that he has not given aid to rebellion.

On the 5th of April, 1866, the President transmitted to Congress a communication from the Secretary of the Treasury, in which that officer says, in relation to appointments to office in the rebel States in 1865, that—

"As the country was passing from a state of war to a state of peace and the emergency seemed to be too pressing to admit of delay until the meeting of Congress, it was thought that the test-oath might, in view of the great objects to be attained, in some cases *be dispensed with;* or rather that persons might be permitted to hold revenue offices who could take it only in a qualified form. No one could have regretted more than yourself (the President) and the members of your Cabinet the necessity which existed for this course."—*House Executive Document* 81, first session Thirty-Ninth Congress; *and see Documents of first session Thirty-Ninth Congress; Senate Executive Document* 3; *Senate Executive Document* 38; *House Report*, 51.

Between April and December, 1865, the President appointed twenty-six officers of the customs, three collectors and six assessors of internal revenue, and one direct tax commissioner; and under the policy so authorized thirty-nine assistant assessors were appointed by the Treasury Department and permitted to enter on the duties of their offices, none of whom could or did take the test-oath. (*Ibid.* Evidence, 607, 34, 40.)

The Attorney General, concurring with the Secretary of War, that persons could not be lawfully "inducted into office without taking the test-oath," so advised the President, at least as early as August 19, 1865. (Evidence, 792.) But he took no steps to countermand the assent he had given to the appointment of rebels, and they *continued* to be appointed up to the time when Congress met in December. (Evidence, 661, Senate Executive Documents 3 and 38, first session Thirty-Ninth Congress.) And the President, though advised by Mr. Seward of the propriety of "submitting the facts to Congress," failed and refused, until compelled by the Senate resolution of December 13, 1865, to do so. (Evidence, 372, Senate Executive Document 3, first session Thirty-Ninth Congress.)

Congress has refused to modify the "test-oath," and experience has shown that no necessity existed for violating the law. (Report 51, House of Representatives, first session Thirty-Ninth Congress.)

The President, whose duty it was "faithfully to execute" the laws, *deliberately* determined to suspend their operation and disregard them. If he may do so the courts may equally do the same, and the law-making power will be a nullity.

For a similar offense James II was driven from the throne and lost his crown. The Declaration of Right was the result, affirming that the "dispensing power" had no legal existence in England, and law and liberty were thus secured "against the aggressions of future sovereigns." (2 Macaulay's History of England, 11, 601, 606.)

SUSPENDING CONFISCATION LAWS.

By the acts of Congress of August 6, 1861, and July 17, 1862, property used for insurrectionary purposes and of persons engaged in rebellion was liable to confiscation by proceedings in the courts. (12 Statutes, 319, 591.) It was the duty of the President to see these laws "faithfully executed," at least against some of the great leaders of the rebellion not relieved by pardon or amnesty, since the President can exercise no dispensing power over the laws. For one I would not desire any general confiscation; but the wisdom or expediency of legislation is to be decided by Congress, and the President has never yet recommended the repeal or modification of these acts. In May, 1865, the President ordered the Attorney General to enforce these laws. (Executive order of May 9; proclamation May 29; Senate Executive Document 26, first session Thirty-Ninth Congress; McPherson's Political Manual for 1866-67, page 8.) *But the President soon* changed his purpose and refused to perform his duty as marked out by law, because "he hardly considered it a proper policy," and proceedings instituted for confiscation were generally discontinued, including that against the notorious C. C. Clay. (Evidence, 553, 155, 421, 428, 550, 552, 448.) It is not pretended "that the courts would not enforce these acts." (Evidence, 552.) Confiscation would have brought millions from great offenders to the public Treasury. (Evidence, 152, 155, 428.) But the essential crime of the President is not so much in the loss to the Treasury, the consequent increased burdens on loyal citizens, the immunity afforded to rebels, but in the assumption of a power to dispense with the laws at his pleasure, and thus annihilate the will of the people as expressed by Congress. (Evidence, 152, 156, 428.)

FAILURE TO EXECUTE THE LAWS AGAINST TREASON.

The fact is also notorious that the laws for the punishment of treason have not in a single case been executed. The lapse of time will soon bar all prosecutions against every one of the great traitors within our jurisdiction, (1 United States Statutes, 119, section 32.) The Attorney General, on the 6th January, 1866, declared to the President that it was his "plain duty to cause criminal prosecutions to be instituted against some of those who were mainly instrumental in inaugurating and most conspicuous in conducting the late hostilities." (Senate Executive Document 7, first session Thirty-Ninth Congress; House Resolution, June 11, 1866.)

On the 4th of April, 1867, instructions were given by the Attorney General "to suspend all proceedings against C. C. Clay and not to make the arrest," and to dismiss all indictments for treason pending in [Maryland] based on acts committed by parties acting in a military capacity during the war." (Evidence, 449.)

And this policy has prevailed generally. (Evidence 510, 512, 549.)

This refusal to execute the laws cannot plead its early excuse that trials were impracticable, for the district attorney of Virginia testified that—

"There never has been any difficulty since I have been district attorney (July 1, 1863) in getting an impartial loyal jury in Virginia that would convict men against whom there was sufficient evidence of treason."—*Evidence 509, House Report 104, first session Thirty-Ninth Congress, 1; and see evidence of Chase, Underwood, and Evarts.*

If the President may execute the laws or not at his pleasure, then the law-making power is a practical nullity.

I pass over without comment the suspension for a time of the execution of the laws for the collection of taxes and of sales under the direct tax law in the rebel States. (Annual Report Secretary Treasury, December 4, 1865; 12 United States Statutes, 284, 422, 640; 13 Statutes, 501; 12 Statutes, 432, 713; 13 Statutes, 223, 469; House Executive Document 153, first session Thirty-Ninth Congress; 14 Statutes, 331.)

SURRENDER AND SALE OF GOVERNMENT PROPERTY.

The act of Congress of January 31, 1862, authorized the President to take military possession of railroads and rolling stock, and to use, extend, and repair them.

During the rebellion the Government seized railroads, including one at least constructed by the rebel confederacy, and expended on them for labor and materials $42,462,142 55, besides the work performed by soldiers. (Evidence, 152, 291; House Executive Document 1, first session Thirty-Ninth Congress; Report of General McCollum; Appendix to Report of Secretary of War, p. 38.) The Government built at the suggestion of Andrew Johnson, then military governor of Tennessee, many miles of the Nashville and Northwestern railroad, expending thereon $1,469,733 20, besides the labor of soldiers. (Evidence, 160, 192, 209, 213, 232, 1125, 1142, 163, 177, 498, 173; McCollum Report, 23.)

Upon the Nashville and Chattanooga railroad the Government expended $4,079,511 33. (Evidence, 1130–634.)

By capture in war the railroads constructed by the rebel government became the property of the United States. (Evidence, 550, &c.)

By virtue of the President's orders of August 8 and October 14, 1865, the railroads held by military authority of the United States in the insurrectionary States were "turned over" "to the owners," who had been generally rebels. (Evidence, 186, 203.)

This was unauthorized by any statute. Its purpose and effect were to surrender property which had cost the Government many millions, and it was contrary to the opinion of the Quartermaster General of August 9, 1864, who, in relation to the two Tennessee roads to which I have referred, said:

"I am of the opinion that the United States should retain possession of both roads." * * * * "The interests in these roads not settled by legal proceedings under the confiscation act should, it appears to me, be settled formally by legislation." (Evidence, 218, 1 Paine C. C. R., 646.)

And in May, 1865, General Thomas, then in command of Tennessee, declared "it was not right at that time to turn over the roads," and he refused to do so. (Evidence, 167.)

Under the same orders of the President, utterly without authority of law, the railroad rolling stock held by the Government by purchase, construction, or capture, was sold to southern railroad companies on a valuation, payable in equal monthly installments for two years, with interest at seven and three tenths per cent. per annum, amounting in all to $10,894,944 29, including sales to the Nashville and Northwestern Company for $525,400 26, and to the Nashville and Chattanooga Company for $1,566,551 73.

Mr. ELDRIDGE. Was that not done under the advice of the Secretary of War, Mr. Stanton?

Mr. LAWRENCE, of Ohio. No, sir; it was not.

Mr. ELDRIDGE. Did he not think it was all right for opening channels of communication and commerce throughout the country? And did he not tell the committee at the same time that it was costing millions to conduct these roads under the authority of the United States?

Mr. LAWRENCE, of Ohio. I insist once and for all time that advice given in violation of law is no justification for usurpation of power. But as a matter of fact I say that Secretary Stanton did not advise the executive orders of the President for the surrender of these railroads.

Mr. ELDRIDGE. I want to know from the gentleman from Ohio whether he denies the fact that Secretary Stanton said all that was with his advice and approbation.

Mr. LAWRENCE, of Ohio. I have no recollection of any such testimony.

Mr. ELDRIDGE. I tell the gentleman he will find it in the testimony that Secretary Stanton not only advised that but every step the President took on the subject.

Mr. LAWRENCE, of Ohio. I am sure that Secretary Stanton never advised the executive orders for the sale of these railroads. It is probable that he deemed it advisable to abandon military possession of them; but the President's orders contemplate a surrender which abandoned all claim on them.

Mr. BOYER. Was not the same thing done in reference to other railroads in which the President had no bonds and in which he had no interest whatever?

Mr. LAWRENCE, of Ohio. Certainly he did not limit his usurpation to a single road; he extended it wherever he could favor the rebels.

Mr. BOYER. Does not the gentleman know it was done first in reference to roads in which the President had no interest; and that the road in which he had an interest was long after the precedent had been established in regard to other railroads?

Mr. LAWRENCE, of Ohio. The two executive orders of the President extended to all railroads then in the military possession of the Government.

EXTENDING TIME OF PAYMENT.

But this is not all. On the 22d of May, 1866, the Nashville and Chattanooga Company owed the Government $1,564,836 99, on which the interest and installments due were $325,398 99. (House Executive Document 155, first session Thirty-Ninth Congress, 518, 241, 1125, &c.) The President was informed that this company had money "on deposit to meet interest on [its] bonds" which was sufficient to pay the "amount due the Government." (Evidence, 240.) But on the mere letter of request of John McClellan for M. Barnes, with no sworn or other evidence, the President, without any authority of law, ordered "that collection be suspended until further orders." (Evidence, 240.) I will not now inquire what might be done by military authority for military purposes, for no such power was invoked or exercised. By these acts the President, without law, disposed of the property of the nation of the value of many millions. His orders for that purpose were made only a few weeks before the assembling of Congress in 1865. His sales were carried on and his postponement of payment of money due the United States were while Congress was in session, yet he never consulted the law-making power or called attention to what he was doing.

One of his relatives was a stockholder in one of these roads, and was paid a liberal fee for sevices in getting the road "turned over." (Evidence, 169, 1124, &c.) The President himself prior to the rebellion and ever since was the owner of nineteen coupon bonds of $1,000 each, issued by the State of Tennessee for the payment of the principal and annual interest, of which the Nashville and Chattanooga Railroad Company was bound with a guarantee also by the State. (Evidence, 634, 643, Laws of Tennessee, 1851–52, page 82; Evidence, 1125, 163.) The interest had not been paid since about 1861. (Evidence, 634, 1130.) The result was the Government was not paid, but the long-deferred interest coupons of the President, amounting to over five thousand dollars, were, and his account had credit accordingly in the First National Bank of Washington, in May, 1866. (Evidence, 182.)

The President, in his executive order of August 8, 1865, made a provision applicable to no other State but Tennessee, which provided that—

"All railroads in Tennessee will be required to *pay all arrearages of interest due on the bonds issued by that State* prior to the date of its pretended secession from the Union, to aid in the construction of said roads before any dividends are declared or paid to the stockholders thereof."

The minority report of the Judiciary Committee, referring to these sales, says:

"There was no law for this, and every such sale was illegal. But every unlawful act is not a crime. Were these things done with intent to violate law and injure the Government? Even under the broad doctrine that a civil officer may be impeached for a common law crime these things must appear."—Page 99.

But I affirm that when an officer acts *without law*, or even in a mere ministerial capacity, but *having no discretion* under a law, the rule is not as stated.

Bishop says:

"When a man serves in a judicial or other capacity in which he is *called* [by law] *to exercise a judgment of his own*, he is not punishable for a mere error therein or for a mistake of the law. Here the act, to be cognizable criminally or even civilly, must be willful and corrupt."—*Criminal Law*, 913.

But he says:

"When a statute forbids a thing affecting the public," * * * * "the doing of it is indictable at common law."—535.

The same rule must exist when no law authorizes it.

I will not now stop to inquire how far the evidence establishes a corrupt purpose. If presidential edicts may take the place of law and dispose of millions of the people's earnings the President may sell the Navy or exchange our Territories for some barren island, and he will find apologists and defenders who will proclaim him guiltless of impeachable crimes.

One usurpation might invoke a charitable construction, but multiplied crimes can plead no such indulgence.

These instances of the surrender of Government property do not stand alone.

OTHER PROPERTY.

On the 8th of July, 1865, the President authorized the provisional governor of North Carolina to—

"Appropriate for the inevitable and indispensable expenses of the civil government of the State during the continuance of the provisional government" property "as well as funds lying about in different places in the State and elsewhere not reduced into possession by the United States officers as insurgent property."

And Government property to the amount of $100,000 was so appropriated, and other expenses of the provisional governments were paid directly from the Treasury of the United States. (Evidence, 770.)

This was not only without but in violation of law. (Act March 12, 1863, 12 United States Statutes, 820; Act July 2, 1864, 13 Statutes, 376; Evidence, 617, 681, 686, 383; Expenses of Provisional Government, 703, 704; Act of February 9, 1863, section 2; Debates in Congress thereon.)

I pass over the surrender of money, the proceeds of captured cotton, notwithstanding the act which provides for refunding only on the judgment of the Court of Claims. (Act March

12, 1863, 12 Statutes, 820; Act July 2, 1864, 13 Statutes, 376; House Executive Document 97, second session Thirty-Ninth Congress; Act March 30, 1867; Laws of 1867, page 283; Evidence, 36, 37, 41, 614, 816, 815; Senate Executive Document 37, second session Thirty-Ninth Congress; Debate in Senate December 11, 1867.)

SURRENDER OF PROPERTY OF FREEDMEN—VIOLATION OF LAWS.

During the rebellion four million slaves became free. The military authorities took possession of millions of acres of lands abandoned by their owners, and acquired the title to still more by confiscation and purchase at tax sales under the direct tax law. (Act July 16, 1866; 14 United States Statutes, 176, section 12; 12 Statutes, 319, 549; *and by succession or capture to lands owned by the rebel government*; Evidence, 551, 563; Act February 6, 1863; 12 Statutes, 640; Act July 16, 1866, section 6; 14 Statutes, 174; confiscation act July 17, 1862; 12 Statutes, 592; Evidence, 90, 95.) The Freedmen's Bureau act of March 3, 1865, set apart in tracts of forty acres for the use of loyal refugees and freedmen lands in possession of or owned by the Government to be enjoyed for three years on rent with a right of purchase thereafter. (13 Statutes, 507, Act July 2, 1864; Evidence, 90, 95.)

In many cases lands were "condemned" and thereby "became the property of the United States" prior and preparatory to a sale under the confiscation laws. (12 Statutes, 592, section 7; Act July 17, 1862; Evidence, 90.) These and other lands owned by the Government were claimed by circular No. 13, of July 28, 1865, of General Howard, Commissioner of the Freedmen's Bureau, for lease and sale to freedmen and refugees. (House Executive Document 11, first session Thirty-Ninth Congress; House Executive Document 120, first session Thirty-Ninth Congress; Evidence, 120, 88; Attorney General Speed's Opinions, June 22, September 14, 1865; Evidence, 791, 812.)

General Howard insisted that the President's pardon to rebels did not restore lands set apart for freedmen by law, nor apply to lands after a decree of condemnation or confiscation. (Acts March 3, 1865, and July 2, 1864, first session, chapter 225; House Executive Document 11, first session Thirty-Ninth Congress; Evidence, 88, 90, 97.) The President, however, determined and directed a circular to issue declaring that a pardon by special warrant or the amnesty of May 29, 1865, restored lands set apart to freedmen and lands "*condemned*" but not sold. (House Executive Document 11, first session Thirty-Ninth Congress, Evidence, 88; order August 16, 1865; Evidence, 124.) This was a palpable violation of the law declaring the freedmen should be protected in possession and of the confiscation law vesting title in the Government by decree of condemnation. (Act March 3, 1865, section four; 13 Statutes, 508; Evidence, 791, 795; volume seven, History of the Republic of the United States, pages 585–87, by John C. Hamilton.) It was against the protest of General Howard; was done without the advice of the Attorney General, and against his judgment. (Evidence, 88, 90, 99, 791.) By the President's authority real and personal property of the value of many millions were thus surrendered in violation of law and of the rights of refugees, freedmen, and of the Government itself. (Evidence, 124, 88, 97, 99, 100, 104, 111, 128; House Executive Document 99, first session Thirty-Ninth Congress.) The Sea islands, seized under General Sherman's famous special field order, and to which the circulars did not apply, were surrendered and the freedmen thereon settled were deprived of their rights. (Evidence, 111, 112, 116.)

And it would seem from the evidence that finally large amounts of land actually confiscated were surrendered in violation of law to rebels. (Evidence, 761, 1086.) The extent to which these violations of law proceeded may be imagined by the amnesty and pardon granted to rebels. (House Executive Document 99, first session Thirty-Ninth Congress; House Executive Document 31 and 116, second session Thirty-Ninth Congress; Evidence, 8, 53, 276, 465, 593; Amnesty Proclamation May 29, 1865.)

ABUSE OF THE VETO POWER.

The President may lawfully exercise the veto power, and yet if he exercise it from corrupt motives or for corrupt purposes it is a high misdemeanor. (3 Benton's Abridgement of Debates of Congress, 274.)

It is almost impossible to read the evidence and official documents in relation to the veto of the bill for the admission of Colorado into the Union on the 12th January, 1866, without finding the conclusion irresistable that the President attempted to bribe to the support of his policy the Senators-elect from that new State as a condition of his approval of the bill, and failing in that, refused it his sanction against his convictions of duty and after he had "expressed himself in favor" of the admission of the proposed State into the Union. (Act of Congress, March 21, 1864; Senate Executive Document 10, first session Thirty-Ninth Congress; volume 69 Congressional Globe, part I, for 1865–66, page 210; Evidence, 20, 23, 979, 541, 618.)

His other vetoes were scarcely less unjustifiably employed to accomplish the usurpations of which he is guilty.

ABUSE OF THE APPOINTING POWER.

The appointment of provisional governors is among the most palpable of his usurpations having no color of law to authorize it. (Senate Executive Document 26, first session Thirty-Ninth Congress; volume 59 Globe, June 1862, pages 2477, 2596; 12 Statutes 646, 502, section two; Acts February 9, 1863, and July 2, 1862; Evidence, 35, 40.)

His attempt to control the "general order" business to reward favorites in disregard of his duties to recommend measures to relieve commerce of unnecessary burdens is scarcely less reprehensible. (9 Statutes, 53; Act 6, August 1846, section 1; Act March 1, 1823; section 3, House Reports 30, second session Thirty-Ninth Congress, 78, 81; Evidence, 15.)

His abuse of the power of removal from and appointments to office is unparalleled in our history. (Senate Executive Document 38, first session Thirty-Ninth Congress; also second session Thirty-Ninth Congress Senate Executive Documents 14 and 32; House Executive Documents 67 and 96; House Report 30, second session Thirty-Ninth Congress, pages 78, 93; Evidence, 333, 384.)

His refusal to send to the Senate for confirmation or rejection the names of persons appointed to office, and his reappointment of others after rejection by the Senate are grave indignities at least. (Documents, second session Thirty-Ninth Congress, House Executive Document 67, pages 9, 12, 13, 20, 22; House Executive Document 96; Senate Executive Documents 14 and 32; page 22; Evidence 71, 82, 333, 336, 663, 472, 497.)

POWER TO DECLARE PEACE.

By the proclamation of April 2, 1866, the President assumed a power not conferred by any act of Congress to declare that—

"The insurrection is at an end, and is henceforth so to be regarded."

The power to declare war is one of the high powers of Congress.

By the laws of nations a state of war may follow flagrant war, during which the law-making power may continue the exercise of military authority. The "reconstruction acts" of Congress now authorize this over the rebel States, and its termination depends on the authority of Congress. Yet this power the President has attempted to assume and exercise himself. If this be tolerated it will act as a precedent for dangerous encroachments on the powers of Congress. It was an attempt on the part of the President to withdraw from Congress the right which he had exercised himself of maintaining martial law over the rebel States and thus to deny the power and defeat the efficiency of the "reconstruction acts."

THE LAW OF IMPEACHMENT.

And now I proceed to inquire—upon these facts is the President by the established law of the land *impeachable*?

I have already given some views to the public on "the law of impeachment" and I do not propose to go into a full discussion of it now. (American Law Register, September, 1867, volume 6, N. S., 641.)

It is generally assumed and for the purpose of this discussion I will say that the Constitution declares that the President is impeachable for "treason, bribery, or other *high crimes and misdemeanors*."

At the time the Constitution was adopted, and ever since in England and all the original States of the Union, what is known as the "*common law*" and "common law crimes" existed, and yet exist, in addition to crimes defined by statute; and this is so in all the States except Ohio, and perhaps two or three others. The common law makes almost every act criminal which—

"Mischievously affects the person or property of another, or openly outrages decency or disturbs public order, or is injurious to public morals, or is a breach of official duty."—*Wharton's Criminal Law*, section 3.

In addition to their technical, legal signification, the words "*crime*" and "misdemeanor" have a "*popular*" or "*parliamentary*" and a "*moral*" sense. (4 Blackstone, 5 note by Christian.)

In the parliamentary sense misdemeanor is misconduct, misbehavior, maladministration. By the Constitution judges "hold their offices during *good behavior*." When good behavior ceases, their right to office ceases. Impeachment is the only remedy by which it can be ascertained. It is competent to perform its purpose without the aid of a statute, and no act of Congress can destroy or impair the power thus given. But unless the term "misbehavior" is construed, as in English parliamentary history, in the popular sense, the power of impeachment is nugatory. In the moral sense crime or misdemeanor is violation of moral or religious duty.

Now, if the Constitution uses the words "crimes" and "misdemeanors" *only* to designate offenses made *indictable by act of Congress*, then the President may not be impeachable.

But if the Constitution includes not only *statutory* crimes, but (besides treason as defined in the Constitution, and bribery at common law) also *other* common law crimes and misdemeanors of a high grade, then the President is *impeachable*, for he has by his usurpations violated the highest law of the land—the Constitution; he has violated acts of Congress other than penal, and this is crime at common law.

Bishop says:

"When a statute [or the Constitution] forbids a thing affecting the public, but provides no penalty the doing of it is indictable at common law." (535 [349] 187 [84.]) "Whenever the law statutory or common casts on one a duty of a public nature, any neglect of the duty or act done in violation of it is indictable."—*Criminal Law*, 537 [350], 913.

For the purposes of the impeachment we are now considering it is enough to say the words of the Constitution "high crimes and misdemeanors" include common law as well as statutory offenses. But the Constitution, according to its true interpretation, goes further, using the words "high crimes and misdemeanors" in the "parliamentary" sense, which includes crimes by statute, crimes by the common law, and crimes against the State or nation by maladministration or misconduct, provided the act committed or duty omitted be such as by modern parliamentary usage and the judgment of the civilized world rises to the dignity of a "*high* misdemeanor."

And this is as definite and no less latitudinarian than the common law itself, which is "the perfection of reason" as determined by courts. For even in England not *all* common law

offenses are impeachable, but only such of them (along with others not indictable) as by parliamentary usage or popular sense rise to the dignity of "*high*" misdemeanors, and of this the House of Lords are the sole judges. (Peck's Trial, 10 Selden, Judicature in Parliaments, 6; 2 Hale P. C., 275; Barclay's Digest, 140.)

But it is maintained that only crimes or misdemeanors are impeachable; that "common law crimes are not indictable in the courts of the United States" and are therefore not crimes within the meaning of the Constitution, and hence that "common law crimes will not sustain an impeachment." (Minority Report, 78.)

I reply to this:

1. It is conceded that common law crimes were impeachable in England. The words "high crimes and misdemeanors" in our Constitution are copied from the British constitution. (6 American Law Register, 645.)

They therefore mean here what they were understood to mean in England, for it is a rule of interpretation, that where foreign statutes or phrases are adopted into our constitutions or laws, "the known and settled construction" thereof "has been considered as silently incorporated into" them. (6 American Law Register, 646, note; 3 Wheaton, 610; 1 Wood & Minot, 448; Minority Report Judiciary Committee, 76.)

The Constitution contains inherent evidence of this. By it "treason, bribery, and other high crimes and misdemeanors" are impeachable. "Treason" is defined in the Constitution; "bribery" is not; and it therefore means what the common law has defined it. As the Constitution thus itself resorts to the common and parliamentary law for the definition of its terms, the words "high crimes and misdemeanors" are to be interpretated by the same codes. They are as completely included as though every crime had been specifically named. Whatever by the common law was treason and which is not covered by the definition in the Constitution which defined it for the ordinary courts, is still impeachable crime so far as applicable to our institutions.

These general views are supported by the opinions of the framers of the Constitution, by contemporaneous construction, by usage, and by the opinions of every jurist in America who has written upon our Constitution or laws, until within the last year, during which a wisdom hitherto unknown has discovered that the sages of the law have all been mistaken—that nothing is impeachable unless made indictable by act of Congress, and this new-born heresy is now promulgated for the first time to shield from merited justice an offender whose crimes are unequaled in the annals of impeachment. (6 American Law Register, 653.)

The clauses of the Constitution which declare that a party impeached shall be "liable to indictment"—that "the trial of all crimes except in cases of impeachment shall be by jury"—that the President shall have power to grant "pardons for offenses against the United States except in cases of impeachment," are all either parts of or modifications of the British Constitution—they recognize statutory and common law crimes as a portion but not all of the impeachable offenses here as they were and are in England. (Minority Report, 63.)

II. *The reason which denies jurisdiction of common law crimes to the courts of the United States does not apply to impeachments.*

By the Constitution the trial for crimes must be had in the State and district where committed. (Article 6 Amendments.) By the Judiciary *Act of September* 24, 1789, the Supreme Court is restricted to holding sessions at Washington. (1 Statutes-at-Large, 73.) By the Constitution the judicial power of the United States is vested in the Supreme Court and such *inferior courts* as Congress may establish. (Article 3, section 1; article 1, section 10.)

It was held as early as 1812 that the circuit and district courts of the United States, being the "*inferior courts*" established by Congress, could exercise no common law criminal jurisdiction. This doctrine was reaffirmed in 1816 by a divided court, and has never been authoritatively decided since. (United States *vs.* Hudson, 7 Cranch, 32; United States *vs.* Coxlidge, 1 Wheaton, 415; 1 Gallis. Reports, 488; United States *vs.* Lancaster, 2 McLean's Reports, 431; Washington Circuit Court Reports, 84; United States *vs.* Ravara, 2 Dallas, 297; United States *vs.* Worrall, 2 Dallas, 384; United States *vs.* Maurice, 2 Broek., 96; United States *vs.* New Bedford Bridge, 1 Woodbridge & Minot, 401; United States *vs.* Babcock, 4 McLean, 113–115.)

This ruling has been disapproved by the ablest commentators on constitutional and criminal law—by Story and Rawle and Bishop and Wharton. (1 Bishop's Criminal Law, third edition, 163, [20;] Act of Congress of September 24, 1789, sections 9–11; Statutes 1842, chapter 188, section 3; Du Ponceau on Jurisdiction.)

The denial of common law criminal jurisdiction in these inferior courts rests solely on the reasons that such tribunals being created *not by the Constitution*, but by *act of Congress*, they—

"Possess no jurisdiction but what is given them by the power that creates them;"

and that—

"There exists no definite criterion of distribution [of jurisdiction] between the district and circuit courts of the same district."

And that common law—

"Jurisdiction has not been conferred by any legislative act."

And it is said that the Supreme Court alone—

"Possesses jurisdiction derived immediately from the Constitution, and of which the legislative power cannot deprive it."—7 *Cranch*, 33.

Where, therefore, a common law jurisdiction is conferred by the Constitution on a court created by that instrument, it is one "of which the legislative power cannot deprive it." (7 Cranch, 33.)

And this is precisely what the Constitution has done as to impeachments; it has created the court for their trial—the Senate; it has given that body jurisdiction of *all* "crimes and misdemeanors" impeachable by parliamentary usage, and no law can limit it. And this view has been sustained by Story and Rawle and Kent, *after* and *in view* of the decisions referred to. (6 American Law Register, 656.)

III. *Common law crimes do exist, they are indictable, and jurisdiction of them has existed in the courts of the United States for two thirds of a century, in the District of Columbia, where the President's offenses were committed.* (1 Bishop on Criminal Law, section 167, [22;] Du Ponceau on Jurisdiction, 62–73; Kendall *vs.* United States, 12 Peters, 524–613; United States *vs.* Watkins, 3 Cranch, 441.)

The highest authority on criminal law in this country says:

"There must in reason and in legal principle be in those localities where State power is unknown common law crimes against the United States. Especially this exception must in reason extend to all matters which concern our intercourse with foreign as well as to all local transactions beyond the territorial limits of the several States. The law of nations and the law of the admiralty concerning both civil and criminal things would seem therefore to have been made United States common law." * * * * "And so the United States tribunals would appear to have common law cognizance of offenses upon the high seas not defined by statutes, and of all other offenses within the proper cognizance of the criminal courts of a nation, committed beyond the jurisdiction of any particular State."—1 *Bishop on Criminal Law*, section 165, [21.]

The act of Congress of February 27, 1801, extended and continued in force over the District the common and statute law of Maryland where common law crimes existed, and organized a circuit court with the jurisdiction conferred on circuit courts of the United States by section eleven of the act of February 13, 1801. (2 United States Statutes-at-Large, 92; 2 Statutes, 103–105, sections 1–3.)

The criminal court organized by act of July 7, 1838, had the same criminal jurisdiction. (5 Statutes, 306.)

The supreme court of the district, organized by act of March 3, 1863, has the same jurisdiction of the prior courts thereby abolished. (12 Statutes, 762, section 3.)

That jurisdiction is conferred in these words:

"That" * * * * "said courts" * * * * "shall have cognizance of all crimes and offenses cognizable under the authority of the United States."—2 *Statutes*, 92, act February 13, 1801.

The whole legal theory upon which the President's defense rests is swept away by this incontrovertible array of authorities.

IV. *The doctrine that nothing is impeachable unless indictable by act of Congress is impracticable.*

1. Kent says:

"The inviolability of any officer of Government is incompatible with the republican theory as well as with the principles of retributive justice."—1 *Commentaries*, 289.

And Story says offenses against the nation—

"Are of so various and complex a character, so utterly incapable of being defined or classified, that the task of positive legislation would be impracticable if it were not almost absurd to attempt it."—1 *Commentaries on the Constitution*, section 797.

2. If only offenses indictable by act of Congress are impeachable the President and all civil officers will escape impeachment for many of the highest crimes. Murder, arson, robbery, and other crimes committed in a State are indictable by State laws, but cannot be made so by act of Congress. Upon this theory a highway robber may be President and follow his vocation, bidding defiance to impeachment.

PARLIAMENTARY CRIMES IMPEACHABLE.

It has been said that in England—

"The law was settled after the most extended and prolonged discussion in favor of the doctrine that the court of impeachment must administer the same law as the criminal court."—6 *American Law Register, N. S.*, 266, *citing cases of The Earl of Clarendon in* 1667, 6 Howell State Trials, 346; *The Earl of Orrery in* 1669, 6 Howell State Trials, 917; *Sir Adam Blair and others in* 1690, 12 Howell State Trials, 1213; *Inigo Jones*, 4 Hatsel Precedents, 132; *The Earl of Macclesfield*, 1725, 16 Howell State Trials, 823; *Lord Melville*, 1806, 29 Howell State Trials, 1470.

In other words, it is claimed that there can be no impeachment in England except for a true crime recognized by the common law or by act of Parliament. That is sufficient for the impeachment of the President. But even this position is contradicted by sound reason, by the elementary authorities, by numerous cases of impeachment in England and the United States, and is not supported by the cases cited. (6 American Law Register, 648.)

Impeachment is a protection to the nation against wrongs endangering its safety. These cannot be measured solely by the definition of crimes against individuals. The Constitution in adopting it made it equal to every emergency calling for its exercise—capable of reaching usurpation, which the President's last message tells us—

"Is the most dangerous of political crimes. By that crime the enemies of free government in all ages have worked out their designs against public liberty and private right. It leads directly and immediately to the establishment of absolute rule; for undelegated power is always unlimited and unrestrained."

The Constitution has made the Senate, like the House of Lords, *sole judge* of what the law is, assuming their wisdom to be equal to that of the common law courts. (2 Hale's P. C., 275; Barclay's Digest, 140; Constitution, article one, section three.) This is necessarily so; for though *some* statutory and common law crimes are impeachable, yet *not all* of them are, and the Senate decides which are and are not. It is said if the impeachable crimes are not defined by law the power of impeachment will be undefined and dangerous. The power to determine impeachable crimes by the Senate is no more undefined than the power of the common law courts to determine common law crimes. Impeachment is regulated by principles as well defined and permanently settled as the fundamental and eternal doctrines of right, reason, and justice pervading the parlia-

mentary jurisprudence of civilized nations, and like the common law, it has emerged from primeval errors, and adapted itself to an advanced civilization. The danger of imperiling the safety of nations in measuring parliamentary law by the rule which defines wrongs to individuals is infinitely greater than the evils which can flow from recognizig the law of impeachment as a parliamentary system resting upon its own solid foundations.

The rule which allows impeachments for indictable acts enables the legislative department or the Senate alone to declare trivial offenses impeachable while the parliamentary law limiting impeachable offenses to misdemeanors affecting the nation is less latitudinarian and attended with less danger of abuse. When impeachment is employed to remove officers for willful violations of the Constitution or laws, for exercising the powers of Congress or the Judiciary for performing acts affecting the nation unauthorized by law, for refusing to execute laws requiring that duty, for a perversion of lawful powers to accomplish unconstitutional objects—these are—

"Offenses as tangible and as capable of being measured by fixed rules as any felony defined in the criminal laws."—*New York World.*

And now I proceed to consider some of the authorities.

Selden says:

"Upon complaints and accusations of the Commons the Lords may proceed in judgment against the delinquent of what degree soever, and what nature soever the offense be. For where the Commons complain the Lords do not assume to themselves *trial at common law.* Neither do the lords, at the trial of a common impeachment by the commons, *decedere de jure suo,* (depart from *their own law.*) For the Commons are there instead of a jury, and the parties answer, and examination of witnesses are to be in their presence, or they to have copies thereof; and judgment is not to be given but upon their demand, which is instead of a verdict, so the lords do only judge not try the delinquent."—*Selden's Judicature in Parliaments, London,* 1681, page 6.

Judge Peck in the answer to his impeachment, said:

"In the digested report of the committee of the House of Commons, which follows the report of the arguments of the managers who conducted that impeachment, (against Warren Hastings,) it will be seen, too, that in the estimation of that committee, the proceedings of courts of law furnish no rule whatever for the proceedings in an impeachment, the latter being governed by no other law or custom than the *lex et consuetudo parliamenti,* which left the House at perfect liberty to pursue the great ends of justice untrammeled by any other rules than those which reason and public utility prescribe."—*Peck's Trial,* 10; *see* 2, *Hale P. C., chapter* 20, *page* 150; 6, *Howell's State Trials,* 313, 316, 346, *note; note to Lord Capel's case,* 4 *Howell State Trials,* 12, 13; *Case of Earl of Danley, A. D.* 1678; 11, *Howell State Trials,* 650.

It is conceded that—

"Cases can" * * * * "be found wherein parliament has exercised this high power" * * * * "and convicted persons upon charges not indictable."—*Minority Report Judiciary Committee,* 68; 3 *Howell's State Trials,* 844; 4 *Howell,* 13; 6 *American Law Register,* 648.

It is said this doctrine has been abandoned in England. Cases decided in England *since* the adoption of our Constitution cannot limit the powers it confers. But no case can be found in England which limits impeachment to crimes indictable by common law or act of Parliament. The power of impeachment for offenses against the State has been distinctly and continuously maintained. I proceed to notice some of the cases relied on to controvert this.

The case of the *Earl of Clarendon* sustains the position I have maintained. On the 10th July, 1663, the Earl of Bristol, without any action of the Commons, presented to the House of Lords "articles of high treason and other misdemeanors" against the Lord Chancellor. One was—

"That being in places of high trust, &c., he hath traitorously and maliciously endeavored to alienate the hearts of his majesty's subjects from him by words of his own," * * * * "that his majesty was inclined to popery, and had a design to alter the religion established in this kingdom."

The statute 13, Charles II, chapter 1, provides that if any person shall maliciously affirm the king to be a heretic, a papist, or that he endeavors to introduce popery every such person shall be disabled to hold office, &c.

The Lords ordered the Chief Justice and judges to—

"Consider whether the said charge hath been brought in regularly and legally, and whether it may be proceeded in, and how, whether there be any treason in it or no."

The judges reported that they did not consider the question whether the impeachment could be proceeded in or not *if it came from the Commons,* but as the statute of I Henry IV, chapter fourteen, provides that "all appeals of things within the realm shall be tried and determined by the laws in the court," articles of impeachment could not be preferred "by the said earl or any private person," that appeals meant "accusation by single persons." The judges then say:

"That there was *no treason* in the charge though the matters in it are alleged to be *traitorously* done. The great charge" * * * * "was that he did traitorously and maliciously to bring the king into contempt, and with an intent to alienate the people's affections from him say, &c." * * * * "And in like manner was most of the articles upon which the character of treason seemed to be fixed. I said that it is a *transcendent misprision or offense* to endeavor to bring the king into contempt or to endeavor to alienate the people's affections from him, but yet it was *not treason.*" * * * * "We did not meddle with anything concerning accusing him of *misdemeanor.*"

And so the Lords resolved concurring in all these opinions. (6 Howell's State Trials, 318, 346.)

The Commons afterward presented articles of impeachment.

November 16, 1667, Sir R. Howard in discussing the heads of charges in the Commons said:

"Though common law has its proper sphere it is not in this place; we are in a higher sphere."

November 11. The Commons resolved to impeach, and notified the Lords, and demanded that Clarendon be sequestered from Paliament and committed. (6 Howell, 395.)

The Lords refused until the articles should be presented; and before the question was settled Clarendon escaped to the Continent, and the Statute 19, Charles II, chapter 10, of December 12, banished him.

The Lords, therefore, decided nothing.

Among the articles agreed on in the House were these:

IX. That he introduced an arbitrary government in his majesty's plantations, and hath caused such as complained thereof before his majesty and counsel to be long imprisoned for so doing.

XI. That he advised and effected the sale of Dunkirk to the French king, being part of his majesty's dominions, together with the ammunition, artillery, and all sorts of stores there, and for no greater value than the said ammunition, artillery, and stores were worth.

XVII. That he was a principal author of the fatal counsel of dividing the fleet about June, 1666.

The case of the Earl of Orrery proves nothing as to the law.

November 25, 1669, a petition was presented in the House of Commons charging the Earl with—

"Raising moneys by his own authority upon his majesty's subjects, derauding the king's subjects of their estates. The money raised was for bribing hungry courtiers to come to his ends, and if the king would not he had fifty thousand swords to compel them."

The Earl answered in person and denied the charges. Then—

"The question being propounded, that a day be appointed for the accusers to produce witnesses to make good the charge." * * * * "It was negatived 121 to 118."

It was then resolved—

"That the accusation against the Earl of Orrery be left to be prosecuted at law."

It never was prosecuted. (6 Howell's State Trials, 915.)

Sir Adam Blair was impeached in 1690 by the Commons—

"For dispersing [distributing] a seditious and treasonable paper printed and entitled 'A Declaration of King James II."

On the question whether articles of impeachment should be preferred, Mr. Hawles said:

"I do not think this to be a plain case of treason by statute 25 Edward III. I do say no court can judge this offense to be treason; and *that statute did plainly not bind the superior court of Parliament* but the inferior only. The proper way is to judge this high treason; and therefore I am for proceeding by impeachment."

And it was resolved to impeach of high treason.

April 7, 1690, he was admitted to bail, and at the next session of Parliament he was discharged from bail.

Here was a case in which there was clearly no treason under the statute, and yet the Commons resolved that he should be impeached and so far decided that he was guilty of an *impeachable,* though not an *indictable* crime, and which they called treason; adopting the idea prevailing at the time as to constructive treason, but which might as well have been simply called an impeachable misdemeanor. (12 Howell's State Trials, 1213.)

Thomas Earl of *Macclesfield,* Lord High Chancellor of England, was tried in May 1725, before the House of Lords on articles of impeachment charging that he—

"In the office of Chancellor did illegally and corruptly insist upon and take of divers persons great sums of money in order to and before their admission into their offices of master in chancery," to which he appointed them.

The answer was that the sums of money received were presents—

"Reckoned among the ancient and known perquisites" * * * * "and never before looked upon to be criminal" * * * * "that the giving or receiving a present on such occasion is not *criminal in itself,* or by the *common law* of the realm, and that there is not any *act of Parliament* whatsoever by which the same is made criminal or subject to any punishment or judgment."

Replication that "the charge of high crimes and misdemeanors is true."

In the argument it was insisted by the managers that the acts complained of violated the statutes of 5 and 6 Edward VI, chapter 16, against selling offices, and violated the oath prescribed by statute 12 Richard II. (Moor, 781, Stockwith & Worth.)

But as a question of parliamentary law it was asserted and not controverted that acts may be *impeachable* which are not indictable by common law or act of Parliament.

Mr. Sergent Pengelly, May 21, 1725, said:

"Your lordships are now exercising a power of judication reserved in the original frame of the English constitution for the punishment of offenses of a public nature which may affect the nation, as well in instances where the inferior courts *have no power to punish the crimes* committed by the ordinary rules of justice, as in cases within the jurisdiction of the courts of Westminster Hall, where the person offending is by his degree raised above the apprehension of danger from a prosecution carried on in the more usual course of justice; and whose exalted station requires the united accusation of all the commons of Great Britain by their representatives in Parliament.

"This high jurisdiction may be exercised for the preservation of the rights of the Lords and Commons against the attempts of powerful evil ministers who depend upon the favor of the Crown; or it may be put in execution for the ease and relief of a good prince whose honor has been betrayed by a corrupt servant, and yet whose clemency makes him unwilling to punish; so that it becomes necessary for his faithful Commons to take into their care the protection of such an offender.

"Former reigns have supplied your journals with many examples of the first kind. The present reign produces an instance of the latter sort, wherein the Commons bring before your Lordships in judgment a peer offending with the greatest ingratitude against a most just and most merciful sovereign."—6 *State Trials,* (Hargrave,) 733.

And again it was said:—

"My lords, if the *misdemeanors* of which the Earl impeached stands accused were not *crimes* by the *ordinary rules of law* in *inferior courts* as they have been made out to be, yet they would be *offenses* of a *public nature* against the *welfare* of the *subject* and the *common good* of the kingdom, committed by the highest officer of justice and attended with so great and immediate loss to a multitude of sufferers, and as such they would demand the exercise of the extraordinary jurisdiction vested in your *judication* for the *public safety* by virtue whereof your lordships can inflict that degree and kind of punishment which no other court can impose." Page 746; 6 State Trials, (Hargrave) 477, London 1777. Same case, 16 Howell's State trials, 823; and see 4 Campbell's Lord Chancellors, 536; 15 (sixth N. S.) American Law Register, 266.

He was convicted.

And yet, sir, we have been incorrectly informed that in this case

"Not one of the several able managers for the Commons pretended to claim a conviction in the absence of proof of an indictable crime."—*Minority Report, Judiciary Committee*, 73.

Lord Melville was impeached before the Lords in 1806 for that, as treasurer of the navy, he had used the public money for purposes of private gain, prior to and since the statute of June, 1785. (25 George III, chapter 31.) It was conceded that he had properly accounted for all money; that he had properly paid all demands upon him as treasurer; that it had even been down to a certain period—

"Irreproachable to those who exercised that office to make use of the public money which passed through their hands."—*Asperne's Report*, 6.

There was no complaint of any public act "against the welfare of the subject or the common good," or subversive of any fundamental principle of government.

He could not, therefore, be impeached unless he was indictable at common law, or had violated a statute, to do which is by the common law indictable. The managers insisted that his conduct was an offense at common law, and since the statute of June, 1785, a violation of that act. (Asperne's Report, 138.)

He denied the charges. After hearing evidence, questions were put to the judges:

1. Whether moneys issued from the exchequer to the credit of the treasurer of the navy in the Bank of England may be lawfully drawn therefrom by him for the purpose of paying bills actually drawn upon the treasurer, but not yet actually presented; and whether money so drawn may be deposited with a banker until the payment of such bills, and for the purpose of paying them; or whether such acts are in law a crime or offense.

Answer. The judges answered that such drawing and deposit of money were lawful and no crime.

2. Whether moneys issued from the exchequer to the credit of the treasurer of the navy in the Bank of England may be lawfully drawn therefrom by him to be ultimately applied to navy services, but in the mean time, and until required, for the purpose of being deposited with a private banker in the name and under the control of his (Melville's) private clerk.

Answer. The judges answered that if the object of drawing the money from the Bank of England was to deposit it with a private banker, it was not lawful, although intended to be and in fact ultimately applied to naval service; but if so deposited *bona fide* as the means or supposed means of more conveniently applying the money to naval services, the money may be lawfully drawn.

3. Whether it was lawful for the Treasurer, before the statute 25, George III, chapter 31, (and especially as his salary had been augmented by the king's warrant in full satisfaction of all wages, fees, and profits,) to apply money impressed to him for naval services to any other use whatever, public or private, and whether such application would have been a misdemeanor punishable by information or indictment. The judges answered it was not unlawful, so as to constitute a misdemeanor punishable by information or indictment.

The form of these questions implies that Melville had not used the public money for private purposes *since* the statute of 25 George III, chapter 31, and it was not at common law a misdemeanor to do so *prior* to the statute.

The case was one not calling for any decision of the general question whether an act to be impeachable must be indictable, nor was any such proposition discussed. The lords decided he was *not guilty*.

Mr. Chairman, gentlemen have asked with an air of triumph that some case should be pointed out where an act not indictable has been held impeachable.

I will name some:

On the 8th of July, 1797, the Senate of the United States resolved that William Blount was guilty of a "*high misdemeanor*," although he was not guilty of an indictable crime. (6 American Law Register, N. S. 649–667.)

If the views of the minority of the Judiciary Committee on the impeachment of the President are correct, Judge Pickering was impeached and removed, though not guilty of a a crime by common or statute law. (Minority Report, 66.)

The first charge against Judge Humphreys was for advocating secession in a public speech December 29, 1860, which was no crime by common or statute law, and yet he was impeached and removed. There was no rebellion then and no "confederate" government. (4 Cranch, 75; 1 Dallas, 35; 2 Wallace, jr., 139; 2 Bishop, Criminal Law, 1186, 1204; 23 Boston Law Reporter, 597, 705: 1 Bishop, 514; Burr's Trial, Coombs' Edition, 322.)

Judge Addison was impeached in Pennsylvania in 1802, though Chief Justice Shippen had declared him not guilty of any indictable crime. (6 American Law Register, 664 n., 674 n.)

The books present numerous cases of crimes held impeachable which were not indictable. Upon this law and with these facts before us the President is guilty of high crimes and misdemeanors deserving impeachment. An appeal has been made to this House to vindicate the national honor and declare that an attempt to subvert the Government cannot avoid the penalties of the Constitution. Hastings escaped conviction, but not a patient trial for his crimes. Andrew Johnson, more criminal but more fortunate, has escaped a trial; in the haste to relieve him, almost without debate or hearing, his crimes have been ignored, and his triumph over Congress is complete.

Like Hastings, he will pass into history condemned and detested forever. I will not calculate the consequences of our failure to remove the President. It leaves him in the exercise of power to embarrass or defeat reconstruction on a loyal basis under our laws. It turns over to oppression, outrage, and wrong the entire loyal people of the South. It revives the hopes and may permanently establish in power the rebels and traitors who sought to destroy the nation. If the President, in the license of his unrestrained ambition and usurpation, shall not in the next presidential election disregard our laws and recognize elections and electoral votes cast under the State governments of his creation, and inaugurate revolution and bloodshed to accomplish his purposes, the nation will be spared calamities and perils the consequences of which we cannot foresee.

PRESIDENT'S MESSAGE.

Mr. ELA. Mr. Chairman, it may be presumptuous in me at this time to address the House; but the attempt of the President to put this Congress before the country, as he does in his message, as persistent violators of the Constitution, in their measures for the reconstruction of the rebel States, induces me to attempt an examination into the facts. The allegations of the President are that—

"To dictate what alterations shall be made in the constitutions of the several States; to control the elections of State legislators and State officers, members of Congress, and electors of President and Vice President, by arbitrarily declaring who shall vote and who shall be excluded from that privilege; to organize and operate all the political machinery of the States, these are powers not granted to the Federal Government or to any of its branches. If the authority we desire to use does not come to us through the Constitution we can exercise it only by usurpation, and usurpation is the most dangerous of political crimes.

"The acts of Congress in question are not only objectionable for their assumption of ungranted power, but many of their provisions are in conflict with the direct prohibitions of the Constitution."

What I now propose is to examine the acts both of the President and of Congress, and the authority upon which they are based, and see who, in the language of the President, has been guilty of this most dangerous of political crimes—the usurpation of ungranted powers. The duty and authority of the President I find in section three of the second article of the Constitution, as follows:

"The President shall from time to time give to the Congress information upon the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient;" * * * * "he may, on extraordinary occasions, convene both Houses, or either of them; he shall take care that the laws be faithfully executed."

Here is not to be found one word about lecturing Congress, or lecturing State Legislatures, or appointing provisional governors over States, or authorizing conventions to alter the constitutions of States, or determining who might vote or who might not vote in the several States, or in any manner whatever authorizing him to exercise legislative duties. Yet since the close of the armed rebellion the President has done all these things. He has done all, and more than all he charges Congress with having done. He issued a proclamation on the 29th day of May, 1865, from which I make the following extract:

"I, Andrew Johnson, President of the United States and Commander-in-Chief of the Army and Navy of the United States, do hereby appoint William W. Holden provisional governor of the State of North Carolina; whose duty it shall be at the earliest practicable period to prescribe such rules and regulations as may be necessary and proper for convening a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the Constitution thereof; and with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State to restore said State to its constitutional relations to the Federal Government."

And when he issued this proclamation, he said he did it—

"In obedience to the high and solemn duties imposed on me by the Constitution of the United States."

Tell me, you men on this floor, if any there be who support the President, where he found the right to exercise legislative powers at all, much more the right to go into a State and appoint over it a provisional governor, an officer unknown to the Constitution? What right had he to order a convention to make a constitution for a State in this Union? What right had he to say who should compose a convention to alter a constitution for a State? Tell me what right he had to say, as he did, who should vote and who should not vote in the State of North Carolina any more than he would have the right to go into the State of Pennsylvania and say who should vote there? What right had he to tell the convention of North Carolina, as he did in his "executive order" of October 18, 1865—

"That every dollar of the debt created in aid of the rebellion against the United States should be repudiated finally and forever?"

Had he any more right to tell North Carolina what debts she must repudiate than to tell her what debts she must pay? Had he not the same right to tell New York what debts she might repudiate and what she might pay? What he did to North Carolina he did to South Carolina, Georgia, Alabama, Florida, Mississippi, and Texas.

In the case of Virginia, he issued on the 8th day of May, 1865, an "executive order" recognizing the "Peirpoint administration as that of the State of Virginia." Now, where did he get the right to recognize this Peirpoint administration which was an illegitimate sort of a bantling got up and maintained over the river in Alexandria? Where in the Constitution is to be found the authority to recognize any twenty men who get up a government, after the fashion of old John Brown, for the State of Virginia, by an "executive order?" And where in that Constitution he scattered so profusely did he find the authority to telegraph from the "executive office," as he did to Governor Murphy, of Arkansas, on the 20th of October, 1865, that—

"There will be no interference with your present organization of State government?"

Not content with what he did himself, he calls to his aid the Secretary of State, who writes on the 1st of November, 1865, to Provisional Governor Marvin, of Florida, that the President—

"Directs me to say that he regards the ratification

by the Legislature of the congressional amendment of the Constitution of the United States as indispensable to a successful restoration."

This is not all. He wrote down from his "executive office" to his executive satrap in Mississippi August 15, 1865:

"I am gratified to see that you have organized your convention without difficulty. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all colored men who own real estate valued at not less than $250 and pay taxes thereon, you would completely disarm the adversary and set an example the other States will follow."

Shade of Moses! Is this the man who is now filled with horror because Congress, in the legitimate exercise of its constitutional authority, adds to the classes above named the men who had fought beneath the Union flag and earned their right to the ballot, and those who were our allies during the war and are now willing to fight and be taxed to maintain the Union. Ay, it is the same man who stands self-condemned in the message I am now considering as guilty of "usurpation, the most dangerous of political crimes." Again, the message declares:

"These acts of Congress totally subvert and destroy the form as well as the substance of republican government in the ten States to which they apply."

The whole message proceeds upon the assumption that the rebel States are, and always have been, in the Union, with all the rights, powers, and duties of States. If this doctrine be true they have now, and always have had, the continuous right to representation in Congress; and while these States were represented in the confederacy and were raising money and men, as States, to destroy the Government, they could have kept their representatives here to aid their allies upon this floor in preventing the raising of men and money to save it.

On these points I quote the President against the author of this message. While the message charges Congress with destroying the form as well as the substance of republican government in ten States, the President on the other hand declares it was done by some one else, and not by Congress. In the proclamations which he issued to the ten rebel States "in obedience to the high and solemn duties imposed on him by the Constitution of the United States"—I quote from the one addressed to North Carolina—he said:

"Whereas the rebellion, which has been waged in the most violent and revolting form, has in its revolutionary progress deprived the people of the State of North Carolina of all civil government, therefore I, Andrew Johnson," &c.

Nothing here about Congress. It is the "rebellion" which has destroyed the civil governments in ten States, and made it necessary for some power to come to their aid for reorganization. No one has pretended that they were ever territorially out of the Union, or that the people ceased to owe allegiance to the United States, or to be liable to punishment for crimes committed against its sovereignty. I said Congress, by the exercise of its legitimate powers, had regulated the right of suffrage in the rebel States because they occupied the position of States covered by people without any civil government, and the Constitution had made it the duty of Congress to guaranty to each State so situated a republican form of government.

When these States entered the confederacy they destroyed the old State governments under which they had lived within the Union. They made fealty to the Union treason to the confederacy. They declared all who would not swear fealty to the confederacy public enemies. They confiscated their property and drove them outside the rebel lines. As refugees they came to the North by thousands, stripped of their property and in destitution. They have now returned to the South, and with the loyal men they left behind, black and white, are now reconstructing those States in the interests of freedom and not of slavery, of loyal men and not of rebels, which may account for the vindictiveness toward them.

The people of the rebel States did not go into the rebellion as individuals in insurrection against the Government, volunteering their services and contributing their individual means, so that when the insurrection was put down the Government would resume its rightful powers. They acted as organized States, destroying the old State constitutions by changing them to the forms required by the confederate government, and under them using the great State powers of taxation and conscription to raise men and money. And when, under the lead of Grant, we crushed out the rebel armies and the rebel State governments and the confederate government, the people of the ten rebel States were left without any civil organizations. Now what was to be done in this condition of affairs? Turn to the Constitution and see what that directs. Article four, section four, says:

"The United States shall guaranty to every State in this Union a republican form of government."

The question then arises, who are the United States, for the performance of this duty and all other legislative duties? Why, most plainly a majority of Congress, with the approval of the President, or a majority amounting to two thirds of both Houses of Congress without the sanction of the President. If there could be any doubt about the matter it is settled by article one, section eight of the Constitution, which provides that—

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any department or officer thereof."

There stands the constitutional warrant for the action of Congress in the matter of reconstruction, clearly defined, and without the shadow of a doubt. Believing the people the source of all political power they have provided that all the people who have not forfeited their political rights by adding perjury to the crime of treason shall have a voice in the creation of the government under which they are to live. In the liberality of their action they have excluded only the "leading enemies of free institutions;" following the advice of the President when he said to Governor Morton and the Indiana delegation:

"If a State is to be nursed until it gets strength it must be nursed by its friends, not smothered by its enemies."

And again, when as military governor of Tennessee—the only way and the only time he ever had any right to govern a rebel State—he said in a speech at Nashville:

"I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship, and sought to destroy our Government. If there be but five thousand men in the State of Tennessee loyal to freedom, loyal to justice, these men should control the work of organization and reformation entirely."

But now how changed! This man has now become the active aider of rebels; is using the power and patronage of the Government to prevent restoration, and to crush out the men to whom he promised to be a Moses. It is an abuse of language and an insult to common sense to talk about these States during the war as being within the Union and having the rights of States under the Constitution. Andrew Johnson did not believe it or act upon it. Nobody believed it during the war, or at the close of the war. The rebels themselves did not believe it, and an honest rebel would have scorned to claim such a right.

A stranger would suppose from reading the message and hearing the speeches of those who champion the rebel cause on this floor that Congress had deliberately and wantonly stripped the great mass of the whites of the South of the privilege of the ballot to give it to the freedman, when probably not fifty thousand of all the rebels in all the South are to-day deprived of the right of suffrage. The census tables of 1860 show the whites in a large majority in the States that went into the rebellion, while in only two States, South Carolina and Mississippi, are the blacks in a majority. To show this I have given the table:

States.	White population.	Colored population, slave and free, including Indians.
Alabama	526,271	486,930
Arkansas	324,143	111,307
Florida	77,747	62,677
Georgia	591,550	456,736
Louisiana	357,456	350,546
Mississippi	353,901	437,404
North Carolina	629,942	462,680
South Carolina	291,300	412,408
Tennessee	826,722	283,079
Texas	420,891	183,324
Virginia	1,047,299	539,049
	5,447,222	3,666,110

Here is a white population exceeding the black by 1,781,112, and after deducting every disfranchised rebel will amount to a majority of near a million and three quarters. And yet when the surly rebels cling to the "lost cause" and will not vote, the message talks about Congress subjecting States to negro domination. It is the fear of a Union majority and not of negro supremacy that stirs the gall.

There is another matter which might or might not mislead a stranger. It has seemed strange to me that while I have been a member of this House no measure favorable to Union men and freedmen has failed to get the united opposition of this side of the House, which claims to be Democratic, while every measure bearing against rebels is also sure to get their opposition. During the war there seemed to be the same fatality, which made them oppose all measures which sent dismay to the ranks of the rebel army, and even their generals seemed to be possessed with it to the extent of even catching those who had escaped from work on rebel fortifications and sending them back, so the rebels would not get short of help. They all seemed just as determined during the war to keep the negroes in slavery as a commissary department to furnish feed for the rebel army and cotton to send abroad for clothing and ammunition as they now do to keep them in ignorance, destitution, and servitude to rebels, without the rights of citizens or a ballot to protect them. If I am to make any mistake in this matter I want to make it in favor of our allies in the fight and not against them.

This message is full of the spirit of the rebellion, wicked in its assumptions, and reckless in its statements. With unblushing effrontery it charges upon Congress acts of usurpation of which the President is alone guilty. In its own language he is guilty of "habitual violation of prescribed rules;" has "set at naught the standard of civil duty;" "swung from the moorings of conscience, and yields up to every impulse of passion and interest." He plies the arts of the demagogue with all the skill of an old practitioner; but neither the sophisms or effrontery of the message can save its indorser, if not its author, from condemnation in its own language as guilty of "usurpation, the most dangerous of political crimes." Nearly a column of the message is devoted to proving that because the negro has been doomed by slavery to ignorance he must not be allowed the rights which belong to a state of freedom. It ill becomes the man who was himself born to ignorance and poverty to kick down the ladder by which he advanced, and add ingratitude to the crime of usurpation. By law condemned to ignorance while in a state of slavery, the negroes of the South have shown as much aptitude for learning in a state of freedom and have made more advancement in education than the poor whites from whom the President sprung. If they are so weak in purpose and inferior in ability surely thirty millions of the strong race need not fear four millions of the weak. If they have capacity, why not give them the opportunity to develop it? It may be wrong to taunt men with a want of that which God denied them, but I cannot forget to remember with what mortification I

read of the interview between the President and the once Maryland slave, Douglass, when the marked superiority of the escaped slave should have made the President, if no one else, forever silent on the subject of negro inferiority.

In this message and in a multitude of ways the President has made assertions, insinuations, and statements intended to excite the prejudices and passions of the foreign-born voters against the native-born voters of the South. If I could speak with a voice to reach the voters of this land I would say to them, beware of being governed by prejudice. Remember that a blow struck at the humblest voter is a blow aimed at you all. When you require a property qualification of a black man it is a precedent to require it of a white one, and a blow aimed at every poor man and his descendants. When you make the test of education for the negro it is a precedent to shut out all not born under favoring circumstances to get knowledge. If you demand that he shall read and write it may be demanded that you shall do it understandingly before you may have a voice in the Government under which you are to live and which, it may be, owes its very existence to your services. Especially to the foreign-born voter would I appeal. Driven many of you by governmental persecutions from the homes of your ancestors you come here to enjoy rights and privileges there denied you. Copy not here the oppression and persecutions toward the freedmen which drove you from your native land. It may be the means of driving them from their sunny homes in the South to divide with you the scanty loaf which labor now receives at the North. Beware how you persecute them lest you drive them from their homes and have to compete for labor with men who know by sad experience how to live upon a peck of corn and two pounds of bacon a week, with a scanty covering of rags. Rather aid them with your votes and keep them where they now are. Elevate labor everywhere. Make it both respectable and profitable, that you and your children in this the land of your adoption may enjoy its fruits.

One or two points more and I have done. The President charges that—

"Already the negroes are influenced by promises of confiscation and plunder."

Who has promised them confiscation? On the 9th of June, 1864, Andrew Johnson, in his official capacity as military governor of Tennessee, stood up before the people of that State, black and white, and declared—

"These leaders must feel the power of this Government. Treason must be made odious, and traitors must be punished and impoverished. The great plantations must be seized and divided into small farms."

And now, when he undertakes to hold Congress responsible for the doctrines which he taught to the negroes of Tennessee, I say to him as he said on that occasion to the surrounding rebels:

"Thou canst not say, I did it; never shake
Thy gory locks at me."

And I suggest to the gentleman from New York [Mr. CHANLER] and the gentleman from Wisconsin [Mr. ELDRIDGE] that instead of wasting all their thunder at the old commoner from Pennsylvania they direct a part at the White House, where they are supposed to have some influence.

It may turn out that he was right. The rebel element in the South are now persecuting the Union men, and pursuing a course toward the colored men whom they have peeled for generations that would make such a course justifiable. The rebel owners of the land had justly forfeited it by their treason. It had been brought under cultivation by the unpaid labor of the slaves who were our allies in the fearful struggle. At the close of the war and since they have been peaceable and thrifty citizens, eager to obtain knowledge. Without homes and without lands of their own they have produced from the rightfully forfeited lands of rebels not only the means whereby they live but the means whereby these unrepentant rebels are able to live and oppresss them. For exercising the rights of suffrage as independent freemen they have been persecuted and driven from their humble homes, creating suffering that would soften hearts of stone. The eviction of the Irish peasants from the cots of their fathers by the English landlords was humanity itself compared with the treatment now meted out to colored men in some localities. If it is not stopped I may be compelled to adopt the doctrine of the President and take the justly forfeited great plantations of persistent and unrepentant rebels for soldiers' bounties. It would be wholesome punishment richly deserved. But why follow this matter further? The President is constantly charging upon Congress the acts of which he is himself guilty, and provokes the remarks he so aptly applied to another:

"Whenever you hear a man prating of the Constitution, spot him; he is a traitor."

To show how utterly reckless this message is in statement let me contrast two paragraphs. He says of reconstruction:

"It has cost uncounted millions already, and if persisted in it will require a strong standing army and probably more than two hundred million dollars per annum to maintain the supremacy of negro governments after they are established."

With every probability that these States will be reconstructed upon the congressional plan by the 1st of July next he deliberately makes up his estimates of the whole expense of the War Department for every and all purposes for the year following that date, as follows:

"The total estimates for military appropriations are $77,124,707, including a deficiency in the last year's appropriations of $13,000,000."

Was ever a reckless statement more clearly shown up than one statement from this message shows up the falsity of the other? I have not been able to find the items of expense of reconstruction in the rebel States. The Freedmen's Bureau for eleven months expended $3,597,397. In the first military district about $250,000 were expended by military, registration, &c. In the third, $162,325 were expended for registration and matters connected therewith. In the other districts I do not find the amounts. But take the largest sum for each district and double it, and add the whole cost of reconstruction, with the Freedmen's Bureau included, is less than eight million dollars for the year, making the whole cost of reconstruction by Congress less than the amount turned over to rebels by the President, almost without consideration and without law.

The expense to the nation of the Freedmen's Bureau has always been a fruitful theme with the President, with rebel sympathizers, and all the friends of slavery. The report of General Grant makes its whole cost for eleven months ending the 1st of September last $3,597,397 65. For the full year at that rate it would amount to $3,924,423 80. The compensating advantages of the bureau, apart from its aid to education and furnishing the destitute of all colors, in consequence of the small crops of last year in the South, was that it answered the purposes of capital. The close of the war found the South with its capital invested in the confederacy destroyed, and desolation in the track of the armies. The planters had land, but no money to pay for labor. The negroes had labor, but no money to buy land. The planter had no faith that the freedman would give him constant labor. The freedman had no faith in getting his pay if he trusted the planter. The course of the rebels toward immigrants kept out capital, and it seemed as though that whole section was doomed to lay waste. In this state of affairs the Freedmen's Bureau was established. It said to the freedmen, go to work on shares or trust, and we will see that you get your pay. It said to the planter, employ the freedmen and they shall not leave you when you most need their labor to save the crop. What was the result? The world was astonished at the amount of our cotton crop. We drove China and Japan cotton from the English market. Egypt next back to raising grain, and Brazil to raising coffee. The Royal Bank of Liverpool, which was holding up the India cotton merchants, failed for $10,000,000, and cotton cloths went from fifty to fifteen cents a yard. We raised at least seven hundred and fifty thousand bales of cotton more in consequence of the confidence established between the planters and the freedmen, worth more then than a hundred million dollars, and the tax upon which, at three cents a pound, amounted to more to the Government than the whole cost of the bureau, saying nothing of the benefits to the people, to manufactures, and to trade both foreign and domestic.

One item more and I am done. This usurper, who has been dictating to States how they shall organize and whom they shall allow to vote; who has seized the revenues of the State and passed it over to rebels; whose hands are red with the blood of patriots shed at New Orleans by rebels with whom he was in correspondence and sympathy, now suggests what other dreadful things the Executive may be compelled to do if Congress should pass some act against his sovereign pleasure, coupled with ifs and buts, which insinuate what he dares not utter.

I have heard before of his feelers thrown out to get the pulse of the people; how in 1866, when swinging round the circle, filled with the spirit of conservatism, he declared "Congress was a revolutionary body hanging on the verge of the Government, and assuming to be a Congress of the United States;" how his New Hampshire adviser and counselor (Burke) declared, in the spirit of his master, "they should expiate their monstrous crimes upon the scaffold."

Sir, I come from a State the bones of whose soldiers are buried beneath most of the battlefields where freedom was won and nationality secured—a State whose flag has never yet been disgraced by cowardice—and I say to the President and his tools that her representatives are not to be intimidated by his implied threats. I tell him further, if the day shall ever come when he attempts what he insinuates, but dares not utter, that if the chief of rebels goes unhung, the chief of usurpers will not.

I know not what further trials God in His infinite providence may have in store for this nation, but whatever they may be I have an abiding confidence that He will give us strength and courage to meet them as shall become freemen and the representatives of freemen.

INDIANA COURTS.

Mr. KERR. Mr. Chairman, I had the honor the other day to submit for the consideration of this House, in the form of a bill, the request of a large portion of the people of Indiana for an increase in the facilities for the administration of justice in the Federal courts in that State. I now beg the indulgence of the House while I state the reasons and facts on which that application rests.

The subject is one which should always challenge the most cheerful and favorable attention of the representatives of the people. Justice should not only be guarantied to the citizens in the set formula of the written Constitution, but they should be supplied with appropriate tribunals for its most convenient, cheap, and speedy administration. If these do not exist, the law-making power should create them. If tribunals do exist, but are so inaccessible to large portions of the people that resort to them is attended with expense which destroys the value of the remedy when obtained, the great purpose of courts of justice is substantially defeated. Justice may thus be practically denied to the people.

In the early history of our country, and until the last few years, the domestic courts of the States have given the most complete, satisfactory, and speedy protection to their citizens, except in the very inconsiderable class of cases which belonged exclusively to Federal jurisdiction. But since our late and most terrible civil war commenced there has been to a great extent a redistribution of judicial power in our country. There has been to a still greater extent an increase in the jurisdiction and busi-

ness of the Federal courts. Our new and exceedingly complicated system of internal revenue, and our still more recent but not less complicated and expensive system of bankruptcy, have increased many times the business of the Federal courts. All the vast interests arising out of those systems, affecting more or less directly and materially nearly every citizen of the Republic, are committed to the exclusive control and adjudication of the Federal courts. Then the powers and duties of those courts are still further enlarged by the numerous acts of indemnity enacted by Congress to protect certain classes of persons from punishment for certain offenses and wrongs committed during the war under color of authority. This class of cases usually gets into the Federal courts from the State courts by transfer upon petition, or writ of error or mandate. Every member of this House, whether he be a lawyer or not, will at once appreciate the vast extent of the increase of the business of those courts by reason of the legislation to which I refer. It has been so great as to effect quite a revolution in the character of the litigation which is adjudicated by those courts.

These changes demand at the hands of Congress a most careful revision of our Federal judicial system. They impose a necessity for an increase in the number of judges and courts in some States, and for an increase in the number of courts alone in others, with a view especially to the more convenient territorial arrangement of the courts for the accommodation of the people and the cheapening of justice. In order, for example, that the bankrupt law shall become practically available and useful to the debtors or creditors of the country, it is necessary that its already too expensive machinery shall be brought nearer home to the people. It is at best one of the most complicated and expensive laws for the regulation of the important interests of debtors and creditors ever known to the history of our legislation. As is often the case, and many times without any fault in the law, this system is so expensive as that its provisions for the relief of debtors are often absolutely beyond the reach of poor and honest bankrupts, who have already surrendered all their estates to their creditors, and thus a most unjust discrimination is made in favor of the dishonest debtor, who may have withheld from them enough of his means to pay for obtaining his final discharge from the payment of any of his debts. These difficulties can be very greatly reduced by a judicious increase of the courts and the terms of the courts in which such matters can be adjudicated.

There is another source from which has very recently arisen a very important increase in the business and exclusive jurisdiction of the Federal courts. It is not the result of any late congressional legislation, but may, perhaps, be justly considered as in part, at least, attributable to a kind of judicial legislation by the Supreme Court. But it is no part of my presept purpose to criticise or consider the propriety or legality of that jurisdiction. It is declared by the highest judicial tribunal in the land to exist, and I therefore concede it. The fact that it does exist is that to which I invite the attention of the House, because it vitally affects in an exceedingly important and somewhat local sense the great interests of commerce as carried on by the aid of the important natural highways of the West. It affects some of the most important interests of my own immediate section and constituents. The entire southern border of Indiana is washed by the Ohio river. Upon its banks are several of the most enterprising and prosperous cities in the State. Two of these are in the district I have the honor to represent, one just above and the other below the falls of the Ohio. The material interests and commerce of the people of southern Indiana, and especially from the falls of the Ohio westward and southward, are very largely connected with that river. Our mechanics, who are equal in intelligence, enterprise, and skill to any in the country, are largely engaged in the construction of steamboats and water-craft of all kinds, including the floating palaces that traverse the waters of all the navigable rivers of the West and South. Other and not less meritorious classes are engaged in the practical management of all such vessels as common carriers of persons and property, contributing very greatly by their capital, enterprise, and intelligence to develop the material resources, enlarge the commerce, and hasten the general progress of the country.

Out of the extensive and diversified business thus more or less directly connected with the Ohio river innumerable and important contracts and controversies arise, many of which become the subjects of litigation. Heretofore nearly all such litigation has found convenient tribunals and speedy settlement in the courts of the States. But now all such contracts and controversies as are proper matters of admiralty jurisdiction under late decisions of the Supreme Court can only be litigated in the Federal courts. Jurisdiction over them is denied to the State courts and held to be absolutely exclusive in the District courts of the United States. Thus great numbers of suitors are driven from the local courts to seek remedies in remote Federal courts, or to give up all remedy and suffer injustice. The Constitution declares—

"The judicial power shall extend" * * * "to all cases of admiralty and maritime jurisdiction."

The judiciary act of 1789 declares that—

"The district courts shall have, exclusively of the courts of the several States," * * * "cognizance of all civil causes of admiralty and maritime jurisdiction."

It will not be inappropriate here to inquire briefly what is meant by the expression, "admiralty and maritime jurisdiction." In its most general sense it refers to that kind of jurisdiction which at the common law was exercised by certain courts over torts, contracts, and offenses which arose or were committed upon the high seas within the ebb and flow of the tides and outside the body of any county. It embraced the torts, contracts, and crimes which are necessarily connected with and arise out of that kind of business and commerce which is transacted upon the water and lacks the element of exclusive locality upon land, and therefore, by reason of their very nature, could not be assigned for adjudication to the courts within any prescribed territorial limits. Hence, following the analogies of the common law the framers of our Constitution considered it proper to commit the regulation of this kind of jurisdiction to Congress. It was no doubt intended thereby merely to confer upon Congress the power to regulate and protect those interests of the citizens of the country generallly which are in their origin external, and therefore not susceptible of local regulation and control by the States.

In the spirit of these views the Supreme Court of the United States, in the cases decided by it prior to 1851, held that it had no jurisdiction over cases of the kind mentioned if they arose above the ebb and flow of the tides. These decisions, therefore, left to the exclusive control and regulation of the States the vast interests of their citizens in connection with the very extensive commerce carried on upon the inland waters of the country. There soon grew up in all the States whose citizens were to any extent engaged in such commerce, and particularly in all the States of the West and South extensive and well adapted systems of law and practice for the protection of the interests and adjudication of the rights of their citizens arising out of that commerce. The extent of these interests and of the controversies and litigation arising out of them can only be fully realized by a careful contemplation of the vast increase of inland navigation resulting from the use of steamboats and the rapid development of wealth on the borders of the rivers.

But in 1851, in the case of the Genesee Chief, (12 Howard R., 457,) all of the previous decisions limiting the admiralty jurisdiction of the Federal courts to tide-water were overruled by the same court, and the broad doctrine declared that that jurisdiction extends where ever ships float and navigation successfully aids commerce, whether internal or external. That case arose out of a collision between two vessels on Lake Ontario. Its doctrine has been many times affirmed by the same court in subsequent cases. In some cases this jurisdiction has been exercised by Federal courts in the avowed execution of State statutes, and not under any claim of a general common law power in these courts to such a jurisdiction.

It was not, however, in any of the cases prior to 1866, decided by the Supreme Court that the jurisdiction of the district courts in admiralty and maritime cases arising on our inland rivers was exclusive of the jurisdiction hitherto constantly claimed and exercised by the State courts. On the contrary, it was either not denied or it was in terms conceded, that the jurisdiction of the State courts over all such cases was concurrent with that of the district courts of the United States. The State courts along our western rivers have, therefore, continued to exercise uninterrupted, if not unquestioned, jurisdiction in such matters. Being always conveniently accessible to suitors engaged in such commerce, they have afforded more prompt and satisfactory remedies than more remote Federal courts could do. I cannot persuade myself that the denial of their jurisdiction is not a great public misfortune to the people of the country, whether that denial be legal or illegal. Their jurisdiction has been acquiesced in and approved for more than half a century, and the beneficent results of its exercise greatly promoted the prosperity and happiness of the people.

But it is now denied and declared never to have had any legal existence. By a sweeping edict of superior judicial power and construction it is absolutely annulled and destroyed. In the cases of the Moses Taylor, from California, and The Hine *vs.* Trevor, from Iowa, the Supreme Court of the United States, in December, 1860, decided that—

"1. The admiralty jurisdiction, to which the power of the Federal judiciary is, by the Constitution, declared to extend, is not limited to tide-water, *but covers the entire navigable waters of the United States.*

"2. The original jurisdiction in admiralty exercised by the district courts, by virtue of the act of 1789, *is exclusive not only of other Federal courts, but of the State courts also.*

"3. And that, therefore, State statutes, relating to western inland rivers, which attempt to confer upon State courts a remedy for marine torts and marine contracts, by proceedings strictly *in rem. are void,* because they are in conflict with that act of Congress.—4 *Wallace Reports,* pp. 411, 555.

Mr. Chairman, it will be readily seen and fully appreciated by the House to what a radical extent the jurisdiction of the State courts has been divested and that of the Federal courts extended and enlarged by the course of decisions to which I have referred. It will also be seen how important it is to the interests of the people that Congress shall give thought to the duties imposed upon it by these great changes. The immediate increase of the Federal courts in the vicinity of the great water highways of the West is demanded, if not made imperative by them in order to accommodate the new jurisdiction and business of those courts, most of which will arise out of the commerce on those highways. That business will always be essentially local in its origin, and it will be imposing onerous and unjust hardships upon the classes interested in it to require them to seek their remedies in remote courts, holding their sessions at points in the States distant from the great water-courses.

It is important in another view that these courts shall be speedily increased. The inevitable effect of the decisions cited by me is to open a wide field for judicial disagreements and conflicting constructions between the Federal and the State courts as to what particular cases and classes of cases belong to admiralty and maritime jurisdiction, and must therefore be tried in the Federal courts. It is safe to assume that fifty years of judicial decision and interpretation will not suffice to fully define the boundaries between the two jurisdic-

tions. The citizens of the States will naturally prefer, as being the cheapest and most convenient, to go into their domestic courts for redress. Opposing litigants will quite as naturally seek to defeat the jurisdiction of those courts in order to secure delay and other advantages, real or supposed. If it were practicable, therefore, it is certainly desirable that the Federal courts should be made as accessible to the people as the local courts are.

Mr. Chairman, the bill I had the honor to present proposes to establish a Federal court at the city of New Albany, Indiana, with two terms a year. It does not ask the creation of a new district or the appointment of an additional district judge. The present judge is competent to hold four, or if needs be six, terms of his court annually. It is done by judges in several other States where terms of the district courts are required by law to be held at different points. Such is the case in Tennessee, in which there are three districts, and courts are held in each of them by one judge. The same is the case in the States of Michigan, Texas, Alabama, and others, in each of which two or more districts exist and all the courts are held by one judge.

At present the only States in which more than one Federal court, with more than two termsa year, are provided for are indicated in the following table; together with the number of district courts, of terms, of judges, and of Representatives in Congress:

	Dists.	*Judges.*	*Terms.*	*Reps.*
Maine	1	1	3	5
New Hampshire	1	1	4	3
Massachusetts	1	1	4	10
Rhode Island	1	1	4	2
Vermont	1	1	3	3
Connecticut	1	1	4	4
New York	3	3	29	31
New Jersey	1	1	4	5
Pennsylvania	2	2	8	24
Delaware	1	1	4	1
Maryland	1	1	4	5
Virginia	1	1	4	0
West Virginia	1	1	6	3
North Carolina	1	1	6	0
South Carolina	1	1	4	0
Georgia	2	1	6	0
Florida	2	2	6	0
Alabama	3	1	6	0
Louisiana	1	1	7	0
Texas	2	1	3	0
Arkansas	2	1	4	0
Tennessee	3	1	6	8
Kentucky	1	1	8	9
Ohio	2	2	6	19
Illinois	2	2	4	14
Michigan	2	1	5	6
Wisconsin	1	1	3	6
Missouri	2	2	5	9
Iowa	1	1	3	6
California	1	1	3	3
Oregon	1	1	3	1
Nevada	1	1	3	1

It thus appears that the State of Indiana, with a territory extending from Lake Michigan to the Ohio river, with a population of nearly two millions, and with an immense commerce, both internal and external, has but one district court with but two terms a year, held only at the capital, in the geographical center of the State. The foregoing table shows that many other States, with less population, less area, less commerce, and less representative strength, have twice or thrice as great Federal court facilities as the great State of Indiana.

In conclusion, therefore, and as a matter of paramount importance and of simple justice, in behalf of the people of southern Indiana, I appeal to this House to pass the bill which I have introduced. It will very greatly promote the public welfare as affected by the administration of justice in that State, and will occasion the most inconsiderable addition to the expenses of our judicial system. Besides, I am authorized to tender to the Government the use without charge of the necessary court room and offices for the holding of a Federal court at New Albany so long as they may be desired by the Government; and I can safely assure the House that there is not in that State a more complete or creditable court building than the one of which the use is so tendered. The city of New Albany possesses a population of over twenty thousand, and is now, and is destined to become in a still greater degree, a point of great commercial importance. Its location at the foot of the falls of the Ohio renders its commercial growth inevitable.

Mr. BAKER obtained the floor, but yielded to

Mr. LAWRENCE, of Ohio, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FARNSWORTH reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had concurred in the resolution of the House that when the two Houses adjourn on Friday, the 20th instant, the President of the Senate and the Speaker of the House of Representatives shall declare their respective Houses adjourned until Monday, the 6th of January next.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 143) to provide for changing of names of persons in the District of Columbia; when the Speaker signed the same.

CONTESTED ELECTION.

The SPEAKER presented to the House additional testimony in the contested-election case of McGroaty *vs.* Hooper; which was referred to the Committee of Elections, and ordered to be printed.

EXTRA COMPENSATION.

The SPEAKER laid before the House a communication from the Postmaster General, in reply to a resolution of the House of the [illegible]th instant, relative to the amount of the twenty per cent. allowance to the clerks in his Department for the year ending June 30, 1867; which was referred to the joint Committee on Retrenchment, and ordered to be printed.

ISSUE OF LAND PATENTS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a draft of a bill relating to the issuing of land grants to certain Indian tribes; which was referred to the Committee on Indian Affairs, and ordered to be printed.

And then, on motion of Mr. SHANKS, (at five o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of John Baggs, of Whitesville, Harris county, Georgia, praying for compensation for losses.

By Mr. ELIOT: A memorial of the "representatives of the yearly meeting of the religious society of Friends in New England," representing their early interest in the welfare of the Indians, and praying for the enactment of just laws for their protection.

By Mr. LAFLIN: The petition of Joseph W. Hitchcock, of Ellisburg, Jefferson county, New York, for an increase of pension.

By Mr. PAINE: The memorial of the directors of the Taylor Orphan Asylum of Racine, Wisconsin.

By Mr. ROBINSON: The petition of Edward Cavendy, United States Navy, for compensation for invention of tripod for taking zenith observations at sea, &c.

By Mr. SCHENCK: The petition of American citizens and others at Buenos Ayres, praying for the extension of the United States and Brazil steamship line from Rio de Janeiro to Buenos Ayres and Montevideo.

IN SENATE.

MONDAY, *December* 16, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

Hon. WILLIAM SPRAGUE, of Rhode Island, appeared in his seat to-day.

THE CURRENCY.

Mr. MORRILL, of Vermont. I perceive that there is an error in the Journal. My motion on Friday in relation to Senate bill No. 148 was to postpone it until Monday; but as the shortest way of reaching the object of making the correction I move that the Committee on Finance be discharged from the consideration of the bill (S. No. 148) to raise the value of legal-tender notes to par, which will restore it to the table, and effect the same object that the correction of the Journal would.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, transmitting a draft of a bill providing for the issuing of patents to the band of Me-shin-go-me-sia, for the lands embraced in the Miami Indian Reservation in Indiana, with copies of a report of the Acting Commissioner of Indian Affairs of the 12th instant in relation to the subject; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Treasury, communicating a draft of a section of an act approved July 4, 1844, with a view to its application to all suits or proceedings against collectors or other officers of the revenue; which was referred to the Committee on Finance.

LAWS OF COLORADO.

The PRESIDENT *pro tempore* laid before the Senate copies of general laws, joint resolutions, memorials, and private acts, passed at the sixth session of the Legislative Assembly of the Territory of Colorado, convened at Golden City on the 3d day of December, 1866; which were referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a petition of the manufacturers of saddlery, harness, carriages, &c., of the eighth district of Ohio, praying the removal of the present tax of five per cent. upon their sales; which was referred to the Committee on Finance.

Mr. HOWE presented additional papers in the case of O'Neill and McKinney, praying to be paid for wood furnished the Government under a contract; which were referred to the Committee on Claims.

Mr. POMEROY presented the petition of Mrs. Rebecca V. Senor, mother of James H. Senor, late a private company F, twenty-fifth Missouri volunteers, praying that she may be granted a pension; which was referred to the Committee on Pensions.

Mr. EDMUNDS presented resolutions of the Legislature of the State of Vermont, relative to the establishment of a line of mail steamers to Liberia; which were referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of the State of Vermont, requesting the Representatives and Senators in Congress from that State to use their influence for a modification of the national banking laws so as to permit local taxation of bank stock by the various municipalities where the shareholders reside; which was referred to the Committee on Finance.

Mr. FRELINGHUYSEN presented resolutions of the Loyal League of Trenton, New Jersey, indorsing the petition of the Loyal League of New York, that Generals Sickles and Howard be still further retained as volunteers; which were referred to the Committee on Military Affairs and the Militia.

WITHDRAWAL OF PAPERS.

Mr. SUMNER. I offer the following order for adoption:

Ordered, That the papers relating to the claim of Edward Jarvis, for services rendered in the preparation of the census, be taken from the files of the Senate and referred to the Committee on Claims.

The PRESIDENT *pro tempore*. Has there been an adverse report in that case?

Mr. HOWE. Yes, sir; there has been.

Mr. SUMNER. I think there can be no adverse report. A bill for relief was passed by the House of Representatives at the last session.

Mr. HOWE. I think there has been an adverse report in the case, but I will not assert positively that there has been. I know the case has been considered by the Committee on Claims. It is in relation to services in the Census Bureau, is it not?

Mr. SUMNER. Yes, sir.

Mr. HOWE. It was considered in the committee, and I know the committee were adverse to it.

The PRESIDENT *pro tempore*. Perhaps the proposed order had better lie on the table until that fact is ascertained. The papers cannot be referred again if there has been an adverse report.

Mr. SUMNER. I think there can be no objection to the reference of the papers to the committee.

Mr. GRIMES. There is if there has been an adverse report, because that would be a violation of one of the rules of the Senate, and if we do it in this case we shall have to do it in all others. The Senator should first ascertain whether or not there has been an adverse report.

The PRESIDENT *pro tempore*. Under the rules papers cannot be taken from the files where there has been an adverse report unless in cases where additional testimony is presented.

Mr. MORRILL, of Vermont. I know something about this case, and I do not think there has ever been an adverse report on it in either House.

Mr. SUMNER. I know a good deal about the case. It is one of the most deserving cases I have ever known in Congress, and at the last Congress a bill for the relief of Mr. Jarvis passed the other House, and, as I understand, was left at the adjournment of Congress on the table of the Committee on Claims.

The PRESIDENT *pro tempore*. The merits of the case are not now under consideration. The question is, Whether there has been an adverse report from the Committee on Claims of the Senate, and if so under the rules of the Senate the papers cannot be withdrawn unless additional evidence be presented.

Mr. HOWE. I think the order had better lie on the table until we ascertain how that fact is. I am quite familiar with the case itself, but I am not prepared to say positively whether there has been an adverse report or not, though I think there has been an adverse decision.

The PRESIDENT *pro tempore*. The proposed order will lie on the table until that fact is ascertained.

On motion of Mr. MORRILL, of Maine, it was

Ordered, That the petition of Elijah R. Merrill, praying to be compensated for injuries sustained by him in Portland harbor, be withdrawn from the files and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 144) granting the right of way through the lands of the United States at West Point to the Hudson River West Shore Railroad Company, to report it back and ask to be discharged from its further consideration, and that the bill be indefinitely postponed, a similar bill from the House of Representatives having already passed the Senate.

The report was agreed to.

Mr. WILSON. With the consent of the members of the Committee on Military Affairs and the Militia I report a bill (S. No. 196) to continue to certain officers and agents of the Freedmen's Bureau the powers conferred on them by the acts creating said bureau, which I ask to have printed. I hope to call it up to-morrow. It is very important that it should be acted on at once.

The bill was read a first time by its title, and passed to a second reading.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 197) to fix and limit the compensation of diplomatic and consular officers, and in part to define their duties; which was read twice by its title.

Mr. WILSON. I move that the bill be printed and laid on the table. I intend to move its reference to a committee to-morrow or the next day, and I wish to state some facts in regard to it at that time.

The motion was agreed to.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 198) to organize the Department of State and reduce the expenses thereof; which was read twice by its title.

Mr. WILSON. I ask that the bill lie upon the table, and be printed, with a view to its reference to-morrow.

The motion was agreed to.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 199) for the relief of settlers on the late Sioux reservation in the State of Minnesota; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 200) to incorporate the Washington Society of the New Jerusalem; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 201) to amend an act entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out of the national forces, and for other purposes," approved March 3, 1865; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 202) for the relief of Captain Phelps Paine, of Illinois; which was read twice by its title, and referred to the Committee on Claims.

Mr. VAN WINKLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 203) to apportion the issue of the national currency of the several States and Territories and the District of Columbia; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 204) to provide for the appointment of a supervising surgeon of marine hospitals of the United States; which was read twice by its title, and referred to the Committee on Commerce.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 205) to regulate the taxation of the capital stock of national banks; which was read twice by its title, and referred to the Committee on Finance.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 206) to incorporate the Washington City Land and Building Association; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 76) authorizing the several Executive Departments of the Government to purchase paper and envelopes of the Treasury Department; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

BONDS ISSUED TO PACIFIC RAILROAD.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be respectfully requested to furnish to the Senate a statement setting forth the amount of United States bonds issued to the Union Pacific Railroad Company and each of the branches thereof, including the Central Pacific Railroad Company of California, and an account of the interest paid by the Government upon such bonds, and of the interest repaid by said several railroad companies to the United States; whether in cash or in the transmission of dispatches, stores, and supplies, as provided in the Pacific railroad act of 1862.

PROPOSED CONSTITUTIONAL AMENDMENT.

Mr. DAVIS submitted the following resolution; which was laid on the table, and ordered to be printed:

Resolved, That the Constitution should be so amended as to create a tribunal with jurisdiction to decide all questions of constitutional power that shall arise in the Government of the United States, and all questions of conflict of jurisdiction between it and the State governments; said tribunal to consist of one member from each State, to be appointed by the State, to hold his office during good behavior, and a majority of the whole number of said tribunal to be necessary to make a decision.

ATTORNEY GENERAL'S OFFICE.

Mr. TRUMBULL. I submit the following resolution, and ask for its present consideration:

Resolved, That the Attorney General be directed to inform the Senate—

1. What amount was paid by the United States for special counsel employed to assist the Attorney General in cases depending before the Supreme Court of the United States for the years ending June 30, 1866, and June 30, 1867.

2. Whether the present force in the Attorney General's office is sufficient for the proper business of that office.

3. Whether the solicitors and clerks, acting as such in the various Departments and in the Court of Claims, cannot be dispensed with, and the duties they perform be discharged under the direction of the Attorney General, so as to bring all the law officers of the Government under one head, with saving of expense and benefit to the public service.

4. The amount paid for the years ending June 30, 1866, and June 30, 1867, for assistance rendered to the district attorneys.

Mr. CONKLING. I ask the Senator if he will allow me to amend his resolution so as to carry it one year further back, to include what was paid during the year ending June 30, 1865?

Mr. TRUMBULL. I have no objection to that.

The PRESIDENT *pro tempore*. The question now is on taking up the resolution for consideration at this time. No objection being made, it is before the Senate, and the question is on the amendment proposed by the Senator from New York.

Mr. TRUMBULL. Let the amendment be read, so that we may see whether it comes in properly.

The SECRETARY. The resolution, if amended as proposed, will read, in its first and fourth clauses, as follows:

1. What amount was paid by the United States for special counsel employed to assist the Attorney General in cases depending before the Supreme Court of the United States for the years ending June 30, 1865, June 30, 1866, and June 30, 1867.

4. The amount paid for the years ending June 30, 1865, June 30, 1866, and June 30, 1867, for assistance rendered to the district attorneys.

Mr. TRUMBULL. That is right, if it is satisfactory to the Senator from New York. I accept the amendment.

The PRESIDENT *pro tempore*. The resolution is so modified by the mover. The question now is on the resolution as modified.

The resolution, as modified, was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. MCPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 126) changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company, in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S.

No. 143) to provide for the changing of names of persons in the District of Columbia; and it was thereupon signed by the President *pro tempore* of the Senate.

REPEAL OF A RULE.

Mr. GRIMES. I offer this order, which can lie on the table until to-morrow:

Ordered, That the forty-eighth standing rule of the Senate be, and the same is hereby, repealed.

The forty-eighth rule is the one that excludes persons from the floor of the Senate. I am in favor of either having free trade in that regard or of enforcing the rule.

The PRESIDENT *pro tempore*. The resolution will lie over.

HOUSE RESOLUTION REFERRED.

The joint resolution (H. R. No. 123) changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company was read twice by its title, and referred to the Committee on the Pacific Railroad.

COTTON TAX.

Mr. SHERMAN. If there is no further morning business I move to take up the cotton bill, as it is called, which was reported from the Committee on Finance the other day.

Mr. TRUMBULL. Before passing upon that I should like to inquire of the Senator from Ohio if we cannot take up and dispose of the resolution in regard to captured and abandoned cotton this morning? I fear if we take up this cotton tax bill it may consume the day. That resolution was put over the other day in consequence of the Senator from Maryland [Mr. JOHNSON] claiming the floor. I was anxious to have it disposed of at the time.

Mr. SHERMAN. The Senator from Vermont [Mr. EDMUNDS] has an amendment which he desires to offer to that resolution, and I do not see him in his seat at present; but I think it is a matter of more immediate importance that the cotton tax should be disposed of, and I will then call up that resolution immediately afterward. The Senator from Vermont really has the charge of that now, because he has an amendment pending, and he is not in his seat. I think it better that my motion should prevail and that we should dispose of the cotton tax. That ought to be disposed of, for grave public reasons, before the holidays.

Mr. TRUMBULL. If I understand it, the repeal of the cotton tax applies to the crop of next year and not that of this season.

Mr. SHERMAN. As I stated to the Senate in debate the other day, it is shown by a great number of persons that contracts are made immediately after Christmas, and the repeal or modification of this tax will regulate the making of those contracts for the employment of hands. Every farmer or planter must determine how many acres of cotton, how many acres of corn, &c., he will plant. That is what these gentlemen state, and it is important, with that view, to have the cotton question settled before the holidays.

Mr. TRUMBULL. The Senator from Ohio will not understand me as being opposed to the consideration of the bill repealing the tax on cotton, or as being opposed to the measure itself. I am for it. But this other matter was under consideration the other day, and I do not suppose it will take a very great deal of the time of the Senate. I desire to submit some remarks upon it in reply to what was said by Senators when it was up before, when we were cut off by the special order, under which the Senator from Maryland claimed the floor, and it was understood at that time that we would take it up on Monday. I think the Senator from Ohio himself insisted on its going over until to-day. On a mere question of the precedence of business I am not disposed to enter into controversy and take up time on the question as to which shall be taken up; but I thought we could get through this other matter possibly in the morning hour. If the Senator persists in his motion I shall withdraw my opposition to it.

The PRESIDENT *pro tempore*. The question is on taking up the bill in relation to the tax on cotton.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

Mr. JOHNSON. I move to amend the bill by adding:

And the crop grown in the year 1867 shall also be exempt from the said tax.

Mr. MORRILL, of Vermont. I wish to offer a proviso, to come in at the end of the bill.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Maryland; but this amendment may be read for information.

The Secretary read the proposed proviso, as follows:

Provided, That from and after the 1st day of April, 1868, cotton, raw, imported from foreign countries, shall be exempt from duty.

Mr. MORRILL, of Vermont. It will be obvious to the Senate that, if the bill shall pass, this amendment is a proper one. The tax having been imposed upon domestic cotton and the duty upon foreign cotton at the same time, if one is repealed the other ought to be repealed, of course, at the same time.

But, Mr. President, the edict seems to have gone forth that this tax shall be repealed. The Speaker of the House has already promised that, and our large-hearted friend from Massachusetts [Mr. WILSON] has promised it; and a very considerable number of other gentlemen, it may be presumed, are already committed to a repeal of this tax, and I do not expect to retard its repeal for more than about twenty minutes. I know that our chairman of the Committee on Finance——

Mr. WILSON. Will the Senator allow me a word?

Mr. MORRILL, of Vermont. I think I have said nothing yet that deserves an explanation.

Mr. WILSON. The Senator said that I promised its repeal. I simply said that I should vote for its repeal.

Mr. MORRILL, of Vermont. I know that our chairman of the Committee on Finance, with that creditable diligence for which he is so distinguished, will rush this bill through. I would not even attempt to retard it for the time that I now propose if I did not consider that it was a subject that was worthy of the consideration of statesmen.

What is the project? It is that we shall at one blow strike from the Treasury $27,500,000 for the next year, and so on, releasing this important source of revenue for all coming time, and that without having the whole subject before us to consider whether we can spare the money or not, or whether we can spare this large sum best from this source or some other.

It may be said that the South are clamoring for the repeal of the tax on cotton. Is there any less clamor in the West, or the North or the East for a repeal of taxation? I deny it. I say there is as much urgency for a relief from taxation in the North, the East, and the West as in the South. Look at the industries that are at the present moment unusually depressed. Take, for instance, the entire woolen interest. There is not an establishment that is not losing money to-day. Take the wool-grower; not a pound of wool raised last year that will bring within ten cents per pound of its cost. Take the cotton interest; the whole circle of manufactures are in no better circumstances. Look at the value of their stocks; for instance, take the Bates manufacturing stock of Maine, worth two years ago one hundred and sixty cents on the dollar, now there are more sellers than buyers at one hundred. Take the Lyman mills on the Connecticut, worth two years ago ninety-eight to one hundred, now selling at sixty-nine or less; and so I might go on almost through the whole list. They all suffer. Take the West—Ohio, Illinois, or Iowa—look at their hog crop. Why, if they had given away all their hogs, or if they had slaughtered them a year ago and thrown them away, they would have been better off to-day. They have absolutely lost their hog crop by feeding out grain to them, which unfed would have brought more than all their pork. And yet we propose to take up this subject without any consideration of whether we can spare the money or not, without any consideration of whether there are other subjects more demanding relief, and on the spur of the moment rush it through the Senate.

Now, Mr. President, in relation to the tax there is another consideration. By it we raise $27,500,000, and there is $9,000,000 of that and not more, as I think, which comes out of our own people; the whole of the balance, as I contend and as I think I shall be able to show, comes out of foreigners; and yet we throw away this opportunity of placing $27,500,000 in the Treasury when it will only subject our own people to a tax of $9,000,000—we do not consume over one third of the whole product—and of this the South only pays $3,000,000, for they certainly do not use more than one third of the cotton consumed in this country, and yet it is pretended that the southern people are all up in arms in relation to having this tax repealed. Who is it that comes here? The main portion of this crop is now raised by rebels; not over a quarter of it is raised by loyal men, and will not be for years to come. We grant amnesty to the rebels; we free them from confiscation, to which I have no objection; we suspend the direct tax in good part; we hang none of them; and now they come up here and ask us to relieve them entirely from taxation; and, forsooth, we are all expected to rush on pell-mell to grant even this request. I do not understand it. If we do it we may as well call home all our revenue officers, for we shall not have much more revenue from the South than to pay their salaries.

Mr. President, I do not want to have it understood that I am in favor of any oppressive measures upon the South; far from it. I am in favor of doing something that will revive the industry of the whole people of the South; and yet it seems to me that we are about to throw away the only opportunity that we shall ever have to confer lasting benefits, to revive and fructify the South by giving them an opportunity to diversify their interests. If we are to doom that people in the South to be merely growers of cotton for all coming time, they are to be a people cursed with poverty and imbecility, as they have been in the past under the dominion of slavery. Unless we can give an opportunity for a larger proportion of the people in the South to engage in active, industrial, profitable employments than that which can be in cotton growing alone, I say they will remain forever poor; they will not add that proportion of strength to the country that they ought to add. For one, I am in favor of giving an opportunity for the poor whites to have some employment besides going into the field and raising cotton. If we can only diversify their industrial pursuits so as to give them a chance to go about something else, and to employ capital to double the value of the raw material and double our exports, as we may, we shall accomplish an important result. I say that it is wrong for New York, Pennsylvania, New Jersey, and the East to insist upon monopolizing the entire manufacturing interests of this country. Scatter them broadcast and the country will support them with greater unanimity.

I say it is equally wrong for the West to insist upon continuing exclusively to grow grain, corn, hogs, &c., to supply the South or the North. In the end it will exhaust them. Why, Mr. President, it was only forty years ago that we in the East derived the main part of our breadstuffs from New York. The Genesee wheat and flour was about the only flour

that was known in the East. That country has been exhausted. Twenty-five years ago we derived our breadstuffs from Ohio. Now that has been exhausted. Those States do not produce more breadstuffs than they consume themselves, and the grain-growing region of this country is exceedingly small and is not increasing as rapidly as population. It is bounded nearly when you mention the States of Illinois, Iowa, Michigan, and Wisconsin.

Mr. RAMSEY. Minnesota, I would suggest.

Mr. MORRILL, of Vermont. Minnesota is only partially developed. It is doing well, and will do better I have no doubt in due time. Now, Mr. President, I do not say that this grain-growing region will be exhausted as quickly as New York and Ohio have been; but I say that, confining themselves almost exclusively to grain growing, the time will come when they will be exhausted. With the population that is thronging to them they will soon produce no more than what they will require for the consumption of their own people; and we ought, therefore, to be willing that manufacturing establishments should be located in all parts of our country—in the South, and in the West—and if we can only allow this tax to remain upon cotton and give a corresponding drawback upon manufactured goods we shall most assuredly accomplish the object.

It takes less skilled labor to spin cotton yarns of the coarser sorts and to weave coarse cottons, sheetings, and drills, than for other purposes; and it takes less capital also to establish those manufactories. If this shall be done we shall find that capital will go into the South, will go into the West, and those establishments will be located and dotted all over the whole face of the country, and that in a very short time. Europe affords a market for yarns alone to an immense amount. We have it in our power to monopolize the lion's share of the trade in the cotton manufactures of the world. We have it in our power to increase our commerce so that it shall exceed that of any nation on earth through this very potent power of cotton, for it is king in one respect. We have a better soil upon which to produce it than there is to be found on the face of the earth. There is no spot on the globe where cotton can be produced in so large an amount, at so little cost per acre, or with so little labor, as in the United States; nor of so fine a quality, as my friend from Maine suggests.

I know that our chairman suggested that our Special Commissioner of Revenue had recommended this measure. That is true; he has so recommended it this year, and I am sorry for it, for his reputation and for ours. I point to his elaborate and exhaustive report of two years ago, with a large amount of most valuable testimony taken from those who have most intelligence upon this subject through the country; and I undertake to say that that report of his is unanswered by this later swift and brief report, made at whose instance and upon what data I do not pretend to know. The commissioner this year reverses his whole theory. He avers:

"At the same time it has been generally assumed in almost all previous reports and debates on the subject that the tax on cotton was a temporary measure, called for and only to be defended on the ground of the necessities of the nation."

I deny it. I say it was not intended, certainly so far as my own action was concerned or that of anybody that I ever understood to advocate the tax, as a mere temporary affair. I deny it so far as the Commissioner was concerned, and I think I can prove this by his own report. He also this year says:

"But, be the causes what they may, it may be affirmed that, where India cotton formerly bore the relation of one half to two thirds the value of American, it now bears the relation of two thirds to three fourths, while a portion of the crop is fully equal to middling uplands for the manufacture of heavy fabrics."

I deny that, Mr. President. I undertake to say, and I believe I can prove, that there is as great if not greater relative difference between the price of India cotton and American cotton to-day as there was five, or six, or seven years ago. It is entirely a mistake to send forth any such opinion as that here recorded. Now, to show what the Commissioner's former opinions were, allow me to read from his report made two years ago. I read from the report of 1865–66:

"It would thus appear to be demonstrated by the above statistics—and the demonstration is confirmed by all the collateral evidence that can be obtained—that, while cotton may be grown in various parts of the world, the United States enjoy a practical monopoly of the best cotton lands, coupled with a sufficient supply of labor to make a full crop, and while, to produce the large crop of 1860, the United States had under cultivation less than two per cent. of the area of the cotton States, yet, under the stimulus of four prices, the other parts of the world have, during the war, been unable to fill the gap caused by the cessation of the cultivation of that small part of our territory."

This was sound, statesmanlike doctrine two years ago, and it is far from obsolete now.

He is not quite right about the two per cent. It is not so much as that. There is but about one and three fourths per cent. of the entire South that is devoted to the cotton crop—not an area aggregated together larger than the States of Vermont and Rhode Island put together; and yet it is in effect proposed to confine the whole people of the South to the cultivation of that small amount of land by stimulating that at the expense of all else. Why not let their industry be diversified? Why not encourage them to engage in raising something else and in making up their raw material, and thus give them a chance for more wealth and a better support? Why not, like Kentucky, encourage them to raise horses and mules and stock and hemp and tobacco and other things? I like to speak of Kentucky, for she used to entertain most loyal and statesmanlike views, although at the present time, in relation to slavery, she is very much like the old and silly goose having a nest in the bank of a river, who, when the freshet came and washed the eggs out of it, still remained upon the top of the water paddling over the nest, though the eggs had disappeared a long time before. In Kentucky they are still paddling over the nest of slavery, although slavery went off a long time ago. Ere long, however, we may expect that gallant State to assume the proud position in our country to which it is entitled by virtue of its fertile soil and genial climate and its gallant race of men. I should like to see the whole South diversified in like manner with Kentucky. Does any one prefer the system of South Carolina or Mississippi? But to return to the Commissioner. Another of his statements, and I read now from his former report, was this:

"In view of the statements above made, and the evidence taken, (a copy of which is herewith appended to this report, and to which special attention is requested, particularly to the answers to the questions relative to the expediency and the rate of taxation,) the commissioner would recommend that from and after July 1, 1866, a tax of five cents per pound be levied and collected upon all cotton raised in the United States."

That was his recommendation two years ago. Five cents a pound—not three nor yet two and half. It was to take effect from and after July 1, 1866. He makes no intimation about its being temporary. He then said:

"With a crop exceeding three million bales per annum, it will probably be found expedient, in view of a possible excess of production throughout the world over the demand for consumption, (which high prices must limit,) to reduce a five cent per pound excise to a lower rate."

That is to say, it might be reduced below five cents, but not that it should be abandoned when the crop should exceed three million bales. He then went so far as as even to be in favor of an export duty. That certainly did not look like a temporary measure! He said:

"If the levying and the collecting of an export duty on cotton are within the jurisdiction and control of Congress the Commissioner would not hesitate to recommend the enactment of this measure; and in any event it seems to them desirable that Congress should not be deprived of so important a privilege in relation to the regulation of our commerce."

Right here allow me to say that it is the practice of many nations who have any article or productions to send abroad wherein they enjoy even an approach to a monopoly to levy an export duty on them. China levies an export duty on its tea. In India itself an export duty is levied upon cotton; true, not a large one, but it is something. It is the fact here, too, that the rebel States under their confederacy had an export duty. They changed their constitution so as to allow them to levy an export duty; and if they had succeeded in their attempt—if Jefferson Davis had not been compelled to retreat in something besides male attire, or if he were now reigning in that region—the people there would be no better off. They would have certainly as large an amount to pay in the way of an export duty as we put on in the shape of a tax, and probably much larger. The confederate government at one time, I believe, raised something like twenty cents a pound in gold upon cotton, and yet we only propose to raise two and a half cents in currency.

Now, Mr. President, I come to the price of the article, and I take the Commissioner's own report for 1865–66. What did he then put down the price of American cotton in Liverpool at? In 1860 five and three fourths pence, and East India cotton four and one eighth pence. The latter is much more than one half, and indeed more than two thirds, of the former, so that his statement that there was a larger difference formerly is not sustained by his own report. To make it two thirds only the India cotton should be fourpence and the American sixpence. In 1864 he puts the price of American cotton at twenty-seven and a half pence, and of East India cotton at nineteen and one fourth pence, or a difference of eight and one fourth pence a pound—a larger difference than before, when to sustain his last report it should be less, for this is three years after the war had commenced.

But, sir, I desire to give a little later intelligence on this subject, and I give it to you from the London Economist, showing what the price was in Liverpool on the 5th and London on the 6th of September last, for it was the same in each place. The price then was—for ordinary upland cotton eight and one fourth pence, Mobile eight and one fourth pence, and New Orleans eight and one fourth pence; for middling upland tenpence, New Orleans ten and one fourth pence, and Mobile ten and a half pence. The price of Surat cotton at the same time varied from five and three fourths pence to six and one fourth pence.

That does not show that there is any less difference now than there was when he made his former report two years ago. It shows that there is even more difference. It shows a proportion of about sixpence to tenpence for middlings, and about fivepence to eightpence on the ordinary.

Mr. FESSENDEN. The proportion is not so great.

Mr. MORRILL, of Vermont. The proportion is greater, I take it. The Senator cannot have remembered the statement the Commissioner gave two years ago as the prices of 1860. According to the report of the Commissioner, it was for American five and three fourths pence, and for Surat four and one eighth pence, a difference of one and five eighths pence.

Mr. SHERMAN. I desire to state to the Senator from Vermont that I have taken the pains to get the price of cotton at Liverpool and also at New York. Since the quotations read by him for September cotton has gone down nearly fifty per cent.

Mr. MORRILL, of Vermont. I am aware of that.

Mr. SHERMAN. The prices now are for middlings abroad from seven and one fourth to seven and a half pence instead of ten and a half pence.

Mr. FESSENDEN. And India cotton has gone down in proportion.

Mr. SHERMAN. Yes; all cotton has gone down in the same proportion.

Mr. FESSENDEN. The question is one of relative difference in the price.

Mr. MORRILL, of Vermont. The ground which I maintain, and I defy refutation, is that the difference now is as great as it ever was, and I say it is even greater, and that is the whole point in the case.

A word now in relation to the power of India to compete with us. Is it not notorious that they produce only from thirty to eighty pounds to the acre? The average is less than seventy pounds. Now, suppose the price to be fivepence a pound or ten cents, that would give a production of seven dollars to the acre, while our own cotton, at a difference in the price which would make it say fifteen cents a pound—and it shall be more—would yield forty dollars per acre. Can it be pretended that there is any danger of competition from such a source as that? We have this great vantage ground that, let them take the seed from where they will, the article they grow on the soil of India must have a short and coarse staple. It is impossible for them to produce an article to compete with ours in its length of staple, in fineness, or luster. They may, to be sure, (as has been done for the purpose of exhibition at Paris,) by careful culture raise a few plants, hot-bed plants, stimulated by manures and by all sorts of contrivances, and show you a very respectable sample, but they have not and they will not and they cannot produce any cotton of that kind in any considerable quantity except at a cost that will not prove profitable.

There is another reason why they will not be able to compete with us, and that is that within the last ten years the price of labor in India has doubled, so that we are not going to be placed under any disadvantage in consequence of the change of our system by which it is expected and even hoped that the laborer at the South will get a larger reward than he has heretofore.

Then, Mr. President, their taxes in India have been piled up so high for various reasons, and especially for the purpose of introducing railroads into the country in order to reach cotton in the interior districts, that they have quite as hard a task as we have in that direction; but it must be remembered that these railroads do not reduce the cost of transportation at all; they only furnish facilities for getting cotton, and the taxes bear so onerously on the people there that all kinds of business are thereby very much crippled and depressed.

Then we are to look to another fact. What have they done for the past year? Even with the reduction of the price the amount contributed by India has fallen off very largely. During the first nine months of 1867 the amount of East India cotton imported into the United Kingdom was 331,951,200 pounds, while for 1866 the importations from India were 615,302,240 pounds. The United States, on the contrary, have increased the amount of their exportations as compared with 1866. The amount of cotton imported into the United Kingdom from the United States during the first nine months of 1867 was 469,062,048 pounds, while the entire importations from the United States for 1866 were only 520,057,440 pounds.

In order to make out a case, the proportion which was imported from the United States formerly has been exaggerated, and that which was recently imported is diminished now. I can see very well that that is a way to make out a very good case; but, taking the entire amount of cotton which was imported into the United Kingdom from all countries, from 1850 to 1859 inclusive, I find it to be 9,238,639,356 pounds, and of this amount 7,147,398,198 pounds were imported from the United States. It is attempted to have us think that we formerly usually sent to Great Britain eighty-five per cent. of all her importations of cotton; but this shows that we only sent about seventy-five per cent. Then, again, the amount which we now send in proportion to India, instead of being reduced down to the low point which is represented by those who advocate a repeal of the tax, has already reached in Liverpool about one half of the whole. Imports of cotton into Liverpool up to the 21st of November, 1866 and 1867, were respectively as follows:

	1866. *Bales.*	1867. *Bales.*
American cotton	1,083,746	1,117,026
Brazil, Egypt, &c.	645,912	637,122
East India, China, and Japan	1,508,887	1,156,319
	3,248,545	2,910,467

This will show the falling off of India cotton and the increase of American.

Now I wish to call the attention of the Senate to the fact that whenever we produce a large crop we get less for it than we do when we raise a small crop. It is of no advantage to increase excessively the crop at the South, and should we produce next year three million bales we shall absolutely get more money for it than we should if we produced five million bales, and save in addition to that the cost of baling and bale-rope and the immense amount of labor required to produce it. I do not think it advisable that we should undertake to stimulate this crop at the expense of all others. Let me call the attention of the Senate to the history of the growth and prices of cotton since 1823. I think it will rather surprise the Senate to find that in every instance where we have produced a large crop we have obtained a less price for it than we have where we have only produced a moderate crop.

Mr. EDMUNDS. A less price in the aggregate?

Mr. MORRILL, of Vermont. A less amount for it in the aggregate and a less price per pound. In 1823 we exported 173,723,270 pounds, and we got for it $20,445,520. In 1824 we exported only 142,369,663 pounds, and we got $21,947,401 for it. In 1826 we exported 204,535,415 pounds, and we got for it $25,025,214. In 1827 we exported 294,310,115 pounds, or about 90,000,000 pounds in excess of the previous crop, and we got for it $29,359,545, or about $4,000,000 in excess. In 1836 we exported 423,631,307 pounds, and we got for it $71,284,925. The next year, 1837, we exported 444,211,537 pounds, and we only got $63,240,102 for it. In 1838 we exported 595,952,297 pounds, and we got for it $61,556,811. In 1839 we exported 413,624,212 pounds, one third less than the preceding year, and yet we got for it about the same amount of money, $61,218,932. In 1840 we exported 743,941,061 pounds, or 330,000,000 in excess of the crop of the previous year, and we got for it $63,870,307, or $2,500,000 more. In 1841 we exported 530,204,100 pounds, and got $54,330,341. In 1842 we exported 584,717,017, or more than a million pounds in excess of the previous year, and got for it $47,593,464, being nearly seven million dollars less. In 1843 we exported 792,297,106 pounds, and got $49,119,816. In 1844 we exported 663,663,455, or nearly one hundred and thirty million pounds less than the previous year, and yet we got for that crop only $54,063,501, or nearly five million dollars more. In 1848 we exported 814,274,431 pounds, and got $61,998,294 for it. In 1849 we exported 1,026,602,269 pounds, and got $66,396,967. There for an excess of nearly two million pounds over the previous year we only got $5,000,000 more. In 1856 we exported 1,361,421,701 pounds, and got $128,382,357. In 1857 we exported 1,048,282,475 pounds, or 300,000,000 pounds less than the year before, and yet we got for it $131,575,859, or $3,000,000 more.

Obviously under such a state of facts it is no object to increase the amount of this crop excessively. There should be no indulgence for the mere purpose of increasing the crop. We are doing the South a positive injury thereby, for they might just as well devote half of their labor to something else as devote it to this crop and get nothing for it, for that will be the result.

But, Mr. President, I did not design to make a speech on this subject of any length. I feel that I have already occupied more of the time of the Senate than I ought, and will now close after merely referring to a paper which our consul at Sheffield sent me, and which I received on Saturday night. It contains a report of the cotton crop of India, from the Times of India of October 29, published in the Manchester Examiner of November 23. I desire to allay all fears in relation to any expected increase of the cotton crop from any other country than our own. In Brazil the moment the crop goes below twelve pence a pound, or twenty four cents, sugar and coffee become more profitable than cotton. We have already gone below that point, and therefore Brazil will be likely now to engage in the growth of sugar and cotton. In Egypt it is impossible for them to increase their cotton crop without peril as to breadstuffs, and they have already diminished it, for the reason that they have been in danger of starvation in consequence of devoting too large a share of their land to the culture of cotton. It is the same in India. There they have lost thousands and hundreds of thousands of people mainly because they pushed their cotton crop at the expense of their grain crop. Already the entire exportations of cotton from China and Japan have ceased, so that we need have no apprehensions in relation to the increase of this crop if we do not overload the market, as we have done this last year ourselves. We have most to fear from ourselves, not from foreigners. India has consumed little cotton while it bore a price of thirty or forty cents per pound; but having for years now used it sparingly they will require a much larger amount hereafter for their own consumption.

But, to return to the report on the production of India cotton for the coming year, 1867-68, it will be found an interesting one. The authorized agents have been sent out over the entire district to see the number of acres that are under cultivation, and the number of acres is about the same. I believe there is a diminution, perhaps of some thousands of acres; but it is nearly the same as the previous year. They conclude that there will not be over three fourths of the crop of last year, and the reason for it is that they have been deluged recently by rain storms, unusual in that country, which have so damaged the crop that it will not and it cannot be grown. The ground is soft and choked up with weeds, and very suitable for raising rice, but entirely unfitted for raising cotton; and although the traders expect to keep up the old prices, the ryots do not believe it, and are turning their attention to the subject of raising linseed, hemp, jute, and other things that afford a larger profit. I will not take up the further time of the Senate by reading it.

Mr. SHERMAN. I shall not detain the Senate long about this matter, for the subject is not a new one, and most of the Senators have already in previous discussions made up their minds in regard to it. At the last session of Congress we had the subject of the cotton tax debated at considerable length. A proposition to repeal the tax entirely was lost by a tie vote, but at a subsequent stage of the debate a proposition to reduce the tax to one cent per pound was carried by a very decided vote in the Senate. Since that time, however, facts have transpired which I think will convince most persons that this tax can no longer be maintained without endangering a vast interest of the country—the production of cotton.

When the first tax was levied two years ago the price of cotton was about forty-five cents a pound. A duty of three cents per pound was levied upon it, which was about seven per cent. on its cost. Subsequently, during the year that followed, the price of cotton was reduced to twenty-five cents per pound, and then at the last session the cotton tax was reduced. The Senate proposed to reduce it to one cent per pound. Congress, however, reduced it to two and a half cents—the present rate. Since that time the price of cotton has gone down from twenty-five cents, until now in Mississippi, at the planter's house, it is worth about nine cents; in New Orleans it is

worth about twelve cents; and in New York about fifteen cents. I have the official record, taken from the Commercial Record of Saturday last, showing that the price of ordinary cotton was as low in New York at one time last week as thirteen and a quarter cents, and of middling, the ordinary kind, about fifteen cents, the average being about fifteen cents, and at New Orleans about two cents less. At Liverpool the price of middling Orleans is quoted at seven and a quarter pence; so that the price of cotton has gone down to very near the standard of prices before the war. It is manifest that to make this production pay a tax of two and a half cents a pound, equivalent to about twenty-five per cent. on its raw cost, is a species of tax unlike any other in our system of taxation.

Cotton is the only agricultural production that now bears a direct tax. We have repealed the great mass of taxes upon our home industry. Comparatively but very few articles of manufactures now bear the burden of internal taxes. This is the only agricultural production that is taxed. It was defended two years ago on the ground that we had a monopoly of the production of cotton; that our advantages of climate and soil gave us substantially a monopoly. But, sir, king cotton has proved to be a very unstable support in many particulars. The South believed that cotton was king, and that they could establish a Government founded upon slave labor producing cotton. They found themselves mistaken. All the commercial world believed that when the crop of cotton was cut off by the civil war and by the successful blockade of the southern ports England and all the countries of the world would have a cotton famine, and that the very necessity which bore upon them to get cotton would compel them, willingly or unwillingly, to break the blockade and thus reach the southern ports; but instead of that the remarkable spectable was presented that in three years sufficient cotton was produced to meet the full supply in the English market. Before the war the United States supplied eighty-five per cent. of all the cotton manufactured in England, and all the other countries of the world supplied but fifteen per cent. At the close of the war the United States only furnished eight per cent. of all the cotton used in England, and all the rest was furnished by new productions forced in various parts of the world. It convinced everybody that Providence had so scattered its blessings over the world—the varieties of soil and climate favorable for the production of all the cereals, all the grains, and all the necessary productions of life—that if one market was cut off for a time other markets would be supplied.

I have before me a table prepared by Mr. Wells and also a report made by Mr. E. R. Mudge, the commissioner of the United States to the Universal Exposition at Paris in 1867, which show very conclusively that in the year 1864 the whole course of the cotton trade had been reversed; that instead of England getting eighty-five per cent. of her cotton from the United States, at the close of the war she got but seven and a half per cent., and that by running the blockade. But then it was supposed that after industry was restored to the southern States the advantages in the South would enable us again to supply the world with cotton, and we have had two crops since the war closed. The result has been, however, that the improved machinery adopted in England, the improved culture of cotton in India, Brazil, and other countries, and the adaptation of the machinery to the grades of cotton produced in India, have given increased value to the India cotton and the cotton of other parts of the world; so that there is no longer the vital necessity for American cotton that existed before the war; and even now, when we have had two reasonable crops, India cotton comprises a little more than one half of all the cotton used in England. The result is, that unless we can encourage the production of cotton in this country, instead of discouraging it, we shall lose the market of the world and destroy the most productive industry that we had in the United States before the war.

It is only necessary to read these papers to convince one of that fact. I shall not read from the testimony of Mr. Wells, although it has the additional weight that he has changed his opinion on this subject. As my friend from Vermont says, two years ago he argued strenuously that a tax of five cents a pound ought to be imposed upon cotton, and that we would be able to collect it. Since that time he has traveled over all the countries of Europe where cotton is consumed; he is perfectly familiar with the whole subject; it is made his business as Special Commissioner of the Revenue to collect statistics on this subject; and now he gives to us his deliberate conviction, after two years' examination, against his previously expressed opinion, that it is wise at once to repeal this cotton tax; if we do not we shall endanger the production of cotton in this country. His report is supported by facts and statistics which I shall not take up time in reading.

But I will not rest the case here. It is sometimes more satisfactory to get the testimony of men engaged in this business, especially where we can rely upon them. From the mass of letters that have come to me on this subject I will read extracts from three or four from men of the highest character, men whom I know, and I believe those of them who come from Ohio are known both to my colleague and myself. They are distinguished soldiers who went South after the war was over and engaged in the cultivation of cotton, and involved their fortunes and all that they were worth, and probably much more than they were worth, in the attempt to raise cotton. I have letters here from them and others showing their experience and the actual fact in the production of cotton in the South, one or two extracts from which I will read. The first letter I read is from a gentleman who stood very high in our State, was a member of our Legislature, and then went South to embark in the business of raising cotton. Speaking of the influence of this tax upon the negro population in making them dissatisfied with their condition and dissatisfied with the measures of reconstruction, he says:

"The tax on cotton was used everywhere to induce them to vote against a convention, and it was potent. When they were told that they realized nothing for their year's labor because the Radical Congress had taxed cotton two and a half cents per pound, and other changes and embarrassments incident thereto, making the whole equivalent to four cents a pound, they became satisfied, and did not vote at all or voted 'no convention.'

"That tax on cotton is a great mistake. It is contrary to every theory of our Government. Protection to industry has been the theory of our past action, but here is a law that can have no other effect but to break down the cultivation of an important product, one that we all need. Then, where is the justice in singling out one agricultural product and taxing it? No man who will reflect on the matter can justify such a course."

Again he says:

"The present low price of cotton, with the extraordinary expense attending its culture this year, incumbered with the tax, renders the cultivation of it entirely unremunerative to the proprietor and laborer. Cotton to-day is nine cents per pound in Mississippi, which will not pay expenses for cultivating this year. I am not talking in riddles; I know what to say. I am interested in the cultivation of cotton, and know precisely the expense of cultivating. We have on our place the best crop in the county, and made on the most economical principles, and yet it does not pay expenses of raising. Our hands worked upon shares, and the result is they have nothing to live on this winter, and we realize nothing to make another crop out of. Will Congress tax our labor under such circumstances? I trust not."

That is the testimony of Judge Brown, a man of distinction. I will read now a letter from General Willard Warner, well known not only in our State, but in the Northwest, a general of distinction in the Army, and who went South also to risk the cultivation of cotton. He says:

"We have all made cotton at a loss both last year and this, and the future promises nothing better.

"The tax all comes off the producer, the planter, and the laborer. Indeed, it is very doubtful whether, with the tax off, we can successfully compete with India and Brazil; and the Indian staple is steadily improving through the introduction of American seed.

"The tax is against the interest of the planter, the freedmen, (thousands of whom this year planted on shares or rented land,) against the interest of the whole country, by discouraging the production of a great staple, against the interest of loyalty and the Union party by driving from the South every northern man engaged in raising cotton, and two thirds of those served in the Union Army three years or during the war.

"With the closest personal attention both last year and this I failed to pay expenses. Such is the general fact.

"The tax is simply a wicked and inexcusable outrage on us."

That is the experience of these gentlemen in two years. I will also read another letter from a southern man who is vouched for to me as a gentleman of character and standing. His name is H. H. Armstrong, and he describes himself as follows:

"I am a native Georgian, for the last twenty-five years been living in this State, (Alabama,) been engaged in planting. Myself and sons are running two plantations, but will lose money this year instead of making anything. I am one of the disfranchised, anxious for restoration, peace, and prosperity for the whole country."

That is what he says for himself. His letter shows the operation of the tax, and will bear reading even to the Senate:

"I take the liberty of writing you a letter upon the subject of the cotton tax, and hope that you will use your influence in favor of its immediate repeal. I could assign many reasons why it should be done." * * * * "Sufficient for me to assure you that we cannot make the cotton and pay taxes without being poorer at the end of the year than we were at the beginning. At the present prices which we are getting for cotton it takes all of one fifth—one bale out of five—to pay taxes, and of the poorer and lower grades of cotton it takes about one fourth. Middling cottons, best grade, are selling for twelve to thirteen and a half cents, including the tax of two and a half cents, which has to be deducted from that amount; our ordinary cottons—and this is the class of the largest bulk of our cotton—nine to eleven and a half cents tax to be deducted.

"Of this class of cotton it takes about one bale out of four to pay taxes on the four. In addition to the two and a half cents a pound tax we pay twenty-five cents a bale to the Government weigher and certain fees for permits to ship, fifty cents for each set of papers or permits. The revenue regulations clog and delay the transit and shipment of the cotton. There are certain points in the collection district that the cotton is sent to in order that it may there be assessed and taxes paid on it. The farmer has to sell the cotton in this market, or undergo the delay, the time, and trouble of paying himself the taxes and getting permits to ship to a larger or better market. Indeed there is none of us planters who can raise the money to pay the taxes on our own cotton. We are forced to sell in the first market to raise money to pay the taxes. I will illustrate by saying I have on my farm forty bales of cotton. I wish to ship it to Mobile or New Orleans. The revenue regulations require that I first put the cotton in Montgomery, then call on the Government weigher to weigh it and the assessor to assess it. I can then put the cotton in bond and forward it, or pay the two and a half cents per pound. Bonding is attended with a good deal of trouble. I conclude it is better to sell in Montgomery at whatever price I can get ten bales of the forty to get the money to pay the taxes on the thirty. It is utterly impossible for us to continue the cultivation of cotton at present prices and pay the tax; and, as the end of the year is drawing near, it is a matter of much importance to the planter to know how to arrange for the next year."

That is the experience of a man engaged in the business who actually pays one fourth of his entire production as a tax, besides observing all these difficult regulations.

I have here also the report of a gentleman who was employed by the Agricultural Department to distribute cotton seed under the appropriation made at the last session of Congress—Mr. Theodore C. Peters—and his testimony on this point is weighty. No doubt, from the character of the letter, he is a very intelligent gentleman. Here is what he says:

"As a general rule he found that industry in a most deplorable condition, in the derangement of the labor system, in the dilapidated condition of the plantations, and the absence of food for man and beast occasioned by the drain of the last war, and everywhere the absence of capital which that war had absorbed to an extent which a northern man cannot realize except he has been among these people, for we have never had anything in the free States that in the faintest degree compares with the total wiping out of capital, as represented in the accumulated profits of years of prosperous industries, as the South now presents.

"Last spring the South was in a much better condition financially than at present or than she will be next spring, from the fact that, in addition to the crop made the year before, she had a considerable surplus of old cotton which had accumulated during the war, and which with the current crop brought comparatively high prices.

"But a bad season for grain crops had left the

planters bare of spring supplies necessary to sustain human and animal labor in making this season's crop. The destitute condition of the whole people of the South during the months of April, May, and June has no parallel among civilized nations. The famine of Ireland presented no more heartrending scenes than he witnessed among the poorer classes of the South last spring. Women and children, not in a single instance, but over a large space of those States, living or rather keeping their souls in the body by digging roots and scraping the inner bark from trees, and even filling their stomachs with the fresh herbage where it could be found young and tender.

"Food, therefore, corn and bacon, for the people, both rich and poor, black and white, as well as forage for the teams, had to be imported from the North and West, and the undersigned believes he speaks within bounds when he says that all the surplus money in the South was sent out for food.

"The planter, having nothing, depended upon the factor for his supplies, and the factor could only relieve his wants to a limited extent, and then only by taking a lien upon the expected crop and upon the land and mules and the other available property upon the plantation, and he believes that there is hardly an instance where the factor has not gone to the extreme limit of prudence in making these advances, especially as the fall in the anticipated price has been so much larger than was calculated upon.

"Advances were made and labor contracts adjusted upon the expectation that the crop would realize in market at least twenty cents per pound, while the present price is from five to seven cents below that figure."

Since he has written this letter it has fallen still more.

"There has been ginned and brought to market about one third of the crop, but there is still in the hands of the producers about one million bales calculated at four hundred pounds per bale, the tax upon which would be near twelve million dollars, less the cost of collecting."

Mr. President, in the face of these facts, in the face of the condition of labor in the southern States, in the face of the declining price of cotton, it is idle for us to attempt to collect a tax of two and a half cents a pound on cotton. It would be an act of cruelty which I know no Senator would desire to inflict. It would be to destroy a branch of industry upon which depends the labor of millions of souls. Not only those who really took up arms against the Government are affected by this legislation, not only the disloyal rebels, but the very negroes who have been emancipated from servitude, the loyal men in the South and those who have gone from the northern States to the South to endeavor to cultivate cotton and to make a living there and improve their condition. It is perfectly idle, in the face of these accumulated facts, to attempt to prove to this Senate that it would be wise to continue a tax so onerous as two and a half cents a pound on their cotton. To take one fourth of all their production, a raw agricultural product, and gather it into our Treasury when no other agricultural product is taxed, is so monstrous a proposition that it seems to me it is not necessary to reason at any length upon it. If the price of cotton was forty cents or fifty cents, as it was when we levied the first tax, then, comparatively, it would be a very insignificant tax. Even if the prices were what it was when we levied the tax a year ago, twenty-five cents, we might do it.

But Senators may suppose that this is only a temporary depression. There is no evidence of that kind. I might read papers here on this subject; but I will again read from the authority of the price current, which is always a hard and exact statement, and therefore does not lie or deceive anybody. Here is the statement made in regard to the cotton market in New York of Saturday, in the Commercial Record of that city:

"The feeling of our market is, that although cotton is selling very much under the cost of production, and that next season cotton will rule at higher prices, the general state of trade in all the markets of the world is so unsatisfactory, and the losses on cotton have been so general and so disastrous, that no immediate permanent improvement in the price of cotton is to be looked for. Whenever capitalists, attracted by the low price, will invest in cotton, there will be no further decline."

The truth is, the enormous production of this staple caused by the events of the war has made the cotton plant familiar in nearly all the countries of the world. Attached to this report are the names of countries that have actually produced specimens of cotton within the last few years, and the list extends to every portion of the civilized globe within certain latitudes. In many parts of the world it can be produced cheaper than in others; it can be produced cheaper and better with us; but we must now enter in competition with the world in the production of cotton with a very different state of affairs from what we had a few years ago. Then we had compulsory labor when every laboring man, woman, and child was compelled by a taskmaster to work ten, twelve, and fourteen hours a day in the proper season. Then we could produce cotton cheaper; but now we cannot do it. We have now to enter into competition with other countries under a very different state of affairs. We have emancipated those laborers and given them their rights. The testimony of all now is that the women and children will no longer work in the cotton fields. The labor falls on the men.

You have got to pay the men for their labor, and if they find that other productions will yield them more for their labor than the production of cotton you will not get the labor from these people. At this moment, while all these letters show that the cost of a laboring man in the South is from one to two hundred dollars a year, including his board—and that seems very small to us—yet in India the cost of a laboring man is only twenty-five dollars. It is true, the freights are in our favor; the quality of our cotton is much superior; we probably can produce a better staple; but it must be remembered that there are hundreds of millions of people in India who are now producing the cotton crop; that they are extending their railroads all over India; that they are now reaching sources of supply in the cotton crop that never have been reached before; and that now we are compelled to compete under a very different state of affairs from what we did a few years ago. The truth is, cotton is no longer king in any country, in any province, in any State. It is a dethroned monarch. It must enter the money market of the world and be bartered and sold like any other product, and its price will depend entirely on whether it can be made cheaper in South Carolina or in India. In entering into that competition the South has no longer the advantage it had six or seven years ago. That advantage was lost by her rebellion.

I have not gone into the merits of this question as a question of political economy, because that has been discussed before, to show that it is not wise to tax a raw product of industry, either manufacturing or agricultural; and especially not to the extent that cotton is taxed; but I have based this bill solely upon the fact that in the present condition of the cotton market it is unwise, unjust, and oppressive to continue longer this tax. If the crop of the present year was all in the hands of the producer, if it was now all in the hands of the negro or the man who produced it, I should be willing to repeal the tax for the present year, as I voted a year ago. But I think the condition of the crop is so changed, it having been sold to a great extent and advances having been made upon it, that it would be utterly impracticable to repeal the tax for this year. It has been partly paid. About one fourth of the crop has come into the market; another fourth probably has been passed over to dealers and is now held by speculators; and perhaps another fourth is yet held, with advances upon it, under such circumstances that it would be difficult to ascertain who owns it. It would involve the country in all sorts of attempts at fraud. Attempts would be made to show that the real owner was the producer, and we would have a scene of fraud and difficulty. I believe it is better to let the tax for the present year stand and be collected. Although I believe the collection of the cotton tax will be very oppressive, yet I do not think the condition of affairs is such that we can now extend the repeal to the crop of the present year. The Senate committee, therefore, deem it proper to report this bill simply as it was sent to us from the House, to affect only the future, and desire to have it passed now, so that the people of the South, black and white, may make their contracts after the holidays are over with a view to the free cultivation of cotton and the free competition of our cotton with all the cotton in the world.

Mr. POMEROY. I listened, as I always do, with a good deal of interest to the remarks of the Senator from Vermont. I remember what he said a few days ago as to what he intended to prove by the remarks which he meant to submit to the Senate on this question, and I think that perhaps the proof was entirely too much. I understood the statement to be made, and some papers were read to prove it, that there was no danger of an excess of cotton from other countries; that the countries in the East that were producing cotton which came in competition with ours to some extent were not likely to produce a great crop, but, on the other hand, a small one; and then the argument was that on that account we should not stimulate the production at home, because a small crop here would bring just as much or more than a large one. Now I submit that from that statement too much altogether is proved. If there is to be a small crop from the countries in the East, then we should stimulate our own production so as to have a large one at home. If we are to reap the advantage in the production, let us produce largely, and stimulate our own production if possible when other nations are producing small crops.

Again, in this law levying a tax of two and a half cents a pound on cotton there is no provision for a drawback, so that it is a sort of export duty. If a party owning cotton in this country had the right when he shipped it to have a drawback of two and a half cents a pound then he would be on an equal footing with the producers in other countries; but the facts are, that he pays here two and a half cents and then undertakes to ship it abroad, and he is at a disadvantage of two and a half cents a pound as compared with the producer of cotton in any other country. Now, I submit that if that is not unconstitutional it is objectionable. Of course no Senator believes that we could impose an export duty on cotton directly, and I cannot see how we can do it indirectly. I do not see how it is any fairer to do it in an indirect manner than to put it on directly.

Again, the amendment which the Senator says he will submit at the proper time proposes now to take off the tariff duty upon cotton imported into this country. Why do that? If we want to give protection to American labor at all why not protect it to the extent of that tariff duty? I believe it is five cents instead of two and a half.

Mr. MORRILL, of Vermont. Three.

Mr. POMEROY. I have followed the Senator session after session in protecting American labor, American manufactures, and American skill. We go into the mountains and dig the ore, and protect the iron manufacturers, because they tell us "If you do not do that we have got to reduce the labor of this country to a par with the labor of foreign despotic Governments, where the laborer is not half paid." Why not afford that incidental protection to the laborer who is producing cotton, especially as there is every reason why we should, for this year at any rate, stimulate the production, if the statement of the Senator from Vermont be true that we are threatened with only a small production in other countries?

The Senator also remarked that their cotton was of an inferior quality, and did not come in competition with ours. Although it is of an inferior quality, yet I apprehend it does come in competition with ours, for two reasons: in the first place, they mix it with ours in the manufacture, and in that way it is in competition; and secondly, they will use it for the manufacture of certain articles in the manufacture of which our cotton otherwise would have been used. In two respects, then, it does come in competition with ours, although an inferior article. That is why I would continue the tariff upon foreign-grown cotton.

I do not pretend to argue this question at

any great length, and I am not going to do so. I say the logic of the Senator from Vermont is not according to his own statement of the facts. His logic would discourage us from producing cotton in this country. The statement of the facts shows that we should stimulate the production if there is to be a small crop abroad; and I know of no reason in the condition of our finances or the system of labor or anything else why we should not encourage it.

Mr. FESSENDEN. I notice, Mr. President, it frequently happens that when there is a considerable clamor for a change in the law favoring a particular interest there seems to be an equal clamor or some very plausible reason to be given why it should be done at once, without stopping to consider how it is to affect other matters perhaps of equal interest. In this particular instance, with reference to the cotton tax, it is said you must not only take off this tax, of which I shall speak presently, but you must take it off now; you cannot wait even until February or March, when we shall have the whole subject of internal revenue under consideration, and be able to adjust all such matters with reference to the condition of the country and the wants of the Treasury. The reason given is, that certain persons engaged in the raising of cotton have been in the habit of making their contracts for labor at a certain season of the year, and it is very inconvenient to them that we should oblige them by our want of action on the subject to make their contracts at any other season. To my mind, that is not by any means a conclusive or even a plausible argument for taking this matter up and pushing it through in such hot haste, if it is really a question so connected with others that they ought to be considered together. It may be somewhat inconvenient for persons engaged in the raising of cotton to make their contracts at a different season from that in which they have been in the habit of making them; but the condition of labor in the South is such, unquestionably—we have it from all sources—that contracts to be made in relation to this matter can be made as well at one time as another; that is to say, at any time before it is necessary to commence operations. I hold this argument, therefore, to be simply a mere excuse for pushing the measure through before we have time to consider what effect it may have with reference to other subjects properly to be taken into consideration by the Senate, and before, in fact, we know what is to be the condition of the Treasury the coming year.

Now, sir, I think this question is to be considered precisely like any other. Is it expedient to do this thing; and, if so, is it expedient to do it in such hot haste as is proposed by the honorable Senator, the chairman of the Committee on Finance? I have considered the last proposition. Now, as to the first, I beg leave to take issue with some things that have been said by Mr. Wells, the Special Commissioner of Revenue. I do not agree with him by any manner of means that this tax was considered in the beginning merely a temporary measure. It certainly was not so considered by me. The question of laying a tax upon cotton was one very much debated in committee, and very much debated at different times in both branches of Congress, and I am not aware that at the time the tax was originally laid it was conceded to be a mere temporary measure for temporary purposes. It was put upon entirely different grounds. It was put, according to my recollection, upon the propriety of the thing itself. It is very true that, as a question of laying a tax upon an agricultural product, it was much considered, and that objection was made. That objection has little force with me. A tax may as well be laid upon an agricultural product as upon any other, if it is such a product as to render the tax advisable. It sometimes happens, and most frequently happens, with regard to nearly all agricultural products, that they are used for the most part in our own country and by our own people, and that to tax them would be a hardship.

But this reasoning does not apply to cotton. A very small, comparatively, proportion of the cotton raised in this country is used at home. The greater part of it is sold and used abroad. If it is so objectionable to put a tax upon an agricultural product, why do so many gentlemen argue that we ought to put a tax upon tobacco in the leaf? That is an agricultural product. For the simple reason, the ground of their argument is, that it is a luxury, not a necessity; that it is used abroad as well as at home; it is a very proper subject from which to raise revenue; and if we can get at it better in the leaf—and that is my opinion, and I hope a system will be devised by means of which we shall be able to do that—so much the better. The reasoning, therefore, that it should not be taxed because it is an agricultural product does not apply. Neither does it apply to cotton.

The reasoning, as I stated before, upon which the tax was laid upon cotton was that it was a proper subject of taxation; that the great burden of the tax would come upon foreigners; and that there was no reason, as it was a product of which we had substantially the monopoly at one time, and hoped to have in the future, when the relations of the States of the Union to each other should have again resumed their original position, why, from the very nature of the case, it should not be made to pay something into the revenue, something toward the support of the Government, just as well as any other product or as any other article, whether an agricultural product or not.

There was another reason, sir. I hold with a distinguished French statesman that the proper end of every unsuccessful rebellion undoubtedly is clemency and benefits. It is what we ought to come to just as fast and as far as possible. I hold that that should be the proper end of this rebellion that we have suppressed, or this revolution, if you choose to call it so, which has been unsuccessful on the part of the revolutionists. But while I hold that the proper termination of it should be, as stated, clemency (which has been exercised, in spite of all that our enemies say of us, to an extent hitherto unexampled in the history of the world with regard to punishment) and benefits—all that we can render in order to build up that broken down section of our Union—yet I do not hold that we ought to go so far as to exempt a great section of our country entirely from all support of the Government and all contributions to its aid. Why, sir, our Secretary of the Treasury has made a proposition, and I confess that the proposition does not yet strike me very unfavorably—I have not made up my mind upon it—with regard to the finances that is to be remarkably for the benefit of the southern section of the country. It is that we turn our permanent debt into a six per cent. stock, and take from that one per cent. to be divided among the States, handing out to the States of the Union which went into the rebellion their proportion, according to the population, of all that is to be deducted from changing the stock. It may be wise to do so. I have no opinion now to express upon it. I do not know but that I shall be in favor of it for the good it will do to other States. But, sir, I do think that the thing may be carried too far. It is very well known that I have supported several measures which have passed the Senate, but which I believe have not become laws, which were calculated for the advantage of the southern section of the country; but I am not willing at once to go so far as to exempt that section from all burdens, and to say, now that we are restored to our old condition, they shall contribute nothing either at the present moment or hereafter toward the support of the Government.

Sir, it was with reference to the perpetuity of this tax, to the propriety of a great staple like this paying something toward the support of the Government hereafter, not so much in the present as in the future, it was to establish a system that the tax was laid in the beginning. We did question something with regard to the amount of it. I was among those who were for making it smaller than it is. The Committee on Finance of the last Congress, if I recollect aright, at the last revision of the internal revenue tax, placed it at two cents a pound, and on a division with the House of Representatives it was finally put at two cents and a half. I would have been satisfied with that; perhaps I would have been satisfied with less; but the great idea was that there was to be something levied on this great staple from its peculiar relation to the business of the world, and from the fact that we all understand that the largest proportion of it—I cannot say how much; my friend from Rhode Island [Mr. SPRAGUE] could tell me; four fifths perhaps—goes abroad, and that we should derive a revenue from it in consequence of that very fact. I know the question of an export duty was raised, but it never amounted to much, I believe, in anybody's mind. So far as internal taxes are concerned, they may be levied upon anything, no matter whether it goes abroad or not.

I disagree, therefore, with the Commissioner in his statement that this was intended as a temporary measure. With regard to the tax itself, one thing is certain: it has given us, even in the present condition of affairs, $27,000,000, as my friend from Vermont states, and perhaps more than twenty-seven million dollars toward the revenue within the last year. More than all that, the system is such that it is one of the easiest and surest taxes to collect; so that everything, in fact, is in favor of it, unless it be that, in the present condition of this particular interest, we have arrived at a point where we ought to lift the burden in order to encourage the production. That is another question, and one which may very properly be considered.

The argument is, that this article has fallen to so low a price that the tax has become too burdensome. That may be. If it is true, and perhaps it is, why should we take the tax off altogether? Why not, I ask the chairman of the Committee on Finance, merely suspend its operation until we see what the effect is to be? If I believe that the existence of a certain provision is a matter of good policy I wish to keep that provision upon the statute-book. It is much easier to retain a provision when it is there than to get it on afterward. I do not approve being quite so hasty, quite so rapid, so much influenced by clamor. I know there are several interests which speak pretty loudly upon this subject. There is the interest of the cotton-grower; and allow me to say, sir, that in my judgment, if our friends from Ohio and Massachusetts and Maine and other places had not gone down to the South and begun to raise cotton and write letters about it we should not have been so much troubled I think about that section; that is to say, our minds would not have been so seriously affected. But I beg leave to say to my honorable friend, the chairman of the committee, that the argument that the negroes will vote against us on account of this tax is hardly an argument to influence us on a question of political economy. I do not know how they will vote one way or the other. The question is whether the tax ought to exist with reference to the interests of the country, with reference to the interests of the Treasury, with reference to the future as well as the present, and not whether we are to get votes or to lose votes in consequence of it.

Now, sir, my idea is that it may be true that in the present condition of the production of cotton it would be well enough to relieve those engaged in raising it from the tax; but I do not wish to abandon the policy, and do not wish to abandon the idea that it is a proper article out of which to raise revenue, because, as my friend from Vermont has said, and I think has proved in fact, we all know the burden is slight upon this country, and the people of this country, compared to what it is upon foreigners. The manufacture of cotton is a very great interest in this country. As at present arranged, our manufacturers of cotton—although I believe a considerable number of

them are favoring the repeal of this tax for its mere effect upon the present time—have this advantage: they have a drawback upon all they export—and I was one of the advocates of that very measure—and they go into the markets of the world, if they can get there, with that much of advantage over the great cotton manufacturers of England. I wish them to retain that advantage; I wish to build up and extend the manufacture of all our products here. I am unwilling to take any step looking either to the present or the future that shall look as if we meant to abandon the policy that we adopted calmly and deliberately, and after very great consideration, both in committee and in the two Houses of Congress.

It is argued that we ought to take off this tax entirely, on account of the low price of cotton. Well, sir, perhaps we ought, but is the low price of cotton produced or brought about by the tax? I wish my friend from Ohio would inform me what causes the low price of cotton at the present time? Ordinarily one could guess, who has thought at all on these subjects, that it was owing to a lull or falling off in the demand for the manufacturers of cotton, or to the fact that the market is too much glutted with cotton already; that there is more of it on hand than can be used. It is not the tax that produces the low price. How, then, can you draw an argument from the tax except just so far as the argument goes to present relief?

The comparison that our friend the Commissioner and other gentlemen make with regard to the competition of India is a very singular one. Is there not the same relative falling off in the price of India cotton that there is in the price of American cotton? Has not the falling off kept pace the one with the other? Is there not the same proportion in the prices now that there was many years ago? I understand it to be so.

I allude to this simply to show that the argument that is adduced by the Commissioner from the fact of the competition between foreign and American cotton, so far as the danger of our being driven out of the market is concerned, is perfectly contradicted by the facts themselves as he states them. If ours had fallen off in price and India cotton had not there might be something in the argument. If the quantity of the India cotton used in the market had increased relatively much more than ours had there would be something in that argument; but the fact is the other way. If I read the statement aright, the fact is that the quantity of American cotton used abroad in England in the last year has increased relatively more than the India; that has, in fact, fallen off, while ours has gained. Does that fact show that there is any danger arising from the production of cotton abroad?

If gentlemen will look back they will see how easily all this is accounted for by the state of circumstances. Our cotton was shut up during the war and could not be had to any considerable amount. This led to an effort to raise cotton abroad, to increase the production in India, to get a better staple abroad. It resulted in what? It resulted in increasing largely the quantity grown in other places, necessarily. Naturally that was the consequence; but does it follow that the moment we are again able to raise cotton; the moment we are in a condition to resume our old position; the moment we can go into the market as we went once before, with our own staple superior to all others, we shall not regain the position we lost? Gentlemen argue as if that condition of things was to be permanent. Facts show that it cannot be so. The fact is not only that we have a superior staple, but that we can put it into foreign markets cheaper than cotton from India can be put there.

I am a little surprised at the argument of my friend the chairman of the Finance Committee with reference to the cost of raising cotton, that the abolition of slavery and the fact that the labor can no longer be forced has necessarily and naturally produced the effect of increasing the price. It may be so for a short time; but is not that idea at war with all our theories? What is the theory of free labor? Are we to be told, now that slavery has been abolished, that we are necessarily, in consequence of it, to pay more for the products of the South because free labor is more expensive than slave labor? Is that the argument now? If so, we are reverting to the old argument of our adversaries. That is the way those who sustained slavery used to argue. They said you could not raise cotton, sugar, rice, and tobacco by free labor; that slavery was absolutely necessary to the good of the world, because with regard to these articles they could not be produced without slave labor. What was the reply? Throw these products open to free competition, make labor free; and the superior intelligence that will be brought to bear, and the superior thrift and everything that distinguishes free labor from slave labor, will result not only in increasing these productions in quantity but in quality and in cheapness. I believe that that will be the result.

Sir, I have said these things, not because I am opposed to granting relief to a certain extent, but because I wish to enter my dissent entirely from the doctrines of gentlemen, and especially the leading doctrine that this tax was enacted as a temporary measure, and to be abandoned the moment it should be found to press hard in any particular direction. One would really think from what has been said that there was no part of this country suffering from taxation except the South. I know that they are less able to bear taxation than we are; I have no doubt the oppression is very considerable; I am perfectly willing to do everything I can to relieve it; but in order to relieve it I am not willing to abandon a well-considered policy; nor am I willing to go so far as gentlemen seem disposed to go; and that is, to demand that at the instant, without the slightest delay, without any consideration in point of fact, we should strike off this tax, and leave it to the future to see whether it can be put on again. Suspend it, if you please, for a given time; I do not think that would affect what we must do by and by with reference to revising our tariff and internal revenue systems; but if an entire striking off of the tax is insisted upon, let us at least wait awhile until we can compare notes and see what the result is to be with reference to other things.

When this subject was first presented to my mind, so great was the clamor in all sections, I heard so much of it at home, I received so many letters and heard so much about it after I came here, that it really seemed to me that there was no time to deliberate upon it, that it was a matter of great oppression; and I remained somewhat of that opinion until I came to read the report of my friend the Commissioner. I have great respect for that gentleman; I think he is a very able and a very judicious man, as a general rule; but I think he is a little too apt to be carried away by what he hears outside from the last speaker. At any rate, he is not quite so much in the habit as we are of looking ahead. He certainly was not, in my judgment, at the time when he considered that this tax was to be a mere temporary affair. I may be mistaken about that, but I can only answer for myself. He was in favor, not of taking off this tax last year, if I recollect aright, but of very much reducing it. I am somewhat of the same opinion myself; I think it ought to be somewhat lower; but that is a very different proposition from the one now urged, of abandoning it altogether. Against that I enter my protest, and I warn the Senate against it. I believe the time will come when we shall need it and when we shall see the propriety of continuing an internal revenue tax upon this great staple. I think the arguments upon which it was founded in the beginning were perfectly satisfactory, so far as the measure itself as a policy was concerned; and perhaps if we take off the tax now the time is not far distant when it may not be entirely in our power to replace it exactly at the moment and exactly in the way we may think advisable. I am willing, as I have stated, as some relief is so strongly urged, to suspend the operation of the tax for awhile, and I hope the Senate will go no further.

Mr. MORTON. I desire, if it is in order, to offer an amendment to the bill, striking out all after the enacting clause——

The PRESIDENT *pro tempore*. It is not now in order, as there is an amendment already pending; but the proposition may be read for information, if desired.

Mr. MORTON. I desire to have my amendment read for information.

The Secretary read the proposed amendment, as follows:

Strike out all after the enacting clause of the bill and insert "that upon all cotton grown in the United States after the year 1867 there shall be raised and collected the sum of one cent per pound, and no more, to be collected in manner and form now prescribed by law."

Mr. MORTON. We are now proposing to strike out from our internal revenue list a tax yielding from twenty-three to twenty-seven million dollars per annum. That makes a large hole in it to begin with. We shall desire too, perhaps, to reduce the tax on a good many things in the North, and it may be desirable to afford some relief all around; but if we shall begin by throwing away at the very start $27,000,000 in the South, we may perhaps find it impossible to do justice or to grant relief to many branches of industry and production in the North.

It occurs to me that there ought to be some delay, as suggested by the Senator from Maine, before this is done. I would not even now consent to suspend this tax. We can relieve the South by taking off a part of it; we can raise at least ten or twelve million dollars in that direction without oppressing them much. It must be borne in mind that many branches of industry are oppressed in this country now by taxation. The people are desiring relief in the West, in the East, in the North; but if we begin by relieving the South entirely we may not be able to grant relief as we ought to do in some other directions.

I believe the present tax is too great; I believe it is now oppressive; I think at least one half or three fifths of it ought to taken off; and I believe a tax of one cent per pound can be collected without doing more injustice to the cotton collector than is now done or will be done to many branches of industry in other parts of the country when the taxes shall have been reduced as we hope to reduce them. Therefore, before we take off this tax entirely from the South let us wait a little while and see what can be done toward reducing taxation to some extent in other parts of the country.

Mr. WILSON. Mr. President, when the cotton planters were in full possession of millions of bondmen, in undisputed command of the markets of the world, and in complete control of the national Government, they crowned cotton king. But the power of the cotton-growers is now broken—broken forever. No longer do they sway the councils of the Republic. Their millions of obedient slaves are now free citizens of the United States. Their accumulated wealth has vanished in the flames of the civil war they lighted. Cotton is no longer king, but it is an article of commerce which has been, now is, and will doubtless long continue to be a mighty element in the productive industries and monetary affairs of the manufacturing and commercial nations of the globe. Possessing as we of the United States do the best lands for the production of cotton in the world, having millions of capital invested and millions of laborers trained in the culture of a staple so important to the interests of nations, surely enlightened legislation cannot fail to see that we should remove the burden of taxation and give that relief which is so demanded by the pressing needs of both capital and labor.

During the month of August, 1864, cotton was sold in New York at $1 85 per pound. As our armies advanced into the rebel territory, and it became apparent that the war would soon end, it rapidly declined in value. The

average price of middling cotton during the year 1865 was sixty cents per pound; in 1866 thirty-nine cents per pound, and in the first six months of 1867 thirty cents per pound in currency. During the past five months the price has rapidly fallen until it has reached fifteen cents per pound. In Liverpool cotton declined in price during the same period from thirty-one pence at the time of the greatest scarcity, down to less than seven and a half pence per pound.

The prices of cotton went up under actual and impending scarcity, but when the supply of cotton became in excess of the demand, reduced as the demand was by high prices, these prices began rapidly to recede. The high prices of cotton during the war extended production in other countries so as almost to equal the limited consumption when the close of the war opened the way for getting out the old cotton remaining on hand and for renewed production here. The prices of cotton ruling so high gave such assurance of large profits that capital from the loyal States sought investment, and great plantings were made in order to profit by those high prices. It was believed that the price of cotton would rule high for some years to come, and Congress, so believing, imposed a tax of three cents per pound. At the ruling price the tax was not a burdensome one, and it seemed but fair that growers of cotton should contribute something to the support of the Government and to lighten the burdens imposed upon the industries of the people.

The cotton crop of 1866 was a general failure, yielding only about one million six hundred thousand bales from a planting which in ordinary seasons would have yielded 3,000,000 bales; yet this crop was enough, added to the old cotton held in the country and to the products of other countries, to supply enough for a largely increased consumption and leave on hand a heavy surplus. The cotton crop this year from a planting smaller than in 1866 promises a yield of 2,500,000 bales. From that quantity of cotton we can supply our own consumption and spare to Europe 1,750,000 bales, if so much shall be needed. Statements apparently authentic and reliable from other producing countries show that they can supply to Europe 2,900,000 bales, and that the stock on hand in Europe October 1, 1867, was 1,092,000 bales. It appears that there is existing and in preparation for market a supply of cotton available to Europe estimated to be:

	Bales.
From the United States	1,750,000
From Egypt	250,000
From Brazil and other countries	900,000
From India, (the average of last two years,)	1,750,000
Total	4,650,000
Add stock in Europe October 1, 1867	1,092,000
Making a total supply of	5,742,000

The consumption of Europe for the past year was—

	Bales.
In Great Britain	2,414,000
On the Continent	1,733,000
Total	4,147,000

Estimating the consumption to increase to the extent of two hundred thousand bales, it would be for the year ending October 1, 1868, 4,347,000 bales; leaving on hand October 1, 1868, a surplus of 1,395,000 bales in or accessible to Europe—a surplus of three hundred thousand bales larger than 1867.

Now, sir, if this estimate is borne out by the result, or if common opinion in the trade adopts and acts upon this estimate, there is sufficient reason why the prices of cotton should fall extremely low, as they have always fallen under similar relations of supply and demand. From the point where supply became in excess of the demand a decline in price was a necessity. The price of any commodity in the markets of the world is made by opinion based upon facts, but often modified by feeling, as when elated by brilliant successes or depressed by great losses. The depressing influence of the excess in the actual supply of cotton, and threatening a further large disproportion to any demand for consumption, was in itself quite enough to break down prices, but this depressing influence of an excess in the actual supply of cotton is greatly aggravated by the fearful disasters which the trade in cotton and cotton goods have encountered during the last two years.

The range of prices now reached is so low that in the ordinary circumstances of trade cotton would attract to itself unemployed capital for investment. At the present time there is an immense amount of capital in Europe idle, unproductive, and seeking safe investment at extremely low rates of interest. The general explanation of the stagnant condition of commercial and monetary affairs in Europe is doubtless to be found in the disturbed state of political relations, but something more than the disturbed political condition of Europe is required to explain why capital does not seek investment in cotton after it has fallen below seven and a half pence per pound. The price of cotton is borne down by dear food. It has been proved during the past thirty years that dear food makes cheap cotton. Without discussing the reasons for it, the fact stands beyond dispute that whenever a bad harvest has made a scarcity of and high prices for the food of the people in England, whether under the old corn laws or since their repeal, cotton has been forced to give way and decline in price. Political troubles, causing general distrust and an unwillingness to extend business enterprises, have borne down the prices of cotton. Both these conditions exist in and among the nations of Europe. In England and France wheat is nearly twice the price of 1864. Bread riots have occurred, which is an evidence also of want of employment for labor. This stagnation in nearly all departments of business is distinctly shown by the absence of demand for the millions of money now lying idle.

We see in Europe, first, a troubled and unsettled condition of political affairs; second, dear food, with its enforced economies in all other expenditures; third, the want of full employment for labor; and fourth, the stagnation which comes from all these combined; all bearing with fearfully depressing effect upon cotton in Europe and particularly in Great Britain.

Nor is this all. During the last two years Liverpool, the great cotton market of the world, has paid a fearful penalty; it is a most righteous retribution for its sympathy with secession in its wicked effort to disrupt the Union and take the cotton-growing States from under the authority of the national Government. From the opening of the rebellion to 1864 Liverpool gathered enormous wealth from cotton, from the transfer of American ships and their carrying trade, and from contraband traffic with the States in rebellion. From the close of the war to the present time Liverpool has lost all that ill-gotten wealth, and with it a great portion of the real capital which had been legitimately employed in the cotton trade before the war. Of the men and firms chiefly engaged in the traffic most unfriendly to the United States nearly all have become bankrupt, and some of these men and firms have incurred disgrace by criminal misconduct. Others, not specially participating in secession schemes and the contraband trade, have largely shared in the calamities, and cotton commission houses, cotton brokers, and cotton banks have gone down together. The old speculative power is utterly broken down as well of the speculators themselves as of the brokers and banks that supplied the means. The recent frauds and the great disasters have induced a very close scrutiny of credits and limitation of facilities for the discount of bills and for cash advances upon cotton.

These are the present conditions in England under which the cotton crop of 1867 seeks a market there. The cost of any article of commerce has little influence upon its market price, which is the creature of opinion guided by the supply and need. The cost of replacing an article of merchandise is not generally considered until the necessity for replacing it arises. It is estimated that the cotton crop of 1866 cost to produce it over thirty cents per pound in the average, and as high as fifty cents per pound on some of the great plantations; yet this cost of production had little influence on the price during the selling season of 1866 and 1867, when the price was made and changed in the Liverpool market to meet the conditions of the times. Starting at fifteen pence in October cotton fell to ten pence in April, came up to eleven and a half pence again and ranged from ten and a half to eleven and a fourth pence until the promise of an abundant supply from the crop of 1867 became apparently sure, when it fell rapidly to seven and a half pence per pound. So the cotton crop grown this year, costing to the best managing planters sixteen cents or more per pound and returning to them from the present prices less than thirteen cents per pound, must have its price adjusted by the demand of the world irrespective of its cost. This fact should have and will have an influence on the planting of the next crop, but can have little consideration in determining the selling value of this year's crop.

The culture of cotton by slave labor was the most successful industry of the southern States. These States held the monopoly of the supply of cotton to the world by the combined power of price and quality, the one so cheap and the other so good as to defy all competition. Slave labor was costly and wasteful, yet it had one merit—its organization and general employment. I do not assent to the assumption of the late slaveholders that free labor cannot do what slave labor did do in the cheap production of cotton. Free labor needs only to be educated enough to know its own worth and power, and to be organized, encouraged, and compensated to be more industrious and more productive than slave labor ever was. To the products of the labor of the freedman is now to be added the products of the labor of that large body of white people who have been taught the value and necessity of labor in the hard school of privation and discipline brought upon them by the rebellion. These laboring white men are growing cotton on their own cotton patches, and so are many freedmen.

The aggregate of these little crops will count in hundreds of thousands of bales. Under the current and probable prices of this year's crop these small producers—both black and white—will realize for their cotton only about sixty dollars per bale at their homes, and from the pitiful price of about ten cents per pound these small producers must pay a tax of two and a half cents per pound to the Government. It is a great mistake to suppose that this tax upon this year's cotton crop will fall upon capital, that it is a tax upon wealth or luxury. Nearly all the crops, even those upon large plantations made by hired labor when the labor has been paid for, were made on money borrowed of merchants or factors. The price which the planters will receive if wholly relieved from tax will not enable them to pay the advances made to them by the merchants or factors, or to pay their labor. Therefore, the tax on cotton must come out of those to whom the proceeds of the crops are owing—the merchants, factors, and laborers. In either case this tax is by so much disabling one class to buy and the other classes to pay for what they have bought of the products of the shops and looms and farms of the northern and western States. This tax, if not taken off of this year's crop, will have the most disastrous effects upon merchants, planters, and laborers in the cotton States, will prevent their paying for purchases already made, will diminish their power to pay for articles of prime necessity, and will impair their productive power for the coming year. The Government will receive $25,000,000 by this tax, but pro-

duction will be diminished tens and tens of millions by it. The people of the northern and western States will pay this tax twice or thrice over in bad debts and diminished trade.

The present condition of the cotton-growing States is indeed deplorable. Most of the capital from the northern States invested in cotton growing has been lost, and most of the northern men engaged in planting have been ruined. The merchants and planters were ruined by the war; there is little capital in the country, the rates of interest are ruinous, and the condition of the planters and laborers cannot but arouse the anxiety and excite sympathy of all men who desire the prosperity of the whole country and of all classes and conditions of men, black and white.

I am sure, sir, that the people of the loyal States do not realize the terrible sacrifices made and losses incurred by the people of the rebel States during the rebellion. The fortunes of business men and planters were sacrificed, the great masses of the white people were made miserably poor, and the great body of the freedmen have no spot of earth they can call their own, even to stand upon. In traveling last spring through portions of those States my heart was pained at what I heard and saw of the losses and sufferings of that portion of our countrymen, brought upon them by their rebellion against the Government of the United States. To the enormous losses of the war have been added the losses by drought in some sections, the overflowing of the Mississippi, the failure of the crops, and the present low price of cotton.

In their present depressed condition the cotton-growers have looked to Congress to relieve them from the great burden of the cotton tax. They have indulged the hope that the repealing act would apply to the crop of the present year. The action of the House of Representatives has disappointed the high-raised expectations of the people of the cotton-growing States, and is having a most depressing influence upon them. I have received from gentlemen in that section of country many letters pressing the repeal of the tax and describing the present depressed condition of the people. Major General Swayne, at the head of the Freedmen's Bureau in Alabama, in a letter to me, says:

"The planters here have almost universally held on to their cotton in hopes that Congress would repeal the tax. This is to most of them the difference between profit and loss on the crop of this year, and the only means by which the freedmen can be paid. I trust the repeal may include the crop of this year yet in the hands of the producers."

Mr. Eli S. Shorter, of Alabama, formerly a Representative in Congress from that State, in a letter to me says:

"The country is greatly disappointed at the failure of the House not making the repeal of the cotton tax applicable to crop of 1867. We are all a ruined people—whites and blacks—and not one planter in twenty has the ability to cultivate his lands next year. Hundreds of thousands of laborers will be without employment, and I shudder to think of what is in reserve for us next year." * * * * *

"The low price of cotton has produced this state of things. How are the whites to live? How can the blacks subsist? We cannot get advances on our crops next year in time to save us. Not one planter in a hundred is able this season to pay his expenses incurred in making the crop of this year; and yet the Government insists on taking from us over twenty-five per cent. of the market value of what cotton was made. I have two of the most valuable plantations in the State, well stocked with mules, wagons, &c., and capable of making five hundred bales of cotton and six thousand bushels of corn, and giving employment (as I have done this year) to one hundred and fifty laborers. Yet I have notified my employés that I will have to discharge one hundred of them at Christmas for want of means to obtain bacon and corn to feed them next season. Every planter is doing the same thing. Where are the poor creatures to go to, and how are they to be fed?"

I received the other day from Mr. Kenneth Raynor, some years ago a Representative in Congress from North Carolina, but now a resident of Mississippi, a letter, in which he says:

"If the tax is to be repealed it ought by all means to apply to cotton sold since the 1st September last, so that the tax paid on cotton sold since that time should be repaid to the seller. The restoring or refunding the two and a half cents per pound, while it will materially help the cotton-grower, cannot save him from ruinous loss. Many cotton-growers as I know in the South I do not know the first one that has planted cotton on a large scale who will not lose money by the operation. Very many of them are hopelessly ruined. Those who have already sold their cotton and paid the tax are they who were most needy and hardest pressed for money, and therefore could not hold it; or else they were the most honest and punctual, having gone in debt to their factors for supplies during the year they felt bound in honor to forward their cotton to market as fast as it was ginned and baled. Those who have not sold are they who were best able to hold it, or who have failed to comply with their obligations to their factors.

"To repeal the tax, and make the repeal apply only to cotton unsold, would benefit those who least need relief, and leave the burden to be borne by those who most need it. Unless the repealing law is made to apply to cotton sold since the 1st September I doubt whether the southern people generally would regard it as a relief or as a measure of justice by a beneficent Government. Those who have sold would regard it as a law partial in its operations, and oppressive to them because of their punctuality.

"I assure you, my dear sir, that the accounts as published in the newspapers fall very short of describing the ruin, disaster, and bankruptcy impending over the cotton interest in the South. I am sure that not half as many acres will be planted in 1868 as were planted in 1867. And there is a social problem involved in this question, to be worked out in the coming year. Several hundred thousand freedmen will be out of employment after the 1st of January. Those engaged heretofore in cotton planting will not be able to employ them. What is to become of them?"

These letters of Mr. Shorter and Mr. Raynor represent, I have no doubt, the real condition of large portions of the cotton-growing States. This condition of affairs appeals to us for such relief as is within our power to give. The permanent interests of the country demand that cotton culture should be fostered and encouraged, that it should be secure against the competing productions of other countries, and again control the cotton supply of the world. When that control shall be restored, when the field is once again clear, we may confidently expect such a moderate production of cotton in all the world as will steadily afford remunerative prices.

The present ruinous prices of cotton, and the probability that during the ensuing season we are to see no material improvement but a further reduction in value, should induce us, if it is practicable, to relieve the crop of 1867 from a tax so disproportionate to the price for which that crop is selling as to be burdensome and oppressive.

Sir, this cotton tax had at first the excuse of necessity for its justification, but it has now no excuse whatever. The present interests of all classes and conditions of men in the cotton-growing States imperatively demand its repeal and the application of the repealing provision as far as possible to the crop of 1867. The enduring interests of the whole country bid us hasten to remove this crushing burden upon an article in the production of which so much capital is invested and so much labor employed—an article which plays so important a part in the financial and commercial affairs of the country and the world.

Mr. WILLIAMS. Mr. President, I desire to propose an amendment, as an amendment to that offered by the Senator from Maryland:

And upon all cotton unsold by the producers when this act takes effect: *Provided*, That no tax upon cotton heretofore collected shall ever be refunded.

I have proposed this amendment, Mr. President, because all the unanswerable arguments that have been offered in favor of the repeal of the law apply with equal if not greater force to this amendment. I think the reasons for the removal of this tax are overwhelming and irresistible; and they do not exist altogether in outside clamor, as has been suggested by one Senator. Grave doubts existed when this tax was imposed as to its constitutionality and expediency. Those doubts have continued to grow; they are now deeper and stronger than they were at that time; and during the last session of the Thirty-Ninth Congress a proposition to remove this tax altogether received an equal vote in the Senate; so that this is not a proposition arising out of a sudden outcry, but is one that has been considered by the people ever since the tax was imposed, and the overwhelming judgment of this country at this time is that that tax is unjust and ought to be removed.

Now, sir, what are some of the reasons why this tax should be removed? I do not suppose that we are to go to England in order to determine as to whether or not this amendment should be adopted or this bill should become a law, but we are to look at the circumstances of the people who are to be affected by the repeal of the law.

It is to be remembered that the southern States, where cotton is chiefly raised, were devastated by war; the people were impoverished by the tremendous struggle through which the country had passed; and when the rebellion was suppressed those people were not in a condition to resume their agricultural pursuits; and therefore there is a greater necessity why the legislation of Congress, so far as their material interests are concerned, should be more favorable to them than to any other portion of the country, for all parts of this nation are concerned in building up the material interests of the southern States. Whatever we may say and do as to the political power of that portion of the country, (and I am no more in favor of putting the political ascendancy in the hands of those who were lately in rebellion than any other man,) I maintain that our true policy as a nation is to legislate as far as practicable for the material interests of that section of the country.

It has been suggested that there was no particular necessity for immediate relief. I think that this bill will be of very little value if the amendment which I have proposed is not adopted. As the bill stands, it is to take effect one year from this time. Nobody can tell with any considerable certainty what will then be the circumstances or interests of this country, or what will then be the price of cotton in foreign markets. But we know now the condition of the people of the southern States who have been engaged in the cultivation of cotton, a large proportion of whom are men who have taken their capital from the North and gone down there and invested it in this business; men who are true to the Union. We know that they went there and invested their capital with an expectation that they could realize from the cotton crop twenty or twenty-five cents per pound for whatever they might produce. Everybody in the country is astonished, I presume, at the sudden and great fall that has occurred in the price of that commodity. These people were compelled to purchase their implements of husbandry; they were compelled to hire their labor, to supply the laborers with houses and food and clothing, and more than that, the expenses of subsisting their laborers were enormously high, for the planters have been compelled to pay two dollars and upward per bushel for corn, and for bacon in the same proportion; so that they have necessarily incurred great debts in raising the present crop of cotton, and this tax is a great burden in view of those circumstances, for cotton, instead of bringing what the planters expected it would, has fallen to nine or ten cents per pound; has fallen so low that it is impossible for them to obtain enough for what they have raised to defray the expenses of producing the crop.

Now, sir, I think this amendment should be adopted so as to give these people immediate relief. I know that it is objected that it will be difficult to make this amendment applicable to the existing crop, for the reason that a certain portion of the crop has been sold while another portion remains in the hands of the producers, and it is said that it will be exceedingly difficult to distinguish between the one and the other kind of cotton. It has been estimated that during the present year two million seven hundred thousand bales of cotton have been raised in the southern States; and, according to all the information which I could obtain up to the 20th of last November, only about one million bales had passed out of the hands of the producers. So there are one million seven hundred thousand bales of cotton upon which the tax will be collected if this amendment is not adopted; but if immediate relief is given to the planters this amount of cot-

ton will be relieved from tax, and millions of dollars will be put into the hands of the planters in the South—not only into the hands of the rich but into the hands of poor men; and with this money they will be enabled to prepare for producing the next crop of cotton, for it is beyond controversy that many of the planters have held their crop wherever they possibly could; they have incurred debts with the expectation that Congress would relieve them from the payment of this tax.

This objection, it seems to me, is not one that carries with it much force; for whenever a tax is imposed to take effect at a certain time it always affects certain classes favorably and certain other classes unfavorably. When you impose a tax on a given day upon whisky, certain men lose by the imposition of the tax and other men make money. So, when you impose a tax upon any other article, it is impossible that the act should operate equally upon all persons, for all persons may not be in the same circumstances; but that is no good reason why the law should not be passed. So when you propose to relieve cotton from this tax it may be that certain persons will be unduly benefited by the amendment, but that is no good reason why it should not be adopted.

But, sir, it has been urged that if the repeal be made applicable to the present crop, certain persons who have purchased cotton would claim that it still belonged to the producer, and would therefore obtain a remission of the tax, and that in that way frauds might be perpetrated upon the revenue of the Government. Suppose that to be the case; it is no sufficient argument against the adoption of this amendment; for while certain individuals who ought not to obtain the benefit of this amendment may do so, yet it is true that a great many needy and deserving persons would be benefited by the removal of the tax; and if it should so happen that some persons who have purchased cotton should avail themselves, even by fraudulent practices, of the benefit of this amendment, it would not then be so very objectionable; for the fact is that the men who are denounced as speculators, who have purchased this cotton, are not now able to sell it for what they paid for it a month ago, because cotton, within the last month, has fallen in price; and if the men who purchased it a month or two months ago were to receive the benefit of a remission of the tax, they would not be able to realize more from the sale of the cotton than they paid to the producer. The fact, therefore, that a few such persons may receive the benefit of the law, is no reason why it should not be made applicable to the great class of producers, who have been holding their cotton with the expectation that they would be relieved by such legislation.

But, sir, it has been argued here that this legislation is not necessary because there is no danger of foreign competition. That argument, if it has any force whatever, applies to the general bill more particularly than it does to the amendment which I have proposed. I say that if any legislation at all upon this subject be necessary it is necessary that it should take effect at once, so that the persons who have been disappointed in the prices this year shall be relieved, and it is the testimony of all who have been concerned in raising the present crop, so far as I know, that to relieve them from the payment of this tax will not only benefit the rich, but will benefit the poor; it will enable those who have employed the poor black men of the South to pay what is due to them, and to pay the other debts which have been incurred in producing the crop.

Much is said here about speculators, as though the men who purchase this crop were persons that ought to meet with disfavor at the hands of Congress. Sir, if there were no persons to purchase the crop what advantage would there be in raising it? Certainly there must be purchasers and consumers as well as producers. If persons who are purchasers, and who are called speculators, have gone into the southern States, have purchased cotton, and have paid for it, we are not to refuse relief under this bill because it is apprehended that we may extend some benefit to them. I do not see why they are not as meritorious as other persons, and particularly when it appears that upon their hands, since they have made the purchase, the cotton has fallen in price so that they will be no more than indemnified, or made whole, if the tax is removed from all of the present crop.

Now, sir, I find by the report of the Commissioner of Agriculture that there is great reason why this tax should be removed so as to promote and encourage the growth of cotton in this country. It appears from that report that a competition from other countries with American cotton has sprung up in the English market which is imperiling the success of cotton growing in the United States. According to that report there were imported into Great Britain from all other places 2,586,297 pounds of cotton during the year 1866, while during ten months of the year 1867, up to the 1st of October, there were imported into Great Britain 4,356,239 pounds, showing that there has been a great increase in the importations into Great Britain of cotton from other countries in the year 1867 over the year 1866, showing that the business of raising cotton has been permanently established in foreign countries during our war, and making it necessary that we should legislate so as to promote the growth of cotton in the United States, and thus by its exportation maintain the balance of trade in our favor.

It has been suggested that the manufacturing of cotton ought to be protected, and not the production of the article. Manufacturing in the southern States at this time is an inconsiderable business. Little or no capital, as I understand, is invested there now in manufacturing of any kind or description. Then, sir, to undertake to build up a manufacturing interest in the southern States by this tax upon cotton in the face of the great and growing necessities of that people at this time is simply to crush them into the earth, is trying to accomplish something which cannot be accomplished, greatly to the expense and injury of the people concerned.

I say, therefore, that we ought at this time, in view of all the circumstances, to relieve the people of the South; and if it should become apparent at a future time, in another year or at some greater distance in the future, that such a tax as this can be imposed upon cotton without injury to the interests of the country, then it may be so imposed; but our legislation at this time should be directed particularly to the relief of those people whose poverty and sufferings admit of no postponement of our action.

In my humble judgment this tax is a tax of doubtful constitutionality. I shall not undertake to argue that question, because it has been determined by the Senate, and there are reasons enough independent of any such as arise out of the construction of the Constitution for the repeal of this tax. But I do concur in what the Commissioner says, that this is an exceptional tax; that it is unprecedented in the history of the United States, and that it is one that ought not to be allowed. I do not believe that it is good policy, or one that the people of this country will sustain, to tax agricultural products, to tax cotton, or wheat, or any other of the agricultural products of the country. They ought to be free; they ought to be encouraged; and there is no greater reason, as it seems to me, at this time why we should tax cotton than why we should tax wheat or corn or any other agricultural product.

During the war there was a necessity to which everything was made to yield, and because the exigencies of the country demanded it this tax was imposed. But now the rebellion has been suppressed, and we are proceeding to reduce the taxes of the country, and this is the first step that we ought to take, not particularly because it will benefit certain persons in the South alone, but because it will benefit the whole country. Appropriations are made for the benefit of the people of the South; representations are made to us that thousands and tens of thousands of people there are poor and necessitous and are crying to the Government for relief because they have not the comforts of life. Certainly, if that be so, this relief might be very properly extended to them in this way, instead of taking millions of money out of the southern States, as we do by this tax, and sending it back in another shape in the support of bureaus and establishments of that kind. It is better, as it seems to me, for the whole country that we should let the people of the South have the little money which they make under the unfavorable circumstances in which they are placed. I say, therefore, sir, that this tax is an exceptional tax; that it is one which should not become a precedent in the history of this country; that it is our duty as soon as practicable to abolish it and permit the agricultural productions of the country, wherever they may be produced, to be free from taxation.

No considerations upon this subject should influence our judgment growing out of the rebellion. Allusion has been made to these people as having been enemies of the Government. That is an argument which applies when any political question is presented to the Senate; but it is not true that all the people who have been engaged in raising cotton were enemies of the Government, for many persons who owned lands rented those lands upon shares to the negroes, the laborers, and they expected to be paid in a portion of the crop which they have produced, so that they are interested. Thousands of northern men, too, have gone down there with their capital and have engaged in this business, and they are to be benefited by the removal of this tax. It is not, therefore, a legitimate argument to urge here that some who may be benefited by this legislation were once in rebellion against the Government.

I do not understand as well as some others, I presume, the way in which cotton is disposed of in the southern States; but I believe that merchants who buy the cotton or expect to buy it make advances upon the crop, and so it becomes mortgaged to the merchants before it is ready to be delivered in the market. If this tax is removed those persons who have so mortgaged their crop for the payment of their debts will be benefited by this legislation, and will be enabled with less difficulty to meet the engagements which they have incurred in producing the crop.

Without protracting my remarks, Mr. President, I submit that if we are to legislate at all in reference to the repeal of this tax we ought to make the repeal applicable at this time and to the present crop.

Mr. FRELINGHUYSEN. I simply rise, sir, to state that I have received a number of letters from different parts of the South, and also several letters from my constituents, all verifying the statements of the letters read by the chairman of the Committee on Finance; all certifying to the great and almost universal destitution of the South; and it appears to me that it amounts to oppression for this Government to say that it will exact one fourth of all that that destitute people are worth at this time. And, sir, I think it very important politically, while the southern States are in the process of reconstruction, that they should have the friendly care of and have a kind feeling engendered toward the Government.

Aside from these considerations, however, if I understand the operations of this tax, it is simply that the levy of two and a half cents a pound on cotton here is a bounty on the growth of cotton in India of forty per cent. on its value there. Now we certainly do not want to cultivate this competition with a great staple of our own. We want to cultivate the market of America, and not of India. More than that, just at this time, when it is so important that this country should retain its gold, it is of great consequence that we should encourage the cul-

tivation of cotton: for that is gold for all the purposes of exportation.

Besides, when this tax was laid, it was a tax of only one eighth of the value, and now by circumstances it comes to be a tax of one fourth of the value of the crop. It is a tax that operates as heavily on the poor colored man as it does upon the white man, for this cotton has been raised on shares by contract with the freedman. Beyond this, sir, it is a tax which affects the West and the East, because we take from the cotton-grower the ability to pay his debts to the West and the East, and his ability to make purchases of them.

There was force—and I do not know that it ought not to prevail—in the idea of the distinguished Senator from Maine as to the suspension of the operation of this law. It will be easier to impose the tax hereafter if the law is suspended in its operation than it will be to enact a new law. It is plain, from the argument of the Senator from Vermont, that such a state of things might exist at the South that this would be a very proper tax, and might operate beneficially on the country. When the manufacturers of this country come to compete with the manufacturers of England as to who shall supply a third market—the East—a drawback of two and a half cents a pound would operate very much in favor of the American manufacturer, and the tax would mostly be made out of the foreign trade. Therefore, there may be some justice in suspending the operation of the tax. The objection to it is the uncertainty that it casts over the subject.

As to the amendment relieving the present crop from taxation, I think that a provision might be so drawn as to apply where the cotton is in the actual possession of the producers which would be beneficial, because to impose this tax now is taking from the South the capital that they require for the next crop, and I believe that it is not the interest of this country to do that. I believe that it is our interest to foster the growth of cotton. My friend from Vermont has given us statistics showing that a small crop will produce frequently as great return, as much money, as a large crop. I do not think you can rely upon statistics as to cotton so as to draw any general conclusion from them for the last four or five years, because that trade has been so deranged, now all kept back and then all rushed forward, so that there is great uncertainty in reference to it. If you go back to 1823 there are so many remote causes that we do not now know of that probably you could account for the result on some other principle.

I think, therefore, I should be willing to vote for a suspension of the law imposing the tax, and make that suspension applicable to the present crop in the case of the grower this year.

Mr. MORRILL, of Vermont. I shall occupy the Senate for but a moment or two. The whole argument in favor of the repeal of this tax results in coming down to this question: whether the tax is paid by our own people or paid by those abroad. If I am right that it is paid by those abroad, by the consumer, it ought not to be repealed. Usually it is universally the case that a tax must be paid, whether it is levied by way of import or export duty or internal tax, by the consumer. What is the philosophy in relation to this? Just here; it lies in a nut-shell: if the supply is greater than the demand the seller has to pay the tax; but if the supply is not so great as the demand the purchaser has to pay the tax.

Now, my argument is that we should not unduly stimulate this production so that our own people have to pay the tax. With a production of three million bales, I undertake to say that the entire tax would be paid by those abroad to the extent of their purchases. Take the instance of the export duty upon Java coffee that is imposed by the kingdom of the Netherlands. Does anybody doubt that we have to pay that? Take the instance of the export duty upon rags imposed by France, Does anybody doubt that we have to pay that duty? Not at all. Paper is higher here in consequence of it. Take the instance of the export duty upon tea imposed by China. Although Japan lies close by, and produces a very large quantity, yet the amount produced in China is so much more abundant than the amount produced anywhere else in the world, that it is perfectly clear we have to pay the duty.

Now, Mr. President, I am not to be classed with those who wish to oppress the South; not by any means. I think that we are striking them a fatal blow when we remove this tax. If we were to vote unanimously to-day to retain the tax I have not a particle of doubt that the effect would be to raise the price of cotton in Liverpool within a week one or two cents a pound. It is simply because there has been a greater production here than was anticipated for the past season, and because of the almost universal expectation that this tax would be removed, that the price has gone down. That is the cause of it. There has been a much larger quantity produced here than was expected, not only for 1865, but for 1866 and 1867. It is the over-production that has crushed everybody who has had anything to do with cotton, first beginning with a bank in England which was broken down by the loss of $50,000,000, and then followed by the cotton brokers and by the manufacturers. I do not know but that my friend from Oregon would like to remunerate that broken English bank because it was unfortunate in its speculation. The men who went from the North to the South and bought lands for a quarter part of what they are worth, and who, although they knew how to buy lands cheap, did not know how to cultivate cotton, have been unfortunate in the speculation and now come here to be relieved. I do not see that we are under any particular obligations to remunerate them for their losses in consequence of their ignorance and inexperience.

But, Mr. President, the chairman of the Finance Committee thinks it is idle for us to discuss this question, that the mind of the Senate is made up; the Senator from Oregon says that the public judgment is made up on this subject, and therefore it is useless to discuss it. I say if that be so I will appeal to posterity, but I think when gentlemen come to appeal to their constituents they will not have to wait so long for a verdict. Now what is the question? It is whether we shall take off this tax from cotton when confessedly but one third part of it comes out of our own people; or at least that fact ought to be confessed, if it is not, and remunerate the Treasury by levying the whole $27,000,000 upon our own people, instead of $9,000,000. If we want to liberate and relieve the South from taxation why not take it off from manufactured cotton? That would distribute its benefits throughout the entire South, the freedmen would receive benefit from that; every man in the South would receive benefit from a repeal of the tax on manufactured cottons. That we might possibly be able to do; but when you take this tax off the raw cotton, in my judgment you commit a great mistake. I hope it will not be done.

Mr. JOHNSON. With the permission of the Senate I would offer, as a substitute for the amendment which I suggested this morning, what the Secretary will read.

The PRESIDENT *pro tempore*. The Senator from Maryland modifies his amendment. The amendment, as modified, will be read.

The Secretary read the amendment as modified, which is, to add to the bill these words:

And that the crop grown in the year 1867 shall in all cases where the said crop may be at the passage of this act in the hands of the producer, and not sold or contracted to be sold, be also exempt from the said tax.

Mr. JOHNSON. Mr. President, I thought I was an attentive listener to the debate which occurred in this Chamber when the tax itself was originally imposed, and when at the last session the Senate considered the propriety of repealing it. I thought, therefore, and still think, with all proper respect to the honorable member from Maine, that the tax was originally supported upon the ground that in the existing condition of the country, looking to the value of the article in the market at that time, it was necessary that such a tax should be exacted; but that when the circumstances of the country should change, especially when the article itself should fall in price, it would be proper policy either to remove the tax altogether or very materially to reduce it. The Senate at one period were apparently satisfied, and must indeed have been satisfied, that the time had come when it should be repealed; the Senate voted for its repeal. At another time the Senate voted to reduce it to one cent from the original amount of the tax, three cents, and finally, in consequence of a report of a committee of conference to whom the subject was referred, they agreed, and most unwillingly, to make it two and a half cents per pound.

As far as the tax itself is concerned, my opinion was at the time—and it was very much strengthened by an argument made by the honorable member from Missouri [Mr. HENDERSON]—that there was no warrant in the Constitution for such a tax. The prohibition upon the States is positive they are not to lay any impost upon any imports or exports without the consent of Congress, except such as may be necessary for the purpose of their inspection laws. I was unable to distinguish a tax of this description from a direct tax upon exports; and I have seen nothing by way of argument—for the question has not been very carefully argued in support of the tax—which has led me to doubt that it is liable to the constitutional objection. But that is not the question now before the Senate. The war, while it has involved the Government in a very heavy debt, nearly as large as that of England, and larger when we look to the interests the respective debts bear—and bearing more oppressively, therefore, on the people of the United States than the English debt bears on the people of England—has left us in a condition in which it is absolutely necessary that we should, by all proper means, so arrange our system of taxation as to make it fall as lightly as possible upon the people; and, to do so, to make it fall, as far as it can be done, upon articles which are not in general used by the people.

The cotton tax is now not only oppressive to the particular interest upon which it bears, but it is ruinous. I have had no letters upon the subject, but I have had conversations with men from the South, natives of that region, men of the highest honor, and with men who have gone from the North in order to raise the article in the South, men of equally high honor and intelligence; and the information received from them all is that the product itself cannot be grown under the oppression of such a tax. The tax might have been borne with much more ease while we were one people, and slave labor in the southern States was the labor resorted to for the purpose of its production; but that labor we have now, and as I am glad to know, terminated forever. It is to be procured, therefore, in the way in which labor is procured in the States where the institution of slavery never existed: it is to be paid for, and the wages which the laborer now must ask in order to live makes it, as they say, utterly impracticable to raise and expect any profit; on the contrary, to raise and not be subjected to a loss if this tax continues to be imposed.

Now, if it be desirable—and there can be no difference of opinion upon that point—that this article shall be grown in the United States, if it be very important that it should be reinstated in the condition in which it was before the war, if it be important to every interest in the country that it be grown, then it is the policy of the Government, as I think, not to discourage, but (if we had the power) to give a bounty for its production. The honorable member from Vermont in telling us, as I

understood him—and he will correct me if I misapprehend him—that the benefit of such a repeal would inure to those who have been in arms against the United States, is under a great mistake. To a certain extent, no doubt, that is true; but the system now to which they have been forced to resort is not to pay a fixed pecuniary sum to the negroes, by whom alone as the population now is there they can raise the article, but to give them a portion of the crop; I think in general it is about one third; and the negroes of the South, intelligent enough to know that they are not receiving as much as they would receive under a different system of taxation, have come to discover that twenty-five per cent. of their earnings is by Congress forced into the Treasury of the United States. That is to say, in other words, their labor is in amount compensated for by a sum twenty-five per cent. less than would be its compensation if this tax was not on the statute-book; and they are, if my opinion is right—and it must be so if these negroes are intelligent and know the value of a dollar—becoming exceedingly dissatisfied, and are now as earnest in the wish to have the tax terminated as any of those whom the honorable member calls the rebels of the South. It is not a question of rebellion or of loyalty; it is a question of financial policy, not in any manner, as I think, to be connected with either of those considerations. The point is what is best for the interests of the country. I think it is best to remove the tax altogether, and I think, after much reflection upon the subject and all the information I have been able to obtain in this Chamber and out of it, that that is the best policy is manifest.

But there is another consideration to which the honorable member from New Jersey so happily referred. We desire, or should desire, and I believe we do desire, all of us, to have the South reinstated in all the resources of wealth which before belonged to it, except (if that was a resource for wealth) the institution of slavery. We desire, therefore, that their waste land should be again brought into cultivation, that the desolation of war should at the earliest moment be removed, the best feeling between that section and the other section of the country be encouraged; and to do this it seems to me but proper that we should say to them, "We will not impose upon the article which constitutes the chief portion of your wealth a specific tax which we do not impose upon any other article of human labor by the cultivation of the soil." Throwing, therefore, all considerations of power out of the question—which is certainly a question I do not mean now to discuss—it appears to me, and I submit it to the Senate as perfectly just, that we should remove this tax in the future at least; and that is a question involved in the report of the Committee on Finance. That there is no clamor of which my friend from Maine spoke, in the ordinary sense of that word——

Mr. CONNESS. If the honorable Senator will permit me, I will ask him whether he will not consent to an executive session at this time?

Mr. JOHNSON. I shall be through in five minutes.

Mr. CONNESS. There are a great many amendments to be offered which cannot be disposed of to-night.

Mr. JOHNSON. If the honorable member will permit me to conclude what I have to say, I shall not detain him nor the Senate from an executive session more than a minute or two.

It seems to me that the vote in the other House in support of this repeal and the several votes which have been given in this body on the same subject prove that in the judgment of the country this tax should cease to exist.

A word more, and I shall have done. In the amendment as I proposed it originally to the bill as reported by the Finance Committee I proposed to apply its provisions to the entire crop of 1867. There are I know in the Chamber Senators who think that while it would not be right to make the application so general it is right and proper to make it apply to that portion of the product which is now in the hands of the producer not contracted to be sold or not sold, and I have therefore modified the amendment so as to bring about that result. The only difference between that amendment and the amendment which the honorable member from Oregon suggested that he would offer is, that he provides what I suppose to be wholly unnecessary, that the passage of a bill of this description is not to involve the United States in an obligation to return the tax which has heretofore been received. I have a word to say only upon that subject. If that tax was unconstitutionally imposed and there is any mode of bringing that question before the judicial tribunals of the country a provision such as the honorable member proposes will be of no operation. If it is intended to guard against the Secretary of the Treasury returning any tax which has been received it is unnecessary, because the Secretary would have no authority to return it. The practical operation, therefore, of his amendment would, I think, be nothing; but if the Senate should think it advisable to incorporate that into the amendment which I have offered I should personally have no objection.

Mr. CONKLING. I wish to inquire the condition of the question. I beg to know what amendment is pending that I may know whether it is in order to move to perfect the text.

The PRESIDENT *pro tempore*. No amendment is in order now. The pending question is on the amendment offered by the Senator from Vermont to the amendment offered by the Senator from Maryland.

Mr. CONKLING. Then the amendment of the Senator from Maryland is pending and in order, and to that is an amendment offered by the Senator from Vermont.

The PRESIDENT *pro tempore*. That is an amendment to an amendment.

Mr. MORRILL, of Vermont. I will say to the Senator from New York that I do not choose to bring in my amendment and have it pending as an amendment to the amendment of the Senator from Maryland, because if it should be voted upon his amendment and then his amendment be voted down I should lose my amendment.

Mr. CONKLING. Do you withdraw your amendment?

Mr. MORRILL, of Vermont. I do for the present.

Mr. CONKLING. Then I wish to offer an amendment for the purpose of perfecting the text of the bill.

The PRESIDENT *pro tempore*. If the amendment of the Senator from Vermont is withdrawn an amendment to the amendment of the Senator from Maryland will be in order, but not to the bill.

Mr. CONKLING. I do not know what form the amendment of the Senator from Maryland takes. I should like to hear it read.

The PRESIDENT *pro tempore*. It is an addition to the bill. It will be reported.

The Secretary read the amendment of Mr. JOHNSON, which was to add at the end of the bill the following:

> And that the crop grown in the year 1867 shall in all cases where the said crop may be at the passage of this act in the hands of the producer, and not sold or contracted to be sold, be also exempt from the said tax.

Mr. CONKLING. I submit that an amendment perfecting the previous text of the bill is in order. However, I will indicate the amendment which I wish to offer, and will get an opportunity at the proper time to submit it. I do not care when. I will indicate it now. It was suggested to me by the Senator from Vermont in private, and had occurred to me as I read this bill, that in line three it would be well that the word "raw" should be inserted before "cotton," to the end that there shall be no mistake about the exemption applying to raw cotton, and not to any cotton in addition to that. But I wish to strike out the word "after" in line three, and insert the word "during;" and to strike out the word "seven" in line four, and insert the word "eight;" so that the bill, as amended, will read:

> That all raw cotton grown in the United States during the year 1868 shall be exempt from internal tax.

It was my purpose, Mr. President, to say a word or two in reference to this amendment and the bill, but I do not wish to stand in the way of the Senator from California, who seems to wish an executive session.

Mr. CONNESS. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 16, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Friday last was read and approved.

The SPEAKER proceeded, as the first business in order during the morning hour, to call the States and Territories for bills and joint resolutions for reference, not to be brought back into the House by motions to reconsider.

WRITS OF ERROR AND APPEALS.

Mr. POLAND introduced a bill regulating writs of error and appeals from the supreme court of the District of Columbia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BACK PAY OF SOLDIERS AND SAILORS.

Mr. FIELDS introduced a bill relating to the back pay of soldiers and sailors; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ACKNOWLEDGMENT OF DEEDS.

Mr. KOONTZ introduced a bill in reference to acknowledgment of deeds and other instruments in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

MARSHAL FOR THE DISTRICT.

Mr. LAWRENCE, of Ohio, introduced a bill to provide for the appointment of a marshal for the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

LAND TITLE.

Mr. LAWRENCE, of Ohio, also introduced a bill confirming the title of William M. Garvey to certain lands in Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

PUBLIC SCHOOLS IN THE DISTRICT.

Mr. WELKER introduced a bill in relation to public schools in the cities of Washington and Georgetown, in the District of Columbia, and amendatory of existing laws in relation thereto; which was read a first and second time, and referred to the Committee for the District of Columbia.

NOTT AND CO.

Mr. ORTH introduced a bill for the adjustment of the claim of Nott & Co., under the treaty of 1858 with the Chinese Government; which was read a first and second time, and referred to the Committee on Foreign Affairs.

PAY OF BOUNTY.

Mr. WILLIAMS, of Indiana, introduced a bill to pay balance of bounty to non-commissioned officers honorably mustered out of the service of the United States as supernumeraries, under the order of the War Department authorizing the consolidation of regiments by reason of the casualties of the service; which was read a first and second time, and referred to the Committee on Military Affairs.

ADMIRALTY JURISDICTION OF CIRCUIT COURTS.

Mr. KERR introduced a bill to regulate and limit the admiralty jurisdiction of the district courts of the United States in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TIME OF CONGRESSIONAL ELECTIONS.

Mr. JULIAN introduced a bill to fix the time for the election of Representatives and Delegates in the Congress of the United States; which was read a first and second time, and referred to the Committee of Elections.

CUSTOMS AND EXCISES.

Mr. DRIGGS presented joint resolutions of the Legislature of the State of Michigan relative to customs and excises; which were referred to the Committee of Ways and Means, and ordered to be printed.

IOWA RAILROAD LAND GRANT.

Mr. HUBBARD, of Iowa, introduced a bill to amend an act entitled "An act for a grant of land to the State of Iowa of alternate sections, to aid in the construction of a railroad in said State," approved May 12, 1864; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

NEW ORLEANS, MOBILE, ETC., RAILROAD.

Mr. WASHBURN, of Wisconsin, introduced a bill to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post route, and for other purposes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

REMISSION OF DUTIES IN SAN FRANCISCO.

Mr. AXTELL introduced a bill to remit the duties upon certain goods, wares, and merchandise destroyed by fire in the city of San Francisco; which was read a first and second time, and referred to the Committee on Commerce.

PUBLIC LANDS.

Mr. JOHNSON introduced a bill withdrawing certain lands from the operation of the homestead and preëmption laws, and to grant the same in exchange for other lands; which was read a first and second time, and referred to the Committee on Public Lands.

PREEMPTIONS AND HOMESTEADS.

Mr. HOLBROOK introduced a bill extending the preëmption and homestead laws of the United States in the Territory of Idaho; which was read a first and second time, and referred to the Committee on Public Lands.

NAVY DEPARTMENT AND BOARD OF SURVEY.

Mr. PIKE introduced a bill to amend the various acts establishing the Navy Department of the United States, and to create a board of survey; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

SALE OF IRON-CLADS.

Mr. PIKE. I desire to say, while I am on the floor, that when I offered a resolution on Thursday last in relation to the sale of iron-clads I desired its reference to the Committee on Naval Affairs. By some mistake the resolution was passed.

The SPEAKER. It was subsequently reconsidered, and referred to the Committee on Naval Affairs.

JANE M. JUDD, DECEASED.

Mr. LINCOLN introduced a bill for the relief of the legal heirs and representatives of the late Jane M. Judd, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JERUSHA SHARP.

Mr. LINCOLN also introduced a bill for the relief of Jerusha Sharp; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BONDED WAREHOUSE SYSTEM.

Mr. BALDWIN introduced a joint resolution to abolish the bonded warehouse system; which was read a first and second time, and referred to the Committee of Ways and Means.

DEPRECIATION OF THE CURRENCY.

Mr. HOOPER, of Massachusetts, introduced a bill to prevent depreciating the currency; which was read a first and second time, and referred to the Committee on Banking and Currency.

RETIRED LIST OF NAVY.

Mr. SCHENCK introduced a bill supplemental to and explanatory of certain acts of Congress relating to officers of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

The first section of the bill provides that any officer of the Navy coming within the provision of section eight of the act to establish and equalize the grades of the line officers of the United States Navy, passed July 16, 1862, except the Admiral and vice admiral, shall be retired whenever his name has been borne on the Navy Register for fifty-five years.

The second section provides that naval officers shall be placed on the retired list when they arrive at the age of sixty-two years, or when their names shall have been borne upon the Navy Register for forty-five years from the time they attained the age of sixteen years.

The third section provides that the several acts of Congress relating to the promotion or retirement of officers of the Navy shall apply to officers of the Marine corps.

STEAMSHIP LINE TO LIBERIA.

Mr. POLAND presented the joint resolution of the Legislature of the State of Vermont in favor of the establishment of a line of steamships between the United States and Liberia; which was referred to the Committee on Commerce, and ordered to be printed.

TAXES OF NATIONAL BANKS.

Mr. POLAND also presented the joint resolutions of the Legislature of the State of Vermont in relation to the mode of taxing the shares of national banks; which were referred to the Committee on Banking and Currency, and ordered to be printed.

MILITARY ESTABLISHMENT.

Mr. DODGE also introduced a bill to amend an act entitled "An act providing for the better organization of the military establishment," approved August 31, 1861, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

ELLEN MURPHY.

Mr. BARNES introduced a bill for the relief of Ellen Murphy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RELOCATION OF NATIONAL CAPITAL.

Mr. LOGAN introduced a joint resolution appointing a committee to report on the expediency of relocating the capital of the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

CAPE COD HARBOR.

Mr. BANKS presented resolutions of the Legislature of Massachusetts concerning Cape Cod harbor, at Provincetown; which were referred to the Committee on Commerce, and ordered to be printed.

RESUMPTION OF SPECIE PAYMENTS.

Mr. HUBBARD, of Iowa, introduced a bill to facilitate the resumption of specie payments; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

UNION PACIFIC RAILROAD.

Mr. WILSON, of Iowa, introduced a bill to authorize the companies building the Union Pacific railroad, or any branch thereof, to select sites for certain purposes therein named; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

LEGAL-TENDER NOTES.

Mr. BROOKS introduced a joint resolution in relation to legal-tender notes; which was read a first and second time, and referred to the Committee of Ways and Means.

Mr. BROOKS called for the reading of the bill; and it was read. It provides that the Committee on Finance of the Senate, and the Committee of Ways and Means of the House, be instructed to inquire into the expediency, first, of making legal-tender notes receivable in part in payment of duties; say five per cent. on and after January 1, 1868; ten per cent. after February 1, 1868; with some other like proportions on and after March 1, 1868; second, of repealing the legal-tender act as to all contracts to be made on and after March 1, 1868; or, if not thus repealing, of enabling contracts to be made payable in gold and silver.

ORDER OF BUSINESS.

The SPEAKER, as the next business in order, proceeded to call the States for the introduction of resolutions, commencing with the State of Missouri.

RECONSTRUCTION POLICY OF CONGRESS.

Mr. BENJAMIN submitted the following preamble and resolutions, on which he demanded the previous question:

Whereas the President of the United States in his annual message has seen fit, in utter disregard of the popular will, as expressed in the election of members of the Fortieth Congress, to recommend the repeal of the laws heretofore passed for the purpose of facilitating reconstruction in the rebellious States, the effect of which would be to remit the governments of said States to rebel hands and abandon the entire loyal element therein to the will of traitors; and whereas it is eminently proper that this House should respond in emphatic terms to so extraordinary a proposition: Therefore,

Be it resolved, That the House of Representatives will never consent to take one retrograde step from its advanced position in promoting the cause of equal rights, nor deviate from its fixed purpose of protecting all men as equals before the law.

Resolved, That from the success that has hitherto attended the administration of the reconstruction acts there is no reason to doubt that under their provisions the restoration of the rebellious States is being successfully accomplished on a firm and enduring basis and in a manner that will fully meet the expectations of the loyal men of the country, and therefore in the judgment of this House no good reason exists why said acts should be repealed.

Mr. NIBLACK. I rise to a question of order. If any gentleman rises to debate these resolutions, do they not go over?

The SPEAKER. They would, if the previous question should not be seconded.

Mr. SPALDING. Do not these resolutions go to the Reconstruction Committee as a matter of course?

The SPEAKER. No order of that kind has been made by the House.

Mr. NIBLACK. I move that the preamble and resolutions be laid on the table.

Mr. ELDRIDGE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. KELLEY. Will it be in order for me to suggest to the gentleman from Missouri [Mr. BENJAMIN] that he slightly modify the language of the first resolution. It says that "the House of Representatives will never consent," &c. I suggest the insertion of "Congress" instead of "the House of Representatives."

Mr. ELDRIDGE. I object to debate.

The SPEAKER. Debate is not in order. Two undebatable motions are now pending.

The question was taken; and it was decided in the negative—yeas 32, nays 118, not voting 42; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Cary, Eldridge, Getz, Glossbrenner, Golladay, Grover, Hotchkiss, Johnson, Jones, Kerr, Knott, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Van Trump, Wood, and Woodward—32.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Blaine, Bromwell, Broomall, Buckland, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Fields, Griswold, Halsey, Harding, Hawkins, Higby, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Jenckes, Judd, Julian, Kelley, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polsley, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Thomas, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—113.

NOT VOTING—Messrs. Bingham, Blair, Boutwell, Cake, Chanler, Cornell, Eckley, Ferry, Finney, Fox, Garfield, Gravely, Haight, Hamilton, Hill, Holman, Hooper, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Kelsey, Kitchen, Lincoln, Marshall, McCullough, Miller, Morgan, Morrissey, Pomeroy, Raum, Shellabarger, Stewart, Stone, Taber, Taffe, Taylor, Twichell, Upson, Van Auken, Van Wyck, and Woodbridge—42.

So the preamble and resolutions were not laid on the table.

During the vote,

Mr. TROWBRIDGE stated that his colleague, Mr. UPSON, was absent on account of illness.

The vote was then announced as above recorded.

The question then recurred on seconding the demand for the previous question.

Mr. WASHBURNE, of Illinois. If the previous question be not seconded will it not be in order to move to refer the preamble and resolutions to the Committee on Reconstruction?

The SPEAKER. It will.

The House divided; and there were—ayes 60, noes 43.

Mr. NIBLACK called for tellers.

Tellers were ordered; and Mr. NIBLACK and Mr. BENJAMIN were appointed.

The House again divided; and the tellers reported—ayes sixty-eight, noes not counted.

So the previous question was seconded.

The main question was ordered to be put.

Mr. ELDRIDGE demanded the yeas and nays on the adoption of the preamble and resolutions.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 32, not voting, 43; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Beaman, Benjamin, Benton, Blaine, Bromwell, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferris, Fields, Griswold, Halsey, Harding, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Perham, Peters, Pile, Plants, Poland, Polsley, Price, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Thomas, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—112.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Golladay, Grover, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Mungen, Niblack, Nicholson, Phelps, Pruyn, Robinson, Ross, Sitgreaves, Van Auken, Van Trump, Wood, and Woodward—32.

NOT VOTING—Messrs. Banks, Bingham, Blair, Boutwell, Cake, Chanler, Cook, Cornell, Eckley, Ferry, Finney, Fox, Garfield, Gravely, Haight, Hamilton, Hill, Holman, Humphrey, Kelsey, Kitchen, Lincoln, Marshall, McCullough, Miller, Morgan, Morrissey, Paine, Pike, Pomeroy, Randall, Raum, Selye, Shellabarger, Stewart, Stone, Taber, Taffe, Twichell, Upson, Van Wyck, Windom, and Woodbridge—43.

So the preamble and resolutions were adopted.

During the vote,

Mr. BEAMAN stated that his colleague, Mr. FERRY, had been called home by the dangerous illness of his father.

The vote was then announced as above recorded.

Mr. BENJAMIN moved to reconsider the vote by which the preamble and resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BANK SECURITIES.

Mr. PILE. I submit the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to the House whether since the 1st day of July last past any national banks have changed their securities held in the Treasury to secure their circulation and Government deposits; and, if so, what banks have so changed their securities, what changes have been made, the date, amount, and kinds of such changes specifically; and that he be required to make no further changes in the funded securities of the United States by payment or otherwise except of interest until further order or legislation of Congress thereon.

The SPEAKER. This being a call for executive information, it requires unanimous consent for its consideration on this day.

Mr. BLAINE. I object.

Mr. PILE. Is unanimous consent necessary for the consideration of a resolution calling for executive information?

The SPEAKER. If the gentleman will examine the Digest he will see that that is specifically the rule. All resolutions calling for executive information must lie over one day if any one objects.

DEFICIENCY BILL.

Mr. STEVENS, of Pennsylvania, from the Committee on Appropriations, reported a bill making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS, of Pennsylvania. I move that the bill be made the special order for to-day at two o'clock, and from day to day until disposed of. I will say that the bill contains but few of the items estimated, and its passage is necessary in order that employés of the Government may be paid.

The SPEAKER. A majority of the House can make an appropriation bill a special order for any time.

Mr. BROOKS. Can the bill be printed by two o'clock, so that we can see it?

The SPEAKER. It cannot.

Mr. WASHBURNE, of Illinois. I will say that there are very few items in the bill. I think that the gentleman will not consider it necessary to have it printed after he hears it read.

Mr. BROOKS. Suppose we have it read now.

Mr. WASHBURNE, of Illinois. Very well; I would like to have it read.

The Clerk read the bill.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Pennsylvania [Mr. STEVENS] that as the House has heard the bill read, and it is very brief, he should ask for its consideration in the House at this time.

Mr. STEVENS. I will do that unless there is some objection.

Mr. BROOKS. I object to that mode of disposing of an appropriation bill.

Mr. WASHBURNE, of Illinois. I merely suggested to the gentleman from Pennsylvania that the House would probably consent to the consideration of the bill in the House now as in Committee of the Whole on the state of the Union.

Mr. STEVENS, of Pennsylvania. Under the same rules as in Committee of the Whole on the state of the Union.

Mr. BROOKS. I object to that mode of disposing of an appropriation bill.

Mr. STEVENS, of Pennsylvania. Then I insist on my original motion, and will wait till two o'clock.

Mr. STEVENS's motion was agreed to.

PATENT OFFICE APPROPRIATION.

The SPEAKER laid before the House a communication from the Secretary of the Interior, asking a deficiency appropriation of $20,000 for the north portico of the Patent Office building; which was referred to the Committee on Appropriations, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. DRIGGS. I ask that leave of absence be granted to my colleague, Mr. FERRY, who has been called home in consequence of the serious illness of his aged father.

There was no objection, and the leave was granted.

Mr. WARD. I ask leave of absence for my colleague, Mr. HUMPHREY.

There was no objection, and the leave was granted.

Mr. BROOKS. I ask leave of absence for my colleague, Mr. MORRISSEY, on account of his own sickness and the sickness of his family.

There was no objection, and the leave was granted.

TWENTY PER CENT. ALLOWANCE TO CLERKS.

The SPEAKER also laid before the House communications from the Secretary of State, the Secretary of the Navy, the Secretary of the Treasury, and the Commissioner of Agriculture, in reply to the resolution of the House of the 11th instant, relative to the amount of twenty per cent. allowance to clerks in the several Departments, &c., for the last fiscal year; which were severally referred to the joint Committee on Retrenchment, and ordered to be printed.

OIL INSPECTION IN PENNSYLVANIA.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in compliance with a resolution of the House of the 11th instant, transmitting a copy of the report of John Miller, special revenue agent, relative to the inspection of oil in the twenty-second district of Pennsylvania; which was referred to the Committee of Ways and Means, and ordered to be printed.

REVENUE COLLECTED IN ILLINOIS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 12th instant, a copy of a report from the Commissioner of Internal Revenue relative to the amount of revenue collected in the State of Illinois for the six months ending November 30, 1867, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

POST OFFICE ESTIMATES.

The SPEAKER also laid before the House a communication from the Postmaster General, transmitting, in compliance with the act of July 2, 1836, estimates of the amounts required for his Department for the fiscal year ending June 30, 1869; which was referred to the Committee on Appropriations, and ordered to be printed.

LAWS OF COLORADO.

The SPEAKER also laid before the House a copy of the laws of the Territory of Colorado; which was referred to the Committee on the Territories.

ELECTION CONTEST—M'KEE VS. YOUNG.

The SPEAKER also laid before the House additional evidence in the contested-election case of McKee *vs.* Young; which was referred to the Committee of Elections.

UNION PACIFIC RAILROAD COMPANY.

Mr. DAWES. I ask leave to introduce a joint resolution for action at this time, to which I presume there will be no objection. It is a joint resolution changing the time of holding

the annual meeting of the stockholders of the Union Pacific Railroad Company.

Mr. WASHBURNE, of Illinois. I will not object if the gentleman will permit me to offer an amendment.

Mr. DAWES. I ask unanimous consent to make a statement, and then I think there will be no objection to the joint resolution.

No objection was made.

Mr. WASHBURNE, of Illinois. Will the gentleman allow me to move my amendment now?

Mr. DAWES. I do not wish to cut off my friend from Illinois, [Mr. WASHBURNE,] and I will not object to any amendment he desires to attach to this resolution which is proper and reasonable. But my resolution simply asks in behalf of the stockholders of this road that they may change the time for holding their annual meeting from October, the time now fixed by law, to March; and also that they may designate at one meeting the place where they may hold their next annual meeting, provided it is held at one of the five or six places enumerated in the act where the books are opened for subscription, that is, St. Louis, Chicago, Cincinnati, Baltimore, Philadelphia, New York, Boston, and Washington. That is all there is in the resolution. It seems to me it is a very reasonable thing to ask on behalf of the stockholders, and I hope there will be no objection to it.

Mr. WASHBURNE, of Illinois. I desire to add to the resolution the following proviso:

Provided, That hereafter the said railroad company shall not be allowed to charge and receive for freight or passage over the said road more than double the amount which shall be charged on the principal lines of railroad between the Mississippi river and the Atlantic coast.

I presume the gentleman from Massachusetts [Mr. DAWES] will not object to that.

Mr. DAWES. I do not desire to have attached so important a provision as that upon this simple resolution in reference to the choosing of the officers of this road. I do not know but his proposition is perfectly right; I do not know anything about it; I have not investigated that point. I do not stand here to aid the Pacific Railroad Company in getting one dollar unreasonable fare or freight; but I do not think such a proposition as that should be attached to this resolution.

Mr. PRUYN. I would like to say a word or two on this subject, being a member of the Committee on the Pacific Railroad.

Mr. WASHBURNE, of Illinois. If the gentleman from New York [Mr. PRUYN] desires to have this subject referred to the committee for the purpose of having the whole subject there considered I will have no objection; but if that is not done I shall continue to press this matter upon Congress while I have a seat here, until Congress shall adopt the provision I have read, and I think I can convince the House that there is no more just provision than the one I have proposed; and I am surprised that my friend from Massachusetts [Mr. DAWES] should stand here and oppose it.

I would ask my friend whether he knows that this company, whose road the Government is building by its enormous subsidies of $95,000,000 and some forty million acres of land, the company getting the road without the expenditure of a single dollar of its own money, is charging ten cents a mile for every passenger, and on freight one cent per hundred miles on every hundred pounds—more enormous charges than have ever been known in any country. I think it is the duty of the Representatives of the people, unless they intend to become a party to this monopoly, to step in at the earliest moment and put a stop to this system of exorbitant charges.

Sir, we have been told that this is a retrenchment Congress; that we have been sent here to protect the people from extraordinary and profligate expenditures of the Government; that we are to prevent all these land grants and these enormous expenditures. What have we seen? When we had before us the other day a bill brought in by my friend from Michigan [Mr. DRIGGS] from the Committee on Public Lands, granting additional lands, this economical House, elected to reduce expenditures, and among other things to stop these land grants, would not hear a word of explanation; no member could obtain the floor to ask what the bill meant; no man was permitted to know what cat was concealed under that meal tub. After the horse had been taken from the stable, and the door locked, I had the curiosity to send to the Commissioner of the General Land Office to see what this economical House had done; and, sir, I have here the official letter of the Commissioner, in which he says that by this bill we voted away "at one fell swoop" nearly six hundred thousand acres of the public lands—five hundred and seventy-four thousand acres, to be very precise.

Mr. DRIGGS. The gentleman will allow me to make a correction. I understood the gentleman to say that in the bill presented by me the other day we made an enormous land grant. Now, I deny that one foot of land was granted in the bill that was passed here the other day. It was simply an extension of a grant already made.

Mr. WASHBURNE, of Illinois. Mr. Speaker, the gentleman from Michigan, [Mr. DRIGGS,] when I wanted to call the attention of the House to the bill, demanded that we should vote, and would not yield to me.

Mr. DRIGGS. Not a foot of land was voted by the bill.

Mr. WASHBURNE, of Illinois. I have information here from the Land Office contradicting the gentleman from Michigan. It was an appropriation of land that we made; and I would like the House to know how much land has been voted to that great corporation, the Northwestern Railroad Company. They had an appropriation of land, which was to expire in ten years from the time the grant was made. That time ran out; and the company came here making a long face, saying that if we would grant them two years more to complete their road they would do it. Two years' additional time was allowed them, and still they did not finish the road; and if we had not passed that bill the other day this land would in a few months have gone back into the general mass of the public lands of the country. The effect, therefore, of that bill is, as I have stated, to vote away affirmatively five hundred and seventy-four thousand acres of the public lands.

Now, sir, I do not complain of the action of gentlemen here; but I tell them that there has been a loud complaint from all parts of the country of the manner in which these things have been done. I will not claim that I am not equally responsible with other members. Measures are brought here from a committee. They are reported by some member who holds the floor and will permit no explanation except at his pleasure, the previous question is demanded, and thus bills are thrust through when a majority of members have no proper knowledge of their effect. I would like to know how many of those members who upon the call of the yeas and nays voted the other day for the bill of the gentleman from Michigan had any idea that they were voting away nearly six hundred million acres of public lands.

A MEMBER. "Thousands," not "millions."

Mr. WASHBURNE, of Illinois. Yes, sir; I meant to say nearly six hundred thousand acres; but I may well speak of "millions" when talking of these land grants, for if gentlemen will examine the report of the Commissioner of the General Land Office or of the Secretary of the Interior they will find that these public lands which we have voted away amount to hundreds and hundreds of millions of acres.

Sir, I did not intend to make a speech here on this subject, but I did intend to discuss during this Congress, at the first opportunity I could get, and to call the attention of the House to the extraordinary conduct of this Pacific railroad, and to ask them to go with me to put some limit on it so it shall not crush every interest of the country still further, as it will if it goes on in this way, with these enormous and unconscionable and unheard-of rates for freight and passage. While the Government builds the road, furnishes the money, and grants the land, yet, sir, we have to pay for every soldier who travels over that road at the rate of ten cents a mile, and for freight at the rate I have already stated. I think, therefore, it is time we should determine that the people have some interest in this matter. I have taken the ball on its first bound.

Mr. DAWES. Mr. Speaker, I wish to state, in reply to what the gentleman from Illinois has said, by way of justification of my asking the House to pass this resolution, that he knows me well enough to know if I ever fail to coöperate with him in any opposition he makes to any appropriation of land or money it is because he not only opposes such measures in season but sometimes he opposes them out of season. It is only then, sir, that I fail to coöperate with him. I know very well the gentleman's position on land grants, and almost always go with him; but why does he bring that in here in connection with this simple proposition to allow these stockholders to change the place of annual meeting? It is a privilege accorded to every corporation.

Mr. HARDING. Where do they meet now?

Mr. DAWES. I will tell the gentleman all about that. They are required to meet in the city of New York, and nowhere else, and on a particular day in October. They want the privilege to hold their annual meeting in the spring instead of in the fall, and to designate at one meeting where they will assemble at the next within certain limits, that is, within five places named.

My friend the chairman of the Committee on the Pacific Railroad will explain this matter. It would have come from that committee if there had been time, but it seemed desirable on the part of the stockholders this should be done before the recess—before the 1st of January, when most of these annual meetings are held. I was asked in their behalf to do this, and did not expect the surprise or indignation of the gentleman from Illinois.

Mr. DRIGGS. I denounce the statement made by the gentleman from Illinois, that the bill reported by me to extend the grant to the Chicago and Northwestern Railroad Company, and passed by the House, gives an additional grant of land of five or six hundred thousand acres, as entirely incorrect and a gross perversion of the facts. When I presented the bill from the Committee on Public Lands I stated that the bill granted no additional lands, and that statement was true to the letter. The gentleman parades a letter from the Commissioner of the General Land Office, and claims that he says that the bill made a large grant. I do not believe the Commissioner says anything of the kind, and the letter will not show it. He doubtless says the bill continues a grant previously made, just as I have said. The bill extends the time simply for eighteen months to build a connecting link in the road from Green bay to Escanaba, one hundred and ten miles; the company having built two hundred miles to Green bay, and seventy miles from Escanaba to Alpena or Marquette. When the gentleman says the bill appropriates additional lands he states what is not true. I stated to the House what I now say when I reported the bill, and I reassert the fact that there is no grant in the bill only an extension of time, with a proviso that the lands all revert to the Government if the company fail to complete the whole road during the extended time. That is all.

Mr. WASHBURNE, of Illinois. The letter will speak for itself.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *December* 11, 1867.

SIR: In compliance with your letter of yesterday, to-day received, accompanied by House bill No. 91, concerning certain lands granted to the States of Michigan and Wisconsin for railroad purposes, I have the honor to state that by the act of Congress approved June 3, 1856, statutes volume eleven, pages 20

and 21, the States are allowed to sell one hundred and twenty sections in advance of building any portion of the road, and thereafter, upon the certificates of the Governors of said States that any continuous twenty miles of any of said roads is completed, then another one hundred and twenty sections can be sold, and so from time to time until the whole is completed. If the terms of the statute were not complied within ten years the unsold lands to revert to the Government.

By the act of March 3, 1865, the time is extended to June 3, 1871, and twenty miles required to be graded, ready for ties, within two years from date of passage of act, and twenty miles each year thereafter. In the event of failure to comply with the conditions, the lands within the grant to revert to the Government.

The estimated quantity of land that would revert should conditions not be complied with make—

In Wisconsin	324,000 acres.
In Michigan	250,000 acres.
Total	574,000 acres.

The tract authorized by the second section of the proposed bill to be patented to the railroad company was duly certified to the State of Wisconsin for the use of the railroad June 6, 1864, in accordance with the principles of the original act of June 3, 1856, and was approved by the Secretary of the Interior June 11, 1864.

The resolution contemplates that the Commissioner shall patent the Fort Howard eighty-acre tract to the company; but the question may arise whether the Government has now the legal ability to do so, the tract having been already duly certified to the State for the use of the road, and thus the title, to all intent and purposes, has passed from the Government, only to be resumed in event of failure to comply with statute; and again, what end is to be subserved by the issue of patent in view of the fact that the company have complied with the terms of the resolution of 1862, to build within three years between the points named therein, which, it is understood, has been done, the State being bound to dispose of the tract for their benefit?

I am, sir, very respectfully, your obedient servant,
JOSEPH S. WILSON, *Commissioner.*

Hon. E. B. WASHBURNE, *House of Representatives.*

Mr. DAWES. I will, in justification of all I have said, ask the Clerk to read the resolution again.

The resolution was again read.

Mr. PRICE. The Committee on the Pacific Railroad had an informal consideration of this matter, every member being present except one; and as it only proposes the stockholders may change the place of meeting from spring to fall and designate any one of the places named we saw no objection to it.

Mr. PRUYN. There is an omission in the resolution, to which I wish to call attention, of the word "annual" before "meeting."

Mr. DAWES. Let it be inserted.

Mr. PRUYN. I was not present at the informal meeting of the committee when this subject was discussed; I was not aware that the meeting was to be held; but I have no objection, inasmuch as these gentlemen are now holding over, that the time for holding the election shall be changed. It seems better to hold it just before the commencement of operations in the spring than in the midst of operations in the fall. I do object, however, to any change in the place where this company can be found. We should know where they are to be found and that they are to be found there, if you please, always. Their principal office should be in one of the great centers of the country, either New York, Boston, Philadelphia, Chicago, or elsewhere. It ought to be at some permanent point, and not afloat. The annual election should not be held at one place in one year and at another place in another year. To that part of the resolution I object, and I shall ask for a division if it is susceptible of division.

The SPEAKER. It is susceptible of amendment, but not of division.

Mr. PRUYN. Then I shall move to strike out that part of the resolution.

Mr. WASHBURNE, of Illinois. The joint resolution is not yet before the House.

Mr. GARFIELD. I desire to make an inquiry of the gentleman from Massachusetts, [Mr. DAWES.] I understand that there has been a serious difference of opinion, not to use a harsher term—perhaps we ought to call it a very severe quarrel—in the board of directors in reference to the management of the affairs of this railroad; as the gentleman from Massachusetts suggests, it might well be called the "recent unpleasantness" in connection with this road. I desire to know whether the proposition here offered has any relation to that quarrel and makes us in any way a party to it—whether we take sides with either party to that quarrel? I would be glad to know that before I am called upon to vote on it.

Mr. DAWES. I am frank to say that I know nothing about this quarrel, and I do not represent any one party. But I do not see how this can affect it at all. It simply changes the time and fixes the place for holding the next annual meeting. That is all.

Mr. GARFIELD. That change of time may get one party out of power and the other in. That is the only point that I raise.

Mr. DAWES. I move to suspend the rules to enable me to introduce the joint resolution.

Mr. RANDALL. I understand that this joint resolution has never been before any committee.

Mr. DAWES. It has been before the Committe on the Pacific Railroad informally.

Mr. RANDALL. I heard that statement. I understand furthermore that the next meeting of this Pacific Railroad Company does not occur until next October.

Mr. DAWES. I will state to the gentleman that because of these troubles that have been spoken of—into which I do not go—the old directors are holding over, and it is desirable for them to have their annual meeting in the Spring.

In order to make the joint resolution a little more definite, at the suggestion of the gentleman from New York [Mr. PRUYN] I will strike out the words "such other places as are by law designated" and insert instead after the words "city of Washington" the words "cities of Boston, Philadelphia, Baltimore, Chicago, Cincinnati, St. Louis, and New York."

Mr. PRUYN. That improves it.

Mr. DAWES. That includes all the places named in the statute. I try to make it as fair as I possibly can.

Mr. RANDALL. That is not the objection I rose to make against this resolution, or rather this legislation altogether. I do not know anything about the difficulties of this road, but I think it is time when we come to legislate in reference to these railroads that we should have a report of a committee on the subject. It is due to the House and due to the country, it seems to me, that every description of legislation in reference to these railroads should emanate from and have the consideration and approval of a committee of this House.

I agree with a great deal that the gentleman from Illinois [Mr. WASHBURNE] has said in reference to these enormous land grants, and I am glad that he is here to resist them in the future. But at the same time I cannot but remember that his State is as deep in the mire as he wishes now to make us out to be in the mud. I hope that the gentleman from Massachusetts [Mr. DAWES]—as there is no haste whatever in reference to the matter—will allow this joint resolution to be referred.

Mr. DAWES. The only desire is to have this proposition passed by Congress before the holiday recess shall begin, so that the matter may be determined before the coming new year; that's all.

Mr. RANDALL. It is not likely that this proposition will pass the Senate this week.

The question was then taken on the motion of Mr. DAWES to suspend the rules; and upon a division there were—ayes 80, noes 24.

So, two thirds voting in the affirmative, the rules were suspended.

The joint resolution was accordingly introduced, and read the first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. DAWES. I now call the previous question.

Mr. WASHBURNE, of Illinois. Will the gentleman permit my amendment to be offered?

Mr. DAWES. I will support the proposition of the gentleman in a separate bill; but it is incongruous to the main object of this joint resolution, and will involve debate in this House and in the other branch of Congress. So fair and simple a proposition as this, which it is desired to have passed before the new year, I think should not have the gentleman's proposition attached to it.

Mr. PILE. Will the gentleman from Massachusetts [Mr. DAWES] allow me a moment to make a statement?

Mr. DAWES. Certainly.

Mr. PILE. I think this joint resolution should be referred to the Committee on the Pacific Railroad. The chairman of that committee [Mr. PRICE] has just stated to me that he was not cognizant of all the reasons why this change was asked; he simply knew it was asked.

The next regular meeting for election of directors of this company does not occur, under the law, until October next. Now, there will be abundant time to have this matter referred to a committee, to have it considered, reported upon, and passed, so that notice can be given of the meeting prior to the time when they desire the meeting to be held. We should know all the reasons why this change is asked. We all know there is a quarrel in this company about this matter of the election of directors and officers of this road, and that in consequence of that quarrel they failed to elect at the time of the last regular election; and it is at least probable that it is intended by this change that one or the other party in this quarrel shall get the advantage at the new election. I hope this joint resolution will go to the committee.

Mr. DAWES. I now renew the call for the previous question.

The previous question was seconded upon a division—ayes 68, noes 37.

The main question was then ordered, and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the joint resolution.

Mr. DAWES. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. DAWES moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MODE OF PAYING PUBLIC DEBT.

Mr. BUTLER. I move that the rules be suspended, in order that I may submit the following resolution for consideration at this time:

Resolved, That in the judgment of this House all the indebtment of the nation ought to be paid in exact accordance with the acts of Congress creating it, and not otherwise; that is to say, all loans enacted to be paid in gold to be so paid; all loans not so enacted to be payable ought to be paid in lawful money of the United States.

The question was taken upon suspending the rules; but before the result was announced,

Mr. BUTLER called for the yeas and nays upon the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and there were—yeas 56, nays 83, not voting 48; as follows:

YEAS—Messrs. Anderson, Archer, Axtell, Baker, Banks, Barnes, Barnum, Benton, Burr, Butler, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Eldridge, Farnsworth, Ferriss, Fields, Getz, Hawkins, Hopkins, Hotchkiss, Hunter, Ingersoll, Johnson, Julian, Kelley, Kerr, George V. Lawrence, William Lawrence, Loan, Loughridge, Marshall, Maynard, McClurg, Mullins, Mungen, Newcomb, Niblack, Nicholson, Nunn, Orth, Polsley, Ross, Shanks, Aaron F. Stevens, Thaddeus Stevens, Stokes, Robert T. Van Horn, Van Trump, Ward, Henry D. Washburn, William Williams, and Windom—56.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Bailey, Beaman, Benjamin, Blaine, Boyer, Bromwell, Broomall, Buckland, Dawes, Dixon, Dodge, Driggs, Eggleston, Ela, Eliot, Garfield, Glossbrenner, Golladay, Grover, Halsey, Harding, Higby, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Jenckes, Judd, Ketcham, Knott, Koontz, Laflin, Lincoln, Mallory, Marvin, McCarthy, Mercur, Moore, Moorhead, Morrell, Myers, O'Neill, Paine, Perham,

Peters, Phelps, Pike, Pile, Plants, Poland, Price, Randall, Robertson, Robinson, Sawyer, Schenck, Scofield, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taylor, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Van Auken, Burt Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodward—83.

NOT VOTING—Messrs. Adams, James M. Ashley, Baldwin, Beck, Bingham, Blair, Boutwell, Brooks, Cake, Cary, Chanler, Churchill, Cornell, Covode, Donnelly, Eckley, Ferry, Finney, Fox, Gravely, Griswold, Haight, Hamilton, Hill, Holman, Chester D. Hubbard, Humphrey, Jones, Kelsey, Kitchen, Logan, Lynch, McCullough, Miller, Morgan, Morrissey, Pomeroy, Pruyn, Raum, Selye, Shellabarger, Stone, Taber, Taffe, Twichell, Van Wyck, John T. Wilson, and Woodbridge—48.

So, two thirds not voting in favor thereof, the motion to suspend the rules was not agreed to.

REDUCTION OF NAVAL FORCE.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire and report to this House what reduction may be effected in the number of officers and men employed in the Navy by reducing our foreign squadrons to the number of ships and guns that were in service before the war.

CLAIMS.

Mr. MAYNARD, by unanimous consent, introduced a bill for the better establishment of certain claims; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PENSIONS FOR SOLDIERS OF 1812.

Mr. MAYNARD also, by unanimous consent, introduced a bill to pension the soldiers of the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions and of the War of 1812, and ordered to be printed.

OFFICERS, ETC., NOT MUSTERED IN.

Mr. MAYNARD also, by unanimous consent, introduced a bill making provision for officers and soldiers not mustered into the service; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The hour of two o'clock having arrived, the gentleman from Pennsylvania [Mr. STEVENS] is entitled to the floor to move to suspend the rules for the purpose of going into the Committee of the Whole.

Mr. WOOD. I ask the gentleman from Pennsylvania to yield to me for a moment, that I may offer a resolution to which I think there will be no objection.

Mr. STEVENS, of Pennsylvania. If it will give rise to no objection I yield.

ACQUISITION OF TERRITORY.

Mr. WOOD. I ask unanimous consent to submit the following resolution:

Resolved, That this House will reserve to itself the right to judge of the necessity and propriety of making disburaements of the public money without reference to any action of the President and Senate in the acquisition of territory under that clause of the Constitution which vests in them the power to make treaties with foreign nations.

Mr. BANKS. I object to this resolution unless it be offered merely for reference to a committee.

Mr. WOOD. I move to suspend the rules.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] has the floor on a motion to suspend the rules.

Mr. SPALDING. A similar resolution is now before the Committee of the Whole on the state of the Union.

THE TRIAL OF ALBERT M. D. C. LUSK.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In compliance with the resolutions of the House of Representatives of the 9th instant I transmit herewith a copy of the papers relating to the trial by a military commission of Albert M. D. C. Lusk, of Louisiana. No action in the case has yet been taken by the President.

ANDREW JOHNSON.

WASHINGTON, *December* 14, 1867.

Mr. WILSON, of Iowa. I move that this communication be referred to the Committee on the Judiciary and printed; and pending that motion I ask that if there be any indorsement on the paper by the General of the Army it may be read.

The Clerk read as follows:

"The prisoner, the record of whose trial is within, had every opportunity he desired to defend himself. His crime is a most fearful and brutal one, and he is without any excuse for its commission. It is the first trial for murder by a military commission under the reconstruction act; and the sentence should be carried into effect.

"Respectfully submitted to the President.

"U. S. GRANT,

"*Secretary of War ad interim.*"

The motion of Mr. WILSON, of Iowa, was agreed to; and the message, with the accompanying documents, was referred to the Committee on the Judiciary, and ordered to be printed.

CLAIMS OF STATE OF IOWA.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War *ad interim*, transmitting a report from General Buchanan, special commissioner, relative to the claims of the State of Iowa for military supplies furnished; which was referred to the Committee on Appropriations.

EXTRA PAY OF CLERKS, ETC.

The SPEAKER also, by unanimous consent, laid before the House the following communication from the Secretary of War *ad interim*:

WAR DEPARTMENT,
WASHINGTON CITY, *December* 14, 1867.

SIR: I beg to withdraw my communication of the 21st November to the Committee of Ways and Means and to the Committee on Appropriations of the House of Representatives recommending an increase of twenty per cent. to the clerks, &c., of this Department.

Very respectfully, your obedient servant,

U. S. GRANT,
Secretary of War ad interim.

Hon. SCHUYLER COLFAX, *Speaker of the House of Representatives.*

DEFICIENCY BILL.

Mr. STEVENS, of Pennsylvania, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROOMALL in the chair,) and proceeded to the consideration of House bill No. 309, making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending the 30th of June, 1868.

The bill was read *in extenso* for information.

The CHAIRMAN stated that the bill would be read by paragraphs for amendments.

For folding documents, including materials, $50,000.

Mr. BROOKS. Mr. Chairman, I want to ask the chairman of the Committee on Appropriations for an explanation of some of these items. Here is one of $50,000 for folding newspapers, &c. Am I to understand this is a deficiency?

Mr. WASHBURNE, of Illinois. I will state to the gentleman from New York that the item he refers to is a very large one, and we took measures to inquire into it. We found that there had been two sessions of Congress since the commencement of the present fiscal year, and a large amount of documents had been sent out. This is to cover the expense. It is a large amount, but the House is itself to blame for it.

Mr. BROOKS. The gentleman does not answer my question. Is this a deficiency?

Mr. WASHBURNE, of Illinois. It is a deficiency; and I will say further to the gentleman from New York that there are none other than items for deficiency in this bill. We excluded everything that was not a deficiency.

Mr. BROOKS. I want to know under what authority, what law, anybody has assumed to expend $50,000 for folding public documents? If there be no law or authority for it then it has been done in violation of law.

Mr. WASHBURNE, of Illinois. I wish I could explain that satisfactorily to the gentleman or to myself. This thing has continued ever since I have been in Congress. I have endeavored year after year to put a stop to this matter of deficiencies; but notwithstanding all effort it goes on from year to year. And so it will continue unless Congress makes a provision of law that not one dollar shall be taken out of the Treasury unless previous appropriation is made.

Mr. MAYNARD. I hope the gentleman from New York will permit me for a moment. A great many appropriations, the gentleman is aware, are made to carry out existing laws, but if enough be not appropriated the deficiency must be supplied by a deficiency bill. For instance, the gentleman's salary and mileage are a claim he has upon the Government, and to the payment of which he is entitled. If the appropriation by some inadvertence should fail to be made, or not more than twenty or fifty per cent. should be appropriated, then the remainder must be provided for in a deficiency bill. So in this case. I suppose last year the usual amount for folding books, &c., was appropriated, but we know that since the commencement of the fiscal year there have been two sessions of Congress. During the session last July books were ordered to be printed and distributed; and it was necessary that they should be folded to be sent off. Men were employed for that purpose; they have discharged the duty, and now this money is needed to pay them. It is a thing which cannot be well avoided sometimes.

Mr. BROOKS. Having had an explanation altogether unsatisfactory, I have a few words to say on the subject. Deficiencies not many years ago beyond one hundred or one hundred and fifty thousand dollars were not known in the history of this Government. They are novelties of recent Congresses—inventions particularly of the last three or four. They are in violation of law. When Congress appropriates a specific sum heads of Departments do not hesitate to exceed it, in violation of law. Such practice was not known prior to 1800.

Mr. MAYNARD. We appropriate for the uses of the folding-room for the present fiscal year, commencing the 1st of July and ending the 30th of next June. It is now evident that that amount will not be enough to last until the close of that the fiscal year.

We are called upon to appropriate this amount for future business in that office, and we are to say in this bill whether we will stop the business in the folding-room or go on with it.

Mr. BROOKS. The gentleman is mistaken, or else this is not a deficiency, as it is stated to be. This is a deficiency of $50,000 for the fiscal year ending June 30, 1867, and when Congress makes its appropriations for the fiscal year ending June 30, 1868, it will be called upon to make an additional appropriation for this purpose. This is more inexcusable because when the fiscal year expired June 30, 1867, both Houses of Congress were in session, and it was in the power of the superintendent of the folding-room to call upon this House for an appropriation, and if the House had desired to expend this sum by law it was within its power at that time to have appropriated this sum.

I have more particularly called the attention of the House to this subject because, illegitimately I think, using the money of the people wrongfully by both sides for mere party purposes, the folding-room has ceased to be what it was originally—a place for folding the public documents of the House—and has become a mere arena for the distribution of electioneering documents throughout the country more or less by both parties, the stamps of public men being used during the recess when they are not here, I will not say in utter violation of law, but without the sanction of law, for the purpose of distributing not only political speeches made by members of this House and of the Senate, but essays and all other species of documents,

when the sums of money thus appropriated and used ought to come either from the party or from the pockets of the members who issue the documents. This $50,000 is, I presume, a deficiency for the fiscal year ending June, 1867, or it would not appear here.

Mr. SPALDING. I wish to correct the mistake of my friend. He speaks of the fiscal year ending June 30, 1867. This is for the fiscal year ending June, 1868—for the present current fiscal year.

Mr. BROOKS. Will the Clerk read the bill?

Mr. MAYNARD. I was about to call attention to that fact. I have the bill here.

Mr. BROOKS. That is the disadvantage of putting through bills without our being able to see them in print.

Mr. MAYNARD. The bill appropriates money to supply deficiencies in the appropriations for the fiscal year ending June 30, 1868—the current year.

Mr. BROOKS. Why then does this item appear here in a separate bill? Why is it brought in at this particular moment separated from all other deficiencies? Why not wait for the regular appropriation bill when all the estimates for 1868 come in?

Mr. MAYNARD. We have already appropriated in the last Congress for the year ending June 30, 1868. This winter our appropriations will be for the fiscal year beginning on the 1st of July next.

Mr. BROOKS. Is this a deficiency in the appropriations already made for the current fiscal year?

Mr. MAYNARD. Yes, sir; for the present, the current fiscal year.

Mr. BROOKS. Can the gentleman tell me what was the regular appropriation for the folding-room for this fiscal year without this $50,000?

Mr. MAYNARD. I cannot state it at this moment without reference to the statute. My memory of these details is not very reliable.

Mr. BROOKS. I have done my duty in calling the attention of the House to these appropriations, and I mean to observe them as we go on; and I hope to have the attention and aid of the honorable gentleman from Illinois, [Mr. WASHBURNE.] I sit down with the observation that the expenditures of the last fiscal year for the support of the two Houses of Congress alone amount to $3,000,000—a gigantic and enormous sum, being about one fourth of the amount of the entire expenditures of this Government during the Adams administration, when the Adams administration was ejected from power mainly for its extravagance and waste of the public money.

The expenditures of Congress, I repeat, amount now to $3,000,000 a year. I have called attention to this deficiency bill in the beginning in order, if possible, to correct this enormous appropriation for the two Houses of Congress, merely for the publication and printing and other uses of members who occupy the floors of the two Houses of Congress.

Mr. RANDALL. I desire to ask a question of the gentleman from Tennessee, [Mr. MAYNARD,] who seems to have charge of this bill.

Mr. MAYNARD. I beg the gentleman's pardon; I have not charge of the bill.

Mr. RANDALL. Well, I will ask any member of the committee whether there has been yet assumed any indebtedness on the part of the Government which this appropriation is required to pay; in other words, whether the Government is now indebted to the extent of $50,000, for which this appropriation is asked?

Mr. MAYNARD. I cannot answer the gentleman specifically, but I presume not. My object in rising before was to explain what seemed to me to be a misapprehension about what constituted a deficiency bill. It seemed to be understood that it was necessarily to replace money illegally spent, spent without authority of law. I do not so understand it. It is simply that last year we failed to appropriate as much for this particular purpose as experience now shows will be needed for the current year.

Mr. RANDALL. Then this is not for a debt already incurred by the Government; but it is an appropriation for the folding-room for the distribution of documents. The members, I believe, pay for printing their speeches; but the expense of folding them, putting them in envelopes, and sealing them is borne by the Government. It seems to me that this abuse should stop right here. If members want to distribute their speeches they should pay for the envelopes and for putting their speeches in the envelopes. And as this appropriation bill provides that members shall be at the liberty of putting the Government to that expense, and contains an appropriation to meet that expense, I think it is the duty of this committee to vote down this appropriation.

Mr. MAYNARD. The item of expense for folding speeches is a very small matter. The great item of expense is the folding of the large number of volumes sent out of agricultural reports, Patent Office reports, departmental reports, &c. Is the gentleman willing to have that stopped?

Mr. RANDALL. Yes, I am willing to stop every dollar of unnecessary expense.

Mr. MAYNARD. What will the gentleman do with the books?

Mr. RANDALL. Take the books home and distribute them myself.

Mr. MAYNARD. If the gentleman has a private estate he may be able to do it.

Mr. RANDALL. I have no private estate, but I have industry. [Laughter.]

Mr. STEVENS, of Pennsylvania. We have now had the annual commentary, the perennial clamor, over this appropriation bill, and it is all right and very refreshing. There were some few sentences which I had forgotten since the last session; but very few, however. I am glad to hear them again, for it is very refreshing.

I now send to the Clerk's desk and ask to have read a letter from the Clerk of the House of Representatives; and then I propose to move that the committee rise for the purpose of closing debate on this paragraph.

The Clerk read as follows:

CLERK'S OFFICE,
HOUSE OF REPRESENTATIVES UNITED STATES,
WASHINGTON, D. C., *December* 4, 1867.

SIR: There will be required to be appropriated to supply deficiencies in the contingent expenses of the House of Representatives of the United States for the present fiscal year the following sums, namely: for stationery, $15,000; for furniture, repairs, and packing boxes for members, $20,000; for newspapers, $12,500; for miscellaneous items, $15,000; and for folding documents, including materials, $50,000. The deficiencies for newspapers and stationery were occasioned by order of the House of July 5, 1867; that for folding documents, by order of the House of Representatives of July 9, 1867, retaining certain employés during the late recess, and for materials used in the distribution of documents; that for miscellaneous items, by the payment of expenses of investigating committees; and that for furniture, repairs, and packing boxes, by the necessary recarpeting of committee and other rooms, the purchase of matting and other material for the Hall at the summer session, by the recushioning of the galleries and the purchase of new sofas and extra chairs for the Hall.

Very respectfully,

EDWARD McPHERSON,
Clerk of the House of Representatives.

Hon. THADDEUS STEVENS, *Chairman, &c.*

Mr. STEVENS, of Pennsylvania. I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BROOMALL reported that the Committee of the Whole on the state of the Union having, according to order, had under consideration the Union generally, and particularly the bill (H. R. No. 309) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending the 30th day of June, 1868, had come to no resolution thereon.

Mr. STEVENS, of Pennsylvania. I move that when the House shall again resolve itself into the Committee of the Whole on the state of the Union on this bill all debate on the pending paragraph terminate in two minutes.

Mr. BROOKS. Is it in order now to move that the bill be printed, together with the letter of the Clerk?

The SPEAKER. The bill is in the Committee of the Whole, not in the House.

On the motion of Mr. STEVENS, of Pennsylvania, there were—ayes 57, noes 30; no quorum voting.

Mr. STEVENS, of Pennsylvania. I call for tellers.

Mr. BROOKS. In order to ascertain whether an important appropriation bill is to be put through without being printed, and with no debate, I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 37, not voting 67; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, James M. Ashley, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Broomall, Cary, Reader W. Clarke, Sidney Clarke, Cobb, Cullom, Dixon, Donnelly, Eckley, Ela, Eliot, Farnsworth, Ferriss, Fields, Garfield, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Ingersoll, Judd, Julian, Kelley, Ketcham, George V. Lawrence, William Lawrence, Lincoln, Marvin, Maynard, McCarthy, McClurg, Mercur, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Paine, Perham, Peters, Pike, Pile, Plants, Polsley, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taylor, Trimble, Upson, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, Stephen F. Wilson, and Windom—83.

NAYS—Messrs. Archer, Delos R. Ashley, Axtell, Baker, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Coburn, Eldridge, Getz, Glossbrenner, Golladay, Grover, Hotchkiss, Richard D. Hubbard, Hunter, Jones, Kerr, Koontz, Loan, Marshall, Niblack, Orth, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Trowbridge, Van Auken, Henry D. Washburn, Wood, and Woodward—37.

NOT VOTING—Messrs. Adams, Ames, Bailey, Benton, Blair, Boutwell, Bromwell, Buckland, Butler, Cake, Chanler, Churchill, Cook, Cornell, Covode, Dawes, Dodge, Driggs, Eggleston, Ferry, Finney, Fox, Gravely, Griswold, Haight, Hamilton, Hawkins, Hill, Holman, Asahel W. Hubbard, Humphrey, Jenckes, Johnson, Kelsey, Kitchen, Knott, Laflin, Logan, Loughridge, Lynch, Mallory, McCullough, Miller, Moore, Morgan, Morrissey, Mungen, Nicholson, Nunn, Poland, Pomeroy, Raum, Shanks, Shellabarger, Aaron F. Stevens, Stone, Taber, Taffe, Thomas, Twichell, Burt Van Horn, Van Trump, Van Wyck, Ward, James F. Wilson, John T. Wilson, and Woodbridge—67.

So the House agreed that all debate in the Committee of the Whole on the pending paragraph terminate in two minutes.

Mr. STEVENS, of Pennsylvania. I move that the House again resolve itself into the Committee of the Whole on the state of the Union on House bill No. 309.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROOMALL in the chair,) and resumed the consideration of the bill (H. R. No. 309) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending the 30th day of June, 1868.

The CHAIRMAN. By order of the House all debate on the pending paragraph will terminate in two minutes.

Mr. WASHBURNE, of Illinois. I will occupy a part of those two minutes by congratulating my friend from New York [Mr. BROOKS] on having taken the stand which he has taken in favor of economy. I only wish he had taken the same stand a few days ago on that land-grant bill, when he voted against my motion to lay on the table, and when he did not vote at all on the passage of the bill.

Mr. BROOKS. Mr. Chairman, I do not belong to that class of politicians who, when they have gorged their own States with public plunder, when by appropriations and donations of public lands they have secured in their States railroads intersecting each other in every direction, when they have been for twenty years appropriating public lands for the benefit of their own States—I do not belong to that class of politicians who, when they are thus well fed themselves, turn to newer and younger States and tell them they shall have none of the public lands. [Laughter.] Fifteen years ago, when Stephen A. Douglas in the Senate and William

A. Richardson in the House, with other Representatives of the State of Illinois, were struggling to establish this land-grant policy in behalf of their State, I, then belonging not to the dominant party but to the Whig party, aided in that effort, although the State of New York had no interest in the matter whatever.

I have much more to say, but, Mr. Chairman, I see your hammer descending and must stop.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. I submit the following amendment:

Add as an additional section the following:

And be it further enacted, That there shall be allowed and paid, out of any money in the Treasury not otherwise appropriated, to the following-described persons now employed in the civil service of the United States at Washington, as follows: to civil officers, temporary and all other clerks, messengers, and watchmen, including enlisted men detailed as such, to be computed on the gross amount of the compensation received by them, and employés, male and female, in the Executive Mansion, and in any of the following-named Departments, or any bureau or division thereof, to wit: State, Treasury, War, Navy, Interior, Post Office, Attorney General, Agricultural, and including civil officers and temporary, and all other clerks and employés, male and female, in the offices of the Coast Survey, Naval Observatory, Navy-Yard, Arsenal, Paymaster General, including the division of referred claims, Commissary General of Prisoners, Bureau of Refugees, Freedmen, and Abandoned Lands, Quartermasters, Capitol, and Treasury Extension, City Post Office, to the photographer and assistant photographer of the Treasury Department, to the superintendent of meters, and to lamplighters, and to any other of the employés under the Government, employed within the District of Columbia, under whatsoever name or title, an additional sum of twenty per cent. on their respective salaries as fixed by law, upon their pay respectively, for one year from and after the 30th day of June, 1867: *Provided*, That none of said clerks or employés who receive $2,000 per annum and upward, shall receive any addition; nor shall any one whose annual compensation is below $2,000 receive an increase by said addition which shall make his annual compensation above $2,000.

Mr. Chairman, it is proper I should explain this amendment. Last year by law the persons named in this amendment were allowed twenty per cent. additional upon their salaries, no matter what their salaries were, for one year. Seeing the very delightful, wholesome mania for reform which has taken possession of our souls and which pervades this whole country now on small matters, I cannot say how it will be when it comes to land grants. I thought it proper to indulge a little of that feeling, and therefore propose, against my own inclination, my amendment, so as to confine it to those who are entitled to less than two thousand dollars a year. Some will get twenty per cent. on $1,200 and others on $1,500, and so on; but none are to get above $2,000. It will reduce the amount heretofore paid nearly one half; and it is done in obedience to what I suppose to be the public feeling rather than to what I deem strict justice to these employés. I leave the House to decide whether this shall be passed, not according to the rules of humanity, for that has little weight here, but according to strict justice.

Mr. NICHOLSON. I move the following substitute:

SEC. —. That the joint resolution approved February 28, 1867, giving additional compensation to certain employés in the civil service of the Government, be continued in force for one year from the 20th of June, A. D. 1867.

Mr. WASHBURNE, of Illinois. I wish it to be understood that these amendments are not from the Committee on Appropriations, but the propositions of individual members.

Mr. STEVENS, of Pennsylvania. Certainly, that is so.

Mr. BENJAMIN. Mr. Chairman, I trust these amendments to this bill will not be adopted. This subject and all others kindred to it have been referred to the Committee on Retrenchment, and that committee has entered upon their investigation. We have called upon the different Departments for a statement of the amount expended under the twenty per cent. increase at the last Congress. We have not had all the responses as yet; but we have heard from the heads of a good many of the Departments and bureaus. I can say from the responses which have been made that it will take $2,000,000 to satisfy the claims if this amendment becomes the law.

Mr. STEVENS, of Pennsylvania. I find on inquiry the amount last year was $1,500,000, and I have cut off $500,000.

Mr. BENJAMIN. I say that it is not courteous to the committee, when the matter has been referred to them and they are proceeding with the investigation, to act before they have had opportunity to report. I hope the House will allow the facts to be first presented to them before the subject is disposed of.

The question was taken on the substitute for Mr. STEVENS's amendment, and it was rejected.

The question recurred on Mr. STEVENS's amendment; and being put, there were—ayes 89, noes 55.

Mr. STEVENS, of Pennsylvania. I call for tellers.

Mr. JULIAN. Does the amendment include the workmen at the navy-yard?

Mr. SPALDING. Yes, it does.

Tellers were ordered; and Messrs. LOGAN and WELKER were appointed.

The committee divided; and the tellers reported—ayes 50, noes 57.

So the amendment was disagreed to.

Mr. WASHBURNE, of Illinois. I move that the bill be laid aside to be reported to the House, and that the committee proceed to the consideration of the President's annual message.

Mr. STEVENS, of Pennsylvania. I move that the committee rise and report the bill to the House.

The CHAIRMAN. That motion has precedence.

The question was taken on Mr. STEVENS's motion, and it was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BROOMALL reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the deficiency bill, and had directed him to report back the same to the House without amendment, and with the recommendation that it do pass.

Mr. STEVENS, of Pennsylvania. I move to amend the bill by adding to it the twenty per cent. amendment which I offered and which has just been voted upon in Committee of the Whole, and I demand the previous question on the bill and amendment.

The previous question was seconded and the main question ordered; being first upon agreeing to the amendment.

Mr. BENJAMIN. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MUNGEN. I would like to ask the gentleman from Pennsylvania if the amendment includes the employés in the Public Printing Office?

Mr. STEVENS, of Pennsylvania. It does include them.

Mr. MUNGEN. I did not so understand.

The question was taken on agreeing to the amendment; and it was decided in the affirmative—yeas 73, nays 70, not voting 44; as follows:

YEAS—Messrs. Anderson, Archer, James M. Ashley, Axtell, Banks, Barnes, Benton, Boyer, Burr, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dixon, Dodge, Driggs, Eckley, Eldridge, Eliot, Ferriss, Garfield, Getz, Glossbrenner, Griswold, Higby, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Kerr, Lincoln, Logan, Lynch, Mallory, Marvin, McCarthy, Moore, Morrell, Mungen, Myers, Niblack, Nicholson, Nunn, O'Neill, Paine, Phelps, Plants, Poland, Pruyn, Randall, Robertson, Robinson, Schenck, Selye, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Thomas, Van Auken, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Stephen F. Wilson, Wood, and Woodward—73.

NAYS—Messrs. Adams, Allison, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Barnum, Beaman, Beck, Benjamin, Bingham, Blaine, Bromwell, Brooks, Broomall, Buckland, Cook, Cullom, Donnelly, Eggleston, Ela, Fields, Golladay, Grover, Harding, Hooper, Richard D. Hubbard, Hulburd, Hunter, Jones, Judd, Julian, Kelley, Knott, Koontz, Laflin, George V. Lawrence, William Lawrence, Loan, Loughridge, Maynard, McClurg, Mercur, Mullins, Newcomb, Orth, Perham, Pike, Pile, Polsley, Price, Ross, Sawyer, Scofield, Shanks, Aaron F. Stevens, Stewart, Stokes, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Elihu B. Washburne, William B. Washburn, Welker, William Williams, James F. Wilson, and Windom—70.

NOT VOTING—Messrs. Ames, Blair, Boutwell, Butler, Cake, Chanler, Cornell, Covode, Dawes, Farnsworth, Ferry, Finney, Fox, Gravely, Haight, Halsey, Hamilton, Hawkins, Hill, Holman, Humphrey, Kelsey, Ketcham, Kitchen, Marshall, McCullough, Miller, Moorhead, Morgan, Morrissey, Pomeroy, Raum, Shellabarger, Stone, Taber, Taffe, Trimble, Twichell, Van Trump, Van Wyck, Ward, Thomas Williams, John T. Wilson, and Woodbridge—44.

So the amendment was agreed to.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS, of Pennsylvania. I demand the previous question on the passage of the bill.

Mr. BENJAMIN. I move to lay the bill on the table.

Mr. PILE. On that motion I demand the yeas and nays.

Mr. MAYNARD. I call for tellers on the yeas and nays.

Mr. WILSON, of Iowa. I suggest to the gentleman from Missouri that he withdraw the motion to lay the bill on the table and let us take the yeas and nays on the passage of the bill.

Mr. BENJAMIN. No, sir; I insist on my motion.

Tellers were ordered; and Messrs. MAYNARD and SPALDING were appointed.

The House divided; and the tellers reported thirty-five in the affirmative.

So the yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 75, nays 65, not voting 47; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Beaman, Benjamin, Benton, Bingham, Blaine, Bromwell, Brooks, Broomall, Buckland, Cook, Covode, Cullom, Dawes, Donnelly, Eggleston, Ela, Fields, Getz, Glossbrenner, Golladay, Grover, Halsey, Harding, Hooper, Hunter, Jones, Judd, Julian, Kelley, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Maynard, McClurg, Mercur, Mullins, Newcomb, Nunn, Orth, Perham, Pike, Pile, Poland, Polsley, Price, Robertson, Ross, Sawyer, Scofield, Shanks, Aaron F. Stevens, Stewart, Stokes, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and Woodward—75.

NAYS—Messrs. Anderson, Archer, James M. Ashley, Axtell, Banks, Boyer, Burr, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dixon, Dodge, Driggs, Eckley, Eldridge, Eliot, Ferriss, Griswold, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Johnson, Kerr, Lincoln, Loan, Logan, Lynch, Mallory, Marvin, McCarthy, Moore, Morrell, Mungen, Myers, Niblack, Nicholson, O'Neill, Paine, Peters, Phelps, Plants, Pruyn, Randall, Robinson, Schenck, Selye, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Thomas, Van Auken, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Stephen F. Wilson, Windom, and Wood—65.

NOT VOTING—Messrs. Adams, Ames, Barnes, Barnum, Beck, Blair, Boutwell, Butler, Cake, Chanler, Cornell, Farnsworth, Ferry, Finney, Fox, Garfield, Gravely, Haight, Hamilton, Hawkins, Higby, Hill, Holman, Richard D. Hubbard, Humphrey, Kelsey, Kitchen, Knott, Loughridge, Marshall, McCullough, Miller, Moorhead, Morgan, Morrissey, Pomeroy, Raum, Shellabarger, Stone, Taber, Taffe, Trimble, Twichell, Van Trump, Van Wyck, John T. Wilson, and Woodbridge—47.

So the bill was laid on the table.

Mr. PILE. I move that the vote last taken be reconsidered; and I also move that the motion to reconsider be laid on the table.

Mr. STEVENS, of Pennsylvania. On that motion I call for the yeas and nays. I desire to say merely that the committee have cut down the items in this bill from $2,500,000 to $181,000. However, I will withdraw the call for the yeas and nays if gentlemen do not wish to make any appropriation.

The motion to reconsider was then laid on the table.

Mr. WASHBURNE, of Illinois. As the House has just laid on the table the deficiency bill, undoubtedly on account of the amendment which was made to it in regard to increase of compensation, I hope consent will be given now to take up the bill as it was reported from the committee, and pass it.

Mr. SPALDING. I object. Let the bill be recommitted.

Mr. BROOKS. And printed.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended in order to enable the bill to be again introduced and considered at this time.

Mr. BROOKS. The committee can report it again to-morrow, and in the mean time we can have it printed.

The question was then taken upon the motion to suspend the rules; and upon a division there were—ayes 84, noes 39.

So, two thirds voting in the affirmative, the rules were suspended.

Mr. WASHBURNE, of Illinois, accordingly introduced the deficiency appropriation bill as first reported.

The bill was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. WASHBURNE, of Illinois. Upon that question I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. ARCHER. I call for the yeas and nays upon the passage of the bill.

The question was taken upon ordering the yeas and nays; and upon a division there were —ayes fourteen; not one fifth of the last vote.

Before the result of the vote was announced,

Mr. ELDRIDGE called for tellers upon ordering the yeas and nays.

The question was taken upon ordering tellers; and there were—ayes fifteen; not one fifth of a quorum.

So tellers were refused; and the yeas and nays were refused.

The bill was then passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend the title so as to make it a bill for partial appropriations for deficiencies, &c.

The amendment to the title was agreed to.

SWAMP LANDS.

Mr. JULIAN. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Secretary of War be instructed to report to this House, with as little further delay as possible, the information called for by its resolution of July last, respecting the disposition of swamp lands in the States of the South, which information has not yet been reported.

Mr. HARDING. I object.

WASHINGTON AND GEORGETOWN RAILROAD.

Mr. DRIGGS, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the Washington and Georgetown Railroad Company run their cars with great infrequency and irregularity, and not in accordance with the terms of their charter, thereby causing much inconvenience to members of Congress and the traveling public: Therefore,

Resolved, That the Committee for the District of Columbia be instructed to report such bill or joint resolution to the House as will require the company to furnish ample and adequate accommodation to those who may wish to ride, instead of compelling them to wait and to stand upon the platforms, as at present.

EXPANSION AND CONTRACTION OF CURRENCY.

Mr. SCHENCK. I move to suspend the rules in order to permit a motion to be made to discharge the Committee on Banking and Currency from the further consideration of House bill No. 241, being a bill to provide against undue expansions and contractions of the currency, and to refer the same to the Committee of Ways and Means. And I wish to call the attention of the chairman [Mr. POMEROY] or any other member of the Committee on Banking and Currency or the gentleman who introduced the bill [Mr. LYNCH] to this motion.

I will state that it is entitled "A bill to provide against undue expansion and contraction of the currency;" and, so far as the title goes, it might be considered as belonging to the Committee on Banking and Currency. But the bill consists of three sections. The first and second sections provide that the Secretary of the Treasury shall be authorized to issue coupon bonds to the amount of $300,000,000, and direct how they shall be issued, how the bonds shall be signed, and how the coupons shall be signed. The third section provides that the Secretary of the Treasury may exchange these bonds for lawful money of the United States, and then reissue them again, running through a period of ten years. It is said that this third section contains a provision which, if it be carried out, will affect the currency of the country, and that, therefore, the bill belongs to the Committee on Banking and Currency. But in fact the bill is nothing whatever except a provision for the issue and sale of bonds to the amount of $300,000,000, the sale to be for lawful money, which may be, of course, either gold, silver, or greenbacks.

Believing this to be in fact a loan bill, a bill for the issue of a certain amount of bonds, I suppose that it ought to go to the Committee of Ways and Means, although it is entitled "a bill to prevent undue expansion and contraction of the currency;" and the object of my motion is that the Committee on Banking and Currency be discharged from the further consideration of the bill, and that it be referred to the Committee of Ways and Means. There will be, I presume, no objection on the part of the former committee to this motion.

Mr. LYNCH. Will the gentleman yield to me for a few moments?

Mr. SCHENCK. Yes, sir.

Mr. LYNCH. Mr. Speaker, the object of this bill is set forth in its title, to provide against undue expansion and contraction of the currency. To do this it provides that the Secretary of the Treasury shall issue $300,000,000 of coupon bonds, the interest payable quarterly, the bonds payable on demand in lawful money. It does not provide for a loan; it does not provide for the issuing of any more currency or any more United States notes; it simply provides a means whereby the United States notes now outstanding may be converted into bonds of the United States, payable on demand in lawful money, the bonds being returned to the Treasury and the lawful money of the United States given out for them. Thus there will be an issue and a reissue; and by this means the currency, instead of being contracted by legal enactment, may be contracted by the operations of the laws of trade and the wants of the business community. The bill does not provide for the issuing of any more United States notes, and it does not provide for a loan.

The gentleman from Ohio [Mr. SCHENCK] makes the point that the bill should go to the Committee of Ways and Means, because it provides for the issue of bonds, as though the Committee on Banking and Currency had nothing to do with any bill providing for the issue of bonds, nothing to do with bonds in any way.

Mr. HOOPER, of Massachusetts. Is it proposed that the bonds which are to be issued shall bear interest?

Mr. LYNCH. Yes, sir.

Mr. HOOPER, of Massachusetts. Then the bill proposes to exchange currency for bonds bearing interest?

Mr. LYNCH. The bill simply contemplates the exchange of one obligation of the Government which is in the form of currency and does not bear interest, for another obligation which shall bear interest, the holder of the first obligation making the exchange whenever he desires and having the privilege of reëxchanging. In other words, the non-interest-bearing obligation may be exchanged for the interest-bearing bonds, and *vice versa*.

The point which the chairman of the Committee of Ways and Means [Mr. SCHENCK] makes is that a measure providing for the issue of bonds necessarily belongs to the Committee of Ways and Means and not to the Committee on Banking and Currency. The Committee of Ways and Means, I know, has, since the creation of the Committee on Banking and Currency, continued to take jurisdiction of various matters relating to the currency and kindred subjects, those matters being frequently referred to that committee without question. But to show that this is purely the result of usage, and not of any rule of the House, I beg to read the rule defining the duties of the Committee of Ways and Means. Rule 151 is as follows:

"It shall be the duty of the Committee of Ways and Means to take into consideration all reports of the Treasury Department, and such other propositions relating to raising revenue and providing ways and means for the support of the Government as shall be presented or shall come in question and be referred to them by the House, and to report their opinion thereon by bill or otherwise, as to them shall seem expedient; and said committee shall have leave to report for commitment at any time."

Now, sir, this is not a report of the Treasury Department; it is not a bill for raising revenue; it is not a bill to provide ways and means for the support of the Government; it is a bill to prevent the expansion and contraction of the currency. The object of the bill, as will be seen, relates to the currency; the issuing of bonds is only to provide means to accomplish the object sought to be attained.

If the gentleman from Ohio will refer to the "currency act," amendments to which have always been considered by the Committee on Banking and Currency, he will see that it has many sections relating to bonds. That act provides for the conversion of couponed into registered bonds, and authorizes the Comptroller of the Currency, in certain contingencies, to sell at public or private sale, at his discretion, bonds to as large an amount as is authorized by this bill. Now, sir, my bill does not provide for a sale of bonds for the purpose of raising means for the support of the Government, but is simply to provide for an exchange and re-exchange of one obligation of the Government for another; the one an interest-bearing and the other a non-interest-bearing obligation. It does not authorize any new issue of United States notes. This bill was introduced by me near the end of the second session of the Thirty-Ninth Congress, and referred without objection to the Committee on Banking and Currency. The Committee not having time to consider and report upon it at that time I introduced it again at the beginning of the present session, and it was, I think, very properly referred again to the same committee. I hope the House will not change the reference.

Mr. SCHENCK. I yielded with great pleasure to the gentleman from Maine, in the absence of the chairman of the Committee on Banking and Currency, and especially as he introduced the bill and had it referred to that committee. I suppose it is a matter of little consequence so we arrive at some solution of this difficulty, but inasmuch as it relates to a subject I might say exclusively within the range of those referred to the Committee of Ways and Means, I have thought proper to submit this as a question of jurisdiction. And I will say when the bill was first introduced by the gentleman from Maine the attention of one of my colleagues on the Committee of Ways and Means was called to it, and he asked to have it reported to the House, thinking there was more in the proposition than appeared by the title, but the Speaker did not hear the request, and the bill went to the committee to which its author asked to have it sent.

Now, I repeat, sir, this bill is one which simply provides for a new loan, call it what you will, in an issue of $300,000,000 of coupon bonds bearing interest. It provides in the second section these bonds may be sold for lawful money and may be reissued again, and for this reason, it is said, because of the emission of these bonds to expand or contract the currency, as the case may be, it relates to the Committee on Banking and Currency. That may be said of every bond we sell for coin; it will have the same effect on the currency. Suppose it is provided that the bonds should be sold

for coin only, would the gentleman have it referred to the committee on coinage? In order that the House may see to what the bill refers I will ask to have it read by the Clerk. It relates to nothing in the world except the emission of new bonds to the amount of $300,000,000 bearing interest with the provision that they may be sold for lawful money, of course including "greenbacks."

I wish to add that I do not commit myself for or against the bill. I am not prepared to say that some such provision as this in relation to convertible bonds may not be a wholesome feature in a system of measures or in one general measure covering the whole subject; but whether it is or not there is the more reason for referring it to the committee having charge of the whole subject.

Mr. JUDD. It seems to me, from the statement of the gentleman from Ohio, this is a mere question of jurisdiction between the two committees, and the point is so exceedingly fine that good arguments can be made on both sides. Whether it should go to the Committee of Ways and Means turns upon the language of the rules which have been read; and the question not being clear that it should go to that committee, it seems to me it would be courteous to refer the bill to the committee of which the gentleman from Maine, who introduced it, is a member. He asks to have it referred to the Committee on Banking and Currency, and I hope it will take that reference. Can any injury occur to the public service by referring it to the Committee on Banking and Currency, of which the gentleman is a member?

When the bill shall be reported from the Committee on Banking and Currency, if it is a subject-matter that properly belongs to the Committee of Ways and Means the House can again refer it; but at this time, as there is so much doubt as to the jurisdiction of the Committee of Ways and Means, and the bill having been introduced by the gentleman from Maine, it seems to me that simple courtesy on the part of the House would send the bill to the committee indicated by its author.

Mr. SCHENCK. I ask for the reading of the bill for the information of the House.

Mr. SCOFIELD. I desire to make a suggestion, which will perhaps avoid any difficulty between the two committees. As the bill relates to bonds and the title relates to currency I would suggest that the title be referred to the Committee on Banking and Currency, and the balance of the bill be referred to the Committee of Ways and Means. [Laughter.]

Mr. SCHENCK. That is fair, I think.

Mr. LYNCH. If the gentleman from Pennsylvania [Mr. SCOFIELD] will amend his proposition so that everything in the currency act that relates to bonds shall be taken out of it whenever amendments to that act shall be referred to the Committee on Banking and Currency I think it would be consistent.

Mr. WASHBURNE, of Illinois. I rise to a question of order. Is the bill before the House?

The SPEAKER. It is not, and this debate is irregular; but no gentleman made the point of order upon it, and some explanation was needed as to the contents of the bill, about which there is a controversy between the two committees as to which should have jurisdiction of it. The gentleman from Ohio [Mr. SCHENCK] moves that the rules be suspended and that the Committee on Banking and Currency be discharged from the further consideration of a bill to provide against undue expansion and contraction of the currency, and that the same be referred to the Committee of Ways and Means.

Mr. SCHENCK. I ask for the reading of the bill.

The bill was read. The first section authorizes and directs the Secretary of the Treasury to issue United States coupon bonds to an amount not exceeding $300,000,000 of such denominations, not less than $100, as he shall prescribe, payable in lawful money on demand, bearing interest at the rate of five per cent. per annum, payable quarter yearly in coin, said bonds to be issued to any persons paying therefor the par value thereof in lawful money, and to be redeemable by the United States at any time twenty years after their first issue, and not earlier except at the option of the holders, as hereinafter provided, and at the expiration of the twenty years shall be paid in coin.

The second section provides that the bonds so issued shall be signed by the First or Second Comptroller or the Register of the Treasury, and countersigned by such other officer or officers of the Treasury as the Secretary may designate, and shall be issued under the seal of the Treasury Department, the coupons to be signed by such person or persons or executed in such manner as may be designated by the Secretary of the Treasury.

The third section provides that the Secretary of the Treasury shall take up the bonds whenever presented for that purpose at the Treasury of the United States, paying therefor in lawful money the par value thereof and the accrued interest thereon to the amount of any matured and unpaid coupons attached thereto, and the bonds so taken up may be reissued in the manner provided for their first issue, the interest which may have accrued on any coupons thereto attached at the time of said reissue being paid by the purchaser in addition to the par value of the bonds, and the bonds may continue to be reissued at any time or times during a period of ten years, after which they shall not be again reissued.

The question was taken on Mr. SCHENCK'S motion; and, two thirds not voting in favor thereof, the rules were not suspended.

PAY OF MEMBERS OF CONGRESS.

Mr. HUBBARD, of West Virginia. I ask unanimous consent to offer the following resolution:

Resolved, That the joint Committee on Retrenchment inquire into the expediency of reducing the pay of the members of the present Congress to $4,000 per annum, and ten cents per mile mileage, and that they have leave to report by bill or otherwise.

Mr. SPALDING. I object.

Mr. HUBBARD, of West Virginia. I move to suspend the rules to enable me to offer the resolution.

Mr. ALLISON. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROMWELL: The petition of Dr. Norman Comstock, praying for a pension.

Also, the petition of Mrs. Martha J. Wilcox, praying for a pension.

Also, a memorial of the Society of Friends, praying for a change in the policy of the Government in relation to the Indian tribes.

By Mr. GLOSSBRENNER: The memorial, accompanied by testimony, of J. S. Golladay and John W. Bowling, of Kentucky, praying for the payment to them of the proceeds of fifty barrels of whisky, improperly seized and sold by officers of the Government.

Also, a memorial and accompanying papers of Mrs. Joseph Gales, of the District of Columbia, praying restoration of or compensation for certain fencing on her property, "Eckington," destroyed by United States soldiers in 1861.

By Mr. HOTCHKISS: The petition of Jonathan S. Turner, praying for an extension of his patent.

By Mr. HUBBARD, of West Virginia: The petition of James E. Wharton, of Parkersburg, West Virginia, asking compensation for damages sustained by him in the destruction of his property by United States troops in July, 1864.

By Mr. KNOTT: The memorial of Michael C. Elliott, of Cumberland county, Kentucky, praying that certain distilled liquors, upon which the internal revenue tax had been assessed, but which was afterward destroyed by fire, be released from said tax.

By Mr. ORTH: The petition asking for a port of entry at the city of La Fayette, Indiana.

Also, petition praying for a post route from Orawfordsville to Perrysville, Indiana, via Sunnyside, Steam Corner, and Vandoren's Mill.

Also, petition of David F. Stephens, of Indiana, asking for a pension.

By Mr. SCHENCK: The petition of A. Haines, sr., and 82 others, citizens of Preble county, Ohio, praying that the bonds of the Government may be paid in legal tenders, and for a further issue of the currency.

By Mr. STOKES: The application of William Crutchfield, a loyal citizen of Chattanooga, Tennessee, for quartermaster and company stores taken by military authority.

By Mr. TROWBRIDGE: The petition of George Davenport, Nathaniel Root, Rezin Wright, and many others, non-commissioned officers and privates of the fourth Michigan cavalry, asking that the reward offered for the capture of Jeff. Davis be paid to that regiment, as awarded by the War Department.

By Mr. UPSON: The petition of Lewis R. Bridge, William Filkins, Charles Craig, Ezra Bair, Benjamin F. Archer, and Joseph Odren, late of the fourth Michigan cavalry, praying for their proportion of the reward offered for the capture of Jefferson Davis.

By Mr. VAN HORN, of Missouri: The memorial of Barrow, Porter & Crenshaw, for reimbursement for losses in mail service.

By Mr. WASHBURN, of Indiana: The petition of the citizens of Newport, Indiana, for the relief of Margaret Filson.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. WINDOM: A bill for the relief of settlers on the Sioux reservation in the State of Minnesota.

IN SENATE.

TUESDAY, *December* 17, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented the memorial of the Board of Directors of the Northern Pacific Railroad Company, praying the indorsement of the Government as furnished to other similar roads as a basis of credit to enable them to make available the resources possessed under their charter; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. DIXON presented the memorial of Sarah A. Ward, widow of Commander James H. Ward, United States Navy, praying compensation for improvements made by him upon the gun-carriage of the Navy; which was referred to the Committee on Claims.

Mr. CATTELL presented the petition of John Graham and others, for the repeal of the internal revenue tax on raw cotton and cotton and woolen fabrics; which was referred to the Committee on Finance.

He also presented the petition of Hamil & Booth and others, manufacturers of silk, silk throwsters, dyers, and others interested in silk manufacture, asking relief from the five per cent. tax on their production; which was referred to the Committee on Finance.

Mr. POMEROY presented the petition of James A. Fox and others, of Steuben county, Indiana, in favor of equal suffrage for women with men in the District of Columbia and wherever the jurisdiction of Congress extends; which was referred to the Committee on the District of Columbia.

Mr. CHANDLER presented the petition of Frances S. Richardson, widow of Major General J. B. Richardson, praying a compensa-

tion for property stolen from her husband by the Apache Indians while stationed at Fort Webster, New Mexico; which was referred to the Committee on Claims.

Mr. MORTON presented the memorial of the Society of Friends, asking for a change in the policy of the Government toward the Indians; which was referred to the Committee on Indian Affairs.

Mr. CAMERON presented the memorial of Lorenzo Thomas, jr., and brother, asking a compensation for losses sustained by them in the conversion to the use of the Union Army of property owned by them at Arlington, Virginia; which was referred to the Committee on Claims.

He also presented the petition of the Pennsylvania Equal Rights League and others, asking the adoption of a law investing all men in all the States, regardless of color, with the elective franchise; which was ordered to lie on the table.

Mr. FESSENDEN presented the petition of Samuel W. Maurice, praying compensation for services rendered as assistant assessor of internal revenue in the district of Williamsburg, South Carolina; which was referred to the Committee on Finance.

Mr. MORRILL, of Maine, presented a resolution of the Legislature of the State of Maine, requesting the Senators and Representatives from that State to favor the abolition of the internal tax on manufactures, excepting on luxuries not necessary articles of consumption; which was referred to the Committee on Manufactures.

He also presented resolutions of the Legislature of the State of Maine expressive of sympathy with the Cretans in their struggle for independence; which were referred to the Committee on Foreign Relations.

He also presented resolutions of the Legislature of the State of Maine requesting their Senators and Representatives in Congress to bring before that body the necessity of obtaining aid for the railroads and for an examination of the harbors of that State, so as to provide efficient means for its defense; which were referred to the Committee on Foreign Relations.

He also presented resolutions of the Legislature of Maine requesting the Senators and Representatives from that State to use their efforts to procure such aid from the Government as will secure the speedy construction of the Northern Pacific Railroad; which were referred to the Committee on the Pacific Railroad.

Mr. CONNESS presented a memorial of merchants and importers of San Francisco, California, praying the passage of an act refunding import duties paid upon goods afterward destroyed by fire in the years 1850 and 1854; which was referred to the Committee on Finance.

Mr. PATTERSON, of Tennessee, presented a resolution of the Legislature of Tennessee, requesting their Senators and Representatives in Congress to use their influence to secure to soldiers of 1812 or their widows a pension for life, provided they make satisfactory proof of loyalty to the United States Government during the late rebellion; which was referred to the Committee on Pensions.

SETTLEMENT OF ACCOUNTS.

Mr. FESSENDEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to cause to be forwarded to the Senate copies of all papers on file in the office of the Third Auditor in cases of claims and accounts arising in the quartermaster's department where payment has not been made on the adjustment of the accounting officers and the certificates of balance by the Second Comptroller because of the non-issuance of a requisition or where the requisition has issued for less than the sum certified.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 77) declaratory of the meaning of the act of March 3, 1817, entitled "An act to provide for the prompt settlement of public accounts;" which was read twice by its title.

Mr. FESSENDEN. I ask for the immediate consideration of the joint resolution.

Mr. EDMUNDS and Mr. GRIMES. Let it be read for information.

The Secretary read the joint resolution.

It provides that the act of March 3, 1817, entitled "An act to provide for the prompt settlement of public accounts" shall not be construed to authorize the heads of Departments to change or modify the balances that may be certified to them by the Commissioner of Customs or the Comptroller of the Treasury, but that such balances when stated by the Auditor and properly certified by the Comptroller, as provided by that act, shall be taken as final and conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts.

Mr. FESSENDEN. I will say a word in explanation of that resolution.

The PRESIDENT *pro tempore*. The first question will be on taking it up for consideration. Does the Senator wish to make his observations on the motion to take it up?

Mr. FESSENDEN. I will, if there is no objection, state the object of it before it is taken up, and then the Senate may perhaps agree to take it up. There has been very great difficulty in the Departments for many years arising from this fact: we have provided in the Treasury Department a system of auditing claims and accounts of different descriptions. They have first to go through the hands of the proper auditor, as it is understood, and then to the Comptroller to decide upon the legality of the claim, and if agreed to by both those officers they are considered as settled. When those claims come from another Department—the difficulty principally has arisen in the quartermaster's department—they are to be paid necessarily out of the fund appropriated for meeting that particular kind of claim. If it is in the quartermaster's department it comes out of the fund appropriated for that purpose or for that department generally; and so of the others. Now it has been the custom in many cases after a claim has been audited, heard, gone through the hands of the Auditor first and the Comptroller afterward, and been finally adjusted by them, the proper auditing officers of the Treasury, for it to go back to the quartermaster's department, for instance, and for the Quartermaster General to undertake to say that he will not pay it, it is not right, or he will pay part of it, there is only so much due; and so he refuses to issue a requisition on the fund, or is willing, perhaps, to issue a requisition for as much as he says is due. It is ordinarily settled, after going through the hands of the accounting officers, by a clerk in the quartermaster's department, who fancies that it is not right, and then the Quartermaster General either sustains or refuses to sustain his decision.

That has been a matter of contest in the Departments for many years. The first difficulty that arose, I believe, was owing to an opinion or an intimation given by Mr. Berrien while Attorney General to that effect. The matter was afterward considered very much at length by Mr. Hiland Hall, who was Second Comptroller, I think, for a time, and he wrote a pamphlet on the subject, which I have read. I have several papers in my hand, and among them a copy of that pamphlet. I am very clear in my own opinion that that construction is all wrong. When a claim, no matter upon what Department it bears or from what Department it comes, or on what fund it is chargeable, has gone through the hands of the accounting officers of the Treasury and been settled and adjusted by them, it is no longer in the power of the head of a bureau of another Department, or even of the head of another Department itself, having control of the money, to say of their own will that the thing has been settled wrong and that they will not pay it.

The consequence has been very great oppression to some honest claimants. One case came within my own knowledge. The matter was brought to my attention on a certain occasion when I was in the Treasury Department, and I repudiated the doctrine entirely; but it was not in my power to control it. I believe there is now before the Committee on Claims a claim of a gentleman, who stated it to me, who has been absolutely ruined, or is very likely to be, because he cannot get his money, where his claim has been fully audited, allowed by all the officers of the Treasury Department on strict legal principles, such as they always apply; but the Quartermaster General says it is too much, and he will not pay it at all; and the consequence is the claimant comes to Congress; he has no other remedy.

Now, sir, I think that the law ought to be settled one way or the other upon that subject. The question ought to be determined by a law of Congress. I do not ask for the passage of this joint resolution now. I desire to have it referred to the Committee on Finance with the papers which I hold in my hand. I was mistaken, therefore, in asking that it be considered now; I merely want it taken up for the purpose of having it referred to the committee with these papers. I think it should go to the Committee on Finance, because it is a question relating to the Treasury Department.

Mr. HOWE. I have no objection to urge against the reference of this resolution to the Committee on Finance that I know of, and I agree with the Senator from Maine that if there is anything doubtful about the law it ought to be settled. It is true, as the Senator remarks, that a claim arising out of this dispute of jurisdiction has been referred to the Committee on Claims of the Senate. My attention was called to it the other day. In looking at the papers in the case, in looking at the nature of the claim, it occurred to me as very peculiar that an auditing officer of the Government had been passing upon a claim really urged against another Department of the Government, and had undertaken to direct in effect another Department of the Government, how much or how little they should pay of the claim; and that led me to look at the law creating these auditing officers, and I came to a conclusion the reverse of that to which the Senator from Maine has come, that the Auditor has by law no such authority; and it seems to me, contrary to the opinion which has just been expressed, that the Auditor should have no such authority.

The different Auditors are created by law for the purpose of examining the accounts of other disbursing officers of the Government. The Third Auditor, for instance, among other accounts, settles and adjusts the accounts of the quartermaster's department. As the Senator has remarked, a fund is appropriated by Congress to meet the exigencies of the quartermaster's department, and it is disbursed by the quartermasters. Their accounts are to be examined by the Auditor and settled by the Auditor. The Auditor is to see whether they disbursed the money in accordance with law or not. It seems to me that no account accruing in the quartermaster's department should be adjusted except one which a quartermaster has passed upon and approved and paid, so to speak, or adjusted at all events, and that the Auditor should act only as an appellate tribunal, so to speak, with a supervisory jurisdiction. Otherwise, it seems to me that every claimant has not only a double but a quadruple remedy on every claim he sets up. He may go to the quartermaster against whom his claim really exists, and if the quartermaster will pay it he gets his money; but if the quartermaster himself will not pay it he appeals to the Auditor, and gets an order on the quartermaster to pay it. If both these fail he may go to the Court of Claims and commence a suit upon his contract, and if that fails him he may come to Congress, and he may take these remedies one after the other. He will have three any way. If the law is settled, as I think it should be, that the Auditor should only pass upon accounts which the quartermaster has directed

to be paid, he may then, if he is injured by the quartermaster, go to the Court of Claims or come to Congress. It seems to me these three tribunals are enough; but I do not mean to argue the question now. I should really like if there is anything doubtful about the law to have it settled; and if this matter is to go to the Committee on Finance I will take occasion to say now that in reference to the claim pending before the Committee on Claims no action will be had until the law is settled.

Mr. FESSENDEN. I do not propose to go into this matter any further. I will only say that if the idea of my friend from Wisconsin is to prevail it will be a reversal of the action of the Government for the last fifty years in reference to accounts, and will introduce an entirely new system. This is a simple question. All these accounts go by law—there is no dispute about that—to the Auditor and the Comptroller. They must be examined by those officers before the money is paid out, for the reason that they examine the law particularly to see whether the amount is legally due. The question is simply whether there is a revising power or a mere power of refusal to pay in the other Departments because they are in possession of the money or are to make the requisition. That is the question to be considered. I ask leave now to send to the Chair some papers to accompany the resolution, and I move the reference of the resolution and papers to the Committee on Finance.

The motion was agreed to.

BILLS INTRODUCED.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 78) authorizing and directing the Second Auditor of the Treasury to allow certain credits in the adjustment and settlement of the accounts of a mustering and disbursing officer therein named; which was read twice by its title, and referred to the Committee on Claims.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 208) to remit the duties upon certain goods, wares, and merchandise destroyed by fire; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 209) to incorporate the Evening Star Newspaper Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. WILLIAMS. I am instructed by the Committee on Finance to report back certain petitions of persons living in the southern States, praying for compensation for services rendered as assistant assessors in that region of the country, who were not able to take the oath required by law, and to ask that the committee be discharged from the further consideration of the petitions, and that they be referred to the Committee on Appropriations.

The report was agreed to.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia to report back the bill introduced yesterday by the Senator from Illinois, [Mr. YATES,] being a bill (S. No. 201) to amend an act entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out of the national forces, and for other purposes," approved March 3, 1865. The committee think it belongs to the Committee on Pensions rather than to the Military Committee, and therefore ask to be discharged from its further consideration, and that it be referred to the Committee on Pensions.

The report was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 213) to suspend further reduction of the currency, reported it with an amendment.

Mr. SHERMAN. I am also directed by the same committee to report back the joint resolution (S. R. No. 71) to suspend the operation of so much of the act approved April 12, 1866, as provides that the Secretary of the Treasury may retire and cancel of United States notes $4,000,000 per month, the substance of which is embodied in the amendment to the preceding bill, and to move that it lie on the table.

The motion was agreed to.

Mr. VAN WINKLE, from the Committee on Finance, to whom was referred the bill (S. No. 183) for the relief of William H. Harman, reported it without amendment.

FUNDING OF PUBLIC DEBT.

Mr. SHERMAN. I am directed by the Committee on Finance to submit a report, accompanied by a bill, which I desire to have read twice at this time.

The bill (S. No. 207) for funding the national debt and for a conversion of the notes of the United States was read twice by its title.

Mr. SHERMAN. The subject has been under consideration by the Committee on Finance for some time, and while they are unanimously agreed in the main idea of the bill, the funding of the public debt, there is more or less difference of opinion in the committee with regard to the details of the bill. While every provision of the bill is supported by a majority of the committee, it is due to the members of the committee to state that upon various details there is more or less difference of opinion, which no doubt will manifest itself in the Senate when the subject comes up. I do not propose to call it up until after the holidays; but I present the bill now, accompanied by a somewhat lengthy report, for the purpose of enabling Senators to study the matter, in order that we may get the light of all the experience and information possible, both in the country and from Senators, so that after the holidays we may take up the subject and consider it maturely.

Mr. ANTHONY. I hope that the bill will be read. It is not very long, I suppose.

Mr. SHERMAN. It is not very long; but it will be printed, as a matter of course.

Mr. ANTHONY. I withdraw the call for the reading.

Mr. SHERMAN. I move that the report be printed.

The motion was agreed to.

Mr. SHERMAN. I now move that five thousand extra copies of the report and bill be printed for the use of the Senate, and that motion, as a matter of course, will go to the Committee on Printing.

The PRESIDENT *pro tempore*. It will be so referred, under the rule.

GREATHOUSE AND KELLY.

Mr. VAN WINKLE. The Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly, have instructed me to report it back without amendment, and I ask that it be now taken up for consideration. This bill was passed by the Senate by a unanimous vote after discussion during the last Congress, and was overslaughed in the other House. It simply refers to the Postmaster General to audit the accounts of the claimants, which are well supported by the evidence, and the proviso introduced when the claim was before the Senate on a former occasion, limiting the amount to be paid to about one half of that demanded, is inserted. I trust there will be no objection to the consideration of the bill.

By unanimous consent the bill was considered as in Committee of the Whole. It is a direction to the Postmaster General to adjust and settle the claim of Henry Greathouse and Samuel Kelly for carrying the mails on route 16001, from Placerville to Idaho City, and on route 16002, from Payettaville to Placerville, in Idaho Territory, from July 1, 1864, to July 1, 1865, and to award and pay such sum as may be due in accordance with the principles of equity and justice, but the amount allowed is not to exceed $12,000.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

UNION PACIFIC RAILROAD.

Mr. HOWARD. The Committee on the Pacific Railroad, to whom was referred the joint resolution (H. R. No. 126) changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company, have had the same under consideration, and instruct me to report it back with an amendment, and in consideration of the importance of the subject to ask for present action by the Senate.

By unanimous consent the joint resolution was considered as in Committee of the Whole.

It proposes to change the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company for the choice of directors from the first Wednesday in October to the first Wednesday following the 4th day of March; and the stockholders are to determine the place at which such annual meeting shall be held at the last annual meeting of the stockholders immediately preceding; but it is to be held at either of the cities of New York, Washington, Boston, Baltimore, Philadelphia, Cincinnati, Chicago, or St. Louis.

The amendment was to add:

And provided further, That on the election of directors herein provided for to take place in March, A. D. 1868, the terms of office of all persons then acting or claiming the right to act as directors of said company shall cease and determine.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the resolution to be read a third time; the resolution was read the third time, and passed.

PROCEEDS OF CONFISCATED PROPERTY.

Mr. HENDERSON, from the Committee on Finance, to whom was referred the following resolution, reported it without amendment, and it was agreed to:

Resolved, That the President of the United States is requested to cause to be communicated a copy of such instructions as may have been issued for the seizure of real estate, property, money, stocks, credits, and effects of any persons by virtue of the act of July 17, 1862, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;" and also a statement of all moneys received into the Treasury on account of any such property seized as aforesaid and condemned and confiscated under the said act, including the title of each case, the name of the original owner, of the purchaser under decree of sale, and of the marshal, clerk, or other officer by whom respectively the proceeds of sale in each case may have been paid into the Treasury, and the amount of money actually paid in each and every case into the Treasury of the United States.

PAPERS WITHDRAWN.

On motion of Mr. SPRAGUE, it was

Ordered, That Etham Ray Clarke and Samuel Ward Clarke have leave to withdraw their petitions and papers from the files of the Senate.

FREEDMEN'S EXPENSES.

Mr. DAVIS. I offer a resolution asking for information, and I desire to have it considered now.

Resolved, That the President be requested to furnish the Senate with an aggregated statement of the cost to the United States of the freedmen (excluding the cost of any while in the military or naval service) since the 30th of June, 1865, stating in separate aggregate amounts the cost of the Freedmen's Bureau and of the measures for the reconstruction of the States lately in rebellion.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. MORRILL, of Maine. I desire to submit to the Senator from Kentucky whether he will not enlarge his resolution by including the refugees as well as freedmen.

Mr. DAVIS. I have no objection to the Senator's modification if he will make that a separate item. I do not want the two subjects mingled.

Mr. MORRILL, of Maine. As this resolution contemplates a statement of the entire expense

of the Freedmen's Bureau, I think it would be well to have the other item, and I move to amend by including the expenses of refugees.

Mr. DAVIS. Let that be separately stated.

Mr. MORRILL, of Maine. I have no objection.

Mr. POMEROY. I think it would be impossible to state it separately, because the expenses of refugees and freedmen have been defrayed from the same fund indiscriminately.

Mr. MORRILL, of Maine. I think not.

Mr. DAVIS. If it cannot be done I take it the officers know it and will so report.

Mr. POMEROY. I know that in very many instances they have been fed together without any respect to the question whether they were freedmen or refugees. I have no objection to the resolution, but I do not want it in such a shape that it cannot be answered.

Mr. CONKLING. The Senator from Kentucky truly says that if it turns out that a separate return cannot be made to this resolution the officers can so state to the Senate. That, however, does not at all answer the suggestion of the Senator from Kansas, as it seems to me. The Senate may choose to have this whole expense truly stated, and if a proportion of it be chargeable to refugees the Senate may choose to know that fact. Now, if the resolution passes confining the officers to a separate statement with regard to refugees, and it turns out that the statements cannot be separated, the answer to this resolution will be practically false, because we shall have set down a commingled account of items all going into the aggregate to the debit of the Freedmen's Bureau on account of freedmen. I suggest, therefore, to the Senator from Maine who offered this amendment that he had better try the sense of the Senate upon embracing it in the resolution, whether the officers can make a separate statement or not. I for one should like to know, if we may know, as the Senator from Kentucky prefers, separately where this money has gone; but even if we cannot know separately I should like to know the truth, and certainly not to have the Senate or the country misled by a report showing apparently that a certain aggregation of items has gone to the account of freedmen when in truth some aliquot part is chargeable to another account.

Mr. POMEROY. I agree with what the Senator from New York has said. He will see, as every Senator will at once, that the expenses of the bureau itself cannot be divided in this way. Will you charge the whole expenses of the machinery of the Freedmen's Bureau to freedmen or refugees? You cannot separate them unless you say one half shall be chargeable to one account and the other half to the other, and that is no separation at all.

Mr. MORRILL, of Maine. I would insert, then, the words "if practicable."

Mr. POMEROY. The Senate may not choose to have the statement made at all unless it can be made fairly, and so as to show precisely to which of these accounts the items should go.

Mr. CONKLING. I understand these accounts to be made up largely of rations; for example, so many rations charged and so many rations issued. Now, it is very improbable that they will be able to state in each instance separately to whom those rations went. If they cannot all they can do is to return the general fact, and if it was applicable to both freedmen and refugees they ought to say so; if only to one class, to say that.

Mr. POMEROY. There is another consideration, and that is that very many of the refugees were freedmen. The refugees themselves were in many instances and to a very large extent freedmen, so that it will be impossible to give the precise amount in the manner indicated by the resolution. I think it had better be considered before it is passed.

Mr. MORRILL, of Maine. As a matter of fact I think I know from examination of the reports that the accounts are kept entirely distinct; that the Freedmen's Bureau keeps its accounts so distinct that they show precisely what rations have been issued to refugees and what to freedmen.

Mr. POMEROY. But this embraces something besides rations.

Mr. MORRILL, of Maine. Expenses?

Mr. POMEROY. Yes.

Mr. MORRILL, of Maine. Very well; I cannot conceive that there can be any difficulty on that account.

Mr. POMEROY. But to whom will you charge the expenses of the bureau?

Mr. DAVIS. To the bureau.

Mr. POMEROY. I think the resolution had better lie over until to-morrow, and be examined by some committee to see whether the report called for can be made.

Mr. DAVIS. I should like to know how the honorable Senator from Kansas or my friend from New York can come to the knowledge that this resolution cannot be answered; that it is impracticable to answer it. I suppose that if there is ordinary good bookkeeping in the Departments it is a very easy matter to answer it.

Mr. POMEROY. Let me ask the Senator which party will he charge the expenses of the bureau to?

Mr. DAVIS. I want to know the whole cost of the Freedmen's Bureau. I do not care who are the parties, whether they are negroes, or Indians, or whites, or who.

Mr. POMEROY. That we can tell by our appropriations.

Mr. DAVIS. But I want an aggregated statement. I first want an aggregated statement of the cost of the freedmen since the 30th of June, 1865. I suppose that every expenditure of the Departments for the benefit of freedmen is set down in items that explain themselves. I suppose the freedmen are negroes, or were negroes once, and I am inclined to think they are so yet and ever will be. Some gentlemen, I know, entertain a different opinion. However, they are colored. I do not know whether black is a color or white is a color, we are so deceived in these phrases at the present day; but I want to know the whole cost of the freedmen to the Government of the United States; that is, the aggregate cost since June 30, 1865. Then I want to know the cost of the Freedmen's Bureau.

Mr. POMEROY. But the resolution is not so drawn.

Mr. DAVIS. Yes, it is; or if it is not, draw it so; I will submit to your correction.

The PRESIDENT *pro tempore*. The time has arrived when the unfinished business of yesterday is in order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 313) making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, in which it requested the concurrence of the Senate.

OCCUPATION OF SAN JUAN ISLAND.

Mr. HOWARD. I offer the following resolution, and ask for its present consideration:

Resolved, That the President be respectfully requested to communicate to the Senate, if not incompatible with the public interest, any agreement between the Government of the United States and that of Great Britain in relation to the occupation of the island of San Juan, in Puget's sound, with copies of any correspondence on the subject of the claims of the respective Governments to said island, and a statement of the reasons why the Government of the United States has permitted a joint occupation of the same to Great Britain.

Mr. SUMNER. I think that had better lie over.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

HOUSE BILL REFERRED.

The bill (H. R. No. 313) making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, was read twice by its title, and referred to the Committee on Appropriations.

COTTON TAX.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax. That bill is now before the Senate as in Committee of the Whole, and the pending question is on the amendment of the Senator from Maryland, [Mr. JOHNSON.]

Mr. CONKLING. Mr. President, an argument which should prove the tax on cotton to be erroneous and pernicious, and should prove further that such a tax must forever continue erroneous and pernicious, would still fall short of convincing me that the measure now under consideration ought to be adopted at this time.

We are told that an excise of two and a half cents per pound on our domestic cotton is likely to enable Egypt, India, and Brazil permanently to underbid the South in the markets of the world. This seems to me quite questionable, to say the least, and at another time I shall beg leave to submit some suggestions in regard to it; but I pass it now.

Again, we are told that a tax on cotton has been rendered onerous by the increased cost of production which emancipation has imposed. To dispute this assertion stands the fact, among others, that one bale of cotton for every cotton hand was good husbandry for slavery, and now we have six bales to the hand; in some instances, as in Georgia, ten bales to the hand. The effect of a fair day's wages for a fair day's work in the production of cotton has been to yield an increase of sixfold; nay, in some instances tenfold.

Again, we are told that this tax trenches upon the Constitution. That is a question for the courts.

Mr. POMEROY. The President might decide that.

Mr. CONKLING. The Senator from Kansas suggests that the President might decide it. Perhaps his decision might be conclusive with the Senator from Kansas; but other Senators would prefer to have such a question go to the courts.

Again, sir, it is said that the cotton bug and drought and the disorganization of labor have inflicted great injury upon the cotton crop of 1867. Well, sir, there is much to be said about that. With labor disorganized, with society in the condition in which it has been in the South, with the country just emerged from a terrible war, during the second season afterward the production amounted to three fourths as much as the highest yield in any cotton season ever known, according to my recollection. But suppose the cotton crop of 1867 has suffered severely; it proves, if it proves anything on this subject, not that permanent and absolute relief or the release of cotton from all tax is necessary; it hardly proves that temporary relief is called for. The logic of that fact would be, in this discussion, to show that the crop already picked should be released; that the tax should be recalled and refunded; and yet we all know that that would be barren of advantage to those whose interest is especially presented here.

It is said again that the price of cotton is drooping and languishing. The tax did not produce that effect; it is temporary; and the depression in the case of cotton is no greater than in the case of other productions—not so great as in the case of wool, for example.

But, Mr. President, let us admit for this argument that all these objections exist; let us admit that they are conclusive in showing that the tax on cotton ought to be modified, ought to be suspended temporarily, or abolished finally; does it follow that we are to isolate this particular subject from every other kindred subject and prefer it before all others? This tax was never imposed as a separate measure. No tax was ever laid on cotton as an independ-

ent, abstract proposition. The tax upon cotton enters into the general revenue scheme and revenue system of the country. It was incorporated in that system and adjusted to adapt itself to other portions of the scheme. The tax was not laid in freak nor in vengeance; and I beg to say that it was not laid as a temporary or passing measure. Having been a member of the Committee of Ways and Means, by which committee the tax was originally reported, I think I may safely say, and my honorable friend from Vermont, [Mr. MORRILL,] who was then chairman of the committee, will agree with me, that this measure was included in the general revenue bill as a permanent, as an ordinary measure entering into the economy of revenue. Certainly it was not a war measure. Everybody knew that the war must wane, if not cease, before to any extent it could succeed. The collection of this tax to any extent pre-supposed a return of peace; and it is not true, whatever commissioner may have fallen into the error, that it was adopted at all as an accompaniment of the war. On the contrary, it was believed that this great staple when we were marshaling all our resources ought to be made to pay tribute to the country, and it was believed that a large part of the burden would fall upon foreign buyers. Therefore it was adopted. The first recommendation was of five cents a pound, and the committee so reported, but it was fixed by Congress at two cents. In the progress of time and legislation it rose to three and afterward fell to two and a half cents, the present rate.

Mr. President, the Congresses by which this tax was dealt with and imposed, I think, have earned exemption from the charge of vindictiveness in adjusting the revenues of the country. The same Congress which adopted the provision as it stands suspended the direct tax in every insurrectionary State; nay, sir, suspended it before one single State had paid it in full, and to this day many of them have never paid it at all.

Mr. HENDRICKS. I ask the gentleman if he refers to the tax upon land.

Mr. CONKLING. I refer to the direct tax.

Mr. HENDRICKS. I ask the Senator if that was not suspended in regard to all the States?

Mr. CONKLING. No, sir.

Mr. HENDRICKS. But merely in regard to the insurrectionary States alone?

Mr. SHERMAN. The others have all paid it.

Mr. HENDRICKS. Does the Senator from New York refer to the $20,000,000 tax?

Mr. CONKLING. Will the Senator permit me to ask him to name any adhering State, any northern State, which did not pay or arrange the direct tax?

Mr. HENDRICKS. The direct tax—if by that the Senator refers to the $20,000,000 tax—was suspended in the northern States; it was not continued. A portion of one year's tax perhaps was collected.

Mr. CONKLING. Do not let us chaffer about terms. Does the Senator mean that the tax was not paid in the northern States?

Mr. HENDRICKS. I mean that that tax was not continued as a part of the system in the North or South either.

Mr. CONKLING. Does the Senator mean that the original tax as imposed was not paid by the northern States, every State paying its quota?

Mr. HENDRICKS. I thought the Senator made a wrong impression in regard to it—that that tax was suspended in the insurrectionary States alone. The point I make is, that that tax was not continued upon any of the States.

Mr. CONKLING. Mr. President, I think my statement was very intelligible, and the historical and financial fact is very palpable and clear: a direct tax was laid, and payment of that tax was made by the adhering States; and Virginia and North Carolina, according to my recollection, paid a portion of their direct tax, and perhaps some other State may have paid an installment. In that state of the case the collection or the payment, whichever the phrase may be, of that tax was suspended as to the insurrectionary States, and to this day it has never been paid. That is my proposition. If I am wrong about it the Senator will set me right. I say further that Congress exempted from taxation sugar machinery, cotton machinery, and various implements and apparatus applicable especially and entirely to the South; and I say that in the adjustment of the revenue system of the country a helping hand has in every way been extended to these destitute communities.

I beg leave to say here, without allowing myself to digress into a political discussion, that if one political party in this country—and especially if the visible head of this Government—had allowed these communities to attend to the real business of reconstruction, their case would have been a great deal better to-day than it is; and so would ours. If their attention had been given to building and planting and sowing and mending and re-creating and getting their own living in place of blustering and swaggering about representation in Congress, my belief is that they would have been richer, happier, and in better condition, and so would the whole country; and it is not the fault of the financial legislation of Congress, at all events, that this has not been done.

But, sir, I was going to say that this tax was laid in the spirit in which other taxes were imposed; and now we are told that it has turned out to be grievous; and what is the proposition? To take it up and consider it in connection with other interests groaning and languishing and drooping, because there are many interests which do languish and droop and groan for relief? Is the proposition to take it up and look at it by itself and in relation to other things? Not at all, sir; but to select it from everything else, and is a special act, (hastily devised, and I do not know but that I might almost say crude,) an act put on its passage in the House of Representatives on the 4th of December, Congress having assembled at this session on the 2d of December, passed at once, and coming to us to give, not temporary relief, not to adjust this tax to what may be the temporary exigencies of the people upon whom it is to act, but once for all, on the spur of the occasion, to let go absolutely between twenty and thirty millions of revenue, to be made up we know not where.

Is it true, sir, that nothing else presses with regard to our revenues as the subject of cotton does? Look at the tax on whisky, and look at the administration of its collection, with fraud holding high carnival everywhere and infusing corrupt disorder through the whole internal revenue service. If we could deal thoroughly with whisky and make it pay its tax we could exempt cotton we could disenthrall the industry of the country, and take off the shackles which weigh down the arms of labor everywhere. Is not this subject worth discussing, worth consideration, at least, as well as the subject of cotton? Look at manufactures weighed down in many branches by duplicated and quadruplicated taxes, and more than languishing—staggering. Ought not they to be considered? If so, why should not this measure be postponed and taken up at a proper time and in a proper place? Why should we not sit down and scrutinize estimates, gauge appropriations, look over and see how much money it is absolutely necessary to raise when we have done our duty in the way of retrenchment and frugality? Why not begin by arranging to lop off every excrescence, everything that can be dispensed with in the way of public outgo, and then foot up and find out the sum total from which we cannot escape, and arrange the revenue system of the country accordingly? Then we can relieve the burden wherever it is heaviest. The tax on cotton, very likely, is one of the things to be suspended temporarily, or abolished finally, or diminished, as my honorable friend from Indiana [Mr. MORTON] proposes.

I expect to vote for some of these propositions, but I prefer not to do so now. I would like to know where this is to hit. I would like to know whether this specific deficit of twenty odd millions must be made up somewhere else. If it need not be, I would like to know whether other twenty millions which rest grievously upon the shoulders of those who bear them can be dispensed with. If not, I would like an equalizing process, and have everybody profit somewhat by it. But we cannot do that now.

Why should we attempt to do it now? It is said that at Christmas, following the old usage of which we used to hear in the South, hands are engaged in gangs or otherwise, and those who are purposing to raise cotton make up their minds to what extent they will cultivate it, and how far they will devote their ground to the cereal grains. Very well, sir; that is a mere incident; that is a consideration which, although important in itself, is relatively so insignificant in looking all over this country that I may affirm that during the whole postponement of a revision of the revenue other interests equally meritorious, represented by persons equally numerous, will suffer at least equally, and I think more.

Now, Mr. President, I should prefer for one to postpone this whole subject until such time as the regular revenue bill shall be before us; and unless some other Senator shall submit that motion I will move at a convenient time that the further consideration of this bill be postponed until February or March, or the proper time, or indefinitely. In the event that that motion should fail, then I prefer to vote for the amendment which I indicated last night, and to which I beg for one moment to ask the attention of the Senate.

The proposition in the bill now is, as I said, once for all to let go the whole tax on cotton, because we all understand that no improvement in cotton raising, no appreciation of the market, no demonstration that cotton ought to pay a tax the year after next, will restore to the statute-book this obliterated provision. The Senator from Maine [Mr. FESSENDEN] well said that it was much easier to keep it as it is, even though in a state of suspension, than to erase it in the hope of putting it back. Now, if we are to pass anything at this time, let us give an opportunity to those interested fairly to try the experiment. Let them during the year 1868 raise their cotton without let or hinderance. Emancipate it from every burden for that year, and let us see the result. That is all that can be done for that year; and if it turns out well, if it turns out to be a wise and economical provision, as we are told, some Congress will be here a year from now by which this same suspension can be continued either for another year or a longer period, or indefinitely. I submit that every advantage which can be gained now by the passage of this bill as it is will be attained by applying it to one single year as a test, leaving, as that will, in the hands of Congress the power to continue the relief, as I say, indefinitely and permanently afterward. Whereas, if by passing the bill as it is now, it turns out that legislation is not a cure for everything that the laws of trade and the accidents of seasons and the hap-hazards of the money market bring upon those engaged in a particular venture, the result will be that we shall not have reserved the power to act. It may be very well that we have the staff in our hands.

Now, sir, I will at this time, if it be a proper time, or I will hereafter, submit a motion that this bill be postponed to a convenient period. It is a proper motion unless some one wishes to offer an amendment to the amendment pending, offered by the Senator from Maryland. In that event, perhaps, I had better wait until after that.

The PRESIDENT *pro tempore*. A motion to postpone is in order.

Mr. CONKLING. I make that motion, and if it is lost at the proper time I shall beg to offer my amendment making the bill apply clearly to raw cotton, so that it cannot embrace anything else, and confining it to the year 1868.

The PRESIDENT *pro tempore*. To what time does the Senator propose to postpone the bill?

Mr. CONKLING. I will say until the third Tuesday in February next.

The PRESIDENT *pro tempore*. The question then is on the motion of the Senator from New York, to postpone the further consideration of this bill, with the amendments, until the third Tuesday of February.

Mr. WILLIAMS. I think the Senator from New York is quite mistaken in supposing that there is no force in the argument that immediate action is necessary on this bill in view of the course that is taken by southern planters in reference to their next year's crops. Within a day or two I have had a conversation with two citizens of the State of Oregon, men with whom I am intimately acquainted, who, a year or two ago, went south, into the State of Georgia, and purchased a large plantation. They have employed during the last year one hundred and fifty negroes in the cultivation of cotton. They are about to discharge those negroes at the expiration of this year; for, sir, we might as well shut our eyes to the daylight that surrounds us and say that the sun does not shine as to say that the southern planters can proceed with the cultivation of cotton with this tax at the present low prices for which cotton can be sold. These gentlemen inform me that the planters in that section of the country commence the preparation of their grounds in the month of January, and it is necessary for them to know whether or not this tax is to be imposed upon the cotton which they produce next year. If they are to pay the tax they will not employ the negroes who are now, poor and necessitous and without labor, about to be discharged from employment at the expiration of this year. They will not employ those negroes, for they cannot afford to do it. The consequence will be that thousands and tens of thousands of negroes in the South will be thrown out of employment at the expiration of this year, and will not be employed for the next, because the planters do not know whether they can afford to go forward at this time and prepare their grounds for a crop of cotton the coming year.

That is a consideration which it seems to me demands immediate action in reference to this bill. If we are to relieve cotton from this tax we ought to do so at this time, so that the cotton-planters who are about to employ their labor may know what to do. It is the custom, as I understand, in the South generally to employ their labor at the beginning of the year. The negroes are employed, not by the day or month, but by the year, and the contracts for employment are made about the 1st of January. It is necessary that we should act on this subject at this time so that the planters can know what course to take as to the next year's crop.

An effort is made to excite some political prejudice on this subject in order to postpone the action of Congress, but instead of the repeal of this tax being, as is constantly insinuated, an advantage to the rebels of the South, it is a bill of relief to the freedmen of the South, to whom we are sending money all the time. We are advised from different sources that there are thousands of them now who are suffering from the necessities of life; and it is on their account particularly, as well as on the account of all who are concerned, that I believe we ought at this time to pass this bill and advise the people of the South as to what is to be our policy on this subject.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. WILLIAMS. Certainly.

Mr. CONKLING. I should like to inquire whether his argument, proving all that it does to him, renders it necessary or expedient to make the bill apply to more than one year, and how the facts which he states require anything more from us, assuming that they require that, than to say that for the year 1868 they may know now that their cotton is to be absolutely exempt?

Mr. WILLIAMS. I discussed that question yesterday. What I have said now applies particularly to the motion of the honorable Senator to postpone the consideration of this bill until some future day. My argument is addressed to that point, that at this time the subject ought to be considered.

Mr. MORTON. Mr. President, it occurs to me that the proper course is between the two propositions that have been made. There is now an extraordinary depression in the price of cotton. Is there any reason to believe that that depression will exist one year hence? There are various causes, perhaps, producing the present low price of cotton, but have we any reason to believe that those causes will operate in the fall and winter of 1868?

Now, sir, this bill as it comes to us from the House of Representatives proposes to repeal the cotton tax as to the next and all future crops. The suffering is in the present. There has been no evidence produced here to satisfy my mind that there may not be a cotton tax to some extent levied upon future crops. If it were possible to relieve the present distress in the South by the repeal of this tax on the crop of 1867, or a considerable portion of it, that would be one proposition; but because there is now a depression, and it is said there is now suffering, it is proposed to pass a bill which shall release the crop of 1868 and all other crops from the tax. It seems to me that the philosophy of it is not good. The proposition embraced in this bill is, substantially, that six States of this Union shall be exonerated from the payment of any internal revenue. In some six or seven States of this Union it is more profitable now, and it has been for years past, and will be for some time to come, to put their capital into the cultivation of cotton instead of manufactures and other productions. Should this large portion of the Union be therefore exonerated from contributing its support toward the maintenance of this Government and the payment of our debt or the interest of our debt? It seems to me not.

I am told, and I have reason to believe that there is some truth in it, that the present depression in the price of cotton results, in the first place, from the large production last year, which was somewhat unexpected; but more from the fact that capitalists in New York and Liverpool and London and cities on the continent of Europe have been holding cotton for high prices for the last twelve or eighteen months, that it finally became apparent to them that they would get no higher prices, and many of them were unable to hold their cotton any longer, and thus immense quantities have been placed upon the market within the last two months from these reasons, and the price of cotton has gone down. But, sir, the price of cotton to-day is exceptional. The distinguished chairman of the Committee on Finance has adduced no evidence to satisfy my mind that this price will prevail next year, and that there may not be a tax to some extent placed upon the crop of 1868.

Now, sir, I believe the present tax on cotton is too high. I believe it bears too large a per cent. to the value of the production. I think it is out of proportion to the internal revenue that is raised from other productions and from articles of manufacture. But, sir, there is a proper medium between too high a tax and no tax at all. I submitted an amendment yesterday for the purpose of bringing this question before the Senate, providing that the tax should be placed at one cent per pound. It may be that that is too high, that it is too large a percentage on the hundred cents. If so, it might be placed at three fourths of a cent, but I am not in favor of now saying that cotton shall not contribute to the internal revenue of this country, and I think the people are not prepared to say that. There may be distress, but I think that distress is a little exaggerated. I think there are a great many men who are now interested in writing letters and in making the impression upon the public mind that this cotton tax cannot be borne. There is distress in every part of the country to some extent. There is distress in New York, in New England; there is distress in the West; and the clamor is coming to us from every part of the United States that there must be a reduction of taxation; and, sir, we all come here pledged to some extent that our constituents shall be relieved from the high pressure of taxation that now exists. We must have revenue, and this revenue must be a burden, and all that we can do is to make that burden lie as equal as possible on all the people and upon every section of the country. Here are twenty-five millions of revenue that we propose to strike out by a single act. I suggested yesterday, and I rise now simply to repeat that suggestion, that before we dispense with twenty-five millions of revenue we had better inquire what can be done, after that has been accomplished, to relieve other branches of industry and to reduce other portions of the taxes. There are branches of manufacturing in the North, and in the West there are other branches of industry, that are almost paralyzed by the heavy taxes which are now imposed. They complain with justice; they are holding conventions of this interest and of that interest at Cleveland, at St. Louis, and at Louisville, representing to Congress that they must have relief. We have not got many twenty-five millions to dispense with. If we shall cut off twenty-five millions here absolutely at one blow can the others be relieved?

It seems to me, sir, that we should wait before we dispense with this tax entirely, and see what can be done for other suffering interests. Now, the argument is made by the Senator from Oregon [Mr. WILLIAMS] and by the chairman of the Committee on Finance [Mr. SHERMAN] that it is important that this should be done before the 1st day of January, so that the planters may know how to make their contracts and their arrangements for the next year. I think there is something in that; I know something about their modes of doing business down South; but instead of saying to them on the 1st day of January, "We exonerate you from all tax," would it not be better to say, "We will reduce your tax to three fourths of a cent, or one cent on the pound; we will make it so low that you can reasonably bear it; but we are not now prepared to say to you that you shall not be taxed at all?"

Suppose that we now pass this bill and repeal this tax entirely, and after these contracts have been made on the 1st of January, and arrangements have been made for planting for 1868, we then come back and propose to put a tax on cotton, they will say, "That is bad faith; you repealed the tax in December; we went on and made our contracts in view of the fact; now you come back in February or March and propose to put a new tax on." They will say, "This is uncertain—this is fluctuating legislation, and we cannot do well under it; let us know positively what we are to have anyhow, and if we can live by it we will." If you say to them in December, "We will not take off the whole two and a half cents, but we will leave the tax at three fourths of a cent or one cent," they will know what to count upon.

And, sir, we are not prepared to say—I am sure the great body of this nation in the North are not prepared to say—that cotton, which has been one of the great sources of our national troubles, shall not bear some portion of the burdens of this Government. I think this measure, in the form in which it is put, is entirely hasty. I am in favor of putting a reasonable tax upon cotton; a tax that we think the planting States can bear, and a tax that they ought to bear—one that will give satisfaction to them if they can live by it, and will satisfy our people in the North. We must have revenue. It has been proposed, I believe, by a distinguished member of the House of Representatives that we shall say by a joint resolution that our expenses for the next year shall not exceed $300,000,000. I hope we can bring them under that; but perhaps we cannot

get below $350,000,000. If they shall be $350,000,000 and we must have that amount of revenue, it has got to come from some quarter; it has got to be paid by somebody; and if no portion of it is to be paid by six or seven cotton States—for all they have to pay is on cotton—then of course it must all come off the rest. That is neither right nor just, nor is it expedient, in my judgment.

Mr. President, the distress is in the present. If we could now relieve the producers of a considerable portion of this tax, say two thirds or three fifths of the present tax, I should be in favor of it; but the amendment offered by the Senator from Oregon, in my opinion, will fail of its purpose. I presume there is very little of this year's crop of cotton that has not been sold or contracted to be sold. When we come to talk about the good old customs of the South, I believe their former custom was to contract the year before and mortgage the crop and draw upon the proceeds. I do not know whether they are doing that now or not. I hope not; but if their condition down there is what it is described, unquestionably nearly the whole of the crop is already sold, and if we now take the tax off the crop of 1867 the benefit will accrue to the purchasers, to the speculators, and not to the men who produced the cotton. These men bought the cotton with the tax on it; they bought it with their eyes open. If they shall fail to make money out of it it is the common lot of the speculator. If we shall put two and a half cents a pound into their pockets they will be sure to make money, and the great class of persons whom it is intended to relieve—the producers—will get but little benefit from it. If there could be any way devised by which we could relieve the producers of 1867 I should be in favor of it, but I am not now for legislating this tax off into the pockets of speculators.

I desire again to call the attention of the Senate to the fact that this depression in the price of cotton calling so clamorously for a reduction of the tax is at the present time, and there can be no reason shown, at least there has been none, that will make it necessary for the fall and winter of 1868. As to our being frightened about the production of cotton in India, and the idea that we must hedge against that, I do not believe in it. We can produce better cotton, we can produce it more cheaply, than any other country in the world, and we shall have the monopoly of it. Just at this time the market is disordered. Cotton has been accumulated in large quantities. The men who sold cotton for sixty cents and ninety cents and $1 and $1.25 thought cotton was very low when it came down to half a dollar on the pound, and when it came down to forty cents and thirty cents they thought it was most ruinously low, and they would not sell, and men held cotton from sixty cents clear down to eighteen and fifteen in the city of New York, and were unwilling to sell then; but finally they were compelled to do it, and immense quantities have at last been thrown on the market from the causes I have mentioned. This bill from the House furnishes no relief in the present, but proposes for 1868 to exonerate the cotton crop from all taxation, to relieve a very considerable part of this country from the payment of any tax for the support of the Government. It is neither just nor equitable nor expedient.

Mr. CORBETT. I shall occupy the attention of the Senate for but a short time to say a very few words on points that have not yet, perhaps, been fully touched upon.

The export of cotton from the United States in 1866 was $199,500,000 in value. The duties on imports to that amount, for which the exportation of that cotton paid, would amount to about eighty million dollars. This $199,500,000 of cotton was exported instead of gold or its equivalent; and in order to meet this vast amount of the balance of trade against us as a nation we must produce something to send out of the country, or otherwise we must stop importations. As the South in 1866 exported $199,500,000 worth of cotton, which they shipped to the North in the first place, and for which they received our goods in exchange, and which caused our manufactures in the North to flourish, and enabled our people in return to import foreign goods which yielded to the Government duties amounting to $80,000,000, I claim that they contributed just that much to the support of the Government. It is necessary for us to have duties on imports to pay the interest on our public debt as well as to have direct taxes laid on the manufacturer and the producer. In 1867 we exported of cotton $143,900,000 in value, and the duties on the imported goods which that exportation enabled us to receive would, at the average rate, amount to $56,000,000. This also, I claim, was paid by the South to some extent, as they received in exchange for that cotton which they sent to northern ports, from which a great portion of it was shipped, products from the North and foreign goods which were imported by the North, and which this exportation enabled us to pay for.

At the commencement of our rebellion, when England had an opportunity to levy a duty upon the production of cotton in India, did she do it? No, sir; instead of levying an internal duty she offered a very large premium for its production. She stimulated the production of cotton in every way in her power, seeing as she did that it would strike a severe blow at the productive interests of the southern States and of America generally. During our rebellion she took this occasion to strike us that blow, as well as she did to fit out the Alabama to strike a blow at our commerce. By stimulating the production of cotton in India she has brought it in competition with our own. To a great extent it is used as a substitute for it, or is mixed with our own cotton for manufacturing purposes. Now I wish to drive her cotton out of the market, and I claim that anything we can do to assist the southern States in producing this article at a cheap rate will strike a blow at the production of cotton in India. If we can produce a superior article for the same price that they can produce an inferior article in India we shall probably drive the India cotton out of the English market. If cotton is king in this country it also has a throne in India and in England, and to dethrone it from that market we must do everything we can to cheapen the article and throw it upon their market at the lowest possible rate. Once drive the India cotton from the English market, drive them into the production of other articles for their subsistence, and you strike a blow at the production of cotton there, and as soon as this depression in the southern States comes to an end, if relief be granted, you may in the future, when you again have the control of the markets of the world, as you once had, be enabled to levy a small tax upon cotton. But at this time, with cotton at fifteen cents a pound in currency, which, deducting the premium on gold, would bring it down to ten cents in gold, you may imagine what the planters receive for it at their homes. For the increased cost of living in those States, as well as in the northern States, they must receive a corresponding increase of price, and as the cost of wheat and other commodities has increased one hundred per cent. they certainly ought to increase upon the cost of cotton, and yet we have cotton at this time selling at about ten cents in gold, though previous to the war it used to bring ten and a half, eleven, and twelve cents in gold.

Mr. President, I believe that this measure of relief is necessary to the southern States. It is necessary to the relief of our Treasury to induce the exportation of cotton in place of gold, that we may return to specie payments. If we do not produce the cotton to export we certainly cannot return to specie payments in two years, as my friend from Vermont proposes. I am certain that that time will be put off much longer than 1869 if we cripple the production of cotton, the export of which has been more than of any of the other products of the country for the past two years. I take it that at twelve and a half cents a pound the export would probably amount to $90,000,000 the coming year. It will be very much reduced, but upon that a duty of forty per cent. would yield $36,000,000, which will be the income to the Treasury of the United States from imports to meet that export if it is made. But if you cripple this interest in the coming year you are going to cripple the income from the duties on imports, and we shall find ourselves in financial distress as much from the decreased duties on imports as from the decreased taxes from the southern States.

As a financial measure, I urge that this tax be taken off. I feel the importance of providing for an early return to specie payments, and I feel in connection with that that the production and exportation of this article are inseparably connected with our financial system and the proposition to return to specie payments. I shall therefore urge the relief asked for from the southern States.

Mr. DAVIS. Mr. President, there is a very great difference between the interest of politicians and the interest of the masses of the people, especially the working portion of the people. They want wise legislation, and if they cannot get wise legislation they want timely and permanent legislation. The two Senators from Oregon, in my judgment, have expressed sound views, and have given more information in relation to the subject now under consideration before the Senate than we have received from any other source.

The planters wish to make their arrangements at least on the 1st of January for the ensuing crop. Their arrangements consist in purchasing mules, agricultural implements, subsistence, and especially meats for their hands. To do this with judgment and good economy they must know what they are to rely upon for the coming year. It is a matter, then, of the very first importance to every man engaged in cotton planting that he should know now, as soon as practicable, whether he is to be relieved from this tax the coming year or not. The phases of politics may fluctuate, and as one party or one man comes up others go down; but it is not so with the mass of producers and consumers of the country; they share a common fate. What is wise and wholesome legislation for a portion of them, where the system of legislation is general, results to the benefit of the whole; where it is fluctuating and capricious and unstable it unsettles the industry and the business of the whole country, and produces not only a common but a universal loss.

Mr. President, we have heard it said here that the produce of cotton lands has increased very much since the war. That is a mistake. The planter computes that a good hand will cultivate ten acres. The product of the ten acres is according to the season. A bale to the acre is a high crop. It is oftener under that than over it. As the Senator from Oregon who last spoke [Mr. CORBETT] says, the cost of the subsistence of hands has greatly increased by reason of the increased prices of the cereals and of subsistence generally. In addition to that, the cost of labor has greatly increased. The planter heretofore owned the labor, and the cost of labor was only the taxes, the cost of clothing, subsistence, and physicians' bills; but now he has to pay from one hundred and fifty to two hundred and fifty dollars a year for a good hand. There is another drawback: the women do not go into the fields now as they did when slavery existed. Many women use the hoe with as much effect as the men, and in the business of picking cotton an active young woman was equivalent to the best male hand.

The effect of the competition from the West Indies and Brazil and Egypt coming into collision with our planting interest has been adverted to. It was said by the honorable Senator from Vermont [Mr. MORRILL] that the cost of labor in the East Indies had doubled in the period since the commencement of the war.

Suppose it be so, what was the cost of labor in the East Indies? Two cents per day. What was the cost of subsistence? The laborer subsisted upon rice, and a very small quantity of it. The cost of a negro man working upon a cotton plantation in the South in subsistence would be five or six times as much as that of an East Indian in the cultivation of cotton. He would eat in substance five or six times as much.

The honorable Senator from Vermont says that this matter of producing cotton and the amount of the crop is self-regulating to some extent; that a half crop will produce as much money as a full whole crop frequently. The same argument would lead us to the conclusion that when the production of the crop was only a quarter a quarter would bring as much money to the planter as the full crop, which would be three fourths as much more in quantity. That, in my judgment, is a very restricted view of the case. It is not for the planter alone that I wish this legislation. It is in part for him, I admit; but I want it more for the benefit of the consumer than the planter. Who are the consumers of cotton? Who is there among all our population that does not consume cotton? If the production of the crop is one fourth, I ask the honorable Senator if the prices of the manufactured article to the consumer would not be most materially affected? It is for the consumer's interest mainly that I desire a large crop and cheap prices. In the year 1860 the production of the cotton crop exceeded five million bales, whereas last year, according to the best estimates, it was only about a million and a half; and this year it will not exceed two millions, if it reaches that *quantum*—a most material difference in the product of the cotton crop to the interest of the great mass of the consumers of cotton fabrics.

Mr. President, my experience and reflection teach me this truth: that the greatest prosperity of the country and of the people consists in the greatest prosperity of the various branches of labor and production. It is productive industry that constitutes the wealth and the power of the nation. It is the great agricultural-producing interest of the country that is the basis, not only of individual but of national prosperity. The wisest and most effective policy is that which most successfully encourages and expands this industry in its production. But, instead of this policy, what has been done in relation to cotton? You have taxed enormously a single great agricultural product of a section. That agricultural product is, so far as it is exported, equivalent to gold. It settles the balance of trade between our country and the rest of the world essentially. If that interest and that production be destroyed to that extent you create an absolute necessity that the balance of trade with different countries shall be settled by gold instead of cotton—the product of the land and of the industry of our people.

Everybody admits now that the cotton-producing interest is languishing. It is no more a proper and legitimate subject of legislation constitutionally or in a wise statesmanship than would be corn, or wheat, or hogs, or hay, or any other mediate or immediate production of the soil. The honorable Senator from Missouri [Mr. HENDERSON] opposed this tax when it was before Congress originally on the passage of the tax bill containing the provision. He did it in a speech of great research and great ability, in which he demonstrated beyond all successful contradiction that the tax was unconstitutional because of two objections. In the first place it is a tax upon exports, which is positively prohibited in the Constitution; and, secondly, it violates the clause of the Constitution in relation to the imposition of direct taxes.

Our sagacious and ever-vigilant friends from the East did not permit themselves to be victimized by the measure. How did they manage it? When the bill regulating the duties upon importations came up they provided that the manufacturer should have the benefit of a drawback equal to the amount of tax upon the exported article of cotton fabric. If those gentlemen intended to act justly toward the whole people and all the great interests of the country why did they not provide that the producer when he exported his cotton to a foreign country should also have the benefit of the drawback?

Mr. MORRILL, of Vermont. Will the Senator from Kentucky allow me to ask him a question?

Mr. DAVIS. Yes, sir.

Mr. MORRILL, of Vermont. Was not the same provision in relation to tobacco incorporated in the revenue laws?

Mr. DAVIS. Allow me to ask the honorable Senator whether, because one wrong and outrage is perpetrated, that is any reason why other wrongs and outrages should be perpetrated?

Mr. MORRILL, of Vermont. I only desired to repel the idea that it was simply an eastern measure.

Mr. DAVIS. It was supported by all the East, at any rate, and I suppose the honorable Senator himself knows it, for he was a member of the other House at the time.

Mr. HENDERSON. I desire to state, for the information of my friend from Kentucky, that there is in the present law, as I understand it, no drawback paid on manufactured tobacco exported from this country.

Mr. MORRILL, of Vermont. We have changed the law, and now allow it to be bonded without the payment of the tax, and it is suffered to go out of the bonded warehouses for export without the roundabout process of first paying the tax and then having it refunded; but it comes to the same result precisely.

Mr. DAVIS. I will proceed with my remarks; I do not mean to detain the Senate long. I do not conceive, sir, how any just and fair-minded man can come to any other conclusion in relation to this cotton tax than that it is a duty upon exports. If so, it is expressly forbidden by the Constitution. But the honorable Senator from Missouri went much deeper into the subject. He ascertained the significance of the term "direct tax" at the time the Constitution was adopted, and what the framers of the Constitution, who introduced this phrase into that instrument, meant by it; and he adverted to the legislation of England and to the writings of publicists of England, and he proved beyond all controversy that a tax on the issues of land was regarded as a part and parcel of the land tax.

Mr. MORTON. I should like to ask the Senator from Kentucky a question. This tax is not confined to that cotton which is exported, but is levied upon all of it. Now, the tax being levied upon all the cotton raised, is it afterward made unconstitutional because some portion of that cotton is subsequently exported?

Mr. DAVIS. No, sir; but the Senator from Indiana certainly can conceive this principle: that an article produced either by agricultural or manufacturing industry and skill in this country if consumed here may constitutionally have a tax levied upon it, but if it is exported the levying of a tax comes within the express prohibition of the Constitution. That is a provision of the Constitution upon which there was very great difficulty in the Convention, but it was finally settled as a principle and incorporated in a prohibitory clause that there should be no duty levied on export; and I say that that principle of the Constitution is flagrantly violated by the cotton tax.

But, sir, I was adverting to the other ground upon which the honorable Senator from Missouri so ably and conclusively assailed this cotton tax. He proved from all the legislation of England and from every enlightened commentary on the subject in that country and in this just before the adoption of our Constitution, that land and its products were taxed together under the denomination of a direct tax, and that the separation of any direct product of the land from the land and making that a distinct subject of taxation was always disallowed and denied by British legislation and British statesmen. It was in that sense, in relation to the exclusion and omission of products of agriculture, that the members of the Convention understood the language when they said that direct taxes should be imposed by Congress in proportion to population. According to the understanding of the men who framed the Constitution and of all antecedent British legislation upon the subject, the issues of the land were considered inseparably in connection with the land itself when it became the subject of taxation, and they were never allowed to be separated from it. The honorable Senator from Missouri argued and proved conclusively that to tax cotton, or tobacco, or wheat, or corn, or any other direct issue of our lands, would be against that provision of the Constitution, because it considered them in inseparable connection with the land itself, and when land is made the subject of direct taxation it necessarily, by implication, exempts its immediate products from taxation.

But, Mr. President, there is another objection that I make to this tax which has not been adverted to. The magnanimous Senator from Vermont, who feels himself so capable of taking care of the interests of the South and of the whole of our country, and I think of the universe too, makes no sort of reference whatever to it. That is this: the people who make the cotton know more about it than even the honorable Senator from Vermont and all the world besides. It is their business, their industry, their pursuit. They have from their infancy been bred to a knowledge and to a superintendence of this business. It is their business. It is a great portion of their stake in our common country. It is a great proportion of their share and of their vigilance in the Government of the United States and in the administration of that Government. There are ten States that produce cotton. Where are their representatives in the Senate and in the House of Representatives to inform the two bodies in relation to these great interests and the appropriate legislation in regard to them? They are absent. By whose will, by whose misconduct, by whose oppression are they absent? By that of the honorable Senator from Vermont and his associates. They have a right to be here, and the intelligence of this nation knows it and concedes it, and the judicial power of our country will ere long so decide. Sir, men act here without a thought of the interests of those whose business it is, whose wealth—no not whose wealth, but whose means of subsistence—it is from day to day and of raising and educating their families and putting them in a better position in the world. The men whose interests in these aspects are involved and mingled up in this affair are never thought of by the imperial legislators of the American Congress.

Sir, the honorable Senator from Nevada [Mr. STEWART] has been a most ardent advocate of this tax. I remember when there was a proposition to tax the products of the mines. If mining had been taxed to the extent that cotton is now taxed it would have produced a rebellion among the miners, and he knows it. It is an easy matter for one set of men and one power to legislate the rate of taxation and the amounts that shall be paid when they are to be collected from another, but when they come to apply this rule to themselves and their own business the matter is most materially changed. Let the honorable Senators from the West and the Northwest go into their own States and tax the wheat and the corn and the hogs and the other stock produced there as they have taxed cotton, and what would their constituents say? They would raise a rebellion—peaceful, true, it would be—that would sweep them from the seats which they hold.

The honorable Senator from Oregon who spoke yesterday and this morning [Mr. WILLIAMS] says truly that there is but a small portion of the crop of the present year that has

been sold and gone into the hands of speculators. I suppose he has no experience in relation to the matter, and yet he has certainly, from some source, reached the truth. The planter has his factor in New Orleans, or Mobile, or some other port, at which cotton is sold. As he wants money to purchase his supplies of agricultural implements, his stock, his provisions, and to make the general arrangements for which money is necessary to enter upon the cultivation of the ensuing year, he draws upon his factor, and his factor advances him money. When the crop is made and gathered the planter sends it to his factor and his factor sells it and charges him for his advances of money, and with his premium upon those advances, and pays the overplus into the hands of the producer. I am informed that at this time probably three fourths, certainly not less than two thirds, of the crop of the present year is so held, or held at the home of the planter, in his sheds and in his gin-houses.

The planters are generally intelligent men. They have looked to a movement for a repeal of the cotton tax. They have believed that it was necessary as a measure of justice and of wise political economy. They have counted on it that this measure would pass. Those who have been able have withheld their cotton from market and even from the factor, and have their crops now at home; but those whose needs required them to have the present use of money and of capital drew upon the factor with the understanding that when the crop was shipped to him he should indemnify himself for his accommodation and his premium for that pecuniary accommodation, and sell the crop, and that the residue after reimbursing him should be paid over to the producer.

Mr. President, the honorable Senator from Vermont has spoken of Kentucky, and in referring to her made use of the elegant figure of a sitting goose. I do not know what Kentucky has to do with this matter; she makes no cotton; but I tell the honorable Senator, keen, sagacious, and selfish as he is, that he is now more goosey than any goose I ever knew of in attempting to kill the goose that lays the golden egg. [Laughter.] Yes, Mr. President, cotton lays the golden egg not less for the cotton manufacturer of the North than for the planter of the South. The great mass of the exported wealth of our land heretofore has been in cotton, and will be in the future. If the man who is engaged in agriculture in the West or in manufactures in the North wishes to sell his cotton goods, his linseys, his shoes, his farming implements, and his plows, and to construct the gins, and to do all the business of the southern planters and the southern States, except raising cotton, he ought to encourage the production of cotton there, and make it as large as possible. When the cotton-producing interest of the nation is abundant and profitable all classes of the people are most prosperous, because that is tributary to all; it contributes to the wealth, the business, and the industry of all.

The honorable Senator has spoken of good faith. He is very regardful of the public credit and of the public debt, and he is very anxious to make provisions to secure all these things. That is very right; but the best way for him to do it is to encourage the production of cotton and to remove this onerous, unconstitutional, and enormous burden from that interest. Sir, good faith is a beautiful word; in idea it is much more beautiful; but in performance and action it is most attractive and advantageous of all. The good faith of the Government, its good faith as pledged by Congress, are phrases we frequently hear. What was the good faith pledged by Congress three days after the first battle of Bull Run? You pledged yourselves then that the war was not to be waged for subjugation, not to destroy the States of the South or the institutions or the property of the southern people, but simply to reduce the rebels to obedience, and that whenever they should be reduced to obedience the war was to cease. Your debt now is admitted to be about twenty-five or twenty-six hundred million dollars. Suppose this good faith had been preserved, had been kept to McClellan when he was before Richmond and asked for thirty thousand men to take the metropolis of rebeldom, when the infamous Stanton denied him a man—suppose you had given him half the reinforcements and aids that you afterward gave to Grant in his last bloody but victorious campaign against the rebel metropolis, he would have brought the war to a close in sixty days, and two thirds of this enormous debt would have been saved to this oppressed people. But that was not the policy; that was not the object. The war was more against slavery than it was to put down rebels, and I believe, as I said then, that there were men in the Cabinet—yea, all the men in the Cabinet excepting the President himself—who would have preferred, if they had the option, that McClellan and his army should be destroyed sooner than he should capture Richmond, because that would have closed the war at once and prevented the further crusade against negro slavery.

Sir, the war was closed in a blaze of glory, not by Congress, not by its mischievous and unwise legislation, which strengthened the rebellion and its measures, but the attachment of the people of America to our Union, to our Government, to the preservation and triumph of our flag, brought them from every neighborhood in the land to crush the rebellion. It was crushed by the bravery of your soldiers and by the skill of your generals. General Grant gave the terms of a magnanimous conqueror to Lee and to his army that surrendered. General Sherman did more; he not only acted the part of a magnanimous conqueror, but of a wise statesman. He made terms that this Haynau of America, Stanton, repudiated. He made terms with Johnston's army based upon the principles of justice, the wisest statesmanship, and a true observance of the Constitution of his country. If the President had then, as I believe he would do now, just said, "Here, gentlemen, is an arrangement just, wise, and constitutional, that will pacify the country, made by General Sherman; the nation's faith is pledged to Johnston and his army; this arrangement is a proper and a just one; I will stand upon it; I will live or die by its maintenance"—if he had so expressed himself to Grant and his army and to Sherman and his army they would have flocked to his standard as one man; and so would every man, woman, and child in the United States that has any regard for the Constitution and the liberty which it assures to all the people. Where was your good faith when that arrangement so made was repudiated?

Now, Mr. President, look at good faith in another aspect. You conquered the South; you imposed upon them conditions which you had no rightful power to impose. The idea that the Congress of the United States are now acting outside of and independent of the Constitution is a most revolting aspect of rebellion, of revolutionary violence. It is nothing but force and revolution—revolutionary violence. The highest obligation that an American statesman owes to his country is a strict and a faithful observance of its Constitution. Whenever he assumes any other position he assumes one of the worst hostility to that country and to its people. The people of the southern States were required to amend their State constitutions so as to abolish slavery. They were required to accept the amendment of the Federal Constitution abolishing slavery throughout the United States. They were required to repudiate the rebel debt. None of these conditions, according to my reading of the Constitution, could be or were properly imposed upon them. Gentlemen around me say the President did this. At whose instance? How many members of this Senate were going to the White House night after night urging him to take this ground?

Mr. MORRILL, of Maine. The Senate was not in session.

Mr. DAVIS. I beg the Senator's pardon; but whether the Senate was in session or not these measures were contemplated; they were talked of by Senators to the President; and he and the Secretary of State were strengthened in their position of imposing these conditions. I can name the Senators who went up and in council with the President sustained all his action in this direction, and were urging him from day to day to take still further action.

Sir, I have no sympathy for the rebels. They are greater enemies of mine than even you are, because they have done a great deal of evil, and they have enabled you to do all the evil that you have done. But for their sins you never would have had capacity to sin and outrage the Constitution and the rights of the people as you have done. I have no feeling for them. I say they were rebels; they were criminals; they had subjected themselves to the penalty denounced against treason, and from their president down to the lowest man who took part in the rebellion they were justly amenable if it was thought proper to indict the whole of them, and to punish them by hanging for their treason. That was the extent of the punishment which, after the close of the war, could be constitutionally, legitimately, and wisely, inflicted upon any of them, and I am sorry it was not inflicted upon some of the leaders.

Sir, you were delighted with the submission of the South to those conditions as they were made. When the wires, with the speed of lightning, brought from the South the intelligence, "This State has acceded to your conditions; she has modified her constitution so as to abolish slavery; she has accepted your amendment to the Federal Constitution abolishing slavery all over the Union," you thought they were States entirely competent to do the work—that great, fundamental, and all-important work—of altering the Constitution. But now they are not States; you topple them down like pegs of wood in playing a game. I know that members of the Senate and of the other House went to the President, approved of everything that he had done in these respects, urged and insisted upon him as another, and they said the last and final condition that the southern States should also accept negro suffrage; that he should not only insist upon civil rights to the negro, but the political right of equal suffrage, and he would consummate the measure of his glory. If he had acceded to these requests no doubt he would now be the leader of the Radical party of the United States.

Sir, I ask you how often have you made promises to the ear of the South and broken them to the hope? When they gave up slavery; when they made provision in their constitutions for its utter, immediate, and final abolition; when they adopted the amendment to the Constitution of the United States abolishing slavery forever; and when they repudiated the debts of the confederacy incurred in the rebellion, which I admit ought not to be paid—and if I were a citizen of those States I would oppose the payment of a single cent of them to the death—but that is their matter, as I conceive, and my opinion in regard to it is not of the least importance. When they accepted all these conditions you hailed these States for their returning sense of allegiance to the Constitution and the Union, and you held out to them the hope that they would be recognized at once as members of the Union; but you went on to break it. Does it become men who have acted this part now to make such loud invocations for national faith?

The negro is free. There is no power on God's earth that can restore slavery in the United States. It could not be restored in Kentucky with an "army with banners" in the largest numbers and with the greatest skill of military captaincy. The people are against it. They have given it up forever. They have given it up in the best spirit. They want to establish friendly and proper and mutually advantageous relations between themselves

and their former slaves. This was about to be done; and but for the movements of demagogues who have been aspiring to the Presidency and the legislation of Congress this would have been done before now, and the pacification of the country would have been completed. Many of those who use the cant phrase "good faith" do not understand its meaning, and have not brains and sense enough to comprehend it.

I say the plan of which I have spoken would have brought peace. It is the plan of the Constitution; it is not the President's plan. It is a plan that has been recognized by the Supreme Court. It is a plan that the Constitution and the men who framed it themselves prepared, and the reception of which would have been hailed by the whole country, and would, two years before this debt assumed anything like half its present proportions, have pacified the country, have brought the rebellion to a close, have reëstablished the Union and the Constitution in all their power, and have brought fraternity, peace, and prosperity to the whole people of the United States, North and South. You, gentlemen of the majority, are the authors of the maladministration of the Government that defeated this glorious termination of the wicked rebellion, and prevented the reëstablishment of the Government in all its power and in all its peaceful and just protection to the people.

Sir, if the honorable Senator from Vermont wishes to restore prosperity and peace, let him set himself to work to heal the bleeding wounds of the nation, not to make more, not to cruelly lacerate those which have already been made. Let him give up the vagary of negro suffrage by Federal authority, which the States of the Union will never concede—the States North as well as South, and the States North last of all. It was once a great principle of the State of Massachusetts that the people of each State have the exclusive and paramount right to manage their own internal and local government and attend to their own local affairs. They have a right to say, and they will say, and they will never be worthy of a written constitution and of free government unless they continue to say, that the right of suffrage is a local matter which belongs to the States, over which the Government of the United States never was intended to have power by those who framed the Constitution, and they will say that it never shall have power over that subject. The intelligent, reasoning, and able Senator from Vermont has read carefully the debates on the Constitution. I commend to his further reading the recent publication of the Madison papers. I never could fully conceive the propriety of that lofty tribute which was paid to Mr. Madison in denominating him "the father of the Constitution" until I read those writings. He knew more of the wants of the country, of the defects of the old system of confederation, and the provisions by which those defects were to be remedied and still preserve State rights and popular liberty, than all the men who ever lived, in my judgment. If the honorable Senator has read, as I have no doubt he has, those papers, he cannot doubt that if a proposition had been made in that Convention over which Washington presided, where Franklin and his associate sages and statesmen were met to transmit the inheritance of constitutional government and popular liberty to our country—if the proposition had been asserted that the United States Government, by any possible amendment of the Constitution in the future, could ever assume the power to regulate the matter of suffrage in the States, it would have scattered the Convention like an earthquake does the summit of a mountain.

Sir, there are certain great ideas of State rights in subordination to a restricted general power in the United States Government, great constitutional guarantees, restrictions, regulations, limitations upon the Government, that cannot long be transcended by any party in America. The present party in power has been utterly disregardful of these rights, restrictions, constitutional principles, and principles of liberty which are ingrafted upon the Constitution, and which the hopes of our fathers led them to think would be perpetuated to their posterity. They have been disregarded and endangered, but the people are coming, and they will come to the rescue, and they will redeem that great heritage of Government and of liberty, that rich legacy of our fathers, a Constitution combining limited powers in the General Government with the reserved rights and powers of the States; they will redeem it from that destruction and final ruin with which until the last year it seemed for some time past to be threatened.

Mr. SHERMAN. Mr. President, I believe the pending question is yet on the cotton tax bill.

The PRESIDENT *pro tempore*. It is, and the pending motion is to postpone.

Mr. SHERMAN. I went out of the Chamber a few moments ago, and I did not know but that in the meanwhile the Senate had acted on the motion to postpone and had got up some other bill. I trust the Senate will now without further debate express its opinion as to the necessity or propriety of passing this bill before the holidays by voting upon the motion to postpone. It is a question which does not address itself to the feeling of any Senator, and it is proper that we should have it settled. I do not desire to press it unduly against the will of the Senate; but I should like to have the question of postponement settled this evening. Every Senator can judge for himself whether we ought to act upon this bill at this time, or whether we should postpone it until we come to general legislation on the subject of internal revenue. I trust, therefore, that without any further debate we may have a vote on the question of postponement.

Mr. MORRILL, of Vermont. Mr. President, I am certainly ignorant of what I have said that should seem to provoke the ire of the Senator from Kentucky.

Mr. DAVIS. I hope the honorable Senator will not mistake my earnestness for ire. I have not a particle of that in my mind.

Mr. MORRILL, of Vermont. I will not retort, Mr. President, by saying that the Senator from Kentucky is fully competent to be the scold of this body and of the entire Congress and of the universe, because that is not to my taste. I have noticed in the short time I have been in public life that epithets and names applied to public men are of no consequence unless they are sufficiently just to stick. I merely referred to Kentucky on yesterday in complimentary terms, and desired that the southern States should be like unto her. Was there anything in that to which the Senator should take exception? To be sure, in a playful manner I did relate a simple story that might be called of the mother-goose sort in relation to the position of the Senator's State on the subject of slavery; but having paid so high a compliment to Kentucky as I did, I thought perhaps it was necessary to do away with some of its effect. I was somewhat like the gentleman who was besieged by a sturdy beggar in the streets, and having given him half a dollar immediately gave the beggar a kick. His companion by his side wanted to know how he could be so cruel after having given the poor fellow a half dollar. "Why," said he, "the poor rascal would have been under obligation to me forever if I had not done something to do away with it." [Laughter.] That was the only purpose for which I related the story. [Laughter.]

Mr. DAVIS. The honorable Senator from Vermont has no doubt succeeded admirably in his own estimation and conceit.

Mr. STEWART. Mr. President, I have felt at a loss to know how much is involved in this question. According to the Senator from Kentucky, it appears to involve a very wide range of issues, but I am not willing to indorse that view. If you listen to his argument, and take it for granted that the argument had reference to the subject, it seems that in voting for this bill we admit, first, that we were wrong in making the war; second, that we have violated our pledges which we gave when we said that the war was prosecuted for the preservation of the Union; third, that we acted in bad faith toward McClellan; fourth, that we have kept the Union unreconstructed; fifth, that we have violated the Constitution under any and all circumstances and at all times for wicked and malicious purposes; and sixth, that now, the country having spoken, it is time for us to take the back track and do justice to these people.

When this bill was presented I had supposed that it was not quite as wide in its range as the argument seems to indicate, but on reflection, during the progress of the discussion, I am inclined to think that it is somewhat more important in its consequences and has more important relations to other subjects than I at first supposed.

I am charged by the Senator from Kentucky with having been a warm advocate of the imposition of the tax on cotton. That is not true. I voted last year to reduce the tax. I believe I have voted on each occasion when the question has been presented for the least amount of tax, on each occasion following the Committee on Finance. I had no part in it. The Finance Committee had a system which they presented for our consideration. They relied upon the estimates of the Secretary of the Treasury. I think we have all gone a little wrong; we have raised too much revenue. I think it was a financial mistake to pay any part of the national debt in the last three years. I do not blame anybody; but the estimates have been too large. The desire to keep up the national credit having perhaps influenced more or less the Secretary of the Treasury, his estimates have been too large, and the result is that we have raised more money than was necessary. Last year the revenue was reduced somewhat, but not sufficiently. In doing this we have depressed many branches of industry. Experience now teaches us that it is possible for us to relieve many of the branches of industry that are oppressed by taxation. Pretty much all branches of industry in the country are oppressed. They would endure it if it was necessary to keep up the credit and maintain the faith of the Government. Everybody is resolved that the credit of the Government shall be kept up and maintained; but I believe there is a firm conviction, and it is generally admitted, that the present generation ought not to be loaded with the payment of the national debt, particularly at the present time, until commerce can revive, until trade can again become active, until industry generally throughout the country can be very much improved. It is universally conceded, then, that we can and will reduce taxation. That is an admitted proposition.

It is complained that this tax has always been very unjust, and that we have been very unjust toward the South, and have discriminated against the South in this taxation. That matter was thoroughly discussed at the last session. I was then satisfied that the Finance Committee had arranged the system of taxation so as to make it fall as equally as they could. I was satisfied that it was not done in any spirit of oppression to any section. But now this bill comes in, standing alone, liberating and exonerating the South almost entirely from taxation. Perhaps that ought to be done. Perhaps they can show that it ought to be done. I, however, have not yet seen such a showing to my own satisfaction. I am not prepared to say that the tax ought not to be taken off entirely; but I have no doubt that on examination you will find that there are many articles in the northern States that are equally depressed, that there are many branches of industry which have been almost destroyed, and which must be relieved, and in regard to which the urgency for immediate action is equally great. I hear of them every day. Business is depressed; every month is send-

ing parties into bankruptcy and preventing them from the possibility of reviving again. It is necessary for the merchants and business men to know, before they enter into the general business of the next year throughout the country, what they may expect. There is a pressing demand for a system of taxation that shall be certain and that shall relieve the more necessary articles. Where this demand is most pressing I am not prepared to say until we shall have had a report of the Finance Committee on the whole subject.

It seems to me that in acting thus hastily in relieving taxation in the southern States at this time, and in cutting off from our revenue $24,000,000 at once, a hole may be left in our receipts which will have the effect of preventing us from relieving anybody else in the present depressed condition of trade. I say the South should bear some portion of the burdens of this Government; and wherever they are able, wherever they can, and wherever it is legitimate, they should bear their share—nothing more. It is fair that they should bear their share.

It is said, however, that they are not heard here, and that it is the fault of Congress that they are not heard on these floors in relation to these matters. It is said that this is because of our violation of the Constitution and our disposition to oppress them. I deny it. It is because they violated it, went into rebellion, and destroyed every vestige of a State government that existed in each one of their States. It was their wicked hands that tore down these fabrics, that rendered them incapable of being represented by any loyal men. And when Congress offered to them amnesty, pardon, representation, everything, in the constitutional amendments we submitted last year, these same people spurned them—these same people in connection with the President of the United States and the Democratic party, these same people who are coming here for relief and charging us with a violation of the Constitution—they are the men who spurned the most liberal and generous proposition for reconstruction ever offered to a conquered rebellion.

Such magnanimity never was offered before. No property was to be confiscated; no man was to be deprived of suffrage. There was no negro suffrage in it. There was no objection to it that a Democrat on these floors can justly maintain to-day. These same men created the necessity for the acts of last winter, and their contumacy is now loading this Government with expenditures of money wrung from the toil of loyal hands to keep up a military establishment in the South because they will not submit to law. We are loaded with an expense of millions and millions to carry on a military government because these same cotton-planters refuse to accept the most generous propositions of a generous Government. While they refuse reconstruction on any terms but their own, while they declare that to rebels belongs the prerogative of organizing government, it comes with an ill grace from them to say they are not heard here in a plea to exonerate them from all taxation.

Upon the question of the merits or demerits of this tax, I am not at the present time prepared to pass, because I have not before me the effect that it is to produce upon other industries, the effect that it is to produce upon the men and institutions who are bearing the burdens of this Government in consequence of the contumacy of these very men. I have not the whole subject before me. I have not a well-digested report of the Committee on Finance upon which I can act intelligently. I am in favor of a postponement of this question, and let the loyal and the disloyal be heard alike. Prefer not one to the other. Let the manufacturer and the laborer of the North be heard as to the tax upon the products which are the results of his labor and industry. Let the miner be heard at the same time. Allusion has been made to the tax upon mines. We are taxed to-day one half of one per cent. upon the gross products of the mines; and that tax, small as it seems to be, has ruined many enterprises. It has been the last straw that broke the camel's back; but it would come with ill grace from us to charge Congress with bad faith, with oppression, with a disposition to violate the Constitution, because they found it necessary, or supposed they did, to derive revenue from this source. I think that tax ought to be removed; and when the cotton tax comes up for discussion regularly I want to discuss the principle underlying the taxation of the products of the earth—gold and silver as well as cotton.

I do not think these cotton-planters have placed themselves before the Senate in such a position as to require the special interposition of loyal men. I do not think the advocacy of my friend from Kentucky has added anything to their claims upon the generosity of this body, particularly as, in the way he puts it, this measure involves a vote of censure upon ourselves, involves an admission that we have been actuated by bad motives and acting for bad purposes from beginning to end. I am in favor of postponing the consideration of this subject until we can have before us the whole question, so that we can relieve fairly and equally the northern with the southern States.

Mr. HENDRICKS. Mr. President, I do not rise for the purpose of answering the political argument which has been made by the Senator from Nevada, except just to say this, that I think the fact that he lashes himself into such an excitement whenever he alludes to that subject satisfies me that he knows just as well as I know that it would have been for the good of the country and the prosperity of the people if the southern States had been allowed admission into Congress by representatives at the meeting of the Thirty-Ninth Congress in their then condition of obedience to law. But, sir, my purpose in rising is to say that I am glad to see a growing sentiment in Congress in favor of abandoning this tax, not for the reason which has been given by some Senators, that the cotton is raised by negroes, not for the reason which has been suggested that it is raised in part by northern speculators who have gone down there to try their fortunes, but for the solid reason, in my judgment, that the productions of agriculture in the state they come from the ground ought not to be taxed, and that every reason now unites in favor of the proposition of abandoning the tax.

No industry, no interest of the country, was ever more depressed than the cotton-growing interest. I felt that last winter, and in some arguments that I presented to the Senate I referred to the fact that their country was inundated, the seed was not reliable for planting, their labor was unreliable, and that I thought it was madness to tax a production so important in every respect. I do not care whether cotton be called king or not; this much we do know, that it is an article that commands the market abroad as well as the market at home, and if we encourage the production of this staple it will help us to maintain our credit abroad, it will go far to keep the balance of trade in our favor, and contribute very largely to restore a specie basis to our currency. Every large interest of the country, in my judgment, will be promoted by an encouragement of this interest rather than a discouragement of it.

In the West I think we have a very large interest in stimulating the production of cotton. The southern States furnish the natural market to the Northwest for their great productions. Cheap transportation to that market is furnished by the great rivers, and there is no competition between the labor of the Southwest and of the Northwest. It is a most desirable market to us, and every field that is cultivated successfully in cotton on the borders of the Mississippi and the shores of the Gulf adds something to the demands for the productions of northwestern labor. In that view, as a western man, I am in favor of abandoning this tax.

Upon principle, I do not see how it can be maintained. As well, in my judgment, may you tax the wheat that is raised in Indiana, the corn that is produced in that State and in Kentucky, as to tax cotton. And who would suggest that? Certainly it would be resisted to the bitter end by us; yet it could bear a tax no doubt. Furnish us in the Northwest with a desirable market and cheap transportation to that market, and our labor has a profitable return. Yet we would not submit to a taxation of the agricultural productions of the Northwest, and if the Senators representing agricultural States now yield the point that one of the productions of the earth may be taxed in its raw state it seems to me we yield the whole line. I am not willing to do it. Without taxing our productions, the Northwest contributes her full proportion to the support of the Government, and I think that the southern States will more contribute to the public credit and to the support of the public burdens incidentally if their industry be encouraged than by a tax upon that industry in the form that has been maintained in the laws for some years.

I shall vote with the Senator from Ohio who has charge of this bill against the postponement. If it is the pleasure of the Senate, as it seems to have been of the House of Representatives by a large vote, to abandon this tax, the reason suggested by the Senator from Oregon [Mr. WILLIAMS] is a very strong one with me in favor of immediate action upon the bill. We understand the subject quite as well now, it seems to me, as we shall in February. The proposition to postpone is not made by a friend of this bill; it is made by one who thinks this tax ought not to be abandoned, who considers a tax upon cotton as a part of the permanent policy of the Government, who assures us of that fact because of the knowledge which he acquired as a member of the Committee of Ways and Means in the other House. His proposition to postpone is not a friendly proposition to the measure.

Mr. CONKLING. By permission of the Senator, I wish to say that I do not know by what authority he assigns to me the position that he does. I did say that this tax was originally included in the revenue law, believing that it was right as a permanent tax. I did not say that I was in favor now of retaining it, but, on the contrary, I said that at a proper time, and coming up in a proper way, I expected to vote for some relief, either temporary or final.

Mr. HENDRICKS. Mr. President, I listened to the Senator's argument with a great deal of interest because it was a very forcible one and very gratifying to my taste because of its elegance, and the impression made upon me by the speech was that the Senator was opposed to the measure before the Senate. I cannot refer to any particular sentence that fastens that upon him; but if the question in my own mind had been "Shall I go for or against it," and I had been influenced at all by the speech, it would certainly have been altogether against the measure. That certainly was the force of the speech, and, therefore, I assigned the Senator the position of hostility to this bill. But, whether or not, he does not profess to be a friend of the bill. Now, ought we to postpone upon his suggestion, not that we may get additional information on the subject, and if we incorporate the amendment of the Senator from Oregon, which I am inclined to vote for, it ought to be done at once before any more of the present crop shall pass from the hands of the producers. Every reason, then, in my judgment, is in favor of the passage of this bill, and most of the reasons concur in favor of its immediate passage.

Mr. YATES. Mr. President, this is a subject which I have not thoroughly investigated, but so far as I know there is a feeling throughout the country, and especially in the West, that this tax should not be continued. If I had stated my reasons when I first tried to obtain the floor they would have been substantially those which have been offered just now by the Senator from Indiana, [Mr. HENDRICKS.] I rely mainly on the great principle

of equality. What is fair for one section of the country is fair for another; what is fair for one set of men is fair for another.

There is no tax upon corn and upon wheat. Those are the great staples of the country. It might be of some little benefit to the Northwest and to other sections of the country that we should impose a heavier tax upon a southern staple, and thereby increase the revenues of the Government from this imposition of a tax; but that would not be just; that would not be equal; that would not be fair in any sense of the word. As the Senator from Indiana well remarks, the whole Northwest and the entire South are connected together by strong commercial ties. It is to the injury of the whole Northwest, and I might say of the nation, to load down and oppress with excessive burdens or unjust and discriminating taxation any portion of the country; and unless Congress is ready to impose a tax upon wheat and corn which are raised by Illinois in great abundance and are the staples of Illinois and of the Northwest, I shall be the last to impose a tax upon cotton, which is a southern staple. I do not see how the discrimination can be maintained. I cannot understand the argument.

I cannot see why any political consideration should be brought to bear upon a question of this kind. When it comes to imposing terms upon rebels, upon traitors who have compassed the life of the nation and sought the nation's murder, I am for imposing every punishment that is consistent and proper; but when the war is terminated I would go for releasing this tax as a mere matter of grace, as a mere matter of favor. They shall conform to the theory of this Government; they shall stand by it; they shall have equal suffrage; and so shall every State, north and south, have equal suffrage in less than five years from now; and especially shall they conform to the theory and the principles of this Government; but I propose no petty and malignant malice by way of imposing taxes upon them. I do not see that theirs is an exceptional case; by no means. I would not make it an exceptional case. I propose that they shall pay taxes in proportion to the value of their property, and that that principle shall prevail everywhere; and that there shall be no exclusive or oppressive tax upon cotton alone.

You cannot magnify this into a question between the North and the South. I would not speak on the question but for the fact that large numbers of the citizens of Illinois are now engaged in planting in the South. I venture to say that in the valleys of the Tennessee and Cumberland and the Mississippi, in Louisiana and all the cotton States, one third of the men now engaged in planting there are western men; very large numbers of them from Tennessee. They have not only suffered from the desolations and devastations of war, but from the floods, from inundations, and the cotton crop is, I was going to say, almost an absolute failure. I do not pretend to be posted, but I do say that they have not raised, as has been stated here, three fourths or two thirds of a crop. Unless I am very much misinformed, such is not the case.

In view of these facts I have no hesitation as to the vote I shall cast. I am for fair, equal, and impartial legislation toward every section of this country. I have been heretofore a protectionist, in favor of the manufacturing interest and in favor of encouraging American industry. I do not know that I am particularly for that doctrine now or not. My opinions change as I grow older. But if we are for that doctrine it is an undeniable fact, it is patent upon the face of the record, that during the war, while our coasts were blockaded and when there was a change in the system of labor, we were unable to raise cotton to supply the world, and England has become a competitor in the production of cotton. She is sending her railroads thousands and thousands of miles into India, and there, with soil and climate well adapted to it, she is becoming a competitor in the production of cotton. As a citizen of the Northwest, interested in the navigation of the Mississippi, interested in the commercial exchanges between the North and the West, I am opposed to any such policy. Politics have nothing to do with it. I do not sympathize with the Senator from Indiana [Mr. HENDRICKS] on political questions. On those questions he is always wrong; but on this question I have no hesitation in saying that he is right, and that we ought to pursue a course which is just to all sections of the country.

This tax ought to be repealed, not suspended. We should establish a fair principle, and I repeat I would do it as a mere matter of grace if for nothing else. There is no moment in our lives when we should not be magnanimous; but, sir, we should be especially magnanimous when a people appeal to us from amid the desolation of war, not upon any political consideration, and when we see that the interests of the country demand a change in the system.

Gentlemen talk about the public debt. I do not propose to enter into a discussion of that subject. I will only say that our public debt is not to be paid and ought not to be paid by this generation. We should extend relief wherever it is needed. This public debt must be paid by the United States according to the very promise, in gold if necessary—the very promise that the Government made at the time the bonds were issued and the contract was made. It is no question whether the country has suffered or is to suffer by enormous taxation. It is not a question whether the bondholders have paid twenty or thirty or forty cents for their bonds. The only question for the Senate of the United States to determine is, what the Government promised, what bond she signed, to what paper she put her hand, and that debt must be paid dollar for dollar. But, sir, do we propose to raise the money to pay this debt out of a tax upon cotton while no such tax is imposed upon the staple productions in other sections of the country?

I hope that the tax will be repealed *in toto*; that there will be no postponement at this time; that there will be no suspension, but that we shall establish the right principle, the correct principle, and what is just to every section of the country.

Mr. FERRY. It seems to me, Mr. President, that the argument of the Senator from Illinois, if properly considered, is the very strongest which can be adduced for the postponement proposed by the Senator from New York. The Senator from Illinois insists that this tax shall at once be repealed upon the simple ground of justice to all sections of this country. He says it is unjust to tax the staple of the South unless the staple of the West is also taxed, and of course it follows that it is equally unjust to tax the staples of the East unless the staples of the West and South are taxed also.

At present, sir, with a revenue system which has attempted to distribute the burdens of the Government as equally over the country as possible, we have at the very commencement of this session a measure introduced to exempt, not simply as a temporary expedient for temporary relief, but as a measure of permanent policy, the great staple of one of the greatest sections of this country, leaving those burdens to rest with unimpaired weight upon every other section. Is this just? Sir, the Government needs this $27,500,000 or it does not. If it needs it, and the burden is to be taken off the production of the South, I care not whether it be agricultural or manufacturing; like the Senator from Maine, I do not see the distinction as to the propriety of imposing duties upon that consideration; if we do need this $27,500,000, and it is now at one sweeping blow to be taken off from the staple of one section of the country, surely by and by our Finance Committee must report to us a measure to impose still greater burdens upon all the other sections of the country to make up for the deficiency.

If, as has been suggested, the Government does not need the $27,500,000, is it from the South alone that the cry is coming up to us for relief from the burdens which are weighing upon the industry of the whole nation? By no means, sir. It is not simply the labor of the South that is depressed to-day and is in danger of starvation even. Go into the great manufacturing districts of this country. Take up your daily newspapers. Fifty thousand laborers to-day in your commercial metropolis are without employment. In the great manufacturing cities of New England our laborers, in the inclement season of winter, are driven from their employment without the means of livelihood for themselves or for their families. From them, as well as from the planters and the laborers of the South, a voice is coming up here asking for relief; and if there is to be relief afforded let that relief be distributed equally all over this country. Be just, as the Senator from Illinois asks us to be.

One great reason why this bill from the very beginning has seemed to me to be one which should never pass the Senate is that which I have already hinted at; it is not a bill merely for temporary relief; it is a bill which upon its face purports to establish the permanent policy of this Government. It is not a bill providing for the repeal of a certain tax merely. Look at the language of it, Senators, as it is upon your desks. It is a bill declaring that henceforth cotton shall be forever exempt from internal revenue. It is a policy that the bill declares. I do not think it was so crude in its inception as the Senator from New York has suspected; for it has seemed to me to bear more upon its face than from the argument here one would suspect that it purported, and upon its face it answers directly to the permanent policy advocated both by the Senator from Indiana and the Senator from Illinois, that henceforth, whatever may be the necessities of our Government, this great article of production shall render to that Government no assistance in sustaining the burdens which the people are to be called upon to bear, because the bill proclaims this to be henceforth the policy of the Government, proclaimed by the Congress, and exempting, upon the sole ground that cotton is an agricultural product, that staple from henceforth bearing its proper share of the national burdens. Why, sir, what distinction is there? Where do taxes come from at last? Go back to their origin. Where does the money come from that pays them? Sir, it comes out of the labor of the people of the United States, and it is right that the labor of the East and of the West, of the North and the South should all alike bear their share in the sustaining of the national burdens. Above all, sir, in my judgment, is it wrong, and infamously wrong, that those who have brought upon this nation the terrible burden that to-day rests upon its industry should, by the magnanimity of the nation, be exempted from bearing their share of those burdens.

I do not regard indeed this question as a political question. I have no unkind feeling toward the people of the southern States. I have no unkind feeling toward the planting interest. But, sir, I cannot but remember that this great cotton interest which comes here now appealing to our magnanimity is, ninety-nine hundredths of it, in the hands of the great land-owners who fomented this rebellion for the purpose of breaking down our democratic system of government and establishing aristocracy perpetually upon its ruins; and it is not for them to come to me and appeal to my magnanimity merely to exonerate them from sharing equally with me the burdens which their treason has imposed upon the nation.

So, sir, I rose merely to apply the arguments of the Senator from Illinois. Let us, in reference to this proposal, be just to all sections. You cannot do it now. What have your Committee on Finance done? Instead of having a well-considered revenue system applicable to all the sections and all the great interests of

the country, distributing equally the burdens and distributing equally relief alike, they come here with a single measure unconnected with anything else and ask us to take that by itself and leave all other interests to the uncertainties of the future.

Sir, it is right that this measure should be postponed. It is right that the Senate, intended by the Constitution to be the conservative force in the Government, should resist this temporary flurry which is now sweeping over the land—I care not how created or how fomented—but should resist it, and calmly, deliberately examining this great subject of internal taxation in all its bearings, give to us a system which, in the language of the Senator from Illinois, will be just to all of us alike.

Mr. DOOLITTLE. Mr. President, I agree with the honorable Senator from Connecticut that we should be just; and in opposing this tax I do so not from any motives of magnanimity or a disposition to favor one section of the country at the expense of the other. It is simply because I would be just that I have opposed the imposition of a tax upon the raising of cotton. Now, Mr. President, let us look for one moment at this question to see where the justice lies——

Mr. RAMSEY. The Senator from Wisconsin gives way, and I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I shall object to a further postponement of this bill.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin give way to the Senator from Minnesota?

Mr. DOOLITTLE. I will do so if it is the desire of the Senate.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from Minnesota, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 17, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MEMBER SWORN IN.

Mr. LOAN. I rise to a privileged question. The member-elect for the third congressional district of the State of Missouri is now present, and I ask that he may be sworn in.

JAMES M. MCCORMICK then presented himself and took the oath prescribed by law.

ORDER OF BUSINESS.

Mr. KOONTZ. I desire to offer a joint resolution, and I ask unanimous consent to say a few words in regard to it.

Mr. WASHBURNE, of Illinois. I call for the regular order of business. Let the morning hour commence, and then if gentlemen who are chairmen of committees which are called choose to give way and have their time taken up by other matters they can do so. At the expiration of the morning hour I propose to move to go into the Committee of the Whole.

The SPEAKER. The regular order of business is the call of committees for reports, beginning with the Committee for the District of Columbia; and the morning hour has now commenced.

Mr. ROBINSON. I rise to a privileged question under the forty-ninth rule of the House. I move that the several communications from the Departments relative to the expenditures of the Departments be taken from the Committee on Retrenchment, to which they were referred, and that the same be referred to the several standing committees having those matters in charge. Upon that motion I desire to say a few words.

The SPEAKER. That is not a privileged question, nor a question of privilege. It is in the power of the House to refer such matters to whatever committees they see fit, and the rules allow them to do so; and the committees are to take charge of whatever business may be referred to them. And although it may have been proper to have referred the communications to the committees mentioned by the gentleman the House has the right to do otherwise, and its action can be reversed only by unanimous consent or by a motion to reconsider.

Mr. ROBINSON. Let me say one word. The rule is absolute, and I ask that it may be read.

The SPEAKER. If the gentleman appeals from the decision of the Chair he can have the rule read.

Mr. ROBINSON. I do not desire to appeal.

The SPEAKER. Then the decision of the Chair will stand as the judgment of the House.

PENSIONS FOR MINORS.

Mr. VAN HORN, of New York, by unanimous consent, introduced a bill to amend section eleven of the supplemental pension act, approved June 6, 1866; which was read a first and second time, and referred to the Committee on Invalid Pensions.

METERS FOR DISTILLERS.

Mr. KOONTZ. I ask unanimous consent to introduce a joint resolution relative to furnishing meters to certain distillers.

Mr. BEAMAN. I object.

JURORS IN DISTRICT OF COLUMBIA.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back House bill No. 190, to provide for juries in certain cases in the District of Columbia, and moved that the bill be printed and recommitted.

Mr. WASHBURNE, of Illinois. Let the bill be read.

The bill was read at length. The first section provides that in all criminal cases commenced in the supreme court of the District of Columbia, upon satisfactory showing that an impartial jury to try such cases cannot be obtained in the District, it shall be lawful to issue a special *venire* of such number of disinterested men as may be deemed necessary, being citizens of the United States, and having the qualifications of electors in the State or district of their residence; and that such names may be selected from the District of Columbia, or any State of the Union, and that the *venire* shall be served by the marshal of the District of Columbia, as other *venires facias* are now directed to be served by law.

The second section provides that it shall be the duty of those thus served to appear before the supreme court of the District of Columbia, and they shall be entitled to the same fees as are now allowed by law to jurors in the District, with such additional mileage as may be allowed by the court, &c.

The third section provides that the jury for the trial of such cases shall be impaneled from the persons named in such *venire facias*, subject to such challenges as are now authorized by law in like cases.

The fourth section provides that when from challenge or otherwise there shall not be a jury obtained from the persons named in such *venire facias* other writs shall be issued for such additional persons as may be deemed necessary by the court to obtain such jury.

Section five repeals all conflicting acts or parts of acts.

The bill was then ordered to be printed, and recommitted.

METROPOLITAN POLICE.

Mr. INGERSOLL, by unanimous consent, introduced a joint resolution to construe the provisions of certain acts which require the authorities of the District of Columbia to pay any part of the Metropolitan police; which was read a first and second time, and referred to the Committee for the District of Columbia.

EXPENDITURES OF DEPARTMENTS, ETC.

Mr. ROBINSON. Mr. Speaker, I rise to the same privileged question to which I rose before; and I believe the Speaker must have misunderstood me or he would not have ruled against me. I move to reconsider the vote by which various communications relative to the expenditures of the Departments were yesterday referred to the Committee on Retrenchment.

The SPEAKER. A motion to reconsider is a privileged question. But when the gentleman from New York [Mr. ROBINSON] was on the floor before he distinctly stated that his purpose was to move to discharge the Committee on Retrenchment and have the communications referred to some other committee. A motion to discharge a committee is not a privileged question.

Mr. ROBINSON. Well, sir, if I made a mistake in stating my motion I am of course glad to take the first opportunity to correct it. My respect for the decisions of the Chair is such that I do not know I shall ever appeal from any of his decisions; but I certainly was astonished at the ruling of the Speaker in this case. It was my fault if I did not make myself understood.

The SPEAKER. The gentleman did not move to reconsider, but moved to discharge the committee.

Mr. ROBINSON. Well, sir, I now move to reconsider the vote by which various communications relative to the expenditures of the Departments were referred to the Committee on Retrenchment. I shall occupy but a few moments in explaining this motion.

The rules of this House provide for the appointment of several committees, whose duty it shall be to examine and supervise the expenditures of the respective Departments. Rule 103 provides that—

"It shall be the duty of the said committees to examine into the state of the accounts and expenditures respectively submitted to them, and to inquire and report particularly—

"Whether the expenditures of the respective Departments are justified by law;

"Whether the claims from time to time satisfied and discharged by the respective Departments are supported by sufficient vouchers establishing their justness both as to their character and amount;

"Whether such claims have been discharged out of funds appropriated therefor, and whether all moneys have been disbursed in conformity with appropriation laws; and

"Whether any, and what, provisions are necessary to be adopted to provide more perfectly for the proper application of the public moneys, and to secure the Government from demands unjust in their character or extravagant in their amount.

"And it shall be, moreover, the duty of the said committees to report, from time to time, whether any, and what, retrenchment can be made in the expenditures of the several Departments without detriment to the public service; whether any, and what, abuses at any time exist in the failure to enforce the payment of moneys which may be due to the United States from public defaulters or others; and to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the several Departments and the accountability of their officers."

Now, with that as a standing rule of this House, and with those standing committees appointed for the supervision of the expenses of the respective Departments, the following resolution was adopted during the first session of the Thirty-Ninth Congress, on the 2d day of July, 1866:

"*Resolved by the House of Representatives*, (the Senate concurring,) That a joint select committee be appointed, to consist of two members of the Senate and three members of the House, to be styled the joint select Committee on Retrenchment; that said committee be instructed to inquire into the expenditures in all the branches of the civil service of the United States, and report whether any and what offices ought to be abolished, whether any and what salaries or allowances ought to be reduced, and generally how and to what extent the expenses of the civil service of the country may and ought to be curtailed," &c.

That committee, intended only for the Thirty-Ninth Congress, was continued by a resolution introduced in the Fortieth Congress March 6, 1867, in the hurry of the first days of the session. The resolution for the continuance of the committee originated in the Senate, and was thus announced in a message from that body to this House:

"The Senate have adopted a resolution providing that the joint select Committee on Retrenchment, raised by a concurrent resolution of the two Houses

at the first session of the Thirty-Ninth Congress be, and the same is, renewed and continued for and during the Fortieth Congress, with all and the same powers and duties appertaining thereto in said Thirty-Ninth Congress, and with power to appoint a clerk, and with power in its members to administer oaths; and that any vacancies existing in said committee be filled by the Presiding Officer of each House respectively," &c.

That resolution was concurred in by the House. Now, sir, in addition to this Committee on Retrenchment and the committees on the expenditures of the various Departments, we have a Committee on Public Expenditures, from which some time ago the gentleman from New York [Mr. HULBURD] made an elaborate report with regard to the employment of officials and the expenditures of the Treasury Department. The duties of all these various committees cover practically the same ground; the committees have jurisdiction of the very same subjects.

Here are three committees with the same powers, and yet not one of them doing its duty, the burden being thrown from one to the other. Sir, let the standing committees on the expenditures in the State, Treasury, War, and other Departments have these matters in charge, or let them be abolished altogether, and let the general Committee on Expenditures or the Committee on Retrenchment take the control of the whole subject. Do not let us have these committees, with concurrent powers, looking after the same thing and none of them doing anything. I ask where in the history of any of these committees any attempt has been made toward retrenchment? The last I heard of the Committee on Retrenchment was that it had broken like a smashed planet into various asteroids, traveling through unknown space, swearing every man they met. [Laughter.] The last I heard of the distinguished military gentleman from New York on that committee was that he had gone to Albany to see what was the feeling of the New York constitutional convention in regard to the impeachment of the President. They are all traveling round, and no one attending to their duty. The Committee on Retrenchment have rooms furnished at the expense of the Government, and these other committees have rooms. I move that the vote by which these things were referred to the Committee on Retrenchment be reconsidered, and that they be referred to the several appropriate standing committees.

Mr. WARD. I suggest to the gentleman to enter the motion to reconsider, and to defer action until the gentleman to whom he has referred [Mr. VAN WYCK] is present.

Mr. ROBINSON. Can the gentleman say where he has gone to?

Mr. WARD. He is not now in the city. The gentleman has made some very severe reflections on the gentleman from New York, [Mr. VAN WYCK.]

Mr. ROBINSON. I did not mean to make and would not make any severe reflections on him. I merely repeated what was telegraphed to the papers, among others I think the Chronicle in this city. But I will let the motion to reconsider lie over for the present.

CHINESE CLAIMS.

Mr. ORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to inform this House, if not inconsistent with the public interest, how much money has been received from the Chinese Government, under the treaty of 1858, for the payment of losses sustained by American citizens, when and by whom such money was received, and the number and amount of claims paid to American citizens out of such money, the name of such claimants and date of such payment, and whether any such claims remain unadjusted and unpaid, and if so the names of such claimants and the amount of their claims; also, the balance of such money, if any, and where and by whom the money is now held, and any other information relating thereto in possession of this Government or any of its Departments.

WHISKY METERS.

Mr. KOONTZ, by unanimous consent, introduced a joint resolution relative to furnishing meters to certain distillers; which was read a first and second time, and referred to the Committee of Ways and Means.

RECONSTRUCTION.

Mr. STEVENS, of Pennsylvania. Has the Committee on Reconstruction power, as at the last session, to report at any time?

The SPEAKER. It has not.

Mr. STEVENS, of Pennsylvania. I ask that it may have that power.

Mr. ROSS. I object.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to report the following bill:

SECTION 1. *Be it enacted*, That so much of the fifth section of an act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration," as requires that a majority of all the registered votes of the district shall be cast in favor of the ratification of the constitution before it becomes valid be, and the same is hereby, so far modified that a majority of the votes cast at the election for the ratification or rejection of the Constitution shall be considered as valid and as affirming or rejecting said constitution.

SEC. 2. *And be it further enacted*, That the several States which may be reconstructed under the act of March 2, 1867, and its supplements, may at the time of voting upon the ratification of the constitution vote also for members of Congress, who shall be entitled to take their seats in the next session of Congress after their several States shall have been admitted into the Union; and until a new apportionment the election for said members shall be according to the districts as they existed in 1858 and 1859, except when otherwise provided for; and the same elective officers who make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for the members of Congress, and give certificates of election to those whom they may deem entitled thereto.

SEC. 3. *And be it further enacted*, That until a new apportionment shall be made of Representatives South Carolina shall be entitled to six Representatives, two of whom shall be elected by general ticket; North Carolina eight Representatives, one of whom shall be elected by general ticket; Georgia eight Representatives, one of whom shall be elected by general ticket; Florida shall have one Representative; Alabama eight, two of whom shall be elected by general ticket; Mississippi six, one of whom shall be elected by general ticket; Louisiana six, one of whom shall be elected by general ticket; Texas five, one of whom shall be elected by general ticket; Arkansas three; and Virginia——

Mr. BOYER, Mr. MARSHALL, and others, objected.

PAY OF CINCINNATI TROOPS.

Mr. EGGLESTON, by unanimous consent, introduced a bill to pay certain troops of Cincinnati who were engaged in putting down the Kirby Smith raid in 1862; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. FARNSWORTH. I demand the regular order of business.

The SPEAKER, as the regular order of business, resumed the call of committees for reports.

RECONSTRUCTION—AGAIN.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of several memorials from persons asking restoration to political privileges in the States lately in insurrection; and the same were referred to the Committee on Reconstruction.

INTERNAL REVENUE, ETC.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of bill of the House No. 111, relating to the jurisdiction of the courts of the United States, and bill of the House No. 103, to repeal a part of section ten of an act entitled "An act to amend existing laws relating to internal revenue, and for other purposes;" and the same were severally referred to the Committee of Ways and Means.

CAPTURE OF JEFFERSON DAVIS.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of sundry petitions asking for the payment of the award for the capture of Jefferson Davis; and the same were referred to the Committee of Claims.

ORPHAN ASYLUM AT CHARLESTON.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of bill of the House No. 88, to appropriate $20,000 to rebuild the Orphan Asylum at Charleston, South Carolina; and the same was referred to the Committee on Claims.

COLLECTION OF BOUNTY.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of the petition of sundry citizens of African descent of the State of Missouri that the claimants be allowed to collect their bounty without the intervention of the Freedmen's Bureau and certain resolutions of the Soldiers' and Sailors' Union of Washington city; and the same were severally referred to the Committee on Military Affairs.

RECONSTRUCTION—AGAIN.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of the petition of John McClure, of Arkansas, asking an amendment of the reconstruction laws; and the same was referred to the Committee on Reconstruction.

GOVERNMENT OF MARYLAND.

Mr. THOMAS, from the Committee on the Judiciary, reported the following resolution:

Resolved, That the Committee on the Judiciary be, and is hereby, authorized to continue the inquiries heretofore ordered by the House concerning public affairs in Maryland with all the power and authority given to the committee on that subject by orders and resolutions of the House.

Mr. PHELPS. Will my colleague allow me to offer an amendment?

Mr. THOMAS. I will hear it read.

Mr. PHELPS. It is to add to the resolution the following:

And that the Representatives from Maryland be privileged to attend at the examination and cross-examination of witnesses.

Mr. THOMAS. I shall not object to that amendment.

Mr. PHELPS. I desire, with the permission of my colleague, to say a few words.

Mr. THOMAS. I would prefer that all the testimony in this case should be in and before Congress before we go into debate on the subject. I would on that account rather desire the House to act upon the resolution without debate at this time.

Mr. PHELPS. I desire to say a few words in explanation of my amendment.

Mr. THOMAS. I will yield for that purpose.

Mr. PHELPS. I think it proper to call the attention of the House and the country at this time to the fact that an investigation has been going on before a committee of this House for the last twelve months involving the integrity and independence of a State in full relation with the Government of the United States, from which investigation the Representatives of that State have been excluded up to the present time. The proceeding is of the character of a formal impeachment of one of the States of this Union; it is more than that: it is both impeachment and trial summarily consolidated in one and the same process, and that process a confidential, secret, and *ex parte* inquisition. That investigation commenced as far back as December last in the shape of a resolution referring to the Judiciary Committee the subject of the alleged sale of colored persons in the State of Maryland as a punishment for crime. Now, I wish to call the attention of the House to the fact that within sixty days from the time that subject was referred to the Judiciary Committee the General Assembly of the State of Maryland, by a vote almost unanimous in both houses, acting under their own convictions of duty and not from clamor or compulsion, repealed the ancient provision of the code of that State under which those sales had been made. Yet no report was made to the House of that important fact, and the investigation was continued after its subject-matter by State legislative enactment had wholly ceased to exist.

Other matters relating to the political affairs and internal condition of Maryland at a time when that State stood almost alone in opposing the dominant party were inquired into by that

committee. A resolution introduced by the gentleman from New York, on my right, [Mr. WARD,] instructed the Committee of Elections to inquire into the recent elections in that State of 1866) and to report whether there had been any military interference under the direction of the President or of General Grant. I raised the point at the time that that was not a subject within the proper cognizance of the Committee of Elections of the Thirty-Ninth Congress, involving as it did the qualifications and returns of members elected to the Fortieth Congress. That point was overruled, and the resolution was referred to the Committee of Elections. But the Committee of Elections very promptly and properly reported it back, with a report stating that the subject-matter was not a proper one for the consideration of that committee. The subject was then referred to the Committee on the Judiciary, who had before it kindred subjects connected with the impeachment of the President of the United States; and the only response yet made to the resolution of inquiry submitted by the gentleman from New York [Mr. WARD] has been the evidence laid upon the desks of members of this House in connection with the impeachment question. But no report has been made from the Judiciary Committee respecting the military interference of the President or General Grant in the elections in Maryland, nor did the charge find a single echo in the sweeping bill of indictment found by the majority of that committee.

Not satisfied with these demonstrations upon a State which took the liberty to give a majority in opposition to the dominant party in the elections in 1865, a further attempt was made by the gentleman from Ohio [Mr. SCHENCK] by a resolution instructing the Committee on Naval Affairs to inquire and report whether the general feeling of loyalty in Maryland was sufficient to warrant the continued location of a national institution for the education of midshipmen in a city within her borders. The committee made their report, the matter was fully discussed in the House, and by an overwhelming vote the effort was defeated.

What followed, Mr. Speaker? Desperation at the signal failure of these successive attempts to control the politics of a State which had dared to declare against the destructive policy of the majority in Congress prompted a bolder venture. The mask was dropped, direct congressional intervention was indicated, and the purpose foreshadowed to reduce a State whose relations with the Government had never been interrupted to an abject colonial or territorial condition. This unprecedented attempt was made by a resolution of my colleague [Mr. THOMAS] instructing the Judiciary Committee of this House to inquire whether the State of Maryland has in fact a republican form of government such as the United States can continue to recognize. And for what purpose, Mr. Speaker? Only to bring the State before this Congress for the purpose of subverting its legal government and substituting in its place a government of congressional manufacture; which, interpreted in the light of recent events, is nothing more nor less than an attempt to force upon that State, in opposition to the will of ninety-nine hundredths of her people, universal negro suffrage at the point of the bayonet.

Sir, I characterize that now to be the object of this proceeding; and I think it high time that some member of this House who has the interests of that State at heart should rise in his place here and call the attention of the country to the fact that the attempt has been made here, and persisted in for more than twelve months, by a secret *ex parte* inquisition, no voice from that State being allowed to be heard in her defense, not only to impeach a State of this Union in full relation to the General Government, but to put that State upon trial for its life, its independence, its sovereignty, its integrity. It is time the country should know what has been passing in silence and secrecy through the subterranean channels underneath this floor. I have made the effort, by appearing before the committee having in charge this investigation, to secure for my State something like a fair hearing in the examination of witnesses. I had always supposed that the constitution of a State of this Union was a document of such authentic character that it proved itself. But it appears that in these days it is regarded as standing upon parole evidence; depending on matter *in pais*, and established or overthrown by such partisan testimony as can be drummed up in the interest of a defeated and disappointed political faction. Such testimony as this is brought forward to prejudice the minds of those who are already sufficiently hostile. Even the very reasonable request which I made was refused or indefinitely postponed.

Sir, the wisdom of the common law under which we live and under which our forefathers lived for generations has established the right of cross-examination of witnesses in open court, the parties interested being confronted with them, as the chief sanction and the most efficient agent in the elimination of truth and the establishment of justice.

Mr. THOMAS. My colleague will allow me to make this remark: the morning hour is, I suppose, very nearly exhausted; and I desire that this resolution shall be acted on this morning.

Mr. PHELPS. I have no objection to the resolution being acted on. I wish, however, to call the attention of the House to certain facts connected with this matter which have not been heretofore presented.

Mr. THOMAS. I will inquire how much of the morning hour remains.

The SPEAKER. Twenty minutes.

Mr. PHELPS. I shall not occupy more than five minutes.

I was proceeding to say, Mr. Speaker, that the right of cross-examination is the right which, of all others, has been considered indispensable in the eliciting of truth before any tribunal by which even the interests of person and property are to be determined. And, sir, experience in this country in the recent past has proved that of all investigations that can come before any tribunal those in which partisan feelings and political prejudices are involved are those above all others in which the sacred right of cross-examination should be preserved without trammel and without hinderance, still less without denial. Yet, sir, in this proceeding, in which the sovereignty, the independence, the right of self-government of a State in full and loyal relations with the Union have been brought in question in the form of a solemn trial, no witness on behalf of that State has yet been put upon the stand; no voice in the interest of that State has yet been allowed to be heard. The testimony has been taken in the absence and without cross-examination on the part of those who, knowing the character of the witnesses and familiar with the political history of the State, could probe and sift the testimony upon the spot, prune the extravagance of willing witnesses, and thus aid materially in eliciting truth.

It is for this reason that I have proposed the amendment, which my colleague [Mr. THOMAS] has said he will accept, providing that in this investigation hereafter the Representatives from the State of Maryland shall be permitted to attend at the examination and cross-examination of witnesses.

Mr. THOMAS. I hope my colleague will not occupy the whole of the morning hour.

Mr. PHELPS. I think my colleague will do me the justice to admit that I have heretofore occupied very little of the time of the House upon this important question, and that upon this occasion——

Mr. THOMAS. I must under the circumstances claim my right to the floor. I do not propose to go into any debate on this subject. I will simply remark that when the time for the discussion of this grave question shall arrive hard words will not have much effect upon me in the action I shall take or upon the House itself. At present, sir, until this investigation is completed, I desire no further discussion of the subject in this House. In the absence of the testimony it is a waste of time, a waste of strength, a waste of the temper and patience of the House.

In this connection I will remark that before this amendment of my colleague was moved some time ago, at my instance, the Committee on the Judiciary threw open its doors and authorized every member upon this floor from the State of Maryland to read in confidence the testimony taken, so that they might prompt the committee with the names of such persons as they might wish to have examined. With such latitudinous authority given to my colleagues on this floor I do not think there is any room whatever for complaint.

I will not detain the House lest the hour should expire in which the resolution should be acted on; but I will say this, however, that it is hardly necessary to remind the House the Committee on the Judiciary have had under consideration a matter of much graver importance than this question touching the condition of public affairs in Maryland. I refer to the matter of the impeachment of the President, and in that fact the committee have abundant apology for any delay of this isolated question. It will be found in and out of this House that this investigation is not to be met by hard words. I move the previous question, so as to secure action on the resolution this morning.

Mr. PHELPS. I ask the gentleman to yield for an instant.

Mr. THOMAS. For one moment.

Mr. PHELPS. I have not endeavored either here or elsewhere to meet this investigation with hard words. I have not to-day indulged in hard words either against my colleague or the committee.

Mr. THOMAS. In reference to the subject-matter.

Mr. PHELPS. I have done no more than give a very temperate expression to my opinions of the gentleman's proposition and of the mode in which he has seen fit to conduct this extraordinary prosecution against his own State, nine tenths of whose people regard it as an indignity. It is true, as my colleague has said, that the members from Maryland have been allowed to read the evidence after it was taken, but this privilege has only been accorded within the last ten days.

Mr. THOMAS. I must resume the floor. I shall not respond. I demand the previous question.

The previous question was seconded, and the main question ordered.

The amendment was agreed to.

Mr. BURR demanded the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. BURR. I understand, this investigation having been commenced, it is desired to complete it; and I ask to withdraw the call for the yeas and nays.

There was no objection, and it was ordered accordingly.

The resolution, as amended, was adopted.

CAPTAIN E. V. BROOKFIELD.

Mr. GARFIELD. I am directed by the Committee on Military Affairs to report adversely on the memorial of Captain E. V. Brookfield, of Ohio, asking remuneration for losses sustained while he was a prisoner of war in the hands of the rebels. As this is a fair specimen of a large number of cases before the committee, I ask the House to settle the principle on which these claims should be settled. This memorialist was a captain in the Union Army, was taken prisoner, and while in the hands of the rebel authorities had his pockets rifled of all his money. In many cases the parties had their watches and other valuables taken from them. These claimants ask us to give them relief by general or special legislation. The committee have examined the subject with much care, and are satisfied that as a general principle Congress cannot with safety

undertake to restore property taken under such circumstances. It would be almost impossible to protect the Government in any general statute from fraudulent claims.

In most cases we should be compelled to depend almost solely upon the statements of claimants for the merits of their claims; and mistakes would be likely to be made or frauds practiced in reference to the amount of money lost. It would be highly dangerous to enact such a general law, and it would change the long-established custom of the Government in reference to claims. I move that the petition be laid on the table, and that the committee be discharged from its further consideration.

The report was laid on the table.

CASHIERED OFFICERS.

Mr. GARFIELD. I am also directed by the Committee on Military Affairs to report back House bill No. 201, relating to officers cashiered or dismissed from the Army by sentence of general court-martial, without amendment, except in the title. In consequence of suggestions made by the gentleman from Illinois [Mr. LOGAN] and the gentleman from Massachusetts [Mr. DAWES] the committee have recommended an amendment to the title making the bill only declaratory of the law. The committee consider the objection of the gentleman from Illinois, [Mr. LOGAN,] that the bill would be considered as authorizing the reappointment of persons who have been cashiered, is not well taken, and the bill is reported back without change, except in its title. The President has the pardoning power conferred on him by the Constitution, and no limitation on that power can be accomplished in the manner suggested by the gentleman from Illinois, [Mr. LOGAN.] As no one seems to desire to debate the bill further I move the previous question.

The bill was read. It provides that no officer of the Army of the United States who has been, or who shall hereafter be, cashiered or dismissed from the service by sentence of a general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service except by reappointment, confirmed by the Senate of the United States.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GARFIELD. I move the previous question on the passage of the bill.

Mr. ROSS. I move to lay the bill on the table.

The question was put; and there were—ayes 31, noes 69.

So the House refused to lay the bill on the table.

The previous question was seconded, and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 34, not voting 38; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Boyer, Bromwell, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Ferriss, Fields, Garfield, Harding, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Kelley, Ketcham, Koontz, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polsley, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taylor, Thomas, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—116.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Burr, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Taber, Van Auken, Van Trump, Wood, and Woodward—34.

NOT VOTING—Messrs. Benton, Blair, Boutwell, Brooks, Cake, Cornell, Driggs, Eckley, Ela, Ferry, Finney, Fox, Gravely, Griswold, Haight, Halsey, Hamilton, Hill, Holman, Humphrey, Julian, Kelsey, Kitchen, Logan, McCullough, Miller, Morgan, Morrissey, Pomeroy, Raum, Shellabarger, Thaddeus Stevens, Stone, Taffe, Twichell, Van Wyck, Windom, and Woodbridge—38.

So the bill was passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The Committee on Military Affairs reported an amendment to the title of the bill so as to make it read as follows:

A bill declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial.

The amendment was agreed to.

The SPEAKER. The morning hour has now expired.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed the bill of the House changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company, with an amendment, in which he was directed to ask the concurrence of the House.

The message further informed the House that the Senate had passed a bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly, in which he was directed to ask the concurrence of the House.

THE HOUSE RESTAURANT.

Mr. BLAINE. I rise to a privileged question. I am instructed by the Committee on the Rules to report the following resolution:

Resolved, That the subject of leasing the restaurant and prescribing the rules under which it shall be kept is hereby committed to the Committee on Revisal and Unfinished Business, with full power to make such regulations as may to them seem expedient, and all resolutions heretofore passed relating thereto are hereby repealed.

Mr. SPALDING. Who compose that committee?

Mr. BLAINE. Messrs. LUKE P. POLAND of Vermont, JAMES F. WILSON of Iowa, THEODORE M. POMEROY of New York, WILLIAM WINDOM of Minnesota, and SAMUEL S. MARSHALL of Illinois.

Mr. SPALDING. I have no objection to the reference to that committee.

Mr. BLAINE. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. BLAINE was agreed to.

Mr. BLAINE moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. DAWES. I move that the House now proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

CONGRESSIONAL CLERKS, ETC.

The first business on the Speaker's table was the following concurrent resolution of the Senate:

IN SENATE OF THE UNITED STATES,
December 11, 1867.

Resolved by the Senate, (the House of Representatives concurring,) That the select committee of the two Houses to revise and equalize the pay of the employés of each House be authorized to report by bill, joint resolution, or rule such provisions or regulations as may be necessary or proper for rearranging and defining the duties of officers or persons employed by each House or under their joint authority, for reducing the number of such employés, and generally for securing a reduction of the expenses and the more economical expenditure of the contingent fund of each House.

Mr. DAWES. I move that the resolution of the Senate be concurred in.

The motion was agreed to.

ADDITIONAL BOUNTY.

The next business on the Speaker's table was the amendment of the Senate to the bill of the House No. 127, in relation to additional bounty.

Mr. GARFIELD. I move that the amendment of the Senate be referred to the Committee on Military Affairs.

The motion was agreed to.

REPORT OF THE POSTMASTER GENERAL.

The next business on the Speaker's table was the amendment of the Senate to the joint resolution of the House No. 119, to authorize the Postmaster General to print five hundred extra copies of his report and accompanying documents.

The amendment of the Senate was to strike out all of the enacting clause and insert in lieu thereof the following:

That hereafter it shall be the duty of the Congressional Printer to cause to be printed and bound three thousand copies of the report of the Postmaster General instead of twenty-five hundred copies, as provided by the act approved July 27, 1866; and that so much of that act as conflicts with the above provision be, and is hereby, repealed. And this resolution shall apply to the report of the present year.

Also to amend the title so that it will read as follows:

Joint resolution in relation to the printing of the report of the Postmaster General.

Mr. LAFLIN. I move that the amendments of the Senate be referred to the Committee on Printing.

Mr. WASHBURNE, of Illinois. My colleague, [Mr. FARNSWORTH,] the chairman of the Committee on the Post Office and Post Roads, is not now in his seat. I would suggest to the gentleman from New York [Mr. LAFLIN] that he consent that this subject be laid aside informally until my colleague is present.

Mr. LAFLIN. I have no objection to that.

The joint resolution and amendments were passed over informally.

UNION PACIFIC RAILROAD.

The next business on the Speaker's table was an amendment of the Senate to the joint resolution of the House No. 126, changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company.

The amendment of the Senate was to add to the joint resolution the following:

And provided further, That on the election of directors herein provided for, to take place in March A. D. 1868, the terms of office of the persons then acting, or claiming the right to act as directors of said company, shall cease and determine.

Mr. DAWES. That amendment is merely expressing what of course would be the legal effect of the joint resolution without it. I move that the amendment be concurred in; and upon that motion I call for the previous question.

Mr. BROOKS. Will the gentleman from Massachusetts [Mr. DAWES] allow me a few moments?

Mr. DAWES. Certainly.

Mr. BROOKS. I think this subject should be referred to the Committee on the Pacific Railroad. It seems we have already passed this joint resolution through this House. But it has not undergone any investigation or discussion here, and we know nothing definite in regard to it. I protest against the passing of this class of measures without even having them printed.

Now, Mr. Speaker, I am totally uninterested in this matter; no human being can have less personal interest in it than I have. I take an enlarged view, I think, in regard to this particular road. But behind the proposition now presented is a private quarrel. It is full of meaning; and the House will discover it to be so. In view of such circumstances it is not wise for us to pass a bill of this kind without printing it and giving members an opportunity to read it. To do so is most hasty and most dangerous legislation.

The chairman of the Committee on the Pacific Railroad [Mr. PRICE] is a gentleman upon whom we can all rely in reference to questions of this kind. To him and to that committee, made up from the ruling majority of this House, the custody of a bill of this character belongs; and to that committee it should be intrusted. I appeal to the House without any special reference to this particular question not to legislate in this way—not to pass a bill of this importance without its being printed, without a reference to a committee, and with no proper comprehension of the measure on the part of members.

In this private quarrel that exists in the Union Pacific Railroad Company I mean to take no part whatever. My interest, my desire is, that the great Pacific railroad shall be built as soon as possible; and it is the interest of all parties who are concerned in that road to build it in amity and in harmony without the introduction of any more bills upon this floor. These are opinions which I submit to the consideration of this House as the result of twenty years of legislative experience. The hasty passage of this bill in this House; the amendment of the Senate which has been adopted to make this a legal bill—an amendment which the introducer of the bill confesses to be necessary for a full understanding of the bill—the hurried passage of the bill in the Senate—these things exhibit a hasty method of legislation which should not be adopted. I submit to the understanding of the House that, by all the proper precedents of legislation, a bill of this kind ought to go to a committee for deliberate examination before it can be appropriately discussed and acted on by the House.

Mr. DAWES. Mr. Speaker, the gentleman from New York [Mr. BROOKS] has misunderstood me if he supposed that I acknowledged this amendment to be necessary. On the contrary, it seems to me to be the merest surplusage in the world, when we have provided for a meeting in March to elect directors of this road, to add to that provision a declaration that when electors shall have been thus elected the present directors shall cease to act.

This bill went to the Senate Committee on the Pacific Railroad, and was unanimously reported back. I do not understand the chairman of the House committee on this subject as expressing the slightest dissent to this proposition. I yesterday stated to the House the reason why this measure was introduced for action without formal reference to that committee, although I had taken the pains to submit it to the committee informally. The sole object was to enable the stockholders to obtain this legislation before the recess. This amendment of the Senate being mere surplusage, the chairman of the Pacific Railroad Committee not asking the reference of the subject, it seems to me it would be idle to refer it to that committee.

I entirely agree with the gentleman from New York that we should not interfere in any quarrel in the board of directors of this company. I am entirely ignorant of the quarrel or of the parties to it. I look upon the Pacific railroad as one of the greatest enterprises in which this Government is engaged, an enterprise in which are wrapped up the greatest interests of the country; and I would contribute, so far as may be in my power, to promoting the speedy completion of that road. I am acting here in no man's and no company's private interest. As these parties want to change the time of holding their annual meeting, and as I can see nothing objectionable in the proposition, I merely ask this House to provide for that object in the simplest manner possible. A reference of this bill to the Committee on the Pacific Railroad when that committee does not ask it would be simply postponing this legislation till after the beginning of the new year. I do not think, Mr. Speaker, that any one asking the passage of this bill has at heart any purpose hostile to the interests of this road, or desires this Congress to take part in anybody's quarrel. Of course, if the bill passes it will have the legal effect set forth in the amendment of the Senate. The bill has been unanimously reported by the committee of the Senate, and has been passed in that body without a dissenting voice. I call the previous question.

Mr. WASHBURNE, of Illinois. Will the gentleman permit me to ask a question?

Mr. DAWES. Certainly.

Mr. WASHBURNE, of Illinois. I ask the gentleman whether there is a quarrel between two sets of directors, and whether this is not in the interest of one set of directors?

Mr. DAWES. I will answer that when I came in with this resolution yesterday I did not know that fact. I have had no communication with any set of directors. I told the House then frankly all that I knew about this subject. I never heard of a corporation before that had not the power in and of itself to change the time for holding its annual meeting. It was proper in the organic act to fix some time. I have no doubt the stockholders will designate the proper time.

Mr. BROOKS. Is it settled who are the stockholders of the Pacific Railroad? Is it known who they are?

Mr. DAWES. I am told since I came here that there has been a difficulty about the election of directors, and that makes it necessary to have a provision for calling another meeting in March next, so the stockholders can meet and settle it. With whom can it be more safely trusted? With whom can we trust the question who shall be the directors better than the stockholders themselves? And here is a promulgation to every stockholder in the wide country of this meeting for the election of directors. What can be fairer than that? I have no interest with one side or another.

Mr. BROOKS. The gentleman has not answered my question.

Mr. DAWES. I will if I can.

Mr. BROOKS. Who are the stockholders?

Mr. DAWES. I do not know. I am not one. I do not own a fourpenny in any railroad in the world, and therefore am poor as a church mouse. I hope my friend is not so poor.

Mr. BROOKS. I am not as poor as a church mouse. There are $150,000,000 of stock in this road, and only $5,000,000 of stock have been paid in, and here is a large margin for litigation in the courts as to who are directors. Who are the stockholders?

Mr. DAWES. I will answer, in the words of the friend before me, that the stockholders are those who hold the stock. [Laughter.] I demand the previous question.

Mr. WASHBURNE, of Illinois, called for tellers.

Tellers were ordered; and Mr. DAWES and Mr. BROOKS were appointed.

Mr. GARFIELD. I ask that the twenty-ninth rule be read.

The Clerk read as follows:

"29. No member shall vote on any question in the event of which he is immediately and particularly interested."

Barclay's Digest adds:

"As to what the interest here alluded to is, the true construction doubtless is it shall be a direct personal or pecuniary one."

Mr. WASHBURNE, of Illinois. Read the one hundred and thirty-fourth rule.

The Clerk read as follows:

"134. No person except members of the Senate, their Secretary, heads of Departments, the President's Private Secretary, foreign ministers, the Governor for the time being of any State, Senators and Representatives elect, and judges of the Supreme Court of the United States and of the Court of Claims, and such persons as have by name received the thanks of Congress, shall be admitted within the Hall of the House of Representatives, or any of the rooms on the same floor or leading into the same: *Provided*, Exmembers of Congress not interested in any claim pending before Congress, and shall so register themselves, may also be admitted within the Hall of the House; but no person except those herein specified shall at any time be admitted to the floor of the House."

The House divided; and the tellers reported —ayes 67, noes 58.

So the previous question was seconded.

The main question was then ordered.

Mr. WASHBURNE, of Illinois, moved that the amendment of the Senate be laid on the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 97, not voting 47; as follows:

YEAS—Messrs. Arnell, Delos R. Ashley, Axtell, Baker, Barnes, Beck, Boyer, Bromwell, Burr, Cobb, Cook, Cullom, Garfield, Getz, Glossbrenner, Golladay, Grover, Hunter, Ingersoll, Ketcham, Knott, Laflin, George V. Lawrence, Logan, Marshall, Mungen, Niblack, Nicholson, Nunn, Pile, Pruyn, Randall, Schenck, Selye, Shanks, Sitgreaves, Stewart, Stokes, Taber, Trimble, Van Auken, Elihu B. Washburne, William Williams, and Woodward—44.

NAYS—Messrs. Allison, Ames, Anderson, Archer, James M. Ashley, Bailey, Baldwin, Banks, Barnum, Beaman, Benjamin, Bingham, Blaine, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Covode, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Fields, Griswold, Higby, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Jenckes, Johnson, Judd, Julian, Kelley, Koontz, William Lawrence, Lincoln, Loan, Mallory, Marvin, Maynard, McCarthy, McClurg, McCormick, Mercur, Moore, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pike, Plants, Polsley, Price, Robertson, Robinson, Ross, Sawyer, Scofield, Smith, Spalding, Starkweather, Aaron F. Stevens, Taylor, Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—97.

NOT VOTING—Messrs. Adams, Benton, Blair, Boutwell, Brooks, Broomall, Cake, Chanler, Cornell, Ela, Eldridge, Ferry, Finney, Fox, Gravely, Haight, Halsey, Hamilton, Harding, Hawkins, Hill, Holman, Chester D. Hubbard, Humphrey, Jones, Kelsey, Kerr, Kitchen, Loughridge, Lynch, McCullough, Miller, Moorhead, Morgan, Morrissey, Poland, Pomeroy, Raum, Shellabarger, Thaddeus Stevens, Stone, Taffe, Twichell, Robert T. Van Horn, Van Wyck, Wood, and Woodbridge—47.

So the House refused to lay the amendment on the table.

The question recurred on concurring in the amendment of the Senate; and being put, the amendment was concurred in.

Mr. DAWES moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REPORT OF COMPTROLLER OF CURRENCY.

Mr. LAFLIN. I rise to a privileged question. I am instructed by the Committee on Printing to report adversely upon the application of the Comptroller of the Currency for the publication of five thousand extra copies of his report for the use of his department, and ask that the committee be discharged from the further consideration thereof, and that it be laid on the table.

I desire to state that a request similar to that which was presented to the House was presented to the Senate, and the Senate acted thereon, giving to the Comptroller of the Currency the same number of copies which he requested of the House, and therefore it is unnecessary for the House to take action upon it.

Now that I am upon the floor I desire to state for the information of the House that the compilation of the loan laws, the publication of which has been authorized, will not be printed until after we adjourn on the 20th, but will be printed very soon after our adjournment, and should members desire to procure any copies they can be had by sending their orders to the Superintendent before they leave. I will state further that there will be about five copies for each member.

The letter of the Comptroller was laid on the table.

REPORT OF THE POSTMASTER GENERAL.

Mr. WASHBURNE, of Illinois. I rise for the purpose of moving that the House resolve itself into the Committee of the Whole on the state of the Union, but I will give way that the House may dispose of a matter on the Speaker's table, which was postponed until my colleague [Mr. FARNSWORTH] should be pres-

ent. It is a joint resolution in regard to the printing of the report of the Postmaster General.

The House proceeded to the consideration of joint resolution of the House No. 119, to authorize the Postmaster General to print five hundred copies of his report and accompanying documents, returned from the Senate with amendments.

The amendments of the Senate were read, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That hereafter it shall be the duty of the Congressional Printer to cause to be printed and bound three thousand copies of the report of the Postmaster General, instead of two thousand five hundred copies, as provided by the act approved July 27, 1866; and that so much of that act as conflicts with the above provision be, and the same is hereby, repealed; and this resolution shall apply to the report for the present year.

Amend the title so as to read "Joint resolution in relation to the printing of the report of the Postmaster General."

Mr. FARNSWORTH. The House will probably remember that several days ago the Committee on the Post Office and Post Roads reported a joint resolution to authorize the Postmaster General to cause to be printed five hundred extra copies of his report. That joint resolution was passed by the House. The House may also remember that a communication was read by the Clerk from the Postmaster General, who states that the number to which he is now limited—two thousand five hundred—is not sufficient to supply the officers and postmasters to whom he is required to send his report.

That is all there is of this matter. The Postmaster General asks that five hundred more copies may be printed than the law now authorizes to be printed. The Senate has amended the resolution passed by the House, not by changing the numbers, but by providing that the Congressional Printer shall print three thousand copies instead of providing that the Postmaster General shall cause them to be printed. I do not see anything wrong about it, and I will ask the House to concur in the amendments of the Senate.

Mr. BUTLER. Does the resolution provide for the printing of the reports of all the Departments?

Mr. FARNSWORTH. It does not.

Mr. BUTLER. I ask that the resolution be again reported.

The amendment of the Senate was again read.

Mr. FARNSWORTH. I will state that I am not certain how many copies of the reports of the other Departments are printed. My impression is that three thousand copies of the reports of the heads of the other Departments are printed for their use.

If there is no objection on the part of the House I will move that the House concur in the amendment of the Senate.

Mr. LAFLIN. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. Certainly.

Mr. LAFLIN. I will inquire of the gentleman whether, when this joint resolution passed the House the other day, there was not incorporated in it a provision that the expense of the publication of these reports should be paid by the Post Office Department?

Mr. FARNSWORTH. There was such a provision.

Mr. LAFLIN. I would ask the chairman of the Committee on the Post Office and Post Roads whether it is not eminently fit and proper that all the Departments should pay for their reports out of their own contingent funds, and not have all this expense charged as congressional printing?

I wish to state here—and at some future time I will state more at length—that during the past year the congressional printing, so called, amounted to a little over one million six hundred thousand dollars. Of that amount of printing more than one half was ordered by and for the Departments. But Congress is held responsible for printing over one million six hundred thousand dollars' worth of documents; while in fact we print less than eight hundred thousand dollars' worth. Now it does seem to me that it is due to us as members of this House not to assume any more credit for lavish expenditure than properly belongs to us. I would therefore suggest to the chairman of the Committee on the Post Office and Post Roads [Mr. FARNSWORTH] to amend this joint resolution so that the expense of this printing shall be borne by the Post Office Department.

I do not think that the number of extra copies of the report of the Postmaster General required by this joint resolution is an extravagant number at all. The expense of printing them will surely not be very great, inasmuch as we have already paid for the composition, there being nothing to be paid for but presswork and paper. I really think we should commence at once; and whenever the printing of any report is ordered by the House a provision should be incorporated in the order which shall place the burden of payment for the printing of these reports upon the different Departments.

Mr. FARNSWORTH. The gentleman from New York [Mr. LAFLIN] will remember that the Congressional Printer now prints two thousand five hundred copies of these reports. This joint resolution merely provides that the Congressional Printer shall print five hundred copies more.

I concur generally in the remarks of the gentleman. But as the law now stands the Congressional Printer prints for the Departments, and it seems to me proper, if the number is not too great, that we should allow the Congressional Printer to print additional copies.

As I understand it, that is the only difference between the gentleman from New York [Mr. LAFLIN] and myself. With regard to the amount of printing for Congress, and the great expense to which the gentleman alludes, I agree with him that we ought to retrench expenditures in that direction. But my friend will remember that a very large amount of this printing which he says is done for the Departments is done upon the order of Congress for distribution by members. We order this very large number of the reports of the Departments to be printed for distribution by ourselves, and that is what makes up the great amount.

Mr. LAFLIN. Will the gentleman allow me to interrupt him a moment at this point?

Mr. FARNSWORTH. Certainly.

Mr. LAFLIN. The gentleman labors under a misapprehension when he states that this large amount of printing to which I referred was the printing of those reports and documents for the use of the two Houses of Congress. This printing is being done for the use of the Departments themselves. For instance, I would refer to the report of the Committee on Printing just made and acted upon. The Comptroller of the Currency sends in a request to the Speaker of the House, which is referred to our committee, asking for the printing of five thousand extra copies of his report for the use of that bureau. That gives us no control over these reports at all. All this printing to which I have referred is strictly and solely for the use of the Departments.

Not one single report, not one single book, that is ordered by or for these Departments comes into the possession of the members of the House. Now, I think we may as well first as last initiate a system which shall make these Departments responsible for the expense of their own printing; and I do hope that the gentleman from Illinois [Mr. FARNSWORTH] will permit us to make a good beginning upon this bill, and amend it so as to apply not only to these five hundred extra copies to which the bill more particularly refers, but to the whole three thousand copies.

Mr. FARNSWORTH. I think it better that the gentleman from New York [Mr. LAFLIN] should report from the Committee on Printing a bill making provision for the future with reference to the printing of the Departments. But as the Congressional Printer has printed twenty-five hundred of these documents, and as the Postmaster General wants five hundred copies more, it seems to me we may as well let them be printed in the same way. It appears to me unnecessary for us to occupy much more time upon this subject, as the only question before us is upon concurring in the Senate amendment.

Mr. ALLISON. If I correctly understand the gentleman from New York [Mr. LAFLIN] the Congressional Printer now prints all these documents; and the only question is whether the expense of this printing for the Departments shall be charged to congressional printing proper, or whether it shall be charged over to the Departments for which the printing is actually done. Now, it seems to me that by some general provision we can require the Congressional Printer to report to Congress the amount of printing actually done for the two Houses, and also the amount done for the Departments. For one, I am opposed to having these different Departments charge us with extravagance in printing. Only a day or two ago the gentleman from New York, [Mr. BROOKS,] as one of the counts in his indictment against this Congress, charged that we were squandering here millions every year in printing public documents which are worthless.

Now, if the Departments want documents printed for distribution in the various States or among foreign Governments, let the Departments become responsible for the distribution, and let the expense be charged over to them. A general provision which should have this effect would, it appears to me, be desirable.

Mr. LAFLIN. As this subject has been brought to the attention of the House, I would like, with the permission of the gentleman from Illinois, [Mr. FARNSWORTH,] to give the substance of a statement which I have seen from the Congressional Printer.

Mr. FARNSWORTH. It appears to me that a small matter of this kind should not occupy any more time. I insist on the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of the Senate was concurred in.

Mr. FARNSWORTH moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. HUNTER asked and obtained indefinite leave of absence after Thursday next.

Mr. PRUYN asked and obtained leave of absence after to-day until January 15th.

WITHDRAWAL OF PAPERS.

Mr. KERR asked and obtained leave to withdraw from the files of the House papers in the case of J. O. Armes.

PENSIONS FOR SOLDIERS OF 1812.

Mr. MAYNARD, by unanimous consent, presented a resolution of the Legislature of the State of Tennessee in favor of granting pensions to soldiers of the war of 1812; which was referred to the Committee on Revolutionary Pensions and of the War of 1812, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the President's message.

On the motion there were—ayes 52, noes 43.

Mr. RANDALL. I call for tellers.

Tellers were ordered; and Messrs. RANDALL and PIKE were appointed.

The House divided; and the tellers reported—ayes 78, noes 22.

So the motion was agreed to; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES

in the chair,) and proceeded to the consideration of the

PRESIDENT'S ANNUAL MESSAGE.

Mr. BOYER. Mr. Chairman, I shall avail myself of the latitude of debate which is permitted in the Committee of the Whole upon the President's message to review the character of that remarkable contest between the Executive and Congress which during two years has divided the country and arrested the attention of the civilized world.

The long-threatened impeachment has come to grief. Slain in the house of its friends, it were well to leave it to the undisputed charge of its fifty-seven mourners, if they could only be persuaded to give it a quiet funeral and silently bury it out of sight.

I shall not attempt upon this occasion to reargue the case which has been already decided; for in so doing I should but weary the House without adding to the weight of propositions already demonstrated nor to the triumph of a defense already complete.

For my own part I should prefer to leave the whole question precisely where it has been placed by the minority of the Judiciary Committee, and dismiss it as involving nothing but issues purely political in their character, and as such to be tried at the elections, not in the high court of impeachment. Viewed in that light the whole impeachment project resolves itself into a conspiracy to cheat the ballot-box under the pretended forms of law.

But there seems to be a prevailing disposition still to agitate the subject in the debates of the House, which would be of less practical importance to the country were it not that the House is not foreclosed by its former judgment in the case, but may at any time renew the proceeding upon the motion of any member who may rise to a privileged question, and either prefer new charges or revive the old ones. This consideration induces me in passing briefly to notice the legal position assumed last week upon this floor by my learned and honored colleague, [Mr. WOODWARD,] from whom I venture to differ with great reluctance, entertaining, as I do, for his opinions as a jurist the very highest regard. Still I never differed from any one with a more decided conviction of being in the right than when I controvert the legal proposition laid down by my colleague that a President of the United States may be constitutionally impeached and removed from office for an offense not known either to the statute or common law. If this be so, then a political party may by its Representatives and Senators in Congress lawfully impeach and remove the President from office for an offense merely political, and which involves no moral turpitude whatever. If such a doctrine as that is to prevail the independence of both the Executive and the judiciary is gone, and Congress may reign supreme. The judiciary having no means of defense aganist legislative usurpation except in the protection of the Executive would inevitably fall with him.

In support of the proposition which leads to these startling results my colleague has cited no other authority than a loose and somewhat confused paragraph from Curtis on the Constitution, which enumerates even "imbecility" among impeachable offenses. But the words of the Constitution, it seems to me, are themselves plainer than any commentary which can be written upon them. "Treason, bribery, or other high crimes and misdemeanors" are the only words there used to define impeachable offenses. Concerning "treason" and "bribery" there is no dispute, and the whole controversy narrows down to the definition of the words "high crimes and misdemeanors."

Now the words "crimes" and "misdemeanors" are terms of art, and in the language of the law neither of these words are applied to any other than indictable offenses. "Misdemeanor" is generally used in contradistinction to "felony," and no act is in law either a crime or a misdemeanor which is not the subject of indictment either by the statute or the common law. There is no citation needed to support so elementary a principle, and which may be found in any text-book upon English or American criminal law. The Constitution being a legal instrument, or more properly speaking a law of the very highest nature, its words are not to be distorted from the meaning which the general language of the law assigns them.

The argument from reasonable intent is quite as conclusive. The framers of the Constitution gave us a Government of mutual checks and balances; and it would not have been consistent with their design to vest an undefined power in one of the coördinate branches of the Government which would enable it at will to usurp and absorb the others.

My colleague thinks that Congress might be trusted. I know not what his observations may have been which have inspired him with this unexpected confidence; but if he had sat with us in the Thirty-Ninth Congress and witnessed the expulsion of a Representative from Indiana [Mr. Voorhees] at this end of the Capitol, and a Senator from New Jersey [Mr. Stockton] from the other end, for no other reason which impartial men could understand than that their seats were wanted for the enemies of the President, he would perhaps entertain less exalted ideas of the judicial impartiality of such tribunals.

The impeachment which came to so ignominious an end a few days ago did not perish by the hand of impartial justice. It was killed at the last fall elections. If the elections had gone the other way the result would no doubt have been heralded here as the popular warrant for immediate impeachment. Was not the issue so presented to the people and impeachment demanded as a congressional duty and national necessity? Not only were prophetic announcements of the impending impeachment and removal of the President from office made by those highest in authority and deepest in the secrets of the ruling majority here, but the imaginations of their followers were entertained with even the more startling apparitions of the scaffold and the rope.

By the failure of the impeachment Congress has impeached itself. Each of the contending parties has charged the other with usurpation and criminal violation of the Constitution. If the President was guilty of these offenses he ought to have been impeached and removed from office. If he was not guilty Congress has had neither justification nor excuse for its repeated trespasses upon the prerogatives which pertain to the executive office and the public insults which it has heaped upon the head of its incumbent. If impeachment was voted down because in the estimation of Congress the President was innocent of any impeachable offense it was well done. If it was not done in the spirit of justice to the accused, but for the sake of the country, for the sake of peace, and for the sake of the honor and dignity of the Congress of the United States, it was still not ill done. But if the *nolle prosequi* was extorted from the fears of the impeaching party, excited by the warning voices of the late elections, and from no higher motive than to escape the costs of a hopeless prosecution, then gratitude constitutes no part of the debt which in this behalf either the President or the people owe to Congress.

The country may nevertheless be congratulated upon the complete vindication of its Chief Magistrate from the accusations of his enemies by the verdict of their own tribunal.

What public man exercising the office of President of the United States at so critical a period could have undergone a scrutiny like that to which Andrew Johnson has been subjected and emerged from the ordeal more scatheless than he? During more than eight months a secret inquisition assiduously labored to convict him of something, no matter what, so it would injure him in the estimation of mankind. His persecutors were able men, armed with the power of the nation, and suspected by no man of any disposition to spare the accused. The secret history of his public acts was explored, his most private relations invaded, his personal correspondence ransacked, the revelation of his most confidential conversations in his most unguarded moments required of his friends, his domestic life investigated, his pecuniary transactions overhauled, and even his private bank accounts examined. To get evidence against him the felon's cell was visited by honorable members of Congress, and testimony solicited at the hands of convicted perjurers. Spies and detectives were employed, traps set, money expended—but all in vain. Andrew Johnson as man and President stands higher this day in the estimation of his countrymen than when this investigation began. I would rather take his chance for honorable and enduring fame hereafter than that of the proudest and loftiest among all his enemies, persecutors, and slanderers.

He was not the President of my choice. I did not vote for him. But I recognize in him a fearless defender of the Constitution, and as such I honor and defend him. As such, too, he will be remembered and honored by his countrymen when the political strife of these days shall be over, and when his administration of public affairs shall have passed into history.

Executive usurpation was looked upon by Congress with other eyes when the incumbent of the White House was in accord with the Republican party. For Lincoln we had a bill of indemnity—for him and his subordinates—covering all public and private wrongs by them committed. But for the conservative Johnson we have had instead an inquisition armed with congressional drag-nets constructed so as to catch the smallest minnows of official delinquency, and congressional microscopes to detect even the animalculæ of evil which might be suspected to lurk in the atmosphere of the presidential mansion. What if the Judiciary Committee with its thumb-screws and quizzing glasses had invaded the White House in the winter of 1864 instead of the winter of 1867! What revelations might then have startled the nation from its propriety! If the committee had been as intent then as of late in the pursuit of microscopic objects it might have made points out of point lace, and might even have beheld the avenues to official appointment illuminated by the glitter of gems and vocal with the rustle of silks!

But I forbear to pursue this subject. I turn from the impeachment of the President to the impeachment of his impeachers, now pending before the grand tribunal of the people.

Congress itself stands impeached for a series of high political crimes and misdemeanors, among which are the following:

1. In the name of union it perpetuates disunion.

2. In a condition of profound peace it has applied the iron rule, and maintained the costly establishments of war.

3. In the name of republican government it has subverted the peaceful and lawful governments of the people in ten States, and in their stead it has established five military dictatorships, enforced by five standing armies.

4. It has degraded the white race and betrayed the principles of republican government by subjecting ten millions of white Americans to the dominion of four millions of negroes.

5. It has taken away the elective franchise from at least a quarter of a million of white voters.

6. It has, by its proscriptive, sectional, coercive, and partisan policy, prevented the restoration of fraternal feeling throughout the nation, and has destroyed constitutional government, impeded industry and enterprise, imperiled capital, and prevented the restoration of public confidence throughout the southern States.

7. By hindering the return of material prosperity to the desolated and submissive South Congress has at a period of unexampled taxa-

tion disabled one third of the nation from bearing its proportionate share of the public burdens.

8. It has endeavored to subvert the coördinate branches of the Government by appropriating to itself the constitutional prerogatives of the judiciary and the Executive.

9. It has endeavored to destroy the independence of the Executive by taking away from him his proper control over official appointments and in the selection of his constitutional advisers; and has attempted to intimidate the Chief Magistrate by constant threats of impeachment and removal from office unless he is willing to submit to the dictation of Congress.

10. Congress has created an aristocracy of Government bondholders by exempting from taxation their investments, amounting to more than one fifth of the entire capital of the country.

11. It has established a system of banking by which Government gratuitously pays in aid of the profits of the banking capitalist six per cent. in gold out of the earnings of the people.

12. It has so managed the finances of the country that, notwithstanding the taxes are more onerous than those ever before imposed upon any nation, not more than half the gross amount exacted from the people finds its way into the public Treasury. And while gigantic fraud stalks unpunished through the land Congress has deprived the President of the powers essential for the protection of the public revenue by taking away his control over his own appointed agents.

13. Congress has deliberately broken its solemn pledge made to the nation on the 22d of July, 1861, that it would "preserve the Union with all the dignity, equality, and rights of the several States unimpaired."

It is impossible within the limits of my allotted time to discuss all the propositions which I have here laid down in a single speech. But there will be ample time to discuss them all here and elsewhere before the national jury will render its next verdict in the general elections of 1868. If, as we have been so frequently reminded on this floor, revolutions never go backward, the final triumph of conservatism in 1868 has already been foreshadowed by the Radical defeats of 1867.

Lest in the matter or manner of what I propose to say I should seem to presume too much upon the result of the late elections I beg leave to remind the majority of the precedent set by them based upon the elections of the year before, when there were considerable Republican gains. It will be remembered when the Thirty-Ninth Congress assembled in its second session soon after those elections how jubilant and defiant were the Radical majority in this House. Although the aggregate Republican majority in the twenty-three States which then voted was but six per cent. of the whole number of votes cast, none of us on this side of the Chamber can ever forget how constantly the election returns were flung in our faces, nor how boastingly they were quoted as the indorsement of the policy of Congress by the people, and as the indisputable warrant for new and more progressive acts of Radical legislation. Emboldened by the result of the elections of 1866 the Radical majority in Congress were no longer restrained by constitutional barriers, nor by a regard for the consistency of their own acts. Before those elections Congress presented its plan of reconstruction in the form of a constitutional amendment, and submitted it to all the States for their acceptance or rejection, thus recognizing the existence of all the States and the constitutional right of each to act as such in the premises. The States, in their exercise of their then admitted right, rejected the proposed amendment. But after the elections of 1866 that which Congress had failed to effect by an amendment of the Constitution they resolved to enforce outside the Constitution by act of Congress. Last year the South was solicited voluntarily to accept negro suffrage. This year it has been enforced at the point of the bayonet.

But by the time the elections of 1867 came round the experiment of Radical reconstruction had been tried for two years and a half. The result is seen in the condition of our still distracted country, and the popular verdict may be found in the returns of the last elections. In fourteen States they exhibit an aggregate gain of nearly three hundred thousand votes by the Democracy against the Radical majorities of the previous year.

In New York, Pennsylvania, and Ohio, the three most populous and powerful States in the Union, the aggregate gain is nearly one hundred and twenty thousand. If we take these three States as illustrative of the popular reaction, and this House were to be reconstituted in conformity thereto, what would be the result? In Ohio the Democrats have carried ten districts out of nineteen; and if the Representatives of Ohio were proportionately divided here the Republicans instead of sixteen Representatives in this House from the State of Ohio would have but nine, and the Democrats instead of but three would have ten. And it is a significant fact that among those left out would be the member from the third district of Ohio, the chairman of the Republican Congressional Executive Committee, [Mr. SCHENCK,] and the member from the tenth district of Ohio, [Mr. ASHLEY,] the original impeacher himself, would have come back with a majority reduced by over a thousand votes.

I have not at hand the statistics of the election in the Empire State so as to give the result with the same detail; but as the Democratic majority in the State of New York is in the neighborhood of fifty thousand, it is evident that instead of the delegation standing as it now does—eleven Democrats to twenty Republicans—the Democrats would be largely in the majority if the representation were proportioned in accordance with the popular vote.

If the popular vote in the Keystone State were proportionately represented here the delegation from Pennsylvania in this Congress would be equally divided, instead of but six Democrats to eighteen Republicans, as at present.

An analysis of the votes of the other States would exhibit similar results.

This is therefore no longer the Congress of the people. It was a rump Congress last year; but this year it is in its representative character a condemned rump. In view of the latest operation of those instrumentalities which make and unmake Congressmen this Congress may now not inaptly be denominated "a body hanging on the verge of the Government."

I do not say by any means that it is not a part of the Government; for its power must still be confessed. The majority who during the past year held the sway in this place are here again with numbers scarcely diminished. Within the bar of this House they are as absolute as ever, and may, as before, defy, proscribe, and gag the minority. They may still compel us to silence when the most important laws are enacted under the spur of a party caucus without examination or discussion. They may still humiliate us by occasionally according to two or three of us the special favor of occupying the floor for the space of five minutes for argument upon some great measure of public interest. They may still at their pleasure eject us from our seats when we become troublesome. The majority are still powerful enough to enforce all the rules of the House strictly against us and suspend them whenever it suits their own purposes. All these things they may still do. But there is one thing which they can no longer do—they can no longer truly claim to represent the country.

Radicalism, once dominant and still powerful, but weakened by recent defeats and distracted by the loss of public confidence, is throughout the free States rapidly tottering to its fall. I repeat, this is the case throughout the free States, but I do not include among the free States of this Union those unhappy States in which the principles and forms of free government have been abolished by act of Congress. Radical emancipation has in those States worked marvelous results. They were called slave States before the war because of the servitude of their negro population. But what else are they now with their four million black freedmen, so called, and their ten million subjugated and subordinated whites? Ten of them are military provinces without the semblance of State rights and without any remnant of civil liberty except that which they hold by the grace of a military dictator; and without representation upon this floor.

The remaining one of the eleven States originally excluded has, it is true, a delegation here claiming to represent her people; but how and by whom elected, and upon what conditions of party vassalage admitted here it is not now necessary to mention.

In States like these alone, where negroes have possession of the polls and white men are disfranchised because they will not vote the ticket nor support the policy dictated by Congress—in such States it is that Radicalism continues to flourish. Everywhere else it is undergoing the process of popular repudiation.

The people had trusted the Republican party as no party had been ever trusted by them before, till the spirit of Radicalism, drunk with power and mad with the unhallowed lust for endless party plunder, attempted, in the sacred name of "Union," to destroy the Constitution.

The love for the Union is strong in the breasts of the American people. Their sacrifices for its preservation in the war for the suppression of the rebellion were greater than those which any people had ever before endured for the perpetuation of their Government. But it was not empire alone for which they fought and suffered, nor a barren stretch of territory divided into discordant States; they loved and gloried in the Union because it was the bulwark of the Constitution, and because the perpetuity of the one is essential to the perpetuation of the other. After having successfully defended the outworks of constitutional liberty Congress may be assured that the people will not now surrender to them the citadel itself.

The people are beginning to see that we are in the midst of a second rebellion even more dangerous than the first. That was waged to divide the States; but this to enslave the people. The first came in the shape of armed secession; but this steals upon us in the form of legislative usurpation.

The confederates made for themselves a new constitution modeled after the old; but the Radicals repudiate the old Constitution and provide no other substitute than the unbridled will of a partisan Congress. In vain did the people pour out their blood and treasure for the suppression of the first treason if the last is to triumph.

The struggle between the President and Congress for the past two years has been nothing less than a continued defense of the Constitution by the Executive against oft-repeated acts of usurpation by Congress.

Congress assumes the ground that it can legislate for States and reconstruct the Union "outside of the Constitution." The President has always held, and has in his last message to Congress reaffirmed, that—

"The Union and the Constitution are inseparable, and as long as one is obeyed by all parties the other will be preserved, and if one is destroyed both must perish together."

Let us see upon what professions of principles and under what pledges to the American people the Republican party came into power.

I will read the following passages from the platform of the Republican party adopted by them in their national convention assembled at Chicago in May, 1860, which nominated Abraham Lincoln for the presidency, and upon the faith of which he was elected. I ask the earnest attention of the House to these reminiscences of promises broken and trust betrayed:

"*Second.* That the maintenance of the Federal

Constitution is essential to the preservation of our Republican institutions, and shall be preserved."

* * * * * * * * * * *

"*Fourth*. That the maintenance inviolate of the rights of the States, and especially the rights of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to the balance of power on which the perfection and endurance of her political faith depends."

So said, proclaimed, and published the Republican National Convention of 1860.

Since the publication of these principles there have been three distinct eras of advance toward their complete betrayal and overthrow by the party which professed to adopt them. The first dates anterior to the war, and may be designated as the era of the "higher law." This was in the days of personal liberty bills, underground railroads, and John Brown raids. The second era arose during the war, and may be termed the era of "military necessity." This was in the days of Seward's "little bell," when printing presses were destroyed; when arrests were made without process of law; when there were convictions without trial, imprisonments without an accuser; and when every man's liberty was at the disposal of General La Fayette C. Baker!

The third era has arisen since the war, and may be characterized as the era of Radical "reconstruction." This is the day of Freedmen's Bureaus, negro equality, and military dictatorships.

During these three eras of Republican government the sappers and miners at work against the bulwarks of the Constitution rapidly advanced their operations until all was nearly ready for the final assault, when the people at last came "to the rescue of their own institutions."

I have no time to dwell upon details, but only to notice several of the recent leading measures of Congress, which, like the milestones planted by the highway, measure the advance toward the point of destination.

The supplemental Freedmen's Bureau bill passed in this House February 6, 1866, which was vetoed by the President, and which afterward failed to become a law by not obtaining the constitutional majority in the Senate, provided for the establishment of military jurisdiction over all parts of the United States in which refugees or freedmen were to be found.

The civil rights bill, which was also vetoed by the President on the 27th of March, 1866, but was afterward passed by a two-thirds vote through both Houses of Congress, declares that all negroes and mulattoes born in this country shall be citizens of the United States; repeals all State laws relating to person or property founded on any distinctions of race or color. It vests exclusive jurisdiction to try all offenses against this law in the Federal courts, and subjects to fine and imprisonment those who under color of any State law shall disobey its mandates. It does this in terms which include even the judge upon the bench who should venture to decide according to his judgment and conscience against the constitutionality of the act.

For the purpose of enforcing its execution it provides, moreover, that the military and naval forces of the United States shall be employed. President Johnson, in summing up in his veto message the nature of the act, truly characterizes it as follows:

"In all our history, in all our experience as a people living under Federal and State law, no such system as that contemplated by the details of this bill has ever before been proposed or adopted. They establish for the security of the colored race safeguards which go infinitely beyond any that the General Government has ever before provided for the white race. In fact the distinction of race and color is by the bill made to operate in favor of the colored and against the white race. They interfere with the municipal legislation of the States, with the relations existing exclusively between a State and its citizens or between inhabitants of the same State, an absorption and assumption of power by the General Government which if acquiesced in must separate and destroy our federative system of limited powers and break down the barriers which preserve the rights of the States. It is another step or rather stride toward centralization and of concentration of all legislative powers in the General Government."

But Congress, as if conscious that in the civil rights bill it had transcended its constitutional authority, incorporated the principles of the act in a proposed constitutional amendment, which passed the House on the 13th of June, 1866, and was transmitted to the States for ratification. It provides for the complete equality of the races, and makes negroes, mulattoes, and Chinamen, if born in this country, not only citizens of the United States, but also citizens of the several States in which they respectively reside. It prohibits the several States from passing any law to abridge the privileges and immunities of these persons, but confers upon Congress unlimited powers of legislation for the enforcement of the new article. Doubtless under this amendment, if adopted, its authors will find room for ample jurisdiction on the part of Congress to enforce the complete equality of the races in political rights, and the extension of negro suffrage to all the States, anything in the laws of any State to the contrary notwithstanding; nay, without the help of the constitutional amendment a bill for that end is even now pending before Congress. After it became apparent that the Africanization of the southern States and their complete subjection to Radical dominion could not be accomplished by an amendment of the Constitution in the ordinary way, Congress relaxed nothing of its predetermination to accomplish these results. The apparent indorsement of their former measures at the popular elections at the North in the fall of 1866 emboldened them to attempt by direct and open usurpation outside of the Constitution that which they had failed otherwise to effect. From this originated the military reconstruction act, so called, passed March 2, 1867, and its several supplements.

From the date these acts went into operation free government in the ten excluded States ceased to exist. Never was there an act of wholesale tyranny perpetrated by any legislative body with so little excuse. Two years had nearly elapsed since the bloody laurels of the war were ours. When the surrender of the armies of Lee and Johnston was made known, with that adaptability for self-government so characteristic of the white people of America, peace and order by common consent resumed their accustomed sway. Immediate steps were successfully taken everywhere to reorganize the civil governments of the former confederate States in subordination to the Federal authority. On the 29th of May, 1865, was issued the memorable proclamation of President Johnson establishing the provisional government of North Carolina. That proclamation embodied the plan which just before the death of Mr. Lincoln had been agreed upon by himself and his Cabinet as applicable to the situation of affairs. This immediately restored the State of North Carolina to its relations with all the departments of the Federal Government for the enforcement of all the laws of the United States.

In the following month similar provisional governments were established in the States of Mississippi, Georgia, Texas, Alabama, and South Carolina. Governments were in like manner organized throughout the others, and in all of them a ready obedience was yielded to Federal jurisdiction. In all of them slavery was abolished, the ordinances of secession repealed, and the rebel debt repudiated. All of them manifested an anxiety to conform to all the reasonable demands of the General Government, and to be restored as early as practicable to all their former relations in obedience to its laws.

For this work, so early begun and so auspiciously completed by the President, he has been threatened with impeachment; but not before Congress had waited nearly two years to take advantage of what he had done, and to build upon it their own superstructure for the perpetuation of their own party domination. If the provisional governments so established were not lawful or proper it was the plain duty of the Thirty-Ninth Congress to act promptly upon its first assembling by the substitution of other and better governments in their stead. But Congress took no action in that direction until at the close of its second session. Afterward, by lapse of time and by tacit permission and direct recognition by Congress, those governments became governments of the people *de jure* as well as governments *de facto*.

Much argument has been wasted upon the question whether the President or Congress had the authority to establish these governments. I answer neither had the authority after the restoration of peace except in aid of the people themselves. Aided by the President in the beginning the people themselves did the work, and they did it in loyal submission to the Constitution and the laws.

All that then remained to complete the perfect restoration of the Union was the admission to seats in Congress of loyal representatives duly elected by the people of their respective districts, and duly qualified and bearing the regular certificates of election from their several States.

Such was the policy of the President; but such was not the policy of Congress. Why it was not the policy of Congress let the political history of the past two years furnish the explanation—let the political necessities of the Republican party explain the motive.

I agree that if the leaders of the Republican party could have seen their way clear to the perpetuation of their power by measures at least in apparent conformity to the Constitution they would not have adopted a policy of so-called reconstruction manifestly and avowedly outside of plain constitutional prohibitions and in open violation of its most sacred guarantees. But the defeat of their proposed amendment of the Constitution for that end made the accomplishment of their object impossible by other than unconstitutional legislation. The courage and the conscience for such an undertaking were not wanting.

I thank the chairman of the Committee on Reconstruction, the veteran leader of this House, for his timely letter of the 26th of August, in which he revealed the crime of Congress against the Constitution with a degree of courage and candor which half redeems the guilt of his participation:

"Some of the members of the Senate [says the letter] seemed to doubt their power under the Constitution which they had just repudiated, and wholly outside of which all agreed we were acting; else our whole work of reconstruction was usurpation."

This was a well-timed confession from high authority, much needed then by the voters of the northern States, who did not fail to rally for the rescue of the Constitution so imperiled and in support of its "elected defender."

If time permitted it might be instructive to present an estimate of the present and prospective cost of congressional reconstruction. The President informs us in his message that it has already cost uncounted millions, and if persisted in may eventually bankrupt the national Treasury. He tells us that the sum which must be annually thrown away in the maintenance of negro governments at the South, if properly husbanded, would form a sinking fund sufficient to pay the national debt in fifteen years.

These are weighty considerations for the national creditor, as well as the national taxpayers.

The sacrifices demanded of the nation to sustain the policy of Congress are too perilous and costly to be made for the sake of any party by a free and enlightened people.

TAXING NATIONAL BONDS.

Mr. PIKE. Mr. Chairman, several days since I introduced a resolution looking to the taxation of national bonds, and I propose now to make some brief remarks upon it. I prefer doing this now, because when the revenue bill comes before the House for action the brief time allowed for discussion will not permit the exhibition of this proposition in its true light. I shall then ask a vote upon it; and unless something better is suggested meanwhile to

compass the same object I shall hope the measure will meet the approbation of the House.

In my judgment we have already postponed this taxation too long. In the Thirty-Ninth Congress I urged the necessity of it. Then it could have been done more readily, because it had not been the subject of popular discussion, and consequently the terms of it would have been more easily fixed upon. But Congress, like an individual, seldom does anything so long as it can be postponed, and so the proposition was thrown into the future to take its chances. Now the necessity is upon us. We must act or refuse to act in the midst of an unusual activity of financial discussion, both in Congress and in the country, and with the feeling strong upon us that the difference is very great between action and non-action.

It is not to be disguised that public attention has been largely turned toward this matter. But I would not have the House act from popular clamor. I am quite sure it will not. There is courage enough in this House to resist popular influences when they are wrong. And I know the members of this body will not refrain from acting because they may subject themselves to the charge of seeking the popular favor.

I speak of the popular feeling because that is a strong reason why the subject should be examined. That fact brings the matter properly before Congress for discussion. Let that consideration be given to the matter now which its importance demands. We certainly cannot go wrong in giving time to the investigation of a question which more than any other pertaining to taxation or finance occupies the public thought.

Nor am I to be deterred from acting upon the subject because a large party has already in many sections—perhaps everywhere in the country—attempted to create a partisan advantage for themselves out of the non-taxability of these bonds.

As a party, the Republican party has taken no position upon this subject. Individual members of it differ, and as an organization having the control of legislation we must either acquiesce in propositions for taxation or give the reasons for not doing it. We cannot answer the other side of the House with a sneer at its loyalty. The shake of Lord Burleigh's head was said to have contained a great deal of wisdom in his day, but that day has passed. If we attempt to slough off those who propose this species of taxation as demagogues, as persons who would set class against class, or repudiate debts for the sake of votes, we shall make a mistake, and this is a time when we can hardly afford many blunders in financial legislation.

If, as I believe after a patient examination of the subject, the soundest maxims of political economy and the highest practical wisdom demand action on this subject at our hands, we can hardly afford to refrain because the other side of the House votes with us. It would be but a sorry excuse to give constituents. Those of us who voted against impeachment had the unhappiness of having such associates, although we had the high satisfaction of knowing that a majority of our political friends went with us.

The public debt should not be a matter of partisan discussion. It arose out of the dire necessities of the country. It is a portion of the money price paid for our nationality. But it will be thrown into the canvass, and I care not if it is. I shall not mourn if it prove to be one of the immortal creations of the war. Let it remain as a huge, unsightly monument of the decay and corruption of a great party to whom for long years the people generously intrusted the management of their national concerns, and who, when rebuked for their many crimes against the public good and ejected from place, wickedly attempted to destroy the Government they could no longer control. It would be a beacon of warning to the voters of the Republic not to intrust its destinies again to the hands of those who have proved so unworthy, and so run the risk of their plunging the country into another war and causing the creation of another debt.

But I am not disposed to view the matter altogether as a partisan. We have the debt upon us. We must carry it along in good faith, as we agreed to do, and in due time we must pay it or renew it, feeling well assured that as the years go by the rapidly increasing property of the country will form an ampler base upon which to rest its burdens. The hundred million inhabitants that are by and by to constitute the people of the Republic, with the incalculable wealth that will be theirs, will bear this debt too easily to make it a subject of complaint. Our business is to "tide it over;" and when the country has once settled upon the proper methods of carrying it we shall find our prosperity too elastic to be cramped by its weight.

This debt now constitutes a great property—a property recognized by our courts, subject to our laws of conveyance and descent, and protected by the national and State authorities. It is subject only to the laws of Congress, and Congress itself is bound by the terms of the acts which brought it into existence.

The immense magnitude of this property has become so familiar to us that we fail to appreciate it except by comparison. It exceeds in value the whole property of New England, New Jersey, and Delaware in 1860, and is very considerably more than double the census valuation of the eight northern States lying west of the Mississippi. The whole property of the country in 1860, except slaves, was $14,000,000,000, and allowing an increase of fifty per cent., the great property represented by this debt is worth one eighth of the whole of it.

By the terms of its creation this property is "exempt from taxation by or under State authority." All the acts creating it in various but explicit terms exempt it from any but congressional taxation; and had it not been so stated in the loan bills the decisions of the Supreme Court would have brought about the same result.

So far as I am aware no question has arisen as to the authority of Congress to tax this property as it pleases and to the extent it chooses to tax it. The only restraint over the power of Congress in this respect is that which controls all legislation—whether financial or other—and that is, that Congress shall exercise its authority for the public good. We are not embarrassed either by lack of constitutional authority or by expressed or implied faith toward those who bought this property in accordance with our legislation. The agreement not to allow States or towns to tax it—so far as anything either way be implied from it—is rather in the nature of notice to the purchasers and holders that Congress did not intend to relinquish its own rights in the premises, but should exercise them if it deemed proper.

And without objection on the part of anybody Congress has exercised its rights in this respect. By the act of July 1, 1862, an income tax of three per cent. was authorized upon the gains of all property except bonds, and upon incomes from bonds the tax was one and a half per cent. By the acts of June 30, 1864, and March 3, 1865, incomes from bonds were placed upon the same footing as from other property, and that is the present law.

These acts asserted the right. But the tax in proportion to the other taxation of the country was very slight. In 1862 it was but nine cents on the hundred dollars, and now but thirty cents on the same sum.

But to this there were exceptions. The person who has $16,000 of property all in Government bonds escapes national taxation altogether, because incomes to the amount of $1,000 are exempt from taxation; so he shirks the burdens both of the State and National Governments.

What the percentage of taxation may be upon the actual value of the property of the country it is quite impossible to say. We all know the unreliability of the census returns when the result was a mere matter of opinion. In many instances the census agents blundered when it was simply a question of numbers. Of course when they had to exercise their judgment as to so difficult a matter as the value of property they are still less to be depended upon.

But from the data that every one has—that of his own neighborhood and State—it is but a moderate estimate to say that the average tax upon every species of property in the country at its full market value for State and municipal purposes is one per cent.

For national purposes we are now raising about four hundred millions a year, and it is estimated that the laws now in force will give that sum in future. Of course this is unequally distributed—some of it specific, but chiefly indirect—but in the aggregate, as a charge against the property of the country, it amounts to two per cent. on a valuation of $20,000,000,000.

So that for State, national, and municipal purposes we are paying annually three per cent. on a fair valuation of the property of the whole country.

The immediate question before us is whether under these circumstances this great property of bonds—paying no local taxes and but three tenths of one per cent. of national taxation—shall be made to contribute more liberally toward defraying the public charges? I say it contributes three tenths of one per cent. toward the national taxation. But that is only in certain cases. The exemption that I have already stated is so large that in the majority of instances no tax is collected. I have inquired at the Bureau of Internal Revenue how much the present tax on bonds yields, but they are unable to inform me. It is not thought there, however, that any considerable sum is drawn from them, and that practically the bonds escape national as well as State taxation by means of the exemption.

I am at a loss, sir, to know how, consistently with proper theories of taxation, we shall continue the present discrimination in favor of this great property. Let me call the attention of the House to the present operation of the revenue laws. The director of the Bureau of Statistics has kindly furnished them to me.

We tax tea the sum of $8,723,956 31; coffee, $7,901,847 99; molasses, $3,037,452 10; sugar, $27,774,096 80. This is for the fiscal year ending June 30, 1866. For the last year they are about the same.

This is by means of the tariff. But they are almost purely revenue taxations. The result to the consumer is the same as if each man who purchased was charged by the internal revenue officer a certain price for his tea, coffee, molasses, sugar, and an additional sum in proportion to the quantities consumed. There is no question of incidental benefit from protection in it—it is bald, naked assessment.

By means of the internal revenue officers we tax railroads $4,000,000 annually and allow them to assess it upon the public. This sum is necessarily paid by all classes, and perhaps comes as near a *per capita* tax upon people of moderate means as any that can be laid.

Revenue stamps yield $16,000,000, and the tax is an assessment in great part upon the business men of the country.

Wholesale and retail merchants pay nearly six million dollars annually for licenses to trade, and get it back from their customers if they can.

Besides these taxes, affecting particular classes of the community, we have the great manufacturing tax, which draws according to consumption from every man, woman, and child in the country.

I do not speak of these taxes complainingly—the internal revenue system of taxation was a wise one and has answered the purpose of its creation most admirably—but I use them for the purpose of comparison.

And I may here as well as elsewhere disavow all feelings against bond-holders. The gentleman from Illinois [Mr. Ross] the other day talked about "rich bond-holders." It is an unfair use of terms. It is an attempt to excite prejudice in the country against persons who deserve other treatment at the hands of the

members of this House. The bond-holders are of all classes. Rich people hold the larger quantity of bonds because they hold the larger amount of all the most desirable kinds of property. But large sums are held by men and women of small property. Orphans and widows are largely interested in what they have been taught to believe the best investment in this country.

And I protest that it is no feeling against bond-holders that induces me to propose this taxation any more than it was a feeling against tea-drinkers that caused me to vote twenty-five cents per pound upon tea.

The instances of taxation that I have given, as well as many others that will occur to anybody who thinks upon the subject, sustain the position that this property in bonds can as well bear taxation as any that I have enumerated, and that if it be proper to assess the larger taxation upon those best able to bear it—if it be good political economy to collect from accumulations rather than burden processes for creation of wealth—if it be fit to tax luxuries rather than necessaries, then should this great property in bonds contribute as well as tea and coffee, railroad fares, or revenue stamps.

We are not destitute of authorities for this taxation.

The first is the Revenue Commission authorized by the Thirty-Eighth Congress. One of the members of that commission, Mr. Hays, was specially charged with this subject. He took testimony upon it. The statements of Mr. Astor and some fifteen or twenty leading bankers and brokers and financial men of New York is given in his report, and it is favorable to taxation. After a full examination of the whole matter Mr. Hays recommended a tax of one per cent.

But the more important authority is the Secretary of the Treasury, who in his last report recommends a tax of one per cent. He is peculiarly charged by virtue of his office with the guardianship of the financial honor of the country, and has special facilities for knowing the best subjects of taxation.

He gives the discusion in a former report, (1865,) and says:

"The views of the Secretary thus expressed have undergone no change, but the exemption from taxation of any kind of property by which special privileges are, or seem to be, granted to any class of citizens is odious to the heavily burdened masses in all classes, and is especially so in a republic like ours. Local taxes in all the States are heavy, and no matter what the law may say upon the subject, no matter what the contract may have been under which they were negotiated, there is a general sentiment among tax-payers that the exemption of Government bonds from local taxation is not exactly right, and that it ought to be in some way avoided in future issues. The Secretary has no hesitation in admitting that he is in sympathy with this sentiment."

And the Secretary proposes to issue new six per cent. bonds in lieu of those now outstanding, and to tax them one per cent. He proposes to convert the outstanding bonds into these new ones, and entertains no doubt of his ability to do it. How this is to be done he does not say. He gives the bond-holders a five per cent. bond instead of the one they now hold. Why should they take it? Will he ask for authority to stop payment of interest until the exchange is made; or will he alarm the public creditor by fears of popular discontent and wrest from his timidity the more valuable property? And, in order to satisfy the States that his operations with the bond-holders are legitimate, he offers to pay them the amount he takes out of the bond-holders. Apparently he would scare one and bribe the other.

And it is an attractive list the Secretary presents to Congress for its consideration. Each member can see his own State with the sum in gold set opposite her name. My own State leads the list with the respectable sum of $385,609 76 set opposite, and Oregon winds up the golden column with $96,000 76. The thirty-seven States are all there!

Why the Territories are excluded I do not perceive. They are obliged to pay their share of the general taxation. Why should not they have the proper dividend? Why should Brigham Young and his wives and children be excluded in the golden distribution? Alaska, too, will need her share as much as any portion of the Republic. When she is fairly incorporated and the Secretary's golden shower begun, the gentleman from Wisconsin, [Mr. WASHBURN,] who has so ably taken the affairs of that forlorn Territory in hand, should see that her interests are not overlooked.

But if the Secretary has shunned the Territories he has not omitted the rebel States. He proposes to pay Virginia $730,662 50 annually, and South Carolina $431,905 18, and the other rebel States in proportion to population "without regard to race or color!" and all in gold!

Of course the Secretary does not expect us to believe that this generous sum of $20,000,000 annually will come out of the bond-holders. No such thing. It comes out of the tax-payers of the country. It is simply taxing the country $20,000,000 in gold annually for the purpose of distributing it among the States in proportion to population.

How equal this would be can be seen from the fact that the rebel States pay but small amounts into the Treasury, burdened with full charges of collection, and yet it is proposed by the Secretary to distribute among them the sum of $4,812,281 annually in gold.

Before the recent extension of the postal service into those States the Department was self-sustaining, but now I notice by the report of the Postmaster General there is a deficit of about five millions. I do not object to paying this sum, now that the mails are free to carry whatever of information may be intrusted to them. But to add to this an equal sum for no other reason, apparently, than that the Secretary has a strong feeling against the injustice of not taxing the national debt, is a kind of financial wisdom that I do not appreciate.

Those States last year did contribute about twenty million dollars for the cotton tax. This the House has hastened to relieve them of. Leaving all other oppressed industrial interests to take care of themselves as well as they could, the House has made a specialty of the cotton tax. I could not concur in the vote. There were, in my estimation, other interests equally worthy of immediate attention by the Committee of Ways and Means. Not to mention others, the great navigation interests of the country, confessedly suffering intensely from adverse legislation, need looking after. The Secretary of the Treasury has twice called the attention of Congress to them. I had the honor of submitting propositions for their relief at the first session of the Thirty-Ninth Congress and urged them during the pendency of the tariff bill, where they properly belong. My colleagues have renewed those propositions by resolutions of inquiry at the present session. But I had no idea of asking special legislation for this suffering interest, and it would have availed nothing if I had. I shall be well content if the House, when the tariff and internal revenues come before them shall apply the proper remedies to existing troubles. It is certainly of national interest that our ships shall not be driven from the ocean and our whole trade abroad, if not coastwise, be placed in the hands of foreigners. And unless Congress shall act speedily we shall be so far second to Great Britain on the ocean as to find it impossible in our generation to come into active competition with her. Certainly it was unwonted magnanimity in Congress to give local interest the precedence over those of national importance, when a remedy for the evils that afflict both should be applied before it is necessary to prepare for the next crop either of ships or cotton.

I have had the curiosity to obtain from the Bureau of Internal Revenue a statement of amounts paid by the rebel States, and I give some of them for the last two years, together with a statement of the amount the Secretary would repay them if his proposition obtains:

	Receipts from all sources except cotton in 1866.	*Receipts in 1867.*	*Secretary proposes to pay annually*
Florida	$726 98	$58,343 00	$90,290 60
Mississippi	24,631 76	118,518 37	471,792 28
Texas	176,026 48	431,556 28	529,772 40
Arkansas	53,069 53	110,814 96	267,259 98

It will be recollected that the receipts from internal revenue in 1866 were $310,906,984 17, and in 1867 they were $265,920,474 65. And it should not be forgotten that the receipts were in currency while the Secretary proposes to pay the States in gold.

It is suggested in some of the papers that the Secretary's plan would win the good-will of the rebel States and attach them to the Union. I should think it would. One of the Secretaries proposes that we buy the continent for the purpose of ruling the world, and another that we pay an annuity to the rebel States to keep them good-natured. But how about the tax-payers? Is there no end of their forbearance?

If the Secretary of the Treasury had proposed to assume the war debts of the loyal States and then applied the one per cent. tax to discharge the liabilities assumed for that purpose, I should have been more willing to accept his proposition. As he presents it the Secretary's plan should not be adopted, and if it could be put in force it is plain that it would be speedily repealed. I voted to make a liberal allowance to the Freedmen's Bureau for the purpose of organizing and protecting labor, and in that way produce the accustomed crop of cotton. In my judgment it was a wise appropriation. But having accomplished that purpose, and the House having abolished the cotton tax, it is clear the bureau must go with it, and so should all other special appropriations.

I have heretofore looked to an exchange of bonds as the ready way to accomplish the purpose of making the property in them subject to the same burdens as other less favored property; and for that, among other reasons, I have hoped for a speedy resumption of specie payments, and constantly voted to bring it about. It is plain to my mind that we have the ability to put the finances of the Government, where they should be, on a specie basis almost whenever we will. The short loans will all very soon be provided for, and nothing be left for the Secretary but to arrange for interest and current expenses. These the accruing income will take care of, so that he will have merely to keep his greenbacks afloat by the specie at his command. It is the problem the banks have dealt with so many years, of keeping out three or four times as much paper as they had specie, and have generally found no difficulty in doing it.

But whether this view be right or wrong, I think I cannot err in believing that the House does not desire to go to specie at once. The decisive vote the other day withdrawing the present authority of the Secretary to destroy greenbacks indicates this purpose, and I shall be very happily disappointed if the House stops where it is and does not authorize and direct a new issue of paper. The road toward specie is getting to be a weary one. The House has apparently indicated its purpose to stop traveling it for the present. It will do well if it does not actually slide back and trust to luck to retrace its up-hill steps at some future day.

We shall not resume specie payments at present, and we shall not, therefore, pay off that portion of the debt now under our control in gold.

It is proposed to pay it in paper. That would be well enough if we had the paper. I should have no hesitation in doing so if we could. I should have no fear of shocking the sensibilities of the holders of our bonds or staining our financial honor if, in the absence of any bargain to the contrary, we paid creditors in exactly the currency they loaned to the Government.

I do not propose to discuss a subject which has already been treated so ably and elaborately by gentlemen in both Houses of Congress, but I desire to remind the House that all of the greenback legal-tender currency was authorized by Congress before any considerable part of either issue of the five-twenty loan was taken.

There were three acts, and but three, authorizing the greenback legal-tender currency. Each authorized the issue of $150,000,000. The dates were February 25, 1862, July 11, 1862, and March 3, 1863. At the time of the passage of the last of these acts but $25,000,000 of the five-twenty loan authorized the year before had been taken.

So that this money which gentlemen now call "depreciated currency" had long been the "lawful money" of the statutes before the public took these bonds. It had become the favorite currency of commerce. All of our States except Massachusetts and California paid the interest on debts contracted on a gold basis in this paper. My own State, if I mistake not, paid principal as well as interest of public debt in greenbacks. Corporations everywhere and individuals of the highest financial honor did not hesitate to pay debts long antecedently contracted in Government legal tenders then recognized by courts and in common use everywhere.

Are all these subject to the reproach of being scoundrels and repudiators?

Of course, if there were a bargain or authoritative agreement to pay these bonds in coin the circumstances I have mentioned would not be of moment. But when the bond and the act authorizing it are both silent upon the subject, neither specifying in what the principal of the bond shall be paid, although stipulating that the interest shall be paid in coin, then I say Congress keeps good faith with the public creditor when it pays him back the money it received from him—money which then constituted almost the entire circulating medium of the country.

And if these bonds had been payable absolutely in five years, and the public creditor was now asking the Secretary for the payment of the principal, does anybody suppose he could not take the same ground with reference to these bonds that previous Secretaries did with regard to the short bonds of 1861? The bonds of 1861, payable in three years, although issued on a gold basis, were paid in 1864 in greenbacks or new bonds. No reason was given for this except that they did not belong to the *permanent* loan. A poor reason is said to be better than none.

But whether this view of the matter be correct or not is of small importance. We cannot pay the principal of these bonds either in specie or paper. We have no money to do it, and we ought not to tax our people further in order to obtain money for this purpose. We cannot sell new bonds and obtain paper with which to do it. We should find no market for such bonds, and we ought not to issue one new dollar in paper for that or any other purpose, except it may be to substitute greenbacks for national bank currency.

These facts leave no other remedy for the gross wrong which the Secretary describes, no other way of satisfying that sense of right which he says he is "in sympathy with," than to tax the property in bonds, as I propose.

I propose to tax the bonds one per cent. of their value annually, the tax to be assessed and collected by the officers of the internal revenue department.

It is true that this will not reach foreign holders. I do not know why it should. The bond is personal property. Unlike a certificate of stock in a bank, it does not represent property elsewhere, but it is property in itself. Like all other personal property, if owned in this country let it be taxed here; if owned abroad let it be taxed there. Our ships are taxed here so long as they have American owners. When they are sold abroad and take a foreign register we cease to tax them. How much this would deduct it is difficult to say. Probably one eighth of the bonds are held abroad. If we get seven eighths of the tax we should have we shall do better from this than from the majority of taxations.

This is the present method of taxation of this property when the income tax is assessed. The change I propose is one of amounts and not of principle.

If it be said that this property will escape taxation, and that if it be taxed at all it should be by retaining one per cent. of the interest we agreed to pay, my reply is that we agreed to pay the interest specified in the bonds, and a rebate of interest is, so far, a repudiation of the contract. If we agreed to pay six per cent. let us pay it. Let us not pay five, and tell the creditor we have taken the other one per cent. and put it into the national Treasury. That is not keeping the public faith. We may as well deduct from the principal as from the interest.

It is true that the whole of this tax will not be collected. If that be a reason why a tax should not be laid then we should strike off the larger share of tax on articles from our list. The income tax is very largely avoided, and yet we collect some fifty or sixty millions annually from it. I do not believe the holders of our bonds are cheats and knaves. They are at least an average of American tax-payers. We shall get as good a proportion of tax from this source as from any of the numerous articles on the list. No one believes that whisky cheats will be duplicated by bond-holders.

The mode I propose is precisely that adopted by the States in the taxation of State bonds. They are taxed in the same manner as other property. No one proposes to exempt them from taxation, and no one would have the State deduct from the stipulated interest by way of taxation. The immense values of property in town, city, county, and State bonds are all taxed just as I propose to tax the national bonds, except that as they are issued under State authority they are taxed by the State authority. Those issued under national authority are to be taxed by national officers.

If the objection be made that the effect of this tax will be to drive the bonds abroad I reply that that will not be the worst of evils. They will not be sold unless the holders receive fair equivalents, and the money received from these bonds will go into business channels and aid in the development of the great resources of the country. There is little danger of a plethora of money capital in the country for some time to come. Ex-Secretary Walker thinks a foreign loan the grand panacea for our financial evils, and the present Secretary last Congress asked for authority to make bonds payable abroad in order to sell them the more readily in the European markets.

It may be that holders of bonds rather than pay this tax to the General Government will prefer to pay a local tax in the place of their residence. To meet this case I would authorize the Secretary to issue bonds not subject to national taxation and subject to State and municipal taxation, and direct him to exchange at the pleasure of the holder. It is not improbable that in this way by the consent of bond-holders the present discontent on the score of non-taxation may be relieved. Perhaps it would be well to limit this amount to one per cent. When it is considered that this property is to be taxed at full value, and that for taxable purposes other property is usually valued much less than the sum for which it would be marketable, a limit of one per cent. would be advisable. It would prevent excessive taxation on the part of unfriendly local officers, and would at the same time give a fair average of the local taxation of the country.

I know of no other objection to the proposed measure except that it will have a bad effect on the national credit and depreciate the national bonds.

But no one has a right to say this. The opinions of the largest bond-holders in this country, as given in Mr. Hays's report, do not sustain such an idea. And, what is of more importance, the facts in relation to State bonds are not at all in accordance with this view of the subject. Except Massachusetts and California, they are all currency bonds, and yet State bonds subject to all sorts of taxes are quoted and sold in all the principal markets as high as national bonds, making the proper allowance for the difference of interest. Very frequently they go higher. The fact that they are subject to taxation makes no apparent difference in the price.

And it is a consideration worthy of attention that some such measure as this, satisfactory to Congress and the tax-payers of the country, will quiet discussion and stop agitation on the subject. That will be a great gain, and the result may well be looked for that instead of depreciation the national bonds will rise in value as a consequence.

I have no idea that the measure I propose will antagonize any plan of funding that may be suggested at low rates of interest. I presume no one supposes we shall be obliged to carry the debt long at six per cent. It is not in accordance with the experience of other Governments less able than our own to pay either interest or principal. Reasoning from their experience we may with some assurance expect to place the debt at four per cent. rather than five, as the Secretary proposes. Whether now is the proper time to make the attempt may well be questioned. The most intelligent financiers in the country think it is not. They think it best to keep the debt well in hand and wait for specie payments and a full return to the normal condition of affairs in the country.

What will aid both a return to specie and the desirable placing of the debt, is the full and free exercise of the spirit of economy, now happily uppermost in the House. I cannot but hope that it will not exhaust itself in general resolutions, but that when we come to the detail of expenditure it may be found in full force. I believe it will, and I look to this source with much hope for aid in the solution of these difficult financial problems.

Mr. SPALDING obtained the floor, and moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the President's annual message, and had come to no resolution thereon.

APPROPRIATIONS FOR SURVEYS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, inclosing estimates of appropriations required for surveying Indian reservations under treaty stipulations; which was referred to the Committee on Appropriations, and ordered to be printed.

REMOVAL OF HON. E. M. STANTON, ETC.

The SPEAKER also laid before the House a communication from General Grant, inclosing, in response to a resolution of the House, correspondence relating to the removal of Hon. Edwin M. Stanton as Secretary of War, and also to the removal of Generals Sheridan and Sickles.

Mr. DAWES. I ask that the celebrated letter of General Grant to the President in relation to the removal of Mr. Stanton be read.

The Clerk read as follows:

[Private.]

HEADQUARTERS ARMY OF UNITED STATES,
WASHINGTON, D. C., *August* 1, 1867.

SIR: I take the liberty of addressing you privately on the subject of the conversation we had this morning, feeling, as I do, the great danger to the welfare of the country should you carry out the designs then expressed.

First, on the subject of the displacement of the Secretary of War. His removal cannot be effected against his will without the consent of the Senate. It is but a short time since the United States Senate

was in session, and why not then have asked for his removal if it was desired? It certainly was the intention of the legislative branch of the Government to place Cabinet ministers beyond the power of executive removal, and it is pretty well understood that, so far as Cabinet ministers are affected by the tenure-of-office bill, it was intended specially to protect the Secretary of War, whom the country felt great confidence in. The meaning of the law may be explained away by an astute lawyer, but common sense and the views of loyal people will give to it the effect intended by its framers.

Second, on the subject of the removal of the very able commander of the fifth military district, let me ask you to consider the effect it would have upon the public. He is universally and deservedly beloved by the people who sustained this Government through its trials, and feared by those who would still be enemies of the Government. It fell to the lot of but few men to do as much against an armed enemy as General Sheridan did during the rebellion, and it is within the scope of the ability of but few in this or any other country to do what he has. His civil administration has given equal satisfaction. He has had difficulties to contend with which no other district commander has encountered. Almost, if not quite, from the day he was appointed district commander to the present time the press has given out that he was to be removed—that the Administration was dissatisfied with him. This has emboldened the opponents to the laws of Congress within his command to oppose him in every way in their power, and has rendered necessary measures which otherwise may never have been necessary.

In conclusion, allow me to say, as a friend desiring peace and quiet, the welfare of the whole country, North and South, that it is, in my opinion, more than the loyal people of this country (I mean those who supported the Government during the great rebellion) will quietly submit to, to see the very men of all others whom they have expressed confidence in removed. I would not have taken the liberty of addressing the Executive of the United States thus but for the conversation on the subject alluded to in this letter, and from a sense of duty, feeling that I know I am right in this matter.

With great respect, your obedient servant,

U. S. GRANT,
General.

His Excellency ANDREW JOHNSON,
President of the United States.

Mr. DAWES. Before moving the reference and printing of the papers I ask the Clerk to read another paper, indorsing General Sheridan.

Mr. ELDRIDGE and Mr. WOOD asked that all the papers be read.

The SPEAKER. The one referred to will be read first.

Among the papers is a letter to General Grant from Major General Sheridan, dated New Orleans, January 25, 1867, in relation to matters in Texas, and particularly referring to the condition of Union men and freedmen in different parts of the State, which he says is truly horrible. He says the Government is denounced, freedmen are shot, and Union men are persecuted if they have the temerity to express their opinions, &c.

This letter General Grant indorses as follows:

[Respectfully forwarded to the Secretary of War.]

HEADQUARTERS ARMY OF THE UNITED STATES,
January 20, 1867.

Attention is invited to that portion of the within communication which refers to the condition of Union men and freedmen in Texas, and to the powerlessness of the military in the present state of affairs to afford them protection. Even the moral effect of the presence of troops is passing away, and a few days ago a squad of soldiers on duty was fired on by citizens in Brownsville. In my opinion the great number of murders of Union men and freedmen in Texas, not only as a rule unpunished, but uninvestigated, constitute practically a state of insurrection; and believing it to be the province and duty of every good Government to afford protection to the lives, liberty, and property of her citizens, I would recommend the declaration of martial law in Texas to secure these ends.

The necessity for governing any portion of our territory by martial law is to be deplored. If resorted to it should be limited in its authority, and should leave all local authorities and civil tribunals free and unobstructed until they prove their inefficiency or unwillingness to perform their duties.

Martial law would give security, or comparatively so, to all classes of citizens, without regard to race, color, or political opinions, and could be continued until society was capable of protecting itself, or until the State is returned to its full relation with the Union.

The application of martial law to one of these States would be a warning to all, and, if necessary, could be extended to others.

U. S. GRANT, *General.*

No action was had by the civil authorities upon the foregoing recommendation.

Mr. BROOKS. I would inquire if there is anything in the document from General Meade, military commander of New England, from Massachusetts, and especially the gentleman's district, relative to a horrible affair—a rencontre between gamblers and the authorities, wherein many persons were killed?

Mr. DAWES. I do not know to what the gentleman alludes.

Mr. ELDRIDGE. I object to debate until all the papers are read.

The SPEAKER. The motion to print is debatable.

Mr. ELDRIDGE. We want the document read, and the gentleman cannot interrupt the reading.

The SPEAKER. The gentleman from Massachusetts has the right to the floor.

Mr. DAWES. I avail myself of only so much of my time to assure the gentleman from New York, [Mr. BROOKS,] in order to quiet his fears and apprehensions, that the people, not only of my district, but of the State of Massachusetts, are law-abiding and law-loving; and if there has been any such instance of outrage they are competent and willing to enforce the law against any violation of it. I wish I could say as much for the gentleman's city.

Mr. BROOKS. Do your people desire martial law?

Mr. DAWES. If martial law be necessary for the citizens in Massachusetts, that law-loving and law-abiding people will submit to it; but in the history and experience of Massachusetts there has never been any occasion for martial law since the attempt by one third of the people of this Union to overthrow the Government, encouraged and sustained by people in the gentleman's own district and by the Governor of his own State, who addressed them as "My friends." I now move the reference of these papers to the Committee on Military Affairs, and that they be printed; and on that motion I demand the previous question.

Mr. BROOKS. I did not expect him to yield. That is the way of discussing matters here.

Mr. PRUYN. After the attack which has been made upon one of the most distinguished citizens of our country I ask leave to say a word.

Mr. DAWES. Oh, no; I hope I have not hurt my friend's feelings.

Mr. PRUYN. Only so far that you have made an entire misstatement.

The SPEAKER. Debate is not in order. The Clerk will read the papers.

The Clerk proceeded to read the document.

Mr. INGERSOLL, (interrupting.) Is it in order to move to adjourn?

The SPEAKER. That motion is always in order.

Mr. INGERSOLL. Then I move that the House do now adjourn.

Mr. WASHBURNE, of Illinois. I hope my colleague will withdraw that motion and let us dispose of this matter.

Mr. INGERSOLL. I insist on the motion to adjourn. You can hear it read to-morrow.

Mr. DAWES. Oh, no; let us hear it read to-night.

The question was taken on Mr. INGERSOLL's motion, and the House refused to adjourn.

Mr. RANDALL. I desire to ask if there is a quorum here.

The SPEAKER. It is too late to make that point.

Mr. RANDALL. Well, the Chair allowed the gentleman from Illinois to interrupt the reading for a motion to adjourn, and surely I have a right to interrupt it to inquire if there is a quorum present.

The SPEAKER. How would the Chair answer the question?

Mr. RANDALL. Why, by counting. [Laughter.]

The SPEAKER. Unless it is positively stated that a quorum is not present, the Chair is not required to count. The Clerk will resume the reading.

Mr. HIGBY. As business has intervened, I move to adjourn.

The SPEAKER. The Chair thinks no business has intervened.

Mr. RANDALL. I move to dispense with the further reading, and I ask for a count on that motion.

The SPEAKER. That motion is not in order. The gentleman from Wisconsin [Mr. ELDRIDGE] demanded the reading, and he has a right to demand the reading of the entire document.

Mr. RANDALL. I have no objection to that part of it.

Mr. ELDRIDGE. It is very good reading. They have read all from General Grant, and now I want to hear something from General Andrew Johnson. [Laughter.]

The Clerk again resumed the reading.

Mr. ELDRIDGE, (interrupting.) I have heard now a communication from General Andrew Johnson and I am quite satisfied. Unless our friends on the other side desire the further reading, I withdraw the demand.

The communication and the accompanying documents were then referred to the Committee on Military Affairs, and ordered to be printed.

WAREHOUSING SYSTEM.

Mr. LYNCH, by unanimous consent, introduced a bill to amend an act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes;" which was read a first and second time, and referred to the Committee of Ways and Means.

PUBLICATION OF THE LAWS.

Mr. BUTLER, by unanimous consent, introduced a bill to provide for the publication of the laws; which was read a first and second time, and referred to the Committee on Reconstruction.

THE TAX ON HEMP.

Mr. BECK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of removing the present tax of five per cent. on all articles manufactured out of hemp grown and manufactured in the United States, and report by bill or otherwise.

And then, on motion of Mr. INGERSOLL, (at four o'clock and thirty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BANKS: A memorial of John Warren, journalist, a naturalized citizen of the United States, now a prisoner in Dublin, Ireland, where he has been confined for five months upon a charge, which is alleged to be false, of complicity in crime committed in England at a time when he was known and acknowledged to be in the United States, asking that the Government of the United States may vindicate the rights of American citizens abroad who are guilty of no crime, and its own honor in the pledge given to naturalized citizens for their protection.

By Mr. BEAMAN: The petition of Edwin Hines and others, praying Congress to make an appropriation for paying the reward to the fourth Michigan cavalry for the capture of Jeff. Davis.

By Mr. GARFIELD: The petition of Captain A. F. Rockwell, for change of date of muster.

By Mr. HUBBARD, of Iowa: The petition of citizens of Iowa, asking for a mail route from Sac City to Carroll City, Iowa.

By Mr. MOORHEAD: The petition of Hugh McCluey, for payment of property confiscated in the State of Missouri.

By Mr. NIBLACK: The proceedings of a meeting at Vincennes, Indiana, praying that more efficient protection be extended to naturalized citizens while traveling in Europe and elsewhere abroad.

By Mr. ROBINSON: The petition of Patrick Smith for a pension.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. WASHBURN, of Wisconsin: A bill to relieve James L. Alcorn, of Mississippi, from political disabilities.

IN SENATE.

WEDNESDAY, *December* 18, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

CONTINGENT EXPENSES.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Senate, giving a detailed statement of the payments from the contingent fund for the year ending December 2, 1867; which was ordered to lie on the table, and be printed.

LIBRARY OF CONGRESS.

Mr. MORGAN. I present the annual report of the Librarian on the condition of the Library of Congress for the year ending December 1, 1867, and I am instructed by the joint Committee on the Library to offer the following resolution in relation to the printing of the report, to be referred to the Committee on Printing:

Resolved, That the usual number of copies of the report of the Librarian of Congress for the present year be printed for the information of the Senate, and three hundred copies extra for the use of the Library.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing, under the rule.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair will present, by unanimous consent, a memorial from a committee of several counties in the State of Arkansas, setting forth the utter destitution of the people in several of those counties, and fearing in consequence of it that there will be an outbreak and violence there. This is a memorial directed to the Governor of that State and by him transmitted to the Presiding Officer of the Senate. As it is not addressed to the Senate it does not come within the rule, I believe, but by common consent it will be laid before the Senate and referred to the Committee on Military Affairs and the Militia, if there be no objection.

The paper was so referred.

The PRESIDENT *pro tempore* also presented the memorial of the Board of Trade, of Norfolk, Virginia, praying for the repeal of the tax on cotton; which was ordered to lie on the table.

Mr. WILSON presented the petition of James Schouler, guardian of the children of Edward Sullivan, late a soldier, asking for a change in the bounty law so as to give the additional bounty to the heirs of soldiers who have died before receiving it; which was ordered to lie on the table, the Senate having acted on the subject.

Mr. SHERMAN. I present a number of memorials from members of the bar of different counties of the northern district of Ohio remonstrating against the passage of the bill now pending in the Senate to provide for holding annually two terms of the district court, one in Cleveland and one in Toledo. As this subject is before the Judiciary Committee I move the reference of these memorials to that committee.

The motion was agreed to.

Mr. ANTHONY presented the petition of Matilda M. Muir, widow of David Muir, of company B second Rhode Island infantry, praying that she may receive a pension and additional bounty; which was referred to the Committee on Pensions.

Mr. HENDERSON presented resolutions of the Union Merchants' Exchange of St. Louis, Missouri, indorsing the memorial of the stockholders of the Central Branch Union Pacific Railroad Company, heretofore presented; which were referred to the Committee on the Pacific Railroad.

Mr. NYE presented the petition of Henry Koehn, praying to be allowed damages for the occupation of his property by United States troops in Ormsby county, Nevada; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON presented the petition of Samuel N. Salomon, praying relief and indemnification for moneys advanced to the Government and its agents during the revolutionary war by his grandfather, Haym Salomon; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. ANTHONY, it was

Ordered, That the petition and papers of Benjamin Tilley be withdrawn from the files of the Senate and referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 79) to amend an act entitled "An act to expedite and regulate the printing of public documents, and for other purposes," approved June 25, 1864; which was read twice by its title, and referred to the Committee on Printing.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 210) supplementary to the several acts in relation to the reconstruction of the rebel States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 211) to amend an act entitled "An act to provide for a district and circuit court of the United States for the district of the State of Nebraska, and for other purposes;" which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of 12th of April last, information in relation to the employment of an attorney to represent that Department in the Court of Claims in certain cases, have instructed me to report it back, and ask to be discharged from its further consideration.

The report was agreed to.

Mr. TRUMBULL. The same committee, to whom was referred a resolution to inquire whether West Virginia is one of the States of the United States, and whether the act "to protect all persons in the United States in their civil rights" is a constitutional and valid law, and whether the constitutional amendment known as article thirteen is or is not a part of the Constitution, have instructed me to report it back to the Senate, and ask to be discharged from its further consideration, on the ground that these are questions that have been passed upon by the Senate, and the committee can give no further information in regard to them.

Mr. SUMNER. The committee have no doubt in regard to them?

Mr. TRUMBULL. I think not.

The report was agreed to.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a bill (H. R. No. 105) relating to the selection of juries in the several courts in the District of Columbia, have instructed me to report it back, and recommend that the bill be indefinitely postponed.

The PRESIDENT *pro tempore*. The question is on postponing the bill indefinitely.

Mr. SUMNER. I think that had better lie on the table; I should like to look at the bill.

The PRESIDENT *pro tempore*. It lies over under the rule.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 102) providing for the formation of corporations and regulating the same in the District of Columbia, reported it with amendments.

Mr. SUMNER. The Committee on the District of Columbia, to whom was referred the bill (H. R. No. 143) to regulate the selection of officers in the city of Washington, and for other purposes, have had the same under consideration, and directed me to report it back with sundry amendments. I should like to call the attention of the Senate to this bill. There are many citizens of the District who are anxious for its passage even before the holidays, and if there is no objection I shall call it up to-morrow.

FUNDING OF PUBLIC DEBT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a motion to print additional copies of the report of the Committee on Finance, with the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, to report a resolution, and I ask for its present consideration.

By unanimous consent, the resolution was considered and agreed to, as follows:

Resolved, That five thousand additional copies of the report of the Committee on Finance on the subject of the public debt, taxation, and the redemption and conversion of the United States notes and legal-tender currency, be printed with the accompanying bill, (S. No. 207.)

DISTRICT JAIL.

Mr. PATTERSON, of New Hampshire. I am instructed by the Committee on the District of Columbia to report a joint resolution in relation to the erection of a jail in the District of Columbia and to ask that it be put on its passage.

The joint resolution (S. R. No. 80) was read a first time by its title, and passed to a second reading.

The PRESIDENT *pro tempore*. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution, which directs the Secretary of the Interior to suspend all work upon the jail to be erected in the District of Columbia under the act of Congress approved July 25, 1866, and the amendment thereto, approved March 2, 1867, until the further direction of Congress, and also directs the Treasurer of the United States to withhold the payment of any money appropriated for the erection of the jail until such further action of Congress.

The PRESIDENT *pro tempore*. The Senator from New Hampshire asks for the present consideration of this resolution. It requires unanimous consent.

Mr. NYE. I think it had better lie over. It is a matter of some importance.

Mr. PATTERSON, of New Hampshire. I should like to make a statement in relation to it.

Mr. SUMNER, and others. Let it be passed now.

Mr. NYE. I should like to have an opportunity to look into it. If there are contracts outstanding the Government may be involved to a large amount.

Mr. PATTERSON, of New Hampshire. A petition was introduced into the Senate at the opening of the session——

The PRESIDENT *pro tempore*. If objection is made that is the end of the resolution for to-day. It lies over under the rule.

PHONETIC SPELLING.

Mr. MORGAN. There is upon the table a concurrent resolution passed by the House of Representatives at the last session, and which was sent here on the 18th of July last, in relation to the practicability and expediency of adopting the phonetic system of spelling in the schools and in general literature. I move that that resolution be taken from the table and referred to the Committee on the Library.

The motion was agreed to.

OCCUPATION OF SAN JUAN ISLAND.

Mr. HOWARD. I beg leave to call up the resolution which I had the honor to present yesterday morning in relation to the occupancy of the island of San Juan, in Puget sound. It is a mere resolution of inquiry, and I think there will be no objection to its passage. I move that it be taken up for consideration.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the President be respectfully requested to communicate to the Senate, if not incompatible with the public interest, any agreement between the Government of the United States and that of Great Britain in relation to the occupation of the island of San Juan, in Puget sound, with copies of any correspondence on the subject of the claims of the respective Governments to said island, and a statement of the reasons why the Government of the United States has permitted a joint occupation of the same to Great Britain.

Mr. WILLIAMS. I will state for the information of the Senator from Michigan that during the last session of Congress a similar resolution was introduced into the other House, and the papers, I understand, were transmitted to that House in response to that resolution, and I presume that all the information which he desires can be obtained from those papers. I do not know whether that is any objection to the passage of this resolution or not, but the President has once been called upon to answer a resolution like this by the other House.

Mr. HOWARD. I do not know what may have taken place in relation to this subject since the transmission of the documents to which the Senator refers. It may be that there has been some further diplomatic correspondence between the two Governments in relation to this island since that time, and if so I am exceedingly anxious to see what it is. It is a very easy matter for the President to refer to the printed papers which he has already furnished to Congress in answer to so much of the resolution, and that will save the trouble of recopying them at the Department.

While I am up I will say further that I think the time has come when the Government ought to show earnestness in respect to the occupancy of this island by the British. If I understand the question aright it is clear enough that Great Britain has no sort of right to any occupancy of the island of San Juan, in Puget sound, and that the conduct of her authorities there has been that of mere intruders upon an American possession; and if this be so it becomes the dignity of this Government to correct this error at the earliest period. Of course I will not undertake to prejudge the question between the two Governments now, but what I want is a full and ample statement of all the facts in regard to this so-called joint possession. I do not know how it has happened that the Government of the United States has been obliged to hold joint occupancy of this island, which, according to my ideas, lies plainly within the jurisdictional limits of the United States, with British military forces upon one end and American military forces upon the other. I think this style of occupation ought to be terminated at the earliest possible period by the withdrawal either of the one description or the other description of force. I hope the resolution will pass.

Mr. CORBETT. I believe there was a similar resolution offered in the House of Representatives at the last session, but the reply of the Secretary of State was that it was incompatible with the public interest to give such information, and therefore no such information was transmitted to the House. That is my remembrance of the case. I agree with the Senator from Michigan that the joint occupancy of the island of San Juan has been continued quite long enough. That joint occupation began by the consent of one of our generals, who was sent there to examine into the matter at a time when we were somewhat embarrassed, and our embarrassments having continued almost to the present time the joint occupancy has been allowed to continue. I believe with the Senator from Michigan that it is time it was terminated. We only agreed to vary from the line of the forty-ninth parallel so as to give to the British Government Vancouver's island, on which Victoria is situated; but the treaty designates that the boundary shall be such and such a channel, and the maps very plainly designate which is the deepest channel. I think the question ought to be examined now and the joint occupancy terminated, and we should begin to exercise the jurisdiction over that island which clearly belongs to us, in my opinion. I hope this resolution will pass.

Mr. SUMNER. I see no objection to the resolution with the limitation which it contains referring the whole subject to the discretion of the President, even if there has been a call by the other House and that call has been answered. I was not aware that the call of the other House had been answered. I do not remember that I have seen the documents on this subject in print, but I remember that some years ago it became my duty in this Chamber to peruse the documents bearing on this important question. They are voluminous, some of them very able. Among them is a paper by the late Mr. Appleton, who was Assistant Secretary at the State Department, which I have no hesitation in saying was one of the ablest State papers in the history of our country. That is still slumbering in manuscript. It is a paper which contains our whole case. I should be very glad to see it communicated to the public. It is not, however, for us in this hasty action to pronounce how a joint occupation which has been so solemnly agreed upon between the two Governments shall be terminated. Senators may remember that as the war of our rebellion began we were on the point of submitting this whole question to arbitration and the Government of Switzerland had been indicated as one to which we might properly submit it. All proceedings of this character, however, were arrested by the war. I am very glad that my friend from Michigan has called attention to it now. I agree with him that it ought to be settled; whether by arbitration or whether by negotiation I cannot say, but it ought to be settled.

Mr. CORBETT. My remembrance of the case is that there has been no solemn agreement between the two Governments for the joint occupancy of this island; that it was agreed upon by General Scott, when he was sent there by our Government to ascertain the cause of the difficulties then existing, as a temporary occupation, until such measures should be taken as would settle the rights of the two Governments to the island. That was some ten years ago, nearly, and I think it is very near time that we ascertain which Government has the right to the island.

Mr. HOWARD. Will the honorable Senator answer me how it has happened that a joint occupancy has been agreed upon between the two Governments? If I understand rightly the divisional boundary line between the two Governments follows a ship-channel, and as a matter of course it cannot cross an island at all, so that if the island of San Juan belongs to anybody it belongs either absolutely to Great Britain or absolutely to the United States, and I cannot understand what foundation there was to agree upon a joint occupancy of an island thus circumstanced. However, the documents will probably explain the reasons of it; but if the honorable Senator has any information on that subject I should be glad to hear it.

Mr. CORBETT. I will state for the information of the honorable Senator that the forty-ninth parallel does not cross the island of San Juan. That line crosses Vancouver's island, which is occupied entirely by the British Government; and we consented to a deviation of the line from the forty-ninth parallel through this ship-channel, thereby giving to the British Government Vancouver's island. The deepest channel runs between Vancouver's island and the island of San Juan; but as the Hudson Bay Company's boat used sometimes to go up on the outside of this channel (there being another channel between that and some other islands) they claim that they have therefore a right to this other island of San Juan, whereas by all the maps the deepest channel laid down is between the island of San Juan and Vancouver's island. Now the Government of the United States claim, and the people who occupy the island of San Juan claim, that we only deviated from the forty-ninth parallel so as to give the British Vancouver's island, but not to give them any other island while the British Government claim that they are entitled not only to Vancouver's island, but to the island of San Juan, between which two islands the channel passes.

The resolution was agreed to.

SENATOR FROM MARYLAND.

Mr. JOHNSON. The Committee on the Judiciary, to whom were referred the credentials of Hon. Philip Francis Thomas, has directed me to submit a report. I ask for the reading of the report.

The Secretary read the report, as follows:

The Committee on the Judiciary, to whom was referred the credentials of Hon. Philip F. Thomas, Senator-elect from the State of Maryland, beg leave to report:

That they have taken the evidence submitted therewith, and that they find nothing sufficient, in the opinion of the committee, to debar said Thomas from taking his seat, unless it be found in the fact of the son of said Thomas having entered the military service of the confederacy and in the circumstances connected with that fact or relating to it; and, without the expression of an opinion in regard to this point, they report the whole evidence to the Senate.

Mr. JOHNSON. I move the printing of the report and the evidence under the instruction of the committee.

The PRESIDENT *pro tempore*. That order will be made.

Mr. JOHNSON. And I offer on my own behalf, which will await the action of the Senate upon that report, the following resolution:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

I move that the resolution lie on the table and be printed.

The motion was agreed to.

MICHIGAN AND WISCONSIN LAND GRANTS.

Mr. HOWE. I move that the Senate proceed to the consideration of House joint resolution No. 91.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin. It provides that a failure to grade twenty miles of the roads within two years from the passage of the act entitled "An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin," approved on the 3d of March, 1865, and twenty miles additional thereof in each year thereafter, as required by that act, shall not cause any forfeiture or reversion to the United States of any lands granted to those States, or either of them, to aid in the construction of the railroads described; but the companies, or either of them, are to fully complete their railroads in the manner required by law on or before the 31st of December, 1872, at which time a failure is to forfeit the lands to the United States.

The second section directs the Commissioner of the General Land Office to cause a patent, in due form of law, to be issued to the Chicago and Northwestern Railway Company, (in pursuance of a resolution passed by Congress granting the same to the State of Wisconsin, approved April 25, 1862, and an act of the Legislature of Wisconsin, approved June 16, 1862, granting the same to that company,) for eighty acres of land of the Fort Howard military reserve.

The joint resolution was reported to the Senate without amendment.

Mr. HENDRICKS. I did not know that such a resolution was pending in the Senate. I will inquire if it is reported from the Committee on Public Lands.

Mr. WILLIAMS. It is reported from that committee.

Mr. HENDRICKS. I should like to hear the first section of the resolution read again.

The Secretary read the first section.

Mr. HENDRICKS. I do not think a resolution of this sort ought to pass without receiving some attention from the Senate. I think the gentleman who reported it from the Committee on Public Lands ought to make some explanation about it. For a few years past Congress has been in the habit, almost without question, of extending the time for the completion of the roads to which land grants have been made. It will be recollected by all Senators that in the grants of lands to States for the construction of railroads there is a provision that the roads shall be completed within a limited time—I think ten years—but in view of the fact of the hard times of 1857 shortly after most of these grants were made, and the further fact of the interruption of business by the war, it has been the pleasure of Congress to extend the time within which the roads may be completed. I think this extension was for five or seven years, perhaps in some cases eight years. I do not undertake to speak accurately about that without referring to the legislation on the subject.

Mr. DOOLITTLE. If the honorable Senator will allow me to interrupt him, I will say that the original grants in this case in Michigan and Wisconsin to which this resolution refers I believe were made in 1865; so that the whole time to 1872 would be only seven years. That is my recollection of the time when the bills were passed granting the lands, 1864 or 1865. My colleague may remember it.

Mr. HOWE. No; it was earlier than that.

Mr. FESSENDEN. When were they made?

Mr. DOOLITTLE. One grant was in 1865, I am quite confident.

Mr. HOWE. This is the road from Fond du Lac to Marquette.

Mr. DOOLITTLE. When was that granted?

Mr. HOWE. In 1856 or 1857.

Mr. DOOLITTLE. I think my colleague is mistaken as to that. I think he dates it further back than it was. I am confident it was passed since I have been here.

Mr. HENDRICKS. I am not able to say whether the Senator from Wisconsin is correct about this or not, because the language of this first section is so indefinite that it is difficult to say. It reads thus:

"That a failure to grade twenty miles of the roads within two years from the passage of the act entitled 'An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin,' approved on the 3d day of March, A. D. 1865, and twenty miles additional thereof in each year thereafter, as required by said act, shall not cause any forfeiture or reversion to the United States of any lands granted to the said States, or either of them, to aid in the construction of the railroads described: *Provided*, That said companies, or either of them, shall fully complete said railroads in the manner required by law on or before the 31st December, A. D. 1872, at which time a failure shall forfeit the lands to the United States."

Mr. FESSENDEN. What is the second section of the resolution?

Mr. HENDRICKS. In reply to the Senator from Maine, I have difficulty in saying what the second section does refer to. Here it is:

"That the Commissioner of the General Land Office be, and he hereby is, authorized and directed to cause a patent, in due form of law, to be issued to the Chicago and Northwestern Railway Company, in pursuance of a resolution passed by Congress granting the same to the State of Wisconsin, approved April 25, A. D. 1862, and an act of the Legislature of Wisconsin, approved June 16, A. D. 1862, granting the same to said company for eighty acres of land of the Fort Howard military reserve, as the same was surveyed and approved by said commissioner on the 11th June, A. D. 1864."

I do not understand that section myself.

Mr. HOWE. If the Senator will allow me to make an explanation of five minutes, I will then, if he wants further time to look into it, let the resolution lie over. I think, however, he will not desire any further time.

Mr. HENDRICKS. I do not wish to ask that, but I wish some explanation of this resolution. As it seemed to be passing without any attention, the gentleman reporting it from the Land Committee not making any explanation about it, I thought it was right that we should know something about it. I do not wish to postpone the consideration of the resolution, however. If the Senator from Wisconsin will explain it, of course that will be satisfactory to me.

Mr. HOWE. I shall be very glad to inform the Senator what I know about this matter. I think some time in 1856 or 1857 an act was passed granting lands to the State of Wisconsin for the purpose of building a road from Fond du Lac north to the State line; and a grant was made to Michigan to build a road from the State line to Marquette, on Lake Superior. The State of Wisconsin granted the lands belonging to her to the Chicago and Northwestern Railroad Company, and they have gone on and built the road from Fond du Lac north about sixty miles to the mouth of the Fox river. The same company subsequently, by act of the Legislature of Michigan, secured the grant to that State, and under that have built a road from Bay de Noquet to Marquette. They have thus completed about one hundred and twenty miles of road on the two ends, and there is just about as much more road to be built between Bay de Noquet and the mouth of Fox river, between the present terminus of the Michigan road and the present terminus of the Wisconsin road. By the terms of the act this road should be completed in 1871, I think, but twenty miles of road, as the law now stands, should be graded every year. The company have been making large expenditures in extending their road west to Iowa, and are not prepared now to go on with this link between the present termini of the roads already constructed by them, and they ask that this condition should be waived for a short time, extending the time for the completion of the road only a year and a half; but in the mean time they do not wish to be compelled to grade the twenty miles of road, because it is useless to them until they are prepared to iron the road. It is through a neighborhood where I live myself, and we are as much interested in having the road built as anybody can be.

Mr. HENDRICKS. Will the Senator allow me to inquire whether this joint resolution will not also include the roads in the western part of his State, and particularly the one which received a grant to run from Hudson up to Lake Superior?

Mr. HOWE. I understand not.

Mr. HENDRICKS. Will it not also include the road from Lansing in the State of Michigan northeastward by Saginaw and thence up to Traverse bay, and also a road on the western side of the southern peninsula of Michigan?

Mr. HOWE. I will say to the Senator that I understand it will not. It was drawn with no such purpose. I know an application was made to have the Hudson road included in this, and it was refused. I have not examined the legislation with reference to those roads so as to be able to affirm positively that it does not; but I do know that it has no such purpose, but was drawn with express reference to the roads I have just mentioned, and is intended to have effect upon those roads alone. So much about the first section——

Mr. WILLIAMS. With the permission of the Senator, I think it necessary to state also that there is water communication between those two ends, so that there can be continuous travel.

Mr. HOWE. There is a daily line of boats running now between the mouth of Fox river and Bay de Noquet, so that travel is not particularly incommoded; but whether travel is incommoded or not is a question interesting to the neighborhood more than to the Government.

Mr. HENDRICKS. Before the Senator takes his seat it is proper that I should say that I do not think there is any ground of suspicion against the company managing the road to which he refers. So far as I am informed, that work has been prosecuted in good faith, and the lands granted by the Government have not been wasted or used for speculative purposes. But I do not understand the facts in regard to the road in the western part of the State which I mentioned to be in the same condition. I think there is a very marked difference. I think that grant has been tossed from speculator to speculator in such a manner as to disgust the public. I should not favor any extension of time to that company.

Mr. HOWE. I have precisely the same idea as the Senator has in reference to that road. I perhaps do not know as much about it as he does, but I know enough to have given me the impression that he seems to be under himself, and this resolution was not drawn to affect the legislation in regard to that road at all.

Now, with regard to the second section, I can explain its meaning in a word or two. In 1862 Congress made a grant of eighty acres of land to the State of Wisconsin out of the Fort Howard military reserve upon condition that the company would build their road across that reserve instead of building it some twenty miles west, as the road was then located. The Government owned about seven thousand acres of land there, and they agreed to give eighty acres to have the road built over that tract, and the road has been built over it; but the resolution which made that grant did not provide for patenting the lands, and the Secretary of the Interior thinks he cannot patent them without authority of Congress. The second section is simply designed to authorize him to issue a patent for those eighty acres of land.

Mr. EDMUNDS. I did not happen to be in when this debate arose, and it was not my fortune to be present in the Committee on Public Lands when the joint resolution was considered, and I think it had better lie over for a day or two till we can have time to look into it a little further. I have no prejudices against it, because I do not know anything about it; but I shall be glad to have an opportunity as one member of the committee, as I was necessarily absent when I presume it was considered, to examine into its provisions a little. I move, therefore, that the joint resolution be postponed until to-morrow.

The motion to postpone was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the resolution of the Senate indicating the manner in which the joint select Committee of the two Houses upon the pay of the employés of Congress may report.

The message also announced that the House had passed a bill (H. R. No. 201) declaratory of the act in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial.

ENROLLED RESOLUTIONS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 126) changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company, and the enrolled joint resolution (H. R. No. 119) in relation to the printing of the report of the Postmaster General; and they were thereupon signed by the President *pro tempore* of the Senate.

COTTON TAX.

Mr. SHERMAN. I move now to take up the unfinished business of yesterday.

The PRESIDENT *pro tempore*. It is so near the time that the Chair will now call up the unfinished business of yesterday, being the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax. That bill is now before the Senate as in Committee of the Whole, and the pending question is on the motion of the Senator from New York [Mr. CONKLING] to postpone its further consideration until the second Tuesday in February next. The Senator from Wisconsin [Mr. DOOLITTLE] is entitled to the floor.

Mr. DOOLITTLE. Mr. President, I had no purpose in taking the floor last evening to speak at length upon this question, but I designed merely to state in brief terms the views which I entertain and the reasons which control me in sustaining the report of the Finance Committee. Perhaps I should have said nothing but that the honorable Senator from Connecticut, [Mr. FERRY,] in his most eloquent appeal, addressed to the Senate in his earnest language, seemed to claim, and did claim, that the repeal of this tax upon the production of cotton would be a manifest injustice, that it was in effect an attempt to relieve the States of the South, or at least the cotton States, from bearing their proper share of the burdens of the Government. In his strong appeal he used language like this:

"Above all, sir, in my judgment it is wrong, and infamously wrong, that those who have brought upon this nation the terrible burden that to-day rests upon its industry, should by the magnanimity of the nation be exempted from bearing their share of those burdens."

Mr. President, if the facts assumed were true I could agree with the honorable Senator from Connecticut that it would be wrong by the magnanimity of the Government to exempt those who had brought the rebellion upon us from bearing their share of the burdens imposed by it; but when we look at this question dispassionately and see the thing as it is there is no exempting of the planters of the South from bearing their share of the burdens of the Government. Take the case of a planter in Alabama growing cotton and a farmer in Vermont growing wool; without this tax they bear precisely equally the burdens of the Government; they are equally taxed upon their income, upon all they make during the year, at the same rate per cent. They are taxed precisely alike upon all the manufactures which they consume, whether upon a farm in Vermont or a farm in Alabama. They are taxed precisely the same for all they eat and wear and consume at the same rate; no higher in the one case than in the other. Why, then, is there any injustice in saying that the raw agricultural production of cotton should not be taxed any more than the production of wool? Where is the injustice to the wool-grower of Vermont in the fact that the cotton-grower of Alabama pays no tax upon the raw agricultural product? It is precisely so with the hemp-grower in Missouri, and with the corn-grower in Illinois. What reason can you give why you should put upon an agricultural production in Mississippi a tax which you do not put upon an agricultural product in Illinois or in Wisconsin? This claim that it is unjust that the agricultural production of the cotton States should be exempt from taxation while the agricultural products of the other States are free is without foundation.

It is upon this ground of justice to all sections of the country that I always loved to meet Senators in debate; but the assumption which is made that the States of the South are to be relieved from bearing their share of the burdens of the Government because their agricultural production is not subjected to a direct tax is an assumption altogether unfounded. The premises are unsound, and therefore the conclusion is unsound. It is unjust in one section of the country to tax agricultural productions if you refuse to tax them in another section of the country.

There is another assumption of the honorable Senator from Connecticut, [Mr. FERRY,] and I think the honorable Senator from Indiana [Mr. MORTON] substantially made the same assumption, that the repeal of this tax is for the benefit of the rebel land-holders of the South. Sir, I do not look upon it in this light at all. There are large numbers of men from the North as well as from the South who are engaged in the production of cotton. Men from Illinois, from Wisconsin, from all the States of the North, have gone with their capital into the cotton States of the South to produce this great staple of American export. And, sir, the oppression of this tax rests upon them all alike—the loyal and those who have been disloyal heretofore.

But, Mr. President, there is something still more unfounded in this assumption, to wit, that the burden rests upon the land-holder at all. The truth is, when you get down to the bottom, that the burden rests upon the laborers that produce the cotton; therefore it is an appeal for the free laborers of the South, whether black or white, when I ask you to repeal this tax, because the burden rests there. It is true that the imposition of this tax may discourage capitalists from engaging in the production of cotton; and I have no doubt it does and will have that effect, and if this tax is permitted to remain, or if any uncertainty is to hang over the question as to what Congress may do—whether they will or will not impose a burden upon the production of cotton—it will discourage its production. The tax as it stands is almost one fourth part of the whole value of the article produced. What are we to think of the operation of a tax that takes twenty-five per cent. off an agricultural production, independent of all the expense which it has cost to produce it? Why, sir, it takes more than all the profits that can be realized by any person engaged in its production. It is therefore, in my opinion, unjust that the tax should be permitted to remain; and it is not true that if the tax is permitted to remain the burden of it rests upon the rebels who have been engaged in the war against the Government; it rests upon loyal men as well as upon rebels; but the main burden rests upon the laborers, who will be thrown out of employment if the production of this staple is discouraged.

This staple is the great article of export. In going abroad it supplies the place of gold and silver in settling our balances with foreign countries; and just in proportion as you discourage the production of cotton just in the same proportion must your gold and silver go to settle the balances. In my judgment this tax, instead of strengthening the financial condition of the Government, is a blow at its financial strength; it strikes us where we live; it discourages the production of that article above all others which is to sustain the credit of this Government. If you discourage the production of this article but one fourth, if you prevent one fourth of the lands which were cultivated last year from being again sown in cotton, you will, by reducing the amount of cotton grown in the South, have crippled our resources to a greater extent by far than this amount of tax placed in your Treasury will return. It is, Mr. President, in my opinion, precisely like killing the goose which lays the golden egg.

I look upon this tax as both unjust and impolitic. I think we should do all in our power to encourage the production of this article, and to encourage northern capital to go South and to engage in its production, not to discourage it. There is, in my judgment, also a very serious objection to this tax, and one which in my mind has always been insurmountable; and that is, that it is, by whatever name you choose to call it, substantially a tax upon exports which is expressly forbidden by the Constitution. You tax this article of production which is our great article of export and you give it no drawback; and thus in effect it is a tax upon exports.

Mr. President, as I stated in the beginning, I had no purpose to speak at length, but in a few brief sentences to express my views on this subject and give my reasons for voting for the repeal of this tax. I shall not follow other gentlemen into the discussion of mere political questions, because they are entirely incidental and, in my judgment, not necessary to the disposition of this question. I desire to avoid those except when necessity may throw them into the discussion, and confine myself entirely to the question of the justice of removing this imposition and the constitutionality of the tax which is imposed. For these reasons I shall vote to sustain the bill reported by the Committee on Finance.

I think also that I shall vote to sustain the amendment which has been submitted by the honorable Senator from Oregon [Mr. WILLIAMS] to apply this exemption, so far as it can be done, to those persons who have produced cotton during the present year where the cotton has not been sold or been contracted to be sold. Looking at the tax as oppressive, I would (if the cotton had not been sold or gone into the hands of speculators) be prepared to repeal the tax entirely as to the present crop. That perhaps may be impracticable, may involve us in too many difficulties to execute the law; but so far as this amendment goes, as I now understand it, applying to the cotton which is in the hands of producers, I am willing to vote for their relief.

Mr. CHANDLER. Mr. President, I shall be very glad to see the motion to postpone this subject until February prevail. We find that it is very much easier to strike off twenty or thirty millions from our revenue than it is to put on any such sum. All taxes are, of course, oppressive to somebody, and perhaps this may be too high; but I am informed that it is really the only tax that is faithfully collected in the whole South; that the whisky tax is avoided almost entirely; that the tax on incomes yields next to nothing, and that in fact nearly every tax in the South is by some means or other evaded except this cotton tax. I am not in favor of putting a tax on the production of cotton or on any other product which will seriously interfere with its growth, but I am not yet sufficiently informed to vote at this time to repeal the tax. Let us at least consider this with other taxation; let us look over the whole field, and if we strike off $23,000,000 or $27,000,000 here let us see that we are to obtain an equal amount from some other sources.

Besides, sir, there is no immediate haste for the passage of this bill. Its passage in February will be quite in time for the crop of another year. There is force in the remark of the Senator from Maine, that this matter should be deferred until the whole subject can be arranged, until we can vote understandingly upon the whole taxation question, not take up this or any other item by itself. I would neither take cotton, nor tobacco, nor whisky, nor anything else, and rush through a bill repealing the tax upon them. Let us settle the whole question at once. Strike off twenty or thirty millions now and where will you put it on?

There is likewise great force in the remark of the Senator from Vermont, that two thirds at least of this tax comes from foreigners. The foreign nations pay the majority of this tax, and ought to pay it. France and England are certainly responsible for a very large proportion of our debt, and if we can in any way compel those two nations to pay a portion of the burden they have thrown upon us we ought to do it, and I see no other way than this to compel them to do it. Let them pay this cotton tax, for it comes out of them to a great extent.

I am informed and believe that the very anticipation of the repeal of the cotton tax, and perhaps the tax upon this year's production, has actually reduced the price of cotton some two or three cents a pound in Great Britain. Certainly the tax should not be repealed upon the cotton grown during the past year, nor am I prepared to say that it should be upon that of next year. If I were to vote for any proposition now before the Senate for its reduction it would be for the proposition of the Senator from Indiana [Mr. MORTON] reducing it to one cent a pound; but I am not prepared to vote for that. I hope that the motion to postpone until February will prevail.

Mr. WILSON. Mr. President, I hope we shall act now, whether we pass the bill as it came from the House of Representatives or take the amendment moved by the Senator from Maryland or the amendment moved by the Senator from Oregon or the amendment suggested by the Senator from Indiana. At all events, do not support the motion to postpone made by the Senator from New York. Action now is imperatively demanded. I was not a little surprised to hear the Senator from Maine,

[Mr. FESSENDEN,] the Senator from New York, and other Senators, maintain that it was not necessary to act now on this question, that the argument for immediate action had but little weight. I apprehend, sir, that if we had a question pending concerning the lumber interests of Maine, and the point was whether it should be settled before the lumber dealers sent their workmen and their teams into the forest, the Senator from Maine would regard it as important that we should act before the season came to send forces into the woods. If we had before us a question which it was deemed necessary to act upon before the closing of the navigation of the Erie canal the Senator from New York would see that it was important to act promptly.

The interest of a large section of our country—the great cotton belt of the United States, that we say is the best cotton region in the world—is involved in our action. Within the next two or three weeks all who are interested in the growth of cotton—capitalists, planters, laborers—ought to know what the policy of this Government is to be for the next year. Capital is interested in knowing what that policy is to be; the planters desire to know what it is to be; and it is of vital importance to the laboring men that they should know what it is to be, for their wages are to be affected by it. The question before the people who are engaged in cotton planting is how much they shall plant next year, where they are to get their capital, and how many laborers they are to employ, and it will depend very much on how we settle this question. It ought to be settled now, and it is a wrong to a large portion of the country to postpone it till February, that we may consider other questions connected with the internal revenue.

There is another point worthy to be considered. We are told—and I appreciate it as much as anybody, for I live in a portion of the country that feels the pressure—that the industry of the country everywhere is depressed. The people of my State have not accumulated any capital this year. Most of our manufacturing establishments have been seriously affected. I suppose the men and firms engaged in cotton and woolen manufactures in my State have lost more during the past year than they have made. I appreciate, therefore, the importance of taking up the whole question of a revision of our system of taxation at the earliest day; but this is a question which should be acted upon now, and which should have been acted upon before this day. The people engaged in this business should know what they are to depend upon for the coming year. We are told that business is depressed East and West. I am aware of it; but during the last seven years the loyal States have accumulated more capital, have added more to their wealth, than during any previous seven years in the history of this country. This is true of the East, the central States, and especially of the Northwest. More farms have been made free, more mortgages have been raised, more property has been accumulated, during the past seven years than during any seven years in our history. We had a great degree of prosperity during the war. Now we are passing from a state of war to a state of peace. There has been a large reduction in the price of almost all kinds and qualities of merchandise. All articles of production have been and are sinking in price. We have taken a million of men from the field and put them into the various productive industries of the country, and there has been a great reduction in the prices of merchandise. The consequence is that men who have been largely engaged in business with little capital feel the pressure of falling prices.

But, sir, the loyal section of the Union has been prosperous, and is now strong, and can bear a great pressure and a great burden upon it. I know that there are a great many people out of employment; there is a great deal of unemployed capital, and thousands are out of employment, but there has been an immense business done during the last year. The internal traffic of the country has been estimated to be more than five thousand million dollars; but there has been very little money made upon all this business, because of the shrinkage in value of most articles of merchandise.

But what is the condition of the people of the southern section of the country? They came out of the war utterly ruined. The people of the States not now represented in Congress came out of the war with more than two thirds of all the property they had when they entered into it annihilated. Some of those States are the poorest civilized and Christian communities on the face of the globe. Take South Carolina as an example. Half of all the property she had in 1860 was in slaves; emancipation wiped it out; her banking capital was lost, her railroads were worn out and used up, and her people had nothing left but land. The lands of South Carolina are not worth one fourth of what they were in 1860, and lands can be bought for ten or fifteen dollars an acre worth in 1860 fifty dollars an acre. Two thirds of all the property of the cotton States perished by the war.

These people had exausted their means in the war; they have nothing to fall back upon. When the war ended cotton bore a high price, and millions of northern capital sought investment in the South, and northern men, especially men who had been in the service of the country, went into those States to raise cotton. All that capital has been sunk. It is not now worth ten cents on the dollar. The men who engaged in that business have been ruined, and a great portion of them have left that section of the country. Last spring large amounts of capital were borrowed at fifteen, twenty, twenty-five, and even thirty per cent. interest to engage in planting. Now, sir, cotton has fallen in price, and the cotton crop is not worth more than seventy-five cents on a dollar of the cost of production. There is no doubt of this fact, and thousands of the men engaged in planting cannot pay the money they borrowed, cannot pay the interest on that money, cannot pay the men they employed, and have no means with which to begin next year's work.

We gave liberty to three and a half millions of people in that region. They had toiled without reward; their ancestors had toiled for nothing for seven generations. They had nothing of their own in the world, not even spots of earth to be buried in that they could call their own. They were entirely homeless. Labor was disorganized. By the agency of the Freedmen's Bureau and the expenditure of a few million dollars labor was reorganized in that section of the country, and tens of millions of dollars were produced by the organization and aid of the bureau. This class of men are poor and dependent; their wages have been low during the past year; and in the present condition of things they have earned hundreds of thousands of dollars which they will never receive. Many of the freedmen worked for shares of the crops, and the low price of cotton makes them poor indeed. Thousands of them who were employed during the past year are about being discharged, and those who employed them are unable to employ them during the coming year; and if this state of things goes on before this Congress adjourns you will have imploring appeals for national aid. There are large sections of the southern country that have not raised provisions enough to carry them four months from this day, and they will be in a condition quite as hard as they were last year.

That section of the country has no capital. The property they had was lost by their own wicked rebellion. Then there are millions of men there made free by our act who have no property except the little they have earned and saved during the last two years. Now, sir, to compare that part of our country, blasted and ruined by the war, and with such masses of people without anything on earth to support them, with the gigantic and powerful section which has increased its wealth during the last seven years from forty to fifty per cent., is not just, is not wise. If this subject is postponed, or if this tax is adhered to, it will bear with oppressive force upon that section of the country, and millions of goods they have purchased will never be paid for, millions of dollars they have borrowed will be lost, their own people for months to come will feel the terrible pressure, and the planting of next year will be immensely diminished. If this tax be taken off, if this people be relieved from the millions they fear we are to collect from them they might take a little heart and hope to go forward in the future. The more I look into the condition of that section of the country I see trial and trouble and sorrow they must bear. It seems, since the war closed, as though God in His providence had blasted that part of the country. They have had droughts that blighted large portions of their land. They have had overflowings of the Mississippi that destroyed millions of acres of the best lands—plantations which were worth six years ago two or three hundred thousand dollars would not sell for $10,000. They have no capital and they have but very little of heart or of hope to build up their fortunes. They have been terribly punished for their folly, and it seems to me their trials are not yet ended.

Sir, this is a part of our country. That people inaugurated a wicked, cruel, and godless rebellion, and for a wicked purpose—the purpose being more wicked than the rebellion itself—and that was to perpetuate human slavery in this country. We have conquered that section of the country. They exhausted all they had in fighting the Government; they are ruined financially; but still they are a part of our household, a part of our common country; they are to be of us and with us. They are saying foolish things and doing unwise things. They are denouncing the Government and denouncing you and me and all of us. I expect them to denounce me as long as I live and when I am in my grave; but their censure and their denunciation should not influence me as a public man in my action. I know that we have conquered, that we are masters of the situation, and our policy now should be to conquer their prejudices, to build up that part of the country, to build up our whole country, and make it one in interest and affection; so that the time shall come, and come speedily—and I trust in God everything will be done to bring it about as soon as can be, and that God will bless the effort—when they with us will rejoice in our common prosperity and in the glory of the whole country, and forget the bitter prejudices of the great conflict through which we have passed.

Sir, I believe the policy advocated by the Senator from Vermont and by other Senators is an unwise one, and I predict that it will cost the business men of the country, of the East and of the West, more millions of dollars than this tax will put into the Treasury. It will involve them in the loss of their debts and the loss of millions of trade.

This selfish policy will come back to us and we shall have to pay for it all. It will bear with oppressive weight upon capital and upon planters, and more than all upon the poor freedmen, who have no capital to rely upon, and thousands of them will be thrown out of employment unless we do all we can to encourage and foster all the industries of that smitten section of the country. They will feel it and they will bear it. They will vote now for their rights. Everybody knows they will do that. I knew it, and said it, too, when we passed the reconstruction bills. I knew enough of human nature to know they would vote for their own rights. The black man who would not vote to reorganize those States on the basis laid down by Congress and secure his own personal and political rights and the rights of his children and of his race I will not say is only fit to be a slave—for I do not think God ever made a human being so degraded that he ought to be a slave—but I think he ought to have a guardian.

Of course the blacks will vote to reorganize

those States; they will vote patriotically, vote for liberty, vote for justice, for humanity, in spite of all the burdens we are putting upon them; but let me tell you that the time will soon come when they, with others, will oppose the policy of collecting a tax from cotton; and whoever shall come into this Chamber from that section of country, whether they be of one political organization or another, will stand here in solid phalanx against a tax on this article, and they will be joined by men of the East and of the West who do not believe in selecting out this particular agricultural product and putting burdens on it. I believe it to be unwise, and the present rate of taxation is oppressive and burdensome; and I feel it to be wrong to aid in any way in keeping it upon the statute-book.

If Senators believe that we ought to collect something from cotton, let us adopt the amendment proposed by the Senator from Indiana, [Mr. MORTON.] I should like to apply it to all the crop that is now in the hands of the producers. Those who sold earliest, although they paid the tax, are better off than those who sell now. Then let us reduce the tax to one cent. Let only one cent a pound be collected; and let us make the reduction now. One cent a pound is a large tax to put on the article of cotton. In 1864 it sold for $1 85 a pound. After that it went down and down, until now it has got to be only fifteen cents a pound. Middlings are now sold for sevenpence in Liverpool, and the best judges in England believe that it will go down to sixpence and that this price will discourage planting and the crop next year will be less than that of the present year. It may rise a little in price, but cotton will rule low for years to come. There cannot be any doubt about that. Now, we have a tax of two and a half cents a pound on an article that only brings fifteen cents a pound. Sir, it is utterly indefensible, and fair-minded and liberal men will so regard it. It is a burden intolerable to be borne. To take one bale of cotton out of every four bales produced is too great a portion not to be seen and felt, too.

I hope, sir, that whatever we may do we shall do it now, do it before we adjourn, do it before the holidays. Let us give to this blasted and stricken section of the country, ground to atoms in the war, blighted by drought, overflowed by the Mississippi, a little heart and hope by acting on this subject now, so as to give them an opportunity to enter upon their planting in January, preparing their fields for culture, and employing their labor. If we do it we may reasonably hope that they will make another struggle to improve their condition. They have made nothing out of the struggles they have made since the war. Those who held cotton at the end of the war made something; but the men who planted in 1865 made nothing; those who planted in 1866 made nothing, and those who planted in 1867 made less than nothing by millions of dollars. Then let us encourage them and help them to build up this interest again.

Sir, our people are a patriotic, liberty-loving, just people, who love the whole country, including the rebel States. Every man knows that this high tax is wrong. Suppose it was upon wool. We passed a tariff which we hoped would break the force of the reduction of wool and woolens; but wool and woolens have gone down in spite of it. The wool-growers are losing money, and the wool manufacturers are all losing money. I am for relieving them at the earliest moment. But, sir, they have made money; they are strong; these men of the South, land-owners and laborers, are weak; and it is our duty, as men who care for the country and the people of the whole country, and who embrace every section of the country in their affections, to help those who are down, whether they are black men or white men. I am always for the under dog in a fight.

Mr. HOWE. Mr. President, I think it would be a pity to have this question come to a vote before every Senator has had an opportunity to make up his mind fully upon it; and for fear that there are some Senators who have not had that time since that early day in our history when this debate commenced, I propose to continue it, not for the purpose of helping them in making up their minds, but simply to occupy the time while they are making up their minds. [Laughter.]

And yet, sir, I do not know that I should be emboldened to take any part in this debate but for the remarks which have been just submitted by the Senator from Massachusetts. I like the spirit of broad and generous humanity which characterized his remarks as well as any man can like anything; but after all it is true of his observations, as it was of the observations of Captain Bunsby, that the bearings of them lay in the practical application; and when you come to the practical application of some of the remarks submitted by my friend I am not so sure that there was quite that sum of humanity in them which upon the first glance they would seem to have. While he was, in utter forgetfulness and abnegation of the wrongs which have been piled upon the country during the last six or seven years by the owners of cotton, pleading their present poverty and wretchedness as a reason why the nation should now rush forward to their relief, and to their relief by a measure so potent as to remit a tax of two and a half cents a pound on cotton, while he was pleading their cause and in that spirit here, I did listen to him with a great deal of interest and with considerable sympathy; but when he wound up by telling us that after all we had got to pay this money, that it would come out of the East, it would come out of the North, it rather seemed to me as though he might have omitted the preface of that conclusion and have pleaded the other cause altogether.

Mr. President, if it be said that the fact that a man has raised a pound of cotton is a reason why he should pay two and a half cents into the Treasury of the United States, I dissent from it altogether. I do not believe that is a good reason for taxing men; and this tax never would have been imposed, one iota of it, upon a single pound of cotton with any idea that the producer of the cotton was to pay the tax. It was imposed with the understanding and with the belief that the consumer of the cotton would pay the tax; and now that is true of us. If it is true in one year, that may not be a reason for imposing it forever. But, sir, when the tax was imposed it was believed not only that it could be collected of the consumer for one year, but that it could be collected from him generally, and as a rule that the consumer would pay it. You know there must be exceptions. There is not a tax upon products in your whole internal revenue which you uniformly collect from the consumer. The tax that you lay upon the manufactures of cotton, the tax that you lay upon the manufactures of wooden-ware, the tax that you lay upon every single manufactured article, the tax that you lay upon whisky, you know you cannot uniformly collect from the consumer. Nay, sir, take the tax that you collect into the Treasury from licenses; you know you will sometimes demand licenses from men who cannot realize out of the business you license the amount they pay for the license over and above what the support of their family costs. How do you justify that tax? Why, you say, there is so great a probability that these taxed parties will be able to collect these sums from the community that they will be willing to pay those sums for the privilege of "trying it on." If it be true of the manufacturer of cotton, or the manufacturer of iron or of wood, that they can afford to pay the tax you levy upon them for the chance of collecting it back from the community, it is, I think I know, true also of the producer of cotton. It is an article of prime necessity as much as wheat is, and it is an article unlike wheat; it cannot be raised by everybody; it cannot be raised anywhere; the culture of it and the production of it is confined to a small section of our country and to a small number of people.

Mr. President, I am told that a traveler on the other side of the ocean may find at the watering places and at a variety of infirmaries there a great number of ex-monarchs who have been, in recent political convulsions, deposed, and are now seen wandering about there in a very hopeless and dilapidated condition. I have heard of a good many of them. I never have heard of one who seems to me to have fallen so far and to have fallen so low as this monarch that we were looking up to a few years ago under the title of king cotton. We all know that but a very few years ago we were taught to believe that cotton was not only an absolute sovereign here, but really the monarch of the world; that cotton could take upon itself the burdens of a great rebellion and its responsibilities also, and that it could command to its assistance not only the allegiance of our manufacturing friends in the North and in the East, but also the fleets of Great Britain, the armies of France, the resources of all continents, and the prayers almost of the world. What are we told of it now? Why, that it is so helpless that it really cannot stand alone; that if you put a burden of two and a half cents a pound upon it it is gone hopelessly and beyond reach. Sir, I never believed more than half that was told me of the august majesty of cotton, and I do not believe more than half that is told me to-day of its helplessness.

I said that cotton was an article of prime necessity. The world must have it and will have it. When the world can get it at ten cents a pound I do not think the world will hurry to buy any more; but when the world cannot get it short of eighty cents a pound you know the world will pay eighty cents a pound, and has paid it.

Mr. ANTHONY. Two dollars a pound.

Mr. HOWE. Two dollars a pound my friend says. It will pay what is necessary to produce it, what is necessary to get it, I mean; not what is necessary to enable the producer to raise it, but what is required to get it. And another thing is true, Mr. President, that the world of consumption has every year about so much money to pay for cotton, and will pay about that amount, no more nor less. When it can get five hundred million bales of cotton for that sum it will be glad to get five hundred million bales; if it cannot get but two hundred and fifty millions it will take two hundred and fifty millions. Ordinarily it disburses the money it has and gets as much cotton for it as it can, and the amount of cotton it gets for the money it has to spare will depend upon the amount which is produced and is in the market for sale.

When this tax was laid cotton bore a very high price. It is said now that it commands but a very low price. Why does it command a low price? I suppose the price of cotton this year, as the price of cotton in all years, is governed precisely by the law which governs the price of other commodities like unto it—the law of demand and supply; and it happens that a pound of cotton bears a lower price this year than it did two years ago, either because there is a great deal more cotton in the market this year than there was two years ago, or because the market is not able to take so much this year as two years ago, or from both these causes combined. If the latter cause be the one, if it be because the market is not able to buy the cotton already produced and waiting for a sale, then, sir, do you not see how much out of place all this talk is about the poverty of the South? They never use their cotton; they never consume their cotton. Europe and the Union consume their cotton. We have been their purchasers, and we are still their purchasers. It may be that you can establish the fact that we are too poor to buy their cotton, and, if so, we are in a bad way. I trust we are paying for what we do buy; but I think it very evident from what you may read and hear from the North and from the East that we are not so able to buy cotton as we have been in former years.

But after all, sir, nobody interferes on our

behalf. We have got to pay the taxes; we have got to discharge the interest on the public debt; we are obliged to maintain the Government; and if we do not pay this money on the shirts we wear we must pay it on the boots we wear, or on the whisky we drink, or on the goods we import. There is no remission for us. Poor as we are, we must find the money to carry on this Government and redeem its obligations.

Well, sir, suppose the other is the cause; suppose the real cause of the declining price in cotton is that there is too much, that they have produced an unusual quantity, more than the market in a normal state could take—is this a cause of complaint, that they have produced two bales of cotton where they only expected one? They have got just as much value, do you not see, and they have expended no more. The complaint really is that they have got more cotton than they bargained for. Then they are more able to pay taxes.

But that is not the ground urged really. The next trouble is, that the market on which they depend for the sale of this cotton is not able to take it. The trouble is, not that the South is poor, but that the North is poor. Now, I have simply to say, as one citizen of the North, that you cannot relieve us by taking off this tax from cotton and putting it on something else. Besides, it is true and ought to be borne in mind, as has been suggested by other Senators in the course of this debate, that so far as cotton is an article of export, so far as it contributes to the support of the Government, portions of our citizens are released from the payment of the tax, and it falls upon a community in whose welfare we are only interested as we are interested in the welfare of all the world.

Mr. President, I have no doubt there is a great deal of poverty in the neighborhoods from which cotton comes. I am afraid that is too true. I regret it. If I do not mistake myself I would do as much as any other man in a legitimate way to relieve it; but this tax is not to be collected from that poverty. The man who has a bale of cotton to sell, the man who has a thousand bales of cotton to sell, is not one of these distressed and utterly wretched individuals who are likely, in the language of the Senator from Massachusetts, to be clamoring here for relief from destitution and suffering before this Legislature adjourns. The man who has cotton to sell is a capitalist.

It may be that two and a half cents is a very large sum to take out of each pound of cotton. It is a large sum. A half cent, a mill, the smallest fraction of a mill, is too much to take out of a pound of cotton, if it must be paid by the man who produces the cotton; but if it must be paid by the men who consume the cotton, as I said before, we may as well pay it on that as on anything. I am very sorry that any consumer should have to pay a dime upon any article that he consumes. In point of fact, when you come down to consider the reason of the thing, you cannot conceive of a more nefarious—I use the word advisedly—of a more nefarious reason for imposing a tax upon a man than that he finds himself hungry and needs food for consumption, or finds himself cold and must have clothing to protect himself against the inclemency of the weather. And yet that is the reason which lies at the foundation of every one of your taxes on products.

Sir, the men from whom this tax will come in the first instance are not the wretched and the poor of those districts. It will come in the first instance from the capitalists of those districts, and it will come from them only as the equivalent for the requisition you put into their hands, as you put it into the hands of every other producer upon whom you levy any tax whatever, which authorizes them to charge it over to the cost of the article and to get it from the consumer, if they can; and they can get it just under the conditions that every other producer can get what he pays to the Government.

Of course, Mr. President, you can always make a special case against every tax laid on products. If you want to present a picture of poverty and of destitution—and with many that stands as the argument for remitting any tax—you can find that argument in every one of our communities. Yesterday morning a newspaper published in the great commercial metropolis of this country stated the fact that a woman took poison and administered it to four of her children with the deliberate purpose of putting an end to their lives—driven to it by destitution. That is but twelve hours' distance from the capital of the nation; that is in the great commercial metropolis of the country; and the case is not an isolated one. They tell you that in that single city fifty thousand people are out of employment. Here is occasion for relief; here is cause for sympathy; but who rushes forward to propose the remission of any taxes on that account? That is not the proper measure of relief; it is not the way to administer relief in such cases. Undoubtedly it is a great crime in somebody that any human being should be left so poor and so destitute as to be driven to suicide as a relief from poverty. If it is a crime anywhere in this country, where God has furnished the means for all to live, it is much more a crime in a city so rich as is the city of New York. But New York does not come to us and ask that her taxes shall be remitted because a woman unfortunately was driven to suicide by destitution.

I thought I foresaw in the beginning, Mr. President, that every one of the taxes which we lay on products would be subject to just these clamors from time to time. Whenever the trade, so to speak, in any particular product is active, the demand for it quick and eager and greedy, then the man who pays the tax does not care anything about it, because the community takes his produce eagerly off his hands and remunerates him for the tax and pays a large commission to him for paying it to the Government, and pays him enormous profits upon his goods. But when the trade in that article begins to be dull, when the demand for it grows less eager, then the price begins to come down; he finds it difficult to collect this money that he has advanced to the Government from the consumers; and by and by he finds it difficult to realize the first cost of the article itself; and by and by he is compelled to stop producing the article itself. What then? One of two things must follow: either the Finance Committee must stand upon the principle of collecting these taxes one year with another, whether the demand is brisk or otherwise, or they must stand upon the principle of guarantying, warranting the payer of the tax that he shall collect it from the consumer; and you must apply that not only to cotton, but to every other product upon which you impose a tax. I am not very particular which one of these principles is relied upon. I would be infinitely glad, sir, if the Committee on Finance would find some way of raising the revenue necessary to support the Government without imposing a dollar's tax upon any product; but until they do I cannot consent to remit the tax upon this article of cotton, either now or in February, until the Committee on Finance can persuade me that we who wear the cotton can better afford to pay the tax on something else than we can to pay it on that. That is an argument they have not yet attempted. It is an argument, I think, which whenever they attempt they will fail in, for I think I know myself that it does not make a particle of difference to me on which of the articles of clothing I wear I make my annual contribution to the wants of the Treasury.

Mr. MORRILL, of Maine. Mr. President, there have been so many reasons stated for the abolition of this tax that I find myself confused when I undertake, if I shall undertake, to adopt either of them as the basis of any judgment I might form upon what is proper to be done in this case. I am rather disposed to look at this case as a plea for cotton; and, representing a community that has much to do with its consumption, of course I should be inclined to favor such a plea; but it has been put upon grounds, by one or two gentlemen at least who have spoken upon the subject, which, it seems to me, call upon some of us to define, if we can, to some extent, the relations of this nation to cotton. Heretofore it has not been difficult to do so. We have been told many a time in the past that it was our master to some very great extent; that it entered so largely into the economies of life that we must not disregard it. In some sense, in a political way, I believe it was thought to have got the mastery of the nation, so that it was really entitled to be called king. When I listened to the conciliatory speech of the honorable Senator from Kentucky [Mr. DAVIS] yesterday I began to think that it was coming back to this Chamber with its manners of old, and that we should be obliged to consider it in that aspect; but from what has been said to-day by my friend from Massachusetts [Mr. WILSON] I am inclined to think on the whole that it is not belligerent.

Now, Mr. President, I believe I have heard but two ideas, if I may analyze the debate at all, which, to any considerable extent, have entered into the debate at large, and to which I purpose for a few moments, if the Senate will give me its indulgence, to advert. First, it is said that the cotton ought to be considered favorably on account of its national concern and the relation it has to the freedmen, and particularly to the local communities now in a state of desolation; and, in the second place, it ought to command our attention because the tax is an oppression and an injustice. These are, I believe, the two ideas upon which the plea in behalf of cotton is made.

Now, sir, what is the relation of cotton to this nation? Heretofore, as I have said, it has been that of a monopoly. It has monopolized the market at home and it has monopolized the cotton markets of the world. Is it so to-day? Clearly no. Is it to be so in the future? Clearly no. The monopoly is lost, lost forever. The great statesman of the South, great in the sense in which he controlled the mind of the South upon the great question which we have recently settled by armed rebellion, said that three incidents conspired to make cotton a monopoly and omnipotent in its sway; and those three incidents were climate, soil, and labor. The first two were never what he supposed. Neither climate nor soil contributed in a very large degree to make the monopoly. Egypt has a climate equally favorable for the production of cotton, and the finest quality of cotton; the Indies and China perhaps not quite so favorable, but still favorable to the production of the coarser quality. But the great condition on which the monopoly depended, undoubtedly, and on which it was sustained, was labor. That condition of labor has passed away and forever, and with it the monopoly on which it rested.

I might illustrate this in a thousand ways; but it is hardly necessary to do so. A mere statement of it, I think, will challenge assent. It may be illustrated by an anecdote (which I rarely tell in the Senate) of the two manufacturers of brooms side by side, one flourishing and the other declining. The one said, "How is it that you flourish, I decline; you increase, I diminish? I buy in the best markets of the world; still I do not flourish." "Well," said the other, "you buy and pay for your article; I steal mine." [Laughter.] Here we were enabled to command the markets of the world in cotton, and we made it a monopoly; and neither Egypt, with a favorable climate, nor the Indies, nor China, could compete with us. Why? They paid for their labor; we did not. The monopoly has gone, and gone forever. Let those sigh for it who will. My honorable friend from Kentucky [Mr. DAVIS] seemed to regret it. He seemed to think that it was the duty of the nation to foster cotton, to bring back the good old days when cotton was king, when it might enter here with royal speech and dictate the terms on which we should live. It is not worth while to discuss it, because it is all of the past, never to return. It went with the system. It was not possible for it to live a day

longer than the system lasted; and when that went down the monopoly went with it.

Sir, I stand here to say that I do not regret the end of that monopoly. I do not regret the overthrow of the circumstances on which the monopoly rested, and therefore I do not regret the overthrow of the monopoly itself. Sir, the overthrow of the monopoly will be beneficial in its results. It must be so; and let no American statesman hereafter feel that it is his duty to lighten the burdens of the tax so much as a mill with a view of fostering the cotton interest as a monopoly. I am not speaking now of the production of the article. That we must have; that we shall have in the ordinary course of events, and by laws which are ordinary and usual. I am speaking of it as a monopoly simply, and that, I rejoice, has passed away.

Then what about the supremacy of cotton on this continent? What about the duty of the Government to foster it, to give a bounty for it so that it may be produced for exportation? Have we a right to do that? Is it prudent to do that? Is it economical to do it? Is it just to all the other portions of the country to do it? I say no. I say it has a favorable climate; it has the advantage of a most extended sea-coast; it has rich soil favorable to its growth, and it must take its chances in this land of ours with the other products natural to this continent; and it is neither wise for the nation nor for the benefit of the locality that it should be fostered one inch beyond those interests which are common to the whole country. You have no right to foster it any more than you have to pay a bounty upon the corn and wheat of the grain-growing States. I say, therefore, that as a monopoly it does not challenge our attention or favor; nor as an article having a supremacy in our exportations should it challenge the fostering care of the Government.

Sir, I believe it will be a great day for the cotton-growing States when it comes to pass that the land-holders of those States shall come to the conclusion that it is impracticable any longer to maintain the monopoly in cotton, and even the supremacy of cotton in the exports of this country. Why? Then they will turn themselves to that diversity of product in which there is true prosperity. Then they will turn themselves to that diversity of labor, that division of lands into small farms to be cultivated on account of the owners, wherein there is prudence, wherein economy is practicable, and wherein there is thrift to the locality and thrift to the nation. Therefore I hail the day when the monopoly goes down, and even the supremacy of it.

Right here, Mr. President, my honorable friend from Kentucky will allow me to make an allusion to a remark of his the other day in which he undertook to charge upon the Union party or upon Congress, if I understood him, that through our policy we had imposed hardships upon the cotton interest and the interests of the southern community; that because of the exigencies of the war we had increased the tax beyond what otherwise it would have been, and in our policy of reconstruction we had made it impossible for these people to grow this article. The view I would take of that subject would be this: if at the close of the war this Government had felt that it had a right to inaugurate a policy which should be beneficent to the people of the cotton States, and had said to these overgrown land-holders, "All this land is to be cultivated now on account of the laborer until your States are reconstructed," you would not have had the cry coming up here from the freedmen that they were lacking bread. If the last two years of reconstruction had been two years of beneficent policy on the part of the American people, giving to every laborer in the South a piece of land to labor on, there would have been no cry for bread here now; my honorable friend from Massachusetts would not have felt called upon to read a letter from a land-holder—a gentleman styling himself "a planter" after the old style—in which he tells the American Congress that if we do not help him to grow cotton the freedmen will starve. Why? Because we have not given the freedmen what he was entitled to have, land to cultivate; and because this planting interest, this planting policy, this policy of excluding immigration from the southern States, this policy of monopolizing all the land and cultivating the land on account of capital, is of course hostile to the interests of the laboring man. I maintain, therefore, Mr. President, that we have no relation to cotton which we have not to the other interests of the country. So much for what has been said about our duty to foster it.

One single word touching the other idea, and then I shall have said all that I designed to say when I rose. This tax is said to be an injustice, and that injustice is founded upon the assumed fact that we invidiously discriminate against this interest; that this is a purely agricultural interest; and that in this respect the tax is peculiar; we lay a tax on this as we do not upon any other agricultural product. It is true undoubtedly that we do lay a certain tax on this article as we do not upon any other agricultural interest; but the answer to that is, that this article in its relations to the American people, and particularly in its relations to these States, is not circumstanced like any other agricultural interest whatever. I never did suppose it was sound either as a question of political economy or of finance that you could not tax an article of agriculture. I have never seen any author who laid it down as a fundamental principle of finance or political economy that an article of agriculture was not to be taxed.

Mr. SHERMAN. The principle is laid down that an agricultural article of food or clothing, that is, an article of subsistence, should not be taxed; but tobacco and many other agricultural productions are taxed or have been taxed.

Mr. MORRILL, of Maine. Exactly; but the argument here has been from the start, my honorable friend from Massachusetts has labored to-day to prove, that this tax was manifestly unjust, simply because you are laying a tax on an article of agriculture; and certainly the gentleman from Illinois, not now in his seat, [Mr. YATES,] iterated and reiterated that argument yesterday; and it was the burden of his argument that this tax was unjust because it was an article of agriculture.

Now, sir, as I have said, I have yet to learn that any article has a right to absolute exemption in our political economy or system of finance simply because it is an article of agriculture. The doctrine is, as I understand it, that it has not been found to be good political economy to tax an article of prime necessity to the people. That is the point. Now in what sense is cotton an article of necessity to the American people? Its general necessity I admit; but is it an article of necessity in the sense of bread and meat? Can anybody assert that? Does it come home to the fire and the hearth of the poor man like bread and meat—food? It is raiment, you say. There is no analogy whatever between the two things. What does cotton say when it comes here? "We want to furnish raiment for the American people?" No; it does not say that, because it is not indispensable in that particular. Does it say it wants to put food into the mouths of the poor? Not a bit of it. It says, "We want to cultivate an article for export." That is what it says, and that is what its advocates say here. I say in answer to that, first, it is necessary to tax all the industry of the people of this country everywhere that is not necessary to satisfy their hunger and clothe them so as to sustain the honor of this nation and sustain its credit; and you who represent that industry, and that industry exclusively, who have no better plea than that you want to accumulate and send abroad, must postpone your enterprise of exports until we are able to pay our debts without laying a heavy hand upon the necessities of life. That is the answer to that argument. It is not an agricultural article in strict analogy with the articles which we understand to be agricultural, and it does not begin to be an article of necessity in the sense in which food and raiment are; and that is the answer to that.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. MORRILL, of Maine. Yes, sir.

Mr. GRIMES. Would the production of wool, in the Senator's estimation, be an article of agricultural production if we exported one hundred million pounds of it per year more than was necessary for our domestic uses?

Mr. MORRILL, of Maine. I should say, to answer the Senator precisely, as it now occurs to me, that if the State of Iowa should go into the production of wool altogether and wholly, and for the purposes of export, then she could not claim to be exempted on that account from the burdens of the country.

Mr. GRIMES. That is simply begging the question. I ask if the nation as a nation, or if a cluster of States, shall furnish for exportation a large excess of wool over and above what is consumed in this country, will it in consequence of that exportation cease to be an agricultural product?

Mr. MORRILL, of Maine. I did not argue that cotton was subjected to the burdens of the nation simply because it was an export. I said it was an export chiefly, and, therefore, was not an article of necessity here, and not being an article of necessity was taxable on the principles of political economy; and I say that holds good in regard to every article produced by the people, whether it is wool or flax.

Mr. DAVIS. Will my honorable friend permit me to ask him a question?

Mr. MORRILL, of Maine. Certainly.

Mr. DAVIS. There is a great deal of wheat exported, but a great deal more that is consumed. Is that an article of necessity?

Mr. MORRILL, of Maine. If I have not answered that already I am very much afraid I could not do so; and so my honorable friend will pardon me for not repeating what I have already said. I undertook to make a distinction between cotton and bread, which by common experience and the common necessities of mankind is an article of prime necessity.

Mr. DAVIS. Is not clothing?

Mr. MORRILL, of Maine. I put that in, I believe, too.

Now, Mr. President, I submit that on neither of the grounds taken can cotton come here and put in a plea to be exempt from taxation. I am not going to advert to anything offensive; let the past be among the things of the past; but the burdens which have come upon this nation must be recognized; and let the interest that claims an exemption from the burdens of taxation that are laid upon the people, and which the people feel to-day more than they felt the severities of the war, saving only the blood, let the interest that comes now to plead an exemption from these burdens show that it stands in the relation of one of the necessities of the people, that you cannot tax it without taking the bread from the mouths of the hungry, and the raiment from the backs of the needy. That is the only plea that can be put in here or anywhere else for an exemption from taxation while the great national burdens are what they are now.

One other idea, sir, on this question of injustice. The honorable Senator from Illinois [Mr. YATES] dwelt at length on the question of injustice in the view I have already taken, but particularly that these people were poor; that they were desolated; that their country was unto them a desolation, and all that sort of thing. Of course that has no relation to a question of taxation. We are not to consider that. If these people were asking alms, if they were here now asking an appropriation for supplies as heretofore, then that argument would be very well. But this is a question whether we shall not only exempt from taxa-

tion their cotton to-day, but we are asked to settle a principle by which it shall be exempted in all time to come. That is the point. The honorable gentleman undertook to tell the Senate and the country that this interest was particularly oppressed at the present time. I deny it. If he would read the history of distress in the northern States, such as has been adverted to by the honorable Senator from Wisconsin, [Mr. HOWE,] he would find objects of distress enough close at home, if it were proper that the Committee on Finance, when considering questions of the national burdens, should take into consideration incidents of that sort.

The argument seems to go upon the assumption that the cotton interest is particularly depressed and needs relief, and that it is unjust if we do not relieve it. If it operated alone upon that interest I should say "Yes;" if that was the only interest of the country that was oppressed I should say the argument had force in it, and it ought to be let up; but I am not arguing now, and have not been from the beginning, about a temporary suspension of this tax; I am arguing against the idea that it is unjust to include cotton in our policy of taxation at all, either now or hereafter. That is the proposition I was discussing, and incidentally I was adverting to the argument of the Senator from Illinois, and I will continue that for one moment, and then I shall be done.

I deny that this tax on cotton is oppressive in the sense of interfering with the production of the staple or its price beyond what is true of almost every leading interest in the country. Take the condition of manufactures. How are they? Dull. Nobody is manufacturing, I believe, now anywhere to advantage. The manufacturing communities are inactive. As an industry, manufacturing is not thriving; it is exceedingly depressed. The manufactories are running on short time. A large portion of their employés are out of employment. The same may be said of other leading interests. Take the navigating interests of the North, the navigating interests anywhere. Why, sir, it may be said with almost literal truth that there is not this year a single keel being laid on the Atlantic coast from New York to the St. Croix. What has done that? Our war, our policy, or rather our necessity has done it; and to-day, under the operation of this policy of which the honorable Senator from Illinois seems to complain, the navigating interests of this country are becoming utterly extinct; the ship-yards of the North, of the East, and of the Atlantic coast everywhere are being annihilated. I ask the Senate to consider whether there has been an argument stated in regard to the oppressive bearing of this tax on the production of the article of cotton which may not with equal truth be said in regard to the great navigating and commercial interests of this country. I maintain that it is so.

Now, Mr. President, I am disposed to take this view of the subject: first, that the cotton of this country in its present relations to the country ought to bear its fair proportion of the burdens of the war; it ought to bear its fair proportion with the other great interests of the country in the discharge of our debt. But, sir, as the times are unfavorable to its production at present, as the producers of cotton have not yet had time to realize and have not yet had time to prepare for that change of affairs which is inevitable in the South, that division of labor and division of products which must come, I am disposed to vote with the Senator from Indiana, [Mr. MORTON,] in the first place, for the reduction of the tax to one cent a pound, if you please; and I am prepared to vote with my colleague, who made the suggestion, and I think the motion, to suspend the tax for one year; but I wish to do it with the understanding and with the distinct avowal that cotton is not to be stricken off from the list of taxable property in this country. Sir, we shall do them harm if we allow the idea to go from the Senate of the United States that this article in the future is to be exempt from taxation, for I am sure the people of this country, who have bled and sacrificed as the people of the free States have, will never agree that a great staple—a staple to which six or seven States are exclusively devoted—shall be exempted from the burdens which are common to the American people.

Mr. HENDERSON. Mr. President, looking at the legislation on this subject and the history of what we have already done, I find that under the internal revenue act of July 1, 1862, we imposed a tax of half a cent a pound on cotton. Under the act of March 7, 1864, we imposed a tax of two cents per pound. Cotton ranged at a price beyond a dollar a pound at the time we imposed that tax of two cents per pound—not one fiftieth part of the value of the article. Under the act of June 30, 1864, we imposed a tax again of two cents, retaining the tax of March 7, 1864. The act of July 18, 1866, imposed a tax of three cents per pound; and in 1867 we reduced that tax, after a debate in the Senate, to two and a half cents per pound. I do not remember the price of cotton in July, 1866; but it was not quite so high then as it was in 1864; and the tax was not then a very large proportion of the value of the article. Cotton was worth perhaps between twenty and thirty cents per pound when this tax of two and a half cents per pound was put upon it.

Now, cotton has declined, as the Senator from Ohio has shown us in a letter from Mississippi, to nine cents per pound in currency in the southern States.

Mr. SHERMAN. In the interior market.

Mr. HENDERSON. In the interior market. Of course, then, the planter has to pay the tax. At home, where the planter pays the tax, the article is worth from nine to ten cents per pound in currency, and he pays two and a half cents of that amount as a tax.

Mr. DOOLITTLE. One fourth of the entire value.

Mr. HENDERSON. Yes; he pays more than one fourth of the entire value; and when a proposition is made to repeal the tax we are answered, as we have always been answered on this subject, that cotton ought to bear a proportion of the burdens of taxation in the country. Sir, I do not believe that an article of this character can be taxed at all constitutionally. Gentlemen have differed from me in their views of the subject; and a tax, against my consent at all times, has been laid upon the article; and I now believe, as sincerely as I believe anything, that it has been bad policy from the beginning, and that the country has lost money by the imposition of this tax. It has not only lost money but it has lost materially in the change of public sentiment that might have been wrought in the southern States. That is my notion. As an economical question as well as a political question, it deserved our consideration immediately upon the close of the war.

Now, Mr. President, the fact cannot be ignored by any Senator here that we do not tax any other agricultural product, and there is not a Senator in the hearing of my voice to-day who will propose to levy a tax upon an agricultural production in its raw state except cotton. Is there one? Will you do it upon wheat? Will you do it upon oats? Will you place it upon rye? Will you place it upon wool, if you please, although that is not an agricultural production, and a tax might with much more justice, in all probability, be imposed? Do you dare propose it?

Mr. DIXON. There is a tax on tobacco.

Mr. HENDERSON. No, sir; you cannot lay it on tobacco in the leaf. You may lay it on the manufactured article; but I apprehend no Senator will propose to tax any agricultural production. The Senator from Maine [Mr. FESSENDEN] has asked why can you not impose a tax upon an agricultural production as well as upon anything else? Well, sir, the policy of all nations has been to refuse to tax agricultural products. I might refer to the opinions of writers on this subject. I did at one time refer to them extensively, and I shall not trouble the Senate with many quotations now. I will refer to what Mr. McCulloch, in his notes to the work of Adam Smith, says in regard to this point. In speaking of taxes on agriculture he says:

"By preventing the cultivator from reaping the entire advantage of superior skill and increased exertion they discourage his efforts and contribute to render him indolent and indifferent."

Dr. Paley, in his work on Moral and Political Philosophy, says:

"Tithes"—

Even when but a tenth of the agricultural productions; we here take one fourth instead of a tenth—

"Tithes are a tax not only upon industry but upon that industry which feeds mankind; upon that species of exertion which it is the aim of all wise laws to cherish and promote."

Adam Smith in his work says:

"Taxes upon the produce of a land are in reality taxes upon the rent."

Again he says:

"The tithe and every other land tax of this kind under the appearance of perfect equality, are very unequal taxes; a certain portion of the produce being in different situations equivalent to a very different portion of the rent." * * * *

"The tithe, as it is frequently a very unequal tax upon the rent, so it is always a great discouragement both to the improvements of the landlord and to the cultivation of the farmer. The one cannot venture to make the most important, which are generally the most expensive improvements, nor the other to raise the most valuable, which are generally, too, the most expensive crops."

Mr. President, I undertake to say—and no Senator can point to anything to the contrary—that it is the policy of all civilized nations to exempt the produce of the soil from taxation. But the Senator from Connecticut [Mr. FERRY] yesterday afternoon used language of this character in rather a complaining mood of the action of the Finance Committee:

"What have your Committee on Finance done? Instead of having a well-considered revenue system applicable to all the sections and all the great interests of the country, distributing equally the burdens and distributing equally relief alike, they come here with a single measure unconnected with anything else and ask us to take that by itself and leave all other interests to the uncertainties of the future."

Again he says:

"Sir, it is right that this measure should be postponed. It is right that the Senate, intended by the Constitution to be the conservative force in the Government, should resist this temporary flurry which is now sweeping over the land—I care not how created or how fomented—but should resist it; and calmly, deliberately examining this great subject of internal taxation in all its bearings, give to us a system which, in the language of the Senator from Illinois, will be just to all of us alike."

I should like to call the attention of the Senator from Connecticut to one fact. I refer him to the act of 1866 and to all prior acts on this subject of taxing cotton. On page 104 of the session acts of 1865–66 he will see the language under which this tax is levied. It imposes a tax of three cents per pound on raw cotton, provides how the weight of such cotton shall be ascertained, and then proceeds:

"And no drawback shall in any case be allowed on raw or unmanufactured cotton of any tax paid thereon when exported in the raw or unmanufactured condition."

Now, if he will turn to the sixth section of that act he will see a provision of this sort:

"That upon articles manufactured exclusively from cotton, when exported, there shall be allowed as a drawback an amount equal to the internal tax which shall have been assessed and paid upon such articles in their finished condition, and in addition thereto a drawback or allowance of as many cents per pound upon the pound of cotton cloth, yarn, thread, or knit fabrics, manufactured exclusively from cotton and exported, as shall have been assessed and paid in the form of an internal tax upon the raw cotton entering into the manufacture of said cloth or other article, the amount of such allowance or drawback to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury; and so much of section one hundred and seventy-one of the act of June 30, 1864, 'To provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' as now provides for a drawback on manufactured cotton is hereby repealed."

The argument of those honorable gentlemen who insist upon retaining this tax is that cotton, the production of the United States, can bear the tax in the markets of the world, that

we can levy what in reality is indirectly an export tax, and yet our cotton can compete successfully with cotton grown elsewhere in the markets of the world. Is that true, Mr. President? Prior to the war we supplied Great Britain with eighty-five per cent.—I believe it was somewhere in the neighborhood of eighty-five to ninety per cent.—of all the cotton manufactured there. How much now do we furnish her? We furnish, I believe, about forty per cent. of the amount. Cotton has been grown somewhere. I sympathize with those gentlemen who say that cotton is no longer king. I knew it was not king before. I have felt confident of it from the beginning, and I am satisfied now that if we wish to make anything out of it in this country, if we wish to revive the industry of the South at all, we had better relieve the South entirely of this tax and look somewhere else to supply the deficit that will be created.

Our New England friends certainly do not believe, and never did believe, that manufactured cottons here could compete in the markets of the world with cottons manufactured abroad. I do not say our New England friends, but wherever the article is manufactured, because it is manufactured everywhere, I believe. It is manufactured in my State. But does a cotton manufacturer believe in his heart that this article can compete, in its raw condition, in the markets of the world? If so, why the necessity of giving this drawback of three cents per pound upon the manufactured article? I call the attention of the Senator from Connecticut to the fact that when his constituents, or my constituents, if you please, manufacture this article and desire to export it from this country, they not only get a drawback of the tax which they pay as manufacturers, but they get a drawback of the tax paid by the planter in the South of three cents per pound. Why not give that up? If our raw article can compete in the markets of Europe with the raw article from other portions of the world why is it that the manufactured article cannot compete? Is there any reason, is there any sense in the proposition? Not a particle; and that has been the case from the beginning. There has been no act of Congress passed imposing a tax upon cotton that did not provide that the precise amount of the tax should be paid back to the manufacturer when he exported the manufactured article. Therefore it is a clear proposition, in my mind, that no such thing is at least believed by the manufacturer of the article.

The Senator from Connecticut says there is a terrible flurry about this matter and a great deal of feeling, and he wants to know why it is gotten up. Somebody has intimated that we wish to repeal this tax in order to make ourselves popular with the people of the South. It is not so with me. I have always opposed every cotton tax that you have levied. I do not desire to ingratiate myself, or the Republican party, or any other party, with the voters of the South; very far from it. I have thought that this tax was unjust, and not only unjust but unconstitutional, from its inception. Therefore I stand perfectly correct upon the record, I apprehend; and neither the Senator from Connecticut nor anybody else can charge that the "flurry" is gotten up for the purpose of ingratiating ourselves with the people of the South. I hope not. I apprehend that no Senator has any idea of that sort. But I wish to be perfectly candid with the Senator, and I wish him to understand one, perhaps, of the reasons that may prompt a western man to favor the repeal of this cotton tax. We are an agricultural people in my State. We formerly furnished to the South bacon, pork, flour, tobacco, whisky, mules, and articles that were produced in my State. Now, if I can, I want to induce the people of the South to continue the growth of cotton. I think it is the most profitable crop that they can grow. They can make their labor more profitable in the growth of cotton than in corn or wheat. Why? Because the soil and climate are better adapted to the growth of that article, and it is beneficial to the entire country that the people of the South, having those advantages, should add that much to the aggregate wealth of the country.

Senators say that people are starving to death in New York. Well, I suppose they have starved to death every year since our Government was organized somewhere or other. I do not know but that there is a great deal of suffering. If so, the Senator from Massachusetts has not found it out, for he says they are richer now in the North than they ever were, that they have grown exceedingly rich in the last seven years. Whether it is so or not it is for him and gentlemen who reside there to say. But I apprehend there is suffering or that there will be suffering unless we can resuscitate the producing and especially the agricultural interests of the country at large. The people of the South can grow cotton to great advantage, and as they grow it to advantage to themselves they grow it to the general advantage of the country and the especial advantage of the people of the West. Being a Representative of a western State, I have always desired to see this agricultural interest fostered. Am I to blame? The Senator from Connecticut will not vote with me to-day to repeal the sixth section of the act which I have read, to take the drawback from the manufacturer who exports the manufactured article. If the cotton tax is not repealed I shall move to strike out that section when we come to consider the general revenue law, and I ask the Senator now if he will be found by my side to strike it off?

Mr. FERRY. I cannot answer the question so far as regards this particular drawback. I will say to the Senator that, as a general principle, I am opposed to all drawbacks, and under that general principle my inclination would be to vote with him on that subject.

Mr. HENDERSON. I am glad to hear the Senator say so, and I would like to see other Senators so vote, because it is unjust, and no man can vindicate himself before intelligent people upon any such proposition. I resisted it when it was put there, but I insisted on the other hand that no tax should be imposed upon the article. I knew perfectly well that cotton could not stand any such tax as this.

Mr. MORRILL, of Vermont. Will the Senator from Missouri allow me to ask him if we do not allow tobacco to go abroad free from any internal tax? Do we not allow whisky to go abroad without paying any tax? Do we not allow petroleum to go in the same way? I ask him if it is not the universal rule, where we can export anything, to allow it to go entirely free from any tax?

Mr. HENDERSON. The Senator certainly does not understand me. There is no tax upon corn. His question would have some force in it if we first levied a tax of twenty-five cents on a bushel of corn, or ten cents, if you please—one fourth of its value, it selling at about forty cents now in the West—and then, after it was manufactured into whisky, refused to give any drawback to the farmer who raised the corn, and gave it to the manufacturer of the whisky on the exportation of the article. The Senator understands me. He is too shrewd, and he understands the interest of the people of his own State, and he understands this question of revenue too well, to propound any such inquiry to me expecting that I did not understand it, or that he did not understand it, or that any Senator did not understand it. My objection is that the tax is levied upon the raw cotton, and the man who exports it in the raw state cannot get the drawback. That is what I complain of; and I say the effect of that is that, at least indirectly, this tax is in open conflict with the Constitution of the United States, which says that no export tax shall be levied. When his constituents or mine, if you please, take the article of raw cotton and manufacture it into cotton cloth, they not only get a drawback equal to the amount of tax which is imposed upon the manufactured article, but they get three cents a pound in addition, which was paid by the planter on the raw cotton. The Senator understands me. That shows clearly that any gentleman representing a manufacturing district who voted for that proposition never did think that cotton could stand the tax, or why the necessity of the provision?

Mr. FESSENDEN. Will the Senator allow me to give my explanation of it?

Mr. HENDERSON. Certainly.

Mr. FESSENDEN. The explanation is very simple. While foreign nations cannot compete with us in the raising of cotton they have, or at least England particularly has, a very great advantage in relation to the manufactured article, because there labor is cheaper, and perhaps from other reasons. They can manufacture cotton goods very much cheaper than we can; and yet we think it is for the advantage of the country in every point of view that we should, to the extent that we can produce more than we want to use in our own country, be able to compete with them in foreign markets. The design of that provision, therefore, was to give our people an advantage in relation to the manufactured article if exported for sale to foreign markets. It was designed for that purpose, and had no reference whatever to the question whether cotton could bear a tax. It was believed that it was for the interest of commerce and for the interest of manufactures in this country to export the manufactured article largely, and to give drawbacks for the reason I have stated.

Mr. HENDERSON. I recollect that the Senator so explained it before; but I suppose that other Senators as well as myself will have a difficulty in appreciating the force of the argument. I cannot for my life see it. If the American planter can bear this tax and pay it here, and it is no burden on him, I cannot for my life see why it should be any burden upon the manufacturer who sends the manufactured article abroad.

Mr. FESSENDEN. The Senator will observe that we do not relieve the manufacturer of the tax so far as his sales in this country are concerned; on them he pays the tax.

Mr. HENDERSON. But he gets a drawback.

Mr. FESSENDEN. He gets no drawback on what he sells in this country.

Mr. HENDERSON. He gets a drawback on the manufactured cotton——

Mr. FESSENDEN. Not unless it is exported.

Mr. HENDERSON. Of course not.

Mr. FESSENDEN. I say, therefore, on the great mass of the manufactured article the manufacturer stands precisely as the grower does; there is no distinction; but for the benefit of trade and commerce, and to give our people something like an equal chance in foreign markets, the drawback is allowed. It goes on an entirely different principle, and one which was satisfactory to Congress at the time, and has no relation whatever to the question whether the raw article can or cannot bear the tax.

Mr. HENDERSON. I know it was satisfactory to the majority of Congress, but it was not satisfactory to the people who have to pay the tax, and the Senator from Massachusetts, [Mr. WILSON,] who has been in the South a good deal and understands the tone and temper of the people there, loyal and disloyal, white and black, old and young, seems to understand perfectly that there is nobody down South in favor of the cotton tax. If you were to levy a tax on wheat in my State I apprehend you would not find anybody there in favor of it. If you were to levy a tax on rye in Wisconsin I apprehend you would not find anybody there in favor of it. So it is in the South; everybody is opposed to the cotton tax.

I have said thus much upon the policy of this tax, and now I desire to say a few words in reference to its constitutionality. The provision of the Constitution in relation to taxation is that—

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States."

The only trouble is on the question what is a "tax?" We all know what a "duty" is; we know what an "impost" is, and we know what an "excise" is. Was the word "tax" as used there employed in its general or its limited sense? Did it have a specific meaning of its own, or did the word "taxes" include "duties, imposts, and excises?" That is the only difficulty we have in construing this clause of the Constitution. I believe that the Senator from Massachusetts [Mr. SUMNER] generally uses Webster's dictionary, and I shall refer to that authority. In a speech which I delivered some time ago I took up all the writers on the subject of taxation, and I shall not weary the Senate by referring to them again; but I will turn to Webster's dictionary for a definition for the words used in the Constitution. I believe that, in a small compass, that work gives a truthful definition of these terms according to the law writers of England.

Webster says that "duty" is—

"A tax, toll, impost, or customs; excise."

That is, in its general sense; but further:

"Any sum of money required by Government to be paid on the importation, exportation, or consumption of goods. An impost on land or other real estate and on the stock of farmers is not called a duty, but a direct tax."

Now, let us turn to the word "excise:"

"An inland duty or impost laid on articles produced and consumed in a country, and also on licenses to deal in certain commodities. Formerly in England the excise embraced certain imported articles, as wine, &c.; but these are now transferred to the customs. Many articles are excised at the manufactory, as rye at the distillery, printed silk and linen at the printer's."

Blackstone says that it is a tax purely upon manufactures, and I believe that no law writer otherwise defines it. I now turn to the word "tax." Webster says:

"Tax is a term of general import, including almost every species of imposition on persons or property for supplying the public treasury, as tolls, tribute, subsidy, excise, imposts, or customs; but more generally *tax* is limited to the sum laid upon polls, land, houses, horses, cattle, products, and occupations."

These are the definitions given; and now, referring again to the words of the Constitution, we find that our power is "to levy taxes, duties, imposts, and excises." Some Senators ask the question—the Senator from Maine has asked it—why can we not tax an agricultural production; is there any reason against it? I will call the Senator's attention to the fact that after this general power is given there is a declaration to this effect: "but all duties, imposts, and excises shall be uniform throughout the United States." Mark you, the language of the Constitution is such that the word "taxes," used in the preceding part of the same clause, is here dropped. Congress has power to levy "taxes, duties, imposts, and excises;" "but all duties, imposts, and excises shall be uniform throughout the United States." Now let me put a question to the Senator from Maine. The stamp tax properly speaking is a duty; an excise is a tax of so much taken out of the pound or value of a manufacture; an impost is a tax paid on importation. The word "taxes" being left out of the clause which declares that duties, imposts, and excises shall be uniform throughout the United States, does it follow that taxes are not to be uniform? If the Senator's view be correct, that the word "taxes" is here used in its broadest sense, in an unlimited sense, in a general sense, and not as meaning simply specific taxes or direct taxes, you will see that the limitation does not amount to anything at all. Did the Convention that framed the Constitution intend to say that when you tax manufactures you must tax them in all the States uniformly, but that when you tax an article of agriculture you may tax it three times as much in one State as in another? Is that the meaning of the Constitution?

I remember that a year or two ago, in order to evade, as I thought, a difficulty of this character, there was a provision in one of the internal revenue laws saying that wherever the word tax was used in the law it should mean duty, and wherever the word duty was used it should mean tax. I supposed it was absolutely essential in order to avoid the difficulty found in the Constitution to use that language in the law; but there was a difference undoubtedly in the mind of those who framed the Constitution; because if there was not, if the word "taxes" was used in its broad sense, there was no necessity and no propriety in using also the words "imposts, duties, and excises." If the word "taxes" was sufficient and included "imposts, duties, and excises," why were the other words used at all? If "taxes" was enough, why not stop here? If the word "taxes" was used in its broadest sense, why not stop there; why add the other words? If, however, it was used in its limited sense, what does it mean? I have already read the provision that "all duties, imposts, and excises shall be uniform throughout the United States." And then there is another provision of the Constitution to be borne in mind:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers."

And there is a further provision that—

"No capitation or other direct tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken."

What does the word "tax" there mean? As I have said before, it is not included in "excises," it is not included in "imposts," it is not included in "duties"—it does not mean either of these, or else surely the wise men who made the Constitution would have stopped with the use of the word "taxes" and said nothing more.

At the time the Constitution was framed my understanding is that the South gave to the North, in a sort of compromise in framing that instrument, the right to regulate commerce with foreign nations. They supposed that the concession of that power to the General Government was a great boon to the North; and the other provisions of the Constitution were made expressly to secure the agricultural interests of the South, as the proceedings of the Convention will show. Now, sir, what are those other provisions? I call the attention of Senators to the language—

"No tax or duty shall be laid on articles exported from any State."

It is not that "no export tax shall be levied," in the language of the English law, but that—

"No tax or duty shall be laid on articles exported from any State."

What is the meaning of that? When they come to put the prohibition upon the States they employ altogether different language:

"No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports."

This was one of the guarantees that the southern members supposed they had against the power to regulate commerce, and for their own protection, and you see how different the language is:

"No State shall, without the consent of the Congress, lay any imports or duties on imposts or exports."

Why? Because otherwise the other provisions of the Constitution would be entirely destroyed, which they imagined they had secured for the protection of their own industry at the South. It would not have done to use the same language in regard to the States that was used in regard to the legislation of Congress; and why? Because an article might be taxed under State law that is afterward exported; and if you make the State pay back to the exporter the tax that has been levied how will the State maintain its State government if it grows an article that is exclusively exported? It cannot do so. It is declared simply that the States shall not lay any duty on exports, while in regard to Congress the provision is that no tax or duty shall be laid on articles exported; and if a tax is laid on an article and it is afterward exported, a drawback ought to be paid; and that applies, in a fair construction of the Constitution, just as well to a manufactured article as it does to an agricultural article. If an internal duty is put upon any article produced in this country, the framers of the Constitution intended that on its exportation a drawback should be allowed of every dollar that had been paid by way of duty. Otherwise, there is no interest, agricultural, mechanical, manufacturing, or otherwise, that cannot be destroyed by the legislation of Congress. Have you not destroyed the cotton interest already? If you have not, suppose you put the tax at ten cents a pound, would any man then grow cotton in this country? Was it the intention of the framers of the Constitution thus to put into the hands of Congress the power to destroy the industry of the country? I deny it. It never was so intended. But however lightly the honorable Senator from Maine [Mr. FESSENDEN] may have received any argument or intimation of the unconstitutionality of this tax, I say that if his construction of the Constitution be correct any interest may be destroyed. Surely, that was not the intention. It was supposed by the framers of the Constitution that they had guarded against such a contingency in every way possible. They prevented the States from laying any duty on tonnage, so that under no pretense should commerce with foreign nations be interfered with either by the taxing laws of the General Government or by the taxing laws of the respective States. Another provision was that—

"No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

But I need not enlarge on this point.

If any tax whatever can be levied upon agricultural productions it must be levied under the apportionment clause, because it is a direct tax and not an excise duty. In the original opinion of the Supreme Court of the United States in the Hilton case that came up from Virginia, I suppose has been found the foundation for this mode of taxation. That was the case of the tax on carriages levied in 1794. The decision in that case could never have procured the sanction of a majority of the court without the voice of Mr. Justice Patterson, and in his opinion he says:

"It is not necessary to determine whether a tax on the product of land be a direct or an indirect tax. Perhaps the immediate product of land in its original and crude state is to be considered as the land itself; it makes part of it; or else the provision made against taxing exports would be easily eluded. Land, independently of its produce, is of no value. When the produce is converted into a manufacture, it assumes a new shape; its nature is altered; its original state is changed; it becomes quite another subject, and will be differently considered."

The opinion of the Supreme Court in the Hilton case instead of strengthening the view entertained by gentlemen is really a decision against the position assumed. All the judges in that case delivered separate opinions, and each one in his opinion enunciates views and doctrines which forbid a tax upon agricultural products. If it can be levied at all I say it is a direct tax, according to the definitions of Webster, coinciding with the definitions as you find them in the law books of the common law and the statutes of England at the time our Constitution was framed; and hence it must be levied under the apportionment rule. As representation is apportioned to the State so must this tax be levied. Therefore in its present form the tax is unconstitutional, and can only be levied by apportionment among the several States. If it is to be imposed in that way I will hear the argument in favor of it at the time it is presented.

Mr. President, this is now a tax of twenty-five per cent. on the value of the article. The South is impoverished. If it is supposed that I am actuated by any sympathy with the people of the South or with the rebellion by which they have imposed so great a debt upon us, Senators are very much mistaken. I have no sympathy with the rebellion; but my plan would have been when the rebellion closed to take all such shackles off agriculture. The South is peculiarly an agricultural country. They can grow an article there that is of immense value to the world, and if we encourage that industry it does not inure to the benefit of

the rebels any more than it does to the constituents of every Senator now before me. If there is great wealth there—if there is a mine of wealth—why not let our citizens go and develop that mine? There is a mine of wealth there. There are, at the present price of cotton, five hundred millions annually to be obtained in a few States by proper agricultural care, by proper industry, and by developing properly what we have. Then, if we can make this amount of labor in the southern States pay more money than we can at any other business, does not the drooping condition of our finances require that we shall so do? I should think so.

The honorable Senator from Nevada [Mr. STEWART] said yesterday that when this subject came up he wanted an opportunity of declaring that the half per cent. tax now imposed should be taken off mining operations in Nevada and the western Territories. I do not object to that. That is a tax of one half of one per cent.; in this case the tax is twenty-five per cent.; and yet the Senator from Nevada says he must have that half per cent. tax off. His appeal ought to be heard by the Senate, but he should remember—and I do not mean to speak disrespectfully of his constituents, or of the constituents of any other gentleman—that every miner out there is upon the public domain—land that belongs as much to our eastern friends as to our western friends—and nine tenths of his constituents are trespassers upon the public lands. I do not wish to be understood as speaking of them harshly, but they are working on land that belongs to the Government. We allow them to take the land and impose a tax of only one half of one per cent. of what they realize; and yet the Senator says that a great agricultural interest which has been broken down by our taxation, and which must cease to exist next year unless we do something to relieve it, must not be relieved until this half per cent. is taken off his trespassers. That is the whole of his argument. I do not know whether I shall vote with him on that question; I am not prepared to say that I shall not; but is there any such urgency in that case as there is in this?

If we are going to do anything we had better do it now. This is no flurry, I can assure the Senator from Connecticut. The people of the West, at least that portion of them living upon the Mississippi river, are determined, if they can, to repeal this cotton tax. If you defeat us, be it so; we shall submit till we are able to vote it off; but we are determined to vote it off if we can. Why? Because I assure the Senator that we have ceased to sell to these people corn, we have ceased to sell to them wheat, we have ceased to sell to them pork, we have ceased to sell to them the agricultural productions of our section of the country, and we can surely sell to them cheaper than any other people on earth. We would rather that they should grow cotton and take our agricultural products. We cannot send those productions to his section and compete with the farmers there, because we cannot afford to pay railroad freights across the continent to the Atlantic seaboard. Our only way is to carry our products upon the great bosom of the Mississippi and its tributaries. There we can carry them cheaply. We want this tax taken off, and we want his constituents and the constituents of the Senator from Maine and of the Senator from New Jersey and of the Senator from Massachusetts to go South and produce cotton. We want to make it a profitable production in order that we can supply the South with those articles that they must necessarily have.

If you do not take the tax off what will be the result? You cripple the great West, and you force the people of the South to grow corn and pork and wheat and those articles which they cannot profitably produce; they can barely produce of them enough to live upon; and thereby you cripple all interests; you cripple the southern people and you cripple the western people. Now, I notice that my friend does not say that he will vote to take off the drawback. The cotton tax does not hurt his constituents. It hurts my constituents, and it hurts the southern people; and it does not do him a vast deal of good if the argument of my friend from Maine be correct. My theory is that it does not injure the manufacturers, because when they come in competition abroad they get the drawback again in their pockets.

You may say I am selfish about this; I am representing Missouri. I am of course a Senator of the United States, and I would not be harsh to any interest, no matter where it is. I think that I am not selfish, and I have never been selfish in my course in the Senate.

Mr. President, this tax ought to be repealed. Even if my position as to its unconstitutionality is incorrect, it is surely an unjust tax as it now stands. Who ever heard of a nation of civilized people taxing an agricultural product twenty-five per cent. of its value? Tithes broke up churches and tore down thrones, and the whole thing had to be abandoned, but here, instead of one tithe, you have two and a half upon an agricultural product.

Is that to be continued? Will a wise people continue it? By no means; and all this prejudice aroused against rebels does not amount to anything. As the Senator from Massachusetts says, they are with us again. Why did the western States lying on the Mississippi river carry the banner of the country to the Gulf of Mexico? Why is it that my constituents and the constituents of the Senator from Illinois and the constituents of the Senator from Indiana and the constituents of the Senator from Ohio took the banners of the country and carried them in triumph to the Gulf of Mexico? It is a simple proposition. Of course they were patriotic and desired to preserve the country; but in the beginning of this war they determined that the southern States should never be under a foreign flag, that commerce should go unvexed to the ocean. They determined in the beginning that we would never surrender the right we had to carry the agricultural products of the West and to sell them to the people of the South.

No doubt interest operates on us all to some extent, and not unjustly. It is right that my friends around me should represent peculiarly their own constituents. They are sent here by their States for the purpose, not to do an act of injustice to another State or another people, but to do right by all, and especially to look to the interests of their own constituents. In the general clash of opinion and of interest truth is evolved, just as by the friction of the steel with the flint you get the fire. So, Mr. President, we arrive at truth by having conflicting opinions brought together upon the floor. I think the truth of this matter is in a repeal of the tax. I believe that it will add much to the general prosperity; it will put balances abroad; it will open up a channel in which we can make the industry of the South most profitable to the country. We do not want them to fritter away their time in attempting to grow corn or wheat and have the bugs eat it up after it has been grown. We do not wish them to fritter away their time in growing pork. We desire to do it in the West, and let them cultivate an article which is most profitable to them, and which, when sent abroad, will create those balances that are now so necessary to build up the finances of the country. Let them open manufactories there; let them commence manufacturing cotton; and let those manufactured articles be exported abroad also; and let our friends in the East manufacture more fully and more largely of cotton than they have done, and let those articles be sent abroad. We do not object to that.

But, Mr. President, it is said that if you take this tax off you cannot get the money from any other source. I think last year we took off $65,000,000 from the internal taxes; at least that was our intention. I remember that we took off the tax upon the transportation of freights on the great railroad lines of the country.

Mr. FESSENDEN. The particular desire of the West was to reduce transportation.

Mr. HENDERSON. I know it was the particular desire of the West; and the West desires a great many things. The West is not requiring anything wrong in the repeal of this cotton tax, in my judgment. I think that is a fair proposition.

Mr. FESSENDEN. I did not say the other was wrong.

Mr. HENDERSON. I think it was. It is a great deal better to-day that we put back that tax upon the transportation of merchandise on the great railroad lines of this country and take it off an agricultural interest of this character. We relieved a great many interests last year. I remember well that we relieved everything that went into ship-building. Why? To revive a drooping interest in Maine. It was said that the State was dying, ruined, prostrated, just as bad as the South is to-day.

Mr. FESSENDEN. The Senator will recollect that the provision to which he alludes was on the tariff bill, and that bill did not become a law.

Mr. HENDERSON. But we took off the internal duty.

Mr. FESSENDEN. How much?

Mr. HENDERSON. We took it off a great many articles, and I think off all that entered into ship-building. I do not complain of that. If I were a constituent of the Senator's in Maine I should go for reëlecting him forever and ever; he would never go out of the Senate with my consent, because he always attends to the interests of his constituents; and I do not pretend to say that in attending to the interests of his constituents he ignores the great interests of the country, because we all know that he does not. No one has a higher regard for his intelligence, his integrity, his capacity as a representative, than I have.

But, sir, if this tax be taken off, the result will in a great many ways be of sufficient general interest to the country to supply whatever we lose by it. If it becomes necessary to replace the amount by something else, if we cannot curtail our expenses to a sufficient extent to dispense with the amount entirely, let us put taxes that will raise the same sum upon some other interest, or else tax lightly all agricultural interests. That I do not presume the Senate would undertake to do; I have no idea they would, but it would be a great deal better.

Mr. President, I have said that speedy action is important. Whatever we are going to do we should do now. If this tax is to remain for another year let the people of the South understand it. If we take it off now of course about the 1st of February they will commence operations for the next cotton crop. If we take it off now they will understand that next year it is not to be imposed upon them. The Senator from New York says suspend it for a year and leave it on the statute-book to be again imposed. I can say to the Senator that suspension will be the same as repeal. If it is once suspended for a year it will never again be imposed. That is my impression, and therefore I care but little whether you suspend or repeal it; but I think we might as well, under all the circumstances, repeal it at once; let the country understand that it is to terminated forever, and let us encourage the production of this article to the very last extent we possibly can.

Mr. President, by our legislation we have made free the negroes of the South. That is right; it is in accordance with my views. There are some four or five million of them. They are very poor, and they have to rely upon this interest for support. I have been called upon again and again, as other Senators have been, to vote for appropriations to take care, not only of the negroes but of the whites of the southern States. The Senator from Massachusetts says they are in degradation, misery, and poverty; they have lost every-

thing, and there will be much suffering among them. If that is the case—and I have no doubt it is—why tax to death, by the imposition of twenty-five per cent., an agricultural interest upon which they must rely.

Sir, do not let us suffer our feelings and our prejudices against the rebels of the South interfere with the general interests of the country and cause us to do a great and material wrong. If they should again rebel hereafter I suppose the country will whip them again; for it ought to be done, and it will be done. I apprehend that the people of the West will force their way to the Gulf, and the people of the East will force their way to Richmond. Whenever the South shall seek to inaugurate a rebellion again that rebellion will be suppressed. But let us not injure ourselves in any vain idea that we are punishing the rebels additionally. Not by any means; we are injuring ourselves; we are injuring the general material interests of the country; we are doing nobody any good. By keeping the tax on we are violating the received notions of all civilized nations, all of which refuse to tax agricultural products; we are, in my judgment, violating the very first principles of the Constitution imposing an export tax; and in the next place we are hampering and crippling the great industrial pursuits of the country, of which this is one of the most important.

Mr. FESSENDEN. My friend from Missouri seemed to appeal principally to me in his argument with reference to the constitutionality of this tax. I suppose it was on account of the remark I made the other day, that although it had been stated to be unconstitutional I did not suppose anybody relied seriously upon that argument. That was the idea I conveyed, though not in those words. It seems that my friend at a previous session made a very long and labored argument to prove the tax unconstitutional. I certainly did not intend to treat that argument with any disrespect; I have too much regard for my friend to treat anything that he says with disrespect. But although I listened to the argument at the time he made it, it failed to produce a very serious impression on my mind. It struck me as very ingenious—a careful criticism upon words in the Constitution and definitions in the dictionary, and to avoid the real ground upon which those provisions were put in the Constitution, and in reality to have—I say it with all respect—no very great weight.

Now, sir, my view with regard to that question is a very simple one. The Constitution provides that no tax shall be imposed upon articles exported from any State. What was the intention of that? Simply this, in my apprehension, nothing more: that no single State should be picked out by Congress and prohibited from exporting articles. "You shall not distinguish against any one State in the matter of exports by levying export duties." Any other construction would lead, in my judgment, to infinite absurdity. We can in effect tax nothing if the argument of the Senator is correct; and he is forced into the absurdity of saying that that principle not only applies to the products of a particular State in its simple condition, but applies to it even where it has gone into the shape of a manufacture; and you must necessarily, therefore, hunt up the elements entering into every article manufactured to find what is exported, or might be exported, from any particular State, and give a drawback upon it from the mere fact that some State or half a dozen States exported the raw article! Is it possible that that was the meaning of the framers of the Constitution? I never looked any further for an exposition of all that was meant by it than simply to see that it plainly meant that Congress shall not discriminate against any one State in reference to exports, but everything shall be open and free. It was put in undoubtedly for the benefit of the South for fear something of that sort might be done; but it is not necessary to inquire particularly what the origin of it was.

I do not think, either, that there is anything more in the idea that this is a direct tax. I have understood that there was nothing in fact that was a direct tax except a tax on land directly and a capitation tax. There may be something else, but I do not know of anything else that may be called a direct tax. That has been my understanding. Why, sir, does it go so far as to hold that every tax levied on the product of the land is a direct tax? That seems to be the argument of the Senator. Then you should follow it through all our manufactures. What are articles manufactured made of? Something that comes out of the soil, and according to the argument of the Senator every excise that we lay upon every article manufactured throughout the United States is a direct tax because originally it in some way came out of the soil. The argument, in my judgment, leads, as I said before, to infinite confusion and infinite absurdity. Carried out to that extent, it takes away substantially from the Government all power of taxation whatever, or if it does not take it all away it leads to such infinite varieties of confusion that nothing could even be definitely fixed and no corps of men who could be found in this country would ever be able to distinguish what was taxable and what was not. These would be the results; and these simple statements are my answer to all that the Senator has chosen to say upon that subject.

Now, sir, I will repeat what I said before—it has been commented on by several gentlemen—with reference to the taxation of an agricultural product. I remarked that I saw no more difficulty about taxing an agricultural product than any other if it was from its nature and circumstances a fit subject for taxation. What are we met by? We are met by quotations from Adam Smith and divers and sundry gentlemen who have written on the subject of taxation, who say that it is against good policy to tax a product of agriculture directly. They were English writers mostly, and so far as their argument went in support of their principle they established it; but can we argue with reference to a question of this sort from the policy adopted by England at that time and followed up since? They raised no more than they wanted to use or to manufacture at any time; the area of the kingdom is small; they need nearly all they can raise in the way of food, and what they cannot eat they need in order to encourage their manufactures. There is no article of agricultural production in England that could properly bear taxation, and therefore their idea is to encourage it in every way they can. That is all right so far as they are concerned; but we are not bound by the same necessities. We never had any tithes here, and there is no danger of our having them, and the Senator merely plays upon words when he calls this a tithe inflicted either in form or in substance in any way. What is it? We find a production in this country such as exists in none other that lays taxes—a production of a peculiar character, a product of the soil, raised how? Merely for the support of the individual? Merely for the purpose of manufacture at home? No, sir; but for the purpose of manufacture abroad, the greater proportion of it, four fifths of it perhaps; I cannot tell the exact proportion. I have no head for statistics, and can never remember figures; but a very large proportion of it is undoubtedly raised for manufacture abroad. The point is whether we can raise a revenue out of it for our own advantage and not injure the thing itself? There are many questions relating to political economy that are involved in that. Will it bear the tax? Can we raise enough for our own manufacture, and can we raise enough to supply other countries as far as it is needful that we should get a good price for it, and at the same time make that very article, and through that article make foreign countries contribute something toward bearing the burdens that we are obliged to bear at the present time?

If we have such an article, why not avail ourselves of it? Gentlemen reply, "You do not tax corn." No, but we tax what is made of corn. Why not carry out your argument, and say, "You are afflicting an agricultural interest because you tax whisky; it is laying a burden upon the agriculturist; he raises corn; he raises it to sell; he raises it to be manufactured; and you are putting a heavy burden upon whisky; that is made out of corn, and you are thereby taxing a product of the soil; you are laying a direct tax." To reach that conclusion is only to follow out the argument a step further.

Sir, we should not be governed by words, nor should we be governed by principles laid down at one time in one country that do not apply to this time and to our country. That is no part of statesmanship. I take it that statesmanship, like all other things, is somewhat progressive, and must be governed by the necessities of the day and the necessities of the occasion as well as of the day, and that we are not to adhere to a principle laid down some time ago by somebody else in reference to a very different state of things, when our necessities under different circumstances and with regard to a different article call for different action; and all the arguments, therefore, that are drawn from such a source, made under circumstances not applicable to us, and under which we do not come, do not strike my mind with that force that I confess myself obliged to bow down to the authority of a book.

That is my answer to the question about taxing a product of agriculture. I stated before, and I say again that with regard to cotton, as with regard to tobacco—which I believe could be better taxed to-day in its natural state than after it has been manufactured, if we want to get out of it what we should—with regard to both these articles we have a right to levy a tax; and it is no answer to say that they come out of the ground. So does everything we tax come out of the ground originally; and what is the difference in principle, I ask again, whether you tax it in its primary condition or after it has been put in another shape? Follow the Senator's argument out and it leads to an abandonment of all taxation substantially.

I agree just as little with this constant repetition of the charge that we are imposing a twenty-five per cent. tax. Sir, that is not the intention. There is no Senator here who does not understand readily how that matter stands. At the time we first levied the tax it was not twenty-five per cent. At a subsequent period it was not that. Carry it back for three or four years and the same amount would not be anywhere near that. It was hardly one or two per cent., as the price of cotton was at that particular period. It varies from time to time according to circumstances. I am not in favor of putting on, and I would not to-day put on, a tax of two and a half cents a pound on cotton at its present price. I would not think of it. But who knows that next year it may not command much more? Who knows that the succeeding year it may be more still? Who knows that the following it may not fall still lower than it is now? Clearly, as has been said repeatedly here, the present price of cotton is not owing to the tax put upon it. That depends entirely upon other causes, is occasioned by other things. We are told that we should take off the tax because it is enormously high. That is not an argument for taking it off altogether. The price of cotton may be much higher next year. What I maintain is that you sustain the principle.

But, sir, we have got now what really the Senator from Missouri is aiming at and what the Senator from Illinois was aiming at, and I am astonished to hear them say it. We are determined, say these gentlemen, that this tax shall come off. Why? On account of the suffering at the South? No. On account of the principle of the thing? My friend from Missouri says that he is opposed to it on principle, and I believe him; I believe always every word he says, for he is a sincere man, and

with his usual frankness he says it must come off because we do not wish the South to raise anything but cotton.

Mr. HENDERSON. No.

Mr. FESSENDEN. Substantially, that "we want to keep them to cotton; we want to furnish them with the products of the soil that they eat." If I am mistaken I shall be glad to be corrected.

Mr. HENDERSON. I did not state, and I think the Senator will find that I did not state, that I did not want the South to do anything else but raise cotton. I said that they could more profitably employ their industry at present in that way than in any other way, and that we could most profitably engage in those pursuits which would supply them; and that while this would benefit the South it would benefit the West, and I thought benefit the East also.

Mr. FESSENDEN. Of course, I take my friend's correction as to what he meant to say; but I understood him to say substantially this: "We have lost the supply of the southern States because they have gone into the production of food; we no longer furnish them as we used to do with divers and sundry articles" (which he enumerated) "or to anything like the extent we formerly did, because they have themselves gone into the production of those very articles, instead of raising cotton, *ergo* we wish to encourage the raising of cotton in order that we may restore the old state of things, in order that we may have a market." That is the argument of the Senator.

That is all proper and legitimate; I find no fault with it; but I do find a litttle fault when my friend from Illinois couples with it the word "magnanimity," and says, "let us be magnanimous." Yes, be magnanimous, in order to enable us to furnish hogs and hominy! Is that the magnanimity the honorable Senator wishes to preach up to us? Put it upon its right ground. My friend from Missouri says it is selfishness, an enlightened and proper selfishness. I find no fault with him; I certainly do not quarrel with him for sustaining the interests of the West any more than I quarrel with myself for sustaining the interests of the East; but I take it we are all broad enough to look at the whole country. I certainly cannot accuse myself of wishing to break down the interest of any section of the country for the sake of building up my own; and I hold that true policy requires that every part of this country should produce all it can of every description, diversify its labor just as much as may be profitable to it; not that one part should be dependent upon another; not that one man should come here prepared to sustain one particular interest at the expense of all others, and *vice versa* with regard to other gentlemen; but that we should come here having at heart the whole interests of one great united country, to look at all and see what we can do for all, in order that all may prosper.

Mr. MORTON obtained the floor.

Mr. HENDERSON. Just one moment, if the Senator pleases. I thought I was sufficiently explicit when I spoke in reference to my selfishness about this matter. I did not desire that the Senator from Maine should understand me as neglecting the interests of any part of the country. He seems to complain, and complain very bitterly, that I should have suggested in my argument that I was looking out somewhat for the interests of my own State. I said that I would not do anything to damage the best interests of the State of Maine. [There was great confusion in the hall.] When this "flurry" is over and order is restored I will proceed.

Mr. MORTON again rose.

Mr. CAMERON. Will the Senator allow me a moment? It is getting late and there is executive business to be attended to. Will the Senator from Indiana allow me to make a motion that the Senate proceed to the consideration of executive business?

Mr. CONNESS. I hope the Senator from Indiana will give way.

Several SENATORS. Let us adjourn.

Mr. CAMERON. If the Senate adjourn the Senator can speak to-morrow. I move that the Senate do now adjourn.

Mr. MORTON. I do not yield for that purpose.

Mr. CONNESS. With the leave of the Senator from Indiana, I desire to inquire whether he will yield the floor for a motion to go into executive session.

Mr. MORTON. I think it is too late for that. I shall vote against an executive session at this hour.

Mr. CONNESS. Will the Senator give way for such a motion?

Mr. MORTON. I shall occupy but a few minutes.

Mr. President, I want to say that I have listened to an argument from my friend from Missouri that is quite familiar to me. I heard that argument made on every stump in Indiana before the war as a reason why we should not take part in the war to suppress the rebellion. I heard it made during the war as a reason why we should not continue the war because it was said that our interests were intimately blended with the South; and some persons were so profoundly convinced of this great unity of interests that they thought the northwestern States would actually go with the South into the rebellion. After having lost the southern trade by the war we are told by the Senator from Massachusetts that the States of the Northwest have actually progressed in wealth as they never did before.

Mr. President, I have come here to represent in part one of the northwestern States, and I want for myself and on behalf of my people to repudiate this sectional idea. Our interests are bound up with those of the South in many respects, but they are not so intimately connected that we can afford to exonerate seven or eight States of the South from bearing any part of the public burdens simply because we wish to foster their interests. If we would thus exonerate the southern States from any portion of the public burdens, it would be simply just that the northwestern States should take that part upon themselves which they relieve the cotton States from.

Mr. HENDERSON. As the Senator has referred to me and put secession arguments into my mouth that I was not aware of ever having used, having always used the contrary arguments as far as I could, I desire to ask him how we relieve the South of taxation. Is not the South subject to all the internal duties that we impose upon any part of the United States, even after we repeal this tax?

Mr. MORTON. Ah! Mr. President, that comes right to the very point. They have no varied industry in the cotton States; they have but one interest; it represents their capital and their labor; they have scarcely any other business there except that which is connected with and is incident to the cotton business, and when you exonerate cotton you exonerate substantially seven of those States from bearing any part of the public burdens. There is just where the trouble is.

Now, sir, one word in regard to this "agricultural" argument. It seems that there is a grand abstraction, something like an old Virginia abstraction, only somewhat more empty than that. What is it? That because a thing is agricultural in its character, grows out of the ground, it must therefore not be taxed! Because the wheat and corn of Indiana, the breadstuffs, are not taxed, therefore cotton must not be taxed! I fail to see the truth of the comparison. We have varied industries all through the Northwest, and we pay a very heavy part of the internal revenue; but if you exonerate cotton from taxation your internal revenue department will not pay expenses in any one of the cotton States, I undertake to say.

It is said we must exempt everything that is an agricultural production. Is there anything in the character of an agricultural production why it should not be taxed? I say it is a mere barren technicality. Let me suppose a case in answer to the question about the wool. Let me suppose that six or seven States of this Union are the only States where you can raise wool with a profit. Let me suppose that it is so profitable to raise wool in six or seven States that men can make more money by putting their capital into it than they can in manufacturing or in raising wheat or corn, and they engage in that exclusively, would it be right to exonerate wool from taxation and thus relieve seven States, because it is more profitable to them to raise wool than it is to manufacture, or raise wheat and corn or anything else? I say not. I say it ought to be taxed for one purpose—and that is a far more important principle—namely, to make taxation equal throughout the country.

Mr. HENDERSON. Now, I would like to call the attention of the Senator, with his permission, to the fact that instead of taxing wool which is the product of some six or seven States of the Union to any extent whatever we imposed a tariff at the last session of a very exorbitant character upon the importation of the article, thereby giving a bounty to the production of it here.

Mr. MORTON. I submit that the Senator is mistaken in saying that the growing of wool is confined to any one section of this Union. It is an extensive interest in New England; it is now a vast interest in all the Northwest, and a growing interest, and you can find wool-growing, I believe, in almost every State of this Union. It bears no comparison to cotton in any respect. But, now, take the case of cotton; here are some seven States that have their capital and their labor invested in raising cotton. It stands to them as wheat and corn; it stands to them in the place of manufactures; it represents their capital, their labor, and their commerce. When you exonerate cotton you exonerate that section of the country; and why? Because you call it agricultural; because it is an agricultural product; a mere abstraction. Now, sir, if in order to equalize taxation in this country and to make every part of the country bear its portion of the public burdens it becomes necessary to tax an agricultural production, I say tax it. It is far more important to equalize the public burdens and make every State in this Union pay its just proportion than it is to exonerate six or seven States simply for the sake of an abstraction by saying that their production is an agricultural production.

Mr. DOOLITTLE. If the honorable Senator will not regard me as interrupting him, on that point I desire to ask simply this question: are not those persons taxed upon the income which they make in the production of cotton just as all other agriculturists are taxed upon the income produced upon their farms?

Mr. MORTON. Suppose they are; that may affect a few of them; how many men, I ask, would that affect in raising corn or raising wheat? Sir, the fact is, and it cannot be got over, that if you exonerate cotton you do to all intents and purposes exonerate seven or eight States of this Union from all portion of the public burdens. That I protest against, and it is to be done under the name of an abstraction, because it is, forsooth, an agricultural production.

Mr. President, the Senator from Massachusetts has from present distress argued in favor of a permanent future policy. Because of the present low price of cotton and the distress in the South he would exonerate cotton from taxation in all coming time. Let me call the attention of the Senate to the fact that if you shall now repeal this cotton tax you will never get it back. You will soon have some eighteen Senators from these southern States, and you may rely upon it that whether they are Radicals or Conservatives every man of them will vote against the cotton tax, and that they will have the uniform and unanimous support of the Democratic party in the future as they have had in the past in that matter, and that if this tax is now repealed it will never be replaced to the amount of anything. You are not, there-

fore, simply providing against present distress in the South, but you are establishing a policy that is to govern this country throughout the future.

We were told last night by the Senator from Illinois that we were discriminating against the South because we were taxing an agricultural production. Sir, these Senators are discriminating against the North in favor of the South. They are trying to establish a rule that will release one part of this country from bearing any considerable portion of the public burdens. All that I ask is that every part of this country shall bear its proper and legitimate portion of those burdens. No, sir, the discrimination is not against the South. It is not injustice, it is not doing them wrong to ask that they shall bear their reasonable and proper part of the burdens of this Government in future.

When gentlemen say that the people of the Northwest are unanimously in favor of the repeal of this tax I for one protest against that statement. I will undertake to answer for at least a considerable portion of the people of my State, that while they might be willing to yield revenue because of present distress they have no purpose of saying that the cotton States shall not in future bear their part in maintaining this Government and in paying its debts; and that is the effect of this measure.

Appeals are made to our sympathy. We are told these people will die; they will starve; there can be nothing raised in the future on account of this tax. Sir, I heard something like that last spring, almost the first day that I came into this Chamber, when it was proposed to vote several millions for the purpose of feeding starving rebels in the South. I opposed that. It was finally modified in the other House, and it turns out that there was but very little of that suffering compared to what was represented here. Sir, I am not in a gushing mood. I will do justice to them; I will relieve them in their distress; but I am not prepared now to take a step by which a portion of this Union shall substantially be exonerated from bearing a part of the public burdens; and, say what you will, disguise this matter as you will, that is the effect of it; and I tell you when the people come to understand it they will denounce it as I do.

The question was asked yesterday by my venerable friend from Kentucky why Senators were not here from these ten States to represent the interest of cotton on this floor. I wish for one moment to answer that question. It is because nearly seven years ago, against the tears and prayers of this nation, they went out of these Halls and levied a war against us that cost us near half a million of loyal lives and near five thousand million dollars, $2,500,000,000 of which remain to us as a legacy. Sir, they went out as they pleased, and I trust they will now come back as it shall please the loyal people of this nation. They will come back upon such conditions, terms, and safeguards as shall secure us against the recurrence of a like calamity. They have no right to walk back here the moment they are vanquished and take their seats just as if nothing had occurred. Such a principle ought to be infamous, and no government could live upon it. They went out and became criminals, and when they come back here they must come back under such circumstances as shall give us a guarantee of safety for the future.

Sir, I heard something said to-day by the Senator from Wisconsin [Mr. DOOLITTLE] in regard to this being an export tax. Why, sir, his reading has been different from mine. I thought an export tax was a tax levied upon articles exported at the time of their exportation, and because they were to be exported, and as a condition affixed by the Government upon their exportation. The idea that when the Government levies a tax generally upon an article in the hands of its producers that tax afterward becomes unconstitutional because a portion of the article is exported to foreign countries does not seem to me to be very sound.

I will not undertake to answer the argument of my distinguished friend from Missouri on the constitutional question. It seems to me that was completely and perfectly done by the Senator from Maine; but there is one question lying at the foundation of this matter which ought to be considered. This is not a question of present relief as presented by this bill; it is a question of future policy for all time for this Government; it is not a question as to what we must now do to relieve these people, but a question as to what shall be the current of public events for the next ten, twenty, or thirty years.

There is one item of national policy that is more important than this question of agricultural production, and that is, equality of public burdens. You cannot keep this nation contented and happy if the people of the North and of the West must pay the taxes when another portion of the country pays none. No, sir; that is contrary to human nature, because it is contrary to justice; and if, in order to make six or seven States of this Union pay their proportion of the national burdens we have got even to tax an agricultural production, I am in favor of doing it. We have learned recently not to stop at names; we have learned not to pause before technicalities, but to go to the substance of things. Therefore let us not take a step that will establish an inequality in our taxation for all time to come.

Mr. RAMSEY. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Before putting the question on that let me lay before the Senate a bill from the House of Representatives.

Mr. RAMSEY. Very well.

HOUSE BILL REFERRED.

The bill (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

GENERAL HANCOCK.

The PRESIDENT *pro tempore*. I will also take this occasion to lay before the Senate a message from the President of the United States. It will be read.

The Secretary read as follows:

Gentlemen of the Senate and of the House of Representatives:

An official copy of the order issued by Major General Winfield S. Hancock, commander of the fifth military district, dated headquarters in New Orleans, Louisiana, on the 29th day of November, has reached me through the regular channels of the War Department, and I herewith communicate it to Congress for such action as may seem to be proper in view of all the circumstances.

It will be perceived that General Hancock announces that he will make the law the rule of his conduct; that he will uphold the courts and other civil authorities in the performance of their proper duties; and that he will use his military power only to preserve the peace and enforce the law. He declares very explicitly that the sacred right of the trial by jury and the privilege of the writ of *habeas corpus* shall not be crushed out or trodden under foot. He goes further, and, in one comprehensive sentence, asserts that the principles of American liberty are still the inheritance of this people, and ever should be.

When a great soldier with unrestricted power in his hands to oppress his fellow-men voluntarily foregoes the chance of gratifying his selfish ambition and devotes himself to the duty of building up the liberties and strengthening the laws of his country, he presents an example of the highest public virtue that human nature is capable of practicing. The strongest claim of Washington to be "first in war, first in peace, and first in the hearts of his countrymen," is founded on the great fact that in all his illustrious career he scrupulously abstained from violating the legal and constitutional rights of his fellow-citizens. When he surrendered his commission to Congress the President of that body spoke his highest praise in saying that he had "always regarded the rights of the civil authorities through all dangers and disasters." Whenever power above the law courted his acceptance he calmly put the temptation aside. By such magnanimous acts of forbearance he won the universal admiration of mankind and left a name which has no rival in the history of the world.

I am far from saying that General Hancock is the only officer of the American Army who is influenced by the example of Washington. Doubtless thousands of them are faithfully devoted to the principles for which the men of the Revolution laid down their lives. But the distinguished honor belongs to him of being the first officer in high command south of the Potomac since the close of the civil war who has given utterance to these noble sentiments in the form of a military order.

I respectfully suggest to Congress that some public recognition of General Hancock's patriotic conduct is due, if not to him, to the friends of law and justice throughout the country. Of such an act as his, at such a time, it is but fit that the dignity should be vindicated and the virtue proclaimed, so that its value as an example may not be lost to the nation.

ANDREW JOHNSON.

WASHINGTON, D. C., *December* 18, 1867.

Mr. WILSON. The Committee on Military Affairs have before them resolutions passed by the House of Representatives thanking General Sheridan, General Schofield, General Sickles, and some other officers for their administration of the law; and I move that this message be referred to that committee.

Mr. DOOLITTLE. And that it be printed.

Mr. CONKLING. Why print it?

Mr. DOOLITTLE. Because it is a message from the President of the United States, and that is the usual course.

Mr. CONKLING. The Senator from Wisconsin suggests that he never saw a President's message that was not printed. I will suggest to him that to my knowledge in the history of this Government we never saw a President's message like this in other respects. We never saw such a document, conceived in such a spirit, and sent here for such a purpose. I do not know, on the spur of the moment, but that the proper disposition of this may not be simply to refer it to the Committee on Military Affairs; yet it strikes me, as I think it will strike a majority of this Senate when they read that document and reflect upon it, something more or something less than that ought to be done. I shall be very glad for one, as it strikes me at this moment, to see it lie on the table for the present, and let us see what we shall do with it. ["Make the motion."] I move that it lie on the table, at least for the present.

Several SENATORS addressed the Chair.

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. DOOLITTLE. I ask the honorable Senator to withdraw his motion to enable me to make a suggestion in answer to what he has said. ["No, no."]

Mr. CONKLING. I think I ought to do that.

Mr. RAMSEY. What became of my motion to adjourn? [Laughter.]

The PRESIDENT *pro tempore*. It is pending. I wished to lay these documents before the Senate before they adjourned, and I took occasion to postpone putting that question.

Mr. RAMSEY. I yielded so far as the announcements by the Chair were concerned, but not for this debate.

The PRESIDENT *pro tempore*. There is a motion to lay on the table which is not debatable.

Mr. TRUMBULL. The motion to adjourn has the precedence.

Mr. RAMSEY. I insist on my motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 18, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

WITHDRAWAL OF PAPERS.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I move to reconsider the vote by which Josiah O. Armes was permitted to withdraw certain papers from the files of the House. I make this motion in order to have the opportunity of moving that Mr. Armes be permitted to take copies of the papers, having the originals on files.

Mr. GARFIELD. Is not that the general rule already adopted by this House?

The SPEAKER. It is not, unless so specified in the order granting leave.

Mr. GARFIELD. Was that not the rule during the last Congress?

The SPEAKER. It was not.

Mr. GARFIELD. Then, if the gentleman from Illinois [Mr. WASHBURNE] will allow me, I will move that hereafter, whenever leave is given to withdraw papers from the files of the House, it shall be understood to mean the taking of copies, unless specially ordered otherwise.

The SPEAKER. That can be done only by unanimous consent or by the adoption of a rule.

The motion to reconsider was then agreed to.

The order was then modified so as to give leave to Josiah O. Armes to take copies of the papers on file.

Mr. GARFIELD. I now ask unanimous consent that it be ordered that hereafter no original papers shall be withdrawn from the files of the House unless by specific consent of the House, but that copies only shall be allowed to be taken.

Mr. RANDALL. I think that matter had better be referred to the Committee on Rules.

Mr. GARFIELD. I have no objection.

The subject was accordingly referred to the Committee on Rules.

AMERICAN WHALESHIPS.

Mr. ELIOT. I ask unanimous consent to submit for consideration at this time the following preamble and resolution:

Whereas information has been received that in the Okhotsk sea, off Tchantar island, on the Russian coast, American whaling vessels, while peaceably prosecuting their voyages, have been recently ordered off the coast by Russian war vessels, and that the boats of one American vessel have been fired upon by Russian armed steamers: Therefore,

Resolved, That the Secretary of State be directed to communicate to this House any information in possession of the Department in reference to such action against American vessels, and whether the same was under authority from the Russian Government, and whether American vessels have or have not a right to pursue their usual business in those seas and upon that coast without molestation.

I will say in connection with this resolution that Captain Thomas Mellen, master of the whaling ship Europa, writes home as follows:

"Please ascertain from headquarters if the Russian Government has a legal right to prohibit American ships from whaling in the bays.

"A party of Russians have established a fishery here ashore, and a Russian armed steamer has been here and ordered the ships all away. Says he is authorized to drive us off, but cannot show his authority. I do not know the steamer's name.

"I have not seen him yet, but he has fired upon one ship's boats, the bark Endeavor, of New Bedford.

"I shall not leave unless he fires into me, but should not like to come here another season if we cannot whale after we get here.

"I do not believe he has had any instructions from the Russian Government, but think he acts on his own responsibility at the instigation of the parties interested in the shore fishery, who, doubtless, desire to make a monopoly of the business.

"I am determined to whale it the rest of the season, and if he fires into the ship or boats I think our Uncle Sam and the good old flag we sail under will protect us and see that we are paid for all damages."

This resolution calls for information which I suppose all the members of this House will be desirous to have sent to us.

The preamble and resolution were then adopted.

Mr. ELIOT. I move to reconsider the vote last taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—BURCH VS. VAN HORN.

Mr. POLAND, from the Committee on Elections, made a report in the contested election case of Burch *vs.* VAN HORN, of the sixth congressional district of Missouri, accompanied by the following resolutions:

Resolved, That James H. Burch is not entitled to a seat in this House as a Representative in the Fortieth Congress from the sixth congressional district of Missouri.

Resolved, That ROBERT T. VAN HORN is entitled to a seat in this House as a Representative in the Fortieth Congress from the sixth congressional district of Missouri.

Mr. POLAND. I do not propose to ask action of the House upon these resolutions at this time. I move that the report, with the accompanying resolutions, be laid on the table and printed.

The motion was agreed to.

BANKRUPTCY.

Mr. KELLEY, by unanimous consent, introduced a bill to amend an act to establish a uniform system of bankruptcy; which was read a first and second time, and referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

The SPEAKER. The first business in order during the morning hour is the call of committees for reports, beginning with the Committee on Military Affairs.

DESERTION, ETC.

Mr. GARFIELD. The Committee on Military Affairs have directed me to report back a bill (H. R. No. 125) to provide for the granting of honorable discharges to certain soldiers and sailors of the Army and Navy, and a bill (H. R. No. 260) to furnish certain soldiers and sailors therein designated with honorable discharges, and to move that these bills be laid on the table, the committee having prepared a bill embodying the substance of the two bills.

The motion was agreed to; and the bills were laid on the table.

Mr. GARFIELD, from the Committee on Military Affairs, reported a bill to furnish honorable discharges to certain soldiers and sailors therein designated, and to repeal section twenty-one of an act entitled "An act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes," approved March 3, 1865; which was read a first and second time.

The question being on ordering the bill to be engrossed and read a third time, the bill was read at length.

The first section provides that all persons relieved from the charge of desertion or absence without leave by an act entitled "An act for the relief of certain soldiers and sailors therein designated," approved July 19, 1867, shall be furnished with certificates of honorable discharge by the Secretary of War and the Secretary of the Navy, under the limitations and restrictions of that act.

The second section provides that section twenty-one of an act entitled "An act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces and for other purposes" be repealed; provided that nothing contained in the bill shall be construed to entitle any person embraced within the section repealed to bounty, pay, or emoluments of any kind; nor to affect in any manner the decision or sentence of any court-martial.

Mr. GARFIELD. The subject to which this bill refers has been before the House, and I presume every member is familar with it and needs only to have his attention called to its provisions in order to enable the House to dispose of it.

It will be remembered that at the July session of this Congress a bill was passed declaring that soldiers and sailors who left their commands without leave after the 19th day of April, 1865, should no longer be borne on the rolls of the Army as deserters. It was very well known that a large number of soldiers did leave their commands, because as they had enlisted "for three years or the war," and as the war had ended with the general collapse of the rebellion, they considered themselves legally entitled to a release from the service. Thus in many cases soldiers went home before they were regularly mustered out. Many such persons—perhaps several thousand—were borne upon the rolls as deserters, and by the act of July last Congress directed that in case of all such persons the record declaring them to be deserters should be effaced. Now, many memorials on the subject and also a bill introduced by my colleague [Mr. SCHENCK] have been referred to the Committee on Military Affairs, asking that the Secretaries of War and the Navy shall furnish persons certificates declaring that the record of desertion borne on the rolls is wiped out that they may receive honorable discharges.

The first section simply provides that the Secretary of War and the Secretary of the Navy respectively shall furnish certificates according to the provisions and limitation of the bill of July last, which expressly declares that it gives no right to pay, bounty, or anything in the way of money, but shall simply remove the charge of desertion. This is the whole of the first section of the bill, and I presume there will be no objection to it in the House.

The second section is one concerning which there may be some difference of opinion. It provides that section twenty-one of an act entitled "An act to amend several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes," be repealed; provided that nothing herein contained shall be construed to entitle any person embraced in said section hereby repealed to bounty, pension, pay, or emoluments of any kind, or to affect in any way the decision or sentence of any court-martial. I now ask the attention of the House to the section which is proposed to be repealed, and which I ask the Clerk to read.

The Clerk read as follows:

"An act to amend the several acts heretofore passed to provide for the enrolling and calling out of the national forces, approved March 3, 1865.

"SEC. 21. *And be it further enacted*, That in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States who shall not return to said service or report themselves to a provost marshal within sixty days after the proclamation hereinafter mentioned shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who, being duly enrolled, shall depart the jurisdiction of the district in which they are enrolled, or go beyond the limits of the United States, with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section. And the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of this section, in which proclamation the President is requested to notify all deserters returning within sixty days, as aforesaid, that they shall be pardoned on condition of their returning to their regiments and companies, or to such other organizations as they may be assigned to, until they have served for a period of time equal to the original term of enlistment."

Mr. GARFIELD. Mr. Speaker, the purpose of this section will be definitely understood by the gentlemen who listened to its reading. It was understood at the time to be a very trenchant but necessary war measure. At the time of its passage desertions were frequent in the Army; unpatriotic citizens were running away to avoid the draft.

Mr. BENJAMIN. Does this restore those who deserted to the enemy and fought against our flag?

Mr. GARFIELD. Section twenty-one, which has just been read, makes two leading propositions: first, any one who shall desert from the service shall have certain penalties visited upon him; and second, any person who

shall leave the country to avoid the draft shall suffer the penalties, namely, that, in addition to the other penalties denounced against desertion by law, deserters and fugitives from the draft shall be declared no longer citizens of the United States, no longer entitled to the elective franchise of the United States or of any State to which they may have belonged. In other words, it is an absolute disfranchisement of them as citizens of the United States or of any State, and it also declares that they shall never again be permitted to become citizens. This section was passed under the pressure of great necessity, and I have no doubt it was effective to some extent for the purposes for which it was designed. But the war being now over there have arisen many difficulties in consequence of the law for which the committee have been requested to propose some remedy. Aside from the many doubts which have been raised by the law officers of the loyal States in reference to the constitutionality of the section, its practical application has caused, and is likely to cause, many serious complications. For instance, the judges of election in one precinct decide that if a man be known by common report to be a deserter his vote shall be rejected; in another, that the record of the War Department shall be final proof of desertion; in another, that conviction by a court-martial is necessary to perfect the act of disfranchisement. There is no uniformity in the application of the law, and much dangerous conflict at elections is likely to result from it.

There is still another difficulty in the case. While the law bears upon a great many persons that deserve to be punished and that richly deserve all the penalty which this section imposes, it also bears oppressively upon a very large number of persons who are only technically deserters—men, for instance, who fell sick on the march and dropped out by the way, unable to keep up with their commands. Nobody knew where they were; their officers, of course, were compelled to report them as absent without leave, which is only another name for desertion. And there are many thousands of soldiers who not only never had the least intention to desert, and who are now borne on the rolls as deserters, but there are many most meritorious men, who were captured perhaps by guerrillas and suffered all the torture of imprisonment in rebel prisons, borne on the rolls to-day as deserters, and denied the rights of citizenship in so far as this section of the law can do it. This class of persons is so numerous that rather than that they should suffer I would let the whole section be repealed. I am satisfied that the time has come when we ought to end the trouble about this matter by a repeal of the section, and though some guilty persons will be released from its operations yet, as my distinguished friend who sits near me [Mr. KELLEY] says, it is better that a thousand guilty men should go unpunished than that half that number of worthy and faithful soldiers should be punished by the operation of this section.

Aside from the question of the policy of disfranchising our citizens by such an act, which was settled, perhaps, in the passage of this law, but which is now a fair question for discussion, it seems to be utterly impracticable that we should continue the operation of this law longer. Let it be borne in mind, however, that we have distinctly excepted from the operation of this repeal all those persons who have been sentenced under this act by regular finding of a court-martial. We do not interfere with such cases. I will now yield to the gentleman from Illinois, [Mr. BROMWELL.]

Mr. BROMWELL. Mr. Speaker, so far as this bill excepts the cases of deserters, as they are termed, who left the ranks of the Army under misapprehension, or who may have fallen sick or been captured, or by any other means may have become technically deserters, I have no particular objection even as regards the worst of them, and certainly none as respects that class of men who have meritorious cases; but I would like to know what reason there is for excepting that class of men, citizens of this country, who, when the country required their services in the war, skedaddled to Canada and other foreign countries. If there is any class of men who deserve nothing of the country it is that class of men who desert their own country in the day and hour of trial. I understand from the remarks of the gentleman from Ohio [Mr. GARFIELD] that this bill removes the disabilities from that class of men and restores them to all the rights and immunities they would have had if they had remained in the country and taken their chances along with their fellow-citizens.

Now, I think the community ought to look with great favor, at least with great consideration, upon the cases of men patriotic enough to volunteer in the defense of their country, but who, in their simplicity or ignorance, imagined themselves at liberty to leave the Army before the time fixed by their enlistment. I am willing to extend to them great leniency. Many such persons deserve it; perhaps all of them do, although doubtless some of them have presumed upon the forbearance of the country in going to their homes when they knew they had no right to do so.

But those men who left for Canada and for other countries, what excuse have they? Let me ask the gentleman from Ohio [Mr. GARFIELD] what will this bill be in the way of warning in case of another war to that class of men who intend to skedaddle the first time there is a draft in this country for its support? If this country passes laws punishing such deserters and skedaddlers at the time for deserting it in the hour of need, and then the moment the necessity is over repeals the law, then those men can and will presume upon a like repeal in another case. And if these men are given to understand that the country does not intend to punish that kind of desertion, whenever we have occasion in the future for a draft gentlemen will find that all the avenues leading out of this country will be crowded by the beneficiaries of this bill—men who will enjoy all the immunities, privileges, and advantages of this Government, its laws, and everything pertaining to it, but who will not defend it in the face of its enemies.

Mr. GARFIELD. I now yield ten minutes of my time to my colleague upon the committee, the gentleman from Indiana, [Mr. WASHBURN.]

Mr. WASHBURN, of Indiana. Mr. Speaker, in 1865 this body saw fit to say that a man who had been guilty of desertion—not, as the gentleman from Ohio [Mr. GARFIELD] says, "technical desertion," but a man who had been guilty of actual desertion from his flag—had either gone home and remained there, or had gone over to the enemy, had forfeited his citizenship by that act. The act of Congress itself says nothing about the right of voting. It is a question whether citizenship involves the right to vote; in my State it does not. The act of Congress provided that a man so deserting should be forever debarred from holding office under this Government.

It is now proposed that this Congress shall blot out the distinction between those who stood by the flag of their country until the war was over and those who deserted that flag; and that this Congress shall say that the man who deserted to the enemy and remained there until the end of the war shall stand just as high as the bravest soldier provided he can find constituents who will elect him to office.

Mr. BENJAMIN. Will the gentleman from Indiana [Mr. WASHBURN] permit me to ask him a question?

Mr. WASHBURN, of Indiana. Certainly.

Mr. BENJAMIN. Does not this act go to the extent of remitting the penalty against that class of officers of the regular Army who at the breaking out of the rebellion deserted to the enemy?

Mr. WASHBURN, of Indiana. I believe it does; and before I take my seat I shall move to strike out the second section of this bill, which I hold has that effect. The time can never come, as long as we have a loyal Government and a loyal people, when one who has deserted his flag can be held in the same estimation as one who stood by it. By your law he is branded, and he shall stand branded.

Last July I voted for a provision that said that a man who served until the war was over and then left for his home should be relieved from the penalty for desertion. I did so because I held that he was really no deserter. A man who was captured by guerrillas or who had been a prisoner could not be regarded as a deserter. But I do say that our laws should remain; that where a man has deserted, and it can be proved against him, he shall be branded with a brand of infamy that shall burn deep, never to be removed, at least by the Congress of the United States. I now move to strike out the second section of this bill.

Mr. LOGAN. Mr. Speaker, I understand the purport or intention of this bill to be the repeal of the twenty-first section of an act of Congress approved March 3, 1863, which provided a punishment for those who saw fit to desert the Army of the United States. I am opposed to reinstating in his former rights and privileges any person, either officer or private, who may have deserted the flag of his country for the purpose of advancing the cause or interest of the enemies of the country. I was willing to support the bill passed last summer restoring to their civil rights certain persons who had technically committed the crime of desertion by leaving their commands without leave, although they had no intention to prejudice the cause of the United States or to advance the interests of the enemy. The present bill, however, contains a sweeping clause, by which men who, belonging to the Army of the United States, deserted the flag of the country and went over to the enemy will be restored to all their civil rights—the same rights enjoyed by those who served their country faithfully.

Sir, I have watched the progress of events and I am satisfied that this is merely an entering wedge for the restoration of all men who have forfeited their rights under this Government by having failed to sustain the flag of their country and upheld the flag of its enemies. It is merely the initial step to the restoration of every rebel in the land who, being a graduate of West Point or the Naval Academy, went over to the enemy as soon as the tocsin of war sounded and took up arms against the Government of the United States. The construction which would be given to this bill if it should become a law would restore these men to the same rights granted by the act of last July to men who, although they left their commands before they were discharged, had no intention to desert from the Army of the United States.

I was opposed the other day to a clause in the bill then before us, the effect of which was to give the President of the United States power to reinstate or reappoint men who by sentence of a court-martial have been dismissed from the service and deprived of the right to hold office, civil or military. But yesterday, in my absence, that bill was passed by this House, no objection being made to it. Although that bill had been referred to the Committee on Military Affairs with almost the instruction of the House that it should be amended, it came back with an amendment to the title only, not one word or letter being stricken from the bill, although it had, as I believe, been the understanding of the House that the provisions of the bill should be changed. Yet that bill was passed, there being a vote of only thirty-two in the negative. I am opposed to any such legislation.

It was stated, I believe, that Judge Holt had given his opinion in favor of the provision which I am now condemning. But I spoke this morning with Judge Holt, and he agreed with me in the legal proposition that we have the power by act of Congress to disqualify men from receiving appointments to office. And further, I claim that by a law now on our statute-book a man dismissed from the Navy

can never hold office again under this Government. I only desire that the same law shall be made applicable to the Army. I am opposed to remitting the penalties which our laws now impose in the case of any man, either soldier, sailor, or officer, who deserted the flag of his country with the intention to aid or encourage its enemies.

The very moment we repeal the twenty-first section of the act of March 3, 1863, we may as well pass an act restoring to all the rights and privileges of loyal citizens Jefferson Davis and every other rebel in the land; for, sir, a man who in time of war deserts his flag and goes over to the enemy is no better man than Jefferson Davis or Beauregard or any other rebel. He has perpetrated the same offense; he has committed treason against his Government; and for that reason he should not be restored to the rights enjoyed by loyal citizens of this country. I am in favor of keeping this law upon the statute-book as it is. I maintain it just as it reads. I am in favor of allowing the law we passed during the last Congress to remain. I am opposed to interfering in any way whatever with the law which prevents restoration of deserters—those who deserted to the enemy, or deserted because they desired no longer to assist the Government, or those who were officers in the Army and deserted the flag either in time of peace or time of war for the purpose of "bolstering up" the enemy against the Government of the United States.

Mr. GARFIELD. I intended to yield to my colleague on the committee, but I cannot allow to pass without remark the very serious and very unwarrantable misrepresentations of the gentleman from Illinois who has just taken his seat. In the first place, the gentleman wandered away from the subject before the House to discuss a measure passed yesterday by the House by an almost unanimous vote, and entirely to misrepresent, of course unintentionally on the gentleman's part, the facts concerning that bill.

The facts are these: a few days ago I introduced a bill to prevent cashiered and dishonored officers from being restored to the service of the United States by the order of the President. That was the sole object of the bill. It was intended to prevent such a man, for instance, as Fitz John Porter from being placed back into the Army after having been cashiered and declared disqualified forever from holding any office of honor or profit under the Government of the United States. I say that it was intended to prevent the restoration of such persons by the President. The gentleman from Illinois suggested that the bill might be construed to imply that the President might, with the consent of the Senate, restore cashiered officers to the service; and he asked that the bill be recommitted to the Committee to inquire into the matter. The gentleman from Massachusetts raised another question about the title of the bill. I cheerfully consented that the bill should be recommitted, and it was done without a word of instruction from the House, as the gentleman supposes.

Mr. LOGAN. No, sir.

Mr. GARFIELD. I decline to give way until I finish my statement. The gentleman intimated that it was referred back to the Committee on Military Affairs with instructions, or something tantamount to instructions. I affirm again there was not one word of instructions; the bill was recommitted with the consent of the committee to reëxamine the question raised. The committee reëxamined that question very carefully, and were unanimously of the opinion that the bill made no grant of power to the President or Senate whatever, but simply denied the right of the President to restore any officer to the service who had been regularly dismissed by the sentence of a general court-martial. The committee adopted, however, the suggestion of the gentleman from Massachusetts, [Mr. DAWES,] and amended the bill so as to make it declaratory of the law. I reported the bill yesterday, made a statement of the action of the committee, and it passed the House with none but members on the other side voting against it. The yeas and nays were called, and not one member on this side voted nay. Its provisions were perfectly understood, and fair opportunity was given to discuss it.

The gentleman represents that I introduced and carried through in a stealthy manner a bill which allows traitors to be restored to the Army. The representations of the gentleman from Illinois, however unintentional they may be, are so unjust to the committee that they deserved instant answer. If the gentleman has any correction to make I will yield to him.

Mr. LOGAN. I do not propose to ask any questions, but I propose to answer what the gentleman has said if he will allow me.

Mr. GARFIELD. Certainly.

Mr. LOGAN. I made no statement to the House that any bill passed stealthily, nor have I made any statement that the committee were instructed. I said it was referred back to the committee with such an intimation as would amount to an instruction to the committee to change the bill. Let me state the facts. The bill was introduced with this clause in it, that the President shall not have power to restore —what? To restore to the rolls of the Army certain persons, except—how? Except by reappointment, by and with the advice and consent of the Senate. He cannot do so, except by and with the advice and consent of the Senate.

I stated then that it by intendment would give the President the power to reappoint (as the gentleman has referred to the case I will do so) General Fitz John Porter, if he had a Senate who would confirm him; and I state that to be the fact, because the President has power to revoke the decision of the court-martial, and he may reappoint General Fitz John Porter, and if he be confirmed under this law he is an officer of the Army. That is the effect of the law passed yesterday.

Now, my object in moving to recommit the bill was this—and it was certainly understood by the House—to have the bill so amended as that this should be by law a disqualification from holding office, the same as it is in the Navy. The law now is that any officer of the Navy who has been cashiered and dishonorably dismissed the service cannot be reappointed to office. I want the same provision made in this bill in regard to Army officers. That is what I was driving at, and I understood the gentleman from Ohio to so understand me at the time.

Mr. GARFIELD. I must now resume the floor.

Mr. LOGAN. I am not through yet.

Mr. GARFIELD. The gentleman has explained himself. It is useless to go on with a discussion of a bill which has passed.

Mr. LOGAN. I have said all I desire to say so far as that is concerned. But I want to say to the gentleman that this thing of using language to a man such as saying that he has misrepresented and misstated facts is language that is very common to that gentleman, but it is language that is not very common to myself. I would prefer that the gentleman used softer language hereafter if he desires to apply it to me, for I misstate nobody's position, nor do I ever misstate my own. I know the gentleman the other day used rather sneeringly the term "gentleman," and said that if it did not mean us, why he was very sorry for making the remark. Now, these things are all well enough for gentlemen who cannot employ other language to convey their ideas, but I am not in the habit of dealing in that kind of language toward any gentleman, nor do I desire to adopt that kind of policy in this House, nor am I in the habit of being driven to any position that is incorrect. I say now to the gentleman that had I been in my seat yesterday when that bill was reported and passed almost by unanimous consent I should have voted against it. The gentleman intimates that if I had been here I should have voted with the other side of the House. If I had I should only have followed in the wake of the gentleman himself, and done what he has done in several instances. I never went over to the other side of the House and congratulated anybody on his speech, as the gentleman from Ohio has done.

Mr. GARFIELD. I really must resume the floor now.

Mr LOGAN. Well, if the gentleman is satisfied I am.

Mr. GARFIELD. I trust I shall be behind no gentleman on this floor in the courtesy that is becoming here in debate, and if I say that a gentleman has misrepresented my position it is because I have no trick of language that can say the same thing in any less direct and decided way. I presume I have frequently misunderstood and misstated the opinions of members. I know that I have been misunderstood and have had my positions misstated in this case; but I was very careful to say that I believed it unintentional on the gentleman's part. If I am behind the gentleman in courtesy it is only because I lack his ability in the use of words.

Now, I wish to say, in referring only once more and for a moment to the bill that was passed yesterday, that to leave off what the gentleman desired the committee to put in was only to say that we would not undertake by legislative enactment to take away from the President of the United States the pardoning power which is given to him by the Constitution.

The President of the United States can to-day pardon Fitz John Porter, I suppose, whether any law shall be passed or not. And if the Constitution does not forbid it—and I leave that question for the lawyers to determine—I suppose that the President and the Senate of the United States, if they should be so forgetful of their duty as to nominate and confirm the appointment of that person to the Army of the United States, would be able to do so. And I do not suppose that any law of Congress can possibly destroy the constitutional provision on that subject. It was for that reason the committee declined to enter into a warfare with the Constitution of the United States and attempt to repeal any of it provisions.

Mr. LOGAN. Will the gentleman yield to me for a question?

Mr. GARFIELD. Certainly.

Mr. LOGAN. Has not Congress the power by law to say that although a man may be pardoned for the offense he shall be disqualified from holding office? In other words, cannot Congress disqualify Jeff. Davis from holding office although the President of the United States may pardon him?

Mr. GARFIELD. I suppose we can do so in relation to such officers as are within the authority of Congress. But the bill now pending—and I must return to it—proposes to repeal a law which disqualifies certain persons from voting or holding any office in any State of the Union.

Now, while I approved of that section as a matter of military necessity at the time of its passage, I am very clearly of the opinion that it now operates very unjustly upon many true and worthy soldiers, and that there are many serious difficulties in the way of its execution.

Mr. ALLISON. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. ALLISON. I desire to ask the chairman of the Committee on Military Affairs [Mr. GARFIELD] what the effect of the repeal of this twenty-first section will be? I observe that it provides, in addition to the other lawful penalties for desertion, this particular penalty shall follow. Now, this being repealed, what will be the penalty for desertion under existing laws?

Mr. GARFIELD. I am obliged to my friend for calling attention to that point. I have marked all the passages in the existing laws relating to deserters, but forgot to mention it when I first reported the bill. The laws of Congress from the days of the Revolution until the beginning of the late rebellion provide severe penalties for desertion. Those laws

are left absolutely untouched by this bill. Every soldier who deserted during the war will be left subject to all the penalties of the laws against desertion with the single exception of this one, which declares him disfranchised and decitizenized. We simply propose that this additional penalty shall be removed, and that he shall be remitted to the laws in regard to desertion as they existed at the time of the passage of this act.

Mr. ALLISON. Will the gentleman allow me to ask him another question?

Mr. GARFIELD. Certainly.

Mr. ALLISON. Does not this twenty-first section apply equally to those who deserted from the regular Army as well as those who deserted from the volunteers?

Mr. GARFIELD. Certainly.

Mr. ALLISON. And does not the other laws applicable to desertion apply to those who have deserted from the regular Army and can be tried by court-martial?

Mr. GARFIELD. I suppose so.

Mr. ALLISON. What I want to get at is whether these parties who deserted from the Army can be tried by court-martial?

Mr. GARFIELD. Every man of them will be remanded to the provisions of the laws as they stood when this was enacted. The Articles of War are full and thorough on the crime of desertion. This bill simply says that the extraordinary disfranchising feature of the law shall be repealed; that all those who now stand on the rolls as deserters shall be remitted to the penalties provided in former laws, which are entirely untouched by this legislation. I should be sorry to have any gentleman suppose that the Committee on Military Affairs would for one moment propose to wipe out all penalties of desertion. They have had no such purpose, but simply to wipe out this one extraordinary provision.

Mr. SCHENCK. In this connection I wish to ask the gentleman one question. The section which this bill proposes to repeal provides that, in addition to other penalties for desertion, certain conduct on the part of deserters shall be construed as a relinquishment of their citizenship. Now, the gentleman says that this bill does not interfere with the penalties for desertion in the Army. But as to those persons who deserted and went to Canada or into the ranks of the enemy and have since returned to civil life—who are not in the military service at all—is the gentleman aware of any penalty reserved for them?

Mr. GARFIELD. No, sir.

Mr. SCHENCK. Will the gentleman now yield to me for five minutes?

Mr. GARFIELD. Yes, sir.

Mr. SCHENCK. Taking the gentleman's admission as my starting point, I say that if you repeal that twenty-first section as it now stands all these deserters to Canada, all these deserters to the enemy, will go unwhipped of justice. They cannot be tried by court-martial, for they are no longer in the military service. Hence by this bill we wipe out the distinction between loyalty and disloyalty. Sir, we have had enough of wiping out the distinction between loyalty and disloyalty; and no further step shall be taken in that direction if my vote or influence can prevent it.

Now, what is the whole effect of this law as it now stands upon your statute-book? It does not affect the right to hold office in the States, except so far as citizenship of the State is in any case by the State constitution dependent upon citizenship of the United States. The gentleman is mistaken on this point. He has not carefully read the section. The whole section is studiously drawn in such a way as, in the first place, not to be *ex post facto* in its operation, and in the next place so as to touch only the question of United States citizenship. It is not *ex post facto*. It applies only to those who, having deserted to the enemy or fled to a foreign country to avoid the draft, fail to return within a specified time. That is, the disfranchisement is to be the punishment for persistency in staying away, for neglecting to return within a certain period after the issuing of a presidential proclamation, for which that act provided, and which was issued. The section further provides that those who may desert after the passage of the act shall be liable to the same penalty. Thus it is in no sense *ex post facto*.

Now, what penalty does this section prescribe? It provides that these deserters, in addition to the military penalties to which they are subjected, and which the gentleman has very properly explained, shall suffer the further penalty of being considered as having declared, when they deserted their country and their country's cause, that they took no further interest in that country or its defense. The gentleman's argument in favor of repealing this section (I had not the pleasure of being here when this discussion opened, being detained in my committee room) is, as I understand, founded in a great measure upon the inconvenience of enforcing the penalty. He says the courts of the country decide that no man can be held to be a deserter unless there be the record of a conviction and sentence under military law. Sir, I know that there have been decisions of the courts to that effect; I know that such a decision has been made in my own county; but I deny the correctness of that interpretation of the law. I say that every question of fact upon which a person's right to vote may depend is to be determined by the registers in those States having registration laws; or where there are no registration laws such questions are to be decided at the polls by the judges of the election.

I may state that we have no registration setting forth the fact. The fact of the right to vote is tried at the polls, and as a primary question is to be settled by the judges of election. Suppose a man of color presents himself in our State of Ohio to vote, who tries the question of color? Do you require the record of a court stating what is the fact? He is tried on the spot by those two combined officers, the register and the judge of election. Suppose the question of alienage is raised—that the man who presents himself to vote is said to be not a citizen of the United States but a subject of Great Britain—who decides that question? Why, sir, upon their peril and their responsibility the judges of the election settle it.

The SPEAKER. The gentleman's five minutes have expired.

Mr. GARFIELD. I will allow my colleague to fill up the remaining time, there being only four or five minutes, with the understanding that the bill shall be printed, so when it comes up in the morning hour it shall be on every member's desk. I desire every opportunity shall be given consistent with the business of the House for its consideration.

The SPEAKER. There being no objection, the bill will be ordered to be printed.

There was no objection, and it was ordered accordingly.

Mr. SCHENCK. I will go on for a minute or two; I have been compelled to talk rapidly while confined in the strait-jacket of a few minutes of time. It is suggested to me by my friend that unless this statute remains these men will escape punishment entirely. There is no other mode of punishment for these men, and my friend, the chairman of the Committee on Military Affairs, admits that. This being the only punishment, taking away disfranchisement there remains to them no punishment whatever. I was about illustrating the practical application of this law. If a man in the State of Ohio presents himself at the polls and any one comes forward and says, "I object because you went to Canada; you went to a foreign country to avoid the draft; you went away to prevent serving as a soldier," it is not necessary to present the record of any military court to show that the man is a deserter. That is one of the ways of finding out whether a man is a deserter or not. I admit it is the usual way, and it is the way resorted to while the man continues to be a soldier and subject to military jurisdiction; but the judges of election and registers of votes try that question of fact at the polls. When the question of a man's right to vote is raised they try and settle it upon their peril and responsibility, subject, if they do a wrong to the man, to an action in the courts from the person who was unjustly deprived of the right to vote. It is tried as all other questions of fact are tried. I lay down the principle that, from the necessity of the case in practice and by law in all the States where elections are held, the qualifications of electors are settled by the decision of the judges of election in the case presented, and they are responsible for what they do wrong or maliciously in this matter by proceedings in the courts as to the fact of a party being or not being a deserter. It is like any other fact triable by them.

The SPEAKER stated that the morning hour had expired, and the bill went over until to-morrow.

SHIP-BUILDING.

Mr. RANDALL. I ask consent to offer the following resolution:

Resolved, That the resolution adopted by this House on November 25, as follows:

"*Resolved*, That in the judgment of this House it is unnecessary to proceed further at present in building or equipping ships of war"—

Shall not be construed as an expression of the opinion of this House in favor of the discharge of mechanics or laboring men from the navy-yards of the country during the coming winter months.

Mr. ALLISON objected.

DEFICIENCY BILL.

Mr. BUTLER, from the Committee on Appropriations, reported a bill making appropriations to supply certain deficiencies; which was read a first and second time, made the special order after the morning hour to-morrow, and ordered to be printed.

Mr. MUNGEN. I desire to ask the unanimous consent of the House to offer a resolution calling for information.

Mr. PIKE. I call for the regular order of business.

Mr. RANDALL. The gentleman from Iowa [Mr. ALLISON] withdraws his objection to my resolution.

Mr. PIKE. I renew it.

JOINT RESOLUTIONS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution (H. R. No. 126) changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company, and joint resolution (H. R. No. 119) in relation to the printing of the report of the Postmaster General; when the Speaker signed the same.

IMPROVEMENT OF THE PAWTUCKET.

The SPEAKER laid before the House a communication from the Secretary of War *ad interim*, transmitting a copy of the report of Colonel Hansson, engineer, respecting the improvement of the Pawtucket river, Rhode Island; which was referred to the Committee on Commerce, and ordered to be printed.

INDIAN TRUST FUND.

The SPEAKER also laid before the House a communication from the Attorney General, transmitting, in compliance with law, a report upon the condition of the Indian trust fund stocks; which was referred to the Committee on Indian Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

Leave of absence was granted for an indefinite time to Mr. HILL, on account of illness.

Mr. ROSS. I ask leave of absence for Mr. SITGREAVES.

There was no objection; and the leave was granted.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House

resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of

THE PRESIDENT'S ANNUAL MESSAGE.

Mr. SPALDING. Mr. Chairman, on the 13th of the present month I introduced into the House a resolution touching the treaty-making power of our nation, and that resolution was on my own motion committed to the Committee of the Whole on the state of the Union. In the remarks which I shall now make to the committee I propose to address myself mainly to that resolution. As I have no written argument, I ask the indulgence of the committee while I present my views on this great question; and I do it in a spirit of humility because I am treading in the footsteps of many of the ablest expounders of the Constitution this country has ever known.

Before I take up the thread of my argument I must be permitted to say, sir, that I listened the other day with no small degree of surprise to the eloquent remarks of the gentleman from New York, [Mr. PRUYN,] whom I have always been proud to reckon among the most prominent of my Democratic friends in this House, because I found him embracing some of the highest-toned Federal doctrines of the country, and deserting the Randolphs, the Jeffersons, the Madisons, the Macons, and all, in fact, of his party and my party who have heretofore spoken in this Hall on this important subject.

Mr. PRUYN. I am glad to hear that the gentleman belongs to the Democratic party.

Mr. SPALDING. I was a member of it before the gentleman commenced going to school. [Laughter.]

Mr. PRUYN. I wish the gentleman had remained in it.

A MEMBER. School has broke up. [Laughter.]

Mr. SPALDING. However much I might be disposed to indulge in a little pleasantry with my friend, I am not just now to be diverted from the course of argument which I have proposed to myself.

I will read the resolution which I had the honor to offer, and it will be noticed that it is for the most part copied literally from that famous resolution which was introduced into the Congress of 1796, when the famous Jay treaty was under consideration in this House. It was contended by the old-school Federalists that the treaty of Mr. Jay, having been sanctioned by two thirds of the Senate, had become the law of the land, and that the House of Representatives had nothing to say upon the subject of the expediency of carrying the treaty into effect one way or the other.

To test the sense of the House upon the great question then sprung for the first time upon Congress, under the Constitution, this resolution was introduced:

"*Resolved*, That it being declared by the second section of the second article of the Constitution that the President 'shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur,' the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

This is in substance my resolution, and I adopt it, in terms, as the foundation of the whole subject to be discussed. The late treaty made with the emperor of Russia contains a contract whereby the emperor of Russia transfers to the United States of America all his territorial domain upon the North American continent, what is commonly called Aliaska. As a consideration for this transfer of territory the treaty stipulates that the United States shall pay to Russia the sum of $7,200,000.

The President in his message to Congress tells us that this treaty is ratified, and it remains for Congress to carry it into execution. Undoubtedly at some future period a bill will be laid before this House appropriating the necessary amount of money to pay for this large acquisition of territory.

The question which here presents itself is, are we bound constitutionally and morally to pass such an appropriation bill? Or may we, when we are exercising a portion of the high functions appertaining to us as legislators of the nation, inquire into the expediency of applying this sum of money to the purchase of this territory? On this question I take the affirmative. My friend from New York, [Mr. PRUYN,] I understand, took the negative in his argument the other day.

Mr. PRUYN. Not entirely so.

Mr. SPALDING. I understand, with that gentleman, that the Constitution of the United States gives to the President in connection with the Senate the whole treaty-making power of the nation. I concede freely and fully that this House has nothing to do with making a treaty, good, bad, or indifferent. But whenever a treaty makes provision for the exercise of powers involving any one of the legislative powers given by the Constitution to Congress, then the members of this House, representing the people of this nation, have a right, and it is their bounden duty, to inquire if it is expedient, under the circumstances, that their peculiar powers shall be exerted in conformity with the treaty, or, in other words, to inquire whether the best interests of the nation require them to pass concurrent acts which shall carry into execution the treaty thus made.

Now to the argument. The Constitution of the United States in section two of article two, speaking of the powers of the President, declares that—

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur."

Then, in the second paragraph of the sixth article of the Constitution it is written—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

It has sometimes been argued, and that too by wise men upon this floor, that the clause declaring a treaty the supreme law of the land was only intended to operate upon the States; that it should be considered the supreme law of the land over and above the acts of State Legislatures. I decline to enter into that sort of argument; I do not think it will "hold much water."

I prefer to concede at once that a treaty made as the Constitution provides it shall be made becomes the supreme law of this nation, and, as a matter of course, of every component part of the nation. But I insist that in order to become the supreme law of the land it shall be made *under "the authority of the United States."*

There is found in the Constitution a grant of power that renders this last paragraph a very material clause to be considered when defining the extent of the treaty-making power. I turn back to the first section of the first article of that great instrument, and I find it written—

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

By what authority, then, do the Chief Executive of the nation and a two-thirds majority of our coördinate branch, the Senate, attempt to take from us a single iota of the power which by this first clause of the Constitution is conferred upon us in conjunction with the Senate? The President and the Senate may make a treaty. The House has no agency in making that treaty; and as in many cases treaties will execute themselves without the agency or instrumentality of Congress, so far so good. A treaty, when it will execute itself, becomes to all intents and purposes "the supreme law of the land." But suppose the treaty goes further, and in some of its provisions attempts the exercise of powers which directly conflict with and cut across powers given by the Constitution to Congress, as was the case in a treaty which I shall cite by and by—the commercial treaty negotiated with Great Britain in 1816, just after our war with that country?

I inquire whether Congress is not the only power authorized by the Constitution to raise revenue for the purposes of the nation; and I inquire in the next breath in which branch of Congress must revenue bills originate? In the House of Representatives. Then suppose the American negotiator to have concluded a treaty with Great Britain—a commercial treaty, if you please to call it so—by the terms of which all goods imported into the United States from Great Britain should come in free of duty. Suppose that the treaty is negotiated under the sanction of the President, and by him sent to the Senate, and is by two thirds of the Senators confirmed, ratified, and approved. Is this House of Representatives to sit with folded arms and see so important a part of the revenues of the nation sacrificed at once through the instrumentality of a treaty without raising the voice of remonstrance against such a violation of their legislative powers? This is an extreme hypothetical question; but in order to test a principle we have a right to take extreme cases; and I ask any gentleman whether our tariff upon goods imported from Great Britain could be sacrificed without the agency of this House, through the negotiations and ratification of such a treaty by the President and the Senate of the United States? It does seem to me, Mr. Chairman, that the very statement of that question is sufficient to show the fallacy of the argument on the other side that treaties ratified by the Senate without any action on the part of the House are in all instances the supreme law of the land, and that we, the Representatives of the people, simply sit here as so many automatons to carry out the great behests of the treaty-making power.

Sir, while I proclaim on this floor that I am not opposed to any treaty which, so far as I know, may have been negotiated thus far by the proper authorities of the nation, and while my vote may be expected to assist in carrying into effect any treaty which is right and reasonable in itself, yet, with all due deference to the wisdom of the President and the Senate, I reserve to myself the privilege of saying, when I consider that a power expressly lodged in this House by the Constitution is trenched upon by the treaty-making power, whether I will yield consent or not.

If the right to regulate tariff duties upon imported goods from Great Britain cannot be taken from the hands of this House by a treaty sanctioned by the Senate much less the power of drawing money from the public Treasury be taken from this House as one branch of Congress. Seven million two hundred thousand dollars are soon to be called for; and the Constitution says that no appropriation of money from the Treasury shall be made without the authority of Congress, the law-making power. Will this treaty execute itself? No; gentlemen say it will not; but there will be submitted to this House a proposition for an appropriation of $7,200,000 to carry the Russian treaty into effect; and it is contended that we are bound, without any option or exercise of discretion on our part, to pass that appropriation bill. I deny it. I deny it in the face of perhaps the highest authority and the most respected of any to which reference could be made in the history of this nation. I deny it in defiance of the message of George Washington, transmitted to the House of Representatives in March, 1796.

It will be recollected that when a bill to carry into effect the celebrated treaty of Mr. Jay was under consideration in the House of Representatives a resolution was adopted calling upon President Washington to transmit a copy of that treaty and the important documents connected with it for the consideration of the House. I hold in my hand the reply of Presi-

dent Washington to that resolution, which was presented to him in the most respectful manner by a committee consisting of Mr. Edward Livingston and Mr. Albert Gallatin:

"*Gentlemen of the House of Representatives:*

"With the utmost attention I have considered your resolution of the 24th instant requesting me to lay before your House a copy of the instructions to the minister of the United States who negotiated the treaty with the king of Great Britain, together with the correspondence and other documents relative to that treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed.

"In deliberating upon this subject it was impossible for me to lose sight of the principle which some have avowed in its discussion or to avoid extending my views to the consequences which must flow from the admission of that principle.

"I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President as a duty to give, or which could be required of him by either House of Congress as a right; and with truth I affirm that it has been, as it will continue to be while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof, so far as the trust delegated to me by the people of the United States and my sense of the obligation it imposes to 'preserve, protect, and defend the Constitution' will permit."

Mr. Chairman, I will not read the whole of the message, but will come directly to the matter which I wish to bring to the attention of the committee:

"Having been a member of the General Convention, and knowing the principles on which the Constitution was framed, I have never entertained but one opinion on this subject, and from the first establishment of the Government to this moment my conduct has exemplified that opinion, that the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two thirds of the Senators present concur; and that every treaty so made and promulgated thenceforward becomes the law of the land. It is thus that the treaty-making power has been understood by foreign nations, and in all the treaties made with them we have declared and they have believed that when ratified by the President, with the advice and consent of the Senate, they become obligatory. In this construction of the Constitution every House of Representatives has heretofore acquiesced, and until the present time not a doubt or suspicion has appeared to my knowledge that this construction was not the true one. Nay, they have more than acquiesced; for until now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect."

Now, there is no room for doubt that in this message George Washington, then President of the United States, expressed himself in favor of the construction given to the treaty-making power as claimed the other day by the able gentleman from New York, [Mr. PRUYN,] and there is no doubt he was followed in that opinion by all the leading Federalists of his day and of the succeeding Administration. But Mr. Jefferson, Mr. Madison, Mr. Nicholson, Mr. Lowndes, and Mr. Macon, the fathers of the early Republican party, took a different ground. They agreed with General Washington that the President and Senate constituted the treaty-making power, and whenever they could make a treaty without trenching upon any constitutional powers given to Congress the treaty would execute itself. But where there is a failure of power in the President and Senate to carry the treaty into effect, when the treaty would require the concurrent action of Congress to give it the power and the force of a supreme law of the land, then without that concurrent action of Congress it is not the supreme law of the land for it has not *quoad hoc* been made "under the authority of the United States." So I hold that the treaty made with the emperor of Russia is as yet inchoate, although affirmed by the Senate, so far as it requires an appropriation of $7,200,000. And it would have been well, Mr. Chairman, for the negotiator of that treaty to have inserted a proviso reserving the constitutional right of Congress in this matter either to make or not to make the appropriation to carry it out. And, by the way, I believe it would be well for our negotiators hereafter to save the rights of Congress by a proviso of this sort to every treaty.

But, sir, whether that be so or not, I fall back upon another position. Any foreign negotiator who undertakes to deal with this Government is presumed to have a knowledge of the structure of our Government. The emperor of Russia or his minister is presumed to know that the appropriation of the purchase-money required the concurring action of Congress. They were bound to know that. Hence I take it that the treaty was ratified with the implied understanding that it still remained for Congress in its wisdom and discretion to appropriate a sufficient sum of money to carry it into full and complete effect. When Congress should pass an act appropriating the money then, and not till then, would the treaty become "the supreme law of the land."

Upon the reception of the message from General Washington to which I have adverted the House of Representatives proceeded to the consideration of the resolution already recited, offered, if I mistake not, by Mr. Blount, then of North Carolina. That resolution, which covers the whole question—there is no dodging in it—was debated for four long weeks by the best minds of America, then in Congress, and when after this ample discussion the vote was taken by yeas and nays there was a majority in the House of Representatives of twenty-seven for its adoption, although, at the same time, when they passed upon the policy of carrying the treaty into execution, the treaty itself had a majority of three votes. So that we find some thirty men voting for this resolution as a principle under our Government when at the same time they were prepared to vote for carrying the treaty into execution.

I might here remark that the treaty was finally voted to be carried into execution under the influence of that memorable speech made by Fisher Ames, of Massachusetts, who at that time was apparently drawing near the end of his earthly career. I have been told by a gentleman who was a member of Congress at the time and sat by his side that when Mr. Ames rose to speak he begged his friend if he found him going beyond his strength to draw him by his coat to his chair, and when he got through that long and eloquent speech—one which perhaps never will be equaled in the United States—I doubt whether Demosthenes or Cicero in the days of their highest glory and most palmy eloquence ever surpassed it—I say that when he was through and took his seat, finding himself completely exhausted, he said to his friend, "Sir, why did you not do as I requested you? Why did you not draw me to my chair?" "Why," said he, "if I had known that you would have dropped into your chair dead the next instant after closing your speech I could not have stopped you." And the eloquence of that speech had such a powerful effect upon that sage assembly that they would not then take the vote; they dare not take the vote; they adjourned to give time for coolness and reflection; but finally the treaty was carried by a vote of three majority.

Now, the resolution which I have read, and which obtained a majority of twenty-seven votes in that House, was simply adopted as a declaration of principle that it might stand as a monument for us and those who shall come after us against any inroads upon the powers given to Congress by the framers of the Constitution.

But, Mr. Chairman, it was not very long after that treaty of Mr. Jay was ratified and carried into execution before a similar question sprang up in the House of Representatives, where "the boot was upon the other leg." When Mr. Jefferson transmitted a message to Congress asking for the proper legislation to carry into effect the treaty by means of which Louisiana was purchased from France Mr. Roger Griswold, a Representative from Connecticut and a high-toned Federalist, moved a resolution that the President be requested to transmit a copy of the treaty and other documents to explain that treaty, and to enable them to ascertain whether by means of it they really obtained any territory. The pertinent reply was made to him: "When the Jay treaty was under consideration you denied that Congress had the right to call upon the President for any papers pertaining to a treaty, and now you are asking the same thing." Mr. Jefferson, in his message, had expressly requested Congress to pass any acts necessary to carry that treaty into execution. The Federal party of that day, in the Congress of 1803, attempted to dodge the position assumed by them in 1796, but the movement was of an embarrassing character.

The advocates of a rigid adherence to the constitutional rights of Congress were clearly in the ascendancy. As a historical fact I will state here that the vote to carry the treaty for the purchase of Louisiana into effect was carried in the House of Representatives by a majority of 65. There were 90 in the affirmative, and in the negative there were 25. And that, too, was after a long discussion, as we all know—a very long discussion, involving the very same principle for which I now contend.

Again, in 1816—and perhaps this will be a more apt illustration of the question which is likely to come before us during the present session of Congress—in the year 1816 a treaty of commerce and navigation was negotiated between this country and Great Britain. That treaty was transmitted to the Senate by Mr. Madison and approved in the constitutional way.

Before 1816 there was a discriminating duty upon goods imported from England in American bottoms and those imported in English bottoms, a higher class of duty being imposed upon goods brought in English bottoms. The treaty of 1816 did away entirely with this discriminating duty, and permitted goods to be brought in English ships upon the same terms as in American. It was upon that provision of the treaty that a discussion sprung up in the House of Representatives, it being argued that this interference with the tariff laws of the United States could not be had through a treaty negotiated by the President with the approbation of the Senate unless the House exercised some concurrent power over this branch of a subject which is expressly confided to Congress.

That subject was debated for a great number of days and with much ability. The conclusion of the whole matter was that it was deemed necessary to legislate to carry the treaty into effect, and a bill passed the House by a majority of 15 votes, or yeas 86, nays 71.

So that in every one of these noted instances—Jay's treaty in 1796, the French treaty for the purchase of Louisiana in 1803, and the commercial treaty with Great Britain in 1816—the House of Representatives stood its ground, according to the principles of the Constitution as the majority understood them, and vindicated this very proposition which I stand here to-day to support.

In the course of the discussion in the Congress of 1816 Mr. Taylor, of New York, made one of the best argumentative speeches upon this subject in the House of Representatives which I have ever read. I wish to read a small portion of what was said by Mr. Taylor at that time. It is so much more cogently and eloquently spoken than I could possibly say it myself that I shall be glad to adopt it as part of my argument. I read from the Annals of Congress, first session Fourteenth Congress, pages 619 to 621:

"Mr. Speaker, it has been asked whether the treaty will not be executed even if Congress refuse to pass a law for that purpose. I answer in the negative. By the existing laws goods imported into the United States from Great Britain in American vessels pay a certain duty, and goods imported in British vessels pay a different duty. By the treaty it is agreed that in both cases they shall be charged with the same duty: the treaty does not, neither could it, determine what that duty should be; whether it should be the higher or lower rate or a modification of both; that could only be decided by municipal law; to make that decision the bill under discussion is introduced; legislation on the subject is thought necessary by the President himself. In his message communicating the treaty he says: 'I recommend to Congress such legislative provisions as the convention may call for on the part of the United States.' Such is not the form in which treaties capable of executing themselves are communicated. For a proof of this I refer gentlemen to the President's message at the late session of Congress announcing the treaty of peace with Great Britain.

"We have already seen that the Constitution in its first article contains a declaration that all legislative power shall be vested in Congress. The eighth section of the same article proceeds to enumerate the subjects over which that power may be exercised. 'The Congress shall have power to lay and collect taxes, duties, imposts and excises.' But of what avail is this power if the President and thirteen Senators can, by treaty, abolish a tax or duty laid by Congress and establish another? If they can vary a tariff of duties in any particular they can abolish it altogether. They can agree that all goods, the growth, produce, or manufacture of the British dominions, shall be admitted into the United States free of duty, in consideration that the British Government will extend the same privilege to American produce imported into Great Britain, or in consideration that the British Government will grant to the United States the provinces of Upper and Lower Canada, to be governed by the President and Senate, or as the President alone, or as any other individual may direct; or in consideration that the British Government would pay to the President and Senate or to the Paymaster General of the Army of the United States an annuity of $10,000,000, to be disbursed by the President of the United States, or for any other consideration which they might think proper to accept.

"'To borrow money on the credit of the United States.'

"But of what avail is this power if the President and Senate can repeal the revenue laws of Congress enacted with a view to pay the interest and repay the principal of money so borrowed; or if they can by treaty borrow money themselves and pledge the public faith or mortgage the public lands for its reimbursement?

"'To regulate commerce with foreign nations.'

"But of what avail is this power if the President and Senate can definitively agree by treaty with a foreign nation what article of commerce shall be admitted into the United States and what excluded, what duties shall be paid and what remitted; and generally upon all subjects relating to both foreign and domestic commercial transactions?

"'To establish a uniform rule of naturalization.'

"But of what avail is this power if the President and Senate can by treaty stipulate that the subjects of a foreign Government either shall not be admitted into the United States, or, being admitted, shall not be naturalized, or if they can repeal the naturalization laws enacted by Congress and establish others contradictory thereto?

"'To declare war.'

"Even this exalted attribute of sovereignty is of little importance to Congress if the President and Senate can by a treaty of alliance bind the United States to commit an act of hostility against a nation with which we are at peace, thereby producing a state of actual war as effectually as if declared by the constitutional organ of the Government.

"'To raise and support armies.'

"But this grant of power may be rendered useless if the President can by treaty stipulation fix the number of men to be retained in the military establishment of this and another country with a view to the mutual security of both, or by a treaty of alliance determine the contingent of force to be furnished by the United States and the amount of subsidy to be received therefor."

"'To provide and maintain a Navy.'

"This power also is annihilated if the President and Senate can agree with the Government of another nation what amount of naval force shall be retained in service by the respective countries."

Of such a nature was a treaty made not long ago by the United States with Great Britain, limiting the naval force to be employed upon the northwestern lakes to, I believe, a single vessel of one gun on each lake. But that treaty could not be carried into effect simply by the treaty-making power without the action of Congress. It was carried into execution by an act of Congress and afterward rescinded by an act of Congress.

Mr. Taylor continues:

"The constitutional power of Congress over the militia, if the construction advocated on a former occasion by the gentleman from Massachusetts [Mr. Pickering] and his political friends be correct, (which construction has been sanctioned, too, by the government of more than one State in the Union,) is too contemptible to justify a single remark in regard to its possession.

"In fine, there is no legislative power granted to Congress by the Constitution which the President and Senate may not usurp, nay, which they cannot lawfully exercise, under the construction given to that instrument by the gentleman from Massachusetts, except perhaps the power of exercising 'exclusive legislation over the District of Columbia.'"

Thus it may be assumed, Mr. Chairman, that by means of a treaty made by the President or his minister with some foreign Power, Congress may be most effectively and effectually divested of nine tenths of the functions with which it is endowed by the Constitution.

Now, the question is, what are we to do? It is confessed that the sole power of making treaties is with the President and the Senate. That is true. And I have already said that so far as the President and the Senate, in making treaties, do not conflict with any power expressly given to Congress, we have nothing to do with the matter. We have nothing to do at any time with the making of treaties; but we have something to do with the means necessary to carry them into effect where the Constitution makes it our especial duty to legislate upon the subject embraced in the treaty.

Moreover, I am prepared to show by the text-books, even from the foundation of the law, that there is no legal propriety in claiming that one single agency established by the Constitution can, like the "serpent of Aaron," eat up every similar thing around it. A power given to the President and Senate cannot extinguish other powers expressly given to Congress—the Senate and the House of Representatives. The President and the Senate, as the treaty-making power, receive their authority from the Constitution. Whence do we receive our powers to raise armies and navies, to borrow money, &c.? From the Constitution. We receive our powers from the same instrument that devolves authority upon the treaty-making power—the President and the Senate.

Now, I deny that the exercise of any one of these powers by a single agency can extinguish the powers conferred upon other branches of Government. In order to give a reasonable construction to the Constitution you must harmonize the whole. You must allow to each branch the power conferred by the Constitution; and we must confine the treaty-making power to those subjects the control of which is not especially devolved by the Constitution upon Congress.

If they seek by their treaty to appropriate money then the Constitution says that Congress only shall appropriate money. No other power but Congress can draw money from the Treasury. The Constitution never devolved that authority on the treaty-making power; and when they make treaties they make them subordinate to Congress so far as making an appropriation of money is concerned.

So in regard to the tariff. If a treaty is made with Great Britain or France for a change of tariff it is done also with the understanding, implied at least, that Congress shall consent thereto. By adopting this construction—and it was the construction given by James Madison, Mr. Livingston, Mr. Lowndes, and the other gentlemen I have named—you harmonize the whole.

Mr. HIGBY. There is a difficulty in my mind on which I should like to have the gentleman's opinion. The Constitution says that no money shall be drawn from the Treasury except "in pursuance of law." If it added "of Congress" it would be clear, but that is not added, and all treaties are declared to be the supreme law of the land.

Mr. SPALDING. I think I understand the difficulty which arises in the gentleman's mind, for the same difficulty arose in my own when I was carefully considering this subject. It being said that a treaty made by the President and Senate may become the supreme law of the land as well as acts of Congress, why may not money be drawn from the Treasury by the treaty-making power as well as by laws of Congress? That was the question on which I pondered some time. I can only answer that the expounders of the Constitution have uniformly held that the terms here used have reference to the law-making power of the United States—the Congress of the United States. And history shows us that the contrary ground was abandoned by the most strenuous advocates for the most extended and comprehensive power of the President and Senate. They all admitted that money could not be drawn from the Treasury by the treaty itself, and not without the intervention of Congress. The very men who held out so stoutly against the interference of Congress contended that an appropriation of money was to be made by the law-making power of the land, which was the Congress of the United States.

Gentlemen will understand me that I do not admit the treaty to be the "supreme law" until we have legislated concurrently with the treaty-making power.

Mr. HIGBY. My attention was called to the clause first read by the gentleman from Ohio:

"All legislative powers herein granted shall be vested in a Congress of the United States."

My mind immediately reverts to article six. What is a treaty? It is definitely declared to be made by the President and Senate. It is then said that all treaties are the supreme law of the land as well as the laws made by Congress.

Mr. SPALDING. If my friend had heard the first part of my remarks it would have satisfied him, and I would not have taken up the time of the committee in explaining myself—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States"—

Now I claim under that clause "authority of the United States" something more is meant than simply the President and Senate. It means that concurrent legislation becomes necessary in consequence of the distribution of powers in the Constitution; that concurrent legislation becomes necessary on the part of Congress whenever the treaty touches any of the peculiar powers of Congress, and that it is not the supreme law until that concurrent legislation is had so far as the appropriation of money is concerned. That is my idea.

I have already said, Mr. Chairman, that by submitting these remarks and reading these extracts from speeches of able men in former Congresses I did not mean to commit myself on the question of appropriations for treaties at all; and I hold myself now open to conviction, and will vote according to my soundest discretion for or against the appropriation for any treaty that may be presented. But, as heretofore Congress, in its patriotic wisdom, has seen fit to ratify and confirm and furnish the means of carrying into effect all important treaties which have been negotiated by the Government, I hope that for the honor of the Government and the welfare of our country, no selfish or sinister motive will ever hereafter be permitted to stand in the way of any diplomacy that tends to the honor and greatness and glory of the American people.

Mr. BUTLER obtained the floor.

Mr. STEVENS, of Pennsylvania. I ask the gentleman to yield to me that I may move that the committee rise, in order that a small bill may be disposed of in the House. It should be passed before the vacation.

Mr. BUTLER. I yield for that purpose.

Mr. STEVENS, of Pennsylvania. I move that the committee do now rise, that we may go into the House and dispose of the reconstruction bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the President's annual message, and had come to no conclusion thereon.

JAMES L. ALCORN.

Mr. STEVENS, of Pennsylvania. I ask leave to report from the Committee on Reconstruction a bill for the relief of James L. Alcorn from political and civil disabilities.

The bill was read for information. It provides that all political disabilities which now exist by virtue of any act of Congress be removed from James L. Alcorn, of Mississippi, and that said Alcorn be restored to all the rights and privileges enjoyed by any other citizen of the United States.

Mr. BUTLER. I object.

Mr. MUNGEN. This seems to be a kind of special legislation, and I should like to know what it is about.

The SPEAKER. The bill is not before the House. Gentlemen on both sides of the Chair object, and it requires unanimous consent.

MAJOR GENERAL HANCOCK.

The SPEAKER laid before the House the following message from the President of the United States:

Gentlemen of the Senate and of the House of Representatives:

An official copy of the order issued by Major General Winfield S. Hancock, commander of the fifth military district, dated headquarters in New Orleans, Louisiana, on the 29th day of November, has reached me through the regular channels of the War Department, and I herewith communicate it to Congress for such action as may seem to be proper in view of all the circumstances.

It will be perceived that General Hancock announces that he will make the law the rule of his conduct; that he will uphold the courts and other civil authorities in the performance of their proper duties, and that he will use his military power only to preserve the peace and enforce the law. He declares very explicitly that the sacred right of the trial by jury and the privilege of the writ of *habeas corpus* shall not be crushed out or trodden under foot. He goes further, and in one comprehensive sentence asserts that the principles of American liberty are still the inheritance of this people and ever should be.

When a great soldier with unrestricted power in his hands to oppress his fellow-men voluntarily foregoes the chance of gratifying his selfish ambition and devotes himself to the duty of building up the liberties and strengthening the laws of his country, he presents an example of the highest public virtue that human nature is capable of practicing. The strongest claim of Washington to be "first in war, first in peace, and first in the hearts of his countrymen" is founded on the great fact that in all his illustrious career he scrupulously abstained from violating the legal and constitutional rights of his fellow-citizens. When he surrendered his commission to Congress the President of that body spoke his highest praise in saying that he had "always regarded the rights of the civil authorities through all dangers and disasters." Whenever power above the law courted his acceptance he calmly put the temptation aside. By such magnanimous acts of forbearance he won the universal admiration of mankind, and left a name which has no rival in the history of the world.

I am far from saying that General Hancock is the only officer of the American Army who is influenced by the example of Washington. Doubtless thousands of them are faithfully devoted to the principles for which the men of the Revolution laid down their lives. But the distinguished honor belongs to him of being the first officer in high command south of the Potomac, since the close of the civil war, who has given utterance to these noble sentiments in the form of a military order.

I respectfully suggest to Congress that some public recognition of General Hancock's patriotic conduct is due, if not to him, to the friends of law and justice throughout the country. Of such an act as his at such a time it is but fit that the dignity should be vindicated and the virtue proclaimed, so that its value as an example may not be lost to the nation.

ANDREW JOHNSON.

WASHINGTON, D. C., *December* 18, 1867.

Mr. COVODE. I am anxious to know whether that is genuine or whether it is a hoax. [Laughter.]

The SPEAKER. It is a message from the President.

Mr. ELDRIDGE. I desire to know if it is not in order for me to offer a resolution of thanks to General Hancock at this time?

The SPEAKER. It would be by unanimous consent.

Mr. ELDRIDGE. I ask unanimous consent of the House for that purpose.

Mr. WASHBURNE, of Illinois. Let the resolution be read.

Mr. ELDRIDGE. I desire to offer the ordinary resolution, such a one as was passed by this House not long ago in relation to General Sheridan.

The SPEAKER. The Chair does not remember the exact phraseology of that resolution. The gentleman should reduce it to writing.

Mr. BANKS. I move that the message be laid on the table and printed.

The motion was agreed to.

Mr. ROSS. I move that fifty thousand extra copies of the message be printed for the use of the House.

The SPEAKER. That motion will be referred to the Committee on Printing under the law.

A few minutes afterward,

Mr. ASHLEY, of Ohio, having obtained the floor,

Mr. ELDRIDGE said: Will the gentleman from Ohio [Mr. ASHLEY] yield to me to offer a resolution in relation to General Hancock?

Mr. ASHLEY, of Ohio. The gentleman can obtain the floor after this subject has been disposed of.

Mr. ELDRIDGE. The gentleman from Pennsylvania [Mr. BOYER] had the resolution drawn up when the message was read. I desire to offer that resolution now.

Mr. ASHLEY, of Ohio. I cannot yield for that purpose.

RIGHTS OF NATURALIZED CITIZENS.

Mr. EGGLESTON, by unanimous consent, presented resolutions from the city council of Cincinnati, and of a large mass meeting of the citizens of Cincinnati, protesting against the treatment of adopted citizens by foreign nations; which were referred to the Committee on Foreign Affairs.

METERS FOR DISTILLERIES.

Mr. MUNGEN. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Secretary of the Treasury be instructed to report to this House forthwith the following facts:

First. The names and residence of distillers and others who have deposited money under the law, or under the requirements of the department of internal revenue, for meters known as the "Tice" meters, and also the amount paid by each.

Second. Whether the money so paid in has been covered into the Treasury of the United States; if not, what has been done therewith; where it has been deposited; whether the same has been drawing interest, and who, if any person or persons, has received or is to receive interest or other benefit from said deposit.

Third. The amount of distilled spirits now in bond, and the place where located.

Fourth. The effect of the circular issued by the Commissioner of Internal Revenue closing all the distilleries in the United States on the 15th day of May, A. D. 1867, unless they made certain deposits of money with the district collector, for the purpose of procuring meters on or before that day.

Fifth. How many distilleries were closed by reason of such order.

Sixth. The number of gallons of spirits which had been made by these distilleries during the six months immediately preceding the 15th day of May, 1867.

Seventh. The amount that each one of these distilleries so closed was required to pay or deposit for said meters.

Eighth. Whether said meters have been furnished to such distilleries as complied with the order to deposit money, and if so, when, and what prices were paid therefor.

No objection was made; and the resolution was entertained.

The question was upon the adoption of the resolution.

Mr. ASHLEY, of Ohio. I move that the resolution be referred to the Committee of Ways and Means.

Mr. MUNGEN. My object in offering the resolution at this time is in order to give the Commissioner of Internal Revenue an opportunity during the holidays to get up the information asked for. I am satisfied that the proceeding in regard to meters has lost to this Government a very heavy amount of money in the shape of internal revenue.

Mr. ASHLEY, of Ohio. I think the resolution had better be referred to the Committee of Ways and Means.

The motion to refer was agreed to.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio. I now call up the motion submitted by me on the 6th of this month, to reconsider the vote by which the House on the 5th instant referred to the Committee on the Judiciary the bill of the House No. 214, being a bill to facilitate the restoration of the late rebel States, and for other purposes.

The question was on the motion to reconsider.

Mr. ASHLEY, of Ohio. Let the bill be read.

The bill was read. The preamble recites that since the organization of revolutionary State governments in the late rebel States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, no constitutional State governments have existed in said States; that the Congress of the United States failed to provide by law for the removal of disloyal men now administering said illegal or pretended State governments; and that the Government of the United States cannot recognize the right of men to hold office, even under a provisional or temporary government, who cannot take the oath of office prescribed by law.

The bill therefore provides that the conventions which have been or which may hereafter be elected, convened, and organized in either of the late rebel States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, as provided in the act of March 2, 1867, and the several acts supplementary thereto, shall be authorized to elect by ballot a provisional governor and an executive council of six competent citizens, to administer, in such manner as the convention electing them may prescribe, the provisional governments in each of the said States, during the continuance of such governments.

The second section provides that the provisional governor and executive council thus elected for each of said States shall, before entering upon the discharge of their official duties, take and subscribe the oath of office prescribed by act of July 2, 1862; and the compensation of the governor and executive council are to be fixed by the convention and paid out of the State treasury.

In the third section it is provided that the governors shall have authority, by and with the advice and approval of a majority of the executive council thus elected, to remove all persons from office in their respective States who have been engaged in rebellion against the United States, or who have opposed the restoration of said States to their former relations in the Union, or who have neglected or refused to take the oath of office prescribed by act of July 2, 1862, and to appoint in their stead loyal and competent men, under such rules and regulations as the convention may prescribe, and all persons appointed to office by the governor and executive council aforesaid, before entering upon the duties of any office, are to take and subscribe the oath prescribed by the act aforesaid.

The fourth section proposes to enact that from and after the meeting and organization of the conventions now authorized by law in either of the aforesaid States the authority given district commanders by act of July 19, 1867, to remove from and appoint to civil office any person in such States shall be revoked.

The fifth section provides that so much of the act of March 23, 1867, supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, as provides that, unless a majority of all the registered electors in each State shall vote "for a convention," no convention shall be held under that act, and so much of the act as requires a majority of the registered electors to vote for the ratification and acceptance of any constitution which may be framed and submitted by the conventions authorized in the act aforesaid, as a condition

to its being transmitted by the presiding officer of such convention to the President of the United States, shall be repealed; and hereafter a majority of the electors in such of the States hereinbefore named who may vote at any election authorized by the several acts aforesaid are to be authority for the holding of such conventions as are therein provided for, and for the ratification of any constitution framed by such conventions and submitted to the qualified electors for their acceptance.

The sixth section provides for the repeal of all acts and parts of acts inconsistent with the provisions of this act.

Mr. ASHLEY, of Ohio. I understand that the Committee on Reconstruction have agreed upon a bill substantially the same as mine with the exception of the first section; and I yield to the gentleman from Pennsylvania [Mr. STEVENS] that he may report the bill of the committee, reserving to myself the right to offer an amendment to one of the sections.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. ASHLEY] that his bill is not yet before the House. It was referred to the Committee on the Judiciary, and a motion to reconsider was entered. Before the bill can come before the House the motion to reconsider must prevail, and the motion to refer must be voted down or withdrawn.

Mr. BINGHAM. I beg the permission of my colleague [Mr. ASHLEY, of Ohio] to make a correction of his statement. I understood him to say that the substance of the bill which has just been read has, except the first section, been agreed to by the Committee on Reconstruction. As I understand, the substance of his bill was rejected by that committee.

The SPEAKER. The bill is not before the House. The question is on reconsidering the vote by which the bill was referred to the Committee on the Judiciary.

Mr. BROOKS. Mr. Speaker——

Mr. ASHLEY, of Ohio. I do not yield to the gentleman.

Mr. BROOKS. I simply wish to embrace this opportunity to demand the yeas and nays. And I wish to say to the gentleman from Ohio [Mr. ASHLEY] (for we shall economize time by understanding each other) that we on this side are not disposed to move with very great rapidity and without a fair opportunity for discussion. If this measure is to be driven through without debate I want to call for the yeas and nays; and if not, then I am as willing that the bill should be discussed in this form as in any other.

Mr. ASHLEY, of Ohio. Well, sir, I intend to yield to the gentleman from Pennsylvania, [Mr. STEVENS,] reserving to myself the right to offer one amendment; for except in one particular I am satisfied with the bill as agreed upon by the Committee on Reconstruction.

Mr. BROOKS. I would like to know from the gentleman from Ohio or the gentleman from Pennsylvania whether this bill is to be put through with no opportunity allowed to discuss it.

Mr. STEVENS, of Pennsylvania So far as I am concerned, I shall not call the previous question till the bill has been discussed an hour. It is a very short bill.

Mr. ASHLEY, of Ohio. For my part, I am entirely willing that the discussion shall run on to-day and to-morrow.

Mr. BROOKS. I do not wish to throw any unnecessary obstacles in the way of the majority of the House. All I want is an opportunity to discuss the bill. I therefore withdraw the call for the yeas and nays.

Mr. ASHLEY, of Ohio. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the House reconsidered the vote by which the bill was referred to the Committee on the Judiciary.

The question then recurred on the motion to refer the bill to the Committee on the Judiciary.

Mr. ASHLEY, of Ohio. I withdraw that motion, and yield to the gentleman from Pennsylvania.

Mr. STEVENS, of Pennsylvania. I move to strike out all after the enacting clause and in lieu thereof to insert the following.

The Clerk read as follows:

SECTION 1. *Be it enacted*, That so much of the fifth section of an act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate their restoration," as requires that a majority of all the registered votes of the district shall be cast in favor of the ratification of the constitution before it becomes valid be, and the same is hereby, so far modified that a majority of the votes cast at the election for the ratification or rejection of the Constitution shall be considered as valid and as affirming or rejecting the constitution.

SEC. 2. *And be it further enacted*, That the several States which may be reconstructed under the act of March 2, 1867, and its supplements, may at the time of voting upon the ratification of the constitution vote also for members of Congress, who shall be entitled to take their seats in the next session of Congress after their several States shall have been admitted into the Union; and until a new apportionment the election for said members shall be according to the districts as they existed in 1858 and 1859, except when otherwise provided for; and the same elective officers who make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for the members of Congress, and give certificates of election to those having the largest number of votes and whom they may deem entitled thereto.

SEC. 3. *And be it further enacted*, That until a new apportionment shall be made of Representatives South Carolina shall be entitled to six Representatives, two of whom shall be elected by general ticket; North Carolina eight Representatives, one of whom shall be elected by general ticket; Georgia eight Representatives, one of whom shall be elected by general ticket; Florida shall have one Representative; Alabama eight, two of whom shall be elected by general ticket; Mississippi six, one of whom shall be elected by general ticket; Louisiana six, one of whom shall be elected by general ticket; Texas five, one of whom shall be elected by general ticket; Arkansas three; and Virginia——

Mr. STEVENS, of Pennsylvania. I move to fill the blank with respect to Virginia with number eleven. I wish also to modify so as to insert the words "on taking the oath prescribed by law."

Mr. BINGHAM. I now desire to have entered the motion to strike out the third section.

Mr. MAYNARD. I ask to have the privilege of moving the following as additional sections:

SEC. 4. The several conventions which have assembled, or may assemble, under the act of March 23, 1867, supplementary to the act of March 2, 1867, to provide for the more efficient government of the rebel States, have power to provide by ordinance for temporary civil governments in the several States mentioned in said acts, which shall continue only until the organization of permanent civil governments therein under constitutions framed, adopted, and ratified in pursuance of said acts and any amendments thereof; and also, so far as may be deemed necessary, for the appointment of the proper officers to administer such temporary governments; and the several provisional governments now existing in said States shall thereupon, unless continued in whole or in part by such ordinance, cease to have or exercise any authority therein.

SEC. 5. The commanders of the several military districts established by the said act of March 2, 1867, shall aid and sustain the temporary civil governments thus established for States within their respective districts so far as may be necessary to enforce the authority of the said governments and of their officers under the ordinances providing for the same respectively.

SEC. 6. *And be it further enacted*, That said conventions be, and they are hereby, empowered to enfranchise all citizens of their respective States who have proved their loyalty by aiding in the work of reconstruction.

The SPEAKER. That can only be done by unanimous consent. The substitute of the gentleman from Pennsylvania is in the nature of an amendment, and there is already an amendment to an amendment to strike out the third section.

Mr. BINGHAM. I object to that. It is not in order. We considered that question in the committee.

Mr. MAYNARD. I desire to know whether, when the amendment of the gentleman from Ohio shall have been disposed of, either by being adopted or rejected, it will be in order to move these additional sections as an amendment?

The SPEAKER. If when the debate closes on this bill the previous question shall be moved on the amendment to the substitute alone it will exhaust itself upon that amendment, and then another amendment to the substitute will be in order; but if the previous question shall be called on the bills and pending amendments it will not exhaust itself until the third reading of the bill.

Mr. MAYNARD. Then I give notice that if I can get an opportunity to do so I will move this amendment when the bill comes to be acted on.

The SPEAKER. The Chair desires to know which gentleman claims the floor—the gentleman from Ohio [Mr. ASHLEY] or the gentleman from Pennsylvania, [Mr. STEVENS?]

Mr. ASHLEY, of Ohio. I do not desire to take it from the gentleman from Pennsylvania.

Mr. INGERSOLL. Mr. Speaker, I believe that the bill and the proposed amendments have not been printed; and it seems to me that the House, in considering so grave a matter as this, should have the bill and the amendments printed and before it. The gentleman has given notice that he shall not move the previous question within an hour, and it is to be presumed that at the end of an hour the previous question will be demanded, and we shall be called upon to vote on the bill. I, for one, am opposed to considering measures of this grave importance without their being printed. If the gentleman from Pennsylvania will yield for that purpose, or if it is in order for me to make the motion now, I will move that the further consideration of the bill be postponed for the present and the proposed amendments be printed.

Mr. STEVENS, of Pennsylvania. That is not in order, sir.

Mr. INGERSOLL. Then I give notice that if the previous question is voted down, as I hope it will be, I shall make that motion.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, there is always some objection to everything I ever heard of on the earth or in heaven. [Laughter.] Now, sir, here is a bill which we have been petitioned to pass before the vacation, and it is the simplest thing in the world. The bill has been printed and is on our files and every gentleman has had a fair opportunity of reading it and understanding it. It is simple enough, and I can explain it in five minutes so that no man can misunderstand it.

In the first place it restores the majority principle in voting on the constitution of the reconstructed States. In the second place it provides for the election of Representatives in Congress by those States at the same time the constitutions are voted on, and provides further that when the constitutions are ratified and declared valid, and these States are declared entitled to representation, those Representatives so elected shall be admitted into this House upon taking the legal oath, and not before.

Well, now, sir, that is the whole of my bill except that which my friend from Ohio [Mr. BINGHAM] proposes to strike out. And here, by the by, let me modify my substitute by putting the number of Representatives from Virginia at eight. The third section leaves the apportionment as it was in 1860, only adding the additional number to which the States are entitled in consequence of the liberation of the negroes and the consequent change in the basis of representation. If any gentleman objects to that he can vote to strike out that section. For my own part I think the States are entitled to the proposed representation here.

Now, sir, that is the whole bill. I do not know if there is anything in it to which any gentleman can object; I cannot perceive it myself.

The amendment of the gentleman from Tennessee, [Mr. MAYNARD,] which I understand proposes to give authority to the conventions that are to frame constitutions to form provisional governments that are to supersede the present military governments, strikes me rather favorably. I find that the most horrible mur-

ders and outrages that it is possible for man to imagine are daily being committed in these States without there being any power anywhere, or at least any effort made, to punish the perpetrators.

I received two letters this morning from New Orleans, from which I learn that since General Hancock has been there the country has been in a condition not equaled by anything from the worst times of La Vendée to the present time. And I am satisfied that Texas is in precisely the same condition.

Now, I am for giving the people, which in those States are the conventions, the right, as soon as they have framed their constitutions, signed them, and sent them forth to the people, to establish their own governments and elect their own officers until all these matters shall be finally arranged and these outlawed States shall be rehabilitated.

I have neither the ability nor the inclination to say many words upon this subject at this time. But I have given, in as distinct language as I can, the precise provisions of this measure. In my opinion there is not one of them that is not a proper one for us to enact.

Mr. BINGHAM. Mr. Speaker, I find no objection to the first and second sections of the bill reported by the gentleman from Pennsylvania [Mr. STEVENS] from the Committee on Reconstruction. The first section, as the gentleman has very well said, simply restores the majority principle to the States lately in insurrection. The House will remember that I made an endeavor when the reconstruction bill was being pressed upon this House to exclude from it the terms which now embarrass the people in their action. This first section, therefore, is to put into the law that which I sought to have placed in it in the first place—the right of the majority voting to determine the result. That I believe to be the general if not the universal rule in the several States of the Union.

The second section may be deemed by many gentlemen to be altogether unnecessary, for it may be held that the people of the late insurrectionary States, in the event of their ratifying forms of constitutional government, have the right, under the Constitution and existing laws, to proceed to the election of Representatives in Congress in accordance with the provisions of the existing law apportioning Representatives among the several States of the Union. The second section, therefore, is only in aid of the law, and those who desire to see those States speedily represented in Congress cannot well object to it.

The third section which the gentleman reports is that which I desire to have stricken from this bill, as violative alike of the spirit of the Constitution and of the existing legislation of Congress. The Congress of the United States in the apportionment of Representatives among the several States of this Union is limited, in my judgment, to each decennial period after the first census taken under the Constitution. That is my first objection to the third section of this bill. I do not recognize the power implied by the proposed legislation in this third section, in every succeeding Congress, after the apportionment of representation in the mode prescribed by the Constitution of the United States, to change the basis of that apportionment. With me that objection would be all-sufficient to control the vote which I shall give on the pending motion to strike the third section from this bill; and if that motion fails to control as well the vote which I shall give against the bill with that section in it. Under no conceivable circumstances will I consent to record my vote in favor of this bill with that section retained, either in the interest of the insurrectionary States or of the States not in insurrection.

Mr. HIGBY. Does the third section of this bill propose any change in the apportionment of Representatives?

Mr. BINGHAM. Certainly it does. I now come to that point.

By the apportionment of 1861 and 1862 South Carolina was entitled to four Representatives in this House. I ventured to say to gentlemen on the committee what I deem it my duty to say to this House—that the impression rests upon my mind that the same Congress which fixed that apportionment by some sort of legerdemain passed a supplemental act giving to South Carolina an additional Representative. But it appears from the published report of the proceedings of the House that no such thing was accomplished, though I am sure it was attempted. I take it for granted, from the published report handed me by the Clerk of the House, that what was done in the apportionment of 1861 and 1862 is properly set forth therein.

By that statement it appears that South Carolina is entitled to four Representatives, under the apportionment constitutionally made in 1861 and 1862. Now, by the third section of this bill it is proposed that South Carolina shall be entitled to six Representatives. What is her population to-day? Not more than six hundred thousand—two hundred and forty thousand whites and three hundred and sixty thousand blacks.

Ohio has to-day three million people; and if this sort of thing is to be wrought in the legislation of this country I demand to know by what title South Carolina is to have any greater representation on this floor, in proportion to population, than the State of Ohio. I venture to say that it is capable of demonstration, by the plainest rules of mathematics, that if South Carolina with but six hundred thousand population is entitled to six Representatives, Ohio with three millions of population is entitled to thirty Representatives. If this change is to be made I demand that it shall be extended throughout the length and breadth of the Union.

Mr. ELDRIDGE. Will the gentleman allow me to suggest a reason for this discrimination in favor of South Carolina and against Ohio?

Mr. BINGHAM. Yes, sir.

Mr. ELDRIDGE. It is because there are not so many blacks in Ohio in proportion to the population as there are in South Carolina. [Laughter.]

Mr. BINGHAM. I beg leave to say to the gentleman, with all due respect, that that is no answer whatever.

Mr. STEVENS, of Pennsylvania. If the gentleman from Ohio [Mr. BINGHAM] will allow me one moment I would like to say that I do not want to insist on anything which may interfere with the passage of the bill. I therefore withdraw all that part of the bill which refers to additional Representatives.

Mr. BINGHAM. I understand, then, that the chairman of the committee withdraws the third section.

Mr. STEVENS, of Pennsylvania. No, sir; only that part which proposes to make an addition to the number of Representatives to which these States were formerly entitled.

Mr. BINGHAM. I beg leave to say to the gentleman—and I certainly would not quibble with him at any time, and especially when laboring, as he is now, under physical disability—that the second section recognizes the right of these States to representation according to existing law.

Mr. STEVENS, of Pennsylvania. Very well. I withdraw the third section.

Mr. BROOKS obtained the floor.

Mr. MAYNARD. Will the gentleman from New York [Mr. BROOKS] yield to me that I may offer the amendment which I have already indicated?

Mr. BROOKS. I will yield to the gentleman when I get through.

Mr. BROOKS then addressed the House. [See Appendix.] At the conclusion of his remarks he yielded to Mr. MAYNARD, pursuant to promise, to offer an amendment.

Mr. MAYNARD. I thank the gentleman from New York [Mr. BROOKS] for his courtesy. I avail myself of it to say that I will not embarrass this bill by proposing my amendment at this time, but I will reserve it till some future time.

Mr. FARNSWORTH obtained the floor.

Mr. STEVENS, of Pennsylvania. I desire to say a few words, and then I propose to call the previous question.

The SPEAKER. The gentleman from Illinois [Mr. FARNSWORTH] is entitled to the floor.

Mr. FARNSWORTH. I do not propose to detain the House long with what I have to say. I rise not for the purpose of replying to the philosophic and scientific argument of the gentleman from New York, [Mr. BROOKS,] but to call the attention of the House to the bill under consideration.

As I understand it, there are but two sections to the bill now before the House, moved as a substitute for the bill of the gentleman from Ohio, [Mr. ASHLEY.] The object of this bill is to facilitate reconstruction and restoration. The first section, as the gentleman from Pennsylvania [Mr. STEVENS] has already told the House, restores the principle of majorities in elections, which should never have been departed from in the original legislation of Congress upon this subject.

Now I will say this much to the House, that in all probability, unless the first section of this bill is enacted into law, the constitutions adopted by the several States in the South will not be ratified by the people, if there is required to vote for their ratification a majority of all the voters registered. It is undoubtedly known to the members of this House that a great many of the voters in these unreconstructed States have changed their residences since they were registered. Poor men are constantly being hired to go here or there to work upon plantations or in other places, thus losing their residences.

Then, too, as will be readily seen, every vote that is not polled upon the ratification of the constitution counts against it. It therefore seems to me to be not at all likely that a majority of all the voters registered will be polled in favor of these constitutions.

The first section provides that a majority of the votes polled, whether for the ratification or the rejection of the constitutions, shall control the result. That is all there is in that section.

The second section provides that at the same time the people in the States lately in insurrection vote upon the question of the ratification or rejection of their constitutions they shall also vote for Representatives in Congress. The object of that section is to facilitate the representation of those States in Congress, so that they may not be kept out, after these States shall have been reconstructed and their constitutions duly ratified and adopted, until another election is held for members of Congress, but that as soon as any one of these States shall have been declared by Congress to be entitled to representation their members, who may be standing at the doors of the House of Representatives, may take their seats as such Representatives.

I am sorry to find the gentleman from New York [Mr. BROOKS] opposing reconstruction and restoration. I had hoped to find the whole Democratic party in this House voting for every measure that would facilitate the restoration of these States to the Union. I am very sorry, indeed, to find—for I suppose the gentleman from New York [Mr. BROOKS] has given the key-note of his party here—that they are intending to oppose all facilities that may be afforded to these States for an early and speedy admission into the Union.

But I trust that there is good sense enough and strength enough in this House to pass this bill, notwithstanding that opposition, and to pass it speedily, so that the people of the South may know what to depend upon before they prepare for the election upon the ratification of their respective State constitutions. This is all that I desire to say at the present time.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I have listened with very great pleas-

ure (as I always do) to the golden-mouthed gentleman from New York [Mr. BROOKS] in his attempt to prove the Bible a lie. That Book says that God created "of one blood all the nations of the earth." The gentleman from New York, however, contends that there were several different varieties, and that all nations were not created "of one blood." The question thus at issue between the gentleman from New York and the Author of that sacred volume I shall not attempt to decide. It is too high for me.

But, sir, the gentleman has given us a history of the negro race from, I believe, the time of the Queen of Sheba. I am not quite sure whether he included her in that race or not. But, going over the whole field from that time to this he has, I think, very well described the shape of the negro's foot, the crook of his ankle, the contour of his face. And then the gentleman went on to consider the intellect of the negro.

Now, does the gentleman by all this mean to say that the sons of Ethiopia—of whom the great poet of antiquity speaks as "the blameless sons of Ethiopia, among whom the gods always retired when they wished to spend an innocent and a quiet hour"—have not immortal souls; that they are to be classed among "the beasts which perish," and that God, who is to judge them, will not damn him if he deserves it? [Laughter.] I am sorry, sir, if such has come to be the condition of that race in this country. I had thought that the members of that race had shown in our day some evidences of strength and power. To be sure, I looked upon them as barbarians for having with their own right hands, in defense of liberty, stricken down thousands of the friends of the gentleman who has been enlightening us to-day. [Laughter.] This conduct on their part did, I confess, show a cruelty and a barbarism which it is perhaps hard to excuse. But the gentleman must recollect that all are not equally mild in their demeanor, and that even the white man might have done the same thing had he been in a similar condition.

As to intellect, there are various degrees of it. In that regard the gentleman from New York towers above the rest of us, though, I fear, he sometimes abuses his superiority by the declamation which he travels out of his road to inflict upon us with regard to the various nations of the earth. But that in intellectual gifts the gentleman stands above all of us no man who has heard him to-day or heretofore can deny; and I do not, I assure you, sir, speak this ironically, [laughter;] for I do not know when I have heard anything more eloquent than the discourse which the learned gentleman has given us to-day. But I have one proposition to make. For the oratorical championship of America I am willing to match Fred. Douglas or Langston against the gentleman from New York. I will allow the latter gentleman to select two out of three of the judges. Let the topic be anything the gentleman pleases except the negro's shin, [laughter;] and if at the end of the discussion he does not "throw up the sponge" I will admit that the negro is an inferior animal—not only inferior to the gentleman from New York, but inferior to the rest of us. [Laughter.]

I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the substitute proposed by Mr. STEVENS, of Pennsylvania, was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS, of Pennsylvania, demanded the previous question on the passage of the bill.

Mr. BURR moved that the House adjourn.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 102, not voting 49; as follows:

YEAS—Messrs. Adams, Archer, Delos R. Ashley, Axtell, Barnum, Beck, Boyer, Brooks, Burr, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Taber, Van Auken, Van Trump, Wood, and Woodward—37.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Bailey, Baker, Banks, Barnes, Benjamin, Bingham, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Fields, Garfield, Griswold, Halsey, Harding, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Ketcham, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Maynard, McCarthy, McClurg, Moore, Moorhead, Morrell, Mullins, Myers, Nunn, O'Neill, Paine, Perham, Peters, Pike, Pile, Poland, Price, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, and Stephen F. Wilson—102.

NOT VOTING—Messrs. Baldwin, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Cake, Chanler, Cobb, Cornell, Dodge, Eggleston, Ela, Ferry, Finney, Gravely, Haight, Hamilton, Hill, Humphrey, Kelsey, Kitchen, George V. Lawrence, Marvin, McCullough, Mercur, Miller, Morrissey, Newcomb, Orth, Plants, Polsley, Pomeroy, Raum, Robinson, Selye, Shellabarger, Sitgreaves, Stone, Taffe, Thomas, Trimble, Twichell, Van Wyck, Henry D. Washburn, James F. Wilson, Windom, and Woodbridge—49.

So the House refused to adjourn.

Mr. MUNGEN. I move that the bill be laid on the table, and on that motion demand the yeas and nays.

The yeas and nays were ordered.

Mr. MUNGEN, by unanimous consent, withdrew his motion, so as to take the yeas and nays on the passage of the bill.

The previous question was seconded, and the main question ordered.

The question then recurred on the passage of the bill.

Mr. BOYER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 37, not voting 47; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Broomall, Buckland, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Fields, Garfield, Griswold, Halsey, Harding, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Ketcham, Koontz, Laflin, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Price, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taylor, Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—104.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Taber, Van Auken, Van Trump, Wood, and Woodward—37.

NOT VOTING—Messrs. Benton, Blaine, Blair, Boutwell, Bromwell, Butler, Cake, Chanler, Cornell, Dodge, Eggleston, Ela, Ferry, Finney, Gravely, Haight, Hamilton, Hill, Asahel W. Hubbard, Humphrey, Kelsey, Kitchen, George V. Lawrence, Lincoln, Marvin, McCullough, Miller, Morrissey, Newcomb, Plants, Polsley, Pomeroy, Raum, Robinson, Selye, Shellabarger, Sitgreaves, Stone, Taffe, Trimble, Trowbridge, Twichell, Van Wyck, Henry D. Washburn, Thomas Williams, James F. Wilson, and Woodbridge—47.

So the bill was passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS, of Pennsylvania. I move to amend the title of the bill so that it will read:

A bill to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate the restoration thereof.

The amendment was agreed to.

INTERNAL REVENUE.

Mr. HUNTER, by unanimous consent, introduced a bill to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

FRANCISCO V. DE COSTA.

Mr. DONNELLY, by unanimous consent, introduced a bill for the relief of Francisco V. De Costa, of Kingston, Minnesota; which was read a first and second time, and referred to the Committee of Claims.

REPORT ON MINING STATISTICS.

Mr. HIGBY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of authorizing the Secretary of the Treasury to place in the hands of the Public Printer to be stereotyped the report of Mr. J. Ross Browne, special commissioner for the collection of mining statistics in the States and Territories west of the Rocky mountains, so that the proof-sheets may be read and revised by the commissioners and the report be placed before the members of the House without unnecessary delay.

Mr. BURR. I ask the unanimous consent of the House to offer a resolution, to which I think there will be no objection.

Mr. SPALDING. I call for the regular order of business.

Mr. FARNSWORTH. Will the gentleman from Ohio give way to me for a moment?

Mr. SPALDING. Yes, sir.

Mr. PIKE. I call for the regular order.

Mr. KOONTZ. I move that the House adjourn.

Mr. FARNSWORTH. I desire to report a bill from the Committee on the Post Office and Post Roads to establish certain post routes in different portions of the country so that mail service may be put upon them. Gentlemen are nearly all interested in the bill, and there can be no objection to it.

The question was taken on Mr. KOONTZ's motion, and it was agreed to; and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: A memorial of the representatives of the religious Society of Friends of New England, praying for a change in the management of Indian affairs, and that the American Indians be treated with kindness and justice, and that efforts be made to educate and civilize them.

By Mr. HALSEY: The petition of John A. Baxter, Benjamin Mills, and others, submitting propositions for and asking Government aid to establish a line of steamships to carry the United States mails between New York, Southampton, and Bremen.

By Mr. JULIAN: A memorial of representatives of the Society of Friends in behalf of the Indians.

By Mr. KELLEY: A memorial of 36 citizens of Philadelphia, Pennsylvania, praying for the adoption of a law investing all men with the equal exercise of the elective franchise in all the States.

By Mr. NICHOLSON: The petition of Clement Reeves, of Delaware, for compensation for the seizure of land and the erection thereon of a permanent fortification, known as the Ten-Gun Battery.

By Mr. PILE: A communication from the Chamber of Commerce of St. Louis, Missouri, relative to the Pacific railroad.

Also, the petition of James Fugate, for relief.

By Mr. PRICE: The petition of George W.

Locker, a citizen of Scott county, Iowa, asking for a pension on account of injuries received during the war of the rebellion.

By Mr. STOKES: The petition of Mary J. Stone.

By Mr. WINDOM: The petition of Betsy Wallingford, for a pension.

Also, the petition of Achsah Wood, John Smith, William D. Paddock, and Joel Torry, soldiers of the war of 1812, for pensions.

IN SENATE.

THURSDAY, *December* 19, 1867.

Prayer by Rev. Professor A. TEN BROOK, of the University of Michigan.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration."

INTERNATIONAL MONETARY CONFERENCE.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States in answer to a resolution of the 6th instant, transmitting a report from the Secretary of State concerning the international monetary conference held at Paris in June, 1867; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of John A. Ragan, of Hinds county, Mississippi, submitting a plan to prevent the inundations of the Mississippi river, and praying that it be adopted; which was referred to the Committee on Commerce.

Mr. MORRILL, of Maine. I present a memorial of the representatives of the yearly meeting of the religious Society of Friends in New England relative to the treatment of the Indians. It is not very long, and I ask that it be read.

The PRESIDENT *pro tempore*. If there be no objection the paper will be read.

The Secretary read, as follows:

To the President of the United States of America, and to the Senate and House of Representatives in Congress assembled:

The memorial of the representatives of the yearly meeting of the religious Society of Friends in New England respectfully represents—

That the Society of Friends since their first settlement in this country has ever felt and manifested a lively interest in the welfare of the aboriginal inhabitants of our land.

We, the descendants of the early Friends, still feel this interest as a religious concern, and in pursuance thereof believe it right thus to address you.

When we consider that the first emigrants to and settlers of our country found the Indian race in undisputed possession of this broad land where we dwell, and that now instead of their numerous tribes but comparatively few and scattered remnants of that once powerful people remain, and that we have entered into and now enjoy what was once theirs, the inquiry comes home to the present generation, has justice in all cases been meted out to them?

The advancing tide of emigration and consequent settlement into the region west of the Mississippi has in recent times brought the Indian and the white man into more immediate contact, and a few months since we were brought to fear that a system of warfare between the two races would follow, painful to the best feelings of our people to contemplate. But we are made rejoicingly to hope from late accounts that the wise and peaceable measures adopted by the Government will result in staying the tide of Indian warfare, and we cannot but believe that with justice to all parties peace may be permanently established in that extended country.

Kindness, liberality, and good faith toward the Indians have proved the most effectual means to secure their confidence and good-will and the faithful fulfillment of their treaties of peace; and we earnestly desire that the present favorable opportunity may be used to urge upon this unfortunate class of our fellow-men the propriety of their abandoning their habit of roving and hunting, attended, as this course of life is, with much suffering; and of their becoming tillers of the soil, whereby they may enjoy, through the aid proffered them by our Government, the comforts of civilized life.

We pray that the hearts of all concerned in the settlement of the questions which may arise there may be so influenced by the spirit and precepts of our holy religion that the love of peace may prevail, and that no further danger or bloodshed may be feared.

When we consider the divine precept, that "righteousness exalteth a nation," we have felt a strong solicitute that our nation should prove itself entitled in their dealings with the Indians to stand in this high position, believing as we do that the blessing of the Almighty Ruler of events will follow such a course.

We would especially urge upon the attention of our rulers that these Indians have a high claim upon our country to be protected by our just laws from those who may be disposed to take advantage of their ignorance or of their vices to deprive them of their just rights.

We commend this subject to your earnest attention with fervent desires that He who ruleth in the affairs of men may give you wisdom to discern and ability to do that which is right, and remain your friends.

Signed on behalf of the representatives aforesaid,

SAMUEL BOYCE, *Clerk*.

The memorial was referred to the Committee on Indian Affairs.

Mr. SPRAGUE presented the memorial of E. North Cullom, of Louisiana, asking to be relieved from all the civil and political disabilities imposed upon him by Congress on account of his participation in the late rebellion; which was referred to the Committee on the Judiciary.

Mr. WILLIAMS. I present petitions of a large number of the citizens of the State of Oregon and of Washington and Montana Territories, in which they represent that the entire northern portion of Montana Territory is practically cut off from communication with the great Columbia river and the Pacific coast, for the want of a wagon road from "Horse Plains" to "Cabinett Landing," on the Pen d'Oreile river, commonly called "Clark's Fork of the Columbia," a distance of one hundred miles, which, if improved, would open up a great through thoroughfare for trade and travel by stages, teams, and otherwise, from Montana and the East, on the most practical and direct route to the great Columbia river and the Pacific coast, and they pray for an appropriation of money to construct such wagon-road. I move that the petitions be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. WILLIAMS. I also present the memorial of Wilson Buckby and George Kelly, who have been acting collectors of internal revenue in Pennsylvania under the act entitled "An act to regulate the tenure of certain civil offices," asking that a law may be passed authorizing the proper accounting officers of the Treasury to adjust and settle their accounts. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. FERRY presented the petition of O. F. Winchester, president of the "Winchester Repeating Arms Company," praying the enactment of a law authorizing the Commissioner of Patents to receive an application for the extension of the letters-patent belonging to that company; which was referred to the Committee on Patents and the Patent Office.

HOUSE BILL REFERRED.

The bill (H. R. No. 214) to amend the act passed March 23, 1867, entitled "An act supplementary to an act to provide for the more efficient government of the rebel States passed March 2, 1867, and to facilitate restoration," was read twice by its title, and referred to the Committee on the Judiciary.

RIGHTS OF NATURALIZED CITIZENS.

Mr. SHERMAN. I am requested to present the memorial of a large meeting of citizens of Cincinnati and also of the city council of Cincinnati, praying that Congress will take such measures as will secure to all citizens of the United States at home and abroad their rights as citizens against the aggressions of foreign Powers. I will state that this memorial, which includes several speeches and resolutions at the meeting to which I have referred, relates to the recent proceedings in England against American citizens. The subject has attracted a great deal of attention, and during the last summer my attention was somewhat called to it. It is very manifest that the rights of American citizens of foreign birth traveling abroad should be in some way defined, either by treaty or law. The subject is very constantly brought to the attention of American travelers abroad. In Prussia especially the rights of American citizens of German birth, acquired by naturalization, are entirely disregarded, so that the result is that no German-born American citizen between certain ages can travel with safety in his native country. I move that the memorial be referred to the Committee on Foreign Relations.

Mr. CONNESS. Before this memorial goes to the committee I wish to suggest that I do not know of any way by which in our legislative capacity we may protect the rights of citizens traveling abroad. The case as it stands seems to me to be perfectly plain. There is no right attaching to American citizenship that does not attach equally to all citizens of the United States, and when traveling abroad or at home they are entitled to be and should be protected by the entire force of the Government in their just rights. Their rights consist, when abroad, in peaceable, unobstructed transit. It belongs to the executive department of the Government, and not to the legislative, to see that those rights are secured.

I know that the President of the United States in his recent message to Congress has called the attention of the legislative department to this subject; but I take this occasion to say that the President of the United States is now clothed with ample power upon this subject, and that the failure to exercise it must be taken and confessed as being his fault and his offense to the extent that any offense has been committed. The rights of American citizens when traveling abroad do not, and no one will hold them to, include the right to disturb the peace of the society of another State. Those going to foreign countries for that purpose and with that intent, whether covert or open, must be held to take the responsibility that attaches to their proceedings; but that American citizens free of all guilt, in regard to whose protection and safety there should be no question, should at this time be interfered with either in Great Britain or France or the kingdom of Prussia—three Governments representing great power—is a shame and a scandal to the extent that it is a fact. The United States, happily, at last have attained such a position as leaves no question in the mind of anybody, either at home or abroad, as to their power to protect their own citizens and to vindicate all the rights common and inherent to them.

I hope, sir, that this great subject will be taken up by the Committee on Foreign Relations, and that at least a divided attention from the acquisition of foreign territory will be given to it by the State Department of this Government. I hope that the voice of this nation will be spoken, when necessary, from the legations representing this Government abroad; and I say here in my place to the President of the United States and the head of the State Department that it is not creditable to either of them to complain that the rights of any class of American citizens are violated in foreign countries while they confess at the same time that they, as the representative of the executive power of this nation, tamely submit to it.

I am very glad that the honorable Senator from Ohio, in presenting this memorial to the Senate, has called public attention to the question, and I ask the honorable chairman of the Committee on Foreign Relations not to suppress this subject, not to fear to come up to its measure of importance. I ask not from him any demonstration in favor of any faction or organization of our people engaged in illicit proceedings; but I ask from him such coöperative influence as will make the proper and legitimate power of this nation felt at home and abroad in the protection of American citizens.

Upon this subject, sir, I have some feeling. I have also some opinion. My feeling may

differ from that of other Senators to some extent, for perhaps the best of reasons, that I myself am a naturalized citizen of the United States; but my opinion upon this subject cannot be different in any respect from that of any Senator or any other citizen of the United States. The power of this Government, its ability to give happiness to its people, and to be respected abroad, cannot be shown in any more distinctive manner than that where the shield of its citizenship covers a human being the most explicit and certain protection shall go with it; and this, sir, should be secured by this Government to all its citizens.

Mr. SHERMAN. In presenting the memorial of the highly respectable meeting in Cincinnati, and also of the proceedings of the city council, I did not intend to elicit any debate nor to express any opinion about the matter, but simply to have it referred to the appropriate committee. I desire now, as something has been said upon it, to say that this relates to three different classes of subjects, three different classes of complaints, each of which stands upon a different foundation. First, it is alleged that naturalized citizens of America are tried in England, and great complaints have been made that they are executed. Now, I think when a native or a naturalized citizen of America goes to a foreign country and commits any violation of its law whatever, great or small, he is amenable to that law, and it is not the duty of the United States to follow American citizens abroad and shield them from the consequences of a violation of the laws of the local authorities.

Mr. CONNESS. Of course not.

Mr. SHERMAN. But there is another class of cases where offenses are committed in this country, *quasi* political in their character, by citizens native or naturalized of this country, and they go abroad and are there arraigned in whole or in part for what they have done in this country. Some of the points raised in some of the trials in England have involved that very question. Parts of the proof of the offenses for which they have been tried were acts committed or declarations made at home here in our own country. That raises a very difficult question. We certainly cannot allow a foreign Government to punish our citizens, native or naturalized, for offenses committed here which are not punishable by our law. That seems to be clear; and yet that is one of the points made in some of the English trials, where declarations made here by the defendant were admitted as proof of a guilty intention—an indispensable part of the crime.

But there is another class of cases still more difficult, in which a very friendly Power in Europe—for the king and people of Prussia are undoubtedly friendly to America—adheres to the old doctrine that a subject cannot surrender or renounce his allegiance, and therefore American citizens by naturalization who have gone back to their former homes in Prussia or in other parts of Germany after a long residence in this country have been suddenly arrested, detained, and put to great trouble on account of the claim of the German Governments for military service. That creates a very difficult and very complex question, which I believe has been the subject of negotiation between the two Governments for a long time in a friendly spirit. It is manifest, as this is the only difficulty or misunderstanding that could arise between the German Governments and our own, that it ought to be settled on some satisfactory basis, and that the rights of American naturalized citizens should be regulated either by a treaty or by some public declaration of Congress.

Mr. GRIMES. What other German Government makes such a claim?

Mr. SHERMAN. There were several German Governments that did so, but most of them are absorbed now by Prussia.

Mr. GRIMES. Austria has given it up.

Mr. SHERMAN. I know that, but until recently quite a number of German Governments have insisted on that doctrine, and these questions have arisen in regard to all the Governments in Germany, perhaps in regard to Austria—I am not so sure about that—but at any rate in regard to Prussia. They have uniformly refused to yield or surrender their claim to the military service of their citizens, whether naturalized in this country or residing in this country, and this has always been a controverted point between the two countries. I do not wish to dwell on this matter, as the whole subject will go to the Committee on Foreign Relations.

Mr. CONNESS. The Senator from Ohio has well stated the distinctions that exist in relation to this subject, which I will not go over at all, but he did not go quite far enough when he pointed out the objectionable conduct of Great Britain upon this question. Their courts are not only engaged in convicting citizens of the United States for acts done within our jurisdiction, but for words spoken. The American citizen is put upon his trial and the evidence adduced in his case is for words spoken within the jurisdiction of the United States of America, and he is convicted and sentenced and incarcerated in Great Britain for the crime of having spoken in the United States of America. I think it is high time that that grave insult should be repaired.

Mr. CONKLING. Will the Senator allow me one moment.

Mr. CONNESS. I am done, sir.

Mr. CONKLING. Agreeing as I do in the main with what was said by the Senator from Ohio, and not differing from what my friend from California has just said, I wish, however, to suggest one modification of the views of those gentlemen. The Senator from Ohio says that we cannot submit to the idea that foreign Governments should punish citizens of ours for acts done here which were not punishable by our laws. I agree to that; but I go a good deal further. If those acts were punishable by our laws, if they were the highest offenses known to our laws, either State or national, it confers no shadow of jurisdiction or authority upon foreign tribunals to take jurisdiction of them. I do not understand the Senator, as he says, to have insisted that it did; but his remark was that they could not punish our citizens for acts not punishable or criminal by our laws.

So, to turn the illustration upon the Senator from California, he says they punish men for words spoken within our jurisdiction; they have just as much right to punish them for that as for any overt act within our jurisdiction, provided that by their laws those words constituted the offense. The answer to the whole thing is that it was a sheer invasion of our rights, no matter for what they punished them, whether for words or deeds. It is alleged that they punished these men for acts which were done, no matter of what kind, within the State of New York; and without going at all into the character of those acts, to their criminality in any sense, it presents the question broadly whether any foreign tribunal can take hold of an American citizen and punish him for acts done, not within their own realm, but in ours. I am very glad to have the opportunity, for one, of concurring in the broadest sense in what has been said by these two Senators upon that point.

Mr. JOHNSON. I do not know what the executive department of our Government have done in relation to the conduct toward our naturalized citizens of which the honorable member from California spoke. They have not, however, the war power, and in the absence of the war power perhaps all that they could do, unless they could by negotiation terminate such a state of things, would be to lay the matter before Congress, and Congress might decide for itself whether it was a cause of war if persisted in.

I suppose there is no difference of opinion in the country, certainly not in this Chamber, that this Government never can permit her naturalized citizens to be punished by England or Germany or any other nation for acts which as citizens of the United States they had a right to perform. There is a difficulty arising from a difference of doctrine between ourselves and England and Germany. England insists upon it, and her courts have recognized the doctrine as a sound one from the beginning up to the present time, that an Englishman cannot absolve himself from the allegiance of his birth. We, on the contrary, under the authority of the Constitution, have passed laws by which subjects of England, as well as of other countries, may, by pursuing a certain form, become citizens of the United States. In my judgment, the moment they are in that mode citizens of the United States they are as entirely discharged of all obligation to England as they would be if they had been citizens of the United States by nativity.

Recently the Queen's Bench, by a decision meeting with no dissent, as I understand, have adjudged the rule to be different there. It arose in this way: by the English law a foreigner who is indicted for an offense and put upon his trial is entitled to have a portion of his jury selected from citizens of his own Government. Some of those called "Fenians" who were indicted either in England proper or in Ireland, I forget which, claimed the benefit of that right, and the courts denied it upon the ground that they were not citizens of the United States under their law, but subjects of her majesty, and they were tried and condemned, and I believe in one or two instances have been executed.

That difficulty can be avoided, and I suppose will be avoided, by England doing what she has a clear right to do—modifying her laws in that particular so as not to give it as an absolute right to a foreigner who may be put upon trial in England to have the jury consist in part of his own countrymen. That they have that right is certain, for we do not give to any foreigner who may be indicted here that privilege.

But the other question is a dangerous one, and I think can be avoided only short of war by negotiation, and I have every reason to believe, and I do believe, looking at what seems to me to be the clear interest of that Government, that the two Governments can by negotiation agree, Parliament sanctioning the negotiation, that the doctrine of allegiance upon which England insists shall not be made applicable as against citizens who have become naturalized under the laws of a foreign Government, that Government being invested with the power to naturalize by its own Constitution. If she does not, and our naturalized citizens are received and treated as English subjects and punished in that character, I for one would say that if persisted in against the remonstrances of the United States it would form a just cause for war. But that is a result which it is the interest not only of the United States but of England to avoid, and I think that interest would become so apparent to the British Government, as it is of course to us, that they would agree to abandon that doctrine.

A word more and I shall take my seat. The honorable Senator from California, by the hope which he expressed that this resolution would not be suffered to sleep in the committee-room of the Committee on Foreign Relations, perhaps would be considered by the country as intimating that that would be its fate if it was so referred. I beg leave to assure him and the Senate that that question, as I think—I speak my own sentiment, but I am sure that they are the sentiments of all the committee—will be considered as speedily as it can be done in view of its gravity, and that the committee will be the last of the members of this body to submit willingly to what I, and I believe they, think is a wrong upon the naturalized citizens of our Government.

Mr. SUMNER. I am obliged to the Senator from Maryland for anticipating what I had to say in reference to the committee which I have the honor of representing on this floor. I do not believe that there is anything in the

conduct of the business intrusted to that committee which at this moment should justify any suggestion that the committee is disposed to put aside or suppress any important question that shall be committed to it by the Senate.

Mr. CONNESS. The Senator will allow me to say that he is certainly overstating the hope that I expressed and making it convey a suggestion that, in my opinion, the committee would do that. On the contrary, the Senator standing at the head of that committee will allow me to say that I cannot think for a single moment that any number of American Senators would or could pursue such a course; but I expressed the hope that I did, in view of the too common habit upon questions of this character, as I believe, of the American mind to put off the day of action. While England demands the release of the men taken from the Trent, not because they were British subjects, but because they were within British jurisdiction, and insolently points her guns at us in connection with that demand, and while she makes war upon Abyssinia, which is, in point of the greatness of its power, an inconsiderable Power of the earth, because it oppresses her subjects, we too often submit to insolence from other nations. I think the time has come when that conduct on our part should cease; and I thank, in behalf of people that I perhaps may be taken as a representative of, the members of the Committee on Foreign Relations for what they have said upon this subject and for the promise they have made.

Mr. SUMNER. Mr. President, I do not intend by anything the Senator has said to be led into a discussion of the comparative merits or policies of Great Britain and of the United States in defense of the liberties and interests of their respective citizens and subjects. I content myself with saying that I believe the history of this Republic will show that we have not been insensible to any such claims. I believe that history hereafter will make a similar record. I am not anxious on that question. I believe that this Republic is sufficiently strong from what it has done in the past and the promise of the future to be able to meet all these questions calmly, frankly, and after the most careful consideration. I am not disposed, therefore, to be precipitated under any temporary pressure into a premature discussion of an important question; nor am I disposed to undertake to decide whether a question like this properly belongs to the executive or to the legislative department of the Government. In some respects it is clearly an executive question. If, for instance, all the Senator from Ohio has stated be true—if American citizens have been sentenced for acts done in the United States—I humbly submit that there is a question at once for executive action. It may be, however, on inquiry, that Congress can do something to aid or to stimulate the Executive. If it can I doubt not that it will be done.

With reference to the committee I may add that this subject is already before it; it has already been under consideration, and I am sure that there is no member of that committee who has any disposition to slight it.

There is one branch of the question, to which the Senator from Maryland alluded, which is particularly grave—I refer to the claims of England to the allegiance of her subjects who have emigrated to this country. The Senator anticipates difficulty from that. I do not know that he has observed very recent intimations from important organs of public opinion in Great Britain to the effect that there is a disposition there to abandon their original pretension. If that disposition prevails it is easy to see that there can be very little difficulty between us, and on that, let me say, to my mind, the pretension of Great Britain—I do not wish to use too strong language, but I was about to say is absurd. When Great Britain allows emigration on the gigantic scale that she does it is not in her power afterward to say that those emigrants when they have established citizenship in our country shall not enjoy all the rights of that citizenship. The pretension on the one side and the permission on the other are inconsistent with each other, and it is on that account that I say that the present pretension of Great Britain, if she perseveres in it, is an absurdity. I believe, however, that that question, like other questions, will disappear before a candid examination.

Mr. CONNESS. I wish, in conclusion, simply to say that, while a "candid examination" of this subject is promised us, the chairman of the Committee on Foreign Relations and the President of the United States and the head of the State Department of this Government should not forget those who are in English bastiles and who are now convicted and suffering out their ignominious sentences upon English hulks. That crime against the dignity and the rights of this Government and its people is a past transaction. Citizens suffer, and there must not be too much calmness coming from the American Senate and the American Executive if that calmness is to lead to procrastination and delay.

Mr. WILSON. Mr. President, I presented a few days ago a petition from Colonel Warren, a gentleman who, I believe, served our country during the rebellion, who was a member of the Fenian organization, as he had a right to be. I sympathize with that organization so far as it aims to secure the liberty and enlarge the rights of man, for my sympathy is with all the members of the human family who are struggling for the recovery of lost rights or for the liberties of nations or races. This gentleman states that for being a member of that organization in this country he was arrested in Ireland; he refused to plead, but nevertheless was tried and sentenced to a prison in Dublin for fifteen years. I do not know that the Secretary of State or the Executive is to blame in this case, for we do not know how much they are doing; but if his statement be correct—of course I have not the records of the British courts to justify it, but I believe this gentleman to be a man of honor and of character—the case demands action, and a corrective should be at once applied, and every branch of this Government should engage in it, and the voice of the American people should be clearly pronounced in vindication of the rights of adopted citizens. Mr. Warren in his petition says:

"I, a citizen of the United States by adoption, respectfully submit the following:

"I am an Irishman by birth, by adoption an American citizen. Partly in pursuit of my avocation as a member of the American press and on private business to see old friends and relatives, I arrived in Ireland in the latter end of May, 1867. Immediately after landing, on the 1st of June, I was arrested, cast into a dungeon, and kept closely confined in silence and solitude for nearly five months, without any charge having been preferred against me and without obtaining a hearing of any kind. On the 10th October I was summarily ordered before a magistrate and evidence sworn against me by a witness classed and known as an informer. I was committed on his evidence, indicted on the 24th October, tried, and I stand now a convicted and sentenced felon for fifteen years' penal servitude on the uncorroborated testimony of the notorious and infamous perjurer and informer, Corydon, who swore he knew me to belong to the Fenian confederacy in America in 1863. The indictment charges me with the overt act of the 5th March in the county Dublin, Ireland, although the Crown lawyer admits that I was not bodily present, but was then in the city of New York. The British law claims me to be a British subject, ignores my United States citizenship, and consequently your right to confer it. The crown lawyers further hold all the members of the so-called Fenian confederation guilty of the overt act of the 5th March in the county Dublin, Ireland. Corydon swears I was a member of the above-named confederation in America in 1863. England claiming me as her subject consequently indicts, arraigns, tries, convicts, and sentences me for an act committed in Ireland when I was in the city of New York, United States of America, and I am at this moment a first-class convict in a British bastile, clothed in a suit of convict gray.

"Gentlemen, my case is very plain. The English law under which I am claimed, as quoted by the judges who sat in my case, reads: 'A British subject who moves to France or America owes the same allegiance to the queen there as at home; twenty years hence as well as now. For it is a principle of universal law that the natural-born subject of one prince cannot by any act of his own—no, not by swearing allegiance to another—put off or discharge his natural allegiance to the former; for his natural allegiance was intrinsic and primitive and antecedent to the other, and cannot be divested without the concurrent act of the prince to whom it was due.' Gentlemen, this law existed when the United States, on my forswearing 'all allegiance to all foreign princes and potentates, *more especially the queen of England*,' conferred on me the rights of citizenship. If America acknowledged that law she has perpetrated on me the most unjust, the most fraudulent injury. If she did not acknowledge it then why does she now? England, by indicting, arraigning, trying, convicting, and sentencing me, on the uncorroborated evidence of a perjured informer, for an act claimed to have been committed in America, which act, as represented, was being a member of an Irish national organization in the United States of America, in 1863, has ignored my previous citizenship, the right of the United States to confer it, and consequently has defiantly enforced this law, and the Government of the United States, as represented by Mr. Johnson and Mr. Seward and Mr. Adams, apparently coincide in this enforcement. If not, why were not some steps taken to defer action till your honorable body had an opportunity of adjudicating on so important a question?

"I ask you, gentlemen, as I lie to-night in my lonely dungeon, cast away from mother, wife, sisters, children, and friends, immured in a living tomb now for the last six months, what feeling must I have toward my Government as represented in this matter? Why should it permit for an hour a citizen to stand convicted of treason-felony in Ireland on the ground of his being a member of an Irish national organization in America, and that on the evidence of a perjured spy and informer? Which of the two Governments up to the present is to me the more treacherous—the Government which invites me to renounce all former allegiance whatsoever, confers on me the full rights (on paper) of American citizenship, affixes its official seal to the act, and extracts a fee for so doing, and when this citizenship is contemptuously and defiantly repudiated by the Government whose allegiance I renounced tolerates and abandons me to my fate, or the Government from which I expect nothing, my national enemy, the enemy of every aspirant for freedom, the enemy of my very existence and of my adopted country? Observe to what an extent run the claims of the British Government. England claims that in the enforcement of what she calls a right that several millions of the subjects of the United States are her subjects, and defiantly in proof of this has convicted me with others to the doom of penal servitude, after coquetting with Mr. Johnson, Mr. Seward, and Mr. Adams for five months about my release, for an occurrence that took place in Ireland when I was an American, thereby enforcing her claim on my allegiance to the letter. I cannot but admire England's independence. Has the chivalry of America departed?

"And yet, gentlemen, she goes still further in her claims. I find there is yet another of her laws which even claims the children and grandchildren of British subjects born in America as subjects. An eminent commentator on this law says: 'But by several more modern statutes these restrictions are still further taken off, so that all children born out of the king's legiance whose fathers or grandfathers by the father's side were natural-born subjects are now deemed to be natural subjects themselves to all intents and purposes unless their said ancestors were attainted or banished beyond the seas for high treason.' I admit that England does not presume to enforce this last-quoted statute at present; but should she be permitted to enforce the first with impunity the assertion or non-assertion of the other will be with her a question of policy if not of principle, and she may at any time claim half the population of the United States as her subjects.

"Now, gentlemen, as I have before mentioned, my case is plain. I have quoted the law under which as a British subject I stand convicted of 'treason-felony' on the evidence of a spy and perjured informer and for being a member of an Irish national organization in America, as sworn, in 1863. You know also, gentlemen, the rights guarantied to me by the Constitution of the United States and the naturalization laws. Am I under those laws a citizen of the United States and entitled to her full protection or am I under the English statutes a British subject and amenable to English law in America?

"I will state, gentlemen, in conclusion, that even as a British subject I have violated no British law. My name is connected with an alleged expedition, but there is not one iota of corroborative evidence to identify me in connection with it, as your honorable body may have learned from the published evidence long before you receive this communication; and even if it did exist the very evidence produced, purchased, and perjured, as it was, proved that if a hostile design ever existed it was abandoned, and that the parties were thrown on the shore by stress of weather and starvation. The only case they have attempted to establish against me was that I landed in Ireland from a fishing boat, which fishing boat took me off a vessel out at sea. No documents, no arms. I attempted no disguise, had no connection with any person or persons in Ireland.

"I again, gentlemen, repeat that I am suffering in an English bastile the most excruciating, degrading, and servile tortures for no other proven offense before my God than that the paid informer, Corydon, swore that he knew me in America to belong to an Irish national organization.

"Gentlemen, in the name of our common country, in the name of freedom, in the name of God, I ask you to take hold of this matter vigorously, and to compel England to expunge from her law-books every presumption bearing on the rights of the American citizen. If she does not do it wipe her from the face of the earth and God bless you."

Mr. HOWARD. Mr. President, the statement made by the honorable Senator from Massachusetts [Mr. WILSON] relating to the

gentleman named by him strikes me with surprise. I think that case ought to be inquired into in some way; for is it not amazing that a British court should undertake to punish for words spoken or for acts done within the jurisdiction of the United States? I cannot understand how it is possible that any Government could resort to such a principle.

Mr. FESSENDEN. I would ask my friend whether it is not probable there is some mistake about this?

Mr. HOWARD. I was going to say that I really hope, for the credit of the British Government, that it may turn out to be erroneous.

Mr. FESSENDEN. Is it not probable that in order to fix a criminal intent upon the man for some act done there evidence was admitted of what he said here by way of illustration. Is not that probably all there was of it?

Mr. HOWARD. I really am not able to answer the inquiry. Language in such a case as that would tend to show the *animus* under which he acted in the act for which he was indicted and convicted. Possibly that may be the case; but if it be true that persons are arraigned in Great Britain for crimes committed within the limits of the United States, and which were not committed in fact within the limits of British jurisdiction, it is certainly our duty, as it seems to me, to inquire rigidly and thoroughly into the facts, and to ask for that measure of reparation which is due from one nation to another in such cases. Great Britain has no power and no right whatever to punish an American citizen for acts committed within the limits of the United States, as I understand the law of nations. I hope this will be investigated, and that it will become a subject of correspondence between the two nations.

The memorial was referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 212) to grant lands to the Northern Michigan Railroad Company in extension of the Northern Pacific railroad; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Public Lands, to whom was referred the bill (S. No. 188) for the relief of towns in the State of Nevada, reported it with an amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (H. R. No. 120) in regard to the publication of postal conventions made with foreign countries, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, reported a joint resolution (S. R. No. 81) placing certain troops in Missouri on an equal footing with others as to bounties; which was read and passed to the second reading.

DEFICIENCIES IN APPROPRIATIONS.

Mr. MORRILL, of Maine. The Committee on Appropriations have had under consideration the bill (H. R. No. 313) making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868, and have instructed me to report it back with amendments. I ask for the present consideration of the bill.

The PRESIDENT *pro tempore*. The time has arrived at which it is the duty of the Chair to call up the unfinished business of yesterday.

Mr. MORRILL, of Maine. I hope the unfinished business of yesterday will be permitted to be passed over by general consent until we act on the bill I have just reported from the Committee on Appropriations.

The PRESIDENT *pro tempore*. By unanimous consent the unfinished business may be passed over informally for the purpose indicated. The Chair hears no objection.

The Senate as in Committee of the Whole proceeded to consider the bill (H. R. No. 313) making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868.

The first amendment of the Committee on Appropriations was to insert after line twenty-nine:

To supply a deficiency in the contingent expenses of the Senate for the present fiscal year, the following sums, namely:
For clerks to committees and pages, $33,804.
For additional messengers, $8,640.

Mr. FESSENDEN. I should like to have some explanation of that item for deficiency for clerks of committees, &c. It strikes me as rather a large one.

Mr. MORRILL, of Maine. It arises in this way. At the July session we authorized the retention of the clerks of committees until the next meeting in November.

Mr. FESSENDEN. Does it not also cover the time that elapsed between the adjournment in April and the meeting in July?

Mr. MORRILL, of Maine. No, sir; the time is from July, 1867, to June 30, 1868.

Mr. FESSENDEN. It reads as a deficiency.

Mr. MORRILL, of Maine. It embraces up to the end of the fiscal year closing June 30, 1868.

Mr. FESSENDEN. Of course the committee understand the details, and they know whether it is correct or not.

Mr. MORRILL, of Maine. We thought there was a legal obligation on the Senate growing out of the resolution of July last.

Mr. FESSENDEN. If in the recess from April to July the clerks, pages, &c., were paid out of the fund in hand, that perhaps would make a deficiency from July to November.

Mr. MORRILL, of Maine. I understand it does not cover from April to July.

Mr. FESSENDEN. Were they paid from that time under an order of the Senate?

Mr. MORRILL, of Maine. Under a resolution of the Senate.

Mr. FESSENDEN. Was there any resolution of the Senate directing payment from April to July?

Mr. MORRILL, of Maine. I do not speak of that. That is not included in this item.

Mr. FESSENDEN. But there is a deficiency in the fund, and I suppose the deficiency is made up partly at least from the fact of using the fund to pay these officers between July and November under the order of the Senate, but is it not also occasioned by their having been paid from April to July in some part at least?

Mr. MORRILL, of Maine. No, sir.

Mr. GRIMES. I understand they were paid between April and July because there was not a recess of Congress, but an ordinary adjournment, as for example they will be paid from to-morrow when we adjourn over until the 6th day of January, it being a simple adjournment of Congress. That is one of the reasons for this deficiency; that is to say, the money which would otherwise be applied toward the payment of these officers from now until the 30th of June next was exhausted in paying them between April, when we adjourned, and July, when we came together again.

Mr. FESSENDEN. That was not under an order of the Senate, but under the general idea that it was a mere adjournment.

Mr. GRIMES. Yes; under the general law.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to strike out lines forty, forty-one, forty-two, and forty-three, making the following appropriations for the Department of Education:

For extra clerical help in obtaining a history of United States land-grants and translations, $1,600.
For fuel and gas, $500, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. SHERMAN. I suggest to the committee that they had better leave out the last clause of the bill; because it is not true now, the amount having been changed, and the clause is entirely unusual. I move to strike out that clause, which is in these words:

And the total amount appropriated by this bill is $118,892 21.

Mr. MORRILL, of Maine. Such a clause is of no consequence any way.

The amendment was agreed to.

Mr. BUCKALEW. It seems to me that we shall have some confusion introduced into the settlement of our accounts by the provision in this bill commencing in line twenty-two. I understand that provision of the bill to be intended to apply to both Houses. Now, sir, we have a very different arrangement in the Senate with regard to newspapers and stationery from that which exists in the other House. I believe that at present the sum of seventy-five dollars per session is allowed to each member of the Senate for newspapers, and we expend that much. As to our stationery, it is purchased in gross and kept in a room under the charge of an officer, and is drawn for by each member according to his necessities. By this provision, which appears to be intended to apply to both Houses, a regulation which may be very proper in the House of Representatives may be found to introduce confusion into our arrangements in the Senate, because we have a different system. I should like this part of the bill to be looked at by some committee, or at all events it should be delayed long enough to enable us to understand what its operation will be. I have bestowed some attention to our outlays for stationery and to our administration of the system of distribution of stationery among members of the Senate. I suppose that that subject will be considered by the select committee on the salaries, &c., of the employés of the two Houses of Congress; but it strikes me on looking at this provision that we shall have a great deal of confusion by taking an arrangement which may be appropriate for the House of Representatives and applying it to the Senate, where we have a different system entirely.

Mr. MORRILL, of Maine. The Committee on Appropriations were in favor of a provision which should operate as a limitation on the amount of money to be expended by either branch for this particular purpose, and were not specially advised as to the course which the select committee who have the general subject under consideration would take, and so reported the bill without touching this proviso, in harmony with the general desire to limit the amount of money which both branches of Congress should be at liberty to dispose of for this purpose. If there is embarrassment likely to come from it the provision may be now non-concurred in perhaps and the matter arranged at some other time.

Mr. BUCKALEW. I will propose an amendment to meet my idea. I move in lines twenty-two and twenty-three to strike out the words "either House of Congress," and insert "House of Representatives." That will leave the bill as the House desire it for their own administration. The proviso will then read, "That hereafter no member of the House of Representatives shall be allowed or paid for newspapers and stationery for any one year a larger sum than $125," &c.

Mr. FESSENDEN. I am very glad that the House of Representatives has called the attention of the Senate to the necessity of doing something in relation to this question of stationery, &c. I may state for the information of the Senate that, with a view to look into this whole stationery matter as managed in the Senate and in the House of Representatives, the select committee of the two Houses, appointed for the purpose of fixing the pay, duties, &c., of the employés, offered a resolution, which has now passed both branches, giving them power to look into this subject in common with others, and see how far our expenses can be reduced. It is our design to do so. We have already taken the first step in regard to getting some information on the subject. The order of the Senate as it now stands gives to each Senator the amount of seventy-

five dollars per year for newspapers, periodicals, &c. That amount of seventy-five dollars which is now allowed is not by any means equal to what the former allowance of fifty dollars was in point of fact some years ago. I have not usually myself taken up the whole amount of that sum in newspapers and periodicals, but I take a considerable amount in that way. This provision as it stands would leave then fifty dollars to each Senator for the stationery which he uses during the session. It may be that too much is allowed for newspapers and periodicals, and too little for stationery by this provision, or there may be enough for both purposes; I do not know but that it is so. I think myself that the difficulty which has arisen is owing to the fact that there is not a sufficient supervising control over the expenditure for stationery in the stationery-room. Whose fault it is I of course cannot say. I do not know in what way it goes or how it goes. I know that we have been roundly abused in the newspapers on the subject of penknives. I know, however, that that did not particularly apply to me. How it has come about I cannot tell; but at any rate, these complaints being made, it is advisable to look into the whole subject, in my judgment, and if there is any abuse have it corrected, and have our stationery-room, and perhaps the stationery-rooms of both branches of Congress, under proper regulation both with regard to purchases and with regard to expenditures.

I am somewhat doubtful myself whether at this time it is advisable, without understanding how Senators feel with regard to it and how they stand with regard to it and what they have ordered for this session, to at once at this period of the session adopt a provision such as this before the whole matter has been properly investigated. For myself I have no objection to having this rule of $125 a year applied to me individually. Still I think it is hasty legislation and probably is brought about by what has been said in the newspapers with regard to it, and which I confess is in some degree deserved, so far as this, that we ought to have the matter under more specific regulation.

I should think, therefore, that if the other House has examined the subject so far as to be satisfied that $125 will do for each member of that House, both for newspapers and stationery, we can have no difficulty in agreeing to that for them, and I should be willing to agree to the same limitation on members of the Senate so far as I am individually concerned, but I doubt very much the expediency of it at this period of the session before the matter has been thoroughly investigated. That it ought to be done at some time I have no doubt.

Mr. GRIMES. It seems to me that if we are going to begin the system of retrenchment and economy which we have promised the people of this country and which they expect of us we might as well begin here as at any other place; and it does not occur to me that the argument of the Senator from Maine, that the general subject of the regulation of the officers of the Senate and House of Representatives has been referred to a select committee, is a sufficient reason for delaying action on this bill or for refusing to concur with the House of Representatives in the proposition which they have sent to us.

As I understand the condition of the stationery-room and of the clerk who has charge of our newspapers and periodicals, it is this: when I came to the Senate each member was allowed fifty dollars a year to be expended in subscriptions to newspapers and periodicals; and that amount at some time when I was not cognizant of the fact was raised from fifty dollars to seventy-five dollars; and then we have a stationery-room, where almost everything in the haberdashery line, I believe, is kept, purchased in some way or other under the direction of the Secretary of the Senate, and a Senator, when he chooses to get anything from that room, can go there and order it to an unlimited extent. I do not know that there is any limit whatever, and indeed I understand there is no limit as there is in regard to newspapers. He can order fifty, twenty-five, one hundred and fifty, five hundred, or one thousand dollars' worth. Now all that has been proposed by the House of Representatives, in which our Committee on Appropriations agree, is that there shall be a limit upon the amount that shall be received from that office as well as a limit on the amount that has hitherto been received under the resolution of the Senate in the shape of newspapers and periodicals. Why should there not be? I do not believe there is any member of this body since I have been here who has ever used legitimately or in any other way during a session seventy-five dollars' worth of stationery. I do not know what may have been charged up against me, but I am satisfied that I could have gone into the market any year and bought the stationery and other articles I have procured from that room, of quite as good if not a little better quality, for fifty dollars.

Mr. JOHNSON. Not the haberdashery.

Mr. GRIMES. Yes, sir; all articles of haberdashery and stationery that I have got there. Now, sir, what we want and what was expected, or what at any rate I expected, of the select committee is to regulate the purchases that are made by the different officers of the Senate, and to establish some system of bookkeeping by which there shall be a check upon these different officers, so that we shall know exactly who did a thing, upon whose instruction he did it, for what purpose it was done, at what price it was obtained, and out of what appropriation it is paid. They keep a book now, a kind of blotter, in the stationery-room, and it is very easy for that book to be placed under the direction of the select committee and to have it kept in a proper form, so as to charge each gentleman of the Senate with the amount he receives. It does not require any further legislation on the subject except a simple direction as to what shall be done in this regard.

Mr. DIXON. I would inquire of the Senator if that is not the case now?

Mr. GRIMES. Yes, I say that is so; and therefore there is no trouble if we adopt this provision in keeping a proper check and regulate the amount both in the stationery-room and in the newspaper-room. This proviso simply limits the amount to be allowed for these items, and it shows to the world that we are disposed to put a check if there have been these extravagances that have been charged in the newspapers, and of which I know nothing, but of which I have read with shame-facedness and confusion in almost every newspaper through the last canvass. If there have been any such abuses it seems to me this is the time and manner and place to begin the correction.

Mr. SHERMAN. I think the amendment proposed by the Senator from Pennsylvania would not be advisable because that would do by law what the House now can do. Each House may now order out of its contingent fund any amount it deems proper for these purposes, and therefore the adoption of his amendment would simply be refusing to apply to ourselves the limitation which we are willing that the other House should impose upon themselves. The House can do it so far as they are concerned by a simple resolution, and therefore the amendment of the Senator from Pennsylvania does not accomplish the object of the House. I agree with the Senator from Maine that this provision ought not to stand as it does now because we have already received, or are entitled to receive, our allowance of stationery for this session, and we have already received our allowance for newspapers, and as things now are there is no limit to our allowance for stationery. That abuse should be broken up, and I think the Senate is willing to break it up; but we cannot do it for this year because we have already drawn the stationery. I have received some stationery, and no doubt every Senator has. This provision should be made to apply hereafter. As it stands now it would compel a sudden breaking up of the existing mode of getting stationery in the Senate. My impression is that it would be well to adopt the rule prescribed by the House, but to apply it after this fiscal year.

Mr. GRIMES. This does not break up the stationery-room; it allows every member to get his stationery here, or if he chooses he may draw the amount of $125 and get his stationery and newspapers of whomsoever and wherever and whenever he pleases.

Mr. SHERMAN. It changes the whole manner of keeping the accounts and the whole manner of disposing of the stationery fund. I think, therefore, the provision ought not to apply to the present fiscal year. With a modification providing for its application after this fiscal year, I should be willing to vote for it, because I think $125 is a sufficient allowance, and, indeed, in my judgment, $100 is enough to pay for all the newspapers and all the stationery each member ought to get. I move, therefore, to amend the clause by inserting after the word "hereafter," in line twenty-two——

The PRESIDENT *pro tempore*. There is an amendment already pending.

Mr. SHERMAN. I propose to amend the amendment so as to make the clause read: "that after the present fiscal year no member of either House of Congress," &c. That would make the rule of $125 a year apply to every Senator and Representative after this fiscal year, and it would be in perfect harmony with the action of the joint committee; for I believe that every member of the joint committee, including its chairman [Mr. FESSENDEN] and my friend from Pennsylvania, [Mr. BUCKALEW,] agree that this system should be broken up and that some fixed amount should be substituted. I think that would be fair and just.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Ohio is not strictly in order, for it would strike out the entire amendment of the Senator from Pennsylvania.

Mr. SHERMAN. Then let the vote be taken on the amendment of the Senator from Pennsylvania.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. TRUMBULL. I quite agree with what has been said by other Senators that this thing ought to be limited, and I hope, therefore, the motion of the Senator from Pennsylvania will not prevail. If there is an abuse of the character that has been spoken of let it be corrected. At any rate, let us not labor under the constant assaults to which we have been subjected in consequence of the law or practice allowing any Senator to draw as much stationery as he pleases. I hope we shall agree upon some amount, and I hope the Senator from Ohio will so frame his amendment that the law may commence to operate at once. I should like to have it begin to operate immediately, instead of putting it off to the end of the fiscal year, and thereby carrying the implication that somebody wants to use more than one hundred and twenty-five dollars for stationery and newspapers the present year, wants to supply himself this year and then limit himself afterward.

Mr. SHERMAN. The only trouble in the way of that is that the stationery is here on hand, purchased for the present year, and the existing arrangement cannot well be closed before the 1st of July next. I presume that I have not received $125 worth a year or anything like it; still I do not know how they keep these accounts. I never inquired how much I received; but I think $125 worth is more than enough for me, or certainly is amply sufficient for this year or any other year. At the same time, I do not think you should make a sudden change in the mode of keeping the stationery accounts; but let them go on under the present system until the expiration of the fiscal year, and then, if the Senator thinks proper, he can introduce a resolution that the amount hereafter to be taken shall not exceed at the rate of $125 a year, including newspapers.

Mr. TRUMBULL. I think it had better all be fixed in one provision. It is not a matter that should occupy the attention of Congress any considerable length of time. I think we all agree that there should be a limit in this matter, and stop the clamor that has been raised at any rate. As to the abuse alleged to exist, I have no knowledge of it, so far as this body is concerned. I do not apprehend that Senators have used more stationery than the bill provides for. At any rate, however, I should be glad to see a limit imposed; and I hope it may be so arranged as to apply from this time forward, if it can be done.

Mr. FESSENDEN. The Senate should understand that the House of Representatives have for many years had a regulation which governs this matter. The members of the House are allowed to draw no more than a certain amount of stationery in value for the short session and a certain other sum for the long session. That is their rule. This provision, therefore, does not apply to them. It is a House regulation passed to regulate the Senate; that is the amount of it. It is not for themselves; it is for us. They say that we shall not have any more than a certain amount.

Mr. TRUMBULL. I am willing that they should say so.

Mr. FESSENDEN. Very well; I have no objection to their saying so, if we choose to have it so, and if it is put in the right shape. But here they send us a bill intimating to us that we have not been under proper regulations, and that they want to regulate our rules under which we have always acted in regard to stationery. If Senators think it advisable to let it be so I have no sort of objection, simply for the reason that I have come to the conclusion that something must be done. As I said before, we have talked this matter over in the joint committee which has been raised, and we have concluded to take it into consideration and put our stationery room under proper regulations and fix it so that there shall be no more abuse; and we are engaged upon that work and mean to follow it up.

All I meant to say was this: as the bill stood, this being a provision applying solely to the Senate, and as really, in looking around upon the faces of my brother-Senators and considering what sort of men they are, I cannot believe that they would steal a very great quantity in the shape of stationery for a few weeks to come, and I cannot suppose that if we put this off a short time they will go to work to provide themselves with quantities to last for years. I would not do that myself, and I do not really see any man here that I think would. I merely suggested that simply because of this talk that has been had. We should not be frightened out of our wits, but should go to work and ascertain if there is an abuse, and, if so, correct it in the proper way, and not now undertake to say that we will do this without knowing what the facts are and how much we need or anything about it. That was the suggestion I made; but if Senators prefer to say that we have been properly accused, and that the House is right in this rebuke, and that, therefore, we will have this done, and we will not wait to see what the facts are and what regulations should be made, but will pass it at once for fear the newspapers will abuse us a little more, be it so. I think the sensible course is to look into the subject like quiet men disposed to do right and correct any abuses that may exist.

Mr. FRELINGHUYSEN. Can it not be done by a rule or resolution of the Senate?

Mr. FESSENDEN. Certainly, just as well.

Mr. BUCKALEW. My object in offering this amendment was not to defeat the substantive purpose of this provision, but to make it more thorough and effectual. In the first place it is to be remembered that there is no allowance made to members of the Senate in the way of money for stationery, and this clause is drawn with reference to a system of allowance to members in money or a money account. If we adopt this provision I suppose it will be construed literally to apply only to members of the House of Representatives, and our stationery-room and the drawing from it by members of the Senate will continue precisely as at present. I doubt very much whether this clause will reach the object proposed here.

Again, sir, independent of that, this clause does not reach the true source of difficulty and of trouble; and that is, our system of purchase and of distribution and the employment of particular officers for that duty. All these things are before the select committee, and it will be my desire at least that a report shall be made by that committee, and I doubt not it will be, and adopted by both Houses of Congress, which will reach to the foundation of this thing, and will regulate it so that we shall have no further complaint about it. My objection to this provision sent us by the House is that it does not apply to our system here, and, as I construe the words contained in this clause, it will not affect in any way whatever the present distribution of stationery to Senators; it only affects the amount allowed to members of the House in money for newspapers and for stationery. The legal construction of it will be that we cannot allow a member of the Senate more than $125 in money for newspapers and stationery which they may purchase themselves, and no more can be allowed to a member of the House; but our present unregulated system of distributing stationery is untouched; that is not a question of money.

Mr. CONKLING. This subject seems to me to have a good deal more importance in its relations than it has in itself. If the only object was to do what is right in fact I should agree with what has been said by the distinguished Senator from Maine, [Mr. FESSENDEN,] but it is a very old maxim that there is often a good deal of use in seeming to be right as well as being right in truth. During last summer the partisan journals of the State of New York teemed with most extraordinary, I might say astounding, statements under the general head of senatorial excesses in the distribution of stationery. Under that general head it was affirmed that not only paper, envelopes, penknives, paper-holders, inkstands, and everything which people in general understand to be included under the head of stationery, had been most profusely and wantonly distributed, but that pin-cushions, gloves, perfumery, *bijouterie* of various kinds had been paid for at the public expense and enjoyed by Senators or their families. Men editing newspapers on the other side in several instances cut out these statements and inclosed them to me asking for information—asking what could be the explanation of these statements. I applied by letter to the Secretary of the Senate that I might get some understanding of what was the meaning of all this. Having been in Congress eight or nine years I had never known an instance except one in which a pair of gloves had been offered to any person. Once on the occasion of a funeral in the House of Representatives I was informed by some officer of the House that there was a pair of gloves for me, as I was to take part in something connected with the ceremonies of the occasion, which pair of gloves I did not see, and I have not seen them yet. Having no information but that, I applied to the Secretary of the Senate to know what this could mean, and I was answered after awhile that so far as there was truth in the statement it was made up by taking a great number of things together and then stating the sum total as if it was applicable to the single year in which the statement was being published. This went to a great extent. It was not a mere electioneering trick, but it made a deep and a disagreeable impression upon the minds of a great many people.

Such an impression is particularly unfortunate at this time. We know, as the public knows, that no duty is more peremptorily incumbent on us now than the duty of frugality and retrenchment, and retrenchment, like charity, begins at home. As long as we leave an appearance, however unreal it may be, which can be prostituted to partisan uses and carried so far as to really leave the impression in the country, however false it may be, that the small business of loose and unnecessary management of even a thing so small as stationery is practiced here, so long we deprive of a force which is most useful whatever we may say and do in this all-important direction. Therefore I say that it is important not only that we should be but that we should seem to be precisely right on this subject; and fifty dollars for newspapers and seventy-five dollars for stationery is all that is needed by any member of this body. No matter whether it is or not it seems to me we ought to have a definite sum fixed. If it turns out to be a little too small no matter. It seems to me we cannot do it too soon, and that, small as the matter may be, we cannot select a more important one as the initial point of retrenchment. Let us show that our skirts are clean on this subject, and that although these statements are false and have been exaggerated we take sufficient notice of them to see that we institute a reform as far as reform is necessary, and at the same time we put it out of the power of anybody by torturing and misrepresenting the possibilities that we may leave of helping ourselves to do harm in the country. Therefore, I concurred as a member of the committee in reporting this provision as it comes from the House, and although it may interfere with what has been the custom, and although it may necessitate the adaptation of our system to it, nevertheless it is putting down our foot now to the point that no member of either House shall receive stationery or anything under the name of stationery going in value beyond a certain amount. It is a good beginning at least, and if it does not cover the whole ground, let us follow it up and by what we shall do hereafter cover in fact as well as in form the whole ground.

Mr. WILSON. I am satisfied, the more I reflect upon it, that the first view I had of the effect of this amendment is correct. I think this provision that $125 may be received in money ought to be stricken out. I am clearly of the opinion that the members ought not to receive any money either for newspapers or for stationery. If we are to have $125 allowed for newspapers and stationery let that much value be received in newspapers and stationery, but not any part of it be received in money. I think I know what the effect will be. It will grow up insensibly, for we are men like other men, and we all have our weaknesses and our faults; but the effect will be that we shall draw the $125 in money and we shall pay for the newspapers, unless the newspapers are sent to us, as they sometimes are, by the publishers for nothing; and when we are sitting here in our seats in the Senate or in committee-rooms there will be paper furnished to us by the Government, and the most natural thing in the world will be that most of the paper we use we shall get here in some form or other. The consequence will be that in a few years it will amount to an addition of $125 to the pay of members, and the Government will not save anything by it.

I do not mean in making this statement to utter any reproaches against myself or anybody else. I am as great a sinner as other men perhaps. But I believe this provision ought not to be in the proviso, and that it will not promote economy. I believe that the allowance of $125 is ample for these purposes. I am sure that during the years I have been here in newspapers and in the stationery that it was necessary for me to have I have not taken more than the amount of $125 in the aggregate, and I do not believe it will average more than that in this body. There is a great deal furnished by the stationery-room that is of no earthly account to anybody; a great many costly things. What we want is simply good paper and envelopes and pens and ink. The whole thing is plain and simple; it is not

a very costly matter at any rate. I believe $125 to be ample, but I do not think we ought to retain the provision that we may take it in money. I do not think it will be a safe one.

Mr. MORRILL, of Vermont. There is not the slightest difficulty in making this law applicable to this year as the accounts are now kept, as I understand it. I believe there is a regular account kept with each Senator showing precisely the amount that he has taken, not only the present year, but in all past years. Therefore, if the proviso should be retained, there will be no difficulty on the part of the accounting officers in arriving at the amount that has been received or shall be received by each Senator.

I suppose that the complaint which has arisen on this subject has arisen from the fact that pages and other parties have come to Senators and asked them for an order for stationery or for cutlery, and in their good nature they have often granted those orders to the pages and other parties. I know I have been importuned for such orders, although I have never given them.

In relation to the suggestion of the Senator from Massachusetts, I think he is mistaken in objecting to this clause in relation to receiving this allowance "in money or its value." If this provision should be adopted Senators will still get their stationery from the same source, and it will be charged to them. It will not necessarily follow that they have got to be paid in money. The provision does not prescribe that. I know in relation to newspapers that I do not take one half nor near one half through the office of the Secretary. I subscribe and pay for them myself, and keep my own account, thinking that the better mode. I hope that the proviso, although it is not a very carefully-drawn one as it comes to us from the House, will be adopted.

Mr. HENDRICKS. I suppose I must have misunderstood this provision in the bill, for when I read it I never thought it was intended by the House as a rebuke to the Senate; I thought the purpose of it was to correct the House's own abuse. I have understood that at the July session the House voted to each member stationery and newspapers as if it were an original session. I suppose, under the general law, they drew their stationery and newspaper money at the commencement of that session on the 4th of March. Then I understood that at the July session a resolution was passed giving them the same amount, and perhaps that would apply to the November session. Then, in the course of eight months, if that were so, members of the House would draw a good deal of money; and I thought when I read this proviso that it was to prevent that sort of abuse in the future. I hope that was the intention of the House. I did not suppose the House was legislating in regard to the Senate upon the statements that were seen in the newspapers of the country. I am not choice either way myself at all. I am willing to vote for the proposition as it comes from the House or to postpone it until the matter shall be corrected, perhaps in some better way, as suggested by the Senator from Pennsylvania. But I wish to disclaim an understanding on my part to be criticised by the action of the House in this respect. I think they wanted to correct their own abuses.

Mr. DAVIS. I have not seen any of the notices which the newspapers have taken of this subject to which gentlemen have referred; but if I had seen them they would not have influenced my action in regard to the matter. I shall vote and act now as though the newspapers had never contained a line on this subject. I think myself that $125 is a sufficient aggregate sum per annum for stationery and the cost of newspapers for each member of the Senate. With that amount I should be perfectly content. But it has been my habit for the last two or three years to draw the money and pay for my own newspapers, and I prefer that mode. I take a good many newspapers; the bills are sent to me; and when they are sent to me the men who send the bills expect me to send the money, and I prefer to go to the clerk who manages this newspaper account, receive the money, and pay my own bills, and settle the accounts with the newspapers. But if the Senate choose to adopt another mode of practice in relation to that matter I have no manner of objection to it.

I am glad to see this mood of economy and retrenchment come over the Senate. It is a favorable omen, I hope, and I trust it will result in fruition, and fruition of some magnitude and interest to the country and to the easement of the Treasury. At the proper time, if no other member of the Senate makes the motion, I intend to move that the standing Army be reduced to twenty thousand men, and that the Freedmen's Bureau be swept out of existence. I shall propose economy to that extent by sweeping the Freedmen's Bureau, that enormous source of expenditure, out of existence, and reducing the Army of the United States from its present number—I believe fifty thousand—to twenty thousand. When the Senate get into a mood of economy that will bring them to that amount of retrenchment they will do something in that direction and will receive the thanks of the people.

Mr. RAMSEY. Mr. President, it is probable that abuses have crept into this matter of stationery distribution, but they are doubtless very much exaggerated. It would be well, however, that the Senate should not content itself with a simple pruning of the mischief. Let us cut it out by the roots and refuse from this day forth to receive either stationery or newspapers at the public expense. The average amount that Senators receive is but fifty dollars per annum. Let us contribute this sum each for himself and relieve the Senate and Senators from these groundless imputations. I therefore move to amend the proposition before the Senate so as to provide that hereafter no member of either House of Congress shall receive anything either for newspapers or stationery.

The PRESIDENT *pro tempore*. That amendment is not in order at present.

Mr. RAMSEY. Then I give notice that when it is in order I shall offer it.

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Pennsylvania, [Mr. BUCKALEW.]

Mr. DRAKE. I call for the reading of the amendment.

The Secretary read the amendment, which was in lines twenty-two and twenty-three of the proviso to strike out the words "either House of Congress" and to insert "the House of Representatives;" so that the proviso will read:

Provided, That hereafter no member of the House of Representatives shall be allowed or paid for newspapers and stationery for any one year a larger sum than $125 in money or its value, and no further allowance for stationery and newspapers shall be made to any member of the House of Representatives for the year ending on the 3d day of March, 1868, than that already ordered by the House.

The amendment was rejected.

Mr. RAMSEY. If it is now in order I offer the amendment that I suggested a moment ago.

The PRESIDENT *pro tempore*. The Senator from Ohio offered an amendment which is first in order.

Mr. SHERMAM. If the amendment of the Senator from Minnesota, for which I am willing to vote, should be adopted, it will dispense with mine, and therefore I am willing to withdraw it for the present. If his amendment be not adopted I will renew it.

The PRESIDENT *pro tempore*. The question then is on the amendment of the Senator from Minnesota, which will be read.

The Secretary read the amendment, which was to strike out all of the proviso after the word "stationery" in the twenty-fourth line; so that the proviso would read:

Provided, That hereafter no member of either House of Congress shall be allowed or paid for newspapers and stationery.

Mr. CONKLING. I hope that amendment will be adopted, and I want, in one moment, to state the chief reason why I hope it will be. The allegation is, that requisitions are made by committees for stationery; that stationery enough is furnished to committees to enable every member of the committee, if he chooses, to write his letters upon that stationery and do his business with it; and that then, beyond that, there is a draft in money, if he is allowed to receive it in money, but if not in money, then in various fancy articles of the amount allowed for stationery. The only way to cut up that abuse root and branch is proposed now by the Senator from Minnesota. If we say, in round terms, that no member in any way whatever shall receive, either for newspapers or stationery, anything, then the committees will be left to make their requisitions for such stationery as the committees need in committee business, whatever that may imply, and beyond that no member of either House will have any stationery, and every member will be compelled at an expense of twenty-five or fifty dollars a year, whatever it may be, to provide himself with the materials of writing his letters; and, for one, I think that is the way it should be.

Mr. BUCKALEW. I beg to suggest that the result will be that members will be supplied with stationery as usual through the committees. That is about all you will get as the practical result of this proposition.

Mr. CONKLING. Even then you will save a large amount; I submit.

Mr. FESSENDEN. I do not know what the experience of my friend from New York has been in the House in reference to that matter, but it strikes me that if it is left in that condition without making some further provision there will be a very large leak in stealing from the committee-rooms, because this whole thing goes on the ground that Senators are stealing, that they are committing petit larceny, gouging sheets of paper and quills, and all that sort of thing; and it seems to be taken for granted that it is necessary that we should pass some law to convince the country we are not doing that kind of thing.

Mr. CORBETT. I should like to inquire of the Senator if adopting this amendment does not cut off any supply of stationery upon our desks.

Mr. FESSENDEN. Of course we cannot have it here on our desks unless we pay for it and have it sent here.

Mr. CORBETT. Or bring it here ourselves.

Mr. FESSENDEN. Precisely; but any quantity may be furnished to committee-rooms that may be ordered, according to the conscience of the chairman or the committee itself. Is it best to do that? Why should not stationery be furnished? The letters we write here are on public business. The use we have for stationery is for doing the public business. We come here for that purpose. I never heard yet of a legislative body anywhere in any State of the Union that did not conceive that while it was engaged in legislative business—conducting correspondence, writing bills, writing resolutions, and all these things on public matters—stationery should be furnished. Now this idea comes to cut the whole off and only send it to the committee-rooms. Why there? Why in the committee-rooms? Why have it there? In the other House—and that illustrates the reason of the remark I made to the Senator in the beginning, that I do not know what his experience has been in the House—I understand large quantities are sent to the committee-rooms to supply members, and to some committee-rooms more and some less, according as they may have necessity for it. Here we send it to the committee-rooms, but we do not supply ourselves.

My idea is that all this thing is a mere partisan story. It has troubled gentlemen in different sections because something was made out of it. Something will be made out of nothing

in political contests always. Now, what I want to do is to attack the abuse in the only place where I think it can be attacked and yet leave things to be done in a proper way, and that is, to regulate the purchase and the distribution of stationery properly, provide where and how it shall be purchased, under a proper agent with proper security, not by way of trade as it may be (I cannot accuse anybody, for I do not know that anything of that sort has been done) but at the proper prices; put it under the hands of a proper officer who shall be responsible for it, and let him furnish honestly what you think proper to furnish to each individual member for the ordinary necessities of the business which he does. There is no impropriety in that. But I will not submit myself to acknowledge that it is necessary to cut all off in order to free Senators from the temptation of stealing these little articles from the Capitol.

Mr. MORTON. Mr. President, there have been unquestionably some abuses in connection with the stationery. If gloves and other fancy articles have been drawn under that head it is an abuse of the privilege which has to some extent brought the whole privilege into discredit. But, sir, I for one am opposed to abolishing this privilege altogether because of these abuses of it. A large amount of stationery is required for the purpose of doing the public business. I know that I require a large amount to answer the numerous letters on public business that are sent to me, and in sending documents which I am called upon to send, and in various ways in the course of the year, here and at home, it requires a large amount of stationery to do the business which is imposed upon me as a Senator, that comes to me as such, and which I would not have to do except upon that account. To pay for this stationery out of my own pocket would be a tax, and a tax that is not required, I believe, at the hands of any other deliberative body.

Now, sir, this, it seems to me, is a very small point of public economy. We have great retrenchment to make in the expenditures of this Government. We may make a small retrenchment here that will save a few thousand dollars at the expense of members of the Senate and of the House of Representatives, for which the country will give us no credit and care nothing. The country makes no complaint about reasonable expenses. Capital has been made and will be made by party newspapers of small character on account of these abuses, and they ought to be cut off. But, sir, so far as furnishing a reasonable amount of stationery is concerned, the country will make no complaint, and we gain no credit and gain nothing in any way by cutting off that privilege and taking that expense upon ourselves. Sir, when millions have been expended in the way they have been, when the public lands are voted away in the way they have been and perhaps will be again, it becomes a small business to say we will begin by saving at the expense of Senators the stationery that they require in the discharge of their public duties.

If we are to get stationery through the committees, as suggested by one Senator, that is simply a subterfuge. I would rather go and get it directly than to have to get it from a committee-room. I do not propose to take it from there at all. Let me get it from the stationery-room here and have it charged to me. But one thing I will say ought to be done to prevent the abuse of this privilege: let there be an account kept against each Senator, and let it be a public account, and if the privilege is abused let the facts be in a position that his account can be charged up against him and shown to the public.

Mr. BUCKALEW. I desire to state to the Senator that a regular account is kept, and any Senator can have his account in the stationery-room ascertained as it stands.

Mr. MORTON. I am told that these accounts are not made known to the public; that these charges of gloves and fancy articles are in the aggregate against the Senate. That is what I am told is the fact.

Mr. BUCKALEW. The Senator will permit me to interrupt him again. I presume there never was a pair of gloves taken from the stationery-room for distribution. That subject relates to funerals. The question of gloves has nothing to do with the stationery.

Mr. MORTON. The principal abuse I have heard of in the newspapers is in regard to penknives and gloves. A Senator suggests to me that the penknives are not good. There ought to be a deduction on that account if that is the fact. [Laughter.] But, sir, it seems to me there is no reason on account of public economy or any other cause why members of the Senate should not draw the stationery that they require for the transaction of the public business at the public expense. I am in favor of economy, but I am in favor of practicing it on a larger scale and in a more reasonable direction than this.

Mr. CONKLING. I beg to say one word in reply to what was said by the distinguished Senator from Maine, [Mr. FESSENDEN.] I agree entirely with the Senator from Indiana [Mr. MORTON] that the public will never complain, and that we should not govern ourselves upon the idea that there will be complaint of a supply of necessary stationery. The complaint is of the abuse; and what we are now trying to do is so to adjust the matter as to cut off the abuse and leave the thing as near as may be what it should be.

The Senator from Maine suggests that if this amendment is adopted committees will make requisitions for stationery, and that in that way Senators will be enabled to help themselves. Suppose that to be so; then we shall receive through committees that stationery which is necessary for those purposes referred to by the Senator from Indiana. But let me ask the Senator from Maine and the Senator from Indiana do they suppose that committees will make requisitions for portemonnaies, pocket-books, portfolios, perfumery, and the various things which have been talked about? Not at all. They will make requisitions for the necessary stationery to be used absolutely in the transaction of the public business. That is all as it should be, and nobody will complain of it.

Mr. CORBETT. Would the Senator agree to an amendment to the amendment that they shall not receive in committees over a certain amount?

Mr. CONKLING. I should have no objection to that.

Mr. CORBETT. Otherwise we come right back to the same thing.

Mr. CONKLING. I agree with Senators entirely that this is a small, disreputable scandal; and if it were a mere partisan trick I should not be in favor of yielding to it to any extent. It is more than that—as the Senator on my left [Mr. DAVIS] has said, there are various large matters in which retrenchment ought to be practiced. The very first process to qualify ourselves to inaugurate retrenchment with a wholesome effect is to show that we ourselves intend, in reference to our own wants, to practice it; and therefore I think this question is of some importance. I submit to the Senate that if the amendment proposed by the Senator from Minnesota is adopted Senators will receive as members of committees those quantities of that ordinary stationery which is necessary for public use, and we shall at once cut off the possibility of all those things which have been called "fancy articles," with the receipt of which we are now charged; and I do not think there is any other way in which it can be done.

Now I should like to have the attention for one moment of the Senator from Massachusetts. He seems to suppose that by striking out the money and allowing a receipt of specific articles to this amount he will correct the abuse of which I am speaking or prevent the liability to it. I submit to him that he will not, and for this reason: requisitions will be made for stationery through committees just as they will be if the pending amendment is adopted; and then what next? Here will be standing to the credit of every member of both Houses $125, which he may go and take—how? In all these articles—portfolios, knives, portemonnaies, and every sort of thing which enters into this general description of excess—and can take it just as well in those articles as he can take it in money if he chooses. I do not suppose anybody wants to do it in either House; I do not mean to intimate that; but the question is, whether it is worth while and wholesome to leave ourselves open to this charge. I submit we had better cut it off, and let us get through committees what is needed for the public use and shut the door against any other possibility, and then we shall be right.

Mr. CORBETT. I should like to know where a gentleman is a member of some three committees which committee he would obtain his stationery from. If he had the opportunity of obtaining his stationery from each of those three committees it seems to me that the abuse would be greater than it would to adopt the bill as it is presented to us from the House.

Mr. CONKLING. I will ask my friend from Oregon if a member, in the case he mentions, cannot obtain all the stationery he chooses from all three as the matter stands now.

Mr. CORBETT. Not that I am aware of. I have never received stationery from a committee.

Mr. CONKLING. The power exists to do it just as much as if this measure passes.

Mr. CORBETT. It strikes me that it would be more satisfactory to the people to know the exact amount of stationery that we receive, and that there should be a limit to that. If the committee that have examined this subject and know very nearly the amount that is necessary for members to use have reported that it is necessary for them to have in value $125, which I think is a very large estimate, I think it ought to be limited to that amount, and I am in favor of limiting it to that or a less amount. I am willing to vote for the bill as presented from the House.

Mr. TIPTON. This discussion this morning is rather depressing to new and uninitiated Senators. I suppose I shall be able to learn as fast as any other Senator what our privileges and prerogatives are in regard to perquisites; but I do hope that venerable Senators will not so dispose of this question this morning as to cause us to have doubts in regard to the company into which we have fallen. I understood during the fall canvass that I was charged in the State of Nebraska with having received perhaps from ten to a dozen pairs of gloves, and I was not able to answer or make any reply, from the consciousness of the fact that I had never heard of the existence of the question of gloves before.

I feel on this subject frankly just thus: I dare vote for anything that is right and fair as between the United States and myself as an humble Senator; and no species of outside denunciation or low, contemptible demagogism on the part of newspaper writers or editors shall influence for one single moment anything that I shall utter, or anything that I shall vote on the floor of the Senate. To a sensible and honest and certainly partially-civilized (at least) constituency I should appeal in all such cases. I have no fears in regard to doing discreetly and honestly, and on the honor of a Senator, that which honorable members of this body have always done in this behalf—using just so much and no more of stationery as is necessary to perform the public duties devolving on a Senator. I should unhesitatingly do that. And yet I feel that we are this morning about to inaugurate a policy that will seem to imply that there have been such grievous wrongs committed heretofore that now the venerable part of the Senate must wash their hands of the iniquity to save their reputations before the country, and prove that they are neither robbers nor public thieves, and that the younger

members of the Senate may be saved from being drifted into the maelstrom which is likely to swallow up these representatives of the nation.

I have no special sympathy for this amendment of the Senator from Minnesota. It will be a beautiful thing to talk about on the stump; and if it passes I shall certainly make use of it in my own vindication as a man of habits of economy and retrenchment.

Mr. CAMERON. I am sorry that this discussion has been brought here. It seems to me it is out of place, very much out of place in the Senate of the United States, that so grave a body as this, so respectable a body as this ought to be, should be wrangling about the price of stationery or the cost of stationery. It does certainly imply that there are some rogues among us. I have for a long while known the Senate of the United States and all its members, and I never have known one of them who I thought would steal a sheet of paper or a ream of paper or a box of paper. I use a great deal of stationery myself; but it is used in the service of my constituents. I write seventy-five letters a day, with the assistance of my secretary, very often; perhaps an average of fifty letters a day; and there is no man in Pennsylvania nor woman either that would complain of my having got too much stationery here. They know that I will use it properly, and they respect me too highly, I think, to believe that I would do wrong, especially in so small a matter as a little stationery. What does it amount to? Nothing. We have wasted as much already in this discussion as would furnish the whole of the Senate with stationery for a month, I suppose, perhaps a year.

The objection I have to this thing is, that it looks so much like washing dirty linen in the market place. It is a discussion which is not fit for this place, nor for the men who are here. I think it a small sort of retrenchment; and if it were not improper to speak indecorously of those with whom we are associated in another part of the Capitol, I might be induced to say it is possibly the idea of a very small head and of a less heart. We can retrench in a hundred different subjects by the millions, and if every Senator here will turn his attention to it he can soon find some particular subject which the people would agree should be retrenched and which his own mind would teach him it would redound to his honor if he assisted in retrenching.

I shall vote for the amendment of the Senator from Minnesota because I think it will carry the question back to the other House, and teach the gentlemen there to reflect upon what they have done in sending this proposition here. I should have preferred the amendment of my colleague, to confine the proviso to the House of Representatives itself, because I think this is a question which belongs to each House properly, and not to the collective Congress. The Senator from New York says we shall get all the stationery we require through committees. Cannot wrong be done as well in the committee-room as here by an individual Senator? I think it will be. I shall vote for the amendment in the belief that it will cut off the whole of the stationery. I will gladly pay for what I consume; and I take it every other gentleman would rather pay for it than be suspected of improperly using the stationery furnished to him. I hope, therefore, that the amendment of the Senator from Minnesota will be agreed to.

Mr. JOHNSON. No one in the country who knows the Senate of the United States—I mean no sane man, no honest man—can say that the Senators of the United States would do anything which would justify their being described as "thieves and robbers," in the language of the honorable member from Nebraska. But there is one thing that ought to be corrected; and I say that because of statements I have seen in the papers of the day—statements untrue in fact, but statements apparently true, because they have not been contradicted officially. There appeared, some three or four months ago I think, in a paper published in Albany, the Albany Argus, and about the same time in another paper printed in the city of New York and afterward transferred to the National Intelligencer, an article which was calculated to injure the Senate, not to injure them by making them appear as thieves and robbers, but to make them appear as altogether regardless of the expense which they might inflict upon the country. How the statement came to be made I do not exactly know, though I can conjecture the manner in which it was made. It appeared by that statement—which was read to me at the time, and I think I recollect it, because there were some facts which struck me personally so as to cause me to recollect it—that the Senators, all of them I believe, (certainly I was one of them, and the honorable member from Tennessee was another,) had received some twelve knives, twelve pairs of gloves, and a variety of other articles, the existence of which, even in the stationery-room, I never heard of—haberdashery, to use a word used by my friend from Iowa. I imagine that it was made out in this way: the officer who has the purchase of the stationery purchases so many knives, so many gloves, and so many of every other article that he buys. The number of knives and gloves purchased have been divided by the number of Senators, and by this division each Senator seems to have got twelve pairs of gloves and twelve knives; and so in regard to the other articles.

Now, I understand that in fact there is a book in the stationery-room in which every Senator is charged with everything that he gets and nothing more. I do not suppose the officer having charge of that room would make any false charges; but the habit has been, as I am told, to give a knife to every clerk in the body, to every doorkeeper, to every messenger, and I believe to every page. While we, therefore, are apparently responsible for the twelve knives, none of us, or very rarely, except it be by the loss of the one we first get, get more than one.

Now, as to the article of gloves, I never heard that gloves were furnished to Senators except on the mournful occasion of the funeral here of some member of this body or the other House. I think during the last Congress there were but two occurrences of that kind. Of course no member of the Senate who attended these funerals—and they are not always attended by every member—got more than two pairs of gloves on those two occasions; but yet the charge to which I have referred is made.

I think my friend from Maine is perfectly right in saying that the matter should be placed in the hands of some officer subject to the absolute authority of the Senate, and under regulations which will insure against the purchase of a great many more articles of stationery than the wants of the Senate require. There are a great many articles in the stationery-room which Senators do not want, and I am sure do not desire to have, although it may be true that when they get there some of them may think proper to make a request to be furnished with them.

As to our right to have stationery, I suppose there is no difference of opinion among us on that subject; and the only question is whether we shall get the stationery in the way in which we shall get it if the amendment suggested by my friend from New York be adopted, or whether we shall get it in the way we have got it all along. It is not expected that we are to buy our own stationery. Nobody proposes that; and no gentleman of the Senate, I imagine, will think of using more stationery than he wants for the public business intrusted to his hands. I do not see why the Senate cannot appoint an agent to purchase and distribute the stationery to Senators as they call for it. In that way we shall diminish the expense of an unnecessary amount of stationery being purchased under the present management and will at the present time place ourselves in a situation before the country from which it will be seen that the stationery that we get we get merely for the purpose of discharging our public duty. I am therefore against the amendment offered by the honorable member from Minnesota, for I am unwilling by such a vote as that to admit that the Senate of the United States cannot be intrusted with the right to secure such stationery as they may want under the idea that if they have the right to procure stationery they will procure stationery that they do not want for the purpose of some individual object of their own.

Mr. WILLIAMS. While I was chairman of the Committee on the Contingent Expenses of the Senate I looked into this business and examined the books of the stationery clerk with a view of devising some scheme by which such abuses as had grown up might be remedied. I found that the Senators during a session had drawn stationery estimated at from one hundred to four hundred dollars. I think no Senator drew stationery exceeding in amount four hundred dollars, according to the statement that I received from the stationery clerk. I conceived a plan in reference to the stationery-room which I should have submitted to the Senate if I had continued chairman of that committee. I think there ought to be a separate officer elected by the Senate to take charge of the stationery; and that he ought to make his purchases under the direction of some committee of the Senate; and that when he makes his purchases they should be entered upon a book with the value of each article and the aggregate value of the whole purchase; and then that each Senator, when he drew articles from the stationery-room, should be charged not alone with said articles, but also with the value of the article; and then you could determine the exact amount in value which each Senator drew from the stationery-room. I should have proposed that a limitation be placed upon the right of a Senator to use stationery; that he should not be allowed to draw from the stationery-room an amount exceeding in value, say $125 per annum, that he should be at liberty to take that amount in any sort of stationery that suited him; and that also there should be a limitation upon the respective committees of the Senate; each committee should only be allowed to draw a certain amount in value; and in that way it seems to me that the evils which have been complained of might be prevented or remedied.

Now, there is a book kept in the stationery-room, and every article that a Senator takes is charged to him; but there is no value attached to the article on that book, and it is impossible to tell how much a Senator obtains. Go there and examine that book, and you find that a Senator is charged with a variety of articles but no prices are affixed, and it is difficult to tell without a thorough examination what is the amount each Senator draws. But according to the plan that I should have proposed, when a Senator had obtained in value $125, or any other sum that might have been fixed by a resolution of the Senate, his right to obtain more would be cut off. It seems to me, as we have a select committee, at whose head stands the former distinguished chairman of the Committee on Finance, that this subject ought to be submitted to that committee. I am opposed to and shall vote against any law to regulate the expenditures of both Houses in reference to this subject. I think the House of Representatives ought to regulate its own stationery business and the Senate regulate its own business in that respect, because a general rule made applicable to each member of both Houses may operate oppressively and unjustly in many cases.

Mr. DAVIS. Will the honorable Senator allow me to make a suggestion?

Mr. WILLIAMS. Certainly.

Mr. DAVIS. It is that this debate be informally laid aside until we can take a vote on the proposition to repeal the cotton tax.

Mr. WILLIAMS. I have but little more to say. I think this matter ought to be left in

the hands of our select committee. I have no doubt they will propose a plan that will be satisfactory to us and satisfactory to the country. I am very confident that the people of the United States will not object if the members of the Senate and of the House use a reasonable amount of stationery. Stationery is furnished to all the other Departments of the Government at the public expense, and why should not the Senate and House of Representatives have their stationery, provided they use a reasonable amount? I have no doubt—I know the fact to be—that great abuses have grown up. Without making any imputation upon anybody they will unavoidably grow up under such a loose system as we have here in reference to our stationery; but if proper rules are adopted we may be able to obtain a reasonable amount and escape from all the imputations which seem to be so frightful to certain members of the Senate.

Mr. MORRILL, of Maine. I beg the Senate to allow this subject to be brought to a vote. It is very clear that we shall lose the bill altogether if we do not dispose of it at once. There will be no Senate after to-day, I take it, for the transaction of business, and the few items which are contained here are of very great importance to the persons to whom the sums are to go. I appeal to the Senator from Minnesota to withdraw his amendment. It is clear that this is one of those questions the proper disposition of which cannot be settled in the Senate by debate. Here are two systems, one peculiar to the House and the other peculiar to the Senate. We furnish our stationery in one way; they in another. There is a suspicion somewhere, created in some way not now particularly pertinent to inquire into, that both systems are liable to abuses. What is the remedy? We cannot settle that here. I do not believe the remedy will be found in this proposition of the House.

Mr. RAMSEY. How, then, does the Senator propose to settle it?

Mr. MORRILL, of Maine. I would settle it on what is obvious. The obvious thing to be done is, that the Senate should furnish itself with that stationery which is necessary for the Senate in the transaction of its business both in its committees and in the relations of its members to the public in an individual way. I think that is proper. I think the history of the practice of all legislative bodies makes it so. Nobody complains of it; nobody expects it to be otherwise. That being so, the next thing which is obviously proper to my mind is that each body should determine the mode in which the stationery shall be furnished. That ought not to be liable to any abuse. It need not be liable to any abuse; and each branch, if it is left to each branch, would have a check upon the other whenever an appropriation for stationery was made, because it is the easiest thing in the world to see whether the amount of the appropriation asked for is in excess. There you have the control over it.

Now, Mr. President, to bring this matter to something practical, I would suggest, as the House have proposed, a limitation as to the amount they will use and as to the amount they think it proper for the Senate to use, and as it is not practicable at this time to apply it to the Senate on account of the system upon which the Senate has made its expenditures, that we take the suggestion of the Senator from Ohio, which is that after the end of this fiscal year this rule which the House has proposed shall apply. I submit that that can be made practicable at the end of the fiscal year. I hope the Senate will adopt that amendment, and that the Senator from Minnesota will withdraw his, which I do not think, on reflection, the honorable Senator will think just to the Senate or one that will commend itself to the country; nor do I think that the country will believe that this trifle was a very magnanimous thing on the part of the Senate. I hope, therefore, that the Senator from Minnesota will withdraw his amendment and allow us to take the sense of the Senate on the proposition of the Senator from Ohio, and in that way dispose of this bill.

Mr. EDMUNDS. What was that proposition?

Mr. MORRILL, of Maine. To amend the proposition of the House so as to provide that from and after the end of this fiscal year this limitation on the expenditure for newspapers and stationery shall apply alike to both Houses.

Mr. EDMUNDS. Why is it not better to leave this committee to alter it?

Mr. MORRILL, of Maine. That would give them an opportunity to report.

Mr. RAMSEY. I shall insist on my amendment, with the modification that I send to the desk of the Secretary.

The PRESIDENT *pro tempore*. The amendment will be reported as modified by the mover.

The Secretary read the amendment as modified, which was to strike out all of the proviso after the words "*Provided*, That hereafter," and to insert the following:

No member of either House of Congress shall be allowed stationery or newspapers or any commutation thereof.

Mr. RAMSEY. The modification is in the last words of the amendment. It is suggested to me that the amendment, as I originally offered it, did not include that.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Minnesota as modified.

The amendment was rejected, there being on a division—ayes 17, noes 17.

Mr. SHERMAN. I now move to insert after the word "that" the words "after the present fiscal year." I think that will meet the difficulty.

Mr. FESSENDEN. I ask the Senator from Ohio if it would not be better to strike out this proviso, because we shall undoubtedly have some other bills before us during the session in which we can better introduce legislation on this subject.

Mr. SHERMAN. If we strike out the proviso it may create controversy and necessitate a committee of conference to adjust the terms of the bill, and that would cause unnecessary delay. The House, I presume, would at once agree to the amendment that I propose. I doubt very much whether the Senate would strike out the proviso, and if they did it would undoubtedly render necessary a committee of conference and cause delay, while this amendment would probably be at once assented to by the House.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, which will be reported.

The Secretary read the amendment, which was in the first line of the proviso to strike out the word "hereafter" and insert "after the expiration of the current fiscal year," so as to read:

Provided, That after the expiration of the current fiscal year no member of either House shall be allowed or paid for newspapers and stationery for any one year a larger sum than $125, &c.

Mr. BUCKALEW. I am opposed to this arrangement, and should be if it came up as an original proposition. I will mention one particular. There ought to be an allowance for short sessions of one amount and for long sessions of another. My idea in speaking of this subject as it has been submitted to the members of the Senate for consideration is, that for a long session there should be an allowance of $100, and for a short session of fifty dollars. But as this proposition is not to take effect until pretty well toward a year hence it is hardly necessary to put it into this bill. Now, we have a resolution in the first place appointing a joint committee of the two Houses—a very safe committee, by the way—and by a supplemental resolution it is provided that that committee shall have power to report, among other things, on the subject of "a reduction of the expenses and a more economical expenditure of the contingent fund of each House." The whole subject is referred to that committee, and it will report shortly, and it will report practical provisions that can go into effect forthwith. The adoption of this amendment is only to postpone the subject over to the end of the year and then require that we shall hereafter take it up and consider it.

Mr. DOOLITTLE. I should like to ask the honorable Senator from Ohio if he thinks this amendment reaches the abuse at all. The real abuse is not that the Senators have had this amount of knives and this amount of stationery themselves, but it has grown out of the fact that in the mode in which the office has been conducted all the employés around the Senate Chamber, all the pages, all the messengers, have received these articles, and the whole amount is charged up as having been received by Senators. Now, if you limit the amount to Senators is that going to correct the abuse?

Mr. SHERMAN. We cannot correct abuses of this kind by a proviso to an appropriation bill. I never saw a proviso to an appropriation bill yet on this subject that amounted to anything.

Mr. FESSENDEN. Why not strike out this proviso, then?

Mr. SHERMAN. Because it will only make controversy and cause delay, and this matter can be remedied by the joint committee of the two Houses having the subject in charge.

Mr. DOOLITTLE. The published statement in the newspapers about Senators receiving a dozen knives or twenty knives apiece is all false from beginning to end. There is no foundation for the charge so far as Senators are concerned, so far as I have ever known or ever heard. The abuse has arisen from the fact that there are many others going to the stationery-room and getting these knives, and they are charged on the book to the Senators themselves. It seems to me the stationery-room ought to be regulated by some provision that would meet the whole case. I do not care to take up the time of the Senate on this subject. I have no objection myself to having this limitation imposed upon Senators.

Mr. FESSENDEN. The Senator from Ohio seems to admit that the true way is to strike out this proviso entirely; but he objects to it because it will make a controversy with the House; and I am very much inclined to think that is the opinion of the Senate. It has no business here. It is not the way to reach the abuse. It effects nothing, and in my judgment will increase the expenditure instead of diminishing it. That will be the result of it so far as the Senate is concerned. So far as the House is concerned, it is their rule as it stands now. I think it is best to leave this subject to be examined like any other subject; and if the Senator will withdraw his motion I will try the sense of the Senate, and stake my reputation for economy, whatever I may have, upon it by moving to strike out that proviso.

Mr. SHERMAN. The amendment of the Senator is perfectly in order.

Mr. FESSENDEN. Then I move to strike out the proviso.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine to strike out the proviso, which will be read.

The Secretary read it, as follows:

Provided, That hereafter no member of either House of Congress shall be allowed or paid for newspapers and stationery for any one year a larger sum than $125 in money or its value, and no further allowance for stationery and newspapers shall be made to any member of the House of Representatives for the year ending on the 3d day of March, 1868, than that already ordered by the House.

Mr. FESSENDEN. I do not know but that it would be well to except the last clause. However, I think it had better all go out.

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Cole, Davis, Doolittle, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Johnson, Morton, Patterson of New Hampshire, Patterson of Tennessee, Ross, Sumner, Thayer, Van Winkle, Willey, and Williams—21.

NAYS — Messrs. Anthony, Chandler, Conkling, Conness, Corbett, Dixon, Fowler, Grimes, Harlan, Henderson, Hendricks, Howard, Morgan, Morrill of Vermont, Ramsey, Sherman, Sprague, Stewart, Tipton, Trumbull, Wade, and Wilson—22.

ABSENT — Messrs. Bayard, Cragin, Guthrie, Howe, Morrill of Maine, Norton, Nye, Pomeroy, Saulsbury, and Yates—10.

So the Senate refused to strike out the proviso.

Mr SHERMAN. I believe my amendment is now pending.

The PRESIDENT *pro tempore*. The question now recurs on the amendment of the Senator from Ohio in the first line of the amendment to strike out the word "hereafter" and to insert "after the expiration of the current fiscal year."

The amendment was rejected.

Mr. WILSON. I move to strike out the words "in money or its value."

Mr. WILLIAMS. Suppose some of the members have drawn their money and others have not, how is that to be affected?

Mr. WILSON. I have not heard that any have been paid in money.

Mr. WILLIAMS. I know that some members in the Senate stated that they had drawn their money for newspapers. I suppose the effect of adopting this motion will be to cut off those who have not drawn the money and allow those who have to retain it.

Mr. WILSON. I will simply say that I believe if this provision is retained in this bill the expenses for stationery will be increased, possibly not in the next few months, but it will inevitably be so for a long time to come. I think we had better strike it out. If we are going to keep it in I do not want to be subjected to the imputation which will be put upon us on account of it. We are told by the Senator from Maine that there is a committee preparing to examine all these things and correct several abuses that have grown up here and which ought to be corrected. I would be willing to trust him and that committee with it and not press this matter. Being a member of the Committee on Appropriations I thought I would stand with the committee on the subject, but I was clearly of opinion when I first read this bill in committee that this provision in regard to paying us money would simply increase the expenses.

Mr. MORRILL, of Vermont. I hope the amendment of the Senator from Massachusetts will not prevail, for I think it may lead us into other abuses which it is quite as important to avoid as it is to correct this. I know that in the House of Representatives, where I subscribed for a number of papers for the session, when I came back at the commencement of the next session they had been received during the entire interim, and I was charged with the whole amount. I think it is as well to leave Senators at liberty to pay for their own papers and take the money for that purpose if they choose.

Mr. GRIMES. It was always the rule, I believe, to allow a Senator, when the appropriation was fifty dollars a year for newspapers, to draw any portion of that fifty dollars that was not expended in newspapers. I never heard of any abuse of that provision; and I do not know any reason why, if I am limited to $125 for my stationery and newspapers, I should not be permitted to buy the stationery in New York or of a stationer on Pennsylvania avenue at twenty-five or thirty per cent. less than I am compelled to pay for it at a stationery-room of the United States.

Mr. DRAKE. I would inquire of the Senator from Massachusetts, who has offered this amendment, whether the effect of it will not be to increase the allowance to Senators from seventy-five to one hundred and twenty-five dollars in money without putting any sort of limitation upon the amount of stationery which they may get out of the stationery-room in kind? That is my reading of the proviso; and if that is the meaning of his amendment I think it is proper that the Senate should know it, because in point of fact instead of inaugurating a retrenchment measure by that we are greatly increasing the expenses of the Senate per annum.

Mr. WILSON. I understand the proposition as it came from the House of Representatives to be this: in the bill it is provided that each member of the two Houses is to receive for newspapers and stationery the amount of $125 a year; and it says that they may receive it in money. If they receive it in money of course they will not receive newspapers, and they ought not, in my opinion, to use any stationery at the public expense, and I hope we shall not have any in the building if we have that state of things. I have been here thirteen or fourteen years and I do not know that I ever heard before that I could take any part of the money set apart for the purpose of purchasing newspapers. I generally make out my list and intend to make it within the amount allowed and to take the papers. I did not suppose that I could take the money; but I learn here to-day that it can be done and has been done. Now, I believe on my conscience that if this bill that comes from the House of Representatives be passed as it stands, instead of correcting abuses it will only inaugurate new abuses and it will increase the expenses for papers and for stationery. I have not a doubt of it. If that be the case, I cannot vote for this bill if this clause is retained in it. I voted against the amendment presented a few moments ago because I was on this committee and I wanted to go with the chairman of the committee, [Mr. MORRILL, of Maine.] I do hope we shall not have this privilege of drawing $125 in money and adding it to our salary and then purchasing our papers and getting our stationery wherever we can. I do not believe in it.

Mr. DRAKE. I call the attention of the honorable Senator from Massachusetts to the proviso as printed in the bill and to the fact, which seems to be very apparent on its face to any one who will read it, that if these words are struck out of that section there is then no limitation whatever upon the amount of stationery that any Senator or Representative may go to the stationery-room and get, but only a limitation upon the amount of money that shall be allowed him for newspapers and stationery; and if that is the fact we are increasing the allowance from seventy-five to one hundred and twenty-five dollars. I do not think that that is the proper way to begin retrenchment and reform here in this matter. There is no limitation if these words are struck out upon the amount of stationery that we may take in kind; only a limitation upon the amount of money we shall receive for newspapers and stationery, and that is increased fifty dollars to each member.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

The amendment was rejected.

The bill was reported to the Senate as amended and the amendments made as in Committee of the Whole were concurred in.

Mr. RAMSEY. Now I renew the amendment I offered in Committee of the Whole; in the twenty second line, after the word "hereafter," to strike out all to the end of the proviso, and to insert in lieu of the words stricken out "No member of either House of Congress shall be allowed stationery or newspapers or any commutation thereof."

Mr. HOWE. I hope the vote will be taken on that amendment by yeas and nays this time. I want to vote against it myself. I have listened to this debate until I begin to feel as if, if I should happen to be indicted for petit larceny, I should be under obligations to plead guilty. [Laughter.] I believe there was a usage, if not a law, once in some of the New England States in accordance with which when a man thought he had been doing something pretty mean he was induced to go before a magistrate, complain of himself, pay his fine, and go home absolved. I never knew any deliberative body to attempt to practice on the same theory before. But here there seems to be a deliberate proposition made in the Senate of the United States, since we have been prosecuted, as it is said—I hear it to-day for the first time—in some of the public prints of the country for stealing, (my friend from Minnesota proposes,) that we walk up and pay a fine of fifty or one hundred dollars, whatever it is, assess ourselves, and then go home to our constituents. I do not think you had better go home after you have done it. I do not think our constituents would care to see us after we have done that.

Mr. President, I sit here, mistakenly or otherwise, under the profound conviction that my constituents are not over anxious to know how I get the little money I do get; whether I get it honestly or dishonestly they know I spend it like a man—they get it; so I do not believe they are over-anxious to be informed on that point. But I have a conviction which does more to sustain me in the discharge of my duties than that, which is, that my constituents never would have sent me here if they did not think I was a man who would not steal.

Now, as to the fact whether we have been plundering, peculating in the way suggested here or not, I cannot say; I never have investigated the circumstances. If we have, or if we are liable to it in the future, there are two or three plain remedies. One is a remedy resting entirely on our constituents, and that is to get us home just as soon as they can and send better men the next time. Another remedy, I think, is that suggested by the honorable Senator from Ohio, that is, to limit the amount that shall be expended in these articles of stationery and newspapers. I favored that; I voted for it. I voted for it not because I thought it would prevent stealing nor because I thought there was any stealing that we need to legislate against, but I think it will correct two or three items of expenditure. I think that in accordance with the way this appropriation is spent now articles are purchased year after year and duplicated to members of the Senate that they did not want at all, would not have, have no sort of use for. For instance, every year a portfolio is laid on the desk, I suppose, of every member of the Senate. A portfolio is not worn out in a session of the Senate. Every year I notice a package of stationery is sent to my room in a box, a very pretty box; it serves no earthly purpose in the world except to get my stationery from the stationery-room to my boarding-house. I do not want it; I have no use for it thereafter. Now, if the amount to be expended by each Senator was limited, such expenditures as those would be prevented, and for this reason, and not because I felt that the honesty of the Senate or of the individual members of the Senate needed to be guarded by special acts of legislation, I was inclined to favor and vote for the amendment of the Senator from Ohio, and I hope to see it adopted yet. Another remedy is that proposed by the Senator from Indiana, and that is, to have an account kept with each member of the Senate; leave the appropriations as you make them now: let every man upon his honor and upon his own sense of public duty and of private right take just what stationery he pleases, but let the account be kept and let it be made known, let it be published at the commencement of every session or the close of every session, showing just what has been drawn; let it be one of the public documents that we frank in unlimited numbers to our constituents. Whatever may be the private disposition of the members of the Senate, I am entirely sure that they will not steal if there is any likelihood of their being caught at it; and if you adopt the suggestion of the Senator from Indiana I think it will be dead sure that they will be caught at it if they do steal.

Either of these three remedies seems to me open to us, seems to me plain, seems to me adequate. Of the three, the first is one as to which we cannot help ourselves; as far as that is concerned our constituents will take this

matter into their own hands. If the newspapers have convinced them that we have been stealing I am very well satisfied this is our last appearance here on this floor. But in addition to that I should be glad to see the amendment offered by the Senator from Ohio adopted yet, and I hope it will be; but I shall be obliged to vote against the amendment offered by the Senator from Minnesota.

I have not any great amount of character left, and therefore feel called upon to be a little more jealous of what little I have; and out of regard to that remnant I shall be compelled to vote against that amendment. [Laughter.]

Mr. CAMERON. I wish to ask the Senator from Oregon a question. He said in his remarks a little while ago that the cost of stationery for each member of the Senate ran up from one hundred to four hundred dollars. I desire to ask him how often $400 occurs in the list of Senators opposite any member's name. It seems to me it must be an isolated case. I believe I have used about as much stationery as most gentlemen here, and mine never could have run above one hundred dollars.

Sir, I am opposed to commutations and giving men money in place of stationery. I am opposed to it for the reason that it induces men to be idle and neglect their duty. I think there is no Senator here who would demean himself so much as to take money and neglect his duty to his constituents. I went into the newspaper-room the other day, believing that I was entitled to three daily newspapers according to the custom which prevailed in the Senate some years ago when I was a member, but I found that I could have seventy-five dollars in cash, or order as many newspapers as I pleased coming within that amount. I had in my simplicity ordered my newspaper friends at home to send their papers to me, and they send so many that I cannot get clerks enough to read them for me. I found that I could not spend properly more than thirty dollars in that way. I was told that I could take the balance, but I refused to do so. I reflected upon that afterward and it seemed to me that an economical amendment had been made in our rules by somebody who wanted to carry money home in his pocket. I believe that we are paid enough for our services here, and I cannot imagine that any man who aspires to a seat in the Senate would be willing to come here to save a few dollars out of his newspapers or his stationery. I think the expenses of the newspapers of the Senate are twice as much as they would have been but for that regulation, and I have no doubt our stationery will cost us twice as much if we adopt this provision. I go for the amendment of the Senator from Minnesota, because I think it will give time for reflection on this subject. I do not believe that a large proportion of the gentlemen who voted for this bill in the other House imagined that they were going to save money to the public. I think some of them must have believed that they were going to save from the stationery something to put into their own pockets. Believing that, I would send this amendment to them and see how they will treat it. My constituents do not care how much stationery I use, and as for myself I do not care how much I use. At home I have no restriction in this respect. I do not know what it costs me at home. I write a letter to every man who writes to me if I think he is worthy of an answer, and I consume a great deal of paper and a great deal of other stationery. I do that at home and I do it here, and I take it for granted that every gentleman acts on the same motives that I do.

If there is to be any reform in this matter it ought to come from the committee which has been instituted for that purpose. Doubtless there are great reforms needed here. I heard the Senator from Maryland say that somebody had got gloves. My God, sir! I never heard of a Senator getting gloves; I never heard of them getting pocket-books. I do remember that we were called upon to witness the ceremonies consequent upon the decease of a brother member; some of the officers carried about crape and gloves, and sometimes I got a pair of gloves when I was a pall-bearer, but I threw them by as I did the piece of crape. In the first place they were too worthless to be worn, and then I did not think it would be proper for a Senator to carry out of this House part of the mourning trappings which had been furnished to him; and I take it for granted that it is so with every other member.

In my experience here I have found that every little while somebody comes up with a great reform, and when investigated it turns out to be a very little matter. If the officers of this body have not done their duty in taking care of the interests of the Senate it is the province of our committee to look into it, and I have no doubt they will do it faithfully; but I will never consent that the House of Representatives shall dictate to the Senate of the United States what they shall do in the disbursement of their contingent fund. We are responsible to the States as they are to their immediate constituents.

I shall vote with my friend from Minnesota because I wish to send this bill back to the gentlemen of the House and let them reflect a little while and let the very economical gentlemen who sent this provision here say whether they are willing to pay for stationery and newspapers out of their pockets. I have no doubt they will forget their patriotism if they are forced to that alternative.

Mr. ANTHONY. The remedy for all these petty abuses is in restricting the purchases to proper articles. All of what the Senator from Iowa calls haberdashery should be excluded from the stationery-room; and then let every Senator judge for himself how many letters he wants to write and how much paper and how many envelopes and how many quills and how much ink he wants to use. I know there have been many things from time to time included in the purchases of the stationery-room that amount to abuses, not very great in amount but still abuses that should be corrected. I saw in the paper which has been shown here containing the items charged against Senators Cologne put down as part of the purchases of the stationery-room. I happened since I saw that paper, and while the discussion has been going on, to see the stationery clerk, and he tells me that he never saw any Cologne in the stationery-room, and he presumes it was some very small quantity bought for the barber-shop. I presume that is all the foundation there is for that slander. I am inclined to vote for the proposition of the Senator from Minnesota to strike out all the stationery and begin under a new system.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Minnesota.

Mr. RAMSEY called for the yeas and nays; which were ordered; and being taken resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Conkling, Corbett, Dixon, Drake, Ferry, Fowler, Frelinghuysen, Harlan, Henderson, Hendricks, Howard, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sherman, Sprague, Stewart, and Wade—24.

NAYS—Messrs. Buckalew, Cole, Conness, Davis, Doolittle, Edmunds, Fessenden, Grimes, Howe, Johnson, Morgan, Morrill of Maine, Ross, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—21.

ABSENT—Messrs. Bayard, Cragin, Guthrie, Norton, Nye, Pomeroy, Saulsbury, and Yates—8.

So the amendment was agreed to.

Mr. SUMNER. I now renew in the Senate the proposition which was voted on in Committee, to strike out the whole proviso.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to amend the bill by striking out the words which will be read.

The Secretary read the words proposed to be stricken out, as follows:

Provided, That hereafter no member of either House of Congress shall be allowed stationery or newspapers or commutation thereof.

Mr. DOOLITTLE. The vote has just been taken on inserting those words.

Mr. SUMNER. The proviso I move to strike out is the one on which the vote was taken in committee.

Mr. CAMERON. I think the Senator from Massachusetts is in error. That question was voted on in the Senate.

The PRESIDENT *pro tempore*. It is in order to move to strike out the proviso. It has been amended, and is not the same proposition which was voted on before.

Mr. SUMNER. The proviso, I understand, has been modified. I propose to strike out the whole proviso.

The PRESIDENT *pro tempore*. The motion is in order. The proviso has been amended, and this is not the same proposition that the Senate voted on before.

Mr. TRUMBULL. It seems to me that this is a motion to strike out what we have just put in. I wish the Secretary would read the proviso.

The SECRETARY. The proviso now reads "provided that hereafter"——

Mr. TRUMBULL. Those are the only words of the original proviso now left. Does that alter the case?

The PRESIDENT *pro tempore*. Of course it does. It is not the same provision. The question is on the motion of the Senator from Massachusetts, to strike out the proviso.

Mr. MORRILL, of Maine. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FERRY. What are the words to be stricken out?

Mr. SUMNER. The whole proviso.

Mr. FERRY. Let the words be read.

The SECRETARY. The proviso as amended reads as follows:

Provided, That hereafter no member of either House of Congress shall be allowed stationery or newspapers or any commutation thereof.

Mr. SUMNER. I move to strike out all beginning with the word "provided," so that there shall be no proviso there.

The question being taken by yeas and nays, resulted—yeas 22, nays 23; as follows:

YEAS—Messrs. Buckalew, Cole, Conness, Davis, Doolittle, Edmunds, Ferry, Fessenden, Frelinghuysen, Howe, Johnson, Morrill of Maine, Morton, Ross, Sumner, Thayer, Tipton, Van Winkle, Wade, Willey, Williams, and Wilson—22.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Conkling, Corbett, Dixon, Drake, Fowler, Grimes, Harlan, Henderson, Hendricks, Howard, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sherman, Sprague, Stewart, and Trumbull—23.

ABSENT—Messrs. Bayard, Cragin, Guthrie, Norton, Nye, Pomeroy, Saulsbury, and Yates—8.

So the motion to strike out did not prevail.

Mr. EDMUNDS. I wish to inquire of the chairman of the Committee on Appropriations what the item in the twenty-first line—"for newspapers, $12,500"—means. We have spent a great deal of time over the proviso to that line, and now I should be glad to have him explain how a deficiency could occur for newspapers for members of the House of Representatives. Is there not a law or a regulation which limits the members of that body to a certain sum in that respect, and, if so, how can a deficiency occur?

Mr. MORRILL, of Maine. I suppose they have expended as a matter of fact for newspapers $12,500 more than was appropriated at any former session of Congress, and it therefore makes a deficiency to that extent.

Mr. GRIMES. They did it under a special resolution adopted by the House declaring that each member should be entitled for the adjourned session of Congress to as many newspapers and as much stationery as during an ordinary session of Congress.

Mr. EDMUNDS. Did they do that for the March session and for the July session also?

Mr. GRIMES. Either at the July or the March session; I think at the July session. That has occasioned it.

Mr. EDMUNDS. I wish to ask the chairman of this committee if he is disposed to give

me the information that was inquired for in my former inquiry as to whether there is not a law or regulation which limits the amount which shall be expended for newspapers for the members of the House?

Mr. MORRILL, of Maine, I think there is a statute as far back, perhaps, as 1845, which provides that neither House shall draw from the contingent fund money for any other purpose than that which is expressly specified in the appropriation. This deficiency does not seem to have resulted from a misapplication of the fund, but from the fact of having expended more money than was appropriated.

Mr. EDMUNDS. But if they expended more than was appropriated I should be glad to have the chairman of the Committee on Appropriations inform me out of what fund they got the money to spend. Does he mean that the Clerk or disbursing officer of the House of Representatives has advanced this money out of his pocket, or is it a sum due by him to somebody who has furnished newspapers on credit?

Mr. MORRILL, of Maine. It is due, as I understand it.

Mr. FESSENDEN. The debt is incurred under the order of the House, and there is no money to pay it with, and hence it is necessary to make an appropriation to pay the debt.

Mr. EDMUNDS. That is precisely what I am endeavoring to find out. We seem to have lost ourselves in the proviso without attending to the appropriation. I hope to be able to get some information about that.

Mr. ANTHONY. I understand that this bill provides not only for a deficiency in the current fiscal year, but for supplies for the coming year.

Mr. MORRILL, of Maine. Not exactly.

Mr. ANTHONY. I so understood the chairman before.

Mr. FESSENDEN. I think I was a little in error in the statement I made just now. I think this deficiency rises as the deficiency in our contingent expenses for clerks of committees, &c., arose. The July session being held, they spent the fund for newspapers that was appropriated in advance for the year, and now it is necessary to provide for the present session.

Mr. MORRILL, of Maine. That is it.

Mr. SHERMAN. Do not Senators see the absurdity we are involved in by the present position of the bill? How does it read? For newspapers $12,000, provided that no member or Senator shall draw either the newspapers or the money!

Mr. FESSENDEN. The Senator voted to have it, so let him fix it.

Mr. SHERMAN. The only difficulty is that the Senator from Minnesota did not go back far enough. He should complete the work by striking out the provision.

Mr. EDMUNDS. Certainly.

Mr. ANTHONY. That is what I rose to suggest.

Mr. SHERMAN. As it now stands we are involved in the absurd position of appropriating $12,500 for newspapers, and then declaring that no member or Senator shall get either the money or the newspapers. If so, of what use will the appropriation of $12,500 be?

Mr. RAMSEY. The impression of the Senate was that the appropriation was for some past expenditure.

Mr. SHERMAN. I have not drawn anything for newspapers, nor have I ordered my newspapers yet for this session.

Mr. MORRILL, of Maine. Now I suggest to my friend, seeing the predicament in which we are, that he or some one else who is in a position to do so shall move a reconsideration of the vote on the amendment of the Senator from Minnesota.

Mr. RAMSEY. I suggest that we can remedy it in another way, and that is by striking out this appropriation. I make that motion.

Mr. SHERMAN. I was about to suggest to the Senator from Minnesota that he should complete his work by striking out the appropriation.

Mr. RAMSEY. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves to amend the bill by striking out line twenty-one, which is in these words:

For newspapers, $12,500.

Mr. BUCKALEW. I should like to know what will support the proviso then. [Laughter.]

Mr. FESSENDEN. I would suggest also that the newspapers have unquestionably been ordered, and the Representatives are now receiving them. They have been ordered by the House under the existing law or regulation that they may have a certain amount per session.

Mr. CAMERON. It strikes me that it is proper that the appropriation should be stricken out, and for various reasons. I supposed when this bill was presented that it was for deficiencies alone; but this seems to be an appropriation for newspapers for the next year, because last year the money was furnished by the appropriations for that year. At all events we should do nothing now in this bill but pay something that is due. We should confine ourselves to that legislation which will pay our debts, as honorable people ought always to do, and make no further appropriation. It is always wrong to put future appropriations in bills for deficiencies.

Mr. HENDRICKS. I think the Senate will not be willing to strike out the appropriation, inasmuch as the papers no doubt have been ordered by the House, and they must be paid for. The proviso which we have adopted certainly will not prevent the members of the House receiving the papers already contracted for under existing law. We had better dispose of this question as a matter of business.

Mr. SHERMAN. I think I must insist now on calling up the bill to repeal the cotton tax, as I have a right to do. I think it will be necessary to have this clause examined by the Committee on Appropriations, so as to put it in proper shape. I hope, therefore, this bill will be laid aside, and that the cotton tax bill, which is the special order, will be taken up.

Mr. FESSENDEN and others. Let us finish this bill.

Mr. GRIMES. I trust the Senate will consider and dispose of this bill. I have no doubt that by the amendment which we have put on we have got it somewhat involved; but let us pass it and send it to the House of Representatives, and there it will be corrected.

Mr. SHERMAN. I think we ought to send the bill in perfect shape. We ought not to send it in its present shape.

Mr. GRIMES. If we do not act on the appropriation bill now it will be lost.

Mr. SHERMAN. No; if the other bill is taken up I shall consent to give way whenever the Committee on Appropriations is ready to finish this bill.

Mr. MORRILL, of Maine. To yield this bill now is to sacrifice it for the session. We cannot do that.

Mr. SHERMAN. It ought to be put in proper form, then, before it is passed.

Mr. MORRILL, of Maine. And that is what I have been attempting to do, but I think the honorable Senator has been contributing something himself toward putting it in its present shape.

Mr. SHERMAN. No more than the rest.

Mr. MORRILL, of Maine. All have had something to do with it. That the thing is absurd now is apparent to everybody, I believe.

Mr. CONNESS. I wish to ask the Senator from Maine if he will give way to a motion to proceed to the consideration of executive business, and he can finish his speech to-morrow?

Mr. MORRILL, of Maine. No; I am not going to make a speech. I want to pass this bill. I do not propose to say a word only to insist that the bill shall be passed in some way that it may go to a committee of conference. If the Senate are willing to send so absurd a proposition as this to the other House I do not stand here to object.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate proceed to the consideration of the unfinished business of yesterday.

Mr. SHERMAN. I withdraw that for a little while. I hope we can settle this matter. I want to get a vote on the cotton bill to-night, or else have it postponed. I hope we shall vote on this now.

Mr. DRAKE. When I voted a little while ago for the amendment which was put upon this bill, and then voted against striking it out, I was satisfied that I was in the condition of a number of other Senators on this floor, who did not really desire to take away from the members of this body and of the House of Representatives any allowance whatever for newspapers and stationery. I am of opinion that both those questions were voted upon in the way they were with a view to send the bill back to the House of Representatives, with an intimation from this body that we could manage our own expenditures for newspapers and stationery without any assistance from that quarter. But, sir, we are now put in the position of appearing to be entering upon a rivalry with the House of Representatives as to which of us can make the most buncombe out of propositions of this kind; and in order to get out of that position I move a reconsideration of the last vote, if that is necessary, or of the vote which adopted the amendment of the Senator from Minnesota.

Mr. SUMNER. Reconsider the last vote; that will do.

Mr. DRAKE. I will inquire of the Chair by which motion the thing can be got at. I voted for the amendment of the Senator from Minnesota, [Mr. RAMSEY,] and then against that of the Senator from Massachusetts, [Mr. SUMNER.]

The PRESIDENT *pro tempore*. There is an amendment pending, moved by the Senator from Minnesota, to strike out the appropriation. It is not in order now to make any other motion until that is disposed of.

Mr. RAMSEY. My amendment is pending to strike out the appropriation for newspapers.

The PRESIDENT *pro tempore*. That is the pending amendment.

Mr. DRAKE. Now, in connection with that amendment of the honorable Senator from Minnesota, I would repeat the remark which I have just made. I have no idea that it is the intention of any Senator on this floor to say that the Government of the United States shall not furnish him with stationery while he is in the performance of his duties. I think this matter has gone far enough to indicate the sense of the Senate in regard to the thing. I am against this amendment, and as soon as it is disposed of I will move a reconsideration of the other vote.

Mr. GRIMES. I hope the Senator from Minnesota will withdraw this amendment, and let the Senator from Missouri make his motion.

Mr. RAMSEY. How does the Senator from Missouri expect to accomplish his purpose? It seems to me the best course is to adopt my amendment.

Mr. GRIMES. The Senator from Missouri can accomplish his object and make his motion for reconsideration if the Senator from Minnesota will withdraw his motion to strike out the appropriation embraced in these two lines.

Mr. RAMSEY. I have no desire to accommodate the Senator from Missouri in that respect. I think the action of the Senate is right, and I do not wish to undo what we have done.

Mr. DRAKE. I will wait until the question is taken on this amendment, and then I will make a motion to reconsider.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Minnesota.

The amendment was rejected; there being on a division—ayes 17, noes 18.

Mr. DRAKE. Now I ask for information, is it necessary to go back through both the other votes? May I make a motion to reconsider on the last one, or must I go back to the first amendment of the Senator from Minnesota amending the proviso? I voted with the majority on both.

The PRESIDENT *pro tempore*. The Senator can at this time move to reconsider any distinct proposition that has been acted on.

Mr. DRAKE. I move, then, to reconsider the vote by which the motion of the Senator from Massachusetts, [Mr. SUMNER,] to strike out the proviso, was rejected, and upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. Is this to reconsider the vote upon the adoption of the amendment proposed by the Senator from Minnesota?

The PRESIDENT *pro tempore*. No; the Senator from Massachusetts.

Mr. HENDRICKS. What was that?

Mr. CONKLING. To strike out the whole proviso.

Mr. DOOLITTLE. I think after all the votes we have taken over this measure the Senator will arrive at the conclusion at last that it is best to adopt the suggestion made by the honorable Senator from Maine [Mr. FESSENDEN] and let the whole proviso be stricken out.

Mr. SUMNER. That is the point now.

Mr. DOOLITTLE. The two propositions, that of the Senator from Minnesota and that of the Senator from Massachusetts, are so nearly the same thing, that is to say, one is precisely the opposite of the other. [Great laughter.] Well, Mr. President, what I meant to say was this: that the proposition of the Senator from Massachusetts to strike out the words inserted on the motion of the Senator from Minnesota covered so precisely the same identical question that in my judgment it was improper for the Senator from Massachusetts to make his motion at all. I thought the Senate had just voted to put in the words insisted on by the Senator from Minnesota. But after all this confusion, backward and forward, I think the judgment of the Senate after all is that we follow the suggestion of the honorable Senator from Maine and let the whole proviso go out.

Mr. SUMNER. That is my proposition precisely.

Mr. DOOLITTLE. I understand that. So, if the Senate will reconsider its vote refusing to adopt the proposition of the Senator from Massachusetts, and then vote in favor of his proposition, the whole thing will be stricken out.

The question being taken by yeas and nays, resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Buckalew, Conness, Davis, Doolittle, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Howe, Johnson, Morrill of Maine, Morton, Ross, Sumner, Thayer, Tipton, Willey, Williams, and Wilson—20.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Dixon, Fowler, Grimes, Harlan, Henderson, Hendricks, Howard, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sherman, Sprague, Stewart, Trumbull, Van Winkle, and Wade—25.

ABSENT—Messrs. Bayard, Cragin, Guthrie, Norton, Nye, Pomeroy, Saulsbury, and Yates—8.

So the motion to reconsider did not prevail.

Mr. HENDRICKS. For the purpose of eliciting an explanation from the chairman I move to strike out the nineteenth and twentieth lines, which are in these words:

For folding documents, including materials, $50,000.

I think that is an extraordinary deficiency, and one that ought not to have occurred. I can understand that in many of the Departments there must necessarily occur deficiencies; but why in the folding of documents at a short session of Congress, when there is no special occasion for it, a deficiency should occur, I cannot understand. I do not think it ought to have occurred. I should like to have some explanation about it. I believe this deficiency is in the House, ["Yes,"] not in the Senate. If the chairman has any understanding of how it originated I should like to know it.

Mr. MORRILL, of Maine. I would say in regard to this item that I understand the universal practice has been for each branch of the Legislature to supervise the particulars of their own expenditures and make their own estimates. We relied very much on the estimates of the Committee of the House and on the action of the House. Whether the amount is large or small I cannot say. I believe there is a letter from the Clerk of the House which covers the question, and that is the only precise information we have on the subject. I send it to the Secretary and ask him to read it.

The Secretary read as follows:

CLERK'S OFFICE
HOUSE OF REPRESENTATIVES UNITED STATES,
WASHINGTON, D. C., *December* 4, 1867.

SIR: There will be required to be appropriated to supply deficiencies in the contingent expenses of the House of Representatives of the United States for the present fiscal year the following sums, namely: for stationery, $15,000; for furniture, repairs, and packing-boxes for members, $20,000; for newspapers, $12,500; for miscellaneous items, $15,000; and for folding documents, including materials, $50,000. The deficiencies for newspapers and stationery were occasioned by order of the House of July 5, 1867; that for folding documents, by order of the House of Representatives of July 9, 1867, retaining certain employés during the late recess, and for materials used in the distribution of documents; that for miscellaneous items, by the payment of expenses of investigating committees; and that for furniture, repairs, and packing-boxes, by the necessary recarpeting of committee and other rooms, the purchase of matting and other material for the Hall at the summer session, by the recushioning of the galleries and the purchase of new sofas and extra chairs for the Hall.

Very respectfully,
EDWARD McPHERSON,
Clerk of the House of Representatives.

Hon. THADDEUS STEVENS, *Chairman, &c.*

Mr. HENDRICKS. As I made the motion merely for the purpose of eliciting an explanation, having received the explanation I do not care about pressing it if the Chairman thinks the explanation is satisfactory. I think it extraordinary that such a deficiency should occur. I withdraw the amendment.

Mr. EDMUNDS. I move to amend the bill by adding at the end of the proviso inserted on the motion of the Senator from Minnesota:

And provided further, That no newspaper, periodical, or stationery shall be ordered or paid for for any member of either House by any officer thereof.

We have now provided, as you will see, an appropriation of $12,500 for the future for newspapers for the members of the House of Representatives; and if you leave the bill to stand just as it does, with the proviso inserted on the motion of the Senator from Minnesota, you will have this state of things: you appropriate so much money for the purpose of supplying the House of Representatives with newspapers, and you declare that no individual member shall draw newspapers in kind, so to speak, or be allowed commutation. It leaves it, therefore, for the Clerk of the House at the request of any member to order under this appropriation any newspaper that is wanted. Now, if we are really serious in this business do not let us leave a gap of that kind for the construction of any officer either of this body or the other. I hope the Senate will agree to the amendment which I have proposed.

Mr. RAMSEY. I think that is right, and I hope it will be adopted.

Mr. CAMERON. I would propose to amend the amendment by adding a provision that no money shall be paid to any member of the Senate or House of Representatives in commutation of newspapers.

Mr. RAMSEY. That is already in my proviso.

Mr. CAMERON. Then I have nothing to say.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read the third time.

Mr. ANTHONY. I understand that this bill now appropriates money for the very purpose which we have prohibited any money being spent for. I suggest to the chairman of the committee whether he does not desire to strike out that appropriation.

Mr. MORRILL, of Maine. I had some desire on that subject, but I have lost it. I have tried several times and failed, and I believe my honorable friend has steadily voted against me.

Mr. ANTHONY. I beg pardon; I have voted on the virtuous side.

Mr. MORRILL, of Maine. I am very glad of it.

Mr. DOOLITTLE. I perhaps owe an apology to the Senate for the bull which I made a short time ago; but it seems to me the bill itself is a bigger bull. [Laughter.]

The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 328) to establish certain post roads; and

A joint resolution (H. R. No. 130) in relation to the sale of stock in the Dismal Swamp Canal Company.

ORDER OF BUSINESS.

Mr. MORTON. I move to take up House bill No. 214, to prevent the further retiring and contraction of the currency. I think it very important that that question should be settled before the holidays.

Mr. SHERMAN. I wish to call up the special order, the cotton tax bill, so that it may stand as the unfinished business for to-morrow. I do not intend to press a vote on it to-night, as it is so late, but I want no controversy about the order of business to-morrow.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to take up the bill indicated by him. The question is on his motion.

Mr. SHERMAN. The cotton bill is now regularly pending, and is now before the Senate. With that understanding I have no objection to any other business being now done that is desired.

The PRESIDENT *pro tempore*. It is true that the bill is the unfinished business of yesterday, and was regularly in order at one o'clock to-day; but it was suspended by the bill which has just been passed.

Mr. SHERMAN. That was taken up by common consent.

The PRESIDENT *pro tempore*. The Senator from Indiana now moves to take up the bill indicated by him.

Mr. SHERMAN. But the cotton tax bill was pending, was the regular order of the day, and was only waived informally. It could have been called up at any time. I wish it understood that that bill is left as the unfinished business of to-day. That being understood, the Senator can make any motion he desires.

Mr. CONKLING. I am afraid there will be no quorum here to-morrow, or if there is it will be little more than a bare quorum, and I think when the cotton bill is voted upon, either on the motion to postpone or otherwise, there should be a full Senate.

Mr. SHERMAN. I desire to take the sense of the Senate on that question, and as the cotton bill is now pending I hope we shall have it settled.

The PRESIDENT *pro tempore*. The order of business is entirely under the control of the Senate. The unfinished business of yesterday was the bill referred to by the Senator from Ohio, but that was passed over and superseded by the bill which has just been passed, and now the Senator from Indiana moves to postpone that and all other orders and take up the bill indicated by him, which motion is in order.

Mr. MORTON. I am satisfied that we cannot get a vote on the cotton bill. There are four or five important amendments pending, and I am advised that other Senators who have not yet spoken intend to speak on that bill before the vote is taken. There is, however, a great deal of anxiety throughout the coun-

try for the passage of the bill to prevent the further contraction of the currency. Business men especially in the Northwest are awaiting the action of Congress on that subject with anxiety, and I think it demands with more urgency than any other measure the consideration and action of the Senate. I therefore insist upon my motion.

Mr. SHERMAN. I will state to the Senator that it is utterly impossible to consider before the holidays the bill in regard to contraction, because it will lead to debate and considerable division of opinion in the Senate. Besides, I have a letter from the Secretary of the Treasury which I think, when read, will show the Senator that there is no necessity for its immediate consideration. There will be no contraction during this month and next month, nor until further provision is made by Congress, and therefore there is no haste for taking up the anti-contraction bill. I send the letter to the desk and ask to have it read, and then I hope the Senator will withdraw his motion.

The Secretary read the following letter:

TREASURY DEPARTMENT,
December 18, 1867.

SIR: Your favor of this instant is received.

It is not my intention to retire and cancel any United States notes this month, nor will the condition of the Treasury and of the country justify me in making the usual contraction in the month of January.

It may be proper for me further to say that while I entertain the opinion that an early return to specie payments is indispensable to the national prosperity, and that specie payments cannot be restored without a curtailment of the paper circulation of the country, I shall not continue to exercise the power of reducing the circulation of United States notes conferred upon me by the act of April 12, 1866, unless I have reason to suppose that I shall be sustained in doing so by Congress, nor until Congress shall have a full opportunity for determining the future financial policy of the Government. You can therefore say to your committee that there will be no contraction of the currency by the Secretary during the present month or the next.

I am, very truly yours,

HUGH McCULLOCH,
Secretary.

Hon. JOHN SHERMAN, *Chairman of Committee on Finance, United States Senate.*

Mr. MORTON. I certainly desire to have this bill taken up, and I wish to say, in answer to the Senator from Ohio, that the letter of the Secretary of the Treasury does not settle the policy of the country on this subject, which is the important matter. He says he cannot retire any more notes this month or perhaps next month, on account of the condition of the Treasury, and he will not until the matter shall be discussed by Congress and he knows whether or not he will be sustained. But that does not settle the policy of the country. What the country wants to know is whether this contraction will be resumed in the course of a month or two or whether it is now to be finally stopped. The business of the country for the coming year will depend much on the settlement of this question. It is left in more doubt and uncertainty than ever if we shall stop at this point; it will all depend upon the future action of the Senate, and what that may be after the holidays the people of the country cannot now tell. That is what they want to know.

Mr. SHERMAN. Let me ask the Senator a question. Does he expect that this anti-contraction bill will be taken up and passed in one day? Does he suppose that is possible when it takes a whole day to decide on a question involving $125 worth of stationery and this covers a great financial question? Here we have a letter from the Secretary of the Treasury stating that he will not contract during this month or next. That gives us nearly two months to discuss this question. It is obvious, therefore, that we ought not to waste any time on it before the holidays.

Mr. MORTON. In answer I can only say that this bill has been reported favorably by the Committee on Finance, and I have no reason to suppose there is to be any serious opposition offered to it in the Senate, and if there is not why should it not be passed? We cannot do better than spend the residue of our session before the holidays in settling this important question, because if we leave it in its present condition the policy of the country is more unsettled in the opinion of the people than it has been in the past. If it be left as an uncertain thing whether this bill is to pass the Senate or not what are the business men of the country, or especially of the Northwest, to do? They are awaiting the action of Congress on the subject. I think it is of much more importance to the country to settle this question, if possible, before we adjourn to-morrow than any other question before Congress.

Mr. ANTHONY. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Will the Senator allow the Chair before putting that question to lay before the Senate for reference some bills from the House of Representatives?

Mr. ANTHONY. Certainly.

HOUSE BILLS REFERRED.

The bill (H. R. No. 328) to establish certain post roads was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

The joint resolution (H. R. No. 130) in relation to the sale of stock in the Dismal Swamp Canal Company was read twice by its title, and referred to the Committee on Commerce.

PUBLICATION OF LAWS.

Mr. BUCKALEW. I desire to offer a resolution calling for information, and to have it passed before we adjourn to-morrow. I present it in the hope that it will be considered at once:

Resolved, That the Secretary of State be requested to inform the Senate what is the amount of money which is paid for publishing the laws of the United States in the newspapers appointed for that purpose since the 4th of March, 1861.

Mr. EDMUNDS. Mr. President——

Mr. BUCKALEW. I will simply say that I propose to refer this information when obtained to the Committee on Retrenchment.

Mr. EDMUNDS. I understand that the resolution has not yet been received.

The PRESIDENT *pro tempore*. It was read for information, and the question is whether the Senate will consider it now or not.

Mr. EDMUNDS. I wish to have it lie over, because I desire to propose an amendment to it calling for further information on the subject of counsel fees in that Department.

Mr. BUCKALEW. Very well.

The PRESIDENT *pro tempore*. The resolution will lie over.

Mr. MORTON. Mr. President——

Mr. ANTHONY. I thought I moved an adjournment.

The PRESIDENT *pro tempore*. The Senator from Indiana is entitled to the floor.

Mr. ANTHONY. I made a motion to adjourn, and I only yielded for an announcement of the Chair.

Mr. MORTON. I am in earnest about this matter, and I desire to take the sense of the Senate on taking up this measure for consideration.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate proceed to the consideration of the bill mentioned by him.

Mr. EDMUNDS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 19, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CLERK TO A COMMITTEE.

Mr. BUCKLAND. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Banking and Currency be allowed a clerk, who shall be allowed and paid the usual compensation allowed to clerks of committees of the House.

Mr. KERR. I object.

DELEGATE FROM NEW MEXICO.

Mr. PETERS. I rise to a question of privilege. I offer the following resolution:

Resolved, That the Committee of Elections be instructed to inquire and report without unnecessary delay which of the two claimants to a seat in this House as Delegate from New Mexico holds the *prima facie* evidence of right to the same without prejudice to the contest upon the merits.

I understand that the committee are ready and willing to report to-day if called upon. The resolution explains itself and I presume no debate will arise upon it.

The resolution was agreed to.

DESERTION, ETC.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports, and the unfinished business of yesterday is the bill reported yesterday by the Committee on Military Affairs to furnish honorable discharges to certain soldiers and sailors therein designated, and to repeal section twenty-one of an act entitled "An act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes," approved March 3, 1865; upon which the gentleman from Ohio [Mr. GARFIELD] is entitled to the floor for five minutes.

Mr. STEVENS, of Pennsylvania. Will the gentleman yield to me for a few moments?

Mr. GARFIELD. Certainly.

WASHINGTON AQUEDUCT.

Mr. STEVENS, of Pennsylvania, from the Committee on Appropriations, reported adversely upon Senate bill No. 39, to provide means for the prosecution of the work on the distributing reservoir on the Washington aqueduct; and the same was laid on the table.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table,

The latter motion was agreed to.

BOUNTY CLAIMS.

Mr. CULLOM submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of so amending the present law in relation to the settlement of military bounty claims as that all claims of the soldiers of the United States for bounty under the act of July 28, 1866, shall be settled or adjusted by the Second Auditor of the Treasury Department.

THANKS TO GENERAL HANCOCK.

Mr. BOYER. I ask unanimous consent to submit the following for consideration at this time:

Whereas it has been officially announced to Congress by the President of the United States that an order was issued by Major General Winfield S. Hancock, commander of the fifth military district, dated headquarters in New Orleans, Louisiana, on the 29th day of November ultimo, in which General Hancock announces that he will make the law the rule of his conduct; that he will uphold the courts and other civil authorities in the performance of their proper duties; that he will use his military power only to preserve the peace and enforce the law; that the sacred right of trial by jury and the privileges of the writ of *habeas corpus* shall not be crushed out or trodden under foot; and that the principles of American liberty are still the inheritance of this people and ever should be: Therefore,

Resolved by the House of Representatives of the United States, (the Senate concurring,) That the thanks of Congress are hereby tendered to General Hancock for the patriotic example of duty he has set, and for his timely vindication of the supremacy of the civil law as guarantied in the Constitution of the United States.

Mr. SPALDING. I object, and demand the regular order.

Mr. FARNSWORTH. I insist that the regular order shall be proceeded with.

DESERTION, ETC.

The SPEAKER. The regular order is the consideration of a bill to furnish honorable discharges to certain soldiers and sailors therein designated, and to repeal section twenty-one of an act entitled "An act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes," approved March 3, 1865; upon which the gentleman from Ohio [Mr. GARFIELD] is entitled to the floor.

Mr. GARFIELD. I promised on yesterday to allow the debate to go on a short time. Two of the members of the Committee on Military Affairs desire to speak; and I will yield for ten minutes.

Mr. WASHBURN, of Indiana. I believe the gentleman has but five minutes.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] is entitled to the floor for five minutes.

Mr. GARFIELD. Then I will yield the floor absolutely to my colleague on the committee, [Mr. BOYER,] and hope that at the end of ten minutes he will yield to some other member of the committee.

Mr. BOYER. Inasmuch as the gentleman has yielded the floor to me for ten minutes, I would inquire whether he has any ten minutes to yield?

The SPEAKER. He has not.

Mr. GARFIELD. I yield the floor absolutely, merely expressing the hope that the gentleman would yield some time to others.

Mr. BOYER. Mr. Speaker, I desire to say a few words in favor of the passage of the second section of the bill now before the House. I am in favor of the repeal of the twenty-first section of the act of the 3d of March, 1865, in relation to deserters, because I think that the penalty which it provides is entirely too sweeping in its application.

I do not deny that desertion is a crime, nor do I hold that it should not be punished by the severest penalties of the law, and yet I see no occasion for continuing an unusual penalty like this upon the statute-book. It was enacted at a time when the country was in the midst of a great civil war, and as a war measure of perhaps doubtful propriety. It did not do away, however, with any of the ordinary means of trying and punishing deserters, and if we repeal the section it will leave the law with reference to desertion precisely where it was at the time that section was passed.

There are different degrees of guilt involved in the offense of desertion. Some men desert from cowardice, which, although one of the most disgraceful acts, surely cannot be set down as one of the most criminal in its nature. Some men desert because they suppose that they have received some injury at the hands of their superiors; in a moment of pique they leave the Army to escape from its hardships and supposed injustice. Others desert, perhaps, because they have a destitute family at home; because their children are crying for bread; and they fly to the rescue of those dependent upon them alone, or it may be they go to receive the last embrace of a dying wife. Others, as we know, deserted after the war had actually closed because they supposed that they had been unlawfully kept in the service by the Government beyond the period for which they had enlisted. Congress thought it necessary to pass an act for the purpose of relieving this latter class of deserters. The term of their enlistment being for three years or the war, they concluded that when the war was over that they were released from their engagements; and so they left the Army under a conviction of personal right. Yet these men were included within the section which it is now proposed to repeal. But Congress thought it necessary to relieve them by the passage of an act approved July 19, 1867, which provides that—

No soldier or sailor shall be taken or held to be a deserter from the Army or Navy who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, did quit his command or refuse to serve after said date.

Those other classes of deserters which I have enumerated, I think, stand equally in need, for the sake of humanity, of a remission of this penalty, which in a republican Government ought never to be visited upon the head of any citizen except indeed for the most heinous crimes.

Mr. Speaker, do gentlemen know what class of men are to be found recorded upon the rolls of the Army as deserters? I can tell them, from my own personal knowledge, that among these will be found thousands who died upon the field of battle under their country's flag—thousands who yielded up their lives in rebel prisons for the Union cause. On this list of deserters will be found the names of men who led companies and regiments upon the field of battle after the period when their names were put upon the roll as deserters, where they still remain.

Mr. WASHBURN, of Indiana. Will the gentleman yield to me for a question?

Mr. BOYER. Yes, sir.

Mr. WASHBURN, of Indiana. Cannot these gentlemen have their wrongs righted by having the record in the War Department corrected?

Mr. BOYER. These men may perhaps, after a great deal of trouble and considerable expense, have their wrongs righted if they can furnish the necessary evidence. All of us know the trouble, expense, and delay generally attendant upon the pursuit of rights in the various Departments of the Government, and I say that none of the blameless heroes of the war ought to be subjected to that kind of trouble, expense, delay, or uncertainty in order to obtain their rights, and they ought never to have been subjected to such injustice or inconvenience.

I do not intend at this time to discuss the justification of Congress in having, under the pressure of extraordinary circumstances, and in a perilous hour for the Republic, passed this act. But now, after the war has been over for two years, it is useless and inhuman to continue such a law upon the statute-book. When the punishment of desertion is left, as the law left it before, to courts-martial, discriminations can be made between the different classes of deserters, and the penalty can be graduated according to the infamy or guilt of their respective acts. If they have deserted to the enemy they may be shot. If they have deserted from even a less criminal motive their lives may still be forfeited. Why not arrest and try deserters under the ordinary laws of the land, and if they are guilty visit upon their heads whatever penalty their crime may be thought to deserve?

Now, this section which is proposed to be repealed is unconstitutional as well as otherwise objectionable, because it is in its first clause an *ex post facto* law. Mark the words:

That in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States or of exercising any rights of citizens thereof.

That clause of itself would be sufficient to condemn this law and demand its instant repeal.

In a subsequent clause it includes every man who, being enrolled, departed the jurisdiction of the district in which he was enrolled and went beyond the limits of the United States to avoid the draft for the military or naval service. Upon the deserters' rolls are to be found the names of many persons who never had any intention to desert either from the military or naval service of the United States, but who innocently removed from their districts after being enrolled, and who were not afterward present to answer to the draft because they no longer resided in their enrollment district. To this day, I repeat, hundreds and thousands of persons—men who departed from their enrollment districts under these circumstances—are to be found upon the deserters' lists. Yet, *prima facie*, they are held to be deserters.

I know well in the election of 1866 in the State of Pennsylvania lists were made out and sent through all the election districts, and election officers were asked to decide upon these cases and to exclude the votes of all found upon those lists, including, as I have before said, many who were entirely innocent of any offense whatsoever. And the election officers undertook, in many instances, to sit as a jury to try these offenses. The result was that some were prosecuted under the law; and the supreme court of the State of Pennsylvania decided that the act of Congress contemplated trial before a court-martial or else before a jury before any man could under it be disfranchised or deprived of his right to vote. The consequence is that in the State of Pennsylvania the law is practically a nullity, because in that good, honest old Commonwealth the hate and discord engendered by the war are beginning to die out. And, sir, there are few there any longer willing to go to the trouble to prosecute in court a man who two years ago, under unknown circumstances, was not present at the roll-call of his company.

It is true, Mr. Speaker, I think, that all of us should unite together for the purpose of erasing the footprints of that calamitous war which has devastated this land. The time must come, sooner or later, when we shall dwell together in unity. Everywhere we should begin to welcome such a blessing and endeavor to forget the dreadful memories of the past. We have been told here on former occasions that even in Pennsylvania we have not a republican form of government, because a small part of the population, by reason of race and color, are not permitted to exercise the elective franchise. And a committee of discovery has been sent to the State of Maryland to find out whether, for the same reason that State is not wanting in a republican form of government. Let us therefore be consistent, and make no wholesale disfranchisement of citizens anywhere.

Mr. WASHBURN, of Indiana. Does citizenship include the right to vote? Is voting the right of a citizen?

Mr. BOYER. In many of the States, perhaps in most of the States, no man is a citizen of the State unless he is also a citizen of the United States, and no man can vote unless he be a citizen of the State. That is an answer to the gentleman's question. Now I yield the floor to my colleague on the committee, [Mr. PILE.]

Mr. PILE yielded to

Mr. BENJAMIN, who moved the following amendment:

Provided, That nothing in this act shall be construed as relieving from the penalties and disabilities of the said twenty-first section any person who deserted from the Army of the United States and went over to the enemy.

Mr. GARFIELD. I cheerfully accept that so far as I am concerned.

Mr. BAKER. I presume the gentleman means the Army and Navy?

Mr. BENJAMIN. I make that modification.

Mr. PILE. Mr. Speaker, if we give attention to the number of classes of men and their characters as indicated by their conduct in connection with the Army to whom this twenty-first section proposed to be repealed applies, we shall be able, I think, to vote intelligently and correctly on the pending question. By reference to the report of the Provost Marshal General it will be seen that the number of deserters in the aggregate as reported is two hundred and seventy-eight thousand six hundred

and forty-four. I inquired this morning at the Adjutant General's Office and of the officers of the Bureau of Military Justice as to the classification of these deserters, and from the best information obtained I learn that not five thousand of that number deserted to the enemy. A number of those who did so desert deserted from rebel prisons under the terrible treatment to which they were subjected in Andersonville and other prisons. From one third to one half of the whole number reported as deserters left the Army and went home under this class of circumstances, from dissatisfaction with their officers or a want of knowledge of the character of military law. Men went into the Army at first under impulses of patriotism without any experience in military service, without any knowledge of the duties and obligations of military service, and after having been away from home for a short time believed that they might go home and have a week or a month with their families, and then enlist in other regiments and discharge their duty to the country and to its flag without committing any specific crime. A very large number of those borne on the rolls technically as deserters were men of this class, and who afterward enlisted and served the country faithfully, many of them until the close of the war.

Another class of deserters were those who enlisted for the bounty and deserted afterward and then enlisted in order to secure additional bounty; a class of men, I must say for myself, that deserve as little sympathy on the part of the law-making authority of the Government as those who really and absolutely deserted to the enemy.

Now, if these facts and statistics be correct, then by this twenty-first section we are imposing the penalty of expatriation and disfranchisement upon from one hundred and seventy-five to two hundred thousand men for the purpose of reaching the officers of the Army and Navy who left the military and naval service and went into the rebellion and the five thousand who deserted to the enemy and the men who left the country to avoid the draft.

Now, I believe that it is a principle of criminal jurisprudence that it is always better to let one hundred guilty men go unpunished than to punish one innocent man. Whether that be true as applied to the case in hand or not, I think it is true that we ought not to punish a majority of comparatively innocent men for the sake of reaching a minority of guilty men. I think that we can so amend and change this law as to shut out from the relief proposed to be granted the officers of the Army and Navy who left the service and went into the rebellion, those who deserted and went to the enemy, and those who deserted and reënlisted for the sake of obtaining bounty, and at the same time relieve that large class of men who are borne as deserters on the rolls of the War Department, but who were not really guilty of the crime of desertion. Many men left their regiments under the impression that their services could be dispensed with for two or three weeks, and from the fact that they could not get leave of absence, and went home perhaps to see a sick wife or child or to attend the funeral of a father or mother. A large number of others went home on leave of absence and failed to reach their regiments, being taken sick on their way to rejoin their regiments and finding their way into hospitals. They appear on the rolls of the War Department as deserters when they never intended to be absent without leave even for one day. From the detailed report of the Provost Marshal General to which I have referred you will find that thirty-three thousand of this aggregate number of deserters standing on the records of the War Department are from general hospitals.

Now, sir, for these facts and reasons I think that this bill ought to be recommitted to the Committee on Military Affairs for the purpose of so modifying this twenty-first section of the law referred to as to grant absolute and substantial relief to all this class of men who have not been guilty of the crime of desertion, but are borne on the rolls technically as deserters, and who are disfranchised and expatriated by the law as it now stands, and exclude the more guilty classes to which I have referred from the benefit of such relief.

And especially I think this is demanded by every principle of justice when the laws of this same Congress have enfranchised hundreds and thousands of soldiers of the rebel armies who fought for one, two, three, or four and a half years to destroy the Government. I think it is a most remarkable act of injustice to perpetuate this disability upon this class of men scattered throughout the loyal States when we are allowing the thousands who fought against them and us to go to the polls and vote under the laws passed by this Congress.

I have been asked why not let those who are thus borne on the rolls technically as deserters, but who are not guilty absolutely of the crime of desertion, apply to the War Department and be relieved by order from these disabilities. But that is simply impracticable, from the fact that their large number and the inconvenience and delay necessary in such a process would require years to accomplish this result and to secure the relief sought, and in many cases, in thousands of them, it would not be secured at all.

For these reasons and from these considerations, though I will not now make the motion, leaving the chairman of the committee [Mr. GARFIELD] to pursue such course as he thinks proper, I think the bill should be recommitted to the committee that they may so modify it as to grant relief to the class of persons to whom I have referred who are not absolutely and intentionally guilty of the crime of desertion, and exclude from its provision the more guilty classes to whom I have also referred.

Mr. HAWKINS. Will the gentleman from Missouri [Mr. PILE] yield to me for a short time?

Mr. PILE. For how long?

Mr. HAWKINS. Ten minutes.

Mr. PILE. I will yield for that length of time.

Mr. HAWKINS. I desire the attention of the House while I speak for a few moments upon the effect of the twenty-first section of the act of 1865. That section provides that if any person shall have deserted from the military or naval service of the United States, unless he shall return within sixty days from the issuance of the proclamation provided for in that section he shall be deemed and taken to have forfeited his rights as a citizen of the United States. Not only does it provide for the cases of persons who have been mustered into the military or naval service of the United States and have deserted, but it also provides for the cases of non-combatants. It provides that if any person shall have left his district or the United States after he has been properly enrolled, with intent to avoid the draft, he is to be deemed subject to the same penalty.

I desire to look for a moment at what is the true condition of a party thus affected. If he is not a citizen of the United States the question then arises what is his status? He does not fall within the definition of an "alien," because an alien is one born beyond the jurisdiction of the United States. What effect, then, does the deprivation of citizenship in the United States have upon the individual? It does not have the effect of making him a citizen of any other Power, but it puts him under certain legal disabilities which I believe most earnestly this Congress never intended he should be placed under. For instance, he is put in precisely the same position that he would occupy were he an alien in regard to property. An alien cannot acquire real property by descent or other mere operation of law. The law never casts the descent upon an alien who cannot keep it. The rule of the common law is that a natural-born subject cannot take by representation from an alien because he has no inheritable blood in him. And it was to remedy this that the treaty of 1783 between the United States and England provided for and settled the allegiance of the parties adhering to the respective Governments.

It becomes necessary, then, to determine the proper definition of the term citizen in order to ascertain who are affected by this twenty-first section. The persons upon whom it operates are those who have been citizens of the United States. Who are citizens of the United States? According to the definition by Worcester they are—

"Inhabitants of the Republic who enjoy the right of citizens or free men, who have the right to vote for public officers."

Webster gives this definition, among others:

"A citizen of the United States: a person, native or naturalized, who has the privilege of exercising the elective franchise or the qualifications which enable him to vote for rulers and to purchase and hold real estate."

It is provided in the Constitution (article one, section nine) that—

"No bill of attainder or *ex post facto* law shall be passed."

But it is said that this is not an *ex post facto* law, because the punishment is not inflicted because of the desertion, but because the party persisted in it. It is clear that section twenty-one of the act of the 3d of March, 1865, did not relieve the party from any part of the punishment to which he had become liable. If he had become liable to the death penalty section twenty-one did not relieve him from it. If he had made himself liable to be dismissed the service with the forfeiture of all pay and allowance, section twenty-one did not discharge him from that liability. If he had deserted the Army the offense was full and complete after he had missed the three roll-calls, and he was liable to all the penalties known to the law at the time of the desertion, and in all cases occurring prior to the 3d of March, 1865, there was no law prescribing as a punishment for desertion a forfeiture of citizenship. Most usually the offense of desertion would have been punished by a forfeiture of pay and allowance and perhaps some imprisonment for a short time. But it is said that this party persisted in an offense that was then full and complete, and it is because of this persistence that he is to be punished in this extraordinary manner. He must stand the forfeiture of pay and allowance, and as a cumulative punishment he must forfeit the rights of his birth—the right to be a citizen of a country for which he had perhaps fought an hundred hard and bloody battles, and then in many cases was incarcerated in a rebel prison. Well might these men exclaim: this is more than I can bear. They are decitizenized; they are liable, it may be, to the punishment of death; they are driven out from the land of their birth without having the rights and privileges of any Government upon earth, or the right to be protected by any national power. The very blood that flows through their veins is corrupted, and in many of the States they cannot, if effect is given to this section, inherit realty from their fathers or transmit it to their children; and, in the absence of special statutes on that subject, upon their deaths their lands would be forfeited to the State.

And this is the punishment added for the persistence. It must be remembered that it falls with just the same rigor upon the man who is technically a deserter, with just the same force and power that it does upon the one who has been educated and honored by the Government and then from the high position which had been assigned attempted to strike down the life of the nation. Even the most active and violent rebel in the whole land has not been punished to this extent. By the constitutional amendment he has been deprived of holding an office and prevented from voting for members in the reconstruction conventions, but no statute anywhere is to be found that

declares that his citizenship is forfeited; and it is assumed by high authority that he cannot even be punished for his treason.

The eighth article of the amendment to the Constitution provides that excessive bail shall not be required, no excessive fines imposed, nor cruel and unusual punishments inflicted. The penalty imposed by this section, as terrible as it is, may be considered by some as not cruel, although it strikes down rights that have been regarded as inalienable; although it may deprive the offender of any nationality and make him an outlaw, and bid him to go hence without any Power to protect him, and to be henceforth and forever free from any allegiance to the country of his birth. By this section the nation releases its right to call upon him to perform any of the functions of a citizen, and his appeals for protection against wrongs abroad would be made in vain to the country of his nativity. Still it may be said that it is not cruel punishment; but he would be a bold man who would assume that it was not an unusual punishment.

In the examination of this matter the committee have endeavored to consider it in all its bearings—the great difficulty in the way of a faithful execution of the law, the great confusion that will result from the constructions placed upon it in different States, its tendency to confuse and aggravate the excitement attendant upon popular elections, the fact that in more than one respect it introduces into the legislation of Congress, to say the least of it, the exercise of disputed and doubtful powers. It is believed that in all the States where the law of descents is the rule of the common law that it must result in interminable difficulty and confusion, and in many instances, without the aid of State legislation, it must work a forfeiture of estates; and it would seem hard to punish the child because the father persisted in a wrong or was remiss in the performance of a duty. I see it stated in the papers that the constitutional convention in Louisiana have abolished the civil code and by their constitution adopted the common law as a rule of property in that State. The laws of descent in the States of Ohio and Massachusetts are perhaps not the same as the common law, special statutes having been passed in those States changing the common law rule. But it is believed that in most of the States there has been no statute made providing that an alien may inherit real estate or transmit it to his heirs.

This twenty-first section was passed the 3d day of March, 1865, and allowed the deserters sixty days to report themselves. But before that time had expired the army of the rebellion had surrendered, as I now remember, on the 19th of April.

[Here the hammer fell.]

Mr. PILE. I now yield to the gentleman from Indiana, [Mr. WASHBURN.]

Mr. WASHBURN, of Indiana. I wish to call attention to a paragraph in the report of the Provost Marshal General, in which he says that of the two hundred and seventy-eight thousand reported as deserters a majority have returned. I ask the Clerk to read the paragraph I have marked.

The Clerk read, as follows:

"Since the organization of this bureau the desertions reported have been two hundred and seventy-eight thousand six hundred and forty-four. This number is much too large. Many of those reported as deserters are not so in reality, but are men who became unavoidably absent from their commands by falling sick on the march, being injured in action without the knowledge of their officers, and reported 'missing' and subsequently 'deserted,' and by intentionally or unintentionally overstaying their furloughs, &c., &c. Most of this class afterward voluntarily reported, but having been placed in the 'return of deserters' have swelled the aggregate."

Mr. PILE. It appears by the paragraph just read that many of these men are now borne on the rolls as deserters. Those rolls and this very report are quoted against them and they are disfranchised. Hence the necessity of this repealing act is apparent.

I now yield to the chairman of the Committee on Military Affairs, [Mr. GARFIELD.]

Mr. GARFIELD. Mr. Speaker, I have listened to this debate with much interest, and I only desire to state very briefly the evil which the Committee on Military Affairs have tried to remedy.

According to the report of the Provost Marshal General of January 1, 1865, more than a quarter of a million of our fellow-citizens stood on record as deserters. The report gives two hundred and seventy-eight thousand six hundred and forty-four as the exact number, and declares that twenty-five per cent. would be a very small estimate of the proportion of that vast number who were true and faithful soldiers, but who are borne on the roll as deserters because they have been reported as "missing," having been, it may be, wounded in action, and their whereabouts not known. Now, what shall Congress do with regard to this quarter of a million people? If we give any relief we must do one of two things: we must provide for a quarter of a million trials to ascertain how many of these men are really deserters and deserve the punishment provided under the twenty-first section, and which are innocent; or we must, by some general legislation, relieve these persons from the operation of this law, allowing some unworthy men to escape that a great many meritorious men may be relieved from the odium so unjustly resting upon them.

Mr. LOGAN. I desire to ask a question for explanation, as it is evident I shall not get an opportunity to participate in this discussion this morning. I ask the gentleman to state whether or not the report does not show that the majority of those reported as deserters at the time have not reported since in accordance with the operation of law?

Mr. GARFIELD. I am glad the gentleman has called my attention to this. The law to which he refers was passed March 2, 1865; and it provided that the President should issue a proclamation of amnesty to all deserters who should report for duty within sixty days. That proclamation was issued by President Lincoln March 11, 1865. Now the Provost Marshal General, page 228 of the report, states that only 1,755 persons availed themselves of the provisions of the proclamation. Subtract from 278,644 and we have more than 276,000 persons who stood on the rolls as deserters at the beginning of the year 1866.

Mr. LOGAN. Now I ask the gentleman from Ohio to be fair toward the House and read the rest of the report, which states what the majority have reported.

Mr. GARFIELD. Having only yesterday received a lecture on courtesy from the gentleman from Illinois, [Mr. LOGAN,] I will endeavor to conform to his suggestions and be as "fair" as my poor capacity will allow. If the gentleman will indicate anything he desires to have me read I will read it.

Mr. LOGAN. Inasmuch as the gentleman from Ohio has expressed himself as willing so fully to comply with my request, I ask the gentleman to read the close of the paragraph at the bottom of page 230.

Mr. GARFIELD. I am very willing to read it, although my colleague on the committee read it a few minutes ago:

"Since the organization of this bureau the desertions reported have been 278,644. This number is much too large. Many of those reported as deserters are not so in reality, but are men who became unavoidably absent from their commands by falling sick on the march, being injured in action without the knowledge of their officers, and reported 'missing' and subsequently 'deserted,' and by intentionally or unintentionally overstaying their furloughs, &c., &c. Most of this class afterward voluntarily reported, but having been placed in the 'return of deserter' have swelled the aggregate."

Where the War Department had proper evidence these corrections were made. The Department is wholly unable from the evidence in its possession to settle these cases with anything like distributive justice. The number involved makes it almost impossible to remedy the evil by acting on individual cases. How much hope have we of getting such cases favorably considered by the present executive head of the Government where they happen to be of our political faith? It seems to me better that the Senate and House of Representatives should in some way undertake to relieve a large class of meritorious people, who, if we do not give them relief, will go down to their graves bearing honorable scars received in the service of the country, but with their names inscribed on the records of their country as deserters from the flag, and by law denounced as dishonored aliens. I know of many cases where relief has been granted, but how many there are who have no friends at court and who will never receive relief except by some general law of Congress?

Mr. LOGAN. Let me ask a question in regard to that. Has there ever been any meritorious case presented to the War Department since the law was passed where relief has not been granted?

Mr. MUNGEN. I can answer that question fully.

Mr. GARFIELD. Many cases have been reported to me. In most cases the soldier has no evidence to offer except his own statement of the case. There were no witnesses to his act of supposed desertion. Perhaps he was captured by the enemy. Take this case: a soldier on picket duty in face of the enemy during a stormy night is wounded and captured by the enemy, none of his fellow-soldiers knowing what had become of him, and he was reported as missing and a few days afterward as a deserter. After months of suffering he escaped from prison, finding his regiment mustered out, the sixty days of amnesty expired, the war ended, and himself a deserter and alien from the country which he suffered so much to serve and save. He has no loyal witness but his own word; he is poor, unknown to members of Congress, and has no available remedy. I say there are many cases of this sort, and I would let a thousand rascals go "unwhipped of justice rather than that one such man should suffer" so unjustly and cruelly, and I know of no feasible way of reaching that class except by the remedy proposed in the bill before the House.

Mr. LOGAN. Where a man is shot and taken prisoner of war does not the fact of his exchange prove that?

Mr. GARFIELD. I am well aware that here and there individual cases can be remedied, but we should not leave a matter of such magnitude to individual exertion.

But, as the morning hour has almost expired, I wish to dispose of this bill. I am willing, if the House so desires, that it shall be recommitted or that it shall be debated further or that it shall be acted on now. An amendment has been offered which, so far as I am concerned, I cheerfully accept, that it shall expressly exclude all that class of persons which some gentlemen think might perhaps be relieved by this repeal—namely, those who went over to the enemy.

Mr. LOGAN. That will not exclude all the bounty-jumpers.

Mr. GARFIELD. I will ask for the previous question on the bill and the pending amendment. If the House sustains it we will go forward to the conclusion of the matter. If they do not I shall consent to the motion of my colleague on the committee, [Mr. PILE,] that the bill be recommitted. I move the previous question.

Mr. SCHENCK. Will my colleague allow me one minute.

Mr. GARFIELD. I cannot. There is only one minute of the morning hour left.

Mr. SCHENCK. Then I hope the bill will be recommitted.

The question was taken; and the House refused to second the demand for the previous question.

Mr. PILE. I move that the bill be recommitted to the Committee on Military Affairs;

and on that motion I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to recommit was agreed to.

Mr. PILE moved to reconsider the vote by which the joint resolution was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLAIMS OF LOYAL CITIZENS.

Mr. STOKES, by unanimous consent, introduced a joint resolution to amend the act of July 4, 1864, to more effectually secure the payment of claims of loyal persons for property taken and used by the Federal forces during the late war; which was read a first and second time, and referred to the Committee of Claims.

DISMAL SWAMP CANAL.

Mr. WOODWARD, by unanimous consent, submitted the following resolution:

Resolved, (the Senate concurring,) That the Secretary of the Treasury be directed to adjourn the sale of eight hundred shares of the stock owned by the United States in the Dismal Swamp Canal Company from the 2d day of January, 1868, to which day the said sale now stands adjourned, until Saturday, the 8th day of February, 1868, at eleven o'clock a. m.

The SPEAKER. The Chair will remark to the gentleman from Pennsylvania that resolutions only affecting the parliamentary action of both branches of Congress are usually concurrent resolutions, while those that have the character of a law and are mandatory are in the form of joint resolutions, which are read three times in both Houses and sent to the President. The gentleman can choose which form he prefers.

Mr. WOODWARD. I will make it a joint resolution.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WOODWARD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RUSSIAN AMERICA.

Mr. WASHBURN, of Wisconsin, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be, and he is hereby, requested, if not inconsistent with the public interest, to communicate to this House copies of all correspondence with, and instructions to, our minister to Russia in regard to the question of Russian America; also all correspondence with the Russian minister at Washington concerning the late treaty with Russia, together with all the information in possession of the executive department of the Government in regard to the country proposed to be ceded by said treaty.

ENTAILMENT OF NATIONAL BONDS.

Mr. PAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire and report whether it is expedient to permit any of the bonds in which the national debt may be funded to be entailed for charitable or educational purposes under suitable regulations as to interest, registration, and escheat.

WITHDRAWAL OF PAPERS.

Mr. WASHBURN, of Massachusetts. There are many cases in reference to which there are papers on file of claims that have been passed upon adversely by the Committee of Claims, and in which the claimants desire to withdraw the papers. I ask that they be granted the privilege of withdrawing them during the present session upon leaving copies of the same.

Mr. WASHBURNE, of Illinois. I must object to that general permission. Let each person apply to the House for that purpose. I think it would lead to bad results to give such an order as that.

Mr. WASHBURN, of Massachusetts. That course was taken last session, I think.

Mr. WASHBURNE, of Illinois. I must object to it now.

Mr. WASHBURN, of Massachusetts. Then I will ask that Mrs. Gaut and Mrs. Reeve have leave to withdraw the papers in their cases, leaving copies of the same.

Mr. PAINE. Let them take copies and leave the originals.

Mr. WASHBURN, of Massachusetts. Very well.

Leave was granted accordingly.

POST ROAD BILL.

Mr. FARNSWORTH. Many of the members of the House desire to get post roads established in their districts for the purpose of putting mail service upon them immediately. The Committee on the Post Office and Post Roads have directed me to report a bill for the establishment of divers post routes. The Postmaster General tells me, in reference to some of them, that it is absolutely necessary that the bill should be passed now, because the ordinary routes have been obstructed by the ice and the sweeping away of bridges in some cases. I therefore ask that the House pass the bill now; there is no legislation in it.

No objection was made.

Mr. FARNSWORTH accordingly reported from the Committee on the Post Office and Post Roads a bill to establish certain post roads; which was read a first and second time.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TAXING NATIONAL BANK NOTES, ETC.

Mr. HOOPER, of Massachusetts. I am instructed by the Committee on Banking and Currency to ask consent to report a bill to authorize the taxation of United States notes and national bank notes by or under State authority.

No objection was made; and the bill was received and read a first and second time.

Mr. HOOPER, of Massachusetts. I move that the bill be referred to the Committee of the Whole on the state of the Union, and that it be printed.

The motion was agreed to.

PENSION LAWS.

Mr. CULLOM, by unanimous consent, introduced a bill to amend the law in relation to pensions; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DAVID BRADEN.

Mr. COBURN, by unanimous consent, introduced a bill for the relief of David Braden; which was read a first and second time, and referred to the Committee of Claims.

HENRY B. MEARS.

Mr. COBURN, by unanimous consent, also introduced a bill for the relief of Henry B. Mears; which was read a first and second time, and referred to the Committee of Claims.

PAY OF JURORS.

Mr. COBURN, by unanimous consent, also introduced a bill to amend the act providing for the pay of jurors in the circuit and district courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

ARMY OFFICERS IN WASHINGTON.

Mr. ROSS, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of War be instructed to communicate to the House of Representatives what number of commissioned officers belonging to the United States, including regulars and volunteers, are employed in the various governmental Departments, and in what Department and in what business employed, with their names, rank, and pay.

The question was upon the adoption of the resolution.

Mr. WASHBURNE, of Illinois. I move that the resolution be referred to the Committee on Military Affairs.

Mr. GARFIELD. I desire to say that the Committee on Military Affairs have already called for this information, and I believe the facts just received from the War Department give the information asked for.

Mr. ROSS. I would like to have the information called for in my resolution.

The question was then taken upon the motion to refer the resolution; and upon a division there were—ayes 52, noes 25; no quorum voting.

Tellers were ordered; and Mr. WASHBURNE of Illinois and Mr. ROSS were appointed.

The House again divided; and the tellers reported that there were—ayes 67, noes 31.

So the motion to refer was agreed to.

REFERENCE OF BILLS.

Mr. WASHBURNE, of Illinois. I move to reconsider the votes by which the various bills introduced this morning were referred; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. STONE asked and obtained indefinite leave of absence on account of sickness.

SAMUEL P. SNYDER.

Mr. ECKLEY, by unanimous consent, introduced a joint resolution to pay Captain Samuel P. Snyder; which was read a first and second time, and referred to the Committee on Military Affairs.

PROVISION FOR MAIMED SOLDIERS.

Mr. PERHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of providing by law that soldiers and others entitled to artificial limbs under the act of July 16, 1866, may, when from the nature of the injury and operation no limb or surgical appliance can be advantageously adopted, receive the present established value of such limbs or surgical appliances in money in lieu of the order on the manufacturer, and to report by bill or otherwise.

ADMINISTRATION OF WAR DEPARTMENT.

Mr. BURR, by unanimous consent, submitted the following resolution:

Resolved, That the Secretary of War be and is requested to furnish this House at his earliest convenience with the following information: how many employés in the various branches of his Department have been discharged or dismissed since his appointment as Secretary of War; what were the respective salaries of such employés, and for what reasons they were discharged; second, what amount of Government property, including clothing and Army supplies, has been by him disposed of or sold within the above period, and what were the reasons for such sale; third, what are the number and location of buildings heretofore in the possession and use of the Government that have been by him surrendered or returned to their owners within said period, what were the reasons prompting such surrender, and at what cost for rent or lease they were formerly held by the Government for public use.

Mr. GARFIELD. I move that this resolution be referred to the Committee on Military Affairs, and on that motion I call for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to refer was agreed to, there being—ayes 67, noes 29.

REGULATION OF COASTING TRADE.

Mr. JUDD, by unanimous consent, introduced a bill to amend an act entitled "An act to regulate the foreign coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes," approved June 17, 1864; which was read a first and second time, and referred to the Committee on Commerce.

JOSEPH HILL AND SONS.

Mr. HIGBY, by unanimous consent, intro-

duced a bill for the relief of Joseph Hill & Sons; which was read a first and second time, and referred to the Committee of Claims.

MAPS FOR LAND OFFICE REPORT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a copy of a letter of the Commissioner of the General Land Office relative to the publication of the maps accompanying and illustrating his annual report; which was referred to the Committee on Printing.

GETTYSBURG ASYLUM FOR INVALID SOLDIERS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Commissioner of Internal Revenue, in reply to a resolution of the House of the 12th instant, presenting the reasons why the supervisors of the scheme known as the Gettysburg Asylum for Invalid Soldiers have been exempted from taxation as a lottery; which was referred to the Committee on Retrenchment.

WEST VIRGINIA AGRICULTURAL COLLEGES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Governor of West Virginia, in compliance with the act of July 2, 1862, relative to agricultural colleges in that State; which was referred to the Committee on Agriculture.

COLORADO CONTESTED-ELECTION CASE.

The SPEAKER also laid before the House papers in the Colorado contested election case; which were referred to the Committee on Elections.

RECONSTRUCTION DEFICIENCY BILL.

Mr. BUTLER moved that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. MAYNARD in the chair, and proceeded to the consideration of the special order, being House bill No. 326, making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The bill was read in *extenso* the first time for information.

Mr. BOYER. Mr. Chairman, I rise to a question of order. I desire to ask the Chair whether, in view of the great amount of expenses incurred by this Government and likely to be incurred by the existence of military governments in the South, it would be in order to introduce for the action of the House at this time the resolution heretofore submitted tendering the thanks of Congress to Major General Hancock for having asserted principles and initiated action which if generally carried out would be likely to lead to the speedy abolition of military dictatorships, and in that way lessen in future the enormous expenditures of the Government, for which the bill just read in part provides?

The CHAIRMAN. That is not a question of order.

Mr. BUTLER. Mr. Chairman, in reporting this bill to the House the committee have authorized me to state that this bill covers only a small part of the large estimates put before them. And these items are reported only because, in the judgment of the committee, they are necessary for the due execution of the purposes of the Government.

I desire to call the attention of the committee to the first item:

To provide for the expenses of carrying into effect the "Act to provide for the more efficient government of the rebel States."

I have caused to be prepared a table so that the House may see exactly what has been already expended under the reconstruction acts and precisely what is asked for and how much is appropriated for the future, to the end of the present fiscal year, June 30, 1868:

Statement of reconstruction fund, showing the amount appropriated, the amount sent to each district, the amount expended, and balance on hand in each at date of last report, December 7, 1867, and amount now in Treasury.

District.	Commanding General.	Amount sent from Treasury.	Amount expended.	Balance on hand.	Amount asked.	Amount appropriated.	Total expended and asked.	Total expended and appropriated.
First	J. M. Schofield	$199,444 45	$190,936 31	$8,508 14	$50,000 00	$50,000 00	$240,936 31	$249,444 45
Second	E. R. S. Canby	294,359 91	110,441 87	183,918 54	199,689 25	110,000 00	310,130 62	504,360 91
Third	John Pope	175,337 01	168,461 85	6,875 16	97,162 99	97,162 99	265,624 84	272,500 00
Fourth	E. O. C. Ord	464,834 77	458,950 00	5,884 29	383,822 00	150,000 00	842,772 48	614,834 77
Fifth	J. A. Mower	365,840 12	297,835 10	68,005 02	521,879 88	250,000 00	829,414 98	715,840 12
Total		1,499,816 26	$1,226,615 11	273,201 15	$1,250,254 12	$657,162 99	$2,488,869 23	$2,256,980 25
Balance in Treasury		183 74		183 74		1,500,000 00		
Total appropriated		1,500,000 00	Amount formerly appropriated	$273,384 89		$2,157,162 99		
Total expended		1,226,615 11						
Total balance		$273,384 89						

It will be seen, sir—because it is but proper, in my judgment, that this matter should be thoroughly understood by the House—that General Ord, in his district, composed of Mississippi and Arkansas, has spent almost as much as has been spent in the districts of General Schofield, General Canby, and General Pope. There seems to be no apparent reason for that extra expenditure; but there is within the knowledge of the committee, and perhaps within the reach of Congress, no remedy for this apparently extravagant expenditure.

Mr. PHELPS. Let me ask the gentleman a question at this point.

Mr. BUTLER. Certainly.

Mr. PHELPS. You have stated that the amount in General Ord's district is equal to three other districts. Now, I would like the gentleman to inform the House the difference between the total cost of General Sheridan's district and that of General Ord.

Mr. BUTLER. The difference between General Ord's and General Sheridan's expenditure is $458,000 for Ord, and $297,000 for Sheridan, leaving out the odd numbers. What is asked for by the succeeding general in the fifth military district is $521,000. It is proper to say that it is not asked for by General Hancock, and neither is it asked for by General Sheridan.

This large expenditure, I was about to say, cannot be controlled by the House or by Congress; the remedy is only within the reach of the Executive; for this expenditure under this general must go on, if the Executive so elects, unless the House and the country desire to abandon the greatest experiment of bringing men to reason and restoring them to to forfeited political powers by very gentle means, greater than ever before undertaken in the history of the world.

In the case of General Sheridan's district, which is now General Hancock's district, it is but fair to him to say that the largest amount which he called for is for the pay of registrars. While General Canby asked $36,000 and General Pope $50,000, General Sheridan's district calls for $260,000 to pay the registrars of election only. This large expenditure for registration happened in this way: After the registration of voters in that district was closed under the act of Congress by the order of General Sheridan, it was twice reopened under the order of the President and extended for a very considerable period of time. This makes one controlling difference between General Ord's and General Sheridan's necessary expenditures.

Another difference between the expenses of General Ord's and the other departments which the committee will appreciate was this: General Ord kept the polls open one day in his district, and had, therefore, only to pay during so much time of the election, while in the other districts the polls were kept open three and in some places four and sometimes five days.

The committee find, as far as reports have been made to them, that the expenditures in the third district, that of General Pope, while it has been one of the very largest districts, including Georgia, Alabama, and Florida, and while reconstruction under him is in a very advanced stage of progress, has been by far the most economically managed. The Committee of Ways and Means, knowing the great burdens of taxation upon the people, have scaled these appropriations to the lowest possible amount, and we believe them to be only those that are necessary for the economical execution of the work committed to the charge of the military commanders of the several districts.

The next items are for deficiencies in the quartermaster's department, and an amount of $13,500,000 was asked for by the estimates of the Secretary of War. After two interviews with the Quartermaster General we found that it would be impossible consistently with due regard to the public service to appropriate less than $12,000,000. The reason of this deficiency is this: last year there was no appropriation made for the quartermaster's department. It was supposed that the amount realized from the sale of Government property rendered useless by the cessation of the war, received from southern railroads and from other sources, would enable the quartermaster's department to go through the year without an appropriation; but the Indian war supervened, throwing very great expense upon the Quartermaster, and especially upon the transportation branch of the quartermaster's department. As you will see, the transportation item is $7,350,000 out of the $12,000,000. These appropriations, therefore, seemed to be absolutely necessary, and I will say that one reason why this bill is reported thus early is that there is need of the money this hour for Army purposes.

The next item is $2,000 for a deficiency in the office of the chief of engineers for blank books, stationery, and miscellaneous items. And then there is an appropriation of $8,000 for the compensation of firemen and for the replacing of the worn-out heating apparatus in the building at the corner of F and Seventeenth streets, which must be replaced as well for economy as for the safety of the public documents which are in the office.

It will be seen, sir, that the committee have cut down these items to the lowest possible amount, and unless some gentleman desires further to discuss this question I propose to ask that the committee rise and report the bill to the House.

Mr. HIGBY. I desire to ask the gentleman whether this amount includes all the expenses of the governments of these States, both civil and military?

Mr. BUTLER. It does, so far as the United States is concerned. There are various items of the expenditures of the local State government which are not included in these estimates of expenditure.

There is one fact, however, which I should state, which is applicable to all these districts, and that is that the commutation for quarters, fuel, and forage, and mileage, in many instances, of the military officers engaged in reconstruction, which would otherwise be charged upon the War Department, are charged to this fund and go to swell the apparent expenditure.

The CHAIRMAN. The Chair will remind the gentleman from Massachusetts [Mr. BUTLER] that his motion that the committee now rise and report the bill to the House is premature, the bill not having yet been read the second time for amendment.

Mr. BUTLER. Then let it be read.

Mr. FARNSWORTH. I desire to ask the gentleman from Massachusetts [Mr. BUTLER] whether it is possible for him or for the committee of which he is a very able member to contrive some sort of a law which shall prevent officers, both civil and military, from expending more money than is appropriated by law for them to expend? We are constantly from year to year having these deficiency bills brought before the House, brought down here from the Departments, and we, apparently like so many clerks, are expected to pass the deficiencies through. We make appropriations for carrying on the different branches of the Government. No matter what sums are or may be appropriated, they exceed them; and they do it as fearlessly and as deliberately as they expend the sums already appropriated, and then they come to Congress with the utmost confidence that we, as obedient as children, will supply the deficiencies which they have incurred. Now, I wish my friend from Massachusetts, [Mr. BUTLER,] who is confessedly an ingenious lawyer, would try and contrive some plan which will hedge around these officials and prevent them from expending more money than we give them to expend.

Mr. BUTLER. Allow me to say to my friend from Illinois [Mr. FARNSWORTH] that that very subject is now being considered by the Committee on Appropriations. An examination of the law was made by the committee for that purpose. I am not trespassing upon the rules of the House, I think, when I say that there seems to be a general desire on the part of the committee that some provision should be made in the law for the purpose indicated by the gentleman. We found, upon examining the law that it would be impossible, in the limited time now given us, to bring in a well-digested bill which should accomplish all that the gentleman desires; the matter has, therefore, been referred to a sub-committee; and unless we change our minds very largely such a bill will be prepared and reported in the course of the session. It is the full intent of the committee to provide a remedy for the very difficulty my friend from Illinois suggests.

Mr. LAWRENCE, of Ohio. Before a vote is taken upon the motion that the committee rise and report this bill to the House I desire to submit to the consideration of this committee an amendment by way of an additional section.

The CHAIRMAN. The Chair will again remind the committee that the bill has not yet been read by paragraphs for amendment. An additional section, by way of amendment, will not be in order until the bill has been so read.

Mr. WASHBURNE, of Illinois. Let the bill be read for amendment.

Mr. LAWRENCE, of Ohio. I then give notice that when the bill has been again read I will move the amendment I have indicated.

Mr. ROSS. Before the bill is again read I would like to ask the gentleman from Massachusetts [Mr. BUTLER] a question.

Mr. BUTLER. Very well.

Mr. ROSS. I would inquire if this deficiency in the quartermaster's department of over twelve million dollars pertains in any degree to the expenses incurred under the reconstruction bills?

Mr. BUTLER. Not one dollar of it.

Mr. PHELPS. Will the gentleman yield to me for a few moments?

Mr. BUTLER. Certainly.

Mr. PHELPS. I rise merely because my colleague upon the Committee on Appropriations [Mr. BUTLER] may have made an impression upon the minds of this committee by what he has said which he does not design to make. He has called the attention of the committee to the fact that the amount expended and asked for by General Ord to cover the expenses of his district was so much greater than the total amount expended and asked for by General Schofield, General Canby, and General Pope for the expenses of their districts.

I desire to call attention to the fact that the amount expended and asked for to meet the expenses of the adjacent district, commanded in the first instance by General Sheridan, in the next place by General Mower, and more recently by General Hancock, is nearly as great as in the district of General Ord; in the latter case being $840,000 and in the former $818,000, in round numbers.

On inquiring at the headquarters of the Army for an explanation of that immense disparity between the expenses of these two districts and the expenses of the three eastern districts I was informed that the matter was well understood there as being fully accounted for by the difference in the topography of the country, the land in the western districts being intersected to so large an extent with water, bayous, and other obstructions, and thus the expenses are enlarged. So that these increased expenses are not the result of any extravagance in the expenditure of the money, either in the case of General Sheridan or his successor or in the case of General Ord. I have thought it necessary, as a matter of justice, to make this explanation.

One other remark before I sit down. I do not understand that the committee in making this reduction of the estimates sent in by the War Department have acted upon any particular principle but that of economy on general principles. In other words, the total amount of the estimates has been cut down arbitrarily. And I have no reason to suppose that the amount called for by those estimates will not have to be appropriated eventually.

Mr. BROOKS. Mr. Chairman, I should not have risen to make any remarks on this bill but for the observation made by the gentleman from Massachusetts [Mr. BUTLER] that the appropriation of $3,500,000 for regular supplies of the quartermaster's department and the appropriations of $7,250,000 for transportation of the Army have nothing whatever to do with the general expenses of reconstruction in the South. I believe that was the remark of the honorable gentleman.

Mr. BUTLER. I so understand it.

Mr. BROOKS. I am glad that the gentleman has now qualified his remark, and has given us his understanding instead of a positive averment.

Mr. BUTLER. Will the gentleman be kind enough to repeat his inquiry? I am not sure that I understood him.

Mr. BROOKS. I asked the gentleman to say whether the $3,500,000 which this bill proposes to appropriate for regular supplies of the quartermaster's department and $7,250,000 for the transportation of troops are not a portion of the expenses of reconstruction in the South, rendered necessary by the maintenance of an army there. What I desired to know was whether the general remark of the gentleman that these appropriations have nothing to do with reconstruction was meant to be taken in a strict and literal sense.

Mr. BUTLER. Mr. Chairman, I can only reply to the gentleman by telling him exactly what took place in the committee on that subject. We had the Quartermaster General before us and conferred with him upon the deficiencies in his department as an entirely separate item. We asked him for what he desired these appropriations; and he never suggested that he wanted one dollar for any purpose of reconstruction in the South, but wholly for the movement of troops on the Plains and elsewhere. Therefore it was never suggested or supposed in committee that any portion of these deficiency appropriations for the quartermaster's department was to go toward meeting the expenses of reconstruction.

I have no doubt, however, that there are expenses incurred by the quartermaster's department in moving troops in the South; and the same expenses would be incurred in moving a similar number of troops anywhere else so long as we have them. But during the progress of reconstruction there has been very little movement of troops in the South. Small bodies of troops have been kept at a large number of posts; but there has been no general movement of troops to throw any considerable expense upon the quartermaster's department, except in two instances. One was when the riot was feared in Nashville from those who undertook to override the State government of Tennessee. In that case General Thomas was obliged to move a considerable number of troops; but that was entirely outside of reconstruction. Again, in the case of the riot at New Orleans, it was necessary to concentrate a goodly number of troops there. And who is to blame for that movement is a question which is at this time well settled in the public mind of this country.

If there is any deficiency in regard to the amount for moving the troops in the South it comes from that source, and I think that source alone.

Mr. BROOKS. Mr. Chairman, I am not going to enter into the question of the riots and disturbances in the South; but I am going to say that so long as four millions of negroes govern eight millions of whites in the South so long will you have a standing army, and so long will its expense become a necessary part of the expenses of the Government; it is a part of the law of nature, of the law of race, the inevitable law of force by which an inferior race of men is made the master of a superior race.

Let that all pass. I rose not to enter into any political discussion, but I rose to ascertain, in connection with this bill, some information in reference to the reconstruction in the South, as to appropriations of $7,350,000 for transportation for the quartermaster's department of the Army and $3,500,000 "for regular supplies." I have no doubt the Quartermaster General looked at the whole Army, the larger portion for the army upon the Plains, and a considerable part for supplies and transportation of the large army which necessarily must be continued at the South. I wish to make this a matter of record, that the direct, positive appropriations for reconstruction in the South of $1,500,000 not being found sufficient, $657,000 is now called for by the Committee on Appropriations. For reconstruction in the South for this fiscal year $657,000 is asked in addition to the enormous expenses necessary to maintain a standing army, not only now but throughout all coming time.

I might descant and dwell upon this subject much longer, but that is unnecessary. I wish only to say now that whatever the Committee on Appropriations propose in the reduction of the Army this side of the House should follow and go even further. It is time the Army was abolished in a large portion of a free country like this and maintained only for the protection and government of Indians upon the Plains, for the necessary sustenance and support of our garrisons upon the lakes and sea-coast. And I trust this House, wherever they cut down appropriations for the Army, will second their efforts in every way in order to bring about a

reduction of taxation and relieve the people from the heavy and onerous burden of supporting an army for the purposes of this so-called reconstruction.

Mr. BUTLER. Mr. Chairman, I had not expected to go into this class of observations upon this bill. I supposed we had heard all the gentleman from New York had to say upon the physical qualities of the negro yesterday. We listened to him upon that subject with patience and, if we are to believe some of the public prints, with admiration. But the gentleman seems to be anxious upon the subject of expenditure for transportation in the South. What, sir, are the bills run up for transportation in the South? I will tell him. One of the expenses in reconstruction from which we propose to relieve the people of the South is shown by the bill I hold in my hand. It is an official copy of a bill rendered by the chief of police of New Orleans to the city treasurer for services after the murder of the members of the convention, which was paid.

"COMPTROLLER'S OFFICE, CITY HALL,
"NEW ORLEANS, *November* 18, 1867.
[Copy.]

"OFFICE OF THE CHIEF OF POLICE,
"NEW ORLEANS, *August* 10, 1866.

"City of New Orleans to Thomas E. Adams, Dr.
"For cash paid for hauling forty-six loads of dead and wounded from around Mechanics' Institute to station-houses at three dollars, $138."

That is the way the unreconstructed rebels talk about the dead and dying murdered Union men. "Forty-six *loads* of dead and wounded!" A general upon the battle field counts his dead as so many human beings. This chief of police charges over his own signature as would a scavenger for a load of filth, for—

"Forty-six loads of dead and wounded from Mechanics' Institute to station-houses, at three dollars, $138.

"Paid for carrying dead from station-houses to work-house yard, eight loads, three dollars, twenty-four dollars.

"Paid for fifteen loads wounded from station to Freedmen's hospital, four dollars, sixty dollars."

It would seem that it was cheaper for the city of New Orleans to transport loads of dead than wounded. A dollar a load! That was the reason, perhaps, they murdered and crushed the life out of so many. There is economy for you!

"Paid carriage and cab hire for myself and aids during the week of the riot, seventy-five dollars."

Thus, while the dead and dying Union citizens—the lamented Dostie, for example—were sent by loads in a cart to the station-houses and to the work-house yard, this chief of police and his aids, their murderers, were riding in "carriage and cab" at the expense of the city of seventy-five dollars.

Now, sir, what are the purposes for which we propose these appropriations to carry out reconstruction? First, as a measure of economy, to get rid of this standing army of which the gentleman complains, and put into loyal hands freedom secured by ballot, which was wrested from them, white and black, by unhallowed treason and rebellion. We propose it as a measure of relief. We want to relieve the people of the South from such tax bills as the one I have read. We propose it as a measure of justice, to give to those who have fought for us and with us, whatever may be their color, the right and power of self-protection, so that we may no longer be called upon to protect them by our soldiers. We propose it, sir, as the great finishing up of the rebellion, which during all these years of war and unquiet peace has received the sympathy of those who are acting with the member from New York, because we believe that when we have given the ballot to these loyal men of the South they will protect themselves, and that the ballot will be around them, doing more duty than an armed policeman in keeping them from all wrong and outrage.

Sir, I listen to all these attacks upon the negro and this talk that the Democracy are going to take away the ballot from him with the utmost contempt. What, sir! take away the ballot from nearly six millions of people who have tasted its sweets, felt its power, and were shielded by its protection! take away that great franchise from almost a nation! take away this safeguard of freedom which no people who ever enjoyed ever yet surrendered save with their lives! You may talk about it, you may plot for it, you may try for it, you may scheme for it, and with all the aid of all the powers of death and hell, but let me say that the ballot, once in the hands of millions of freemen, never was and never can be taken away. That is a fixed fact, fixed beyond all peradventure, and whoever arrays himself against it simply buts his head against a wall. I have heard enough of this talk about taking away the ballot from the negro. Whenever it is attempted I hope my friends on the other side will go South and head the army of subjugation, and when they do they will be welcomed in a way by which, in my judgment, they will learn that the negro has some of the highest attributes of manhood—to wit, courage to maintain his rights, knowledge to appreciate them, and steadfastness never to yield them up.

Mr. GETZ. May I ask the gentleman whether he means that the army he speaks of will be "welcomed with bloody hands to hospitable graves" or not?

Mr. BUTLER. No, sir, no; the negro is of a kind, amiable, forgiving disposition, whatever ethnologists may say of his blood, and when the gentlemen fall in such an unhallowed contest they will be taken kindly in the best way they can and cared for with tenderness and mercy; not thrown into carts and carried to work-houses, not given over to the tender mercies of the station-house, but brought perhaps to the lowly cabin where nursing and kindness will take the place of true valor, firmly-determined battling for rights.

Let me say to gentlemen, too, that the negro has fought for us, and he will fight for himself whenever he is attacked, and not till then; and when gentlemen tell us there will be a war of races I say that it is like every other of these predictions about the negro—false. You said he would not fight, but he did fight. You said he would not work, but he does work. You said if we gave him a vote he would vote just as his master wanted him to. That is exactly the way he did not vote. [Laughter.] You said he did not know how to vote. Well, the negroes vote just as I would have done if I had been in their places, and that is as good voting as I desire. [Laughter.] It is said they are going to rise and that we are to have a war of races. Why should they rise, and upon whom will they rise? They have the power now because they are the laboring bone and sinew of that country, because they are the loyal men of that country. Rise? Why, they are at the top now, gentlemen on the other side say. What should they rise for? How are they to get up any higher than to the top, as they are, if we are to believe gentlemen opposite?

Oh, no: I have listened to these croaking predictions of evil; the country has listened to them. They are the false prophecies of false prophets.

Let me say to you, Mr. Chairman, and to the committee, that we of the party of progress, of equality, of right, and of freedom shall take no step backward. The ballot put in the hands of a man created in the image of his God will remain in his hands, as his greatest boon and blessing, until he chooses to relinquish it; and no power can take it from his hands. Whoever tries to take it from him will try an experiment that in the history of the world never yet has succeeded; and I, without claiming the gift of prophecy, will say, an experiment which never will succeed.

But I beg pardon of the committee for this digression. The gentleman from New York [Mr. BROOKS] by his remarks led me out of the line of legitimate argument upon this appropriation bill. If I have erred in that respect it is because I have followed a bad example.

Mr. RANDALL. Will the gentleman permit me to ask him a question?

Mr. BUTLER. Yes, sir; any question.

Mr. RANDALL. I would ask the gentleman what is his plan—I have seen it intimated in the papers that he has a plan—by which he proposes to introduce negro voting into Pennsylvania and other States where the State constitution and laws do not permit it.

Mr. WASHBURNE, of Illinois. I would inquire if this bill was made the special order or not.

Mr. RANDALL. I know that my question is a very disorderly question.

Mr. BUTLER. I will yield no further than to answer the question of the gentleman from Pennsylvania, [Mr. RANDALL,] and to say that I have no such plan.

Mr. WASHBURNE, of Illinois. I would inquire of the Chair if this bill is a special order.

The CHAIRMAN. It is.

Mr. WASHBURNE, of Illinois. Then I ask that the discussion be confined to the merits of the bill.

Mr. BUTLER. I desire to say to the gentleman from Pennsylvania that I have no such plan; that I never had any such plan; that I never force anything upon anybody unless they deserve it.

The CHAIRMAN. The bill will now be read by paragraphs for amendment.

The first paragraph was read, as follows:

Be it enacted, &c., That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the objects hereinafter expressed for the fiscal year ending June 30, 1868, namely:

To provide for the expenses of carrying into effect the act to provide for the more efficient government of the rebel States; for the first military district, the sum of $50,000; for the second military district, the sum of $110,000; for the third military district, the sum of $97,000; for the fourth military district, the sum of $150,000; and for the fifth military district, the sum of $250,000; making in all the sum of $657,000.

Mr. WOOD. I desire to say a word or two upon this bill.

Mr. BUTLER. I cannot yield the floor for any such purpose.

Mr. WOOD. I submit that we have a right to debate this bill.

The CHAIRMAN. The Chair understood the gentleman from Massachusetts [Mr. BUTLER] to yield the floor, which has been claimed and conceded to the gentleman from New York, [Mr. WOOD.]

Mr. BUTLER. I have not yielded the floor, except to have the bill read by paragraphs for amendment.

The CHAIRMAN. The gentleman necessarily yielded the floor for that purpose.

Mr. BUTLER. I called for the reading of the bill as a part of my remarks.

The CHAIRMAN. The Chair decides that the gentleman from New York [Mr. WOOD] is entitled to the floor.

Mr. WOOD. I have risen more particularly for the purpose of protesting against a bill of this magnitude being passed through the Committee of the Whole without any discussion upon its merits, and without the attention of this House and of the country being called to the fact that it proposes to appropriate nearly thirteen million dollars for a pretended deficiency.

I do not propose to follow the line of argument in which the gentleman from Massachusetts [Mr. BUTLER] has indulged, because I am without the data which his position upon the committee from which this bill was reported gives him in reference to the details and items which go to make up this bill in the aggregate. He has, however, in replying to my colleague [Mr. BROOKS] with reference to some of these expenses for reconstruction, referred to some police items in the city of New Orleans, amounting altogether, I believe, to about one hundred thousand dollars. He appears to be exceedingly familiar with the police department and with the violation of municipal law so far as New Orleans is concerned. I do not think, sir, that we on this side of the House can attempt to discuss that branch of these expenditures with the gentle-

man from Massachusetts. He knows all about New Orleans; he knows all about the requisitions which are made on the military department there to suppress the free, honest indignation of a people who are unjustly and unconstitutionally trampled upon. He has no doubt his own data. He knows well the immense amount of public money that was expended under his own administration as the chief military governor of that city when he had the honor to hold the military command there. Now, it may be that the gentleman——

Mr. WASHBURNE, of Illinois. I rise to a question of order. I submit that the gentleman from New York [Mr. WOOD] is not in order in discussing matters entirely foreign to this bill. This is an appropriation bill and a special order.

Mr. WOOD. I submit that I am discussing the items that go to make up the deficiency in the expenditures of one of the Departments under the reconstruction measures. I am discussing the items of expenditure——

The CHAIRMAN. The gentleman from New York must confine his remarks to the bill. The Chair will of course permit him to follow largely his own judgment as to the mode of conducting his argument; but the Chair trusts the gentleman will not abuse the privilege thus accorded him.

Mr. WOOD. Certainly not; I thought I was strictly in order. We are now discussing an item of appropriation for reconstruction in those military districts. One of those districts comprehends the city of New Orleans, and the gentleman from Massachusetts [Mr. BUTLER] went into a detailed statement of how these items were made up. I was discussing those items; and in passing I said that on this subject I deferred to the superior knowledge of the gentleman; that in view of his experience in New Orleans we are bound to assume that he knows better than we can know what is necessary to be expended in that city.

But, sir, let that pass. I desire to be strictly in order, and I recur again more particularly to the bill now before us. In advance of the annual appropriations, in advance of the regular appropriations necessary to carry on the Government, we have already thrust upon us, at the very threshold of this session, two or three immense appropriations under the head of deficiencies. Now, sir, I protest against this manner of appropriating the public money. I protest against the practice in Congress, and especially in this House, of bringing in bills for the appropriation of immense sums of money under the pretext that they are for deficiencies when in fact they are for no such thing. And I desire to ask the honorable gentleman from Massachusetts [Mr. BUTLER] whether he is willing to rise here in his place and say that every dollar proposed to be appropriated by this bill, the aggregate being nearly thirteen million dollars, is for the purpose of meeting deficiencies?

Mr. BUTLER. I am very glad to answer that question. Every dollar proposed to be appropriated is for the purpose of meeting deficiencies in the appropriations for the fiscal year ending June 30, 1868, to supply deficiencies in former appropriations, and to carry on the Government during that time, so much more having been found necessary for the purposes of reconstruction.

Mr. WOOD. May I, then, ask the gentleman another question?

Mr. BUTLER. Yes, sir.

Mr. WOOD. Can the gentleman tell us the aggregate amount altogether appropriated for the reconstruction of the southern States, together with the estimated amount required to finish the work of reconstruction in those States?

Mr. BUTLER. The amount appropriated is $1,500,000, of which $1,200,000 has been spent. What is asked in addition is $657,000, which is believed to be ample to carry it through. The amount of the former appropriation on hand is only $273,000, which would not be enough to carry on an enterprise like that until the 30th of June next.

Mr. WOOD. Now, Mr. Chairman, according to this statement $2,000,000 will be necessary to carry on this work. I desire to attract the attention of the country to the fact that similar statements were made when the original appropriation of $1,500,000 was called for, that it was sufficient for the entire expenses of reconstruction. Now we are told that $2,000,000 is enough, whereas, in my opinion, $5,000,000 will be asked for before Congress adjourns. Yet that enormous amount does not begin to meet the expenses growing out of the congressional system of reconstruction. In the first place, a large part of the expenditures are not provided by the General Government at all, but are imposed upon the impoverished people of the South themselves. The expenses of the constitutional conventions, the contingent expenses, which really constitute, in my judgment, the largest proportion, are imposed upon the people of the southern States, who are not allowed any representation upon this floor. That, too, sir, besides keeping out of the country an immense revenue; besides keeping out of the Union one third of the States; besides disfranchising men as loyal and as intelligent as any other class of the community and enfranchising a class never before entitled to that right, and all the while the system of reconstruction adopted by Congress is entailing upon the tax-payers of the free States the enormous burden under which we are now staggering.

Is the country prepared for this additional appropriation of $13,000,000? Shall we turn aside, as has been done on this occasion, to consider the question of the negro? The gentleman from Massachusetts [Mr. BUTLER] and his friends upon every public occasion introduce the negro into the discussions of this House. If they can stand it we can, but I say, as Macbeth said to Banquo's ghost, "Rest, perturbed spirit." The country is tired of that discussion. It stands affrighted at the financial condition of our public affairs. The country requires, to develop our resources, a fiscal system which will meet the public necessities while reducing the present heavy taxation. It wants the currency question disposed of. Mr. Chairman, the country wants rest; it wants peace and fraternal concord among the members of the Union. It wants peace in order that we may turn our attention to the great political problems which grow out of the disastrous war through which we have been happily carried. We desire these appropriations cut down to the very lowest figure necessary to carry on the Government. We do not want these great military departments continued, causing enormous expenditures of money. We are opposed to standing armies in time of profound peace. We are in favor, under any circumstances, of restoring harmony and prosperity to this great land. Therefore it is that we are opposed to this kind of appropriations. We believe that the necessity for them does not exist. We want the expenses of the Government cut down in the military, naval, and civil Departments. We want to reduce everything to the lowest standard of economy that is proper. On the contrary, it seems to me that this Congress is thinking only of acquisitions of immense tracts of territory and making enormous outlays of money. Instead of decreasing it seems to be resolved upon increasing the burdens of the people.

Mr. Chairman, I have risen for the purpose of calling attention, first, to the wrong method of appropriating money under the pretense of deficiencies; and secondly, to the great cost to the country of the reconstruction scheme initiated by Congress. And when we discuss these appropriations we must be confined to these two questions.

Mr. BUTLER. I move that the committee rise for the purpose of limiting this debate.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. MAYNARD reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being House bill No. 320, making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, and had come to no conclusion thereon.

Mr. BUTLER. I move that general debate on the special order in the Committee of the Whole on the state of the Union terminate in one minute after the committee shall resume the consideration of the same.

The motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted to Mr. CLARKE, of Ohio.

DEFICIENCY BILL—AGAIN.

Mr. BUTLER. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. MAYNARD in the chair,) and resumed the consideration of bill of the House No. 320, making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The Clerk resumed the reading of the bill by paragraphs for amendment.

Mr. LAWRENCE, of Ohio. I offer the following amendment to come in after line eighteen:

And be it further enacted, That in addition to the taxes required to be levied by the eighth section of the act of March 23, 1867, supplementary to the act of March 2, 1867, "to provide for the more efficient government of the rebel States," conventions authorized by said acts for each of said States shall also provide for the levy and collection of such taxes on the property in such State and for its payment into the Treasury of the United States as will be equal to the sums herein appropriated for such State for the expense of carrying into effect said acts to be ascertained and apportioned to said States in proper amounts by the Secretary of War.

Mr. BUTLER. I am sorry to call the attention of my friend to the fact that that amendment is not, in my judgment, germane to the bill, and is not in order.

Mr. LAWRENCE, of Ohio. If the gentleman will allow me to explain it a little I think he will be satisfied that it is in order.

Mr. WASHBURNE, of Illinois. It is independent legislation on an appropriation bill, and I hope my friend from Ohio, who is a good economist, will not set the example of breaking into appropriation bills in this way with matters of general legislation. I hope he will withdraw his amendment.

Mr. LAWRENCE, of Ohio. It is an example in favor of economy. It provides simply that the Treasury of the United States shall be reimbursed by a tax upon the rebel States for the moneys which this bill proposes to appropriate for their benefit, and which have heretofore been appropriated.

The CHAIRMAN. The Clerk will read the one hundred and twentieth rule.

The Clerk read the rule, as follows:

"120. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

Mr. LAWRENCE, of Ohio. I think I can satisfy the Chairman that the rule which has been read has no application to this proposition, and if I can have a moment to explain it I think there will be no difficulty about it.

Mr. WASHBURNE, of Illinois. I think the rules require that all these questions of order shall be decided without debate.

The CHAIRMAN. The Chair is compelled to decide the amendment out of order.

Mr. WASHBURNE, of Illinois. I find the following clause in the bill:

And the total amount appropriated by this bill is $12,667,000.

I do not think it proper that that should be in the bill. I believe there is a rule of the House that in the case of all appropriation bills reported to the House there shall be a statement of the amount appropriated in the bill, but I believe it is not required to be in this bill.

Mr. GARFIELD. I think it would be good policy to have it in. It can do no harm.

Mr. BUTLER. I will only say that upon inquiry I was informed that it was the correct practice to have it in the bill.

Mr. WASHBURNE, of Illinois. I understand that the practice is different. When the bill is reported to the House this is to be in, but it is not intended to go with the law. The rule requires that such a clause should be reported to the House in order that members may know, in coming from the committee, the full amount reported in the bill.

Mr. BANKS. It is to be in the bill.

Mr. WASHBURNE, of Illinois. Yes, in the bill; but it is not necessarily to be retained in the law.

The CHAIRMAN. The question is upon the motion that the committee now rise and report this bill to the House.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. MAYNARD reported that the Committee of the Whole on the state of the Union, pursuant to order, had had the Union generally under consideration, and particularly the bill of the House No. 320, being a bill making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction law and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, and had directed him to report the same to the House without amendment.

Mr. WASHBURNE, of Illinois. I would like to have the point settled which I referred to in the Committee of the Whole in relation to the last clause of this bill, stating the aggregate amount of the appropriations proposed by it. The rule was passed when I was not here, and I do not know what the practice has been. I suppose the object of the rule was to show the amount of appropriations in the bill, not that such a clause should be made a provision of the law. Certainly there is no use of such a provision in the law, though it may be a very good provision to give information to the House.

The SPEAKER. The Clerk will read the provision from page 17 of the Digest.

The Clerk read as follows:

"In all cases where appropriations cannot be made specific in amount the maximum to be expended shall be stated; and each appropriation bill, when reported from the committee, shall in the concluding clause state the sum total of all the items contained the bill."

The SPEAKER. The rule provides that when an appropriation bill is reported from the committee it shall include a clause setting forth the aggregate amount contained in the bill. But it does not say anything about altering the bill by way of amendment either in Committee of the Whole or in the House.

Mr. WASHBURNE, of Illinois. Any one can see upon a moment's reflection what the retaining of such a clause in the bill will lead to. It must be continually changed as the House or the Senate make amendments changing the amount. It seems to me it was never contemplated that this particular provision should be retained in the bill after it becomes a law.

The SPEAKER. It is in order to move to strike it out.

Mr. WASHBURNE, of Illinois. Then I move to amend the bill by striking out the last clause, as follows:

And the total amount appropriated by this bill is $12,667,000.

The amendment was agreed to.

Mr. BUTLER. I now move the previous question upon the bill as amended.

The previous question was seconded, and the main question ordered.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. BUTLER called the previous question.

The previous question was seconded, and the main question ordered.

Mr. KERR. I call for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 97, nays 35, not voting 56; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Bromwell, Broomall, Butler, Cake, Cary, Churchill, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Garfield, Griswold, Harding, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Ingersoll, Judd, Julian, Kelley, Ketcham, Koontz, Laflin, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Plants, Poland, Polsley, Price, Raum, Robertson, Schenck, Selye, Shanks, Smith, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taylor, Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—97.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Mungen, Niblack, Randall, Robinson, Ross, Taber, Van Auken, Van Trump, Wood, and Woodward—35.

NOT VOTING—Messrs. Bailey, Barnum, Benton, Blaine, Blair, Boutwell, Buckland, Chanler, Reader W. Clarke, Sidney Clarke, Cornell, Covode, Dodge, Eggleston, Ela, Ferry, Fields, Finney, Gravely, Haight, Halsey, Hamilton, Hill, Humphrey, Hunter, Jenckes, Kelsey, Kitchen, George V. Lawrence, Lincoln, Miller, Morrissey, Mullins, Newcomb, Nicholson, Nunn, Phelps, Pike, Pile, Pomeroy, Pruyn, Sawyer, Scofield, Shellabarger, Sitgreaves, Spalding, Thaddeus Stevens, Stone, Taffe, Trimble, Trowbridge, Twichell, Van Wyck, Thomas Williams, James F. Wilson, and Woodbridge—56.

So the bill was passed.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was presented by Mr. ROBERT JOHNSON, his Private Secretary.

ORDER OF BUSINESS TO-MORROW.

Mr. WASHBURN, of Indiana. I rise to present a privileged report.

Mr. DAWES. I claim the floor on a question of privilege—a report from the Committee of Elections.

The SPEAKER. A question of privilege takes precedence of a privileged question; and the gentleman from Massachusetts [Mr. DAWES] is entitled to the floor.

Mr. SCHENCK. The gentleman from Massachusetts yields to me a moment that I may make a proposition in regard to business to-morrow. I observe that the number of members in attendance is already very much reduced; and I propose that it be agreed by unanimous consent that no business of any kind be done to-morrow—that the session shall be for debate only.

Mr. WASHBURNE, of Illinois. I desire to make a statement upon the point suggested by the gentleman from Ohio, [Mr. SCHENCK.] The deficiency bill, which has been passed in this House and is now under consideration in the Senate, ought to pass both Houses before the recess. That bill is expected to be returned here this evening; and I hope that it will come back, so that we can consider any amendments which may be made by the Senate. When that measure shall have been disposed of I trust there will be no objection to the gentleman's proposition. But if that bill should not be returned in season to be acted on this evening then I think it ought to be acted on to-morrow.

Mr. SCHENCK. My reason for making this proposition is that so few members are now in attendance, and to my certain knowledge a great many have made arrangements to go by the four-thirty train and others later in the evening; so that to-morrow there will be still fewer members here, perhaps scarcely a quorum. And if any material amendments to the deficiency bill or any other subjects of importance are to be considered I do not know that it would be advisable to consider them to-morrow with so sparse an attendance of members.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman that he had better withdraw the proposition for the present. The deficiency bill may be returned this afternoon.

Mr. SCHENCK. Very well. I withdraw the proposition for the present with the understanding that I shall renew it before the adjournment to-day.

NEW MEXICO CONTESTED ELECTION.

Mr. DAWES. Mr. Speaker, the Committee of Elections, who were instructed this morning to inquire and report to the House which of the two claimants to the seat as Delegate from the Territory of New Mexico has the *prima facie* evidence of right to the seat, have instructed me to report that Mr. Clever presents a certificate in the ordinary form—in precisely the same form heretofore adopted in certificates from the Territory of New Mexico—signed by the Governor and attested by the secretary, with the seal of the Territory, setting forth that he was duly elected. Its language is:

"This certifies that under the organic act and laws of the Territory of New Mexico there was held a general election on the 2d day of September, A. D. 1867, the same being the first Monday of said month within the Territory of New Mexico, for Delegate to the Fortieth Congress of the United States, and that at said election Charles P. Clever received a majority of the votes cast for said office."

Mr. Chaves presents a statement by the secretary of the Territory, setting forth that it is true Mr. Clever had such a majority of the votes returned, but that in his opinion some of those votes are fraudulent votes, and that therefore, in his opinion, Mr. Clever ought not to have the seat, but that it ought to be awarded to Mr. Chaves. The secretary claims that under the territorial law he, and he alone, has the right to give the certificate; that the Governor has no such right. This difference with regard to the question of law grows out of the state of the legislation on this subject. The organic law provides for the mode and manner of holding the first election, and then provides that the time, place, and manner of electing the Delegate to Congress may be prescribed by the law of the Territory. It then goes on to say that the Governor shall count up the votes for Delegate and shall give a certificate accordingly. This is the organic law, which is the paramount law. The territorial law passed at the next session thereafter prescribes that the votes shall be returned to the secretary and counted by him, and that he should give the certificate. This, if it is in conflict at all with the organic law, must, in the opinion of the committee, yield to the organic law. And the committee were further of the opinion that the statement made by the secretary of the Territory that Mr. Clever had a majority of the votes returned was as far under any circumstances as he was authorized to go in giving a certificate; that having done that he had discharged the power under the territorial laws which he was authorized to dischage. But he went further and stated that some of these were not good votes, which this House alone on the merits could say. And therefore, whether you take the certificate of the Governor or the statement of the secretary, you come to the same conclusion, that of the votes returned the majority was for Mr. Clever. Whether what is subsequently stated by the secretary is true, that some of these votes were fraudulent, depends on the contest on the merits of the case.

The committee understanding they were to report on the *prima facie* case, without prejudice to the merits, have directed me to report

that Mr. Clever has that *prima facie* case. Therefore, sir, I move that Mr. Clever be sworn in without prejudice to the merits of the case.

Mr. SCHENCK. Mr. Speaker, when this matter was first presented by the production of the credentials of Mr. Clever, being aware that outside facts were brought to the attention of the House at the same time by the presentation of the claim on the part of Mr. Chaves, I voted for sending the whole subject to the Committee of Elections for some inquiry into the claims relatively of these two gentlemen to a seat. I did so for I then believed, what I am more than ever confirmed in, that neither has a *prima facie* case; that the certificate of Mr. Clever, coming from the Governor is wrong, because the Governor was not authorized to give any certificate; and that the certificate held by Mr. Chaves is not allowable, because he holds a certificate, not of his being entitled to the seat, but of certain facts from which it is inferred he is entitled to the seat. The whole question is, therefore, upon its merits and cannot be presented to the House in any other form.

Let us look at the matter a moment and see whether I am right, maintaining, as I do, that neither has a *prima facie* case. By the organic law it is provided that the Governor shall superintend the organization of the Territory, and he is to certify at the first election who has been elected to the several offices. It is provided by section fourteen of the law establishing the Territory of New Mexico that a Delegate to the House of Representatives of the Congress of the United States may be elected by the voters qualified to elect members of the Legislative Assembly, &c.; and then it goes on to provide that the first election shall be held at such time and place and be conducted in such manner as the Governor shall appoint and direct, but at all subsequent elections the time, places, and manner of holding elections shall be prescribed by law; and the person having the greatest number of votes shall be declared by the Governor of the Territory to be elected, and the certificate thereof shall be given accordingly.

At the first election the proceedings are to be held at such time and places and be conducted in such manner as the Governor shall appoint and direct; but at all subsequent elections the time, places, and manner of holding elections shall be prescribed by law. Then follows the clause that the person having the greatest number of votes at any election shall be declared by the Governor to be elected and the certificate thereof shall be given accordingly. It is not said by whom that certificate shall be given. It may be inferred that it shall be given by the Governor; it would be more than a matter of inference as a construction of law if no further subsequent legislation should modify that act concerning elections that the certificate should come from the Governor of the Territory. But that did not happen to be the fact. In the history of this Territory of New Mexico, at a subsequent period, after that Territory had been organized, they passed a law regulating this matter of elections; and in the thirty-third section of that act, dated July 20, 1851, it was emphatically declared that within thirty days after each general election the secretary of the Territory, in the presence of the Governor, shall proceed to count up the number of votes polled in each county of the Territory for Delegate to Congress and shall give the person having the highest number of votes the certificate of election, sealed with the seal of the Territory. The act organizing this Territory provided the Governor should declare who was elected, but, as I have shown, the Legislative Assembly at a subsequent date passed a law prescribing the time, places, and manner of holding elections, and in distinct terms providing that the certificate shall come not from the Governor but the secretary of the Territory.

How is this to be met? The chairman of the committee, as I understand, falls back upon the organic law, and claims that that is supreme, notwithstanding the enactment of such laws as this of which I speak. Now, I make two answers to that. The first answer is that in the organic act itself it is provided that this thing shall, subsequently to the first election, be regulated by law, meaning necessarily and by certain intendment a law passed by the territorial Legislature, for that is the only law that could possibly be referred to, for there laws on the subject originate, though Congress retains with itself the supervising and repealing power. That, then, removes that objection. The organic act itself provides that it may be changed by law, and it has been changed by the territorial Legislature.

But there is another answer to it. It may be claimed by some that the provision in relation to the duty of the Governor which may afterward be changed by law confines that change of law only to the times, places, and manner of holding the election, and does not include the issuing of the certificate. I hold, in the first place, that there is no law for the Governor giving a certificate except by inference, and I make this further reply, that if instead of being silent on this subject and saying only that the first election should be superintended by the Governor, the organic act had gone further and said that the Governor should give the certificate at that first election, it would still have left the whole question open for amendment by subsequent action on the part of the Legislature of the Territory. For I hold this to be the principle in regard to our Territories, and the practice as well as the principle of our legislation in relation to them. We pass what may be considered the organic law or constitution of the Territory—an enactment of Congress which creates such Territory; after the Territories are organized the Legislatures pass any laws that may seem to them to be expedient, subject to their being in conformity to the legislation of Congress and to the Constitution of the United States, Congress always reserving the right to supervise and repeal, if need be, that legislation or any part of it. I do not put New Mexico in any different position from any of the rest of the Territories in that particular.

What, then, follows? Why, that when the Legislature of a Territory passes laws not in violation of the Constitution of the United States—and it would have to be judicially declared, I apprehend, if they were so—not in opposition to the legislation of Congress, and which are permitted by Congress to remain upon their statute-book without repeal, without revision, without reference to them by Congress, they become as much laws as if they had the direct sanction of Congress superadded by an act passed by Congress itself.

Mr. UPSON. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. UPSON. I wish to know whether Mr. Chaves in the last Congress did not hold his seat as Delegate from New Mexico on a certificate in precisely the same manner as that now presented by Mr. Clever.

Mr. SCHENCK. I do not know.

Mr. UPSON. Such, I am informed, is the fact.

Mr. SCHENCK. And my second reply is—I do not mean it at all offensively—I do not care if he did. It was an improper certificate. The ground I am taking is that the Governor's certificate is good for nothing, that nobody but the secretary can give the certificate, and that the Governor having given a certificate which he had no right to give, and the secretary having given a certificate which is not in form as a proper certificate, neither of these gentlemen has a *prima facie* case made out.

Mr. Speaker, I will not detain the gentleman from Massachusetts from resuming the floor longer than I can help, but this is an interesting question, and perhaps it might as well be settled. To sustain the doctrine which I have laid down in regard to legislation by the Territories, I will only refer to a single case which has been adjudicated touching that precise point. It is a case to be found in 11 Curtis—the decision of the Supreme Court of the United States in the case of the president and directors of the Miners' Bank of Dubuque, in the State of Iowa.

There, the legislation of the Territory being called in question (I give but the syllabus of the case, but would read it in full if I had the time) the court decided—

"Though by the fundamental law of the Territory its legislation is to be subject to the disapproval of Congress, yet till disapproved it is valid and operative; it does not owe its effect to the action of Congress thereon, so as to become an act of Congress."

Now, the point I make is, that a law passed by the territorial Legislature of New Mexico, requiring that this certificate shall be given only by the secretary of the Territory never having been disapproved by Congress, is as much a law binding upon us, upon the country, and upon the parties concerned, as though it had taken the form of a solemn enactment by Congress itself.

In a contested-election case in the Thirty-Seventh Congress, coming from the Territory of Nebraska, is a case which it seems to me is directly in point. I refer to the case of Martin *vs.* Daily. I read the note of that case as contained in our own volume of contested elections:

"The Governor of Nebraska Territory gave the certificate to Mr. Martin; but upon the ground of discovered fraud revoked it and gave the second to Mr. Daily.

"The House decided that Mr. Daily should occupy the seat during the pendency of the contest.

"The entire vote of a precinct was rejected because of fraud.

"Votes cast from Pawnee Indian reservation were rejected because of their illegality. Under the act of Congress reorganizing the Territory the Indian reservation is not part of the Territory."

That relates to the merits of the question as they were disclosed by the secretary's certificate, into which, however, I do not propose to go. The secretary of New Mexico certifies to certain facts which, if they be true, would show incontestably that Mr. Chaves is entitled to the seat. All of that matter we have referred to the Committee of Elections to report upon.

The secretary certifies, among other things, that in one of the precincts in one of the counties a much greater number of votes were returned than were cast; that while a comparatively small number of votes were cast (and the poll-books showed how many were cast) it was afterward found necessary, in order to secure the success of Mr. Clever, to enlarge the number of votes; and a number very considerably greater were returned than were actually cast at the election. But I repeat I do not wish to touch the merits of this case at all. I prefer to confine it to what the argument now properly relates to, and to that alone.

The Committee of Elections having been directed to inquire into the merits of this whole case, are instructed by a resolution—the passage of which I did not know of at the time, or I should then perhaps have made this objection, having these facts before me—to report who has the *prima facie* case.

The Committee report that Mr. Clever has the *prima facie* case. Now, my objection is that Mr. Clever has not a good certificate; neither has Mr. Chaves. I do not know how these objections are met; but they strike me as settling the whole matter.

The law of the Territory is explicit; it is unrepealed; it has the only sanction the Supreme Court of the United States says it requires in order to make it thoroughly valid—the silence and acquiescence of Congress.

But my attention is called to the fact that Mr. Chaves sat in the last Congress under just such a certificate from the Governor of the Territory that Mr. Clever now brings. I do not know how that is; but I take it for granted, coming as the statement does with the authority of a member of the Committee of Elections, [Mr. UPSON,] that such was the case. I have only to reply that Mr. Chaves had no good certificate to show even a *prima facie* right to a seat in that Congress.

Whatever of wrong may have heretofore been done in this matter ought not to be drawn into a precedent now. It is too late now to repeal the law of the Territory, as you virtually are asked to do, after rights have been acquired under it. The election under that law has taken place: the return under that law has been made. The only question now submitted to this House, sitting here to determine who, if any one, has a *prima facie* right to this seat, is whether we shall or shall not take into our hands the power to disregard and trample upon a territorial law with which we have never interfered up to this time.

Mr. DAWES. Mr. Speaker, it was on my motion that these papers were referred to the Committee of Elections on the day of our meeting last month. It was my idea then that the contest would settle the merits of this case; and I stated to the House at the time that I believed that course to be in accordance with the wish of both parties.

Mr. SCHENCK. The gentleman will excuse me a moment. I intended to add that both the parties, when this case came up, agreed to waive the question of *prima facie* right to the seat, and to have the case referred upon the merits to the Committee of Elections. I speak positively on this question, because Mr. Clever, who brought a letter of introduction to me, assented to this arrangement on his part; and Mr. Chaves called upon me and gave his assent to it. I know of my own personal knowledge that the arrangement made by both these gentlemen was that there was to be no question made about the *prima facie* right to the seat, but that the contest was to go upon its merits to the Committee of Elections.

Mr. DAWES. Mr. Speaker, I am obliged to the gentleman from Ohio for insisting upon stating what I was about to state myself. I was about to state—and I hope it will not detract anything from the statement of the gentleman from Ohio when I corroborate his statement—that upon my own motion these papers were referred to the Committee of Elections, my impression being that the right to the seat was to be determined on the merits, and that the committee would not be troubled with the *prima facie* case. I stated to the House at the time that I understood that to be in accordance with the views of both claimants. In that opinion, however, I found myself mistaken; for within an hour after the reference of these papers to the committee both parties applied to us to ascertain when the question of *prima facie* right was to be settled. They understood that the reference of these papers to the committee was for the very purpose of settling the *prima facie* case; and both of them have followed up the committee without interruption almost every day till this morning, being desirous that the committee should be instructed to settle the *prima facie* case. This morning a resolution was submitted in this House and adopted instructing the committee to pass upon the *prima facie* case. No objection on behalf of either of the claimants has ever been made to this proceeding until to-day the gentleman from Ohio objected after he found that the committee had reported.

Now, Mr. Speaker, my friend from Ohio does not seem to understand the ground upon which the committee put this case; and he will permit me to say I think he does not understand the law bearing on the question—either the organic law or the law of the Territory. The committee base their report upon the ground that both the certificate of the Governor and the certificate of the secretary show that Mr. Clever has the *prima facie* case; and anything beyond that relates to the merits. Hence it is not of the slightest consequence whether the certificate given under and by virtue of the organic law or that given under and by virtue of the territorial law is the true one; for both of them declare just what both the organic law and the territorial law say the certifying officer shall declare.

Now, I beg the attention of my distinguished friend from Ohio while I read the certificate which was given under the organic law by the Governor, and which my friend says was given without authority.

I am afraid I shall read the one Mr. Chaves brought here two years ago. I had it in my hand, but I will try and not make the mistake. I will read the one presented by Mr. Clever:

EXECUTIVE OFFICE, TERRITORY OF NEW MEXICO,
SANTA FÉ, *September* 20, 1867.

SIR: This certifies that under the organic act and laws of the Territory of New Mexico there was held a general election on the 2d day of September, A. D. 1867, the same being the first Monday of said month, within the Territory of New Mexico, for Delegate to the Fortieth Congress of the United States, and that at said election Charles P. Clever received a majority of the votes cast for said office.

Now, therefore, I, Robert B. Mitchell, Governor of said Territory, do hereby declare Charles P. Clever to have been elected at said election to said office of Delegate to the Congress of the United States.

In witness whereof I have hereunto set my hand and affixed the great seal of the Territory of [L. S.] New Mexico the day and year aforesaid.

ROBERT B. MITCHELL,
Governor Territory of New Mexico.

My friend from Ohio [Mr. SCHENCK] says that a subsequent law of New Mexico took away from the Governor the power of giving the certificate. The subsequent territorial law provides that within thirty days after each subsequent election the secretary of the Territory, in the presence of the Governor, shall proceed to count the number of votes cast in each county for Delegate to Congress, and give to the person having the highest number of votes a certificate of election under his hand and seal with the seal of the Territory. Now admit that is the only law for a moment; let us see what the secretary has done. He addresses Hon. SCHUYLER COLFAX, of the House of Representatives, Washington, D. C., as follows:

OFFICE OF THE SECRETARY OF THE TERRITORY,
SANTA FÉ, NEW MEXICO, *October* 1, 1867.

SIR: At an election held in this Territory on the 3d day of September, A. D. 1867, for a Delegate to the Fortieth Congress, there were cast, as returned, 17,685 votes, as follows:

For J. Francisco Chaves, 8,794; for Charles P. Clever, 8,891; such returns consequently showing said Clever to have 97 majority,

That is signed by the secretary of the Territory and attested by the great seal. That is all the law authorizes him to do. That is all he had any authority to do. He had no more authority to do more than any baby in the Territory of New Mexico. But, sir, immediately afterward he states it as his opinion that some of these were fraudulent votes. That may be true. I do not pretend to have the slightest opinion on that subject. We were only instructed to say who had the *prima facie* case without prejudice to the merits of the case. Taking what I have read, this man has fulfilled his functions under that law; but when he expresses his private opinion about some of the votes he trenches upon the merits of the case which is for the decision of this House. To have reported with reference to them would have been to have reported contrary to the resolution of the House.

Now, let me tell my friend from Ohio that the law to which he has referred requires just such a certificate as Mr. Clever has offered, and not such a paper as was sent to the Speaker of this House. The Territory of New Mexico has construed the organic act of that Territory from the hour of its going into force up to the present time just as the Committee of Elections have construed it; and for the first time my friend from Ohio has put a different construction upon the law passed in 1851—the law passed after the organization of the Territory. From that day to this every person who has come here from that Territory with a *prima facie* case has come with precisely such a certificate as that Mr. Clever has offered. Mr. Chaves offered such a certificate. I have it now before me. It is a certificate from the Governor and the secretary of the Territory, attested precisely as that presented now by Mr. Clever. Mr. Perea, his predecessor, presented a like certificate. They are all precisely in the same words; and it was not until this certificate was given by the secretary that this construction was ever advanced.

If you will recur to the law of the Territory you will find there is no ground for putting this construction upon it. If there be any conflict between the organic act of the Territory and an act of the Territory there can be no doubt in the mind of any man that this act of the Territory must yield to the organic act. It stands to that Territory like the constitution of a State. I agree the organic act provided that at the first election the Governor should prescribe the time, places, and manner of holding an election for a Delegate to Congress, and that after that it was left to the Legislative Assembly to prescribe the time, places, and manner of holding elections. Thereupon the Territory did prescribe the time, places, and manner of holding the election; but the organic act, independent of all that, has prescribed the mode of conducting it and certifying the votes; and in pursuance of that this has been the uniform custom in that Territory from the day of its organization to this hour. Let me read:

"The first election shall be held at such time and place and be conducted in such way as the Governor shall appoint and direct; and at all subsequent elections the time, places, and manner of holding the election shall be prescribed by law."

Now, what else? Why, that "person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly." That is the organic act, to which any laws of the Territory which conflict with it must yield, and hence I have not felt it necessary for me to argue the question whether there is any such conflict.

It is the Governor who is to declare who has got the greatest number of votes and give a certificate accordingly, and so everybody in New Mexico until this hour has supposed, for every Delegate has come up here with such a certificate. Whether this certificate was issued rightly or wrongly I do not care at this time to discuss, because I am instructed by the House not to prejudice the merits of this case by the decision I may come to upon these two papers. This seems to be the old effort over again in the House to first instruct the committee to look into the *prima facie* case and then undertake to compel them, in reporting upon that, to look into the merits. Now, one of two things I ask the House to do as long as I am a member of the Committee of Elections—and I pray God it may not be for very much longer—I beg them either never again to instruct the committee to look into the *prima facie* case without prejudice to the merits, or else when they have done that do not force the committee into the merits.

I think the case is fully understood; and I now call the previous question.

Mr. MYERS. I desire, with the gentleman's permission, to hear the certificate of the Secretary of the Territory read.

Mr. DAWES. I will withdraw the previous question and ask the Clerk to read it.

The Clerk read as follows:

OFFICE SECRETARY OF THE TERRITORY,
SANTA FÉ, NEW MEXICO, *October* 1, 1867.

SIR: At an election held in this Territory on the 3d day of September, A. D. 1867, for a Delegate to the Fortieth Congress, there were cast, as returned, 17,685 votes, as follows:

For J. Francisco Chaves, 8,794; for Charles P. Clever, 8,891, such returns consequently showing said Clever to have 97 majority.

But it is believed that J. Francisco Chaves was legally elected, and for the following reasons:

Fraud in the precinct of Santa Clara, in the county of Mora, of 209 votes—the same precinct at its first election last spring casting but about 40 votes.

Fraud in the La Junta or Fort Union precinct, where the polls were carried too near the Government military reservation of Fort Union, and where the men in the quartermaster's department and teamsters voted, irrespective of citizenship or conformity to the laws of this Territory. This precinct polled, as returned, 643 votes, of which 638 were for C. P. Clever, and 5 for J. Francisco Chaves. In the first precinct named the return shows 190 for C. P. Clever, and 19 for J. Francisco Chaves.

For fraud in the sixteenth precinct of the county of Rio Arriba, where, as the evidence shows, that but 85 votes were polled in all, 464 votes are returned as having been cast, 452 of which are returned as for C. P. Clever, and 12 for J. Francisco Chaves.

These frauds, it is confidently believed, are substantiated by proof, which will be furnished herewith.

By section thirty-three of the election laws of this Territory it is made the duty of the secretary of the Territory to give the certificate of election to the Delegate-elect. The Governor has assumed that duty, and it is held that the certificate given by that functionary to C. P. Clever has no validity in law, and is consequently invalid. The seal and signature of the undersigned, as affixed to said certificate, were so affixed under written protest, hereto attached.

The conclusion, therefore, at which the undersigned has arrived is, that the votes of the three precincts above named, as returned, are false and fraudulent, and should be discarded; and that being so discarded, Colonel J. Francisco Chaves is legally elected Delegate to the Fortieth Congress by a majority of not less than one thousand one hundred and three votes.

With great respect, your obedient servant,

H. H. HEATH,
Secretary Territory New Mexico.

Hon. SCHUYLER COLFAX, *Speaker of the House of Representatives, Washington, D. C.*

And to the above I have hereto affixed my hand and set the seal of the Territory, this 1st day of October, A. D. 1867.
[L. S.]

H. H. HEATH,
Secretary New Mexico.

Mr. MYERS. I have only a word or two to say, with the permission of the gentleman from Massachusetts. It appears from the reading of this last certificate—which is the certificate required to be given by the territorial law—that Mr. Chaves was elected and not Mr. Clever.

Now, sir, what is the House to understand from these two certificates? Simply this: that there is no *prima facie* case at all. Under the organic law the Governor was to give the certificate at the first election, but a territorial law passed afterward provided that the secretary of the Territory should give the certificate. Now, if the certificate of the secretary which has just been read means anything at all it means that the gentleman in favor of whose admission the committee have reported is not entitled to the seat.

The facts are just these: up to this morning this case rested with the Committee of Elections, by common consent, to be reported upon the merits and not upon the *prima facie* right to the seat. This morning a resolution was hurried through, the folly of which I trust is now apparent to the House, that the committee should in haste report who has the *prima facie* case. The House now has all the facts, and I think, judging other members by myself, that the House will not be able to render a fair decision in the case. If they render any at all they must take the certificate of the secretary and decide that Mr. Chaves is entitled to the seat, and I am scarcely prepared to vote that. I hope, therefore, that the House will let the case go to the committee to be reported on the merits, and if the gentleman from Massachusetts will permit, or if I may do it without his permission, I will move to postpone the consideration of the subject.

Mr. DAWES. I have the floor, I believe.

Mr. PETERS. Will the gentleman from Massachusetts [Mr. DAWES] yield to me for a few moments?

Mr. DAWES. Certainly.

Mr. PETERS. I introduced this morning the resolution of instructions to the Committee of Elections under which they have made the report now before the House. Before doing so, having from some considerations taken a personal interest in the matter, I examined into the legal aspect of the case, and I could not see then, and I cannot see now, why upon either certificate there is not to a legal mind a *prima facie* case in behalf of Mr. Clever, who claims this seat.

Why, sir, as has been very plainly argued by the chairman of the Committee of Elections, [Mr. DAWES,] if the Governor is to give the certificate he has performed that duty; if the secretary is to give it (which I deny, upon an investigation of the statutes and the acts of the Territory) then the secretary has fully performed that duty.

What has the secretary said? He has said that each of the two candidates has received a given number of votes, and he has further declared that Mr. Clever has received a majority of those votes. Has the secretary of the Territory any further power?

By way of illustration, suppose he had said that the polls were opened, that Mr. A had received so many votes, that Mr. B had received so many votes, that Mr. B had received a majority of the votes; and then, without giving any reason, had declared further that notwithstanding Mr. B had received a majority of those votes he was not elected. That is the legal construction of the paper which is produced here.

Sir, the secretary of the Territory is a mere declaratory officer, a mere ministerial officer, giving to this House certain facts, and upon those facts a conclusion must be based. And the first conclusion, or in other words the *prima facie* conclusion to any mind, it seems to me, is that, without going into the question of fraud or any other direct or collateral question, Mr. Clever has the *prima facie* case.

One word more. This question was referred to the Committee of Elections. That committee is composed of men of the most unimpeachable character, of the best lawyers in this House. We must depend largely upon the results of their investigations. Now, when no member of this committee rises in his place here to oppose the conclusion reported from that committee is it not safer to take their conclusion than it is, in this nice, technical manner, to decide the question upon the argument that has been submitted by the gentleman from Ohio, [Mr. SCHENCK?] For myself, I have no doubt upon the subject.

Mr. DAWES. I like to answer a man on his own ground. The gentleman from Pennsylvania [Mr. MYERS] says we must take this statement of the secretary of the Territory as a whole. I am willing to take it as a whole. Now I ask that gentleman if, taken as a whole, it does not mean this: that Mr. Clever is returned elected, but in the opinion of the secretary upon the merits of the case some of the votes were fraudulent? That is what it amounts to; nothing more.

Now, what business has the secretary of the Territory of New Mexico to tell this House—who, by the Constitution of the United States, are the sole judges of the elections, returns, and qualifications of its members—that, in his opinion, some of the votes returned in this case were fraudulent? I wait to hear my friend on that point.

I will repeat it. What business has the secretary of the Territory—who, even by the territorial law, has this power, and this power alone: "to proceed to count up the number of votes polled in the different counties," and to "give to the person having the highest number of votes the certificate"—what right has that secretary, having done that, to add to it, for the instruction and edification of this House, the further statement that, in his opinion, some of these votes were fraudulent?

But, sir, take the statement of the Secretary as a whole, swallow it as a whole, and what is there left but that when we pass upon the merits of this case we shall take this statement of the secretary, and then determine whether a portion of these votes were fraudulent or not?

Taken as a whole it declares in substance that this man is elected by the votes returned. This, I say, is all that the law authorized this officer to declare. When he goes further and says that in his opinion some of the votes were fraudulent he undertakes to decide a question upon which neither the law of the Territory nor the law of the United States authorizes him to give an opinion. That is a question for this House to consider, not in determining the *prima facie* case without prejudice to the merits, but only when deciding the merits.

I call the previous question.

Mr. MYERS. I thought that the gentleman asked me a question.

Mr. DAWES. And I thought that I answered the question.

Mr. MYERS. Very well. I accept the gentleman's apology.

On seconding the demand for the previous question there were—ayes 68, noes 29.

So the previous question was seconded.

The main question was ordered.

The SPEAKER. The question is upon agreeing to the report of the Committee of Elections recommending that Mr. Clever be sworn in upon the *prima facie* case, without prejudice to the merits of the contest.

Mr. ECKLEY. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 31, not voting 79; as follows:

YEAS—Messrs. Adams, Ames, Archer, Axtell, Baker, Barnes, Beck, Bingham, Boyer, Brooks, Broomall, Burr, Butler, Cary, Covode, Cullom, Dawes, Dixon, Eldridge, Ferriss, Fox, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Hawkins, Holman, Hooper, Hotchkiss, Chester D. Hubbard, Ingersoll, Johnson, Jones, Kelley, Kerr, Ketcham, Knott, Koontz, Laflin, George V. Lawrence, Lynch, Mallory, Marshall, McCormick, Mercur, Moore, Moorhead, Morrell, Mungen, Newcomb, Nicholson, Paine, Perham, Peters, Phelps, Pike, Poland, Polsley, Randall, Robertson, Robinson, Ross, Smith, Stewart, Stokes, Taber, Taylor, Van Auken, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, John T. Wilson, Wood, and Woodward—78.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Benjamin, Cake, Cobb, Coburn, Driggs, Eckley, Farnsworth, Halsey, Harding, Higby, Hopkins, Judd, Julian, William Lawrence, Loan, Loughridge, Maynard, Myers, O'Neill, Orth, Schenck, Aaron F. Stevens, Thomas, Robert T. Van Horn, Henry D. Washburn, Welker, and William Williams—31.

NOT VOTING—Messrs. Anderson, Bailey, Baldwin, Banks, Barnum, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Buckland, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dodge, Donnelly, Eggleston, Ela, Eliot, Ferry, Fields, Finney, Gravely, Haight, Hamilton, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Kelsey, Kitchen, Lincoln, Logan, Marvin, McCarthy, McClurg, McCullough, Miller, Morgan, Morrissey, Mullins, Niblack, Nunn, Pile, Plants, Pomeroy, Price, Pruyn, Raum, Sawyer, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Spalding, Starkweather, Thaddeus Stevens, Stone, Taffe, Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Trump, Van Wyck, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—79.

So the report of the Committee of Elections was agreed to.

Mr. DAWES moved to reconsider the vote just taken, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CLEVER presented himself, and was duly qualified by taking the oath prescribed by law.

ORDER OF BUSINESS TO-MORROW.

Mr. WASHBURNE, of Illinois. I desire to state to the gentleman from Ohio [Mr. SCHENCK] and to the House that I have such information from the Senate as leads me to believe that it will be impossible for the deficiency bill to pass both Houses before the recess. Hence there is no objection in that regard to the proposition of the gentleman from Ohio in relation to the order of business to-morrow.

Mr. SCHENCK. I then renew my proposition that by unanimous consent no business be transacted to-morrow, but that the session be for debate only. There will be scarcely a quorum here.

Mr. RANDALL. Let it be the understanding that no business shall be done except that to which there is no objection.

Mr. HOLMAN. There are some little matters that may require attention. I concur in the suggestion of the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. ALLISON. I must object to any understanding of that kind.

Mr. WASHBURNE, of Illinois. I cannot consent unless the understanding be that no business whatever shall be transacted. I do not object to a session for debate merely.

Mr. ELDRIDGE. I shall desire to introduce my resolution tendering the thanks of Congress to General Hancock to-morrow. I am anxious to have that passed before the recess, and shall feel it my duty to offer it for consideration at that time.

Mr. GARFIELD. Do you propose to thank him for his conduct in the conspiracy case?

Mr. ELDRIDGE. No, but for his fidelity to the Constitution and laws.

RETENTION OF THE VETERAN RESERVE CORPS.

Mr. KERR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of retaining in the military force of the United States the Veteran Reserve corps as it is now organized, and make all needful regulations of the Army to affect other parts of the service.

BOUNTY.

Mr. WASHBURN, of Indiana, from the select Committee on Soldiers' and Sailors' Bounty, submitted a report; which was ordered to be printed and made the special order, after the morning hour, for the 6th of January next.

THE NEW JAIL.

Mr. COVODE. I ask unanimous consent to submit the following preamble and resolution from the Committee on Public Buildings and Grounds:

Whereas there are good reasons to believe that the contract for building the jail in and for the District of Columbia was improperly let: Therefore,

Be it resolved, That the Secretary of the Interior be requested to withhold any further payments upon the contract referred to until the Committee on Public Buildings and Grounds have an opportunity to investigate said contract; and for such purposes said committee is hereby authorized to make such investigation and to send for persons and papers, to administer oaths to witnesses, and report the result of their investigation to the House at the earliest possible moment: *Provided*, No expense shall be incurred in such investigation.

Mr. ARCHER. I object.

ADJOURNMENT OVER.

Mr. MAYNARD. I move that when the House adjourns to-day it be to the 6th of January next.

The SPEAKER. That cannot be done without the concurrent action of the Senate.

Mr. MAYNARD. Is there any way by which we can do away with the meeting to-morrow?

The SPEAKER. Only by the reconsideration of the concurrent resolution for adjournment from to-morrow until the 6th of January.

Mr. SCHENCK. As gentlemen are not disposed to let debate go on to-morrow, but give notice they will offer resolutions of thanks to General Hancock and others, I move that the House shall adjourn immediately after the reading of the Journal to-morrow.

The SPEAKER. That is not in order.

Mr. ELDRIDGE. I am willing to offer my resolution now.

Objection was made.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

ASSASSINATION OF PRESIDENT LINCOLN.

The SPEAKER laid before the House a message of the President of the United States, transmitting the report of a gentleman sent out to Europe by the State Department to ascertain whether testimony could be obtained in regard to the assassination of President Lincoln; which was referred to the Committee on the Judiciary, and ordered to be printed.

FORT DAVID RUSSELL ARSENAL.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting, in reply to a resolution of the House, the report of the Chief of Ordnance relative to the establishment of an arsenal at Fort David Russell, in Dakota Territory; which was referred to the Committee on Military Affairs.

TWENTY PER CENT. ALLOWANCE.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, in reply to a resolution of the House relative to the twenty per cent. allowance to the clerks in his Department; which was referred to the Committee on Military Affairs.

ADAM HARDT.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a report of the Quartermaster General relative to the claim of Adam Hardt, for money advanced to the crew of the steamer John Paine; which was referred to the Committee of Claims.

MILITARY BUILDINGS IN NEW YORK.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a report from the Quartermaster General relative to the line of buildings for military purposes in New York; which was referred to the Committee on Military Affairs.

RAILROAD GRANT.

Mr. WASHBURNE, of Illinois. I withdraw the motion to adjourn to enable the gentleman from California, [Mr. JOHNSON,] who is a new member, to introduce a bill.

Mr. JOHNSON, by unanimous consent, introduced a bill granting the right of way over the public lands of the United States to the Oroville and Virginia City Railroad Company, a corporation, and to provide for its construction; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. WASHBURNE, of Illinois, (at four o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COBB: The petition of John M. Altizer, late a corporal in the seventh regiment Wisconsin volunteer infantry, for back pension.

By Mr. COOK: The petition of citizens of Lasalle county, Illinois, praying that the production of flaxseed may be protected from foreign competition.

By Mr. GARFIELD: The petition of citizens of North Benton, Beloit, and North Georgetown, Ohio, asking for a change in a mail route.

By Mr. HIGBY: The petition and affidavits in the matter of Joseph Hill & Sons.

By Mr. INGERSOLL: The petition of Cornelius Lent and others, of Washington, District of Columbia, praying for the paving of New Jersey avenue from N street north to the Boundary.

By Mr. MERCUR: The petition of Elizabeth Magee, of Ridgbury Bradford county, Pennsylvania, asking for an increased pension.

By Mr. PIKE: The petition of assistant professor of Naval Academy, for increase of pay.

Also, the petition of L. L. Wadsworth, jr., and others, for register for schooner Bob.

By Mr. PILE: Resolutions of the city council of St. Louis, Missouri, in relation to rights of naturalized citizens.

By Mr. UPSON: The petition of William H. Palmatier, Alfred B. Punutcn, and 8 others, of Branch county, Michigan, praying Congress to provide for the payment of the reward offered for the capture of Jefferson Davis.

Also, a memorial and papers relating to claims for bounty on behalf of William B. Andrews, William Cassel, Andrew J. Davis, Benjamin Long, and Loren A. Reed, of Berrien county, Michigan.

IN SENATE.

FRIDAY, *December* 20, 1867.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORRILL, of Vermont, it was

Ordered, That Mrs. Eastman, mother of Alfred W. Eastman, have leave to withdraw her petition and papers from the files of the Senate.

On motion of Mr. HOWE, it was

Ordered, That the petition of C. K. Tuckermans and P. S. Forbes be withdrawn from the files of the Senate, and referred to the Committee on Claims.

ORDER OF BUSINESS.

Mr. PATTERSON, of New Hampshire. I desire to call up the joint resolution that I reported on Wednesday last in relation to the District jail, on which it is desirable to have action before the holidays.

Mr. HOWARD. I hope we shall be allowed to go through with the presentation of petitions.

The PRESIDENT *pro tempore*. The motion of the Senator from New Hampshire is in order.

Mr. CONNESS. I hope the Senator will withdraw his motion for the present until memorials are presented. They are always first in order.

Mr. PATTERSON, of New Hampshire. This will only take a few moments. ("Give way.")

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. PATTERSON, of New Hampshire. Yes, sir.

PETITIONS AND MEMORIALS.

Mr. POMEROY presented a petition of M. D. L. Mitchell, of the Creek nation of Indians, praying a pension for wounds received in battle and a compensation for services rendered as physician and surgeon to the loyal Indians during the campaign of 1861; which was referred to the Committee on Pensions.

Mr. HOWARD. I present the memorial of Joseph B. Clark and several other persons, citizens of the county of Cass, in the State of Michigan, in which they say that inasmuch as neither the present pension law nor the act of Congress creating the National Asylum for Disabled Volunteer Soldiers makes provision for the relief of the disabled and destitute soldiers of the regular Army or of the wars intermediate between that of the Revolution and the one for the subjugation of the southern rebels, and inasmuch as all who have imperiled their lives for their country are entitled to be held equally meritorious, they respectfully ask that by amendments of the pension law and of the act for the creation of the National Asylum for Disabled Soldiers, or by other appropriate legislation, relief be extended to indigent soldiers, disabled by whatever cause, as follows:

1. To all such soldiers who have been honorably discharged from the service of the United States, whether they were received into the service as soldiers of the regular Army or as State militia or as volunteers.

2. If it be held that the two latter classes are not entitled to such relief, or that it should be given them by their States respectively, then the memorialists ask that the relief be extended to all such soldiers who have been honorably discharged from the regular Army.

3. If it be held that all such soldiers of the regular Army are not entitled to such relief, then they ask that it be extended to all of them who served in the war of 1812 and were honorably discharged and are indigent and incapable of self-maintenance.

This memorial puts forth some views of a good deal of interest. I beg to call the attention of the Committee on Pensions particularly to it, and ask for it their favorable consideration. I move that it be referred to that committee.

The motion was agreed to.

Mr. MORRILL, of Maine, presented a petition of Caroline A. Batcheider, late widow of David W. Edwards, who was shot while in the service of the United States under the provost marshal, praying relief for his minor children; which was referred to the Committee on Pensions.

He also presented a memorial of B. C. Bailey, praying remuneration for expenses and

damages sustained by him by the seizure and detention of the ship Argo while in the prosecution of a lawful voyage in the month of May, 1861, by the naval commanding officer of the United States at Hampton Roads; which was referred to the Committee on Claims.

Mr. SHERMAN presented a memorial of Abbott Q. Ross, asking compensation for the use of an improved mode of using hot water and steam as a weapon in naval engagements, for extinguishing fires, and for other purposes; which was referred to the Committee on Naval Affairs.

He also presented the petition of George D. Hendricks and others, citizens of Preble county, Ohio, praying such legislation as will make greenbacks a payment for all United States bonds, and payable in gold, and provide for the inflation of the national currency so as to enable the people to pay all assessments of the Government; which was referred to the Committee on Finance.

Mr. FERRY presented a petition of Sherman H. Cowles, late a private in company E nineteenth Connecticut volunteers, praying an invalid pension for disease contracted in the Army; which was referred to the Committee on Pensions.

Mr. SUMNER. I present the petition of presidents and professors of colleges of the United States, in which they most urgently represent that the duty of fifteen per cent. now imposed on philosophical apparatus imported for the use of colleges and other institutions of learning is a very burdensome tax on education and highly detrimental to American science. They proceed to represent that at this time the income of the higher institutions of learning in the country, always insufficient for their wants, is especially inadequate, and that for this reason they can ill afford to pay this tax to which they are now subjected. This petition is signed by upward of forty presidents and professors of colleges, in themselves a learned host. I offer it, and ask its reference to the Committee on Finance, and I hope the chairman of that committee will give to it his best attention.

The PRESIDENT *pro tempore*. That reference will be made.

Mr. DIXON presented a petition of Stuart Barnes, late captain and assistant quartermaster United States Army, praying to be relieved from his accountability for losses sustained while in the service, so that he may be allowed to draw his pay; which was referred to the Committee on Claims.

Mr. CONNESS presented the petition of Thomas H. Dowling, praying that he may be restored to the possession of as much of the Island of Yerba Buena, California, as may not be required by the United States, and that he be compensated for what is retained; which was referred to the Committee on Private Land Claims.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the petition of Samuel W. Maurice, praying compensation for services as assistant assessor in South Carolina, asked to be discharged from its further consideration, and that it be referred to the Committee on Appropriations; which was agreed to.

FIRST PRESBYTERIAN CHURCH.

Mr. HARLAN. The Committee on the District of Columbia have instructed me to report back the bill (H. R. No. 161) to incorporate the congregation of the First Presbyterian church of Washington and recommend its passage. I ask unanimous consent to take it up now. It is a House bill, and I understand this congregation desire to organize under it immediately; and if it should meet the approval of the Senate it will only occupy a few minutes.

The bill was by unanimous consent considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DISTRICT JAIL.

Mr. PATTERSON, of New Hampshire. I now move to take up the joint resolution in relation to the District jail.

The motion was agreed to; and the joint resolution (S. R. No. 80) in relation to the erection of a jail in the District of Columbia was read the second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to suspend all work upon the jail to be erected in the District of Columbia under the act of Congress approved July 25, 1866, and the amendment thereto approved March 2, 1867, until the further action of Congress; and to direct the Treasurer of the United States to withhold the payment of any money appropriated for the erection of the jail until such further action of Congress.

Mr. PATTERSON, of New Hampshire. I will explain in a very few words the object of this resolution. A petition was presented to the Senate at the beginning of this session from citizens of this District praying that the work on the new jail in the District of Columbia should be arrested on account of frauds which were perpetrated, as was alleged, in the contract for that jail. On this petition the Committee on the District of Columbia appointed a sub-committee to act in connection with a corresponding committee of the other House. One of the parties has already been heard by the committee. Another party desire to be heard by their architect, who is now sick in Philadelphia. Such charges were brought before the committee as seemed to make it desirable that all work upon this jail should be arrested until such time as the architect, who is now sick in Philadelphia, could appear before the committee and be heard, who will represent the interest of the contractors. All we desire is simply to have the work arrested so that a heavy bill may not be brought in against the Government for work upon this jail when very possibly the site may have to be changed and all that has been done set aside. The object of the resolution is not at all to set aside the contract or to change the location at present, but simply to give an opportunity to all parties to be heard.

Mr. TRUMBULL. As the resolution is reported it is equivalent to a repeal of the law for the erection of a jail in the District of Columbia, and we all know the necessity for such a building here, and the great scandal that the condition of the jail in this District has been to the Government for many years. While I entirely concur in the object which the Senator from New Hampshire has in view, I think it would be better to amend the resolution so as not to require that nothing shall be done until the further action of Congress, because if no work can go on for the construction of a jail until the further action of Congress it will require new legislation, and that is equivalent to passing a new bill for the construction of a jail, and we know the difficulty of getting the concurrent action of both Houses. On account of the pressure of business it may be that the session will go through and no action take place, and this would defeat a very praiseworthy object and praiseworthy legislation, which I am sure the Senator from New Hampshire does not desire. I move, therefore, to amend the resolution by inserting after the word "suspend" in the fourth line the words "for the period of forty days from the passage of this resolution." That will give an opportunity to make this examination and to introduce any other legislation that may be necessary.

Mr. MORRILL, of Maine. Say "for a period not longer than."

Mr. TRUMBULL. "For a period not longer than forty days from the passage of this resolution."

Mr. HARLAN. I suggest fifty days, as there will be a recess for sixteen days, which would make the time proposed rather short for the committee to act.

Mr. PATTERSON, of New Hampshire. The only object is to enable the committees of the two Houses to hear all parties interested. The gentleman now in Philadelphia to whom I have referred is recovering, and probably will be able to appear before the committee at the close of the holidays. I should think forty days, or at any rate fifty days, would be ample, and I have no objection to that amendment, but I would rather the time should be fifty days than forty days.

Mr. TRUMBULL. I will modify it so as to say fifty days. It is not material. My only object was not to repeal the law.

The PRESIDENT *pro tempore*. The amendment is modified.

Mr. JOHNSON. I am sorry that the honorable member has modified his amendment. Forty days are quite long enough for the purpose for which any delay is asked. But I should like to know from the honorable member from New Hampshire, who has charge of this measure, whether the Secretary of the Interior has been called upon by the committee to give any information, and if so, what information he has given.

Mr. PATTERSON, of New Hampshire. He has not been. One object of this delay is to give the Secretary and other parties an opportunity to be heard.

Mr. JOHNSON. I understand that under the law which we passed for the erection of a jail the subject was referred, both as to the selection of a site and the entering into contracts, to the Secretary of the Interior, and that exercising all the precaution which he could exercise he selected the site. The original proposition did not limit him at all in the selection of a site; he might make it anywhere and buy the land; but it was changed afterward so as to confine him to such portions of the city as had been reserved for the use of the public, and the point which he has chosen is in one of the reserves. I do not know anything about the architect; but the contract was given to a very capable man, a builder in the city of Baltimore, and, as I understand, he has dug the foundation entirely, and has laid the foundations of the building, has had and still has some two or three hundred hands, all of whom if the resolution passes he must discharge here in the midst of winter. I had hoped, therefore, when the subject was before the committee that they would have closed the examination in time to let these men go on with the work, or at any rate that they would not have proposed to suspend it for so long a time as fifty days. I think it would be better not to suspend it at all until we are satisfied that some misconduct has taken place in relation to the selection of the site or the selection of the plan of architecture or the selection of the builder.

It seems to be very hard, in my judgment, that Congress should pass a law clothing one of the Departments with the absolute authority which this particular Department had in this instance, that individuals upon the faith of that authority should contract with it, expend large sums of money, place themselves in a situation by so contracting in which they might not be able to do other work, and that while they are progressing with their work they should be stopped and all their hands thrown out of employ. If I understand the resolution, not only is the work to be entirely suspended for forty or fifty days—the Senate may amend the resolution in that particular—but no money is to be paid to the contractor at all even for the work that has been done. That does not seem to be proper, at any rate, unless there be some charge, and I do not know that there is any, affecting the contractor which involves him in any supposed fraud. What the fraud may be I cannot imagine. I would therefore suggest to my friend from New Hampshire that perhaps he ought to modify his resolution so as to enable the contractor to get the value of the work actually done out of the Treasury.

Mr. HARLAN. The Senator from Maryland is slightly in error in reciting the history of this case. The original law provided that

the Secretary of the Interior should locate a site for the jail on the public grounds, and the predecessor of the present Secretary of the Interior did select a location, but Congress afterward passed a joint resolution directing him to relocate it on grounds belonging to the Government; and in pursuance of that joint resolution the present Secretary changed the location to the present site. He proceeded in conformity with the joint resolution of Congress, and perhaps made about as good a selection as could be made, all things considered. But it is questionable whether the House of Representatives will be satisfied to have the jail constructed on the present site, which is on the corner of Virginia and New Jersey avenues, in the immediate vicinity of that wing of the Capitol, and perhaps its proximity to the Capitol——

Mr. GRIMES. How near is it?

Mr. HARLAN. Within a square or two, I think. I believe it would impress any observer unfavorably to see a jail constructed on the present site; but I do not know that the Secretary could have selected a better site under the provisions of the joint resolution which Congress enacted for his government. It is true some things have been said about the loose manner in which this contract has been given. The law provided that this building should not cost in the aggregate a sum exceeding two hundred thousand dollars. On examining the contract the committee ascertain that it has been given out in detail—so much per thousand for brick, so much per perch for rock, and so much for carpenter work, according to the rules observed by carpenters in the city; and they think that it may vastly exceed this sum if it should unfortunately fall under the supervision of parties who might not be as much interested in public economy as the members of Congress are supposed to be. On that account the sub-committee thought it best to suspend the work until the whole question can be thoroughly examined. The probability is that Congress will change the site. The contract may not be interfered with ultimately. If it should appear to have been given out with proper care with reference to economy, it may be that the committee will not recommend any disturbance of the contract, but I think it very probable that their united judgment will be in favor of changing the location.

I think there can be no great damage to the contractor, as that kind of work cannot be prosecuted at this season of the year with much rapidity, and perhaps it ought not to be prosecuted at all. In my country it is not thought that masonry will endure very well that is put up in the winter time, being subjected to the weather that usually occurs at this season of the year. Perhaps a foundation laid in mortar at this time would not be a firm and reliable foundation on which to erect a building of this kind. If the workmen are at present at work, as I infer from the remarks of the Senator from Maryland, that would be a reason for the passage of the resolution rather than for opposition to it.

I cannot see any great damage that will grow out of this resolution. Of course, if Congress should ultimately change the location, the contractors would be entitled to proper compensation for the losses they may incur. But the more money that is invested preceding this change of course the worse it will be for the Government if the change should ultimately take place, as I deem to be almost certain from the expressions of opinion that I have heard from members of the other branch of Congress.

Mr. FESSENDEN. I did not know before where this jail was to be located according to the decision of the Secretary of the Interior, and I am surprised to learn that it is in the immediate vicinity of the Capitol. I think under the circumstances it would certainly be important to stop the work until that question of location can be decided. It is very well known that we desire to extend the Capitol grounds. We must do so. If we extend them one square, as has been heretofore decided, as I understand, the grounds will come up directly to this jail; the jail will be exactly on the edge of the Capitol grounds; but if we extend two squares—as I hope we shall do, and think we ought to do by and by—it would then be inside of the Capitol grounds. Therefore for that reason alone, if for no other, we should not allow this site to be occupied for a jail until that question is decided. If we extend the grounds only one square, this would be an improper place for a jail. As no great harm can come from stopping the work at present until we can see what the decision is on that point, I hope it will be done.

Mr. NYE. There seem to be two reasons rendered for this legislative interference. The one suggested by the Senator from New Hampshire is possible fraud in the letting of the contract. The one suggested by the Senator from Iowa is the probable change of the location of the jail. I do not know which is right. Both are perhaps right, as a Senator suggests. If it be the latter I think this resolution ought to be changed in its phraseology. Here is a contractor who has gone to the location selected by the officer designated by Congress to locate this jail. He has made his outlays on his contracts and has his men employed. This is the 20th day of the month. The payment of the workmen under these contracts generally takes place on the last of the month. Am I right?

Mr. HARLAN. I do not know how that is.

Mr. NYE. Now, by this resolution the Secretary of the Treasury is directed not to pay any money to this man, who has acted in perfect good faith, so far as the objection of the Senator from Iowa is concerned, and has employed a large number of men, until further legislation is had on this subject, or not within forty days. We have got the hard end of the winter first, and to turn off the men that are employed without their pay for this month it seems to me would be cruel in its operation.

If there is any fraud in this contract I think this sub-committee ought to have ground upon which to base it that is tangible and presentable to this body before such action as this is had. I know how easy it is to cry "fraud." We all know that a single intimation of fraud in a bill passed would cause it to be repealed in an hour by both branches, when upon an examination you might find that there was really no ground for such a suspicion.

There is another view to be taken of this subject, and that is, the economical one. Men always make large prospective profits in these contracts, and if they are stopped in their work the damages which Congress will have to make an appropriation to pay will be quadruple and the proof will be ample on that subject. Such damages will be very large compared with the amount it will cost to let them go on even if the work be stopped at the end of ten or twelve days when this matter shall have been examined. The records of this Senate are not barren on the subject of the claims for prospective profits that contractors might have made if they had been allowed to go on. I doubt, as a matter of economy, whether the legislation proposed here is wise, especially resting upon a hypothesis so difficult to prove as that one of the heads of the Departments of this Government would be guilty of fraud in the letting of a contract. I think the suggestion unfair, unless it is well founded. I think, above all, that that portion of the resolution which prohibits payment for labor already done is hard upon the employers and may be hard upon the employés. I therefore hope, as I have no doubt the reason stated by the honorable Senator from Iowa for the passage of this resolution is the true one—that Congress desire to change the location of this jail—that the Secretary may be allowed at least to pay for the work done up to the present time. If that be the true reason for this legislation I insist upon it that Congress should not say that these poor laborers shall go without bread for forty days or until Congress can determine the question as to the change of the location of this jail.

Possibly, sir, the location of this jail may have been purposely made in view of the great frauds here in stationery that we heard discussed yesterday. [Laughter.] The Secretary of the Interior may have thought it wise that members of Congress should have this constant admonition in their view; that less penknives would be taken and less paper used here if the jail was in sight. [Laughter.] If the statements that we heard yesterday are true, it will perhaps become a grave question for Congress and a grave question for the country whether there ought not to be a jail not only in sight of the Capitol, but one positively inside of it and all around it; and in that view of the case I insist upon it that delay is dangerous to the public, and the jail should go up immediately. [Laughter.]

Mr. PATTERSON, of New Hampshire. The argument of my friend from Nevada seems to be that it is cheaper to let the thief keep what he has got than to arrest him and bring him to justice.

Mr. NYE. No; but the honorable gentleman will allow me to suggest that we have not the least evidence that there is a thief about it.

Mr. PATTERSON, of New Hampshire. The Senate may not have the evidence.

Mr. NYE. The Senate ought to have it if they are going to act on the subject.

Mr. PATTERSON, of New Hampshire. But parties appeared before the committee and stated that $10,000 had been paid to secure this contract, and that they could give proof of it which would satisfy any committee. That is the way in which the matter stands. It is certain that the contract was not given to the lowest bidder, but to the highest bidder. It is certain, also, that the contract was let in detail and not in the aggregate, and that it will probably cost the Government some two or three hundred thousand dollars to build the jail more than was anticipated in the act when it was passed. The limit contained in the act is $200,000, and it will probably cost $500,000 before the jail is completed.

Then the location also comes in as another matter. Here is to be a jail on the south of the Capitol, the side next to the House of Representatives, and a poor-house, as I understand, is to be on the Senate side. [Laughter.] Now it is rather suggestive——

Mr. NYE. I think the location of the poor-house is a good one. [Laughter.] I have no objection to that.

Mr. PATTERSON, of New Hampshire. In view of these charges of fraud and the impropriety of placing a jail just under the droppings of the Capitol, it was thought better by the committee to arrest the proceedings until such time as all the parties could be seen and heard.

Mr. THAYER. Where is the location?

Mr. PATTERSON, of New Hampshire. On New Jersey avenue.

Mr. JOHNSON. It is proper, I think, that I should say, after what has fallen from the honorable member from New Hampshire, that the contractor is one of the most respectable builders in the city of Baltimore, and I never heard the slightest imputation on his character. He has been a builder there for a great many years, and has always sustained a very high character for integrity, as well as for capacity in his particular calling. I do not know how the building is to cost more than two hundred thousand dollars, because I take it for granted the contract which has been entered into between the Department and the contractor is to erect the building for that sum. The Secretary would hardly have left the sum for which the building was to be erected without limitation, or have disregarded in the limitation the express limit imposed by the act of Congress. It is very possible, for the reasons stated by the honorable member from Maine, [Mr. FESSENDEN,] that a better site might have been selected, looking to the condition of the public buildings, but if he has made an improper selection that ought not to affect the contractor.

Now, I suggest to the honorable member from Iowa that he leave the limitation proposed by the honorable member from Illinois to stand

as it was originally; that is to say, that the suspension shall not be for a longer period than forty days. Sixteen days we are to have of a recess. That would leave twenty-four days; and certainly the whole of the testimony bearing on a question of that kind could be taken within a week or two weeks and the committee be just as able to decide after an examination during that period as if they had a whole year to make the investigation. Besides, I think that it is due to the Secretary of the Interior, in whose character we are all more or less involved, that the subject should be probed at the earliest possible moment; and as the time mentioned by the honorable member from Illinois is, in my judgment, sufficient to enable the investigation to be a complete one, I repeat the hope that the honorable member from Iowa will withdraw his suggestion of fifty days.

There is another motive. I have stated that the contractor has some two or three hundred men at work; they have been at work during this inclement season; they will either go unpaid during the forty or fifty days or he will have to advance the money to them. Whether he has the means of doing so or not I do not know; but whether he has or has not it would seem to be particularly hard that those men should go unpaid for a longer period than may be absolutely necessary to enable the Government to save itself against the consequence of some fraud or misjudgment.

Mr. HARLAN. I have no disposition to have the time extended beyond that period which may be necessary to enable the committees to examine the subject thoroughly, and so far as I am concerned individually I am willing to accept the period mentioned by the Senator from Maryland. I think I ought, however, while I am on my feet, to repeat what I have said—that I have not seen in the papers any evidence of fraud or of any intention on the part of the Secretary of the Interior to perpetrate a fraud or permit anybody else to perpetrate a fraud. I think the contract is loosely drawn, and in its execution perhaps the building may not be erected as economically as we could desire. I think there ought to be provided a specific sum beyond which the structure should not cost. I think that was clearly contemplated in the law making the appropriation. Perhaps I ought to add also that a part of the money is to be collected by a tax from the citizens of the District, and they have attempted to arrest proceedings through the courts of the District by an application to issue out a writ of injunction, which, however, the courts deemed that they had not authority to grant. The people of the District are interested perhaps as much as the Government is. I think about half of the expense is ultimately to be paid by the people by a tax on their property. I will acquiesce in the suggestion of the Senator from Maryland and accept of forty days, if that is deemed to be long enough.

Mr. HENDRICKS. I wish to inquire of the Senator having this measure in charge who made the selection of the site for this building, and under what architect the contract was made, whether under our general architect, Mr. Clark.

Mr. PATTERSON, of New Hampshire. Mr. Faxon, brother of the Assistant Secretary of the Navy, is the architect, and Mr. Faxon, the Assistant Secretary, came to me and asked that there might be a delay that his brother might be able to appear before the committee.

Mr. HENDRICKS. Does the architect desire delay in the work?

Mr. PATTERSON, of New Hampshire. He desires the committee to leave the question open until such time as he can appear. The committee desire to have the work arrested because if the Senate and the House of Representatives see fit ultimately to secure a different location it would not be well to pay out thirty, forty, or fifty thousand dollars there when nothing is to be accomplished.

Mr. HENDRICKS. On the information that has been communicated I did not feel free to vote for this resolution. The consequences of arresting this work are of some importance both to the contractor and to the workmen. This is in the nature of a preliminary injunction, and it ought to be done, if at all, on some reasonable *prima facie* case.

Now, as to whether this is a suitable location, it seems to me the committee ought to decide in two hours and a half. They know the general features of this city and of the District and the location of the courts. All they have to do is to go and examine this ground and form a judgment whether it is a suitable location. If it is really a bad selection of a site let them report that fact at once. They do not need to consult an architect upon that question. There ought to be no delay for that reason, as I think. On the other question, I understand one gentleman of the committee, the Senator from Iowa, [Mr. HARLAN,] to say that there is no evidence of any fraud in the making of the contract; that the contract is loosely drawn, but that there is no evidence of fraud.

Evidently, on the statement made by the Senator from New Hampshire, it is a little difficult to tell what the trouble is. The charge seems to be that the contract was made for portions of the work instead of making a contract for the entire work. I am not sure but that that is the better way to make these contracts. That statement in itself is not sufficient to disturb the confidence of the Senate in the integrity of any officer, as I think. I have been a little on my guard about this sort of investigations from the fact that the first session I served in the House of Representatives there was a committee raised, on which I happened to be a member without any reason at all, for I was not at all fit to make the investigation—and I think that was, perhaps, the fact in regard to most of the members of the committee—in regard to the sufficiency of the foundations of this Capitol. We went to work and we had some portions of the foundation dug up with spades and picks, and had most scientific and elaborate investigations of the character of the mortar, the strength of the stone that was being used, &c., and we came to the conclusion—and that is part of the records of the House of Representatives now—that the foundation was not of any account at all, [laughter;] that this building would not begin to stand if erected upon the foundation. [Laughter.] I have been always a little ashamed of that report every time I have thought of it from that day to this. It was an attempt by the House of Representatives upon vague charges, much stronger than have been intimated here, that there was fraud in the management of that work; that the work was so defective that it was not safe at all to go on with the Capitol. Notwithstanding our report, however, the House had judgment enough to let the work go on, and so far I believe this Capitol stands, and I think it probable it will stand for a thousand years to come.

Now, I am not willing to go through, so far as the Senate is concerned, with any such proceeding again. That was very ridiculous, to be sure; our report was absurd, and it was not sustained finally by experience, although science did show that the mortar was not just right and that some of the stone was not strong enough to sustain the weight that was likely to be put upon it.

Mr. GRIMES. Is the Senator satisfied that the experience has not demonstrated that the committee was right?

Mr. HENDRICKS. Experience is to the contrary, I believe.

Mr. GRIMES. Experience shows that the great weight of the Capitol in which we sit has settled the west end several inches.

Mr. HENDRICKS. On the Senate side?

Mr. GRIMES. Yes.

Mr. HENDRICKS. That is a part of the work which had not been commenced then. We examined the mortar mainly over at the House side.

The PRESIDENT *pro tempore*. The time has arrived when it becomes the duty of the Chair to call up the unfinished business, which is the bill in relation to the cotton tax.

Mr. HARLAN. I move that that and all other prior orders be postponed until this matter can be concluded; and I insist on that for this consideration: I have not troubled the Senate with District business during this session, and there are two or three little bills that ought to consume but a few minutes, and I hope the Senate will grant this committee twenty or thirty minutes to dispose of them.

Mr. SHERMAN. Will this take up much time?

Mr. HARLAN. I think not much.

Mr. SHERMAN. Then let the unfinished business go over informally.

The PRESIDENT *pro tempore*. Is there any objection to that? No objection being made, the consideration of Senate joint resolution No. 80 will be continued as in Committee of the Whole.

Mr. HENDRICKS. I have never heard of any important work being prosecuted in this city or District without charges being afloat through the whole atmosphere of fraud against the officers who had it in charge. I do not lend a very ready ear to those charges. Frauds upon the public Treasury are not in the prosecution of the works here, in my judgment, to the extent that they are in other affairs of the Government. Here is a contract made, reduced to writing; the party has rights under it; the workmen under him have their rights, and those rights are not to be disturbed by Congress on an *ex parte* investigation unless there be a very strong case made. In what case would a court in chancery interfere to stop a work of this sort? Not upon vague rumors. They would not think of touching it. They would require a very clear showing, supported by testimony under oath. It might be *ex parte* testimony, to be sure, but it must be testimony supported by the oaths of parties upon whose testimony the court would rely. Are we willing to act upon less testimony—upon no testimony here, upon vague rumors, charges perhaps coming from parties who were disappointed in not getting the contract, or something of that sort—and arrest an important work upon such charges? I am not willing to vote for it, especially as it involves the turning of men out of employment at this season of the year, perhaps producing much distress. As to the other matter—the suitableness of the location—let the committee investigate it in a couple of hours and settle it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois.

Mr. TRUMBULL. I will modify the amendment by fixing the time at forty days, as it stood originally. I changed it at the instance of other Senators.

The PRESIDENT *pro tempore*. The amendment will be read as it now stands.

The SECRETARY. The amendment is to insert after "suspend," in line four, the words "for the period of forty days from the passage of this resolution."

Mr. FESSENDEN. I would suggest to the Senator from Indiana that even if the committee can investigate the question in a couple of hours they cannot stop the building for the next sixteen days if we do not pass this resolution now. If it is not passed before the recess the injury is done.

The amendment was agreed to.

Mr. TRUMBULL. Now, in order to make the resolution harmonious it will be necessary after the word "withhold," in the tenth line, to insert "for the period aforesaid," and to strike out at the end of the resolution the words "until such further action of Congress," and also to strike out the words "until the further action of Congress" in the eighth line. I move these amendments.

The amendments were agreed to.

Mr. JOHNSON. I move to amend the clause directing the withholding of the appro-

priation by inserting "except for the work already done."

Mr. HARLAN. I am inclined to think that amendment ought not to be adopted. The provision as it stands may work a temporary hardship to the contractor; but such an amendment, if it should be adopted, would be so latitudinarian that I think it would be almost impossible to adjust the amount that might be claimed by these parties. I can assure the Senator that the committee will take action on this subject at as early a day as practicable, so that no unnecessary hardship shall grow out of it.

Mr. JOHNSON. I do not see that any mischief to the Government will result from paying for the work already done. Suppose we stop the work in the future permanently, and no more work is done, can it be supposed the Government will not be bound to pay for the work already done?

Mr. TRUMBULL. If the contract was fraudulent I suppose the Senator from Maryland would not expect it to be paid.

Mr. JOHNSON. Who is to try that question of fraud?

Mr. TRUMBULL. I do not know.

Mr. JOHNSON. One of the contracting parties? That would not seem to be right.

Mr. TRUMBULL. That question is not yet before us. I do not know that there is any fraud, but there is a suggestion of that kind; and it was with that view only that I supposed a temporary suspension was asked for. It was not a very long period, and is at a season of the year when probably not much work is being done, and I presume not much has been done.

Mr. JOHNSON. I understand two or three hundred hands are at work; and they have to live during the forty days, and have nothing to live on except the wages of their labor.

The amendment was rejected.

The joint resolution was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The joint resolution were ordered to be engrossed for a third reading; and was read the third time.

Mr. DOOLITTLE. I desire to say one word. I shall vote for this resolution upon the simple ground stated by the honorable Senator from Maine; and that is because I believe the location of the jail, if it is so near the Capitol as is stated, should be changed; but as to the other suggestion which has been mentioned in debate, that there is anything which would in the slightest degree involve the Secretary of the Interior in any impropriety, I most earnestly protest that there is nothing, in my judgment, which can lead any person to believe or to suspect that any such thing could exist.

Mr. PATTERSON, of New Hampshire. It was not the purpose, I presume, of any member of the committee to lay any charges at the door of the Secretary of the Interior. Our only object was to say that charges had been brought before the committee, and we thought it best to arrest all action until we could hear further on that subject. We do not wish to lay any charges ourselves to the Secretary of the Interior or any parties, but to arrest action until the charges can be investigated.

The joint resolution was passed.

DEFICIENCIES IN MILITARY APPROPRIATIONS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department, and for other purposes.

The bill was read twice by its title, and referred to the Committee on Appropriations.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

Mr. SUMNER. I hope that will be passed over informally for the present. There is another bill from the District Committee, which was reported two days ago, on which it is important to have action.

Mr. SHERMAN. What is it about?

Mr. SUMNER. To regulate the selection of officers in the city of Washington—a bill that passed the other House at the last session.

Mr. SHERMAN. I hope the Senate will take some action upon the cotton bill. It is much more important to proceed with that and dispose of it, and I trust the Senate will indulge me in saying a few words in regard to the pending motion to postpone that bill.

Mr. WILLEY. Will the Senator allow me to present a memorial?

Mr. SHERMAN. Yes, sir.

LABORERS AT THE SOUTH.

Mr. WILLEY. I have just been waited upon by a committee of the constitutional convention of Virginia, who have placed in my hands a memorial that they are desirous shall be presented to the Senate prior to its adjournment over the holidays, setting forth at large divers and sundry grievances, and asking congressional intervention if it be practicable.

Mr. COLE. I hope the memorial will be read.

Mr. WILLEY. The memorial is not very long, and I think perhaps it had better be read.

The PRESIDENT *pro tempore*. If there be no objection the memorial will be read.

Mr. SHERMAN. It is a bad practice to read memorials, and I must object to it now. The Senator can state its substance.

Mr. WILLEY. Very well, sir. Among many grievances I will simply recite one, that terms of agreement are circulated in Virginia, which the laborer is required to sign as a condition-precedent to employment, binding him to renounce his connection with all loyal associations and either remain silent or act in the opposition, thus combining the power of the Government with the wealth of the citizen to defeat the forthcoming constitution and every measure looking to restoration on a loyal basis; and certain other operations are stated which they allege to be going on in the State of Virginia, all looking to a defeat of loyal reconstruction in that State; and they urgently desire the attention of Congress to the premises, and that relief shall be granted them if within the power of Congress. I move that the memorial be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. WILLEY. I move also that it be printed.

The PRESIDENT *pro tempore*. That motion, under the rules, will go to the Committee on Printing.

COTTON TAX.

Mr. SUMNER. Do I understand that the Senator from Ohio objects to my calling up the bill to which I have referred?

Mr. SHERMAN. Yes, sir; I would rather go on with the regular order.

Mr. SUMNER. Of course I shall not undertake to antagonize this bill with the bill of the Senator. I have a strong desire to get action on it to-day.

Mr. SHERMAN. There is no hurry about that.

Mr. SUMNER. There is a good deal of hurry about this bill relating to the District of Columbia. Parties here are very anxious that it should be acted upon. But, as I say, I do not intend to interfere with the Senator if he desires to go on with his bill.

Mr. SHERMAN. I do desire to finish it.

The PRESIDENT *pro tempore*. The bill (H. R. No. 207) to provide for the exemption of cotton from internal tax is before the Senate as in Committee of the Whole.

Mr. SHERMAN. I desire to say a few words to the Senate in regard to the motion pending to postpone this bill. The motion involves not only a postponement until February, although that is merely nominally the motion, but it involves a postponement until June. We know that in the ordinary course of legislation the internal revenue bill will not come to us until May or June. I believe that has been uniformly so during the long sessions. Two years ago the general internal revenue bill came to us very late in June. If, then, this question be postponed until February it is substantially postponed until the internal revenue bill comes over, and that will be a very late period of the session. Now we have more leisure and more time to examine this independent question at this stage of the session than we shall have at any other period. We have had a very interesting and useful debate for three or four days on the subject of the cotton tax, and more facts have been elicited in that debate than can be at a later period of the session when the general revenue measure will be pending.

I trust, therefore, the Senate will dispose of the question at this time. The reason, and the only reason, why I press it on the Senate now is this: the opinion is uniform that it is indispensable, both to the laborer and to the planter, that they should know precisely the tax that is to be put on next year's crop in order to enable them to make their contracts. About half, perhaps more than half, of the cotton crop is raised by contract between the laborer and planter, by which the crop itself is divided, and in the mean time certain advances are made by the planter to support the laborer; therefore nearly every bale of cotton is the product of a joint contract between the laborer and the planter.

Mr. JOHNSON. They are partners.

Mr. SHERMAN. Yes, they are partners in the strict sense of the term. The right of the laborer to a portion of the cotton continues until it is sold and marketed and the proceeds received, and then the laborer is charged with his portion of the proceeds and the account is adjusted. That usually occurs about this season of the year, just before the holidays. Cotton requires nearly the whole year to produce it. The ground is usually cleared in January and the seed planted in February and March. I am not familiar with the growth; but that is the ordinary history of it. Within the next ten or fifteen days it is usual to make contracts to carry on the cotton plantations. Every planter, therefore, must determine at this season of the year or within the next month how many hands he will employ in planting cotton and how many hands he will employ in planting corn. Usually there is a diversity of labor on a plantation. The same hand will cultivate so many acres in cotton and so many acres in corn; but it is necessary that the contracts should be arranged during the month of January, usually immediately after the holidays. It seems to me this furnishes a conclusive reason why Congress now, when nothing is pressing upon it, should settle this question.

In regard to the merits of this proposition I have not anything to say more than I have already said. We have three propositions before us. I do not intend to debate them, because the Senate are now better advised on this question than they will be probably at any other stage of the session. We have three propositions before us. One is to reduce the tax to one cent a pound; another is to suspend the operation of the tax during the next year alone; another is to repeal the tax entirely. There are other propositions, it is true, to apply the tax to the present year; but laying those aside for the present, we have those three propositions, all simple and distinct, and every Senator no doubt has made up his mind on them. That the present tax is onerous, oppressive, unjustifiable in any sense, I believe is conceded by every Senator on the floor. There is not a single Senator here who has not admitted that the present tax is oppressive. My friend over there [Mr. MORRILL, of Vermont] shakes his head.

Mr. FESSENDEN. At present prices.

Mr. SHERMAN. The idea that when a

negro man with his mule-team and his rope harness drives up to the assessor or collector with four bales of cotton, one half the result of his year's labor, the United States shall take one bale out of those four for taxes from him, (that is taking one fourth of his food, one fourth of his corn-dodger, one fourth of his clothing, one fourth of his supplies,) is so oppressive that it seems to me every one will concede that it is a tax which ought not to be endured. There is no other product in the world that bears such a system of taxation. There is no other agricultural product in our system that bears any taxation.

And now these people are absent; they have no representatives here. It is not a question of politics, because I speak now just as much in the interest of the loyal white men and of the loyal black men as of the rebels of the South; and therefore Senators ought not to seek to excite political feeling on this question because a good many of the rebels plant cotton and a good many rebels are interested in cotton. So they are; but, sir, neither you nor I want to load deep coals of fire on the heads of the rebels. If ever a people have been punished in the world they have been. Their condition is probably the most unenviable of any people that ever rebelled against lawful authority. They are now impoverished, broken in spirit. Therefore we can have no desire to heap coals of fire upon their heads. But this legislation not only affects those who rebelled against lawful authority, but all the former slaves. Every freedman in the South is affected by this question.

The idea of postponing this matter until we can adjust all the *minutiæ* of our revenue legislation is an absurd proposition. I was surprised, I must confess, at the remark made by my friend from Nevada, [Mr. STEWART,] who said we must not repeal this tax nor modify until when? Until we could throw off the tax of one half of one per cent. on the gross proceeds of mining. The miners go upon the public lands without cost; they delve upon the public lands with no capital except their tools; and we levy upon them the sole and only tax of one half of one per cent. on their gross receipts. My friend from Nevada will not consider the question of relief to the South until we take off this one half of one per cent. on mining, which is just one fiftieth part of the tax we impose upon the great agricultural product of the South! I say that is not just; that mining is more in the nature, not of an agricultural raw product necessary for life, but of a manufacture; and that, at any rate, the miner ought not to complain of paying this small tax in lieu of all other taxes; but even if he has any right to complain, that is a tax that does not bear upon him so harshly and severely that he cannot wait to have it decided with the other taxes. So in regard to the complaint made by my friend from Connecticut. What tax bears oppressively upon Connecticut? We repealed last year one half of all the taxes——

Mr. FERRY. The internal revenue tax on the sales of manufactured goods bears very heavily on my constituents.

Mr. SHERMAN. How much is that?

Mr. FERRY. Three per cent., I think.

Mr. CATTELL. Five per cent.

Mr. SHERMAN. Yes, five per cent. on certain manufactured goods.

Mr. SPRAGUE. On the sale.

Mr. SHERMAN. It is not a tax on sales. That is paid, no doubt, but we all know that although paid in the first instance by the manufacturer it is undoubtedly paid by the consumer.

Mr. FERRY. If the Senator will allow me, what I said on this subject was in favor of the postponement of its consideration until these various interests could be adjusted together. Now, portions of the internal revenue tax bear exceedingly hard upon my constituents. I think they ought to be relieved to some extent; I do not say now how much. I think that the cotton tax bears at present hard upon the cotton interest. I think it should be relieved to some extent, but I do not think that the whole burden should be taken off the cotton interest, making it necessary to leave the entire burdens still upon the interests of my constituency, affording them no relief, while the interest of another section is entirely relieved from its burden.

Mr. SHERMAN. Now, Mr. President, at the last session of Congress we threw off the tax on the great volume of manufacturing products; on others we reduced it to two and a half per cent. I think on wool and woolens we reduced it to two and a half per cent; on some we kept it at five; and on some it was retained at three per cent. But, sir, here is the injustice; when we first levied this cotton tax as a part of our system of internal taxes it was only a tax of six per cent., precisely the same tax that we then levied upon all manufactures. My friend from Maine [Mr. FESSENDEN] first proposed the tax of three cents a pound. Probably the bill came to us from the House at three cents; but that was at a time when the value of cotton was sixty cents a pound. It had been a dollar, but it got down to sixty cents a pound; so that the first tax on cotton was but five per cent. of its value, and at that time all the manufactures of this country were paying six per cent.

Mr. FESSENDEN. The first tax was one cent.

Mr. SHERMAN. If the Senator is correct in his recollection, and probably he is, the first tax was only a tax of one per cent., because at that time cotton was worth a dollar a pound.

Mr. HENDERSON. The first tax of all, that of July 1, 1862, was only half a cent.

Mr. SHERMAN. The first tax then was on the very smallest scale; but now by the changed condition of affairs we have relieved the great body of industry in this country from nearly one half of the internal taxes, while we have accumulated the tax on cotton by the fall of the price of cotton. If there was but a tax of five or ten per cent. on cotton I would not be here appealing to the Senate for immediate relief; but here is a tax of twenty-five per cent. on the raw material of clothing, on the rawest production of American industry, because if there is any raw production it must be cotton, which is simply an agricultural production, without any mixture whatever of mechanical labor, and only the rudest form of agricultural labor.

Mr. CONNESS. I wish to say to the Senator that I will vote with him now to reduce the cotton tax to the equivalent of other taxes, and then to further reduce it or go to the extent of its entire removal if necessary, provided the other burdens be removed at the same time.

Mr. SHERMAN. I am only speaking now on the question of postponement. I am not discussing the merits of the different propositions, whether it is better for us to reduce the tax to one cent a pound or any other sum. I wish simply to say that this interest demands some immediate relief, and that we ought to grant it. As to the other propositions, each Senator will decide for himself when they come up to be voted on. We never can consider this question more dispassionately than we can now. This is a peculiar tax and therefore it ought to stand upon peculiar grounds. It is the only harsh, unjust, and oppressive tax that now weighs upon any portion of our industry, and it ought to be repealed. It does not stand in the same position as the other taxes. There is one other reason that appeals to the judgment, the magnanimity, and the generosity of the Senate that I might refer to. This interest is not now represented by any member on this floor, except perhaps from the State of Tennessee, and the interest of that State is mainly in other agricultural products.

Mr. FESSENDEN. The State of Illinois is a producer of cotton.

Mr. SHERMAN. The Senator from Maine suggests that the State of Illinois is a cotton State. It produces very good corn but no cotton of any account. I do not know that it produces any.

Mr. FESSENDEN. I think I saw it stated by a Representative from Illinois in the other House that he raised fifty bales this year, and I am sure it has been suggested as a matter of interest to Illinois, because in some portions of that State cotton was raised.

Mr. SHERMAN. I assure the Senator from Maine that Illinois raises more cotton by selling corn than in any other way. The cotton-plant, as we all know, is the product of the cotton States, which are all south of North Carolina and Tennessee, although like other products no doubt it is raised to some extent in the middle southern States.

Sir, I say this is an exception to any other tax, and that we are bound now, when there is no voice here to speak for these people, to do what is just and right toward them. This is not and cannot be considered a political question, and it ought not to be affected by political considerations. We claim to be Senators of the United States of America, and we are bound to do that which we would do if all these States were represented by two Senators each on this floor. Would they possibly elect a Senator from any of these southern States, whether white or black, loyal or rebel, who would not demand as the first act of his official life the repeal of this obnoxious cotton tax? We know that they would demand it, and we should feel a sense of justice that would impel us to grant at least to a reasonable extent some relief from this oppressive tax. There is no doubt that if these States were represented here by twenty Senators this question could not rest in doubt for a moment. The House of Representatives felt the weight of this subject upon them, and promptly by a very large vote——

Mr. MORTON. And without debate!

Mr. SHERMAN. And without debate felt bound to relieve this suffering interest by prompt and decided action. The same feeling prevailed in the Committee on Finance. We had representations made to us which, if I should read them to this Senate, would move them; it would be impossible for them not to feel the force of these statements as to the condition of the people of the southern States. Look at it. Now, when their staple is brought into market one fourth of all their production is taken by the tax-gatherer; and not only that but there are very severe and onerous regulations which require them to bring their cotton to one place in a congressional district, making difficulties and delay, and then one fourth of their product is taken to pay the tax when the other three fourths will not pay more than one half of the expense of raising the raw cotton. This was not foreseen when we laid this tax. I voted for the first cotton tax. Then it was a tax of five per cent. Last year the Senate, by a very decided vote, reduced the tax to one cent a pound; and probably if it had been left at that there would have been no serious complaint, no demand for immediate action, and we should have collected the one cent per pound without great suffering in the South. But when we impose a tax of two and a half cents per pound, thus taking from the producer of the cotton one fourth of all his labor, and leaving the rest totally insufficient to furnish him the necessaries of life, I say it makes a case of oppression which the Senate of the United States ought promptly to relieve.

Now, sir, I have prolonged my remarks on this subject longer, perhaps, than was necessary. I hope the Senate will come to some decisive vote on this question before we adjourn, and not postpone the matter and leave it in doubt and uncertainty, so that the planters and laborers cannot make their usual arrangements for their labor. I do not think it good policy to drive the South into the culture of new products. Perhaps I speak in an interested point of view; for we are interested. The State of Ohio, like the State of Illinois, furnishes a large quantity of food which goes into the production of this cotton. It is certainly not the interest of any portion of this country to prevent that exchange of commodi-

ties, the exchange of the productions of the Northwest to the South; and then the removal of the cotton to the North, where it is finally manufactured and sold. That is an operation of commerce which adds to our wealth; and no one ought to desire to interfere with it. We ought not, by our taxes, to drive people to do what it is not their interest to do. That is contrary to the first elements of political economy. We ought to allow our internal commerce at least to be entirely free from all restraint, and lay no burdens whatever that would change the ordinary course of commerce or of trade. I say that this cotton tax now does that. It is oppressive, and ought to be repealed. I trust, therefore, that the action of the Senate, whatever it may be on this subject, will not be delayed.

Mr. STEWART. The other day in speaking of this matter I made an allusion to the mining tax, which seems to have excited a good deal of comment from the Senator from Ohio and the Senator from Missouri. Inasmuch as those comments are very unjust, and show that those Senators have not given that question any particular consideration, it may be proper for me to make a little further explanation with regard to that tax. I only alluded to it incidentally, saying that when these matters of hardship were considered I thought it but fair that they should all be considered together. Now, I undertake to say that the mining tax, small as it appears to be, is a more oppressive tax upon a large portion of the people engaged in that pursuit than the cotton tax; and if I can have the attention of the Senator from Ohio and the Senator from Missouri I think I can demonstrate to them that it is a much more exorbitant tax than the cotton tax.

The cotton tax is stated to be now, at the present low prices, twenty-five per cent. We do not know but that the prices may go up before another year. I think it is the low price of cotton that has affected the planter more than the tax. If cotton commanded the ordinary price the tax would not amount to any such figure. But suppose it is twenty-five per cent.; the tax of one half of one per cent. upon the gross proceeds of the miner is in nine cases out of ten more than one hundred per cent. There are in mining but few dividend-paying mines, and those pay largely. I suppose there is not a dividend-paying mine in the United States that does not immediately get up above ten thousand dollars a year, so that it pays the highest income-tax of five per cent.; but those dividend-paying mines are very few in number. Those are the inducements to investment. Those are the good strikes that we hear of. Those are the arguments that induce people to risk their capital in mining. But for those dividend-paying mines your whole mining operations would cease. They induce your people to invest because A, B, and C have made large fortunes. But the majority of mining enterprises are struggling to become dividend-paying mines. Perhaps nine out of ten—yes, more than that—of all the attempted enterprises fail altogether. They struggle for a few years, produce a large amount of money, benefit your country very much, (if I had time I could go into that,) build up the country about them, build up trades, are large consumers, pay taxes on everything they consume, perhaps produce from five hundred thousand to one million dollars of gold and silver in a single year, and yet produce that at a loss. They will go on struggling against that loss in the hope of finding a "rich pay," as they call it, making a strike, and work on for years and exhaust their capital in that way. The majority of the gold and silver is produced in that way. The tax of one half of one per cent. when a company is at a large expense, expending five hundred thousand or one million dollars a year and receiving less than that amount, is a very oppressive tax. The miner is paying a tax upon the gross amount that he takes out, although he is taking it out at a loss. That is the way that your tax is operating upon a large class of those who are attempting to develop that country.

Our mineral resources are practically inexhaustible. They will not be exhausted or hardly touched in our time. The power to develop them is limited by the possibility of making it pay. That involves questions of transportation, questions of skill, and the great difficulties to be overcome. Four fifths of all the mines that are known to contain gold and silver are lying idle because of the difficulty of making them a success, and every particle that you load upon those efforts to succeed so much retards your progress. This tax of one half of one per cent. decreases the amount of production undoubtedly, and therefore it injures the United States more than if you were to take four or five times the amount in some other way. All of the tax comes out of the producer. Here is a man who has a capital of $500,000. He puts it in a mine. He produces $500,000 the first year, and expends in producing it $550,000. He is $50,000 in debt at the end of the year. He expects to have better success, and he goes on. Add to that expense five or ten thousand dollars more, and you limit his capacity to open that mine at all. In that way you have really stopped mining enterprises. It is the last straw sometimes that breaks the camel's back. When these communities are struggling to advance, if you would encourage them a little, if you would remove this tax and let their enterprises succeed, what would be the result? The opening of a good mine builds up a great deal of wealth in the immediate community. It creates a demand for agricultural products. Society is at once organized. Farms are cultivated. That is the only way the great interior of this country can ever be cultivated. It will remain a desert if we cannot have the mines worked. This tax, I think, is the most impolitic that can be conceived of. It is certainly a tax upon a man who is producing necessarily at a loss. The tax of one half of one per cent. on a man who has not a dividend-paying claim is greatly more than the cotton tax; but we have not time in the course of this discussion to compare all these things.

I am willing to relieve cotton; I think it ought to be relieved; but I do not think it fair to relieve the cotton-growers altogether without considering the evils that other sections are laboring under; and particularly do I not think it fair to urge as a reason why we should be more liberal to them that they are not here. Whose fault is it that they are not here? If they do not take sufficient interest in this matter to come here, why should we take so much interest for them? Should we consider them delicately because they are not here? Why are they not here? That question has been asked before. First, because they rebelled against this Government; second, because they refused, and still refuse, every proposition that Congress makes for their reception; and thirdly, because, as shown by a memorial presented this morning, these same cotton men through the South are now circulating contracts whereby they are binding the negroes with whom they propose to make contracts on the faith of the removal of this tax that those negroes who are to have the benefit of the release of this tax shall vote against reconstruction and shall join them in keeping out of the Union. Let them stop circulating these contracts; let them stop using the power that we shall place in their hands to make contracts for the purpose of keeping their States out of the Union; let them come here and make their wants known. It is not the fault of the loyal people of the country that they are not here. I do not wish to deal harshly with them. I am willing that there should be any reduction of this tax that would be fair compared with the reduction of other taxes; but I am not prepared to remove this tax at once without understanding the grievances under which other sections are laboring. I do not care whether this measure is postponed or not. If there is any just basis on which to place it, place it there now. If you can estimate it so as to graduate it by the other taxes, let that be done now; but I am not prepared to remove it altogether and say that seven States shall bear no portion of the public burdens until I see how it is to affect other sections.

Mr. CORBETT. I desire to present a few suggestions why, in my judgment, this measure should be considered now. I shall not occupy the attention of the Senate more than a few moments.

In the first place, I think we should consider the cost of refusing to take off this tax. The evidence shows that when cotton was at a very high price it almost entirely ceased to be exported, and the production of it was confined almost entirely to India, so far as consumption in England was concerned, and I propose to submit some facts to prove this statement.

The PRESIDENT *pro tempore*. The question is on the motion to postpone this bill for the purpose of taking up the bill in relation to legal tenders, and that motion is really not open to extensive argument. The reasons for or against the postponement may be stated.

Mr. SHERMAN. I do not see the Senator from Indiana, who made that motion, in his seat; but he informed me this morning that he did not intend to press that motion.

Mr. CORBETT. I merely propose to state some reasons why we should dispose of the subject of the cotton tax at once. I do not intend to occupy the time of the Senate long.

Mr. HENDRICKS. I hope the Senator from Oregon will be allowed to proceed with his argument. I am sure there will be no objection on the part of the Senate.

The PRESIDENT *pro tempore*. The Senator will be allowed to proceed of course, but the rules do not allow of that extended argument on a motion of this kind that they do when the merits of a question are regularly before the Senate. The Senator from Oregon will proceed.

Mr. CORBETT. In the first place, I wish to submit that cotton is an article raised principally in the late rebellious States, and that they can produce that cotton for export to much better advantage than they can any other kind of product, manufactured or grain. The amount of the exportation of cotton previous to the war was as follows: in 1856, $128,300,000; in 1857, $131,500,000; in 1858, $131,300,000; in 1859, $161,400,000; in 1860, $191,800,000. As soon as the war commenced and the price of cotton advanced—the Senate will remember the high rate of cotton in 1861—the exportation only amounted to $34,000,000. The next year, 1862, it fell to $1,000,000. In 1863 it advanced to $4,800,000; and in 1864 to $6,300,000. In 1865 it fell again to $3,300,000. In 1866, when the ports were open and cotton began to come forward, and the price fell to thirty cents a pound, the exportation amounted to $199,500,000; and in 1867 the amount exported was $143,900,000.

Our exports for the years 1864, 1865, 1866, and 1867 consisted of the following items, gold estimates: In 1864 cotton exported, $6,300,000; other merchandise and products, $102,550,000; gold, $92,128,000; and there being a large deficiency we were obliged to send United States stocks to the amount of $227,461,000 to make up the deficiency of cotton which in previous years we had been able to export. Then we had to pay a premium of ninety-seven on those stocks to introduce them into the foreign markets, or in other words we received a little over fifty cents on the dollar; so that including those our exports amounted to $428,439,000 to pay for $316,447,000 of imports. In 1865, we exported $3,300,000 in cotton; in other merchandise and products, $157,357,000; in gold, $57,833,000; and in United States bonds, $32,610,000, making a total amount of exports of $251,100,000 to pay for $238,745,000 of imports.

Mr. JOHNSON. What is the difference?

Mr. CORBETT. The balance against us was some twenty odd million, and then we had to add the premium on gold, which made the

amount of United States bonds it was necessary to export $32,610,000; making a total of $251,100,000 exports to pay for $238,745,000 imports.

Mr. DOOLITTLE. I dislike to interrupt the honorable Senator, but it seems to me he is going into a discussion of the main question, which, under the rules of the Senate, is not allowed on a mere motion to postpone one order of business to take up another. I do not desire to interrupt the Senator, but I think it would be better for us to determine whether we are to go on with the discussion of this question or take up some other subject before we enter into a general debate.

Mr. SHERMAN. The Senator who made the motion to postpone is not present, and I hope the Senator from Oregon will be allowed to go on.

Mr. DOOLITTLE. The honorable Senator from Oregon is friendly to this bill to repeal the cotton tax, and I suggest to the friends of that measure that it is very desirable to come to a vote.

Mr. CORBETT. I have but a few statistics that I desire to present.

Mr. FESSENDEN. The Senator from Indiana, who submitted the pending motion, is not in the Chamber, and we may just as well go on with this discussion now. No time is lost by it.

The PRESIDENT *pro tempore*. The Senator from Oregon will proceed.

Mr. CORBETT. Now, sir, let us see what the amount of the exports of products and United States stocks was in the following two years. In 1866 the export of cotton jumped from the previous year $3,300,000 to $199,500,000. We exported in other merchandise $130,468,000; in gold, $75,343,000; in United States bonds, $41,888,000; making a total of $447,199,000 exports to pay for $434,812,000 imports. In 1867 we exported in cotton, $143,900,000; in assorted merchandise, $135,457,000; in gold, $38,710,000—the exportation of gold decreased that year—and in United States stocks, $89,876,000; making a total of $407,943,000 of exports to pay for $389,968,000 of imports.

We went in debt, for which we gave our United States bonds, in 1864, when we shipped but little cotton, $227,461,000, and we received from customs in that year $102,316,000. In 1865, when we shipped but little cotton, we exported $32,610,000 in United States bonds, and our receipts from customs were $84,928,000. The amount that we now owe for the years 1864 and 1865 to foreign Governments is $260,071,000, and our receipts from customs for those two years were $187,244,000.

Now, let us see how the account stands for the next two years, when we shipped a large amount of cotton. In 1866, when we shipped the large amount of cotton, $199,500,000, we exported $41,888,000 of United States bonds, and received in customs the enormous amount of $179,046,000. Our customs receipts doubled in consequence of the shipment of this large amount of cotton. In 1867, when we shipped the large amount of $143,900,000 of cotton, we exported $89,876,000 in United States bonds, and the customs receipts during the year amounted to $176,417,000. The amount that we now owe for these last two years when we shipped this large amount of cotton is $131,764,000 as compared with $260,071,000 for the two previous years when we shipped but a small amount of cotton; and our customs receipts for the last two years amount to $355,463,000 as compared with $187,244,000 in the two previous years when we shipped but little cotton—nearly double.

Thus it will be seen that this question has an important bearing upon the financial interests of this country. We must have the amount of gold received from customs to pay the interest on the public debt, and if we ship a large amount of cotton we shall import a large amount of goods in exchange for that cotton, from which we shall receive a large sum in customs. Our exports of southern products now amount, including cotton, lumber, naval stores, tobacco, rice, sugar, &c., to about seventy per cent. of all our exports, and our exports to England amount to fifty-five per cent. of all our exportations to foreign countries. From this it will be seen how important it is to keep the trade of England for this cotton.

But, sir, if you refuse to take off this tax you will drive these people from the cultivation of cotton; you will decrease your exports and consequently decrease your imports and your receipts from customs on imports. Force the South to raise bacon, corn, and wheat, and where is your market for the vast productions of the West? During the war you had a large army to feed. Now that vast army are producers instead of consumers. The West and the manufacturers of the East want the South as customers and want their cotton to ship abroad to buy the necessaries in some cases, but oftener, it is true, the luxuries of life, and the Government wants the gold duties on these imports to pay the interest on our debt. Thus our interest is mutual. Our productions are varied and rich, and when properly guarded and protected can be made to redound to the interest of all parts of the country alike. We must not forget that during the war we were flourishing upon an accumulating national debt, and no section of the country can expect to be free from the pressure since we are now stopped short and are looking around for the means to pay our debt at home and keep our credit untarnished abroad.

Mr. President, relieve this people from this tax and you stimulate exportation to four times the tax you collect on the cotton. Does it not give us just so much available means with which to pay our debts abroad? I look upon it purely in a financial point of view. Strike down this cotton production, and you strike the western producer and the eastern manufacturer. You will then hear the angry thunder from the West and a louder cry for employment in the East, financial loss in the commercial cities, a consequent reduction on income tax, involving a probable loss to the Government within twelve months of $75,000,000. I trust we may be wise.

Mr. MORRILL, of Vermont. Mr. President, the distinguished chairman of the Committee on Finance desires our instant action on this bill, because, as he asserts, this tax is oppressive; and I do not know but that his words will resound throughout the country so far that the South will come to believe it. It is iterated and reiterated here so often that this commodity pays a tax of twenty-five per cent. that I do not know but that growers will come to the same conclusion, and that it all comes out of them. What are the facts? Middling upland cotton commands a price to-day in Liverpool of seven and a half pence, which is fifteen cents a pound, and that in gold——

Mr. SHERMAN. I will ask the Senator what it is worth in the place where the planter has to pay the tax?

Mr. MORRILL, of Vermont. I will get through with my calculation, and then the gentleman may reply to me.

That is the price it brings in gold; and it is the equivalent here of twenty cents per pound or, reckoning exchange, to rather more than that; and we tax it two and a half cents per pound in currency. How gentlemen figure it out that that is twenty-five per cent. I should like to understand. Those are the facts, and they are indisputable.

Now, sir, let me mention another thing in relation to this great "oppression." The fact is that cotton brings more per pound to-day, deducting the tax, than it brought in 1860 or 1858 or 1859. Where then is the oppression? If for three bales, after the surrender of one for taxes, they get more than they would for four untaxed who is hurt? They are receiving more for their cotton to-day, after paying their tax, than they ever received before.

Mr. FOWLER. What was the price in 1860?

Mr. MORRILL, of Vermont. Five and three quarter pence.

Sir, I think I have heretofore exhibited the fact to the Senate that from 1823 up to the present time, by our reports on commerce and navigation, invariably, whenever they had a moderate crop they got far more for it than when they had an excessive crop. If the result shall follow which the honorable chairman of the Committee on Finance expects (a very largely-increased crop) from the taking off of this tax, he will reduce the price and value of all the cotton they raise. That may be oppression or it may not be. In my judgment it would be unwise.

We are urged to consider this subject at once. Why need there be any haste about it? It is not pretended that cotton-growers want to begin to cultivate their land before February or March. Ere that time the Special Commissioner of the Revenue will have made his report, and I understand that the Committee of Ways and Means in the House are diligently at their work, and that early upon the reassembling of Congress after the recess we shall have this subject brought before us. Then we can survey the whole field. If there is any "oppression" in the South, is there not oppression of a like character in the North, in the West, and in the East? Are there any industries there that are not languishing at the present moment? Every dollar that is paid on manufactures to-day comes out of the manufacturer. Every pound of wool that is sold is sold at a loss. Ships are making no money. There is no escape from this general depression. Why are we not, then, permitted to consider the oppression in the North, in the East, and in the West, as well as at the South, all at the same time, united and together? I think it is right that we should do that, and not single out any class for unusual and peculiar favor.

There is one other point which has been referred to in the course of this debate, to which I desire to allude while I am on the floor; and that is in regard to the injustice of allowing a drawback on the manufacture of cotton. If we could manufacture the whole of this cotton in this country, as it seems to me we could by the continuance of that policy, would there be any man in the United States unwilling to yield up the amount of the entire tax for the sake of the great gains and profits and benefits resulting to this country in employing so large a share of labor in turning that cotton into manufactures, and sending it abroad doubled in value? Is there any objection to doubling the value of the exports of the South? Why should we be unwilling to allow these people an opportunity to double their exports? I think it can be done. We allow the drawback on the manufactured article in order to find a foreign market and to keep our people at work. Do we not allow it in all other instances of manufacture? If foreigners thereby get our cotton manufactures at cheaper rates than our own people do they not get whisky, tobacco, and petroleum also cheaper?

We had up early a kindred subject about which I think we made a sad mistake, and that was the subject of petroleum. We first levied a duty on the crude petroleum and then on the refined; and we allowed a drawback in both instances. In my judgment it was a great mistake. We have a monopoly of that article. If we had levied a duty upon the crude article and also on the manufactured, and allowed a drawback on the manufactured article the same as we do upon cotton, we should have largely increased our revenues; and we should have benefited our own country, because we should have allowed our own people to refine all that is now consumed abroad, and the quantity is immense.

Mr. President, in my judgment it will be far better for us to postpone this proposition to repeal the tax on cotton and allow gentlemen to mingle a little with their constituents during the recess. I have no fears in relation to allowing gentlemen to go home and consult with their people. Let them say whether they will surrender entirely this tax on cotton, and

support it from their own resources in the North, West, and East. I have no apprehensions on that subject, and I trust the chairman of the Committee on Finance has not, and therefore that he will be willing at least to postpone this subject until we shall reassemble here in January. But, sir, I do not desire to consume further time on this subject.

Mr. GRIMES. I did not intend to say anything on this subject, but I believe I shall occupy a few moments of the time of the Senate in giving the reasons why I am constrained to vote against the proposition of the Senator from New York [Mr. CONKLING] in order that I may vote for the proposition of the Senator from Maine, [Mr. FESSENDEN,] which is to suspend the operation of this tax on cotton for the period of one year, until we can see what may be the effect of that suspension upon the industry and the finances of the country.

Mr. President, there has been some pretty severe criticisms made, I believe, since the debate began five or six days ago, upon the supposed inconsistent position of the Special Commissioner of Revenue on this subject. In his letter to the Secretary of the Treasury he spoke of the imposition of this cotton tax two years ago as having been a temporary tax. I certainly so considered it at the time it was imposed. Perhaps the Commissioner might more properly have used the term "experimental tax." All the taxes that were imposed at that time were, in fact, experiments. We all so regarded and spoke of them. We have been taking them off from some articles and putting them on others, and changing them every few weeks, or every few months, certainly every session, since we began this system of internal direct taxation. I know very well that the Special Commissioner of Revenue spoke of the tax on cotton in his report two years ago as proposed by him as being a proper one at the then present price of cotton; but he indicated that in all human probability it would be necessary to lower the tax as the price of cotton decreased; and I know further that Mr. Edward Atkinson and other gentlemen of Boston, whose testimony accompanies the report of the Commissioner, and whose opinions were the most influential in causing the imposition of this tax, also took the same view. The true question before us then is, what has experience taught us on this subject? Is it wise to continue the tax? Does the condition of our finances require it? Will it improve the industries of the country? Can its continuance be longer justified?

Now, sir, I have always voted for taxes on cotton. I have so voted, not because they are based upon the slightest principle in the world except the same principle that will justify a forced loan.

What is the true position of the case before us? What is the condition in which we find ourselves on this subject? I should like to call the attention of the Senator from Vermont and of the Senate to the chapter that we are now making in American history as it is to be read in the future. There were eleven States of the Union that undertook to destroy our Government for the sake, as they insisted, of preserving their property in men. They levied war and appealed to arms. In those eleven States slaves had been held as property for many generations of men. In six of those States those slaves were employed almost exclusively in the production of cotton for nearly a century. They had been employed in hardly anything else. That was the means by which they supported and accumulated wealth for their masters, and procured their own daily bread. They are accustomed to no other kind of labor. The rebellion against the Government was crushed out. We have been the victors. As the victors we have imposed terms upon the rebels. One of those terms is, that those slaves shall be free men from this time forward. We have done that as an act of precaution and as an act of justice. We have felt it to be our duty to elevate, to educate, and to make free men in every sense of these colored people; and for that purpose, among other things, we organized the Freedmen's Bureau, which has been quite expensive, and we have bestowed upon them the elective franchise. And now, while we are attempting to elevate and ennoble that class of men, we propose to strike at the industry to which they have been accustomed from their infancy up to the present moment, the only instrumentality which it is in the power of those men to use in order to educate and support their families, by selecting out the article of cotton, the only agricultural product reared upon American soil that is taxed, and impose upon it a tax of twenty-three per cent. And you do this when you protect all free labor in the North by imposing an average duty of sixty-five per cent. upon all articles which come in competition with northern labor from abroad. Do you say that this is not striking at free labor in the South? We all know that it is. If it be not, what becomes of the argument of forty years' standing, that the free labor of the country needed protection and that your tariff had a tendency to foster, protect, ennoble, and dignify American labor?

Yet here you take from the very poorest, the most dependent agricultural laborers in the country, the producers of a raw material which is wrought by hand, twenty-three per cent. of the value of his product while you protect the skilled laborer of the country to the average extent of sixty-five per cent., knowing at the same time that this burden which you impose upon the needy American producer of cotton operates as a forty per cent. bonus to the grower of cotton in India and Egypt, to enable the latter to drive your own producer out of the markets of the world. This is the chapter of history we are making.

But it is said that the tax is not twenty-five per cent., and we are referred to the price of cotton in Liverpool to verify the statement. We all know that the manner of producing, buying, and selling cotton, is changed now. Instead of there being a gin upon every plantation, as was the case formerly, three or four or half a dozen men in a neighborhood own a gin together. A poor negro man brings up twenty or twenty-five pounds of cotton in a sack and turns it over to the owners of the gin and receives the small price of four or five or six cents in order to support his family. We are not to be governed, therefore, in legislating on this subject by the price of cotton in Liverpool, but by the local price that the poor laborer—the man whom we are seeking to elevate, to whom we have given the elective franchise, and who has cotton only as the instrument by which he can be elevated—can get at the gin where he is compelled to part with it. Cotton is either raised or owned now by the rich planters. In all the future it is to be produced by the black man, and when you strike at cotton you strike at that poor, down-trodden producer of it. If there be the same relation between the laborer and his reward that there is elsewhere why is it not so?

And, Mr. President, under what circumstances do we propose to continue this burden? We are to do it when the Secretary of the Treasury tells us that the imposition of the tax deranges the finances of the country; that it cripples the industry of the North as well as of the South, and that the exigencies of the Treasury do not require the tax; when that opinion is confirmed by the Special Commissioner of the Revenue; when the Ways and Means Committee of the House of Representatives are unanimously of the same opinion; when the House of Representatives are nearly as unanimous; when the Committee on Finance of the Senate, by a nearly unanimous vote, concur in that opinion; and when, I undertake to say, the great majority of the commercial and manufacturing interests of the country concur in that opinion, as well as every impartial political economist and statist in this country who has given the slightest consideration to this subject.

The Senator from Missouri [Mr. HENDERSON] was frank enough the other day to admit that the people of his State and of the whole Mississippi valley were particularly interested in this matter. I believe that admission of his called for some criticism on the part of somebody. Sir, we are deeply interested in this subject. We are not anxious, as some gentlemen avow that they are anxious, that the production of cotton in the South shall be broken up and that the people of that section in the future shall only produce corn and the cereals in the place of cotton. We want labor in the South to be rehabilitated and reorganized. We want the old productions resumed and labor there to have its proper reward. We want the southern States to furnish in the future as they once did a reliable market for the agricultural products of the Northwest. Is there anything improper in this? What is the argument that our New England friends urge here in favor of their sixty-five per cent. upon all the imports of the country? Why, that they, by the aid of that duty, build up a market where our agricultural products are consumed. Are they unwilling that we should have two markets? Is it not just as proper for us to be interested in having a market at the South, and to that end allow the southern people to raise just such agricultural products as they please, as that we should vote to enforce sixty-five per cent. of duties on such imported foreign articles as we consume and then attempt to justify ourselves on the ground that we are thereby to make a market for agricultural products in the eastern States?

The truth is, sir, that this tax on a raw agricultural product cannot be justified upon any principle. It can only be excused as a forced loan, just as you can justify the imposition of any kind of a duty in time of war, or in time of peace perhaps, when it becomes absolutely essential that such a tax should be raised in order to maintain the very existence of the Government, and not otherwise.

It is said that this is the only way in which we shall ever be able to obtain much, if any, revenue from these southern States. Is this so? If it be, it does not lie in my mouth, nor it does not lie in the mouths of several Senators here to make the argument. It so happens that some of these States, excluding the article of cotton, pay more duty into the Federal Treasury than many of the loyal States. Why, sir, the State of Louisiana paid into the Treasury during the year 1867, $2,828,000, excluding whisky and raw cotton, while the State of Iowa only paid $1,296,000, and the State of Wisconsin only paid $2,037,645 83. Now it is said that the million of people in the State of Iowa do not pay their proportion of the national burdens simply because we do not pay directly into the Treasury as much money as is paid in other States. Do we not pay exactly according to our necessities and according to our capacity to buy? If we buy sheetings or shirtings or woolen goods or hardware or any other article that is used in domestic economy or upon our farms of the people of New England, do we not pay the duty that the Government imposes upon that article? Is it not just so with the people in Louisiana and Mississippi?

If they buy an article they have to pay the duty indirectly that goes into the national Treasury; and they pay exactly in proportion to their necessities and their capacity to pay. If you are going to take twenty-five per cent. out of their agricultural productions how will they ever be able to pay anything directly into the Treasury? And what does this argument amount to? Are we willing to establish the principle that because a purely agricultural State, or cluster of States, fail to pay any considerable amount into the national Treasury therefore you may select the principal agricultural product of those States for taxation, in order to equalize the burdens of government among the States? What does the argument amount to but this?

I have said all that I desired to say on this subject. I am willing that the tax should be

suspended for one year, otherwise I shall vote for its entire repeal. The people's Representatives, who alone under the Constitution have the power to originate financial measures, have spoken with an authoritative and almost unanimous voice demanding the entire abolition of the tax; and, be it remembered, they have done this when there were no Representatives in that body from the people whose product is so terribly burdened except from the State of Tennessee. They have done it because it was demanded by the industry of the country and in obedience to a sense of justice to all parties and sections.

Mr. SPRAGUE. Mr. President, I wish that I could deliver the ideas that I desire to express upon this question as well as the Senator from Iowa does his, and I desire to embody his remarks in what I may say. I am frank enough to say that the people of my State, in my belief, are more interested in the removal of this tax than they are in any other question now before the country. I am frank enough to say that the market of the South is as indispensable to our prosperity as our prosperity is necessary to our existence. Sir, I have been surprised and alarmed at the position that has been taken here by my friends from that section of the country. I do not distrust my own judgment; but the facts that have been elucidated by them are so contrary to my experience and information that I am alarmed for the great interests of this country, and especially for that section. I have sounded the alarm toward all the industrial interests of that section, and all the industrial interests in other sections of this country from time to time. My words have been listened to, it is true; but no attention has been paid to the warning by those whose duty it was, in my judgment, to attend to it. I stand here now and advocate the interests of that industry which in my judgment is more depressed than any other. In the range of my vision I do not know of a single manufacturing interest that is not almost destroyed; at any rate prostrated to the very dust. I know that thousands and thousands of men, women, and children are to-day suffering for want of employment in consequence of these taxes and this adverse legislation toward existing interests.

There is one important fact that I desire to impress upon the mind of every Senator here. I would rather whisper it to them than speak it in public. The cause which has operated to dethrone cotton, the cause which has operated to destroy it as a monopoly, is what? An overproduction of cotton in this country? No, sir. I am humiliated in being obliged to admit the fact that with this poor, despised, short-stapled, husky India cotton, a fabric is to-day produced by the skill and labor of Englishmen equal to the best fabric that American machinery has yet been able to produce. This is the cause of the present depression of the cotton manufacture in this country and throughout the world.

Sir, the question before you is not whether you shall tax an existing interest, but it is whether cotton is an existing interest. If the people of the South, those whose means are to be invested in this crop, knew the exact circumstances, my life for it they would not invest a single dollar in it. It has been my privilege to plant cotton, commencing in 1862 and following it up to the present time. I know something of the necessaries required to grow that crop. As you have been told, in the month of January the furrow is made; in the month of February the seed is planted; and then the hoeing commences soon after. If you postpone this measure you postpone the cultivation of this crop. What man will place seed in the ground with this tax weighing upon him, certain to destroy him? Who will commence the planting of cotton under such circumstances?

Sir, in my judgment, you have not this interest in your hands. I am afraid that you have lost it forever. But it may not be. If you are wise you will look upon it in this light: you will endeavor to go back upon your past legislation to mend, to repair, to heal, to cure if you can. My judgment is that it will be the hardest task that ever was in the hands or minds of politicians or statesmen. I fear for the existence of the manufacturers of my own State in consequence of this alarming condition of things. I fear that the fabrics produced from the cheap cotton which is now grown in India will, in spite of all tariffs, find their way into this country and be consumed by the American people, and then, let me ask, what will be our position in New England?

There is one other point on which I think it is important that the Senate should be informed, and that is in regard to the different qualities of cotton. We boast of the Sea Island cotton as being unequaled by any, and we feel sure that we have a monopoly in that from which nothing can oust us. And yet, sir, in my judgment, not two years will have passed over us when instead of its being cultivated as it has been in years past it will be known only in some gentleman's garden as a reminder of what once has been, and it will be merely a plant of ornament. The Egyptian cotton is to-day being introduced into seven eighths of the finer qualities of goods that the Sea Island cotton was heretofore used for.

I hope I have made myself understood. I wish I could create in the mind of every Senator the alarm that I feel. We have been told that we of the North are rich; the Senator from Massachusetts [Mr. WILSON] tells us that we are seven times richer than we were before the war. I wish I could believe it. What have we to show for these alleged riches? We have spent $5,000,000,000; we raised $600,000,000 last year; we pay enormous taxes. We had the South before the war. Have we it any more now than we had before? Is it any more prosperous than it was before the war? Is it worth as much? Why, sir, I know the fact that many of the principal plantations of the South are not worth one twentieth part as much as they were then.

Mr. NYE. Why?

Mr. SPRAGUE. Why? Because it will not pay to cultivate them and to hold them, as I know. Are we richer as a manufacturing State in Rhode Island than we were before the war? I say no; and I know the fact myself from experience. I know that seven years of employment of the machinery of that State has reduced its value seventy per cent? Have we laid up anything to meet that deficiency? Have we more lands, more houses, more of any of the necessaries of life? The statistics do not show it. We have not. We are poorer, in my judgment, by the $5,000,000,000 we have spent in this war. It may be that to offset this you may deduct what we have produced during the seven years, but then on the other side of the account you must add that which fifteen hundred thousand men have destroyed. The argument of the Senator from Massachusetts was in favor of a measure which I am for, but I am not willing to admit that his statement of increased riches on the part of the North is a correct statement of the facts. I say the contrary is the truth.

I am sorry to differ from my friend from Vermont; but he tells us that if we obtain from a short crop as much money as we get from a larger one, the result is just the same. My whole experience is to the contrary of that. The thing is so self-evident that I do not believe it is necessary for me to enter into a discussion of that point, and I will drop it.

Now, I desire to humiliate myself once more before I take my seat. My friend from Kentucky and my friend from Iowa have spoken of the drawback as being very beneficial to the American manufacturer; and my friend from Vermont holds to it with a tenacity characteristic of and creditable to him. But, sir, what do the statistics show? In the whole range of my experience I do not know of an article that the American manufacturer can now produce and export and compete with foreign manufacturers in the markets of the world, even with the drawback.

Mr. MORRILL, of Vermont. Will the gentleman allow me to refer him to the reported tables of our exports, which show that, whereas before the imposition of this tax upon cotton and the allowance of the drawback we were exporting none at all, we have got back to exporting at the rate of between four and five millions, or more than one half of the amount that we ever exported in the most prosperous year?

Mr. SPRAGUE. I know a little about that matter of exporting cotton fabrics from this country, and it is easily explained. Before the war our commission merchants in Boston induced certain individuals who had more money than brains to enter into the manufacture of cottons for the India market. They would buy that product at cost, send it to India, and there sell it in competition with the English for ten or fifteen per cent. below cost. Why did they do it? I can tell you. If it is an argument on which to base our creditable position as exporters and as competitors in the open market, I cannot see it. The point was that as there was a large premium for exchange on London, equal to ten or fifteen per cent., they at times exported this article to pay their debts for tea and silk.

I am not good at statistics, but I happened to examine the book of statistical information made up for us by the Bureau of Statistics and I find that for four months past we have been exporting of cotton goods about three hundred and fifty thousand dollars a month—a matter of no consequence whatever, and it is exported under such circumstances as I have stated. The total, I think, is $1,470,000 for four months.

Mr. MORRILL, of Vermont. At the rate of $4,500,000 a year.

Mr. SPRAGUE. From three hundred and fifty to four hundred thousand dollars a month. I am not anxious about this drawback; I do not believe it amounts to anything in the present condition of the manufacturing interest of this country, for we cannot compete with foreign manufacturers in the markets of the world. We have a splendid fabric of government; we have ships of war, we have foreign ministers and consuls, and we have an Army, like Great Britain, but she employs hers for aggressions into the territories of other countries so as to secure employment for British labor, and we employ ours for show. As my friend from Ohio suggests, she tries to conquer territory for the cultivation of cotton; we to destroy it.

Taxes have, in a measure, placed the American laborer in the position he is in. I am as much responsible, perhaps, as anybody for that, although I have opposed many specific items of taxation; and I do not wish to shirk that responsibility one iota; but I must say that we have taxed out of existence interests which made us a prosperous people. We have desired, foolishly in my judgment, to show to the world that we could commence to pay off a portion of the principal of our public debt after having exhausted the resources of the people beyond almost any human endurance. It was a mistake; it was a blunder almost equal to a crime. We are now paying the penalty. We desired to sustain the national credit that it might stand well at home and abroad. This was commendable, but very unwise. Then there is a very unwise hue and cry, in my judgment, that demands an immediate return to specie payments when the people of the country can hardly pay fifty cents on the dollar in currency; and you enacted another very unwise provision which withdrew your currency month after month, a value and a basis upon which prices were sustained and maintained and the interests of your people carried on. I trust, as I shall not hereafter perhaps enter upon the debate of these questions, those who are responsible for these measures will be exceedingly careful how they repeat the blunder heretofore committed. I very much fear the bill presented to us a few days ago will allow your currency

to be shifted from hand to hand, at every shift altering and changing the values of property and the interests of the people.

The two measures of restricting the currency and imposing a tax on cotton have been very burdensome to the nation. The repeal of the cotton tax as a separate local measure is perhaps more important at this time than any other. I have not been in my seat as long as most of the members in consequence of sickness; but I came here from my constituents, and from consultation with those conversant with the business and financial interests of the country, and in my judgment nothing has been more satisfactory to the people with whom I came in contact, and who are capable of judging of such questions, than the two measures passed by the other House, one to repeal the cotton tax and the other to tie the hands of the Secretary of the Treasury so as to prevent him from contracting or withdrawing the currency. Now, sir, delays are dangerous; a great interest is being prejudiced, prostrated, and destroyed, and it is the bounden duty of the Senate, in my judgment, to come to its relief by acting on this measure favorably and acting now.

Mr. DRAKE. I have listened, Mr. President, to this discussion with the greatest interest and with a very sincere desire to learn from those who are better informed upon the subject than I am what is the path of duty for me in connection with this bill. I do not feel disposed to let the discussion close without occupying the attention of the Senate for a very few minutes with a statement of the reasons which induced me to take the position that I do with regard to the matter.

I presume that it can be considered as conceded on all hands in the Senate—for I have not yet heard the fact questioned here—that at this time the cultivation of cotton in the southern States is, as a distinct interest of the country, in a condition of exceeding depression, if not prostration. It seems to be conceded, too, generally that it is proper for us to give some help to that interest. I agree to that proposition. Nothing that I have heard on the floor of the Senate has changed my view on that subject.

But, sir, the extent to which we shall go in doing that is the important question. The position I take on that subject is that I will go just so far as to give that interest a fair start again, and no farther. Let it take care of itself after that. In order to give it this fair start, the question with me is whether it is necessary that this tax should be permanently removed. I consider not. In the first place there has been no request made from any portion of the country that I am aware of, in any authoritative shape, that the tax should be entirely taken off. If there were, I would not consent to its entire and permanent removal. I consider from all that has been said here that the causes of depression in this production of the country are temporary; that they will pass away. Floods do not come every year. Crevasses in levees do not come every year destroying vast regions of country; droughts do not come every year injuring the products of the earth to the extent that they have been injured in the South. All of these circumstances have concurred in reference to the crop of this present year. We cannot look for them all to concur next year or the year after; therefore I do not feel disposed to base permanent legislation affecting the revenues of the country to an immense amount annually upon mere temporary influences and causes.

Another reason why I will not agree to vote for the removal of the tax entirely is, that once removed it can never be reimposed. It is no use to talk about it. This time next year, if not sooner, Senators will be on this floor from nine or ten of those southern States, and every man of them will come here to remove the tax on cotton; and if he finds it removed, depend upon it you will never get it on again.

A removal, therefore, at this time is equivalent to a total and final abandonment of the tax, and I am not willing to do that for the simple reason urged with so great force by the honorable Senator from Indiana [Mr. MORTON] the other evening, that that region of country that has brought upon this land the terrible burdens under which it is groaning now should be made to bear its part in the removal of those burdens. That single consideration is the one that is all-sufficient with me.

But it is urged here by gentlemen from another section of the country that great interests are drooping and staggering with them. Well, sir, what of it? Suppose they are; is that any reason why we should not help this interest down South in its extremity? I do not see that it constitutes any sufficient reason.

But, sir, there is another thing which has not yet been mentioned upon this floor, so far as I remember, and that is that for six years the North through its manufactures has been making money as it never made before. The whole period of the war was a period of unexampled prosperity with northern manufacturers. The North grew rich in every part of it by the war, and through the war, and in consequence of the war, as it would not have done but for the war. Now, for a little time there is an ebb in this tide of prosperity which has heretofore declared dividends of twenty, thirty, forty, and fifty per cent. on the capital invested in manufactures. There is a little going down of the dividends, a little stagnation, and we should, forsooth, come to their relief. Sir, when the time comes for considering that necessity we will go to their relief if the circumstances require it; but the existence of this trouble with them now is no reason why we should turn our backs upon the South. During all the time that the North has been growing rich at this rate the South in its struggle for suicide has been growing poor. In its attempt to destroy the country and Government of which it was a part it has impoverished itself. And now, sir, the question is whether we shall let them die of starvation in their poverty, go to destruction in their poverty because they brought it upon themselves by their own hand, or shall we help them out? Sir, while I will go to the furthest extent that any man on this floor will go to take away from the rebels political power in this country, I never will consent to legislate against them upon the principle of putting my hand upon that which feeds and clothes them by way of revenge. I will not in that way visit the consequences of their rebellion upon them.

God knows they have enough of adversity to bear. I suppose that in all the history of nations there never was so great a calamity fell upon any portion of a once prosperous nation as that which has fallen upon that region of country. True, it came by their own parricidal act. I admit that; and hold it in execration as much as any man; but we are not for that reason to visit upon them vengeance by our legislation. Strip them to the very last item of political power; but in God's name give them a chance to come up again from this terrible pit into which they have flung themselves and to get even again with the rest of the nation in the scale of prosperity.

Sir, my position is this: that I will take off a part of the tax as a matter of permanent legislation, as proposed by the Senator from Indiana, or in accordance with the proposition of the Senator from Maine I will suspend this tax for one year and give them a chance. My own judgment is that the latter proposition is the one which prudence and wisdom would dictate to us to adopt at this time. We are not in a condition, Mr. President, to judge of the accuracy of the estimate of the Senator from Indiana as to the amount of tax that should be put upon this article. We want light; we want information; we want a multiplicity of facts; we want time for reflection and study and consideration. If we reduce the tax to one cent there it will remain until it is abolished altogether, and it will never go above that whatever may be the necessities of the Government. My position, therefore, is that it is best that we should suspend the tax entirely for one year, fixing it for 1868; and there is an all-sufficient reason for this in the fact that the cotton year coincides with the calendar year. It is true, as stated here by Senators on this floor, that at this particular season of the year, now or within the next thirty days, the arrangements for the year 1868 with reference to the culture of cotton will be made. The employers want to know where they are going to get the hands to raise the cotton; the employés want to know where they are going to get employment during the year; and now is the time to let them know what we are going to do. To do one thing or the other now, before we adjourn, in my opinion, is the dictate of wisdom.

There is no pressing demand before us for the relief of northern manufacturers, as there is in this case, because of their manufacturing year coinciding with the calendar year. They have their factories; they have their machinery standing there. If business does not justify their going on, all they have to do is to close the doors. By that they throw a great many out of employment, to be sure, and to that extent it is a thing that every man must regret; but suppose that in two months after the beginning of the next year the owner of a factory that is stopped finds that the condition of things in the country will justify him in going on, all that he has to do is to call in his hands, raise the steam or let the water go on to the wheel, and the whole concern goes into full operation again. But in the South they have to make their plans in the beginning of the year. They ought to know what is going to be done and how they are going to do it. I say they need to know from us about this matter, and therefore it is that I am against the motion of the Senator from New York to postpone this bill. I am in favor of immediate action; and whichever shape the Senate prefer to put the proposition in, to reduce the tax to one cent or to take it off for the year 1868 and give them a chance, I am content with; but I should much prefer the latter. A year from now we shall be much wiser on this subject than we are at this time, and can better decide upon a permanent policy in regard to this important interest.

Mr. THAYER. Mr. President, I have not risen to discuss this question, but simply to express my surprise that the Senate of the United States should hear from the honorable Senator from Missouri, who has just taken his seat, a repetition of the very argument which we have heard for the last eighteen months from rebels all over the South. The legislation of Congress has been denounced by them as most oppressive, unjust, and unendurable; and now the Senator from Missouri tells us that this legislation, or the continuation of this tax, is prompted by malice——

Mr. DRAKE. I beg pardon for interrupting the Senator, but he is totally mistaken.

Mr. THAYER. I certainly do not desire to misrepresent or misquote, but the honorable Senator used the word "malice" in connection with this tax.

Mr. DRAKE. I beg pardon of the Senator again.

The PRESIDENT *pro tempore*. Does the Senator from Nebraska give way for explanation?

Mr. THAYER. Certainly.

Mr. DRAKE. I did not characterize the existing tax as an offspring of malice; very far from it. I never intended to convey any such idea. I simply said that I would not suffer myself to be governed by any feeling of that kind in shaping legislation here against the South. I never undertook to say that this tax was dictated by malice. I do not believe it was. I have no such thought.

Mr. THAYER. I certainly do not desire to misrepresent the honorable Senator, but I understood him to say that he would not be actuated by malice. What is the inference? That if we do not repeal this tax we are actuated by malice in continuing it. That is the inference.

Mr. DRAKE. I intended none such.

Mr. THAYER. Of course I take the Senator's explanation, for I certainly would not intentionally present the Senator in a wrong light. The Senator from Ohio told us that the people of the South were broken in spirit. I desire to advert to that remark and to say that if he refers to that kind of brokenness of spirit of which every mail in the South brings us intelligence, I do not agree with him. Every mail from the South informs the country that a portion of the people there are organizing "Conservative" parties, rebellious parties, composed of the very men who fought four years to destroy this Government; and organizing parties for what? To defeat the adoption of the constitutions which in those States have been framed in direct conformity with the legislation of Congress. Is that the kind of brokenness of spirit which we desire to see? If it is, God deliver the country from it. I see no evidence of that kind of brokenness of spirit which I should like to see; but on the contrary, in every action of the so-called "Conservative" people of the South I see a defiance of Congress. In the organs of that portion of the people of the South do you see anything but defiance, denunciation, the most bitter invectives against Congress? Surely not; and yet at the same time they are appealing to Congress for relief! Sir, the honorable Senator from Missouri believes that that people would rebel to-morrow if they had the power; and so does the honorable Senator from Ohio, I have no doubt.

But I said I did not rise to make a speech. I only want to answer a remark made by the Senator from Rhode Island, that England conquers territory to cultivate cotton, while we conquer territory to destroy it. I desire to remind that Senator—I am sorry he is not in his seat—that it was cotton that enabled the people of the South to rebel and continue that rebellion for four years. It was cotton that gave them the sinews of war. They could not have continued it six months but for cotton. And it comes with a poor grace from a Senator from a northern State—a State which gave so many brave troops to put down the rebellion—to say to us that we conquered the South in order to destroy cotton.

Mr. NYE. I rise, sir, more for the purpose of putting a question to the honorable chairman of the Committee on Finance than anything else. There are two pretty plain propositions before the country at the present time. One is to exempt cotton from taxation entirely, and the other is to fund our entire debt in six per cent. bonds, reserving one per cent.; half of that one per cent. to be for a sinking fund, and the other half going to the several States of the Union in proportion to their population, as I understand. I suppose it is a conceded point that if this cotton tax is removed the seven cotton-growing States of this Union will pay no tax at all, or next to none. They have no mechanical industry on which they can be taxed; they have nothing but their cotton and land; and the honorable Senator from Rhode Island says that the land is not worth counting, not worth the one twentieth part of what it was before the war. My inquiry is whether the honorable chairman of the Finance Committee intends by striking off this entire tax to further assess the taxes upon the North to pay the future taxes of these seven cotton-growing States to make up the deficit, so that not only the property of the South shall be exempt from taxation, but that the North and East and West shall be taxed hereafter to pay the taxes which the South ought to pay? I want to know if that is the opinion of the Committee on Finance and of this nation?

Mr. SHERMAN. I will answer my honorable friend. He will hear from the Committee on Finance upon each bill when it arises.

Mr. NYE. That we have heard.

Mr. SHERMAN. You have the views of the committee on the other bill to which the Senator has referred in print, and I hope he will read them with care and consideration.

Mr. NYE. I presume that it is not the intention of the honorable Committee on Finance to do what I have just suggested; but it seems to me that it follows as a result of the two propositions that they have submitted to us. They not only propose to take the entire tax off cotton but to give these heretofore rebellious States, these "erring sisters," one half of one per cent. on the entire sales of bonds that we shall make to fund our debt. For one who does not claim to understand any portion of the system of finance but disbursement [laughter] I must say that it does not strike me favorably. While I am entirely willing to be as magnanimous as any Senator upon this floor I am not quite willing to be unjust to that portion of the country that has been loyal through all the war, the footprints of whose sons have been seen in tears and blood from the time this rebellion broke out, by contracting in advance to pay the future taxes of the rebellious States.

I have no doubt that the wisdom of that committee has concocted a system of finance that will be adopted in the main as it is; and to their judgment upon such subjects they will find me always ready to defer. But I look at the two propositions together, and it strikes me as a little anomalous that we not only propose to relieve the cotton States from their present taxes, but to agree to pay the most of their taxes in the future. Where does the honorable Senator propose to put this burden? Certainly not upon manufactures after the wail of woe that we have heard from the honorable Senator from Rhode Island. He has cried from that valley where alone true greatness is found, the valley of humility, [laughter;] for he has said so twice. Then, sir, there is another growing interest poor in itself, poor in the past, and poorer in the future; do not touch it, says Rhode Island. My colleague has said do not put it upon the miners, for their burden is already greater than they can bear, which is true; I indorse it. Do not put it on the agricultural interests of the North, say other Senators, for they already cry under their overladen burden. Where shall we put it? The Secretary of the Treasury says we can do without it next year, as I understand; but how are we to do without it?

These inquiries of mine may arise from an utter ignorance of the system of finance; but when this committee or the Secretary of the Treasury tells me where this deficiency of $27,500,000 is to be made up without getting it off other industries I shall be only too willing to learn a little of that to me heretofore unknown system.

Mr. WILLIAMS. Will the Senator allow me to make a suggestion?

Mr. NYE. Certainly.

Mr. WILLIAMS. According to the report of the Secretary of the Treasury, the revenue last year amounted to $143,000,000 more than the expenditures of the Government. Now, if we reduce the taxes next year to the amount we need for the purposes of the Government without undertaking to pay off any part of the principal of our national debt, we can relieve the industrial interests of this country of $143,000,000 of taxation. Certainly, then, we can afford to take off twenty odd millions of tax on cotton, and we shall still have $120,000,000 to take off manufactures and other interests.

Mr. STEWART. I should like to inquire of the Senator from Oregon if that estimate is made with regard to the present fiscal year, ending in July next. Does the report show that excess existing in the present fiscal year?

Mr. WILLIAMS. The last fiscal year.

Mr. STEWART. I am inquiring as to the fiscal year terminating in July next.

Mr. WILLIAMS. I am speaking of the last fiscal year. We cannot tell now as to this year, because it is not through.

Mr. NYE. It seems to me, Mr. President, assuming the explanation of the honorable Senator from Oregon to be correct, that the Committee on Finance had better equalize this thing a little, and see where to take off and where to put on, so that the burden they put on the shoulders of this people shall be easy to be borne or hard alike all round, rather than jump at once to relieving cotton from $27,000,000 of taxation.

Mr. President, I never saw a field of cotton growing in my life; I never saw a cotton manufacturing establishment in motion, and I probably never shall. But it is a strange thing to me, and I cannot conceive how the fact exists, that the cotton-planters who formerly rolled in wealth, who exhibited in years gone by all the symptoms of wealth, should all at once be so poor that the Committee on Finance have discovered that their prosperity has been resting upon a bubble; and notwithstanding my strong sympathy with my suffering friend from Rhode Island, I cannot conceive how it is that the manufacturing establishments have been drooping from the day they were planted to the present hour, until, as he says, he sees now in his vision, within the scope of it, the utter extinction of that whole interest. Why, sir, their incomes range to fabulous amounts, while the toiling agriculturist who gives them the material they manufacture sweats from morning till night to produce it, and dies poor.

Sir, I have observed in my short experience in legislation that every time you seek to tax a particular interest it is the poorest interest in the world and the least able to bear the burden. Last year I said that the poor women who sewed upon the sewing-machines, whose tick was heard by the midnight lamp, ought to have their machines without tax, when all at once my honorable friend from Ohio sprang to his feet and said that the manufacturers of those machines were making untold and fabulous amounts. That is true of all manufacturers, I believe; it is not they who bear the burden, but it is you and I and the sewing girls who bear the burden.

I ask my honorable friend from Rhode Island if he is willing that the $27,500,000 which is to be taken off cotton shall be put upon the manufacturing interests in addition to the burdens they now have to bear? Certainly he will say not, for he would cry again from the valley of humiliation that their burdens are already greater than they can bear. Sir, "taxation" and "the burdens of taxation" are cries that are heard upon every hand; and look where we may we see the suffering poor toiling to pay the burdens of this Government.

Mr. MORTON. I ask leave to interrupt the Senator from Nevada for a moment to call his attention to the estimates of the Secretary of the Treasury in answer to the suggestion made by the Senator from Oregon.

The PRESIDENT *pro tempore*. Does the Senator from Nevada give way?

Mr. NYE. Certainly.

Mr. MORTON. The Secretary of the Treasury estimates the expenditures and receipts for the last three quarters of the present fiscal year ending June 30 1868, as follows: receipts $296,000,000, expenditures $295,000,000; leaving a surplus of estimated receipts over estimated expenditures of $1,000,000. For the fiscal year ending June 30, 1869, he estimates the total receipts at $381,000,000; and the total expenditures at $372,000,000; leaving a surplus of estimated receipts of $9,000,000.

Mr. WILLIAMS. I will ask the Senator if that document does not show that the income last year exceeded the expenditure $143,000,000.

Mr. MORTON. I will answer that with the permission of the Senator from Nevada. For the year ending June 30, 1867, the receipts were $490,634,000, and the expenditures $386,729,000, leaving an excess of $104,000,000; but the estimated receipts and expenditures for the year ending June 30, 1868, leave a surplus of but $1,000,000, and for the year ending June 30, 1869, of $9,000,000 under the present rates of taxation.

Mr. NYE. I have no anxiety to go into figures, and I confess that when my friend from Oregon and my friend from Vermont enter-

tained us with so many fractions it was intelligible to everybody but me. I speak upon the subject generally, without going into fractions. There are two things that are palpable: first, that we owe fully as much as we want to pay; and second, that we have got as little to pay with as is necessary. [Laughter.] That is sufficient for me. Now, sir, I have listened for several days to this cotton-gathering, and I should really like to learn whether the Committee on Finance have examined the subject thoroughly enough at the present time to determine how they are going to equalize this matter. It seems to me not. At the other end of this Capitol this bill was passed under the previous question with hardly an hour's examination. It comes here and is sought to be put through with the same speed; but I have failed to see, although I have listened to the chairman of the Finance Committee with great care, where he is going to make up this deficiency and how he is going to equalize the burden.

I was about saying, when the honorable Senator from Indiana interrupted me, that the appeals for sympathy which were made by the honorable Senator from Ohio did not move me much. I have been moved for two or three years past by such appeals, and I have voted, very much against the opinion of some of those with whom I generally act, to give aid and comfort to the hungry sufferers of the South; but I ask the honorable Senator from Ohio what return for these evidences of magnanimity have we received? Have our offers been received in the spirit in which they were tendered? No, sir. The petition presented to-day by the honorable Senator from West Virginia shocked me. It appears that while they are here knocking at the doors of this Congress for a relief to them equal to $27,500,000 per annum they are drawing the laboring classes of the South *nolens volens* to the shambles and making them bind themselves by solemn agreement that they will resist all efforts to reconstruct those States and bring them back into harmonious action with the whole. Sir, if my sympathies are to be appealed to they rest in another quarter. I see toiling thousands of disabled loyal soldiers who bore the burden and heat of the day, and stood the battle's shock like a wall of fire, toiling from early morning to night to help to bear the burdens of a suffering people. I put the question to the honorable Senator from Ohio, whose constituents acted so gallantly and so nobly in the late struggle, and with one of the noblest spirits in which the name of the honorable Senator is so intimately associated, whether he is willing to vote $27,500,000, or their quota of it, upon the loyal soldiers of Ohio? Sir, they bear the scars of many a well-fought field; they have borne enough; I, for them, say they have borne enough; and to ask them now to bear this additional burden for the purpose of letting up a class of men that have lorded it with the whip and the lash, is what, in the name of common humanity and of common respect for the opinions of mankind, I object to and protest against.

If the tax is too high on cotton take off part of it; let the Committee on Finance tell us how much higher the tax is on cotton than on other industries, and bring it to its level. Though their sins be as scarlet I am willing to forgive them; I am willing to stand now, when this heated contest is over, exactly on a level with them in the way of taxation; but I am not willing that they should have the entire advantage of exemption from paying anything for the terrible woe with which they have afflicted this nation. Sir, I am willing that my record should stand there: I am for precise equality; no exemption for them that the other industries of this nation do not share in. I would relieve the spindles of the honorable Senator from Rhode Island if I could; but the whirling spindle, the hoe, the plow, the ax, and every implement of industry must toil on in sorrow until this debt is paid. I am not willing that cotton should be again king, after it has cost almost half a million of lives to dethrone him.

My friend from Rhode Island says that he sees no way out for the manufacturers; he sees a very dark prospect before them. Why, sir, everybody since the war closed has been complaining of hard times; and why? During the war they had to have clerks to count their profits, [laughter,] and a business that was satisfactory before the war is not worth considering now. It is so with merchants; I appeal to my friend from Michigan [Mr. CHANDLER] if it is not true. It is so with manufacturers; it is so with speculators. Manufacturers got such enormous profits during the war that a business which was considered good by them before the war my friend in his vision considers so poor now that he sees nothing but ruin before him.

Mr. SPRAGUE. Will the gentleman permit me to tell him where those profits have gone?

Mr. NYE. Oh yes, certainly, if it is necessary to tell me, but I do not think it is.

Mr. SPRAGUE. Then I will not tell you.

Mr. NYE. I do not care where they have gone. That I consider the private part of the subject which I have no right to inquire into. Therefore my friend will excuse me if I relieve him from the trouble of telling me. Sir, I do not believe they have gone yet. It is the fear of their going in this little adverse current or tide that is setting now the other way which has filled my friend's vision with such floating scenes of war.

What we want is to steady down; and we have got to do it. I remember when I went from the eastern to the western coast some years ago there was a man who attended a toll-gate at one of the ferries in New York, and I owned a little stock in the company, which I must say I was compelled to sell in order to get away. [Laughter.] When I came back I met him in Wall street going at the gait of the heaviest manufacturer in the nation. I hailed him, and said I, "Sir, are you attending that gate now?" "Gate!" said he; "I am worth five millions of money." I came to inquire and found it was so. Oh, how he suffers now! and he did then, according to his story. [Laughter.] I must say here though, that the stockholders did not make much money while he ran that ferry. [Laughter.] Boys who stood behind the counter when I went away when I came back were lordly merchants driving their four-in-hand. Oh, the horrors of the war! Now, it is because business is returning a little to its legitimate sphere; because business is coming back in the ratio to the capital invested in it, that we hear these sounds of woe.

I take issue with the honorable Senator from Rhode Island, notwithstanding all his financial experience, on his proposition that we are five billions poorer than when this war broke out. I agree with him in one thing though—and I wish my voice could be heard by this committee potentially upon one question of finance, but I have no anticipation that it will be—I agree with the Senator from Rhode Island that it is time to stop the attempt of trying to pay off our debt now. I would let our bonds run for thirty or forty years, paying the interest; and with an efficient head of the revenue department we can collect enough money from rum, whisky, and tobacco to pay the interest of our debt, and I would let the suffering industries of the land be relieved and let the population and property of the country grow up to the debt. In thirty years we shall have one hundred and seven million inhabitants in the United States, and the surface of our country from the Atlantic to the Pacific will be studded thick with the abodes of happy, intelligent, thrifty producers. That will pay your debt, and nothing else will. Sir, I would like to relieve industry, and I would tax the luxuries of this land to pay the interest of the debt, and I would let future generations pay their proportion of this terrible liability, because this battle has been fought for them and they will reap the glory and honor of it. I would let every spindle run quicker and every hoe ply easier, and for every plow I would substitute two in its place, and I would make the desert, as it is called across this country, bud and blossom as the rose. There, Mr. President, lays the true source of power and wealth to pay this debt unfelt. I would open the rich mines of the West where every mountain is teeming with the precious metals. Upon the Pacific railroad which is being constructed I would carry cheap implements and cheap labor to unbowel the wealth of this nation, and I can produce you gold and silver enough from the Missouri river to the Pacific ocean in five years from the time of the completion of that road to roll up to the sum of five hundred millions per annum.

I entertain none of the fears of my more experienced friend from Rhode Island. Sir, in that part of the country to which I have referred lies hidden untold wealth, and every valley between here and there is productive; and increased production and increase of population will make this debt light as a trifle to future generations; they will not feel it. I hazard nothing when I say that this generation has already paid as much money in different ways, in its charities and taxation, as the nation now owes; and my friend on my right [Mr. HOWARD] says more. Undoubtedly. We have given four hundred thousand lives of loyal men. Is not that enough for this nation? Stop then, I beseech the Committee on Finance, trying to pay this debt now. A nation that produces gold and silver enough of its own, that does not have to exchange its products in order to buy coin with which to pay its interest, can never be poor. No nation on earth can bear a burden like our own; for every mountain from the Missouri river to the Pacific ocean is teeming with the material to do it.

Therefore, sir, I say let loose the energies of your people; take off the taxes that fetter their industry and let the population and the products of the country grow up to the magnitude of your debt. Let us do this, and we shall act, in my judgment, like wise statesmen. But to keep on now the taxes that have been resting on the galled back of this nation for five years is cruelty and further than is absolutely necessary.

Let me say in conclusion that what we want is that my honorable friend from Ohio and his honorable associates upon the Committee on Finance shall during the recess we are about to take consider well where the deficit caused by taking off this cotton tax can be made up, and equalize it so that it shall be borne by all alike. I shall most happily join in voting for any measure they may propose which meets that aspect of the case.

Mr. SPRAGUE. I wish to make one remark that I intended to make when I was up before, and it is simply this: that the spirit of braggadocio and the brag of the American people has been their ruin. It has been a curse upon them; for while they have been indulging in that luxury the people of other countries have been employed and have been prosperous. There is not now within the range of my vision an article produced by the American people except that which comes from the soil that goes out of our country and enters into the consumption of the world. I do not wish to go over the list, but any one conversant with statistics knows that there is not one. Look at your ship-building and lumber interests. Your ship-building is destroyed, and in lieu of building ships you send out a little lumber, and then you send out a little coal, and you send cotton, and you send gold, and that is the sum total.

Mr. SHERMAN. Mr. President, I do not intend to follow my friend from Nevada [Mr. NYE] into the inviting field of argument and declamation that he has opened. The debate has been prolonged to too great an extent already. I am yet in hopes of securing a vote to-night before the adjournment of the Senate; but there are one or two observations which I wish to make in reply to him. He constantly extols the value of our gold and silver mines,

and I have often heard him talk in his eloquent manner about the mountains of gold and silver and the immense wealth of the vast country which he represents on this floor, and yet that interest, so magnificent in its proportions, squirms, growls, and whines at a tax of one half of one per cent. on its gross product.

Mr. NYE. I have not said any such thing. I cheerfully accepted that tax, and if the interests of the country required more we would submit to more.

Mr. SHERMAN. I hope my honorable friend will allow me to go on.

Mr. NYE. I certainly will, but I trust my friend will not misrepresent me.

Mr. SHERMAN. My friend from Nevada indorsed what his colleague said in regard to the tax on mines. That is the only tax levied upon the people of Nevada, although they are living upon the public lands without cost, surveyed at the public expense, for which they have not paid one dollar.

Mr. NYE. I beg the Senator's pardon. I hope he will not abuse Nevada because of any suggestion I made. We paid as much for our lands as the inhabitants of Ohio paid for theirs at the time they purchased it; and everything that has been surveyed has been sold.

Mr. SHERMAN. At $1 25 an acre.

Mr. NYE. Yes, sir; that is what Ohio paid I suppose, but I rather guess Ohio did not pay that. [Laughter.]

Mr. SHERMAN. Yes; Ohio paid $2 50. But here is the position in which we stand: we are endeavoring to relieve a great industry of this country, and the Senator from Nevada complains of it and indorses his colleague's position, that Nevada, with her mountains of silver and her mountains of gold, with all the glorious prospects looming before her, with the promise that she will be able to pay off the whole national debt, is suffering under a tax of one half of one per cent. on her gross products; and yet he turns round and says that he will not now modify a tax equivalent to twenty-five per cent. upon the rawest production of agriculture, and he seems to think that we who desire to repeal this cotton tax are in sympathy with the rebels.

Why, sir, for whose benefit is this repeal? The Senator from Nevada told us that he had a heart that could sympathize with the lowly, but could not sympathize with the haughty aristocrat. For whose benefit is this repeal? It is for the benefit of the colored man, who has been emancipated by your laws. Here are four million people, three fourths of whom are engaged in the cultivation of cotton and in nothing else. They know nothing but to cultivate cotton. Their daily life for years has been the production of this raw staple of your industry, the foundation of your wealth. The men who took arms against the Government do not come here and plead for the repeal of this cotton tax so much as the negroes whom we have emancipated; and the men whom you have denounced here so often will receive no benefit from the repeal of the cotton tax; but if you do not repeal it you take bread from the mouths of the men whom you and I have emancipated, whom we are bound to stand by to the bitter end. Yea, sir, when the poor negro, who has worked one year in hard labor, comes up now to realize his pay for that labor, what does the United States of America demand of him? One fourth of his entire year's work, and that to be paid now, at a season when he wants bread, when he wants clothes. And you turn to us and say that we are appealing in behalf of the rich land-holder or of the rebel aristocrat! No, sir; I am appealing in behalf of those four million people who now depend upon what they receive from this cotton crop for their daily bread. You take from their mouths that which is necessary to feed them, to comfort them, to console them, to support them, and to clothe them.

My friend appeals also to the State of Ohio. He asks, Do you desire to throw the burden of this tax upon the people of Ohio and the soldiers of Ohio? Let me say in behalf of my noble State that I know no organ of public opinion in Ohio but what favors the repeal of this tax. Every Representative in the other House from Ohio, so far as I know, voted in favor of it; every newspaper that has spoken on the subject has spoken in favor of it; every soldier that I have ever heard speak of it has spoken in the same way. On the first day of this debate I read letters from leading soldiers who had gone from Ohio to the South and are living there temporarily, begging us in the name of humanity, for the benefit of the negroes who raise the cotton, to repeal this cotton tax It is not, therefore, for the benefit of the land-holders, for rebels, but for the benefit of the men whom we are bound to protect and sustain.

Sir, it is idle for any gentleman to talk about this tax, oppressive in its nature, as a tax that must be kept on until all the insignificant taxes that now rest upon our industries shall be removed. It is impossible so to treat it. My friend from Nevada by his closing remarks has answered many of the points in the first part of his argument. He says all these taxes can be repealed if we only collect the whisky tax. Well, sir, the House of Representatives is now engaged in a careful revision of the revenue laws with a view to modify and arrange all these taxes. We cannot anticipate their action. The Constitution provides that the House of Representatives shall originate tax bills. When they come to us we will give to them the patient attention which they deserve. The House, impelled by a strong popular sentiment and by the overwhelming distress of the South, have already sent to us by an almost unanimous vote—a vote passed without a division—a bill to relieve one suffering interest. Shall we wait while people starve? Shall we prevent them from entering into contracts for their next year's supplies? I say no; but let the Senate be as generous and liberal as the House of Representatives. I say to the Senator, with full confidence that there is no danger of a deficiency in our revenue, I do not wish to go into an argument and present tables and figures; but if I were to do so, I could show clearly that we shall have ample means to relieve many branches of our industry, carry on the expenses of our Government, and throw off the cotton tax. The cotton tax is not included in the estimate for the years 1868 and 1869. The Secretary having recommended that it be repealed anticipated its repeal and no estimate is made for the cotton tax. On the other hand, the estimates of the Secretary are based on the idea that a further reduction in taxation will be made so that the amount of taxes to be levied according to the report of the Secretary, if I remember aright, is about three hundred and fifty millions instead of $467,000,000, the amount collected the year before. He has anticipated a reduction of taxes, and there is no doubt that we shall be able to do precisely what the Senator says we can do, by a careful revision of the taxes, by a saving of appropriations, by a more accurate collection of certain taxes on whisky, incomes, and the like. In this way we shall be able to more than pay our ordinary expenses, and probably have a small sum for the extinction of our public debt.

My honorable friend anticipates another measure that has already been reported upon. He says do not let us go on and pay off the principal of the public debt. So say I. So we expect to provide, and in the very bill which has received the partial attention of my friend he will perceive provision made by which the amount to be applied to the principal of the public debt is limited to a sum to be fixed by Congress, and the Committee on Finance proposing not to pay more than one per cent. annually of the principal of the public debt hereafter; and to name a fixed sum which will gradually, operating as a sinking fund, pay off the whole public debt at some remote period; but that question is scarcely worth while to anticipate. I have already said more than I designed when I rose. I hope that the Senate will, without any further debate if possible, take a vote upon the various questions involved in this bill.

Mr. FESSENDEN. Mr. President, it is now nearly four o'clock, and in my judgment it will be impossible to finish this bill to-day. If we now go into executive session I suppose the bill will be the first business in order when we return here after the recess of sixteen days. That will avoid the question of postponement till February, when many gentlemen think it will be too late. I suppose at the end of the sixteen days it will not be too late to take it up and dispose of it. I believe that will be the best disposition of it now under the circumstances. I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. GRIMES. Before that motion is put I should like to address one inquiry to the Senator from Maine, whether or not it is proposed to prevent a vote being taken by discussing this subject?

Mr. FESSENDEN. Not to my knowledge.

Mr. GRIMES. If that is the purpose we may as well know it at once.

Mr. FESSENDEN. I have no disposition of that sort. I am perfectly ready for myself to vote, and I am willing that the Senate shall take any course that it pleases. I presume such a purpose as is intimated is not in the mind of anybody.

Mr. CONNESS. It is evident we cannot get a vote now.

Mr. FESSENDEN. I only say that with the disposition to debate it, the question being one of such interest, it appears to me to be impossible to finish the bill to-day, and therefore I thought it would be more satisfactory to the honorable chairman of the Finance Committee to have the bill put in such a position that it would be the first business in order when we come back at the expiration of the sixteen days. There will then be time enough to pass the bill in some shape to afford relief, and it will not go over to the middle of February by a formal vote. In the mean time gentlemen can be informed in regard to the merits of the matter. I merely make the suggestion; I am not particular about it.

Mr. HENDERSON. Let us take a vote on the postponement.

Mr. CONKLING. There is no use in that now for the House of Representatives has adjourned finally.

Mr. FESSENDEN. The House has adjourned, and the bill cannot be signed if passed.

Mr. SHERMAN. I do not suppose any Senator would seek to obstruct a vote on this bill; and as it would probably be amended in some slight particular, or at least may be, it is evident, the other House having adjourned, that it must go over until the January session. We cannot probably do anything to-day under these circumstances. I must, therefore, consent to accept the suggestion, and let it remain as the unfinished business, with a view to have it disposed of when we meet again in January.

Mr. FESSENDEN. I think that is the best course. I move that the Senate proceed to the consideration of executive business.

PUBLICATION OF LAWS.

Mr. BUCKALEW. Before that motion is put I desire, by common consent, to have a resolution of inquiry passed which I offered yesterday, but which was laid over at the instance of the Senator from Vermont that he might offer an amendment. I desire to have the resolution passed now so that the answer may be laid before us at our next meeting.

The PRESIDENT *pro tempore*. Does the Senator from Maine withdraw his motion for that purpose?

Mr. FESSENDEN. Yes, sir.

Mr. BUCKALEW. I now move to take up the resolution which I submitted yesterday.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of State be requested to inform the Senate what is the amount of money

which is paid for publishing the laws of the United States in the newspapers appointed for that purpose since the 4th of March, 1861.

Mr. EDMUNDS. I move to amend the resolution by adding the following:

And that he be further directed to inform the Senate the amount of counsel fees paid by his Department or its order, or under its authority, since March 4, 1861, the names of the persons to whom such fees have been paid, and the service rendered therefor; also, whether said Department has paid for reporting any trials, the sums so paid, and to whom, and the expense of printing any such reports, and under what authority and out of what fund such reports were paid for and printed.

The amendment was agreed to.

Mr. EDMUNDS. I suggest to the Senator from Pennsylvania that he change the word "requested" in the first part of the resolution to "directed." As the resolution is addressed to a Department it should properly be "directed."

Mr. BUCKALEW. I do not think that is necessary.

Mr. EDMUNDS. It would make it conformable to the latter part.

Mr. BUCKALEW. Very well, I so modify it.

The resolution as amended was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 161) to incorporate the congregation of the First Presbyterian church of Washington; and it was signed by the President *pro tempore*.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Attorney General transmitting, in response to the resolution of the 16th instant, a statement of the amounts paid from the years ending June 30, 1865, 1866, and 1867, respectively, for special counsel employed to assist the Attorney General and the district attorneys; which was referred to the Committee on the Judiciary and ordered to be printed.

FORT RIDGELY RESERVATION.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to inform the Senate whether it is the purpose of the Government to abandon the military reservation of Fort Ridgely, Minnesota; and if so, whether, in his opinion, the same may be opened to settlement under the homestead and preëmption laws.

THE PUBLIC DEBT.

Mr. HENDERSON. I hold in my hand certain papers which have been furnished me at my request by the Secretary of the Treasury. They contain a statement of the monthly movement of the public debt from July 1, 1865, to December 1, 1867, and a statement also of the annual movement of the public debt from July 1, 1861, to July 1, 1867. These are tables that will be very important in considering the financial questions; and without presenting any resolution on the subject, as I called on the Secretary and obtained the papers, I ask that they be received and printed.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

DISMAL SWAMP CANAL.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 130) in relation to the sale of stock in the Dismal Swamp Canal Company, have instructed me to report it back, and recommend its passage, and I ask the unanimous consent of the Senate to have it considered now. It simply postpones the sale of the stock of the United States until the 8th of February next.

Mr. TRUMBULL. I should like to inquire what object there can be in passing the joint resolution. It is known that the other House has adjourned and it cannot be signed.

Mr. CHANDLER. We are about to take a recess, not to adjourn finally.

Mr. TRUMBULL. Bills must be signed by the Presiding Officers in the presence of their respective Houses.

The PRESIDENT *pro tempore*. Does the Senator object to the consideration of the joint resolution?

Mr. TRUMBULL. No, sir; but I see no object in passing it now.

Mr. CHANDLER. It will do no harm.

The joint resolution was considered as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. FESSENDEN. I renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened and the Senate adjourned, the adjournment being, under the concurrent resolution of the two Houses, to Monday, January 6, 1868.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 20, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bill of the House No. 313, making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868, with amendments, in which he was directed to ask the concurrence of the House.

The message further informed the House that the Senate had passed without amendment bill of the House No. 161, to incorporate the congregation of the First Presbyterian church in Washington.

Mr. JULIAN. I rise to a privileged question.

DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the House to take up the deficiency bill, which has just been returned from the Senate, for the purpose of concurring in the amendments made by the Senate. I will state to the House that the bill ought to be passed, if possible, before the recess. The parties interested in the appropriations contained in it are laboring men, who have been for two or three months without any pay, and many of them are really in a suffering condition. Many wounded soldiers about the Capitol and other places are suffering for want of pay, which is included in this deficiency bill.

Mr. JULIAN. I am afraid that would consume too much time, and I desire to call up a motion to reconsider.

Mr. WASHBURNE, of Illinois. I hope the gentleman will permit this matter of public business to be disposed of.

Mr. HOLMAN. I suggest to the gentleman from Illinois that there may be some other unimportant business which can be disposed of, and then there will probably be no objection to taking up the bill.

AMERICAN CITIZENS ABROAD.

Mr. PRICE. I ask the gentleman from Indiana [Mr. JULIAN] to allow me to offer a resolution in regard to American citizens who are in prison abroad for the purpose of reference.

Mr. JULIAN. I will yield for that purpose.

Mr. PRICE, by unanimous consent, introduced the following preamble and resolution; which were referred to the Committee on Foreign Affairs:

Whereas the obligation on the part of the subject to obey the laws, support the Government, and bear true faith and allegiance thereto presupposes an obligation on the part of the Government to protect and defend the subject, whether native or adopted, whether at home or abroad, in all his rights of life, liberty, and property; and whereas numerous cases have recently occurred where the Government of Great Britain has, with apparent injustice, deprived our citizens of one or all of these; and whereas one of the many American citizens now confined in British prisons sends to us across the Atlantic his prayer for relief and assistance in the following language:

"I am a citizen of the United States, born in the State of New York, in which State I have always resided.

"At the outbreak of the late war, in April, 1861, I entered the Union Army as a private, and advanced to the command of a regiment, and was honorably discharged from the service.

"Affairs of a private nature brought me to Ireland. Immediately after my landing, on the 1st day of June, 1867, I was arrested about mid-day, on a public and frequented highway, by a constable and two policemen, not having done any wrong or committed any crime, and was confined in the Bridewell at Youghall county of Cork, for three days. When arrested I demanded the authority and cause and protested against the wrong done me. From Youghal I was conveyed to Cork, handcuffed and guarded, and placed in the county prison, without any cause being assigned for my arrest, until the 11th June, when I was committed on suspicion of being connected with the so-called Fenian conspiracy, under a warrant issued by the lord lieutenant of Ireland. On the 12th June I was taken to Waterford, handcuffed and guarded, and marched through the streets of that city, filled with an excited multitude of people, to the imminent risk of my life. The following day, in company with a large number of prisoners, I was brought, handcuffed and guarded, to Dublin, and placed in Kilmainham jail, where I have since remained in close and solitary confinement.

"Immediately after my arrest, through my attorney, I demanded my liberty, or that good cause should be shown for my arrest and imprisonment, and that I should be brought to trial on any charge preferred against me. My application was denied. The Government of the United States, through its minister at London, made two applications for my release or immediate trial, (one in July, the other in August,) but, so far as I am informed, no satisfactory answer was given to either.

"After four months of close and solitary confinement, subject to the same rigorous rules, humiliations, and privations inflicted upon thieves and vagabonds, without any charge or evidence of crime being found against me; after repeated and persistent demands for liberty and justice, I was brought before a magistrate on the 10th of October, and committed for trial, on the evidence of an informer named Daniel J. Buckley, who, in his sworn statement, acknowledges himself a perjurer. On the 25th of October a bill of indictment for treason-felony was found against me, and my trial set down for the commission of oyer and terminer, then in session. In the first week of the commission I requested, through my counsel, that my case might be heard without delay. The attorney general, in reply, said I should be brought to trial immediately after the prisoner (Warren) then in the dock. After a session of three weeks the court adjourned, on the 16th November, refusing the motion of my counsel asking for my immediate trial, or that I should be released on bail, putting off my case to the Sligo county assizes, in March next, on the plea that, being an alien, I could not be tried in the county of Dublin for acts alleged against me. The Crown officers and Government authorities were fully acquainted with the fact of my being an American citizen before they commenced these proceedings; they had ample time, and made every effort, using the most iniquitous means, to procure evidence and make up a case against me.

"I have already suffered six months' imprisonment, deprived of all social intercourse, subject to the annoyance and espionage of officials, refused all means of mental enjoyment, books, pen, ink, or paper, except under the surveillance of the prison authorities, my health seriously impaired, (as reported by the attending physician,) and, more than all, my rights as an American citizen outraged. After preparing for my trial, and the United States minister having furnished me with attorney and counsel for my defense; after bringing to trial two other American citizens (denying their rights, however, as such, and convicting and passing sentence on them as British subjects) upon the very same evidence which is brought against me, I am refused the advantage of even this tardy appearance of justice; and because my character as an American citizen is recognized I am to suffer ten months or more of this horrible confinement within a British dungeon before I am allowed the privilege of defending myself against the made-up, purchased testimony of perjurers and informers. Since my arrest two commissions have been held in this city, and the assizes held in every county in Ireland; yet I am refused a trial. In the mean time, men suffering in this jail all the hardships and privations of their position are being constantly insulted and annoyed by the efforts of officials, who seek by offers of liberty, money, and position, or by threats of conviction and long and severe imprisonment, to induce them to swear away the lives of their fellow-men. This is no exaggeration, but a statement of facts which have become notorious.

"According to the rule of law announced by the lord chief baron in his charge to the grand jury which indicted me, I am to be held responsible to the British Government for my words and acts within the United States; and on the unsupported evidence of the perjured and degraded wretch, Corydon, I am to be treated as an accomplice in the acts of the 5th of March, committed by parties to me unknown, and at a time when I was in New York.

"No overt act has been or can be brought against me; I challenge proof of any crime or infringement of

any law which can justify this gross violation of my liberty, and call upon the officers of the Crown either to restore me to freedom, or, in the face of the world and in mockery of justice, sentence me to a convict prison, upon the unblushingly-purchased and perjured evidence upon which they procured my indictment. Having refused to restore my liberty, and not daring to proceed to the consummation of their purpose, but persisting in holding me a close prisoner for an indefinite period, I now ask the Government of my country to extend to me that protection due to every one of her citizens. I claim no special rights as a native, but demand only the assistance which it is the duty of the Government to extend to all its citizens, that I may be released from the oppression and delivered from the dungeon of a foreign Power, against whose aggression and tyranny I invoke the aid of my country.

"To you, the honored Representatives of the people—the trusted guardians of the nation's honor—I appeal in the name of liberty and justice against the grievous wrong inflicted upon me and other citizens of the Republic; against the further continuance of a system of unjustifiable persecution of American citizens, only because they are Americans. Denying the right of this or any other foreign Government to arrest and imprison our citizens upon the mere suspicion of the first policeman they meet, holding and subjecting them to solitary confinement and the treatment of felons, I ask my immediate release.

"Before the world and Almighty God I solemnly declare that I have committed no act within British territory that should render me amenable to British law or subject me to the punishment I have already suffered. I demand that freedom which is my inalienable right, and pray that your honorable body may adopt such measures as you may deem proper to relieve me from my present position and compel the British Government to respect the rights and liberties of American citizens.

"And your petitioner will ever pray.

"WILLIAM J. NAGLE."

Now, therefore, in view of the foregoing, and for the purpose of correcting the evils complained of, we, the Representatives of the people of these United States, do hereby declare it to be our determination to submit to no such oppression of our citizens by any Power, and that we will, with as little delay as possible, adopt such measures as will make it safe for an American citizen, free from crime, to travel in any part of the civilized world.

Resolved, That the Committee on Foreign Affairs be, and it is hereby, instructed to give this matter immediate attention, and report to this House, by bill or otherwise, such measures as in the judgment of said committee will be best calculated to accomplish the object desired.

PERSONAL EXPLANATION.

Mr. HOLMAN. I would ask my colleague, [Mr. JULIAN,] who I understand has the floor on a privileged question, to yield to me for a moment to make a personal explanation in reference to a vote upon a bill which has passed this House.

Mr. JULIAN. I will yield for that purpose.

Mr. HOLMAN. My attention is called to the fact that in the proceedings of the House on the 9th instant, as published in the Globe, in the passage of Senate bill No. 141, in substance striking out the word "white" from the laws affecting the District of Columbia, I am reported as voting in the affirmative, while in fact I voted in the negative. I would not favor the adoption of political principles in this District that I would not favor in all other parts of the country.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Indiana [Mr. JULIAN] will permit the appropriation bill, just reported from the Senate, to be taken up.

Mr. ROSS. There is one thing which my colleague [Mr. WASHBURNE, of Illinois] has taught me—that the right course to pursue is to go on with the regular order.

Mr. WASHBURNE, of Illinois. I am very glad the gentleman has learned something from me. If he would learn a little more from me he would be better off.

Mr. JULIAN. Before I go on with the privileged question I will ask leave to report a bill from the Committee on Public Lands, for the purpose of having it printed and recommitted.

The SPEAKER. The gentleman from Illinois [Mr. ROSS] insists upon the regular order.

SOUTHERN LAND GRANTS.

Mr. JULIAN. I call up the motion to reconsider the vote by which the House recommitted to the Committee on Public Lands the bill of the House No. 267, to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes.

Mr. BINGHAM. I hope that will not be taken up now.

Mr. SPALDING. I hope the gentleman does not propose action upon that bill to-day.

The question was upon the motion to reconsider the vote recommitting the bill.

Mr. JULIAN. Mr. Speaker, I do not propose to occupy the time of this House to any considerable extent in the discussion of this question, it being a plain one, which members can readily comprehend. A brief statement of the principles and purposes of the bill will vindicate its policy and the propriety of its several provisions. In the year 1856 Congress granted to the States of Mississippi, Alabama, Florida, and Louisiana sundry grants of land to aid them in the construction of railroads. The following letter from the Commissioner of the Land Office will give the details of these grants:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *July* 9, 1867.

SIR: I have had the honor to receive your letter of yesterday, and in reply have to state that lands have been certified to the southern States under railroad grants of 1856 as follows, namely:

Certified to Florida, August, 1857, August and November, 1858, and October, 1860, under act of 17th of May, 1856—

1. For Florida road, acres	281,984.17
2. For Alabama and Florida road, acres,	165,688.00
3. For Pensacola and Georgia road, acres,	1,275,212.93
4. For Florida, Atlantic, and Gulf Central road, acres	37,583.29
	1,760,468.39

Certified to Alabama, May, 1859, and January, 1861—

(1.) Under act May 17, 1856—

1. For Alabama and Florida road, acres,	394,522.99
2. Under same act, for Alabama and Tennessee road, acres	440,700.16

(2.) Under act of 3d June, 1856—

1. For Northwestern and Southwestern road, acres	289,535.58
2. For Coosa and Tennessee road, acres,	67,784.96
3. For Will's Valley road, acres	471,920.57
4. For Mobile and Girard road, acres	504,145.86
Total to Alabama, acres	1,868,610.12

Certified to Mississippi, September, 1859, under act of August 11, 1856—

For Southern railroad, acres	171,550.00

Certified to Louisiana, October, 1859, and January, 1861, under act of 3d June, 1856—

1. For Vicksburg and Shreveport road, acres	353,211.70
2. For New Orleans, Opelousas, and Great Western road, acres	719,193.75
Total to Louisiana	1,072,405.45

Recapitulation.

To Florida	1,760,468.39
To Alabama	1,868,610.12
To Mississippi	171,550.00
To Louisiana	1,072,405.45
Total approved to all southern States,	4,973,083.96

There being none approved to Arkansas under the acts referred to.

I am, very respectfully, your obedient servant,
JOSEPH S. WILSON,
Commissioner.

Hon. GEORGE W. JULIAN,
House of Representatives.

For some time after these grants were executed the States concerned took no steps looking to their good faith in procuring them. They slept over their rights. In 1861, on the breaking out of the rebellion, they joined with their rebel sisters in waging war against the nation which had granted them these lands, and they are therefore now forfeited to the United States; first, by the inexcusable failure of the States to comply with the conditions of the grants, and secondly by their acts of treason and rebellion against the Government.

The time has expired by limitation, and the object of the bill which I have reported from the Committee on Public Lands is to open up these five million acres of rich land to homestead entry and settlement, in the interest of the landless poor of the South, both black and white. I reported the bill last July, and had it referred to the Land Committee. I introduced the same proposition and had it referred to the Committee on Southern Railroads during the same session. I report it now in entire accordance with the wishes of the chairman of the Committee on Southern Railroads, which committee, as I understand, take the same view of the case that is entertained by the Committee on Public Lands.

I hope that no gentleman on this floor will object to the enactment of this bill. The land is already forfeited to the United States. The effect of the bill is simply to declare that forfeiture and subject it to homestead entry and settlement; for to-day the whole of it is tied up in the hands of rebel corporations, so that no poor man can avail himself of an acre or a foot of it without the intervention of an act of Congress.

So much as to the general features and purposes of this bill; and now I have a word further to say as to the necessity for the passage of this act, growing out of the wants of the people of the South in the matter of homesteads; and I ask particular attention to a few plain facts bearing upon this point. Under the homestead law of June 21, 1866, about forty-six million acres of surveyed unsold public lands of the South were subjected to homestead entry and settlement; and the further sale of them was interdicted. These lands, however, had been offered for sale, and even under the inducements supplied by the old graduation laws of Congress had failed to find purchasers. I understand that probably two thirds of these lands are refuse and worthless for any purposes of tillage.

In 1850 Congress granted to the States of Florida, Louisiana, and Arkansas about twenty-six million of acres of public lands, under the name of "overflowed swamp lands"—one of the most ungodly legislative swindles that were ever practiced on the credulity of a great nation; for a large portion of these lands were dry, and among the most fertile in the nation. They were, however, bought up in large quantities at low rates by leading slaveholders, who turned out subsequently to be the leading rebels of the South; and these lands are to-day the subject of one of the most frightful monopolies that ever afflicted a people. More than fifty-two million acres—I state it on the authority of the Commissioner of the General Land Office—more than fifty-two million acres of lands in these southern States are to-day locked up in the keeping of rebel speculators and totally excluded from the operations of the homestead law and from tillage and productive wealth. More than two thirds of the whole population of the five landed States of the South are to-day non-landholders, and consequently without homes of their own. Less than one third of the people in this exclusively agricultural region are the owners of land, and of course are at the mercy of the remaining two thirds.

It would seem very obvious from these facts that these railroad lands are needed for homestead entry and settlement; and to show this necessity I send to the Clerk's desk to be read an extract from a letter which I have recently received from an agent of the Freedmen's Bureau in Louisiana, illustrating the points that I have stated as to that State.

The Clerk read as follows:

"The grant of land to the New Orleans and Opelousas railroad was at first but a land speculation.

"It will perhaps be of value to you to know something of the nature and quality of the land through which this road runs. On the map you will observe that from Opelousas the road runs north, bearing west to town three south, range one east, where it turns to the west, running north 70° west, crossing the numerous little streams that form the Mermenteau and Calcasieu rivers. The streams rise in a sandy ridge covered with pine timber, the land being of but little value. But along the base of this ridge is a belt of fertile land about twenty miles in width, through which the railroad is projected, and almost all of it is taken by this grant. As you descend these streams from this belt the land becomes flat, with a white clay soil entirely worthless for cultivation. On the Calcasieu river there is some pine timber that is valuable, but all the land of any value has been selected by the State as overflowed lands. Of the three million acres of Government lands in this State about nine hundred thousand acres are held by this grant, and I think I can safely say that there are not one hundred thousand acres of Government land fit for cultivation outside of this grant. The

confiscation of the State lands would open about half a million acres of land to entry that could be made available for settlement for freedmen.

"I have written particularly in reference to the New Orleans, Opelousas, and Great Western railroad, because the Vicksburg and Shreveport railroad, which is included in the same grant, has but an inconsiderable amount of good land within its limits. It seems to me very inconsistent for a Congress that talked of confiscating plantations for the benefit of freedmen to give away the only available land to a company of speculators under the protext that northern capitalists are interested in it.

"It would perhaps be of no avail for me to detail to you the difficulties attending the settlement of freedmen on homesteads. Many poor people are living on these New Orleans and Opelousas railroad lands who were there before the passage of the original grant, but being ignorant of the course to pursue to secure their homes, they were thrown out of their preemption claims. Almost all of these people have been throughout the war Union people, resisting secession and conscription often to death, flying to the swamps for protection, and when our Army came through the country eagerly gave valuable information, and many of them joined the Army. I have placed some freedmen upon these lands, supposing that the limitation terminated the grant, and opened the land for entry. I consulted an attorney, who gave it as his opinion that the land was subject to entry. I think Congress will not, at least, refuse this act of justice to these people."

Mr. JULIAN. Mr. Speaker, it will be seen from the statements just read that what I asserted as to the necessity for homesteads along the lines of these roads is true; and that the people who need them are men who have been steadfastly loyal all through the late struggle, and wherever they could do so joined our Army in aid of the cause of the Union. If there is any controversy as to any of these roads, it will perhaps arise as to the New Orleans and Opelousas railroad, already referred to, about one half of which, I believe, has been already completed; and I ask the gentleman from Massachusetts, [Mr. BUTLER,] who had charge of that road for some time during the war, to make to the House a statement of his knowledge as to the condition of the road, and whether it will not be completed independently of any grant of land that may be asked for hereafter.

Mr. WASHBURNE, of Illinois. I hope my friend from Indiana will give way to a motion to postpone the further consideration of this matter. Here is another land grant, and I trust with the present thin House he will not undertake to pass it through. The question is now up, and I hope it will be postponed.

Mr. JULIAN. I propose to dispose of the question to-day.

Mr. BUTLER. Mr. Speaker, I desire, in answer to my friend from Indiana, to submit a statement. The New Orleans and Opelousas railroad, running from the right bank of the Mississippi river opposite New Orleans, at Algiers, to Berwick bay, and thence along the coast to Texas, was completed before the war as far as Berwick bay eighty-one or eighty-two miles. It was in full running order for that distance; but the company, the directors, and owners were holding it in the interest of the rebellion. The first train that ran over that road after my arrival, the engineer having refused to act, one of my staff stood on the engine with a revolver at his head, and in that way the train was got through. The road ran through a highly fertile portion of the country. About the center between New Orleans and Berwick bay there is a large number of old French settlers, who took no part in the war and who hold small homesteads. They were about the only Union men I found outside of the city of New Orleans in the State of Louisiana.

Mr. MUNGEN. Will the gentleman permit me to ask him a question?

Mr. BUTLER. Yes, sir.

Mr. MUNGEN. I ask whether that road from New Orleans to Berwick bay does not run for a large portion of the way through marsh—whether salt or fresh I do not know—until it strikes the high land about Thibodeaux? I ask whether the high lands about that place are not the only ones along that road?

Mr. BUTLER. I can answer that no part runs through salt marsh until it strikes close by Berwick bay, where it runs along bayous. Almost the whole length, but for a few miles from the Mississippi river, is most fertile cotton land. Thibodeaux and Houma are considerable towns on the line of that road. Then it runs along some of the best farming lands; but within a few miles of Berwick bay and a portion of it just near the Mississippi river are sometimes overflowed by crevasses. All the other portions are rarely, if ever, overflowed. They are the highest lands in that State. Certainly some of the finest country and finest farms are along the line of that road.

Mr. CHANLER. I hope the gentleman from Indiana will consent to a postponement of this question. It has been thoroughly examined by the Committee on Southern Railroads, and their report is now before the House. We can judge better with that report before us, read to the members, than upon the naked assertions of the great hero of New Orleans or of the chairman of the committee now reporting. There is no doubt that the railroads of the South during the war were run by the military power. That is no new thing for us to learn. I think it is high time that the order of this House should be respected and that some faith should be given to the report of the committee specially intrusted with this subject rather than to the statements of the hero of New Orleans blazoning forth the greatness of his own deeds. I hope this will be postponed until the House can act upon something better than personal reminiscences of the sort we have heard.

Mr. JULIAN. I conferred with the chairman of the Committee on Southern Railroads before I made this report from the Land Committee of the House, and I reported it in entire concurrence with his views and wishes. I hope the House, on the statement of facts I have made, will be prepared to vote on the proposition at this time.

Mr. CHANLER. The House is prepared at all times to support the gentleman when it is not a question of merit merely but of politics. What I want is, that the question shall be fairly considered without being advertised of the condition of the South, which every boy knows who has read the newspapers. What the House wants is to hear the report of the committee appointed on the subject.

Mr. BUTLER. I want to say once for all to the member from New York that I do not claim, as it has been flung to me two or three times by gentlemen on the other side, to be the hero of New Orleans. Farragut has that high honor; but I do claim to be the hero of New York city in the election of 1864, when they had an honest election, the only one before or since. [Laughter.]

Mr. JULIAN. I cannot yield further.

Mr. CHANLER. Surely the gentleman will yield to me after the speech of the gentleman from Massachusetts.

Mr. JULIAN. I will yield for a moment to my colleague on the committee from New York, [Mr. TABER.]

Mr. TABER. I desire to say that I dissent from the report of the majority of the committee on this bill. I believe the understanding of the committee was that the bill should, in the first place, be reported to the House for the purpose of being printed, in order that its provisions might be understood by those who are interested in these southern roads. But a very short time has elapsed since the printing of the bill, and they certainly have not had an opportunity of obtaining the information that they desire.

I wish further to say, as the matter has been alluded to by my colleague, [Mr. CHANLER,] that I understand this matter was specially referred to the select Committee on Southern Railroads, and I think that that committee should make its report before action is taken here. We know nothing about the position of these roads. We know not who is interested, whether the northern people or the southern people, in the landed interest in these roads. There are various interests, and until we have all the information it strikes me we ought to defer action.

Mr. JULIAN. The gentleman from New York is correct in stating that he was opposed to reporting this bill. He was the only member of the Committee on Public Lands, I believe, who did oppose it. It is true, also, as he states, that this matter was referred to the Committee on Southern Railroads. It was likewise referred to the Committee on Public Lands, each having jurisdiction, and, as I stated a little while ago, I made this report from the Committee on Public Lands in entire concurrence with the views and wishes of the chairman of the Committee on Southern Railroads, and in pursuance of my instructions from the committee, of which I am chairman.

As to the facts necessary to a right judgment in this case, I have this to say: there are no facts in relation to these roads or the condition of progress in which they are which can, in any degree, affect the merits of the issue presented by this bill. The lands are forfeited to the United States already, and not one of these rebel corporations can assert any right or do any act looking to the completion of the work on these roads without first asking Congress for a renewal and continuance of the grants. They have that to do, whether this bill shall become a law or not, if they desire the lands. We cut them off from no rights and no equities; for after this bill has been enacted any one of them can come here and, on a proper showing, ask a revival of the original grants. That they have to do in any event. The simple operation of this bill is to untie these lands and subject them to the operation of the southern homestead law for the relief of the homeless loyal poor of the South who are hungering and thirsting for their just rights.

Mr. WASHBURN, of Wisconsin. Will the gentleman from Indiana yield to me for a moment?

Mr. JULIAN. For one moment.

Mr. WASHBURN, of Wisconsin. I wish to offer an amendment to the bill.

The SPEAKER. The bill is not yet before the House. A motion to reconsider the reference is pending.

Mr. WASHBURN, of Wisconsin. When the bill is before the House I shall offer an amendment which I hope my friend will accept, and which I believe will commend itself to every member on the other side of the House, as it certainly will to every member on this. It is as follows:

And be it further enacted, &c., That the provisions of all existing homestead laws shall apply to the even-numbered sections within the limits of any railroad grant heretofore made within the United States in the same manner as to other lands.

Mr. CHANLER. Will the gentleman from Indiana [Mr. JULIAN] yield to me for a question?

Mr. JULIAN. Yes, for a question.

Mr. CHANLER. Does the gentleman propose to move the previous question as soon as he gets through his remarks?

Mr. JULIAN. It is suggested by gentlemen near me, that as the House is very thin to-day it might perhaps be well to ask that this bill be made the special order for some certain time when there may be a full attendance. And if there is no objection I am willing to consent to a postponement, with the understanding that it shall be a special order on some day after the holidays.

Mr. WASHBURNE, of Illinois. I think it is not well to block up the proceedings of the House by special orders at this early period of the session. I think there will be no trouble in the gentleman getting at the bill at any time.

The SPEAKER. If the motion to reconsider should be postponed, it would have the same effect as to make the bill a special order, it being a privileged motion, which can be called up at any time when there is no other business before the House.

Mr. JULIAN. Then I move to postpone the further consideration of this motion to reconsider until the second Tuesday in January next, after the morning hour.

Mr. ROSS. I would like to ask the gentle-

man from Indiana [Mr. JULIAN] if he does not think it would be better to wait until the freedmen of Louisiana are represented in Congress before we act upon this question.

Mr. JULIAN. That is so very sage a question that I decline the attempt to answer it.

The question was on the motion to postpone.

Mr. ELDRIDGE. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 83, nays 16, not voting 89; as follows:

YEAS—Messrs. Adams, Allison, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Benjamin, Bingham, Boyer, Butler, Cary, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Driggs, Eggleston, Farnsworth, Ferriss, Getz, Golladay, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Johnson, Jones, Judd, Julian, Ketcham, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Maynard, McClurg, McCormick, Mercur, Moore, Moorhead, Morrell, Myers, Nicholson, O'Neill, Paine, Peters, Plants, Poland, Polsley, Price, Randall, Robertson, Ross, Schenck, Smith, Spalding, Aaron F. Stevens, Stokes, Taber, Thomas, Trimble, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—83.

NAYS—Messrs. Axtell, Barnes, Beck, Chanler, Eldridge, Fox, Grover, Holman, Kerr, Knott, Marshall, McCullough, Mungen, Niblack, Robinson, and Thomas Williams—16.

NOT VOTING—Messrs. Ames, Bailey, Banks, Barnum, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Brooks, Broomall, Buckland, Burr, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dodge, Donnelly, Eckley, Ela, Eliot, Ferry, Fields, Finney, Garfield, Glossbrenner, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Hotchkiss, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Kelley, Kelsey, Kitchen, Koontz, Laflin, Lincoln, Marvin, McCarthy, Miller, Morgan, Morrissey, Mullins, Newcomb, Nunn, Orth, Perham, Phelps, Pike, Pile, Pomeroy, Pruyn, Raum, Sawyer, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Starkweather, Thaddeus Stevens, Stewart, Stone, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Welker, James F. Wilson, Wood, Woodbridge, and Woodward—89.

So the motion to postpone was agreed to.

Mr. CHANLER moved to reconsider the vote by which the postponement was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—NEW MEXICO.

Mr. DAWES. I rise to a question of privilege. I have been instructed by the Committee of Elections to report a resolution asking for an extension of time for the taking of testimony in the contested-election case from New Mexico. I have a communication from the contestant, Mr. Chaves, to the committee, showing the reasons why it is necessary to have more time. Ordinarily the sixty days provided by the statute is enough for the taking of testimony, but under the peculiar circumstances of the case, and under the peculiar circumstances of the Territory of New Mexico, it seems proper, so far as all the members of the committee are concerned who are present, I believe, that this extension should be granted; and I therefore report the resolution I have referred to.

As I do not want the resolution to go upon the records with no sufficient reason appearing, as if this House were disposed to treat as of no binding force the law prescribing the limitation of sixty days, I will call the attention of the House to the following letter of Mr. Chaves on this subject:

WASHINGTON, D. C., *December* 20, 1867.

SIR: As the sixty days allowed by law for the taking of testimony in contested-election cases in the House of Representatives will expire in the case of J. Francisco Chaves *vs.* Charles P. Clever, from the Territory of New Mexico, on the 27th of December, 1867, I respectfully ask an extension of the time for the continuance of my testimony as provided for by law in the discretion of the House, and therefore ask of you the introduction of a resolution to that effect to-day, so that we may proceed with the taking of testimony during the recess.

Very respectfully, your obedient servant,
J. FRANCISCO CHAVES.

P. S. It is proper to state in this connection as a reason for my making this request the large extent of the Territory and the difficulty of being able to conclude the taking all the testimony in the case in the allotted time allowed by law, owing to the want of the improved traveling facilities.

Very respectfully,
J. FRANCISCO CHAVES.

Mr. CHANLER. As in other cases coming before the Committee of Elections, the evidence has been closed in the absence of testimony which would have been forthcoming had an extension of time been granted I must object to adopting in this case a rule which does not apply generally to all cases.

Mr. DAWES. I will state in reply to my colleague on the committee [Mr. CHANLER] that the case to which I understand him to allude is one of the cases in which the House extended the time for taking testimony from July till December, and that, too, without putting upon the record any reasons for the extension. Unless I am mistaken—and if I am my colleague on the committee, the gentleman from Missouri, [Mr. McCLURG,] will correct me—the case of Burch *vs.* Van Horn was one of those in which there was an extension of time from July till December. I regretted that in all those Missouri cases the time for taking testimony was extended without putting on record a single reason for such action; so that anybody having any such case might infer that he could have, under any circumstances, as much time as he might desire. But the case to which the gentleman refers has been heard and reported upon, nobody asking for a further extension of time; and I do not see why an extension should be granted with nobody asking for it. In every case which may come before us I am willing and desirous that the parties should have all reasonable time which may be necessary, with proper industry, for taking the testimony; but I submit it is very unusual to make an extension of time when no such thing is asked by the parties interested.

Mr. Speaker, I am directed by the Committee of Elections to report the following resolution:

Resolved, That in the contested-election case of J. Francisco Chaves *vs.* Charles P. Clever the time for each party to take testimony be extended sixty days, conforming in all things else to existing law.

On the adoption of this resolution I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I now renew my proposition that the Senate amendments to the deficiency bill be taken up for action in the House.

Mr. MAYNARD. I hope that these amendments, when taken up, will be considered in the Committee of the Whole. That is the usual course with these appropriation bills.

Mr. WASHBURNE, of Illinois. Well, then, if the gentleman objects to considering the amendments in the House as in the Committee of the Whole, subject to all the rules prevailing in the Committee of the Whole, I shall move to take up the bill and refer it to the Committee of the Whole on the state of the Union, and then ask the House to go into the Committee of the Whole to consider it. Time will be saved and no interest will be prejudiced by considering the amendments in the House.

Mr. MAYNARD. I will say to the gentleman that the amendments which have come to us from the Senate affect very materially the organic arrangements of the House; and as the last call of the roll shows that but a bare quorum is present, and as it is manifest that a large number of members have left the city with no expectation that business of this character, affecting fundamentally the organization of the House would come up in their absence, I shall oppose considering the bill at all at this time; and I hope that now the House will adjourn.

Mr. WASHBURNE, of Illinois. Then I demand the regular order. If the gentleman wants to cut off those meritorious employés who are waiting for their pay I have nothing to say.

Mr. MAYNARD. I move that the House now adjourn.

The motion was not agreed to.

REPORTS OF COMMITTEES.

The SPEAKER stated that the regular order of business was the call of committees for reports of a private nature, the morning hour having commenced.

Mr. JULIAN. I ask to make a report on a public matter from the Committee on Public Lands.

Mr. ELDRIDGE. I object.

INDIANS.

Mr. JULIAN, from the Committee on Public Lands, moved that the committee be discharged from the further consideration of a memorial of the Society of Friends in regard to the Indians, and that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

ISSUE OF LAND WARRANT.

Mr. HOPKINS, from the Committee on Public Lands, reported back House bill No. 41, to authorize the issue of a patent for land warrant No. 48,318 for one hundred and sixty acres, act of 1847, and moved that it be laid on the table.

The motion was agreed to.

ARTIFICIAL LIMBS.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported back the petition to Congress of citizens of Michigan for the relief of soldiers who, having lost a leg in the service, have been obliged to obtain an artificial leg at their own expense, and moved that it be referred to the Committee on Military Affairs, which has the subject under consideration.

The motion was agreed to.

ISAAC LEONARD.

Mr. WASHBURN, of Massachusetts, from the Committee on Revolutionary Pensions, &c., made an adverse report on the petition of Isaac Leonard for an increase of pension; which was laid on the table.

ALEXANDER M. PEERS.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported back the petition of Alexander M. Peers for pension, and moved that it be referred to the Committee on Revolutionary Pensions.

The motion was agreed to.

MARIE AND APOLLONIA HASSENDUBLE.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported adversely upon House bill No. 235, for the relief of Marie and Apollonia Hassenduble, of St. Louis, Missouri, and moved that it be laid on the table.

The motion was agreed to.

CLERK TO COMMITTEE.

Mr. HIGBY, from the Committee on Mines and Mining, reported the following resolution:

Resolved, That the two committees—one the Committee on Mines and Mining and the other the Committee on the Pacific Railroad—be allowed one clerk to do the clerical work of both committees during the sessions of the Fortieth Congress, at the rate of four dollars per day.

Mr. ROSS. I hope that it will be referred to the Committee on Retrenchment.

Mr. WASHBURNE, of Illinois. Is not this a call for reports of a private nature?

The SPEAKER. This is a report of a private nature.

Mr. HIGBY. I was instructed by the Committee on Mines and Mining to report this resolution to the House and to ask for its passage. I will state that this Committee on Mines and Mining was created at the Thirty-Ninth Congress, and it asked for a clerk, which was finally granted. But there was considerable difficulty in obtaining a clerk for that committee. The

Committee on the Pacific Railroad, which had no clerk, still had considerable business and needed clerical service. The clerk we had for the Committee on Mines and Mining had not enough to occupy all of his time, and at my request he volunteered his services to the Committee on the Pacific Railroad. In my judgment only one clerk was needed by these two committees. I now ask on behalf of these two committees that they shall be allowed this one clerk, at the lowest rate of pay specified by the resolution of this House.

I, sir, would not come here to ask for this clerk unless the committee had urged me to do so. I do not ask for a clerk only for the committee of which I am chairman. I am as much in favor of retrenchment as any member of this House. I only ask for one clerk for the two committees. There is a great deal of business before the Committee on the Pacific Railroad and in the Committee on Mines and Mining, which will need the services of a clerk. I demand the previous question.

Mr. VAN HORN, of New York. I ask the gentleman to withdraw the call for the previous question, so I may offer an amendment to include a clerk for the Committee on Public Buildings and Grounds.

Mr. HIGBY. I cannot yield for that purpose. I do not know how arduous the duties of that committee are. I am only asking a clerk for two committtees.

Mr. ROSS. Let the resolution go to the Committee on Retrenchment.

Mr. HIGBY. I think it is sufficient that I ask on my responsibility for this clerk.

Mr. WASHBURNE, of Illinois. I ask the gentleman to withdraw the call for the previous question for a moment.

Mr. HIGBY. I will.

Mr. WASHBURNE, of Illinois. I am reluctant to oppose these applications for clerks. I reserve to myself the right to judge whether it is proper or not to give these clerks.

Now, sir, for the life of me I cannot conceive how the Committee on Mines and Mining can by any possibility require the services of a clerk. I do not believe, and I appeal to the gentleman from California to know if I am not right, that there are half a dozen bills that go to his committee during the whole Congress. I would like to know what business is before that committee which requires the employment of a clerk. And in regard to the Committee on the Pacific Railroad—with which it is proposed that the Committee on Mines and Mining shall divide the clerk—I would like to know what business there is before that committee that requires they should employ a clerk?

Mr. HIGBY. Mr. Speaker, I do not allow any member to be a censor over me here. I represent a constituency just as much as the the gentleman from Illinois, and I shall not stand here and specify the particular business which we have before the committee unless every member in the House is to be questioned by any one as he pleases and to be brought up and investigated in this kind of way.

Mr. WASHBURNE, of Illinois. I believe I have the floor.

Mr. HIGBY. I have the floor, and I will not be interrupted until I get through.

I have asserted that these two committees need a clerk; that the Committee on Mines and Mining needs more or less clerical services. That is what I say to the House, and I say it on my responsibility as a member of the House and my character for integrity and truth. I say it, and I shall not specify the particular business we have before us nor the number of bills.

I will now yield to the chairman of the Committee on the Pacific Railroad, the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. I am very happy to be able to answer my friend from the Galena district, and I will go a little further than the gentleman from California did and say just what we have before us. We have up to this time—and it is early in the session—some eight or nine bills and resolutions before us for consideration. I will say to the gentleman from Illinois and to all other gentlemen here that there is a great deal of work for a clerk to do for that committee. Last session we borrowed a clerk from another committee, and you very generously paid him a small compensation before the close of the session for his services. You gave the Committee on Mines and Mining a full clerk and paid him full wages.

Sir, I do not yield to any gentleman on this floor when a point of economy is raised. I claim to be as economical as any other man upon this floor now or that will be here. But we only ask to have half a clerk each for these two committees. [Laughter.]

Mr. WASHBURNE, of Illinois. How are you going to divide him? [Laughter.]

Mr. PRICE. Well, if the House will vote half a clerk to each and we do not divide him then we lose. [Laughter.] I will agree to this with the gentleman from Illinois, that if we have not got as much work before the Committee on the Pacific Railroad for a clerk to do as they have before the Committee on Commerce neither committee shall have a clerk.

Mr. WASHBURNE, of Illinois. That is fair.

Mr. PRICE. I am a fair man, and I am willing to make that arrangement. I do it for the reason that I know the chairman of the Committee on the Pacific Railroad can write as fast, if not as well, as the chairman of the Committee on Commerce. [Laughter.] I make that proposition to him. The Committee on the Pacific Railroad would not ask for a clerk unless it was absolutely necessary.

Mr. HIGBY resumed the floor.

Mr. SPALDING. I will ask the gentleman to yield to me for a moment.

Mr. HIGBY. I will yield to the gentleman from Ohio.

Mr. SPALDING. I suggest to the gentleman from California the propriety of an amendment. The Committee on Unfinished Business has lately been charged with the control of the restaurant and they want a clerk very much to my certain knowledge, and if the gentleman will put in a clerk for that committee I will vote for his resolution.

Mr. HIGBY. I have experienced the fatality of such movements in this House; that is the reason I object. I am perfectly willing to help the gentleman from Ohio [Mr. SPALDING] when he shall introduce a resolution for a clerk and say that they really need one. I now call the previous question.

Mr. WASHBURNE, of Illinois. Will the gentleman from California [Mr. HIGBY] withdraw for a moment the call for the previous question?

Mr. HIGBY. I will not.

Mr. WASHBURNE, of Illinois. Then I hope the House will vote it down.

The question was then taken upon seconding the previous question; and upon a division there were—ayes 62, noes 18; no quorum voting.

Tellers were ordered; and Mr. HIGBY and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported that there were—ayes 73, noes 22.

So the previous question was seconded.

The main question was then ordered; which was upon adopting the resolution.

Mr. WASHBURNE, of Illinois. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 73, nays 28, not voting 92; as follows:

YEAS—Messrs. Allison, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Barnes, Beck, Benjamin, Bingham, Boyer, Butler, Cary, Chanler, Cobb, Coburn, Covode, Dixon, Donnelly, Driggs, Eggleston, Farnsworth, Ferriss, Fox, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Johnson, Jones, Judd, Julian, Knott, Logan, Lynch, Mallory, McClurg, McCormick, McCullough, Mercur, Moore, Moorhead, Morrell, Mungen, Myers, Niblack, Nicholson, O'Neill, Peters, Plants, Poland, Polsley, Price, Randall, Raum, Robinson, Schenck, Selye, Smith, Spalding, Stokes, Taber, Trimble, Robert T. Van Horn, Ward, Henry D. Washburn, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—73.

NAYS—Messrs. Adams, Arnell, Baker, Baldwin, Cullom, Eldridge, Getz, Golladay, Grover, Holman, Kerr, Ketcham, George V. Lawrence, William Lawrence, Loan, Loughridge, Paine, Robertson, Ross, Burt Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, and William B. Washburn—23.

NOT VOTING—Messrs. Ames, Bailey, Banks, Barnum, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Brooks, Broomall, Buckland, Burr, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dawes, Dodge, Eckley, Ela, Eliot, Ferry, Fields, Finney, Garfield, Glossbrenner, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hawkins, Hill, Hotchkiss, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Kelley, Kelsey, Kitchen, Koontz, Laflin, Lincoln, Marshall, Marvin, Maynard, McCarthy, Miller, Morgan, Morrissey, Mullins, Newcomb, Nunn, Orth, Perham, Phelps, Pike, Pile, Pomeroy, Pruyn, Sawyer, Scofield, Shanks, Shellabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stone, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Welker, James F. Wilson, Wood, Woodbridge, and Woodward—92.

So the resolution was adopted.

Mr. INGERSOLL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. CHURCHILL.

Mr. MUNGEN asked and obtained leave of absence for himself until the 6th of February next.

Mr. CULLOM asked and obtained indefinite leave of absence for his colleague, Mr. BROMWELL.

ACCOUNTS OF MASSACHUSETTS.

The SPEAKER laid before the House a communication from the commissioners appointed by the President to examine into the accounts of the State of Massachusetts, transmitting a report of the same in compliance with the act of July 26, 1866; which was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. JOHN W. FORNEY, its Secretary, informed the House that the Senate had passed a joint resolution (S. R. No. 80) in relation to the erection of a jail in the District of Columbia; in which he was directed to request the concurrence of the House.

JAIL IN THE DISTRICT.

Mr. COVODE. I now call up the resolution reported by me on yesterday from the Committee on Public Buildings and Grounds. A joint resolution has just come in from the Senate directing the Secretary of the Treasury to suspend payments in the case of the new jail in this District. That would give time to investigate this matter. But the investigation should go on as recommended in the report I made on yesterday.

The SPEAKER. The Chair would remind the gentleman from Pennsylvania [Mr. COVODE] that objection was made yesterday to his report, and it was not received.

Mr. COVODE. Then I ask unanimous consent of the House to take from the Speaker's table the joint resolution from the Senate on that subject.

Mr. INGERSOLL and Mr. CHANLER objected.

Mr. COVODE. Then I will say that I have been directed by a unanimous vote of the Committee on Public Buildings and Grounds to report to and recommend the adoption by this House of the following preamble and resolution:

Whereas there are good reasons to believe that the contract for building the jail in and for the District of Columbia was improperly let: Therefore,

Be it resolved, That the Secretary of the Interior be requested to withhold any further payments upon the contract referred to until the Committee on Public Buildings and Grounds have an opportunity to investigate said contract; and for such purposes said committee is hereby authorized to make such investigation and to send for persons and papers, to administer oaths to witnesses, and report the result of their investigation to the House at the earliest possible moment: *Provided*, No expense shall be incurred in such investigation.

I trust, Mr. Speaker, there will be no objection to this resolution.

Mr. INGERSOLL. I object.

The SPEAKER. The gentleman from Pennsylvania [Mr. COVODE] reports the resolution in regular order from the Committee on Public Buildings and Grounds; an objection cannot prevent its consideration at the present time.

Mr. INGERSOLL. The Chair was calling committees, I believe, for reports of a private nature; and I submit the question whether this is a report of a private nature.

The SPEAKER. During the last Congress the Chair decided, as the gentleman will find by referring to the Digest, page 151, that propositions in reference to the District of Columbia are of a private nature.

Mr. INGERSOLL. I believe the decision then was in my favor. [Laughter.]

The SPEAKER. The Chair must administer the rules impartially.

Mr. INGERSOLL. I would inquire whether this subject has been referred by the House to the committee of which the gentleman from Pennsylvania [Mr. COVODE] is chairman?

Mr. COVODE. The committee have taken some testimony on this subject. The proposition which they report does not involve any expense to the Government. The committee have become satisfied that there has been some irregularity in the letting of this contract, or that it was let in violation of law; and they have unanimously instructed me to ask the House to take action for suspending operations under the contract until the matter shall have been investigated. And now, for the relief of the gentleman, who is getting up the opposition to this proposition, I will ask the Clerk to read a letter from the Secretary of the Interior to the gentleman who objected to this proposition yesterday. I think this letter will settle the matter.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., *December* 20, 1867.

MY DEAR JUDGE: I notice in the report of yesterday's congressional proceedings that leave was asked to introduce a resolution directing "the Committee on Public Buildings and Grounds to inquire into the alleged fraudulent letting of the contract for building the jail in the District of Columbia," to which you objected.

If there has been fraud in the letting of the contract it ought to be exposed, and I am not less anxious than others that it shall be. I have no motive for wishing to conceal anything whatever connected with the transaction, and will be pleased to have the most searching investigation possible made.

Very truly your friend, O. H. BROWNING.

Hon. R. P. SPALDING,
House of Representatives, Washington, D. C.

Mr. COVODE. I think this letter should satisfy every gentleman; and I call for the previous question.

Mr. INGERSOLL. I ask the gentleman to yield to me, not to discuss the question, but to make a statement for the information of the House.

Mr. COVODE. I will hear the gentleman's statement.

Mr. INGERSOLL. Mr. Speaker, this is a subject peculiarly within the jurisdiction of the Committee for the District of Columbia; it does not properly belong to the Committee on Public Buildings and Grounds. The bill for the erection of a new jail in this District originated in the last Congress with the Committee for the District of Columbia; it was reported to the House and passed. That bill appropriated for the purpose, if I recollect aright, $200,000 in the aggregate—one half to be paid by the General Government and one half by the District. This matter of alleged fraud in connection with the letting of the contract under that law of last session has been brought before the Committee for the District of Columbia of the Senate and the corresponding committee of this House. A few days ago the two committees agreed to appoint a sub-committee to investigate this matter. The sub-committee, after investigating the charges of fraud or violation of the terms of the law, agreed in favor of reporting to the Senate a joint resolution suspending further work or the payment of any money under the existing contract. That joint resolution has been passed by the Senate, and is, I believe, now on the Speaker's table. It will accomplish every purpose which the gentleman from Pennsylvania desires to accomplish, as it will operate as a suspension of the entire contract.

In addition to that, sir, the Committee for the District of Columbia propose to investigate this subject, as they have the matter before them by resolution already. The committee has already undertaken to examine the question of fraud and of the site of this jail. The location is said to be a bad one, and in some respects an offensive one. They propose to put a stop to all further proceedings in connection with the erection of this jail by asking the House to pass the resolution which has come from the Senate.

The only reason I object to the resolution of the gentleman from Pennsylvania being acted on now is that it will take the matter out of the hands of the committee for the District of Columbia, which has charge of the matter at this time, and proposes to pursue the examination.

Mr. COVODE. The resolution which has been passed by the Senate makes no provision for an investigation, but merely directs the Secretary of the Treasury to pay no money for forty days. I made a motion to take that resolution from the Speaker's table, but it was objected to. My resolution provides for stopping the whole thing until we know whether there has been any fraud in the matter. If there has been any fraud I want it exposed. The resolution of the Senate does not go far enough. I now demand the previous question.

Mr. INGERSOLL. I appeal to the gentleman to take the resolution up now.

Mr. COVODE. I did ask to take it up once, and it was objected to.

Mr. INGERSOLL. I ask unanimous consent to take it up.

Mr. COVODE. I ask for the previous question on my resolution first.

Mr. INGERSOLL. If the pending resolution be voted down I give notice that I shall ask to take up the resolution from the Senate.

The House divided; and there were—ayes 29, noes 31; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. COVODE and Mr. INGERSOLL.

The House again divided; and the tellers reported—ayes 45, noes 39.

The SPEAKER voted in the affirmative to make a quorum.

So the previous question was seconded.

The main question was then ordered.

The resolution was adopted.

Mr. COVODE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN KELLY.

Mr. RANDALL, by unanimous consent, presented the petition of John Kelly, of Philadelphia, Pennsylvania, late private company H sixty-seventh regiment Pennsylvania volunteers, for pension; which was referred to the Committee on Invalid Pensions.

INTERNAL REVENUE RECEIPTS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, the report of the Commissioner of Internal Revenue relative to the amount received in the different collection districts of the United States from distilled spirits for the fiscal years since 1862; which were referred to the Committee of Ways and Means, and ordered to be printed.

COLONEL H. D. WEISENFELS.

On motion of Mr. NIBLACK, leave was granted for the withdrawal from the files of the House of the papers in the case of Colonel H. D. Weisenfels.

JAIL IN THE DISTRICT—AGAIN.

Mr. INGERSOLL. I ask unanimous consent to take up the Senate resolution relating to the new jail in this District.

Mr. WASHBURNE, of Illinois. I do not object if it is to come out of the morning hour.

Mr. INGERSOLL. I ask, then, that the House relieve the Committee for the District of Columbia from all connection with this subject, and it be transferred to the Committee on Public Buildings and Grounds.

The SPEAKER. That can only be done by unanimous consent.

Mr. BINGHAM. I object.

Mr. CARY moved that the House adjourn.

The motion was disagreed to.

CLERKS TO COMMITTEES.

Mr. MERCUR. I am directed by the Committee on Southern Railroads to report the following resolution, and ask for its adoption:

Resolved, That the Clerk of the House of Representatives be, and is hereby, authorized to pay F. B. Meigs, clerk of the select Committee on Southern Railroads, the usual allowance for one month's service rendered said committee: *Provided*, No further allowance for clerk hire to this committee shall be allowed.

Mr. Speaker, I will state for the information of the House that the Committee on Southern Railroads was first raised in the Thirty-Ninth Congress, and was allowed a clerk. Subsequently it was revived during the Fortieth Congress, and Mr. Meigs, who had acted as clerk during the Thirty-Ninth Congress, was retained by the committee during the Fortieth Congress; but under the resolution under which it was revived the Clerk of the House is not clear he has authority to pay the clerk. This clerk has served one month or more. The business of the committee is about to close so far as the taking of testimony is concerned, and I have been instructed by that committee to ask for the passage of this resolution, that this clerk shall be paid for one month's service which he has rendered. They propose to employ a clerk no longer.

Mr. MAYNARD. I understand this clerk has served more than one month.

Mr. MERCUR. Something more than a month, but he is satisfied to receive compensation for one month.

Mr. MAYNARD. I am very well acquainted with this young man who has acted as clerk of this committee. I suppose from his modest and unassuming nature—and when I say that I mean it—he would be satisfied, at least make no complaint, whatever was done, and if nothing were done we would hear no grumbling. I think we ought to pay him for services actually rendered. He was employed during the Thirty-Ninth Congress under the resolution of the House which created the committee. We who were on that committee know that he rendered faithful, valuable, and efficient service and greatly facilitated the labors of the committee. I know no good reason why he should not be paid for the services he has actually rendered. I understand he supposed this resolution was to pay him for services actually rendered, and I therefore move to amend the resolution so it shall so provide.

Mr. WASHBURNE, of Illinois. I hope that amendment will not be allowed to come in. The resolution pays him all he asks.

Mr. MERCUR. The clerk only asked for the resolution in the form presented. I cheerfully bear testimony to his faithfulness, industry, and ability. He has made a most excellent clerk. I do not know precisely the length of time he has rendered service during the present Congress, but it is something over a month. I think the resolution would not only be satisfactory to the feelings of the committee, but under the circumstances perhaps just and proper. I call for the previous question.

Mr. MAYNARD. Rather than hazard the resolution I will withdraw my amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. MERCUR moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BINGHAM. I am directed by the Committee on Reconstruction to report the following resolution; on which I demand the previous question:

Resolved, That the Committee on Reconstruction be authorized to employ a clerk to said committee, to be paid the usual *per diem* for the time he shall be actually employed.

Mr. WASHBURNE, of Illinois. Four dollars per day.

Mr. BINGHAM. Very well, I believe that is it.

Mr. HOOPER, of Massachusetts. I ask the gentleman to let me move an amendment to include the Committee on Banking and Currency. It is necessary for that committee to have a clerk.

Mr. BINGHAM. No, sir; I want every tub to stand on its own bottom.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 40, noes 25; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. BINGHAM and Mr. FOX.

The House again divided; and the tellers reported—ayes 60, noes 38.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MUNGEN moved that the House adjourn.

The House divided; and there were—ayes 34, noes 45; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. MUNGEN and Mr. ALLISON.

Mr. MUNGEN withdrew his motion.

The question was then taken on Mr. BINGHAM's resolution; and there were—yeas 50, nays 44; not voting 94; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Beck, Benjamin, Bingham, Butler, Cobb, Coburn, Covode, Dixon, Donnelly, Driggs, Farnsworth, Ferriss, Higby, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Judd, Julian, Loan, Logan, Lynch, Mallory, McClurg, Mercur, Moore, Moorhead, Morrell, Myers, O'Neill, Paine, Peters, Plants, Polsley, Price, Raum, Robinson, Schenck, Selye, Smith, Stokes, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, John T. Wilson, and Windom—50.

NAYS—Messrs. Adams, Allison, Archer, Axtell, Baker, Baldwin, Barnes, Boyer, Cary, Chanler, Cullom, Dawes, Eggleston, Eldridge, Fox, Getz, Golladay, Grover, Hawkins, Holman, Johnson, Jones, Kerr, Ketcham, Knott, George V. Lawrence, William Lawrence, Loughridge, Marshall, McCormick, McCullough, Mungen, Niblack, Nicholson, Randall, Robertson, Ross, Spalding, Taber, Van Auken, Burt Van Horn, Ward, Elihu B. Washburne, and William B. Washburn—44.

NOT VOTING—Messrs. Ames, Arnell, Bailey, Banks, Barnum, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Brooks, Broomall, Buckland, Burr, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dodge, Eckley, Ela, Eliot, Ferry, Fields, Finney, Garfield, Glossbrenner, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Kelley, Kelsey, Kitchen, Koontz, Laflin, Lincoln, Marvin, Maynard, McCarthy, Miller, Morgan, Morrissey, Mullins, Newcomb, Nunn, Orth, Perham, Phelps, Pike, Pile, Poland, Pomeroy, Pruyn, Sawyer, Scofield, Shanks, Shellabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stone, Taffe, Taylor, Thomas, Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Trump, Van Wyck, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—94.

The Speaker voted in the affirmative to make a quorum.

So the resolution was adopted.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has now expired.

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled a bill of the House of the following title; when the Speaker signed the same:

An act (H. R. No. 161) to incorporate the congregation of the First Presbyterian church of Washington.

LEAVE OF ABSENCE.

Mr. KERR asked and obtained indefinite leave of absence for his colleague, Mr. NIBLACK, on account of ill health.

ORDER OF BUSINESS.

Mr. ROBINSON. I ask unanimous consent to introduce a resolution requesting the President to interfere in the cases of two persons named therein.

Mr. WASHBURNE, of Illinois. I would ask the gentleman from New York [Mr. ROBINSON] to give way to me to call up the deficiency appropriation bill. There is a positive necessity that it should be passed at once, as some three or four hundred men are dependent upon it for their pay.

Mr. ROBINSON. I will not stand in the way of that bill. But I desire to have this resolution passed to-day.

Mr. WASHBURNE, of Illinois. The gentleman can have an opportunity to offer his resolution after the Senate amendments to this bill have been disposed of.

Mr. ROBINSON. Very well.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to take from the Speaker's table the amendments of the Senate to House bill No. 313, making partial appropriations to supply deficiencies, &c.

Mr. ROSS and others objected.

Mr. WASHBURNE, of Illinois. Then I move that the House now proceed to the consideration of business on the Speaker's table

The motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

The first business on the Speaker's table was the amendments of the Senate to House bill No. 313, making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868.

Mr. WASHBURNE, of Illinois. I move that the amendments of the Senate be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. ELDRIDGE moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the deficiency appropriation bill.

Mr. HOLMAN. It is manifest that this bill may as well be considered in the House as in the Committee of the Whole.

Mr. ROSS. I think it had better be considered in the Committee of the Whole.

Mr. RANDALL. It is too late now to consider the bill in the House, because the motion to reconsider the reference has been laid on the table.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] is correct.

The question was upon the motion of Mr. WASHBURNE, of Illinois.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CULLOM in the chair,) and proceeded to the consideration of the amendments of the Senate to House bill No. 313, making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868.

The first amendment of the Senate was to strike out all after the word "hereafter" in line twenty-one, page 1, to the end of line seven, page 2, as follows:

No member of either House of Congress shall be allowed or paid for newspapers and stationery for any one year a larger sum than $125 in money or its value, and no further allowance for stationery or newspapers shall be made to any member of the House of Representatives for the year ending the 3d day of March, 1868, than that already ordered by the House,

and to insert in lieu thereof the following:

No member of either House of Congress shall be allowed stationery or newspapers or any commutation thereof: *And provided further*, That no newspaper, periodical, or stationery shall be ordered or paid for for any member of either House by any officer thereof.

Mr. WASHBURNE, of Illinois. I move that the amendment of the Senate be concurred in. I will explain briefly to the committee what the amendment is. If gentlemen have attended to the reading of the amendment they will have perceived that the Senate struck out the provision in the House bill in relation to newspapers and stationery for members of Congress. The Committee on Appropriations, who reported this bill, believed that it was necessary and proper to place some limitation upon this stationery business. Hence they put in a proviso that no member of Congress, either of the House or Senate, should receive or be allowed for newspapers and stationery more than the sum of $125 for each year. That the committee deemed but a proper and just limitation upon both the House and the Senate.

The Senate, however, seem to have regarded that proviso as a sort of drive at them. They have, therefore, struck out that proviso and inserted in lieu of it a proviso that nothing shall be allowed to the members either of the House or Senate for stationery and newspapers.

Now, I hope that by unanimous consent the amendment of the Senate will be concurred in. The Senate have thrown down the gauntlet of economy, and I hope we will take it up. If they can stand to be deprived of their three, four, five, or six hundred dollars' worth of stationery a year, I think we can stand to be deprived of only our $125 worth a year. I hope the committee will concur in the amendment.

The question was then taken; and upon a division there were—ayes 42, noes 39; no quorum voting.

Mr. CHANLER. I call for tellers.

Mr. FARNSWORTH. I desire to ask a question before this vote is taken. I wish to know whether by the amendment of the Senate members of Congress are cut off from any allowance of stationery for this year?

Mr. CHANLER. I rise to a point of order. The vote is now being taken; and no debate is in order.

The CHAIRMAN. No quorum having voted on the last vote, the Chair will appoint tellers. Mr. WASHBURNE of Illinois and Mr. CHANLER will act as tellers.

The committee again divided; and the tellers reported that there were—ayes thirty-nine.

Before the noes were counted,

Mr. WASHBURNE, of Illinois, said: I will give it up. Let the amendment be reported to the House as now concurred in, and a vote can be taken upon it there.

Mr. MAYNARD. The gentleman may give it up for himself, but he cannot give it up for the rest of us. I insist upon the count being completed.

The committee again divided; and the tellers reported that there were—ayes 41, noes 46; no quorum voting.

The CHAIRMAN. No quorum appearing upon the last vote, the roll will be called.

The roll was called; and the following members failed to respond to their names:

Messrs. Ames, Bailey, Banks, Barnum, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Brooks, Broomall, Buckland, Burr, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dodge, Eckley, Ela, Eliot, Ferry, Fields, Finney, Garfield, Glossbrenner, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Kelley, Kelsey, Kitchen, Koontz, Laflin, Lincoln, Marvin, Maynard, McCarthy, McCullough, Miller, Morgan, Morrissey, Mullins, Newcomb, Nunn, Orth, Perham, Phelps, Pike, Pile, Poland, Pomeroy, Pruyn, Sawyer, Scofield, Shanks, Shellabarger, Sitgreaves, Starkweather, Thaddeus Stevens, Stewart, Stone, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Van Trump, Van Wyck, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward.

The committee rose; and the Speaker having resumed the chair, Mr. CULLOM reported that the Committee of the Whole on the state of the Union having had under consideration the amendments of the Senate to the bill No. 313,

making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868, had found itself without a quorum; he had, therefore, under the rules, directed the roll to be called, and now reported the names of the absentees to the House.

The SPEAKER. A quorum having appeared upon the call of the roll, the Committee of the Whole will resume its session without further motion.

The Committee of the Whole accordingly resumed its session, (Mr. CULLOM in the chair.)

The CHAIRMAN. The pending question is upon concurring in the amendment of the Senate in relation to newspapers and stationery for members of Congress. The tellers will resume their station, and the vote will be again taken.

The committee again divided; and the tellers reported that there were—ayes 49, noes 46.

So the amendment of the Senate was concurred in.

The next amendment of the Senate was to insert the following:

To supply a deficiency in the contingent expenses of the Senate for the present fiscal year the following sums, namely:
For clerks to committees and pages, $33,804.
For additional messengers, $8,640.

The next amendment of the Senate was to strike out the following:

For extra clerical help in obtaining a history of United States land grants and translations, $1,600.
For fuel and gas, $500, or so much thereof as may be necessary.

The last amendment of the Senate was to strike out the following:

And the total amount appropriated by this bill is $118,892 21.

Mr. ROSS. I move to strike out that part of the Senate amendment which relates to a deficiency for messengers, being the words—

For additional messengers, $8,640.

I think that is entirely too large a sum for the Senate.

The CHAIRMAN. The Chair thinks it is too late to go back to that paragraph now without unanimous consent.

Mr. WASHBURNE, of Illinois. I object.

Mr. ROSS. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROSS. Have we not a right to amend the amendments of the Senate?

The CHAIRMAN. When the motion to amend is made in time; not otherwise.

Mr. ROSS. When is the time?

The CHAIRMAN. When the amendment is read.

Mr. ROSS. No vote has been taken upon concurring in the remaining amendments of the Senate.

Mr. WASHBURNE, of Illinois. I move that all the amendments be concurred in.

Mr. BINGHAM. I move the following proviso to the end of the bill:

Provided, however, That nothing in this act shall be construed to prevent each House from appropriating its own contingent funds as it may deem necessary for the public interest.

Mr. WASHBURNE, of Illinois. I rise to a point of order, that the amendment is not in order because it is general legislation on an appropriation bill.

Mr. BINGHAM. It does not change existing law, but merely limits the operation of this bill as we have a right to do under the Constitution.

The CHAIRMAN. The Chair rules the amendment out of order.

The question recurred on concurring in the remaining amendments of the Senate.

The committee divided; and there were—ayes 30, noes 40; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. MAYNARD and Mr. WASHBURNE of Illinois.

The committee again divided; and the tellers reported—ayes 42, noes 53.

So the amendments were non-concurred in.

Mr. WASHBURNE, of Illinois, moved that the committee rise and report action on the amendments.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. CULLOM reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the amendments of the Senate to House bill No. 313, making partial appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending 30th June, 1868, and had directed him to report concurrence in one and non-concurrence in all the others.

Mr. WASHBURNE, of Illinois, demanded the previous question.

Mr. MAYNARD moved that the House adjourn.

The House divided; and there were—ayes 40, noes 57.

So the House refused to adjourn.

The previous question was seconded and the main question ordered.

First amendment of the Senate:

Strike out all after the word "hereafter" in line twenty-one, page 1, to the end of line seven, page 2, as follows:

No member of the House of Representatives shall be allowed or paid for newspapers and stationery for any one year a larger sum than $125 in money, or its value, and no further allowance for stationery and newspapers shall be made to any member of the House of Representatives for the year ending on the 3d day of March, 1868, than that already ordered by the House.

And insert in lieu thereof:

No member of either House of Congress shall be allowed stationery or newspapers or any commutation thereof.

And provided further, That no newspaper, periodical, or stationery shall be ordered or paid for for any member of either House by any officer thereof.

The Committee of the Whole recommended concurrence.

Mr. RANDALL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 53, nays 41, not voting 94; as follows:

YEAS—Messrs. Allison, Archer, James M. Ashley, Baker, Baldwin, Bingham, Boyer, Butler, Cobb, Coburn, Cullom, Dawes, Dixon, Donnelly, Farnsworth, Getz, Higby, Holman, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Judd, Julian, Ketcham, George V. Lawrence, William Lawrence, Loan, Lynch, McClurg, Mercur, Moore, Moorhead, Morrell, O'Neill, Paine, Phelps, Plants, Price, Raum, Robertson, Selye, Spalding, Aaron F. Stevens, Taber, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, John T. Wilson, and Windom—53.

NAYS—Messrs. Adams, Anderson, Arnell, Delos R. Ashley, Axtell, Barnes, Beck, Benjamin, Cary, Chanler, Driggs, Eldridge, Ferriss, Fox, Golladay, Grover, Hawkins, Johnson, Jones, Kerr, Knott, Mallory, Marshall, Maynard, McCormick, Mungen, Myers, Niblack, Nicholson, Peters, Polsley, Randall, Robinson, Ross, Smith, Stokes, Thomas, Trimble, Robert T. Van Horn, Thomas Williams, and Stephen F. Wilson—41.

NOT VOTING—Messrs. Ames, Bailey, Banks, Barnum, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Brooks, Broomall, Buckland, Burr, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Dodge, Eckley, Eggleston, Ela, Eliot, Ferry, Fields, Finney, Garfield, Glossbrenner, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Kelley, Kelsey, Kitchen, Koontz, Laflin, Lincoln, Logan, Loughridge, Marvin, McCarthy, McCullough, Miller, Morgan, Morrissey, Mullins, Newcomb, Nunn, Orth, Perham, Pike, Pile, Poland, Pomeroy, Pruyn, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Sitgreaves, Starkweather, Thaddeus Stevens, Stewart, Stone, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Welker, William Williams, James F. Wilson, Wood, Woodbridge, and Woodward—94.

The SPEAKER voted in the affirmative to make a quorum.

So the amendment of the Senate was concurred in.

Second amendment of the Senate:

Page 2, after line three, insert:

To supply a deficiency in the contingent expenses of the Senate for the present fiscal year the following sums, namely:
For clerks to committees and pages, $33,804.
For additional messengers, $8,640.

The Committee of the Whole on the state of the Union recommended non-concurrence.

Mr. ROSS. I hope the report of the committee will be concurred in.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MUNGEN moved that the House adjourn.

The House divided; and there were—ayes 37, noes 41.

Mr. ROBINSON demanded tellers.

Tellers were ordered; and Mr. ROBINSON and Mr. WILSON of Ohio were appointed.

The House refused to adjourn, only twenty-seven voting in the affirmative.

The question was taken on concurring in the Senate amendment; and it was decided in the negative—yeas 37, nays 59, not voting 92; as follows:

YEAS—Messrs. Allison, James M. Ashley, Barnes, Cobb, Coburn, Cullom, Dawes, Dixon, Donnelly, Higby, Hooper, Chester D. Hubbard, Ingersoll, Judd, Ketcham, Lynch, Moore, Moorhead, Morrell, Myers, Nicholson, O'Neill, Paine, Plants, Price, Raum, Robertson, Selye, Spalding, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, John T. Wilson, and Windom—37.

NAYS—Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, Axtell, Baker, Baldwin, Beck, Benjamin, Bingham, Boyer, Butler, Chanler, Covode, Driggs, Eldridge, Farnsworth, Ferriss, Fox, Getz, Golladay, Grover, Hawkins, Holman, Hopkins, Johnson, Jones, Julian, Kerr, Knott, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Mallory, Marshall, Maynard, McClurg, McCormick, Mercur, Mungen, Niblack, Peters, Phelps, Polsley, Randall, Robinson, Ross, Smith, Aaron F. Stevens, Stokes, Taber, Trimble, Van Auken, Ward, Thomas Williams, and Stephen F. Wilson—59.

NOT VOTING—Messrs. Ames, Bailey, Banks, Barnum, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Brooks, Broomall, Buckland, Burr, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dodge, Eckley, Eggleston, Ela, Eliot, Ferry, Fields, Finney, Garfield, Glossbrenner, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Kelley, Kelsey, Kitchen, Koontz, Laflin, Lincoln, Marvin, McCarthy, McCullough, Miller, Morgan, Morrissey, Mullins, Newcomb, Nunn, Orth, Perham, Pike, Pile, Poland, Pomeroy, Pruyn, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Sitgreaves, Starkweather, Thaddeus Stevens, Stewart, Stone, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Van Trump, Van Wyck, Welker, William Williams, James F. Wilson, Wood, Woodbridge, and Woodward—92.

So the amendment was non-concurred in.

Mr. ROSS moved to reconsider the vote by which the amendment was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Third amendment of the Senate:

Strike out lines forty, forty-one, forty-two, and forty-three, making the following appropriation for the Department of Education:

For extra clerical help in obtaining a history of the United States land-grants and translations, $1,600.
For fuel and gas, $500, or so much thereof as may be necessary.

The Committee of the Whole on the state of the Union recommended non-concurrence.

The amendment was non-concurred in.

Fourth amendment of the Senate.

Strike out the following:

And the total amount appropriated by this bill is $118,892 21,

The Committee of the Whole on the state of the Union recommended non-concurrence.

The amendment was non-concurred in.

Mr. WASHBURNE, of Illinois, moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHTS OF ADOPTED CITIZENS.

Mr. ROBINSON. I ask the unanimous consent of the House to occupy the floor for five minutes.

There was no objection.

Mr. ROBINSON. I present the petition of Colonel Nagle and a paper signed by the mayor of Brooklyn and other prominent citizens of New York, and ask that it go upon the record of the Congressional Globe, as was done in the case of Colonel Warren in the Senate. It is as follows:

KILMAINHAM JAIL, DUBLIN, IRELAND,
November 25, 1867.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Your petitioner most respectfully submits to your attention the following statement:

I am a citizen of the United States, born in the State of New York, in which State I have always resided.

At the outbreak of the late war, in April, 1861, I entered the Union Army as a private, and advanced

to the command of a regiment, and was honorably discharged from the service.

Affairs of a private nature brought me to Ireland. Immediately after my landing, on the 1st day of June, 1867, I was arrested about mid-day, on a public and frequented highway, by a constable and two policemen, not having done any wrong or committed any crime, and was confined in the Bridewell at Youghal, county of Cork, for three days. When arrested I demanded the authority and cause, and protested against the wrong done me. From Youghal I was conveyed to Cork, handcuffed and guarded, and placed in the county prison, without any cause being assigned for my arrest, until the 11th of June, when I was committed on suspicion of being connected with the so-called Fenian conspiracy, under a warrant issued by the lord lieutenant of Ireland. On the 12th of June I was taken to Waterford, handcuffed and guarded, and marched through the streets of that city, filled with an excited multitude of people, to the imminent risk of my life. The following day, in company with a large number of prisoners, I was brought, handcuffed and guarded, to Dublin, and placed in Kilmainham jail, where I have since remained in close and solitary confinement.

Immediately after my arrest, through my attorney, I demanded my liberty, or that good cause should be shown for my arrest and imprisonment, and that I should be brought to trial on any charge preferred against me. My application was denied. The Government of the United States, through its minister at London, made two applications for my release or immediate trial, (one in July, the other in August,) but, so far as I am informed, no satisfactory answer was given to either.

After four months of close and solitary confinement, subject to the same rigorous rules, humiliations, and privations inflicted upon thieves and vagabonds, without any charge or evidence of crime being found against me; after repeated and persistent demands for liberty and justice, I was brought before a magistrate on the 10th of October, and committed for trial, on the evidence of an informer named Daniel J. Buckley, who, in his sworn statement, acknowledges himself a perjurer. On the 25th of October a bill of indictment for treason-felony was found against me, and my trial set down for the commission of oyer and terminer—then in session. In the first week of the commission I requested through my counsel that my case might be heard without delay. The attorney general, in reply, said I should be brought to trial immediately after the prisoner (Warren) then in the dock. After a session of three weeks, the court adjourned on the 16th November, refusing the motion of my counsel asking for my immediate trial or that I should be released on bail, putting off my case to the Sligo county assizes, in March next, on the plea that being an alien I could not be tried in the county of Dublin for acts alleged against me. The Crown officers and Government authorities were fully acquainted with the fact of my being an American citizen before they commenced these proceedings; they had ample time, and made every effort, using the most iniquitous means, to procure evidence and make up a case against me.

I have already suffered six months' imprisonment, deprived of all social intercourse, subject to the annoyance and espionage of officials, refused all means of mental enjoyment, books, pen, ink, or paper, except under the surveillance of the prison authorities, my health seriously impaired, (as reported by the attending physician,) and more than all, my rights as an American citizen outraged. After preparing for my trial, and the United States minister having furnished me with attorney and counsel for my defense; after bringing to trial two other American citizens (denying their rights however, as such, and convicting and passing sentence upon them as British subjects) upon the very same evidence which is brought against me, I am refused the advantage of even this tardy appearance of justice; and because my character as an American citizen is recognized I am to suffer ten months or more of this horrible confinement within a British dungeon before I am allowed the privilege of defending myself against the made-up, purchased testimony of perjurers and informers. Since my arrest two commissions have been held in this city, and the assizes held in every county in Ireland; yet I am refused a trial. In the mean time, men suffering in this jail all the hardships and privations of their position are being constantly insulted and annoyed by the efforts of officials, who seek by offers of liberty, money, and position, or by threats of conviction and long and severe imprisonment, to induce them to swear away the lives of their fellow-men. This is no exaggeration, but a statement of facts which have become notorious.

According to the rule of law announced by the "lord chief baron" in his charge to the grand jury which indicted me, I am to be held responsible to the British Government for my words and acts within the United States; and on the unsupported evidence of the perjured and degraded wretch Corydon I am to be treated as an accomplice in the acts of the 5th of March, committed by parties to me unknown, and at a time when I was in New York.

No overt act has been or can be brought against me; I challenge proof of any crime, or infringement of any law which can justify this gross violation of my liberty, and call upon the officers of the Crown either to restore me to freedom or, in the face of the world and in mockery of justice, sentence me to a convict prison, upon the unblushingly-purchased and perjured evidence upon which they procured my indictment. Having refused to restore my liberty, and not daring to proceed to the consummation of their purpose, but persisting in holding me a close prisoner for an indefinite period, I now ask the Government of my country to extend to me that protection due to every one of her citizens. I claim no special rights as a native, but demand only the assistance which it is the duty of the Government to extend to all its citizens, that I may be released from the oppression and delivered from the dungeon of a foreign Power, against whose aggression and tyranny I invoke the aid of my country.

To you, the honored representatives of the people—the trusted guardians of the nation's honor—I appeal in the name of liberty and justice against the grievous wrong inflicted upon me and other citizens of the Republic; against the further continuance of a system of unjustifiable persecution of American citizens, only because they are Americans. Denying the right of this or any other foreign Government to arrest and imprison our citizens upon the mere suspicion of the first policeman they meet, holding and subjecting them to solitary confinement and the treatment of felons, I ask my immediate release.

Before the world and Almighty God I solemnly declare that I have committed no act within British territory that should render me amenable to British law, or subject me to the punishment I have already suffered. I demand that freedom which is my inalienable right, and pray that your honorable body may adopt such measures as you may deem proper to relieve me from my present position and compel the British Government to respect the rights and liberties of American citizens.

And your petitioner will ever pray.

WILLIAM J. NAGLE.

At a regular meeting of the Constitutional Union General Committee of the city of New York, held at Masonic Hall, on Friday, December 6, 1867, the foregoing petition was read, and Messrs. Henry Liebenau, O. Sloan Holden, and George Merritt were appointed a committee to circulate the following petition for signatures, and the power given them to add an equal number of influential citizens to their body, to proceed to Washington and present the same to Congress.

DANIEL B. NORTHRUP, *President.*

H. S. BANKER,
WILLIAM ABBOTT,
Secretaries.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The undersigned citizens respectfully present for your earnest consideration and energetic action the outrage committed on American citizens by the British Government in repudiating the right of our Government to naturalize subjects of Great Britain, and ignoring entirely the plea of citizenship in her courts of justice, in contemptuously refusing to American citizens the equitable rule established by her own laws, of granting to aliens on trial a jury of one half aliens, as in the case of Colonel Warren, an adopted citizen; and the presumptuous claim set up in the case of Colonel William J. Nagle, a native of New York State, who has been arrested and imprisoned without the commission of a single overt act to justify it, but arrogantly claiming the right to hold him accountable to British law, for acts done and opinions expressed in this his native country.

We would respectfully call your attention to the fact that the outrage here complained of is more aggravating than the "right of search," which brought on the war of 1812, and renders our naturalization laws a fraud, adding insult to the injury she inflicted on us during our domestic difficulty by her pirates fitted out in her ports, fully armed and equipped, and preying upon our commerce.

We respectfully ask of your honorable body that our minister at the Court of St. James be directed to demand the immediate release of our citizens not guilty of any overt act in England and the full settlement of our claims for the Alabama piracies; or, in the event of a refusal, that Mr. Adams be directed to demand his passports and return home; upon which emergency we earnestly invoke Congress to pass an act authorizing reprisals, and that the natural right of expatriation, as well as our right to naturalize her subjects, be enforced by all the power of our nation.

And your petitioners will ever pray.

MAURICE FITZGERALD,
Receiver of Taxes.
ARCHIBALD McKINNY,
Receiver of Taxes.
MARTIN BREEN, *Assessor.*
CHARLES W. CHESHIRE, *Assessor.*
ROBERT B. JORDAN, *Assessor.*
HENRY McCLOSKEY, *City Clerk.*
MAJOR G. MIX, *Tax Collector.*
ANDREW B. LINDSAY, *Tax Collector.*
GEORGE A. FUREY, *Tax Collector.*
W. H. BUTLER, *Tax Collector.*
SAMUEL BOOTH, *Mayor.*
JAMES McCAULEY,
Deputy Street Commissioner.
CHARLES B. WYLIE,
JAMES O. BRIEN, *Alderman,*
W. BARRE.
SAMUEL W. COSTIGAN,
Superintendent of the Poor.
JAMES McMAHON.
PATRICK CAMPBELL,
Sheriff of Kings County.
CHARLES TINNEY,
Deputy Collector Internal Revenue, Third District.
A. M. WOOD,
Collector Internal Revenue, Second District.
A. GATFIELD.
F. A. KIMBALL, JR.
JOHN H. B. SMITH, *Coroner.*
BERNARD HUGHES,
Attorney at Law, No. 9 Court street, Brooklyn.
JAMES FAYE,
Comptroller Emigrant Savings Bank of Brooklyn.
JOHN DIXON.
HENRY MAYBURY.

The facts in the papers of Colonel Nagle and Colonel Warren are so strong and important that distinguished Senators almost doubted their truth, and stated that if true the matter deserved the earliest attention of the Administration and of Congress.

I ask leave to submit the following resolution:

Resolved, That the President of the United States be, and hereby is, requested by this House to take immediate action on the cases of William J. Nagle and John Warren, now in British prisons—one held without trial since June 1, 1867, and the other convicted by a jury to which the challenge allowed by English law to citizens or subjects of other countries was refused. That a new trial be granted to one and a speedy trial to the other; or liberty to both.

Mr. LAWRENCE, of Ohio. I move to amend the resolution by striking out "requested" and inserting "directed."

The SPEAKER. The resolution is not yet before the House; it has only been read for information. Is there any objection to receiving the resolution?

Mr. BENJAMIN. I object.

APPLICATIONS FOR PENSIONS.

Mr. STOKES, by unanimous consent, introduced a bill to amend the act of July 4, 1864, to allow the further time of two years for the filing of applications for pensions; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MECHANICS, ETC., IN NAVY-YARDS.

Mr. RANDALL. I ask unanimous consent to offer the following resolution for consideration at this time:

Resolved, That the resolution adopted by the House on November 25, as follows:

"*Resolved*, That in the judgment of this House it is unnecessary to proceed further at present in building or equipping ships of war;"

shall not be construed as an expression of the opinion of this House in favor of the discharge of mechanics and laboring men from the navy-yards of the country during the coming winter months.

Mr. SPALDING. I object.

Mr. O'NEILL. I hope the gentleman will withdraw his objection.

Mr. SPALDING. No; I promised the chairman of the Committee on Naval Affairs [Mr. PIKE] that I would object to any resolution of this sort.

Mr. RANDALL. I then ask that the resolution may be referred to the Committee on Naval Affairs.

No objection was made; and the resolution was accordingly referred.

Mr. SPALDING. I move that the House now adjourn.

The question was then taken; and upon a division there were—ayes 40, noes 37.

Before the result of the vote was announced,

Mr. INGERSOLL called for tellers on the motion to adjourn.

Tellers were ordered; and Mr. SPALDING and Mr. INGERSOLL were appointed.

The House again divided; and the tellers reported that there were—ayes 51, noes 19.

The motion was agreed to; and accordingly (at three o'clock and forty-five minutes p. m.) the House, in accordance with the concurrent resolution adopted by both Houses of Congress, adjourned till Monday, the 6th of January next.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of the board of registration of the fortieth senatorial district of Georgia, praying for the pardon of William B. Lovell.

By Mr. BANKS: A memorial of Mrs. Emma A. Wood, widow of Major General George A. F. Wood, praying that her pension may be made to date from the time of the death of her husband, 8th November, 1864.

By Mr. CARY: The petition of 65 pilots of the Mississippi squadron, asking for the passage of a law by which pilots on rivers may be placed on the same footing with other naval pilots.

By Mr. CHANLER: The petition of Wil-

liam J. Nagle, a citizen of the United States, born in the city of New York, now a prisoner in Great Britain under charge of being connected with the Fenian conspiracy in Ireland, and praying for release from imprisonment.

Also, the petition of Daniel B. Northrup, H. S. Bankes, William Abbott, and others, praying that our minister at the Court of St. James be directed to demand the immediate release of certain citizens from imprisonment.

Also, the petition of Henry Liebenau, William W. Lyon, O. Sloan Holden, and others, praying that our minister at the Court of St. James be directed to demand the full settlement of our claims for the Alabama piracies, and for other purposes.

By Mr. GOLLADAY: The petition of W. McGraw, of Kentucky, upon the subject of the whisky tax.

By Mr. JOHNSON: The memorial of Thomas H. Dowling, of California, praying to be put in possession of property claimed to be his in the island of Yerba Buena.

By Mr. MOORHEAD: The proceedings of a public meeting in Pittsburg, Pennsylvania, praying that reparation shall be made by the British Government for the imprisonment and murder of American citizens.

By Mr. RANDALL: The petition of Nicholas Laight and other soldiers, asking bounty, &c., having enlisted for two years, and being discharged prior to the term of enlistment, and thereby lost benefits of acts of Congress granting bounties.

IN SENATE.

MONDAY, *January* 6, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday, December 20, 1867, was read and approved.

Hon. WILLARD SAULSBURY, of Delaware, appeared in his seat to-day.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with law, a tabular statement of the disbursements of funds appropriated for the current and contingent expenses of the Indian service for the year ending June 30, 1867; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented two memorials of the National Convention of Manufacturers, assembled at Cleveland, Ohio, praying a change in the system of internal taxation and in the mode of appointment and removal of collecting and disbursing officers of the Government; which were referred to the Committee on Manufactures, and ordered to be printed.

He also presented a communication of the Governor of West Virginia in relation to the disposition of the agricultural college scrip granted to that State; which was referred to the Committee on Public Lands.

He also presented resolutions of the Legislative Council of New Mexico, approving the official acts of General H. H. Heath, Secretary of that Territory; which were referred to the Committee on Territories.

He also presented a memorial of Ferdinand Ast, Assistant Surgeon United States Army, in relation to the irrigation of the Sage Brush country and the civilization of the Indians; which was referred to the Committee on Indian Affairs.

Mr. SHERMAN. The memorials presented by the Chair a few moments ago from the National Convention of Manufacturers relate to questions of internal taxation; and I will therefore move that they be referred to the Committee on Finance, instead of the Committee on Manufactures.

The motion was agreed to.

Mr. SHERMAN presented a memorial of the National Convention of Manufacturers, held at Cleveland, Ohio, praying the adoption of a system of examinations into the moral and educational fitness of all officers in the civil service; which was referred to the Committee on the Judiciary.

He also presented memorials of members of the bar of Summit, Huron, Logan, and other counties, State of Ohio, remonstrating against the passage of the bill providing for the annual holding of two terms of the northern district court of that State; which were referred to the Committee on the Judiciary.

Mr. EDMUNDS presented the petition of Michael Kelley, late a private in the first Vermont battery, praying a pension for a wound received at the siege of Port Hudson; which was referred to the Committee on Pensions.

He also presented the petition of citizens of Vermont, praying the establishment of a line of mail steamships between the United States and Liberia; which was referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY presented a petition of John W. Iliff and Thomas C. Stevens, praying an appropriation reimbursing them for losses sustained in cattle through a detention of thirty days by Government officers while on the route between Fort Leavenworth, Missouri, and Fort Union, New Mexico, while executing a contract for furnishing cattle at the latter point; which was referred to the Committee on Claims.

Mr. FRELINGHUYSEN presented a petition of George B. Halstead, praying the passage of a special act authorizing him to be paid for services rendered as aid-de-camp on General Kearney's staff during the winter of 1861 and 1862; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the petition of stockholders of Storer college, West Virginia, praying a transfer to that college of certain Government buildings at Harper's Ferry, West Virginia, for the purpose of continuing a normal school now in operation therein; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON presented a petition of George T. Brien, praying an increase of pension on account of disease contracted in the naval service of the United States; which was referred to the Committee on Pensions.

Mr. CONKLING presented a paper containing the proceedings of a meeting of citizens of Utica, New York, giving expression to their views respecting the rights of American citizens abroad; which was referred to the Committee on Foreign Relations.

Mr. SUMNER. I present the petition of a large number of freedmen of Elizabeth City, in North Carolina, in which they represent that they are experiencing great trouble and suffering because of the cruel and unjust conduct of the land-holders in driving away from their lands the colored people who were born and raised on them, and by whose labor these lands were reclaimed, improved, and cultivated. They ask a remedy for this cruel wrong; among other things, they ask that Congress should pass some law, like Mr. JULIAN'S homestead law, to aid them in obtaining little farms of land purchased at a fair price. I move the reference of this petition to the Committee on Public Lands.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. STEWART, it was

Ordered, That the papers relating to the claim of S. B. Wallace and others be taken from the files of the Senate and referred to the Committee on Indian Affairs.

On motion of Mr. RAMSEY, it was

Ordered, That the petition and papers of Francis Cazeau be withdrawn from the files of the Senate and referred to the Committee on Revolutionary Claims.

On motion of Mr. SHERMAN, it was

Ordered, That the widow of Samuel Hibben have leave to withdraw from the files of the Senate her petition and papers.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Finance, reported a bill (S. No. 213) to amend an act entitled "An act to amend the judiciary act passed on the 24th of September, 1789;" which was read, and passed to the second reading.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. MORRILL, of Vermont, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to examine and report the cost of each and all public documents annually published for distribution, and to inquire and report as to the expediency of discontinuing the distribution of all public documents except the Congressional Globe and the report of the Commissioner of Agriculture, with a provision that such documents may be printed and disposed of at the cost price.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 214) to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State upon the requisition of Major General Curtis, the commander of the United States forces in that State, to repel the invasion of General Price; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 215) to vacate and sell the Umatilla reservation in the State of Oregon; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 216) to amend an act entitled "An act granting land to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 217) in relation to the coinage of gold and silver; which was read twice by its title, and referred to the Committee on Finance.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 218) to create a southern judicial district in California; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 82) for the prosecution of frauds upon the internal revenue; which was read twice by its title.

Mr. MORTON. I desire to have the resolution read at length.

The Secretary read as follows:

Whereas it is believed that not more than a dozen persons have been convicted and punished by imprisonment for the perpetration of the many thousand frauds that have been committed upon the internal revenue in the collection of the tax upon whisky, and that criminal prosecutions have in some way been abandoned, compromised, or suffered to fail; and whereas this policy has relieved the perpetrators of these frauds from criminal responsibility and personal danger, and has offered a premium for swindling the Government by making a compromise, the only penalty for detection in frauds, in which the criminal generally gets off by the payment of far less than the amount of tax he honestly owes the Government, whereby it is made cheaper to be detected and to compromise than honestly to pay the tax; and whereas the practice of this policy affords a reasonable explanation for the general prevalence of successful fraud and the loss of more than two thirds of the revenue which should be collected from the tax on whisky: Therefore,

Resolved by the Senate and House of Representatives, That from and after the passage of this joint resolution neither the Secretary of the Treasury, Commissioner of Internal Revenue, collectors of internal revenue, district attorneys, nor any other judicial or Treasury officer or agent shall have power to compromise or arrange any criminal proceeding or prosecution against any person for frauds committed upon the revenue, and that it shall be the duty of all such officers and agents to prosecute diligently and bring to punishment all offenders of that class without reference to any compromise that may be made in regard to damages or forfeited property.

The joint resolution was ordered to lie on the table and be printed.

TOWN SITES IN NEVADA.

On motion of Mr. STEWART, the Senate, as in Committee of the Whole, proceeded to

consider the bill (S. No. 188) for the relief of towns in the State of Nevada. It provides that any towns in the State of Nevada where public lands exist may avail themselves, if the town authorities elect so to do, of the provisions of the act of March 2, 1867, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands;" but they are to exclude from any entry which they may make all town lots which have been entered and the money paid under former laws; and this act is not to prevent claimants who have made proper entry of town lots and paid the purchase money from obtaining title under the laws existing previous to March 2, 1867. All mines and lands claimed as appurtenant to the same for mining purposes, and which may be entered and purchased under the act approved July 26, 1866, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," are to be excluded from all entries of town sites under the act of March 2, 1867.

The Committee on Public Lands reported the bill with amendments. The first amendment was in lines three and four, to strike out the words "where public lands exist" and to insert "in which there are public lands."

Mr. EDMUNDS. I should like to have the chairman of the Committee on Public Lands explain this bill. I do not know what it means myself. I presume Senators would be glad to hear some explanation of what the scope of the bill is. I should for one.

Mr. STEWART. I am ready to make any explanation that may be desired.

Mr. POMEROY. The Senator from Vermont is a member of the committee, and I am only sorry that he was not present when this bill was considered.

Mr. EDMUNDS. I generally attend when I get notice.

Mr. POMEROY. Every member of the committee was notified in writing of the meeting.

Mr. EDMUNDS. I received no notification.

Mr. STEWART. During the last Congress we passed a law which allowed towns on the public domain to enter public land for the town site at $1 25 per acre, substantially reviving a law that was passed about 1840, and a very good law, too; but the act of 1867 did not in so many words repeal the laws that had been passed in 1863 and 1864 which allowed the town to enter the land generally. The town simply made a claim for a town site, and then each individual could preëmpt. In the operation of that law it was found to be very expensive, costing about as much as it would to enter one hundred and sixty acres. Besides all that, the preëmption laws were found to be entirely inapplicable to the towns that were already built up. The size of the lots would not correspond with the general requirements, and they would have large improvements upon them. This bill is introduced for the purpose of reviving the old law and letting parties who are in *bona fide* possession obtain their property as they possess it. The law of last year allowed the towns to enter the plat as the old law did and buy the whole land at $1 25 an acre in trust for the benefit of the inhabitants. The law of 1864 not having been repealed, some towns in Nevada—and I presume in California—having filed their plat under the law of 1863 and not having proceeded to any great extent on account of the difficulties in the way, finding it entirely inapplicable, ascertain now that there is a question whether they are entitled to proceed under the new law, which they are desirous to do. This bill simply allows the town authorities, if they elect so to do, to proceed under the law of last winter and avail themselves of the benefits of it, provided that they shall not interfere with any individuals who have taken steps under the law of 1864. They will file their claims and if they desire to obtain patents they can do so still; but leaving it optional with the town authorities to proceed under the new law, if they desire to do so, as to any unappropriated lands. That is the effect of it.

Mr. EDMUNDS. Then, if the Senator will allow me, the effect is to permit a town to take up all the land there is within its territorial limits unappropriated.

Mr. STEWART. Unappropriated.

Mr. EDMUNDS. Does the act of Congress under which they proceed provide for the execution of the trust as to who shall be entitled to receive these lots from the town?

Mr. STEWART. The act of Congress allows the towns to dispose of them for the benefit of the inhabitants as the Legislatures of the States and Territories where they are situated shall prescribe. In Nevada the State Legislature has prescribed a mode of disposition which is very satisfactory. This simply allows the town authorities to proceed under that, if they desire.

Mr. EDMUNDS. The result, then, is, if I understand it, that the effect will be that any town may take up all the unappropriated land within its borders, and the town authorities will be the persons who will decide what private persons shall have the lands.

Mr. STEWART. Oh, no.

Mr. EDMUNDS. Who is to decide?

Mr. STEWART. Of course they are to decide according to certain rules. They locate it in trust. Of course they are to execute the trust, and they are quite as competent to execute a trust as any other body of men. Somebody has got to execute the trust and determine to whom the lots shall go. It is very difficult for a man who has got a lot worth only fifty or sixty dollars to get the trust executed through the various land offices at an expense in our country—not a legitimate expense, I am aware—but at an expense certainly that never falls short of $30, $40, and sometimes $150. In any event somebody is to execute the trust, and we think the town authorities elected by the town can as well look out for a fair execution of this trust as anybody else.

Mr. EDMUNDS. What is the necessity, the Senator will allow me to ask, of having this trust at all? Why not leave the land to be entered by private citizens under the government, laws, and regulations, just as it is in all the other States?

Mr. STEWART. It is left as it is in all the other States. This law is general; but there happens to be a peculiar situation in Nevada which I undertook to explain. Some of them having taken steps under the law of 1864, they desire to be placed on the same footing as if they had not filed a map under the law of 1864.

Mr. EDMUNDS. I understand that; but what I am wishing my friend from Nevada to explain is the theory upon which the law itself, to which this is an amendment, goes. Why is there any necessity of having a town or any other municipal corporation intervene between the Government and the citizens of the United States, wherever they may happen to be, who wish to buy land?

Mr. STEWART. I will explain that.

Mr. EDMUNDS. That is the point on which I wish information.

Mr. STEWART. That point I can easily explain. Under the law of 1841 it was found that the town authorities entered the towns, made a claim for them, bought the land at $1 25 an acre, and disposed of it, and so far as the West was concerned it operated pretty satisfactorily; but for some reason in 1863 or 1864 Congress passed a law allowing each individual to preëmpt a lot. That being made applicable to towns already built up, various embarrassments were found to arise. In the first place, if you determined the size of the lot that a person might take, it might be too large for some and too small for others. A man must enter under the preëmption laws for his own benefit; he must enter on his own name. In all the towns where they have arrived at any degree of importance individuals have expended large sums of money in making improvements. In towns in Nevada you may find $200,000 or $300,000 invested in building mills and property connected with them for mining purposes.

Mr. EDMUNDS. Is the land preëmpted?

Mr. STEWART. No; they cannot preempt it in the town under the existing law. They can take only one lot. Somebody else has a right to bid for this mill. In fact, when I returned to Nevada two years ago, I found that the receiver had given notice that he intended to apply to the Department of the Interior for an order to force the sale. That involved the confiscation of most of the property there, and it was impossible to proceed under it.

Then the execution of that law—it is very expensive. For instance, here are two people owning small lots worth thirty or forty dollars apiece, or perhaps not more than ten or fifteen dollars: they have to go to the expense of sending to Washington and getting a patent. Whether it be just or unjust, this occasions great delay and involves an enormous amount of expense. Practically, no one gets through for less than thirty or forty dollars, and sometimes the expense runs up to one hundred or one hundred and fifty dollars, and there are several years' delay. It is just as much trouble and expense as it is to get one hundred and sixty acres, and the lots often do not pay for this. Then there is the inconvenience of adapting the size of the lots to the surveys in the town and to the possession the people have. In other words, to get from the Government by any system that has yet been devised the title to town lots for those who have settled in good faith is cumbersome and expensive beyond any description. No one can realize it unless he sees the practical working of the thing.

Mr. EDMUNDS. What is the price a man who has settled on the land would have to pay on entering it at the land office—$1 25 or $2 50 an acre?

Mr. STEWART. If it was agricultural land he would have to pay $1 25 an acre; if he entered it under the town-lot law I think he would have to pay five or ten dollars a lot; I do not exactly recollect the price. But the price the people have to pay in either event is not the burdensome part of the thing; the difficulty is with the machinery by means of which the result is arrived at. Under the law of last winter if the town lots are laid out of the ordinary size the cost would be about three or four dollars per lot; five dollars would be the very extreme limit. That anybody can pay. This is not a new system; it is an old system which should have been continued and perfected; it is a policy that is much better and more convenient than that indicated by the acts of 1863 and 1864. It injures nobody. If the people of the town are satisfied the Government of the United States need not be dissatisfied, because certainly the expense of executing the other system amounted to as much as was realized from it. Indeed, I do not suppose there was ever any revenue realized to the Government from town sites on the public lands. To give a title to the town sites on payment of $1 25 an acre will be more beneficial to the Government than it will be for it to undertake the administration of a system of dividing up its lands into town lots.

Mr. EDMUNDS. Is this bill confined exclusively to town sites?

Mr. STEWART. To town sites.

Mr. EDMUNDS. And not the full section or quarter section?

Mr. STEWART. It applies to whatever the town may be entitled to enter under the law, graduated according to the size of the town.

Mr. EDMUNDS. Under the law as it now stands is not the town entitled to enter all the unappropriated lands there are in the town, whether they are town lots or agricultural lands?

Mr. STEWART. All there are within the amount that the town is entitled to enter, according to its size.

Mr. EDMUNDS. How is that regulated?

Mr. STEWART. I do not know that I recollect the exact figures.

Mr. POMEROY. It depends on the popu-

lation of the town. Three hundred and twenty acres is the ordinary size for a town site under the law of 1841. That has generally been followed as the rate.

Mr. WILLIAMS. I infer from the remarks of the Senator from Vermont that he is not very familiar with the land laws, because he proceeds upon the assumption that this bill makes some new provision, when in fact it only applies existing laws to the towns in the State of Nevada. As early, I think, as 1840 or 1844—I do not remember the exact date of the first law on the subject—the corporate authorities of a town were allowed to enter the town site; or, if the corporate authorities of the town did not see proper to do so the county judge of the county was allowed to enter the town site by the express provisions of the law, because the town site was not subject to agricultural preëmption. When a tract of land is preëmpted for agricultural purposes it is necessary that certain affidavits should be made, which cannot be made where land is taken for a town site, and so the existing law provides, in the first section of the act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867:

"That whenever any portion of the public lands of the United States have been or shall be settled upon and occupied as a town site, and therefore not subject to entry under the agricultural preëmption laws, it shall be lawful, in case such town shall be incorporated, for the corporate authorities thereof, and if not incorporated, for the judge of the county court for the county in which such town may be situated, to enter at the proper land office, and at the minimum price, the land so settled and occupied, in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town and the proceeds of the sale thereof to be conducted under such rules and regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated."

The corporate authorities of the town are authorized to enter the land for the benefit of the occupants of the town lots. They hold the title in trust for the *bona fide* occupants, and the disposal of these lots is to be regulated by the Legislative Assembly of the State, and the towns are authorized to take land in proportion to the population. The amount is three hundred and twenty acres where the inhabitants are in number one hundred and less than two hundred—

"And in cases where the inhabitants of such town are more than two hundred and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres: *Provided*, That for each additional thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed."

The present bill simply provides that this act of March 2, 1867, shall be applicable to the town sites in the State of Nevada; that is, it allows the town authorities, if they elect so to do, to enter their town sites under the provisions of this act, and reserves the right of each individual who has made an entry of a town lot under existing laws to obtain a patent in accordance with those laws; and it also provides that under the act of March 2, 1867, to which I have just referred, no mining claim or possession shall be acquired. Thus it appears that instead of introducing any new theory it simply adopts the theory in reference to public lands that has been in existence for more than twenty years, and makes it applicable to town sites in the State of Nevada, which are peculiar on account of the mining region in which they happen to be located. As I understand, some effort was made to enter the lands under the old law; but difficulties arose; it was impracticable to do it, and this bill simply allows those towns which made such an effort to avail themselves of the benefits of the law of last year with certain exceptions. There can certainly be no objection to the passage of this bill, because it does not interfere with the rights of the public or of individuals.

Mr. CONNESS. I propose, when we have proceeded a little further, to apply the terms of this bill to the State of California; but such amendment is not yet in order. I will say, in addition to what has been stated in explanation of this measure, that its purpose is alone to avoid the difficulties and complications that have come up in connection with the act of 1864, which provided for entering town lots under the preëmption system. It was found in one of the towns in the State of California, where they took proceedings under that act, that after the patents had been issued to the persons for the lots the streets and alleys and little public squares belonged to the United States; so that the lots, according to the proceedings necessary to be taken under that act of 1864, not only cost the persons very large sums of money unnecessarily, and without profit to the United States, but made an immense amount of work in the land department, and finally left a part of the town belonging to the United States, over which the citizens, through their municipal authorities, could exercise no control or jurisdiction. This bill is simply to provide that persons may avail themselves of the act of 1867, which is right, good policy, and simple in its provisions.

The amendment was agreed to.

The next amendment was to strike out the following words:

Provided, They will exclude from any entry which they may make all town lots which have been entered and the money paid under former laws: *And provided*, This act shall not prevent claimants who have made proper entry of town lots and paid the purchase money from obtaining title under the laws existing previous to March 2, 1867; *And provided further*, That all mines and lands claimed as appurtenant to the same for mining purposes, and which may be entered and purchased under the act approved July 26, 1866, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be excluded from all entries of town sites under the said act of March 2, 1867.

And in lieu of them to insert:

Provided, This act shall not prevent the issuance of patents to persons who have made entries and elect to proceed under existing laws: *And provided further*, That no title under said act of March 2, 1867, shall be acquired to any mining claim or possession held under the existing laws of Congress.

Mr. EDMUNDS. I am a good deal enlightened by what has been said by the Senator from Nevada, the Senator from Oregon, and the Senator from California; but it does not appear to me that we ought to prevent, if we have a policy of this kind, private citizens down to the time when the town shall have acted and taken up these town sites from entering them in the usual way, and I therefore move to amend the amendment by inserting after the word "made" in the second line the words "or may make," so that it will apply to the future as to the past. It will then read—

This act shall not prevent the issuance of patents to persons who have made or may make entries and elect to proceed under existing laws.

Mr. CONNESS. There can be no objection to that.

Mr. EDMUNDS. I presume there will be no objection to it. That will give citizens down to the time the town shall act an opportunity to enter up any lot in the usual way.

Mr. POMEROY. Another word, I think, would make it clearer. Let the word "previously" be inserted before "existing laws."

Mr. EDMUNDS. No; "existing" comes down to the present time and down to the time the settler may act. I think the word "previously" would make it worse, so that if the law should change the effect of the proviso would be lost, whereas the true construction of the word "existing" as it stands here would apply to the state of the law existing when the entry may be made, and I think that would be right.

Mr. POMEROY. I thought the effect of the act as it stands would be confined to laws existing at the passage of this act.

Mr. EDMUNDS. No; it would apply to the laws existing at that time.

Mr. HARLAN. I do not know that I understand the effect of this bill perfectly, but I am inclined to think that it is intended to apply in cases of this kind. Some years ago Congress passed a law authorizing the Commissioner of the General Land Office to lay out town sites and sell the lots, and to give patents to the purchasers of the lots; and I suppose this bill is intended to enable the first parties who come into such a town and organize to take possession of the whole town site and sell out the lots to future settlers and put the money in the city treasury in place of permitting it to go into the Treasury of the United States, as the original law contemplated. If this is the intention of the bill—I am not sure that it is, but it reads to me as if such were the purpose—I think we ought to know how much expense may have been incurred by the Land Office in surveying these town sites. I have no objection to the settlers getting the land for nothing. We have a constitutional objection out west to paying for land, [laughter;] but perhaps it might be well enough for us to permit the settlers to pay for the surveys. I inquire, therefore, of the chairman of the Committee on Public Lands if the committee have had any interviews with the Commissioner of the General Land Office on the subject, or know what his views are as to the propriety of the passage of this bill?

Mr. POMEROY. So far as I know, the committee have had no communication at all with the Commissioner of the General Land Office on the subject.

Mr. STEWART. I can inform the Senator that I have called on the Commissioner.

Mr. POMEROY. Some members of the committee may have done so, but the committee as a body know nothing of his views on the subject.

Mr. STEWART. I called on the Commissioner in regard to it, and he addressed me a letter saying that he thought under existing laws we might adopt the course suggested in this bill. That was his construction; but as the matter was one of importance he submitted it to the Secretary of the Interior, and the Secretary of the Interior replied that it involved considerable doubt in his mind about the propriety of it, and he thought it better to have legislation. If I had the letter of the Commissioner here it would be seen that he has had the whole matter under consideration, and indeed he thinks he can carry out the design of this bill without any declaratory legislation; but the Secretary of the Interior thinks further legislation is necessary if this design is to be carried out. If I had supposed it was of any importance I should have taken care to have the correspondence here.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment reported by the Committee on Public Lands.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HARLAN. I would prefer to have a little time to look into this matter. It may be all right; probably it is; but in order that I may have an opportunity to inform myself I move that the further consideration of this bill be postponed until to-morrow.

Mr. POMEROY. I think there is no objection to that course. If the Senator desires to look into it there can be no objection to postponing the bill until to-morrow and considering it then during the morning hour.

The motion to postpone was agreed to.

SENATOR FROM MARYLAND.

Mr. WILSON. I move to take up the joint resolution reported by the Committee on Military Affairs placing certain troops of Missouri on an equal footing with other troops as to bounty. This joint resolution was passed by both Houses on one occasion, and was lost through a mistake of one of our own members.

Mr. JOHNSON. I rise to what I suppose to be a question of privilege. I move that the Senate proceed to consider the credentials of my colleague-elect, Hon. Mr. Thomas.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Mary-

hand, which takes precedence as a question of privilege

Mr. DRAKE. I wish to ask the honorable Senator from Maryland if he will not be kind enough to allow the matter which the chairman of the Committee on Military Affairs desires to bring up to be brought up now. It will take but a few moments of time.

Mr. JOHNSON. If it will not lead to debate I have not the slightest objection.

Mr. DRAKE. I do not think it will lead to debate.

Mr. SUMNER. I wish to ask the Senator from Maryland whether he proposes to proceed to-day with the consideration of the case to which he calls attention.

Mr. JOHNSON. I do not propose to ask a vote on the question to-day, however important I esteem it to be, and however desirable I think its early settlement is; but I wish it to be taken up in order that we may make some progress, and then I shall move to postpone it.

Mr. SUMNER. I was going to observe that I find for the first time the papers in the case on my table to-day. I have not had an opportunity of looking into them, and before it is proceeded with I should like to be able to peruse them.

Mr. JOHNSON. The honorable member will have that opportunity, as far as I am concerned, certainly. I only wish it to be taken up now that I may make a short statement, and then move that it be passed over until to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maryland.

Mr. HOWARD. I hope this motion will not be pressed at this moment. I find on my table this morning a somewhat voluminous report of evidence taken in the case of Mr. Thomas, a gentleman who claims a seat here. I have not had time to read that document or to consider it at all. It has not made its appearance until this morning. I hope, therefore, the honorable Senator from Maryland will see fit to let the case lie as it is for a few days until we can all have an opportunity of reading the evidence. I observe that the Committee on the Judiciary, to whom the matter was referred, have not made any recommendation specifically one way or the other as to the admission of Mr. Thomas, preferring, as they wisely did, perhaps, that the whole matter should be left to the Senate without any recommendation on their part. I do not find any fault with this, although I should feel stronger if that committee had presented a report expressing their views on the question submitted to them. I hope the Senator from Maryland will allow the matter to lie over for the present until we can look into the papers.

Mr. JOHNSON. My friend from Michigan perhaps did not hear what I stated in answer to my friend from Massachusetts. I said it was not my purpose to ask a vote to-day. I desired to make a very short statement and should then move that the matter be postponed, so that the Senate may have an opportunity of reading the evidence taken before the committee.

Mr. HOWARD. Certainly, I have no objection if that is the object of the Senator.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maryland.

The motion was agreed to.

The PRESIDENT *pro tempore*. The matter is before the Senate.

Mr. JOHNSON. Mr. President, the subject now before us, it seems to me, ought to have been disposed of long since. The delay, however, was not owing to any want of diligence on the part of the Committee on the Judiciary, to whom the matter was referred. They deemed it proper, as objections to the admission of my colleague on his credentials were made and founded upon specific statements prejudicial to him or to his right, that they should take all the evidence that was to be obtained on the one side and the other. The committee found that the principal witnesses to one of the most important of the objections were so unwell in New York, the place of their residence, that it was out of our power to obtain their attendance until just before the late recess; indeed we were not able to obtain the attendance of one of them because of his continued and severe illness, a matter which in common with all who know him I exceedingly regret.

The Senate perhaps will remember that when objection to Mr. Thomas taking his seat upon his credentials was made it was said that perhaps he was not entitled to his seat upon two grounds, or rather upon one ground, disloyalty to the Government as exhibited upon two separate occasions. The first was that while he was Secretary of the Treasury, a situation to which he was called by the late President Buchanan early in the month of December, 1860, he conspired with his immediate predecessor in so depleting the Treasury as to render it impossible for the Government to maintain its credit by meeting the interest upon its public debt to mature on the 1st of the succeeding January. It was stated that for that purpose he had transferred the funds which might have been applied to that object from New York, where they were supposed to be, to the South, where they would come at once into the hands of the confederates, it being very well ascertained at that time that it was the purpose of the southern States to go into a condition of insurrection against the authority of the Government. The other fact relied upon was brought to the attention of the Senate by my friend who is behind me, the honorable member from Ohio, [Mr. SHERMAN,] that on the night of his election or nomination by the members of the State Legislature of Maryland he made a speech which evinced evident disloyalty.

Upon both of these grounds, as the report made by your committee will show, the committee are of opinion that there is no reason at all to deny him his seat in this body. The report of the speech to which I have just alluded which formed one ground of objection appeared in one of the Baltimore daily papers, the American. Another report of the same speech appeared in another of those papers, the Sun. The report in the first of the papers was prejudicial to my colleague; that in the second was entirely unobjectionable, and the committee, as I have said, are of opinion that so far as that ground of objection is concerned there is no reason why he should be denied his seat.

The charge in relation to depleting the Treasury with a view traitorously to destroy its credit was made in a report by the directors of the Bank of Commerce of New York to its shareholders, some time in 1862 or 1863, I forget which year. Mr. Thomas went out of office in the latter part of December, 1860, or early in January, 1861. That report was very prejudicial, and as far as I am concerned, if it had turned out to be true, I should have held that he was not entitled to his seat; but it turns out, as I informed the Senate at the time it was suggested here I had no doubt would be the case, to be wholly unwarranted. This appears by documents in the Treasury which, independent of any parol evidence, made the matter in my judgment perfectly clear. They show that when Mr. Thomas became the incumbent of that Department there was little or no money in the Treasury. His predecessor—and it is not for me to say that he acted from any bad motive—had long before the commencement of the insurrection and his abandonment of his office as Secretary of the Treasury, bought up the public debt. There was then a large amount of money in the Treasury, and he seems to have thought (and I suppose the President concurred with him) that it was to the interest of the United States that the debt should be discharged, and I think he purchased it at 112, or perhaps as high as 118. The result, however, was that it almost bankrupted the Treasury.

When Mr. Thomas, early in the month of December, 1860, very much to his surprise, as the Senate will see in a moment by what I shall state to them, became the head of that Department, he found to his astonishment and great regret that such was the condition of the Treasury. The interest upon the public debt was to mature on the first of the succeeding month—the 1st of January, 1861. The greater proportion, if not the whole of it, was payable in New York. He looked around to see how it was possible to meet the exigency. There were at that time outstanding drafts drawn in favor of the disbursing officers of the Government to an amount exceeding, I believe, the amount of interest to mature on the 1st of January; and he supposed (and he was induced to act upon the correctness of that supposition from his anxiety to save the credit of the Government) that he could avail himself of the fund upon which drafts had been drawn in favor of the disbursing officers, and at some subsequent period reimburse the Treasury so as to enable it to meet the drafts when they should be presented. He wrote to the then sub-treasurer in New York, Mr. Cisco, whose character is known to the whole country, inquiring whether that could not be done, and he was informed in reply that it could not be done; that the credit of the Government would suffer more by a failure to meet the drafts drawn in favor of the disbursing officers than perhaps from the failing to meet the interest on the public debt. Those officers had from time to time given checks, as he supposed, and as turned out, I believe, to be the fact, to those to whom the Government was indebted, and if those checks had been presented when the funds were withdrawn by the Secretary of the Treasury in order to meet the interest on the 1st of January they must have been dishonored.

In this condition of things an application was made to Congress, and Congress on the 17th of December, 1860, passed an act providing for a loan of $10,000,000. They were informed that it was absolutely necessary that funds from some source or other should be realized, and they resorted to a loan with that view. They authorized the Secretary of the Treasury, then Mr. Thomas, to advertise for any portion of that $10,000,000 that he might think proper, giving not less than ten days for proposals to be made. He got the statute on the night of the 17th, or early on the morning of the 18th. He took steps the moment the bill was passed to obtain an authenticated copy of it, and he did obtain it at the time I have stated. The moment he obtained it he issued proposals for $5,000,000, giving the shortest notice that he was authorized to give by the statute, ten days. The ten days would expire on the 28th or 29th of the month. Certain gentlemen in New York, who, of course, were alive to the credit of the Government, ascertaining that there were no funds there to meet the interest maturing on the 1st of January, became alarmed for fear the credit of the Government would suffer, as it would have done if the exigency had actually occurred, got together and after deliberating for some time decided to propose for $1,500,000 of the loan at an interest of twelve per cent. per annum. Then the war had not commenced; it could not be said to have commenced at all until the first gun was fired upon the flag in the port of Charleston, when the nation properly became aroused, and every man with a loyal heart in his bosom was willing to fly to arms. But that was not the condition on the 28th or 29th of December. They offered to take $1,500,000, and in their offer as they stated, and no doubt correctly—I believe the offer itself shows that their memory in that respect was correct—they provided that the amount should be appropriated to the payment of the interest maturing on the 1st of January, 1861, which was $1,100,000. Mr. Thomas accepted the bid at once.

The bank in whose name the bid was made, although they had not for themselves subscribed to that amount entirely, the moment they were advised that their bid had been

accepted, telegraphed to the then cashier of the Bank of the Metropolis here, Mr. Smith, now no more, asking if they could be permitted to take the balance of the $5,000,000 at the same rate. Mr. Thomas and Mr. Smith together, looking at the telegram, considered that as really an offer for the balance of the loan at the same rate, and it was accepted. The Bank of Commerce in New York was immediately advised of its acceptance, and the whole loan, therefore, of $5,000,000 was taken in the name of the bank; and the interest on the 1st of January was consequently paid.

Mr. Vail, the cashier, a gentleman admittedly of high character, and his directors, all of whom I have no doubt were men of like character, and the president of that bank, could not avoid all the rumors that were afloat, and in the then temper of the public mind of the loyal men of the North they were willing to believe almost anything that was said to the disparagement of a southern officer. I do not mean by this to say that they did what they thought was wrong, but they did what they were satisfied was right. They unquestionably believed that the funds of the Government were not safe in the hands of Mr. Thomas. A delegation came to Washington. The balance of the loan authorized by the act of December 17, 1860, namely, $5,000,000, had not been subscribed for and had not been proposed for. They saw the President. They induced him to believe that if Mr. Thomas remained at the head of the Treasury it would be impossible for him to get money to carry on the Government, particularly in the condition in which at that time it was pretty manifest it was soon to be placed. When Mr. Thomas heard that they had been received by the President and that he had listened to their statement he at once repaired to the Executive Mansion and told the President, with a frankness which is a part of his character, that if he permitted him to be assailed upon such a ground as that it was due to his own character that he should at once resign his office; and he did resign it, I think, on the following morning. It is unnecessary to refer to any testimony as to that point; the committee were made aware of the facts.

We have examined Mr. Cisco, and his testimony is now in the document upon your table containing the evidence taken by the Committee. Mr. Cisco was, and has ever been, a loyal man. His administration of the very important office that he then held, and held for so long a time, satisfactorily to the Government, his constant communication with Mr. Thomas in relation to the payment of the interest on the public debt to fall due on the 1st of January, 1861, gave him every opportunity of knowing what the conduct of that officer had been, and he told us—I do not quote his exact language—that everything that he could do was done by Mr. Thomas to save the credit of the Government, by getting into the Treasury moneys sufficient to meet the payment on the 1st of January, and he added this, that he never was more surprised than when he saw the report of the bank of which I have spoken, which was only at the time when the subject was brought to the attention of the Senate by my friend, the honorable member from Michigan, and found by that report that Mr. Thomas had been suspected of conspiring to disparage the credit of the Government. That report, as he stated, was made for the shareholders of the bank alone; it was not published in the papers of the day; he was not, as he told us, a shareholder, and never saw or heard before that it contained such a charge as that; and he exculpates, in the strongest possible language, Mr. Thomas from any blame as far as any official act of his in regard to that matter was concerned. The committee, therefore, of course, came to the conclusion that there was no ground to deny him his seat upon that charge.

After the subject was referred, however, to the committee they were informed by somebody outside that Mr. Thomas had substantially or legally given aid or comfort to the enemy by sending or enabling his son to go into the confederate service and by giving him for that purpose $100. I will state what I believe to be the whole of the evidence upon that point. The only parties examined were his son and himself—we took his statement—and their statements coincided in this: the son, a youth of seventeen or eighteen years of age, and his only son, from the time the rebellion broke out was, in common with a great many of the youth of Maryland who sympathized with their southern brethren, anxious to go into the confederate service. He appealed over and over again to his father for his consent; and as often as the appeal was made it was met by a counter-appeal. The father implored him in every way that he could think of to remain where he was. He told him among other things, in order to dissuade him from his purpose, that Maryland had not seceded, Maryland was one of the loyal States, remained in the Union, and that even upon the ground on which the doctrine of secession was placed there was no legal justification on the part of a Maryland man for such a step.

Months passed by during which this subject was the matter of anxious solicitude on the part of the father and mother of the boy, he not abandoning his purpose and they constantly imploring him to abandon it. On the night before he left his home he stated to his father that he intended to go early on the following morning; but go he would. He was, I think, about eighteen years of age, then a student of medicine. After again uselessly appealing to him to remain at home, his father said, "You will be captured before you can get across the lines; you will be thrown into prison; you will be doomed to suffering; you have no money to meet such a contingency; you are going penniless upon an enterprise which in my opinion is sure to fail, an enterprise illegal in point of fact; in which, therefore, you have no right to engage; but I cannot bear the thought that you are to be a captive in a prison and without the means of saving yourself from actual want, without the means, on the contingency of your sickness, of procuring medical aid, and here are $100." The boy took the money. He was about to start at the dawn of day. The father, who, evidently, was sleepless during the entire night, rose at the dawn of day, found that the boy was at the door, and then made a final appeal to him to abandon his purpose, but in vain. Off he went, leaving his father's home in a state of heartrending sorrow. Mr. Thomas did, therefore, all to prevent him that he could have done short of actual force. If he could have imprisoned his son in his own house, which, unquestionably, in the then condition of that part of the country, he could not have done successfully, or if he could have done it successfully, or have informed the authorities and had him taken up as a traitor to the Government, he might possibly have prevented the son from going; but, short of measures of that description, every other measure to which he could resort was resorted to.

The young man went to Baltimore and with the $100 purchased, I believe, a pair of boots and an overcoat, started, as he intended when he left home, for the upper part of the Potomac, where he expected to cross into Virginia, and there he failed. He was fired at more than once but escaped unharmed, and finally came to the city of Washington almost ragged. He had friends in Washington. He remained here two or three weeks. His parents found that he was here. The father had determined from the time he left his home and disregarded his parental appeals to him to have no further communication with him. He never wrote him a line while he was here; but the mother, with the consent and at the instance of the father, wrote him as strong a letter as female affection could dictate, begging him by everything that he held dear, by all the feelings of kindness and of reverence that he should entertain for his parents, to abandon his enterprise and return; but it was in vain. Here the young man loitered until he found an opportunity of crossing over the lower part of the Potomac, and eventually got into the confederate service as a private, and remained there about a year, until the war terminated. But from the moment he left his father's house, with the single exception of the letter written by the mother while he was in this city, the father never had any communication with and never sent a dollar to the young man.

Now, the question for the Senate to decide—and that is the question which the committee have thought proper to leave to the decision of the Senate without expressing any opinion of their own—is, whether these facts, which I think I have stated correctly from the evidence—I certainly so intended to state them—constitute within the meaning of the act of 1862 a voluntary rendering of aid and comfort to the enemy. The House of Representatives—I mention it not because I suppose it is binding upon this body as authority—have established a rule in the construction of that statute that there must be a design to aid as well as the fact of aiding. The act which is done, asserted to be an aid aiding and comforting the enemy, must be done voluntarily and with a design to contribute such aid. There are cases where from an act done you may presume an illegal purpose in the absence of testimony to the contrary. The fact of killing, unexplained, is malicious, and therefore is murder. The act of entering a house at night is burglary, unexplained. The fact of a trader leaving his home and failing to meet his engagements is, unexplained, an act of bankruptcy. And so in a variety of other cases to which I might advert, but in each and all of them, and in all analogous cases, as far as my reading has gone, it has never been denied that it is the right of the party charged to prove by evidence that the purpose which the law implies was not the purpose which he really entertained.

If I am right as to the existence of that rule, to apply it to the case before us, can anybody who reads the evidence which I have substantially stated to the Senate believe for a moment that it was the design, that it was the purpose, of Mr. Thomas in giving the $100 to his son on the night before he left his homestead to aid and abet the insurrection? He did all that he could short of actual force to prevent it, and what he did do after he proved impotent to prevent it he was prompted to do by the affection which nature has planted in the heart of man as an instinct. It was not voluntary. God and nature put it out of his power to refuse it. His only child, he anticipated, was about to be placed in imminent peril, to be immured in a dungeon; and in order to save him from want and probably from death he advanced him—it was all he would advance, for he is by no means a rich man—the amount I have mentioned. But that amount was all exhausted before the young man got into the confederate service or before he left the loyal lines. So that, in point of fact, he was not enabled to go by means of the money; and, in point of fact, if he had been enabled to go by means of the money, the money was not given to him with any such purpose.

How does that case differ from this? Mr. Thomas's case was not the only one which Maryland had the misfortune to witness. The sons of her most loyal citizens, who stood in the breach and at every hazard maintained the authority of the Government, were found in the confederate service. The son of our then Governor, Bradford—and no truer or more loyal man ever lived—was in the confederate service; and so in hundreds of other cases. Suppose that Bradford's son had been wounded and was in an hospital in Virginia or elsewhere, in danger of dying from the want of such food as is suited to that condition or for the want of medicine which it demanded, and he had sent $100 down and the boy had recovered, he would have gone back to the service, and that would have been aiding the enemy. Suppose him to

have been captured, brought to the city of Washington as a prisoner, wounded, on the eve, as he was informed, of death, wanting all that such a state of things demanded, and he had come in person and asked from the then President of the United States—what unquestionably never would have been refused—permission to see his son and give him $100 to meet the wants of his condition. The boy recovers; he is exchanged; the army of the confederation would be increased by the one man, and the cause of the enemies of the country thus aided and abetted. Would anybody in a case of that description hold that if Mr. Bradford had been elected as a member of this Senate he could be denied his seat? Not one. And yet in principle how does that case differ from the case before us? In this: the son of Mr. Thomas, in spite of his father's prayers, of his mother's tears, of their joint appeals, contrary to the duty which he owed to both, resolved to go into the confederate service, and the money was given him not with a view to enable him to accomplish his purpose, but with a view to save him possibly from starvation or death. If that be treason every man in the land was in heart a traitor. There may be members of the Senate who think they possess such stoic firmness that they could refuse to aid a child under such circumstances; but if they are under that impression they misapprehend their own nature. They could not if they would, and they would not if they could. I have, therefore, offered a resolution that Mr. Thomas be admitted to his seat upon his taking the oath of office. Having made this statement to the Senate I move that the subject be postponed until to-morrow.

Mr. HOWARD. Before the honorable Senator takes his seat I wish to call his attention to one point. I have not been able to read the report of the Committee on the Judiciary containing the testimony in this case, and I may, therefore, speak in the dark as to the facts which were proved before them; but I will call the attention of the honorable Senator to this little inquiry: was not the boy at the time he left home destitute of money; and did not his father know of that destitution at the moment; and did not the father, knowing the purpose of the boy to go into the rebel army, and knowing his utter destitution, give him the $100 to enable him to accomplish his purpose? If not for the accomplishment of that purpose, then for what was it given? Would it not have had a tendency to restrain the boy and keep him out of trouble if the father had kept his own money in his own pocket, thus withholding from the boy the means of accomplishing his rebel purpose?

Mr. JOHNSON. I have been very unfortunate, at least as far as the honorable member from Michigan is concerned, because I have failed to make myself understood upon the very point to which he has now called my attention. I said that the money was not given to enable the boy to go at all. I have said that the boy announced to his father his determination to go, money or no money, the following morning, and that the money was given to him, not with a view of furthering his purpose, not to enable him to go, but to save him from the calamities which the father apprehended would fall upon him if he should go.

Mr. President, the honorable member and myself have reached that period of life—I have, at least—when perhaps we have forgotten the enthusiasm which animates a youthful day. In the confederate service, as well as in our own, the youth of the land did not stand, did not pause to get money for the purpose of aiding their respective causes. In the one case they acted under the delusion that what they were about to do was right; that the South had wrongs which should be redressed; and that the only redress open was by an appeal to arms. It was a sad and dreadful delusion to both sections. On the other side, wedded with a devotion which was never exceeded to the continuing existence of the Union, and a resolve at all hazards to uphold it, no young man who entered the service from the State of Michigan, whose sons are as loyal and as gallant as any that were mustered under the flag of their country, ever halted for the purpose of getting $100 to enable him to achieve his great and loyal design. If I were to stop here I hope I have substantially answered the inquiry of the honorable member.

But the boy could have got money. The honorable member does not know the condition in which Maryland was then; now, thank God, not her condition. Her slaves were lost. Millions and millions of money were extinguished forever. Her associations had been with the South. Many of her sons believed that the institution of slavery was not only a lawful one, secured by the Constitution of the United States, but resting upon the divine law, sanctioned by Omnipotence; an error as I think and have ever thought; and an error which I believe is now throughout the entire land extinguished; but they so believed, and so believing the unreflecting youth of my State were easily induced to come to the support of those who seemed resolved to maintain the Constitution according to their understanding of it, and to resist what they appeared to believe, and no doubt did believe, were the unconstitutional proceedings of the Government of the Union: an error sad and fatal for the time, but not fatal in the future; an error that was sure sooner or later to lead to the same result, to afflict our posterity with a war perhaps even more gigantic than that from which we have just triumphantly emerged; but an error now put at rest, and the Union, as I believe, is now as dear to the intelligent men of the South as it is to the most intelligent and patriotic of the citizens of Michigan.

Mr. EDMUNDS. Mr. President, it was my misfortune to be one of the members of the committee who were unable to resist the conviction upon this evidence that this gentleman was not the person described in what is called the iron-clad oath. That oath, as the Senate knows, provides, among other things, that the person taking it shall not have voluntarily given aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States; and the pending question is to be determined of course by ascertaining whether the gentleman who now claims a seat did voluntarily give aid or encouragement to such persons. It is purely an intellectual question. Our sympathies have nothing to do with it except as they are drawn upon ingeniously to lead us to shut our eyes to the most obvious conclusion of truth as it appears to me upon the evidence.

I am free to say that I am one of those who believe in the right of the State of Maryland to select her own Senators. It is no part of my business to assist her in her choice, or to impede the execution of it, provided she selects the class of persons who under the Constitution and the laws are qualified, in the legal sense, to represent her, and it is always with extreme reluctance that I am willing to refuse admission to any member who has been regularly elected by a State. I would go as far as I could in the direction of believing that whatever a State has done in such a respect must be taken to be right; but as I have said, I was one of those who was forced against my wishes to believe upon this evidence it to be plain that the gentleman who now claims his seat here has voluntarily, by the act of his voluntary will, given aid and encouragement to persons engaged in armed hostility to the country.

I have said that this is not a question of sympathy; it is a question of intellectual conclusion upon the evidence as to what the truth really is. If it were a question of sentiment and sympathy I would call the attention of Senators to the fact that there is another sentiment that is deeply implanted, I trust, in the hearts of Senators as that of love for their children and desire that they should not suffer from cold and want; and that sentiment is the love of country and the hatred of treason.

Now, what is this evidence? I do not propose to into it at length to-day, but I think it due to the Senate that something should be said on the part of those members of the committee who differ from the honorable Senator from Maryland in reply to his observations now. What is this evidence? The evidence demonstrates this, I think: that while Governor Thomas, previous to this occasion, cannot be said to have done any act hostile to the United States, he was, nevertheless, (using this sympathetic method of expression,) in full sympathy with the enemies of his country. He believed in the beginning that the Government should not put down the rebellion. He believed that the rebels were fighting to assert their rights. He adhered to that belief; and his speech on the occasion of his accepting the nomination to this very office demonstrates that he still adheres to that opinion. He has a right to his opinions, it is true. I do not quarrel with those. He is laboring under a great delusion; but he has a right to the delusion, if it be one. But it is necessary to bear that fact in mind in order to have a proper light in which to view the acts that he actually afterward did do; and what he did do was to furnish his son, a minor, subject by the laws of Maryland to his legal control, subject by the laws of all civilized countries to his legal control, and subject by the laws of nature to his moral and physical control, the money that was essentially and indispensably necessary to fit him out for armed opposition to the Government.

My honorable friend from Maryland is mistaken when he tells us that this money was not the essential sinews of warfare which were to fit out this young man for this expedition. He had been desirous of joining the rebel service from the first. His father, it is true, as the evidence shows, had dissuaded him from it. Upon what ground I should be glad to know. Upon the ground that he was to commit an act of treason? that he was joining the wrong side? By no manner of means. Upon the ground that any affectionate parent might put his opposition to his son's joining the Union Army, and that was that he would be exposed to suffering; he would be in danger of death; he might be wounded; he would get no honor or credit by it. That last a Union man would not have said, but the rest he might. Undoubtedly the father felt all those sentiments. They are natural, they are proper. Certainly they are. Nobody questions that. The son having desired to join this rebel army, in the Maryland line, as it was called, found it necessary to fit himself out for the expedition, because, as you know, the lines which separated Maryland from the rebel confederacy were guarded by thousands of the loyal soldiers of the North. The active operations of the Army were necessarily impeded by the fact that we were obliged to keep large forces of Union soldiers all along the lines to oppose rebels on the north side of them as well as on the south side of them. This son must be furnished with the means to get through the lines in order to join the Maryland regiment that he desired to join. What does the evidence show took place? I read from the evidence of the son himself:

"*Question.* Did you take part either way?
"*Answer.* I did.
"*Question.* With which side?
"*Answer.* On the confederate side.
"*Question.* Were you in the rebel service?
"*Answer.* Yes, sir.
"*Question.* Did your father know when you left home that you were going into the rebel service?
"*Answer.* He knew that that was my intention. That was my intention when I left home.
"*Question.* Did he furnish you any assistance?
"*Answer.* Not for that purpose.
"*Question.* Did you receive any assistance from him?
"*Answer.* I did.
"*Question.* In what?
"*Answer.* I received $100 from him.
"*Question.* At the time you left?
"*Answer.* Yes, sir; at the time I left.
"*Question.* Did he know where you were going?
"*Answer.* He knew where I started for.
"*Question.* Did you talk over with him, before you left, your designs?
"*Answer.* Yes, sir.
"*Question.* What did he say to you?

"*Answer.* I had been trying to gain his permission for a long while to leave my State and go into the army, and he dissuaded me on all occasions, and so much was he opposed to it that there was a coolness between us for some time. When the raid was made into Maryland, after the battle of Gettysburg, I was then anxious to leave and join the rebel army; and he told me then that I ought not to do it, and as a citizen of the State of Maryland, and that State in the Union, I had no right whatever to do it."

This, it will be observed, was at a time when the rebels were on Maryland soil.

"*Question.* Was it talked over between you and your father, when you left, where you were going to?

"*Answer.* I told you before I had often sought to gain his permission to go into the confederate army.

"*Question.* But when you left what particular point did you leave for?

"*Answer.* I left for Virginia.

"*Question.* Any particular place?

"*Answer.* No particular place that I know of, excepting in the rebel lines.

"*Question.* Was there any particular command or regiment that you designed to join?

"*Answer.* No, sir. It was my intention to go in what was called the Maryland line.

"By Mr. Edmunds:

"*Question.* What was that?

"*Answer.* That was composed of Maryland men, infantry, cavalry and artillery.

"*Question.* A command in the rebel service made up of citizens of Maryland?

"*Answer.* Not altogether of citizens of Maryland, but the greater portion of them were citizens of the State of Maryland.

"*Question.* Your purpose in leaving on the 23d of November, 1863, was to enter service in that department of the rebel service?

"*Answer.* Yes, sir.

"*Question.* Did your father know that fact from you?

"*Answer.* No, sir.

"*Question.* What did he know on the subject of your intention as to where you were going?

"*Answer.* He merely knew, as I told you before, that I intended to go south for the purpose of going into the army.

"By the Chairman:

"*Question.* During the time you were in the rebel service did you have any communication with your father?"

He says, he did not, but that he received twelve dollars and a half in gold from the family. That is not material to my present point.

"*Question.* When he gave you $100 when you left home, did he know that you were receiving that money to go off and join the enemies of the country and fight against it?

"*Answer.* He did not think I would get there. He knew that it was my intention to start for there, but when he gave me the money he told me that I never would get there. He said that he knew I never would get there; but that if I was so headstrong as to oppose his wishes I should not starve, and he gave me this money to supply my wants.

"By Mr. Edmunds:

"*Question.* Did you have any other money?

"*Answer.* Not at that time.

"*Question.* Where did you cross the lines?

"*Answer.* I was two months getting there.

"*Question.* Where did you go from Easton?

"*Answer.* I went direct to Baltimore.

"*Question.* You had traveling expenses to pay, I suppose, and you used this money for that purpose?

"*Answer.* I did.

"*Question.* Did your father know that you had no other money besides this $100 that he gave you?

"*Answer.* Yes, sir; he did."

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"By Mr. Johnson:

"*Question.* How much of that money was left when you got across the lines into Virginia?

"*Answer.* None at all; that money did not carry me across the lines.

"*Question.* What did you do with it?

"*Answer.* I spent it in buying clothes; it was the fall when I started, and I bought some clothes with it in Baltimore, and spent it in that way in Baltimore city.

"By the Chairman:

"*Question.* Had you no money at all left when you crossed the lines?

"*Answer.* I did not get across the lines when I first started from home. I came to Washington here and stayed a month. That money that father gave me was spent before I came back to Washington.

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"By Mr. Edmunds:

"*Question.* What kind of clothes did you buy with this money?

"*Answer.* I bought, I think, what is called a kersey suit, and then I bought a gray frock coat.

"*Question.* Anything else?

"*Answer.* I bought a pair of boots and a hat, I think, and I do not remember what else.

"*Question.* I suppose you had some apparel when you left home?

"*Answer.* Yes, sir; I had one suit of clothes, I think, a black cloth suit, that I wore when I left home.

"*Question.* What was your purpose in buying these clothes in Baltimore; how did you expect to use them?

"*Answer.* I expected to use them to keep the cold out.

"By Mr. Hendricks:

"*Question.* Were they military clothes or civilian's clothes?

"*Answer.* Citizen's clothes. I bought them at Weisenfeld's, at the corner of Market space.

"By Mr. Edmunds:

"*Question.* Do you mean to say that the purchase of those clothes had no reference to your getting across the lines, and being comfortably clad in your operations in the 'Maryland line,' as you call it? Did you or not buy them for the purpose of fitting yourself out for this expedition?

"*Answer.* I bought them for the purpose of taking them south with me.

"By Mr. Frelinghysen:

"*Question.* How old are you?

"*Answer.* Twenty-two.

"By the Chairman:

"*Question.* What was your age when you went away from home?

"*Answer.* A little over eighteen."

It is but just that I should say that I omit some of these passages that do not seem to bear on the precise point I am asking attention to.

"*Question.* In these statements of opposition that your father made to your going did he object to your going on the ground that you would be fighting on the wrong side, and that you ought to enter the Union Army; or on the ground that the war was unjust on the part of the rebels, and that you ought not to aid them; or what was the ground on which he put his opposition?

"*Answer.* Indeed I cannot positively say.

"*Question.* State to the best of your recollection.

"*Answer.* One expression he used I told you. When the rebel army made a raid into Maryland, after the battle of Gettysburg, he said I had no right, as a citizen of the State of Maryland, to leave my State in the Union and join the ranks of the rebel army. That was his expression.

"*Question.* Was that all he said on the subject?

"*Answer.* That is all I remember.

"*Question.* What were his other statements of dissuasion to you, or is that the only one you can remember?

"*Answer.* I remember that he said, I think, once that even if I went there and got back, ten chances to one I should lose a leg or an arm, and no one would thank me for it. I think he said that.

"*Question.* Was anything said between you and him on the subject of your duty in regard to entering the Union Army?

"*Answer.* No, sir.

"*Question.* There were regiments of Maryland men on the Union side, were there not?

"*Answer.* Yes, sir.

"By Mr. Johnson:

"*Question.* It was never your purpose to join the Union Army at that time?

"*Answer.* No, sir.

"*Question.* Did a great many young men from your shore go the South and join the rebel army?

"*Answer.* Yes, sir; the majority of them, I believe—all my associates, at any rate.

"By Mr. Edmupds:

"*Question.* Is that what is called Eastern Shore?

"*Answer.* Yes, sir.

"*Question.* How long did you continue in the rebel service? When did you get back?

"*Answer.* I was actually in the army about eleven months. I joined the army on the 9th of May, 1864, I think, and I surrendered to the ninth Army corps on the 16th of April, 1865, nine days after the surrender of General Lee."

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"By Mr. Thomas:

"*Question.* Did I not most earnestly invoke you on various occasions to abandon all idea of going to the South?

"*Answer.* Yes, sir; repeatedly.

"*Question.* Was there not a coolness between you and me on account of your persistence in the determination to go there?

"*Answer.* There was.

"*Question.* Did I not present the objection to your going there in every conceivable shape of which I was competent?

"*Answer.* I think so.

"*Question.* Did I not tell you, besides your not having the right to go into the rebel service or any service against the Government, and besides getting no thanks for anything you might do, that by entering it you would lose all opportunity of obtaining a profession?

"*Answer.* Yes, sir.

"*Question.* Were you not engaged then in studying medicine?

"*Answer.* I was.

"*Question.* Had you not made an arrangement with me by which you were to go into the study of the profession of medicine?

"*Answer.* Yes, sir.

"*Question.* Did I not tell you that your going there, if you survived it, would destroy all your future prospects in life?

"*Answer.* Yes, sir.

"*Question.* Did I not constantly, on all occasions, in conversation with you on the subject, insist upon it that there was no reason to justify your going?

"*Answer.* You did.

"*Question.* You had resolved, you say, to go to Gettysburg and enter General Lee's army?

"*Answer.* Yes, sir.

"*Question.* Did I not appeal to you, on the ground of your duty to the State and the Government, not to do so?

"*Answer.* You did.

"*Question.* Did you or not abandon the idea on the appeal I made to you?

"*Answer.* I did."

"*Question.* Did I ever give you a dollar to go from home with until you informed me that there was nothing I could say or do that would stop your going?

"*Answer.* No, sir.

"*Question.* And until you had informed me distinctly that it was vain for me to oppose it—that you would go?

"*Answer.* No, sir.

"*Question.* Were you not making an arrangement for the means to go?

"*Answer.* Yes, sir.

"*Question.* Was it not in your power to have made the arrangement?

"*Answer.* Yes, sir.

"*Question.* When I gave you that money did I not state to you that I gave it to you because I did not want you to be subjected to the suffering and want which you were likely to be subjected to either in the attempt to cross the lines or after you got to the South?

"*Answer.* Yes, sir.

"*Question.* I told you I could not give my own consent to let you go and suffer?

"*Answer.* Yes, sir; you said so.

"*Question.* Did I not depict the sufferings that you were bound to endure there?

"*Answer.* Yes, sir.

"*Question.* Did you not realize them all afterward?

"*Answer.* I think I did.

"*Question.* Were you not in want of clothing at that time?

"*Answer.* Yes, sir; I was.

"*Question.* Did I not know that fact?

"*Answer.* Yes, sir; you did.

"*Question.* Did you not tell me so?

"*Answer.* I do not know whether I told you so or not; but you were aware of it.

"*Question.* Was I not in the habit of giving you money to supply your wants of that sort?

"*Answer.* Yes, sir.

"*Question.* When you left my house, as you were about to start, did I not go to the door, early in the morning, out of my bed, and did I not then invoke you to abandon your intention of going away?

"*Answer.* You did.

"*Question.* Did I not tell you you would certainly be captured and imprisoned in a Government prison?

"*Answer.* Yes, sir.

"*Question.* Did you ever inform me of any plan that you had formed in connection with anybody for making your way to the South?

"*Answer.* I do not remember that. I am positive, indeed, that I did not.

"*Question.* I was not apprised of your intentions, of the course you intended to take, or anything you intended to do?

"*Answer.* No, sir.

"*Question.* And that money I gave you was not necessary to take you to the confederate service?

"*Answer.* No, sir.

"*Question.* You could have made other arrangements, could you not?

"*Answer.* I had made other arrangements.

"*Question.* Did I not know that fact?

"*Answer.* Yes, sir.

"*Question.* Was not the last word I uttered to you, when you drove from my door, to beseech you, almost with tears in my eyes, to abandon the thing, because nothing but want and suffering would come of it?

"*Answer.* Yes, sir.

* * * * * * * * * * * *

"By the Chairman:

"*Question.* How did your father know that you had made other arrangements by which you could go anyhow?

"*Answer.* I suppose he heard it from the family.

"*Question.* Did you ever tell him?

"*Answer.* I never told him personally; but I suppose, perhaps, I mentioned something of the kind before him.

"*Question.* What were your other arrangements that you had made that you had mentioned before him?

"*Answer.* I had some few things to sell. I had a sail-boat, &c., that I had made arrangements to sell and get money.

"*Question.* Did you sell them?

"*Answer.* No, sir; I did not. I failed in my arrangements. I could have borrowed the money afterward, but I failed in that arrangement of selling the boat.

"By Mr. Edmunds:

"*Question.* At what time did you fail in the arrangement of selling the boat with reference to the time of going away?

"*Answer.* I mentioned before that I went away on the 23d of November, it may have been the 24th

"*Question.* How long before that did your arrangement to sell out fall through?

"*Answer.* I think it was about two or three days before that.

"*Question.* Did your father know that your arrangement to sell out your boat had fallen through?

"*Answer.* I do not think he did; I never mentioned it to him; I think that he imagined up to the time I left his door, or rather the night before I left, that I had my arrangements made, and would go to the South anyhow.

"*Question.* Which day did he give you the money—the morning you started, or the day before?

"*Answer.* I think it was the night before, about eight o'clock.

"*Question.* You say you could have borrowed the money on the failure of your boat-selling operation; did your father know that?

"*Answer.* No, sir; he knew nothing of my arrangements that I am aware of.

"By Mr. Thomas:

"*Question.* Did I not know that you were making arrangements to borrow money, whether you told me, or whether I knew it from the family?"

"*Answer.* I do not remember having told it to you; as I stated before, you may have heard something of my arrangements from the family."

That, Mr. President, is the substance of the circumstances under which this money was furnished to this young man; and it is as plain to my mind as anything can be that this money was furnished for the purpose, the indispensable purpose and use, of enabling this young man to pay his traveling expenses—to buy the kersey and gray coat and the boots that were necessary for him to have in making his way to the rebel lines and in serving after he got there. That was the use (according to the very form of the questions that the father puts to the son, and the statement of the son himself in positive language) to which the money was to be applied. It was indispensable to his getting South that he should have the money to pay his way and to supply himself with these necessary outfits, without which he could not have been of any service or could not at that season of the year have made the voyage at all; but it is impossible to resist that conclusion upon the evidence, and the father knew the fact.

Now, it is said by my honorable friend from Maryland that the purpose, after all, was to keep this boy from want; that is to say, to preserve him from suffering. That, Mr. President, undoubtedly was a motive, perhaps the only motive; but my friend entirely confuses ideas when he undertakes to confound a purpose with a motive. The motive, the affection of the father's heart, was precisely the one which would have induced any father in the Senate to give his son $100 who was going to the Union armies when he did not want him to go, to keep him from want, to furnish him with an outfit. The purpose for which this money was supplied was the very purpose for which it was used, and that was to enable this boy to fight his way or steal his way through the national lines to get into the rebel service, and it was used for that purpose.

Now, as I have said, it is a confusion of ideas to undertake to change the motive that the father had, inspiring motive, for the purpose and use to which this money was to be applied. His motive was affection. Grant it for the sake of the argument. It might be pretty strongly argued that it was something more than affection; but admit, for the sake of the argument, that the motive which inspired the father was affection for the son; that is, a desire that he should not suffer; what was the purpose which that motive produced upon the mind of the father? The purpose was this: the boy wanted to go to the rebel service; it was indispensable in order that he should go that he should have money to buy the kersey and the gray coat and the boots with; the father knew that he needed the money for that purpose; he believed he could not get it in any other way; or suppose, as is said, he could get it in another way, I do not see that it makes any difference. He furnishes the son with the money to buy the necessary materials and to pay the necessary expenses of making war upon the Union. It is said this is all right because he had an affection for his son. Precisely on the same principle he might have given information to the enemy when the son was in the rebel lines, because he was afraid a surprise-attack was to be made the next morning and his son would lose his life. The motive, they say, is love of the son; the act is destruction to the Union Army. That is the proposition.

Now, what sort of a man does this oath describe? It describes a man who has never "voluntarily" given any aid to an enemy of this country. What is it to do a thing "voluntarily?" My friend from Maryland argues as if the oath read "who has never voluntarily and with intent to destroy his country, with intent to make war upon her soldiers, furnished any aid," &c. That is not it. "Voluntary," if I understand the use of language, implies merely an act of the will. It has nothing at all to do with the motives of the person who may voluntarily do this thing or that. Men act sometimes from a variety of motives; sometimes from good ones and sometimes from bad ones; but it is the nature of the act itself, and not the inspiring motive that leads to it, which determines the kind of man that this oath describes.

He, then, has actually upon this evidence, if it is to be believed—and it comes from the father and son together in the form of question and answer—furnished this boy with the money indispensably necessary to his outfit in joining the rebel army. He has not furnished it to him, as it was supposed by my friend any of us might to a son who was in present, instant want and suffering; as we would supply bread to a rebel prisoner, if you please, or to a rebel soldier, or to anybody who was in present want. That is one thing; but it was money advanced for a prospective operation—an enterprise which was about to be set on foot. That was what it was done for. Therefore the case is not at all parallel to that to which our attention is invited by way of sympathy, where our heart warms toward our children, and we will not see them suffer. It ought to warm for everybody. It does. I do not suppose a Senator who hears me would hesitate for a moment to relieve the sufferings of a rebel prisoner or a rebel soldier who came to him in want at the moment; but that would be quite a different thing, if I understand definitions, from supplying him with the necessary preparations for carrying on a future warfare against his country.

These considerations, briefly stated, led me, as I have said, against my wishes, but by convictions that I could not possibly resist, to believe it to be perfectly clear that this gentleman, aside from all the other questions, has voluntarily given aid and comfort to persons engaged in armed hostility against the country; and if there is any value in this oath, if there is left any sympathy even for patriotic love of country, and any desire to keep the halls of legislation pure, as long as the law stands we ought to stand up to this oath manfully and enforce it.

Mr. HOWARD. Mr. President, the honorable Senator from Maryland in making the statement to which we have just now listened has furnished us with what is to me a novel excuse on the part of Mr. Thomas for resigning his place as Secretary of the Treasury. If I understood the honorable Senator correctly the reason for his resignation was that some complaints had been made by bankers in New York to President Buchanan intimating that Mr. Thomas could not in an exigency be relied upon, in short, that he was not a true man in his place and not worthy of the public confidence, and they therefore feared that he would not administer that Department properly and energetically in the interest of the loyal people of the United States. The honorable Senator tells us that Mr. Thomas, on being informed that such complaints had been made to the President and that the President had listened to them, threw up his commission, resigned, and left his place, intimating clearly that his dissatisfaction with Mr. Buchanan was that Mr. Buchanan's confidence in his integrity had been somewhat impaired.

On a former occasion, when this question was before the Senate, a certain letter of resignation was presented and read to us from some of the public documents not now in my possession, in which Mr. Thomas alleged as the reason of his resignation of the Treasury Department that he did not concur in Mr. Buchanan's policy of reinforcing Fort Sumter or employing the military forces of the Government to check the rebellion which was then brewing in South Carolina, and he stated substantially in that letter that he resigned for precisely the same reason that influenced Jacob Thompson, the Secretary of the Interior, to resign almost on the same day. They both occupied the same position in regard to Mr. Buchanan, and they seem in presenting their resignations to have been influenced by exactly the same motives. I desire to call the attention of the honorable Senator from Maryland to this somewhat pregnant fact in the case.

Now, sir, I will say another word before I take my seat. In addition to this letter of resignation upon the ground that he was unwilling to use the means of the Government in putting down rebellion, we find Mr. Thomas afterward furnishing to his son about to go off into the rebel army a certain supply of money. He was anxious, according to the honorable Senator from Maryland, to retain his son at home and to prevent his going off into the rebel army; his heart was agonized at the prospect of his son running the great hazard of getting through the Union lines into the rebel army, and with a very deep concern lest the boy on reaching the rebel army should be captured, made a prisoner, thrown into prison, and there detained. Well, sir, it is confessedly true that at the moment he went off into the rebel army the boy was entirely destitute of means; he could not pay his railroad fare; he had not, according to this testimony, a dollar of money at his command. The father was anxious to prevent his going off to the rebel army, and what were the means which he used to prevent it? Furnishing the very money which was necessary to take him there, and knowing that he intended to spend it in accomplishing his purpose of going into the rebel army; and now the excuse for this is that he was afraid the boy would suffer from starvation or disease after he should reach the rebel army! It seems to me that the simplest mode of preventing this great calamity which he so much dreaded at that moment was firstly to withhold from the boy the supplies necessary to pay his fare and expenses into the rebel army. This certainly he could have done. This undoubtedly it was his duty to do. This duty he did not perform. On the other hand, he gave to the boy the very means indispensable to enable him to accomplish his purpose of going into the rebellion and fighting against the Government of his country, becoming a traitor.

I really cannot, so far as at present advised, see any great weight in the excuse which Mr. Thomas makes for himself for having given his boy the money. That was the very moment when the father should have been firm. It was of all others the particular occasion and exigency on which he ought to have shown, not a stoic firmness by any means, but nothing but his simple attachment to his Government, his willingness to uphold it, his reluctance to have it destroyed, and this evidence he could have shown by simply withholding his hand from his own pocket.

Mr. HOWE. Mr. President, if I felt called upon to consider the question whether the present applicant for a seat in the Senate had in fact given aid or comfort to the enemies of the United States, I might think it necessary to take more time for the consideration of that question than I have yet taken; I might think it necessary to go through with the testimony reported here from the Committee on the Judiciary, which I have not yet done, and I am not sure that even in that contingency, and if that were the question which I were about to consider I should think it necessary to take the time to do that much, for upon the statement made by the Senator from Maryland—and in that regard it seems to me to be corroborated by the statement made by the Senator from Vermont and the Senator from Michigan—I do not know how I could help coming to the conclusion, if their statements be true, that this gentleman did furnish aid and comfort to the enemy, not because he gave $100 to his son, but because he gave his son to the rebel service. That he did; that no one denies; that he did so much all admit. True, it is said he did not assent to his son's going; and yet I think if he did not assent to his son's going his son would not have gone. If he were not able of himself to withhold his son from going I feel entirely sure that backed by the State of Maryland, inasmuch as we are assured that Maryland was very loyal, he could have prevented his son from joining the rebel army.

But, Mr. President, while from these considerations I am forced to conclude that this gentleman did in law and in fact contribute a

son of his own in aid of the rebel service, I cannot for my life persuade myself that I have the right to vote for the exclusion of this gentleman from a seat on this floor. I would not so early in the debate announce this position if it were one recently formed; but those who have been in the Senate with me since 1861 know that it is an opinion which I have entertained throughout the whole time, and notwithstanding all the debates we have heard upon the subject I have not been able to discard that opinion, and I do not think that opinion is likely to be changed in the course of any debate that may take place on the pending resolution. But I do not know that it may not be changed. The difficulties with which I have to contend I wish to state now, that my friends who may participate in the debate hereafter may have the opportunity of removing them if they ought to be removed.

Mr. President, Maryland is a State of the Union in every respect, in every sense in which New York or Massachusetts or the State which I have the honor to represent in part is a State of the Union. Being that, if she has any right in the world under the Constitution of the United States, one of her rights is to be represented upon this floor by two Senators. If she has not that right she has none, and there is no right belonging to a State under the Constitution. But that is not a right unconditionally given to her by the Constitution. Certain conditions are attached to it. What are they? As I read them they are these and none others: that—

"No person shall be a Senator who shall not have attained to the age of thirty years and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen."

This right, then, conceded to Maryland and to every other State to be represented on this floor by two Senators, as I conceive, is subject to the condition that she shall not elect a Senator who has not these qualifications; but I do think, Mr. President, the State of Maryland and each of the other States can send any person here she pleases if he has these qualifications.

Mr. HOWARD. Will the honorable Senator allow me to ask him a question?

Mr. HOWE. Yes, sir.

Mr. HOWARD. Suppose the State of Kentucky or any other State should by its Legislature elect Jefferson Davis a Senator of the United States from that State, would the Senator from Wisconsin admit him to take his seat without objection? That is a thing which may possibly transpire; we do not know what is reserved for us in the future.

Mr. HOWE. Mr. President, if the State of Kentucky were to send Mr. Davis here, I should not agree to his taking his seat without an objection. I should want to know whether he were a resident of the State of Kentucky, to begin with.

Mr. HOWARD. Take it for granted that he was formerly a citizen and resident of Kentucky and possessed the constitutional qualifications which the Senator has read.

Mr. HOWE. Mr. President, if the State of Kentucky were to send Mr. Davis here, and he were a resident of that State, or if she were to send John C. Breckinridge here, who is a resident of that State, I should not object to either of these men taking his sea here because of the treason in which they have been engaged for the last six years. That position is understood—not that I question the fact of their treason, but I question your right here to try and determine that question unless you do it upon a motion to expel a member and determine it then by two thirds of the votes of the Senate.

Mr. President, if you have that right, where do you get it? If you have that right it is given to you. If it is given, show me the grant. Where is it? I know it is said that "each House shall be the judge of the elections, returns, and qualifications of its own members." That is the only grant of authority I know of or have ever heard of by virtue of which you can claim the right to try a man for his conduct three, four, or six years ago. Each House shall be the judge of the qualifications of its own members. That means one of two things; there is but one of two constructions possible to place upon it. It means that this House shall be the judge of what candidates for admission have the qualifications which the Constitution says they must have; or it means that this House shall be the judge of the qualifications the applicant ought to have. If it means the latter, the right to select the men is here and not in the States. If it means the former, this question of loyalty or this question of good conduct, this question of guilt or innocence, does not belong to the Senate to try. You have no more right upon the question of the admission of a man to try him upon a charge of treason than you have to try him upon a charge of burglary or upon a charge of murder; and if you have a right to try him upon a charge of burglary or of murder you have for any other misconduct, certainly for any other crime. There must be a line somewhere. If you can exclude a man from a seat here regularly sent you by a State authorized to send a man—if you can exclude him, I say, for one kind of misconduct, you can for another. If you can exclude him for one offense you can for another. If you can because of the commission of one crime, you can because of the commission of any crime. I cannot for my life see where you draw the distinction.

But it may be said that the statute has agreed to exclude men who have given aid and comfort to these enemies of ours. Mr. President, the statute has done no such thing, and I think, as I have already said, that the statute could do no such thing. You have not declared that a man shall be disqualified from a seat in either House because he has given aid or comfort to the enemy. You have not declared that that is a disqualification. The reason why it was not so declared in the law, I think, is because you thought you had no power to prescribe a new qualification. I have not the cases before me; I did not expect to participate in this debate this afternoon; but I do recollect, and I presume the recollection of all Senators about me is quite as distinct as my own, that this House and the other have held constantly from their first organization that to the qualifications mentioned in the Constitution no new one of any kind could be added either by the Congress of the United States or by any State.

Mr. SUMNER. Not even loyalty?

Mr. HOWE. No qualification; for if you can add one you can add what you please. It is idle to say that you may impose one new qualification and must stop there. Either you can enlarge and extend these qualifications or you cannot. If you can extend them, how far? tell me; where is the limit?

Why, Mr. President, it is known to all on this floor, I presume, that States have at times undertaken to add to the qualifications, or rather to disqualify certain of their citizens for representatives in the Senate or in the House, who, by the terms of the Constitution of the United States, would be qualified for representatives; and both the Houses of Congress, I think, have uniformly held that all such constitutional provisions of the States were nugatory and were void. But, whether or not you can by statute add to the qualifications, it is very certain to my mind that you have not done it, for, as I said, this statute does not provide that a man shall be disqualified from holding a seat here who has given aid and comfort to the enemy, but it simply declares—

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation."

Elect whom you please, but before the person who is elected shall enter upon the duties of his office he shall take an oath.

Mr. CONKLING. If he cannot take it is he not disqualified?

Mr. HOWE. Then the question before us is whether this man can take the oath or not.

Mr. CONKLING. Precisely.

Mr. HOWE. I must submit, with all the deference in the world, that if we are competent to try that question at all we are not so competent to try it as the Presiding Officer of the Senate is. The Presiding Officer of the Senate can determine in a very short time, and conclusively, whether he can take it or not—offer it to him.

Mr. STEWART. Allow me to ask a question. Suppose that at the time John C. Breckinridge was Secretary of War of the confederacy Kentucky had elected him to the Senate and he had come here and presented his credentials, was he then a citizen of the United States within the meaning of the constitutional provision which requires a Senator to have been a citizen for a certain time?

Mr. HOWE. Yes, sir; he was a citizen of the United States. But if he had come here for the purpose of taking his seat and had not been helped out by a pardon I should have hoped that he would have been hung as a citizen of the United States before he got into these Chambers; and that would have been your remedy.

Mr. EDMUNDS. There does not seem to be much prospect of that.

Mr. HOWE. No, sir; there does not seem to be much prospect of anybody's being hung; but I do not think we had better attempt to hang them because those whose duty it is do not see fit to discharge it. Because men are not to receive the penalties which the law denounces against treason I do not think it becomes the Senate of the United States to sit here and make faces at them. That is not protection to the Government, and that is not necessarily punishment to the individual.

Mr. President, when interrupted by the Senator from Nevada I was trying to reply to my friend from New York; I was trying to convince him that the question whether this man can or cannot take the oath is not a question that the Senate is competent to try and determine. Whether he can or cannot take it you can only know when he comes to that desk and it is tendered to him. But you say you have had an investigation to determine whether the oath will be uttered or false when he has taken it, and you come to the conclusion that if he does take it he will perjure himself, and therefore you will not permit him to take it. Sir, did you ever hear of a judge on the trial of a case having a certain state of facts very clearly to his own satisfaction established before him and having a witness presented on the stand to testify, not in corroboration of but against the state of facts so established, did you ever hear of a judge who, under these circumstances, would say "I will not allow that witness so to swear, for if he does he will perjure himself: therefore exclude his testimony?"

Mr. President, I repeat again, this man knows better than all the men in the world, better than the Senate of the United States, whether he can take the oath or not. Whether it will be true or not when he has taken it is a question he may not know any better than we, and neither of us know so well as a petit jury in the District of Columbia can be made to know it. Suppose it is false, what is the penalty for perjury? Exclusion from the Senate of the United States? I do not so read the statutes. That is no more the penalty for perjury than is exclusion from the Senate of the United States the penalty denounced by law for treason. Other penalties are prescribed for each of these offenses; and why not impose the penalties which the law does prescribe rather than seek out new inventions for the punishment of offenses?

Mr. EDMUNDS. Will the Senator allow me to call his attention to the reconstruction acts, which provided that a person in order to be registered or to vote should take a certain oath,

and to call his attention to the fact that it was held at the Attorney General's office that the taking of that oath was the exclusive evidence, just as my friend seems to think, as to the right to demand registry; and did we not all hold on this side of the Chamber with one voice in wrath and indignation, proper wrath and indignation, that that was an absurd and unjust conclusion to draw from that law, and that the taking of that oath implied that the person described in the oath was to be ascertained, but that that was merely one method of ascertaining the class of persons who should come in, one species of evidence, and that the boards of registration had a just right to make any other or further investigations they saw fit?

Mr. HOWE. Mr. President, I have no doubt if we felt any wrath or indignation at all, it was righteous; it always is. [Laughter.] But I want to say to my friend that there is no sort of analogy between the questions presented in that case and the question which I am arguing here; and my friend misunderstands me entirely if he understands me as saying that the oath of this party that he has not given aid or comfort will be conclusive. It will not be conclusive at all. It will not be conclusive on the Senate upon a motion to expel him. If he does perjure himself that perjury is the best of all grounds for expelling him from the Senate. But that is not all. There is another tribunal, as I said, which can try the very question.

Mr. CONKLING. Can we expel him for past treason?

Mr. HOWE. We can expel him for his present perjury.

Mr. EDMUNDS. That is not prescribed in the Constitution as one of the reasons which would disqualify a man.

Mr. HOWE. The reasons for which a man may be expelled from the Senate are not prescribed in the Constitution—not one of them.

Mr. EDMUNDS. Just as much as the others.

Mr. HOWE. On the contrary, the qualifications upon which a man may be admitted to the Senate are prescribed by the Constitution, and every one of them; and that is the difference.

Mr. EDMUNDS. Then will my friend allow me to ask him what this clause in the Constitution means:

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office of public trust under the United States."

Does not that fairly and clearly imply to the mind of my friend an authority vested in the proper tribunal, and that in this case must necessarily be the Senate, if it is any, to impose any other qualification that their wisdom may see fit except a religious test? If it does not mean that what does that provision as to the oath mean?

Mr. HOWE. Mr. President, I was in hopes to get through with this argument without construing every clause of the Constitution; but then I do not know but that I am under examination for admission myself, and I must make answer as well as I can. [Laughter.]

Mr. EDMUNDS. If you do not feel ready to answer postpone it.

Mr. HOWE. I may have time for examination?

Mr. EDMUNDS. Yes, sir.

Mr. HOWE. That is kind; but off-hand I will give my friend the best idea I have; and that is, that I suppose there is a power lurking around here somewhere, and I have no doubt it is in these very halls, which can impose new qualifications in regard to some officers serving in some departments of the public service; and I suppose that that clause was thrust in there to prevent this power, wherever it is, and I suppose it to be the legislative body, from introducing a religious qualification, knowing how difficult it would be to secure any religious qualification in the public service. That is my present understanding of it; but if my friend from Vermont understands it, on the other hand, as implying authority in these Houses to impose new qualifications upon candidates for admission here he will, when he gets the floor again, take upon himself the labor of showing how many new qualifications, or what new qualifications, may be imposed.

Mr. President, if I have made myself intelligible upon the question of authority, I have a suggestion or two to make upon the question of expediency. What possible good do you expect to secure by enforcing such a test, such a rule as is proposed now and here? What possible good would be subserved? I have said that the clause of the Constitution which constitutes each House the judge of the qualifications of its own members, if it does not mean what I say it does, that they judge of what men have the qualifications which the Constitution says they must have, means that we shall judge of what qualifications they ought to have, and if we are judges of what qualifications they ought to have, I am inclined to think there are quite a number of men on the floor, or have been since I have been here—I do not mean to say there are any left—who I should think were very far from being entitled to seats. I have no doubt that there are a large number upon the floor at the present time that our friends on the opposite side of the Chamber would think not entitled to seats. There are certainly some here that I should not vote to send here, and I have no doubt there are some here who would not vote to send me here. But, sir, I ask the Senate, I ask my friends, and my enemies if I have any, what possible protection we can secure to the country by enforcing such a line of distinction as is proposed here? We have no right to impose any new qualification but for the purpose of protecting the public service, I take it. Does any man believe that this Senator who is sent here from Maryland would be more dangerous to the national authority than any man of that party who could come here from the State of Maryland? For myself I do not believe he would be any more dangerous. There are two parties in the State of Maryland; there are two in the State of Indiana to-day; there were three during the war, but I understand there are but two to-day. One party is the Republican party and the other is the Democratic. I want Republican representatives here.

Mr. MORTON. Who are the third party?

Mr. HOWE. A class of Democrats who, in spite of their old allegiance to the party, did hold their allegiance to their country to be paramount, and would fight the battles of the nation, notwithstanding their party bade them not to do so. I have lost sight of that party since the war closed; and now between Democrats I have no choice. I do not believe any of them are safe to trust the welfare of the country to; and if I can have my way the welfare of the country will not be trusted to them; but I do not expect to be especially consulted upon that point. If we must have them, I want the best-looking ones, and that is about all the choice I have in the matter. [Laughter.]

One other consideration I wish to throw out. The only value that can possibly be assigned to this right of representation is that it secures to the people of the locality the right to send here the men, not that we want, but the men that they want—the individuals who best answer their purpose.

Now, suppose Kentucky, which perhaps never has forfeited her right to send representatives here—and I think she never has—should be of the opinion to-day (and I do not know but that is her opinion) that Mr. Breckinridge is the best man she has got to represent her here, do you not take the whole value of this right of representation from Kentucky if you say to her that she shall not send Mr. Breckinridge; that she may send a Senator, but that she must send some man whose name is not Breckinridge; that she shall not send the man of her choice? If Mr. Breckinridge has received a pardon, what possible injury could he do the nation if he were to take a seat upon the floor to-morrow that would not be done by any representative sent up here by the party which wants to send Breckinridge, if there is such a party? Let it be understood, and I want it understood, that the man who comes here comes for the purpose of representing his State, the opinion of his State; and you will find that whoever does come will be very likely to represent the opinion of his State, and if Kentucky wants to be represented by a traitor it is because the constituent body of Kentucky is traitorous; and your remedy, therefore, is not to say that Kentucky may be represented if she will send a loyal man. It is no worse in Mr. Breckinridge to be disloyal, if he be disloyal to-day, as I fear he is, than it is in the people of Kentucky to want to be represented by a disloyal man; and if you will disqualify him from holding his seat here because he is disloyal, why should you not disqualify Kentucky from being represented because she is so false and so hostile to the national authority that she will not consent to be represented by any one who is not a traitor?

Over and over again, Mr. President, I have argued to the Senate and to the country that the authority is given to the national legislature to disfranchise a State. It is not given to the Senate; it is not given to the House; it is given to the legislature, plainly given, and if it ought to be exercised in any case, if it is authorized to be enforced in any case, it is whenever you are convinced that the community is disloyal and traitorous. When you are convinced of that your disabilities and restrictions should fall upon the constituency, and should fall there by the voice of the legislature itself, and should not fall upon the individual sent here, and that only by the voice of the particular body to which the individual is sent.

Mr. STEWART. Before the Senator takes his seat I should like to ask him if he has examined the bearing of our new constitutional amendment on a case like this?

Mr. HOWE. No, sir.

Mr. STEWART. Does the Senator regard that amendment as having been adopted by the requisite constitutional majority? Is the ratification of three fourths of the States represented in Congress sufficient?

Mr. HOWE. Which constitutional amendment does the Senator refer to?

Mr. STEWART. The fourteenth article.

Mr. HOWE. My friend before me [Mr. EDMUNDS] suggests that I may take time to consider of that, and I shall avail myself of the privilege.

Mr. STEWART. I merely threw out the suggestion for the purpose of having the Senator's view about it.

Mr. HOWE. I think I will take three days' grace. It is so long since I have seen the fourteenth article or heard of it that I have really forgotten what it is, and I do not just now comprehend the point to which the Senator calls my attention.

Mr. President, I have early in this debate taken occasion to remind the Senate not of any new opinions of mine, because they know I have entertained these opinions a great while. It is with extreme reluctance that I stand up here to repeat opinions that I know are not acceptable to, perhaps, the large body of my friends on this floor. That is always disagreeable; but then I entertain these convictions and I cannot throw them off at will, and having them I must act upon them unless some one else can remove them from me, and I cannot hope to have that done unless I state them.

Besides, Mr. President, I have a firm conviction that the best service we can render the country is to stand by the rights which are unequivocally given to the State, stand by them and defend them, and I am really afraid of the precedent you may establish if you determine the right of a majority of the Senate to exclude a

man from a seat here upon our conviction of his disloyalty. Sir, I remember but a very few years since a President of the United States was in the habit in the course of his annual messages of terming certain States of the northern part of the Union as disloyal. Why? Because he believed or he insinuated that they held opinions upon the question of abolition or the emancipation of that old outrage, which has gone at last, which were unconstitutional, not warranted by the Constitution of the United States, and hence he said these opinions were disloyal and that the States to which this sentiment was attributed were disloyal. I do not wish to see a precedent which the partisans of such a President as that could make a pretext for arraigning a representative here for his loyalty and excluding him from his seat. I think the safer rule is to stand by the letter of the Constitution as it is. I am sure it cannot endanger the national authority. But when you come to talk of those communities which did by their local governments and local tribunals take part in this wanton rebellion there your remedy is different. You have put that partially in force. There your remedy has fallen not upon the representative but upon the constituency: you have denied to them the right to send representatives here, and I will not take my seat until I have said once for all that I hope the Congress of the United States will never restore that right of representation until those communities are not only loyal but want to be represented by loyal men in both Houses of Congress.

Mr. TRUMBULL. Mr. President, it was not my intention, at any rate at this stage of the debate, to take any part in it, nor should I now say anything but in consequence of what has been said by the Senator from Wisconsin. His remarks call up the arguments which we had in this body in 1862, when the act prescribing this oath was passed. The Senator has brought before us the objections that were urged to it at that time. They were very fully considered in the Senate on that occasion, and our friend from Vermont, Mr. Collamer, who then occupied a seat in this body, replied very fully to all those arguments, and as I thought very conclusively, at any rate to the satisfaction of a majority of the Senate.

I quite agree with the Senator from Wisconsin that the States should be protected in all their rights, and I quite agree with him that we should stand by the Constitution, and I agree with him that the qualifications prescribed by the Constitution of the United States as requisite to be possessed by Senators and Representatives cannot be added to or taken from by legislation of the States or by legislation of Congress. So far we are in harmony; but when the Senator tells us that we have passed a law adding to the qualifications of persons who are elected Senators and Representatives——

Mr. HOWE. No, I do not say so. I say we have not.

Mr. TRUMBULL. Well, when the Senator tells us that we cannot refuse to admit into this body an avowed disloyalist, an enemy of the country, I say to him that the Constitution not only authorizes us to refuse admission to such a person, but that he and I are both sworn that we will not admit him.

Mr. HOWE. I have not said that we cannot refuse to admit an avowed traitor. My argument was that we could not refuse to admit a man simply because he had been a traitor.

Mr. TRUMBULL. Well, then, the Senator admits, if he calls that a qualification, that if he is a traitor he can be kept out. He may be old enough, he may have resided long enough in Kentucky, he may, like Breckinridge, be elected from Kentucky, and how is the Senator going to keep him out? Because he is not qualified to be admitted. Then, to use his own language, if you can add one qualification where are you to stop? I insist that we may keep him out; and as the best evidence of his present disloyalty I would show that he had been fighting against the country and making war upon it: and how are you to prove that he is at present disloyal except by his acts and declarations in the past?

Sir, the Constitution does say that "no person shall be a Senator who shall not have attained to the age of thirty years and been nine years a citizen of the United States, and who shall not when elected be an inhabitant of that State for which he shall be chosen." Suppose there comes here, as has been suggested, a person who has been prominent in this rebellion, I should like to inquire of the Senator from Wisconsin—if, under his rule, he must be admitted to a seat—whether he would hesitate when he was admitted to a seat to expel him? Would he allow a felon to sit here? Would he allow a judge convicted of bribery to sit here if he was elected a Senator? The laws of the United States, passed by many of the very men who framed the Constitution of the United States, declared as long ago as 1789 that if the judge of any court should be convicted of bribery he should be subjected to certain punishments, one of which was a disqualification forever to hold any office of honor, trust, or profit under the Government. Is that law unconstitutional?

Mr. HOWE. No, sir.

Mr. TRUMBULL. That is constitutional. Is that adding qualifications? That is a valid law, the Senator tells us. Now, that is not all there is in the Constitution on the subject. That is all there is which prescribes the age and citizenship and residence of the person elected to the Senate; but there is another clause which declares that—

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

Men cannot take their seats because they have been elected, because they are old enough and have the qualifications prescribed. Something more is requisite. What is it? They shall be bound by oath. And how by oath? By such an oath as the Congress of the United States shall prescribe to test their citizenship, for a person cannot be a citizen of the country, which implies loyalty and obedience to the laws of the country and taking part in the Government of the country—he cannot be that and at the same time an enemy of the country and making war upon it.

Mr. HOWE. Cannot be a citizen and an enemy?

Mr. TRUMBULL. He cannot be a citizen of the country in the sense of the Constitution and at the same time making war upon the Government of the country. He is a citizen for certain purposes; as the Senator says, he may be citizen enough to be convicted of treason and have the right to be hung; but he is not citizen enough to take this oath. Does the Senator mean to be understood as saying that a man can swear to support the Constitution of the United States and in the same breath be making war upon the Constitution of the United States? Can he do that?

Congress has always undertaken to prescribe the character of this oath which should be required of officers appointed or elected under the Constitution. You will observe that the language applies not simply to Senators and Representatives, but the precise same language applies to the members of the State Legislatures and all executive and judicial officers, both of the United States and of the several States; all are to be bound by oath; and how by oath? By the oath which the legislative authority prescribes for the members and for the judges. Now, what did they prescribe for the judges? I have before me, in the first volume of the Statutes, an act passed in 1789, which declares—

"That the justices of the Supreme Court and the district judges, before they proceed to execute the duties of their respective offices, shall take the following oath or affirmation, to wit: 'I, A B, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge and perform all the duties incumbent on me as —— according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States.'"

This is the oath that has been administered to every Chief Justice of the Supreme Court of the United States and to every associate justice of that court; which Marshall and Taney and all the rest took from the beginning of the Government. They could not enter upon the discharge of the duties of their office without taking this oath. But the language of the Constitution which applies to Senators and Representatives is precisely the same which applies to judges of the courts. If, therefore, we had a right to make a law prescribing the form of oath to be taken by a judge we had a right to make a law prescribing the form of oath to be taken by a Senator, because the language of the Constitution is the same as to both. Then I insist that we had authority to pass the act of July 2, 1862. The Senator, I presume, voted for it; I apprehend that he did. If he did not, he ought to have voted for it; and as he generally votes right I assume that he voted for that law.

Mr. HOWE. Mr. President, the question whether I did vote for the law or not is of no consequence in this debate. I would answer on that point if I knew whether I voted for it or not; but in point of fact I do not know. I do not remember the occasion on which the law passed. The only occasion when my attention was ever called to the law was pending the question of the admission of a former Senator from Delaware. My impression was at that time that I was in Wisconsin when the law passed; but still I do not know that the fact is so; and I do not know but that I voted for it.

Mr. TRUMBULL. I do not suppose it is very material. I presumed the Senator had voted for it; but perhaps he did not.

Now, what does this law require? It requires that all officers, "before entering on the duties of their office," shall take the oath prescribed. I have undertaken to show that we had authority to prescribe this oath. If I have succeeded in doing that, then, having prescribed this oath, we have a right to inquire whether the party is in a condition to take it.

What was the Judiciary Committee to inquire into? The credentials of Mr. Thomas, the Senator-elect, were referred to that committee. They were to examine his credentials. They found them in due form. We knew that the Senator-elect possessed the requisite qualifications of age and residence and citizenship. We then looked to this statute which required that before he should be admitted to his seat he should take a certain oath. Then we proceeded to examine whether the facts were such as to preclude him from truthfully taking this oath. The Senator says we cannot do that. Why? He has admitted that it is competent for the Legislature to provide by law that a judge convicted of bribery cannot take a seat in this body. If it is competent to provide by law that a man convicted of bribery cannot take a seat in this body is it not competent to provide by law that a man guilty of treason shall not take a seat in this body? Indeed, I think a part of the punishment of treason is disqualification from office under a law passed some years since. But whether that be so or not, we have prescribed this oath. If it was competent in the Legislature to provide that after a conviction for bribery—it is a question of power I am arguing—the party convicted should not take a seat here, it is competent to provide that the Senate, being the judges upon this point, may, if they are satisfied that the man is guilty of bribery, not allow him to take his seat here. That is my point.

Mr. HOWE. My friend will allow me a moment?

Mr. TRUMBULL. Certainly.

Mr. HOWE. I am quite willing to believe with my friend from Illinois, for I can say that I have no ambition to gratify in being confirmed in my own views, and as he is debating this question for the purpose of removing my objec-

tions, and he is very kindly indulging me with the privilege of making them more apparent to him as he goes along, I rise simply for the purpose of stating the distinction which occurs to my mind between the case he puts and the case we are debating. The case he puts is that of a judge or any man being disqualified for a crime of which he has been convicted and sentenced. In the one case the disqualification springs from the sentence of the court. It is the penalty denounced by the law against the crime of which he has been convicted before the proper judicial tribunal, and for which he has been sentenced by the judicial tribunal which alone can try and settle such a question. Now, if we had the same authority to try for crimes that a court has, I should hold that a statute might properly disqualify a man for taking a seat here for any offense, treason or anything else; and then if the statute had been so drawn that we could try this man for that crime, we could do it in this case. There are, however, two difficulties in my mind: first, that we have no jurisdiction to try the crime, and secondly, the statute does not say that this offense of disloyalty disqualifies.

Mr. TRUMBULL. Mr. President, we must not lose sight of the fact that we are arguing a question of power. I understood the Senator to lay down the proposition broadly that the qualifications prescribed by the Constitution could not be added to or taken from; but now he only means that it cannot be done by the Legislature; that the courts can do it. If the qualifications prescribed are exclusive and cannot be added to or taken from by Congress, can a court do it by judicial sentence any better than the Senate can do it, any better than the Legislature can do it? That gives up the whole argument. If a court can do it, then the Senate having authority to act upon the case, may, if satisfied itself that the party is a traitor, if satisfied that he has been guilty of bribery and is an unfit person to sit here for that reason, expel him after he is admitted. The Senator does not deny that.

Mr. DOOLITTLE. My friend will allow me to suggest that the Constitution expressly provides that Congress may declare the punishment for treason, and Congress by declaring part of the punishment of treason disqualification from office is clearly exercising a power granted by the Constitution.

Mr. TRUMBULL. Does the Constitution expressly declare that Congress may declare the punishment for bribery?

Mr. DOOLITTLE. It declares that Congress may impose punishment for crimes generally, but especially in relation to treason.

Mr. TRUMBULL. Then by way of imposing this punishment for crimes we propose to keep traitors out of this body. That is exactly what we propose to do.

Mr. DOOLITTLE. It says Congress has power to declare it "by law."

Mr. TRUMBULL. That is exactly what Congress have declared by the law of July 2, 1862, that no man who cannot take this oath shall enter upon the discharge of official duty at all. He cannot be sworn in as a Senator when he is not in a position to take this oath. No one, I apprehend, would deny our authority to expel him. That is a mere regulation of practice. It is only another mode of proceeding, whether you shall open the door and allow a party who ought not to be here to come in and then kick him out, or whether you shall shut the door and not let him come in.

Mr. EDMUNDS. Giving him a vote on the question whether he ought to be kicked out!

Mr. TRUMBULL. Yes, giving him a vote on that very question. Now, my friend from Wisconsin, who wants to hang Breckinridge, I suppose, wants to get him in here to have a kick at him. Well, I would not let him get in here at all.

Mr. HOWE. No, sir, my friend does not mean that I want to hang Mr. Breckinridge or kick him either. I am not in that line.

Mr. TRUMBULL. I understood the Senator to say that if Mr. Breckinridge were elected Senator from the State of Kentucky he hoped he would be hung before he got here. [Mr. HOWE. No.] I very much misunderstood the Senator if he did not say in reply to a question asked by some member of the body supposing Kentucky in the midst of the war had elected Breckinridge Senator——

Mr. HOWE. Yes.

Mr. TRUMBULL. And he went on to say that they would have had a right to elect him and he would be entitled to take his seat, but he hoped that before he got his seat he would be hung.

Mr. HOWE. Yes; speaking about several years ago.

Mr. TRUMBULL. The difference is only in the "several years ago." I may be mistaken as to the time when the Senator would have hung him. [Laughter.]

Mr. HOWE. I have not the slightest objection to its being done now, if my friend insists on it, if it would make him any happier. [Laughter.] I was only trying to set him right as to what I had said. I know I was speaking in reference to transactions that were suggested to me as having occurred several years ago.

Mr. TRUMBULL. These extreme cases that are put I admit do not prove anything. It is a matter of practice and regulation as to when we should pass on the question. When Mr. Thomas's credentials were first presented in the Senate I was in favor of allowing him to be sworn in and examining the case afterward; but that is a matter of practice, and after discussion I believe the Senate pretty nearly unanimously decided to have his case investigated before he was sworn. It is competent to pursue either course; and I think, in this body which is always organized, having two thirds of its members always elected, the rule ought to be adopted that no person about whose right to a seat there is a question should be admitted to be sworn until that question is settled. Why does the other rule obtain of allowing persons who have a *prima facie* case to be sworn in as members in the first instance, and allowing them often to sit for months as members of legislative bodies, and to vote on the most important bills, though after investigation it is decided by the House that they are not entitled to seats at all? And yet the votes of such persons may have enacted into laws the most important measures. Why is that done? It is done from the necessity of the case, because you must have some practicable mode of organizing a legislative body. When all its members come together for the first time one has just as good a right to a seat as another. One has as good a right to vote upon the right of a third party to a seat as another; and hence the rule has obtained from the necessity of the case of allowing all those having the *prima facie* evidence of an election to be sworn in in the first instance, and to investigate their cases afterward. But there is no such necessity in this body. We are always organized; we always have two thirds of the members of the body qualified and acting, and I think the safer and better rule would be in this body to settle the question of the right to a seat of a person whose right is contested in the first instance before allowing him to take part in the proceedings of the body. Since I have had a seat in this body I have known an instance where a member has sat here and voted for months, and then the majority of the Senate has decided that he was not entitled to a seat. I think that question should have been settled at the outset. We may settle this case, I think, in the manner it is proposed to be settled.

I am not going into the merits of the case. I am not going to express any opinion as to whether the Senator-elect from Maryland is entitled to his seat or not. All I mean to say is that it is competent to settle this question at this stage of the proceedings and that I think this law is constitutional. If we had a right to declare that no person should enter upon the discharge of the duties of an office without taking this oath, and we are satisfied that the party cannot take this oath truly, then he should not be permitted to enter upon the discharge of his duties. What is the object of the oath? It is not to punish men for perjury; it is not to induce men to swear falsely. The object of the oath is to protect the country against disloyal men holding the offices of the country. This is the intent of the law and as a means of ascertaining them we prescribe the oath.

Mr. DRAKE. And it was not intended that any man should establish through perjury his right to hold the office?

Mr. TRUMBULL. Unquestionably not. I admit that we may permit a party to come up and take the oath, and if satisfied afterward that he had taken the oath falsely, I am quite sure my friend from Wisconsin would unite with me in expelling him from the body.

Mr. HOWE. Certainly.

Mr. TRUMBULL. If he would do that why will he not prevent his taking a false oath, and taking a seat in the body in the first instance?

It was only in reference to this one point which had been argued by the Senator from Wisconsin that I desired to make any remarks, and having submitted these views I shall say nothing on the merits of the case at present.

Mr. STEWART. Inasmuch as the Senator from Wisconsin proposed to take three days to answer my question, and afterward suggested that he did not see its bearing, I will simply state the question. The third section of the constitutional amendment proposed by the Thirty-Ninth Congress reads as follows:

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

Now, to hold that we have no constitutional authority in this case involves an affirmative finding by the Senate that this amendment is not a part of the Constitution. I have heard opinions variously expressed in the Senate on that point, some contending that, it having been ratified by three fourths of the represented States it is now a part of the Constitution, and others holding the other doctrine, so that it seems to me the determination of the question now before the Senate involves the inquiry whether this amendment is a part of the Constitution or not. If it is, it closes the case. There is no ambiguity about it. Mr. Thomas formerly held the office of Secretary of the Treasury, and took an oath to support the Constitution. If he did subsequently aid the enemies of the country he comes specifically under this section of the Constitutional amendment. Now, before we can abandon this inquiry and say we have no jurisdiction in the premises we must not only determine that the Senate had no right to act upon the question under the Constitution as it formerly stood, but we must also determine that this amendment is not a part of the Constitution, and upon that point I should like to hear the Senator from Wisconsin, and that was the object of my question. As he has taken time to consider the matter, I hope he will go over the whole ground and determine what is constitutional and what not before he arrives at a conclusion; because if this article is part of the Constitution it becomes an important matter of discussion, and I think it very well that three days are taken.

Mr. HOWE. I am very glad that I was prudent enough to avail myself of the suggestion made by the Senator from Vermont, for I really did not comprehend the drift of the question submitted to me by the Senator from Nevada. I was arguing the question upon the Constitution as it is printed and bound up here, and has my name stamped upon it, [the printed Manual, with each Senator's name on his copy,] and which I supposed was the Constitution of the United States. I was arguing on the Con-

stitution as it was furnished by the officers of this House. Now I do not really know whether what the Senator has read is a part of the Constitution or not. I do not know what the evidence is that three fourths of the States have voted for it or that any of the States have voted for it. I am really not able to decide that question, and I want to take time to consider it.

Mr. STEWART. Do you or do you not believe this to be a part of the Constitution? Although it is not in the book where your name is stamped, do you not believe it to be a part of the Constitution?

Mr. HOWE. I do not know what evidence there is that any State has adopted that article as an amendment to the Constitution. I do not know—I am sorry to make the confession, but you drag it right out of me—that three fourths, or even three States have voted for it. I believe, although I had lost sight of the fact, that several States, have adopted it, but I never heard it said that three fourths had, and do not know just now how the fact is. It is a question of fact that I want time to consider now, and not of law.

Mr. STEWART. If the Senator does not know whether it is part of the Constitution or not I think it very proper for him to take three days for an investigation of the question. Now, without making a speech, I wish to submit a single suggestion in regard to this case. I happen to be, with the Senator from Vermont, one of those who have been forced to the conviction that Mr. Thomas did give aid and comfort to persons in armed hostility to the Government of the United States within the meaning of that language; and I think the only confusion that is thrown around this question arises from the fact that we are liable to look upon rebellion in a different light from other crimes; and, indeed, from the fact that we are not in the habit of looking on rebellion as a crime. If it is treated—as this statute evidently contemplates that it should be, and as we have been in the habit of treating it by our laws—as a crime, I think it clear that he did give aid and comfort to the rebellion according to all the analogies of the criminal law. To make myself understood I will suppose a case: suppose Mr. Thomas's son had proposed to his father to engage in a robbery involving much difficulty and danger, requiring a fleet horse; suppose the father had tried to prevent it by using all the moral suasion within his power, but the young man had determined to go, and he gave him $100 with which to buy the horse. The son proceeds to join the band of robbers and commits the offense. Now can the father say, in extenuation, when charged as an accessory before the fact, "I tried to dissuade my son; I was opposed to this thing; I advised him not to go; I pointed out the danger; but still he would go, and I gave him $100; but in doing so I was inspired by fraternal feeling and not by any desire to aid the robbery; it was because I did not want him to be overtaken."

The only question in this case, it seems to me, is, what was the character of the act to be perpetrated? Was it a crime for this young man to join the enemies of his country? If so, the party who gave him $100, no matter what his motive or desires may have been, if the intention was that it should be used for that purpose; used to buy clothes to go there; used as money to put the person in a condition to perpetrate that crime; no matter whether it was actually necessary to the accomplishment of the purpose or not; if it was a convenient means; if it would facilitate the son in getting there—and nobody can doubt that $100 would facilitate considerably in getting across the lines in those times, in buying clothing to make him comfortable, for money is very material in such transactions—then, I say, if he gave him that money with knowledge of the fact that the crime was to be committed, according to any rules of evidence in the administration of criminal law with which I have ever had any familiarity, he would be regarded as an accessory before the fact. It is very possible that a jury might be appealed to successfully in view of paternal feelings, and might violate the strict letter of the law. They do sometimes, if you make out a case sufficiently appealing to their sympathies. But here we have no question of intent. The only question is whether he did knowingly give aid to persons in armed hostility to the Government. What is meant by that? That language means the furnishing of facilities to persons to get there. It means the various ways in which aid may be given.

It seems to me that if the father had a little of that sympathy and love for country which it is is said he had for his son it would have been easy for him to prevent his boy entering the rebel service. If he could not do it by persuasion he could have withheld the $100. If he could not do it by withholding the $100 he could have appealed to the authorities to prevent it, inasmuch as the boy was not only going to join the rebel army, but he was going through our lines and to convey to them all the information that he had. He was coming here to Washington, and going to Baltimore, and intended to go through the lines with the information he then had, and communicate it to them, and not merely to carry them his person and assist them. They were not only to have the addition of a man to their army, but the addition of one informed as to the condition of things here. They not only got a soldier, but one informed as to the situation here, and from very intelligent sources.

It seems to me that the only cloud about the matter is how you will regard the offense of rebellion; for I do not believe there is any lawyer who can avoid the conclusion that to give a man $100 to facilitate his going to a place to commit a crime, when you know he is going for that purpose, makes the person doing it an accessory before the fact.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maryland to postpone the further consideration of the subject until to-morrow.

Mr. JOHNSON. I made that motion, and I rise now merely to say that it is not my purpose to call the matter up for a day or two, so that in the meantime the Senate may dispose of some other matters.

Mr. SHERMAN. With the consent of the Senator from Maryland I will move that the Senate take up the cotton-tax bill, so that we may proceed with it to-morrow at one o'clock. I am very anxious to get a vote on that bill.

Mr. JOHNSON. I have no objection to that.

The PRESIDENT *pro tempore*. If the Senator withdraws the motion to postpone the question then will be on the resolution.

Mr. SHERMAN. I move that that be laid aside and the cotton bill taken up. I do not desire to pass it to a vote to-day, but I wish it to come up at one o'clock to-morrow.

The PRESIDENT *pro tempore*. The subject before the Senate will be considered as postponed if there be no objection. The question now is on taking up the bill indicated by the Senator from Ohio.

Mr. MORTON. Allow me to suggest to the Senator from Ohio, the chairman of the Committee on Finance, that the bill to prevent the further contraction of the currency be first taken up and disposed of. I think there is a public necessity for it. I presume it will take but a little while.

Mr. SHERMAN. Both those bills were reported by me from the same committee. It is usual, as a matter of course, to take them in their order. The cotton bill has been debated at great length and it ought to be settled. I propose as soon as possible after that to take up the bill to which the Senator has referred, which I also am in favor of; but I think it would be very bad policy to change the order of those bills. The cotton bill came to us first from the House and ought to be first acted on here. It has been debated at length, and I think we ought not to mingle another bill in debate until the cotton tax is first disposed of. I shall then move to take up the other bill as soon as possible.

The PRESIDENT *pro tempore*. The bill in regard to the tax on cotton is the unfinished business of the former session.

Mr. TRUMBULL. I believe the Senator from Ohio does not design proceeding with that bill to-night.

Mr. SHERMAN. I do not.

SMITHSONIAN INSTITUTION REGENTS.

Mr. TRUMBULL. I ask leave to introduce a joint resolution for the appointment of regents of the Smithsonian Institution to fill some vacancies. The annual meeting of the regents takes place soon, and they ought to be appointed. If there is no objection I should like to have the joint resolution considered now.

By unanimous consent leave was granted to introduce a joint resolution (S. R. No. 83) for the appointment of regents of the Smithsonian Institution; which was read a first time by its title.

Mr. TRUMBULL. Let it be read at length for information.

The Secretary read the joint resolution, which provides that the vacancies in the Board of Regents of the Smithsonian Institution of the class other than members of Congress be filled by the appointment of Theodore D. Woolsey, of Connecticut; William B. Astor, of New York; John McLean, of New Jersey, and Peter Parker, of the city of Washington.

Mr. TRUMBULL. I ask to have the resolution considered now. I presume there is no objection to it.

Mr. FOWLER. I prefer to have it laid over.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot be considered to-day.

Mr. CHANDLER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 6, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of the 20th of December last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday the first business during the morning hour is the calling of the States and Territories, beginning with the State of Maine, for bills and joint resolutions, for reference to appropriate committees, not to be brought back into the House by motions to reconsider.

COASTING-TRADE MANIFESTS.

Mr. PIKE introduced a bill (H. R. No. 334) to relieve vessels engaged in the coasting trade from filing manifests, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

APPEALS IN EQUITY.

Mr. POLAND introduced a bill (H. R. No. 335) in relation to appeals in equity; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

LAVINA J. M'ILVAINE.

Mr. KOONTZ introduced a bill (H. R. No. 336) for the relief of Lavina J. McIlvaine; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MAIL ROUTE IN PENNSYLVANIA.

Mr. MILLER introduced a bill (H. R. No. 337) to establish a mail route from Mt. Carmel, in the county of Northumberland, Pennsylvania, to Danville, in said State; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

REDEMPTION OF LEGAL-TENDER NOTES.

Mr. BROOMALL introduced a bill (H. R. No. 338) for the redemption of legal-tender

notes; which was read a first and second time, and referred to the Committee on Banking and Currency.

ELIZABETH MAGEE.

Mr. MERCUR introduced a bill (H. R. No. 339) granting an increased pension to Elizabeth Magee; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

PAYMASTERS.

Mr. WASHBURN, of Indiana, introduced a bill (H. R. No. 340) to amend section twenty-five, chapter one hundred and sixty-two, of the acts of the second session Twenty-Fifth Congress, relative to paymasters in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SOLDIERS' BOUNTIES.

Mr. KERR introduced a bill (H. R. No. 341) to amend the twelfth section of the soldiers' bounty law as contained in an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 28, 1866; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

POST ROUTES.

Mr. KERR also introduced a bill (H. R. No. 342) to establish certain post routes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

DEPARTMENTAL ADVERTISING.

Mr. FARNSWORTH introduced a joint resolution (H. R. No. 132) in regard to the construction of section ten of an act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes;" which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SWINDLING IN THE TERRITORIES.

Mr. INGERSOLL introduced a bill (H. R. No. 343) repealing a certain portion of an act of the Legislative Assembly of Colorado Territory authorizing a lottery, and to prevent swindling in the Territories of the United States; which was read a first and second time, and referred to the Committee on the Territories.

WASHINGTON TARGET ASSOCIATION.

Mr. INGERSOLL also introduced a bill (H. R. No. 344) to incorporate the Washington Target-Shooting Association in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

FARMERS' AND BUTCHERS' COMPANY.

Mr. INGERSOLL also introduced a bill (H. R. No. 345) to incorporate the Farmers' and Butchers' Company of Georgetown, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

LAZARETTO, NEAR PHILADELPHIA.

Mr. WASHBURNE, of Illinois, introduced a bill (H. R. No. 346) to authorize the sale of the Lazaretto near Philadelphia; which was read a first and second time, and referred to the Committee on Commerce.

JUDICIAL DISTRICTS IN ILLINOIS.

Mr. RAUM introduced a bill (H. R. No. 347) to amend an act to divide the State of Illinois into two judicial districts, approved February 13, 1855; which was read a first and second time, and referred to the Committee on the Judiciary.

INSPECTION OF STEAMERS, ETC.

Mr. RAUM also introduced a joint resolution (H. R. No. 133) creating a local board of inspection of hulls, boilers, and machinery of steamers at the port of Cairo, Illinois, and authorizing and requiring the Secretary of the Treasury to appoint local inspectors for said port; also fixing the compensation of such inspectors; which was read a first and second time, and referred to the Committee on Commerce.

FEDERAL COURTS IN MISSOURI.

Mr. LOAN introduced a bill (H. R. No. 348) to provide for holding terms of the United States district court for the western district of Missouri at St. Joseph in said State; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PORT OF DELIVERY AT ST. JOSEPH, MISSOURI.

Mr. LOAN also introduced a bill (H. R. No. 349) to constitute St. Joseph, in the State of Missouri, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

OATHS IN BANKRUPTCY.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 350) to authorize clerks of courts of record to administer oaths in proceedings in bankruptcy; which was read a first and second time, and referred to the Committee on the Judiciary.

SOLDIERS' BOUNTIES.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 351) providing for the payment of soldiers' bounties in case of the death of the applicant; which was read a first and second time, and referred to the Committee on Military Affairs.

POST ROUTES.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 352) to establish a post route from Vinton, Iowa, via Belle Plain to Victor, in same State; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 353) to establish a post route from Orleans to Wells' Mills, Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

OFFICIAL NOTICES IN BANKRUPTCY.

Mr. ALLISON introduced a joint resolution (H. R. No. 134) relating to the publication of official notices in bankruptcy; which was read a first and second time, and referred to the Committee on the Judiciary.

COURT OF CLAIMS, ETC.

Mr. ALLISON also introduced a bill (H. R. No. 354) to amend an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the armies of the United States," approved July 4, 1864; which was read a first and second time, and referred to the Committee on the Judiciary.

GRANT OF LANDS TO WISCONSIN.

Mr. WASHBURN, of Wisconsin, introduced a bill (H. R. No. 355) granting lands to the State of Wisconsin for a wagon road; which was read a first and second time, and referred to the Committee on Public Lands.

GRANT OF LANDS TO DAKOTA.

Mr. DONNELLY introduced a bill (H. R. No. 356) making a grant of land to the Territory of Dakota in alternate sections to aid in the construction of a certain railroad in said Territory; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PACIFIC RAILROAD.

Mr. DONNELLY also introduced a bill (H. R. No. 357) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; which was read a first and second time, and referred to the Committee on the Pacific railroad.

SETTLERS ON SIOUX RESERVATION.

Mr. WINDOM introduced a bill (H. R. No. 358) for the relief of settlers on the late Sioux Indian reservation in the State of Minnesota; which was read a first and second time, and referred to the Committee on Public Lands.

AMENDMENT OF HOMESTEAD LAW.

Mr. WINDOM also introduced a bill (H. R. No. 359) amendatory of the homestead law; which was read a first and second time, and referred to the Committee on Public Lands.

SURVEY OF NEW MEXICO.

Mr. CLEVER introduced a bill (H. R. No. 360) to provide for a geological and mineralogical survey of the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Mines and Mining.

PUBLIC SCHOOLS IN NEW MEXICO, ETC.

Mr. CLEVER also introduced a bill (H. R. No. 361) to provide for the completion of the capitol of New Mexico, the building of a penitentiary, and the establishment of free public schools in each county in said State; which was read a first and second time, and referred to the Committee on the Territories.

POST ROUTES IN NEW MEXICO.

Mr. CLEVER also introduced a bill (H. R. No. 362) to establish certain post routes in New Mexico; which was read a first and second time, and referred to the Committee on the Territories.

COLORADO.

Mr. CHILCOTT introduced a bill (H. R. No. 363) amendatory of an act to provide a temporary government for the Territory of Colorado; which was read a first and second time, and referred to the Committee on the Territories.

RELIEF OF CITIZENS OF DENVER.

Mr. CHILCOTT also introduced a bill (H. R. No. 364) for the further relief of citizens of Denver; which was read a first and second time, and referred to the Committee on the Territories.

RESOLUTIONS.

The SPEAKER stated the next business in order to be the call of States for resolutions, beginning with Missouri, where the call left off on the 16th December last.

BILL ANDERSON'S GUERRILLAS.

Mr. LOAN submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the propriety of allowing pensions to the widows and minor children of those soldiers who were killed by Bill Anderson and his guerrillas at Centralia, Missouri, in September, 1864.

RECONSTRUCTION.

Mr. UPSON. I offer the following resolution, upon which I demand the previous question:

Resolved, That the Committee on Reconstruction be instructed to inquire into the expediency of authorizing by law the several constitutional conventions elected under the reconstruction acts in the States lately in rebellion to appoint all civil officers, State, county, city, or otherwise, in their said States respectively, to act temporarily until constitutions may be adopted therein and officers chosen and qualified thereunder, and for that purpose to remove any or all such civil officers who may now be acting in each of said States as the constitutional convention thereof may deem proper.

Mr. BOUTWELL. I ask the gentleman to withdraw the previous question to enable me to offer an amendment to the resolution.

Mr. UPSON. I will hear it read.

The Clerk read the proposed amendment, as follows:

Resolved, That the Committee on Reconstruction be directed to consider the expediency of authorizing the General of the Army to detail officers for service in the several military districts established by law in the States recently in rebellion; also, to consider the expediency of constituting said States a single military district, under the command of the General of the Army; also, to consider the expediency

of providing additional securities for the exercise of the elective franchise in said States; and also to consider the expediency of declaring by act of Congress that the governments heretofore set up in said States by the order of the President are not republican forms of government.

Mr. UPSON. I will accept that as an amendment to my resolution, and I now renew the demand for the previous question.

The SPEAKER. Does the gentleman accept it as a substitute for his resolution?

Mr. UPSON. No; as an addition.

Mr. MAYNARD. If the gentleman from Michigan will withdraw the demand for the previous question I will move to amend his resolution so as to make it mandatory on the committee to report a bill.

Mr. BINGHAM. I hope that will not be done.

The SPEAKER. If the gentleman withdraws the previous question and debate arises the resolution will go over.

Mr. UPSON. I prefer to leave the resolution as it is.

Mr. CHANLER. I move to lay the resolution on the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 28, nays 86, not voting 72; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Beck Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Grover, Johnson, Kerr, Knott, Marshall, Morgan, Morrissey, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stone, Van Trump, and Wood—28.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Cake, Sidney Clarke, Cobb, Cullom, Dawes, Dodge, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Harding, Hawkins, Hooper, Hopkins, Asahel W. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loan, Logan, Loughridge, Lynch, Maynard, McCarthy, McClurg, McCormick, Mercur, Miller, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Price, Raum, Schenck, Scofield, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—86.

NOT VOTING—Messrs. Ames, Arnell, James M. Ashley, Barnes, Barnum, Benton, Blair, Bromwell, Churchill, Reader W. Clarke, Coburn, Cook, Cornell, Covode, Dixon, Eckley, Ferry, Fields, Finney, Fox, Golladay, Griswold, Haight, Halsey, Higby, Hill, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Ketcham, Kitchen, Laffin, George V. Lawrence, Lincoln, Mallory, Marvin, McCullough, Moore, Moorhead, Mullins, Mungen, Newcomb, Niblack, Nunn, Pile, Poland, Pomeroy, Robertson, Robinson, Sawyer, Selye, Shanks, Shellabarger, Smith, Stewart, Taber, Taffe, Trimble, Van Aernam, Van Auken, Burt Van Horn, Van Wyck, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and Woodward—72.

So the House refused to lay the resolution on the table.

The question recurred upon seconding the call for the previous question.

The previous question was seconded and the main question was ordered; and under the operation thereof the resolution was agreed to.

Mr. UPSON moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FIFTIETH WISCONSIN VOLUNTEERS.

Mr. COBB submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Military Affairs be and they are hereby instructed to inquire into the expediency of placing the officers of the fiftieth regiment of Wisconsin volunteers on the same footing in respect to the three months' extra pay proper as though they had been mustered into the service of the United States at the time of the passage of the act granting such extra pay to certain officers, &c.; and that they report by bill or otherwise.

Mr. COBB moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC LANDS.

Mr. HOPKINS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of subjecting to entry under the homestead law, and of offering for sale and preemption for actual settlement, all the unsold even-numbered sections and parts of sections of the public lands remaining unsold along the lines of railroads, when the odd-numbered sections have been granted or reserved to aid in the construction of said roads, on the same terms that other Government lands are now disposed of.

THANKS TO GENERAL HANCOCK.

Mr. ELDRIDGE. I submit the following joint resolution, and call the previous question upon its adoption:

Resolved by the Senate and House of Representatives in Congress assembled, That the thanks of Congress are hereby tendered to Major General Winfield S. Hancock for his wise, patriotic, and timely recognition of the first rights of the citizen, and of the great principles of constitutional liberty, expressed in the order issued by him upon assuming the command of the "fifth military district" so called, and for his prompt determination to restore and maintain the supremacy of the civil law within the limits of his command.

The joint resolution was read a first and second time.

The question was upon seconding the previous question upon ordering the joint resolution to be engrossed and read a third time.

Mr. WASHBURNE, of Illinois. Will the gentleman from Wisconsin [Mr. ELDRIDGE] withdraw the call for the previous question in order to allow me to offer an amendment to his resolution?

Mr. ELDRIDGE. I will hear the amendment read.

Mr. WASHBURNE, of Illinois. I desire to amend by adding the following:

Resolved, That we utterly condemn the conduct of Andrew Johnson, acting President of the United States, for his action in removing that gallant soldier Major General P. H. Sheridan from the command of the fifth military district; and that the thanks of this House are due to General U. S. Grant, commanding the armies of the United States, for his letter of August last, addressed to the said acting President, in relation to the removal of Hon. E. M. Stanton and of General Sheridan, as well as for his indorsement on a letter of General Sheridan, dated January 25, 1867, in relation to matters in Texas.

Mr. ELDRIDGE. I cannot yield for that amendment. I do not think there is another gentleman in or out of Congress who agrees with the gentleman from Illinois [Mr. WASHBURNE] in that.

Mr. WARD. I move to lay the resolution on the table.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

Mr. WASHBURNE, of Illinois. I hope the motion to lay on the table will be withdrawn.

Mr. WARD. I will withdraw the motion.

Mr. FARNSWORTH. I renew the motion to lay the resolution on the table.

Mr. ELDRIDGE. I call for the yeas and nays on that motion.

Mr. PLANTS. Will the gentleman yield to permit me to offer an amendment?

Mr. ELDRIDGE. I cannot withdraw for any humbug resolutions.

The SPEAKER. The motion to lay the resolution on the table is pending.

The yeas and nays were ordered.

Mr. SCHENCK. If the House should refuse to lay the resolution on the table and should also refuse to sustain the previous question, will not the resolution then be open to amendment so as to change it from one of approbation to one of censure?

The SPEAKER. Should the resolution give rise to debate it will go over under the rule.

Mr. ELDRIDGE. Are not all questions of that kind in the nature of arguments?

The SPEAKER. The Chair is always willing to answer inquiries in relation to the parliamentary effect of any motion that may be pending.

The question was then taken upon laying the joint resolution on the table; and it was decided in the affirmative—yeas 86, nays 28, not voting 73; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Cake, Cary, Sidney Clarke, Cobb, Cullom, Dawes, Dodge, Donnelly, Driggs, Eggleston, Ela, Farnsworth, Ferriss, Garfield, Gravely, Harding, Higby, Hooper, Hopkins, Hunter, Jenckes, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loan, Logan, Loughridge, Lynch, Maynard, McCarthy, McClurg, McCormick, Mercur, Miller, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Price, Raum, Schenck, Scofield, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Thomas, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—86.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Grover, Johnson, Kerr, Knott, Marshall, McCormick, Morgan, Morrissey, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stone, Van Trump, and Wood—28.

NOT VOTING—Messrs. Ames, Delos R. Ashley, James M. Ashley, Barnes, Barnum, Blair, Bromwell, Churchill, Reader W. Clarke, Coburn, Cook, Cornell, Covode, Dixon, Eckley, Eliot, Ferry, Fields, Finney, Fox, Golladay, Griswold, Haight, Halsey, Hamilton, Hawkins, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Jones, Ketcham, Kitchen, Laffin, George V. Lawrence, Lincoln, Mallory, Marvin, McClurg, McCullough, Moore, Moorhead, Mullins, Mungen, Newcomb, Niblack, Nunn, Pile, Pomeroy, Robertson, Robinson, Sawyer, Selye, Shanks, Shellabarger, Smith, Stewart, Taber, Taffe, Van Aernam, Van Auken, Burt Van Horn, Van Wyck, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and Woodward—73.

The joint resolution was laid on the table.

SEIZURES OF WHISKY, ETC.

Mr. ALLISON submitted the following resolution:

Resolved, That the Secretary of the Treasury be, and is hereby, directed to report to this House the quantity of whisky which has been seized in the cities of New York and Brooklyn; the quantity condemned and the quantity sold, together with the amount received into the Treasury from such sale; also the amount now on hand in the possession of the Government.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and adopted.

PRESIDENT JOHNSON—GENERAL GRANT.

Mr. WASHBURN, of Wisconsin. I submit the following resolution, on which I demand the previous question:

Resolved, That this House utterly condemns the conduct of Andrew Johnson, acting President of the United States, for his action in removing that gallant soldier, Major General P. H. Sheridan, from the command of the fifth military district, and that the thanks of this House are due to General U. S. Grant, commanding the armies of the United States, for his letter of August last, addressed to the said acting President, in relation to the removal of Hon. E. M. Stanton and of General Sheridan, as well as for his indorsement on a letter of General Sheridan, dated January 25, 1867, in relation to matters in Texas.

Mr. CHANLER. Mr. Speaker, is not this resolution susceptible of division? It seems to me to embrace two distinct propositions.

The SPEAKER. The resolution is divisible.

Mr. CHANLER. I call, then, for a division.

Mr. ROSS. I desire to inquire of the gentleman from Wisconsin [Mr. WASHBURN] whether he will not consent to an amendment thanking General Grant for the letter which was called "the whitewashing letter," recommending the prompt admission of representatives from the southern States?

Mr. WASHBURN, of Wisconsin. I cannot yield for such an amendment.

The question being on seconding the demand for the previous question, there were—ayes 53, noes 27; no quorum voting.

The Speaker, under the rules, ordered tellers; and appointed Mr. WASHBURN of Wisconsin and Mr. CHANLER.

The House divided; and the tellers reported—ayes 69, noes 39.

So the previous question was seconded.

The main question was then ordered.

Mr. BOYER. I move that the resolution be laid on the table; and on that motion I call for the yeas and nays.

The SPEAKER. Does the gentleman from New York [Mr. CHANLER] desire that the resolution shall be divided before the question is taken on laying on the table?

Mr. CHANLER. I desired a division of

the resolution because I thought it hardly fair that the gentleman from Wisconsin should avail himself of this method of offering two resolutions when the rules allow him to offer but one.

The SPEAKER. The gentleman from Pennsylvania [Mr. BOYER] can move to lay the whole subject on the table.

Mr. BOYER. I make that motion, and call for the yeas and nays.

Mr. WOOD. Mr. Speaker, has not the morning hour expired?

The SPEAKER. It has; but the House is acting under the operation of the previous question.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative, there being—yeas 28, nays 80, not voting 79; as follows:

YEAS—Messrs. Adams, Archer, Delos R. Ashley, Axtell, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Grover, Johnson, Kerr, Knott, Marshall, McCormick, Morgan, Morrissey, Nicholson, Randall, Ross, Sitgreaves, Stone, Van Trump, and Wood—28.

NAYS—Messrs. Allison, Anderson, Arnell, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Broomall, Buckland, Butler, Cake, Sidney Clarke, Cobb, Cullom, Dawes, Donnelly, Driggs, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Hooper, Hopkins, Asahel W. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loan, Loughridge, Lynch, Maynard, McCarthy, McClurg, Mercur, Miller, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Price, Schenck, Scofield, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Thomas, Trimble, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, and Windom—80.

NOT VOTING—Messrs. Ames, James M. Ashley, Barnes, Barnum, Blaine, Blair, Bromwell, Churchill, Reader W. Clarke, Coburn, Cook, Cornell, Covode, Dixon, Dodge, Eckley, Eggleston, Ferry, Fields, Finney, Fox, Golladay, Griswold, Haight, Halsey, Harding, Hawkins, Higby, Hill, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jenckes, Jones, Ketcham, Kitchen, Laflin, George V. Lawrence, Lincoln, Logan, Mallory, Marvin, McCullough, Moore, Moorhead, Mullins, Mungen, Newcomb, Niblack, Nunn, Phelps, Pile, Pomeroy, Pruyn, Raum, Robertson, Robinson, Sawyer, Selye, Shanks, Shellabarger, Smith, Stewart, Taber, Taffe, Van Aernam, Van Auken, Burt Van Horn, Van Wyck, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Woodbridge, and Woodward—79.

So the House refused to lay the whole subject on the table.

Mr. LOGAN. I ask unanimous consent to record my vote.

The SPEAKER. Under the rule unanimous consent cannot be granted for that purpose.

Mr. CHANLER having demanded a division, the question recurred on the first branch of the resolution, as follows:

Resolved, That this House utterly condemns the conduct of Andrew Johnson, acting President of the United States, for his action in removing that gallant soldier, Major General P. H. Sheridan, from the command of the fifth military district.

Mr. CHANLER demanded the yeas and nays

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 27, not voting 81; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Boutwell, Buckland, Butler, Cake, Reader W. Clarke, Cobb, Dawes, Dodge, Donnelly, Driggs, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Harding, Higby, Hooper, Hopkins, Asahel W. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loan, Logan, Loughridge, Maynard, McCarthy, McClurg, Mercur, Miller, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Price, Raum, Schenck, Starkweather, Aaron F. Stevens, Stokes, Taylor, Thomas, Trimble, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Stephen F. Wilson, and Windom—79.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Grover, Johnson, Kerr, Knott, Marshall, Morgan, Morrissey, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stone, Van Trump, and Wood—27.

NOT VOTING—Messrs. Ames, Anderson, James M. Ashley, Barnes, Barnum, Blair, Bromwell, Broomall, Churchill, Sidney Clarke, Coburn, Cook, Cornell, Covode, Cullom, Dixon, Eckley, Eggleston, Ferry, Fields, Finney, Fox, Golladay, Griswold, Haight, Halsey, Hawkins, Hill, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Ketcham, Kitchen, Laflin, George V. Lawrence, Lincoln, Lynch, Mallory, Marvin, McCormick, McCullough, Moore, Moorhead, Mullins, Mungen, Newcomb, Niblack, Nunn, Phelps, Pile, Poland, Pomeroy, Robertson, Robinson, Sawyer, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stewart, Taber, Taffe, Van Aernam, Van Auken, Burt Van Horn, Van Wyck, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—81.

So the first branch of the resolution was adopted.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question next recurred on the second division of the resolution, as follows:

"And that the thanks of this House are due to General U. S. Grant, commanding the armies of the United States, for his letter of August last addressed to the said acting President in relation to the removal of Hon. E. M. Stanton and of General Sheridan, as well as for his indorsement on a letter of General Sheridan, dated January 5, 1867, in relation to matters in Texas."

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 23, not voting 82; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benton, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Cake, Cary, Cobb, Cullom, Dawes, Dodge, Donnelly, Driggs, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Higby, Hooper, Hopkins, Asahel W. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loan, Logan, Loughridge, Lynch, Maynard, McCarthy, McClurg, Mercur, Miller, Morrell, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Poland, Polsley, Price, Raum, Schenck, Scofield, Starkweather, Aaron F. Stevens, Stokes, Taylor, Trimble, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, and Windom—82.

NAYS—Messrs. Adams, Archer, Beck, Boyer, Burr, Chanler, Eldridge, Getz, Glossbrenner, Grover, Harding, Kerr, Knott, Marshall, McCormick, Morgan, Morrissey, Nicholson, Pruyn, Randall, Ross, Sitgreaves, and Van Trump—23.

NOT VOTING—Messrs. Ames, James M. Ashley, Axtell, Barnes, Barnum, Benjamin, Blair, Bromwell, Brooks, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cornell, Covode, Dixon, Eckley, Eggleston, Ferry, Fields, Finney, Fox, Golladay, Griswold, Haight, Halsey, Hawkins, Hill, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Johnson, Jones, Ketcham, Kitchen, Laflin, George V. Lawrence, Lincoln, Mallory, Marvin, McCullough, Moore, Moorhead, Mullins, Mungen, Newcomb, Niblack, Nunn, Phelps, Pile, Plants, Pomeroy, Robertson, Robinson, Sawyer, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Taber, Taffe, Thomas, Van Aernam, Van Auken, Burt Van Horn, Van Wyck, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Wood, Woodbridge, and Woodward—82.

So the second branch of the resolution was adopted.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXPENSES OF INDIAN SERVICE.

The SPEAKER, the morning hour having expired, laid before the House a communication from the Secretary of the Interior, transmitting a tabular statement of the disbursements for contingent and miscellaneous purposes for the Indian service for the year ending June 30, 1867; which was referred to the Committee on Appropriations and ordered to be printed.

DUTY ON CORKS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the United States consul at Barcelona relating to the export of corks from that port, and recommending a specific instead of *ad valorem* duties on corks; which was referred to the Committee of Ways and Means, and ordered to be printed.

TAXATION OF NEGROES IN KENTUCKY.

The SPEAKER also laid before the House a communication from the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, transmitting a petition of colored people of Kentucky complaining of unjust taxation by the State authorities; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

RESOLUTIONS OF NEW MEXICO.

The SPEAKER also laid before the House resolutions of the Legislature of New Mexico, relating to and endorsing the conduct of General Heath, the Secretary of the Territory; which was referred to the Committee on Territories, and ordered to be printed.

CONTESTED ELECTIONS.

The SPEAKER also laid before the House additional evidence in the contested-election cases from the first district of Tennessee and the ninth district of Kentucky; which was referred to the Committee of Elections.

EXPENSES OF INVESTIGATING COMMITTEES.

The SPEAKER also laid before the House a letter from the Clerk of the House in response to a resolution of the House in regard to the expenses of investigating committees; which was laid on the table, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866, reported from the select committee on Soldiers' and Sailors' Bounties, and postponed to this day; upon which the gentleman from Indiana [Mr. WASHBURN] is entitled to the floor.

MOTION TO RECONSIDER.

Mr. RANDALL. I rise to a privileged question; I desire to enter a motion to reconsider the vote by which a resolution offered by me on the last day the House was in session in regard to the discharge of employés in the navy-yards was referred to the Committee on Naval Affairs.

The motion to reconsider was entered.

VESSELS IN THE NAVY.

Mr. WASHBURNE, of Illinois. I ask the gentleman from Indiana to give way to me to offer a resolution calling for some information.

Mr. WASHBURN, of Indiana. I yield for that purpose.

Mr. WASHBURNE, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of the Navy is hereby directed to communicate to this House the following information:

First. The number and names of all the vessels belonging to and connected with the Navy Department on the 1st day of April, 1861.

Second. The number of vessels built by and for the Government for the Navy Department since April 1, 1861, the names and tonnage and number of guns of such vessels, when built, where built, by whom built, and the cost of each vessel.

Third. The number and names of all vessels of every description and the tonnage of each vessel purchased by and for the Government for said Navy Department since April 1, 1861, when and where purchased, by whom purchased, the amount paid for such vessels, the amount of commissions paid on such purchases and to whom, how many of such vessels have been lost or destroyed, and how many of them have been sold, and the names of those sold, when sold, to whom sold, and whether at public or private sale, and for how much sold, and the names of parties selling them or in any way connected with such sale, and how many of said vessels, and the names and tonnage thereof, remain unsold, and where such unsold vessels now are, and what is the use to which they have been put.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. WARD. I ask the gentleman from Indiana to yield to me for a few moments.

Mr. WASHBURN, of Indiana. I yield to the gentleman.

Mr. WARD. I desire to call the attention of the House to a subject, and I will submit a letter from a respectable and reliable constituent of mine, and ask the Clerk to read it.

The Clerk read as follows:

HORNELLSVILLE, NEW YORK, *January* 2, 1868.

DEAR SIR: You will recollect of giving me the inclosed letter to Hon. Francis Adams, United States minister, (?) &c., at the Court of St. James.

Supposing that I should have all the protection of any other American citizen, I last month visited my native land, Ireland. I was arrested by the officials of the British Government, and when brought before a local magistrate—a Mr. Fleming, of the city of Naas, county Tipperary—I produced the inclosed letter from yourself to Mr. Adams, supposing that it would be some evidence that I was entitled to some privileges as an American citizen. The magistrate treated the letter with contempt, threw back the letter and said that it was of no importance, and amounted to nothing, and was entitled to no respect whatever. I was committed to prison for one day and one night, and was then only released by my leaving the country at once, without having any opportunity to transact the business for which I undertook this long and somewhat expensive journey.

How long have we Americans to endure these outrages and insults? The mere fact of my being an Irishman was not worse for me than if I had been a native-born "Yankee," for I know of two instances where native Americans were similarly treated. Will our Government take any action upon this matter?

I write to inform you of my case, and being one of your constituents and supporters I claim a right to be heard.

I am, yours, truly, DAVID FITZGERALD.

Hon. HAMILTON WARD, M. C., *Twenty-Seventh District New York.*

Mr. WARD. I will now ask to have read in this connection another letter, which I send up to the Clerk's desk. And I will say to the House that after this letter has been read I will ask the privilege of submitting a few remarks preparatory to submitting a resolution which I desire to offer.

The letter was read, as follows:

BELMONT, NEW YORK, *November* 25, 1867.

DEAR SIR: The bearer, Mr. Daniel Fitzgerald, is an American citizen and a constituent of mine, is a worthy person, and desires to visit his native country, Ireland, for the purpose of visiting his friends. I hope if he has any difficulty that he will receive the full protection due to an American citizen.

No fears need be entertained of his having any hostile intentions toward the Government of Great Britain.

Respectfully, yours,

HAMILTON WARD,
Member of Congress, Twenty-Seventh District, New York.

Hon. CHARLES FRANCIS ADAMS, *Minister, &c., London.*

Mr. WARD. I ask unanimous consent to make a statement on this subject.

The SPEAKER. For how long?

Mr. WARD. For five minutes.

No objection was made.

Mr. WARD. I had supposed when these arrests of American citizens on British soil first came to our knowledge that they were confined to that class of our citizens who had gone to Great Britain and Ireland for the purpose of redressing in some manner the grievances to which the Irish people have been subjected by the Government of Great Britain for so many centuries, and to wrest in some manner from that mighty empire the concession of those rights which belong to the people of Ireland and of which they have been so unjustly deprived. But I am satisfied, from all I can gather, that no citizen of this country, native born or naturalized, who is not prominently known, can go to Great Britain or Ireland without being subjected to arrest and imprisonment, to being thrust, like any common malefactor, into a prison and kept there as long as the sovereign pleasure of some contemptible British official may decree. I am satisfied that there are native as well as foreign born citizens of this country now in those dungeons who are not legally charged with any crime and against whom there is not a scintilla of evidence.

Take the case of the person to whom the letters relate which I have caused to be read. A citizen of this country goes to Ireland to visit his kindred. He takes with him a letter from his member of Congress to the resident minister of his Government certifying to his respectability and his peaceful intentions. He is arrested upon his arrival there, put in prison, kept there a day and night, and released only upon the condition that he will at once return to this country and leave unaccomplished the object of his visit.

Now, I think it is time that we should take up this subject in an earnest manner; that there should be some action upon this matter which will let the British Government understand that it can no longer with impunity inflict such outrages upon American citizens. More than half a century ago, when we were weak, we chastised this insolent Power and brought it to its knees because of similar treatment of our citizens. Now, when we are strong, when our influence pervades the whole earth, when we are the foremost Power of the world, I ask this House are these outrages longer to be submitted to? Sir, we had better imitate the example of Great Britain in this regard. A barbarian prince puts two or three British subjects in prison; straightway all England is excited, and a fleet and an army are sent to Abyssinia to chastise the barbarian for his conduct; yet in regard to the treatment of American citizens by Great Britain nothing is done but the offering of resolutions and protests.

I hope this subject will now be taken up in earnest, and that something will be done at once. Similar resolutions to the one I propose to offer have already been referred to the Committee on Foreign Affairs; but I believe that committee have not been empowered by any resolution of this House to send for persons and papers. While I am opposed, as a general thing, to the expense of committees sending for witnesses, still I think they had better have that privilege in this case. I therefore ask leave to submit the following resolution for action at this time:

Resolved, That the Committee on Foreign Affairs be requested to investigate the matter of the arrest and imprisonment of David Fitzgerald, an American citizen, by the British authorities, and the arrest and imprisonment or other maltreatment by said authorities of any other American citizen whose case shall come to the knowledge of said committee; and that said committee report by bill or otherwise with all convenient speed, and that they have power to send for persons and papers.

The SPEAKER. Is there objection to the introduction of the resolution?

Mr. SPALDING. I object, unless the gentleman will strike out the clause proposing to give the committee power to send for persons and papers.

Mr. LOGAN. I would like to know whether or not that clause will give the committee power to send for the queen of Great Britain. [Laughter.] If so, I object.

Mr. WARD. As there is objection to the clause proposing to empower the committee to send for persons and papers I modify the resolution by striking out that clause.

There being no objection, the resolution was considered and adopted.

EIGHT-HOUR SYSTEM OF LABOR.

Mr. BANKS. I ask unanimous consent to introduce a bill constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States.

I desire that the House shall consider this bill at this time. It is precisely similar to a bill which was considered by the Committee on the Judiciary at the last session and was passed in this House by a nearly unanimous vote. Inasmuch as there is great distress among the workingmen of the country I hope the House will consent to consider the bill at the present time.

The SPEAKER. The bill will be reported at length, after which there will be an opportunity for any gentleman to object.

The bill, which was read, provides that eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed, or who may hereafter be employed, by or on behalf of the Government of the United States, and that all acts and parts of acts inconsistent with this act be repealed.

The SPEAKER. Is there objection to the introduction of the bill?

Mr. SPALDING. I object.

Mr. BANKS. I move that the rules be suspended to permit the introduction of the bill.

Mr. BAKER. Is it in order for me to make a single remark?

The SPEAKER. The motion to suspend the rules is not debatable.

Mr. BAKER. I ask the gentleman from Massachusetts to withdraw the motion that I may have an opportunity to make a single remark.

Mr. BANKS. If the rules be suspended I will, if the House deem it necessary, assent to the reference of the bill to the committee of which the gentleman from Illinois [Mr. BAKER] is chairman.

Mr. BAKER. I merely wish to say that this subject is now before the Committee on Education and Labor, and will, in my judgment, be acted on and reported one way or the other inside of two or three weeks. I have heretofore indicated to the gentleman from Massachusetts [Mr. BANKS] that it is a matter of entire indifference to me as to what course——

Mr. SPALDING. I withdraw my objection to the introduction of the bill. I suppose the gentleman from Massachusetts [Mr. BANKS] has now accomplished his object.

The SPEAKER. The objection being withdrawn the bill is before the House.

The bill (H. R. No. 365) was read the first and second time.

Mr. BANKS. I do not suppose it is necessary to discuss the bill at all. I presume it is understood.

Mr. BAKER. I ask the gentleman to permit me to finish my statement.

Mr. BANKS. I will do so.

Mr. BAKER. I was about to say that I have indicated very frankly and candidly to the gentleman from Massachusetts [Mr. BANKS] that to me it is personally a matter of entire indifference whether this measure be informally introduced and passed or proceed from the Committee on Education and Labor, which now has the subject in charge. Upon consultation with most of the members of the committee I find that in their view it would be more appropriate to have the bill reported from the committee after being submitted to their consideration.

It is a matter of some moment, affecting material interests seriously, and the general sense of gentlemen of the committee with whom I have conversed is that it would be more appropriate, more consonant with proper legislation, to submit such a measure first to the consideration of the committee.

And now, having said this, my own judgment, aside from the personal indifference alluded to, is that this would be the better course. That is all I have to say. The House can do what it pleases. I am myself favorable to the measure.

Mr. PIKE. Mr. Speaker, I presume the desire to act on this resolution at this time arises from the recent discharge of workmen in the various Government navy-yards. I suppose, though I do not know what the object of the gentleman from Massachusetts may be, this consideration may have largely entered into the introduction of the resolution at this time. The House at an early day of the session passed a resolution expressing the judgment of the House in reference to proceeding further in relation to building and equipping ships of war, and it is said, acting partly on that and partly for other reasons, the Department has discharged a portion of the workmen in the navy-yards. It is a matter which has excited some comment in the neighborhoods where the navy-yards are established and produced some action in this House. I notice that during my absence a gentleman from the district of Philadelphia, [Mr. RANDALL,] where the navy-yard there is located, introduced and had referred to the Committee on Naval Affairs a resolution proposing to suspend action under the resolution to which I have referred.

Mr. RANDALL. Let me explain. It merely provided that these laboring men should not be discharged during the winter months.

Mr. PIKE. That is to interpret that the resolution means nothing. I wish simply to say to the House that if this passes it will affect a force of nearly ten thousand in the navy-yards. There were in the various navy-yards about that number employed before the recent reductions.

In my judgment, Mr. Speaker, formed after some examination of the matter, there is no need of more than one half of that force in

these navy-yards, and a proper regard to economy in the public expenditures demands that that reduction should be made.

I know there are some political considerations entering into this matter, but it is hardly worth while, gentlemen are so familiar with them, to mention them here; but it should be recollected by the gentlemen who represent those navy-yards, and the gentlemen whom I notice propose to represent the workmen at the Washington navy-yard, that there are not only men who do work for the Government in these yards and receive pay from the Government, but there are men whom the rest of us represent who are taxed upon their labor to pay the laboring men in the navy-yards for that employment. And for one, sir, I say here in advance it is not for the interest of the Navy, it is not certainly for the interest of the Government, to make these navy-yards eleemosynary institutions. It is only necessary to have as much work in these yards as is required by the interests of the service.

Mr. KELLEY. Let me ask the gentleman a question.

Mr. PIKE. Wait till I am through.

Mr. KELLEY. The gentleman from Maine says there are about ten thousand workmen employed in the navy-yards. I desire, as he seems to have some information on the subject, he will let the House know as near as possible the points at which those men are employed. I did not suppose there was so large a number.

Mr. PIKE. There are five navy-yards, and nearly an equal number is employed in each. I can give the gentleman the exact figures: Portsmouth, New Hampshire, 1,484; Boston, 1,987; New York, 2,490; Philadelphia, 2,067; Washington, 1,081; and the smaller places, Norfolk, Mare island, &c., have the remainder. In all there are about ten thousand.

Mr. KELLEY. Does that represent the number at present or prior to the recent discharge?

Mr. PIKE. Prior to the recent discharge.

Mr. RANDALL. What number has been discharged?

Mr. PIKE. I am not prepared to answer exactly. I suppose less than one third.

Mr. BANKS. I decline to yield any further to this interlocutory debate. I yield to the gentleman from New York.

Mr. CHANLER. I am in favor, Mr. Speaker, of the proposition of the gentleman from Massachusetts, but in my judgment it is useless to reduce the time unless we also fix the amount of wages. The great social problem is to properly adjust the time to the amount of wages. In carrying out his proposition the gentleman should fix the pay as well as the time.

I do not wish to charge these navy-yards as eleemosynary institutions, yet when the Government has been and is still spending millions of dollars to keep up one species of labor in the Freedmen's Bureau, now when the application becomes more general and it is proposed to take care of the labor of the white race, the gentleman from Maine objects. If this Government is to be administered irrespective of color, why are not gentlemen willing to serve all laborers alike, whether white or black? [Laughter.]

Mr. BANKS. I cannot yield to this debate longer. I do not like to have these outside questions brought into this discussion. My reason for the presentation of this bill at this time is a very simple one. My purpose is not answered, as the gentleman from Ohio [Mr. SPALDING] suggested, by the introduction of the bill. I do not introduce bills for any purpose of that kind. My object is to have it passed. The reason for it is that by the order of the House the work in the Government yards has been greatly diminished and workmen have been dismissed in considerable numbers.

Mr. O'NEILL. I wish the gentleman would let me ask him a question.

Mr. BANKS. Very well.

Mr. O'NEILL. It is the question I wanted to ask the gentleman from Maine, [Mr. PIKE.] The gentleman from Maine commenced by saying that owing to a resolution passed by this House two or three weeks ago in part, and also under the idea of the Navy Department entertained some time ago, these discharges at the navy-yards were made. Now, I wish to know distinctly—and either the gentleman from Massachusetts or the gentleman from Maine can answer the question—whether the intention of discharging these men from the navy-yards had not existed in the Navy Department for six or seven weeks, and whether it was not carried out purposely after the passage of the resolution of the House to shield the Navy Department from the responsibility of making these discharges and put it upon the majority of the House?

Mr. BANKS. Neither the gentleman from Maine nor myself would be capable of answering that question. The gentleman from Pennsylvania should call for the information from the Department. The Department only is qualified to speak for itself.

Mr. O'NEILL. The gentleman from Maine made the statement at the outset of his remarks.

Mr. BANKS. My object in introducing the bill is this: inasmuch as work has been discontinued by order of the House a considerable number of workmen have been discharged. The depression of business all through the country leads inevitably to diminished compensation to labor; and under the laws of the country the Navy Department will be obliged to make the wages in the yards correspond to the wages outside of the yards, and I fear—I do not wish—but I fear there will be a reduction in the wages of the men employed by the Government. If this bill is passed it will enable the Government to employ more men without increasing the cost that is now incurred for this work. I trust that for this reason, considering the depression of business, the high cost of living, the fact that numerous workmen are out of employ, the House will allow this bill to be passed.

Mr. WASHBURNE, of Illinois. Does the bill provide for a proportionate diminution of wages?

Mr. BANKS. It does not provide for that, but the law provides it.

Mr. WASHBURNE, of Illinois. What law?

Mr. BANKS. The law of Congress provides that wages in the Navy Department shall be made to correspond with wages outside of the Navy Department; and we all know that everywhere wages are being reduced. I saw a statement that ship-carpenters in the yards at Newburyport were reduced to $1 25 a day, hardly enough to support them. The fact is indubitable—I regret it deeply—that the Department, under the law, will be bound to reduce the pay of workmen, and if this bill is passed they can employ a larger number of workmen without any increased cost to the Government.

Mr. WASHBURNE, of Illinois. I would ask the gentleman from Massachusetts if he proposes to affect the ship-carpenters at the ship-yards at Newburyport and about there?

Mr. BANKS. I do not.

Mr. WASHBURNE, of Illinois. Why?

Mr. BANKS. Because I have not power to do it as a member of the House. I now yield to the gentleman from Ohio, [Mr. CARY,] who desires to say a few words.

Mr. CARY. While this subject is before the Committee on Education and Labor I regard it as of so great importance that I yield entirely to the introduction of the proposition now. I believe it a vital question. I am in favor of the passage of the bill at once. The depressed condition of affairs in the country seems to justify our taking immediate action upon this important subject; and thanking the gentleman from Massachusetts [Mr. BANKS] for his courtesy I will only ask that a petition, which has just been handed to me, signed by five hundred and forty-seven of the workmen in the navy-yard in this city may be read.

The Clerk read the petition, as follows:

To the Honorable House of Representatives:

Whereas the honorable Secretary of the Navy, in consequence of the resolution of your honorably body of November 25, 1867, has issued orders that suspend most of the work in the navy-yard, thereby making it necessary to discharge a corresponding number of employés in the said yard, and thus causing want and suffering to a large number of individuals during the most inclement portion of the year:

We, employés in the Washington navy-yard, petition and most humbly pray that your honorable body will reconsider the resolution referred to and take such action as will cause the work at the navy-yard to go on as usual.

Mr. CARY. I desire to say, in addition only, that under other circumstances I would be glad to be heard by this House upon this subject. But I will no longer trespass upon the courtesy of the gentleman from Massachusetts, [Mr. BANKS.]

Mr. MYERS. Will the gentleman from Massachusetts yield to me for a few words?

Mr. BANKS. I cannot yield for general debate.

Mr. MYERS. For a moment only; not for general debate.

Mr. BANKS. I will yield for a moment.

Mr. MYERS. I am in favor of the bill now pending, and shall vote for it, or for any measure which will tend to employ more men properly at the present time. But I do think that, in justice to this House and in justice to a construction that has been put upon a resolution of this House, we ought to have an explanation from either some member of the Naval Committee or the Secretary of the Navy.

One statement has been given here this morning. We have heard from the gentleman from Maine [Mr. PIKE] how many men were employed in the various navy-yards previous to the passage of the late resolution. But we have not heard how many vessels are being refitted at each of these places.

Now I wish simply to say, speaking for the Philadelphia navy-yard, that while there were two thousand men employed there, nearly one half of whom have since been discharged, there were six vessels there being refitted or cut down, and there was employment for all these men, even without the bill of my friend from Massachusetts, [Mr. BANKS.] Yet right upon the heels of the passage of that resolution by the House of Representatives simply declaring, now that the war is over, that we do not need to build any more vessels-of-war—right upon the heels of that resolution the Secretary of the Navy undertakes indiscriminately to discharge fifty per cent. of the men in all the navy-yards, and throughout the country that action of the Secretary of the Navy has been charged upon the majority in Congress. Let me say in conclusion that there was no right to make any such charge, that the Secretary had no right to take any such action. While I will vote cheerfully for the bill of the gentleman from Massachusetts [Mr. BANKS] I think we ought to have in some shape from the Secretary of the Navy answers to these inquiries.

Mr. RANDALL. Will the gentleman from Massachusetts [Mr. BANKS] allow me to correct a statement just made by my colleague, [Mr. MYERS?]

Mr. BANKS. The gentleman from Indiana, [Mr. WASHBURN,] from whom I have the floor, insists that I shall press this bill to a vote.

Mr. JUDD. Will the gentleman from Massachusetts [Mr. BANKS] yield to me for a moment?

Mr. BANKS. I will yield for a moment, but not for debate.

Mr. JUDD. I can see no necessity for postponing action on this measure. If I recollect correctly the action of this Congress, at a previous session such a bill as the one now pending was passed by the yeas and nays.

Mr. BANKS. And in the very words of this bill.

Mr. JUDD. Yes, in the very words of this bill. I presume every member upon this floor has his mind made up on a proposition so simple as this is. There can be no occasion for postponing it for three weeks in order to have

a committee report upon the subject. I hope the gentleman from Massachusetts [Mr. BANKS] will press the question to a vote at the present time, and let us see whether the House is ready now to repeat its resolve of a previous session. I am in favor of this bill, and I hope action will now be had upon it.

Mr. PIKE. Will the gentleman yield to me for an explanation?

Mr. BANKS. For an explanation; yes, sir.

Mr. PIKE The gentleman from Pennsylvania, [Mr. MYERS,] in his reply to some remarks which I made, appears to have misunderstood me. I said to the House that it had been said that the discharge of these men had been made partly in consequence of the resolution of the House and partly in consequence of the action of the Department itself. Now I did not attempt to say positively what motive influenced the Department in making these discharges. I can say that the Department has always plumed itself upon being a very economical Department. In reports and otherwise it has constantly so presented itself to the House and to the public. Now, if in pursuance of that idea of economy and reduction of public expenditures, upon which the Department so much plumes itself, it has discharged these workmen, and in order to shield itself from complaint it has stated that it was in consequence of a resolution passed by this House, that is its affair and not mine. I merely expressed my individual opinion in relation to this matter when I said from my investigation of the subject that we have in the navy-yards of the country twice as many men as we require.

Mr. BANKS. I now call for the previous question. I cannot yield any further.

Mr. WASHBURNE, of Illinois. I call for the reading of the bill.

The bill was again read.

On seconding the demand for the previous question, there were—ayes 64, noes 18; no quorum voting.

The Speaker, under the rule, ordered tellers; and appointed Messrs. BANKS and KERR.

The House divided; and the tellers reported —ayes 75, noes 21.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENT OF BOUNTIES.

The SPEAKER. The gentleman from Indiana [Mr. WASHBURN] is entitled to the floor on the bill reported by the select committee, of which he is chairman, upon the subject of the payment of soldiers' bounties.

Mr. SCHENCK. I ask the gentleman from Indiana [Mr. WASHBURN] to yield to me for a moment, that I may offer a resolution.

Mr. WASHBURN, of Indiana. I will yield to the gentleman if his proposition will cause no debate.

Mr. SPALDING. I call for the regular order.

The House, as the regular order, proceeded to the consideration of the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866.

The bill, which was read, proposes to direct the Secretary of the Treasury to employ by transfer or otherwise twenty-five additional clerks in the division of the Second Auditor's office of the Treasury, furnishing information to the Paymaster General in regard to soldiers claiming bounty under the act of July, 1866, to be continued as long as there is a necessity for the same.

The second section proposes to direct the Assistant Treasurer of the United States in the city of New York to pay duplicate checks upon notice of the loss of the original checks under such regulations as the Secretary of the Treasury may direct.

Mr. WASHBURN, of Indiana. The committee charged with the investigation of this subject have arrived at the conclusion that no means can be adopted by which the payment of these bounties can be facilitated except by increasing the force in the Second Auditor's office. The paymasters now employed in this work can pay claims twice as rapidly as they are now paying them. Each claim is first sent to the paymaster, who, upon information furnished him by the Auditor, pays the claim. This mode of proceeding might have been avoided if, by the original act, the paymaster had been allowed to retain the rolls. But unfortunately for the soldier the rolls are now in the Second Auditor's office, while the law requires that the paymaster shall make the payment. It is too late, the committee think, to remedy this defect in the original law; but we recommend an increase of the force in the Second Auditor's office, by which the payments can be increased one half. And this will not impose additional expense on the Government; for one half of the clerks in the Paymaster General's department, of whom there are sixty, are now idle for want of work. An increase of the force in the Second Auditor's office will give these clerks work, and the soldiers will get their bounty.

I think this House has always been willing and anxious that the soldier should receive his just dues. This bounty of $100 was promised to him more than a year ago, and it is necessary that Congress should do something to secure the fulfillment of that promise. The committee recommend the passage of this bill increasing temporarily, and only temporarily, the force in the Second Auditor's office.

Mr. KERR. I desire to make one inquiry of my colleague, [Mr. WASHBURN, of Indiana.] I would ask whether the recommendation of the committee on this subject is approved by the Second Auditor, and whether the proposed increase of the force in his office is considered by him to be necessary.

Mr. WASHBURN, of Indiana. The testimony of the Second Auditor is to the effect that the increase can be used. We did not ask him whether he wanted it or not, but we find from the testimony the increase can be used. Then bounties can be paid faster. We did not ask him whether the bounties could be paid faster or not.

Mr. KERR. Does it appear from the weight of evidence his force now is insufficient to keep up the work as fast as is requisite?

Mr. WASHBURN, of Indiana. It does. Our report shows that he wanted more force for general business previous to the sending of this business. This doubles the business of his office.

Mr. KERR. One further inquiry. Does it appear to the committee from the report of the Second Auditor, or from the evidence, there is room for these proposed additional clerks in his office?

Mr. WASHBURN, of Indiana. I called upon the Secretary of War and he placed at the disposal of the Second Auditor five additional rooms in which these clerks could work. I yield now to the gentleman from Wisconsin, [Mr. PAINE,] a member of the committee.

Mr. PAINE. Mr. Speaker, the anxiety for the prompt settlement of the additional bounties secured by the act of July 28, 1866, which is evinced by hundreds of thousands of soldiers and by millions of soldiers' friends throughout the length and breadth of the Republic, and by their Representatives on this floor, prompts me to add something to the report and remarks submitted by the honorable chairman of the committee. In order to make my statement more intelligible permit me, sir, at the outset to recur to the provisions of that act.

It requires the Paymaster General to pay a bounty of $100 to every soldier who enlisted after April 19, 1861, for three years or more, and was honorably discharged at the end of his service or for wounds received in the line of duty, and was entitled under existing laws to a bounty of $100, and no more; and to pay a bounty of fifty dollars to every soldier not included in the foregoing provision who enlisted after April 14, 1861, for two years or more, and was honorably discharged after two years' service or for wounds received in the line of duty, and was entitled under existing laws to a bounty of $100, and no more. It requires the Treasury Department to pay the same bounties to the widows, minor heirs, and parents of such soldiers in case they died in the service of disease contracted or wounds received in the service and in the line of duty. And it requires both the Paymaster General and the officers of the Treasury to observe in the settlement of the bounties such rules and regulations as the Secretary of War may prescribe.

It was the obvious duty of the Secretary of War, in view of the heavy expenditure of money involved in the execution of this law, to take care that the rules and regulations prescribed should furnish the most effective safeguards against frauds, whether upon the Government or upon the soldiers concerned, which skill and experience could devise. He imposed the duty of framing them upon a board of military officers peculiarly qualified for its performance. The rules and regulations prepared by this board were adopted by the Secretary of War, and promulgated, as Colonel Brooke informed us, on the 16th of September, 1866. Meantime, more than seventy-five thousand informal applications had been received by the Paymaster General, a large proportion of which, lacking the substance of the requirements prescribed by the Secretary of War, were returned for amendment. The entire number of claims for additional bounty received by the Paymaster General up to December 1, 1867, was four hundred and twelve thousand and thirty. That they are not yet all received is shown by the fact that five thousand and sixty-four were presented in the month of November.

When a claim of this kind is received at the pay department its receipt is acknowledged and a brief made. It is then sent to a branch of the pay department called the division of referred claims, now under the charge of Colonel William R. Gibson, when it is recorded in the book appropriated to the State which furnished the military organization to which the claimant belonged, and referred for settlement to the paymaster assigned to the settlement of such claims from that State. There are ten of these paymasters in the division of referred claims. Upon receipt of the claim by the proper paymaster, he records it in a separate book appropriated to the regiment to which the claimant belonged.

The next step is for the paymaster who has charge of the case to ascertain whether the claimant is, under the act of Congress, entitled to the additional bounty. In this inquiry is of course involved most of the labor and difficulty incident to the settlement of these demands. The necessary information is to be found in the muster-out rolls or pay-rolls (or both) of the companies or detachments in which the soldiers were mustered out or paid. The bureau of the Second Auditor of the Treasury is the lawful depository of these rolls. But they are first received at the bureau of the Paymaster General as accompanying vouchers of accounts of paymasters who have paid troops, and after a preliminary examination are transmitted by the Paymaster General with the accounts of such paymasters to the office of the Second Auditor. The primary purpose, therefore, subserved by these rolls is that of vouchers for paymasters' accounts; their use in the settlement of bounties is incidental. Colonel Gibson testified that an examination made at the Second Auditor's office showed that more than half of the muster-out rolls had already been transferred to that office before the passage of the additional bounty law. The rest were

transferred before the necessary information had been obtained from them for the settlement of any considerable number of bounty cases. These pay-rolls and muster-out rolls are filed in the respective paymasters' accounts in different rooms of Winder's building, so called, in this city.

To obtain the necessary information, therefore, the paymasters of Colonel Gibson's division address in each case an inquiry in writing to the Second Auditor, who causes his clerks to scrutinize the proper rolls and return the desired information also in writing. If the result of this scrutiny is reported satisfactory, the paymaster who has charge of the particular claim immediately draws in payment a check upon the Assistant Treasurer at New York. And right here, Mr. Speaker, in the examination of these rolls, which are folded within the paymasters' accounts in seven wretched little rooms in the Second Auditor's office, is performed substantially the vast labor of settling over four hundred thousand bounty claims of either one hundred or fifty dollars each, amounting in the aggregate to from twenty to forty million dollars. You, sir, will be amazed, this House will be amazed, the soldiers and the country will be amazed when informed of the number of clerks actually employed upon this work, which seems to us so important and vast, whether we consider the number, merits, or necessities of the claimants or the amount of money involved in their demands. You will hardly believe me, sir, when I tell you that the number of these clerks is less than the number of policemen employed daily about this Capitol; that it is barely one third of the number of employés of this House; that it is very much less than the number of clerks of committees in this Capitol. I fear, sir, that four hundred thousand soldiers of the Republic will be amazed, if not enraged, to learn that since the 1st day of last July this frugal Government has only furnished thirty-three clerks to meet their impatient demands for the prompt payment of these bounties. And yet, sir, such is the fact, established by the oath of the very man whose duty it is to superintend this handful of hard-worked clerks, upon whose labors hang this very hour the deferred hopes of millions of the best of our people, wives and children and dependents of the gallant soldiers who have saved our country. Mr. D. E. Pierce, the chief of the division assigned to the examination of these rolls in the Second Auditor's office, testifies, on pages 21 and 24 of the evidence attached to the committee's report, that the whole number of clerks in his division is forty-six, that six of these are employed on other work, and on an average seven have been absent on account of sickness since the 1st day of last July. Deducting from the whole number the thirteen sick or otherwise employed, you have left only thirty-three men to consummate this great act of national gratitude, in which promptness was so important an element, of which tardy execution has already spoiled half the value. For this, sir, the country will demand, and has a right to demand, some very good reason. More than that, sir, if we fail promptly to do whatever may be in our power to remedy this evil the country has a right to and will demand the very best of reasons for it.

I cannot too highly commend the zeal and activity of this small band of clerks in their desperate attempt to meet the impatient but just demands of the people for the rapid settlement of these claims. The Paymaster General testifies that before the 1st day of December, 1867, examinations of the rolls and reports had been made in 142,218 cases. According to the testimony of the Second Auditor the number had reached 149,806 on the 23d of November. All, or nearly all, of these examinations were made by the clerks in the Second Auditor's office. Only a few, if any, had been made in the Paymaster General's office before the rolls were transferred to the Second Auditor. In the single month of November, 1867, these thirty-three men made examinations and sent to the pay department reports in 17,565 cases. On the 1st of December they had on hand the Paymaster's applications for information in 265,642 cases in which they had not as yet been able to furnish answers. On the same day the pay department held 4,170 claims concerning which information had not as yet been asked of the Second Auditor. The entire number of unexamined claims was on the 1st of December 269,812. These did not, of course, embrace claims not yet presented to the Government. At the rate attained in the month of November the present clerical force would be able to complete the examinations in all cases presented up to December 1, 1867, in the month of March, 1869.

Colonel Brooke testifies that "on the answer from the Second Auditor that the claim is sustained by the evidence on the muster-roll it is immediately paid" by the proper paymaster in Colonel Gibson's office. The ten paymasters assigned to this duty, with the clerical force now employed, could pay from twenty-five to thirty thousand claims per month if they could obtain so many answers from the Second Auditor. On the 1st of December they had settled 138,556 cases, and 273,474 cases remained unsettled. These unsettled claims included, besides the 265,642 awaiting replies from the Second Auditor, also 1,611 awaiting returns from the Adjutant General, 2,051 awaiting receipted vouchers, and 4,170 cases in which inquiries had not yet been forwarded to the Second Auditor.

Mr. Speaker, I will now send up to the Clerk's desk a concise statement, based upon the testimony of the Paymaster General, showing what had been accomplished in the adjustment of claims for additional bounty already presented on the 1st day of December, 1867, and what still remained to be done. I request the Clerk to read the statement.

The Clerk read as follows:

Whole number of claims for additional bounty received by Paymaster General to December 1, 1867		412,030
Whole number settled December 1, 1867	138,556	
Whole number unsettled December 1, 1867, awaiting replies from Second Auditor	265,642	
Awaiting returns from Adjutant General	1,611	
Awaiting receipted vouchers	2,051	
Cases, inquiries not made	4,170	
	273,474	
		412,030
Whole number of inquiries addressed to Second Auditor answered	142,218	
Unanswered	265,642	
	407,860	
Cases in which inquiries had not been made	4,170	
		412,030
Inquiries not answered	265,642	
Inquiries not made	4,170	
		269,812
Replies received in month of November, 1867		17,565

The following statement is drawn from the testimony of the Second Auditor:

Whole number of inquiries received from the Paymaster General between January 1 and November 23, 1867	415,614
Answered November 23	149,806
Unanswered November 23	265,808
	415,614

Mr. PAINE. And now, sir, comes the question which at present is really of more practical importance than any other in this case: can we at this time do anything to expedite the payment of these bounties in the cases still unsettled? This question I propose now to consider and answer. Before I take my seat I shall also inquire whether this work could have been prosecuted with greater dispatch from its commencement to the present time.

The evidence before us shows beyond the possibility of a doubt that we have the power greatly to expedite the work yet unperformed. As I have already stated, the substantial labor involved in the execution of the act is performed in making the examinations of the muster-rolls and in stating the results of such examinations. These examinations are inevitable, and they must be made, of course, in the office where these rolls happen to be deposited. They are now in the office of the Second Auditor.

The rapidity of the work will depend upon the number of workmen, provided they have room to work, and their number does not exceed a convenient proportion to the number of rolls to be examined. The number of rolls is, of course, fixed. We cannot alter that. What the number of these rolls is we were unable to ascertain with precision, for the reason that they are all folded in the paymasters' accounts, and the Second Auditor has had no occasion to count them. He estimates the muster-out-rolls at fifty thousand, and the pay-rolls at nearly five hundred thousand. But the paymasters' accounts containing the rolls number from eight thousand to nine thousand. Therefore, although the rolls exceed in number a quarter of a million, yet the maximum number of clerks who can conveniently examine the rolls will be determined by the number of the accounts, because the inclosed rolls must remain with the paymasters' accounts for which they are vouchers. If one is temporarily removed a memorandum is left in the pay account to show where the roll may be found.

The account, therefore, is necessarily opened as often as there is occasion to examine any of the rolls contained, whether they number twenty or one hundred, and whether each one is examined once or twenty times. Now, it would seem that the rolls inclosed in eight thousand paymasters' accounts, systematized as they always are, might (if adequate room were provided) be conveniently examined by five hundred, if not even by one thousand clerks. But it happens that there are certain impediments to this free use of the rolls contained in these accounts, in the settlement of bounty claims growing out of the necessary use of the same rolls for four other distinct purposes. These purposes are the adjustment of the paymasters' accounts, the settlement of bounty claims of widows and heirs of deceased soldiers, the examinations made in response to inquiries from the Pension Bureau, and the settlement of claims of discharged soldiers who have lost their discharges and arrears of pay, &c. In order to ascertain if possible how much these impediments amounted to in the aggregate—how large a proportion of the time the accounts were actually in use for other purposes—we interrogated Mr. Pierce, the chief of the bounty division, who was entirely familiar with the details of this work. His testimony on this point may be found on pages 22 and 23 of the evidence. In his opinion if one hundred men were employed in making examinations of the rolls, in response to inquiries from the pay department, the entire interference from all of these sources would occasion a loss of twenty per cent. of their labor.

This was, of course, only an approximation to accuracy. But a scrutiny of his evidence will show that he was careful not to underestimate this interference. The Second Auditor testifies that the whole number of clerks now using the rolls for all purposes is about one hundred and seventy-five. If the number assigned to bounty examinations for the Paymaster General were increased to one hundred the whole number would be two hundred and forty. Now, admit the interference of these men with each other to occasion, as Mr. Pierce asserts, a loss of one-fifth of the time and labor of each, and a simple computation will show that the number employed on these bounty investigations for the use of the pay department may be increased to two hundred and fifty, with a loss of only one third of the time and labor of each. We encounter, then, Mr. Speaker, in the fixed number of the paymasters' accounts, and in this "foreign demand" for the rolls, practical limitations upon the number of clerks to be employed, which, though not easily defined with precision, most certainly exist. While I will not venture to fix a maximum, I will say that in my judgment one hundred falls far, very far, within that maximum. In view of all the evidence before the committee I do not hesitate to assert my opinion that two hundred clerks might be

employed upon this work, if so many competent clerks could be found, with a loss of not more than one third of their time, which loss, if it were the only difficulty to be encountered, the merits and necessities of the claimants would not only authorize but require us to incur. And if two hundred clerks could be placed upon this work by the middle of the present month, and could prosecute it at the rate maintained during last November, they would examine one hundred and six thousand four hundred cases per month, and would complete the work before the end of next March.

But other difficulties would be encountered if we should direct so large an increase of this clerical force. In the first place, there is no time to train men for this duty. They must be already fitted for it. Two hundred such men cannot, perhaps, be promptly secured. In the next place that large increase would involve such an increase in the pay department of the Army, and such an enlargement of office room in the Treasury Department, as could not possibly be effected soon enough to be of any practical benefit to the soldiers.

But, sir, in my judgment, the least, the very least we can do, is to increase this force forthwith to one hundred men, and to furnish them adequate office room without a single day's delay. If you will refer to the evidence you will find that Mr. Pearson thinks the force might be quadrupled, (see page 7;) Colonel Brooke thinks that one clerk could without inconvenience be employed on each one hundred rolls, and that the want of room is the only practical difficulty in the way of an increase, (pages 13 and 15;) Mr. Lusk, chief of the division of paymasters' accounts in the Second Auditor's office, is of the opinion that with half of one of the stories in Winder's building they could readily employ one hundred men on the rolls, (page 17;) Mr. Pierce, the chief of this very bounty division, supposes they could employ one hundred men well enough, if they had plenty of room. The detailed statements of fact made by the witnesses most conversant with the subject leave no room for doubt as to the necessity or practicability of increasing the force without delay to one hundred men. The only doubt I have is whether we ought not to go further.

If we make this increase and the examinations are made as rapidly as they were in the month of November more than fifty-three thousand cases will be examined each month, and all hitherto presented will have been disposed of before the end of next May. But the officers of the pay department testify that the ten additional paymasters now assigned to this duty could only pay from twenty-five to thirty thousand bounty claims per month, and if the Second Auditor's answers should be received at a more rapid rate than that the Paymaster General would be unable to keep pace with him without more paymasters. These can be appointed under existing laws. It will be necessary, also, to provide adequate room for the additional clerical force in the Second Auditor's office.

I will therefore propose two amendments to the bill reported by the committee, to which my colleagues on the committee will, I doubt not, cordially assent. The first will make the number of additional clerks sixty-seven instead of twenty-five, so that the whole number will be one hundred instead of fifty-eight. The second will authorize and require the Secretary of the Treasury promptly to provide adequate room for the paymasters' accounts and for all the clerks who may be obliged to use the rolls which they contain.

But before I send these amendments to the Clerk's desk I will consider the complaints which have been made against different Departments of the Government for dereliction of duty in the execution of the bounty act. Complaints have been made against the War Department and the Treasury Department.

The Secretary of War was bitterly reproached for his delay in the promulgation of the regulations required by the act. Well, sir, he very wisely organized a board of competent officers to prepare the regulations. The subject to be regulated affected vast pecuniary interests and concerned millions of citizens. It demanded the most careful consideration. When their work was done he submitted it to the Attorney General for his official opinion as to its legality. When the Attorney General had examined it and pronounced it in conformity with law, the Secretary adopted and promulgated the rules and regulations. The time consumed was six weeks. The act was passed July 28 and the regulations issued September 16.

If Congress had never imposed any other duty upon him it is probable that he could have dispatched this more promptly. But it happened that in addition to the thousands of other duties which we required him promptly to perform we passed the Army bill on the very same day on which we passed this bounty bill and thereby added immensely to the burdens of those six weeks.

Certainly the uproar raised against the Paymaster General because he returned to claimants those premature applications, which were made before the rules were issued, was altogether senseless. If anybody merited reproach for this we merited reproach; for in the act we made it the duty of the Paymaster General to pay the bounties under such rules and regulations as the Secretary of War should prescribe.

But why did the Paymaster General wait over four months, from September 16 to January 1 before he commenced the payments? Why did he not begin to pay as soon as the rules were issued? I have often asked these questions with considerable impatience myself. In the progress of this examination I discovered a conclusive reason why more or less time ought to have intervened between the promulgation of the rules and regulations and the commencement of the payments. The claims were, of course, presented separately. If they should be at once examined separately it would be necessary to open the paymaster's accounts and examine the rolls therein contained more than four hundred thousand times. This would have immensely prolonged the work, and absolutely worn out many of the accounts and rolls. But a classification of the accumulated claims by regiments and companies of course enabled the clerks to dispose of several cases at a single examination of a roll, and so in the end proportionably expedited the work. Whether the Paymaster General delayed these payments too long or commenced them too soon I am unable to judge. But I am clear that the interests of the great body of claimants required more or less delay for this purpose.

Again, it is asserted that the transfer of the rolls which were in the office of the Paymaster General when the bounty act was passed to the office of the Second Auditor retarded the settlement of the bounties; that the necessary examinations could have been made with greater facility in the pay department; and that the pay department deliberately undertook to "bury up" the Second Auditor under this business.

Now, it is undoubtedly true that if the examinations when made in the Second Auditor's office involved equal or greater labor than when made in the Paymaster General's office, and a larger number of clerks could have been employed in the examinations in the latter office than in the former, then this work could have been more expeditiously performed in the pay department. But the testimony leaves it doubtful whether the examinations made in the Second Auditor's office do or do not involve more labor than when made in the Paymaster General's. Three of the witnesses think the work would be the same in both offices, (pages 6, 9, 16.) Three of them think it would be less in the Paymaster General's, (pages 10, 28, 36.) I am inclined to the opinion that the Paymaster General had it in his power, at least after November 1, 1867, to employ more clerks on this duty than were actually so employed in the Second Auditor's office. For Mr. Lusk testified that he understood that sixty-nine clerks were discharged from the pay department on that day. Mr. Mills, one of the discharged clerks, puts the number at forty-nine. General Brice testified that over seventy clerks had been discharged and resigned during the year. Mr. Mills was of the opinion that seventy-five clerks could have been employed upon the examinations in the Paymaster General's office from the beginning, and Colonel Brooke testified that in his opinion the additional bounties might have been paid one third sooner if the rolls had been retained in his office. On the whole, Mr. Speaker, I cannot doubt that the settlement might have been materially accelerated if the rolls had remained where they were at the passage of the act.

But the reasons assigned for the transfer are not to be overlooked. By law the Second Auditor is made the depositary and custodian of these rolls. They are sent to the pay department for a single purpose: the preliminary examination of the paymasters' accounts. When that is made they are to be deposited in the Second Auditor's office, to be permanently preserved for four distinct uses in addition to their use in the settlement of the additional bounty claims of living soldiers. These four uses are, as I have already stated: first, the settlement of the paymasters' accounts; second, the settlement of the additional bounty claims of widows and heirs of deceased soldiers, which is devolved upon the Treasury Department by the very same act which requires the Paymaster General to pay such claims when presented by living soldiers; third, examinations made in response to inquiries from the Pension Bureau; and fourth, the settlement of arrears of pay, &c., and of claims of soldiers whose discharges have been lost. Now, bear in mind, sir, that at the passage of the act more than half of the muster-out rolls were already in the Second Auditor's office; and consider the consequences if these, which were then in the Paymaster General's office, had been retained there. In the first place the Paymaster General would still have been compelled to apply to the Second Auditor for examinations of all the rolls in the office of the latter; in the next place the Second Auditor would have been compelled to send to the pay department for the rolls as fast as the paymasters' accounts should be reached for settlement. He would also have been compelled to apply to that department for all examinations of the retained rolls necessary for the settlement of bounty claims of heirs and widows; and he would have been compelled to make similar applications in cases of arrears of pay, &c., and of soldiers who had lost their discharges; and, finally, for answers to applications for information received from the Pension Bureau.

The Paymaster General, then, by retaining these rolls, would have assumed not only the labor of examining the rolls in his own bounty cases, but also four other distinct duties not assigned to him by law. He would thus have undertaken with from forty-nine to seventy clerks more than half of the labor now actually occupying the time of one hundred and seventy-five clerks. I see no dispatch in all this. But why not temporarily put aside all other uses of the rolls and devote them exclusively to the settlement of the Paymaster General's bounties? Why not make everything else bend to the necessities of these soldiers? The reason, sir, is this: the other uses of these rolls—for the settlement of bounty claims of heirs and widows, for the settlement of claims of soldiers whose discharges are lost, for the settlement of pay and other claims, and for the decision of claims for pensions—are not less urgent than the bounty claims of living soldiers. Nay, sir, as a rule, in the cases of widows and heirs and pensioners, they are much more urgent.

Let me add, Mr. Speaker, that if it is true that claims assigned to the Paymaster General for settlement can be more rapidly investigated in his own office, then it must, for the same rea-

son and to the same extent, be true that claims assigned by law for settlement to the Second Auditor can be more expeditiously examined in his office. So that, even if the retention of the rolls in the pay department had proved a gain to the living bounty claimants, it must have proved a still greater loss to the pensioners, to the heirs and widows, and to the soldiers who claimed arrears of pay or had lost their discharges. Whether Colonel Brooke or Mr. Brady did or did not threaten to "bury up" the Second Auditor I will not undertake to decide. But that they did bury him up is absolutely certain. And I see no hope of any resurrection for him until we send a force of additional clerks to dig him out.

I send to the Clerk's desk to be read the material portions of the testimony on this point.

The Clerk read as follows:

"*George Meason*—Colonel Brooke, who had charge of the clerical force in the Paymaster General's office, was constantly hurrying up this business, and remarking that it must be pushed through. I understand that he remarked that he intended to bury up the Second Auditor's office with that work."

* * * * * * * * * * * *

"*Question.* Did you ever hear any officer in the pay department make any remark indicating a purpose of throwing the responsibility of the delay on the Second Auditor's office by sending the rolls there?

"*Answer.* My impression is that I have heard such remark, although I cannot recall any particular time for it. I know there has been a pressure to get the rolls out of the office with that understanding. I remember having a conversation with Colonel Brooke about that, and he informed me that it was his purpose to get these rolls all out of the office before these inquiries were made in regard to the additional bounty. I think that conversation was about the beginning of March, 1867. It occurred in his office in this city. He has charge of the clerical force of the pay department, and is a paymaster. He was formerly chief clerk, and was promoted to the position of paymaster, still continuing to do the same duty he had formerly done.

"*Question.* Can you give the substance of his language on that occasion?

"*Answer.* I do not know that I can give his language. It was a free talk in reference to the office, and the substance of it was what I am relating.

"*Question.* Did he in that conversation clearly convey the idea to your mind that he wanted to throw the responsibility of the delay of the payment of additional bounties on the Second Auditor's office, or that the rolls were to be transferred to that office for that purpose?

"*Answer.* I do not know that he expressed that idea, but he expressed a purpose to have the rolls all examined. Perhaps he said the rolls must be all examined and in the hands of the Second Auditor before many of these inquiries were made.

"*Question.* Was it at that interview that he made use of this language respecting burying the Second Auditor?

"*Answer.* No, sir; I do not recollect that he made use of that language to me, but he expressed the same purpose of getting these rolls out of the office before these inquiries were made, and to have the inquiries made from the Second Auditor's department. He occasionally came over to our office and urged up the examination of these rolls. Mr. Brady also urged it. Colonel Brooke was crowding Mr. Brady and Mr. Brady was crowding us. Mr. Brady is in charge of the examining division. That was the decided policy of the office.

"*Question.* Did you hear the Paymaster General say anything about it?

"*Answer.* No, sir; I did not.

"*Question.* Was anything said to him about it in your presence?

"*Answer.* No, sir; I seldom met the Paymaster General.

"*S. W. Pearson*—We were very much hurried up by Colonel Brooke. He asked me one day if I could not put on more steam in doing my work. I said I was doing as much as I could within the office hours, but I was willing to work extra hours. I then took business home with me in the evening, and by getting to the office an hour earlier in the morning increased the cases that I briefed from one hundred per day to one hundred and fifty or two hundred. The intention was to get all out of the Paymaster General's office so as to have it said that the work was done there, but the other office was crowded."

"*B. G. Jayne*—Colonel Brooke, who runs the Paymaster General's office generally had issued an order to get the cases through the office as soon as possible, so as to avoid doing the work in reference to the payment of these bounties in that bureau, and in order to put the work in the Second Auditor's office." * * * * "This order of Colonel Brooke was made immediately on the passing of the law giving soldiers an additional bounty; and he included in that order an order that all accounts of referred claims and all accounts of regulars should be laid by and not examined until the accounts on the muster-out rolls had been shoved through and sent to the Second Auditor's, and that was done." * * * * "I heard him say frequently that he wanted to shove the rolls through, giving as a reason that he wanted to put that work on the Second Auditor's office."

"*E. H. Brooke*—At the time I gave the order to the examining division of the Paymaster General's office to examine first the accounts of paymasters that contained muster-out rolls, the Second Auditor was borrowing from the Paymaster General muster-out rolls to enable him to settle the claims of deceased soldiers, and in many instances it was delaying the examining and registering of the paymasters' accounts, and by that means interfering with the business of the office. My object, therefore, in giving this order was to obviate this difficulty; to facilitate the settlement of paymasters' accounts, the claim of deceased soldiers, and to give to the Auditor the whole work of furnishing the information on which to settle the additional bounty, as he had at that time in his office more than three-fourths of the rolls that would be used for that purpose, and I believed by so doing I would facilitate the settlement, particularly as the large majority of the muster-out rolls at that time in the Paymaster General's office were those of veteran regiments and those that received the large bounty under act of July 4, 1865, and would not be used in the settlement of additional bounty.

"I had not the most remote idea of delaying the settlement of these bounties, and I think that my record will show that in no instance have I delayed the settlement of any claim of the soldier, but, on the contrary, have done all in my power to aid him.

"It would have been impossible to increase the work five or six fold, for the reason that the same information that is furnished by the Second Auditor's office would have to be furnished by the Paymaster General's office to the division of referred claims, and would have required more clerks to do so than the Paymaster General had at that time.

"*D. H. Lusk—Question.* Have you seen anything in the transactions in the Second Auditor's or Paymaster's offices to indicate an undue haste in sending the inquiries in order "to bury you up" at the Second Auditor's office?

"*Answer.* I never felt that they did it for that purpose. I think that about October 1 they sent up some two hundred thousand cases, but I did not understand that they did it for that purpose. I understood that they had the force, and they concluded they might as well dispose of these inquiries and put them into the Second Auditor's office.

"*G. Mills*—The course pursued was—and the talk of the leading men in the office, particularly Mr. Brady and, I think, Mr. Brooke, was—to rush these accounts through, Mr. Brady saying, 'We will bury up the Second Auditor, and let him know we can do our work right along, and let him take care of the consequences.' These muster-out rolls were thus hurried, not only not half done, but to the neglect of business. The object seemed to be to get this work out of the Paymaster General's department, so that he could make a report to Congress that he had done everything in the matter.

"*C. S. Bates*—Up to the time of the passage of the additional bounty act, or a little prior to its passage, we got an order from Colonel Brooke, through Mr. Brady, chief of the examining division, to rush through the accounts containing muster-out rolls. That was repeated from time to time. Some of the clerks did rush them through with a vengeance, and others who understood that their duty was to examine the accounts did not rush them through, but examined them in order to protect the Government. It was the common talk, often repeated by Brady, that we were going to 'bury up' the Second Auditor with the work, knowing that he was some years behind the pay department in his regular work."

Mr. PAINE. The last complaint to which I shall ask the attention of the House is made against the Second Auditor of the Treasury. He is charged with having neglected or refused for insufficient reasons to assign an adequate clerical force to this work. Sir, I believe the soldiers have the warmest sympathy of that officer. But if others shall differ with me on this point, which, after all, must be a matter of mere opinion as to secret motives, nevertheless I think there can be no doubt that whatever his motives may have been the course he took was the only one he could take under the circumstances without the aid of those higher in authority. I will present the testimony bearing on this point without comment:

"*B. W. Brice, Paymaster General—Question.* How many clerks have you discharged during the year from your office?

"*Answer.* Upward of seventy, discharged and disposed of otherwise, by resignations, &c.

"*Question.* Were these clerks fitted by their experience and capacity to make these examinations.

"*Answer.* Materially so, I should suppose.

"*Question.* Why could they not be employed in the Second Auditor's office?

"*Answer.* That brings up another subject. I made a strenuous effort to induce the Second Auditor and the Second Comptroller to take fifty clerks who were experienced at that business and transfer them to their bureaus.

"*Question.* You proposed to pay the expense out of your own office?

"*Answer.* We proposed to pay them during the current fiscal year out of the existing appropriations, which would be sufficient to cover it up to July, 1868. That proposition was not acceded to for reasons which rendered it impracticable, as the Auditor and Comptroller alleged.

"*Question.* What were the reasons assigned?

"*Answer.* The Second Auditor said he had no room for more clerks, and also that he could not employ more in the examination of the rolls than were then employed if he had a thousand clerks.

"*Question.* What reason did he give for the latter statement?

"*Answer.* I do not remember that he gave any reason, except that the nature of the work was such that more could not be employed on it.

"*S. W. Pearson.* I asked Mr. Lusk why he could not have a force from a division in the Paymaster General's office, which was to be discharged very soon. He said, 'We have no room for them, in the first place, and have no authority for their transfer.' I said, 'There have been such things done heretofore. Clerks have been transferred from one bureau to another, or from one Department to another, being paid from the fund already appropriated for the year.' He said, 'We have no room for them.'" * * * * "Mr. French says he applied to the War Department to have the other bureaus moved out of Winder's building, and to give him the whole of it, but he could not make the arrangement. He says he has as many clerks as he can work, and that they are now in each other's way, and he intimated that he would employ more clerks if he had room for them.

"*D. H. Lusk—Question.* If you had the other two floors of that building for the Second Auditor's office how many clerks could you work in the file room?

"*Answer.* We could work a very large number. When the matter was first spoken of I contemplated that taking half of one of those floors and cutting the walls right through, as in the ordnance department, from end to end, so as to make one large room, and arranging the files on each side, with a long table in the center for the clerks, we could work one hundred men.

"They are very crowded at their work; the rooms are too full for health or for convenience in working. Up to the time that we got room eighty-four, which is now alongside of my room and of the same size, I had in my room twenty-five men; the room is not more than twenty-five by thirty feet, having four windows in it; the other rooms are proportionately crowded. In my department the clerks average seven to a room, which room I should suppose to be about twelve by twenty feet; the desks are just as close as they can be set together in the room with about space enough for a table between them; the ceilings of the rooms are, I think, about ten feet high, and there is but one window in each room.

"*D. E. Pierce*—The first objection to an increase of force is the want of room. These forty-six clerks whom we now have employed are all, with the exception of four, in two rooms, and for the whole forty-six we have only thirty-seven desks, and have not room wherein to put any other desk. That is one objection. At times now we are troubled to work conveniently. It frequently happens that nearly all of the clerks want desks to be at work at. That occurs when we have inquiries where we can take out the muster-out rolls in order to answer them. In the room in which I now am, and which is about thirty feet long by fifteen feet wide, we have twenty-four clerks. In another room, about twenty feet by eighteen feet, we have eighteen clerks. In Mr. Lusk's room we had at one time twenty-five clerks. It was then very much crowded.

"*Question.* Are the other rooms crowded in the same proportion?

"*Answer.* I think they are. I think the rooms on the lower floor are just as much crowded.

"*Question.* How is it in regard to the health of your clerks?

"*Answer.* I can speak of our room. We have a great deal of trouble there about having it ventilated properly and a proper heat maintained. It is heated with hot air by a furnace in the cellar, and when the register is opened it pours in terribly. There are so many men there, some wanting the air hot and some cool, that we have to have the windows open part of the time, and to have the window over the door open. It causes a terrible draught, and the clerks are constantly complaining of getting cold in the winter season. Some of them are grumbling that one cannot stand enough of cold air, and some are grumbling that others stand too much of it.

"*Question.* What can you say respecting the diligence and industry of clerks engaged in making these searches?

"*Answer.* I do not believe that any more intelligent or industrious set of clerks is to be found in any of the bureaus. I have been at work answering inquiries since March, 1864, in that office, and I never worked harder at any work in my life, and I think it is so generally. The work there is real labor."

"*Ferdinand Andrews, chief clerk, Second Auditor's Bureau*—We have been restricted very much for want of room, (we never had room enough in the office,) and have been constantly and continuously at work to provide better accommodations and more room. Perhaps that may be regarded as the chief cause of the delay in the payment of these bounties.

"*Question.* How much would additional room facilitate the business with the same number of clerks you have?

"*Answer.* I think even that would be of great assistance, for our clerks are actually in one another's way. In our file rooms, for instance, there is necessarily restraint for want of room, and the clerks are sometimes in one another's way. So, if we had more room, with the same force, I have no doubt we could do a very considerable amount of business in advance of what is done now.

"Our files are now overrun, and I do not know how to provide additional room, which is indispensable at this moment. We have made frequent calls upon the Secretary, and very urgent calls upon the War Department, in whose charge the building is, but we have not succeeded according to our wants.

"*E. B. French—Question.* Can any increase of accommodation be made in your office so as to increase the clerical force?

"*Answer.* It has been my constant effort to secure

an increase of accommodation. Several of the annual reports which I have made have called for more room as well as more clerical force, as well as frequent communications to the Secretaries of the Treasury and War. There has been no time when the accommodations have been adequate to the demands of the office, or when clerks could work either as advantageously or as healthfully as they ought to be enabled to do. Winder's building, in which the larger portion of the office is, is under the control of the War Department, and it is only through the consent of the Secretary that we are able to obtain any addition to the room that we may have from time to time. Requests have been made by me through the Secretary repeatedly and often for additional room to accommodate the present force, as well as to accommodate an additional force when required. But we have been unable to obtain more than we now possess, and have been compelled to clear files from the security of rooms into cases, with which we have lined the sides of corridors, which are already narrow, to accommodate these files and make room for the working of the clerical force. If the Secretary of War could give us additional room we could, undoubtedly, with our present force, accomplish more work and more conveniently than we now do."

At our July session I introduced a bill to authorize the Secretary of the Treasury to cause photographic copies of the muster-out rolls to be taken, for the use of the Paymaster General, with a view to expediting the payment of the bounties. The bill passed this House, but it did not pass the Senate.

I send to the Clerk's desk the evidence given on this point by Colonel Gibson, chief of that division of the pay department which has charge of the payment of bounties.

The Clerk read as follows:

"*W. R. Gibson—Question.* Has it ever occurred to you that these difficulties might be removed by the photographic process.

"*Answer.* Yes.

"*Question.* State your views on that subject?

"*Answer.* The photographing process would obtain copies in a more expeditious and rapid manner and obviate the immense labor attending the copying of them.

"*Question.* Was it practicable?

"*Answer.* I have consulted some photographers about the matter, and they say it can be done readily. The photographer in the Treasury Department called at my office and said he could do them, and he made representations of that kind down here. I also consulted the photographer in the medical department, and he said it could be done without trouble. The only expense would be that at first attending the large plates it would require.

"*Question.* State whether or not you were informed by this photographer that photographs equal in size to these rolls could be taken of them?

"*Answer.* Yes, sir; they said there was no trouble at all about the size. In fact, the Treasury photographer took some of the rolls we had there with a view to making an estimate of the cost. After that I heard nothing further from him, and I was led to believe, without knowing anything about it, that he had been directed to cease his operations or it was suggested to him to do so.

"*Question.* Did you see his copies?

"*Answer.* No; I was there two or three times and could not find him in.

"*Question.* Then in your judgment there would be no difficulty growing out of the size of these rolls?

"*Answer.* It would be an easy matter to take them by sections if there was.

"*Question.* You did not propose to take them at a reduced size?

"*Answer.* No, sir; I proposed to take them at the full size, and in sections if necessary. The objection made in the Auditor's office was that there were a great many remarks in red ink that could not be copied by photography. They also said their ragged condition was such that they could not be smoothed out in order to take them, but the copies in the Adjutant General's office could be used for the purpose.

"*Question.* Taking the cases where there are paper slips fastened on the rolls, could not they be removed and full copies taken?

"*Answer.* I see no objection to that. The whole matter was talked over with these photographers, and they said it could be done.

"*Question.* Suppose these rolls had been photographed in July, and photograph copies furnished to your office, and that the clerks who had been discharged since that time had been retained, how much would that have facilitated the business?

"*Answer.* If photograph copies were furnished we would not require the services of the clerks who have been discharged, as the force I have now could have obtained the information.

"*Question.* How much would the photographic copies, if taken in July, expedite the settlement of these claims?

"*Answer.* We could have settled double the number of claims up to this time. A paymaster then would have the roll of any regiment he was working on right before him, and could satisfy himself at a glance whether a man was entitled to the bounty or not. It would then have been merely a question of clerical labor, settling up an account and drawing a check. Now we have to wait until a transcript of each man is sent, as the examination of each roll is made, and the paymaster pays on that."

Mr. PAINE. That bill was substantially drawn at the pay department, in the division of referred claims, which has charge of the payment of the bounties. I had very slight knowledge of photography myself, but I was assured by the Treasury photographer that the plan was entirely feasible, and I then believed this photographic duplication of the muster-out rolls to be the only possible means for hastening the work. I was anxious to try any reasonable plan which promised to realize a result so important to the interests of a class of men, women, and children whose claims upon us are the strongest of which the mind can possibly conceive. But whether this experiment would have proved successful or not, of one thing I am now certain; I have learned it from the evidence taken by the committee. It is this: that a far simpler, surer, cheaper course was open to us then, as it is now. The best remedy then was, as it now is, to authorize and compel the Treasury Department to employ more clerks on the work, and to furnish them adequate accommodations. If that force had been increased to one hundred on the 1st day of last August, and ten additional paymasters employed, a simple arithmetical computation will show you, sir, that to-day there would have been less than seventy thousand cases unsettled; that before the middle of next month the work would have been complete. If the same force had been set at work on the 1st day of January, 1867, when the settlements commenced, then, sir, at the rate hitherto maintained, the entire bounty business would have been closed before the end of last month. If the same force had been set at work at the expiration of three months from the passage of the act the work would have been all done before the end of last August. But, sir, I did not know then what I now know—that the cheapest and best way was to increase the clerical force. If I had I should have clamored, not for photographs, but for more clerks.

One more observation, Mr. Speaker, and I will resume my seat. When we passed this act we had full notice that it found no favor in the eyes either of the Secretary of the Treasury or the Paymaster General. On this point they made no attempt to deceive us. And yet it was natural, if not necessary, that we should intrust the execution of the act to one of these officers. But instead of intrusting its execution to one of them we intrusted it to both, and thus created a divided responsibility, which, as usual, both were likely to evade. We directed the Paymaster General to pay the bounties of the living soldiers. But we directed the Treasury Department to pay the bounties of the widows and heirs of deceased soldiers. Both are necessarily settled by the same rolls. To ask an officer whose judgment was opposed to the enactment of a law to boil over with zeal in its execution is asking quite too much of human nature—even of that lofty style of human nature in which Secretaries are supposed to be made. We forgot all this. We took it for granted that if we should once authorize the Secretaries to pay these bounties they would climb mountains and swim rivers and leap hedges and ditches in their eager pursuit of duty.

We thought that no obstacle would be able to check the impetuous euthusiasm with which each would struggle to distance the other in the race. And so we erected this barrier of divided responsibility; and some of us now complain that neither of them jumped over it, but both crawled around it. But this is not the worst of it. Knowing the opinions entertained by the Secretary of the Treasury and the Paymaster General respecting this law, we ought not only to have erected no new obstacles to its execution, but carefully to have removed those impediments which already existed. We ought not only to have required a single bureau to perform all the work and bear all the responsibility, but we ought to have furnished that bureau with abundant room and adequate clerical force.

Sir, I am not sure that there has been no lack of zeal in this work in the War and Treasury Departments. But I am sure that any attempt on our part to fasten upon them or either of them the exclusive responsibility for the delay in the payment of these bounties will be for the "pot to call the kettle black" under circumstances of peculiar aggravation.

Mr. Speaker, it is too late to undo past mischief. But further delay we can prevent. I know sir—I do not merely conjecture—I know that increased force and increased room will expedite this work, and that we now have no alternative. I will waste no time in idle speculation as to what this or that officer will do if permitted to act at his discretion. One thing is certain: more clerks will be employed and accommodated if we peremptorily order it. And I propose to try compulsion, to try it now, so that we may see with our own eyes how the work is done. For years the Second Auditor has earnestly asked for augmented facilities for the performance of his work. Hitherto he has asked in vain. With the means now at his disposal he cannot dispose of these bounty cases with satisfactory dispatch. It is a sheer impossibility. Refuse to increase his force and the responsibility for further delay will be yours. Refuse this now and the charge so often made that Congress has money for everything and everybody except for the bounties of white soldiers will be a hard charge for you to answer. Augment his force, and if delays shall intervene through the neglect or willful misconduct of any officer, high or low, the dereliction of duty will be so tangible and indefensible that you can, as you should, and I trust will, promptly detect, convict, and punish the delinquent. We have not now time to bandy words or throw grass. We must, without delay, try the virtue there is in stones.

I propose to amend the bill as follows:

First amendment: in section one, line four, strike out "twenty-five" and insert "sixty-five;" so it will read:

That the Secretary of the Treasury be, and he is hereby, directed to employ, by transfer or otherwise, sixty-seven additional clerks in the division of the Second Auditor's office of the Treasury furnishing information to the Paymaster General in regard to soldiers claiming bounty under act of July, 1866, to be continued as long as there is a necessity for the same.

Second amendment: add at the end of line nine, section one, these words:

And to provide for convenient room for the clerks employed in the examination of the muster-rolls in said office.

Mr. WASHBURN, of Indiana. I now yield to the gentleman from Pennsylvania, [Mr. GETZ,] a member of the committee.

Mr. GETZ. I yield for a moment for the introduction of some bills.

NATIONAL HOTEL COMPANY.

Mr. STONE, by unanimous consent, introduced a bill (H. R. No. 366) to incorporate the National Hotel Company of Washington city; which was read a first and second time, and referred to the Committee for the District of Columbia.

CONSOLIDATION OF INDIAN TRIBES.

Mr. VAN HORN, of Missouri, by unanimous consent, introduced a bill (H. R. No. 367) to provide for the consolidation of the Indian tribes and the organization of a system of government in the Indian territory; which was read a first and second time, and referred to the Committee on Indian Affairs.

AMENDMENT OF THE CONSTITUTION.

Mr. SCOFIELD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State is hereby requested to inform this House how many and what State Legislatures have ratified the proposed amendment to the Constitution of the United States known as the fourteenth article.

PAYMENT OF BOUNTIES—AGAIN.

Mr. GETZ. I propose to occupy the attention of the House only for a few minutes.

Mr. Speaker, it was doubtless the intention of Congress when the extra bounty bill was passed that payments under it should be made promptly. The very nature of the payments would presume that idea. A bounty is a gift, a gratuity, a reward, and in the payment of

such the ancient maxim might well apply, "he gives twice who gives quickly."

The investigation of the committee who were appointed under the resolution of the House, and whose report is now before us, shows that under the present system of payment it will require three years to complete the payment of extra bounties, and the result will be, unless something is done by Congress to facilitate the matter, that many of the claimants never will be paid, that many soldiers entitled to the bounty will die before they are paid, and that many tired of waiting will sell out their claims for a trifle. The sum now appropriated by Congress is entirely too small to allow anything of the kind to be done.

If the mode of payment were to be initiated anew, they could doubtless have recommended some mode which would have facilitated the payment very considerably, but it is too late to do that now, and therefore the committee have done the best they could under the circumstances by reporting the bill now before the House, which they have evidence before them to show will facilitate the payment of these bounties very materially. I presume that no gentleman will offer any obstacle or make any objection to the payment of all these just claims as speedily as possible; and I hope, therefore, that the bill before the House will pass without delay.

Mr. LOGAN. I desire to know if the bill is now open to amendment?

The SPEAKER. The bill is before the House, and the gentleman from Wisconsin, [Mr. PAINE,] a member of the committee, has moved some amendments which must be disposed of before other amendments can be offered. An amendment to those amendments would be in order.

Mr. LOGAN. My amendment is to the whole bill.

The SPEAKER. It is in order for the gentleman to offer a substitute for the bill.

Mr. LOGAN. Then I offer the following as a substitute:

That the Second Auditor of the Treasury Department be, and is hereby, authorized and directed to employ as many additional clerks as in his judgment may be necessary for a speedy settlement of all claims for bounties made by soldiers of the late war, and that in all cases he shall give preference to the soldiers and sailors who served faithfully and were honorably discharged in this employment; further, that he shall have authority to rent such suitable rooms or buildings as may be necessary to allow such work to be done with dispatch.

The SPEAKER. That amendment is in order as a substitute for the bill.

Mr. LOGAN. I offer it as a substitute for the first section of the bill, which is the whole bill really.

The SPEAKER. Then the gentleman will have to add the second section of the bill as printed to his substitute.

Mr. LOGAN. I will do so, and then offer it as a substitute, and I will state my reasons in a moment, for I do not desire to detain the House. It is unnecessary and useless for us to appoint clerks in the Second Auditor's office unless, as was suggested by the gentleman from Wisconsin, [Mr. PAINE,] we authorize them to have rooms or places in which to work. I had a talk with the Second Auditor myself in reference to this matter, although I am not a member of the committee, and he informed me that he had no rooms for the use of additional clerks, nowhere where he can put any more clerks than he has now, but that the Secretary of War had proposed to give him four additional rooms, I believe, and that they were in the upper part of the building occupied by the Secretary of War, and were of such a character that really he would not place clerks in them to work, and hence he could not employ more clerks than he had unless rooms were furnished for them.

Now, it would be of no use if we were to provide for a hundred additional clerks unless we should also provide rooms for their accommodation, and if we desire the bounties to be paid, as I presume we all do, we ought to provide a sufficient number of rooms.

I am opposed to providing for any specific number of clerks, but let the responsibility be upon the Second Auditor and the Treasurer if this work is not performed with dispatch. They certainly will not employ more clerks than are absolutely necessary, and if they can do the whole work in three months by employing three hundred clerks I am willing they should do it. Let the work be done as readily as possible, because the soldiers of the country demand that this work shall be done, and done at once.

I remember very well that when this bounty bill was passed the head of the Treasury Department was opposed to it, because he did not want the money to go out of the Treasury to these soldiers on account of the amount that it would take from the Treasury of the United States. I will not say that there is a desire now to retain the money and not pay it to the soldiers in order to madden the soldiers against the majority of the Congress of the United States. I will not say that that is the case, but if the majority of Congress desire to leave them no excuse for the non-performance of their duty let them provide such ways and means that they may perform that duty, and then the soldiers will have no right to complain of us, and the complaint will lie at the door of the one who does obstruct the payment of their bounties.

Mr. GETZ. Will the gentleman allow me a word of explanation?

Mr. LOGAN. Certainly.

Mr. GETZ. The gentleman has alluded to the Secretary of the Treasury; I had myself a conversation with the Secretary of the Treasury upon the very point which the gentleman has touched, and I can say here freely that the Secretary of the Treasury at that time offered no objection of the kind to which the gentleman has alluded. He merely made the general statement that there were very heavy drafts upon the Treasury; but as this draft was a legal one he was bound to recognize it.

Mr. LOGAN. I have not made any charge against any one, except to state the fact of there being opposition to the law. My object is this: to so provide that there shall be no excuse for a failure to perform their duty. I charge nobody with a desire to prevent the payment. But I have a reason to conclude that there is no desire to furnish rooms or a sufficient number of clerks unless we shall make such provision that there shall be no excuse on their part, and then let the responsibility rest where it should properly rest. If Congress performs its own duty and the duty devolving upon others is not then performed we are not to blame if the payment is not made in accordance with the law and the just dues of these soldiers.

My proposition is this: not to restrict the Department to any number of clerks, but to give them all the clerks the necessity of the case may require, even if it takes three hundred or five hundred. It is a mistaken idea that we cannot furnish two hundred clerks who are adepts in business of this kind. I can furnish them myself, if need be, before next week, men who understand this business. The business is like any other clerical work. I know something about the business. I was a clerk myself once, not in the Departments here, but elsewhere, years ago. This is a mere clerical duty, and any clerk can perform it. I could soon show any clerk how to make up these rolls. There are men enough who are qualified to do it.

My reason for putting in a provision that soldiers and sailors shall be preferred is this: I know that if soldiers and sailors are employed as clerks they will feel more interest in performing that duty for the benefit of their former comrades who have been with them in arms than will others who have not the same sympathy with or feeling for them that they have with and for each other.

We have heretofore passed a resolution that soldiers and sailors should have the preference for appointments in these Departments. Yet to-day there are not, I assert to this House, five soldiers in all the Departments of this Government at Washington who hold eighteen hundred dollar clerkships; not five of them. Therefore I have put in that provision about soldiers. The soldiers who are employed in these Departments are all the time put at the tail of the list. They hold only the thousand dollar clerkships, while citizens are appointed to the twelve, fourteen, sixteen, and eighteen hundred dollar clerkships. Hence I propose to put in a provision that these officers shall employ soldiers and sailors. These are my reasons for offering this substitute for this bill.

Mr. WASHBURN, of Indiana. The gentleman from Illinois [Mr. LOGAN] provides in his substitute that the Second Auditor shall provide these clerks. Is it not usual to have the clerks provided by the Secretary of the Treasury?

Mr. LOGAN. I meant it to read "Second Auditor" and not "Secretary of the Treasury."

Mr. KERR. Will the gentleman from Indiana [Mr. WASHBURN] yield to allow me to offer an amendment?

Mr. WASHBURN, of Indiana. I will hear it read.

Mr. LOGAN. I will modify my substitute, at the suggestion of some members, so that it will read "Secretary of the Treasury" and not "Second Auditor."

The substitute was modified accordingly.

Mr. KERR. I desire to offer an amendment.

The SPEAKER. There is an amendment pending to the original bill. An amendment can be offered to the substitute.

Mr. KERR. I desire to offer an additional section.

The SPEAKER. That can be offered to the substitute.

Mr. KERR. I do not wish to add anything to the substitute. I desire to add another section to the original bill.

The SPEAKER. The gentleman can move to add a section to the last amendment to the original bill offered by the gentleman from Wisconsin, [Mr. PAINE.]

Mr. KERR. I will do so if the gentleman from Indiana [Mr. WASHBURN] will yield to me for that purpose.

Mr. WASHBURN, of Indiana. I will hear it read.

The proposed amendment was read, as follows:

And be it further enacted, That in cases where the soldier entitled to the bounty died after the passage of said act and before the payment of such bounty to him the same shall be paid to his heirs in the order named in said act.

Mr. PAINE. I ask the gentleman from Indiana [Mr. WASHBURN] to yield to me for a few moments.

Mr. WASHBURN, of Indiana. I will do so.

Mr. PAINE. Mr. Speaker, I wish to say a few words in reply to what the gentleman from Illinois [Mr. LOGAN] has said in support of his amendment. His proposition has a fair appearance on its face. The purpose of the gentleman is to give the Secretary of the Treasury or the Second Auditor an opportunity to employ a large number of clerks and push this work through. But I inform him and I inform the House that if this amendment be adopted the work will not be pushed through. It may, indeed, happen that we shall be able to shift the responsibility from our own shoulders to the shoulders of the Second Auditor or of the Secretary of the Treasury; but that will be the only consolation we shall have. The soldiers will not be aided in obtaining their bounty. There are many reasons which satisfy me of this. The gentleman himself would be satisfied upon the point if he would read the testimony.

In the first place, as the gentleman has truly said, the Secretary of the Treasury is opposed to this whole system of paying bounties. He has made no secret of that. He told us so before we passed the law. He will therefore naturally feel no enthusiasm in the prosecution of this work, and the Second Auditor must be burdened with all the apathy of the Secre-

tary of the Treasury and all his dislike to this system. But more than that, the Second Auditor himself has declared in his testimony that he does not regard as necessary an increase of the clerical force in his Department. He does not believe that such an increase would materially expedite this work. All of his subordinates swear differently. They all testify that there might be employed on this particular work a hundred men. The Second Auditor doubtless believed what he said, having obtained that general impression from what he had seen and heard; but he of course could not have any very precise knowledge of the details of the case. These other men did; and they swear that more men might advantageously be employed. I would not object to employing more than one hundred, I would not object to employing five hundred, if thereby the work could be hastened. In this respect I agree with the gentleman from Illinois. But we must peremptorily require a certain number to be employed or we shall find that the number of clerks will not be materially increased. If we adopt the gentleman's amendment we shall find at the end of this session and at the end of the next vacation the same result that we find now. We shall find that the responsibility in the Treasury Department being divided the work will not be carried through.

I have no objections to the phraseology of the gentleman's proposition except that I regard it as deficient in one particular. It should be so worded as to compel the Secretary or Second Auditor to employ a certain number of clerks, not less than one hundred. If I were the Second Auditor that is exactly what I should want. I would ask Congress to make it compulsory that a certain number of clerks should be appointed, so that neither the Secretary of the Treasury nor the Second Auditor could prevent it, and that the work might certainly be accomplished. Do what the gentleman from Illinois proposes, and then whether or not these bounties shall be paid will depend upon the discretion of the Secretary of the Treasury and the Second Auditor; and although it may be comfortable for us to shift the burden of responsibility from our own shoulders to theirs, it will be no consolation to the soldiers that we have been able to do this. Nay, it will be better for us to be able to show the soldiers that we have put this thing in such a shape that neither the Secretary of the Treasury nor the Second Auditor can evade the performance of this duty. That is just what is proposed by this bill of the committee as amended. If we adopt this measure the payments will be made within a reasonable time. If we increase the number of clerks to two or three hundred we go beyond the number that can be advantageously employed upon the pay-rolls. I hope, therefore, that the House will not adopt the amendment of the gentleman from Illinois, but will pass the bill as reported by the committee with the amendments which I have submitted.

Mr. WASHBURN, of Indiana. I now demand the previous question. When this has been seconded I shall be willing that the bill may go over till to-morrow morning, when I will give the gentleman from Illinois [Mr. LOGAN] further time.

The SPEAKER. The gentleman from Indiana will be entitled to one hour after the previous question has been seconded.

Mr. LOGAN. I wish to make my suggestion before the previous question is called. I have no other desire about this bill except it shall be so drawn as to provide for the speedy payment of these men, and am willing to modify my substitute so as to increase the number of clerks as has been suggested. I think my proposed additions are just and proper. I do not wish to defeat but to perfect the bill. I want the work done with as much dispatch and as speedily as possibly. I am willing to accept the suggestion that the Secretary shall be permitted to employ as many clerks as are necessary, not less than sixty-seven in addition to the present ones.

Mr. SCHENCK. Allow me to suggest to the gentleman from Indiana, if he calls the previous question this evening and it is sustained we will have to vote on the amendments as they now are, whereas if the subject goes over till to-morrow without demanding the previous question we can, after seeing the amendments in the Globe, suggest the necessary modifications.

Mr. WASHBURN, of Indiana. I will yield to a motion to adjourn.

The SPEAKER. It will come up the first business after the morning hour.

Mr. SCHENCK moved that the House adjourn.

The motion was agreed to; and thereupon, (at three o'clock and forty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of colored people of Pasquotank county, North Carolina, praying for the passage by Congress of Hon. Mr. JULIAN'S homestead bill.

Also, the petition of the board of registration of the fortieth senatorial district of Georgia, and also citizens of Rabun county, Georgia, praying for the removal of disabilities in the case of William E. Philyaw.

Also, the petition of Lardner Gibbon, of Greenville, South Carolina, praying for the removal of disabilities in his case.

Also, the petition of John E. George, of Danville, Montgomery county, Texas, praying for a mail route from Danville to Huntsville, Walker county, Texas.

Also, the petition of Patrick Collins, an Indiana soldier, praying for the passage by Congress of a special act granting him a pension.

Also, the petition of Union men of Polk county, North Carolina, praying for the removal from office of all disloyal men.

Also, the resolutions of a mass meeting held in Lawrence, Massachusetts, relative to the rights of American citizens on British soil.

Also, resolutions and memorial of the national convention of manufacturers, held at Cleveland, Ohio, upon the subject of taxation and finance.

Also, a memorial of a meeting of fruit distillers of Russell county, Kentucky, praying for a change in the amount and mode of collecting the tax on distilled spirits.

Also, the proceedings of a conservative mass meeting of the citizens of Dougherty county, Georgia, upon the state of the country.

Also, the petition of David Van Nostrand, of South Bend, Indiana, praying for a pension.

By Mr. ALLISON: The petition of William Larrabee, and 100 others, citizens of Iowa, asking Congress to provide suitable legislation for the protection of naturalized citizens of the United States.

By Mr. ASHLEY, of Nevada: A memorial of the Legislature of Nevada in relation to the Sutro tunnel.

Also, a joint resolution of the Legislature of Nevada recommending a post route in said State.

By Mr. BALDWIN: The petition of Edwin Battles and others, citizens of Milford, Massachusetts, for legislation to explain and enforce the rights of American citizenship with reference to foreign countries, and especially in the case of naturalized citizens.

By Mr. BOUTWELL: The petition of Sarah Whiting, for a pension.

Also, the petition of Catharine O'Conner, for a pension.

Also, the petition of Margaret Carney, for a pension.

Also, the petition of Robert B. Caverly and others, in aid of the petition of Margaret Carney.

Also, the petition of Robert B. Caverly and others, asking for an amendment of the pension laws.

Also, the petition of James S. Joslin and 211 others, citizens of Hudson, Massachusetts, asking Congress to legislate in reference to the rights of naturalized citizens.

By Mr. CARY: The petition from the officers and men of the ninth regiment of Ohio militia, asking for the passage of a law giving them compensation for services rendered in September and October, 1862.

By Mr. DRIGGS: The petition of George F. Dulmage, of Portsmouth, Michigan, late a private of the fourth Michigan cavalry, praying for payment of the reward offered for the capture of Jefferson Davis.

By Mr. ELIOT: The petition of Charles S. Randall and others, of Massachusetts, praying for American register for bark Live Oak.

Also, the petition of Nathaniel T. Gifford, of Massachusetts, praying for American register for bark Albion.

By Mr. GARFIELD: The petition of Army officers, for an increase of the per diem allowance to officers serving on courts-martial.

Also, a memorial of Norman Wiard, asking reimbursement of expenses incurred in delivering certain steamers to the Government.

By Mr. HUNTER: A memorial and resolution from sundry citizens of Bloomington, Indiana, on the subject of the rights of naturalized citizens when in foreign countries.

By Mr. INGERSOLL: The petition of Charles Klomann and others, praying for the incorporation of the Washington Target-Shooting Association in the city of Washington, District of Columbia.

Also, the petition of Mrs. A. B. Eaton, Mrs. E. G. Beckwith, and Mrs. M. H. Doolittle, praying for the establishment of a police court in the city of Washington, District of Columbia.

By Mr. JUDD: The proceedings of the meeting of naturalized citizens held at Chicago the 18th December, 1867, in relation to the protection of their rights.

By Mr. KERR: The petition of A. Scott, Dr. Rodman, and others, of Jackson county, Indiana, for additional mail routes.

By Mr. KOONTZ: The petition of James Whitely, formerly orderly sergeant of company G sixth regiment Connecticut volunteers, to be mustered into the service as second lieutenant of said company from the 13th of February, 1865, and to be allowed pay as second lieutenant from the 13th of February, 1862, to the 23d March, 1865, with the three months pay proper due commissioned officers who were in service on the 3d March and 9th April, 1865.

By Mr. MERCUR: The petition of Waterman & Beaver, Grove Brothers, National Iron Company, and Hancock, Creveling & Co., of Danville, Montour county, Pennsylvania, who employ two thousand men and have a capital of $3,325,000 invested in the manufacturing of iron, asking for an increased duty on iron and steel.

By Mr. MILLER: The petition for a mail route from Mount Carmel, in Northumberland county, Pennsylvania, to Danville, in said State, via Krichbaum's Mills, Elysburg, and Union Corner.

By Mr. RAUM: The petition of Hon. John Olney and 1,000 others, for the establishment and construction of a marine hospital at Cairo, Illinois.

By Mr. SCHENCK: The petition of John Ludlow and others, of Springfield, Ohio, praying that no radical change may be made in the national banking system.

Also, the petition of Messrs. Barney & Smith and 150 others, citizens of Dayton, Ohio, praying that the national banks may not be abrogated or abolished, and only such changes made in the banking law as shall strengthen and perfect the present system of banking.

Also, the petition of Daniel W. Norton and 204 others, citizens of Hartford county, Connecticut, praying that the present national banking system shall neither be repealed nor materially changed.

Also, the petition and testimony of John R.

Reynolds, of Dayton, Ohio, praying for compensation from the Government for corn sold to the United States Army in Mississippi.

Also, the petition of Hiram Campbell and 14 others, citizens of Ironton, Ohio, praying that the present system of national banks be neither abrogated nor materially changed.

Also, a memorial of Norman Wiard, relating to the arbitrary amendment of a contract for thirty-five inch guns; also memorial of same relating to a contract with the Navy Department for semi-steel fifty-pounder guns.

By Mr. SPALDING: The petition of Joseph L. Reiley and others, assistant engineers in United States revenue service, for commissions, &c.

Also, the petition of Cornelia K. Schmidt, for pension.

Also, the petition of Lucy Roberts, for increase of pension.

Also, sundry memorials from the National Convention of Manufacturers, assembled at Cleveland, Ohio, on the 18th of December, 1867, in respect to internal revenue taxes and the mode of collecting the same.

IN SENATE.

TUESDAY, *January* 7, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

REVENUE REPORT.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Treasury, communicating the report of the Special Commissioner of the Revenue.

Mr. SHERMAN. I move that the report of the Special Commissioner of the Revenue be referred to the Committee on Finance, and that the usual number be printed, and as I suppose it is a document that Senators desire to distribute to some extent I will submit the ordinary motion to print five thousand extra copies, and let that go to the Committee on Printing.

The PRESIDENT *pro tempore*. The motion to print extra copies will go to the Committee on Printing. The other order willl be entered if there be no objection.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented the petition of assistant professors at the United States Naval Academy, praying for an increase of compensation; which was referred to the Committee on Naval Affairs.

He also presented resolutions of the board of supervisors of Jackson county, Iowa, asking the passage of an act by Congress declaring the Magnokita river, in that county, not to be a navigable stream; which were referred to the Committee on the Judiciary.

Mr. MORRILL, of Maine, presented a petition of John H. Crowell, late captain and assistant quartermaster of volunteers, praying the passage of an act reimbursing him for moneys paid to extra duty men while in the service; which was referred to the Committee on Claims.

Mr. WILSON presented a memorial of citizens of Montana protesting against the passage of any law reimbursing the militia of that Territory for services against the Indians, and urging the appointment of a commission to investigate said claims; which was referred to the Committee on Claims.

Mr. EDMUNDS presented a petition of Sylvanus Blodget, a soldier of the war of 1812, praying an additional pension; which was referred to the Committee on Pensions.

Mr. POMEROY presented the memorial of Annie B. Ross and William P. Ross, executors of John Ross, late principal chief of the Cherokee nation, asking compensation for property destroyed by the rebels belonging to John Ross; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (S. No. 208) to remit the duties upon certain goods, wares, and merchandise destroyed by fire, reported adversely thereon.

BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 84) to provide for adjusting the accounts of acting collectors of internal revenue; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 219) to provide for the construction of a wagon-road from the Horse Plains to Cabinett Landing on the Pen D'Oreille river in Montana Territory; which was read twice by its title, and referred to the Committee on Territories.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 220) to abolish the district court for the eastern district of Texas and to extend the jurisdiction of the district court for the western district over the whole State; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 221) to amend an act entitled "An act to amend existing laws relating to internal revenue, and for other purposes;" which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 222) vacating certain offices in Georgia and empowering the constitutional convention to fill the same; which was read twice by its title, and ordered to lie on the table and be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 223) to amend an act entitled "An act declaring and fixing the rights of volunteers as part of the Army," so as to give officers proper rank and include the Marine corps; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 224) to incorporate the congregation of the First Reformed Church of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 225) to incorporate the English Lutheran church of the city of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MORRILL, of Vermont, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 227) for the relief of Mrs. Eastman, the mother and sole heir of Alfred W. Eastman, deceased; which was read twice by its title, and referred to the Committee on Claims.

FIRST PRESBYTERIAN CHURCH.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 226) to incorporate the congregation of the First Presbyterian Church of Washington; which was read twice by its title.

Mr. TRUMBULL. I understand that this bill, which passed both Houses before the recess, did not reach the President in time to be signed, and it will have, I suppose, to be passed again. I moved its reference to the Committee on the District of Columbia. I do not know that there is any necessity for a reference, but I make the motion.

Mr. SUMNER. I would inquire whether in the opinion of the Senator the number of days required by the Constitution has passed.

Mr. TRUMBULL. The bill was passed before the recess, but it did not reach the President until after we adjourned; and I understand from one of the officers of the church who called on me that the view which was taken by the President was that he had no right to sign it, it not having reached him until after Congress took the recess. There is no objection, I suppose, to the bill. The Senator from New Hampshire, [Mr. PATTERSON,] I think, had charge of it when it passed here before, but one of the officers of the church called on me and asked me to introduce it again. I had not thought particularly on the course the President had adopted; but if he takes that view of it I suppose there will be no other way but to repass it. It has been a question whether the President could sign a bill that was handed to him after our adjournment. Mr. Lincoln, I think, on one occasion did sign a bill after Congress had adjourned.

Mr. SUMNER. But the Senator will bear in mind that that raises the question of what is the character of the recent recess taken by Congress. Is it such an adjournment as the Senator has in mind which causes the failure of a bill, or is it merely a temporary recess as when the Senate adjourns over from Thursday to Monday during the course of the regular session? My own impression is that it would fall under the latter head, that it is not one of those adjournments which would cause a bill to lapse. I do not know there is any way in which we can reach this question and decide it satisfactorily. If the President chooses to act on his interpretation, perhaps it would be most convenient for us to take up these different bills and pass them anew.

There is another important bill which is in the same category, one which Congress has already passed twice—the bill to secure equal rights in the District of Columbia. I have not introduced that as yet, because I was disposed to allow the lapse of the full constitutional period in order to see whether the President in that time would send it back to Congress.

Mr. TRUMBULL. This involves a complicated question about which I confess I have not very definite opinions. It would seem to be treated as a recess in one respect, for the filling of offices, and in other respects it is regarded as a continued session. I would rather not attempt to decide it upon this bill, which is an unimportant one, and to which I suppose there is no objection on the part of the Executive at all, only his not having received it in time. I will move that it be referred to the Committee on the District of Columbia, and let them inquire into it.

The PRESIDENT *pro tempore*. It will be so referred, no objection being made.

PAPERS WITHDRAWN.

On motion of Mr. STEWART, it was

Ordered, That Charles A. Pitcher have leave to withdraw from the files of the Senate his petition and papers.

OFFICERS' WIDOWS' PENSIONS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be instructed to consider the expediency of providing that the increased pension of two dollars a month granted by the act of July 25, 1866, to each child under sixteen years of age shall be extended to the widows of officers.

REGULATION OF RAILROADS.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into and report upon the expediency, by bill or otherwise, of regulating the various railroads in the United States that extend into or that have connection with other railroads in two or more States; and particularly uniform and just rates of fare for passengers, and freights by classes, and maximum rates by classes, as far as practicable, and a general maximum for all freights not particularly provided for.

SMITHSONIAN INSTITUTION REGENTS.

Mr. TRUMBULL. I introduced a resolution yesterday to fill the vacancies in the Regents of the Smithsonian Institution, which I ask the Senate to take up and dispose of now.

Mr. RAMSEY. I suggest to the Senator from Illinois that the Senator from Tennessee [Mr. FOWLER] objected to the consideration

of his resolution yesterday, and he is not in the Chamber now. What his objection may be I do not know.

Mr. TRUMBULL. I spoke to him, and he said he had not any except that he did not want it considered then.

Mr. RAMSEY. Very well.

The motion of Mr. TRUMBULL was agreed to; and the joint resolution (S. R. No. 83) for the appointment of Regents of the Smithsonian Institution was read the second time and considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM SHUNK.

Mr. RAMSEY. I move that the Senate proceed to the consideration of the bill (S. No. 4) for the relief of William Shunk.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs that there be paid to William Shunk the sum of $770, being the amount due from the United States to E. C. Shunk, late postmaster at Cardington, Ohio, for salary as postmaster from January 1, 1864, to March 31, 1865.

Mr. RAMSEY. I will simply state for the information of the Senate that this is a case of a defaulting postmaster in the State of Ohio, whose default was paid by his surety, who now comes and asks that the suspended salary during the period of the default may be paid to him. The Post Office Department were addressed by the committee who had this matter under consideration, and they state that it is all right, and that the money should be paid. I will read, as that will be probably the briefest way of bringing the matter to the knowledge of the Senate, the letter of the Assistant Postmaster General:

POST OFFICE DEPARTMENT, APPOINTMENT OFFICE, WASHINGTON, *March* 20, 1867.

SIR: Your letter of the 14th instant calling the attention of the Department to the bill for the relief of William Shunk, surety of the late postmaster at Cardington, Ohio, has been received, and the case examined.

It appears by the records in the Auditor's office that said Shunk has paid all arrears, and that the account has been closed. No compensation could be allowed the postmaster from January 1, 1864, to March 31, 1865, because he failed to render any returns; but the surety having paid all arrears he is equitably entitled to receive what the postmaster would have received had he made the returns, at the rate of $660 a year from January 1, 1864, to March 31, 1865, a period of fifteen months, instead of fourteen, as stated in his petition.

I am, respectfully, your obedient servant,

ST. JOHN B. L. SKINNER,
First Assistant Postmaster General.

Hon. ALEX. RAMSEY,
Chairman, &c., United States Senate.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Post Offices and Post Roads, to strike out "$770" and insert "$825."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PRIVATE-BILL DAY.

Mr. GRIMES. Mr. President, up to five or six years ago, about the time of the beginning of the war, a rule had been in existence for a great many years in the Senate that one day in the week—Friday—should be devoted to the consideration of just such bills as have now been passed by the Senate. That rule, as I say, had been in existence for a great many years, and was found to work well. The various committees made their reports of private bills to the Senate, and they were put upon the Private Calendar to be considered on that day. On that day the representatives of the various committees from whom those private bills came were present in the Senate to look after them. As it now is, we pass private bills in the morning hour, when, perhaps, parties who are interested in them are not able to be here and know nothing about their passage. In this way the business of the country is not expedited, whereas if we had a rule to proceed to the orders of the day immediately after the transaction of the business of the morning hour we should save a great deal of time; and I think if the chairman of the Committee on Finance would call up his cotton bill immediately after the presentation of resolutions was gone through with we could save three quarters of an hour this morning. I trust that if there is now such a standing rule of the Senate it will be observed hereafter, or if there is not such a rule I will now move that hereafter Friday of each week be devoted to the consideration of private bills, in order that we may be relieved from their consideration in the morning hour every day.

The PRESIDENT *pro tempore*. There is no such rule of the Senate, as the Chair understands.

Mr. SUMNER. I suggest to the Senator from Iowa that I think he will be obliged to introduce a new rule of the Senate in order to reach that.

Mr. FESSENDEN. I am not aware that that rule has ever been repealed if it existed.

Mr. SUMNER. There was such a rule in old times.

Mr. GRIMES. I am not certain that it was in the shape of a rule, but the Senate, perhaps, used to make an order of that kind at the beginning of every session, and we observed it. It expedited business vastly.

Mr. SUMNER. That would be in the nature of a rule, of course.

Mr. FESSENDEN. I presume the Chief Clerk can inform us whether that rule is now in existence or not; but the reason it has been so much neglected of late is, I presume, that as we have constituted the Court of Claims, and refer almost everything in the nature of a private claim to that tribunal, the amount of private business to be transacted by Congress is very much smaller than formerly. I suppose that is the reason of it; but still from the look of the Calendar now I think it would be well to have the rule reëstablished, as it needs reëstablishment. I think we used to have a day set apart in each week for private bills, and then occasionally a day would be set apart for the consideration of District of Columbia business.

The PRESIDENT *pro tempore*. I am informed by the Chief Clerk that there never has been such a standing rule, but an order of that kind has been made by resolution from time to time.

Mr. SUMNER. Is there anything before the Senate, Mr. President?

The PRESIDENT *pro tempore*. The Senator from Iowa submitted a motion that Friday of each week be set apart for the consideration of private bills.

Mr. CONNESS. I hope that will be laid over at present until we think a little more about it. We often meet at this period of the session in such a condition that we can transact business of this kind during the morning hour, particularly when the great business of the people is not ready for us. When we have such business it ought to have precedence, and private bills, I think, should give way to it.

The PRESIDENT *pro tempore*. Under the rule, objection being made to the consideration of the motion submitted by the Senator from Iowa, it must lie over.

EQUAL RIGHTS—PRESIDENTIAL POWER.

Mr. SUMNER. On inquiry at the desk I understand that the bill for the further security of equal rights in the District of Columbia was sent to the President on the 10th of December; therefore the full number of ten days has elapsed within which the President might consider the bill; and as it has not been returned to the Senate in this time I now propose to ask leave of the Senate to introduce it a third time in precisely the terms in which it has already twice passed both Houses of Congress. I send the bill now to the Chair.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent to introduce a bill without previous notice. Is there any objection? None being made leave is granted to introduce the bill.

The bill (S. No. 228) for the further security of equal rights in the District of Columbia was read the first time.

Mr. SHERMAN. Before there is any action on the bill I think we ought to consider whether it is not already a law. That depends upon the question whether the late recess was a mere recess within the meaning of the Constitution or an adjournment. We are all familiar with the clause of the Constitution giving the President ten days in which to consider a bill; and we have always regarded an adjournment over the holidays as a recess. If it was not an adjournment within the sense of that clause of the Constitution this bill is now the law of the land.

Mr. SUMNER. That was my impression.

Mr. SHERMAN. If that be the correct view of the case, a resolution declaring that the officers of Congress shall certify the bill to the Secretary of State would be more appropriate. The question, however, is one which I have not examined carefully, and I do not wish to be considered as committed on it; but I submit to the Senator from Massachusetts whether he had not better refer the matter to the Judiciary Committee, and let us take the judgment of the legal branch of the Senate on that point.

Mr. SUMNER. I have no objection to that; indeed, I should like very much to have the point decided to which the Senator now calls attention; but perhaps it would be more convenient for us to pass the bill the third time.

Mr. JOHNSON. The constitution of New Hampshire, in the particular now before the Senate, is the same almost in words with the Constitution of the United States, except that it gives only three days for the action of the Executive. The supreme court of New Hampshire has decided in rather a recent case that an adjournment such as we had the other day was not an adjournment in the sense in which the President understands it, but a recess, and that consequently a law would be valid if it had not been returned during the stipulated time. I have not read the case lately, but I recollect it very distinctly, and if that decision is correct the bill to which the honorable member from Massachusetts refers and all bills standing in the same position are now laws of the land.

Mr. SUMNER. But the difficulty in the present case, I take it, is that there is a difference between the President and Congress as to the interpretation of the Constitution, at least so far as regards these laws. The President may for some purpose regard the recent adjournment as a recess, but there is no reason to believe that he does not so regard it with reference to these bills—that he supposes that the bill in question has fallen through the recess taken by Congress. It is under these circumstances that it becomes important that the Senate should meet the question, either by a new act of legislation or by a resolution such as that now suggested by the Senator from Ohio, which shall declare the true interpretation of the Constitution on this subject. I am perfectly willing that the bill should go to the Committee on the Judiciary, with a view to a definite decision of that question.

Mr. EDMUNDS. It appears to me, sir, that the constitutional law on the subject is perfectly plain—that this bill has become a law if it has not been returned with a veto, as it seems it has not been. But we do not know officially what view the President takes of it—whether he has been disposed to permit it to become a law by not returning it, not being sufficiently opposed to it to veto it, and not being sufficiently in favor of it to sign it, or whether he treats it as having fallen. Now, what I suggest is that a resolution of inquiry, such as we frequently address to the President on any subject, be sent to him, requesting him to communicate to the Senate whether he has omitted to return this bill on the ground that he did

not choose to sign or veto it, thus permitting it to become a law without acting on it, or whether it was because he understood the bill to have fallen. If he says the first, then, of course, it is plain, that both Departments of the Government regard it as a law, and all that remains is for the proper entries to be made in the rolls of the Secretary of State. On the contrary, if he understands the Constitution to mean that every time we adjourn for three days, or ten days, or whenever we skip any day, and the tenth day in the passage of bills falls on the day over which we adjourn, all our legislation it is in his power to utterly defeat, I entirely dissent from that doctrine, and I think every Senator would on both sides. I cannot suppose that the President entertains that opinion, or that his legal advisers do. I believe, therefore, that we shall ascertain upon inquiry from the President in the form I have suggested that he regards this bill as having become a law by his not having had time to act on it within the period the Constitution allows.

I should be sorry to pass any of these bills over again and thus acquiesce in such a construction of the Constitution. We are making history by such conduct, and we shall be told ten years hence, or those of us who remain here, or those others who follow us, that the construction of the Constitution has become settled by the historic action of the Government, and therefore every time we adjourn over a Saturday, and that Saturday happens to be the tenth day, as it will be in a busy session from the passage of some bill, that bill will be at the mercy of the President. We ought not to commit ourselves to this.

Mr. SUMNER. I agree with the Senator that we ought not to commit ourselves to any such position; but I am inclined to think that under the circumstances the better course will be that the Committee on the Judiciary shall receive the bill and ascertain, as that committee will in some proper way, what is its precise condition. The chairman of that committee can communicate, if he pleases, directly with the President and ascertain his view of the Constitution as applicable to the bill, or he may communicate with the Department of State on the subject. We shall then have a report from that committee which will enable us to act with a perfect understanding of the subject. I doubt whether the Senate at this moment can see its way to adopt any resolution calling on the President for information on the subject. I am inclined to think that what the Senate does finally should be determined by the committee.

Mr. DRAKE. In connection with this matter there is developed, in my judgment, a necessity for additional legislation by Congress in reference to the authentication of bills, and it is for the purpose of bringing that matter to the attention of the Judiciary Committee that I offer a few remarks now.

By referring to the volume containing the acts of the second session of the Thirty-Ninth Congress I find two acts purporting to be laws without any approval of the President, and with a simple note by the Department of State in these words:

"The foregoing act having been presented to the President for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval."

Now, sir, the inquiry may arise under either of these acts what evidence there is that it is a law of the land; and the first question that would occur in that connection would be this: what right has the Department of State to make any such memorandum upon a bill passed by the two Houses of Congress? I am not aware of any existing law of Congress which authorizes the Department of State to make any such memorandum.

In the next place, what authentication is given to this memorandum? There is no signature of the Secretary of State appended to it; there is nothing which is to indicate that it is anything more than a mere memorandum.

In the third place, when, if this does give effect to the act as a law of Congress, did it take effect, for there is no date given here? There is no statement here of the time when it was presented to the President; there is no statement of the time when the law took effect, if it took effect at all.

Under these circumstances, it seems to me very plain that a great defect exists in the legislation of Congress in not providing how a bill which has been presented to the President and not returned by him or signed by him shall be authenticated as a law. It seems to me, sir, that there should be an act passed which should require the President to communicate to Congress his approval of bills that are presented to him, and if he does not communicate that approval within a certain time then that the Presiding Officers of the two Houses shall cause the bill to be reënrolled and certify the facts which are necessary under the Constitution to give it validity as an act of Congress. If this matter is to go to the Judiciary Committee I hope that they will look into this business and see what further legislation is necessary in order to enable the question to be decided when a bill does take effect which the President neither signs nor vetoes, for beyond all question, in my judgment, it is absolutely the province of the two Houses of Congress to decide that question and no other body whatever. The Secretary of State knows nothing of the legislation of Congress except as the acts signed by the President or otherwise authenticated are filed in his office for preservation. He has no right whatever to sign any certificate or to append any certificate to a bill which will give it the effect of law.

Therefore it is, sir, that I hope that when this matter does come before the Judiciary Committee a bill will be presented, if no law on the subject exists now on the statute-book, which shall put it in the power of the two Houses of Congress to determine when a bill becomes a law which has not been signed by the President or vetoed by him.

Mr. EDMUNDS. The act of 1789 on this subject provides that—

"Whenever a bill, order, resolution, or vote of the Senate or House of Representatives, having been approved and signed by the President of the United States, or not having been returned by him with his objection, shall become a law or take effect, it shall forthwith thereafter be received by the said Secretary"—

referring to the duties of the Secretary of State—

"From the President."

And it then goes on to provide for such things being recorded and kept in the rolls, so that I rather imagine that the Secretary of State was acting within the scope of his duties as already provided by law when he received these bills from the President, entered them on his rolls, and made the certificate.

Mr. DRAKE. Mr. President, I rather think not. If the Senator from Vermont has read the whole law, there is nothing there which gives the Secretary of State authority to put any certificate to the bottom of a bill. All he has to do is to take the bill as it is sent to him by the President and file it in his office.

Now, I do not see that there is any necessity for controversy about this matter. Manifestly, what we want to get at is that which shall be an authentication of the fact that a bill has become a law and the time when it became a law. Here are two apparent acts of Congress standing on the pages of the statute-book, and the Senator from Vermont cannot, nor can any other person, tell when these were presented to the President or became law by the failure to receive his signature. The certificate does not state it, and in my opinion they are neither of them properly authenticated as laws. The Secretary of State, as I said before, has no authority to certify the fact, if the Senator from Vermont has read all the law that bears upon the subject. The authentication of the bills should be by Congress, by the Presiding Officers of the two Houses under the direction of Congress, and therefore it is that I wish that the Judiciary Committee, looking into the matter in connection with the bill now before the Senate, should see what is necessary in order to give authentication to the acts of the two Houses that are not approved by the President.

The PRESIDENT *pro tempore*. The bill will be read a second time if there be no objection.

Mr. EDMUNDS. I wish to say a word before the bill is read a second time in reply to my friend from Missouri. I did not rise for the purpose of defending the formality of the Secretary's certificate. Whether or not it would stand a plea in abatement or an objection in court I do not know. If he has failed to make so complete a certificate as to time and circumstance and all that sort of thing as it was his duty to make, if it was his duty to make any, no legislation will help that, because he may fail again.

But I rise now to say in addition that the Secretary of State and the head of every other Department in this Government who is a recording officer is by law obliged, as an essential and necessary part of his duty in keeping the public records, whatever they may be, to certify them. It is the certificate of the officer whose duty it is to receive such things and to act on them, which is proof of the fact that he has acted at all in any part of the scope of his duty, no matter what it may be. Every lawyer must understand that. Therefore, if it be by law, as it is, the duty of the Secretary of State to receive a bill of this description and place it with the other laws of the United States which he is required to receive, keep on file, and publish and certify to the publication, then it is a part of his duty—an essential and necessary part of his duty, one of the functions which give life to the performance of any part of it—to certify at the foot of every such thing the circumstances which give him jurisdiction over it, and that certificate becomes a necessary and essential part of the thing itself. And that is not confined to the Secretary of State. It applies to every officer whose duty it is to act—every officer from the clerk of a court up to the President of the United States. It is not necessary, therefore, in my judgment, in order to give validity to the certificate of the Secretary of State respecting the performance of an act which the law requires him to do, that he shall say in express terms that he has done it. That is the only evidence that can be received in a court of law or anywhere else that he has done it. Hence this certificate is a necessary incident to the performance of the functions at all; and the act of 1818, to which my colleague has called my attention, providing for the publication of the laws, requires that he shall certify to the published laws.

Mr. DRAKE. I will suggest to the honorable Senator from Vermont that there is no certificate here to these laws at all.

Mr. EDMUNDS. I said I did not defend the form of the certificate.

Mr. DRAKE. There is a simple note by the Department of State so printed, but nothing certifying at all over the signature of the Secretary of State.

Mr. EDMUNDS. Is there not a certificate at the end of the whole of them?

Mr. DRAKE. No, sir; there is nothing of the kind. There is no authentication of those two acts.

Mr. EDMUNDS. Oh, yes.

Mr. DRAKE. I will submit the book to the Senator from Vermont. There is nothing here but a note by the Department of State, so called, without any signature of the Secretary, without any official authentication.

Mr. EDMUNDS. I do not know what particular publication this is.

Mr. DRAKE. It is the official publication.

Mr. EDMUNDS. I think my friend has handed me—I am sure he has—the publication of laws that we have published for distribution by Senators and members of Congress, and it

is not the Secretary's publication at all. I am not saying that the Secretary has certified as fully as he ought to have done, or defending his having omitted to certify at all, if he has; but I think my friend will find when he looks at the laws published under the orders of the State Department, if the Secretary does his duty, either at the foot of every law or at the end of the published series, the official certificate which the act of 1818 requires the Secretary to give to these published laws as evidence of their authenticity for use in the courts. I am sure he will. Certainly the law requires the Secretary to make such a certificate.

Mr. TRUMBULL. An act of Congress makes the laws published by Little & Brown official.

Mr. EDMUNDS Certainly.

Mr. DRAKE. I think you will find in the edition of Little & Brown nothing more than what is in the volume I had before me.

Mr. TRUMBULL. But the act of Congress makes their edition evidence everywhere. There is not any certificate in any of the statutes.

Mr. EDMUNDS. I beg the Senator from Missouri not to misunderstand me. I did not get up to defend the particular method the Secretary of State has chosen to adopt in this case, but merely to suggest to him and to the Senate that the law already prescribes all the guarantees that appear to me to be necessary for securing the authenticity of the particular kind of bills that become laws from the failure of the President to sign them.

Mr. SUMNER. Allow me to suggest to the Senator from Missouri that it is not the habit in the printed edition of the laws to append the signatures of the Speaker of the House of Representatives and the President of the Senate, nor of the President of the United States. There is a simple note at the end, "approved, such a day." The signatures are not given. I would ask him whether it is not possible that the same rule was followed by the Secretary of State with regard to his own authentication, or rather by the editor of the statutes with regard to the authentication of the Secretary of State. He has printed the operative words of authentication, but has omitted the signature. That is the way I explain it.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

Mr. SUMNER. I hope this bill may be referred to the committee by unanimous consent.

Mr. SHERMAN and Mr. EDMUNDS. There is no objection to that.

By unanimous consent the bill was read a second time by its title, and referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866;

A bill (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States;

A bill (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits; and

A joint resolution (H. R. No. 136) providing for the sale of iron-clads.

The message also announced that the House of Representatives had passed the following joint resolutions of the Senate:

A joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian islands;

A joint resolution (S. R. No. 80) in relation to the erection of a jail in the District of Columbia; and

A joint resolution (S. R. No. 83) for the appointment of Regents of the Smithsonian Institution.

COTTON TAX.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, the pending question being on the motion of Mr. CONKLING to postpone the further consideration of the bill until the third Tuesday in February next.

Mr. CONKLING. The particular occasion for that motion and the reason for it, if they have not been superseded entirely, have been greatly diminished by the time which has elapsed since it was submitted. I propose, therefore, now to withdraw the motion to postpone, saying, however, that when I have the opportunity (although it may not be until after the amendment of the Senator from Indiana [Mr. MORTON] shall have been voted upon, whether it be adopted or not) I shall offer the amendment which I indicated heretofore, confining either the suspension of the tax or its diminution, whichever may prevail, to a single year.

The PRESIDENT *pro tempore*. The Senator from New York withdraws the motion to postpone. The question now is on the amendment proposed by the Senator from Maryland, [Mr. JOHNSON,] which will be read.

The Secretary read the amendment, which was to add at the end of the bill the following:

And that the crop grown in the year 1867 shall, in all cases where the said crop may be, at the passage of this act, in the hands of the producer and not sold or contracted to be sold, be also exempt from the said tax.

Mr. WILLIAMS. I will inquire if that amendment is susceptible of amendment.

The PRESIDENT *pro tempore*. It is.

Mr. WILLIAMS. I move to amend the amendment by striking out all after the word "and," in the first line, and inserting in lieu thereof the following:

Upon all cotton remaining unsold by the producers when this act takes effect: *Provided*, That no tax upon cotton heretofore collected shall ever be refunded.

The amendment to the amendment was rejected.

The amendment was not agreed to.

Mr. DAVIS. I ask for the yeas and nays on the amendment of the Senator from Maryland.

Mr. WILLIAMS. We can take them in the Senate.

Mr. DAVIS. Very well. I would just as soon have them in the Senate. I withdraw the call.

The PRESIDENT *pro tempore*. The question now recurs on the amendment offered by the Senator from Indiana, [Mr. MORTON,] which will be read.

The Secretary read the amendment, which was to strike out all of the bill after the enacting clause and to insert the following:

That upon all cotton grown in the United States after the year 1867 there shall be assessed and collected the sum of one cent per pound and no more, to be collected in the manner and form now prescribed by law.

Mr. FESSENDEN. I understood the Senator from New York to give notice that if that was adopted he should move an amendment to it. The question occurs to me, whether, if it be adopted without moving his amendment first, it will not be too late to amend it after it is once adopted.

Mr. SHERMAN. It can be done in the Senate.

Mr. CONKLING. I should suppose my amendment would be in order, in the nature of a substitute for this, even after this should be adopted. It would be in order in the Senate certainly to move to strike this out and substitute my proposition.

Mr. FESSENDEN. You had better satisfy yourself as to that before the vote is taken on this.

Mr. CONKLING. If there is any doubt about it, and if it be in order now to offer the amendment——

The PRESIDENT *pro tempore*. It is in order now.

Mr. CONKLING. Then I will offer it at this time. Of course the Senator from Indiana will understand, although the amendment which I offer be adopted, it will still be in order for him on the question of amount to offer his amendment. I take it I do not preclude him by offering the amendment now. I believe the Secretary has the amendment which I desire to offer.

The Secretary read the amendment, which was in line three to insert the word "raw" before the word "cotton," and also to strike out the word "after" and insert the word "during;" and in line four to strike out "1867" and to insert "1868;" so as to make the bill read:

That all raw cotton grown in the United States during the year 1868 shall be exempt from internal tax.

Mr. FESSENDEN. My friend from New York did not understand my suggestion. As the question stands now on the amendment proposed by the Senator from Indiana, he moves to substitute a tax of one cent a pound. My suggestion was whether it would not be well for the Senator from New York to move his amendment confining that reduction to one year as an amendment to the amendment of the Senator from Indiana instead of acting upon this first. It makes no difference to me; I merely make the suggestion. The Senator gave notice that if the amendment of the Senator from Indiana was adopted he should move to amend that by confining it to one year. My query was whether, after it was once adopted, he could so amend it.

Mr. CONKLING. Mr. President, acting upon the suggestion of the Senator from Maine, for which I am very much obliged to him, I suppose that I avoid the point which he thinks may arise, and accomplish the purpose, by offering the amendment as it is, supposing, of course, that it will be in order for the Senator from Indiana after that to propose to add a provision that the future tax shall be one cent, thus reducing the tax which will thereafter be chargeable upon cotton to one cent. I do not want to encumber the proposition of the Senator from Indiana; and if I do so by my present amendment I will modify the form of the amendment so as to avoid that result; but it seems to me we may very well vote in the first place on the proposition to suspend the present tax for this year, and then vote, if the Senate wishes to vote upon that question, on the proposition to lay thereafter a diminished tax.

Mr. FESSENDEN. If that can be reached the purpose I had in view in my suggestion will be accomplished.

Mr. MORRILL, of Vermont. The Senator from New York will allow me to suggest to him that he now move to amend the amendment of the Senator from Indiana, which will come first. Then it will leave the two propositions to be voted upon on their merits. I think it would be much preferable to move to add the suggestion made by the Senator from New York in the amendment of the Senator from Indiana—that this reduction to one cent per pound shall only continue for one year.

Mr. CONKLING. Will the Senator from Vermont indicate just what he proposes now—the form of the question?

Mr. MORRILL, of Vermont. The Senator from Indiana proposes to reduce the tax to one cent per pound without any limitation. I suggest to the Senator from New York that he move a limitation of one year.

Mr. CONKLING. The effect of that would be to impose a tax of one cent per pound for one year, and leave the tax as it stands now to apply after that year.

Mr. MORRILL, of Vermont. Yes.

Mr. CONKLING. I have no objection to taking the sense of the Senate on that proposition, which is, as I understand, an amendment confining the amendment of the Senator from Indiana in its operation to one single

year, namely, 1868. Is that the Senator's proposition?

Mr. MORRILL, of Vermont. Yes, sir.

Mr. CONKLING. I have no objection to moving that.

The PRESIDENT *pro tempore*. Does the Senator so modify his amendment?

Mr. CONKLING. Yes, sir; I modify my amendment so as to make it an amendment to the amendment of the Senator from Indiana. I have not in mind the precise phraseology of the amendment of the Senator from Indiana, but my amendment should provide in substance that the diminution provided by that amendment shall apply only to the year 1868.

Mr. SHERMAN. I shall not support any of these amendments, but I suggest to the Senate whether it is not best to take the vote upon each proposition separately, and then, as a matter of course, the Committee on Finance will be very glad to conform its action to the action of the Senate. I hope, therefore, the vote will be taken directly on the amendment of the Senator from Indiana.

Mr. JOHNSON. At the price which the article commands now at the South, where it is sold, one cent per pound would be a tax of about ten per cent.

The PRESIDENT *pro tempore*. Will the Senator suspend his remarks while the amendment is reported, so that we may understand precisely the question?

Mr. CONKLING. To save trouble, I will move formally to amend the amendment of the Senator from Indiana by striking out the words "after the year 1867" and inserting in lieu of those words "during the year 1868," so that the amendment will provide that the tax shall be one cent a pound on all raw cotton raised during the year 1868.

The PRESIDENT *pro tempore*. Let it be read at the desk.

The Secretary read the proposed amendment to the amendment, which was in the first line of the amendment to insert the word "raw" before the word "cotton;" and in the second line to strike out "after the year 1867" and to insert "during the year 1868;" so as to make the amendment of Mr. MORTON read:

That upon all raw cotton grown in the United States during the year 1868 there shall be assessed and collected the sum of one cent per pound and no more, to be collected in manner and form now prescribed by law.

Mr. CONKLING. Now, Mr. President, if the Senator from Maryland will pardon me a word, I will say that I offer the amendment in that form in deference to what I see are the wishes of other Senators. My own impression is that it is taking the question in the form weakest for those whose opinions are like my own. I think if the Senate had an opportunity to vote on the question of suspending the tax for one single year that proposition would command a vote which will not be given in favor of a simple diminution of the tax for one single year.

Mr. FESSENDEN. I will say to the Senate that I have no wish to amend it. The suggestion I made I thought carried out the proposition the Senator first started with. If he is of a different opinion I do not wish him to change his motion on my account.

Mr. CONKLING. I am very glad to put the amendment in that form, because I see it is the wish not only of the Senator from Maine but of other Senators; and yet if the proper time shall come for it, I think we ought to have a vote on the simple question of suspension, provided it be the will of the Senate to do anything in disturbing the tax.

Mr. JOHNSON. I should have preferred, as the Senate know from the fact of my offering an amendment to that effect, to apply the repeal so as to embrace the crop of the present year. The Senate have thought differently, and that matter is, of course, settled. Now, the honorable member from Indiana proposes to levy a tax upon the article of one cent a pound. It now, upon the plantation or in the neighborhood of the plantation where it is sold, does not bring more than ten cents. That will hardly pay, if it will pay at all, the expense of the production. I have a letter now by me from the South from a gentleman whom I do not know, but evidently a man of intelligence and a planter, who says that if the tax is continued it will be impossible for them to raise the staple at all; it must be abandoned, and that the abandonment of that production will involve very serious suffering to the laboring portion of their population—the blacks. The planters are not now in a condition to pay for the labor in money; they contemplate, therefore, if they raise the article at all, to pay for the labor of raising it by giving to the laborer a portion of the crop. I forget now what the portion is, but it is pretty uniform throughout the South.

The result of a tax upon the cotton will be, if it does not entirely destroy the production, very materially to diminish to the negro laborers the compensation which they would otherwise receive, and which with the present price of the commodity is barely sufficient to maintain them; not sufficient to maintain them, indeed, if they live as they desire to live in families, the males alone working and the women applying themselves to the domestic concerns of their household, and keeping the children at home or educating them. This class is now with us for good or for evil, I trust for good, but whether for good or for evil will depend in a great measure upon their intelligence, upon the education of those who are now in their minority. If you impose this tax and it has the consequence which I have stated, they will remain in the ignorance in which for the most part their parents now are; and then, in my judgment, nothing but evil to the country at large and nothing but suffering to the class itself will be the result.

It seems also to me, if we are to be governed by the public opinion of the country, to be clearly the sense of the people of the country everywhere that the tax should be absolutely repealed. I believe I am correct when I say that every board of trade has sent to Congress or published an opinion to that effect. I know the board of trade in Boston has done so; in New York it has done so; I believe in Philadelphia and I think in some of the other eastern cities they have done so. How it is in the West my friend from Indiana knows perhaps better than I do; but in the West, subject to the correction which his better information will enable him to make, I have had reason to believe that the wish was almost universal that the tax should be altogether repealed.

Now, independent of the suffering of the laboring class of the South, suppose the production should altogether terminate, what will be the operation of that state of things upon the manufacturing industry of the East? What will it be upon the value of the productions of the West? Cotton not raised or raised in small quantity, the eastern manufactories must more or less be arrested. They are now, as was stated by the honorable member from Rhode Island, [Mr. SPRAGUE,] not at present in his seat, in a state of great adversity, and where they are being carried on at all it is only for a short period in the twenty-four hours, the wages of the workmen, the artisans, have been very materially diminished, and there is great suffering from that quarter. And then when we look to the West we find that the failure to produce this article throughout the southern States will be to lose them a market which in the past has been of very great value, and which will be in the future of even greater value if the article instead of being by legislation prostrated should be by legislation (if any legislation is resorted to) prosperous.

I have deemed it just, Mr. President, to say so much, not merely for the interest of our southern brethren, but because I believe the interest and welfare of the entire country is more or less involved in the measure before us.

Mr. FRELINGHUYSEN. Mr. President, I remember that when this amendment of the Senator from Indiana was first introduced he proposed it as a small tax on cotton. There is no such tax in this country as the tax now proposed to be laid on cotton; no tax so heavy. It is a tax of ten per cent.; not ten per cent. on profits, but ten per cent. on capital, on wages, on expenses, and on profits if there be any. We thought that a tax of ten per cent. on income, where that income exceeded $10,000, was a very extravagant tax, and it was only tolerated as a tax on wealth; but here we are taxing the gross ten per cent. The tax that we impose upon manufactures, which is paid by the consumer, is a tax of only five per cent.

Now, it does seem to me that we are legislating against the true interests of this country by putting any tax on cotton, and I think that the delay which has occurred in the Senate in considering this subject has enlightened the public mind on that point.

We have all decreed in this country that cotton shall not be king. I think we had better now decree that it shall be to us a most serviceable and valuable servant. In this land we have got a belt of country which can raise cotton better than any other spot of ground in the world, and it can raise cotton better than it can raise any other product in the world. The statement which was made by the Senator from Rhode Island (Mr. SPRAGUE) that by means of machinery in England they can produce a fabric from the cotton which is obtained from India equal to that produced from the cotton raised in America I think wants to be taken with a great many grains of allowance. The length and fineness of the cotton of our country, I believe, will produce a better fabric than any in the world; and when this labor question at the South is settled, when the blacks acquire small portions of land, when the country becomes quiet, I believe that the American cotton can yet control the market of the world.

There is another great argument why we should encourage the cultivation of cotton, and it is this: its cultivation tends to exterminate a weed which grows all over this country to some degree, a noxious weed; it exterminates it by the gold that it brings here, and that weed is repudiation. The cotton crop of this year, it is estimated, will bring to this country $143,000,000. The cotton crop of 1856–57, when cotton sold at about the same price that it does now, brought to this country $131,000,000. It is a very important item when we want to resume specie payments to keep this article and to encourage its cultivation. What does England do? Does she tax it? No; she runs her railroads through every part of the country where cotton can be cultivated in India; she furnishes gins, gives every possible inducement; and if we cannot export all the cotton we can manufacture it here. But instead of manufacturing it here last year we imported $27,000,000 worth of cotton fabrics.

Mr. President, it is said that this tax falls on the consumer. No; it is paid at the plantation. Who believes that the consumer in England pays any more for our cotton because the planter has paid two cents and a half a pound or one cent a pound to this Government here? As to the constitutionality of the law, I of course have nothing to say. My friend from Missouri [Mr. HENDERSON] made his argument on that subject. But there was a good reason that moved the minds of those who formed our Constitution when they put a clause in the Constitution making it unlawful to tax exports; and in looking at the debates on that subject it seems to me that the whole argument is stated by Chief Justice Ellsworth, of Connecticut, in about six or seven lines:

"There are solid reasons against Congress taxing exports. First, it will discourage industry, as taxes on imports discourage luxury. Secondly, the produce of different States is such as to prevent uniformity in such taxes. There are, indeed, but a few articles that could be taxed at all; as tobacco, rice, and indigo"—

And he might have added cotton—

"and a tax on these alone would be partial and unjust. Thirdly, the taxing of exports would engender incurable jealousies."

These were the reasons stated briefly why

they thought it wise not to tax exports. Now, while this may not be technically a taxation of exports, it is so in effect, and all the reasons which I have stated apply substantially against this tax. The country is poor; it is true, we want money; that is the very reason why I would not lay this tax. The question has been stated here as if it was a question whether we were giving up $27,000,000 of revenue annually or not. As the subject presents itself to my mind—and I think I have some information as to what is the state of the South—it is a question whether we shall have cotton grow at the South or not. There is the place to grow cotton; and I do not look upon it as selfishness in western gentlemen here to say that they want cotton grown at the South in order that they may sell them corn. Why, look at our western country which is being opened by the railroads, at the immense tracts of country calculated and adapted to raising the cereals. Let them raise the cereals and let the South raise the cotton, and we ought to encourage it. I understand the pay of one of the freedmen at the South is about seventy or eighty dollars a year. That is about their interest in this cotton. Now, we are poor; the manufacturers are overtaxed; but we are not so poor and the manufacturers are not so hardly taxed that they want to take eight dollars, or, as the law has stood, twenty dollars from the first fruits, the very first fruits of freedom at the South—take it from the penury of these men. We want to encourage its production as England does, and I hope that the amendment fixing a tax of one cent a pound will not be adopted.

Mr. MORRILL, of Vermont. Mr. President, I do not design to reargue this question, but it does seem to me that if the suggestion made upon the previous occasion when this subject was up by the Senator from Iowa [Mr. GRIMES] was valid at any time it is valid now. It is a question of necessity. I think that we are obliged to have this amount of money, or some part of it at least. I do not know where else it is to come from. Our revenues are generally diminishing, and we cannot afford to give up so much in a single lump. When the whole subject comes up in relation to internal taxation we shall find that the demand for a relief is not less importunate in other quarters than it is in the South. We shall find that the people are as unanimous in other quarters to have taxes diminished as they are in the cotton region. The income tax many ask to have repealed; the distillers ask to have the whisky tax reduced, and promise then to be honest and pay it; and everybody seems as anxious to have the tax on manufactures taken off, and thus reduce the cost of living, as the people of the South are in relation to this tax on cotton. We find that a convention has already been held in the West at Cleveland, and my friend from Ohio may smile at it, but he will find that those gentlemen are entirely serious and very much in earnest in relation to their demands upon Congress. At the present moment you can go into our markets and buy woolen goods at as low a price as they could have been purchased prior to the war. You can buy them as low as you could buy them when wool was purchased on a specie basis and when cloth was manufactured on a specie basis, and without any internal tax, as my colleague suggests. The men that grow these raw staples and those who manufacture them are all losing money heavily. Some relief will be demanded and must be given. It is right and proper that we take the whole subject into consideration. For myself, I consider it unfair to take up a branch of the subject that relates merely to one article and to one section of the country when there are hundreds of others equally worthy of relief, and I protest against the idea of its being any relief to the freedmen or any other parties of the South. The price will fall both here and in Europe by any removal of the tax.

My friend from Rhode Island, who argued the question the other day, only argued it, as I thought, upon the basis of getting cheaper cotton. It was not to give any more to the growers of cotton, but it was in order to enable the manufacturers of it to obtain it at a less price, and thus compete with the world. I contend, and I believe that the facts which I presented on a former occasion show, that a large crop of cotton gives to the growers no more money than they get when they grow a smaller crop. But I do not admit that a moderate tax will lessen the crop at all. I only say that I do not desire, and I do not think it will result to the permanent advantage of the South, to devote all their energies to cotton-growing. Let them be more independent than that.

It seems to be argued here as though if this tax should be retained upon cotton the South was to be permanently crippled and robbed of all chance of having a profitable industry. Why, sir, to-day they can make more money in growing sugar in almost any of the extreme southern States than they can in growing cotton, and it seems to me that some portion of the labor and capital of Texas, of Louisiana, of Mississippi, and of Georgia ought to be turned to the growing of sugar. I consider it discreditable that our country should expend something like eighty million of dollars in coin annually for foreign sugar when we have a climate and a soil as well adapted to the growth of the sugar-cane as almost any in the world; and if not for the sugar-cane, certainly for the sugar-beet.

But it is said by the Senator from Maryland that we are taxing this article ten per cent., as though that was extraordinary. Why, sir, we tax tobacco forty cents a pound, and that is in many instances something like three or four hundred per cent. advance upon the cost of the original article. We tax whisky two dollars a gallon, and that is something like six or seven or eight hundred per cent. upon first cost prices. We tax kerosene or refined petroleum twenty cents a gallon, which is at least one hundred per cent. upon the article and perhaps two or three hundred per cent. upon the raw material.

Mr. President, it is further said that England does all in its power to encourage the growth of cotton. She encourages railroads and sends ships after it. I would do nothing less. I do not believe for one, as I have already said, that the imposition of this tax will diminish the product a single pound, or if it should that any cultivator will get any less for his labor or capital. But it is not true that the colonial governments of Great Britain do not tax this article. They place an export duty of three per cent. upon it. Every pound of cotton that comes from India is taxed at the rate of three per cent. in the way of an export duty. I trust that before the session closes we shall be able to ameliorate taxes in all directions of the country, and that we shall largely reduce our expenditures, and I should be willing to consider this as one of the prominent topics of sympathy and consideration, and do what is fair and just about it; but I am unwilling as our first step in the reduction of taxation to show that this tax, above all others, which in the belief at least of some does not come out of our own people, but nearly three fourths of it out of people abroad, shall be entirely abandoned, and thereby force us to retain an equal amount of taxation upon our own constituents to make up the deficiency.

Mr. PATTERSON, of New Hampshire. Mr. President, I was very much impressed with the remarks made by the Senator from Rhode Island [Mr. SPRAGUE] before the recess, coming, as they did, from one whose business pursuits would qualify him to give a correct judgment on this matter; and for this reason during the recess I, when at Lowell, in Massachusetts, went to the agent of one of the principal manufacturing companies there and said to him that I wanted exact information on this matter; I wished to have him tell me just how the facts stood in relation to cotton. He said that they were now purchasing cotton for fifteen cents a pound, and that at fifteen cents a pound the manufacturers were making money. He said that at the beginning of the year they were paying from thirty-five to forty cents a pound, and it was on a falling market; that one or two of the companies were enabled to secure cotton for twenty-five cents a pound, and thinking it a great bargain they secured a large amount of cotton, but before they could get the cotton cloth manufactured from that cotton into the market the value of cotton cloth had so fallen that those companies met with a great loss on that cotton which they purchased at twenty-five cents; and so it must ever be on a falling market. Wherever we have a paper currency depreciated in value manufacturers certainly have no security except when that currency is increasing. A manufacturer may buy cotton at fifty cents a pound, manufacture it, and throw his cloth into the market: if the currency is being increased the price of cotton cloth will so increase that he will make a great profit on his purchase; but if the currency is being contracted, as it has been for the last year, he may purchase cotton at twenty-five cents a pound, and before he can possibly manufacture his cotton and throw the cloth into the market prices may so descend as to cause him to meet with a great loss on the cotton which he purchased as he supposed at a great bargain.

And that has been the condition of the manufacturers in our large manufacturing cities of the East during the past year. Two of the corporations there—the Tremont and the Suffolk—very large establishments, are now standing silent and gloomy as tombstones in a graveyard on account of the heavy losses which they have met with during the past year.

I asked this gentleman if they could possibly manufacture cotton at fifteen cents a pound at a profit. He said "certainly." Then said I to him, "Suppose that the price of cotton is increased to seventeen and a half cents"—because the price of cotton has gone down, in anticipation of the removal of the tax of two and a half cents on the pound—"can you then make money?" and he thought that they could not. Then, as a matter of course, the manufacturers will not buy cotton at seventeen and a half cents a pound if they can make nothing upon it; and either they will shut up their manufacturing establishments or the grower of the cotton, the producer, must sell it at the old price and pay the tax himself. This is the way the matter will stand if this tax is suffered to remain upon cotton. The mannfacturer cannot pay the tax; he will close his establishment first; and therefore the producer must pay the tax. The producer possibly might be able to pay this tax if industry at the South had been reorganized.

If the southern people would suffer the southern States to be reorganized so that northern capital and northern labor could go in there and raise cotton I doubt not that they might raise it even at ten cents a pound at a profit; but they cannot as things now stand; as prices now are in the South they cannot possibly do it. Hence the necessity, as a temporary matter, to remove this tax on cotton, for the relief not only of the freedmen but of northern men who have gone South for the purpose of raising cotton. I have on my table a letter which I have received within a few days, not from a southern rebel who is raising cotton, but from the colonel of a Connecticut regiment during the late war, who, with his father-in-law, with his brother-in-law, and his uncle, went South and bought plantations for the purpose of raising cotton. They have all been obliged to leave the country with the sacrifice of almost everything that they put into these plantations, except himself, and he is dragging out a miserable existence there. He tells me that this tax comes out of the mouths of hungry men, women, and children; that they cannot possibly live there with the tax upon cotton.

Now, sir, it seems to me that this tax should be removed for another reason: in order that

we may increase the amount of cotton which we usually export from this country, to repossess ourselves of the cotton markets of the world. My friend from Vermont says that we shall make as much money on half a crop as on a whole crop. Possibly; but then it would not be true that we could undersell cotton raised in India, Brazil, and Egypt, and so regain the old cotton markets of the world, which we have lost during the war; and it seems to me a matter of great importance that we should repossess ourselves of those markets.

Gentlemen say here that we have lost the monopoly of the cotton markets, and that it must remain from us forever. I do not see that. It seems to me that is admitting that slave labor is cheaper and more profitable, on the whole and in the long run, than free labor, which I am not willing to admit. It may be so for a short period, but on the whole it is not, because free labor maintains the fertility of the soil on which the crop is grown; free labor is more enterprising, and will secure four or five bales of cotton where slave labor will secure but one; and so it will happen that though the cost of a free laborer may be greater than that of a slave, still free labor is cheaper on the whole on account of the greater amount of cotton raised and on account of the continued fertility of the soil on which the cotton is raised. So, sir, it seems to me that there is no danger of our losing the markets of the world simply because we have abolished slavery and adopted free labor in the place of slave labor.

Then again, sir, as has been stated, we need an increased amount of cotton to take the place of gold to pay for the imports which are coming into this country. If we would ever return to specie payments and to a specie currency this seems to be of the last importance.

But, sir, it is sometimes said that simply because the southern people are starving therefore we should take off this tax. Now, if that were true simply of the rebels it would have but very little force on my mind; for I call to mind the men who perished at Andersonville, sixty thousand of them, with frenzied eyes and gnashing teeth, tottering to their graves under the persecution of this rebel power. And if none but rebels were at stake I should not be influenced very much by that argument; but it is our own friends, men who fought in our own Army who have gone South, and the manufacturers of the North that are suffering from this tax.

My friend from Vermont stated that by keeping the tax on we would be likely to secure a multiplication of industries at the South. I hardly see the force of the argument. It seems to me if we want to sell northern manufactures at the South we must give to the southern people something to purchase with. So long as they are unsettled, so long as they have no money, they certainly cannot purchase northern manufactures. It is idle to say that the southern people do not pay as much tax as the northern people in proportion to their population and their means. If they do not consume as much as the people of Vermont or New Hampshire or Massachusetts in proportion to their numbers it is simply because they have been impoverished by the war and cannot purchase. If a man in Georgia purchases a steam engine or a spinning jenny or any "Yankee notion," he has to pay the tax upon that, for the tax generally falls upon the consumer and not upon the producer; therefore, if we would secure a market at the South, let us encourage, by removing this taxation, the southern people to the purchase of northern manufactures.

But, sir, I would not have this a permanent removal, for I do not feel the force of the argument which has been urged here that a product of the soil cannot be taxed. What is the principle involved? As it is laid down in the books it is simply that the increase of population is a national good; it tends to the promotion of wealth; it tends to the promotion of national power and prosperity; and the increase of population is just in proportion to the cheapness and the quantity and the quality of food; and, therefore, food or breadstuffs should not be taxed. That is one principle. The second is that the wealth of a people is somewhat proportioned to its manufactures, and that the prosperity of manufactures depends on the cheapness of the raw material that enters into the manufacture, and therefore the raw material, such as cotton and hemp, and perhaps wool might be classed among those raw materials, should not be taxed simply because we wish to encourage manufactures.

Now, sir, I do not think it follows exactly that because cotton is taxed therefore wheat must be taxed, for they rest upon a different basis altogether. The necessity of food for the sustenance of life and to the increase of population is paramount to the necessity for the raw material which enters into manufacture. So I do not think it follows as a matter of course that because cotton is taxed therefore wheat should be; by no means. But in either case there is no abstract principle underlying either proposition. It is simply a question of national policy; and whenever the credit of the nation, whenever the life of the nation, comes in conflict with matters of national or Governmental policy, that is paramount, and cotton or wheat or any other product of the soil may and should be taxed. There is no abstract principle about it; it is simply a question of national policy.

It seems to me we should take just that course which will throw northern capital and northern enterprise into the South. They are now waiting to go there, would be glad to go there, if the South would suffer the rebel States to be reorganized. Why should we keep this tax on simply as a matter of punishment of the southern people? If we are going to punish them let us punish them in some proper way, and not by indirection. I prefer very much hanging and shooting people to punishing them by any such indirect method. Let us take that course which will throw northern capital and northern industry into the southern States. Half measures will not do. Half measures will block and baffle individual enterprise and will stand in the way of our national prosperity. The resources of that southern soil will never come forth and take the forms of wealth and of beauty until the powers of industry in that people are removed from the scramble of politics and thrown into the channels of peaceful industry; and it is our duty to see to it that that country is reorganized in its industry if we cannot immediately reorganize its political institutions; and I believe it will be the most powerful method of securing political reorganization to secure a reorganization of its industry.

Mr. DAVIS. Mr. President, my friend from New Hampshire stated an ugly truth for the eastern mind, but it is nevertheless true, that slave negro labor is cheaper than free negro labor. Every man who has ever operated in the raising of sugar or cotton in the South knows the fact, and I will tell my honorable friend now why it is so——

Mr. PATTERSON, of New Hampshire. The Senator will allow me to correct him. I think he mistakes entirely what I said. I believe I said that free labor in the long run was cheaper and better than slave labor.

Mr. DAVIS. My honorable friend's position, at any rate, was that it was contended that slave negro labor is cheaper than free negro labor. I say it is so, and the experience of the whole South proves it, and I will tell my honorable friend why it is so. The negro is naturally indolent and improvident. In the northern States, where there are but few negroes and the white people all around them are industrious, the negro is forced to work because he has not a lazy society to allure him from work; but whenever you put negroes in the South and make them the one half of the population, and they have a society to themselves, the nature of the negro then is to labor only so far as is absolutely necessary for bread and raiment. It is very unpleasant and repulsive to gentlemen who contend for the equality of the races, for negro suffrage, and for negro civil and social rights, to have such a statement as this made; but it is true, and every man who has any correct and extensive information in relation to the matter knows it to be true.

Mr. President, I have an intimate friend who was a planter in the South. He owned two plantations. He had about one hundred and fifty slaves upon one and about one hundred and eighty upon the other. His business was broken up. He commenced a year or two ago operations upon one of his plantations, and hired the best hands from the two places. He engaged about one hundred and twenty laborers, as he informed me, and never at any time could he get more than eighty laborers actually into the field. The others were shirking, as they term it in the South. Whenever you give the negro as much as he can eat and a scanty supply of clothes, as a general rule, where he constitutes a large portion of the population he will not work. I know it, sir. In the State of Kentucky we had near two hundred and fifty thousand slaves when the emancipation measure went into operation. Those free negroes are not now performing one half the amount of labor that they did in a state of slavery, and they never will again.

Now, I will state to my honorable friend, for whom I have the greatest respect, another reason why free negro labor is not so productive as slave negro labor. When they were all slaves they were forced by their owners and the overseers to work. All who were in health were obliged to work moderately day in and day out. Now none work but those who choose; and very few of the women choose to work at all. I have a friend in my county who rented a plantation or two in the South, and he hired free negroes who had wives——

Mr. POMEROY. If the Senator will allow me, I should like——

Mr. DAVIS. Just let me get through. I do not consent to the interruption.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor.

Mr. POMEROY. I was only going to inquire——

Mr. DAVIS. Mr. President, I have the floor, and the Senator must wait till I get through. I was not addressing myself particularly to the honorable Senator from Kansas; I was speaking to the honorable Senator from New Hampshire through the President of the Senate. I was telling him that I have a friend in my county who rented a plantation, and he hired negroes, agreeing to give them a portion of the crop. Most of the negro men had wives, and all the wives refused to go into the field. Every man who knows anything about cotton-planting knows that in hoeing time and in picking time a brisk, alert woman can do as much work as any man. All the amount of labor which was formerly rendered in cotton production by the females is almost absolutely lost, because, as a general rule, they now refuse to go into the field. This friend told me this other fact: they prepared the food for his hands; and this food was placed in position for his hands to eat; and they had to establish a guard over the food to prevent the women from eating it up. He gave the men enough; but the women would not work, and they wanted to be fed and clothed without work.

My honorable friend says that if the southern people would just permit their States to be reorganized all would go on smoothly and prosperously. My view about that matter I can state briefly. My honorable friend's section of the United States constitutes a great community, and in some of the attributes of greatness there is no greater community and never was in any land that the sun ever shone upon. In manufacturing invention and skill, in enterprise and industry of all kinds, in the pursuits of trade upon the sea, and in the fisheries, the Yankee has no superior. Now, I ask my honorable friend if he does not believe that that people are the best and most competent people in the world to manage their own affairs and their own interests. Yes, sir; they

are the most competent of all. This is my experience and it is my reflection. It is the conclusion I have arrived at both from reflection and reading that any community, however organized and whatever may be its leading interests, is more competent and better qualified to manage its own concerns than any other people are to manage them for it. But it is one of the weaknesses of this Yankee nation that they not only believe truly that they can manage their own affairs better than any other people, but they have reached the conclusion that they can manage the affairs of all other people in the universe a great deal better than those other people can for themselves. In that they are mistaken. If the honorable Senator's friends, political and social, and the governing power in Congress had just let the South alone after the surrender of the armies of Lee and Johnston and let the white people and the negro population there have worked out their own salvation, to use an old phrase, and to have established social and industrial interests between themselves, the country would have been delivered a year or eighteen months or two years ago.

Mr. DRAKE. Will the honorable Senator from Kentucky allow me a word?

Mr. DAVIS. No, sir; I do not recognize the Senator at all. [Laughter.] Now, sir, if the northern people would just keep their spoons out of the southern dish and let the men who live there, and who are acquainted with the ingredients that compose it, mix it, stir it, and prepare it for themselves, negro and white man, I tell him that in a very few months the South would be restored. The white people of the South have accepted the freedom of the negro. There is no fact more fixed or immutable than that the negro of the South will always be free; but he will never work while your Freedmen's Bureau and special appropriations by Congress will feed and clothe him. As a general rule no man will work voluntarily. It is under some coercion that every man works. That is essentially the nature of the negro. He will never work except "upon compulsion," as our friend Falstaff said, and that compulsion having ceased to be in the form of the owner and the overseer he must now feel that he cannot eat or cannot clothe himself or cannot have shelter without work. That is the condition in which he will be in the future, and the sooner he is made to realize that condition, to feel it, and to feel that inexorably upon him, the sooner and the more effectively will he go to work. If my honorable friend from New Hampshire could just be induced to take the same view of the condition and interests of the southern people that he would of his own section if his own section had been in rebellion and had been subjugated, as it might have been in the war of 1812 and since, and act toward the South as he knows and feels and comprehends by everything that he does know would be the wisest policy for his own section of country under the same circumstances, I think that there would be more of political wisdom and foresight in the proceedings of Congress and of this Government than there has been.

No, Mr. President, you must repeal your Freedmen's Bureau, cease to appropriate millions and tens of millions of money annually to subsist a lazy negro population who are able to work but who will not work because they are fed from the stores of the Government. Leave the white man of the South and the black man of the South to themselves. They understand their situation. They have been born and have lived in that region in a state of mastery and slavery, and they are to live in it now with the negro a freedman. They are infinitely more competent to settle and adjust their relation of freedman and owner of land upon proper principles and with a regard to mutual protection than all the Yankees that ever lived or ever will live. If gentlemen would just persuade themselves to let this people have the regulation of their own affairs I am satisfied that in a very short time the wisdom of that course would be demonstrated to their own satisfaction.

Some Radicals from my own State have gone into the cultivation of cotton, and they are as radical as any members of the Senate. The Senate may be assured that I feel no particular interest in them; but I do not want my neighbors, Radical as they are, to go into a ruinous culture of cotton, and upon that ruinous culture to have imposed a tax of two and a half cents a pound. I know three gentlemen of the blackest Radical stamp who went into the cotton country last year, and their actual loss has been between sixty and seventy thousand dollars. These gentlemen and all the gentlemen I know from Kentucky or from the northwestern States—and I happen to know a few from the northwestern States—that have gone into the cultivation of cotton have generally gone into it upon a principle of partnership with the negro, the negro being entitled to receive so much of the crop.

The honorable chairman of the Committee on Finance showed us a few days ago that this tax amounted to about twenty-five per cent. of the present price of cotton. The negro has a third, or fourth, or some portion of the crop—say it is a fourth. What is your tax upon his fourth? This friend of mine expected to raise six hundred bales; his crop has been actually one hundred and thirty. One fourth of this belongs to the negroes—such of them as worked in making the crop. I suppose the forty or fifty that shirked do not get any part of it; they should not have any; and they will betake themselves to the Freedmen's Bureau. Then thirty-two bales and a fraction of this crop would go to eighty negro laborers; and when this meager support for that number of freedmen comes to them you propose to tax the negro's portion of it two and a half cents a pound, or twenty-five per cent. Is that your friendship to the freedman? If it is, he may well exclaim, "The Lord deliver me from my friends!"

Mr. President, time tests all things. Time will prove and is proving to the negro that the best and most steadfast and most reliable friend he has in the South is his old master. He will establish with the negro more just, more liberal, and more remunerative relations than the negro can establish with anybody else.

At the time when a prominent aspirant for the presidency made his tour into the southern States the work of reconstruction by mutual agreement between the negro and his former master commenced and was working well. All that is now necessary to do is to get back to that point; repeal the act establishing the Freedmen's Bureau; repeal your reconstruction acts; repeal all your intermeddling with the internal concerns of the southern States, and leave the people of the South, white and black, to work out their own fortunes, and they will do it infinitely wiser and better and more for the interest and protection and security of the negro than ever Congress can.

Mr. MORTON. Mr. President, I think the trouble in the South is not that the negro will not work, but it is that the old governing class of masters and owners have now got to work to make a living. The Senator from Kentucky harrows up our feelings and makes us all sorry that slavery has been abolished by stating that the negro women now refuse to go into the cotton fields and hoe cotton; since they have been made free they think so well of themselves that they refuse to do that work. He says further that the old masters are the best friends of the slaves. That is easily established by the fact that the old masters are constantly proving that the negroes are naturally lazy, idle, and vagabondish; that they have no morals; that they are incapable of education, and that their normal condition is that of slavery, because they are continually opposing the advancement of the negro, civilly and politically, and lamenting that he cannot be restored to his normal condition—that of a slave. The Senator says the trouble is that the people of the North will not keep their spoons out of the southern dish——

Mr. DAVIS. Will the honorable Senator allow me to say that I did not express any regret at all at slavery being abolished.

Mr. MORTON. That is certainly the force of the Senator's argument all through.

Mr. DAVIS. Then the Senator misconceives it.

The PRESIDENT *pro tempore*. Does the Senator from Indiana give way to the Senator from Kentucky for the purpose of explanation?

Mr. MORTON. Certainly. I do not follow the Senator's example in doing that; but I will do it.

Mr. DAVIS. If I had misconceived a gentleman and he had asked me to allow him to explain I should have yielded for that purpose. But I took no such position as that which the Senator assigns to me. On the contrary, I have always expressed my entire satisfaction and acquiescence in the total and final abolition of slavery.

Mr. MORTON. Mr. President, while I will allow the Senator to state his own position on that subject I cannot allow him to speak for the white people of the South; for I believe, as I stand here to-day, if they had the political power they would restore slavery to-morrow in every southern State, Kentucky not excepted.

But, sir, the Senator further says that if the people of the North would keep their spoons out of the southern dish, and not intermeddle with southern affairs at all, but let them manage their affairs in their own way, we should have reconstruction, and our troubles would all pass away. Certainly this is a very reasonable proposition? That people down there have just shed the blood of half a million loyal men who were fighting to preserve the Government; they have cost us some five or six thousand million dollars; and now that they have been conquered and defeated in their purpose it is but reasonable that we should allow them to manage their own affairs entirely in their own way, take no supervision over them, but allow them to go on and conduct the affairs of those States just as if nothing had happened.

Mr. President, they did not keep their spoons out of our dish. They had controlled this Government for forty years before our late war, and because they were not allowed to continue to control it they made a rebellion and sought to destroy it.

We hear all the time that the negroes will not work; that they are naturally indolent and lazy. I have failed to perceive the evidence which sustains that allegation. They have done and they are doing the most of the work that is performed in the South, or that has been performed since the war; and they did the greater part of what was done there before the war. I am told that it is very common for southern gentlemen to meet at a grocery where they will stay from Monday morning until Saturday night, and fight, and shoot, and get up horse races, and yet complain continually that the negroes will not work. The Senator from Kentucky says they do not perform half as much labor as free persons as they did when they were slaves. I ask what are the habits of industry of the white people of the South? Have they been improved? Sir, their habits of industry will be improved. There was and is great room for improvement in that respect. But this charge that the negroes of the South will not work comes chiefly from white men who never did work, and who are now groaning in spirit because they have a prospect that they will have to work to make the bread that feeds them and their families.

But, sir, I do not intend to spend any time on that question; nor do I intend to go over the arguments against the repeal of the cotton tax generally. It seems to me, however, that the whole argument in favor of the unconditional repeal of the cotton tax depends upon a false proposition; that is to say, upon an exceptional and unusually low condition of

the price of cotton—a thing that may not happen again in ten, twenty, or thirty years. This low price of cotton has not sprung out of the tax, out of an over-production in India, or anything of the kind, but is the result of other circumstances not likely to occur soon again. The explanation has already been made that the present low price of cotton arises from the fact that large stocks which had been held by heavy capitalists in New York, London, Liverpool, and on the continent could be held no longer. Those stocks had been held for eighteen months and two years. Men had got used to enormous prices for cotton, and when it came down to fifty cents they thought it was low, and they held for sixty and for seventy-five cents; when it came down to forty cents they held for fifty, and when it came down to twenty-five they held for forty, and so they held out until they could hold out no longer. And when these immense stocks of cotton were forced upon the market all at once the price went down and it may stay down for a few months. But I am advised by as competent men as there are in the trade that the probability is that cotton next year will command a high price, and that there is no reason to believe that the present low price will continue. And yet, sir, upon the exceptional prices of cotton now ruling it is proposed to establish a permanent policy and permanently to exempt cotton from paying any tax to this Government. I say that an effort has been made to establish the permanent policy from the exceptional state of a low price at present.

Now, Mr. President, we hear a good deal said about the present distress in the South, as if that was the result of the cotton tax. In the first place I believe that that distress is vastly exaggerated. I believe there is very little ground for it except in certain localities in Mississippi where the grounds were covered by waters from the river, and in Louisiana where the dykes burst and the lands overflowed, and there, of course, cotton, corn, and everything else was destroyed. But, sir, taking the South generally, I believe they have more breadstuffs in their midst to-day than they have ever had before at this time of year. I am sure from what I saw in Arkansas and Mississippi last summer that they raised more corn this season than they had ever raised before, and I think they have more corn to live on now in all those States which have not been particularly affected by the high waters than they ever had before.

I heard an argument made here just before the recess of Congress which I had no opportunity then of replying to, but to which I wish to say one word in answer now. It was said that it was important for us to maintain as far as possible the old system of labor in the South, and that that was especially important for the States of the Northwest, meaning Ohio, Indiana, Illinois, Michigan, and so on. I repudiate that argument altogether, and I wish in answer to say that our market does not depend upon the South, as was amply proved during the war. I say furthermore that the prosperity of the South depends upon its relief from the old system of absolute dependence, and will never amount to anything until they raise their own breadstuffs. What was the old system of labor there? They raised cotton and sugar exclusively and bought everything that they lived upon. The result was that when there was a failure in cotton or sugar they had no means of buying breadstuffs from the North. The effect of that system was to keep the poor white people continually poor, and it will keep the colored people in the South continually poor if that system shall be continued. The true system for them (and it is one that we are all alike interested in) is that they shall have, so far as possible, a self-supporting people. That will never become a wheat and corn and meat growing country to raise a surplus to sell to other States and countries; but if they would ever become prosperous and happy and independent it must come from the fact that they are self-supporting so far as the immediate necessaries of life are concerned.

Mr. President, one idea suggested by the Senator from Vermont this morning is conclusive in regard to what has been said here. The argument urged in favor of the repeal is that cotton is now lower than it has been for years, and that the planters cannot pay this tax and raise the article. There are many articles of manufacture that are now lower in the market, I am told, than they have been for twenty years. The Senator from Vermont instanced linen goods. I am told that there are other articles of manufacture that are selling very low, but these low prices are exceptional. Now, to compare the one with the other, suppose these articles were to be exempted from taxation for all time to come because they bear now a very low price in the market, would that be just? Because cotton is low now it is to be permanently exempted from taxation; therefore because certain other articles of manufacture are now very low, unusually so, they are to be permanently exempted from any tax to the internal revenue. The argument will not hold good.

Mr. President, if we now repeal this tax unconditionally it is gone, and gone forever. We all understand that. When the southern States are restored and reconstructed, whether it is done by Conservatives or Radicals, one thing is certain: they will all be equally opposed to the payment of a tax on cotton, and we are now establishing a permanent policy on that subject. If you now repeal this tax unconditionally there is not a Senator upon this floor who believes that it will be ever restored to the amount of one farthing. I therefore call upon Senators to hesitate before they take this important step. Let us fix this tax at some small sum for next year, and if, when Congress comes to its adjournment in July next, it is apparent that they will have poor crops of cotton in the South, that there is likely to be another failure of crops, or if the low prices continue and there is a prospect of no improvement, it will be time enough for us to suspend the tax entirely for next year. But there is no reason for this extraordinary haste, and I cannot understand why Republican Senators upon this floor are urging the total and unconditional repeal of the cotton tax. We expect our Democratic friends to vote for it. They have been favoring cotton all their lives, and it has become a matter of habit with them. Every interest in this country for forty years was made to yield to that of cotton, and it seems as if one party of this country cannot get over the effect of that habit long since contracted.

But now where is the necessity for action at this time in the unconditional repeal of this cotton tax? I say there is none; but it is the part of prudence, especially in the Republican party, that we shall not at once and forever cut off so large a source of revenue. It is here proposed to dispense with $27,000,000 at one slice, and yet the manufacturers of the North—those who are now meeting in conventions and demanding relief—have not been relieved to the amount of one cent. We dare not and we will not adjourn without granting them some relief. We should look to other great interests of this country besides that of cotton. We have not many $27,000,000 to lop off. It was shown by the report of the Secretary of the Treasury that in 1868 we shall have but a few millions of receipts over and above our expenditures. It was stated by my friend the chairman of the Committee on Finance that the cotton tax was not taken into that estimate, but in that my friend is mistaken. All the revenue liable to be collected by law when the estimate was made was taken into the account. The Secretary had no right to exclude $27,000,000 on the ground that the cotton tax might possibly be repealed.

Mr. FOWLER. I should like to ask the Senator from Indiana one question. Will there not be over one hundred million dollars in excess of our expenditure in 1868?

Mr. MORTON. No, sir, I think not; and I speak from the report of the Secretary of the Treasury.

Mr. FOWLER. I refer to the report of the Secretary of the Treasury on that matter, by which it will be seen that the cash in the Treasury, which the Senator from Indiana does not take into account in his statement, is over one hundred million dollars.

Mr. MORTON. According to the estimates as I remember them—I have not the report here now, but I can refer to it in a few minutes—the excess of revenue over expenditures for the present year will be some nine millions; so that if we repeal this cotton tax there will be a deficit of $18,000,000 when you have paid the interest on the public debt and the ordinary expenses of the Government.

It is said we must cultivate cotton for the purpose of sending it to Europe and bringing gold to this country. A reasonable, moderate, and proper cotton tax will not interfere with this production. We have got to tax somebody; we have got to raise revenue off some of the interests of this country, and we have got to raise large revenues. And, sir, I can but repeat what I argued to the Senate before—that if we now take off the cotton tax unconditionally we shall substantially exonerate seven States of this Union from the payment of any considerable revenue into the Treasury, and we shall do it permanently, and then we shall not be in a condition to correct the error that we may perhaps commit this day. I ask Senators, therefore, to pause before they take a step which, if it be an error, cannot be retraced.

Mr. HOWARD. Mr. President, I profess to but little skill and experience in matters of finance, and therefore am very distrustful of my own opinions, and shall endeavor in the few words I may say to speak with becoming distrust.

It has been to me, sir, a mystery not yet explained why it is that in a separate bill brought before the Senate an effort should be made to relieve entirely cotton from internal taxation. I do not yet understand it. I do not hear it announced by the honorable chairman of the Committee on Finance that the finances of the Government at present are in such a situation as to dispense safely with the amount of revenue which we have been deriving from that article.

Mr. SHERMAN. I can inform the Senator very easily upon that point. The Senate have no power to originate bills of this kind and cannot indicate to the House the manner of presenting to us a revenue measure. Such measures must originate in the House of Representatives, and that body chose, for reasons which are apparent, to send this measure by itself.

Mr. FESSENDEN. This is not a bill to raise revenue, and it could be originated here.

Mr. SHERMAN. There has always been a controversy on that subject, and the House has uniformly held that revenue bills or bills relating to revenue must originate there.

Mr. HOWARD. "Bills for raising revenue" is the language of the Constitution.

Mr. SHERMAN. The practice has been that bills relating to revenue usually originate in the other House, especially tax bills, and a bill fixing a tax of one cent a pound on cotton would properly originate in the House. They originated this bill, and the reason given there is that the languishing condition of the cotton culture is so remarkable and the tax now is so excessive, beyond any other tax upon a production that is absolutely necessary for human life, that this ought to be made an exceptional case. As to the state of the finances, I have not gone into that question at any length, because it would involve a very long discussion, and I think an unnecessary one on this occasion, although I can go into it if the Senate desires.

Mr. HOWARD. And, Mr. President, is this the only answer which the honorable Senator has to make to my question that the Senate cannot initiate a bill for raising revenue? I

was aware of that principle of the Constitution before. Is the Committee on Finance entirely silent upon all questions of finance for the future? Have they no policy of their own? Have they no voice of their own?

But, Mr. President, I heard the question put by my honorable friend from Nevada [Mr. NYE] a few days ago to the honorable Senator from Ohio, the chairman of the committee, how it was that he proposed to make up the deficit of $27,000,000 which he proposed to take out of the Treasury by the repeal of the cotton tax. He has not yet answered the question. I do not know that that honorable committee proposes to make up that deficit—to supply the vacuum which will be occasioned by the repeal of the tax upon cotton. Are we to repeal this tax and suffer all the other internal taxes to remain as they now are? Is every other interest now taxed to continue to be taxed and cotton entirely relieved from the burden? Is this great branch of production and industry so peculiar to the southern and rebel States to go entirely scot-free, to contribute nothing whatever to the support of the Government, to the payment of the interest or the principal of the public debt?

It is said that it is improper to tax agricultural productions, and some gentlemen have gone so far as to urge that it is unconstitutional to tax those productions. I do not propose now to discuss such a question. What I want to know is who is to pay the $27,000,000 which the Senator from Ohio proposes to take out of the revenues of the country? Upon whose shoulders is it to fall? Is it to be distributed among the productive branches of industry at the North *pro rata*, and is our industry to be taxed and burdened merely, purely, and solely for the benefit of the cotton interest of the South? I do not believe in it at all. I have not forgotten the history of the war. I have not yet dismissed from my mind the incalculable trouble, grief, agony, destruction, and universal turbulence which has been effectually produced by those who have acted under the inspiration of the cotton interest—a spirit as rampant to-day among those who have heretofore been leaders of the rebellion as it was at the beginning of the war or at any other period previous to that beginning.

So far as my constituency is concerned I think I can say with the utmost confidence that we ask nothing but equality; we ask simple fair play; but we are not willing to be taxed to pay this immense amount of indebtedness while people at the South equally able to contribute their quota in discharging the burden go entirely scot-free. We are not willing to be treated in this manner.

Now, sir, the great foundation of the complaint, as I understand—the great reason for pressing this measure upon us at this time and in this isolated way—is that the price of cotton has so far fallen as to make the three cents internal tax upon it equal to about one quarter of its value per pound. As has been very truthfully and very pertinently observed by some other gentleman, that interest, even under that high rate of taxation, is not taxed higher than many other productions, such as tobacco and whisky and various other articles which might be enumerated. But I am willing for one to go as far as this: if this tax be oppressive, if it be an actual embarrassment in the production of cotton, if it is likely to injure seriously that interest, I am entirely willing to reduce the tax to so low a figure as shall make it for the interest, the reasonable advantage, of those who are engaged in that branch of industry at the South, and I am willing to put the tax at the present time down as low as one cent per pound; but I will not agree even to continue that low tax upon the article for more than one year to come. It will be, after all, experimental. It may turn out at the end of the year or within some short time that the article will bear a higher rate of taxation.

But, sir, here is the great truth that stares us all in the face, and cannot be overlooked or avoided or evaded: cotton is almost the only article produced in the rebel States which is capable of furnishing anything like revenue to the Government of the United States. They have there, practically speaking, no manufactures at all; they never have been a manufacturing people; manufactures there are scarcely known; and the general law imposing taxes upon manufactures, operating, of course, all over the country, falls almost imperceptibly upon the southern States because they have no manufactures to tax. Cotton is almost the sole interest which is promoted and attended to there, and I cannot and I will not be hurried away by any sudden popular clamor or affectation of peculiar fervor and devotion and benevolence to people who have so recently been in arms against us to extend to them favors which I am compelled to deny to my own constituents. I shall therefore vote for the amendment of the honorable Senator from Indiana, and hope it will have the concurrence of a majority of the Senate. I think we are going quite far enough in laying aside so much of this tax for the coming year, after which time, as I understand the effect of the amendment, the old tax of two and a half cents will *proprio vigore* assume its position in the statutes.

Mr. MORTON. As the question has been asked here with regard to the estimates of the expenditures and receipts for the coming year, I will give the figures from the estimates submitted by the Secretary of the Treasury a few days ago. The Secretary, after stating the actual receipts for the first quarter, estimates that the receipts for the remaining three quarters of the present fiscal year ending June 30, 1868, will be $296,000,000, and that the expenditures for the same period under the various items will be $295,000,000, leaving a surplus of $1,000,000. Then for the fiscal year ending June 30, 1869, he estimates the receipts at $381,000,000 in the aggregate, and the expenditures at $372,000,000, leaving a surplus of estimated receipts over estimated expenditures of $9,000,000, and if you take $27,000,000 out of the receipts for the cotton tax you will have a deficit of $18,000,000.

Mr. GRIMES. As the question has been asked where we are going to obtain this $27,000,000, I simply desire to say, in connection with the figures read by the Senator from Indiana, that at least $25,000,000 can be saved upon the naval estimates, which are $48,000,000, and of which I am satisfied that not more than $25,000,000 will be appropriated. I could go on, I think, and satisfy gentlemen that if we collect this whisky tax, as I trust we shall, we shall not only have this deficit made up but $50,000,000 in addition.

Mr. SHERMAN. I have purposely avoided, as I did not desire to prolong this debate, going into a general statement of receipts and expenditures. That is a duty which will have to be performed, no doubt, at some future time. I will now simply give enough facts and figures from the documents before me to show the Senate that there is no necessity for continuing this burdensome tax because of any condition of affairs likely to arise during the next year. The Secretary of the Treasury sends his annual estimates of the expenditures for the next fiscal year, putting them at $371,000,000. The expenditures of the present year are not affected by the repeal of the cotton tax because we propose to collect the cotton tax for the last year, and for the next year the Secretary did not estimate anything from cotton.

Mr. MORTON. He does not say so in his report.

Mr. SHERMAN. I do not think he does say so; but I have before me the detailed receipts given in the document laid on our tables this morning—the report of the Special Commissioner of the Revenue—showing that during the fiscal year which expired on the 30th of June last the amount of internal revenue collected was $265,920,474. The product of every item of those taxes during the next fiscal year will be increased unless Congress should reduce the taxes; and I will show that Congress can largely reduce the taxes and still maintain the estimates of the Secretary of the Treasury. The various items which comprise this amount of $265,920,474 include a tax on raw cotton to the amount of $23,769,078. Besides this there are receipts from customs which next year will amount to, it is supposed, not less than $150,000,000; I believe that is the amount the Secretary estimates. Then there are the receipts from public lands, and the residuum of the direct tax and miscellaneous receipts of various kinds from the premium on gold and the like, so that the total aggregate will amount to four hundred and fifty or four hundred and sixty millions. The Secretary has gone upon the supposition that Congress will reduce materially the taxes to about three hundred and eighty millions; and he estimates a probable reduction of the existing taxes to that amount. It is not usual for him in his estimates of receipts to give the various items which make up the sum total; but in his estimates or appropriations we have every item. His estimates of appropriations for the general service for the next fiscal year amount to $182,183,736. In that is included for the Navy $47,317,183—so extraordinary an estimate as to excite the attention of the whole country; and I am happy to hear the Senator from Iowa say that it will be revised and largely reduced.

In this sum is also included estimates of appropriations for harbor and river improvements to the amount of $6,857,000—more than twice as much as we gave a year ago, when everything was given that was asked. So extraordinary an estimate as this will undoubtedly be reduced by the proper committee. So the estimate of the Army is $51,039,134. This will unquestionably be reduced. Then there are estimates to the amount of $2,245,000 for fortifications and other works of defense, which is more than twice what it was one year ago, and will naturally be reduced by the committee. So I might go through the whole list. The whole amount of appropriations estimated for on this large basis is over one hundred and eighty-two million, and there is scarcely a doubt that Congress will, during the present session, reduce these estimates to at least one hundred and forty or one hundred and fifty million. Then there is, besides, the interest on the public debt to be met, amounting to $130,000,000, and certain permanent appropriations, which cover the whole expense of the Government. In the estimates of appropriations, however, there is an item of $25,500,000 for bounties, which is really a part of the debt of the United States, and has been heretofore paid out of the surplus revenue. This may very properly be treated as part of the public debt, so that we may throw off from our people an amount of taxation equal to more than one hundred million dollars of the present burden that rests upon them.

While I did not wish to go into details, I have made this statement to show that the Committee on Finance are not acting ignorantly about this matter; but they did not choose—because the other House has sent us a bill here affecting only a single tax—to go into a general discussion of all the various subjects of internal taxation, finance, expenditure, &c., which will more properly arise when we consider the general tax bill, which will come to us from the other House during the session.

Mr. HOWARD. I wish to ask the honorable Senator from Ohio, the chairman of the Committee on Finance, whether that committee have come to any conclusion in regard to the further payment of the principal of the war debt?

Mr. SHERMAN. I cannot hear the Senator; I hope he will repeat his question.

Mr. HOWARD. My question is whether the Committee on Finance have taken into consideration the propriety of discontinuing, for the present at least, the further payment of the principal of the public debt contracted for the war.

Mr. SHERMAN. I can state that in a bill which is now on the table, reported by the

Committee on Finance, there is a provision made which will limit the amount to be applied to the payment of both the principal and interest of the public debt. That amount is left blank and it will be subject to discussion and decision by the Senate.

Mr. HOWARD. I am very glad that the committee have taken that view of the subject.

Mr. WILLIAMS. Mr. President, I wish to join a single remark to what has been said by the chairman of the Committee on Finance. Assuming that the ordinary expenditures of the Government will be one hundred and forty or one hundred and fifty millions as he states, and I presume that they will not exceed that amount, then the Special Commissioner sends an estimate to us of revenues that may be raised from internal taxation by which it appears that every industrial interest in the country is relieved from taxation, and he estimates that from distilled spirits, fermented liquors, tobacco and its manufactures, incomes, stamps, legacies and successions, banks, railroads, &c., salaries, gross receipts, fines, penalties, and miscellaneous, $152,000,000 of revenue may be raised for the next fiscal year.

Mr. WILSON. How much from whisky?

Mr. WILLIAMS. Fifty millions from whisky under the new system.

Mr. EDMUNDS. How much was it last year?

Mr. SHERMAN. It was only $27,000,000 last year.

Mr. FESSENDEN. Under what "new system" does the Senator speak of; one that we are to adopt or have adopted?

Mr. WILLIAMS. The one we have adopted, I suppose.

Mr. FESSENDEN. Why did it not produce $50,000,000 last year?

Mr. WILLIAMS. I have not read the report. I suppose he gives his reasons for making this estimate. There has been a special commissioner appointed who has traveled over Europe, who has made it his business during the recess of Congress to obtain information on this subject for the purpose of enlightening Congress; but whenever any reference is made to his report or any reliance put upon it gentlemen jump up here and say it is entitled to no consideration whatever. Now, I suppose that the commissioner in his report gives his reasons, but I do not wish to occupy time in reading his reasons for his estimates. I see that he has submitted to Congress an estimate excluding all manufacturing in the country from taxation, and asserting that upon the different items stated in this report an internal revenue of $152,000,000 can be realized for the next fiscal year. Whether he is right or wrong I will not undertake to say; but I do venture to affirm that this special commissioner has had as many opportunities of ascertaining as any member of the Senate; and if his report is not worth anything why not dismiss him and save the expense of having a special commissioner traveling to Europe and over this country, accumulating knowledge and then assuming that it is not worth anything to us?

In legislating here we have to rely on the best information we can obtain. We take estimates from the Department; we take information furnished to us by the special commissioner, and I cite this not that it is conclusive—I do not pretend that it is—but I produce it as some evidence to prove that we can dispense with this cotton tax and at the same time dispense with many other taxes that are now imposed upon industrial interests of the North. It is only to show that it is not impossible, as gentlemen assume here, to remove this cotton tax; it is only to show that it is not necessary, as has been assumed throughout this argument, to impose additional taxation upon the North in order to make up for the $27,000,000 that we propose to annul by the passage of this act.

Mr. EDMUNDS. Then why not let us consider all interests together?

Mr. WILLIAMS. How many more times is it necessary to say that the necessities of the people of the South require immediate action upon this subject? I think Senators who advocate the passage of this bill have assigned reasons sufficient upon that point, that the necessities of these people demand this legislation. Now, it is said that the people in the northern States are heavily taxed, are poor, that thousands of persons there are out of employment. That may be true, and has always been true since the formation of the Government; but are we asked to appropriate millions of dollars for any portion of the North in order to relieve the necessities and wants of the laboring class? Sir, we have given millions upon millions to the people of the South in order to provide that those there who perform labor shall have the necessities of life; and now every newspaper that comes to us from the South and every source of information which we can consult informs us that their necessities are greater than they ever were; and I have no doubt that bills will be introduced here at the present session to appropriate money to relieve the necessities of those people. I say, then, they do stand in a different condition at this time from the poor people of the North.

These are the reasons or some of the reasons why this bill was not delayed until there was a general revision of the revenue laws of the country.

Mr. WILSON. Mr. President, intelligence from all sections of the country and every moment's reflection strengthen the conviction that we ought to pass this bill as it came from the House of Representatives, unless we can so amend it as to make it apply to the crop of the present year in the hands of the producers. I am sure the tax is burdensome, that it tends to diminish production, and that the permanent interests of the nation demand its abolition. If we cannot make the bill apply to the unsold crop of 1867, then I am for the bill as it came to us from the House of Representatives. But if the majority here are opposed to its passage in this form I would be willing to meet them by taking the amendment proposed by the Senator from Indiana, [Mr. MORTON,] levying a tax of one cent per pound and making the one cent per pound appy to the unsold cotton crop of 1867 in the hands of the producers, and then suspend the collection of the tax for 1867 and 1868. That would relieve the cotton-growers of 1867 who have lost millions of dollars, and would encourage them to plant in 1868. If the price of cotton should advance, as many think it will, the tax of one cent per pound or four dollars per bale might not be a burdensome one. If Senators who are opposed to the House bill will agree to fix the tax at one cent per pound and apply it to the crop of 1867 and then suspend the collection for one year I will unite with them in that vote; if not, I support the bill as it came from the House, believing it to be for the best interests of the country, North as well as South.

I am in favor of relieving the industries of the people in the North as well as in the South. If we can contrive some plan by which the whisky tax can be collected we can remove taxation that burdens many of our manufacturing industries. I fear little will be done for the collection of the whisky tax, for the whisky interest, if it is not master of the country, seems to be master of the Administration. At any rate the whisky ring which is robbing the Government of from fifty to one hundred million dollars annually, thus burdening the industries of the people and robbing laboring men, seems to be under the protection of the Administration, and the rewarder of its friends. While this Administration lasts and the corrupt and corruptible set that surrounds it wield the power they now seem to wield there is little hope that any law Congress may enact for the prevention of the whisky frauds will be enforced. I learn from excellent authority that one of these persons who undertook to cheat the Government out of $28,000 was recently tried at an expense of nearly four thousand dollars in one of the southern States, was fined $6,000 and ordered to pay a certain amount; that he came to Washington and the President not only pardoned him but gave him a certificate of character.

I am informed, too, that a person rejected by the Senate—I do not know how many times—for an important office has been sent to Texas as an agent of the Treasury Department to take care of the internal revenue affairs in that State, and it is believed that the whisky ring have ordered the machinery for distilling whisky to be sent to Texas, and that they expect to drive a profitable business in that State. I am further informed that a person who is said to have cheated the Government out of several thousand dollars during the war, and was forced by the Secretary of War to disgorge his plunder, and who was recently rejected by the Senate for an important office, has been sent to North Carolina to take care of the internal revenue interests in that State. Do Senators hope to enforce the collection of the whisky tax by such agencies?

There is a gigantic system for defrauding the Government out of its revenues. This whisky ring can offer and does offer splendid bribes to public officers, and this ring can furnish, and I have no doubt is furnishing, and will furnish, any quantity of money for electioneering purposes. We ought to collect from a hundred to a hundred and twenty-five million dollars of revenue from whisky, but the chairman of the Committee on Finance tells us we collected only $27,000,000 last year. The Treasury has been robbed of $100,000,000, and this burden has been put upon the toiling men of the country. Who are the thieves? Why are they not prosecuted? Why are they protected by the Administration? Why is the country plundered with impunity? Why is the nation dishonored in the face of the world by such gigantic swindles? This whisky ring cheats the Government, robs the people, corrupts public men, uses the corrupt and corruptible creatures to secure for them impunity.

I do not mean to say that all the distillers are dishonest men. I have not a doubt that many of them are upright, fair-minded men, but bad men are in the business and worse men are out of it coining fortunes. One of the first men in this country said to me the other day that a leading lawyer of the great city where he resides came into his room and said to him——

Mr. JOHNSON. What city?

Mr. WILSON. The city of New York.

Mr. JOHNSON. I was afraid it was Baltimore.

Mr. WILSON. He said to him, "I come to you, sir, on a matter of business; I come from my client with this offer: he has been prosecuted, and if you will induce the district attorney to withdraw the prosecution we will pay you $50,000; I do this as a matter of business." Such is the gigantic condition of swindling and corruption in the country. When men are brought up and tried and an attempt made to punish them they are pardoned.

In my State we had an honest body of men appointed to take charge of our internal revenue system. Many of them were men of the highest character and standing. Not two years since some of them were remorselessly turned out. Take the case of Mr. Charles Hudson, who was a member of the House of Representatives for many years—a man who understood questions of taxation and matters pertaining to the tariff laws certainly as well as any public man in our State, and I believe there are few public men in the country who understood them better than he did. He was removed from office without cause. It is a well-known fact that in our portion of the country there are some men in these offices who are unfit for them, and one or two of them are believed to be corrupt; and the fact that they are so has been represented over and over again to the Commissioner of Internal Revenue and to the Secretary of the Treasury, and they cannot be removed. The reason why they cannot be

removed is because they are connected with a certain class of men utterly unworthy who seem to have more power and control than all the public men of my section of the country; and what is true there is more than true in some other portions of the Union. The truth about it is that since the attempt has been made to change the political sentiments of this people there has been a large class of men put into the internal revenue service who are corrupt and corruptible.

Now, sir, I hope that something is to be done to correct these abuses. I believe if we could collect the whisky tax honestly and fairly we could reduce the duties on all the great productive interests of the country. I am in favor of making that experiment, as well as cutting down all our expenses. I was glad to hear the chairman of the Committee on Naval Affairs say to-day that he thought there would not be more than twenty-five million dollars appropriated for the Navy Department. I have no doubt that $20,000,000 is all that should be appropriated for that Department. I want to see the expenses of the War Department reduced, and we can soon reduce it if the reconstruction policy of the country goes on and those States are represented here. There are great efforts now making to defeat reconstruction everywhere and postpone it, but I have no faith that those efforts will succeed. I do not wish to raise any more money than is necessary to meet our expenditures. I am against paying a dollar of the public debt by the present property or by the people of the United States who are now living. We can extinguish the debt in less than half a century by taxing the increasing population and wealth of the country, and we ought so to adjust our taxation as to put the burden upon the increasing wealth and population of the nation. The present generation has paid more than fifteen hundred million dollars growing out of this civil war. It has given three hundred and fifty thousand lives. It has shed blood and tears enough and had sorrows and agonies enough. Let those who are to come into the country and those who are born in the country hereafter and the property of the country which will be increased extinguish this debt. We have now thirty-five million inhabitants and perhaps twenty-five thousand millions of property. In thirty years—the period allotted by common consent of mankind for one of our generations—we shall have at least seventy-five million inhabitants and more than seventy-five thousand million dollars. Then to pay the present national debt will be but a light burden upon the people or the property of the country. Let this generation and the present property pay the interest. Let the next generation with its teeming millions of population and its abounding wealth extinguish this debt incurred for the preservation of the nation's life.

The Senator from Indiana expressed the opinion that the rebel States were in possession of as much food as they were at any other period of their existence. There is a great outcry at this time, coming chiefly from rebels and for partisan purposes. We all know that the people of those States are poor enough—that the people of those States have been blighted and blasted. The people have raised fair crops in portions of the southern country. I met the other day a very eminent gentleman from South Carolina who was in the councils of the country in a high position before the rebellion. He stated that in the uplands of South Carolina they had a fair crop of cotton and corn, in the central portions of the State they had suffered a great deal, and on the seacoast the canker-worm had almost entirely devoured the cotton crop. He thought the people would need to be helped. Neither Congress nor the freedmen are responsible for the coming of the canker-worm, though the worm had not been there for some twenty or twenty-five years.

Mr. JOHNSON. It comes every twenty years, they say.

Mr. WILSON. This gentleman stated that the colored people of South Carolina had worked well this year; that they had maintained good order, and that if a stranger had been in the State on the day of the election he would hardly have known there was an election going on. Large portions of the people in Alabama and Mississippi are in a very destitute condition. We must help them. I am in favor of helping in every way possible the people of that section of the country to reconstruct, reorganize, and restore their shattered fortunes.

Mr. STEWART. If the Senator will give way to enable me to offer a resolution, I should like to get the names of those persons who have been appointed Treasury agents in this connection.

Mr. WILSON. You can offer it after I get through.

Mr. CONKLING. That information has been called for twice by the House and been returned to the House.

Mr. WILSON. I think, sir, we ought to relieve these people from this burden of taxation for the present year. Those who sold early received better prices probably than will be received by those who have held their crops; but the largest amount of the cotton raised in the year 1867 is unquestionably in the hands of the producers, and in some sections of the country it has been held in the hope that we would relieve them. I propose to amend the amendment offered by the Senator from Indiana by adding to it these words:

And upon all cotton grown in the United States in the year 1867, where the same, at the passage of this act, is still in the hands of the producers and not sold or contracted to be sold.

Mr. MORTON. I will say to the Senator from Massachusetts that I should be very willing to accept his amendment to my amendment if I believed it were practicable without opening a vast door to fraud and corruption. That, I think, is the objection to his amendment.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. CONKLING. Which amendment to the amendment?

The PRESIDENT *pro tempore*. The amendment offered by the Senator from New York [Mr. CONKLING] to the amendment offered by the Senator from Indiana, [Mr. MORTON.]

Mr. EDMUNDS. Let it be read for information.

The SECRETARY. The amendment to the amendment is to insert the word "raw" before the word "cotton;" and also to strike out the words "after the year 1867" and to insert "during the year 1868;" so that the amendment will read:

That upon all raw cotton grown in the United States during the year 1868 there shall be assessed and collected the sum of one cent per pound and no more, to be collected in manner and form as now prescribed by law.

Mr. FESSENDEN. The first part of that amendment is separate from the other, and I suppose the Senator from Indiana has no objection to inserting the word "raw" before "cotton" in his amendment.

Mr. CONKLING. The Senator from Indiana accepted the insertion of the word "raw." He modified his amendment in that respect.

Mr. CORBETT. Before the vote is taken I should like to say that I think this proposition does not give sufficient time to the people of the southern States to engage in the raising of cotton and recover from their present distressed condition. It does not give them time to make calculations and to go into contracts with a view of raising cotton continuously, from the fact that they will be perhaps expecting that this tax will be increased to two and a half cents a pound after this one year. It will have a tendency to cripple them and to prevent the raising of cotton.

I wish to say one word in answer to the argument of the Senator from Vermont, that a high price for a small crop of cotton produces just as much to the country as a low price for a large crop. I stated in my remarks the other day that during the five years of rebellion we only exported $49,000,000 of cotton, and that in the five years previous, when the price of cotton was about the present price in gold or a little more, we exported $600,000,000 of cotton. Since the reduction of the price we have exported for the past two years a little over three hundred million dollars; and I anticipate if the price is permanently reduced to a low rate that the export of cotton will be much greater eventually than it has been.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York to the amendment of the Senator from Indiana.

Mr. CHANDLER called for the yeas and nays, and they were ordered.

Mr. DRAKE. I call for the reading of the amendment to the amendment.

The Secretary again read it.

Mr. CHANDLER. I withdraw the call for the yeas and nays.

Mr. GRIMES. I renew it.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered, and the call cannot be withdrawn without unanimous consent.

The Secretary proceeded to call the the roll.

Mr. MORTON. I desire to state as a matter of personal explanation that on the main question on this bill I am paired with Senator HENDRICKS, with the understanding, however, between him and myself that I am at liberty to vote on any amendments that may be offered.

The calling of the roll having been completed, the result was announced—yeas 22, nays 22; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conkling, Conness, Cragin, Edmunds, Fessenden, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, Wade, and Wilson—22.

NAYS—Messrs. Bayard, Buckalew, Cattell, Corbett, Davis, Dixon, Doolittle, Fowler, Frelinghuysen, Grimes, Henderson, Johnson, Morgan, Norton, Patterson of Tennessee, Pomeroy, Ross, Saulsbury, Sherman, Trumbull, Van Winkle, and Williams—22.

ABSENT—Messrs. Anthony, Drake, Ferry, Guthrie, Hendricks, Nye, Sprague, Willey, and Yates—9.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment offered by the Senator from Indiana.

Mr. MORTON called for the yeas and nays; and they were ordered.

Mr. THAYER. Let the amendment be reported.

The Secretary read the amendment, which was to insert in lieu of the original bill the following substitute:

That upon all raw cotton grown in the United States after the year 1867 there shall be assessed and collected the sum of one cent per pound and no more, to be collected in manner and form as now prescribed by law.

Mr. WILSON. I move to amend the amendment by adding the following words:

And upon all cotton grown in the United States in the year 1867, where the same, at the passage of this act, is still in the hands of the producers, and not sold or contracted to be sold.

Mr. SHERMAN. That is the same proposition that was voted upon in the amendment offered by the Senator from Maryland. The committee examined into that matter, and any attempt to distinguish between cotton in the hands of the producers and other cotton will produce irretrievable confusion. I would go as far toward relief in the production of cotton in the South as possible; but every Senator will see that an attempt to discriminate between that which is in the hands of the producers and that which is in the hands of other parties would open a field to fraud that would be very dangerous, indeed. In many cases this cotton is the joint product of the labor of the planter and the negro. The negro laborer has been paid off; his interest is settled. In many cases it is raised upon advances, and the cotton is mortgaged, and it would be very difficult indeed to ascertain who the owner is. In many cases it is held by speculators, nominally in the name of the producer, but really for somebody else, on speculation. Therefore, this proposition

would introduce irretrievable confusion. It is open, too, to the objection that this is a revenue that is anticipated to some extent by the Treasury Department, who place a reliance upon it. Therefore, this relief ought not to extend back, but should be confined to the growth of future cotton. I do not wish to discuss the matter at any length; but the question is presented now in a new form, introducing a new element of confusion. I hope the amendment to the amendment will be voted down.

Mr. CONKLING. I have been furnished with a paper which is in circulation, it seems, for signatures in the South which I think shows that the amendment now offered by the Senator from Massachusetts is unnecessary, as tolerably efficient means are on foot to accomplish what he seems to wish in another way; and I beg to send to the desk of the Secretary and ask to have read the two papers which I have marked.

The PRESIDENT *pro tempore*. The papers will be read by the Secretary if there be no objection.

The Secretary read as follows:

AUGUSTA, GEORGIA, ——, 1867.

M————:

DEAR SIR: An association of capitalists, politicians, and lawyers has been formed for the purpose of having the unconstitutional tax on cotton, which has been paid or may be paid to the United States, refunded if possible.

They propose to prosecute the claims at their own risk and expense. The claimant is to incur no expense in any event, and is to receive one half of the tax recovered. The other half is to be used for the payment of all expenses incurred. We are to have a liberal commission out of the half retained.

The plan is to have as large an amount as possible of these claims presented to the Court of Claims for its judgment as soon as possible, so that they may reach Congress shortly after its next session commences. The Treasury is now full. It will probably be depleted by congressional appropriations during the session. It is therefore strongly desirable that we should get the bill before Congress ere the Treasury shall have been emptied. Those whose claims are thus presented and passed upon by the Court and Congress at an early day may be paid when later claimants fail. The proof required will probably consist of affidavits identifying the cotton and the collector's receipt, or copies of entries on his books. On this point we will advise you more specifically hereafter if it become necessary. If you conclude to turn your claim over to us you can sign the blank contract inclosed before a witness and return it to us. We will immediately send you a receipt expressing our obligations to you as contracting parties. We are assured by our friends at the North that the Court of Claims will certainly pronounce this tax unconstitutional, and that if we hasten to get the claims before Congress we will succeed. If we succeed the money is to pass through our hands, and we are to be responsible for its faithful application. We would like to have your claim and as many as you can influence. If you sign the contract send us the name of your factor or agent, if cotton was sold by an agent, together with marks, number of bales, &c.

Joint Contract.

This covenant and agreement made and entered into by and between the persons whose names are hereunto subscribed as parties of the first part and Herschel V. Johnson & Company as parties of the second part——

Mr. TRUMBULL. I do not know how this paper gets before the Senate. It seems to me we have very little to do to listen to the reading of newspaper articles.

The PRESIDENT *pro tempore*. No objection was made at the time the reading was asked.

Mr. CONKLING. I suppose I have a right to read it as part of my remarks, and if the Senator thinks I can do it better than it is being done by the Secretary I will read it myself. It is very short, and I think the Senate ought to understand it.

Mr. TRUMBULL. If the Senator from New York insists upon making it a part of his speech of course I do not object.

Mr. CONKLING. Yes, I desire to have it read as part of my remarks, in the hope that the Senator from Massachusetts, seeing that this thing is being done so much better than it would be by his amendment, will withdraw the amendment to save the time and trouble of a vote.

Mr. TRUMBULL. It seems to me it is using the time of the Senate to very little purpose to be reading newspaper articles. Any of us could send up articles that are got up by parties, very ridiculous upon their face and making very absurd propositions. However, the Senator from New York fathers the paper, and I do not object to the reading if he desires it.

The PRESIDENT *pro tempore*. The Secretary will proceed with the reading.

The Secretary continued the reading of the paper, as follows:

Witnesseth, that the parties of the first part, for the purpose of recovering the taxes heretofore or which may hereafter be paid as a tax on cotton, under the internal revenue laws of the Federal Government and Treasury regulations, and in consideration of one dollar paid to them by the parties of the second part, do hereby individually and collectively contract with the parties of the second part that they may, in the Court of Claims of the United States, or in such other manner and form as they may deem expedient, recover and have refunded all such taxes as have been or may hereafter be paid by parties of the first part, with full power to demand and receive and in our individual or firm names receipt for the same; and that the parties of the second part may act more efficiently we hereby agree and covenant to furnish the parties of the second part all papers or other evidence in our power necessary to prove the payment of such tax. The parties of the first part further contract that the parties of the second part shall have and receive one half of what may be recovered of said tax. And the parties of the second part agree and contract that they will conduct and prosecute such claims at their own risk and expense, and that they will pay over to each of the parties of the first part one half of any and all sums which shall be recovered and received by them on such claims.

A separate obligation to this effect of even date with these presents will be given by the parties of the second part. This —— day of ——, 1867.

Witnesses.	*Parties' Names.*

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on agreeing to the amendment offered by the Senator from Indiana.

Mr. CORBETT. If it is in order I desire to move an amendment to the amendment to substitute one half cent per pound instead of one cent. I shall vote against the amendment——

Mr. GRIMES. Then I hope the Senator will not offer it.

Mr. CORBETT. I understand it is intended to be offered in case this is not adopted.

Mr. GRIMES. Let us see whether this is going to be adopted first.

Mr. CORBETT. I withdraw the amendment to the amendment.

The PRESIDENT *pro tempore*. Then the question recurs on the amendment of the Senator from Indiana, upon which the yeas and nays have been ordered.

Mr. GRIMES. I understand that if this amendment of the Senator from Indiana be not adopted, then a proposition will be offered to suspend the operation of this tax for twelve months. Therefore, those who are in favor of that proposition will vote "no."

The question being taken by yeas and nays, resulted—yeas 21, nays 24; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conkling, Conness, Cragin, Edmunds, Fessenden, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, and Wade—21.

NAYS—Messrs. Bayard, Buckalew, Cattell, Corbett, Davis, Dixon, Doolittle, Drake, Fowler, Frelinghuysen, Grimes, Henderson, Johnson, Morgan, Norton, Patterson of Tennessee, Pomeroy, Ross, Saulsbury, Sherman, Trumbull, Van Winkle, Williams, and Wilson—24.

ABSENT—Messrs. Anthony, Ferry, Guthrie, Hendricks, Nye, Sprague, Willey, and Yates—8.

So the amendment was rejected.

Mr. CONKLING. Now I renew my amendment to the original bill.

Mr. MORTON. If the Senator from New York has no objection, and it is in order, I desire to submit another amendment before the vote is taken on his.

Mr. CONKLING. I will withdraw my amendment for the purpose of hearing that of the Senator.

Mr. MORTON. I move to strike out all of the bill after the enacting clause and to insert the following:

That upon all raw cotton grown in the United States during the year 1868 there shall be levied and collected a tax of one half cent per pound; and that upon all raw cotton grown in the United States after the year 1868 there shall be levied and collected a tax of one cent per pound, to be levied and collected in manner and form as now prescribed by law.

The amendment was rejected.

Mr. CONKLING. I now renew my amendment.

The Secretary read the amendment, which was in line three to insert the word "raw" before the word "cotton," and in the same line to strike out the word "after" and to insert the word "during," and in line four to strike out "1867" and to insert "1868;" so that the bill will read:

That all raw cotton grown in the United States during the year 1868 shall be exempt from internal tax.

Mr. CONNESS called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Fessenden, Grimes, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, and Wade—24.

NAYS—Messrs. Bayard, Buckalew, Corbett, Davis, Dixon, Doolittle, Fowler, Frelinghuysen, Henderson, Johnson, Morgan, Norton, Patterson of Tennessee, Pomeroy, Ross, Saulsbury, Sherman, Trumbull, Van Winkle, Williams, and Wilson—21.

ABSENT—Messrs. Anthony, Ferry, Guthrie, Hendricks, Nye, Sprague, Willey, and Yates—8.

So the amendment was agreed to.

Mr. DRAKE. I move to amend the bill by adding the following:

But nothing herein contained shall be construed to require any additional provisions of law in order to authorize the levy and collection of said tax upon all such cotton grown therein after the said year.

Mr. JOHNSON. There is no necessity for that.

Mr. WILLIAMS. I should like to have that amendment read again.

The Secretary again read it.

Mr. DRAKE. The honorable Senator from Maryland remarked that there was no necessity for that.

Mr. JOHNSON. I think so.

Mr. DRAKE. I presume that if we were to undertake to eliminate from the statutes of the United States all the provisions contained in them for which there is no necessity we should probably reduce the compass of the statutes by about one half. But I consider, with all respect to the honorable Senator from Maryland, that there is, if not an absolute necessity in the mind of so distinguished a jurist as himself for this provision, an eminent propriety in putting it in the bill. We do not know what construction may be given to this law. There is no intention on the part of the Senate by the vote that has just been taken to remove this tax from cotton entirely. That we all understand. Why not, then, put it on the face of the statute in such plain and unmistakable language that no man can possibly have any question about it at any time? We do not know at what moment the continuance of this tax after the year 1868 may be questioned upon the ground of this act that we have now amended and are about to pass probably. I offer this amendment out of abundant caution. I am not willing that any statute should be enacted here which could by any possible strain of construction lead to the entire removal of this tax or to its removal from any year after 1868. Why not, then, put it on the face of the statute that no further provision shall be necessary in order to reimpose the tax after the year 1868? Then there will be no question about it. I only wish that to be made perfectly plain about which there might possibly be some question in the future.

Mr. FOWLER. I do not know that I have any particular objection to this amendment, provided the bill shall pass as it now stands, as it probably will. I will simply state that I should much prefer that the tax should be retained and collected next year, instead of this proceeding of securing the collection of the tax the year following, which will amount to the same thing probably. I am very well satisfied that no tax can be collected the year

following. If those States were represented here in the Senate at the present time this tax would not be collected. I would greatly prefer that the tax of two and a half cents should remain for the next year in order that the States that have been so unjustly proscribed and so partially treated in regard to this matter might have some idea before them sufficient to induce the agitation of the question which will necessarily lead to its repeal. I am satisfied that even under the present arrangement, with the view I take of the progress of reconstruction, the whole question will be settled by the time these States are admitted back into their positions here. I know very well that there could not be obtained a single vote from any portion of the South to support such an odious discrimination against their product.

I had no idea when this bill was brought before the Senate originally that so much effort would be made to retain an odious discrimination against the labor of those States. Sir, those States are not taxed because they are rebels by any means, because the tax does not come off those persons. It is not because there were traitors there by any means. It is not against treason that this is meant. It is a discrimination against the labor of the agricultural States, as they are termed.

It has been urged as a reason for the retention of this tax that if it is not collected from cotton no taxation whatever can be collected from those States. Sir, is there any portion of the Union that is so thoroughly taxed as this portion is? These people are taxed on everything they eat, drink, and wear. They pay the northern manufacturers the tax on all the products that they manufacture for them. They pay the European manufacturers for all that is brought to them. They pay other countries for all their tea, sugar, and coffee. They pay their income tax. They pay their taxes on every instrument of writing that they have. They pay not only this tax, which now amounts to twenty-five per cent. on all the cotton that is retained in this country, but they pay forty per cent. and more on all they send abroad and which comes back to them in another shape. They are taxed going to market and they are taxed coming back. There is no portion of the country that is so thoroughly taxed as the cotton-growing States are; and it all comes off the negroes who have been freed. They are the men that make the cotton now as they are the men that made the cotton before.

This proposition to tax them, even for the purpose stated by the Senator from Vermont, of distributing their labor and directing it in other pursuits—a system which would drive them to that—is little better than the arbitrary system which drove them into the cotton field. I say now that cotton never could have been produced by either black or white men if they had been left to their own choice in regard to it. It was only the arbitrary and vile system that was adopted in the South that drove these men into the fields and extorted by the lash the labor that produced cotton at any time. The Senator from Kentucky said he never saw a white man that would go into a cotton field and produce cotton. Why, sir, it was but the oppressive system of slavery, that blasted the very land itself, that drove these people, forced them into the cotton fields.

Senators should recollect that it requires no severe tax, no unjust discrimination against the labor of the southern States to keep the people out of the cotton fields. As soon as the colored men can have any opportunity of directing their labor in any other branch of industry whatever, as soon as they can have lands to cultivate, they will cultivate no cotton. It is at all times a dangerous crop to raise; it is a very uncertain one; it is the most impoverishing crop that was ever cultivated on land. It is raised by the poorest people in the world; and it was never cultivated but from the consideration that the master had the power to drive these people into the fields and force them to do it. It is the shadow of the same institution that lingers over that country at the present time that forces them to cultivate it. In the finer cotton lands, in the alluvial lands of the Mississippi, they have cultivated large crops of cotton and left the culture of corn during the past year. In the poorer lands, where the people are left to their own choice to do as they please, they have cultivated very little cotton; they have directed their attention to the culture of corn, and generally have enough of it there.

Thus it will be seen that these States and these people pay all the taxes that any other portion of the country pay, and they consume quite as much as any other section of the country.

It has also been argued that we should produce a small crop of cotton because we get more money for it. I think that is a worn-out argument altogether. It is true, as stated, that we got a less money value for a large crop, perhaps; but that is no way of estimating the value of that crop. We brought back not dollars from the European markets, but we brought back yards of cloth, and our happiness and our wants were supplied in proportion to the number of yards of cloth we brought back. When cotton was cheap cloth was cheap. There was the advantage of producing a large crop, an abundance of this staple. There is just as much use in producing an abundance of cotton as an abundance of wheat. If a small crop of cotton is beneficial why not a small crop of wheat? If a tax is good for the regulation of this species of industry why not put it on wheat? That is a crop raised from Maine to Texas, in every State of this Union; but here is an article, cotton, that is raised in but few States, and it is singled out as the sole, solitary agricultural production of this nation that is to be taxed, and I believe without the authority of the Constitution.

I did not intend to detain the Senate any length of time, and I have but one more remark to make. It is said that foreigners will pay this tax, and therefore we ought to retain it. Sir, I am one of those who do not see either the policy or the morality of that argument. Every individual should pay his own debts and support his own household. Every nation should pay its own debts and support its own Government. If there was no other argument than that it comes out of foreigners it would be a sufficient argument to me to oppose it because the United States have no right to tax other nations, either to pay their debts or to support their Government. It is just as wrong for one nation to seize and appropriate the labor of another nation as it is for one individual to seize by any discrimination whatever and appropriate the labor of another individual.

Mr. JOHNSON. I did say—I do not know that I intended the honorable member from Missouri to hear me—that I thought his amendment was unnecessary; and, notwithstanding the explanation he has given, I am forced still to be of that opinion. The law as it stands provides a mode of collecting the tax which is now levied. All that is done by the bill upon your table, if it shall become a law, is to suspend for a time the payment of that tax, and it only suspends consequently the provision which the law contains in connection with the collection of a tax of that kind. The moment the suspension terminates the whole legislation now in force goes into actual operation. There is such a thing, to be sure, as being cautious, and caution should be observed; but there may be caution that is altogether unnecessary. It might be considered, perhaps, as subjecting us to the suspicion that we do not exactly understand what the laws are. I do not mean to say that that is the condition of my friend from Missouri, for I am sure it is not. He is a ripe and astute lawyer. His object, of course, is a very praiseworthy one. He wishes to avoid——

Mr. FOWLER. I should like to hear the Senator from Maryland, but there is so much noise that we cannot hear him in this part of the Chamber.

The PRESIDENT *pro tempore*. There is too much noise in the Chamber; the Senator cannot be heard.

Mr. JOHNSON. I will say to the honorable member from Tennessee that I was not speaking to the general subject. I suppose that has been disposed of. I was addressing myself exclusively to the amendment proposed by the honorable member from Missouri. I understood him to say that without the amendment it might be doubtful whether there would be any provision for the collection of the tax which would be due in 1869. What I said was, that as the present law, which imposes the tax, provides for the mode of collecting it, and as we propose only to suspend that collection for one year, at the termination of that year the tax is to be levied again, and is to be collected under the provisions of the same law which is in force now.

The amendment was agreed to; there being, on a division—ayes 22, noes 17.

Mr. MORRILL, of Vermont. I have an amendment to offer that I think will meet the approbation of the entire Senate. I am authorized by the Committee on Finance, I believe unanimously, to propose an amendment, to insert at the end of the bill the following proviso:

Provided, That the duty on raw cotton imported from foreign countries on and after April 1, 1868, and until April 1, 1869, shall be suspended.

I will merely state that up to the time when an internal tax was placed upon cotton there was no duty at the custom-house upon any imported article of cotton. Within the last few years a considerable amount of business has grown up in the manufacture of grain bags for the West, and Surat cotton is used for that purpose very extensively, and it would be proper, if this manufacture is to continue at all, that we should allow the coarse Surat cotton to come in free when our own cotton is exempt from tax. That is all there is of it.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments as made in Committee of the Whole. How shall the vote be taken on the amendments, together or separately?

Mr. BUCKALEW. I ask for a separate vote on the amendments.

The PRESIDENT *pro tempore*. Then the question will be on concurring in the first amendment made in Committee of the Whole, which will be read.

The Secretary read the first amendment, which was in line three of the bill to insert the word "raw" before the word "cotton" and in the same line to strike out the word "after" and to insert the word "during," and in line four to strike out "1867" and to insert "1868," so as to make the bill read:

That all raw cotton grown in the United States during the year 1868 shall be exempt from internal tax.

Mr. POMEROY. I do not see any necessity of amending the bill by putting in the words "raw cotton grown in the United States." There is no other cotton grown but raw cotton. Why talk about raw cotton grown in the United States such a year? It is all raw.

Mr. EDMUNDS. That is the language of the old law.

Mr. WILSON. I hope we shall not concur in this amendment. I think we had better vote for the bill as it came from the House. We propose now to suspend the tax for the year 1868. I take it there is nobody who believes that we shall ever collect any cotton tax after that. You will have all the odium of the thing. You had better do the clean thing at once and pass the House bill. You propose to suspend the tax for the year 1868. By that time these States will be represented in these Chambers, and there will be a majority who will vote against the tax. I think we had better repeal the tax outright at once.

Mr. HOWARD. I do not propose myself

to be frightened in advance. "Sufficient unto the day is the evil thereof." When our southern brethren shall be again represented in this body we shall have the same power of discussion and the same freedom of discussion, I take it, that we possess now; and I have not much confidence in that wisdom which suggests that we should take to flight immediately on the appearance of opposition or danger.

Mr. BUCKALEW. I asked for a separate vote with the intention of taking the sense of the Senate on this particular amendment. I think this is a very bad form in which to put the proposed legislation—merely suspending this tax for the present year—if regard be had to the general objects in view in this legislation. If we suspend it during the present year merely and allow it to be resumed afterward we shall deter that investment of capital, that activity in the production of cotton which is the general object of the measure. I think if we are to do anything with reference to the tax on cotton we ought either to reduce the amount from two and a half cents per pound to some lower figure absolutely and outright or repeal the tax altogether. It is evident that the same vote which now suspends this tax can reimpose it next year, even although the repeal be general. It will only leave us a subject of embarrassment and difficulty, and there will be no results to the Treasury of the United States or to the public interests. In the meantime, however, by leaving this subject open, a matter of debate and uncertainty in the country, we frustrate and defeat those great general objects which are in view in this legislation, the investment of capital in the South, the production of this article, the export abroad, the resumption of our control over the foreign markets—all those considerations which have weighed with me at least in voting for this measure, and which induced me originally to vote against the imposition of this tax. In other words, in the form which the bill has now assumed you degrade this measure from one of general policy to one of temporary relief. Instead of placing our legislation on those general grounds upon which it can securely rest, you are simply extending a charitable donation for the time being to an oppressed interest.

Mr. FESSENDEN. I wish simply to say to the Senator from Pennsylvania that the object of those who voted to suspend this tax for a year was to do just what he says: leave it open for after consideration and not be carried away to close the matter upon the instant; and I suppose that after a five or six days' debate those who voted in favor of it understood what they were about and were willing to take the consequences. I do not propose to argue it over again, because my vote shows that I hoped it would pass, just as well as the vote of my friend from Massachusetts against it showed he hoped it would pass. [Laughter.] Whether it will or not remains to be seen.

Mr. CAMERON. I did not intend to say anything on this subject, but I am constrained to say a word or two before the bill passes, and to express in the most positive terms my objection to the whole bill. It reminds me of many scenes that I have seen in this House. First we were coaxed and our sympathies were appealed to. We were told that the South was in a suffering condition, and we were asked to do this as an act of charity to that people. After a while we were told that it was a measure of great public untility; one which would benefit the North and the whole country as well as the South. My colleague now says that he looks upon it as a matter of great utility to the nation, as I understand him—not those words, but something like that—as a permanent policy which is to be continued for years.

To my mind we have begun wrong in this matter, and have been going wrong all the time. These questions of finance belong to the whole country; not to the South nor to the North nor to any other place, but to the whole nation; and they can only be settled with reference to the interests of all the different sections of the country. Why, sir, there is as much distress in the North as there is in the South. We are told of the agricultural difficulties of the South. I know what they are in that part of the northern section in which I live. The article of hay, the value of which crop is greater than the whole cotton crop of the country, has been reduced three fourths in value from what it was two years ago; and there is distress among the producers of hay. Our wheat has been blighted by the weevil, and our crop has been nothing like what it was a few years ago. We have distress there.

Mr. GRIMES. What is hay worth now?

Mr. CAMERON. Ten dollars.

Mr. SHERMAN. Is it not worth more than that?

Mr. CAMERON. I should like to sell you some for more than that. [Laughter.] All over our State there are people complaining of the reduction of prices.

The cause of the reduction in the price of cotton was most truly stated by the Senator from Indiana. It is this: for long years the speculators in cotton have had a high price, and they have been constantly contending against the natural reduction. When cotton was a dollar they complained that they did not get enough. When it got down to half a dollar they still did not get enough, and they wanted more. It has got down to its present price and they complain no louder than they did two years ago. All that question of price is going to be settled by the ordinary laws which govern such matters when we get back to a normal condition of affairs.

The Senator from Massachusetts [Mr. WILSON] has become very liberal toward the South. I remember that a few years ago I was very much inclined to deal gently with all the individuals of the South while I would have punished the rebels in the lump. My friend from Massachusetts has become entirely different. Then he was a Radical, radically opposed to the South, and I was conservatively inclined to pity and benefit them. We are changed, for what reason I do not know. [Laughter.]

This idea about the negroes not being willing to cultivate cotton is, to my mind, incorrect. They will cultivate just what will produce them the most profit, and so will the white men, if you let them alone; but if you go on and give them this temporary relief from time to time they will not work. The negro does not like to work; and I should like to know the white man that likes to work—I have not seen him yet—unless he is goaded on by some interest, by want, or something else which controls human nature.

The cotton manufacturers of my State I know have lost money for the last three years. I know some of my friends who have a cotton manufacturing establishment which they bought three years ago, and they have lost from twenty-five to thirty thousand dollars a year; and they will continue to lose until the country rights itself, if they continue at their business. Now, if we were to ask for a reduction of taxes to the farmers and the manufacturers in Pennsylvania, you would laugh at us. You say these people are prosperous because they are too proud to complain. They do not beg; they do not run about with a bag asking charity. If they suffer to-day they exert themselves with redoubled vigor to-morrow or next year; and they make up in the future what they have lost in the past.

I could go on in this strain for a long while on this subject; but it is too late. I am very much like the Dutchman I heard my friend from Minnesota [Mr. RAMSEY] talk about the other day, who said it was too late to do a certain thing. It is too near dinner time and Senators will not listen to me. But if you will allow me, I will move that the Senate do now adjourn, so that we may sleep on this subject and consider it and be ready to act to-morrow.

Several SENATORS. No; let us close it now.

Mr. FESSENDEN. I hope the Senator will withdraw that motion. We may as well finish this bill now.

Mr. CAMERON. Very well; I withdraw the motion to adjourn. But I have a few words more to say, and I wish to say them to the chairman of the Committee on Finance especially.

I had hoped that the Committee on Finance would be willing to settle the question of the tax upon cotton when they settled all the other questions of taxation. It is a general question which is to affect the whole country, and I do not know that we can now see so far ahead as to know how we will make up the $27,000,000 which I believe we shall lose by taking off the cotton tax. I heard some Senator say a while ago that we were going to raise $50,000,000 upon whisky. I believe that we could raise $125,000,000 if we would so amend the laws as to compel the Government to collect the tax honestly.

There are many other questions connected with finance which cannot be decided in detail. In my own private business—and that is pretty much all I know anything about—I know that I have only been prosperous when I took a full view of all my affairs. If I set out to build a house I would calculate how much income I had to spare this year and how much I could appropriate to it. I would not go and order the house to be built before I knew where the money was to come from. So it is with a merchant: he does not extend his business without looking over all his accounts and seeing how many debtors will pay and how many will neglect to pay. So, to my mind, it is very much with this business of finance.

Finance is also connected very much with the currency, and we shall soon have before us the great bill for funding the debt which the Committee on Finance have recently reported, and which is going to agitate the whole country, because, as I understand that bill, there is to be an expenditure far beyond what this cotton tax has brought into the Treasury for getting the loan reconverted. There are many other questions which strike my humble judgment as vastly important to the country which should be settled before you commence reducing your income. Twenty-seven million dollars compared with our vast expenditures now is a very small sum; but I remember when the whole expenditures of the Government did not exceed $11,000,000, and I remember also that a President was driven from the chair at the end of his term and refused a reëlection because of that vast expenditure. To be sure we have got wiser and abler since. But all these questions should be considered together, and therefore I did hope this bill would be left over until a future day.

I do not think I am less disposed to be liberal toward the South than other gentlemen, but I can see no reason why we should at one swoop take $27,000,000 from their payments and from the Treasury, and particulary when that is the only sum they do pay, for I believe the South pay nothing else. I am sure they do not pay anything like what it costs to keep them in the Union, and yet they are to be a favored section. This has always been so. We are liberal to our opponents in private life. We are over liberal now to these people who have striven for long years to destroy the country, and each gentleman, it seems to me, is anxious to let them see that he has forgotten all his unkindness and ill-feeling. That may be very well in individuals, but to my mind it does not look like statesmanship. To be sure I do not pretend to compare myself with the great men who are controlling the finances of the country, nor especially with the Finance Committee.

The PRESIDENT *pro tempore*. The question is on concurring on the first amendment made as in Committee of the Whole.

Mr. BUCKALEW called for the yeas and nays, and they were ordered.

Mr. WILLIAMS. What is the amendment we are now to vote upon?

The PRESIDENT *pro tempore*. The amend-

ment offered by the Senator from New York and agreed to in Committee of the Whole.

Mr. WILLIAMS. I should like to hear it read.

The Secretary read the amendment, which was to make the bill read:

That all raw cotton grown in the United States during the year 1868 shall be exempt from internal tax.

The question being taken by yeas and nays, resulted—yeas 24, nays 20; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Fessenden, Grimes, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, and Wade—24.

NAYS—Messrs. Bayard, Buckalew, Corbett, Davis, Dixon, Doolittle, Fowler, Frelinghuysen, Henderson, Johnson, Morgan, Norton, Patterson of Tennessee, Pomeroy, Ross, Saulsbury, Sherman, Van Winkle, Williams, and Wilson—20.

ABSENT—Messrs. Anthony, Ferry, Guthrie, Hendricks, Nye, Sprague, Trumbull, Willey, and Yates—9.

So the amendment was concurred in.

The next amendment made as in Committee of the Whole was to add to the bill:

But nothing herein contained shall be construed to require any additional provisions of law in order to authorize the levy and collection of said tax upon all such cotton grown therein after the said year.

The amendment was concurred in.

The next amendment made as in Committee of the Whole was to insert at the end of the bill:

Provided, That the duty on raw cotton imported from foreign countries on and after April 1, 1868, and until April 1, 1869, shall be suspended.

Mr. FOWLER. I should like to have the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas, 24, nays 12; as follows:

YEAS—Messrs. Cattell, Chandler, Cole, Conkling, Conness, Corbett, Doolittle, Drake, Fessenden, Fowler, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Sherman, Stewart, Sumner, Thayer, Van Winkle, Williams, and Wilson—24.

NAYS—Messrs. Buckalew, Cameron, Davis, Dixon, Howe, Johnson, Norton, Pomeroy, Ramsey, Saulsbury, Tipton, and Wade—12.

ABSENT—Messrs. Anthony, Bayard, Cragin, Edmunds, Ferry, Frelinghuysen, Grimes, Guthrie, Harlan, Henderson, Hendricks, Nye, Ross, Sprague, Trumbull, Willey, and Yates—17.

So the amendment was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HOWARD. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 12; as follows:

YEAS—Messrs. Buckalew, Cattell, Cole, Corbett, Cragin, Davis, Dixon, Doolittle, Edmunds, Fowler, Frelinghuysen, Grimes, Henderson, Johnson, Morgan, Morrill of Maine, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ross, Saulsbury, Sherman, Van Winkle, Williams, and Wilson—25.

NAYS—Messrs. Cameron, Chandler, Harlan, Howard, Howe, Morrill of Vermont, Pomeroy, Ramsey, Stewart, Thayer, Tipton, and Wade—12.

ABSENT—Messrs. Anthony, Bayard, Conkling, Conness, Drake, Ferry, Fessenden, Guthrie, Hendricks, Morton, Nye, Sprague, Sumner, Trumbull, Willey, and Yates—16.

So the bill was passed.

Mr. MORTON. On the vote just taken I am paired off with Senator HENDRICKS.

On motion of Mr. SHERMAN, the title of the bill was amended so as to read: "An act to provide for the suspension of the internal tax upon cotton, and for other purposes."

HOUSE BILLS REFERRED.

The bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866 was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The bill (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits was read twice by its title, and referred to the Committee on Finance.

The joint resolution (H. R. No. 136) providing for the sale of iron-clads was read twice by its title, and referred to the Committee on Naval Affairs.

The bill (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States, was read twice by its title.

Mr. CONNESS. I move that that bill lie on the table. A like bill has been referred to a committee of this body heretofore and not reported. I move that it lie on the table; and I give notice that I shall move to call it up at an early day.

The motion was agreed to.

On motion of Mr. BUCKALEW the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 7, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

SALE OF A MILITARY SITE.

Mr. SCOFIELD, by unanimous consent, introduced a bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania; which was read a first and second time, and referred to the Committee on Military Affairs.

REVENUE REPORT.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting the report of the Special Commissioner of the Revenue; which was referred to the Committee of Ways and Means, and ordered to be printed.

SURVEY OF KENAY ALASKA.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting copies of letters from the Secretary of War *ad interim* and General Halleck relative to the survey and bringing into market of land in the peninsula of Kenay Alaska; which was referred to the Committee on Public Lands, and ordered to be printed.

TENNESSEE CONTESTED-ELECTION CASE.

The SPEAKER also laid before the House additional evidence in the Tennessee contested-election case of Powell *vs.* Butler; which was referred to the Committee of Elections.

PAYMENT OF BOUNTIES.

The SPEAKER stated that the first business in order was the consideration of House bill No. 331, to facilitate the payment of soldiers bounties, under act of 1866, on which the gentleman from Indiana [Mr. WASHBURN] was entitled to the floor.

Mr. WASHBURN, of Indiana. With the consent of the gentleman from Illinois [Mr. LOGAN] I withdraw his substitute and move for it the following:

That the Secretary of the Treasury be, and he is hereby, directed to employ by transfer or otherwise a sufficient number of additional clerks, not less than fifty, in the division of the Second Auditor's office of the Treasury Department, furnishing information to the Paymaster General in regard to soldiers claiming bounty under act of July, 1866, to speedily pay said bounties, to be continued so long as there is a necessity for the same, giving in all cases preference in said employment to soldiers and sailors honorably discharged from the service of the United States.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed to procure and to provide adequate and convenient rooms for all clerks employed in the examination of the muster-rolls in said office.

SEC. 3. *And be it further enacted*, That the Assistant Treasurer of the United States in the city of New York be, and he is hereby, directed to pay duplicate checks, upon notice of the loss of the original check or checks, under such regulations as the Secretary of the Treasury may direct.

Mr. PAINE. In conformity with an arrangement with the chairman of the committee I withdraw the amendment I proposed yesterday.

Mr. LOGAN. My substitute covered all the bounties to soldiers, while this only applies to those under the act of 1866. I hope this pending substitute will be amended so as to cover as much ground as mine did.

Mr. PAINE. The gentleman from Illinois would defeat by the amendment he suggests the very purpose which he entertains in common with the rest of us in this matter. If we only direct the Secretary of the Treasury to employ fifty additional clerks for the settlement of the entire bounty business the work may not be performed, because there are employed upon this bounty business a large number of clerks, not merely to examine those bounty claims which come from the pay department, which are the bounty claims of living soldiers, but also to settle the cases of claims made by the widows and heirs of deceased soldiers and others. The entire number employed in settling claims of all kinds is now about one hundred and seventy-five, and if the fifty additional clerks may be employed in any or all of these duties it may be necessary to increase the number, if increased at all, in a much larger proportion. If he shall, therefore, put as the limit to the entire number positively ordered to be employed for this whole work fifty clerks, he may not have provided a sufficient force. I think myself that the Secretary of the Treasury or the Second Auditor might properly have full power to increase the number so as to meet the necessities of the case so far as all of these claims are concerned; but I should be unwilling to limit the number peremptorily required to fifty. I think it is necessary that we should add at least fifty for the specific purpose of furnishing information to the Paymaster General to enable him to pay these bounties, the payment of which devolves especially on his department under the law.

Mr. LOGAN. I did not expect a discussion upon this point. I merely made the suggestion with a view of having the bill made to conform in this respect to my substitute; but I have no disposition to press it at all, and will withdraw the suggestion. I am ready to vote for the bill as it is.

Mr. WASHBURN, of Indiana, resumed the floor.

Mr. ARNELL. I desire to submit an amendment to the bill.

Mr. WASHBURN, of Indiana. I will yield to hear it read.

Mr. ARNELL. It is to insert the following as an additional section:

SEC. —. *And be it further enacted*, That all claims of colored soldiers for bounty and back pay be, and are hereby, transferred both for examination and payment to the Commissioner of Refugees, Freedmen, and Abandoned Lands.

I ask the gentleman to allow me a moment to explain the necessity of that amendment.

Mr. WASHBURN, of Indiana. How much time do you want?

Mr. ARNELL. Five minutes.

Mr. WASHBURN, of Indiana. I yield the gentleman five minutes.

Mr. ARNELL. I desire to say a word about the necessity of this amendment. I represent these men, and have given a careful examination to this whole matter; aye, have been importunate in my solicitations at the different departments in order to secure payment, and immediate payment, of these bounties. I have come to the unwilling conclusion that very little interest is felt in some quarters respecting them. Perhaps a new instance of the world-old story, very little sympathy and less attention to the poor who can be put off!

I desire that my amendment should be adopted for two reasons: first, because it will facilitate the payment of bounties to all soldiers, white as well as black. It takes away and conveys to another department for adjustment and settlement ninety thousand claims.

Secondly, it will be the means of the immediate settlement of these colored claims. I know whereof I speak. General Howard, aware of the extreme necessity to which these men are reduced, and what a god-send it would prove to them, is willing to accept the task and duty of payment. Under his charge the energy and dispatch requisite will be given. I assure this House that the weightest reasons exist against any further delay. The colored soldier of the South stands to-day in a worse condition

than when he stood before Petersburg or Nashville. Then he stood only before the rebel bullets, and for himself to-day the same bullet is as unerring and well-nigh as rapid. I saw with my own eyes but two weeks prior to the November meeting of this Congress a man with twelve buckshot in his shoulder for the crime of voting as he desired. He had made a journey of twenty miles to escape his assassins, and stood with a pitiful group of children around him, homeless and penniless in the streets, and told me that the only property he had in the world was an unpaid bounty claim! Out of five hundred colored soldiers in my own county up to the meeting of Congress seventeen had been paid—seventeen! Yet these claims have been months and months before the Department. There is no mistake in this matter. The families of these men stand to-day facing starvation. Not that they are lazy and will not work; on the contrary many families have lived on bread and water, and in one instance that I know of produced twenty bales of cotton—twenty-five per cent. of it went to the Government in payment of taxes, the balance to the land-holder and to pay for bread and meat consumed during its production. Pay this pittance of bounty and it will secure a mule or horse for next year's crop. Instead of charity let the Government pay immediately and without delay its obligations—this will be better than charity. When I see millions asked for and voted away in this Hall to supply this and that deficiency I shudder. We may stop our ears to an importunate appeal, yet if it be a cry of justice God hears it. Gratitude, justice, and honor require of us the satisfaction of this obligation. Heart-sick, with "hope deferred," these soldier-children of the Republic drag out a weary existence.

But I am told that this disposition will take the matter out of the Treasury Department. It has already been taken out in a more important particular. By action of the last Congress General Howard was intrusted with the payment of these claims after their examination by the Auditor's department. Why not let him examine as well as pay? I hope that the House will agree with me in this "bread and meat" question, this life and death matter to ninety thousand soldiers.

Mr. WASHBURN, of Indiana. I cannot allow the amendment to be offered.

Mr. KERR. Will my colleague yield to me for a moment?

Mr. WASHBURN, of Indiana. For what purpose?

Mr. KERR. For the purpose of making a few remarks with reference to the amendment which I offered yesterday.

Mr. WASHBURN, of Indiana. How long do you want?

Mr. KERR. Five minutes.

The SPEAKER. The Chair will state to the gentleman from Indiana [Mr. KERR] that his amendment fell by the withdrawal of the amendment to which it was moved as an amendment. It is not, therefore, now before the House.

Mr. KERR. Then I ask my colleague to permit me to offer it now.

Mr. WASHBURN, of Indiana. I cannot allow the amendment to be offered, but I will yield my colleague ten minutes if he wants to talk on it.

Mr. KERR. I have no desire to speak upon the amendment if it is not before the House.

Mr. WASHBURN, of Indiana. I demand the previous question.

The previous question was seconded, and the main question ordered.

The substitute was agreed to.

The bill was then ordered to be engrossed and read a time third time; and being engrossed, it was accordingly read the third time.

Mr. MUNGEN. Would it be in order to call for a division of this question?

The SPEAKER. A bill cannot be divided.

Mr. MUNGEN. I would like to have a separate vote upon the last section of the bill.

The SPEAKER. A bill, unlike a resolution, cannot be divided.

Mr. WASHBURN, of Indiana. I call the previous question upon the passage of this bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SALE OF GOVERNMENT IRON-CLADS.

The SPEAKER. The morning hour has commenced. The first business in order is the call of committees for reports.

Mr. PIKE, from the Committee on Naval Affairs, reported back a resolution referred to them, with an amendment by way of substitute, to strike out all after the enacting clause, and to insert the following:

That the Secretary of the Navy be, and he is hereby, authorized to dispose of such iron-clad vessels as in his judgment are not required by the interests of the service, at a price to be determined by appraisal to be made by a board of not less than five naval officers, two of whom shall be engineers; and report shall be made to Congress as fast as said vessels are sold, and the amount realized from such sales, and the parties to whom sold.

Mr. PIKE. If no one desires information upon this subject——

Mr. SCOFIELD. Ought there not to be a clause in this joint resolution providing that the proceeds shall be paid into the Treasury? Without such a provision these proceeds would remain in the Secretary's hands.

Mr. PIKE. I have no objection to such an amendment.

Mr. SCOFIELD. I move to amend by adding the words—

Provided, That the proceeds of all such sales shall be paid into the Treasury of the United States.

The SPEAKER. The Chair would suggest to the gentleman from Maine [Mr. PIKE] that as the original resolution has no title it might be well to regard this substitute as an original resolution.

Mr. PIKE. Very well; I will report it as an original resolution.

The SPEAKER. The joint resolution will be regarded as having been read a first and second time. The question is upon ordering it to be engrossed and read a third time. The pending question is upon the amendment of the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. WASHBURNE, of Illinois. I would like to inquire of the gentleman from Maine, [Mr. PIKE,] the chairman of the Committee on Naval Affairs, the number of iron-clads thus proposed to be sold, their names, the amount of money they have cost, under whose direction they were built. I think all such information should be given to this House.

I have examined sufficiently into this matter to know, or at least to be satisfied in my own mind, that there have been the grossest abuses practiced in this business of iron-clad vessels. I would suggest to the chairman of the Committee on Naval Affairs that he should suspend action on this measure for a short time until the conclusion of an investigation now going on before the Committee on Appropriations, which, I think, will disclose to the House the true situation of matters in the Naval Department, particularly as connected with these iron-clads.

Mr. WOOD. I would suggest to the gentleman who has charge of this measure that it would be well to provide that this board of appraisement shall fix a minimum price at which they shall be sold. I think such a provision is necessary to protect the Government.

Mr. PIKE. I will state to the House the present position of this part of our naval force, so that if members will listen for a few moments they can appreciate the value of the suggestion of the gentleman from Illinois, [Mr. WASHBURNE,] as well as the suggestion of the gentleman from New York, [Mr. WOOD.]

We have now fifty-four iron-clad vessels laid up at various places and in charge of larger or smaller forces, and in the aggregate at considerable expense and of course at a constant and large depreciation in value. Those iron-clads are laid up as follows: at League island, twenty-one; at New Orleans, eight; at Mound City, eight; at Washington city, five; at Boston, four; at San Francisco, two; at New York city, three; and at Philadelphia, three; in all fifty-four. Those at New Orleans, as well as those at Mound City, are kept by a considerable force and at a considerable cost; I am not able to say how much. Part of these vessels are iron vessels and part of them are wooden vessels, and I do not know which depreciates the faster of the two. At any rate there is a very considerable depreciation in both. Of course they are kept in as good order as possible, with a view to future use or future sale.

A portion of these vessels were made in the Government navy-yards, such as the Miantonomah, Monadnock, and that class of vessels. Those it is not proposed to sell. They are a valuable class of vessels, which it is proposed to have retained by the Government.

But there are a large number of smaller vessels built by contract. They are more or less useful in time of war. The gentleman from Illinois [Mr. WASHBURNE] says that there were great frauds in regard to the construction of those vessels. But that is not a material question in the disposal of them. Whether there were such frauds or not I am not able to say. There was discussion about the matter when those vessels were made, and has been since. Large claims were made for extra compensation for building those vessels, and very considerable discussion was had as to the value of them. Quite a large number of them were the light-draught monitors, as they were called; and there was a great deal of discussion as to whether or not they were of any value.

Mr. MAYNARD. I desire to put an inquiry to the gentleman. If these vessels are sold whom does the gentleman expect to be the purchasers?

Mr. PIKE. I was going on to state that.

The present condition of these vessels is such as I have stated. Now, it is manifestly, as it seemed to me and to the committee whose organ I am, for the interest of the Government to dispose of a large portion of them. We can, in case of necessity, produce a better class of vessels; for, in addition to the vessels I have enumerated, we have a number of iron-clads on the stocks in a state of partial completion that can be put to sea in a very short time. But there is no probability that in case of a foreign war we should not be allowed some warning—a warning of some months, and it might be longer—to prepare ourselves for action. But whether or not there is a probability of war, it is very well to dispose of a portion of these vessels and take our chances at the time. Each gentleman can judge for himself as to the probability of war.

Now, then, as to finding purchasers. Very happily for the vessel market other nations are greatly disturbed, and the demand for vessels arises from their apprehensions of future disturbance rather than existing hostilities. Last year there were apprehensions of difficulty between France and Prussia; and France immediately reënforced her navy by a purchase of two of our larger class vessels. Now, some of the smaller Powers of Europe are in trouble, both existing trouble and apprehended trouble, and they wish to purchase some of the smaller class vessels. The South American Governments are in the same condition, and they wish to make purchases. Last week there were several applications to the Navy Department (some of them the renewal of previous applications) for some of these smaller class iron-clad vessels. In this way opportunity is offered for the sale of these vessels, such opportunity as we may not have by and by under more peaceful circumstances. Of course there are but few people in the world who wish to purchase iron-clads.

Mr. MAYNARD. I supposed when I made

my inquiry that the market which the gentleman contemplated was what he has now explained, and I would inquire whether, in the opinion of the Committee on Naval Affairs, it is a wise policy for us to sell the vessels constituting our naval armament for the benefit of other Powers? The gentleman has alluded to the sale of the Dunderberg to France. If I am correctly informed that vessel proved to be one of the staunchest and best sea-going vessels ever built on this continent. Her transfer to France goes to weaken our Navy and to strengthen that of a powerful maritime rival. I submit to the gentleman whether we can afford to pursue that kind of policy—whether it is wise? If these vessels are too expensive for us to keep would it not be better to break them up and sell them for whatever we could get for the material rather than to send them into other parts of the world to strengthen other naval Powers that might in some contingency turn our own weapons against us?

Mr. PIKE. The gentleman from Tennessee [Mr. MAYNARD] will recollect that the Dunderberg never constituted a portion of our Navy.

Mr. MAYNARD. I am very well aware of that; but she was built for our Navy, and was expected to be a powerful addition to it, and according to my information would have been such had we retained her on this side of the water instead of allowing her to be sold to a rival Power.

Mr. PIKE. The question in relation to the Dunderberg was whether we should purchase her or allow some one else to purchase her. About one million dollars had been advanced upon her——

Mr. MAYNARD. Was not the question whether we should pay for her, she having been built for our service, or refuse to pay for her and allow the builder to go elsewhere in search of a purchaser?

Mr. PIKE. The question was whether, having made advances, we should complete those advances and thus purchase the vessel or allow somebody else to purchase the vessel. The latter appeared the wiser course; and Congress by a special act decided to release the builder upon his refunding the amount already paid to him.

I will say, in reply to the gentleman from New York, [Mr. WOOD,] who proposes that these vessels shall be sold at public auction, that this resolution provides for the selling of any of these vessels after valuation, because it has been found, after trial of selling vessels which had been in the merchant service by public auction, the Government could never realize more than the appraised value. Of course we should not send them for sale to public auction without fixing the minimum price at which they should be sold. By the gentleman's plan, therefore, we would gain nothing, while we might lose the opportunity for their sale at a good price.

Mr. WOOD. Mr. Speaker, I am in favor of the resolution reported from the Committee on Naval Affairs. It is but carrying out a policy which I think the whole country demand at this time—general retrenchment in all the expenses of the Government. I think, sir, that retrenchment should be immediately applied to every Department—to the War Department, to the Navy Department, and to all the civil Departments of the Government. Therefore I am in favor of the sale of these vessels. Nor am I frightened by the considerations which the gentleman from Tennessee [Mr. MAYNARD] presents, that possibly we may sell some of these ships to rival maritime nations, and thus strengthen them and weaken ourselves.

I think, sir, the sooner we bring back the Government to the plain old republican economic basis upon which we started the better. It is unnecessary to take this occasion to refer to the enormous burden of taxation now needed to defray the expenditures of the Government on a peace basis.

Now, sir, I am in favor of the sale of these ships, and I should apply in the disposition of these ships the rule that a merchant would under like circumstances resort to in the sale of his commodities—I would place these vessels in open market, and for general competition. I would, indeed, invite all the nations of Europe, if they desired any of these vessels, to purchase them if they will pay more than individual buyers. The Governments of Europe are now buying ships built in our private yards. They have taken the Dunderberg and they have taken other vessels; and my word for it if these ships come into the hands of private buyers they will resell them to the Governments of Europe. I would, in the resolution for the sale of these ships, incorporate a provision granting sufficient time for public advertisement to the whole world to let them all know that these ships are for sale. I would have the board provided in the resolution fix the minimum price at which they should be sold. I would then place them in public market to be sold at public auction to the highest bidder. I would do it immediately. I would not wait for the information asked for by the gentleman from Illinois, [Mr. WASHBURNE,] although it is proper for the country to know the profligacy and willful extravagance that during the last five years have been manifested in every Department of the Government, not only in reference to the building of ships, but everything. I would not wait for that information so far as the sale of these gunboats. It should be immediate, and all attempts at combination to take the property of the Government at one fifth its value should be defeated. General publicity should be given to the sale, and instead of only allowing the Governments of Europe to come into the public market I would invite them to do so.

It is a question of economy. We have useless property which cost us a great deal of money. We do not want it. We want to put money into the public Treasury. Therefore it is I hope the gentleman from Maine will receive the amendment that my friend from Indiana has to offer.

Mr. KERR. I submit the following amendment:

Amend by adding:

And said vessels shall be sold only at public auction, and for not less than their appraised value fixed by such board, after such advertisement as the Secretary of the Navy shall deem proper.

Mr. PIKE. I decline to yield for that purpose.

Mr. MAYNARD. Mr. Speaker, these vessels we propose to sell are part of the active Navy. The gentleman has, doubtless, as most of us have, seen them. They bear the scars and marks of honorable warfare in many a fight. They are associated intimately and closely with much of the best action of our Navy, and, sir, I do not feel disposed by any action of mine to see them go abroad, to be taken from under our flag and the flag of a foreign nation placed over them. Brave men fought upon their decks and brave men died there. It is part of the glory and honor of the nation that we are to sell to put money in the Treasury. Suppose the original Monitor herself were here—unfortunately she is at the bottom of the sea—would the gentleman from New York think it economy to put her into the market, giving the widest and longest notice to see how much money the nations of the earth would bid for that wonderful memento of our naval renown? If his idea of economy lies in that direction, let us go down here to Annapolis to the Naval Academy and take the old Constitution, that we have been rebuilding and refitting at such expense and put her up for sale. Doubtless we can find purchasers at a good price. Then there is the Macedonian, that in the last war was captured under the flag of Great Britain; put her into the market and I doubt not there would be agents of that Power that would buy up that vessel at almost any price.

I submit that there are some things that men, and nations as well as men, cannot afford to sell for money, and one of those things is the national honor, glory, and renown which is symbolized in these scarred armored vessels that lie at our various wharves, and which, as I understand the gentleman, he proposes to put into the market to sell to go under a foreign flag. If they must be sold, if they must disappear from our Navy, let them disappear entirely from the navies of the earth, let them no more float upon the sea, but break them up and sell the materials for the best that we can get for them and put that money into the Treasury.

I am opposed to this measure, if I understand it correctly. It strikes me most painfully. It strikes me as most unwise, unpatriotic, and every way injudicious.

Mr. WOOD. May I ask the gentleman a question?

Mr. MAYNARD. Undoubtedly.

Mr. WOOD. The gentleman refers to the scars which these vessels now bear. I would ask him whether the tax-payers of the country have not been pretty well scarred, and whether he is not aware of the fact that very few of the vessels which it is proposed to sell were in any engagement whatever?

Mr. MAYNARD. I am well aware that the tax-payers of this country have been scarred. I am very well aware that the marks of treason are upon the face of this nation elsewhere than upon the decks and sides of her armored vessels. I am not aware that very few of the vessels now proposed to be sold were engaged in the actual defense of the country, and do not bear the marks of bullets fired from treason's guns. In the case of the Dunderberg these considerations did not prevail, because she had never been in the service; she had never been practically in the Navy. This sentiment, if you please, this principle, did not attach to her. It was purely a matter of policy in her case as to the strength of our Navy in comparison with the navies of the earth; but I submit that these ships that have done gallant service in so many fights cannot be sold without great disadvantage to the *morale* of our Navy and to the honor of our country.

Mr. PIKE. After a remark or two I shall call the previous question. I will say in reply to the gentleman from New York [Mr. WOOD] that we do not propose to make an inventory of our goods and dispose of them, as a house-clearing operation, to the nations of Europe. We have no idea—and I trust that the House of Representatives has no idea—of disposing of the Navy of the United States. I know that personally I am as much attached to the Navy of the United States as any gentleman upon this floor. I have loved it from my youth, and I would do nothing, if I know myself, to deteriorate one particle from its power or to dim in the slightest degree the luster of its glory.

But in relation to these vessels let me say that we have a valuable Navy of iron-clad vessels that we do not propose to offer to the nations of Europe or to anybody else. There is no vessel on this list that we propose to sell that is worthy the attention of a first-class Power, so the gentleman from Tennessee [Mr. MAYNARD] may set at rest any apprehensions upon that score.

We have no vessel upon the list for sale that either Great Britain or France would wish to purchase of us were we disposed to sell any of them.

We have upon this list a number of vessels that not only never have been in any naval engagement, but have never been in the service. Of the fifty-four iron-clad vessels now in possession of the Government thirty-seven of them have never been in the service, consequently the eloquent remarks of the gentleman from Tennessee [Mr. MAYNARD] do not apply to them at all. They have never been engaged in battle, have never heard a hostile gun, have never been organized for any such purpose.

Mr. MAYNARD. Do I understand the gentleman to say that none of these vessels proposed to be sold have ever been in action?

Mr. PIKE. I say that of the fifty-four iron-

clad vessels thirty-seven of them have never been in service.

Mr. WOOD. Will the gentleman permit me to ask him a question?

Mr. PIKE. Very well.

Mr. WOOD. How does the gentleman propose to prevent these vessels, if sold, finally going into the possession of European Governments?

Mr. PIKE. I have no objection whatever to their going into the possession of European Governments. And from the knowledge which the gentleman himself has of the navies of Great Britain and France, and from my knowledge of the class of vessels proposed to be sold, I have not the slightest idea that either of those Governments would purchase any of them.

Many of these vessels were created for a special purpose, of light draft, intended to enter the barred harbors of the South, and to be run up rivers and inlets where there is but eight or ten feet of water. They are very useful for such purposes. But for the purpose of naval engagements with the war vessels of England and France, some of them measuring from five to eight thousand tons, no commander of the Navy would think of using these smaller vessels.

Now, I would say, in addition to what I have already said in reply to the suggestion of gentlemen on the other side of the House concerning the selling of these vessels by auction, that these gentlemen have as much confidence in the Navy Department as I have; and certainly I have no more confidence in that Department than they have.

But this measure is guarded by a provision to secure the judgment of five naval officers, men who will investigate this matter and fix a fair price upon this property. I do not apprehend that this sale will amount to more than eight or ten of these smaller vessels. A few, one, two, or three, may be sold to Greece, perhaps, to Italy, or to Paraguay or to Brazil, so as to adjust some little differences these Powers may have with their neighbors. They have a very high opinion of these iron-clads and wish to procure them.

Some of these Governments send their agents here, who go to the Navy Department to purchase. Should this joint resolution be passed into a law the Navy Department can organize a board to fix a price upon these vessels and they can then be sold. Now, for my part, with my view of the value of these vessels, the cost of keeping them, the depreciation they will suffer, &c., I would rather the Government should be cheated a very handsome percentage than to keep these vessels on hand. I would rather, after having obtained a fair valuation upon these vessels, discount twenty-five per cent. and sell them than to keep them.

Mr. MAYNARD. Does this measure contemplate the sale of the armament of these vessels?

Mr. PIKE. Not at all; only the vessels.

Mr. LAWRENCE, of Ohio. I desire to offer an amendment, which I think will meet the approbation of the gentleman from Maine [Mr. PIKE] and the approbation of the House.

Mr. PIKE. I will hear it read.

Mr. LAWRENCE, of Ohio. I desire to amend by adding the following:

No sale shall be made to any nation, directly or indirectly, which recognized the rebel confederacy as a belligerent power during the rebellion.

Mr. PIKE. I cannot yield for any amendment of that kind. Wherever we can find a purchaser I would sell. All the nations of the world, with one or two honorable exceptions, were against us. If we are going into the markets of the world to sell such vessels as we do not desire to keep, then let any nation buy them who can pay for them. I now call the previous question.

Mr. MUNGEN. Will the gentleman from Maine [Mr. PIKE] yield to me?

Mr. PIKE. I will yield for a question.

Mr. MUNGEN. I wish to move, if it be in order, the further postponement of this measure for one week. There seems to be more in it than at first sight would appear.

The SPEAKER. That motion cannot be made if the previous question is seconded.

Mr. PIKE. I insist on the demand for the previous question.

On seconding the previous question there were—ayes 62, noes 25; no quorum voting.

The Speaker, under the rule, ordered tellers; and appointed Messrs. PIKE and MUNGEN.

The House divided; and the tellers reported—ayes 62, noes 38.

So the previous question was seconded.

The main question was ordered; which was first upon the following amendment, offered by Mr. SCOFIELD:

Add to the joint resolution the following:
Provided, That the proceeds of all such sales shall be paid into the Treasury of the United States.

The amendment was agreed to.

The joint resolution as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being on the passage of the join resolution,

Mr. PIKE called for the previous question.

The previous question was seconded and the main question ordered.

Mr. MAYNARD. I call for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 89, nays 29, not voting 79; as follows:

YEAS—Messrs. Adams, Archer, Bailey, Baker, Baldwin, Beck, Benjamin, Benton, Bingham, Blaine, Boutwell, Boyer, Broomall, Buckland, Burr, Butler, Cary, Chanler, Coburn, Dawes, Driggs, Eggleston, Eldridge, Eliot, Farnsworth, Ferriss, Garfield, Getz, Glossbrenner, Gravely, Grover, Haight, Higby, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Julian, Kelley, Kerr, Kitchen, Knott, Laflin, Marshall, McCormick, McCullough, Mercur, Miller, Moore, Moorhead, Morrell, Morrissey, Newcomb, Nicholson, O'Neill, Paine, Perham, Peters, Phelps, Pike, Plants, Poland, Polsley, Price, Pruyn, Ross, Schenck, Scofield, Sitgreaves, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Stone, Taylor, Thomas, Upson, Robert T. Van Horn, Van Trump, Van Wyck, Ward, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodward—89.

NAYS—Messrs. Arnell, Beaman, Sidney Clarke, Cobb, Donnelly, Harding, Hawkins, Hotchkiss, Hunter, Judd, Kelsey, Ketcham, Koontz, William Lawrence, Loan, Loughridge, Lynch, Maynard, McClurg, Mungen, Nunn, Raum, Shanks, Taber, Trimble, Trowbridge, Van Aernam, Elihu B. Washburne, and Woodbridge—29.

NOT VOTING—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Banks, Barnes, Barnum, Blair, Bromwell, Brooks, Cake, Churchill, Reader W. Clarke, Cook, Cornell, Covode, Cullom, Dixon, Dodge, Eckley, Ela, Ferry, Fields, Finney, Fox, Golladay, Griswold, Halsey, Hill, Holman, Hooper, Richard D. Hubbard, Hulburd, Humphrey, Jones, George V. Lawrence, Lincoln, Logan, Mallory, Marvin, McCarthy, Morgan, Mullins, Myers, Niblack, Orth, Pile, Pomeroy, Randall, Robertson, Robinson, Sawyer, Selye, Shellabarger, Smith, Stewart, Taffe, Twichell, Van Auken, Burt Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and James F. Wilson—79.

So the joint resolution was passed.

Mr. PIKE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. ALLISON for one week.

WITHDRAWAL OF PAPERS.

Mr. MAYNARD asked and obtained leave to withdraw from the files of the House papers in the case of Samuel A. Graham and others.

Mr. CLARKE, of Kansas, asked and obtained leave to withdraw from the files of the House papers in the case of John McChestney.

ORDER OF BUSINESS.

The SPEAKER. The morning hour not having expired, reports are still in order from the Committee on Naval Affairs.

No further reports were presented.

The SPEAKER. The next committee in order is the Committee on Foreign Affairs. The Chair has been requested by the chairman of that committee [Mr. BANKS] to state that the committee was called together this morning informally on some important business, and is now engaged in the committee-room upon that business. As the committee has reports to make, it will be called to-morrow, if there is no objection.

There was no objection.

The call of committees was continued.

ROBERT CAVERLY AND OTHERS.

Mr. PERHAM. I am directed by the Committee on Invalid Pensions to move that the committee be discharged from the further consideration of the petition of Robert Caverly and others, of Lowell, Massachusetts, in reference to bounties, and that the same be referred to the Committee on Military Affairs.

The motion was agreed to.

JOHN CONNOLLY.

Mr. PERHAM, from the same committee, made an adverse report on the petition of John Connolly, asking for increase of pension to fifteen dollars; and the same was laid on the table.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, which announced that that body had passed a bill and joint resolution of the following titles; in which the concurrence of the House was asked:

An act (S. No. 4) for the relief of William Shunk; and a

Joint resolution (S. No. 83) for the appointment of Regents of the Smithsonian Institution.

G. H. ESTABROOK AND OTHERS.

Mr. PERHAM, from the Committee on Invalid Pensions, reported adversely upon the petition of G. H. Estabrook and others, for a modification of the pension laws in favor of orphans, &c.; and the same was laid on the table.

INCREASE OF PENSION.

Mr. PERHAM, from the same committee, reported adversely upon the petition of citizens of Stark county, Ohio, for increase of pension; and the same was laid on the table.

OREGON INDIAN WAR LOSSES.

Mr. PERHAM, from the same committee, reported back House bill No. 266, to reimburse citizens of Wasco, Umatilla, Union, Grant, and Baker counties, in the State of Oregon, for losses sustained by Indian depredations, and moved that it be referred to the Committee on Indian Affairs; which motion was agreed to.

HELEN L. GASS.

Mr. PERHAM, from the same committee, reported back adversely House bill No. 133, for the relief of Helen L. Gass; and the same was laid on the table.

JANE BOTSFORD.

Mr. PERHAM, from the same committee, reported back the petition of Jane Botsford, and moved that it be referred to the Committee on Military Affairs; which motion was agreed to.

JOSEPH B. CLARKE.

Mr. PERHAM, from the same committee, reported adversely upon the petition of Joseph B. Clarke; and the same was laid on the table.

JERUSHA SHARP.

Mr. PERHAM, from the same committee, reported back House bill No. 302, for the relief of Jerusha Sharp, and moved that it be referred to the Committee on Revolutionary Pensions and of the War of 1812; which motion was agreed to.

RESOLUTIONS LYING OVER.

The SPEAKER stated the next business in order was the consideration of resolutions lying over under the rule, the first being the following, offered by Mr. NEWCOMB, November 26, 1867:

Resolved, That the Secretaries of the Departments of State, Treasury, War, Navy, and Interior, be, and are hereby, directed to report to this House, at their

earliest convenience, the names and number of employés in their respective Departments, with the amount of salary and date of appointment in each case, and the State and congressional district in which they were appointed.

Mr. NEWCOMB demanded the previous question.

Mr. BROOKS. How large a book will it make?

Mr. WASHBURNE, of Illinois. The same information comes to us in the Blue Book, except perhaps the place of residence of appointees.

Mr. NEWCOMB. It is generally understood, I believe, that there is great inequality in appointments in the several Departments here in Washington, and the object of my resolution is to furnish the House with exact information, so each member may know.

It is suggested this information is in the Blue Book. It is possible some of it may be there, but few members see that book. I think the resolution is a proper one, and demand the previous question on its adoption.

Mr. JENCKES. I hope the gentleman will allow me a moment. I will state for his information that all he asks for is now in print, called for by the last Congress, in reports from the several Departments. It was printed and referred to the Committee on Retrenchment, and the document can be procured at the document-room.

Mr. WASHBURNE, of Illinois. Does the gentleman from Missouri press the resolution?

Mr. NEWCOMB. I do; and demand the previous question.

Mr. WASHBURNE, of Illinois. I move to lay the resolution on the table.

The question was put, and no quorum voted.

Tellers were ordered; and Messrs. NEWCOMB and JENCKES were appointed.

The House divided; and the tellers reported—ayes 55, noes 48.

So the resolution was laid on the table.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

KENTUCKY CONTESTED ELECTION.

Mr. UPSON, from the Committee of Elections, submitted a report on the contested-election case from the first congressional district of Kentucky, accompanied by the following resolutions:

Resolved, That G. G. Sims is not entitled to a seat in this House as a Representative from the first congressional district in Kentucky.

Resolved, That the oath of office be now administered to Lawrence S. Trimble, and that he be admitted to a seat in this House as a Representative from the first congressional district in Kentucky.

Mr. UPSON. I will say, by the request of the member of the committee from Missouri, [Mr. McCLURG,] that he wishes it announced that he does not concur in the report. As the contestant desires to be heard before the House I will not press the resolutions to a vote at this time, but I ask that the report be laid on the table and printed, and I give notice that I will call it up as soon as it is printed.

Mr. INGERSOLL. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

ADMIRAL THATCHER.

The first business on the Speaker's table was joint resolution (S. R. No. 7) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian islands; which was read a first and second time.

Mr. PIKE. I ask that the resolution be put upon its passage. It may gratify the king of the Sandwich islands.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONTRACTS FOR STATIONERY.

The next business on the Speaker's table was joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year; which was read a first and second time.

The joint resolution provides that it shall not be lawful in the present unsettled state of prices for any of the Executive Departments to make contracts for stationery or other supplies for a longer term than one year from the time the contract is made, and that whenever proposals for supplies have been solicited the parties responding to such solicitation shall be duly notified of the time and place of opening the bids and be permitted to be present, either in person or by attorney, and that a record of each bid shall then and there be made.

Mr. WASHBURNE, of Illinois. I think it very likely that that joint resolution ought to be passed, but I would prefer to have it referred to some committee with the privilege to report it back at any time. I move, if there be no objection, that it be referred to the Committee on Appropriations with leave to report it back at any time.

There was no objection; and the motion was entertained and agreed to.

HENRY GREATHOUSE AND SAMUEL KELLY.

The next business on the Speaker's table was a bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

JAIL IN THE DISTRICT OF COLUMBIA.

The next business on the Speaker's table was joint resolution (S. R. No. 80) in relation to the erection of the jail in the District of Columbia; which was read a first and second time.

The joint resolution authorizes and requires the Secretary of the Interior to suspend for a period of forty days from its passage all work upon the jail to be erected in the District of Columbia under the act of Congress approved July 25, 1866, and the amendment thereto approved March 2, 1867, and further directs the Treasurer of the United States to withhold for the same period the payment of any moneys appropriated for the erection of the jail.

Mr. INGERSOLL. If there is no objection I will ask that that joint resolution be now put upon its passage. I do not suppose that anybody in the House cares to hear any explanation of this joint resolution.

Mr. BROOMALL. I would like to hear some explanation of it.

Mr. INGERSOLL. All that can be said in explanation of it is that it is alleged that there has been some improper conduct on the part of some officers—I do not call to mind their name now—in regard to letting the contract for building this proposed new jail. It is alleged that it was not fairly done; that the contract was not made in the interest of the Government, but in the interest of the contractor, so that instead of costing the sum of $200,000, the amount originally appropriated, and to which the cost was limited by act of Congress, it will cost at least $400,000. In addition to that, it is said that the site selected is a very bad and obnoxious one. Consequently the Senate have passed this joint resolution, in which they ask the concurrence of this House. I propose now to call the previous question.

Mr. McCULLOUGH. Will the gentleman yield to me for a short time?

Mr. INGERSOLL. For a question.

Mr. McCULLOUGH. I want to say a few words upon this joint resolution; not merely to ask a question.

Mr. INGERSOLL. Very well; I will yield to the gentleman.

Mr. McCULLOUGH. A committee has already been raised to inquire into the legality of this contract. I understand there are a great many workmen now engaged in getting out stone and other material under this contract, who will be thrown out of employment should this joint resolution become a law. The contract has been made and signed by the Government and the contractors. I suggest to the gentleman from Illinois [Mr. INGERSOLL] whether it would not be better to defer any action on this joint resolution until after the committee which has been appointed to investigate the circumstances connected with this contract have made their report. In the meantime let the joint resolution be referred to the Committee for the District of Columbia.

Mr. INGERSOLL. It is feared that if no action is taken by Congress in reference to the suspension of this work all the contracts will be entered into for all the materials which may be required for building this jail; so that no matter what report may be made by the committee who are now investigating the question of fraud, so far as innocent parties are concerned, the contractors, their rights will have become vested. It is better that Congress should suspend this work now, when but little has been accomplished, and if there should be any damages resulting from this suspension let the Government respond to it. We had better pay $25,000 now as damages than to pay $200,000 for that which we do not want; especially when it is said that the site selected is a very bad one, and that if the jail is built upon the ground now selected, when the Capitol grounds shall have been extended to the limits now contemplated it will bring it within two blocks of the jail, and you will not be able to look from the east portico of the Capitol without seeing the jail; and I know that would not be a pleasant sight for the gentleman from Maryland [Mr. McCULLOUGH] or for any other gentleman.

Mr. McCULLOUGH. Will the gentleman allow me a moment further?

Mr. INGERSOLL. Certainly.

Mr. McCULLOUGH. I understand that all the contracts in regard to this jail have already been let. I think this measure should be considered by the appropriate committee before it is acted upon. In the course of a few days this committee which has been raised to investigate the letting of this contract I presume can make a report. I think this joint resolution, in violation of the contract made with the contractor, should not be passed until we have some evidence that there has been fraud or that the contractor is not ready and willing to perform his part of the contract. I therefore hope that this joint resolution will be referred to the proper committee, and be considered by that committee before it is passed by this House.

Mr. INGERSOLL. I desire to make one remark that I omitted to make when I was up before. It is alleged that all contracts whatever which may have been made have been made in utter disregard of the law which was passed authorizing the building of this jail. Now, if that be true and the parties to the contract knew that they were violating a law of Congress no vested rights can have been acquired under those contracts, and consequently they have no right to complain if we step in and stop the proceedings at this stage.

Now, I do not know whether anybody has acted fraudulently or not; but it is enough for me to know that it is so charged by responsible parties who have made affidavits of the fact, which have been laid before the committee, and which, I may perhaps say without doing injustice to anybody, make out a *prima facie* case. There has been yet no hearing of the other side; but my own opinion is that, in order to have a proper investigation and to do justice to the Government as well as all parties concerned, this contract had better be suspended.

I now call for the previous question.

Mr. WOOD. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. I suppose I must, as a matter of courtesy, yield to my colleague on the committee, [Mr. WOOD.]

Mr. WOOD. I desire to ask the gentleman why there is any necessity for immediate action upon this question before it has been duly considered by the appropriate committee of this House. By the gentleman's own statement it appears that there is something in this matter that we do not understand. The bill has never been referred to a committee. It has not been considered by the Committee for the District of Columbia. I think that committee should examine into the truth of the allegations which have been made before the House takes action upon the subject. I ask the gentleman whether he will not consent to have the bill go to the committee of which he is the chairman. If it is all right the committee will report upon it favorably, and then we can act upon it understandingly.

Mr. INGERSOLL. In ordinary cases I would have no objection to referring a bill of this character to a committee for investigation. But it seems to me that the object sought to be attained by the gentleman last on the floor will most certainly and speedily be accomplished by the suspension of the contract entered into under the law passed at a former session, because we shall immediately investigate the charges of fraud or bad faith in the making of their contract. But if the investigation be carried on without a previous suspension of the contract we know not how many new contracts may be made with parties who may be innocent parties contracting, as the gentleman from Maryland [Mr. McCULLOUGH] has suggested, for furnishing materials. We want to prevent any further proceedings of this kind till we have investigated the facts.

Mr. McCULLOUGH. Will the gentleman allow me one word further?

Mr. INGERSOLL. Yes, sir.

Mr. McCULLOUGH. As I understand, the Secretary of the Interior says that no contract has been made except strictly in accordance with the law; that the contract for building the jail was let to a man whom he did not know, and not to the person whom he would have preferred to have the contract. The man who obtained the contract was the lowest bidder; and it was for this reason that the Secretary of the Interior made the contract with him. Now, when this man contracted with the Government to build this jail, and is prosecuting the work under the contract, I submit to the chairman of the committee [Mr. INGERSOLL] whether we shall be acting equitably or justly if we suspend the contract, throwing the workmen out of employment at this season of the year, and perhaps ultimately ruining the contractor; and this, too, without a particle of evidence before the House that there has been any violation of the law in the letting of the contract or in carrying it out.

Mr. UPSON. Can the gentleman tell us what that contract will amount to when the work is completed?

Mr. McCULLOUGH. No, sir.

Mr. UPSON. Can any one?

Mr. McCULLOUGH. The lack of information in regard to the matter is the very reason why the bill ought to go to the committee. If the contractor violates the law or fails to execute faithfully the contract the Government can protect itself. If the contract has been made in violation of law, then I presume it is a nullity and the contractor cannot recover his pay under it.

Mr. UPSON. How could the gentleman tell he was the lowest bidder without knowing how much it is to amount to?

Mr. McCULLOUGH. The gentleman says $400,000. We do not know about that. Let it go to the committee and let that fact be inquired into. I make that motion.

Mr. INGERSOLL. I would rather take the vote first on my proposition on the passage of the resolution. I cannot yield for the motion to refer. If the House does not wish to pass the resolution it can vote it down.

Mr. McCULLOUGH. If the previous question be voted down I give notice I will move to refer the resolution.

Mr. INGERSOLL demanded the previous question.

The House divided; and there were—ayes 58, noes 26; no quorum voting.

Tellers were ordered; and Mr. INGERSOLL and Mr. McCULLOUGH were appointed.

The House again divided; and the tellers reported—ayes 66, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put.

The joint resolution was ordered to a third reading; and it was accordingly read a third time.

Mr. McCULLOUGH demanded the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 31, not voting 71; as follows:

YEAS—Messrs. Arnell, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Broomall, Buckland, Butler, Cary, Sidney Clarke, Cobb, Coburn, Cullom, Dawes, Dodge, Donnelly, Driggs, Ela, Ferriss, Garfield, Gravely, Harding, Hawkins, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Loan, Logan, Loughridge, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Plants, Polsley, Price, Raum, Ross, Schenck, Scofield, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taylor, Thomas, Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, and John T. Wilson—85.

NAYS—Messrs. Archer, Beck, Brooks, Burr, Chanler, Eldridge, Getz, Glossbrenner, Grover, Haight, Hotchkiss, Jenckes, Johnson, Kerr, Knott, McCormick, McCullough, Moorhead, Morrissey, Mungen, Nicholson, Poland, Pruyn, Sitgreaves, Spalding, Stone, Taber, Van Trump, Stephen F. Wilson, Wood, and Woodward—31.

NOT VOTING—Messrs. Adams, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Barnes, Barnum, Blair, Boutwell, Boyer, Bromwell, Cake, Churchill, Reader W. Clarke, Cook, Cornell, Covode, Dixon, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Fields, Finney, Fox, Golladay, Griswold, Halsey, Hill, Holman, Richard D. Hubbard, Hulburd, Humphrey, Jones, George V. Lawrence, Lincoln, Lynch, Mallory, Marshall, Marvin, Morgan, Mullins, Niblack, Nunn, Phelps, Pike, Pile, Pomeroy, Randall, Robertson, Robinson, Sawyer, Selye, Shellabarger, Smith, Thaddeus Stevens, Stewart, Taffe, Van Auken, Burt Van Horn, Ward, William B. Washburn, Welker, Thomas Williams, William Williams, Windom, and Woodbridge—71.

So the joint resolution was passed.

Mr. INGERSOLL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REGENTS OF THE SMITHSONIAN INSTITUTION.

The SPEAKER announced the appointment of Regents of the Smithsonian Institution on the part of the House for the present Congress: Mr. GARFIELD of Ohio, Mr. POLAND of Vermont, and Mr. PRUYN of New York.

TENNESSEE CONTESTED-ELECTION CASE.

The SPEAKER laid before the House further testimony in the Tennessee contested-election case of Powell vs. Butler; which was referred to the Committee of Elections.

MILLIKEN'S CASE.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting the report of Major General George H. Thomas in the case of one Milliken, a returned rebel, arrested for violation of his parole, &c.; which, on motion of Mr. ARNELL, was laid on the table, and ordered to be printed.

DESTITUTION OF SIOUX INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a report of the acting Commissioner of Indian Affairs relative to the great destitution of the Sioux Indians at Devil's lake, Dakota; which was referred to the Committee on Indian Affairs, and ordered to be printed.

DEPUTY COLLECTORS OF REVENUE, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting a report containing the names of deputy collectors and assistant assessors who have performed the duties of collectors, the amount of compensation received, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

ROBERT BUFFUM.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a letter of Robert Buffum, late of the twenty-first Ohio volunteers, who volunteered to perform very hazardous service during the war; which was referred to the Committee on Military Affairs, and ordered to be printed.

CHATTANOOGA ROLLING MILL PROPERTY.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting the draft of a joint resolution for the sale of the Chattanooga Rolling Mill property at Chattanooga, Tennessee; which was referred to the Committee on Military Affairs, and ordered to be printed.

PACIFIC RAILROAD.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a report from the chief of engineers relating to a bill for the relief of the Terminal Central Pacific Railroad Company; which, on motion of Mr. JULIAN, was referred to the Committee on Public Lands, and ordered to be printed.

SOUTHERN RAILROADS.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting the report of the officer of the quartermaster's department having the same in charge of certain information relative to southern railroads; which was referred to the select Committee on Southern Railroads, and ordered to be printed.

Mr. SCHENCK. Have we disposed of all the business on the Speaker's table?

The SPEAKER. There are two bills remaining.

Mr. SCHENCK. I hope they will be disposed of.

REGENTS OF THE SMITHSONIAN INSTITUTION.

The next business on the Speaker's table was joint resolution (S. R. No. 83) for the appointment of Regents of the Smithsonian Institution; which was read a first and second time.

Mr. GARFIELD. I ask that that resolution be acted on now.

The Clerk read the joint resolution, which provides that the vacancies in the Board of Regents of the Smithsonian Institution of the class other than members of Congress be filled by the appointment of Theodore D. Woolsey, of Connecticut; William B. Astor, of New York; John McLean, of New Jersey, and Peter Parker, of the city of Washington.

Mr. GARFIELD. I move the previous question on the joint resolution.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM SHUNK.

The last business on the Speaker's table was a bill (S. No. 4) for the relief of William Shunk; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURNE, of Illinois, moved to reconsider the several votes by which the various bills and joint resolutions taken from the Speaker's table were referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TAX ON DISTILLED SPIRITS

Mr. SCHENCK. I ask the permission of the House to report from the Committee of Ways and Means a little bill, which will be comprehended at once by every gentleman here. It is a bill to prevent frauds in the collection of the tax on distilled spirits. It is in advance of the general action of the committee on the subject of the revenue laws, and arises out of our conviction that this is a point upon which immediate action is required by the best interests of the country. I will ask to have the bill read, and then, if the House will entertain it at this time, I will make a short explanation and submit it to the House.

The bill was read. It provides that from and after its passage no distilled spirits in bond shall be withdrawn or removed from any warehouse for the purpose of transportation, redistillation, rectification, change of package, exportation, or for any other purpose whatever, until the full tax on such spirits shall have been duly paid, and repeals all acts and parts of acts inconsistent with its provisions.

No objection being made, the bill (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits was received and read a first and second time.

Mr. SCHENCK. Mr. Speaker, this bill virtually does away with the bonded-warehouse system. It will be observed that it provides that no distilled spirits in bond shall be withdrawn for any purpose whatever from a bonded warehouse without the tax being previously paid. The effect of this will be, in the first place, to release legitimately, if ever at all, the distilled spirits now in the bonded warehouses of the United States. We ascertain that there are about four hundred thousand barrels, amounting to twenty million gallons, thus locked up. Upon these twenty million gallons the legitimate tax would be $40,000,000. Therefore there are $40,000,000 waiting to be paid, which may or may not be paid, dependent upon the removal of this whisky from the bonded warehouse.

The effect of this bill if passed into a law will be this: the bonded-warehouse system will run itself out; to use a familiar illustration, it will "go dry" upon the removal of the successive lots of whisky and the payment of the tax upon them.

Then there is another class of warehouse, known as "warehouse A," at the distillery. Into this "warehouse A" goes the whisky directly from the still, and there it is accounted for for taxation. And if this bill be passed no whisky can hereafter be taken from this deposit at the distillery without previous payment of the tax. Thus no whisky from any source can possibly go upon the market until it is entitled to be fully regarded as free or tax-paid whisky.

Now, one word as to the causes which have led the committee to propose this remedy, this reform in the law, at this particular time, and in advance of their general action and report upon the subject of the internal revenue law. We find that a very large proportion of the revenues of this country ought to be obtained from distilled spirits. We find that the quantity of distilled spirits produced in the United States is variously estimated. Distillers, who want the tax reduced to twenty-five cents per gallon, say there are one hundred and fifteen million gallons annually produced in this country. Others, reasoning from data and information which seem to be reliable, suppose that from eighty to one hundred million gallons is the probable amount of production. The Special Commissioner of Revenue, upon data satisfactory to him, is satisfied that there is not more than fifty million gallons subject to taxation produced at this time.

It is known that prior to the late war about one hundred million gallons were produced. A very large proportion of that amount was used in the arts, and especially for the manufacture of the various burning fluids. But now petroleum supplies the basis from which those articles are made, and to a great extent the use of distilled spirits for that purpose is done away with.

On the other hand, we are satisfied that the production of whisky for consumption by drinking has increased since the commencement of the war, and since the tax was placed upon it.

However, put the production at the lowest estimated amount, fifty million gallons; at two dollars per gallon it should yield a revenue of $100,000,000. During the years 1866 and 1867 we received from this source a little short of thirty million dollars each year; about twenty-three million dollars during the past year. During that time the receipts have been running down, until it is perhaps fair to estimate that we do not now receive more than one tenth part of the revenue which we ought to receive from the tax on distilled spirits manufactured in this country.

The cause of this is that under the present law such enormous frauds have been committed it must be admitted on all hands the law as at present sought to be enforced is a failure. The first reason of this, of which we have abundant proof before our committee, is the want of integrity, character, and honesty in the various subordinate agents of the Government scattered throughout the country who are charged with the collection of the revenues.

I have become perfectly satisfied, from a long investigation, now continued for many weeks, that there is no fraud committed in connection with the collection of the tax upon distilled spirits that amounts to anything which would materially affect the revenue in any instance, except it be done with the connivance of some official, except it be by collusion between him and the party interested in the fraud. The reason is this: instead of men being selected because of their character, capacity, and fitness from their intelligence and knowledge for the places which they are called upon to fill as inspectors, or in any other of these subordinate capacities, they are selected for other causes, upon recommendations based upon other reasons in too many cases. Of course there are many honest and worthy exceptions. I speak, however, of these agents of the law in the aggregate.

But how can these frauds be committed even with the aid of dishonest officers? We find, upon an investigation commenced and conducted for some time by the committee generally, and afterward pursued by a sub-committee during the recent holiday vacation, that the most of these fraudulent practices—although they are multifarious in their character, although crime and wrong in this respect are hydra-headed, and ingenious, too, almost beyond the imagination of any man—the most of the practices of this character may be summed up in two classes.

I refer, in the first place, to the means which are practiced to remove distilled spirits clandestinely between the time when they pass through the worm of the distillery and the time, within a few hours afterward, when they should be deposited in what is called "warehouse A," being the warehouse at the distillery, where they are to be regularly accounted for with a view to taxation. This is done by removing the spirits in the night; by having duplicate keys to the receiving-room containing the cistern; by hiring the inspectors to be conveniently blind or unnecessarily absent when these things are carried on by those interested in committing the wrong. The committee is busy in the investigation of means to meet and counteract this class of practices by which the Government is defrauded of its revenues.

But there is another very large and various class of frauds committed under the opportunities afforded by this bonded-warehouse system; and they are so excessive, so general, and affect so materially the revenues of the country that when we became satisfied that in this particular at least the law ought to be at once amended I was instructed by the committee to report immediately a bill to correct the evil to this extent, in anticipation of the general report which we hope to make within a few weeks, and which will cover all matters connected with the internal revenue system.

Now, sir, these frauds have extended so far that they have practically resulted in preventing any legitimate distillation, or rather any distillation by honest men. We make a distinction between what is called "illegitimate distillation" and "illicit distillation." There are illicit establishments upon a small scale scattered throughout the country producing whisky, the production of which is not intended to be known to the officers of the law; but even the aggregate production in that manner does not, we think, very materially affect the revenues of the country. The distillation apparently legitimate, under license, at known establishments, where the officers of the law are, produce the whisky which pays in so great a proportion no tax to the Government that the price of whisky is brought down to a point below that at which anybody paying tax regularly can compete in the production. And one of the means by which this is done is taking advantage of this bonded-warehouse system. Now, when whisky is removed from bonded warehouse A, the warehouse at the distillery, it is removed from that point under a transportation bond to be reported to the collector in some district at a distance—perhaps in one of the cities—and there accounted for. Does it always get there? Very often it does not. Take a case (which I think will be established by proof as having recently occurred) in illustration of many similar cases, to show how, under these transportation bonds, frauds are committed.

A quantity of whisky—some eight hundred barrels—is started from a western town to the city of New York. It is shipped by rail upon the day after the first notice is given and a permit obtained for its shipment. It is discovered that while it will take that whisky four, five, or six days, or more, at the very least, to reach the city of New York, certificates are produced that the whisky has been at the proper warehouse in New York at a time when it was physically impossible it should have reached there. A few days afterward the warehouse is burned down. It is subsequently discovered that the whisky supposed to have been in that warehouse and destroyed with the other property there in bond never went to New York at all, but was switched off into Canada, passing by the Grand Trunk railroad, subsequently reaching Portland, and thence coming by sea to New York, where it was clandestinely put upon the market as "free whisky;" meaning whisky which has paid the tax. How is such a thing accomplished? By the fraud of the officers of the law who give false certificates. When, however, it was subsequently discovered that this whisky, which, after going upon its travels, reappeared as "free whisky," had in the meantime paid no tax whatever, charges of fraud were made against the shippers. The investigation which has grown out of this transaction may or may not show fraud upon the part of the shippers; it may or may not show that the collector of internal revenue at New York was cognizant of that which his subordinates, the keepers of the warehouse, did; but I believe it is unquestionable that in the case to which I am referring by way of illustration there was a pretense of sending whisky to a warehouse under a bond of transportation, while that whisky never reached the warehouse at all.

This is one way in which, when withdrawn for the purpose of transportation, whisky may get on the market and be treated as free whisky, and attempts even were made to make the Government pay for it—to stand the loss as if the Government had been in charge of it when the Government never had charge of it at all. That is an illustration of one of the hundred ways in which transportation bonds are really made of no consequence to the Government.

Then take the bonds given for the purpose of taking whisky out of a bonded warehouse

for redistillation or rectification. What takes place? Let me tell you one of the tricks practiced as an illustration. A rectifying establishment removes one hundred or fifteen hundred barrels of whisky from a bonded warehouse and gives a bond for its return after it is rectified, after redistillation or after change of package, if withdrawn for that purpose. That whisky never goes back into the bonded warehouse. It is good, sound, western whisky, perhaps worth some thirty or forty cents per gallon. Instead of putting it back into the warehouse, there is put back, as if it were the identical whisky, by connivance and collusion on the part of the officials, a quantity of whisky made perhaps from molasses worth seventy cents per gallon, and received because it is proof spirit. That seventy cent whisky, however, is a poor, miserable production, valuable only for the spirit it contains, and is never intended to be withdrawn from the bonded warehouse.

Then it may be said that the person who withdraws it loses in the transaction. Not at all. He gets out good whisky for redistillation or change of package worth thirty or forty cents, and escapes paying two dollars a gallon tax on it, and he puts it upon the market at from one dollar and fifty to one dollar and eighty cents. He sells it in that way, and can afford to let his seventy cent whisky go, thus making a net profit of fifty cents or more per gallon.

Bonds are given for the purpose of exportation. Lighters are employed to carry off the whisky to the ship, and it is made free of duty because it is to go abroad. But those lighters, instead of going to any vessel, pass around the island, land on the Jersey shore, come back, and the whisky becomes free whisky on the market; and the master of the vessel and consuls abroad are conveniently bribed, at a price which may be from five hundred to one thousand dollars, as these persons can afford to give a great deal, to furnish false papers and make it appear that the whisky was shipped and reached its point of destination or abode.

Now, it may be said if we take away the power to put the whisky on the market and to withdraw it from bond for that purpose we will break up the whole export trade. Not at all. Let those who get whisky for exportation pay the tax on it, and they will, as in the case of other articles subject to internal revenue tax, be permitted to have their drawback when the whisky actually goes abroad.

But if we broke up that trade altogether what would it amount to? Some gentlemen suppose a large amount of distilled spirits manufactured in the United States is sent abroad. The amount has never exceeded in any instance two millions through the long succession of years which have passed. In 1857 it amounted to two million one and sixty-seven thousand gallons. Then it ran down to a half million gallons. In 1861 and 1863 it rose to above two million gallons. This year, as far as I can estimate, it will sink below one million gallons; and if it were so that we would break up the export trade in distilled spirits it would not be worth considering as an argument against furnishing a more effective means to prevent fraud which might creep through that opening so as to collect a much larger portion of revenue to which the Government is entitled.

Now, sir, I might give further details which are exceedingly rich of the frauds and contrivances resorted to in order to evade the laws of the land. If they were not founded in so much corruption and rascality the ingenuity practiced in a bad cause would be often amusing. For instance: the Secretary of the Treasury a short time ago thought it expedient to attempt to suppress illicit distillation by offering a reward of $300 to any one who would furnish information which would lead to the detection and conviction of any one engaged in illicit distillation. It sets, of course, the illicit distillers bidding against each other. "I can get $300 for informing against you," says one; "I will give you $500 if you will not," says the other. My opinion of an informer, so far as my personal opinion of him is concerned, generally is that he is one who for pay will take either side, according as the pay is highest on the one side or the other, and he is quite willing to make terms with the distiller and take pay from him.

But it was about the ingenious way of obtaining the $300 reward that I was going to speak. There are probably in New York and scattered through the whole country small stills which cost perhaps from five to twenty dollars. Two men agree with each other to buy at a cost of fifteen or twenty dollars one of these little concerns, which will enable them to make, without paying the tax upon it, secretly in some garret or cellar or somewhere, two or three gallons of whisky per day, running a small mash in little tubs contrived for the purpose. Until the reward was offered it was their object to keep it secret, but, now there is a reward, the illicit distiller and his partner go to work and establish a still with the understanding that one shall run it and the other inform. [Laughter.] The penalty is that the distilling apparatus is forfeited to the Government, and thus the Government gets what at first cost was worth fifteen or twenty dollars and pays $300 for it, which the two partners divide. [Laughter.]

Now, I do not know that there is any plan by which we can secure the cunning, intelligence, and skill of all these men upon the side of the Government. As they fight us we must fight them. But we have deemed it proper, in view of this one great prominent opening and the opportunities of fraud arising from the continuance of the bonded-warehouse system, to anticipate any other action of the committee after these developments have been made to us to our full satisfaction, by proposing, as an immediate act of legislation, that we shall stop that leak at once, promising, when I make this proposition, that before many weeks we will endeavor to present some system by which other frauds shall be prevented, and by which the revenues of the country generally, without so much oppression as now exists upon individual citizens, may be collected with much greater satisfaction and to a greater amount. That, at least, is the hope of accomplishment that we are looking to. I will now hear my colleague. [Mr. MUNGEN.]

Mr. MUNGEN. I desire to ask only one question. I have no objection to coöperating with the Committee of Ways and Means in anything which will stop these frauds; but I see in the bill presented no penalties provided for a violation of its provisions. The committee may understand that violations of this law will be punished in the manner already provided for violation of the revenue laws. I do not know how that is; but it strikes me that the taking of distilled spirits out of a bonded warehouse without payment of the tax is a new crime, and a law without penalties, as a general proposition, is not of much force. I would ask the chairman of the Committee of Ways and Means what is his understanding with regard to the punishment for violations of this law?

Mr. SCHENCK. The bill does not create any offense. It simply provides that no spirits shall be removed without payment of the tax; but the law is full of penalties which will cover effectually this case if any one shall disobey the provisions of the bill. There is no difficulty on that account whatever.

I will say to my colleague—and I say this not for the committee, but as expressing my own individual opinion—that when we come to a revision of the general revenue laws with a view to penalties my idea will be to have less of confiscation, less of fines, less of seizures, and more of penitentiary. [Laughter.] Not the alternative left between penitentiary and milder punishments, but penitentiary absolutely.

Mr. MOORHEAD. I will go with you in that.

Mr. SCHENCK. I now move the previous question.

Mr. HUNTER. Will the gentleman yield to me for a few moments to submit a remark or two?

Mr. SCHENCK. I will do so, and then call the previous question.

Mr. HUNTER. Mr. Speaker, I am not opposed to the bill reported by the chairman of the Committee of Ways and Means, but I am opposed to this thing of piecemeal legislation. I am in favor of a general system embracing this whole subject as well as the special matter which is comprised in the bill which the gentleman has reported. Our internal revenue system is now so complicated by this mode of class legislation that it is almost an impossibility for any man to understand it. So many bills upon that subject have been passed of various kinds and at different times that now, when you take up our internal revenue system and undertake to study and understand it, it is almost an impossibility because of its complication, produced wholly by this species of legislation to which I have referred.

There is upon the table of each member here, and he will find it on his file of bills, a bill introduced by myself (No. 321) providing for a reorganization of the whole internal revenue system, placing taxation upon the luxuries and wealth of the country, and relieving the poorer classes and all articles consumed by them from its burden.

In connection with that bill is a system for preventing these whisky frauds. The substance of the bill now under consideration is embraced within its provisions.

In my judgment the bill of the gentleman from Ohio [Mr. SCHENCK] will not alone accomplish what he desires. As one gentleman has remarked, it provides no penalties for a disobedience of its requirements. And as long as you depend upon Government officers carrying out the laws upon this subject which we pass here you never will prevent whisky frauds.

I will briefly state, so that gentlemen will get the idea, the system which I propose for the preventing of these whisky frauds, and they will see that what the chairman of the Committee of Ways and Means [Mr. SCHENCK] proposes in his bill is embraced within the provisions of mine.

In the first place I provide for the manufacture of whisky and all other kinds of liquor, and throw only such restrictions around it as are absolutely necessary to prevent fraud. I next provide the means for its easy identification in the hands of the manufacturer and purchaser, and then provide in such way for the sale of this liquor that honest men may undertake its manufacture without any fear of being overwhelmed by the frauds that are now practiced by unprincipled men engaged in the business.

After thus providing for the legitimate manufacture of whisky, for its identification and sale, I then provide that every place where liquor is manufactured in violation of law, and every place where liquor so manufactured is kept for sale, storage, or for any other purpose, that the liquor shall not only be forfeited but the premises also upon which it is so manufactured or kept, provided that it is so manufactured or kept by the owner of the premises. If the owner of the premises does not so manufacture or keep it, but merely rents the premises to one who does, then the premises are not to be forfeited unless he is aware of the illegal use of the premises by the person to whom they are rented by him. But if he does know it, or receives notice of that fact and does not notify the Government of it within forty-eight hours after receiving such notice, then it is to be taken for granted that he consents to such use, and in that case his premises are to be forfeited.

I am satisfied that no system of relying upon Government officers can be devised by which you can prevent these frauds. A few days since I had a conversation with a man who said

he had once been a Government officer. I will not give the name of the man or place where he served. Where he was located there was a distillery that manufactured some two thousand gallons of whisky per day, the tax upon which was $4,000. The distiller went to the inspector, the assessor, and the collector, and said to each of them: "The Government pays you but five dollars per pay; I will give you $250 per day, and all that I ask of you in return is simply this: I will make out the reports fair upon their face, and I ask you merely to return those reports to the Government. I will make out papers showing that I manufacture two hundred gallons per day, and those papers I want you to return to the Government." The reports were so made out, showing that that distiller manufactured two hundred gallons of whisky per day, and those reports were sent to the Government, and the tax paid on them regularly. Yet in truth and in fact he was manufacturing two thousand gallons per day. So that after paying each one of these officers $250 per day, he was enabled to make himself by the transaction at least $2,500 per day—a very nice profit for any man who is engaged in the manufacture of whisky.

Now, in order to detect and prevent these frauds I do not propose to employ Government agents. But I propose in my bill that any man who detects these frauds, I care not who he may be, shall have everything he can make out of it after paying the Government tax. So that if any man keeps any of these little apparatuses, of which the gentleman from Ohio [Mr. SCHENCK] speaks, for the purpose of distilling whisky upon his premises, whoever detects it will then be entitled to all he can make out of it after the Government tax shall have been paid. No man, therefore, if his real estate is subject to be forfeited, can afford to permit whisky to be manufactured or kept illegally upon his property. It is impossible to buy up everybody. There are detectives by the hundreds and thousands, and if one set be bought up there comes in another hungry swarm. They cannot all be bought up. The frauds which, in spite of the penalties embraced in our legislation, that have been committed show conclusively that such frauds can never be stopped unless we adopt some stronger means than laws consisting merely of penalties. We must forfeit the lands where liquors are either illegally made or kept.

Now, as I have already remarked, the provision of this bill reported by the gentleman from Ohio [Mr. SCHENCK] is embraced in the system embodied in my bill. I am, therefore, not opposed to this bill, but rose merely to object to this piecemeal legislation. Let us not further complicate our internal revenue system by passing one day a bill embracing part of a system, the next day a bill embracing another part of the system, and so on until we get our legislation in such a shape as to require a "Philadelphia lawyer" to understand it. The committee by devoting a few days further to the subject can, I doubt not, agree upon an entire system that will meet the approval of this House.

There is another matter that I desire to mention in connection with this bill and all bills of a similar nature which is very unfair to members, and that is this: when any member of this House has devised a system and prepared with great labor a bill, however good it may be, if the committee to which the measure is referred picks out a little here and a little there, embodying these different portions in distinct bills, the member does not get any credit which may be due to him for the system which he has originated, but it all goes to the committee. I think that some credit is due to any gentleman who can devise a system which shall be sufficient to cure these frauds that have been robbing the Government of more than one hundred and fifty million dollars per year.

I will read that portion of my bill with which the provision of this bill precisely corresponds. I read from page 63 of the bill, referring to the bonded warehouse at the distillery:

That such liquors, after their inspection as aforesaid, may be sold from such premises where manufactured, or such bonded warehouse where stored, as such commissioner shall direct, and nowhere else until after the tax is paid.

All that I desired was to call the attention of the House to the fact that the provision of the bill reported by the gentleman from Ohio is embraced in the system embodied in my bill. I have no objection to the passage of the bill before us, except that I object to adopting a part of a system when we can as well adopt the whole.

Mr. SCHENCK. Mr. Speaker, I hope that the Committee of Ways and Means and I as their chairman will stand properly rebuked before the House. We were not intending to take out a patent for anything which had previously been patented by the gentleman from Indiana, [Mr. HUNTER,] or anything for which he had even entered a *caveat*. I think, however, that the idea of getting rid of the bonded warehouse system is not original either with him or with the Committee of Ways and Means. I think that all over the country, as the corroborative proof from all quarters shows, the conviction has been growing till it has become confirmed in the minds of all who have turned their attention to this subject, that this system is one of the prolific sources of fraud. The committee having come to this conclusion without having even read the bill of the gentleman from Indiana (and in this remark I intend no disrespect to him) we propose to put this patch, if it may be so called, upon the existing law—to stop one gap—because we think an emergency now calls for it.

Now the gentleman has had referred to the committee a bill which I have not yet had time to read. It perhaps embodies that very provision in effect; but the same thing has been presented to us in five hundred letters and petitions. We propose to give validity to the suggestion by putting it into the shape of law here now in order to stop, as I have already said, one of the gaps in the present law.

I think that the gentleman from Indiana is right that this legislation ought not to be done, if possible, by piecemeal, and it is not the intention of the committee to propose legislation in that way. But, as I have explained, here is one thing which requires immediate and prompt action. While they are, diligently as they know how, applying themselves to the investigation of all other matters connected with the revenue system, so as to be able to report a bill at the earliest day, they have thought it proper to ask the House to pass this particular legislation with reference to this particular emergency.

The gentleman's bill, I understand from other members of the committee, and, judging from what I have seen in it while he was speaking, contains many good things, but there are pages upon pages cut out from the present law.

Mr. HUNTER. Nothing in reference to whisky.

Mr. SCHENCK. There are whole pages now upon the statute-book. The bill has been made up, and has no doubt been well compiled. It may be moved as a substitute and substantially adopted by the House for the one reported by the committee. If so I shall not find fault with the gentleman's success. But I do not think it is quite fair for him to charge us with having taken an idea from him when it is an idea common to the whole country. I have not read his bill at all, but I shall do so.

Mr. HUNTER. I do not make any charge against the committee. I oppose legislation on this subject by piecemeal. The gentleman says he has not read my bill and I do not make any charge against him.

Mr. SCHENCK. Putting it merely upon the ground that the emergency requires the stopping of this gap in the present law previous to a general revision of the revenue system, I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHTS OF ADOPTED CITIZENS.

The SPEAKER laid before the House proceedings of a public meeting in Toledo, Ohio, in reference to the rights of adopted citizens; which was referred to the Committee on Foreign Affairs.

APPOINTMENT OF DEPARTMENT CLERKS.

Mr. LOGAN. I ask unanimous consent to offer the following resolution, and to say a few words in explanation of it:

Resolved, That the Committee on Retrenchment be, and they are hereby, instructed to report at the earliest practicable moment a bill, which shall provide for a bureau of civil service at Washington city, consisting of not less than three examiners; and which shall prescribe their duties, qualifications, salary, and term of office.

2. Which shall also provide the number of clerks to be employed in each Department at Washington, and for their apportionment among the several States, Territories, and the District of Columbia according to their representation in Congress or population.

3. Which shall provide by whom recommendations shall be made to said examiners for examination and nominations for positions in the various Departments.

4. Which shall provide that the preference in nominations for appointments for the majority of appointés from each State, Territory, or district, shall be given to soldiers or sailors who have faithfully served their country and been honorably discharged, having all the requisite qualifications as prescribed by the board of examiners or by law.

5. Which shall provide the time and mode of supplying the places in the various Departments in accordance with these suggestions of those whose places shall be made vacant by the provisions of said law.

6. Which shall provide the time when a complete change shall be made in accordance with said law in all the Departments of Government in Washington city.

7. Said bill shall not apply to the offices, clerkships, or employments under the various Departments except those within the District of Columbia.

The SPEAKER. Does the gentleman desire to make the explanation before the Chair asks if there is objection to the introduction of the resolution?

Mr. LOGAN. Yes, sir; I do not know that it might not take me longer than ten minutes, but I do not think it will.

Mr. KERR. I object to the resolution.

The SPEAKER. Is there objection to the gentleman having ten minutes to explain the proposition?

Mr. ELDRIDGE. It is not before the House.

The SPEAKER. The gentleman from Wisconsin objects.

Mr. WASHBURNE, of Illinois. I renew the motion that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the

PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN. The gentleman from Massachusetts [Mr. BUTLER] is entitled to the floor.

Mr. BUTLER. I will yield my time to the gentleman from Ohio, [Mr. CARY.]

Mr. CARY. Mr. Chairman, whatever diversity of sentiment exists in this House in regard to the public debt, the proper form and manner of its payment, we are united in the opinion that this debt must be paid to the uttermost farthing. Come what may, the nation's honor must in no way be compromised or impeached. We must not do or permit anything to be done which will impair confidence in the integrity of our national character. Public faith is the basis of all private faith, and national repudiation would result in universal demoralization. It is most unwise for any part of the community, and especially that portion understood to possess the Government bonds, to charge the intention of repudiation upon those who differ from them as to the legal, equitable, and just mode of payment. The

"mad dog cry" of repudiation should not deter any from carefully considering and discussing this subject. Persons with whom the term is so familiar should know that it requires no act or declaration of Congress to bring about such a catastrophe; that the whole matter would be resolved by the discovery that the resources of the country would not pay the interest, much less the principal, of the public debt in addition to the expenses of the Government, and the further discovery that the people would not impose upon themselves intolerable burdens to that end. The national debt is great and its burden very heavy, and the man who, by an unjust and forced construction of the law against the interests of the people, seeks to make the debt greater and the burden heavier is the pioneer of repudiation. They who claim that the principal of the $2,000,000,000 of the five-twenty bonds, payable in lawful money, are redeemable only in coin are doing more to debauch the morals of the country and blunt the sensibility to national honor than all other influences combined. Justice is the only sure foundation of public faith; and when the sense of justice is outraged the sense of obligation toward all by whom that outrage is attempted is weakened, if not destroyed. This is a principle of universal application, and we caution the bond-holders to beware lest the overburdened tax-payers shall have their sense of obligation so weakened by unreasonable exactions that they will entirely repudiate the debt which they now acknowledge to be just. Let any candid man take a six per cent. five-twenty bond and a five per cent. ten-forty bond, examine them and the laws authorizing their issue, and say, if he can, whether the principal of both is payable in the same manner. It is not possible for him to avoid admitting that there is a difference. What is the difference? The law authorizing the five per cents. expressly provides for the payment of the principal and interest in coin, while the law authorizing the six per cents. (five-twenties) declares that the interest shall be paid in coin. If the principal as well as the interest of the latter was payable in coin, why not either so have declared or say nothing about how the interest should be paid? When he turns to the law providing for the issue of legal-tender notes (and the fact is published on the back of every note issued) he finds that they are receivable as money for all debts, public and private, except interest on the public debt; that is to say, for all debts, public as well as private, except that which Congress had declared specifically should be paid in gold; and no such declaration has been made about any debt of the United States, except the interest on the bonded debt and the principal and interest of the five per cent. (ten-forty) bonds.

When these laws have been carefully examined let the honest searcher after truth get an old advertisement by the agents of the Treasury of the Government loans, in which he will find that capitalists are urged to invest in the five per cents., (ten-forties,) because both principal and interest were payable in gold; and then let him forever after hold his peace and no longer gabble over the dicta of any man momentarily raised over the heads of the people on the pedestal of office. Let him not exchange his common sense for the declarations of distinguished gentlemen about the "general understanding" that the principal as well as the interest of the five-twenties was to be paid in coin when it is manifest that the law never could have been so understood by any one who had any understanding to exercise. And let him not act in such bad faith to the holders of the five per cents., who were willing to loan their money to the Government at one per cent. less rate of interest for the very reason that the principal as well as the interest was payable in gold. I say in such bad faith, for these holders of the six per cents. ought to know that in setting up this claim they are placing in jeopardy with their own property the five per cents., about whose payment in gold there is no dispute. Yes, Mr. Chairman, they are the repudiators, and not those who seek to lighten the burdens of the people by paying the debt in legal tenders or in any other method consistent with the law creating such debt. I am aware that Mr. Chase, then Secretary of the Treasury, did say that it was fair to conclude that these bonds would be paid in coin, as it had always been the practice of the Government thus to pay its funded debt. The very fact that he was consulted about the construction of the law and the practice of the Government is an admission that the law and the bonds themselves did not provide for coin payment.

And it must further be borne in mind that this letter from Secretary Chase was in reply to an inquiry from Frankfort in 1864, and long after every one of the bonds in question had been negotiated. This should forever put to silence all the clamor about the liability of the Government for the representations of the Secretary of the Treasury, as these opinions were not an inducement to capitalists to purchase bonds. They had already made their investments, and were only considering the magnitude of their speculation.

It was true, as the Secretary said, that it had been the uniform practice of the Government to pay its funded debt in coin, for the best of all reasons, that until the passage of the legal-tender act we never had anything but coin for the payment of any debt, public or private. Doubtless those who invested in these five-twenty bonds supposed that specie payment would be resumed before the bonds were redeemable, and that if there should still be legal-tender notes in circulation they would be of equal commercial value with gold. This belief, and not the law and the bond, was the ground of their expectation of coin payment. This expectation has not been realized, and now the able representatives of these bond-holders talk eloquently about bad faith, depreciated currency, irredeemable paper money, and repudiation of our solemn obligations. Greenbacks are yet lawful money, and through the agency of gold gamblers coin yet commands a premium.

Will the people, the tax-payers, the men of bone and muscle and enterprise, who must, by their toil, pay this great national debt, consent to a very large practical increase of it to relieve the disappointment of bond-holders or to make good the opinions of Government agents who were not authorized by law to construe the acts of Congress? The humblest citizen has the same right as the bond-holder, or even the Secretary of the Treasury, to put his construction on the laws of Congress, and he is far better situated to pass a patriotic judgment. I am sorry that the opinions generally entertained in 1862 about the speedy termination of the war and its comparatively trifling cost proved so erroneous, yet, as representatives of the people, we must be just before we are generous. Able and distinguished lawyers in both branches of Congress have elaborated the law of principal and agent and the liability of the principal for the acts of his agent. "*Facit per alium facit per se*," (he who acts through another acts for himself.) They come to the legal conclusion that the Government is bound by the dicta of the Secretary of the Treasury and Jay Cooke & Co. As I understand the law of principal and agent the latter can only bind the former while acting in the legitimate sphere of his authority. With all the dangerous powers with which Congress has invested the Secretary of the Treasury I deny that he has been clothed with judicial power to pass upon the laws enacted here; and we are no more bound by his decisions out of the scope of his authority than by those of a justice of the peace in Walrussia. It is a very poor plea, and one that will be overruled by the people, that capitalists, who of all men are least likely to be imposed upon, were misled by agents and brokers in the service of the Government, and especially by one who, by his different statements, proved him to be a mere Peter Funk working for his own selfish purposes.

I had been led to believe, Mr. Chairman, (and have often expressed publicly my acknowledgments,) that the capitalists who came forward in the hour of our extremity and took the bonds of the Government were influenced by patriotic motives; that they were ready to offer their accumulated treasures upon the altar of their country with a feeling akin to that which moved the poor widows of the land to bring their sons, their jewels, to fill up the decimated ranks of the Army.

But we are now told that capitalists would not touch a Government bond until they had the assurance of the Secretary of the Treasury and Jay Cooke, his agent, that if they would lend their greenbacks, then worth fifty cents on a dollar, (in gold,) they should receive bonds which would pay twelve per cent. interest on their coin investment and twice their then gold value when redeemed. This speaks well for their financial shrewdness, but dissipates all our preconceived notions of their patriotism. While our poor soldiers were struggling and suffering to save the nation's life that freedom might be established and extended these money kings were emptying their purses that they might replenish them twofold. They recognized the truth of the Bible maxim "there is that giveth and yet increaseth." Let me hasten to do justice to all those who disclaim the demand for gold payment of their bonds, for to the credit of poor human nature be it remembered there are bond-holders who agree with us as to the unrighteousness of the claim.

But an honorable gentleman, who pleads the bond-holders' cause with zeal and great ability, maintains that only the $150,000,000 of legal tenders can be applied in any event to the redemption of the $500,000,000 of bonds provided for in the same act; that it would certainly be bad faith to the holders of these bonds to require them to receive a greater amount of Treasury notes than was specified in the law, and that the remaining $350,000,000 must be paid in gold.

The gentleman will admit that those legal tenders were available for the payment of all other forms of indebtedness, whether State, municipal, or individual, no matter when incurred or in what made payable by the terms of the contract. A State, city, county, or railroad bond created ten or twenty years ago, when coin was the only legal tender known, can now be fully paid with greenbacks. A promissory note given before the passage of the legal-tender act, although made payable in gold by its terms, can be liquidated with these notes however far below the price of gold. Our courts have thus uniformly decided.

I believe that most of the States have availed themselves of these legal tenders to reduce or pay off their old funded debt. An honorable Senator from my own State has characterized this proposition as "a Utopian, demagogical, mean, dirty, nasty scheme; an act of repudiation which would dishonor the American nation more than the success of the rebellion itself." Let me call the attention of the committee to a fact or two in our financial history which ought to mitigate the severity of the censure upon us, or at least influence distinguished Senators and Representatives to rebuke us with great humility. In 1861, when the Government needed money, patriotic citizens came forward with their gold and loaned it to the Government, taking its obligations, which were made receivable for customs duties and made payable in two years after date with six per cent. interest. Before the maturity of these obligations the legal-tender act was passed and although they were bought at par with gold the holders were compelled to receive greenbacks in payment, worth only forty cents on the dollar in gold, and these obligations were refused in payment of customs duties.

A patriotic neighbor of mine (a Democrat, too,) had by his honest industry accumulated

$8,000 in gold which he thus loaned to the Government. At the maturity of his Government paper if he had received payment in gold he could have purchased $20,000 of these five-twenties for his $8,000. But he was required to receive greenbacks, his whole payment amounting only to $3,200 in coin. This is a specimen of the financial morality which was justified by those who characterize us as repudiators for proposing to pay bonds purchased with legal tenders in the same coin. If this is bad faith in what language shall we describe their action? With such examples before us what marvel is it that men less exalted should have their sense of honor blunted? They paid gold obligations in depreciated currency, while we only propose to pay currency obligations in greatly appreciated currency. I appeal for justification of my course to my constituents.

If the present Congress shall authorize (and I hope it will) the issue of $515,000,000 of Treasury certificates, receivable at par for taxes and Government dues, and made a lawful tender, and issue them for the express purpose of redeeming that amount of bonds, now redeemable, or any others in the future, not payable in gold, it will certainly be no greater breach of faith, or to any greater extent impair the obligation of contracts than what has already been done. I commend and defend the action of a former Congress in declaring "greenbacks" money, and in making them a legal tender for the payment of all debts, public and private. The policy, justice, and necessity of the measure were then conceded. Congress has the same right to issue a thousand, fifteen hundred, or two thousand million legal tenders as it had to issue four hundred million. To say it has no such right now is to deny it then. But our bond-holding friends tell us we were then at war, and it was justifiable as a war measure! Granted; but what made it then justifiable? The exigency of the times, the imperative necessities of the Government. Is not the Government, therefore, justified in seeking the same remedy when its exigencies and necessities demand? Nay, is it not an imperative duty to apply a thoroughly-tested and most efficacious prescription?

There is no bond-holder so obtuse as not to understand that if there was any value in the paper he exchanged for his bonds it was given it by act of Congress, and that Congress can now just as rightfully and lawfully authorize whatever amount of additional legal tenders it believes the good of the country requires. Believing, as I do, that the emergencies of the hour demand a repetition of this action I am ready to defend the justice, equity, and policy of a new issue of legal tenders.

Instead of the present form of promises to pay money I would make them Treasury certificates, receivable in payment of all sums due to the United States except customs duties, and a legal tender in payment of debts except when by special contract payment is due in coin. I would go further, and declare that from thenceforth they should be deemed and held to be the lawful money of the United States until every currency bond had been paid or funded in other bonds at a lower rate of interest and subject to taxation as other property. "Legal tenders" are the only paper money in which I have the slightest confidence. They are bills of credit issued on the faith of the nation. Banking has been very properly and tersely defined to be "borrowing money without interest and without security and lending money at a high rate of interest and on undoubted security." Legal tenders, like bank notes, are a loan from the people without interest; but it is a loan to the people. They have the whole people with the entire property of the nation as security.

Some gentlemen would have us believe that the general stagnation of business, the derangement of commerce, and the high price of the necessaries of life, placing them beyond the purchasing power of the masses, were all attributable to a redundancy of currency. By their mode of reasoning the way out of this labyrinth of difficulties is to get back as soon as possible to a specie standard, and to reach that point by reducing the volume of the circulating medium.

With becoming modesty we would suggest that the nation is suffering from a contraction of the circulation, from enormous taxation, an internal revenue system which is a nursery for all kinds of roguery and a nightmare upon all industrial pursuits. This revenue system is so adjusted that laborers, the wealth-producing classes of society, are compelled to pay an unjust proportion of taxes, while Government bond-holders and all who live upon interest and rents are to a great extent relieved from this burden.

Retired capitalists, by their representatives, would have the people believe that a further increase of the currency would be disastrous. It does not require a very thorough knowledge of finance to understand that the interest of the moneyed aristocracy lies in the direction of contraction—not a contraction of their bonds, but of the people's means of paying them. If the volume of currency is reduced their securities appreciate, while with their incomes they can purchase a much larger amount of labor and its products. On the other hand, while the price of labor and production is diminished one half, the taxes remain the same as before, and as a necessary consequence the burdens upon the sons of toil are doubled. The result is a system of vassalage for the producers of of wealth scarcely less intolerable than slavery itself. If, with the diminished wages of labor, the debt could be reduced in proportion, no injustice would be done the tax-payer. If our interest-bearing debt was $2,000,000,000, and the difference between legal tenders and gold was forty per cent., and with the reduction of the currency forty per cent. you diminish the debt to $1,200,000,000, (or forty per cent.,) no injustice would be done. The proposition is, however, in effect to make the debt $2,800,000,000, and diminish in the same proportion the people's ability to pay it. You double the creditor's claim while you diminish the debtor's means of payment one half, increasing the value of the rich man's dollar and making the poor man's labor less valuable.

This enormous debt was incurred upon a paper coinage standard, and it must and will be paid in the same coin in which it was contracted; and this conforms in all respects to the terms of the original contract. This principle being recognized and affirmed by us, and the revenue laws being revised and so adjusted that capital and labor shall pay each its fair proportion of taxes, and you will hear no murmurings or complainings by a loyal people of the weight of the load they bear. Great as have been the sacrifices, the gains are greater than the losses, and the regeneration of the Republic is worth all it has cost in treasure and in blood.

When the interest-bearing debt has been reduced, the people relieved of unequal taxation, and the whole country brought into a normal condition, we may with propriety and fairness propose a reduction in the volume of the currency. The opposite course would be the reënactment of the law of Pharaoh requiring the children of Israel to make "the full tale of brick without straw."

We have been retiring the greenbacks with the money received from taxation instead of reducing the interest-bearing indebtedness, with the delusive expectation that this policy would bring us to a gold standard. We say delusive, for the historical fact is that with all the contraction gold has steadily advanced in the temples of the money-changers—the gold-gambling dens of Wall street. But it will be said that "the contraction of four millions per month could have no sensible effect either upon the gold market or the general business of the country." Has that been the extent of the contraction? If I can read and understand figures, there has been a much larger reduction of the circulating medium, and one large enough to account in some measure for the general prostration of business and the paralysis of the industrial interests of the country.

By the last report of the Secretary of the Treasury we learn that on the 31st day of August, A. D. 1865, the outstanding currency of the United States (except the fractional) was $684,138,959. This, of course, embraced the five per cent. and compound-interest notes which were in circulation as currency or were held by the banks as reserves for the redemption of their notes—in the latter case performing the office of currency. On the 30th day of June, 1866, the amount outstanding was $559,903,508, or a reduction of legal tenders in ten months of $134,235,451. On the 1st day of November, 1867, the currency amounted to $429,039,844, or a reduction in sixteen months of $130,863,664. Thus, while the area of circulation has been greatly enlarged, the diversified industries of the country multiplied, and great enterprises undertaken, (such as building a highway of commerce to the Pacific ocean) —all requiring an increase of the circulating medium—the currency of the people has been contracted in two years and two months from $684,138,959 to $429,039,844, or a reduction of $255,099,165, or within a fraction of ten millions per month!

It must be borne in mind in this connection that the interest-bearing debt has not been lessened by this reduction. A considerable part of this withdrawn currency has been converted into six per cent. gold interest-bearing bonds. In the meantime, the army of tax gatherers, revenue agents, and Government spies has been largely increased. The object of this increase was to prevent frauds and secure the payment of taxes, while the result has been the multiplication of frauds, the debauching of the public morals, and converting honest men into rogues by overpowering temptation. The amount of compensation of a large number of these detectives and revenue agents depends upon the number and extent of the frauds they can devise. They become confederates with the thieves which they are appointed to detect. It is no wonder that with all the contraction gold, which has become a mere matter of merchandise, should advance. The Treasury is well supplied with hard money now from import duties, but how long will this be the case if the present policy is pursued? When you have no more bonds to send to Europe upon which to raise gold, and when the accumulation of these interest-bearing obligations shall be so great in Europe as to exhaust our gold product, I would like to know how you will pay the gold interest on your debt, much less the principal in coin. We must raise something to sell besides bonds or we will find ourselves hopelessly bankrupt. We must diversify and stimulate the productive industries of the country and make it more to the interest of the people to farm "Uncle Sam's" broad acres than his bonds.

That there are small inducements to cultivate the soil let me give you an actual illustration from real life. A farmer in the West in 1861 owned two farms of three hundred and twenty acres each of about equal value. He sold one of them for $9,600 in gold. He soon after converted his coin into legal tenders, and these into bonds, purchasing to the amount of $20,000. He has received his gold interest semi-annually, converted it into greenbacks at an average of forty per cent., and loaned them to his neighbors on mortgage security at ten per cent. per annum. If he continues the process to the end of five years when the bonds are redeemable, he will have as follows:

Principal	$20,000
Profits on investment	10,565
Proceeds of farm	30,565
Deduct cost of bonds	9,600
Net gain in five years	$20,965

equal to two hundred and eighteen per cent., or an average yearly increase of forty-four per cent. He has rented his other farm for $3 50 per acre. After paying State and municipal taxes his farm has yielded him $900 per year. Suppose he received his rent semi-annually and invested it as before at ten per cent., he would realize at the end of five years $5,494. He offers to sell the farm for $12,800 in greenbacks. This, added to the earnings, makes a total of $18,294. He valued the farm at $10,000. Deducting this from present value, with proceeds added, leaves as net gain in five years $8,294, equal to eighty-three per cent., or an average yearly increase of sixteen and one half per cent. The farming of his bonds has paid him two and a half times as much as farming his lands. He was formerly regarded as a plain, practical man, but now he is a "patriotic capitalist," who came forward and generously aided the Government in its extremity by investing in her bonds; and this is the testimony of an honest bond-holder. This actual case illustrates the whole subject, and shows how unjust is the claim of the bond-holder that he should be paid in gold for the bonds which cost him only fifty cents on a dollar. And this unreasonable and unjust claim finds able advocates in this House, who talk eloquently about bad faith, depreciated currency, and irredeemable paper money.

We disclaim in the most solemn form any wish or desire to do injustice to the holder of a United States bond, whether on this or the other side of the ocean. It is no act of unfairness or of arbitrary power to require him to receive what every other creditor of the Government must receive in payment of his claims. We are told that with the proceeds of these bonds our soldiers were fed, clothed, and paid. Yes, Mr. Chairman, the soldier received his thirteen dollars per month in this paper which was declared to be money by the law-making power, although it was worth only fifty cents on the dollar, coin being the standard. Now, the proposition of the bond-holders' representative is to pay him (the bond-holder) the other fifty cents and require the returned soldier to work upon the farm, in the shop or manufactory, to make the payment. You required the soldier to sign the receipt-rolls for thirteen dollars when you paid him only $6 50, and now you propose to pay the patriotic capitalist thirteen dollars, who generously furnished $6 50 to the soldier and tax the industries of the country to meet the demand.

To make their argument irrefutable, honorable gentlemen quote from learned writers in every age their definitions of money; that the only money known to the civilized world is gold and silver; that exchequer bills, legal tenders, and greenbacks are in no sense money, but only promises to pay money. When did learned Senators consult Locke and Harris and Huskinson and a host of other writers on the nature and uses of money? Was it before they declared greenbacks *money*, and receivable as *money* in payment of all debts, public and private? Was it contemporaneous with the decisions of our courts that State, county, city, and railroad bonds, and even private contracts, payable by their terms in gold, were discharged by a payment in legal-tender notes? Or was this discovery made after our soldiers had received it as money and after capitalists had invested them in bonds for the payment of money? It matters little what European philosophers declared to be money.

Our Constitution gives to Congress the exclusive power to coin money and regulate the value thereof, and expressly denies to any State the right to coin money, emit bills of credit, or make anything but gold and silver coin a tender for the payment of debts. These are attributes of sovereignty and belong exclusively to the representatives of the whole people. At one time and in one country silver coin was the only money; at another time and in another country gold, and again gold and silver. Locke (from whom a distinguished Senator quotes with so much apparent satisfaction) declared that gold and silver were the true and only metals to be used for this purpose because of their "intrinsic value." The fact is, these metals have no intrinsic value compared with iron or copper, and but for their general appropriation to this use would only be used for manufacturing ornaments. They were selected because of their supposed scarcity, and less liable, therefore, to fluctuate in quantity.

The value of money has no relation to or dependence upon the material of which it is made. If it has the properties or powers of representing, measuring, and exchanging value it is money, and these properties or powers are not inherent in any substance, but are conferred upon any chosen material by the sovereign power.

In an hour of great national peril, when there was not coin enough, or if enough to meet the momentous emergencies of the hour it could not be procured, the Congress of the United States, with the concurrence of the Executive, imparted to pieces of paper, by certain specific stamps, vignettes, signatures, and figures, all the powers of money, and made them a legal tender for the payment of debts, even those contracted to be paid in coin. I have no reflections to make on the wisdom of their action. I leave that to the Secretary of the Treasury. The greenback, as it has been denominated, was an invaluable expedient, backing our boys in blue and covering their backs at the same time. It served our purpose well and will serve us still if permitted. It helped us through one danger and will bear us triumphantly through another unless the cupidity of bankers, bond-holders, and shoddy contractors shall triumph over the industrial and tax-paying classes of our people. We know its strength, power, virtue, and its universal acceptability. We know that our country is yet very far from being out of the wilderness and in the open plain. She has yet to encounter the swamps and quagmires of an immense debt, a rotten revenue system, and an exhausted and overburdened people.

We find gentlemen anxious to get rid of that which has served us so well. We are told that the mightiest of all evils will result from our policy. It fastens on the country an irredeemable paper currency. It postpones the day of specie payments, the day of "hard money"—hard money the idol of the Democratic heart. It is a strange spectacle to see men who have always contended against reducing the country to a hard money standard now advocating it with so much vigor. Why this sudden conversion to old Democratic theories? Why all this haste to get back to specie payments? It is to prevent the Government from paying back to the bond-holders the same kind of money (only greatly appreciated in value) which they paid for their bonds, which causes such an intense desire to have greenbacks put out of the way; and these are they who are urging contraction and the immediate resumption of specie payment. They would even be willing to increase the national bank currency, if desired, to the full volume of the legal tenders, because this currency is not a legal tender and if greenbacks were called in and canceled there would be no lawful money but gold and silver, and their bond investments would be redeemable only in coin. This is the policy which is now paralyzing the energies of the country, and which will bring good to none except the numerically small but pecuniarily powerful interest that is exerting all its power to accomplish its selfish purposes.

Whatever may be Secretary McCulloch's designs against the Republican Congress which he denominated "a bogus body of constitutional tinkers," it is quite certain that he could have suggested nothing to more effectually use up the Republican party than these financial measures he has advocated and to which Congress has given a too willing ear. I hope and trust that Congress will not longer heed the counsels of its enemies, but inaugurate a policy more consistent with justice and sound principles.

But we are asked, why bring up this question now? Why not wait until our bonds are payable, and then there will be no question, as legal-tender notes and gold will be of the same commercial value. "Sufficient unto the day is the evil thereof." To this I answer that the unequal method of taxation is crushing the industrial interests of the country to pay the current expenses of the Government and the coin interest on so large a debt. And as there are now bonds amounting to $515,000,000 redeemable, and others will be at no distant day, they should be converted into a non-interest-bearing debt, and to the utmost possible extent relieve the people of the onerous taxation under which they are now groaning.

Again, Mr. Chairman, there is not a sufficient supply of currency to transact the legitimate business of the country, to say nothing of the imperative demands of tax-gatherers. Our minister of finance gravely assures us that our circulation is quite too large, and that if health and vigor are to be imparted there must be still greater contraction. Some of the old bankers are like the old style physicians, who bled and blistered for every form of disease, and drew off the vital fluid that the body might be invigorated. In my poor judgment phlebotomy has been carried too far already by our financial doctors. I would not only stop bleeding, but I would remove the national bank blisters from our body politic.

I venture the opinion that there is a great deficiency in the volume of currency. In no country in the world is the supply so small when compared with the commerce and the various enterprises requiring money. England, according to the most judicious estimates, has twenty-five dollars per head for her inhabitants, France has thirty, while we have about thirteen dollars. Estimating greenbacks at $370,000,000, and national bank notes at $300,000,000, our total volume is $670,000,000. Of this sum it may be fairly presumed there is always in the Treasury or in the banks, and not therefore available as a circulation, $170,000,000, which leaves only $500,000,000 with which to conduct the commerce of forty million people scattered over a continent. And where is this small amount of circulation? Little New England has more than one fourth of it! With about one twelfth of the population she has one third of the national bank monopoly. Ohio, Indiana, and Illinois, with a population more than twice as great as New England have but little more than one third her money circulation; and the vast empire south of the Potomac and Ohio and west of the Mississippi, containing two fifths of our entire population has been allowed one ninth interest in the gigantic bank scheme. The city of Boston, having about one half the population of Cincinnati has ten times her money facilities, the former having $40,000,000 of national bank capital and the latter $4,000,000. Even Philadelphia, the second city in the Union in population, wealth, commerce, manufactures, and enterprise, four times as large as Boston, has less than half the interest of the latter in the great monopoly. Have Boston and New England too much money? I have heard of no such complaint. If not, how must it be with thirty States and Territories with a population four times as great with less than one third her circulation?

The great State of Tennessee, impoverished by war, her railroads dilapidated, her farms laid waste, without stock, without implements of husbandry, every industrial interest prostrated, having before the war $15,000,000 of bank capital, has now just $1,000,000. Tennessee needs money and she cannot get it, even in New England, unless at an interest of two or three per cent. a month, with first-class mortgage security. This nation needs her assistance in paying the interest and principal of our debt. Would it not be a wise policy to lend to the State of Tennessee $10,000,000 of

greenbacks, taking therefor her four or five per cent. bonds, and made payable in ten or twenty years? The nation would be the gainer at the end of that period even if the bonds were never paid. So of the other States desolated by war, as they shall respectively be represented in these Halls. By helping them we help ourselves, and prove to them that we forget their follies, forgive their crimes, and are ready, willing, and anxious to repair waste places, rebuild broken-down altars, and bind the States in a stronger union than ever before.

Mr. Chairman, the President in his late message well and truthfully says "we want a stable and secure circulating medium. A disordered currency is one of the greatest political evils." Is a greenback circulation necessarily unstable and insecure? It may be and it is as stable a circulating medium as gold, and is as secure as a mortgage upon the entire property of the nation can make it. Treasury notes are not a "disordered currency." They do not belong to the class denominated by the gentleman from Illinois as "wild-cat" or "stump-tail." They are not bank issues, that miserable contrivance for cheating the laboring classes; that ingenious invention "to fertilize the rich man's field by the sweat of the poor man's brow." Treasury certificates are veritable, lawful money, and involve the Government in no chance of failure. They pay all debts, public and private, until the interest or convenience of the people call for their withdrawal. Jay Cooke, with the aid of his sharp financier, the Pennsylvania Dutchman, will find it difficult to satisfy the people that national bank notes are better or safer than greenbacks. National bank notes are good because indorsed by the Government. They are good because they are backed up by Uncle Sam's bonds; and these are good because redeemable in "lawful money." Do gentlemen suppose that if the Government could pay a gold dollar to-day for every dollar of our greenback circulation, and it was all withdrawn, that we would be upon a specie basis? Where are the $300,000,000 of bank notes upon which the Government is indorser? Have these institutions coin with which to redeem their notes? If not, the Government must pay them or be dishonored. The bank and bond questions are inseparably connected; for whoever will take the trouble to read the sixty-five sections of the act creating national banks will find, after abstracting all that relates to bonds, but little left. That act happily closes in these words: "Congress may amend, alter, or repeal this act." This is the best part of the whole law.

The first step in the right direction will be to pass a law to call in and cancel the entire bank circulation and simultaneously issue an equal quantity of Treasury certificates or legal tenders. The people having this circulation would be enabled to pay off $300,000,000 of debt and save $18,000,000 of gold interest. We will thus shorten the road to specie payments by reducing the interest-bearing debt.

But we are told that the national banks being required to keep a reserve for the redemption of their notes withdraws from circulation ten, fifteen, or twenty per cent. of the legal tenders. I see no good reason why this reserve should not be kept in the pockets of the people, to be used or not as their necessities require. They will be quite as safe custodians of their reserves as the banks. By retiring the $300,000,000 of national bank notes and issuing, in addition to that amount, $215,000,000 of legal-tender notes, the $515,000,000 of five-twenty bonds now redeemable could be paid. This would only add $215,000,000 to our present circulation, and this would be $40,000,000 less currency than when the ruinous policy of contraction commenced. This would not only give us a better currency, (as much better as substance is better than shadow,) but would save the people from taxation to the amount of $43,000,000, supposing gold to be forty per cent. premium. I would as speedily as possible rid the country of this bank monopoly. With such a network of moneyed institutions throughout the country their political power by combination would be irresistible. To suppose they would not combine to secure their own selfish ends is to regard them more than human.

The people's circulation can be made sufficiently ample to supply all the demands of trade. If we must have banks, (a necessity I do not acknowledge,) leave the field open to all. Let every association that can pledge its $50,000 in Government bonds open a bank, and let the Government charge for the currency furnished three per cent. per annum, to be deducted from the gold interest on the bonds left as security.

Some are afraid of "watering the currency," as they are pleased to call a further issue of greenbacks, and thus render it valueless by dilution. Money will not depreciate greatly if well secured, and the people can better stand a "watering" of their currency than of their gold-bearing bonds, as is now the policy of the Secretary of the Treasury. And besides, as we have shown, the volume of currency will not be as large as it has been.

In the two great elements necessary for a circulating medium, uniformity and stability, legal-tender notes have the advantage of gold. Gold is exported; legal tenders are not. Coin is constantly fluctuating and unstable. Any political disturbance or a war on the other side of the Atlantic which made gold indispensable would immediately affect its volume here, and every farmer, mechanic, merchant, and manufacturer to the remotest corner of the Republic would feel the pressure. And this would especially be the case now that $1,000,000,000 of our bonds are in Europe. With legal tenders as our national currency no such calamity could befall us. We learn from the last message of the President that since 1849 the coin product of the United States amounted to $1,174,000,000, and that the exports of the precious metals during the same period was $741,000,000. These figures do not give a very flattering exhibit of the stability or fixedness of a gold currency. Nor does it by any means follow that an increase of legal-tender notes will advance the price of gold, which is in fact a mere matter of merchandise, like cotton, railroad stocks, and whisky. Gold has not advanced or receded as the currency has been contracted or expanded. On the 1st of September, 1865, it was at a premium of forty-four per cent., when our paper circulation was $684,138,000, while on the 1st of November, 1867, it was forty-three per cent., when the paper circulation was $255,000,000 less than on September 1, 1865. The natural ebbing and flowing of the price of gold is in proportion to its demand for export to settle foreign balances of trade. If we would remove the cotton tax, aid the South in securing a large crop for export, and send abroad our breadstuffs to settle these balances, and if perchance we could find a balance in our favor, then gold would be imported and its price would approximate more nearly to legal tenders.

The way to get back to a specie basis, then, is not by contracting our currency, but by importing less goods from abroad and sending larger installments of our production. We must encourage labor, increase production, diversify our home industries, develop our agricultural and mineral resources, and then, in spite of the money-changers and gold-gamblers of Wall street, and with $1,000,000,000 of greenbacks, coin would approximate in value to our national circulating medium.

I differ entirely with the report of the Secretary of the Treasury, in which he declares "there is a plethora of paper money and that progress has been made in the right direction during the past year." There is a great scarcity of money of every sort, as all men engaged in active business will bear me witness, unless it may be with the exception of national bankers and those who live upon interest or rents. The progress made during the last year in contracting the currency and increasing the coin interest-bearing debt is in exactly the wrong direction.

In addition to the policy proposed of withdrawing and canceling the national bank circulation and supplying simultaneously the vacuum with Treasury certificates, and increasing the amount sufficiently to redeem the $515,000,000 of bonds now redeemable, I would provide that the Treasury certificates should be convertible in sums of $100 or more into bonds at a just rate of interest, say now five per cent., subject to taxation as other property, and reconvertible into Treasury certificates at the pleasure of the holder. And so of all currency bonds redeemable in the future, I would offer the same alternative, and so adjust the rate of interest from time to time that capital and labor should each have its share of profit. This would give that flexibility to the circulation, increasing and decreasing according to the requirements of legitimate business and the demands of commerce and trade. In times when money was not required and became redundant it would be invested in bonds, and the Government would then be the borrower of the surplus. On the contrary, when money was needed the bonds would be reconverted. This system is adopted by some of the best Governments of Europe. The principal objection to this scheme would be that it would keep down the rates of interest, and thus prevent the capitalist from exacting usury. On the other hand, a low rate of interest for money will reduce the price of rents and give full and profitable employment to labor. While high rates of interest on money prevail tenements for workingmen and manufactories and workshops will not be erected.

I beg gentlemen in their financial schemes to consider the interests of those who earn their daily bread in the sweat of their brows as well as the possessors of wealth. The rights of capital and labor should be so harmonized that each would be protected and that each should have its appropriate share of profits.

That my position may not be misapprehended I would say again distinctly that I would pay every bond in coin that was created before the passage of the legal-tender act and all created since where the law and the bond provide for coin payment. All others should be paid in lawful money as fast as redeemable.

The policy here advocated, Mr. Chairman, will not impair the value or stability of the currency. It is destructive of no honest industry, subversive of no individual rights, unless the national banks may be considered one of the industrial interests of the country, with a prescriptive right to transfer the money of the people to their own pockets through a monopoly in the circulating medium. It is not even subversive of that right, for the law of their creation expressly declared their liability to extinction at any moment the public interest demanded. It is not destructive unless the light thumps following the putting down the breaks on the train rushing to destruction is called destructive in disturbing the quiet of those unconscious of danger; neither is it revolutionary unless the desire of letting well enough alone, of keeping things as they have been, is called by that name; nor is it visionary unless the determination to live on in the same old quarters until we get out of debt can be said to be a vision. On the contrary, it is conservative, preëminently so, to stand still when we know where to go. It will give immediate relief to the country in removing the dread uncertainty that hangs over every branch of business.

There is everywhere a feeling of impending calamity that is preventing new enterprises and paralyzing those already begun. Business men now hang with feverish interest upon the reports of the Secretary of the Treasury to know the extent of the last contraction and learn the nature of his next caprice—whether

he is going to tighten or loosen the screws. Is not this a splendid position for this great country? Its business, its interests, and the very value of its property to go up or down as the caprices of Hugh McCulloch may dictate or the mysterious power of the national bankers may order. This policy will give a feeling of stability where all is now unstable, certainty instead of doubt, and security instead of fear and apprehension. It will restore confidence, the most vital element in trade—confidence in the present and confidence in the future. It will forever silence every doubt as to the full and complete performance of every contract of the Government with its creditors, and thereby establish the public credit both at home and abroad upon a foundation it has not yet had. Does any man really suppose that the people of England, France, or Germany expect that our bonded debt will be paid in gold? If his national self-esteem and pride of country prompts him to think so let him explain the brief messages that come to him every day from London: "Consols, 95; United States five-twenties, 70," varying a little from time to time, consols from 93 to 98, United States five-twenties from 66 to 73. What means this electric shock that each day strikes our shores from the Old World? Translate "Consols, 95; United States five-twenties, 70," into plain English expressed in terms of our own money. The English capitalist pays $950 for an English security of $1,000 that will pay him $30 a year interest, and will only pay $700 for a United States bond that pays him $60, which, after allowing ten per cent. for exchange, gives him $54 a year sterling gold in London. Make a calculation of this difference—thirty is to fifty-four as nine hundred and fifty is to the sum the European is willing to pay for a security that he has confidence in that will pay him fifty-four dollars a year gold in London. How much is it? Seventeen hundred and ten dollars! Yes, $1,710 for a security that will pay him the same interest as a United States five-twenty bond for which he is only willing to pay $700! Is not that a heavy report upon the confidence Europe has in our financiering? If a merchant's paper was sold at that wide difference with his neighbor's you would say if he was not broke he soon would be, and you would consider his paper dear at any price. You would have no confidence in him until you were not only assured that he had property but had put it in charge of some one who would not wastefully squander it. A nation is but individual aggregation, and the same law governs the one as the other.

Europe has had abundant evidence of our power and our great resources. She has seen us put down a rebellion such as was never before known in the world's history. She has seen us liberate four million slaves. She has been made aware of the war's destruction and waste of property amounting to five or six thousand millions; and, more startling still to a European mind, she has seen the beloved head of the Republic assassinated. And, notwithstanding all this, she has seen peace restored and the Government move straight forward, the people submitting to tax themselves sums greater than ever before heard of in the annals of history. With all this evidence of our strength we yet find the gloomy verdict rendered each day that they have not half the confidence in the good faith of our Government that they have in Great Britain. The fact is they know more about us than we think they do. They read our papers; they watch attentively our Congress and the action of our Administration and the operations of our revenue laws, and the picture presented is anything but cheerful and one not well calculated to inspire confidence. They can see that a system of internal revenue, in which the article that was expected to yield the largest portion does not pay into the Treasury one dollar where it should pay ten, the balance going into the pockets of swindlers and corruptionists. They see Congress meet without establishing any comprehensive financial policy; without even daring to resolve the doubt that interested parties have raised as to the two thousand million five-twenties being paid in lawful money; and, vacillating between diverse opinions, finally adjourn and leave the important subject mainly to the discretion of the Secretary of the Treasury. And they have seen the capricious action of that Secretary—now selling gold in enormous quantities at 130, and a few weeks later hoarding it at 150. And, lastly, they have heard the mutterings of discontent at all this misrule coming up from the great body of the people, and observed these murmurs of an overtaxed and an unequally-taxed people not treated with the respect due. Seeing all this, their estimate of the five-twenty bonds is not to be wondered at. The only wonder is that it is no worse.

When we shall in good faith inaugurate a policy which will equalize the burdens of taxation, give to labor full and profitable employment, increase production, diminish our interest-bearing debt, lower the rate of interest on what shall remain, revise our tariff and internal revenue laws, then we shall secure a foreign credit commensurate with our boundless resources and our advanced position among the nations of the earth. By such a course we will be able very soon to relieve the mechanical, manufacturing, and industrial interest generally from a revenue tax, and depend wholly for revenue upon a tax on incomes and articles of luxury such as tobacco, beer, and whisky. It would afford unspeakable relief to the country to be delivered from the swarm of Government officials and that hungry horde of spies and detectives who have established a system of espionage over every household.

Mr. Chairman, I have already detained the committee too long; but you will permit me to add that the workingmen, the tax-payers, the great wealth-producing classes of the people, are looking with great anxiety to learn what course their Representatives will pursue on this present vital and all-absorbing question. Upon the wise and judicious action of the dominant majority on this question will depend its continuance in power. We must reconstruct our finances or surrender our places to those who will. The sovereigns of this land whose servants we are will not say to us "well done" unless we inaugurate measures for their relief.

Before the conclusion of the foregoing remarks the hour allotted to Mr. CARY expired and the hammer fell.

Mr. BALDWIN obtained the floor.

Mr. BLAINE. I ask that the time of the gentleman from Ohio [Mr. CARY] be extended half an hour to enable him to conclude his speech.

Mr. BALDWIN. I desire to address the House, but I do not wish to proceed to-night. I have no objection to the gentleman from Ohio going on provided it does not come out of my time.

Mr. CARY. I do not want more than fifteen or twenty minutes.

No objection was made, and the time was extended.

Mr. CARY then continued his remarks for about ten minutes, and closed by stating that he would yield the remainder of his time to the gentleman from Maine, [Mr. BLAINE.]

Mr. BALDWIN. I believe I have the floor now.

Mr. BLAINE. How much time is left of the extension granted to the gentleman from Ohio, [Mr. CARY?]

The CHAIRMAN. The gentleman from Massachusetts [Mr. BALDWIN] is entitled to the floor.

Mr. BLAINE. The gentleman from Ohio yielded the remainder of his time to me.

Mr. BALDWIN. I do not object to that.

Mr. BLAINE. How much time is left?

Mr. GARFIELD. I move that the committee rise.

The CHAIRMAN. The gentleman from Massachusetts is entitled to the floor.

Mr. BLAINE. Am I not entitled to the floor?

The CHAIRMAN. Does the gentleman from Maine desire to address the committee at this time?

Mr. BLAINE. I desire to know if I am recognized as entitled to the floor?

The CHAIRMAN. The Chair understands the committee to have extended the time of the gentleman from Ohio [Mr. CARY] for half an hour if he needed it.

Mr. BLAINE. How much of it did he use?

The CHAIRMAN. The gentleman from Ohio stated that he did not think he should occupy the whole of that time, and the Chair does not understand that it was in the power of the gentleman from Ohio, under these circumstances, to yield the remainder of his time to any other gentleman. The Chair, therefore, awards the floor to the gentleman from Massachusetts.

Mr. BLAINE. I thought I had the floor by the ruling of the Chair.

The CHAIRMAN. If the gentleman from Massachusetts does not desire to go on to-night, and the gentleman from Maine does, the Chair will submit to the committee whether by unanimous consent that arrangement can be made.

Mr. BLAINE. The gentleman from Maine does not want the kindness of the Chair extended in that form. If he has no right to the floor he does not want an arrangement of that kind made for him by the Chair.

The CHAIRMAN. The Chair does not understand that the gentleman from Ohio had any further extension of time than to occupy the floor himself to conclude his remarks.

Mr. BLAINE. Well, if the gentleman from Maine has no right to the floor he does not want it.

The CHAIRMAN. The gentleman from Massachusetts will proceed.

Mr. KELSEY. Will the gentleman from Massachusetts yield for a motion to rise?

Mr. BALDWIN. I yield for that purpose.

Mr. KELSEY. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

PUBLIC LANDS.

Mr. JULIAN, by unanimous consent, from the Committee on Public Lands, reported a bill (H. R. No. 870) to prevent the further sale of the public lands of the United States except as provided for in the preëmption and homestead laws and the laws for disposing of town sites and mineral lands; which was read a first and second time, recommitted to the Committee on Public Lands, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLAIM OF B. W. PERKINS.

Mr. PAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed to furnish to this House copies of all memorials, proofs, and papers on file in the Department of State relating to the claim of the late B. W. Perkins, a citizen of the United States, against the Government of Russia, growing out of contracts for ordnance, &c.; and also the correspondence between the Department of State and the Government of Russia concerning the same.

POST ROUTES IN MICHIGAN.

Mr. DRIGGS. I ask unanimous consent to introduce a bill to establish post routes from Saginaw to St. Louis, and from Isabella to Midland, in the State of Michigan.

Mr. WASHBURNE, of Illinois. I object.

TAXING OF SHAKERS.

The SPEAKER, by unanimous consent, laid before the House a communication from

the Commissioner of Internal Revenue, in reply to a resolution of the House of the 12th ultimo, relative to the mode of taxing the Shaker association of New Lebanon, New York.

Mr. ELDRIDGE. I move that the communication be laid on the table, and printed.

The motion was agreed to.

And then, on motion of Mr. KOONTZ, (at four o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOUTWELL: The report of the proceedings of a public meeting in Marlboro', Massachusetts, and the petition of the selectmen and 400 others, citizens of the same town, relative to the imprisonment of American citizens in other countries.

Also, the petition of William H. Bolton, of the United States Navy, for payment for clothing lost at sea.

By Mr. BURR: The petition of Walter Lees, company D third Illinois cavalry, for compensation for a horse lost in service; also, the indorsement of Major General J. A. McClernand and affidavit of Captain D. R. Sparks, sustaining said petition.

By Mr. BUTLER: The petition of Samuel C. Frey, to award a leather medal to Major General Hancock.

Also, the petition of citizens of Lynn, Massachusetts, in behalf of Mrs. Caroline E. Burdett.

Also, the petition of Caroline E. Burdett, praying for a pension.

By Mr. DONNELLY: The petition of sundry citizens of Goodhue county, Minnesota, in reference to the rights of naturalized citizens of the United States in foreign countries.

By Mr. DRIGGS: The petition of William P. Spalding, of Keweenaw county, Michigan, praying for an increase of the duty on imported nickel.

Also, the petition of Hon. Luther Smith and 100 others, citizens of Gratiot county, State of Michigan, praying for the establishment of a post route from Saginaw City to St. Louis, in said State.

By Mr. MERCUR: The petition of Palanon John, of Bloomsburg, Columbia county, Pennsylvania, asking that he may be allowed a credit of $769 37 for that amount of revenue stamps lost or stolen from the mail while the same were in transit to the revenue department.

By Mr. MUNGEN: The petition of Miss Sarah E. Bateman and 285 other ladies, employés in the Government Printing Office, in regard to the increased allowance to clerks, &c. When the additional pay of twenty per cent. was allowed to the clerks in other Departments last season the employés in the printing department were not included. The petition asks that their interest in the premises be protected should Congress deem it proper to act in the matter of increased allowance.

IN SENATE.

WEDNESDAY, *January* 8, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read.

Mr. SUMNER. I desire to have a correction in the Journal made before the Senate passes to any other business. I observe that my name is not recorded among the yeas on the final passage of the bill passed yesterday relative to the suspension of the internal tax on cotton. That is a mistake. I answered to my name, but my answer was probably not heard.

The PRESIDENT *pro tempore*. The correction will be made if there be no objection.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, inclosing a communication from the acting Commissioner of Indian Affairs setting forth the destitution of the Sioux Indians near Devil's Lake, Dakota Territory, and recommending an appropriation for their relief; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication of the Secretary of the Treasury, in answer to a resolution of the 3d ultimo, transmitting a report of the amount and character of the taxes collected from the national banks since their establishment; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of a mass meeting held at Toledo, Ohio, urging upon the Government the necessity of taking measures for the protection of American citizens abroad and for the release of those illegally imprisoned by England; which were referred to the Committee on Foreign Relations.

Mr. EDMUNDS presented a petition of W. G. Cummings, of the State of Vermont, setting forth that he was wounded in the service of the United States during the late rebellion, and asking for a pension; which was referred to the Committee on Pensions.

He also presented a petition of Thomas Chittenden, of the State of Wisconsin, a former resident of the State of Vermont, setting forth that he was a soldier in the war of 1812, and asking for an increase of the pension already granted to him; which was referred to the Committee on Pensions.

Mr. SUMNER presented a petition of George S. Fisher, late United States consul in Japan, asking compensation for losses by fire at his consulate; which was referred to the Committee on Commerce.

Mr. TIPTON presented a memorial of the Legislature of Nebraska, praying the establishment of a land office at Lone Tree, Nebraska; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Nebraska, asking for a change in the Indian policy of the United States; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Legislature of Nebraska, praying that the difference of pay between first sergeant and second lieutenant be allowed from August 20, 1864, to June 5, 1865, to John S. Lemon, late of the Fifth Iowa cavalry; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Legislature of Nebraska, praying the establishment of a mail route between West Point and Dakota City, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Nebraska, praying the establishment of a mail route between Dakota City and Niobrara, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. CRAGIN presented the memorial of Allen Smith, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. THAYER presented a petition of citizens of Nebraska, praying the establishment of a mail route between Nebraska City and Table Rock, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition and resolutions adopted at a meeting of citizens of Kearney City, Nebraska, praying such action as will secure protection to American naturalized citizens in foreign countries; which were referred to the Committee on Foreign Relations.

Mr. MORRILL, of Maine, presented the petition of William Pitcher and Axel Hayford, praying compensation for losses sustained in the purchase and storage of hay for the Government; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the joint resolution (H. R. No. 27) to change the name of Moritz Judkiewicz, have instructed me to report it back, and to recommend its indefinite postponement. Congress at its present session has passed a general law authorizing the supreme court of the District of Columbia, on application and a proper showing, to change the name of any person in the District. I move, therefore, that this bill be indefinitely postponed.

The motion was agreed to.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (S. No. 95) to amend the act to establish a uniform system of bankruptcy throughout the United States, have instructed me to report it back, with a recommendation that it be indefinitely postponed.

The report was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print five thousand copies of the letter of the Secretary of the Treasury communicating the second annual report of the Special Commissioner of Revenue, reported in favor of the motion, and it was agreed to.

BILLS INTRODUCED.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 229) for the relief of Horace Smith and D. B. Wesson, or their assigns; which was read twice by its title, referred to the Committee on Patents and the Patent Office, and ordered to be printed.

ILLEGAL EXPENDITURES.

Mr. MORRILL, of Vermont. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of affixing a penalty upon any officer of the Government who shall authorize the expenditure of or pay any money for any purpose not previously authorized by law.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. MORRILL, of Vermont. Mr. President, it must be within the knowledge of most Senators that a very considerable amount of our annual expenditures is for deficiencies where money is expended without any previous appropriation by Congress, and those items come here at the latter part of each session, for which no estimates have been made, and for which no provision has been made in any manner by law. I think that this, in time of peace, is an evil, an abuse that ought to be corrected. It is with that view that the resolution is introduced.

Mr. POMEROY. I should like to hear the resolution read again. I do not know how far it goes.

The Secretary read the resolution.

Mr. POMEROY. I have no objections to the committee inquiring into the expediency of the legislation proposed, but it is doubtful whether we can confine executive officers by law in every particular. There may be exceptions.

Mr. CONNESS. It appears to me that if this inquiry is undertaken at all it ought to take a little wider scope, and include the practice that has grown up, and is, I think, quite extensive with Departments of the Government, of creating offices and appointing men to fill them, and then fixing their salary and compensation by their own volition and act, and paying them from the public Treasury without authority of law and without the knowledge on the part of either Congress or the people that such officers or official persons have any legal existence. I regard the latter as one of the greatest defects that the Government is suffering from at this time. Those persons are created *ad libitum*, and we know nothing about what they do, nor even from whence their salary comes. It is found finally in the shape of deficiencies or taken from contingent appropriations for the Departments.

It is time that the agents of the Government were known to the public. I have had within a few days information of the appointment of one sent into the State that I in part represent here. I know not what——

Mr. SHERMAN. That information is all published, I will say to the Senator, in reply to an inquiry from the other House.

Mr. CONNESS. I ask the Senator what information?

Mr. SHERMAN. In regard to the names and the number of officers of the Government that have recently been appointed.

Mr. CONNESS. I will undertake to say that it is not contained in any communication from any Department.

Mr. SHERMAN. It was recently furnished to the House of Representatives. It was spoken of here yesterday, and is lying on the table, I am so informed. I have not seen the document.

Mr. CONNESS. Very well. It was stated here yesterday, and I presume it is strictly true, that within a few days past an officer has been appointed and sent down into some of the States of this Union, or of the South, to perform some of the highest functions connected with the revenue and the revenue laws—a person rejected as often as his name had been presented to this body for confirmation for office, and deemed by the Senate utterly unfit to hold any responsible office. And, as I was proceeding to say when interrupted by the Senator, I learn that such officers are continued to be appointed; that within a few days one has been appointed and sent to California to do I know not what. It is time that this matter was fully inquired into. We have a Committee on Retrenchment; I have no doubt that that committee are efficient and have much to do; but I know no branch of the public service and no direction that should invite their scrutiny more carefully and certainly than the one that I direct attention to at this time; and I think that this resolution should embrace the scope of my remarks.

Mr. EDMUNDS. Will the Senator allow me to say to him and to the Senate that the very subject that he speaks of has been under consideration; and still is, by a sub-committee of the committee to which he refers, composed of Senators and a member of the House of Representatives who are investigating it thoroughly, rigorously, vigorously, and intend, as soon as they can complete their investigations, to report upon it.

Mr. CONNESS. I am very glad to hear this statement made by the honorable chairman of the Committee on Retrenchment, and I hope it will be followed with the vigor that has been stated.

The resolution was adopted.

PAVING WASHINGTON AVENUES.

Mr. MORRILL, of Vermont, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire whether the annual expense of paving and repairing the public avenues of the city of Washington could not be permanently reduced by carrying out the original design of setting apart and turfing either twenty feet of the center or ten feet on each side, more or less, of such avenues, and planting the same with shade trees; and also in what mode the owners of property abutting the avenues, and who would be largely benefited by the improvement proposed, can be made to defray the expense of the same.

PAY OF RETIRED NAVAL OFFICERS.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Attorney General of the United States be directed to transmit to the Senate copies of any and all opinions officially given by him in relation to the pay of retired and reserved officers of the Navy, especially those embracing his construction of the ninth section of the act entitled "An act to amend certain acts in relation to the Navy," approved March 3, 1867.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had on the 20th day of December, 1867, approved and signed an act (S. No. 143) to provide for changing the names of persons in the District of Columbia.

CAPTURED AND ABANDONED PROPERTY.

Mr. SHERMAN. I move that the Senate take up for consideration House joint resolution No. 19, which was partially debated some days ago, and on which the Senator from Illinois [Mr. TRUMBULL] has the floor.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer as special agent of the Treasury Department be covered by warrant into the United States Treasury, the pending question being on the amendment of Mr. EDMUNDS, to substitute for the joint resolution the following:

That all moneys which have been received by any officer or employé of the Government, or any Department thereof, from sales of captured and abandoned property in the late insurrectionary districts, under or under color of the several acts of Congress providing for the collection and sale of such property, and which have not been already covered into the Treasury, shall be immediately paid into the Treasury of the United States, together with any interest which has been received or accrued thereon.

And be it further resolved, That if any officer or person having the custody, possession, or control of any money derived or arising from the sale or other disposition of any such property mentioned in the preceding resolution, shall convert the same to his own use, or shall refuse or neglect for a space of thirty days next after the passage of this resolution to pay the same into the Treasury of the United States, or shall in any way pay away or dispose of the same otherwise than by paying the same into the Treasury as aforesaid, shall be deemed and held guilty of embezzling the public money of the United States, and shall be punished therefor by imprisonment for a term of not more than ten years, and shall pay a fine equal to the sum so embezzled.

Mr. TRUMBULL. Mr. President, in my remarks on this resolution when it was under consideration before the holidays, it was not my intention to reflect upon the motives of the present Secretary of the Treasury, or of any of his predecessors, but to present to the notice of the Senate what I regarded as a misconstruction of the law and an assumption of unwarranted authority by that officer. And, sir, I regretted that my friend from Maine, [Mr. FESSENDEN,] who occupied for a few months the position of Secretary of the Treasury, should have felt called upon to defend, not only his own action but that of his successor in regard to this captured and abandoned property and the proceeds of it. I wish in the outset of what I have to say now to remark that I have the fullest confidence in the honesty of purpose of the Senator from Maine while he was Secretary of the Treasury, and, I may add, in all his public acts. But, sir, while this is so, I am sure that Senator would not have the members of this body refrain from commenting upon and exposing what they believe to be a very great abuse in the Treasury Department, involving millions and millions of dollars, because when he held the office for a short period it may have transpired that in small matters, and not particularly attracting his attention, a similar construction of the statute may have been tolerated. It will be recollected that while at the time he was Secretary he indorsed the opinion of the Solicitor of the Treasury that the Secretary had authority to pass upon the questions of captured property he now admits that the opinion of the Attorney General which denied that authority to the Secretary of the Treasury was undoubtedly correct, and I am sure he would not have other Senators refrain from exercising the same privilege which he has exercised.

I would desire to divest this question entirely from any action of the Senator from Maine. I wish to look at it simply as it stands, to examine the statutes, and to ascertain whether the Treasury Department has been pursuing an illegal and improper course in regard to the proceeds of captured and abandoned property. What I said substantially the other day when this subject was under consideration I repeat now; and that was that there had been realized from captured and abandoned property more than thirty-four million dollars, that the net proceeds of this property amounted to more than twenty-four million dollars, and that the Secretary of the Treasury, instead of paying this money into the Treasury of the United States as the law required, held it outside of the Treasury, kept it on special deposit; in whose hands I know not; whether at interest I know not; if at interest who got the interest I know not; but, as I stated, this money was kept out of the Treasury, where the law required it to be placed, for a long period of time, and some of it has not yet reached the Treasury of the United States. I stated further that he had assumed to hold this money thus outside of the Treasury for the purpose of passing upon claims made by various parties either to the property or to its proceeds, and that he had proceeded to surrender up to claimants more than nine thousand bales of cotton. I feel authorized to-day to say that his report making that statement does not state all the cotton that has been surrendered up by thousands of bales, but it does state that the Secretary surrendered up, as I said the other day, upward of nine thousand bales of cotton, and paid to claimants, disloyal some of them—I did not state that the other day, but I state it to-day—more than two millions of money, and that all this delivery of cotton and payment of proceeds was contrary to law. I stated further that after obtaining the opinion of the Attorney General, to whom the question was submitted, as to his authority to pass upon these claims where the property was captured, he had still proceeded to pay hundreds of thousands of dollars to claimants. Now, sir, I propose to make good every declaration which I then made.

By the act of July 17, 1862, it was made the duty of the President of the United States "to cause the seizure of all the estate and property, money, stocks, credits, and effects" of certain classes of persons enumerated in the statute, being six classes, and including the leaders of the rebellion. By the sixth section of that act it was made the duty of the President of the United States to issue a proclamation calling upon all persons giving aid or assistance to the rebellion within sixty days to return to their allegiance under the penalty of having all their property seized by the Government of the United States, and it was declared to be the duty of the President to seize this property. The seventh section of the act provided for the mode of proceeding to have it condemned, and directed the proceeds of this property, whether real or personal, when found to belong to a person engaged in rebellion or who had given aid or comfort thereto, to be condemned as enemy property.

These provisions were made by the act of July 17, 1862, known as "An act to suppress insurrection, to punish treason and rebellion, and to seize and confiscate the property of rebels, and for other purposes."

In pursuance of this act the President of the United States, on the 25th day of July, 1862, issued his proclamation warning all persons to cease their hostility to the Government and return to their allegiance under the penalties prescribed by this act. Then, sir, by the passage of this law of July 17, 1862, and the proclamation of the President in pursuance of it, all the property belonging to rebels or to those giving aid and comfort to the rebellion, became liable to seizure, and it became the duty of the President to have it sold and its proceeds paid into the Treasury of the United States.

In 1863 Congress legislated again on this subject. It had been found that it was impracticable to bring this property before the judicial tribunals for condemnation, and the act of March 12, 1863, was passed, which provided that the Secretary of the Treasury should appoint agents who should take possession of—"receive and collect" is the language of the act—all abandoned or captured property in any State or Territory or any portion of any State or Territory of the United States designated as

in insurrection against the lawful Government of the United States by the proclamation of the President of July 1, 1862. This property when taken by the agents of the Treasury was required to be sold at auction to the highest bidder, and "the proceeds thereof" to "be paid into the Treasury of the United States."

You will observe, Mr. President, that every act on this subject is specific and direct, that the property shall be sold and its proceeds paid into the Treasury of the United States. The cumbersome mode of proceeding before the courts was dispensed with by this act of March 12, 1863, and the Treasury agents were to seize all captured and abandoned property in the insurrectionary districts, and were to sell it and pay the proceeds into the Treasury. Well, what then, sir? It would happen in making these seizures that sometimes property would be seized which was not property subject to seizure, and Congress therefore provided in the third section of this act relief for those persons whose property should have been thus wrongly taken; and what was that? The section is in these words:

"Any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims."

Prefer his claim for what? "To the proceeds thereof," not the property; he never could get that back, but "to the proceeds thereof."

"And on proof to the satisfaction of said court"—

Of what facts?

"of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the reduction of any purchase money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof."

Here was a provision made by the statute for the relief of those persons whose property had been improperly taken, with which, however, the Secretary of the Treasury had nothing to do. His duty was specific—to pay the money into the Treasury of the United States.

The sixth section of this act made it the duty of all the officers of the Army and the Navy who had possession of enemy property to turn it over to these Treasury agents.

In 1864 Congress again legislated upon this subject, and by the act of the 2d of July of that year declared what property was to be embraced under the terms "abandoned" and "captured" property. It will be observed that the Secretary of the Treasury has undertaken to draw a distinction between captured and abandoned property, and to claim the right to surrender up the one if not the other. The act of Congress recognizes no such distinction, but subjects the property of all rebels to seizure and sale. The third section of the act of July 2, 1864, declares—

"That the first section of the 'Act to provide for the collection of the abandoned property and for the prevention of fraud in insurrectionary districts in the United States,' approved March 12, 1863"—

which is the act under which the Secretary of the Treasury appointed his Treasury agents to receive and collect captured and abandoned property—

"is hereby extended so as to include the descriptions of property mentioned in" * * * * "the act entitled 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' approved July 17, 1862." * * * * "And section six of said first-mentioned act is hereby amended so as to include every description of property mentioned in the acts of July 13, 1861, and July 17, 1862, aforesaid."

So that by this act of July 2, 1864, the Treasury agents who were appointed to receive and collect the captured and abandoned property were directed to take all the property embraced in the confiscation act of July 17, 1862; and what was that? All property of every person who had been engaged in or given aid and comfort to the rebellion. It was their duty to seize the whole of it, and the words "captured and abandoned property" were extended so as to include the property of every person who had given aid and comfort to the rebellion. This last act, like the others, required the money which was received from the proceeds of the sales of this property to be paid into the Treasury of the United States. Was it so paid? Why, sir, this resolution on your table shows that the whole of it has not yet reached the Treasury. Was it not the duty of the Secretary of the Treasury, palpable and plain, under these laws, to see that the proceeds were paid into the Treasury? Could you have any doubt on that point? He was to appoint agents; they were to take captured and abandoned property, and inasmuch as there was some difficulty in understanding what those terms meant the provisions of the act of March 12, 1863, were extended so as to subject all the property of rebels of every kind and description to seizure by these Treasury agents; or rather, they were to receive and collect it and sell it and pay the proceeds into the Treasury of the United States. These seem to me to be very clear and very plain provisions of law.

I said that under these acts more than thirty-four millions of proceeds had been received. I have before me the letter of the Secretary of the Treasury dated March 2, 1867, in answer to a resolution of this body on this subject, in which he says:

"It appears that the total amount received from the various sources properly enumerated under the general head of captured and abandoned property was $34,052,809 54, of which amount the sum of $24,742,022 55 remains as net proceeds."

This is in accordance with what I stated originally when this subject was under consideration. Now, sir, what was it the duty of the Secretary of the Treasury to do with these proceeds?

Mr. FESSENDEN. The Senator will excuse me for interrupting him; but it is not in accordance with what he stated before. He stated before that $10,000,000 had been used up in expenses, whereas that very statement which he has in his hand shows that several millions were money paid out under the law of 1864 in purchasing cotton according to law.

Mr. TRUMBULL. I did state that $10,000,000 had been expended.

Mr. FESSENDEN. Had been used up in expenses.

Mr. TRUMBULL. It had been used up in some way. The gross amount is given and the net proceeds are given, and if the Senator from Maine will have patience I think he will see before I am through that it has been most wrongfully and unlawfully expended.

Mr. FESSENDEN. That may be. All I wished to do was to correct the Senator as he went along in his statement of what he said before. The statement to which I answered before was, that the expenses of collection and sale had been $10,000,000, and I showed him from the very paper that he has in his hand that it was not so by several millions.

Mr. TRUMBULL. I read the precise words of the Secretary of the Treasury, which are:

"It appears that the total amount received from the various sources properly enumerated under the general head of captured and abandoned property was $34,052 809 54, of which amount the sum of $24,742,022 55 remains as net proceeds."

This is the proceeds of "captured and abandoned property," let me tell the Senator from Maine, and not the proceeds of "purchased property."

Mr. FESSENDEN. It includes the proceeds of the purchased property, and if the Senator will send me the paper I will show it.

Mr. TRUMBULL. I know the excuses that are in this paper, and I shall comment upon them at the proper time. I am sorry that my friend from Maine cannot wait until I get through with my comments upon this very paper.

Mr. FESSENDEN. If the Senator objects to my correcting him he has only to say so, and I shall not interrupt him again.

Mr. TRUMBULL. I have no objection; it does not disturb me at all to be interrupted, but I think probably I should answer the Senator's objections before I get through.

Mr. FESSENDEN. Very well.

Mr. TRUMBULL. It does not disturb me to be interrupted, if the Senator wishes to say anything.

Mr. FESSENDEN. No, sir; I shall not interpose, because the moment I attempt to correct the Senator in a statement he gets in an apparent passion and begins denunciation about "the Senator's patience." I therefore will hear him through, reserving my privilege of answering him when he has got through or at some other time.

Mr. TRUMBULL. Well, Mr. President, I read the statement as it is; I read the very words; and when the Secretary tells us that so much is received as the gross proceeds and so much left as the net proceeds of captured and abandoned property I supposed that he meant what he said. The Senator from Maine the other day undertook to show, and read from the same paper to show, that this difference between $36,000,000 and $24,000,000, in round numbers, was made up in part of claims that were allowed by the Secretary of the Treasury. I am aware of that, sir; but I think they were unjustly allowed. He may call it expenses. I care not to cavil upon words. The point is this: of $36,000,000 received, but $24,000,000 remain, according to the statement; a portion of this money went for the expenses of the sale, for transportation, for keeping the property until it was sold; and so far as I know—I have seen no list of these expenses—they may all have been proper. A portion of this difference between the $36,000,000 and the $24,000,000, according to this statement, is made up of claims allowed; and the Senator from Maine says a portion of it is made up of money paid for cotton. I was not aware of that. It may be that the statement would so show; but I do not see exactly how that would be consistent with the statement which I have read.

Mr. FESSENDEN. If the Senator would like to have it explained I think I can explain it in a moment if he desires it.

Mr. TRUMBULL. Certainly.

Mr. FESSENDEN. The Senator will find that the last act which was passed provided for the appointment of agents to purchase cotton; that cotton should be brought to agents and purchased, and they should sell it and pay the proceeds into the Treasury, and out of those proceeds the party selling it to the purchasing agents was entitled to a fixed rate—seventy-five per cent.—the Government retaining twenty-five per cent. Into that account all the cotton that was purchased and sold is brought, and in the $10,000,000 is charged the amount of the purchase-money, and what was brought in is credited on the other side. That is the explanation of it. You credit what you receive and charge what you paid out.

Mr. TRUMBULL. I should like to know of the Senator if he considers property that was purchased as coming under the head of "captured or abandoned property?"

Mr. FESSENDEN. It is included in the statement of the thirty odd millions.

Mr. TRUMBULL. Admit that it is; does it come under that description of property properly?

Mr. FESSENDEN. That is another question. If it does not come under that head then there have not been $34,000,000 realized from captured and abandoned property.

Mr. TRUMBULL. That might be, according to the paper; but I should not regard property that was purchased as "captured and abandoned property;" and the Senator from Maine must pardon me if I do not understand how, properly, property purchased could have been designated as "captured or abandoned." Well, sir, whether captured or abandoned, or in whatever shape this money was received by the Secretary of the Treasury, it was, as I have said, clearly his duty, or the duty of the agents appointed by him, to have paid it into the Treasury of the United States. Instead of doing that he proceeded to adjudicate upon it, and, according to this report he restored to claimants nine thousand five hundred and

six bales of cotton and $2,210,476 95, the proceeds of cotton, and he claimed the right to do so, as will be observed by his letter, which says:

"In all cases arising under the statutes relative to captured, abandoned, or confiscable property, where the same was taken possession of by agents or officers of the Treasury Department, without the intervention of the military authorities, Secretary Chase, Secretary Fessenden, and the present Secretary have felt authorized to revise the action and correct the errors of subordinate officers of the Department; to investigate the facts and circumstances relative to property so seized, and to restore the same or its proceeds to the owners, if it had been illegally or improperly taken."

Now, sir, where did they get that right? That was the very question which the law submitted to another jurisdiction, the Court of Claims, within two years after the suppression of the rebellion. Where did the Secretary of the Treasury get authority to investigate this matter and determine whether the property was properly captured or abandoned? If it was property belonging to a person who had given aid and comfort to the rebellion it was enemy property by the act of July 17, 1862, and it was made the duty of these officers to receive it. What was the question that the Secretary decided? He decided the question whether it had been properly seized. Of course he inquired whether the claimant was the owner. What did the statute of 1863 require the Court of Claims to inquire into? The claimant's "ownership of said property." Did not the Secretary investigate that very question? He certainly would not restore property to a person who did not show himself to be the owner; but that was one of the questions submitted by the law to the Court of Claims.

What was the next question? "His right to the proceeds thereof." Was not that the question which the Secretary undertook to adjudicate? Certainly the Secretary would not pay the proceeds to a person without having satisfactory proof that he had a right to the proceeds thereof.

What else was the Court of Claims to be satisfied of? That the person claiming the property "has never given any aid or comfort to the present rebellion." Did the Secretary of the Treasury require that proof? Not always. It appears by the discussion that arose on this subject the other day that there is now a case pending where it is said the party is entitled to recover who is a pardoned rebel. That is one of the cases now pending, for the settlement of which, it is said, this money is kept out of the Treasury; and it was referred, says the Senator from Maine, to the committee of which my friend from Vermont [Mr. EDMUNDS] is chairman, the Committee on Retrenchment. But, sir, has the Committee on Retrenchment any authority to pay or direct or advise money to be paid to a pardoned rebel, when your act of Congress says that before this money is to be paid the court must be satisfied that the party claiming the money has never given aid or comfort to the rebellion? The opinion of the Attorney General in reference to this case of Billups, which was quoted by the Senator from Vermont the other day, states:

"After the fall of the so-called confederate government and the surrender of its armies, and after Joseph P. Billups had been pardoned by the President, the Treasury agents seized the cotton as the property of the confederate government because they found it entered upon the books of that government. Prior to this seizure by the Treasury Billups had sold the cotton to Colonel John S. Williams."

Why, sir, Billups could not sell the property. Why? Because the act of July 17, 1862, declared:

"And all sales, transfers, or conveyances of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void."

He had no capacity to sell it. This sale to John S. Williams was null and void.

Then, sir, what were the questions that the Secretary of the Treasury undertook to pass upon? The very questions that the law said should be passed upon by the Court of Claims; that is, the ownership, the right to the proceeds, and the loyalty of the claimant.

But the Senator from Maine the other day in his argument said that the statute did not say that there was not any other way by which a claimant could obtain the proceeds than through the Court of Claims. It is true the law had provided a remedy for a party whose property was improperly seized in the Court of Claims, but the law did not say that was the only one. Why, sir, what did the law say?

Mr. FESSENDEN. The Senator will please not put words in my mouth. I think the Senator cannot find that expression in what I said.

Mr. TRUMBULL. This is the language of the Senator as reported in the Globe:

"I know that the doubt, if there was a possibility of a doubt, was always given to the Government, and the parties claiming were remitted to the remedy provided by the statute of 1863, which it is not said shall be the only remedy."

I presume the Senator would hardly entertain that opinion as a lawyer. When the law had provided that the proceeds of this property should be paid into the Treasury of the United States, and then had prescribed a mode by which a party entitled to the proceeds might recover them, I should imagine that upon reflection the Senator from Maine would hardly say that the party whose duty it was to pay the proceeds into the Treasury had a right to adjudicate upon the question. His duty was specific, to pay over the money. The only way to get it back was through the Court of Claims.

I wish to say that I have no disposition, no object, and no purpose in the world to find fault with any expression that has fallen from the Senator from Maine, or to find fault with any action of the Secretary of the Treasury. I have no controversy with the gentlemen who have held that position or the one who holds it now. This is a public matter. I think that the public interests require that the laws should be complied with. If not a dollar had ever been paid out by the Secretary of the Treasury except where the party was strictly entitled to it, if the Secretary was immaculate and had done justice in all cases, I still would say that it was wrong for him to take jurisdiction of these questions and attempt to decide them when the law had confided them to another tribunal. It is against the exercise of these extraordinary and unwarrantable powers on the part of the Secretary of the Treasury that I protest. Why, sir, a great deal of the financial difficulty that exists in the country at this time is to be attributed to the vast discretionary powers that have been wielded by the Secretary of the Treasury. No business man knows what a day may bring forth. You have hoarded up in the Treasury more than one hundred million dollars. He can make the money market easy or make it tight by his operations, and no one knows what he will do. No man is willing to embark in an enterprise which requires capital this year, because he does not know whether by some action of the Secretary the money that he invests to-day may not be worth double its present value another year.

Now, sir, have I not shown that the Secretary undertook to pass upon the identical questions which were submitted by the law to the Court of Claims? If he was permitted to make these decisions then there was nothing left for the Court of Claims to investigate.

I wish to refer for a few moments to the opinion of the Attorney General, which shows very conclusively the meaning of these statutes to which I have alluded. The Secretary of the Treasury, in 1865, I think, called upon the Attorney General to know whether he could adjudicate upon claims against property received and taken by Treasury agents, and here is the reply of the Attorney General. After referring to the statutes, he says:

"Thus it appears that all cotton received by, or that may have come under the control of, any military officer or soldier, whether it was actually seized or captured by him or not, must be dealt with as 'abandoned or captured property.'"

* * * * * * * * * * *

"I am of opinion that neither the President nor any other executive officer can restore or authorize such a commission as you suggest to make restoration of the proceeds of their captured property to these loyal claimants.

"Congress, by the legislation under consideration, has reserved to itself the power of finally disposing of the claims of the alleged owners of this property; and so long as that legislation exists the claimants must pursue the remedy which it indicates for the establishment and enforcement of their rights."

* * * * * * * * * * *

"It was not expected that such captures had been or would be in all cases well and wisely made, or that in the course of such predatory hostility the innocent would not sometimes suffer as well as the guilty. Nor was it thought well that the administration, so to speak, of so much of the property within the enemy's territory as might be reduced into the possession of the military forces, should be controlled by or under executive authority." * * * *

"The duty of the agents was to receive all property in the insurgent States which was in fact captured or seized out of the enemy's possession by the military authorities. They had no duty or power to inquire whether or not such property had been rightfully captured; whether the Generals who reported it to them for collection had observed, in effecting the captures, what are called 'the recognized usages of war,' or had violated all the principles of writers on what is styled the law of nations, supposed to tend against the right of seizing private property on land; but it was the duty of the Treasury agents simply to receive all property reported to them as having been captured, irrespective of any considerations touching the legal exemption of any of it from seizure, and to dispose of it in the manner provided by the law.

"After the conversion of the property into money the proceeds were directed to be paid into the Treasury. The words of the statute are, 'the proceeds thereof shall be paid into the Treasury of the United States.'" * * * * * * * *

"When the insurrection has been suppressed the owners are authorized to invoke the jurisdiction of the Court of Claims, and obtain there an adjudication of their respective claims.

"The proceeds of the property are thus in the possession of the United States, subject to the adjudications of that court; and when it shall have passed upon the claimants' rights and decreed in their favor, Congress has solemnly declared that they shall receive restitution of their property. In the presence of such legislation (covering, as it does, the entire subject-matter, providing for the safe custody of the property in question pending hostilities, and for the final judicial determination of the rights of the parties in interest) I cannot see that the Executive has power to make a different disposition of the property from that provided by Congress, or authorize any one to determine the questions which Congress has intrusted to the decision of another forum."

Could anything be more conclusive than this opinion of the Attorney General as to the illegality of the action of the Secretary of the Treasury?

Mr. EDMUNDS. He says that he followed that opinion.

Mr. TRUMBULL. I shall come to that point. I undertake to say that his report shows he did not follow that opinion. There is, Mr. President, an opinion of the Supreme Court of the United States which bears upon this question and shows how this property was to be disposed of. In the case of Mrs. Alexander, where she claimed a certain number of bales of cotton, the Supreme Court, through the Chief Justice, says:

"It is said that, though remaining in rebel territory, Mrs. Alexander has no personal sympathy with the rebel cause, and that her property, therefore, cannot be regarded as enemy property; but this court cannot inquire into the personal character and dispositions of individual inhabitants of enemy territory." * * * * * * *

"We must be governed by the principle of public law, so often announced from this bench as applicable alike to civil and international wars, that all the people of each State or district in insurrection against the United States must be regarded as enemies until by the action of the Legislature and the Executive, or otherwise, that relation is thoroughly and permanently changed.

"Being enemies' property the cotton was liable to capture and confiscation by the adverse party."

* * * * * * * * * * *

"And the capture was justified by legislation as well as by public policy. The act of Congress to confiscate property used for insurrectionary purposes, approved August 6, 1861, declares all property employed in aid of the rebellion, with consent of the owners, to be lawful subject of prize and capture wherever found. And it further provided, by the act to suppress insurrection, and for other purposes, approved July 17, 1862, that the property of persons who had aided the rebellion, and should not return to allegiance after the President's warning, should be seized and confiscated." * * * * *

"We think it clear that the cotton in controversy was not maritime prize, but should have been turned over to the agents of the Treasury Department to be disposed of under the act of March 12, 1863. Not having been so turned over, but having been sold by order of the district court, its proceeds should now be paid into the Treasury of the United States, in order that the claimant, when the rebellion is suppressed, or she has been able to leave the rebel region, may have the opportunity to bring her suit in the Court of Claims, and on making the proof required by act have the proper decree."—2 *Wallace Reports*, 419.

There, sir, was a case before the Supreme

Court of the United States where the court would not listen to the claimant to prove her loyalty, and said that being in an enemy country her property was subject to be treated as enemy property in accordance with the principle often announced from that bench, and that the property must be sold and its proceeds go into the Treasury of the United States, and then at any time within two years from the close of the rebellion the claimant would have a right to file her petition in the Court of Claims and obtain redress if she was entitled to it. That high tribunal would not listen for a moment to the idea of adjudicating upon the rights to property which had been seized, but turned it over to the tribunal which the law had provided to pass upon that question; and yet the Secretary of the Treasury could pass upon all these questions.

Mr. FESSENDEN. Who was the Chief Justice who delivered that opinion?

Mr. TRUMBULL. Chief Justice Chase. I suppose the Senator, by asking that question, would make a point upon this report of the Secretary of the Treasury where he gives the opinion of Mr. Secretary Chase and Mr. Secretary FESSENDEN. Now, I suppose, Mr. President, that if the Chief Justice ever gave such an opinion as the present Secretary of the Treasury states, he did it at a time when this matter attracted very little attention, and without a careful investigation, just as the Senator from Maine indorsed a similar opinion without having examined the question, and now tells us in the Senate that he has entirely forgotten the circumstances; but when the Chief Justice came to examine this question judicially—when the Supreme Court in another chamber of this building came to investigate the matter—we have their unanimous opinion that the proceeds of this property must go into the Treasury of the United States, and the claimant, if he has any remedy, must seek it in the Court of Claims.

But my friend from Ohio, [Mr. SHERMAN,] the other day, stated that I had been mistaken in asserting that the Secretary of the Treasury had paid any claims of the character alluded to in the opinion of the Attorney General after that opinion was delivered. He stated upon that occasion:

"All that I said, and what is now shown to be true, is this: that the Secretary had complied with the opinion, first of the solicitor, until that was modified by the opinion of the Attorney General, and then had complied with the opinion of the Attorney General."

And the Senator went on to remark that he was a little surprised that I should have controverted the statement made by him; that the Secretary had not followed this opinion of the Attorney General. Well, sir, I asserted that there had been paid of these claims, after this opinion was given, hundreds of thousands of dollars. I reiterate it to-day; I am prepared to show it by this paper; and shall be prepared to show it more conclusively when the answer to a resolution of this body asking for the papers in these cases and other information is received. Still I wish to say in that connection now, that I offered a resolution of inquiry in this body, something like a month ago, which was adopted, calling upon the Secretary of the Treasury to report to the Senate the facts in regard to these cotton transactions, and no answer has yet been received to it. The Senate called upon him to respond, and we have got no response; and, sir, I give notice now that unless an answer is soon received I shall call the attention of the Senate again to that resolution, and if the Senate sustains me we will compel the Secretary of the Treasury to respond to the respectful resolutions of this body.

Now, sir, I propose to show that the Secretary of the Treasury has paid hundreds of thousands of dollars of these claims since the Attorney General's opinion was given. The Senator from Ohio, in denying this, bases his statement upon this passage in the Secretary's report:

"This opinion of the Attorney General has since governed the action of this Department as to cases considered as fairly coming within the purview of the same."

Yes, it has governed the Department concerning cases considered by him (Mr. Secretary) as fairly coming within the purview of the opinion! That is what he says. He does not deny that he has paid claims; but he, in his discretion, has determined whether they come fairly within the opinion of the Attorney General, although the law passed in 1862, repeated in 1863, reënacted in 1864, in so many words said "the proceeds thereof shall be paid into the Treasury of the United States." I have read what the Secretary says; what do the figures show? I will read from this same document. On page 11 I find that on the 8th day of October and on the 27th day of October, 1865—mark you, the Attorney General's opinion was given in July, 1865—there was paid to G. W. Turner and Clark Wright & Co. $43,985 02 for cotton "erroneously seized as abandoned." Perhaps the Senator will say that is abandoned property. Well, let him turn to another item. On the 7th of April, 1866, there was paid to William H. Thornton and others $15,397 14. For what? For cotton "erroneously seized;" not as abandoned property, but as "erroneously seized." In July, 1866, only a few months ago, there was paid to Watts, Crane & Co. $48,305 42 for property "erroneously seized."

Mr. SHERMAN. By the Treasury agents, I suppose.

Mr. TRUMBULL. That is added by my friend. How does he know that it was erroneously seized by the Treasury agents?

Mr. SHERMAN. It is to be presumed that is so, because the Secretary says that he has complied with the opinion of the Attorney General which authorized him to review the acts of his own agents.

Mr. TRUMBULL. The Attorney General never gave an opinion that he could review the action of his own agents even in regard to abandoned property.

Mr. SHERMAN. It is hardly worth while to base an argument against the Secretary on a supposition of that kind.

Mr. EDMUNDS. He does not use the word "captured" there.

Mr. SHERMAN. The distinction between property taken by the military authorities, which was called "captured property," and property taken by his agents is continually kept up by the Secretary of the Treasury. Whenever he refers to captured property he speaks of it as "captured."

Mr. TRUMBULL. He speaks of "property abandoned" in this report; and I judge he does not mean the same thing when he speaks of "abandoned property" that he does when he speaks of "seized property." I have shown by the law that it was the duty of the President and of these officers to seize rebel property; and there is no opinion of the Attorney General that the Secretary has a right to pass upon the claims in regard to abandoned property.

Mr. EDMUNDS. Attorney General Speed directs him to give it up in one case.

Mr. TRUMBULL. I should have come to that by and by in replying to my friend, but if he will look at that opinion he will see in the outset of it that the Attorney General says:

"As no legal question has been asked, I suppose it is intended that I should express an opinion as to the legality and propriety of holding the cotton seized by the Treasury agents."

No legal opinion is asked of him, and then he goes on to give an opinion on the facts of the particular case, that property coming through a rebel may be given up; and my friend from Vermont says:

"I should not myself put that construction on the law."

I do not think anybody would who had looked at all the statutes.

Mr. EDMUNDS. It seems that an Attorney General did.

Mr. TRUMBULL. The Attorney General did not speak of captured or abandoned property.

Mr. EDMUNDS. He spoke of that named in his letter.

Mr. TRUMBULL. He spoke of the particular article of property, the facts in regard to which he details. What I say is that the Attorney General has never given the opinion that the Secretary of the Treasury had a right to revise the action of his agents in regard to abandoned property.

Mr. EDMUNDS. That opinion clearly shows that he held it to be the duty of the Secretary to revise the mistake of his agent in seizing property when he ought not to have seized it.

Mr. TRUMBULL. I deny that it establishes any such principle. The Attorney General says in the outset that no legal opinion is asked of him.

Mr. EDMUNDS. He means by that that no specific question is asked, but then he goes on to say that he supposes it to mean whether it is lawful to review and give up.

Mr. TRUMBULL. No; he does not say that. He says, "The facts as disclosed in this bundle of papers are substantially as follows;" and he then goes on to detail what they are, and it seems that the question raised in the case and upon which he is passing is whether the particular property belonged to the confederate government. Now that is not the question in regard to the great mass of the property which was taken. The question is whether it was the property of persons who had given aid and comfort to the rebellion, not whether it was the property of the confederate government. Independent of any of these laws of confiscation and forfeiture, by the general rules of war all property belonging to the confederate government vested in the United States when the United States took possession of it. It requires none of the acts of Congress to which I have referred to establish that right. That is not one of the classes of cases about which we are having this discussion. We are speaking of cases where property was seized as belonging to individuals. The act of July 17, 1862, is aimed at individuals, and so is the act of March 12, 1863, and so is the act of July 2, 1864. All of them have relation to the property of individuals, not to that of the confederate government. There never was any question about the title of the United States to property belonging to the confederate government, and the Attorney General merely gives his opinion on the facts of a particular case as to whether certain property seized as belonging to the rebel government did in fact belong to it. He gave no opinion as to whether it was liable to seizure as belonging to a rebel, it not having been so taken.

Mr. EDMUNDS. Allow me to ask my friend whether that opinion of the Attorney General is not upon the question whether the Secretary of the Treasury has any right to review the supposed or alleged errors of his agents in taking the particular cotton named in that letter; and if that is so, (which it seems plain, if language means anything in the case,) he tells him in words that he has no right to hold it; his agents made a mistake, and he ought to give it up? If that is so, how can my friend distinguish between the power of the Secretary of the Treasury to review a mistake of his agent as to property said to be confederate cotton and a mistake of his agent in seizing property which was the property of a private person? If he can review in the one case can he not in the other?

Mr. TRUMBULL. The Congress of the United States has never authorized the Court of Claims to hear a suit brought by the confederate government in regard to property seized as the property of that government.

Mr. EDMUNDS. Cannot Billups go into that court?

Mr. TRUMBULL. No; Billups cannot get into that court. He cannot get in far enough to be heard. He is disloyal; he was a rebel, and rebels cannot be heard in the Court of Claims, and perhaps the Senator will find in that fact a reason why they prefer being heard at the Treasury Department.

Mr. EDMUNDS. The court cannot deter-

mine until the case is before them whether a man is a rebel or not.

Mr. TRUMBULL. He has got to start out in his petition with showing that he is loyal. It is the very first step under the act of Congress.

Mr. EDMUNDS. Certainly; but it cannot be determined whether he is loyal or not until they hear the case.

Mr. TRUMBULL. I should think it could be determined. In his petition, the first paper he submits, he is required to put it down in writing and swear to it.

Mr. EDMUNDS. Suppose he does, but on a hearing it turns out that he was not loyal?

Mr. TRUMBULL. Then he would have sworn to a falsehood and committed perjury to start with.

Mr. EDMUNDS. I suppose there would not be much trouble in a rebel doing that.

Mr. TRUMBULL. We are not to presume that parties commit perjury in judicial proceedings. The Senator from Vermont is too good a lawyer to assume as a presumption of law that any man will commit perjury.

Mr. EDMUNDS. Is not the presumption as great in regard to rebellion as in regard to perjury?

Mr. TRUMBULL. It may be equally bad to commit rebellion as to commit perjury; but we are not to be drawn off from the proper consideration of a question of this kind by an *ad captandum* suggestion of that sort, that a rebel is as bad as a perjurer. The law provides that in order to a hearing in the Court of Claims a party must in the first instance set forth his loyalty, and then he has to prove it besides.

Now, sir, the opinion of the Attorney General, which the Senator from Vermont says is erroneous, which he agrees with me should never have been given, is held up here as a reason for keeping out of the Treasury the money directed by three specific statutes to be paid into the Treasury of the United States.

Mr. EDMUNDS. That is a mistake so far as it applies to me.

Mr. TRUMBULL. I know the Senator is willing to have it paid in, but at the same time he has brought this opinion in here as a sort of justification for keeping it out.

In the discussion the other day the Senator from Maine insisted that it was only the net proceeds that should be paid into the Treasury of the United States. Well, sir, I will have no controversy with him about that. That is not the point in issue. I think, perhaps, it may be a proper construction of the statute that the expenses of the sale and of the transportation of the cotton and other incidental expenses of that kind should be paid by the officer who made the seizure, and that when the property was sold he was to pay over only the net proceeds. The complaint I make is that the net proceeds are not paid over, and not that a wagoner was paid for hauling a bale of cotton. That may be a proper construction of the act; but it does not justify the holding of $24,000,000 of money out of the Treasury after these incidental expenses had all been paid, and holding it for what purpose? For the purpose of allowing claimants to come up and establish their claims; and before whom? Before the tribunal established by the act of Congress? No, sir; but before the Secretary of the Treasury, who had no jurisdiction over the matter. That is the complaint. Why, sir, a sheriff who sold property on execution might as well undertake to hold the money in his hands instead of paying it over, on the pretense that some third party might claim the money as belonging to him. Of course the sheriff would be entitled to his fees for selling the property; but he could not hold on to the proceeds which were left. As well might the Secretary of the Treasury hold out of the Treasury of the United States the hundreds of millions of money collected by the internal revenue officers and by the collectors of customs as the net proceeds of abandoned and captured cotton. It is an everyday occurrence that suits are brought in the city of New York by importers against the collector of customs for exacting wrongful duties. What would you think if the Secretary of the Treasury should hold the $100,000,000 collected annually in the city of New York outside of the Treasury on deposit in some bank or in somebody else's hands, to await the results of any suits that might be brought by parties who contended that illegal duties had been exacted? He might just as well have done it as to hold back this money for like purposes.

Where is there any law about "covering" money into the Treasury? That is a new expression to me. The Senator from Michigan [Mr. HOWARD] asks me what it means. That is a question I am not able to answer, but I find that the Secretary says:

"All moneys realized from the sales of property received under the act in question and other similar acts not repaid to claimants as set forth in statements A and B, or disbursed as expenses of collecting and disposing of the same as provided by law, have passed into the hands of the Treasurer of the United States"—

Not the Treasury, but into the hands of the Treasurer of the United States.

"and have also been regularly covered into the Treasury"—

with certain exceptions, which he goes on to state. What he means by their being "covered into the Treasury" I do not know. I suppose it means that these sums were not in the Treasury, where the law required them to be until some action had been taken by the Secretary to have them placed there. The Senator from Maine will be able to explain what the word "covered" means in that connection.

Mr. FESSENDEN. I should think the Senator might understand it without any explanation. I suppose money which is deposited by a collector of internal revenue in a bank according to law is not in the Treasury regularly. It is put in bank to the credit of the Treasurer of the United States and the Treasurer makes his draft upon it as Treasurer, and when that is answered the money goes into the Treasury.

Mr. HOWARD. How do they come to use such a word as that?

Mr. FESSENDEN. That is the common expression. Sometimes it is a mere formal transfer. I think I drew in the settlement of balances in settling up at the end of a year one draft for something like a couple of millions.

Mr. TRUMBULL. The Senator from Maine in his remarks on this subject the other day said:

"When a sale was made the custom was, I think, to deposit the proceeds, if it was convenient to do so, in one of the deposit banks, and draw out the money in gross sums and hand it over to the Treasurer of the United States."

Now, can the Senator from Maine point me to any authority for putting that money into these deposit banks and handing it over to the Treasurer of the United States?

Mr. FESSENDEN. The national banks are made deposit banks by law.

Mr. TRUMBULL. But did the law authorize this money to be paid over to the Treasurer of the United States? That is a different thing from putting it into the Treasury of the United States, I take it.

Mr. FESSENDEN. That is the mode of doing business. What can a collector do if he collects $100,000 in Chicago? Must he put it in his pocket and come down here and deposit it in the Treasury? Or does he put it in bank to the credit of the Treasurer and notify the Treasurer so that he can draw for it?

Mr. TRUMBULL. Is that the way the money gets into the Treasury?

Mr. FESSENDEN. The bank is authorized to receive it where it is deposited in that way. The national banks are made deposit banks by law.

Mr. TRUMBULL. I understand that some of those banks are made deposit banks.

Mr. FESSENDEN. Money is deposited there by an officer of the Treasury. The Treasurer is regularly notified that there is a certain balance to his credit in the bank from day to day as the money is deposited.

Mr. TRUMBULL. When that is done is it in the Treasury?

Mr. FESSENDEN. Not until the Treasurer makes his draft for it.

Mr. TRUMBULL. Then it is not in the Treasury, though it is with the Treasurer? That is just the point I want to get at—where this money was; who had it; what has been done with it. It seems it was not in the Treasury, but it had got into the hands of the Treasurer. The law said it should be paid into the Treasury.

Mr. FESSENDEN. I will state to the Senator that the Secretary of the Treasury does not necessarily know all the details of the mode in which the business is conducted by the Treasurer of the United States. He signs certain papers which he understands at the time. I therefore cannot explain exactly how this is done. I only state to the Senator what I suppose to be the meaning of the term. I know that drafts or orders signed by the Secretary of the Treasury are very common, but I cannot exactly tell him what is the course of business in regard to all the operations of the Treasury. The expression the Senator speaks of "covering money into the Treasury" is one that is very common in the Treasury Department, and has been for years. Money is covered into the Treasury when it is regularly transferred in the way I have stated. Money that is out in the hands of an officer is regularly transferred into the Treasury of the United States and that operation is called covering it into the Treasury. The whole matter could be readily explained to the Senator by the Treasurer if he would apply to him.

Mr. TRUMBULL. I have no doubt that there will be found in the Treasury Department an explanation or an excuse for its action. The very thing of which I am complaining is the action there.

Mr. FESSENDEN. The Senator seems very anxious to consider everything that may be said an excuse for something wrong. I pray him not to take that for granted in what I say. I merely said that I could not tell him the exact course of business because I was not sufficiently familiar with it, and I said to him that the expression is a common one in the Treasury. It is well understood there, and applies to a mode of doing business which has gone on there for years and years, probably from the foundation of the Government. There is nothing new in it and nothing that requires any excuse.

Mr. TRUMBULL. The Senator misunderstood entirely the intention of my remark. I intended to apply it to the suggestion that we were to go the Treasury for explanation. The Senator said that the Secretary of the Treasury could no doubt explain the matter. I am not satisfied with his explanation.

Mr. FESSENDEN. I said the Treasurer could undoubtedly show exactly how the business was done. I spoke in that connection of the Treasurer of the United States, not of the Secretary of the Treasury.

Mr. TRUMBULL. The Treasurer, then; it makes no difference which is the officer. It seems I misunderstood the officer to whom the Senator referred. When I am complaining of the action of the Treasury Department, and have their acts officially before me, I am not disposed to receive the excuse—or, if the Senator dislikes that word I will say the explanation—that they may choose to give why they have done thus and so, when the law does not authorize them to do it. Now, the Senator may call upon the Treasurer of the United States and he may state to the Senator what will be satisfactory to him, but he will permit me to say that it might not be satisfactory to me.

Mr. FESSENDEN. I do not think it would be. The Senator would not be satisfied any way.

Mr. TRUMBULL. I am sorry the Senator

should think so; and I would like now to inquire of my friend from Maine, who is somewhat familiar with these transactions, whether he has ever known an instance where anything like such an amount of money as this, $24,000,000, has been suffered to lie for months and years—I do not know the exact length of time, but for more than a year, at any rate—in the hands of a Treasurer and not been brought into the Treasury of the United States as the law required. He has said that collectors collect money and deposit it in the deposit banks. This, I take it, may be so, and doubtless is so, if he says so; but I presume that is in the current way of business; large amounts are not permitted to lie in that way without being turned over to the Treasury Department for any considerable length of time. Now, I should like to know of the Senator whether in his experience he has ever known any such transaction as this, where such a sum of money as $24,000,000 has been suffered to lie out of the Treasury for more than a year.

Mr. FESSENDEN. There are two answers to that suggestion. In the first place, there has never been a similar case. This case stands by itself from the peculiar character of it. In the next place, the Senator assumes that there has been at one time $24,000,000 out of the Treasury. There has never been anything like it. The report gives the whole amount, and shows that there is only about five hundred thousand dollars now which has not been paid into the Treasury, and that the gross amount received amounted in the whole to $34,000,000 and the net amount to about twenty-four million dollars. The Senator assumes that all that has been kept out of the Treasury. It is not so. Neither the whole sum nor any very large amount of it has been kept out. What amount has been kept out I cannot tell. Of course this transaction has been going on for a series of years, and from time to time very large portions of the whole sum and most of it has been put into the Treasury, and put there within a reasonable time. We cannot tell at what time it was put in unless we get the exact accounts.

Mr. TRUMBULL. Well, sir, I should like to know how and when this money got into the Treasury. And I hope in the reply of the Treasury Department, if the Secretary ever makes it, to the resolution which I introduced, and to which I before referred, we shall get that fact, and know when this money was paid into the Treasury.

Mr. FESSENDEN. You can get the details, undoubtedly.

Mr. TRUMBULL. The Senator from Maine, in his remarks in this connection, made some allusion to the Court of Claims the other day. He then said:

"Does my friend from Illinois know—I think he has been informed—that there are claims to the amount of about fifteen million dollars pending in the Court of Claims for property captured principally? Who have we got there to defend those suits for that vast amount of property? We have two or three assistant solicitors, with the salary of about two thousand five hundred dollars each, I believe. There is no fund provided for collecting the testimony from different parts of the country with reference to this class of cases. There is in reality nothing provided by Congress for the adequate and proper defense of the interests of the United States in these suits, involving so large an amount of money. What was the Secretary of the Treasury to do under these circumstances? He decided that before all this money had been covered into the Treasury he would take it into his own hands to see that that difficulty was removed so far as to furnish an adequate defense. I believe there is no appeal from the decisions of the Court of Claims in these cases. There is no knowing what the decision may be. This is a matter that may require some special legislation, and I would call the attention of my friend the chairman of the Judiciary Committee to that particular subject."

Now, Mr. President, who constitute the Court of Claims? Five judges, and I venture to say, without detracting anything from the character or the ability of the Secretary of the Treasury, that either of those gentlemen is his equal every way—in ability, talent, and integrity. Is not a case as safe before those five judges as before the one Secretary of the Treasury, overwhelmed with business as he is? The Senator supposed there were about fifteen million dollars of cotton claims before that court. I have a statement from the clerk of the court showing that the whole amount of claims preferred there on account of captured and abandoned property is $8,791,000—little more than half what the Senator supposed it to be.

Mr. FESSENDEN. I spoke from a statement made to me. I did not pretend to be exactly accurate; I know nothing about it.

Mr. TRUMBULL. It was only a mistake of about one half.

Mr. FESSENDEN. Eight millions is a pretty considerable sum.

Mr. TRUMBULL. It is, but not quite as much as $24,000,000—not quite as much as the Secretary has assumed to exercise control over. Now, sir, how is business done in the Court of Claims? In the first place, by the act of March 3, 1863, it is provided that—

"In order to authorize the said court to render a judgment in favor of any claimant, if a citizen of the United States, it shall be set forth in the petition that the claimant, and the original and prior owner thereof, where the claim has been assigned, has at all times borne true allegiance to the Government of the United States, and, whether a citizen or not, that he has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, which allegations may be traversed by the Government, and if on the trial such issue shall be decided against the claimant his petition shall be dismissed."

Under this law neither this Mr. Billups, who has been referred to, nor Mr. Williams, his assignee, could maintain a suit in the Court of Claims. Why? Because not only the claimant but every person who has been a prior owner of the claim must set forth his loyalty, and must never have given aid or comfort to the rebellion. How has the Court of Claims construed that act? I have here the opinion of the Court given in the cotton cases; and after reciting the act of Congress which requires the facts to be proved to the satisfaction of the Court, they proceed to say:

"This is held to mean that the facts shall be established by legal and competent testimony in the same manner that is usually practiced in courts of justice; that such testimony shall be taken before a competent officer or magistrate, on legal notice to the Solicitor for the United States, under the solemnity of an oath, and subject to a cross-examination under such rules as the court has prescribed.

"The evidence of ownership of the property required is at least equal to that necessary to sustain an action of trespass or trover. The ownership must be *bona fide*, not collusive or colorable. The claimant seeking to recover must show not only that he purchased the property, but he must satisfy us that he did so in the regular course of his business, and not in fraud of the act or with a view of speculating upon the justice of the Government. We hold that wherever one individual has sold and another purchased to prevent the property from being seized by and forfeited to the United States the ownership is not genuine; such a claim is collusive and a fraud upon the law, and does not prove satisfactorily the genuine *bona fide* ownership contemplated by the act of the 12th of March, 1863."

In passing upon the question of loyalty the court uses this language:

"Any acts voluntary committed which would tend to assist, countenance, abet, or encourage the rebellion are a flat bar to a claimant's recovery under the law; and to entitle the claimant to recover the act requires that he should prove by those who had the opportunities of observing his conduct that he did not give such assistance or encouragement to the insurrection; and he must go further; his evidence to that effect must cover the entire period of the war, so that it shall appear that he never gave any aid or comfort to the rebellion."

This opinion of the court in the cotton cases, in which judgments have been rendered for about one hundred and thirty thousand dollars in favor of the claimants in the aggregate, shows that a case before that court undergoes a judicial examination; that the witnesses are examined and cross-examined; that the ownership must be made out as clearly as would be necessary to authorize a party to recover in an action of trover; and that in regard to loyalty the claimant must show, not only that he is loyal when the suit is brought, but that he has been so during the whole war, and also that all the persons through whom the claim has passed have been loyal. I think there is better protection for the Government in such a court than in the Treasury Department, where claims are settled by subordinate clerks on *ex parte* testimony. But it is not a question of policy; the question is what is the law?

In regard to the solicitors of the Court of Claims, if they are not such as they ought to be the fault is with the appointing power; or if more power is necessary it should be provided. Unquestionably these claims should be scrutinized closely, and the Senator from Maine will not go further than I to see that the rights of the Government are properly protected. The Secretary of the Treasury may be equal to any one of the judges of the Court of Claims; I do not think him superior. But I think there would be greater safety in trusting the rights of the Government to a judicial tribunal composed of five judges than to one Secretary of the Treasury overwhelmed with the business of the Treasury Department. That the Treasury Department is overwhelmed with business I have the evidence here before me. I have obtained a copy of a letter written to the clerk of the Court of Claims by the Secretary of the Treasury which shows how little the Secretary knows of what has been going on in his own Department in regard to these cotton cases. I will read the letter:

TREASURY DEPARTMENT, *July* 1, 1867.

SIR: I have learned informally that a judgment has been rendered in favor of the plaintiff in a number of the causes familiarly designated as the "cotton cases" in the Court of Claims, and I have seen in the newspapers the opinion rendered therein by the Chief Justice of the court on the 25th ultimo; but I am without any knowledge as to the character of the evidence adduced on either side during the trial.

I have to request, therefore, that you will furnish me with a copy of all the papers in each of the cases referred to; and, with a view to the full protection of the public interests in the premises, I have to request also that I may hereafter be furnished, before judgment is rendered, with a copy of all the papers in any case the subject-matter of which originated in this Department.

Very respectfully, H. McCULLOCH,
Secretary of the Treasury.

SAMUEL H. HUNTINGTON, *Chief Clerk Court of Claims, Washington, D. C.*

That letter reads very well, and looks as if the Secretary was solicitous to protect the rights of the Government. He seems to have been taken by surprise. He has learned informally through the newspapers that a judgment has been rendered in the Court of Claims. What are the facts? The truth is that the Secretary of the Treasury knew all about these cases. He or his Department had repeatedly furnished information in regard to them. He had employed eminent counsel on the part of the Government of the United States, who had appeared in these very cases and argued them before the court. And yet he wrote that letter—that is, somebody wrote the letter, and his signature is to it. I apprehend the Secretary could never have read it. We had an official communication from him in regard to the employment of Mr. Cowan to argue these very cases before the Court of Claims. And yet in this letter he says he has informally heard about the cases and wants to be furnished with the evidence in regard to them! How do you account for that? I have here the reply of the clerk of the court showing how completely the Secretary was advised of all the transactions, which, according to his letter, seem to have taken him by surprise. The clerk says:

COURT OF CLAIMS, WASHINGTON, *July* 3, 1867.

SIR: Your communication of the 1st instant has been received, in which you state that you have learned "informally" that judgments have been rendered in the Court of Claims in favor of the claimants in a number of causes familiarly designated as the "cotton cases," that you have seen the opinion of the Chief Justice in the newspapers, and that you are without any knowledge as to the character of the evidence on either side during the trial, and accordingly ask to be furnished with a copy of all the papers in each of the cases referred to; and with a view to the full protection of the public interests you further ask that you may hereafter be furnished before judgment is rendered with a copy of all the papers in any case the subject-matter of which originated in your Department.

The court not being in session, I have submitted your letter to the Chief Justice, and he instructs me to say that your request for the papers and evidence in the "cotton cases" will be cheerfully complied with, and they are herewith transmitted.

But as the request which you make under this head, especially when coupled with the added request that you be hereafter furnished with all the papers in every case whose subject-matter originated in your Department before judgment is rendered by the court may seem to imply some delinquency on the part of the court or its officers in not having furnished you with such information beforehand, I have to say,

both for the court and its clerks, that they are conscious of no dereliction of duty in this respect. You have been regularly furnished during the last year with a copy of every petition filed in the court when the subject-matter originated in your Department, and every such petition has been transmitted with a request that you would cause "all information known to or on file in your Department which may be necessary to protect the interests of the Government to be transmitted to this office, the same being duly authenticated under the seal of the Department."

If, as you state, you have no knowledge of the evidence on either side in the cases already decided, it must be because in the multiplicity of your official duties you could not give your personal attention to the repeated calls which have been made and answered in them by the Department over which you preside. These answers of the Treasury Department have been used as evidence by both parties on the trial of these causes.

I am instructed further to say that the law organizing the Court of Claims has provided solicitors whose duty it is to prepare and present the cases in behalf of the United States. They are not responsible to or under the direction and control of the court except so far as their immediate conduct and bearing in the presence of the court is concerned. It is, however, presumed that officers charged with high duties and responsibilities of this kind will not be unmindful, much less neglectful, of the public interests committed to their care, and that they will avail themselves of all the evidence and information which any of the Departments may afford to protect the interests of the United States in this court.

Should their conduct, however, be otherwise, and they be found wanting either in vigilance or competency, the remedy is in the hands of the President by their removal and the appointment of others in their stead.

Such being the relation which the solicitors bear to the court and to the Government, the Chief Justice further suggests that the most effectual way for the heads of the various Executive Departments and bureaus to give full protection to the public interests in the premises is to coöperate with the solicitors in furnishing to the court all the facts and evidence in the respective cases that may bear in favor of the Government.

So far as the communication may seem to claim or imply any right in the head of an Executive Department to direct, supervise, or control the proceedings of the court, or revise its action in any case, I am further instructed to say that such claim must be founded in the misapprehension of the duties and functions of this tribunal. These are in their nature strictly judicial. The court is constituted by Congress as part of the judiciary of the nation; and its proceedings and judgments are not subject to revision or review anywhere except by appeal to the Supreme Court of the United States.

In the "cotton cases," so far as they have been decided in favor of the claimants, the proof in each case was made "to the satisfaction of the court" in regard to the claimant's "ownership of the property, of his right to the proceeds thereof, and that he had never given any aid or comfort to the rebellion." These proofs were all taken upon notice to and cross-examination by the solicitors of the United States, before competent magistrates and under the sanction of an oath. In each case information was requested of your Department respecting the claim. These calls were answered, and it is to be presumed fully and truly. On the hearing and argument of the cases the Treasury Department was by leave of the court ably represented by Hon. Edgar Cowan as special counsel. So that it was hoped the Department would have been apprised, officially and professionally, not informally, of the nature and character of the evidence and the proceedings generally in these cases.

The court will be gratified to have the assistance and coöperation of the Department in giving "full protection to the public interests," but as the court is now constituted no other method is known in which it may be efficiently done except through the Solicitor of the United States.

I have the honor to be, with great respect, your obedient servant,

SAMUEL H. HUNTINGTON,
Chief Clerk Court of Claims.

Hon. H. McCULLOCH, *Secretary of the Treasury.*

Now, sir, what does this disclose? I read it for the purpose of showing how little personal supervision the Secretary of the Treasury is able to give to this subject. There were certain cases pending in the Court of Claims. His Department was repeatedly called upon to furnish information in regard to them. He knew about the cases; he employed counsel who appeared in court and argued them; and yet after they were decided he writes a letter to the clerk of the court stating that informally he has heard about the cases but knows nothing about the testimony, when the testimony had been furnished from his own Department. Of course I will do the Secretary the justice to suppose that he could not have read this letter which he signed or else he had forgotten all about the transaction. The probability is that the letter was laid before him and he merely wrote his name to it. These are some of the papers which were called for in the resolution adopted by the Senate about a month ago, and which has not yet been answered.

The only object I have in bringing them before the Senate now is to show that the court has been careful in its investigation of these cases; and having shown that that is the tribunal which by the act of Congress is authorized to take jurisdiction of these claims; having shown, as I think, that the Secretary of the Treasury has no authority to adjudicate upon them; that his acts in that respect are wholly extra-judicial, even if they were right, about which I have not the means of deciding further than to say that I understand the fact to be that money has been paid to claimants who confessedly had given aid and comfort to the rebellion; that men who could not have recovered in the Court of Claims on account of their disloyalty have received money at the Treasury——

Mr. FESSENDEN. You said you would prove it before you got through.

Mr. TRUMBULL. I had here and read a few minutes ago a claim in favor of a man named Billups.

Mr. FESSENDEN. Has it been allowed?

Mr. TRUMBULL. The Secretary is preparing to allow it.

Mr. FESSENDEN. How do you know that?

Mr. TRUMBULL. I know it from the paper that has been here read. The Senator from Maine stated in his remarks the other day, I think, that it was one of the pending cases.

Mr. FESSENDEN. It is a claim made.

Mr. TRUMBULL. I think the Senator went on to say that there was no objection to the claims that were pending.

Mr. FESSENDEN. No.

Mr. TRUMBULL. I think so. I think if the Senator will look over his remarks he will find that he stated that in regard to these claims there was no objection.

Mr. EDMUNDS. He said that there were some of them to which there was no objection.

Mr. TRUMBULL. Perhaps the remark may have been qualified. I will state, however, to the Senator from Maine that I am informed upon what I regard as responsible authority, and I trust that the chairman of the Committee on Retrenchment, who has undertaken to investigate the facts in these cases, will call the witnesses before him—I am informed by gentlemen of high character and responsibility that claims have been paid to persons who are disloyal without asking the question as to their disloyalty; that it was made no question. These gentlemen say that they are prepared to show that, and the names of some of them have, I think, been furnished to the chairman of the committee that is investigating the subject.

Now, sir, I think it high time, under these laws and in view of the Secretary's action, that this money was covered into the Treasury of the United States, if that be the proper term, and I trust that the joint resolution may be permitted to pass, though the obligation upon the Secretary of the Treasury, in my opinion, to pay the money into the Treasury is just as binding now as it will be when we have passed another law on the subject.

Mr. EDMUNDS. Mr. President, I do not intend to occupy more than a very few minutes of the time of the Senate upon this question——

Mr. SHERMAN. My friend will allow me to make a suggestion. I intended to submit a motion to refer this matter to the committee of which he is chairman, with a view of having certain amendments perfected. It seems to me that is a great deal the best way to dispose of this question now, and then the Senator can present with his amendments his view of the case. I submit to the Senate whether that would not be the better way. There are some amendments now pending and some that are to be proposed; and I think the committee who have investigated the subject should have an opportunity of putting them in proper shape.

Mr. FESSENDEN. I trust that motion will not be made immediately. I wish to have an opportunity to see in print the remarks made by the honorable Senator from Illinois, and I do not want this matter to be disposed of or to pass from the possession of the Senate until I shall have had an opportunity to examine those remarks and make such response as I may deem proper. Perhaps I might go on and say what I have to say to-day, but the truth is that I have such a severe cold that it is with difficulty I can speak at all, and besides I prefer to see the remarks of the honorable Senator in print.

Mr. SHERMAN. I am willing that this matter should go over or any other disposition should be made of it at present. My desire is to take up the bill suspending the contraction of the currency.

Mr. EDMUNDS. I desire now only to submit a few remarks in reply to my friend from Illinois. The whole subject was practically exhausted the other day. We have no new light that I know of in the way of matter-of-fact. The real question is one of propriety of the action of the Secretary of the Treasury in what he has done; because as to what he proposes to do there is no question at all. He does not propose, and has not since the committee with which I am connected addressed him a letter on the subject last spring, to permit a dollar of the money to go out of his control without the sanction of the two Houses of Congress, either through the committee by our taking the opinion of the two Houses, or by some method that shall be approved of by Congress. He does not stand in opposition to our will at all. The single question is really, upon all that has been said, as to the propriety of censuring Secretary Chase, Secretary FESSENDEN, and Secretary McCulloch, for the course they have pursued in the past in relation to this matter.

The law either authorized them to give up property and money in certain cases or it did not. If it did not authorize them to give it up then clearly they have, in giving it up, violated the law. Nobody, I think, believes or asserts that they intentionally violated the law; but that they have done so is clear if the law did not permit them to give up this money. The ground upon which they proceeded was that the statute operated upon a specifically described property belonging or having belonged to a certain described class of persons—confederate government property abandoned by the confederate government, captures made by the Army, and the confiscated property of rebels of a certain description, because the confiscation act does not cover every class of rebels, every man who lived in the southern States, necessarily. Aside from the military captures, about which we all agree, and about which the Attorney General gave the advice which the Secretary says he has followed, the question is, as the different Secretaries of the Treasury have viewed it, whether their agents, having seized property which the law did not authorize them to seize, property that did not belong to any of the classes named in the statute, and the seizure of which, therefore, was illegal and not authorized by the statute, in those cases the statute required them to pay the proceeds of that property into the Treasury or not. They thought that in those instances they were authorized, if their agents had made a mistake, to give up the property, or to give up the proceeds if the mistake was discovered afterward. The Senator from Illinois thinks otherwise; I think otherwise; but the law officers of the Department and of the Government in these cases, the Attorney General in particular, decided that when a mistake of that kind was made the acts of the Treasury agents, having been outside of the law and they having seized property of a description that the law did not authorize them to seize, it was the duty of the superior of these subordinates to act upon that fact and to give up the property as not being the class of property that the law operated upon at all.

My view and that of the Senator from Illinois is, and I believe it to be correct, that that

must necessarily be one of the very questions to be determined when the case comes before the Court of Claims; but Attorney General Speed did not seem to think so in one class of cases; and the various Secretaries of the Treasury do not seem to have thought so, and therefore they have thus acted. I do not think there is any ground to censure the course of these officers for what they have done in that view of the law, because it is capable of argument that that view is correct. In respect to the external revenue, the law only authorizes the customs officers to seize smuggled goods. When they make a seizure the question, and the only question, is, were the goods imported with intent to violate the customs laws of the United States? The practice, however, has always been—I think it is contrary to law strictly—when the Treasury officers have discovered that they have made a mistake, instead of putting the Government to the expense of fighting it through and getting a certificate of discharge and probable cause, and putting the Government to the expense of a large amount of money in each case, to take the responsibility of giving up the property. It may be a stretch of power, but it has always been done, I believe. I think it is a stretch of power; but it has been the practice. That is all there is of this question.

Now, so far as the committee are concerned as to what we are to investigate and to authorize the Secretary of the Treasury to do, it is proper that I should say that the only way in which we came to be connected with this question of who should receive anything at all was just simply this: we were instructed by a resolution of the Senate to inquire into the whole history of this captured and abandoned property business, and a sub-committee was appointed, consisting in the first place of General Schenck of the other House as its chairman, who has since retired from the committee, and a Senator and a member of the House of Representatives. General Schenck did thoroughly enter upon that business and pursue it. Since he has retired from the committee other gentlemen have taken it in hand. In the course of their investigations the committee found that this course of practice had been pursued, and that cases were still pending undisposed of, four or five or six of them. They immediately addressed a letter to the Secretary of the Treasury, requesting him not to act any further in that direction, at least until the committee should have investigated all the circumstances and become satisfied that it might do to wink at what we considered to be this violation of the law, so as to end it; and the Secretary of the Treasury cheerfully and without any apparent feeling of being injured said that he would do so with pleasure, and he has done so. Now we are hearing those persons who are making these claims, not as having authority, as I view it, to decide whether the Secretary of the Treasury should pay them, but in order to inform ourselves that we may inform the Senate and the House of Representatives what, in these special cases that are now outlawed by the letter of the statute, ought to be done as a matter of justice. And that is the whole of the story so far as I am concerned; so that, while I am in favor of having all this money paid into the Treasury and then paid out in the regular way for expenses and everything else by warrants that shall go on the books and records in the regular and proper way, I do not think we should be justified, under the circumstances of these cases, and in view of the course that has been pursued, in declaring that the Secretary of the Treasury or any of his predecessors has been guilty of any such impropriety, considering the analogy in the case of external revenue seizures that has been practiced upon, as to warrant our condemnation, while we wish to put a stop to the practice; I certainly do as much as anybody can.

Mr. CONNESS. I only rise to say that upon reading the joint resolution which is before the Senate I do not understand where the honorable Senator who has just taken his seat finds the warrant for saying that in its passage there will be a censure upon any of the Secretaries——

Mr. EDMUNDS. I did not say that. I alluded to remarks that had been made here.

Mr. CONNESS. The Senator says he did not say that. I understood him when up to say that pressing this subject at this time would amount to a censure of Mr. Chase, Mr. FESSENDEN, and the present Secretary of the Treasury.

Mr. EDMUNDS. I did not understand myself to say anything of the kind. I did not intend to say it.

Mr. CONNESS. I so understood the Senator, and upon that understanding I was about to say that I do not see in the language of the joint resolution, as proposed by the House of Representatives and passed by that body, anything to justify such a statement. It is a simple provision that moneys held in the Treasury in abeyance, subject to investigation by that Department, shall be paid into the Treasury proper and be subject to warrant thereafter.

Mr. EDMUNDS. That is perfectly clear; but the preamble to the resolution would seem to imply that what has been done is lawful, which I do not agree to.

Mr. CONNESS. I find in the amendment offered by the honorable Senator from Vermont the only warrant for what I understood him to say this proceeding was, namely, a condemnation of these officers; because his amendment proposes in addition a denunciation of fine and imprisonment against any officer who fails to do what this resolution proposes. In the face of his amendment, I do not really understand why the honorable Senator is opposed to the passage of the resolution.

Mr. EDMUNDS. I am not. I am in favor of it, and have been all the time.

Mr. CONNESS. Well, Mr. President, I confess I was at a loss when the honorable Senator spoke.

Mr. EDMUNDS. The Senator misunderstood me, or else I did not know what I was saying.

Mr. HOWE. Mr. President——

Mr. SHERMAN. It is evident there can be no vote on this subject to-night, as the Senator from Maine has indicated a desire to address the Senate hereafter on the question. I trust we shall take up no more time with it now; and if I have the floor I move to postpone the consideration of this joint resolution with a view to take up the bill with regard to the contraction of the currency. No; I will not make that motion; but I move to lay this matter on the table.

Mr. HOWE. On that motion I call for the yeas and nays. I thought I was entitled to the floor.

Mr. SHERMAN. If the Senator insists upon debating the matter I do not wish to stand in his way; but he will have the floor when the subject comes up again, and he cannot certainly expect to get a vote to-day. I appeal to the Senate whether we ought not to proceed with matters on which we can get a definite vote.

Mr. TRUMBULL. The resolution ought not to be laid on the table. We want this money paid into the Treasury.

Mr. SHERMAN. The Senator from Maine has already stated that he wishes to be heard, and he is not now prepared to discuss the question.

Mr. HOWE. I suppose the pending question is not strictly debatable, but if the Senator from Ohio is willing that I should at any time spend a few moments in the discussion of this resolution it certainly cannot prejudice the public business more for me to spend those moments now than at any future occasion; and what I say to-day I will give good bond that I will never say again on the floor of the Senate. [Laughter.]

Mr. SHERMAN. I withdraw the motion to lay on the table, at the suggestion of others, and move simply to postpone this resolution, with a view to take up the bill I have mentioned.

The PRESIDENT *pro tempore*. The question is on the motion to postpone.

Mr. TRUMBULL. That motion having been made, I will say a word in reply to the Senator from Vermont, who seemed to suppose that the question was in regard to censuring former Secretaries of the Treasury. That is not the proposition at all; nor is it my object. My object was to show that this money ought to be paid into the Treasury, that the law required it to be paid in, and that this resolution ought to pass. We all agree upon that, and I am sorry to see any disposition on the part of the Senator from Ohio to give this matter the go-by. We tried to get this resolution passed before the holidays, but it was crowded off by another matter, and now the extraordinary motion is made in the Senate, which I believe I scarcely ever knew to be made before, to lay the bill on the table.

Mr. EDMUNDS. That is withdrawn.

Mr. TRUMBULL. I know it is withdrawn, or else I could not have the floor now; but I merely rose to reply to the suggestion of the Senator from Vermont, that somebody was wanting to censure the Secretaries of the Treasury. I have no such object. I think the construction is wrong that they have put upon the law; he thinks so; and I tried to show in the opening of my remarks that the only object I had in view was to correct what seemed to me to be an unwarranted exercise of power on the part of the Secretary of the Treasury, and to have this money paid into the Treasury of the United States at once. I think this resolution ought to have been passed long ago.

Mr. HOWE. Mr. President, I suppose I might as well say what I have to say on the question of postponement, for it is really a postponement that I object to.

Mr. SHERMAN. I hope the Senator will allow me to withdraw the motion to postpone and I will make no effort at all. I withdraw the motion.

The PRESIDENT *pro tempore*. The question then is on the amendment to the joint resolution offered by the Senator from Vermont.

Mr. HOWE. Well, Mr. President, I sometimes think that wrong-doing does not consist so much in what is done as it does in who does it. Unless I take a very erroneous view of the conduct exhibited in the report which has been under discussion here, it does seem to me that nobody but a Secretary of the United States could have exhibited such conduct and still find a home among the American people. I do not mean to stand here and say that the Secretary of the Treasury has been wilfully corrupt, but unless I am tolerably mistaken he does show such a perverted use of the public funds as no other fiscal agent of the Government ever has shown and as it seems to me no other fiscal agent would ever dare show.

This resolution is a resolution directing him, in substance, as I understand, to cover into the Treasury whatever funds there may be under his control derived from the several acts of Congress which have been referred to during the debate touching the disposition of captured and abandoned cotton; and the question arises as to what that thing is which the resolution asks to have done, what it is to "cover money into the Treasury." The Constitution, I think very wisely, provided at the very inception of the Government "that no money shall be drawn from the Treasury but in consequence of appropriations made by law," and I suppose the process of covering money into the Treasury is to put money into that peculiar predicament from which it can only be rescued by an appropriation made by law.

Now I think it will be manifest that every dollar of money belonging to the Government of the United States ought to be in that predicament if any ought to be. Such has been the universal understanding of Congress; and so they have required from time to time that all the moneys should be paid into the Treasury—should be put into this predicament. It is but a few years since they expressly provided

by law that all the moneys collected from imposts, without any abatement for the expenses of collection or for any other reason should, be paid into the Treasury, and you appropriate from year to year for the expenses of those collections. Two or three years since a similar statute was passed requiring all the internal revenue to be paid into the Treasury without any abatement. So now I believe you provide by appropriations, or you would under that statute provide by appropriations, for the expenses of collecting the internal revenue.

But under these acts of Congress for the collection and disposal of captured and abandoned cotton, the Secretary of the Treasury tells you there has been realized about thirty-four millions of money; and just how much of that has ever been paid into the Treasury I do not understand from his report. He says there remains of those proceeds as net proceeds about twenty-four millions. I was inclined to infer from that that $24,000,000 had been paid into the Treasury. If he means to say that, and if that is the fact, then I suppose $24,000,000 have been placed beyond his control, been placed where they can only be reached in pursuance of appropriations made by law. Ten millions, it would seem, have not been placed there; and whatever we may think about it in these modern days $10,000,000 is considerable of a sum.

Mr. President, I am not talking about how much the Secretary has in his pocket, or how much he has in the pockets of his friends, or how much he may have within what he may consider his control to-day. I was simply saying that there were $10,000,000 which, according to this statement, never had been put into the Treasury, and therefore never had been placed where your appropriations could reach them, or where your authority could protect them. That is the fact, and I was trying to make the Senate feel that $10,000,000 was a pretty handsome sum to be at the disposal of one man. It would make me independent. [Laughter.] Of course I do not expect the Senate to be alarmed in these days at knowing that only the paltry sum of $10,000,000 has been held under the control of one of its officers, subject to be disposed of as he saw fit, and disposed of for the most part to those whom he deemed fit. We have been in the habit of dealing with these immense sums so long that it is hardly becoming the dignity of Congress, perhaps, to take much pains in looking after the bagatelle of $10,000,000; but I do understand that he has had this sum under his control, and that in some way he has disposed of it with or without the authority of law; without the authority of law it is argued here; without any authority of law I must insist; in direct defiance of law seems to me very plain. Indeed, I understand the Senator from Vermont to admit that. I do not know that any Senator on this floor controverts that position.

Mr. EDMUNDS. I do not admit it. I assert it.

Mr. HOWE. I understand the Senator from Vermont to do a better thing—assert it. I do not know that anybody controverts the proposition that $10,000,000 have been disposed of in direct defiance of the laws of the United States. That is a pretty grave statement to make. If I had made it upon any authority short of that of the Secretary of the Treasury himself I should hold that it was necessary for me to be sustained by very strong proofs. But we cannot avoid the conclusion, and we cannot shut our eyes to the fact, when the Secretary comes forward and tells us so himself, tells the Congress of the United States, "I have had $10,000,000 of your money, and I have disposed of it without authority of law, in defiance of the law."

Mr. President, the Secretary of the Treasury cannot pay your salary nor the salary of any officer of the Government nor of any member on this floor without the assent of Congress, without an appropriation made by law. If he did it and paid no more than your just salary, what would be said of his conduct? What would be done about it? Would he be allowed to remain in that office? Suppose he happened to pay you double your salary and do it without any appropriation of law, then would he be allowed to remain in office? I can only ask the questions, because in view of what I see here I am utterly unable to answer them. I do not know but that he would be allowed to remain in his office let his disbursements be what they might; and I do not know but that he would be defended. Only this is certain, that he has disposed of this sum of money, and he has disposed of it in defiance of the law of the land. Whether it has gone to the right owners or not is a question, of course, that we cannot definitely settle upon the evidence before us; and yet I think there are some very strong reasons for us to infer that the right owners have not received this money. My own belief is that a large portion of it belongs in the Treasury to-day. The grounds of that belief I will state by and by; but the first feature of this report to which I wish to advert is that on the 4th and 5th pages, in which the Secretary gives us a statement of the amount of the cotton and the proceeds of cotton which have been administered by him and his agents, and which he says was voluntarily abandoned by its owners. In explanation of this table he gives us this note:

"NOTE.—In reference to this statement it is proper to say that certain agents, acting under a misapprehension of the instructions of the Department, induced owners of cotton to bring in and voluntarily abandon it, on the assurance that the same or its proceeds would be restored on application to the Department. Therefore, in any particular case, upon due proof, and where the agent who received the property certified that he had given such assurances, Secretary Chase directed its release or the payment of its proceeds, considering that neither justice nor good faith warranted the retention by the Government of property thus voluntarily confided to its protection."

Under that head there were disposed of two thousand two hundred and seven bales of cotton, and moneys amounting to $616,843 44. I am not going to argue as to the propriety of returning this cotton and this money when it was established that the cotton had been received upon the assurance of the Treasury agents that it or its proceeds should be restored. This is the fact to which I think the Secretary's attention ought to be directed, and the attention of Congress and of the country ought to be directed: that this practice went on by these Treasury agents for nearly two years. The law under which they acted directed them to collect cotton which was either abandoned by its owners or had been captured by the military forces—only those two kinds. It would seem impossible that an agent could have misunderstood the law. The Secretary does not say that they misunderstood the law, but that they misunderstood the instructions. Under this law, or under these instructions, I understand from this note that the agents, in addition to collecting cotton which they thought was abandoned, or cotton which they knew was captured, turned themselves into brokers and became brokers of cotton for the owners in those communities, receiving it to sell upon the assurance that the proceeds should be returned to the owners; and that this was allowed by the Secretary for something like two years. It is conceivable that instructions may have issued which the agents would misunderstand; but it seems to me that when the first case was brought to the attention of the Secretary of the Treasury he should have made the agents understand that they were not licensed as cotton-brokers by the act of 1863, but simply as collectors of these two kinds of cotton.

The next table in this report is that containing the "cotton claims adjudicated by the Secretary of the Treasury, exclusive of claims for cotton voluntarily abandoned," that is, exclusive of claims in the table to which I have just referred; and this table shows that the Secretary has returned to claimants of cotton six thousand three hundred and fifty-six bales of cotton, and that he has paid back out of moneys which ought to have been in the Treasury, from which no dollar could be drawn but by an appropriation made by law, $1,018,459 83. It is very true, no harm is done if the men who have received this money and this cotton are the men who really owned the cotton, and if they were the description of men included in the statutes; if they were really the friends of the Government, and not its enemies. But, sir, I do think that, let the personal dispositions of the Secretary of the Treasury be what they may, he is almost the last agent or tribunal in the world to undertake to try the question of the loyalty, the question of the good faith or of the good conduct of one who is an entire stranger to him and lives very of remote from him. The legitimate duties the Secretary of the Treasury must engross nearly his whole time; I think in point of fact they would engross his whole time. He cannot bestow the attention necessary to the determination of a question about which it is so easy to be mistaken, as to whether an individual was loyal or disloyal in 1862, 1863, 1864, or 1865. And yet that is the question which the Secretary of the Treasury has undertaken to determine in this large number of cases, covering several pages of this report. It is a question which, as we have seen, it is admitted is by statute directly referred to another tribunal—a court of law; a court which acts upon legal testimony; a court which adjudges upon testimony taken upon notice to both parties, and a court in which there are two parties to be heard.

The inquiry has been suggested, who looks after the interests of the United States in that court? Let me ask who there was to look after the interests of the United States in the adjudications before the Secretary of the Treasury? I certainly do not know, unless it was the Secretary himself; and he certainly could not take testimony; he must act upon such testimony as the claimant presented to him; and if he should have made mistakes in these adjudications I should think it would not be considered very marvelous.

The Senator from Illinois, who took his seat not long since, expressed a belief that a good deal of this money had been paid to parties who were disloyal. I have some evidence, or some information, which leads me to believe that he was entirely right in making that statement. Only yesterday a person residing in Georgia called at the room of the Committee on Claims in reference to a claim that she said she had been prosecuting before the Treasury Department for some of this money; and ascertaining that the claimant lived in Georgia and would probably know some of the other claimants, I took occasion to have the clerk of the committee question her as to what she did know about them, and I have here some of her answers:

I find on one page of this report that the sum of $13,151 39 was allowed by the Secretary in 1865 to a person of whom this witness says she was a follower of the rebel army, that whenever our Army approached to her residence she left her residence and followed the rebel army for protection. Her expression was that "she was a follower of the rebel army, kept with them." On the same page I find that $28,201 28 was allowed to a person of whom this same party says that he lives within two and a half miles from Georgia, was a captain of militia during the war, and as active a rebel as there was in the neighborhood.

Again, I find $10,109 03 allowed to a party of whom this witness says he was the worst rebel in Rome, Georgia; that immediately after the surrender of the rebel armies he hurried back to Rome, gathered up some negroes, went south, and sold them. Another allowance of a small amount, $962 28 only, was made to a party who this person says owned mills in northern Georgia, and when our armies approached northern Georgia he abandoned his mills and his home and followed the rebel army into the southern part of the State. I find an allowance of $4,212 36 made to a party who

this person says, if she is the person of that name living at Rome, Georgia, was a good rebel, sent her son into the war, and furnished all the aid and comfort in her power to the rebels; but she is not entirely certain whether the claimant was that one or some other person of the same name.

Mr. CONNESS. If she were elected to the Senate you would admit her. [Laughter.]

Mr. HOWE. I am not sure but that you would admit her, Mr. President. I should not admit her if she came from Georgia.

Mr. EDMUNDS. How if she came from Maryland?

Mr. HOWE. If from Maryland it would be all right. [Laughter.] Another allowance is made to the administrator of a party who this witness says lived six miles from Rome, was an earnest rebel, and died in the rebel service. The claim was allowed to his administrator. Another party to whom an allowance was made, this witness says, was a lieutenant in the rebel service, in the twenty-ninth Georgia volunteers, and promoted to a captaincy. Another party to whom an allowance is made was a quartermaster or commissary in the rebel service. Another claimant who received an allowance is a woman of whom the witness says that she was an aristocratic lady, a thorough rebel, and gave largely to the rebel service.

This is information furnished by a single individual of what she happens to know of this list of claimants who have received money out of the Treasury.

Mr. CONNESS. No, not out of the Treasury.

Mr. HOWE. Well, received money from the Secretary of the Treasury.

Mr. EDMUNDS. Does the Senator understand that the law prevents any person who may have been a rebel from owning any cotton?

Mr. HOWE. No; but I understand that only those who have been loyal, who have given no aid or comfort to the rebellion, can get any of this money.

Mr. EDMUNDS. That is, of money which the act says shall be paid into the Treasury; but suppose a case which the act does not cover.

Mr. HOWE. If I understand this law, it furnishes only one rule of action as to all property which may come into the hands of these agents. They are to collect two kinds of property, one of which has been abandoned by the owner and the other of which has been seized or captured by the military authorities; and there is only one direction given as to these two kinds of property, and that is that it shall be sold and the proceeds paid into the Treasury. How it is possible to maintain any distinction between property seized and property abandoned I cannot understand. It is of no consequence, therefore, in my view of the law, how this property came into the hands of the agents. The agents did what the law told them to do—sold it and put the money into the Treasury; that is to say, paid it over to the Secretary of the Treasury; paid it where it was within the control of the Secretary of the Treasury. But it seems that the Secretary, instead of allowing it to go into the books of the Treasury, so as to make the Treasurer accountable for it as the disbursing officer of the Government, kept it somewhere aside—in his portemonnaie, in his portfolio, in his pocket; he kept it somewhere off from the books of the Treasurer and out of the protection of the Congress of the United States.

Mr. EDMUNDS. But the point he makes is that he has only given up that which was neither captured nor abandoned, but property wrongfully taken by his agents, of a description which the statute did not authorize to be taken. That is his point.

Mr. HOWE. I do not understand when or how that point is made by the Secretary of the Treasury.

Mr. EDMUNDS. It appears from the opinions of the officers whom he consulted as to whether in a particular case he should give up the proceeds—the opinion of the Attorney General in the case of Billups, which was read the other day.

Mr. HOWE. Now, Mr. President, there is another feature in this report to which I wish to call attention. It seems on the thirteenth page of this report that to another class of claimants this Secretary has turned over one thousand and three bales of cotton and has paid out $320,444 77. He calls these "claims adjusted by the Secretary of the Treasury on the basis of the purchasing regulations," and he explains it in this way:

"Under regulations relative to the purchase of products of insurrectionary States, authorized by the act of July 2, 1864, these claimants had purchased cotton under permits of President Lincoln, but were unable to deliver the same to the purchasing agents before the surrender of the rebel forces, after which it was taken possession of by the Government. It appearing that the parties had acted in good faith and had complied in every respect with their contracts, accordingly three fourths of the cotton or its net proceeds were delivered to the claimants and the one fourth retained by the Government."

From which I understand that whereas there were parties authorized by law to purchase cotton on their own account and pay for it, accounting for one quarter of it to the United States, here were parties who, after the surrender of all the rebel forces and after the property had been taken possession of by our Army, came forward and alleged that they had made a contract of purchase but had not got the property, and therefore had not delivered it; and the Secretary of the Treasury recognized them as the owners of that property, and took out of the Treasury over three hundred thousand dollars to satisfy their claims. They did not follow the cotton at all. If that had been the fact as to you, sir, or as to any member on this floor, that you had in good faith purchased one hundred or one thousand bales of cotton just before the surrender of the rebel army, I think you would have followed up that cotton, and you would have made your claim upon our armies which first took possession of it. These men did not. By the Army the cotton was turned over to the Treasury agent. By the Treasury agent it was sold. The proceeds, all but one lot of it, were turned over to the Secretary, and then he goes on hearing and adjudicating claims against that fund and pays out over three hundred thousand dollars of the money; and these claims were made, the heaviest of them, (the surrender having been in April, 1865,) in November, 1865, in May, 1865, in November, 1866, in December, 1865, and January, 1867, often more than a year after the surrender.

Mr. FESSENDEN. Now, if the Senator will allow me, I can explain how that stands.

Mr. HOWE. Certainly.

Mr. FESSENDEN. The law of 1864 provided substantially that all cotton in the rebel States should be sold to the Government, and that the Secretary of the Treasury should appoint agents to purchase, that he should receive, in fact, all the cotton that was found, and that he should of that purchased retain a certain amount for the Government and pay the balance to those from whom it was purchased. It was thought by the Government at that time that it was exceedingly desirable that all the cotton possible should come into the control of the Government of the United States. Consequently these agents were appointed. They were appointed under instructions and regulations which the Secretary of the Treasury was authorized to make. He appointed purchasing agents and they were instructed to make contracts with individuals for the purchase of cotton, and the military authorities gave to those persons in many cases the power to go into the rebel lines or wherever they pleased to obtain cotton and to bring it out. Accordingly the agents made contracts with different individuals, mostly from the loyal States, that they would receive of them certain cotton on certain terms. The word "contract" there applies to arrangements of that kind, and those persons were permitted by the military authorities to go into the rebel lines to receive their cotton. The cases there referred to are cases where the purchasing agent of the United States had contracted with individuals to purchase of them a certain amount of cotton; those individuals had gone to different sections, sometimes within the rebel lines and sometimes out of them, and had purchased their cotton, so that it became their property; but before they could get it out it was taken possession of by the military authorities. In those cases the Secretary did as he stated there: where he was satisfied that under a contract entered into with the Government agent for purchase individuals had gone and in good faith purchased cotton which had been taken possession of by the military authorities he gave it up or gave up the proceeds, retaining the proportion the Government was entitled to if they had brought it in in time. That is the explanation of it.

Mr. HOWE. Now, Mr. President, there are two defects or misfortunes in the explanation.

Mr. FESSENDEN. That is a matter of opinion.

Mr. HOWE. That is my opinion. In the first place, the Secretary of the Treasury or the Senator from Maine is mistaken as to the fact. One or the other is mistaken as to the parties who made these purchases. The note does not say that these purchases were made by the purchasing agents.

Mr. FESSENDEN. No, sir; but the note speaks of purchases made under contracts with the purchasing agents.

Mr. HOWE. No; not made under contract with the purchasing agents, but made by parties who were licensed to purchase by President Lincoln, not by the Secretary of the Treasury, and who claimed to have made purchases which they had not turned over to the purchasing agents.

Mr. FESSENDEN. I will read the note:

"Under regulations relative to the purchase of products of insurrectionary States, authorized by the act of July 2, 1864, these claimants had purchased cotton under permits of President Lincoln, but were unable to deliver the same to the purchasing agents before the surrender of the rebel forces, after which it was taken possession of by the Government. It appearing that the parties had acted in good faith, and had complied in every respect with their contracts, accordingly three fourths of the cotton or its net proceeds were delivered to the claimant, and the one fourth retained by the Government."

That is not stated thoroughly as it should be, and I have given the explanation. The contracts referred to are contracts with the purchasing agents. The permits referred to are permits to go where it was necessary to go in order to get the cotton.

Mr. HOWE. Well, Mr. President, how happens it that one party was the purchasing agent and another got the permit?

Mr. FESSENDEN. The purchasing agent was an officer of the Government. The purchasing agent was appointed by the Secretary of the Treasury to purchase cotton to be delivered to him. The Secretary of the Treasury was authorized by law to make regulations to regulate that trade. He made a regulation under which he instructed the purchasing agent to make contracts with individuals to deliver cotton to him. The scheme was thoroughly digested and considered. When a person had got a contract from the purchasing agent he was then entitled to a permit to go wherever it was necessary to go in order to get the cotton. These cases, therefore, were cases where men had made contracts and purchased cotton, but before they could get it to the purchasing agent to deliver it to him it was seized. This is the exposition of it. I understand about the matter because I made the regulations myself with great care.

Mr. HOWE. Well, Mr. President, I am very glad to know that although the Senator says he made the regulations he did not make the adjudications.

Mr. FESSENDEN. I probably should if they had come before me, in the same way.

Mr. HOWE. I am not authorized to say that the Senator would not have made the same adjudications, but I will believe no testimony

but his own on that point. A year and more after this cotton was taken possession of by our armies, the purchasing agents never asserting any sort of claim to it whatever——

Mr. FESSENDEN. They never saw it.

Mr. HOWE. Never saw it, why?

Mr. FESSENDEN. Because it was not delivered to them.

Mr. HOWE. They knew nothing about it. The men authorized to purchase for the United States knew nothing about this cotton. The Army found the cotton, the Army seized the cotton and turned it over to the other set of agents; they sold it, paid the money over to the Secretary of the Treasury, and more than a year afterward come forward some claimants who say to the Secretary, "We had permits from the President, not authority from the Secretary of the Treasury to buy, but we living down there in rebeldom had permits from the President to purchase cotton, and we bargained for this cotton, but we were a little unlucky; we never delivered it to the United States at all; indeed, the proper officers knew nothing about it; but then we bought it in good faith, we did not follow it up; we took no notice of it; but here we are, a year after the proceeds have gone into your hands, and now we want you to treat us as if we had purchased that cotton and delivered it to the purchasing agent and were entitled to get our pay for it."

Mr. President, the contract between the men who held permits and the purchasing agent was one thing; the purchasing agent's obligation to the Government was a very different thing. The man who was authorized by the President to buy cotton in rebeldom of rebels was a man who bought at his own figures. He simply, if the President had authority to grant absolution to him in advance, did not become a rebel or traitor, or amenable to our laws by doing it. He was a man who went to the owner of cotton and said, "I will give you so much for it;" and then he was a man who went to the purchasing agent representing the Government and said, "What will you give me for this cotton?" and sold it to him for more or less than he paid. There was no twenty-five or seventy-five per cent. in that business at all. The purchasing agent was acting on behalf of the Government, and he had seventy-five and the Government twenty-five per cent. But more than a year after this cotton had been disposed of and the proceeds should have gone into the Treasury there was an application by these parties living down there, never representing the Government, to substitute them for purchasing agents and deal with them as if they had been purchasing agents.

Mr. FESSENDEN. I will say to the Senator that that is an entire misstatement and perversion of the facts as shown by the evidence in the papers and in my explanation. Of course it is not intentionally so on his part.

Mr. HOWE. I am glad the Senator says it is not an intentional perversion, not because I should have felt that my veracity was impeached if he had said it was——

Mr. FESSENDEN. I do not mean to say that. I say the Senator is entirely mistaken.

Mr. HOWE. It is very evident that one or the other of us is completely mistaken. It is possible I am. Once I was mistaken, and I may be again; but I have this language right before me, and I can read it yet. I have heard the Senator's explanation; I can hear him yet, and if I am the party mistaken I fail to discover it.

Mr. President, here is another fact in this report. Recollect what we are considering—the conduct of the Secretary of the Treasury under the statutes which give him, as I insist, and as all insist, or at least as nobody contradicts, no jurisdiction over any money whatever. We have found that he has disbursed a large sum to men who said they had voluntarily abandoned their cotton upon a contract with some representative of the United States that they should have the proceeds. To another large class of men he has disbursed another million and more upon a different pretext. Here he has disbursed over three hundred thousand dollars to men who say they ought to stand in the light of purchasing agents, although they never were commissioned as such, and although they never purchased and delivered any cotton to the United States. Here is another disbursement he made. There was still money in his hands, still money that he had not covered into the Treasury, had not put under the protection of law; and here is where he found an opportunity to invest some more of it:

Claims for Salvage.

December 11, 1866—Shepard, Parkman & Co., amount allowed	$157,444 66
December 18, 1866—John Duncan, amount allowed	97,284 26

And for those allowances, amounting to $254,728 92, this explanation is given:

"The case of Shepard & Parkman, Brooks & Co., and that of John Duncan were of the same character as those above described arising under the purchasing system; but it appearing that the alleged purchase had not been perfected"—

That is, had not been made—

"so as to make it a completed transaction the claims in that form were not considered allowable. It was shown, however, that, acting in good faith in the assertion and protection of the rights they supposed they had acquired, the claimants in each case had expended money and performed valuable service in procuring"—

What? This is John Duncan we are talking of, and Shepard & Parkman—

"in procuring military orders and guards and other protection for it as private property, which saved the same from destruction by the rebel soldiery and other persons evilly disposed toward the Government of the United States.

"In consideration of such expenditures and services an allowance as salvage was made in each case on so much of the cotton purchased under the executive permit, and so saved, as was actually received and sold by the Government, throwing out all not identified as covered by the purchase or not received and sold as above."

A little more than a quarter of a million dollars was paid to two parties as salvage, and they had entitled themselves to the salvage by obtaining military orders and guards for the protection of cotton which they pretended they wanted to purchase but had not purchased!

Mr. President, not to dwell too long on this report, I think I am justified in concluding that a great deal of this money did not get into the hands of the right parties. The amount disbursed on all accounts in money, saying nothing about the cotton delivered back, was $2,210,476 96. These disbursements were made to parties who, upon some pretext or other, claimed to have a right to the money. The allowances were made, as we have seen, upon four different pretexts. Four different classes of rights are set up here under this simple act of Congress which has been read in your hearing so many times, and which gave no man in the world any right to a dollar of money except as he came into the Court of Claims and sued for it. Upon these four different pretexts I say the Secretary of the Treasury has disbursed something over two million dollars.

But then we have found the account was short $10,000,000. There are, then, still about eight millions not accounted for. Now where did that go? That, I suppose, is the expense of collecting and selling the cotton. I do not know what other interpretation can be given. That $8,000,000 is the sum disbursed to those parties who had collected and who had sold the cotton—the expenses of collecting and selling. I do not know what other conclusion to come to. Thirty-four millions are the proceeds, says the Secretary; $24,742,022 55 remain as net proceeds. Here are the disbursements to specific claimants. I do not know what disposition could have beem made of the balance except it was to cover the expenses of collection.

But there is still to be deducted from that a little over a million, I think, not yet paid, but unpaid and not yet covered into the Treasury; $500,000 in one sum and $700,000 in another. One million two hundred thousand dollars, the Secretary tells you, is money not paid out, but unpaid and not covered into the Treasury. What has he done with that? Five hundred thousand of it—only half a million—he has deposited with the Farmers' Loan and Trust Company of New York. What for?

"To secure the sureties on a bond required to be given by Simeon Draper, late cotton agent at New York, in a suit against him, and now pending in New York, instituted by the firm of Dennistoun & Co., to recover the proceeds of alleged blockade cotton taken by agents of the Government and shipped to Mr. Draper for sale."

Cotton was shipped to Mr. Draper, a cotton agent at New York. He sold it. Somebody—Dennistoun & Co.—instituted a suit against Mr. Draper. The Secretary of the Treasury, acting upon his own responsibility, not only assumes the responsibility of that suit—it seems that Mr. Draper, sued as an individual was required to give bond—but actually puts up money as collateral or rather to secure, to indemnify the sureties on Mr. Draper's bond.

Mr. EDMUNDS. I ask permission to make an explanation right here.

Mr. HOWE. Certainly.

Mr. FESSENDEN. I explained it all the other day.

Mr. EDMUNDS. I want to explain it again for the benefit of my friend from Wisconsin. This was an action of replevin for the cotton in the courts of the State of New York, so that the Government must either let the cotton go without any right to it at all, or they must furnish to Mr. Draper, it being a very large sum, the means of getting sureties to hold on to it himself and keep it for the Government; and the Secretary of the Treasury, in my judgment, would have been greatly wanting in his duty if he had not used any means at his disposal to furnish the necessary bonds so as to keep the cotton.

Mr. HOWE. I think the Secretary of the Treasury ought to have done whatever he could do to keep the cotton. If he was authorized to act or to speak for the United States and to bind the United States it was perfectly right for him to do it; but I should hope, under a fair administration of the Treasury Department, that the credit of the United States was good enough; that parties would be willing to take the personal obligation, if I may so speak, of the United States as indemnity for any liability of theirs.

Mr. EDMUNDS. But the United States were not sued.

Mr. HOWE. The United States were not sued, but the sureties were looking to the United States as if the United States were sued. What I complain of is, that the Secretary of the Treasury takes out of money which belongs to the United States, and which he might just as well have taken out of the Treasury itself, $500,000 and puts it up to indemnify private parties for some risk they assume for the Government. This money was not in the Treasury and therefore he could get at it; but it belonged in the Treasury just as much as any dollar there was there. If it had been in the Treasury the Treasury would not have let him have it. Why? Because it was not a right use to be made of the money. Not being in the Treasury he could control it, and he did make that use of it which, if it had been once passed on to the books of the Treasury, he could not have made.

Now, Mr. President, I believe I shall occupy no further time in discussing this matter. I ought not to have occupied any, I guess. I sit down as I commenced, feeling that it does not amount to much after all. It is not much of a shower which wets down a few millions of the public property. I do not think it is of much consequence who does disburse the public money or where it goes to. I thought this was a very extraordinary exhibit, and I felt bound to make known wherein I thought it an extraordinary exhibit. Having done so, all the duty that could possibly devolve on me has been discharged. I certainly have no wish to arraign the Secretary of the Treasury for misconduct that does not justly attach to him, and I make no arraignment of the Secretary of the Treasury that I should not make upon anybody

else living on the earth against whom this same exhibition could be preferred.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. I hope my friend will withdraw that motion for a moment to enable me to offer a resolution of inquiry.

Mr. RAMSEY. I yield for that purpose.

CONDITION OF EQUAL RIGHTS BILL.

Mr. EDMUNDS. I offer the following resolution, and ask for its present consideration. I presume there will be no objection to it:

Whereas Senate bill No. 141, entitled "An act for the further security of equal rights in the District of Columbia," having at this present session passed both Houses of Congress, was afterward, on the 11th day of December, 1867, duly presented to the President of the United States for his approval and signature; and whereas more than ten days, exclusive of Sundays, have since elapsed in this session without said bill having been returned either approved or disapproved: Therefore,

Resolved, That the President of the United States be requested to inform the Senate whether said bill has been delivered to and received by the Secretary of State as provided by the second section of the act of the 27th day of July, 1789.

The resolution was considered by unanimous consent, and agreed to.

BILL INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 230) authorizing writs of error from the circuit to the district courts of the United States in certain criminal cases; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

SOUTHERN STATE GOVERNMENTS.

Mr. MORTON. I offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to report a bill abrogating the unauthorized and illegal State governments now existing in Virginia, Georgia, Alabama, Louisiana, Texas, Florida, North Carolina, South Carolina, and Arkansas, and providing provisional governments for the said States until such time as the same have been reconstructed under the several acts of Congress passed for that purpose.

The PRESIDENT *pro tempore*. Does the Senator ask for the present consideration of the resolution?

Mr. MORTON. Yes, sir.

The PRESIDENT *pro tempore*. It requires unanimous consent.

Mr. TRUMBULL. I have no objection to it if the frame of the resolution is changed a little so as to require an inquiry; but I should object to an instruction to the committee to report such a bill. That would decide a very important question on a simple resolution. I hardly think the Senate would be willing to do that. If the Senator thinks proper to change the phraseology of the resolution so as to direct the committee to inquire into the propriety of reporting such a bill I have no sort of objection to it.

Mr. MORTON. I had that matter under consideration, and I propose on this resolution to take the sense of the Senate, and if the sense of the Senate shall be in favor of this resolution to make it the duty of that committee to report such a bill.

Mr. WILLIAMS. I hope the Senator will not insist upon committing the Senate to any particular bill until we have had an opportunity to know what the bill is. I think it would depend very much upon the nature of the bill as to whether I should be willing to vote for it or not. To compel the Senate to say now whether they would or would not support any bill that might be reported would seem to me to be a little premature in action, and I hope the Senator will not insist upon it.

Mr. TRUMBULL. If the resolution is to be in that shape I object to its consideration, and it cannot be considered to-day.

Mr. SUMNER. It is under consideration now. It is too late to object to its consideration. It is under consideration.

The PRESIDENT *pro tempore*. The question had not been put as to whether the Senate would agree to consider it or not. I suppose, objection being made, it lies over under the rule until to-morrow.

Mr. MORTON. I will simply say in response to the Senator from Oregon that of course this resolution does not bind the Senate to support any bill that the committee may report. It simply directs the committee to report a bill, and then if the bill be not acceptable to the Senate of course it will not pass and it will be subject to amendment.

Mr. CONKLING. I should like to make a suggestion to the Senator if he will allow me to do so. It seems to me a resolution of this sort is rather a mode of circumlocution. If the committee is to be peremptorily instructed to report a bill to that effect and the sense of the Senate is to be taken on the resolution why not present the bill at once and let the Senate vote upon that? It would certainly save time, and I submit to the Senator from Indiana that it would be the more direct and more satisfactory course, for then not only the general proposition but the particular bill would be before the Senate.

The PRESIDENT *pro tempore*. There is nothing before the Senate. The resolution, being objected to, goes over under the rule.

Mr. SUMNER. I understood the discussion had already commenced. It is too late to object.

The PRESIDENT *pro tempore*. Does the Senator from Indiana want his resolution printed?

Mr. MORTON. Yes, sir.

The PRESIDENT *pro tempore*. That order will be entered.

Mr. MORTON. Does the Chair decide that my resolution must go over until to-morrow?

The PRESIDENT *pro tempore*. It goes over because an objection is made to it, and one objection carries it over.

ENROLLED BILLS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled joint resolutions:

A joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the King of the Hawaiian islands;

A joint resolution (S. R. No. 80) in relation to the erection of a jail in the District of Columbia;

A joint resolution (S. R. No. 83) for the appointment of Regents of the Smithsonian Institution; and

A joint resolution (H. R. No. 130) in relation to the sale of stock in the Dismal Swamp Canal Company.

CONTRACTION OF THE CURRENCY.

Mr. SHERMAN. I desire to submit a motion, if there is nothing before the Senate.

The PRESIDENT *pro tempore*. There is nothing before the Senate.

Mr. SHERMAN. I move that the pending unfinished business be postponed with a view to take up the bill in regard to the contraction of the currency. I do not propose to have it considered to-night, but to leave it as the unfinished business for to-morrow, so that the order of business may be settled for to-morrow without any confusion.

Mr. TRUMBULL. I should like to inquire what has become of the motion of the Senator from Minnesota to go into executive session?

The PRESIDENT *pro tempore*. That was withdrawn.

Mr. RAMSAY. Every one importuned me to withdraw it; but if it be in order I renew it now.

Mr. SHERMAN. My motion will settle the order of business for to-morrow, and I hope it will be agreed to.

Mr. FESSENDEN. I suggest to my friend from Ohio to put his motion in different shape; just move that the further consideration of the subject which has been under discussion to-day be postponed until to-morrow, and let it go over, and when to-morrow comes it can be passed over with a view to take up his bill. I shall not object to that. I probably shall not see the remarks of the Senator from Illinois in time to answer them to-morrow.

Mr. SHERMAN. The effect is the same. Extending the usual courtesy here, as the Senator asks to see the remarks of the Senator from Illinois in print before he replies to them, we probably cannot continue to-morrow the discussion of the joint resolution now pending, and therefore I make this motion, so that the unfinished business may be the bill for suspending the contraction of the currency. I think there is no objection to that course.

Mr. TRUMBULL. I think we had better leave until to-morrow the settlement of these questions as to what is to come up. If the Senator from Maine is in a condition to go on to-morrow I should like to see this joint resolution passed.

Mr. SHERMAN. The Senator from Maine has already stated that he probably will not be prepared to speak to-morrow.

Mr. TRUMBULL. If the Senator from Maine to-morrow asks to have it go over, of course the Senate will consent to the postponement; but it will be time enough to do it then.

Mr. SHERMAN. I hope this bill will be taken up now, so that the order of business for to-morrow will be settled now, and thus avoid the wasting of an hour upon it to-morrow.

Mr. TRUMBULL. I renew the motion to go into executive session. Let us dispose of the executive business on the table, and then to-morrow we can settle these other questions.

Mr. SHERMAN. On that motion I call for a division, simply to get the sense of the Senate.

Mr. MORTON. I hope the motion of the Senator from Ohio will prevail. It seems to me there is no question before this Senate now so important to decide as the question of the further contraction of the currency.

The PRESIDENT *pro tempore*. The question now is on the motion to proceed to the consideration of executive business.

The motion was not agreed to—ayes six, noes not counted.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Ohio to proceed to the consideration of the bill (H. R. No. 213) to suspend further reduction of the currency.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. CONNESS. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 8, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. McCLURG. I ask unanimous consent to present a memorial, and to have it read. It will take about four minutes of time.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The first business in order during the morning hour, which has now commenced, is the call of committees for reports, commencing with the Committee on Foreign Affairs.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, announcing that that body had passed a bill (H. R. No. 297) to provide for the exemption of cotton from internal tax, with amendments, in which he was directed to ask the concurrence of the House.

REV. JOHN M'MAHON.

Mr. ORTH, from the Committee on Foreign Affairs, reported a joint resolution (H. R. No. 137) requesting the President to intercede with her majesty the queen of Great Britain to secure the speedy release of Rev. John McMahon, convicted as a Fenian raider, and now confined at Kingston, Canada West, accompanied by a report in writing.

The report was laid on the table, and ordered to be printed.

The joint resolution was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. PAINE. Will the gentleman from Indiana [Mr. ORTH] yield to me to offer an amendment to this joint resolution?

Mr. ORTH. Not at present; I will yield before I get through.

Mr. PAINE. Very well; that will answer my purpose.

Mr. ORTH. Mr. Speaker, during the month of March last the Legislature of the State of Indiana passed a joint resolution instructing her Senators and requesting her Representatives to take such measures in the national Congress as would tend to secure the release of one of her citizens, Rev. John McMahon, who was charged as a Fenian raider in Canada, arrested, tried, and convicted. That resolution was presented to this House, and upon the motion of my colleague [Mr. SHANKS] the Committee on Foreign Affairs were instructed to investigate the causes leading to the arrest of Father McMahon and to report those facts to this House.

In pursuance of that resolution the Committee on Foreign Affairs during the vacation of Congress proceeded to take testimony relating to the subject. The report which I have had the honor on behalf of the committee to present this morning, with the pending joint resolution, is the result of that investigation.

The facts developed are substantially as follows: Father McMahon is a native of Ireland. He migrated to this country in the year 1840, landing at the city of New York. In 1844 he filed his declaration of intention to become naturalized under the laws of Congress. He is a Catholic priest, and located in my own State, being a resident of and having charge of a congregation in the town of Anderson, and continuing his residence there until June, 1866.

In 1862 a brother of Father McMahon, then residing in Montreal, Canada, died intestate and without issue, leaving a large amount of real and personal property descending to his brothers and sisters. The knowledge of the death of his brother came to Father McMahon in 1863 and 1864, and he then decided upon going to Canada for the purpose of investigating this question of inheritance at the earliest practical opportunity which should present itself, which he did in June, 1866.

About that time, as will be recollected by members of this House, a contemplated Fenian raid on Canada was in process of organization throughout the country. In the town in which Father McMahon resided there was a large and active Fenian circle, composed partly of members of his own church and generally of those persons who were Irishmen themselves or the descendants of Irishmen. In that circle a large company was organized for the purpose of joining in the invasion of Canada; and the members thereof, being intimately acquainted with Father McMahon, and knowing his intention to proceed to Canada in reference to this inheritance, they invited him to accompany them to the city of Buffalo, offering him free transportation. This to a person in Father McMahon's circumstances was an object sufficient to induce him to accompany his friends and neighbors thus far upon his route. The committee find, further, after diligent inquiry, that Father McMahon never was a member of the Fenian circle. That he may have sympathized with the parishioners of his church, that he may have sympathized with his own countrymen, knowing their wrongs and oppressions, is most natural. He therefore accompanied them as far as Buffalo, while they continued their journey and engaged in the so-called battle of Ridgway, which was fought in June, 1866. Your committee have not been able to ascertain whether during that battle Father McMahon was upon the American or the British side of the river. After the battle, however, he was found upon the battle-field of Ridgway engaged in laudable and charitable purposes, acting as a nurse and a priest to those of his friends who had been injured in the conflict which they had brought upon themselves on that occasion. Here he was arrested by the Canadian authorities and taken to the city of Toronto, charged with the crime of treason, tried, convicted, and sentenced to be hanged. That sentence was afterward commuted to imprisonment for life.

These are in brief the facts as found by your committee, and as embraced in the report which I have had the honor to submit. We can well conceive, Mr. Speaker, that the trial of Father McMahon was, under the circumstances, to say the least, an unfair one. He was arrested in a foreign country, surrounded by a hostile and excited people, with no friends upon whose assistance he could rely for an impartial trial. He had no opportunity of compelling the attendance of witnesses in his behalf; and no witness cognizant of the facts could voluntarily go to that country without rendering himself liable to arrest and imprisonment on a similar charge. His trial took place during a time of great excitement, when the public mind was not in a condition to do justice between the accused and the British Government. Under those circumstances it was most natural that the courts in Canada should have found him guilty and passed upon him this heavy and unmerited sentence.

The people of Indiana, speaking through their Legislature, regard the sentence as a harsh one, to characterize it by the mildest phrase. They feel—and I speak but feebly their voice upon this subject—that a citizen of their State, guilty of no crime, has been arrested in a foreign country, condemned for what was, at the utmost, a mere act of indiscretion, and is to-day compelled to be the associate of felons and criminals, and this, too, with the prospect of continued imprisonment during his natural life. They therefore ask that the intercession of this Government may be made to secure the release of Father McMahon from further imprisonment. If he has been guilty of an act of indiscretion he has already suffered sufficiently at the hands of the British Government, and if innocent, as I believe, of any criminal act or criminal intent, mercy and justice alike demand his immediate release.

Mr. Speaker, I cannot conceive of a nobler spectacle than that which the American Congress to-day presents to the civilized world: the lawgivers of this great Republic suspending for a while their ordinary business, stepping aside from the all-engrossing topics of national importance, to inquire into wrongs alleged to be committed against one of its humblest citizens, and to afford such redress as may be in its power. So long as this Government is thus mindful of the rights of any of its people so long it will have a hold upon their love and affection and command the respect of good men all over the world.

While investigating and presenting this case to the House I have been strongly impressed with the belief that had Father McMahon been a native-born American citizen his fate would have been very different. But he was born upon British soil, and the British Government still claims him as one of her subjects. That Government totally disregards his naturalization under our laws and his long-continued residence and the exercise of numerous acts of citizenship among us, and treats them as void and nugatory. That Government adheres to and enforces its doctrine of perpetual allegiance, a doctrine at war with the liberal spirit of our age, and which our Government, founded as it is upon enlarged and comprehensive views of the rights of man as man, can never tolerate. Let me, then, Mr. Speaker, with the indulgence of the House, examine briefly this doctrine of allegiance.

We are told by writers on the subject that it is the tie or ligament which binds the subject to his king or the citizen to his Government in return for the protection which he receives. It is the philosophy upon which all Governments are based, without regard to its particular form or nature. When men associate together to institute government for their mutual protection and advantage they owe fealty, faith, duty to such Government. This is called allegiance, and the correlative duty of the Government is protection.

So long, therefore, as the citizen or subject resides within a Government and seeks and receives its protection so long he must render his allegiance. Without this no Government could exist. Protection and allegiance, duty and fealty are mutual reciprocal obligations from Government to people and from people to Government.

The duration of this allegiance, or whether it can be terminated without the consent of the Government, is another question, and one upon which a diversity of opinion exists among the several nations of the earth.

The British Government, as I have already stated, as well as most of the European nations, hold to the doctrine of perpetual allegiance, while we maintain the doctrine of expatriation, or the right of a person to absolve himself from his allegiance whenever his interest or his fancy prompts him to do so. They hold that no person can discharge himself from this natural and perpetual allegiance without their consent, and even contend that this is a principle of universal law. This we deny, and confidently appeal to history to sustain our position. The doctrine is not recognized by the Divine law, for sacred history informs us, among other instances, that Jacob and his family left the land of their nativity and voluntarily became subjects of the kings of Egypt; that Moses, a native Egyptian, left the land of his birth and dwelt among the Midianites; and that subsequently the children of Israel—a large and numerous community under the leadership of Moses—of their own accord absolved themselves from their allegiance to Pharaoh, and with the approval and special guidance of Providence emigrated from Egypt and sought homes elsewhere.

The law of nature sanctions no such doctrine, for by nature all men have equal rights—a man is the equal but not the superior of his neighbor, and this natural right of equality is inalienable. I also deny that in any just sense can it be claimed as a principle of the law of nations. On this subject the great authorities on the law of nations, Puffendorf, Grotius, Vattel, and Berlamaqui, all concede the right of a man to migrate from one country to another at will, subject only to restraint under special circumstances. Locke, in his admirable Essay on Government, asserts that the practice of the world has been for men to withdraw themselves from the jurisdiction under which they were born and to set up governments elsewhere.

Take a glance at ancient history, and what are its teachings? The Athenians not only invited men of science, of wealth, and of general usefulness to come and live among them, but it was also one of the fundamental principles of their Government that when any of their people were dissatisfied with their laws or customs they might withdraw and join their fortunes with those of any other people.

By the Roman constitution no citizen could be forced to leave the Commonwealth except for crime, nor prevented from leaving it if he pleased to do so. Cicero, in one of his eloquent orations, alluding to this ancient and well-settled custom, exclaims:

"What noble rights! which, by the blessing of Heaven, have been enjoyed by us and our ancestors ever since the Roman State began, that none of us shall be forced to leave our country or stay in it

against our wills. This is the immovable foundation of our liberty, that every man is master of his right, and may keep it or resign it as he pleases."

In other countries the law on this subject has varied from time to time, except in such as have built upon the feudal customs of the dark ages, when each petty lord owned his vassals, and when the sovereign claimed ownership over his subjects as he did over his cattle.

It is upon this bare foundation that the claim of perpetual allegiance by the common law of Great Britain rests, and from which it derives its origin. And this common law asserts that a man who happens to be born on a particular spot under these Governments of feudal origin must continue to that Government allegiance and fidelity so long as he lives; whether his inclination, his desire, his happiness should induce him to go from one part of the earth to another, still the Government has its clutches upon him, and whenever it pleases to do so can claim him as its subject.

Our early and uniform history, the genius and spirit of our institutions, on the contrary, maintain the right of expatriation or emigration as a natural right inherent to every human being. We asserted this in the Declaration of Independence, that all persons have an "inalienable right to the pursuit of happiness." An inalienable right to pursue happiness where? To pursue happiness in the down-trodden island of Ireland? To pursue happiness among the densely-crowded populations of Europe? No; but to pursue happiness upon every portion of God's footstool wherever man desires to go.

Following up that position of the Declaration of Independence, we provide in our Constitution that Congress shall have power "to establish a uniform rule of naturalization." If our ancestors had believed in the doctrine of perpetual allegiance would they have inserted this power in our fundamental law? Clearly not.

In pursuance of this power Congress has placed upon our national statute-book a law providing for the naturalization of every foreigner who seeks our shores and desires to participate in the benefits and blessings of our free institutions. Our forefathers, after the Revolution, found themselves sole occupants of almost an entire continent. Their greatest need was emigrants; and they invited the nations of the Old World to pour their surplus population into our borders, and we would incorporate them in the State as a part and parcel of us, conferring upon each one the rights and privileges and proud character of American citizenship. Such is our history and such has been our traditional policy.

Upon the naturalized citizen we place the same duties which devolve on the native born. We exact from him the payment of taxes to support the Government. We exact from him obedience to our laws. We exact from him military service. When the country is threatened with danger, when it is involved in war, civil or foreign, we place upon the shoulder of the naturalized citizen as well as upon that of the native-born the knapsack and the musket, and say to him, "With life and with blood you must defend this country to which you have sworn allegiance." That is what we do as a Government.

Now, then, what is our correlative duty to that citizen? It is to protect him here and everywhere in the enjoyment of every privilege which he would have had had he been a native-born citizen. If we fail in discharging this high duty resting upon us we shall stand before the world dishonored. This is a national question addressing itself to the dignity and to the honor of our great Republic. Whenever we fail to protect a citizen, whether native or naturalized, we do not deserve that respect which now follows our flag all over the world. Having exacted obedience from the naturalized citizen, having forced him to sustain our Government with his property and his life, if necessary, whenever the rights of that naturalized citizen are involved or are not respected by any of the Governments of the world, our duty is as plain as the noon-day sun—we must protect that citizen, and protect him at every hazard.

Let me not be misunderstood. The protection of which I am speaking is not to be construed as a shield or immunity against crime. When the American citizen (whether native or naturalized) is guilty of a crime against the laws of another jurisdiction let him be arrested, tried, and, if found guilty, convicted. But let him be tried as an American citizen, and not as a British or Prussian subject. When a native-born American citizen is arrested in Great Britain charged with a crime he has a right to be tried by a mixed jury of foreigners and British subjects; we demand for the naturalized American citizen precisely the same right of trial. It would be most absurd to arrest a native-born American citizen in England and hold him responsible for words spoken in this country, however derogatory of that Government such words may be, and we insist, and shall insist, that it is equally absurd to hold a naturalized American citizen thus responsible.

We would not for a moment tolerate the arrest of any of our native-born citizens by a European Government and forcing him into their army as an unwilling soldier, and we deny the right of any such Government thus to act toward any one of our naturalized citizens.

This is what we mean by protecting our naturalized citizens—to place them, as to all the world, upon the identical basis occupied by a native-born citizen—to give them the full benefit of our laws and the complete shelter of our flag.

This great American principle is constantly violated by the nations of Europe, and to-day their prisons are filled with naturalized citizens guilty of no crime, and their armies contain hundreds of unwilling soldiers—men who by natural right are as exempt from these wrongs and outrages as any member on this floor. Nor are our people deaf to these wrongs. The public sentiment is thoroughly aroused on this subject, and it would be unwise in any American legislator to disregard the admonitions which reach us from all parts of the land.

We must enforce our doctrine upon this subject. We cannot longer remain silent without incurring national dishonor and the just contempt of the world.

Let us proclaim our position to the world by a firm and manly declaration, and should this fail to arrest the evil of which we justly complain we can then seek by treaty or otherwise an amicable recognition of rights which are dear to our people, and which, under no conceivable circumstances, would they be willing to surrender.

We have pledged our faith to the foreigner who comes to live with us, and that faith must be kept. Our national honor is involved in the maintenance of this principle, and that honor must remain unsullied. The nation which fails to protect its honor at every hazard and under all circumstances is unworthy the respect of the meanest of its citizens.

Should we fail in accomplishing our object by the means I have indicated—and I will not suffer myself for a moment to believe that we will thus fail—we have but one resort left us—the *ultima ratio regi*—and if war must come from the assertion of this great principle let it come, for no nation can ever be engaged in a nobler cause than when it is found battling for the rights of all its citizens.

Mr. CULLOM obtained the floor.

Mr. PAINE. Will the gentleman from Illinois [Mr. CULLOM] yield to allow me to offer an amendment?

Mr. CULLOM. Certainly.

Mr. PAINE. I move to amend the joint resolution by inserting after the name of "Rev. John McMahon" the name of "Robert Lynch, of Wisconsin." Mr. Lynch is a citizen of Milwaukee; he has been my fellow-citizen for at least ten years. As I understand it, he was captured at the same time, has been convicted of the same offense, and has been condemned to the same punishment as the gentleman for whom my friend from Indiana [Mr. ORTH] now intercedes. In his examination of that case he must have discovered many facts showing that what I have stated is true. I have papers bearing upon this question which I intended to present to this House, for it was my purpose to bring forward an independent proposition on this subject. I was not aware that the committee would report to-day or I would have had those papers here.

I ask that the name of Robert Lynch be inserted in this joint resolution. Inasmuch as the resolution proposes simply to request the President to intercede in behalf of Father McMahon no harm can possibly result from amending the joint resolution as I propose. I therefore ask the member of the Committee on Foreign Affairs who reported this resolution [Mr. ORTH] to accept my amendment.

The SPEAKER. The member of a committee reporting a bill or joint resolution cannot accept an amendment.

Mr. PAINE. Then I ask the gentleman to allow me to move the amendment.

Mr. ORTH. I would be glad to oblige my friend from Wisconsin, [Mr. PAINE,] but the case of Father McMahon is a peculiar case—one that has elicited considerable discussion throughout the country, especially in my section of it. I do not desire to embarrass it by any other case, but prefer to have each case stand on its own merits.

Mr. CULLOM. Mr. Speaker, I hope the resolution reported by my colleague on the committee [Mr. ORTH] will be adopted. The time has come, sir, when this Government must assert its rights and the rights of its citizens, and maintain those rights, peaceably, if possible, by the power of her Army and Navy if necessary. The personal rights, the liberties, the lives of many of our fellow-citizens abroad in other lands upon lawful pursuits are in jeopardy, and they are calling upon us for protection. Shall we give it? American citizens in British bastiles call upon their Government for protection, not to be saved from fair trials or to be protected in the commission of crime, but to be secured in the rights belonging to them as American citizens, notwithstanding they may have been born in a foreign land. Justice and the people call upon the Government, and that rightly, to see that every naturalized citizen shall be given the same rights and protected in the same and all the rights that are or can be given to native-born American citizens; they claim nothing more, they should be protected in nothing less. There are no gradations among citizens in this country; all are entitled to the same and equal rights so far as protection is concerned. The feudal doctrine of the dark ages upon this important subject has seemed to have breathed into it the breath of life anew, and we are now hearing that monstrous doctrine of unalienable allegiance (which, under the influence of liberty, we had supposed was obsolete and dead) reasserted and insisted upon as the correct doctrine of the nineteenth century.

Sir, this doctrine of perpetual allegiance is another of the wicked heresies with which the American people are called upon to battle, and which they must as surely overthrow. The doctrine of perpetual allegiance is a fragment of tyranny—not a fragment; may I not say that it is a foundation stone? It is insisted upon only by those who are friends of kings and tyrants and desire to continue and enlarge the means of oppression.

Sir, it is a part of the sublime mission of America to battle against wrong, to struggle for the rights of men, to punish the wrong-doer, and aid and protect the right. Such has been the character of our contests at home and abroad. Victory has perched upon our banners, and we do not intend to yield one iota in this struggle until all foreign nations give to every naturalized American citizen the same rights that are accorded to native-born American citizens.

This nation, if those in authority were per-

sonally base and cowardly enough to do so, could not without utter disgrace and dishonor allow the doctrine of perpetual allegiance to be carried out by foreign nations in its application to our naturalized citizens. The very existence of the Government depends upon the proper settlement of the principle.

Allow the doctrine of perpetual allegiance to prevail, allow our naturalized citizens visiting their native lands to be dragged into prisons or military service at the wish or will of the sovereign because, forsooth, they happen to be born a subject of the queen or king or emperor who perchance rules over the State; and from that moment the name of your country is digraced; its character as the land of the free and the home of the brave departs; it becomes a mere prison in the future, and the eyes of the oppressed millions of the Old World will turn from it in disgust and despair.

We have a population in our land to-day of not less than thirty-five million people, free and independent people. Five millions, or one seventh of this great nation of people, are foreign-born. They have come among us and pitched their tents, and are ready at all times to support and defend the country and the flag of their adoption side by side with those who are native citizens of the country. Sir, shall they, when they choose to return to the land of their birth, fully adopted and taken into the family of America, be treated as subjects of the sovereign of the State from which they emigrated upon the plea of perpetual allegiance? The good sense of every man upon a mere statement of the question says "No."

In 1790 the seventeen States and Territories then comprising this country had within their borders but three and a quarter millions of people. Taking the recognized rate of increase of births over deaths, being one and thirty-eight hundredths per cent. per annum, the population of the country to-day, saying nothing about emancipated blacks and the people added by the acquisition of territory not then owned, would number about nine and a quarter million people; so that the balance of the population of this country, (leaving out the emancipated blacks, and those added by territorial acquisition,) being about twenty-two millions, consists either of emigrants coming from foreign shores or their progeny. Sir, these figures may be startling to some, yet they are nevertheless true.

To whom, then, is the country mainly indebted for its wealth, its power, its proud and controlling position among the nations of the earth? As a nation we owe our life to the exercise of that fundamental right of man to go in the pursuit of happiness, and its power and proud preëminence to those liberal, Christian principles which are the foundation of our political fabric, which has been supported and defended by native and naturalized citizens against every assault, even though made by Governments claiming the allegiance of many of its most gallant defenders.

To-day there are about two million people in our country from the German States, and about the same number from Ireland, that land of persecution. During the fiscal year ending June 30, 1866, there were three hundred and thirty thousand seven hundred and five emigrants came to this country, and during the last fiscal year ending June 30, 1867, there were three hundred and ten thousand one hundred and fourteen. Sir, they are coming—they are coming with brave hearts and stout hands; they are coming with souls panting for liberty; they are coming as it were with the eye of faith fixed and gazing upon the tree of liberty planted in American soil, enriched with patriots' blood; and as they come, full of hope and courage, they expect soon to gather beneath its protecting branches and enjoy the blessings of a free Government. Shall this nation as in days past still say come? Shall our consuls and emigrant agents abroad still continue to point out to those oppressed millions the advantages and glories of this country, its lands, its institutions, its Government? Shall we continue our naturalization laws upon our statute-books? Shall we invite men—honest men—to take an oath to support the Constitution of the United States and renounce all allegiance to the sovereign over the land of their nativity? Sir, the answer to these questions aright depends upon the action of the Government in protecting or failing to protect its people.

Our duty is plain, sir. It is to declare the position of the American Government and see that the Government stands by and maintains that position, in the protection of the rights of naturalized citizens whom we have invited to our shores and who have sworn allegiance to our country.

Mr. Speaker, one of the chief glories of a nation is in its disposition and courage to protect the rights of its people; and the nation that will not strive at least to do that deserves to be blotted from the face of the earth. I do not fear, sir, either a lack of disposition, courage, or ability to do justice to all our citizens in the present struggle. All that is needed is that the American nation shall demand the right and it will be yielded.

The spirit of liberty that warms and invigorates the hearts of the people of the nineteenth century all over the civilized world is too strong to tolerate the enforcement of the doctrine of perpetual allegiance in England, Germany, or anywhere else. They may cite the feudal law which chained every man as a vassal and slave to the soil; they may array decisions of the courts in support of the law and as precedents for their action; they may say to us, as they can, be it said to our shame, that our courts have followed in the same disgraceful wake and punished men as American citizens upon the ground of unalienable allegiance who were in fact citizens of other nations. They may do all this, sir, and more; and yet if England or any other nation attempts to stand upon and enforce that doctrine she will be finally driven from it, either by the force of justice and reason, or, what may be more appreciable to them, the power of grape and cannon leveled against them by the armies of the liberal nations of the earth.

Mr. Speaker, in the discussion of this question we are necessarily driven to the discussion of three questions, all indissolubly connected: first, the right of expatriation, then the right to naturalize, and thirdly, allegiance, which necessarily follows. Man has a right to go where, in his judgment, the greatest fields of happiness invite him. The right of expatriation belongs to every man. In the language of Mr. Johnson, of Virginia, in his speech on this subject in Congress in 1818, the right of expatriation is—

"In that great charter by which nature secured to man the right to seek happiness wheresoever he could enjoy it—a right not derived from any of the little petty sovereigns on earth."

But, sir, the right of expatriation has never been opposed by any civilized nation. The right of an individual to leave a country, if he chose, was recognized by the nations of the earth far back in the days of antiquity. Cicero called it "a glorious right," and says that "the power of either keeping or parting with one's right is the foundation of liberty."

By the Roman law "every man was at liberty to remove his habitation whither he pleased."

Tryphoneus says "that every man has the right to choose the State of which he has a mind to become a member."

Grotius says that "men ought not to leave their country in troops or in large companies or in time of war; but the case seems quite different when a single person leaves his country." "It is one thing," he says, "to draw water out of a river, another to divert its course."

Vattel says:

"There are cases in which a citizen has an undoubted right to renounce his country and abandon it entirely—a right founded on reasons derived from the very nature of the social compact: first, if the citizen cannot procure subsistence in his own country it is undoubtedly lawful for him to seek it elsewhere; for political and civil society being entered into only with a view of facilitating to each of its members the means of supporting himself and of living in happiness and safety, it would be absurd to pretend that a member whom it cannot furnish with such things as are most necessary has not a right to leave."

Again, says Vattel, if the sovereign or greater part of the nation will allow but one religion in the State, those who believe and profess another religion have a right to withdraw and to take with them their families and effects.

Again, Vattel says that—

"If the sovereign attempt to molest those who have a right to emigrate he does them an injury, and the injured individuals may lawfully implore the protection of the Power who is willing to receive them."

But, sir, I will not take up the time of the House in quoting further upon this part of the subject. Whether Governments have the right to trammel in any wise the right of expatriation it is not necessary for me now to discuss, the fact being that in all ages of the world men have exercised the right substantially as they chose. It is exercised to-day in perhaps a far greater degree than ever before. The Irishman leaves his home and his friends and comes to America. Why? Sir, for the very reasons assigned by Vattel as reasons for the exercise of the right of expatriation, famine—the sovereign governing the country failing to discharge the obligations due to the subject—religious persecution, "interfering with the authority of men in the affairs of conscience," compelling them to submit to the unjust rule of the English, and that, too, after having effected a political union in 1800 without the consent of the Irish people in fact. They come, sir, to relieve themselves of these distresses and abuses. The German, oppressed by petty tyrants and inspired with a longing for freedom, comes to our land, as he has a right to do. So of all others who come from foreign nations to settle in our midst. They are all impelled by the laudable and praiseworthy purpose of seeking after new fields of labor in which they may enjoy greater degrees of happiness. They are here—the German, the Irishman, the Portuguese, the Frenchman, and from other nations. They have been invited to our shores; and hundreds of thousands of them, at the invitation of the Government, have made themselves citizens of our Government. The Constitution of the United States provides that—

"Congress shall have power to establish an uniform rule of naturalization throughout the United States."

Soon after the adoption of the Constitution with the authority in it above cited, Congress hastened to pass a general naturalization law, and from that day to this our statute-books have contained laws upon that subject providing the mode by which men coming to our country might become citizens of the United States.

The right to pass such laws in this country cannot be questioned. The right of any nation to pass such laws is not questioned. Many of them especially provide for such laws in their constitutions. The constitution of France presented to the king in 1791 provided as follows:

"That the legislative power may, for important considerations, naturalize a foreigner upon no other condition than that of residing in France and taking the civic oath."

The civic oath provided that the person should "swear to be faithful to the nation, the law, and the king; and to maintain with all his power the constitution of the kingdom decreed by the Constitutional National Assembly during the years 1789, '90, and '91."

The English Government (being a commercial people) recruits seamen wherever they can find them, and finally, without formality, after a term of service the seamen become British subjects.

The Constitution of the United States in a plain, simple manner provides that Congress shall regulate the question of naturalization by the passage of laws on the subject uniform in their character.

Congress performs that duty, and says that the man coming from a foreign shore, having been in this country a specific time—longer, in my judgment, than ordinary prudence or caution should require—if he desires to be naturalized and become an American citizen, shall before the proper officer make oath that it is his intention to become a citizen of the United States and renounce forever all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty whatever. The requirements of him are solemn, and sometimes it is difficult for the party desiring to become a citizen to provide himself with the proof required after he has lived in the country and supported its Constitution, and obeyed its laws for five consecutive years.

Sir, after all this, shall the nation fail in its duty to protect such people in all their rights as citizens of the United States when they choose to go abroad? I surely think not. But it is said that the common law and law writers all support the theory of perpetual allegiance. Let us examine this question and see what the truth is upon this point. Aristotle says:

"That he, and he only, is a citizen who enjoys a due share in the government of that community of which he is a member."

Vattel says:

"That as various reasons may oblige a man to choose another country, that is, to become a member of another society, so when we speak in general of the duty to our country the term is to be understood the State of which a man is an actual member; since it is the latter in preference to any other State that he is bound to serve with his utmost efforts."

In the light of this sound declaration of that great law writer, Vattel, what becomes of the driveled statement of Blackstone when he says that "allegiance is a principle of natural law that cannot be absolved even by swearing allegiance to a foreign prince."

That statement of Blackstone, instead of being made in the light of reason and in accord with the spirit of the nineteenth century, was made under the clouds of the darkness of the Middle Ages, and in accord with the feudal dogmas of those times, which are in opposition to the plainest rights of man.

But, sir, this question of citizenship and allegiance has been discussed incidentally by some of our own most eminent jurists, as in the case of Murry *vs.* The schooner Charming Betsey, decided in the Supreme Court of the United States, the cause having been taken from the district court of Pennsylvania, I believe. The vessel was seized upon a charge of violating a law of Congress passed in 1800, to suspend commercial intercourse between the United States and France and its dependencies. The owner of the vessel was alleged to be an American citizen. The fact was that he was born in the United States, but went to the island of St. Thomas, where he had lived several years, and he claimed to be a Danish subject. Justice Marshall, in giving the opinion in the case, said:

"The American citizen who goes into a foreign country, although he owes local allegiance to that country, is yet, if he performs no other act changing his condition, entitled to the protection of our Government; and if without the violation of any particular law he should be oppressed unjustly he would have the right to claim the protection of the American Government; but his situation is completely changed when by his own act he has made himself the subject of a foreign Power."

That, sir, is the doctrine of to-day; that decision clearly recognizes the right of a man to change his habitation and to renounce his allegiance and form new relations if he choose. That great man, whose name and memory will live as long as the history of American jurisprudence shall be preserved, was not alone in declaring the correct doctrine upon this subject. Thomas Jefferson, always the friend and champion of the rights of the people, while acting minister of the United States wrote to the minister of France in 1793, and used the following language:

"Our citizens are certainly free to divest themselves of the character of citizens by emigration and other acts manifesting their intention; and may then become subjects of another Power and free to do whatever the subjects of that Power may do."

So, Mr. Speaker, I might go on and elaborate the subject, and back up the position that men may renounce their allegiance and consequently become citizens of another country and thereby entirely free themselves of any claim upon them by their former State or sovereign, by referring you further to ancient and modern authority, but I deem it unnecessary.

Nations cannot carry into practical operation and enforce the theory of perpetual allegiance if they would. The British Government attempted it in 1812 in the war with us, and they threatened to punish the brave men who were taken as prisoners from our Army, and whom the British claimed as their subjects upon the plea of unalienable allegiance as traitors to their country; but, sir, they were soon notified that there was such a thing as retaliation recognized by the laws of war, and the threat was not executed. We are now having another demonstration by the British Government, and we hear of courts in that dominion, with an affected wisdom only equaled by their stupidity and love of tyranny, deciding that American naturalization laws are of no consequence, and that Irishmen who have lived in our land for years and almost grown gray in the military service of our country, and who perchance are found in their native land, and who are arrested without evidence against them, but upon mere suspicion that they may belong to some Fenian or other organization and are there for mischief, that such Irishmen, I say, naturalized American citizens, are British subjects, and as such must be prosecuted for a supposed offense.

Sir, such men have not only been arrested, but have been tried and convicted by British courts, which denied the prisoners the right to be tried as Americans upon the assertion of the old doctrine, once a British subject always a British subject. That monstrous doctrine is not only reasserted in England, but in Prussia, too, our citizens visiting their old homes have been forced into the military service. Shall such conduct be tolerated by this great nation? Shall the nation sit quietly by and see naturalized citizens of the United States in the courts of England denied their rights as such citizens, and in Prussia forced into the military ranks as Prussian subjects? It is time this Government was asserting its rights and defending its honor. The Irishman, the Frenchman, the German, with his certificate of naturalization as an American citizen in his pocket, desiring to take by the hand once more an aged father or mother or brother or sister, saves up the necessary funds, bids his wife, his children good-by, and starts perhaps from the western home to visit his native land. He comes to Washington, the capital of his adopted country, presents to the Secretary of State his certificate of naturalization, and procures, as he has a right to do, a paper with the great seal of the United States upon it signed by the Secretary, requesting all whom it may concern to permit safely and freely to pass A B, a citizen of the United States, and in case of need to give him all lawful protection. The German, or whomsoever it may be, takes his paper and goes to the place of his birth, he meets his friends, they rejoice together, but soon their joy is turned to sorrow, and the naturalized American citizen, with his certificate of naturalization in the archives of the State Department and his passport in his pocket, is dragged into the military service to support the tottering throne of a petty tyrant upon the plea of inalienable allegiance.

Mr. Speaker, need more be said on this subject to show the monstrosity of the doctrine, the wickedness of a nation that would attempt to enforce it, and finally the reason why Congress should act upon the subject without delay? America, sir, asks not that men shall remain in this country against their will, nor does this Government expect to pursue those who may choose to leave it with the tyrannical doctrine of perpetual allegiance. Sir, if men for any cause do not like this land with its free institutions, we say let them go and find the place most congenial to their tastes, and may the blessings of freedom surround them. This nation, while she opens her avenues to industry and prosperity and invites the people of all nations to come, places no barriers to their departure whenever they choose. They can become citizens of our country by compliance with the laws, and divest themselves of such citizenship by expatriation and becoming members of any other Government.

Mr. Speaker, I trust this resolution will be adopted, and that the Government will maintain the rights of all citizens at home and abroad.

The SPEAKER. The morning hour has expired, and the joint resolution goes over until to-morrow.

ENROLLED JOINT RESOLUTIONS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian islands;

Joint resolution (S. R. No. 80) in relation to the erection of a jail in the District of Columbia; and

Joint resolution (S. R. No. 83) for the appointment of Regents of the Smithsonian Institution.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had passed a joint resolution (H. R. No. 130) in relation to the sale of stock of the Dismal Swamp Canal Company without amendment.

The message further announced that the Senate had indefinitely postponed a joint resolution (H. R. No. 27) to change the name of Moritz Judkiewicz to Morris Judd.

INDIAN LANDS IN KANSAS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the House of the 11th ultimo, a report by the acting Commissioner of Indian Affairs relative to the sale of certain Indian lands in Kansas; which was referred to the Committee on Indian Affairs, and ordered to be printed.

RIGHTS OF AMERICAN CITIZENS.

The SPEAKER also laid before the House resolutions of a public meeting at New Haven, Connecticut, in relation to the rights of American citizens abroad, and a memorial on the same subject signed by Governor English, Major Sperry, Hon. J. Woodruff, and several thousand other citizens; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

PRINTING INTERNAL REVENUE REPORTS.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing, under the law:

Resolved, That ten thousand copies of the report of the Special Commissioner of the Revenue, with all the appendices, be printed for the use of the House and one thousand copies for the use of the Treasury Department.

ASYLUM FOR DISABLED SOLDIERS, ETC.

Mr. SCHENCK, by unanimous consent, also submitted the following resolutions; which were read, considered, and adopted:

Resolved, That the attention of the Committee on Military Affairs and of the board of managers of the National Asylum for Disabled Volunteer Soldiers be called to the idea of making provision at the central asylum and branches of that institution for furnishing and repairing hereafter artificial limbs free of cost to disabled soldiers, the work to be done by mechanics who are inmates of the asylum, and that if legislation on the subject be in the opinion of said committee expedient and necessary the committee be instructed to report by bill or otherwise.

Resolved also, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the transfer of the Soldiers' Home at Washington, with the property and funds pertaining thereto, to the said National Asylum, opening the asylum for the reception and support of disabled soldiers of the regular Army, as well as volunteers, and changing the name of the institution to "The National Soldiers' Home."

REPEAL OF THE COTTON TAX.

Mr. SCHENCK. I desire to ask whether the bill for the repeal of the cotton tax has been returned from the Senate?

The SPEAKER. It has been returned with amendments, and is now upon the Speaker's table.

Mr. SCHENCK. I move that it be taken from the Speaker's table and referred to the Committee of Ways and Means.

The motion was agreed to; and the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax was taken from the Speaker's table, and referred to the Committee of Ways and Means.

EXPENSES OF COMMITTEE REPORTING.

Mr. SPALDING. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Accounts be directed to inquire into and report the expense of the stenographic reporting for committees of the House, and that they recommend any change they may deem proper to reduce the cost of such reporting, and that said committee have leave to report by bill or otherwise.

Mr. COBB. I object.

CONTESTED ELECTION—BIRCH VS. VAN HORN.

Mr. POLAND. I rise to a question of privilege, and call up the report of the Committee of Elections on the contested election case of Birch *vs.* Van Horn, from the sixth district of Missouri. I ask that the resolutions reported by the committee be read.

The Clerk read as follows:

Resolved, That James H. Birch is not entitled to a seat in this House as a Representative in the Fortieth Congress from the sixth congressional district of Missouri.

Resolved, That Robert T. Van Horn is entitled to a seat in this House as a Representative in the Fortieth Congress from the sixth congressional district of Missouri.

Mr. POLAND. Mr. Speaker, the report made by the Committee of Elections in this case is somewhat voluminous, and therefore I do not ask that it be read at length. The main facts I will endeavor to state in the remarks which I propose to make.

The number of votes for Representative in the sixth congressional district of Missouri, as reported by the Secretary of State, were 5,391 for Mr. Van Horn, the sitting member, and 4,857 for Mr. Birch, the contestant; making a majority of 534 votes in favor of Mr. Van Horn.

The contestant claims that in the return of votes from Clinton county, one of the counties of that district, there was a mistake of nine votes; that the votes for the contestant were nine more than the number returned and counted by the Secretary of State. And this the committee find from the evidence to have been the fact, thus reducing the majority of Mr. Van Horn to 525 votes.

The contestant claims that all the votes in the county of Clinton, except those in the township of Concord, should be excluded in consequence of a defect in the poll-books of the various townships of that county, except the township of Concord. The defect consists in the want of the certificate of the oath, which should be attached to the poll-book in accordance with the law of Missouri. The statute of Missouri, in prescribing the form of the poll-book, requires a certificate that the judges of the election have taken the oath required by the constitution and laws of Missouri. The clerk and deputy clerk of the county of Clinton testify that the poll-books, as returned from the various townships in that county, except the township of Concord, had not attached to them this certificate of the oath. The committee regard this as a defect for which the poll-books ought to have been rejected in making the count. The fact that the poll-books had not the necessary certificate is established by the two witnesses I have mentioned. There was some difference of opinion in the committee in relation to the question whether this fact could be properly proved by the oral testimony of witnesses; whether the poll-books or some authenticated copy of them ought not to be produced to show that the certificate was wanting. In my judgment, this is a case in which parole evidence is proper. The object is not to show the contents of the poll-books, but to prove that upon the poll-books a certain certificate which the statute requires does not appear.

How it was to be proved by any proper record evidence I do not very well understand. These election officers are not made by the statutes of Missouri, so far as I have been able to learn, certifying officers, so that a copy of the poll-book certified by them would be no evidence before any committee, before this House, or any of its committees. Neither do I suppose these poll-books could be brought here, taken from the office where they properly belonged, and used as evidence before the committee. But the committee were not unanimous in relation to this view of the law. It is not a material point of the case, and I therefore will not spend any more time on it.

Provided this evidence is regarded as sufficient to establish this defect in the poll-book, that for that reason the votes from Clinton county should be excluded from the count, it reduces the majority of Van Horn 186, leaving his majority of accepted votes, as they are termed in Missouri, 339.

Another question is raised upon evidence produced on the part of the contestant in reference to the supervisors of registration of the counties of Clinton and Clay, two of the counties in this congressional district. By the law of Missouri, their registration law, the Governor is to appoint in each county one superintendent of registration, who is required by their statute to be a qualified voter. This superintendent of registration appoints the deputy registrars who are to perform the duties of registration in the different election precincts in the county. Evidence has been introduced before the committee on the part of the contestant tending to show that Francis D. Phillips, superintendent of registration in Clinton county, and Anthony Harsel, superintendent of registration in Clay county, that these two men in the early days of the rebellion were what is termed "rebel sympathisers," and that they had some connection with the rebellion. If so, under the present constitution and laws of Missouri, they ought not to have been admitted as qualified voters, and in the absence of evidence to contradict what is said by the contestant of these men the committee would have felt bound to decide such was their political condition, and they ought not to have been admitted as qualified voters.

But, on the other hand, it is conceded, Mr. Speaker, these men took all the oaths required by the law to make them qualified voters. They were duly appointed supervisors of registration in their respective counties by the Governor of the State, and they took all the steps required by the constitution and laws of Missouri to make them legal superintendents. They entered upon and actually discharged all the duties of their office. Now, conceding it to be true that there was reason why they ought not to have been admitted as qualified voters, still they were admitted and entered upon their respective offices by virtue of a regular legal appointment of the Governor; they were legally and regularly inducted under all the forms prescribed by the laws of the State into the exercise of the duties of the office of supervisors. The opinion of the committee is, although they ought not to have been admitted as qualified voters, as they held their office after legal and regular induction into it, their right cannot be questioned collaterally, but must be by some proceeding to try directly their title to the office. And no such proceeding has taken place. And it would be certainly going a great way, Mr. Speaker, in consequence of this defect in the supervisors, to vitiate the appointment of the deputy registrars, and thus vitiate the entire election. The committee were unanimous in the belief that this had no effect in invalidating the votes given in these two counties.

The great ground of contest, however, in this case arises upon what is termed in Missouri—and it has become a legal technical term under the constitution and laws of that State—the rejected vote. When any person offers himself for registration in Missouri to any registering officers he is, in the first place, required to take the test-oath prescribed by the constitution. He is not allowed to be registered or even to be examined for registration until he shall, in the first place, take the oath prescribed by the constitution of Missouri. When he has taken this oath he is then subjected to an examination by the registrar, and his answers are not conclusive in relation to his right to registration, but other evidence is admissible to be taken by the registrar, and upon the whole evidence taken before him he determines whether the person thus offering himself for registration can truthfully take the oath, whether he shall be allowed to register as an accepted voter, or whether his name shall be put upon the rejected list. The names of those whom the registrar determines not to be entitled to be registered as qualified voters are placed upon what is termed the rejected list of voters. That rejected list is supplied to the judges of election and election officers, together with the list of accepted voters, and those persons who have not been admitted to register as qualified voters and whose names are put upon the rejected list have a right to offer their votes and to have their votes received by the election officers, but they are put upon a rejected list of voters and the votes are kept by themselves; they are not counted for the persons for whom they are given, but they are kept by themselves as the rejected votes.

Now, in this last congressional election in the sixth district of Missouri there were a very large number of these rejected votes, as follows:

	Birch.	*Van Horn.*
Clinton county	122	0
Ray county	274	0
La Fayette county	235	0
Jackson county	343	5
Clay county	507	1
Carroll county	126	1
Saline county	569	1
Platte county	325	1
	2,501	9

It is further claimed by the contestant that 48 rejected votes were cast for him in the township of Concord, Clinton county, 62 in Lexington, and 23 in Davis, in La Fayette county, which were not counted even among the rejected votes on account of some defect in the returns. The committee are satisfied that these votes were all cast for Birch, and if the rejected votes are to be counted these should be counted as well as the 2,501. From two counties in the district we have no evidence in relation to the number of rejected votes cast, but in the counties where the number is proved it amounts to several times the majority received by Van Horn, the sitting member; so that the case is clearly to turn on whether the rejected votes ought to be counted or whether the evidence shows that enough of them ought to have been counted to overcome the majority returned in favor of Van Horn, the sitting member.

The contestant, Mr. Speaker, claims, in the first place, that these votes should be allowed in his favor upon legal grounds, without regard to any evidence that has been adduced on his part tending to show that they were loyal men who ought to have been admitted to be registered and vote under the present constitution and laws of the State of Missouri. He claims that these men, or the great mass of them, were voters under the constitution and laws of Missouri previous to the adoption of the present constitution in 1865; that they were residents of the district and of the county and of the election precinct so as to be entitled to vote, and that they were entitled to vote by the constitution and laws of Missouri previous to the adoption of the present constitution, which went into force on the 4th of July, 1865. They are disqualified from registration and from voting under the present constitution by reason of their inability to take the test-oath that the new constitution prescribes. The contestant claimed

before the committee that this provision of the new constitution of Missouri is in conflict with the Constitution of the United States; that the fact that these persons are now prevented from registering and voting in the State, upon the ground that they had committed acts which prevented their truly taking the oath prescribed by the new constitution, should be regarded as a punishment inflicted upon them for those acts committed prior to the adoption of the new constitution, and therefore in violation of the Constitution of the United States. And for the purpose of supporting this claim the contestant relies upon the decision of the Supreme Court of the United States in the case of Cummings *vs.* The State of Missouri, (4 Wallace 277,) where it was decided that so far as this provision of the new constitution prevents persons from following avocations lawful in themselves in consequence of their inability to take the oath on account of acts done by them standing in the way of it, was in the nature of punishment, was in the nature of an *ex post facto* law, and was therefore in violation of the Constitution of the United States.

The contestant claims that the doctrine of that case is applicable to voters; that when the people of the State of Missouri adopted the new constitution and prescribed this oath, the effect of which was to disfranchise many who were voters before in consequence of their inability to take the oath prescribed, it can be regarded only as a punishment, and therefore in violation of the Constitution of the United States. The committee do not come to that conclusion; they think there is a broad difference between the right of the people of a State to prescribe by their fundamental law, or by a change in their fundamental law, who shall be voters in the State, and the making a provision that shall disqualify persons from following certain lawful avocations.

I will read merely the conclusion to which the committee came, without going at length into a constitutional argument on this subject:

"The contestant claims that the same application of principles requires the same decision in relation to voters; that the virtual disfranchisement of persons who were voters under the previous constitution and laws of the State, but who are prevented from voting under the new constitution by reason of their inability to take the oath it requires, can only be regarded as a punishment for the act which stands in the way of taking the oath, and that the Constitution of the United States prohibits the infliction of punishment by subsequent legislation.

"If such disfranchisement must be regarded as established for the purpose of punishing the persons thus deprived of the right of voting it must be admitted to come entirely within the reasoning by which the above cited judgment of the court is supported.

"Your committee believe that the provisions of the new constitution of Missouri may be supported, so far as they require this oath of voters, without at all trenching upon the decision of the Supreme Court.

"Each of the States of the Union have hitherto regulated suffrage within their own limits for themselves, and in such manner as the people of the State deemed most conducive to their own interests and welfare. Suffrage is a political right or privilege which every free community grants to such number and class of persons as it deems fittest to represent and advance the wants and interests of the whole. No State grants it to all persons, but with such limitations as the interests of all and the interest of the State require.

"When once granted it is not a vested, irrevocable right, but is held at the pleasure of the power that gave it, and the State may, by a change of its fundamental law, restrict as well as enlarge it. When, therefore, the State of Missouri, in changing its constitution, saw fit to declare that the interests of the State and of the people of the State would be promoted by withholding the right of voting from all persons who could not take the prescribed oath they exercised no greater or higher power than exists in every State."

I am aware that this decision of the Supreme Court was made by a majority of one member of the court. Still, in the judgment of the committee, it is to be regarded as the decision of the highest tribunal of the land, upon a question that is peculiarly within their jurisdiction and their judgment, as to the true and proper construction of the fundamental law of the United States. Therefore, although a majority decision, it is one that cannot be disregarded by this House, but must be regarded, so long as it stands as the decision of the court, as a settlement of that question.

I may say, in reference to the distinction between the right of voting and the right to practice a profession or follow a vocation, that we have already had some practical exposition of that matter. The State of Tennessee has done this very thing for herself; and since the adoption of her constitution making that distinction that State has been represented in both Houses of Congress without question. Congress itself, in the reconstruction acts, has made precisely this exclusion in all the southern States. Although some gentlemen question the constitutionality of that kind of legislation by Congress, still I do not understand it to be upon the ground that it could not be done by the proper authority; but they say that Congress is not the proper authority to do it; that instead of the power being exercised by Congress it ought to be exercised, as it was exercised in the State of Tennessee and in the State of Missouri, by the people of the State themselves.

I do not understand it to be claimed by gentlemen, even of different political ideas from myself, that this is a power not entirely within the reach and at the command of, and which may be legally and constitutionally exercised by, the people of a State. But the complaint they make in regard to the reconstruction law is that the power is exercised by Congress instead of by a convention of the people in the several States.

The contestant makes a further question in relation to the binding force and obligation of the new constitution of Missouri. He claims that the convention by which that constitution was framed exceeded their power in framing that constitution, and also exceeded their power in submitting it to the people for their adoption. He claims that the legislative act by which that convention of the people was called was merely to secure an amendment of the constitution in certain particulars; that the convention went on and framed an entirely new constitution, differing from the old constitution in very many respects not referred to in the enabling act of the Legislature calling the convention.

The contestant also claims that the convention exceeded its power in submitting the constitution to be voted upon only by such persons as would be qualified voters under the new constitution, instead of those who were previously voters under the old constitution, thus making the disfranchisement contemplated in the new constitution take effect in the election held upon the adoption of that constitution. The committee did not feel themselves bound to enter into the wide field of discussion in relation to the extent of the powers of a convention of the people called for the purpose of changing their fundamental law—whether the powers of such a body are restricted by the legislative act under which the body is convened, or whether such a convention stands in the place of the people and may do anything and everything that the people themselves in their sovereign capacity may do. I say the committee have not felt themselves bound to enter upon that inquiry at all, because it is conceded that from the time when this new constitution was declared adopted in June, 1865, and when the Governor issued his proclamation that it would go into effect on the 4th day of July, 1865, down to the present time, every department or branch of the State government, every municipality of the State government, has acquiesced in this constitution as the fundamental law of the State of Missouri. No question has been made in regard to the validity of that constitution. This is not a case of two rival State organizations, each claiming to be State governments. Every department of the State government and all the people of Missouri have acquiesced in this constitution as the fundamental law of the State. More than this, the State from that time to the present has been represented in both branches of Congress without any question in relation to the validity of the State government and its organization under this new constitution.

Hence the committee hold that any political question which might have grown out of the adoption of the new constitution has been settled by the acquiescence of the State and the acquiescence of the political departments of the General Government in the organization of the State under the new constitution. If there is any question which can be raised it is a legal and judicial question in reference to which the remedy must be sought before legal and judicial tribunals.

I may say further, Mr. Speaker, in reference to the question as to the distinction between voters under the new constitution and those who are disqualified to practice professions or follow pursuits under it, that that very question has been brought before the supreme court of the State of Missouri and decided in accordance with the decision of the committee in the case of General F. P. Blair against some officer of election, which case has been taken before the Supreme Court of the United States and is now pending before that tribunal.

But, Mr. Speaker, the contestant claims that even if the new constitution of Missouri is to be regarded as valid and binding, and all its disfranchisements as not in violation of the Constitution of the United States, the evidence which he introduced before the committee was sufficient to show that persons were wrongly excluded from registration and voting even under the constitution and laws of the State of Missouri. He claims that as to the twenty-five or twenty-six hundred rejected votes the great mass of the persons offering those votes were legal voters under the constitution and laws of Missouri; that they ought to have been allowed to be registered, and that their votes ought to have been received and counted. These persons having been denied registration and their votes refused by the officers of registration and voting, of course the legal presumption is, as in the cases of all persons acting officially, that the officers of registration and voting acted properly, and that these persons were rightfully excluded from registration and voting. Hence the burden of proof is upon the contestant to show that these persons ought to have been allowed to be registered and to vote. And, Mr. Speaker, the only remaining point upon which I desire to speak is in reference to the evidence offered by the contestant to establish the fact that these persons could truly take the test-oath prescribed by the constitution of Missouri, and ought to have been allowed to be registered and to vote.

The evidence in relation to these persons is mainly of a general character. Not more than five or six of the twenty-five or twenty-six hundred persons are named by any of the witnesses. My recollection is that only six persons in all were named by any of the witnesses when they undertook to speak of the character of any voters as to loyalty or disloyalty, which seemed to be the only question affecting all these rejected votes.

And of these five or six, Mr. Speaker, the evidence is not clear, the evidence is not plain at all why they ought to have been allowed to register. In reference to some of these, doubtless, on the evidence introduced it was not established that they ought to have been allowed to vote. The evidence offered by the contestant is of a general character. I will read so much of it as applies to voters in the county of Clinton:

"Eli M. Lyons, speaking of the rejected list in Plattsburg, Clinton community, says: 'They are among the most substantial, wealthy, and exemplary citizens of the county.' Robert Johnson, in his testimony, says 'he is acquainted with most of the men who voted on the rejected list in Clinton county, and does not know of any one of them who was disloyal within the meaning of the terms of the new constitution of Missouri.' George Funkhouser says of the rejected voters in Clinton county, 'I did not regard the alleged sympathies for which such voters were rejected as amounting to disloyalty to the Government of the United States. They were and yet are peaceable and law-abiding citizens, and law-sustaining, claiming to be loyal notwithstanding their sympathies.'"

Now, I think I may say, Mr. Speaker—and this is all which applies to rejected voters in Clin-

ton county—it is rather stronger than the evidence in regard to the rejected list in other counties of which we have any evidence. Of course upon this evidence it is left a matter of doubt, a matter of conjecture, as to whether any and how many of this large list of rejected votes were persons who ought to have been received, ought to have been allowed and registered, and whose votes ought to have been received as accepted votes.

Now, Mr. Speaker, the committee were of the opinion that neither they nor the House had the right to say they would go into any general estimate, any general calculation, and say that probably upon the evidence a certain percentage of those upon the list of rejected votes ought to have been allowed to overcome the majority of the sitting member. More than this, sir, we think no such presumption as this ought to be raised in favor of the contestant under the law of Missouri, because the name of every person on the rejected list who offered to vote is preserved, the ballot he attempted to cast is marked with his number, and it was perfectly easy for the contestant to go to the poll-book and the record of the registration and election officers in the State of Missouri and show the name of every single person who offered to vote who was disallowed and the person for whom he did, in effect, attempt to cast his vote. The contestant was furnished with the names of all these persons who attempted to vote, and the persons for whom they attempted to vote, making it peculiarly easy for him to reach every man of these rejected votes, and say whether he was a man who ought to have been registered as an accepted voter or not.

Under these circumstances the committee felt they had less range to make a presumption for the contestant than if for evidence of this kind he was left to grope through his entire district to show who offered to vote and whether the vote would have been for him or not.

Mr. Speaker, among the evidence introduced by the contestant was a considerable number of witnesses who stated how many persons there were in the district who did not offer to vote, but who were entitled to be registered.

It was enough for the committee that if any persons, whether they were entitled to register or not, did not offer to register or to vote is no ground upon which they can be counted in favor of the contestant or against the sitting member.

There was some evidence, also, before the committee having some tendency to show there was some unfairness on the part of these registering officers. They did in some instances reject persons who offered themselves for registration, on the ground, and the sole ground, that their names were found upon what was termed the "sympathizing list," made by the military authorities during the disturbed times in the State of Missouri. Under an order of General Schofield a list was made of "sympathizers" throughout the State of Missouri, and there was also a military tax bill made out assessing a tax on all persons deemed disloyal. There is some evidence tending to show these registrars regarded the finding of a man's name upon their lists as evidence that he was not a loyal man and not qualified to be registered.

These decisions, of course, regarding that as conclusive—as preventing a man from coming in and showing that he was a loyal man notwithstanding—were clearly erroneous, but because they rejected a man upon insufficient evidence the committee did not think that they should, in the absence of any evidence on the subject, say that a man's vote ought to be counted.

But more than this. There is the same difficulty in relation to this class of evidence about unfairness on the part of the registering officers as there is in reference to that as to the character and qualifications of those persons on the rejected list; it is entirely vague, entirely uncertain, entirely doubtful to what extent, or whether to any considerable extent, this prevented any number of persons from voting who ought to have been allowed to vote.

I believe, Mr. Speaker, that I have fully explained all the facts that have appeared in the report and made such comments on them as I deem necessary. I now move, as I believe has been usual here, that the contestant, Judge Birch, be allowed to address the House, under the rules of the House, in his own behalf.

The motion was agreed to.

Mr. BIRCH, (contestant.) I will proceed, under the courtesy which has been extended to me by the House, to address myself at once to the great questions that are involved in the report that has been made by the Committee of Elections in this case; and as I shall not put it upon the ground first remarked upon by the distinguished author of the report, but upon the broader general grounds upon which he concluded his remarks, I will not even pause to correct a mistake, unintentional, of course, in the report of the committee. I will only say that if reference had been made to page 24 of the testimony it would have been seen that I ought to have had counted, of accepted votes, 108 more, increasing my majority 106 votes in the county of the contestee himself. I repeat, however, that I will not pause to remark upon that at all, intending to base my claim upon the broader ground to which the fair-minded author of the report alluded toward the conclusion of his remarks.

I make no apology for appearing thus a second time a contestant at your bar instead of a member of your House. I made none four years ago, when coming here upon a record that was never finally acted upon, but which upon various preliminary motions propitiated for it a recognition and support not limited to the party with which I then acted and yet act, and as the record upon which I am permitted to speak to-day involves not only the same great principles, but is a far stronger one, I have, of course, no fear but that you will again "hear me for my cause."

It is the cause, sir, of an upright, a noble, and an outraged constituency; and in respectful recognition of the discriminating intelligence upon which alone I can hope for a discriminating adjudication of their controversy, the reading of such depositions as have relation to the educational antecedents of the thousands who did not attempt either to register or to vote in the election here in contest—and who are hence parties to it in its constitutional sense alone—will constitute my first duty. Many of these were citizens of the first consideration and intelligence; the rest, in the language of the testimony, "good average people," who either acted upon the mistaken theories of their political education in going into arms against the Federal authority, or by furnishing such "aid and comfort" to its adversaries as was treasonable upon my political theories, but the exact reverse upon theirs. Desiring merely that this large class of non-registering and non-voting citizens may not be improperly confounded, on the one hand, with the totally different class who *did* register and vote, either as accepted or rejected voters; and, on the other hand, that their past and present conduct may be appreciated in the light of official history, I will read first from the deposition of James M. Riley, who testifies, mainly, as to the effect of certain military orders, of which he was an official administrator, and which we will come to by and by, and then proceeds on page 52, as follows:

"I have been further requested, in this connection, to verify from the printed journal of the House of Representatives, of the 16th of May, 1861, the preamble and resolutions which were unanimously adopted and sent forth by that body, for the purpose of inciting the people to take up arms under the then Governor of this State, in opposition to the Government of the United States. They are recorded on pages 73 and 74 of said journal, and are as follows, to wit:

"'Whereas we have learned with astonishment and indignation that troops in the service of the Federal Government have surrounded and taken prisoners of war the encampment of State militia lately assembled near the city of St. Louis, in pursuance of law and by command of the Governor, for the purpose alone of military instruction; and whereas the United States troops aforesaid, assisted by a mob armed under Federal authority, have also murdered with unparalleled atrocity defenseless men, women, and children, citizens of Missouri, lawfully and peacefully assembled: Now, therefore,

"'*Resolved by the House of Representatives*, (the Senate concurring therein,) That we, the representatives of the people of Missouri, in General Assembly convened, do hereby protest to the civilized world, and especially our sister States, against this illegal, unchristian, and inhuman violation of our rights by the capture of our militia, assembled under the Constitution of the United States and the constitution of this State, and the murder of our defenseless people.

"'*Resolved* 2. That while Missouri has been loyal to the Government, struggling for its reconstruction, and is now sincerely desirous of an honorable adjustment of existing difficulties, she has received as reward for her fidelity, from persons assuming to act under Federal authority, unparalleled insults and wrong. An armed despotism, under infuriated partisan leaders, has been inaugurated in our midst, controlled by no law but passion, and actuated by the deepest hate against the people of Missouri and their institutions. Our railroads are now under military occupation. The steamboat C. E. Hillman, engaged in transporting goods from the city of St. Louis to the city of Nashville, has been seized by Government troops within the jurisdiction of this State and the cargo taken out. The capital of the State is openly threatened with capture, and our session is now being held in the midst of armed citizens hastily assembled for defense.

"'*Resolved* 3. That it is the unquestioned constitutional right of the State to arm, equip, and organize her militia for defense against aggression from any quarter, and the attempt of Captain Lyon, acting, as he says, under authority from Washington, to use the exercise of this right as an excuse for his conduct, evinces but too clearly a disposition upon the part of the authorities at Washington to disregard and trample upon the sacred rights of the people of Missouri.

"'*Resolved* 4. That the charge of Captain Lyon, in his letter to General Frost, that the proceedings of the State authorities, or of this General Assembly, at any time, furnished a pretext for the course pursued by him is entirely gratuitous and false.

"'*Resolved* 5. That the Governor of this State is hereby directed to make demand of the President of the United States whether these outrages have been authorized by the Government, and for the immediate return of the arms, camp equipage, and other property belonging to this State, lately taken from our military near St. Louis, and for the unconditional release of our State troops.

"'*Resolved* 6. That the Governor is also requested to take instant action by calling forth the militia of the State for the purpose of defense, and that the people of Missouri should rally as one man to perish, if necessary, in defending their constitutional rights.

"'*Resolved* 7. That the Governor be requested to furnish a copy of the foregoing preamble and resolutions to the President of the United States and to the Governor of each of the States.'

"As already stated, these resolutions were adopted without a dissenting voice of the members present, among whom was the then representative from this county, a Union man, (since and now a Radical,) but acting then upon the political incentives and social sympathies which were almost unanimous in this section of the State, and which were but naturally responded to by great numbers in going into arms for what was thus officially and unanimously represented to them as the defense of their 'constitutional rights.' Of the men who obeyed this and similar incitations by going into arms, or otherwise giving 'aid and comfort to the enemy,' I am not aware of any that applied to register or vote at the last election. My recollection is that they were specifically dissuaded from doing so, not only in the published addresses of the Conservative State committee, but by the speakers and candidates of the Conservative party; and if there was cast at the last election in this county, either on the accepted or rejected list, a vote that should have been rejected for disloyalty, either my own views of loyalty are erroneous or the name has not been mentioned in my presence."

I have read, Mr. Speaker, and hold in my hand the official journal to verify, if need were, this exemplification of the unanimous official incitation of the House of Representatives of my State—of which thousands of copies were ordered to be printed and circulated among the people, and which I had everywhere to confront when addressing them in opposition to theories thus speciously indorsed and promulgated. It is, perhaps, pardonable to add, sir, that it was no holiday service, but that, on the contrary, I met with many who had been accustomed to listen to me with consideration and courtesy upon previous political issues, who seemed quite earnestly impressed that I ought *not* to be listened to in opposition (as it was argued) to the unanimous legislative incitation of my State. It will suffice to add that great numbers went into arms openly, in opposition to all that could be essayed to the contrary by those who had at the time no sufficient

coöperation to prevent it. Of many "thousands" of these, their excuse and their story is so well related by one of their number as to render it proper to read it, and to close thereby the preliminary branch of the case with which I have been intrusted.

At page 54 Anthony W. Palmer deposes and swears as follows:

"I am a citizen of Clinton county, Missouri, and have been for the last thirty years. I was educated in the political theory that State intervention, by State authority, would be permissible and justifiable as against unconstitutional Federal aggression; and that in case of ultimate collision or conflict the State would be entitled to the primary allegiance of its citizens.

"In the spring of the year of 1861 the General Assembly of this State passed a law to provide for organizing, arming, and calling out its militia in anticipation of such a conflict; and as it was explicit and peremptory in its provisions, I entered and continued in its service until the State convention of the same year abrogated the said law, and proclaimed an amnesty in favor of all who would renounce or abandon further service under it.

"On the 8th of December, 1861, which was before the expiration of the period to which the acceptance of that amnesty was limited, I did so renounce and abandon that service, not only by taking the oath which was required of me, but by subsequently and properly reporting myself in person to Colonel James H. Birch, jr., who was the aid-de-camp of Provisional Governor Gamble, for this military division of the State.

"As the terms of the voters' oath which was subsequently prescribed by the same convention were not retrospective beyond the period to which the acceptance of that amnesty was limited, (sixty days, expiring on the 17th December, 1861,) I continued of course to be entitled to vote, and voted accordingly, until a subsequent convention, which assembled in the year 1865, divested me of the right, by incorporating in the new constitution an oath which is not only retrospective as to the whole period of the rebellion, but which included also all who had *ever* sympathized with persons engaged in it.

"As I could not honorably or conscientiously take such an oath as that, I have not asserted my right to vote, even against the adoption of the new constitution, which I feel so unjustly disfranchises me; and this, notwithstanding others, upon whose concurrence and advice I acted in obeying the call of the State authorities in 1861, have been permitted to register and to vote in opposition to my views and those of the conservative Union party with whom I would have but naturally acted. Of these, the supervisor of registration in this county, and its former representative in the Legislature, may be mentioned as among its most prominent examples, and as examples only. The former is proven, upon his own admissions and otherwise, to have similarly sympathized with the southern people, and to have advised others to go into the State service (against the Federal authorities) just as I did; and the latter not only voted for the military bill under which Price's army was organized, but also voted (unanimously with the house of which he was a member) that it was the *duty* of the people of the State to do as so many of us did in defense of what we were thus taught to believe were our 'constitutional rights.' Of course I complain of this in no other sense than that the registry law has been so unjustly administered as to permit those who thus incited us to go forward in what they officially declared to be our duty in 1861 to register and to vote for our disfranchisement, for no other reason than that we acted in concurrence with their advice and their *law*, so long as it was a law."

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"I have since that period been attending to my ordinary pursuits as a farmer—not, of course, indifferent to the course of public affairs—and have no doubt that what is thus written of myself is substantially true of thousands who were with me in the 'State guard,' under the State law of 1861, but who declined, as I did, to go into the confederate service (although strongly pressed to do so) after the abrogation of that law and the proffer of the just and generous amnesty already alluded to."

It may seem superfluous to add, Mr. Speaker, that these and every additional deposition I shall read were taken under the eye and the ear of the counsel for the contestee; and that it is intended in thus giving them to the ear of the House, and afterward to its congressional history, (or Globe,) to at least suggest and establish for a class of citizens who were politically educated and officially incited to do just as they did, a more charitable and statesmanlike appreciation of their motives and conduct than may have been suggested by the interested partisanry which is content to carry its point, no matter how. To this, however, it is my duty to add a repetition of the reliance, that whatever may be thought of the motives or the reasoning of the "thousands" thus alluded to, and who the testimony will disclose did not even attempt to register or to vote, *their* status should be in no sense confounded, either in the argument or decision I am respectfully addressing myself to at this point and in this connection, with the *ever* loyal citizenry who *did* vote, and upon whose votes I solely relied when claiming before your committee that it was my right to come in, and sit, and act amongst you here.

The case involves, however, another point or purpose which may appropriately enough be considered in the same connection, which is, that citizens thus forgiven and amnestied by the convention of 1861 were of course voters upon the question of calling the subsequent one in 1864; and as I expect to deduce from the authorities, (*including that of the committee itself,*) and to demonstrate by argument, that a convention which derived its sole authority from the vote of *such* a political "people," (namely, all who could and would take the prospective oath of loyalty, as ordained by the first convention,) could in no respect transcend that authority, and least of all by disfranchising its own constituency, without at least a subsequent ratification by that constituency, it is respectfully trusted that this deposition and the one I will next read may at least be regarded as pertinent to the governing guide of registerial *construction*, upon which it will be presently insisted that the right to the seat in contest (or at least its vacation) should be made to turn.

I will hence read another deposition, at page 55, as demonstrating that it was not merely such misguided and forgiven citizens as Palmer and other "thousands" were with whom the political contrivers and authors of this new oath repudiated the most solemn faith of their State, but also such ever peaceful and loyal citizens as Joseph B. Biggerstaff, who could and *did* take the oath, but who was imperiously and successfully "construed" out of his vote, as will appear from his deposition, as follows:

"I reside in Plattsburg, Clinton country, Missouri, and have so resided, with the exception of a year or so I resided on my farm, (in the same county,) for the last twenty-four years. I was one of more than a hundred and fifty citizens who desired and applied to take the oath of loyalty, and to cast our votes in opposition to the ratification of the new constitution at the election which was held for that purpose at Plattsburg and throughout the State on the 6th day of June, 1865.

"Being refused permission to do this by the election judges, on the ground that our names appeared, with others, upon a list or enrollment that had been made by certain military officers during the latter part of the year 1862, as 'southern sympathizers,' we complained of it in a respectful written protest, which was simultaneously prepared and forwarded to the Governor, in consequence of which the material facts of the case remain more distinctly impressed upon my memory than they otherwise might have done.

"I was personally acquainted with many of the persons thus rejected as voters. They were orderly and upright citizens, several of whom had been rejected as militiamen when the companies came to be reorganized under 'Order No. 24,' but I had no reason to believe that they had done anything which disentitled them to take the prescribed oath and to vote as they had always done, unless that oath was to be construed (as it then was and has since been) to mean that the decision of these military classifiers was final, and that the sympathies which many of us but naturally entertained for a kindred southern people should disentitle us to a vote, under a Government to the laws and requirements of which we had always loyally conformed ourselves, and especially (as was then the case) upon the question of our own permanent disfranchisement. Such an assumption I knew to be the reverse of either truth or justice in respect to my own loyalty, and I had no reason to believe it was less unjust and untrue with respect to others who were similarly refused the right to vote at that election, or since, in which it appears that only about half the citizens of the county or the State were permitted to participate."

While the manner in which the committee have condensed and stated the propositions I argued before them is sufficiently lawyer-like and fair, it is nevertheless proper to be suggested, that in deference to the judgment of those who thought my object could be as well or better attained by simply relying upon the terms of the enabling act of the convention to fix and limit the *construction* of their ambiguous and unratified "oath," it was dwelt upon in my "brief," as it will be in this connection, mainly with that view. It matters not, of course, that upon the general proposition of the absolute nullity of the so-called new constitution, *as* a constitution, the opinion that is so common with the more eminent of my professional contemporaries and friends continues to be my own opinion, and that in another connection, and for a purpose more all-embracing, I may at least condense the reasons for that opinion. Until then it will suffice to add that the argument of my "brief," upon which "the committee did not deem itself at liberty to enter," will be substantially my argument in this connection.

In that "brief," Mr. Speaker, I quoted from the law of my State entitled "An act to provide for calling a State convention"—the organic or enabling act, as it will be called through the course of this argument—its fifth section, as follows:

"SEC. 5. The delegates elected under the provisions of this act shall assemble in St. Louis on the 6th day of January, 1865, and organize themselves into a convention by the election of a president and other officers, as they may deem necessary, and shall proceed to consider, first, such amendments to the constitution of the State as may be by them deemed necessary for the emancipation of slaves; second, such amendments to the constitution of the State as may be by them deemed necessary to preserve in purity the elective franchise to loyal citizens, and such other amendments as may be by them deemed essential to the promotion of the public good."

At the date of this enactment the elective franchise in that State was regulated by a constitutional provision which granted the ballot to all white males of the requisite age and citizenship, and by the oath contained in an ordinance of a previous State convention, adopted on the 10th day of June, 1862, in these words:

"I, A B, do solemnly swear (or affirm, as the case may be) that I will support, protect, and defend the Constitution of the United States and the constitution of the State of Missouri against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, give aid and comfort or countenance to the enemies or opposers thereof, or of the provisional government of the State of Missouri, any ordinance, law, or resolution of any State convention or Legislature, or of any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose faithfully to keep and perform the same without any mental reservation or evasion whatever. And I do further solemnly swear (or affirm) that I have not, since the 17th day of December, A. D. 1861, willfully taken up arms or levied war against the United States or against the provisional government of the State of Missouri: so help me God."

As rendering intelligible the reason for designating the prospective period and operation to which this oath was restricted, it is deemed sufficient to recur to the depositions of Riley and Palmer, which were read at the opening of this argument, and to add that by other provisions of this law the calling and holding of said convention were made to depend upon a vote of the people of the State—the ninth and tenth sections of the organic act, from which section five has been already quoted, being in these words:

"SEC. 9. All persons qualified to vote for members of the General Assembly, under existing laws and ordinances, shall be entitled to vote for delegates to said convention.

"SEC. 10. At the times and places of voting aforesaid the qualified voters of said State shall be permitted to vote 'for a State convention' or 'against a State convention,' and the votes so cast shall be returned to the secretary of State, with the returns for delegates to the convention; and if a majority so voting shall have voted 'for a convention' the convention shall assemble and proceed to the discharge of the duties assigned to that body under this act," &c.

It is admitted that the majority of those "so voting" was "for a convention;" that such a convention assembled, as it was authorized to do, in the city of St. Louis, on the 6th day of January, 1865, and proceeded, as is shown by its journal, to ordain an entire "new constitution," which shows upon its face that it was *not to be* submitted for ratification to the constituency or "people" who had authorized its election and assemblage for the purposes specified in the organic act, (and without whose ratification it is respectfully submitted they could not be divested of any right to which they had not contingently assented by their vote, which only authorized a convention to be elected for the specific purposes enumerated in the said organic act,) but to a *new* constituency or "people," as set forth in the new oath, (here in contest,) which, by the terms of said new

constitution, was to be required of all persons voting upon it.

By one of the clauses of this new oath every applicant for registration as a voter has to swear that he has never, "with a view to avoid enrollment in the militia of this State, or to escape the performance of duty therein, or for any other purpose, enrolled himself or authorized himself to be enrolled by or before any officer as disloyal or as a southern sympathizer, or in any other terms indicating his disaffection to the Government of the United States in its contest with rebellion;" and to this it need only be added in this connection, (subject to the testimony to be presently referred to,) that the voters who took this oath, but who were nevertheless rejected as voters upon a simple inspection of the military enrollments of 1862, which are proven to have been made up, "as a general rule," upon principles alike at variance with justice and with true "loyalty," by an officer who had "no discretion" left to him; and that "every man, who had at *any* time sympathized with the people in rebellion," (as they had all been taught to do,) or "whose sympathies were" even "*regarded* as being with the South," was entered on the so-called disloyal list; although protesting his loyalty to the Government of the United States." Respectfully repeating the hope that these fundamental official facts may not even inadvertently be lost sight of by the House, my next reference will be to a previous portion of the deposition of Colonel Riley, to be followed with that of Captain Ferguson, as to the class or status of the men who were *forced* upon this "so-called disloyal list," and which was not only made the basis of the registerial enrollment in the election here in controversy, but against the showing of which, as may as well here be quoted from the testimony, the registering officers "would hear no testimony."

At pages 51 and 52 Colonel Riley testifies as follows:

"I have resided in the town of Plattsburg, Missouri, from my infancy, and am in my twenty-ninth year of age. I am a lawyer by profession, and having been variously connected with the State military service during the late rebellion, I have been requested to condense the import and effect of the various military orders for the enrollment of the State militia, including the political consequences as resulting from what is termed the oath of loyalty in the new constitution.

"The first general order for an enrollment of the State militia was numbered 19, and was issued on the 21st of July, 1862. It recited the necessity for such enrollment and organization, with a view to arrest and prevent robberies, murders, and lawlessness of bushwhackers and other marauders; and as it made no distinction between citizens of different political sympathies, a public meeting was immediately called and held in the court-house, at which it was resolved without dissent, upon the motion of Judge Birch, that the call for said enrollment would be promptly responded to by all the men of this county subject to military duty. Within a few days a large company, comprising citizens of all shades of political opinion, formed into a company and completed their organization by electing officers alike diverse in their opinions or political sympathies, and the work appeared to be similarly proceeding in other parts of the county, when a subsequent order, dated on the 28th of July, and numbered twenty-three, left it at the option of persons who preferred to contribute money rather than personal service in the militia, to do so. There were many who preferred to pay the exemption fee, which was fixed at ten dollars, and was to be used as a fund for defraying the expense of the militia who were called into active service. Some did thus obtain exemption, and others were preparing to do so, when an entire new turn was given to the whole matter of military enrollment and organization by the appearance of Order No. 24. This order, which was issued on the 4th of August, 1862, revoked Order No. 23, and directed an enrolment to be made of "all the loyal who were subject to military duty," for military purposes, and that "all disloyal men and those who had at any time sympathized with the rebellion" should be separately enrolled on another list, and not "permitted to do duty in the Missouri militia." In consequence of this last order, together with the others, the town company that had completed its organization, and others that were in process of organization in other parts of the county, had to be broken up or modified, inasmuch as those of them who were regarded as of southern feelings or sympathies were not permitted to enter the military service in the said militia.

"I was myself an enrolling officer, and also an officer in one of the companies that was organized and went into active service under Order No. 24. And it is hence within my personal as well as my official knowledge that the militia thus actively engaged had to be supplied with horses; and such as were needed by the men who had none were taken from the men who were not permitted to enroll with us for active service—such being the result of the order under which we went into active service.

"It is within my knowledge that many who were thus refused, or not permitted to enroll in the militia, and who were consequently enrolled on what was called the sympathizing or disloyal list, were rejected as voters during the period of last year's registration, and for no other reason that I am aware of than that their names were found upon the list aforesaid. Quite a number of these I have a sufficiently intimate acquaintance with to form the opinion that they were as loyal citizens as I am myself admitted to have been. They so far differed with me in respect to what came to be termed their sympathies, or in the expression of them, as to be refused permission to act as militiamen; but I regarded such sympathies, with persons of their nativity or associations, as being but natural and not at all disloyal."

Deferentially relying that, with the patient attention of the House, it will find me making the necessary legal connections at the proper time, I will next read from the testimony of Captain Ferguson, in corroboration of that of Colonel Riley, as follows:

"I have read that portion of the deposition of Colonel Riley (this day given in the contested-election case of Birch *vs.* Van Horn) which relates to the enrollment and organization of what he styles the Plattsburg company, under General Order No. 19, and concur in the general correctness of his statements. I was elected captain of said company and marched with it (under orders) to Cameron, a distance of eighteen or twenty miles, to join with others in pursuit of the rebel Colonel Poindexter; but when we reached Cameron, it was found that there was enough without us, and we were permitted to return home. A few days after this Order No. 24 was issued and promulgated, and as my command contained quite a number of men whose sympathies, as they were termed, were supposed to be southern, it had to be broken up or modified, as stated by Colonel Riley.

"I was also present at Cameron a few days afterward, when a company similarly organized, under the command of Captain (afterward Colonel) Parrott, was dissolved, or rather some fifteen or sixteen men were dismissed from it on account of their alleged sympathies. I was not regarded as having such sympathies, became subsequently the assessor and sheriff of the county, and have always been allowed my vote."

May it not be appropriately suggested at this point, that by recurring to the testimony of Riley as to the similar breaking up of other companies that were in process of organization in other parts of the county, and by accepting the statement of Ferguson as to the number of *fighting* "sympathizers" who were thus driven from his company, and that of Captain Parrott, as the probable average of the district, the aggregate will be found to so nearly correspond with the aggregate of the rejected votes which were so conscientiously sworn into the ballot-boxes for me, as to justify the conclusion that, under the "general rule" which is recited by the enrolling officers, the men who had armed and marched and bivouacked in pursuit of Poindexter, were to that extent schemingly and cruelly driven from the defense of your standards and transferred to the "so-called disloyal list of southern sympathizers?"

How came all this to pass, Mr. Speaker? The testimony of Viglini, at page 8, forecasts alike the process and the wrong, as follows:

"*Question.* What office did you hold during the late rebellion, and what duties did you perform under General Schofield's Order No. 24?

"*Answer.* I was one of the justices of the county court of Clinton county, and was provost marshal of said county. In connection with the latter office I had the duty assigned me by Lieutenant Colonel Swearingen of enrolling the citizens of said county on what was called the loyal and disloyal lists. On the loyal list it was my duty to enroll for military purposes all male citizens between eighteen and forty-five years of age; and on the so-called *disloyal* list it was my duty to enroll all citizens of whatsoever age who had *at any time sympathized with the people in rebellion.* I had no *discretion* in the matter, nor had the people. The enrollment of the county was made, therefore, as directed by General Schofield's Order No. 24 and the explanatory circular of Brigadier General Hall, dated September 25, 1862. The total number enrolled on the so-called disloyal list was over six hundred. In the enrollment of the county, *as a general rule, every man* whose sympathies were regarded as being with the South was entered on the so-called disloyal list, *although protesting his loyalty to the Government of the United States.*"

The next revelation—may it please the House—the next revelation in the history of this forecasting and deliberate political injustice will but naturally be to demonstrate from the testimony, that the contemned and outraged "loyalty" which had been thus enrolled as disloyal *despite* its submission to the ordeal of rebel fire, was, with equal heartlessness, under a like systematic and inexorable "instruction" or "*rule*" refused registration upon the list of "accepted" voters, and had to register and to vote as "rejected" voters; and that your whole practical duty will consist in deciding whether such a registration was just or *unjust*, legal or *illegal*, right or WRONG.

The first testimony I will read upon this point will be that of Harvey Springer, a friend and supporter of the contestee, (as every registering officer of the district was supposed to be,) but one of the few who was not himself a candidate on the same ticket with him, and who had hence no personal reason to either shirk my subpœna or evade my questions—and it is but just to add too upright a man to have done so—and who hence appeared and swore as follows:

"*Question.* Were you appointed by the supervisor of registration for this county register for this (Concord) township?

"*Answer.* I was.

"*Question.* Did the supervisor furnish you with a list of names said to be of men who were said to be enrolled as disloyal under General Schofield's Order No. 24 as disloyal persons? If so, what were the supervisor's instructions, and what were your actions when said persons came to be registered?

"*Answer.* The supervisor furnished me a list certified by him to be a copy of the sympathizing list of this county, with instructions that all such persons when they applied for registration should be put on the rejected list, and which was accordingly done.

"*Question.* Were not the most of the men you rejected as voters on that list?

"*Answer.* All the men rejected by me except four were on that list, and were rejected for that reason.

"*Question.* Did every person who was put on the rejected list by you take the oath of loyalty presented by the new constitution?

"*Answer.* Every one was required to take the said oath of loyalty before he was even put on the rejected list."

There is a cross-examination of this witness, as of several others, which but confirms my judgment of the forecasting injustice of the registerial construction which is in issue here—a construction which was carried into a general instruction, and which practically and peremptorily forbade the right of loyal or accepted registry to even the sympathizing *soldiery* of the district, whose obedience to the call of the loyal general, now a member of this House, [Mr. LOAN,] when marshaling a force to *drive from* the country a daring and popular rebel leader, need not be further dwelt upon. That such men were *not* disloyal; that on the contrary their sympathies, as has been so well sworn to by one of the mustering officers, were "but natural to persons of their nativity and associations;" and that having from first to last repressed or subordinated these natural sympathies to the sterner behests of loyal *duty*—just as, I may be pardoned for adding, my own were, and yet are, repressed—the registerial "rule" under which they were so schemingly and so cruelly ostracized, and which will be more patiently examined by and by, was so calculatingly, so deliberately, and so *atrociously* unjust, as of itself to constitute palpable and sufficient grounds to at least *set aside* an election which was held under such a registration.

But I have not yet done with the testimony of the friends of the contestee as to this deliberately concerted and deliberately executed malregistration. By the testimony of Hunt, at pages 12 and 13, it will be seen that he was a member of the convention which nominated the contestee, and that he was compelled to swear, in answer to the searching question of my attorney, that the members of that convention (at which the contestee was present) "expressed themselves that only in the rigid enforcement of that law could Judge Birch be beaten," and that "such were the *views and purposes* of that convention." No wonder, Mr. Speaker, that a lawyer as astute and forecasting as the cross-examining attorney for the contestee is conceded to have been should object (as he did, page 13) to the answering of the question which drew out such an answer, combined with such an admission. He, too, was a representative friend and supporter of the contestee, and was of course profession-

ally aware that such an answer as Hunt or any other honest member of the nominating convention would be compelled to make to such a question, would establish the general concurrence that the success of the sitting member could only be achieved against me by exactly *reversing* the unshaken judicial rule for construing statutes of the nature of the Missouri registration law; and that to thus show that such was the mutual and concurrent "purpose" with which the supporters of the contestee returned from their convention, would but naturally explain and illustrate, to the degree of indignant and *general* vitiation, a registration which was as illegal in "purpose" as it was utterly shameless in practice.

Without feeling it permissible in this connection to direct your attention to the depositions from other counties, as to what I was prevented from proving by the "*sustained*" objections of the contestee's attorney, I but refer, at page 17, to the deposition of Bassett, another of his leading supporters in my own county, as corroborating that of his conventional one, and will no longer restrain myself from the *legal* "connection" sometime since alluded to, and which will be a substantial *resumé* of the "brief" from which I have so long, but I trust rather illustratively, digressed.

That the oath in contest here, especially in the official *construction* which was everywhere given to it by the officers of registration, was more restrictive of the elective franchise than was authorized by the organic or enabling act of the Legislature, which was simply to "proceed to the duties assigned to them under that act," or, in other words, as to the question here, to "consider of such amendments to the constitution of the State as may be by them deemed necessary" "to preserve in purity the elective franchise to loyal citizens," will be *judicially* apparent by reference to the second paragraph of the opinion and decision which was rendered by the Supreme Court of the United States at its last term, wherein John A. Cummings was plaintiff in error and the State of Missouri defendant in error, namely:

"The oath prescribed by the constitution, divided into its separable parts, embraces more than thirty distinct affirmations or tests. Some of the acts against which it is directed constitute offenses of the highest grade, to which, upon conviction, heavy penalties are attached. Some of the acts have never been classed as offenses in the laws of any State, and some of the acts, under many circumstances, would not be even blameworthy."

May it not be unhesitatingly submitted that a convention which had no authority conferred upon it in respect to the elective franchise, except, at the farthest, such a restriction of it as should preserve it "in purity to loyal citizens," was but necessarily *without* authority to disfranchise a class of men which all the testimony has shown, and will continue to show, were themselves "loyal citizens," and whose alleged "sympathies" or "acts," it has been seen, and will continue to be shown by the testimony, were "not even blameworthy?" And could such a construction as was given to the clauses of the oath in contest by the registering officers of the district, who are proven to have been the friends and supporters of the contestee, have been in any respect legalized by an election in which those citizens were not allowed to participate? Or, if legalized at all, as it may be argued it should be, for the sake of the public tranquillity, may it not be additionally and *undoubtingly* submitted, that the only permissible construction of "the said oath" is fixed, not merely by an unvarying current of judicial decisions, which lean to the side of the "people" who were voters on one day and menaced with disfranchisement the next day, but by the unyielding terms of the fifth section of the organic act itself; and that *no* construction was permissible which transcended the object or purpose to which (in this respect) the convention was restricted, namely, "such amendments to the constitution of the State as may be by them deemed necessary" "to preserve in purity the elective franchise to loyal citizens?"

Who *were* "loyal citizens," who "the people," at the date and by the recognition of that organic act? Were those who had mistaken their "paramount allegiance," as Palmer and "thousands of others" did, but who condoned their error and placed themselves in *true* allegiance, under the ordinance and the amnesty (State and Federal) of 1862, any less entitled to voting citizenship than other citizens were? And having been recognized as citizens and voters by the organic act upon which they were called to vote in 1864, and which was to give to the convention, if called, all the authority it would possess in respect to the elective franchise, could such citizens and voters *be* disfranchised, as the contestee assumes they *have* been, unless they were outvoted at an election in which they, too, were allowed to participate? It would seem that where the very gist of their complaint is that they gave the convention no authority to disfranchise them, without at least a proper subsequent ratification, all such questions as the foregoing must be *necessarily* answered in the negative; and that if so, it at least decides and enstamps the "construction" which the oath in question should have received, instead of the exact reverse, to which probably every page of the record bears testimony that it was misused and perverted.

Had these supervisors and registers the *right*, or was it legal and *right in them*, to disregard this fundamental guide to a just and proper construction of this purposely ambiguous "oath," and to so contemn and disregard the organic limitation which was imposed upon the convention itself, as to absolutely *exclude* from registration, as "accepted" voters, the "loyal citizens" whom the record shows to have been obedient to every legal requisition, including prompt and faithful military duty, until they were schemingly and cruelly *driven* from that service by the construction which was placed upon a new military order (No. 24), for "sympathies" which seem always to have been subordinate to their "loyalty," and which, in the language again quoted from the court of last resort, "were not even blameworthy?" That these partisan registers—many of them candidates on the same ticket with the contestee—did give to the constitutional and concurring (?) legislative enactment upon this point a latitude of construction which not only transcended but practically *defeated* the limitation to which the organic act (and the people in voting for it) restricted the convention, has been proven by the testimony of Register Springer, (as to the so-called sympathizing lists which were made by the military authorities in 1862, and by which the registering officers were instructed to be governed,) and by the concurring testimony of Viglini, Riley, Biggerstaff, and Ferguson, already referred to, in Clinton, and of Hale, Brand, and others in the counties of Carroll, Saline, Platte, and Clay—pages 30, 31, 40, 43, and 45. By this testimony it will be seen that the mere fact of having been enrolled on the "sympathizing list" of 1862 by the military subordinate for the time being—whether with, without, or even *against* the consent of the citizen—was to be, and was, regarded as "conclusive evidence" upon the point of his disloyalty; and that neither the registering officer nor the board of appeals, which consisted of the instructing supervisor and the thus instructed registers alone, "would hear any testimony in opposition to it."

Were, then, the 2,825 voters, which are proven to have been either registered and polled for the contestant as "rejected" voters, or rejected from his poll of "accepted" voters by the county canvassers of Clinton, Clay, and Jackson, legally or illegally rejected—at least in the proportion established by Register Springer, and which it is but fair to assume as the proportion throughout the district? Referring again to the testimony of the military enrolling officers, and to the answer which had to be everywhere made to "question 29," (page 19;) referring also to the testimony, which but repeats the law, that every citizen whose name and vote stand thus recorded as "rejected" had taken and subscribed the so-called "oath of loyalty" in full; and that if falsely taking it they subjected themselves almost inevitably to prosecutions for perjury before courts and juries from whom they could at least expect no *political* favor as against the partisan registers who had rejected them; and that, notwithstanding the sixty days' additional time which was allowed to the contestee, in which to take rebutting and other testimony in this case, he has placed nothing upon the record to denote that even an *indictment* had been found against either of these supporters of the contestant for having sworn falsely, throughout the district, in order to get in a majority, upon my count, of 2,236 in my favor—if of this vast number of rejected voters, whose status is written down as that of "loyal men" in the uncontradicted and even unrebutted record they have had presented for your consideration—if with this, and the systematic and all-pervading unfairness and fraud which the testimony establishes against the registration and other official acts of the friends and supporters of the contestee, from its opening page to its concluding paragraph, it may not be presumptively computed and concurred in, that at least enough of them to have elected the contestant were *not* "disloyal" in the sense of the organic construction to which this oath must necessarily be subordinate—*if this may not be so*, the contestant must needs submit to have his judgment corrected by the majority of the House, in the view he has thus alone insisted upon as entitling him to the seat in controversy.

Looking a little further into the record, as the only permissible basis for the argument or the final disposition of this case, it will be seen, at page 13, that George Funkhouser swears that he had been sheriff for two years preceding the election, the latter part of the time being necessarily under the appointment of Governor Fletcher, and hence removing even a suspicion as to his loyalty; that he had previously, for a number of years, been sheriff and deputy sheriff, and was hence well acquainted with the people of the county, including those whose votes had been rejected under the new constitution, and that he did *not* regard the sympathies of those with whom he was thus "well acquainted" as amounting to disloyalty to the Government of the United States, but that, on the contrary, they were peaceable, law-abiding and *law-sustaining* citizens, claiming to be loyal notwithstanding their sympathies.

In answer to the question which was constructed (*in hæc verbâ*) upon the specific charge that was made against a portion of my supporters, in this county and elsewhere, in the closing paragraph of the answer of the contestee, he swears specifically that he does not "know or believe that any person of known disloyalty, who had been in arms against the United States or the State of Missouri, or who had given aid and comfort to the enemies of the United States or the State of Missouri, or any outlaw, guerrilla, bushwhacker, or other disloyal person, disqualified under the laws of the State, was permitted to vote in the election here in contest." Viglini, the old provost marshal and enrolling officer, answers this question as Funkhouser did, except as to the county supervisor of registration, and he, it is proven, was elected sheriff on the same ticket with the *contestee*. Johnson swears that he had resided in the county for upward of twenty years, had been twice a judge of the county court, was generally acquainted with the people; and having replied to the charge of the contestee, just as the old sheriff did, answers further and still more specifically, under the cross-examination of the counsel for the contestee, that he does "not know of any man voting on the rejected list who was disloyal within the meaning of the terms of the new constitution."

And yet the contestee neither condescends or ventures to take any testimony, either to sustain the charge upon which it was perhaps mistakenly relied to bluff or badger the Repre-

sentative of the people thus provenly calumniated, or to attempt to even *modify* the record upon which I appeal for your verdict against the systematic and all-embracing injustice of a most shameless registration! May I not successfully submit to the House whether such a neglect to avail himself in this respect of the additional "sixty days" you gave him is curable or even *excusable* in the too charitable presumption of the committee as to what he *might* have done but did *not* do; or by such of his cross-examinations as prove that my *political* status does not accord with that of a majority of the tribunal before whom I have brought my case as judges, *not* as partisans.

I might quote still further corroborations of the effect of the systematic and well nigh *maddening* perversions of an oath which, whether purposely ambiguous or not, (so that its practical construction might be either plastic or stubborn, according to the interest and the "purpose" of the party who had it all in their own hands,) I have abundantly proven *was* misconstrued and misadministered. As denoted elsewhere I might still further enforce and amplify this position by reading and remarking upon the testimony of Lyons and Hughes, of Whittington and the Clays, in my own county, and upon that of Brand, Myers, Hale, Standley, Williams, Winfrey, Sandidge, Norton, Lewis, Wilson, Roberts, Fisher, O'Nan, Adkins, Moss, Hallisey, and Garner in other counties; but permit it to suffice, in recognition of your long-taxed patience, that as the testimony from my own county contains not even an *insinuation* to the disparagement of the practical loyalty of its rejected voters, and as we are tacitly trying this case on the testimony from that county alone—not so strong in some respects as the testimony from other counties, but conceded to be (as suggested by the committee) a fair or *average* "specimen of the evidence relied on"—we will pass at length to the *legal* propositions which I so deferentially, yet earnestly propose to contest with the committee.

That being perhaps the only contest between us in the view of the case *now* under consideration, it may be conceded to the erudite and distinguished author of the report that my less astute judgment might probably have concurred with his, had the case in controversy been necessarily determinable upon the technicalities of the books, instead of the satisfied conscience and judgment of the House. My convictions, however, are quite as earnest as his can be, that I have brought before you the consideration of a record from which your judgment ought to be satisfied that the election here in contest was *not* the "free and fair" one for which we have a constitutional guarantee—and upon which, indeed, depends whatever *else* is just, or free, or fair—and that it should not therefore be recognized and upheld upon technicalities which I sought to avoid, but could not.

The reasons assigned by the committee for not even vacating the seat in contest are set forth in the concluding paragraphs of their report as follows:

"If the class of evidence introduced by the contestant had been the only means within his reach to establish the right of the persons rejected to be registered and vote as qualified voters, there would be very plausible ground to claim that enough ought to be presumed from it to at least vacate the election, unless what is proved by the contestant was rebutted by evidence from the other side. But the contestant was not confined to this proof, or evidence of this general nature at all. The provisions of the constitution and laws of Missouri furnished him peculiar facilities to establish his case, if he relied upon proving that legal voters were excluded from registration and voting as qualified voters, inasmuch as the rejected list of the registers and the rejected votes furnished the names of the persons and the candidates for whom they voted.

"Under these circumstances, the committee consider they have no right to rely upon such vague and general evidence as has been furnished, or to draw presumptions and conclusions from it, when it was clearly within the power of the contestant to have established the facts he asks us to presume by clear and exact proof, if such facts exist.

"The committee consider, also, that in order to unseat a member of this House who has the regular certificate of election, and who is conceded to have received a majority of several hundred votes of the votes received and counted, they should be able to report whose votes were excluded that ought to have been counted; that it would not do for the committee or for the House to say that out of twenty-five hundred rejected voters, all of whose names are unknown, they are satisfied that enough were legal voters and ought to have been counted to give the contestant a majority."

As I would fain escape even the *implication* of censure for having in any sense trifled with the patience of the House in having brought to its consideration a contest upon evidence less specific than it was reasonably in my power to obtain—and which, it may be added, I had precedent official reason to believe would be deemed sufficient to at least vacate this election—it is trusted I may be borne with a little longer whilst essaying to vindicate or excuse myself in this regard. Before doing this, however, it may be permissible to remark that I was aware, from the commencement, that if "the best evidence" in such a case was required of me, it would involve, first, the official comparison of the ballots with the corresponding numbers on the poll-books, and that then, after proving by exemplifications of the registry lists that the persons whose names were found to correspond with the numbers on the ballots which had been cast for me had been duly *registered*, to have proceeded to prove by competent parol testimony, after proper notice as to each individual, that each of them (or at least enough of them, one by one, to have changed the result of the election) had been illegally rejected as a voter.

As to the additional labor and expense of all this, of which the lawyers of the House will be the most competent to form a reasonable proximate estimate, they will doubtless concur with me that it ought not to be imposed upon a contestant unless *absolutely* necessary to the intelligent and upright decision of his contest—a contest which, in analogy to the laws of Missouri, should be proceeded with and decided "without the form of pleading." What with the foundation expenses of comparisons, copies and certificates at the clerks' offices, and the subsequent expenses of summoning and examining proper witnesses as to the loyalty of each particular name or person whose vote had been rejected despite his *own* solemn "oath of loyalty," a very moderate estimate of the mileage and attendance fees of witnesses, day after day, and of the additional lawyers who would have necessarily to be employed to look into and conduct these tedious examinations in connection with the judges and clerks before whom they were made and reduced to writing, would carry the figures to an aggregate so absolutely *enormous* as of itself to denote the *hardship* of the rule suggested by the committee; and when to this consideration there will be added from the testimony that the official partisans of the contestee, whose so-called elections were in the same process of contest with his own, would not permit me to *obtain* "the best testimony" in cases where the ballots had to be resorted to, surely the record I have made before you, and which assails and vitiates the registration of the district *as a whole*, may be regarded as at least sufficient to "*vacate* the election" which was held under it.

Turning to that branch of the testimony, it will be seen by the depositions of Livingston, Essig, and Funkhouser, on pages 6, 10, 13, and 14, that on the 5th of February last (which was as soon under the return law of my State and your notice law as I could) I made formal application to the court of my county to make an order which would enable me to have a recount of the ballots which were cast respectively for the contestee and myself, and that my application was officially overruled, in conformity with the construction (no matter how absurd or simulated) which the presiding justice announced as to the law of the State, in contravention of the design of the law of Congress.

The testimony will further show that I thereupon publicly requested either of the judges then upon the bench to consent to take my depositions for me, and to issue the necessary *subpœna duces tecum* to their clerk (under the Federal law) to produce the ballot-boxes, registry lists, and poll-books, from which to be able to fix and depose to the number of rejected voters, as well as the number of accepted voters, which had been cast for the contestee and myself in my own township, where there had been no certificate attached to the poll-books as to whom the rejected votes had been given, and where I had reason to believe that I had been most *grossly* swindled in the cast or count of the accepted vote; and that this, too, was unanimously refused me by a bench who claimed to have been elected on the same ticket, and consequently to hold and exercise their office on the same tenure with the contestee.

As nearly all the counties in the district were officered *de facto* as my own was, and as the judge of the circuit was understood to be absent at the capitol, whereby even the uncertain remedy of *mandamus* could not be made available to me in time to have my case properly prepared and presented within the limit enacted by your law, I had necessarily to *yield* to official misrulings and discourtesies which I could not control, and to *compromise* (so to speak) for such testimony as I could *get*, and *as* I could get it. I had given notice to take these depositions before one of those county judges, at the county clerk's office, but the judge refused to serve me, and the clerk refused my attorney even the use of his office. The taking had hence to be properly adjourned to another place, before two justices of the peace, before whom this clerk (who was also elected on the contestee's ticket) was summoned as a witness; and who, in answer to the question, "Why did you not count the ballots of Concord township?" replied:

"Simply because there was no official order made by the county court for me to do so, without which I had no authority to do so under the law."

It will be seen by the report of the committee (page 5) that although this clerk swears he "was personally acquainted with nearly all the registered voters on the rejected list of that township, and with their politics, and that his opinion and belief was that they all voted for me," they were nevertheless not included in the number set down to me in the report as my rejected aggregate in that county. So also of two other townships in La Fayette county, (and it may be added of one of the largest voting districts in Platte county,) which demonstrates that the committee was at least to that extent mistaken in assuming that the "rejected lists of the registers, and the rejected votes, furnished the names of the candidates for whom they voted." Whatever may be thought, therefore, of the rule they have suggested as to "names," when applied to a contestant's claim *himself to fill* the seat of a sitting member, it is deferentially submitted that it would be neither judicious nor equitable to apply it to the *vacation* of a seat where (as is relied upon in this case) there is other and quite sufficient testimony to satisfy the House that it *should* be vacated.

The distinction in the two cases is so apparent to my own understanding—it was indeed so reluctantly *forced* upon my understanding when the ordinary facilities of the law were denied to me at the first practical commencement of this controversy—that I may be pardoned the reiteration, (if such it be,) that in thus again referring to this portion of the report of the committee, in connection with the record and the testimony, it is designed simply to demonstrate that, however proper its judgment may have been in declining to count votes in my *favor* which I was denied the right of identifying by the ballots, as the only preserved or *written* testimony—and could hence only do so upon testimony of a "class" or character less certain or exact—it would seem impermissibly inequitable and unforecasting to refuse to consider even *such* testimony (much less the "array" of more specific testimony I have here presented) as a basis upon which at least to *vacate* this election.

As a practical condensation of this point it

may be stated thus: in my notice to the contestant, my first and fourth charges, upon which it will be seen he took issue with me in his answer, are stated thus:

"1. I charge that I received a majority of the votes that were legally cast for a Representative in Congress at the said election, and that they should have been counted for me in the returns from the various townships and counties of the district instead of being rejected (as they were) and omitted from my count by the election judges and other returning officers. Of the legal ballots thus cast for me, but which were not counted in my favor, about one hundred and seventy were so cast by legal voters in the county of Clinton; about one hundred in the county of Caldwell; about two hundred in the county of Ray; about the same number in the county of Carroll; probably about one hundred in the county of Chariton; about five hundred in the county of Saline, and probably about an equal number in the counties, respectively, of La Fayette, Jackson, Platte, and Clay; and the votes thus cast for me, but rejected and not counted in my favor, were so cast by loyal citizens, who had duly complied with the test-oath provision of the new constitution, but were denied the right of registration as qualified voters, their names registered as rejected voters, and their ballots placed in the boxes of rejected voters accordingly. I shall hence demand such a comparison or inspection of the ballots thus cast for me as may be sufficient to verify the allegation thus made that you were not, and that I was, elected to Congress from this district."

"4. I charge that in many townships and counties you were certified to have received more votes than were really cast for you, while a less number than those cast for me were counted and certified in my favor; that in some counties the poll-books of entire townships which had given me majorities were illegally excluded in the count and certificates of the county clerks, who were your partisans; while in others the poll-books of entire townships which had given you majorities, but which were legally invalid, were included in the count and certificates of clerks alike partisan and unjust; and I shall consequently insist upon a recount of all the ballots cast at said election."

This notice was duly served upon the sitting member on the 10th day of January, 1867. On the 5th of February following, which was the first day afterward that a court was held at which I could "demand such a comparison or inspection of the ballots" as I had notified him I would demand, I did so demand it, and it was refused to me by a court, the judges of whom claimed to have been elected on the same ticket with the sitting member. If it would at all strengthen the argument on this point, it might be additionally stated that the partisan county attorney, who subsequently appeared as the contestee's counsel in the taking of these depositions, was even *officiously* prominent in pointing out the law upon which this gross misruling was predicated; but it will suffice to state that as this was the ruling of a court in the preliminary or foundation stage of our suit or controversy, he at least accepted that ruling, so far as it forced upon me the class of testimony to which I was thenceforward compelled to resort at his own peril; and that it would be to reverse every principle of either law or justice to permit him thus and here to "take advantage" of his own misjudgment or "of his own wrong." If this be not so, or if, in other words, what I can but regard as a more rigid ruling of the committee than it would make upon still further reflection upon the record, is nevertheless indorsed as the judgment of the House, I can but naturally suppose it to carry with it a virtual decision of all future election contests in favor of the party who (for the time being) may have the ear of the county tribunals, who hold the key to the county records!

The House will of course bear with me in the attempt to render this illustration still more practically apposite and persuasive as to its duty in this case. As it was shown by the returns which were canvassed and sent to the secretary of State that the contestee had a majority against me of 534, I would of course have had to prove, under the committee's ruling, in order to entitle *myself* to the seat in controversy, that at least 535 votes which were *not* counted and returned for me *ought to have been* so counted and so returned. Well, sir, it is shown by the testimony that I essayed my utmost *to do* this, and I feel that I hazard nothing in saying I would *have done* so but for the misrulings of the court, which were practically *final* as to the "class" of testimony to which I was *driven* in further carrying on this contest. To the number of 133 "rejected" votes, and as I had reason to believe to a much larger number of "accepted" votes, the records of the election were *absolutely* sealed against me; and when to this it is added, that from this illegal and doubtless preconcerted refusal of the official supporters of the contestee, to permit me to exemplify or prove from the ballots of the townships where these rejected votes were divided between him and myself the "names" of those who voted for *me*, as contradistinguished from the name or names of those who voted for *him*, is it not too plain for argument that the contestee *himself* is responsible for "the *class* of evidence" to which I was most reluctantly *driven* in the preparation, presentation, and final submission of this case?

Will you, nevertheless, permit him to object against me *now*, that his judges and clerks refused me justice *then*? or will you not the rather concede to me, that as I had no reason to anticipate that the judicial misrulings and other official impediments which had been cast in my way thus early in my own county would be in any sense modified to my advantage in a majority of the remaining counties, I should be at least *excused* for having so compromised my way, through judges and clerks who were "dead against me," as to make sure of what I had reason to suppose would be testimony enough "to at least *vacate* the election?"

I knew, Mr. Speaker, what I may allude to without even an *implication* of political or official disparagement, that my mere political status was not such as to commend me to consideration beyond "the testimony and the law," but I recurred to what I was once a party to before the same committee, and to what I shall here recall and copy from their ruling in the three Missouri cases which were presented for their consideration four years ago, and which, in their report upon the case of Bruce *vs.* Loan, is set out in these equitable, direct, and unambiguous words:

"The contestee, on the hearing, took exceptions to some of the allegations contained in the contestant's notice as indefinite, and referred to failures on the part of the contestant to comply with some of the provisions of the act passed in 1851 relative to taking testimony in contested-election cases.

"The majority of the committee, from the view they entertain of this case, deem it unnecessary to discuss in their report the questions presented by the contestee's exceptions, as they are entirely satisfied, from the testimony produced, where both parties appeared and the witnesses were subjected to a rigid cross-examination by the contestee, that the election was not conducted so as to entitle either candidate to a seat in this House."

I remembered this perfectly, Mr. Speaker. It may be respectfully repeated that I remembered it analogously, discriminatingly, and personally; and that although in that case, and in the analogous ones, to one of which I was myself the party contestant, the minority of the committee took a somewhat different view both as to the "class" and the sufficiency of the testimony, there was neither of us who regarded the loss of our cases by the subsequent non-concurrence of the House as having resulted from the character or the "*class*" of our testimony. In my own case I had testimony from but four counties out of ten, and even that was rebutted and "explained away" by many well-considered depositions on the part of the contestee; whereas in the present case I have the same "class of evidence" (as to the extent of the disfranchisements which were complained of alike in each case) from eight of the ten counties of the same district, and without even so much as a line to break the force of so exuberant an abundance. If, therefore, I have succeeded in satisfying the dignity of the House that I did not disregard what I had reason to regard as its most apposite precedents, but rather *clung to them* in the extremity to which I deemed myself reduced by the misrulings and other wrongs of the official partisans of the *contestee*, and have also satisfied its conscientious judgment that I have at least proven enough to "vacate" this election, I shall but naturally expect that the resolution which declares the contestee entitled to represent our district will be superseded by one which shall reprobate the registration and election as having been alike illegal and unfair, and as a consequence to *vacate* the seat in controversy.

A few words more, Mr. Speaker, and from the technical question of "evidence" which we have been so long considering we will pass to the broader and less technical guarantees of the Federal Constitution—to the "bill of rights for the people of each State," as a former Chief Justice of the United States denominated those guarantees, and which I hope to demonstrate are all-embracing as to the more enlarged *constitutional* aspect of this case. In a subordinately conservative view of the question it might perhaps be best were it as true in fact as it doubtless appeared to the official understanding of the committee, that "by every department of the State government of Missouri" its new "constitution is regarded and acted upon as the fundamental law of the State." As, however, of the official bulletin once announced to the nations, in the face of sorrowing history, that "order reigned in Warsaw," so, too, of whatever *has been* of recognition for this new constitution by the people of a State so fair and fertile as to continue to prosper even under the *worst* misgovernment—it has been but "the order of the despot and the slave." That constitution, sir, was *never* so "recognized and acted upon" by the judicial department of our State government so long as we had a constitutional judiciary; but it was, on the contrary, the crowning blemish of the dishonoring official history of that instrument, that our supreme judges, who had been elected by the same constituency which had limited the convention *not* to do what they *did* do, were dragged from the bench to the calaboose in obeisance to the usurping sword of a partisan executive, and that the same sword thrust into their places, in defiance alike of protest and of law, a *new* bench of so-called judges, through whom alone it came to pass that such a constitution was even "seemingly" recognized by the State judiciary, and that only to be thrown back upon them by the supreme *Federal* judiciary. When to this it is added that perhaps nine tenths of the revenue of the State is paid by citizens who realize that the Government which collects it exists alone in "fraud, and force, and acquiescence," and that there is reserved to the House I am addressing, "in the reception of Representatives from that State," the "right to judge of the qualifications and *returns*" of those Representatives, there will have been laid at least a sufficient premise for the paragraphs which it is but fair to next quote from the report of the committee, as follows:

"The contestant now claims that this State constitution, so far at least as it affects elections of members of Congress, should be held a nullity, and as if it had never been adopted by the people of the State.

"This is claimed upon the ground that the convention by whom it was framed exceeded their powers given by the legislative act by which the convention was called, and that this was not cured by its subsequent adoption by the people, because, in submitting it to a vote of the people, those only were allowed to vote who could take the oath prescribed in the second article of the constitution, the effect of which was to preclude large numbers from voting who had been previously allowed to vote. The committee have not deemed themselves at liberty to enter upon this inquiry.

"It being conceded that by every department of the State government of Missouri this constitution is recognized and acted upon as the fundamental law of the State, and by Congress in the reception of representatives from the State, it is in our judgment too late for this House to inquire as to the regularity of its formation or adoption by the State."

To what extent these positions have been anticipated and theoretically replied to, in the previous argument as to the proper *construction* of the clause of the constitution here in controversy, remains, of course, to be denoted in the final judgment of the House; and I hence here conclude or close that branch of the argument to which you have so indulgently listened.

Coming, lastly, to that portion of the report of the committee which has relation to the decision of the Supreme Court, in disaffirmance

of the *power* of a State to enact such a "test" as the one I here complain of, because of the explicit prohibitions contained in the Constitution of the United States, and the reasoning of which is deemed to be quite as applicable to the disfranchisement of voters as to the disqualification of priests or preachers, I read from the committee's report at pages 4 and 5, as follows:

"The contestant claims that the same application of principles requires the same decision in relation to voters; that the virtual disfranchisement of persons who were voters under the previous constitution and laws of the State, but who are prevented from voting under the new constitution by reason of their inability to take the oath it requires, can only be regarded as a punishment for the act, which stands in the way of taking the oath, and that the Constitution of the United States prohibits the infliction of punishment by subsequent legislation.

"If such disfranchisement must be regarded as established for the purpose of punishing the persons thus deprived of the right of voting it must be admitted to come entirely within the reasoning by which the above cited judgment of the court is supported."

Respectfully requesting that the concession thus recited from the report be kept continually uppermost in the eye of the House, I read on as follows:

"Your committee believe that the provisions of the new constitution of Missouri may be supported, so far as they require this oath of voters, without at all trenching upon the decision of the Supreme Court.

"Each of the States of the Union have hitherto regulated suffrage within their own limits for themselves, and in such manner as the people of the State deemed most conducive to their own interests and welfare. Suffrage is a political right or privilege which every free community grants to such number and class of persons as it deems fittest to represent and advance the wants and interests of the whole. No State grants it to all persons, but with such limitations as the interests of all and the interest of the State require.

"When once granted it is not a vested, irrevocable right, but is held at the pleasure of the power that gave it, and the State may, by a change of its fundamental law, restrict as well as enlarge it. When, therefore, the State of Missouri, in changing its constitution, saw fit to declare that the interests of the State and of the people of the State would be promoted by withholding the right of voting from all persons who could not take the prescribed oath, they exercised no greater or higher power than exists in every State.

"The committee do not feel justified in entering into any enlarged discussion of this point of constitutional law, and therefore merely state the facts and their conclusions thereon."

Of so much of the foregoing theory as but correctly assumes that "suffrage," "when once *granted*," "is *held at the pleasure of* THE POWER THAT GAVE IT," it need, of course, be not further alluded to than as the indirect concurrence by the committee of the impregnability of the proposition whereon I based the argument, awhile ago, that the *unratified* disfranchisements here in controversy had, *in fact*, no other sanctions than those of "*fraud* and FORCE." As, however, "the committee have not deemed themselves at liberty to enter upon" this proposition in the practical sense in which I have had the honor to present it, I shall make no further allusion to the proposition upon which they dismiss it than to respectfully inquire, in the language of the patriot poet,

"What *constitutes* a State?"

and denying, as he would have done, that the infamy by which alone I have been constrained to appeal to you as a contestant, instead of having been certified to you as a peer, was ever legitimately enacted by the

"High minded *men*" * * * who "*constitute* the State,"

pass next to the issue upon which the committee have entered, and which they have decided against me. As they but fairly and frankly admit that "if such disfranchisements must be regarded as established for the purpose of *punishing* the persons thus deprived of the right of voting," "they come entirely within the reasoning" of the court in the priests case; and as perhaps no one will deny that a case "entirely within the *reasoning*" of an adjudicated case must ultimately be similarly *adjudicated*, there would seem to be devolved upon me the duty alone of so combining and reciting the opinion of the court as to demonstrate that it *did* regard such disfranchisements as I here complain of as "punishment"—and that, being for that reason within the inhibitions upon the sovereignty of the States, to which they each and all assented by coming into the Union, the case may be substantially regarded as *res adjudicati*.

As substantially the same points which are made by the committee in this case seem to have been made by the counsel for Missouri in that case, the answer to them may be read from the opinion in question, as follows:

"We admit the propositions of the counsel of Missouri, that the States which existed previous to the adoption of the Federal Constitution possessed originally all the attributes of sovereignty; that they still retain those attributes, except as they have been surrendered by the formation of the Constitution and the amendments thereto; that the new States upon their admission into the Union became invested with equal rights, and were thereafter subject only to similar restrictions, and that among the rights reserved to the States is the right of each State to determine the qualifications for office, and the conditions upon which its citizens may exercise their various callings and pursuits within its jurisdiction.

"These are general propositions and involve principles of the highest moment. But it by no means follows that, under the form of creating a qualification or attaching a condition, the States can in effect inflict a punishment for a past act which was not punishable at the time it was committed. The question is *not* as to the existence of the power of the State over matters of internal police, but whether that power has been made in the present case an instrument for the infliction of punishment against the inhibition of the Constitution."

A little further on the court continues its reasoning as follows:

"The disabilities created by the constitution of Missouri must be regarded as penalties—they constitute punishment. We do not agree with the counsel of Missouri that 'to punish one is to deprive him of life, liberty, and property, and that to take from him anything less than these is no punishment at all.' The learned counsel does not use these terms—life, liberty, and property—as comprehending every right known to the law. He does not include under liberty freedom from outrage on the feelings as well as restraints on the person. He does not include under property those estates which one may acquire in professions, though they are often the source of the highest emoluments and honors. The deprivation of any rights, civil or political, previously enjoyed, may be punishment, the circumstances attending and the causes of the deprivation determining this fact."

And yet a little further on they continue to reason as follows:

"In France, deprivation or suspension of civil rights, or of some of them, and among these of the right of voting, of eligibility to office, of taking part in family councils, of being guardian or trustee, of bearing arms, and of teaching or being employed in a school or seminary of learning, are punishments prescribed by her code. The theory upon which our political institutions rest is, that all men have certain inalienable rights—that among these are life, liberty, and the pursuit of happiness; and that in the pursuit of happiness all avocations, all honors, all positions are alike open to every one, and that in the protection of these rights all are equal before the law. Any deprivation or suspension of any of these rights for past conduct is punishment, and can be in no otherwise defined. Punishment not being, therefore, restricted, as contended by counsel, to the deprivation of life, liberty, or property, but also embracing deprivation or suspension of political or civil rights, and, the disabilities prescribed by the provisions of the Missouri constitution being in effect *punishment*, we proceed to consider whether there is any inhibition in the Constitution of the United States against their enforcement."

Can it be possible, Mr. Speaker, that the preachers case and the voters case were dissociated in the mind of the court when rendering this long-matured opinion, or that they forebore on that occasion to redress the wrongs I here complain of by their *judgment*, as well as their "reasoning," except for the judicial reason that the voter was not (in legal parlance) a party to the *record* there, whereas he is the *only* party to it here? Perhaps I ought to add, that although the oath was the same in the voters case as in that of the priest and other parties enumerated in the general reasoning of the court, he was excluded from the franchise under a different section of the Constitution from the one under which the priest was forbidden to follow his previous calling—and this, to the professional listener, will constitute a sufficiently satisfactory explanation why the voters, who were disfranchised under the third section of the Constitution, were not more specifically alluded to in the reasoning of the court upon the ninth section.

Must they not have been, however, indissolubly associated in the mind of the court, when speaking of the "deprivation of the right of voting" in France as a "punishment prescribed by her code, just as it will doubtless be shown, in the voting case now before the court from Missouri, that it is punishable by the laws of that State? and when *correcting* the counsel for Missouri for not having used the terms life, liberty, and property, as comprehending "every right known to the law," including "freedom from outrage on the *feelings* as well as restraints on the person?" and when concluding one of the quotations I have made from their reasoning, with words which will constitute in all the future a fundamental maxim of our jurisprudence, to wit, that "the deprivation of *any* rights, civil or political, *previously enjoyed*, may [as in this case] be *punishment*." Expecting to demonstrate presently that, in a case analogous, the highest historical authority is in but natural accord with the highest judicial authority, not only that the deprivation of the political rights in contest here "*may* be" punishment, but that they *are* punishments of the most "degrading" character, when enacted by a "retrospective penal law," we will next draw upon the opinion of the court as to the scope and severity of this oath, as follows:

"The oath thus required is for its severity without any precedent that we can discover. In the first place it is retrospective; it embraces all the past from this day; and if taken years hence it will also cover all the intervening period. In its retrospective feature we believe it is peculiar to this country. In England and France there have been test-oaths, but they were always limited to an affirmation of present belief or present disposition toward the Government, and were never exacted with reference to particular instances of past misonduct. In the second place, the oath is directed not merely against overt and visible acts of hostility to the Government, but it is intended to reach words, desires, and sympathies also. And, in the third place, it allows no distinction between acts springing from malignant enmity and acts which may have been prompted by charity or affection or relationship."

It is trusted no member of the House will fail to recall in this connection the practical construction or administration of this oath by the registerial partisans of the contestee, who rejected twenty-eight hundred and thirty-five of my supporters who had taken it in the sense, doubtless, that they had not *disloyally* sympathized with the southern people, and who were rejected in the probable proportion of eleven twelfths of the whole simply because their names were copied and certified from the *military* list of "sympathizers" to which so many were driven or forced in 1862. But I am possibly bordering on a digression from the issue now under discussion, and will hence return to the opinion of the court for the reasons upon which they decided that the requirements of the Missouri constitution were, in this regard, inhibited by the Constitution of the United States. The court says:

"The counsel for Missouri closed his argument in this case by presenting a striking picture of the struggle for ascendency in that State during the recent rebellion between the friends and the enemies of the Union, and of the fierce passions which that struggle aroused. It was in the midst of the struggle that the present constitution was framed, although it was not adopted by the people until the war had closed. It would have been strange, therefore, had it not exhibited in its provisions some traces of the excitement amid which the convention held its deliberations."

"It was against the excited action of the States under such influences as these that the framers of the Federal Constitution intended to guard. In Fletcher *vs.* Peck, (6 Cranch, 137,) Mr. Chief Justice Marshall, speaking of such action, uses this language: 'Whatever respect might have been felt for the State sovereignties it is not to be disguised that the framers of the Constitution viewed with some apprehension the violent acts which might grow out of the feelings of the moment; and that the people of the United States, in adopting that instrument, have manifested a determination to shield themselves and their property from the effects of those sudden and strong passions to which men are exposed. The restrictions on the legislative power of the States are obviously founded in this sentiment; and the Constitution of the United States contains what may be deemed a bill of rights for the people of each State.'

"'No State shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.'"

It was to this prohibition—this "bill of rights for the people of each State"—that the remainder of the reasoning of the court was directed; and I know not how better to conclude the extracts to which my time and

strength alike restrict me, than by reading from the *examples* they have hypothesized in their argument, a prescient and all-embracing illustration of the propriety and *sanctity* of these constitutional inhibitions, as follows:

"Take still another case: suppose that in the progress of events persons now in the minority in the State should obtain the ascendency and secure the control of the government; nothing could prevent, if this constitutional prohibition can be evaded, the enactment of a provision requiring every person, as a condition of holding any position of honor or trust or of pursuing any avocation in the State, to take an oath that he had never advocated or advised or supported the imposition of the present expurgatory oath. Under this form of legislation the most flagrant invasion of private rights, in periods of excitement, may be enacted, and individuals and even whole classes may be deprived of political and civil rights."

Deeming it unnecessary to read the concurrent deprecatory reasoning of Judge Holmes, who recently delivered the opinion of the *de facto* court in Missouri, in an analogous case at St. Louis, but nevertheless congratulating the House and the country upon the ultimate *acquiescence* thus significantly foreshadowed, the considerations I have deferentially submitted for at least "vacating" the seat in controversy will be concluded by the historical reference to which allusion has been made, and which I but substantially reproduce from the argument of a professional friend in the Blair case at St. Louis, now pending before the Supreme Court here, as follows:

During the reign of Charles II proceedings were set on foot to forfeit the charters of most of the principal cities and towns of England. The privileges and immunities enjoyed by those who were freemen of a city or borough were a great obstacle to the designs entertained at that period by the court party. It was felt that an immense advantage would be gained if the charters of the municipalities could be forfeited. With a view to this the Crown, by virtue of the power then held by it of displacing any judge at pleasure and appointing his successor, purged the bench of every judge who from his learning and integrity was supposed not to be likely to prove a tool of arbitrary power; and then writs of *quo warranto* were issued against the several corporations. But in England, in the worst of times, there has been some reverence for law, and some hesitation to commit open outrages upon it. So soon as the actions were begun the creatures of the Crown began to approach the municipal magistrates, and advise them to surrender their charters without a trial to the Crown, trusting to the clemency of the king to grant them new charters, not so favorable, indeed, as the old, but far better than could be looked for if formal judgment of ouster were passed against them. This was the form of the solicitation. Both the monarch and his supple instruments, the judges, had a wholesome dread of the possible consequences that might ensue to them both in case of a popular reaction such as had led to the Long Parliament, and they had no such disposition to push matters to extremities if it was possible to avoid that necessity by a compromise. Most of the corporations were persuaded to surrender their charters for fear of encountering still worse evils. Of course there were on this subject in each borough two parties; one of them in favor of surrendering the charters (these were mostly friends of the prerogative, or Tories,) and the other opposed to this policy, mainly composed of Whigs. These things were done between 1683 and 1686.

In 1688 occurred the revolution that drove the Stuart dynasty from the throne of Great Britain. The first Parliament which assembled under the new monarch betook itself to the task of redressing some of the more heinous wrongs of the preceding reigns. In this Parliament the Whigs had a majority. In an evil hour some of that party bethought themselves of a scheme, the accomplishment of which would, they thought, secure to the Whigs a permanent tenure of political power. They resolved to seize the occasion of the corporation bill for effecting this object. The narrative of the heated party strife of the seventeenth century, with the comment of the historian alluded to, may be read in the third volume of Macaulay's History of England, at pages 398–401, as follows:

"A bill for restoring the rights of those corporations which, during the reign of Charles II and James II, had surrendered their charter to the Crown, had been brought into the House of Commons, read twice, and referred to a committee of which Somers was chairman. He reported the bill to the House on January 2d, 1690. Most of the Tory members were then absent, keeping Christmas at their homes. The Whigs, being in the secret, were present in great numbers. The moment the bill was read, Sacheverell, who had been an energetic exclusionist in the time of Charles II, moved a clause that every municipal functionary who had in any manner been a party to surrendering the charter of any borough to the Crown, should be for seven years incapable of holding any office in that borough. The charter of nearly every corporate town in England had been remodeled during the 'hot fit of loyalty' which followed the detection of the Rye House plot, and in almost every borough the voice of the Tories had been for surrendering the charter and trusting to the paternal care of the king." "The effect of Sacheverell's clause was thus to make some thousands of the most opulent and highly-considered men of the kingdom incapable, for seven years, of bearing any part in the government of the places where they resided, and to secure to the Whig party for seven years an overwhelming influence in borough elections.

"The minority exclaimed against the gross injustice of passing rapidly and by surprise, at a season when London was empty, a law which retrospectively inflicted a severe penalty on many hundred respectable gentlemen; a law which would call forth the strongest passions in every town from Berwick to St. Ives; a law which must have a serious effect on the composition of the House itself. Common decency required at least an adjournment. An adjournment was moved, but the motion was rejected by 127 to 89. The question was then put that Sacheverell's clause should stand as part of the bill, and was carried by 133 to 68. Sir Robert Howard immediately moved that every person who, being under Sacheverell's clause disqualified for municipal office, should presume to take any such office should forfeit £500 and be for life incapable of holding any public employment whatever. The Tories did not venture to divide." * * * * "It was immediately resolved that the bill, enlarged by Sacheverell's and Howard's clauses, should be engrossed. The most vehement Whigs were bent on finally passing it within forty-eight hours. The Lords, indeed, were not likely to regard it very favorably. But it would seem there were some desperate men prepared to withhold the supplies and thus to place the Upper House under the necessity of either consenting to a vast proscription of the Tories or refusing to the Government the means of carrying on the war. There were Whigs, however, honest enough to wish that fair play should be given to the hostile party, and prudent enough to know that an advantage obtained by violence and cunning could not be permanent. These men insisted that at least a week should be suffered to elapse before the third reading, and carried their point. Their less scrupulous associates complained bitterly that the good cause was betrayed." * * * * * "As a postponement of a few days appeared, however, to be inevitable, those who had intended to gain the day by stealing a march now disclaimed that intention." * * * * "The mails had carried out along all the high roads the tidings that on the 2d of January the Commons had agreed to a retrospective penal law against the whole Tory party, and that on the tenth that law would be considered for the last time. The whole kingdom was moved from Northumberland to Cornwall." * * * * "Assuredly, no reasonable man of any party will deny that the Tories, in surrendering to the Crown all the municipal franchises of the realm, and with these franchises the power of altering the constitution of the House of Commons, committed a great fault. But in that fault the nation itself had been an accomplice. If the mayors and aldermen whom it was now proposed to punish had, when the tide of loyal enthusiasm ran high, sturdily refused to comply with the wish of their sovereign, they would have been pointed out in the street as Roundhead knaves, preached at by rector, lampooned in ballads, and probably burned in effigy before their own doors. That a community should be hurried into errors, alternately by fear of tyranny and by fear of anarchy, is doubtless a great evil; but the remedy for that evil is not to punish for such errors some persons who have merely erred with the rest and who have since repented with the rest. Nor ought it to be forgotten that the offenders against whom Sacheverell's clause was directed had in 1688 made large atonement for the misconduct of which they had been guilty in 1683. They had as a class stood up firmly against the dispensing power, and most of them had actually been turned out of their municipal offices by James for refusing to support his policy. It is not strange, therefore, that the attempt to inflict on all these men, without exception, a degrading *punishment*, should have raised such a storm of public indignation as many Whig members of Parliament were unable to face."

Need more be added, Mr. Speaker, whether in indignant reprehension of the past, or respectful premonition of the future? The historian of England—the Whig who quitted her Parliament to write her history—has written of the measure *proposed* by his party, but not finally carried, what the court of last resort has substantially written of the *enactment* here in controversy—that it "retrospectively inflicts a severe penalty," that it was (or would have been) "a retrospective penal law," and that it was an attempt "to inflict upon" a certain class of people, without exception, (there as here,) "a degrading *punishment*."

Recurring hence to the concession of the committee, that "if such disfranchisements must be regarded as punishment," this case is but *necessarily* within the reasoning of the court in the opinion so often quoted from, *may I not respectfully demand your "judgment" accordingly?* Not only upon the concurrence of the highest judicial and historic authority, whereby it has been shown that these *ex post facto* disfranchisements *are to be* regarded as "punishments," but upon that other and like fundamental concession of the committee, that "suffrage" "once granted" "is held at the pleasure of *the power that gave it*," is that "judgment" deferentially anticipated in the decision you are now soon to render. And what has the contestee opposed to all this, or what *can* he oppose why your judgment should *not* be thus rendered? Is it too much to suggest that it will be simply such sinuous and sinister prejudices and such implacable resentments as have been fostered and fulminated against the "thousands" who once *mistook* their true loyalty, as every member of the Legislature did, and the most *earnest* of whom, in the language of Macaulay, having "merely erred with the rest and since repented with the rest," should but equitably and naturally be *forgiven* with the rest. Concerning such citizens I have here a deposition from one of the counties which may safely enough be relied upon as denoting at least *the present and future* loyalty of those who either "could not or would not take the retrospective part" of this unconstitutional "test-oath," and with the reading of the most pertinent portions of which I shall be prepared to submit to the decision of the House the case of a long wronged and an outraged constituency. At pages 42 and 43 Robert P. C. Wilson swears as follows:

"I am a lawyer by profession and have resided in Platte county, Missouri, for a number of years, in fact was partially raised here; am well acquainted with the people of the county generally, and was so acquainted at the general election of 1866; was registered at said election as a qualified voter. Believing that a portion of what was called the Missouri test-oath, and which oath was administered to voters at the general election indicated, was unconstitutional, I advised the people of the fact that at Platte City I would receive and preserve the ballots of all persons otherwise qualified, but who could or would not take the retrospective part of said oath and would take the prospective portion of the same. On the election day, the 6th of November, 1866, I was present at the polls and did receive and preserve the ballots of about one hundred—I think it was exactly one hundred ballots—of the kind indicated above. Before receiving a ballot of any person—in fact, all the persons who deposited their ballots with me at the Platte City polls went before a justice of the peace of the county and took and subscribed the prospective part of said test-oath, stamping and canceling the stamp on same; then, with the oath annexed to their tickets, presented themselves to the judges of election and demanded the privilege of voting, which privilege was uniformly denied them. The ballots of all such were preserved by me, and I believe without exception were in favor of Judge Birch for Congress. I think all these persons were residents of the election district in which they offered to vote, and had it not been for the enforcement of the *ex post facto* part of said oath I believe they each and all would have been entitled to vote and would have been duly registered," &c. * * * * "The votes, or rather the one hundred ballots preserved by me and mentioned above, were not included in any official count made."

They have hence been included in no numerical aggregate, either of the committee or myself, but are you prepared to decide against the oath of these men, and the *prospective* allegiance they pledge to the Government, that they, too, are not "loyal citizens," *for whom* it was the duty of the convention, under the limitation of the organic act of their existence, and in view of the inhibitions of the Federal Constitution as to *any other oath than the one they took*, to "preserve in purity the elective franchise?" And what message shall I send or carry to this class of men, the conduct of many of whom, to again repeat the language

of the court, was "not even blameworthy," and who, upon the correlatives of "allegiance and protection," so ably enforced during the morning by the gentleman from Indiana, [Mr. ORTH,] are but *naturally* entitled to "the protection of the ballot?" Shall I message them by telegram, to-night, that the legislative department of their Government peacefully and "loyally" acquiesces in the "reasoning" of the *judicial* department? or must it be that I shall have to carry to their firesides and their public assemblies the ungenial and unwelcome foreshadowing, that upon such a popular upheaving or revolution in this country as reduced the British Whigs to a *minority* in the Parliament which succeeded their but *menaced* disfranchisements, can they *alone* rely for *their* disenthrallment from an unconstitutional and "a degrading punishment?" Let it suffice to add, sir, if aught of human reason or of the most eminent authorities *can* suffice, that having brought to my aid the concurrences of history and of law upon the point wherein it is my misfortune to disagree with so respectable and respected a tribunal as the Committee of Elections, the decision between us must but naturally go to the House, and anon to the country from whom we all derive whatever of legitimate authority we may exercise here. To that House, which has so long and so patiently listened to me, as its committee had previously done, there remains to me, in conclusion, but the agreeable duty of committing the case of my constituents to their joint and final decision; and of returning to its members, and to you, Mr. Speaker, my most appreciative acknowledgments, and my most sincere and respectful thanks.

At the conclusion of the hour the hammer fell.

Mr. VAN HORN, of Missouri, obtained the floor.

Mr. MAYNARD. I hope the gentleman will be allowed to finish his remarks.

The SPEAKER. What length of time—another hour?

Mr. MAYNARD. Well, sir, that is a matter personal to himself. I hope he will be allowed to complete his speech.

The SPEAKER. The contestant informs the Chair that he is just about half through and would like another hour. His time will be extended one hour if there is no objection.

Mr. FARNSWORTH. I object. [Cries of "No, no."] Let him print the rest of his speech.

Mr. MAYNARD. I suggest that it would be useless to print a speech designed to operate on the minds of members in deciding this question after the vote has been taken.

Mr. DAWES. I trust the gentleman from Illinois will withdraw his objection.

Mr. FARNSWORTH. I have not noticed that either the gentleman from Massachusetts [Mr. DAWES] or the gentleman from Tennessee [Mr. MAYNARD] has been paying very close attention to the speech of the contestant.

Mr. MAYNARD. I presume the gentleman from Illinois did not notice the gentleman from Tennessee.

The SPEAKER. Does the gentleman from Illinois insist on his objection?

Mr. FARNSWORTH. Yes, sir.

The SPEAKER. It requires unanimous consent.

Mr. VAN HORN, of Missouri. I move to suspend the rules to enable the contestant to proceed.

The SPEAKER. The rules can only be suspended on Monday.

Mr. DAWES. I hope the objection will be withdrawn.

Mr. VAN HORN, of Missouri. I appeal to the gentleman from Illinois to allow the contestant to proceed.

Mr. FARNSWORTH. I should be very happy to gratify the gentleman from Missouri or any other gentleman, but I do not think the public business will be advanced by our hearing a speech of another hour from this gentleman.

Mr. WARD. If I am entitled to the floor I will yield my time to the contestant.

The SPEAKER. The Chair recognizes the sitting member from Missouri [Mr. VAN HORN] as entitled to the floor.

Mr. SCHENCK. I rise to a question of order. I would inquire of the Chair whether our rule applies to any one except a member of this House? Does it apply to one who is not a member, but who has been permitted to address the House?

The SPEAKER. It does in this case, because the permission was granted to him to address the House subject to its rules.

Mr. SCHENCK. I did not understand the permission to be granted on those terms.

The SPEAKER. That is the usual form.

Mr. VAN HORN, of Missouri. I will yield one half of my time to the contestant.

Mr. BIRCH, (contestant.) Before resuming my remarks I desire to return my thanks to the contestee for his courtesy—a courtesy which is appreciated everywhere in our district, as well by his political adversaries as his political friends.

Mr. Birch then concluded his remarks as above.

MESSAGE FROM THE PRESIDENT.

Two messages in writing from the President were communicated to the House by Colonel W. G. MOORE, his Secretary; also a message informing the House that the President had approved and signed a joint resolution (H. R. No. 119) in relation to the printing of the report of the Postmaster General, and a joint resolution (H. R. No. 126) changing the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 130) in relation to the sale of stock in the Dismal Swamp Canal Company.

DIPLOMATIC AND CONSULAR SERVICE.

The SPEAKER laid before the House the following message from the President of the United States; which was read, and with the accompanying document was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I herewith transmit to Congress a report dated the 20th instant, with the official papers received from the Secretary of State, in compliance with the requirements of the eighteenth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856. ANDREW JOHNSON.

WASHINGTON, *December* 20, 1867.

AMERICAN WHALESHIPS.

The SPEAKER also laid before the House the following message from the President of the United States; which was read, and with the accompanying papers was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 18th instant, requesting information concerning alleged interference of Russian naval vessels with whaling vessels of the United States, I transmit a report of the Secretary of State and the papers referred to therein. ANDREW JOHNSON.

WASHINGTON, *December* 31, 1867.

SWAMP LANDS IN SOUTHERN STATES.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting reports from the commanders of the five military districts relative to the quantity of swamp lands granted to the States lately in rebellion and yet undisposed of by said States; which, with the accompanying papers, was referred to the Committee on Public Lands, and ordered to be printed.

ELECTION CONTEST—M'KEE VS. YOUNG.

The SPEAKER also laid before the House sundry depositions taken by A. J. Ewing, in Bath county, Kentucky, in the election contest of Samuel McKee *vs.* J. D. Young for a seat in the Fortieth Congress of the United States; which were referred to the Committee of Elections.

SPRINGFIELD ARMORY.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting, in compliance with the act of July 2, 1794, a report from the Chief of Ordnance relative to the manufacture and repair of arms at the Springfield armory during the year ending June 30, 1867; which was referred to the Committee on Military Affairs, and ordered to be printed.

ELECTION CONTEST—BIRCH VS. VAN HORN.

The House resumed the consideration of the report of the Committee of Elections in the contested-election case of Birch *vs.* Van Horn, from the sixth congressional district of Missouri, upon which Mr. VAN HORN, of Missouri, was entitled to the floor.

Mr. VAN HORN, of Missouri. Mr. Speaker, I had no thought of occupying the time of the House in the discussion of this question until informed that the contestant intended making "a speech," as the committee have certainly left no ground for an argument. But as he has so often declared, as reported, during his canvass, that he would freely give $1,000 for the privilege of making one speech in Congress, it is to be presumed that the opportunity could not be lost. I mention this fact merely for the benefit of the Speaker, that the proper credit may be entered in favor of the contingent fund in any bill which may be rendered in behalf of the contestant in this case. For many years has the distinguished gentleman been seeking the opportunity, and in behalf of the people of the sixth district I thank the House for the privilege—it may save them a hundred next fall.

In this case there is nothing that he can complain of save the manner in which the people voted. He was left "alone in his glory" during the canvass. Although he did me the honor to invite a discussion before the people, yet, as he was running for a Congress for which I was not a candidate, the utility of such a proceeding was not apparent.

In the contest here, in which he believes himself to have been engaged, he has also had the field entirely to himself. I have not even called a witness, and in a majority of instances was not represented to cross-examine his. He has with his own hand written nearly every deposition in the case, and the only trouble he has had was in getting men to sign them. More than this, when in March he complained that the session had compelled him to forego much that he intended to prove, I had the time extended sixty days, all of which he consumed without let or hinderance. He gave notice that at certain times and places and before certain officers he would take testimony, yet he took it at different places and before different officers without warrant of law, and with no one to interfere; yet he has had advantage of all testimony so taken. If then, under all these favoring circumstances, he has so signally failed as to leave me without even a minority report to cast a doubt upon my right to the seat he cannot say "I did it." I shall not attempt to combat what does not exist, leaving him where the committee find him; but I hope to be pardoned in a few brief remarks upon the general subject.

This is no new question, nor is it raised by a new contestant. No matter how often he runs, no matter by what majority beaten, a contest is inevitable. Nor is this the only case. From the time the Union men of Missouri first began to deal with the rebellion and with rebels it has been the custom to contest. Unless beaten by thousands a contest is sure to follow. In 1862 your records will show a cloud of contestants, the distinguished gentleman himself among the number. In 1864 these were not quite so numerous, because the constituency on the day of election were mostly

under the banner of Sterling Price, making rapid marches to place the Arkansas river between them and the loyal voters in their rear, and consequently had no opportunity to disturb the polls. But in 1866 they had returned, and the result is three contests from Missouri; and just so long will this continue as countenance and pay for contesting can be found here.

First, every effort is made to break down the law of the State, then an appeal for a hearing by this House, where before a new audience they may arraign the "tyranny of Radical proscription"—which means simply that rebels are allowed to live in Missouri in peace and safety, protected by her laws, engaged in her marts of trade, in tilling her soil, in every pursuit of life, and prevented only from seizing her government and turning its machinery upon the Union men of the State, as is done to-day by their coadjutors in Maryland and Kentucky.

It may be a mystery to many why so lame a case has been brought here—so lame even when no rebutting testimony was taken. But it was simply because it is all there was of it. Well was it known that an effort to disturb the poll-books would only have resulted in more than doubling the majority by which the contestant was beaten. When it is known that two senatorial and three representative contests before the Missouri Legislature from the district have been decided against candidates on the same ticket with the gentleman, and hundreds of ballots thrown out for fraud, upon which his name heads the list, the explanation is patent.

More than this. All his array of rejected votes is outside the case. There is no list of "rejected" voters kept at the polls, but any man, be he citizen of Missouri or Texas may go and vote in the rejected box—it amounts to nothing. But the secret of this rejected vote was well understood at the time—in fact, there was no secret about it. All disqualified men were exhorted to go to the election and vote a rejected ballot, and, as his own testimony shows, in some cases these bits of paper were collected by passing round a hat in a grocery, or some process akin to it. And to induce them to do this they were told that when the Congress, composed of the northern opposition and the southern delegates which the President was to recognize as Congress, met, all such votes would be counted and the gentleman and his friends be admitted. This is the motive for all the frauds and violence against the laws of Missouri in the last election and of the contests which have arisen. Say what they may now, this was their open and avowed purpose in the election canvass.

It is very easy to understand a matter when it is explained, and a very easy thing to carry elections when you have everything your own way; the only difficulty in this case was that it did not succeed. My venerable friend, however, is not so much to blame as is his party. He has a weakness for office, particularly for Congress, and is always willing to lead a forlorn hope. He has been a candidate for a seat here for more than thirty years, varied on occasions by efforts to reach the gubernatorial chair or anything else that offered, and never but once in his history, I believe, has he succeeded before the people, and that was when he ran as a Union man for the Missouri convention in February, 1861, at a time in that State when Unionism was with many theoretical, and when even Sterling Price was chosen president of a Union convention. He was then elected one of three "Union men" from one of the most hopelessly rebel districts in the State. But he soon found that a majority, as one of his witnesses testifies, were on the other side, and he began to be fiercely conservative. He was once a prisoner-guest of Sterling Price, and I am not sure that he is not under parole to this day. Certain it is that ever since, either under parole to "do nothing against the rebels until exchanged" or from some other controlling cause, he has been trying to wipe out what little loyal record he ever had and to ingratiate himself with the rebel element of the State, until he is to-day one of its most trusted leaders.

I ask pardon of the House for this personal episode. I should not have referred at all to the gentleman's history or position but for the fact that in an *ex parte* proceeding, and in affidavits written by himself and attested by hieroglyphic signatures, with no chance for defense, he has assailed the loyalty of men, officers of registration above all reproach, and whose characters for all that ennobles loyal men are as free from reproach or doubt as his own is obnoxious to both. It became necessary at the last election in Missouri that a desperate attempt should be made to break down the election laws of the State. Delegation after delegation waited upon the President asking him to interfere and "guaranty a republican form of government" to his oppressed supporters. Every species of violence, intimidation, fraud, perjury, and corruption was employed, and failing, they now, with an assurance which passes all credibility, are asking Congress to interfere in their behalf.

I have purposely avoided complicating this case with any testimony of my own, anxious that an opportunity should be afforded the House to know what all this cry of "tyranny, violence, and terror" in Missouri really meant. And it fully demonstrates it. It stands out in its full and only purpose—an effort to reinstate the rebels of Missouri in power; to reënact there the crimes and outrages of which Maryland and Kentucky are examples; to place the gallant and sorely tried men of Missouri under the feet of those they have conquered; to use the courts and their machinery to harass and persecute Union men all over the State, as they have done and are now doing in every county in which they have succeeded in getting control. It is this we are resisting by our laws, and it is this we ask the House to resist, by upholding these laws and settling once for all the fact that Congress will not assist in reinstating in power the rebel element which the Union men of Missouri have just put down.

A word as to the policy and necessity of disfranchisement. Much has been said of amnesty and pardon by despotic rulers, and their example held up for our emulation. Well may a despot who is the State, and who holds in his hand all the powers of the Government, grant his pardon. If the offender is not cured the remedy is at once available to punish and crush. In our system, where each has equal power as a ruler and where all abuses are remediable by majorities, the rebel is not in revolt against a personal ruler, but against society, against the law he has himself established, and against a Government of which he is as much a part as those against whom he wages war. How, then, is he to be restrained when he becomes an enemy? By clothing him anew with the power of control or by depriving him of the power to do harm? This can be done by one of two methods only: by depriving him of life or liberty, or by depriving him of his function as a ruler in the State.

A monarch when he pardons does not abdicate in favor of the pardoned, nor does he share his prerogative with him. He simply says I forego my right to take your life, or to imprison you, banish you, or strip you of your property. You are free to go and do so long as you commit no offense. But in a Government ruled by votes the rebel after being conquered in arms is capable of a thousandfold more injury by his ballot than he was by his musket. With the musket he only kills the individual; with the ballot he can destroy the State. The one is violence to be overcome by force; the other is poison which kills under the forms of law which the traitor only disregards. The loyal man must perforce submit, for the thing is done under the law; the rebel repudiates the law and submits only to what he pleases. Disfranchisement is a remedy unknown to despotic Governments, simply because the function of suffrage is unknown. It is a remedy known only to democratic government, because it is the only protection democracies can have against those of their number who attempt to destroy their form of government. There is but one form of treason in our Republic—force or abetting force—and it is simply folly, suicide, to put down armed treason only to clothe it by the law of the ballot with command of the power to which it has just surrendered.

It is this that has influenced Missouri in the enactment of her laws. Stringent they are admitted to be; stringent they had to be, where perjury was systematized and taught as the tactics of political warfare. Stringent as they are, perjury in hundreds of instances is only prevented by a personal knowledge or a public record which prevents its attempt.

The worst class of men in the State are those who joined the rebels after they had surrendered. Hating a cause they had not the courage to fight when armed; loving treason always, but loving property more, they have joined themselves to the championship of a lost cause, and exhibit a hate and malignity sharpened by a sense of their own cowardice and hypocrisy. At home they are known, but here, with professions of loyalty upon their lips, they pursue unblushingly a game of confidence which in things material would be visited with the rigors of your penal statutes.

We have pardoned and amnestied all our rebels. They have been treated with a magnanimity and generosity unknown to previous civil wars. They plant and sow, reap and enjoy, free from even social ban, treated to the same legal protection accorded to the most loyal defender of the State. We have only said you must stand back from the control of the Government against which you have warred until 1871, and then by the simple affirmation of the people, through their representatives, without the formality of constitutional change, you can be reinvested with all you have forfeited and stand up in the full stature of citizens of Missouri—a Missouri free, prosperous and powerful beyond the wildest dreams of her ancient rulers—rulers you so faithfully followed. And this, Mr. Speaker, is Radical tyranny, Radical oppression and Radical wrong in sorely tried but victorious Missouri.

Mr. POLAND obtained the floor.

Mr. KERR. I ask the gentleman from Vermont [Mr. POLAND] to yield to me for a short time.

Mr. POLAND. I will do so.

Mr. KERR. Mr. Speaker, I shall occupy the attention of the House for only a few moments in endeavoring to explain a few points in reference to the report which has been submitted by the Committee of Elections in this case.

I desire to say that I concur in the conclusions of the committee in reference to the right of the sitting member to retain his seat. I wish also to say that in my judgment there existed in this case such a condition of facts as, if they had been properly placed upon the record here, would have made a case clearly entitling the contestant to admission to the seat. I make that remark as explanatory of the further remark that in acting upon this case the committee were compelled to act upon the evidence before them, upon the case made by the parties themselves; and acting upon that case I have no hesitation in saying that the committee could reach no other conclusion than that at which they have arrived. The difficulties under which the contestant labored in making his case were very great, if not insurmountable, and have been sufficiently explained by him.

I desire now to say a few words in reference to a question of law presented in this case. The learned gentleman from Vermont, [Mr. POLAND,] in the report which he has drawn in this case, says, speaking of the right to exercise the elective franchise:

"When once granted it is not a vested, irrevocable right, but is held at the pleasure of the power that

gave it, and the State may, by a change of its fundamental law, restrict as well as enlarge it."

Now, I do not propose to take issue with that statement. On the contrary, I heartily indorse it. I say that, in the ordinary acceptation of that expression, it is only a fair declaration of the constitutional law of this country. But that to which I object is what follows as a part of the same paragraph:

"When, therefore, the State of Missouri, in changing its constitution, saw fit to declare that the interests of the State and of the people of the State would be promoted by withholding the right of voting from all persons who could not take the prescribed oath they exercised no greater or higher power than exists in every State."

To this expression, Mr. Speaker, I object, mainly upon this ground: I hold that it is not competent for the Legislature of a State acting under a written constitution, or for the people of a State acting in a constitutional convention, to violate the Constitution of the United States either by an act of legislation or by an act or ordinance of such constitutional convention. I hold, in other words, that when a constitutional convention is organized for the purpose of framing a new fundamental law for a State that constitutional convention, like the Legislatures of the States themselves, must hold itself limited by the supreme law of the land, the Constitution of the United States, and that, therefore, the constitutional convention has no power to do with reference to the Constitution of the United States what the Legislature of the State itself could not do. Such a convention can no more violate the guarantied rights and liberties of the people under the Constitution of the United States than a State Legislature can. Those rights are guarantied to the citizens individually, and not to the States.

Now, in the application of this principle to the facts in this case, it appears that the constitutional convention of Missouri by which the present fundamental law of that State was framed did undertake, by what I believe to be an *ex post facto* ordinance, to disfranchise a large portion of the people of Missouri. That convention not only undertook to disfranchise these persons in general terms, it undertook to effect that disfranchisement for a reason which is stated upon the record itself; and that reason, I submit, is what makes the law entirely inapplicable to this case. What was that reason? That the persons thus disfranchised had been guilty of giving aid and comfort in some way to the late rebellion, had been guilty of a crime which at the time the act was committed was no crime against the State of Missouri. That convention, in other words, has undertaken to enact by a constitutional provision an *ex post facto* law.

Now I do not mean, Mr. Speaker, to say as a question of constitutional law in this country that it is not competent for a constitutional convention or for a State Legislature to disfranchise any portion of the citizens of the State where that power is not expressly withheld from such convention or prohibited in the constitution of the State. On the contrary, I say that power distinctly does exist unless so denied. I will illustrate my meaning by this statement. It appears to me that the true definition is that it is competent for a constitutional convention or a State Legislature in such cases to disfranchise any class of people within the State by reason of some condition that attaches to and inheres in the persons disfranchised, but not for an act done by the person to be disfranchised, which act antedates the law or the constitution. In other words, I agree that the State of Vermont, from which the distinguished gentleman, [Mr. POLAND,] the author of this report, comes, might disfranchise her paupers by an amendment of her constitution or by a law of her Legislature if not prohibited by her constitution. When Massachusetts disfranchised certain persons because they could not read and write she did what she had the clear constitutional right to do. When the State of Pennsylvania, by an amendment to her constitution, disfranchised such negroes as before enjoyed the suffrage in that State she did what she had a right to do, and no more. In other words, any State may increase or circumscribe the extent of the enjoyment of the elective franchise provided only it do that by reference to conditions which attach to its citizens; but I do say it is not competent for any State, either by law of the State Legislature or by constitution, to disfranchise any class of citizens for acts done which are alleged by law of the Legislature or by the constitution to have been criminal which acts at the time they were committed were not criminal. A Legislature certainly may disfranchise any class of its people for crime which is committed after the date of the act or the constitution, but not for crimes or alleged crimes committed before the date of the act or the constitution. In other words, it is not competent for a Legislature or constitutional convention by a sweeping declaration, without trial or conviction, without evidence, to say that a certain class of men are disqualified from exercising the right of suffrage in this country. The suffrage cannot be taken from a citizen as a punishment for an act which was not criminal when committed, because such would be an *ex post facto* law. It can only be denied for crime when the crime is committed after the date of the law creating or declaring it and prescribing its punishment, and then only after trial and conviction upon due process of law by a court and jury having proper jurisdiction.

Mr. WARD. I desire to ask the gentleman from Indiana whether he regards the commission of treason by citizens of the State of Missouri as a crime? I understood him to say that these persons had been disqualified for acts which were not criminal.

Mr. KERR. The gentlemen from New York misunderstood me. I did not say that. I did not mean to say any such thing. But I will answer the gentleman's direct question. There may have been treason committed by these persons, but that does not alter the case. There must be before they can be disfranchised in this way a preëxisting law declaring disfranchisement as a part of the penalty for that crime, and then before they can be disfranchised they must have been tried and convicted by courts and juries of competent jurisdiction of the crime itself. That is what I mean.

Mr. WARD. Another question. Does the gentleman say there was no preëxisting law at that time against treason, at the time this disqualification was imposed by the constitutional convention of Missouri upon these rebels?

Mr. KERR. I say there was no law of Missouri at that time which prescribed any such penalty in any instance as is prescribed in that constitution itself against this class.

Mr. GRAVELY. I wish to inquire of the gentleman from Indiana whether I understand him correctly. I understand him to take the position that a State has the right by the Constitution of the United States to disfranchise its citizens because of their ignorance, because they cannot read and write, and because of their poverty, and has no right to disfranchise them for having engaged in the rebellion against the Government of the United States.

Mr. KERR. The gentleman has put a case which every one will see is unfair. It does not illustrate anything which pertains to the case before the House. I say, Mr. Speaker, in answer to him, as I have said before, that before the State can disfranchise for the reason referred to the gentleman must find the power to do it under some provision of the Constitution of the United States, and in some preexisting condition of things in the State of Missouri. That is what I mean to say. I do not mean to make any comparison between the disqualification in the several States of different classes. It is a question of power under the Constitution of the United States and the constitution and laws of Missouri, and I deny the existence of such power as exercised in Missouri. The attempt to exercise it in this case involves the gravest violation of the liberties of the citizen.

Mr. GRAVELY. I ask the gentleman to yield to me for another question.

Mr. KERR. Certainly, sir.

Mr. GRAVELY. He has referred to the State of Massachusetts. I would inquire where he finds in the Constitution of the United States anything authorizing the State of Massachusetts to disfranchise a man because his parents failed to send him to school or because he is poor?

Mr. KERR. I find that if I suffer these interruptions I shall take up too much time.

Mr. DAWES. I wish to state to the gentleman from Missouri that there is no such law in Massachusetts. Massachusetts disfranchises nobody because they cannot read and write or because they have not been to school.

Mr. KERR. Now, Mr. Speaker, I will answer the last question of the gentleman from Missouri, and then I believe I will suffer no further interruption.

Mr. WOODWARD. I desire to ask the gentleman a question.

Mr. KERR. I yield to the gentleman from Pennsylvania.

Mr. WOODWARD. I understand the gentleman to admit that the constitutional convention or the Legislature of a State may disfranchise citizens of the State without violating the Constitution of the United States.

Mr. KERR. I do not state it quite so broadly, if the gentleman from Pennsylvania will pardon me. I say that the entire control of the right of suffrage in the States of this Union, under the Constitution of the United States, belongs to the States themselves. That is what I say; and I say that having the power they possess also clearly the discretion that is necessary to insure its exercise; and then I applied that to the cases to which I have referred. And now my answer to the gentleman from Missouri [Mr. GRAVELY] as to the power of the States to control the suffrage for themselves, and as to its origin is to be found, first, in the first clause of the second section of the first article of the Constitution of the United States, which reads as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

And secondly, in the fact that such power is nowhere, in express words or by just implication, granted to Congress, and is therefore "reserved to the States and to the people respectively." And also in the further fact that from the very organization of our Government this power has been uniformly exercised by the States, and never denied to them except by a radical Congress.

Mr. WOODWARD. My question is this: where the right of suffrage has vested in citizens of a State, does not this provision of the Constitution prevail?

"Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, *liberty*, or property without due process of law."

I stand upon that word "liberty;" and the question I wish to put before the gentleman from Indiana is this: whether the right of suffrage be not a part of the "liberty" of the citizen, and where it has fairly vested can it be taken away by any act of the State without a violation of the Constitution of the United States?

In order to place my idea more fully before him I take advantage of the question of the gentleman from Missouri, [Mr. GRAVELY,] whether treason is not a cause for disfranchisement. I suppose the answer to that is that there is no such treason as would disfranchise until after a conviction of treason. I wish my friend from Indiana to answer the question whether any State convention or Legislature can take away from a citizen of the United States in whom the right of suffrage has vested the right to exercise it as part of his franchises or liberties? A man's liberty consists in his franchises, and I submit that the right to vote is a franchise.

I agree that on conviction of treason or any other offense he may lose it, but until there has been a conviction of some crime that works a forfeiture of the franchise I submit to my friend whether it is competent for any State in any of its departments to deprive a man of the right to vote.

Mr. KERR. My answer to the question of my distinguished friend from Pennsylvania must consist in this: I hold that suffrage in this country, under our system of government, is not a natural or absolutely indefeasible right. I hold that suffrage is a political right to be conferred upon citizens by the supreme power of the State, and when the learned gentleman, therefore, speaks of this right as having once vested, and thereby as becoming indestructible, inalienable, except upon conviction of crime, or something of that kind, I submit that he uses words that convey a larger meaning than is consistent with the principles of our system of Government. I do not believe that suffrage is a natural right. I do not believe that it belongs to and inheres in every human being. If it does, Mr. Speaker, why then, by what power is it, by what right is it, upon what principle of justice is it that we in this country to-day, in every State of this Union, have limited the exercise of that right to certain classes only and denied it to others? Why is it that we have denied the exercise of that right to all the women of the country and to all the men of the country who do not come within the limits prescribed by our laws on the subject?

Mr. LOGAN. I desire to ask the gentleman one question in connection with this point. I would like to know, on the theory of which the gentleman is speaking, how it was that the right of suffrage was taken away in the State of Tennessee and the State of North Carolina and in many other States from persons who were entitled to vote by a constitutional provision——

Mr. GARFIELD. That is negroes.

Mr. LOGAN. Merely for the crime of being darker complected than the generality of men.

Mr. KERR. I suppose the gentleman from Illinois refers to an act of Tennessee in relation to the suffrage of certain classes that antedated the war, and not to the recent acts of that State, or of North Carolina?

Mr. LOGAN. No; not to the late measures.

Mr. KERR. You refer to the constitution of Tennessee adopted in 1834, taking suffrage from such negroes as enjoyed it under her constitution of 1796?

Mr. LOGAN. Yes, sir. The gentleman's argument is that they have not the right to do it. I ask how Tennessee and North Carolina and other States did exercise that right in regard to persons who had enjoyed the right of suffrage for years?

Mr. KERR. Why, Mr. Speaker, begging the gentleman's pardon, I fear that I have poorly succeeded in making myself understood here. I have been contending all along that Tennessee did possess, under her own constitution and under the Constitution of the United States, the very power that she exercised in that case. Tennessee had the right to disfranchise those colored people, although they once had possessed the right of suffrage. So had North Carolina. I place that right upon this ground: that every State in this Union possesses the entire control of this whole subject; and having that control it is within the discretion of the State how it shall be exercised. In that particular case the State of Tennessee determined, in the exercise of her own wisdom, in arranging her own local institutions according to her own best judgment, that the negroes of that State did not, as a class, possess such qualifications as made them proper persons to be intrusted with the right of suffrage. For further illustration: a State that allows citizens of other States to become voters in it by its constitution of to-day after a residence of one year, may adopt another constitution to-morrow by which the period of residence may be extended to two years, and thus practically disfranchise great numbers of persons for a time.

Mr. WOODWARD. Will the gentleman allow me to interrupt him again?

Mr. KERR. Certainly.

Mr. WOODWARD. I did not mean to intimate, or to be understood as intimating, that suffrage was a natural right at all, for I believe it to be a matter of pure political arrangement. I agree that a State may confer or withhold the right of suffrage at her sovereign pleasure.

But the question I desired to put to my friend from Indiana [Mr. KERR] was this: when a State government has conferred the right upon a man, has invested that human being with the right of suffrage, I suppose it then becomes a part of the liberty of the man, one of his franchises, a right which he holds by virtue of the sovereign power, just as he holds the right to travel the highway. Now, having as between the gentleman from Indiana [Mr. KERR] and myself defined the grounds upon which we stand in regard to suffrage—I speak of suffrage conferred and possessed—does not the Constitution of the United States immediately apply to protect that man against any action which the State may afterward take? I desire the very excellent legal mind of the gentleman from Indiana [Mr. KERR] to apply itself to that question.

Mr. KERR. I now find that between my distinguished friend from Pennsylvania [Mr. WOODWARD] and myself there is very little if any difference of opinion upon this subject. In reply to his question as to whether when this right is once conferred it does not become absolute and indefeasible in the possessor of it, I reply that in my judgment it does not, in the sense implied by his question.

Let me illustrate my idea by a reference to a fact that controls the very case now before the House. When the constitutional convention of Missouri was called to frame the very constitution under which each of these gentlemen claims this seat the very members who formed that convention were elected by one body of electors in that State who, under the then existing constitution and laws of the State, possessed the right of suffrage. But when the constitution then framed was submitted to the people of Missouri for their adoption or rejection the body of electors was totally and absolutely changed by the convention itself. I am, I think, safe in saying that more than one half of the body of electors that organized that convention were disfranchised, were denied the right to vote upon the question of the adoption or rejection of that new constitution.

Now, I agree with the learned gentleman from Pennsylvania [Mr. WOODWARD] for whose judgment I entertain profound respect, that that exercise of power on the part of that constitutional convention was utterly unauthorized, was illegal, was unconstitutional. In my judgment it was most infamous, and in reference to the institutions of that State it was revolutionary. It was a dishonor which throws shame upon the State of Missouri to this day, and will continue to do so until that infamous provision in that constitution is expunged, as it will be as certain as God rules in the early future of this country.

But I am utterly unable to comprehend the principle that when any State has once conferred suffrage upon certain classes of its people that suffrage or franchise or trust or duty, or whatever it may be called, at once becomes absolutely indefeasible in its possessor by reason of some provision in the Federal Constitution. I do not object to the idea of the learned gentleman that suffrage is a franchise or a trust, and he agrees with me that it is no *right* at all by nature. I hold that it is rather a function or office with which certain classes are charged to be exercised for the good of all. It is not a franchise in any such legal sense as would render its subsequent withdrawal a violation of a contract. No man can appeal to the Constitution of the United States to maintain his right of suffrage upon such a principle. The suffrage under our system of representative government is conferred not alone to enable its possessor to govern in his own interests, but also in the interests of others. It is in the nature of a trust, franchise, or office which is not irrepealable or inviolable by the power that conferred it, if that power be exercised in the proper manner and without violating any of the principles to which I have referred. For any State to readjust the suffrage, taking it from certain classes and bestowing it upon others within the principle asserted by me, would not involve the "deprivation of life, liberty, or property without due process of law." The liberty intended to be guarantied by the Federal Constitution is not the liberty to vote, but the more vital and sacred civil and personal liberty of the citizen, in the enjoyment of which the right to vote constitutes no necessary part. If it does, then suffrage ought to be absolutely universal. And for this no one now contends.

Mr. BENJAMIN. Will the gentleman allow me to correct him as to a matter of fact?

Mr. KERR. I will submit very cheerfully to be corrected by the gentleman from Missouri [Mr. BENJAMIN] if I have erred in any statement of fact.

Mr. BENJAMIN. I understood the gentleman to say that those parties who were disfranchised under the constitution of Missouri of 1865 at that time enjoyed the right of suffrage in that State. Am I correct?

Mr. KERR. I meant to say that a great many of them then enjoyed that right; I did not mean to say that they all did. There were various classes disfranchised by that constitution.

Mr. BENJAMIN. The fact is that at the time the convention assembled to frame that constitution every individual in the State of Missouri who had prior to that time and subsequent to the 17th of December, 1861, taken up arms against the Government or given aid and comfort to its enemies was disfranchised. The disfranchisement included all who had been in arms against the Government and who did not lay down their arms prior to December 17, 1861. And this class embraced almost the entire number of those disfranchised by the constitution of 1865. None of them or but very few of them were voters for the members of the convention that framed the constitution.

Mr. KERR. Mr. Speaker, it is probably true that as to the extent of the class disfranchised in the first instance I may be somewhat in error; but if I am in error upon that point my error only exists in this: that there had previously been declared by acts of the revolutionary legislature of that State certain disqualifications against a portion of the people of Missouri, disqualifications which were obnoxious to the same objection, violated the same principle which was violated by the State constitution itself, and therefore possessed no greater validity than did that constitution, are entitled to no more respect, and I may add, with great respect for my friend from Missouri, that I personally entertain for them no more respect.

Mr. Speaker, I hold in my hand the fourth volume of Wallace's Reports of the decisions of the Supreme Court of the United States. In this volume is reported the celebrated case of Cummings *vs.* the State of Missouri. By the decision in that case certain broad principles of law were declared to be fundamental in this country; and at the expense of being a little tedious I beg leave to read only one or two paragraphs. The court say:

"Under the form of creating a qualification or attaching a condition the States cannot in effect inflict punishment for a past act which was not punishable at the time it was committed. Deprivation or suspension of any civil rights for past conduct is punishment for such conduct."

The court went still further and declared that the very third section to which I have referred and the test-oath prescribed in the sixth section are obnoxious to the objections stated. The court say, referring to the third section of the constitution of Missouri and the test-oath prescribed by that constitution:

"They further violate that provision in altering the rules of evidence with respect to the proof of the acts specified, thus, in assuming the guilt instead of

the innocence of the parties; in requiring them to establish their innocence instead of requiring the Government to prove their guilt; and in declaring that their innocence can be shown only in one way—by an expurgatory oath."

Now, Mr. Speaker, without further occupying the time of the House or trespassing upon the courtesy of my friend from Vermont, I will close by calling the attention of the House to this third section and the test-oath which it prescribes to be taken by the voters of Missouri:

"SEC. 3. At any election held by the people under this constitution, or in pursuance of any law of this State, or under any ordinance or by-law of any municipal corporation, no person shall be deemed a qualified voter who has ever been in armed hostility to the United States, or to the lawful authorities thereof, or to the government of this State, or has ever given aid, comfort, countenance, or support to persons engaged in any such hostility, or has ever in any manner adhered to the enemies, foreign or domestic, of the United States, either by contributing to them, or by unlawfully sending within their lines money, goods, letters, or information, or has ever disloyally held communication with such enemies, or has ever advised or aided any person to enter the service of such enemies, or has ever by act or word manifested his adherence to the cause of such enemies, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion, submitted to the authority or been in the service of the so-called 'confederate States of America,' or has ever left this State and gone within the lines of the armies of the so-called 'confederate States of America' with the purpose of adhering to said States or armies; or has ever been a member of or connected with any order, society, or organization inimical to the Government of the United States or to the government of this State; or has ever been engaged in guerrilla warfare against loyal inhabitants of the United States, or in that description of marauding commonly known as 'bushwhacking;' or has ever knowingly and willfully harbored, aided, or countenanced any person so engaged; or has ever come into or left this State for the purpose of avoiding enrollment for or draft into the military service of the United States; or has ever, with a view to avoid enrollment in the militia of this State, or to escape the performance of duty therein, or for any other purpose, enrolled himself or authorized himself to be enrolled by or before any officer as disloyal, or as a southern sympathizer, or in any other terms indicating his disaffection to the Government of the United States in its contest with rebellion, or his sympathy with those engaged in such rebellion; or having ever voted at any election by the people in this State, or in any other of the United States, or in any of their Territories, or held office in this State, or in any other of the United States, or in any of their Territories, or under the United States, shall thereafter have sought or received, under claim of alienage, the protection of any foreign Government, through any consul or other officer thereof, in order to secure exemption from military duty in the militia of this State, or in the Army of the United States; nor shall any such person be capable of holding in this State any office of honor, trust, or profit under its authority, or of being an officer, councilman, director, trustee, or other manager of any corporation, public or private, now existing or hereafter established by its authority; or of acting as professor or teacher in any educational institution or in any common or other school, or of holding any real estate or other property in trust for the use of any church, religious society, or congregation. But the foregoing provisions in relation to acts done against the United States shall not apply to any person not a citizen thereof who shall have committed such acts while in the service of some foreign country at war with the United States, and who has since such acts been naturalized, or may hereafter be naturalized under the laws of the United States; and the oath of loyalty hereinafter prescribed, when taken by any such person, shall be considered as taken in such sense."

"SEC. 6. The oath to be taken as aforesaid shall be known as the oath of loyalty, and shall be in the following terms:

"I, A B, do solemnly swear that I am well acquainted with the terms of the third section of the second article of the constitution of the State of Missouri, adopted in the year 1865, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved or the Government thereof to be destroyed or overthrown under any circumstances, if in my power to prevent it; that I will support the constitution of the State of Missouri; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me."

Mr. POLAND. Mr. Speaker, it seems to me that this desultory constitutional discussion, arising at the close of a contested-election case, can be of no profit whatever, either to the House or to the country, and I should have called the previous question when I first resumed the floor had I supposed the matter was going to lead to this discursive debate. The committee was entirely agreed in reference to the disposition of this subject, and I do not apprehend it is profitable to take up a great deal of time in reference to our notions of law, as any debate we may have on this subject settles nothing. Therefore I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the House adopted the following resolutions:

Resolved, That James H. Birch is not entitled to a seat in this House as a Representative in the Fortieth Congress from the sixth congressional district of Missouri.

Resolved, That Robert T. Van Horn is entitled to a seat in this House as a Representative in the Fortieth Congress from the sixth congressional district of Missouri.

Mr. POLAND moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ABOLITION OF INTERNAL REVENUE TAX.

Mr. BROOMALL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be directed to inquire into the expediency of immediately abolishing the internal revenue tax on manufactures of cotton, wool, iron, and steel.

IMPEACHMENT.

Mr. BROOMALL. I ask unanimous consent to submit the following preamble and resolution:

Whereas the vote recently given in the House of Representatives on the question of impeachment of the President is liable to be construed into an affirmance of the position taken by the minority of the Judiciary Committee upon the law of impeachment, and thereby drawn into a precedent not sanctioned by the judgment of this body: Therefore,

Resolved, That in the opinion of the members of the House of Representatives the power of impeachment of public officers for official misconduct is not limited to those offenses which are indictable under the laws of the United States.

Mr. ELDRIDGE. I object.

SOLDIERS' BOUNTY, ETC.

Mr. HARDING. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Military Affairs be instructed to report a bill to this House, if they deem it expedient, which shall provide that pay or bounty withheld from persons who were late soldiers in the Union Army because of sentences or orders or convictions which have been reversed or set aside, shall be paid to them or to their heirs as if no such proceedings had existed.

And that the department of military justice be required to establish convenient tribunals in which such persons whose pay and bounty and honorable discharge have been withheld because of charges for desertion or other cause, and upon which no trial has been had, may appear and vindicate themselves and rebut the *prima facie* case against them, and receive from said tribunal certificates of acquittal from such charges which shall entitle them to honorable discharges and to pay and bounty that may have been withheld.

Objection was made.

Mr. TROWBRIDGE moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: Resolutions of the common council of the city of Adrian, in the State of Michigan, touching the duty of protecting American citizens at home and abroad.

By Mr. BROOMALL: The petition of N. H. Coverdale, of Delaware, for relief from penalty of failure to fulfill a contract with the Navy Department, occasioned by Government seizure of his vessels.

By Mr. KELLEY: A memorial of over 1,500 manufacturers and operatives engaged in the production of articles by hand-looms in the fourth congressional district of Pennsylvania, praying for the repeal of the direct taxes on their productions.

By Mr. McCLURG: A memorial and petition of loyal delegates in the Virginia convention.

By Mr. MARVIN: The petition of David De Vol, Catharine Stevens, and others, inhabitants of Moreau, Saratoga county, New York, relative to the cruel treatment of the Indians, and praying for an investigation into the conduct of certain officers of the Army.

Also, the petition of George S. Ames, D. J. Potter, George F. Watson, and others, citizens of the eighteenth congressional district of New York, praying for action in reference to the treatment of our naturalized citizens in foreign countries, particularly in the kingdom of Great Britain.

By Mr. MYERS: The petition of 1,600 manufacturers and operatives engaged in the production of articles by hand-looms in the third congressional district of Pennsylvania, asking a repeal of the tax now levied on such articles.

By Mr. PAINE: The petition of A. H. Galloway, relating to bounties.

By Mr. PERHAM: The petition of Lucius S. F. Reed, late a private in company D first Vermont cavalry, for arrearages of pension.

By Mr. SCHENCK: The petition of James Hibben, of Jamestown, Ohio, praying Congress to pay him principal and interest on Continental scrip of $55.

By Mr. SPALDING: The petition of A. B. Stone and others, citizens of Ohio, for a change in the system of internal revenue taxation.

Also, a memorial of the same and others, citizens of Ohio, in relation to appointments to office.

By Mr. VAN HORN, of Missouri: The petition of citizens of Butler county, Missouri, for the establishment of United States circuit and district courts at Kansas City.

Also, petitions of citizens of Cass county, for same purpose.

Also, the petition of citizens of Jackson county, asking for the same.

By Mr. WELKER: The petition of N. B. Eastman, James Ross, and 120 others, citizens of Medina county, Ohio, asking that pensions be granted to surviving officers and privates of the army in the war of 1812; and also asking pensions for the surviving widows of such officers and soldiers who have died.

By Mr. WILSON, of Ohio: A memorial of W. D. Kelly, and 31 others, manufacturers of Ironton, Ohio, on the subject of a reform in our system of internal taxation.

IN SENATE.

THURSDAY, *January* 9, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Secretary proceeded to read the Journal of yesterday, and having continued for some time,

Mr. STEWART. I move that the further reading of the Journal be dispensed with.

Several SENATORS. No, no.

Mr. STEWART. If there is any objection to it I will withdraw the motion.

Mr. DOOLITTLE. I think I must object to it. At this stage of the session it is very unusual.

The PRESIDENT *pro tempore*. Objection being made, the reading will be proceeded with.

The Secretary resumed, and concluded the reading of the Journal.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled joint resolutions; which were signed by the Speaker of the House of Representatives yesterday:

A joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher to accept a decoration from the king of the Hawaiian islands;

A joint resolution (S. R. No. 80) in relation to the erection of a jail in the District of Columbia;

A joint resolution (S. R. No. 83) for the appointment of Regents of the Smithsonian Institution; and

A joint resolution (H. R. No. 130) in relation to the sale of stock in the Dismal Swamp Canal Company.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report and accompanying papers from the Secretary of State, in compliance with the eighteenth section of the act approved August 18, 1856, regulating the diplomatic and consular systems of the United States; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a report from the Secretary of State, communicating, in compliance with a resolution of the Senate of the 19th ultimo, a statement of the amounts paid for publishing the laws of the United States in the newspapers appointed for that purpose since the 4th of March, 1861; and also a statement of the amount paid by that Department for consul fees and reporting trials since March 4, 1861; which was ordered to lie on the table, and be printed.

He also laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of the Treasury, containing the information requested in a resolution of the Senate of the 16th ultimo relative to the amount of United States bonds issued to the Union Pacific Railroad Company and each of its branches, including the Central Pacific railroad of California, and the amount of interest repaid by the several railroad companies to the United States; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the National Freedmen's Relief Association, asking an appropriation for the relief of destitute colored people of the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. MORGAN presented a resolution of the Buffalo Board of Trade, recommending a change in the collection and reduction of the taxes on distilled spirits, and the abolishment of bonded warehouses; which was referred to the Committee on Finance.

Mr. POMEROY presented the petition of citizens of Providence, Rhode Island, praying legislation to secure to women equal suffrage with men in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. CONKLING presented resolutions of a public meeting held at Syracuse, New York, calling on the Government for the adoption of measures adequate to the protection of our citizens abroad; which were referred to the Committee on Foreign Relations.

Mr. JOHNSON presented additional papers in relation to the claim of William J. Blackistone; which was referred to the Committee on Claims.

Mr. RAMSEY presented the petition of Jerome J. Getty, of Stearns county, Minnesota, asking to be paid for certain property destroyed by United States troops in that State in the winter of 1864–65; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Barnard K. Knowlton, administrator of the estate of S. B. Lowry, praying compensation for mail service in Minnesota for the benefit of that estate; which was referred to the Committee on Post Offices and Post Roads.

Mr. SUMNER. I offer the petition of a large number of colored citizens of the District of Columbia, asking that the act of Congress with regard to the appointment of the levy court for the county of Washington in the District may be repealed so far as to allow provision to be made that the members of the said levy court shall be elected by ballot at such times, manner, and form as Congress in its judgment shall declare. I ask the reference of this petition to the Committee on the District of Columbia.

It was so referred.

Mr. FOWLER presented a petition of Sarah Webb, widow of William R. Webb, late a private in company K first Tennessee infantry, praying a pension for herself and child; which was referred to the Committee on Pensions.

Mr. CATTELL presented a memorial of manufacturers and operatives engaged in the production of hand-loom articles, asking for the repeal of the tax on those articles; which was referred to the Committee on Finance.

Mr. WILLEY presented the petition of Ann Kelly, widow of Bernard Kelly, late a private in the thirteenth regiment New York volunteers, praying a pension; which was referred to the Committee on Pensions.

He also presented the petition of E. C. Morrison, of Virginia, praying compensation for losses sustained in the occupation of his premises by United States troops in the year 1865; which was referred to the Committee on Claims.

He also presented a petition of B. F. Bigelow, of Polk county, Georgia, praying compensation for losses sustained in the destruction of one hundred and twenty-five bales of cotton belonging to him by United States troops on the 2d of November, 1864; which was referred to the Committee on Claims.

He also presented a petition of J. R. Bigelow, of Fairfax county, Virginia, praying an appropriation of $1,423 33 in payment for the use of his property by the United States troops for a small-pox hospital during a period of fourteen months; which was referred to the Committee on Claims.

Mr. FERRY presented a petition of David S. Sanford, of Waterbury, Connecticut, praying that the Secretary of the Treasury be directed to convert the remains of nine $100 notes, destroyed by fire, into five-twenty bonds of the issue of 1867; which was referred to the Committee on Claims.

Mr. PATTERSON, of Tennessee, presented the petition of Dr. John Templeton, of Tennessee, asking compensation for services rendered as surgeon to United States troops and medicines furnished, and also for the loss of a horse; which was referred to the Committee on Pensions.

Mr. WILSON presented a memorial of members of the reconstruction constitutional convention of Alabama, praying the removal of the political disabilities now resting upon Governor R. M. Patton, of that State; which was referred to the Committee on the Judiciary.

Mr. POMEROY. I presented a few days ago the memorial of John Ross, late chief of the Cherokee nation, and had it referred to the Committee on Claims. It should have been referred to the Committee on Indian Affairs. I now move that the Committee on Claims be discharged from its consideration, and that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. CORBETT presented a petition of citizens of Oregon, praying for the establishment of a mail route; which was referred to the Committe on Post Offices and Post Roads.

BILLS INTRODUCED.

Mr. PATTERSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 231) for the relief of John Templeton; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 232) granting a pension to Henrietta Nobles; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 233) to establish a certain post route in Oregon; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 234) to authorize the removal of causes in certain cases from the district courts to the circuit courts of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 235) to incorporate the congregation of the North Presbyterian Church of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 236) in addition to the act entitled "An act to incorporate the Washington, Georgetown, and Alexandria Steam Packet Company," which was referred to the Committee on the District of Columbia.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 237) in relation to the promulgation of the laws of the United States; which was read twice by its title, and referred to the Committee on Printing.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 331) to facilitate payment of soldiers' bounties under the act of 1866, reported it with amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (S. R. No. 76) authorizing the several Departments of the Government to purchase paper and envelopes of the Treasury Department, reported it with amendments.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 166) for the relief of the owners of the land within United States survey No. 3217, in the State of Missouri, reported it with amendments, and submitted a report; which was ordered to be printed.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the bill (S. No. 165) to authorize the conversion of registered bonds into coupon bonds, reported adversely thereon, and moved the indefinite postponement of the bill; which was agreed to.

Mr. FERRY, from the Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 229) for the relief of Horace Smith and D. B. Wesson, or their assigns, reported it without amendment, and submitted a report; which was ordered to be printed.

REMOVAL OF SPIRITS FROM WAREHOUSES.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits, to report it back with an amendment; and I am also directed, as the immediate consideration of this bill will greatly advance the public interest, to ask the consent of the Senate to put it on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that from and after its passage no distilled spirits in bond shall be withdrawn or removed from any warehouse for the purpose of transportation, redistillation, rectification, change of package, exportation, or for any other purpose whatever, until the full tax on such spirits shall have been duly paid to the collector of the proper district.

The Committee on Finance reported the bill with an amendment in line four, to strike out the words "in bond;" so as to make the bill read:

That from and after the passage of this act no distilled spirits shall be withdrawn or removed from any warehouse for the purpose of transportation, redistillation, &c.

Mr. CONNESS. I should like to hear the

object and purpose of that amendment explained. I think it takes some of the vitality out of the bill.

Mr. SHERMAN. On the contrary it extends it. The words "in bond" seemed to us to limit the operation of the bill to distilled spirits in what are known as class B warehouses, that is, the second class of warehouses. There is no bond given for whisky going into the first class warehouses or class A warehouses. A warehouse of class A is itself a bonded warehouse, because a general bond is given by the owner; but the particular lot of whisky is not under bond. There was some doubt as to the phraseology of the bill, whether it went as far as the House intended. This amendment is offered to remove that ambiguity.

Mr. CONNESS. I perceive now that the Senator is right.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

TOWN SITES IN NEVADA.

Mr. STEWART. I move that the Senate now resume the consideration of Senate bill No. 188, which was laid over the other day on the motion of the Senator from Iowa.

The motion was agreed to; and the Senate as in Committee of the Whole resumed the consideration of the bill (S. No. 188) for the relief of towns in the State of Nevada.

Mr. HARLAN. I offer the following amendment, to come in at the close of the bill as an additional proviso:

Provided also, That in addition to the minimum price of the lands included in any town site entered under the provisions of this act and an act for the relief of the inhabitants of cities and towns on the public lands, approved March 2, 1867, there shall be paid by the parties availing themselves of the provisions of said acts all costs of surveying and platting any such town-site and expenses incident thereto incurred by the United States before any patent shall issue therefor.

Mr. STEWART. I have no special objection to that, but it is entirely unnecessary, for the towns that this bill applies to have already made their plats at their own expense. They have not called on the General Government to do it at all. This, therefore, is a provision which does not affect anything. There are only two or three towns in this situation, and they have already made their own surveys.

Mr. CONKLING. Does the bill name the particular towns?

Mr. STEWART. No, it does not name them; but there are only two or three that have filed plats under the old law, and they have had these surveys made on their own account, and are making applications. The law requires that they shall make their own applications. The original law does not provide for any survey by the Government when the towns proceed in this way.

Mr. HARLAN. The Senator from Nevada is in error to some extent. The law to which he refers provides that the citizens residing on public lands desiring to establish a town may cause it to be surveyed and a plat to be filed with the register of the proper land office, when it becomes the duty of the Commissioner of the General Land Office to authorize the sale of the lots at public outcry, as other public lands are sold. The same law provides also that if the inhabitants of such town shall neglect to do this the Commissioner may proceed to cause a survey to be made and the plat filed as previously stated, when the lots shall come into market and be sold as public lands. This general law, I think, ought never to have been interfered with; but unfortunately, in my opinion, during last year a law was passed that to some extent repeals the provisions of that law. It does not, however, include all the cases that exist, and hence this bill is introduced so as to make it general as far as Nevada is concerned. Now, I agree with the other Senators and Representatives from the new States that the inhabitants ought to be permitted to acquire title to land without cost; but I have thought from the beginning that those who receive land without paying for it ought to pay the necessary expenses of administering the system without taxing the Treasury of the United States, which is not now done. The incidental expenses are not covered by the money received from the sales of the public lands. Hence I thought the original law, which was repealed in 1867, ought not to have been repealed; but at that time I had no voice, and that repealing law was passed. I only seek by this amendment to provide that the inhabitants of the towns who will now secure their lots at the rate of $1 25 per acre shall pay for the surveys of these lands in all cases where those surveys may have been made by the United States. There may be no case in Nevada that this amendment will reach. The Senator thinks there is not, and he may be right; but there are cases in other States; and I have been informed by my friend, the Senator from California, that he intends to offer an amendment to the bill so as to include California at least; and if such amendment should be adopted it ought to be made general. There can be no objection to the adoption of this amendment; it will save a little money.

Mr. STEWART. I have no objection.

The amendment was agreed to.

Mr. CONNESS. I move to amend the bill by inserting in the third line after the word "Nevada" the words "and California."

Mr. HARLAN. If the Senator will allow me I will suggest another form of amendment so as to make the bill general. I think it ought to be general.

Mr. CONNESS. I prefer that.

Mr. HARLAN. I suggest therefore that, beginning in line three, the words "any towns in the State of Nevada in which there are public lands" be stricken out, and the following words substituted: "the inhabitants of any town located on the public lands of the United States."

Mr. CONNESS. That is better.

Mr. STEWART. That is right.

Mr. CONNESS. I accept the amendment suggested by the Senator from Iowa.

Mr. MORRILL, of Vermont. I desire to ask the Senator who has charge of this bill what effect this amendment will have upon the lands in Utah?

Mr. STEWART. I will answer the gentleman. Our land laws are not extended to Utah. The other law is general, but has no effect in Utah. They cannot carry it into effect without machinery. We have never furnished them the machinery of our land laws. When we do that it will be in effect there, otherwise not.

Mr. MORRILL, of Vermont. Then I understand that as soon as we extend our general land system to Utah they will be able to avail themselves of the benefits of it.

Mr. STEWART. Whenever we do they will.

Mr. CONNESS. Why should they not when we see fit to authorize it?

Mr. MORRILL, of Vermont. I think the parties who have been there and have had possession of the most valuable parts of the Territory for the last twenty years ought to be made to pay something.

Mr. WILLIAMS. I will state to the Senator that all the land laws are general——

Mr. MORRILL, of Vermont. I know they are.

Mr. WILLIAMS. There is no exception made of Utah. This is no more general than the other land laws, and therefore it can have no effect in Utah if the others have no effect there at this time, because there are no provisions made for entering lands, no land districts are created, and no land offices located in that Territory.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

On motion of Mr. HARLAN, the title of the bill was amended so as to read: "A bill to amend an act entitled 'An act for the relief of the inhabitants of cities and towns upon the public lands,' approved March 2, 1867."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House concurred in the amendment of the Senate to the bill (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits.

The message further announced that the House had passed the bill (S. No. 89) for the relief of Orlef E. Dreutzer, late consul of the United States to the kingdom of Norway.

The message also announced that the House had passed the following joint resolutions, in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 137) requesting the President to intercede with her majesty the queen of Great Britain to secure the speedy release of Rev. John McMahon, convicted on a charge of treason-felony, and now confined at Kingston, Canada West;

A joint resolution (H. R. No. 138) requesting the President to intercede with her majesty the queen of Great Britain to secure the speedy release of Robert Lynch, now imprisoned in the province of Canada; and

A joint resolution (H. R. No. 139) requesting the President to intercede for the release of American citizens imprisoned in Great Britain and Ireland on insufficient grounds.

SOUTHERN STATE GOVERNMENTS.

Mr. MORTON. I move to take up for consideration the resolution offered by me yesterday in regard to the abrogation of the State governments in the rebel States.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Committee on the Judiciary be instructed to report a bill abrogating the unauthorized and illegal State governments now existing in Virginia, Georgia, Alabama, Louisiana, Texas, Florida, North Carolina, South Carolina, and Arkansas, and providing provisional governments for the said States until such time as the same have been reconstructed under the several acts of Congress passed for that purpose.

Mr. FRELINGHUYSEN. I move to amend the resolution by inserting after the word "that," in the first line, the words "it be referred to," and by striking out the words "be instructed" and inserting the words "with authority;" so that it will read:

Resolved, That it be referred to the Committee on the Judiciary with authority to report a bill abrogating the unauthorized and illegal State governments, &c.

The object of the amendment is, that the benefit of the judgment of the Judiciary Committee, if there is any benefit in that, may be obtained on the proposition contained in the resolution.

Mr. MORTON. Mr. President, in offering this resolution I desired to take the sense of the Senate on the question it presents, and I think a very brief statement and reference to recent transactions will show the absolute necessity of Congress defining its position. The amendment offered by the Senator from New Jersey takes away from my resolution its force. The Judiciary Committee have the authority now to report such a bill if they see proper, and the passage of the resolution with his amendment takes away from it any significance. I desire to test the sense of the Senate as to whether it will abrogate these State governments or not.

Mr. President, our affairs now in connection with the rebel States occupy a position they never did before, a more threatening and dangerous attitude, in my judgment, than they have hitherto occupied. On the 2d of March last we passed the first reconstruction act, in which it was assumed that the existing State governments were illegal and unauthorized. I will

not therefore debate that question; I take that as being settled already by the action of Congress. It was not consistent in Congress after having made that declaration to permit those State governments longer to exist; but it was thought at that time that with the aid of the military authority in protecting the Union men and in furthering the work of reconstruction those State governments could be permitted to exist, subject at all times to the removal of offensive and obstructing officers by the military commanders, or to the ousting of the jurisdiction of tribunals that failed to render justice.

Now, sir, we stand confronted with that very military authority that we have raised up. It stands to-day in direct defiance of the authority of Congress, and this Congress should not lose a single hour in asserting the position that it intends to occupy. For the purpose of showing the exact attitude of this question and how we stand to-day I ask the Secretary to read the passages that I have marked from the reconstruction acts of March 2 and July 19, 1867:

The Secretary read as follows:

"Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas: and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State Governments can be legally established: Therefore"—

* * * * * * * * * * *

"SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under color of State authority with the exercise of military authority under this act shall be null and void.

"SEC. 4. *And be it further enacted*, That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President."—*Act of March* 2, 1867.

"*Be it enacted*, &c., That it is hereby declared to have been the true intent and meaning of the act of the 2d day of March, 1867, entitled "An act to provide for the more efficient government of the rebel States," and of the act supplementary thereto, passed on the 23d day of March, in the year 1867, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas, were not legal State governments, and that thereafter said governments if continued were to be continued subject in all respects to the military commanders of the respective districts and to the paramount authority of Congress.

"SEC. 2. *And be it further enacted*, That the commander of any district named in said act shall have power, subject to the disapproval of the General of the Army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment, or authority derived from, or granted by, or claimed under any so-called State or the government thereof, or any municipal or other division thereof; and upon such suspension or removal such commander, subject to the disapproval of the General as aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army, or by the appointment of some other person to perform the same, and to fill vacancies occasioned by death, resignation or otherwise."—*Act of July* 19, 1867.

Mr. MORTON. Mr. President, I had those passages from the reconstruction acts read for the simple purpose of calling freshly to the minds of Senators the action taken and position occupied by Congress: first, that these existing governments are illegal and unauthorized, possessing no rightful authority whatever; secondly, placing those States under military authority, making that military authority paramount, and suffering those State governments to exist simply by the consent of the military authority in the several States. Now, to show the present attitude of the matter, I ask the Secretary to read the order issued by General Hancock, as commander of the fifth military district, on the 1st of January, 1868.

The Secretary read as follows:

[General Orders, No. 1.]

HEADQUARTERS FIFTH MILITARY DISTRICT,
NEW ORLEANS, *January* 1, 1868.

Applications have been made at these headquarters implying the existence of an arbitrary authority in the commanding general touching purely civil controversies. One petition solicits this action, another that, and each refers to some special consideration of grace or favor which he supposes to exist, and which should influence this department. The number of such applications, and the waste of time they involve, make it necessary to declare that the administration of civil justice appertains to the regular courts. The rights of citizens do not depend on the views of the general. They ought to be adjudged and settled according to the law. Arbitrary power, such as he has been urged to assume, has no existence here. It is not found in the laws of Louisiana or Texas. It cannot be derived from any act or acts of Congress. It is restrained by a constitution and prohibited from action in many particulars.

The major general commanding takes occasion to repeat that, while disclaiming judicial functions in civil cases, he can suffer no forcible resistance to the execution of processes of the courts.

By command of Major General Hancock:
L. HARTSUFF, *A. A. G.*

Mr. MORTON. It will be perceived, Mr. President, from this order that General Hancock not only defies the authority of Congress but that he has nullified its action and absolutely abjured the military authority conferred upon him by the reconstruction acts, and he denies the power of Congress to confer such authority. He says:

"Arbitrary power, such as he has been urged to assume, has no existence here. It is not found in the laws of Louisiana or Texas. It cannot be derived from any act or acts of Congress."

There is a direct recognition of the legal authority of those State governments in the face of repeated declarations of Congress that they are illegal and unauthorized. Now, sir, as General Hancock has directly confronted the Congress of the United States it becomes an important question which shall submit. He has recognized the legality and the authority of the existing State governments, not only in this order but in his former order—the one issued by him when he first took command of the fifth military district, in which he declares that all proceedings shall be submitted to the civil tribunals of those States, and that there is no authority in Congress to say otherwise, although we have declared that those civil tribunals have been formed by State governments that are themselves illegal and unauthorized.

Now, sir, the question arises, What will you do? These State governments were to continue in existence subject to the authority of the military commanders under the belief that they would not be allowed to interfere with or obstruct the work of reconstruction, and that they would protect Union men, black and white, in the enjoyment of their civil and political rights. With the military authority against us, recognizing the legal existence of the very governments it was appointed to supersede, with the civil authority against us in full force and operation, backed up and sustained by the military power, rest assured, sir, that we cannot reconstruct; we shall fail, and we shall fail in part by that very military power which we have raised up for the purpose of aiding in the work of reconstruction.

In this crisis I see no other way than for Congress to be consistent with its original declaration, which was that these existing State governments are illegal and unauthorized, and therefore to declare that they shall be at once abrogated and exercise no further power whatever. That was what was demanded by consistency in the first place; but, as I stated before, Congress was not willing to go any further than seemed to be actually necessary in disturbing the existing order of things, and it was supposed that it was unnecessary absolutely to destroy those State governments in view of the paramount authority vested in the military commanders. As that engine which we raised up for another purpose has been turned against us, it becomes important for Congress to say at once what it will do. Allow me simply to repeat the declaration that, with the military power against us, in support of the very thing that we seek to destroy, pledged to defeat the very work that we have at heart, and with the State governments against us, the Governors, State officers, every county officer, every authority high and low, we cannot succeed in the work of reconstruction; and if we stand still we may surrender it this day. Now, sir, I desire to have the voice of this Senate——

The PRESIDENT *pro tempore*. The hour has arrived when it is made the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 213) to suspend further reduction of the currency.

Mr. SUMNER. I hope that the order of the day will be passed over informally, so that we may proceed with the consideration of this question.

Mr. SHERMAN. Does the Senator from Indiana desire to conclude his remarks now?

Mr. MORTON. I shall conclude very shortly. I desire to say but a few words more.

Mr. SHERMAN. I have no objection to allowing the unfinished business to be passed over informally, to enable the Senator to conclude his remarks, but the resolution that he offers will lead to general debate.

The PRESIDENT *pro tempore*. The unfinished business will be passed over informally, if there be no objection, to enable the Senator from Indiana to proceed with his remarks.

Mr. MORTON. Mr. President, if the resolution is amended as proposed by the Senator from New Jersey, the vote on it will not signify anything. If we instruct this committee peremptorily to report a bill abrogating those governments and furnishing provisional governments in their stead, to last until such time as these States shall be reconstructed under the act of Congress, it does not commit us to any particular form of bill. If the bill when reported does not suit us we can modify it or vote it down. But, sir, the adoption of this resolution will settle one question, that the Senate of the United States is resolved at once and without further delay to abrogate the illegal and unauthorized governments existing in those States, and to establish such provisional governments as may be necessary until such time as reconstruction shall finally take place. This, Mr. President, is all I have to say now.

Mr. FRELINGHUYSEN. Mr. President, I——

Mr. SHERMAN. I call for the regular order of business.

Mr. FRELINGHUYSEN. I have but a single remark to make, and then, perhaps, the vote can be taken and the matter referred.

Mr. SHERMAN. I understand it will lead to further discussion. I think we had better proceed with the regular order; and unless the Senator desires now to make a personal explanation I insist on the regular order.

Mr. FRELINGHUYSEN. It is not personal. I simply wish to say that I by no means dispute in any manner the ground taken by the Senator from Indiana. I do not wish in any manner to intimate that I am opposed to his resolution, but it seems to me clear that a measure of so great importance, affecting the whole reconstruction plan, should be submitted to the judgment of the Judiciary Committee, and that the Senate should not be called upon to give what is really a final vote at this time, but that the sense of the Senate should be taken on the report of that committee.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now regularly before the Senate.

HOUSE RESOLUTIONS REFERRED.

The following joint resolutions from the House of Representatives were severally read

twice by their titles and referred to the Committee on Foreign Relations:

A joint resolution (H. R. No. 137) requesting the President to intercede with her majesty the queen of Great Britain to secure the speedy release of Rev. John McMahon, convicted on a charge of treason-felony and now confined at Kingston, Canada West;

A joint resolution (H. R. No. 138) requesting the President to intercede with her majesty the queen of Great Britain to secure the speedy release of Robert Lynch, now imprisoned in the province of Canada; and

A joint resolution (H. R. No. 139) requesting the President to intercede for the release of American citizens imprisoned in Great Britain and Ireland on insufficient grounds.

CONTRACTION OF THE CURRENCY.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate as in Committee of the Whole, being House bill No. 213, to suspend further reduction of the currency. The question is on the amendment reported by the Committee on Finance.

The Secretary read the amendment, which is to strike out all of the bill after the enacting clause, and in lieu of the words stricken out to insert:

That so much of the act approved April 12, 1866, entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865," as provides that the Secretary of the Treasury may retire and cancel United States notes to the extent of $4,000,000 per month be, and the same is hereby, suspended until Congress shall otherwise provide.

Mr. SHERMAN. I will make a very brief statement to the Senate of the law as it now stands and the proposed change, and a few facts which bear on the question. On a preliminary measure of this kind, which is only intended to operate for a short time, I do not mean to make any extended remarks.

The currency of the country now consists of United States notes, or lawful money, and the bank notes issued by the national banks. The act of June 30, 1864, limits the amount of United States legal-tender notes to $400,000,000. That act contains a provision in the nature of a compact by which it is provided that in no event shall the amount of United States notes issued or to be issued ever exceed $400,000,000. That is made a part of the loan act of that date, and is in the nature of a compact so far as a provision, which is repealable like any other act of Congress, can be called a compact.

The national currency act of June 3, 1864, limits the amount of notes that can be issued under that act to $300,000,000, making the aggregate circulation $700,000,000; but by the terms of the national bank act the banks are required to keep in reserve always in their vaults a certain portion of their deposits and circulation. That amount never can be less than $150,000,000 under the provisions of the act. From fifteen to twenty-five per cent. of both circulation and deposits must be held as a reserve and can only be used to pay the outstanding notes, so that that reserve must be maintained or can only be reduced by a reduction of the volume of national currency notes.

Under the act of April 12, 1866, the Secretary of the Treasury was authorized to retire and cancel any portion of the debt of the United States, including, as a matter of course, the United States notes, without limitation upon that power, except that the reduction of United States notes was not to exceed $6,000,000 for the next six months, and $4,000,000 a month thereafter. Under the provisions of this act he has proceeded to reduce the volume of United States notes to about three hundred and fifty-six million dollars.

The act of March 3, 1867, passed at the close of the last Congress, authorized the Secretary of the Treasury to issue $50,000,000 of three per cent. certificates. These are not legal-tender notes, but as they may be held by the banks as a part of their reserve they in effect take the place of that amount of legal-tender notes.

These are the only acts which bear on the question now before the Senate. On the 1st of January, 1868, according to the statement that has been laid on our table within a day or two, the amount of legal tenders outstanding was $356,159,127; the national bank notes, $299,103,196, making an aggregate of circulation $655,263,123. There was held, however, by the banks in reserve of United States notes, legal tenders proper, on the 1st of October, 1867, the date of the last bank statement furnished to us, $100,550,849, leaving the total circulation of the country of all kinds, except the old State bank notes, which are now so small as to be scarcely perceptible, $554,712,274. That is the whole amount of legal-tender notes in the ordinary signification; but there are certain other forms of outstanding securities, which are in the nature of currency and are legal tenders for certain purposes. The compound-interest notes, the residue of which amounts to $46,244,780, are in this condition. Then there is the fractional currency, amounting to $31,597,583, which may be converted at any time into United States notes. Then there are the three per cent. certificates issued under the law I have referred to. These three items make a total of qualified legal-tender notes, so to speak, of $101,107,363. But of this, there is held by the banks as part of their reserve, which cannot be diminished except by a diminution of the amount of bank notes, the sum of $56,888,250, leaving $44,219,113 held by the people of this kind of securities, mostly compound-interest notes and fractional currency. Adding to this the amount of United States notes and national bank notes, we have an aggregate circulation of legal tenders in every form of $598,931,387, or less than six hundred million dollars.

I have a statement which shows that since April 1, 1866, during which month the act authorizing contraction was passed, the amount of contraction is $140,122,898.

Mr. EDMUNDS. How is that made up?

Mr. SHERMAN. On the 1st of April, 1866, as the Senator will find by reference to the reports that have been laid on the table recently contained in a paper printed on the motion of my friend from Missouri, [Mr. HENDERSON,] the United States legal-tender notes outstanding were $422,424,007. Then there were $8,536,900 of one and two years Treasury notes, and $172,012,141 of three years compound-interest Treasury notes, which were legal tenders. Then the fractional currency was $28,005,412. The national bank circulation was $248,880,000, and the State bank circulation $32,800,865. Adding together these various items the aggregate circulation then authorized and outstanding was $913,665,947, and the amount of bank reserve then was $193,543,649, leaving the aggregate of total circulation among the people $720,122,898.

On the 1st of January, 1868, as the Senator will see from the table he has before him, there were outstanding United States legal-tender notes to the amount of $356,159,127. The one and two years Treasury notes were redeemed or else past due, and therefore considered as matured debt. Of the compound-interest notes but little over forty-six million dollars remain. The fractional currency had increased to $31,597,583. The national bank circulation had increased to $299,000,000, and the State bank circulation decreased to $4,092,153; so that on the 1st of January last the aggregate circulation was about seven hundred and thirty-seven million dollars, and deducting from that aggregate the bank reserve there was left $579,758,540, or a diminution of circulation since the act took effect of $140,122,898.

Mr. EDMUNDS. How much of that was of legal tenders proper—United States notes?

Mr. SHERMAN. About sixty millions, but as a matter of course the compound-interest notes operated precisely like the legal tenders or United States notes, because the compound-interest notes were held by the banks as part of their reserve; and when they were paid off the bank had either to substitute the three per cent. certificates or the United States notes in their place, and hold them as part of their reserve, so that the actual contraction is about one hundred and forty millions. These figures, I have no doubt, can be relied upon, because I have taken them from the official reports.

Under these circumstances the House of Representatives, on account of the alarm that was created by the contraction of the currency, passed a bill in these words:

"That from and after the passage of this act the authority of the Secretary of the Treasury to make any reduction of the currency by retiring or canceling United States notes shall be, and is hereby, suspended."

The amendment proposed by the Senate Committee on Finance does not change the legal effect of the House bill but as the language of that bill was so broad it was thought it might and probably would prevent the cancellation of defaced notes, because it forbids any reduction of the currency. This general language might prevent the operation of destroying canceled notes or any operations of that kind. The language proposed by the Finance Committee of the Senate is simply to repeal or to suspend until further legislation the authority conferred on the Secretary of the Treasury by the act of April 12, 1866, to cancel $4,000,000 of legal-tender notes per month.

Mr. President, I do not regard this bill as of the highest importance, because from the statement already made to us by the Secretary of the Treasury there can be for two or three months to come no further reduction of the currency. His letter was read the other day at the desk and I will not trouble the Senate by reading it again. It will be recollected that the Secretary states distinctly that until Congress takes some definite action on the subject he will not make any reduction, that the condition of the Treasury will not authorize him to do it. Still, there is an uneasiness in the public mind upon this subject, which ought to be allayed by an act of Congress. The committee, therefore, after full reflection, have thought it proper to recommend the passage of the bill of the House of Representatives in substance as they have sent it to us, only changing the phraseology.

Mr. MORGAN. A majority of the committee?

Mr. SHERMAN. Yes, a majority of the committee. I will state that this bill contemplates further legislation during the present session. That is understood by all. Some more comprehensive measures must of course be adopted during the present session, and this bill contemplates that, because it provides that until further legislation there shall be no more contraction.

Mr. President, I will now state very briefly the reasons which, in my opinion, justify the passage of this bill:

First. It will satisfy the public mind that no further contraction will be made when industry is in a measure paralyzed. We hear the complaint from all parts of the country, from all branches of industry, from every State in the Union that industry for some reason is paralyzed and that trade and enterprise are not so well rewarded as they were. Many, perhaps erroneously, attribute all this to the contraction of the currency—a contraction that I believe is unexampled in the history of any nation. One hundred and forty million dollars have been withdrawn out of $737,000,000 in less than two years. There is no example that I know of of such rapid contraction. It may be wise, it may be beneficial, but still it has been so rapid as to excite a stringency that is causing complaint, and I think the people have a right to be relieved from that.

Second. This bill will restore to the Legislature their power over the currency, a power too important to be delegated to any single officer of the Government. I do not wish to renew the discussion that occurred here two years ago on the passage of the law of April 12, 1866; but it is still my opinion, as it has been always, that the question of the amount

of currency ought to be fixed by Congress. We have the power to coin money and to regulate the value thereof. We have coined money in the form of paper money, and certainly the power of Congress in this respect ought not to be delegated to any single officer. If contraction ought to be established as the policy it should be by Congress, not by the Secretary of the Treasury, and it is not wise to confer upon any officer of the Government a power of this kind which can be and may be properly controlled and limited by Congress.

Third. This will strongly impress upon Congress the imperative duty of acting wisely upon financial measures, for the responsibility will then rest entirely upon Congress and will not be shared with them by the Secretary of the Treasury.

Fourth. It will encourage business men to continue old and embark in new enterprises, when they are assured that no change will be made in the measure of value without the open and deliberate consent of their representatives.

These considerations are amply sufficient to justify this measure, but it is only preliminary to others of far greater importance that must command our attention. These involve—

1. The existence of the banking system of the United States.

2. The time and manner of resuming specie payments.

3. The mode of redeeming the debt of the United States and the kind of money in which it may be redeemed; and in this connection the taxes, if any, that may be levied upon the public creditors.

4. Such a reduction of our expenditures and taxes as will relieve our constituents as far as practicable from the burdens resulting from the recent war.

These questions must all come here for solution, but a methodical consideration of them can only be had by deciding what we have before us. Sufficient for the day is the duty thereof. The pressure of the public business is so great that I do not on a preliminary question of this kind wish to be forced into the general discussion of financial measures. The almost universal consideration of these matters and their public discussion among the people will bring out a great many many foolish ideas and some wise ones. I have entire confidence that Congress will, in due time, provide such measures as will enable our people to pursue the industries of peace with all the energy and success with which they conducted war. Now, it is our duty to relieve them from perhaps a groundless terror; but whether groundless or not, it is one that checks and paralyzes all classes and kinds of industry.

With these remarks, Mr. President, so far as I am concerned, I submit the question to the Senate.

The amendment was agreed to.

Mr. MORRILL, of Vermont. Mr. President, I do not desire to debate this proposition, but I should be very sorry to have it pass and have it understood that it was the unanimous voice of the Senate of the United States. It looks to me as though when we interfere with these financial questions that properly belong to an executive officer we are rather traveling out of our own jurisdiction. I believe that before the close of the session we may find, as we have done in some other instances, that we shall have to retrace our steps.

Since this bill was introduced into the House of Representatives and has come here what has been the result? The price of gold has gone up from 133 to about 140—above 139. I do not think that that is desirable.

Mr. NYE. It was 136 yesterday.

Mr. MORRILL, of Vermont. I read 139 as the quotation of yesterday; it may have been 136; there may have been a misprint. At any rate it has gone up considerably. Now can Senators desire to bring about a result that shall tend to create higher prices? I do not believe that that is the intention of Senators. If we are ever to come to the point of a resumption of specie payments we ought certainly to keep the price of gold from going higher than it has been for the last month. I think the effect of this bill will be to send gold dancing up to 140, and probably before the end of the session to 150.

Mr. GRIMES. Will the Senator allow me to inquire of him if at the beginning of the session gold was not 140, and when Mr. McCulloch was last contracting was it not at that point, and immediately after the passage of this bill by the House of Representatives did not gold go down to 133?

Mr. MORRILL, of Vermont. My own impression is that the public understood that there would be an adoption of a policy by which we would at some fixed time resume specie payments. This postpones the idea indefinitely. I am averse to it, and I have only risen so as to show at least that there is one Senator who is unwilling to give his vote for the present bill.

Mr. CORBETT. Mr. President, I also desire to state that I believe the Secretary of the Treasury is acting wisely and has been acting wisely in the reduction of the currency up to the present time. There may be financial difficulties pressing upon the commercial community at this time that should induce him to withhold the exercise of the power which he possesses to reduce the currency, and I have no doubt he will discontinue the exercise of that power as long as it may be necessary to do so for the ease of the money market and for the success of the financial policy of the Government in collecting its taxes. But I think it would be very unwise to pass a bill here to permanently prevent the reduction of the currency, and thus give an opportunity for speculators to run riot again for another year or two with the currency inflated and enable them to run up the price of gold probably, as the Senator from Vermont states, to 140, or perhaps 150, as soon as the bill is passed. The present amount of currency in the country and the large amount that has been afloat the past few years has raised the price of every kind of product to such an extent that it is impossible for us to export anything from the country. We are using and consuming within ourselves our products. Flour has advanced to such an enormous price by reason of the inflation of the currency that it is impossible to ship it out of the country and compete abroad with the foreign product of that article. The inflation of the currency is acting as a protective tariff to foreign countries to produce this article, so important to our western States, so that foreigners are furnishing flour and grain to England and other countries instead of our producing it ourselves and exporting it to them in place of the gold and United States bonds that we have been sending out of the country. We have sent within the past five or six years about six hundred million dollars of gold and United States stocks. Let this continue for one or two years longer, and by this inflated policy all our United States stocks will have been sent out of the country, and we shall be paying a tribute of gold interest to foreigners, and we shall also have sent all our gold out of the country, and we shall perhaps be prevented from resuming specie payments for the next fifteen or twenty years. It is alarming when you see $3,000,000 of gold a week going out of the country, and only $1,000,000 coming in.

The state of financial affairs is alarming to me, and it looks to me as though we had better leave the matter entirely to the Secretary of the Treasury to govern the financial policy as he has heretofore done, wisely, in my opinion, and for the best interests of the country. He is not going to adopt a policy that will cripple the Government or cripple the industrial interests of the country. What he does will be for the advantage of the whole nation. I hope and trust this bill will not be passed. I therefore move its indefinite postponement.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon to postpone the bill indefinitely.

The motion was not agreed to.

Mr. FESSENDEN. Mr. President, I see that the general inclination is to let this bill go as a matter of course, and I suppose from the indications I see that it will go through by a very decided vote. It is not my intention to debate it at length, but simply by word as well as by vote to express my entire dissent to the proposition which has been made by the Committee on Finance. I see no possible good to result from it, and I anticipate that it may do a great deal of harm.

The Senator from Ohio [Mr. SHERMAN] has observed that the matter of currency is a question to be settled generally by Congress; that Congress should regulate how much of it there should be and how much there should not be, and it should not be left entirely to the discretion of the Secretary of the Treasury. To that extent I agree with him. I think we should legislate upon the subject, and that that legislation should be well defined, so that the country can understand what the policy of Congress is and what the views of Congress are with regard to a question so important as this is. It is undoubtedly true that it should be so; and it was expressly with this view that Congress should express its opinion upon this question of currency and the policy to be pursued in relation to it that the law placing this power in the hands of the Secretary of the Treasury and limiting his authority specifically with regard to it was originally passed. There were two objects. One was, as I have just stated, to express the views of Congress and to limit the authority of the Secretary of the Treasury in the process of reduction. The next was, and the most important in my judgment, in view of the condition of the country, to express the opinion of Congress that there should be a steady reduction of this species of currency with a view to a return to specie payments and as soon as possible consistently with the interests of the country, and as the proper if not the only mode by which that object could be accomplished. In my judgment it is the only mode in which that object can be accomplished. I do not believe that specie payments can be resumed as long as as it is understood that so large an amount of the obligations of the Government which are a legal tender are outstanding. It is, in my judgment, only by a reduction of those obligations, by taking them in, that the object can be accomplished within any reasonable course of years. The Treasury, under the present circumstances of the country, is not likely soon to be in a condition when specie payments can be resumed with all this currency liable to come back to the Treasury. If the attempt should be made under present circumstances it would fail.

I say the law was passed with a view to express an opinion and to settle the question as to the judgment of Congress upon this important matter, that the only true condition of the currency was that it should be founded upon a specie basis, and that that point should be reached as soon as it could be reached consistently with the good of the country. It was so stated in debate; it was so understood everywhere; but further, inasmuch as Congress thought that it was well to express its opinions upon the degree of rapidity with which the result should be reached, it was deemed advisable by Congress to limit the power of the Secretary and say that he should not reduce any faster than in a specific mode and to the specific amount stated in the law. It did not make it obligatory upon him to reduce to that extent, but left it at his discretion to exercise the power thus far and no farther.

Hitherto Congress has rested under that quietly; the country has rested under that quietly, with the exception of the alarms that have been created by a certain set of people who entertain different views from those thus expressed by Congress. By men who have multifarious schemes for having a currency in the country irredeemable, mere rags, after the necessity has ceased, with whom I do not in any degree coincide, this effort is made now to put an end in fact to that policy which Con-

gress thus adopted, and to notify the country that Congress has specifically abandoned once and forever, (because it will necessarily be so,) or at any rate for an indefinite period of time, the policy which it once decided to be a wise one, and so decided with the approbation, I believe, of all the thinking men of the country upon such subjects. That policy is to be now abandoned, and we are to stop precisely where we are, leaving the volume of the currency as it is until further legislation, that is, "until otherwise ordered," under the idea that it will not be otherwise ordered.

Well, sir, I fear the effect of it. I fear that the country can place but one construction on it, and that is that the idea of returning to specie payments is to be abandoned for an indefinite period, and that our policy, instead of being that of returning to what I think the great majority of wise and thinking men suppose to be the true one, that our currency should be founded upon a specie basis and should be in fact specie, is to be anything but that.

I believe that this will be attended by all the evils which have been suggested by the honorable Senator from Oregon [Mr. CORBETT] and by more. What good is to be attained by it? I cannot conceive. Is there any danger that the Secretary of the Treasury, especially after what he has written to us, and with his judgment what of the condition of things in the country requires at any specific time when Congress is not in session, will avail himself of that power against the interests of the country and the interests of business, to continue contraction when it is a matter of discretion with him? I think there is no such danger. The idea of returning at once, by a single jump, perforce to a currency of specie no one now entertains, because it is now seen, as I have always supposed, that that must necessarily be a work of time.

After an experience of four or five years such as we have passed through, with everything in the country disordered, with the currency in the condition it was and business in the condition it was, the thing was impossible. You could not do it without producing very great evils. A return must necessarily be a work of time. Congress said it was a work of time when it passed the act of 1866 originally, providing that the Secretary of the Treasury might reduce the currency of the Government in a certain ratio. Going on at that rate it will be seen that it would take a considerable number of years to retire all this currency. There would seem, then, to be no danger on that score.

Nor do I see anything in the idea of my friend from Ohio, that this measure is necessary in order to show that Congress has a policy and that Congress takes this matter into its own hands. That is shown by the very act which it is now proposed to repeal. That act contained a limitation imposed by Congress on the power of the Secretary of the Treasury.

Mr. GRIMES. Has it been followed out by him?

Mr. FESSENDEN. Certainly it has been followed out by him.

Mr. GRIMES. Has he never withdrawn more than $4,000,000 in one month?

Mr. FESSENDEN. Never, that I am aware of, and I never heard that he had, and I do not know that he has always withdrawn that amount regularly any month. I am inclined to think he has not retired to the whole amount of the $4,000,000 in any month. He could not retire more without violating the law.

Mr. SPRAGUE. Will the Senator from Maine allow me to interrupt him a moment to state that it is the public opinion among business men that the Secretary of the Treasury has withdrawn at one time as much as $20,000,000, that he has abstained during four or five months from withdrawing the proportion that the laws of the country permitted him to withdraw, and has by one fell blow taken from the currency and from the property of the country to that extent.

Mr. FESSENDEN. If the Senator from Rhode Island will tell me that he knows the fact, that he has ascertained it, and ascertained it at the Treasury Department or from any public document I will listen to the statement, but until he does that I must be excused for paying no attention to it.

Mr. SHERMAN. With the permission of the Senator from Maine I will state that we have on our table a document that shows the precise diminution month by month. While I am desirous to take away this power I am bound to say that there is no month within which the amount of United States notes has been diminished over four millions; but I suppose I can tell what has given rise to the statement made by the Senator from Rhode Island. At certain periods the compound-interest notes matured rapidly and were paid off as they became due, and they were considered as in the nature of currency, but the Secretary had no discretion in the matter; he had to pay them.

Mr. FESSENDEN. The law which it is now proposed to repeal did not apply to those notes. We were bound to redeem them as they became payable.

Mr. NYE. Allow me to ask the Senator from Maine a question.

Mr. FESSENDEN. I want to answer the Senator from Rhode Island first, and then with pleasure I will endeavor to answer anything the Senator from Nevada may ask. I only wish to say to the Senator from Rhode Island that it is hardly fair to the Secretary of the Treasury, when all the information is within the Senator's reach and he can get it at any moment, for him to rise in his seat here and use as an argument a statement that it is the opinion of the country that at one fell swoop the Secretary has retired $20,000,000.

Now I will hear the question which the Senator from Nevada desires to ask me.

Mr. NYE. I have a vague recollection of a law being passed authorizing the Secretary of the Treasury, as the compound-interest notes became due, to issue three per cent. certificates, or securities of some kind, to supply the deficiency thus created. I was told in New York the other day that during the two months preceding the election there were $53,000,000 of compound-interest notes retired, together with $8,000,000 of United States notes, making $61,000,000, and at the same time a circular was issued to the banks to keep good their reserve. The banks that had been holding these $53,000,000 of compound-interest notes had to get in legal tenders to supply their places. The effect of this was to contract the currency some sixty-one million dollars at once, which raised the price of money in New York from five to eight per cent., and in Chicago to as much as sixteen per cent., and prevented the obtainment of the means for bringing forward the vast products of the West. That is what I was told.

Mr. FESSENDEN. If the Senator were as familiar with the utter worthlessness of the rumors and of the stories told in Wall street and elsewhere in New York about the operations of the Treasury Department as I am he would have given no sort of credit to them whatever. I suffered under them for eight months, and I know precisely what credence they are entitled to. I was often applied to to know how I would answer this and how I would answer that, and it was said to me "such and such rumors are going about," and "such and such things are said; what have you to say to them?" My answer was: "Nothing; I conduct my business here according to my views of what is right, and it would take all my time to answer the stories that are got up for certain purposes, party or otherwise, in New York and in other places." I pay just as little attention to them as I do to the statement of my friend from Rhode Island, that the country believes so and so; it believes for the time everything it is told. Let proof be brought of any of these things before we censure the Secretary of the Treasury. I have waited in vain to hear anything like proof, and it strikes me that it is hardly becoming grave legislators, Senators of the United States, to base their action upon out-door rumor in matters so important as this when the means of obtaining accurate information of the exact condition of affairs is at their hand at any moment. I should not like to be judged so if I was at the head of the Department, and I do not think it is exactly fair; but, however that may be, it does not at all affect the ground that I am taking.

I was stating that the Secretary's power had been specifically limited. Congress has legislated; it has said what it believed to be the true policy, based upon a general principle, upon which perhaps I may have more to say by and by, that it was expedient and desirable to return to specie payments just as soon as the condition of the country would allow, because that is the only safe condition, and to give that assurance to the people of the country and to the business of the country that, while Congress did not mean to proceed violently or allow anybody else to proceed violently in relation to the matter, it still did intend to keep that idea steadily in view; and that the business of the country might rely upon it as settled.

Now, sir, we have gone on to a certain extent in regard to these greenbacks, as they are called, the "lawful money," and it has been placed in the power of the Secretary of the Treasury to make a very small, a very limited, reduction from month to month, from which no harm has followed. Are rumors of one description or another to influence Congress to repeal that, and substantially say to the country, "we have abandoned the idea which we put forth of a return to specie payments at the earliest practicable day?" That is precisely the declaration we make by repealing this authority, for resumption cannot take place, in my judgment, so long as matters remain in their present condition.

Sir, I am not prepared to do this on any ground—either to meet or to avoid the fears that have been expressed outside. They never will be avoided by a constantly shifting and changing policy on the part of Congress. So long as Congress legislates one way to-day and another way to-morrow to meet outside rumors in Wall street or elsewhere, no matter where, the country will have no confidence in us; and if the Secretary of the Treasury has lost in any degree the confidence of the country we shall be in as bad a condition as he is unless we have some firmness and some stability in the policy that we assume and agree upon.

As I said before, sir, there is no force that I can see in the position taken by the honorable chairman of the Finance Committee—that it is necessary to do this in order to show that Congress means to control this question—for Congress showed that when it passed the bill which he now proposes to repeal. It adopted its policy then, and in my judgment the only safe way is to adhere to it.

Sir, I will make one other general remark before I sit down; I have already said a great deal more than I intended when I rose. I believe that all the trouble, all the difficulty we have arises from something that is unavoidable. The country is in an anomalous condition in regard to the currency. This arose out of a matter that we could not avoid—the enormous expenditures of the war. We have got to a point where our currency is disordered; we want to get back to a safe position, and as soon as we can. But there are people in the country who are everlastingly scheming to get back by legislation, by this scheme and that scheme and another scheme to shorten the time or else to abolish time and say we will not go back at all. Now, my idea is, that only time will accomplish it. We cannot do it without suffering; that must come. Such a position as we are in we cannot get out of without suffering to the country in its business affairs, and the more you legislate to postpone that suffering, the more you legislate with schemes of one kind and another to tide over this time and tide over that time and the other, the more difficult, in my judgment, will

it be to meet the crisis at last. The only way, in my judgment, that you can possibly get along is to establish your principle that you will return to a safe condition, pass your law which looks to that return, adhere to it firmly and let the country understand that the consequences must come; we will make them as light as possible, but the time must arrive or else the credit of this country is to stand for years and years far below anything that any true lover of this country would desire. I do not wish to try to avoid it by saying to the country that we have no opinions on the subject in reality, for that is the amount of this bill.

Mr. STEWART. Mr. President, I do not profess to be deeply skilled in finance. There are some things, however, that are obvious to the outside world. I am not initiated in the workings of the Treasury Department; I am not initiated in all the reasons for this condition of things or for that condition of things; but there are some things that I can see and that the world sees; and one of those things which it seems to me is clearly understood by everybody is that the management of finances for a few years past has done much to produce the hardships under which the people now labor. We have followed the estimates of the Secretary of the Treasury; we have voted for the laws that he asked; we have voted for the amount of taxation that he suggested; but I do not think that many of us supposed that in so doing we were voting to pay off large amounts of the principal of the national debt. I did not suppose we were levying these taxes with a view of destroying every industry in order to pay off the principal of the national debt before business had settled. The inconsistencies that have appeared in his estimates, his over-estimates which we have followed, the difficulty in executing the laws asked by him which we have passed, have created a want of confidence in the minds of a great many honest men in regard to the Secretary of the Treasury. Upon this point a remarkable letter is published in the Chronicle of this morning. All the statements contained in it may not be accurate; but it contains so much truth, as it appears to the outside world, that I send it to the desk and ask that it be read by the Secretary.

The Secretary read as follows:

DETROIT, *December* 26, 1867.

DEAR SIR: Yours of the 23d, inviting me to attend the mass convention to be held in your city to-morrow, for some unaccountable reason was not received by me until nearly noon to-day. * * * *

In regard to the amount of revenue and the expectations of the Government I am entirely satisfied that there is constant, persistent, and willful misstatement put forth in the "estimates" given to the public. A charge of falsification even could be easily maintained against the Secretary of the Treasury. In any other country, if the head of the Treasury should be so outrageously incorrect, he would be compelled by a deceived people to resign.

Let me give a few illustrations: in 1865 he estimated the total receipts of the Government for nine months at $305,500,000. The actual receipts for the same time were $395,405,905, showing an excess of receipts over his estimates for nine months of $89,905,905.

He "estimated" the expenditures for the same time at	$484,859,462
The actual expenditures were	284,324,227
Excess of "estimates"	200,535,235
Add excess to receipts, as above	89,965,905
Actual surplus over the Secretary's estimates for nine months	$290,501,140

And on the strength of such outrageous estimates sent to Congress he actually compelled them to levy taxes for $290,000,000 more than he wanted.

For the year 1867 he "estimates" that the taxes under the existing laws would produce only	$396,000,000
They actually produced for that year	490,684,000
Excess over estimates	$94,648,000

Again, in putting forth his estimates for the coming or present year, in 1866:

He estimated receipts	$436,000,000
Estimated disbursements	350,247,641
Thus estimating excess to apply to reduction of debt	$85,752,359

In 1867, fearing that Congress would reduce the taxation, he changes his estimates for the same year so as to induce Congress not to reduce taxation. He then reduces his "estimates" of receipts about $18,000,000, and increases his "estimates" of expenditures $43,000,000, making the sum total of difference $61,000,000, so as nearly to do away with his former estimated surplus of receipts.

So, for the first quarter of the present fiscal year, his actual returns show an excess of receipts over expenditures for the quarter of nearly twenty-three million dollars; and yet he estimates for the remaining three quarters that his receipts will only exceed his expenditures $1,000,000.

In his last report the errors would seem to be so enormous as would seem to be corrupt.

Thus, for the year ending June 30, 1868, his expenditures for the first quarter and estimates for three quarters are as follows:

Civil list	$50,152,348
Pensions and Indians	32,484,476
War Department	130,537,056
Navy	27,579,704
Interest on public debt	152,575,640
Total	$393,329,224

The estimate for civil list seems outrageous, and no reason is given. For the year ending June, 1866, it was $42,300,000, and now it has swelled to $50,152,384. It is too great by at least $25,000,000. Pensions and Indians—this is estimated over last year the sum of $7,000,000. War Department—General Grant estimates in his report $61,500,000; the Secretary of the Treasury, $130,537,056; making the Secretary of the Treasury's estimate over General Grant's $69,500,000. Interest on the public debt—this is manifestly wrong; he gives the debt bearing coin interest at $1,637,890,641—interest, $96,000,000; debt bearing currency interest at $625,803,905—interest, $42,000,000; total interest, $138,000,000. The difference between this sum and his estimate is about fourteen million dollars; here would seem to be manifest erroneous estimate of at least $115,500,000. The Secretary also estimates the receipts for this year from internal revenue at $208,784,000; the Commissioner of Internal Revenue at $225,000,000; this is a difference of receipts of at least $16,000,000. Total, $131,550,000.

Upon the Secretary's own estimates, then, here is a reduction of $131,500,000 that can be made in our taxes this year without difficulty.

The miscellaneous receipts will also be largely increased this year.

The Secretary of the Navy in his report says that on September 30, 1867, he turned over to the Treasury the large sum of $65,000,000 for sale of vessels, captured property, the sale of the Dunderberg, Miantonomoh, and unexpended appropriations.

It will be noticed that the Secretary of the Navy turns this over on September 30, 1867, and the Secretary of the Treasury closed his account of actual receipts on September 30; but, as it takes a day or two for the transfers to be made, this large amount is lost from the account of the Secretary of the Navy, and does not appear in the accounts of the Secretary of the Treasury. Again, it appears by the reports in Congress that there is lying in the hands of Treasury agents at least the sum of $34,000,000 for sale of cotton and abandoned property, which Congress is seeking to have turned over to the Treasurer.

Here, then, is to be added to the resources of the Government for the year at least $99,000,000. The Secretary also had on hand at the commencement of this year nearly one hundred and thirty four million dollars.

Unless the logic of these figures can be met there can be no reason why a large amount of the internal revenue taxes, and especially the manufacturers' tax and income tax, should not be removed.

Yours, truly, JOHN S. NEWBERRY,
Vice President Detroit Manufacturers' Association.

J. H. DOW, Esq., *Secretary, &c.*

Mr. STEWART. I, of course, have not examined to see whether all these statements are correct; but I understand that Mr. Newberry is a very accurate business man, and I take it for granted that he tells a great deal of truth, because all of us must know that we have been very much misled, and we are suffering to-day in consequence of it. If I have voted to accumulate taxation for the purpose of paying off the national debt before the business interests of the country had settled down, before trade had revived and been put again upon a permanent basis, I have been voting for what I did not intend. If that has been the policy of Congress, I did not understand the policy of Congress. I have looked at the Secretary's estimates, and I have been told that it was necessary to put this burden upon the people, in order to preserve the public faith and pay the expenses of the Government; and yet it seems that we have been paying off $260,000,000 of the national debt. I believe we have destroyed industry so much that by paying that amount so far from lessening the real burden of the debt we have increased it. I believe the debt to-day bears a greater ratio to the property of the country than it would if that $260,000,000 had been left in business, so that the people might have prospered. We have taken it up at the wrong time, and in so doing we have destroyed many industries that would now contribute something, if they were in existence, to the prosperity of the country. This is the result of our having been misled, so far as I am concerned, at least; and having been thus misled, upon this very important question, I have lost confidence to some extent in the Secretary of the Treasury.

Again, we are told by the President, in his annual message, that "it is well and publicly known that enormous frauds have been perpetrated on the Treasury, and that colossal fortunes have been made at the public expense;" and the responsibility for that state of things he attributes to Congress. We have given the Secretary of the Treasury for the collection of the revenues all the laws he asked. It is stated that a very large sum, variously estimated, by some put as high as $200,000,000, has been lost to the Treasury during the past year. I should like to have the utmost faith in the Secretary of the Treasury. He has enormous power. No one doubts that the Administration have power to nearly ruin this country, to embarrass its finances. They have power to squander nearly the whole revenue, and there is no redress. It is a paltry plea on the part of the President to say that this condition of things is owing to the tenure-of-office law. The tenure-of-office law is not in operation while Congress is in session, and it has been in session nearly all the time since the passage of that law except a few months, and then he only suspended two revenue officers. Congress cannot be to blame because the revenue laws have not been executed. I say the financial troubles we are now laboring under are owing, in the first place, to the over-estimates of the Secretary of the Treasury imposing burdens on the people heavier than they could bear, and in the next place to corruption in office causing a failure to collect the revenue. If Congress is to blame for these over-estimates and for this corruption in office, which has abstracted from the Treasury, according to the estimate of some, $200,000,000 a year—if Congress is responsible for these two things, the one a great mistake and the other a great crime, it is time that the President of the United States held us up to scorn and contempt, and it is time that the people hurled us from power.

Now, I am anxious to know where the responsibility rests for the administration of the revenue laws; where the responsibility rests for the abstraction from the public revenues in the process of collection of $200,000,000 per annum; I am anxious to know where the responsibility rests for overtaxing this people before their business interests could become settled after the war. Being anxious to know these things I am willing to pass this or any other bill which shall indicate that Congress does not feel full confidence in the Secretary of the Treasury, for disguise it as you will this bill amounts to nothing more nor less than a reflection upon the Secretary of the Treasury. It is a vote of want of confidence. Nobody has risen here and proposed to change the policy of the law; but it is stated that there is an apprehension in the public mind, that the public are disquieted, that they feel that something is going wrong, and they want repose for a time at least, and they want to be relieved for a time at least from the operations of the Secretary of the Treasury. If that is a sufficient reason for changing our policy and passing a bill of this kind it is a sufficient reason for going further and investigating the causes of our trouble. I believe that honest men in office can collect the revenue; I believe that a reasonable estimate can be made as to the amount of revenue we ought to raise; and I believe if those two things had been done the business interests of the country would to-day be prosperous. We had an enormous debt when we emerged from the war; the business interests were deranged by the contest; and it is perfectly miraculous that we have succeded at all in doing business with the accumulated taxation we have borne. The taxation of those articles which would not have oppressed our business interests—I mean the taxation of

whisky and tobacco—has been a failure, and the enormous burden of taxation which we have borne has fallen on those business interests which were ill prepared to bear it and on the necessaries of life.

Mr. CORBETT. I should like to ask the Senator whether the business interests of the country were ever more prosperous than they were during the war, and whether that was not the time when the heaviest taxes were levied. Of course we could better afford to pay taxes when our business was prosperous, when we were all making money, than we can now. I admit it, and now is the time to curtail the taxes.

Mr. STEWART. That is what I say; now is the time to curtail the taxes, and we should have commenced immediately after the war and raised no more money by taxation than was necessary to pay the expenses of the Government and maintain our credit until business could have been settled down and our people have got a fair start again. That is what everybody says we ought to have done and what everybody says we ought to now. Every business man, every one willing to pay the debt, says we ought until business revives relieve the people from taxation as far as possible, make it as light as it is in our power to do, and when business gets fairly started again then provide for a small sinking fund and commence paying off the debt. That is wise policy. What I complain of is, that when business affairs were distracted these enormous estimates were submitted to us and so large an amount of revenue was collected off the people, so that, notwithstanding we have been cheated out of the whisky and tobacco taxes, we have been paying off our national debt at the rate of $200,000,000 per annum. It is no wonder that we see tight times when this has been done; and at the same time we have gone on contracting the currency which increased the stringency of the money market. We might have very well contracted the currency if we had not levied these heavy taxes; but the two together have produced a financial prostration that ought to have been foreseen.

Mr. SPRAGUE. Mr. President, I desire to disclaim any censure of the Secretary of the Treasury in relation to this subject. For myself I can see no reason to condemn him. At any rate I do not propose either to pass censure or commendation, but I do desire that my word shall be made good in relation to the amount of currency that has been contracted in fact.

The withdrawal of compound-interest notes contracted the currency to that amount, as the withdrawal of the compound-interest notes from the banks required the introduction of a similar amount of legal tenders to make that amount good. It was in effect, therefore, a withdrawal of the currency to that amount. Besides $4,000,000 a month that were authorized by law to be contracted of legal tenders, from November to December, 1867, the amount of $2,500,000 of compound-interest notes was retired. From October 1 to November 1 we find by the report of the Secretary of the Treasury nearly fifteen million dollars were retired; and from September 1, 1867, until October 1, 1867, $5,000,000 were contracted; and from August 1, 1867, until September 1, 1867, we find $23,000,000 were contracted.

Mr. FESSENDEN. I should like to ask the Senator from Rhode Island a question. I want to ask him whether he imputes that to the action of the Secretary of the Treasury?

Mr. SPRAGUE. To the law.

Mr. FESSENDEN. The Secretary was bound to do it by law.

Mr. SPRAGUE. Certainly.

Mr. FESSENDEN. He had to redeem this paper and he had no authority to put it out again.

Mr. SPRAGUE. I disclaim any censure on the Secretary.

Mr. FESSENDEN. I wanted it understood that he was only obeying the law.

Mr. SHERMAN. The fact turns out precisely as I supposed. The compound-interest notes became due. It was not the fault of the law or anybody else. They became due and the Government had to pay them as a matter of course. On payment they were retained and canceled and they could not be reissued. The Secretary complied simply with the law; hence he thought it right to reduce the currency $4,000,000 a month and did it; he paid the compound-interest notes as they matured; that he was compelled to do it because the notes matured and he had to pay them.

There has been a great deal of complaint made in regard to the exercise of this discretionary power. I have never said a word on the subject and have no complaint to make. I have no doubt the Secretary acted according to his understanding of the good of the country, but he may have made mistakes. I believe when he contracted the currency one or two months last fall he made a mistake; that he contracted at a time when the business of the country demanded rather more than less currency; but I have never found fault with him simply because he exercised a power conferred on him by law, and I have no doubt exercised it honestly. But at the same time it is not a power that I think ought to be continued.

Mr. GRIMES. I should like the chairman of the Committee on Finance to inform the Senate what is the number of compound-interest notes now outstanding and when they are redeemable.

Mr. SHERMAN. On that very point I desire to make a statement in reply to the Senator from Maine. The Senator from Maine properly says that we cannot resume specie payments, a thing that must come sometime, without some distress. He agrees that the process must be gradual, that anything like a sudden shock would be injurious, and he himself opposes it. Now, let me submit to the Senator that there will mature within the next six months $46,244,780 of compound-interest notes which are now a part of the currency, held by the banks as a portion of their reserve. When they are paid off, as they must be during the spring and summer, that is so much contraction, just as if you destroyed $46,000,000 of United States notes. It is not possible that the good of the country and the safety of the business of the country can allow a greater contraction of the currency than this. And there is no way to meet these $46,000,000 but by paying them off and canceling them, except by using the balance of the three per cent. certificates, which is about twenty-six million dollars; so that there will be at all events a contraction of more than twenty million dollars before the 1st of August. It seems to me that any authority in the Secretary of the Treasury to contract at a greater rate than that would be utterly futile; he could not exercise it; it had better be withdrawn.

To this the Senator from Maine replies forcibly: "The Secretary says he will not exercise the power; it is demonstrated that he cannot exercise it; then why take it away from him?" The answer is that this question of currency ought not to depend on the discretion of any one man, and if the public interest shows that he ought not to contract the currency the law ought not to allow him to have the power to contract the currency. Although I believe Mr. McCulloch will exercise that power honestly, yet as I am satisfied that he should not exercise it now and for some considerable time, I think it is wise for us to take from him an authority which, if exercised at all under present circumstances, will be abused. I have no want of confidence in the Secretary; I have never yet in my official or personal intercourse with him seen any disposition to violate law or do what he did not conceive to be right. At the same time I say that a discretionary power of this kind conferred on him, which cannot be exercised without injury to the public, ought not to be continued on the statute-book.

When the compound-interest notes are paid and our circulation is reduced to $550,000,000 of legal tenders—I include in this the United States notes and the national bank notes—the currency of this country will be reduced very nearly to the standard of what it was before the war. At any rate, when the compound-interest notes are paid off the entire currency of the country will be reduced to $550,000,000, as I have already shown, deducting the bank reserve from the aggregate. Before the war the circulation was estimated at $200,000,000 of bank notes outstanding and $200,000,000 of gold, making $400,000,000. I say, then, that when the compound-interest notes are paid off our currency will be reduced to very nearly the standard of what it was before the war.

The question is, how shall we approach specie payment? I say not by contraction any further, because you cannot approach specie payments by contraction except through a distress and a destruction of all the business interests of the country that our people will not tolerate and will not submit to. You cannot approach specie payments by contraction alone, though you must contract somewhat. Whenever money is easy it is right enough to contract, but when money is tight the contraction must cease.

Mr. FESSENDEN. And more be put out immediately?

Mr. SHERMAN. Yes, sometimes more ought to be paid out. I will adopt the suggestion of the Senator: at times there ought to be an increase of the currency. So it is in England. When times became very tight the Bank of England is authorized by law to issue an increased circulation, and sometimes the very authority to increase destroys the necessity for it; and I have no doubt that if we could devise a way by which at times the currency might be increased temporarily it would be a wise provision. After the war between Napoleon and Great Britain by act of Parliament the time for resuming specie payments was extended four different times. They approached gradually the period fixed for specie payments; hard times came on; appeals were made to Parliament, and they extended the time one year, and again a year, and then a year more, and not until 1823, an interval of seven years, did they resume specie payments. The period was extended from time to time according to the condition of the trade of the country.

Mr. EDMUNDS. Allow me to ask my friend whether on the passage of the last act the bank and the speculators were not just as much opposed to coming to specie payments as they were the first time?

Mr. SHERMAN. There is always a class of the community opposed to the resumption of specie payments. The debtors are always opposed to the resumption of specie payments and the creditors are always in favor of it.

Mr. FESSENDEN. I should like to ask my friend a question in connection with the argument he has made in regard to currency. Is it the intention of the Committee on Finance, with the view they take of the subject, to again assert the policy of contraction before Congress adjourns?

Mr. SHERMAN. I cannot speak for the Committee on Finance, because they have taken no action on that question. All they have done is to report this bill now pending.

Mr. FESSENDEN. If they take this one step in the other direction I want to know if they are to resume and sustain the policy which was agreed upon during the last Congress—a gradual contraction according to the means of the country in order to reach specie payments at as early a day as possible.

Mr. SHERMAN. The Senator from Maine knows very well that I cannot answer that question until the committee act. They have not yet acted on that question. They have only acted on this proposition.

Mr. FESSENDEN. I think the committee have acted, because they have reported what looks like the policy suggested by the Senator, of gradually increasing the currency when you

want paper and reducing when you do not. That is apparently their present position.

Mr. SHERMAN. I am in hopes my friend from Maine, when that proposition is fairly discussed and considered, will agree with me that it is a very wise provision. I trust he will not make up his mind until after we have discussed it. But at present it is the opinion of the committee, and I believe it is the opinion of our constituents in all sections of the country without regard to party, that all discretionary power over the currency should cease, and let the country rest under the extraordinary contraction that has gone on the last two years until revived industry can lift the credit of the Government and carry on the business of the country upon the basis of the present circulation, looking, no doubt, to a time when we may further contract and resume specie payments.

Mr. MORRILL, of Vermont. I understand the chairman of the Committee on Finance to assert that the Bank of England is by law allowed to increase or diminish the amount of its circulation. I desire to ask the chairman whether that is so or not. I do not so understand it.

Mr. SHERMAN. Up to a certain limit it may increase or diminish, and then it may raise or lower the rate of interest.

Mr. MORRILL, of Vermont. That is a very different question. I know it has the power to increase the rate of interest, but its circulation is absolutely based upon fixed positive law, and that is to the amount of securities held by the Government and the amount of specie held in reserve.

Mr. FESSENDEN. Pound for pound.

Mr. SHERMAN. But it has a right to circulate up to a certain amount, and all circulation beyond that must be based upon gold deposits. However, it is not necessary to pursue that argument.

Mr. HENDERSON. I should like to ask the Senator from Vermont—perhaps he is more familiar with the question than myself—if the privilege of issuing paper upon the deposit of gold in the Bank of England is not often suspended in time of commercial distress, and paper issued without the deposit of gold?

Mr. MORRILL, of Vermont. It was in the crisis of 1857, and it has been since, and was once before. The Government of England have authorized the directors of the Bank of England to disregard the law and have come into Parliament afterward to get an act to ratify the proceeding or to legalize it.

Mr. HENDERSON. And it has been twice ratified by Parliament?

Mr. MORRILL, of Vermont. I think it has been.

Mr. HENDERSON. There is no doubt about it, I suppose.

Mr. MORRILL, of Vermont. But that was in times of great distress—a great crisis.

Mr. HENDERSON. Mr. President, I shall not detain the Senate on this subject. I desire to see the bill passed; but, like the Senator from Ohio, I do not feel that it is absolutely essential that it should pass, provided the Secretary of the Treasury should remain of his present opinion and not undertake to further contract the currency. It matters not to me what gentlemen may say about a return to specie payments. I am very well satisfied that if a return to specie payments is attempted by stress of law and by contraction under the present state of affairs, and at the rate of $4,000,000 a month, or even at the rate of $2,000,000 a month, the country will be entirely bankrupted in less than six months from to-day—not the country, perhaps, but a great many business men will be bankrupted, and the law which we passed at the last session will be exceedingly beneficial in granting bankrupt certificates. I do not stand here for the purpose of condemning the Secretary of the Treasury, because in many of his views and opinions I agree, and especially in that one which he so persistently urges, namely, a return to specie payments. I differ with him in regard to the time of returning to specie payments. Sir, the country is in no condition now to return to specie payments, and an effort on our part to do so, I say again, would simply end in bankruptcy. On the 12th of April, 1866, Congress passed a law, which has been alluded to by other Senators, in which it was provided:

"That of United States notes not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month."

That act was passed on the 12th of April, 1866. Now, sir, I hold in my hand a statement showing the monthly movement of the public debt from July 1, 1865, to December 1, 1867, which Senators can obtain from the document-room. It is Senate miscellaneous document No. 13. By referring to this document they will find that the greenback circulation on the 1st of May, 1866, was $414,892,156, and on the 1st of June, 1866, it had been reduced to $401,856,156. There was a reduction of the greenback circulation from May 1, 1866, to June 1, 1866, of $13,000,000, whereas the law required that there should be a reduction within six months of only $10,000,000.

Mr. EDMUNDS. The Senator will allow me to say that the law only prohibits the retiring and canceling of more than that amount in six months. The Secretary of the Treasury might make use of the notes in the regular way at the Treasury, I take it.

Mr. SHERMAN. There is another explanation. Under the law of two years before, I will state to the Senator from Missouri, the amount of these notes was fixed at $400,000,000, which reserve had been encroached upon, and they retired that amount, of course, before the law of April 12, 1866, took effect.

Mr. HENDERSON. That may be so; but I call the attention of Senators to the fact that from November 1, 1866, after the expiration of the six months, when the greenback circulation was $397,927,428, there was a reduction of more than twelve million dollars to December 1, 1866. How was that done? The amount reported on the 1st of December, 1866, is $385,220,167. Here is an absolute reduction of the greenback circulation within one month after the expiration of the six months, and when the currency had fallen within the $400,000,000, of $12,700,000—three times as much as Congress had authorized. There is no explanation, certainly, for that state of affairs, because the contraction was to be limited to $4,000,000 per month.

Now, sir, I will refer to another fact. It was ascertained by March 2, 1867, that this contraction was ruinous to the country. The contraction was not only in greenbacks. It will be remembered that the compound-interest notes were permitted to be held by the national banks in their reserve; but, of course, upon the maturity of these six per cent. notes they were being rapidly retired, and in the process of their cancellation or funding they were taken from the vaults of the national banks, and as they were taken away the banks themselves must necessarily contract. On the 2d of March, 1867, an act of this character was passed:

"That for the purpose of redeeming and retiring any compound-interest notes outstanding the Secretary of the Treasury is hereby authorized and directed"—

He was not simply authorized but directed—I suppose, of course, if it could be done, and I understand that it could be done—but the Secretary refused to do it, and hence the direction of Congress—

"To issue temporary loan certificates in the manner prescribed by section four of the act entitled 'An act to authorize the issue of United States notes and for the redemption or funding thereof, and for funding the floating debt of the United States,' approved February 25, 1862, bearing interest at a rate not exceeding three per cent. per annum, principal and interest payable in lawful money on demand; and said certificates of temporary loan may constitute and be held by any national bank holding or owning the same, as a part of the reserve provided for in sections thirty-one and thirty-two of the act entitled 'An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof,' approved June 3, 1864."

I wish not to misrepresent the Secretary on this point. I may be mistaken. Perhaps the Senator from Ohio can correct me. I understand he had authority to fund $50,000,000 of the compound-interest notes in these three per cent. certificates.

Mr. SHERMAN. He has funded $23,000,000.

Mr. HENDERSON. No, sir; only about thirteen million dollars, as I understand.

Mr. SHERMAN. Twenty-three million dollars, according to the statement of the 1st of January.

Mr. HENDERSON. Then the additional amount must have been within a few days past.

Mr. EDMUNDS. Will the Senator allow me to call his attention to the fact just alluded to with respect to the apparent excessive diminution of United States notes in October, 1866, which led him to infer that the Secretary had exceeded his authority in retiring more than four millions in that month? The Senator will notice that the statement that he holds in his hand is a statement of the outstanding public debt on those days. Now, the way those statements are made up in connection with the statements that are furnished to us, as he will see by the paper he has on his desk, is this: in stating the public debt, the amount of currency on hand in the Treasury treated as cash, which they may issue to pay debts the next day, and do, as it is wanted, does not enter into the statement of the public debt, and therefore if in October or November, 1866, it appeared from that statement that the public debt in United States notes had been diminished $10,000,000, the Senator will find, when he refers to the statement of cash balances on hand, it is accounted for by the fact that it is in the Treasury as cash to be issued. He will see by this statement which I hold in my hand of the public debt on the 1st of January, 1868, that the amount of currency, that is to say, United States notes and other lawful money, in the Treasury is more than $25,000,000, and that he will find to be the explanation of the apparent excess of diminution.

Mr. HENDERSON. I must confess that I am at a loss to understand the explanation. It may be my own fault, however. I understand that this is a statement of the public debt of the United States. Then what had become of the remaining greenbacks? I understand that there was outstanding on the 1st of November, 1866, $397,927,428, and only $385,220,167 on the 1st of December, 1866. What had become of the remainder? And there is a constant decline from that day to this.

Mr. EDMUNDS. Very well. The remainder in that particular month, taking one month at a time, if the Senator exercised the authority of retiring $4,000,000 is accounted for in this way: the Senator will find, when he looks at the cash balances in the Treasury on that day that the $8,000,000 was in the Treasurer's office as cash subject to draft, and he will find it so in this very statement. ["Oh, no."] If Senators will look at the papers, instead of saying "Oh no" they will find that the statement of the debt on the 1st of January is represented in this way: "debt bearing coin interest, $1,890,102,091 80; debt bearing currency interest, $328,491,230; matured debt not presented for payment, $15,871,640 83; debt bearing no interest, United States notes—"that is outstanding"—$356,159,127; fractional currency, $31,597,583 85; gold certificates of deposit, $20,104,580," making $407,861,290 85; "total debt, $2,642,326,253 48." Then comes "amount in Treasury, coin, $108,430,253 67; amount in Treasury, currency, $25,770,349 71;" which, deducted from the outstanding debt, leaves the amount of actual debt, less cash in the Treasury, so much. Now I think the Senator will find when he looks at the cash settlements that the supposed violation of law will be represented by cash in the Treasury for the payment of the debts of the Government.

Mr. HENDERSON. The Senator has referred to the statement of the public debt on

the 1st of January, 1868. I am seeking light. I desire simply to be informed, for I have been misled by the statement from the Department if I am not correct. Do I understand the Senator to say that in this statement of "United States notes $356,159,127" and "amount in the Treasury, currency, $25,770,349 71" the $25,770,349 must be deducted from the $356,159,127, or that it must be added to it, to show the entire greenback circulation now outstanding?

Mr. EDMUNDS. I intend to say that, if I understand this statement, the $356,000,000 does not embrace the $25,000,000 which are stated below.

Mr. HENDERSON. The Senator is simply mistaken. His correction of me certainly will not stand good, because there are but $356,000,000 of United States notes now outstanding, whether in the United States Treasury or anybody else's treasury.

Mr. EDMUNDS. That remains to be determined. It appears in the way in which the statement is made up, as this statement appears on the face of it, the amount of currency in the Treasury is treated as cash representing just so much money, to diminish the amount of actual liabilities of the Government over and above its resources. It may be that my suggested explanation is an error, because it may be the actual fact in the Treasury is the other way; but speaking from these papers that would appear so to me.

Mr. HENDERSON. I should like to ask the Senator, then, of what this currency item consists. Is it greenbacks, or what is it?

Mr. EDMUNDS. I suppose it is everything which is lawful money, which the Treasurer of the United States or any receiving officer is entitled to receive.

Mr. HENDERSON. Then, of course, it destroys the Senator's correction of myself, because if there are $356,000,000 outstanding it will neither do to add or subtract the $25,000,000, because it may consist of something else than greenbacks.

Mr. EDMUNDS. The amount authorized to be issued by law is $400,000,000, which may be outstanding. That is the limit. Now, then, I understand this statement to mean that the Secretary of the Treasury has outstanding out of the Treasury so much; he has in the Treasury so much, making the total amount of United States currency which may not be used passing in and out of the Treasury $356,000,000 plus the $25,000,000, making $381,000,000.

Mr. HENDERSON. I may be mistaken.

Mr. EDMUNDS. I may be; but that is the way it occurs to me.

Mr. HENDERSON. This $25,000,000 may consist of national bank notes.

Mr. EDMUNDS. Certainly, and part of it does, undoubtedly.

Mr. HENDERSON. Then there can be but $356,000,000 of greenbacks uncanceled on the 1st of January, 1868.

Mr. EDMUNDS. I do not see the consequence stated by the Senator.

Mr. HENDERSON. That must be so; or else how is the Senator to arrive at anything like a correct statement as to the amount of greenback circulation outstanding at any particular time? It means simply that it is that amount of United States notes uncanceled, and it may be in the Treasury of the United States. There may be a large quantity of it in the sub-Treasury, at New York; there may be a large quantity of it in the sub-Treasury at St. Louis; it may be at Burlington; it may be at different parts of the United States: but it is not for the Secretary of the Treasury to determine where it is or where it is not. It is easy for him to determine the amount of United States notes uncanceled, and that is what he reports to us.

Mr. EDMUNDS. The object of these statements is to show the public from month to month how we stand, just as a banker or business man would want to know how he stood; and in order to do that the Secretary shows us how much he owes, and how much money, that is, lawful money, coin and currency, he has to diminish the apparent amount of the debit side of his balance-sheet ledger with, and therefore he states all that is outstanding that he is liable to pay, and gives us all he has got in the Treasury that he is lawfully authorized to pay with. Therefore, although this $25,000,000 is undoubtedly composed in part of national bank notes and whatever else is lawful currency, he may state it in that way in order to show what his resources are.

Mr. HENDERSON. The Senate, I suppose, will understand the position assumed by us both. I think the Senator is mistaken. However, I may be.

Mr. EDMUNDS. It is very possible I am.

Mr. HENDERSON. But suppose I am mistaken in regard to the greenback or United States note circulation; I next come to the proposition that the contraction of the currency does not come from this point. The great contraction of the currency comes from another point of view entirely, and that is the funding or the payment of the compound-interest notes, if I understand it properly. If gentlemen will turn to this statement they will find that on the 1st day of March, 1867—the day before the passage of the act of March 2, 1867, which I have read—there was $141,000,000 of compound-interest notes outstanding; April 1, 1867, $139,000,000—I use round numbers—May 1, 1867, $134,000,000, a contraction of $5,000,000; June 1, 1867, $130,000,000, a contraction of $4,000,000; July 1, 1867, $122,000,000, a contraction of $8,000,000 more; August 1, 1867, $114,000,000, a contraction of $8,000,000 more; September 1, 1867, $91,000,000, a contraction of $23,000,000 in one single month. I say "a contraction." It is a contraction simply because it renders the national banks less able to keep out their own circulation and forces them to the necessity of calling in their discount line and collecting from their customers that amount of money. It forces them, of course, to put themselves in line, as bankers term it. Therefore the mere withdrawal of the compound-interest notes, with nothing else outstanding to be held as a reserve, forces a contraction upon the national banks, just as a loss of coin in a bank forces the bank to a contraction in order to get into line. Now, here is a contraction of $23,000,000 from the 1st day of August to the 1st day of September, 1867. Up to the 1st of October there is another contraction of $5,000,000, the amount having been reduced to $86,000,000. On the 1st of November there is a contraction of $15,000,000 on this line again, leaving the amount $71,000,000; and on the 1st of December, 1867, there was a further contraction of $2,000,000, leaving the amount $69,000,000.

Now, Mr. President, what was there to relieve that thing? On the 2d of March, 1867, the provision was passed allowing the three per cent. certificates to be substituted and held by the banks as a reserve. Did the Secretary use that authority? He certainly did not until November 1, 1867, because no three per cents. were issued until during the month of October. There were never any reported until November 1, 1867, and then he reported $11,560,000. Notwithstanding all this contraction at the rate of from fifteen million to twenty-three million dollars a month in compound-interest notes, which enabled the banks, of course, to keep their circulation out, none of the three per cents. were issued until the month of October, because on the 1st of November, 1867, we have $11,560,000 reported, and December 1, 1867, $12,855,000. My friend from Ohio says there are $23,000,000 out. I did not look at the last statement. The statement for January 1, 1868, has been handed me, and I see the Senator from Ohio is correct, because between December 1, 1867, and January 1, 1868, there has been an issue of nearly eleven million dollars more. There is $23,265,000 out now, and on the 1st of December, 1867, there was $12,855,000. It is that contraction of which the people, in my section of the country, at any rate, complain. That is really the contraction.

One word more, Mr. President, and I have done. Our public debt was created with a circulating medium rising one thousand million dollars. A large portion of the bonds were floated and sold at par. We did not want to sell them beneath par, but we floated them on a circulation of from one thousand million to twelve thousand million dollars. We passed laws declaring that we would not carry on the war with gold or the representative of gold, but we would adopt what we called a legal tender, and compel the creditors of the Government to take it. The soldier was paid in it. We had agreed to pay the soldier in coin, I suppose, if we agreed to pay anybody in coin. We agreed to pay him in what was known as the dollar prior to 1862. We paid him off, however, in the dollar fixed by the acts of 1862, 1863, and 1864. In order to keep our bonds at par we floated them up just as we would put a canal-boat through locks. We run into the first lock, and we must have water enough to raise it to the second lock. We found a difficulty in floating our bonds. We wanted to get up into the second lock. We first issued $150,000,000 of greenbacks. That was not satisfactory. We issued $150,000,000 more, and then $100,000,000, making $400,000,000, or rather authorized it, and issued very nearly that amount. We were not satisfied with that. We issued hundreds of millions of six per cent. compound-interest notes. We were not satisfied with that. We issued what we called, not United States notes, because those are the greenbacks, but we issued what were called Treasury notes, bearing interest. All these went into the circulation. A great many of our bonds were bought by individuals at from forty to fifty cents on the dollar in gold, and we all know it. There is not a man in the country anywhere who does not know it. The debt was contracted with this bloated state of affairs.

Now, the very moment the war is over everybody looks to a resumption of specie payments. I want to come to it, too. We have now to bring our canal-boat down the locks, and gentlemen will not permit us to let the water in the lock, but we must butt it down and destroy the boat. Sir, we went up by taking time and letting the water into the lock. Now let us come down in the same way, and thereby preserve the boat. If we undertake to come down otherwise we shall destroy the vessel.

Mr. EDMUNDS. We shall not come down by letting water into the lock. We must pour it out.

Mr. HENDERSON. I may not understand canal-boating as well as my friend. I believe we have no canals in my State; but I undertake to say it would be well to leave the water in the lock and not draw it out before the boat comes upon it.

I may be allowed, perhaps, another illustration. However, I cannot speak personally on that subject any more than I can in reference to locks and canals. I have but little experience on either of these subjects. It seems to me that to undertake to drive the country in this state of affairs to a resumption of specie payments by contraction is about as reasonable as it would be for a physician who should call upon a poor patient who had been laboring for some considerable length of time under *delirium tremens* to recommend that his liquor be stopped instantly. The man has kept himself excited, perhaps, for three or four months with spirituous liquors. The country, recollect, was excited during the whole period of the war. We kept pouring in this stimulant of paper money; and why? To float the bonds. We did not want to sell them below par. We refused to sell our bonds at forty cents on the dollar in gold and carry the war on in money, as Napoleon did when he got rid of the paper money of France; but we resolved to keep our bonds at par, and to issue paper money enough to drive them up to par. Hence it was that the country labored

under the effects of *delirium tremens*; and that was the condition of the country at the close of the war. Now gentlemen say that the liquor must be stopped instantly, and that this poor, miserable wretch must not have another drink. Perhaps a physician might say so; but my impression is that the patient in that event would inevitably die; he must have a stimulant.

Mr. FESSENDEN. Nobody has said that we should come to specie payments instantaneously.

Mr. HENDERSON. Perhaps I am wrong. I thought somebody said so.

Mr. FESSENDEN. Nobody has intimated anything of that kind.

Mr. HENDERSON. You mean to say that you did not.

Mr. FESSENDEN. Nobody in this Chamber has said so.

Mr. HENDERSON. I have heard gentlemen assert that we are in a condition to resume specie payments to-day, and that it ought to be done by a fiat of this Congress.

Mr. FESSENDEN. I wish simply to say to the Senator that when I discuss these question and speak to what gentlemen say I mean the gentlemen who have the matter under consideration here and not what you may read in the newspapers or hear out of doors. We are not responsible here for what A, B, C, or D may choose to assert outside.

Mr. HENDERSON. I am not surely holding the Senator responsible, nor was I directing what I said to him; nor do I know why he should consider that I had any reference to him at all. I certainly can refer to the fact that there is a sentiment prevailing, even with a few individuals it may be, that the country must be driven to the resumption of specie payments all at once. I am not inclined to think that it is going to benefit the community to undertake it. Indeed I think it will almost destroy the country to do it.

Mr. FESSENDEN. Nobody proposes to do it.

Mr. HENDERSON. Why not, then, pass this bill?

Mr. FESSENDEN. The reason is that this abandons the idea even of any contraction and return to specie payments at all.

Mr. HENDERSON. I do not think so.

Mr. FESSENDEN. I do.

Mr. HENDERSON. I am in favor of returning to specie payments, but I am not in favor of leaving this power at present with the Secretary of the Treasury. However much confidence I may have in his sagacity and his ability as a finance minister, I am not at the present time even willing to leave this power in his hands. The country demands confidence, and that confidence can only be restored by Congress saying that the currency must be left as it now is at least. If there is to be no expansion let there be no contraction. The business men of the country demand it. I speak for my own particular section, the western part of the country, and more especially for my own State, and I have no business going outside of it in all probability; but I am satisfied that the business of that State demands that we shall not further contract the currency at present.

Mr. EDMUNDS. Will the Senator allow me to ask him a question?

Mr. HENDERSON. Yes, sir.

Mr. EDMUNDS. Does the Senator think we can return to specie payments so that we can pay these legal tenders in coin when presented for payment without some further contraction?

Mr. HENDERSON. That involves the whole question of finance, and at the appropriate time I may be disposed to go into that question, but surely not on this little bill to-day.

Mr. EDMUNDS. I merely asked for the Senator's opinion; that was all.

Mr. HENDERSON. I have views, and perhaps fixed views, on that subject; but surely I would not go into that question to-day on a measure of this character—a measure which, in my judgment and the judgment of other Senators who have addressed the Senate, a majority of this body demand, and a majority, I am satisfied, of the people demand. Therefore, I leave the question of the Senator to some more appropriate time. I am satisfied the public debt can be paid. Whether it or any part of it ought to be paid immediately is another question. I believe that no part of the principal ought to be paid at present, and that we ought to agree to pay this public debt in coin and reduce the rate of interest within the limit of the ability of the people of this country to pay. That is my judgment about it; and when that is done the country will go to work, business will revive, and they will determine to pay the interest and principal, and it will be done in the proper time.

Mr. MORTON. Mr. President, I do not concur in the remark made by the chairman of the Committee on Finance, the Senator from Ohio, that he did not regard this bill as very important, because the Secretary of the Treasury had intimated that he would not retire any portion of the currency perhaps during this winter or until Congress had acted on the subject. As long as the question of retiring the currency is left to the discretion of the Secretary of the Treasury or to any one man the policy of the country cannot be said to be settled. What the business men of this country want to know is what the policy of this country is going to be for the coming year or two. They want to know on what to calculate in the way of business. The $4,000,000 that might be retired this month or next month, perhaps, might not be very important. They want an established policy for the business of 1868 and the business of 1869.

Now, sir, there is much financial embarrassment and trouble throughout the country, and there is a general conviction on the part of the great body of business men, not only throughout the Northwest, but in the East, that this embarrassment is largely owing to the contraction of the currency. For this large body of public opinion I have a great respect. The concurrence of so many thousand intelligent men, who have devoted their time and attention to financial questions—many of them reading and thinking about these things quite as much as any Senator on this floor—the concurrence of so many thousand minds in the opinion that our financial embarrassment is largely due to the contraction of the currency is, in my opinion, entitled to great consideration; and I think that that large body of public opinion is wiser than the opinion of any one man, be he who he may.

It was stated by the Senator from Maine, for whose opinion I have great respect, that if we resolve to discontinue the contraction of the currency it is the indefinite postponement of a return to specie payments. I do not regard it in that light. If I thought so I should not vote for this bill. I am not one of those who believe that an irredeemable paper currency can be continued in this country indefinitely or for a generation. I believe that an end must come to that, and that we shall be compelled, and we shall find it to our interest as soon as we can, to return to a healthy, sound specie basis.

The question was asked by the Senator from Vermont [Mr. EDMUNDS] whether it was necessary that we should further contract the currency in order to arrive at specie payments. I do not hesitate to give my opinion, poor as it is, on that subject, that we can return to specie payments without the further contraction of the currency, and that we cannot return to specie payments simply by a contraction of the currency without producing almost universal commercial bankruptcy and ruin. I should like to have the opinion of the Senator from Maine on this question, whether we are to return to specie payments by continuing to contract the legal-tender currency until it is all taken up—whether it is his idea of returning to specie payments to continue this contraction until all is gone.

Mr. FESSENDEN. I do not suppose it is necessary to take up the last dollar of it, but I suppose it will be necessary to so reduce the obligations the Treasury may be called upon to pay that it will be ready at any time to meet the claims upon it with gold, which I think it will not be as long as it remains in its present condition.

Mr. MORTON. I cannot say that the answer is very satisfactory. I should like to know how far we are to contract, and how far we are to diminish the currency before we can probably return to specie payments, in the opinion of the Senator?

Mr. FESSENDEN. That would depend entirely on the condition and power of the Treasury at the time, which neither I can foresee nor the Senator. It would depend on the condition of things in the country. Nobody can now fix exactly the time nor say what amount of reduction should take place to bring about that result.

Mr. MORTON. I believe that we cannot reason in regard to what it will require to return to specie payments now by the condition of the country before the war.

Mr. FESSENDEN. I will ask the Senator a question. Do you believe that the Treasury at present, if we should by law say there should be specie paid at once, could do it?

Mr. MORTON. No, sir; I do not believe that is the method of returning to specie payments.

I was remarking that I believe we require more currency now to conduct the business of the country than before the war. The enormous revenues that have to be collected, the increase of business, and the rapidity of the increase of our population, I believe, make it necessary that we shall have from two to three hundred millions more of currency than we had before the war. When I see articles or read speeches in which the amount of currency prior to the war is referred to as being the basis to which we shall have to come back before we can return to specie payments I regard that argument as unsound. We cannot return to specie payments at once. I am of the opinion that there should be a definite time fixed in the future when the country will return to specie payments, so that the country may understand it and work upon it. The period fixed should be such as to give reasonable time for a fair resumption of business North and South; it should give time for good crops; it should give time for reconstruction; and if I had the fixing of the time I would not say a day earlier than the 1st of January, 1871, and perhaps that may be too soon; but I believe that when we do return to specie payments it will be by fixing a time in the future, and that the value of our legal-tender notes will gradually appreciate to par. It cannot be done at once; but I believe it can be done in that way with the amount of gold on hand that is ordinarily supposed to be necessary for the purpose of meeting a paper circulation.

I believe this can be done without a further contraction of the currency; that the further contraction of the paper currency of the country can be deferred until the time when we do return to specie payments, and it will then take place by the act of return. To-day gold and silver are not a part of the currency any more than horses and cattle. They are articles of merchandise. But on the day that we return to specie payments we shall add all the gold and silver in the country to the currency of the country, and we shall inflate it to the amount of from two hundred and fifty to three hundred and fifty millions on that very day. We shall on that day add all the gold and silver in the country to the currency of the country, and increase the volume of currency to that extent, whatever it may be; and then we can retire a portion of our paper currency, and still maintain an equilibrium as to the volume of currency, a part of it then consisting of gold and silver.

But, sir, in my judgment the country will not now bear the further contraction of the cur-

rency. We have not recovered from the effects of the war. We cannot be governed simply by theory, but we must recognize the facts of the case. One great cause of the present depression in the business of the nation arises from the fact that we have paid nearly five hundred million dollars of the national debt since the 1st of August, 1865. Nearly five hundred million dollars have been extorted from the people by way of taxes in payment of the national debt, a policy that has been most ruinous and disastrous in my opinion. We should be in far better condition to-day if we had simply paid the interest on that amount, or had only paid a small portion of it. But, sir, when we came to take $500,000,000 from the people—exhausted from the war, worn out; to take $500,000,000 from the loyal States over and above the vast amount required to carry on the Government, to keep up the Army and the Navy, to pay pensions and bounties, and all the current expenses of the country—it was more than the people could bear; and when we propose to add to that the continued contraction of the currency at a time when the people demand relief, we need not expect anything but commercial distress and perhaps ruin. The country demands that we shall suspend the further contraction of the currency. The great body of business men, in whose opinions I have the utmost confidence, far more than I have in my own; men who have studied finance for years, far more than I have, or perhaps any Senator on this floor engaged in general politics—the great body of those men concur in the opinion that we ought at once to stop the contraction of the currency. Sir, we should heed that opinion. We should take into consideration the circumstances of the country. We should look to the present as well as the future, and to the practical operation of what may in theory be good, and not allow practical evil to flow from theoretical good.

It was said by the Senator from Nevada that the passage of this bill would be regarded as a vote of censure against the Secretary of the Treasury. I do not regard it in that light. We have a right to curtail the discretionary power of any officer without reflecting upon that officer. We have a right to fix the administration of the finances by law without reflecting upon the integrity or the capacity of the Secretary of the Treasury. The Secretary of the Treasury is wise in financial matters, but he is not wiser than all the business men of this country, and they protest almost with one voice against having the further administration of the currency left absolutely in the hands of one man. I think, therefore, sir, it is due to the country that we should pass this bill without any further delay.

Mr. HOWE. Mr. President, I do not know when I ever attempted to say anything upon a question pending before the Senate with more reluctance than I now rise to say a few words on this bill. I had no intention of participating in the debate, and I should not do so now but for the very peculiar reason that the Senator from Maine has stated here so emphatically and so irresistibly to my mind the real, fundamental principle upon which I believe the finances of the country should be administered, that I cannot allow myself to be put in the attitude of dissenting from anything he said; and yet while I subscribe with my whole heart and with my whole mind and with my best judgment to the principle he has laid down. I feel compelled to vote for this bill.

Mr. President, if I regarded this bill as nothing more than a bill to prevent the contraction of the currency, in which light it is spoken of almost exclusively, I might hesitate whether I would go for it or not; but I regard it as something very much more than that. The law which this bill proposes to repeal or to suspend the operation of I look upon very differently from a law just to authorize a contraction of the currency. It seems to me, on the contrary, to be a law authorizing the levy of a large tax annually upon the people of to-day to discharge the public debt; and I do not think the people of to-day are equal to meeting that taxation or able to bear it. This country can, in case of necessity, yield very large revenues even upon the system on which your revenues are assessed and collected, which I think unequal and unjust. In case of necessity they can return, and have returned, an immense revenue to the country; but I think it must be manifest to every man of common sense that they can pay a great deal more into the Treasury under a system of laws which disburses it again to the country than they can under a law which authorizes it to be destroyed in the Treasury. The trouble with this act which you now propose to suspend the operation of seems to me to be that it authorized the collection of a very heavy tax, and authorized the Secretary of the Treasury to destroy the proceeds of that tax to wipe it out. You did not release or lessen taxation, but were drying up the very means and resources out of which taxes are to be paid, thus imposing a double burden upon the people at the same time.

I do not think that the people of this year or of the next, just issued as they are from a terrible struggle, a most exhausting struggle, ought to be called upon to pay any large proportion of the existing debt. I do not think they ought to pay a dollar more than the interest of that debt for this year, for the next year, or possibly for several years to come. When business has again resumed its normal condition then it will be time enough to take measures to reduce the principal of the public debt. If we of to-day can pay the interest on what we owe and honestly discharge the current expenses of the Government I think that is all we ought to do. But in addition to that we have, under the bill which we now propose to repeal, authorized the payment of about fifty million dollars a year; and in addition to that we have required the payment of a large amount of the accruing debt in the shape of compound-interest notes.

Mr. MORRILL, of Vermont. Funding the notes would not pay the debt.

Mr. HOWE. No, of course not; but we have not funded those notes.

Mr. MORRILL, of Vermont. I merely desire to say to the Senator from Wisconsin that the provision of the law proposed to be repealed does not authorize the payment of any portion of the public debt; that retiring the $4,000,000 a month of these notes can be accomplished without paying a dollar of the public debt, for there is a right on the part of the holders of these notes to obtain bonds for them, and they could obtain bonds for them, and thus be retired.

Mr. HOWE. Mr. President, I am really taken by surprise at the remark made by the Senator from Vermont, for I have looked upon that act as an act which practically required the payment of the public debt and did extinguish these notes. I have not had time to read the act, but I do not understand that it authorizes the holders of these notes to convert them into interest-paying bonds.

Mr. MORRILL, of Vermont. No; not that act.

Mr. HOWE. Nor that any act authorizes the holders of these notes to convert them into interest-paying bonds, but that the Secretary of the Treasury may at the current rates of bonds change them for notes. Is that so?

Mr. MORRILL, of Vermont. The Secretary of the Treasury can pay for these notes by bonds, if he chooses.

Mr. HOWE. But at the current rates?

Mr. MORRILL, of Vermont. Yes.

Mr. HOWE. Not at the par of bonds?

Mr. MORRILL, of Vermont. No, I think not.

Mr. HOWE. No, Mr. President; and that is my difficulty with the act. Sir, the only financier, the only master of finance under whom I ever studied was Wilkins Micawber, Esq. [Laughter.] Mr. Micawber had a remarkable facility for contracting debts. That has characterized the United States for the past few years. Mr. Micawber had but a limited faculty for paying debts. That is another characteristic that I have noticed in the United States for several years past. Mr. Micawber was an honorable man, an honorable debtor. So I hope the United States will turn out to be, as so far it has appeared to be. When Mr. Micawber met his creditor, without any of the coin of the realm in his pocket, he met him like a man and gave him his I O U, and discharged the debt! The United States has practiced upon the same principle so far. We were obliged to contract debts that we could not discharge in anything like money. We had got to employ something that was not money, somebody's credit, and we did as Micawber did—we gave our creditors our I O U. We gave them our notes of hand; and every note that every one of you holds in his pocket, and I hope your pockets are full, [laughter,] is a certificate of the United States that you have advanced the amount of that note to the United States Government over and above the proportion that was required of you under the tax laws of the country. But Mr. Micawber lacked one facility, for circulating his paper, which the Government possessed. His creditors were perfectly willing to take his notes because they could get nothing else. Our creditors were willing to take our notes for the same reason. But Mr. Micawber could not enable his creditors to circulate his notes as money. We did effect that. We enabled our creditors, whom we compelled to take our notes, to pass them to their creditors and use them as money.

Mr. President, I thought the United States were acting upon a sound principle; I thought the course they took was the only course open to them; but it will be borne in mind that when they first commenced the issuing of this paper the amount was controlled by one idea, and that was that they never would issue a dollar of legal-tender notes when they could borrow the notes; in other words, that all the notes they issued should be convertible into interest-paying bonds. If the country were ready at any time to loan the Government the means to meet its engagements at a fair rate of interest the Government was willing to borrow; but when the country could not loan at a fair rate of interest the country would do like Micawber and issue its notes. That was a fair principle, and if we had kept sight of it until this time I do not think our finances would be in so embarrassed a condition as they are to-day. But unfortunately, to use the figure recently employed by the Senator from Missouri, although we did commence by floating the bonded debt of the country on to the country, we did not stop floating when we had reached the highest lock, so to speak. We kept on issuing these notes after the country preferred not to take them and after the country wished to loan them to the Government, when we might have borrowed them at a rate of interest which we agreed it was fair to pay. Hence, and from this cause you see to-day that it takes from one hundred and eight to one hundred and twelve dollars of the national notes which do not bear interest to buy $100 of the national notes which do bear interest. I do not think that is fair. If this law which you now propose to suspend had authorized every man holding these notes to turn them into the interest-paying bonds of the Government I think it would have been a just and honest thing; but that of itself would be a destructive measure while you have another statute upon your books which restricts by an iron rule the amount of paper circulation which can come from your banks.

The Senator from Ohio said that he thought the Secretary of the Treasury ought not to be authorized to restrict or to control the amount of circulation. I agree with him, but I think that Congress ought no more to be authorized to do it than the Secretary of the Treasury. Neither of them should do it. The law, in my judgment, ought to fix the condition upon which the first dollar of paper should be

issued; but having fixed those conditions, having determined in its wisdom upon what conditions it was safe to let one dollar of paper be issued, every man who should comply with those conditions should have the same right to issue a dollar. This restriction upon the amount of bank circulation or of paper circulation, therefore, is open to two objections. First, I have this objection to urge: that I think there is no body of men in the United States of equal intelligence but what is just as competent to determine the amount of money which the country wants to use at any particular time as the Congress of the United States; and the same number of business men, as my friend from Missouri [Mr. HENDERSON] suggests, are much more competent to determine it. We know less about it. We are not capitalists; at least I can speak with the utmost confidence for one, [laughter;] and we have no necessary connection with capital; we are not engaged in the business of the country; and we are the last men, in my judgment, to know just how much money the business of the country wants. Men who have money to loan, men who have money to operate with, know, it is their business to know, to keep run of the course of business, and know when it is safer to buy property with their money or safer to loan it at the current rates of interest.

Mr. EDMUNDS. How is it with men who have to borrow to pay their debts with?

Mr. HOWE. My friend asks how it is with men who have to borrow money. It is a bad thing to borrow money. I have always noticed that it was a disadvantage.

Mr. CONNESS. To which side?

Mr. HOWE. To the party who has to borrow money. I heard a remark once from a neighbor of mine, a very sensible one, and I subscribed to the truth of it at once, and I believe in the truth of it to-day. He said it had been more than fifty dollars damage to him being poor. [Laughter.] I think it is a serious, positive disadvantage to men to be poor and have to borrow money. But, Mr. President, I do not believe it is the business of the Legislature of the nation to provide for men who are poor and have to borrow money. I think, being one of the class myself, it is the business of men who have to borrow money to go to men who have money to lend and borrow it like men and pay for it if they agree to do so, and when they agree to do so, and the nation cannot by law provide for their necessities. That is my answer to that inquiry.

Mr. CONNESS. Will the Senator give way for a motion to go into executive session?

Mr. HOWE. I will give way in one moment. Now, Mr. President, it is because this act which we now propose to suspend simply authorizes the Secretary of the Treasury to sell bonds for these notes and provides nothing to take the place of the notes in circulation that I feel bound to vote for the repeal or suspension of the law.

I am not in the habit of discussing these questions, and I am not at all sure that I have said precisely what I wished to say. I rose more for the purpose of saying that I did not mean to be classed with those, if there are any in this country, who insist upon keeping afloat a large amount of irredeemable paper money; and I do not mean that my vote for this bill shall be construed into such a purpose.

Mr. President, I said when your first Treasury-note bill was pending here what I repeat to-day, that, in my judgment, there never ought to have been a note issued by the Government promising to pay specie on demand, because we knew the Government could not pay specie on demand; and I say now that there ought not to be a piece of paper circulated under the protection of law by anybody, either by the Government or a bank, which is not convertible into something that the world recognizes as money, whatever that is. The Government cannot do it without bearing the brand of a bankrupt on its brow. I cannot do it without subjecting myself to the same penalty; and a bank cannot do it. I have said that we were justified in using this paper while the war was upon us; but I believe with the Senator from Maine, that that necessity has passed by, and we must get rid of this paper as soon as we can; but it must not be taxed out of the pockets of the people and burned; and it must not be taken from the circulation of the country unless you allow the capital of the country the option of putting something in its place.

Mr. FESSENDEN. How is the debt to be paid without taxation?

Mr. HOWE. You can never pay anything except by taxation, but you cannot collect taxes when you have taken the whole circulation of the country out of the country. If you will destroy this kind of paper you must put something in its place if the business of the country and the exigencies of the country demand it; and we cannot tell, I say, how much is demanded. But take off the restriction upon the issuing of bank paper, take off the restriction from the circulation of your bank notes, determine the conditions upon which, as I said, the first dollar may be issued, and let every man issue who will comply with those conditions; place your banking circulation on the footing that it was before the war commenced and before the Government entered into the business of banking, and then you can go on and allow these notes to be funded into the interest-paying bonds of the Government—just the principle upon which the first issues of these notes were authorized. But that will subject us to one disagreeable thing—the people will have to pay interest on these new bonds.

Gentlemen tell us that the country can carry three, four, or five hundred millions of this paper and we save the interest. Sir, we pay the interest three times over in the increased price put upon every commodity the country deals in; in other words, in the depreciation of paper or in the appreciation—I think that is about as correct an expression—of that which is the true representative of values, the coin of the country. While you have that system of finance which makes gold a merchantable article the price of gold is not regulated by the law of supply and demand. The price of gold is regulated by those men there in Wall street, New York, who buy and sell their millions and millions every day without seeing a dollar of it; and while it is a merchantable commodity and stands as the representative of all other commodities, when gold goes up under the manipulations of these gentlemen everything else goes up. So they have in their hands the price of every commodity.

Mr. President, I have occupied more time than I intended when I rose, and I will now give way to the motion to go into executive session.

Mr. CONNESS. I desire to inquire of the chairman of the Committee on Finance whether he wishes a vote to-night on this measure, and whether he thinks he can get one. If so I will govern my conduct accordingly.

Mr. SHERMAN. I cannot tell, as a matter of course. I have no power over the matter. If Senators desire to debate it much further we cannot reach a vote to-night.

Mr. CONNESS. My purpose is to elicit the sentiment of the Senator on the question.

Mr. SHERMAN. I should like to get a vote, because I understand that the Senator from Maryland desires to-morrow to call up the case of his colleague. If we can have a vote at a reasonable hour to-day I should like to obtain it. It is a question for the Senate to decide.

Several SENATORS. Let us vote.

Mr. CONKLING. There are several Senators who wish to speak.

Mr. CONNESS. Then I move that the Senate proceed to the consideration of executive business.

Mr. MORTON and others called for the yeas and nays; and they were ordered.

Mr. CONNESS. If there is any general disposition to come to a vote, or if a vote can be reached this evening, I will withdraw the motion to go into executive session; but I have inquired and find that several Senators desire to speak for a short time upon the bill.

Several SENATORS. Let the call for the yeas and nays be withdrawn.

Mr. SHERMAN. I did not call for the yeas and nays; the call was made by Senators around me who desire to reach a vote. If any Senator desires to make a speech of course that is the end of all chance of reaching a vote to-night; but I inquired of several and they disclaimed any purpose to do more than say a word or two.

Mr. HENDERSON. I understand that the Senator from California desires to be heard on this subject.

Mr. CONNESS. For a few moments only.

Mr. HENDERSON. I suppose we might as well go into executive session.

Mr. SUMNER. I hope the call for the yeas and nays will be withdrawn.

Mr. JOHNSON. My friend from Ohio was under the impression that I proposed to call up to-morrow the case of my colleague-elect. It is not my purpose to call it up until the Senator from Indiana, who is not now in his seat, [Mr. HENDRICKS,] shall return here. He is one of the members of the Judiciary Committee, and I know desires to be heard on the questions which that case involves. I am told now that there is no probability of his being here before Monday. In that event I shall not call up the case to-morrow morning.

Mr. SHERMAN. That being so, I have no objection to letting this matter go over.

Mr. MORTON. I withdraw the call for the yeas and nays so far as I am concerned.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered, but the order may be recalled by common consent. The Chair hears no objection to that being done.

Mr. BUCKALEW. Before the Senate goes into executive session I desire to state that when this bill comes up again I shall move to amend it so as to limit the suspension to the 1st of July next, instead of leaving it indefinite.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 9, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PROTECTION OF WITNESSES.

Mr. WILSON, of Iowa, by unanimous consent, introduced a bill (H. R. No. 371) for the protection in certain cases of persons making disclosure as defendants or testifying as witnesses; which was read a first and second time, and referred to the Committee of Ways and Means.

CONSTITUTIONAL AMENDMENT.

Mr. MILLER. I ask unanimous consent to submit the following resolution:

Resolved, That the President be, and he is hereby requested to inform this House of the number and names of the States that have ratified the recent amendment to the Constitution of the United States passed by Congress, known as article fourteen, and of those that rejected it.

The SPEAKER. The Chair will state a similar resolution was offered by the gentleman's colleague [Mr. SCOFIELD] and adopted a few days ago.

Mr. MILLER. I was not aware of that, and withdraw the resolution.

WHISKY FRAUDS.

Mr. EGGLESTON. I ask unanimous consent to present a memorial from the Cincinnati

Chamber of Commerce in reference to whisky frauds, and have it read at the Clerk's desk.

Mr. WASHBURNE, of Illinois. Let it go into the Globe instead of being read.

No objection was made.

The memorial is as follows:

To the Congress of the United States:

At a meeting of the Cincinnati Chamber of Commerce held this 4th day of January, 1868, the following report of a special committee heretofore appointed was received and adopted:

JOHN A. GANO, Esq.,
President Cincinnati Chamber of Commerce:

The committee appointed by your board to report upon the frauds on the internal revenue, alleged to be practiced by those interested in the manufacture of distilled spirits, beg leave to say that these frauds are found to be open, unblushing, and enormous. So great are these frauds, so scandalous the practices, that the question arises: if the law be justly administered how can the continuance of such conduct be explained? The answer, we think, will be found, first, in the law itself. The tax upon spirits is so disproportionate to the cost of production that it can never be collected. The present large margin stimulates dishonest manufacture; and if all the revenue offices were filled by honest men, it is the opinion of many it would require an army, in so large a country as this, to suppress the hidden stills, whose product would speedily supplant that of the honest distiller. This tax is now, and always will be, a prohibitory tax upon fair and open business. Yet, while the demand exists for spirits it will be supplied, and the fund of corruption increased beyond control.

Again, we may ask, has the Government shown a sincere desire on its part to do its duty by the appointment of suitable persons to carry out the complicated machinery of internal revenue imposed upon the country? The major part of the exposures published throughout the country show conclusively collusion between the officer and the manufacturer; and in many instances the position under the Government has been sought solely to accumulate fortunes by infidelity and treachery. This is truly a lamentable state of affairs. The honest man who had shown a desire to fulfill the requirements of his office found himself superseded and traduced by those whose schemes had been exposed; while others, drawing nominally a pittance as a salary, soon acquired fortunes as truly astounding to the public as they were difficult of concealment to the possessor. That the law imposing a tax upon all distilled spirits has proved a failure there can be no doubt. But whether the failure arose from an excess of tax levied, a want of executive ability on the part of the revenue department, or the total demoralization of the people as to that high sense of moral obligation so requisite in the true patriot and the loyal citizen, your committee cannot say. Yet it is the belief of all who watched the inauguration of the whisky tax and marked the changes made from time to time that it has been a fraud from first to last. Congress, in taxing stocks to be made, and not stocks on hand, demoralized the manufacturer and forced him to become a speculator. The advance of the tax from twenty cents to two dollars per gallon, by gradual steps, was but the cunning device of the speculator, by which he pocketed the profits upon his accumulated stock, without paying any tax to the Government, as all he held paid the lesser tax, while the price was enhanced by the higher tax to be levied upon all stocks that should be thereafter made coming in competition with his own. Thus the whole machinery of the whisky excise law was adjusted to benefit the speculator and not the Government. Who are responsible for such legislation? Not the people; for they sanctioned as a financial necessity that system of taxation which, if honestly inaugurated and faithfully administered, would not only have paid the interest but gone far toward paying the public debt.

It would be idle to seek redress from any department in Washington so long as the present law exists or the bonded warehouse system is adhered to.

Your committee would therefore recommend the Chamber of Commerce to turn its attention to Congress, asking such modifications of the revenue laws as will—

1. Abolish all bonded warehouses, and collect the tax at the place where the article is manufactured.

2. Withdraw from all revenue officers such discretionary powers as may have been granted to them of compromising with parties charged with fraudulent transactions.

3. Compel all parties whose property has been seized for violations of the law to stand trial of the merit of their cases before the courts of the United States, and when convicted to suffer imprisonment in the penitentiary as other felons, and the loss of the property so seized, which it shall be the duty of the Government to destroy.

4. Close the distillery or manufactory of such person so convicted, and confiscate the property without redemption.

5. To alter the tax on distilled spirits to fifty cents per gallon.

6. Whatever may be the tax, that it shall be collected at the distillery, either by transferring the whisky as manufactured directly into the possession of an officer paid by the Government, to be returned to the manufacturer upon his paying the tax, or by compelling the manufacturer to place upon each package before its delivery a stamp equal in value to the tax.

7. With such modifications of the law and the coöperation of courts in the rural districts, and boards of trade in cities in the selection of revenue officers, it is believed the taxes can be collected and the country relieved of that nightmare of despondency which has depressed legitimate trade in all its branches for so long a time.

JAMES F. TORRENCE,
SAMUEL J. HALE,
JOHN GOULD,
P. ANDREW,
L. F. BARR.

In compliance with said recommendation I hereby certify said action of the Chamber for the consideration of your honorable body.

Very respectfully,
GEORGE McLAUGHLIN, *Secretary.*

The memorial was referred to the Committee of Ways and Means.

THE BANKRUPT LAW.

Mr. ARNELL, by unanimous consent, introduced a bill (H. R. No. 372) to amend an act approved March 2, 1867, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MAHALA A. STRAIGHT.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 373) to place the name of Mahala A. Straight upon the pension-roll of the United States; which was read a first and second time, and referred to the Committee on Invalid Pensions.

BRIDGE ACROSS THE OHIO.

Mr. EGGLESTON. I desire unanimous consent to introduce a resolution that is very important in regard to the bridge being constructed across the Ohio river at Louisville, Kentucky. It is merely a resolution of inquiry.

The Clerk read the resolution, as follows:

Whereas the enactment of February 17, 1865, authorizing the construction of a bridge over the Ohio river at Louisville, specially provides, first, that such bridge shall be located above the falls; second, that it shall be constructed with at least three draws; and third, that it shall in no way interfere with the navigation of said river; and whereas it is currently reported that the bridge at present being constructed is in flagrant violation of the above provisions, and most seriously obstructing the navigation of said river: Therefore,

Be it resolved, That the Secretary of War is hereby instructed to cause an immediate examination of the above facts, to be made by the corps of Government engineers at Louisville, and report the same promptly to this body.

Mr. RANDALL. I object, and call for the regular order of business.

Mr. EGGLESTON. I hope the gentleman will allow the resolution to be referred to the Committee on Commerce.

Mr. RANDALL. I have no objection to that.

Mr. EGGLESTON. I move, then, that the resolution be referred to the Committee on Commerce.

The motion was agreed to.

REV. JOHN M'MAHON.

The House resumed, as the business in order during the morning hour, the consideration of the joint resolution (H. R. No. 137) reported yesterday by the Committee on Foreign Affairs, requesting the President to intercede with her majesty the queen of Great Britain to secure the speedy release of Rev. John McMahon, convicted as a Fenian raider, and now confined at Kingston, Canada West.

Mr. ORTH. I will yield for a moment to the gentleman from Wisconsin, [Mr. PAINE,] who desires to ask leave of the House to introduce a resolution.

Mr. PAINE. The gentleman from Indiana is still unwilling that I should offer the amendment I indicated yesterday as an amendment to this resolution, but I ask unanimous consent that I may be allowed to offer it as an independent resolution after this has been disposed of. I will not detain the House one moment by any discussion. The resolution is in the exact language of that reported by the committee, only substituting the name of Robert Lynch for that of Father McMahon. I ask unanimous consent that the House may entertain it and vote upon it after the resolution reported by the committee shall have been disposed of.

No objection was made.

Mr. ORTH. I propose to call the previous question on the resolution. And I desire to state that after the previous question has been seconded I have agreed to allow the gentleman from New York [Mr. WOOD] to occupy fifteen minutes of my hour, the gentleman from Massachusetts [Mr. BUTLER] fifteen minutes, my colleague [Mr SHANKS] ten minutes, and my colleague [Mr. KERR] ten minutes. I now move the previous question.

The previous question was seconded and the main question ordered.

Mr. ORTH. I now yield fifteen minutes to the gentleman from New York, [Mr. WOOD.]

Mr. WOOD. Mr. Speaker, I do not know whether it will be in order or whether the opportunity will arise for me to offer an additional resolution to the one reported from the committee; but that it may be brought to the attention of the House I ask that it be read.

The Clerk read the resolution, as follows:

And be it further resolved, That the President be requested to interpose his official authority to effect the immediate release of Colonel John Warren, William J. Nagle, and any other American citizens who have been arrested in Ireland under the *habeas corpus* act, and are now imprisoned without sufficient grounds to charge them with the commission of any offense against the laws of Great Britain.

Mr. WOOD. Mr. Speaker, the resolution now before the House is doubtless a very proper one. It proposes to ask the intercession of the President of the United States with the queen of Great Britain for the release of John McMahon, a Catholic priest convicted in Canada for some complicity in a Fenian raid. It is unquestionably true that McMahon was not there as a belligerent. His profession is a sufficient guarantee that he was not there with any hostile design against the British Government. He was found upon the field of battle after hostilities ceased administering the sacred rites of the church to the wounded and dying, with no other arms than the cross, and in the discharge of no other duty than that which his calling and profession required.

But, sir, he was tried, was duly convicted, and sentenced to death. That sentence was subsequently commuted to imprisonment for life. And although this is a case which is very properly brought to the attention of the House, one in regard to which I have no doubt the House will unanimously concur, yet it appears to me that there are others which more imperiously and pressingly demand the immediate attention of Congress and the Executive, where not only adopted but native citizens of the United States are incarcerated in British dungeons, having been arrested under a suspension of the *habeas corpus* act, no direct charge being made against them, no examination or trial being had, and, with humiliation I may add, without any proper attempt on the part of the authorities of this country to intervene in their behalf.

As early as March last the attention of this House was called to the cases referred to in the resolution I have had read by the Clerk. One was the case of Colonel Warren, who had been an officer in the Army of the United States; the other was the case of Colonel Nagle, not only an officer of the United States but a native of the State of New York. These cases were duly referred to the Committee on Foreign Relations, but down to the present time that committee, so far as we have any means of knowing, have taken no action in the premises. Not only were the Committee on Foreign Affairs directed to examine into those cases, but the attention of the Secretary of State was directed to them. And for the purpose of enabling the House to understand what has been done and what has not been done, and to enable the country to understand that notwithstanding the action of this House in referring the subject to the Committee on Foreign Affairs and in attempting to induce the Secretary of State to interfere in behalf of these persons, these two citizens yet remain in durance vile, I ask to have read the correspondence I send to the Clerk's desk.

The Clerk read as follows:

KILMAINHAM PRISON,
DUBLIN, IRELAND, *August* 2, 1867.

DEAR SIR: I suppose amid the excitement of the great city of New York you have forgotten all about me. I have not forgotten you, because, from my knowledge of you and your reputation, you have an old habit of doing your best to get a fighting Irishman out of a tight place; so now, honorable sir, I will give you a chance to ply your favorite vocation. You know I am an unmitigated Irishman, and love every blade of grass that grows on her soil; and you also know that that is not a very sad failing. You know I am an American citizen, and have a perfect right to pack my valuables and go where I please, and that as long as I do not violate any local laws where I may be located that no one has a right to interfere with my liberty. You also know that Mr. Bull has been materially annoying Uncle Sam's subjects lately. You know that the strongest plank in the American Constitution is equality, no distinction between the native and adopted citizen, and you also know that Mr. Bull in my case is disregarding this, and is holding me to an allegiance which I threw off the first opportunity I got. You know that it was the wise insertion of this same plank by the fathers of the Republic which has raised your cities, felled your woods, built your railroads, created your armies and navies, and in fact which has made your country great, glorious, and free; and you also know that the non-protection or non-respect of this plank taps at the vital interest of your powerful country, and is a blighting blow at human liberty. You know that your vast Territories, and southern and western States are yearning for the hardy sons of toil to settle and develop their mighty resources; and you also know that it is that aforesaid plank which invites the settlers and producers, and which has planted in America a bulwark of democracy before whose colossal strength combined European monarchies and imperialism stand appalled. Knowing all this, honorable and dear sir, permit me now to simply lay my case before you.

I arrived in Ireland in the latter end of May with a glowing love for my unfortunate old home and a hope to see her condition improved. You have never experienced that heavenly feeling which the exile feels as he nears the scenes of his happy boyhood. No, sir. I hope you never will be an exile. God, for His own wise purposes, with giving us one of the loveliest spots for a home, has coupled with it an inordinate love of that home, and has mysteriously decreed that the greatest part of us should wander as exiles through the world; and thus it is that you find the Irishman all the world over, while he discharges his allegiance and performs his duties to all, ever turning his watchful gaze to his early home, ever hoping, ever praying, that once more before he dies he may revel in the bliss of treading her sacred soil. Put me down then, dear sir, as the veriest Irishman you ever saw, and picture to yourself what my feelings must be when, within a few miles of the actual scenes of my boyhood, I was arrested, flung into a dungeon, and have been there since in close confinement, subjected to the same treatment as the ordinary prisoners. I have violated none of her majesty's laws. I have been in America from my boyhood, and the English Government has no control over me, only based on a disregard of the United States right of conferring citizenship. I would have written to you before, but I was given to understand up to a few days ago that I would be released. I have written to the President to-day. You will confer a favor on me which will be appreciated if you write to him calling his attention to my case. It would be well to remind him that during the late rebellion I was an officer in the Federal Army.

Yours, respectfully, JOHN WARREN.

Hon. FERNANDO WOOD.

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NEW YORK, *August* 16, 1867.

DEAR SIR: I have just received a letter from Colonel John Warren, late of the Federal Army, and a citizen of the United States, dated August 2, and written from the jail in Dublin where he is confined a prisoner without specific charges, and, as he believes, without just grounds.

This is but one of many cases where American citizens of Irish birth and some of American birth are detained by the British Government under some pretext or other. It is a common thing in Ireland for the emissaries of this tyrannical power to arrest and incarcerate in dungeons your own countrymen for no other apparent reason than that they are your countrymen. The fact that the person is an American appears to be sufficient justification for the perpetration of these wrongs. This is a national insult which our Government is not at liberty to overlook. Every citizen, whether native or adopted, is entitled to protection, and in the present case the obligation rests upon us with more than ordinary force.

The reasons which render our Irish adopted citizens so obnoxious in English eyes are because as a class they are so entirely and purely American in their views of republican liberty and in opposition to despotism. They hate England because England oppresses their native land and the faith of their fathers. They would be unworthy of their own history and degenerate Americans if they could feel otherwise under the circumstances.

I therefore, Mr. President, respectfully but earnestly ask your immediate attention to this subject. I know that other public duties are pressing, but still the urgency of these cases and the national honor involved and the duty we owe a large, patriotic, and valuable class of fellow-citizens, requires prompt action.

The people have confidence in your devotion to the interest of all without distinction of nationality or caste, and hope that you will turn aside for a moment from the cares of other public questions to give this immediate thought and official action.

Respectfully, your obedient servant,
FERNANDO WOOD.

Hon. ANDREW JOHNSON.

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DEPARTMENT OF STATE,
WASHINGTON, *August* 22, 1867.

SIR: The letter which you addressed to the President on the 16th of August relating to the case of Colonel John Warren, late of the United States Army, who has been arrested, together with William J. Nagle, and with him detained in Dublin under the suspension of the *habeas corpus* act, has been referred to this Department.

The subject has received the attention of this Department, which understands that those persons are citizens of the United States and that there are no sufficient grounds to charge them with the commission of any offense against the laws of Great Britain, and has good reason to believe that they have already been or will without further delay be discharged.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. FERNANDO WOOD, *New York*.

Mr. WOOD. Mr. Speaker, the President on that occasion did attempt to intercede in behalf of Colonel Warren and Colonel Nagle. A conference was had between the Secretary of State and Sir Frederick Bruce, the then minister of England to this capital; and Sir Frederick Bruce telegraphed to Lord Stanley recommending the release of those two persons. The British Government, however, has never acted upon that recommendation. Not only do these persons continue to be incarcerated in prison, but the rigor of their confinement has been very materially increased. It will be seen by the letter of the Secretary of State that he admits that two American citizens are unjustly and illegally confined in British prisons; yet six months have elapsed without any further action on his part to protect the rights and honor of the American Government abroad, as represented in the persons of these two citizens.

Sir, this action of the British Government is a direct, intentional, and studied insult to the United States of America. It is entirely in keeping with the whole policy and conduct of Great Britain toward this country. She has always exhibited her *animus*, her vindictiveness, her malignity toward us. From the time of our Revolution, down through the causes which led to the war of 1812, and during our late unfortunate war of the rebellion, her whole conduct has been insulting, has been arrogant, has been such as no proud, great, and free people should submit to or tolerate a day longer. The intrigues of Great Britain were the immediate cause of the late rebellion. It was the implied promises which British emissaries in this country gave to the southern leaders in 1860 that precipitated the southern States into open rebellion—assurances that the South should be recognized by England—assurances of material aid and support if they would attempt a separation of the States. It was by such means that the southern leaders were emboldened to undertake that hazardous and dreadful attempt to overthrow our Government. And during the war all the sympathies of Great Britain, all her aid, all the moral, and indeed more than moral, power that she could afford to give in behalf of the rebellion was freely given. What has been the course of England herself under like circumstances? Her history is full of instances where promptly and decidedly she has demanded the release of her citizens when imprisoned by foreign Powers.

Indeed she has gone even further than that with us. See has not been content with waiting for the detention of her own subjects; she has even demanded the release to her of our own people who had committed the highest of all political crimes, and who, in pursuance of our laws, was captured upon the ocean with hostile intent. We have not forgotten the celebrated Trent case. In this instance an American cruiser captured at sea Slidell and Mason, prominent members of the confederate government, *en route* to Europe as ambassadors of the confederacy to France and England. They were taken, in pursuance of instructions, from on board the Trent, a private steamer under the English flag. The event at the time caused great rejoicing in this country. Commodore Wilkes, the American officer who made the arrest, was complimented by the whole Union press. The Secretary of the Navy sent to him a letter of thanks and congratulations. The corporation of the city of New York voted him the freedom of the city and gave him a public reception. The President and Secretary of War took possession of the prisoners and ordered their commitment to Fort Warren, to await punishment for their treason. Thus did the Government fully indorse the arrest and detention of these men. It virtually assumed the act and placed itself in the attitude of full responsibility for it. Now, what was the course of England, and what was the course of the then Administration? John Bull growled and Brother Jonathan trembled. The immediate surrender of the prisoners was demanded in bold and unequivocal language, and the United States exhibited itself craven-like before the nations of this world by yielding them up with a base and humiliating apology. Nor is this all; England not only demanded the return of these prisoners to an English vessel, but, in addition, that a rebuke should be administered to the officer who, acting under instructions, had made the arrest. And even to this lower depth of national degradation our Secretary of State was willing to descend. Not content with a public exhibition of cowardice, he added to it additional ignominy by consenting to the disgrace of a valiant and chivalric officer, merely to please imperious John Bull—a national meanness without parallel among modern nations.

Sir, the conduct of Great Britain toward our Government has been of a piece all through. She has not forgiven us for the American Revolution, nor the war of 1812, nor our success in commerce, trade, and manufactures, and least of all has she forgiven us for our triumphant success in maintaining the integrity of the Union even against her secret intrigues, her open countenance and encouragement to our foes. I charge that one of the immediate causes which precipitated the South into rebellion was the implied promises that were made to southern leaders in this city in 1859 and 1860. Promises of material aid were made, offers of speedy recognition were tendered in advance, and the usual intrigues of European diplomacy were resorted to to promote and cause the attempted revolution which then occurred. I was at the time assured by those who subsequently became the master-spirits of the rebellion that if the South took that step England would be her open ally in thirty days. Sir, the conduct of Great Britain toward this country has been hostile from the start. Next to an Irishman, if there is any man on earth whom an Englishman hates it is an American. With more pride than merit he feels his inferiority, but has no resort but relief in animosity, arising from disappointment and jealousy.

Now the time has arrived when this nation must assert its rights and vindicate its honor. We must not only speak but demand. If these insults are continued let there be stronger language than mere diplomatic protests. Let us have such a protest as General Jackson sent to France; such a protest as England sent to us in the Trent case; and such a protest as shall be susceptible of but one interpretation, namely, that of immediate compliance or war.

In these remarks I have omitted any reference to the pending struggle in Ireland between the Irish people and the British Government. That question does not come up legitimately in this debate. It is not before this House, nor is it probably, as yet, a proper subject for official interference. Let us first make demand for redress for the insults upon the honor and aggression upon the rights of our citizens. If this is denied let us take the course which is becoming to a proud and able nation, who "ask nothing but what is right and will not submit to anything wrong." If this course shall cause hostilities, let them come. If they do come the great problem of self-government will be

worked out in the Emerald Isle successfully, as it has been on this continent. The people of Ireland will have "material aid and comfort" that will be more substantial in their conflict with the British lion than the people of the South received from England; and the latter will find that we shall keep this promise to the letter, even to the planting of the green flag of Erin upon the castle of Dublin, and, it may be, the star-spangled banner of America upon the castle of St. James.

Sir, the conduct of England toward Ireland is to me a marvel. With all her boasted intelligence and progress in the onward road to a freer system, she adheres with tenacity to her wonted tyranny and despotism over Irish rights. Not one step has she taken toward the amelioration of that people. Unlike other European nations under like circumstances, she takes no step backward.

The relation of Ireland to England is not unlike that of Hungary to Austria. Both Ireland and Hungary were formerly independent nations, with their own form of government, and with a population high-toned, chivalrous, intelligent, and great. But both were conquered by superior numbers, and both to-day stand before the world as nationally obsolete. And yet Austria—"despotic Austria"—has within two years extended the right of local self-government to Hungary, and to-day recognizes her as almost independent, with her own parliament and her own executive rulers. The same may be said of Prussia in her present conduct toward and recognition of the conquered German kingdoms who adhered to Austria in the late war between those nations. France in her treatment of her Algerine possessions adopted a similar liberal course. The emperor went so far in carrying out this policy of conciliation as to go personally to Algiers in 1865 to promote the welfare of even that barbarous people. And Russia—probably the most powerful military Power on earth and most exclusive in undoubted authority of any in the world—has ameliorated the condition of the Poles, and adopted an enlightened policy toward the people of her Asiatic provinces. Her monarch, more enlightened than the British ministry, accords the largest liberty and most ample religious and political freedom to all his subjects, whether such by conquest or otherwise. Not so with England. She knows no relaxation; she has no idea of the extension of privileges to her noble province of Ireland. She clings with unyielding determination to a policy which must result in the dismemberment of her territory and, as I hope and believe, in the establishment of another republic—that of Ireland. God speed it——

[Here the hammer fell.]

The SPEAKER. The fifteen minutes of the gentleman from New York [Mr. WOOD] have expired.

Mr. WOOD. I would like the gentleman from Indiana [Mr. ORTH] to permit me to conclude my remarks.

Mr. ORTH. I am not able to do so or I would. I now yield ten minutes to my colleague, [Mr. SHANKS.]

Mr. SHANKS. Mr. Speaker, I had the honor to introduce into this House the resolutions passed by the Legislature of Indiana touching the arrest, trial, and imprisonment at Toronto, Canada, by authority of the Government of Great Britain, of John McMahon, a naturalized citizen of the United States and resident of the town of Anderson, in the county of Madison, in the district I have the honor to represent, and to refer the resolutions to the Committee on Foreign Affairs with instructions to investigate the facts of his arrest, trial, conviction, and sentence, and to report the same to this House for its further action. I am now confirmed in the opinion heretofore formed in relation to the injustice of this case.

I only venture to occupy the attention of the House at this time, after what has been so ably said by others, because John McMahon is a citizen of my district, and because the State, through her Legislature, has so directed me for still higher reasons, namely, that he is a man and an American citizen, owing voluntary allegiance to the Government of the United States, that he is an individual, one man, asking protection of this Government, to which he has sworn his fealty and accepted the faith of the Government pledged in the articles of his naturalization and evidenced in the certificate of his citizenship.

It has been well shown by my colleague, [Mr. ORTH,] who presents this report, and supporting evidence from the Committee on Foreign Affairs, that the arrest of John McMahon was unnecessary and unjust, the charges illegal and void, his trial hasty and inconsiderate, its progress partial and relentless, the verdict harsh and unjustifiable, the sentence cold and severe, and its nominal amelioration from that of death to imprisonment for life a seeming relaxation but a positive mockery of its victim, who, unaided by this Government, his now only friend to save him, must remain lost to the world, his friends, his country, and himself. An individual and helpless citizen, lost to the Republic by its too patient acquiescence in the acts of a Government ever oppressive to the weak and too selfish to be just, the foundation of whose laws was based upon the divine right of kings, that doctrine that the king can do no wrong; that he is the owner of all lands, property, and people within his jurisdiction; that the people have no right to remove him from his sovereignty over them nor power to cast off their allegiance to him and his successors in office; that no time or distance, no country or clime, no act or circumstance, no wish or will, and no power may sever the bond of allegiance due from one born under a crowned head to the Government under which he may have been born—a doctrine which totally subjects the people to the Government and is in direct antagonism with republics, where the Government is subject to the people, a fact that we, as the Representatives of a free people, must not forget.

Yet it is a fact well known in nature that one extreme is invariably followed by another. And this is true of the actions of men, physically, mentally, and morally. It is true of individuals and of nations, of persons and of things. And thinking men are not surprised to find that our Government and people, after having been wrought up to such severe tension during the past years of internal strife, have, since the more imminent peril seems to have passed, relaxed in some degree and fallen into a partial lethargy and lack of watchfulness over their true interests both at home and abroad.

Sir, it is in this reaction, in this trough of the sea between waves, this lull of the passions, this sleep after great exertions, that we are in danger of allowing to be established and grafted with our acquiescence upon the law of nations this principle so derogatory to free Governments, namely, that a citizen of one Government cannot migrate from that Government and voluntarily throw off his allegiance to it and become a citizen of a Government of his choice.

This doctrine of "once a citizen always a citizen" had its origin in the same school with that other infamous doctrine of the divine right of kings, and is in direct antagonism to free institutions based upon the people's will.

Thus the emperor of the French, in speaking of the Government or people of France, says "my Government" or "my people," and so speaks every crowned head the world over. So speaks queen Victoria, and denies the right of John McMahon to throw off allegiance to her and to assume that relation with the United States; and the same doctrine denies to the United States the power to make John McMahon a citizen of this Government and to deprive the British Government of his allegiance.

Such is the doctrine of all monarchies. But the State language of our republican Government is, "the Government of the United States" or "the people of the United States," and such is the State language of all republics. The doctrine of the inalienability of citizenship is the same, only different in the form of its presentation, upon which the United States declared and maintained war against the British Government in 1812.

That Government then and prior to that time claimed the right to enter American vessels and press into British service any seaman who may have at any time been a British subject.

That war determined the question in favor of the United States, and engrafted upon the law of nations for the first time the inviolability from search and seizure of persons on vessels upon the high seas. It was under this principle of the laws of nations enforced by this Government against the policy of the Old World that compelled our Government to surrender the traitors Mason and Slidell when erroneously captured by Commodore Wilkes from a British steamer on the high seas during the recent rebellion. It was a proud act of our Government when it enforced that law upon the nations of the world. It secures individuals in their rights on the high seas, in their persons and property, and maintains the character of the civilized nations of the earth by protecting their citizens and flag from insult and wrong. There is another case, however, which forms a closer analogy to the one now under consideration; it is the one in which Commodore Wilkes, of our Navy, demanded and obtained from the Austrian authorities the surrender to him, in the name of the Government of the United States, of the person of a man by the name of Martin Koszta, who had emigrated to this country, had filed his intentions to become a citizen thereof, and subsequently returned to Austria on business, and by the authorities of that Government was seized and pressed into its military service on the ground that he owed allegiance to the sovereign of Austria, and had no power to voluntarily throw it off and become a citizen of another Government. The United States sustained the act of her naval officer, and again maintained upon the high seas the protection of one of her citizens and compelled the acknowledgment of the power of this Government to accept the allegiance voluntarily offered of any individual, and proved its power to protect the citizen thus made.

The British Government, in violation of this doctrine, now, in the trial of John McMahon and others, assumes again to deny the power of alienation of her citizens. If this doctrine of the inalienability of citizenship is true the provision of our national Constitution which gives to Congress the power to provide naturalization laws is a nullity, and this Republic is incompetent to protect, under the laws of nations or of her own, the citizens she has assumed to make. If this be the true doctrine then the foundation-stone of republics is removed. When you take away the individual rights and privileges of men you have left nothing that a state of the most abject oppression does not leave. The slave may remain in the bondage of his master. Sir, we must maintain our republican stand-point, let the cost of that maintenance be what it may; and to the American citizen, whether native or naturalized, wheresoever he may be and whatsoever his conduct or his situation, the Government of the United States should secure him a fair and impartial trial. This John McMahon has not had.

John McMahon is an Irishman; was arrested on the field after the battle between the Fenians and British troops at Ridgeway, Canada, caring for the wounded; he is by profession a Catholic priest; is not a belligerent, but was in the discharge of his religious duties; was arrested, tried, convicted, and sentenced in a court prejudicial to the commission of a great wrong. John McMahon was not a Fenian and was not a belligerent, but he was an American citizen, made so by his own voluntary act, having renounced his allegiance to the British Crown and assumed allegiance to the Government of the United States according to the forms of law, and was to all intents and purposes an alien to the British Government and

entitled to all the legal rights and privileges which that fact guaranties him, among which all exemption from the charge of treason, a crime which can only be committed against the Government to which allegiance is due. Another right of an alien is by virtue of a law of the British Government to be tried by a mixed jury, one half foreigners, if so many are found in the place; but both of these rights were denied John McMahon because the court ruled, in accordance with the demands of sovereignty, that John McMahon remained as he was born, a subject of the British Crown and was guilty of treason against the same. My opinion is that we should demand the release of those men who are natives or have become naturalized citizens of this Government and are now imprisoned by the authority of the British Government.

And if upon investigation it be found that they have violated laws, let their trials stand upon their respective merits and be tried by law, and not upon the assumed ground of the inalienability of citizenship and in violation of law, where the very singular spectacle is presented of the trial of an American citizen for treason against the British Crown. Sir, treason is a crime of a citizen against his own Government and not another.

My purpose in urging this matter is to bring the subject before the House in the hope that it may be thoroughly investigated and the true doctrine declared and maintained by this Government touching this important matter. Sir, the rights of individuals are only secured by vigilance and firmness, and unless sustained by the enlightened patriotism of this free people will be lost to republics and to the world, for even in this country treason, usurpation, and crime have become strongly popular and have fearfully entered into high places and allowed to remain there through the same moral turpitude which permits our citizens to cry in vain to us for life and help in foreign prisons, where illegally held. I hope this resolution will pass.

Mr. ORTH. I now yield to my colleague, [Mr. KERR.]

Mr. KERR. I will not avail myself of the courtesy of my colleague this morning. I perhaps will have another opportunity to present my views on this subject.

Mr. ORTH. I ask for a vote on the resolution.

Mr. BROOKS. I ask that the resolution be again reported. I merely wish to suggest to the Committee on Foreign Affairs that as this resolution is going to a foreign country and is there to be severely criticised, not only in its political but in its literary aspect, whether it would not be proper to strike out the words "convicted as a Fenian raider." In the first place I would not assume there was a conviction, and in the next place I would not use the word "raider," because there is no such word in "Webster" or "Worcester." I would not use it, because, if it means anything, it means a predatory incursionist into another country. The words I refer to add nothing to the force of the argument, while they involve admissions which do no good.

Mr. BANKS. It is necessary that the resolution should describe in some manner the offense of which this man has been convicted. There may be some question as to the propriety of this description; but some description is necessary. The appeal in behalf of Father McMahon is made generally upon the ground or in the belief that there are circumstances affecting his case which will produce favorable action on the part of the British Government which cannot apply to others. It is the belief of those who are best acquainted with the case that the offense of which he was charged was not well founded, as can be shown whenever a presentation can be made. This intercession is recommended on the part of the committee to the favorable consideration of the House.

Mr. BROOKS. Why not say "alleged Fenian," or something of that sort.

Mr. HIGBY. Has the committee before it information of the offense charged by the British Government against this man?

Mr. BANKS. I do not understand the gentleman's question.

Mr. HIGBY. Was not information before the Committee on Foreign Affairs as to the designation of the offenses charged against this person by the British Government and of which he was convicted? What was the offense?

Mr. BANKS. The suggestion of the gentleman from California is substantially correct. The offense charged by the British Government was generally in the language used in the resolution. It describes in a popular sense the offense of which he has been convicted.

Mr. HIGBY. Is not "treason" the definition of the offense?

Mr. BANKS. It is regarded as treason by the English Government.

Mr. HIGBY. Then I would certainly join with the gentleman from New York [Mr. BROOKS] in suggesting that the same definition of the offense should be used as was given by the British Government. Let it be explicit.

Mr. ORTH. The legal charge against Father McMahon was "treason-felony" under the statute of Great Britain. I am willing that the phraseology of the resolution shall be changed so as to read "alleged to have been convicted on a charge of treason-felony."

Mr. BROOKS. I would prefer "alleged to be guilty of treason," if it was treason. I would not use the word "convicted" at all.

Mr. ORTH. I ask that by unanimous consent the joint resolution be amended by striking out the words "as a Fenian raider" and inserting instead the words "on a charge of treason-felony."

There was no objection; and the joint resolution was amended accordingly.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed unanimously.

Mr. ORTH moved to amend the title of the joint resolution by striking out the words "as a Fenian raider" and inserting in lieu thereof "on a charge of treason-felony."

The amendment was agreed to.

ROBERT LYNCH.

Mr. PAINE, under the leave heretofore granted by unanimous consent, introduced a joint resolution (H. R. No. 138) requesting the President to intercede with the queen of Great Britain to secure the speedy release of Robert Lynch, now imprisoned in the province of Canada; which was read a first and second time.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed unanimously.

Mr. PAINE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AMERICAN CITIZENS IN IRELAND.

Mr. WOOD, by unanimous consent, introduced a joint resolution (H. R. No. 139) requesting the President to intercede for the release of American citizens imprisoned in Great Britain and Ireland on insufficient grounds; which was read a first and second time.

The joint resolution requests the President to interpose his official authority to effect the immediate release of Colonel John Warren, William J. Nagle, and any other American citizens who have been arrested in Ireland under the *habeas corpus* act, and are now imprisoned without sufficient grounds to charge them with the commission of any offense against the laws of Great Britain.

Mr. BINGHAM. I suggest to the gentleman the propriety of striking out the words "interpose his official authority" and insert the word "intercede."

Mr. WOOD. I accept that suggestion.

Mr. MAYNARD. I suggest to the gentleman that he strike out the words "in Ireland."

Mr. ROBINSON. Allow me to say a word. I think it would be well for this resolution to lie over—I make that suggestion respectfully to the gentleman from New York—inasmuch as one of the leading men mentioned in the resolution has since been tried and convicted, after such a trial as the British Government can afford to give to one of our citizens.

There has been a regular trial, conviction, and sentence. I think the resolution as it now stands is not in exactly proper form, and that it would be well for it to lay over until to-morrow morning, or to have it referred to some committee in order that the proper wording of the resolution shall be made. Colonel John Warren has already been convicted and sentenced to fifteen years' imprisonment.

Mr. WOOD. I cannot consent to any further delay, for we have delayed this question too long already. I desire the House to act at once upon this joint resolution, either by its adoption or its rejection.

Mr. ROBINSON. I will say to the gentleman that I am as anxious as any member upon this floor can be to have immediate action. But I think when we do act it should be through a joint resolution properly worded. Perhaps the language of this resolution can be amended in Committee of the Whole instead of referring it to a smaller committee. I would urge every energy which we can exercise here for speedy interference in behalf of these men wrongfully imprisoned.

Mr. WOOD. I do not think the resolution is improperly worded. It merely asks the immediate intervention of the President, but leaves it discretionary with him as to the manner of such intervention.

Mr. ROBINSON. I withdraw all opposition to the joint resolution.

Mr. MAYNARD. I desire to ask the gentleman from New York [Mr. WOOD] why he limits his resolution to the persons arrested in Ireland? Why not have it relate as well to those arrested in other parts of the British dominions?

Mr. WOOD. I will modify my resolution by having it read "arrested in Ireland or elsewhere."

Mr. BANKS. I desire to make a suggestion to the gentleman from New York, [Mr. WOOD.] These arrests are made under a suspension of the *habeas corpus* act. I think it would be better to strike out altogether any reference to the law under which these arrests have been made.

Mr. WOOD. All of these arrests are undoubtedly made under a suspension of the *habeas corpus* act.

Mr. BANKS. Still I think it would be better to strike out any reference of that kind.

Mr. WOOD. Very well; I will modify my resolution by striking out the words "under the *habeas corpus* act."

The joint resolution, as modified, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WOOD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORLAF E. DREUTZER.

Mr. MYERS. I am instructed by the Committee on Foreign Affairs to ask that the House consider at this time Senate bill No. 89, which was reported from the committee the other day, and by reason of a single objection referred to the Committee of the Whole. I ask that the Committee of the Whole be discharged from the further consideration of Senate bill No. 89, for the relief of Orlaf E. Dreutzer, late consul of the United States to the kingdom of Norway, and that it be considered in the House at this time.

The bill was read at length. It directs the Secretary of the Treasury to pay Orlaf E.

Dreutzer, late consul at Bergen, in Norway, $837 47 in coin, for consular salary from the 4th of November, 1865, to the 29th of May, 1866, less the amount of consular fees received by him during that time.

The SPEAKER. The question is upon discharging the Committee of the Whole from the further consideration of this bill in order that the House may proceed to its consideration at this time.

Mr. LAWRENCE, of Ohio. I object.

Mr. MYERS. I hope that the gentleman from Ohio [Mr. LAWRENCE] will allow me to make a statement before he objects.

Mr. LAWRENCE, of Ohio. I will hear the gentleman's statement, of course. But I will say that unless there can be more reason shown for this joint resolution than I have yet learned I must insist upon my objection.

Mr. MYERS. The Committee on Foreign Affairs deem it proper that this joint resolution should be passed at this time. It is designed to do simple justice to one of our late consuls. It has been reported regularly from the Committee on Foreign Affairs, and not being understood an objection has been made. I hope the gentleman from Ohio will withdraw his objection and permit me to make a statement of the circumstances of the case.

The SPEAKER. Does the gentleman from Ohio [Mr. LAWRENCE] withdraw his objection?

Mr. LAWRENCE, of Ohio. I dislike to persist in the objection and I will withdraw it, but with the understanding that I shall have an opportunity to say a word on the subject if I should deem it necessary.

Mr. MYERS. I will yield to the gentleman if he should desire it.

Mr. Speaker, under the act of August 2, 1861, the President of the United States was authorized to appoint, by and with the advice and consent of the Senate, consuls at such ports as he might deem advisable for the prevention of piracy, at a salary not exceeding $1,500 a year; the salary, however, to cease on the "restoration of internal peace," as it was called, within the United States. Under this act the President, by and with the advice and consent of the Senate, appointed Orlaf E. Dreutzer, a citizen of Wisconsin, as consul to the port of Bergen, in Norway. He acted as consul there until November 4, 1865, when a dispatch from the President notified him that his salary would cease. Navigation had closed for the season. It was impossible for him at that time to return to the United States. Besides that, his salary only and not his term having ceased, without notifying the State Department he could not return and draw the pay allowed him by law for so returning. In addition, it was necessary that some one should remain there to protect the rights of American citizens. Under these circumstances Mr. Dreutzer was forced to remain till the next spring, prevented by law from engaging in any business and only allowed the consular fees, which amounted to but forty-six dollars, and are directed to be deducted.

This bill proposes to allow him salary at the rate of $1,500 from the time of such notification, when, as stated, he could not depart properly, until the time when his successor was appointed. The notice was given by the President in pursuance of the act of 1861, and I now ask the Clerk to read a letter on this subject from the Secretary of State.

The Clerk read, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *January* 21, 1867.

SIR: I have the honor to acknowledge the receipt of your letter of this date, inclosing the petition of O. E. Dreutzer, Esq., late consul at Bergen, Norway, and asking such representation of the facts in the case as I may please to give and my views of the propriety of allowing the petitioner further compensation.

In reply thereto I have to say that the facts and circumstances set forth in the petition are believed to be substantially true.

The act of Congress under which Mr. Dreutzer was appointed provided that in every case compensation should cease with the restoration of internal peace within the United States. That contingency having happened, the Department had no alternative but to give notice of the fact to all consuls appointed under it (as it did) that their salaries would cease on the receipt of such notice. This having been done, the Department was of opinion that it had no authority to allow salary beyond that date, and therefore declined to allow the same to Mr. Dreutzer.

So far as I am informed and as the records of the Department show, Mr. Dreutzer performed his duties while abroad in a satisfactory manner. It is not to be denied that his situation in an extreme northern latitude, rendering it extremely difficult for him to return to the United States at the time of the receipt of the notice, gives his case some peculiar claims upon the liberality of Congress. But inasmuch as the giving of further compensation in this case lies wholly with the legislative branch of the Government, I prefer to leave that question entirely to the judgment of your committee.

I am, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. TIMOTHY O. HOWE,
Chairman of Committee on Claims in the Senate.

Mr. WASHBURN, of Indiana. Will the gentleman from Pennsylvania [Mr. MYERS] permit me to ask him a question?

Mr. MYERS. Yes, sir.

Mr. WASHBURN, of Indiana. I wish to ask whether this consul did not receive the same salary and fees as his predecessor and his successor received, and whether he does not now claim the continuance of the increase which was allowed during the war?

Mr. MYERS. I am very glad the gentleman asks me that question. He is misinformed on that point. I thought I stated the case plainly. Mr. Dreutzer, strictly speaking, had no predecessor; he was appointed a consul under the act of 1861, for the purpose of preventing piracy, at a salary of $1,500 a year, his appointment to cease on the "restoration of internal peace" in the United States. Upon the President's determination that peace was restored Mr. Dreutzer was notified, and on that notification his salary ceased—not his office.

He was detained there for several months. First, because the navigation at Bergen, which is at the head of a deep bay, had closed and he could not well return; secondly, his departure, had it been possible, would have left the United States without a representative; and thirdly, under the act of 1856, regulating consular offices and matters relating thereto, he would not have been allowed his expenses of the return trip without obtaining leave, until his term as well as salary expired. In the spring he resigned and came home as early as practicable. The bill does not provide that he shall receive increased salary, but only salary from the time he received this notification till the time he was able to give up his books as well as his office. The Secretary of State, in the letter which has been just read, virtually states that while he cannot pay this now he hopes Congress will provide for doing so.

Mr. FARNSWORTH. Did not this gentleman know when he took this office what the law was?

Mr. MYERS. Most undoubtedly.

Mr. FARNSWORTH. Then he knew that his salary would cease.

Mr. MYERS. He did not know at what time the President would choose to declare peace restored. With safety to himself, consistency with the honor of the Government he represented, or in view of his own rights of compensation, he could not return until he did. This only gives him pay for the time he was compelled to remain there.

Mr. FARNSWORTH. He knew the war was over for more than a year.

Mr. LAWRENCE, of Ohio. I do not wish to detain the House with any considerable discussion of this bill; but it seems to me from the statement of the gentleman from Pennsylvania there is no ground upon which this consul can claim any additional compensation from the United States. If in order I renew the original objection I made.

The SPEAKER. It is now too late.

Mr. LAWRENCE, of Ohio. If it be too late I will then say a word or two. I hope this bill will not pass this House. What is the proposition? We may as well meet it now as at any other time. It is that we shall give additional compensation to a man who took an office on the condition expressed in the law. He asks that we shall give him additional compensation because he went on and discharged the duties of his office after he was notified they should cease. In other words, this is simply one of that class of cases in which a gentleman takes an office and if he finds it profitable he never refunds anything, but if it proves unprofitable he comes to Congress and asks for compensation. I regret the time of the House should be taken up with any private bill of this kind. When there were questions of much graver and greater importance demanding our attention we had not time to consider them because we were told there were still graver and greater questions demanding our consideration. Let us not consume time with these private bills; but after we have disposed of the questions of finance which the people look to us to dispose of we can then consider private bills. But there is no merit in this bill according to the statement of the gentleman from Pennsylvania or the letter of the Secretary of State.

Mr. MYERS. I must resume the floor; and as the morning hour is about to expire I can only say the gentleman is mistaken. This does not provide for additional compensation, but only pay for the time he held the office after the salary ceased. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time.

Mr. LAWRENCE, of Ohio, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 49, not voting 55; as follows:

YEAS—Messrs. Archer, James M. Ashley, Baldwin, Banks, Beck, Benton, Blaine, Blair, Boutwell, Boyer, Burr, Cake, Cary, Chanler, Churchill, Cobb, Cullom, Dixon, Eldridge, Eliot, Ferriss, Fields, Gravely, Griswold, Haight, Higby, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jenckes, Judd, Kelley, Kerr, Ketcham, Knott, Lincoln, Loan, Logan, Marshall, Marvin, Maynard, McCarthy, Miller, Moore, Moorhead, Morgan, Morrell, Morrissey, Mungen, Myers, Nicholson, O'Neill, Orth, Paine, Pile, Plants, Poland, Pomeroy, Price, Randall, Raum, Robertson, Robinson, Schenck, Shanks, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taber, Taylor, Trowbridge, Twichell, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William Williams, Woodbridge, and Woodward—83.

NAYS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Beaman, Benjamin, Bingham, Bromwell, Broomall, Buckland, Butler, Coburn, Covode, Dawes, Eggleston, Farnsworth, Getz, Glossbrenner, Golladay, Grover, Harding, Chester D. Hubbard, Hunter, Johnson, Julian, Kelsey, Koontz, William Lawrence, Loughridge, Maflory, McCormick, McCullough, Newcomb, Perham, Polsley, Ross, Scofield, Sitgreaves, Spalding, Starkweather, Stone, Trimble, Van Auken, Ward, Elihu B. Washburne, Wolker, James F. Wilson, Stephen F. Wilson, and Wood—49.

NOT VOTING—Messrs. Adams, Allison, Anderson, Axtell, Bailey, Barnes, Barnum, Brooks, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dodge, Donnelly, Driggs, Eckley, Ela, Ferry, Finney, Fox, Garfield, Halsey, Hawkins, Holman, Hooper, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kitchen, Laffin, George V. Lawrence, Lynch, McClurg, Mercur, Mullins, Niblack, Nunn, Peters, Phelps, Pike, Pruyn, Sawyer, Selye, Shellabarger, Smith, Stewart, Taffe, Thomas, Upson, Burt Van Horn, William B. Washburn, Thomas Williams, John T. Wilson, and Windom—55.

So the bill was passed.

During the roll-call,

Mr. BEAMAN stated that Mr. DRIGGS was detained at his room by sickness.

The result of the vote having been announced as above recorded,

Mr. MYERS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

LEAVE OF ABSENCE.

Leave of absence was granted for ten days to Mr. MCCULLOUGH.

DISTILLERY METERS.

Mr. SCHENCK, by unanimous consent, from the Committee of Ways and Means, reported

a joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits; which was read a first and second time.

Mr. SCHENCK. I will ask to have the joint resolution read, and then if any explanation is desired in regard to this question of meters and what has been done by the committee I will explain it.

The joint resolution was read. It provides for the creation of a commission of five persons to be appointed by the Secretary of the Treasury, whose duty it shall be to carefully examine all meters and mechanical contrivances or invention that may be presented to them intended to measure, test, and ascertain the productiveness of grain or other articles prepared for distillation, or the actual quantity and strength of distilled spirits subject to tax produced therefrom, giving due notice of the times and places where such examination will be conducted, and that the commissioners shall meet and proceed to the peformance of their duties, under instructions of the Secretary of the Treasury, at the earliest practicable day, and shall report in detail to the said Secretary, to be communicated to Congress, the results of their examination, with such recommendations as they may deem expedient and most to the interests of the Government, on or before the 15th day of February next.

The second section provides that pending the action of the commission, and until their report be made and a meter shall be by law adopted, all work in the construction of meters under the direction of the Treasury Department shall be suspended, and in the mean time no further contracts for meters shall be made by the Secretary of the Treasury under the fifteenth section of the act of March 2, 1867.

The third section authorizes and directs the Secretary of the Treasury to pay out of any money in the Treasury not otherwise appropriated the expenses incident to the carrying out of this joint resolution, and also a reasonable compensation for the services of the commissioners who may be thereunder appointed.

Mr. SCHENCK. I am instructed by the committee to ask immediate action of the House on this joint resolution, and if no explanation other than what appears on the face of the report is desired I will ask that the vote be immediately taken; if there is, I am prepared to explain to the House the reasons which induced the committee to make the report at this time.

Mr. VAN WYCK. I would be much gratified if the gentleman would explain to this House the necessity of this commission. Ever since the passage of the law raising the tax upon distilled spirits to two dollars per gallon the Treasury Department and the internal revenue department have been experimenting to ascertain how this tax can be collected. All the engineering of the Government at the command of those Departments has been used for the purpose of ascertaining how this tax can be collected. We had supposed that there were already officers enough in the employ of this Government to ascertain these facts, and I would ask how it is, when commissions almost without number have been examining and reporting upon this matter, that another commission of five men can ascertain any more clearly, or report any more satisfactorily to this House, the facts and conclusions than the Committee of Ways and Means, who have already been examining this matter, can do. There has been a commission examining this very question of meters for months past, and they have made their recommendation and report.

I have no faith myself in any of these meters; but what better conclusion can be arrived at from the report of this commission that it is prepared to appoint than can be arrived at from the report of the commission which has already been examining the matter? I ask, again, how will this commission of five be better able to judge of this matter than the Committee of Ways and Means are? How much more capable will this commission of five men be to judge upon this matter than this House itself will be after the Committee of Ways and Means have placed the House in possession of all the facts? I trust that we will stop somewhere in creating commissions and extending the number of officers and drawing money from the over-burdened Treasury of this Government.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bill of the House (H. R. No. 369) to prevent frauds in the collection of the tax upon distilled spirits, with an amendment; in which he was directed to ask the concurrence of the House.

The message further informed the House that the Senate had passed a bill (S. No. 188) to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867; in which he was directed to ask the concurrence of the House.

DISTILLERY METERS—AGAIN.

The House resumed the consideration of House resolution No. 140, to provide for a commission to examine and report on meters for distilled spirits; upon which Mr. VAN WYCK was entitled to the floor.

Mr. SCHENCK. I ask the gentleman from New York [Mr. VAN WYCK] to give way for the present in order that I may ask unanimous consent to have this joint resolution laid aside informally, in order to take up a bill just reported from the Senate with an amendment. It is a bill that virtually abolishes bonded warehouses. The amendment of the Senate merely strikes out two words.

Mr. VAN WYCK. I will yield for that purpose.

The SPEAKER. That requires unanimous consent.

No objection was made.

TAX ON DISTILLED SPIRITS.

The House then proceeded to the consideration of Senate amendment to House bill No. 369, to prevent frauds in the collection of the tax on distilled spirits. The amendment was to strike out the words "in bond" in the second line of the bill.

The question was upon concurring in the amendment of the Senate.

Mr. WOOD. Let the bill be read as proposed to be amended.

The bill as amended was read. It provides that from and after the passage of the act no distilled spirits shall be withdrawn or removed from any warehouse for the purpose of transportation, redistillation, rectification, change of package, exportation, or for any other purpose whatever until the full tax on said spirits shall have been duly paid to the collector of the proper district; and all acts and parts of acts inconsistent with the provisions of this act shall be repealed.

Mr. SCHENCK. The House will observe that all the Senate has done is to propose to strike out the words "in bond," so that instead of providing that no distilled spirits in bond shall be withdrawn from any warehouse without the payment of the tax, the bill provides that no distilled spirits shall be withdrawn or removed from any warehouse for the purpose of transportation, &c., without the payment of the tax. The effect of that verbal amendment is to remove some possible ambiguity. The Senate Committee on Finance as well as the Senate seemed to think that by using the words "in bond" there might be a question whether our remedy reached "warehouse A." I do not quite agree with them; but if it makes any alteration in the bill it gives a little more precision in the exact direction in which we desire to go. It abolishes the warehouse system. I hope the amendment will be concurred in.

The amendment of the Senate was then concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTILLERY METERS—AGAIN.

The House then resumed the consideration of House resolution No. 140, to provide for a commission to examine and report on meters for distilled spirits; upon which Mr. VAN WYCK was entitled to the floor.

Mr. VAN WYCK. All I desired to say was to show to the chairman of the Committee of Ways and Means [Mr. SCHENCK] upon what points I wish to have information. I presume no one knows better than that gentleman that the great army of assessors and collectors and Treasury agents and revenue inspectors scattered over the country have all had their attention directed to this subject. They have made reports upon reports to the different Departments from which they received their authority, and from time to time their reports have been spread before the country.

Now, what additional information can be obtained from a special commission which is to be created by this bill which the gentleman has proposed? What other facilities or opportunities or other sources of information will be placed before the members of this House to decide upon this question than we already have, or than is already in possession of the Government?

Mr. SCHENCK. I indicated to the House when I was up before my disposition to make any explanation on behalf of the Committee of Ways and Means if the joint resolution they have reported did not, upon its face, carry a sufficient explanation to the mind of every one. I shall be very happy to respond to the inquiry made by the gentleman from New York, [Mr. VAN WYCK.] I will endeavor, as briefly as possible, to put the House in possession of the knowledge which the committee have acquired upon this subject and the reasons which induce them to propose this further remedy in the direction of reform in which I trust we all desire to go.

The gentleman from New York is mistaken, unintentionally of course, in reference to two or three matters. He says, for instance, that almost from the time the internal revenue law was established, or certainly for a long time, we have been engaged in having commissions and considering the propriety of adopting a meter for measuring the quantity and strength of distilled spirits for taxation. The gentleman has not, perhaps, adverted to the law; for if he had done so he would have found that we never had any legislation upon the subject until the 2d day of last March. If the gentleman had better informed himself he would have ascertained that there has been but one commission, that which was appointed by the Secretary of the Treasury under the authority given him by the fifteenth section of the act of March 2, 1867. That commission consisted of Professors Hilgarde and Henry. No report has been made by any other commission on this subject. Permit me to give the history of this matter as connected with the legislation upon the subject of meters for distilled spirits.

In the early part of the last year it was thought that one of the means of checking to some extent the frauds practiced upon the revenue with the connivance of dishonest officials would be to have some ingenious mechanism by which the actual quantity of distilled spirits produced might be measured for the purpose of taxation, measuring also the strength to ascertain the amount of proof spirits. A meter such in principle as that with which we measure gas, water, steam, was thought of as the device which had been used elsewhere and which might be used in this country for that purpose. This led to the insertion of a provision in the act of March last authorizing the Secretary of the Treasury to adopt any such instrument as he might think

necessary or suitable for this purpose. To make my explanation more precise I will read the fifteenth section of the act of March 2, 1867:

"SEC. 15. *And be it further enacted*, That proof spirit shall be held and taken to be that alcoholic liquor which contains one half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths at sixty degrees Fahrenheit; and the Secretary of the Treasury is hereby authorized to adopt, procure, and prescribe for use such hydrometers, weighing and gauging instruments, meters, or other means for ascertaining the strength and quantity of spirits subject to tax or for the prevention or detection of frauds by distillers of spirits, and to prescribe such rules and regulations as he may deem necessary to insure a uniform and correct system of inspection, weighing, and gauging of spirits subject to tax throughout the United States. And whenever the Secretary of the Treasury shall adopt and prescribe for use any meter or meters it shall be the duty of every owner, agent, or superintendent of a distillery to make application to the collector of his district for such meter or meters to be used in his distillery, and the same shall be furnished and attached to the distillery at the expense of the distiller, whose duty it shall be to furnish all the pipes, materials, labor, and facilities necessary to complete such attachment in accordance with the regulations of the Commissioner of Internal Revenue, who is hereby further authorized to order and require such changes of or additions to distilling apparatus, connecting pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels such fastenings, locks, or seals as he may deem necessary. And in all sales of spirits hereafter made, where not otherwise specially agreed, a gallon shall be taken to be a gallon of first proof, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States."

Soon after the passage of this act the Secretary of the Treasury appointed, as I have already remarked, a commission consisting of two eminent scientific gentlemen—Professor Hilgarde, of the Coast Survey, and Professor Henry, of the Smithsonian Institution—and they proceeded to their work. This was in April last. At that time the mechanical and scientific ingenuity of the country had not been specially directed to the construction of meters for measuring the quantity and strength of spirits. Of course there immediately presented themselves those who desired to supply the Government with whatever of this kind might be needed; but there being but few competitors but very few contrivances or inventions were examined.

The commission in April, immediately after they commenced their labors, were most favorably impressed with a meter called the Tice meter, bearing the name of its inventor, and on their report a contract was made with Mr. Tice for one hundred of these meters to be applied to distilleries in the manner prescribed by law under the direction of the Treasury Department. The contract was for the Tice meter together with such improvements as should subsequently be made. The Tice meter at the time the contract was made is not the Tice meter as it is now. It differed in many features from the present meter as perfected by the inventor on suggestions made to him. Though the contract made with him was for one hundred of his meters, he went on adopting such improvements or endeavoring to remove such defects as were suggested by these two scientific gentlemen. He went on and produced a meter which he is now making. In the mean time other inventors went on and perfected their inventions or carried them to a much higher degree of accuracy, but they are ruled out substantially by the adoption of the Tice meter. The committee having had a number of these inventions laid before them, some of them having been presented to the board and others which have never been presented to the board, are satisfied, after careful examination and from the knowledge before them, that ingenious and competent men have made meters which are equal if not superior to the meter of Mr. Tice. Under these circumstances, in order to throw the matter open again to all who have produced contrivances of this kind to measure with accuracy spirits liable to taxation, they have thought it advisable that another and more numerous board, consisting of five instead of two, shall be appointed, and they shall go to work immediately and complete, as they can readily do, all of their investigations in one month, and then the matter shall be considered as closed. They have consulted the Secretary of the Treasury, and find him disposed to agree with them.

Mr. KOONTZ. What is to be done in reference to the distilleries which have not been furnished with these Tice meters?

Mr. SCHENCK. I will come to that. It is difficult to make all of an explanation in one sentence, and as I must do it by successive statements the gentleman will find at the conclusion I have covered the ground of his inquiry.

I do not know where I was. I was speaking, I believe, of the conference with the Secretary of the Treasury on the part of the sub-committee of the Committee of Ways and Means. He agrees with us that it would be well to throw the matter open so that all inventors shall have an equal chance. He agrees to confer with us and select these men with reference to those whom he shall recommend as the kind of persons we think the best suited. We think it ought not to consist of scientific men like Professor Henry, but of some machinist combining a practical knowledge of machinery with science, like Ericsson, some good practical distiller, some engineer, and some practical mechanic, and thus a commission of five will be made up which will be made more competent to give a better and more satisfactory conclusion on the point than a commission such as we have had, consisting of two eminently scientific gentlemen who have been already acting on the subject. If this resolution passes such a commission will be immediately raised, and the resolution provides they must complete their labors by the 15th of next month and make their report.

Now, sir, as to what has been done in the case of the Tice meter. One hundred of them having been contracted for to be delivered as they may be required, the rule has been established that the distiller calling for one shall deposit $1,500 to cover the expenses of the attachment of the meter under the law, but that is not the price fixed for that meter. No price has yet been fixed on it. The inventor has agreed with the Treasury Department, and he has chosen one man, they have chosen one man, and these two a third, who, after the meter is completed and made perfect in its present form, are to determine what shall be its fair and proper price. I am told that it will be considerably less than $1,500. In the mean time the distillers will have that amount in the Treasury awaiting this investigation. We think that ought to be brought to an end and say whatever is to be paid by the distiller shall be paid, and he shall get back whatever is due to him.

The gentleman from New York asks what is to be done with reference to those who have not already applied. If he will observe, this joint resolution proposes to suspend everything under the present law. The Secretary of the Treasury is to do nothing further under the act of March last until this matter is brought to a conclusion.

Now we come to the subject of meters. The gentleman has announced in advance his thorough disbelief of making a meter available. All I have to say is that that was in a degree once my own opinion, and perhaps it is the true conclusion; but I have corrected mine by looking into the matter, of which I knew nothing before, and understanding it a little better now than I did when I adopted that first impression. It is as certain that an instrument can be made to measure the quantity and strength of spirits as to measure with a yard-stick or foot-rule one of these desks or that at which you sit. Sir, those instruments may be tampered with. They will, however, tell, if they have a fair chance, what the product is. I admit that there is a point where mechanical mechanism, ingenious as it may be, will cease to do its work, and moral integrity in the officers appointed must begin. When my attention was called in the Committee on Ordnance to the great wrought-iron guns we found that the most difficult question involved was how to get rid of the corrosion that occurs at the welding points. That is an argument, not against meters or their accuracy, but against the practice of appointing dishonest men, who may in any degree have to do that part of the work which is left undone, and who may tamper with the meters. For that there is but one remedy that I know of, and that is an honest appointment of honest men. But what I do say is that just in proportion as you make a meter or any other mechanical contrivance do a part of the work instead of a Johnson man you get so much nearer accuracy and fair conduct. [Laughter.]

We wish, therefore, to test this idea of using meters to do that part of the work which can be done with mechanical and scientific accuracy, and to do the best we can further than that by legislation and by attempting other remedies to get men of honesty and integrity to coöperate with the meters in doing their part of the work.

Mr. HUNTER. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Well, I would a great deal rather gentlemen would reserve their questions until I get through my explanation.

Mr. HUNTER. It is upon this very point.

Mr. SCHENCK. Very well.

Mr. HUNTER. The question I desire to ask the gentleman—for I know nothing about these meters—is whether they are so attached to the still that the manufacturer of the spirits can in no way interfere with their measure?

Mr. SCHENCK. That is the purpose. The purpose is to have the meter so protected in its attachment as that it shall not be tampered with by any one nor be within the reach of any one to alter its action or operation, but that it shall be, like the United States mails, under lock and key and guards. And there comes in the difficulty, that somebody must keep the key of the lock, and that somebody has to be somebody besides the distiller of the spirits; it must be some officer of the Government, and we are not to give up that part of the work, which can be well done and accurately done, because we find that in another part of the work there may be tampering, connivance, or collusion on the part of officers employed by law to see that the work is done.

Now, the gentleman from New York [Mr. VAN WYCK] argues from the fact that a meter may be tampered with that a meter is good for nothing. Not so. He should conclude from the fact that it may be tampered with that, in addition to obtaining this accurate mode of ascertaining what spirits should be charged with tax, we ought to go on and provide other and further remedies to control those who might possibly tamper with the meters. It is not an argument against the meter itself, but it is an argument against those swarms of office-holders of whom he speaks.

Now, what have we done? The committee have proposed one remedy for the evils existing in the bill which has just passed the House with the amendment of the Senate, and has gone now, or ought to go at once, I suppose, to the President for his approval, which cuts up by the roots the bonded warehouse system, and with it abolishes all the dishonest warehouse men and all the hangers-on about those warehouses. We propose now to strike at another gap in the law and see whether we cannot fill it and sweep away those who are occupying that gap with mischievous purpose to defraud the Government; and that is the gap, not yet sufficiently covered by legislation, between what is called the tail of the worm of the still from which the whisky drops and warehouse A at the distillery to which the whisky is to be removed, that it may be booked regularly and accounted for for the purpose of taxation. I said the other day, and I repeat now, that this is one of the great leaks. The whisky when it runs from the worm of the still is put into a cistern, a receiving-room, from that drawn into barrels, and they are rolled into the

warehouse, and there an account is taken of them for taxation; but under some mysterious providence, aided by these appointees of the President and Secretary of the Treasury, those who have the power of selecting our agents, it so happens that by connivance and collusion and the aid of these rascals given to rascally distillers only about one half or even less of that which runs from the worm of the still ever reaches warehouse A. It is conveyed away in the night; it is got at by the keys being accidentally left by the inspector at some place where the distiller can get them without his knowledge. It is conveyed away by the distiller, who gets the inspector to wait until late in the morning before going to the distillery by assuring him that he will not that morning commence work early.

Sir, it is useless, when men are disposed to be hired to be rascals, to undertake to describe the various ways in which their rascality is accomplished. One means—and I admit it is only one means—of meeting them is to get some mechanical contrivance which shall measure exactly how much whisky runs from the worm of the still. Now, it is true they may tap the worm of the still above its tail; it is true these distillers, thus aided and winked at, will do so unless we further watch and further care against them. But we are not to give all our watching to one point—to strengthening one position of the line of attack upon these dishonest fellows—because there are other weak points to be looked after.

There is another thing in this joint resolution. The present Tice meter only measures the product of the still in spirits at proof, reporting the result of the measurement upon a dial-plate. It may be that it will be well enough to have some system of measurement of the mash, as it is called—the grain prepared for distillation and fermented—from which the vapor arises, as gentlemen well know, which by condensation is converted into whisky, and thus make one of these measurements a check upon the other. We have proposed, therefore, instead of confining this examination to one class of meters or means of measurement—which this late commission did altogether, because under the law they did not think they had any right to examine further—we propose they shall look at both classes of measurement, to the measurement of the fermented mash, and at the same time to the measurement of the product also, and either adopt a system which shall embrace both, making one an informer upon the other, or adopt the best, and but one. This power did not exist in the late commission. We open the door for further and more complete investigation. There are investigations which it is proposed shall follow this one.

I will now go back to this matter of dishonest officials. I know that all through this matter of the collection of the revenue of the country much if not nearly all depends upon having honest men to apply and execute the law; and one of our objects is to reduce the number of officials to be employed for the purpose. This much is certain: if all the sheep in a flock are black, the smaller you make the flock the fewer black sheep you will have. If some of them are white, by decreasing the number the chances at least are that your proportion of black sheep will be less.

We want to diminish in every way we can the number of officers necessary to be employed; and then we will endeavor to report means which, according to the best of our judgment, may tend to give us better officers than we have had. We want to set mechanical contrivance and official integrity both together, if we can, to help to carry out the work in which we are engaged.

The gentleman has no more apprehension that the law has fallen into the hands of dishonest men, has no more knowledge of that fact than I have, both of apprehension and of knowledge. Look at your bonded warehouse system which we have just abolished. I undertake to say that in the city of New York perhaps nine out of ten of the bonds given for the removal of spirits from warehouses for the purpose of transportation, &c., have been signed by men who were not worth a dollar, signed by mere straw-bondsmen. I think we have evidence of one instance where one man signed eleven different bonds with eleven different names. There are men in the cities of New York and Brooklyn who are specially hired to sign bonds, who have deposits of bogus deeds of property, filled up with names, which they have deposited in the register's office, to show that the men whose names are signed to these bonds are men of property.

There are instances in proof before us where men have signed as bondsmen in the name of some respectable well-known individual, who never was near the place and never heard of the bond, but it being found upon inquiry that he was a good man the bond was accepted, though it was afterward discovered that he knew nothing about the giving of the bond to which his name was subscribed. Every device of this kind has been resorted to. And so with regard to these other tricks. The gentleman could probably learn something in addition to that which he knows (and I dare say he, like every other intelligent gentleman, has found out a great deal on this subject) if he would look at matter which has been spread before our committee, and which we are still engaged in collecting.

But such considerations, I beg to say, are no argument against adopting the meter or against ascertaining whether a meter ought not to be adopted. If you abandon this as one of the means of presenting checks against fraud you do not make the fraud any less nor improve the case in any way; but by adopting this system them you may, at any rate, narrow the ground upon which you have to fight these men. If we can push our knowledge of the quantity of whisky produced up to the very tail of the worm of the still we at least gain some ground from the enemy, and we shall then have to fight him only between the tail of the worm and the place up toward the top of the worm where the vapor begins to condense.

These are the reasons (and I have gone into them with very much more of detail than I supposed would be necessary) which, after careful examination extending now through several weeks, have induced the committee to propose to throw open this matter for one month longer, with a fuller commission, in order to ascertain the best possible meter, and to see whether something of this kind cannot be authorized by law, which will be more successful than anything thus far tried, and will prove a more efficient aid in the enforcement of the revenue laws and the collection of taxation. Just in proportion as you help us do this and secure the more efficient collection of the tax upon whisky (which ought to pay all that it is capable of being made to pay, whatever that may be) in the same proportion you relieve the tradesmen and manufacturers of the country and all others from the taxes now imposed upon them, the amount of which is swelled by the fact that we are not yet able to enforce fully the law providing for the taxation of whisky.

Mr. HIGBY. Will the gentleman yield to me for a question?

Mr. SCHENCK. Yes, sir.

Mr. HIGBY. I wish to ask whether the bills which have been presented from the Committee of Ways and Means—the one passed the other day and this one presented to-day—are intended to bolster and patch up the present system of collecting the revenues, or whether they are intended simply as temporary expedients, to be continued only until some better system can be devised? I have no faith in the present system.

Mr. SCHENCK. I am glad the gentleman has asked that question. The committee are laboring to perfect a general measure embracing a revision of the whole revenue system; but in the mean time, in the course of their investigations they have hit upon these two matters which seem to require immediate attention. If a meter system is to be ultimately adopted as a part of the means by which the revenue is to be ascertained and collected, the sooner we obtain knowledge of that fact the better; and we propose that this matter shall all be settled within a month.

Mr. HIGBY. I take courage if this is simply a temporary measure and some other system is to be devised.

Mr. SCHENCK. I now yield to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, I desire to detain the House for only a short time. Inasmuch as I was a member of the sub-committee that recommended this resolution I wish to state to the House the reasons for my action on the subject. It is possible that my views may differ from those of other gentlemen of the House, perhaps other members of the committee, in reference to the mode of collecting tax by the assistance of such a meter as is here contemplated, if such a proposition should be adopted.

I premise by saying here in reference to the law we have now upon our statute-book, that it authorizes the Secretary of the Treasury to issue Treasury regulations. With that law you may possibly collect a portion of the revenue; but in my judgment the great mistake has been in many instances when we passed a law by solemn act of this House and the Senate it was provided that the Secretary of the Treasury may do certain things, that he may issue regulations for the collection of the revenue in reference to a certain specific article. Now we might as well pass no law at all, for I declare to this House now that some of the obstructions to the collection of the revenue are those very regulations which have been issued by the Secretary of the Treasury.

These regulations have either been issued by an ignorant man or else they have been issued by a man who was willing to cover up fraud. For if any man examines these Treasury regulations and understands the manner of collecting revenue on whisky in the United States he will come to the conclusion that these regulations are made especially for the purpose of protecting villainy and fraud in the collection of the revenue. I do not say that the Secretary of the Treasury made them for that purpose, but they were suggested by a man who had that purpose in view, or else were made by an ignorant man who sits at the head of the Treasury Department, who has not sufficient knowledge of the collection of the revenue. There can be no doubt of this, as I can easily show.

Now, Mr. Speaker, the reason for this resolution is this: the law provides a commission may be appointed by the Secretary of the Treasury for the purpose of examining into meters, machines, or contrivances for the measuring—of what? The measuring of the quantity and strength of spirits. The commission said that they were not authorized to examine into anything except machines for measuring high wines and low wines at the tail of the worm. I give it as my opinion that meters that are or can be made for measuring the proof or quantity of spirits at the tail of the worm will be a failure unless you have also a meter which will measure the moral integrity of every one in the Department. Why do I assert this? I assert it for this reason: your collectors and assessors and inspectors of revenue are required to do what? They are required to measure the quality and the proof of the liquor, and that they are required to do by virtue of this law. They are expected to measure the quantity and the proof of the spirits. Your meter does no more than your law requires them to do. Hence if you adopt a meter to do the same service you must have an honest man, or else your meter is of no account.

Then let us see how the Government can be defrauded, and I can explain it. I think I can do it although I am not a distiller, for I have examined the subject sufficiently to know about

it and to show that a meter measuring at the tail of the worm the proof and quantity is a failure. If you measure proof you must have an honest distiller or an honest inspector. He has the keys of the meter, and if an inspector can be hired without a meter he can be hired with one. If he can be hired to make false gauges of whisky he can be hired to stop the meter, and I can stop any of them. I never saw one of them I could not overflow and prevent its indicating the quality by the simplest process in the world. For instance, take the Tice meter. It measures the spirit at the tail of the worm; first, the quantity; second, the quality or proof. It does it by means of buckets. They are balanced with weights and stand upon pivots. The liquor runs into the bucket to the quantity of five pound, when the bucket turns and throws the whisky into another bucket which measures the strength; all you have to do is to insert a piece of wire down to that measure so that the meter will not turn. You must have an honest man who will not do that.

I say now that this meter can be made so as to obviate this difficulty, so that it cannot be stopped from turning. It is a difficulty which ought to be obviated. It does not obviate it now. And what is the result if you have a dishonest distiller or inspector?

In these large distilleries where fermentation goes on the beer runs into still tubs—large tubs or vats, or whatever they may be called. The beer is heated there into steam and then that steam is conducted as it condenses through pipes into the still worm; the still worm goes down into a tank or cask filled with water; that worm is entirely covered, but you can tap the pipes between the tail of the worm and the still in fifty places and take all the whisky, and the meter will tell nothing about it. All these things may be done. I have examined into this matter, and I have come to the conclusion that there is a way of measuring this thing honestly, and I will state it. The beer is not merchantable; the mash is not merchantable. A man cannot take the mash or beer which is fermented and throw it on the market. Then, if that be so, if you adopt meters at all, how shall you test it? I say that the only way in which you can test the quality or quantity correctly by meter is to measure the product, which at the time the meter takes the measurement is not a merchantable or marketable commodity. In that case there is no inducement to steal or defraud; but the very moment it passes into the still worm it becomes high wine, or after running off the high wine becomes low wine, and both high wines and low wines are marketable and merchantable, and hence there is inducement for fraud. I say, therefore, that if you adopt a meter my judgment is that the correct plan is to measure the product. First measure the corn. Require the assessor or collector, or whoever he is, to ascertain the quantity of corn distilled, and let your meter ascertain the quantity of beer from that corn, and in that way you may prevent frauds, although even that is not in itself sufficient to prevent all the frauds that may be committed.

My theory, then, is that by measuring the product by gauge, meter, or in any other way, you will more nearly arrive at a proper conclusion than you can by any other means. That is the way they have of collecting this tax in some foreign countries and I think it would be the best way to collect it here. If you measure the beer you can tell how much whisky it will produce. They can steal the beer, but there will be no inducement to steal it because it is not a merchantable or marketable product.

Well, now, let us go a little further. You may then take a meter of any kind and put it on the tail of the worm of the still and make a comparative examination of the whisky and corn and see whether any of these checks will show you that there has been stealing or defrauding the Government. Whether this may be done or not is for the House to determine and for the commission to decide when they make their report. This is my view in reference to the collection of this tax.

But, sir, let me say again that unless you can insure moral integrity in the men that Johnson and McCulloch appoint to office in this country you never can collect this tax; with all the meters on God's earth you cannot do it.

I know some people say, "Why, Logan is in the habit of making charges against people." I never make one that is not true. I have gone myself to the heads of these Departments and told them that officers in their Departments were thieves and I could prove it, and asked them to dismiss those men, and they have not done it; they have refused to do it. I have told them in the presence of our committee that they had officers who were thieves and I had evidence of it, and they have refused to dismiss them. How can you expect to collect the tax under such an Administration? And this I tell you, that in New York city to-day, as stated by the chairman of the committee, they have professional bondsmen, and the officers who collect the tax there are in copartnership with them and recognize those bonds and approve them, knowing the fact that they are straw bonds, and these men here in Washington are told of it, and yet do not dismiss those officers. This Metropolitan Board that they have got there are themselves not entirely clear of a charge of this kind, for I know facts that show that even some of them have been connected with approving straw bonds, and at the same time have known the fact, and these gentlemen here in Washington have been told that fact also, and yet do not remove any of them.

Sir, it is a dishonest machine from its head to its foot. I do not care how fair the President, or the Secretary of the Treasury, or anybody else may stand, nor do I care what their politics are. They are themselves either dishonest or so ignorant that they cannot tell when a fraud is perpetrated against the Government; one of the two.

Mr. PILE. Will the gentleman yield to me for a moment at this point?

Mr. LOGAN. Certainly.

Mr. PILE. In view of the statements of the gentleman in reference to the appointments in the Internal Revenue Bureau and the Treasury Department, and especially in view of what I myself know of many of these appointments in the West, I wish to ask him what assurance the Committee of Ways and Means have that this commission will be composed of such men as will be able and willing to report intelligently and honestly in reference to the meters which they may examine?

Mr. LOGAN. I will answer the gentleman. We do not put in this joint resolution the names of any persons to compose this commission, for the reason that we did not know but what it might give rise to a discussion in reference to different men. But the Secretary of the Treasury has agreed with the sub-committee, of which I was a member, that he would appoint the men whose names we might suggest to him. And we have suggested the names of the men to be appointed, provided this resolution shall pass; they are the names of good men—men who, I am satisfied, will report correctly.

Talking now about the necessity of these things, and as I do not know that I shall ever desire to say anything more on this question, I propose now while I am talking about it to "talk it all out," to use a very common expression.

Mr. PRICE. Will the gentleman allow me to ask him a question?

Mr. LOGAN. Certainly.

Mr. PRICE. I would inquire of the gentleman whether, in the appointment of these men, the appointments do not have to go through the hands of the President, or whether the appointments can be made by the Secretary of the Treasury without the consent of the President?

Mr. LOGAN. They will be made by the Secretary of the Treasury without the consent of the President.

Mr. PRICE. Then these appointments will be the only ones I have any knowledge of connected with the revenue department that the President has no finger in.

Mr. LOGAN. I am satisfied that the gentleman is correct; but we propose that he shall have no finger in these appointments.

I do not charge Mr. Rollins, at the head of the Revenue Bureau, with dishonesty. I make no such charge; I presume he cannot help himself, for he says he cannot. But I am sorry to see those gentlemen all the time trying to shield themselves behind the tenure-of-office bill. They certainly can report the facts to the President and ask him to remove these officers. I am satisfied that, although Mr. Rollins may be a very honest man, a great many frauds have been committed in his department of which he has recently been notified, and I give notice now that unless he does report to the President these men whom I and others have reported to him as dishonest scoundrels in his department I will denounce him from my place in this House.

Mr. WOOD. Will the gentleman yield to me for a moment?

Mr. LOGAN. Certainly.

Mr. WOOD. The gentleman has made reference to frauds committed in the city of New York.

Mr. LOGAN. Yes, sir.

Mr. WOOD. Reference has also been made by the gentleman to the revenue board established by the Treasury Department for the prevention of these frauds.

Mr. LOGAN. Yes, sir.

Mr. WOOD. Now, sir, as one of the Representatives of the city of New York I desire to say that it is unquestionably true that the grossest frauds upon the revenue have been committed in the city of New York, not only by the distillers interested in the manufacture of whisky, but by nineteen twentieths of the officials who have been placed there for the protection of the revenue. And I will say further, that since the establishment of this revenue board, made up of three district attorneys, one sub-treasurer, and one of the sub-commissioners of internal revenue, these frauds have very materially increased. Instead of facilitating the honest collection of the revenue it appears to have established simply a board for the promotion of fraud. And it is a very remarkable fact that the district attorneys in those three districts for which the board is appointed have failed, so far as I am informed, to prosecute and convict in a single instance either the officials or the distillers who have been detected in these frauds. If the ingenuity of the Treasury Department had been for a twelvemonth applied to the sole object of constructing an organization to promote fraud and to aid those who were studiously practicing frauds upon the revenue, it could not have accomplished that object more successfully than it has in the establishment of the revenue board now sitting in New York.

Mr. LOGAN. Mr. Speaker, I am very well satisfied with the witness who has come to my assistance in this case. I have no doubt that the gentleman from New York, [Mr. WOOD,] being a Representative of that district, has a knowledge of the facts. I doubt not that facts have come to his knowledge almost every day, as they have to mine, from prominent individuals. I have not made charges against the whole of that revenue board, but I have said that its members are not all exceptions to the rule, and I say so still. The evidence before us shows that at least some of them have connived at frauds and most outrageous swindles upon the Government of the United States.

What is the remedy for all this? You cannot remedy the evil by a system of meters, though that may be some assistance. The evil cannot be remedied by Andrew Johnson appointing thieves; it cannot be remedied by the

Secretary of the Treasury winking at frauds which are committed every day under his own eye and nose. How can a remedy be applied? By this Congress having nerve enough to let these gentlemen know that they shall appoint honest men; and if they have failed in their judgment in reference to the integrity of appointees they shall, when the facts are brought to their knowledge, turn them out, or else they will be held to a strict accountability before the Congress of the United States as accessories in the perpetration of frauds upon the Government of the United States. This is the only remedy.

I stated not one week ago to these officers that I was satisfied, from the affidavits and statements of honest and honorable men, that one of the officers whom they have in their employ was defrauding the Government of its revenue, was engaged in peculations. I told them that I had the evidence of that fact. What is the result? This official is only promoted to a higher position than he held before this information was furnished. More than that, sir; I state here upon this floor that a man named McDonald, who was convicted and sentenced to death as one of the conspirators to burn the hotels in New York, was appointed by the Secretary of the Treasury to an office in that city. There are other things that I might tell. The record of the acts of Andrew Johnson and this man who is a member of his Cabinet is so black and infamous that the world would blush if it could only look upon that record for a moment.

I make another assertion: that since Andrew Johnson and Congress divided, the revenues of the country have not been collected as they were before. In many important districts the revenues returned are smaller than they formerly were. Why? Because responsible positions connected with the enforcement of the revenue laws have been filled either with Andrew Johnson's pets or Republicans who were willing to sell themselves to him and desert their principles for the purpose of securing an opportunity to perpetrate frauds upon the Government. On Andrew Johnson and the Secretary of the Treasury, who have appointed a class of men disgraceful to the nation, rests the responsibility for the frauds by which the revenue of the Government is suffering.

Mr. ROSS. I desire to say to the gentleman that the Senate of the United States rejected nine competent and honest men who were nominated by the President of the United States for assessor of my district.

Mr. LOGAN. Well, what kind of a man did the President send in that the Senate did not reject? [Laughter.]

Mr. ROSS. The Senate rejected good men. The truth is that if the President nominates good men the Senate rejects them.

Mr. LOGAN. Then, as I understand the gentleman, the Senate wait till the President nominates a scoundrel, and then they confirm him. [Laughter.]

Mr. ROSS. Yes, sir; that is it. In order to have the offices filled the President is obliged to take demoralized Republicans—men who profess to the President to be with him and profess to the Senate to be with them, necessarily lying to one party or the other; and such men will steal. [Laughter.]

Mr. LOGAN. Now, Mr. Speaker, that is the simplest proposition in the world. The President sends men into the Senate whom the Senate do not want to see demoralized, and hence they reject them. [Laughter.] He sends them in knowing they will be rejected, and after a sufficient number has been rejected, he sends in a thief——

Mr. ROSS. And the Senate confirms him.

Mr. LOGAN. Of course they confirm him, because he is Mr. Johnson's choice, and they do not want to get into trouble. I say because the Senate may have rejected eight men in his district that is no reason why he should not send an honest man the ninth time. I do not know what kind of man he has now. Perhaps he is an honest man. If so, he is an exception to the general rule. I do not say that he is honest or dishonest, because I do not know. I ought to know but I do not remember. But I say this: after the President has appointed the apostolic number of good men, and they have been rejected, and he afterward appoints a thief, he is responsible for the appointment. The Secretary of the Treasury and the President should have sufficient evidence of a man's honesty before they appoint him to any office of honor, profit, or trust.

Mr. KERR. I desire to ask the gentleman from Illinois whether he means to say, either in fact or in law, it is the duty or business of the President to appoint these inspectors?

Mr. LOGAN. I will answer by saying it is certainly not his duty, but he does it as he does other things which are not in the line of his duty. [Laughter.]

Mr. KERR. Name an instance in which the President has made such an appointment?

Mr. LOGAN. I do not care to take up the time of the House, and hence I will not name any of the gentleman's constituents.

Mr. KERR. The gentleman has said these appointments are made by the President. The law does not give him that power, but it belongs to the Secretary of the Treasury.

Mr. LOGAN. He does a good many things which he has no law for. The Secretary of the Treasury appoints.

Mr. KERR. And the Commissioner of Internal Revenue in some cases.

Mr. LOGAN. No, sir; only the Secretary of the Treasury, who appoints all these men whom the President lets him appoint. The President has the appointment of the collectors and assessors. The Secretary of the Treasury has the appointment of inspectors, but in many instances he has been required to appoint certain men as inspectors. I have no doubt this House to-day makes no difference between them. I believe Mr. McCulloch went off on the same sliding scale at the same time that the President did. Both belong to the same administration. One is a Cabinet officer and the other Mr. McCulloch recognizes as President. The Secretary of the Treasury appoints except where the President desires some of his special friends, and then he requires the Secretary to appoint them. That is about the way it goes.

Mr. KERR. I desire to inquire of the gentleman whether he considers the Senate in the same boat with the Secretary of the Treasury? The Senate has to confirm these gentlemen assessors and collectors before they can be commissioned. It is the duty of the Senate to know what they are doing.

Mr. LOGAN. I will only say to the gentleman that I have never heard of an inspector sent to the Senate to be confirmed.

Mr. KERR. I did not say inspectors, but collectors and assessors.

Mr. LOGAN. They are not in the same boat. They have nothing to do with his appointments. They only recognize them. He appoints and he is responsible. Sometimes they accept a Republican and sometimes a Democrat.

Mr. KERR. That is a new definition of the duty of the Senate. I supposed it was their duty to *advise* the President as well as to confirm appointments.

Mr. LOGAN. The gentleman will learn a great deal as he grows older.

Mr. KERR. But not from the gentleman.

Mr. SCHENCK. Let me make a remark. Nineteen twentieths of the agents for the collection of the internal revenue are appointed from the Treasury Department and are not confirmed, and therefore do not come within the provisions of the tenure-of-office bill.

Mr. LOGAN. I will call attention now to another thing, inasmuch as the gentleman desires to get information from me. I say that a majority of the inspectors and secret agents which go all over the country are nothing more nor less than black-mailers of men who have money to pay them to keep their mouths shut. That is the class of men you have. They require no confirmation by the Senate. They are sent from the Treasury Department with authority in their pockets to seize distilleries, tobacco-manufacturing establishments, and everything in the world, and they alight on a man's distillery or establishment before he knows who the officer is, and then if the man will pay him enough the officer goes off and is never seen again.

Mr. BURR. Will my colleague permit me to ask him a question?

Mr. LOGAN. Certainly.

Mr. BURR. I remember that my colleague secured the appointment of an acquaintance of mine from my own district as special revenue agent during the last session. I would like to know if he attaches this character to that agent?

Mr. LOGAN. Well, now, I will state to the gentleman that I did recommend a man from his district, an honest man, and one that he dare not gainsay. I ask my colleague if he does not consider him an honest man?

Mr. BURR. I was not making any assertion about him.

Mr. LOGAN. Well, I ask you if you do not consider him an honest man?

Mr. BURR. I wished to know from the gentleman whether he classed his appointee in that list, and now I will ask further if he designates another gentleman who was appointed to the same position from the same district as being within the category he describes?

Mr. LOGAN. The gentleman from Illinois will remember that I have designated no individuals by name, nor do I mean to do so; but I have said, as a general proposition, that they were men perpetrating frauds against the Government. I do not charge any particular individuals, and I ask my colleague to state before this House and the country whether or not he does not himself believe that the majority of them are scoundrels?

Mr. BURR. Well, that is a direct question.

Mr. LOGAN. Yes, and I would like to have it directly answered.

Mr. BURR. I have not had the opportunities of investigating the matter that the gentleman has had.

Mr. LOGAN. You ought to have had.

Mr. BURR. I am not on the committee. But if they are what the gentleman states I do not recognize the responsibility of anybody for their misconduct except the appointing power, who is not in coöperation with Andrew Johnson, but acting in full coöperation and political fellowship with my friend and colleague on the other side.

Mr. LOGAN. Who is that?

Mr. BURR. Commissioner Rollins, who appoints the inspectors. [Cries of "Oh, no."]

Mr. LOGAN. I want to correct the gentleman right there. I state that Commissioner Rollins makes no appointments, and the gentleman is certainly more ignorant than any one that I have seen before if he believes he does. Why, sir, he ought to know better than to make such a statement as that in his place here. His constituents sent him here as a man of ability, a man of genius, an honest man, an intelligent man, and he is going to send evidence home to his constituents of his own ignorance, his want of information. He ought not to do it. He ought to know better than to make statements such as he has made.

Mr. BURR. Will the gentleman permit me to ask him a question?

Mr. LOGAN. Just as many as you have a mind to put.

Mr. BURR. I wish to ask my colleague whether, in securing the appointment of Bailey Dawson, of Morgan county, Illinois, he did not apply to Commissioner Rollins and urge the appointment on him as a man fit for the place?

Mr. LOGAN. I certainly did get Commissioner Rollins to recommend him to the Secretary of the Treasury, who appointed him.

Mr. RANDALL. That is the way they are all appointed.

Mr. LOGAN. No; that is not the way they are all appointed. Men are appointed without Mr. Rollins knowing anything about it. But if you go to Mr. Rollins as a member of Congress and recommend a certain man he will take your word for it, and when you do go to him as a member of Congress you ought to be very careful to recommend an honest man, as I did.

Mr. BURR. My friend has stated precisely in fact what I stated in the point that I made. This is not a question of law, but a question of fact. The appointing power absolutely, by law, might be in one place; by subterfuge or evasion, in fact, the authority might be exercised by a very different officer, as my friend admits was the case in the instance of one appointee; and with that I am satisfied.

Mr. LOGAN. Now, I will put a question to the gentleman for him to answer. He belongs to the other side in politics from myself. Mr. Rollins does belong to the same political party that I do. I ask the gentleman to state to me why it is that these men are all the time trying to remove Mr. Rollins and not trying to remove these thieves that are appointed? It seems as though they were perfectly satisfied that these cormorants should remain if they can only get Rollins out. But the trouble with Rollins is that he cannot get anybody removed. The President will not remove anybody; the Secretary of the Treasury will not remove anybody. Mr. Rollins has no power to do this thing the gentleman speaks of.

Now, I say to my colleague [Mr. BURR] and to all those gentlemen, let us all go to the President or the Secretary of the Treasury on behalf of the country, on behalf of the taxpayers, and in one solid phalanx as honest men ask the Secretary and the President to remove these men against whom charges have been made. I ask the gentleman will he do it.

Mr. BURR. Certainly.

Mr. LOGAN. Let us go, then; and the members of the Committee of Ways and Means will go with us, and we will propose to have every man turned out of office who has been appointed within the last fourteen months.

Mr. WARD. Is this bargain to be confined to the Illinois delegation. [Laughter.]

Mr. LOGAN. Mr. Speaker, I guess we have had amusement enough over this thing.

Mr. ELDRIDGE. Will the gentleman yield to me for a moment?

Mr. LOGAN. For what purpose?

Mr. ELDRIDGE. I desire to make a suggestion or two to the gentleman from Illinois [Mr. LOGAN] in reference to the subject he has been discussing; perhaps it may be in the form of a question.

Mr. LOGAN. If the gentleman will put a question to me I will answer it.

Mr. ELDRIDGE. I desire to see whether the responsibility of these appointments rests upon Mr. Rollins or not. The testimony taken before the impeachment committee shows that Mr. Rollins has never yet, in a single instance, appealed to the President for a change in any of these offices where he has been satisfied there has been corruption, dishonesty, or any other disqualification of the incumbent.

Mr. LOGAN. Is that the suggestion which the gentleman desires to make?

Mr. ELDRIDGE. I want to call the attention of the gentleman to what Mr. Rollins says. The question was put to him: "Have you ever, in a single case, represented to the President that any incumbent of the revenue service was dishonest, or incompetent, and ought to be removed?" He answered, "I have not."

Mr. LOGAN. Yes, exactly.

Mr. ELDRIDGE. He goes on to say: "It is not the practice for the head of a bureau to communicate by letter or personal interview with the President except in the instance referred to." And then further on he says in the same connection——

Mr. LOGAN. I do not yield to hear the impeachment testimony read. I have read it all myself.

Mr. ELDRIDGE. I will take but a moment longer. I desire to read only one single passage more.

Mr. LOGAN. I have read it all, and I was very much disgusted. [Laughter.] I will not say I was disgusted with the evidence particularly, but with the result of the investigation. [Renewed laughter.]

Mr. ELDRIDGE. Mr. Rollins names six persons who he was satisfied were guilty of fraud and ought to be removed. And then the testimony is as follows:

"*Question.* Did you name any persons as their successors?

"*Answer.* I did not.

"*Question.* Were those six officers Republicans or Democrats?

"*Answer.* I have no means of knowing with certainty their political opinions. They were nearly all appointed by Mr. Lincoln. They were generally reported as 'Conservatives;' I cannot say whether they are all so or not."

Mr. LOGAN. Now, Mr. Speaker, I do not yield any further to the gentleman to read from the evidence before that committee; I hope the members of the House have all read that evidence. I yielded for a question or a suggestion; but the gentleman has neither asked a question nor made a suggestion.

Mr. ELDRIDGE. Well, I will ask a question.

Mr. LOGAN. What is it?

Mr. ELDRIDGE. If the gentleman will allow me to read one further question and answer from this testimony.

Mr. LOGAN. I decline to yield for that purpose.

Mr. ELDRIDGE. The question was put to Mr. Rollins——

Mr. LOGAN. Put the question to me, and not to Mr. Rollins.

Mr. ELDRIDGE. The question put to Mr. Rollins was——

Mr. LOGAN. I decline to have any question put to Mr. Rollins.

Mr. ELDRIDGE. I was going to read that question, and then ask the gentleman——

Mr. LOGAN. I understand the matter as well as the gentleman does; I have been in court too much not to understand the proper way to put questions. The gentleman cannot put a question to me through Mr. Rollins. If he will put the question directly to me I will answer it.

Mr. ELDRIDGE. The gentleman holds the floor, and of course I must do as he says. I desire to ask him whether, in his opinion, the law recently passed by this Congress preventing the President from removing an officer without the consent of the Senate has not had a tendency to continue these dishonest officials in office and to produce the precise state of things which the gentleman has been describing. Mr. Rollins testifies that it has had this tendency.

Mr. LOGAN. The gentleman's question is a very simple one and very readily answered. He asks me whether the tenure-of-office act has not had a tendency to produce the results I have been describing. I believe that is his question, although in briefer form than that in which he has stated it.

Mr. ELDRIDGE. That is it substantially.

Mr. LOGAN. I will answer the gentleman, in the first place, by saying that the officers charged with complicity in these frauds are not, in nine cases out of ten, officers whose appointment comes before the Senate for confirmation. This I have already stated.

But I will make a further answer to the question. The gentleman reads from the evidence taken before the Judiciary Committee what Mr. Rollins said about having reported men to the President. Why, sir, Mr. Rollins has nothing to do with the President in reference to this matter. Mr. Rollins reports to his chief, the Secretary of the Treasury, and not to the President. Hence the evidence of Mr. Rollins has nothing to do with the point under discussion. Mr. Rollins has perhaps reported to the Secretary of the Treasury, but not to the President, because he has no authority or right to do so. Hence Mr. Rollins stated the truth when he said that he had never reported to the President, because he has no authority to do so, either directly or indirectly.

But I see the point the gentleman desires to make in his question, and I say to him that if the President of the United States, or the Secretary of the Treasury through the President, will propose the removal or suspension of any officer upon the ground that he has been defrauding the revenue the Senate will assuredly agree to every removal the President may suggest where there is ground for the statement that a dishonest official is perpetrating fraud.

Mr. RANDALL. Will the gentleman from Illinois [Mr. LOGAN] allow me to give him my experience in connection with that subject?

Mr. LOGAN. No, sir; I do not want the gentleman's experience. I have the evidence of men who have had a great deal more experience than the gentleman.

Mr. RANDALL. I was asked by a grave Senator to make a bargain on that very subject.

Mr. LOGAN. I decline to hear the gentleman's experience.

Mr. ELDRIDGE. Will the gentleman permit me to ask him a question?

Mr. LOGAN. Certainly.

Mr. ELDRIDGE. When the gentleman made the proposition to his colleague [Mr. BURR] to go to the President and ask a change of officers, I understood that proposition to be limited to those officers who have been appointed within the last fourteen months.

Mr. LOGAN. I do not care how far back it extends.

Mr. ELDRIDGE. If such a bargain is to be made I would like it to include all the appointees, so that we shall get rid of all the defrauding officials, because Mr. Rollins tells us that many of the appointees of Mr. Lincoln were dishonest men.

Mr. LOGAN. Very well; I will agree to that. I will agree to make a clean slate of the whole thing and commence anew. I think such a change would be well for the credit of Mr. Johnson and his friends, and I am sure it would promote the efficient collection of the revenue.

But, sir, I desire to make a statement for the benefit of my Democratic friends who want to make these bargains. Of course we cannot make bargains about turning out officers, because we do not know whether they will be acceded to or not. There has been collected during the last year about twenty-three million dollars as tax on spirits. Now, let me make a proposition to my Democratic friends, to test the honesty of Mr. McCulloch and their President, for he is not ours. [Laughter.] I do not know whether he or Mr. DOOLITTLE or General Hancock is to be their candidate for the next Presidency. From the nominations made at the meeting last night it seems very doubtful who will be the candidate.

Mr. ELDRIDGE. General Grant, I suppose, if he gets on the platform. [Laughter.]

Mr. LOGAN. On the platform! That is just where he is going to get—on the proper platform, if he runs on any at all.

This is what I was going to say: there are men to-day who will give $50,000,000 and pay all expenses of collecting the revenue if such a contract could be made as will give them the excess. I know it cannot be made under the law. I only state it with a view of letting it be known that there are men in this city who would pay $50,000,000 and all the expenses for the collection of the revenue on distilled spirits for the contract. If such a law was in existence and Mr. McCulloch would give me the contract I would resign my seat to-morrow and agree to pay $50,000,000 and pay all the expenses of collection provided I should get the excess over $50,000,000 which I might collect. This shows the views of the people in regard to the collection of the revenue. We ought to have $150,000,000 to-day from dis-

tilled spirits alone in this country. Instead of that we only collect $23,000,000. If Mr. Johnson and Mr. McCulloch will turn these officers out we can go on and collect this revenue.

I have said a great deal more than I intended, but I did so because I was catechised and not because I desired to make a long debate. I yield now for ten minutes to the gentleman from Ohio, [Mr. MUNGEN.]

Mr. MUNGEN. Mr. Speaker, this debate has taken a range rather wide of the mark, as it was started in respect to meters. I shall confine myself for a few minutes strictly to the question of the distillation of spirits. It is a scientific question, and seems not to be generally understood, because I hear honorable gentlemen say no meter can be devised by which the accurate amount of spirits distilled can be arrived at. I take leave to differ from them, and if gentlemen will wait a moment I will endeavor to explain my views of the subject.

It is acknowledged by nearly all that could a uniform gravity for the fermented beer of the distiller be established and a law enacted taxing the spirit in the beer before distillation it would overcome most of the perplexing difficulties which now complicate the present system. In nearly all countries where there is an excise law the basis of taxation is the amount of spirit eliminated in the beer or mash by the fermentive process. This is ascertained each day by the excise officer by actual weight and measurement. Such a course in this country, however, would be impracticable in consequence of the large number of distilleries and the extent of territory. But practical and scientific distillation show most conclusively that all distillers expert in their business can and do get about a uniform gravity to their beer. And furthermore, the gravity of beer does not depend upon the caprice of the distiller, as many suppose and some have erroneously and officially stated, but is governed entirely by scientific and natural law; and as this seems to be the only objection urged to the system of taxing the gravity of the beer it may be well to give some authorities upon this subject. It will be understood that alcohol is formed by the decomposition of sugar through the process of fermentation, and the error of supposing that the greater the gravity or amount of sugar present the greater the yield of spirits from a given content is what I propose to show.

It is a fact known to all that sugar is not soluble in spirits, and alcohol will prevent the decomposition or fermentation of sugar; therefore, should the distiller increase the density of his beer so as to get a great quantity, he would find that the fermentation would entirely cease when enough of the sugar had been decomposed to equal about eight per cent. of alcohol.

Professor Ure, in his Dictionary of Chemistry as applied to Arts, &c., at page 588, says on this subject:

"Could the alcohol be drawn off as it is formed the attenuation would probably become greater, because the alcohol checks the fermentive action and eventually stops it before all the sugar is decomposed."

Again, at page 697, he says:

"The sugar solution must be sufficiently diluted with water; when too much concentrated it will not ferment, and that for a complete fermentive action one part of sugar should be dissolved in ten parts of water. This by our process gives us about forty-five gallons of water to the bushel."

Dr. Watt, in his Dictionary of Chemistry, at page 630, says:

"Fermentation takes place only when the solution is sufficiently diluted with water; with less than four pints of water to one pint of sugar it takes place imperfectly or not at all; partly, perhaps, because the resulting alcohol precipitates the nitrogenous substances, destroys the fermentive power of the yeast, or renders the liquid unfit for its further development. If, on the other hand, the liquid is too much diluted, the fermentation is slow, irregular, and easily passes into the acetous fermentation."

Again, at page 631, he says:

"The action of yeast on sugar is prevented by too great concentration of the solution."

Professor Muspratt, in his work on Chemistry at page 65, volume 1, says:

"The quantity of undecomposed sugar increases with the original strength of the worts (beer) as the alcohol generated in the proportionate bulk of those extracts is larger, and with it the decomposition of the saccharine matter is partially arrested in consequence of the property which alcohol has of preventing eremacausis or fermentation."

Again, at page 66, he says:

"With concentrated worts (beer) the fermentation goes on briskly for a short time, and then, after the alcohol has accumulated, the fermentation lags, and no further addition of yeast will revive it. Hence the necessity of having the worts (beer) properly diluted to avoid too great a waste of saccharine matter; yet the worts (beer) must not be too dilute, for then the fermentation will sooner cease, and the diluted alcohol will be more apt to run into the acetous fermentation."

Were other evidence of a scientific character wanted upon this subject it can be had in almost every work on chemistry.

In addition to what has already been stated we have the practical distillation of this country to corroborate the foregoing facts.

In some sections of the country it is argued that only eight quarts are obtained from a bushel, while in other sections sixteen quarts are got; therefore, a tax upon the specific gravity would be unjust. This is a specious argument, and can have weight only with those who do not understand the subject. Taxing the gravity is the same as levying a tax per bushel upon the amount of grain used. Suppose, therefore, a tax of eight dollars per bushel was levied upon each bushel of corn used in distillation, and one distiller should make four gallons per bushel and another but two gallons, it would appear that the one that made but two gallons paid twice as much into the revenue as the one that made four gallons from the same quantity of material; but the fact is the one that gets four gallons can only get from twenty-five to thirty cents per gallon for his spirits, while the one that makes a fine whisky and gets no more than two or three gallons can sell his product for ninety cents per gallon, and, in reality, makes more money than his neighbor who gets four gallons.

Each one is furnished with the same quantity of material. If one prefers making a fine spirit, and in consequence gets less in quantity than his neighbor, he is prompted from motives of policy; and the same rule that governs all business applies here.

By the sychometer almost the exact gravity of the beer or wort, as Dr. Watt calls it, can be ascertained. The laws of nature govern the question of gravity as well as fermentation. Spirits are not solvents of sugar. Spirits are produced by the fermentation of sugar, or rather by the saccharine matter contained in the grain; and, as before remarked, fermentation ceases in the mash tub and elsewhere when the contents approximate eight per cent. of alcohol—perhaps eight and one tenth per cent. When it reaches this fermentation ceases and the residue of the sugar goes into the swill.

The fine whisky of Kentucky is made by taking great care in the temperature of the still. Alcohol boils at 178°, if I mistake not. By keeping the temperature at that the fusil oil and other volatile oils do not escape through the worm. By raising the temperature to 190° or above, these volatile oils pass off with the spirits. In the first instance they get less spirits and pure quality; in the second, more and inferior.

Without measures or meters we must trust entirely to the honesty of the officials; and judging by past experience, both during the administration of President Lincoln and President Johnson, it seems we would have but little security for the collection of our revenue.

As I said before, this discussion has certainly taken a range wide of the mark. Why the wholesale charges by the honorable gentleman from Illinois, [Mr. LOGAN,] that the Johnson men are all thieves, or words to that effect? Why the assertion that the Secretary of the Treasury and the President of the United States appoint thieves, and only thieves, to office? This is substantially what he charges. He does except from his sweeping charge of corruption two gentlemen in the State of Illinois, whom the gentleman states he had recommended. Only two honest men in all! I presume the honorable gentleman understands the subject of frauds; he says he does. But charges of this kind are the capital stock-in-trade of the gentleman's party.

Allow me to call attention to the fact that the men who have been appointed—by hundreds—by the President and rejected by a Republican Senate are as honest as the two gentlemen in Illinois before referred to; as honest and honorable gentlemen as live. Yes, with all due respect, as honest and honorable as the gentleman himself, so far as my knowledge goes. It must be admitted that no gentleman in this House makes heavier or graver charges against all those who belong to the party with which he once was connected. All officers thieves! Such a charge is simply preposterous. The stealings of the "loyal" Republicans during the first years of Lincoln's administration have made an impression on his mind, and he thinks that the same thieves are still in office. Well, many of them are. He talks glibly of "Johnson's pets;" why not tell us of the "pets" of Congress, the negroes of the South, whose children are educated at public expense, while the poor friendless orphans whose skin is fair and white get no favors. The gentleman says that the frauds in the revenue department are chargeable to the fact that they are "Johnson's pets;" in other words, were appointed, as he says, within the last fourteen months, and are, therefore, dishonest.

Why, Mr. Speaker, from my own personal knowledge I can state that men—honorable, high-toned gentlemen as ever drew the breath of life—have been appointed to office by President Johnson and rejected by the Radical majority in the Senate. In my own district a brave and gallant soldier, who, at the head of his regiment, lost his right arm by a ball from the enemy at the battle of Chickamauga, was appointed, on my recommendation with that of others, to the position of assessor and was rejected by the Senate. He was appointed by President Johnson and he is no thief. He is a brave and true patriot and no traitor. The head and front of his offending hath this extent—no more—he votes against Radicalism, and does not think a negro man his equal, nor a negro woman the equal of his wife or his aged mother. Nor do I, nor do hundreds of thousands of men who served faithfully during the war. The gentlemen on the other side of the House will find this out, to their regret. They found it out at the late elections; hence their bitterness.

But the gentleman from Illinois tries, somewhat toward the close of his remarks, to excuse Mr. Rollins from any participation or responsibility in regard to the appointments of revenue officers. Mr. Rollins is at the head of the Bureau of Internal Revenue, and certainly exercises a very large influence in the appointment of his subordinates. Every one knows this.

More than one year ago gentlemen from nearly every northern, eastern, and western State sent a committee or delegation to the President, asking the removal of Mr. Rollins and the appointment of Mr. Spooner, of Ohio, in his place. My belief is that the President was favorable to the change, but that Mr. Rollins influenced Secretary McCulloch in his own behalf, or the Secretary voluntarily acted for his retention. Be this as it may, Rollins is still there. The West, the North, and a portion of the East, asked, and almost demanded, the removal of Mr. Rollins. It may be asked why. I am not one of those gentlemen, like my friend from Illinois, who indulge in wholesale charges of corruption or ignorance, (leaving the party alluded to their choice of the dilemma,) but in my opinion the best interests of the country would have been subserved by his resignation or removal long since. So far as charges of

fraud and corruption against the Secretary and the head of the Revenue Bureau by the gentleman from Illinois is concerned, I have nothing to say. They were both appointed by Mr. Lincoln, and they are, in my opinion, much more honest than the average of Lincoln's appointees. As to the personal character of the Secretary and Commissioner, I certainly have nothing to say; believing that if they are as dishonest as the gentleman from Illinois charges Mr. Lincoln appointed them because they were more honest than any of the Republicans with whom he was acquainted.

The present system of collecting the internal revenue is a Republican invention; and, as I believe, was gotten up to furnish places for a lot of lazy fellows and others who were to work for the party and its advancement.

The SPEAKER. The gentleman's time has expired.

Mr. LOGAN. I yield the remainder of my time to the gentleman from Pennsylvania.

Mr. MYERS. Mr. Speaker, I trust the House will pardon me at this late hour for saying a few words on the proposition now before us. I have but eight minutes left to me and shall have to be very brief.

The people are taxed heavily and their Representatives anxious to ascertain what articles can be released from that burden, and from what articles we can best collect revenue to pay the interest on our public debt and gradually reduce the principal. The public mind is perhaps more deeply interested in this question of producing revenue from the tax on whisky than almost any other. I hope, therefore, the debate will be allowed to run further than is now intended. The fact stares us in the face that we are collecting but $23,000,000 from this source, when we should obtain over one hundred millions.

I favor the project of the committee, but not entirely for the reasons set forth by the able chairman of the committee. The department has at present adopted the Tice meter. I agree with him the public should know whether this meter is in all respects equal to the best that can be procured. This much is due to the Commissioner of Internal Revenue, under whose supervision it has been adopted—due, too, to Mr. Tice, who certainly should deserve a commission, which, if his device is worthy of adoption, will award him the credit. It is simple justice to others having meters that theirs, also, should be fairly tested, and it is right that Congress shall be fully informed upon the subject. But, sir, the debate to-day will show—if nothing else has shown—these differing opinions of gentlemen who, like myself, have merely gained their information from others, and know little about this matter scientifically, that the meter system is defective, uncertain, and not the safest one for adoption. One year ago I became convinced, from conversation with an intelligent gentleman who had witnessed the operation of the laws relating to distilled spirits in Prussia and Austria, that to tax capacity was the fairest and best mode of obtaining a revenue from this source. A committee, of which I was one, was appointed in the last Congress about the same time for the very purpose of investigating frauds on the internal revenue, and especially with reference to distilled spirits. Mr. Darling was its able chairman, and that committee in a report, for which my friend from Michigan [Mr. BEAMAN] deserves a full share of credit, decided in favor of this mode of raising the revenue.

I read from their report:

"But it is believed that a modification of the law so as to lay the tax on distilled spirits on the capacity of the distillery would be found at once simple, easy, and effective, and that it would operate greatly to reduce the expense of collection; and until some automatic contrivance can be invented to indicate unerringly the exact quantity of proof spirit produced we are of the opinion that the tax should be laid upon the capacity of the distillery, as above suggested. An expert could readily determine very nearly the actual capacity; and by adopting this plan you secure the collection of the revenue, avoid all the various temptations and opportunities for fraud to which allusion has already been made, and which must ever exist under a system so complicated as the present. Some reasonable reduction might be made from the actual ascertained capacity to provide for contingencies, stoppages, &c. If it be said that by such deduction some spirits might escape tax, it is answered that it would operate only as a reduction of the tax, now confessedly large; but it would preclude illicit distillation and would operate equally upon all engaged in the business."

I favor the appointment of this commission because I understand they are not only to report upon the subject of meters—and if the meter plan is to succeed I wish the best one—but it will come within the scope of their authority also to report their views of the feasibility of levying the tax upon the capacity, not of the still, but of the distillery; that is, of the mash tubs. It takes generally forty gallons of water to one bushel of grain to make what is called a mash. That produces about three gallons of whisky. If you adopt any system of measurement at the tail of the worm, fraud may prevent the whisky from going through the meter, or a little upsetting of the meter may prevent its registering the liquor which does pass through it. If you adopt the beer meter that is spoken of by the gentleman from Illinois, [Mr. LOGAN,] it has been found by experience that thirty gallons of water to one bushel of corn will produce the same quantity of whisky, that is to say, a thicker mash will be produced, and if registered by the beer meter before it reaches the still the meter will register this lesser quantity and fail to show that the strength is the same. The true mode, then, as I believe, and I hope to present more perfect views hereafter, would be something like this: to have in each district a board composed, say, of the assessor, the collector, and one or even two skilled men, the latter to pass a rigid examination and scrutiny, sworn to do their duty, and under heavy penalties for violating it, and let the party who desires a permit for distillation for a given period go to them, giving a plan of his distillery, with minute description of every tub, still, and distilling apparatus. They can certainly assess the capacity of his mash-tubs by calculation as perfectly as by meter, supposing the latter to be honestly tested, and ascertain the amount of whisky which can be distilled. The law should allow about twenty per cent. for leakages, stoppages, &c. By this means you will have a certain income from whisky, and you will need no officers save these few and one or two to visit each distillery at times to see if new tubs or stills are added, which a severe penalty on the distiller would prevent, even if the ease of detection would not.

But there is a still greater advantage from this system. We should take care of the morals of the people in so far as we can in this regard. Ever since the present laws upon the subject of whisky went into operation fraud has permeated almost every branch of business connected with it, and it is our duty to see that this temptation to fraud is no longer held out.

The test of capacity seems the true one by which to tax this article. It will yield us a certain income, and avoid the necessity of employing all these almost irresponsible office-holders, whether appointed by Mr. Johnson or otherwise. I know, statements from the other side of the House to the contrary notwithstanding, they are all appointed by the President or Secretary of the Treasury. Not a man can be selected otherwise except occasionally, when the recommendation of the Commissioner of Internal Revenue is taken. This commission can report not only upon the meters—the best of which I shall be glad to vote for if no other plan can be adopted—but also whether the plan of taxing capacity adopted in Hungary, in Prussia, in England, and at one time in this country, is not the true one.

[Here the hammer fell.]

Mr. VAN WYCK obtained the floor.

Mr. MYERS. I desire to move the previous question.

Mr. VAN WYCK. No, sir; it is about time that this thing was played out in this House of calling the previous question after a gentleman has been heard on one side. I had the Speaker's eye and obtained the floor before the gentleman had an opportunity of doing it.

Mr. LOGAN. Allow me to explain.

Mr. VAN WYCK. It needs no explanation.

Mr. LOGAN. I desire to explain that——

Mr. VAN WYCK. I cannot yield. I want to talk a little about this resolution.

Mr. LOGAN. I have no objection to your talking, but I do not like to have the word "cackling" applied to me.

Mr. VAN WYCK. I desire to come back to the matter really under discussion.

Mr. LOGAN. Allow me just to ask you a question. I ask you if you applied the word "cackling" to me.

Mr. VAN WYCK. I did not apply the word "cackling" at all to anybody. I am not in the habit of using such words on the floor of the House or anywhere else.

Now, I want to say a few words in regard to the merits of this joint resolution. I do not take it for granted that because it comes from a committee of this House, no matter how high or distinguished that committee may be, it follows as a matter of course that the members of that committee must occupy pretty much all the time of the House, and then expect the House to ratify the conclusion to which they come. And hence it is, with all due respect for that committee and for their report, I desire to say a few words in opposition to the proposition which they have submitted to this House.

They ask that a commission shall be appointed. Why? Are we to establish the precedent that every committee of this House, whenever they have a difficult problem to solve, shall come here and ask for the appointment of a commission to resolve some doubtful point that has been presented to their consideration? I have said that the Treasury Department had been investigating this matter for two years, sometimes by means of one species of commission and sometimes by means of another, by Treasury agents and other means. Yet the frauds have been increasing and multiplying, and the revenue has been diminishing from that very time until now.

And Congress itself may share a portion of the blame and the responsibility for these enormous frauds. At the time this tax was raised to two dollars per gallon Congress refused to let it apply to whisky then on hand. The consequence was that the speculators were given an opportunity to make $50,000,000; they put into their pockets more money than the Treasury has received from this source from the time of the passage of that law to this day.

But they want this commission. Why? They say that the Secretary of the Treasury appointed one commission under an act of Congress. Was not that sufficient? Why do they come forward now and ask us to clothe the Secretary of the Treasury with power to appoint another commission?

Mr. LOGAN. Will the gentleman permit me to answer that question?

Mr. VAN WYCK. Certainly.

Mr. LOGAN. The reason is this: the first commission that was appointed examined only those meters which test or prove the quantity of the spirit after distillation. The proposition now is to have a commission that shall not only examine meters to test and prove the quantity of spirits distilled, but shall also examine meters which test the product itself. That is the reason for this commission.

Mr. VAN WYCK. Yes, sir. Now, a word right here. The gentlemen of the Committee of Ways and Means are evidently conversant with this subject. The Committee of Ways and Means are the only commission which this House wants for this purpose. They are conversant with this matter of meters, and they have given us their views and their reasons in reference to this matter.

But they now say they want another commission appointed to investigate this subject. They

want another commission, to be composed of men whom they propose to nominate to the Secretary of the Treasury. That certainly is an anomaly. They say that the Secretary of the Treasury is not to be trusted in the matter of appointments to office; but they can trust him to appoint the members of this commission, because he has promised the Committee of Ways and Means that he will appoint the men they suggest to him.

The Committee of Ways and Means have the power to subpœna before them for examination these very men whom they propose to ask the Secretary of the Treasury to appoint upon this commission. Then why ask the Secretary of the Treasury to appoint them, when the Committee of Ways and Means have the power to subpœna them before them, can show them all the meters that have been made, and can let them see them in operation? If they want any information from these men they have it in their power to obtain it without authorizing the Secretary of the Treasury to pay an unlimited amount, if he chooses, for the purpose of defraying the expenses of this commission.

Hence it is that I desire to say right here that in my judgment there is no necessity for the appointment of this commission, because all the information which they seek to gain from these men they can gain by subpœnaing them to come before them in their committee-room as witnesses.

This is a dangerous expedient. That is all the suggestion I wish to make upon this joint resolution.

I wish, however, since there has been so much travel outside of the record in the attack which has been made upon the Metropolitan Board of Revenue of the city of New York, to say in defense of the members of that board, who are high-toned gentlemen, that from the passage of this law until this time frauds have been increasing, and that without any fault on the part of the Metropolitan Board of Internal Revenue in New York. They have closed nearly all the distilleries in New York and Brooklyn. But you might stop altogether the manufacture of whisky there, and yet the door is open for the commission of fraud under the existing law. The gentleman representing the Committee of Ways and Means says that we have just passed a bill which will prevent much of this fraud. I venture the prediction that, notwithstanding this measure to abolish the warehouse system, whisky two weeks from to-day will not have advanced ten cents on the gallon in the city of New York. Congress has been endeavoring to prevent frauds upon the revenue by mere expedients, when it should go to the root of the matter and make a radical change. The whisky interest is more powerful than any commission that can be appointed. When you passed a law providing for a tax of two dollars a gallon on whisky it was like a rope of sand to these men. Then the department adopted a regulation that there should be no sale of whisky without a tax-receipt showing that the tax had been paid. We all know to what this regulation amounted in practice. Now you have adopted this expedient of shutting up the bonded warehouses in the city of New York. The result will be that the price of whisky will not advance ten cents on the gallon. But the members of the revenue board are not responsible for anything of this kind. They have been vigilant and earnest in the discharge of their duty. There was one bond taken—only one—that proved to be fraudulent; and the individual who passed that bond is no longer a member of the revenue board.

I felt it my duty to say this much in vindication of the Metropolitan Revenue Board in the city of New York. That board has not been able to prevent frauds. It is impossible for anybody to do that under the present law. The fault is not with the Metropolitan Revenue Board; it is in the law itself.

Mr. LOGAN. If the gentleman will allow me, I wish to make a single remark. My statement about the Metropolitan Revenue Board was that its members were not all exempt from these charges; nor are they. I say to the gentleman in all kindness that he is mistaken about the bonds. I say that there are cases in New York in which bonds have been given with men of straw for bail, one man signing in eleven different names eleven bonds amounting to more than a million dollars. One member of that Metropolitan Board was cognizant of the fact in regard to two of those bonds, if not more. That is only one case. There are several men whom I could name in the city of New York, known as "Bond & Brothers," who have engaged in this business of acting as straw bail, and who have given, in addition to these eleven bonds, numerous other bonds that have been approved by your collectors or other officers there—I do not know whether they have been approved by the Metropolitan Board; and hundreds of thousands of dollars' worth of liquor has been taken out of the bonded warehouses and removed, the bonds being worthless, the names upon them fictitious, and known to be such by the men who took the bonds. The man who stands up here to defend these men does not know what he is doing.

Mr. VAN WYCK. Mr. Speaker, I believe I know what I say in regard to this matter. I have made probably as thorough an investigation of this subject as the gentleman from Illinois, [Mr. LOGAN.] That these frauds exist is true. That the number of fraudulent bonds which the gentleman mentions, and more, have been taken in the city of New York there is no doubt; but it was done before the Metropolitan Revenue Board was created.

Mr. LOGAN. No, sir.

Mr. VAN WYCK. One object of creating the Metropolitan Revenue Board was to prevent the taking of the fraudulent bonds by collectors, either innocently or criminally. I speak of what I know.

Mr. LOGAN. The gentleman will allow me to correct him. I am sorry to take issue with the gentleman, but I state it as a fact that a majority, or at least a portion, of these bonds have been taken since the creation of the Metropolitan Revenue Board, and some of them with the knowledge of a portion of that board at the time the bonds were taken. I state this as a fact.

Mr. VAN WYCK. One bond has been taken and passed by the revenue board at the suggestion of one of the members of the board who does not now belong to it.

Mr. WOOD. I desire to ask my colleague a question, and it is, whether he does not know, simultaneously with the establishment of that revenue board by the Treasury Department the Department issued an order to the collectors and assessors that before any bond should be offered it should be passed upon after two examinations by the revenue board established in New York.

Mr. VAN WYCK. That is so.

Mr. WOOD. No bond has been approved except by the official sanction of that board itself, and consequently every one of these fraudulent bonds to which the gentleman from Illinois has alluded, every one of them which has been approved and taken by any collector in that district has been approved after due examination by that board in its official capacity under the direction of the Secretary of the Treasury.

Mr. VAN WYCK. I see the difficulty.

Mr. WOOD. I ask my colleague whether I have not stated the fact.

Mr. VAN WYCK. The difficulty is here, Mr. Speaker, the great majority and nearly all these fraudulent bonds were taken by the collectors in the city of New York before this Metropolitan Revenue Board was established and before this was made one of the duties devolving upon it. The regulations provided it should examine carefully in regard to the goodness of sureties. The bonds in the eighth and ninth and in the Brooklyn district were taken before the creation of the board. One bond was passed by the board by a gentleman who went from Washington city by which the Government was cheated out of $500,000. That was passed on the recommendation of one of the members of the board who is a member no longer.

I feel it necessary to say this in justice to those men who have been faithful in the discharge of their duty. It is impossible for them, it is impossible for the Government to prevent these frauds. My colleague knows that if every distillery in New York were shut up still these frauds would prevail in other sections of the country. The New York merchants would fill their orders by sending to Philadelphia.

I have said what I have to say in the presentation of my views on this resolution.

Mr. INGERSOLL. I ask the gentleman to let me offer a resolution pertinent to this inquiry.

Mr. VAN WYCK. I will hear it.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury is hereby directed to inform this House the number of revenue inspectors and special Treasury agents now in the employ of the Government, and by whom they were appointed, and upon whose recommendation; and if any of them were appointed on the indorsement or recommendation of the present Commissioner of Internal Revenue state how many; and if any were appointed without the indorsement or recommendation of the Commissioner of Internal Revenue state how many, and upon whose recommendation they were appointed and by whom appointed.

Mr. PILE. My resolution covered all that ground.

Mr. VAN WYCK. I yield now to the gentleman from Indiana for ten minutes.

Mr. HUNTER. Mr. Speaker, as I have but ten minutes allotted to me it is impossible for me to enter into the general discussion of all the points raised by the various gentlemen that have preceded me. I shall therefore confine the few remarks that I have to make to the resolution offered by the honorable gentleman from Ohio [Mr. SCHENCK] and questions that naturally connect themselves therewith. That part of the resolution preventing any further contracts being made or entered into for the manufacture of meters I am in favor of, and that part of the resolution which provides for the appointment of a commission of five to thoroughly examine and report as to the utility of meters I oppose. The last eighteen months' use of meters in connection with distilleries thoroughly satisfies me with their utility in the preventing of whisky frauds. I want it understood that I am utterly and thoroughly opposed to all meters and other contrivances used about distilleries for the purpose of measuring the amount of spirits manufactured there within any given time. What does or can a meter amount to in measuring spirits unless the officer in charge of it is an honest man and will deal fairly with the Government? There is the great defect in our present internal revenue system so far as collecting the whisky tax is concerned; we have to depend upon the honesty of such men as the present Administration is pleased to give us, who so far, under all the penalties that we have been able to enact, and all the solemn oaths we could prescribe, together with the use of meters, secret agents, detectives, metropolitan board, and almost every other contrivance that human ingenuity could invent, still with all these, we have not beeen able to collect more than twenty cents upon the gallon of whisky out of a tax of two dollars assessed upon each gallon.

Why is this, Mr. Speaker? I answer because of the corruption of our officials who have control of that branch of the revenue. How can meters make those officials honest when the meters are under their control? If the meter could be used successfully to measure the honesty of the officials instead of the whisky I might be induced to favor the whole of the resolution; but as the meter is nothing but a machine in the hands of a dishonest man, its measurement to be controlled entirely by his honesty and not by its own action, I see

nothing but evil results to flow from its longer use. I am therefore opposed to spending any more money upon commissions to further investigate its usefulness.

I have given this subject of whisky frauds some considerable thought, and I am thoroughly satisfied that the only way we can ever check them is by an entire change of our whole internal revenue system. Stop all this use of meters and the various other expensive contrivances that the Government requires each distiller to purchase and keep at his distillery for the purpose of measuring and testing his liquors; remove all your secret agents and Treasury leeches, and thereby save the Government millions of dollars each year. Then enact a law providing for the manufacture of liquors. Throw such guards and restrictions around its manufacture and sale that it may be easily identified and told almost at a glance whether it had been legally manufactured and the tax paid, and then provide that all places where liquors are manufactured in violation of law, and all places where such liquors are kept, whether for sale, storage, or otherwise, that such liquors, and all machinery used in its manufacture, together with all personal property and the real estate where the same is so manufactured or kept, providing the said real estate shall belong to such person so manufacturing or keeping the said liquor in violation of law, shall be absolutely forfeited to the United States. In case the lands shall be leased or rented then the liquor and machinery only shall be forfeited, except it can be shown that the owner of the land knew of such liquor being so manufactured or kept and did not within forty-eight hours after receiving such knowledge report the same by letter, telegraph, or otherwise to some officer of the internal revenue department. In such case the land and all personal property of the owner would be forfeited the same as though he was manufacturing or keeping such liquors. Some gentleman asks, how are you to going to have the liquor manufactured and identified so as to prevent the innocent from suffering this terrible penalty of forfeiture? In that question there is a great deal involved, and it will take some time to answer it so as to make it plain and have the plan that I propose thoroughly understood; yet I will undertake the duty. My plan, then, is this:

I require each person before he shall distill, rectify, redistill, or brew any kind of liquors to procure from the Commissioner of Internal Revenue a commission authorizing him so to do; but in order to procure such commission he shall make application in writing properly sworn to, in which application he shall state the kind of business proposed to be followed by him, the place where, fully describing the premises and their value, which premises he shall own free from all incumbrances. If the Commissioner is satisfied of the truthfulness of the application he shall issue the commission, which commission shall recite all the facts stated in the application; but before anything shall be done under the commission the applicant shall execute a bond with one or more sureties in the penal sum of not less than $100 nor more than $50,000, providing for the faithful execution by such applicant of all the duties required of him by law in reference to the business specified in such commission. That such surety or sureties shall own in fee simple unincumbered lands of the full value of such bond, and that such bond shall be a lien upon such lands in preference to all other persons.

My plan also provides for the recording of the bond in the county where such lands are situate, &c. I next provide that at the close of each day such distiller, rectifier, &c., shall make out statements in triplicate of the amount, kind, and quality of liquor by him manufactured that day; and shall at the close of each day, unless oftener required by such commissioner, deliver such statements to such inspector as such commissioner shall require to inspect his liquors, to which statements such distiller, &c., shall be sworn by such inspector, who shall have power to administer oaths in such cases. Such distiller, &c., shall at the same time furnish to such inspector all such liquors named in said sworn statements, neatly put up in barrels or casks, each cask or barrel marked in plain letters and figures the kind, quality, and quantity of liquor contained in each, the number of such barrel or package, which number shall begin with one and continue up regularly, as one, two, three, &c., as long as he shall continue to manufacture, and shall also contain the name of the manufacturer. If such inspector finds said liquors all correct, and they agree in all respects with said sworn statements of the manufacturer, he shall carefully inspect and brand such liquors as such Commissioner of Internal Revenue shall require. Such inspector shall make out his inspection report in triplicate; shall deliver one copy to the manufacturer; shall upon the same day deliver one copy of his report, together with one copy of said sworn statement of such manufacturer, to the deputy collector of the county where such manufacturing establishment is situate; the other copy of his report, together with one copy of said sworn statement of such manufacturer, he shall on same day mail to such Commissioner of Internal Revenue; and the other copy of such sworn statement he shall record, together with his own report, in a book to be kept by him for that purpose. Such deputy collector shall be bound for the tax on such liquors from the date of the delivery of such inspection report with him. That such liquors, after their inspection, may be stored on the premises where manufactured, under the charge of such Commissioner of Internal Revenue, or the same may be removed under the charge of such Commissioner to such convenient bonded warehouse as such Commissioner shall direct. That such liquors, after their inspection, may be sold or removed from the premises where manufactured or from such bonded warehouse, but not until the tax shall be paid; the tax to be paid in all cases before removal, and the same to be removed within twenty-four hours after the tax is paid.

That such liquors can never be sold from the place where manufactured, or from such bonded warehouse, in any less quantity than by the barrel or package as inspected.

I provide that when the liquors are sold or removed from place where manufactured or from such bonded warehouse—such removal operating as a sale—bills of sale shall be made out in triplicate in which shall be stated the place where sold, the name and residence of purchaser in full, the number of barrels or packages sold, and shall also give an exact copy of all the marks and brands on each package as required by the act, which bill shall be signed by such person as such commission shall place in charge of the same; and the same shall be stamped by seal such as such Commissioner shall direct, one of which bills shall be delivered to the purchaser, one to the assistant assessor of the county where such sale shall be made, and the other shall be mailed to the Commissioner of Internal Revenue, which bills shall be carefully preserved by such assistant assessor and such Commissioner.

I next provide that all wholesale and retail dealers in liquors shall procure a commission from such Commissioner of Internal Revenue, which commission shall describe the powers in full upon which such liquors shall be sold.

I provide in case of wholesale dealers that they may at their pleasure take liquors from the packages or barrels in which such liquors were when purchased by him, and may put the same in whole or in part in bottles holding not less than one quart each, that each bottle shall be labeled as the box or basket in which they shall be placed, which bottles shall be by him packed in boxes or baskets in quantities of not less than one dozen each, or he may put such liquors in whole or in part in jugs, cans, casks, or other packages, each holding not less than one gallon; that each box, basket, jug, can, cask, or package shall contain on the outside of each in plain and neat letters and figures the kind, quality, and quantity of liquor contained in each, the name of person or persons from whom he purchased such liquors, the date of purchase, and the number of the barrel or cask from which the same was taken, and the name of the wholesale dealer who did it.

That such wholesale dealer never can sell at any one time a less quantity of liquor than is contained in such box, basket, jug, can, or other package.

And in all cases where he does sell any of such articles he shall make out bills in triplicate, in which shall be stated the name and residence of the purchaser in full, the date and place of sale, the name of each article sold, and a copy in full of all the marks and brands as required by that act, upon each barrel, package, box, basket, &c., which bill shall be by him signed and stamped with such seal as such Commissioner of Internal Revenue shall require, one copy of which bill shall be delivered to the purchaser, one copy on same day mailed or delivered to assistant assessor of the county where his place of business is situate, and the other copy on same day mailed to the Commissioner of Internal Revenue. I next require the wholesale dealer to make out monthly statements in duplicate under oath of all liquors he has remaining on hand, stating each kind of liquor, its quality and quantity, and from whom, when and where purchased, and deliver or transmit by mail one copy to the assistant assessor of the county where his place of business is situated, and the other copy shall be mailed to the Commissioner of Internal Revenue.

All of the papers I have named which are filed with the assistant assessor shall be open to inspection to all persons who may desire to see them during office hours each day.

The retail dealer cannot sell at any one time more than one quart of liquors, neither can he sell upon the same day more than two quarts to the same person.

I next provide that every place where liquors are manufactured or sold there shall be painted in large letters on the most conspicuous place the kind of business done there, whether manufacturing or selling, under which shall be the words "commissioned by the United States." I next provide that the marks and brands upon barrels and all other packages shall not be sufficient evidence that the liquors contained therein were legally manufactured or that the tax had been paid thereon, but if the same is accompanied by and agrees with a regular bill of sale made out in full compliance with the law then it shall be *prima facie* evidence that the liquors were regularly manufactured and the tax paid thereon, and in all cases of controversy it shall devolve upon the party other than the claimant to prove that such liquors were not so manufactured or the tax so paid.

I hold that the above provisions, which I have stated as briefly as possible, so fully and completely identify the liquor in each case and the easy mode to ascertain whether the marks and brands are correct that no person who wants to comply with the law would have any trouble in dealing in the same.

I know that some gentlemen say that the plan I have stated may work great hardships by forfeiting a man's real estate for manufacturing or keeping liquors in violation of the law on his premises. I say, Mr. Speaker, it cannot and will not work any hardship upon any person who wishes to comply with the law. And as to those who seek to violate it I care not how hard it operates upon them. I say to the gentlemen that we must pass some law strong enough to collect our revenues from whisky; if not, in my judgment, we will come far short of our duty. We must have revenues from some source. If we cannot get it from luxuries, such as whisky, we have got to go and take it from the sweat and toil of the honest laborer. And when it comes to that I want

gentlemen to understand that I will stand here as long as I have a voice upon this floor and prevent as far as in my power any such injustice to the honest laboring men of this country. In my judgment no law can be made too strong for the honest man, and as for the rascal who wishes to live off the honest toil of others I shall not look much after his interests until he turns them into an honest channel.

Taxes is one of the most sensitive questions that we can legislate upon. And in trying to prevent these whisky frauds and collect the tax upon ardent spirits, and thus save the honest laboring men of the country from this great burden, in my judgment we are performing the highest duty that we owe to our constituents. When legislating upon this subject of taxation we ought to remember that we are dealing with the very life-blood of the nation. And if we do not provide for revenues from the wealth and luxuries of the country—I mean those articles of luxury such as whisky, &c.—we have got to provide it from some other source. And let me ask gentlemen from what other source can we raise our revenues that will not bring ruin and disaster upon the whole country? We have for the last two years tried all the virtue that there is in penalties, oaths, and officers to get our revenues out of the article of whisky. It is but a few days since that the president of the great distillers' association that met in this city boasted that in the State of Illinois whisky was not paying to the Government ten cents on the gallon. Adopt the plan that I have suggested and that gentleman cannot long make such boasts for his State. Make all liquor that is manufactured in violation of law like the mad dog or plague, that when it enters your premises it taints them with poison, and subject them to forfeiture, and I assure you no man will long want to deal with the unlawful article. You would then soon find the manufacturers sending up prayers to the Administration to give them honest officers so that their liquor may pass through the lawful and legitimate channels, so that they may not be poisoned and ruined by the officers not complying with the law; so that their liquors may pass freely and no man be afraid to handle them. Whenever you can thus get the cry changed for honest officers from the Government to the distiller, and make the distiller's and all others dealing in whisky only safety in a rigid compliance with the law, then, my word for it, instead of getting out of whisky some twenty-five million dollars per year you will get not less than two hundred millions.

The bill which I have drafted and had referred to the Committee of Ways and Means will reach most of the whisky now on hand upon which the tax has not been paid. The bill provides that all liquors manufactured prior to the taking effect of the act which shall be found in the United States after the 1st day of July, 1868, upon which the tax shall not have been paid prior to or on that day, all such liquor and the real estate where the same is kept will be forfeited to the United States. The bill also provides that the burden of proving that the tax has been paid shall be upon the person claiming the same. The bill also provides that in all cases where such liquors have been purchased for a less price than the Government tax it shall be *prima facie* evidence that the tax had never been paid upon such liquors. I would like to have occupied the time of the House longer in the discussion of this most important subject, but my time having expired I must yield the floor.

Mr. MARSHALL addressed the House. [See Appendix.]

Mr. PILE. Mr. Speaker, I did not anticipate that upon the resolution before the House such a debate as has ensued would arise. I do not now intend to enter upon the wide range of discussion that has been pursued upon this subject, but merely to say one or two things that have been suggested by what has fallen from the gentleman from Illinois [Mr. LOGAN] and from the gentleman last up, [Mr. MARSHALL.]

With reference to the statement that no case has been given, no specific instance referred to where a clearly made out case of fraud and corruption has been winked at or allowed, or the men guilty of them continued in office by the President and Secretary of the Treasury, I wish to say that I can give cases—not one but many of them, specifically and definitely; one where the officer had been tried and found guilty of theft and fraud while he was an officer in the United States Army, and only saved from being dishonorably dismissed the service by the commanding general, who was a personal friend of his and with whom he got on a big drunk. With reference to this man the statement has been before the proper Department for months that he is a constant visitor of gambling-houses, the associate of fast and desperate and wicked men, and utterly incompetent and disqualified for holding any office under any decent Government. The reply has been that they are sorry there are so many other men holding high positions under the Government of the United States who are guilty of the same practices, and that if this man should be removed a worse man would be appointed in his place.

In reference to another office in my district, when the incompetence and negligence of the official were clearly made out and admitted, the excuse given for retaining him was that if he was removed a worse man would inevitably be appointed to his place. I was asked distinctly who the President would consider for the vacancy if the removal was made. The officer is still retained upon the avowed understanding that it is not because the Department believes him competent and faithful, but in order to prevent a worse man being appointed by the President.

Now, sir, in reference to the accusation of the gentleman from Illinois [Mr. MARSHALL] that more thieving and fraud occurred during the first year of the administration of Mr. Lincoln than the whole expenses of the Government during the Administration of Mr. Buchanan, I wish to say to him that the opportunities for fraud, swindling, and theft during that and the subsequent years of Mr. Lincoln's administration—and the opportunities continue to some extent to this hour—grew out of the war for which he and his political friends of that same "old pure Democratic party," about which he talks so eloquently and so glibly, were and are responsible; that so far as these frauds are concerned in that part of the country where I have personal knowledge and cognizance they were committed by his Democratic friends. While the loyal men and Republicans were in the Army fighting for the country, to save it from the treason and rebellion which were hatched by the Democratic party of the South, aided by their friends in the North; while loyal men were in the front ranks fighting the rebellious and traitorous Democrats of the South, their Democratic friends at the North were committing these frauds and getting these fat contracts through the liberality of Mr. Lincoln.

Sir, those very men who now, in the city of St. Louis, are rolling in wealth, building fine houses, riding in splendid carriages, and driving fast horses, obtained by means of these ill-gotton gains—those very men have voted the "Conservative" Democratic ticket at every election during the war, and intend to vote for Mr. Pendleton or General Hancock or any other man whom the Democratic party may nominate next summer as their candidate for the office of President. This fact is true in nineteen out of every twenty—I was going to say in ninety-nine out of every hundred—instances. Yet the gentleman has now the audacity and the assumption, after all the black and treasonable record of villany made by the Democratic party, after they have brought upon this country a war which has cost us hundreds of thousands of noble lives and thousands of millions of treasure, to ask us of the Republican party to bow ourselves out of these halls and let his Democratic friends take our places.

Mr. MARSHALL. Will the gentleman allow me to interrupt him a moment?

Mr. PILE. Certainly.

Mr. MARSHALL. Mr. Speaker, these statements and charges against the Democratic party are old and stale and worn out. They were originally untrue, and known to be untrue by the men who originated and circulated them. These charges of treason against the Democratic party never had any foundation in truth. The members of that party were as loyal, as true to the Government during the war as any portion of our citizens. The people throughout the country know that these charges are false, and they intend, as I believe, to brand them so.

One word in reply to the remark about Democrats getting "fat contracts" from the Government during the war. That statement needs no refutation; for it is within every man's recollection that any man who during the war proclaimed himself opposed to Mr. Lincoln's Administration, instead of getting "fat contracts," was immediately immured in some of the bastiles established by the party in power. Democrats had no voice and no hearing in that Administration; and the charge that they are responsible for the stealings that have occurred under Republican administration is one of the completest shams, utterly destitute of foundation. It is impossible for intelligent people to believe such a charge.

Mr. COVODE. I would like, with the consent of my friend from Missouri, [Mr PILE,] to say a word in reply to the gentleman from Illinois, [Mr.. MARSHALL.] He has unfortunately fallen into an error in his statement with reference to the purity of the Democratic party. The gentleman will recollect, when I refresh his memory, as will other gentlemen, that he, with other friends of Mr. Douglas, sympathized with me in my efforts to detect the frauds of the Democratic party under the administration of Mr. Buchanan. It was proved in testimony taken before the committee of which I was chairman that $925,000 had, with the sanction of Mr. Buchanan, been deposited in the Bank of the Metropolis in this city, to buy up Democrats to vote for the Lecompton bill and afterward the English bill. I traced the checks to their sources; and it was shown who took that money to betray the Douglas men. The gentleman from Illinois approved of what I did at that time, and I only state the fact for the purpose of refreshing his memory. [Laughter.]

Mr. BOYER. I would like to ask my colleague [Mr. COVODE] a question.

The SPEAKER. Does the gentleman from Missouri [Mr. PILE] yield to the gentleman from Pennsylvania, [Mr. BOYER?]

Mr. PILE. No, sir; I decline to yield.

Mr. BOYER. I would like my colleague to tell us how many of the Democrats implicated in the matter to which he referred have since gone over to the Republican party.

Mr. PILE. I must decline to yield further, in deference to the wishes of the chairman of the committee, [Mr. SCHENCK,] who has promised to yield me a part of his time when he resumes the floor, and who insists that I shall proceed. I wish, however, to ask—and the gentleman from Illinois [Mr. MARSHALL] and his friends can take their time to answer—to what party did that man belong who, as mentioned by my friend from Illinois, [Mr. LOGAN,] was condemned to be hung and was afterward appointed to office by Mr. Johnson? To what party did Mr. Goodell and Dr. Fowler, of Illinois, belong—men who were extensive contractors under the Government and swindled it out of large sums? What was the party of the hundreds of men whom I could name in the State of Missouri who stayed at home making money by obtaining fat contracts and defrauding the Government while the loyal men of that State were fighting Price and McCullough at Wilson's creek, and on the various bloody battle-fields of Missouri were periling their lives to suppress the lawlessness and rebellion in which the Democratic friends

of the gentleman from Illinois [Mr. MARSHALL] were engaged during the war, and who intend to vote the Democratic ticket in the next campaign? A list of the names of the men who committed the frauds of which the gentleman from Illinois [Mr. MARSHALL] speaks during that first year of Mr. Lincoln's administration and their present party affiliations would be an interesting study for the gentleman and forever seal his lips upon that subject. Especially would it preclude any further accusations against the Union Republican party for their conduct.

[Here the hammer fell.]

Mr. SCHENCK. I propose to bring this matter to a close, and, after replying to what gentlemen have said who seem to misapprehend the matter before the House, will try to do so.

Mr. MAYNARD. I hope the gentleman will give the gentleman from Missouri ten minutes after the previous question has been seconded.

Mr. SCHENCK. I propose to give the gentleman from Missouri a few minutes in order to complete his remarks. I do not expect to occupy more than an hour, and perhaps not more than half an hour. I call the previous question.

The previous question was seconded and the main question ordered.

NATIONAL BANK DEPOSITS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, a report from the Treasurer of the United States relative to the amount deposited in the national banks on the first day of each month from January 30, 1866, to October 31, 1867; which were referred to the Committee on Banking and Currency, and ordered to be printed.

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title, when the Speaker signed the same:

An act (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title, when the Speaker signed the same:

An act (S. No. 89) for the relief of Orlaf E. Dreutzer, late consul of the United States to the kingdom of Norway.

Mr. INGERSOLL moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. COVODE: The petition for the relief of Captain A. G. Oliver, late of the twelfth regiment Pennsylvania Reserve corps, of West Newton, Pennsylvania, for relief.

By Mr. CULLOM: The petition of Mahala M. Straight, for an invalid pension.

By Mr. EGGLESTON: The petition of M. Wakeman, praying that our citizens may be reimbursed by our Government for losses sustained during the late rebellion by the acts of the British Government or her citizens.

By Mr. FERRISS: The petition of inhabitants of the county of Warren, New York, praying investigation into the conduct of Government officers having anything to do or any connection with the Indians.

By Mr. GARFIELD: The petition of Paymaster and Brevet Brigadier General J. H. Eaton for an increase of compensation while acting as Assistant Paymaster General.

By Mr. McCARTHY: The petition of 400 citizens of Syracuse, New York, for Congress to define the rights of naturalized citizens with other Governments and to protect them therein.

By Mr. MOORHEAD: The petition of Lockhart & Trew, H. M. Long & Co., and others, refiners and dealers in oil in the city of Pittsburg, Pennsylvania, asking that the law be so changed as to require the quantity to be ascertained by weighing instead of gauging.

By Mr. PERHAM: The petition of Joseph H. Sylvester, for reimbursement of commutation paid in 1863.

By Mr. PRICE: The petition of citizens of Clinton and Jackson counties, Iowa, asking for the establishment of a mail route between Lyons, in Clinton county, and Moquoketa, in Jackson county.

Also, the petition of Juliet E. Hall, widow of Colonel William Hall, late of the eleventh regiment Iowa volunteer infantry, asking for a pension.

By Mr. WELKER: The petition of Walter S. Cox, Esq., for compensation for examining title to lands for the proposed Capitol extension.

Also, the petition of Lydia Cruger, executrix of Moses Shepperd, deceased, asking the payment of a judgment in her favor by the Court of Claims.

IN SENATE.

FRIDAY, *January* 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of Jonathan Scobey, of New Jersey, who states that he was a soldier in the war of 1812, that he is old and poor, and has suffered all the time from injuries that he received in the service of the country at that time, and praying for relief; which was referred to the Committee on Pensions.

Mr. POMEROY presented the petition of Rosa Lenker, guardian of Edward Hamel, jr., minor child of Edward Hamel, sr., late a private in company C eighth Kansas volunteers, praying a pension for the relief of Edward Hamel, jr.; which was referred to the Committee on Pensions.

He also presented a petition of the settlers on the "Cherokee neutral lands," praying the passage of an act for their relief by which the United States Government may become the purchaser of those lands, and entitling actual settlers only to purchase them from the Government at $1 25 per acre, or to be sold to them at their appraised value; which was referred to the Committee on Indian Affairs.

Mr. SUMNER. I offer the resolutions and doings of a public meeting of the citizens of Worcester, Massachusetts, in which they call upon Congress to take measures to protect naturalized citizens in their rights, and also to intercede with Great Britain for the release of certain citizens who, it is said, have been wrongfully convicted. In other days, Mr. President, it was not the habit to present resolutions of this character, but I observe that they have been presented, and these conclude with a resolution asking that a copy should be sent to the Representatives and Senators in Congress. I therefore present the resolutions and ask their reference to the Committee on Foreign Relations.

They were so referred.

Mr. WILLEY presented the petition of George Bartley, of Rockbridge county, Virginia, praying compensation for property seized by United States troops; which was referred to the Committee on Claims.

He also presented a petition of John Birkett, praying compensation for losses sustained in the destruction of his property at Beverly, West Virginia, by United States troops, on the 24th of April, 1863; which was referred to the Committee on Claims.

Mr. CHANDLER presented the petition of members of the fourth Michigan cavalry volunteers, praying to be allowed their respective shares in the reward offered for the capture of Jefferson Davis; which was referred to the Committee on Military Affairs and the Militia.

Mr. CONKLING. I present a memorial, very numerously signed by citizens of the State of New York, reciting the interest they feel in the general welfare and prosperity of the commercial interests of the country, and especially in maintaining and advancing the great interests of our commercial, marine, and shipping business, and proposing to encourage the immigration into the country of the working classes of Europe, and praying the passage of the bill entitled "An act to provide for an American line of mail steamers, to run between New York and one or more European ports," or of some other bill equivalent in its provision. I move the reference of this memorial to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. HENDERSON presented a petition of George Lynch, a soldier of the war of 1812, and of the Indian campaign of 1819, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. TRUMBULL presented the petition of citizens of Illinois, praying for the establishment of two annual terms of the circuit and district courts of the United States at Quincy, or the creation of a new judicial district in that State; which was referred to the Committee on the Judiciary.

Mr. WILLIAMS presented a petition of citizens of Oregon, praying the establishment of a post route between Portland and Dayton, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented a petition of Thomas Stewart, a freedman and late a servant in the employ of Lieutenant Henry M. Davis, ninth New York cavalry, praying the pension of a private soldier for the loss of both legs while a prisoner in the hands of the rebels; which was referred to the Committee on Pensions.

Mr. STEWART presented a letter from the Commissioner of the General Land Office, transmitting several communications pertaining to the distribution of copies of the report of that office in Europe, and the printing of the same; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN.

On motion of Mr. NORTON, it was

Ordered, That the petition and papers of George E. Payne on the files of the Senate be referred to the Committee on Claims.

On motion of Mr. MORRILL, of Maine, it was

Ordered, That the petition and papers of Mrs. Harriet W. Pond be withdrawn from the files of the Senate and referred to the Committee on Claims.

PERSONAL EXPLANATION.

Mr. HOWARD. I ask the indulgence of the Senate for a personal explanation. I notice in the New York Evening Post of the 7th instant and the Philadelphia Evening Bulletin of the same date what purports to be an abstract or synopsis of the report of the Committee on Military Affairs respecting the suspension of Secretary Stanton. The report of the President on that subject, as the Senate will recollect, was referred to the Committee on Military Affairs, and since that time it has been in the possession of that committee and under their consideration. While under their consideration it became my duty to have a certain connection with it not now necessary to speak of further. While the matter was in my hands it seems that it transpired that that committee had committed the subject to me for investigation, and the newspapers in various parts of the country announced such to be the fact. I was waited upon last Thursday by two persons, one bearing the name of De B. Randolph Keim, who holds himself out as correspondent or reporter of the New York Herald, and another person of the name of W. Scott Smith, announcing himself as the "manager of the

Evening Press Association, Washington, District of Columbia," and as being connected with the New York Evening Post, Boston Evening Traveler, Philadelphia Evening Bulletin, Chicago Evening Post, St. Louis Evening Dispatch, and Pittsburg Evening Chronicle. These persons importuned me repeatedly to allow them to take a copy of what they supposed to be the report or the contemplated report of the Committee on Military Affairs on that subject. I felt great reluctance to suffer any person to have any connection with it except myself; but after being importuned very much by both these persons I informed them that if they were very anxious to get a copy of what might possibly turn out to be the report of that committee I would allow them to take one in my committee-room, under my immediate inspection, but upon the sole condition and under my earnest injunction that not one word of the manuscript should transpire to the public, and that the copy which they were to take should in no event be removed from my room until they had my free and complete permission and until it should become proper to allow the report to see the light. They agreed to this, and promised to abide by it over and over again. I did not, I must confess, suppose that those persons, or any other persons claiming to be gentlemen, would so far forget their obligation as to violate that pledge. Instead of copying my report they undertook to give extracts from it to the public, and certain portions under that form have been published. It was a direct breach of good faith—a direct violation of my own injunctions and of their own promises. I therefore, sir, call them by name, in order that their employers at home may know their characters and in order that the world at large may understand who they are and what they are.

Mr. CONKLING. Who are they? We do not understand over here as yet.

Mr. HOWARD. The names they bear are De B. Randolph Keim and W. Scott Smith.

FUNDING OF PUBLIC DEBT.

Mr. SHERMAN. In pursuance of a notice which I gave when I introduced the bill for funding the public debt, and by direction of the Committee on Finance, I move now to take up that bill for the purpose of having it recommitted to the committee. I hope it will be taken up, at least informally, for that purpose.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, to take up the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

The motion was agreed to.

Mr. SHERMAN. I now move to recommit the bill to the Committee on Finance, and before the motion is put I desire to say a word, not exactly in the nature of a personal explanation, but in regard to a document that has been sent to every Senator, and I suppose every member—a very well-written circular, not signed by any one—which seems to impute to the Senate Committee on Finance a desire, in the provisions of the funding bill, to promote private interests. I desire to state distinctly the facts on the subject.

The provision complained about is the latter clause of the first section, which reads as follows:

"*Provided*, That the expense of preparing, issuing, and disposing of such bonds shall not exceed one per cent. of the amount disposed of."

Under color of this clause the writer of this article seems to think that certain personal interests are covered. I simply desire to state that this provision is contained in every loan act for the last six years. The only variation is in this particular, that the provision as reported by the committee in this bill contains no appropriation, and no money can be drawn from the Treasury except in pursuance of an appropriation to be hereafter made by law; while the previous loan laws contained appropriations to carry the provision into effect. I desire distinctly to say that the committee did not contemplate any expense except that of preparing the bonds, and no other agency than the Treasury of the United States, and even for this necessary expense they did not provide any appropriation of money.

The whole operations of the funding bill, if it passes, will be carried on in the Treasury Department without any further expense than the simple printing of the securities to be issued under it. Another clause is also made the subject of like criticism. It is that relating to foreign exchange. This is a strange complaint as the bill only provides for the difference between the actual value of exchange now and the lesser rate of exchange provided for by this bill. This was for the purpose of not only complying with our engagements but to guard against a fluctuation in the rate of exchange. If this suspicious writer fears that the foreign bond-holder will give to some broker abroad a portion of the difference of exchange coming to him it is not a matter we should be so anxious to guard against.

I regard this as an attempt to withdraw our attention from the grave matters involved in this bill by an imputation or charge entirely unworthy the subject, and one unjust and unfounded. If no one else does so, I will move to strip this bill of all clauses that will lead to a misunderstanding. As a matter of course I do not know from whom this circular emanates. It is evidently well written and carefully prepared. I trust, therefore, that this explanation will be excused. I move that the bill be recommitted to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 320) making appropriations to supply deficiences in the appropriations for the execution of the reconstruction laws, and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, reported it with amendments.

NAVY REGISTER.

Mr. ANTHONY, from the Committee on Printing, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That five hundred extra copies of the Navy Register for 1868 be printed for the use of the Senate.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 238) granting a pension to Carrie E. Burdett; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 85) appropriating money to defray the expenses of the joint select Committee on Ordnance; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 239) to amend an act entitled "An act to change the organization of the Post Office Department and to provide more effectually for the settlement of the accounts thereof," approved July 2, 1836, and for other purposes; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 240) to amend section thirteen of an act entitled "An act to increase and fix the military peace establishment of the United States;" which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

THE NATIONAL FINANCES.

Mr. HENDERSON submitted the following resolution for consideration:

Resolved by the Senate, That the Committee on Finance be instructed to prepare and report to the Senate, for its consideration at an early day, a bill containing the following provisions, to wit:

1. The consolidation of all the national indebtedness into long bonds, bearing not more than three and a half per cent. interest per annum, but payable semi-annually, the principal and interest of the bonds to be paid in gold, and to be secured against taxation by State authority.

2. The repeal of the provision in the national banking laws limiting the amount of the national currency to $300,000,000, so that any person or persons depositing the new bonds, and otherwise complying with the law, may receive national currency for the purpose of circulation to the extent of seventy-five per cent. of the par value of the bonds.

3. Such an amendment to the banking laws as shall require the banks already established to deposit within a given time the new bonds or surrender the circulation now secured by deposit of Government securities.

4. In case the banks surrender any part of their circulation already issued, so as to reduce the amount outstanding, that the Secretary of the Treasury be authorized to issue a similar amount of United States legal-tender notes, and use the same in the purchase or payment of bonds which at the time may be redeemable by law.

5. The creation of a financial board composed in part of the Secretary of the Treasury and the Comptroller of the Currency, who shall have power, in case the national bank currency shall not be materially diminished, to cause the United States notes now outstanding gradually to be funded or canceled until the resumption of specie payments. And that this board, after the resumption of specie payments, be authorized, in times of commercial distress or money panic, to cause to be issued and delivered to the banks in proportion to their circulation, on the deposit of bonds herein provided for, United States legal-tender notes to an amount not exceeding $50,000,000.

Mr. SHERMAN. I think the Senator from Missouri will see that the language in the first part of the resolution is too strong. It would be much better to change the resolution so as to direct the committee to inquire into and report upon the expediency of such a measure.

Mr. HENDERSON. I have no objection to that.

Mr. SHERMAN. The resolution as it stands requires them to report a certain bill whether they approve it or not.

Mr. HENDERSON. It does not commit the Senate to the passage of any such bill. However, I have no objection to the change of language that the Senator suggests.

The PRESIDENT *pro tempore*. The resolution will be so modified.

Mr. HENDERSON. I move that the resolution be printed and laid on the table.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits, and the enrolled bill (S. No. 89) for the relief of Orlaf E. Dreutzer, late consul of the United States to the kingdom of Norway; and they were thereupon signed by the President *pro tempore* of the Senate.

CORPORATIONS IN THE DISTRICT.

Mr. HARLAN. I move that the Senate proceed to the consideration of the bill (S. No. 102) providing for the formation of corporations and regulating the same in the District of Columbia.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The Secretary proceeded to read the bill.

The reading of the bill not having been concluded at one o'clock,

The PRESIDENT *pro tempore*. The Secretary will suspend the reading. The time has arrived when it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 213) to suspend further reduction of the currency.

Mr. HARLAN. I would request that the special order be postponed at least until the reading of the bill is concluded.

The PRESIDENT *pro tempore*. By common consent that may be done informally. If there is no objection it will be done.

Mr. SHERMAN. As I understand, the Senator merely desires to have the reading of the bill concluded. He does not wish to pass it afterward.

Mr. HARLAN. No, not this morning.

Mr. SHERMAN. I have no objection to that.

The PRESIDENT *pro tempore*. The Secretary will proceed with the reading.

The Secretary resumed and concluded the reading of the bill.

The PRESIDENT *pro tempore*. The unfinished business of yesterday will now be taken up.

CONTRACTION OF THE CURRENCY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 213) to suspend further contraction of the currency.

Mr. EDMUNDS. I offer the following amendment, to come in at the end of the bill:

Provided, That nothing in this act or any other act or acts of Congress shall be construed to authorize any increase of United States notes or other lawful money beyond the amount thereof now outstanding.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SHERMAN. In the first place there is no possible use for this amendment, because the actual amount of United States notes is limited to $400,000,000, and that sum cannot be exceeded except for one particular purpose; that is, a reserve as provided for to meet temporary liabilities. Now there are temporary liabilities outstanding, and this reserve may possibly be called upon to pay those temporary liabilities. I will mention some. The three per cent. certificates are payable on demand, and if at any time the banks should be pressed they might demand the money for these three per cent. certificates, and the reserve is absolutely necessary to enable the Secretary of the Treasury now or at some future time to meet them. That is an emergency which may perhaps arise.

The notes that have been taken in and canceled cannot be reissued. I know no law under which a United States note once canceled can be reissued or anything put in its place as a substitute; but the Senator from Maine is probably more familiar with the law and practice on that point than I am. Under the law when a note is brought in ordinarily it may be reissued, but when it is canceled under the authority conferred by the act of April 12, 1866, that is the end of the note; it cannot be reissued. But this amendment may interfere with the operation of the reserve provided for to meet an emergency which may possibly arise. It can do no good, and it may do harm. I trust, therefore, the Senate will not adopt it.

Mr. EDMUNDS. One object which I had in proposing this amendment was to elicit from the chairman of the Finance Committee and from other Senators their views. I want to know, and I think a good many other people in the country want to know, whether it is the purpose of the Finance Committee and of this body to increase the amount of depreciated and dishonored paper of this Government payable on demand in coin to-day beyond what it now is. We have been told so far—not very directly, it is true, but that is the inference which has been apparently intended to be left on our minds—that the policy of this bill and its fellow measures is only to suspend our steps in the direction of reducing the volume of our notes to a point where we can pay them for a reasonable and temporary time until the business of the country shall have adjusted itself to existing conditions, and that then we are to go on again in the right direction to reach what every gentleman who has spoken believes to be the true theory—if we have any notes out to have notes that we are ready to pay on demand if we promise to pay them on demand. On the other hand, there is a feeling in the country in some quarters, as is well known—and it is maintained by some gentlemen who are entitled or who claim to be entitled to the position of statesmen and financiers—that the true salvation of the country is to be found in swelling the volume of inconvertible paper that we now have out to I do not know how expansive a condition.

Under these circumstances I think it due to us, I think it due to the country, that we should have no disguises about this business. If it is right and beneficial to the country to expand the volume of our notes that we cannot pad and that are dishonored, let us say so frankly and openly, and let those who support that view be responsible for it. If, on the other hand, this is merely a temporary measure to stop contraction for the time being, and to do only that, let us say so clearly to the country and in the law, that there may be no mistake about it, that nothing in the existing state of our legislation in this connection shall be construed to authorize a retrograde movement in the direction of expansion again. I submit to my friend from Ohio if, aside from the specific objection made, that is not fair and right, just to all sections of the country, just to all classes of business men? It seems to me that it is.

Now I come to the special objection that is made by my friend. He says this interferes with the reserve. Well, when the reserve measure was passed the state of our obligations and of our distresses was such that it was necessary to give the Secretary of the Treasury the power to use some elastic force, so to speak, for the time being, in order to retrieve himself from embarrassment that might otherwise happen. But, sir, that condition of things has gone by; the demand obligations have become enormously reduced from what they were at that time. One of the strongest arguments which has been used in favor of the passage of this very bill reported by the committee is that no one man ought to have the power to expand or to contract the currency at will, and yet it is now asserted, in opposition to this amendment, that the objection to it is that it takes away from the Secretary of the Treasury the power to expand the legal tender currency from $356,000,000, where it now stands, to $450,000,000, leaving to him a discretion covering almost one hundred millions. Is that right, if the argument of yesterday was right? It appears to me not. There is no necessity in the existing state of things that the Secretary should have any power to make use of this reserve for a special purpose such as intimated by the Senator from Ohio, because, as was demonstrated by him yesterday, in respect to the compound-interest notes held as a reserve by the banks, the use of this currency for this special purpose unlocks an equal amount of currency of other kinds for other purposes, so that it amounts really to a power in the Secretary of the Treasury to expand to-morrow, if you pass the bill in this form, from three hundred and fifty-six to four hundred and fifty million dollars. Now, if there was sound sense in what we were told yesterday as the motive for the passage of this bill—that the Secretary of the Treasury ought not, nor ought any other man, to be invested with a discretion to diminish at the rate of nearly four millions per month—is it not equally true that he ought not to have the discretion to expand at the rate of $94,000,000 in three months or in one week if he pleases? It seems so to me. Therefore, Mr. President, if we are in real earnest that this bill only means that we are to hold things just as they are, with $356,000,000 of legal-tender notes out, let us say so in a way that cannot be mistaken.

Mr. SHERMAN. If the Senator can point me out any law which would authorize the Secretary of the Treasury to reissue these notes after they have been canceled I should then think there was some use in arguing this question. There is no provision of law that I know of which would authorize him to issue more legal-tender notes except the proviso of the second section of the act of June 30, 1864, which sets aside a reserve of $50,000,000 to redeem temporary loans; and I think to that extent, perhaps, notes might be issued. The three per cent. certificates may well be called a temporary loan, because they are payable on demand. I think it quite within the range of possibility that the money market might become so stringent that a demand might be made on him for the payment of the three per cent. certificates, and he might perhaps properly issue a portion of this reserve to pay them. But the same law requires him to retire the reserve as soon as possible.

I think the effect of the amendment will only be to embarrass the bill, and it will not accomplish the object the Senator desires, because there is no law now that I know of which authorizes the Secretary to issue a single dollar of legal-tender notes except for the purpose I have stated. If there is any such law I should like to have it pointed out.

Mr. EDMUNDS. I am glad to respond to my friend so far as I understand the question. It is a mere legal question, and he may understand it better than I do; but I understand the effect of these laws to be to limit the amount of legal-tender notes, or United States notes, as the technical phrase is, to $400,000,000 proper. I understand the force and legal effect of that to be that the Secretary of the Treasury, in the course of his business operations, in making disbursements, is authorized to issue United States notes to that extent. Now, he has reduced his issues, so that he has but $356,000,000 outstanding. I believe that in point of law he has authority to-morrow, if he chooses to do it, to pay any existing obligation of the United States that is due, whatever its form may be, (unless it is due in coin,) and the creditor is bound to receive the paper, and to do that he can go up from three hundred and fifty-six to four hundred million dollars; and the mere fact that he has at this time by authority of law reduced the amount outstanding below the $400,000,000 does not deprive him of the power, when the course of his business requires him to exercise that discretion, to run it up again.

I may be mistaken in that construction; but inasmuch as it is a construction held by a good many other gentlemen besides myself, I respectfully submit to my friend whether, if we desire to keep the outstanding amount limited to what it is, it is not best to say so in plain words. What hurt does it do if we want to reach that end? I see the force of what the Senator said as to this reserve, and that would be a very strong reason against putting on this amendment in this form, because it will cut off the reserve, if there was the same necessity for the reserve now that there was at the time the law authorized it. But the original theory, the original plan, upon which we proceeded, was that we would not go beyond $400,000,000 of United States notes in any event; but in view of the enormous amount of outstanding temporary obligations that then existed it was thought necessary to enable the Secretary of the Treasury to meet the sudden coming-in of large amounts of them to give him this temporary discretion for that specific temporary purpose. Now the time has gone by, as I have said, when there is such an enormous amount outstanding as to require this degree of discretionary elasticity, so to phrase it. As I said before, if there is good reason for not trusting the Secretary of the Treasury to reduce at the rate of $4,000,000 a month, there is very much stronger reason for not trusting him with the power of expansion that I have before described.

Mr. SHERMAN. Mr. President, I think there cannot be in the mind of a lawyer who will examine these statutes any doubt on this question. The authority was given to issue $400,000,000 of legal-tender notes. By the act of April 12, 1866, the Secretary of the Treasury was authorized to retire and cancel a portion of those notes, at the rate of $4,000,000 a month. He has retired and canceled notes until now the amount outstanding is $356,000,000. There

is no authority for him to issue any portion of that money.

Mr. EDMUNDS. That is a question of construction.

Mr. SHERMAN. If there is such authority the Senator ought to show it; upon him rests the burden of proof. But let me go one step further. In one of the acts which authorized the legal-tender notes there is authority to hold in reserve in the Treasury $50,000,000 of legal tenders to meet temporary liabilities. We provided by the act of last year for temporary liabilities, so-called temporary certificates, to the amount of $50,000,000—precisely the amount of the reserve—and he has a right to issue from the reserve any money sufficient to meet those demands upon temporary certificates.

Mr. FESSENDEN. That power is specifically conferred in the law providing for them.

Mr. SHERMAN. Yes, and the amount is the same. The amount is $50,000,000 specifically provided for temporary liabilities, and that reserve which is provided must be retired as soon as the exigencies of the Treasury will allow. There are no temporary liabilities now except the three per cent. certificates, so the reserve cannot be used except for that purpose, and then only on the demand of the banks holding the certificates. It seems to me, therefore, it is not worth while to cumber this bill by an exclusion of a conclusion.

Mr. FESSENDEN. If my friend from Vermont wishes to exclude some conclusion, I suggest to him whether he had better not change the language of his amendment so as to specifically provide that our legislation shall not authorize notes to be issued in place of those already retired and canceled under the prior law, leaving the reserve to remain as it is.

Mr. EDMUNDS. There is another way. I want to cut off the reserve. I will try the sense of the Senate on that in the first place, and if the Senate should be unwilling to agree to deprive the Secretary of the power to hold this reserve to issue notes for temporary purposes, which, when issued, make part of the currency, expand it just so much, and unlock just so much other currency that is held in reserve by the banks or other people as before suggested—if the Senate should be of opinion that that is going too far, as I am very clear it is not, then I shall propose to amend by the same proposition with the addition that this shall not apply to the reserve.

Mr. WILLIAMS. Mr. President, I think the honorable Senator from Vermont is exceedingly anxious to commit the Senate to his views of the financial policy of the country, and he cannot wait until the subject comes up in a proper way for consideration, but seems to be inclined, by means of resolutions and other propositions of a general nature, to commit Congress to some policy.

Now, sir, this amendment which he has offered is wholly unnecessary, and cannot, as it seems to me, with propriety be attached to this bill. Nobody will pretend for one moment that this bill authorizes the Secretary of the Treasury to issue any additional quantity of Treasury notes, but it simply prevents the Treasury from any further contraction of the currency, so that there is no use whatever of appending to this bill a declaration that it shall not mean something which it cannot possibly be made to mean by any sort of construction that may be put upon it. And it is not claimed that there is any law in existence which authorizes the Secretary of the Treasury to issue additional Treasury notes, and therefore there is no necessity for construing any laws that do now exist. And is it proper at this time to provide by a declaration of Congress—as I understand this amendment to be—that no laws which may be hereafter enacted shall be construed to authorize the Secretary of the Treasury to issue Treasury notes? Suppose this amendment proposed by the Senator from Vermont is adopted, and a bill should be proposed before the adjournment of this session of Congress to authorize the Secretary of the Treasury, upon some contingency that may possibly arise, to issue additional Treasury notes; here we are committed by this amendment against the adoption of that bill, no matter what may be the circumstances or the reasons which require its passage.

The honorable Senator is pleased upon every occasion when he refers to the currency to denounce these Treasury notes as depreciated and dishonored money. I have been inclined to think that the Treasury notes of the United States are the best money the people of this country ever had, with perhaps the exception of gold and silver, and they would be better than gold and silver if they were at all times redeemable in gold and silver, because they would be more convenient for the purposes of commerce.

Mr. CONNESS. Will my friend permit me a few words in this connection?

Mr. WILLIAMS. Yes, sir.

Mr. CONNESS. I understand my friend to say that, in his opinion, the United States legal-tender notes now out in circulation are the best form of money that the country has ever had, except perhaps gold and silver. Now, Mr. President, I desire to remind the Senator of what he undoubtedly knows, but I want to bring it in here, that those notes, which he declares in his opinion to be the best money the people have ever had, are notes on their face payable on demand, and with a total inability on the part of the Government to pay them, and no provision made, as the people who have them and are forced to take them as legal tender know, for their payment, and no payment of interest while they hold them unpaid.

Now, Mr. President, I have great confidence in the judgment of my honorable friend from Oregon; no one has more; but I confess that I am astonished to hear such a declaration coming from a gentleman of his generally good judgment, that any notes, whether they be notes of a person or of a Government, being a promise to pay on demand, with no provision or ability for payment, and no payment in fact, with in this case a compulsory statute fixing them as the measure of value in the country, are the best money that the people have ever had! I say I am surprised at this statement. I regard them, although they are accepted and stated and taken as money, as the worst form of money that the people have ever had, and until they are retired and a currency provided in their place which will be required to be paid on presentation, in my opinion we can have no return or approximation to a return to specie payments. The Senator will excuse the interruption; I desired to make this point at this time with his permission.

Mr. WILLIAMS. Well, Mr. President, I suppose the argument of the honorable Senator would have been just as forcible after I had concluded what I had to say as at the time it was made, and I did not propose to make any extended remarks in reference to this matter, or to discuss the general question of finance, but to object specifically to the amendment of this bill as proposed by the Senator from Vermont.

Mr. CONNESS. On that proposition I agree with the Senator from Oregon.

Mr. WILLIAMS. Now, sir, if there ever has been any paper money in the United States better than the Treasury legal-tender notes I desire to know when and where that money was ever made. Does the Senator from California pretend to say that the paper money which was in circulation, issued by local State banks in the different States of the country, was a better, more uniform, more reliable currency than that which has been furnished by the Treasury of the United States? It is proper to speak well of a bridge that has carried us safely over the stream. We know that by means of these Treasury notes we were enabled to prosecute a war against a gigantic rebellion and to triumph. Now these notes are necessarily in circulation, because they were put in circulation because of the exigencies of the war, and it does not become us while they are in circulation and are necessarily a part of the currency of the country, to denounce them as a depreciated and a dishonored currency, and endeavor to stigmatize and destroy their value while they are in existence.

Mr. CONNESS. The whole world do it.

Mr. WILLIAMS. I question very much, sir, whether the whole world entertains the view of the Treasury notes that has been expressed by the Senator from Vermont, for if I do not misunderstand the public expression of the people of the United States, to-day they prefer these Treasury notes to any other sort of paper money that has ever existed under this Government. So they do not all concur with the honorable Senator.

Sir, I did not intend to be drawn into saying so much upon the subject of the currency; but the honorable Senator from Vermont should remember, perhaps, that all men are not as well posted on the subject of finance and currency as he seems to be, and some men may desire time for deliberation before they commit themselves to any fixed policy in reference to the currency of this country. Everybody knows that there is a great contrariety of views in reference to what the policy of Congress should be, and before we undertake to act upon this great vital question it seems to me that we ought to proceed with the utmost care and deliberation, and we ought to consult every avenue of intelligence and information; we ought to consider every reason that may be offered on either side of any proposition affecting the finances, and then decide as to the best course which the country should pursue. And I do deprecate this effort that is made here at an early day in the session of Congress to commit us by means of general resolutions that do not make one hair black or white, so far as the interests of the people are concerned. I object to committing Congress, before there is due time for consideration and deliberation, to any fixed policy in reference to the currency of the country.

For these reasons I object to this amendment at this time. It is not at all pertinent to this bill. It is only introduced here with the same view, I suppose, that another resolution was introduced by the honorable Senator—to commit us prematurely before the Finance Committee or the Senate has concluded to adopt any particular policy to the views which he himself entertains. He seems to be afraid that the Secretary of the Treasury will issue Treasury notes. I do not suppose that he has any power to issue Treasury notes except in payment of the debts of the United States that may become due, and if the United States owes any money and it is due at this time and the creditors demand payment I see no reason why the Secretary of the Treasury should not have power to pay the debts of the United States in the lawful money of the country.

For these reasons and others that might be stated I hope that this bill will not be amended as proposed by the Senator. Let us pass the bill in the shape in which it was sent to the Senate by the House of Representatives and has been reported by the Committee on Finance, and there will be ample opportunity on some bill that proposes to affect the currency one way or the other to consider the views of the honorable Senator.

Mr. EDMUNDS. Mr. President, I had an impression, somewhat strong, that this bill which came from the House of Representatives and came from the Committee on Finance, and which we now have before us, affected the currency. I had got the idea from hearing it read when it was reported that it was about the currency; and I did not conceive that I was exceedingly premature in proposing an amendment to it on the same subject. The bill is about currency and nothing else; and it is about the quantum of currency that shall be outstanding or withdrawn and nothing else. Is the honorable member of the Finance Committee [Mr. WILLIAMS] ignorant of that fact?

I take it he is not. The bill, with the amendment, came from his committee. It has not a word in it on any other subject than this very question of the United States currency, the United States notes, the legal-tenders. The policy of the committee, as reported in the bill, is to restrain the further contraction of the volume of that currency. The policy of my amendment is to restrain its further expansion. Is there anything incongruous in considering the two propositions at the same time? Or are we to be told by the Finance Committee "You must not meddle with us; you are premature if you propose to amend our bills; you must wait until some more convenient season; all that we permit the Senate to consider to-day is the question whether they will contract; if you get a chance to-morrow or next week or next year we will hear you on the subject of expansion." Mr. President, I do not think it requires a vast deal of time to show to the Senate and the country that that style of argument is somewhat fallacious, to use a mild expression.

My friend has been kind enough to allude also to my prematurity in undertaking to commit the Senate to my views. If, as a Senator, I am entitled to have any views, and if I am entitled to believe that they are views worthy of consideration and are fit to be agreed to, I respectfully submit to him that it is not only my right but my duty to try to commit the Senate and every member of it to those views, if I can convince the Senate that they are right, just as I yield to him the privilege with great pleasure, and he is generally successful with me of trying to commit me to his views. What we are here for is, after discussion and comparison of ideas, to commit each other to the views which on the whole shall turn out to be the soundest. I therefore accept and plead guilty to the accusation of endeavoring to commit this Senate to my views upon the questions on which I have introduced any resolutions. The purpose for which I introduce resolutions is to commit the Senate to them. I introduce them for the purpose of having them agreed to by the Senate, if I can, and I believe that is the purpose which actuates the Senator when he brings forward propositions. I admit that I do not bring forward propositions so important or so well founded as he does, but that arises from the difference in the men. There is one glory to the moon, you know, and another to a little star.

Mr. DRAKE. Which is the moon and which is the star in this case? [Laughter.]

Mr. EDMUNDS. I do not claim to be the moon. [Laughter.] So that we must not expect that all our abilities are alike, but each must endeavor to contribute what little he can to the general advancement of the public welfare.

My friend has said that a resolution introduced by me on another subject is premature; that its views are incorrect, as I understand him. I have only to ask the Senator, and through him the important and responsible committee to whom that resolution has gone, just to be good enough, in the course of their duty, when they can find time, to report it back to this body and not let it sleep the sleep of death in their arms, and we shall see what the views of the Senate are upon it, and whether it is premature. Very possibly it is; but I should be glad when it comes up to meet the Senator upon the question as to whether it contains truth or falsehood—as to whether it is wise to assert the truth or to blink it. But that is aside from the present question.

Now as to the amendment itself. One objection that my friend has to the amendment is that it commits us against passing any future act which shall alter this one, because the phraseology of this amendment is "any other act of Congress;" and that, in the plenitude of his legal wisdom, he takes to mean some act of Congress that is not passed; that is, some act of Congress which is not now, the time when this amendment speaks of, an act of Congress at all. I fail to see the strength of that point; but if it will relieve the fears of my friend in any respect I will modify my amendment, as I believe I have the power to do, and, out of entire deference to his opinion, which I have faith in usually, insert before the word "act" the word "existing," so that it will read "any other existing act of Congress." I trust that will satisfy him on that point.

The PRESIDENT *pro tempore*. The amendment of the Senator from Vermont will be so modified.

Mr. MORTON. Let the amendment as modified be read.

The Secretary read the amendment as modified, as follows:

Provided, That nothing in this act or in any other existing act of Congress shall be construed to authorize any increase of United States notes or other lawful money beyond the amount thereof now outstanding.

Mr. SHERMAN. I suppose the Senator understands that that would cut off the reserve.

Mr. EDMUNDS. I understand that it would.

Mr. HENDERSON. I ask the Senator if it is his intention to prevent any increase of the gold circulation also by the use of the words "other lawful money?" I suppose nothing is lawful money as defined by the acts of Congress except gold and silver and United States notes called greenbacks. There is no other lawful money that I know of. What construction does the Senator give to the term "or other lawful money" in his amendment?

Mr. EDMUNDS. My friend from Oregon has found a worthy peer in my friend from Missouri. I bow my head to both of them. I do not think it worth while to make a further modification to gratify my friend from Missouri until I shall have finished what I wish to say. Then, if it will please him, I will so modify the phraseology upon that point as to help him out of his difficulty, if he really feels one. I do not think it worth while to do it at this time.

The real point is, after all, the one stated by my friend the Senator from Ohio, and fairly stated; and that is, a difference as to what the law now is. He does not—because I called his attention to it so that he could not have misunderstood it or have forgotten it—he does not claim to desire that the amount of outstanding currency shall be increased except as it touches the reserve. I put it to him distinctly; I said to him that I thought the Senate had a right to know and the public had a right to know, now that we are considering this very question of the quantum and volume of this currency, what was intended by the legislation contained in this bill on this very point. He does not tell us that it is intended, and I take it that he does not intend this bill, as containing an implied authority to expand from the $356,000,000 up to the $400,000,000. His answer on the contrary is, that as he understands the law there is no authority in the Secretary of the Treasury to increase the present outstanding amount of $356,000,000 up to the $400,000,000, which was the original limit. Upon that we differ. He supposes the law to be as he states, that there is no such power. I believe the law to confer upon the Secretary of the Treasury the power of going up to the $400,000,000 by reissue, not of the same notes, they, as my friend from Oregon said, being destroyed; but if he had attended the meetings of the committee that we are both members of, which is trying to find out what has become of the money printed at the Treasury Department and at New York, as often as I have to see the printing going on of United States legal tenders he would see that they are coming over by express loads all the time; that the fact that a particular note is destroyed does not prevent the Secretary of the Treasury from having plenty of other notes just like it and issuing new notes, so that the fact of destruction does not touch the matter at all. It is the fact of the legal cancellation, as is stated by the Senator from Ohio, if it is anything at all. There are notes enough to be issued if there is legal authority to issue them.

I said that other persons beside myself understood the law to be what I have stated—that the Secretary of the Treasury has power to reissue up to the limit, just as a bank has up to its chartered limits, the funds which are put into its hands for the purposes of business. There has been put into my hand by my friend, the Senator from New Hampshire, since this discussion began a letter from a gentleman who perhaps will commend himself more strongly to my friend from Oregon on the subject of the finances than I have had the good fortune to do—Mr. James Gallatin. He says, speaking of the power of the Secretary of the Treasury on this very point:

"His power over the finances of the country through the funding of, and the power to issue and reissue the great volumes of legal tender money authorized by Congress, it is not requisite that I should dwell upon at this time."

And then he proceeds——

Mr. SHERMAN. Allow me to say that I have looked at that letter, and the fair reading of it, considering the sentences which precede and follow that one, is that Mr. Gallatin refers to the power to receive these notes and pay them out in the ordinary course of business. He does not claim that after they are received and canceled they may be reissued or other notes take their place.

Mr. EDMUNDS. I am so unfortunate as again to be obliged to differ from my friend from Ohio on the construction of language or the meaning of language. Mr. Gallatin uses the very term technically and properly used by my friend from Ohio—a reissue. That is a technical term. It expresses the very idea that was first advanced by my friend from Ohio in perfectly appropriate language in those very words. It is different from the paying out of the Treasury of this sum which is treated as cash standing as a balance to be used undoubtedly. But no matter for that, because it would only be the opinion of one gentleman; it depends upon the law. And now, Senators will bear in mind, the objection made by the Senator from Ohio on this precise point only is that it is not necessary, speaking aside from the reserve, that the Secretary has not the power now.

Then if it is not necessary, Mr. President, inasmuch as it is a question about which we do not agree, whether the power exists or not, if we do not want the Secretary to have the power, is it not better to make it certain by putting on this limitation upon his power of expansion? The Senator from Ohio says the law is so now. Very well; I wish it were; I hope he is right; but I fear and believe that the law is not so now. If we both agree that the law ought to be as he says it is, then let us agree to this amendment so far as going up to the $400,000,000 is concerned, and that will put an end to the question.

I am surprised to hear Senators object to the amendment so strenuously and so stoutly merely because they say, upon a disputed point in the law, that it is unnecessary in order to make the law clear. Did we not know their frankness and candor it would lead us to believe that there is something in the dark about this—something that is kept back, and that there is somewhere a hidden intention and a hidden power which is to expand the volume of currency again. I impute no such motives to my honorable friends; they cannot entertain them; but I say if we were dealing with different gentlemen it would lead us inevitably to infer that there is something in this matter other than the mere unnecessary step which they say we are to take in imposing this amendment.

As I have said, Mr. President, this amendment not only covers the limitation of the ordinary outstanding amount, which was originally limited to $400,000,000, but it cuts off the reserve. Senators may suppose that that is going too far; but if they will look at the comparative state of the public finances when that reserve power was given to the Secretary of the Treasury in connection with what it is now they will see that there is no danger whatever to be apprehended in saying that we will not leave it to the discretion of the Secretary of the

Treasury to swell the volume of currency under the idea that these temporary loans may come in.

Mr. CATTELL. I desire to ask the Senator from Vermont a question; and I am sure here will come another trouble to my distinguished friend, as the inquiry happens to come from another member of the Committee on Finance. The intention of this amendment, he explicitly declares, is to cut off the power given to the Secretary of the Treasury to issue a reserve, in a certain emergency, of $50,000,000 of these notes. He has already issued over twenty-three millions of three per cent. certificates—say $25,000,000 in round numbers—payable on demand, and there are other $15,000,000 of demand loans due and liable to be called upon from the Treasury at any given day, making in all $40,000,000 of demand loans upon the Treasury, which has just $25,000,000 in its vaults. Will the gentleman be kind enough to say how the Government of the United States is to keep its faith with its creditors by repealing the law which provides for that very emergency?

Mr. EDMUNDS. I will with the greatest pleasure. The same state of things has existed, only in a greater degree, for more than three years, and we have not found that the Secretary of the Treasury has got into any trouble yet. It is just like my friend's bank—the amount of his outstanding obligations every day exceeds by hundreds of thousands of dollars the amount of money that he has in his vaults; and yet are we to suppose that my friend has a broken bank? Not by any means. The fact is that these debts do not come in altogether. There are now outstanding of matured and unpaid compound-interest notes, as I noticed yesterday, almost ten million dollars in the public debt statement of the 1st of January. Although the interest upon them is now stopped and they have got to a condition where they do not circulate as currency, yet they do not come in. The parties holding them are losing the interest and they cannot be used as currency; that is, practically used, because they are worth so much more. That does not prove anything. The assets receivable by the Government from taxes and customs and other resources are coming in constantly, and the Government is constantly disbursing to meet various liabilities. Those liabilities do not come in all at once; and so the business of the country and of the Treasury goes on with a very small amount of actual cash in its vaults without the least difficulty. Therefore it is an imaginary danger, an imaginary dilemma, that my friend suggests—that the Secretary of the Treasury, if we cut off his power to use $50,000,000 in reserve, will have obligations coming in upon him that will exceed the amount of his cash on hand to meet. It would be true if they all came in to-day, undoubtedly, and it would have been true a few months ago with this reserve if they had all come in at once; but all know practically it does not occur, and we must legislate on our knowledge of practical facts. That is my answer to the very fair inquiry of my friend.

Mr. CATTELL. I reply to the Senator from Vermont by saying that although in all banking institutions the amount of its obligations is greater than the amount of money in bank, yet the directors of those institutions do not absolutely pass laws to prevent the executive officers from providing themselves to meet emergencies when they occur.

Mr. EDMUNDS. But the law limits its capital.

Mr. MORRILL, of Vermont. I desire merely to say, in reply to the Senator from New Jersey, that the holding on the part of the national banks of these interest-bearing certificates is merely a gratuity. There was never any law that allowed the banks to hold the compound-interest notes in lieu of legal tenders. They usurped the privilege, and obtained an interest upon that amount that they were required to hold in reserve. By a law that we passed last year we ratified or rather cured this usurpation on the part of the banks by allowing them to hold certificates at a less rate of interest than they were then receiving. There is not the slightest danger that any bank is going to part with and demand of the Government the payment of these three per cent. certificates when they would be required to keep an equal amount of non-interest-bearing paper in their vaults. There need not be the slightest apprehension, therefore, that the banks will ever demand the payment of these three per cent. certificates as long as they can be permitted to hold them; and if the Government was required to pay them they only hold $23,000,000 of them, while the Government has in its vaults over twenty-three millions of currency.

Mr. CATTELL. I am very sorry to trouble the Senate again, but I wish to reply to the gentleman that the question of usurpation on the part of the banks or the assumption to hold compound-interest notes as legal tenders is a question I am not prepared to discuss with him in this connection. The banking institutions of the country put it on the ground that they were required by law to hold a given amount of reserve in lawful money, and the gentleman, as a member of the Congress of the United States, voted to issue compound-interest notes and stamp them as legal tenders, and consequently they were assumed to be lawful money; for their face they were receivable as lawful money.

Mr. FESSENDEN. They were not so made by law.

Mr. CATTELL. My friend from Maine says they were not so made by law. I think they were made a legal tender for their face, and it was so stated upon the back of the compound-interest note—not for the interest, but the face of the note. They were never held by the banks except for their face. For their face the law authorized them to be held as a legal tender for all debts, public and private, except customs and the payment of interest on the public debt. Whether the banks were right or wrong is another question.

Mr. MORRILL, of Vermont. There is no doubt they were wrong. But the difference is this: the law provided that legal tenders should be lawful money, but never provided that compound-interest notes should be, but merely provided that they were a legal tender for their face.

Mr. CATTELL. The Senator from Vermont [Mr. MORRILL] omits to state that there are $15,000,000 of other demand loans on the Treasury besides these, and that a part of these are compound-interest notes already matured, held, not because they are desirable to be held any other reason than simply with the hope that the matured notes of June, July, and August, which could not be exchanged for three per cent. certificates, may be by and by so exchanged.

Mr. MORTON. I wish to say that I shall vote against the amendment of the Senator from Vermont [Mr. EDMUNDS] without giving any opinion on its merits, because I am opposed to hampering this bill by attaching any sort of rider to it. The apprehension expressed by the Senator from Vermont that if this amendment is not adopted the Secretary of the Treasury will have a right to reissue legal tenders so as to make the whole amount $400,000,000 again I regard as without foundation. The law gave him authority to issue to the amount of $400,000,000 besides the reserve. When that amount was issued his power was exhausted; and if it was afterward contracted down to $350,000,000, or to any amount, he has no authority without new legislation to issue to the amount of $400,000,000.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Senator from Vermont, on which the yeas and nays have been ordered.

Mr. DRAKE. I have not been in the Senate during the greater part of this discussion, and I should like to inquire of the Senator from Vermont, who offers this amendment, whether the effect of it is to preclude the Secretary of the Treasury from availing himself of the power contained in an act—the date of which I do not remember—to issue an excess not exceeding $50,000,000 over the $400,000,000 for the purpose of meeting temporary loans?

Mr. EDMUNDS. The effect of the amendment as it now stands would be precisely that; but on consultation with different gentlemen I am willing (because I do not think he will exercise the power) to compromise views as far as I can, by adding to the amendment what I said I should propose if this failed as it stands, so as to except that reserve and to leave the Secretary of the Treasury still with the power to use the reserve if necessary for that special purpose; and accordingly I have written on the amendment which the Clerk has a modification, which I desire him to read.

Mr. DRAKE. With that explanation I do not see any special objection to the amendment; but I should certainly vote against it if it was in a shape that would deprive the Secretary of the Treasury of the power granted under that act to issue those notes in payment of temporary loans.

The PRESIDENT *pro tempore*. The Secretary will read the amendment of the Senator from Vermont as modified by the mover.

The Secretary read as follows:

Provided, That nothing in this act or in any other existing act of Congress shall be construed to authorize any increase of United States notes or other lawful money beyond the amount thereof now outstanding, excepting to the amount of $50,000,000 of the reserve of United States notes authorized by law.

Mr. COLE. Another suggestion to which I should like to call the attention of the Senator from Vermont is this: the amount of United States notes now outstanding is $356,000,000 less the $25,000,000 in the Treasury. It strikes me that the language of the amendment would preclude the Secretary from using those $25,000,000 for any purpose.

Mr. EDMUNDS. That brings me to a point about which I wish to make the *amende honorable* to my friend from Missouri, [Mr. HENDERSON.] It will be remembered that he and I disagreed yesterday as to what the true condition of that $25,000,000 was. Not so much what its true condition in point of fact was, but what it was as it appeared on the papers. I took it to be cash as it is stated there, deducted from the outstanding debt, showing the $356,000,000 to be outstanding, with so much more, whatever there was of it, in United States notes in the Treasury beside. But I learn, on looking at the accounts themselves in the Treasury this morning, that the $356,000,000 represents the whole amount outstanding, and that the $25,000,000, as far as it is composed of United States notes, is a part of the $356,000,000, and the supposed excess of the monthly reduction is to be accounted for in some other way, if it is to be accounted for at all. That answers the question of my friend from California and makes the apology to my friend from Missouri all at once.

Mr. COLE. The amount outstanding, therefore, is the $356,000,000 less the $25,000,000, being $331,000,000. It strikes me still that the amendment would restrict the amount of United States notes to the sum of $331,000,000. That is my view of the amendment, because the $25,000,000 are certainly not any part of the United States notes now outstanding; they are in the Treasury.

Mr. CONNESS. The principal reason why I shall vote against this amendment is because I think the proposition involved in it should not be made now in connection with this bill. If the vote that we are about to take should be regarded outside of the Chamber by the people as expressing our opinion on the question of whether there should be any more currency than we now have, it would not be a fair understanding, I take it, of the opinion of the Senate. I am not in favor of expanding the currency beyond its present volume, but I cannot vote for the restriction attempted to be placed in that proposition upon this bill. I shall, therefore, vote against the amendment.

The question being taken by yeas and nays resulted—yeas 17, nays 30; as follows:

YEAS—Messrs. Bayard, Chandler, Conkling, Cor-

bett, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sumner, Tipton, Trumbull, and Wilson—17.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Cole, Conness, Cragin, Davis, Dixon, Doolittle, Drake, Fowler, Grimes, Henderson, Howard, Howe, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Thayer, Van Winkle, Wade, Willey, and Williams—30.

ABSENT—Messrs. Guthrie, Hendricks, Johnson, Saulsbury, Stewart, and Yates—6.

So the amendment was rejected.

Mr. BUCKALEW. I move to amend the bill by striking out in the concluding line those words which relate to the discretion of Congress and inserting "until the 1st of July next," so that the law will remain suspended until that time.

The PRESIDENT *pro tempore*. The amendment of the Senator from Pennsylvania is to strike out in lines thirteen and fourteen the words "Congress shall otherwise provide" and to insert in lieu of them "the 1st of July next;" so as to make the bill read:

That so much of the act approved April 12, 1866, entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865," as provides that the Secretary of the Treasury may retire and cancel United States notes to the extent of $4,000,000 per month, be, and the same is hereby, suspended until the 1st of July next.

Mr. BUCKALEW. Mr. President, this bill should be either a bill to repeal the existing statute authorizing contraction; or a bill suspending it. In the form in which it comes to us from the other House it is not strictly either; it is a sort of combination of both, and it gives a vague and general notice to the people of the country that Congress proposes to legislate further on this subject. It is to be kept open and a subject of future agitation and uncertainty with regard to what shall be done. By the amendment I have proposed Congress will determine definitely what is to be done so far as their action at present is concerned. Taking into consideration the condition of the country and the opinions which prevail throughout the country, we can say that this law shall stand suspended until the 1st of July of the present year. That, sir, is the end of the money year, the fiscal year. It is also about the termination of the present session of Congress. I presume we shall sit until about that time, possibly a little later, and in the interval, in the six months that are to elapse before that time arrives we shall have full opportunity to form our opinions in reference to the management of the finances of our country; we shall be enabled not merely to consider the single question which is raised by the bill from the House of Representatives, but to consider the other questions pertaining to finance and which are indissolubly connected with it, the consideration of which is not independent of but indissolubly bound up and connected with the present measure.

Now, sir, it was stated, I think by the chairman of the Committee on Finance, that during these six months, for which time I proposed a suspension of the present law, a large amount of compound-interest notes will fall upon the Treasury for redemption; they will become due; amounting in the aggregate, if I remember aright, to a sum exceeding forty million dollars. In that statement there is a basis laid for a suspension of this law, whatever may be the ideas of members of the Senate with reference to our future policy. If the bill assumes the form proposed in my amendment, I repeat, it will then be a simple bill of suspension with a fixed date when its effect and operation shall come to an end; and it will afford ample opportunity, ample leisure to members of Congress to examine the great questions of finance connected with the currency and with the public debt, and to take such action as will satisfy public opinion and promote the public interest.

Mr. MORTON. I desire to protest against this amendment as being virtually the defeat of this bill. I would just as soon the bill itself should fail as to have this amendment adopted. What the country wants to understand is, what is to be the permanent policy of the Government on this subject. If this suspension of contraction is to be merely until the 1st of July it gives no satisfaction to the people, but leaves everything in uncertainty and doubt beyond that time. How can men engaged in general business regulate their affairs, how can they calculate on the future, when after the 1st of July this contraction may be resumed and go on, and the whole matter after that time be again referred to the authority of the Secretary of the Treasury? The people want it regulated by law. If contraction is to take place let it take place under the specific terms of an act of Congress. If it is not to take place at all let us say so.

Now, sir, the very evil that is complained of all over the country is, that there is no stability in the financial policy of the nation; that the merchants and business men cannot calculate upon the future. The Secretary may contract or he may not, they cannot tell. If we merely say that we suspend the law until the 1st of July, then the law goes into operation again by its own force and without further action on the part of Congress, and it gives the people to understand distinctly that contraction will be resumed after the 1st of July. They are opposed to further contraction at all, and I would just as soon see this bill defeated entirely and let them understand that contraction shall go on from this time as to have it understood that it may be resumed after the 1st of July. Let us have a permanent policy, even if it be one of contraction. I would rather have that than to have a fluctuating policy, though it may be a suspension for six months and a resumption of contraction at that time.

Mr. BUCKALEW. The Senator speaks not in favor of the bill which is before us, but of an imaginary measure which is not here. His argument is in favor of a bill of absolute repeal, without anything further. But, sir, the House of Representatives, on the very face of this bill, have given notice to the country that they are to take up this subject and consider it hereafter, and if there be any uncertainty with reference to the future action of Congress suggested it is in the measure as it stands before the Senate rather than in the amendment which I have proposed. In order that the Senator's argument, and the measure upon which he bases it should correspond, he should move to amend this bill, and make it a bill of absolute repeal.

Mr. MORTON. That is the present effect of it, though not in terms. According to the bill as it now stands there will be a general suspension of contraction, a continuing suspension until there is further legislation. It will require a bill again to resume contraction if we pass this bill in its original form; but if we adopt the amendment of the Senator contraction will be resumed after the 1st of July without any action of Congress. If, however, we pass the bill as a general suspension measure there can be no further contraction until Congress shall take further action.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. MORTON. Certainly.

Mr. CONKLING. I understood him to say yesterday that his chief motive in favoring this bill was a wish to establish upon a lasting and stable footing the prospects of the currency for the years 1868 and 1869. He named those years as the years during which, at least, he wanted the whole business public to know what they might expect. Now, I beg him to tell me how, under an act which upon its face is an advertisement that it is intended as a mere temporary measure to be put an end to without notice whenever a majority of the two Houses of Congress see fit to take up the subject, he is going to establish that stability which he truly says the country needs; and how he can say that there ought not to be some time—if not that indicated by the pending amendment then some other time—before which contraction shall not begin, or, at least, some provision made in the bill that some event if not some period shall transpire before the policy may be resumed?

I intended only to ask the Senator a question, but as he has taken his seat and as I am up I will make one other remark, with his permission. It seems to me that nothing could be more ill-advised for the purpose of establishing stability and fixing the basis upon which men are to contract to buy or sell in the future than this very proposition, if, in law, it means what it is commended to us as meaning by the committee from which it comes. It is presented as a temporary measure; a measure to stand pending the consideration of financial questions at large. In that view, it seems to me, it is a very unhappy conception, because here lies the bill upon the table; Congress is to be in session for months to come; upon the table also is a letter from the Secretary of the Treasury saying not only that he will not, but that he cannot, contract the currency. Whenever that letter proves an unsafe reliance and he does in truth begin to contract we have in our hands the power in an hour to arrest that action on his part.

Therefore I say it seems to me an infelicitous contrivance if it be merely to prevent in truth for the present a contraction of the currency. It appears to be conceded on all hands that the condition of the finances of the country and of the Treasury Department is such that for the present there will be no contraction. If in truth that is false, then by simply leaving the bill upon our table, subject to be taken up at any time, we have the whole check necessary in that regard; but if, on the contrary, embracing the propositions submitted yesterday by the Senator from Indiana, the wish of the Senate is to provide ahead to the end that a man may not be afraid next month to manufacture articles for fear that six months thereafter they will shrink in value; to the end that men may not be afraid to make contracts to buy and sell for fear that in the end values may be changed; if that be the wish then I ask the Senator from Indiana again, Why not fix some period during which that stability is to exist, and not leave it to the mutations and fluctuations which arise in Congress, affected by the tides of popular sentiment as they rise and fall outside?

I do not mean to go into any general discussion of this subject, although I had at one time intended to submit some remarks upon it. The disposition of the Senate seems to be clear to pass something of this sort; but I make the suggestion in the hope of inducing the Senator from Indiana and others who occupy his position to consent to some period—if not the period named in this amendment some other period—during which both classes of men, those who favor expansion and those who favor contraction, may know that they have a certain thing to rely upon in place of resting upon the mere uncertain promise of something that may occur by and by to be terminated without notice whenever a majority of Congress shall see fit to act.

Mr. MORTON. If contraction after the 1st of July will be a good thing, it will be a good thing between this and the 1st of July. If we are to have contraction let it be a continuous, regular system, and not go by jumps, not have it irregular, because that does more to disturb the business of the country than anything else.

Now, Mr. President, I am not responsible for the bill being in this shape. As it came from the House, it was an unconditional repeal of the law authorizing the contraction of $4,000,000 a month; but the Committee on Finance saw proper to put it in this form, and for one I was willing to accept it, believing that it was the same in substance. If this bill passes, making a general and continuous suspension of contraction, it will take an original bill to remove this suspension and authorize contraction again. If we repeal the law outright, it will then take simply an original bill to reinstate it. In other words, it will take precisely the same action on the part of Con-

gress to reëstablish the law, if we repeal it, as to remove the suspension if we suspend it. If, now, we pass this bill, we suspend this contraction indefinitely, and we say to the country that there shall be no more contraction until such time as Congress shall take positive and affirmative action in that direction. But if we adopt the amendment of the Senator from Pennsylvania we simply provide that contraction shall be suspended until the 1st of July, and then it is resumed by mere operation of law without further action on the part of Congress.

I say it will be better for the business of the country to allow the law to stand as it is than to have this irregular and exceptional legislation. But, sir, my judgment is that the interest of the country, and that the general opinion of the business community in all parts of the country, require that we shall immediately and indefinitely prohibit a further contraction of the currency.

Mr. CONKLING. Then why not say so?

Mr. MORTON. I would prefer it, but the committee put the bill in this form, and as I think it is substantially the same thing I am willing to accept it. I thought it was hardly worth while to make a fight about the difference between the two things, for I think if we shall suspend it indefinitely, as we do by this bill, we shall not authorize it at any subsequent time, because it will take affirmative action to do that.

Mr. CATTELL. Mr. President, I am opposed to the amendment to this bill proposed by the Senator from Pennsylvania, and I trust it will not be adopted. I shall avail myself of the privilege frequently taken in this body of expressing my views in relation to the bill itself in connection with the remarks which I have to make against the adoption of this amendment.

I am opposed to the adoption of the amendment on the ground stated by the Senator from Indiana. It is proposed by the bill now before the Senate to suspend the further contraction of the currency, which simply means that it will leave the question in the hands of Congress for the present that they may be governed in the future by circumstances which may induce them either to renew the authority to contract or to continue indefinitely the suspension; and therefore I would prefer, with the Senator from Indiana, that the bill should not be passed at all rather than be passed limiting the time for the few months which is proposed by the amendment of the Senator from Pennsylvania.

There have been some criticisms upon this bill from various sources, and among them that of the Senator from New York, [Mr. CONKLING,] who a few moments ago addressed the Senate; and as I am somewhat responsible for at least the language of the bill as it now stands before the Senate I propose to state very briefly the history of the bill and my connection with it.

It will be remembered, perhaps, by some Senators, that soon after the meeting of Congress, the very first week of the session, I introduced into the Senate a joint resolution providing for the suspension of the power of the Secretary of the Treasury to contract the currency $4,000,000 per month. That resolution was referred to the Committee on Finance. On the very same day, I think, without any knowledge of mine, however, the Committee of Ways and Means of the House of Representatives reported a bill to the House to repeal so much of the act of April 12, 1866, as authorizes the Secretary to contract the currency at the rate of $4,000,000 per month, which was promptly passed by the House by a very decisive vote. That bill on being sent here was also referred to the Committee on Finance of the Senate. The Committee, believing that the language of the joint resolution which I had introduced, suspending instead of repealing this provision of the act of April 12, 1866, would be more acceptable to the Senate, adopted the language of the joint resolution which I had the honor to submit to the Senate in the early part of the session as a substitute for the House bill. So much, sir, for the history of the bill and the reason which governed the committee in adopting the language of the joint resolution rather than that of the House bill itself.

As I feel somewhat the responsibility of having introduced this measure into the Senate, I cannot forbear, although the subject has been discussed at great length, saying a few words upon it. The views expressed by the chairman of the Committee on Finance are so fully in accord with my own that I hesitate to trespass on the time of the Senate; and yet I consider the bill of such great importance, one which is so imperatively demanded by the present condition of the trade and commerce and industrial interests of the nation, and one which will be productive of so much good, that I am disposed not to shrink from the responsibility of having presented it to the Senate, or of now advocating its passage.

In doing this I do not mean to be drawn into the discussion of the many other grave financial questions with which we are soon to be confronted. I adopt the language of the chairman of the Committee on Finance, that sufficient unto the day is the duty, as well as the evil, thereof. Nor am I disposed to be drawn into the discussion of the question, which has entered so largely into this debate, as to the effect which this bill will have upon the resumption of specie payments, either by protracting or hastening that period. I do not even propose to discuss the question whether contraction pure and simple is the legitimate road to an early resumption of specie payments, further than to say, that even if that theory be admitted with certain limitations and restrictions, in my opinion a remorseless, inexorable, unbroken policy of contraction, regardless of the condition of trade and commerce, unmindful of how values are unsettled, and the relations of debtor and creditor are disturbed, will defeat the very object which my friend from Maine [Mr. FESSENDEN] and my friend from Vermont [Mr. MORRILL] have so much at heart, and in which I am sure they have the hearty sympathy of every Senator in this Chamber, namely, the ability to return to specie payments at the earliest practicable moment. No, sir; the ability to return to and maintain specie payments will never come simply by the enforcement of an inexorable contraction policy.

Our financial condition is the result of the destruction of values incident to the prosecution of a long and desolating war. To save the life of the nation we were compelled to call a million of men from industrial pursuits, in which they were making for us national wealth, and to engage them for four long years in the very opposite process—that of the destruction of values. It is to this waste of national wealth, this loss and destruction of capital, that our present unfortunate financial position is to be attributed.

Mr. President, in my judgment, to enable us to reach a sound financial condition, we must recover in some good degree what we have thus lost; we must repair the waste places, reoccupy the fields and the workshops, and patiently work on until we have regained the capital consumed in the prosecution of the war. Admitting the unsatisfactory financial condition in which we find ourselves, and recognizing it as one of the evils entailed upon us by the wicked rebellion, we must exercise patience and moderation, and in the language of one of our most gifted poets—

"Learn to labor and to wait."

I repeat that the road to specie payments, in my judgment, lies mainly in stimulating the industrial energies of our people, in developing the illimitable resources of our great country, in increasing production, agricultural, mineral, and manufacturing, and in fostering trade and commerce; and when you add to these the exercise of public and private economy, a restoration of capital will bring about ability to resume, and then you cannot prevent a return to specie payments and a sound financial condition even if you would.

But, sir, I have been betrayed into saying more on this point than I intended. My reason for the introduction of this measure was because I believed that, even admitting the soundness of the theory of contraction, we had reached a point where we should at least pause. It has been shown by the statement given to the Senate by the chairman of the Committee on Finance that the total amount of currency of all kinds on the 1st of April, 1866, independent of the aggregate bank reserve, which is deducted, was $720,122,898. With such an amount of currency afloat the Congress of the United States, very properly in my opinion, considered that the currency was redundant, and in their wisdom they conferred upon the Secretary of the Treasury the power to reduce the amount as specified in the act of April 12, 1866. Seven hundred and twenty millions of currency, I repeat, was considered too much; but yet so careful were the Congress of the United States on this point, so doubtful were they of the ability to rapidly reduce this currency, that the very law which confers upon the Secretary of the Treasury the power we now propose to suspend rigidly limits this power, and provides that not more than $10,000,000 shall be withdrawn in the course of the six months ensuing after the passage of the act. With a currency of $720,000,000, as shown by the figures, the Congress of the United States deemed that it would be rash to give the Secretary of the Treasury power to contract more than $10,000,000 in the six months following the passage of the act. They thought, doubtless, at the time of the passage of that law that a contraction of $1,500,000 per month was about as much as the country could stand, even with a currency so redundant as that of $720,000,000. They then provided further, with such a volume of currency as this $720,000,000—which, it seems to me, must haunt the visions of the gentlemen who are so much distressed by this irredeemable paper currency—not that there should be a contraction of $4,000,000 per month after the expiration of the six months, but they simply gave the power to the Secretary of the Treasury to contract, and said to him, "Beyond $4,000,000 per month out of a currency of $720,000,000 you shall not go."

It has been claimed that this was the adoption of a policy. I have read the law very carefully, and I see nothing in it which commits Congress or the people to the prosecution of such a policy when we shall have arrived at a point where it is disastrous rather than beneficial. The law itself is wonderfully guarded. It commences with the declaration that Congress does not consider it safe to give the power to anybody even to contract for six months more than about one and a half millions per month, and that then, after the people shall have had so long a notice by this moderate contraction, beyond $4,000,000 per month contraction shall not go.

Mr. President, what is the present condition of affairs? The statement submitted by the chairman of the Committee on Finance shows that on the 1st of January, 1868, the reduction of this currency had reached the sum of $140,122,898, and that we stand to-day with a currency of $577,758,540, instead of $720,122,898 when this law authorizing a contraction of $10,000,000 in the first six months and $4,000,000 per month thereafter was passed. I submit, sir, whether good reasons might not exist for the contraction of the currency under certain limitations and restrictions when it was $720,000,000 that would not exist when it had been reduced in the short space of twenty-one months to $570,000,000?

I do not admit that the Congress of the United States, in the passage of this law, declared that they intended this to be a continuous policy until every dollar of the legal tenders should be exhausted, regardless of circumstances and conditions. It was a law adopted in view of

the condition of things at the time. Why, sir, a skilful physician might very beneficially take a pint of blood from the arm of a plethoric patient, whose pulse was beating at the rate of one hundred and fifty a minute, but if he should adopt depletion as a policy and unmindful of the altered condition and sinking pulse of the man, continue to take a pint of blood from him daily, I apprehend the patient would die on his hands. Death will result from exhaustion as well as from apoplexy.

The point that I desire to make just here is, that what was desirable under the circumstances of April 12, 1866, may not be desirable under the condition of things on the 1st day of January, 1868.

But, Mr. President, the severity of the contraction is not fully shown by the statement made by the chairman of the Committe on Finance, covering the movement for twenty-one months, from April 1, 1866, to January 1, 1868. The contraction was much more severe in 1867 than it was in 1866. Let us look at the figures—and I beg to say that I shall not subject myself to the criticism of the Senator from Maine that these statements are drawn from rumors current in Wall street or from outside sources of any description whatever. They are the figures from the books of the Treasury Department.

Mr. FESSENDEN. And the figures never lie.

Mr. CATTELL. And my friend remarks that the figures never lie. These statements, as I remarked, are from official sources. I beg to call the attention of the Senate to the fact that on March 1, 1867, there were of compound-interest notes outstanding $141,308,830, and that on January 1, 1868, the amount was reduced to $46,244,780, showing a reduction or payment of this description of currency of $95,064,050 in these nine months. I admit, and I desire to make my statement perfectly fair, my statement of figures especially, that a part of these were redeemed by the issuing of the three per cent. certificates. The amount of those issued during the same period was $23,265,000, which left an actual reduction of compounds of $71,799,050.

Now, as to the United States notes, there were outstanding at the same period, March 1, 1867, $376,026,744, and these were reduced on the 1st of January, 1868, to $356,159,127, making a reduction of the plain legal tenders of $19,867,617, showing a total reduction of $91,666,667 in ten months, equal to an average of $9,166,667 per month for the nine months commencing April 1, 1867, and ending January 1, 1868. I submit that if the Congress of the United States, in view of the fact that there were $720,000,000 of currency, deemed it unwise to authorize a contraction of more than $4,000,000 per month, the most inveterate and inordinate lovers of contraction ought to be satisfied when the figures show that for these nine months there was an absolute reduction of the currency of over nine million dollars per month.

But this is not the worst feature of the case. The severity of the contraction is not even shown by these figures; for its severity was materially increased in the months of August, September, and October of last year, when the distress was created all over the country, to which my friend from Nevada [Mr. NYE] alluded in his brief remarks yesterday. I beg that the attention of the Senate will be given to these figures. If they do not convince every member of this body that such a contraction of the currency cannot be made without producing the greatest disasters then I surrender my own judgment. Now listen to the figures: on the 1st of August, 1867, there were of compound-interest notes outstanding, $114,857,850. On November 1, 1867, three months thereafter, covering the months of August, September, and October, there were outstanding $71,875,040, showing the amount retired to be $42,982,810. But of these there were exchanged for the three per cent. certificates $11,560,000. I admit that to be a replacement of one form of reserve for another, and that it should fairly be deducted. Deduct the amount of the certificates issued, and you still have left actually retired $31,422,810 of the compound-interest notes in three months.

Mr. MORRILL, of Vermont. Will my friend permit me to make an inquiry, for I know he desires to be entirely accurate in his statements?

Mr. CATTELL. With pleasure.

Mr. MORRILL, of Vermont. I wish to inquire of him if he does not know in point of fact that two years prior to that time the chief part of these compound-interest notes had actually ceased to be currency? The moment the amount of interest rose to four, five, or six per cent. they were withdrawn and never circulated afterward; and there could be no part of them used except such part as was held by the banks.

Mr. CATTELL. I reply to the gentleman by saying that his statement is totally incorrect; for the compound-interest notes were held by the banks as their reserve in lieu of and precisely taking the place of the plain legal-tender notes; and the statements of the Comptroller of the Currency will show that they were so held to a very great extent. The very moment they are redeemed there is a necessity to replace them with the plain legal tenders in order to keep up the twenty-five per cent. reserve required by law. That is my reply to the statement of the gentleman from Vermont. I admit some portion of them were held as investments, and I am willing to make some allowance for that fact; but a large part of these notes were held by the banks as their reserve. They thus occupied the place of currency. They had to be supplied with plain legal-tender notes the moment they were retired or withdrawn, and they operated just as much by their withdrawal in contracting the currency as the withdrawal of any other dollar of currency that was afloat.

But that is not all. I have shown that there was a reduction of $31,422,810 of this description of currency in the months of August, September, and October. During the same period there was a reduction of $11,950,695 of plain legal-tender currency, making an actual reduction of the currency of the United States of $43,373,505 in a period of three months, averaging over fourteen million dollars per month.

Mr. STEWART. As they are held as reserve in the place of greenbacks, and occupy the place of money, let me ask the Senator whether many of them will not fall due in the next six months? Shall we not have a contraction of fifty or sixty million dollars in that way?

Mr. CATTELL. I will tell the gentleman that before I close; it is in the course of the line of my argument.

Mr. STEWART. So that inevitably we have got a large contraction ahead of us.

Mr. CATTELL. Certainly; in spite of all we can do. Mr. President, I venture to say that nothing approaching to this contraction ever occurred in the history of any country on the face of the globe, and the only surprise to me is that the nation was not skaken from its center to its circumference. I do know, and every gentleman within the sound of my voice knows, that business was prostrated during these months; that all industrial interests were paralyzed; that factories were closed; that men went about with anxious countenances inquiring what was to be the end of all this; that there was a cry of distress from the West for currency to remove the crop to the sea-board; and that failures were daily occurring. Every gentleman in this Chamber who gave his attention to this subject knows that all the financial journals of this country, and even those of England, were commenting on the decrease of the legal tenders in the weekly statements of our banks, and were wondering what was coming.

I do not hold the Secretary of the Treasury responsible for the contraction which resulted from the retiring of the $31,000,000 of compound-interest notes, because they had fallen due and must necessarily be paid, but I think he is responsible for the fact that he did not suspend contraction of the plain legal tender when he was obliged to take up so much as $31,000,000 of the compound-interest notes in the course of three months. Instead of doing that he kept up his contraction and retired during these three months within $50,000 of his $12,000,000. Having $31,000,000 of compound notes to take care of, he also retired $11,956,965 of plain legal tenders.

Mr. CONNESS. Will the Senator permit me to ask him a question without interrupting him?

Mr. CATTELL. With great pleasure.

Mr. CONNESS. He has stated that there never was such a contraction in any country as has taken place here. I ask him if there ever was in any condition of legitimate business in any country such a plethora of currency that demanded contraction, and whether the values of property were ever so much deranged as in view of this condition of things by a plethora of currency?

Mr. CATTELL. I answer the gentleman by saying that I am not sufficiently familiar with the details respecting the condition of currency in all parts of the world to give a direct answer to his question; but there is one thing I am prepared to say to him; and that is, that this country itself had $720,000,000 of currency since he has been a member of this body, and I dare say, in common with others, he voted to restrict the Secretary of the Treasury from contracting more than $10,000,000 in six months for fear that it would so disturb existing values as to create distress. I think that is a sufficient answer to the Senator's question. Further, this question of just when the currency is redundant and when it is not is a question which in my judgment no one can determine. Who in this Chamber is prepared to tell us just how much currency the legitimate business of the country requires? How can you determine the precise amount necessary? Gentlemen may tell me the currency is redundant so long as we are not able to resume specie payments. In a normal condition of things this may be true; but after four or five long years of war, with all its destruction of values, can it be supposed that you can bring your currency to a condition to resume specie payments until you have repaired these waste places, until you have done something to win back the national wealth you have lost? Is it within the range of possibility for people to pay when they are not able to pay, when capital has been sunk, when a million of men for long years have been constantly destroying values? That all this has been compensated for I grant you, by the glorious triumph of our arms and the vindication of the principles upon which the Government is founded; but nevertheless let it never be forgotten that the nation was saved by an immense sacrifice both of blood and treasure.

Now, Mr. President, in view of this state of facts; in view of the fact that the currency had been reduced $140,000,000 since April 1, 1866; in view of the fact that it had been rapidly reduced for nine months up to the 1st of January, 1868, at the rate of $9,000,000 per month, and that it had actually been reduced during the months of August, September, and October, 1867, at the rate of $14,000,000 per month, I thought it was time for the Congress of the United States to step in and say, "You have gone far enough in this contraction for the present; at least, suspend the rigor of this iron-hand until you see whether you are right or wrong in proceeding further;" and the very mildest form in which I thought the question ought to be presented to the Senate of the United States and to the people of the country was that this power to contract the currency should be suspended. I therefore introduced the measure in the first week of the session to prevent contraction until we had time to look about us, until we had time to discover whether this was the cause or whether some-

thing else was the cause of our present difficulties. If we pass this measure now the subject is within the power of Congress. It is with you to renew this authority at any time when you think the interests of the country require it. We merely propose a suspension of the law, and this much at least, in my judgment, will be approved by the soundest and best business men of the country. I am sure this is the sentiment of those who surround me in my business pursuits and of the people of the State which I have the honor in part to represent here.

There is one other point on this subject of contraction that I desire to allude to. The Congress of the United States in April, 1867, if I remember aright, in view of the early maturing of the compound-interest notes, authorized the issue of $50,000,000 of three per cent. certificates to take the place of these notes. I think the error which the Secretary of the Treasury committed was that he did not exchange the entire amount authorized for the compound-interest notes as they matured. I think that was a grave error, for it would have relieved the severity of the contraction which took place in these three months to which I have alluded, and would have saved a vast amount of distress and anxiety.

One more suggestion, sir, and I shall not weary the Senate longer; and this is in reply to my friend from Nevada, [Mr. STEWART,] who made an inquiry in regard to the compound-interest notes which are yet to be provided for. Even if this bill be passed, contraction must be continued unless you make some further provision for the remaining outstanding compound-interest notes. Of these there were outstanding on the 1st of January, 1868, $46,224,780, all of which the Senate will bear in mind mature by the 16th of October ensuing. In addition to this there are $9,952,810 of these notes which have matured, and which will doubtless be presented for payment prior to October 16, unless some provision is made by which they may be exchanged for the three per cent. certificates. This makes $56,197,590 to provide for in the coming nine months to retire the compound-interest notes, or, in other words, a further reduction of $56,197,590 of the currency is to take place.

But, as I remarked to the Senator from Vermont, desiring to be entirely fair on this subject, I admit that the Secretary of the Treasury has still left in his hands $26,735,000 of the three per cents which were specially authorized to be issued to take up the compound-interest notes; and it is but fair to suppose that the Secretary will use these in the payment of compounds as far as they will go. This will, however, still leave the sum of $29,462,590 to be redeemed in the coming nine months, making an average of contraction, do what you will, even after the repeal of this law, unless you provide for a further issue of certificates, of $3,273,621 per month. Therefore, with a community already depressed, in my judgment, by a too severe reduction of the currency, do what you will, pass this bill or not, you must continue to contract at the rate of $3,000,000 per month by the retirement of these compound-interest notes. For myself, sir, I hope that Congress will, in addition to the passage of this bill, authorize a further issue of the three per cents sufficient to take up the remaining compound-interest notes. I believe it would be wise policy to do so.

Now, Mr. President, before I sit down I desire to say that in all that I have said I intend no reflection on the distinguished Secretary of the Treasury. I do not believe the Secretary of the Treasury has contracted of plain legal tenders faster than the $4,000,000 per month authorized by law. I have a very high opinion both of the honesty and the ability of the Secretary. But I would not give the power which Congress has given to him to any man that lives—the power to contract the currency at his option at the rate of $50,000,000 per annum; and he has had twice or thrice that power from the incidental powers given to him by other laws. I would not trust this power in the hands of any living man.

Mr. CONKLING. If the Senator will allow me——

Mr. CATTELL. I shall be through in a moment, and the Senator can then have the floor.

Mr. CONKLING. I only wanted a word of information; but I will not interrupt the Senator if he does not desire it.

Mr. CATTELL. I will give any information I can; but as I have not practiced at the bar as long as the gentleman I am not so able to sustain interruptions.

Mr. President, if the policy of the contraction of the currency is to be continued, if it were in my power I would have Congress distinctly state what should positively be done, that the people might be advised in advance of the fact and govern themselves accordingly. I would not put the power in the hands of any living mortal to do it or not to do it as he pleased, and leave the business people of the country in suspense in regard to the matter. They have a right to know what you propose in regard to the currency in order that they may shape their business accordingly. And the object, Mr. President, attained by the passage of this bill is simply this: that the Congress of the United States advertises to the people of the country that it does not propose to continue contraction and taxation and make them the upper and the nether millstones between which the industrial interests of the country are to be ground to powder; and I sincerely hope you will give the people of the country this much of assurance.

Mr. CAMERON. Mr. President——

Mr. CONKLING. If the Senator will yield to me a moment now I should like to make one remark.

Mr. CATTELL. The gentleman can have all the rest of the afternoon.

Mr. CAMERON. I thought I was entitled to the floor, but I give way.

Mr. CONKLING. I sought from the Senator from New Jersey a matter of plain information, and I beg to assure him that I had not the slightest desire to interrupt him unpleasantly, and I would not have made the suggestion at all if I supposed he had the slightest objection to my doing it.

I have heard it asserted here time after time that the law as it stands gives to the Secretary of the Treasury a discretion about contracting the currency—a power which the Senator from New Jersey says he would not commit to any man who lives. And the Senator from Ohio said that one of the recommendations of this bill was that it took away that discretionary power and asserted the right and duty of Congress to fix the amount of the currency. Now, I should be glad to hear—and nobody can tell me better than the Senator from New Jersey—how, by any process of legislation, Congress can assert more distinctly, more exactly than it has done, its power and its intention to regulate the volume of currency. I want to know how, unless we are to say that when on a certain day the currency in its volume reaches a certain amount it shall never rise above or fall below that, we can adopt legislation more specific and more entirely destitute of discretion vested in the financial officer of the Government than that legislation which we have adopted. If we say that he shall never decrease the currency more than a certain amount by a certain day, we do leave a considerable discretion with him, because he may decrease it suddenly just before that day comes, or suddenly long before it comes. But when we say that in no one period of continuing time, which period is as short as a month, shall he diminish the currency more than a certain limited amount, I ask whether we do not say that which, as well as anything that can be presented, does take from him the discretion and does continue in Congress the power and the assertion of the power to fix the volume of the currency of the country.

I do not see that under the existing law the Secretary of the Treasury has any power whatever on this subject except a purely ministerial power, if I may so say. He cannot expand as it stands. He cannot, at his discretion or upon his judgment, decrease at all, except within each limited period of a month, the limited amount fixed by Congress; so that every man who can read, write, and cipher, may set down and see beforehand (unless he assumes that the Secretary is going to disregard the law) just exactly what the volume of currency will be on any future day, assuming that he does everything which he has the power to do.

I should be glad to know what the Senator from New Jersey means by imputing to all of us who voted for the act of April, 1866, as it stands—and for one I had a good deal to do with it beyond voting for it—the commission of such an act as that of vesting the Secretary of the Treasury with the enormous power which he talks about. And then he speaks as if there were some way to reduce the currency by legislation and yet confer a less discretion than that which is given by the existing law. I beg to be enlightened; but I affirm that I know of no way, that I have never heard in either House a way suggested of accomplishing this purpose more divested of discretion in the officer who is to do it than the very way we have adopted.

Mr. CATTELL. I reply to the Senator from New York first, that I have no fault whatever to find with the adoption of the law with which he informs the Senate that he had a good deal to do himself. I commended that law and said I had no doubt that when the currency was so redundant as to reach $720,000,000 authority might be given even to the Secretary of the Treasury to do as he pleased with $4,000,000 a month, to contract it or not contract it as he might deem best; but that when the currency had come down to $577,000,000, having been reduced $140,000,000, I did not then choose to give that much power—a power which the gentleman says constitutes an exception. It is the power to do what? To suspend from contracting for one month or two months or three months or four months, which makes a difference in four months of $16,000,000 to the currency.

Mr. CONKLING. May I now, without annoying the gentleman, interrupt him to show him the point of my question again? I ask him now whether he is not discussing the question of policy, whether in truth this ought to be done at all, and whether the reasons which he assigns justify in any respect the allegation which he makes that we have chosen to confer elsewhere some vague discretion about this matter rather than adopt some fixed method of policy?

Mr. CATTELL. I reply to the Senator that in the first place my voting for this bill declares as a question of policy that I do not think the thing ought to be done at all. And in the next place I say if it were to be done we should fix it definitely in the future.

Mr. CONKLING. How?

Mr. CATTELL. By saying that the contraction should be $4,000,000 a month, not that any individual should contract, if he chose, $4,000,000. That is the difference between the gentleman and myself. I would state definitely if I determined on that contraction that it should be done. I am sure that is understood.

Mr. CONKLING. Then I understand, if I may, that the Senator thinks that it would be better to make it obligatory upon the Secretary not only to contract, if in his judgment the exigencies of the country rendered it safe to do so, but, hit or miss, to contract whether or no $4,000,000 a month; to have a cast-iron rule that no matter what at the moment may be the exigency, no matter whether the necessity of using money to bring forward crops or for any other purpose may make it exceedingly desirable that during that particular month there should be no contraction, nevertheless, blow high or low, he must contract, and contract that precise amount. If

that is what Senators mean who talk about our having vested the Secretary with a discretion—if they mean that we have invested him with a discretion not to do injuriously what he does in contracting, then I see what they mean, and I understand the allegation to be that we have invested him with an improper discretion, not to refrain from contracting, but a discretion improper, inasmuch as it enabled him to contract. That part of the discretion, I say, is inseparable from the nature of the case.

Mr. CATTELL. I think not; but I am desirous that I shall not be misunderstood on this question. I say first, that in the present condition of the finances I would not contract. I show that by voting for this bill for the suspension of the power. I say further, that after the currency is reduced to its present point, if I proposed to contract, if I believed, as many of the gentlemen who surround me do, that the only road to resumption is that of constant, inexorable contraction, I would state it fairly and provide explictly that $6,000,000 should be reduced each month, so that we should have at the end of the year $50,000,000 less than we had at the beginning, and that the people might so understand; but I do not propose to give the power to the Secretary of the Treasury to exercise a discretion upon that point and leave the people unadvised as regards it. I hope the Senator from New York understands what I mean.

Mr. CAMERON. Mr. President——

Mr. WILSON. If the Senator from Pennsylvania will give way for the purpose of having a motion made to go into executive session I will make that motion. We want to have a report made on important business.

Mr. SHERMAN. I think we had better finish this bill.

Mr. CAMERON. I think I may as well give way, because I had to give way a while ago, and we have had a most interesting discussion between the Senator from New York and the Senator from New Jersey, which has knocked all that I intended to say out of my head. [Laughter.] So I think I had better give way.

Mr. WILSON. I move, then, that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I trust we may dispose of this bill. I ask for a division on that motion. We may just as well dispose of this matter to-day.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate now proceed to the consideration of executive business.

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken resulted —yeas 23, nays 21; as follows:

YEAS—Messrs. Cameron, Conkling, Conness, Corbett, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Trumbull, and Wilson—23.

NAYS—Messrs. Anthony, Bayard, Buckalew, Cattell, Cole, Doolittle, Grimes, Henderson, Johnson, Norton, Patterson of Tennessee, Pomeroy, Ross, Sherman, Sprague, Thayer, Tipton, Van Winkle, Wade, Willey, and Williams—21.

ABSENT—Messrs. Chandler, Cragin, Davis, Dixon, Guthrie, Hendricks, Morton, Saulsbury, and Yates—9.

ADJOURNMENT TO MONDAY.

Mr. CAMERON. Before the doors are closed I desire to move that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. SHERMAN. We are now in executive session, I suppose, but I have no objection to taking the sense of the Senate on the motion. I think we had better meet to-morrow.

The motion was agreed to; there being on a division—ayes 20, noes 17.

The doors were then closed; and after some time spent in executive session the doors were reopened.

Mr. HARLAN. I move to reconsider the vote by which the Senate agreed to the motion that when it adjourns to-day the adjournment be to Monday next.

Several SENATORS. Why?

Mr. HOWARD. I hope that motion will be agreed to, and that we shall meet to-morrow. There is business of importance which requires attention.

Mr. BUCKALEW. I wish to ask the Senator whether he means to indulge us with the privilege of reading his report before we are called upon to vote on it. I certainly have never read it and do not know anything about it.

Mr. FRELINGHUYSEN and others. It has been in the newspapers.

Mr. BUCKALEW. It has been sent to the printers and I suppose we shall get it by Monday morning.

Mr. CONNESS. I think it is pretty well understood that the summing up which is made in these reports is for matter of record merely and as a vindication of the views of the gentlemen who make them. I doubt very much whether anything they contain will change one single vote, and I believe that the earlier the matter is settled the better for all parties and for the country.

The PRESIDENT *pro tempore*. The Chair would remind the Senator that the Senate is in open session and that the matter to which he is referring can hardly be alluded to with propriety in open session.

Mr. CONNESS. I had forgotten that. I beg pardon. I hope, then, the question will be taken.

The PRESIDENT *pro tempore*. The question is on the motion to reconsider, made by the Senator from Iowa.

The motion was agreed to—ayes twenty-eight, noes not counted.

The PRESIDENT *pro tempore*. The question now recurs on the motion that when the Senate adjourns to-day it be to meet on Monday next.

The motion was not agreed to.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States recommending an appropriation to pay to the Government of Spain the value of the Spanish steamer Nuestra Señora de la Regli, seized in the harbor of Port Royal, South Carolina, in December, 1861, and adjudged afterward by the district court for the southern district of New York not to have been properly captured, but which had been turned over by the Navy Department at an appraised valuation of $28,000.

The message was referred to the Committee on Foreign Relations, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Congressional Printer transmitting the fifteenth annual report of the condition of the public printing.

On motion of Mr. CRAGIN, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 10, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PHILADELPHIA MIDNIGHT MAIL.

Mr. O'NEILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster General be directed to communicate to this House what reasons, if any, existed for the discontinuance of the transmission of the midnight mail from the city of New York to the city of Philadelphia, whereby correspondence with the latter city from New York and localities east and north of said city is delayed many hours, and whether in view of the absolute necessity of frequent mail service between commercial cities the transmission of the said mail cannot be again ordered so as immediately to prevent further inconvenience to business and other interests.

SESSION FOR DEBATE.

Mr. WASHBURNE, of Illinois. I desire to submit a proposition to the House. The business of yesterday comes up this morning and after that the morning hour, so gentlemen who wish to speak in the Committee of the Whole cannot be heard. I therefore move that by unanimous consent to-morrow's session shall be set apart for debate alone.

There was no objection; and it was so ordered.

DISTRICT PUBLIC SCHOOLS.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent for leave to report from the select Committee on Common Schools in the District of Columbia a bill (H. R. No. 374) to establish a system of schools for the District of Columbia which shall serve as a model for similar institutions throughout the Union.

There was no objection; and the bill was received, and read a first and second time.

Mr. STEVENS, of Pennsylvania. I move that it be made the special order for Tuesday next.

The SPEAKER. That day is taken up by a special order.

Mr. STEVENS, of Pennsylvania. I will say Wednesday next, then, after the morning hour.

There was no objection; and it was ordered accordingly.

Mr. KERR moved that the bill be printed.

The motion was agreed to.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was made a special order; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

UNITED STATES SOLDIERS IN ALIASKA.

Mr. BUTLER. I ask unanimous consent to offer the following resolution:

It having been reported in the public journals that great suffering from cold and hunger has happened to our soldiers in Aliaska: Therefore,

Resolved, That the Secretary of War be requested to send to the House copies of all dispatches and reports upon that subject, and all orders or directions given by or through the Department of War in consequence thereof.

Mr. HIGBY. I object.

Mr. PILE. I ask unanimous consent to introduce a bill.

Mr. SPALDING. I call for the regular order of business.

The SPEAKER. The Chair will state that on Monday next the States will be called for bills for reference to the appropriate committees.

Mr. SPALDING. Then I insist on the regular order.

DISTILLERY METERS.

The SPEAKER. The regular order of business is the consideration of the joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits, reported yesterday from the Committee of Ways and Means, upon which the previous question has been seconded and the main question ordered. The chairman of the Committee of Ways and Means [Mr. SCHENCK] is entitled to the floor for one hour to close the debate.

Mr. SCHENCK. I yield twenty minutes of my time to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. Mr. Speaker, when the hammer fell yesterday evening I was submitting some remarks in reply to the gentleman from Illinois [Mr. MARSHALL] with reference to the accusation that he made that the first year of the administration of Mr. Lincoln cost the country more than the whole of the administration of Mr. Buchanan in consequence of fraud and peculation. The only additional remark that

I desire to make upon that point, sir, is that the last year of Mr. Buchanan's administration cost the country more than the whole of Mr. Lincoln's first term, taking gold as the basis of value and deducting the expenses growing out of the war, the responsibility for which rests elsewhere than upon Mr. Lincoln, his dministration, or the party that elected him.

I agree, sir, with what the gentleman said with regard to the wide-spread demoralization and terribly debauched condition of the public heart and conscience at this hour. I agree that Republicans as well as Democrats have been affected by it; that there are corrupt office-holders and Government officials who belong to the Republican as well as to the Democratic party. I do not believe that either party can claim entire exemption from this great evil. I disagree with him most distinctly with reference to the causes that have produced this demoralization and the responsibility for its existence. He charges that the Republican party has caused it. I say it was produced by the war and the lax administration of justice since the war. All war, sir, demoralizes the people engaged in it or being within its area. It does so by its opportunities for peculation and fraud, by its appeals to the baser passions of men, and its scenes of carnage and violence and bloodshed, by overbearing and breaking down the ordinary restraints of civil government and of society. This is the history of all wars, and especially of all civil wars, where the contest is not simply between two armies, involving perhaps a quarrel between two princes or two Governments, but where the war involves the prejudices, the passions, and the institutions of the people, and all classes of society and all individuals in such Government or country. The fearful struggle through which we have just passed was a bitter and remorseless revolution, involving the first principles of government and society, exciting inborn prejudices and passions, involving civil and social institutions allied to one part of our people by habit, love of gain, love of ease, lust, and interest. It was a war essentially between two people tearing asunder the ties of family, the relations of church, and the obligations of society, arraying brother against brother and father against son, and overbearing all the ordinary restraints of family and church and society and civil government.

Now, does any thoughtful man suppose that such a war as this could exist in this or any other country, in this or any other age, continue for four and a half years, and send to their graves a half million men, and not produce wide-spread and fearful demoralization; or that the passions and prejudices and antipathies aroused by such a war would pass away "like the morning cloud and early dew?" If there be any such man, he is like the fool who stood beside the Mississippi river and expected to see all the waters of that great river pass by him in one short summer. Out of this war arose all this demoralization that the gentleman asserts was produced by the Republican party.

But I wish to call attention to another cause that has increased and intensified and multiplied fourfold this demoralization and debauchery of public sentiment existing at the close of the war. The moral judgment and heart of the American people believed that treason was a crime. They believed and felt that no prosperous and happy nation, such as we were until the commencement of this war, could be precipitated into such a struggle; could lose so many lives and expend so much treasure without there being fearful crime and absolute wickedness and guilt upon the part of somebody. They expected that when the war closed at least the leaders and prominent men in this most infamous crime ever committed in the history of man should be punished; while they were willing that the masses of the people who went into the rebellion should be treated liberally, magnanimously, and generously, yet the conscience and heart of the people demanded and expected that the leaders should be punished.

But when Mr. Johnson was lifted into his high position by the murder of the people's beloved President, and he turned away from the promises and pledges that he had made, and failed to have these leaders punished, but instead of punishing them commenced a system of wholesale pardon; took these criminals into his council, determined to restore them to power and place; gave them the control of the pretended State governments organized in the rebel States by him without authority of law; turned the best men out of office and appointed the worst men to fill their places; only retained Republicans who were willing to sell their principles for place and power, thus offering a premium for rascality and meanness; encouraged and rewarded dishonesty by continuing and appointing bad men to high places, official corruption became a mania spreading all over the land.

The man who does not know from history that the repression of crime and the preservation of society from these evils and demoralization are more matters of administration than matters of law—that they depend more upon the administration of justice and the administration of law than upon enactments, has read the history of society of governments to very little purpose.

Everybody remembers, and the facts have passed into history, that when Mr. Johnson turned away from the party that elected him and from the pledges he had made, hordes of desperate and wicked men from every part of the country—broken-down political hacks, pardon-brokers, male and female, office-brokers, and the refuse from all parties—congregated at Washington, thronging the avenues of the Administration, securing the dispensation of the patronage of the Government, and augmenting and increasing the corruption and vices already so fearfully prevalent——

Mr. CHANLER. I rise to a question of order. I would inquire whether in a debate upon meters for the measurement of whisky it is proper to refer to political measurements or not?

The SPEAKER. The point of order having been made, the Chair will rule that the gentleman from Missouri [Mr. PILE] must confine himself to the joint resolution before the House.

Mr. PILE. I was replying to remarks upon this very line of argument made here yesterday and upon this very question.

The SPEAKER. That is very true; but no point of order was made upon those gentlemen yesterday and the Chair did not arrest the debate. But when the point of order is made the Chair must rule that debate must be confined to the measure before the House, except in the Committee of the Whole, where there is greater latitude of debate.

Mr. CHANLER. I was not present yesterday when the debate took the latitude to which the gentleman from Missouri [Mr. PILE] has referred. Under the circumstances I will withdraw my point of order.

The SPEAKER. The point of order having been withdrawn the gentleman from Missouri will proceed with his remarks.

Mr. CHANLER. Before I take my seat I would like to have the gentleman explain wherein this political matter touches the meter question.

Mr. PILE. The connection was made by the gentlemen on the other side yesterday. I am showing that the Democratic party is responsible for the very state of things which the gentleman from Illinois [Mr. MARSHALL] says was caused by the Republican party.

Mr. CHANLER. The gentleman must not judge the Democratic party, for he does not belong to it.

Mr. PILE. I am not judging; I am relating history, upon which I ask the House and the country to judge the Democratic party. I was stating what are matters of history; that from the hour to which I have referred this crime, this demoralization, this wide-spread debauchery and official corruption, especially this peculation of Government officials in the collection of taxes, have gone on increasing with every successive month until this hour.

Now, when we come to estimate the causes which have produced this state of things and to fix the responsibility for them, we must go to the causes which produced the war, for out of the war and out of this lax administration of justice has arisen the state of things to which I have referred.

Without referring to the history of the Democratic party previous to the war, as I intended to do, and specifying the classes who left that party and joined with the loyal people of the country in suppressing the rebellion, and giving honor to those who did so, and fixing the responsibility of the war upon that party, the majority of its leaders, and its principal press—without doing that I will simply detain the House to say that the men who are responsible for these things are the men in the South who made war upon the Government, and the men in the North who sympathized with them and aided and abetted them, with here and there a Union man and a Union soldier sandwiched in between them, but not enough of them to leaven and save the putrid and corrupt mass. These rebels South and their friends North constitute the present Democratic party. And upon the men who now compose that party, upon their public press, from "Brick" Pomeroys, in Wisconsin, to the New York World, and upon their leaders, from Henry Clay Dean, of Iowa, up through all the grades of Vallandighams, and Seymours, and Pendletons, and Tombs, and Rhetts, and Orrs, and Davises, rests the responsibility for this war, for every dollar of the public debt created by the war, for the demoralization and peculation to which this debt gives occasion in the specific direction referred to yesterday by the gentleman from Illinois, [Mr. MARSHALL,] this party and these men are responsible. And when the calm and inexorable days of history shall come, as come they will, the verdict will be that "this is the work of their hands, the fruit of their doings." Upon the men who compose the Democratic party will be fixed the responsibility for all the wretchedness and corruption and demoralization that have grown out of this war and the lax Administration that followed it.

Yet, sir, this party that has been thus the "sty in the eye, the polypus in the nose, the cancer in the heart" of the Government, corrupting its life-blood, is the party in favor of which the gentleman from Illinois asks the representatives of the loyal people to abdicate! Why, sir, such a proposition almost takes one's breath. This is the party and this the class of men whom gentlemen on the other side of the House are endeavoring to sugar-coat and whitewash, to prune and garnish, that they may wash it down the throats of the American people by the crocodile tears that they and the leaders to whom I have referred shed over the sufferings of the people, which sufferings they are responsible for producing. But they are engaged in a hopeless task. This rotten and putrid carcass cannot be revivified and brought back to life. I know that—

> "The withered branches of a tree
> If lopped with care a strength may give
> By which the rest shall bloom and live,
> All greenly fresh and wildly free.

"But when"—

As in this case—

> "But when the lightning in its wrath
> The waving boughs with fury scathe,
> The mighty trunk the ruin feels
> And never more a leaf reveals."

One word in regard to the resolution before the House and I shall have said all I intended to say.

Mr. MARSHALL. In this connection will the gentleman yield to me for a moment?

Mr. PILE. I yielded to the gentleman yesterday and I think I must decline now.

Mr. MARSHALL. Why, the gentleman held the floor yesterday by my courtesy.

Mr. PILE. How much time does the gentleman wish?

Mr. MARSHALL. I do not want to make a speech, but simply to call the gentleman's attention to a matter mentioned by him yesterday.

Mr. PILE. Very well.

Mr. MARSHALL. Mr. Speaker, I have made all the remarks that I purpose to make upon the general subject which the gentleman from Missouri is discussing. In connection with these charges of corruption which are being made, the gentleman from Missouri, [Mr. PILE,] while on the floor yesterday, named two gentlemen of Illinois whom I believe to be men of high character and strict integrity. They are both members of the Democratic party. I refer to Mr. Goodell and Dr. Fowler, of Springfield, Illinois. The gentleman used their names in a connection from which it might be inferred that he intended to charge upon these gentlemen fraud and peculation. I do not pretend to deny that in some instances during the war there may have been Democrats who by their bids obtained contracts and carried them out, and there may be some such against whom there are charges; but certainly it is a notorious fact that the Administration of Mr. Lincoln was, or at least men under it were, ready to seize Democrats all over the land, without law, in violation of the Constitution, and imprison them, and with this *animus* in the Administration and with its overwhelming power no Democrat could be suspected of a fraud without being immediately seized and incarcerated.

Now, I wish to know from the gentleman from Missouri whether he intends to make specific charges of fraud against either of the gentlemen I have named? If he does, let him make the charges in such a manner that they can be investigated. I understand and believe those gentlemen to be men of high social position and of strict integrity, and I could not allow their names to be put upon the record of this House in the way in which they have been without making these remarks. I do not desire to interrupt the course of the gentleman's argument. I have said all I intend to say upon the general question.

The SPEAKER. The gentleman from Missouri [Mr. PILE] has but two minutes remaining.

Mr. PILE. I hope the time occupied by the gentleman from Illinois [Mr. MARSHALL] will not be taken out of my time.

The SPEAKER. That will depend upon the gentleman from Ohio, [Mr. SCHENCK,] not upon the Chair.

Mr. PILE. I have only to say in reply to the gentleman from Illinois in support of the general statement which I made that the great majority of the men who were engaged in Government contracts in the West and upon whom rumor and general public belief have fixed charges of defrauding the Government were men who, if they were not Democrats before the war, voted the Democratic ticket during the war, were opposed to the prosecution of the war, and are now members of the Democratic party.

With regard to the two gentlemen whom he specifically names I only stated what the public estimation and general conviction—as I have so far heard it expressed in respect to these men in that part of the country—is, and especially upon the suggestion of other gentlemen here from Illinois, who gave me their names. If the gentleman denies the truth of these statements and questions the correctness of the public estimation of these men, I will give him the names of the members from Illinois who suggested their names to me.

Mr. MARSHALL. I should like to know what gentleman from Illinois makes these charges against these two men.

Mr. PILE. I decline to yield further.

Mr. SCHENCK. I will allow the gentleman five minutes more.

Mr. PILE. Mr. Speaker, I wish to say in reference to the resolution before the House that I shall vote for it and hope it will pass, so that the Committee of Ways and Means may avail themselves of every help they can have in stopping these fearful and terrible frauds in the collection of revenue from distilled spirits. Yet I wish to say distinctly that I have no faith in the success of any law passed by this or any other body of men, by this or any other Congress, in the collection of this tax, unless the law is better administered than it is at present. The law as it now stands would be efficient in the collection of the tax if it were honestly carried out and honestly administered by honest and capable public officers and Government officials. And I believe the only remedy for these evils is the substitution of a nominal tax, a small amount per gallon, to be paid at the distillery by the distiller himself by stamps, and a license reaching from two to fifteen thousand dollars per annum, according to the capacity of the still. I wish the collection of the revenue and the administration of the laws shall be taken out of the hands of this race of cormorants and thieves who have now in their hands the administration of these tax laws.

Mr. SCHENCK. I will now yield for ten minutes to the gentleman from Vermont.

Mr. WOODBRIDGE. Mr. Speaker, I will not perhaps want ten minutes. I am somewhat surprised that on a question of this character there should be such latitude to debate. It seems to me strange when a business question is being discussed, involving more or less the interests of the country, the debate should degenerate into political issues or party asperity. Sir, the people of this nation are looking to Congress for measures which will relieve them from the burden they are carrying and enduring with as noble a patriotism as ever adorned a people; and I am glad the Committee of Ways and Means thus early in the session are bending their energies to the relief of the people. A day or two ago we passed a bill in respect to bonded warehouses, which was a step in the right direction. It is followed by the proposition now under consideration.

Let us for a moment return to the question and see what the proposition is. We learn from the committee that there are meters which will accurately measure the proof and quality of distilled spirits manufactured at the mill. The Tice meter has been adopted by the Government. I understand outside that it has proved to be a failure, and from the chairman of the committee I learn that it is not perfect, and when adopted other meters had not received a fair trial. Now the committee ask that there may be an opportunity through a commission of scientific gentlemen for the examination of the various meters which may be presented.

Mr. VAN WYCK. I ask the gentleman to yield to me.

Mr. WOODBRIDGE. I have not time.

The inventive genius of this country has been directed to these meters and whenever an article of this or any other kind is demanded which genius may invent it is always forthcoming.

The gentleman from New York [Mr. VAN WYCK] says there is no importance in this commission for the reason that the committee may examine the matter themselves and report on the knowledge derived in the committee-room. Under any circumstances that would be impossible. This not only requires the examination of skilled men but it takes an amount of time the committee cannot give. They cannot be expected to visit distilleries and put meters to the practical test, and ascertain which one presents the highest merits.

Sir, it is idle, in my judgment, to say that this revenue law, so far as the whisky tax is concerned, is so imperfect that it cannot be executed. The fault is not in the law; it is in those who are appointed to execute it. I impute to no officer of this Government either corrupt conduct or improper motives. I have heretofore looked upon the Secretary of the Treasury as an able and honest man and faithful official. I believe that the Commissioner of Internal Revenue is personally beyond reproach. But, sir, in the execution of this office more executive ability and more moral courage is required than in the execution of any office under the Government. The Commissioner of Internal Revenue should be master of his position, and he should have the moral force when the collector or assessor of any district does not return to the Government what might reasonably be expected to discharge him from his office. If these officers fail in their duty, instead of sending an army of spies to watch them and be themselves corrupted they should at once be dismissed and proper men put in their places. The people demand the execution of this law. They know that $100,000,000 or more should be received from the whisky manufactured in this country. They are groaning under the burdens of taxation which oppresses the industry of the country. They will not bear it, and they ought not to bear it much longer. There is a fault somewhere. Where it is I do not know. But it is idle to say that a law so plain as that on our statute-book in relation to the whisky and tobacco tax cannot be executed. I hope that we shall pass this measure, for by the aid of this commission the Department may get assistance in executing the law; and although the people hold them responsible for the failure in the last two years, yet we, the Congress of the United States, should do everything to exonerate ourselves from blame. Sir, the people know that there has been a failure. They do not know whether it arises from inefficiency or fraud and dishonesty; but they do know, and they demand at the hands of the dominant party in Congress, that some means should be adopted whereby a revenue may be realized to some reasonable extent at least to what they have a right to expect.

One word more. I seldom digress from the proper subject of debate when occupying the attention of the House; but I must be pardoned a single remark in reply to the gentleman from Illinois, [Mr. MARSHALL,] whom I regard as a friend and whom I respect for his great ability. He told us yesterday that the whisky tax could never be collected, and that the Government could never be carried on with integrity until the Republican party was displaced and the Democratic party again placed in power; and he intimated, if he did not charge in words, that the Republican party were robbers and thieves. Sir, no party is pure; I am no great partisan; I was a Whig until I joined the Republican ranks, and I remain there firm and faithful still. But does not the gentleman remember that for the first time in the history of this Government the doctrine was enunciated by a Democratic President that "to the victors belong the spoils," and his willing disciples have followed his teaching from that day to this. Sir, let the gentleman look at the last Democratic Administration, the last, I pray in the name of God and liberty, that may ever disgrace the country. Who, sir, depleted the Treasury and brought our nation to the verge of bankruptcy in time of peace? A Democratic Administration. Who stole our ships-of-war and sent them to the remotest seas when the clouds of rebellion were thick above us and every eye was lifted to see them rifted by the forked lightning? A Democratic Administration. Who robbed our arsenals and sent our munitions of war to that part of the country already rife with rebellion? A Democratic Administration. Who attempted to divide our domain and steal from our Union eleven of its noble States? Members of the Democratic party. Who is responsible for $5,000,000,000 of money wrung from the bone and sinew of the nation to carry on this unholy war? Members of the Democratic party.

[Here the hammer fell.]

Mr. SCHENCK. I will yield five minutes further to the gentleman.

Mr. WOODBRIDGE. I thank the gentleman for his courtesy. Who, sir, is responsible that there is a vacant chair at every table, and that the nation is clothed in the habiliments of mourning? Members of the Democratic party.

Under whose teachings came about that terrible riot in New York, where with lawless violence the mob destroyed property and shot down in the streets innocent men, women, and children? Members of the Democratic party. Who discouraged enlistments, opposed the draft, said that coercion against secession was a sin, and that the war was a failure? The very leaders of the Democratic party who are now aspiring to the office of President.

Now, if gentlemen believe that the people have lost Paradise I assure them that they will never attempt to regain it by placing the Democratic party in power. Sir, this newborn child of freedom never will be throttled by its Democratic enemies. You may attempt to dam the Nile with bulrushes, to roll back the waters which take their fearful leap over the rocks of Niagara, but you never can destroy the effulgence of that bright new star which has arisen bright and clear above the cloud which has ever threatened our institutions.

Sir, the people, the Republican party, have placed their feet upon the rock of freedom, and there they will stand. Walking with the great hero and greater man who through and with them achieved the most noble and glorious victory that the world has ever seen, though it may be through the shadow of the dark valley, yet fearing no evil, affiliating with no unrepentant traitors, they will come forth the grand representative of the grandest, the most powerful, and the freest nation the sun ever shone upon. Sir, it comes with bad grace, after the record which has been made by the Democratic party, for the gentlemen upon the other side of the House to accuse the Republican party of corruption and fraud.

But I see that my friend from Ohio [Mr. SCHENCK] is waiting impatiently to resume the floor. I have perhaps traveled outside of legitimate debate upon this question, yet we all know that whisky is rather an exciting subject. I thank the chairman of the committee for the time he has given me, and hope his proposition will receive the favorable consideration of the House.

Mr. SCHENCK resumed the floor.

Mr. CHANLER. I desire to move an amendment to this joint resolution.

The SPEAKER. No amendment is now in order, the previous question having been seconded and the main question ordered.

Mr. CHANLER. Then I would ask the gentleman from Ohio [Mr. SCHENCK] a question. Has his attention been drawn to the fact that no limit has been put upon the sum to be expended in carrying out the object of this joint resolution? I think some amount should be fixed here.

Mr. SCHENCK. I should have no objection to that, though I am willing to trust that matter to the commission which will sit only a month. But as the joint resolution now stands it is not in my power to modify it.

The subject of this discussion is meters, instruments intended for measuring the strength and and quantity of distilled spirits. I think it necessary to notify the House of that fact. [Laughter.] Now, what there is in whisky which occasions us always when we come to a discussion about it to run into an inquiry about the fundamental principles of the Democratic party [renewed laughter] I will leave gentlemen on the other side to answer the question. It may be because of the attraction of affinity. But I have not willingly led the discussion away from the consideration of the joint resolution reported from the Committee of Ways and Means to the consideration of the respective merits of the Democratic party and of the Republican party, or into an inquiry of what responsibility attaches to either of them.

However, before I speak about the joint resolution itself, it is perhaps but proper that I should protest, in the briefest manner, against the ground which has been taken by the gentleman from Illinois [Mr. MARSHALL] and others against this joint resolution as one of the means for detecting frauds or enabling the Government successfully to collect its revenue. He takes the broad ground that meters and every device that can be invented are of no importance whatever, and that the only possible way to collect the revenue from whisky or from any other source is to return to the old Democrac party and its principles. Well, I am not willing to believe that. I concur entirely in what has been said by my friend from Vermont [Mr. WOODBRIDGE] as an answer to any such proposition. And besides, there would be great difficulty in returning to the old Democratic party or to the principles of that party. If we should be willing to attempt to do so how can we satisfy ourselves what is the party and what are its principles? In the first place, look at the party as indicated by its representative men.

Mr. BROOKS. I have heretofore refrained from making a point of order on this debate. But I must make the point of order now unless the chairman of the Committee of Ways and Means confines himself to the subject before the House. I think the character of the debate yesterday and to-day is objectionable in others, and it certainly cannot be pardonable in him.

Mr. SCHENCK. I admit that all this is wandering from the regular discussion, but I am only referring to what others have said in the debate.

The SPEAKER *pro tempore*, [Mr. PERHAM.] The point of order having been made, the gentleman from Ohio [Mr. SCHENCK] will confine himself to the subject under consideration.

Mr. SCHENCK. Very well. I should like to say a word or two in reply to the gentleman from Illinois, [Mr. MARSHALL,] but if it is objectionable to gentlemen on the other side I will not do it.

Sir, it is true that mechanical ingenuity has reached such a point in this country that our Yankee brethren sometimes produce ingenious pieces of mechanism, which in their operation appear almost to have intelligence. I remember very well while on a recent visit to Lowell I saw machinery in operation which, from the accuracy and regularity of its movements seemed to be almost inspired by intelligence. I was compelled to stand almost in awe in the presence of those machines, because they seemed so human. I do not believe, however, that one of them would have voted the Democratic ticket. [Laughter.] I do not believe that the meters will take sides with either one side or the other. Therefore, Mr. Speaker, what we propose ought not to be drawn into a political controversy in this way, because I presume gentlemen on both sides are desirous to aid the committee in any reasonable attempt that can be made to enforce the collection of the revenues properly due to the people of the country in order to enable them to carry on their Government.

Now, what have we proposed upon the subject of these meters, and why have we proposed it? The gentleman from New York, [Mr. VAN WYCK,] who so violently, I may almost say, opposes the adoption of the resolution, urges several objections. The first is that the whole subject has had sufficient investigation. I replied to the gentleman upon that point yesterday, and I but repeat now when I now say that there has never been any investigation of this matter by a regularly organized commission except since April last, and that by two commissioners appointed by the Treasury Department under the law as it now exists, which prohibited them, as well as the Secretary of the Treasury, from looking to the selection or adoption of any meter except one which should measure the strength and quantity of spirits when produced. Now, inasmuch as ingenuity has been busy since April last and many kinds of meters upon different principles, all aiming at accuracy of measurement, have been produced, some of them perhaps not merely to measure the product of the still, but to measure and determine the quality of the preparation of the grain before it is sent to the still, thus enabling any one to ascertain how much the product of that grain ought to be, we think the commission should be empowered, as this resolution proposes, to inquire into these different kinds of meters and to determine, if any meter is to be adopted, whether the two species of meters may not be adopted in combination, in order to accomplish the desired end.

Mr. WOOD. May I ask the chairman of the Committee of Ways and Means [Mr. SCHENCK] a question?

Mr. SCHENCK. Yes, sir.

Mr. WOOD. I desire to ask the gentleman whether he understands that the adoption and application of the meter to a distillery for the purpose of gauging the quantity of whisky manufactured is any protection for the revenue where the officer of the Government and the distiller act in collusion; whether, in the judgment of the gentleman, the mere application of a meter to a distillery will prevent fraud.

Mr. SCHENCK. I will answer that I do not think it possible for us to frame human law in such a way that fraud shall not be committed if all parties engaged in administering the law unite in collusion to commit fraud. But I say this, and I said it in substance yesterday, that by using these ingenious mechanical devices we narrow the field within which fraud may be committed, thus making detection much more probable.

Now I will state to the gentleman from New York [Mr. WOOD] the practice under the law. The whisky runs from the worm of the still, and after some hours it finds its way, generally the next morning, being the running of the day before, into what is called "warehouse A." But it is found that in many cases the liquor is spirited away in the night; it is taken away by collusion between the inspector and the distiller. The officer and the parties interested in the whisky contrive together various means for getting that whisky out of the way without payment or charge of the tax upon it. If you go the next morning to make an honest examination of the circumstances you may look all over the ground and you cannot tell whether carts have carried away the whisky or barrels have been rolled out or what may have taken place. But if you have a meter there, arranged to indicate by a dial-plate the exact measurement of the production, so that it will be indicated unless there is some tampering with the meter, you do not have to look over the whole premises to find that which is undiscoverable in almost every instance by any traces left behind. You look simply at the meter. Thus the field of inspection is narrowed and the chances increased of finding out whether fraud has been committed. This, as we suppose, is the great advantage to be anticipated from these meters.

Mr. WOOD. Will the gentleman allow me to make a single suggestion?

Mr. SCHENCK. Yes, sir.

Mr. WOOD. I apprehend it will be necessary to have an officer of the Government examine the meter every morning. Now, we have already under existing laws and the regulations of the Department safeguards of equal efficiency. There can be no fraud now except by collusion between the officer of the Government and the distiller. I cannot conceive, therefore, sir, when these meters must be examined by the inspector—and we have to depend upon the honesty of the inspector—there will be any result different from that already.

Mr. SCHENCK. We may have a succession of inspectors. We may change from time to time. There may be various devices resorted to. All I claim is you narrow the field for operations of dishonest men and make detection more practicable. Now let me put a fact to you. The Tice meter we have not pronounced a failure. The gentleman from Vermont [Mr. WOODBRIDGE] is mistaken. We say the Tice meter was adopted before it was even yet brought to its present condition of perfection which he claims for it. In the mean time other ingenious devices have been invented,

and we want all inventors to have a fair chance so far as the application of this meter is concerned. Here is a fact which speaks volumes: every distillery upon which that Tice meter has been applied has stopped. How does the gentleman understand that?

Mr. WOOD. I was not listening.

Mr. SCHENCK. I was informed by the Department that in every instance where this meter was applied to a distillery the distillery has stopped in consequence of it. What does it mean? Before there was any meter they could, by cheating the Government out of this tax, perhaps two thirds of it, come into competition with the low price of whisky in the country and sell it from one dollar and fifty to one dollar and eighty cents per gallon; but when this meter, which would measure accurately, and before they invented the means of tampering with it, was applied, they could not afford to make whisky because the whole amount they made being ascertained the tax was required on the whole, and they could not make whisky as cheap as those dealing in stolen whisky.

Mr. WOOD. So far as New York is concerned I doubt whether there has been any manufacture of whisky since the Government intended to apply a meter. And the Department requires a distiller to put up a very large sum of money, which, in my judgment, there is no authority of law for—a sum of money for the meter itself. The distiller is compelled to purchase a meter at his own expense at from one hundred to two hundred and fifty dollars, and in some cases six hundred to one thousand dollars.

Mr. SCHENCK. I am glad of this interruption because the gentleman is misinformed. The price of the Tice meter has not yet been fixed, nor is a single one yet paid for.

Mr. WOOD. They make a deposit.

Mr. SCHENCK. I know what I am talking about. There is an arbitration of three, one chosen by Tice, one by the Department, and the third by these two, who are to determine what the price shall be; but in the mean time those who have applied for this meter have deposited what is considered by the Department will cover more than any probable cost of a meter, the sum of $1,500, and that lies in the Treasury, the amount beyond what is required to pay for the meter to be returned. It has not yet been determined what is to be paid back to the distiller.

I was speaking of the cases where they have deposited $1,500 for the meter, where the meter has been applied. In every instance, so far as we have been informed, where it has been applied and commenced to measure the exact quantity of the liquor distilled the distillery stopped. I say there is a world of meaning in that in reply to gentlemen who say that meters are of no value. The truth is, the meter is only one of the aids. We want not only accuracy of measurement but we want honest officers besides. It is one of the means, and inasmuch as the Committee of Ways and Means cannot, from want of scientific and mechanical knowledge as well as from want of time, devote themselves to the examination of this question to decide for themselves, we propose to throw the matter open for a single month so as to let every one who has invented anything on this subject to present it to this commission, which commission is to report before the 15th of next April. That is the purport of our resolution.

We have had before us Hutchinson's, Horton's, Allen's, Pickett's, and two or three other inventions of this kind. Some of them struck us as being very ingenious and probably likely to produce better results than Tice's meter. But we do not pretend to have compared with scientific and mechanical accuracy their relative value, nor whether they can be tampered with or not to an extent making it injudicious to use them. We propose to refer the matter to a scientific and mechanical commission to report so that we may act more advisedly. We have had a little distilling apparatus at work, Horton's. I believe the report has even gone abroad that we were making our own whisky there free of tax. [Laughter.]

Mr. ELDRIDGE. How is that?

Mr. SCHENCK. I beg gentlemen to be assured that whatever other faults the Committee of Ways and Means or any members of it may have, they know the difference between new and old whisky, and would not be likely to use it if it were made on the spot. [Laughter.] I suggest also the impracticability of the committee going to a distillery either at Baltimore, Georgetown, or New York, as was done before, and watching the operation of the different meters in practice. If our labors are to be worth anything at all they had better be given to the country here in this Hall and in our committee-room.

All these things taken into consideration, we have made a simple proposition to the House which is all embodied in this statement, that we want a scientific and mechanical commission to be raised—and the Secretary of the Treasury assures us that in its selection he will be guided in a great degree if not entirely by the suggestions as to persons made by the committee—who shall examine all the meters and not confine themselves to that one which was adopted under peculiar circumstances when there was no sufficient chance given for anything like wide competition; and having done so, shall speedily report anything in detail in relation to the meters and their competency to be used as an aid to the Government in the collection of its revenue, so that we may act understandingly in the adoption of the meter system or in its rejection altogether.

Now, sir, I hope the vote will be taken, and that we may get rid of this subject, bearing in mind what the resolution is, and that gentlemen ought not to be influenced in voting for or against it by anything that has been said in relation to outside questions.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GLOSSBRENNER demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

Two messages in writing from the President of the United States were received by Colonel William G. MOORE, his Secretary.

AMENDMENT OF THE CONSTITUTION.

The SPEAKER laid before the House the following message from the President:

To the House of Representatives:

I transmit a report from the Secretary of State, in answer to a resolution of the House of Representatives of yesterday, making inquiry how many and what State Legislatures have ratified the proposed amendment to the Constitution of the United States known as the fourteenth article.

ANDREW JOHNSON.

WASHINGTON, *January* 7, 1868.

The communication from the Secretary of State was then read, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *January* 7, 1868.

The Secretary of State having received the resolution of the House of Representatives of the 6th of January, 1868, directing him to inform that House how many and what State Legislatures have ratified the proposed amendment to the Constitution of the United States known as "the fourteenth article," has sent a report to the President that official notice has been received at this Department of the ratification of the amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress, denominated "Article XIV.," by the Legislatures of the following-named States:

Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, and Nebraska.

Respectfully submitted,

WILLIAM H. SEWARD.

The message and accompanying document were referred to the Committee on the Judiciary, and ordered to be printed.

SPANISH STEAMER NUESTRA SENORA.

The Speaker also laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

A Spanish steamer, named Nuestra Señora, being in the harbor of Port Royal, South Carolina, on the 1st of December, 1861, Brigadier General T. W. Sherman, who was in command of the United States forces there, received information which he supposed justified him in seizing her, as she was on her way from Charleston to Havana, with insurgent correspondence on board. The seizure was made accordingly; and during the ensuing spring the vessel was sent to New York, in order that the legality of the seizure might be tried.

By a degree of June 20, 1863, Judge Betts ordered the vessel to be restored; and by a subsequent decree of October 15, 1863, he referred the adjustment of damages to amicable negotiations between the two Governments.

While the proceeding in admiralty was pending, the vessel was appraised and taken by the Navy Department at the valuation of $28,000, which sum that Department paid into the Treasury.

As the amount of this valuation cannot legally be drawn from the Treasury without authority from Congress, I recommend an appropriation for that purpose.

It is proposed to appoint a commissioner on the part of this Government to adjust informally in this case, with a similar commissioner on the part of Spain, the question of damages, the commissioners to name an arbiter for points upon which they may disagree. When the amount of the damages shall thus have been ascertained application will be made to Congress for a further appropriation toward paying them.

ANDREW JOHNSON.

WASHINGTON, *January* 7, 1868.

Mr. BANKS. I move that the message just read be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

FORT COVINGTON, BALTIMORE.

The SPEAKER also laid before the House a communication from the Secretary of War *ad interim*, transmitting a draft of a joint resolution for the sale of the site of Fort Covington, in the city of Baltimore, Maryland; which was referred to the Committee on Military Affairs, and ordered to be printed.

ELECTION CONTEST—SYMES VS. TRIMBLE.

Mr. UPSON, of the Committee on Elections, called up the contested-election case of G. G. Symes *vs.* Lawrence S. Trimble, from the first congressional district of the State of Kentucky.

The question was upon the adoption of the following resolutions, reported from the Committee of Elections:

Resolved, That G. G. Symes is not entitled to a seat in this House as a Representative from the first congressional district in Kentucky.

Resolved, That the oath of office be now administered to Lawrence S. Trimble, and that he be admitted to a seat in this House as a Representative from the first congressional district in Kentucky.

Mr. UPSON. Mr. Speaker, I propose to content myself in the first place with a brief statement of the nature of this case, of the points or charges brought against Mr. Trimble, and the conclusions to which the committee have arrived. Then I will give way for the contestant to have an opportunity to be heard by the House, and for the claimant, Mr. Trimble, to be heard in reply; after which, unless there should be a disposition on the part of the House to continue the discussion further, I propose to call the previous question.

It will be recollected that the credentials of Mr. Trimble, who claims to be the member-elect from the first congressional district of the State of Kentucky, and who has the certificate from the proper officer of his election, were referred to the Committee of Elections at the first session of this Congress during the past summer, with instructions to the committee to inquire and report whether the said Trimble was "disqualified from sitting as a member of this House on account of having been guilty of acts of disloyalty to the Government of the United States or having given aid and comfort to its enemies." Other credentials from the State of Kentucky were also referred to the committee at the same time.

Subsequently to that the committee reported in several of the cases. The report was acted upon at the present session; and most of those presenting themselves as members-elect from that State were admitted. But there remain three or four cases in which there were contests, and among these is the case of Mr. Trimble. Subsequently to that reference papers giving notice of the contest, and the evidence taken under that notice having been referred to the committee, and the points involved in those contests raising similar questions to those involved in the matter originally referred to the committee, the latter cases were reserved, and this among them, for the consideration of the committee on the whole evidence—that which was taken by the committee of investigation in Kentucky, and that which was taken by the parties on the contest; the committee considering it necessary to pass upon both in order to make a proper decision of the question.

The allegation of disloyalty as set forth on the part of Mr. Symes is substantially embraced in the first allegation of his supplemental notice, and will be found on the fourth page of Miscellaneous Document No. 14, of this session; while the evidence taken by the committee will be found in Miscellaneous Document No. 47 of the first session of this Congress. I will read the principal allegation of Mr. Symes against Mr. Trimble, as touched upon by the evidence:

"You were and are ineligible to said office, because you were guilty of overt acts of disloyalty and treason to the Government of the United States during the late rebellion, and gave aid and comfort to the rebels by supplying them with medicine, commissary, and quartermaster's stores to enable them to prosecute the war, and yourself entered their lines and countenanced, aided, and abetted their rebellion; all of which was well known to those who voted for you; and all votes cast for you were illegal and void."

This is substantially the matter put in issue by the evidence taken by the contestant under his notice—substantially the charge which was referred to the committee for investigation at the last session.

In report No. 2 of this session, made by the Committee of Elections in relation to the credentials of certain other gentlemen claiming seats as Representatives from Kentucky, the following language was used:

"The committee are of opinion that no person who has been engaged in armed hostility to the Government of the United States, or who has given aid and comfort to its enemies during the late rebellion, ought to be permitted to be sworn as a member of this House, and that any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a member of this House ought to be investigated and reported upon before such a person is permitted to take the seat."

In the same report, made at the present session, the decision to which I have referred having been embodied in the report made at the first session of this Congress, the committee used the following language:

"But while the committee entertained no doubt that it is the right and duty of this House to turn back from its very threshold every one seeking to enter who has been engaged in armed hostility to the Government of the United States, or has given aid and comfort to its enemies during the late rebellion, yet we believe that in our Government the right of representation is so sacred that no man who has been duly elected by the legal voters of his district should be refused his seat upon the ground of his personal disloyalty, unless it is proven that he has been guilty of such open acts of disloyalty that he cannot honestly and truly take the oath prescribed by the act of July 2, 1862; and further, that the commission of such acts of disloyalty to the Government should not be suspected merely, but should be proven by clear and satisfactory testimony, and that while mere want of active support of the Government or a passive sympathy with the rebellion are not sufficient to exclude a person regularly elected from taking his seat in the House, yet whenever it is shown by proof that the claimant has by act or speech given aid or countenance to the rebellion he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public, and must have been done or said under such circumstances as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion."

The committee adhere to the rule laid down in that report; and in applying it to this contest we have been unable to find such a case made out as comes within the rule. In the brief report which has been submitted the committee have given some of the reasons for the conclusion to which they have arrived.

The principal charge brought against Mr. Trimble (for there is no question in relation to his having received a majority of the votes cast, and having received also the certificate) is that he has been guilty of aiding and assisting the rebellion. The attempt is made to support this charge by showing that he was engaged in contraband trade with the enemy during the war. But most of the ground covered by the evidence relates to the year 1861, and refers principally to transactions in which the firm of L. S. Ellithorp & Co. were concerned, and with which, as appears by the evidence on the part of the defense, Mr. Trimble had nothing to do. This appears to be the weight of the evidence if we take into consideration the testimony of Mr. Given and Mr. Flournoy, which is clear and direct on this point in contradiction of the testimony of Mr. W. F. Ellithorp who, in his testimony against Mr. Trimble, claims that he was a member of the firm of L. S. Ellithorp & Co., as well as the firm of Flournoy, Trimble & Co., existing about the same time, which is denied by two of the other members; and he gives no other reason for it than a letter which he says he received from his brother.

So far as this transaction in relation to L. S. Ellithorp is concerned it is perhaps sufficient for me to refer to the transaction itself as shown by the evidence. It will be found on page 42 of Miscellaneous Document No. 14, from which it will appear that the transaction of L. S. Ellithorp & Co. had reference to a contract made by them for building a railroad connecting the New Orleans and Ohio railroad with the Ohio and Mobile railroad in the State of Tennessee, and which it was thought advisable or desirable on the part of the military authorities of the United States at that time to have perfected for use in army transportation.

The firm of L. S. Ellithorp & Co. it appears made a contract with the Mobile and Ohio Railroad Company for that connection, which did not exist at the time the insurrection first broke out. It expressly appears that the trade in which they were concerned was originally permitted for the sale of furnishing supplies to the laborers employed in completing that railroad connection; and it is shown that when the firm of L. S. Ellithorp & Co. had more supplies than they needed they sold them to the nighborhood, and it is claimed at the time that neighborhood was under the control of the rebel authorities. All these supplies were originally permitted to be shipped to them to aid them in supplying their laborers, and if they were guilty of any abuse they were to blame and none others.

Now, sir, Mr. Flournoy, in his testimony, states that these supplies were permitted because the United States desired the road to be completed, because it was supposed it would be of use for military purposes. He agreed to furnish them money to carry out the contract for the railroad. This was before they commenced their work. And he did furnish them with money for that purpose.

But, Mr. Speaker, Mr. Trimble, of the firm of Flournoy, Trimble & Co., according to the testimony of Mr. Flournoy, had nothing to do with these supplies, and had no interest in them. This arrangement was between Mr. Flournoy and L. S. Ellithorp & Co., and not between L. S. Ellithorp & Co. and Flournoy, Trimble & Co. This trade continued until it was prohibited there in 1861.

Mr. Given also says that Mr. Ellithorp was not a member of the firm of Flournoy, Trimble & Co. He agrees with Mr. Flournoy in that statement, and also in the statement that the two firms were separate and distinct and had no connection. It also appears that Mr. Trimble at that time was so odious in his district to the rebels that up to the arrival of the United States troops under General Grant he did not even stay in Paducah. It also appears that in the same year of 1861 he was the Union candidate for Congress against the secession candidate, Mr. Burnett, and canvassed the district making Union speeches. He was looked upon at that time as a reliable Union man, exposing himself to great inconvenience and unpopularity in his district on account of his adherence to the Union, and was also subjected to a good deal of personal danger.

In addition to that it may be urged that subsequent to this alleged contraband trade in September, 1861, and after some charges had been made against Mr. Trimble in relation thereto, an investigation was had under the supervision of the Treasury Department, and he was exonerated therefrom, and thereupon he was appointed by the Treasury Department one of the board of trade at Paducah, and acted in that capacity, so far as it appears, to the satisfaction of the Department. It appears subsequent to that time, as the House is well aware, he was elected to this House and served during one Congress, and his loyalty was unquestioned and his right to a seat unchallenged.

From the evidence in regard to speeches made by Mr. Trimble, it appears that in 1861 he was the Union candidate for Congress against Burnett, and made Union speeches in that canvass throughout the district. After the emancipation proclamation of President Lincoln was issued he, in common with many of the originally-professed Union men of Kentucky, opposed Mr. Lincoln's administration and the policy of the war, charging that it was waged as an abolition war, and asserting that he was opposed to voting any more men or money to aid in carrying it on; but it is evident from the whole testimony that his opposition was expressed in language similar to that made use of by the opponents of the Administration about that time on the floor of Congress, the propriety or tendency of which, under the circumstances, it is perhaps unnecessary to discuss here.

That is the substance, as we consider, of the testimony which has been adduced, and, therefore, nothing has been adduced here to show that Mr. Trimble himself has been engaged in contraband trade, or has been engaged in treasonable practices, or has given aid and encouragement to the enemy within the rule laid down by the committee in their previous reports, or has done anything to prohibit him from truthfully taking the oath which all members are required to take before taking their seats in this House.

The committee have, therefore, reported almost unanimously, with the exception of the gentleman from Missouri, [Mr. McCLURG,] in favor of the gentleman who holds the certificate and against the contestant, Mr. Symes, believing that no good cause has been shown why Mr. Trimble, he having the certificate, and as far as appears having a majority of all the votes cast in the district, should be debarred of his right to take his seat as a member of this House.

I now move that the contestant, Mr. Symes, be permitted to address the House, under the rules of the House.

The motion was agreed to.

Mr. SYMES then addressed the House. At the expiration of the hour the hammer fell.

Mr. UPSON. I now move that Mr. Trimble, who holds the certificate, have leave to address the House, under the rules of the House.

The motion was agreed to.

Mr. CHANLER. The contestant, Mr. Symes, desires further time to conclude his remarks. I move that he have half an hour longer.

The motion was agreed to.

Mr. SYMES then resumed and concluded his remarks. [See Appendix.]

Mr. TRIMBLE, (the contestee.) Mr. Chairman, I do not propose to trespass upon the time or patience of the House by following the arguments of the gentleman who has just spoken, for indeed he has answered them himself. I will content myself, however, by say-

ing to this House, so far as any argument he assumes outside of the evidence in connection with me going to show that I cannot conscientiously take the oath of office is without foundation in truth or in fact. But I will not detain the House after the very able and impartial report of the Committee of Elections, who visited my State and heard every witness the gentleman proposed to introduce, and read every deposition taken by him long after the time had expired for taking legal testimony. They have read that evidence, they have passed upon it and submitted their report to the House, and by their decision I am willing to abide.

Mr. UPSON. I propose now to call for the previous question.

Mr. MAYNARD. I should like before the gentleman calls the previous question to say a few words.

Mr. UPSON. I yield to the gentleman.

Mr. MAYNARD. As I understand from the report of the committee, this is simply a question of testimony, a question of evidence, and from the hasty and imperfect view I have been able to give the testimony I should be glad if the gentleman who represents the action of the committee would oblige me by an explanation of some portions of it to which I wish to call his attention, as it has been his business to examine it, and I have not had an opportunity to do so.

Mr. UPSON. I intend to call the previous question, and then I shall be entitled to occupy the floor for one hour, and I can then answer such questions as the gentleman desires to put, unless he wishes to make a speech.

Mr. MAYNARD. I do not propose to speak on the subject. I am not competent to do so. I would like, however, to hear from the gentleman about some matters that, so far as the case presents itself now, I confess I am not entirely clear about. I do not propose to consume much time.

Mr. UPSON. Very well; go on.

Mr. MAYNARD. I find on page 119 of Miscellaneous Documents of last session, No. 47, the testimony of a man of the name of W. F. Ellithorp, who says:

"I live in Paducah, Kentucky. I have been acquainted with Mr. Trimble for fourteen years. There was a partnership formed in June, 1861, between L. S. Ellithorp & Co., of which firm I was a member, the firm consisting of L. S. Ellithorp, D. W. Ellithorp, myself, L. S. Trimble, L. M. Flournoy, and D. A. Given. There was nothing definite in the arrangement, except that we were to operate in such things as we could make money of. The firm had no particular style. Sometimes the goods were marked L. S. Ellithorp & Co., and sometimes Flournoy, Trimble & Co. I think the name most used was Flournoy, Trimble & Co. My brother, D. W. Ellithorp, went to Cincinnati with L. S. Trimble and purchased a large amount of groceries, bacon, provisions, and whisky. Between here and St. Louis there were, I think, seven thousand barrels of whisky purchased—all that there was in the market; but it was not all delivered."

Mr. UPSON. If the time taken by the gentleman in reading this testimony is to come out of my hour my time will be consumed and I shall be precluded from making any remarks.

The SPEAKER. The Chair will state to the gentleman from Michigan that he is entitled to one hour to close the debate, and if during that hour he demands the previous question the vote will not be taken until the close of his hour.

Mr. UPSON. I have not yet moved the previous question.

The SPEAKER. The gentleman has risen to close the debate.

Mr. MAYNARD. It is for that reason that I desire to propound my interrogatories before the previous question is moved. The gentleman has spoken once, and of course he cannot take the floor again until after the previous question is seconded and the main question ordered, and then he is entitled to an hour. I asked him to withhold the call for the previous question until I could present this matter to him as it lies in my own mind.

Mr. UPSON. I understood the gentleman to say that he did not wish to make a speech.

Mr. MAYNARD. No; I do not wish to make a speech, but to present an interrogatory to the gentleman.

The SPEAKER. The Chair will state that the gentleman from Michigan rose, no other gentleman claiming the floor, after Mr. TRIMBLE had taken his seat. The gentleman from Tennessee did not then claim the floor; but if the gentleman from Michigan now surrenders the floor the Chair will recognize the gentleman from Tennessee as entitled to it.

Mr. UPSON. Very well.

The SPEAKER. The gentleman from Tennessee is entitled to the floor.

Mr. UPSON. If the gentleman does not wish to take the floor and make a speech, but simply to call attention to some testimony, then I understand him. If he wishes to make a speech——

Mr. MAYNARD. I will not contend about terms. The gentleman may call it a speech or whatever he pleases. As I have the floor I believe I will hold it.

I continue the reading of the testimony of Mr. Ellithorp:

"The goods were shipped, some to Cairo, some to Paducah, some to Danville, on the Tennessee river. My impression—in fact, my knowledge—is that the great bulk of them went South. I was most of the time in Tennessee, six miles from Union City, where the firm of L. S. Ellithorp & Co. had a contract for building a piece of railroad connecting Paducah with the Mobile road, and where we had some four hundred men at work. The goods were permitted there for the supply of those men, but what was not used for that purpose was sold in the neighborhood indiscriminately. Within six miles of Union City there was a confederate camp of instruction, with from three to six and eight thousand men. The business of the firm continued about twelve months, the last transaction of any importance having taken place in the month of July, 1862. Much of the supplies went direct to Paducah, passed over the Mobile road and went to Fulton station, where the agent managed their shipment South. On one occasion an agent of the confederate government, whose business it was to hunt up supplies, came to our store, six miles from Union City, and said that something was the matter with the railroad, that their supplies were short, and that he must have some bacon. I let him have three casks, and he paid the amount in confederate money, the first I ever saw. My brother, who is now dead, told me he sent large quantities by way of Danville, on the Tennessee river, and thence by rail. I have a knowledge, also, of selling to private citizens three casks more of bacon. The money received was sent to the firm at Paducah of Flournoy, Trimble & Co.

"*Question.* State what you know about materials for cavalry equipments, &c.

"*Answer.* I went in, in conjunction, as I understood, with Mr. Trimble, and with one D. E. Davenport, E. R. Hart, D. Y. Craig, and Parson Hart, to ship South gray cloth, boots and shoes, buckles, bridle bits, buttons, and cavalry equipments generally, and a lot of coffee. The coffee (seven sacks) I got myself at Trimble's store. This was during the months of December, 1861, and January, February, March, April, and May, 1862. All these shipments I had charge of. My brother and others purchased them East, and Mr. Craig and Parson Hart took them South. The last shipment that I am positive about that firm having any connection with was made some time in August, 1862. It was a shipment up the Tennessee river of eighty barrels of whisky. It was seized and finally confiscated. General Grant released the boat but kept the whisky. Where it came from I cannot say. It had the Orange Valley brand, and my brother told me it was some of that Flournoy & Trimble lot of whisky. After my return North in October, 1861, I could not find much to do. Times were dull. My brother was a sort of Government agent, having charge of the secret-service business. I concluded I might as well make a little extra by smuggling and I went into that business, as I have said. I asked my brother where he got the means to carry on the business, and he said he got them from Mr. Trimble; that he was a partner in the thing. I had the entire management of getting goods across the river and delivering them to the parties on the other side. Mr. Trimble was president of the New Orleans and Ohio railroad, and never interposed any obstacles to shipments, but rather facilitated them. My brother, D. W. Ellithorp, told me on my return North in October, 1861, that the operation was very successful, but that the settlement had been deferred till some additional returns should be received from the South. I called on Mr. Flournoy for a settlement after the thing passed entirely into my hands by the death of my brother, and he put me off till Mr. Given should return. Given put me off by saying that Mr. Trimble had received some of the returns, and finally it was suggested that nothing could be done until we all got together, which we have never done. All the books and papers were burned in a fire except a few papers that were in the bank. Trimble never denied it, but always said there were so many parties in the thing and that he must see these parties. Some time in the summer of 1861 Trimble came into the store in Tennessee. I talked with him about business in general, and asked him how he had succeeded South. I did not allude to any particular transaction, but to the general business. He replied that everything was all right and that all the money which was due there, or to become due, would be paid. That was in June or July, 1861. The goods that went to Cairo were shipped to Columbus by rail, and the goods that went by the Mobile road were shipped South. How far Mr. Trimble was connected with the smuggling of cavalry equipments, &c., I cannot say."

Further on I find this question put to the witness, and this answer to it:

"*Question.* So far as you know, what was the purpose of selling those goods—to supply the confederates or to make money?

"*Answer.* To make money, so far as I know. That was my object."

I turn now to the testimony of Mr. John T. Bolinger. He says:

"I live in Mayfield, Kentucky. Some time in the summer of 1861 I was at Louisville, and met Mr. Trimble at the Galt House. We traveled together from here to Cincinnati, and took rooms together at the Spencer House. During the day I met Mr. Dave Ellithorp in the city. He was a great man to talk and blow around. He commenced telling me that he was there for the purpose of buying half a million dollars' worth of groceries, flour, bacon, &c. I asked him what he was going to do with so much stuff, and he said it was to be sent down South, to Tennessee. I walked along with him till he came to the office of Foot, Nash & Co.; we went in, and he presented a letter of credit. He was shown into the back office, and I returned to the hotel. I then told Mr. Trimble all about the transaction, and said it was a villainous thing; that Ellithorp was a Union man, without means, insolvent, as I always regarded him, and that some rebels in Paducah were certainly furnishing him with money for this purpose. Mr. Trimble was lying on the bed and did not say anything. Finally I told him I was going around to the surveyor's office to report the facts. Mr. Trimble then talked a little, and finally, when he saw that I was about to go he called me back and said, 'Do not say anything about that matter; I am engaged in that transaction myself, and I would rather you would not say anything about it.' There the matter rested, and I did not say anything about it. I returned home by the way of Cairo, and after reaching home I heard a good deal said about the large amount of stuff going through on the cars."

I read next from the evidence of Mr. T. A. Duke:

"*Question.* State whether or not you know about a steamboat load of goods going up the Tennessee river in the summer of 1861, and who owned the goods; and if it was after the Treasury regulations and military orders prevented goods from going to Tennessee.

"*Answer.* In the summer of 1861, and after trade regulations were established, a cargo of goods came to the landing at Paducah, nearly all of which cargo was marked F. T. & Co. Trimble told me he was partner in the firm, and that the firm was Flournoy, Trimble & Co. The most of the goods went up the Tennessee river, some of which was not put off here.

"*Question.* Did Flournoy also tell you that he was a partner in the concern called F. T. & Co., and do you know who were the other partners?

"*Answer.* My understanding at the time was that S. M. Flournoy and Watts, Given & Co. composed the rest of the firm."

Now, what I wish to ask the gentleman from Michigan is whether this testimony is in any way contravened? Whether there is any evidence showing that this witness, Mr. Bolinger, who spoke of the conversation in Cincinnati, was not speaking the truth? He testified further, in reply to a question propounded to him, as follows:

"*Question.* Did you infer from your conversation with Mr. Trimble in Cincinnati that his purpose was to furnish the confederates or to make money for himself—was it a question of speculation or a mere question of supplying the confederates?

"*Answer.* It was a question of making money."

Mr. UPSON. If the gentleman wishes me to answer that inquiry while he is on the floor I can very readily do so.

Mr. MAYNARD. That is exactly what I want.

Mr. UPSON. Every material statement in the deposition to which the gentleman refers was contradicted by the evidence introduced on the part of the defense, and the evidence taken before the committee. The gentleman has also referred to the testimony of Mr. Duke; if he will read on still further he will find that by his own evidence Duke does not know anything about the matter. He will also find by reference to the testimony of Mr. Ellithorp taken in the absence of Mr. TRIMBLE, that Ellithorp gives as his reason for making this statement that he wants to force Mr. TRIMBLE to a settlement of his brother's estate. All these statements have reference to the transactions of L. S. Trimble & Co. on that railroad. The evidence shows that the firm of Flournoy, Trimble & Co. had nothing to do with the other

firm, having been formed in the spring of 1861 and existing only until about the month of October, 1861, while the other firm was in existence long before the war.

Mr. MAYNARD. Will the gentleman from Michigan [Mr. UPSON] either now or at some other time—I do not care when—refer to the particular testimony controverting the alleged conversation at Cincinnati between Trimble and Bolinger?

Mr. UPSON. There is no evidence elsewhere in relation to that particular conversation.

Mr. MAYNARD. As to the motives which induced Mr. Ellithorp to disclose on his associates, I suppose that is a matter of not so much importance as whether he disclosed the truth. He speaks here of his having been concerned "in shipping goods south"—an expression well understood—and that Mr. Trimble, the president of the railroad company, interposed no obstacles in the way of their doing so. Is there any evidence controverting that?

Mr. UPSON. Yes; there is evidence that he gave orders that nothing should be shipped except what was permitted by the Government authorities.

Mr. KERR. Will the gentleman from Tennessee [Mr. MAYNARD] yield to me for a moment?

Mr. MAYNARD. Certainly.

Mr. KERR. The gentleman from Tennessee has read almost all the testimony-in-chief given by the witness, W. F. Ellithorp. I desire now to suggest to the House that that testimony was taken by the committee in the absence of Judge Trimble.

Then, in that connection, I desire also to invite the attention of the gentleman from Tennessee to a part of that testimony which he has not read. On page No. 123 of Miscellaneous Document No. 47 will be found the following testimony by the witness Ellithorp:

"*Question.* All the goods that were sold came through on Treasury permits?

"*Answer.* I cannot say. I do not think I ever saw a Treasury permit.

"*Question.* As you understood it, the goods were sent there on Treasury permits, to supply your hands?

"*Answer.* Yes.

"*Question.* But instead of using them for your hands you sold them to the confederacy?

"*Answer.* We sold them promiscuously to whoever bought them.

"*Question.* Did Mr. Trimble know anything about that?

"*Answer.* I cannot say."

I thank the gentleman for his courtesy. That is all to which I desire to call his attention in this connection.

Mr. MAYNARD. I have read the full testimony of this witness, that part as well as all the rest. I confess it did not make the impression upon my mind which the gentleman seems to think it should have made.

The statement contained in this evidence is that these parties engaged in business for the purpose of trading south, and that they were trading south. The witness says, it is true, that he does not know that Mr. Trimble had knowledge of the parties to whom the goods were sold. Now, in the absence of all contravening testimony, it is to be presumed that Mr. Trimble knew his own business; that he knew what was going on; that he understood what his firm was about. This man, Ellithorp, seems to have been in Tennessee all the time. He says that he saw Mr. Trimble there in 1861, and that Mr. Trimble told him he had been south, and everything was working well.

Mr. UPSON. With the permission of the gentleman from Tennessee, I will say to him that his confusion arises from mingling the firm of Flournoy, Trimble & Co. with that of L. S. Ellithorp & Co., the latter being the firm engaged in building the railroad, and this witness Ellithorp endeavoring to make out that it was the same firm as Flournoy, Trimble & Co.; whereas it will be found by an examination of the evidence that there were two separate and distinct firms, having no business connection with each other; that the firm of Flournoy, Trimble & Co. was not formed till the spring of 1861, while the firm of L. S. Ellithorp & Co. was formed in 1860, before the war. The firm of Flournoy, Trimble & Co. ceased with the establishment of the trade regulations prohibiting intercourse up the Tennessee river with the rebel States. After that they bought no more goods. They had no connection, as the weight of the evidence shows, with the firm of which the witness was a member. He bought his goods where he pleased—at Cairo, at Cincinnati, or at Paducah, where the firm of Flournoy, Trimble & Co. carried on their grocery business. If the supplies which he bought there for his men or the men of L. S. Ellithorp & Co., in building the railroad, were sold by him to the enemy, that is a matter for which he is responsible. He admits that while part of the supplies obtained from Flournoy, Trimble & Co. were used for the men in the employ of his firm, the surplus was disposed of partly to the people of the neighborhood and partly to the confederates; and then he endeavors to connect Mr. Trimble with the matter by saying that he remitted the proceeds to Flournoy, Trimble & Co.; whereas Mr. Flournoy says that the transaction was one with which Mr. Trimble had nothing to do; that he, Mr. Flournoy, having had some business transactions with L. S. Ellithorp & Co., had made the contract before the commencement of the war, and that Mr. Trimble had nothing to do with it.

Mr. MAYNARD. By this testimony it would appear that the same men were concerned all round, sometimes carrying on business under one name and sometimes under another, matters being conducted very promiscuously.

Mr. UPSON. The gentleman will find all that contradicted in the testimony of Mr. Given, on page 125 of Miscellaneous Document No. 47, of last session; and also in the testimony on page 41 of Miscellaneous Document No. 14, of the present session. It is also contradicted in part on page 32, in the testimony of Mr. Hart, a brother of the other Hart.

Mr. MAYNARD. I will refer to the testimony of Mr. L. M. Flournoy, on page 47. I had examined that and had made a note of the last question and answer:

"*Question.* You state that the firm of Flournoy, Trimble & Co. closed business"—

Mr. UPSON. The gentleman is reading the reëxamination by the contestant instead of reading the direct testimony.

Mr. MAYNARD. I suppose the statement of the witness is reliable, whether made in the direct examination or otherwise.

"*Question.* You state that the firm of Flournoy, Trimble & Co. closed business about October 1, 1861, and that L. S. & W. F. Ellithorp were not interested in the firm; now, is it not a fact that D. W. Ellithorp was a member of the firm of L. S. Ellithorp & Co., and that the Ellithorp firm were working on the railroad in Tennessee at that time, and that D. W. Ellithorp sent many goods south, bought for the firm of Flournoy, Trimble & Co., and owned by them, under the pretext that they were for the hands working on the railroad, and do you know that W. F. Ellithorp and L. S. Ellithorp did not deliver many of those supplies to the rebels encamped near the storehouse in Tennessee?

"*Answer.* D. W. Ellithorp was a member of the firm of L. S. Ellithorp & Co. I never knew or understood that W. F. Ellithorp was a member of the concern of L. S. Ellithorp & Co. until about three or four years ago"—

There is a fact that shows how loosely this business was done.

Mr. UPSON. The gentleman will see that he was not himself a member of the firm.

Mr. MAYNARD, (reading)—

"when a suit was instituted by R. O. Woolfolk against L. S. Ellithorp & Co. The Ellithorp concern was working on the railroad in Tennessee during the spring and summer of 1861. D. W. Ellithorp sent suppiles to Tennessee for his laborers; he may have purchased some supplies from Flournoy, Trimble & Co., but if so they were paid for, as I was informed, or he, D. W. Ellithorp, made himself liable for them, to be taken out of his profits. I have no knowledge that any such supplies were furnished to the rebels near their store, and, if so, Flournoy, Trimble & Co. never received any of the profits, nor were they interested in their sale. If any such transactions took place they were for the sole benefit of L. S. Ellithorp & Co. The concern of Flournoy, Trimble & Co. received their first purchase of goods early in August, 1861. My best recollection is that they did not receive any after the 1st of September, 1861."

Now, the force of that statement, brought out on the cross-examination of this witness, the gentleman, as a lawyer, will feel as readily as any of us. Nor have I yet heard any explanation of this remarkable conversation in Cincinnati, when Mr. Bolinger informed Mr. Trimble of the errand upon which he was going, and when the latter said to him, "Don't say anything about the matter; I am engaged in that matter myself; I would rather you would not say anything about it." Now is that anywhere controverted?

Mr. UPSON. There is no reference to that conversation anywhere else. The business of Flournoy, Trimble & Co., as appears on page 25, was for the purpose of selling groceries, provisions, &c., in Paducah. He was purchasing goods in Cincinnati, and it appears it was understood by this man that they were to go south, whereas Mr. Trimble was furnishing goods for his own firm at Paducah, and did not want it to be interfered with by any stories this gentleman might tell the officers. That is all. This has no reference to any treasonable transaction. It is not followed up by showing any goods were used in aid of the rebels. If any such proposition had been made to Mr. Trimble it appears from the evidence that he was a good Union man, and would not have listened to it.

Mr. MAYNARD. I inferred from some things which fell in the course of the gentleman's remarks, and also from the testimony, that it is supposed, because these supplies were not furnished primarily to the rebels but to make money, there was nothing reprehensible in the matter. Does the gentleman wish to be so understood?

Mr. UPSON. No, sir. There is no evidence that Mr. Trimble had any connection knowingly with any arrangement to sell goods to the rebels for any purpose. There is not a scintilla of evidence. It is sought to connect him with this firm by confounding the two firms together and showing that they did. There is no doubt about the rascality of Ellithorp, for he admits that he furnished goods to the rebels. He tries to blacken the character of Mr. Trimble by confounding the two firms together. He does this in order to try to force Mr. Trimble to a settlement.

Mr. MAYNARD. Is there any testimony going to impeach the character of Ellithorp?

Mr. UPSON. There is, if you call direct testimony contradicting his testimony impeaching his character.

Mr. MAYNARD. That depends upon who does it. Is his general character assailed?

Mr. UPSON. His evidence was not taken till afterward, and in the absence of Mr. Trimble. There was no chance to take his character. His testimony was *ex parte*.

Mr. MAYNARD. Is there any testimony attacking it?

Mr. UPSON. Ellithorp's testimony was not taken at first but afterward, and Mr. Trimble had no opportunity to attack his character.

Mr. MAYNARD. When was it taken?

Mr. UPSON. After they had got through taking testimony in Kentucky. It was taken after the committee had reached Cincinnati, and in the absence of Mr. Trimble. When all the testimony had been concluded it appeared by the affidavit of Mr. Symes that he would suffer loss unless the committee would permit him to examine this witness, and as a matter of grace and favor we allowed him to be examined, thinking it would be a hardship if it were not done.

Mr. MAYNARD. Here is the testimony of Mr. Campbell:

"*Question.* State your name, age, occupation, and residence.

"*Answer.* Reside in the town of Paducah. Aged twenty-five years.

"*Question.* State whether or not, in the summer of 1861, you were clerk at the depot of the N. O. and Ohio railroad, in Paducah, and if L. S. Trimble was president of that railroad.

"*Answer.* I was clerk in the summer of 1861. He was president of the road.

"*Question.* Now state whether or not during the fall of 1861 you went into the confederate army.

"(Objected to.)

"*Answer.* I did.

"By Symes:

"*Question.* Now state whether or not L. S. Trimble told you that you should be reinstated in your position on the said railroad when you returned from said army.

"(Objected to.)

"*Answer.* He stated to me when the war was over that I should be reinstated.

"*Question.* Was this before you had enlisted in the confederate army or after?

"(Objected to.)

"*Answer.* Before.

"*Question.* Now state whether or not, when you were a soldier in the confederate army, in Tennessee, at Union City, William F. Ellithorp was arrested by the confederate authorities charged with being a Union man and sending information north, and if he did not procure his release by proving that he had been receiving supplies from Paducah and furnishing them to the confederate army.

"(Objected to.)

"*Answer.* He was arrested by me for sending supplies to the confederate army.

"*Question.* Now state if you conversed with said Ellithorp, and what he told you about furnishing supplies, and from what place he got them.

"(Objected to.)

"*Answer.* He stated to me that he got them from Paducah, but did not state what firm he got them from.

"*Question.* State whether or not you were at the Ellithorp storehouse, in Tennessee, and who was there, and how near it was to the confederate camp?

"(Objected to.)

"*Answer.* Major Ellithorp was there; the confederate camp was at Fulton station, about six miles from said store, south.

"*Question.* State how Trimble was regarded by the confederates, so far as you know; that is, where they supposed his sympathies were?

"(Objected to.)

"*Answer.* We regarded him as a southern man because he lived in the South, as we did every other man who lived in the South.

"*Question.* Was he supposed to be a southern sympathizer?

"(Objected to.)

"*Answer.* I cannot say whether he was or not.

"*Question.* Now state whether or not one James Hamilton came to you since you were summoned to appear and give your evidence against L. S. Trimble, and told you that if you would not appear and tell what you knew against Trimble he would do anything he could do for you and set you up in business; but that if you did give your evidence he would not help you at all, and that it would ruin you among your friends, &c., and state if you did give your evidence until you were forced to by attachment.

"(Objected to.)

"*Answer.* It was before I was summoned, and I did not give my evidence until I was forced by an attachment."

I will be glad when the gentleman comes to reply if he will turn to those parts of the evidence which he thinks controvert the accuracy of this testimony.

Mr. UPSON. I will endeavor to do so.

Mr. DAWES. I wish to inquire of the gentleman from Tennessee, who is, I have no doubt, actuated by precisely the same motives that the committee were, whether, supposing it to be true that there was a firm at Paducah that sent goods south to supply railroad hands, and that a member of the firm located at the railroad had disposed of some of those goods to the enemy, and supposing it to be true that Mr. Trimble was a member of that firm, he would say that that simple fact of itself, if it stopped there, was sufficient evidence against Mr. Trimble to exclude him from a seat upon this floor, without showing that Mr. Trimble himself was cognizant of that fact? I am not asking my friend from Tennessee what would be his liability in a court, but I am asking him whether, admitting all that to be true—that there was a firm at Paducah sending goods for the supply of its railroad hands down South, and that a member of the firm there sold a portion of the goods to the confederates—whether, if the evidence stopped there, in his opinion, it would be enough to exclude Mr. Trimble from his seat?

Mr. MAYNARD. I shall not insist that any agent—and every partner is an agent of the firm—committing a violation of law outside of the limits of his agency, and in contravention of the authority of his principal, can morally or criminally bind his principal. I do not hold that doctrine. But I do hold this: that when a party of men engage in a common venture which is in itself unlawful, and while it is going on any one or any number of them go beyond the original expectations of the party and transgress to a degree that was not anticipated in the formation of the plan, every man becomes responsible for that act as though he had committed it himself. In other words, when a party of men engage in an unlawful enterprise they become before the law security for each other and responsible for the act of each other.

Now, we know very well it is a part of the history of the times that in the early part of the war there was an immense effort to run supplies into the southern country. They went in by millions.

Mr. DAWES. I think I cannot yield for a speech.

Mr. MAYNARD. I am seeking information, and perhaps the gentleman can afford it me. I would ask the gentleman from Massachusetts to inform me whether there was a common purpose formed by several persons, including Mr. Trimble, to ship goods south—I care not whether for the purpose of working a railroad or what it was—and whether that purpose was concealed from the authorities at the instance of Mr. Trimble, and whether goods were, in point of fact, sent south, and were of such a character that their use could not have been mistaken—gray cloth, buttons, buckles, bridle bits, &c.—and whether Mr. Trimble went south to look after the proceeds and came back and said that it was all right? I ask what the facts are. There can be no question what the law is in this case. This is a question of fact, as I understand it.

Mr. DAWES. If I understand the testimony, the most that can be made of it, admitting all that is claimed to be made of it on the other side, is this: that there was a firm at Paducah who were engaged in the business when the war broke out of constructing a railroad in that part of the southern country which afterward came into the rebel lines; it was upon ground not occupied by rebels but that came within the rebel lines.

Mr. MAYNARD. Can the gentleman tell us the locality of that railroad?

Mr. DAWES. No, I cannot; I am giving the gentleman every element of fact bearing upon this case. I do not know so much about the geography of Tennessee and Kentucky as the two gentlemen who are sitting close together there, [Mr. MAYNARD and Mr. Symes, the contestant,] and it is unkind in them to question me in geography. But it was either in the rebel lines or it was not. I admit that it was, and it does not make any difference whether it was a good way in or a little way in.

Mr. MAYNARD. I ask the gentleman whether it is not shown by the evidence that several thousand rebels were encamped in that immediate locality?

Mr. DAWES. Mr. Speaker, I am giving the gentleman all that is claimed by those who think that Mr. Trimble ought to be excluded. There was a firm consisting of three or four members in the business of building this railroad. A portion of the members of that firm owned a large grocery establishment in Paducah, whose business was furnishing supplies to anybody who would come to Paducah and buy them. A portion of the Paducah firm would go to Cincinnati from time to time and buy goods for their grocery establishment in Paducah; and the grocery establishment would supply this firm with provisions for their hands on the railroad. The man at the other end of the line supplied the hands and sold the provisions to them. And if he is to be believed, if the matter is to depend upon his statement, he also sold a portion of the goods to rebels.

Now this man, Ellithorp, after his brother died, got into a quarrel with Mr. Trimble. He claimed that his brother told him shortly before he died that Mr. Trimble owed him a sum of money, $2,000 or some other round sum, and he said he would make these charges against Mr. Trimble unless he would shell over that sum.

The matter in dispute is simply this: first, whether Mr. Trimble was or was not a member of the firm in point of fact; and secondly, if he was a member of the firm had he knowledge of their transactions at the other end of the line, down there by the railroad.

Now, as to whether he was a member of the firm or not, that all depends on the testimony of this man, who is contradicted by seven witnesses, who heard him tell the story in seven different ways, all conflicting with his testimony. In my mind that disposes of the question whether he was a member of the firm or not.

Then there is the little item of Mr. Trimble's conversation at Cincinnati when he was up there purchasing goods for this firm in Paducah. A man came to him and told him that there was a member of the firm in Paducah there purchasing goods for the firm; that the goods were going to be sent South, and that he was going to tell the authorities of it. Mr. Trimble told him that he wished he would not do any such thing, for he was engaged in that business also, that is, purchasing goods for the firm in Paducah.

That firm in Paducah sold these goods to the railroad firm, and one of the members of the railroad firm sold some of the goods to some confederates; that is all there is about this matter. And that is all the allegation there is against this gentleman, who is to be excluded from his seat, if at all, on the ground that he was disloyal in 1861.

But let me say that there is this evidence which must be weighed along with this testimony, which of itself is not very reliable; that is, evidence as to the conduct of Mr. Trimble during this time. Now the conduct of Mr. Trimble during the time covered by these transactions does not give any evidence of any disloyalty on his part at that time.

I am not speaking of the sentiments that Mr. Trimble avowed upon this floor during the last Congress. I am speaking of the time covered by this allegation. The testimony is conclusive entirely that at that very time there was no more ardent and zealous Union man in all Kentucky than this same Lawrence S. Trimble. He exposed his life in the canvass for the seat to which he was afterward elected against that Mr. Burnett whom we expelled for treason when he came here. His life was threatened; he was advised by his friends that a personal canvass of his district was not consistent with his personal safety, and he was advised to withdraw from the canvass. But he faced all the danger and canvassed that district as the Union candidate.

It is true that after the proclamation of emancipation by Mr. Lincoln, Mr. Trimble, in common with a great many others in Kentucky, gave up his support of Mr. Lincoln and his party in Congress, and he was then found as he is now.. But I am referring now to the position of Mr. Trimble at the very time it is alleged he was engaged in this illicit trade with the enemy. To my mind not only is that charge not proven but it is made very clear that during that whole time Mr. Trimble was anything but a man giving aid and comfort to the enemies of his country.

Mr. MAYNARD. Will the gentleman yield to me for a moment?

Mr. DAWES. Certainly.

Mr. MAYNARD. On page 116 of Miscellaneous Document No. 47, where the witness is referring to a passage between Mr. Trimble and Mr. Anderson, is this testimony:

"Mr. Anderson called upon him to state emphatically his position—whether or not he was in favor of furnishing men or money for the prosecution of the war. Mr. Trimble said he was opposed to furnishing men and money for the purpose of destroying the Constitution. Mr. Anderson told him that that was no answer, and he pressed the question. The sheriff of the county also got up and told Mr. Trimble, 'We want you to answer that question; we want no misunderstanding about it.' Mr. Trimble had by this time got near to the door, and finally he said that he would not vote a dollar or a man to carry on the war as it was prosecuted—that it was an abolition war, and that he would not vote a man or a dollar for it. There was a great deal of excitement, and there seemed to be a disposition on the part of the crowd to mob Mr. Anderson, and not to let him speak. I made my way through the crowd, handed

Mr. Anderson a pistol, and told him to shoot the first rebel that interfered with him. Mr. Trimble left the court-house. His speeches raised a terrible feeling among the rebels. The country was soon filled with guerrillas, and the Union men all ran off."

Mr. DAWES. Well, now, will the gentleman be kind enough to look at the date of that transaction and see whether it is not about two years later than the transaction covered by these allegations, and after Mr. Lincoln's emancipation proclamation, in regard to which Mr. Trimble, like many others in Kentucky, differed with the President, and I will add differed with me?

Mr. MAYNARD. This is in the canvass of 1863.

Mr. DAWES. Yes, sir; and this allegation of disloyalty is founded upon transactions in the summer of 1861, just after the war broke out, and before the lines were well defined, when traffic with the enemy was very much more common and loose and indiscriminate than afterward. Yet it is utterly impossible to point to any testimony that fixes upon Mr. Trimble a guilty knowledge of any transactions of that kind.

Mr. MAYNARD. I will ask the gentleman how he explains the following in the testimony of Mr. Ellithorp, of whom he has spoken:

"*Question.* Is there a feeling of hostility on your part toward Mr. Trimble?

"*Answer.* No, sir; I cannot say that there is. I have been his friend, and I voted for him at the last election; but I do not feel exactly right toward him. I feel as though he did me wrong. I do not feel that I would like to injure him, but to adopt all lawful means to force him to a settlement."

* * * * * * * * * *

"*Answer.* I went in, in conjunction, as I understood, with Mr. Trimble and with one D. E. Davenport, E. R. Hart, D. Y. Craig, and Parson Hart, to ship South gray cloth, boots, and shoes, buckles, bridle bits, buttons, and cavalry equipments generally, and a lot of coffee. The coffee (seven sacks) I got myself at Trimble's store. This was during the months of December, 1861, and January, February, March, April, and May, 1862."

Mr. DAWES. My friend from Tennessee has been a practicing lawyer, and I want to ask whether this is the first time he has known a witness to come upon the stand with deadly hostility toward the party about whom he is swearing, yet denying, when the question was asked him, that he had any hostility toward the man. Now, let me read again the passage just read by the gentleman:

"*Question.* Is there a feeling of hostility on your part toward Mr. Trimble?

"*Answer.* No, sir; I cannot say that there is. I have been his friend, and I voted for him at the last election; but I do not feel exactly right toward him. I feel as though he did me wrong. I do not feel that I would like to injure him, but"—

This is a witness who had said that he would make this charge against Mr. Trimble if he did not pay this sum of money—

"to adopt all lawful means to force him to a settlement."

This is the key-note of the whole story. This is the circumstance which must determine the weight to be attached to the evidence of this man, who thinks it a "lawful means" of forcing another man to a settlement to say to his friends, "Go and tell this man that if he does not pay me so much money I will make this charge against him. I have some knowledge the concealment of which is worth to him just about that sum." Now, Mr. Speaker, I think more of Mr. Trimble than I should have done if he had not faced that man here before this House.

One word more and I will leave this case. The law requiring this committee to examine and determine in any case presenting the question whether the claimant of a seat here has been guilty of disloyalty to such an extent as to render him ineligible was enacted in self-defense. It was enacted in a time of war, when we had to consider the contingency that the control of the legislation of this Government might, through the avenue of this House, fall into the hands of the enemies of the country. That law was wisely enacted, and in my judgment it should be faithfully and firmly maintained. But, sir, I desire to propound an interrogatory to every gentleman's conscience and sense of duty. Is there any pressing necessity, any such imperiled condition of the country at this hour as to require us to exclude from a place in this House to which he has been elected by a majority of the voters of his district any man about whose loyalty at least we cannot bring testimony which will remove all doubt! Is there any danger of admitting to a seat here upon this floor a man who was duly elected, and on the question of whose loyalty no more serious proof can be brought than is brought against this gentleman?

Why should we not let him come in here? What harm can he do? What harm is it possible for him to do? The district which he comes here to represent, Mr. Speaker, is entitled by constitutional guarantees to the election of such person as it pleases, so long as it shall send here a man about whom it cannot be proved to our satisfaction that he is disloyal. I submit to the members of the House whether we are called upon to exclude him on any uncertainty or upon any ground that it is in our power to do so? Shall we go throughout the country and search with a lighted candle and with an eagerness which may be construed into a desire to find out something against a man who comes here backed by the majority of his district? Does it become us at the conclusion of the rebellion, when danger from this source has passed, to find if possible, and feel gratification in finding, a man sent from Kentucky who is not free from the stain of treason? For one I do not feel like searching with anxiety, and feeling disappointment if I fail, for testimony which by possibility can be construed against a party as treason while he is otherwise duly elected as a member of this House. I shall stand here as firm, I trust, as any member of this House in defense of the law and in the exclusion from a seat here of any person who comes here about whom there shall be evidence which satisfies my mind that he has given aid and comfort to the enemies of the country. If there be any doubt after the evidence has been weighed I will give the benefit of that doubt to every man who comes here with the majority of the votes in his district, and I shall not vote to exclude him unless I can put my finger upon evidence which convinces me that he has given aid and comfort to the enemy.

Mr. UPSON. I now demand the previous question, and will then move to adjourn and let the subject go over until to-morrow.

The previous question was seconded and the main question ordered.

Mr. UPSON. I move that the House adjourn.

The SPEAKER. To-morrow has been set apart for debate, and this subject will go over until Monday if the House now adjourns.

Mr. UPSON. I withdraw the motion, and as it is late will omit the remarks I designed to make and ask for the vote now.

Mr. KELSEY. I move that the House adjourn.

The motion was disagreed to.

The question then recurred on the resolutions reported from the Committee of Elections.

Mr. KELSEY demanded a division.

The question first recurred on the following resolution; which was adopted:

Resolved, That G. G. Symes is not entitled to a seat in this House as a Representative from the first congressional district in Kentucky.

The question next recurred on the adoption of the following resolution:

Resolved, That the oath of office be now administered to Lawrence S. Trimble, and that he be admitted to a seat in this House as a Representative from the first congressional district in Kentucky.

Mr. KELSEY demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The resolution was adopted.

Mr. UPSON moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. TRIMBLE then presented himself at the Speaker's desk, and was duly qualified by taking the oath prescribed by law.

THE REVENUE.

Mr. LYNCH, by unanimous consent, submitted the following resolution; which was referred to the Committee of Ways and Means:

Resolved, That in the present condition of the financial interests of the country it is inexpedient to withdraw from the people by taxes, duties, imposts, and excise any larger sum annually than that sufficient to meet the annual expenditures of the Government, including the interest, but no part of the principal of the public debt, and that the revenue laws ought speedily to be adapted to the raising of so much revenue and no more.

THE LOAN LAWS.

The SPEAKER. The chairman of the Committee on Printing desires to make a statement to the House.

Mr. LAFLIN. I wish merely to state that the loan laws ordered to be printed at the last session of Congress are now ready for distribution, and can be found in the folding-room.

BOUNTY LAW.

Mr. FARNSWORTH, by unanimous consent, introduced a joint resolution (H. R. No. 141) in reference to bounties to the widows and children and parents of soldiers who have died since July 28, 1866; which was read a first and second time, and referred to the Committee on Military Affairs.

And then, on motion of Mr. ELDRIDGE, (at four o'clock and twenty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ARCHER: The petition of James F. Lambdin, to be restored as engineer in the United States Navy.

By Mr. BENTON: A memorial of planters in the seaboard district of South Carolina to Congress for aid to supply the destitute with food to prevent suffering and starvation until the next crop can be realized.

By Mr. EGGLESTON: A memorial and affidavit of Henry Tibby, of Ohio, for return of commutation money paid on being drafted in May, 1864.

Also, the memorials of George Sommer, late colonel of the thirteenth regiment Ohio volunteers, and William Gotlege, late colonel of the fifteenth regiment, praying compensation for services rendered by their commands during the Kirby Smith raid.

By Mr. FERRISS: The petition of Gardner Pope and 200 others, citizens of the sixteenth district New York, praying action to define the status of naturalized citizens of the United States.

By Mr. KELSEY: The petition of Mary A. Ripley, for relief.

By Mr. LAFLIN: The petition of R. W. Keene, of Carthage, Jefferson county, New York, in favor of the passage of an act granting pensions to soldiers in cases not provided for by law.

By Mr. MORRELL: The petition of 162 citizens of the seventeenth congressional district of Pennsylvania, praying for such legislation as will define the status of naturalized citizens and secure their rights in other countries.

By Mr. NUNN: The petition of Reuben Daily, of Memphis, Tennessee, for compensation for services rendered.

By Mr. PERHAM: The petition of Amos Witham, of Auburn, Maine, for pension.

By Mr. PRICE: The petition of the supervisors of Jackson county, Iowa, asking that the Maquoketa river, in said county, be declared not a navigable stream.

By Mr. SCHENCK: The petition of John Bann and 40 others, citizens of Springfield, Ohio, praying that no change may be made int he present national banking system.

Also, resolutions of the Board of Trade of Albany, New York, relative to collection of tax on whisky.

By Mr. WASHBURNE, of Illinois: The petition of citizens of Illinois, praying Congress to take action for the protection of the rights of naturalized citizens.

By Mr. WELKER: The petition of C. C. Parsons, John K. McBride, Josiah Given, A. S. McClure, and 278 citizens of Wooster, Ohio, without respect to party, asking the action of the Government to protect naturalized citizens, and to define the status of our naturalized citizens with the Governments of the Old World.

By Mr. WILSON, of Ohio: A memorial of John Campbell and 40 others, citizens of Ironton, Ohio, on the subject of a change in the mode of appointments and removals of officers charged with the duty of collecting and disbursing the public revenue.

IN SENATE.

SATURDAY, *January* 11, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Attorney General, in reply to a resolution of the 8th instant, transmitting copies of official opinions given by him in relation to the pay of retired and reserved officers of the Navy; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. POMEROY. I present the petition of Jessie Benton Frémont, of New York, praying that some property in San Francisco, California, which has been taken possession of by the Government may be restored to her. She states that she resided on this property until 1861, when she joined her husband, who had been reappointed in the Army; that she rented this estate to the surveyor general of California, who retained possession of it until 1863; that at that time it was taken possession of by the United States military authorities, and that possession has been retained. I ask to have this petition referred to the Committee on Private Land Claims.

It was so referred.

Mr. SUMNER presented the petition D. H. McDonald, praying for the salary of acting United States consul at Cape Town, Cape of Good Hope, from January 17 to June 9, 1863; which was referred to the Committee on Commerce.

He also presented three series of resolutions adopted at mass meetings of colored citizens in Fulton, Early, and Randolph counties, Georgia, setting forth their miserable condition and praying for relief; which were referred to the Committee on the Judiciary.

Mr. MORTON presented the petition of one hundred and seventy-eight mechanics and other laboring men of Washington, the petition of three hundred and forty laboring men at Allegheny arsenal, Pennsylvania, the petition of two hundred and seventy-eight mechanics and laboring men of New York, and the petition of two hundred and eighty-seven mechanics and laboring men of Nashville, Tennessee, praying for the passage of a law making eight hours a day's work in all Government workshops; which were referred to the Committee on Finance.

Mr. VAN WINKLE presented two petitions of citizens of Parkersburg, West Virginia, praying the interposition of the Government for the release of American citizens charged to be Fenians, now confined in British dungeons; which were referred to the Committee on Foreign Relations.

Mr. WILSON presented a petition of citizens of Alabama, praying for the establishment of a mail route between Eufaula and Ozark, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON presented a petition of the New Orleans, Opelousas, and Great Western Railroad Company, praying for a special act of relief reinstating the land grant of that company and authorizing the adjustment and liquidation of its accounts; which was referred to the Committee on Commerce.

THE CONSTITUTIONAL AMENDMENT.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 86) declaring the adoption of the amendment to the Constitution known as article fourteen; which was read twice by its title.

Mr. SUMNER. Let it be read at length. It is not long.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the joint resolution, as follows:

Whereas an amendment to the Constitution proposed by the Thirty-Ninth Congress, and known as article fourteen, has already been adopted by the Legislatures of twenty-two States, to wit, Connecticut, New Hampshire, Tennessee, New Jersey, Vermont, Oregon, New York, Ohio, Illinois, West Virginia, Kansas, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, and Maine; and whereas it is provided in the Constitution that an amendment duly proposed shall be valid when "ratified by the Legislatures of three fourths of the several States:" Therefore,

Resolved by the Senate and House of Representatives, &c., That the amendment to the Constitution proposed by the Thirty-Ninth Congress, and known as article fourteen, having received the requisite ratification, is valid to all intents and purposes as part of the Constitution.

Mr. SUMNER. If the Senate is not disposed to act upon that resolution now without reference to a committee I shall have no objection to its being referred to the Committee on the Judiciary, and I hope I shall not take too great a liberty if I appeal to that committee to make an early report on the question. It seems to me that the country should know whether that article at this moment is valid as a part of the Constitution or not. In my opinion there can be no question——

Mr. DIXON. Has the resolution been received?

Mr. SUMNER. It is a joint resolution, and the question now is on its reference to the Committee on the Judiciary.

Mr. DIXON. I supposed it required unanimous consent to receive it.

Mr. SUMNER. I say, in my opinion there can be no question of the validity of that amendment as a part of the Constitution of the United States, and I hope that Congress will without delay declare so. It seems to me that it belongs to Congress to do this rather than to any other branch of the Government. I know that in times past it has been the habit to leave this question to the Secretary of State, who has made an official certificate on the subject; but the whole matter seems to me to come properly within the cognizance of Congress.

The joint resolution was referred to the Committee on the Judiciary, and ordered to be printed.

PAY OF RETIRED NAVAL OFFICERS.

Mr. HOWARD. I move that the Senate proceed to the consideration of executive business.

Mr. GRIMES. I wish to offer a resolution, and I hope the Senator will allow us to get through with the morning business.

Mr. HOWARD. Very well. I withdraw the motion for that purpose; but I give notice that I shall renew it when the morning business shall have been concluded.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to suspend, until further action of Congress be had thereon, all payments to the retired and reserved officers of the Navy promoted under the ninth section of an act entitled "An act to amend certain acts in relation to the Navy," approved March 2, 1867, except as they were severally entitled to pay at the time such officers were placed on the retired or reserved lists of the Navy, and to which they were entitled at the passage of act without promotion.

INTRODUCTION OF BILLS.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 241) authorizing the Commissioner of Patents to pay certain employés of the Patent Office for services rendered; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

SOUTHERN STATE GOVERNMENTS.

Mr. DOOLITTLE. I desire to give notice of an amendment that I intend to offer as a substitute for the resolution submitted by the honorable Senator from Indiana, [Mr. MORTON,] which I shall offer when that subject again comes before the Senate for consideration. I give this notice now in order that I may ask that the substitute which I propose to his resolution may be printed.

Several SENATORS. Let it be read.

Mr. DOOLITTLE. As it is very short it may perhaps as well be read for information, and then I desire to have it printed.

The Secretary read the proposed amendment, which was to strike out all after the word "resolved" in the resolution of Mr. MORTON and in lieu thereof to insert:

That the Committee on the Judiciary be instructed in any bill which may be reported by them, having reference to the question of reconstruction, so called, in any of the States not represented in the present Congress, to insert the following proviso:

Provided, nevertheless, That upon an election for the ratification of any constitution or of officers under the same previous to its adoption in any State, no person not having the qualifications of an elector under the constitution and laws of such State previous to the late rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, to wit: first, he shall have served as a soldier in the Federal Army for one year or more; second, he shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or third, he shall be seized in his own right or in the right of his wife of a freehold of the value of $250.

The PRESIDENT *pro tempore*. No objection being made, the proposed amendment will be received informally, and ordered to be printed.

CORPORATIONS IN THE DISTRICT.

Mr. HARLAN. I move that the Senate now take up for consideration the bill (S. No. 102) providing for the formation of corporations and regulating the same in the District of Columbia—the bill that was under consideration during the morning hour yesterday, and was then read entirely through. I think it will not occupy very many minutes to pass it.

Mr. CONKLING. I wish to say to the Senator that I hope he will not propose to take up this District bill with a view to putting it on its passage hastily this morning. There are a number of suggestions in reference to it which I think ought to be made, and made deliberately. It is a very long bill, and a bill unlike any other which I know of in the legislation of any State or in the legislation of Congress. It covers a vast deal of ground. It is such a bill in part as has been considered a good many times in the House of Representatives during the last five or six years, and there are some suggestions I should like myself to submit to the Senator who has it in charge.

Mr. HARLAN. Does the Senator desire more time to look it over personally?

Mr. CONKLING. No time; I only desire that it may be taken up on some occasion when it can be deliberately treated; and I understand that the Senator from Michigan is anxious now to proceed to the consideration of executive business. But I make my remark rather by way of intimating to the Senator from Iowa that I would like, for one, an opportunity to make some suggestions about the bill to the end that he need not suppose that it can be passed without any suggestions being made.

Mr. HARLAN. Mr. President, I shall be very happy to hear any suggestions that may be made by the Senator from New York. The Senator from Michigan has given notice merely that he will move that the Senate go into executive session at one o'clock. I think the bill can be disposed of before one o'clock. Of course I cannot know how much time the Senator from New York may wish to occupy in making the suggestions to which he refers; but unless he expects to occupy considerable

time I think there will be ample opportunity to dispose of the bill before the morning hour shall have expired. I should like to take the sense of the Senate on the subject. It is a matter in which I have no personal interest, and in which the Committee on the District of Columbia have no personal interest. We simply deem it our duty to bring these subjects before the Senate. If it shall be the pleasure of a majority of the Senate to proceed with this bill now I should be happy to have them do so, and I hope, therefore, the question may be submitted.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 102) providing for the formation of corporations and regulating the same in the District of Columbia, which had been reported by the Committee on the District of Columbia with amendments.

The first amendment was in section five, lines three and four, to strike out the words "any name if there be another corporation in the District of Columbia having the same name," and in lieu thereof to insert "the same name adopted or used by any other corporation in the District of Columbia;" so as to make the section read:

That no corporation to be formed under this act shall be allowed to adopt or use the same name adopted or used by any other corporation in the District of Columbia.

The amendment was agreed to.

The next amendment was in section twelve, line three, to strike out the words "the State" after "seal" and to insert "his office;" so that the section will read:

SEC. 12. *And be it further enacted*, That the Secretary of State may, at any time, on application of a party interested, issue, under his hand and the seal of his office, certified copies of any certificate of incorporation or certificate of change of name recorded in his office; and such copies, as evidence, shall have the same effect as the originals.

The amendment was agreed to.

The next amendment was in section fourteen, line thirty, to strike out "thirty" and insert "twenty;" so that the section will read:

SEC. 14. *And be it further enacted*, That no corporation under this act, except those mentioned in clauses four and five of the first section, shall continue longer than twenty years, without the consent of Congress.

The amendment was agreed to.

The next amendment was in section fifteen, line eight, to strike out the word "two" before "hundred" and to insert "five;" so as to make the clause read:

Nor shall it be lawful for any such corporation to hold more real estate than is proper for the purpose for which it is incorporated, nor of greater value than five hundred thousand dollars.

The amendment was agreed to.

The next amendment was to insert the following as a new section, after section fifty-three:

SEC. 54. *And be it further enacted*, That the stockholders of any corporation formed under this act may, by by-law or resolution passed in general meeting, provide for the issue of preferred stock upon such terms and conditions, and with such stipulations and limitations, respecting the preference to be given such stock in regard to future dividends or otherwise as by the said by-law or resolution they may see fit to prescribe: *Provided*, That notice be given by advertisement, to be published at least once a week for four weeks successively in some newspaper of general circulation published in the District of Columbia, of the intention to offer such by-law or resolution. And when any such by-law or resolution is passed a copy thereof shall be forthwith certified to the Secretary of State, to be by him filed and preserved with the original agreement of the corporators of said corporation. And the Secretary of State may at any time, on application of a party interested, issue, under his hand and the seal of his office, certified copies of said by-law or resolution, and such copies, as evidence, shall have the same effect as the originals.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 55. *And be it further enacted*, That the stockholders, and also the directors, of any corporation formed under this act may hold any meeting for the transaction of the business of the corporation, including meetings for purposes of organization, and may keep their principal office in any State or Territory of the United States. But no meeting shall be held out of the District of Columbia without the assent of persons holding a majority of the shares of stock of the corporation, nor without reasonable notice. Any such corporation having its principal office outside of the District of Columbia shall, within thirty days after its organization, appoint by power of attorney, duly executed, some person permanently residing within the District of Columbia, to accept service of any warrant, process, or notice.

Mr. CONKLING. Is that a new section?

Mr. WILLEY. Yes, sir.

Mr. CONKLING. Has it been printed?

Mr. WILLEY. Yes, sir; it will be found on page 25 of the bill.

Mr. POMEROY. I had not seen that section; it is not in my printed copy of the bill. I want to inquire of the chairman of the committee whether that confines the business of these corporations to the District or whether they can do business outside of the District? I thought this was a bill for the formation of companies exclusively for and within the District. What I wish to know is, whether they have liberty to do their business outside of the District of Columbia under this authority.

Mr. HARLAN. My attention was called off at the moment when that section was being read; but it was the intention of the committee to incorporate an amendment in the bill allowing companies organized elsewhere to do business in the District with a view of enabling the inhabitants of the District to avail themselves of outside capital. I suppose that is the section to which the Senator refers. The Senator from West Virginia, [Mr. WILLEY,] however, had the matter under his more especial personal charge and doubtless can give the explanation desired.

Mr. WILLEY. If the Senator from Kansas had paid attention to the reading of the bill he would have seen that it is not only the intention of the bill but an express provision of the bill that all corporations organized under it must transact their business in the District. The design of the bill is to incorporate companies in the District; but it sometimes happens that capital in corporations here is very largely owned by persons living outside of the District, and for their convenience this section was provided, that they might hold their meetings outside of the District on the terms and under the stipulations provided in the section; but the bill provides only for the incorporation of companies to operate within the District of Columbia and nowhere else.

Mr. POMEROY. I had paid attention to the reading of the bill yesterday, but this section was not read. The original bill only was read then, but this section, being an amendment reported by the committee, was not read.

Mr. CONKLING. I should like to know where the section is that confines these companies to the District of Columbia.

Mr. WILLEY. The section we are considering is the new section on page 26. The title of this bill is "A bill providing for the formation of corporations and regulating the same in the District of Columbia."

Mr. POMEROY. I was looking with some interest to see where the section was that confined them to the District.

Mr. CONKLING. I should like to see that, too.

Mr. POMEROY. I am looking for it, but I cannot find it. That is the simple point of my inquiry. The Senator says that if I had paid attention to the reading of the bill I should have found it.

Mr. WILLEY. I will show the Senator where that provision is found. If he will turn to section four and look at the agreement that is to be signed by the corporators he will see that it is to the following effect:

The undersigned agree to become a corporation by the name of (here insert the name by which it is intended the corporation shall be known) for the purpose of (here describe fully and particularly the purpose for which the corporation is to be formed, and the kind of business intended to be carried on by it) which corporation shall keep its principal office or place of business at ——, in the county of ——, or at ——, in the city of ——, and is to expire on the — day of ——, 18—.

Those blanks are to be filled.

Mr. POMEROY. Does that confine it to the District?

Mr. WILLEY. It will when we fill those blanks. There are several blanks to be filled in the bill. If the Senators suppose that there are any other restrictions necessary let them offer their amendments; but I suppose that as the bill stands these companies are to be located in the District of Columbia or the city of Washington.

Mr. STEWART. I desire to inquire if the bill, without further limitation, will not be subject to great abuse. I see it is provided that these corporations may issue preferred stock. That would allow the issue of unpaid stock. Might they not organize a scheme here in the District to do business in any of the States or Territories, issue their preferred stock, flood the market right here in the capital, and make it a great inconvenience, perhaps a system of imposition?

Mr. WILLEY. I do not see the point of the Senator's remark. It is simply a question whether a corporation organized under this act shall be allowed to issue preferred stock at all or not.

Mr. STEWART. I would not object to that so much if it was confined to business in the District; but the bill being unconfined, and they being at liberty to organize a corporation here to do business anywhere in the United States, might not the power to issue preferred stock at the start be a source of corruption?

Mr. WILLEY. If such were the fact that might be so; but I do not understand this bill as authorizing companies to operate outside of the District. It is strictly confined within the District, even without the filling of those blanks.

Mr. POMEROY. If it is intended to operate simply in the District, why not say the "county of Washington," or the "city of Washington?"

Mr. WILLEY. That is precisely what we propose to say in filling these blanks.

Mr. POMEROY. Why leave the blanks at all?

Mr. WILLEY. I can tell the Senator why. It was left blank for further consideration, whether it would be better to say simply "within the county of Washington," or to make it in both places.

Mr. STEWART. I will offer an amendment to obviate that difficulty.

The PRESIDENT *pro tempore*. The amendments of the committee are not yet disposed of. The Senator's amendment will be in order by and by.

Mr. POMEROY. I will only add that I have felt and seen the necessity for a general corporation law for this District. My only point is, that I want it confined to the District. I do not wish under a general corporation act to see an institution organized here to travel all over the United States.

Mr. STEWART. If it is in order to allow my amendment to be read, I think it will be seen that it obviates the difficulty upon that point.

The PRESIDENT *pro tempore*. If there is no objection, the amendment may be read.

The Secretary read the proposed amendment, as follows:

And be it further enacted, That no corporation organized under the provisions of this act shall have power to hold real estate and conduct business in any State or organized Territory of the United States without the consent of the Legislature of said State or Territory.

Mr. WILLEY. That amendment is not now under consideration. When it shall be I shall object to it, because it is opening the door for those very difficulties to which the Senator alludes. The design of the committee in reporting the bill was that the corporations should not own real estate outside of the District, but should be confined in their operations exclusively to the District of Columbia; but it strikes me that the amendment proposed by the Senator from Nevada to prevent the difficulties to which he alludes would be the

very means of opening the floodgates in that direction.

Mr. STEWART. I will modify my amendment by striking out the last clause, "without the consent of the Legislature of such State or Territory."

The PRESIDENT *pro tempore*. The question now is on the amendment of the committee, to insert a new section as section fifty-five, which will be again read.

The Secretary again read the amendment.

Mr. STEWART. I should like to inquire what is the object in providing that they may have their place of business and hold meetings anywhere in the United States if the bill is confined to corporations in this District? Corporations in this District would not want to hold meetings in Washington Territory.

Mr. WILLEY. It is very frequently the case that the capital of a corporation is held by gentlemen residing out of the particular locality or State where the corporation operates, and this section is simply designed for their convenience. For instance, suppose that the capital of a corporation was held in the city of Baltimore, or in the city of Philadelphia, or in the city of New York, as is generally the case, and the stockholders desired to transact certain business in reference to the operations of the corporation, which under this bill they are required to transact, it would be more convenient for them to do it in the vicinity of their residence than it would be to do it in the District of Columbia where the company is located, where their particular agents for transacting the business of the company reside.

Mr. STEWART. If the principal business was in New York or Baltimore or any other city, why not let them incorporate under the laws of those States?

Mr. HARLAN. If the Senator will allow me I will attempt to illustrate it. Suppose a manufacturing company should organize and put up machinery at the Great Falls of the Potomac. The capital comes from Boston or New York or Philadelphia. The gentlemen who own the capital live there. Their machinery is here. They desire to have a meeting for the purpose of agreeing to enlarge their stock, or contract their business, or do anything that may be essential to their success and also essential to the welfare of the District. They do not wish to be compelled to come down to Washington city. This bill will enable them to hold a meeting where they live; but it provides also that they shall have an office here where service of process can be performed by an officer if parties bring suit against the company, desire to collect a debt, or anything of that kind; that there shall be a tangible office here where the parties can be reached in law; and yet at the same time, for their own convenience, they may transact business elsewhere.

Mr. CONKLING. This bill seems to elicit very little interest in the Senate; and I think it does so because its title implies that it is something which pertains to the District of Columbia alone, because it is a very voluminous bill and the reading has been somewhat lengthy and Senators have been devoting themselves to other things. And yet I think if every member of this body understood the scope of this bill it would attract considerable attention and awaken considerable interest.

I have thought for a long time, as the Senator from Kansas says he thinks, that there ought to be a general law for the incorporation of companies in this District, instead of a separate application made to Congress by every group of men who propose to set up a corporation; but because I have that idea it does not lead me to suppose that by special act or by general act associations of men should be authorized to compete with and trample out every form of individual enterprise.

The first thing that strikes me on looking at this bill is that it affords to men in the District of Columbia, assuming (which I deny) that it applies especially to the District of Columbia, facilities and opportunities unknown to the statutes of any State in this Union. If Senators will take the trouble to read the enumeration of the things for which corporations may be set on foot they will see in part what I mean; or, if they prefer a less prolix mode of getting at it, they may read the four exceptions named in the concluding clause of the first section of the bill, which, as I understand, constitute the only exceptions to the proposition that corporations may be formed under this act to do anything under Heaven which may be denominated business. Let me read those exceptions: "But this act shall not be construed to authorize" first, "the incorporation of a bank of circulation; or," second, "of a company for the construction of any work of internal improvement, or," third, "of any church or religious denomination." I hardly see what is the precise meaning of the incorporation of a religious denomination; but that is a mere verbal criticism. The fourth exception is "or of any company the object or one of the objects of which may be to purchase lands and resell the same for profit."

These four items, as I understand, constitute the only exceptions to the proposition that this is an act to enable men to form a corporation to do any sort of business whatever; and even these exceptions are narrowed very much by the other provisions of the bill, because these corporations may buy land to build houses upon; they may buy land to lease it again; and they may do in other particulars some of the very things apparently covered by these four exceptions.

Now, Mr. President, why should this be? Suppose it were confined to the District of Columbia and to people who choose to come here and invest capital? Why is it that that opportunity left open to individual enterprise everywhere else should be foreclosed in this District? Is it possible that an individual who wants to start a gymnasium in the District of Columbia must have a corporation to do that with? "Gymnastic associations" are provided for as one class of the corporations to be created under this bill.

Mr. WILLEY. The Senator cannot possibly understand the bill as prohibiting an individualto start a gymnasium.

Mr. CONKLING. I do understand the bill in its consequences as prohibiting such associations by laws higher than any law of Congress—by the laws of trade and necessity; because I need not tell the Senator that if corporations, particularly peripatetic corporations which may travel all over the organized States and Territories, and which may be owned and operated anywhere, are to lay their hands upon every branch of enterprise, a power supervenes which will take away from individuals a privilege that is worth anything to engage in the same sort of business. I know they will have a right to do it; but it will be like the right to shear the wolf, the fleece will not be worth the cutting. I should like to know why it is necessary to have corporations here "to establish hotels" and "building associations," and for "transacting the business properly pertaining thereto?" I wonder if rents are not high enough in the city of Washington now? I wonder if the business of owning real estate and leasing it to the victims who come here to rent it is not driven with sufficient enterprise now? Why should, for such a purpose, a company be organized, the capital stock of which may be half a million, according to one of our amendments, and with a most remarkable provision, the fellow of which I never saw in any other statute, that they may receive not only money, but stocks or lands in payment of, or as security for, any obligation due to them? Here are to be corporations with the extraordinary power of not only putting out their stocks for money, but for all sorts of barter and dicker, which every gentleman who is at all familiar with these subjects knows, wherever it has been attempted, has been the widest door for fraud, chicanery, and kite-flying under the name of corporations.

I do not mean to go at length into the discussion of this bill. I had no idea it was coming up this morning. I have not had an opportunity to look at it fully, but I recognize it in many of its features as an old and familiar acquaintance. We used to see many of these provisions in bills submitted to the House of Representatives, but it seems to me that one or two provisions, to which I shall call attention, have grown since they first appeared. In the fifteenth section I find this provision:

> But nothing in this act contained shall prevent any such corporation from taking stocks or real estate as a payment, in whole or in part, of any debt owing to it, or as a security therefor.

If they let me have stock of the corporation that creates a debt which I owe to them, and in return I let them have stock of some other corporation. We set up a dozen corporations and exchange the stock by way of keeping them going very much as men when they have nothing else to do in business exchange checks and exchange other things—a mere invention and device to do everything except to pay. Now, look for a moment at the nineteenth section:

> That the number of stockholders or amount of stock necessary to constitute a quorum at a meeting of stockholders, and the mode of transacting business at such meeting, may be prescribed by the by-laws.

Here is a corporation formed with a capital of $500,000; it puts out its stock, and it receives stocks or real estate or anything it pleases in payment, with certain other provisions which avoid the necessity of paying in full at all. Then they hold meetings, as the Senator from Nevada has suggested, in Washington Territory, or wherever they please; and at the first meeting they hold they provide by by-law that any amount of stock represented, however small, and any number of men represented, however small, shall be a quorum of the stockholders to do business, and also of the directors, because a subsequent section makes the same provision as to the directors, and thus some one man, if he pleases, may operate all this machinery. Why? Has the experience of any State in this Union ever taught the people that such a provision was desirable or admissible?

So again, in the twenty-second section:

> The stockholders may, in general meeting, by a by-law, prescribe the number of which the board shall consist.

It may be one person who is to constitute the board of direction, for aught I can find here. Then, passing over various other things, look at these latter sections. The Senator from Iowa suggested that if gentlemen in Boston invested capital at the Great Falls it might be very convenient for them to sit down in some back-room on State street and hold a meeting, and there is a great deal to be said with regard to that; but does that furnish any justification for a provision of this sort:

> The stockholders and also the directors of any corporation formed under this act may hold any meeting for the transaction of the business of the corporation, including meetings for purposes of organization—

that is, to start the concern—

> and may keep their principal office in any State or Territory of the United States.

What is to be the effect of that? Gentlemen sit down in Wall street, in New York, and hold the first meeting there to organize, and by their by-laws they provide that one man shall constitute the board of direction, and that one tenth of the stock represented at any meeting of stockholders shall be sufficient for that purpose; and then they fix the principal office in Wall street, and they go on for twenty years to operate as a corporation without let or hindrance. What becomes of the laws of the State of New York, which say in effect that no such thing as this shall be done for any purpose whatever?

Another thing, Mr. President——

The PRESIDENT *pro tempore*. The time has arrived when it is the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 213) to suspend further reduction of the currency.

Mr. HOWARD. I now submit my motion

that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I hope the Senator will allow us to take a vote on this bill. I think debate is about exhausted on it.

Mr. HOWARD. I think there is no probability that a vote can be taken very soon on this bill. I judge from the aspect of affairs that it will occupy a good deal of time in discussion. I feel bound, therefore, to press the motion to go into executive session.

Mr. SHERMAN. I will state to the Senator that, if in ten or fifteen minutes debate springs up, I shall not then resist his motion, but I hope to be able to get the bill off my hands. I think the debate on it is exhausted.

Mr. HOWARD. Under ordinary circumstances I should be very happy to yield to the Senator, but as matters are now situated I think we had better go into executive session.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

After three and a half hours spent in executive session, the doors were reopened and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 11, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

LAWS OF ARIZONA.

The SPEAKER laid before the House the laws of the Territory of Arizona; which were referred to the Committee on the Territories.

Mr. KELSEY. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the

PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN. The gentleman from Massachusetts [Mr. BALDWIN] is entitled to the floor.

HUMAN RIGHTS AND HUMAN RACES.

Mr. BALDWIN. Mr. Chairman, the other day I listened with attention to that speech of the gentleman from New York [Mr. BROOKS] on the negro and the influence of the negro race. I admired his eloquence and his genius for romance; but I saw with irrepressible wonder the audacity with which he challenged the light of this nineteenth century and defied the grandest influence of modern civilization.

The doctrines he put forth brought to mind those ancient geological formations in which are preserved the fossil remains of strange and monstrous creatures that once had life, but lived so far away in the deeps of geological antiquity that we cannot even think with steady nerves of the distance between their age and ours. For a moment the gentleman's voice seemed to have magnetized those old fossils and brought them forth from the rocks, and that troops of ugly things from the mysterious Silurian ages, revived to an hour of life, were crawling about this Hall and repeating the cries of primeval savagery which they called music.

This illusion, however, was soon dispelled by the conviction that I was accusing ancient times unjustly. In such records of antiquity as remain for our perusal there is no account of any age or of any people where doctrines so revolting to reason and justice found hospitality. Some of the ancients, whose poetry was better than their geography, and whose aptitude for romance was greater than their knowledge of unvisited and uncomprehended countries, were accustomed to spread a veil of mystery over some distant lands and people them with anthropophagi—one-eyed giants—and other inhuman creations of fancy. But they never denied the human nature of men actually under their observation. Even those described by their prejudice as "outside barbarians" were men like themselves, though not of their own select community. It never occurred to them to deny the identity of human nature in all races and all peoples. It was left for North American slavery to produce this remarkable blossom of ethnology, which, having perfumed so many funeral orations on the dead barbarism, will, of course, be used as a device for its tomb. And how appropriate, if the gentleman from New York shall be engaged to write under it this epitaph:

Our lord and master, buried here, taught us that the negro, brother of the gorilla, has no rights that white men are bound to respect.

The most striking characteristic of the gentleman's argument appears in the facility with which it uses false assumptions as facts, and thus fails to meet the questions actually before the country.

1. In the first place, it seems necessary to remind the gentleman that the question presented in these discussions is not a question concerning the equality or the inequality of human races, nor of different classes and families in the same race. No, Mr. Chairman; it is a question concerning human rights. It calls on us to decide whether men shall be equal before the law and have equality in their relations to the Government of their country. It requires us to consider and to say in our legislation whether rights are the exclusive inheritance of particular races and classes or whether they belong equally to all men. In some other respects men differ. They are not all equally wise and good. Some are ignorant; others are enlightened. They differ in natural gifts, in acquirements, in social conditions, and in their uses of life. Every civilized community is a mosaic in which these differences are represented. Our political fathers, in the great Declaration, do not say or mean that all men are equal to Shakspeare in poetic genius; but they do mean and say that the most imperial intellect has no more rights before the law than the humblest. It is this question of rights that we have under consideration, and the gentleman's argument must not put it aside.

2. In the second place, it seems necessary to remind him that we are not now considering the policy of importing Africans into the United States to become a part of our population. This is no longer an open question. They have already been brought into the country by the slave system. They are here, and they have been here since the time of the first English settlements. No man on this side of the question we discuss will bless that day in 1620—a dark day in our colonial history—when a Dutch man-of-war began the importation by landing African slaves at Jamestown. Nevertheless, they are here. With blood no longer entirely African, and generally with no resemblance to that masterpiece of genius, the gentleman's portrait of the "Congo negro," they are now as much a part of the native population of the country as any portion of the Anglo-Saxon race. It is a fact accomplished; and the question is, how shall we deal with it? And yet everything in the gentleman's argument assumes, or is baseless without the assumption, that people of the African race are now for the first time to be brought into such association with the white race of the country as makes possible the depraving consequences of miscegenation, which endanger society.

3. But, in the third place, the most audacious assumption of his argument is that which finds the danger of a degrading mixture of races, and along with it social and national ruin, in justice to the negro race—and not in that relation of the races created by the oppressions and degradations of the slave system—in that policy which respects the negro's rights, trains him to self-respect, and elevates him to a higher condition of intelligence and manly character, and not in that which degrades him, takes away his rights, and makes him the prey of every form of lawless passion. And yet the gentleman cannot be unaware (although his argument forgets it) that, so far as experience and the lessons of history go, whatever danger of debasement to either race there may be in the presence of that race here, with no other country but this, lies wholly in the policy he would establish, whether it be to restore slavery or to hold the colored people imprisoned in society as serfs and helots, which means the same thing. The gentleman is bold—bold enough to think he may scare men from doing justice by portraying the consequences of injustice and hinder admiration for equality before the law by pointing out the ruinous consequences of oppression; but I think he is not bold enough to deny the fatal facility with which the mixture of races goes on under the slave system, where the lawless and base find crime made easy and are secured against many of its inconveniences; nor to call in question the fact that oppression endangers society by degrading both the oppressor and his victims. Jefferson pointed out how certainly the system of oppression tends to destruction by its influence on both races and by its fatal repression of industrial and social prosperity; and the painful lessons of experience do not allow us to deny it. It is high time to profit by these lessons and try a more excellent way.

Let the gentleman come back to the questions under consideration and give his attention to the fact that we propose to fling into the rubbish of the ages the doctrines, policy, and machinery of oppression, and try what virtue there is in our national faith in human rights—a faith inherited from the fathers, but which we have not fully realized in our institutions.

Some gentlemen talk on the subject as if this comprehensive faith in human rights were new; as if it was something unprecedented in human thought. Mr. Chairman, the doctrine that human rights are the birth-right of human nature is as old as the warfare of liberty and equality against the party of caste and privilege. It is not long since it was held by the ruling class everywhere that the world belonged to monarchs and aristocrats, and that the great mass of mankind, without distinction of race or color, existed only for their use and support. The privileged few held the people as slaves, serfs, or base-born subjects, with no fitness for political rights, and no claim to relief from the despotism of their hereditary masters. But the protest of human nature and the divine ideas that direct the influence of modern civilization have wrought a change and extended the recognition of human rights. In Europe serfdom has disappeared; the prestige of hereditary despotism is departing; the people are rising and becoming a power that makes thrones tremble, shakes the foundations of arrogant aristocracies, and fills the circles of privilege with dismay.

Undoubtedly it seems to conservative defenders of hereditary usurpation very terrible to see the *sansculottes*, the low-born mass of mankind, the people of the nations, not only demanding their rights but actually coming into power, and preparing a new political condition of the world, where, in the coming ages, the old doctrines and machinery of oppression will be studied only as moldering relics, mementoes of an age that cannot return. Even the ruling aristocracy of Great Britain, the most arrogant ruling class in Europe, standing in their power above the throne itself, shudder at the terrible earnestness with which their hereditary prerogatives are assailed; while the crown itself is beginning to be discussed as a worthless bauble, by that growing popular agitation, that uprising of the people, which will have manhood suffrage and political equality or revolution.

The gentleman from New York is an accomplished master of rhetoric; but in his most scornful utterances of loathing and contempt for those whose rights he would trample under foot, he cannot exceed the expression of scorn

which British Tories have always bestowed upon the plebeian millions of British subjects whom they have excluded from political rights and trodden into the dust. Nevertheless, he establishes a right to be classed as their political brother; but in this Republic and in presence of our national ideas his method of inculcating the doctrines of class-privilege and despotism is necessarily different. There are men on his side of the question who have so unlearned reverence for republican institutions and ideas as to talk of them with disgust and sigh for a monarchy with orders of hereditary nobility. These men are consistent. Their transformation is the logical result of their doctrines. But he takes another course. Thinking of his constituents and of his own accustomed views of republicanism he does not allow himself to talk of excluding from political rights even the most ignorant and brutal white man. If he should propose to guard the ballot by some exclusion of ignorance or baseness, made without regard to race or class, candid men would listen to him and discuss that proposition. But with him white men are the privileged class, endowed with divine right to scorn and oppress the African race; and to justify this denial of rights he goes further, and denies that negroes belong in the same way as white men to the human race, associating them rather with the orang, the chimpanzee, and the gorilla.

The men who fought the battles of the Revolution and laid the foundations of this Republic would have spurned this atrocious doctrine with horror, as an ugly thing from the pit of darkness. Mr. Chairman, recall for a moment that august assembly of the fathers who framed and put forth the great Declaration of Independence. Those were men whose memory comes to our thoughts associated with the influence of all that is bright and grand in nature; with everything that inspires joy, faith, courage, and aspiration; in all that constitutes the noblest manhood those were men of lordly stature. They were great in character, great in ideas, great in their dauntless faith in human rights. Imagine the gentleman from New York in that assembly at the moment of its gravest deliberation, when every heart thrilled with the purpose to have liberty or death; imagine him there, moving to amend the first line of the Declaration by inserting the word "white" before "men," and then proceeding to deliver his speech on the negro! Oh, we can imagine a fallen angel breaking in upon the worship of Paradise! If he could have been there to make that attempt, sudden lightning from the eyes around him would have struck him speechless and paralyzed the blood in his veins.

There is no other calumny so black with falsehood or that so completely beggars expression in the attempt to describe it as that which has sought to make the fathers responsible for the doctrine that "negroes have no rights white men are bound to respect." They studied the negro race quite as thoughtfully as the gentleman from New York. Moreover, the blood of the race at that time was more purely African than now, which, on the principle he assumes, made the case against the negro much stronger. Nevertheless, in their view the colored people of the nation, both slave and free, belonged to the human race and had human rights. They held that slavery violated these rights, and they expected to see it disappear, to fade away, as one speaker said in the Convention, "until it should not be seen even as a speck on the land." They ordained its exclusion from the Territories, and would not allow the word "slave" to be written in the Federal Constitution. They held that free colored men, like free white men, were citizens; and in nearly all the States free colored men were allowed to vote. The men of that age had eyes to see the identity of human nature in all races, and they would not allow it to be denied either in their speech or their political creeds. Southern feeling on this question of human rights at a later period was expressed in this House by John Randolph of Roanoke, when he said with magnetic earnestness—

"I envy neither the head nor the heart of that northern man who can defend slavery on principle."

And Thomas Jefferson! Who that has read in his Notes on Virginia the passages concerning slavery has failed to be impressed by the earnestness of his conviction that slavery was a violation of human rights, of the rights not only of men but of "citizens," as he expresses it in one paragraph. He says:

"With what execrations should the statesman be loaded who, permitting one half of the citizens to trample on the rights of the other, transforms those into despots and these into enemies, destroys the morals of the one part and the *amor patriæ* of the other."

Again:

"Can the liberties of a nation be thought secure—when we have removed their only firm basis—a conviction in the minds of the people that these liberties are the gift of God; that they are not to be violated but with His wrath? Indeed, I tremble for my country when I reflect that God is just; that His justice cannot sleep forever."

Jefferson trembled to see human nature violated in the negro race. The gentleman from New York trembles to hear that the negro has a proper human nature. Jefferson trembled to see the God-given rights of man struck down in that race by the slave system. The gentleman from New York shudders to hear us maintain that negroes have such rights. Jefferson trembled to see the basis of liberty undermined and the wrath of Heaven provoked by removing from the minds of the people the conviction that the human rights of the African, like those of the Anglo-Saxon, are God-given rights. The gentleman from New York trembles at the mention of such a conviction; talks as if it were the arch enemy of civilization; and he would exterminate it utterly.

There is a wide difference between these two. It is the whole difference between right and wrong; or, which is the same thing, between the reverent justice of a genuine Democrat in thought and feeling and the stubborn unreason he strives to overcome. There is a great lesson here, a "lesson for the day;" and whoever studies it carefully will see the immeasurable distance between Thomas Jefferson and certain Democrats of our time by whom he is feloniously claimed as their political father.

The gentleman warned us with Cassandra-like earnestness against influences—always from the negro race—that have ruined other peoples, and may ruin us. It is patriotic to watch and guard against danger to the nation with a sensitiveness that can feel the first touch of its influence. Has he always performed this duty with fidelity? Can he point out any other influence so deadly in its assault on the Republic as that which, after the fathers had passed away, made slavery a political power, and worked like the serpent in paradise to bring the whole Republic to swear by its teachings and worship its image? It came upon the mind and heart of the country like a pestilence walking in darkness. It transformed thought, feeling, and doctrine, until men rose, claiming to represent the communities in which they lived, and shouted with passionate arrogance that the old doctrines were false, and that the slave power should rule the nation or ruin it. Here was a danger to engage the deepest anxiety of patriotism. And where were those whose partisan zeal now wails so eloquently over imagined disasters to flow from justice to the African race? Were they alarmed by this great danger to the country—this audacious invasion of its ideas and institutions? No! Mr. Chairman; they were bending low in servility to the barbarism that sought to be king; they were breaking down the old purpose to exclude slavery from the Territories; they were putting the word "white" into their State constitutions; they were howling curses at honest men who dared to point out the danger and denounce the cause of it. And at length, when the slave power's "confederacy" of treason appeared in arms to revolutionize the Republic or destroy it, some of these men maintained allegiance to its leaders by opposing, denouncing, and seeking to baffle measures employed by the Government to crush this rebellion. Was this patriotic concern for the welfare of the country? And now, as if to show how profoundly and ineradicably they had suffered, not a

"Sea change
Into something rich and strange"—

but such a transformation as nothing but the slave power and partisan passion combined was able to produce, they work on in the same service, seeking to rebuild their old political temple on the old foundations, by appealing to prejudice, stupidity, madness, and the whole heartless and brainless tribe of unreason, against measures that aim to guard the country against its destroyers, by affirming the atrocity of treason, the divinity of justice, and the sacredness of human rights.

Mr. Chairman, the gentleman's speech was very remarkable in another respect. He recited a romance worthy of the "Thousand and One Nights" concerning powerful civilizations and peoples which, he says, were ingulfed in the negro race. The Mahometan Arabs, the rude Semites of the Hedjaz, among whom the Mahometan fanaticism originated, are enhaloed with the splendor of an imperial civilization belonging to other peoples, and then brought down "from their exalted position" by mixture with "inferior and degraded races" in northern Africa. The Turks are going to ruin and darkness under the mighty consequences of miscegenation with negro eunuchs. The Spanish ravagers of Mexico and Peru went to hopeless degradation through association with the old races of those countries. It was an exciting story, a masterly work of fiction; but he studiously omitted the fact that wherever history actually shows us people of the negro race in close relations with the races described in his romance they usually appear as slaves. What slavery does for a nation can be learned without traveling back into the past or leaving our own country.

I had supposed, Mr. Chairman, that the Turkish race since its first appearance in Europe had been associated with peoples and races quite equal to its old associations in Asia, and that the failure of its civilization to advance like that of Christian nations was owing to causes very different from any influence of race. But I forbear to press this point. The gentleman reveals a mystery before which I recoil. He tells us that he himself has seen in Constantinople a bevy of beautiful Circassians and Georgians actually kissing the eunuch's hand. Therefore I will not venture to deny that the eastern "sick man" has been maimed, poisoned, and brought to a dying condition by the terrible progeny of negro eunuchs.

In Northern Africa, long before the time of the Mahometan Arabs, there was an important civilization established in remote antiquity by the people called Phœnicians. It must have been great in the great days of Tyre, for it filled that whole region from Egypt to the Atlantic with its cities. The ruins of many of these cities still exist, and some of them are described in the work of Mr. Davis on the "Ruined Cities of Africa." The fall of Carthage led to the subjugation of the whole country by the Romans, but what its people and civilization were in the time of the Romans may be inferred from passages in Tacitus, where, describing Germany, he speaks of its climate, of its people, who "have no cities," and who spend their time "in sleep or gluttony" when not engaged in war, and exclaims: "*Quis, Asia aut Africa aut Italia relicta, Germaniam peteret?*" ("Who would relinquish Asia, Africa, or Italy for Germany?")

The Romans were followed in Africa by the Vandals, and after them came the Mahometan Arabs, proceeding, as the gentleman says, "from the holy city of Mecca," in the Hedjaz. The Semitic Arabs, Mahomet's race, comparatively late settlers in Arabia, and many of them nomads, had no history and no importance

previous to the rise of Mahometanism. They were a rude people, inferior to the old Cushite inhabitants of the peninsula, the Arabes-Aribah, the Arabians of pure race, who really had and probably originated the civilization and science which the gentleman credits to Mahomet's race. Various highly civilized peoples—the Syrians, the Egyptians, and some of the northern Africans, such as the Moors—were gathered within the pale of Mahometanism in the course of its earlier conquests; these adopted the Arabic language with the Koran, and in some localities, as at Bagdad and in Spain, gave Mahometanism science and elegant culture, although they could not give law to the fanatical spirit that directed its sway. Some of the Caliphs put some restraint on this spirit; but it would not be restrained, and at the west broke from their sway. How destructively it operated in northern Africa is told us by Leo Africanus in the first book of his work on that country, as follows:

"When those who rebelled against the Caliph of Bagdad got the upper hand they burnt all the African books; for they were of opinion that the Africans, so long as they had any knowledge of natural philosophy or of any other good arts and sciences, would every day more and more contemn the law of Mahomet."—*Pory's translation.*

The people thus invaded by the savagery of Mahometan fanaticism were the people of the old Phœnician communities, now represented in the interior by the people called Berbers. Their country has been called Barbar and Barbary. No other people dwelt in northern Africa at that time. Many of them went to Spain; so many from Mauritania that the Spanish Mahometans are still called Moors. Some of the Berbers are still pure white men. Such are many of that foremost branch of the family, the Tuaricks or Targhees, who now inhabit the Sahara, which is not such a desert as uninstructed fancy has portrayed. Like some other branches of the family, these Tuaricks have a political organization that is very nearly democratic. They have cities, agriculture, a literature; and they still use the old Phœnician alphabet. See on this subject the volumes of travel in Northern Africa by Lyon, Richardson, and Tristam, and the reports of French officers in Africa, published in the *Journal Asiatique.*

I tell the gentleman that his affecting romance of the Mahometan Arabs has no warrant of historical truth. They, and they alone, were the destroyers. Mahometanism limits human development, and cannot be the basis of a great civilization. It cannot long tolerate the influence of such a civilization; and it has not failed to reduce to its own level every people and every civilization where its influence has been established.

The gentleman's exciting story of the Spanish race in Mexico and Peru revealed admirations and sympathies to which I am not accustomed. The "Wizard of the North" made men and women thrill and weep over his romance of "The Pirate;" but he did not call it history. The Spaniards who ravaged Mexico and Peru left, in the record of their deeds, graphic illustrations of their character. History shows us what they were and what they did, if it does, in some hands, try to give their villainy the rose color. We can read the story; we can bring them to the test of our conceptions of what is chivalrous, noble, and great. The gentleman goes quite beyond himself in celebrating "their lofty chivalry," "their Christian loyalty," and thinks "God never made a nobler race." Let us see how it was. Hernando Cortez, being in Cuba, where his personal character was not enviable, and where he was waiting for adventures, hears reports of Mexico and its vast riches in gold and in silver. He enlists a band of adventurers and goes to that country, assuming that whatever gold or silver or other desirable thing can be taken there by force is lawful prey. They went to hunt in Mexico as men hunt for prey in a forest, and they were made bold and confident of success by the vast superiority of their arms. They ravaged and desolated the land, perpetrating robberies, murders, treacheries, assassinations, outrages of every kind, crimes indescribable. Recall some of their deeds: the massacre of Cholula; the burning of Mexican chiefs at the stake; the torture of Guatemozin. Froude, writing on this subject, in his Short Studies, shows that in England at the time accounts of these proceedings of the Spaniards in Mexico excited not only horror but "a genuine human indignation." Sir Walter Raleigh desired a crusade against the marauders, saying:

"Who will not be persuaded that now, at length, the great Judge of the world hath seen the tears and blood of so many millions of innocent men, women, and children, afflicted, robbed, reviled, branded with hot irons, roasted, dismembered, mangled, stabbed, whipped, racked, scalded with hot oil, put to the strapado, ripped alive, beheaded in sport, drowned, dashed against the rocks, devoured by mastiffs, burned, and by infinite cruelties consumed, and purposeth to scourge and plague that cursed nation."

And this was "lofty chivalry," "Christian loyalty," and supreme nobility of character and race! Mr. Chairman, has language so changed that we must say "honor" when we mean "villainy," and "exalted Christian chivalry" when we mean "piracy and murder?" According to the standard by which I have learned to test the actions of mankind, the earth was never polluted by the tread of more unscrupulous pirates than the bands of Spanish adventurers led into Peru by Pizarro and into Mexico by Hernando Cortez. Cortez himself had genius for this kind of work, and the moral quality of the man was quite at home in it; but it is an insult to human nature to talk of these men as superior to that old Mexican race, in whose land we may still study in their ruins the monuments of a civilization which the most exalted of the gentleman's Spanish hidalgos never equaled.

Moreover, the Spanish race, which began in Mexico with violence and devastation, have been a most pestilent curse to the country from that time to this. They desolated the empire of Montezuma, but they were unable to put anything as good in its place. They robbed and ruined the people and did nothing to bless the land. They hunted the mines for gold and silver, but they did nothing to spread intelligence, to create industrial enterprise, or to develope the resources of the country. These Spanish pirates and assassins brought ruin to Mexico and its people; and to-day that element in the Mexican population which contributes least to social welfare and most to obstruct settled prosperity and encourage anarchy is the Spanish element, while the chief hope of the nation is in the superior moral worth, social purity, industry, patriotism, and value as citizens of the old Mexican race now represented at the head of the Government by Benito Juarez.

Mr. Chairman, it is quite possible that we shall find it necessary to revise our conception of what constitutes the superiority of a race. Great force, aided by the most terrible engines of war, may sweep through the world irresistibly, conquering, ravaging, inspiring dread, and subjugating weak peoples to its domination. It has done so in all ages of which we have any account. It has made itself the theme of song and romance, and regulated the method of history. But is this really the highest, the most admirable development of human nature? Our civilization is already convincing us that it is not. The forces that are elevating the great mass of mankind in civilized nations from serfdom and vassalage to a richer and more enlightened condition of social and domestic life, the growth and varied development of industry and the arts of peace among the many, and countless influences growing out of that enfranchisement of the people, which is extending the great possibilities of civilization from the privileged few to the "plebeian" millions, are beginning to show us that the highest beauty of human development is not that which creates mighty conquerors and makes the earth tremble beneath the tramp of war, or that takes any form merely to dazzle or astonish. There is something nobler than genius for directing the movements of all-conquering power; something more divine than the resistless sway of force over weak peoples; something that more fully develops beauty and delight in human relationships; something more richly fraught with blessings that increase the possibilities and heighten the charm of human life; some thing that will necessarily revise our conceptions of what is superior in peoples and races.

It is quite possible that on considering the matter more carefully we may discover that each race and each distinct family of mankind has some peculiar gift of its own in which it is superior to others; and that the all-wise Creator may have designed that each race and family shall bring its own peculiar contribution to the final completeness of civilization, the full-orbed and all-comprehending development of the race. A race or family is not necessarily inferior to others because it comes into the history of civilization latest, nor superior to others because it appears there first. It was not our own Aryan or Indo-European race that created the great civilizations of Chaldea and the Old Monarchy of Egypt. Our race was preceded in development by others; and it was in times quite modern that our own family of the race took its place among the foremost. Germany, the old home of the Teuton and Anglo-Saxon, had nothing very lovely to civilized men even in the time of Tacitus; and a few centuries earlier some civilized orator of Africa or Asia may have asked, with arrogant scorn, "Of what use to the world are those barbarous and beastly Germans and Anglo-Saxons, who have never astonished the world with creations of genius; who have never produced a Homer, a Phidias, a Hannibal, an Alexander, nor even a great mechanic; who have never made discoveries in astronomy, nor even constructed palatial edifices like the temple of Hera at Samos, the royal palace at Babylon, or the marvelous structures of ancient Egypt." But our time came at last, and that orator's scorn is not likely to be repeated. We have not yet equaled the architecture of antiquity, but evidently we have a higher mission. By means of the wonderful force, energy, and activity of our race we are bringing together "the ends of the earth" and establishing intercourse and the feeling of neighborhood between isolated peoples. We are bringing all the races and peoples of mankind to that condition of mutual intercourse and appreciation where the old feelings of scorn and hate and the old talk of "natural enemies" and "outside barbarians" will at length give way to the feeling of human brotherhood, and allow the races and families of man to assume harmonious relations and play connected parts in the grand work of giving the race complete development.

It is also quite possible that if the gentleman from New York will bring to the discussion of this subject less scornful prejudice, less sympathy with the barbarisms of thought and feeling generated by the slave system, less haste to trample out the rights of a race deemed inferior, and more reflection on the duty of the wise and strong to the weak, he may discover that his treatment of the negro race in that speech is unworthy of any man who claims to share the spirit of an elevated civilization.

The claims of that race, as a part of the native population of the country, should engage the most candid consideration of all wise and good men. It is unpatriotic, it is wicked, to embarrass it with the influence of partisan prejudice or of reckless partisan ambition. This obstruction, however, may be inevitable. It may be that everywhere on this earth and in every age, the great triumphs of justice must be great victories won in long and obstinate battles with unreason. But our experience should make us wise and move every good citizen to support the endeavor to return to the doctrines of the fathers.

Both duty and interest require this policy; and they have heightened their claim upon the Government and people of the country: first, by their bearing toward the Government and by their unfaltering friendship for the Union cause during the late rebellion; and second, by their sagacity and good conduct in using the liberties already accorded them.

Jefferson doubted whether a slave could regard as his country the land where he was born to live and labor for another. The doubt was very natural; but during the late struggle with rebellion the slave population of the country felt as deeply as others that this was their country, and they took the side of the Government with abiding hope in its justice. They could see what the struggle involved, and they comprehended clearly that the triumph of the Government would be the triumph of liberty. And now, shall we deny the rights of these men, tell them that this is the white man's country, where they can have neither country nor rights, and, like the gentleman from New York, turn them over to association with the gorilla? Mr. Chairman, have we no faith in God; no thought of those divine laws that regulate for nations the issues of life and death?

But the highest reason for recognizing and protecting the human rights of this race, the reason that comprehends every other, is pointed out in these words of Jefferson:

"Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God?"

Every system of despotism assumes that the people have no rights save those the despots may graciously accord, and these only so long as the despots may see fit to allow. This Republic was founded on the belief that human rights, or, in Jefferson's phrase, human "liberties," are the God-given birthright of every man that lives; and the only effectual safeguard of free institutions is an all-pervading reverence for personal rights, that feels as a crime that must not be tolerated any invasion of the rights of the humblest man—any attempt to shut him out from equality before the law.

We cannot live by the doctrine that only privileged classes and races have rights to be respected. We must have in the minds of the people, in our institutions, in our laws, in the whole administration of our Government, the sacredly-cherished conviction that human rights are God-given rights, to be protected and held in perpetual reverence. The Republic cannot live under the influence of infidelity to the faith in which it was founded. This, in itself, is a sufficient reply to the gentleman from New York, and to all others who favor his doctrine and policy. The Republic cannot live under such injustice as they propose. The sure fruit of such wrong is a curse which no talk of inferior races and no lordly scorn of the negro race can prevent. We have felt it; we have seen it debauch patriotism; we have seen it breed treason; we have seen it darken the land with the fury of war; and how can any man who loves his country be willing to repeat the experiment in any form?

THE CURRENCY.

Mr. BARNES. Mr. Chairman, I propose to address myself on this occasion to the consideration of a question of the most vital concern to this country and its people. Next to the fundamental principles which organize Governments to protect life and insure justice, the financial principles of a nation are most important. The strength of armies, the equipment of navies, the raising of crops, the interchange of products, the literary attainment, and the physical comfort of the humblest individual, are all measured by a money standard. In proportion as nations rise in civilization the term "money" loses its technical signification of mere metallic coin, and credit and confidence become incorporated as a part of the circulating medium and as evidence of wealth. Every yard or pound of the substance of a semi-civilized people must be represented by metallic money when it changes owners. As nations advance in civilization the proportion of money to the volume of exchanged values grows smaller. In this as in all modern commercial nations the amount of money bears but a small proportion to total values. The difference between the amount of our money and the amount of our property is confidence; confidence in the usages of society, in the integrity of individuals, in courts of equity; confidence in the law of experience, that no considerable proportion of the whole property of the country would ever be forced to sale in any one day. The circulating medium of this country is not over two to three per cent. of the assessed value of its property. The total transactions of the seventy-one banks in the city of New York for the week ending December 14 amounted to $432,724,248, which were all accomplished with only $12,548,000 in money. This is in a prompt community with cash habits. Farmers, artisans, and manufacturers handle less money in proportion. It is impossible that so immense a weight, suspended upon so delicate and sensitive a pendulum, should not vibrate with great irregularity. Experiment and experience alone fix the limits which we learn to call natural financial law, the law which undertakes to decide what amount of currency is requisite to the best good of a nation, and what conditions, restrictions, and liabilities are necessary to endow it with most stability.

The conditions upon which theories are formed vary as widely as the results. The alternating products of a nation, its internal harmony, its external policy, its destruction of property in war, the utilization of scientific principles applied to mechanic art, long periods of prosperity or depression, serve to popularize theories which may be attended with disastrous results. Wild chimeras are now filling the public mind and are seeking expression in the legislation of the nation. Such particularly are the theories set forth in a bill recently introduced into the other Chamber by a distinguished Senator from Vermont; a bill bearing upon its face evidences of the very best intentions, but inwardly full of practical absurdities, which if undertaken to be put in effect will involve the question of the repudiation of the national debt and the financial ruin of this generation of men. Such appears to be the literal construction of the recent report of the Secretary of the Treasury. The bill of the honorable Senator, the recommendations of the Finance Minister and all the bills so far introduced into this Congress, undertaking to legislate a return to specie payments, hinge upon the fatal error that Congress can, directly and independently of other things, legislate when this period shall occur, still preserving the best interests of the country. Now, Mr. Chairman, I am going to assert, and afterward I am going to prove to this House that Congress cannot independently and alone or as a primary and single act, fix any day, be it near or remote, be it this year or fifty years hence, when we can return to the specie standard of the world. I assert, and I challenge any gentleman upon this floor to prove the reverse, that so long as Government bonds underlie our circulating medium as they now do and those bonds will not sell for eighteen per cent. more in gold than they now do, that we can *never* return to specie payment. Imagine, if possible to do so, that legal tenders and gold are equal par here to-day—what would be the fate of $300,000,000 national bank bills to-morrow which are issued upon $338,000,000 par value of bonds? The market price of these bonds is seventy-two, or a total value of $244,000,000. Here is an immediate deficit of $56,000,000, not counting the further depreciation to follow liquidation under such unfavorable circumstances. Would not every dollar of these bills be presented for gold as rapidly as messengers could carry them to the places of redemption? The banks hold less than thirty millions in gold, and would not the answer to these demands be a crash that would pull down the pillars of the State in ruins? This generation of men would wander in cimmerian darkness amid hecatombs of bankrupt citizens bearing our best and our most honored names.

No, gentlemen, our legislation and our efforts must be directed to enhancing the value of our bonds. It is to bonds, and not to specie that we must direct our attention. Finances, money, cannot now be considered independent of bonds. When our bonds advance to the same relative price with English consols, with the Moorish and the New Zealanders' bonds, now so superior to our own in the markets of the world, we shall have arrived at the happy date when we can not only pay but demand specie for our obligations; and that is all there is of it. Not one in a thousand of our people can now tell how or when we returned to specie after the suspension of 1857. When we have actually arrived at this much-to-be-desired point we want simply to legalize future transactions and instruct the Secretary of the Treasury to exchange his gold in excess of say $50,000,000 for the least desirable class of circulating medium which is then out. If this were done to-day it would replace national bank bills; if in the mean time these bills have been converted into legal tenders we should retire them in the same way.

I again assert that there is no other way than this to restore gold to circulation without retarding the industries of the people and sowing the seeds of wide-spread disaster. Do not suppose that I desire to continue the present state of finances a day longer than can be avoided, or that I was ever in favor of placing our finances where they now are. I fully realize the grinding tax which a depreciated currency places upon labor; I appreciate the natural injustice of paying the bond-holder in gold which he sells at forty per cent. premium while the needy mechanic has to receive a depreciated bill upon which he has to submit to a heavy discount each time he buys a pair of boots or a pound of sugar. I protested against the legislation which brought this state of things about. Still, I recognize the right to be governed, although badly governed, and, with other members of the community, I accept things as they are, not as I would have them.

We have been told, sir, that a national debt is a national blessing. I think this fallacy is now understood. We have been told that our national banks were the sustainers of the national credit. I think we shall yet be made to see our error upon this point. We have been told that enfranchising as well as liberating the negro was a source of well-distributed political power and national wealth. We have already partially found, and will still continue to find, that disfranchising property and placing its political control in the hands of those whose only interest will be to convert it to their own use does not bring revenue to the Government, does not consume the products of commerce, does not add stability to our bonds, does not decrease taxation or add to our national strength.

I shall now proceed to consider our national finances, and shall endeavor to confine myself to three points: first, the amount of currency required; second, the relation of national banks to specie payments; and third, how to overcome existing obstacles to that end.

Our debt is no doubt $1,000,000,000 more to-day than it would have been had we not suspended specie payment. The extravagance and want of economy in all departments of governmental affairs incident to such a redundant currency as that which we put afloat have entailed a tremendous loss upon the people. I did not think it was necessary to place ourselves in the financial condition in which we now are; but we are here, so far on our journey of national life. The party and the individuals who placed us here were our agents, the agents of the Government. They did as to them seemed wise and best. We were passing through a great ordeal—"while Rome debated Byzantium fell." We did not debate, we did not fall. Be the acts of

our agents unwise, unnecessary, and wrong, we are none the less bound by them. The faith of our obligations in every respect must be sustained to the last day, without a blemish and without a spot. Our duties are to see how best we can repair the damages already done without adding to them. To restore the dead we cannot; to admonish the living we may. Our duties are to the future and not to the past.

Prior to the effects of a plethoric, degraded money system was the time for gentlemen to have deplored the results of a depreciated currency, of an impaired national credit, of unproductive speculation, of neglected farms, of crowded cities, decaying ships, rusting wheels, impeded commerce, departed morals, and individual bankruptcy. They did not do it. All then was rose color and autumn tints. They then sowed the wind. I would not have them reap the whirlwind. We have inflated the balloon; we have landed upon a barren island. Instead of undertaking to swim to the mainland against tides, against winds and currents, I would wait for the friendly craft to insure our safe deliverance.

Now, sir, the relative proportion of currency to the property of the country should be preserved, allowing for the increased use of credit as wealth increases.

New York may be taken as a representative city of the United States. The business of that city for the past eleven years, as represented by the business of the banks, has been as follows. I give the average per day for three hundred and thirteen days of each year:

1856	$22,278,000
1857	26,968,000
1858	15,393,000
1859	20,867,000
1860	23,401,000
1861	19,269,000
1862	22,237,000
1863	48,428,000
1864	77,984,000
1865	84,796,000
1866	93,541,000
1867	93,101,000

It will here be seen that the business of the country last year was four times in excess of that done in the great speculating year of 1857, six times in excess of 1858, five times greater than in 1861; that it had reached the exact point in 1862 which it occupied in 1856; that in 1863 it increased over one hundred per cent.; in 1864, near seventy per cent.; in 1865, ten per cent.; in 1866, ten per cent.; and that in 1867 there has been a slight falling off. Contrasting these figures with what we see about us, how correctly do they portray the state of the business prosperity of the country. So long as currency multiplied or was stationary the people felt confidence in their investments, and business increased with the removal of our frontier, with the increase of population, and with the development of our resources. When a reverse policy is pursued capital takes the alarm, is withdrawn from industrial pursuits and placed within reach; new contracts cease in order to liquidate old ones; expenses are not dimished; accumulation of profits are suspended, and suffering prevails.

But we are told that an irredeemable paper currency is a great evil; that we have too much circulation, and that until it is curtailed we can never restore ourselves to a specie standard. I admit the evil, but I deny both the other assertions. Values and business have now accommodated themselves to this new state of things. In fact, a great and damaging reaction has already taken place. Fortunes have been sunk and wide-spread suffering now prevails from the effort to discount the action of the Government. In 1860 we had in round numbers $500,000,000 of currency to perform less than one fourth the service which is now done. We have now in round numbers $700,000,000 of currency only to do four times the amount of business which we then did. Our currency is not too large in amount.

But within the past sixteen months we have retired $100,000,000, or one eighth of our circulating medium. Values have shrunk in proportion. Speculation, as well as a large per cent. of legitimate business, is dead. The currency of a country is like the center of a wheel, the values of property resting upon it being the circumference. We can follow its expansive centrifugal force without danger, but when the motion is reversed and it acts with centripetal power it checks the momentum of a world. Remove the center and the circumference crumbles with the slightest touch. The core of the earth, a foot in diameter, moves too slowly for the eye to record its motion in making but one revolution in twenty-four hours, but at its surface it flies in space seventeen miles in a single minute. The conditions of society accommodate themselves to an expanding currency without interruption. They cannot do so when contraction takes place, *for the reason that one side of the account becomes fixed and immovable.* As money disappears values shrink, but debts remain at their full face, and a demand to pay always comes when there is least to pay with.

Yet there are those who can see no remedy for our evils except in returning exactly to our old state of affairs. This is as impossible as it is unnecessary. They still ask why we cannot as well contract currency as we can expand it? I will again answer plainly that it is because so large a proportion of our property is represented by credit or debts which no legislation can reduce, and which are always called in when reduced earnings reflect an inability to pay interest.

We have $21,000,000,000 of property, all represented by $700,000,000 of circulating medium, or three per cent. of money to ninety-seven per cent. of confidence and credit. The General Government owes $2,639,000,000. The States owe $373,000,000. Cities, towns, and municipalities I will estimate at $200,000,000; the debts of railroads, canals, and incorporations at $1,000,000,000, and of merchants, manufacturers, and individuals to each other at $2,000,000,000. Here we have a total indebtedness of $6,211,000,000. To contract our currency another hundred millions would lessen the value of our property $3,000,000,000, with our debts unaffected; to contract $300,000,000 would extinguish the value of our property one half, and yet our debts would still remain as before.

This, Mr. Chairman, is the reason why, when we have committed the error of undue expansion, we cannot contract as we expanded. I trust this point will be carefully weighed and considered. If it can be shown how we can lessen our debts as we should our money and our property I shall be willing to try the experiment. Until this can be shown it is idle to talk about forcing specie payment without its costing us a hundred dollars for every one we save. And this is not the worst of it, the poor do all the suffering while the bond-holder is alone exempt.

Another reason, sir, why contraction must cease, is the large amount of our debt which has been suddenly created and the bonds of which cost the holders but a small price, and which can any day be turned back upon us at a profit to the holders. Every one per cent. decline in gold here is one per cent. profit added to several hundred millions of these bonds held abroad.

I again repeat, Mr. Chairman, that our currency is not too large; that a further contraction is unnecessary, is inexpedient, and is ruinous; that we must wait for natural causes and for legislation to develop and quicken the industries of the people, and thus to restore us to the specie standard of the world. At the same time we desire no more expansion and then again a cry for contraction. We have already sustained the losses on one shrinkage. Do not let us repeat this unnecessary torture. Let the currency rest in amount where it now is. If it were fifty millions less or fifty millions more I should say the same thing. Stability more than amount is the requirement of commerce. Give us a fixed policy, some certain basis upon which merchants, manufacturers, planters, and business men can rely for future operations. Now, low prices do not tempt the buyer. Manufacturers are running on half time or not at all. They refuse to take the farmers' wool at prices lower than have been known for twenty years. Merchants buy from hand to mouth only. The money ordinarily engaged in legitimate business is now loaned upon call at low rates and again reloaned to those who bull gold and speculate in stocks. By fixing the standard this money would again return to its proper channels; it would again harness the water-power and put the spindles in motion; it would give employment to the needy and bread to the hungry; it would create rapid interchange of commodities and lighten the burden of taxation; it would enhance the value of our bonds and remove one of the props from the gold market.

Let a law be passed designating the day when the Government and banking institutions shall be compelled to pay gold, and one universal scramble for gold commences which sacrifices everything and everybody to this one object and this one necessity. There is literally no bottom to values when confidence is gone and panic stretches its withering blight over the industries of a nation. There exists no measure by which to calculate the suffering which such causes entail upon a people. Business stagnates and values disappear like dew before the morning sun. Wheels rust in their sockets; ships rot in idleness by their empty wharves; the artisan's hammer is silent; luxuries are dispensed with; labor is not required; food will not bring the cost of transportation; muscle cannot earn bread, or worth or age or tears buy coals. The solvent merchant of yesterday becomes the bankrupt debtor of to-day; famine stalks the streets, doors are closed against former tenants, and misery and sadness are everywhere. The bond-holders of England inaugurated the same cry which we hear here to-day, and insisted that the Government should return to specie payment immediately after the battle of Waterloo and the close of the war in 1815. She had been under suspension since 1797, while Napoleon carried on his wars with gold. Although Napoleon was defeated France recuperated while England retrogaded for many years. She fixed the day of resumption in July, 1816. Within a month after the announcement gold advanced twenty per cent. The bankruptcies increased fifty-five per cent. over those of the preceding year. The wild disorder which soon prevailed, and produced, as we are told, "a state of suffering greater than England had known since the Norman Conquest," compelled the Government to postpone resumption until July, 1818.

Under this brief reprieve industry again revived and hope obtained a foothold for future endurance. Bankruptcies in 1818 declined fifty per cent. But the bond-holders who had invested at sixty cents were still clamorous and capital remained timid. Government had learned by experience and preferred to let well enough alone. The bullionists, however, carried through a compromise resolution in 1819 providing for partial resumption in May, 1820, and for entire resumption in May, 1821, Then, as if by the sound of a tocsin, England again took the alarm and the people paid the penalty. Still again was the time extended, and it was not until 1824 that specie payment was finally and completely resumed. Then commenced that terrible revulsion which carried misery everywhere, and which was fast reducing England to a state of barbarism. It was after resumption, and not before—it was in 1825, twenty-eight years after England broke the metallic ring—that bullion, uncoined gold and silver, would not be taken for legal-tender debts. It was then that fortunes of £100,000 could not find purchasers at £5,000; it was then those terrible bread riots commenced throughout the kingdom; that soldiers had to be stationed before every granary; that strong men,

helpless women, and innocent children died of hunger and froze with cold. Then accumulated that wide-spread disorder, those heinous crimes, and that universal suffering which God grant may never be repeated in any country. The historian Alison says, "The industry of the nation was congealed as the flowing stream is by the severity of an Arctic winter."

Yet against theories and against results like these, gentlemen still seek to legislate a day when we shall pay gold, but when we shall not eat. They seek to gratify the demands of a few bond-holders, whose interest can always be made secure by adding new taxation to the poor man's necessities. They would enforce an empty theory, barren of all good results and freighted only with harm. They would make the rich richer and the middling class utterly poor. They would build up caste, aristocracy, and distinctions in society repugnant alike to the self-pride and good sense of American citizens.

England has since learned wisdom. While she restricts the issue of bills in proportion to the gold on hand she still confers extraordinary powers upon the queen's cabinet to extend the issue instead of curtailing it in times of panic, and by so doing has averted the force of severe financial hurricanes incident to any country. It was the general letting out of currency in the United States which relieved the severity of the pressure in 1857, and which allowed us to so soon return to specie payments.

Our ability to return to specie is figured out to us by showing that the Government, the banks, and the people have nearly four hundred million dollars of specie, and that the Government owes in demand obligations but $406,000,000. I gladly accept the figures, but we are also compelled to accept the results. Every available dollar of legal assets is here conceded to the Government. What, then, becomes of the people? Where is our reserve to continue our transactions and to liquidate the hundreds of millions of our indebtedness? What will run our mills, transport our crops, till our farms, hold our merchandise, and make our individual exchanges? The power to use debts due us as capital will then be gone. It will for a time require dollar for dollar hard cash to do our business. Of course business shrinks to a small, indefinite amount, and the consequences all can see. It is not true that because "one dollar of gold in ordinary times will float three dollars in paper" that it will or possibly can do so so soon after imparting to it such an increased value as resumption would give it. Any effort to force the natural laws of commerce, operate inversely in proportion to its strength. The higher the dam the greater the destruction when it yields to the accumulated flood. The population of the country doubles once in thirty years. Its wealth and its demand for a circulating medium, if left to natural laws, double in ten to twelve years. How easy, then, to anchor ourselves where we are and wait for the rising tide of wealth and population to overtake our financial position, to raise us upon its billows and float us off upon the sea of prosperity.

As another insurmountable obstacle to a return to specie we must consider the position of our so-called national banks. I fully recognize the advantages of a national system of banking. I recognize the advantage of the Government's printing and becoming responsible for the paper circulation of the people as not less than the advantages of its exclusive power to coin money. A uniform solvent currency is one of the rights which a people have to demand of its Government. I recognize the propriety and advantage of the Government's extending sufficient inducement to individuals as bankers to cause them to obligate themselves to secure the trusts which may be placed in their hands. I do not charge that gentlemen now owning national banks are less patriotic or less worthy of confidence than any other class of men to be found in the country. They exercised only their equal privileges with others in making these investments. I do, however, charge that the system itself compels good men to defend bad measures.

The interest of these banks is adverse to a resumption of specie payments. I care not what presidents and cashiers may say they are individually willing and anxious to do, their dividends and their profits will be reduced when they are compelled to deal in coin; and they, like other men, will defend their interests. On $100,000 of bonds they now draw and the people pay $6,000 gold interest. This gold they sell for say forty per cent. premium, which is $2,400 added to every $6,000 received from this source, or on $338,000,000 of these bonds $13,520,000, or a yearly premium of four per cent. on their entire capital against resumption.

Again, the owners of these institutions realize that the extraordinary powers which they possess were only obtained by an admixture of a large show of patriotism with a very little cash in a time of national distress which, as soon as we are again upon a foundation of equality and strength, they will lose. These banks have deposited with the Treasury $338,000,000 in United States bonds, on which they draw six per cent. gold interest. These bonds are not taxable, which is a further profit of two to four per cent. They have issued $300,000,000 of bills called national bank bills. These bills they also loan at rates of interest current in the several States where issued. They receive the deposits of the Government and of individuals, on which they pay no interest. They are thus allowed on one investment interest on bonds, interest on the bills issued, premium on gold interest sold for legal tenders, and exemption from taxation on bonds. They pay a tax on their circulation and deposit—on a part of their business only, every other business pays on all—on gross receipts, not upon profits earned.

Do not these facts in part account for the pious whinings of bank officers and for the mysterious figures emanating from financial bureaus, endeavoring to prove that these institutions are having a hard time? Does not the "hue and cry of the ignorant and malevolent," charged by the honorable Senator heretofore referred to, here find a reason? If these are not immunities calculated to foster a tremendous monopoly I would like to know what are. If this is not a price calculated to keep the country in financial degradation what can be? If these statements are not facts, I ask how it is that from October, 1864, to October, 1867, only three years, these institutions have made annually from ten to twenty per cent. dividends; have built marble palaces in every city; have paid for the most valuable corner-lots and yet have accumulated a sinking fund of $64,685,301, an extra dividend of nineteen per cent. on their total capital. I do not here include undivided earnings, since last dividend day, a further sum of $33,751,446 21; making a total of undivided earnings now in their vaults of $98,436,747 21.

It is all nonsense to try to dispute the conclusions of these figures. The political power of the country is gravitating into the hands of sixteen hundred and fifty banks. They can to-day spend $50,000,000 in printing papers, in suborning public sentiment, in corrupting Legislatures to carry through and perpetuate their schemes. They hold, as in a vice, the political support of their customers to whom they grant loans. It is within their power to ruin and turn upon the empty curb-stones those who will not defend their measures. This is not all they do and can do. They lay directly across the door to specie payment, which can never be reached until their franchises are changed.

Although national in name they are not so in reality. They are unequally distributed as to locality. They do not protect depositors, and in ordinary times they cannot protect bill-holders. Although under the fostering hand of the Government, and so recently born to life, ten of these institutions have failed, and the Comptroller of the Currency congratulates the country "that the total loss to the public will be only about one million dollars." This is under circumstances unfavorable to test the true principles involved. The amounts were small and the times not pressing upon the value of securities. We know they have not paid depositors. Let us see if they can always pay bill-holders.

We will now assume, Mr. Chairman, that we have returned to specie payment. We all like the supposition. We drop the morning paper making the announcement and look at the bills in our pocket. We remember that there is quite a little batch of national bills out—three hundred millions or thereabout—issued upon bonds which at seventy-two cents are worth but $244,000,000. We step to the bank with the idea of exchanging them for gold, but arriving there we find that our servants, our clerks, our butchers, our grocers, and our neighbors of all conditions, who rose before us, were of the same opinion and are already there. The banks have less than thirty millions wherewith to pay $300,000,000 of circulation and a still larger amount of deposits, and of course the doors are closed. We then visit a broker expecting to exchange our national bills for legal tenders. Behold the crowd, but the placard over the window informs us that "national bank bills twenty to fifty per cent. discount for legal tenders, according to position and issue of the bank."

This result cannot be denied. With a deficit of $56,000,000 between the amount of the bills and the value of the securities all the bills issued on ten per cent. margins would be at twenty per cent. discount, and those issued upon twenty per cent. margins would be at ten per cent. discount. Not only this, but at this point legal tenders are hoarded just as gold used to be, bonds would decline, and a further discount on national bills follow. All the legislation in the power of the Government cannot fix the date of resuming specie payment while these bonds remain at anything like their present value, and while the circulating medium of the people rest upon them.

The theories of gentlemen having now failed they undertake to dispute facts. They say our bonds will advance, and when they have advanced all will be right. They say this, but do they prove it? Our bonds are two per cent. less for gold to-day than they were two years ago; why is this? But this they say is exceptional. I say it is not exceptional—I say that Government bonds are governed by the same laws of supply and demand, of amount and of confidence, as any other evidence of debt ever issued by a corporation or an individual. A Government note is subjected to the same scrutiny as an individual note. If the amount is small and the confidence great it brings a high price; if the amount is large, the price is less; and if added to a large amount there is limited confidence the price is still less.

The gold price in London on a recent day for $100 in value of the following Government bonds was:

United States six per cent. gold interest	72
Chilian six per cent. gold interest	86
Turkish six per cent. gold interest	82
Canada six per cent. gold interest	103
Australian six per cent. gold interest	107
Cape of Good Hope six per cent. gold interest	104
Brazilian five per cent. gold interest	74
Greek five per cent. gold interest	12
Italian five per cent. gold interest	7(
Moorish five per cent. gold interest	96
Peruvian five per cent. gold interest	70
Russian five per cent. gold interest	86
New Zealand five per cent. gold interest	96
French four and a half per cent. gold interest	99
Denmark four per cent. gold interest	82
English three per cent. gold interest	94

I would like to inquire of gentlemen who put so much confidence in the word "Government" attached to a bond, why a United States, a Chilian, a Canadian, a Turkish, and an Australian bond, all bearing the same interest, vary so greatly in price, and the United States at the bottom of the list? Why is it that an English bond, drawing but three per cent.

interest is worth ninety-four, a French bond drawing four and a half per cent. is worth ninety-nine, while a Greek five per cent. is worth but twelve, and an Italian five per cent. seventy? Why is it that a Russian five per cent. is eighty-six, fourteen per cent. more than a United States six per cent.? Do not these figures show that Government securities, like other securities, do not sell in proportion to the interest they will pay, but in proportion to the confidence or risk felt in handling them?

The causes which govern the price of bonds are: first, quantity; second, the value of money at the time; and third and lastly—not first—the interest which the bonds pay. But suppose our bonds were at par for gold, and we have $300,000,000 bills issued upon them at ninety per cent. as now, we could not then sustain a gold standard. These bonds will fluctuate. It is no more possible for Government to regulate the price of its bonds than it is to regulate the currents of its rivers. The tide is ever swelling and receding, watered by the rains of heaven and drank up by the ever thirsty atmosphere. English consols, drawing the lowest interest, are in the strongest hands and have been the most uniform of all large bonds, and yet there has been no ten years since their issue that they have not fluctuated in value from sixteen to fifty per cent. They have stood as follows:

Date.	*Highest.*	*Lowest.*	*Variation each 10 years.*
1731 to 1740	107	90	17
1740 to 1750	103	75	28
1750 to 1760	106	79	27
1760 to 1770	96	63	33
1770 to 1780	95	59	36
1780 to 1790	81	53	28
1790 to 1800	97	47	50
1800 to 1810	79	54	25
1810 to 1820	84	54	30
1820 to 1830	97	69	28
1830 to 1840	95	75	20
1840 to 1850	101	80	21
1850 to 1860	101	85	16
1860 to 1867, (seven years)	96	86	10

Have we not here the proof that money, issued upon bonds like ours, is a panic feature added to the other causes which would disturb the value of bonds? In times of monetary distress bonds will go as much lower than a mere tight money market will carry them as the discredit of our circulating medium will add to the depressing effects.

The personal liability clause in the bank act amounts to really nothing. Transfers can be so made to irresponsible parties that enough will never be realized from this source to pay attorneys' fees.

Have I not furnished the evidence that the Government cannot return to specie until its bonds will bring more than ninety cents in gold? And is not the evidence sufficient to prove that if our bonds were worth ninety or one hundred in gold and our circulation issued upon them at ninety we could not retain a specie standard?

Therefore, Mr. Chairman, if we would put down the price of merchandise we must put up the value of bonds; if we would equalize capital and labor we must put up the price of bonds; if we would take undue advantages from one class and give equal privileges to all we must put up the price of our bonds; if we would lighten taxation, we must put up the price of bonds; if we would return to the specie standard of the world we must put up the price of our bonds; if we would guarantee the interest of these bonds we must still appreciate their price by stimulating industry—then accumulating wealth and increasing population will provide for their payment. With sixty-four million population twenty-five years hence, and our wealth three times what it now is, we shall require a per capita taxation of six dollars instead of eleven dollars, as now, to pay $400,000,000 a year; or a tax of sixty-five one hundredths of one per cent. on our property instead of two per cent., as now.

What, then, Mr. Chairman, are the measures requisite to produce this great national necessity? Need I say, first and foremost, is the restoration of this Union? War has ceased for two years and a half, and courts of justice are reëstablished in all the States. Guarantees against future rebellion were acknowledged in the stripes which the people of the South have borne and in the furrows of desolation which the plowshare of war has left throughout the length and breadth of their once fair land. And yet they are without local governments and without representation on the floors of Congress! Their State constitutions are being so framed as to place the control of property in the hands of ignorance, inexperience, and poverty. Bond-holders see in this the seeds of chronic decay. They see the future agrarian interests of those who do not own but who control the property of that section of country. They foresee how property will be taxed for the benefit of the ruling faction; how that class will exempt themselves from penalties; how vice is engendered; how want is created, which, finally justified by necessity, will confiscate the property and attack the liberty of the property classes They see how immigration and capital will refuse to locate or remain there; how improvements languish, industry is neglected, fields remain uncultivated, and how impossible it will be for the people to contribute to national taxation. They see the people dispirited yet compelled to support freedmen's bureaus and military commandants. They see how a sectional Congress, imposing large burdens upon them, destroys what remains of their once great staple crops, and subjects them to taxation without representation. They behold the cotton culture transferred to the Nile, the Euphrates and the Ganges by a tax of twenty-five per cent. on its present value, and the sugar culture almost annihilated; they calculate the effect of unrestricted franchise upon bonds, and ask if sometime in adversity the people may not refuse to pay the enormous taxes they are now compelled to, while not one in a hundred of the voters have any direct interest in their payment. The answer to these questions is yet in the future. To us representatives in the Fortieth Congress of the United States has fallen the duty of answering them. If we do our duty like men, knowing no North and no South, but only one country of mutual interest, the unwritten history of this nation may yet be bright, and we be entitled to an honorable name. But if the sectional suicidal policy of the past is to be repeated in this body no man can depict the horrors which a war of races, a war of pauperism and property, an agrarian war, may inflict upon us.

Three and a half million dollars loaned to the States of Louisiana, Mississippi, and Arkansas would repair the river levees, and save from annual overflow twenty-two millions two hundred and eight thousand acres of the richest alluvial soil upon the surface of the earth. This land, if reclaimed, is capable of producing vast wealth, which, intermingled and multiplied in the exchanges of the country, would leave its items of revenue to the Government and repay the outlay a hundredfold. This small favor has been asked, not for the people of a State, but for the nation, for two years, and yet have we sat down supinely to see the crops of that fertile territory drowned out with each returning season, the stock perish, and the people made to flee for their lives.

The sugar crop of Louisiana for 1860 was 449,000 hogsheads; for 1866 it was only 39,000, and there are to-day in that whole section but three hundred and forty-seven sugar plantations, large and small. Can revenue be derived from this source?

The cotton crop of the United States was 4,676,000 bales in 1860; in 1866 it was 1,700,000 bales, and yet this House still insists in destroying what is left by retaining an oppressive tax and discouraging the planting of a new crop. American cotton furnished four fifths of the total supply in Europe in 1860. It has now fallen to less than one third of the total supply. Can bond-holders have confidence in such suicidal legislation as we furnish them?

A political reconstruction of those States would not only have supplied them with the results of superior crops but with immigration, with capital, and with credit, which they so much need. This cause alone would have reduced the premium on gold for the past two years fully one half—which would have been fifteen per cent. on the revenues of the Government for two years—say $1,000,000,000. Here, then, is a direct loss of $150,000,000 to the Government besides the losses to the people in their mutual exchanges.

A further source of present weakness is the insufficiency of the internal revenue laws and the inequality of the tariff. Time prohibits an analysis of these subjects as I intended, and I defer to another time what I have to say on this most fruitful theme.

Now, Mr. Chairman, for the purpose of giving these views practical effect and for this House showing the country what it may rely upon, I now give notice that upon the first opportunity when I can call the previous question and secure a vote I shall present in due form the following resolution:

Whereas the interests of this nation demand as early a return to the specie standard of the world as can be consistently done; and whereas among the principles now retarding that desirable end are the following: first, instability in the amount of currency furnished the people; second, the low price of United States bonds affecting a certain portion of the currency; and third, the inadequate security furnished by the national banks: Therefore,

Be it resolved, That the Committee on Banking and Currency be, and it is hereby, directed to inquire into the expediency of fixing the currency at its present nominal amount for a period of years, and, also, how the franchises of the national banks can be so changed as to furnish the bill-holders ample security when resumption of specie payment shall occur, or how the bills of the said national banks may be converted into legal tenders, with other recommendations thereto pertaining, and to report by bill or otherwise.

IMPEACHMENT.

Mr. WARD. Mr. Chairman, I will ask the indulgence of the committee for a short time while I examine two or three questions about which I desire to express opinions and advance such reasons as govern my action with regard to them.

And in the first place, sir, I wish to refer to the question of impeachment, and in doing so I am well aware that I shall encounter the impatience of gentlemen who will exclaim, "Oh, impeachment is dead and buried; why revive it now?" I am aware, sir, that so far as this House is concerned such is the case, but I was one of those who felt constrained to vote for the impeachment of the President and by the extraordinary manner in which the question was disposed of had no opportunity to state my reasons for so doing.

And, sir, some of those who officiated at the burial will not let the matter rest, but with uneasy legal consciences keep exhuming the dead carcass and displaying it before the House. The learned gentleman from Pennsylvania [Judge WOODWARD] feels obliged to protest against the legal conclusions of those opposed to impeachment and favors the conclusions adopted by the committee. My friend, also, from Pennsylvania [Mr. BOYER] and the gentleman from Ohio on my left [Judge VAN TRUMP] take issue with Judge WOODWARD on the law. From all this it is evident that this question "will not down" at the bidding of the chairman of the Judiciary, but, like Banquo's ghost, is constantly reappearing. I may therefore be pardoned a few observations upon the subject.

The majority of the House, under the able leadership of the chairman of the Judiciary Committee, strangled debate upon this grave and momentous question, and, with the exception of obtaining the views of two distinguished gentlemen, nothing was allowed to be said in the House. But by a most arbitrary use of the "previous question" the report of the Judiciary Committee and the whole matter of impeachment were hurried to their graves with all the impatience of those who know that there is something "rotten in Denmark," but that "dead men tell no tales."

I was one of those who felt it a duty to avoid, by such dilatory motions as were in the power of the minority, the vote on the motion to lay

the report of the committee on the table until the majority would concede to us the privilege of discussing to a reasonable extent the question.

Such motions are sometimes the only means the minority of a legislative body have to protect themselves and secure the freedom of debate on vital public questions, and this, in my humble opinion, was a proper occasion for the exercise of that right.

We did not succeed, however; the majority were fearful of discussion, and all we secured was a direct vote upon the question. In this connection let me advert to the course of gentlemen on the Democratic side of the House. They have on all occasions in the Thirty-Ninth and the present Congress insisted, while they were in the minority on great political questions, when those questions came to be considered, upon the greatest latitude of debate, and complained bitterly of the "tyranny" of the majority, and were very earnest in their assertions of the rights of the minority; but upon this occasion, when they were suddenly grown into the majority, not one of them is found in favor of the freedom of debate or the rights of the minority.

It is said that the only blemish that rests upon the memory of the Pilgrim Fathers is that they who had fled from the persecutions and oppressions of the Old World to the wilderness of the New, to enjoy the priceless blessings of civil and religious liberty, became in time as intolerant as the oppressors from whom they fled, and burnt witches and banished Quakers. I commend this bit of history to the consideration of these honorable gentlemen.

I carefully examined the evidence taken by and the various reports emanating from the Judiciary committee on the subject of impeachment, and, sir, as one of the grand inquest of the nation, sought to examine the whole matter with a judicial mind uninfluenced by partisan feeling or prejudice. At the same time, sir, I was not awed by the power and glitter of this great office. I did not bask in the smiles of Executive favor or meekly pick up the crumbs that fell from his official table; nor was I deterred from doing my duty by the threats and jeers of traitors, the sneers of conservatives, or the pretended contempt of the opposition. I found, sir, that Andrew Johnson had, in violation of law, seized upon the governments of ten States of this Union, created Governors, Legislatures, judges for them; appointed to offices created by himself in those States men who had been in rebellion against our Government, whose hands were yet red with the blood of our people, and had paid those officers out of the people's money in violation of law. I found that he had overridden and defied the legislative branch of this Government and usurped with a high hand the prerogatives of Congress.

When Congress resisted and denounced his usurpations, with deliberate and well formed purpose to continue his usurpations and put traitors into power in this country, to the exclusion and oppression of loyal men, he prostituted the pardoning power, the veto power, and the power of appointment to office—all great powers given him by the Constitution for a wise and discreet use, for the public good, and not to be abused and made instrumental of fraud, usurpation, and oppression. I found him encouraging insubordination in the population that had been in rebellion; insidiously inducing them to resist the law; lighting in New Orleans the flames of sedition and murder; calmly witnessing the murder of thousands of Union men in the South who had fallen victims to his creatures and under the *protection* of his State governments. I found him surrendering to the enemy millions of the public property in violation of law; restoring to traitors millions more that by law belonged to the Treasury, and could only be taken from thence by an appropriation by Congress pursuant to law; that he knowingly appointed a large number of officers who could not take the "iron-clad" oath of office to discharge the most delicate and responsible duty of collecting the public revenue, thus disregarding the law himself and encouraging others to do so; that he had sold on credit vast amounts of personal property belonging to the Government, in violation of law, to rebels, constituting Tennessee railroad corporations, taking no adequate security therefor, and when, by means of such property, said railroad corporations amassed a considerable sum of money, he postponed the payment of the public demands upon said corporations in order to secure the payment of obligations which he, the President, had against such corporations, and which constituted doubtless the real reason of the original sale of the aforesaid personal property to them.

I found that while it was his duty and sworn obligation "to see that the laws were faithfully executed," not one traitor had been brought to punishment for the crime that deluged our land in blood, clothed it in mourning, covered it with debt, and filled it with graves; but on the contrary, traitors had been pardoned, and many of them clothed with offices of honor and trust, while the laws providing for confiscating their property had been deliberately and systematically violated by the Executive, and even property was restored to rebel owners that had before been confiscated by law and belonged to the Treasury of the United States. In short, I found that he had betrayed and violated in many ways his high trust, and I voted with a clear sense of the magnitude of the occasion and the responsibility under which I rested as a Representative of the people for the impeachment of this high offender.

The minority report, presented by the chairman of the Judiciary Committee, admits as true in effect the most of these charges, but seeks to escape from their effect by assuming that none of these are legally impeachable offenses. But let us examine briefly the legal question.

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors."—*Constitution*, art. 2, sec. 4.

What are impeachable offenses within the meaning of the Constitution? "Treason and bribery" clearly are, being made so by the Constitution itself. The difficulty arises in determining what other offenses are impeachable. The language employed is "other high crimes and misdemeanors;" very broad terms, indeed, and sufficiently so to cover every conceivable criminal offense above the grade of simple misdemeanor.

It is not necessary to discuss whether a civil officer, if you please the President, can be impeached for crimes not committed by color of his office or within the scope of his official acts, but wholly disconnected therefrom; such as larceny of the property of private individuals, arson, burglary, or the like; but we will consider what acts done or omitted within the range of official duties and as a public officer will come within the definition of "high crimes or misdemeanors."

In determining this question reference must be had to the character of the official trust imposed and the consequences of a failure to execute that trust.

The executive office is one of the branches of the Government; it is created to execute the law, not to make it, and to act within its constitutional sphere in harmony with the legislative and judicial branches of the Government. The President has a double obligation resting upon him; he must do what the Constitution commands him to perform, and refrain from doing what it enjoins upon either of the other branches. A failure on his part to discharge either of these obligations must produce the most serious and far-reaching consequences to the whole country and endanger its very existence. The President is elected for four years and cannot be deprived of his office except by impeachment, and unless that can occur in the cases supposed a bad, ambitious, or unscrupulous Chief Magistrate would have it in his power to destroy the Republic.

I submit that the President is impeachable for any such misconduct in office as amounts to a serious breach of his official trust, any important violation or neglect of a duty enjoined upon him as the President of the United States, and that such violation of duty and misconduct are high crimes and misdemeanors within the meaning of the Constitution, and that in this enlarged and liberal sense the words were used by the framers of the Constitution, as I shall proceed most conclusively to show. I glean from the debates in the great convention that framed this immortal instrument the following: Colonel Mason, upon whose motion the words "high crimes and misdemeanors" were inserted after the words treason and bribery, said:

"No point is more important than that the right of impeachment should be continued. Shall any man be above justice, and above all, shall that man who can commit the most extensive injustice."

Dr. Franklin said:

"It would be the best way to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it."

James Madison said that he—

"Thought it indispensable that some provision should be made for defending the community against the incapacity, negligence, or perfidy of the Chief Magistrate. He might loose his capacity after his appointment. He might pervert his administration into a scheme of peculation or oppression. He might betray his trust to foreign Powers."

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. WARD. Certainly.

Mr. ELDRIDGE. Does the gentleman claim that incapacity in a civil officer is a sufficient cause for his impeachment under the provision of the Constitution he is considering?

Mr. WARD. I am not stating any opinion of my own on that subject. I am only giving Mr. Madison's statement. He seems to think an officer should be impeached if he became incapacitated to discharge his official duties.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. WARD. Yes, sir.

Mr. HIGBY. Does the gentleman think intemperance in a public officer a sufficient cause for impeachment?

Mr. WARD. I regard intemperance in a public officer as a grave offense against good government and morals; and gross intemperance, such as unfits him to discharge his official duties, as a sufficient ground of impeachment.

Mr. HIGBY. So do I.

Mr. WARD. But to resume, Mr. Chairman: Edmund Randolph said that—

"Guilt, wherever found, ought to be punished. The Executive will have great opportunities of abusing his power, particularly in time of war, when the military force, and to some extent the public money, will be in his hands."—*Madison papers*, vol. 2, pages 1154, 1155, 1156, 1157, and 1158.

In the debate upon the ratification of the Federal Constitution in the North Carolina convention Mr. Spaight, who was also a member of the Federal Convention, in commenting upon the provision we are considering, said—

"That the President was impeachable if he in any manner abused his trust."—*Elliott Debate in Convention*, 1787, vol. 3, 108.

Mr. Indell, a prominent member of the North Carolina convention, on the same occasion said:

"The power of impeachment is given by this Constitution to bring great offenders to punishment; it is calculated to bring them to punishment for crimes that are not easy to define, but which every one must be convinced is a high crime and misdemeanor against the Government."—*Ibid.*, 107.

Governor Johnson, a leading member, on the same occasion, said:

"If an officer commits an offense against an individual he is amenable to the courts of law. If he commits a crime against the State he may be indicted and punished. Impeachment only extends to high crimes and misdemeanors in a public officer; it is a mode pointed out for great misdemeanors against the public."

The honored name of Alexander Hamilton, who was also a member of the Federal Convention, adds its weight to these positions. He declares in No. 95 of the Federalist that—

"The subjects of the jurisdiction of a court of impeachment are those offenses which proceed from

the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may, with peculiar propriety, be denominated political, as they relate chiefly to injuries done immediately to the society itself."

Turning to the sages of the law who wrote in the early time, we find the declared object of the fathers of the Constitution crystallized into law in the text books. Judge Story, in his Commentaries on the Constitution, lays down the law thus:

"The offices to which the power of impeachment has been and is ordinarily applied as a remedy are of a political character. Not but that crimes of a strictly legal character fall within the scope of the power, but that it has a more enlarged operation, and reaches what are aptly termed political offenses growing out of personal misconduct, or gross neglect, or usurpation, or habitual disregard of the public interests in the discharge of the duties of political office. These are so various in their character and so indefinable in their actual involutions that it is almost impossible to provide for them by positive law. They must be examined on very broad and comprehensive principles of policy and duty."—Vol. 2, sec. 764.

Judge Story again says that—

"The Congress of the United States has itself unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct, and the rules of proceeding and the rules of evidence, as well as the principles of decision, have been uniformly regulated by the known doctrines of the common law and parliamentary usage."

And in accordance with this is the language of Mr. Rawle, in his Treatise on the Constitution, page 19. He remarks:

"Its foundation is that a subject intrusted with the administration of public affairs may sometimes infringe the rights of the people, and be guilty of such crimes as the ordinary magistrates either dare not or cannot punish." "The delegation of important trusts affecting the higher interests of society is always, from various causes, liable to abuse. The fondness frequently felt for the individual extension of power; the influence of party and prejudice; the seductions of foreign States, or the baser appetite for illegitimate emolument, are sometimes productive of what are not inaptly termed political offenses, which it would be difficult to take cognizance of in the ordinary course of judicial proceedings." Besides, "the involutions and varieties of vice are too many and too artful to be anticipated by positive law, and sometimes too subtle and mysterious to be fully detected in the limited period of ordinary investigation."

And again, page 204:

"The legitimate causes of impeachment can only have reference to public character and official duty."

But the chairman of the Judiciary Committee contends that as a matter of law the President can only be impeached for such offenses as have been declared "high crimes and misdemeanors" by an act of Congress, ignoring the common law which is our birthright and the foundation of our whole national jurisprudence. His views are in deadly conflict with the law as quoted above, the designs of the fathers, the objects of the Constitution, the teachings of contemporaneous history, and the precedents already established by the Senate of the United States, from whose final decision there is no appeal. That Senate have tried several persons who have been impeached and convicted—one, at least, who was not charged with any offense known to the statutes of the Union.

To establish further the fallacy of the position that the President is not impeachable except for treason or bribery or some crime or misdemeanor that is made such by act of Congress, I will again advert to the words of the fathers of the Constitution.

In the Virginia convention of 1788 (see Elliott's State Conventions, volume two, Virginia, page 358) Edmund Randolph, in commenting upon the clause in the Constitution prohibiting officers from accepting any "present or emolument" from any "king, prince, or foreign State," said that if the President received any such emolument "he may be impeached." It was not put upon the ground of bribery, for the President may or may not be guilty of bribery in accepting such "emolument," but it was put upon the distinct ground that the President would be impeachable if he violated this provision itself.

In the same convention (see page 367, same book) Mr. Mason objected to the President having the pardoning power, and said:

"Now I conceive that the President ought not to have the pardoning power, because he may frequently pardon crimes that were advised by himself."

James Madison, in reply, said:

"There is one security in this case to which the gentleman may not have adverted; if the President be connected in any suspicious manner with any person, and there be grounds to believe he will shelter himself, the House of Representatives can *impeach* him."

Again, in the same convention, (*ibid.*, page 368,) Mr. Mason objected to the mode of making treaties, namely, by the President, and concurred in by two thirds of the Senators present. He said:

"Suppose a partial treaty is made by the President and is to be ratified by the Senate, they do not always sit who is to convene them; the President, is it presumable that he will call distant States to make the ratification, or those States he knew would be injured by the treaty he had proposed?"

Mr. Madison—

"thought it astonishing that gentlemen should think that a treaty could be got with surprise, or that foreign nations should be solicitous to get a treaty only ratified by the Senators of a few States.

"Were the President to commit anything so atrocious as to summon only a few States he would be *impeached* and convicted, as a majority of the States would be affected by his *misdemeanor*."

Here you have made a case which is not a crime or misdemeanor by any act of Congress, and you also ascertain the great expounder's idea of what the word "misdemeanor" meant as used in the Constitution. It clearly means any grave breach of official trust, such as the one here referred to, or the ones previously cited of improperly using the pardoning power and receiving emoluments from foreign nations.

These definitions of impeachable offenses by Randolph and Madison passed unchallenged in the ablest State convention ever held in this country, where Patrick Henry, James Monroe, and George Mason, on the one hand, opposed the adoption by Virginia of the Federal Constitution, and James Madison, Edmund Randolph, Edmund Pendleton, and John Marshall, on the other hand, favored its adoption; and when every provision of the great instrument was subject to the sharpest criticism and most elaborate discussion.

Will the chairman of the Judiciary Committee tell me under what law of Congress the three offenses above referred to are made crimes or misdemeanors or impeachable offenses, and, if under none, will he now say that Edmund Randolph and James Madison were mistaken when they called these acts impeachable; that they did not understand the Constitution; but that it was reserved for the minority of this committee, in the year of grace 1867, to construe the Constitution for them and set them right?

Sir, the President must do his duty under his oath, execute the law, do all for and nothing against the public weal, and above all he must confine himself to his own duties, and not lay a ruthless hand upon the prerogatives of any other branch of the Government, for that is usurpation, and, says the President himself, in his recent message:

"If the authority we desire to use does not come to us through the Constitution we can exercise it only by usurpation; and usurpation is the most dangerous of political crimes. By that crime the enemies of free government in all ages have worked out their designs against public liberty and private right. It leads directly and immediately to the establishment of absolute rule, for undelegated power is always unlimited and unrestrained."

"Out of his own mouth will I condemn him."

But, say some gentlemen, suppose the law and the facts are as you contend—"is it after all expedient to impeach the President; he has but about a year to serve, and Congress is the master of the situation."

Sir, I think it is always expedient to do right, to vindicate the law and punish public offenders. It is the pride and boast of our country that under our free institutions no man is so high as to be above justice, none so low as to be beneath it. Sir, I would punish the Commander-in-Chief for a violation of duty as soon, ay, sooner, than I would the poor sentinel that sleeps at his post or the homesick boy that deserts to visit his kindred.

I would punish the great magistrate clothed with kingly power for a breach of his official duty as soon as I would the humblest magistrate in the land for a breach of his; the higher the criminal the more pernicious the example, the more disastrous the crime.

I fear, sir, that Congress is not "master of the situation." I think to a great extent the President is; he seems to prevent to a great extent the execution of your laws. While he does not profess openly to oppose them, he encourages others to do so; he delays reconstruction, at least. A year is a long time in this burning crisis. The world moves rapidly now, and centuries of progress seem crowded into a single hour. If the President by indirect methods delays reconstruction until the people, weary of the struggle, surrender to his "policy" and all is lost, you have only yourselves and your weak, timid, time-serving expediency to thank for it.

He, under the fear of impeachment, first appointed good and true men to execute the reconstruction acts, but when that fear vanished he removes them from office and appoints in their places the creatures of his will; he snubs Grant and removes the daantless hero of Winchester, strikes off the epaulettes from the hobbling Sickles, and now Pope and Ord share their fate.

In defiance of your "tenure-of-office" bill he removes from the War Department the peerless Stanton, who was so great and clear in his high office that when all his calumniators and detractors of to-day are buried and forgotten his name will shine forth on the brightest page of history as the greatest war minister of any age or country.

Sir, this is not a contest between this Congress and Andrew Johnson alone; the issue rises higher than the men and measures of the present time. It is the first time in our country's history that the President has attempted to usurp the prerogatives of Congress, and in the contest the President triumphs and Congress succumbs.

Sir, this is, in my judgment, a most serious question; one that will go into history; and its influence will reach far down the tide of time to other men and other generations, when popular rights may again be in danger and through executive usurpation may be overthrown.

When we consider the framework of our Government the most cautious and apprehensive cannot anticipate that Congress will ever be able to overthrow the liberties of the people. Congress is composed of too many persons, there is too much conflict of will and interest in two bodies containing in the aggregate several hundred men, representing, as they do, so many different views and interests. The unity of purpose and will essential to so great an undertaking as changing the form of our government will be wanting. No danger can be apprehended from the Supreme Court; but the Executive, represented by a single will, prompted by a single ambition, clothed with such vast power of patronage, which is constantly to increase as the country grows in wealth and population, operating upon what is too often the case—a subservient Congress—may in time seize the prerogatives of the other two branches of the Government, and thus, blending all in one, vesting supreme power in himself, having the command of the "Army and the Navy," crush out public liberty, and under the pretense of serving the nation rear a throne upon the ruins of his country.

Then, indeed, will be realized the dismal prophecy of Patrick Henry (when commenting upon the executive power given in the Constitution in the Virginia convention, from whose proceedings I have quoted) in one of his impassioned bursts of eloquence he exclaimed:

"Away with your President; we shall have a king; the Army will salute him monarch." * * * * "What then will become of you and your rights? Will not absolute despotism exist?"

If, sir, in the time to come, perhaps in the far off future, some popular, daring, and unscrupulous man, in some time of public commotion, shall fill the presidential office, and he shall betray his trust, usurp the power of Congress, seize upon the public property, and bestow it upon his favorites, consort with traitors, postpone the payment of the public debts to collect his own, and the people murmur and Congress protests, who shall stay him? The record is made up here and now. The precedent is established. Andrew Johnson did all this, and was sustained by the Fortieth Congress. Then the rule was established that the President was supreme; that he "bestrode the narrow world like a Colossus," and that Congress like—

"Petty men
Walk under his huge legs, and peep about
To find themselves dishonorable graves."

Oh! he will exclaim in triumph, I am in for three or four years; you cannot impeach me without I commit treason or bribery or violate some criminal law of Congress. The Fortieth Congress has decided all that. I will be careful to keep within the rule they have laid down for me. And so encouraged may he not grow stronger in his bad purposes, and insidiously but surely accomplish them? So much for your expediency. Sir, if such a time shall ever come, and God forbid, it cannot be said that not one feeble voice was raised, even here and now, to protest against this precedent, and to warn his countrymen of the dangers that may flow from it.

RECONSTRUCTION.

Mr. Chairman, I have dwelt much longer upon this subject than I intended; let me turn to another. Sir, the President has delivered to us his annual message, in which he repeats the stale charge of unconstitutionality against the congressional plan of reconstruction. He affirms, in less objectionable form, all the singular and revolutionary doctrines that he proclaimed in his memorable "swing around the circle." He holds out the direct intimation that the laws of Congress ought to be disregarded. He vouches for the loyalty and good faith of the men who have been in rebellion against the Government, and seeks to arouse the bitterness of race and class against the majority of those who in the South were faithful to the Union through the rebellion. He expresses a fear that four million colored men will take possession of this Government in spite of all that thirty million white people can do, and that seven million white people in the South, nearly twice the number of the blacks, will be completely swallowed up and appropriated by these voracious negroes. He says, in effect, that two hundred thousand colored soldiers who fought for the flag, and all the others who were faithful to the nation in the dark hour of its anguish and peril, should be deprived of political rights and put under foot, while white rebel soldiers who fought against us or stood on guard at Andersonville or Libby, where thousands of our heroes starved to death, should vote and be restored to power in this Government. Sir, these views of the President find a ready response in the breast of every traitor, Copperhead and deserter in the land. They find sympathy in the breast of him who now or recently has been starring through the country (I believe in "male attire") the observed of all observers and the special idol of the "southern heart"—Mr. Jefferson Davis himself.

Now, sir, there are two plans of reconstruction: one proposed by Congress, and the other by the President and the Democratic party. The congressional plan places the ballot in the hands of all the male citizens of the South of a certain age except a very few disqualified for the prominence and peculiar baseness of their treason. It, in fact, gives the ballot and the power of governing in those States when reconstructed to the masses of the loyal and disloyal alike, and to the great majority of the people of each State.

The other plan gives suffrage, and consequently power, in those States to the disloyal alone, to the exclusion of the majority of the loyal citizens, and vests in several of these States the governing power in the minority of the whole people to the exclusion of the majority, and in the States in which the majority are not excluded a very large minority of the people, nearly one half, are. Is this Democracy? Is this a republican form of government where the minority rule? Sir, that is oligarchy; it is aristocracy.

A republic is defined by Worcester to be "that form of government or of a State in which supreme power is vested in the people or the representatives elected by the people; a Commonwealth; a democracy;" not the minority of a people, not three fifths of the people, not a part of the people, but "*the people*" have the "supreme power." Again, he defines democracy to be a "form of government in which the sovereign power is lodged in the body of the people;" the definition of the word from the Greek conveys the full meaning, "the people to rule." In short, the President's plan contemplates the restoration to power in those States, by a grant to them of exclusive privileges, the old aristocracy who revolted and betrayed and brought all the miseries of war upon us.

His Excellency is loud in his complaint about depriving these rebellious minorities of what he is pleased to call their constitutional rights, but he has no pleading word for the constitutional rights of the loyal and faithful majorities. The Presidential plan cares simply for a part of the southern people; the congressional plan comprehends and protects them all.

As I have before said, it is asserted by the President that the congressional plan is unconstitutional—that it is unconstitutional to deprive traitors temporarily of the control of these States, to deprive them of the benefits of *habeas corpus* and of representation in Congress. But he would have you believe that it was perfectly constitutional for *him* to interfere as he has in southern affairs, to make State governments, to prescribe the qualification of voters and the terms upon which they should resume their representation in Congress; but Congress can do nothing of the kind, though clothed with the supreme legislative power of this Government. I would be pleased to have some defender of his "Excellency" show where *he* got the power that he has exercised in his plan of restoration.

But, sir, Congress gets full authority for its action from the Constitution itself. I utterly repudiate the idea that Congress has gone outside of this great charter in this work, or that it is necessary to do so. No man can read the tremendous grant of power to Congress contained in the eighth section of the first article without finding, in conjunction with section four of article five, all the needed authority:

"The United States shall guaranty to every State in this Union a republican form of government." * * * * "Congress shall have power to provide for the common defense and general welfare of the United States." * * * * "To declare war." * * * * "To raise and support armies." * * * * "To provide for calling forth the militia to execute the laws of the Union and to suppress insurrection." * * * * "To make all laws which shall be necessary or proper for carrying into execution the foregoing powers."

And by the first section, also, all legislative powers granted by the Constitution were vested in Congress. And, again, by section nine of the same article the writ of *habeas corpus* can be suspended "where in cases of rebellion or invasion the public safety requires it."

No impartial mind can examine carefully this great instrument and the declarations of its immortal founders as found in the published debates in the Federal Convention and in the various State conventions that originally adopted the Constitution and not find that the fathers intended to confer and did confer upon Congress all the power necessary to save the Republic when its existence is threatened by enemies from without or traitors within.

Mr. Chairman, we must look to the substance of things and not to their forms; the Constitution was formed to preserve the nation, not to destroy it; he who raises a parricidal hand to strike down the Constitution of his country cannot invoke its protection for that very act. The rebellion does not cease with the surrender of the rebel arms; it never ceases until the rebels become good citizens, return to their allegiance in good faith, and accord to all loyal men in their midst their constitutional rights. The jurisdiction of Congress over the subject matter once obtained by the rebellion and the consequent destruction of civil governments in the States does not cease until such punishment is meted out to them and such guarantees secured from them as the national safety require, or as Congress, representing the supreme will of the nation, shall demand.

But, says the President, a portion of the southern people are black, and they (for such is the substance of the argument) "have no rights that white men are bound to respect." They are ignorant, he says; he thinks they ought to be set off in some country by themselves. In the name of all that is good what kind of a "Moses" is this. Gentlemen of the opposition take up the subject approving the President's sage views, appealing to the lowest prejudices of our nature to induce us to deny to the loyal people of the South their political rights. One gentleman, my distinguished colleague from New York city, [Mr. BROOKS,] in a speech in this House a few days since, entered into a minute description of the black man. He told us of the curls in his hair; of the thickness of his lips; of the size of his nose; of the shape of his jaw; and the honorable gentleman got down into the dirt and measured the length of his heel. He makes no objection on the ground of color, for he says there are many colors in the world, and no distinction should be made on that account; but the distinction seems to be one of heels, sir—heels. He carried us across the waters, and in splendid flights of oratory he stood with a black man in a Turkish harem, he glided over Moslem and Arab history, and recalled with vivid portraiture the glories of old Spain. He showed us the evil effects of amalgamation upon the Arab and the Spaniard and other people. Here the gentleman overleaped himself and gave a most ungracious thrust at those rebel autocrats whose cause he has been so obsequiously serving with voice and pen these many years, for the only amalgamationists in this country are these same individuals whose cause he is pleading, and in whom he would repose unchecked and exclusive power in the South—the same men who owned women and sold their offspring on the auction block for gold. Sir, I concede all the gentleman claims of the evil effects of amalgamation, and we are seeking by our policy of reconstruction to give these blacks citizenship, suffrage, and freedom, so that they can own themselves and protect themselves from this horrible system which slavery alone engenders. And the honorable gentleman saw at length the drift of his argument, and how severely it bore upon his southern friends, for when he came to speak of mulattoes his yearning tenderness for the blood of the "first families" overcomes him and he hastens to make reparation, and he says he would "admit the mulatto to the right of suffrage," "but for violating a law of God," for he says he recognizes "our white blood flowing in his veins, and I know that he is often the equal and sometimes the superior of some white men."

But the honorable gentleman is not entitled to a copyright for the invention of his ethnographical argument; it is as old as fraud and slavery themselves. It was proclaimed two years ago in the other end of this Capitol by Senator DAVIS, of Kentucky, and reproduced a few months ago by the gentleman from Ohio, [Mr. MUNGEN.] I am astonished that the gentleman, in his labored effort, omitted the other part of the old harangue, and that is that "Noah cursed Ham and doomed his children

to bondage, and therefore slavery is supported by the Bible and is a divine institution."

With all due respect to the honorable gentleman, I pronounce his argument trifling—trifling with a great question, with human beings and rights. If the gentleman claims that the negro is a brute I can understand his argument. But, sir, if the negro is a man with an immortal soul, with heart, brains, and sympathies like other men, a native-born American citizen, who is to pay taxes, fight in our armies and navies, work in all the varied fields of labor, help develop the prostrate South, help pay our national debt, live under and obey the laws which are to govern him and us, then, sir, I pronounce the message of his "Excellency" and the arguments of the opposition in relation to this matter as unworthy of the subject and the occasion, and deserving little less than contempt. What! shall we measure a man's rights in this free country by the kinks in his hair and the length of his heel? Sir, if we do we had better appoint my honorable colleague a committee to at once adjust a scale of rights on that basis, and give us the kind of hair or heel that will admit a man to the privileges of the ballot-box. [Laughter.]

But, say gentlemen, with apparent triumph, if you force negro suffrage on the South why do you not secure it at the North? Sir, I am in favor of suffrage to all loyal native-born and naturalized citizens everywhere under our flag, and so are four fifths of the Union party. We have been trying to secure this in Ohio, Kansas, and Minnesota lately, and all the gentleman's party and a few Republicans in those States who have prejudices upon the subject voted against and defeated it. The responsibility of that defeat is with the Democratic party, not with us.

Again, in the northern States nearly all the citizens exercise the elective franchise, whereas in several of the southern States if you exclude the black man the majority of the people will be excluded from a voice in the government, and the minority, as I have before said, will rule. And, sir, independent of the question of suffrage in the States that have not been in rebellion and have not given Congress a right by their treason to interfere in their State and local affairs, we have the right, and it is our duty as a necessary measure of public safety and for the protection of the loyal people of the South, to insist upon impartial suffrage in those States now being reconstructed; so that the question of suffrage in New York and Pennsylvania does not hinge upon the same reasons that it does in the rebel States. In the one case the public safety does not absolutely require impartial suffrage; in the other it does.

But, sir, I hope the time is not far distant when the people of the loyal States will accord to all men equal rights at the ballot-box. Do gentlemen suppose that five hundred thousand citizens in this country that are loyal to the Government, subject to all the burdens of other citizens, can be deprived for any considerable time of all voice in the laws that govern them and the Government they help to support? Oh, no! This is the wildest dream of political infatuation. Sir, they are voting *now*. They have tasted this sweet privilege, they have shed their blood as a ransom for this right; and when Abraham Lincoln struck the shackles from their limbs and Congress gave them the ballot they received a boon that they will not surrender as long as the nation shall stand; and woe to that man or that party that seeks to strip those rights from them. The attempt will fail. And now be wise in time; take no encouragement from the recent elections. They meant no injustice to the loyal men of the South—they meant no exclusive privileges to the rebels; they simply meant disgust at the failure of Congress to give a good financial system to the country; and, sir, I believe also at the failure of Congress to rebuke and punish the misconduct of the President of the United States.

I will bring to the recollection of gentlemen the dark days of 1862. Earnest men were then disgusted with the inaction of the Union party, and the Opposition swept all the States that they carried at the last election, and Ohio besides, and then these same gentlemen predicted the destruction of the Union party and the overthrow of its principles; and, with Vallandigham, Seymour, and company in the foreground, excited the spirit and uttered the doctrines they are proclaiming to-day; and in 1863 they were swept from the nation's path as with a besom of destruction. So it will be again if they continue to "kick against the pricks."

Sir, the constitutions that have been adopted by the conventions that have been held in the South are wise and beneficent instruments, guarantying to the people of those States for the first time in their history the full rights of American citizens. Some of the States will adopt the constitutions and send their members to Congress, and as to those the work of restoration will be complete. Others, acting on the dangerous advice of the President, will delay, reject the constitutions, and still remain under military control; for of this they can be assured, that until they come up to the full measure of the demands of the people upon them they will remain where they are.

But, Mr. Chairman, it is charged that we have delayed reconstruction and squandered the public money for party purposes. Sir, I deny it. Had the South accepted the constitutional amendment submitted by Congress and approved by the people in 1866 the work would have been done months ago; but the President and the Democratic party advised against it, and so the amendment was rejected.

Then, Congress determined on reconstruction, prescribed another policy, one that would execute itself and did not depend upon rebel aid; a policy of justice and equal rights, that permitted the loyal men of the South to become actors in the great work. And they are at work, sir; and if let alone they will accomplish reconstruction in ninety days. And now the President and his party are doing all in their power to prevent it. Sir, they are the obstruction, not we.

Mr. Chairman, the country needs repose. Let gentlemen rise for once above the dead level of the partisan, above plotting and scheming for rebel help to restore their party to power, and take hold with us faithfully and earnestly to bring the country back to peace. Six thousand million dollars of property, public and private, has been expended or destroyed in this war, and by that much the nation is poorer to-day. Great want and destitution prevails all over the South. Capital is stagnant; labor is dull everywhere and looks in vain for employment; hundreds of thousands of laboring men and women at the North are out of work and are looking with anxious faces into this grim winter, and wondering how they are to keep the wolf from the door. Our finances are disordered, national bankruptcy is imminent, and repudiation, the vilest of all national sins, is openly advocated.

Sir, this condition of things needs the closest economy, the most judicious expenditure of the public moneys, an equal and just distribution of the public burdens, and presents a problem the solution of which will tax the highest "resources of statesmanship." Reconstruction is the hinge upon which all else turns. We can have no peace, no safe financial condition, until we have a just and sound reconstruction. Let Congress complete its work. Why delay? Why should the Opposition delude the southern rebels with false hopes longer? Let the work be finished now, and your military will be withdrawn, and the "wayward sisters" will swing into line and renew their old relations with the Federal Union. But, sir, let the opposition theory prevail and I will not predict the result. The contest then will be only begun. Robbed of their rights the loyalists of the South will struggle to regain them, like men who "know those rights" and "dare maintain" them. The traitor horde, restored to exclusive power, will gratify the hate of race and all the brutal feelings of revenge upon them. Society will be shaken from center to circumference, industry will languish, and that afflicted portion of our country, once so fair and prosperous, will continue to be convulsed with the strife of men, on the one side for justice and on the other side for power. The people of the North will, as now, divide upon the question; and so the contest will go on until the problem will be solved in blood or the people reassert their God-given rights by a revolution at the ballot-box. Sir, we can avoid all further contention and war, and dispose of the negro question in this country for all time, by simply giving the ballot, the only protection of freemen, to the people impartially. Then, sir, the last peril that threatens the Republic will be ended; then the North and South, East and West will stand in harmony together, bound by a common interest, working out a common and most glorious destiny. Like giant sentinels they will stand, upholding and guarding the temple of freedom for us and our posterity forever.

AMERICAN CITIZENSHIP.

Mr. KERR. Mr. Chairman, it is my purpose on this occasion to discuss at no great length some of the great questions involved in the subject of American citizenship. It is just now, with very great propriety, agitating to a very great extent all parts of our country. It is proper, therefore, that the representatives of the people should bring their minds to the consideration of this subject, not in its mere political or partisan relations, but in its fundamental principles. It may become their duty to make some authoritative and very distinct and explicit declarations upon this subject before this session shall close. It is one that touches very closely the dignity of the Republic, and affects very directly and materially the interests of the people. It cannot be treated with indifference by any nation properly mindful of its own honor or of its duty toward its citizens. If men incorporate themselves into organized societies they do it not alone to secure protection at home, but also to secure it wherever for legitimate purposes they may please to go among civilized nations.

Now, sir, when the curious mind suffers itself to approach the consideration of this great question, in the light of the learning of the world, or even of our own country, we find it surrounded on every hand with difficulties, many of which may appear to be insurmountable, many of which are very singular in their origin, and many of which, I would suggest, have in the past history of our Government been allowed to have too much influence upon our conduct and our policy. We find, indeed, that many of those principles are such that no nation that stands upon its equality in the family of nations can for one moment recognize or admit.

The fundamental idea upon which that system of law called international law must rest is that of the absolute and unqualified equality of the nations of the earth. Each for itself, within itself, is absolutely independent and has absolute and supreme control over its own conduct. Starting out from this conceded principle, for no man will question it, we reach this fair and legitimate deduction: that every nation, being the equal of every other nation, and having absolute and unquestionable control of its own domestic policy and affairs, has the right to determine who shall and who shall not constitute a part of the body of its citizens. It has, in other words, a perfect and indefeasible right to regulate its own citizenship and the principles upon which that citizenship may be acquired. In harmony with this principle is the practice of all civilized nations, and it has always been so.

Conceding this principle, it follows that this country, which had its birth in one mighty revolutionary act of expatriation, possesses that right. Our nation, Mr. Chairman, was brought into being by a sweeping declaration, on the part of our forefathers, of this fundamental and

indefeasible right of expatriation. They expatriated themselves, and by their strong right arms vindicated their right to do so, and established themselves upon a firm and, I trust, an enduring basis of justice and liberty among the nations of the earth. By their conduct, by our Constitution, by our laws, we have made a declaration of these principles not merely to the Governments of the earth, but to the people of the entire family of nations, and have invited the latter to come here and become copartners with us in the enjoyment of the principles thus established.

It is in pursuance of that invitation, in pursuance of the great principles thus established, that there has been pouring into our country ever since the achievement of our independence an uninterrupted river of immigration from all other nations, with its accompanying rivers of wealth and of life-giving energy, thrift, honesty, and love of liberty. These people from foreign lands come here to better their conditions and to relieve themselves of an old and hateful, and to assume a new and more beneficent allegiance, to put upon themselves the shield of our nationality, and to enjoy that civil liberty which nowhere else on earth is guarantied to men as it is here and by us, except in that section of our country which is now unhappily suffering from a most unnatural oppression.

Does it, then, become this great nation now, by any act, either of commission or omission, to turn its back not only upon these principles, fundamental and invaluable as they are, but also upon these millions of people who have come here upon our invitation and who to-day constitute in one sense the very pillars of our fabric of liberty—who at least, when they see fit to exercise the privileges and franchises which have been conferred upon them, have become potential to control the conduct of our Government. No, Mr. Chairman, it does not become us, and I hope we shall not do any such act of national inconsistency and infidelity. All the obligations of allegiance imply reciprocal obligations of protection. The obligations of allegiance are not one whit less extensive or exacting against the naturalized than against the native-born citizens. Upon what principle of justice, then, or of common sense or established law can we award any greater degree of protection to one citizen than to another? We have always refused in our laws to accept from any human being a conditional or limited allegiance, and that is right. But should not unconditional allegiance be repaid with unconditional protection?

Mr. Chairman, what is this right of expatriation? It is, in a word, simply that original, God-given right of self-government among the people of the earth. If we, as a nation, possess that right, we, as a nation, have conferred it upon these people who have come here to enjoy it. Shall we break the bond; shall we dissever the tie which we have invited them to come here and make between themselves and us, and thus forfeit faith, forfeit honor, forfeit everything that has made us a respected, a powerful, a glorious nation?

Starting out upon the principle, unquestionable and undeniable as I believe it to be, that each nation is the absolute equal of every other, and possesses the right to make whom it pleases copartners in its citizenship, in its civil government, in the enjoyment of its civil and political privileges and rights, I insist that those nations of the earth that still adhere to the old feudal, barbaric idea of the indissolubility of allegiance have no right to complain of us when we naturalize their citizens and make them members of our community. They have no right to point to us and say, "You have invaded our sovereignty by conferring upon some of our people American nationality." Those nations do practically the same thing. England confers citizenship upon persons from abroad who come to reside within her domain. France does the same. Every nation on the earth does the same. They do it, it is true, in different ways and by different kinds of laws, giving different degrees of rights and privileges by doing it. But conceding the right to do it to be possessed by every nation, the logical conclusion follows that when it is once done no nation has the right to question its completeness and efficacy, not merely in the country of which the man has been made a citizen, but everywhere where he may go as a citizen of the new-chosen Government. If, therefore, a man who has been thus incorporated into the body of our political society and made one of us under the guarantees contained in our Constitution and laws and under the guarantees contained in the very basis-principles of our Government, goes abroad, what less does he carry with him than every particle of the power, the dignity, the honor, if you please, of his country in his own person? He can challenge the assertion of them all in the vindication of his rights as such citizen wherever he may go, provided only that he goes for purposes of peaceful and proper business.

I desire to invite attention to another remarkable fact in connection with our system of naturalization. While other nations take into the body of their political society such persons as they please, and confer upon them certain rights, they do it without imposing upon the persons thus assuming those obligations anything more, ordinarily, than the mere procurement of some declaration of the sovereign power, some act of Parliament, some decree of the legislative body of the nation, declaring them to be citizens; we go further and say that a man shall not become a citizen of the United States until he not only takes an oath of positive and affirmative allegiance to us as a nation and to our Constitution of Government, but also makes a solemn abjuration of every particle of allegiance that he has before acknowledged himself to owe to any other nation on earth. In other words, we not only say that we will make him a citizen, but we compel him by a voluntary act of his own, in order to make himself a citizen of this country, to strip himself entirely naked of his former allegiance and former obligations and assume ours alone.

If we admit that any one can question the efficacy of that principle as applied to this great question, what follows? The remarkable, the anomalous, the most inconsistent result follows—that if these people do not become absolutely and entirely citizens of our country then they must be held to owe a double allegiance—yes, a divided allegiance to the Governments of the earth! Can we consent, Mr. Chairman, that any citizen of this country shall for one moment recognize that his supreme obligations belong to another Government in whole or in part and not to ours? Can there be in this thing of citizenship a division of sovereignty over our citizens among different nations? Can there be a parceling out of the obligations of nationality by our citizens between us and foreign nations? No; it is a legal absurdity; it finds no countenance in correct principles either of common law, of civil law, or of the laws of any of the nations of the earth. No nation admits any such thing in its municipal laws. The practice of nations is to the contrary in all domestic government.

But we may be told that Great Britain attempts to apply a rule of that kind in its practice as against *other* nations. I admit it; and it is against that practice that we as a nation should forever protest; aye, we should, when it becomes necessary, do more. We should, unless we want to submit to an intolerable humiliation, assert, if needs be, with the strong arm of power, the absolute citizenship of every man whom we permit to take upon himself, in the way provided in our laws, the shield of our nationality.

I invite attention to another matter in connection with the rights of foreign-born American citizens. Our Constitution provides that Congress may prescribe a uniform rule of naturalization. Our laws define what that rule shall be. Our Constitution prescribes what shall be the rights of foreign-born citizens of the United States in this country, not by reciting what all those rights shall be, for that would be an impossibility; it would involve the writing of volumes to recite all the civil and political and social rights of citizens in this country; but the Constitution does it in quite as efficacious a way by naming in that instrument what shall be the limitations upon the rights of foreign-born citizens, and by naming those limitations upon their rights it excludes the idea that there can be any other limitations. For example, a man of foreign birth shall not occupy a seat upon this floor until he shall have been a citizen under our laws for seven years, nor in the other end of the Capitol until after nine years' citizenship in addition to the qualifications required of native-born citizens. Except those limitations, then, I insist that it is a fair, a logical, and a legal conclusion that it was the intention of the framers of our Constitution to limit his rights in no other way.

Mr. Chairman, I do not mean by what I have said to assume the position here, as a citizen of this country, to some extent familiar with our laws and history, that the practice of our country has been in harmony at all times with my position, that the declared opinions of our publicists or of our writers upon jurisprudence have been always in harmony with my opinion. Unfortunately I am compelled to confess that they have not been in such harmony. I regret it. I believe it is traceable almost entirely to too great deference to the time-honored institutions of that country from which we have borrowed so many of our laws. It arises from too great respect being paid to those principles of the English constitution which were never incorporated into ours, and are utterly inconsistent with our whole theory of government, which the courts of the country have no right to incorporate into ours, which it is the province of the people alone to make a part of our fundamental law, if they are ever to become such at all. Why should we go to the common law of England, based upon the old, defunct, and unjust feudal system which was repudiated by the framers of our Government as involving the very machinery of tyranny, for principles upon which to regulate the rights of our citizens? Shall we not rather stand upon that fundamental idea of the absolute equality of nations which implies the absolute and unqualified power of each to regulate in its own way, according to its own pleasure and its own best judgment, the principles upon which it will admit men of other nations to become members of its political communities?

We find that, as I think, out of excessive deference to the ideas and institutions of a remote age and imperfect civilization, no less excellent and distinguished a jurist than Chancellor Kent expressed the conviction that "the better opinion would seem to be" that the principles of the common law still apply in this country, and that even the citizens of our own country have no right to expatriate themselves by leaving our country and taking upon themselves the nationality of another. So also does Chief Justice Ellsworth. In the very first case that arose in the judicial history of our country involving these questions he assumed this very extraordinary ground in speaking of the naturalization of persons who hitherto were citizens of other countries. I quote his language:

"We do not inquire what his relation is to his own country. We have not the means of knowing, and the inquiry would be indelicate. We leave him to judge of that. If he embarrasses himself by contracting contradictory obligations the fault and folly are his own. But this implies no consent of the Government that our citizens shall expatriate themselves."

"No consent of the Government!" Is that sound? No consent of the Government that the people of this country may expatriate themselves, when we not only consent, but by our fundamental law declare, and by our prac-

tice have uniformly and ever since the morning of our existence as a nation practiced upon the idea, that all the citizens of every other nation on earth may choose and change their allegiance when they please? Will it be seriously contended that an American citizen shall not be allowed to expatriate himself without the consent of his Government when we are in fact giving that consent day by day and year by year in just so far as we have failed to legislate upon the subject at all, and have permitted our citizens to go literally when and where they please, to divest themselves of our nationality and clothe themselves in that of another nation? Can we now say that they have no right without our consent to expatriate themselves? Are we not, in other words, estopped either from denying the right of foreigners to come here by virtue of the right of expatriation, or from denying that our own citizens may leave the country when they please and assume other obligations?

Mr. Chairman, so apparent was the hardship and so doubtful the correctness of the opinion of Mr. Chancellor Kent, to which I have referred, that he felt called upon in the same connection to say:

"The naturalization laws of the United States are, however, inconsistent with this general doctrine; for they require the alien who is to be naturalized to abjure his former allegiance without requiring any evidence that his native sovereign has released it."

It is entirely safe to say that the modern and more just conclusion on this subject, at once approved and required by the enlightenment of the age, is correctly expressed by Mr. Cass, in 1859, in his instructions to our minister at Berlin, that—

"The right of expatriation cannot at this day be doubted or denied in the United States. The opposite idea has been repudiated. The most eminent writers on public law recognize the right."

To the same effect are the opinions of all our late Attorneys General of the United States.

Now, sir, by what I have said in this connection I do not mean to assume the untenable position that any man can leave the country of his nativity and go into another while he owes positive duties that are prescribed by the laws of his country, and which have actually attached to his person before he leaves his country, and thus rid himself of those obligations. By no means. On the contrary, I assert that if his duties to the country of his nativity have become fixed and have attached to his person, or if he has violated the laws of his country, by which he has become liable to suffer the penalties imposed upon him for such violation, then I say that he can change none of those obligations by going abroad and assuming another nationality. In other words, that no nation can make itself a place of refuge for criminals from other nations. For example, if the citizen of another country, at the time of his departure, owe military service thereto, and he has been actually conscripted or drafted, and has been notified thereof, and departure without the performance of such service is declared a crime by the laws of such country, then no other nationality can justly claim to protect him against the penalty of such evasion if he voluntarily return to his native country. We never have attempted to assert any such principle as that, but I do assert that when persons innocent of crime, free from such fixed obligations, come to our country and make themselves a part of us, it is cowardly in this nation to suffer them, when they return to the country of their nativity upon an errand of affection, of business, or of pleasure, to be denied those rights which are accorded by the laws of that country to the citizens of other nations. That is the position that I assume.

I desire now, Mr. Chairman, to invite attention to a few events in the history of our own country which serve to illustrate the subject about which I am talking. Before, however, I do that, let me state, without referring to any of the authorities—for that is always tedious—what I understand to be the established and conceded law of nations to-day as to this principle of the right of expatriation in one particular phase of the subject. It is the law that if a citizen of the United States shall go to Prussia, for example, or a citizen of England shall come to the United States, and each become naturalized in the country of his adoption, and shall then, in the course of his business or for any lawful purpose, desire to enter any other civilized country on the earth as a citizen of the United States in the one case, or as a citizen of Prussia in the other, he is entitled then to the absolute and unqualified protection of his adopted country; and no nation questions that right. In other words, if a man of foreign birth originally owing allegiance to Austria, for instance, should come to this country and take upon himself our nationality, he might then return from our country and for any lawful purpose go within the jurisdiction, the territorial limits, of any other nation, and he is there entitled to be recognized as a full citizen of the United States, and entitled to all our protection, and to demand, if needs be, the entire power of this nation to protect him. That principle of international law is now settled, I think, beyond a question. It is the uniform practice of the nations of the earth. But the ground on which they differ with us is this: they say that when a citizen of one country goes to another and takes upon himself the nationality of that other, and then returns to the country of his birth, his original obligation revives, and he may be held there either to perform military duty or to perform any other of the obligations that originally rested upon him as a citizen of that country. In other words, they hold that when a citizen of one country leaves it and becomes a citizen of another, and then returns to his original country, he remains a constructive member of the society in which he was born, and is liable to answer to all the obligations and duties that might have been imposed upon him by the laws of that country either before he left or upon his return. That is the doctrine that is now making so much trouble in the world.

Now, let me see how far the nations have gone in reference to us in recognition of the principle that we assert in connection with this subject. And I will first invite attention to the somewhat celebrated case of Martin Koszta. You all remember that Martin Koszta was one of those noble men loving liberty who, in 1848, joined in the revolution in Hungary against the tyranny of Austria, and undertook to assert for that noble race their equality among the nations of the earth, and their right to enjoy the blessings of that glorious principle of self-government upon which our institutions are erected. But unfortunately that revolution failed, and he became a refugee from his country. In order to escape the wrath of Austria he went to Turkey, and while he was in Turkey his personal security was threatened by the minions of Austria, and then he further fled to the city of New York and put himself under our flag. After he had been one year within the limits of our country he voluntarily took upon himself the preliminary oath of allegiance, commonly called the "declaration of intention." After remaining here eleven months longer he returned, not to Austria, but to Turkey; and having business in the town of Smyrna he asked the protection of the American consul and received from him the evidence of American nationality in the form of the *tezkereh*, as the Turkish passport is called, which at the time of his unlawful arrest he bore upon his person. Disregarding the rights that he had acquired by coming here, and violating the territorial sovereignty of Turkey, the brutal minions of the tyranny of Austria on a certain occasion seized that man and threw him into the bay of Smyrna, and in a moment, upon preconcert, he was picked up by some men from an Austrian brig-of-war just at hand and taken aboard her. Then it was that, with a spirit of just indignation, the brave Captain Ingraham brought his guns to bear in the assertion of the dignity of his country upon that Austrian brig and demanded the surrender of this inchoate citizen of the United States thus inhumanly arrested. A time for parley was given, and it resulted in an arrangement by which Martin Koszta was surrendered by the Austrian authorities, not to us, but to the consul general of France at that port, and he remained in the personal custody of that officer until, as the result of negotiation and subsequent diplomatic correspondence between the authorities of Austria and of our country, he was discharged and set at liberty.

There was a direct assertion by us of our right to protect the citizens of this country, whether they had become so in the full sense of our Constitution and laws or had simply assumed the mere primary, the mere inchoate citizenship, which is created by the declaration of an intention to become full citizens. Our authorities in connection with that case, in the correspondence which was carried on between Secretary Marcy and Chevalier Hulseman, from 1850 to 1853, assumed this position. I read from one of the communications from Secretary Marcy on that subject:

"All that we can demand of Austria, and this we can demand, is that in her proceedings against American citizens for offenses committed within her jurisdiction she should give them the full and fair benefit of her system, and deal with them as she does with her own subjects or those of other foreign Powers."

And it is further stated, in one of the same communications, that "the right to protect persons having a domicile, though not native-born or foreign naturalized citizens, rests on a firm foundation in justice; and the claim to be protected is earned by considerations which the protecting power is not at liberty to disregard."

Mr. Marcy maintained the claim of Koszta to our nationality on account of his domicile and inchoate citizenship connected with the circumstances of his exile and arrest.

Such, I believe, is the logical and legal deduction to be drawn from that case. It is sometimes improperly quoted as justifying the broad declaration that the right of expatriation has been recognized by all the nations of the earth. It does not, however, justify that broad declaration.

I now invite the attention of gentlemen to another case which arose in 1852 and 1853—I refer to that case usually known as Thrasher's case. In that case the man whom I have named was a native-born citizen of the United States, owing allegiance originally to us. During the excitement in regard to the seizure of Cuba and during the excitement of the Lopez expedition Mr. Thrasher became a fillibuster, as we then denominated them. He undertook to cast off his allegiance to this country and to become a citizen of Cuba in order to carry out his plans in connection with that expedition. To that end he obtained what were called "letters of domiciliation" in the island of Cuba. In that way, by a voluntary act of his own, he indicated his purpose to cast off his native nationality and to assume another nationality.

In the fortunes of that expedition which subsequently followed this man Thrasher fell again into our custody. The question was raised whether he had committed treason against Cuba or whether he had ceased to be a citizen of the United States, so that he could not be prosecuted in our own courts for a violation of our laws of neutrality. In 1850 Mr. Webster used this language in that case:

"No man can carry the ægis of his national American liberty into a foreign country and expect to hold it up for his exemption from the dominion and laws of the sovereign power of that country unless he be authorized to do so by virtue of treaty stipulations."

But he also refused to consider a native-born citizen of the United States entitled to the protection of this Government after having taken out letters of domiciliation to enable him to prosecute and transact business in Cuba as a Spanish subject or domiciled foreigner, which was the case with Thrasher, who was

charged with being implicated in the Lopez expedition. In other words, he held that Thrasher, by his voluntary act, concurring with the acts of the country to which he went and whose protection he sought, had ceased to be an American citizen, thus recognizing the right of expatriation by our citizens.

I desire now to state briefly what I conceive to be the duties of this country upon this great subject. And first I will remark that in my judgment we have been committing errors, if not positive crimes of omission, for the last fifty years, in so far as we have during that time failed to exert every influence and agency by diplomacy or other peaceful means by which we might have been able, long before the present time, to bring the nations of the earth to recognize this distinctive and undeniable principle of American law. This is a question, it seems to me, that ought to have been settled long ago.

Why, sir, in 1812, after our national territory had been outraged many times upon the decks of our vessels which are deemed, for the purpose of protection, a part of our territory, and our power had been contemned and humiliated, we did finally go to war to vindicate the sacredness of our national domain, for that was all that was settled by the war of 1812. That war of 1812 was provoked by the outrages and most untenable claim of Great Britain to exercise the right of impressing American seamen from the ships of our commercial marine. An assertion of that kind involved, as every gentleman will see, the declaration by Great Britain of the right to invade our territory in order to take from our protection and control any person who had ever owed allegiance to her, because the ships-of-war and the commercial marine of every country constitute in the theory of the law of nations a part of the national territory, and are entitled to the protection of the national laws under which they sail. We successfully vindicated our right to be exempt from that kind of outrages and humiliation. No attempt has since been made to assert such a doctrine. It is true that Great Britain has never formally surrendered the claim of right to do that thing, but she has been very careful never since to assert it as a right by an attempt to make impressments.

Now, it becomes our duty to go a step further in the vindication of our national dignity, and that step is the only one that is necessary in addition to what has already been done to vindicate the right of the citizens of this country—I care not what may have been their allegiance of origin—to the protection of the United States wherever they may go for legitimate purposes. How can we, Mr. Chairman, compromise upon any lower ground than this? Can any nation do it without surrendering the very fundamental idea of the equality of nations?

Now, I do not propose that the United States shall attempt, by the vain formula of a law of Congress, to declare what shall be the rights of American citizens in foreign countries, because such a law would be simply a nullity; it would possess no validity whatever beyond our own territory. No nation can prescribe the municipal regulations of another nation. But when a nation suffers its own people, under the very eye of its own power, by physical transfer of themselves at least, to relieve themselves of the actual control of the mother country and to go abroad never to return except as citizens of another nation—I say that when a foreign nation goes that far and suffers millions of her people, as England has done, to come to this country and take upon themselves our nationality, how can she question our right to make American citizens of these people and to throw around them our whole protection? Is it conceded by any man in this country, by any publicist who ever wrote, that if by any of the accidents of life one hundred thousand of the citizens of this country owing by birth allegiance to Great Britain should happen at any one time to go back to that country for any lawful purpose Great Britain could place her hands upon those hundred thousand American citizens and keep them there forever—chain them again to the car of her power and deny to them the protection that we have undertaken to give to them? The assumption when it is carried out to its natural results is absurd. It is unnatural, it is cruel. And I say that it becomes this country to make good to these foreign-born citizens the rights we have guarantied to them—not by the vain ceremony of a law of Congress, but to put into the hands of those departments of the Government whose duty it is to manage such affairs just so much power as may be necessary in order to enable them to go on and vindicate those rights and secure the establishment and recognition of those principles. Let us put at the command of the executive department of this Government that kind of power, as a mere municipal regulation, that will enable him to assert our rights abroad in this particular; and my word for it, Mr. Chairman, not only Great Britain but every nation upon the earth, if they do not concede the justice of our principles, will at least concede our power and will cease to attempt such outrages upon our citizens as have of late aroused not only the people of this country but the friends of this country all over the earth. Let us do this and there will soon be established an additional article in the code of international law which shall assert and forever settle this right of expatriation as a right inhering in the citizen—innate, if you please, in every adult human being. The idea that allegiance can be perpetual is simply the idea that men who have brains and nerves and love liberty may be made perpetual slaves to tyranny out of mere deference to a principle which had its origin in a dead institution whose aim was, when alive, to make all men slaves to their rulers. The feudal system, out of which this doctrine arose, has entirely ceased to exist in its original form and character, but it left to mankind, as bad institutions always do, a heritage of evil precedents and vicious principles, from which it seems difficult even for us to relieve ourselves.

I would not do anything in this matter that could by any nation be deemed a threat or a menace. I would act with dignity, with earnestness, with emphasis, in the declaration of our purposes and principles, and then I would await the results in the subsequent practice of nations. England to-day has no desire to get into a war with any nation, and above all, Mr. Chairman, with this young giant Republic, by whom she has been humbled, not only in the exercise of its infant powers but many times since. She has no desire to provoke another issue of physical strength with us, and if she does her statesmen know, as well as people outside of England know, that it will be the signal for a vindication of the principle upon which we stand in this particular; it will be the signal upon which her own people will come, not to her rescue, but to ours; and we will be vindicated, if needs be, upon her own soil and under the very eye of her queen. Why, Mr. Chairman, the very principle about which I have been talking, that has invited so many people from so many nations to our country and has incorporated them into our political system, has created between their people and us, not their princes and rulers, ten thousand, ay, ten million ties of affection, of love of liberty, of admiration, that any nation upon earth may well tremble before she encounters or undertakes violently to outrage. It is equally, in my judgment, a matter of duty upon our part not to suffer those ties to be violated by permitting other nations to treat any of our citizens as persons owing allegiance to them after their naturalization by us.

Now, sir, I do not mean to contend that in the exercise of our duty in these matters we should even seem by anything we may do to be making ourselves the defenders of men who enter foreign countries from ours, or from any other, to violate the laws of those countries: When men go abroad to violate the laws of another nation they go there taking their lives in their hands; they go there prepared to meet the consequences and to suffer the penalties, if they are so unlucky as to be caught. Such men, if they be brave men, ask no protection from us for such palpable violations of the laws governing the intercourse of nations. If they be criminals they deserve none, and never have received any from us, and never should. The doctrine of Great Britain by which she holds that "once a citizen always a citizen," by which she has even held in her past history that if by any accident one of her princes should be born upon the soil of another nation an act of Parliament would be necessary to invest that newborn prince with full and secure English nationality—that doctrine England may maintain if she pleases against the weaker Powers of the earth, but it is to us a humiliation if we suffer her longer, either in practice or in any other way, to act upon such principles in any application to the citizens of this country who may be lawfully within her territory. Under such circumstances they are entitled to all the privileges and protection which her laws accord to the citizens of other countries. If to be tried, they are entitled to such form and mode of trial as is awarded to the citizens of other nations, and she has no shadow of right to seize and subject them, like criminals, to ignominious deportation without trial according to the laws of the realm.

Mr. BLAINE obtained the floor; but yielded to

Mr. BROOMALL, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the President's annual message, and had come to no conclusion thereon.

PERSONAL EXPLANATION.

Mr. PILE. Mr. Speaker, I desire to say, in explanation of what I said on the day before yesterday at the suggestion of two gentlemen from Illinois, with regard to Dr. Fowler and his connection with certain transactions at St. Louis, that the Doctor has since called upon me and assured me that he withdrew from the firm conneeted with Mr. Goodell before the majority of those transactions to which so much odium attaches in that section of country, and was not personally responsible for them whatever they may have been. I had only heard Dr. Fowler's name connected with that firm by the common and uniform talk and rumor all over that country, and knew nothing about his connection with it personally; neither had I been informed of his withdrawal from the firm. I wish to give the Doctor the benefit of this declaration made by him, and to say that I designed no injury to him or to any other individual, and should not have mentioned their names but for their being suggested by a gentleman from Illinois.

On motion of Mr. BLAINE, (at four o'clock and fifteen minutes p. m.,) the House then adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Adolph Guttman, of Santa Fé, New Mexico, praying the passage of a bill by Congress to secure safety to passengers on the railroads of the United States.

By Mr. PERHAM: The petition of Cornelia Peaslee, for pension.

Also, the petition of John Rook, for same.

By Mr. STOKES: The petition of Lieutenant James F. Earley, of Bledsoe county, Tennessee, for remuneration for services rendered the Government.

Also, the petition of Captain Thomas Ranes, of Cleveland, Tennessee, of similar import.

IN SENATE.

MONDAY, *January* 13, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented the petition of D. W. Symmes, praying to be allowed arrearages of pay due him for labor performed in the navy-yard at Charlestown, Massachusetts; which was referred to the Committee on Claims.

He also presented a petition of Elizabeth Barker, for pension from July, 1862, to October, 1867, forfeited by non-compliance with the act of July 4, 1864, which non-compliance was not caused by her own neglect; which was referred to the Committee on Pensions.

He also presented a petition of Sylvester Nugent, of Lynn, Massachusetts, praying for pension forfeited under the act of July 4, 1864, for neglect which did not arise from his own fault; which was referred to the Committee on Pensions.

He also presented a petition of Mary Scott E. Webster, of Massachusetts, praying for pension forfeited by non-compliance with the act of July 4, 1864, which did not arise from her own neglect; which was referred to the Committee on Pensions.

Mr. COLE presented the protest and resolutions of citizens and settlers on public lands in California, against legislation touching townships six and seven, range one west Mount Diable meridian; which were referred to the Committee on Public Lands.

Mr. POMEROY presented a petition of S. N. Goodale, of Chicago, praying the adoption of a plan for the civilization of the Indians by introducing hand-looms among them; which was referred to the Committee on Indian Affairs.

Mr. HENDRICKS presented a petition of of owners, masters, pilots,and engineers of steamboats at Evansville, Indiana, praying the amendment of the steamboat inspection law so as to provide for a local board of inspectors for boilers and hulls at that port; which was referred to the Committee on Commerce.

Mr. THAYER presented a petition of citizens of Nebraska, praying the establishment of a mail route between Bartlett, Iowa, and Lincoln City, Nebraska; which was referred to the Committee on Post Offices and Post Roads.

Mr. HOWE presented the petition of Emily Hooe, widow of Brevet Major Alexander T. Hooe, fifth United States infantry, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. MORGAN presented a petition of Brevet Major General Robert Anderson, United States Army, trustee of Eliza B. Anderson, praying for compensation for loss of property in Florida during the war of 1835 and 1836; which was referred to the Committee on Claims.

Mr. YATES presented the memorial of John H. Finlay, late a private in company G second Illinois cavalry, praying for the passage of a special act granting him a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HENDERSON, it was

Ordered, That the papers connected with the claim of O. N. Cutler, for property taken for the use of the Army at Lake Providence, be withdrawn from the files of the Senate and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of the New York and Virginia Steamship Company, praying to be reimbursed for the loss of the steamships Yorktown and Jamestown, seized and destroyed by the rebels in April, 1861, submitted an adverse report; which was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 186) providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 12) directing the Secretary of War to furnish certain muster-rolls to different States, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 16) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 26) authorizing and directing the sale of the property of the United States at Harper's Ferry, West Virginia, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON. I am also directed by the Committee on Military Affairs and the Militia, to whom were referred the bill (S. No. 231) for the relief of John Templeton; the bill (S. No. 214) to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State upon the requisition of Major General Curtis, the commander of the United States forces in that State, to repel the invasion of General Price; a petition of Jerome Getty, of Stears county, Minnesota, asking to be paid for certain property destroyed by United States troops in that State in the winter of 1864 and 1865; a memorial and joint resolution of the Legislature of Nebraska, for the relief of John S. Lemon, late first lieutenant fifth Iowa cavalry; and a petition of Henry Koehn, of Ormsby county, Nevada, praying an appropriation of $3,456 for damages to his property, &c., and for losses sustained by him in the occupation of his premises by United States troops in 1864 and 1865, to ask to be discharged from their further consideration, and to move that they be referred to the Committee on Claims.

Mr. POMEROY. I think there is objection to some of those cases going to the Committee on Claims. The Committee on Military Affairs have had under consideration the same question as is raised by the consideration of Senate bill 214, so far as it relates to the State of Kansas, and the Senate has twice passed that identical bill, but it failed in the other House during the last days of the session. It is precisely in the language of the bill which we passed for the benefit of the State of Missouri, and nearly in the language of the bill for the benefit of the State of Indiana. The Committee on Military Affairs reported all those bills, and they were passed by both Houses, except the bill for the relief of Kansas, which failed during the last days of the session in the other House. I cannot now see the reason why the Committee on Military Affairs should fail to report that bill again. This being a new session we were obliged to introduce it again, and it was referred to the Committee on Military Affairs. I object to its going to the Committee on Claims, and hope it will be acted on by the Committee on Military Affairs.

Mr. WILSON. The Committee on Military Affairs were very anxious to get rid of all these matters relating to claims, and let the committee which has such subjects under consideration take the care of them; but if the Senator objects to this bill going before the Committee on Claims the Senate can vote down my motion so far as it is concerned, and let it go back to the Committee on Military Affairs.

Mr. POMEROY. I ask to have the bill relating to the State of Kansas recommitted to the Committee on Military Affairs.

Mr. HOWE. It is very evident that where the Committee on Military Affairs have had jurisdiction of a particular subject, and have settled a rule of action, that committee should go through with that class of cases, and not stop now when their work is half done and transfer them to another committee unacquainted with their rules and their system of adjudication. I hope the motion of the Senator from Kansas will be agreed to, and that the case to which he refers will go back to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The first question is on discharging the Committee on Military Affairs from the consideration of the various papers now reported back.

Mr. GRIMES. The way to reach the object of the Senator from Kansas is by a division of the question. He can ask for a division so as to have a separate vote on the particular bill referred to by him.

Mr. POMEROY. I ask, then, to have the bill relative to the State of Kansas excepted from the other cases to be referred to the Committee on Claims.

The PRESIDENT *pro tempore*. If there be no objection, the other bills and papers reported back by the Senator from Massachusetts will be referred to the Committee on Claims. The Chair hears no objection to that course. The question now recurs as to Senate bill No. 214.

Mr. POMEROY. Now I ask to have that bill recommitted to the Committee on Military Affairs.

Mr. WILSON. I withdraw the report so far as that particular bill is concerned.

The PRESIDENT *pro tempore*. Then there is nothing before the Senate.

RULES FOR IMPEACHMENT.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law, or by rule of the Senate, or both, rules and regulations for procedure in the trial of impeachment, and for the suspension of the officer under impeachment pending his trial, if, in the judgment of the Senate, the public safety shall require it, and for securing the prompt enforcement of the orders and judgments of the Senate in such cases.

POSTAL TREATIES.

Mr. MORRILL, of Vermont, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire whether the recent postal treaties with foreign Governments do not grant privileges to the citizens of such Governments not granted by law to our own people, and also whether the provisions of said treaties do not differ or conflict with the revenue laws as to the importation of printed matter, and to report what action thereon may be necessary.

DECISION OF CONSTITUTIONAL QUESTIONS.

Mr. DAVIS. I ask the courtesy of the Senate to take up a resolution which I offered some time since declaring that the Constitution should be amended so as to establish a tribunal for the decision of constitutional questions. I propose that it be taken up, and then I wish to say something in its support and have it referred to the Committee on the Judiciary. If the Senate will consent to take it up, I will consent that it shall be passed over informally to allow the morning business to be transacted.

Mr. SUMNER. I hope the Senator will allow us to get through the presenting of papers.

Mr. DAVIS. If this resolution is taken up I will not object to its being passed over informally to enable all the morning business to be disposed of.

Mr. SUMNER. I do not wish to interfere with the Senator at all, but I should like to offer a resolution on which I wish the action of the Senate to-day.

The PRESIDENT *pro tempore*. The motion of the Senator from Kentucky is in order, to postpone all other business for the purpose of taking up the resolution referred to by him.

Mr. DAVIS. If my motion is agreed to I

shall not object to any gentleman offering any resolution.

Mr. SUMNER. Very well.

Mr. EDMUNDS. Let the resolution be read.

The Secretary read the resolution submitted by Mr. DAVIS on the 16th of December last, as follows:

Resolved, That the Constitution should be so amended as to create a tribunal with jurisdiction to decide all questions of constitutional power that shall arise in the Government of the United States and all questions of conflict of jurisdiction between it and the State governments; said tribunal to consist of one member from each State, to be appointed by the State, to hold his office during good behavior, and a majority of the whole number of said tribunal to be necessary to make a decision.

The PRESIDENT *pro tempore*. The question is on taking up the resolution just read.

Mr. MORTON. I trust the Senator from Kentucky will be willing to waive that long enough to enable us to take up the bill prohibiting the further contraction of the currency and have a vote upon it. It is important to dispose of that bill, and I think it can be done very shortly if the chairman of the Committee on Finance will call it up now.

Mr. DAVIS. If the Senator will hear me a word, I propose to take up this resolution and to pass it by informally until all the morning business is disposed of, and then to say something in its support and move its reference to the Committee on the Judiciary.

Mr. MORTON. Does the Senator propose to address the Senate now?

Mr. DAVIS. Yes, sir; I wish to do so. It will not take a great while. I propose to have it disposed of in that way.

Mr. CONNESS. Resolutions have not been admitted yet this morning, and I understand the Senator from Kentucky now to agree that a certain bill may be taken up for consideration, thus excluding the consideration of resolutions this morning. I must object to that, for one.

Mr. DAVIS. The honorable Senator mistakes me somewhat. Several resolutions have been presented, considered, and adopted. I simply propose that this resolution be taken up and then passed over informally to allow any and all the morning business to be presented, and when the morning business is through then for my resolution to be in order and to make some remarks upon it.

Mr. CONNESS. I have no objection to that.

The motion of Mr. DAVIS was agreed to.

Mr. THAYER. I desire to offer a resolution.

The PRESIDENT *pro tempore*. There is a matter already before the Senate. The resolution of the Senator from Kentucky has been taken up, and it requires the unanimous consent of the Senate now to lay it aside and to take up anything else.

Mr. DAVIS. I stated that I was willing that my resolution on being taken up should be laid aside informally, to be called up again when the morning business shall have been gone through with.

The PRESIDENT *pro tempore*. It will be laid aside informally for that purpose, if there be no objection. None being made, it is so laid aside.

PUBLIC LANDS IN NEBRASKA.

Mr. THAYER submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Committee on Public Lands be instructed to inquire if any further legislation is necessary to cause to be restored to market, for homesteads and actual settlements, the public lands in the State of Nebraska along the line of the Union Pacific railway, which have been withdrawn from market in accordance with the views of the Secretary of the Interior in his last annual report.

MR. BURLINGAME, MINISTER TO CHINA.

Mr. CONNESS. I offer the following resolution, and ask for its immediate consideration:

Resolved, That the Secretary of State be, and is hereby, requested to report to the Senate such information, if there be any, in the State Department, as relates to the appointment of the American minister at Pekin, Hon. Anson Burlingame, to a diplomatic or other mission in behalf of the Chinese Government, and if such appointment has been made, whether the same has been accepted.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. SUMNER. I would suggest to the Senator from California that the resolution departs from the usage of the Senate. I do not know whether it is important to follow that usage or not; but all such inquiries have been addressed directly to the President, and of course have been referred to his discretion. The usual form has been "that the President of the United States be requested to communicate such information, if in his opinion not inconsistent with the public interest."

Mr. CONNESS. I knew that the Senate called on the heads of Departments; but if the usage be as stated by the Senator when calling on the State Department I have no objection to a change of language.

Mr. SUMNER. I have stated the usage with reference to calls connected with any question concerning our foreign relations.

Mr. CONNESS. Then I ask the Secretary to make the necessary change in the verbiage, and I wish to say that I desire the present consideration of the resolution for reasons that are of consequence. I desire to get the information officially.

Mr. GRIMES. I do not care anything about this matter, but I do not want it understood that there is any such rule as that the Senator from Massachusetts lays down.

Mr. SUMNER. I said "usage."

Mr. GRIMES. But it establishes a precedent.

Mr. CONNESS. I understand all Departments of the Government are called on for information.

Mr. GRIMES. My understanding of the usage from the foundation of the Government to this day is that where you call on the chief of a Department to respond to any inquiry you direct him to do it; where you call upon the chief of the nation you request him to do it, and where you call upon either of them for any information that relates to negotiations with foreign countries you there put in the saving clause "if not incompatible with the public interest." Now, the information which the Senator from California asks from the head of the State Department does not relate to diplomatic correspondence with other nations, but simply as to whether one of our own officers, a minister accredited by this Government to the imperial Government of China, has also accepted an office from that Government and is on his way to perform the duties of that office in another foreign country. The resolution of the Senator from California is manifestly right in requiring the Secretary of State to furnish this information.

The PRESIDENT *pro tempore*. The resolution will be read as modified.

The SECRETARY. The resolution as modified is:

Resolved, That the Secretary of State be, and he is hereby, requested, if not incompatible with the public interest——

Mr. CONNESS. No; I did not ask that that be incorporated at all, because it is evidently not inconsistent with the public interest to furnish this information. Leave that part of it out.

Mr. WILSON. And strike out "requested" and put in "directed."

Mr. CONNESS. Yes; I wish that done.

The SECRETARY. The resolution as it now stands is:

Resolved, That the Secretary of State be, and is hereby, directed to report to the Senate such information, if there be any, in the State Department as relates to the appointment of the American minister at Pekin, Hon. Anson Burlingame, to a diplomatic or other mission in behalf of the Chinese Government by the emperor of China, and if such appointment has been made whether the same has been accepted.

Mr. CONNESS. I wish to state to the Senate that one purpose I have in seeking this information is because the place now filled, or lately filled, if it be vacated, (which I do not think is the case,) so ably by Mr. Burlingame is sought by a number of persons; among others by a citizen of the State of California. I desire to know first what the facts in the case are, whether this appointment has been made by the emperor of China, as stated by the public press, and as I suppose is the fact, and whether there is any information in the State Department upon that subject. If there be, I desire that the Senate shall be placed in possession of it. I wish to say in this connection, however, that I am the last who would propose to vacate the place held and filled with so much profit to the United States and so much distinction to the minister himself by Mr. Burlingame. My object is to get the information, intending to predicate some further action after its attainment. Therefore I ask for the adoption of the resolution.

Mr. SUMNER. I shall raise no question on the resolution, either with regard to its form or its substance. Indeed, I shall be very glad to have an answer to the resolution, though I think it would be more according to the usage of the Senate if it were addressed directly to the President, who has the supervision of our foreign relations, and who makes the appointments of our foreign ministers. I am sure it would be according to the usage of the Senate if that form were adopted; but we should obtain the same answer in the one case as in the other. I am inclined to think from what I know that at the present moment there is no information at the State Department beyond that which has already been in the newspapers, being a brief telegraphic dispatch sent by Mr. Burlingame by the Russian telegraph over Siberia to Petersburg, and from Petersburg by the cable to Washington.

Mr. CONNESS. That is information. I desire simply to obtain that, if it be in the possession of the State Department, officially, because I am not prepared to predicate any action on statements made by the public press upon subjects of this character. As to the form of the resolution, I thought I was right in originally preparing it; but in regard to that I have no care but that the Senate shall proceed correctly.

The resolution was agreed to.

Mr. SUMNER. I offer the following resolution, and ask for its present consideration:

Resolved, That the President of the United States be requested to communicate to the Senate, if deemed compatible with the public interest, a copy of any official correspondence on the subject of a claim under the act of Congress of the 18th of August, 1856, by any citizen of the United States to the guano on Alto Velo, an island in the vicinity of St. Domingo.

I would remark that the question raised by this inquiry is at this moment of practical interest. I observe that one of the leading newspapers of Washington has made it the subject of a very elaborate article, in which the course of our Government is called in question. I am desirous, therefore, that we should obtain all the information which is in the possession of the Department on the subject.

The resolution was considered by unanimous consent, and agreed to.

LAND OFFICE REPORT.

Mr. RAMSEY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That ten thousand copies of the report of the Commissioner of the General Land Office be printed for the use of the Senate.

UNEXPENDED APPROPRIATIONS.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to report to the Senate such existing and unexpended appropriations as may without injury to the public service be carried to the surplus fund, including such appropriations as may be properly postponed to a future period.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolu-

tion (S. R. No. 87) to provide for the gradual reduction of the Army of the United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 88) for the publication of the reports of the commissioner of the United States to the Paris Exposition; which was read twice by its title, and referred to the Committee on Printing.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 242) declaring the number of men authorized to be enlisted into the Navy and Marine corps of the United States, and for other purposes; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 243) regulating the service of final process in suits at law, and of orders and decrees in equity, of courts of the United States in places out of their jurisdictional limits; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 244) relative to the La Junta land grant in New Mexico; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 245) to fix the terms of the circuit and district courts of the United States for the district of Oregon, and the salary of the judge thereof; which was read twice by its title, and referred to the Committee on the Judiciary.

IMPROPER PUBLICATION OF COMMITTEE REPORT.

Mr. HOWE. Mr. President it is late in the order of business, but I have in my hand a memorial signed by W. Scott Smith, manager of the Evening Press Association, addressed to the Senate, complaining of the injustice done to him in some remarks made by the Senator from Michigan [Mr. HOWARD] in reference to the publication of the abstract of a certain report of the Military Committee. He asks "as an act of justice to myself, the papers I represent, and all the parties concerned that the subject be referred to some committee of your body for investigation and report, to the end that the charge of violating faith may be fastened upon those to whom it properly belongs, and that I may have an opportunity to clear my name from the odium which has thus been cast upon it by the remarks of the honorable Senator;" and the memorial further states: "the undersigned would further state that by means of such investigation I expect not only to fully vindicate myself from the grave charge made against me but also to show that as many as ten persons connected with the press had access to the document referred to, and that its publication by the papers I represent was not unauthorized." The prayer of the memorial is that the subject be referred to a committee, without designating any. I suppose, in consideration of the connection existing between this gentleman and the Senate, he being one of the reporters of the press connected with the body, it is perfectly fair that he should have a committee if he wants one, and I suppose the Committee on the Judiciary would be as proper a committee as any. I move, therefore, that the memorial be referred to the Committee on the Judiciary.

Mr. TRUMBULL. Mr. President, this petition seems to me to partake of the character of a claim that the party has upon the justice of the Senate. I do not know that it is in a pecuniary way; but I really think the Committee on Claims is the more appropriate committee. The Committee on the Judiciary seems to be made the scapegoat for everything that comes into the Senate that no committee seems peculiarly to have charge of. I trust the Senator from Wisconsin will vary the reference of the memorial. I suggest that it go to the Committee on Claims, and then the Senator himself can take charge of it. There is certainly nothing in it appropriate for the Judiciary Committee.

Mr. HOWARD. The Senate, of course, will do what they think best with regard to the memorial which has been presented. I have nothing to say as to the proper disposition of that paper by this body. I have only to say that the allegation contained in the paper, that the publication to which the writer alludes was authorized, is entirely incorrect, known by him to be incorrect, whatever he may be able to prove before a committee of investigation. I stand upon that simple proposition—the Senate have my word for it—that that publication was entirely unauthorized by me, and such is the truth of the case. I do not wish to consume the time of the Senate with this matter; they may give the thing such direction as they choose.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin to refer the memorial to the Committee on the Judiciary.

Mr. MORRILL, of Vermont. I move to amend the motion by referring it to the Committee on Printing. I have a slight interest in its not going to the Committee on Claims; and as it seems to be a question in relation to printing I move to amend the motion by sending the paper to the Committee on Printing.

Mr. HARLAN. I move that the memorial be laid on the table.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa that the paper be laid upon the table.

The motion was not agreed to.

Mr. HOWE. I will accept the suggestion of the Senator from Vermont, and move to refer the memorial to the Committee on Printing.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin, as modified, that this paper be referred to the Committee on Printing.

The motion was agreed to.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had, on the 11th instant, approved and signed the following bill and joint resolutions:

A bill (S. No. 89) for the relief of Orlaf E. Dreutzer, late consul of the United States to the kingdom of Norway;

A joint resolution (S. R. No. 70) authorizing Rear Admiral H. K. Thatcher, to accept a decoration from the king of the Hawaiian islands;

A joint resolution (S. R. No. 80) in relation to the erection of a jail in the District of Columbia; and

A joint resolution (S. R. No. 83) for the appointment of Regents of the Smithsonian Institution.

DECISION OF CONSTITUTIONAL QUESTIONS.

Mr. DAVIS. Now I call for the consideration of my resolution.

The PRESIDENT *pro tempore*. The resolution of the Senator from Kentucky is before the Senate.

Mr. DAVIS proceeded to read a written speech in support of his resolution, but at one o'clock was interrupted.

The PRESIDENT *pro tempore*. The hour has arrived when it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 213) to suspend further reduction of the currency.

Mr. DAVIS. I would not like to have my remarks, which are not very lengthy, published in two different papers; and I trust the Senate will have the courtesy to let me conclude my remarks. I read my manuscript rapidly, and shall not consume a great deal of time. I will regard it as a very courteous act if the Senate will permit me to conclude my remarks.

Mr. SHERMAN. The Senator from Kentucky knows very well that it is with extreme reluctance that I oppose a request so reasonable; but he will have the morning hour tomorrow in which to conclude his remarks; and in the mean time he can withhold any remarks that he has thus far made, and publish them all together. If I yield in regard to this matter there will be a pressure from others. I hope, therefore, the Senate will take a vote on this bill; and then, if it be the pleasure of the Senate, after we have acted on the contraction bill, the Senator can conclude his remarks.

Mr. DAVIS. I do not wish to stand in the way of the necessary or useful business of the Senate. If it be the pleasure of the Senate that my remarks shall be made as indicated by the Senator from Ohio, I submit to their decision with great pleasure.

The PRESIDENT *pro tempore*. By the rules of the Senate the unfinished business is before the body without any motion for that purpose, and to pass it by requires an affirmative motion and decision of the Senate. The Senator asks for courtesy, and that is objected to.

Mr. DAVIS. I will adopt the course suggested by the honorable Senator from Ohio, with the permission of the Senate.

CONTRACTION OF THE CURRENCY.

The PRESIDENT *pro tempore*. The bill (H. R. No. 213) to suspend further reduction of the currency is before the Senate as in Committee of the Whole.

Mr. HOWARD. If it be in order I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. Upon that question I shall call for the yeas and nays. I trust the Senator will not press his motion now. We have before us a public measure for the passage of which there is great anxiety throughout the country, and we ought not to postpone a public measure of that kind for the consideration of any executive business. I trust, therefore, the Senator will not antagonize the pending executive business against a public measure of this kind. After the passage of this bill I shall not object to an executive session. I trust the Senate will stand by me until this bill is disposed of. It has been debated and been pending here for a long time.

Mr. HOWARD. I am quite aware of the importance of the measure which is in the charge of the Senator from Ohio, but, placed as I am, I feel it my duty to take the sense of the Senate on the question whether we shall proceed to the consideration of executive business.

Mr. MORTON. I believe we can dispose of this bill in a very few minutes, and I trust a vote will be had upon it before we proceed to anything else.

Mr. CONKLING. May I inquire what is the precise question pending?

The PRESIDENT *pro tempore*. The precise question pending is the motion of the Senator from Michigan, that the Senate now proceed to the consideration of executive business.

Mr. CONKLING. I beg pardon of the Chair. I mean the precise question pending with regard to the currency bill, whether there be an amendment pending, and if so, what it is?

The PRESIDENT *pro tempore*. The pending amendment is the motion of the Senator from Pennsylvania, [Mr. BUCKALEW,] to strike out in the thirteenth and fourteenth lines of the bill the words "Congress shall otherwise provide" and to insert the words "the 1st day of July next."

Mr. CONKLING. I wish to say to the Senator from Indiana that I think, if he anticipates that a vote can be taken on this amendment and the bill in a few moments, he will be disappointed in that expectation, for I am sure there will be some discussion.

Mr. GRIMES. Well, we may as well have it to-day as at any other time.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. CONNESS. If it be apparent that there is to be an extended discussion on this bill in charge of the honorable Senator, the chairman of the Committee on Finance, then I shall vote to proceed to the consideration of executive business. If we could get a vote within any reasonable time, so as to permit both matters to be disposed of to-day, I should vote with the Senator. As I understand the Senator from New York, there is to be further extended discussion on the bill. If that be the case then I do not see why there need be a contest in the Senate, but let us proceed and finish the business——

Mr. CONKLING. My friend will allow me to say that I do not intend myself to go into any extended discussion; but I do wish to make some remarks upon this bill. I think other Senators intend to submit some remarks; but I do not know that there is to be an extended discussion. However, I submit if we can do both things to-day it is of very little consequence to resist the motion to go into executive session, because if the bill can be disposed of to-day it is of no consequence whether it be passed an hour earlier or an hour later.

Mr. SHERMAN. The uniform order of business is, to dispose of public business first and executive business afterward. Here is a bill which has been debated in the Senate for three or four days, and on which one or two votes have been taken, pending in the regular order, and it ought not, in my judgment, to be postponed for any executive business likely to arise. I trust, therefore, that we shall act in order. After this measure is disposed of I shall be perfectly willing to go into executive session and transact any business that may be pending there.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 23, nays 19; as follows:

YEAS—Messrs. Cattell, Chandler, Conkling, Conness, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Trumbull, Willey, and Wilson—23.

NAYS—Messrs. Anthony, Buckalew, Cole, Corbett, Davis, Dixon, Doolittle, Grimes, Henderson, Hendricks, Morton, Patterson of Tennessee, Ross, Sherman, Sprague, Tipton, Van Winkle, Wade, and Williams—19.

ABSENT—Messrs. Bayard, Cameron, Cragin, Fowler, Guthrie, Johnson, Morrill of Maine, Norton, Pomeroy, Saulsbury, and Yates—11.

So the motion was agreed to.

EXECUTIVE SESSION.

The Senate accordingly proceeded to the consideration of executive business; and after six hours spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 13, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday was read and approved.

BILLS AND JOINT RESOLUTIONS.

The SPEAKER stated that this being Monday the first business in order was the call of States for the introduction of bills and joint resolutions for reference to the appropriate committees, not to be brought back by a motion to reconsider.

TAXING NATIONAL BANK SHARES.

Mr. BLAINE introduced a bill (H. R. No. 375) in relation to taxing shares of national banks; which was read a first and second time, and referred to the Committee on Banking and Currency.

RELIEF OF VOLUNTEERS.

Mr. BLAINE also introduced a bill (H. R. No. 376) for the relief of certain officers; which was read a first and second time, and referred to the Committee on Military Affairs.

FREEDMEN'S BUREAU.

Mr. ELIOT introduced a bill (H. R. No. 377) to continue the bureau for the relief of freedmen and refugees, and for other purposes; which was read a first and second time, and referred to the Committee on Freedmen's Affairs.

BELLIGERENT RIGHTS.

Mr. WOOD introduced a joint resolution (H. R. No. 142) to limit the time and circumstances regulating the action of the United States with reference to the recognition of belligerent rights of hostile nations; which was read a first and second time, and referred to the Committee on Foreign Affairs.

REGISTRY OF VESSELS.

Mr. HUMPHREY introduced a bill (H. R. No. 378) to further regulate the registry of vessels; which was read a first and second time, and referred to the Committee on Commerce.

SUPREME COURT OF THE UNITED STATES.

Mr. MILLER introduced a bill (H. R. No. 379) requiring the concurrence of two thirds of the judges of the Supreme Court of the United States in order to pronounce a law passed by Congress to be unconstitutional; which was read a first and second time, and referred to the Committee on the Judiciary.

TARIFF.

Mr. MILLER introduced a joint resolution (H. R. No. 143) relative to the passage of a tariff law with as little delay as possible affording adequate protection to the industrial interests of the country; which was read a first and second time, and referred to the Committee of Ways and Means.

MAILS FOR LIBRARIES, ETC.

Mr. O'NEILL introduced a bill (H. R. No. 380) relating to mailable matter sent to certain societies and public libraries; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

POST ROADS IN DELAWARE.

Mr. NICHOLSON introduced a bill (H. R. No. 381) to establish certain post roads in the State of Delaware; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

IMPROVEMENT OF HARBOR.

Mr. BUCKLAND introduced a bill (H. R. No. 382) making appropriation for the improvement of the harbor of Port Clinton, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

JOHN HAMILTON.

Mr. LAWRENCE, of Ohio, introduced a bill (H. R. No. 383) granting pension to John Hamilton, of Ohio; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and the War of 1812.

RAILROAD BRIDGE AT PADUCAH.

Mr. TRIMBLE, of Kentucky, introduced a bill (H. R. No. 384) authorizing the building of a railroad bridge across the Ohio river at Paducah, Kentucky; which was read a first and second time, and referred to the Committee on Roads and Canals.

TENNESSEE BLIND SCHOOL BUILDING.

Mr. TRIMBLE, of Tennessee, introduced a bill (H. R. No. 385) to appropriate money for rebuilding the Tennessee blind school building; which was read a first and second time, and referred to the Committee on the Judiciary.

FUNDING THE NATIONAL DEBT.

Mr. HUNTER introduced a bill (H. R. No. 386) for the funding of the national debt, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

UNITED STATES DEPOSITARY AT CHICAGO.

Mr. JUDD introduced a bill (H. R. No. 387) to fix the compensation of the United States depositary at Chicago; which was read a first and second time, and referred to the Committee of Ways and Means.

JURISDICTION OF DISTRICT COURTS.

Mr. JUDD also introduced a bill (H. R. No. 388) to amend an act entitled "An act to extend jurisdiction of the district courts of the United States in certain cases on the lakes and navigable waters connecting with the same," approved February 20, 1845; which was read a first and second time, and referred to the Committee on the Judiciary.

IMPROVED LETTER-BOXES.

Mr. BROMWELL introduced a bill (H. R. No. 389) to authorize postmasters to put up improved letter-boxes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ADDITIONAL BOUNTY.

Mr. CULLOM introduced a joint resolution (H. R. No. 144) in relation to additional bounty; which was read a first and second time, and referred to the Committee on Military Affairs.

MAIL ROUTE.

Mr. BURR introduced a bill (H. R. No. 390) to establish a mail route in Illinois; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

PROTECTION OF AMERICAN CITIZENS.

Mr. BURR also introduced a joint resolution (H. R. No. 145) pledging protection to all citizens, native-born or naturalized, in the enjoyment of all the rights of citizenship under the Constitution and laws of the United States; which was read a first and second time, and referred to the Committee on Foreign Affairs.

JAMES C. SLOO.

Mr. RAUM introduced a joint resolution (H. R. No. 146) for the relief of James C. Sloo; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

MISSOURI TROOPS.

Mr. McCLURG introduced a joint resolution (H. R. No. 147) placing certain troops of Missouri on an equal footing with others as to bounties; which was read a first and second time, referred to the Committee of the Whole, and ordered to be printed.

Mr. WASHBURNE, of Illinois. Is that from a committee?

The SPEAKER. It is not.

Mr. WASHBURNE, of Illinois. It should go to a committee of the House. I move to refer it to the Committee on Military Affairs.

Mr. McCLURG. I ask the attention of the gentleman to the fact that this bill was before the Thirty-Ninth Congress, and was acted upon, and it has also been before the present Congress.

The SPEAKER. The Chair thinks it is too late for the gentleman from Illinois [Mr. WASHBURNE] to make the motion. The announcement was made that the joint resolution was referred to the Committee of the Whole, and a motion to reconsider cannot be made in reference to any bill introduced in the morning hour on Monday.

Mr. WASHBURNE, of Illinois. It never was intended that a bill or joint resolution should be sent to the Committee of the Whole without first going to a committee of the House.

The SPEAKER. The rule says that they shall be referred to appropriate committees.

Mr. WASHBURNE, of Illinois. I suppose, with all deference, that that means the standing committees of the House.

The SPEAKER. It does not say so, however. That is a question for the judgment of the House. It can refer a bill to the Committee of the Whole or to a standing or select committee.

Mr. WASHBURNE, of Illinois. I think my motion was in season.

The SPEAKER. The Chair thinks not.

Mr. WASHBURNE, of Illinois. The gentleman from Maine [Mr. BLAINE] says that the precedents are the other way.

Mr. BLAINE. I beg pardon; I say they are in favor of the Speaker's decision.

S. C. LYFORD.

Mr. PILE introduced a bill (H. R. No. 391) relieving S. C. Lyford, of the ordnance department United States Army, from responsibility for money lost in the Government mail; which was read a first and second time, and referred to the Committee on Military Affairs.

REVENUE OFFICERS.

Mr. ANDERSON introduced a joint resolution (H. R. No. 148) in relation to certain officers of the revenue; which was read a first and second time, and referred to the Committee of Ways and Means.

POST ROUTES IN MICHIGAN.

Mr. DRIGGS introduced a bill (H. R. No. 392) to establish post routes from Saginaw to St. Louis, and from Isabella to Midland, in the State of Michigan: which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

REPAIR OF FORTIFICATIONS.

Mr. DRIGGS also introduced a bill (H. R. No. 393) defining the act making appropriations for the repair, &c., of certain fortifications, approved March 2, 1862; which was read a first and second time, and referred to the Committee on Appropriations.

LITTLE ROCK ISLAND.

Mr. PRICE introduced a bill (H. R. No. 394) confirming title to Little Rock Island, in the Mississippi river; which was read a first and second time, and referred to the Committee on Public Lands.

RACHEL FLOYD.

Mr. PRICE also introduced a bill (H. R. No. 395) granting a pension to Rachel Floyd, widow of Joseph Floyd, late private in company B twentieth Iowa volunteer infantry; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SAMUEL TIBBETTS.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 396) for the relief of Samuel Tibbetts; which was read a first and second time, and referred to the Committee of Claims.

FRANKING PRIVILEGE.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 397) regulating the use of the franking privilege; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

WILLIAM B. LOONEY.

Mr. DODGE introduced a bill (H. R. No. 398) granting a pension to William B. Looney; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DAVID A. MILLER.

Mr. DONNELLY introduced a bill (H. R. No. 399) for the relief of David A. Miller; which was read a first and second time, and referred to the Committee on Private Land Claims.

BRIDGE ACROSS MISSOURI RIVER.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 400) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, and to provide for the reduction of said reservation; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SETTLERS ON OSAGE INDIAN LANDS.

Mr. CLARKE, of Kansas, also introduced a joint resolution (H. R. No. 149) for the relief of the settlers on the Osage Indian lands in Kansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

RAILROAD AT FORT LEAVENWORTH.

Mr. CLARKE, of Kansas, also introduced a joint resolution (H. R. No. 150) authorizing the Leavenworth and Northwestern Railroad Company and the Leavenworth and Des Moines Railroad Company to construct their roads through the military reservation at Fort Leavenworth; which was read a first and second time, and referred to the Committee on Military Affairs.

JOHN WHITEFORD.

Mr. CLARKE, of Kansas, also introduced a bill (H. R. No. 401) for the relief of John Whiteford, late captain in the first regiment of Arkansas infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

CHARLES BUTTERFIELD.

Mr. CLARKE, of Kansas, also introduced a bill (H. R. No. 402) for the relief of Charles Butterfield, a Chippewa half-breed Indian; which was read a first and second time, and referred to the Committee of Claims.

CITIZENSHIP IN NEW MEXICO.

Mr. CLEVER introduced a bill (H. R. No. 403) to extend the right of citizenship to certain Mexican citizens residing in New Mexico; which was read a first and second time, and referred to the Committee on the Territories.

MILITARY SUPPLIES FOR NEW MEXICO, ETC.

Mr. CLEVER also introduced a bill (H. R. No. 404) to facilitate and cheapen the transportation of military supplies in Kansas, Colorado, and New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

LIBRARY OF NEW MEXICO.

Mr. CLEVER also introduced a bill (H. R. No. 405) to increase and improve the territorial library of New Mexico; which was read a first and second time, and referred to the Committee on the Territories.

UNITED STATES SUPPLIES IN NEW MEXICO.

Mr. CLEVER also introduced a bill (H. R. No. 406) to facilitate the transportation of United States supplies and prevent the loss of United States property in New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

SANTA FÉ, NEW MEXICO.

Mr. CLEVER also introduced a bill (H. R. No. 407) for the repair, preservation, and improvement of the "old palace building" in Santa Fé, New Mexico; which was read a first and second time, and referred to the Committee on the Territories.

LAND-GRANT RAILROAD.

Mr. HOLBROOK introduced a bill (H. R. No. 408) granting aid in the construction of a railroad and telegraph line from the Union Pacific railroad to Idaho, Portland, (Oregon,) Montana, and Puget's sound; which was read a first and second time.

Mr. HOLBROOK. I move that the bill be referred to the Committee on the Pacific Railroad.

Mr. JULIAN. I move to amend that motion, so that the bill be referred to the Committee on Public Lands, where it properly belongs.

Mr. PRICE. Why does it belong to that committee?

The SPEAKER. The motion is not subject to debate.

Mr. PRICE. No.

The SPEAKER. Bills must be referred at this time without debate.

The question was taken on the amendment of Mr. JULIAN; and upon a division there were—ayes 39, noes 42; no quorum voting.

Mr. JULIAN called for tellers.

Tellers were ordered; and Mr. HOLBROOK and Mr. JULIAN were appointed.

The House again divided; and the tellers reported that there were—ayes 61, noes 44.

So the amendment was agreed to.

The motion, as amended, was then agreed to, and the bill was accordingly referred to the Committee on Public Lands.

Mr. HOLBROOK. I move that the bill be printed.

The motion to print was agreed to.

JOEL H. LUCIA.

Mr. WOODBRIDGE introduced a bill (H. R. No. 409) for the relief of Joel H. Lucia; which was read a first and second time, and referred to the Committee on Military Affairs.

FRIEND A. BRAINARD.

Mr. WOODBRIDGE also introduced a bill (H. R. No. 410) for the relief of Friend A. Brainard; which was read a first and second time, and referred to the Committee of Claims.

ALMIRA WYETH.

Mr. WASHBURNE, of Illinois, introduced a bill (H. R. No. 411) for the relief of Almira Wyeth; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN M'MANUS.

Mr. VAN AERNAM introduced a bill (H. R. No. 412) for the relief of John McManus, of Chautauqua county, New York; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

COMPENSATION OF FIRST COMPTROLLER.

Mr. WELKER introduced a bill (H. R. No. 413) to fix the compensation of the First Comptroller of the Treasury; which was read a first and second time, and referred to the joint Committee on Retrenchment.

MARRIAGES IN DISTRICT OF COLUMBIA.

Mr. WELKER also introduced a bill (H. R. No. 414) to preserve the evidence of marriages in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

CLAIM OF CHARLES J. DAVIS.

Mr. MOORE introduced a joint resolution (H. R. No. 151) to refer the claim of Charles J. Davis, administrator of the estate of John Davis, to the Court of Claims; which was read a first and second time, and referred to the Committee of Claims.

CONTRACTS WITH THE UNITED STATES.

Mr. LAWRENCE, of Ohio, introduced a bill (H. R. No. 415) in relation to contracts with the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

SAMUEL NAYLOR.

Mr. MORRELL introduced a bill (H. R. No 416) for the relief of Samuel Naylor; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES FLEMING.

Mr. SCOFIELD introduced a bill (H. R. No. 417) for the relief of James Fleming, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

RAILROAD ROUTES.

Mr. INGERSOLL introduced a joint resolution (H. R. No. 152) providing for the survey of one or more railroad routes; which was read a first and second time, and referred to the Committee for the District of Columbia.

CORPORATION OF WASHINGTON, ETC.

Mr. INGERSOLL also introduced a bill (H. R. No. 418) to amend the charter of the corporation of Washington and Georgetown, in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PUBLIC OFFICERS IN THE DISTRICT.

Mr. INGERSOLL also introduced a bill (H. R. No. 419) to provide for the appointment of a warden and physician of the United States jail in the District of Columbia, and for a stenographer of the supreme court thereof; which was read a first and second time, and referred to the Committee for the District of Columbia.

NEW RAILROAD IN THE DISTRICT.

Mr. INGERSOLL also introduced a bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railroad Company in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

SUSAN V. BERG.

Mr. COBURN introduced a bill (H. R. No. 421) for the relief of Susan V. Berg; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOSEPH HARMON.

Mr. COBURN also introduced a bill (H. R. No. 422) for the relief of Joseph Harmon; which was read a first and second time, and referred to the Committee of Claims.

HEIRS OF SIMEON CASTRO.

Mr. COBURN also introduced a bill (H. R. No. 423) for the relief of the heirs of Simeon Castro and their assigns; which was read a first and second time, and referred to the Committee of Claims.

RELIEF FOR DRAFTED MEN.

Mr. KOONTZ introduced a bill (H. R. No. 424) amendatory of an act entitled "An act for the relief of certain drafted men;" which was read a first and second time, and referred to the Committee on Military Affairs.

SERGEANT HENRY DRENNING.

Mr. KOONTZ also introduced a bill (H. R. No. 425) authorizing the Secretary of the Treasury to settle the account of Sergeant Henry Drenning, late of company K fifty-fifth Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

ROBERT E. SHEADS.

Mr. KOONTZ also introduced a bill (H. R. No. 426) for the relief of Robert E. Sheads; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WASHINGTON BUTCHERS' ASSOCIATION.

Mr. KOONTZ also introduced a bill (H. R. No. 425) to incorporate the Washington Benevolent Butchers' Association of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

METROPOLITAN BOARD OF POLICE.

Mr. ASHLEY, of Ohio, introduced a bill (H. R. No. 428) to repeal section three of the act approved July 23, 1866, establishing a metropolitan board of police for the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PAY OF VOLUNTEER SOLDIERS AND SAILORS.

Mr. ASHLEY, of Ohio, also introduced a bill (H. R. No. 429) for the relief and pay of certain volunteer soldiers and sailors therein designated; which was read a first and second time, and referred to the Committee on Military Affairs.

REBECCA J. SHEPPARD.

Mr. MYERS introduced a bill (H. R. No. 430) authorizing the Secretary of the Treasury to issue a new bond to Rebecca J. Sheppard, of Philadelphia, in the place of a similar one destroyed by fire; which was read a first and second time, and referred to the Committee of Ways and Means.

BENJAMIN MALONE.

Mr. MYERS also introduced a bill (H. R. No. 431) for the relief of Benjamin Malone, late additional paymaster in the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

JAMES KEENAN.

Mr. ROBINSON introduced a bill (H. R. No. 432) for the relief of James Keenan; which was read a first and second time, and referred to the Committee of Claims.

PALEMON JOHN.

Mr. MERCUR introduced a bill (H. R. No. 433) for the relief of Palemon John; which was read a first and second time, and referred to the Committee of Claims.

NEW POST ROADS IN OHIO.

Mr. VAN TRUMP introduced a bill (H. R. No. 434) to establish a post route from Shadesville, Ohio, to Genoa, Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. BINGHAM introduced a bill (H. R. No. 435) to establish a post road and mail route in the State of Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

AMENDMENT OF THE CONSTITUTION.

Mr. BINGHAM also introduced a bill (H. R. No. 436) declaring the fourteenth article of the amendment proposed by the Thirty-Ninth Congress duly ratified as a part of the Constitution; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RELIEF OF SETTLERS IN CALIFORNIA.

Mr. HIGBY, by unanimous consent, presented the memorial of the Legislature of the State of California to Congress, praying for relief for settlers upon public lands in Ione valley, in said State; which was referred to the Committee on Public Lands, and ordered to be printed.

POST ROADS IN MONTANA.

Mr. CAVANAUGH introduced a bill (H. R. No. 437) to establish certain post roads in the Territory of Montana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

HOMESTEADS TO FREEDMEN, ETC.

Mr. BOUTWELL introduced a bill (H. R. No. 438) to promote agricultural industry in the States recently in rebellion, and to secure homesteads to freedmen; which was read a first and second time, and referred to the Committee on Freedmen's Affairs.

CALL FOR RESOLUTIONS.

The SPEAKER stated that the next business in order was the call of States for resolutions, beginning with the State of Maine, where the call was last suspended.

TREATMENT OF UNION PRISONERS.

Mr. PAINE. At the request of the committee appointed at the last session on the treatment of prisoners of war, I offer the following resolution, and demand the previous question thereon:

Resolved, That the Committee on the Treatment of Prisoners of War and Union Citizens be continued with full power from the last session in accordance with the resolutions of the House of July 10 and 13, 1867.

Mr. SPALDING. I hope the gentleman will give some reason for offering this resolution.

The SPEAKER. It is not debatable. If the previous question is not seconded, and any gentleman then rises to debate it, it will go over.

Mr. RANDALL. Does not this come in conflict with the resolution adopted by the House forbidding any committee to send for persons and papers where expenditure is involved?

The SPEAKER. If it is adopted it will rescind that resolution so far as this committee is concerned.

Mr. WASHBURNE, of Illinois. Will the gentleman from Wisconsin allow an amendment to be offered that there shall be no additional expense incurred?

Mr. PAINE. I would yield for that purpose if I knew anything about the merits of the matter. I know nothing about it.

Mr. ROSS. I suppose the resolution goes over; it has been debated.

The SPEAKER. It has not been debated.

On seconding the previous question there were—ayes 42, noes 51; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. PAINE and MUNGEN.

The House divided; and the tellers reported—ayes 74, noes 47.

So the previous question was seconded.

The main question was then ordered.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the main question was ordered.

Mr. PAINE. I move to lay the motion to reconsider on the table.

Mr. WASHBURNE, of Illinois. I believe I have the floor.

The SPEAKER. The gentleman cannot debate the question.

Mr. WASHBURNE, of Illinois. I can ask a question?

The SPEAKER. A parliamentary one.

Mr. WASHBURNE, of Illinois. I wish to know how much this committee has cost and how much it is proposed it shall cost.

The SPEAKER. That is not a parliamentary question.

Mr. WASHBURNE, of Illinois. I move to lay the resolution on the table.

Mr. ROBINSON. I ask the mover of the resolution to allow an amendment.

The SPEAKER. It is not within his power.

Mr. ROBINSON. Nor within the power of the House?

The SPEAKER. By unanimous consent only.

Mr. SPALDING. Is it in order to inquire whether the committee has a clerk and stenographer both?

The SPEAKER. It is not.

Mr. ROSS. I demand the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 98, not voting 39; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Brooks, Burr, Cary, Chanler, Reader W. Clarke, Eggleston, Eldridge, Farnsworth, Fox, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Kerr, Knott, Marshall, Marvin, Morgan, Morrissey, Niblack, Nicholson, Peters, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Spalding, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Elihu B. Washburne, Wood, and Woodward—51.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Bromwell, Broomall, Buckland, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dodge, Driggs, Eliot, Ferriss, Ferry, Gravely, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Pomeroy, Price, Raum, Robertson, Schenck, Scofield, Shanks, Smith, Aaron F. Stevens, Stokes, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—98.

NOT VOTING—Messrs. Allison, Arnell, Blaine, Blair, Boyer, Butler, Cake, Cook, Cornell, Dawes, Dixon, Donnelly, Eckley, Ela, Fields, Finney, Garfield, Halsey, Hawkins, Asahel W. Hubbard, Jones, Kelley, George V. Lawrence, Lynch, McCormick, McCullough, Mungen, Poland, Polsley, Sawyer, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Thomas, Burt Van Horn, and William B. Washburn—39.

So the House refused to lay the resolution on the table.

The question recurred upon laying on the table the motion to reconsider the vote by which the main question was ordered; and being put, said motion was laid on the table.

The question recurred upon agreeing to the

resolution; and being put, the resolution was agreed to.

Mr. SHANKS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SUPPLIES FOR FREEDMEN.

The SPEAKER, the morning hour having expired, laid before the House a letter from the Secretary of War *ad interim*, transmitting a communication from the Commissioner of Refugees, Freedmen, and Abandoned Lands, recommending that authority be granted by Congress for the transfer to the Bureau of Refugees and Freedmen of a quantity of desiccated and mixed vegetables now on hand in the subsistence department; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

ST. LOUIS ARSENAL.

The SPEAKER also laid before the House a letter from the Secretary of War *ad interim*, transmitting a communication from the chief of ordnance, suggesting the removal of the St. Louis arsenal to the Jefferson Barracks reservation; which was referred to the Committee on Military Affairs, and ordered to be printed.

TENNESSEE MILITIA.

The SPEAKER also laid before the House a letter from the Secretary of War *ad interim*, transmitting the petition of certain members of the late militia of Memphis, Tennessee, and all information relating thereto; which was referred to the Committee on Military Affairs, and ordered to be printed.

AGRICULTURAL DEPARTMENT.

The SPEAKER also laid before the House a communication from the Commissioner of Agriculture, in reply to a resolution of the House of the 9th ultimo, relating to the condition of his Department, what legislation is necessary, &c.; which was referred to the Committee on Agriculture, and ordered to be printed.

Mr. TROWBRIDGE. I think the estimates which accompany that communication ought to be referred to the Committee on Appropriations.

It was so ordered.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER also laid before the House the resolutions of a public meeting of citizens of Syracuse, New York, on the rights of American citizens abroad; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

TREATY WITH JAPAN.

Mr. BANKS, by unanimous consent, presented the following communication from the Secretary of State; which was referred to the Committee on Foreign Affairs, and ordered to be printed:

DEPARTMENT OF STATE,
WASHINGTON, *January* 8, 1868.

SIR: I have the honor to inform you that pursuant to the stipulations of the treaty with Japan of the 22d of October, 1864, to which the United States was a party, this Government has received from the Japanese Government, without substantial equivalent, as its share of the indemnity stipulated to be paid by that treaty, the sum of $600,000 gold coin. This amount has been invested in United States registered bonds, and awaits such disposition as Congress may direct.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

To Hon. N. P. BANKS, &c.

RECONSTRUCTION.

Mr. BINGHAM. I desire to offer a resolution.

Mr. ROSS. I demand the regular order of business.

The SPEAKER. The regular order of business is for any gentleman who obtains the floor to move to suspend the rules after the expiration of the morning hour.

Mr. BINGHAM. I offer the following resolution:

Resolved, That the rules be suspended, and the Committee on Reconstruction authorized to report immediately, and that the House will on to-morrow proceed to its consideration, and on Wednesday next, after the expiration of one hour after the reading of the Journal, and the close of the debate by the member reporting the bill, proceed to vote on the same, with the amendments thereto, if any.

Mr. ELDRIDGE. I demand the yeas and nays on the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 44, not voting 30; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Harding, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Pomeroy, Price, Robertson, Sawyer, Schenck, Scofield, Smith, Spalding, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—114.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—44.

NOT VOTING—Messrs. Allison, Blaine, Boyer, Butler, Cake, Churchill, Cook, Cornell, Driggs, Eckley, Fields, Finney, Halsey, Hawkins, Jones, Ketcham, George V. Lawrence, Lynch, McCullough, Polsley, Raum, Selye, Shanks, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Burt Van Horn, and William B. Washburn—30.

So (two thirds voting in the affirmative) the rules were suspended, and the resolution introduced, and agreed to.

Mr. BINGHAM, from the Committee on Reconstruction, accordingly reported a bill (H. R. No. 439) additional and supplemental to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplemental thereto; which was read a first and second time.

The bill was as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, Florida, and Arkansas there are no civil State government republican in form, and that the so-called civil governments in said States, respectively, shall not be recognized as valid or legal State governments either by the executive or judicial power or authority of the United States.

SEC. 2. *And be it further enacted*, That for the speedy enforcement of the act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the several acts supplementary thereto, the General of the Army of the United States is hereby authorized and required to enjoin by special orders upon all officers in command within the several military departments within said several States the performance of all acts authorized by said several laws above recited, and to remove by his order from command any or all of said commanders and detail other officers of the United States Army, not below the rank of colonel, to perform all the duties and exercise all the powers authorized by said several acts, to the end that the people of said several States may speedily reorganize civil government, republican in form, in said several States, and be restored to political power in the Union.

SEC. 3. *And be it further enacted*, That the General of the Army may remove any or all civil officers now acting under the several provisional governments within said several disorganized States and appoint others to discharge the duties pertaining to their respective offices, and may do any and all acts which by said several laws above mentioned are authorized to be done by the several commanders of the military departments within said States; and so much of said acts, or of any acts as authorize the President to detail the military commanders to said military departments, or to remove any officers which may be detailed as herein provided, is hereby repealed.

SEC. 4. *And be it further enacted*, That it shall be unlawful for the President of the United States to order any part of the Army or Navy of the United States to assist by force of arms the authority of either of said provisional governments in said disorganized States, to oppose or obstruct the authority of the United States as provided in this act and the acts to which this is supplementary.

SEC. 5. *And be it further enacted*, That any interference by any person, with intent to prevent by force the execution of the orders of the General of the Army made in pursuance of this act and of the acts aforesaid, shall be held to be a high misdemeanor, and the party guilty thereof shall, upon conviction, be fined not exceeding $5,000, and imprisoned not exceeding two years.

SEC. 6. *And be it further enacted*, That so much of all acts and parts of acts as conflict or are inconsistent with the provisions of this act are hereby repealed.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. BINGHAM. I move that the bill be printed.

The motion to print was agreed to.

Mr. BINGHAM. I now move that the bill be recommitted, and then under the rule the bill will go over until after the morning hour to-morrow.

The SPEAKER. The motion to recommit will be entered on the Journal, and the bill goes over until to-morrow under the resolution just adopted.

Mr. BINGHAM. In addition to that I desire to say that if it be the pleasure of the House I will consent to modify the resolution just adopted. The last clause of that resolution provides that the debate shall be closed on Wednesday next an hour after the reading of the Journal. I will consent to modify the resolution so that the bill shall be the special order to-morrow after the morning hour, and from that day until disposed of.

The SPEAKER. The Chair will say that according to the resolution, when the debate shall have been closed, no dilatory motions can be entertained, because the resolution expressly declares that the vote shall then be taken.

Mr. ELDRIDGE. Then the purpose of the resolution thus adopted is to enslave not only the Executive and the judiciary but Congress also.

The SPEAKER. The resolution has been agreed to expressly by a suspension of the rules. The effect of it is to cut off dilatory motions when debate has been closed on the bill. The gentleman from Ohio [Mr. BINGHAM] asks consent to modify that portion of the resolution requiring the vote to be taken on Wednesday next.

Mr. BROOKS. I desire to have a full understanding with the gentleman from Ohio [Mr. BINGHAM] and the House. I desire to inquire of him, through the Chair, how much time he intends to allow for the discussion of this bill.

Mr. BINGHAM. I will answer that the suggestion I have made is intended to open up the resolution just adopted, so as not to restrict the debate at all, but simply to make this bill a special order after the morning hour for to-morrow and from day to day until disposed of. It is my purpose to answer the gentleman more fully if it be the pleasure of the House to allow debate to run the entire day to-morrow and the entire preceding day, the committee reserving the right after reasonable discussion, the House to be the judge of that, to close debate without any dilatory motion.

Mr. BROOKS. I understand the gentleman to say that he intends to allow reasonable time for discussion of this bill.

Mr. BINGHAM. Certainly I do, and hope the House will be of that mind, too.

Mr. LOAN. I ask unanimous consent to have printed an amendment which I propose to submit to this bill at the proper time.

There was no objection, and it was ordered accordingly.

The SPEAKER. The Chair understands it is not the intention to limit debate until after Wednesday, but that after that time the previous question will be demanded at such time as may be deemed fit.

Mr. BINGHAM. Yes, sir; and that it shall be made the special order for to-morrow after the morning hour.

Mr. ROSS. Would it be in order to move the resolution be laid on the table?

The SPEAKER. It would not be in order.

Mr. WILSON, of Iowa, rose, and was recognized by the Speaker.

Mr. ROBINSON. It has been announced from the Chair that the resolution which has been passed will prevent all dilatory motions. Do I understand the Speaker to decide that the resolution which has been passed alters our rules without notice having been given?

The SPEAKER. The rules were suspended.

Mr. ROBINSON. Are the rules of debate suspended?

The SPEAKER. Not the rules of debate, but all that interferes with the operation of this resolution. This question was decided in the last Congress on an appeal from the decision of the Chair by a vote of 151 to 4, embracing gentlemen of all parties, that the suspension of the rules of the House suspends everything which stands in the way of the specific action stated in the resolution. This debate is to continue, as the Chair understands, till some time after Wednesday next, when it shall close, and the vote be then taken without dilatory motion.

Mr. ROBINSON. I rise to take an appeal from the decision of the Chair on that point.

Mr. WASHBURNE, of Illinois. Has the gentleman any right to take an appeal?

Mr. ROBINSON. I have not got through with my parliamentary question.

The SPEAKER. The Chair declines to entertain the appeal.

Mr. ROBINSON. I did not get through with my parliamentary question.

The SPEAKER. The Chair has answered the parliamentary question, and the floor is in the possession of the gentleman from Iowa, [Mr. WILSON.]

Mr. ROBINSON. I have not yielded the floor.

The SPEAKER. The gentleman had not the floor, but occupied it by the courtesy of the gentleman from Iowa, [Mr. WILSON.]

Mr. ROBINSON. Have I any right to put a parliamentary question at any time?

The SPEAKER. Not now, unless the gentleman from Iowa yields.

Mr. ROBINSON. I do not ask him to yield. I am up to put a parliamentary question.

The SPEAKER. The Chair has answered it, and the gentleman proposed to take an appeal from the decision of the Chair, which the Chair has declined to entertain.

Mr. ROBINSON. I withdraw that and make another point.

The SPEAKER. The gentleman is not in possession of the floor.

Mr. ROBINSON. I have not taken my seat.

Mr. WASHBURNE, of Illinois. I call the gentleman to order.

The SPEAKER. The Chair will state to the gentleman from New York that he cannot continue this discussion, as the gentleman from Iowa is entitled to the floor. The gentleman rose, he said, to ask a parliamentary question. The Chair is willing to answer any fair parliamentary inquiry as to the effect of any decision or action of the House when propounded *bona fide*. The Chair answered the gentleman, and he then took an appeal, which the Chair declined to entertain. The gentleman had not the floor to take an appeal even if the bill was before the House. Does the gentleman from Iowa yield for that purpose?

Mr. WILSON, of Iowa. I do not.

Mr. ROBINSON. I do not ask him to yield me the floor.

The SPEAKER. The gentleman must obey the order of the Chair. He is not in order, and must resume his seat.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had indefinitely postponed House joint resolution No. 12, directing the Secretary of War to furnish certain muster-rolls to the different States.

SUPREME COURT OF THE UNITED STATES.

Mr. WILSON, of Iowa. I ask unanimous consent to report back from the Committee on the Judiciary Senate bill No. 163, declaring what shall constitute a quorum of the Supreme Court, with an amendment.

Mr. ROSS. I object.

Mr. WILSON, of Iowa. I move to suspend the rules.

Mr. ELDRIDGE. I rise to a question of order. I wish to know by what authority this bill is reported back at this time?

Mr. WILSON, of Iowa. By the authority of the committee.

Mr. ROSS. I rise to a question of order. I intended, when the proposition of the gentleman from Ohio [Mr. BINGHAM] came before the House, to move to lay it on the table. I want to know whether that question has passed from the consideration of the House?

The SPEAKER. The House, under a suspension of the rules, by a vote of 114 to 44, authorized the Committee on Reconstruction to report a bill, which should be before the House for debate until a certain time, at which time the House should proceed to vote on the bill. The gentleman from Ohio, [Mr. BINGHAM,] by consent of the House, granted under a suspension of the rules, reported this bill. He afterward consented to let it go over and to extend the time for debate, not limiting it until Wednesday, but extending it at least till Thursday, upon the suggestion of the gentleman from New York, [Mr. BROOKS.] That was assented to by general consent. The bill, therefore, is not before the House, because the resolution which has been adopted provides that the rules having been suspended the committee shall report the bill immediately, and the House will on to-morrow proceed to its consideration after the morning hour. That certainly cuts off the motion to lay on the table at the present time.

Mr. ELDRIDGE. I desire to propound an inquiry to the chairman of the committee, [Mr. WILSON, of Iowa.] He has stated that there has been a meeting of the committee upon this bill. I desire to know when that meeting was held?

Mr. WILSON, of Iowa. This bill was acted on by the committee at its last regular meeting. The gentleman from Wisconsin [Mr. ELDRIDGE] was not present at that meeting.

Mr. ELDRIDGE. I was informed that the bill was referred to the committee this morning.

Mr. WILSON, of Iowa. No, sir.

Mr. ELDRIDGE. Then I was under a misapprehension.

Mr. WILSON, of Iowa. I will state, with the leave of the House, my purpose in connection with this bill. I do not intend to ask action on it at the present time. I desire that, after being reported, it shall be printed with the amendment, and recommitted with leave to the committee to report at any time. If that should be agreed to I do not intend to report the bill back again till possibly next Monday, as the gentleman from Pennsylvania [Mr. WILLIAMS] desires to be heard on the bill. As that gentleman first introduced this proposition into this House, and as he has been absent on account of feeble health, I think it but fair that he should have an opportunity to be heard. I move to suspend the rules in order that the bill as amended be reported, printed, and recommitted, with leave to report it back at any time.

Mr. HOLMAN. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 72, nays 89, not voting 27; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Bingham, Blair, Boutwell, Bromwell, Buckland, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cullom, Dawes, Dixon, Dodge, Eggleston, Ela, Eliot, Farnsworth, Garfield, Gravely, Griswold, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Judd, Kelsey, Ketcham, Kitchen, William Lawrence, Loan, Logan, Mallory, Marvin, McClurg, Moore, Moorhead, Newcomb, Nunn, Peters, Pile, Poland, Price, Sawyer, Schenck, Smith, Stokes, Taylor, Thomas, John Trimble, Twichell, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—72.

NAYS—Messrs. Adams, Archer, Arnell, Axtell, Bailey, Banks, Barnes, Barnum, Boaman, Beck, Benjamin, Benton, Blaine, Brooks, Broomall, Burr, Cake, Chanler, Coburn, Covode, Donnelly, Eldridge, Ferriss, Ferry, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Johnson, Julian, Kelley, Kerr, Knott, Koontz, Laflin, Lincoln, Loughridge, Marshall, Maynard, McCarthy, McCormick, Mercur, Miller, Morgan, Morrell, Morrissey, Mullins, Mungen, Myers, Niblack, Nicholson, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Pruyn, Randall, Raum, Robertson, Robinson, Ross, Shanks, Sitgreaves, Spalding, Aaron F. Stevens, Stone, Taber, Lawrence S. Trimble, Trowbridge, Upson, Van Auken, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Windom, and Woodward—89.

NOT VOTING—Messrs. Allison, Boyer, Butler, Cook, Cornell, Driggs, Eckley, Fields, Finney, Halsey, Hawkins, Jones, George V. Lawrence, Lynch, McCullough, Phelps, Polsley, Scofield, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Burt Van Horn, William B. Washburn, and Wood—27.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. WILSON, of Iowa. I suppose that the vote just taken is an indication on the part of the House that it desires more speedy action than I proposed.

Several MEMBERS. That is it.

Mr. ROSS. I call for the regular order.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] has risen to the regular order.

Mr. WILSON, of Iowa. I therefore rise for the purpose of moving to suspend the rules in order that I may report Senate bill No. 163 at this time for immediate action.

Mr. HOLMAN. Mr. Speaker, is not that exactly the same proposition that we have just voted upon?

The SPEAKER. The Chair understands that the gentleman from Iowa has not completed his motion.

Mr. WILSON, of Iowa. I move to suspend the rules in order to authorize the Judiciary Committee to report this bill for present consideration, and that the consideration be proceeded with until the member reporting it shall demand the previous question and close the debate; after which the vote shall be taken on the bill and pending amendments without the interposition of any dilatory motion.

The SPEAKER. That motion is in several particulars different from the one upon which the House has voted.

Mr. HOLMAN. The motion, after all, in both instances is simply to suspend the rules to enable the committee to make a report. The other propositions are merely incidental.

The SPEAKER. It varies in several substantial particulars.

Mr. BURR. Is this the same bill on which we have voted?

The SPEAKER. It is the same.

Mr. BURR. I then demand the yeas and nays on the motion to suspend the rules.

Mr. WILSON, of Iowa. I wish to state that if the rules should be suspended I do not intend to cut off debate or amendment. I propose to leave the bill open for discussion and amendment.

Mr. MARSHALL. I ask the chairman of the committee whether it would not be agreeable to him and to the gentlemen on the other side to postpone debate and action on this bill at least for a day or two? It is a very important proposition, and I should dislike very much to have it taken up for immediate action.

Mr. WILSON, of Iowa. The House has just voted against a proposition of that kind; and furthermore, that order will be invalid in consequence of the order made by the House this morning with reference to the report of the Committee on Reconstruction.

The SPEAKER. If this is made a special order and it should antagonize with the other special order, the latter, being made first, would have priority.

Mr. MARSHALL. It could be made the special order for Thursday next without antagonizing.

Mr. WILSON, of Iowa. The House has

substantially determined not to postpone the consideration of this bill, and I believe my colleague on the committee [Mr. MARSHALL] voted against the proposition.

Mr. MARSHALL. The proposition was to postpone till Monday.

Several MEMBERS. And you voted against it. [Laughter.]

Mr. MARSHALL. Yes, sir; but for a very different reason from that which I now urge. I did not wish to hasten the action of the House by any vote of mine. We have a right on all sides to vote so as to place obstacles in the path of a measure of so great importance as this.

Mr. KELSEY. I rise to a point of order. On a motion to suspend the rules debate is not in order.

The SPEAKER. The Chair sustains the point of order.

Mr. ROSS. Is it now in order to move to postpone?

The SPEAKER. You cannot move to postpone a motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and there were—yeas 113, nays 38, not voting 37; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Cary, Churchill, Sidney Clarke, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Eggleston, Ela, Eliot, Ferriss, Ferry, Garfield, Gravely, Griswold, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Loughridge, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Aaron F. Stevens, Stokes, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—114.

NAYS—Messrs Adams, Archer, Axtell, Barnes, Barnum, Beck, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Marshall, McCormick, Morgan, Morrissey, Mungen, Nicholson, Pruyn, Robinson, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—38.

NOT VOTING—Messrs. Allison, Boyer, Butler, Cook, Cornell, Driggs, Eckley, Farnsworth, Fields, Finney, Golladay, Halsey, Jenckes, Jones, Knott, George V. Lawrence, Logan, Lynch, Maynard, McCullough, Niblack, Phelps, Poland, Polsley, Randall, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Taylor, Burt Van Horn, William B. Washburn, Windom, and Woodbridge—36.

So (two thirds voting in favor thereof) the rules were suspended.

During the roll-call,

Mr. CHANLER (who had voted in the affirmative) said: I rise to inquire whether the Chair will entertain a motion to reconsider this vote?

The SPEAKER. That question is scarcely in order during the roll-call. The Chair will state, however, that the vote on a motion to suspend the rules cannot be reconsidered. The rule is to be found on page 171 of Barclay's Digest.

Mr. CHANLER. Then I change my vote and vote "no."

The result of the vote having been announced as above recorded,

Mr. WILSON, of Iowa, under the operation of the resolution, reported back from the Committee on the Judiciary bill of the Senate (No. 163) declaring what shall constitute a quorum of the Supreme Court, with an amendment.

The bill was read. It provides that any number of the justices of the Supreme Court of the United States not less than five, being a majority thereof, shall constitute a quorum.

The amendment reported by the committee was read, as follows:

SEC. 2. *And be it further enacted*, That no cause pending before the Supreme Court of the United States which involves the action or effect of any law of the United States shall be decided adversely to the validity of such law without the concurrence of two thirds of all the members of said court in the decision upon the several points in which said law or any part thereof may be deemed invalid.

Mr. WILSON, of Iowa. I do not desire at this time to make any remarks concerning this bill, and inasmuch as other gentlemen desire to be heard I yield the floor.

Mr. WILLIAMS, of Pennsylvania. I offer the following amendment as a substitute for the amendment reported by the committee:

That in all cases of writs of error from and appeals to the Supreme Court of the United States, where is drawn in question the validity of a statute of or an authority exercised by the United States, or the construction of any clause of the Constitution of the United States, or the validity of a statute of or an authority exercised under any State on the ground of repugnance to the Constitution or laws of the United States, the hearing shall be had only before a full bench of the judges of said court, and no judgment shall be rendered or decision made against the validity of any statute or of any authority exercised by the United States, except with the concurrence of all the judges of said court.

Mr. Speaker, the amendment which I have the honor to offer is a copy of a bill introduced by me in the Thirty-Ninth Congress, which seemed at the time of its introduction to startle the profession and to some extent the country at large. I thought it rested upon sound principles, and I felt prepared to defend it; but it occurred to me that it was perhaps a little too late in the session and that it would be better to let it lie over until it had been well considered and the professional and the public mind were both matured and both prepared for its discussion, which the former seems to be now, judging from the vote of this House to-day. Feeling myself under some responsibility, and that I was called upon to explain the grounds upon which I had submitted it, I desired the privilege of having this matter passed over for a few days. The same bill which I submit as an amendment was reintroduced at the present session of Congress and is now depending before the Judiciary Committee. The amendment reported by the committee involves a recognition of the principle of that bill. The question is merely as to the measure of security, between more or less. The amendment which I offer requires unanimity on the part of the Supreme Court. The amendment of the committee stops at two thirds.

My own judgment is that there is no reason that will apply, no argument that can be offered in favor of the amendment of the committee, which does not apply with equal force to the amendment submitted by myself. Still I was not prepared to meet this question now. I did not feel that the bill itself as prepared by myself was sufficient in its details to meet the exigencies of the case. There is nothing in it to provide for the contingencies that may arise in the decision of causes in the circuit court. It wants further arrangement. It wants to be perfected. It wants full consideration. If I may be allowed to say it, this is a big question. I do not think that the passage of the bill can be facilitated by forcing it through here. Gentlemen seem to be of the opinion that delay would not answer. My opinion is different. I do not think it will pass any sooner by being forced through here to-day or to-morrow. It seems to me that if it is well argued here the principle might be so well vindicated as to satisfy, perhaps, the other branch of the Legislature.

But there is an apprehension that the country will suffer by any delay. It is said that there is a case now depending in the Supreme Court of the United States upon which this question may be ruled to-day or to-morrow. Suppose such be the fact—I do not know that there is any such case—but suppose that such be the fact, that such a case is now depending there, and a decision is made by the court, what harm can it effect? Instead of harm I think it will do good, because it will awaken both Houses of Congress to the necessity of some such provision as this, intended, as it is, to defend the legislative power, which is the true sovereign power of the nation. Suppose the Supreme Court do make the decision apprehended, what will be the result? It will be the law in that individual case and no more. And a bill passed by the two Houses, upon full consideration, well-matured as it ought to be, and which I take it this is not, can be enacted in time to prevent any further mischief to the country, if any mischief can be inflicted now by a decision of that sort.

I did not rise, however, for the purpose of making a speech upon this question. I desire time, not only to enable me to prepare myself upon it, and also to gain the strength which will justify my doing so, but mainly to perfect this bill and put it in such a shape that it may be safely passed by this Congress, as it is not clearly now, in my judgment. I think this bill will be found not to work well in practice if passed. I could show such to be the fact if I had strength to do so, which I have not. I have already ventured further upon my strength than I have before for months. I ask permission of the House to print in the Globe such remarks as I may be able to prepare upon this subject.

No objection was made, and leave was accordingly granted.

Mr. MAYNARD. I would like to ask the gentleman from Pennsylvania [Mr. WILLIAMS] to consent that his amendment be modified so as to require a concurrence of three fourths of the judges of the Supreme Court, instead of, as now, requiring a unanimous concurrence of those judges.

Mr. WILLIAMS, of Pennsylvania. I cannot consent to that modification. My object in the remarks I may make upon this subject will be to show that there is no reason which would authorize or warrant this House in requiring the assent of two thirds of the Supreme Court bench which would not be equally applicable to a unanimous decision. We differ only as to the question of the measure of security. A majority of the Committee on the Judiciary think that two thirds are enough. I think that where eight men claim the power of legislating by construction, by ruling what the Constitution of the United States is and what it is not, we may well require the concurrent voices of all these men when they are expected to overthrow the decision of perhaps one hundred and sixty lawyers of the two Houses of Congress. It is not exacting a great deal to require unanimity. It is upon that point that I desire to make some remarks. If there is anything in the argument for the two-thirds rule the argument will show equally well that a unanimous decision should be required, even though the court were composed of one hundred members, to reverse the decision of what ought to be the high court of the nation.

Mr. MAYNARD. I do not wish to debate with the gentleman a question which he has studied much more fully than I have. But I would suggest to him that the effect of his amendment would enable an eccentric or pragmatical man upon the bench to control the operations of the court.

Mr. LAWRENCE, of Ohio. I would suggest to the gentleman from Pennsylvania [Mr. WILLIAMS] that perhaps it would be well for him to modify his amendment somewhat so as to make it conform to the second section of an act approved February 5, 1867. That section, which I believe I had the honor to prepare and to submit to the House, modifies the original judiciary act and enlarges somewhat the jurisdiction of the Supreme Court of the United States. If I correctly understand the amendment submitted by the gentleman from Pennsylvania, it is not as broad as the second section of the act of February 5, 1867. I merely rise for the purpose of suggesting to him that he make his amendment conform to the second section of the act to which I have referred, so that it shall be as broad in its terms as that law.

Mr. WILLIAMS, of Pennsylvania. What is the provision to which the gentleman refers?

Mr. LAWRENCE, of Ohio. I will ask the Clerk to read the section to which I refer.

The Clerk read as follows:

SEC. 2. *And be it further enacted*, That a final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty, or statute of, or an authority exercised under, the

United States, and the decision is against their validity, or where is drawn in question the validity of a statute of or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of such, their validity, or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held, or authority exercised under the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority, may be reëxamined and reversed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice, or judge, or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner, and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall also be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the same, and award execution or remand the same to an inferior court. This act shall not apply to the case of any person who is or may be held in the custody of the military of the United States, charged with any military offense, or with having aided or abetted rebellion against the Government of the United States prior to the passage of this act.

Mr. WILLIAMS, of Pennsylvania. I will say in reply to the gentleman from Ohio [Mr. LAWRENCE] that the amendment introduced by me was merely intended as the assertion of the unanimity idea, in contradistinction to that adopted by the committee. So far as regards the details, I have already remarked that this bill is imperfect. It is not in a condition to go to the country as it now stands. My judgment is that it ought to be recommitted; and I take leave to say that it will require the best legal ability in the House and the largest amount of care and consideration to give it the shape it ought to have before it passes this body. I think, therefore, decidedly that it ought to be recommitted.

In regard to the proposition to require unanimity I will make a single remark in answer to the suggestion of the gentleman from Tennessee, [Mr. MAYNARD.] He is perfectly well aware, as is every lawyer here, that it is a well-settled principle that no act of the law-making power should ever be declared invalid upon constitutional grounds unless it be a clear case. Now, I hold that wherever, with a bench composed of eight judges, there is one dissenting member, the case is to be regarded as by no means a clear one. That dissent on the part of one member of the court implies doubt; and most lawyers, I suppose, will agree with me that in cases where there is a dissent among the members of the court, the opinion of the dissenting judge will almost invariably be found to be the better one. I say this only by way of answer to the question of the gentleman from Tennessee.

Mr. PRUYN. Mr. Speaker, after an absence of a few days from this House, I find myself here to-day under circumstances which would lead me to suppose that I am in the midst of a revolutionary tribunal. We have here to-day propositions of a most extraordinary character. First, we have had a proposition to strip ten States of every remaining evidence of their sovereignty, and the Executive of his constitutional power; and now we are startled by another measure calculated virtually to rob the Supreme Court of the United States of the authority which has given it influence, dignity, and strength before the country and before the world, and which has been conceded to that tribunal from the inauguration of the Government to the present time; and this measure is proposed, as the gentleman from Pennsylvania [Mr. WILLIAMS] has admitted, in view of the fact that that court may possibly make a decision which will come in conflict with the views and opinions of a majority of the members of this House. I am sure that this open, bold, daring avowal will strike the country with surprise; and I am glad to find that even the gentleman from Pennsylvania falters when he approaches this point, and wishes to have the measure considered with more care and more deliberation than the majority of this House seem disposed to give to it. I cordially agree with him if anything is to be done, if any outrage of this kind is to be perpetrated, it should be done at least with that regard to decency of form and time and action which will give its authors at least some pretense for inflicting it upon the country; and I trust, sir, without entering into any extended debate in reference to this matter, because it has come upon me most unexpectedly, that the suggestion of the gentleman from Pennsylvania [Mr. WILLIAMS] to postpone this discussion to a future time will receive the sanction of the House.

Mr. MARSHALL. Mr. Speaker, I find myself in the position, I suppose, of almost every member of the House, of being entirely unprepared to enter into a proper discussion of the very grave question brought before us this morning. It appears to me that the course of gentlemen who have the control of the deliberations of this House in the last and present Congress is such as to do great injustice not only to the minority but to the House itself. On all questions brought before this body involving great constitutional questions action is forced almost instantly upon their introduction to the House, without any opportunity for preparation, without any opportunity for examination of authorities, without any opportunity for deliberation, and the result is necessarily that, in the eyes of the nation and the world, the debates in the House of Representatives are losing character, as compared with the debates in the other branch of the Legislature. There no restraint of this kind is placed upon the deliberation of that body. Every member who desires to discuss a question before the Senate has ample time given him for investigation and to be heard at length. Consequently, though there may not be a greater amount of talent in the other branch than in this, yet from the practice of the Senate, as compared with that of the House, the debates of the Senate are and must continue to be looked to as abler and more thorough than those of this body. In pursuing this course we are doing manifest injustice to ourselves, and we ought to abandon it, and those who have the control of the course of legislation on this floor ought from this moment to abandon this vicious practice which is so unjust to the minority, and which has deprived us all of our proper influence before the country. The distinguished gentleman from Pennsylvania, [Mr. WILLIAMS,] a member of the Judiciary Committee, the gentleman who first brought this question before the country, and who desires time for the deliberate investigation thereof, is, with the minority, grossly wronged by such indecent haste to force through a measure of such grave importance.

Feeling, as I do, my utter want of preparation to enter upon a discussion of the questions involved in this measure, I could not feel that I had discharged the duty devolved upon me here if I should fail to protest against the proposed action of the House, for I am painfully impressed with a conviction that of all that strange series of revolutionary measures which have been brought forward in the last and present Congress tending to subvert and destroy the institutions of our country, and which have caused such wide-spread gloom and despondency, this is one of the very worst, for it is striking a blow at and subverting one of the coördinate branches of the Government. The theory of our Government is that it is one of checks and balances; that there is no arbitrary power lodged anywhere that can rightfully cripple or fetter any one of these coördinate parts of our system. They are all necessary to the due equilibrium of the whole and to the protection and security of the rights of the citizen. It is laid down by writers of our constitutional law, and such is the theory of our Government, that as long as each of these departments is maintained in its due constitutional vigor there can be no deprivation of the rights of the people or subversion of the institutions of our Government except by the concurrent act of them all. Each would operate as a complete check upon the other two when wrong or usurpation was attempted. And in such case if any one branch remains true to the Constitution and firm in defending it there could be no danger of a subversion of our institutions. But Congress has gone on from measure to measure claiming despotic power in the legislative branch. This assumption is not only without authority in the Constitution but contrary to every true principle of free government.

If the House and Senate are absolute, if they may override the will of the people, override the will of the Executive, override the deliberate judgment of the Supreme Court of the United States, then we have already established a despotism in our country, and the free institutions of our fathers are no longer in existence; not a despotism of one man, but of a usurping Congress acting outside of and in defiance of the Constitution. It is assertion of absolutism the people must and will repudiate, unless they have made up their minds to submit to any and every aggression upon the institutions of their country.

Consider for a moment the proposition now before the House. The Constitution provides that there shall be three coördinate departments of the Government—legislative, executive, and judicial; the legislative to make the laws, the executive to execute them, and the judicial to construe them. The Constitution also provides that the Constitution shall be the supreme law of the land; and every court when called upon to decide questions involving the right of citizens, whether of person or property, is compelled to ascertain and decide what the law is, and it is for that reason that they must first look into the Constitution; for if it applies it is the paramount, supreme law, and the decision must be given in conformity thereto.

But what is to be the action of that court and the power of that court under this law? A question involving the right of citizens arises before that court. As constituted it consists of eight members, and a quorum will consist of five members. One man claims a right under the Constitution of his country, and another an antagonistic right under an act of Congress. For instance, suppose this Congress enacts a law transferring all my property to my neighbor, giving him an absolute title. I bring a suit which reaches the Supreme Court. I claim that under the Constitution of the United States the property is mine. My neighbor claims that under the act of Congress it is his. There are five members of the court present. Those five believe that my title is good and that the act of Congress is void. But what is the result of the passage of this bill now before the House? The entire court have not the power to return to me my property and declare the act of Congress void. There must be the concurring judgment of at least six judges under the provisions of this bill to declare an act of Congress void. So that this bill prohibits the court from restoring to me my property which has been taken from me by an act of Congress passed in most palpable violation of the Federal Constitution. What is Government worth if an outrage of this character can be perpetrated in open day and with impunity? Are gentlemen willing to place themselves on record as sustaining an act involving consequences so monstrous as that?

Suppose, again, that Congress should pass an act of attainder, confiscating the property of some person and bringing him to trial, punishment, and death, as was once the practice in the British Parliament. It would, of course, be a palpable violation of the Constitution. The question comes before the Supreme Court. A quorum consists of five members, and but five are present at the trial of the cause; but those five have no power to declare the act void; and if this bill is to become a law there is no means of arresting the perpetration of this monstrous outrage. The court would have no power to declare the act void, though admitted by every lawyer in the country to be a most manifest violation of the Constitution.

Can an act that could by any possibility result in the perpetration of such outrages be justified for a single moment?

But it may be said this is putting an extreme case. Sir, there are a thousand cases of this kind that may be put, on which questions of this very character might arise; and it is my deliberate judgment, and the judgment of many lawyers a thousand times abler than myself, that a large portion of the most important legislation of the Thirty-Ninth and Fortieth Congresses are as clearly in violation of the Constitution as the cases I have put. A more monstrous proposition, I submit with all due respect, has never been brought before any deliberative body. And I say to gentlemen here that the very bringing forward of this proposition, coupled with the fact that there is a probability of its passage, amounts to a plea of guilty on the part of the majority of this Congress to the charge so often preferred against them. It is a confession of guilt, a committal of suicide, an admission that they dare not allow acts passed by them to be brought before the supreme judicial tribunal of the country. That is the way the people will understand it, and I say it with all respect to the gentlemen on the other side that this measure is hurried through here this morning to prevent an adjudication upon the validity of their motley reconstruction acts by that great tribunal, honored by the learning and ability of the distinguished men who have occupied seats on that bench. I repeat, that the very bringing forward of a bill of this kind at this time is a confession of guilt on the part of the majority. It is evident that they feel and know in their hearts that their legislation will not bear investigation by a legal tribunal, made up now principally of members of their own party, placed there by their own favored President.

But, sir, what is the further effect of the amendment? A circuit or district court has a question brought up before it involving the rights of citizens under the Federal Constitution and under an act of Congress, and the question arises as to the validity of that act. The circuit or district court after full argument decides that the act of Congress is unconstitutional and is not the law. The question is brought before the Supreme Court of the United States. Five judges preside as a quorum, or we will say that there are six present. Five of them are of opinion that the act is unconstitutional and that the decision of the circuit or district court is correct. The sixth judge is of opinion that the law is not in violation of the Federal Constitution. Now, whose judgment is to stand? What becomes of the case? Has that one judge the power to reverse in the face of his five brothers there sitting by him, the decision of one of the Federal courts of the country and send it back as nullified; or what becomes of the case? The proposition as it now stands does not provide for this case. It provides that the court shall not declare unless by a vote of two thirds of the entire court the invalidity of an act of Congress. The court below have so decided and the case comes up for adjudication. Five of the six judges are of opinion that the decision of the court below is correct, yet unless the court has the manhood or the power to declare that this proposed act is void and that they will not be governed by it, they will have no power to give a decision in conformity to the law and the facts.

Now, I say that there is no power under the Federal Constitution to pass such a law as we have here. The Supreme Court is provided for in the Federal Constitution and it is its duty to declare what the law of the land is. And what is the law of the land? Where do you find it? Why, you must look in the first place to what are called the fundamental laws of the land, the Constitution of the Federal Government, the treaties made in accordance therewith, and then you come down to the acts of the Federal Legislature, and so forth. They are all laws and stand together if they do not conflict with each other. It is part of the business of the court to look into all and to execute them properly. But suppose there is a conflict, then which prevails? Why, the Constitution comes in and decides that question for us. The Constitution of the United States shall be deemed the supreme law of the land, and the court upon their oaths are bound so to regard it. When the court is called upon to execute the laws and decide the rights of citizens they look into it. They find that one man has a right under the Federal Constitution and that another man has a conflicting claim under a law of Congress, and they must decide in conformity with the Federal Constitution. This bill tells the court that they must decide in conformity with the act of Congress and against the provisions of the Federal Constitution as they understand it.

Now, sir, how is it possible for a law of this kind to stand investigation before an intelligent people, jealous of their rights, jealous of their liberties, and jealous of the preservation of this free Government, made up of checks and balances intended to protect the citizen at all times in all his rights, and providing tribunals which, if there is no usurpation anywhere, will in all cases eventually secure equal and exact justice to all?

Now, sir, I believe an amendment is already prepared providing that where the decision of the court below is adverse to an act of Congress, holding it to be void, and the question is brought before the Supreme Court, unless two thirds of that court—that is to say, unless six judges, probably one more than may be sitting on the trial of the cause—shall be of opinion that the decision of the court below is correct and ought to be sustained, the judgment of the court below shall be considered as reversed, and the order of the Supreme Court shall be in accordance with this mandate of Congress. Such a proposition follows logically from the amendment already before the House. It is the natural and necessary result, and I understand that such a proposition is prepared as a fit and appropriate appendage to the amendment reported by the committee. Well, now, what will that amount to? Is the judgment entered up a decision of the Supreme Court or is it a judgment entered up in conformity with the decree of the Federal Congress directing them to do so? What, then, becomes of the judicial tribunals of the country? Is this not a most manifest usurpation of judicial power by the Federal Congress?

It is a usurpation, a most palpable and manifest usurpation, of the powers delegated and intended to be delegated to this great conservative department of our country, the Supreme Court of the United States.

I tell you, Mr. Speaker, it is not safe for any party to come forward in the face of the country as you are doing at this time to trample down into the dust that great tribunal which established such reputation under the lead of the great men who have presided in that body. There is a reverence for that tribunal, for its justice, its learning, its conservatism, its ability, its adherence to the great principles of our Government, and its protection of the rights of the citizens, which will not permit any Congress for partisan purposes, merely that they may carry out the objects they have in view, to trample it down and crush it out of existence. Yet, so far as that tribunal is of any use in protecting the rights of the citizens where a violation thereof is attempted by the Government this bill is crushing it out of existence. It is virtually saying that where it comes in conflict with Congress it must go down and be as if it did not exist at all. It is the assertion of absolutism on the part of the legislative branch of the Government which has been made in terms at times heretofore, but never so strongly as in the bill now before the House.

Now, I know that on all sides of this House there are men who are animated by a love of country, who wish to preserve and perpetuate its free institutions, and I appeal to all such on the other side of the House to rend asunder the party fetters in which they lie bound, assert the true manhood and nobility of their nature, obey their own generous, honest, and patriotic impulses, and aid in the rescue of this great palladium of our liberties from the unhallowed and ruthless assaults now made upon it. If you pass this bill into a law there is no one of the safeguards or great principles of the Constitution that is worth a single straw to the citizen.

The provision of your Constitution giving the right to a speedy trial by jury, the provision prohibiting the passage of bills of attainder, and every safeguard of that character, are virtually swept away whenever a Congress can be gotten together so besotted, so guided by prejudice and folly, as to make enactments depriving citizens or communities of the dearest rights. And let me say that the people throughout the country are not so much in love with the Congress as to indorse or submit to such acts as this.

Mr. BINGHAM. Will the gentleman allow me to make an inquiry of him?

Mr. MARSHALL. Certainly.

Mr. BINGHAM. I desire to know of the gentleman whether he is not aware of the fact that this bill, as reported by the chairman of the Committee on the Judiciary, [Mr. WILSON, of Iowa,] proposes to do as much as, and no more than, was required by the original judiciary act of 1789, under the administration of President Washington?

Mr. MARSHALL. To what provision of that act does the gentleman refer?

Mr. BINGHAM. That nothing short of what is required by this bill could pronounce any such judgment.

Mr. MARSHALL. What is the provision? Will the gentleman turn to it?

Mr. BINGHAM. I will give the gentleman the provision. It is as follows:

"The Supreme Court of the United States shall consist of the chief justice and five associate justices, any four of whom shall be a quorum, shall hold annually at the seat of Government two sessions," &c.

As that court was constituted by the act of 1789, it must be apparent to the gentleman from Illinois [Mr. MARSHALL] and to every gentleman in this House who has listened to his speech that Washington and the Congress of 1789 were guilty of an attempt to pollute this high tribunal of justice when they framed a law which upon its very face shows that in no case could that court pronounce a judgment, if the court were full, affecting anybody's rights, much less affecting the right of the American people to legislate in Congress assembled, without the concurring assent of two thirds of that court.

Mr. MARSHALL. Of three out of five.

Mr. BINGHAM. Of four out of six, and the gentleman knows it.

Mr. MARSHALL. Suppose there were but five present; what then?

Mr. BINGHAM. The court was so framed as to make it necessary, without express words, by the operation of the statute, that two thirds of the court as then constituted, whether a quorum was four or six, must concur in the judgment.

Mr. MARSHALL. I prefer to resume the floor, as the gentleman will not attend to the questions I propound to him.

Now, Mr. Speaker, I have a great deal of respect for the ability of the distinguished gentleman from Ohio; but this is one of the most palpable and manifest dodges—and if I had not so much respect for the gentleman, I would say one of the most shameful dodges—of a proposition and argument brought before the House that I have at any time heard attempted to be imposed upon the House or the country. There is in the judiciary act of 1789 nothing of the character that the gentleman referred to in the question he proposed. This is a simple enactment organizing the court, providing the number of judges necessary to constitute it and to constitute a quorum thereof. There is no attempt to fetter the court in its action or to dictate to it what its judgment shall be in any case. It has not one of the

objectionable features of the bill I am now combating. And it is impossible to believe that any intelligent gentleman can be candid in asserting that there is any analogy whatever between the law read and the bill now before the House.

Mr. BINGHAM. If a quorum were present as provided in the law there could be no decision without the concurrence of two thirds of the court. I say that is the philosophy of the statute, though the gentleman may call it a "dodge."

Mr. MARSHALL. It was the result of the organization of the court. It required four to constitute a majority, and this majority, as it happens, was also two thirds of the whole. But the concurrence of two thirds was necessary for a decision in favor of the constitutionality of an act as well as for a decision against it. It was not a proposition to fetter the action of the court in any respect whatever. There was no provision such as that proposed here, that an act of the Federal Congress should stand although the court might be of opinion that it was void. That is the proposition now brought before the country for the first time. There was nothing of that character in the act organizing the court, and nothing has the slightest resemblance to it. It has no analogy whatever to the proposition before the House at this time; and, sir, I am astonished that a gentleman so distinguished as the gentleman from Ohio should attempt to palm off upon the House and the country the idea that there is any analogy between the act organizing the Supreme Court and the bill now before the House.

I was going on to say when the gentleman from Ohio arose that the masses of the people differ very much with gentlemen on this floor in regard to the wisdom of Congress. Gentlemen, when they get into Congress, seem to think that the embodied patriotism and wisdom of the entire nation are concentrated here. From the declarations which are often made upon this floor, gentlemen seem to think that all the wisdom, all the virtue, all the law-knowledge of this nation is concentrated here upon the floor of this House. Now, let me tell you, Mr. Speaker, that upon that subject there is a very manifest difference between the gentlemen inside of the "ring" here and the mass of the people outside. The mass of the people think, and to some extent justly, that in the Halls of Congress there is often concentrated as much ignorance, as much prejudice, as much want of patriotism, as much want of real statesmanship, as is to be found in an assemblage of the same number of gentlemen anywhere through our broad land. Why, sir, look at this question of reconstruction through which Congress has been hobbling and blundering for nearly three years. Measure after measure, each declared to be and in fact being the concentrated wisdom of Congress, has been passed one day to be repealed the next by the same men who enacted it. Day after day, week after week, month after month, the very men enacting these laws have come forward and admitted their utter inefficiency and incapacity as legislators by repealing laws that the day before they were ready to denounce any man as disloyal who would not swear to their wisdom.

Mr. PILE. I rise to a point of order. The gentleman is not discussing the bill before the House. I submit that a discussion of the wisdom of this House and of the general character of its legislation is not in order upon this bill.

The SPEAKER *pro tempore*, (Mr. LAFLIN.) The gentleman from Illinois [Mr. MARSHALL] will confine himself to the question under consideration.

Mr. MARSHALL. Yes, sir; and I would like the Speaker to decide whether I am not confining myself to the question. I was giving this merely as an illustration; and I shall insist, unless the Speaker overrules me, that my remarks were strictly within the rules of the House.

The SPEAKER *pro tempore*. The Chair does not rule that the point of order is well taken. The gentleman from Illinois will proceed in order.

Mr. MARSHALL. Now, sir, the difference between the House and the country is about the same difference which existed between the gentleman in the insane asylum and the people outside. A visitor found an inmate who appeared to be an intelligent man, who talked well and seemed to act rationally, and he finally asked him how it so happened that he was confined within the walls of such an institution? "My dear sir," he replied, "it is the result of a mere difference of opinion. I think all the world crazy and they all think me crazy, and being in the majority they have put me here." [Laughter.] Gentlemen may think they have the concentrated wisdom of the nation, that the outside world, including the Judges of the Supreme Court, are fools and idiots when they give an opinion on a mere constitutional question, but the majority is outside and they think otherwise, and you will find it out when they come to consider the questions you are bringing before this House. They are of the opinion that there is very little wisdom within the Halls of this Capitol, that there is not an excess of legal learning, and that there is not a superabundance of patriotism free from prejudice and error. And I think they have some little ground for their opinion, though unhappily they include myself in the number.

I do not claim for myself more than a very small portion of the wisdom and legal learning of this nation. I should be ashamed of myself, and should be willing to shrink into mere nothingness, if I should prefer a claim to more than this. I do not wish to do injustice to my associates on this floor. I respect many of them very highly for their learning and patriotism. But the Supreme Court, that great conservative department of our Government, cannot be destroyed or emasculated without striking from under our system of free institutions the very pillar that supports them. I therefore implore gentlemen not to risk the rising indignation of the people by going further with measures of this kind.

It seems to me, and I say it in all deference, to be most revolutionary and dangerous in its character, and so the great mass of the people will consider it.

Now, Mr. Speaker, I have been forced into a consideration of this question without any preparation whatever, without any prethought or prearrangement of my ideas; but the question as it is brought before the House at this time strikes me as so enormous, so dangerous in its character, that I was not willing to let it go before the country without making the protest I now do against its passage.

Mr. SPALDING. Mr. Speaker, I ought to have great respect for the legal profession. I certainly have great respect for the administrators of the law, for it has been my lot for the best part of half a century to be brought in close connection with them, and I am gratified to have it in my power to say on this occasion that I am not reckoned among the extremists of this House, men who are most fond of innovations. Hence I hope some little deference may be shown to my opinions on this important subject.

Some twelve months ago I was made conversant with the bill drafted by my friend from Pennsylvania, [Mr. WILLIAMS,] who has just now spoken on the subject before the House, and who is the author of the amendment proposed. The measure to which he gave inception struck me as being one beneficial to the whole country, but I then objected, as I do now object, to the universality of his measure, that is, to requiring every member of the Supreme Court of the United States to yield his concurrence to a judgment that should impugn an act of Congress. I suggested then to the gentleman that he should require two thirds of the members of that high tribunal should agree before an act of Congress regularly passed should be invalidated. And I did it, sir, and I now advocate that measure from the analogy existing in the Constitution itself. We all know when a measure is regularly passed through the two Houses of Congress, the Senate and House of Representatives, the measure must be submitted to the chief executive, the President of the United States, and if he returns that bill with his approval it becomes the law of the land, second only to the Constitution of the United States. But, sir, if the President in his wisdom does not see fit to approve of the bill that has passed through the two Houses—what then? Did the framers of the Constitution presume that all the wisdom resided with the Executive? Not at all; no more than they could have bound you to presume that all the wisdom resided, in a certain contingency, with a single justice of the Supreme Court of the United States.

They required that the bill should then undergo revision, and if upon due consideration it should be again passed by two thirds of the votes of each branch of Congress it should become the law of the land, the opinion of the President to the contrary notwithstanding. Here, then, we find in the Constitution a provision requiring two thirds of the Senate and of the House to pass a law over the veto of the President.

Now, sir, I assume that we have in this way and manner passed bills through the House of Representatives and through the Senate. They have undergone the supervision and criticism of the Executive and been returned with his objections; and upon a reconsideration, upon mature reflection and deliberation, they have been passed again by the constitutional majority of two thirds of each House of Congress. They then became the law of the land just as much as if they had received in the first instance the approval of the Executive.

Now, a congressional enactment thus passed under the forms of the Constitution comes under the review of the Supreme Court of the United States. Of how many members does that high tribunal consist? A short time ago it consisted of ten; then nine; and now eight. But we have a standing law upon the statute-book which fixes the number at seven so soon as there shall be one vacancy created upon the bench, by death, resignation, or otherwise. Now take that number, and the act of Congress, which I have assumed to have been enacted by two thirds of each branch, comes before that tribunal thus constituted. Three of the learned gentlemen on the bench are for affirming the action of Congress as being, in the the strictest sense of the term, constitutional. Three others say it is not, in their judgment, constitutional. Thus they stand evenly balanced; three on one side and three on the other. What then? The fourth judge turns the scale by giving it as his opinion that the enactment is unconstitutional. Thus his voice, in fact, renders null and void the action of two thirds of the Senate and two thirds of the House of Representatives. Is that reasonable? Sir, I contend that the same process of reasoning which would show a public utility in requiring two thirds of the Senate and House of Representatives to enact a law over the opinion of the President of the United States requires two thirds of the Supreme Court to reverse our action on the ground of its unconstitutionality.

The question with me is, is action of this sort on the part of Congress by itself constitutional? That is, have we a right under the Constitution to provide that in adjudicating upon constitutional questions two thirds of the Supreme Court shall unite in their opinion before an act shall be pronounced unconstitutional? If we have not the constitutional power thus to legislate our action will be futile, because this same tribunal will scan it closely and pass upon it, and they may pronounce it unconstitutional. Even though it has the concurrence of both branches of Congress and the approval of the President the court can still declare it unconstitutional.

Therefore I say we should first inquire, have we the right under the Constitution to say how many members of the court shall be required to concur before the judgment of the court shall be operative and binding as law. I claim, after some reflection and investigation of the subject, that we have the right, and that the right has appertained to Congress ever since the adoption of the Federal Constitution, to legislate upon this subject, and to provide by law what number of judges it shall require to pronounce judgment upon any act of ours.

Why, sir, the Constitution barely provides that there shall be a Supreme Court of the United States. The provisions in regard to the judiciary are within a very narrow compass, and it may be profitable for the House to understand what they are; for without reverting to that instrument its provisions on this subject may not be familiar to the mind of every gentleman in this Hall.

Article three, section one, provides as follows:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges both of the Supreme and inferior courts shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office."

That is the whole of that section. It does not fix the number of judges which shall constitute the Supreme Court; hence the number has at times been increased by Congress and again diminished at its pleasure. This has been done several times, as we all know.

Section two limits the judicial powers of the courts of the United States:

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction."

That is a very small part of the jurisdiction of the Supreme Court. Such a case does not arise once in a number of years.

"In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact."

The great and extended jurisdiction of the Supreme Court of the United States, and that which exists for almost all practical purposes, is its appellate jurisdiction, whether by appeals or by writs of error, and this includes a great number of cases decided by the courts of the States where some constitutional principle is involved.

"In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact; with such exceptions and under such regulations as the Congress shall make."

Now, sir, at the first session of the first Congress which assembled after the adoption of the Constitution of the United States a judiciary act was passed of some twenty pages of the statute-book, and in that instrument you will find what powers Congress could exercise under this article of the Constitution. They there made all the provisions which at the time they thought necessary for carrying into effect the high powers granted to the Supreme Court, and they arranged also for the subordinate courts of the United States. I recollect one or two features distinctly which are very different from the features of the court system now. They divided the then existing United States into three or four circuits. They provided that the circuit courts should be holden at certain points in each circuit, and that each of the circuit courts should be holden by two of the justices of the Supreme Court and one district judge, and that it should require two judges to make a decision in any cause which should come before the circuit court; provided, however, that the district judge should have no voice in the circuit court in deciding a case which he had himself decided in the court below.

These courts are not held by two circuit judges at this time. For a long series of years the circuit courts in the different circuits have been holden by one associate justice of the Supreme Court, coupled with the district judge, and the associate justices of the Supreme Court have a controlling voice in the decisions of the circuit courts. They may, if they please, certify a question, upon a division of opinion, up to the Supreme Court, but in any case decided by the district judge himself the opinion of the associate justice of the Supreme Court alone obtains and prevails.

Now, Mr. Speaker, I do not propose to take up much time in discussing this question; but I say that if I was qualified for a seat upon the supreme bench of the United States, and had by any possibility arrived at that honor, nothing would gratify me more than the passage by Congress of the measure that is here introduced to-day by the chairman of the Judiciary Committee. I do not believe now at this moment that any judge of that high tribunal would object to a requisition on the part of Congress that in order to declare an act of Congress unconstitutional it shall require two thirds of their number to pass upon the question. Why, it relieves them from very great responsibilities. It makes the decision more satisfactory to themselves and far more satisfactory to those whom the decision affects. It is not to be made by a single voice when the court consists of seven, three on one side and three on the other, and one man turns the scale. But it requires the united opinion of two thirds of all the members of the Supreme Court to pronounce an act of Congress unconstitutional.

Now, I do not apprehend with my friend from Illinois [Mr. MARSHALL] that the intelligent people of our country are alone to complain of legislation of this sort. He instances a very strong case and a very strange case, indeed. He instances the case of Congress, the legislative power of the land, passing a law to take from him, the gentleman from Illinois, his estate and give it to his neighbor. When in the most fertile imagination that ever existed in the human mind could a case of that sort originate? Can it be supposed that the Congress of the United States, the Senate and House of Representatives, with the concurrence of the President, or, without his concurrence, by a two-thirds vote, would pass a law to take from the gentleman from Illinois his property and give it to his neighbor? He says in a case like that four out of five judges might say that he was entitled to his property, and that the fifth judge—the court being held simply by a quorum of the judges, and five constituting a quorum—the fifth judge might say that the act of Congress properly enough gave his property to his neighbor.

Well now, sir, I cannot stand here to reason against such arguments as those. If the gentleman will institute a comparison with some case which he may suppose that might by some possibility exist then we will meet it. But I cannot conceive how the intelligent people of the United States could complain of the action of Congress when that action is intended to guaranty to the people the rights given to them under the charter of their liberties, the Constitution of the United States. It is simply taking the power of deciding from one man, as the case may be, and giving it to more than one. It is requiring unanimity of opinion in the most important questions that can ever be submitted to that tribunal, and relieving them from an immense share of responsibility at certain times.

Now, sir, I object to the amendment which requires that every judge shall assent to the decision, because I think that is requiring too much. It will not do to assume that the bench of judges of our country are pertect any more than that the Senate and the House of Representatives of Congress are perfect. I grant you that there is less likelihood of their giving way to passion and caprice, because they are selected for their wisdom and experience and supposed stability.

But the best of men may err. And out of the full number of judges, seven or eight, one man may be found who may be perverse enough to withhold his assent from a decision which he in his better judgment knows to be right. Such things may be. I would, therefore, not require every mind to concur. But I think I would adopt the rational rule, the one which is in unison with the rule that obtains in Congress under the Constitution, and ask that two thirds of those gentlemen shall concur before they shall overrule as unconstitutional enactments which we have upon reflection seen fit to pass.

It was intimated here, and it may be intimated again without assuming too much to ourselves, that in this numerous body and in the other more select body, the Senate, it is to be supposed that there may exist some men who have been educated and have had experience in the practice of the law, and who may know something of constitutional law, who may perchance bear some comparison with the gentlemen on the bench when those gentlemen are not clothed in the ermine.

Mr. WELKER. Will the gentleman allow me to interrupt him a moment?

Mr. SPALDING. Certainly.

Mr. WELKER. I desire to ask my colleague [Mr. SPALDING] if the judges of the Supreme Court deem themselves now authorized to make a decision by a majority, and also whether there has not been some legislation on the part of Congress fixing in some shape or other the quorum of the court?

Mr. SPALDING. I suppose it is the rule of the common law that in the absence of statutory provisions to the contrary a majority shall control.

Mr. WELKER. Has there not been some legislation on the subject?

Mr. SPALDING. If so I do not now call it to mind.

Mr. PRUYN. It is in the act of 1837.

Mr. SPALDING. Will the gentleman read it?

Mr. PRUYN. The original act was passed in 1789, by which there were provided six judges for the Supreme Court. In 1837 it was provided that—

"The Supreme Court shall hereafter consist of a chief justice and eight associate justices, any five of whom shall constitute a quorum," &c.

Mr. SPALDING. That is the act of 1837?

Mr. PRUYN. Certainly. The Supreme Court is now reduced to seven associate justices.

Mr. SPALDING. The first judiciary act ever passed contained a provision that four judges out of a full bench of six judges, that is, two thirds of the court, should constitute a quorum. That Congress at more times than one has prescribed the number of judges that should form a quorum I knew very well. No one doubts the power of Congress to so prescribe. But I think there is no legislation in respect to the majority making a decision. That, I think, is derived from the common law rule; that is all there is of it.

But, sir, the law-making power has always had in its hands the power to say whether a mere majority should be sufficient, or whether two thirds or three fourths or the whole number of judges should be required to render a decision. There can be no doubt on that subject. The Supreme Court must adjudicate under the legislation of Congress. We prescribe the manner in which that court shall adjudicate. We frame laws which govern nine tenths of its proceedings, the Constitution prescribing only that there shall be a Supreme Court. For everything except its official life that tribunal must look to an act of Congress. Without the authority of an act of Congress it could have no clerks, it could have no power to administer oaths. Although the Constitution gives to the courts of the United States jurisdiction in certain cases as between citi-

sens of different States Congress steps in and says that if in a claim by a citizen of one State against a citizen of another State the sum involved be less than five hundred dollars the case shall not be brought in a United States court at all. If Congress can adopt such a provision as that it certainly can say that in a decision upon a high constitutional question the concurrence of a certain number of judges more than a bare majority shall be necessary. I do not doubt the right of Congress to require the concurrence of every member of the court; but I do not deem it expedient under the circumstances to require the concurrence of more than two thirds. I think this a very convenient number, and I shall vote for the bill as reported by the Judiciary Committee.

Mr. BINGHAM obtained the floor.

Mr. WILSON, of Iowa. Will the gentleman yield to me that I may offer an amendment?

Mr. BINGHAM. Yes, sir.

Mr. WILSON, of Iowa. I move to amend the amendment of the committee by adding thereto the following:

Provided, however, That if any circuit or district court of the United States shall adjudge any act of Congress to be unconstitutional or invalid, the judgment, before any further proceedings shall be had upon it, shall be certified up to the Supreme Court of the United States and shall be considered therein; and if upon the consideration thereof two thirds of all the members of the Supreme Court shall not affirm said judgment below the same shall be declared and held reversed.

The SPEAKER. There is already pending an amendment to the amendment of the committee. The amendment of the gentleman from Iowa can be entertained only by unanimous consent.

There was no objection.

Mr. BINGHAM. Mr. Speaker, I would greatly have preferred that this question, important as it is, had been discussed in some other spirit than the mere partisan spirit which characterized the speech of the gentleman from Illinois, [Mr. MARSHALL;] and I deeply regret that that gentleman, or any other member of this House, in discussing questions of so grave import, touching as they do the Constitution of the country and the obligations of the representatives of the people, should assume in advance, as the gentleman did assume for himself and the party which he represents, that he and his party are the only guardians of the Constitution and of the sacred rights of the people. Whatever any other gentleman may say or concede to this arrogant assumption I do not recognize the title of the gentleman to pronounce judgment upon us all in the name of all the people of the United States. I tell the gentleman, once for all, that the people speak for themselves and by themselves; and from their judgment there lies no appeal, either to the Congress or to the court. I beg leave further to remind the gentleman when he undertakes to lecture us about the sanctity of the Supreme Court of the United States that it never was challenged before the American people, so far as I am advised, until it dared to descend from its high place in the discussion and decision of purely judicial questions to the settlement of political questions which it has no more right to decide for the American people than has the Court of St. Petersburg.

Mr. MARSHALL. Will the gentleman yield to me a moment?

Mr. BINGHAM. Yes, sir.

Mr. MARSHALL. I would like the gentleman to state who is to determine the question as to what powers the Supreme Court of the United States has; and when that court does make a mistake in any particular where the Federal Congress gets the power to subvert and destroy that department of the Government and all its powers?

Mr. BINGHAM. The gentleman has asked two questions in one. The first was answered by my venerable and able colleague from the Cleveland district [Mr. SPALDING] in a manner which no man can controvert. The answer given stands not only upon the text of the Constitution, that the judicial power of the United States shall be vested in one Supreme Court and such inferior courts as the Congress may ordain, which my colleague cited for the instruction of the gentleman; but it stands as well upon the sound decision of that Supreme Court itself in the case of Marbury *vs.* Madison, when it was presided over by that peerless man, [Marshall,] than whom a nobler never wore the judicial ermine in any age or any country. In that case and many others it was held that Congress cannot confer original jurisdiction on the Supreme Court in other cases than those affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, and that in all other cases the Supreme Court has only appellate jurisdiction, subject to such exceptions and regulations as Congress may make.

Sir, the Constitution itself has answered the gentleman's first question as to the jurisdiction of the Supreme Court, original and appellate. I now wish to answer the gentleman's second interrogatory. He seems to assume there are tribunals of this country above the people who created them. Does the gentleman at this time of day, in the high noon of the nineteenth century, assume to declare that the servant is greater than his lord? I tell the gentleman there is a tribunal before which your Supreme Court is compelled to answer, and was compelled to answer in the years of grace 1857 and 1858.

Mr. MARSHALL. Will the gentleman yield to me?

Mr. BINGHAM. I wish to finish my answer to the second question, and then I will yield.

Mr. MARSHALL. He puts a question to me, and I wish to answer it right here.

Mr. BINGHAM. What is it?

Mr. MARSHALL. If the gentleman wants to know where the Supreme Court, or any court, get the right of rising above the people, I say that there is one, and it is the gentleman's party, where is concentrated all the power above and outside of the Constitution, in defiance of the Supreme Court and in defiance of the people.

Mr. BINGHAM. The gentleman is not asking me any question. He is making an accusation like that he made in the first place. It is to that I take exception. Sir, while I concede to the gentleman the utmost fidelity in the discharge of his official duty here according to his judgment and conscience, I deny his right to stand here and assume that those with whom I act trample the Constitution under foot. I hold myself the peer of the gentleman or any other man who volunteers to become my accuser in the discharge of my duties on this floor.

Now, sir, I recur again to the responsibility of the Supreme Court to the people. It will be a sad day for American institutions and for the sacred cause of representative government among men, when any tribunal in this land created by the will of the people shall be above and superior to the people's power. The Supreme Court, sir, disgraced not only itself as a tribunal of justice, but it disgraced our common humanity, when it mouthed from that high seat sacred to justice the horrid blasphemy that there were human beings either in this land or in any land who had no rights which white men were bound to respect.

Mr. PRUYN. No, sir.

Mr. MARSHALL. The Supreme Court never held any such doctrine.

Mr. BINGHAM. I understand it did not hold. I do not say it held. I said it mouthed the horrid blasphemy (laughter) that there were men, unoffending men, who had no rights which white men were bound to respect. I know it was not a decision; it was a blasphemy which should blast and paralyze the tongue that utters it.

Mr. PRUYN rose.

Mr. BINGHAM. No, sir.

Mr. ROBINSON. I call the gentleman to order. There are two questions of order: first, it is not in order for the gentleman to make such a charge against a coördinate branch of our Government as mouthing blasphemy.

The SPEAKER. The Chair overrules the point of order. He cannot say how the gentleman shall limit his speech.

Mr. ROBINSON. My other point is that gentlemen who stand around the speaker shall take their seats. [Laughter.]

Mr. BINGHAM. I do not intend to be diverted from my purpose by these interruptions. I say, Mr. Speaker, from that action of the Supreme Court of the United States an appeal was taken to the public opinion of this country—that public opinion which creates Congresses and courts and ordains and establishes constitutions. The people, sir, from the furthest East, where the citizens of the Republic keep watch at the gates of the morning, to the furthest West, where they keep watch at the going down of the sun, pronounced such a decree of condemnation upon this atrocious judicial utterance as had never before been pronounced anywhere upon the face of the earth, save in that day two centuries ago, when the brave people from whose loins we are descended compelled that judicial monster, Jeffreys, who boasted his three hundred judicial murders, to besmear his face in lamp-black and call upon the train-bands to trundle him through the streets of London and shield him within the walls of the tower from the outraged intellect and conscience of England's heroes, who had in keeping England's glory, England's honor, and England's equal and impartial justice!

The American people by the silent majesty but omnipotent power of the ballot pronounced just such a judgment of condemnation upon your American Jeffreys. That judgment of condemnation is struck into the adamant of the past, and no question of order raised here or elsewhere can ever strike it out. There it is, and there it will be forever. That just, solemn decree of condemnation is irrepealable. The rights of the people of this country are to be respected, and those whom they send to this Congress are clothed by the Constitution with power to compel even the Supreme Court to respect those rights, and to that end, if need be, to reduce that court to a single person, if you please, and thereby compel unanimity at least in a decision which may deny the people's rights and violate the people's laws. It will not do for any man who ever read the Constitution of the United States and understands the plainest words of our mother tongue to rise in his place here and say that the Congress of the United States cannot reduce that tribunal to a single judge, or, if you please, to but two or three judges. Who is ready to rise in his place here and say, in the light of the text of the first section of the third article of the Constitution, which declares that the judicial power shall be vested in a Supreme Court and in such inferior courts as Congress may establish, that by law you may not declare it shall consist of three? And when you have done that is not the two-third rule established? or to two, and then must not the decision be unanimous? In such a case if the judges were not all present could any judgment be pronounced at all, and if both judges be present could there be judgment without unanimity? And if by law you may so organize this court that there must be unanimity may you not by law establish the two-third rule in judgments affecting the nation's right to make laws? What objection is there to it?

The gentleman must find some other objection than his statement, *ad captandum*, that this is a violation of the Constitution of the United States. I call his attention to the fact—and I believe it was not accidental—that in the first Congress under the Constitution of the United States, composed, as gentlemen well know, largely of those illustrious men who made your matchless Constitution, the law by which the Supreme Court was organized provided that the court should consist of six judges, by whom if all were present no judgment could be pronounced on any question whatever, much less upon a grave question

of the constitutionality of an act passed by this Congress, without the concurrence of two thirds of that court.

The gentleman ventured to say that this statement of mine was a dodge. He is certainly entitled to his opinion; but I did not intend it as a dodge. I intended to be understood in saying what I did that Washington and the first Congress had so organized that court that if all the judges were present no judgment could be pronounced whatever without the assent of two thirds of all the members of the court.

Mr. MARSHALL. I wish to ask the gentleman if the court was not so organized that it would have required just the same number of judges to decide a law valid under the Constitution as to decide it invalid?

Mr. BINGHAM. Yes, sir; I admit if they decided a law to be constitutional they decided it to be valid, and if they decided it to be unconstitutional they decided it to be invalid. [Laughter.]

Mr. MARSHALL. I would like to state very briefly why I consider this bill unconstitutional.

Mr. BINGHAM. Well, sir.

Mr. MARSHALL. The court is compelled to decide questions that are brought before it. The Constitution declares that the Constitution itself shall be the supreme law of the land. Now, when a question involving the right of a citizen is brought before the court they are bound to look into this act of Congress in the light of the Constitution. They may entertain a view of the right of the citizen under the Constitution, but this law is interposed and prohibits them from giving their decision in accordance with that opinion. Therefore I say this bill is in violation of the provisions of the Constitution.

Mr. BINGHAM. Well, sir, I have every respect for the gentleman's opinions, but for the life of me I am not able to discover how he makes it out that it is not constitutional to declare to-morrow that the Supreme Court shall consist of only three judges, to wit: the Chief Justice and two justices. It is written plainly in the Constitution, and there is an end of it. If in 1789 they could make that court consist of six judges, who is here to say we cannot make it consist of three? I beg leave to say here, conceding the gentleman to be entitled to his opinion, and assuming that I am equally entitled to mine, that in my opinion the American people will never assent to the gentleman's proposition. While the Constitution remains as it is, the people will claim and exercise the right of declaring that that court shall consist of no greater number of judges than they choose to prescribe by law.

Sir, my further answer to the gentleman is, that if the people have not the power thus to take security for the protection of their own rights and the rights of the humblest citizen in this land, then God help them, for there can be no higher protector upon the earth of the rights of all than the great people of the Republic who ordained by their Constitution that the only manner in which their courts of justice should be organized, should be according to their own will declared by their own law. That people's greatest security is in just laws of their own enactment faithfully observed and enforced by their own tribunals of justice.

I stand, then, sir, for the Constitution as it is written; I stand for it precisely as it was interpreted by its founders; and I desire for one, as a representative of the people, so to provide by law as that hereafter the Supreme Court of the United States shall not dare to disregard a solemn enactment of the people even on the pretense that it is violative of the Constitution, save by the concurrence of two thirds of all the members of that court. I have reasons, very strong reasons, for insisting upon such legislation. I consider the utterance in the Dred Scott case, to which I have already referred, as furnishing a substantial reason for such legislation. I do not stop now at the going down of the sun to ask gentlemen to consider the terrible consequences that followed in the train of that lawless and atrocious announcement.

Mr. Speaker, I beg leave to say another word touching the present and immediate necessity of this legislation. I refer to the great question pressing upon us this moment, and which touches the future safety of the Republic, the amendment of the Constitution, already ratified by twenty million freemen, and the efforts made by gentlemen, I will not say upon this floor, for I am aware that I have not witnessed any such effort upon this floor, but made by gentlemen throughout the country who hold influential positions socially and influential positions politically among the people, to the effect, among other things, that this essential amendment cannot become part of the fundamental law even by the consent and formal ratification of all the people of the twenty-seven organized States. Yes, sir, we are told that the great people who, by a sacrifice of blood, such a sacrifice as never before was made in the defense of any Government since man was upon the earth, saved the Republic, cannot perpetuate it by laws. This great and victorious people, we are told, cannot amend their own Constitution without the concurrence of some, at least, of the disorganized communities who but yesterday rushed into war with arms in their hands and attempted to batter down the holy temple of our liberties. I desire this law to be passed so that that question shall only be touched, if at all, by the consenting voice of two thirds of the judges of that court; and then, if they dare to do it, let an appeal again be taken from their atrocious decision to the people. I know, and I owe it to myself to say it, there are now, in that high tribunal judges who never would sanction such judicial atrocity. Would it not be a judicial atrocity to adjudge that the nation has no rights which traitors and secessionists are bound to respect?

I stand here to-day to affirm it as a fact in American history as clear as the light in the Heavens that never since Washington appended his signature to the Constitution, and took the oath in presence of God and his country to preserve, protect, and defend it, up to this hour, was there a moment when there was an American nationality at all save through organized, adhering constitutional State governments. The States that adhere, the States that do not secede, the States that do not revolt, the States that do not foreswear themselves in the persons of all their executive, all their judicial, and all their legislative officers, alone have the right to amend the Constitution and to pass laws under it, and, so help me God, I am ready for one to-day, notwithstanding the gentleman's warning, to throw this issue before the country and await the decision whether the ten States lately in insurrection, if they do not choose to organize, if they do not choose to elect representatives and Governors and judicial officers, and do not choose to qualify as is required by the terms of our Federal Constitution, and which they have refused to do for four years of blood and strife and carnage, are to look on and laugh like fiends in our faces and tell us that they constitute more than one fourth of the thirty-seven States of this Union, and must be consulted more or less before the remaining twenty-seven loyal States of this Union, whose shields are all white, shall amend their own fundamental law. The gentleman, I trust, understands by this time something of the importance that attaches to this issue. I hope the issue will be made speedily; I am ready to go upon it to the country; I am ready to fight the battle upon it at the polls, and I am willing to abide the result. The gentleman's proclamations of defeat in advance have no terrors for me. I wish him to understand he is no more a prophet of God or of the people than any other man of his stature. [Great laughter.] The people alone can decide this question, and to the people I make the appeal.

Mr. WILSON, of Iowa. Mr. Speaker, I do not intend to occupy more than five or ten minutes in the discussion of this question, and as I shall have an hour at my disposal after the previous question shall have been seconded, I propose to let other gentlemen who desire to debate the question occupy most of that hour. I would not move the previous question at this time, or to-night, sir, were it not for the order of the House setting down the report of the Reconstruction Committee as the special order for to-morrow, and from day to day until disposed of. Unless I can have the previous question on this bill seconded to-night it will be carried over until the House shall have completed action on the bill reported this morning from the Committee on Reconstruction. I therefore call the previous question. After it is seconded and the main question ordered I will yield the most of the hour to which I will then be entitled to others who may desire to speak upon the subject.

Mr. WOODBRIDGE. I would inquire of the gentleman from Iowa [Mr. WILSON] if he proposes to bring this question to a vote this evening?

Mr. WILSON, of Iowa. I will leave that with the House. I am content to go on and conclude this subject to-night.

The previous question was then seconded and the main question ordered.

Mr. WILSON, of Iowa. As I shall want only some five or ten minutes at the close of the debate, I will now yield a part of my time to the gentleman from Pennsylvania, [Mr. WOODWARD.]

Mr. ROBINSON. If the gentleman from Iowa [Mr. WILSON] will yield now I will move that the House adjourn.

Mr. WILSON, of Iowa. I cannot yield for any such purpose. I would ask the gentleman from Pennsylvania [Mr. WOODWARD] how much time he desires to have?

Mr. WOODWARD. I think I will be able to say what I desire in fifteen minutes.

Mr. WILSON, of Iowa. I will yield to the gentleman for fifteen minutes.

Mr. WOODWARD. Mr. Speaker, I am altogether opposed to this bill and to the amendments to it. I believe both to be unconstitutional and beyond the powers of this Congress to enact.

The venerable gentleman from Ohio [Mr. SPALDING] has referred us to the clause in the Constitution of the United States in relation to the judicial power of this Government.

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

Now, in answer to his colleague, [Mr. BINGHAM,] who has referred to the judiciary act of 1789, I submit that the organization of districts and circuits and of all the machinery that belongs to those courts of justice is no part of the judicial power. Congress well enough employs itself in regulating that machinery for the exercise of the judicial power. But "the judicial power"—I would call attention to that term—"the judicial power" is vested in the Supreme Court and inferior courts. And this Congress, if it were as wise as the gentleman from Ohio seems to think, nay, if it were much more wise, would have no constitutional authority to exercise that "judicial power" any more than the Supreme Court would have the constitutional right to exercise the legislative power, which by the same instrument is vested in this House and in the Senate.

Now, my objection, upon principle, to this bill and these amendments is that it is the part of the judicial power to decide. I heard the late John Sergeant, on an occasion of great public importance, assert that that was the grand peculiarity of the judicial office, that is, that the judge must decide. When I heard him make that assertion I thought it a very simple assertion for so wise a man to make. But I was then a very young man; and since then I have had some experience. I understand to-day what he meant better than I did

when I heard him make the remark. It is the most difficult duty which one man is called upon to perform in respect to another.

The Constitution of the United States vests this duty in the court. I quite agree with the gentleman from Ohio, [Mr. BINGHAM,] that the Congress may reduce the court to three judges, or to two, or even to one. But it must be a court, of however many individuals composed; and the Constitution of the United States vests in that court the power to decide.

Now what is the court? What is any body which consists of several members? It is the quorum; the majority. And the judiciary act of 1789, to which the gentleman from Ohio [Mr. BINGHAM] referred to so triumphantly when my friend from Illinois [Mr. MARSHALL] was on the floor, is very significant in that regard. Congress in that act indicated what should constitute a quorum of the court, and then repealed that provision, leaving it to the court itself to constitute its own quorum. The quorum of every body is the body for all legal purposes.

The Constitution of the United States vests in the quorum of such judges as the Congress have placed in the Supreme Court of the United States the power to decide. Now, "to decide" is to decide every question that may come before them.

The bill before the House does not propose to take away from that court the power to decide upon rights of property, or upon any of the rights of individuals. It only proposes to dictate how constitutional questions shall be decided. I submit that Congress has no more power or right to dictate to the Supreme Court how they shall decide constitutional questions than they have to dictate to that court how they shall decide a question of title, or any of the other questions of *meum* and *tuum* which come before such a court. The Constitution vests the power in that court, meaning a quorum of that court. And the whole legislative jurisdiction over the subject is expended when the number of the judges are fixed, when the circuits and districts are prescribed, when the place for holding the court is prescribed, and those other necessary details which belong to what is called "the machinery" of the court have been determined. But Congress can go no further. It cannot say to that court, "You shall decide this constitutional question by a quorum in a different manner from that in which you decide that question of title by a quorum;" that is, Congress cannot prescribe the rule of decision for the court when the Constitution vests in the court the power of prescribing for itself its rule of decision.

Mr. MAYNARD. If the gentleman from Pennsylvania will permit me, I desire to ask him whence he derives the rule that a bare majority of the court shall be sufficient to decide any question?

Mr. WOODWARD. I derive it from the nature of the body in whom the Constitution vests the power. The power being delegated to the body, the body, on the general principles upon which all bodies composed of several members act, must decide what portion of its number shall control the others. That is the general rule in this country and I believe in all countries.

Mr. MAYNARD. Then I suppose the gentleman derives it as a rule of the common law.

Mr. WOODWARD. I was about to say that I believe in all countries—certainly in the country from which we derive our principles of law—the majority principle is in deliberative bodies the general common-law rule. I believe it is the rule in regard to judicial bodies as well as legislative bodies.

Mr. BOUTWELL. Will the gentleman permit me to make a single inquiry?

Mr. WOODWARD. Yes, sir.

Mr. BOUTWELL. If the proposition that a majority shall constitute a quorum be a proposition derived from the common law, (which I admit to be true, and therein concur, as I understand, with the gentleman from Pennsylvania,) is it not entirely competent for the legislative authority to change the common law if there be no specific inhibition in the Constitution?

Mr. WOODWARD. Undoubtedly it is competent for the Legislature to change the common law on subjects that are within the jurisdiction of the Legislature. But I maintain that this particular principle of the common law—which the gentleman admits, as I understand him, applies to courts as well as other bodies—is not a principle with which the Legislature has anything to do. The Constitution having vested in the Supreme Court the judicial power of the country, and the Congress of the United States having prescribed that that court shall sit in a certain room in this Capitol, and shall consist of a certain number of judges, those judges when they come together decide for themselves, in virtue of that general power inhering in all deliberative bodies, whether two thirds or a bare majority shall be a quorum to hold court. Such questions as this the body settles for itself in virtue of the same inherent power by which we settle for ourselves precisely similar questions.

Mr. BOUTWELL. Does the gentleman mean to say that the Supreme Court has power to decide for itself what portion of the members shall constitute a quorum for doing business, or what number shall be necessary for a decision? and, if so, is not that clearly legislative power?

Mr. WOODWARD. No, sir; I do not think it is legislative power. It is a power which must necessarily be possessed by all bodies whose duty it is to deliberate, to decide, or to act. You could not proceed with the business of any court, Federal or State, a single day without resorting to this principle. The court itself, under all its responsibilities to the people, (and judicial bodies generally feel their responsibilities quite as sensitively as legislative bodies do,) must decide who constitute the court, what is the court, and then it decides what is its jurisdiction. And in respect to the Supreme Court of the United States I would like to know who is the judge of its jurisdiction but itself? The venerable gentleman from Ohio [Mr. BINGHAM] may abuse that tribunal for deciding its jurisdiction to extend to a particular case; parties sometimes abuse courts when dissatisfied with their decisions; but the power to decide the extent of its own jurisdiction necessarily inheres in that court itself, and you cannot take it away. The Constitution has planted it there.

Mr. MAYNARD. I desire to ask the gentleman one other question. Does the gentleman intend to say that the court itself might establish a rule which would require two thirds of the bench to make a decision?

Mr. WOODWARD. I have no doubt, sir, that the court might establish such a rule; and I suppose that if such a rule ought to be established it is for the court to do it. It is for the court to decide for itself who shall constitute the deciding power in that court. It is for the court to decide for itself what are fit subjects for its decision; that is to say, what questions are within its jurisdiction.

Mr. BINGHAM. Will the gentleman from Pennsylvania allow me to make an inquiry touching the power of this court over its quorum?

Mr. WOODWARD. Yes, sir.

Mr. BINGHAM. I desire to inquire of the gentleman whether under the first organization of the Supreme Court of the United States, when Chief Justice Jay was absent from the country, though still holding his commission, it was competent for a majority (that is three) of the members of the court remaining in this country to exercise any of the functions of the court against the force of the statute of 1789, which declared that four should be necessary; and whether, under the act of 1837 (which I believe continued in operation down to 1863 or 1864) it was competent, when the court was reduced to seven members by the death of two of its justices, for any smaller number than five to constitute a quorum, although that smaller number might have been a majority of all the judges *in esse*?

Mr. WOODWARD. Did the act of 1789 prescribe the number of judges that should constitute a quorum?

Mr. BINGHAM. Yes, sir; it fixed four as a quorum.

Mr. WOODWARD. The court consisting of six?

Mr. BINGHAM. Yes, sir; and the act of 1837 fixed five as a quorum, the court consisting of nine; and during the rebellion, while that act was still in operation, the court was really reduced to seven by the death of two of the judges. Now, I want to know whether in the presence of a statute like that, requiring five judges to constitute a quorum, a majority of the judges *in esse* could have assumed to exercise the powers of the court.

Mr. WOODWARD. Certainly not, in contravention of an explicit statute. I have not argued that the court could have fixed its quorum in conflict with the act of 1789. My remarks have had reference to the power of the court in the absence of legislation in regard to a quorum.

Mr. BINGHAM. In that I agree with the gentleman; and there is practically no difference between us, because I propose to interpose legislation.

Mr. WOODWARD. That is not the effect of this bill.

Mr. BINGHAM. I beg leave to say that that is precisely what this bill does.

Mr. WOODWARD. That is not the effect of the bill if I correctly understand it. I have only heard it read once from the Clerk's desk.

Mr. BINGHAM. This bill, as it comes from the Senate, prescribes what number of judges shall constitute a quorum of the Supreme Court. To this the Committee on the Judiciary of this House has added a provision that in cases involving the constitutionality of an act of Congress the concurrence of two thirds of all the judges of the court shall be necessary to set aside the act. That is all there is in the bill.

Mr. WOODWARD. Mr. Speaker——

The SPEAKER. The fifteen minutes of the gentleman from Pennsylvania [Mr. WOODWARD] have expired.

Mr. WILSON, of Iowa. I yield the gentleman five minutes longer.

Mr. WOODWARD. Mr. Speaker, the gentleman from Ohio has embarrassed this question both in the hands of my friend from Illinois and my own hands by diverting attention from the real point of the case. The case before the House is not a question of fixing a quorum for the Supreme Court of the United States. If that be a part of this bill it had escaped my attention. It is no part of the bill to which I am directing any observation. I have no objection to fixing the quorum for the Supreme Court, if you choose, after the manner of the act of 1789.

The part of the bill to which I object, and the part of the bill to which the gentleman has not applied a syllable of his argument, is that part which requires two thirds of the court, and the amendment the unanimous opinion of the judges, to declare an act of Congress unconstitutional. The amendment, as I once heard it read, requires the unanimous vote of the court, but the bill itself, as moved by the gentleman from Iowa, requires two thirds. It is to that part of the bill I am here to object. The gentleman from Ohio [Mr. BINGHAM] may be very adroit in substituting another point, diverting our attention to that, but I am determined to keep my eyes steadily upon what I conceive to be the real objection to this bill. I say in reply to the amendment and in reply to the bill itself, so far as two-thirds vote is concerned, it is an attempt on the part of the legislative department to dictate to the judicial department as to the manner in which they shall exercise their judicial power. That you cannot do. It is as gross an attempt as if the judiciary should dictate to the legislative depart-

ment how it shall exercise its powers. It is not a question of quorum, it is a question of judicial power. You say it shall not be exercised in the manner in which it is exercised. The Constitution says that it shall be exercised by that body according to its responsibility to the people.

Now, sir, I maintain if the majority of the Supreme Court is competent to decide a question of property, a question of liberty, a question of life, it is competent to decide a constitutional question; and it possesses the right to decide it upon the same principles or tenure it decides the others. It holds power in both cases by virtue of the fundamental law of the land, and therefore Congress can neither add to nor subtract from it.

This is my principal objection to the bill and amendment. Another less important objection is that it will be found impracticable. I venture to affirm if the House passes this bill or this amendment, or both, the bill with the amendment, it will be found not only difficult but in some cases impossible for the court to mature its judgments on the principles of this bill. Suppose, sir, there are seven judges and seven sections of an act of Assembly or act of Congress—for State as well as Federal law may come before it—and one judge thinks it is unconstitutional for what is contained in one section, another judge for what is contained in another section; you may, if you please, suppose every judge shall declare that law to be unconstitutional for separate and distinct reasons; that for his own reasons he holds the law unconstitutional and for the reasons of the other judges he holds it to be constitutional, under this bill how is that court to decide that question? Is that law unconstitutional under the judgment of that court?

The SPEAKER. The gentleman's time has expired.

Mr. WILSON, of Iowa. I now yield ten minutes to the gentleman from Connecticut [Mr. HUBBARD.]

Mr. HUBBARD, of Connecticut. Mr. Speaker, this question, as it seems to me, is one of the utmost gravity that can possibly be addressed to a legislative body, inasmuch as, if the view I take be correct, it is intended, or if not so intended, will act as a direct usurpation of the powers of another coördinate branch of the Government, and unless these three branches can be held in harmony and each preserve its proper relation to the other, then I submit the Government as formed by the Constitution no longer exists, but has gone to its grave.

Let me remark, in the first place, that the Supreme Court of the United States is not a creature of the House or of the Senate or of both combined. It is not the child of legislative power, but is created by the same authority which created the House and Senate. Both children came from one parent, and when one child seeks to slay the other it is guilty of a crime that Cain committed in the elder world.

Now, then, bearing in mind that the Supreme Court is not a creature of the legislative power, but is the creature of the Constitution, we come to the inquiry whether or not the legislative power may determine how many members of the Supreme Court are necessary to pronounce judgment upon a case pending before them.

Mr. SCHENCK. Will the gentleman allow me to ask a question?

Mr. HUBBARD, of Connecticut. I will not. So long as I am placed between the clamps that are put upon me I do not propose to have my time frittered away by interruption.

Remembering, I say, that the Supreme Court is created by the Constitution, by the same power that created this House, that they are brothers, twin children, I may say, of the same father and mother, we come to the question whether or not this House and the Senate combined may determine how many members are necessary to award judgment in a case pending before it. The bill as it was reported requires, as I understand, a majority of two thirds. The amendment offered by the gentleman from Pennsylvania [Mr. WILLIAMS] requires that there shall be unanimity of the bench. I agree with the gentleman who offered that amendment, that if the bill reported by the committee can be justified the amendment offered by himself can be justified on just the same grounds.

Now, how is the Supreme Court constituted? It consists of those judges, and those only, who may be appointed by law to sit on that bench. How many are necessary to render judgment? That question is easily answered. A majority only, by the well-settled principle of the common law, is necessary to action in all public bodies, judicial or otherwise. In a private tribunal, as a board of arbitrators, for instance, unanimity is required; but in a board composed of public officers a majority only is requisite. Now, when the Constitution provided a Supreme Court the common law provided that a majority may pronounce the judgment of that court. If this be not so, then I ask, may not this Congress take away from the citizen the right of a jury trial? The Constitution provides that every citizen shall have this right. What constitutes a jury? Can this Congress determine that five, six, eight, or ten, or any number less or more than twelve, shall constitute a jury? By no manner of means. Why? Because the term jury had a common-law meaning when the Constitution was framed and adopted. And as the term jury had a definite common-law meaning which required unanimity in its decision, so the phrase Supreme Court had involved in it a common-law signification and rule which prescribed that as a law of the body a majority only was necessary to an award of judgment. Such being the fact, this Congress cannot alter the rule applicable to the court unless it can alter the rule applicable to the verdict of a jury. I deny, therefore, that the legislative power can determine what number is necessary to render judgment in a case before the Supreme Court.

And this, I submit, has been the construction that has been put upon this question from the beginning. Among all the acts that have been referred to by the gentlemen who represent the other side of this question there is not one to be found which is anything else than a mere declaration of the common law requiring a mere majority to render a judgment of the court. There is not an act to be found that requires more than a majority. And those acts which require majorities are simply declaratory of the common law.

I deny, therefore, that this Congress has any authority to say what shall constitute a quorum of the Supreme Court.

But more than that, I submit that it would be both impolitic and inexpedient, even if this Congress were omnipotent in this regard, to attempt to enact such a rule as is embodied in either the bill reported by the committee or the amendment offered by the gentleman from Pennsylvania, [Mr. WILLIAMS.] It is perfectly well known that it is intended to reach a particular case; and this bill without being printed, without allowing members of the House an opportunity of ever seeing it, but only of catching it by the ear as it fell from the Clerk, in hot, in indecent haste, is submitted to the House for action, and each one of us is required to pass upon it at the tap of the drum. Why this impetuous haste? Because it happens to be rumored—I know not whether truly or not—that the Supreme Court by a majority, perhaps by a large majority, are adverse to a particular measure upon which the majority of this Congress are disposed to stake their political life. Because they have learned in advance that the judicial mind of the Supreme Court condemns the act they propose to muzzle, ay, sir, to muzzle the Supreme Court. While that court from 1789 to the year of grace in which I am now speaking has been ruling all questions, constitutional and otherwise, by the simple law of a majority which governs all judicial tribunals which are not the creatures of statute law; while it has been ruling all sorts of questions relating to property, relating to life, relating to liberty, relating to the Constitution by the simple law of majority, this Congress now, for purposes which, I submit, are neither honorable nor praiseworthy, proposes to muzzle the Supreme Court to the end that that court may not interfere with the will of this Congress with respect to the reconstruction measures.

Now, let me make another suggestion. The amendment before the House proposes to require unanimity in the Supreme Court, as it is required in a jury. Sir, if unanimity is to be required in that court as in the verdict of a jury then I respectfully submit to the House that they ought to make provision for a right of challenge. If that court is to be organized under this bill for the special purpose of confirming by a mere minority the action of this Congress in respect to pending reconstruction measures, surely any man interested in that question ought to have the right to challenge the authority of a member of that court to pass upon the case if his mind and judgment should happen to be subject to the potential force and sway of a presidential nomination. With a judge sitting in that court and having the power by his simple dissent to defeat the judgment of the tribunal—a judge whose mind is perhaps distorted, weighed down by those tremendous influences that come from political passions and political partisanships, and his position as a candidate for the Presidency—passing, perhaps, on one of the planks of his own political platform, then I submit that the judgment of the Supreme Court is less than worthless.

[Here the hammer fell.]

Mr. WILSON, of Iowa. I now yield five minutes to the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. I desire to say that as I understand the gentleman from Pennsylvania, [Mr. WOODWARD,] he admits that it is competent for the Congress of the United States to declare what shall constitute a quorum of the court, and to overset totally the rule of the common law that a majority may decide; while on the other hand I understand the ingenious gentleman from Connecticut [Mr. HUBBARD] to insist that the Congress of the United States and the Government of the United States have always recognized in this behalf the rule of the common law, that a majority of the court only is required to decide. Now, I beg leave to say to the gentleman from Connecticut that the act of 1789 set aside absolutely that common-law rule that a majority must decide, and allowed in the absence of two of the judges three out of six judges to decide every question that came before it from 1789 to 1837, a period of forty-eight years, running through more than half the life of the Republic. To attempt, therefore, to creep in under the declaration that the Legislature of the country has always recognized the common law principle that a majority of the judges holds the judicial power of this nation will answer no better service to-day than did the poor fig-leaf covering that was resorted to in the garden. [Great laughter.] Then, sir, when a quorum of the judges present from 1789 to 1837 decided every question the whole thing is surrendered by admitting that it was lawful for Washington and the Congress of that day to fix the quorum at four, the court being composed of six judges. If they could fix it at four, pray, tell me, why they could not fix it at five? Will somebody now be good enough to answer me? And if they had fixed it at five and required four to decide, wherein would that have differed from the principle which they established when they fixed it at six, and in disregard of the common law, therefore, provided that two thirds must decide if the judges were all present, and only one half of all the judges if two of the court were absent?

Mr. WOODWARD. Will the gentleman allow me to ask him one question?

Mr. BINGHAM. Very cheerfully.

Mr. WOODWARD. I wish the gentleman would inform us what this discussion about

a quorum has to do with the objectionable points in this bill.

Mr. BINGHAM. Well, I submit with all respect to the gentleman that it would become him to explain what it has to do with it, as he argued that question himself.

I understood him to start out, in the first place, by insisting that however the court was constituted it was to determine for itself, in all cases, by a majority only, and that it was governed by nothing but the majority rule of the common law. Sir, with all respect I submit the common law has nothing to do with this question, for after conceding, as the gentleman does concede, that the Congress of the United States can declare how many judges shall decide in any case, he concedes the whole point in controversy.

In 1789 Congress put the majority of the court at two thirds of the members; it established the same majority in 1789 that we propose to establish in 1868, and that has so much to do with the case that it decides the question. These gentlemen must lay their hands upon Washington and the Congress of 1789, and say that they had no right to declare that any less than a majority should decide questions in that court, because if they could make the necessary majority to consist of four out of six judges they could make it consist of five out of the six judges as well, and if they could make the quorum four they could make it three.

Mr. WOODWARD. If the act of 1789 had not fixed the quorum at all would not the quorum have been what it was?

Mr. BINGHAM. Very likely.

Mr. WOODWARD. It simply declared the quorum.

Mr. BINGHAM. Not exactly. When Congress said that four judges out of the six composing the court should constitute the quorum it overthrew the majority principle altogether, and established the principle that three out of six judges, in the absence of two, might decide any case.

[Here the hammer fell.]

Mr. WILSON, of Iowa. Mr. Speaker, I believe the first section of this bill has not been challenged by any gentleman who has addressed the House in opposition to this bill. That being the case, the whole principle of the bill is conceded by them. The first section provides that five judges shall constitute a quorum of the Supreme Court. Has any gentleman challenged that as being in conflict with the Constitution of the United States? If so, I have been unable to detect it in the confusion which has attended this debate.

And does any gentleman upon the opposite side of the House challenge the constitutionality of the present law determining the number of justices who shall constitute a quorum of the Supreme Court? I have heard no such thing. And yet what is a quorum of the Supreme Court at this time? It is declared by law to consist of six judges. How many judges are there now on the supreme bench? Eight. So that the present statute violates the principle for which the gentleman from Pennsylvania [Mr. WOODWARD] contends, the common-law rule, that a majority shall constitute a quorum. The law as it now exists, making six judges a quorum in a Supreme Court of eight judges, violates that rule. Who questions its constitutionality?

The gentleman from Pennsylvania [Mr. WOODWARD] says that we cannot interfere with the judicial power; that we cannot pass any law that shall interfere with that power in any way. The gentleman from Connecticut [Mr. HUBBARD] says that the Supreme Court is not the creature of Congress, but it is the creature of the Constitution of the United States. Well, sir, what kind of a creature is it, as declared by the Constitution?

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

Can we determine how many judges shall constitute the Supreme Court? The gentleman says that court is a creature of the Constitution. The Constitution declares there shall be a judicial department, and in that judicial department there shall be a Supreme Court. But it leaves entirely to Congress to determine the number of judges which shall constitute the court. This of itself controls in no inconsiderable degree the question of how many members of the court shall constitute a quorum.

Mr. HUBBARD, of Connecticut. The Constitution of the United States provides that the judges of the Supreme Court shall be nominated and appointed by the President, by and with the advice and consent of the Senate; so that the persons who are to go into that court as judges are not subject to Congress.

Mr. WILSON, of Iowa. That is all very true, that the persons who are to go into that court as judges shall be selected in a certain way, and that way we cannot interfere with. But will the gentleman say that we cannot determine that the Supreme Court shall consist of one hundred judges or that it shall consist of only five judges? And if that power is given to us do we not control the quorum by the exercise of the power to determine how many judges shall be upon the Supreme Bench? If the majority rule is insisted upon and you have one hundred judges the quorum will consist of fifty-one judges; if, on the other hand, we provide that five judges shall constitute the Supreme Court the quorum would be composed of three judges.

Then, as by the action of Congress, by the legislative department of the Government, the number constituting a quorum is changed; by fixing the number of judges we have the whole power so far as that question is concerned undoubtedly, for what we may do indirectly we may do directly in this respect, and I have never heard it questioned before, nor do I believe it has been since the organization of the Government down to this day. Acts have been passed from time to time by Congress changing the number of judges on the Supreme Bench, and in all such instances the law has declared what shall constitute a quorum of the court.

Now, sir, if we are to be deprived of this power by the common-law rule as to what should constitute a quorum, and again, by the principle contended for by the gentleman from Pennsylvania, [Mr. WOODWARD,] that a quorum constitutes the court, and with which we cannot interfere in any way, by direction or indirection, and that the court thus organized is bound as a court to decide every question presented to it to decide, I want him to harmonize this doctrine with that other principle which he affirms, that a majority of a quorum may exercise this judicial power and decide any question presented to the court. He says a majority constitutes a quorum; that with that we cannot interfere; that the quorum constitutes the court; that it is the duty of the court to decide. How can this be unless a number equal to a quorum concur in the opinion announced? If a quorum is the court then the quorum is the unit. How can that be divided and a judgment rendered by a part of this unit? How, under the doctrine for which he contends, can any decision be made by a bare majority of a quorum when the quorum is the unit in the constitution of the court? Does not this doctrine necessarily lead to the conclusion that no decision can be made by the court in which there is not a concurrence of the judges equal in number to a clear majority of the court? The principle contended for by the gentleman would render null and void a large number of decisions made by the Supreme Court of the United States, for very many of them have been made by a bare majority of a quorum. This doctrine is far more revolutionary than is anything contained in this bill or the amendments which have been proposed to it.

Mr. ELDRIDGE. I desire to ask my colleague on the committee if he applies to a Legislature or to this House precisely the rule which he supposes applicable to the Supreme Court, in which he says he could not decide whether this, then, would be a legislative body existing under the Constitution? If we were to prescribe a rule what number should constitute a quorum and a majority of that quorum could decide upon a subject, he says the gentleman from Pennsylvania would be reducing his proposition to an absurdity.

Mr. WILSON, of Iowa. I am not asserting such a doctrine. I am showing what must be the result of the doctrine of the gentleman from Pennsylvania if we adopt it, and that the doctrine defeats itself.

Let me call attention again to the Constitution:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

Now, there are certain things determined by this provision with which Congress cannot interfere. They are excepted by the terms of the Constitution, and these exceptions exclude all others. Consequently we have the power to say what shall constitute a quorum of the court, for this is not fixed by the Constitution. The fact that the question of quorum was not touched by the framers of the Constitution leaves it within the power of Congress. The framers of the Constitution did determine what should constitute a quorum of the two Houses of Congress. They did not determine what should constitute a quorum of the Supreme Court. Therefore they left its determination to Congress.

Mr. DAWES. I should like to call the attention of the House to this express provision of the Constitution:

"In all cases affecting embassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make."

Does not the phrase "under such regulations" cover the whole case?

Mr. WILSON, of Iowa. The determination as to what shall constitute a quorum is undoubtedly one of the things which is subject to the regulations which Congress may prescribe.

Mr. MUNGEN. I would like to ask the gentleman from Iowa a question. This bill undertakes to say what shall form a quorum of the Supreme Court for general purposes. Then the amendment undertakes to provide for the unanimous consent of that quorum.

Mr. WILSON, of Iowa. I do not yield for debate.

Mr. MUNGEN. I simply want to ask this question. Does not this bill require the consent of the entire quorum of the court?

Mr. WILSON, of Iowa. The gentleman cannot have any doubt on that point if he has read the bill.

Mr. MUNGEN. I have some doubt.

Mr. WILSON, of Iowa. There are eight members of the court, and this bill provides that upon all questions involving the constitutionality of an act of Congress the act shall not be declared unconstitutional except by the concurrence of two thirds of all the members of the court. No one can misunderstand the effect of the amendment which I have reported respecting this question.

Mr. MUNGEN. Then a quorum being six, it requires the consent of all the six; that is to say, the unanimous consent of the quorum to declare an act unconstitutional.

Mr. WILSON, of Indiana. It depends upon the number of the court entirely. If we should constitute a court of fifteen, then it would require the concurrence of ten members of the court to declare a law of the United States unconstitutional.

Now, the question of a quorum being disposed of, the second section of the bill, which

has been offered as an amendment, is undoubtedly constitutional, because the principle involved in determining a quorum of the court is simply the principle involved in the second section, which declares that a certain number of judges must concur before the court can decide a law of the United States unconstitutional. And, sir, this provision is reasonable, view it from what stand-point you may. There is a rule of law that we are all perfectly familiar with, that whenever there is a doubt in the mind of the court as to the constitutionality of a law it is to be resolved in favor of the law, that the legislative department of the Government has properly exercised its power. Every lawyer understands this principle; and, sir, the fact that you have a divided court proves of itself that the question before it is in doubt, and therefore we would not be straining the power conferred on us by the Constitution by requiring that in all such cases a unanimous judgment of the Supreme Court should be had before any act of Congress could be declared to be unconstitutional, as such unanimity is the strongest evidence we could reasonably ask of the absence of any such doubt in the minds of members of the court.

Mr. WILLIAMS, of Pennsylvania. I would ask the gentleman if the logical result of the doubt is not the doctrine of unanimity for which I am contending?

Mr. WILSON, of Iowa. I do not question that.

Mr. WILLIAMS, of Pennsylvania. I would ask further whether we are not bound as legislators, admitting the principle to be right, as we all do, to exact the highest security that the nature of the case admits?

Mr. WILSON, of Iowa. In regard to that we may exercise our discretion.

Mr. WILLIAMS, of Pennsylvania. One question more. How much do you add to the security by your amendment making two thirds necessary? Do you add any more than one vote or one voice?

Mr. WILSON, of Iowa. If the House should agree with the gentleman it will adopt his proposition. But my own judgment is that the better rule is the one presented by the amendment reported by the committee.

Now, sir, instead of this being an extreme and radical measure, as represented by the gentleman from Illinois, [Mr. MARSHALL,] it is a conservative measure. A friend near me reminds me that that is why he is opposed to it. [Laughter.] It concerns the public interests and will tend to surround the decisions of the Supreme Court with the respect of the people. We are simply declaring that the Supreme Court of the United States shall not have legislative power without the concurrence at least of two thirds of its members. That body makes law when it decides a case. It makes law from which there is no appeal except in that indirect way which goes to the people at the ballot-box. And it is not merely a legislative rule but an organic rule which is established by the Supreme Court by the decisions which it utters; and it is our duty as members of the legislative department of the Government to protect the people and to protect the Government against an accidental creation of organic law by that court. As was well said by the gentleman from Ohio, [Mr. SPALDING,] that court may make organic law through the vote of one member, override the enactments of Congress, and determine any principle based upon our legislation or upon anything else. I ask, therefore, whether we are insisting upon too great latitude of power for the protection for the people of the country when we say that in the exercise of this gigantic, crushing power at least two thirds of the limited number of gentlemen constituting that court shall concur before they declare the unconstitutionality of a law or affirm a new principle of organic law?

Mr. MUNGEN. Will the gentleman allow me a single question? Under the provision of this bill, there being eight members of the court, how are you going to divide it so as to get two thirds? [Laughter.] You must take three fourths.

Mr. WILSON, of Iowa. The gentleman has forgotten what he learned at school, I think. If he will take the whole number and divide it by three, and then add two thirds together, he will find how many it will take to constitute the number.

Mr. PRUYN. The gentleman talks about the "one-man power," and about the vote of one judge turning the scale and deciding a question. I would ask if that is anything different from the rule and practice in this House? You want ninety votes to carry a measure and you have only eighty-nine; one member comes in and carries it.

Mr. WILSON, of Iowa. Certainly, sir; the powers of this House are different.

Mr. PRUYN. The principle is precisely the same.

Mr. WILSON, of Iowa. I am talking about the principles involved in the Constitution, and the provisions of the Constitution put a check upon us by vesting the veto power in the President and requiring two thirds of both branches of Congress to override that veto.

Mr. PRUYN. But if the President concurs?

Mr. WILSON, of Iowa. Then you have got the concurrence of two thirds of the branches of the Government.

Mr. PRUYN. But it is the one-man power after all.

Mr. WILSON, of Iowa. No, sir; it is the concurrence of two branches of the Government, the Government being constituted of three, and it is the same principle that we are contending for to-day in the proposed second section of this bill.

Mr. Speaker, I do not wish to trespass upon the time of the House longer. I have no doubt, nor have I at any time had any, about our power to pass this bill or about the propriety of it, and I hope the House will pass it.

[Here the hammer fell.]

The bill and the pending amendments were then read.

Mr. ELDRIDGE. I move to lay the bill and the pending amendments on the table, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ROSS. I move that the House do now adjourn.

Mr. WILSON, of Iowa. I rise to a question of order. I submit that the order of the House was that the vote should be taken without dilatory motions.

The SPEAKER. Under a suspension of the rules the House ordered that after the previous question should be seconded and the debate closed the vote should be taken without entertaining dilatory motions.

Mr. ROSS. We have a right to adjourn.

Mr. BROOKS. It is a constitutional right.

The SPEAKER. The Chair declines to entertain the motion.

Mr. ROBINSON. That is the point on which I propose to appeal.

The SPEAKER. The gentleman from Illinois [Mr. Ross] is on the floor making one point of order, and the Chair can entertain only one at a time.

Mr. ROBINSON. I rose when the gentleman from Illinois had yielded the floor to take what I now take, an appeal from the decision of the Chair.

Mr. ROSS. He has a right to do that.

The SPEAKER. Under the order of the House that the vote shall be taken without entertaining dilatory motions the Chair declines to entertain the motion that the House do now adjourn. The gentleman from New York [Mr. ROBINSON] appeals from the decision of the Chair, and the question is, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. GARFIELD. Is not that a dilatory motion?

Mr. ROBINSON. On that question I demand the yeas and nays.

The question was put on ordering the yeas and nays; and on a division there were—21 in the affirmative to 112 in the negative.

Mr. ROBINSON called for tellers on the yeas and nays.

Tellers were ordered, and Messrs. ROBINSON and BROOMALL were appointed.

The House divided; and the tellers reported thirty-three in the affirmative.

So the yeas and nays were ordered.

The question was, "Shall the decision of the Chair stand as the judgment of the House?"

The SPEAKER. As the Chair did not have before him at the time he made his decision the resolution upon which that decision was based, he would ask that the resolution be read before the roll is called.

Mr. ROBINSON. Is it in order to read that resolution now?

The SPEAKER. It is not, as objection is made. The Clerk will call the roll.

Several MEMBERS. Let the resolution be read.

Mr. ROBINSON. Well, I will withdraw my objection.

The SPEAKER. The Chair cannot consent to have the resolution read now.

The question was then taken; and it was decided in the affirmative—yeas 126, nays 25, not voting 37; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Burr, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Eggleston, Ela, Eldridge, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Haight, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marshall, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pike, Pile, Poland, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

NAYS—Messrs. Adams, Archer, Barnum, Brooks, Getz, Glossbrenner, Golladay, Grover, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, McCormick, Mungen, Niblack, Nicholson, Pruyn, Robinson, Ross, Stone, Taber, Lawrence S. Trimble, Van Auken, Wood, and Woodward—25.

NOT VOTING—Messrs. Allison, Axtell, Barnes, Beck, Blaine, Boyer, Butler, Cary, Cook, Cornell, Driggs, Eckley, Fields, Finney, Fox, Halsey, Holman, Asahel W. Hubbard, Jones, Knott, George V. Lawrence, Lynch, McCullough, Morgan, Plants, Polsley, Randall, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Burt Van Horn, Van Trump, Van Wyck, and William B. Washburn—37.

So the decision of the Chair was sustained.

The question recurred upon the motion of Mr. ELDRIGE that the bill and pending amendments be laid on the table, upon which motion the yeas and nays had been ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 113, not voting 36, as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnum, Beck, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Holman, Hotchkiss, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Robinson, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Wood, and Woodward—39.

NAYS—Messrs, Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Poland, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Wash-

burn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—113.

NOT VOTING—Messrs. Allison, Arnell, Barnes, Blaine, Boyer, Butler, Cary, Cook, Cornell, Eckley, Fields, Finney, Halsey, Harding, Asahel W. Hubbard, Richard D. Hubbard, Jones, George V. Lawrence, Lynch, McCullough, Morgan, Peters, Plants, Polsley, Randall, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Burt Van Horn, Van Trump, Van Wyck, William B. Washburn, and John T. Wilson—36.

So the motion to lay on the table was not agreed to.

The question then recurred upon the amendment of Mr. WILLIAMS, of Pennsylvania, which was to strike out the amendment reported from the Committee on the Judiciary, and insert in lieu thereof the following:

That in all cases of writs of error from and appeals to the Supreme Court of the United States, where is drawn in question the validity of a statute of or an authority exercised by the United States, or the construction of any clause of the Constitution of the United States, or the validity of a statute of or an authority exercised under any State on the ground of repugnance to the Constitution or laws of the United States, the hearing shall be had only before a full bench of the judges of said court, and no judgment shall be rendered or decision made against the validity of any statute or of any authority exercised by the United States, except with the concurrence of all the judges of the said court.

Mr. KERR. Upon that amendment I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 25, nays 124, not voting 39, as follows:

YEAS—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Bingham, Cake, Sidney Clarke, Covode, Farnsworth, Harding, Judd, William Lawrence, Loan, Logan, Maynard, McCarthy, McClurg, Mullins, Pile, Price, John Trimble, Van Aernam, Robert T. Van Horn, Ward, Thomas Williams, and William Williams—25.

NAYS—Messrs. Adams, Anderson, Archer, Bailey, Baker, Baldwin, Barnum, Beaman, Beck, Benjamin, Benton, Boutwell, Bromwell, Brooks, Broomall, Buckland, Burr, Chanler, Reader W. Clarke, Cobb, Coburn, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eliot, Ferriss, Ferry, Fox, Garfield, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Hawkins, Higby, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Julian, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Knott, Koontz, Laflin, Lincoln, Loughridge, Mallory, Marshall, Marvin, McCormick, Mercur, Miller, Moore, Moorhead, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pike, Pomeroy, Pruyn, Randall, Raum, Robertson, Robinson, Ross, Sawyer, Schenck, Scofield, Shanks, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Stokes, Stone, Taber, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Auken, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—124.

NOT VOTING—Messrs. Allison, Ames, Axtell, Banks, Barnes, Blaine, Blair, Boyer, Butler, Cary, Churchill, Cook, Cornell, Eckley, Ela, Eldridge, Fields, Finney, Halsey, Asahel W. Hubbard, Jones, George V. Lawrence, Lynch, McCullough, Morgan, Morrell, Plants, Poland, Polsley, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Burt Van Horn, Van Trump, Van Wyck, and William B. Washburn—39.

So the amendment of Mr. WILLIAMS, of Pennsylvania, was rejected.

The SPEAKER. The question now recurs upon the amendment which, by unanimous consent, was allowed to be offered by the gentleman from Iowa [Mr. WILSON] to the amendment reported by the committee. It is to add to the amendment of the committee the following:

Provided, however, That if any circuit or district court of the United States shall adjudge any act of Congress to be unconstitutional or invalid, the judgment, before any further proceedings shall be had upon it, shall be certified up to the Supreme Court of the United States and shall be considered therein, and if upon the consideration thereof two thirds of all the members of the Supreme Court shall not affirm said judgment below, the same shall be declared and held reversed.

Mr. CHANLER. On that amendment I demand the yeas and nays.

On ordering the yeas and nays, twenty-five—less than one-fifth of the members present—voted in the affirmative.

Mr. CHANLER. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. CHANLER, and Mr. WILSON of Iowa, were appointed.

The House divided; and the tellers reported—ayes thirty-four, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 38, not voting 39; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Aaron F. Stevens, Stokes, Thomas, John Trimble, Trowbridge, Twichell, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—111.

NAYS—Messrs. Adams, Archer, Barnum, Beck, Brooks, Burr, Chanler, Fox, Getz, Glossbronner, Golladay, Grover, Haight, Hawkins, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Wood, and Woodward—38.

NOT VOTING—Messrs. Allison, Axtell, Barnes, Blaine, Boyer, Butler, Cary, Cook, Cornell, Eckley, Eldridge, Fields, Finney, Halsey, Asahel W. Hubbard, Jones, Ketcham, George V. Lawrence, Lynch, McCormick, McCullough, Morgan, Peters, Plants, Poland, Polsley, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Taylor, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, William B. Washburn, and Thomas Williams—39.

So the amendment of Mr. WILSON, of Iowa, was adopted.

During the roll-call the following announcements were made:

Mr. WOODBRIDGE. I desire to say that on this vote my colleague, Mr. POLAND, is paired with the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. WARD. I desire to say that my colleague, Mr. VAN HORN, of New York, is detained from his seat by sickness in his family.

Mr. MOORHEAD. My colleague, Mr. LAWRENCE, of Pennsylvania, is detained at home, as he has been for some days, by sickness in his family.

The result of the vote was announced as above stated.

The question recurring on agreeing to the amendment of the committee, as amended, it was agreed to.

The bill, as amended, was ordered to a third reading, and was accordingly read the third time.

The question recurred on the passage of the bill.

Mr. WILSON, of Iowa. I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. CHANLER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 39, not voting 33; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—116.

NAYS—Messrs. Adams, Archer, Barnum, Beck, Brooks, Burr, Chanler, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Wood, and Woodward—39.

NOT VOTING—Messrs. Allison, Axtell, Barnes, Blaine, Boyer, Butler, Cary, Cook, Cornell, Eckley, Eldridge, Fields, Finney, Halsey, Asahel W. Hubbard, Jones, George V. Lawrence, Lynch, McCullough, Morgan, Plants, Poland, Polsley, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Taffe, Burt Van Horn, Van Trump, Van Wyck, and William B. Washburn—33.

So the bill was passed.

During the vote,

Mr. WARD stated that his colleague, Mr. FIELDS, was absent on account of important business.

The vote was then announced as above recorded.

Mr. WILSON, of Iowa. I move to amend the title by adding the following:

And requiring the concurrence of two thirds of the members of the court to declare a law of the United States to be invalid.

Mr. WILLIAMS. I suggest whether it would not be better to say "and to regulate the jurisdiction thereof." It is a matter of regulation.

Mr. WILSON, of Iowa. I accept that and demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment, as modified, was adopted.

Mr. WILSON, of Iowa, moved to reconsider all of the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REDUCTION OF THE ARMY.

Mr. GARFIELD. I ask unanimous consent to offer for consideration and action a bill to reduce and improve the military establishment by discharging one major general.

Mr. WASHBURNE, of Illinois. Read the bill.

The bill was read. It provides that the Army of the United States shall be reduced by the discharge from the military service of the major general who was the last commissioned in that grade before January, 1868, to take effect from its passage, so there shall be but four major generals in the Army.

Mr. GARFIELD. I hope the bill will be allowed to come in, and then we can act on it in the morning.

Mr. RANDALL. I object.

Mr. GARFIELD moved to suspend the rules.

Mr. BROOKS demanded the yeas and nays.

Mr. RANDALL moved that the House adjourn, and demanded the yeas and nays.

The yeas and nays were ordered.

Mr. RANDALL. I move that when the House adjourns to-day it adjourns to meet on Wednesday next, and demand the yeas and nays. You cannot rush this through to-night.

Mr. GARFIELD. I am not trying to. I withdraw my motion and give notice I will bring it up first thing on Monday next.

The SPEAKER. The other motions will be considered as having fallen.

Mr. RANDALL moved that the House adjourn.

The motion was agreed to; and thereupon (at six o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Elizabeth J. Marshall, of Salem, Indiana, praying the passage by Congress of a special act granting her a pension.

By Mr. ASHLEY, of Ohio: The petition of William Bryan, of Lucas county, Ohio, praying for a pension.

By Mr. BROOMALL: The petition of citizens of Pennsylvania, asking an appropria-

tion to erect a pier in the Delaware river at the city of Chester for the protection of the harbor at that place.

By Mr. CLARKE, of Kansas: A memorial of S. N. Goodall, of Chicago, praying Congress to aid in introducing hand-looms among the Indians.

Also, the petition of Walter P. Bishop and 1,260 others, citizens of La Bette county, Kansas, praying for the passage of a law securing them titles on the lands on which they have settled at $1 25 cents per acre.

By Mr. COVODE: The petition of Judge S. Newton Pettis, of Meadville, Pennsylvania, for a mail route from Cochranton, Crawford county, to Wilson's Mill, Venango county, Pennsylvania, &c.

By Mr. DAWES: The petition of James W. Butler.

By Mr. EGGLESTON: A memorial of S. F. Denton, of Ohio, claiming compensation for services rendered as first lieutenant before being mustered.

By Mr. ELDRIDGE: Resolutions of the citizens of Milwaukee, in the State of Wisconsin, adopted in public meeting, with reference to the protection of the rights of American citizens.

By Mr. FERRY: The petition of James C. Gilmore, and 29 others, honorably discharged soldiers, praying that the equalization bounty law may be passed.

Also, the petition of Robert E. Crotty, and 30 others, honorably discharged soldiers, praying that the soldiers' equalization bounty law be passed.

By Mr. GETZ: A petition numerously signed by citizens of the city of Reading, eighth district of Pennsylvania, praying for retrenchment in the public expenditures, and especially for a reduction of the expenses of collecting and assessing the internal revenue.

Also, a remonstrance of citizens of Maxatawny township, Berks county, Pennsylvania, against the passage of any law by Congress to extend the right of suffrage to negroes.

By Mr. HOTCHKISS: The petition of all the voters, except one, in the village of Beacon Falls, Connecticut, to secure the rights of naturalized citizens in other countries.

By Mr. JUDD: A memorial of P. W. Gates and others, manufacturers of the city of Chicago, asking the removal of taxation on manufactures in accordance with the recommendation of the Cleveland convention.

Also, a memorial of S. T. Russell and others, manufacturers of Chicago, asking a change in the mode of appointments, removals, and qualifications of officers connected with the revenue service, upon the principle suggested at the Cleveland convention.

By Mr. MAYNARD: A memorial of citizens of Jefferson and Granger counties, Tennessee, praying for a pension to the children of Francis Olien, deceased.

By Mr. PERHAM: The petition of Henry Riemann, for a pension.

By Mr. PIKE: The petition of E. E. Shead, for substitution of bond for bond destroyed.

Also, the petition of Commander S. B. Luce, as to proceeds of steamer Amazon.

By Mr. PRICE: The petition of citizens of the second congressional district of Iowa, asking for such action on the part of Congress as will protect naturalized citizens in their rights and privileges in foreign countries.

By Mr. RAUM: A memorial of the city council of the city of Cairo, asking an appropriation to reimburse the city of Cairo for filling the streets around the new custom-house block in said city.

By Mr. ROBERTSON: The petition of W. H. Pemberton and others, citizens of the tenth congressional district, New York, praying for legislative action defining the status of naturalized citizens of the United States, and to compel the British Government to recognize the validity of the naturalization of citizens in this country.

By Mr. SCHENCK: Proceedings of citizens of Hamilton, Ohio, friendly to the cause of free Ireland, together with resolutions asking protection for naturalized citizens abroad.

By Mr. TRIMBLE, of Kentucky: The petition of John F. Davis and others, for the appointment of local steamboat inspectors for the city of Paducah, Kentucky.

By Mr. TROWBRIDGE: The petition of William McDonald, late of the fifth regiment Michigan volunteer cavalry, asking for a pension.

By Mr. VAN AERNAM: The petition of Marshall O. Roberts, Horace Greeley, David Dudley Field, Henry J. Raymond, and 106 others, citizens of New York, praying Congress to grant a pension to Jeremiah T. Hallett.

Also, the petition of S. L. Henderson and 7 others, soldiers of the war of 1812, asking Congress to grant pensions to all the surviving soldiers of that war.

Also, the petition of Second Lieutenant John A. Manley, eighteenth United States infantry, asking relief for thirty-three enlisted men and non-commissioned officers.

Also, the petition of 89 citizens of Cattaraugus county, New York, asking that the road between Randolph and Little Valley, New York, be declared a post route.

Also, the petition of 9 citizens of Chatauqua, New York, praying Congress to grant a pension to John McManus, a surviving soldier of the war of 1812.

By Mr. VAN HORN, of Missouri: Resolutions of citizens of Kansas City, Missouri, in regard to the rights of naturalized citizens.

By Mr. WARD: Resolutions of a large public meeting in Corning, New York, denouncing the action of the British authorities toward American citizens, and demanding the recall of Minister Adams and Consul West.

Also, the petition of numerous citizens of Corning, upon the same subject.

By Mr. WELKER: The proceedings and resolutions of a meeting of the citizens of Wooster, Ohio, insisting and requesting the speedy action of Congress to define the status of naturalized citizens in the old countries, and demanding the protection of all naturalized citizens of this country wherever they may be, in the same manner as native-born citizens.

IN SENATE.

TUESDAY, *January* 14, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 163) declaring what shall constitute a quorum of the Supreme Court with an amendment, in which it requested the concurrence of the Senate.

Mr. DAVIS. I move that the resolution which was under debate yesterday morning be taken up; and if it is taken up, and it is understood that I am to proceed with my remarks when the morning business is through with, I shall have no objection to any gentleman presenting any morning business.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to postpone all other business, and that the Senate proceed to the consideration of the resolution indicated by him.

Mr. WILLIAMS. Is that with the understanding that we can go on with the morning business?

Mr. DAVIS. Yes; and that I am to proceed until I close my remarks at the conclusion of the morning business.

The PRESIDENT *pro tempore*. It is under the control of the Senate.

Mr. TRUMBULL. Why not let us get through with the morning business first?

Mr. SHERMAN. The Senator from Kentucky proposes to give way to that; but he wishes to have it understood that he can proceed as soon as we get through with the morning business.

Mr. TRUMBULL. I have no objection to that understanding; but let us go on with the morning business first.

Mr. DAVIS. I have said that I shall not object to the presentation of morning business.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. DAVIS. My motion is that the resolution I have indicated be taken up, and then informally laid aside until all the morning business is transacted, and that then I proceed until I finish my remarks.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that all other business be postponed for the purpose of taking up the resolution mentioned by him.

The motion was agreed to.

Mr. DAVIS. Now I yield to allow the morning business to be presented.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Commissioner of Patents, transmitting the annual report of that office; which was ordered to be printed; and a motion of Mr. WILLEY to print four thousand additional copies was referred to the Committee on Printing.

On motion of Mr. ANTHONY, the annual report of the Congressional Printer, presented on the 10th instant, was referred to the Committee on Printing, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented a memorial of the common council of Cairo city, Illinois, praying for an appropriation by Congress to that city of the sum of $6,604 50, that sum having been expended by the city in grading the streets around the custom house in that place; which was referred to the Committee on Finance.

Mr. WILSON presented a petition of certain citizens of Alabama, for the removal of their political disabilities; which was referred to the Committee on the Judiciary.

Mr. DRAKE presented a petition of Joseph Barclay, a soldier of the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a memorial of members of the bar of Erie county, Ohio, asking that the Federal courts for the northern district of Ohio be required to hold stated terms at Toledo and Sandusky; which was referred to the Committee on the Judiciary.

Mr. MORGAN. I present a petition of Egbert T. Smith and several other citizens of the county of Suffolk, New York, asking that a bill or joint resolution be passed providing for sending grain and flour to Sweden to be distributed among the starving population. I have made some inquiry in relation to this matter, and I hope that there is not the necessity which these petitioners seem to apprehend; but I ask that the petition be referred to the Committee on Foreign Relations.

It was so referred.

Mr. MORRILL, of Maine, presented a petition of the children and heirs of the late Robert Isherwood, praying for restoration of certain property in the District of Columbia belonging to their ancestor, and compensation for its use by the Government; which was referred to the Committee on the District of Columbia.

Mr. HARLAN. I present the petition of forty-seven citizens, taxpayers and property owners in the city of Washington, representing that they reside near the location of the jail now in process of erection, and setting forth that they think the erection of a jail on that site would be advantageous to the people of that portion of the city. This is in the nature of a remonstrance against the removal of the jail from that locality. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. HENDERSON presented additional papers in the case of O. N. Cutler, who claims compensation for property taken for the use of the Army at Lake Providence, Louisiana;

which were referred to the Committee on Claims.

Mr. FOWLER presented a petition of regents and curators of the Kentucky University, praying compensation for property and medical apparatus destroyed by fire in May 22, 1863, while occupied as a hospital by United States troops; which was referred to the Committee on Claims, and a motion to print it was referred to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HENDRICKS, it was

Ordered, That the petition and papers of John W. Salyers be withdrawn from the files of the Senate, and that they be referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. SHERMAN. The Committee on Finance, to whom was referred the joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits, have directed me to report it back with amendments, and I give notice that I shall call it up to-morrow.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the bill (S. No. 174) for the relief of Mrs. Emma Wilson, of the State of Indiana, have had the same under consideration, and directed me to report it back with a recommendation that it be indefinitely postponed. I ask that action be now taken.

Mr. HENDRICKS. I believe this is a bill for the relief of Mrs. Wilson, of Indiana, introduced by me.

Mr. SUMNER. Yes, sir.

Mr. HENDRICKS. I regret the report of the committee. I think some relief might have been extended to Mrs. Wilson according to the precedents that have obtained, if not to the extent of granting her husband's salary for the whole year, at least for the unexpired quarter, though I know the latter proposition would not give her very much. I suggest to the chairman that the only difference between this case and a large class of cases is just this: Mrs. Wilson had left the post of her husband's duty shortly before his death, and was perhaps on her way home at the time he died, or had just arrived home at the time of his death. If she had remained at his post until the time of his death the Department, under the precedents or according to law, would have paid her the balance of the quarter's salary. I do not think she ought to be turned away without any relief when there is so little difference between the proposition contained in this bill, with an amendment limiting the allowance to the unexpired quarter's salary, and the precedents where similar allowances have been made.

The PRESIDENT *pro tempore*. Does the Senator object to the consideration of the report at this time?

Mr. HENDRICKS. No, sir; I do not. I cannot expect to carry the bill over the report of the committee.

Mr. SUMNER. The committee communicated with the Department of State on the subject and ascertained that there were no precedents in favor of such an allowance, and they did not think it best now to establish one.

Mr. HENDRICKS. The Department may have said that there was no precedent for granting a year's salary, but I understand the precedents are for a quarter's salary. At the time I drew up the bill I did not know the precedents were for a quarter only; I thought they were for a year.

Mr. WILSON. I hope that bill will go over this morning.

The PRESIDENT *pro tempore*. Does the Senator object to the consideration of the report?

Mr. WILSON. Yes, sir.

The PRESIDENT *pro tempore*. Then it goes over under the rule.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. R. No. 87) to provide for the gradual reduction of the Army of the United States, to report it back and recommend its passage. It is one section of four or five lines, and it is important that it should be acted upon at once. I desire to have it put on its passage now.

The PRESIDENT *pro tempore*. It requires unanimous consent. Is there any objection?

Mr. DAVIS. I shall not object if it is not going to interfere with my privilege.

Mr. WILSON. If the resolution gives rise to debate I shall not press it now.

Mr. DAVIS. I think I had better object, for the sake of caution.

The PRESIDENT *pro tempore*. Objection being made, the bill will lie over under the rule.

Mr. STEWART. The Committee on the Judiciary, to whom was referred a memorial of the reconstruction convention of Alabama for the removal of the political disabilities resting upon Governor R. M. Patton, have directed me to report a bill, and I ask that it be put on its passage now. I think there will be no opposition to it.

The bill (S. No. 246) to remove political disabilities from Robert M. Patton, of Alabama, was read and passed to the second reading.

The PRESIDENT *pro tempore*. The bill can be read the second time and considered now by unanimous consent. Is there any objection?

Mr. THAYER. I object.

DISTRICT JAIL.

Mr. CORBETT. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Treasury be requested to inform the Senate what is the amount of money paid on account of the new jail in the District of Columbia, and to whom paid.

I desire to state that the special committee appointed upon this subject desire this information.

The resolution was considered by unanimous consent, and agreed to.

THE FINANCES.

Mr. WILLIAMS submitted the following resolution; which was ordered to lie on the table, and be printed:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of providing for the funding and consolidation of the debt of the United States into bonds or obligations, the principal of which shall never become due and payable, bearing interest at the rate of four per cent. per annum, payable semi-annually in coin, and to be exempt from all taxation, and to further provide for the purchase and cancellation of such bonds or obligations from time to time by the Secretary of the Treasury as may accord with the pecuniary abilities of the Government.

2. To prevent, by the imposition of high duties discriminating against costly fabrics and luxuries, excessive importations and the consequent exportation of gold to pay balances, reducing thereby the amount of such duties as nearly as practicable to the amount necessary to pay the interest upon the public debt, and further by the removal of taxes from the products of mining and the capital invested therein, and otherwise to encourage and facilitate the production of gold and silver from the mines of the United States.

3. To amend the national bank act so that national banks may be established without limit as to number as the business interests of the country shall require, and to prohibit all other systems of banking, and to provide for the gradual withdrawal of Treasury notes from circulation and the substitution therefor of national bank notes, and further to provide for the resumption of specie payments through said banks, by requiring them to hold the necessary reserves in coin, and by extending special inducements to the banks already existing for their resumption of specie payments.

BILLS INTRODUCED.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 247) to amend an act entitled "An act to provide for the greater security of the lives of passengers on board of vessels propelled in whole or in part by steam," and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 248) to reduce the number of major generals and brigadier generals in the Army of the United States; which was read twice by its title.

Mr. THAYER. As this is a bill of but a few lines, I ask that it be read at length.

The Secretary read the bill, which provides that from and after its passage the number of major generals in the Army of the United States shall be reduced to four, and the number of brigadier generals to nine, and that it shall be the duty of the Secretary of War to muster out of the service of the United States the last commissioned officers in each of the above-named grades.

Mr. THAYER. I move the reference of the bill to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. THAYER also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 249) to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits to the State of Nebraska; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 250) to restore the possession of lands confiscated by the authorities of the States lately in rebellion; which was read twice by its title, and referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

Mr. FERRY. A day or two since I reported from the Committee on Patents and the Patent Office a private bill which, I am now informed, if it is to be beneficial at all to the party in interest, should be passed immediately in this body in order that it may pass the House before the early part of February. It is a bill to which I think there is no objection by any person in or out of the Senate, and I ask that it may be taken up and put on its passage. I gave way yesterday to the Senator from Kentucky, supposing that to-day I might have an opportunity to pass this bill; and I would ask him now to give me a few minutes, certainly it will not take more than three minutes to pass this bill.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent, as another subject is pending.

Mr. DAVIS. I very reluctantly enter my objection. If it was not for my peculiar attitude I assure the Senator from Connecticut I should yield. But I will give his bill a fair consideration, and if I think it ought to pass I will promise him my support.

Mr. FERRY. Do I understand that the Senator objects?

Mr. DAVIS. I object.

Mr. FERRY. I move, then, to postpone the present and all prior orders and take up Senate bill No. 229, for the relief of Horace Smith and D. B. Wesson, or their assigns.

Mr. BUCKALEW. I will inquire whether that motion is in order in the morning hour.

The PRESIDENT *pro tempore*. All matters are under the control of the Senate.

Mr. SHERMAN. I believe the Senate has never violated an understanding where one has been fairly made, and I submit to the Senator from Connecticut whether this does not do it. By an understanding all around the Senator from Kentucky has a right to the floor this morning.

Mr. DAVIS. I understand that I am to proceed with my remarks when the morning business is through, and to continue them until I have finished. I think that is the understanding of the Senate. I do not wish to interfere with any object of the Senator from Connecticut, or any other Senator that does not impinge upon my right. If the Senate understand that that is my right, and that when the Senator's bill is disposed of or at the conclusion of the morning hour I may call up my resolution and complete my remarks, I have no objection whatever to the Senator's motion.

Mr. FERRY. The bill would have been passed before this time probably. Now, sir, I understand the objection is withdrawn, and I therefore withdraw my motion and ask the

unanimous consent of the Senate to take up this bill.

The PRESIDENT *pro tempore*. The Chair understands the objection to be withdrawn.

Mr. SHERMAN. When the morning hour expires, if this other business is before the Senate, I shall certainly call up the unfinished business and submit the question to the Senate. If the Senator from Kentucky, who now has the floor, yields it to a private bill, as a matter of course he cannot expect the public business to be set aside afterward.

Mr. DAVIS. Under that suggestion I cannot yield. I suppose I have the floor now.

Mr. FERRY. I will withdraw my motion and let the Senator from Kentucky proceed.

Mr. DAVIS. I thank the honorable Senator for his courtesy, and I assure him that it will give me great pleasure to give a more substantial sense of my appreciation of his courtesy hereafter.

The PRESIDENT *pro tempore*. The Senator from Connecticut withdraws his motion, and the Senator from Kentucky is entitled to the floor.

DECISION OF CONSTITUTIONAL QUESTIONS.

The Senate resumed the consideration of the following resolution, submitted by Mr. DAVIS on the 16th of December last:

Resolved, That the Constitution should be so amended as to create a tribunal with jurisdiction to decide all questions of constitutional power that shall arise in the Government of the United States, and all questions of conflict of jurisdiction between it and the State governments; said tribunal to consist of one member from each State, to be appointed by the State, to hold his office during good behavior, and a majority of the whole number of said tribunal to be necessary to make a decision.

Mr. DAVIS continued the speech which he commenced yesterday. At one o'clock he was interrupted by the Chair calling up the unfinished business of yesterday, but was, by unanimous consent, allowed to proceed and conclude his remarks. His entire speech is as follows:

Mr. President, some such amendment of the Constitution as is suggested in the resolution I have offered for the consideration of the Senate I deem to be necessary for the preservation of our mixed system of national and State governments; the only system I can comprehend by which strength and liberty both can be secured in a country so extensive as ours. The Constitution and laws of the United States are restricted to a few general and national objects, but within their sphere are the supreme law of the land, while the States, as to all subjects and powers not intrusted by the Constitution to the Government of the United States, are, within their respective limits, solely and exclusively sovereign, and as much so of the United States as of foreign nations. These governments are to a very limited extent blended, but the Constitution assigns to each its distinct and independent orbit upon which the other cannot encroach without usurping power and endangering the safety of the system. They have an inherent, inevitable tendency to interfere with each other's functions, and one of the most desirable but difficult objects of the men who framed the Constitution was to organize a tribunal to hold them to the exercise of those powers which the Constitution confided to them respectively. To that end the Supreme Court of the United States was all that could be agreed upon by the Convention.

Mr Madison, in the thirty-ninth number of the Federalist, says:

"It is true that in controversies relating to the boundary between the two jurisdictions the tribunal which is ultimately to decide is to be established under the General Government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution, and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact, and that it ought to be established under the General rather than under the local governments; or, to speak more properly, that it could be safely established under the first alone, is a position which is not likely to be combated."

In an outline of the Constitution, written in 1829, Mr. Madison says:

"The plain fact of the case is that the Constitution of the United States was created by the people composing the respective States, who alone had the right; that they organized the Government into legislative, executive, and judicial departments, delegating thereto certain portions of power to be exercised over the whole, and reserving the other portions to themselves respectively. As these distinct portions of power were to be exercised by the General Government and by the State governments, by each within certain spheres, and as, of course, controversies concerning the boundaries of their power would happen, it was provided that they should be decided by the Supreme Court of the United States, so constituted as to be as impartial as it could be made by the mode of appointment and responsibility of the judges."—*James Madison's Writings*, vol. 1, p. 18.

But the Supreme Court could take jurisdiction only over such subjects and in such cases as the Constitution authorized. Article three section one, says:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

"SEC. 2. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants from different States; and between a State or a citizen thereof and foreign States, citizens, or subjects."

This is the organization of the Supreme Court and the judicial department of the Government of the United States by the Constitution. It will be observed that there is no express investment of jurisdiction over cases or questions of a conflict of authority between the Government of the United States and the States, but that such jurisdiction is given by necessary implication in all cases in which jurisdiction is expressly conferred, where, upon trial, any question of such conflict of power may properly arise, either in the prosecution or the defense of the suit. And this implied jurisdiction extends not only to questions of contested power between the Governments of the United States and the States, but also to the validity and constitutionality of all bills passed by Congress, and all acts of the President, and any other officer of the Government; and so far as they are unauthorized by the Constitution the courts have the power, and it would be their duty to pronounce them null and void.

The Constitution no where designates the Supreme Court to be the tribunal to adjudge whether acts of the other departments of the Government are in conformity to it, but from its provisions and the debates, and history of the Convention that framed it, there can be no reasonable doubt that it was intended to confer on the judicial department, the Supreme Court, the full jurisdiction here stated; and that the letter and spirit of the Constitution do confer it. After questions involving these principles had arisen in the administration of the Government, Mr. Madison repeatedly, and in the most deliberate manner, set himself to the task of giving a synoptical statement of the Constitution; and he affirms again and again that such is the extent of the jurisdiction of the Supreme Court.

But in an early period after the organization of that court, it established a distinction between what it denominated judicial and political questions, eschewing wholly the one and taking jurisdiction of the other when properly before it. The Constitution makes no such discrimination, and the line separating the two classes, if drawn at all by the court, has been done so vaguely as rather to bewilder than instruct.

A case in court is a proceeding in which there are at least two parties, one asking the judgment of the court for a right from the other, and involving both law and fact. The matter of law may be a bill passed by Congress, or it may be the validity of some act done by the President, or the Senate, or some officer, civil or military, of the Government; but whether the one or the other, if it be materially connected with the right claimed, or the ground upon which it is resisted by the party defendant, the question as to that case is a judicial one. Can any proposition be more true than that all questions which arise by proceedings in courts in pursuit of a claim of right or in resistance of such claim is a judicial question?

The Constitution confers upon Congress the power to do many acts, on the President to do many other acts, and on the judiciary to do many acts different from those authorized to be done by Congress or the President. None of these departments can do an act or revise the doing of it, which the Constitution provides shall be performed by another department; and neither of them can do any act whatever but what it is authorized by the Constitution to perform. But whether one of the departments or any officer of the Government has done a particular act, and whether that department or officer had the power from the Constitution and laws to do it, are both questions, when they arise in cases before the courts over which they have jurisdiction, that are judicial questions, and the courts are bound to decide them. And I believe this is the whole of it.

But whether this principle of non-action by the courts be sound or not, it is too firmly established to be shaken. It is an unappealable judgment of abnegation by the court itself of its most important and valuable jurisdiction; for though its adjudication of such questions would strictly only bind the parties to the suit in which they were adjudged, yet they would carry a moral political power that would settle the principle and cause it to be respected by the Government in all its departments. But this principle and practice being thus settled by the Supreme Court is an unanswerable argument that it is not a proper tribunal to decide questions of constitutional power as they arise in the Government of the United States, or questions of conflict of jurisdiction between it and the States.

But if the Supreme Court had taken and exercised jurisdiction to the extent for which I contend, both reason and experience teach us that it would be greatly inadequate to perform the office of arbiter between the Government of the United States and the States, and to confine the departments and all officers, Federal and State within the limits of the Constitution, and is liable itself to overleap them. Political questions are much more eruptive and dangerous than those *per se* judicial, and over those most frequent, most urgent, and dangerous the court could but rarely acquire jurisdiction; and then by reason of the mode of appointing the judges and of their liability to impeachment it would have cogent motives to delay, to mislead, and to deter it from the performance of its duties, particularly in times of great party excitement and threatened revolution. Chief Justice Marshall was among the very ablest jurists our country has produced, and as a jurist-statesman he has had no peer, and upon his spotless integrity suspicion never breathed. But he was so deeply convinced of the imbecility of the Articles of Confederation and the great necessity of a strong Government that in a very few instances he decided both against the letter and spirit of the Constitution that it had conferred certain powers on Congress. I will refer to an instance—the case of Cohen *vs.* State of Virginia; 6 Wheaton, 424.

The Constitution provides that—

"Congress shall have exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise the like authority over all places purchased by the consent of the Legislatures of the States in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

The plain meaning and effect of this language is, to give to Congress the same jurisdiction over the District of ten miles square that the Legisla-

tures of the several States have over their territories respectively—no more. Under the Articles of Confederation mobs had more than once threatened Congress with violence, and the sole reason for this provision was to give to Congress exclusive power over the seat of Government for the protection of the persons there engaged in its administration. The debates of the Convention upon this clause show this to have been its only object, and there was no intimation that it would confer any power upon Congress outside of the District. But in the case referred to Chief Justice Marshall held that Congress had the power to pass a law authorizing a lottery in the District of Columbia and to force the sale of its tickets in every State in defiance of their laws prohibiting it. Similar congressional legislation upon many other subjects could as well be sustained by this clause, and it would become a multiform and undefined power, permeating the whole United States, when the Convention intended to confer a legislative power only coextensive with the ten miles square. This construction of the court has nothing to sustain it but a great name, and it is controverted by one, as to all constitutional questions, of still greater authority—James Madison.

In a letter to Judge Roan, dated in 1821, he says:

"A candid review of the vicissitudes which have marked the progress of the General Government does not preclude doubts as to the ultimate and final character of a political establishment, distinguished by so novel and complex a mechanism. On some occasions the advantage taken of favorable circumstances gave an impetus and direction which seemed to threaten subversive encroachments on the rights and authorities of the States. At a certain period we witnessed a spirit of usurpation by some of these on the necessary and legitimate functions of the former. At the present date theoretic innovations, at least, are putting new weights into the scale of Federal sovereignty which make it highly proper to bring them to the bar of the Constitution."

"On the questions brought before the public by the late decisions of the Supreme Court of the United States, concerning the extent of their own powers, and that of the exclusive jurisdiction of Congress over the ten miles square, and other specified places, there is yet no evidence that they express either the opinions of Congress or those of their constituents." * * * * "The exclusive jurisdiction over the ten miles square is itself an anomaly in our representative system. And its object being manifest and attested by the views taken of it at its date there seems a peculiar impropriety in making it the fulcrum for a lever stretching into the most distant parts of the Union and overruling the municipal policy of the States. The remark is still more striking when applied to the smaller places over which an exclusive jurisdiction was suggested by a regard to the defense and property of the nation."

In a later letter to Judge Roan from Mr. Madison there is this passage:

"The papers of 'Algernon Sydney' have given their full luster to the suability of States by individuals, and against the projectile capacity of the power of Congress within 'the ten miles square.'"

Mr. Madison addressed a letter to Mr. Jefferson, dated in 1823, in which he said:

"I am not unaware that the judiciary career has not corresponded with what was anticipated. At one period the judges perverted the bench of justice into a rostrum for partisan harangues. And latterly the court by some of its decisions, still more by extra-judicial reasonings and *dicta*, has manifested a propensity to enlarge the general in derogation to the local, and to amplify its own jurisdiction, which has justly incurred the public censure. But the abuse of a trust does not disprove its existence. And if no remedy of the abuse be practicable under the forms of the Constitution, I should prefer a resort to the nation for an amendment of the tribunal itself to continual appeals from its controverted decisions to that ultimate arbiter."

Mr. Madison has been called the father of the Constitution. He was certainly the chief artificer in its construction and had a better understanding of the division and allotment of political sovereignty which it made between the Government of the United States and the States, and of the complex and nicely adjusted parts of the whole machine, than any other of our statesmen. He was a citizen of the United States of the purest and most comprehensive patriotism, devoted in mind and heart to the Union, to our system of government and its principles; to the preservation and exercise by the Government of the United States of all the powers delegated by the Constitution to it, and the full enjoyment by the States of the sovereignty, powers, rights, and liberties which they had reserved to themselves. Up to near the close of his life no American statesman observed more closely or with deeper solicitude, the workings of our complicated system. If this great and pure man was brought by the misgovernment and usurpations of his day to distrust its continuance and to condemn so strongly the Supreme Court, were he now living what would be his utterances in relation to the degeneracy both of Congress and of some members of a tribunal which was designated by its wisdom and virtue, no less than by its great powers, to hold all the departments and officers of the Government of the United States and the States to a constitutional exercise of their powers? What would be his animadversions upon the opinion of a judge of the Supreme Court, performing circuit court duties on what is termed "the civil rights bill," lately pronounced in Kentucky? I propose now to review that opinion.

John Rhodes and others were indicted in the United States circuit court for the district of Kentucky, under the act of Congress entitled "An act to protect all persons in the United States in their civil rights, and to furnish the means for their vindication," for burglariously entering the dwelling-house of Nancy Talbot, a resident of Nelson county in said State, and described to be "a citizen of the United States of the African race, having been born in the United States and not subject to any foreign Power, and who was then and there and is now denied the right to testify against the said defendants in the courts of the State of Kentucky."

On the trial of this indictment the jury found a verdict against the defendants, upon which the court entered judgment; and thereupon the defendants made a motion in arrest of the judgment upon several grounds, but relying mainly upon the one questioning the constitutionality of the act and controverting its validity to sustain the indictment. The court overruled the motion to arrest the judgment, and pronounced a lengthy opinion, in which it declared the act "in all its provisions to be constitutional;" and this ruling of the court in support of the constitutionality of the act I controvert.

Mr. Justice Swayne, of the supreme bench, wrote the opinion of the court in this case. The minor question, whether the case was within the act, he ruled affirmatively, but, I believe, erroneously. I will, however, pass that by and proceed to the examination of the great question, the constitutionality of the civil rights bill.

The opinion was revised by its learned author for the public prints, and therefore I assume that they have given it correctly to the public. The judge and all the supporters of that act concede that the thirteenth amendment of the Constitution, as it is called, is the whole and only source of the power of Congress to pass it. That amendment is in these words:

"SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, of which the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

When this proposition to amend the Constitution was before Congress it was resisted strenuously upon the ground that the majority of the two Houses had wrongfully excluded the Senators and Representatives of eleven States, and with Congress thus constituted it could not propose an amendment of the Constitution; and after the two Houses had voted most vehemently contended that the Constitution upon it, both in them and the country it was tion required a majority of two thirds of the whole number of each House to propose amendments to it, and because that proposition had not received such a vote it was not a part of the Constitution, and had no validity whatever.

Every man of intelligence would conclude that a judge of the Supreme Court should be an able constitutional lawyer, and that when he was brought the first to the judicial consideration of a denominated amendment of the Constitution which he was sworn to support, and which amendment had been so often and earnestly impugned, as well when it was being acted upon by Congress as since its ratification by the States, that he would carefully examine the grounds upon which it had been questioned; and if valid he would from the highest sense of duty reject the meretricious amendment. But the judge designed not to enter upon this task, to which he should have been stimulated as well by a desire for high and pure judicial fame as by the impulses of the truest and noblest patriotism. Let us attempt to do the work from which he turned aside. To amend the Constitution is slower, more difficult, and requires a higher sanction, than the making of it did. The initiatory step is that amendments shall be proposed by two thirds of both Houses of Congress, or by a convention of the States called by two thirds of both Houses of Congress, upon the application of the Legislatures of two thirds of the several States; and when propositions of amendment are made in either mode they are to be submitted for ratification to the Legislatures or conventions of the several States, as Congress may propose; and the propositions of amendment have no effect whatever until they are ratified by three fourths of the several States. The true and natural meaning of the words "two thirds of both Houses of Congress" is two thirds of the whole number of each House. The two Houses are authorized by the Constitution to get together in relation to but a single matter, the counting the votes of the electors for President, and then they do no business, but simply witness the opening of the certificates and the counting the votes. As Congress has no power to form a convention of the two Houses for any purpose, and they can take no joint action upon any subject whatever, but must always act as separate and distinct Houses, the language, two thirds of both Houses, in the clause under consideration, means two thirds of each House. The truth of this position no one will controvert; and the other branch of the proposition, that two thirds of both Houses mean two thirds of the whole number of each House, I hold to be no less true, though it has recently been so much and so strongly controverted.

The Constitution establishes a rule by which the House of Representatives shall always consist of a definite and certain number of members, and the precise number to be fixed, declared, and apportioned among the several States every ten years; and it provides further—

"The Senate of the United States shall be composed of two Senators from each State."

When the proposition of the thirteenth amendment passed the two Houses there were thirty-five States, including West Virginia, and Congress by law had fixed the aggregate number of Representatives for that decade to be two hundred and twenty-eight, and had assigned by definite number to each State its apportionment of that aggregate. If any intelligent and informed person had then been asked, "What is the number of both Houses of Congress?" the prompt and truthful reply would have been seventy Senators and two hundred and twenty-eight Representatives; and if further asked how many of both Houses are two thirds, his equally true reply would have been, "Two thirds of seventy Senators and two thirds of two hundred and twenty-eight Representatives." He would have had no other idea in relation to the whole number, and of two thirds of the number of the two Houses of Congress, even though several of the seats in both had then been vacant and that fact known to him. Similar questions as to the number of the two Houses of the British Parliament or of the Legislative Assembly of France would have received similar answers. When the Constitution authorizes the two Houses of Congress to perform the most important of all their functions, to propose amendments to the Constitu-

tion, and for safety required the concurrence of "two thirds of both Houses," it meant two thirds of the whole number of both Houses; and that is the natural and true meaning of the language used.

In four other places, and in relation to different subjects, the Constitution introduces the phrase "two thirds," and applies it three times to the Senate and once to both Houses in declaring what number of their members shall concur to do named things. Thus:

"The Senate shall have the sole power to try all impeachments;" * * * * "and no person shall be convicted without the concurrence of two thirds of the members present."

* * * * * * * * * * * *

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur."

"The persons having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice President. A quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice."

"Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to the House in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House it shall become a law."

The Constitution had previously declared—

"a majority of each House shall constitute a quorum to do business."

I have quoted, with the context, from the Constitution wherever it requires two thirds of both or either House. Two thirds of the Senate, when it is acting as a court of impeachment, or as an advisory council of the President in making treaties are required; but it is qualified and explained in both cases to be two thirds of the Senators present. As to the meaning of the Constitution in these two matters, when it is considered in connection with its before-declared principle that a majority of its members were required to constitute a quorum to do any business, there cannot be reasonable doubt.

When the electors shall have failed to elect a Vice President it becomes the duty of the Senate to choose that officer from the two highest on the electoral list; but two thirds of the whole number of the Senate are required to form a quorum to proceed in this election, and a majority of the whole number is necessary to a choice. There is a difference between this and the two former provisions: by them, if there be present a quorum to do business, two thirds are sufficient to ratify a treaty or to pass judgment of impeachment against an officer; and in a Senate consisting of seventy members thirty-six would be a majority and would form a quorum to do business, of which twenty-four would be two thirds. That number of Senators could, but would be the smallest number in a Senate of seventy members that could ratify a treaty or pronounce a judgment of impeachment. But the Senate to elect a Vice President must consist of a quorum of two thirds of its whole number, which in a Senate of seventy members is forty-seven; and that being the smallest number of Senators that could proceed to vote for a Vice President, it would take thirty-six of them, a majority of the whole number of Senators, to make an election.

The President's veto of a bill passed by the two Houses of Congress can be overruled, by its being first passed in the House in which it originated by two thirds, not of the members present, not of a quorum, but of that House; and then by two thirds of the other House. When the Constitution requires any proposition to be voted by a two-thirds vote of either House, but intends not a two-thirds vote of the whole number of the House, but a two-thirds vote of a less number, it expresses such intention in proper and plain language. There being no such intention manifested in relation to the "two thirds of both Houses" required to propose amendments to the Constitution, and that language not being restricted or modified by any other language, and the natural import and meaning of it being two thirds of the whole number of each House, that must be its true construction. It cannot be that the framers of the Constitution did not intend a larger vote and higher sanction by the two Houses of Congress in the grave work of amending the Constitution than they did in electing a Vice President by the Senate.

The resolution proposing the thirteenth amendment received in the Senate but thirty-eight votes, when forty-seven were but two thirds of the whole Senate, consisting as it did then of seventy members; and the whole number of the House being 228, this proposition should have got 152 votes to be two thirds, when there were but 119 in favor of it. The thirteenth amendment was not proposed by two thirds of both Houses of Congress, and therefore is not a part of the Constitution.

It may be said that it was ratified by the Legislatures of three fourths of the States, and that final sanction according to the requirements of the Constitution gives it validity. To this the truthful and sufficient answer might be made, that eleven States were procured by fraud, force, and duress to make their ratification, and therefore such ratification is void and of no effect.

But waiving that true and proper ground to impugn and avoid the ratification of this amendment by the States, I will remark further, upon the other ground, the failure of the two Houses of Congress to pass it by two thirds of their respective members.

The mode of proceeding to amend the Constitution must be truly and faithfully conformed to in all its parts. If three fourths or all the States were to attempt to amend it by their Legislatures or conventions without the necessary preliminary steps, such action might be generally accepted and thus become peaceful revolution; but it would not effect a legitimate amendment of the Constitution, and the courts and all proper authorities would be bound to decide it to be null and of no obligation. A proposition to amend the Constitution passed by less than a majority of both Houses of Congress, or by a bare majority, or by any less number than two thirds of the whole number of both Houses, would be without the sanction of the Constitution, and no action of the States upon it could make it a part of that fundamental law, and upon this principle: the Constitution itself having particularly declared the authorities and the mode and proceedings by which it is to be amended, all others are proscribed, and a resort to any other would be simply revolution.

But the other objection to the validity of this thirteenth amendment is more fundamental, more vital than the one I have been urging. It was proposed, not by the Congress of the United States, but by a revolutionary assembly. The dominant majority in the two Houses have mutilated both by excluding and keeping out the Representatives and Senators from eleven States, purposely to prevent them from taking any part in legislation or proposing amendments to the Constitution. These usurping majorities continued a formal organization of the two Houses, and claimed that their remaining members constituted the Congress, and that two thirds of this mutilated Congress could overrule the President's veto of bills passed by it, and propose amendments of the Constitution. These were the objects for which this revolutionary movement in Congress were made. It was not attempted until the rebellion was put down by the Army, and when the faction that made it had thus got undisputed possession of the two Houses they then claimed to be the conquerors of the southern States and to have within them all the rights of conquest. Their more frank and bold leaders proclaimed that they were acting outside of the Constitution; and this all of them knew full well, and just as well that they had no authority for it outside or inside of the Constitution; that they were simply usurpers. Congress, by the Constitution, had the power to put down the rebellion by force of arms, and when that was effected its power was exhausted, and the further punishment of the rebels devolved, under the Constitution and laws, upon the courts and juries.

Judge Swayne in this opinion indulges himself in a good deal of rhetoric, and here is an instance:

"What the several States under the original Constitution only could have done the nation has done by the thirteenth amendment."

What does he mean by the phrase the "nation?" Is it the mass of the people of the United States with an inherent right in the majority to act for them? This amendment was not made or ratified by the nation. The Constitution was made by the people of the United States acting by States: and it provides for its own amendment that two thirds of both Houses of Congress may propose amendments to it which, to be valid, must be ratified by three fourths of the several States. Every State has the right to be represented in the two Houses of Congress when an amendment is proposed. She may of her own willfulness refuse to send her Senators and Representatives to Congress; and if, in such a state of case, a proposition of amendment was made, she would have no ground of complaint; but if she were excluded from representation in Congress by the other States, or by the two Houses, such proposition, by whatever majority passed, would be void and of no effect. The proposition, too, must be made to all the States generally, or by naming each one; and a proposition to all the States by general language, or to each State by its name, excluding by definite language the States that were involved in the rebellion, would be unconstitutional and invalid. The requirement of the Constitution is that a proposed amendment shall be made to the several States, which is equivalent to each State; and whether all act upon it or not all must be in position and be perfectly free to act. Such is the inflexible form of the Constitution; and it is the right of every State to claim this participation for herself, and also that all others shall have it for the safety of the whole.

These principles prove that in times of civil war and convulsion, when any of the States are disrupted from their proper position in the Union, the Constitution cannot be amended; but before that can be done, if there be an insurrection in those States, it must be suppressed and they be put in proper relations with the Government of the United States, and as free to act on the proposed amendment as the other States. The men who formed the Constitution never intended that two-thirds of the States should exclude the other third from all part in the work, and then change and mar that fundamental law according to their will, passions, and interests.

But when Congress acted upon the thirteenth amendment the eleven excluded States were in position to have taken part in that work. The rebellion of their people had been suppressed, crushed, not by the dominating faction in Congress or out of Congress, but by the citizen soldiers of the United States whose brave hearts were true to the Union, the Constitution, and the enforcement of the law. The rebels had fought with a heroism worthy of any cause, and they had submitted with a good faith more noble than their courage. Every hostile arm had been grounded: the southern heart accepted the utter and final overthow of their cause; all felt and knew that their only safety and hope was in their full and perfect submission to the Constitution, laws, and authorities of the United States and their return to the Union and protection under its ægis. They accepted all the conditions imposed upon them, repudiated their rebel debt, manumitted their slaves by a change of their

constitutions and laws, and ratified the amendment of the Federal Constitution which abolished slavery throughout the United States. They rehabilitated their State governments in the Union and under the Constitution, chose their Senators and Representatives and sent them to Congress for admission, and asked to have all their powers, rights, and privileges under the Constitution as component parts of the United States. This has been sternly and persistently refused them by the dominating party.

Judge Swayne should have known that the thirteenth amendment was proposed, not by a majority of two thirds of both Houses of the Congress of the United States, but that a faction had exscinded about one third of each House to enable them to pass it; and that the proposition was not made to the nation but to the States, and not to conventions of the people of the States but to their Legislatures, and by Congress. Instead of vaporing about what the nation had done by this meretricious amendment he should have held it to be no part of the Constitution, because it had not been passed by two thirds of both Houses of Congress.

But, Mr. President, I will now concede for argument that the thirteenth amendment is a valid part of the Constitution, and proceed to examine the question whether it confers on Congress the power to pass the civil rights bill.

The opinion quotes its second section:

"Congress shall have power to enforce this article by appropriate legislation."

And this provision of the Constitution:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any Department or officer thereof."

The opinion, then, distinctly states that Congress has, under this last clause of the Constitution, the same power over the whole subject of the first section of the thirteenth amendment that is conferred upon it by the second section, and therefore concludes that this second gave no additional power and was unnecessary. The first section is, then, to be considered in connection with all the other provisions of the Constitution, and as though there was no second section.

The first section: "Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction," has, first, the expressed immediate effect to liberate all slaves in the United States, and second, gives an implied guarantee that slavery shall not be reëstablished in them. The opinion gives this construction of the first section, but in language more rhetorical than judicial; and it admits that no legislation is necessary to execute the first purpose of the section, which is clear and incontrovertible. Upon that section becoming a part of the Constitution it executed itself in the abolition of slavery, and no law which Congress could devise would have given it a prompter or fuller effect in doing that work.

Then, according to the construction of the thirteenth amendment given by Judge Swayne, and which is certainly the true one, its only purpose and effect for which any law would be required, or could possibly assist, is to prevent the reëstablishment of slavery in the United States. What was the slavery which for the present was abolished and for the future prohibited by that amendment? Slavery is that condition in which one person is the property of another, subject to his will and bound to render him service; and emancipation is such deliverance of the slave from that condition that he ceases to be the property of his owner, or subject to his will, or bound to render him service, and becomes his own man. This has been slavery and emancipation in the Colonies first, and then in the States, for more than two hundred years.

From the beginning the Colonies, and then the States, always had laws allowing owners to manumit their slaves, and at length many States, respectively, adopted systems for their general liberation, some to take immediately full effect and others to go into gradual operation; but in no case, whether the emancipation was by the owner or by the State in the exercise of the right of eminent domain, did the freed slave acquire any political or civil right, or any other right than to be his own man, the property of no other person, subject to the will or bound to render service to no one. These opposite conditions were universally and well known as slavery and freedom, and they were precisely expressed to the comprehension of every person by the phrases slave negro and free negro. The freed negro always acquired more or less of civil rights and in several States of late years some political rights, but not as a part of or incidental to his emancipation. They were a separate and distinct affair, varying in the different States, and liable to be wholly withheld without effecting the freedom of the emancipated slave.

One of the positions on which Judge Swayne most strenuously insists is, that any form of emancipation makes the enfranchised slave a citizen, and he claims no other specific right for him other than his delivery from servitude. He distinctly admits that a slave on becoming to be a citizen by emancipation does not acquire any political or civil rights. He says in this opinion that subject in England is the synonym of citizen in the United States, and satisfactorily proves this position by authority, and then adds:

"The fact that one is a subject or citizen determines nothing as to his rights as such. They vary in different localities and according to circumstances."

"Citizenship has no necessary connection with voting, eligibility to office, or, indeed, to any other rights, civil or political. Woman, minors, and persons *non compos mentis* are citizens, and not the less on account of their disabilities."

He quotes from the opinion of Judge Gaston, in the case of the State *vs.* Manuel, to establish the position that "emancipation is the removal of the incapacity of slavery." Then between Judge Swayne and myself there is perfect accord on these propositions:

1. The second section of the thirteenth amendment invests Congress with no power which it did not possess under a provision of the original Constitution, and was therefore unnecessary.

2. The first section of that amendment fully and perfectly abolishes slavery everywhere in the United States, and no legislation is necessary to execute or aid its execution in that respect.

3. The slaves emancipated by it had simply the incapacity of slavery removed, without being invested with any political or civil right whatever or any claim to have such rights.

4. The only other purpose and effect of this amendment is to prohibit the reëstablishment of slavery anywhere in the United States. But then there is this great difference between us: he believes the civil rights bill to be a necessary and proper measure to give effect to the prohibition of slavery in the future, and has no doubt of its constitutionality in all its provisions. I believe it to be both unnecessary and improper to that end, and to be flagitiously unconstitutional in all its provisions.

To fortify his position that the civil rights bill is a necessary and proper measure of legislation he quotes from the opinion of the court pronounced by Chief Justice Marshall in the case of McCullough *vs.* the State of Maryland:

"Let the end (for which an act of Congress is passed) be legitimate, let it be within the scope of the Constitution, and all the means which are appropriate, which are plainly adapted to the end, which are not prohibited but consistent with the letter and spirit of the Constitution, are constitutional."

He also quotes lexicographic authority in exposition of the term "appropriate." He doubtless had looked into Webster, but takes care not to give his definitions. Webster says in defining "appropriate:" "belonging peculiarly;" "most fit, proper or suitable, as to use appropriate language in pleading;" and of "adopted," he says, "suited, made suitable, fitted."

The judge does not quote, but could not have overlooked, this passage in the same opinion:

"Should Congress, in the execution of its powers, adopt measures which are prohibited by the Constitution; or should Congress, under the pretense of executing its powers, pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land."

I will now bring the civil rights bill to the standard erected by Chief Justice Marshall, with a view to see how it will abide that test. The end for which it was passed must be within the scope of the Constitution; the act must be appropriate and plainly adapted to that end, and must be consistent with the letter and spirit of the Constitution in all its provisions; but if, under the pretense of executing the first section of the thirteenth amendment—the prevention of the reëstablishment of slavery anywhere in the United States—this act has the effect to accomplish objects not intrusted to the Government of the United States, it is not the law of the land.

If any legislation of Congress was necessary to enforce the guarantee implied in that section of the amendment, that slavery shall not be reëstablished, it would be merely a law declaring any such attempt to be a crime and providing a proper punishment for it. An act of that character would have for its end an object within the scope of the amendment, and would be appropriate and plainly adapted to that end, would be consistent with the letter and spirit of the Constitution in all its parts, and all that would be needed to give that amendment its full effect. Such an act would not impinge upon any of the provisions of the Constitution or the reserved rights of the States, but would be short, simple, constitutional, effective, and complete.

By the civil rights bill a revolutionary faction in Congress burst into the fifteen States which had held to slavery, in defiance of the remonstrance of one department of the Government and without any sanction of the other, separated the negro from the white population, and stripped from it the constitutions, laws, and authorities of the States in which it was resident; abolished them so far as related to the negro population, and placed it under other laws and authorities set up by itself; published an edict establishing an equality and community of civil rights between the negro and white races; declared it to be criminal and to be punishable by fine and imprisonment for their governors, judges, jurors, and all officers of those States to execute or attempt to support and execute their constitutions and laws in conformity to their official oaths; demolished their courts and substituted others in their stead for all civil suits and criminal prosecutions in which negroes were parties or that affected them; designated officers to execute their laws and the judgments and sentences of their courts; made it a crime to oppose their execution, and empowered their executive officers to call to their assistance the *posse comitatus*, the Army and Navy of the United States and the militia of all the States, and attached the detestable Freedmen's Bureau as an adjunct to their governments thus set up within those fifteen States. Congress by this monstrous act and its execution revolutionized those States as effectually as if it had been done by its invading armies and the shock of battle. This atrocious act has nine sections, and but parts of the first and second had any relation to the indictment in the name of the United States *vs.* Rhodes and others, the case which Judge Swayne was trying. No other parts of this act were before him, and he had no authority to pronounce upon their constitutionality; but with evident gusto he perpetrates a judicial impropriety, and enunciates:

"We entertain no doubt of the constitutionality of the act in all its provisions. It gives only certain civil rights. Whether it was competent for Congress to confer political rights, also, involves a different inquiry. We have not found it necessary to consider that subject."

It is quite apparent that this associate justice of the Supreme Court was then prepared and ready to swallow negro suffrage, the reconstruction acts, and all the radical measures of Congress. But any good legal mind must labor under some strange hallucination that can take the position that the abrogation of the governments of fifteen States by an act of Congress for any end whatever was within the scope of the Constitution; that this act, so various and monstrous in its provisions, so destructive of the rights and powers of the States, was an appropriate measure, plainly adapted to the end of simply preventing the reëstablishment of slavery in the United States, and that it was consistent with the letter and spirit of the Constitution, and was not a measure devised under pretense of enforcing this thirteenth amendment, but in fact to accomplish objects not intrusted to Congress by the Constitution.

But let us confront this conclusion of Judge Swayne, that the civil rights bill is undoubtedly constitutional in all its provisions, with another part of his opinion, in which he says:

"What is unwarranted or forbidden by the Constitution can no more be done in one way than in another. The authority of the national Government is limited, though supreme in the sphere of its operation. As compared with the State governments the subjects upon which it operates are few in number. Its objects are national. It is one wholly of delegated powers. The States possess all which they have not surrendered; the Government of the Union only such as the Constitution has given to it, expressly or incidentally, and by reasonable intendment. Whenever an act of that Government is challenged, a grant of power must be shown or the act is void."

I challenge the civil rights bill, and demand to know what clauses of the Constitution express a surrender by the States to Congress of the power to break up and reconstruct their governments, which it does; and Judge Swayne answers from the bench, "Congress shall have power to pass all necessary and proper laws to prevent the reëstablishment of slavery in the United States." I might respond the answer is not only insufficient, it is ridiculous; his own statement of principles, which I have just quoted, show the unsoundness and absurdity of his judgment sustaining the constitutionality of this act.

But to give further illustration of the processes of reasoning by which Judge Swayne strove so hard to reach that conclusion, I will read further from his opinion:

"These pages show the spirit in which the amendment is to be interpreted and develop fully the principles to be applied. Before proceeding further, it will be well to pause and direct our attention to what has been deemed appropriate in the execution of some of the other powers confided to Congress in like general terms.

"1. 'The power to lay and collect taxes, duties, and imposts.' This includes authority to build custom-houses; to employ revenue cutters; to appoint the necessary collectors and other officers; to take bonds for the performance of their duties; to establish the needful bureaus; to prescribe when, how, and in what the taxes and duties shall be paid; to rent or build warehouses for temporary storing purposes; to define all crimes relating to the subject in its various ramifications, with their punishment, and to provide for their prosecution.

"2. 'To regulate commerce with foreign nations, among the several States, and with the Indian tribes.' This carries with it the power to build and maintain light-houses, piers, and breakwaters; to employ revenue-cutters; to cause surveys to be made of coasts, rivers, and harbors; to appoint all necessary officers, at home and abroad; to prescribe their duties, fix their terms of office and compensation; and to define and punish all crimes relating to commerce, within the sphere of the Constitution."—*United States* vs. *Coombs*, 12 *Pet.*, 72; *United States* vs. *Holliday*, 3 *Wall*, 407.

"3. 'To establish post offices and post roads.' This gives authority to appoint a Postmaster General and local postmasters throughout the country; to define their duties and compensation; to cause the mails to be carried by contract or by the servants of the Department to all parts of the States and Territories of the Union and to foreign countries; and to punish crimes relating to the service, including obstructions to those engaged in transporting the mail while in the performance of their duty. The mail penal code comprises more than fifty offenses. All of them rest for their necessary constitutional sanction upon this power, thus briefly expressed.

"4. 'To raise and support armies.' This includes the power to enlist such number of men for such periods and at such rates of compensation as may be deemed proper; to provide all the necessary officers, equipments, and supplies, and to establish a Military Academy, where are taught military and such other sciences and branches of knowledge as may be deemed expedient, in order to prepare young men for the military service.

"5. 'To provide and maintain a navy.' This authorizes the Government to buy or build any number of steam or other ships of war, to man, arm, and otherwise prepare them for war, and to dispatch them to any accessible part of the globe. Under this power the Naval Academy has been established."—*United States* vs. *Bevans*, 3 *Wheaton*, 390.

"These are but a small part of the powers which are incidental and appropriate to the main powers expressly granted. It is Utopian to believe that without such constructive powers the powers expressed can be so executed as to meet the intentions of the framers of the Constitution and accomplish the objects for which governments are instituted. The Constitution provides expressly for the exercise of such powers to the full extent that may be 'necessary and proper.' No other limitation is imposed. Without this provision the same result would have followed. The means of execution are inherently and inseparably a part of the power to be executed."

There is here enumerated some of the most important, necessary, and active powers of the Government, to execute which continuously multiform legislation by Congress from time to time, and in perpetuity, is indispensably necessary. These are and must continue to be the sources of large and indefinite incidental power of legislation. When the judge brought up those enumerated powers and the various necessary and proper legislation which has taken place to execute them to prove that the civil rights bill was a parallel measure to execute the thirteenth amendment, he must have felt that he was in a desperate strait. There is no analogy between these cases and the civil rights bill, and to present them to prove it does not strengthen but does weaken his cause.

He might have drawn from the Constitution and the history of congressional legislation much closer analogies to the subject before him. The first paragraph of section ten, article one, reads:

"No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility."

Some of the things prohibited in this clause had been done by the States, and were in existence when the Constitution took effect; they were abolished and their reproduction prohibited by this provision as slavery is by the thirteenth amendment. There has never been any laws passed by Congress to enforce the execution of that clause, and yet everything in being proscribed by it silently fell under its force, and nothing which it forbid has ever since been attempted by the States; and if such attempts had been made the courts could have repressed them under the power of the constitutional provision itself, and without the aid of any legislation.

Some of the things interdicted by that clause were much more likely to be attempted by the States than that any of them should undertake to restore slavery; and were attempts to restore it made the civil rights bill might be repealed or adjudged to be unconstitutional, and without any other law the courts would have ample power under the thirteenth amendment to restrain and stifle all such attempts.

If in the First Congress, of which many of its members had been in the Convention that framed the Constitution or the State conventions that adopted it, a bill parallel to the civil rights bill, to enforce the execution of the clause of section ten, article one, which I have just read, had been introduced, the member proposing it would have been set down to be demented.

The opinion of Judge Swayne is very unnecessarily long. More than one half of it is given up to declamation, or the statement and discussion of principles or positions of which he says severally they have no relevancy to the case that he was trying, and in the residue of the opinion in which he discusses its points there are frequent unsound positions which he himself overthrows by the statement of an antagonistic sound one. I will give some examples:

"Whenever an act of that Government [United States] is challenged a grant of power must be shown, or the act is void.

"It is an axiom in our jurisprudence that an act of Congress is not to be pronounced unconstitutional unless the defect of power to pass it is so clear as to admit of no doubt."

Shades of Madison, Marshall, and Webster! Doubts a constitutional source of the powers of Congress!

I quote further:

"Perhaps the safest rule of interpretation after all will be found to be to look to the nature and objects of the particular powers, duties, and rights with all the lights and aids of contemporary history, and to give to the words of each just such operation and force consistent with their meaning as may fairly secure the ends proposed."

This opinion embodies a long discussion of the term citizen, its true meaning, and the rights imported by it, and upon these points quotes sundry authorities, and then declares the whole subject to be irrelevant to the case before the court. But one of Judge Swayne's pet positions, that all slaves on manumission, by whatever mode, become citizens, was overthrown by the opinion of the Supreme Court in the Dred Scott case, that a negro of pure African descent could not, in any condition, be a citizen; and this ruling the judge attempts to parry by assuming that the question of Scott's citizenship was not properly before that court, and therefore its opinion upon that point was but an *abiter dictum*, and of no binding authority. But here, also, the learned judge was in error. One of the important questions in that case was whether Scott was a citizen of Missouri, and the court ruled that he was not, on two grounds: first, he was a slave; second, he was a negro of pure African descent, and upon both or either of the grounds was not a citizen. Both those grounds were incidental questions properly before the court, and it was its right and duty to rule upon them both. But when Judge Swayne was thus attempting to misapply the doctrine of *abiter dictum* it is strange that it did not occur to him that he was in this opinion ruling so many points, and important ones, too, and declared, *seriatum*, that they were wholly irrelevant to the case; and especially, that he should have adjudged that the civil rights bill was constitutional in all its provisions when only two of its numerous provisions were involved in the case which he was trying.

I could proceed lengthily yet to show the incongruous arguments, conflicting authorities, and unsustained conclusions in Judge Swayne's opinion, but it would subserve no useful purpose, and I therefore forbear. But to show the *animus* with which he entered upon the consideration of the case I will read some passages from his opinion:

"The title of the act is in harmony with this view of the subject.

"The construction contended for would obviously defeat the main object which Congress had in view in passing the act, and produce results the opposite of those intended.

"The difficulty was that where a white man was sued by a colored man, or was prosecuted for a crime against a colored man, colored witnesses were excluded. This, in many cases, involved a denial of justice. Crimes of the deepest dye were committed by white men with impunity. Courts and juries were frequently hostile to the colored man, and administered justice, both civil and criminal, in a corresponding spirit. Congress met these evils by giving to the colored man everywhere the same right to testify 'as is enjoyed by white citizens,' abolishing the distinction between white and colored witnesses, and by giving to the courts of the United States jurisdiction of all causes, civil and criminal, which concern him, wherever the right to testify as if he were white is denied to him or cannot be enforced in the local tribunals of the State."

The charge that in the slave States "courts and juries were frequently hostile to the colored man, and administered justice, both civil and criminal, in a corresponding spirit," is a flagitious exaggeration. On the contrary, whenever the black man had a cause, civil or criminal, he always had the sympathy of the court and jury, heightened by the fact that he could introduce no witnesses of his race; but this he could do in every penal prosecution against himself.

The opinion presents a vivid sketch of the harsh slave codes of several States at and before the commencement of the rebellion. Every country and every State while holding to slavery have had necessarily harsh slave

codes, but they had no connection with the case before Judge Swayne. He gratuitously introduced them into his opinion, and it would have been more just and proper for him to have told what they were then than what they had been some five years before. If the judge had intended to be an impartial and faithful historian he would have written that the southern States on abolishing slavery had swept away their slave codes with it and had extended to the freedman every civil right, including the right to give testimony in courts, and established a common code of civil and penal laws for both races. And for Kentucky he should have said that she always allowed to free negroes the same civil rights that she did to white persons except the right to testify for or against white persons; that she gave them the same protection by civil and penal laws that she did white persons and subjected them to the same punishments, except for one or two crimes it was severer; and that she, on the promulgation of the thirteenth amendment of the Constitution, abolished away her slave code. But I will read some other passages from the opinion:

"Slaves were imperfectly, if at all, protected from the grossest outrages by the whites. Justice was not for them. The charities and rights of the domestic relations have no legal existence among them. The shadow of the evil fell upon the free blacks. They had but few civil and no political rights in the slave States. Many of the badges of the bondmen's degradation were fastened upon them. Their condition, like his, though not so bad, was helpless and hopeless. This is borne out by the passages we have given from Kent's Commentaries. Further research would darken the picture. The States had always claimed and exercised the exclusive right to fix the status of all persons living within their jurisdiction.

"On the 1st of January, 1863, President Lincoln issued his proclamation of emancipation. Missouri and Maryland abolished slavery by their own voluntary action. Throughout the war the African race had evinced entire sympathy with the Union cause. At the close of the rebellion two hundred thousand had become soldiers in the Union armies. The race had strong claims upon the justice and generosity of the nation. Weighty considerations of policy, humanity, and right were superadded. Slavery, in fact, still subsisted in thirteen States. Its simple abolition, leaving these laws and this exclusive power of the States over the emancipated in force, would have been a phantom of delusion.

"The hostility of the dominant class would have been animated with new ardor. Legislative oppression would have been increased in severity. Under the guise of police and other regulations slavery would have been in effect restored, perhaps in a worse form, and the gift of freedom would have been a curse instead of a blessing to those intended to be benefited. They would have had no longer the protection which the instinct of property leads its possessor to give, in whatever form the property may exist. It was to guard against such evils that the second section of the amendment was framed. It was intended to give expressly to Congress the requisite authority, and to leave no room for doubt or cavil upon the subject. The results have shown the wisdom of this forecast. Almost simultaneously with the adoption of the amendment this course of legislative oppression was begun. Hence, doubtless, the passage of the act under consideration. In the presence of these facts, who will say it is not an 'appropriate' means of carrying out the object of the first section of the amendment and a necessary and proper execution of the power conferred by the second? Blot out this act and deny the constitutional power to pass it and the worst effects of slavery might speedily follow. It would be a virtual abrogation of the amendment.

"It is incredible that all this machinery, including the agency of the Freedman's Bureau, would have been provided if the intention were to limit the criminal jurisdiction conferred by the third section to colored persons, and exclude all white persons from its operation."

"Where crime is committed with impunity by any class of persons, society, so far as they are concerned, is reduced to that condition of barbarism which compels those unprotected by other sanctions to rely upon physical force for the vindication of their natural rights. There is no other remedy and no other security."

When Judge Swayne wrote this opinion there was no ground for his pronunciation of such a philippic as I have quoted from it. If there were occasional instances of outrages upon negroes that were not punished by courts and juries it was because they had been stimulated to previous and greater outrages upon the whites by persons for whom the judge has no censure. Where did Swayne get his information in relation to affairs in the South? Was it from his son, General Swayne? an unfledged military hero, who, without any valuable service, rose in rapid promotion by the influence of Stanton, and who at present is in Alabama, is sometimes written "Major General Swayne, commanding." He gives a horrid sketch of the state of society in the late slave States, in which he somewhat covertly but most unjustly charges that the negroes are the victims of the destructive and barbaric violence of the whites, and having no other redress or protection "are instructed by other sanctions to rely upon physical force for a vindication of their natural rights. There is no other remedy and no other security." When this appeal was made from one of the high-judgment seats of order and law to redress by force, violence, and crime wrongs which had no existence, by a man wearing the ermine, he then knew, having any reliable knowledge, that if he had reversed the positions of the whites and the negroes his dark picture would have been true. Yes, he knows full well the cruel wrongs and oppressions by which the southern white people are ground to the dust, and that they were inaugurated by the Freedmen's Bureau act, augmented by the civil rights bill, and are threatened to be consummated by the reconstruction acts and the military despotisms organized under them, confederating with four million of half-savage negroes just let loose, all of which with combined and destructive force menace the whole southern part of our common country with barbarism, carnage, and chaos. Yet Judge Swayne has no denunciation for the tyrants and despoilers, no sympathy for the victims, no thought or sentiment for the correction of such a terrible state of things.

Judge Swayne is an associate justice of the Supreme Court of the United States, a judicial tribunal without a peer in power and dignity in the present and all the past ages of the world. He was the first to consider and adjudge a case involving the civil rights act and some of the fundamental and most vital principles of our mixed system of Government; and their proper investigation and settlement could have but tasked all the ability and virtue of a great judge. One equal to this transcendent duty, in this time of national convulsion, would be aptly represented by

"Some tall cliff that lifts its massive form,
Mounts from the vale, and midway leaves the storm;
Though rolling clouds around its breast are spread,
Eternal sunshine settles on its head."

But how deplorably did he fail to come up to the great demand upon him! We see in his opinion the appearances of labor and investigation, but what beside that properly appertains to a judge? It is marked by an absence of intellectual power; of thorough, profound, and accurate legal learning; of a full, true, and philosophical comprehension of the principles and nature of our complicated political structure, and their application to the case before him in strong and lucid argumentation; a lamentable absence of the impressive dignity of judicial rectitude and firmness; of a clear, passionless, and presiding reason; of the enlarged comprehension of a statesman-jurist; of an all-comprehending patriotism, which embraces alike every part of our expanded country and all its people, and the governments, institutions, and general welfare of both the nation and the States; and more yet, the absence of any evidence of his recognition of the imperial and inviolable supremacy of the Constitution over all.

We see in this miscalled judicial opinion the disquisition of a sectional partisan politician, flippant, passionate, and superficial, erroneous in its statement of facts and principles, feeble and inconclusive in its reasonings, predetermined to come to a desired conclusion, and in its approach to it taking shelter behind piles of irrelevant, undigested, and confused legal authorities, and an utter failure to adduce one principle in support of the constitutionality of the civil rights bill. We see in it a feeble attempt to advance the ideas, passions, and interests of a section; its vagaries, social, political, and philanthropic, by this unworthy perversion of a high judgment seat. The task of proving the civil rights bill to be authorized by the Constitution is in conflict with all the powers of reason, and this judicial emanation in that cause does injustice to Judge Swayne himself, to his intellect, to his legal learning, and especially to his exalted office.

The upheavings of the civil war produced many strange events, and brought upon the national theater many new men. Among these new men were Judge Swayne and, a greater one than he, Chief Justice Chase. While the rebellion was yet in its throes Mr. Chase pronounced in favor of allowing the discontented southern States peacefully to withdraw from the Union, and then was presented to the American people as an aspirant to the Presidency; he was foiled, but to be made Secretary of the Treasury, and from that commanding position he sedulously operated to circumvent the high prize at the ensuing election. But the second time he was thwarted in this cherished ambition, and was again appeased by being put in the place which Jay and Marshall and Taney had filled; and which, when the incumbent has commensurate ability, learning, and virtue, invests him with more permanent and true dignity and consideration than the Presidency itself. From this lofty summit the chief justice, some three years since, again turned his eyes upon the Presidency; or, to speak more correctly, from early manhood he has been gazing upon it "steadfastly with the eye of the eagle and the appetite of the vulture," and his candidacy dates through all that period. The same general course of events which brought to him high and rapid promotion in the Government of the United States translated Judge Swayne from the position of a respectable lawyer in the interior of Ohio to be an associate justice of the court over which Judge Chase presides; and another turn in the wheel of fortune might bring him to vacate his present position and clothe him with the power to place Judge Swayne in it. A man of strong mind and will sometimes absorbs a weaker one with whom he is frequently brought into contact. The Chief Justice has always been of the extreme abolition school of politics, and an active propagandist of its opinions, sentiments and policies; but not so with Judge Swayne. From that direction the Chief Justice has made no retrogression; but since they have been members of the same court it is understood that on political questions Judge Swayne thinks pretty much as he does, and ardently desires his election to the Presidency.

Judge Chase is a man of large and conceded ability; of calm but true courage; of strong but not imperious will; of long and clear foresight; of but little power directly with the masses, but great control over their second-rate leaders, and of the most absorbing and unscrupulous ambition. He commands his own tongue, and when he chooses to indulge it talks well, and seldom too much, and combines eminently the *suaviter in modo et fortiter in re*. He might have made a great lawyer, but projects of political ambition early engrossed his mind and heart, and diverted him from that sedulous, laborious, and exclusive pursuit of his profession in the library and the courts which is the condition of achieving eminence in it. In the pursuits of his life his principle has been *aut Cæsar aut nullus;* and when he came upon the bench of the Supreme Court his youth and opportunity for making a great lawyer having passed, and his taste and aspirations being fixed in another direction, it was then impossible for him to take position with the great judicial luminaries of his own country; and therefore he turned from the mild and purer splendor of a judicial fame, which he could never reach again, to the dazzling and long coveted attractions of the Presidency.

Born and educated in an eastern free State, in his early manhood having settled in the great one of the West, and rapidly winning its highest honors, his cool and comprehensive survey of the whole theater from that stand-point soon convinced him that a sectional assault from the free States upon slavery, was the idea upon which the mass of their population might be

united, and by taking the lead in such movement he might rally a host that would bear him on to the Presidency. No sympathy or interest for the enslaved negro, no devotion to universal liberty, no sentiment of philanthropy, no views of enlarged patriotism moved him, but only the calculation of a cold and selfish ambition. He has played this long game without principle, but with great skill and self-possession. He was for State rights even to a forcible resistance of the constitutional authority of the Government of the United States, or for letting the southern States drift away from the Union, or for their coercion, conquest, and subjugation, and pinioning them to the earth with the bayonet, or for a general consolidated despotism, as his interests and policy required. His incendiary course in the peace convention contributed largely to frustrate that attempt to settle our difficulties and avert civil war. The Constitution and its guarantees and restrictions, the preservation of the peace, prosperity, and liberties of his countrymen, the threatened ruin of our entire political system, the imminence of a civil war that would devastate the whole land and fill it with wailing and woe, held him in no check; but with noiseless energy he pushed on his system of operations. When the thunders of the rebel cannon that played on Fort Sumter struck the eastern and western oceans and the great lakes, and reverberating over the whole land, frenzied all the people who had not gone into the rebellion, his soul was stirred with a profound but voiceless joy, for then he was assured that the stronger North would be hurled against the weaker South; and it became his hope that the southern whites would be utterly subjugated and the negroes enfranchised and placed in the mastery over their disfranchised owners, that he might obtain their suffrages for the Presidency. But things began to work not in unison with the scheme and calculations of the Chief Justice. The Army had done its work victoriously. The rebels had been conquered and had made full submission, and accepted promptly all the conditions imposed upon them, and had pleaded to come back to their proper position in the Union and the Government of the United States, and to be placed under its protection. The magnanimous masses were appeased by the completeness of their conquest of the rebellion and the equally complete submission of the rebels. The people of the States involved in the rebellion had remodeled their governments to conform to the condition of its utter overthrow, and under the auspices of many acts of Congress, and of the executive and judicial departments, were rapidly proceeding to reëstablish their full proper relations with the United States and their government. Union, peace, and fraternity seemed to be again brooding over the whole land. Good will and confidence between the freedmen and their late owners was fast springing up, and they were mutually establishing relations that would promote the interests, security, and welfare of both races.

But the consummation of this general movement in the South would leave its political power in possession of the white race exclusively, and bring it up united inflexibly as destiny against the Chief Justice's long-cherished hope of reaching the Presidency, and blast it forever. The ambitious, sectional politician and negro-equality propagandist took the alarm, descended from his lofty judgment seat, sounded the radical tocsin, and dragged the ermine of the judge through his notorious southern tour, and by his incendiary speeches and example, and by the perverted moral influence of his great office, filled the southern negroes with suspicion and hate of the white race and debauched them with the impossible but alluring and baleful vision of becoming the masters of the country, and thus broke up the work of tranquilizing and reconstructing the southern States upon the basis of the Constitution. But for the malign influence of this Mephistopheles that great and patriotic work would ere this have been accomplished. Could anything be more unfit, more grandly grotesque, than Judges Chase and Swayne sitting in final judgment on the constitutionality of the acts of Congress and of the States and questions of the conflict of jurisdiction between them and the Government of the United States?

The Chief Justice held the circuit court in the district of North Carolina, and rendered judgments; but the military satrap in command there, an upstart of very indifferent military record, issued his military injunction forbidding the execution of those judgments; and the Chief Justice, true to the instincts of his ambition, took no step to punish this minion of Congress. It might bring down upon him an impeachment—it might be resented by the radical masses.

Mr. President, Mr. Madison and the other patriots who framed the Constitution certainly intended that the Supreme Court should decide all questions of conflict of jurisdiction between the governments of the United States and the States that might come properly before it on the trial of cases within the several classes of which jurisdiction was conferred upon it by the Constitution, and, as I think, and have endeavored to show, without any distinction between judicial and political questions: that every question which can properly arise in any case, and that is material in relation to the rights put in issue by prosecution or defense, become judicial questions, and in that forum cannot be made to assume any other character. Those pure and virtuous patriots fondly expected that the extent of jurisdiction conferred would be ably, faithfully, and patriotically exercised, and that the mode of appointing the judges and their permanent tenure of office would give competent and safe depositories of their great powers, and thus the blended but distinct governments of the United States and the States could be made to move harmoniously in their separate orbits, and without any disadjustment of the system. But experience, the most faithful and the sternest of all teachers, has demonstrated both the insufficiency and the unfitness of the Supreme Court to answer those great ends for which it in part, but largely, was designed.

Since the administration of Washington the members of that court have been chosen rather for their politics than for their fitness and ability as statesmen-jurists, though many of them have had the greatness to rise above the atmosphere of party and politics, and to adorn by their ability and virtues that great national tribunal; and such is the present court in its older and some of its recent appointments. The tendency of the judges has generally been to exalt the national Government to the detriment of the States, but there have been exceptions and with a contrary proclivity. Political factions in Congress have occasionally attempted by its legislation to warp and mold the court to subserve their party purposes; and this has been strikingly the fact within the last five years. At the beginning of that period the court was composed of nine members, six of whom were eminently conservative and true to the Constitution. They were not Radicals or stuff that could be manufactured into Radicals; but Congress was preëminently radical, and determined, if possible, to make the Supreme Court radical also. A tenth judge was added to the bench, and it was the purpose of the leaders that the place should be filled with a Radical, and they so hoped even after his appointment. But the young and able lawyer summoned from the Pacific coast to become one of that great court soon proved his fealty to the Constitution, and demonstrated an amount of intellect and legal learning and official rectitude and courage worthy of the court in its best days.

The number of the court, by another act, was prospectively reduced to six; no appointments are to be made to fill vacancies that might occur until the judges should be reduced to that number. The new judges had been appointed by Mr. Lincoln, and were young men. The former judges who, so long on this bench, had become impervious to the debauching influences of sectional politics and Radical ideas, with one exception had lived about the allotted years of man's life, and it was expected and hoped that their speedy demise would leave to the country—what legacy? The diabolism of a Radical Supreme Court—for then it was deemed to be almost certain that the recently appointed judges were all Radical, and that the President would see to it most carefully that any he might have to appoint should be Radical *par excellence*. But the best laid schemes often disappoint their projectors: no man has dealt to Radicalism such ponderous blows as the President; and the opinion of the Supreme Court in the case of Milligan has enrolled the name of its writer with the immortal judges who entrenched the great principles of English liberty with buttresses deep and strong as the foundation of the sea-girt isle, and has given full assurance to the great islanders who still enjoy them, that their vigorous offshoots, transplanted to a new world, have here defenders equal to those who protected the parent stock against every storm.

But, Mr. President, the Supreme Court was not so organized by the Constitution as to be equal to stay or settle conflicts between national and State jurisdiction and thus avert civil war. Besides the fatal defect the want of the requisite jurisdiction, there is another objection to the sufficiency of the Supreme Court that is little less weighty—the liability of the judges to be impeached by the separate action of the two Houses of Congress.

Some of the more practical and sagacious members of the Convention that framed the Constitution predicted, that this responsibility of the judges to the two Houses of Congress would subvert the independence of the judicial department, and ultimately bring it to the feet of the legislative department. This prediction was made upon a calculation of the inevitable ascendency and correlative subordination which such an organization of the two departments would produce; and there are omens of its full verification.

If it had been foreseen in the conventions which made and ratified the Constitution that within eighty years, a party majority in each House would exclude so many of its members of opposite politics as to leave it with a majority of more than two thirds in both, and that this majority would then brandish impeachment at the President, at the judges of the Supreme Court, and all officers of the Government who dared to oppose their wild measures, this impeaching power would not have been vested in Congress. We have seen this rôle most audaciously played, so as to have perturbed even the President, preëminently self-poised and firm as he is, and to have affrighted some of the members of the Supreme Court from their propriety. This congressional majority has become so much exalted by the unchecked exercise of the great powers it has assumed as at length to claim to be not only the conquerors of the southern States, but to be the paramount power of the Government. It has so disadjusted and broken up the partition of its powers among what was intended to be coördinate and independent departments; it has so far destroyed all its checks and balances; it has to such an extent crippled and overawed the President and the judges as to have become for the time the Government, and a despotism.

The Supreme Court has no great popular constituency to sustain it by their numbers, enthusiasm, and courage. It has no purse or sword with which to subjugate or purchase its enemies. Its forces are moral—the Constitution, the laws and justice, and the peaceful protection which their administration afford. It shrinks from the frenzy of faction, from the rage of a people rendered delirious by passions let loose, and from the shocks of contending armies. It is always slow to intervene its conservative and unsustained authority, and in times of great national convulsion

the other departments, instead of supporting it as they should, generally disregard and defy it. Never does it interfere to prevent the usurpation of political power, seldom to redress its wrongs, and is always too late to do essential good. Such has always been its dilatory, slow, inefficient, restricted, and indirect movements to hold the Government of the United States and its separate departments within their constitutional spheres. This tribunal, to decide controversies relating to the boundary between the jurisdictions of the United States and the States as established by the Constitution, and upon which Mr. Madison then relied with so much hope, has failed in the performance of that great office; and a resort has been had to that alternative of which he so often warned his countrymen—the sword. We have experienced the terrible processes and forms, and the bloody mesne judgments of this arbiter; but the final judgment has not been rendered, and who desires to await it? Who doubts that it would be what it always has been—the overthrow of constitutional government and popular liberty?

The causes which will bring on another civil war are actively and energetically at work, and unless they are removed or essentially mitigated it will come and will not long be postponed. A faction in power is always willing to hold on to it at the cost of civil war and revolution, and the faction that now holds the Government has that purpose preëminently; and in the course of events the one that supplants it in power will have an increased desire and tenacity in holding on to it. The unchangeable law of factions is, that the successor, besides its own proper stock, inherits the machinery, profligacy, and desperation of the predecessor. It is the protracted conflicts of factions, ever increasing in intensity and corruption and involving the people on the one side or the other, that is the inherent infirmity of our system, and that will sooner or later overthrow it. The sharp and bloody sword of civil war is alien, unfriendly, and destructive of that system, and to avert this sword a peaceful and efficient arbiter to decide great political questions must be provided; and I believe it would be found in some such tribunal as is contemplated by my proposition. If it had been in existence it would have stifled the germ of the late rebellion before it broke out; if it were timely organized I believe it would prevent the threatened war, not to keep down or restore slavery, not a sectional war upon local ideas, but a war to uphold, preserve, and perpetuate our system of general and State governments and all the essential principles of the Constitution; an internecine war, pervading every State and neighborhood, ferocious, bloody, and destructive beyond example in Christendom. I believe the action of such a tribunal would have a material tendency to strangle faction, the demon of popular government, and to make a resort to the sword for the settlement of political questions unnecessary and difficult, if not impossible, and that it would add ages to the duration of our great Republic of nation and States.

Mr. NYE. Mr. President——

Mr. SHERMAN. I should like to understand what is the question before the Senate?

The PRESIDENT *pro tempore*. I suppose the question before the Senate is the unfinished business of yesterday, the bill (H. R. No. 213) to suspend further reduction of the currency.

Several SENATORS, (to Mr. NYE.) Go on.

Mr. NYE. Mr. President, I do not rise for the purpose of making a speech; but being very forcibly impressed with the short speech that I have just heard, I thought perhaps a passing remark or two would not be out of place. The honorable Senator from Kentucky who has just taken his seat has alluded to that era of good feeling when Lee and his army surrendered. Had it not been, he says, for the action of the Chief Justice and the Radical Congress that harmony would have ripened into affection ere this. The idea suggested itself to me that it was a great pity that the honorable Senator did not surrender at the time that Lee and his army did. [Laughter.] If I understand the result of that conflict, the Union army conquered as well the heresy of secession as the body of the rebel army; but with a tenacity for which the honorable Senator is remarkable he yet follows the *ignis fatuus* of State rights as though the doctrine had not been exploded, and complains of the diabolism of Radicalism that would ensue if this court was reduced to the dimensions to which Congress propose that it should be. I congratulate the Democracy, of which the honorable Senator is now so shining a member, that they have at last entered upon the field of progress, and that their course of correcting evil is so directly opposite to the course pursued by the majority of Congress. We propose to have six judges, they thirty-seven; and I have no doubt the honorable Senator from Kentucky flatters himself that he would be one of the thirty-seven, and that if able to write the speech just delivered he would be just as able to deliver certainly long and undoubtedly very able opinions on all questions of constitutional right. It seems to me that, if we are to settle these questions in our lifetime, and opinions of that length are to be given, the less judges we have the sooner they will be settled. [Laughter.]

I was surprised to hear the honorable Senator, a man so remarkable for his courtesy to political opponents, speak in the language that he did of two of the most eminent judges that grace the bench of the Supreme Court of the United States. He is particularly severe upon Judge Chase, praising in strong terms his ability, but detracting from him as a lawyer. Now, sir, as I understand, Judge Chase not only was educated as a lawyer, but a most profound one; he sat here in this District at the feet of Gamaliel, studying his profession with William Wirt, (the brightest luminary our country ever produced,) a southern gentleman; and let it not be said by the honorable Senator from Kentucky that any of his pupils were not profound. The Chief Justice's opinions have made his pathway through life luminous—a man whose opinions form his best defense against any attack from his assailants. And especially surprised was I that the honorable Senator should attack Judge Swayne, and say that he came from an obscure town in the State of Ohio. Not very obscure, sir, is the city of Columbus. It is the local point from which radiates much of the intelligence of that great State, and it is felt even over the borders of the State of Kentucky. My surprise was increased when I heard him denounce him as an Ohio man. Why, sir, he is a valiant southerner, born and reared in the State of Virginia, under the influences of that gallant chivalry which always pervaded Virginia. His crime in the eyes of the honorable Senator is that he has not been as stupidly blind and as madly blind to his duties as the great mass of those among whom he was reared. He is a man whose manhood arose with the magnitude of the questions presented to him, and who was able to shake off the shackles and prejudices of his birthplace and to stand by the country as an entirety. For that reason the honorable Senator thinks him incapable of discharging the duties that he would have these thirty-seven men to perform.

Mr. President, I apprehend the Senator from Kentucky would not like to make in the presence of Judge Swayne the speech that he has made here to-day. I do not think he would like to stand up in his presence, or in that court, and say, "Sir, you are a man of that subtle material and that weak intellect that Judge Chase shall warp you to any opinion he desires you to make for the purpose of enabling him to reach the Presidency, so that you may occupy the position of Judge Chase upon the bench," and yet, sir, that is the language which from the universally courteous Senator from Kentucky goes out to the world, not only to our own people but to foreign countries, that this man Judge Swayne is of such feeble and supple material that he but echoes the voice of the Chief Justice, panting for his place as the Chief Justice pants for the Presidency. I think my friend has consulted largely his imagination. I think that in the length of the speech he forgot what he started with, and his very pen seemed to get tired, so that it puzzled him to read it before he closed. [Laughter.] I hope that Judge Swayne and Judge Chase will outlive this attack, that the Supreme Court will stand. I think that the places of Taney and of Marshall, who was from an obscure town in Virginia, will not be disgraced or degraded by such men as Judge Chase and Judge Swayne, who, in the vigor of their manhood and in the virtue of their character, have declared that the policy advocated by the distinguished Senator from Kentucky and those who act with him is at war with the best interests of this country, and if adopted would prove its ruin.

PURCHASE OF PAPER AT THE TREASURY.

Mr. RAMSEY. Mr. President——

Mr. DAVIS. Will the Senator allow me a word?

Mr. RAMSEY. I have charge of a little resolution which I very much desire to call up now. Unless it is brought to the attention of the Senate to-day it will be too late.

Mr. DAVIS. I shall not detain the Senate five minutes.

The PRESIDENT *pro tempore*. The Chair will call up the unfinished business of yesterday.

Mr. RAMSEY. I rise to ask the Senator from Ohio to allow me to call up a joint resolution reported by the Committee on Post Offices and Post Roads which, if it is passed to-day, will save to the Treasury of the United States some twenty or thirty thousand dollars in the small contract for wrapping-paper for the Post Office Department.

Mr. MORRILL, of Vermont. I give the Senator notice that I shall oppose it.

Mr. SHERMAN. If the Senator from Minnesota will send the resolution to the desk and have it read, and no one objects to it, I will consent to its passage.

Mr. RAMSEY. It is Senate joint resolution No. 76, authorizing the several Executive Departments of the Government to purchase paper and envelopes of the Treasury Department.

Mr. GRIMES. Let us hear it read through.

The Secretary read the joint resolution, which proposes to authorize the War, Navy, and Post Office Departments to purchase from the Treasury Department, and the Treasury Department to sell, such paper and envelopes as the convenience or necessity of the respective Departments may require, without previous advertisement inviting proposals therefor, if in all cases such purchases can be made of the Treasury Department at prices at least twenty per cent. lower than the same article or articles can be purchased in open market.

Mr. RAMSEY. Now, if the Senate will allow me, I will make a brief explanation of this resolution. The Post Office Department advertises annually for wrapping-paper to be distributed to the various post offices of the United States. This paper costs about one hundred thousand dollars.

Mr. SHERMAN. This resolution will lead to debate. I trust, therefore, the Senator will not press it now.

Mr. RAMSEY. I do not think it will lead to debate. I am sure the Senate, after a brief explanation, will consent to pass the resolution.

Mr. SHERMAN. I never knew anything to pass the Senate without debate.

Mr. RAMSEY. In the Treasury, out of the canceled paper which they are required to destroy, they manufacture paper, and they can furnish the Post Office Department with this wrapping-paper at twenty or thirty per cent. less than it can buy it for in open market. It seems unreasonable that the Post Office Department should not be allowed the opportunity to save this amount of money to the Treasury. To-morrow is assigned for the letting by the Postmaster General of this wrap-

ping-paper, twine, &c. If the Senate passes this resolution through any one stage to-day the Postmaster General will take notice of that fact and suspend the letting. It cannot pass both Houses and become a law before to-morrow; but if this body will give it one reading that will probably answer the purpose I have in view at this time. Twenty thousand dollars can be saved by this action, and I hope the Senator from Vermont will not persist in his opposition to a resolution which saves even that much money to the Treasury.

Mr. MORRILL, of Vermont. I certainly must rise to oppose this resolution for many reasons. Instead of being a saving to the Government of $20,000 I predict that it would involve the country in an expense of more than one hundred thousand dollars.

Mr. SHERMAN. I call for the regular order of business.

Mr. MORRILL, of Vermont. I am utterly hostile to having the Treasury Department embark in any other business than that in which it is now engaged. It seems to me it is quite enough that it should carry on the printing business in addition to the finances without undertaking the manufacture of rags. I am opposed to this resolution for the reason that there cannot be a saving by it, in my judgment, of a picayune. If the Treasury Department has any old waste paper or pulp let it sell it, and not undertake to destroy that fine, magnificent building, which has been erected at a cost of $5,000,000, by the erection of further machinery in it calculated to unsettle its foundations and utterly destroy it. Sir, there is no more unhealthy business that can be engaged in.

Mr. SHERMAN. I rise to a question of order. This discussion is out of order.

The PRESIDENT *pro tempore*. The resolution cannot be discussed until it is before the Senate. The proper way for the Senator from Ohio is to object to the consideration of the resolution at this time.

Mr. SHERMAN. I have objected.

Mr. MORRILL, of Vermont. As the chairman of the Post Office Committee was allowed to argue the resolution, I merely rose to say a word in response.

Mr. SHERMAN. It was merely to give information, to know whether the Senate would agree to take it up or not; but I insist now on the regular order.

Mr. MORRILL, of Vermont. I do not desire to discuss it.

Mr. SHERMAN. It will lead to discussion.

The PRESIDENT *pro tempore*. House bill No. 213 is the business regularly before the Senate, and nothing else is in order.

Mr. RAMSEY. Will not the Senator from Ohio allow this little resolution to be disposed of now?

Mr. SHERMAN. I have nothing to do with that question. I simply call for the regular order of business.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 223) in relation to islands in the Great Miami river, in which it requested the concurrence of the Senate.

The message also announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

CONTRACTION OF THE CURRENCY.

The PRESIDENT *pro tempore*. The bill (H. R. No. 213) to suspend further reduction of the currency is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Pennsylvania, [Mr. BUCKALEW,] to strike out in the thirteenth and fourteenth lines the words "Congress shall otherwise provide," and to insert "the 1st day of July next," upon which the Senator from Pennsylvania is entitled to the floor.

Mr. BUCKALEW. I was not aware that I had the floor. I said on a former occasion all that I care to say on this amendment. I am quite willing that the vote should be taken.

Mr. DRAKE. I desired the other day when the Senator from Pennsylvania was on the floor, in reference to this amendment, to ask him a question for information in regard to it; but I did not have the opportunity. I would inquire now of the Senator from Pennsylvania what is the particular reason for fixing the period of this suspension to expire on the 1st of July next, and if the honorable Senator will favor me I will wait for the answer.

Mr. BUCKALEW. I stated at the time of offering the amendment several reasons in favor of fixing this particular day. I do not think it necessary to repeat that statement at length. I will, however, mention one consideration, which I suppose to be sufficient, and it is as to the particular time. It is this: that on the 1st of July we shall be at, or nearly at the end of the session of Congress, and between the present date and that time there will be full opportunity afforded to consider the subject involved in this bill, and also to consider the other subjects connected with it; in short, to consider generally the subject of our finances, including the currency, the banking system, and the public debt.

Mr. DRAKE. I do not perceive in the reasons assigned by the honorable Senator from Pennsylvania any ground for requiring the designation of the 1st of July next that would not be equally strong in favor of a subsequent period or even a prior one. My own impression is that there is another period which perhaps would answer just as well. I am inclined to think that the honorable Senator from Pennsylvania has fixed upon the 1st of July with some considerations in his mind which he has not been pleased to express to the Senate. It would be a very convenient thing, indeed, for the party that he represents on this floor to have the time of suspension cut short on the 1st of July, and then to resume contraction inflexibly at the rate of $4,000,000 a month; and then for the honorable Senator and those who agree with him to point the people of the country to the mischief and ruin that is coming upon the country through the ascendency of this Republican party.

Mr. BUCKALEW. Will the Senator permit me to make a remark?

Mr. DRAKE. Certainly.

Mr. BUCKALEW. The first time the idea which the Senator now mentions has presented itself to my mind is the present moment. It comes to me entirely from his suggestion. I take it for granted that during the present session of Congress, and before the 1st day of July, there will be action on this subject. My motion was made with reference to that expectation; and upon a former occasion I stated frankly and fully to the Senate all the considerations in its favor that had occurred to my mind. If the gentleman chooses to carry the discussion of my amendment over into a field which I have not traversed, and to which I have not invited the attention of the Senate, it is entirely his own act without provocation from me.

Mr. DRAKE. It will not be the first time, if such a thing were to happen, that a discussion has been carried over into a field that the originator of the discussion did not himself carry it into, and did not expect it to be carried into. But, sir, I can see very plainly how it was possible that the honorable Senator from Pennsylvania, though he did not have that idea fully fledged in his mind, could, nevertheless, have seen a vision of it away back in the recesses of his mind that would not be very comforting to him and to the party that he represents. The Senator from Pennsylvania, however, rejects this imputation, and I would suggest, therefore, to him under the circumstances, by way of showing the entire fairness of his rejection, that he change his amendment so as to fix the time of the duration of the suspension to the Tuesday after the first Monday of November next.

Mr. FRELINGHUYSEN. Mr. President, for Congress to fix now at what time contraction shall be resumed would be destroying all the benefit there is in Congress being in session; the purpose of our being here is to watch the interests of the country and to take such action in reference to the finances and other subjects as the exigencies of the nation may require. I have, however, risen not to argue this question, but very briefly to state the reason that will influence me in the vote that I propose to give on the main question.

I am constrained to do so because of the impression that seems to have gained strength, that to vote against the continuance of contraction implies a disposition to vote for expansion. Let me say, sir, that nothing is more important to this country, in my opinion, than an early return to specie payments. That event is essential to our healthful business and commercial condition. But it is more especially important inasmuch as returning to the currency of the world is the surest if not the only protection that this nation has against indirect and partial repudiation. Conventions, I observe, have recently been held in several States, in which the policy of paying the securities of this country with promises to pay instead of with money has been avowed. The argument in favor of this policy is briefly this: that the Government will pay in the same currency in which the Government was paid. The argument is fallacious. When the bonds and present currency were issued the vast capital of this country was invested on mortgage, and what was the immediate result? The borrower made a tender to the lender, in satisfaction of his mortgage, in greenbacks, and the lender was obliged to receive them. He paid money for the mortgage and he had to take greenbacks in payment. So he gave money equivalent to coin for the greenbacks, and with these greenbacks he bought the bonds of this Government and thereby paid coin for the securities of the Government, and paid generally more than par for them. So there is no truth in the position that those who hold these securities paid for them less than the Government promised to pay. The same is true of all the then existing indebtedness.

But, again, sir, for a year or two after this issue of legal tenders the currency of the country was a very little below par, not more than ten per cent. Afterward the currency became sixty or seventy per cent. less than par; but the policy of those who advocate this doctrine of "an eye for an eye and a tooth for a tooth" does not propose to make any discrimination in the payment of the bonds, but all are to be satisfied with promises to pay.

Again, many think that the war ought to have been carried on with a specie currency, that the bonds should have been sold for what they would bring, that we should have sold them at fifty per cent. if they would not command a higher price, and have carried on the struggle as Napoleon carried on his wars. Then, according to this policy, when we come to pay we would only have paid the fifty per cent.; for what difference does it make whether the bonds were paid for in a depreciated currency or whether only half the amount of the bonds had been advanced for them? Would anybody have called that anything else than the rankest repudiation? And how do you discriminate the paying less in value in legal tenders for the bonds from paying less in gold, as suggested?

Aside from these considerations, the faith of this nation has been pledged to pay these bonds in money. The faith of this nation was pledged by its uniform and unvaried custom to pay its securities in gold or silver unless a different mode of payment was stated in the instrument. The faith of the nation was pledged by the public advertisement of the authorized agents of the Government that they were to be paid in coin, and by the repeated declarations of the successive Secretaries of the Treasury. We may deny it now, but no one questioned when these bonds

were to be sold that they were so to be paid. We cannot as a nation afford to refuse to pay our securities in coin. It would injuriously affect the status of this nation among the nations of the earth. Every citizen of this nation at home and abroad would feel it. It would be an example the most injurious to public morals, and would obscure the luster of the flag of our country, so that when we looked upon it we would love it less, and if called upon to fight for it we would fight less bravely.

Mr. President, the Committee on Finance has introduced a bill for the purpose of averting this dishonor of the nation. While such is the purpose of that bill its introduction is plenary proof of the struggle the policy of repudiation has gained, for what other inducement can there be for any person to accept a five per cent. bond for a six per cent. except a want of confidence in the credit and faith of the nation, in the security which he holds? Will the creditors of this Government give up $20,000,000 a year, $800,000,000 in the forty years that the bonds have to run, and many times that amount if compounded, if they have faith in the Government and in its integrity?

I do not say that I will not vote for that bill, but I do say that as at present advised I will not vote for that bill until a strenuous effort has been made to give the strongest possible assurance which Congress can give that the existing securities of this Government shall be paid in coin. Then if the people think that a new contract at five per cent. is better than the old contract at six per cent. with this assurance they may take the five per cent. bonds.

And, Mr. President, if I believed that continued contraction would advance the return to specie payments without being disastrous to the business of the country I would vote for continued contraction; but I do not so believe. I believe that a contraction which cripples the industry of this country retards instead of promotes the return to specie payments. This nation for its own preservation has been obliged to make a great funeral pile upon which has been cast all the accumulated wealth of the nation—corn and grain and powder and arms and apparel. They have cast upon it all the accumulations of the five years of war, and upon that they have cast the nerve, the muscle, the skill, and enterprise of six hundred thousand, I might say a million, of vigorous men in the prime of their strength. This has been a paralyzing shock to the nation; and time and industry alone can enable us to recover; that industry requires a currency; and I do not think the present volume of currency too great. In 1860 the currency was $500,000,000; now it is $700,000,000, including the reserve of the banks; without that reserve it is $550,000,000, while the business of the country is probably three times what it was in 1860.

We have an immense debt. It is not only $2,500,000,000; but if you include the debts of individuals, and corporations, and cities, and towns, and States, it amounts, as it is estimated, to more than six thousand million dollars.

Now if we contract the representative value of all the property of the country we destroy the ability of the people to pay, while the debt does not shrink. Again, sir, by the very act of Congress which authorized contraction at the rate of $4,000,000 a month, it was contemplated that in the first six months of 1868 there should be a contraction of not more than twenty-four million dollars. I do not believe that it was before the mind of Congress that during these six months $43,000,000 of compound interest notes were to be paid in addition to $0,000,000 outstanding notes of the same description, making in all $52,000,000; and although the three per cents which have been issued to the amount of $25,000,000 reduce the draft upon the currency to supply the place of these notes in the bank reserves as the three per cents take the place of the compound-interest notes in the reserve, yet it still leaves a balance of $27,000,000, which being retired reduces the currency that amount during the first six months of the year 1868.

Now, I may be asked, inasmuch as I believe that the currency is not too great, whether I am in favor of an increase of the currency. I answer that I am not; that while we must avoid a contraction which cripples industry we must also avoid an expansion unfriendly to the resumption of specie payments. We should endeavor to find out the happy mean and there take our stand. This nation is now passing through a dangerous strait, and must avoid the rocks on the one hand and the whirlpool on the other until we get out into the open sea, and then our progress will be unparalleled. It is not true that we are now richer for this war; but ten years hence the development of our resources by reason of the war and the knowledge we have obtained of our hidden power will add greatly to the strength and wealth of the nation.

I am in favor of leaving things as they are. Stability is the most important element in the business and commercial policy of the country; and if our currency was several millions more or less at the present time I would be in favor of trying the experiment of just such an amount of currency as we now have.

I believe that the currency will be sufficient to enable the industry of the country to recover, and that with the recovery and with the obtaining of our former position we can resume specie payments, and then the whole volume of our specie will tend to increase our currency by its becoming a circulating medium instead of a mere matter of barter.

Now, sir, with one more remark I close. It is the duty of Congress, composed of Representatives familiar with the interests of every part of this country, to legislate on this important subject themselves, and not leave it to the discretion of any one man, however great his financial ability or his integrity.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Pennsylvania.

The amendment was rejected.

Mr. DRAKE. I suppose the particular part of the bill that is now amendable is the amendment proposed by the Committee on Finance, which is printed in italics. I move to amend that amendment by striking out in the thirteenth and fourteenth lines the words "suspended until Congress shall otherwise provide" and inserting in lieu thereof the word "repealed," the effect of which amendment will be simply to end the whole question as to the resumption of contraction, and leave it altogether dependent in the future upon Congress passing an act which shall authorize the Secretary of the Treasury to resume contraction. If it is worth while for us now to step in and prevent contraction, in my opinion it is worth while that we should fix it in such a way that there can be no resumption of contraction hereafter without the express consent of Congress, and that the community should not be left under the apprehension that this suspension may be removed, but that they should know that the power to resume contraction is fully and finally taken away from the Secretary of the Treasury.

Mr. SHERMAN. I imagine that at this stage of the bill the amendment is not in order. The Senate as in Committee of the Whole having already adopted the amendment of the Committee on Finance, it is not now in order to amend it, nor will it be until the bill shall have been reported to the Senate.

The PRESIDENT *pro tempore*. The amendment is not strictly in order at this time.

Mr. DRAKE. If the honorable Senator from Ohio had told me that when I first got up I should not have offered it, but I was not aware of the fact that the amendment printed in italics had been agreed to.

Mr. SHERMAN. I was waiting to hear the Senator's proposition. I did not wish to interrupt him.

The PRESIDENT *pro tempore*. The amendment will be in order at another stage.

Mr. DRAKE. Very well, sir; I should have been glad to know that before.

Mr. CORBETT. I offer the following amendment, to come in at the end of the bill:

Provided, That nothing in this act shall be so construed as to prevent the Secretary of the Treasury from substituting notes payable in gold on demand in place of an equal amount of legal-tender notes in such manner and at such time as he may deem best for the public interest.

On this proposition I ask the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yea 1, nays 40; as follows:

YEA—Mr. Corbett—1.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Cole, Conkling, Conness, Davis, Dixon, Doolittle, Drake, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Hendricks, Howard, Howe, Morgan, Morrill of Vermont, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, and Wilson—40.

ABSENT—Messrs. Bayard, Chandler, Cragin, Edmunds, Ferry, Fessenden, Guthrie, Johnson, Morrill of Maine, Saulsbury, Williams, and Yates—12.

Mr. CORBETT. Mr. President, by the action of the Senate upon the amendment on which we have just voted, I believe that they have committed themselves to a continued legal-tender currency as opposed to a return to specie payments. I understand that this measure is the entering wedge to a policy of expansion on the part of this Government. I have understood that the Senate had heretofore established the principle of contraction and had authorized the Secretary of the Treasury to contract the currency, if in his judgment he should think it best for the Government, at the rate of $4,000,000 per month. It seems to me that the assertion of gentlemen upon this floor that the Secretary of the Treasury would be likely to contract the currency for the purpose of affecting political results is entirely without foundation. I cannot conceive why a financial minister whose reputation is at stake for the well-being of the country and for the advancement of a sound financial policy should inaugurate or pursue a course which would be so greatly to the detriment and injury of this country.

I believe that the policy fixed by the law which it is now proposed to suspend was wise, and it was one which was introduced here and was confirmed by the Senate when their judgment was unbiased by outside pressure, unbiased by outside clamor, unbiased by the demand from political parties that the currency should be expanded; but now at this juncture and at this state of political affairs they propose to place themselves in a position which, as I understand it, will in the future, if not at the present, destroy our political ascendancy. It seems to me that a sound currency based upon gold is the only one to which our country can look to effect a permanent return to its prosperity. As I have before stated upon this floor, I do not believe that under the expansive policy which it is now proposed to adopt we can export any products of our country to compete with foreign producers in the markets of the world. In order to succeed in establishing ourselves upon a permanent, sound specie basis, we must inaugurate a policy which shall induce the exportation of all kinds of products of our country. During the rebellion, it is true, we were prevented from the exportation of a large amount of cotton that would otherwise have paid the balance of trade against us, and I have no doubt that the repeal of the cotton tax will greatly assist us in returning to a specie basis and enabling us to pay the balances against us; but that alone will not accomplish it.

I voted for the amendment providing for the suspension of the contraction law until July, and I would vote for the bill in that shape. I believe at this time the currency does not require to be contracted; and, as I understand, the Secretary of the Treasury has written a letter to Congress informing them that he will not contract at present; he does not conceive it to be for the public welfare and public interest. Under such circumstances it follows, of course, that for his own reputation he will not

continue contraction. I cannot see, then, the object of this bill at this time, when he has stopped contraction, unless it be as an entering wedge to further expansion.

I offered the amendment which has just been acted upon in order to test the sense of the Senate upon this question—whether they were willing to give the Secretary of the Treasury power, if he should see that it was for the best interests of the country, to introduce gold notes payable on demand instead of the legal-tender currency. If he could see his way to do so in part I think it would be a benefit. I have no idea that he could substitute gold notes as a whole in place of the legal-tender currency, because if he were to attempt that now it would amount to the same thing; but I think he could do it partially. I think he might issue with safety $90,000,000 of gold notes payable on demand in gold coin. That would satisfy many of our people who desire to return to specie payments.

There has been presented to the Senate a memorial from the Chamber of Commerce of New York, composed of some of the most intelligent shipping merchants of that city and some of the best informed financiers we have in the country, asking Congress to adopt such measures as shall bring us back to a specie basis, and they have recommended a contracting policy. They have recommended that ten per cent. of the duties on imports should be paid in legal-tender currency and that the ten per cent. thus received should be retired from circulation. That may be wise or it may not; but I believe the sense of the commercial community and of the financial men of the country is that we should take the earliest possible steps to return to a specie basis.

If we do not, if we commence now to expand the currency again, we are going to throw ourselves further from the desired end than we are at present. We cannot by deferring the time increase the amount of gold in our Treasury. We must either contract our paper money or hold it very near the amount of the present currency that is in the country, and I think the Secretary of the Treasury is best able to judge of that matter. From all the information that he gathers from time to time from the different portions of the country, I think he can determine that matter better than we can. He can determine better whether he is able to collect the taxes with a large amount of currency in circulation or whether he can collect them equally well under the policy of contraction which has been pursued thus far.

I will not consume more time. I have simply stated these as the reasons why I shall vote against this bill as it is presented to us to-day.

Mr. STEWART. Mr. President, I want it distinctly understood, as far as my vote on this bill is concerned, that I declare no policy but one, and that policy is that I do not want to trust the Secretary of the Treasury with this discretionary power any longer. I am fully satisfied to let him cease exercising discretionary power wherever it can be done; and my reasons for these opinions are very obvious and may be stated very briefly.

At the conclusion of the rebellion, assuming that we owed, in round numbers, $3,000,000,000, on his estimates we have been led to impose taxes that if collected and applied properly would have paid off that whole debt in between eight and nine years. Indeed, the estimates of the Secretary of the Treasury would have paid the debt sooner than that, as I understand, for they were cut down largely by the proper financial committees of Congress from time to time. But according to the taxes we have levied to comply with his estimates, if they had been honestly collected, the national debt, assuming it to have been $3,000,000,000, would be paid off in eight or nine years.

Mr. FESSENDEN. I would call the Senator's attention to the report of the special Commissioner of Revenue, in which he shows that the last Congress, the Thirty-Ninth Congress, appropriated $36,000,000 in excess of the estimates, to say nothing of the appropriation for bounties, which was very many millions more. The honorable Senator should bear in mind this fact, that Congress exceeded the estimates $36,000,000. Then there is another thing I want to suggest to him, and that is that the estimates of appropriations are not made by the Secretary of the Treasury except to a very small extent. He takes the estimates as they come to him from the other Departments as to what is needed by them, which he has no power to affect. The Secretary of War makes his estimates for the War Department; the Secretary of the Navy for the Navy Department; the Secretary of State for the State Department; the Secretary of the Interior for the Interior Department; and so on. So that to a very small extent is the Secretary of the Treasury responsible for the estimates.

Mr. STEWART. Who makes the estimates as to taxation?

Mr. FESSENDEN. The Secretary of the Treasury estimates the amount necessary to be raised by taxation to meet the estimates of expenditures which are transmitted to him.

Mr. STEWART. Who makes the estimates of what the existing laws will produce?

Mr. FESSENDEN. Those are made by the Secretary of the Treasury; but they are always stated by all Secretaries to be merely conjectural. Nobody can make them with certainty. Mr. Chase did not pretend to do it. No Secretary of the Treasury that ever lived pretended to do it, especially in such times as these. The estimates will sometimes fall short and sometimes run over. It depends on the condition of the country and the condition of business. It is affected by a great many things that nobody can foresee. Those estimates are always stated to be mere conjectures from what has taken place heretofore, and if the same exact state of things continued for the next year the result would be the same; but it is not so, because the condition of things changes from time to time. If the Senator goes back he will see that no Secretary of the Treasury ever pretended to make accurate estimates, either of what would be produced by existing laws or what would be the effect of any changes in the laws. A Secretary estimates as well as he is able, and it is a new thing to hold him responsible for matters which he cannot in any way control.

Mr. STEWART. I do not propose to hold the Secretary of the Treasury to accurate estimates of the amount of money to be produced by the existing laws or proposed changes, but I propose to hold him within the limit of two or three hundred million dollars.

Mr. FESSENDEN. I will ask the Senator if he did not vote for the payment of additional bounties, or equalizing bounties, as it was called?

Mr. STEWART. I did.

Mr. FESSENDEN. That added nearly one hundred millions to the expenditures, which the Secretary did not estimate.

Mr. STEWART. I say I propose to hold him within two or three hundred million dollars in his estimates. If the experience of that office cannot come nearer than two or three hundred million dollars to the actual results, as has been the case since the war, I have lost confidence in its accuracy, and if I can have the attention of the Senator from Maine, I think I can show that it has not come nearer than that, unless I have been mistaken in the policy of the Government during all that period. My understanding of the policy of the Government has been that it was to pay current expenses and the interest of the public debt, and that if any payments were made upon the principal of the debt, they should be merely nominal until business was settled and the people got fairly started again after the calamities of the war. Now, so far have we departed from that policy that we have paid upon the funded debt $267,000,000, I believe, above all the appropriations of Congress. The amount that has been paid of the unfunded debt of the war I can hardly tell; but it is safe to say that $250,000,000 more have been paid on that account which could not be regarded as properly coming within any estimate of current expenses. Perhaps this item reaches as much as $300,000,000. The bounties to the soldiers would not be ordinary current expenses of the country; and if the country could not endure the payment of that amount it should have been added to the debt. It was really a part of the war debt. I say, then, we have paid of unliquidated obligations that we recognized from two hundred and fifty to three hundred million dollars besides the amount of funded debt we have paid off; so that altogether, in three years or less, since the return of peace, we have paid off about five hundred million dollars of what legitimately belonged to the war debt.

Besides this there has been a failure to collect the taxes, according to the estimate of almost every one, to the extent of from one hundred and fifty to two hundred million dollars a year. The amount has been variously estimated; but I believe nobody has put it at less than $100,000,000, which the Treasury has lost by the failure to collect the taxes levied on whisky and tobacco. Those taxes, recollect, have been laid, and they have been just as oppressive to the people as if they had been collected. The consumers have paid the taxes whether the money has gone into the Treasury or not, and they have been a burden to that extent upon the people. So here are at least $400,000,000 more in the last three years which have come out of the people's pockets. Thus it appears that our taxation for the last three years has produced a surplus above what I regard, and what every one appears to regard, as the legitimate policy of the Government on emerging from this war, to pay current expenses and interest; there have been levied off the people taxes which, if collected and legitimately applied, would have paid off $900,000,000 of debt, or at the rate of $300,000,000 a year. The Secretary of the Treasury, of course, could not presume that the taxes which we levied were not going to be collected; and when he estimates the amount which would be produced under our laws he made mistakes which misled everybody, misled me; for these laws have in three years produced a surplus of about five hundred million dollars that has been applied to the debt, while in the effort to collect so large a revenue $400,000,000 have been filched from the Treasury while the taxation has operated oppressively as a burden on the people. The burden has been just as heavy on them as if the whole amount had been collected and paid into the Treasury.

I say these estimates have been so uncertain, so unreliable, that I for one have lost confidence in the man who makes them. If we had started after the war levying simply enough taxes to pay current expenses and interest and allowed the bounties and any other obligation that was legitimately a part of the national debt incurred for the prosecution of the war to be added to the funded debt until you could have recuperated your industries, and not placed this taxation of $900,000,000 upon us in three years, the country would have been much better off to-day; the people would have paid the taxes readily, and you would have had no difficulty in collecting the revenue. Not only that, but the percentage of your debt to the wealth of the nation would not have been as great as it is to-day. Because so many industries have been destroyed, wiped out of existence, the burden of debt—that is, the percentage of that debt to the wealth of the nation—is greater than it would have been, thus diminishing the wealth of the nation, destroying its enterprise, increasing the burden of the debt. Although it does not increase its nominal sum it increases its weight, because it diminishes the power of the people to bear that weight.

And while we were levying these taxes on the people we were contracting all the while, making it more difficult to pay. As was shown by

the Senator from New Jersey, [Mr. CATTELL,] last summer, when a large amount of the compound-interest notes, which were legal tenders to all intents and purposes, fell due, $15,000,000 in the course of a couple of months, instead of easing up during that time, instead of stopping contraction, he went on with his regular contraction of $4,000,000 a month during that period, producing an exceedingly rough time. When this discretion was proposed to be left to the Secretary of the Treasury I inquired the meaning of that law, and I was informed that there were times when certain kinds of currency that were being used would mature, the compound-interest notes for example, and at that period it was not desirable to have the currency contracted; it could not be done arbitrarily, and that there were other periods when more money would be needed, and it was expected that the Secretary of the Treasury at those times would cease his contraction. He has not done it.

Now, I believe that every Senator who votes for this bill understandingly votes to some extent a want of confidence in the Secretary of the Treasury; and surely all do who are not in favor of expansion, because if he had used this discretion only at those times when it would not be oppressive to the people, if he had used it with that care for the business interests of the country which was expected, those not in favor of expansion would not be in favor of taking this discretion from him. If these estimates had not been so large, if the policy of the country had not been to levy taxes to such an extent that they could not be collected, we should probably have arrived at specie payments to-day without any difficulty; but it is impossible to levy taxes at this rate on the people and at the same time contract the currency. Both cannot be done to the extent that they have been done.

I do not profess to be skilled in finance. I am only looking at the general results, and from what has been done these are the results we might have expected after this war. It is idle to say that they could not have been avoided. I believe they could have been. We see a reason staring us in the face; we see that the people were in no condition to stand these taxes, to pay this enormous amount of debt. This policy has prevented the debt assuming its legitimate size. The debt was about three thousand million dollars if it were all funded. Now anybody can see that if there had been no attempt to pay off the principal of the debt, and taxes had been levied simply to the extent necessary to pay the interest on it and meet the current expenses of the Government, we should not have required more than half the revenues we have collected, and business would have prospered; at least industries would not have been killed, and then a little contraction until we got to a specie basis without affecting the business of the country would not be injurious; but to make these payments on account of the principal of the debt, and then take the money away from the people to meet them in so short a period, renders it impossible for the people to bear the burden and contraction at the same time.

I am in favor of this bill.

Mr. CORBETT. I desire to answer some of the arguments of the Senator from Nevada. I contend that the estimates which were made were made on the probabilities that the taxation would produce sufficient to meet the expenses of the Government. The system of taxation which we adopted was an untried one in this country. It was impossible to tell how much the levy would produce. It was a system for which the Secretary is not responsible, and it has produced a very large amount over and above the expenses of the Government. I consider that the Secretary of the Treasury, in making his estimates, made them with safety, with a view of being upon the safe side. If I were going to choose a financial man to manage my affairs I would certainly choose one who would make his estimates a little over rather than a little under, and have some cash to spare at the end of the year. The Secretary of the Treasury has done this. He has made safe estimates; he has, perhaps, overestimated the expenses of the Government and under-estimated the income, and by doing so the result is that we have had a larger amount of net income than he actually expected, and he has applied that amount to the reduction of the national debt.

I contend that the period of inflation, when there was such an immense amount of currency in the country, when every one was prospering and making money, was the time to levy a heavy tax and reduce the debt to a reasonable amount. If the debt had been left at $3,000,000,000 it would have been a great burden upon the manufacturing and other interests of the country to pay the interest upon that debt hereafter. I believe it should have been reduced when we were all prospering, as the Secretary of the Treasury did reduce it. Now is the time to reduce the taxes, when you have become settled in your business affairs; when you can calculate upon about the amount of money you will realize from the various sources of revenue. From the experience you have had in the past you can now graduate your taxes according to your expenses. Previous to this time you could not do it. But, sir, I shall say no more at this time in answer to the argument of the Senator from Nevada, which I believe is not sound.

Mr. MORRILL, of Vermont. I offer the following amendment, to be added to the bill as a proviso:

Provided, That the suspension herein provided for shall cease whenever and for such time as the current price of gold coin shall be at the rate of $140 or over of United States notes for $100 of coin.

Mr. President, I do not desire to protract the time of taking the vote upon this bill; but I offer this amendment in the hope that the Senate will see its propriety, and I trust that the honorable chairman of the Committee on Finance will accept it. I understand by the tone of all the debate here that the object of this bill is to keep our currency as it is, to have it retain a permanent fixed value in order that the people may know what they are about. If that is the intention, certainly this amendment is calculated to carry it out. It simply provides that when gold shall rise above 140 this law shall no longer be suspended. I hope the chairman of the Committee on Finance will accept it.

Mr. SHERMAN. I trust we shall not allow our legislation to depend on the fluctuations of the bulls and bears in New York. That would introduce a more uncertain element into our legislation than we have usually had.

Mr. MORRILL, of Vermont. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. CAMERON. I desire to say only one word on this amendment. I shall make no speech, because I think the sooner we act and pass this bill the better. I have simply risen to say that I cannot imagine that anybody can vote for this amendment. It is just allowing the boards of brokers in New York and elsewhere to fix the value and extent of your currency. What is the price of gold but a mere nominal thing fixed by the circumstances of a day or an hour? To me the proposition seems so ridiculous that I cannot imagine how it could have come from so able a man as I believe the Senator from Vermont to be, one so well versed in finance as he has the reputation of being. It is worse than the bill introduced by a Representative from Pennsylvania a few days ago which gave the Secretary of the Treasury the power to regulate gold by buying and selling. I trust there will be no vote in the Senate for such a proposition.

Mr. CONKLING. I should like to ask the author of this amendment whether he knows that gold is now 141.

Mr. MORRILL, of Vermont. I knew a little while ago that it was 140, and I had no doubt it would soon be 141, and if we pass such measures as this I presume it will be 150.

Mr. CONKLING. I understand it left off at 141 in New York to-day.

Mr. CORBETT. That is on the understanding in New York derived from a telegram sent from here that this bill will pass, and then it will probably go up to 145.

The question being taken by yeas and nays, resulted—yeas 6, nays 37; as follows:

YEAS—Messrs. Conkling, Edmunds, Ferry, Fessenden, Morgan, and Morrill of Vermont—6.

NAYS—Messrs. Anthony, Buckalew, Cameron, Cattell, Cole, Conness, Corbett, Davis, Dixon, Drake, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Hendricks, Howard, Howe, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—37.

ABSENT—Messrs. Bayard, Chandler, Cragin, Doolittle, Guthrie, Johnson, Morrill of Maine, Patterson of New Hampshire, Saulsbury, and Yates—10.

So the amendment was rejected.

Mr. SHERMAN. To avoid the criticism of some Senators, and to meet an objection, I propose to insert some words which will make what I think already clear enough clearer. It is to insert in line thirteen after the word "suspended" the words I send to the Chair.

The PRESIDENT *pro tempore*. That will be in order when the bill is reported to the Senate.

Mr. SHERMAN. It is in order now. I can insert new language. It does not strike out anything at all, but it adds a few words.

Mr. EDMUNDS. Let the amendment be read and we shall see.

The Secretary read the proposed amendment, which was in line thirteen after the word "suspended" to insert the words "and the amount of such notes now existing shall not be further reduced."

Mr. EDMUNDS. Let the bill be read as it will stand if amended.

The Secretary read as follows:

That so much of the act approved April 12, 1866, entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865," as provides that the Secretary of the Treasury may retire and cancel United States notes to the extent of $4,000,000 per month be, and the same is hereby, suspended, and the amount of such notes now existing shall not be further reduced until Congress shall otherwise provide.

Mr. EDMUNDS. I suggest the point of order that the Senator from Ohio did a few moments ago on another proposition: that is clearly an amendment to the amendment of the Finance Committee. It is not an addition to it. It changes or purports to change the phraseology of the amendment as it reads in the midst of the body of it.

Mr. SHERMAN. If there is any doubt about it I will withdraw it for the present. I do not think it comes within the rule the Senator suggests.

The PRESIDENT *pro tempore*. I am inclined to think it is out of order.

Mr. SHERMAN. Very well; I withdraw it; but I give notice that I shall offer it in the Senate.

Mr. SPRAGUE. As this question involves our whole financial policy, and as there are three or four gentlemen who desire to speak on the subject, and as the Secretary of the Treasury has determined by letter not to contract, so that no immediate danger in that regard exists and the country may be content to that extent—under these circumstances I do not believe that any haste is necessary. Not at present feeling equal to the duty which I owe to myself and to my constituents by proceeding with the remarks I intend to submit, I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Before putting the question on that motion the Chair will ask the indulgence of the Senate to lay before them several matters now on the table.

QUORUM OF THE SUPREME COURT.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill of the Senate (S. No. 163) declaring what shall constitute a quorum of the Supreme Court.

The amendments were read, as follows:

Add as an additional section the following:

SEC. 2. *And be it further enacted*, That no cause pending before the Supreme Court of the United

States which involves the action or effect of any law of the United States shall be decided adversely to the validity of such law without the concurrence of two thirds of all the members of said court in the decision upon the several points in which said law or any part thereof may be deemed invalid: *Provided, however*, That if any circuit or district court of the United States shall adjudge any act of Congress to be unconstitutional or invalid, the judgment, before any further proceedings shall be had upon it, shall be certified up to the Supreme Court of the United States, and shall be considered therein; and if upon the consideration thereof two thirds of all the members of the Supreme Court shall not affirm said judgment below, the same shall be declared and held reversed.

Amend the title of the bill by adding "and to regulate the jurisdiction thereof."

The PRESIDENT *pro tempore*. The question is on the amendments.

Mr. BUCKALEW. If no one else submits the motion, I will move that these amendments be referred to the Committee on the Judiciary and ordered to be printed.

Mr. SUMNER. On that motion I desire to make a remark. I regard this proposition of the House as very important. I think something like this has been necessary for a long time in the history of our national jurisprudence. I do not think it is reasonable that a bare majority of any court should declare an act of Congress unconstitutional. I say that is contrary to reason, almost contrary to common sense. I am glad——

Mr. HENDRICKS. I rise to a question of order.

Mr. SUMNER. The question is on the reference.

Mr. HENDRICKS. No, sir; I understood that by the indulgence of the Senate the Chair presented this matter pending a motion to adjourn.

The PRESIDENT *pro tempore*. That is so. The Chair did not suppose that debate would arise on these matters before putting the motion to adjourn.

Several SENATORS. Let it be referred.

Mr. SUMNER. I am not going to discuss it.

Mr. HENDRICKS. I suppose no Senator objects to the reference, and then it can be examined and discussed hereafter.

Mr. SUMNER. Let it be examined; but the question now is on the reference to the committee, and I desire to make a remark upon it. I was in the midst of the remark when interrupted and I should have been through before this but for the interruption.

Mr. HENDRICKS. If the remark is so short as that I withdraw my point of order.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moved to adjourn. The Chair took the privilege to lay certain matters before the Senate before putting the motion, and did not suppose that a debate would spring up.

Mr. SUMNER. I only wish to make one further suggestion: that while the committee have this subject under consideration I hope they will consider whether they should not go further and require something more than a two-thirds vote of the Supreme Court in order to set aside an act of Congress; consider whether they should not require a three-fourths vote, a four-fifths vote, possibly a unanimous vote. On that question I express no opinion.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill and amendments to the Committee on the Judiciary.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. No. 223) in relation to islands in the Great Miami river was read twice by its title, and referred to the Committee on Public Lands.

INDIAN PEACE COMMISSION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting the report of the commissioners appointed under the act of Congress, approved July 20, 1867, entitled "An act to establish peace with certain hostile Indian tribes," and accompanying papers.

Mr. HENDERSON. I move that the report itself of the commissioners be printed, and that the report together with the papers be referred to the Committee on Indian Affairs. I submit no motion now to print any other papers except the report itself.

The motion was agreed to.

Mr. POMEROY. I submit a resolution for the printing of five thousand extra copies of this report for the use of the Senate, which I ask to have referred to the Committee on Printing.

The PRESIDENT *pro tempore*. It goes to that committee without a motion.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, communicating, in answer to a resolution of the Senate, information relative to the appointment of the American minister at Pekin to a diplomatic or other mission on behalf of the Chinese Government by the emperor of China.

Mr. SUMNER. I move that that communication be printed and laid on the table; and I call the attention of the Senate to the fact that the resolution of the Senate yesterday, which is addressed directly to the Secretary of State, is answered by the President in a formal message.

The motion was agreed to.

CONTRACTION OF THE CURRENCY.

Mr. MORRILL, of Maine. I desire to give notice that I shall ask the Senate at one o'clock to-morrow to take up for consideration the deficiency bill.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the Senate do now adjourn.

Mr. SHERMAN. On that motion I call for a division.

Mr. DRAKE. I ask the Senator from Rhode Island to withhold that motion for a moment to let me offer a resolution for reference to the Committee on Printing.

Mr. SHERMAN. I desire to say a word, as I have the floor. The business of the Senate is now in such a condition that I think it is the duty of the Senate to sit and pass this bill to-night or act on it and dispose of it. We have now three or four important questions before us, and to-morrow at one o'clock there will be a struggle as to whether an appropriation bill or the unfinished business shall be taken up. I think we ought to avoid that. We might just as well dispose of this bill now as at any other time. I shall therefore call for a division in the first instance on the motion to adjourn.

The question being put, the Senate refused to adjourn; there being on a division—ayes 16, noes 24.

The PRESIDENT *pro tempore*. If no further amendment be offered, the bill will be reported to the Senate.

Mr. SPRAGUE proceeded to address the Senate, and after having spoken for some time,

Mr. CAMERON. If the Senator from Rhode Island will give way, I will, with his permission, move an adjournment. His speech will occupy more time, I think, than we shall be willing to stay here to-night. It is an interesting one, and I am anxious to hear it; but I think it will be more agreeable for him and probably for all of us that he should take to-morrow instead of to-day. The subject which he is now discussing will necessarily involve a great deal of interest and provoke a great deal of debate.

Mr. CONKLING. It is past the usual hour of adjournment now.

Mr. CAMERON. I think we had better adjourn.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island give way for the motion?

Mr. SPRAGUE. Yes, sir; I give way.

Mr. CAMERON. Then I move that the Senate do now adjourn.

Mr. SHERMAN. I call for a division on that motion.

The question being put, there were on a division—ayes 16, noes 18.

Mr. HENDRICKS. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. I ask permission to make one suggestion by unanimous consent. Last session we undertook to work each evening for some time in carrying through some particular bill, and we sat here until about seven o'clock. Not having expected this, and not having taken dinner, it was very uncomfortable; and the business of the Senate did not get along any better really. I recollect the admonition given by the Senator from Illinois [Mr. TRUMBULL] that there was no use in trying to transact the business of the Senate in that way. The Senator from Rhode Island is not in a comfortable position to speak this evening. He has already so informed the Senate. He wishes to discuss this important question. It is not pressing. Now, although I do not agree with many of his views, I think it is due to him or to any Senator who desires to discuss a question of this kind that he should do it under circumstances when he can do it with comfort to himself. I am surprised that there should be any hesitation about an adjournment. I have no doubt we can reach a vote to-morrow.

Mr. SHERMAN. If my friend will allow me I will simply state that I know that a pressure for another bill to-morrow will probably result in crowding this off. I am sure my friend from Rhode Island can discuss the subject he is now speaking on, upon many other bills that are pending.

Mr. HENDRICKS. Mr. President——

The PRESIDENT *pro tempore*. The question is not debatable.

Mr. HENDRICKS. I do not wish to debate it, but I wish to ask the Senator from Ohio why it is necessary that any other bill should crowd this off? Certainly it is within the control of the Senate; he can put it through. I suppose the debate will terminate very soon to-morrow.

Mr. SHERMAN. If we could have an understanding that at three o'clock or some fixed time to-morrow we should have a vote I should not object.

Mr. HENDRICKS. I do not suppose there will be any difficulty about it to-morrow.

The PRESIDENT *pro tempore*. The Secretary will please call the roll on the motion to adjourn.

The question being taken by yeas and nays resulted—yeas 16, nays 17; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cameron, Conkling, Corbett, Cragin, Davis, Edmunds, Hendricks, Morgan, Patterson of New Hampshire, Patterson of Tennessee, Ross, Sumner, and Wilson—16.

NAYS—Messrs. Cattell, Cole, Frelinghuysen, Harlan, Henderson, Howe, Morrill of Maine, Morton, Nye, Ramsey, Sherman, Stewart, Thayer, Trumbull, Wade, Willey, and Williams—17.

ABSENT—Messrs. Chandler, Conness, Dixon, Doolittle, Drake, Ferry, Fessenden, Fowler, Grimes, Guthrie, Howard, Johnson, Morrill of Vermont, Norton, Pomeroy, Saulsbury, Sprague, Tipton, Van Winkle, and Yates—20.

So the Senate refused to adjourn.

Mr. SPRAGUE resumed his remarks. His speech is withheld to be published when he shall have concluded. After speaking a few minutes he was interrupted by Mr. TRUMBULL, to whom he yielded.

Mr. TRUMBULL. If the Senator from Rhode Island will allow me, I will renew the motion to adjourn. I think the chairman of the Committee on Finance, considering the temper of the Senate, will now consent to an adjournment.

Mr. SHERMAN. I see that I shall be outvoted next time, so I will make a merit of necessity.

Mr. TRUMBULL. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 14, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. ROBINSON. I ask the permission of the House for two or three minutes to make a personal explanation.

Mr. WASHBURNE, of Illinois. I would like to know what the order of business is.

The SPEAKER. After the morning hour debate on the reconstruction bill will be in order.

Mr. WASHBURNE, of Illinois. Does that come up after the morning hour, or one hour after the reading of the Journal?

The SPEAKER. After the morning hour.

Mr. WASHBURNE, of Illinois. Then I ask that the morning hour now commence.

The SPEAKER. The morning hour has now commenced.

LEAVE OF ABSENCE.

Mr. POMEROY asked and obtained leave of absence for his colleague, Mr. FIELDS, for this week.

CALL OF COMMITTEES.

The SPEAKER. The first business in order in the morning hour is the call of the committees for reports, commencing with the Committee of Elections.

The Committee of Elections having made no report, the Committee of Ways and Means was called.

Mr. SCHENCK, from the Committee of Ways and Means, rose to make a report; but yielded to Mr. MCCARTHY, who desired to offer a resolution.

PROTECTION OF AMERICAN CITIZENS.

Mr. McCARTHY. I ask unanimous consent to offer the following resolution:

Resolved, That the right of expatriation has always been the doctrine of the people and Government of the United States, and that protection has been guarantied alike to all its citizens, native-born and adopted. That any neglect or failure to protect our citizens in a proper exercise of their privileges under other Governments is due to the want of firm and energetic action on the part of the executive branch of the Government, the President, Secretary of State, and their ministers and appointees abroad. That Congress will sustain the executive branch of the Government in a strong and speedy assertion of the rights of all native or adopted citizens now or hereafter justly entitled to such protection.

Mr. DAWES. I object. We have had enough of the Fenians.

PERSONAL EXPLANATION.

Mr. CARY. I desire to state that I was necessarily absent from the House last evening when the vote was taken on the bill reported by the Judiciary Committee. If I had been present I should have voted in the negative.

Mr. BLAINE. I desire to say, Mr. Speaker, that just before the vote was taken last evening I was summoned from the House and was not able to return in season for the roll-call. Had I been present I need hardly add that I should have voted with the majority both on the amendments and on the main question.

Mr. ROBINSON. Will the gentleman from Ohio [Mr. SCHENCK] yield to me for the purpose of a brief personal explanation?

Mr. SCHENCK. I do not intend to have all the morning hour spent in this way, but I will yield to the gentleman from New York.

Mr. ROBINSON. I will only occupy a minute or two. It is with reference to an occurrence of yesterday, in which a mistaken idea was entertained by me that under the rules of the House a parliamentary question is privileged. Entertaining that idea, I held on to the floor to an extent not justified except on a question of privilege on which the Speaker did not understand me or I did not understand the Speaker. When I took my seat the first intimation I had that on this point I misinterpreted the rules was from my old friend from Michigan, [Mr. UPSON,] who suggested that I had no question of privilege, and that therefore I was wrong. I looked into the rules and found that my friend from Michigan was correct, but I honestly entertained the opinion that it was clothed with a certain degree, however high or low, of privilege, and took precedence of the question which the gentleman from Iowa [Mr. WILSON] was then urging. By reading a few lines from the report of the Globe it will be seen where the misunderstanding occurred. I read from the Globe of to-day:

"Mr. ROBINSON. Have I any right to put a parliamentary question at any time?

"The SPEAKER. Not now, unless the gentleman from Iowa yields.

"Mr. ROBINSON. I do not ask him to yield. I am up to put a parliamentary question.

"The SPEAKER. The Chair has answered it, and the gentleman proposed to take an appeal from the decision of the Chair, which the Chair has declined to entertain."

The report continues in that spirit, I always supposing that I had a question which was more highly privileged than the one that the gentleman from Iowa had.

I rise now to express my regret to the Speaker and to the House that I persevered so long in attempting to hold the floor by a mistaken interpretation of the rules of the House under which I thought that my rights as a member of this House were involved.

Pardon me a remark further in regard to a later proceeding. I considered it my duty to take an appeal from the decision of the Chair, which I had tried to take earlier when the Speaker, as I now see, properly ruled me out of order. At the earliest opportunity I did take it. I am afraid the Speaker thought I did it through some hostile feeling entertained toward him by me growing out of the previous occurrence. I will say that from the time I found out my mistake I wished to obtain the floor to apologize to the Speaker and to the House, and therefore I had no feeling of anger in my mind but rather of sorrow. But when I rose to take an appeal from the decision of the Chair upon that most important subject—and the Speaker will allow me to remind him that formerly there were but four votes against his decision and yesterday there were twenty-five—believing then, notwithstanding the decision of the House, that the decision was entirely wrong, that the House under any circumstances cannot adjourn, and believing that even if the House had resolved that they would not adjourn they could repeal the resolution the next moment; believing thus when I rose to take the appeal from the decision of the Chair, unfortunately the Chair rose after the roll-call had commenced to read something, some one near me suggested that it was not in order, and I repeated it loud enough to catch the Speaker's ear. I thought he appeared offended, as he justly might be, if I had objected to his reading anything explanatory of his reasons for the ruling from which we were appealing. On looking at the report in the Globe you will find that I did not object. I will only add that while I believe I was right in taking the appeal at the proper time from the decision of the Chair—whose decisions and person I highly respect—I apologize for holding on to the floor at an earlier hour when, as I know now, I had no right under the rules.

The SPEAKER. The Chair desires to state that he is never offended with any gentleman who appeals from his decision when he thinks the decision wrong. When the appeal was taken yesterday the Chair desired to find the Journal, so that the resolution under which the House was acting might be read. He could not do so at the time, but after the roll-call had commenced, and one response had been made, the Journal was found, and the Chair desired to have the motion of the gentleman from Iowa read, which was that the vote should be taken without dilatory motions and immediately. The Chair only ruled in accordance with the order of the House, and the gentleman had a right to appeal, as any gentleman has who doubts the correctness of the decision of the Chair.

Mr. SCHENCK. I desire to now say that I have great admiration for all these gentlemen who are appealing to me to yield to them. But I have committed myself to only one of them, the gentleman from New York, [Mr. VAN WYCK,] who is now on the floor; after that I must decline to yield further.

Mr. FARNSWORTH. I object to the gentleman from Ohio [Mr. SCHENCK] yielding to anybody at this time.

Mr. SCHENCK. I regret to have the matter settled in that way.

The SPEAKER. The gentleman will proceed.

REPEAL OF COTTON TAX.

Mr. SCHENCK. I now report back from the Committee of Ways and Means the amendments of the Senate to House bill No. 207, to provide for the exemption of cotton from internal tax, with a recommendation that the amendments of the Senate be not concurred in. I will ask to have the bill, as originally passed, read to the House, and also that the bill as proposed to be amended shall be read. If any explanation is then desired I will give it. If the House is disposed to sustain the previous question, as I think they will be, from the emphatic vote in favor of the bill as originally passed, we can dispose of it at once; otherwise debate upon the amendments will then be in order.

The bill as passed by the House was read, as follows:

Be it enacted, &c., That all cotton grown in the United States after the year 1867 shall be exempt from internal tax.

The bill as proposed to be amended by the Senate was read, as follows:

Be it enacted, &c., That all raw cotton grown in the United States during the year 1868 shall be exempt from internal tax. But nothing herein contained shall be construed to require any additional provision of law in order to authorize the levy and collection of said tax upon all such cotton grown therein after said year: *Provided*, That the duty on raw cotton imported from foreign countries on and after April 1, 1868, and until April 1, 1869, shall be suspended.

Mr. SCHENCK. The issue between the Senate and the House is so simple that if gentlemen will give me their attention a moment it can at once be understood. The House, with a very great degree of unanimity, passed a bill repealing the tax upon all cotton grown after the year 1867, upon all cotton grown after the late crop.

The Senate have amended the bill first by providing, not for a repeal, but for the mere suspension of the cotton tax; and second, by confining such suspension to the year 1868. Thus, instead of a repeal of the tax entirely after the year 1867, the Senate propose to substitute a suspension of the tax for the year 1868, leaving the law imposing the tax in full force, without any further legislation after 1868; that is, after the crop of 1868 the cotton tax will again be in full force.

Then the Senate propose another amendment, suspending the duty of two cents per pound now imposed upon cotton imported from foreign countries from April 1, 1868, to April 1, 1869; that is, that while there is no internal tax there shall also be no duty collected on cotton imported.

The Committee of Ways and Means object to the amendments proposed by the Senate, adhering to their bill as it originally passed this House, and they recommend that the House non-concur in the amendments of the Senate. I do not know that it is necessary to argue this matter any further.

It will be observed that there is no difference between the Senate and the House in relation to the time when this suspension or repeal shall commence. There was perhaps reasonable ground of difference of opinion, and much could be said on both sides, whether this repeal should be present or prospective, whether it should relate to the cotton of 1867, or only to that grown after that year. But there is no difference of action on that point between the Senate and the House. Therefore that is not now an open question.

The material difference between the House

and the Senate is whether there should be an absolute repeal of the tax after 1867 or merely a suspension of it for that year. Being of opinion that the suspension of the tax for the year 1868 only will simply be holding it like a dead-fall over those who are interested in this branch of industrial pursuits, that no man will invest his capital, will open or reclaim lands, establish cotton-gins, or buy mules for this business, and that no capital or laborers will come from the North to undertake this business with that tax simply suspended over their heads for a twelvemonth, the committee have thought it better to have no repeal at all. They therefore recommend that the House non-concur in the amendments proposed by the Senate.

Mr. ELDRIDGE. Will the gentleman permit me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. ELDRIDGE. We on this side of the House were listening as well as we could, but did not hear distinctly the remarks of the gentleman. We understand that there are two or more amendments proposed by the Senate. Does the Committee of Ways and Means recommend non-concurrence in all those amendments?

Mr. SCHENCK. Yes, sir; leaving the bill as it was passed by the House.

I now demand the previous question.

Mr. STEVENS, of Pennsylvania. Mr. Speaker——

Mr. SCHENCK. I yield to the gentleman from Pennsylvania.

Mr. STEVENS, of Pennsylvania. If we concur in this bill as amended by the Senate we shall be ready to be governed by circumstances next year. Congress can then act according to the exigencies of the times. I see no necessity for further legislation, unless the times should then demand it. Why not allow Congress then to act as may seem necessary at that time? I think the bill is right as it now stands. We should leave the matter open so that the next Congress may affirm or reject what has been done. It is sufficient if we fix the matter for this year. For my own part I do not believe in repealing the tax at all; if we do anything of the kind I think we should not go beyond a temporary suspension. Let the next Congress be free to act on the subject in the same manner that we do. I hope, therefore, that the amendments of the Senate will be concurred in.

Mr. PILE. Will the gentleman from Ohio [Mr. SCHENCK] yield to me for five minutes?

Mr. SCHENCK. I will yield five minutes to the gentleman. I desire, however, to get through with this subject during the hour.

Mr. PILE. Mr. Speaker, I desire to say, in reply to the gentleman from Pennsylvania, [Mr. STEVENS,] that I understand the object of repealing this tax on cotton to be to encourage the production of cotton in the southern States. The suspension of the tax for only one year will utterly defeat the whole object intended to be reached. In order that cotton may be produced it is necessary that men should go down into the cotton-growing country and buy or lease plantations. A large number of the plantations are in a very bad condition, grown up with weeds and bushes, the fences down, &c. These plantations cannot produce a crop for the coming year without a large outlay of money. Under a suspension of the tax for one year no man will invest money in putting these plantations in repair, and in buying mules, horses, and the necessary implements of agriculture to produce a crop. Concurrence with the Senate amendments will defeat the whole object of the bill, and we might just as well leave the tax as it is.

Mr. SCHENCK. I now demand the previous question.

Mr. BARNES. I ask the gentleman to yield to me five minutes.

Mr. SCHENCK. I am afraid of hazarding the bill by delay; and I believe I must decline to yield. I insist on the demand for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] has moved to non-concur in the amendments of the Senate; but the question will be taken on concurring, according to the rule on page 67 of the Digest.

The amendments of the Senate were not concurred in.

Mr. SCHENCK moved to reconsider the vote by which the House had refused to concur in the amendments of the Senate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXCUSED FROM COMMITTEE SERVICE.

The SPEAKER. The gentleman from New York [Mr. FOX] asks to be excused from further service on the Committee on Invalid Pensions on account of service on another committee. If there is no objection the gentleman will be excused.

There was no objection.

COPPER SMELTED WITH FOREIGN ORES.

Mr. PHELPS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the revenue laws as to authorize a drawback for exportation upon copper smelted by the infusion of foreign ores to the extent of the duties paid by such imported ores.

SUPREME COURT OF THE UNITED STATES.

Mr. VAN WYCK. Mr. Speaker, I desire to state when the vote was taken yesterday on the question from the Judiciary Committee in reference to the Supreme Court I was absent by previous appointment on the Committee on Retrenchment to take testimony. Had I been present I would have voted in the affirmative.

Mr. STEVENS, of Pennsylvania. I must resume the floor.

GETTYSBURG ASYLUM ASSOCIATION.

Mr. VAN WYCK. I desire to call attention to another matter, if there be no objection.

There was no objection.

Mr. VAN WYCK. Mr. Speaker, in a communication liberally scattered through this Hall by the manager of the Gettysburg asylum scheme I am charged with "lashing the Postmaster General and Commissioner of Internal Revenue." I did no such thing; I merely called for information from the revenue department. For what right had this scheme, which was to enrich its originators, to be exempt from the payment of tax? It contemplates taking $1,200,000 from the pockets of the people, while the most they propose to donate to the object of the charity is $10,000, leaving $1,190,000 in the hands of operators to pay for property at fictitious values and to be divided among themselves.

I did allude to the letter of the Postmaster General wherein he asked his twenty thousand postmasters to aid this "truly benevolent and patriotic enterprise." I insisted that he had been deceived. Such proves to be the fact. The editor of the Mail, in the December number, is authorized by the Postmaster General to withdraw his name from this lottery. I have his consent to use that withdrawal as I deem best, and therefore read it to this House and the country.

"We are authorized by the Postmaster General to say that at the time he was induced to sign this recommendation he believed the enterprise was a praiseworthy one and intended to aid a noble charity, but that he has become convinced that the scheme has been perverted to fraudulent purposes and he desires to withdraw the recommendation he then made."

I am obliged to the gentleman from Pennsylvania for yielding to me.

TAX ON DISTILLED SPIRITS.

Mr. EGGLESTON. Mr. Speaker, I ask unanimous consent to submit the following resolution, for reference to the Committee of Ways and Means.

The Clerk read as follows:

Resolved, That the Committee of Ways and Means is hereby instructed to inquire into the expediency of selling to the highest bidder the exclusive privilege of manufacturing spirits in the United States and Territories for the term of ten or more years, said privilege to be sold at not less than $75,000,000 per annum.

Mr. HOLMAN. I object.

Mr. EGGLESTON. It is only for reference.

Mr. HOLMAN. I do not object to that.

The resolution was then referred to the Committee of Ways and Means.

DEFICIENCY BILL.

Mr. STEVENS, of Pennsylvania. I am instructed by the Committee on Appropriations to move that the Senate be requested to return to this House House bill No. 313, known as the deficiency appropriation bill, and that it be then recommitted to the Committee on Appropriations.

There was no objection, and it was ordered accordingly.

Mr. WASHBURNE, of Illinois. I did not know anything of this kind was ordered by the committee.

Mr. STEVENS, of Pennsylvania. It was before the committee, and I was instructed to make the motion.

Mr. WASHBURNE, of Illinois. I desire to have entered a motion to reconsider.

The motion was entered.

SCHOOLS FOR THE DISTRICT OF COLUMBIA.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I ask unanimous consent to have an order of the House for the printing of amendments I have prepared to a bill (H. R. No. 374) to establish a system of schools for the District of Columbia, which shall serve as a model for similar institutions throughout the nation.

Mr. WOOD. Let me ask a question in reference to this bill. Is it made a special order for to-morrow? Is he serious in designing to press the bill upon the attention of the House at this session?

Mr. STEVENS, of Pennsylvania. That will depend upon the feeling of the House. I have no particular design one way or the other.

The SPEAKER. The bill will not be reached to-morrow, as a bill has been made a special order under a suspension of the rules.

Mr. WOOD. The gentleman has heretofore introduced various propositions, which he has been content merely to present to the House and the country. Does he desire to have it discussed and acted on?

Mr. STEVENS, of Pennsylvania. I should like to have it discussed and voted on. I shall ask for the action of Congress.

There was no objection, and the amendments were ordered to be printed.

NATIONAL BANK CURRENCY.

Mr. ROSS, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be instructed to furnish to the House of Representatives a statement of the expenses incurred by the Government of the United States in printing and furnishing currency for their circulation to the national banks.

CHANGE OF REFERENCE.

On motion of Mr. BEAMAN, the Committee on Appropriations was discharged from the further consideration of the petition of J. W. Martin; and the same was referred to the Committee of Claims.

Also, from the further consideration of the petition and accompanying papers of Anna B. Perkins; and the same were referred to the Committee on Foreign Affairs.

TAX FOR PAYMENT OF BOUNTIES.

Mr. HILL, by unanimous consent, offered the following preamble and resolution; which were read, considered, and agreed to:

Whereas during the rebellion the different cities, counties, and townships of the several States, by reason of their exertions to promptly furnish their quotas for our armies, have incurred a great indebt-

edness, the payment of which now imposes a heavy and direct local tax, which, in connection with other increased local taxes and the direct taxes of the General Government, is felt throughout a great portion of our country as oppressive and burdensome, tending to depress commerce and industry and thus weaken the resources of the Government, and as the people are manifesting uneasiness under such burden and are expecting from Congress some relief, and under existing circumstances the only just and immediate available way to lighten the burden of our great debt is to increase the ability of the people to sustain it by relieving labor and stimulating industry. And whereas such indebtedness of the cities, counties, and townships was the result of necessities imposed by the rebellion, and ought therefore, as a matter of right and justice, to be assumed by the Government and consolidated with the national debt, because being incurred by necessary and legitimate efforts to render prompt aid to sustain a common Government and defend a common country, it of right belongs to the general debt, in the payment of which the whole people should participate; and whereas such consolidation would not increase the amount of general indebtedness resting upon the people as a result of the war, but simply bring together the parts into one whole, and lighten the burden by bringing more to contribute in just proportion to sustain it, and thus relieve the people from the oppressiveness resulting from its separate and local existence and direct bearing on a few. And as it is believed to be in the power of Congress to grant such relief in a way equally just and fair to every section of our country by adopting as a basis one year's service of a man in our armies, and allowing for such term of service a certain sum, and issuing national bonds therefor liable to taxation, which bonds may be paid over to each State in amount, and to be applied to the relief of the cities, counties, and townships in the State in proportion to the number of year's service rendered by the men furnished, and as the most productive and least burdensome taxes are levied exclusively by the national Government, therefore with a view to strengthen the resources of the Government by relieving the people from oppressive direct taxation, and quickening trade and industry, and also with a view to promote the internal peace, unity, harmony, and prosperity of the nation,

Be it resolved, That the subject of relieving as far as practicable the people of the different cities, counties, and townships from the burden of a direct tax for their bounty war debt is deserving of our immediate and serious consideration, and that the Committee of Ways and Means be requested to inquire into the expediency of adopting such measures as will be proper and suited to answer the demands of justice and relieve the necessities of the the people.

PAYMENT OF WAR CLAIMS.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported back House bill No. 234, to prevent the payment of certain claims, with a recommendation that it do pass.

The bill, which was read, provides that hereafter no money shall be paid out of the Treasury on any claim in the following class of cases arising during the war of the rebellion, until the further action of Congress: 1. On account of the seizure or impressment, or from damage or demurrage or detention of any appliances of transportation, whether by land or water, such as steamers, boats, barges, trains of wagons or cars, &c., in insurrectionary States. 2. For transportation service, toll, ferriage, &c., beyond the tariff of rates fixed by the Quartermaster General during the war. 3. For the use and occupation of lands in the insurrectionary States used for fortifications and other military defensive purposes during the war for the suppression of the rebellion.

Mr. HOLMAN. Was this bill referred to the Committee on Appropriations?

Mr. WASHBURNE, of Illinois. It was, and properly so referred.

Mr. HOLMAN. I do not think it is proper to take up a bill of this importance this morning and press it to a passage. I hope the gentleman will allow it to lie over a day or two.

Mr. WASHBURNE, of Illinois. I have no disposition to press the measure against the sense of the House. It is a bill of very great importance, and one that I think ought to pass at the earliest practicable moment, because I understand that there are a great many claims being paid which should never get the sanction of Congress. But if the gentleman from Indiana desires to examine the matter further I will not press it if it can be understood that the bill shall come up for consideration at some early future time. I am sure the gentleman will be with me upon the subject-matter of the bill.

Mr. HOLMAN. I move that the consideration of the bill be postponed till next Friday after the morning hour, and that the bill be printed.

Mr. WASHBURNE, of Illinois. I have no objection to that, with the understanding that it shall come up at that time.

No objection being made, the bill was postponed accordingly, and ordered to be printed.

CLERK TO A COMMITTEE.

Mr. POMEROY. I am directed by the Committee on Banking and Currency to report the following resolution, and to demand the previous question thereon:

Resolved, That the Committee on Banking and Currency be allowed, during the sessions of the Fortieth Congress, a clerk, who shall be paid the usual compensation allowed to the clerks of committees of the House of Representatives.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. POMEROY moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PENSIONS OF SOLDIERS OF THE WAR OF 1812.

Mr. MILLER, by unanimous consent, presented a memorial of one hundred and eighteen citizens of the county of Oswego, New York, asking that pensions may be granted to the surviving soldiers of the war of 1812; which was referred to the Committee on Revolutionary Pensions and of the War of 1812.

JAMES C. JAY.

Mr. SHANKS, by unanimous consent, introduced a bill (H. R. No. 440) for the relief of James C. Jay, a detailed acting assistant surgeon of volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. SPALDING. I insist on the regular order of business.

The call of committees for reports was resumed.

GEORGE W. LANE.

Mr. HOLMAN. Is it in order under this call to report a private bill?

The SPEAKER. It is in order to report either a public or a private bill when the committee is called for public bills.

Mr. HOLMAN, from the Committee of Claims, reported back, with the recommendation that it do pass, a joint resolution (H. R. No. 33) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States.

The joint resolution authorizes and directs the Secretary of the Treasury to credit and allow to George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States, in the settlement of his accounts, the sum of $4,419 90 public money which was stolen from the mint without fault or neglect on the part of said superintendent, and which has not been recovered.

Mr. HOLMAN. This joint resolution was reported by the Committee of Claims in the last Congress and passed the House. The report of the committee then made, and which is adopted by the committee of this Congress, presents the subject very briefly, and I trust it may be read.

The Clerk read the report, as follows:

The Committee of Claims, to whom was referred the memorial of George W. Lane, superintendent of the United States branch mint at Denver, Colorado Territory, and Assistant Treasurer of the United States, having had the same under consideration, report:

That on the 13th February, 1864, one James D. Clarke, an employé and pay-clerk in the office of memorialist, robbed the mint of $36,817 05, public money of the United States, with which he absconded, and that memorialist immediately took the necessary steps for his apprehension, which was accomplished; that said Clarke was thereupon indicted, convicted, and sentenced for the larceny, and the money so stolen, except the sum of $4,419 90, was secured and returned to the Government. The balance not found, upon the arrest of Clarke, remains charged against the memorialist on the books of the Treasury, and for which he now asks an act of Congress releasing him from its payment.

The committee are satisfied from evidence that the memorialist had good reason to repose confidence in the honesty and integrity of Clarke as an employé and clerk; that every ordinary and reasonable precaution was exercised by memorialist to secure and preserve the public funds and to recover all that remained in the possession of Clarke at the time of his arrest.

The character of Clarke previous to this robbery was above suspicion, and his employment in the mint was recommended by the best citizens and men of business in Denver city.

The committee therefore recommend the relief sought for by the memorialist; that he be credited with the sum of $4,419 90 stolen by Clarke and never recovered from him, and to that end report the accompanying joint resolution.

Mr. HOLMAN. I ask the previous question on the joint resolution.

The previous question was seconded and the main question ordered. The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN. I demand the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The SPEAKER. The Chair will state that this ought to be a bill. Any act that takes money out of the Treasury should be a bill instead of a joint resolution; but this being a joint resolution it cannot now be amended.

Mr. ELDRIDGE. Does the joint resolution make an appropriation?

The SPEAKER. It does.

Mr. ELDRIDGE. Then must it not be considered in Committee of the Whole?

The SPEAKER. It is too late to make that point. The House is acting under the operation of the previous question, and the yeas and nays have been ordered.

Mr. CAVANAUGH. I would ask if a motion is in order to recommit the joint resolution to the Committee of Claims? I know all about this matter, having defended Mr. Clarke at his trial, and I know that this claim is unjust.

The SPEAKER. A motion to recommit is not in order, as the House is acting under the operation of the previous question.

Mr. PRICE. Is a motion in order to reconsider the vote by which the main question was ordered?

The SPEAKER. It is in order.

Mr. PRICE. I make that motion.

Mr. HOLMAN. I wish to make a suggestion which I think will be satisfactory to all sides.

Mr. PRICE. I have no objection.

Mr. HOLMAN. I ask that by unanimous consent the joint resolution be recommitted to the Committee of Claims.

Mr. PRICE. I have no objection to that.

By unanimous consent the joint resolution was recommitted to the Committee of Claims.

Mr. SPALDING moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AXE, NYE, AND DIXON.

Mr. COBB, from the Committee of Claims, reported adversely upon the petition of Allen Axe, M. W. Nye, and J. Dixon, asking compensation for property lost on the Plains by Indian hostilities.

The committee were discharged from the further consideration of the petition, and the same was laid on the table.

WILLIAM TOWNSEND.

Mr. COBB, from the Committee of Claims, also reported back the joint resolution (H. R. No. 76) for the relief of William Townsend, with the recommendation that the committee be discharged from its further consideration, and that the same be laid on the table.

The recommendation of the committee was agreed to.

JAMES M. LATTA.

Mr. COBB, from the Committee of Claims, also reported back the joint resolution (H. R. No. 32) for the relief of James M. Latta, with a recommendation that the committee be discharged from its further consideration, and that it be laid on the table.

The recommendation of the committee was agreed to.

JOSEPH S. AND JAMES S. MILLIGAN.

Mr. STOKES, from the Committee of Claims, reported back the petition of James S. and Joseph S. Milligan, asking compensation for a public stand used by United States troops, in the year 1832, at Camp Armistead, in Cherokee Nation, with a recommendation that the committee be discharged from its further consideration, and that the same be laid on the table.

The recommendation of the committee was agreed to.

SALE OF PUBLIC LANDS.

Mr. JULIAN. I am instructed by the Committee on Public Lands to report back House bill No. 370, to prevent the further sale of the public lands of the United States, except as provided for in the preëmption and homestead laws and the laws for disposing of town sites and mineral lands, with a recommendation that the same do pass.

This is a bill of very great magnitude, upon which several gentlemen here desire to be heard. It cannot be properly discussed under this call, because the time allotted under our rules is wholly insufficient. I therefore move that it be postponed until Tuesday, the 28th instant, after the morning hour, and that it be printed.

The motion was agreed to.

Mr. JULIAN. I ask that the bill be made the special order at that time.

Mr. WASHBURNE, of Illinois. I object.

ISLANDS IN GREAT MIAMI RIVER.

Mr. JULIAN, from the Committee on Public Lands, also reported back, with a recommendation that the same do pass, House bill No. 223, in relation to islands in the Great Miami river.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It authorizes the Commissioner of the General Land Office to cause proceedings to be had necessary for the entry and sale of the islands in the Great Miami river, in the State of Ohio, with the lands adjacent thereto, and not heretofore entered, and that the said islands and lands shall be subject to entry at the minimum price of $2 50 per acre, by the persons who have and heretofore have had actual, notorious, and exclusive possession thereof; and that the heirs and assigns of such persons shall have the same right. The bill further provides that the Commissioner of the General Land Office shall determine all matters necessary to carry this act into effect, and to issue patents for the lands herein authorized to be entered.

Mr. SPALDING. I hope the gentleman from Indiana [Mr. JULIAN] will explain this bill a little.

Mr. JULIAN. The facts are these: certain islands in the Great Miami river, in the State of Ohio, are in the occupancy of parties who have settled upon and improved them in good faith. They have been in part formed by the action of the water and were originally deemed to be valueless, but have been subjected to survey and their sale has been ordered. If that sale is effected as ordered it will deprive the proprietors of their right to their *bona fide* improvements which they have made upon the land and by which it has been made valuable. This would be a great wrong which the passage of this bill will prevent. It simply provides that the parties occupying these islands shall have the right to buy them at the price of $2 50 per acre. It recognizes their right of preëmption and to buy the land at a price double the minimum price now fixed for the public lands of the United States.

Mr. SPALDING. Is that privilege restricted to those occupying those islands?

Mr. JULIAN. It is restricted to them or to those who have heretofore had exclusive possession. I will yield to the gentleman from Ohio, [Mr. LAWRENCE,] at his request, who is conversant with all the facts.

Mr. LAWRENCE, of Ohio. This bill was introduced by myself, and it relates to islands partly in my district and partly in the district of my colleague, [Mr. SCHENCK.] I will send to the Clerk's desk and ask to have read a letter from the register and receiver of the land office at Chillicothe, Ohio, which states the facts as to one of those islands, and they are applicable to nearly all the islands in the Miami river.

The Clerk read as follows:

LAND OFFICE,
CHILLICOTHE, OHIO, *December*, 6, 1867.

SIR: We have had a personal conference with Henry H. Culbertson and his counsel, Charles Morris, Esq., of Troy, Miami county, Ohio, in relation to a certain island in the Great Miami river, described as lot No. 1, in section thirty-four, township five, range six east, forty-nine and twenty hundredths acres: lot No. 1, in section three, township four, range six east, fifty-six and eight hundredths acres; lot No. 2, in same section, thirty-seven and thirty-four hundredths acres; and lot No. 3, in same section, twelve and seventeen hundredths acres—the whole island containing one hundred and fifty-four and seventy-nine hundredths acres.

These gentlemen refer as to character, &c., to Hon. Messrs. SCHENCK, SHELLABARGER, and LAWRENCE, of the House of Representatives, and we have no doubt their statements are entitled to full faith and credit.

We inclose herewith the sworn statement of the said Culbertson and Morris, duly verified and attested in legal form. From the facts set forth it appears that the said island, in a state of nature, was of little value, being subject to overflow by the river; that the said occupant, Culbertson, his father, and assignors, have greatly enhanced its value by various improvements they have made upon it, especially by costly levees and embankments which reclaim it from overflow; that he and his father (now deceased) and their assignors have had peaceable and undisputed possession of the said island for the space of about forty years.

We think it would be inequitable for the Government to sell these improvements to a stranger or to compel Mr. Culbertson to buy them himself.

We therefore recommend that the said Henry H. Culbertson be permitted to enter the said island at the price of $2 50 per acre (the fixed minimum) if the said course is, in your judgment, consistent with law and with the principles of justice and equity.

We are, sir, very respectfully, your obedient servants,

WM. B. FRANKLIN, *Register*.
JAMES ROWE, *Receiver*.

Hon. JOSEPH S. WILSON,
Commissioner General Land Office, Washington City.

Mr. WASHBURNE, of Illinois. I would like to hear the bill again read.

The bill was again read.

Mr. WASHBURNE, of Illinois. I think that bill ought to be explained before we vote to give away this land at $2 50 per acre.

Mr. JULIAN. I demand the previous question.

Mr. MUNGEN. I would like to ask the gentleman one question.

Mr. JULIAN. Very well.

Mr. MUNGEN. As I understand the existing laws of Congress and the rules of the General Land Office, where lands on streams—fractional parts of sections, if you please, or anything of that kind—are supposed to have been entered by those entering lands immediately adjoining, and afterward prove to have been unentered, it has been the rule to require such lands to be appraised and sold at the appraised value. If such is the rule then this bill is wrong, and I therefore ask the chairman of the Committee on Public Lands whether the committee in considering this bill have paid attention to the fact that there is such a requirement in the law and in the regulations of the General Land Office. I have had some experience in this matter along the river near which I reside.

Mr. JULIAN. I call the previous question. When this has been seconded I shall have no objection to permitting discussion during the hour to which I shall be entitled.

Mr. MUNGEN. I desire to ask the gentleman one further question: What is the meaning of the clause in the bill with regard to "assigns?"

Mr. JULIAN. The morning hour is about to expire, and I call the previous question.

On seconding the previous question, there were—ayes 30, noes 25; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. JULIAN and CHANLER.

The House divided; and the tellers reported —ayes 67, noes 40.

So the previous question was seconded.

The main question was ordered.

The SPEAKER. The gentleman from Indiana [Mr. JULIAN] is now entitled to the floor for one hour.

Mr. JULIAN. I yield the floor to the gentleman from Ohio, [Mr. LAWRENCE,] who desires to answer the interrogatories which have been made and to explain the bill.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I hope I may have the attention of the House, for I know that if this bill be understood there will be no objection to it. Some gentleman here apprehend that this bill relates to large tracts of land. In that they are greatly mistaken. I have now before me a list of these islands which are now advertised to be sold. This list, which is furnished by the Commissioner of the General Land Office, I will send to the Clerk's desk to be read; and it will be seen from this that these are generally small islands of two, three, and five acres, with one or two others of larger size.

Mr. SPALDING. What is the size of the largest?

Mr. LAWRENCE, of Ohio. The list will show; they are generally small islands. I ask the Clerk to read the list.

The Clerk read, as follows:

Islands and parts of islands in the Great Miami river advertised to be offered at public sale on the 19th of January, 1867, namely:

In Township 1, *of Range* 5 *E.*

Island No. 1, in section 7, containing 8.57 acres.

In Township 1, *of Range* 6 *E.*

Island No. 1, in section 3, containing 2.00 acres.
Island No. 2, in section 9, containing 3.29 acres.
Island No. 3, in section 17, containing 5.79 acres.
Island No. 4, in section 30, containing 16.21 acres.

In Township 3, *of Range* 6 *E.*

Island No. 1, in section 13, containing 1.98 acres.

In Township 4, *of Range* 6 *E.*

Island No. 1, containing 2.59 acres; island No. 2, 9.36 acres; lot 1 of island No. 4, 56.08 acres; lot 2 of island No. 4, 37.34 acres, and lot 3 of island No. 4, 12.17 acres, in section 3; island No. 5, in section 11, containing 6.03 acres, and island No. 6, in section 25, containing 7.01 acres.

In Township 7, *of Range* 6 *E.*

Island No. 1, in section 21, containing 3.56 acres; island No. 2, in section 33, containing 10.55 acres.

Mr. LAWRENCE, of Ohio. It will be seen, sir, from this list furnished from the Land Office that with one or two exceptions these are very small islands of one, two, and three acres each, so that they would be of no great value to sell in the market except to the persons already in possession of them. Some of these islands have been occupied for a great many years, some for forty years or more, having been sold and transferred by deed from time to time. Large improvements have been made on them. In most instances the islands were originally of no value at all. Some were subject to overflow, and the occupants have built embankments to keep out the water, and made them valuable. They have been sold from time to time for a series of years, and this bill proposes to enable the occupants to perfect their titles. I have affidavits from some of the parties in possession, showing the character of their improvements. The lands were of no original value, and only became valuable on being reclaimed. The number of the islands is not great, and the amount of land in each island is so small that they would not produce to the Treasury any considerable sum if sold at public auction. But I think the usage has been in cases of this sort, where the parties have sought to perfect their titles, to enable them to do so at the minimum price.

Mr. SPALDING. I ask the learned mem-

ber of the Judiciary Committee whether the occupation of these islands has affected the title of the United States?

Mr. LAWRENCE, of Ohio. Not at all.

Mr. SPALDING. Then the title is in the United States?

Mr. LAWRENCE, of Ohio. Of course the legal title is in the United States.

Mr. SPALDING. Then the land belongs to us as if it had never been sold?

Mr. LAWRENCE, of Ohio. It would have been sold long ago if any one had then supposed there was any value in the lands.

Mr. SPALDING. How is it now?

Mr. LAWRENCE, of Ohio. Now the islands and lands have become valuable by the improvements put upon them—by embankments erected to keep out the water. The idea that these islands are to be put up at public sale and the improvements swept out from under the men who made them would be a bald act of such rank injustice that no gentleman would entertain the proposition for one moment.

Mr. HARDING. I desire to know if there was any advertisement when the transfer was made to the persons making this application?

Mr. LAWRENCE, of Ohio. None whatever.

Mr. HARDING. I notice it goes to the benefit of assigns.

Mr. LAWRENCE, of Ohio. Certainly. This bill provides that the parties in possession or who have been in possession, and the assigns of parties who have been in possession, may acquire title and thus save their improvements. These lands have been sold from time to time for the last forty years.

Mr. SPALDING. Not by the Government.

Mr. LAWRENCE, of Ohio. Not by the Government, but by the parties who have made the improvements. Some of the occupants probably supposed that their titles were good. They perhaps bought without inquiry as to the character of the title.

Mr. MARSHALL. How does it happen these occupants were of the belief they had a title? How were they misled?

Mr. LAWRENCE, of Ohio. I do not say they were misled, but the purchasers of lands do not as a general thing go to the records and examine the titles when they get a deed from persons in possession.

Mr. WASHBURNE, of Illinois. If that is so in the gentleman's district I do not think it is so anywhere else. The people who had good sense enough to send an able Representative here like my friend have sense enough to examine their title-deeds.

Mr. LAWRENCE, of Ohio. The people of my district are honest, and purchasers relying on the honesty of occupants often buy lands without examining titles.

Mr. ROSS. I suggest if it is not proper to sell these lands, deducting the value of the improvements. It occurs to me that they should pay a fair compensation for the land. The gentleman says the land is worth fifty dollars an acre. If that be so the Government ought to have that price for the land. I understand these parties have been in the occupancy of these lands for forty years. Then they are squatters and have not paid tax for that period; and, sir, it is no more than reasonable that they should pay a reasonable price for these lands. The rest of the country is as much interested in this as the gentleman's constituency. If these lands are worth fifty dollars an acre the General Government should have full value for them, thereby to that small degree lightening the burden upon the people. I ask the gentleman, therefore, as a meed of justice toward the people of the country, that he amend his bill so as to have appraisers appointed to determine the actual value of the lands, independent of the improvements, and permit actual settlers to enter them at their fair value.

Mr. LAWRENCE, of Ohio. My friend from Illinois has evidently not paid attention to the reading of the list of these islands furnished by the land office. There is not enough land in them to pay the expenses of a commission to appraise them, or at least not much more. How much would the United States realize from the sale of an island of two acres after paying the expenses of a commission to go out and appraise it?

Mr. ROSS. They need not go from Washington, I reckon.

Mr. LAWRENCE, of Ohio. But whatever value there is in these islands, or these lands, almost all of it has been imparted to them by the improvements that have been put upon them. Their value in part, or in some cases, grows out of the fact that embankments have been made to keep the water out, and it is almost impossible now to put an estimate upon the value of the improvements or of the lands in a state of nature. This is a simple act of justice to these occupants, and it is not a matter of sufficient importance to justify an appraisement on the part of the United States. It would add but little to our Treasury.

Mr. WASHBURN, of Indiana. I would like to ask the gentleman when the survey mentioned in this bill was made. Was it not from forty to fifty years ago? And are not the islands, some of them at least, three, four, and five times as large as when the survey was made, being so enlarged by accretions from the neighboring farms?

Mr. LAWRENCE, of Ohio. I suppose this survey was made when the lands along the river were surveyed.

Mr. WASHBURN, of Indiana. Fifty years ago?

Mr. LAWRENCE, of Ohio. I presume so; and if the islands had been of any value then or at the time when they were taken possession of and improved they would long since have been entered just as the other lands in the vicinity were. I do not know how much these islands have grown in size by accretions during the last fifty years, but I know an island of two acres would have grown very much in that time.

Mr. SPALDING. I think the Clerk read from the list some of these islands containing thirty-seven acres.

Mr. LAWRENCE, of Ohio. Yes, there is one or two such islands, and even larger.

Mr. SPALDING. I wish to say that I am in favor of the bill, but I want to understand it clearly.

Mr. LAWRENCE, of Ohio. There are, I think, only two islands of that description. This bill is simply an act of justice to men in possession of these islands. It has the unanimous indorsement of the Committee on Public Lands.

Mr. MUNGEN. Will the gentleman yield a moment?

Mr. LAWRENCE, of Ohio. Yes, sir.

Mr. MUNGEN. Mr. Speaker, I did not know when I objected that these islands had been offered for sale or advertised under the laws of Congress. I find there are about fifty-four acres of these islands.

A MEMBER. More than that.

Mr. MUNGEN. Well, that makes my point so much the more important. My point is this: if any person goes and settles on Government lands, appropriating them to his own use, as suggested by the gentleman from Illinois, he escapes taxation, so that if he cultivates a tract of land for forty years he has got enough out of it. Now, while the Commissioner of the General Land Office, under the laws of Congress, has advertised these lands for sale, I do not see the propriety of this House stepping in and giving a special privilege to any assignee to take them at $2 50 an acre. If they are worth more let the Government have the value of them. Let us open them to market under the law of Congress if they are worth selling at all. Let us apply the same rule to these islands that has been applied to islands in other rivers. There is no suggestion of the value of this quantity of land, which I now understand amounts in the aggregate to one hundred and seventy-five acres. I venture the assertion, with all due respect to the gentleman who introduced this bill, that they are worth from seventy-five to one hundred dollars an acre. Now, I say, let them be sold under the advertisement of the Commissioner of the Land Office for what they are worth.

Mr. FARNSWORTH. I would like to ask the gentleman from Ohio [Mr. MUNGEN] whether he thinks it just and equitable, where a man has settled upon what he supposed was his own land, and made improvements upon it, and subsequently finds that it belongs to the Government, for the Government to sell his improvements to a third person?

Mr. LAWRENCE, of Ohio. I must resume the floor.

Mr. MUNGEN. I want to answer the question of the gentleman from Illinois.

Mr. LAWRENCE, of Ohio. I would rather answer it myself. My colleague suggests that these occupants of the lands have never paid taxes upon them. I ask him how he knows whether they have paid taxes or not? Does not he know that a title deed can never be recorded in Ohio by law until the party receiving the deed goes to the office of the auditor and has it transferred in his name for taxation?

Mr. WASHBURNE, of Illinois. Let me ask the gentleman if in Ohio they tax Government lands, and if so, under what authority?

Mr. LAWRENCE, of Ohio. I will answer that question. I have no personal knowledge whether these lands have paid taxes or not; but I say that gentlemen have no right to allege that they have not paid taxes unless they have some personal knowledge about it. Further than that, this House and the United States have nothing to do with the question of the taxation of these lands. It is a matter for the State of Ohio. If these lands have not been taxed, and ought to be, let the Legislature provide by law that they shall pay whatever back taxes have not been paid and ought to be paid.

The gentleman from Illinois [Mr. WASHBURNE] asks me whether lands belonging to the Government of the United States can be taxed. I answer that lands the legal title to which remains in the United States are frequently taxed. In the Virginia military district it is a common thing, after an entry has been made, and before the patent issues, for the lands to go upon the tax-list and be taxed; some of them have been taxed for forty and fifty years. I know lands in my own county which have never yet been patented and the legal title of which is in the United States, but which have been entered and taxed, and are to-day taxed, though the legal title has remained in the Government of the United States all the while. But that has nothing to do with the bill before us. The question of taxation is for the State of Ohio, not for us, to consider.

No gentleman here has attempted to answer the question which was submitted by my friend from Illinois, [Mr. FARNSWORTH;] and that was whether it would be just to sell out these lands from under the men who have given them much of the value they have, and put them up at public auction, to be bid for by parties who might run them up merely to compel the holders to pay a price which they ought not be required to pay. I hope the bill will pass.

Mr. JULIAN. I must now resume the floor. I think the question is understood, and I am surprised that so much has been said in respect to it. The bill simply proposes to apply the ordinary principle of preëmption in behalf of men who in good faith have settled these lands and made improvements upon them which are rightfully their own. I hope the vote will be taken without further debate.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PATENT OFFICE REPORT.

The SPEAKER, the morning hour having expired, laid before the House a communication from the Commissioner of Patents, transmitting his annual report for 1867; which was referred to the Committee on Patents, and ordered to be printed.

The SPEAKER. This is the mechanical portion of the Patent Office report. If extra copies are desired a resolution had better be referred to the Committee on Printing.

Mr. CHANLER. I move that ten thousand extra copies of the report be printed.

The motion was referred, under the law, to the Committee on Printing.

FILLING VACANCIES ON COMMITTEES.

The SPEAKER announced the following appointments to fill vacancies on committees:

Committee on Private Land Claims—JAMES R. McCORMICK, of Missouri, in place of CORNELIUS S. HAMILTON, of Ohio, deceased.

Committee on Invalid Pensions—LAWRENCE S. TRIMBLE, of Kentucky, in place of JOHN FOX, of New York, excused.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for an indefinite time for Mr. KELLEY, on account of the death of a relative.

CHARLES J. POWERS.

Mr. FARNSWORTH, by unanimous consent, introduced a bill (H. R. No. 441) authorizing the Second Auditor of the Treasury to settle and pay the bounty of Charles J. Powers to his father; which was read a first and second time, and referred to the Committee on Military Affairs.

SAMUEL HITCHCOCK.

Mr. FARNSWORTH, by unanimous consent, also introduced a bill (H. R. No. 442) authorizing the Paymaster General to settle the claim of Lieutenant Samuel Hitchcock, thirty-sixth Illinois infantry volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

ILLINOIS IRON AND BOLT COMPANY.

Mr. FARNSWORTH, by unanimous consent, also introduced a bill (H. R. No. 443) to authorize the Secretary of the Treasury to refund to the Illinois Iron and Bolt Company certain penalties wrongfully collected; which was read a first and second time, and referred to the Committee of Ways and Means.

Mr. WASHBURNE, of Illinois. I move to reconsider the various votes by which bills have been referred to-day; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President were delivered to the House by Colonel WILLIAM G. MOORE, his Secretary; who also informed the House that the President had approved and signed a bill and joint resolution of the following titles:

An act (H. R. No. 369) to prevent frauds in the collection of the tax on distilled spirits; and

A joint resolution (H. R. No. 130) in relation to the sale of stock in the Dismal Swamp Canal Company.

LAKE ERIE AND OHIO RIVER.

Mr. MILLER, by unanimous consent, presented the following joint resolution; which was referred to the Committee on Roads and Canals, and ordered to be printed:

Joint resolution instructing our Senators and requesting our Representatives in Congress to vote for an appropriation to open a communication between Lake Erie and the Ohio river.

Whereas a passage for gunboats between the Ohio river and the great lakes is greatly needed for the national protection and security; and whereas the national prosperity would be vastly increased by the opening of such a highway for the purposes of commerce; and whereas the national Congress has manifested its desire for the opening of such a channel by ordering the survey of sundry routes: Therefore,

Be it resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, That our Senators are hereby instructed, and our Representatives requested, to urge upon Congress the passage of an act to open such a channel, by way of the "Pennsylvania Erie canal," from the mouth of the Beaver river, on the Ohio, to Lake Erie, at the city of Erie, a distance of one hundred and twenty-eight miles, which, in the judgment of the Legislature of Pennsylvania, can be accomplished by enlarging the Erie Extension Canal, at a cost to the General Government of not more than $1,000,000; the expense of repairs after such enlargement to be at all times borne by the Erie Canal Company.

JOHN P. GLASS,
Speaker of the House of Representatives.
LOUIS W. HALL,
Speaker of the Senate.

Approved the 12th day of April, A. D. 1867.
JOHN W. GEARY.

CONTRACTS FOR ORDNANCE, ETC.

The SPEAKER, by unanimous consent, laid before the House a messsage from the President, transmitting, in compliance with a resolution of the House, a communication from the Secretary of War *ad interim*, with accompanying papers, in reference to contracts for ordnance, projectiles, and small-arms; which, on motion of Mr. CULLOM, were referred to the Committee on Ordnance, and ordered to be printed.

INDIAN TREATIES.

The SPEAKER also, by unanimous consent, laid before the House a message from the President of the United States, transmitting the report made by the commissioners appointed under act of Congress approved July 20, 1867, entitled "An act to establish peace with certain hostile Indian tribes," together with accompanying papers; which, on motion of Mr. WINDOM, were referred to the Committee on Indian Affairs, and ordered to be printed.

RECONSTRUCTION.

The House then resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto; which had been made the special order for to-day after the morning hour, and upon which Mr. BINGHAM was entitled to the floor.

Mr. BINGHAM. I will yield to the gentleman from New York, [Mr. BROOKS,] who is a member of the committee from which this bill was reported and who desires to submit a minority report.

Mr. BROOKS. I desire to submit a report of the views of the minority of the committee, signed by the gentleman from Kentucky [Mr. BECK] and myself, in opposition to this bill. And as the injunction of secresy upon the action of the committee has been removed, as will be seen by any one who will refer to the daily papers, I may avail myself of this opportunity to add that the honorable gentleman from Pennsylvania [Mr. STEVENS] was also opposed to the bill as reported, though upon entirely different grounds; our opposition being to the principle of the bill, and he, as I understand him, being opposed to the bill because it was not effective enough, but was rather a bill to make a President of the United States than to carry out the objects stated in the bill.

I now present the report of the minority; and as I am familiar with the handwriting I will read it.

The report was as follows:

The undersigned, a minority of the Committee on Reconstruction, so-called, submit, among others, the following as some of their reasons for opposition to this bill:

1. That a Congress *ex parte* is asked (first section) to abrogate and destroy all civil State governments in ten States, four of them, namely, Virginia, North Carolina, South Carolina, and Georgia, being of the original thirteen that started the Government and created the Constitution, while four others of that thirteen (making eight in all) have just been demonstrating through their popular elections that they recognize their civil State governments, and guaranty, as far as the popular voice there can, their preservation (not destruction) as legal State governments. Self-government and representation are cardinal principles of a republic, and solemnly ordained in our Federal Constitution; but this section ignores both and robs ten States of the Union and their twelve million inhabitants of all protection from the judiciary or executive branches of the Government, while dooming them to a military despotism.

2. That a Congress thus representing but a part of the people, and that part now in a minority, even if a full Congress, in the proper parliamentary sense of that word, could be but one of the three great branches of the Government, with no right nor power to invalidate or to deny the recognition of the judicial or executive power, as asserted in this bill. The executive or judiciary has as much right to proclaim or adjudicate that Congress shall not be recognized as Congress has thus to enact for the executive and the judiciary both are as much the Government and the creature of the Constitution as the House of Representatives or Senate; and the Executive elected by the whole people better represents the principles of popular government than a Senate, the mere arbitrary creature of the States without regard to population.

3. That this invalidation or nullification of the executive and judicial power in ten States is not only an abolition of the Federal Constitution, but, without a direct repeal of, in conflict with the great military act of 1792, 1795, and of March 3, 1807, putting the Army and Navy and militia of the United States in certain cases at the disposal of the President; also in conflict with the fundamental judiciary act of 1789, the Constitution, which, while guarantying to every and also in conflict with article four, section five, of the Constitution, which, while guarantying to every State a republican form of government, also guaranties on application of the civil authorities of the State, protection against domestic violence or invasion, such as is contemplated in this bill.

4. That the second and third sections are in utter violation of the Constitution—Article 2, section 2—which declares "the President" to be Commander-in-Chief of the Army of the United States, inasmuch as only the General of the Army is there authorized to be that Commander-in-Chief, and to remove by his order alone any or all officers of the Army of the United States, independent of the constitutional and people's elected Commander-in-Chief, and this investiture of a General of the Army with this supreme dictatorship is, as if in solemn mockery, set forth to be to reorganize civil government republican in form!

5. That the whole act is revolutionary and incendiary in arraying Congress, but one branch of the Government, against two coördinate branches, in all respects the constitutional equals of Congress, and in some respect the constitutional superiors of that Congress, and thereby calculated, if not intended, to involve the whole country in commotion and civil strife, the end of which no human eye can foresee.

JAMES BROOKS, of New York.
JAMES B. BECK, of Kentucky.

Mr. BOUTWELL. Is that to be considered as a minority report?

The SPEAKER. It is.

Mr. BOUTWELL. Then I would call the attention of the House, and particularly of the gentleman from New York, [Mr. BROOKS,] to an expression in it.

Mr. BROOKS. What is it?

Mr. BOUTWELL. The expression to which I refer is this—"Committee of Recoustruction, so-called." I think this House has a right to the assent of its members to its own action. It is not decorous in the gentleman from New York [Mr. BROOKS] in a report to characterize any committee of this House as "so called."

Mr. BROOKS. I have no objection to striking out that term. But the reason I used it was that I found in the bill itself the term "so called." The bill says, "the so called civil governments in said States." I desire to have that term struck out of the bill.

The SPEAKER. The committees of the House are named by the House.

Mr. BROOKS. I yield to the taste of the gentleman from Massachusetts [Mr. BOUTWELL] and will strike that term from the minority report. I hope, however, that in due time, when we come to the consideration of the bill, he will with equal taste move to strike from the first section the term "so called" as applied to the State governments. I now move that the minority report be printed, and in connection with the majority report, if any should be made.

The motion to print was agreed to.

Mr. BROOKS. I have availed myself of the occasion of the introduction of reconstruction bills heretofore to reply with some care to the arguments and principles involved in those bills. And though I could not add much in the discussion of this bill to what I said before, I will say that in my judgment, though doubtless not in the judgment of others, we have arrived at a period in our history when legal discussion or logic within the walls of this House is of very little avail. I shall not, therefore, avail myself of the opportunity now presented, to discuss at any great length the principles of this bill, or to express my opinions upon it, but will leave that to others who are

statesmen, men educated in the Constitution and laws, far better qualified by their previous studies than I am to discuss a bill of this magnitude.

I will merely remark that so far as this bill is practicable for the immediate reconstruction of the southern States I quite agree with the honorable gentleman from Pennsylvania [Mr. STEVENS] and the honorable gentleman from Missouri, [Mr. LOAN,] who has also submitted a bill upon the subject, that this bill will realize but very little of the speedy purpose which they have proposed.

Sir, it seems to me, with all due respect to the committee that reported it, that this bill is mainly a bill to elect a President of the United States, and to so organize the southern States as to elect a particular person to the Presidency of the United States. In order to give that particular person a sufficiency of power to become President of the United States he is made supreme dictator over the ten southern States, a vast extent of territory, stretching from the Potomac to the Rio Grande.

Now, if that be the object of this bill I can well understand it. And yet I do not see why it is necessary in order to do that to violate the Constitution of the United States, as this bill does violate it, as I have shown in the minority report which I have just presented. In this purpose of settling the question of the Presidency of the United States and to settle the conflict which is now going on in the southern States for the control of the national convention it is proposed to invest the General of the Army or his friends with such supreme power over the southern States of this Union in order that they can control the nomination in the national convention by electing delegates to that convention of their own preference and creed. This seems to me to be the great object of the bill.

The opponents of the nomination of the General-in-Chief of the Army for the Presidency are doubtless willing to concur in the passage of this bill, reasoning in their own minds that by giving him the dictatorship of the country, by making him supreme over the rights of property and of life, of civil and municipal law, by clothing him with such high prerogatives and power, like those given to Roman generals of old, he will be certain in the exercise of them to commit suicide and destroy himself. Thus both the friends and the opponents of the nomination of the General-in-Chief have united in presenting this bill here, though with purposes entirely different. The latter favor it in order to secure his destruction; the former in order to enable his friends to control the national convention and thus secure his nomination.

But this bill presents a few immediate practical results beyond that of a mere presidential nomination, though in all other respects it overrides the Constitution and laws of the country in every and in any form. And if I am correct in that suspicion, or in that allegation, I put it to this House, I put it to the country, whether it becomes our dignity, the dignity and the honor of the House of Representatives, upon a bill so solemn in its form as this, thus to engage in a presidential election and settle the political difference between the Chief Justice of the United States and the General of the Army of the United States.

Mr. BINGHAM. I desire, Mr. Speaker, to state as briefly as possible the provisions of this bill, and the grounds upon which we sustain it here, and hope to sustain it before the country.

No one, Mr. Speaker, can, if he would, evade the conclusion that there is now in this country a great and powerful organization, always talking about the sanctity of the Constitution, but opposed to-day as it was opposed eight years ago to the defense of that Constitution either by arms or by laws. I will not, sir, standing in the presence as I do of the recorded facts of the last seven years, be driven into any denial, special or general, of the right of the people of the United States to maintain their own Constitution and Government both by arms and by laws. That question has been settled by wager of battle. It has been settled as well by the ballot in the past, and in the current year 1868 it is to be settled I trust finally and forever in that great conflict of the people which shall determine who shall be intrusted with the executive power of the United States, subject, nevertheless, to the laws of the United States, and with the legislative power of the organized people of this country. It is useless, sir, for men to stop to persuade anybody that this is not a mere party contest between a Democratic party and a Republican party. It is a contest, sir, disguise it as men may, between the friends of the Constitution and Government of the United States and its enemies, open or covert. The gentleman from New York [Mr. BROOKS] could not, with all his ingenuity, in presenting his minority report against this bill, fail to echo the voice which comes back to us from the past, the voice we heard seven years ago on this floor declaring it was unconstitutional to interfere with the sovereignty of the seceding States, alleged to be supreme, and assuming the rightful authority to strike down the Constitution on the one hand and strike down the rights of the organized people of the country on the other.

The words of the gentleman's report are stereotyped. It was my privilege, sir, to stand on this floor this day seven years ago and hear precisely the utterance to which we have listened to-day, when men were mustering in South Carolina as men are mustering in South Carolina to-day, against the supremacy of the Constitution and the integrity of the Union, seizing your arms, seizing your treasure, seizing your ships, seizing your citizens, charged and chargeable with no crime save fidelity to the Constitution of their country. The utterance of that day was, it is unconstitutional to coerce seceding sovereign States!

It is a significant fact that the very Representative from my own State who on that day stood on this floor, and with an unction as fervent as that which marks the utterance of the gentleman to-day, declared after those acts of secession, after those acts of public robbery, after those acts of incipient treason, that it was contrary to the genius and spirit of the Constitution to coerce seceding States. The gentleman who made that utterance that day is now the accepted standard-bearer of the party on whose behalf the gentleman from New York [Mr. BROOKS] speaks when he comes with his apology for treason, saying that it is unconstitutional to provide by law for carrying into effect the written letter of the Constitution.

When the contest had progressed from that day, in January, 1861, until the whole land was covered with armed men, until the whole heavens were filled with blackness, until the habitations of the land were filled with dead, and it became necessary, in order that your country's defenders might be furnished the means of shelter and transportation and defense, to make a forced loan, the same gentleman [Mr. PENDLETON] arose in his place and declared that it was unconstitutional to emit bills of credit for the redemption of which stood pledged by act of Congress the uncounted wealth of the whole people of the United States. Strange to say, when it suits his purpose, the same gentleman, without any change of that instrument, has the audacity to-day to go before the people and proclaim his readiness, provided his party be intrusted with the power, to violate the Constitution in that behalf to the extent of an issue of $2,000,000,000 at once of bills of credit, redeemable never, and thereby repudiate the obligations of the country, thus incurred of necessity and in defense of the nation's life. It becomes such gentlemen to talk about the Constitution, and to denounce as unconstitutional the bill now under consideration, and by which it is intended to aid the people speedily to restore the shattered fabric of civil government in the insurrectionary States.

This brings me to the consideration of the first section of the bill, which I venture to say is as clearly constitutional as any act ever passed by the Congress of the United States. Trusting, as I do, that in some form and in substance that section will pass into law, I am of the opinion that it will be adjudged constitutional by every judge upon your Supreme Bench.

Mr. ELDRIDGE. Then why did you change the court yesterday?

Mr. BINGHAM. The gentleman need not ask me why I changed the court yesterday. I neither changed the court yesterday nor sought to change it. I gave my reasons on the judiciary bill yesterday; and they were reasons which had no relation to this section. I am satisfied with the reasons then given for my support of that bill, and they must furnish my answer to the gentleman's question.

Mr. KERR. Will the gentleman yield?

Mr. BINGHAM. The gentleman must excuse me. It seems to me, Mr. Speaker, that the framers of the Constitution could by no possibility have employed language which more clearly would have vested the power in the Congress of the United States to enact this section than that which they did employ. The gentleman from New York [Mr. BROOKS] saw fit to refer to a single section of the instrument without referring to the other provisions of the Constitution which expressly provide that the very section to which reference was made by him should be carried into execution by act of Congress. The gentleman talks about men learned in the law coming to the examination of this question. I venture to say that it requires no profound learning to understand that the Constitution of the United States has expressly authorized the legislation which the gentleman assails. It is patent to the observation of every man in this country that it is the first duty of the Congress of the United States to enact the law, if the Constitution warrants its enactment.

The gentleman referred to article four, section four, of the Constitution of the United States, which declares that the United States Government shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence. It is utterly in vain that this guarantee is written in your Constitution if that instrument has not provided also for carrying the guarantee into effect. Why, sir, it was said by a man who, living, stood alone among living men, and who, dead, sleeps alone in his tomb by the sounding sea, fit emblem of the majesty of his matchless intellect, that the Constitution does not execute itself, but must be executed through law enacted by the Congress of the people, and enforced through the judicial and executive departments of the Government; first, by the silent power of public opinion; the voluntary acquiescence of the people: or second, if resisted, by the might of the people's army.

That grant of power to carry this clause of the Constitution into effect is plainly clearly set forth in the Constitution, and in words so simple that no right-minded man in America can entertain any doubt upon the subject. What is it, sir? In the very first article of the Constitution gentlemen will find these words:

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution all powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

The power to guaranty a republican form of government to every State in the Union is a power vested in the United States. It is not a power vested in any officer thereof. It is not a power vested in any department thereof. It is a power vested in the Government of the United States. There stands the provision that Congress shall have power to pass all laws necessary and proper to carry into effect all the powers vested by the Constitution in the Government of the United States. This power thus vested in the United States, as I had occa-

sion to intimate yesterday, is essential to the national life. I do not propose to repeat my argument of yesterday at length, but only to the perfection of what I may say to-day. I beg leave to state, in brief, what I did more at length yesterday, that American nationality under the Constitution never existed one hour, never can exist an hour while that Constitution remains what it is, save through and by the adhering, organized constitutional States of the Union. Hence the necessity of this power and the necessity for its enforcement.

It would seem from the gentleman's remarks that this essential guarantee, essential alike to the State and nation, is not to be enforced by acts of Congress. If it is not to be enforced by law of Congress, pray by what means is it to be enforced? The gentleman referred to the act of 1795. That act, sir, had no very particular relation to the first clause of the fourth section and fourth article of the Constitution, but it had relation rather to the succeeding clause, to wit, the power to protect the States against invasion or domestic insurrection. Still, the very enactment of that law in 1795 was an acknowledgment that legislation was necessary to enforce that section and article of the Constitution. The time had not come while Washington lived, nor during the lives of his great compeers, when it became necessary by any special enactment of Congress to enforce the first clause of that essential provision of the Constitution, than which there is none more essential to the maintenance of this Government. But unhappily, sir, that time has now arrived. The people of ten States of this Union have abrogated their governments. The gentleman says that the object of this bill is to abrogate their governments.

Does the gentleman not know that the people of South Carolina abrogated their government in 1861? Does the gentleman not know that the people of the remaining nine disorganized States that engaged in the horrid work of secession, robbery, treason, and murder, abrogated their several constitutions of government during those four years of bloody conflict? Their governments were abrogated. The President of the United States, the acting President, if it be parliamentary to name him, Andrew Johnson, who seems to be in some sort approved by the gentleman and his party, came to the conclusion that these several States had abrogated their governments and that there were no constitutional or republican governments there. This guarantee, this power of the Government of the United States cannot be made effective in a State in the absence of any State government whatever, Congress can by law aid the people to restore it, but cannot guaranty a republican form of government until the people establish it.

Mr. ELDRIDGE. Will the gentleman allow me a question?

Mr. BINGHAM. Yes, sir.

Mr. ELDRIDGE. I wish to know of the gentleman from Ohio if that clause of the Constitution to which he has referred is not wholly inapplicable to this subject? If these State constitutions and State governments are entirely abrogated, can the word "guaranty" apply to a total abstinence or absence of government and of Constitution? And if that be not so, I ask him what he intends or proposes to guaranty under the provision of the Constitution—whether it is the government that existed prior to 1861 or the government that existed since that period?

Mr. BINGHAM. The gentleman is only asking me to repeat the very words I uttered just before he arose from his seat. But it was in the gentleman's speech and it had to come out. I had just said, when the gentleman interrupted me—and it was with some difficulty that I was permitted to proceed until I had finished the sentence—I had just said that the guarantee could not be operative in a State in the absence of an organized State government, republican in form, and adopted by the people.

But I also said, the people of those States, having abrogated their preëxisting governments by treason and war, within the letter and spirit of the provisions of the Constitution of the United States, before referred to, it is for Congress to aid by laws the people within said States to reorganize republican governments. I had already intimated that the President of the United States, Andrew Johnson, was of that mind, though he seems recently to have passed into the hands of the friends of the gentlemen on the other side. Hence, he issued his proclamation to enable these people to reorganize republican forms of government under the Constitution of the United States, as it was their right and their duty to do.

To that end the President appointed provisional governors over them. To that end he directed what should be their action in their conventions; among other things, that they should adopt an ordinance repealing their ordinances of secession, or, if you please, adopt an ordinance declaring their ordinance of secession void, also an ordinance declaring void their debt contracted in aid of the rebellion, to the end that the Government of the United States might give them protection under this provision of the Constitution in the event that they should reorganize governments republican in form.

Mr. ELDRIDGE. If the gentleman will allow me——

Mr. BINGHAM. No, not now.

Mr. ELDRIDGE. I wish to be understood by the gentleman.

Mr. BINGHAM. I understand the gentleman perfectly.

Mr. ELDRIDGE. I think the gentleman misunderstands me.

Mr. BINGHAM. If that is so I will yield.

Mr. ELDRIDGE. I understood the gentleman to start out by taking the position that we had the right to enact this bill into a law under and by virtue of that provision of the Constitution which requires the United States to guaranty to each State a republican form of government. Now, I ask him if that be not so, if he does not propose to act under that provision of the Constitution, then under what provision of the Constitution does he propose to act? Or, if he does not propose to act under any other than that provision of the Constitution, then must their not be a prior government which it is proposed to guaranty?

Mr. BINGHAM. The gentleman is now talking about the bill; I am talking about the first section. I understand exactly my own position, and I trust the gentleman will have full opportunity hereafter to answer it at his leisure.

I had been stating—and when the gentleman interrupted me I was trying to make myself understood, whether gentlemen agree with me or not—that to secure this privilege to the people of a guarantee of a republican form of government legislation by Congress was necessary. And why? Because, first, an organized mob, armed to the teeth, had broken down and destroyed the then existing republican forms of government in the several States lately in rebellion against the United States; second, because the presence of that great body of men who organized the rebellion and prosecuted it with such activity and such terrific energy for over four rendered it impossible for the loyal people years themselves to reorganize their State governments without the aid of Congress and the protection of national law. To accomplish that end, whatever is necessary to be done to give the people the benefit of the guarantee a Republican Congress may do; and so the Constitution, as I have said, expressly provides.

The gentleman refers simply to the guaranty clause of the Constitution. I quote more than the guaranty clause. I quote the express grant of power that the Congress of the United States shall have power to make all laws necessary and proper to carry into execution the powers vested in the Government of the United States by the Constitution.

Mr. WOODWARD. Will the gentleman yield to me for a moment?

Mr. BINGHAM. No, sir; I cannot yield.

Now, it is perfectly well understood by lawyers that whatever is necessary to be done to accomplish the end Congress may do; provided, of course, it be not expressly prohibited by the very terms of the Constitution. It is necessary that the people in these several disorganized States shall have the opportunity peaceably, quietly, under the shelter of the law, to reorganize republican governments. This clause declares that, such a provision being necessary, Congress may enact it. Not that the guarantee can be operative until the State government is made; but the guarantee never can be operative unless the State government be made. That is the point, and the whole point.

The Constitution is not strained by the proposed legislation. I refer, in support of my position, to a decision made by the chief of all your judges—Marshall—from the Supreme bench, and the foremost of all his decisions—a decision which, I venture to say, will live as long as our language lives—in which he gives the same latitude of construction to this grant of power that I claim for it this day. Marshall says:

"To prescribe the specific means by which the Government should in all future time execute its powers, and to confine the choice of means to such narrow limits as should not leave it in the power of Congress to adopt any which might be appropriate and conducive to the end, would be most unwise and pernicious."

Those are the words of Marshall; and before him, one of the framers of this great instrument, himself not second to Marshall in the power and might of his intellect or in his patriotism, said that it was very clear under that grant of power that Congress itself was the final judge of the necessity of the legislation.

That, sir, is all I have occasion to say on that point now. If the United States is to guarantee a republican form of government to every State in this Union, and the power to carry out this guarantee is exclusively in Congress, as your great judge has ruled under the obligations of his oath, does it not necessarily result that Congress determines whether there is a republican government there at all, and that the decision of Congress in this behalf is finally binding on every other department of the Government? Happily, sir, that question is also settled, and it is not needful that I should exhaust my strength or the patience of this House in arguing it to-day. I refer to the decision of another Chief Justice of the United States in the case of Luther *vs.* Borden, reported in 7 Howard, where he decided that the original power to determine this very question was in the Congress of the United States. He decided further, speaking for the whole court, as I recollect, that the only power of the Executive in the matter was such power as might be conferred upon him under an act of Congress; that he derived no power at all directly from the Constitution.

That court decided further upon that occasion—and it is a very apt response to all that the gentleman from New York [Mr. BROOKS] has intimated in his minority report and the remarks he has just made—that the judiciary must be concluded by the decision of the political department of the Government; "else," said the judge, "this provision of the Constitution would be a guarantee of anarchy, not of order." It requires no argument to be addressed to intelligent, thoughtful men to vindicate the exact justice of these weighty words that fell from the lips of the Chief Justice. Why, it must be obvious to every man that if the judiciary were not concluded by the decision of the political department the judiciary might decide that there was a republican government, while Congress decided that there was not, and thus you would have anarchy—anarchy authorized by the very terms of your Constitution. Sir, the Constitution of the United States is no such worthless contrivance. It has more certainty about it; it has more of the character of law—law in its highest sense,

which is the perfection of reason. It has clothed the legislative power of the nation with authority to determine whether a republican government exists in any State of this Union, and if it does exist to guarantee its enjoyment to the people of the State.

It has clothed the legislative department as well with power to determine whether a republican government, and every other form of government at all known to civilization, has ceased to be within any of the States of this Union, and to provide by law to remedy the want of it, and to give the protection of the law to all law-abiding people, not merely residents within the limits of such disorganized and insurrectionary States, but to all law-abiding people of the Republic, of each of whom it may be said every rood of such disorganized State is part and parcel of his common country.

The gentleman will find when he comes to pursue this question there is perhaps quite as high authority in support of this proposed legislation as of any other legislation which has been deemed necessary since treason fired its first gun on Sumter. One thing I am well assured of, and I therefore repeat it, that your Supreme Court will never challenge the authority of the first section of this bill without taking back every decision that court ever made directly or indirectly on the question involved since Jay's time.

The gentleman seems to think the object of this bill is to rob the people of the protection of law altogether. He ventured in his haste to say they had no judicial protection. Does the gentleman not know well this law is additional and supplementary to the act of the 2d of March and the acts supplementary thereto, in which the judicial authority of the United States throughout those ten insurrectionary States is clearly and distinctly recognized? Does the gentleman not know as well that the judicial tribunals of the United States are open in those several States for the administration of justice and for the protection of life and property? Does he not know the bill discriminates between provisional courts in those disorganized States legalized as such by Congress, and the illegal governments set up by those lately in insurrection? Why, then, say this is a bill to take away from the people the protection of the law?

First, the bill guarantees and secures to them, in so far as the Army can maintain the authority of the United States, just such protection as flows from the judicial tribunals of the United States in any State of this Union. Next, it secures the fair administration of law even by their own State officials, acting not by virtue of their State authority but by virtue of a former act of Congress. To be sure the bill provides in certain contingencies for the removal of civil officials acting under these provisional governments and the appointment of others to their places to discharge their duties until such time as this people shall have restored republican State government satisfactory to the law-making power of this nation. That provision had been enacted before. The people of the United States, it seems to me, have not yet decided adversely to what had been done to provide for the restoration of those disorganized States. The sole object of this bill is to provide for the more efficient execution of your former legislation.

The difference between this bill and the legislation now upon your statute-book is only in the mode of execution and the addition of a penal section, to which I hear no objection from the gentleman from New York, and to which, I presume, no objection will be made by any gentleman upon this floor who admits the power to pass a law in any form to provide for the better government of those States and their speedy reorganization.

By this bill the power to carry out the details of the law is transferred from the President of the United States, in whom it was vested expressly by the act of the 2d of March, 1867, to the General of the Army. Gentlemen seem to argue that the President of the United States, by virtue of his office possesses power to carry into effect the details of any act of Congress. I would thank gentlemen when they make intimations of that sort to point me to their authority. I undertake to say that the President of the United States cannot of his own motion do any act toward the execution of the laws which is not provided for or may be provided for specifically by act of Congress. I know the executive power is vested in the President of the United States; but it does not follow by any manner of means because the executive power is vested in the President of the United States by the Constitution that he therefore, of his own election and his own pleasure, is to determine the mode and manner in which the most solemn enactments of Congress are to be carried into effect. Congress prescribes the mode of execution by its own law. Congress prescribes the officer who shall excute it. Congress declares the mode of his appointment. Congress declares the conditions upon which he shall enter upon the discharge of his duties. Congress declares the responsibility that devolves upon him for the non-performance of his duty. The President, to be sure, is never to be excused from employing, if need be, in the enforcement of your law the power of the Army and Navy; but it is not for him to execute a writ of your district or circuit court, either its mesne or final process. Neither had the President of the United States, without your express authority, power to appoint the military commander in any one of the departments of the ten States. You conferred it upon him by the act of March 2, 1867; you may withdraw it from him by the act of 1868, and confer the power, as I claim, upon the General of the Army, or you may appoint the officers directly yourselves; you may constitute them commanders of those departments by express enactment.

This I aver upon the highest authority. Does not the Constitution of the United States contain an express provision that the Congress shall have power to prescribe rules for the government of the land and naval forces, and is not the President bound by his oath when the Congress shall have prescribed the rule for the government of either, or of any officer thereof, to obey that law? Or is your President above the law? Is he at liberty to repeal any law which may not suit his pleasure, which Congress may pass? The utmost he can do is to interpose his veto, and having done that, if Congress passes the law over his veto by a two-third vote, he is as much bound to obey it and carry it into effect as the humblest citizen of the Republic is bound to render obedience to your law, with or without the President's approval.

It is in vain that gentlemen stand here and intimate that the President, because he is the executive officer of the United States, Commander-in-Chief of the Army, is above any statute of the country. It is his sworn duty to bow before the majesty of the law, whatever it may be, enacted by the Congress of the United States, and to lend all the power vested in him under the Constitution to its enforcement in the event of resistance to its execution. In the first instance, he is not called upon to intervene. As I said before, the law is to be executed through those especially appointed by the statute to execute it; but if the authority is resisted, the executive power of the President of the United States is invoked, and he is bound to exercise it and thus obey his oath, which enjoins that he shall take care that the laws be faithfully executed.

It will not do for gentlemen to talk about their love and regard of the Constitution and straightway intimate that the President of the United States is the only person under the Constitution that can be intrusted with the direct execution of law. I repeat again that the provision of the Constitution is so conclusive on the question of the power to thus direct the Army as is provided in this bill that the provision is itself the argument. Congress may prescribe rules—that is, laws—for the government of the land and naval forces. It may therefore prescribe rules for the government of each person in the land and naval forces. It may therefore appoint by name any officer of the Army to execute this law in accordance with its terms within the limits of the several military districts created by the acts to which this is supplementary. The whole question—and that I admit is a subject of legitimate argument—turns upon the point: has Congress the power to enact these laws at all, either vesting the President specially with authority to detail an officer, or vesting the General of the Army with authority to detail, or nominating the officers in the act itself and enjoining the duty upon them? Because it is very clear that if Congress has the power to enact the law the President is bound to obey it. That is all there is of it.

Mr. ELDRIDGE. Is there not more than that of it.

Mr. BINGHAM. No more.

Mr. ELDRIDGE. Is there not this of it? In the act investing the General of the Army with these powers do you not in just that degree subtract from the powers of the President given to him by the Constitution?

Mr. BINGHAM. Why, the gentleman ought to know very well that there might be some room for making this discrimination if the only power given to the President by the Constitution were the simple declaration that he is Commander-in-Chief of the Army. But the gentleman must remember that the Constitution in express terms declares that the executive power shall be vested in the President, and as the greater includes the less, how comes it that the Congress of the United States from the day it first met to this hour has been repeating session by session and year by year the very form that we have adopted in this statute for the government of the Army by conferring power to execute upon major generals, upon brigadier generals, and upon colonels and captains?

It will never do for gentlemen to say that because the President is Commander-in-Chief of the Army and Navy Congress has no right to pass laws that he does not agree to. My point is that he is Commander-in-Chief of the Army and Navy, subject to such laws as Congress may pass for the government of the land and naval forces. It is written, as we have seen, in the Constitution that Congress shall have power to prescribe rules for the government of the land and naval forces.

Mr. ELDRIDGE. If the gentleman will allow me, I would suggest to him that the executive power is vested in the President as well, and that by this act we propose to abridge and to take away from him that executive power. I understand him to claim that the executive power exists in the nation, when the Constitution expressly vests it in the President.

Mr. BINGHAM. The gentleman is only repeating what I said myself. He cannot evade my argument by that sort of statement. It is utterly useless. I have explained my views of the whole matter, and submit that the legislation of this country from beginning to end explains it. It does not follow because the President has the executive power that he is not bound to obey and execute the laws. It does not follow because he has the executive power that you cannot confer upon a marshal of the United States, without his special warrant, authority to execute the final process of our courts. It does not follow because he has the executive power that you cannot, without his special warrant, clothe an officer or officers of the Army of the United States with authority to convene courts-martial charged with the issues of life and death. He has the executive power, but he has it subject to the supreme law of the land, and that is not simply the Constitution, but the laws, also, which are made in pursuance of that Constitution. It is useless to waste words upon this subject.

Mr. FARNSWORTH. Will my friend allow me to suggest that there have been acts passed again and again within the last few years, some of which have been signed by Andrew Johnson

as President, wherein Congress has directed the Secretary of War to detail officers in a particular way, and wherein Congress has directed the Secretary of the Navy to detail vessels in a particular manner. Such acts have been repeatedly passed and signed by the President. If they were unconstitutional the President has signed unconstitutional laws.

Mr. BINGHAM. Mr. Speaker, I regret very much that I have been drawn into discussing so much at length this question. I think that I owe an apology to this House; I think I owe an apology to every intelligent man in America for stopping to discuss this proposition at length.

I have said before—not to-day, but heretofore—and in that I agree entirely with the gentleman from Wisconsin, [Mr. ELDRIDGE,]—that it is the duty of the Congress of the United States so to exercise their legislative powers as not to take away from the President the power to discharge faithfully the duties of his office, including the executive power and including also the command of the Army and Navy. But having said that, it does not by any means follow that I concede the absurd conclusion which seems necessarily to be involved, with all respect to the gentleman, in the suggestion which he makes that we cannot confer direct authority upon any human being to execute our laws without the special order of the President. It will not do, gentlemen; it is too late in the day to raise any such question; altogether too late in the day. All the legislation of this country is against your assumption. All the solemn adjudications of your highest tribunals of justice are against it. Why, sir, the case to which I have referred is a marked illustration of the truth of that which I assert, where the court did solemnly declare in their decision that the final action of Congress upon this very question of the existence of a republican government in any State of this Union was conclusive upon every Department of the Government; conclusive upon the Executive, conclusive upon the judiciary, and conclusive upon the several State tribunals throughout the Union. That was the judgment of the court, and I accept it as the law of the Constitution.

And if I did not entertain that conviction—a conviction as strong as knowledge itself—I would look upon your Constitution at last as nothing but a splendid bauble, not worth the sacrifice that has already been made to uphold it, to vindicate its authority, and restore its supremacy.

The object of this bill, I repeat, is not to deprive the people of those States of protection. The object of it is to hasten the day when the people of those States, under the protection of a law, obeyed by the President and carried into effect by the officers of the Army, to whom it becomes a rule of official conduct, will reorganize governments republican in form, to the satisfaction of the Congress of the United States, and, in the words of the bill, "be restored to political power in the Union."

Now, what objection is there to that? There can be but one objection; and that is the argument that the people of those States already have republican forms of government. How did they come by them? Did their former governments survive the rebellion of over four years? There can be no republican government in a State without an organized body of officers qualified in accordance with the requirements of the national Constitution. There was no such organization in any one of those States on the day that Lee surrendered to Grant.

What sort of governments have they had since then? An organization made by the authority of the President of the United States, who, in my judgment, had no right to determine the question at all. I lay nothing to his charge for having interposed to aid the people who might voluntarily have organized governments. But did they do it? Have they laid their constitutions of government before this body? Has the Congress of the United States approved them? The Congress has the right to determine the fact whether there be republican governments there before the Congress shall enforce the guarantee. Has Congress approved them? Not at all. For four long years the Congress disapproved their illegal and void governments in a mode and manner which any man can understand.

Will any gentleman rise in his place here and say that the government of Mississippi, for example, organized under the direction of the President of the United States, with Governor Sharkey appointed by him to that end, is a republican government springing from the people and resting upon the consent of a majority of the free male citizens of the United States resident within its limits? Not at all.

Sir, I will venture to say that there never was a State government recognized as republican in form in any period of the Republic which deprived a majority of the free male citizens of the United States resident within its limits and charged with no crime of all voice or power in its administration. If there ever was anything that approached it I want to know when and where it was. I say this only in vindication of the action of Congress. All the past traditions of the Republic are against recognizing as republican in form any of the governments in those ten disorganized States as they now stand before the country.

Let the people thereof proceed to establish governments according to the Democratic rule of this country, which, in the words of Jefferson, shall "secure equal and exact justice to all men." Let them proceed, above all things, to ratify, according to the requirements of your law of last year, the fourteenth article of amendment to the Constitution of the United States, which has already received the sanction of twenty millions of the freemen of this land—a higher sanction, I venture to say, than was ever given by the people to any provision of law ever enacted by the Congress of the United States since it was a Congress under your Constitution.

Mr. ELDRIDGE. I understand that the gentleman's own State has already withdrawn her consent to that amendment.

Mr. BINGHAM. The gentleman is entirely mistaken. My State has done no such thing. The gentleman's party in one branch of the Legislature, against the express will of the people, have undertaken to do it.

Mr. VAN TRUMP. I would like to ask the gentleman whether it was not his party that ratified the amendment?

Mr. BINGHAM. Sir, it was the party of the people that ratified this amendment, the party that saved the Union, the party that thought it was constitutional to defend the Constitution, the party that thought it was constitutional to crush out State secession, the party that thought it was constitutional to batter down that confederation of traitors and robbers who for four years held their carnival at Richmond; that is the party of the country; it is not the party of any man; it is not the Democratic party, but the party of the people.

Mr. ROBINSON. A minority party.

Mr. BINGHAM. The gentleman talks about "a minority party." Is the party that carried every State in the Union north of Mason and Dixon's line, from Maine to Oregon, a minority party? Without assuming to be either a prophet or the son of a prophet, all I have to say is, that when the day comes that the party which declared against State secession, the party which declared against this great and unmatched treason, the party which, under God, saved the nation's life through four years of blood, shall cease to rule and govern this country, and the Government shall be allowed to pass into the hands of men who declared that it was unconstitutional to defend the Constitution and unconstitutional to coerce seceded States and unconstitutional to defend the life of the Republic, the nation will have perished by the hands of its own children.

Mr. ROBINSON. Will the gentleman let me respond right here?

Mr. BINGHAM. No, sir; the gentleman need not respond. I do not thank any man for coming into this Hall and intimating that the great party of the people is a "minority party."

Mr. ROBINSON. Does the gentleman deny that——

Mr. BINGHAM. I do not yield to the gentleman.

Mr. ROBINSON. I protest against the gentleman referring to me, unless he gives me an opportunity to reply.

The SPEAKER *pro tempore*, (Mr. PAINE.) The gentleman from New York [Mr. ROBINSON] is not in order. The gentleman from Ohio [Mr. BINGHAM] declines to be interrupted.

Mr. BINGHAM. If the gentleman does not wish me to refer to him he ought not to interrupt me.

Mr. ROBINSON. The gentleman ought not to misrepresent me.

The SPEAKER *pro tempore*. The gentleman from New York is not in order, as the gentleman from Ohio declines to yield.

Mr. ROBINSON. I desire to state what party the gentleman is in favor of.

Several MEMBERS. Order! Order!

The SPEAKER *pro tempore*. The gentleman from Ohio declines to yield, and must be permitted to proceed without interruption.

M. BINGHAM. I will tell the gentleman what party I am in favor of, if he will listen to me. I started out by saying—and the gentleman, I fear, is unwittingly bearing witness to the unhappy truth—that there are in this country to-day but two parties—one the party of the country, the party of the Constitution——

Mr. ROBINSON. To which I belong.

Mr. BINGHAM. The party that maintains the unity of the Republic, the party opposed to State secession, the party which has declared (as I was saying when interrupted) in more solemn form than the people ever declared anything before in our history that those States lately in insurrection, and filled with the tempest and conflict of battle, shall not again be admitted to political power in this country until in the most explicit and binding form of law they shall have given a new and irrepealable guarantee for the future safety of the Republic. That is the issue which underlies this legislation. We say to those States: "Before you send Representatives to this Hall you must accept the decree which twenty-three States of this Union have already solemnly ratified, declaring that no State of this Union shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deny to any person the equal protection of the laws."

[Here the hammer fell.]

Mr. LOAN obtained the floor.

Mr. EGGLESTON. I move that my colleague [Mr. BINGHAM] be allowed additional time to finish his remarks.

The SPEAKER *pro tempore*. If there is no objection the time of the gentleman from Ohio [Mr. BINGHAM] will be extended.

There was no objection.

Mr. BINGHAM. That, sir, is the first proposition involved in this contest, that this limitation shall be placed by irrepealable amendment in the Constitution. There is not an intelligent man in America but knows that to secure the rights of all citizens and free persons in every State was the spirit and intent of the Constitution in the beginning. There is not an intelligent man in America but knows that this spirit and intent of the Constitution was most flagrantly violated long anterior to the rebellion, and that the Government was powerless to remedy it by law. That amendment proposes hereafter that this great wrong shall be remedied by putting a limitation expressly into the Constitution, coupled with a grant of power to enforce it by law, so that when either Ohio or South Carolina or any other State shall in its madness or its folly refuse to the gentleman or his children or to me or to mine any of the rights which pertain to American citizenship or to a common humanity, there

will be redress for the wrong through the power and majesty of American law.

Mr. ELDRIDGE rose.

Mr. BINGHAM. The gentleman will please excuse me until I state this issue. That is the first issue; and it is as essential to the life of this Republic as is the light of God in which we live.

What is the next? That representation shall be apportioned among the people of all the States according to the whole number of representative population. What is the next? That those who added to the great crime of treason the additional crime of perjury, clothing themselves with perjury as with a garment, to enact this great drama of armed revolt and blood, shall never again exercise official trust, State or national, until their disability shall be removed by an act of Congress.

What next? That the national debt contracted in defense of the nation's life shall be forever inviolate and shall never be challenged by congressional or by State legislation; that the plighted faith of this nation to its dead and its living defenders shall be inviolate; that the pledge which the nation gave to the one hundred thousand childless mothers in this land, when in the day of battle they gave their sons a beautiful and holy sacrifice for the life of the nation, lifting their hands and invoking God's blessing on their going, shall never be broken.

Mr. MUNGEN. Let me ask the gentleman a question?

Mr. BINGHAM. No, sir. That the pensions, which are a part of this debt, and in the language of Marshall, whose great spirit I would invoke this day in defense of the Constitution and the laws of my country, "is part of the price of your national liberty," shall be paid; that the orphan children during their minority, the children of those who went down in the storm and tempest of this great conflict defending your flag, shall henceforth, during their years of infancy be the wards of the Republic.

The other provision, sir, to which we demand their assent by irrepealable covenant is that no debt or liablity contracted in aid of the rebellion shall be assumed or paid either by the Congress of the United States or by the Legislature of any State.

The gentleman says my State has repealed it. I tell him his party has tried to repeal it, that the people will come to the rescue and settle the question, that no part of the treasures of this great people, either by congressional or State action, shall be laid under contribution to reimburse the cost of this accursed rebellion. Without this limitation every intelligent man knows that it is in the power of the Legislature of any State in the Union to tax its people to beggary from generation to generation to reimburse the cost of the rebellion. My God! what a spectacle that would be for the American people to sacrifice five hundred thousand of the flower and manhood of this nation in crushing the rebellion and then restore the perpetrators of this great crime to political power, clothed with authority to tax the present and all future generations to reimburse to them the price of their treason and the value of their emancipated slaves! I trust in God no man who is a true American citizen, native-born or naturalized, will for a moment strike hands with a party which desires to strike down that great shield of defense which the people have already lifted between them and the organizers of rebellion.

Without the amendment there are men within the hearing of my voice who know full well that the rebellion will be reënacted within the limits of their natural lives. With it the rebellion will be forever impossible. The people who have the virtue and the intelligence to plant in the Constitution of the country that irrepealable guarantee will have the virtue and intelligence to maintain inviolate their Constitution while they live and transmit it unimpaired to their children, charging them with their dying breath to stand by the Constitution under which their fathers lived and to maintain which the bravest and noblest and best have died.

Mr. LOAN. Mr. Speaker, never since the organization of this Government has there been presented in either House of Congress a measure fraught with the same grave matters as are those involved in the bill now under consideration.

This bill finally decides the fate of the rebellion. If it is enacted into a law it utterly destroys the last vestige of hope that yet lingers in the breasts of the rebels and foils the purposes of that arch apostate who linked his fortunes with their destiny. The cause for which our soldiers fought will be vindicated; the cause of the Union will triumph; reconstruction will be consummated, and the Union of the States upon a loyal basis will be restored.

On the one side of this final contest are arrayed those who suppressed the armed force of the rebellion and sustained a loyal Federal Government; on the other side is found an unfaithful Executive supported by the rebel party and all who sympathize with them, including all between the avowed rebel at one end and up to and including the constitutional Union man at the other end of the line. For years the contest between loyalty and treason was that of force on the field of battle. Defeated there, the rebels, aided by the treachery of an accidental President, have endeavored to achieve by treachery, fraud, and usurpation that which they failed to win on the battle-field, and in this congenial part they have manifested so much activity, intelligence, and audacity that they would challenge our admiration if shown in a cause less criminal.

At the close of active hostilities our brave, gallant, victorious soldiers turned over to uncontrolled majorities in both Houses of Congress a disorganized but rescued country, with instructions to reconstruct the disorganized portions and restore them to the Union on a basis of loyalty and justice. For more than two years the country has been patiently awaiting the performance of the trust confided to our hands. Doubt, timidity, and inefficiency have hitherto characterized our action. The presentation of this bill is a confession that all measures heretofore adopted have failed to meet the just expectations of the country, and that more stringent and efficient measures must be resorted to to meet the exigencies of the case; and I am sorry to have to say that in examining the provisions of this bill I greatly fear that a fatal want of courage yet controls the action of the committee. Time is pressing; the danger that threatens the destruction of this Republic is imminent, and if we would preserve what our soldiers have saved we must prove ourselves equal to the demands of the hour. Revolution, led and directed by an unfaithful Executive, has placed itself across the track of loyal reconstruction, and bids defiance to the legitimate authority of the legislative department of the Government. The civil rights bill and the Freedmen's Bureau bill fail to secure protection to loyal citizens in the ten rebel States. The civil office tenure bill failed to keep in his place the Secretary for whose especial benefit it was devised; and other laws of Congress intended to protect the district commanders have been utterly disregarded and their provisions willfully violated by the removal of Sickles, Sheridan, and Pope for no other cause than that of fidelity to their country and obedience to its laws; and at least one district commander, in general orders, officially declares that he will not enforce the laws of Congress by subordinating the civil authority of the unlawful State governments of Louisiana and Texas to the military power as provided for in said laws.

Sustained by such high official authority, the revolution is defiant and confident of success. We are required now to suppress this revolt, and we must provide adequate means to accomplish that end. The Committee on Reconstruction have reported the bill under consideration as the means to meet the exigency. I believe it is the fourth bill relating to reconstruction they have asked to be passed since the 1st of March last. The rapid, repeated, and disastrous failures which have attended their former measures, as implied in the presentation of these successive bills, will perhaps excuse the examination of the merits of this one which I propose now briefly to make, and trusting to the intelligence of the members of the House I shall in this examination content myself with merely stating the grounds of objections to such parts of it as may be deemed objectionable, and suggesting such changes as would in my judgment render it more effective. And just here I will ask the Clerk to read the first three sections of the bill reported by the committee and also my amendment, so that they may be considered together.

The Clerk read the first three sections of the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, Florida, and Arkansas there are no civil State governments republican in form, and that the so-called civil governments in said States respectively shall not be recognized as valid or legal State governments either by the executive or judicial power or authority of the United States.

SEC. 2. *And be it further enacted*, That for the speedy enforcement of the act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the several acts supplementary thereto, the General of the Army of the United States is hereby authorized and required to enjoin, by special orders upon all officers in command within the several military departments within said several States, the performance of all acts authorized by said several laws above recited, and to remove by his order from command any or all of said commanders and detail other officers of the United States Army, not below the rank of colonel, to perform all the duties and exercise all the powers authorized by said several acts, to the end that the people of said several States may speedily reorganize civil governments, republican in form, in said several States, and be restored to political power in the Union.

SEC. 3. *And be it further enacted*, That the General of the Army may remove any or all civil officers now acting under the several provisional governments within said several disorganized States, and appoint others to discharge the duties pertaining to their respective offices, and may do any and all acts which by said several laws above mentioned are authorized to be done by the several commanders of the military departments within said States; and so much of said acts, or of any act, as authorizes the President to detail the military commanders to said military departments, or to remove any officers who may be detailed as herein provided, is hereby repealed.

Mr. LOAN. I now ask the Clerk to read my proposed amendment.

The Clerk read the amendment, as follows:

Strike out sections one, two, and three, and insert in lieu thereof the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the so-called civil governments now existing in Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, Florida, and Arkansas, are hereby abolished.

SEC. 2. *And be it further enacted*, That the General of the Army is hereby charged with maintaining order in said States, and for that purpose may use the existing laws thereof, and may appoint agents to discharge the duties of officers provided for in said laws, and may remove the same at pleasure and appoint others in their places; and such agents, while acting as such, shall have all the powers pertaining to the officers under said laws to which they are appointed.

SEC. 3. *And be it further enacted*, That the General of the Army is hereby directed to enforce the provisions of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the several acts supplementary thereto, and to that end he is invested with all the powers conferred by said several acts upon district commanders; and further, he is hereby authorized to remove any or all of the district commanders of the several military districts composed of said States, and to detail other officers of the United States Army, not below the rank of colonel, to perform the duties of such district commanders. And so much of said acts, or of any acts, as authorizes the President to detail military commanders for said districts, or to remove any officers which may be detailed under the provisions of this act, is hereby repealed.

Mr. LOAN. Mr. Speaker, the first section of the bill declares that the so-called civil governments in the ten unreconstructed States shall not be recognized as valid or legal State governments either by the executive or judicial authority of the United States.

In this I think a mistake has been made. The provisional governments in those States are either valid or invalid. They cannot be recognized for some purposes and repudiated for others. If retained for any purpose they must be

recognized for all purposes. They cannot be retained to subserve the purposes of the legislative department of the Government, as it is proposed to do in the second section of this bill, and at the same time excluded from the aid of the executive or from the protection of the judiciary department of the Government, or, in the language of the bill, their recognition prohibited by the executive and judicial departments.

Mr. UPSON. Will the gentleman allow me to ask him a question?

Mr. LOAN. The gentleman must excuse me until I get through, and then I will answer any questions.

These State governments were organized more than two years since in pursuance of authority usurped by the President, and have since been recognized by the executive department of the Government as valid State governments, and as such entitled to a representation in Congress upon an equality with the loyal States.

The Supreme Court, in assigning judges to hold courts in circuits composed of said States and the holding circuit courts therein, has, in the most solemn manner, recognized them as valid State governments, and very recently it is understood that the Attorney General has officially declared his opinion to be that the reconstruction acts are unconstitutional, this opinion evidently being based on the assumption that those States have valid State governments; and this opinion is unquestionably correct if it is conceded that the governments are valid. It is immaterial how or by what authority these State governments were created. As soon as they are recognized by the United States as States in the Union all the rights—as in the case of Texas when it was annexed and California when it was admitted—attach to them. At once they become entitled to representation, acquire a standing in the courts, and can demand the aid of the Executive for their protection, and the Constitution shields them alike from congressional control or military rule.

But Congress—the only department of the Government that can legitimately recognize these State governments on behalf of the United States—has declared them not to be lawful governments, and has provided by law for the reconstruction and restoration of those States to the Union; and the question now is whether Congress will recede from this position and yield the supremacy in these States to rebel rule, which must inevitably result in the triumph of the rebellion everywhere and the destruction of the Republic, or will it maintain the legitimate authority of the Government, vindicate loyalty, and suppress treason.

The time has come that demands prompt and decisive action. For Congress to hesitate now is to yield. A decision must now be made whether Congress will recognize the validity of the governments in the ten rebel States, not in part or for special or particular purposes, but in whole and for every purpose, or whether it will abolish them, wipe them out of existence, entirely remove them as obstacles and unfriendly agencies in the way of reconstruction.

If not abolished they will speedily compel recognition. We must make up our minds to accept one alternative or the other of the dilemma. There is no middle ground nor is there any escape. Loyalty or treason must triumph. I have no hesitation as to the decision I shall make. To me it has always been a matter of amazement that the Congress should declare the governments of those States not lawful and yet permit them to remain and be administered by disloyal officers, with such vast powers over the lives and property of the loyal citizens of the United States, and with such facilities for interposing obstacles in the way of reconstruction. When a State government is not lawful it should be abolished; and when it is administered by disloyal officers they should be removed.

I am aware of the reasons which controlled the action of the committee and induced them to try and preserve those governments for some purposes and to repudiate them for others. Their desire to preserve the rights of individuals acquired under these governments is very commendable, and speaks well for the kindness of their hearts. But considerations such as these cannot be allowed to control. Individual rights must yield to the public good. Congress must abolish these governments or they will revolutionize the Republic, and the committee seem apprehensive that they will attempt the latter.

By the examination of the fourth section of the bill it will be observed that it is declared to be unlawful for the President to assist by force of arms the authority of either of said provisional governments in said disorganized States, to oppose or obstruct the authority of the United States, as provided in this act and the acts to which this is supplementary. Entertaining the opinions which they must have entertained to induce them to report that fourth section, how they came to do it is to me perfectly astounding. I will read the section, that it may be seen what it proposes:

SEC. 4. *And be it further enacted*, That it shall be unlawful for the President of the United States to order any part of the Army or Navy of the United States to assist by force of arms the authority of either of said provisional governments in said disorganized States, to oppose or obstruct the authority of the United States as provided in this act, and the acts to which this is supplementary.

It is then declared that it shall be unlawful for the President to use any part of the Army or the Navy to assist the authority of any provisional government in these unreconstructed and disorganized States. The committee seem to have contemplated such an exigency as possible, or why do they travel out of the record unnecessarily to report to this House, and ask for action upon it, an incendiary section of that kind, if there is no occasion to warrant it?

That is the result of their timidity. They had not the manly courage to abolish and wipe out these dangerous, disloyal, and unfriendly governments. They are there to-day arrayed against the lawful authority of this Government. They are still in existence in the interest of rebellion, and they are sustained, upheld, and supported by the Executive of this Republic and by many of its officers. Yet in an hour of peril like this, when the very safety of the Republic itself is trembling in the balance, this committee forget the great issues involved, and propose to preserve these rebel governments for legislative purposes, and to exclude them from executive and judicial protection. This is paralleled only by the previous action of this committee. They have heretofore four or five times sought in this way to secure the object intended. Yet every gentleman of ordinary intelligence could at once see what was the most direct, straightforward road to the point to be reached. They should have moved upon the enemy's works at once, and not shirked the responsibility.

It seems to me that no loyal man can hesitate as to the course that should be pursued. Let us abolish those bastard State governments, administered as they are by traitors, and at once remove the most serious obstacles that have yet been encountered in the way of loyal reconstruction. Let us, as proposed in the substitute which I will offer, if I have the opportunity, charge that great captain and patriot—the General of the Army—with the duty of mantaining order in those disorganized States, and of enforcing the reconstruction acts of Congress by military authority.

There can be no divided rule in those States. It must be exclusively civil or military. There can be no concurrent jurisdiction; one must be subordinated to the other. And the military power is the only authority that can enforce the reconstruction laws and give protection to the people there. If we would have them enforced in opposition to a hostile Executive and an uncertain judiciary, we must provide means for the execution of our laws.

But gentlemen on the other side may declare such a course to be unconstitutional. In fact, if I did not misunderstand the remarks of the gentleman from New York [Mr. BROOKS] this morning, he denies our right to interfere in any way with those rebel governments.

The gentlemen on the other side of the House may declare such a course to be unconstitutional—revolutionary. I will not stop to controvert their views, but will rely upon precedents in the past to sustain the position. When the southern States seceded and commenced organizing troops in the interest of treason and rebellion, that time-honored old Democrat, President Buchanan, could find no constitutional authority to resist their attempt to disrupt the Union and destroy the Republic. When Mr. Lincoln acceded to power, without waiting for legislative authority, he called for seventy-five thousand men, and as rapidly as possible marches them on to the "sacred soil" of Virginia and other rebel States and made war on the traitors. I would like to know whether any of the gentlemen on the other side of the House opposed the war within the borders of those States because it was without express constitutional sanction? Many of them have time and again quoted and indorsed the Crittenden resolution declaring that the war was prosecuted only for the suppression of the rebellion, and I suppose they were in favor of the war to that extent. If they reject the doctrine of Mr. Buchanan, that the Federal Government has no authority to preserve its own existence, and concede that the Government may make war upon seceding rebel States, with the view of suppressing rebellion, they concede everything. They can only justify this concession by the further admission that those States in making war upon the Federal Government have placed themselves beyond the pale of the protection of the Federal Constitution and have destroyed their practical relations to the Union. Whenever gentlemen find authority justifying the prosecution of the war for the suppression of the rebellion I will find authority justifying this Government in continuing the war to its logical conclusion, and to its legitimate results.

I ask those gentlemen where they find any authority for marching a hostile army into any State of this Union against the consent of the Legislature and the Governor thereof? The Federal Government is expressly prohibited by the Constitution from committing such an act. Was it because the States in rebellion had suspended their practical relations to the Government? This cannot be the case; for the Federal Government in the summer of 1861 sent into Missouri nearly eighty thousand soldiers against the wishes of the Governor of the State and of the Legislature. In fact, Federal soldiers helped to drive the Governor and Legislature out of the State; and yet the relations of Missouri to the Union remained unimpaired.

If our soldiers had the right to shoot down traitors in arms who were aiming a deathblow at the Republic, the Congress of the United States, made up of the representatives of those soldiers, has the right to secure the fruits of the victories won by their valor and to make secure that for which they fought.

The truth is, the Constitution has not provided by law for a rebellion nor prescribed any constitutional safeguard for the protection of rebels; and this whole war has been conducted on the idea of the reserved power of the people that best finds expression in the maxim that "the people's safety is the supreme law," and that it is always constitutional to preserve the Government. Our soldiers never hesitated to do anything that was necessary to be done to save the Government; and most nobly have they performed the task assigned them in the bloody drama of this unhallowed civil war. At the cost of untold millions of treasure and the sacrifice of the lives of more than half a million of the bravest and best in the land, they have dispersed the armies of the rebellion and saved the Republic. Shall we now hesitate in

the performance of our duties which require us by proper legislation to secure the fruits of the victories won by our gallant soldiers? This can only be done by abolishing in those States all organizations that are contaminated by rebel influence and organizing others on an exclusively loyal basis.

And just here I wish to call attention to a cardinal principle that has hitherto been overlooked in all efforts at reconstruction, and that is that no reconstruction can be successful that contemplates a union in authority of loyalists and traitors. One of the fundamental mistakes which we have uniformly made has consisted in overlooking this great truth. We have attempted to reconstruct those States upon the idea of a union of authority between traitors and loyal men. Such a thing is utterly impossible. The elements of blood and treason never can coalesce with those of peace and loyalty. The controlling power in the reconstructed States must be absolutely rebel or absolutely loyal. There can be no divided authority. Before we can succeed in any of our measures of reconstruction we must recognize and act upon this organic principle.

This the rebels understood at an early day, and at the beginning of the war they boldly declared that the two parties could not dwell together in harmony. Recognizing the truthfulness of this proposition, we in Missouri at once took measures to drive the rebels out of the country, which we did, and then reorganized the State on a loyal basis, with such guarantees as will forever prevent any future disturbance on the part of the rebels; and it would have been well for the Union men of Maryland and Kentucky if they had been equally proscriptive in their political action. They, like Congress, were disposed to divide the political power with the rebels, and in so doing have deprived themselves of all protection against rebel rule, and are to-day the most oppressed portion of the citizens of the United States or of any State.

In conclusion, Mr. Speaker, I desire to say that no reconstruction can be successful that is not based and built exclusively upon loyalty and which does not utterly annihilate all rebel organizations and exterminate all rebel ideas. It must be made honorable and safe to be loyal, and dishonorable and dangerous to be disloyal. Acting upon this idea there can be no such a thing as failure; but failing to perform this duty here we may pass act after act leaving the rebels in power sustained by the Executive, only to find defeat and failure at the end.

Mr. WOOD obtained the floor.

Mr. KERR. I desire the permission of the gentleman from New York to suggest whether, inasmuch as we had a very long session and a very laborious one yesterday, it would not, perhaps, be as well to adjourn.

Mr. WOOD. I yield for that purpose.

Mr. KERR moved that the House adjourn, but withdrew the motion.

TEST-OATH.

The SPEAKER, by unanimous consent, laid before the House the following:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, *January* 14, 1868.

SIR: I have the honor to inclose herewith a copy of a telegram received from Major General G. G. Meade, commanding the third military district.

Very respectfully, your obedient servant,
U. S. GRANT, *General.*

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

FROM ATLANTA, GEORGIA, *January* 12, 1868.

General U. S. GRANT:

Unless the pending bill in Congress directing military commanders to fill all the offices in a State under their command rescinds the test-oath and provides for selection from qualified voters, I am informed its execution in this district will be entirely impracticable. GEO. G. MEADE,
Major General.

Mr. PILE. I move that it be printed and referred to the Committee on Military Affairs.

Mr. DAWES. I suggest it should go to the Committee on Reconstruction.

Mr. PILE. I accept that modification, and demand the previous question.

Mr. BROOKS. I rise to inquire whether this comes from the Secretary of War or the General of the Army? If from the latter, as seems to be the case, it is a novelty to me to see a General in the Army communicating to this House. How is that? I wish to have the point settled whether it comes from a civil department, from the Secretary of War, or from the General-in-Chief directly.

The SPEAKER. It has been read, and the House can understand it comes from the General of the Army.

Mr. WASHBURNE, of Illinois. What is before the House for discussion?

The SPEAKER. Nothing, as the previous question has been called.

Mr. BROOKS. I do not wish to debate, but only to call the attention of the House and country to this novelty.

The previous question was seconded, and the main question ordered; and under the operation thereof the paper was referred to the Committee on Reconstruction, and ordered to be printed.

RECONSTRUCTION—AGAIN.

Mr. ASHLEY, of Ohio. I ask unanimous consent to have printed the following amendment, which I propose to offer to the pending bill:

And be it further enacted, That the several conventions which have, or which may assemble in the States hereinbefore named, in pursuance of the act of March 23, 1867, be and they are hereby authorized to enfranchise such citizens of the United States resident therein as are now disfranchised because of treason and rebellion who have coöperated, or who may coöperate, with the loyal men of the State in the work of restoring such State to its constitutional relations with the Government of the United States.

There was no objection, and the amendment was ordered to be printed.

LEVEES ON THE MISSISSIPPI RIVER.

Mr. LOAN, by unanimous consent, introduced a bill (H. R. No. 444) to provide levees, secure the low lands of Arkansas and Missouri from inundation, and encourage the settlement thereof; which was read a first and second time, and referred to the Committee on Freedmen's Affairs.

TIMOTHY LYDEN.

Mr. HUBBARD, of West Virginia, by unanimous consent, introduced a bill (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia; which was read a first and second time, and referred to the Committee of Claims.

EASTERN JUDICIAL DISTRICT OF NEW YORK.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 446) to amend an act entitled "An act to create the eastern judicial district of the State of New York," approved February 25, 1865; which was read a first and second time, and referred to the Committee on the Judiciary.

LIGHT-HOUSE AT ABSECOM INLET.

Mr. HAIGHT, by unanimous consent, offered the following preamble and resolution; which were read, considered, and agreed to:

Whereas it is represented that the Government light-house and other Government buildings situated on Absecom Inlet, in the State of New Jersey, are in danger from the rapid ingress the sea is making at that point, and that violent storms are fast sweeping away the entire point of land upon which said buildings have been placed, and will soon result in their entire destruction unless some proper means of defense is adopted: Therefore,

Resolved, That the Committee on Commerce be instructed to inquire into the condition of said light-house and other Government buildings located on Absecom Inlet, and report to this House by bill or otherwise what legislation, if any, is needed on the part of Congress to provide a proper mode of defense and to prevent the destruction of said Government property.

Mr. KERR. I now renew the motion to adjourn.

The motion was agreed to, and thereupon (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Nancy Russell, of Cassville, Cass county, Georgia, asking remuneration for property destroyed by Federal soldiers in 1864.

Also, a memorial of A. E. Cox, of La Grange, Georgia, recommending the refunding of cotton tax.

By Mr. AXTELL: The petition of M. Cody and 50 others, citizens of Monterey county, California, praying for a mail route from San Juan to the Piccacho quicksilver mines, in said county, and for establishing a post office at the latter place.

By Mr. BENTON: A memorial of Alpheus Hutchins, of Northumberland, New Hampshire, a soldier of the war of 1812, for increase of pension granted him by special act of 1836.

By Mr. EGGLESTON: A memorial of the officers and men of the steamboat J. H. Cheeseman, praying for compensation while they were prisoners of war.

Also, a memorial from the officers and crew of the steamboat Champion No. 3, praying for compensation while they were prisoners of war.

By Mr. HARDING: Resolutions of city council of Rock Island, Illinois, in favor of the better protection of American citizens abroad.

By Mr. McCORMICK: A memorial of Captain Robert Lindsay, asking back pay as recruiting officer.

By Mr. PERHAM: The petition of Hiram Rollins for back pension.

By Mr. POLSLEY: The petition for the relief of John G. Cox, postmaster at Lewisburg, West Virginia.

By Mr. SCOFIELD: Joint resolution of the Legislature of Pennsylvania in favor of a ship-canal from the Ohio river to Lake Erie, at Erie, Pennsylvania.

By Mr. WASHBURN, of Indiana: The petition of G. W. Brackenridge, on behalf of citizens of San Antonio, Texas, praying that the same be made a port of entry.

IN SENATE.

WEDNESDAY, *January* 15, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and presents to the Senate a communication in the nature of a memorial from D. C. Kearns, of Mississippi, a member of the board of registration of Jefferson county in that State, setting forth the condition of the people of that county and showing their poverty and distress. If there be no objection it will be read.

The paper was read, as follows:

FAYETTE, JEFFERSON COUNTY, MISSISSIPPI,
January 6, 1868.

DEAR SIR: I have been called upon by a large number of planters of this county to represent to you the alarming and terribly destitute condition of the people here, both white and colored, but more especially the freedmen; and as I have already stated to you in a former letter, I know that the statements made to me are correct.

The first of this month the contracts of all the freedmen and freedwomen expired; and owing to the total failure of the crops they are now without homes, without lands, and without a morsel of bread or meat except what they get through charity. The planters are entirely unable to employ even one half the number they worked last year; the merchants cannot advance a dollar's worth of supplies, and now when all hands should be at work clearing the ground for this year's crops they are all idle, and the lands are idle because the planters cannot get supplies. The Government will have to do something very shortly or we will have to establish a very large "burying ground." This is a serious matter with all, and for the last month or two politics in this county has been laid aside, and all, white and black, Republican and Conservative, have joined together to devise, if possible, some speedy remedy; but all our efforts have proved fruitless, our hands are tied, and we can do nothing but stand and look the giant monster in the face, but we cannot look him out of countenance.

The planters propose, if the Government will advance supplies, to give a first lien on their crops to pay for the same, the Government to appoint an agent in the county to see that the supplies are satisfied out

of the proceeds of the crops. Cannot this be done at once? I cannot speak for any county but Jefferson, but we need the prompt and immediate action from some quarter. Indeed, so great is the necessity that we thought we had better telegraph to Congress instead of waiting the slow process of mails. I hope this matter will be laid before Congress at once. Please let us hear from you soon.

Very respectfully, your obedient servant,

D. C. KEARNS,
Retained Member Board of Registration.

Hon. B. F. WADE,
United States Senate, Washington, D. C.

The memorial was referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS presented a petition of Donald McIntosh, of the seventh regiment cavalry United States Army, praying the admission of his brother, James McIntosh, as a free District patient to the Insane Asylum in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. WILSON presented the petition of Catharine Merriman, widow of the late John N. Merriman, formerly collector of the port of Georgetown, South Carolina, for relief from the suit instituted against her husband's estate for $563 39, he having fled from Georgetown on account of his loyalty at the outbreak of the war, and this amount having been a deficit in his accounts, which could not be explained owing to his death; which was referred to the Committee on Claims.

Mr. DRAKE presented a memorial of the St. Louis Board of Trade, asking the removal of the United States Arsenal from the city of St. Louis; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented a petition of United States officers, merchants, and other residents of Key West, Florida, praying that surveys may be made of the northwest channel leading from the harbor of Key West to the Gulf of Mexico; and that an appropriation may be made for removing obstructions and deepening the channel thereat; which was referred to the Committee on Commerce.

He also presented a memorial of citizens of New York engaged in professional, mercantile, and mechanical pursuits, praying the passage of the bill establishing a line of mail steamships between New York and one or more European ports; which was referred to the Committee on Post Offices and Post Roads.

Mr. MORGAN. I present the memorial of Robert P. Parrott, praying for increased compensation for an iron light-house constructed at Cape Canaveral, Florida, under a contract made in December, 1860, the work thereon having been suspended at the request of the Government. The Senate having passed a bill at a former session on this subject, which was reported from the Committee on Commerce, but which did not pass the House of Representatives, I move that this memorial be referred to the Committee on Commerce.

The motion was agreed to.

Mr. HOWE. I have a communication from William Blake, a soldier of the war of 1812, setting forth very strong reasons why he should have an increase of pension. The communication is addressed to me, but I desire to have it referred as if it were addressed to the Senate. I move its reference to the Committee on Pensions.

The motion was agreed to.

Mr. SHERMAN presented the memorial of Charles N. Goulding, late assistant quartermaster of volunteers, praying the passage of an act authorizing the Secretary of the Treasury to credit him in the settlement of his accounts with moneys and the amounts represented by vouchers captured by the enemy in the campaign in Virginia in 1862; which was referred to the Committee on Claims.

Mr. FRELINGHUYSEN presented a petition of Stephen R. Parkhurst, praying the extension of his patent for ginning cotton and burring wool; which was referred to the Committee on Patents and the Patent Office.

Mr. MORTON. I present a petition signed by more than four thousand of the working colored men of this District, and I will ask the Secretary to read the petition in the hearing of the Senate.

The PRESIDENT *pro tempore*. It will be read, if there be no objection.

The Secretary read, as follows:

To the Honorable Senate and House of Representatives of the United States in Congress assembled:

The undersigned, colored laborers of Washington, desire respectfully and earnestly to represent to your honorable body the grievance we suffer as a class in being deprived of the right of a fair competition with others in securing employment upon the public works. While we compose about one third of the population of this District, and are, by way of distinction, the laboring class and the poorer class, made so by long residence here and by the customs and institutions of the country, there is still such prejudice against our color, and especially against our condition as freed people of color, that we are excluded from almost every sphere of employment except those which are most burdensome, temporary and menial in their character. The white laborers of this city refuse to work upon jobs with the colored man, unless he is employed as a mere helper or hod-carrier, and by thus combining against us they deprive us of nearly all profitable and permanent employment, and secure to themselves a monopoly of nearly all the skilled and remunerative labor of this District. Contractors upon the public works and upon private jobs yield to and support this unjust discrimination against us, although it is against their real interest and that of every citizen, as they have now to buy their labor, much of it, in a market where there is no competition, and the few control it for their own profit. The officers, agents, and contractors of the national and city governments bring into the District from distant States laborers of a foreign birth, many of them not citizens of the United States, and who are generally hostile to the institutions and government of the country, and furnish them the labor for which we are suffering, and most of which we can do quite as well and at a cheaper rate than they. The consequence to us is that we are forced to find employment in various unprofitable and temporary vocations, which, from their menial and degrading character, are beyond the white man's competition.

From necessity, therefore, many of our people are employed and some of them are unthrifty. Prejudiced and unthinking people speak of us as "hordes of lazy contrabands" and "idle negroes," while they little know our desire for honest employment, and the difficulty we find in obtaining it.

The undersigned do not ask of your honorable body appropriations of money to maintain us in idleness, nor for any charitable legislation whatever, for our hands are strong and our hearts are willing to work for the support of ourselves and families. But we do ask that while the Government is spending large sums in extensive improvements in the District—labor authorized by your legislation—men may be put in charge of this public work who are not unfriendly to our people, and who will give us a fair share of the employment under their direction.

To your honorable body we owe the boon of citizenship and the right to enjoy the fruits of our own labor, and to you we still confidently appeal to protect and assist us to vindicate these rights, and thus enable us, by lives of patience, industry, and virtue, to somewhat abate the unjust prejudice which prevails against us.

For which your petitioners will ever pray.

Mr. MORTON. I move to refer this petition to the Committee on the District of Columbia; and I desire to say that I hope it will not share the fate of petitions generally, but will receive the consideration of that committee. These men claim that there is a systematic effort in the District to exclude them from profitable labor, and that they are deprived of any share or participation in employment upon the public works. They ask no appropriations; they ask no charity; but they simply ask that they may be allowed to work. That which they complain of in this District perhaps is practical against them to a greater degree in the southern States. We hear upon this floor and throughout the country that the colored men are lazy and will not work, while the truth is that they have performed the greater part of the labor in the southern States since the end of the war, and are doing it now. The fact is that they are willing to work wherever they can get employment and wherever they can receive a fair compensation for it. I trust that the Committee on the District of Columbia will give this petition, signed by some forty-five hundred of the workingmen of this District, a fair consideration.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on the District of Columbia.

Mr. HARLAN. Before the reference is made I wish to make a remark, not for the purpose of opposing the reference, but to repel what I think an unjust reference that may be drawn from one of the remarks made by the Senator. If I understood him, he expressed the hope that this memorial would not share the fate of matters usually referred to that committee.

Mr. MORTON. Not to that committee. I did not intend to say that committee; but it is a well-known fact that many petitions presented in this Senate are never heard of afterward. I certainly did not refer to that committee specially.

Mr. HARLAN. I wish to say merely that the Committee on the District of Columbia manifest usual diligence in the disposition of all subjects referred to it by the Senate.

Mr. MORTON. I do not wish to intimate anything to the contrary.

Mr. SUMNER. Before this subject passes from us I desire to make a remark. There is at this moment a bill on the Calendar of the Senate which I have sought to proceed with several times during the morning hour, which would in part meet the very case now so well stated by the Senator from Indiana. It is a bill to take from the present mayor of Washington the appointing power which he now exercises to the detriment of our fellow-citizens, who think as the Senator from Indiana and myself think, and to the detriment also of colored citizens. All such persons are excluded from employment under the government of Washington through the agency of a mayor who does not represent the actual political sentiment of the city. There is a bill on your table which meets that very case, and I hope the Senate will sustain me in calling it up for final action to-day.

The petition was referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. NORTON, it was

Ordered, That the petition of A. J. Campbell be taken from the files of the Senate and referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 9) to amend an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the memorial of the grand and petit jurors of the United States district court for the eastern district of Missouri, praying an increase of compensation to jurors in the courts of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. DRAKE, from the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 74) in relation to consular appointments, reported it with an amendment.

Mr. SUMNER. The Committee on Foreign Relations direct me to report a joint resolution, with sundry letters and papers, in the nature of a report. I ask to have the letters and papers printed, and the joint resolution read and take its place on the Calendar.

The joint resolution (S. R. No. 89) providing for the representation of the United States at the International Maritime Exhibition, to be held at Havre, was read a first time by its title, and the letters and papers were ordered to be printed.

THE NUESTRA SEÑORA DE LA REGLA.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred a message of the President of the United States relative to the seizure of a Spanish steamer in 1861, have directed me to report a joint resolution.

The joint resolution (S. R. No. 90) to provide for the proceeds of the Spanish steamer Nuestra Señora de La Regla was read a first time by its title.

Mr. SUMNER. I ask that the resolution be read at length for information.

The Secretary read the resolution, which pro-

vides for the payment to the proper representative of the Spanish Government of $28,000 on account of the Spanish steamer Nuestra Señor de La Regla, originally seized by General Sherman at Port Royal, ordered to be restored by a decree of the district court of New York, and meanwhile taken by the Navy Department at the appraised value named.

Mr. SUMNER. The object is simply to authorize the Treasury to make a payment to the Spanish Government of money which belongs to that Government. I hope, therefore, the Senate will act on it at once. There is no occasion for any delay about it.

Mr. CONNESS. One objection that I have is that it is intruded into the morning hour before the morning business is disposed of.

Mr. SUMNER. I beg the Senator's pardon; it is a matter so single and precise that it can be acted on better now than afterward. It has been read at the desk; it explains itself.

Mr. CONNESS. I understand that the whole reading was out of order, subject to a single objection.

Mr. SUMNER. Of course it must go over if the Senator objects.

Mr. CONNESS. I do not object.

Mr. SUMNER. Then I hope it will be acted on at once.

By unanimous consent the joint resolution was read a second time, and considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 251) for the relief of Captain Charles N. Goulding, late quartermaster of volunteers; which was read twice by its title, and referred to the Committee on Claims.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 252) to create an additional land district in the State of Minnesota; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

SUSPENSION OF SECRETARY STANTON.

Mr. DRAKE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That ten thousand copies of the reports of the majority and minority of the Committee on Military Affairs and the Militia in regard to the suspension of Hon. Edwin M. Stanton from the office of Secretary of War be printed for the use of the Senate.

MR. BURLINGAME, MINISTER TO CHINA.

Mr. CONNESS. I offer the following resolution:

Resolved by the Senate, (the House of Representatives concurring,) That the consent of Congress is hereby given to the acceptance by Hon. Anson Burlingame, now the American minister at China, of such civil appointment as he may have received from the emperor of China.

I suppose that this should be referred, although it is a very simple proposition, but the committee can report at an early day. I move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

SMITH AND WESSON'S PATENT.

On motion of Mr. FERRY, the bill (S. No. 229) for the relief of Horace Smith and D. B. Wesson, or their assigns, was considered as in Committee of the Whole. It proposes that Horace Smith and D. B. Wesson, or their assigns, have leave to make application to the Commissioner of Patents for an extension of the letters-patent for improvement in repeating fire-arms issued to them for the term of fourteen years from the 14th of February, 1854, and reissued on the 10th of October of the same year, in the same manner as if the petition for the extension had been filed at least ninety days prior to the expiration of the patent; and that the Commissioner be authorized to consider and determine their application in the same manner as if it had been filed ninety days before the expiration of the patent.

Mr. FERRY. I will state what the facts are in reference to this application as they appear in the special report which has been submitted by the Committee on Patents and the Patent Office.

On the 14th of February, 1854, letters-patent were issued to Horace Smith and Daniel B. Wesson for an improvement in fire-arms which, because of some imperfection, were subsequently canceled and reissued in October of the same year. The subsequent purchasers of this patent in indorsing on the back of the letters-patent the time when they would expire took the date of the reissue instead of the date of the original issue, making a difference in the date of some months. When they came to make an application for a renewal it was found that, owing to this fact ninety days did not intervene between the time of making such application and the expiration of their patent, through this mere inadvertence. They therefore ask Congress to permit them now to present their application to the Commissioner as if the ninety days would intervene between the present time and the time of the expiration of their former patent. I know of no objection, as I said yesterday, either in Congress or out of Congress, to a renewal of the patent mentioned here. The committee report that it has not been in the past remunerative, but is capable of being made so on a renewal.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CONSULAR APPOINTMENTS.

Mr. CHANDLER. I move that the Senate take up the joint resolution (S. R. No. 74) in relation to consular appointments, which was reported back this morning by the Senator from Missouri [Mr. DRAKE] from the Committee on Naval Affairs.

The motion was agreed to.

Mr. CHANDLER. I now move the reference of this resolution to the Committee on Commerce, to which it belongs.

The PRESIDENT *pro tempore*. That reference will be made if there be no objection.

Mr. GRIMES. I object; and that the Senate may understand the character of the joint resolution I ask that it be read.

The Secretary read the joint resolution, which proposes to authorize the President to nominate, and by and with the advice and consent of the Senate to appoint, any line officer on the retired list of the Navy not below the grade of commander as consul general, consul, or vice consul, to any part or place where such consular officers are or may hereafter be authorized and established. Any naval officer so appointed is to receive his shore-duty pay in the Navy, and no other, during his continuance in such consular office.

Mr. GRIMES. It will be observed that this resolution does not propose to interfere with the regulation of consuls. It does not come properly within the jurisdiction of the Committee on Commerce in any degree. It simply authorizes the President of the United States, if he sees fit, with the advice and consent of the Senate, to select such officers as are on the retired list of the Navy who are competent to perform the duties, and assign them as consuls or vice consuls, provided there shall be no increase of pay over that which they are now receiving; and it is an economical measure, intended to save the Government the expense that is now being paid political appointees to the office of consuls. If this bill proposed to regulate the details of the consular establishment the Committee on Naval Affairs would not presume to consider it, but as this is a measure which relates exclusively to the retired officers of the Navy, and simply provides that they may be appointed to these places without losing their pay or their position on the retired list, it certainly seems to me to belong properly to the Naval Committee.

Mr. CHANDLER. If the Senator from Iowa proposes to take charge of the business of the Committee on Commerce I suppose he intends to make over to the Committee on Commerce the naval business. I am perfectly willing to make the exchange, because I think the Committee on Commerce would be able to reduce the expense of the Navy from $47,000,000 to a very much smaller amount. But, sir, this is a very innocent proposition of the Senator from Iowa. He says he proposes to pay these officers the amount which they now receive. Why, sir, it is no such thing. He proposes to pay these retired officers active service pay.

Mr. DRAKE. No.

Mr. CHANDLER. "Shore-duty pay"—that is the language of the resolution; I have it here. A retired rear admiral receives $2,000 a year, but the shore-duty pay of a rear admiral is $4,000 a year. He proposes to increase the pay actually more than we now pay our consuls. I suppose the chairman of the Committee on Naval Affairs must have examined into the business of consuls and consular agents, and I presume he thinks the duties of the naval service eminently fit retired men, worn-out men, to perform the functions of consular agents. The consuls and consular agents of this Government are the business agents of the United States. For example, the consul at Manchester has some thirteen thousand invoices to examine. He has to sign every one of those invoices in duplicate. He is presumed to know whether they are honest or dishonest invoices, and in case of an attempt to defraud the Treasury the invoice is sent back to him and it is his duty to look up, examine, investigate, and ascertain whether fraud has actually been committed on the Government.

Now, sir, in this joint resolution the chairman of the Committee on Naval Affairs proposes that no man under the rank of commander shall be made a consul or consular agent. My opinion is—and that is why I desire to send the bill to the Committee on Commerce—that it should be so framed that no man above the rank of lieutenant, or, I think, above the rank of midshipman, should be so appointed, because you might learn one of those young men the duties of a consul or consular agent; but an old retired officer who has spent his life in the Navy is totally unfitted for the position, and it is too late for him to learn. I wish to bring that before the committee which has charge of this business, to see whether it would not be desirable to change the bill so that no man above the rank of a midshipman shall be appointed, in order that we may have young men who may in time learn to be business men.

As I said before, if the chairman of the Committee on Naval Affairs proposes to take charge of the duties of the Committee on Commerce, and will make over the duties of the Naval Committee to the Committee on Commerce, I have no doubt that we shall reduce the expenses of the Navy and not interfere materially with its efficiency; but until he does I desire that he will attend to his duties and let us attend to ours.

Mr. GRIMES. The Senator from Michigan does me no more than justice when he says that I have looked into the matter of his consuls, and I will tell him one fact I have discovered. I have discovered that there is one consul in the interior of Great Britain—I think he is a citizen of the Senator's own State—who receives in fees and salary something like $16,000 a year.

Mr. SUMNER. Who is that?

Mr. GRIMES. Some gentleman in the interior of Great Britain. I got the information from the officer in the Fourth Auditor's office who has charge of this matter.

Mr. SUMNER. We have cut down those large salaries.

Mr. GRIMES. I know; but this one is not cut down.

Mr. CHANDLER. No consul receives over $5,000.

Mr. GRIMES. I know that consuls do not

under ordinary circumstances, but under some circumstances they do. There is one from the Senator's own State, as I am informed, who receives about sixteen thousand dollars a year. Now, I apprehend that even if we should send an admiral there—and I suppose that an admiral would hardly be sent to fill one of these subordinate offices—and pay him his shore-duty pay, there would be a saving to the Government of some thirteen thousand dollars in that instance.

Mr. CHANDLER. If the Senator will allow me, the highest salary paid to any consul in the interior of Great Britain is $3,000 a year.

Mr. GRIMES. "Salary;" but they get, in addition to their salary, fees.

Mr. CHANDLER. No, sir; they are prohibited from receiving fees, and are compelled to pay over all their fees into the Treasury.

Mr. GRIMES. All of them?

Mr. CHANDLER. Yes, sir.

Mr. GRIMES. I appeal to the Senator's colleague on the Committee on Commerce [Mr. EDMUNDS] to say whether that is so or not.

Mr. CHANDLER. Except where they have no salary. Where they have a salary they are compelled to pay all the fees into the Treasury.

Mr. GRIMES. Ah, yes; but that is not the case I put. That is not the case of the Senator's constituent who is a consul in the interior of the island of Great Britain.

Mr. CHANDLER. I have but one constituent who is a consul in the interior of Great Britain, and his salary is fixed at $3,000 a year, and he can receive no fees at all under the law.

Mr. GRIMES. Well, Mr. President, I have had my recollection refreshed on this subject since this session began by the gentleman who has charge of that particular division of the Fourth Auditor's office that relates to consuls, and he called my attention to this particular case. Therefore, I would recommend the Senator, when he undertakes to make attacks of that description, to look well to the armor with which he is furnished before he makes the attack.

Mr. President, it may be that the Senator and his committee, if they were in charge of the naval service, would reduce the expenses of the Government by curtailing the expenses of the Navy Department; and he seems to convey the idea that the Navy Department had cost during the last year $47,000,000. Why, sir, the Senator does not know what he is talking about. He has confounded the expenses of the Navy Department during the last year with the appropriations that are asked for by the Navy Department for the next year, which are $17,000,000 in excess of what was expended last year—unnecessary estimates, in the opinion, as I understand, of the Navy Department itself, and it proposes to send to Congress a second edition of estimates reducing the amount perhaps $20,000,000; I do not know how much. These are estimates that are made by the heads of bureaus, each of which, as it is in every department of the Government, is seeking to aggrandize itself, willing to take all the money and all the men under its subordination that it can possibly secure, and the chief of the Department takes up this agglomeration of estimates and sends them all in here, and when they are aggregated they amount to $47,000,000. When his attention is called to it, he says, "This is greatly in excess of the amount we spent last year, $17,000,000 in excess of that amount, and we do not need it, and I am going to send to Congress another estimate cutting down this one."

Now, sir, as I said before, it was not my desire, nor the desire of any gentleman on the Naval Committee, to interfere in the remotest degree with the Committee on Commerce, and I apprehend that no member of that committee, saving and excepting its chairman, imagines that we have, in simply proposing to authorize the President of the United States, as we shall if we pass this joint resolution, to detail a naval officer to perform consular duties, subordinating him to the commercial laws of the country if he accepts the position.

Mr. SUMNER. I am inclined to think that there can be no such consul in the interior of Great Britain as the Senator from Iowa has pictured. If there is any such consul there he draws those large fees notwithstanding a special provision in the consular and diplomatic bill, approved July 25, 1866, which prohibits any such excess of salary. The provision is as follows:

"That all fees collected by any consul or commercial agent not mentioned in schedule B or C, or by any vice consul or commercial agent appointed to perform their duties, or by any other person in their behalf, shall be accounted for to the Secretary of the Treasury in the same mode and manner as is provided for in section eighteen of the act approved August 18, 1856, entitled 'An act to regulate the diplomatic and consular system of the United States.' And when the fees so collected by any such consul or commercial agent amount to more than twenty-five hundred dollars in any one year over and above the expenses of office rent and clerk hire, to be approved by the Secretary of State, of which return shall be made to the Secretary of the Treasury, the excess for that year shall be paid to the Secretary of the Treasury, in the mode provided for by said act."

Mr. MORRILL, of Vermont. My own judgment is that this consular system sadly needs reformation. I am not aware whether the statement of the Senator from Iowa in relation to a consul in Great Britain is correct or not. I believe it is. But whether it is or not, it is true that in various parts of Europe consuls are receiving at the present moment a compensation equal to $15,000 per annum, and they do it in this way: notwithstanding we have a law that provides a certain salary in one case and a fixed amount of fees in others that are to be accounted for they go and take under them a number of commercial agents and make bargains with them that they are to perform their duties for half the fees, for a third of the fees, or a fourth, or even for nothing save the honor of the position; and that is the way they swell the amount of their annual compensation. I believe that the whole system is rotten, and ought to be thoroughly reformed; that the class of men that represent us abroad are in some instances a disgrace to the country; that they go abroad for pecuniary reasons; that they are not men of eminent ability or character, or with eminent qualifications to discharge their duties. I am in strong hopes that some committee of this body ere the session closes will bring forward a system of thorough reformation. I have taken considerable pains to get some facts and information on the subject, and hope to contribute something to that end. I know of other Senators that are at work in the same direction. Therefore, I should not like to have any piecemeal action on the subject.

Mr. GRIMES. If the fact be as I have stated, I want an opportunity of satisfying the Senate of its accuracy. If it be not so, I ought to make a retraction here on the floor of the Senate of the statement that I did make. I therefore move that this matter be laid over until to-morrow in order that I may furnish the information.

Mr. CHANDLER. The Senator from Vermont says he believes this whole consular system to be rotten. The present consular system was adopted some years ago. Wherever the fees were sufficient, or nearly sufficient, to pay the salary of a consul, a consul was established; but there were little places where the fees were merely nominal, and yet where it was deemed that the interests of commerce required a commercial agent where consuls were not authorized by law. It may be, as the Senator from Vermont has stated, that there are individual cases where vice consulates have grown into importance that were not of importance when the present consular system was established, and it may be that the whole consular system requires revising. That is usually done once in eight or ten years. It is possible it should be done now; but the attention of the Committee on Commerce has not been called by the Secretary of State to the necessity of such a revision, and hence it not having been brought to the attention of the Committee on Commerce, either by the Secretary of State or by petition or otherwise, they have not given that subject a careful revision within the last few years.

But, sir, with regard to this proposition of the Committee on Naval Affairs, I did not intend to comment upon it at all. I simply moved its reference, where it belonged, to the Committee on Commerce, supposing that no man would object to that as a proper reference. I desired to investigate it before that committee; but the Senator from Iowa, the chairman of the Committee on Naval Affairs, interposed his objection, and hence I was compelled to state why I thought the reference should be made. This, as I said before, seems to be a very innocent proposition——

The PRESIDENT *pro tempore*. The time having arrived for the consideration of the unfinished business of yesterday, it becomes the duty of the Chair to call it up.

Mr. CONNESS. It will only take a few moments to dispose of this.

Mr. CHANDLER. I will ask that the special order be laid aside informally to enable us to dispose of this subject.

Mr. SHERMAN. I trust not. I shall object to anything postponing the regular order of business.

The PRESIDENT *pro tempore*. Objection being made, the unfinished business of yesterday is before the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 278) to provide for the discontinuance of district land offices in certain cases;

A bill (H. R. No. 358) for the relief of the settlers on the late Sioux Indian reservation, in the State of Minnesota; and

A bill (H. R. No. 359) amendatory of the homestead law.

CONTRACTION OF THE CURRENCY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 213) to suspend further reduction of the currency.

Mr. SPRAGUE addressed the Senate, and concluded the speech yesterday commenced by him. [See Appendix.]

Mr. SHERMAN. Mr. President, anxious as I am for the final vote on this bill, and not to prolong the debate by introducing collateral subjects, I must occupy the time of the Senate for a few minutes in replying to some statements that have been made here which I deem it my duty at once to challenge—statements that have no proper connection with this debate—and therefore I may be pardoned for pursuing the course I have heretofore done, of not paying any attention to them. My desire has been to confine the debate simply to the question of whether it is wise now to allow the further contraction of the currency, and upon this point, the main proposition, there is almost a unanimity of opinion in the Senate that the present currency of the country should not now be contracted. That is the opinion of nearly all in the Senate, and the opinion of the House of Representatives, and also the opinion of the Secretary of the Treasury, for he has informed us by letter that he has not the power now in the present condition of affairs to contract, and that it is not his purpose to contract the currency.

It may then be asked, and it has been asked, why not leave the matter stand where it is? The answer is that by law we have conferred on the Secretary of the Treasury a discretionary power, which has been exercised to the alarming extent of $140,000,000 in less than two years, including in the $140,000,000 over sixty million dollars of United States notes. A changed condition of affairs may take place; a new Secretary may be appointed, or contingencies may arise not now foreseen; and, as in the opinion of Congress there can be no possible condition of affairs, within some months at

least, to justify a further contraction of the currency, it is wise to withdraw from the Secretary the power conferred on him by the existing law to contract the currency. That is all there is in the proposition, and if the vote had been taken upon that proposition standing by itself the Senate, as the other House has been, would have been nearly unanimous; but a great many collateral matters have been drawn into this discussion. For instance, my honorable friend from Vermont [Mr. EDMUNDS] offered another proposition, which struck me as somewhat singular. It is admitted by him and by everybody else that there is no power to contract the currency except what is given by the act of April 12, 1866, which limits that power to $4,000,000 a month. The amendment reported by the Finance Committee simply takes away that power. Now, there is no power in the Secretary of the Treasury to cancel a single United States note except what is derived from that one law, and when that is repealed he has no power whatever over the subject of the currency so far as it consists of United States notes; but as Senators around me thought that this language, simply withdrawing that power, was not strong enough, and that we ought to go a little further and prohibit him from further reducing the currency, the committee yielded to that desire and proposed an amendment which will not only withdraw from him the power to reduce, but will prohibit him from reducing the currency; and that is the way the case now stands before the Senate, if this amendment be adopted, so that the only question presented to us is, Shall we withdraw from the Secretary of the Treasury the power to reduce the present volume of United States notes or shall we not?

Mr. SUMNER. Will the Senator allow me to ask him just at that point what, then, is the difference between the amendment reported by the committee and the bill as it comes from the House of Representatives?

Mr. SHERMAN. I stated that when I was up before. The bill as it came from the House of Representatives would prevent the cancellation of mutilated and defaced notes. The language of the House will answer my purpose (for I do not stop to discuss questions of grammar) if you add to it a proviso declaring that it shall not apply to the destruction of mutilated and defaced notes; but after examining the matter the Committee on Finance preferred the language of the joint resolution introduced by my friend from New Jersey, [Mr. CATTELL,] which is substantially now the proposition before the Senate. As to the form of the language there ought not to be any question. There is no difference in legal effect between the House proposition and the proposition of the Committee on Finance of the Senate except this, that our amendment guards against the prohibition of the destruction of mutilated and defaced notes. If there is any other difference I cannot see it.

A great many outside questions, however, are introduced. For instance, my friend from Vermont, [Mr. EDMUNDS,] with a tenacity which is a part of his character—and I believe it is a very good characteristic in every man—desires to thrust upon this bill another question, that is, the question of inflation. The Committee on Finance do not desire now to present that question. They are not in favor of inflation. I notice, however, that the New York Tribune yesterday announced editorially that it is attributed to me that I am in favor of "mild inflation." In every possible form of language I have opposed the further inflation of the currency, and I shall continue to oppose it as steadily and resolutely as any Senator on this floor. Under no circumstances that I can now foresee would I desire to see the volume of currency increased, unless it should be in connection with some provision to fund the general debt by authorizing the greenbacks to be floated into bonds and within a limited extent the bonds again to be converted into greenbacks; but I have never uttered here or elsewhere any language that would justify an imputation of this kind. On the contrary, I believe the Senate Committee on Finance are almost unanimous, if not entirely so, that the volume of legal tenders should not be increased, and they have made no proposition to increase them; but the Senator from Vermont desires to thrust that controversy in now upon this bill. There is no necessity for it. There is no law which authorizes the Secretary of the Treasury to increase the currency by issuing a single additional United States note. He cannot issue a five dollar bill, because his power is limited by the act of June 30, 1864, to $400,000,000, and then under the act of April 12, 1866, that amount has been steadily reduced and the notes have been canceled, until now they reach $356,000,000. There is no power conferred by law upon the Secretary of the Treasury to issue a single dollar in excess of this amount, nor can he issue any until further authorized by law. He knows that, and so recognizes the fact. Why, therefore, should the Senate of the United States legislate against a conclusion and seek to provide against a power that is not conferred by law? It seems to me a very loose mode of legislation. It would only raise the very question that the Senator from Vermont seeks to avoid, and send the question of inflation to the other House and perhaps raise a controversy with them on a point which they are not now prepared to settle.

Mr. President, some other remarks have been dragged into this debate. For instance, my friend from Nevada, [Mr. STEWART]—I was sorry to hear it—yesterday arraigned the Secretary of the Treasury about various matters. He substantially charged him with throwing upon the people of this country $400,000,000 of taxation that ought not to have been put upon them. He held the Secretary of the Treasury responsible for all our errors, for our excessive appropriations last year, for the failure of the estimates, for the non-collection of the whisky and tobacco taxes, and for all the evils of the community. It seems to me that the discussion of this purely business matter ought not to be disturbed by accusations against an officer who I believe is conscientiously performing and discharging the duties of his office. At any rate this bill takes away from him a discretionary power which he now possesses, and which he may exercise. Any discussion as to the conduct of the Secretary of the Treasury, it seems to me, has no pertinency to this matter.

A few words now in regard to the remarks of my friend from Rhode Island, [Mr. SPRAGUE.] What does he desire? He is substantially in favor of the bill; but he proposes as a remedy for the ills to which the country is subject the reorganization of a national bank similar in character to the Bank of England. What has that to do with this debate? What connection has it? My friend also seeks to alarm the Senate and alarm the country at the condition of affairs. He says we are in a state of distress; there is bankruptcy and ruin in the immediate future, as I understand him. Why? Simply because the prices of commodities in the market have gone down. That is beneficial to those who have to consume them. It is only injurious to those who manufacture them. Their loss is our gain. But I say here, speaking from the official report of the Commissioner of Revenue, that every department of industry is actually now increasing. The manufacture of pig-iron, the manufacture even of cotton fabrics, the manufacture of everything upon the list is gradually increasing. The product of all the various diversified productions of the country is increasing. It is true the prices are not so high as they were, and therefore the manufacturer or producer does not make a profit, and the farmer who raises the wool does not make a profit; but the consumer gets the benefit.

The manufacturers during the war had a season of unbounded prosperity. On account of the withdrawal of a million active laborers from the productive pursuits of life, all who were engaged in those pursuits flourished well. Now the men who were withdrawn from those industries are going back, and the amount of our productions is increasing. Every production that the Senator from Rhode Island can name is increasing. The amount of coal produced, the amount of iron produced, the amount of petroleum produced, is increasing, and so you may go through the whole list and you will find that every product is increasing. True, the prices have gone down, but is that a subject of alarm? If they go down more and more and more it will be better. True, those who are engaged in production will feel for the time being the shrinkage of the market prices; they will feel for a time the loss of profit; but that is inevitable. They have made profits; they have made money by the gradual rise of all commodities for a period of years, until it reached its maximum a year or two ago; and now, when the other process is going on, they must to some extent suffer the loss. I am sure that I do not feel that in this there is any national danger or any national alarm. On the contrary, when the prices of these commodities come down to the old specie standard specie payments may be resumed, and then the New England manufacturer will again compete with the whole world in the product of many of the most important necessaries of life. Until then there will necessarily be a loss and a shrinkage, but that is not a subject of national alarm, though it may be the subject of individual mourning.

My friend proposes again to establish a United States bank. I cannot but commend his courage, though I cannot speak so well of his prudence. Before he and I entered on the stage of life this was supposed to be a defunct question, which, under the fightings of Andrew Jackson, had passed away from among possibilities of the time. He would be a bold man now who would propose to organize a United States bank, to be governed by a president and board of directors to control the operations of the Treasury Department; to regulate the rate of interest; to mold and control all the business of this great country. It is impossible. Whether the present system of national banks shall be perpetuated or not is a question for the future to determine, but there is one thing which is settled, and that is that all the great powers of this Government connected with finance cannot be concentrated into any private corporation, however pure it may be, however well-managed it may be. The temper of the people will not tolerate it. As to the idea of my friend, that he is now embarking in an effort to reëstablish a United States bank, I am afraid that neither he nor I will live long enough to see him succeed in accomplishing it.

My friend from Rhode Island alluded to another thing as an object of desire—a reduction of the rate of interest. So it is; but I should like to have him inform me when and where the rate of interest was reduced by law. It is impossible by law to reduce the rate of interest. On the contrary, wherever by law the attempt has been made to regulate the rate of interest it is higher; whereas if you leave unobstructed the rate of interest to be fixed by contract between man and man the uniform tendency of such operations is to reduce the rate. In many of the States where the attempt has been made by harsh laws to prohibit the payment of more than six or seven per cent. interest the result is that the people are compelled virtually to pay a much higher rate, and in other States, where they are more liberal to the creditor, and let the people contract upon their own ideas of what is for their advantage, the rate of interest goes down. In England they have no law which will prevent a contract for a rate of interest as high as the parties choose; and the Bank of England, which regulates the rate of interest to some extent, sometimes raises it as high as ten per cent., and sometimes it goes down to one or two. It is a question rather of contract than of law.

Mr. SPRAGUE. I must beg leave to differ

from the Senator; I do not propose to fix the rate of interest by law; but I propose to fund our national debt upon a lower rate of interest. How? In the performance of contracts that have been made by the Government. When the five-twenties become due, at the end of five years after their issue, it is the option of the Government to pay them or to make a new loan. It is not by any arbitrary act that I desire to arrange this matter; but it is by a fair system and a fair ability exercised in the management of our finances, conforming always to the laws of trade and of the value of money. While up, let me say to the Senator in regard to the prices of commodities that the products of the West are higher than they were during the war. The products of manufactures may be as large, but there is no sale for them.

Mr. SHERMAN. There is a simple remedy for that. If the productions of the manufacturers are too large, let them reduce the aggregate and prices will probably advance. The reason why the prices of agricultural productions are high now is because there is a foreign demand for agricultural productions, because the amount of agricultural productions has not increased in proportion to the productions of manufactures. But I go back to the main point. The honorable Senator proposes to reduce the rate of interest not by law, but how? There is the question. By inflation, because it can be done in no other way. He proposes a result, but he does not tell us how it can be achieved. He proposes to fund our debt into bonds bearing a low rate of interest, say three or four per cent. The English Government pays three per cent.; the French four; and he would fund our debt at this low rate of interest. Now, how is it to be done? It must be done by the consent of the holders of the bonds. If you propose to pay them in greenbacks, adopting the proposition of our Democratic friend, where are you to get the greenbacks? Will you print more and spread them over the whole country until finally prices shall so rise that you can induce the bond-holders to take them, or will you compel them to take them and give them nothing else?

This is a grave and difficult question that I do not wish now to enter upon. I know that the public sentiment of this country demands that the bondholders as well as other citizens of the country should make some sacrifices. I know that it is idle to attempt to postpone the payment of our national debt until our five-twenty bonds are at par in gold, and I believe that any attempt of that kind will only lead to disaster and ruin to the party or the men who attempt it. But I believe that a fair proposition, made in a liberal spirit by the Congress of the United States to the holders of the five-twenties now upon right principles, would be accepted by them, and then that this whole question could be settled forever and removed out of our politics.

I have regarded it as a misfortune that two years ago we did not make some disposition of the matter before this question was raised. Then no portion of the five-twenties had become redeemable, and we might have put upon the market some bonds into which the five-twenties might have been floated when the time arrived for their redemption. But the golden moment passed, and now the question is whether we should postpone all efforts to redeem the public debt, all efforts to reduce the rate of interest, until we raise those bonds to par in gold. I say that if we should thus delay, if we take no measures to satisfy a just public sentiment, we shall find ourselves overthrown. At the same time I do not wish to turn round and take advantage of the position of affairs and compel the the bond-holders to take a security lower in its productive value than any other interest can possibly produce.

My honorable friend, however, proposes to reduce the rate of interest to three or four per cent. in this country. It can only be done by a general destruction of values and by an inflation of the currency without precedent in our past history, and which would not be justified by the circumstances and condition of the country.

Mr. President, my friend from Rhode Island takes a desponding view of the condition of the country; I take a hopeful view. There is just the difference. There has been no period of our country from its organization to this time when it had more elements of prosperity than it has at this moment. It is true, we have some difficult financial problems to solve; but where and when was industry better rewarded? Some branches of industry, it is true, are paralyzed, perhaps overworked, overdone, but the general condition of the country is as fair as it ever has been. All classes of our people who will work at fair wages are employed. There is nothing in the present condition of the country that need discourage us. I believe that if Congress will pay proper attention to financial questions; if the Republican party in Congress, which has the charge and responsibility of these grave measures, will agree among themselves upon some fair and decent proposition, they may convert the whole of the national debt into bonds which will reduce the burden of the debt at least one fifth or one sixth, and thus satisfy the just demands and expectations of our own people. There is no difficulty, in my opinion, in arriving at a proper settlement of this subject. The trouble has been that every man has his own particular idea. These ideas must be made to harmonize, or else it is impossible to carry out the great objects we have in view.

I trust Senators when they look around at the signs of the times will feel that what I said a moment ago is absolutely true, that the public sentiment will not allow us to postpone the settlement of this question until our five-twenties rise above par in gold. If you propose to postpone all action on this subject until after that time comes, you in the meantime will lose all opportunity to do that which you desire to do, to protect the national credit. You cannot postpone it. You must propose measures that will meet these questions fairly upon a just and honorable basis, not that will impair the public credit, but that will preserve the public credit. To all measures of that kind I, for one, am willing to give full and honest consideration.

I do not desire to prolong the debate, and I did not wish to say what I have done now, because much of it is immaterial and not pertinent to the pending question, and therefore I owe to the Senate an apology for replying to these statements, but I considered it my duty to do so lest they might go to the country unchallenged.

Mr. SPRAGUE. A word in reference to the holders of the different securities who now demand that they shall be paid in gold; and to that end the whole attention of Congress and of the Government of the country has been directed. What injustice, may I ask, is there in paying the holders of these bonds seventy dollars in gold when they took them at fifty dollars in gold?

Mr. SHERMAN. There is none in the world; and we have the right now to go into the markets in New York and buy the different bonds for seventy or seventy-two in gold, or whatever the market price is, if we have the gold with which to do it. There is no difficulty in that. The trouble is that we have not the gold.

Mr. MORRILL, of Vermont. I desire to occupy a single moment only. The Senator from Rhode Island kindly informed me yesterday that he would controvert the statement made by me on the floor in relation to the amount that the Bank of England is allowed to issue. My statement was that it was equal to the amount of public securities held by the bank and the amount of coin. I advised the Senator to examine the subject; but I perceive that he has not done so, because he has made a different statement here to-day—that they are allowed to issue on their discounts. I call his attention to the statute on the subject passed under Victoria in 1844, by which he will see that I was perfectly correct. I read from chapter thirty-two of the statute of seventh and eighth Victoria, which constitutes the charter of the Bank of England:

"That upon the 30th day of August, 1844, there shall be appropriated, transferred, and set apart by the said governor and company of the issue department of the Bank of England securities to the value of £14,000,000, whereof the debt due by the public to the said governor and company shall be and be deemed a part; and there shall also at the same time be transferred, appropriated, and set apart by the said governor and company to the said issue department so much of the gold coin and gold and silver bullion then held by the Bank of England as shall not be required by the banking department thereof, and thereupon there shall be delivered out of the said issue department into the said banking department of the Bank of England such amount of Bank of England notes as, together with the Bank of England notes then in circulation, shall be equal to the aggregate amount of the securities, coin, and bullion so transferred to said issue department."

The Senate will find further on that the bank is only allowed beyond the amount of Government securities on hand to issue notes in exchange for coin or bullion, and he will also find, if he will examine so common an authority as one of our encyclopedias, that the great stress of weather in 1857 the bank had not at all exceeded the restriction of the charter. On the 11th of November, 1857, the day prior to the interposition of Government, the whole amount of notes issued was £21,141,065 sterling. The Government debt, other securities, gold coin, and bullion held by the bank were precisely of the same amount. It is true that the Bank of England in its banking department has the right to bank upon deposits, and the banking department receives and pays out the Bank of England notes the same as an individual, and if the notes are returned to the banking department they can discount upon them; but the amount of the issues is fixed by law and cannot be exceeded.

Mr. SPRAGUE. I do not think that I am wrong in relation to this subject. In the debates which gave rise to the law to which the Senator has referred Sir Robert Peel, as an offset to the demand that there should be a pound in coin for a pound in notes up to a certain amount, stated that in consideration of that the bank was permitted to issue on the Government deposits, and also to issue £14,000,000 sterling upon the deposits and other securities in addition to the pound for pound for gold deposits in the bank. There is no doubt about that if my reading is correct as to the history of that bank act, and it is fresh because I only left it yesterday.

Mr. MORRILL, of Vermont. I only ask that the Senator will read the act. I will read what an encyclopedia says.

Mr. SPRAGUE. If the Senator will examine any report of the Bank of England wherein the amount of coin and bullion on hand is stated, and also the amount of circulation, that is argument sufficient, because the circulation is always greater than the amount of bullion on hand.

Mr. MORRILL, of Vermont. I have already stated the condition of the Bank of England in those very respects on the 11th of November, 1857, which contradicts the statement of the Senator from Rhode Island.

Mr. SPRAGUE. It is a question of fact; that is all.

Mr. MORRILL, of Vermont. I have given that statement and will not repeat the details; but I will read what I take from an encyclopedia as to this act:

"The important provisions designed by this act were that the bank might issue £11,000,000 for which the public debt due the bank should be security, and £3,000,000 on exchequer bills and such other Government securities as it might hold; but that for every pound sterling issued beyond the £14,000,000 the bank should hold an equal amount in gold and silver."

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. SHERMAN. I now move to amend the amendment in the mode I suggested yesterday, by striking out in lines thirteen and fourteen the words "until Congress shall otherwise provide" and inserting "and the amount of such notes now existing shall not be further

reduced until Congress shall otherwise provide."

Mr. CONKLING. I move to amend the amendment by inserting after the word "reduced" and before the word "until" the words "or increased," so that it will read "shall not be further reduced or increased until Congress shall otherwise provide."

The PRESIDENT *pro tempore*. That is not strictly in order at this time, because it is in the third degree.

Mr. CONKLING. Are we not in the Senate, sir?

The PRESIDENT *pro tempore*. Yes, sir. The Senator from Ohio has offered an amendment to the amendment made as in Committee of the Whole. The Senator now offers an amendment in the third degree.

Mr. CONKLING. I see. My amendment will be in order after one vote. I did not quite understand the condition of the question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment made as in Committee of the Whole.

The amendment to the amendment was agreed to.

Mr. CONKLING. Now I move my amendment to the amendment, to insert after the word "reduced" the words "or increased."

Mr. SUMNER. I would suggest to the Senator from New York another word as an equivalent for the two—the word "changed."

Mr. CONKLING. I have no objection.

Mr. SHERMAN. That would subject it to the objection I have already made as to the right to destroy defaced and mutilated notes.

Mr. CONKLING. I think there can be no such criticism on my amendment as it stands. I think the question had better be taken on the amendment as I offered it. The suggestion of the Senator from Ohio is that if I accept the proposition of the honorable Senator from Massachusetts I involve myself in the criticism that it might interfere with canceling defaced and mutilated notes and substituting other notes for them. Of course my amendment does not mean that as I offered it.

Mr. MORTON. I see no necessity for the introduction of the element proposed by this amendment into the bill. It has been said here that if we shall suspend further contraction that will be equivalent to a declaration in favor of expansion. I think there is nothing in that. Congress can come to the conclusion that we have arrived at that period when contraction should cease without being involved in the other conclusion that expansion should begin. I am in favor of keeping this bill clear from any other question; let us pass it substantially as it came from the House of Representatives. It is not necessary that the Senate should now give an opinion upon the question whether under any circumstances there should be an increase of the currency. Let us pass this bill resolving that contraction shall now cease, and not incorporate with it other considerations or other questions that may arise during the session.

Mr. FESSENDEN. It is objected to this amendment, I suppose, that it is unnecessary; but I think it is advisable in one point of view. In the few remarks that I had the honor to make the other day to the Senate I stated that I thought the great objection to this bill was that it would create the impression in the country that we meant to do nothing further at any time with reference to a return to specie payments. It is certainly so understood. This bill may be subject to misrepresentation, and it may be said that really the design is to expand again and enlarge the currency. The adoption of this amendment will put an end to any such supposition, and in that particular would have a tendency, in my judgment, to quiet the public mind as to any fears of that description. It certainly can do no harm; and with reference to that particular point it may do a great deal of good. This reason, of course, would not apply to gentlemen (if there are any such here) who really desire further expansion, and do not wish that any stumbling-block or obstruction should be placed in the way of it; but I take it there are not many who entertain such views; I hope not, at any rate. That being the case, I think it would be just as well to have this bill put upon its true, clear basis, that we mean to go no further, and do not mean to be understood as going any further, than for the present suspending the contraction of the currency. I am opposed to the bill for a reason which I stated, and because of the effect I think it will produce; but this amendment might tend in some way to allay some possible danger.

Mr. SHERMAN. I trust the Senate will not adopt this amendment; not that I think it would change the existing law, for I have no doubt upon that point, that the Secretary of the Treasury has no power to issue any more notes. I think the Senator from Maine will agree with me that under the law as it now stands the Secretary has not power to issue a five dollar bill except from the reserve to meet the contingency contemplated by act of June 30, 1864, and also to supply the place of mutilated and defaced notes; and that is the opinion of the Secretary himself. Therefore this amendment is of no account and might only beget a controversy. As to answering what might be reached in the markets at New York or elsewhere, that is simply idle. All we may do here cannot do that. There is no doubt about the law; the effect of the bill will be, if it passes as it now stands, that the contraction of currency will cease, and there can be no increase of the currency except to provide for the reserve under the act of June 30, 1864. This amendment as it now stands would cut off the payment of the reserve. I know the Senator from New York does not desire that, but it would make it necessary to have another amendment added as a proviso to avoid that result, because if the amendment was adopted the amount of notes could not be increased, and yet under the existing laws there is provision for $50,000,000 to provide for temporary liabilities. We have now outstanding $23,000,000 of three per cent. demand certificates; they will be increased to $50,000,000; they may be presented, and will no doubt be presented, from time to time for payment. The Secretary must have power to meet these demand certificates as they are presented, and we must reserve that power.

I trust, therefore, the bill will stand as it is. The legal effect is clearly understood; there can be no dispute about it; that is, that the present amount of United States notes, $356,000,000, shall not be reduced, and there is no authority of law to increase it except for a purpose we must provide for.

Mr. HOWARD. The Senator will allow me to ask, has that particular point been called distinctly to the attention of the Secretary of the Treasury as to his power to increase the volume of notes?

Mr. SHERMAN. I think it has been, but I will not speak advisedly.

Mr. HOWARD. I think the Senator ought to be very sure on that point.

Mr. SHERMAN. I would not speak authoritatively from him unless authorized to do so, but I have no doubt that is the proper construction.

Mr. HOWARD. The Senator has had no official communication with him on the subject?

Mr. SHERMAN. No official communication whatever. Perhaps attention has not been directed to the point in such a way that he has written any communication on this subject.

Mr. HOWARD. It is certainly a very important consideration.

Mr. CATTELL. I desire to call the attention of the Senate to the fact that, if I understand the object of the amendment of the Senator from New York, it will prevent the issue of any part of the $50,000,000 reserve. If that is not so, I do not specially object to it. The power to issue that reserve is granted by law; and as I understand the amendment it is that the existing amount of notes shall not be reduced or increased. If I am correct, that is a question which the Senate decided after a full discussion on that very point, and I should be sorry to see it adopted if the amendment is capable of the construction I put upon it. The Senator can enlighten me if I am wrong.

Mr. MORTON. I do not think it can be pretended for a moment by any Senator that the Secretary of the Treasury has power to issue a single note to replace those that have been canceled under the operation of the law we are now about to suspend. That pretense, I think, cannot be made by anybody, and therefore the adoption of the amendment offered by the Senator from New York will simply amount to an expression of opinion on a somewhat important question by this Senate. I think there is no occasion for it now, and I am not in favor of incumbering the passage of this bill at this time by the expression of any opinion, whatever may be its character, outside of the immediate purview of the bill.

Mr. CONKLING. The Senator from New Jersey asked me a question which I desire to answer. I had already noted on a copy of the bill which I have an amendment which I intend to offer if this amendment shall be adopted, or as a part of this, meeting precisely the suggestion of the Senator from New Jersey, providing that nothing herein shall be construed to affect the power of the Secretary in regard to this reserve.

Mr. WILSON. Mr. President, the Senator from Indiana tells us that the adoption of the amendment moved by the Senator from New York will be a mere expression of the opinion of the Senate. Well, sir, I think its great value is that it will be an expression of the sentiment of the Senate of the United States. I have been disposed to vote for this bill proposing that we shall stop contraction at the present time; but I am inflexibly opposed to an inflation of the currency. Senators tell us that is their opinion also. If that be so, why not put it in this bill? If we vote to stop contraction, and let the amount of the currency remain as it is, why can they not consent to give confidence and rest to the country by declaring that there shall be no inflation?

Mr. SHERMAN. If my friend will allow me I will tell him why I cannot do it. I wish it distinctly understood that I am opposed to any further issue of United States notes beyond the amount authorized by the present law, and will not vote for it. But the reason why I am opposed to this amendment is that in my opinion the most rapid road to specie payments is to provide a bond in which the Government of the United States will allow all surplus greenbacks to float, and in that case it would be necessary to fix a limit within which this funding operation may go on—the greenbacks to float into bonds, and *vice versa* —so as to prevent a too rapid stringency in the money market. This proposition would cut off the expression of opinion of the Senate upon that question, which I do not wish now to discuss, and I do not present it for the purpose of having it discussed. There is no doubt that under the law the Secretary of the Treasury has no power to issue another dollar of United States notes, and if any Senator claims that he has that power let him produce the law. There are but two laws on the subject which bear on that point. One limits the amount of issues to $400,000,000, the other authorizes him to reduce that amount $4,000,000 a month. He has reduced it by canceling the notes. He has no authority to supply their place by new notes. There is, therefore, no object in this amendment; it is simply introducing a discussion for the purpose of eliciting an expression of opinion by the Senate which I think had better be reserved.

Mr. WILSON. I am clearly of the opinion that the vote of the Senate the other day on the proposition of the Senator from Vermont [Mr. EDMUNDS] has had a disturbing effect on the country. It has been one of the influences that have sent gold up in the market. It has carried an impression to the country that we

are to stop contraction; that we are to go no further in that direction, and that we are to go in the other direction. Now, sir, I should be willing to stop where we are for the present, but I think it ought to go out from Congress that we are not to enter on the wild scheme of expansion. Some persons have already gone so far as to advise the people to get into debt all they can; to beg, borrow, or steal all they can get into their hands; that we are to have an era of greenbacks, an expansion and increase of prices, and everybody is to get rich. Only the wildest class of speculators is to gain anything by such ideas going out to the country. If we are to stop where we are let us distinctly announce that we are to stop there.

Mr. HENDERSON. Will the Senator permit me to ask him a question?

Mr. WILSON. Certainly.

Mr. HENDERSON. If Congress to-day were to provide that individuals holding bonds of the United States drawing six per cent. gold interest might go to the Treasury and take United States notes in lieu thereof bearing no interest at all and circulate them, I should like to ask the Senator what harm would be done to the country at large? I would not demand that anybody should do so; I would not absolutely require him by law to do so; but if currency is so much needed in any particular section of the country as to induce a man holding a bond of the United States to go and deliver it to the Treasury and receive greenbacks, if you please, bearing no interest, and then go to the section of the country where currency was needed and put it in circulation, what harm would be done to the country? The Senator can very well stand where he does, the banks in his State holding $56,000,000 of the national bank currency and compelling the people of my State to pay him for a surrender of it ten per cent. He can well say that his people are very easy, indeed, and they can get along without any expansion. At the city of New Orleans it is necessary to issue $4,000,000 of city scrip in order to furnish a circulating medium of any character whatever, and not one dollar for national bank purposes can be procured of the Comptroller of the Currency. Why? Because it is all taken up, and it is utterly impossible to expand, no matter what may be the demands in any particular section of the country. Money in my State may be worth twenty-five per cent. per annum, and yet we are told, "you shall not expand, even though an individual is willing to surrender a bond drawing six per cent. and take currency in its stead, and run the risk." I should like to have these questions answered.

Mr. WILSON. It seems to me the Senator manifests some feeling in regard to the large amount——

Mr. HENDERSON. No; no feeling on that subject whatever; but I do express a feeling on the subject of this eternal clamor that the greenback circulation under no circumstances, even where a man wants to surrender bonds in order to obtain circulation, shall be permitted to expand. I hold that the Senate is not qualified from its very organization to determine how much currency the business of the people of this country demands.

Mr. WILSON. I think it is the height of absurdity for the Congress of the United States to be fixing the amount of circulation in the country. That should be regulated by the demands of trade. I should like to see a free banking system, by which we can have banks in any part of the country, under proper guards and regulations.

Mr. HENDERSON. What objection has the Senator, if I have a five-twenty bond, to my taking it to the Treasury and receiving greenbacks for it? I should like to be answered that also. Then the Government pays no interest upon it.

Mr. WILSON. Sir, I do not think we ought to enter upon the policy of extending the amount of the greenbacks. Let us have a free banking system, based upon the national credit, that shall furnish the currency—a system by which we may in two or three years return to specie payments.

Mr. HENDERSON. Then let me ask the Senator had we better not let this amendment pass by until we adopt something on the subject of the national banks so as to permit free banking?

Mr. WILSON. Sir, the Secretary of the Treasury tells us that he does not propose to go one step further in contraction; and we all understand that contraction is not to be continued at present. We are to enter on the work of settling our financial difficulties. The Senator from Missouri, as I understand, is preparing a bill that has already attracted a great deal of attention in Congress and out of Congress, and the Chairman of the Committee on Finance has already introduced a bill. We are to enter on a system of rigid economy; we are to reduce our expenditures; we are to enter on a new system concerning our national debt, and we are to extend our banking system so as to do away with this clamor against that portion of the country that had banks and were patriotic enough in time of war to sacrifice their State interests for the benefit of the Federal Government. The time has passed by when those States or the bank managers should be reproached for their action during the war which history will pronounce patriotic and liberal.

This bill, after all, is little more than the expression of an opinion. You do not expect your Treasury Department to contract one dollar further. Then why pass this measure? To assure the country that the contraction policy is to cease for the present. That is all you propose to do. It is simply the enactment of an opinion of the Congress of the United States to reassure the business men of the country. Then if you are to assure the business men that there is to be no contraction, why may you not assure them that there is to be no expansion until Congress legislates otherwise? That is all there is in the amendment. You have put this measure in such a form before the country that the inference will be, if we vote down the amendment of the Senator from New York, that we are to enter upon a career of unlimited expansion, and the effect of it on the business interests of the country will be most disastrous. The Senate know that no harm can come by putting this proposition in the bill. Then why not put it there, and let the nation understand that the Congress of the United States have resolved against further contraction and have declared against further expansion; that we intend to enter on a system of reduction of the expenditures of the Government and of taxation, of bringing down our expenditures and our taxation to the lowest point; that we intend to legislate to reduce the rate of interest on our bonded debt or to provide that the debt shall be taxed. I do not hesitate to say that I am in favor of putting our debt in a form to be taxed.

Mr. STEWART. Does the Senator mean to be understood that he would have the public debt taxed by the States?

Mr. WILSON. I am in favor of its taxation in some form.

Mr. STEWART. How?

Mr. WILSON. By local taxation, if we have the power to do it and can do so with safety to the national credit; but I am in favor of its taxation in some form. I do not know a bondholder in Massachusetts who is not in favor of taxing the bonds; and it is just in itself to tax them in some form. The country will not be content to allow more than $2,000,000,000 to pay nothing when other property is so heavily burdened by taxation.

The Senator from Missouri referred to the $56,000,000 of banking capital in the State of Massachusetts. Sir, we had a banking capital of nearly sixty million dollars when the war broke out, and the men who managed the banks manifested as much patriotism as the men who shouldered their muskets. No body of men in the history of the world ever evinced more liberality or more patriotism than was shown by the managers of the State banks in 1861. When it was demanded that the banks in Massachusetts, that paid an annual tax of nearly six hundred thousand dollars into the State Treasury, should cease to be State banks and should become national banks for the benefit of the Federal Government, the representatives of Massachusetts here voted for it, and the people of the State consented to it, although it was against their own local interest. When you asked the banks of New York, holding New York stocks—a well-secured system—to give up all for the benefit of the General Government, they did it. Why, then, reproach them? I am in favor of allowing the people of every part of the country to have banks; I do not want anything exclusive; but I think the time should never come when anybody in Congress should utter one word of reproach against the State banks our policy forced to become national banks, or against the men in Congress who supported that policy. They regarded it as a sacrifice at the time. Certainly it was a sacrifice to the tax-payers of the eastern section of the country, and their Representatives here so regarded it when they voted for it. It was an act of liberality and patriotism that deserves commendation rather than censure.

Mr. President, we hear a great deal said now in denunciation of the bond-holders. We did not hear anything of that character in 1862, 1863, 1864, and 1865, when we wanted their money to fight the battles of the country and save the life of the nation. There is a deal of demagogism about bond-holders now that is a disgrace to human nature.

Mr. CONNESS. Will my friend permit me one instant?

Mr. WILSON. Certainly.

Mr. CONNESS. I understood the honorable Senator to say that he was in favor of taxing all the bonds of the United States. A Senator behind him says he would not go into that now. I hope that Senator will leave the matter between the honorable Senator who has permitted me to have the floor and myself at this time. I understand the honorable Senator from Massachusetts to denounce the demagogery that exists in the country now on this subject, in which I heartily agree with him. I understood him also to say that he was in favor of taxing all the bonded debt of the United States or subjecting it to taxation. The Senator knows that when this nation wanted to borrow money it could only borrow it and did borrow it upon the solemn pledge that the bonds to be given by the Government should be exempted from taxation. Do I understand the honorable Senator to say that he is willing to go back upon that pledge and join this base, Democratic, demagogical cry in this country, that all bonds shall be taxed; I cannot believe that that is the honorable Senator's position; and I have risen to ask him whether it is or not. It appears to me that he must, with every honorable mind, be willing to maintain the pledges that this country made in the days of its need to the persons from whom it borrowed money.

Mr. WILSON. I will say to the Senator that I deem the pledges of the Government made to the bond-holders, to those who loaned them the money——

Mr. CONNESS. The bond-holders, let me say to the honorable Senator——

Mr. WILSON. Will the honorable Senator allow me to reply to the questions he has already put? This is no new question to me. I have thoroughly reflected upon it and have consulted many gentlemen whose opinions are entitled to consideration in regard to it. I hold that our obligations to those who loaned us money in the war are as sacred as are our obligations to the wounded soldiers, their wives and children; and I would violate the one as soon as I would violate the other. I have nothing but loathing and abhorrence for this wild, wicked, and disloyal outcry against the men who loaned money to the Government in the dark and trying hours of the war when

they knew not that the Government could repay it. We were then told by a certain class of men that we would never pay the debt, and now they are trying to so arrange matters that we shall not pay it. Patriotism, honesty, and manliness alike rebuke and condemn these men.

Sir, I have been clearly of the opinion that we should have to so arrange our debt that, like other property, it should pay taxes. I said so in this body before the close of the war. While I will maintain at any cost our faith to the men who hold the bonds to-day, I am in favor of adopting a policy consolidating those debts and putting them in a form in which they may be taxed. Before I left home I called upon several gentlemen, large bond-holders—men who have in season and out of season worked during the war for the interests of the country; men whose hearts and words and works were for the country in the time of trial; men who took bonds at a time when those who sympathized with rebels told them they would never be paid—and I asked them what they thought of the proposition of so changing the bonds as to provide for national or local taxation, and every man of them said that these bonds ought to be taxed; that we ought to keep our faith; but we ought to make a change so that this large property could be taxed like other property. When in Boston the other day I met, by invitation for another purpose, several gentlemen, among whom were persons who took an interest in this question of taxing the bonds. Every one of them said that we ought to make the change and that the bonds would be safer if they paid their part of the public burdens. They expect us, however, to keep inviolate the faith of the Government and we ought to do it; and the man who does not intend to keep inviolate the national faith is, in my judgment, an unpatriotic and dishonest man. I hope I have answered my friend from California.

Mr. CONNESS. Fully.

Mr. WILSON. I now say to the Senator from Missouri that if he has a good banking bill with proper guards and checks, that looks to bringing this nation to the solid basis of a sound currency within a reasonable period, he can count on my vote for such a system. I do not want anything for my section of the country. I am not willing to give to all other sections of the country. I want to see the time when the quantity of money of the country shall be regulated by business interests rather than by our undertaking to say how much circulation we should have, how much we should contract, and how much we should expand. But, sir, I think that Senators who ask us now to make this declaration of opinion ought to give us the privilege of saying that while we intend to stop contraction we do not intend to enter on a policy of expansion. Let the speculators and the speculative class of men who have been clamoring for expansion so long understand that we are not going into this kiting business.

I desire to say a word in reply to what has been said by the Senator from Rhode Island, [Mr. SPRAGUE.] I am not among those who believe that this country is going to ruin politically or financially. To hear some men talk and to read some papers it might be thought that by the interference of the President or something else we were not going to reconstruct the rebel States. Sir, they will be reconstructed on the congressional plan, Andrew Johnson and his supporters to the contrary notwithstanding, and the people there will do it. I expressed the opinion the other day that during the last seven years the loyal States had made great progress in wealth. The Senator from Rhode Island denied the proposition. I received last evening from the treasurer of the State of New Jersey a letter showing the amount of property taxable in that State in 1860 and 1866, and it showed an increase of sixty per cent. in six years. I received a letter to-day from the treasurer of New York showing a large increase in that State. The loyal States have increased in wealth during the last eight years more than they have expended in the war, more than the whole national debt, and especially the northwestern States, which have increased in population and wealth with great rapidity. Prices have fallen, but the price of agricultural products have not fallen for the reason that there has been a failure of the crops in Europe as well as here. We are better off financially and commercially than the people of France or of England, where they have so much hard money, and where they have the great banking institution which the Senator from Rhode Island asks us to adopt.

Instead of adopting that gigantic scheme so warmly commended by the honorable Senator from Rhode Island, and which seems to me to be illy-adapted to the genius and spirit of our institutions or the character and habits of our people, I would suggest that we enter upon a policy that shall prevent an annual balance of trade amounting to two or three hundred million dollars against us, and which necessitates the sending abroad of hundreds of millions of our bonds to pay balances of trade.

I know how natural it is for us to think when we are not making money that we are all going to ruin. The truth is that much of this cry in the country is not real. Our people are thinking of the flesh-pots of Egypt; they are thinking of the fabulous prices of the war and the vast sums of money they made then; and they seem to think that everything is wrong and that we are all going to ruin unless we make money as we did in 1862, 1863, 1864, and 1865. It is not so. When we consider the great commercial pressure in the Old World, that business the wide world over has been depressed; and when we consider the commercial revulsion, the reduction of the prices of merchandise that we have had in this country, and see how our merchants and business men have stood the pressure, we see the financial strength of the people. It shows how strong we are, how much money we have made, and what we are able to bear. I know that many people are out of employment, but I believe that in a few months, if Congress is wise and prudent, the nation will work out of these commercial and financial troubles. We have a great outcry from speculators and jobbers against the policy that tends toward the resumption of specie payments. If we should convert our bonded debt into lying promises to pay, by which greenbacks would become as plenty as rebel graybacks, and as worthless, too, many of the men who join in the outcry against bond-holders, against taxation, against specie payments and in favor of unlimited expansion would not be benefited. Commercial ruin and financial embarrassment would come upon the people, ending in bankruptcy, repudiation, personal degradation, and national dishonor.

Mr. CONKLING obtained the floor.

Mr. CAMERON. Mr. President——

Mr. CONKLING. I believe I have the floor, but I will yield it to the Senator from Pennsylvania, if he wants it specially, with great pleasure.

Mr. CAMERON. I am very much obliged to the gentleman from New York. I desire to have the pending amendment read.

The SECRETARY. It is proposed to amend the amendment last adopted by inserting after word "reduced" the words "or increased," so that it will read:

And the amount of such notes now existing shal not be further reduced or increased until Congress shall otherwise provide.

Mr. CAMERON. I am opposed to that amendment, because I think it is utterly useless and amounts to nothing. It seems to me that whenever you insert superfluous words in a law you do wrong. I have avoided saying anything on the subject of this bill, for I thought it one of those measures on which we ought to act immediately, because it has a tendency to give confidence to the people, and to afford them temporary relief. Sir, in my experience in banking and currency I have always found that the tinkers with the currency are those who do the mischief. Perhaps that is an unkind word, and I do not mean to say anything objectionable; but I will say that the trouble which is experienced on such questions arises from the efforts of those who believe they know more than their neighbors, and are always interjecting into the currency projects which are unnatural.

Now, sir, I think there are great errors in our currency, and probably great mistakes in our banking system; but it does not seem to me that this is the time to correct them. What we want to do now is to satisfy the public mind that we intend to go no further in the direction we have been lately traveling so rapidly.

The great desideratum in matters of currency, and indeed in all legislation affecting business, is to let the people of the country know what is to be the system that you are going to pursue. We have an intelligent constituency. We are, many of us, proud to say that the people of the United States are more intelligent than any other people in the world. I do not believe that exactly to the full extent; but they are a pretty intelligent sort of folks. I think the public, the merchants, the dealers, the men who have an interest in this question of money, know a great deal more about it, as a general thing, than we do here in Congress. I would give them stability; and I vote for this bill because it will satisfy them for the present that there is to be no change. I do not care, so far as the real interests of the country are concerned, whether you make the currency fifty or a hundred millions, more or less, if the people know what the amount is to be for some fixed and permanent time.

If I had had the framing of a measure on this currency question I would alter it very much. I should not ask to have a Bank of England established in this country; neither would I ask to have a United States bank. While I believe that the Bank of England has been of great service to England, and while I believe that the United States Bank was of immense benefit to this country, I do not believe you could satisfy the people of this country that either of them would be beneficial to them now. What we want is to get the currency question out of politics. What we have got to do now is to reform our expenses. We got into the habit during the war of spending money not only by millions but by hundreds of millions. Many of the people made immense fortunes in a year or two. They are uneasy because they are not making fortunes now. The manufacturers in Rhode Island, and in Pennsylvania, if you like, and all over the country, who made money then, are restless because they are not making it now; but give them a little time; let them know that you are not going to interfere with them, and they will go on with their business, the people will be employed, and the national wealth will be increased. I think our action in regard to the currency and the legislation generally affecting the finances should be such as to let the country alone as far as possible. Do this and it will work itself out of the position in which it is now placed. I have known several quack doctors in my experience who made immense cures, as the country said, and they made their cures by doing nothing, often by giving bread pills, while the regular doctors thought they must give the patients strong medicines and sometimes killed them. It is the regular doctors in Congress, those who have learned this business of currency, studied the subject of finance, and who believe they know, and probably do know, more than anybody else, who are doing the harm; it is not the practical people. They do not want you to disturb the question. They say, let it alone; but reduce your expenses and compel those who under the law are expected to pay taxes to pay them. In place of getting twenty-five or thirty millions upon whisky, send out honest men, as you ought to do, to collect the revenue and get $150,000,000; in place of getting $10,000,000 upon oil, get $25,000,000; in place of getting about fifteen millions upon

tobacco, get $30,000,000; and I think you will relieve the country very much.

Mr. President, I only rose to say that I shall vote for this bill in order to satisfy the country that we are not going to disturb the questions of finance now, and to hold out to them the belief that we intend immediately to turn our attention to saving expenses. Let us reduce the Army. Why cannot we strike off twenty or thirty millions there? Let us take fifteen or twenty millions off the Navy; and so of the civil list. Let us send into obscurity the rascals who are running about calling themselves detectives, and select honest men to collect the revenue. Why, sir, you can hardly travel in a railroad car or go anywhere without finding some scamp who approaches you, trying to find ont your secrets and telling you after a little while, whispering it in your year, "I am a detective for the Government." There were no such things in the olden time, and there ought to be none now. I repeat, sir, let us reduce our expenses and then this question of the currency will not affect us so much.

Allusion has been made in the course of this debate to the old State banks. I belonged to the State bank system. That old system built up all the turnpikes, all the canals, and all the roads of the country, and they did it because when honest men had control of the banks they made a currency that everybody in their neighborhood accepted. So I would make it so now. I would let everybody bank. I would begin at once by cutting the Government loose from the banking system, and then I believe in three months the Government could redeem all its liabilities in specie. But now by your system the Government has become part of the banking system. The banks think they can take care of the Government, and the Government believes it is taking care of the banks. In this country everybody is expected to take care of himself, and those who do so, I think, generally get along pretty well. But this system of bolstering up a parcel of petty corporations, calling them national banks, and inducing them to invest their whole capital in the hands of the Government is a wrong to the community, because it takes the capital of the country from the legitimate business of the country. The intention of banks was to stimulate and encourage the business of the communities in which they are located. Now the banks put their permanent investments in bonds and they put their immediate funds into the hands of brokers who speculate in bonds, and the trader and the merchant get no accommodation from them. That is one of the evils, and there are many others that I might mention.

But, Mr. President, I did not rise to make any extended remarks, but merely to say that I am in favor of this bill because it will satisfy the public for the present that we are going to let them take care of themselves. I shall on that ground vote for the bill and against this amendment.

Mr. CONKLING. Mr. President, it often happens that the character and importance of a measure are not to be determined by the mere measure itself. It continually occurs that an act is to be vindicated or condemned upon considerations which apparently are remote and entirely independent. This is very common in the most trifling affairs of life, and it is likely to be most conspicuous in matters of government and public action. I think it is very conspicuous here.

The measure before us on its face provides that for the time being the reduction of paper currency shall cease—no, I should not say "shall cease," because there is at this time going on no reduction of the currency; there has been none for some time. Therefore I ought more properly to say that on its face it is a provision that for the time being no contraction of the currency shall occur. If this were all in any aspect meant by this measure I think I may say without disrespect to anybody it would be very unimportant; it would not have provoked the debate which has been had upon it, and it would be in all respects very inconsequential. Why? Because the fact is patent to the country that for weeks, and I believe for months now, there has been in point of fact no contraction, and no attempt to contract. The fact is patent here, because we have the Secretary's letter by which his gage is given to us that for the time being no contraction will take place.

But, says the honorable chairman of the Committee on Finance, in God's providence this particular Secretary of the Treasury may be taken away and some other man may succeed in his place, and in this aspect some importance attaches to this bill. Does it, when we remember that this bill has passed the House of Representatives already, that it lies here on our table where it can be taken up almost in the twinkling of an eye, and applied to the arrest of any attempt by this or any future financial Secretary to contract? I submit, Mr. President, without multiplying words in this respect, that if the whole object here was to leave the currency of the country where it is in bulk, pending the consideration before the Committee on Finance of a general financial scheme, a thousand acts of Congress could make the situation in that respect no safer than it is.

Here let me ask why is this measure alone, by itself, fragmentary, exceptional, belonging properly to the subject of finance, but torn from the context, and before us all alone? Why is it brought forward by the House of Representatives, or why is it urged upon us? We had the other day a bill for the repeal of the cotton tax; and the Senator by whom it was reported assigned as a reason—and a very good reason it was, as far as it went—that time pressed as to that measure; that although it pertained to the general scheme of revenue there were several considerations peculiarly applicable to it, and that it ought to be selected out and preferred above all other things. He told us that the month of January, and an early time in January, was the accepted period for forecasting with regard to the production of cotton, and therefore it was essential, not only that in the end, but that in the present, the policy of Congress in regard to the cotton tax should be proclaimed. Is any reason like that assigned in either House of Congress for the consideration of this measure? I admit a reason tantamount to that would exist but for the fact to which I have already alluded, that we know in the immediate past there has been, and in the present and in the immediate future there is to be, and there can be, no contraction of the currency. I state that there can be none, because we have in our hand the power instantaneously to arrest it, even if we have so little faith in the Secretary as to suppose that, in the face of his assurance, he will enter upon it.

Mr. President, I expect, for one, to vote against this bill in any shape which it is likely in my opinion to assume; and I beg to say that I have not the slightest idea of influencing the vote of any Senator by the few remarks which I propose to submit. But I wish before I sit down not only to make an observation about the amendment that I have offered, but to disclaim the position assigned to every Senator who ventures to criticise or to oppose this bill.

The Senator from Missouri [Mr. HENDERSON] delivered a very eloquent argument the other day, certainly not to fight a shadow in his own estimation, but to answer and put to confusion those of us who are, as he contends, in favor of an instantaneous resumption of specie payments; and he showed us, as a matter of nautical science, how unfortunate would be the fate of a vessel, a canal boat, that was treated in that way. Other Senators have assumed, in their remarks, that there was a party on this floor in favor not only of continuing the contraction of the currency and continuing it now, but of pressing it to the point at all hazards, of making gold touch par and resuming specie payments, no matter if it should strew the whole land with the ruins of commercial enterprises. I beg to say, for one, that I have no idea of so voting or so acting as to attempt a resumption now or suddenly or presently of specie payments. So much for that. I have no idea of so voting or so acting as to encourage in the present a further reduction of the currency of the country, because the condition in which we find ourselves forces me to the conclusion that the Secretary of the Treasury only accepted a necessity, a controlling necessity, when he ceased some time ago to curtail the currency.

But, sir, when I have said that a resumption of specie payments now is not within my expectation or my hope, and that a contraction of the currency further at this moment is, in my judgment, not to be asked for or attempted, that does not assist me at all in coming to the conclusion that I ought to vote for this particular measure. I have assigned already what I think would be a sufficient reason for voting against it; but it is not by any means the only reason which influences me. How is this measure to be accepted by the country? Some Senator has said—I believe the distinguished Senator from Ohio—that in point of fact the Secretary has no right now to expand the currency. For the sake of the argument I will admit that; but I ask, how will this act be received in the country if we give no token here that we do not intend to arm him with that power; and if, on the contrary, by voting down an amendment such as was offered by my friend from Vermont, [Mr. EDMUNDS,] and such as that pending now, we disclose the fact that, speaking for ourselves to-day, without any fresh emergency upon us, we have not even at this time the intention of refusing to empower the Secretary further to expand? I ask how, looking upon the face of this bill, is its passage to be received in the country? Every business man, sharp as the business community is, will understand very well that the House of Representatives and the Senate, any more than the constituent members of those Houses, never put forward this bill and carried it through all the progress of this debate for the mere purpose of doing what has already been done by the necessity of the case, by the pledge of the Secretary, and by its passage through one House, subject here to almost instantaneous consummation wherever it shall be necessary. What will they think is the intention? Precisely that which has cropped out over and over again in this debate. What says the distinguished Senator from Indiana? He says that not merely until Congress shall legislate further, (thereby fairly meaning until the Committee on Finance shall advance their entire financial scheme,) but for the years 1868 and 1869, this measure is to stand as permanent in its effect, as permanent in the intention which inspires it, as if it were a naked act repealing every power that exists to contract. I am sure I do not mistake the intention of the Senator when I quote him as I do.

So one portion of the business community is to accept it. Another portion is to be encompassed with fresh uncertainty and fresh alarm, because they will remember that the two Houses of Congress, as much as other people, are subject to the impulses, the excitements, the effervescence which now and then take place in the country. They will remember when there was an immense "pressure"—that was the word used in the newspapers and in Congress—to pass a gold bill, a bill which by legislative interposition was to overrule the laws of trade and commerce, and prevent these gold gamblers and "bad people of other sorts" who were most descriptively enumerated in the debates from laying their heads together and compassing the evils which they were engaged in doing. Well, sir, the gold bill passed, and those bad men who happened to have on their side the laws of trade and commerce tossed your gold bill as a lion would toss a dew-drop from his mane. It amounted to nothing in the world, because it came in conflict with a power which for that purpose was irresistible. I might mention other instances in which the two Houses of Congress have been impelled, with

the best motives in the world, to attempt to intervene by little installments of legislation to check these evil tendencies, and in which the failure has been as signal as anybody predicted it would be.

Now, looking at what has been, I ask for the men who accept this, as the honorable Senator from Ohio presents it, (and with entire sincerity as to himself, of course, and all the members of the committee for whom he speaks,) as a temporary measure, with what fresh uncertainty are they not to be encountered? When is it to end? Why, sir, whenever, without a moment's notice, without a signal of which anybody can be aware, it shall, for a different set of reasons, enter the mind of some member of one House to introduce a modification, and the minds of a majority of the two Houses to sanction that modification.

Does it tranquilize the country? Does it establish stability? Does it do anything except to launch the financial community upon a sea of fresh uncertainty? If I thought it did, if it were a proposition to fix a definite time (unwise as I believe even that would be,) during which the currency should not be changed, I should be comparatively content to vote for it. But, sir, I see it presented ostensibly and sincerely—for I need not say I do not mean to question that—I see it come from the Finance Committee as a measure to provide for that which is already sufficiently, entirely, and completely provided for. I see it accepted here, and accepted already in the country, as a measure going beyond that, as a measure which they reject for that purpose for the reasons which I have given already. Seeing, as the public sees, that there is no necessity for it in that regard, I say it is accepted as an indication of a permanent policy to arrest contraction.

Well, sir, if it stopped there, although I think that would be evil in tendency, yet it would stop short of the great objection which it has. It is accepted beyond that as an indication that Congress takes a new departure; that Congress rises once more upon the wings of inflation, to go how high nobody knows; and when propositions like that now pending, as I shall beg to modify it before I take my seat, are voted down, and upon the statement of some Senator that they are unnecessary, certainly the public can come to no conclusion except that a majority of the Senate is determined now not even to confess, not even to have wrung or extorted from them, an admission that their belief is that in the future there should be no further expansion. Thus it goes out as a measure uncertain on its face, unstable in its effect, the subject of controversy as to its meaning here and everywhere else. It goes out accepted by a large class of people as a permanent policy of anti-contraction, and by still another large class of people as a measure unmistakably indicating an intention positively to expand and render still more redundant than it has ever been before the currency of the country.

Mr. President, for the reasons which I have endeavored to assign, carrying the attempt at greater length than I intended, and for other reasons which I might assign, I cannot vote for this bill in the shape in which it is left by the amendments of the Committee on Finance or in any shape I expect it to assume. In giving my vote in the negative I wish, as I have said, not by any silence with which the various statements of Senators have been received or by any other conjecture, to have it understood that I intend so to vote or so to act as to insist immediatety upon resumption or immediately upon contraction.

I suggested an amendment, which is pending, and which was met by the Senator from New Jersey with the suggestion that it would interfere with the reserve permitted by the act of June 30, 1864; and because I would like to test the strength of the amendment divested of all incumbrance, and not because I accept the legal argument of the distinguished Senator, I want to modify the amendment so as to meet his view. Therefore I propose inserting the words which I suggested, "or increased," to follow the end of the last line by these words:

Provided, That nothing herein shall affect the power of the Secretary of the Treasury to maintain the reserve authorized by section four of the act of June 30, 1864.

That, if I am able to comprehend it, presents to the Senate the naked question, without alloy or embarrassment, whether we intend by the pending measure to say anything more than that the currency shall remain *in statu quo*. If we intend to say only that—and I will concede for the sake of the argument that the Secretary has no power to expand; I do not believe it in fact, but I say I concede for the sake of the argument that he has no such power—then it is an antidote going with the other parts of this bill; it is something which will neutralize that poison of suspicion and apprehension which we set afloat; it is something declaratory of the truth that by its action to-day or in its conviction to-day the Senate does not intend to favor fresh paper expansion; but if, on the contrary, this Secretary or some other who shall come after him has the power, then, for the reason that I state, and for an added obvious reason, it becomes useful.

One word further and I have done. I know—I ought to know as well as others, because I am sure that the people whom I have the honor to represent feel as deeply as any constituency represented in this Chamber—the disorders, the burdens, the hardships of this time; and I believe that the question of finance, as it was in the beginning of the war, is now, and is to be I might almost say, the question of government in this country. I think that he would not be a bold man who would be willing to covenant to find himself away out of all our other troubles if some one would show him a way of relieving ourselves from all the financial difficulties and dilemmas which are upon us and which we see in the future. But, sir, I do not believe that the remedy for these evils—that the relief for the sufferings of the country—is to be found in the modes that are suggested of making money easy. I do not believe it is to be found by putting out directly or indirectly fresh promises to pay additional dilutions of the currency and sending up prices and values higher than they are. Without speaking of the people of fixed incomes and all the other classes of people who thus are pinched and troubled, I believe for the whole business community and the entire public such a proposition is a fallacy. In lieu of it I hope to be able, for one, to address myself to measures of relief of these descriptions: measures looking to economy, to frugality, to rigid accountability in the administration everywhere of the public service; measures of accountability which will hew to the line, no matter where the chips fly, not only by reducing the Army, not only by reducing the Navy, not only by dispensing with the innumerable placemen in all the departments of the Government whose services can be dispensed with, but by establishing a rule with regard to appropriations in all respects which shall inaugurate a new era financially and morally in the legislation of this country.

I look for relief in the diminution of taxes; in taking off the arms of labor the shackles by which they are bowed down; in efforts to enforce, by measures of administration and of legislation, the collection of those taxes which not only the law but morality and considerations beyond morality select as the particular and especial sources from which the revenue should not fail. I believe, sir, that if we can have such measures of reformation, such measures of economy, of retrenchment, of accountability, as this Congress has it in its power to adopt, without inflating the currency, without any device of that description, we can remove the burdens which weigh so heavily; we can restore to equanimity and to health the disordered interests of the country, and we can demonstrate, as the experience of nations and communities so often has demonstrated, the fallacy, the fatuity, and the fatality of a resort to great issues of paper money in times of need in order to regulate the finances or supply the public wants.

Now, sir, I trust that if there be any criticism or objection in detail to this amendment it may be so modified as to avoid that; that it may be put in language apt and exact to express the precise idea; and then, unless there be some objection to it besides the one already urged, that it is not necessary. I speak earnestly when I say that I hope Senators will not without a thought dismiss the proposition to let this bill, which seems destined to pass, carry with it a declaration that we do not intend, now at all events, in any way to give countenance to the idea of an expansion of the paper currency of the country.

The PRESIDENT *pro tempore*. The Senator from New York proposes to modify his amendment. The amendment will be read as modified.

Mr. CONKLING. I do not know that the Secretary can read it. I will read it slowly so that he may note it. It is to insert at the end of the bill:

Provided, That nothing herein shall affect the power of the Secretary of the Treasury to maintain the reserve authorized by section four of the act of June 30, 1864.

Mr. DOOLITTLE. Is that a further amendment that the honorable Senator proposes?

Mr. CONKLING. It is a modification of my former amendment to meet the objection of the Senator from New Jersey.

Mr. DOOLITTLE. I do not rise to take part in this discussion, but to inquire and ascertain the precise point before the Senate. I understand that under the existing law the Secretary of the Treasury is empowered to cancel $4,000,000 of the notes of the United States called greenbacks per month; and the provision which is now before the Senate reported from the Committee on Finance is substantially a provision to suspend that power on the part of the Secretary until Congress shall take some further action in the premises. I understand that to be the whole effect of the proposition from the Committee on Finance. I do not think that any inference can be drawn from that action of the Senate, that they are in favor either of immediate resumption of specie payments or of an expansion of the greenback currency; for the Senate now votes simply to suspend that power of the Secretary. It seems to me that is the whole question. He is now authorized to contract the greenback circulation $4,000,000 per month, and the question is, shall we take from the Secretary of the Treasury that power or leave it to him until Congress shall further legislate on the subject. If I understand the proposition, that is it and all of it. There are some Senators who have offered amendments, and it is alleged because certain amendments are voted upon and voted down therefore an inference is to be drawn that the purpose of the Senate is to expand the currency. The honorable Senator from Vermont, I believe, moved an amendment that specie payments should be resumed by a certain day. That was voted down.

Mr. MORRILL, of Vermont. The Senator is mistaken. I introduced a bill providing for the resumption of specie payments two years hence.

Mr. DOOLITTLE. It was the Senator's colleague from Vermont that introduced some amendment bearing on this question, and because it was voted down by the majority of the Senate in favor of the passage of this bill an inference is sought to be drawn that the Senate of the United States is in favor of an expansion of the currency. I protest that no such inference is to be drawn from it. Nothing is to be drawn from it except what the Senate say, and that is—and that is the whole of it—that the Secretary of the Treasury shall not have the power to contract the greenback circulation until Congress shall give him further power over the question. For myself, sir, I am looking forward to the time when specie payments are to be resumed. I am not in favor

of being thrown upon the high wings of an expansion which is to make a wreck of all values and credits throughout the land. I do not propose, however, to go into the discussion of that question, but simply to confine all I have to say to the precise point that seems to me to be before the Senate, and to protest that no inference shall be drawn either here or elsewhere, because the Senate now resolve to take from the Secretary of the Treasury this power to contract the greenback circulation, that, therefore, the Senate are in favor of the issue of more greenbacks in the circulation of the country. I protest that no inference is to be drawn one way or the other.

Mr. MORTON. Mr. President, if the Secretary of the Treasury had no power to contract the currency it would not be necessary for the Senate to say one word about it in the form of a bill; and as he has no power to expand the currency it is not necessary for us to say one word on that subject. It is a safe rule for courts always to confine the opinions they give to the issues in the case before them, and not to give opinions that may perhaps be of use in future cases; and it is a safe rule in legislation to confine the legislation to the particular matter that is to be enacted or prohibited without giving an opinion upon matters that are not involved in the bill. The amendment of the Senator from New York simply invites the Senate to make an *obiter dictum* upon the subject of the future expansion of the currency.

The other day, when the Senator from Maine [Mr. FESSENDEN] was speaking on this subject, I asked him whether he was in favor of having contraction go on until all this currency had been taken up or whether he expected contraction to stop somewhere mid-way, and I understood him to say that he expected contraction to stop somewhere short of taking up all of this legal-tender currency. Now, sir, we simply propose that Congress shall say that we have come to that point—that we shall stop——

Mr. FESSENDEN. The Senator will allow me to say that that was not the idea communicated by his question nor by my answer. The question, as I understood it, was, whether I thought we should be obliged to take up all this currency before resuming specie payments, or whether it might be done before we reached that point. I told him that probably it might be done before we reached that point. That was the question put to me, and what I answered.

Mr. MORTON. I think that amounts to about the same thing. I asked the Senator the question, whether he expected to resume specie payments by the act of taking up all the currency by contraction, or whether this contraction should stop before we reached that point and the resumption be accomplished then by some other method, and I understood the Senator to be in favor of stopping short of that point.

Mr. FESSENDEN. The Senator mistook me altogether. The idea communicated in the question and in my answer was precisely what I have stated. It is a mere matter of opinion.

Mr. MORTON. I accept the explanation the Senator makes. Now, sir, the Senator from New York ably argues that this bill if certain other words are not inserted in it will amount to nothing unless it is accepted as meaning something that is not contained in it, as meaning that it is the entering wedge to expansion. Sir, what is the foundation for that opinion? The Secretary now has the power to contract. He said to us in the month of December that he would not contract during that month, nor would he contract during this month, if I remember correctly, on account of the condition of the Treasury, and that he would suspend contraction until some action was taken by Congress; but if the Senate shall refuse to pass this bill it will be an instruction to the Secretary of the Treasury to go on with his contraction whenever he is able to do so, by saying to him that Congress is divided in opinion on the question, and therefore he is left free to exercise his discretion. It is to meet that precise question and that state of the case that we propose to take from him this power. The country wants to know what is to be the policy on this point, not to leave it to Mr. McCulloch's convenience to contract this month or the next, but to fix a policy by saying that he cannot contract at all. If we leave the question in its present position it is not settled; the country does not know what to rely upon, because the very division in Congress, the very failure to pass this bill, will be saying to the Secretary that as Congress is divided in opinion he can exercise his discretion on the subject. He would be authorized so to interpret it, and so he would interpret it.

Mr. President, I am not among those who are in favor of the indefinite postponement of specie payment. I believe that we must come to it within some reasonable time. We cannot do it now. It has been said that the way to resume specie payment is to resume at once. Sir, we cannot resume now; nor do I believe we can resume in a year or two years. We ought to come to it gradually by having a time fixed; and I do not believe that that time should be fixed short of three years. But it is not necessary now to argue that question.

Sir, this country is in a bad condition commercially, in great part for two reasons: first, because we attempted too rapidly to pay off the national debt, and thereby greatly exhausted our people; and secondly, because contraction was made too fast. There is no country in history that ever contracted its currency so rapidly as we have done in the last three years. We have gone too fast—not but what contraction was necessary, not but what we must get back at some time to a specie basis; but we were bound to look at the state of affairs; we were bound to accept the situation of the country at the end of the war. Some of our financiers were very sanguine at that time. It was thought we could pay off the national debt in ten years; some said in twenty years certainly; and I believe some very enthusiastic and earnest bond-holders in the city of New York proposed to subscribe their bonds and make a grand bonfire of them, and thus pay off a great portion of the debt at once; but that they never did. We found this country in a bad condition, with a heavy load of debt and a large volume of currency three years ago. We should have come down more gradually. We could not do all things at once. It is the attempt to rapidly return to specie payments and to rapidly pay the national debt that is in great part the cause of the present condition of things.

But, sir, it is said that this bill will be accepted by the country as an earnest of expansion. Allow me to say that if it has that effect it will be the result of the efforts of the opponents of the bill in this body. When this bill first passed the House nobody thought throughout the whole country, so far as I can learn, that it was the entering wedge of expansion; and the first intimation I ever heard of that in Wall street, New York, was the day after the vote had been taken on the amendment offered by the Senator from Vermont. If the opponents of this bill shall insist and shall be able to make the country believe that it is the entering wedge to expansion the responsibility will be theirs, not ours.

Mr. EDMUNDS. Will the Senator permit me to ask him a question?

Mr. MORTON. Certainly.

Mr. EDMUNDS. I ask the Senator whether he thinks that anybody would have been disturbed by the matter if he and his friends had voted in favor of my amendment stating to the country that we did not mean to expand?

Mr. MORTON. Yes, sir, if we had gone outside of this bill to settle that question. If the Senator from Ohio had moved as an amendment the bill reported by him from the Committee on Finance, and we had not accepted that amendment, it would be heralded throughout the country that we had voted down the bill reported by the Senator from Ohio. If the Senator from Missouri had attempted to hitch on as an amendment to this bill his amendment to the bill reported by the Senator from Ohio in regard to funding the debt, and we had refused to accept the amendment, it might have been said that we had rejected the amendment offered by the Senator from Missouri; but we have done none of these things, because we propose to confine this bill to the simple purpose of suspending an existing law. It cannot be made to say that we are in favor of other things. If there was a law authorizing the Secretary of the Treasury to expand the currency that would be a different thing; but there is no such law. If there was no law authorizing contraction we would not have to talk about this; we would have no bill here on that subject. But we are dealing with a law, while this amendment proposes not to deal with a law but simply with a matter of public opinion. Now, sir, it is the safest rule in regard to this matter and all other important bills of this kind to confine it to the particular subject in hand. I am not in favor of going out now to give an opinion upon the expansion of the currency, or upon funding the debt, or upon a three per cent. bond, or a five per cent. bond, or on any other question that is not involved in the simple question of preventing the further contraction of the currency.

Mr. EDMUNDS. My friend from Indiana cannot be ignorant of the fact that the public, by some strange delusion, connect the question of expansion with the question of contraction. They seem to be so infirm in intellect as to suppose that there is some logical and business relation between the question of whether we will stop where we are or whether we will continue to go down or whether we will rise. That is their fault, no doubt; but still it is a delusion which they cherish. Now, I think they might receive some comfort if the Senator from Indiana had told us in the course of his speech against further contraction, on the ground that the business of the country requires all the currency that we have, whether or not he believes that the business of the country requires more currency; but he fails to do it. He tells us you must look only on this particular part of the picture; you must only hold in your hand one half of the pair of shears at a time; that if you are to determine how much currency you are to float you must consider, when the question is up, only the point whether you will stop further contraction; that you have no right to consider the question whether the present volume is sufficient or deficient or in excess, but you must shut your eyes to everything except the naked proposition that there shall be no further discretion in the Secretary of the Treasury to contract. Now, I confess, Mr. President, that I am one of that part of the community who are intellectually unable to see that these questions are separable in substance. I am unable to perceive how we can fairly and justly consider the propriety of saying that the volume of United States notes shall be $356,000,000 without considering the question, involved in that necessarily, whether they ought to be less, as they may be under existing laws under certain circumstances, or whether they ought to be more, as I think they may be under existing laws and as we all agree that they may be to the extent of $50,000,000, which is called the reserve. Now, is there not fairly involved in this discussion without its being forced into it, but necessarily and logically involved in it, the question whether we ought to retain this discretionary power in the Secretary of the Treasury to inflate the currency to the extent of $50,000,000?

This bill has been pressed upon us on the ground that it was dangerous to repose in any officer of the Government, in one man, a discretionary power to contract the circulation at the rate of $4,000,000 a month; and yet the very gentlemen who maintain that argument with so much vigor are willing and determined that there shall be left in his hands the power to expand it to the extent of $50,000,000 in a

day. It may be a necessary power; I am not criticising the reposing of that discretion in the Secretary of the Treasury; I am only holding up to the Senators who urge passage of this bill one proposition that they advance as inconsistent with another that they insist upon. That is all.

When is this reserve to be used? When it is necessary to redeem temporary loans. Any Senator who will look into the statements will find that there is a great amount of temporary loans running along all the time. We have invested the Secretary of the Treasury with authority to issue, beyond the $400,000,000, $50,000,000 of United States notes payable on demand, to take up this temporary indebtedness. The temporary indebtedness falls due from time to time; it is short paper, so to speak. When he does issue these legal-tender notes they go into the circulation of the country like anything else, and he can only get them in again as the state of his circumstances, the amount of his cash in bank, so to speak, and the state of the business of the country and of the receipts from taxes, and all that sort of thing, will enable him to do it.

Mr. MORTON. With the consent of the Senator I should like to ask him a question.

Mr. EDMUNDS. Certainly.

Mr. MORTON. I ask the Senator if he believes that the Secretary of the Treasury has the power to issue notes in lieu of those that have been canceled under the act which it is proposed to repeal or suspend.

Mr. EDMUNDS. I believe he has, and I will endeavor to demonstrate it presently. I said the other day, in reply to the objection which my friend from Ohio made, and made fairly, with his view, to the amendment I had the honor to offer, that I believed under these acts the Secretary of the Treasury has power to reissue United States notes, as the law now stands, up to the $400,000,000 limit, and then, of course, as is agreed on the other side, to the extent of the $50,000,000 reserve in addition. But the first question involved in this problem is: is it desirable that the Secretary of the Treasury shall be told, "You shall not expand the issue of United States notes beyond the $400,000,000, which you will have authority to do if the amendment of the Senator from New York is not agreed to?" There are only two questions connected with this. The first is: is it desirable? and the second is: if desirable, is it necessary and safe to say so? Every Senator who believes that it is not desirable that this discretion of the Secretary, if it exists, should be curtailed, is, of course, disposed to vote against this amendment, and I am very much afraid that my friend from Indiana is one of those Senators; that he will vote against the proposition of the Senator from New York on the ground that, considered in and of itself, and in connection with the question of the volume of the currency, it ought not to be adopted—not because the law already restrains the Secretary of the Treasury, but because the currency, in his judgment, ought to be expanded; and although he opposes reposing discretion in the Secretary of the Treasury to contract, he is perfectly willing that the Secretary should have a discretion to expand.

I hope that every Senator who believes that this permission to expand ought not to exist will be willing (although he may believe that the law, carefully construed, does not authorize it) to say so in terms to prevent any misapprehension in the mind of the present or any future Secretary.

The question is, then, is this amendment unnecessary? The Senator from Ohio has put himself upon the defensive, and has told us that if anybody supposed there was any law to authorize the Secretary of the Treasury to carry the amount of outstanding United States notes up to $400,000,000 aside from the reserve he would be happy to have the law authorizing it produced. Now I will endeavor to convince my friend from Ohio that taking these acts together the Secretary has that power. I hope he has not.

Mr. HENDERSON. No doubt he has the power.

Mr. EDMUNDS. I am addressing myself to the Senator from Ohio, who holds that he has not the power. My friend from Missouri says there is no doubt that he has the power. I should be glad to agree with the Senator from Ohio, but I have no doubt that he has the unquestionable power to carry the whole amount of outstanding United States notes up to $400,000,000, and then the power to carry it to $450,000,000 under the authority to issue the $50,000,000 reserve to take up temporary loans. As my friend, the chairman of the committee, has invited anybody who believes the law now authorizes the Secretary of the Treasury to carry up these notes to $450,000,000 to show it, I proceed to do so.

The first section of the act of 25th February, 1862, provides—

"That the Secretary of the Treasury is hereby authorized to issue, on the credit of the United States, $150,000,000 of United States notes, not bearing interest, payable to bearer at the Treasury of the United States, and of such denominations as he may deem expedient, not less than five dollars each."

The next act is that of 11th July, 1862, which provides—

"That the Secretary of the Treasury is hereby authorized to issue, in addition to the amount heretofore authorized, on the credit of the United States, $150,000,000 of United States notes, not bearing interest, payable to bearer at the Treasury of the United States, and of such denominations as he may deem expedient."

The next is the act of the 3d of March, 1863. Section two of that act authorizes the issue of $400,000,000 of Treasury notes, and then provides in the same section:

"And said Treasury notes may be made a legal tender to the same extent as United States notes, for their face value, excluding interest; or they may be more exchangeable, under regulations prescribed by the Secretary of the Treasury, by the holder thereof at the Treasury in the city of Washington, or at the office of any Assistant Treasurer or depositary designated for that purpose, for United States notes equal in amount to the Treasury notes offered for exchange, together with the interest accrued and due thereon at the date of interest-payment next preceding such exchange."

Then the third section provides—

"That the Secretary of the Treasury be, and he is hereby, authorized, if required by the exigencies of the public service for the payment of the Army and Navy and other creditors of the Government, to issue on the credit of the United States the sum of $150,000,000 of United States notes, including the amount of such notes heretofofe authorized by the joint resolution approved January 17, 1863, in such form as he may deem expedient, not bearing interest, payable to bearer, and of such denominations, not less than one dollar," &c.

Then we come to the act of the 30th of June, 1864, which contains this provision, and I ask my friend's special attention to it:

"And the Secretary of the Treasury may redeem and cause to be canceled and destroyed any Treasury notes or United States notes heretofore issued under authority of previous acts of Congress, and substitute in lieu thereof an equal amount of Treasury notes such as are authorized by this act, or of other United States notes."

Mr. SHERMAN. If my friend will allow me, now here is the point——

Mr. EDMUNDS. Will my friend wait until I finish the recitation of the statutes, and then I will hear him.

This act proceeds:

"*Provided*, That the total amount of bonds and Treasury notes authorized by the first and second sections of this act shall not exceed $400,000,000 in addition to the amounts heretofore issued; nor shall the total amount of United States notes, issued or to be issued, ever exceed $400,000,000, and such additional sum, not exceeding $50,000,000, as may be temporarily required for the redemption of temporary loan."

Now we come to the act of the 28th of January, 1865, which contains this provision:

"*Provided*, That this act shall not be so construed as to give any authority for the issue of any legal-tender notes, in any form, beyond the balance unissued of the amount authorized by the second section of the act to which this is an amendment."

That is to say, the limitation is again kept that the total amount issued and to be issued shall not exceed $400,000,000 as the rule and $50,000,000 additional as the exception. Now we come to the act of the 12th of April, 1866. The first section provides—

"That the act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865, shall be extended and construed to authorize the Secretary of the Treasury at his discretion to receive any Treasury notes or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value which have been or which may be issued under any act of Congress, the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt: *Provided*, That of United States notes not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month: *And provided further*, That the act to which this is an amendment shall continue in full force in all its provisions, except as modified by this act."

Now, when we turn to the act of June 30, 1864, the section I have read is: "And the Secretary of the Treasury may redeem and caused to be canceled and destroyed any Treasury notes or United States notes heretofore issued under authority of previous acts of Congress, and substitute in lieu thereof an equal amount of Treasury notes, such as are authorized by this act, or of the other United States notes," with a proviso that we shall not go beyond the $450,000,000. When you read that in connection with the proviso of the act of April 12, 1866, what do you find? You find that the act of 1864 authorized the Secretary to take in and cancel and reissue at his discretion in any amounts that he saw fit up to the full limit. Now, what did the act of 1866 do? It merely by this proviso limited the rate and times at which he should perform the function that the act of 1864 devolved upon him. It reads thus:

"That of United States notes not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month."

Now, what do we find, taking all this series of acts together? We find that the standard of the policy of the law, to borrow the expression of the Senators who are versed in finances, was that the steadfast limit should be $400,000,000 and the moveable limit for temporary emergencies $50,000,000 more. We find that the Secretary of the Treasury was authorized to retire and to reissue at his discretion up to the total amount of these limits. Then we find that the act of 1866, the repeal or modification of which is under discussion, provided that that should not go on at a greater rate than at so many millions in a month, that he might retire and cancel. Did not that, inasmuch as it was no direction to him but a mere authority, leave in force the preceding acts which gave him clear authority to issue at any time when he saw fit for the purpose that the law authorized, to pay debts of course, up to the limit? My friend from Ohio says it is plain it did not. I wish it were so. It appears to me to be plain that that authority does exist.

Now, if the only objection of my friend from Ohio—and I assume that it is because he says so, if I rightly understand him—is merely that this provision offered by the Senator from New York is unnecessary because the law is so now, why should he, if anybody among the public, if anybody in the Senate believes that there is even a doubt about it, object to its being inserted? Has he not to-day set us the example of providing against a possible uncertainty by modifying the amendment reported from his own committee, stating himself that he did not believe it to be necessary as probably it was not; and did he find any Senator on this side objecting on the ground of its uselessness? By no means.

I do not wish, Mr. President, to occupy the time of the Senate in these general discussions as to the merit of the measure itself; but I do

put it to Senators whose only real objection is that this is merely an unnecessary provision, that it is sticking a little too much in the bark to so stoutly oppose it on that ground.

Mr. SHERMAN. I think that if the Senate was in a condition to look at these laws they would come to the conclusion I have done in following the Senator, that the very reading of the laws furnished by him makes the point I made clearer than before. There are but two laws that really affect the question. The question is, has the Secretary of the Treasury the power to issue notes in place of those canceled by him under authority of law. The first law to which it is necessary to refer is the act of June 30, 1864. That act gives the Secretary of the Treasury the power to cancel notes, and if the power rested there it is perfectly clear, and my friend from Vermont would admit it to be clear, that he would have no power to reissue them. The power to cancel implies the destruction, the putting out of the way of the notes canceled. Unless the power is expressly given to reissue or rather to issue new notes in place of the canceled ones, as a matter of course the power does not exist. Under the act of June 30, 1864, the power to cancel is given and the power to reissue is given, so that undoubtedly the Secretary of the Treasury had the power, and exercised it daily, of issuing and reissuing notes canceled under the act of June 30, 1864. But when you come to the act which is now in force, the act which regulates the contraction of the currency and under which the contraction has gone on, it provides no authority whatever for reissuing notes in place of those canceled. It authorizes the cancellation of $10,000,000 the first six months, and $4,000,000 a month thereafter, and gives no authority to reissue. When you look to the general purpose of that act, which was an act to convert the currency and to reduce it, you see that the object of the legislation was to provide for the reduction, the cancellation, the destruction of the currency, the gradual absorption of it into bonds. Surely without express power conferred by law to issue other notes in place of those authorized by this act to be canceled there would be no authority to reissue.

I am not in favor of issuing any more United States notes, but the objection I have to this amendment is that it introduces another phase of our financial problem into this bill, and involves a sending of it back to the other House again to create debate and contention. Now, I think Senators ought to be willing to let the thing stand as it as at present. The Senator from Vermont or the Senator from New York can at any time introduce a bill on this subject and take the judgment of the Senate upon it; or they can wait until the Committee on Finance report some bill upon which we hope to get a majority of the Senate, and propose it as an amendment to that. There is no hurry, no haste in the matter. I say to the Senator from Vermont that if there is any trouble about this matter he has created it himself. I do not say this unkindly of him; but by offering his amendment the other day he has created doubt. The very fact that he offered a proposition of that kind implied a doubt, and that is enough for people to gamble in gold upon; and if there are any fluctuations now in the gold market caused by our discussions they are caused by the amendment offered by him.

Now, the only question for the friends of the bill is whether we shall allow an outside question, not necessarily involved in the measure before us, to delay or endanger the passage of the bill. If I thought there was any doubt on this point, or any probability that the Secretary of the Treasury would, under the authority of the law we are about to pass, issue notes in the place of those canceled, I would agree that it ought to be prevented; but we know that is an impossible thing; we know it is not contemplated by the Secretary. There is no authority, in my opinion, to issue any notes whatever beyond the amount now outstanding, except the authority conferred by the act of June 30, 1864, to redeem temporary liabilities. and that is provided for by the $50,000,000 reserve.

Mr. CONKLING. Mr. President, this bill is to go back to the House of Representatives any way, and I am inclined to think its fate in the House will be quite as easy if we make it right as if we make it wrong before we send it back. Therefore, I lay out of consideration the suggestion that by adopting this amendment we send the bill back to the House. As far as the House indicated anything by what it did, it was a disposition fairly and effectually to put up the bars at both ends, if I may so say, and I think we are bound to take, as it appears, fairly the disposition of the House. Therefore, if in addition to the alterations already made in the bill, which are to carry it back, we perfect it and make it more effectual in doing what the House intended, surely we do not thereby jeopard it when it returns to the House.

Now, sir, allow me to make one other suggestion. I did not suppose in offering this amendment that it was necessary or proper for me to be armed with all the citations from these laws. I had a general memory of them, as we all have; but I had not looked, and I have not yet looked, to see precisely how all these sections taken together would leave this question.

I am not prepared to say, as the Senator from Missouri says, that to my mind it is entirely clear that the Secretary has this power. I do not propose to pass upon that question at all. I supposed it was enough that there was a doubt about it in fact, a doubt about it at large, to render it proper, when we had the subject before us, to put it so that there could be no doubt. As, however, the question has been made, I want to call the attention of the Senate for one moment, and especially the attention of the Senator from Vermont, to section three of the act of March 3, 1863; and before reading it I will admit—I think the fact is so, but at all events I will admit in the argument—that the design of that section was that the Secretary of the Treasury should only reissue in the place of notes canceled for a particular reason; but just look at it as it stands:

"Any of the said notes, when returned to the Treasury, may be reissued from time to time as the exigencies of the public service may require; and in lieu of any of said notes, or any other United States notes returned to the Treasury and canceled or destroyed, there may be issued equal amounts of United States notes such as are authorized by this act."

Mr. HOWARD. Has not that been repealed?

Mr. CONKLING. No sir, it has not been repealed. The design of it originally, if you please, (and I rather think such was the fact,) was to clothe the Secretary with power, when notes came back mutilated, defaced, worn out, to cancel them and put out others in their place; but, nevertheless, as the Senator from Michigan perceives at once, it stands as a broad abstract power upon the statute-book.

Mr. HOWARD. A general authority.

Mr. CONKLING. Certainly; and I should like to know what are these notes that we have called in under the proviso of the oft-quoted act of April 12, 1866? Notes in the language of this act, in the first place, "returned to the Treasury;" in the second place, notes "canceled or destroyed," and indeed they are both. Can any Senator draw an act now which would describe more precisely those notes than this authority, this enabling provision, describes them?

Now bear in mind that gentlemen are legislating here who have evinced, without disguise their want of confidence in the Secretary of the Treasury. I beg to say that I am not ambitious to be counted among those who have the greatest confidence in the Secretary of the Treasury. I think he is fallible, quite as much so as several other people that I have known in the course of my life. But bear in mind now that we are legislating upon the idea that Congress is to assert its right and duty to fix the volume of currency and at the same time to deprive the Secretary of every discretion not indispensably necessary for the administration of his office. Is it indispensably necessary to leave to the Secretary of the Treasury, under a provision standing like this, broad and general as the Senator from Michigan says it is, the power to determine for himself whether by his mere *ipse dixit* on a certain day ten millions, twenty millions, thirty millions, forty millions, aye, ninety millions, shall be added to the currency of the country?

I wish to commend to the lips of gentlemen who have this want of confidence the suggestion which has been made so often about the blame that rests upon somebody for giving him this enlarged discretion. I undertake to say that no lawyer can look at these acts which are to be read *in pari materia*, which are not suspended, which are not interfered with by more recent action—no lawyer can look upon them and on a casual examination at least affirm that the question is free from doubt. On the contrary, I think, taking the statutes as they stand, the least that can be said by any judicial mind is, that the balance of the argument is in favor of the opinion adopted without reserve by the honorable Senator from Missouri.

Now, sir, however slight that doubt may be, if this legislation is sincere, if it is candid, if it is intended to mean nothing more than appears—and far be it from me to suggest that by anybody inside or outside of this Chamber a different intention is entertained—why not let us fix the currency *in statu quo*? If we put up the bars at one end so that it shall not be less than what it is at the present time, why not also put them up at the other so that it shall not be more? The Senator from Missouri asks me, inaudibly to other Senators, why I want to do this, and I repeat his question aloud. I want to do it for reasons the whole of which it would take me some time to state; but suffice it to answer the question by saying that I want to do it to allay the doubt upon which one Senator says men are gambling in gold on the street to-day; I want to do it in order to put down that doubt in consequence of which since we have been discussing this bill gold has risen ten per cent., and I think about eleven.

Mr. HENDERSON. Will the Senator permit me to state a fact which I have no doubt he himself knows, but perhaps has forgotten for the moment, that immediately after the passage of this bill suspending the power of contraction through the House of Representatives by a two-thirds vote gold fell from 141 to 133. Now, it is true, it has gone back to 141; but I do not think the price of fifteen or sixteen millions of gold upon Wall street in New York, which has been passing from hand to hand during the war, should have anything to do with our legislation.

Mr. CONKLING. I thank the Senator for his suggestion. It reminds me of what I might have forgotten at the moment, namely, that as soon as this bill was passed by the House of Representatives there went out with the announcement of that fact a public declaration everywhere that it would never get through the Senate.

Mr. HENDERSON. Who authorized that?

Mr. CONKLING. I do not know, sir; but that was said, as every Senator knows, far and wide in the newspapers, by that same sort of authority, I suppose, which manufactures all sorts of sensations radiating from this capital.

Mr. CORBETT. With the permission of the Senator from New York I will state that I received letters from prominent men in New York at that time, saying that they depended upon the Senate to protect them against the inflation policy of the other House which this legislation, they supposed, indicated.

Mr. CONKLING. They are sharp and sagacious men: I hope they did not lean upon a broken reed. But, sir, I was about to say that in the newspapers and in the streets, at the great

money centre, and everywhere—surely nobody will deny what I say—the understanding was that this bill was not to pass the Senate; the understanding was beyond that——

Mr. SHERMAN. Pardon me for interrupting the Senator; I wish to understand him. It is a kind of arithmetic which I cannot get through my head. Before the bill was introduced in the other House gold was 141, and after the bill was passed by that House it went down to 133. Now I cannot understand the problem how it should go up or down merely because it was supposed the Senate would defeat the bill, and before the Senate had acted, on the mere supposition that the Senate would probably defeat the bill the passage of which by the other House had put down the price of gold about eight per cent.

Mr. CONKLING. Nobody sees better than I do the unequal feast to which I am invited here when these distinguished financiers put me on the stand and cross-examine me on such a question; but really I am not so entirely destitute of financial knowledge as not to be entirely able to answer this question. Does not the chairman of the Committee on Finance know that when this bill was passed by the House of Representatives there was about to be paid the January interest on the public debt in gold? Does he not know as well as I do that that and other causes wholly foreign to this question were bearing down the gold market and continued to bear it down, notwithstanding the passage of this bill by the House of Representatives? Does he not know, as I have stated, that the publication was universal everywhere of the belief that it was not to pass the Senate; that it was referred here to the Committee on Finance; that it was reported back with a statement somewhat indefinite, made by the Senator himself, which led me sitting here and other Senators sitting near me and certainly the public to understand that not within any very short period was the matter to be taken up at all. Therefore, to use a phrase of the street, the fact that the bill was passed by the House was discounted, discounted at once along with the idea that it was not to pass the Senate and was to abide the event of general financial legislation.

Then the approaching payment of the January interest carried down the gold market, and it should have continued to carry it down, and the other causes which were operating should have continued to carry it down; but despite of all these we find that the bulls have succeeded in putting up gold ten or eleven per cent. I do not know what the quotation is today, but it left off last night at 141¼. When this discussion commenced, as has been already said, it was down to 132.

I was answering the Senator from Missouri, and I will now respond to his question as to why I want to adopt this amendment. I will say that I want to adopt it in order to do all we can, be the same more or less, if the main features of this bill are to pass, to see that nothing goes with it in addition which does any harm.

Mr. HENDERSON. The Senator misapprehended my question. I asked him what good there is in contraction. We have been contracting and we find that we are going in the wrong direction. I agree with the Senator that the Secretary of the Treasury has the right to increase the greenback circulation to $400,000,000. I have been of that impression; and I fully agree with the Senator from New York and the Senator from Vermont in their construction of the law, and so far as I am concerned I would like to see the Secretary exercise the power. I do not wish to dodge this point; I wish to be understood; I want to see the Secretary exercise this power; and if I had authority to do it I would make him exercise it. In other words, if there is a public debt drawing interest that within the limits of $400,000,000 of circulation he could pay and we could get a circulation which is needed at least in my section of the country without interest, I would have him do so; and that is the point to which I meant to call the attention of the Senator from New York. I say that it is the true policy, in my judgment, for him to exercise that power; but I am satisfied that the Secretary of the Treasury, with his views of financial affairs, will not expand the currency.

Mr. CONKLING. That is, this particular Secretary.

Mr. HENDERSON. This particular Secretary will not, but I should desire him to do it to the extent of $400,000,000.

Mr. CONKLING. I did not apprehend the scope——

Mr. RAMSEY. I should like to inquire of the Senator from New York if he will give way to a motion to adjourn. ["No, no."]

Mr. CONKLING. If the Senator from Minnesota will allow me, I will complete what I have to say in a few moments, and then his motion will be in order. I was going to say that I did not apprehend the scope of the question of the Senator from Missouri. If I had I should not have undertaken at this time to answer it. I have to say to him, however, that by putting that question he starts an inquiry which all of us have been debating for years, and each man has taken his part in debating it. I beg to assure him further that when it arises, as it doubtless will on measures before his committee, I shall be ready, as far as I am able, to justify the faith that is in me. I believe that nothing would be more disastrous, nothing more suicidal to this country, than to advance without limit upon that track which the Senator indicates when he talks about exchanging an interest-bearing debt for a currency which bears no interest. I apprehend that there is nothing in the shape of disaster which cannot be attained in that way; and my reasons for that belief at a proper time I will endeavor to give to the Senator from Missouri.

Now, sir, returning to this question, I say here is a doubt in fact and in law which no man can gainsay; and with all respect to this Senate and to every member of it, it will be idle to disclaim individually or as a body the logical result, the conclusive evidence which will be afforded by depriving the Secretary of the power to contract the currency and at the same time leaving open a probable door, or even a possible door, by which he may expand it. If we mean to leave it in *statu quo* no harm can come of saying so. Right wrongs nobody; but if we flinch from doing it I can conceive of no logical reason except that candidly avowed by the Senator from Missouri, that in his view the power exists, and it is desirable to preserve it.

Mr. CONNESS. I move that the Senate do now adjourn.

Mr. SHERMAN. On that motion I call for the yeas and nays. I want the sense of the Senate as to whether we are to finish this bill to-night. I think, by taking the yeas and nays on this motion we can test that question.

Mr. CONNESS. I think it is very evident, or should be to the honorable Senator, that we cannot get a vote. This discussion widens as we go on.

Mr. SHERMAN. We must come to a vote at some time.

Mr. CONNESS. I am perfectly willing to have the yeas and nays taken.

Mr. SHERMAN. I think we can have a vote in half an hour if we go on.

The yeas and nays were ordered; and being taken resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Bayard, Chandler, Conkling, Conness, Corbett, Cragin, Davis, Drake, Edmunds, Ferry, Fowler, Hendricks, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sumner, and Van Winkle—20.

NAYS—Messrs. Anthony, Cameron, Cattell, Colo, Dixon, Doolittle, Frelinghuysen, Harlan, Henderson, Howard, Howe, Morrill of Maine, Morton, Norton, Pomeroy, Sherman, Stewart, Thayer, Tipton, Trumbull, Wade, Willey, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Buckalew, Fessenden, Grimes, Guthrie, Johnson, Ross, Saulsbury, and Sprague—8.

So the Senate refused to adjourn.

Mr. HENDERSON. Mr. President, I shall not take up the time of the Senate in discussing this measure; but I wish to advert to one argument which has been used here in opposition to it, and that is the constant rise in gold in New York. I have obtained the gold quotations to-day. The Senate will recollect that gold was 141¼ yesterday. It opened this morning at 140⅜. It has now gone down to 138⅜. I presume that gold was affected somewhat by an apprehended political difficulty here in reference to the Secretary of War. Something of that character in all probability affected the market. Perhaps our proceedings in secret session had more to do with the price of gold than our proceedings in open session.

Mr. President, is it intended by gentlemen to go on contracting the currency until paper comes upon a perfect equality in value with gold? Is that the object? Is that the design? I should like to know from the history of the gold transactions in New York at what particular period it is likely that we shall arrive at that result. Looking back at the price of gold during the war, a statement of which I hold in my hand, I find that on the 20th of July, 1864, gold sold for 285 in the market in New York; and on the 1st day of September of that year it sold for 189, and the circulating medium had been considerably increased in the mean time. Will Senators tell me how this extraordinary fact occurred? I suppose that it was in consequence of other causes than the amount of the circulating medium. Perhaps it was owing to the general credit of the nation. Perhaps somebody feared at that time that General Sherman would not be successful in his fight with General Hood at Atlanta; and hence it was that gold went up to 285. It depends upon the general credit of the Government, and not so much upon the amount of circulating medium at the time.

Again, in March, 1865, before it was at all certain that General Lee would surrender, before it was at all certain that our arms would be successful in front of Richmond, gold went down to 148½. At a subsequent date in April, 1866, when the circulating medium was just double what it is now, gold came down to 125. From that day to the present time contraction of the currency has been exhausting in the last degree, and yet gold to-day is 138. Will some Senator tell me, after these facts are before him, that the amount of the circulating medium controls the price of gold in New York? It cannot be so; it is utterly impossible. If contraction were to bring us to specie payments, if this is the cure-all for the evil of our condition, I say we ought to have arrived at specie payments long since. In April, 1866, the circulating medium, according to a speech made about that time by the Senator from Vermont, [Mr. MORRILL,] was about nine hundred millions. What is it to-day? It is not now much over one half of that, and yet we are further from specie payments than we ever were.

Mr. President, I said that I agreed with the Senator from Vermont [Mr. EDMUNDS] and the Senator from New York [Mr. CONKLING] in regard to the power of expansion by the Secretary of the Treasury. I go further and say I am in favor of the exercise of that power. If it were in my power to do so I would, as I have already stated, make the Secretary pay a proportion of the debts of the United States so as to increase the circulation to $400,000,000. We have contracted the compound-interest notes and the legal-tender currency until the country is upon the verge of ruin. If it is not so, why is the Senate to-day discussing the propriety of taking away the power of contraction from the Secretary at all? Why is the Senate about to pass this bill? Because contraction has been carried to a dangerous extent. Hence it is said it is necessary to take away the power.

But, then, gentlemen rise on the other side and say, "We admit that you are going to pass this bill; we see it; we recognize the fact; but then will you not do something else; will you not say that we shall stand just where we are?" Why, Mr. President, should we stand where we are? Do these gentlemen not know per-

fectly well that the contraction will be exhaustive in the course of the next four or five months, even if we pass this bill? The compound-interest notes constitute a reserve in the banks, and the banks can keep out a hundred dollars circulation on every fifteen dollars of compound-interest notes which they hold. These notes will be paid off during the next five or six months; they will be liquidated; and the banks themselves in order to come into line must contract at the rate of one hundred dollars to fifteen, and in the cities at the rate of one hundred dollars to twenty-five. So this contraction will continue, and what is to relieve it? Is there anything at all to relieve it? Nothing.

Mr. President, I am warned that the Senate is tired. I do not know that I am responsible for that. I have not consumed time on this subject, and I do not wish now to speak, but I desire to protest against this condition of affairs which is being forced upon the country, and which, in my judgment, will ruin or bring to bankruptcy the western States. In the establishment of the national banking system you limited the currency to $300,000,000. It might have been very well at that time to limit it. Why? Merely because you had then some seven or eight hundred million dollars of United States paper as a circulating medium. Congress got us into this difficulty by assuming to know how much currency the people wanted. When we get rid of the insane idea that Senators—I acknowledge their ability—are the proper persons to settle such questions we shall be able to get along. If I were to go hunting for a legal opinion upon a question of law or of constitution; if I were hunting for wisdom to solve such a question, to whom would I prefer to go than to my friend from New York and my friend from Vermont! But when I am going to ascertain the amount of currency that will be needed by the business interests of this wide-extended country; when I am going to learn how much is needed in the Mississippi valley, how much is needed in exhausted and ruined South, how much is needed in the Northwest upon the great lakes of Wisconsin and Illinois, I surely would not go to these gentlemen. These gentlemen ought not, as they will not, pretend, when the question is put to them directly, to assume in this Senate to know exactly how much is needed.

Mr. CONKLING. Will the honorable Senator allow me to ask him a question?

Mr. HENDERSON. Certainly.

Mr. CONKLING. I inquire of him whether the organ of his committee in reporting this very bill did not commend it to the Senate first of all as a measure right in itself because it asserted the power and the duty of Congress to fix the precise volume of the currency in place of leaving it to any other agency whatever to measure? And if that be so, then I ask the Senator how it is that, turning the argument upon those of us who have been opposing this bill, he imputes to us a disposition to arrogate to ourselves a knowledge which we all know we do not possess.

Mr. HENDERSON. I do not recollect that the Senator from Ohio, the very able chairman of our committee, took any such position. I do not remember any such remarks of his upon the floor of the Senate. He may possibly have been guilty of such an assertion as that it is the duty of Congress to fix the amount of the circulating medium of this country. If he has said any such thing he had no authority from me, as one member of the committee, to say so; and I take the privilege, even if such be his view, of differing from him and agreeing with my very excellent friend from New York, as I do in another matter, upon this occasion. I will agree with anybody who agrees with me; and it is altogether likely, when the chairman disagrees with me, that we are not together. [Laughter.] But really I would dislike very much to hear the Senator from Ohio take any such position, because I cannot believe for a moment that such is his opinion. A great error was committed in framing the national banking law in determining that the country should not have and never would require more than $300,000,000 of notes. If you are going to keep the national banking law as it now is, limiting the amount of circulation to $300,000,000, then stop this contraction policy. If you will so amend the national banking law as to enable anybody who complies with its terms to establish a bank in any section of the country where a circulating medium is needed, I will go as far as he who goes farthest upon this floor to secure at an early day specie payments.

I am no wild expansionist. I have been a hard-money man all my life. I am not in favor of a rag currency, as it is called. But I do recognize the fact that we must approach the condition of specie payments slowly and gradually. Specie payments is a healthy condition of the commercial relations of the country; it is a healthy condition of business; and when we remove the cause of the disease, specie payments, I apprehend, will come, no matter what the volume of currency.

Gentlemen are frightened about the amount of currency, and they point to the gold-board at New York I apprehend that those who operate there have not over fifteen millions of gold to speculate in to-day. The transactions there are unreal; there is but little gold there. The operations at the gold-board remind me of the story I have heard of a couple of Yankees upon a rock in the ocean who went on swapping knives eternally, placing a different value upon the knives in each trade. I apprehend that $15,000,000 will cover the entire sum that has regulated the price of gold during the war. The operations there are speculative to the very last degree. The gold is not actually delivered when sold. Contracts are made on which a "margin" is paid, and paid in paper. If gold falls of course the purchaser loses; if it rises the purchaser gains; and the margin is paid one way or the other. There are no real transactions. Now, sir, I hear the Senator from Minnesota say that he wants to adjourn.

Mr. RAMSEY. I have not said anything of that kind, although I feel that way very strongly. [Laughter.] I feel it intensely.

Mr. HENDRICKS. Will the Senator from Missouri yield to a motion to adjourn?

Mr. HENDERSON. No sir; I have been for two weeks asking for a vote on this bill, and I have been exceedingly anxious to obtain it; but if Senators are determined to talk against time I am as good a hand at that as anybody I know of. [Laughter.] If the Senate is desirous of ascertaining how disagreeable it is to sit here when a man is hungry and listen to speeches that are unpalatable, I ask gentlemen to take their seats whilst I continue. [Laughter.]

Mr. DRAKE. I would ask my colleague to be so kind as to leave a portion of the evening to me, for I wish to go into a general discussion of all financial questions this evening, and my friend from Connecticut [Mr. FERRY] is ready to follow me in a similar discussion.

Mr. CONNESS. It is apparent, I think, that we cannot get a vote to-night on this bill, and I hope the Senator from Missouri will give way to a motion to adjourn.

Mr. HENDERSON. No, Mr. President; I cannot yield the floor. I am very much interested in the remarks that I am making. [Laughter.]

Mr. CAMERON. If the Senator from Missouri will allow me to say a word——

Mr. HENDERSON. No, sir.

Mr. CAMERON. Will not the Senator from Missouri allow me to say a word?

Mr. HENDERSON. No, sir; I will not yield the floor, not that I wish to treat my friend with any discourtesy, but I want the bill passed and passed now. I desire, if possible, to reach a vote upon this question.

Mr. President, the currency has been contracted sufficiently. I do not want to declare by this amendment that no future legislation at this session shall under any circumstances look to the expansion of the currency. I do not wish to forestall legislation that may possibly look to expansion. I do not wish the Senate to commit itself until that question has been discussed. I do not pretend that I can say anything to enlighten any gentleman on the subject, but I think I can say something that ought to induce the Senate not to adopt the policy of contraction or even keep the amount of the circulation at what we now have.

Mr. President, we must adopt the idea that finance is like any other practical and sensible question. We must come to the conclusion that it is to be dealt with just as a man would deal with his debts. If a man can take in a bond upon which he is paying six per cent. interest and put out a note upon which he pays nothing I apprehend the country will find, and the country will believe ultimately with me, that that man is making money by the transaction. I hold that this Government ought to do the same thing; and when the people are informed that you will not permit a man holding a six per cent. security to take greenbacks or some sort of security not bearing interest for it, I apprehend that the party which commits itself to any such policy will go by the board. But gentlemen say you must not make paper so issued a legal tender. Suppose, then, we say that it shall not be a legal tender for any debts already contracted and make it apply to those hereafter contracted, what harm will that do? If we intend to pay the debt, we intend to pay it either in greenbacks in the shape of Treasury notes, in the shape of certificates, or in some other shape. When you come to look at this question practically and in such a point of view as to save the Government from one hundred and thirty to one hundred and fifty millions of gold interest per annum, your action will be favorably received by the country.

But the Senator from New York says we must look to economy and we must force ourselves up to the proper point by abolishing all sinecures, by abolishing all offices that unnecessarily take money from the Treasury, and by cutting down the appropriations, and then we shall have satisfied the people in the proper way, instead of giving them additional currency whenever they demand it. Mr. President, the Senator from New York had better establish that system of economy before he cuts off the circulation. Does he expect the people to pay the necessary amount to meet the interest on the public debt and to carry on the Government, with its present exorbitant appropriations and expenditures, if it takes all the currency from the people? I apprehend they will be unable to pay the interest and the necessary amount to meet the appropriations. But that seems to be the policy to-day. The idea seems to me, and it seems so to the country, to be by mere contraction to make a bond now worth seventy cents worth one dollar. I think that long before that bond is worth a dollar it will be worth less under this system of contraction. I make no threats about it, but I fear that long before you reach the payment of your bonds, in other words, long before you bring them to par under such a system, you will have bankrupted the entire country. And although the Senator from Massachusetts claims that the New England States and all the eastern States have got rich during the war, they will find themselves broken long before the bonds are worth dollar for dollar in coin under a system of contraction.

Mr. EDMUNDS. He said the northwestern States.

Mr. HENDERSON. No; he said the eastern States.

Mr. WILSON. I said that we had all made money; but I thought the northwestern States had especially.

Mr. HENDERSON. Senators talk learnedly about good faith. My friend from Vermont talks learnedly about good faith. He asks, do you propose to pay the bonds in greenbacks or in any sort of currency of the Government? Mr. President, I do not pretend that I am in favor of any such proposition. I hope that we never shall come to it. There is no necessity for it, unless we insist on this

exhausting and inexorable policy of contraction. If Senators insist upon that as the great medicine for our disease they will find their bonds paid in that sort of currency or else in nothing.

Mr. EDMUNDS. Which would be the same thing.

Mr. HENDERSON. I do not know about that. Senators jump at that conclusion. Why would not the Government securities in that shape be worth something? It would be simply because they do not bear interest. Let me remind the Senator from Vermont that the Government of Brazil to-day is selling its bonds bearing four per cent. interest in the London market for 84, and side by side our American six per cent. interest in gold are selling at 71¼. Will the Senator tell me why that is?

Mr. EDMUNDS. Certainly.

Mr. HENDERSON. I should like to know.

Mr. EDMUNDS. I will tell the Senator with the greatest pleasure. It is obvious to anybody who has as much knowledge as my friend from Missouri, and he knows just as well as I do. The reason is that the credit of the Government of Brazil in the market of London is a good deal better than ours; and the reason of that is because we owe a great deal more money, and our paper that is payable on demand is dishonored.

Mr. RAMSEY. I should like to ask the Senator from Vermont to give way to a motion to adjourn.

Mr. HENDERSON. The Senator from Vermont is not entitled to the floor, and I am. Mr. President, it is rather my impression that the Senate is about ready to vote. If I were certain that they were ready to vote I should yield the floor.

Several SENATORS. Let us vote.

Mr. HENDERSON. Unless the Senate is ready to vote and I get a pretty general assurance to that effect I will proceed.

Several SENATORS. Let us vote now.

Mr. HENDERSON. Very well; I will yield.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York, as modified.

Mr. EDMUNDS. Mr. President——

Mr. SHERMAN and others. Let us vote.

Mr. EDMUNDS. It is very kind in the Senator from Ohio, the chairman of this committee, who has imputed to me the putting up of gold in the New York market, to insist upon a vote without my having an opportunity to reply.

Mr. SHERMAN. If my friend feels at all sore about that I will withdraw the suggestion. I did not intend to impute anything wrong to him; I simply said that that was the effect of his motion. I will withdraw what I said, if he considers it any reflection on him.

Mr. EDMUNDS. I am very glad, indeed, that the chairman of the Committee on Finance is willing that I should make a few remarks on this interesting occasion; and with his permission I will proceed to make them. [Laughter.]

Mr. HENDRICKS. Will not the Senator yield to a motion to adjourn?

Mr. EDMUNDS. Not without the consent of my friend from Ohio.

Mr. SHERMAN. If my friend appeals to me I must object.

Mr. EDMUNDS. Then I will not yield, because I do not wish to have the Senator from Ohio, or any other friend of this bill, suppose that I desire to put off its passage, or the getting to a vote upon it, any longer than until we can fairly present our views on the differences of opinions that arise.

Now, as the Senator from Ohio has said that I am the responsible author of the mischief of gold's going up, if it be a mischief, I wish to submit to him and to every other Senator what I have done. I made a proposition to declare, in connection with stopping the contraction of the currency, that it should stay where it was. The Senator from Ohio and his friend opposed that proposition. The financial organ of the Senate, the Committee on Finance, through its chairman and through a majority of its members, opposed the proposition and gave their reasons for it, and the Senate, acting under the influence of their arguments, refused to declare that the currency should stay where it was. Gold went up, it is said. I do not know whether it went up from that cause or not, and I do not care; but I respectfully submit to my friend that the fair inference is that gold rose from the consequence of his opposition to that proposition, instead of from the fact that the humble Senator from Vermont proposed it. So much for that. It is of no consequence to this bill whether gold goes up or down a few cents or a few dollars. The question is far deeper than that.

This amendment of the Senator from New York is opposed by the Senator from Missouri on the ground that it is declaring a policy when the main feature of the bill is only for a temporary purpose until Congress can act. Now, that is the main feature of the bill if you take it just as it reads in the ordinary sense in which we understand language, because it declares—and that has been insisted upon by the Senator from Ohio as a reason for action on this separately—that it is only until the further pleasure of Congress shall be declared that this suspension of contraction is to exist. Does not the same argument apply to the statement of the corelative proposition that the currency shall stay exactly where it is, that it shall not go up until the pleasure of Congress shall be known in the maturing of a permanent bill on the subject? Does not the leading features of the bill, that of a temporary provision to hold things in *statu quo*, apply as well to the amendment of the Senator from New York as it does to the principal provision of the bill? Most certainly it does. The Senator from Missouri cannot deny it. Therefore, all that the proposition of the Senator from New York is is simply this: that we shall say, in connection, for the temporary purposes of the moment, with the fact that the currency shall not be drawn in, that it shall not be expanded. Then, as the Senator from Indiana says, the people who are looking with interest to see what is the state of the currency and what it is to be will know that this act of ours on the subject of stopping contraction is not committing us in advance to any other thing than holding it just where it is until the bill of my friend from Ohio, which in many respects is a very good bill indeed, or some kindred bill, can be considered.

Mr. CAMERON. Will the Senator from Vermont give way to enable me to make a motion to adjourn?

Mr. EDMUNDS. Certainly. I will do so now.

Mr. SHERMAN. I trust the Senator from Pennsylvania will not make that motion.

Mr. CAMERON. I think it is evident that we cannot get through to-night. It is now a quarter past five o'clock. I move therefore that the Senate do now adjourn.

Mr. SHERMAN. I call for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Bayard, Cameron, Chandler, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Drake, Edmunds, Ferry, Hendricks, Morgan, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sumner, and Van Winkle—20.

NAYS—Messrs. Anthony, Cattell, Cole, Doolittle, Fowler, Frelinghuysen, Harlan, Henderson, Howard, Howe, Morrill of Maine, Morton, Norton, Pomeroy, Ross, Sherman, Stewart, Thayer, Tipton, Trumbull, Wade, Willey, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Buckalew, Fessenden, Grimes, Guthrie, Johnson, Morrill of Vermont, Saulsbury, and Sprague—8.

Mr. EDMUNDS. I shall have finished what I have to say at this time in a very few moments. The question that is involved in this amendment of the Senator from New York is fairly stated by the Senator from Missouri. It is pretty clear in the opinion of the Senator from Missouri and in my own opinion, and at least doubtful in the opinion of others, that refusing to adopt this amendment is to leave the Secretary of the Treasury an existing discretion to increase the currency to $400,000,000, and in a certain contingency to $450,000,000. The Senator from Missouri has fairly and openly stated that that is the only purpose he has in view as a member of the Finance Committee. He has stated it with the frankness that belongs to him; and I am glad that he has, because this is one of the questions upon which I believe there should be no disguises, that gentlemen should frankly avow their opinions and stand by them as long as there are good reasons for doing so.

The question is, therefore, upon the real merit of this amendment, and it is not, as has been argued by the Senator from Ohio, a mere waste of time in discussing whether a few words are necessary or unnecessary. The real question is, whether the idea embraced in the amendment is right and proper in itself; and that involves the question whether it is good policy for this Government to leave with the Secretary of the Treasury, whoever he may be, a discretion to expand the volume, not of the general currency of the country in the ordinary sense in which that term is used under normal conditions and relations of things, but the currency of the country composed of the promises of the United States themselves to pay gold coin or silver for their notes when they are unable to pay those that are already outstanding. That is the question, and I respectfully submit to Senators that that is a very serious question, and whatever may be our opinions upon it, *pro* or *con*, the consequences one way or the other will be serious to the country. It will either turn out, if the idea of the expansion of our own notes is adopted, that the business of the country will be improved, its wealth developed, and its prosperity enhanced, as I believe my friend from Missouri thinks, or it will turn out, as I believe, that the ratio of expansion will be met in every step by an equal ratio of depreciation, and therefore that swelling the volume of our promises from four hundred million to five hundred million or six hundred million will not in reality furnish the currency that my friend from Missouri desires for the purpose of business in that State, because I am sure he will agree with me that if currency as it is issued depreciates in ratio to the increase of its volume it does not aid the business of the country at all, because it takes just so much more money, so many more bills, to move the same amount of property. Am I not right?

Mr. HENDERSON. No. I have already stated—and I should like to hear the Senator's reasons for it—that when the volume of our currency was double what it now is gold was at a premium of but twenty-five per cent. That being so, how does he account for the fact that it is thirty-eight to-day.

Mr. EDMUNDS. I am coming to that. That is not the proposition I am now advancing. I say that if an increase of the volume of your promises to pay does depreciate their value in proportion to that increase, then you gain nothing in the way of furnishing currency to the country. That is the proposition to which I invited the attention of my friend. The other we will consider when we come to it.

Mr. HENDERSON. I do not admit even that proposition, that if you double the amount of the circulating medium prices are doubled, and therefore the increase of the circulating medium gives no relief to the country; I say it may give relief, and very large relief, and often does.

Then the other proposition I cannot admit, that prices are necessarily increased by the increase of the currency, and certainly if they are increased it is not in the same ratio.

Mr. EDMUNDS. Mr. President, in a certain sense the last observation of my friend is correct. Prices are not necessarily increased by an increase of a currency, provided that currency is convertible into the real money of the world, gold and silver. It takes a very large increase, indeed, of gold and silver, and therefore of their representative which is convertible into them, to affect the general volume of prices in a country much larger on account of the scarcity

of gold and silver, and the many uses to which they are applied besides that of making coin. As applied to any ordinary state of business that is perfectly true: and therefore the appreciation of prices and the depreciation in the value of gold as coin in comparison to those prices is so very slow that the community do not feel it, and as a practical element covering any given space of time it amounts to nothing at all.

That is true; but when you take a currency that promises to pay gold, whether it be the note of a bank or the note of an individual, or the note of a Government, which promise it is perfectly known to everybody is one that cannot be fulfilled, and it is known that other similar promises are being dishonored every day, you have an entirely different element in the question. And every Government that has tried the experiment from the foundation of the world to this day, so far as my reading and observation have gone, has found by sad experience that that is the truth. The difficulty with our own revolutionary Continental money was not, as is said by my friend, in the mere naked fact of its volume, but in the fact that its volume was altogether too large for the amount of coin that the Government could raise to pay it with. That was the trouble. Now, what is the reason we cannot resume specie payments to-morrow as applied to the Government itself; I am not speaking of its effect on the business of the country, but merely as if we were a banker dealing in our own notes which are dishonored to-day. Why can we not resume specie payments to-morrow? The simple reason is that we have not money enough to pay our outstanding obligations, and we cannot get it. That is the reason. I am not advocating resumption to-morrow even if we had money enough; that is a different question; but I am merely calling attention to the question as one of business philosophy.

If I understand it, the only reason, so far as the Government is concerned, is, as a business question affecting its own ability to honor its dishonored paper, the simple fact that it has not gold enough in its vaults to meet its outstanding obligations. There are $350,000,000 outstanding due in gold on demand. If we had $350,000,000 of gold in the Treasury we could resume to-morrow and meet every dollar; and the result would be undoubtedly that if we had that not a dollar would be presented, and the volume of the currency would be increased by that very fact, for the reason that gold would then become of some use as currency, which it is not now.

Mr. HENDERSON. How much do you suppose there is in the country?

Mr. EDMUNDS. The question that my friend from Missouri puts to me as to the amount of gold in the country is not the question that is now before the Senate; and it only affects it indirectly in considering how much gold we can get into the Treasury. It is our obligation, our promise, that is depreciated and dishonored, and of the same kind exactly is the promise which it is now proposed we shall increase the volume of by issuing more dishonored paper. Therefore the question, in order to know when we can come to specie payments so far as we are concerned, is to know when we can bring the amount of money we have on hand so near to the amount of notes we have outstanding and due as to make it safe to offer to pay them. If we have but $100,000,000 of cash on hand and $400,000,000 of notes outstanding, we cannot resume, because if we did we should run out very fast, and then we should be worse off than before. But if we had $250,000,000 or $30,000,000 on hand very likely we could do it.

I do not say it would be wise to do it then; I do not think it would be necessary, because the result would be reached. I am now only speaking of our power and our obligations as it relates to ourselves. Then the question is: are we going to come any nearer to specie payments by issuing more of this same description of promise which is now dishonored? And I hope my friend from Oregon, [Mr. WILLIAMS,] who imputed to me the other day a denunciation of this paper, will not understand that I am denouncing this paper as any other than the best we can have under the circumstances at this moment. It is a good paper, and my proposition is that it shall not be made worse than it is, unfortunately below par, by issuing more of the same sort until our ability to redeem more of thes ame sort is demonstrated, by having more funds to meet it with. That is the proposition.

My friend from Missouri has said that the volume of our promises to pay and the amount of their depreciation have no relation to the amount of gold that we may have in our vaults, and that they have no relation—the volume of it outstanding—to the amount of depreciation that may exist. I do not agree with him. It is perfectly true, as he has said, that the amount of depreciation of Government paper or any other paper depends largely upon other causes than its volume. There is no doubt about that. It is perfectly true, as he has said, that at one time in 1864 the amount of currency being at a certain limit the depreciation of it was enormous; gold was 285; and yet, when the volume of currency had increased, gold fell. The reason is obvious: it is known to the Senator from Missouri. It was on account of political considerations. The credit of the Government was endangered and disturbed and dishonored on account of the danger that the public at large felt of our not being able to resume at all, the danger of going to utter ruin in the war of the rebellion in which we were engaged. So I have no doubt it is true to-day that the price of gold is largely affected by other considerations than the volume of our promises that we cannot pay.

Mr. HENDERSON. Let me call the Senator's attention to the fact that on the 1st day of April, 1866, the volume of our currency being double what it now is, gold was 125. Now what causes operate to put it up to 138?

Mr. EDMUNDS. A great many different causes. The patience of the Senate would not enable me to go into that matter in detail; but it of course is obvious, as the Senator from Missouri says, that the mere volume of our promises to pay would not put it up to 138. Neither would my friend, on the other hand, contend, I conclude, that a diminution of the volume so far as our United States notes are concerned would put it up. We are both agreed in that. Really there is not so much mystery about this question after all. The amount of depreciation of the paper of the Government or of anybody else depends upon other causes than its mere volume; and yet it would be just as unwise and untrue to say that its volume has no effect upon it at all. It depends upon the credit of the party whose promise it is that is dishonored until, if the credit be perfectly good, you reach a point of such excess in the circulation that there is really more circulation in the country than is wanted for the purposes of business.

Mr. HENDERSON. Now, I should like to ask the Senator a question at that point. We agree in the proposition that an increase of the volume of the currency does not necessarily put us further from specie payments. The larger amount of the volume of the currency is absorbed in the business of the country. If business in the western States is so very active as to demand an increase of the circulating medium, the Senator says it cannot be increased through the national banks. I make no complaint of the East; I honor the East for having taken the bonds and commenced banking operations with them during the war; I commend their patriotism for so doing; I do not object to it, nor would I, in the redistribution of the currency, take a dollar from the eastern States, because if we were to undertake the necessary contraction there, in order to give my State and other western States their due proportion of currency, my impression is that business in those States would be very largely deranged. Now, the question I wish to submit is this: if the increase of the volume of the currency does not necessarily depreciate the price of the currency, what objection has my friend, if business demands it in the West, to an increase in that volume, especially where interest-bearing securities can be redeemed with legal tenders?

Mr. EDMUNDS. I say that the increase of the volume of a dishonored currency does necessarily continue to depreciate it and increase the value of gold. I say that that would not be the only reason which might affect the value of gold. That was my proposition; but I beg my friend, in speaking of the ups and downs of gold, to remember that this depreciation in the price of gold, or rather, to state it truly, this appreciation in the price of our dishonored demand United States notes, seemed by some fate of Providence or other to have a wonderful relation contemporaneously to the passage of the act of 1866—by the aid of the Senator, I have no doubt; I hope so—which provided for this gradual withdrawal of our dishonored notes, so as to bring their volume into some relation to the coin we had to pay them with.

Mr. HENDERSON. The Senator is mistaken. The act was passed in April, and on the 1st of March, 1866, gold was 124⅞, still lower.

Mr. EDMUNDS. In March, 1866, the act of April, 1866, was under consideration. I have not the dates here to show at what time it passed the House of Representatives or when it was under consideration here; but I do know from the public prints of the country—and that is the way we form our estimates of public opinion generally; they are the organs of public opinion, and usually the just ones, and the right ones, and the necessary ones—the Senator referring to them will find that the very fact of the inauguration of this measure of 1866, under the auspices and with the assistance, I have no doubt, of the Senator from Ohio, who now seems disposed at least to pause in the career of well-doing, if not to go the other way—the fact that it was on the *tapis* was regarded as an indication that Congress would resort to some permanent and steadfast policy to so far redeem its own dishonored paper as to bring it within the scope of fair and reasonable control, so that it could make its obligations worth what they purported to be—dollar for dollar.

Mr. SHERMAN. The Senator is mistaken as to my position. I opposed that law.

Mr. EDMUNDS. Then I stand corrected, and I cannot accuse the Senator of inconsistency, because his conduct then was in precise accordance with what his votes and opinions seem now to be. The impression on my mind was that he had favored that law.

Mr. HENDERSON. The Senator from Vermont supposes that the appreciation of paper in March, 1866, was caused by the pendency of the bill which authorized contraction. Let me refer him to the fact that on the 1st of December, 1866, gold was 131¼, and it is now 138. What produced that?

Mr. EDMUNDS. It is easy to state what produced it. It is not easy to state all the causes in detail that produced it; but I will state one which is a short and pert one to be sure, but I hope my friend will not be offended at it. It is the scarcity of gold. The scarcity of gold, the balance of trade, the general financial distress of the country from over production, from the great debts created, public and private, all over the country in the course of the war, affect the state of the currency undoubtedly and affect the price of gold. But the proposition the Senator from Missouri has undertaken to maintain is that it will be just as easy for the United States of America, the Government who owes these notes, to return to specie payments with an expansion of the amount of these obligations, as it is to do so keeping them where they are or reducing them. That is the proposition I am combating. I have not the time, nor would the patience of the Senate permit me if I had, to go over the whole field of the question of the rise and fall in gold. In countries where currency is in the normal condition and where you can redeem a

pound note of the Bank of England or any other bank, and by producing a pound in coin to pay it with, gold goes up and down, to be sure, in a certain sense; and the balance of trade, of course, very largely affects it, as I have said. If you are exporting gold and importing champagne you cannot expect to get very rich by it; but if on the other hand you export wheat or pork or oil or whatever you may have to sell and import gold for it, I take it the condition of your country will improve.

But although this is fairly embraced within the scope of this bill and the amendment, I wish to confine myself now—and that was all I rose to do, aside from defending myself from the charge of the Senator from Ohio, which is now disposed of—to a reply to my friend from Missouri in relation to his affirmative proposition that it would be just as easy for us to honor our United States notes payable on demand, by issuing more of the same sort that we cannot now pay, as it would if we kept them at their present volume. I had supposed in private business that it was much easier for a man to pay his debts the fewer notes he had out; but it seems that my friend from Missouri is disposed to believe that as to a government it is just as easy for it to pay its debts, or, which is the same thing, make its debts convertible at the option of the holder into gold and silver coin, if it increases the amount of these debts as if it diminishes it. I am unable to see the force of that.

Mr. HENDERSON. I should like to ask the Senator if it is not easier for a debtor to pay without interest than to pay with interest the same amount of obligations.

Mr. EDMUNDS. Undoubtedly it is perfectly true that it is easier for a debtor to pay without interest than it is to pay with interest; and therefore, if there was nothing else in the question, it would be much easier and better for the United States to pay off all its bonds in promises to pay on demand. That is all true enough. It does not take any great amount of arithmetic to show that it is easier for a debtor to have a note out without interest than it is to have it out with interest. But the Government of this country in putting out its notes without interest still promises to pay them on demand in coin. Now, suppose a particular man who has a bond and wants the money to speculate with says "I will change the bond for paper," and he takes your paper money. What does he do with it? Does he keep it? Is he the man to suffer by its depreciation? Not by any means. He puts it afloat in the community; he pays it to somebody else; and by and by the country is flooded with millions, and if my friend's view be correct and all these bonds are exchanged for United States demand notes, billions, of what? Of promises that, so far as the mere position of the Government is concerned, are excellent for them, because they will not pay them, and will not pay any interest on them.

That would be very fine; but it is only another name for repudiation; because the Senator will find, unless this is to be an exception to all human experience in history, notes of that kind would be depreciated so that they would be sold by the bushel-basketful, like the Continental money or the Austrian money. That is the trouble about it. Besides, I have understood that it was a part of the duty of this Government, aside from paying its obligations, to care for the welfare of its people. If every bondholder was willing to exchange his bonds for United States notes and to keep those notes and not put them off on somebody else to suffer, I should have no objection, because it would be a mere matter of bargain between the bondholders and the Government; and if they wished to do it we should have no objection on our part. But that is a very narrow statement of the matter indeed; and there is the point in which the fallacy and sophistry of my friend lies.

But, Mr. President, as I have said, I have no disposition to prolong the discussion. I felt it right to say thus much in reply to the suggestions of the Senator from Ohio and the Senator from Missouri.

Mr. CATTELL. I desire to occupy the time of the Senate for but a single moment to say that although the Senator from New York has modified his amendment to meet the particular objection I had to it, I am nevertheless compelled to vote against it, because I do not wish to embarrass the bill with any new question or any different question from that which has been sent to us from the other House.

I wish to say, further, that the views of the Senator from Missouri in regard to the power of the Secretary of the Treasury over expansion do not accord with my own. I do not believe that the Secretary of the Treasury has the power, under our present legislation, to expand the currency at will; and yet I cannot decide that question, because when doctors disagree, how shall plain men decide? The distinguished lawyer at the head of the Finance Committee thinks differently from my friend from Vermont and my friend from New York. Now, if the reference of a resolution of inquiry to the Committee on the Judiciary should bring to light the fact that that power is possessed by the Secretary of the Treasury, I will cheerfully vote for any bill the Senator from New York will present to withdraw it from him.

Mr. PATTERSON, of New Hampshire. Mr. President, it was not my purpose to speak on this bill, and I wish now simply to express regret that the chairman of the Finance Committee and the friends of the bill should object to the amendment which has been offered by the Senator from New York. With that amendment I can vote for the bill, without it I cannot vote for the bill. And the reasons given by gentlemen for not accepting this amendment, it seems to me, are a little contradictory. They tell us that the Secretary has not the power now of increasing the United States notes, and therefore that it is not necessary. If it is not necessary it will certainly do no harm, and it will serve to allay an anxiety that exists on this subject, not only in this Hall, but outside of this Hall; for those who represent the two sides of this question represent their constituents at home. In every State of the Union there are those who believe that this question is immediately connected with the question which has been discussed in the newspapers and in both Halls of Congress, in respect to redeeming the United States bonds in greenbacks. And, sir, it is of the last importance, it seems to me, that we should settle this question in a way to decide nothing in respect to an increase of greenbacks at this time.

Gentlemen say that the present aspects of business in the country forbid that the Secretary should contract the currency. If that is so, I ask what need of this bill? It is a poor rule that will not work both ways. If we cannot contract, what need of the bill? If we cannot expand, what reason for rejecting the amendment which has been offered by my friend from New York?

Now, sir, there are two parties in the country who are interested in this question. In the first place, the day-laborers of this country, who earn their daily bread by their daily labor, do not want an expansion of the currency, because the price of labor does not very rapidly follow the price of articles which are purchased in the markets. Take any man who is at work in a cotton factory, or in a machine-shop, or on a farm, for two dollars a day; you expand your currency; he does not receive more than two dollars a day for his labor, but he has to pay twice as much for his tea and coffee, and he has to pay perhaps five or ten dollars more a barrel for his flour. It is a matter of vital importance to him that the currency of the country should not be expanded.

Mr. POMEROY. Suppose you contract it, so that the mill cannot be run at all?

Mr. PATTERSON, of New Hampshire. I was going to speak of that in a moment if the gentleman would wait. I say, then, it is a matter of importance to that individual that the currency should not be contracted beyond a certain point. There can be no rest in the finances of the country until the paper shall have touched gold; that is the natural basis of rest, of repose, and there will be no absolute repose until the currency of the country reaches that point—the point of gold value.

Then there is another class of individuals who are interested in this question of expansion, and that is the large bondholders, the men of wealth who are reposing upon their luxury, who are not called upon to labor for a living, but all of whose property is invested in bonds. They do not want any expansion because they want their bonds redeemed in a currency which has the value or nearly the value of gold.

Who is it that demands expansion? It is simply the manufacturers or the producers who have something to sell. They want expansion, or, at any rate, they do not want contraction. Hence it is that the men of the Northwest who have wheat or corn to sell depricate this contraction of the currency, because it lowers the price of wheat and of corn which was produced when labor was high, and may cause a loss on the grain or whatever they have on hand to sell on account of a too rapid contraction. Hence the producers of the country desire that this shall be arrested.

Now, for my own part, I am willing to attempt to satisfy both of these classes in every community; first the day-laborers, then the rich men, who came forward in the emergency of the Government and hazarded all the hard earning of their labor and thrift for a lifetime to save the Government when it was not certain that they would not lose the whole of it. I am perfectly willing to do something to save those men from losing that which they invested in the life of the nation in that time of our peril. More than that, I think we owe it to the poor men of the country—to the men who are limping through your streets monuments of patriotism, monuments of their willingness to die even for the salvation of the country, not to expand the currency, because if you do expand it according to the policy of some gentlemen here, then that which they receive from the Government as a pension will be a mere shadow that will give them nothing to support life; and the widows and the orphans of the men who are sleeping on half a thousand sanguinary fields will reap only ashes for bread. These are the persons who have to suffer.

Gentlemen talk about paying the bonds in greenbacks. Setting aside the legal question, which was argued so ably by my friend from Vermont, [Mr. EDMUNDS,] looking at it as merely a question of equivalents, I will admit that a man who holds a bond for which he paid fifty cents on the dollar suffers no injustice if he receives greenbacks now worth seventy-four or seventy-six cents on the dollar for his bond, because he receives more than he paid, and he has received the interest on his bond which he has sold at a premium. He therefore suffers no injustice in point of equivalents—I set aside of course the legal question. But it is just as impossible for the Government to redeem these bonds in greenbacks as in coin, and why? Because the country cannot get the greenbacks without a new issue. With the taxation which we shall establish before the close of this session of Congress, there will not be more than $30,000,000 of surplus from the revenues after we have paid the current expenses and the interest on our debt.

With $30,000,000 a year, how are you going to redeem $500,000,000 of bonds now redeemable? And if you begin the work of issuing greenbacks to redeem these bonds it may go on until you have issued $2,000,000,000, and then the value of the paper dollar goes down to seventy, fifty, forty, thirty cents, and the loss of credit all over the country, the disbelief in the possibility of the Government to ever redeem the greenbacks throws this money down to zero; and what is the result upon the country and upon the industry of the country? No man will engage in any manufacturing business, no man will labor upon a farm, no

man will produce when the prospect is that he will not only throw away his labor but throw away all the capital he invests. That will be the result. It is not the rich men who will suffer, it is the poor laboring men of the country, for the rich men who stand in Wall street watching the mercury in the financial barometer can tell by the rise and fall of that mercury just when there is to be a crisis, and they will invest their money in real estate or run in debt, so that when the greenbacks are issued they will have their money in secure forms; while the poor man, or the man who by his labor and economy has laid by $10,000 will find first his $10,000 to be $5,000, then $2,000, and so on down to zero, and the little which he had laid by for the education of his children, the little which he had laid by to make the condition of his son better than his own, will have gone by the act of that very Government whose duty it is to protect him in all his rights, and for the salvation of which very likely he laid down a son on one of our battle-fields or hazarded his own life's blood.

That will be the result of this policy; and yet, sir, I think there would be no danger whatever in stopping this contraction at the point where it is. And why? Simply for the reason that we need a larger circulation to-day than we did in 1860. In 1850 the real and personal estate of the country was about seven billion dollars. In 1860 that had advanced to about sixteen billions. Now, without the war, we ought to be worth to-day or in 1870 from thirty-two to thirty-five billion dollars. In 1860 we had a currency in paper and in gold of near five hundred million dollars. To-day, setting aside the compound-interest notes and the small currency, because the compound notes are being redeemed rapidly, and the small currency is balanced by the cash balance in the Treasury, we have about six hundred and fifty millions of circulation. Now, in looking at the increase of property and the increase of population, we have not so large a currency to-day as we had in 1860. Then it was a little over fifteen dollars *per capita;* to-day it is only about twelve dollars *per capita;* in England the circulation is twenty-two and a half dollars; in France it is twenty-six dollars *per capita.* You must remember that in this country, on account of the extended area, we need a much larger circulation than they do in the little insular empire of England.

Besides, on account of the reorganization of industry at the South we need a larger circulation than they do in those small countries. We need it for another reason, because our laborers receive higher wages than they do in the mines and factories of England and Wales and Scotland. Hence, if England must have twenty-two dollars *per capita* we ought to have thirty dollars *per capita,* in order to be accommodated in our industries and business affairs as the English people are. In my judgment, then, we shall not suffer if we cease this work of contraction. But, sir, what we need more than all else is rest, is repose, is confidence in the business of the community between man and man. That is vastly more important, I think, than any question of expansion or contraction.

No man will go to a factory or a store and purchase goods when the salesman is changing the value of his weights and measures from day to day; and it is just as certain that no man will do business if you are changing the value of your currency every twenty-four hours. Suppose that I were to buy a pound of tea to-day and pay a dollar for it, and to-morrow I were to go to the same store to purchase a pound of tea and I should get half the weight for the dollar, although it was nominally a pound, on account of the change of the weights. I should soon ascertain that fact, and I would not purchase tea there; I would go without tea first. It is just so precisely in relation to the currency. If to-day the dollar is worth a dollar or is at par, and to-morrow it is at seventy cents and the next day fifty cents, all the business of the country perishes, and we lose more absolutely by the want of employing the industrial forces of the country than we could in any other possible way.

Now, sir, I differ altogether from my friend from Massachusetts on a point on which he has seen fit to speak here two or three times. He has repeated the remark to-day that we were growing richer constantly during the war. What does he mean? If he means that we were absolutely making money, that is one thing. If he means that we were making more money during the war than we should if it had been constant peace, I differ with him altogether. Let us look at it. Over a million of men—it has been stated to-day by the chairman of the Committee on Finance at a million, but it was probably a million and a half of men—at the North alone were taken from the industry of the country. What is the source of wealth, I wish to know of the gentleman? Is it not industry, productive capital, and the fertility of the soil? These are the only sources from whence wealth comes. You cannot create it by a *fiat* of your will. You cannot say let there be wealth and there is wealth. It must come by industry. When you were removing a million and a half productive laborers of the country, not the old men, not the children, but the bone and muscle of the country from the channels of industry, is it likely that our wealth was increasing as rapidly as otherwise? But, then, mark you. We must take the South into account also. They had nearly an equal number of men withdrawn from the channels of industry. With three million of men withdrawn from industry were we getting rich very fast? We were not getting rich at all, unless the increase of population by birth and immigration kept pace with this withdrawal of men from industrial pursuits who went into the Army.

It is true that A, B, or C, who was poor before the war, when the war closed was rich nominally. Why? That wealth is represented by the indebtedness of the Government to-day. I might borrow a thousand dollars of my neighbor, not having a dollar in my pocket, and give him a note for it. Because he has my note for a thousand dollars and I have his thousand dollars in my pocket, I want to know if there are two thousand dollars in existence?

Mr. WILSON. Will the Senator allow me to interrupt him for a moment?

Mr. PATTERSON, of New Hampshire. Certainly.

Mr. WILSON. My position was that the rebel States had lost nearly all their property; that little was left to them but land, and that had depreciated in value until it was not worth more than one fourth what it was at the commencement of the war; but that in the loyal States, in spite of the war, we had increased in wealth. I have no hesitation now in saying that the loyal States of this Union have added $3,000,000,000 to their taxable property during the last seven years—a sum sufficient to pay the national debt.

Mr. PATTERSON, of New Hampshire. The answer to that is patent. Take any point during the war—I will say 1861; the Government was receiving, all told, about seventy millions of yearly income, and we were spending, some of the time, $1,000,000 a day. How was the Government to get money to carry on the war? That was the question that perplexed and puzzled the Government. They simply drew on the future. By these Government notes and bonds they drew on the future productiveness of the capital, industry, and soil of the country. This debt is a draft on the future, not on the present. The present paid its part in the current expenses and in the blood of our children who fell in the battles of the war, and it rests on the future very properly to pay this bill.

Mr. President, I do not wish to cover everything in this debate; I have only referred to this matter because the Senator from Massachusetts spoke of it. I think the increased wealth he speaks of is represented by the public debt of the country. We have not been increasing in wealth, as he would seem to indicate. The industry of the South is all broken up. I am glad that the slave system there is broken up; but nevertheless it must have its effect on the productiveness of the country, and the consequent increase of wealth in the country. The gentleman I suppose will admit that. And more than that, the three millions of men who were thrown into the Army were not only not producers but they were turned to the unhallowed work of destruction, destroying what they and their fathers had produced in a century of hard labor, in a century of economy. That is what we were doing; and what is the use of deceiving ourselves in these matters? The war was a war of waste. It broke up the great industries of the country, and we have got to meet it as best we can, with patriotism, with patient endurance; and I have very little respect for the politician of either party who comes forward in a political canvass and tries to make political capital out of things of this character. The fact is these matters arise necessarily, and it is the duty of the men of all parties in the country to do what they can to sustain the Government, to sustain the industry of the country, to pay these debts honorably, to maintain the faith and integrity of the country, because our future welfare and prosperity and power depend upon our standing stoutly for right and for justice in these matters.

There is no other way out of these difficulties but to go forward patiently; and if as a party the Republicans are defeated, so let it be; but we will go down with our colors flying in the pursuit of an honorable course, in the pursuit of justice, and not by any miserable truckling or sneaking from the discharge of honorable debts incurred for a great and hallowed purpose.

Mr. HENDERSON. Mr. President, I thank the Senator for a great many of his remarks. I think they are in the right direction. I should like to submit to him one question, however, before he takes his seat. He says that an increase of the currency is always oppressive to the laboring man. Now, gold is the currency of the world. We have stamped it and said that it is worth so much. There was a certain quantity of it in 1849. Since then gold mines have been discovered in California, Australia, Nevada, New Mexico, and Arizona, and we have mined and put in circulation about three thousand four hundred million dollars in gold. I should like to submit to my friend from New Hampshire whether he does not believe that in consequence of that increase of the circulating medium prices have increased all over the world?

Mr. DOOLITTLE. There must be a mistake in the figures.

Mr. HENDERSON. I submit to the Senator that we have added $3,400,000,000 to the gold circulation of the world since 1849.

Mr. DOOLITTLE. I doubt the Senator's figures.

Mr. SHERMAN, (to Mr. HENDERSON.) You mean $300,000,000.

Mr. HENDERSON. I mean to say that for the last seventeen years we have added every year $200,000,000 to the circulating medium of the world.

Mr. WILSON. You do not mean the United States.

Mr. HENDERSON. I do not mean the United States. I am talking about the gold stamped as currency in the world, and I mean to say it is more than that. I put it clearly within limits. I ask the Senator from New Hampshire, has not that increased largely the price of everything? Now, I ask the Senator if laborers are not in a better condition to-day throughout the world than they were. Are they not in a better condition by the fact of the discovery of gold in California and other places and the coining of that amount of circulating medium?

Mr. PATTERSON, of New Hampshire. In some countries they are and in others not.

Mr. HENDERSON. Mr. President, I rec-

ognize the obligation to pay the debt of the United States, and if the country is permitted to do so it will pay that debt. I, for one, will never repudiate a dollar of it. I do not wish gentlemen to understand that I am in favor of repudiating it at all. I do not intend to do it. I want to pay it, and I want to pay it in coin. But when Senators tell me that a debt contracted at fifty cents to the dollar must be paid in coin, and that the circulating medium must be reduced from $1,200,000,000, as it was when the debt was contracted, to between three hundred and forty and five hundred million dollars, I do not know where they propose to go. I tell them the country will not bear it. When I am told that we must necessarily bear a burden of taxation sufficient to pay that in coin, while this contraction goes on, and that the poor man is benefited by that process, I, as one of the poor men of this nation, protest against the argument. When gentlemen squeeze me in a vice until I can scarcely draw my breath, when I am wrung and tortured with pain, and I am told that the country needs repose, and that we must not turn the vice either way, that the poor wretch must have a little repose, I simply say that if those who talk thus were in the vice they might feel as I do. I am not suffering individually in this matter. I, to be sure, am a poor man; but I do realize the fact that the section of country that I represent will not be able to pay a very large proportion of the taxes necessary to meet the interest and the current expenses of the Government in coin provided the very means with which they are enabled to do it are taken away from them.

Mr. EDMUNDS. Will the Senator allow me to ask him a question?

Mr. HENDERSON. Certainly.

Mr. EDMUNDS. I wish to know if he believes that the present disturbed condition of the country and the financial distress is owing altogether to the diminution of the volume of currency by the action of the Secretary of the Treasury under the act of 1866?

Mr. HENDERSON. Certainly not; but I do understand that it is very largely so.

Mr. EDMUNDS. In what degree?

Mr. HENDERSON. I do not know exactly to what degree, if the Senator alludes merely to that act, that is, the taking in of $4,000,000 a month of United States notes; but if he will extend the question and ask me how the general contraction under the laws of the United States permitting the Secretary to take in that which constituted the basis of the circulation in the banks has produced the present deranged condition of things, I will tell him, almost entirely. The banks have withdrawn very largely, and necessarily they are compelled to do so when the very basis upon which they can issue a circulating medium is withdrawn. We authorized the Secretary of the Treasury to issue three per cent. certificates to the extent of $50,000,000 only to meet the compound-interest notes. I thought we were going far enough in that; but the Secretary has not used the power that we gave him. Instead of using it he has issued not over about twenty-three million dollars of those certificates, thereby putting it out of the power of the banks to extend to their customers accommodations. Now, sir, the contraction is not simply the contraction found in the withdrawal of the greenback circulation. That is a matter of very little consequence indeed. It is the smallest item in this general contraction and this general derangement of business.

Mr. HENDRICKS. If the Senator will allow me, I should like to ask him a question. To what extent have the national banks withdrawn their circulation within the last year and a half? I understand him to say that they have withdrawn their circulation. Do the reports show to what extent?

Mr. HENDERSON. I have not the report before me now. I know from the condition of affairs that they must necessarily have been compelled to do so. But, sir, I do not propose to rediscuss this question. I do not propose to enter into it at all. I wish merely to protest against this idea that some gentlemen impute to those who are in favor of the passage of this bill, that we desire to pay the indebtedness of the United States in a depreciated currency. I protest against it so far as I am concerned. I do not desire to do it; but I do say that if we could contract a debt with from one thousand to twelve hundred million dollars of circulating medium, we ought anyhow to be satisfied to keep a circulation of from seven hundred to one thousand million dollars in its payment. The Senator from New Hampshire asks, if you keep on issuing paper to pay the debt what will you do with your paper? Sir, there is a limit at which we should stop; I am satisfied of that; but it ought to be remembered that if the circulating medium is larger, a larger amount of taxes can be paid for the redemptron of the bonds from year to year. It is not necessary to do it every year. It is not necessary, I mean, that the whole debt should be paid within a year, but it may be reduced from year to year, and the poor man is the man benefited in the payment of taxes.

Mr. EDMUNDS. Will the Senator allow me to ask another question?

Mr. HENDERSON. Yes, sir.

Mr. EDMUNDS. I wish to inquire of him whether there is not a sufficient amount of circulating medium in the city of New York for the wants and purposes of that city and vicinity.

Mr. HENDERSON. I presume there is.

Mr. EDMUNDS. I wish to ask whether the distress among the producing and commercial interests in the city of New York and in that vicinity is not just as great as it is in any part of the country.

Mr. HENDERSON. I presume not.

Mr. EDMUNDS. I certainly understand that it is.

Mr. HENDERSON. I suppose that the demand for money can always be decided by the amount of interest. Interest is certainly higher in the State represented so ably by my friend before me [Mr. HENDRICKS] than in New York city, and therefore the demand for money in Indiana must be greater than it is in New York. I am satisfied that money commands a much larger interest in the State of Missouri than it does in the city of New York, and therefore I take it for granted that money is scarcer there than it is in New York.

Mr. EDMUNDS. There is no doubt of that.

Mr. HENDERSON. But, Mr. President, I do not wish to take up the time of the Senate. I rose merely to refer to the argument of the Senator from New Hampshire.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New York.

Mr. CONKLING. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. MORRILL, of Maine, (when Mr. GRIMES's name was called,) said: My colleague [Mr. FESSENDEN] desired me to say that he had paired off with Senator GRIMES. My colleague would have voted for this amendment and Senator GRIMES against it. He desired me to add, that upon the final passage of the bill he would vote against it and Senator GRIMES for it.

Mr. WILLEY (when Mr. VAN WINKLE's name was called) said: My colleague desired me to say that he had paired off with the Senator from Vermont, [Mr. MORRILL.] My colleague would have voted "nay" on this question, and I suppose the Senator from Vermont would have voted on the other side.

The result was announced—yeas 15, nays 23; as follows:

YEAS—Messrs. Anthony, Buckalew, Conkling, Corbett, Cragin, Edmunds, Ferry, Frelinghuysen, Harlan, Howard, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, and Wilson—15.

NAYS—Messrs. Cameron, Cattell, Cole, Doolittle, Drake, Fowler, Henderson, Hendricks, Howe, Morton, Norton, Nye, Pomeroy, Ramsey, Ross, Sherman, Stewart, Thayer, Tipton, Wade, Willey, Williams, and Yates—23.

ABSENT—Messrs. Bayard, Chandler, Conness, Davis, Dixon, Fessenden, Grimes, Guthrie, Johnson, Morrill of Vermont, Saulsbury, Sprague, Sumner, Trumbull, and Van Winkle—15.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

Mr. BUCKALEW. I desire to renew my amendment that I offered in Committee of the Whole. I do not know whether it is now in order or not.

The PRESIDENT *pro tempore*. It is in order.

Several SENATORS, (to Mr. BUCKALEW.) Oh, no; do not offer that now; let us vote on the bill.

Mr. BUCKALEW. Well, I will not make the motion.

The amendment was ordered to be engrossed and the bill to be read a third time. It was read the third time.

Mr. EDMUNDS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. CORBETT (when his name was called) said: I desire to state that I am paired off with the Senator from Rhode Island, [Mr. SPRAGUE.] He would vote "ay," and I "nay."

Mr. EDMUNDS (when his name was called) said: I wish to say that on this vote I am paired with the Senator from Maryland, [Mr. JOHNSON.] If he were present he would vote for the bill, and I against it. Therefore, I decline to vote.

The result was then announced—yeas 33, nays 4; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Cattell, Cole, Cragin, Doolittle, Drake, Fowler, Frelinghuysen, Harlan, Henderson, Hendricks, Howard, Howe, Morrill of Maine, Morton, Norton, Nye, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Stewart, Thayer, Tipton, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

NAYS—Messrs. Conkling, Ferry, Morgan, and Patterson of New Hampshire—4.

ABSENT—Messrs. Bayard, Chandler, Conness, Corbett, Davis, Dixon, Edmunds, Fessenden, Grimes, Guthrie, Johnson, Morrill of Vermont, Saulsbury, Sprague, Sumner, and Van Winkle—16.

So the bill was passed.

DEFICIENCY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the Quartermaster's Department of the Government for the fiscal year ending June 30, 1868, and for other purposes.

Mr. CONKLING. The Senator does not propose to go on with that bill to-night?

Mr. MORRILL, of Maine. No, sir; I merely desire to get it up and leave it as the unfinished business.

The motion was agreed to.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate, at six o'clock and twenty-four minutes p. m., adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 15, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

SCHOOLS IN THE DISTRICT OF COLUMBIA.

Mr. DAWES. Mr. Speaker, the bill of the gentleman from Pennsylvania [Mr. STEVENS] in relation to schools in this District is specially assigned for consideration to-day. I suppose under the order of business it will not come up. In the meantime there has been put into my hands by gentlemen in this District, who are largely interested in the same question, and of great experience in the matter, a bill which

they desire I shall offer as a substitute for this bill, not by the way of antagonizing with the object sought to be secured by the gentleman from Pennsylvania in his bill, but merely with the idea of having provided a more practical means of arriving at that end. I therefore ask the unanimous consent of the House to offer this as a substitute for the gentleman's bill and that it may be printed.

The SPEAKER. It cannot now be offered as a substitute, the bill not being now before the House. If there is no objection it will be ordered to be printed.

No objection was made.

MORNING HOUR.

Mr. JULIAN. I call for the regular order of business.

The SPEAKER. The regular order of business in the morning hour is the calling of the committees for reports, commencing with the Committee on Public Lands, which is entitled to another hour.

HOMESTEADS FOR FREEDMEN.

Mr. JULIAN. I report back from the Committee on Public Lands House bill No. 122, to facilitate the occupation of public lands by freedmen, under the homestead act. I ask that it may lie on the table, for the reason that its object has already been provided for in House bill No. 267, which is pending.

The bill was accordingly laid on the table.

Mr. JULIAN. I also report back the petition of citizens of Louisiana, on the same subject, and ask that the same order be made.

The petition was accordingly laid on the table.

PUBLIC SCHOOL LANDS.

Mr. JULIAN. I also report adversely on the memorial of the Legislature of the Territory of Utah, praying for a donation of town sites in said Territory for school purposes, which I ask to have laid on the table. I am instructed to present an accompanying adverse report, in writing, which I also ask to have laid on the table and printed.

The memorial and report were accordingly laid on the table, and the report was ordered to be printed.

ABOLITION OF LAND OFFICES.

Mr. JULIAN also, from the Committee on Public Lands, reported back, with an amendment in the nature of a substitute, a bill (H. R. No. 278) to abolish the land offices at Chillicothe, Ohio, Indianapolis, and Springfield, Illinois.

The substitute was read. It provides that hereafter, in case of the public lands in any land district being nearly or quite disposed of, it shall be lawful for the Secretary of the Interior, and is hereby made his duty, to close the local land office for such district and have the records and files thereof transferred to the General Land Office; and in regard to any fragmentary portions of land in such district as may remain undisposed of the duties which would otherwise devolve on the register and receiver shall be assigned to the Commissioner of the General Land Office on the closing of the district office.

Mr. JULIAN. The bill introduced by the gentleman from Ohio [Mr. CARY] abolished three specified land offices. I submitted it to the consideration of the Commissioner of the General Land Office, who recommended the passage of a general bill authorizing the Commissioner of the Land Office, and making it his duty, where the business has been completed or nearly so in any land district, to discontinue the land office in that district and transfer the records to the General Land Office. This is a general bill, designed to economise expense. I apprehend there can be no possible objection to it, and I demand the previous question.

Mr. HOLMAN. Do I understand that the substitute reported by the committee makes it the duty of the Commissioner to close the office, or does it only authorize him to do it?

Mr. JULIAN. It is made his duty.

The previous question was seconded and the main question ordered.

The substitute was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MOTION TO RECONSIDER.

Mr. JULIAN. I desire to enter a motion to reconsider the vote by which the bill (H. R. No. 370) was postponed on yesterday.

The SPEAKER. The Chair does not know what subject the bill relates to, but the motion will be entered.

SETTLERS ON THE SIOUX RESERVATION.

Mr. JULIAN. I now yield to my colleague on the Committee from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY, from the Committee on Public Lands, reported back, with the recommendation that it do pass, a bill (H. R. No. 358) for the relief of settlers on the late Sioux Indian reservation in the State of Minnesota.

The bill provides that all actual settlers who have duly filed preparatory statements under the preëmption laws with the register and receiver in the proper local land office upon unsold lands now included within the limits of the late Sioux Indian reservation in the State of Minnesota shall be allowed two years from and after the passage of this act within which to make proof and payment for their claims in accordance with the provisions of the second and third sections of the act approved March 3, 1863, providing for the disposal of said reservation.

Mr. DONNELLY. Mr. Speaker, a few words of explanation may be necessary.

Mr. WASHBURNE, of Illinois. Has the bill been printed?

Mr. DONNELLY. It has not. I will explain the bill, and I do not think there will be any objection to it.

The Sioux Indians were by treaty stipulations located on a reservation on the Minnesota river, in the State of Minnesota. In consequence of their massacre of our citizens in the year 1862, they were driven from the reservation, and subsequently, by an act of Congress, they were removed from the State. An act was passed in March, 1863, providing that the lands of the reservation should be appraised and that settlers might go upon the lands and preëmpt them, provided that they paid in one year after their preëmption the appraised value thereof. In the year 1865, being the same year the lands became open for preëmption settlement, the crops in that region of country were almost a total failure and a great deal of suffering resulted to the settlers, so much so that the Legislature of the State of Minnesota felt called upon to pass an appropriation for their relief, and placed a considerable sum in the hands of the Governor for distribution among them. In consequence of this distress, they have been unable to pay for their preëmpted claims within the time limited by law.

This bill simply provides that the actual settlers upon the reservation shall have the additional period of two years from and after the passage of this act in which to pay for their claims. It is an act of relief and an act of mercy to which I think no gentleman can object. The bill was introduced by my colleague from the first district of Minnesota, [Mr. WINDOM,] and he had previously to its introduction communicated upon the subject with the Commissioner of the General Land Office, and has received from him a letter, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

DEPARTMENT OF INTERIOR,
GENERAL LAND OFFICE, *December* 14, 1867.

SIR: I have the honor to herewith return you certain papers, filed by you on the 12th instant, in reference to certain settlers on the Sioux Indian reservation in the State of Minnesota, asking relief by a postponement of the sale of said lands, and I inclose herewith, as requested by you, a draft of a bill designed to give them the relief they ask, should Congress be favorably inclined to grant their prayer.

I would earnestly recommend that the relief asked may be granted by the passage of the inclosed bill.

I am, sir, very respectfully, your obedient servant,

J. S. WILSON,
Commissioner.

Hon. WILLIAM WINDOM, *House of Representatives.*

Mr. DONNELLY. I will add simply that no person can derive any benefit under this bill except he be an actual settler, and then only upon the payment of the appraised value of the land. I now call the previous question on the bill.

The previous question was seconded, and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DONNELLY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HOMESTEAD LAW.

Mr. DONNELLY, from the Committee on Public Lands, also reported back House bill No. 359, amendatory of the homestead law, with a recommendation that the same do pass.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section provides that in any case hereafter in which an applicant for the commutation of a homestead, as provided for in section eight of the act to secure homesteads to actual settlers on the public domain, approved May 20, 1862, and who has in all things complied with the provisions of said law, and who shall desire to commute such homestead, as by said section authorized, and is prevented by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it shall and may be lawful for the applicant for such commutation to make the affidavit and proof required by the original statute before the clerk of the court for the county in which such applicant is an actual resident, and transmit the same with fees and commission to the register and receiver of such land office, who shall thereupon be authorized and required to make such commutation entry.

The second section provides that it may and shall be lawful for any person who has had the benefit of said homestead law to make the proof and testimony that he has resided upon and cultivated such homestead, and that no part of said land has been alienated, and that he has borne true allegiance to the Government of the United States, as is required and directed by the second section of said act before any certificate shall be given or patent issued, before the clerk of the court for the county in which the applicant is an actual resident, in like manner and for like cause, as in the preceding section provided for, and under such rules and regulations as shall be prescribed by the Commissioner of the General Land Office.

Mr. HOLMAN. I would inquire if this bill has been printed?

Mr. DONNELLY. It has not.

Mr. HOLMAN. I hope this bill will not be acted upon until it has been printed, for it is a very important measure.

Mr. DONNELLY. I think an explanation of the bill will induce the gentleman to withdraw his request.

Mr. SPALDING. It is a very important bill; let it be printed.

Mr. DONNELLY. I will state to the House that the homestead law provides for three different affidavits that may be made by the settler. And although the law does not require that those affidavits shall be made at the land office, or in the presence of the register and receiver, yet such has been the interpretation given by the General Land Office. The result is that in order to make the affidavits required by the act or to perfect his title the settler is required to travel, in some cases, forty, fifty,

or in some cases one hundred, miles from the place of his settlement to the land office.

Congress has already intervened to prevent this hardship to the settler. By an act passed on the 21st of March, 1864, we provided that persons in the Army and Navy of the United States, who might seek the benefits of the homestead law, could make the required preliminary affidavit before the officer in command either in the Army or in the Navy. The same act further provided that the settler, when living at a distance or laboring under bodily infirmity, could make the first affidavit required by the homestead act, the affidavit for the entry of the land, before the clerk of the court of the county in which he resided.

Now, Mr. Speaker, there are two other affidavits contemplated by the homestead law—one when the settler perfects his title at the expiration of the five years of settlement, and the other when he may seek to commute his title from a homestead title to an immediate title under patent by the payment of the minimum price of the land.

If this bill passes, the homestead settler, living perhaps fifty or one hundred miles from the land office, and being almost necessarily a poor man, because the homestead law is taken advantage of only by those in very moderate circumstances, can go before the clerk of the court of his county and make the required affidavit and furnish the necessary proofs. In the absence of such a bill as this he is obliged to travel in many cases a considerable distance, at a serious expense, because it is not travel in an old country provided with railroads, but in a new country, where the expense of travel is very great. For instance, in my own district, there is a land office known as the St. Cloud land office, and the settlements extend eighty miles beyond that land office. A settler upon the frontier is required to go to the land office at St. Cloud to make the required affidavit before the register and receiver. He cannot make that trip for less than twenty-five or thirty dollars. This is to him a considerable sum. Besides that, he is required to take with him two witnesses, whose expenses he is also obliged to pay. Thus the poor man, to whom the Government has offered this boon of land without price, is by this incidental requirement put to almost as much expense as he would be at to take the land under the preemption laws or to purchase it with land warrants or agricultural scrip. Now, there is no reason for this. We have already provided that he may make the first affidavit required by the law before a clerk of the county court or the commander of a regiment or naval vessel. This bill simply proposes that he shall be permitted to make the other affidavit in the same way. I do not see how this provision can work any injustice. It certainly will relieve the settlers of the country from a very great hardship.

Mr. Speaker, I shall be glad to answer any questions which gentlemen may desire to ask.

Mr. WASHBURNE, of Illinois. I think, Mr. Speaker, I see the bearing of this bill, and think I can convince the House that it is one which ought not to pass. It proposes to change the law in regard to the entry of lands as it has existed from the earliest days of the Government. Our laws have always required that any man desiring to enter lands should go to the land office and make his proofs before the register and receiver—officers of the United States; the testimony being filed in that office and sent up here to the General Land Office. And there was wisdom in that provision. The land belonging to the Government, parties desiring to enter that land should be required to appear and present their proofs before officers whom the Government has designated. There was some safety in such a provision. The law has also provided for the punishment of parties committing perjury. Such has been the provisions of our law when we required men to pay for the land. In earlier times, settlers in the new States—in Illinois among others—went to the land office, traveling a greater distance than the gentlemen's constituents are obliged to go, taking with them their witnesses and the necessary evidence. They gave in their testimony before the register and receiver, and there was some security for the truthfulness of that testimony, because it was sent up here to the General Land Office to be reviewed. But now, sir, since we have given away so large a proportion of our public lands, not only to actual settlers, which I was in favor of, but to swindling railroad companies and other corporations, the gentleman from Minnesota [Mr. DONNELLY] comes in here and asks us to repeal in effect all the previous provisions of our laws on this subject, and allow the men claiming these homesteads to make their testimony—before whom? Before an officer of the Government, responsible to the Government? No, sir; but before the clerk of the county court in the particular county. We are asked to reverse the whole policy of our legislation on this subject, to sweep away the safeguards heretofore provided for the prevention of fraud and perjury, and permit these men who pay nothing for their land to make affidavit simply before the clerk of the county court.

I say, sir, while I would extend every proper facility to the actual settler, yet I admit I would have provisions of law to protect us against frauds and perjuries which might under this bill creep in for the purpose of getting up these affidavits and getting in this testimony.

But I do not think the Committee on the Public Lands ought to pass a bill of this kind and put these men in a better position than the purchasers of public lands from the commencement down to the present time. When they bought the public lands and paid for them in hard cash we required them to come before our officers and make testimony. Now these men who enter these lands for nothing, or who commute for a price, do that with all the guards which heretofore protected this testimony. I am opposed to the bill and prefer to let things remain as they are.

Mr. DONNELLY. Mr. Speaker, in my judgment the gentleman from Illinois is as far wrong in his facts as he is in his logic. He has stated that this is an innovation. I tried to make myself heard amid the clamor of the House to the effect that it is in no sense an innovation, but simply the carrying out of a precedent already established; and I ask the Clerk to read in support of that statement two sections of the act of March 21, 1864, which I send to the Clerk's desk.

The Clerk read as follows:

Sections one and three of an act amendatory of the homestead law, and for other purposes:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in case of any person desirous of availing himself of the benefits of the homestead act of 20th May, 1862, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts in the district land office which the said act of 20th May, 1862, requires, and whose family, or some member thereof, is residing on the land which he desires to enter and upon which a *bona fide* improvement and settlement have been made, it shall and may be lawful for such person to make the affidavit required by said act before the officer commanding in the branch of the service in which the party may be engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver, and upon such affidavit being filed with the register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the said application and affidavit are accompanied by the fee and commissions, as required by law.

"SEC 3. *And be it further enacted*, That in any case hereafter in which the applicant for the benefit of the homestead, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made, is prevented by reason of distance, bodily infirmity, or other good cause from personal attendance at the district land office, it shall and may be lawful for him to make the affidavit required by the original statute before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver."

Mr. DONNELLY. This bill simply contemplates that the affidavit made by the actual settler, when he commutes his homestead title and pays cash, or when he proves up his title at the end of five years, may be made before the clerk of the county court in which he resides, instead of traveling to the register and receiver of the land office. Now, it appears by the law just read that in 1864, in the case of any person in the military or naval service, it was provided that such an affidavit could be made before the commanding officer of such soldier or sailor; and furthermore, that in the case of any actual settler the first and preliminary affidavit, by all odds the most important of all the affidavits required to be made under the homestead law, might be made before the clerk of the county court in which the settler resided, instead of before the register and receiver of the land office. Now, sir, this bill asks that the same rule shall be applied to the other affidavits provided for by the homestead act, to wit, that made by the settler, when he commutes his title, relinquishes his position as a homestead settler, and pays for his land, pays actual cash into the pockets of the Government; and in the other case, when at the expiration of five years he comes forward and proves occupancy and claims his patent. Every gentleman in this House must be well aware that those proofs and those affidavits will come here and be filed in the General Land Office, and that the persons making them are subject to the penalties and pains of perjury for any falsehood they may swear to before the clerk of the county court as fully as if their affidavits were made before the register and receiver of the land office.

Mr. Speaker, it is a question merely and altogether of convenience to the settler whether he shall be allowed to go before the clerk of the county in which he resides or shall be compelled to travel fifty or a hundred miles, and take witnesses at his own expense, to prove that which could be as well proved within a short distance of his own home.

Now, the intention of the homestead act was to afford homes to poor men. Poor men alone avail themselves of it, and certainly it is not the intention of Congress to impose upon them this incidental injustice, which goes far toward defeating the real purpose of the act. With this explanation I yield to my colleague.

Mr. WINDOM. I have but a single word to say on this subject. I introduced this bill the other day upon mature consideration, believing it to be for the interest, or more properly speaking for the convenience, of the people who would be benefited by it, and incapable of injuring anybody. The only point to which I want to refer is the objection made by the gentleman from Illinois, [Mr. WASHBURNE,] that this bill will tend to the commission of fraud and perjury. I cannot conceive how it has any such tendency. If I thought it had I certainly should not have introduced it. This evidence, as has been said by my colleague, will be sent to the land office, where it may be found just as readily as if given by the register or receiver. In this regard we shall have a safeguard against fraud and perjury, for certainly a man will be much more likely to commit fraud and perjury a hundred miles from his home, where nobody knows the circumstances, than he will if he makes his proof in his own neighborhood where all the circumstances may be known. I think we are safe in requiring this evidence to be taken before the clerk as before the register and receiver. It can do nobody any harm, and it will save thousands and thousands of dollars to the poor men on the frontier.

As my colleague says, this homestead law was made for the benefit of poor men. It may seem a small thing to pay out thirty or fifty dollars for a farm, but to the settlers on the frontier it is a great consideration. They have in many instances little or no money, and if we can, without injury to anybody, save them this amount it is certainly very desirable to do it. I hope the bill will pass.

Mr. DONNELLY. I yield to the gentleman from Wisconsin.

Mr. WASHBURN, of Wisconsin. I desire to express my entire dissent from the views expressed by the gentleman from Illinois, [Mr. WASHBURNE.] The objections which he made to the bill, and which when I first sought the floor and desired to answer, has already been answered, and it therefore is unnecessary for me to add anything. The question involved in this bill is simply whether the testimony of the party applying for the benefit of the homestead act, which is now required to be given before a register or receiver, may be given in certain cases before a clerk of the court near the residence of the party applying for the benefits of the law, thus saving the applicant in most cases considerable expense. It has been well said the homestead act is intended for the poor man, and it is certainly very desirable that those for whose benefit it was intended should be saved as much unnecessary expense as possible. The objection that this will lead to the commission of perjury I think is not well taken. The law should be liberally construed and liberally executed, and there is less likelihood that a party applying for its benefits would make a false affidavit in the very presence of his neighbors than away from them.

But my object in taking the floor was to ask the consent of the gentleman who reported this bill to an amendment to this effect: that the provisions of all existing homestead laws shall hereafter apply to the even-numbered sections of all lands within the limits of any existing railroad land grant in the same manner as other lands.

Mr. DONNELLY. I have no objection to that amendment.

Mr. JULIAN. I will state to the gentleman that the Committee on Public Lands have reported a similar bill, which is now before the House, covering that ground.

Mr. WASHBURN, of Wisconsin. This is a proposition that will commend itself to every member of the House, and it is uncertain when the bill referred to by the gentleman from Indiana will be considered by Congress. I therefore move the following amendment as an additional section:

Be it further enacted, That the provisions of all existing homestead laws shall hereafter apply to the even-numbered sections of all lands within the limits of any existing railroad land grant within the United States in the same manner as other lands.

Mr. DONNELLY. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. JULIAN. Mr. Speaker, the amendment proposed by the gentleman from Wisconsin [Mr. WASHBURN] applies to the southern homestead law, and it would injuriously interfere with the policy which has been adopted in that section of the Union.

Mr. WASHBURN, of Wisconsin. That being the case, and understanding from the chairman of the committee that a bill has already been reported providing for the extension of the homestead law substantially as I desire, I withdraw the amendment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DONNELLY. I demand the previous question on the passage.

The previous question was seconded and the main question ordered.

The question being put on the passage of the bill, there were—ayes 73, noes 5; no quorum voting.

The Speaker ordered tellers; and appoined Messrs. DONNELLY, and WASHBURNE of Illinois.

The House divided; and the tellers reported—ayes 81, noes 15.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

So the bill was passed.

Mr. DONNELLY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The question was taken on the latter motion, and there were—ayes 78, noes 5; no quorum voting.

The Speaker ordered tellers; and appointed Messrs. JULIAN and HOLMAN.

The House divided; and the tellers reported—ayes 69, noes 25.

So the motion to reconsider was laid on the table.

MOTION TO RECONSIDER.

Mr. HOLMAN. I rise to a privileged question. I desire to enter a motion to reconsider the vote by which the bill (H. R. No. 234) in relation to the payment of certain claims was postponed. I do not desire action on the motion now, but merely to keep the bill within the control of the House.

The motion was entered.

DUBUQUE AND SIOUX CITY RAILROAD.

Mr. HOPKINS, from the Committee on Public Lands, reported back with amendments a bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad.

The bill was read. The first section provides that the time for completing a line of railroad from Dubuque to Sioux City, in the State of Iowa, for the construction of which lands were granted in alternate sections to said State by an act entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of railroads in said State," approved May 15, 1856, be, and the same is, extended until the 1st day of January, 1872; provided said road shall be constructed on the most practicable route on or near the surveyed line along which lands have been selected under said grant, by way of Webster City and Fort Dodge to Sioux City, crossing the Little Sioux river not further south than at or near the south line of Cherokee county; and the same shall be completed to Fort Dodge on or before the 1st day of January, 1869, and thereafter at the rate of not less than fifty miles each year; and the said road shall be constructed, operated, and maintained as one continuous and unbroken line of road from Dubuque to Sioux City.

The second section provides that the lands granted to said State, to aid in the construction of said road, liable to revert to the United States on the 15th day of May, 1868, shall be disposed of for the purpose of said grant only, and in manner following, namely: when the Governor of the State of Iowa shall certify to the Secretary of the Interior that any section of twenty consecutive miles of said road, not constructed on the 15th day of May, 1868, has been completed in a good, substantial, and workmanlike manner, as a first-class railroad, then the Secretary of the Interior shall issue patents conveying to the said State the lands granted by said act aforesaid, lying on each side of the completed section of said road continuous therewith; and in case it is found, when said certificate of the Governor is made as aforesaid, that of the odd-numbered sections and parts of sections situate on each side of said completed section of road within the limit of fifteen miles a portion or all of the same have been disposed of so as not to leave six sections per mile remaining to be patented, the Secretary of the Interior may include in the patents to be issued such of the lands as the State may be entitled to under said grant, lying nearest said completed section on each side of the permanently located line of said road within the limits of fifteen miles, for a distance of not more than forty miles in advance of the terminus of the same, so much thereof as will make up the six sections per mile to which the State may be entitled for the road completed. And patents shall in like manner be issued as each twenty miles of said road is completed and certified to. And when the whole of said road is completed, all of the lands to which the said State may be entitled under said grant for the completion of that portion of said road remaining uncompleted on the 15th day of May, 1868, shall be patented to said State.

The third section provides that should the said State fail to complete said road or cause the same to be completed to Fort Dodge, and at the rate of fifty miles a year, as herein provided, immediately upon the happening of such failure the lands embraced in said grant unpatented and to which said State at the date of such failure is not entitled to a title therefor shall revert to the United States and become subject to sale and entry as other lands not granted.

The fourth section provides that the route of said road between Fort Dodge and Sioux City shall be resurveyed and permanently located, and a map of such location filed—one with the Commissioner of the General Land Office, one in the local land office at Fort Dodge, and one in the local land office at Sioux City. And until said location is made and maps filed the lands granted by said act, liable to revert to the United States on the 15th day of May, 1868, shall be subject to homestead settlements under the homestead laws, in quantities not exceeding eighty acres each; and in lieu of the lands thus taken as homesteads the State shall be entitled to select other lands from any of the vacant lands then belonging to the United States within fifteen miles on each side of said road so located, and the same are hereby granted to said State for that purpose.

The committee reported the following amendments:

Amend section one by striking out in line eighteen the word "fifty" and inserting "forty" in lieu thereof.

Amend section three by striking out in line three the word "fifty" and inserting "forty" in lieu thereof; so that it will read "at the rate of not less than forty miles each year."

Mr. WASHBURNE, of Illinois. I desire to ask the gentleman from Wisconsin if he proposes to put this bill through under the operation of the previous question, or whether he proposes to let the bill be examined and debated?

Mr. HOPKINS. I do not propose to allow the gentleman from Illinois to occupy the entire time until the morning hour expires with questions. I will say that this bill is precisely of the same character as one which was passed two weeks ago in regard to a road in Wisconsin and Michigan; that it makes no additional grant of lands whatever, but simply extends the time for the completion of the road from Dubuque to Sioux City, in Iowa, till 1872. The company has completed already one hundred and forty miles of that road, and has graded sixty miles further. By the provisions of this bill they will be compelled to complete sixty miles more in one year from the 1st of January last, and complete forty miles in every year thereafter until 1872. The grant expires on the 15th of May next, and it becomes necessary, therefore, for Congress to pass this bill, and pass it quickly, so that the company may complete their arrangements to go on with the the road next year. With this explanation I demand the previous question.

Mr. WASHBURNE, of Illinois. I appeal to the gentleman from Wisconsin to withdraw that extraordinary demand. Here is a bill of four or five pages, proposing to take five or six hundred thousand acres of the public lands, under circumstances which I desire to explain to this House, and we are not to be allowed one word of discussion. I want to know if these stupendous schemes of land-grab are to be gagged through this House?

Mr. HOPKINS. Is this debatable?

The SPEAKER. The previous question is demanded, and no debate is in order.

Mr. WASHBURNE, of Illinois. Well, if the House wants to second it let it go.

Mr. HOPKINS. If the previous question is sustained the gentleman from Illinois can occupy as much of my time as he chooses.

Mr. WASHBURNE, of Illinois. No, sir; I protest against it.

Mr. SPALDING. I wish to ask the gentleman a question.

Mr. HOPKINS. I withdraw the previous question for that purpose.

Mr. SPALDING. I merely want to know

why, if he only wishes to extend the time for the construction of this road and to save the grant of lands heretofore made, he does not include it in one short section. Why does he provide that on the completion of every twenty miles patents shall be issued for the lands?

Mr. WASHBURNE, of Illinois. I can answer the question. It is to carry the road by Webster City to Fort Dodge.

Mr. HOPKINS. That is the language of the original law, which provides that on the completion of any twenty miles of road the company shall be entitled to a patent. The drawer of this bill, in order to restrict the company and to protect the interests of the people, has provided in this act that this company shall construct not less than fifty miles of road each year, and that unless they do that they shall forfeit the grant. I have never seen any bill before this House so restrictive in its operations.

Mr. HUBBARD, of Iowa. Will the gentleman from Wisconsin [Mr. HOPKINS] yield to me for a moment?

Mr. HOPKINS. I will yield to the gentleman, as he introduced the bill originally.

Mr. WASHBURNE, of Illinois. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. WASHBURNE, of Illinois. My point of order is that the gentleman from Wisconsin [Mr. HOPKINS] having refused to yield to me it is not right for him to yield to anybody else. [Great laughter.]

The SPEAKER. The Chair overrules the point of order.

Mr. WASHBURNE, of Illinois. I appeal from the decision of the Chair.

The SPEAKER. The Chair will state the question involved in this appeal, and then probably the gentleman will not persist in his appeal. The gentleman from Wisconsin [Mr. HOPKINS] having reported the bill from the committee was entitled to one hour for the purpose of debating its provisions, if he saw fit to occupy it. Having used a portion of that time, he called the previous question. The gentleman from Illinois [Mr. WASHBURNE] desired to occupy the floor, but the gentleman from Wisconsin declined to yield to him for that purpose. He afterward yielded to the gentleman from Ohio, [Mr. SPALDING.] The gentleman from Iowa [Mr. HUBBARD] requested the gentleman from Wisconsin to yield to him, which he consented to do. Thereupon the gentleman from Illinois [Mr. WASHBURNE] raised the point of order that the gentleman having refused to yield to him he had no right to yield to anybody else. The Chair overruled the point of order, and the gentleman from Illinois takes an appeal from that decision. The question involved is whether a gentleman, having declined to yield to one member, is thereby precluded from yielding to another. The decision of the Chair is that no gentleman is thus precluded. The question now is: Shall the decision of the Chair stand as the judgment of the House?

Mr. SPALDING. Upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 136, nays none, not voting, 52; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Barnes, Barnum, Beaman, Beck, Benton, Bingham, Blaine, Blair, Boutwell, Boyer, Bromwell, Brooks, Broomall, Buckland, Burr, Butler, Cake, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Dawes, Dixon, Dodge, Donnelly, Ela, Eldridge, Eliot, Farnsworth, Ferriss, Ferry, Fox, Garfield, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Harding, Hawkins, Higby, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Kerr, Ketcham, Kitchen, Knott, Koontz, Laflin, William Lawrence, Loughridge, Mallory, Marshall, Marvin, Maynard, McCarthy, McClurg, McCormick, Mercur, Miller, Moorhead, Morrell, Morrissey, Mullins, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Price, Pruyn, Randall, Raum, Robertson, Ross, Scofield, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Stewart, Stokes, Stone, Taber, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Van Aernam, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodward—136.

NAYS—0.

NOT VOTING—Messrs. Adams, Allison, Banks, Benjamin, Churchill, Cobb, Cook, Cornell, Covode, Cullom, Driggs, Eckley, Eggleston, Fields, Finney, Griswold, Halsey, Hill, Hooper, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Jones, Kelley, George V. Lawrence, Lincoln, Loan, Logan, Lynch, McCullough, Moore, Morgan, Mungen, Nunn, Pile, Polsley, Robinson, Sawyer, Schenck, Shellabarger, Sitgreaves, Starkweather, Thaddeus Stevens, Taffe, John Trimble, Twichell, Upson, Burt Van Horn, William B. Washburn, Thomas Williams, and Woodbridge—52.

So the decision of the Chair was sustained.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

Mr. HOPKINS. I move that the bill be printed.

The motion to print was agreed to.

NICKEL FIVE-CENT PIECES.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting the draft of a bill prepared by the Director of the Mint, authorizing the coinage of nickel five-cent pieces at the branch mint of New Orleans, accompanied by an explanatory letter from the Director; which, with the accompanying paper, was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

RECONSTRUCTION.

The House then resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto; upon which Mr. WOOD was entitled to the floor.

Mr. WOOD. I yield to the gentleman from Delaware [Mr. NICHOLSON] for five minutes.

Mr. NICHOLSON. I rise not for the purpose of discussing the bill under consideration any further than to call the attention of the House and of the country to the remarkable fulfillment of the apprehensions entertained by the framers of the Constitution. This fulfillment is exhibited in the present condition of the country and the extraordinary powers assumed by this Congress. Those men seem to have been inspired for the duties they had to perform and in the wise admonitions they have left to posterity. It was their opinion, and it has been frequently expressed, that the dangers we had to apprehend for the liberties of our country were not from the executive or the judicial departments of the Government, but from the encroachments upon the Constitution and the disregard of the liberties of the people by the legislative department itself. Believing that this bill and all previous legislation upon the so-called reconstruction of the southern States are unconstitutional, and not rightly within the power of Congress, I desire to have read a letter from one of those illustrious statesmen showing that they entertained the opinion that the danger of this abuse of power was inherent in the legislative department, and therefore most earnestly to be guarded against. The Clerk will please read, without further comment from me, a letter from Gouverneur Morris to Timothy Pickering, 1 Elliott's Debates, second edition, pages 506–7.

The Clerk read as follows:

MORRISANIA, *December* 22, 1814.

MY DEAR SIR: What can a history of the Constitution avail toward interpreting its provisions? This must be done by comparing the plain import of the words with the general tenor and object of the instrument. That instrument was written by the fingers which write this letter. Having rejected redundant and equivocal terms, I believed it to be as clear as our language would permit, excepting, nevertheless, a part of what relates to the judiciary. On that subject conflicting opinions had been maintained with so much professional astuteness that it became necessary to select phrases which, expressing my own notions, would not alarm others nor shock their self-love; and to the best of my recollection this was the only part which passed without cavil.

But, after all, what does it signify that men should have a written constitution containing equivocal provisions and limitations? The legislative lion will not be entangled in the meshes of a logical net. The Legislature will always make the power which it wishes to exercise, unless it be so organized as to contain within itself the sufficient check. Attempts to restrain it from outrage by other means will only render it more outrageous. The idea of binding legislators by oaths is puerile. Having sworn to exercise the powers granted, according to their true intent and meaning, they will, when they feel a desire to go further, avoid the shame, if not the guilt of perjury, by swearing the true intent and meaning to be, according to their comprehension, that which suits their purpose. GOUVERNEUR MORRIS.

Mr. WOOD. Mr. Speaker, history will in my judgment refer to this decade as a grand epoch in the annals of this nation, and permit me to say that the present moment is the crisis of that epoch. The cord which binds this people together under one fundamental form of government has been strained to its utmost tension. But a little more pressure would be required to break that tie and involve us in anarchy, revolution, and annihilation. The events which have transpired within the last forty-eight hours are of themselves a justification of this declaration. Since last Monday morning what have we had presented to us? In the first place, we have passed a bill to subvert the time-honored organization of the Supreme Court of the United States, to lay sacrilegious hands upon that department of the Government which the framers of our Constitution designed to place above and beyond all partisan influences, as shown by the tenure of the judges composing that tribunal. Those judges were guarantied their positions for life, so that amid the mutations of party, amid the violence and excitement which in this country too often control legislation as well as public opinion, there should be at least one department of the Government upon which the sacrilegious hands of partisan ambition should never be placed. And that department of the Government, from its original establishment down to last Monday, has been exempt from these influences. Through all the changes of public opinion, surging as it does in this country from one extreme to another, the Supreme Court has until the present time been left in its entire independence to discharge its high duties without such contamination. Sir, by that bill we have established a principle which would enable us to require the concurrence of every judge upon that bench for the decision of a constitutional question, and by a little further advance in carrying out the principle thus established Congress may decide that the Supreme Court cannot set aside any act of Congress upon the ground of unconstitutionality, thus absorbing within our hands the judicial as well as the legislative power.

But, sir, there are three other events which, in my judgment, are equally important and should equally attract the attention of the American people. We have had introduced here a proposition to degrade and disgrace one of the most illustrious officers of the American Army—a man whose prowess and daring——

Mr. SPALDING. I rise to a question of order, and would inquire of the Chair whether there is any particular bill under discussion?

The SPEAKER *pro tempore*, (Mr. GARFIELD.) The gentleman will state his point of order.

Mr. SPALDING. My point is that the gentleman should confine himself to the subject under discussion. The bill in regard to the Supreme Court has been passed, and the bill with reference to General Hancock is not now before the House.

Mr. WOOD. I submit, Mr. Speaker, that I am strictly in order.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. WOOD. I am discussing the proposition before the House, and the references which I am making are necessary as introductory to a consideration of that bill. I am stating four events which have transpired in this country since last Monday morning, and I intend to include the introduction of this bill as one of those events which should arouse the whole American people to the imminent danger which is upon them.

I repeat, sir, the second proposition to which I refer was a bill designed to degrade and remove one of the most illustrious, successful, and distinguished officers whose deeds brighten the annals of this country, Major General Hancock. Why? Because he had recognized the existence of civil as well as military power; because he recollected, while he was clothed with high dictatorial powers, there was also a Constitution of the United States; because he was not willing to become the supple instrument of a congressional oligarchy which seeks to absorb all power within the vortex of its ambition. A mean, cowardly attempt to put an insult upon a man whose character, professional and personal, is far too high for this House to insult at all!

That, sir, is number two. Number three is the unprecedented and remarkable transaction which has occurred in the executive department. The President, clothed under the Constitution with executive power, with the implied right to bring around him his own trusted counselors and advisers, suspects, as it is alleged, an officer of his official household of being in collusion with his enemies, betraying confidential official secrets, opposing his policy, and attempting to bring the Executive into contempt and disgrace. For this he removes him. I do not say "suspended," because I deny the right of Congress to pass the civil tenure bill under which this alleged suspension occurred. He removes him from that office and appoints another person *ad interim* Secretary of War.

Then, sir, we find that without the consent of the President, and, as it is stated in the press of to-day, in violation of an implied obligation on the part of the incumbent of that position, who was there temporarily with full powers, this removed Secretary was thrust back again upon the Executive into the very position from which he had been displaced, and made Secretary of War, though his relations to the Chief Magistrate are such that not the slightest intercourse, personal, official, or political, can transpire between them. I declare this to be unprecedented, unjustifiable, unconstitutional, and disgraceful.

That is the third event which has startled the American people. The fourth is the bill now under consideration—a bill without a title, a child without a name and probably without a father, a monstrosity, a measure the most infamous of the many infamous acts of this infamous Congress.

Mr. BINGHAM. I call the gentleman to order, and ask that his words be taken down at the Clerk's desk.

The SPEAKER. What words does the gentleman except to?

Mr. BINGHAM. He stated this was the most infamous of the many infamous acts of this infamous Congress.

The SPEAKER. The gentleman has not the right to address that language to Congress.

Mr. BINGHAM. I ask that the words be read.

The Clerk read the words excepted to.

The SPEAKER. The sixty-second rule will be read by the Clerk.

The Clerk read as follows:

"62. If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table; and no member shall be held to answer or be subject to the censure of the House for words spoken in debate if any other member has spoken, or other business has intervened after the words spoken and before exception to them shall have been taken."

Mr. ROSS. I suggest the gentleman from New York insert "so called." [Laughter.]

The SPEAKER. The Chair rules the words excepted to are not in order, and the sixty-first rule provides as follows:

"61. If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House; and if the case require it he shall be liable to the censure of the House."

The gentleman has the right to proceed if no one objects.

Mr. BINGHAM. I object to his proceeding unless he takes back these words and makes an apology to the House. [Cries of "that's right."]

The SPEAKER. The gentleman can proceed, if no one objects, to explain.

Mr. KERR. I ask the Speaker to which of these words he applies his decision; is it to all of the words, or only to the particular word characterizing Congress?

The SPEAKER. The Chair decides that the words excepted to by the gentleman from Ohio are not in order. The gentleman from New York can make an explanation if no one objects.

Mr. WOOD. Mr. Speaker, I have no explanation to give.

The SPEAKER. Then as the gentleman from Ohio [Mr. BINGHAM] objects he can only proceed by the consent of the House.

The question was put whether Mr. WOOD be allowed to proceed, and the Speaker declared that the noes seemed to have it.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 40, nays 108, not voting 40; as follows:

YEAS—Messrs. Adams, Archer, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Morrissey, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Thaddeus Stevens, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—40.

NAYS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Covode, Cullom, Dawes, Dodge, Donnelly, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Griswold, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Logan, Loughridge, Mallory, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Pomeroy, Price, Robertson, Sawyer, Scofield, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Stokes, Taylor, Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—108.

NOT VOTING—Messrs. Allison, Axtell, Baldwin, Coburn, Cook, Cornell, Dixon, Driggs, Eckley, Ferry, Fields, Finney, Halsey, Asahel W. Hubbard, Jones, Kelley, George V. Lawrence, Lincoln, Loan, Lynch, Marvin, McCullough, Moorhead, Morgan, Mungen, Pile, Poland, Raum, Robinson, Schenck, Shellabarger, Starkweather, Stewart, Taffe, John Trimble, Twichell, Burt Van Horn, William B. Washburn, Wood, and Woodbridge—40.

So the House refused to allow Mr. WOOD to proceed.

During the roll-call,

Mr. PRUYN asked consent to make an explanation of his vote.

Mr. SPALDING. I object.

Mr. PHELPS. I ask permission to explain.

Mr. SPALDING. I object to all explanations.

Mr. WOODBRIDGE asked to have his name called.

The SPEAKER. Was the gentleman within the bar when the last name on the roll was called?

Mr. WOODBRIDGE. I was in the cloak-room.

The SPEAKER. That is not within the bar of the House.

Mr. WOODBRIDGE. I would have voted no.

The result was announced as above recorded.

VOTE OF CENSURE.

Mr. BECK rose.

Mr. DAWES. I rise to a question of privilege.

The SPEAKER recognized the latter.

Mr. DAWES. I offer the following resolution, and upon it demand the previous question:

Resolved, That FERNANDO WOOD, a member of this House from the State of New York, having this day used in debate upon the floor of the House the following words: "A monstrosity, a measure the most infamous of the many infamous acts of this infamous Congress," deserves, therefore, the censure of this House, and the Speaker is hereby directed, forthwith, to pronounce that censure at the bar of the House.

Mr. HOLMAN. I rise to a question of order. There has been intervening business.

The SPEAKER. The gentleman from Kentucky [Mr. BECK] was recognized as taking the floor in the line of debate, but the gentleman from Massachusetts [Mr. DAWES] rose at the same moment to a question of privilege, which is a higher right than debate. No business has therefore intervened.

Mr. KERR. I move to lay the resolution on the table; and on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 115, not voting 35; as follows:

YEAS—Messrs. Archer, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—38.

NAYS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dodge, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Griswold, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Poland, Polsley, Pomeroy, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—115.

NOT VOTING—Messrs. Adams, Allison, Axtell, Reader W. Clarke, Cook, Cornell, Dixon, Donnelly, Driggs, Eckley, Ferry, Fields, Finney, Halsey, Jones, Kelley, George V. Lawrence, Lincoln, Loan, Lynch, McCullough, Morgan, Niblack, Pike, Raum, Robinson, Shellabarger, Starkweather, Stewart, Taffe, John Trimble, Twichell, Burt Van Horn, William B. Washburn, and Wood—35.

So the House refused to lay the resolution on the table.

The previous question was seconded and the main question ordered.

Mr. BURR. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

Mr. ROSS. Is it in order to move to refer the resolution to the Committee on Reconstruction. [Laughter.]

The SPEAKER. It is not in order unless the previous question shall be reconsidered.

The question was taken on the adoption of the resolution, and it was decided in the affirmative—yeas 114, nays 39, not voting 35; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dodge, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Griswold, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Poland, Polsley, Pomeroy, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—114.

NAYS—Messrs. Adams, Archer, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—39.

NOT VOTING—Messrs. Allison, Axtell, Chanler, Churchill, Cook, Cornell, Dixon, Donnelly, Driggs, Eckley, Ferry, Fields, Finney, Halsey, Harding, Hill, Asahel W. Hubbard, Jones, Kelley, George V. Lawrence, Loan, Lynch, McCullough, Morgan, Pike, Raum, Robinson, Shellabarger, Starkweather, Stewart, Taffe, John Trimble, Twichell, William B. Washburn, and Wood—35.

So the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The gentleman from New York [Mr. WOOD] will present himself at the bar of the House.

Mr. ELDRIDGE. I rise to a point of order. The resolution does not require the gentleman from New York to appear at the bar. It requires the Speaker of the House to censure him from the bar.

The SPEAKER. The Chair overrules the point of order.

Mr. ELDRIDGE. If the Chair will look at the resolution he will see that that is its purport.

Mr. WOOD then appeared at the bar of the House.

The SPEAKER. Mr. FERNANDO WOOD: May's Treatise on the Law, Privileges and Usages of Parliament, from which we derive the fundamental principles of our parliamentary law, in speaking of occurrences like that which has caused the vote the result of which has just been announced, thus speaks:

"It is obviously unbecoming to permit offensive expressions against the character and conduct of Parliament to be used without rebuke; for they are not only a contempt of that high court, but are calculated to degrade the Legislature in the estimation of the people. If directed against the other House and passed over without censure, they would appear to implicate one House in discourtesy to the other; if against the House in which the words are spoken, it would be impossible to overlook the disrespect of one of its own members. Words of this objectionable character are never spoken but in anger; and when called to order the member must see the error into which he has been misled, and retract or explain his words and make a satisfactory apology. Should he fail to satisfy the House in this manner he will be punished by a reprimand or by commitment."

Having violated this universally recognized rule of parliamentary law in all deliberative bodies, the House has ordered its censure to be pronounced upon you by its Presiding Officer. This duty having been performed, you will resume your seat.

Mr. WOOD then resumed his seat.

RECONSTRUCTION—AGAIN.

Mr. ROSS. I rise to a question of order. The gentleman from New York having paid the penalty, is he not entitled to the balance of his hour? [Laughter.]

The SPEAKER. The House has decided that question in the negative.

Mr. ELDRIDGE. I rise to a question of order. By arrangement with the gentleman from New York [Mr. WOOD] I was to have had part of his time. I want to know if I am cut off. [Laughter.]

The SPEAKER. If there be no objection, the Chair will be glad to carry out that arrangement.

Mr. WOOD. I would like the House to permit me to finish my remarks. [Laughter, and cries of "oh, no."]

Mr. GARFIELD. I object.

The SPEAKER. It can be done only by reconsidering the vote on that subject.

Mr. WOOD. Well, sir, I shall finish them before the country.

Mr. BOYER. I rise to a question of privilege. I move that the gentleman from New York have leave to print the remarks he would have made if the House had permitted him to proceed. [Laughter, and cries of "object."]

The SPEAKER. That would require unanimous consent.

Mr. BOYER. I am aware of that.

The SPEAKER. Objection is made. What length of time does the gentleman from Wisconsin desire?

Mr. ELDRIDGE. Half an hour.

The SPEAKER. Is there objection to the gentleman from Wisconsin occupying half an hour of the time that would have been consumed by the gentleman from New York.

Mr. GARFIELD. I object to anybody occupying half an hour taken away from the gentleman from New York. Let him have half an hour of his own, and not a forfeited half hour.

Mr. BROMWELL. It strikes me that this would work a hardship upon innocent purchasers. [Laughter.]

Mr. ELDRIDGE. I certainly made the arrangement with the gentleman from New York, [Mr. WOOD,] without any notice that he was to be cut off. I think myself it is a violation of contract without any such notice.

The SPEAKER. The gentleman from Kentucky [Mr. BECK] is entitled to the floor, and will proceed.

Mr. BECK. As one of the Committee on Reconstruction which reported the bill now before the House, and as one of the minority of that committee, it perhaps becomes my duty to submit some reasons, in addition to those given by the gentleman from New York, [Mr. BROOKS,] why I concurred in the report of the minority, in opposition to that bill.

I have only to say, in advance of my remarks upon this bill, that having been engaged until Monday noon before the Committee of Elections in the argument of one of the cases from the State of Kentucky, I have not had time to prepare a speech as perhaps I should have done. And I will state further that, being a new member and not knowing how I can regulate the time to which I am now entitled, I must decline to be interrupted.

Mr. Speaker, the minority of the Committee on Reconstruction felt it to be their duty to differ with the majority of that committee in regard to the presentation of the bill now before the House, and to give our reasons for that difference of opinion in the form of a minority report which is now before the House and the country. The question before the House is whether the majority or the minority of that committee are right. The majority maintain that the bill presented by them is constitutional, and that its constitutionality can be maintained here and everywhere. We of the minority in our report contend that that bill is unconstitutional. That, sir, is the question before us, and I intend to confine myself as strictly as possible to this question. I will not follow the lead of the gentleman from Ohio [Mr. BINGHAM] in giving the history of previous parties or the past conduct of men. I am not aware that the fact how any man voted seven years ago, or how any man felt ten years ago, or how he feels now will tend to elucidate the question under consideration.

The question is simply this: Is this a bill which we ought to pass; is it a bill which we have the right to pass, according to the Constitution? I say it is not. And just here, to begin with, let me ask what was the issue during this whole war? What was the question between the United States and the so-called confederate States? It was simply that there was a disagreement among the people of the several States in this Union as to their respective rights. The people of the one part claimed that they had the right to secede; the people of another part held that they had no such right.

I will not now stop to go into the causes which brought about that state of things, though I might, perhaps, be able to state facts which would show to the gentleman from Ohio [Mr. BINGHAM] that both sides were to blame instead of one being wholly in fault. But that is not the question. The issue was made; forces were marshaled against each other, and the heralds proclaimed the contest. And the Congress of the United States in July, 1861, laid down this programme, and announced to the world in these words what it was fighting for:

"*Resolved*, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged upon our part in any spirit of oppression nor for any purpose of conquest or subjugation nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

That was the basis upon which the war was to be waged. That resolution was adopted by a vote of 117 yeas to 2 nays; and the gentleman from Ohio [Mr. BINGHAM] was in his place here and did not record his vote in the negative. He, therefore, as well as the whole House, stands committed to those principles. That resolution has never yet been repealed. The war was assumed to be carried on upon that basis; men were summoned to arms to carry out the principles therein enunciated, and the United States professed to act on it throughout the war.

In 1862 an act was passed by this Congress apportioning representation among the States of the Union, the seceded States included, upon that idea. Direct taxes were also laid upon the same principle. Andrew Johnson, then a Senator from Tennessee, retained his seat in the Senate long after Tennessee had seceded, upon the assumption that all those States were States of the Union. The honorable gentleman from Tennessee [Mr. MAYNARD] and others were elected in August, 1861, months after Tennessee had passed her ordinance of secession, and they took and held their seats in this body because Tennessee was a State of this Union, her ordinance of secession to the contrary notwithstanding. Congress admitted West Virginia as a State on the consent given by the Legislature of the old State of Virginia to it on the 13th of May, 1862, and her Senators and Representatives have held and now hold their places solely by virtue of that act of the Legislature of Virginia. In May, 1865, Virginia transferred to West Virginia Berkeley and Jefferson counties, and Congress approved the transfer. Everything during the whole war was carried on upon the assumption by all the Departments of the Government that the States of the South were States in the Union, and that their ordinances of secession were null and void. Why, sir, the Supreme Court of the United States, which in March, 1863, was increased to ten judges, and circuits assigned them, embracing all the seceded States, after the war was over was reorganized on the 23d of July, 1866, and two judicial circuits were laid out almost wholly in the States lately in rebellion. Suits from those States are now pending in that court, and appeals and transfers from their State courts to the Federal courts are entertained under the laws of the United States, which could not be except upon the idea that they are States of the Union. Every step, I say, taken by the different Departments of the Government has recognized these States as States of the Union.

And, sir, I will go further and quote an authority of a kind that I do not frequently cite. In 1864 a bill was passed by this House and the Senate which Mr. Lincoln failed to sign. In advocating that bill in the Senate Mr. WADE used this very sensible language:

"It has been contended in the House of Representatives, it has been contended on this floor, that the States may lose their organizations, may lose their rights as States, may lose their corporate capacity by rebellion. I utterly deny that doctrine. I hold that once a State of this Union always a State; that you cannot by wrong and violence displace the rights of anybody, or disorganize the State. It would be a most hazardous principle to assert that. No, sir; the framers of your Constitution intended no such thing. They did not leave this great question untouched. And when we study that great instrument I can hardly help but stop and contemplate the all-embracing wisdom that seemed to actuate them, for

you can find hardly an exigency that may arise in the complicated affairs of the Government that they did not anticipate and provide for; they did foresee that in the progress of the Government some of the States might go into rebellion, that they might undertake themselves to absolve their connection with the General Government and set up some hostile government of their own; and they expressly provided for just such a case; and how gentlemen, with this principle of the Constitution staring them in the face, can fancy that States can lose their rights because more or less of the people have gone off into rebellion is marvelous to me. The principle of law everywhere is that no honest man shall lose a right by wrong and usurpation. The act of rebellion is void. It may have physical force for the moment to displace rights; but the law never yields to any such power as that. The law never anywhere acknowledges that right can be overthrown by wrongful action. They, then, who contend that the State governments are lost, obliterated, blotted out, are contending against the face and eyes of the Constitution. Has that said any such thing? No, sir; it has said that the Federal Government shall guaranty to every State a republican form of government, and if a portion of the people undertake to overthrow their government and set up another, it is the manifest duty of the General Government immediately to interfere, and if necessary interpose the strong arm of its power to prevent such a state of things. Precisely that state of things is upon us, and this bill proceeds upon that idea, and discards absolutely the notion that States may lose their rights and that they may be abrogated and may be reduced to the condition of Territories. It denies any such thing as that. No sound principle can be adopted that warrants any such thing."

This is the language of a gentleman who is now President of the Senate. That is the doctrine which he and the mass of his party then maintained, and which continued to be the doctrine, so far as publicly avowed, until the last session of the Thirty-Ninth Congress. Why, sir, three of those States—Tennessee, Louisiana, and Arkansas—were represented as States in the Baltimore convention that nominated Mr. Lincoln and Mr. Johnson of Tennessee, in 1864, and there voted as States. That convention declared that nothing should be required from the people of those States except a return to their allegiance and unconditional submission to the laws of the United States. That was the platform on which the Republican party ran the race and on which its candidates were elected in 1864.

Further than that: the thirteenth amendment of the Constitution of the United States was submitted to the people of all the States, and it was ratified by the Legislatures of five or six of those so-called "rebellious States;" and on the 15th day of December, 1865, it was declared a part of the Constitution because it was so ratified. This Congress was in session when it was done, and raised no voice of protest against regarding those States as States of the Union. By virtue of their acts as States the thirteenth amendment of the Constitution was adopted.

Now, sir, this is a proposition on which I wish to hear from gentlemen on the other side. If that constitutional amendment was adopted because of the votes of these States, when the Constitution provides that two thirds of Congress may, as it did, submit an amendment to the Constitution, and that it shall become a part of that instrument when ratified by three fourths of the State Legislatures—if those States had no civil State governments how could their State Legislatures act? How, then, did this constitutional amendment become the law of the land? I suppose no one will dispute these propositions: first, that the civil governments of the ten southern States would have been legal and valid, and incapable of all further dispute, if the Federal Government, consisting of the President and Congress, had recognized their validity and legality. Such recognition would bring them fully within the principle assumed by the other side to be asserted in Luther *vs.* Borden, 7 Howard. Second, that the President, by numerous official acts, has recognized the legality of these civil governments in express and direct terms.

Congress expressly recognizes the adoption of the thirteenth article in the civil rights bill, and the sole authority for every provision of that bill is that thirteenth article. Without that article there were slaves in the United States to whom Congress could not give civil rights. After the proclamation of its adoption by the Secretary of State because it had been ratified among others by the States of Tennessee, Arkansas, South Carolina, Alabama, North Carolina, and Georgia—in all twenty-seven States—and after the act of Congress based upon it and expressly recognizing it as part of the Constitution because of its adoption as set forth in said proclamation, it devolves on those who dispute its validity as part of the Constitution to show that its adoption was so irregular as to be beyond the power of the President and of Congress to make it regular. The result necessarily follows that if Congress and the President could have made its adoption regular, so that it was and is a part of the Constitution, their power has been exerted in that proclamation and in the passage of the civil rights bill. Congress in making a law exerts every constitutional power with which it is invested to give validity to that law and to give itself power to pass it. If, therefore, Congress had the power to make the adoption of the thirteenth article regular and complete by recognizing the legality and validity of the civil governments of the ten southern States the Legislatures of which adopted that amendment, then Congress by making the Freedmen's Bureau bill, and especially the civil rights bill, laws of the United States did thereby recognize the validity and legality of these civil governments in a more regular and legitimate manner—to wit, by legislation—than it could have done by any mere resolution, no matter how direct or express, recognizing these civil governments.

These laws so passed, and especially the civil rights bill, being thus the most thorough and binding recognition by Congress that the thirteenth article had been adopted by the Legislatures of three fourths of the States of the United States, was either a recognition of the legality of the Legislatures of those rebel States or a virtual declaration that there were no such eleven States. My object in the recital of the acts and resolutions of Congress, of the platform of the Republican party, and the speeches of its leaders in the opening of this argument, was simply to show that, (independent of the folly of the assumption that eleven States that could neither fight out nor secede out of the Union could be constitutionally lost and obliterated,) they have been recognized as States and treated as such in every form in which it was possible to do so; indeed, to hold them in their proper relation as States was the avowed object of the war.

If, then, the thirteenth article thus became regularly and constitutionally a part of the Constitution of the United States—as, I suppose, no Republican *at least* denies—no sane man, in my opinion, nor even the most ultra Radical, could for a moment contend that Congress, by its mere legislative act, could either directly or indirectly repeal that article of the Constitution; nor can any sane man deny that any act of Congress, the direct or indirect effect of which is to repeal that article of the Constitution, is itself unconstitutional and void. The declaration by the reconstruction acts, for I can hardly call them laws, that the civil governments of these ten States are illegal, or that there are no legal civil governments in those States, amounts to a declaration that those "so-called" civil governments have never had a legal inception or legal existence. For I do not suppose that any man is radical enough to contend that after these civil governments had once been legal and valid under the Constitution of the United States that Congress could render them illegal by declaring them so. This declaration, therefore, being subversive of the very constitutional existence of the thirteenth article, is unconstitutional and void. I can, therefore, see no escape for those who sustain the constitutionality of this bill except by the assertion either that Virginia and the other nine States to which it applies are not States in the meaning of the Constitution, or that Congress has full power, by legislative act, to repeal the constitution and government of any of the States at its mere whim and pleasure. In regard to the first, it is demonstrable, as they were all States in the Union before the war and their right to secede was successfully resisted, that any State adopting a government which is illegal by not being republican in form—which is the only illegality under the United States Constitution, mere repugnance in its constitution and laws to some of the provisions of the United States Constitution only rendering the repugnant State provisions void—does not destroy its legal and constitutional existence as a State under the United States Constitution. Such destruction of the State would nullify the provision of the Constitution which binds the Federal Government to guaranty to each State a government republican in form. If the State is destroyed there is no guarantee, the requirement being that States, not provinces or territories, shall be guarantied. This was the doctrine of Mr. Hamilton, and speaking upon this subject, James Madison, in the forty-third number of the Federalist, says:

"It may possibly be asked whether it may not become a pretext for alterations in the State governments, without the concurrence of the States themselves. It may be answered that, if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guarantied. As long, therefore, as the existing republican forms are continued by the States they are guarantied by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions."

Justice Story, in his Commentaries on the Constitution, quoting these opinions of Hamilton and Madison, says:

"The Federalist has spoken with so much force and propriety upon this subject that it supersedes all further reasoning."

It would therefore result that (if the opposite construction or proposition be true) the very moment this provision of a guarantee comes into operation it is *ipso facto* nullified by there being no State at all to which the guarantee applies. It is useless to point out the absurdity of such a proposition. No man can fail to see it without shutting his eyes to the plainest principles; no matter what hair-splitting definitions may be made of the word "State," as used in our institutions, it is certain that the absence of a legal State government does not, in the broad sense of the Constitution, take away its character and position of a "State," as one of the several United States. All the arguments I have heard in favor of the position of the rebel States having committed suicide and ceased to be States are based on those ordinances and laws repugnant to the United States Constitution, and are declared *nullities* by that Constitution and have been by those States themselves, or on the illegality of those State governments, which illegality, instead of destroying the States, bring into action the constitutional obligation on the United States to that State to rectify it to the extent of making its government republican if it is not so. But I have spent perhaps too much time on that subject.

Now, Mr. Speaker, the civil rights bill and the Freedmen's Bureau bill and all the other legislation which grew out of that thirteenth article, as I have attempted to show, was based on the idea that that article had been ratified by three fourths of the State Legislatures; and the distinguished gentleman from Ohio [Mr. BINGHAM] himself, when Tennessee applied for representation in Congress, after having ratified not only the thirteenth but the fourteenth article, put himself forward as her champion and passed through this House the following resolution on the 20th of July, 1866.

Here is the joint resolution declaring Tennessee entitled to Senators and Representatives in Congress:

"Whereas the State of Tennessee has in good faith ratified the article of amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress to the Legislatures of the several States,

and has also shown to the satisfaction of Congress, by a proper spirit of obedience in the body of her people, her return to her due allegiance to the Government, laws, and authority of the United States: Therefore,

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress, duly elected and qualified, upon their taking the oaths of office required by existing laws."

The preamble was agreed to—yeas 86, nays 48; and the resolution passed—yeas 126, nays 12; Mr. BINGHAM voting "yea."

And to show that his attention was called distinctly to the question just before the vote was taken his colleague [Mr. SHELLABARGER] said:

"I desire to make a suggestion to my colleague [Mr. BINGHAM] in regard to a verbal amendment of his resolution. My recollection of the Constitution is that it provides for the ratification by the Legislatures of three fourths of the States. I suggest to my colleague that he substitute for the words 'State of Tennessee' the words 'Legislature of the State of Tennessee.'

"Mr. BINGHAM. Oh, that is not necessary at all."

So the joint resolution was passed and the Tennessee Representatives admitted.

It is said, however, that those of us who take that ground bind ourselves to stand by the measures adopted by President Johnson, and that he sought to coerce these people and make them adopt a particular kind of civil government which was not the free choice of the people. I know he did, and I think he made a blunder; but I will tell you why, in my judgment, he did it. On the 5th of July, 1864, Congress passed a bill for the purpose of bringing back the revolted States and restoring them to practical relations to the other States. In that act the right of suffrage was restricted exclusively to white male citizens over twenty-one years of age, with restrictions as to loyalty which excluded large numbers. And here, by the way, I will remark that the gentleman from Ohio [Mr. BINGHAM] urged that no State could be republican in form which excluded a majority of its citizens from the right of suffrage. Yet in 1864 this bill was passed restricting suffrage to loyal whites and excluding blacks altogether, whether bond or free. But President Lincoln failed to sign that bill because, as he said, it was handed to him only an hour before the adjournment of Congress. He, however, issued a proclamation on the 8th of July, 1864, in which he incorporated that bill. That proclamation, by which I understand the gentlemen have stood, is in these words, (United States Statutes-at-Large, volume thirteen, page 744:)

Whereas at the late session Congress passed a bill to guaranty to certain States, whose governments have been usurped or overthrown, a republican form of government, a copy of which is hereunto annexed:

And whereas the said bill was presented to the President of the United States for his approval less than one hour before the *sine die* adjournment of said session, and was not signed by him; and whereas the said bill contains, among other things, a plan for restoring the States in rebellion to their proper practical relation in the Union, which plan expresses the sense of Congress upon that subject, and which plan it is now thought fit to lay before the people for their consideration:

Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that while I am—as I was in December last, when by proclamation I propounded a plan for restoration—unprepared by a formal approval of this bill to be inflexibly committed to any single plan of restoration; and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for naught, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same time sincerely hoping and expecting that a constitutional amendment abolishing slavery throughout the nation may be adopted; nevertheless I am fully satisfied with the system of restoration contained in the bill as one very proper plan for the loyal people of any State choosing to adopt it, and that I am, and at all times shall be, prepared to give the executive aid and assistance to any such people so soon as the military resistance to the United States shall have been suppressed in any such State and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, in which cases military governors will be appointed, with directions to proceed according to the bill.

In testimony whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this eighth day of July, in the year of our Lord one thousand eight hundred and sixty-four, and of the Independence of the United States the eighty-ninth.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD,
Secretary of State.

I say that while I believe that the interference by the present Executive was of a character that cannot on principle be successfully defended, because it infringed to some extent the right of the States to control their own domestic affairs, yet these people had accepted this plan of restoration proposed by President Johnson and had acted upon it. The Republican Congress and Mr. Lincoln himself were committed to the proposition, and the people of the South were content with it. The President knew the exigency in which he was placed, and that the only chance he had was some plan which should be approved by the Republican party, and as they were committed to Mr. Lincoln's plan he, doubtless, thought it the best means of speedy and harmonious settlement. The people of the South acted under it, whether they liked it or not. They organized State conventions, elected Legislatures, adopted the thirteenth amendment to the Constitution, and sent members to these Halls asking for admission. What did Congress do then? Did it tell them they had no civil governments? Not at all. It sanctioned the proclamation by the Secretary of State of the adoption of the thirteenth amendment by the Legislatures of the southern States; it passed the Freedmen's Bureau bill and the civil rights bill without saying a word against their State governments. But what further did it do? Taking advantage of the action of those State governments, recognizing them as valid for the purpose of acting upon that constitutional amendment and of passing laws, it proposed for submission to the Legislatures of those States a further constitutional amendment, thus recognizing their State governments as valid all the time. And when Tennessee adopted the fourteenth amendment the gentleman from Ohio [Mr. BINGHAM] became the champion of the measure to admit that State to representation in Congress, a resolution for their admission was passed, as shown above, and her Senators and Representatives took their seats in these Halls. If she had not a legal State government how could she ratify that amendment?

But that is not all. It is charged here that the people have repudiated this action of the President. Now, the gentlemen never dared to let their constituents know till after the late elections in the northern States that they intended to take any such ground as they have now taken. Why did not they pass the military bill at the first session of the Thirty-Ninth Congress? They knew that these States had not civil governments just as well then as they know it now. The elections were coming on, and had to be bridged over, and therefore all this action was postponed until the last session of the Thirty-Ninth Congress, when all the members except from *a few Democratic* States had been elected to the Fortieth Congress, and they had a two years' lease of power. That, in my humble judgment, was the reason that influenced many gentlemen, and perhaps a majority, to hold it back until after that time. I ask, then, in view of all these things, whether the majority of the Reconstruction Committee are right in claiming that there are no civil governments in these States, and therefore that they have a right to take them and hold them as conquered provinces, to remove the protection of the President and the protection of the Supreme Court from them, put the negro above the white man, and place an officer of the Army over all whose will shall be law and who shall have the lives, liberties, and property of the people at his absolute disposal?

Sir, I can understand how the gentleman from Pennsylvania [Mr. STEVENS] and those who agree with him that the Constitution is thrown aside, and that we are acting outside of it, can take this ground; but I cannot understand how a gentleman like the gentleman from Ohio, [Mr. BINGHAM,] who claims to be acting under and in accordance with the Constitution, can do it. If there are no regularly organized governments in these States does not the Constitution of the United States extend over these people? Does not that Constitution extend as far as the power of the United States extends, and protect every human being within their limits, no matter where situated? Beyond all question it does.

"The Constitution of the United States is a law for rulers and people equally in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances."

So said the Supreme Court in the Milligan case.

Where, then, I ask, are the powers now sought to be assumed granted to this Congress? The gentleman from Ohio asserts that Congress has a right to exercise every power not expressly taken away from Congress by the Constitution. Just the reverse is the fact. This Constitution was made by thirteen free, equal, and independent States. They put limitations upon the Federal Government, and they expressly declared that all powers not specially granted to the Government or necessarily inferable therefrom were reserved to the States and the people thereof; and when the gentleman declares, as he did in his speech, that all power is in the Congress of the United States unless expressly prohibited, he commits a fatal error, an error which I would not have supposed a gentleman of his acumen would have fallen into.

Why, sir, when a lawyer looks into a State constitution to see whether a law of the State is in conflict with it, what does he do? He looks to see whether or not there is anything in the constitution prohibiting the Legislature from so acting, because all the power of the State is in the Legislature of the State except what is taken from it by the State or Federal Constitution. But when he looks into the Federal Constitution to see if a law of Congress is constitutional he takes exactly the opposite view. He looks to see whether that power has been granted to Congress, and if it has not been expressly or by necessary implication granted to the Federal Government then the power is not there; it is in the States or the people thereof. If the gentleman will look at the decision of Chief Justice Marshall in the case to which he referred yesterday, of McCullough *vs.* Maryland, he will find that the words "necessary and proper" do not mean everything that Congress thinks is necessary. It must be necessary and proper. You must use constitutional means to carry out the end. The gentleman from Ohio might think it very necessary to dissolve the Legislature of Ohio to keep them from repealing their assent to this glorious fourteenth amendment which he harangued us about yesterday so eloquently; but this Congress cannot dissolve that Legislature, because there are no proper means to do it, no such power being granted.

The gentleman says this Congress has the power because they are the representatives of the people. They are only representatives so far as they are authorized to act for the people, and not one inch further. They have not an unlimited power of attorney for that purpose, but are strictly limited by the Constitution of the United States; and whenever their acts go beyond that limitation, then they are null and void.

The gentleman from Ohio says that Congress has power to establish regulations for the government of the Army and the Navy. That is true. He says that the Constitution does not execute itself. That is true; laws are required, beyond all question, to carry it out. But does it follow that because the Congress must necessarily provide the machinery of the Government, therefore it must control and manage the executive and judicial departments of the Government? Does it follow that because Congress are to pass laws how men in the Army and Navy shall be punished, are to make appropriations to purchase ships and cannon, the Congress is therefore the commander-in-chief of the Army and Navy? Be-

cause Congress have the right to say that three judges, or five judges, or six judges, or ten judges, shall constitute the Supreme Court, or that only one judge shall constitute that court, have they, therefore, the right to go into the court and say that those judges shall not decide anything unconstitutional which Congress may do? No, sir. Yet the other day that seemed to be the idea.

Now, I had supposed—in fact I yet think that it is perhaps so—I had not doubted that the distinguished gentleman from Ohio [Mr. BINGHAM] was looked to by his party as the Elisha upon whose shoulders the mantle of their Elijah should fall when their great prophet should be taken from them. And when I heard him get up on this floor and announce that Congress in 1789 had passed an act conforming in principle to the one then under consideration, limiting the power of the Supreme Court, or sanctioning it in any form, it staggered me. Yet when we come to examine it what is that act? It provides that the court shall consist of six judges, of whom four shall constitute a quorum. Which simply means that four judges should hold the power of the court, a majority of whom, or three of them, should decide all questions, constitutional or otherwise. That is, one half of the whole numbers of judges may control the decisions of that court upon all questions if only a quorum be present.

And when I heard the gentleman from Ohio [Mr. BINGHAM] get up here and claim that all powers were in this Congress, that it was constitutional for Congress to prevent the President from being the Commander-in-Chief of the Army and Navy, that Congress has the power to prevent the Supreme Court from being the supreme judicial power of the land, I am convinced that he is very far from being infallible. And when I look over the arguments made by him in years past, especially in the great conspiracy trial, while he was acting as Judge Advocate, and find him using the following argument:

"It is argued here, through many pages, by a distinguished Senator and a distinguished lawyer, that the order of the President—by whose authority alone this court is constituted a tribunal of military justice—is unlawful. If unlawful, it is void and of no effect, and has created no court; therefore this body not being a court can have no more power to decide any question whatever than have its individual members power to decide that they as men do not in fact exist. It is a maxim of the common law, the perfection of human reason, that what is impossible the law requires of no man. How can it be possible that a judicial tribunal can decide the question that it does not exist any more than that a rational man can decide that he does not exist."

I can understand how he could pursue the line of argument used in his debate with the gentleman from Illinois, [Mr. MARSHALL;] and the argument urged by him on this bill, that because Congress can pass laws to establish rules and regulations for the Army and Navy—which is clearly in its constitutional sphere—therefore it has a right to do anything it pleases; for it represents the people, and the people are omnipotent.

Now, sir, the whole thing is this: when you take the ground taken by the gentleman from Pennsylvania, [Mr. STEVENS,] who is himself opposed to this bill, that these are a conquered people, and therefore you have the right to do as you please with them, for they are outside of the Constitution—when you leave that ground, then you are at a loss for consistent arguments, and I suppose this Congress is not yet prepared to come up to that position.

Mr. BINGHAM. I do not mean to ask the gentleman a question; but let me give him notice that in the argument which he does me the honor to quote from, I expressly myself took the distinction he undertakes to take himself.

Mr. BECK. I did not read all of the gentleman's speech.

Mr. BINGHAM. Then you ought not to have quoted from it.

Mr. BECK. What I did read is in it.

Mr. BINGHAM. I was then speaking not in regard to the plea to the jurisdiction, but in regard to whether it was a court or not.

Mr. BECK. I have read it as a part of your speech, and it is there.

Mr. WOOD. I rise to a question of order.

Mr. BECK. I say it is in that speeh, and I have read it from that speech.

Mr. WOOD. The gentleman from Ohio has been guilty of unparlimentary language.

The SPEAKER. State it.

Mr. WOOD. He has charged falsehood upon the gentleman from Kentucky.

Mr. BINGHAM. The gentleman is entirely mistaken; I did no such thing.

Mr. BECK. I did not so understand it, or I should have answered him in a different manner.

Now, Mr. Speaker, I have endeavored to show, in a very hurried way, because in going over this great question it is impossible to discuss everything—I have endeavored to show, sir, that the minority of the committee were right in taking the ground that each and every provision of the bill before the House is unconstitutional, because it asserts there were no civil governments in those States, and because it attempts to prevent the Executive and the judicial power from interfering, and by virtue of the power and authority vested in them by the Constitution, protecting the people of these States from legislative usurpation.

I want to call the attention of the House, for I have not time to read much, to the case of Marbury *vs.* Madison, where the Supreme Court has defined its own powers and announced what its duties, privileges, and rights are whenever Congress attempts to pass any unconstitutional act. There is no more right, as I have attempted to show, for us to say in the first section of this bill that the court shall not recognize these State governments as legal or valid, that it shall not pass upon that question, that no judicial power is vested in them to do so, than for that court to say to this Congress that it shall not pass any law. In the case of Marbury *vs.* Madison the court uses the following language:

"The question whether an act repugnant to the Constitution can become the law of the land, is a question deeply interesting to the United States; but happily not of an intricacy proportioned to its interest. It seems only necessary to recognize certain principles supposed to have been long and well established to decide it.

"That the people have an original right to establish for their future government, such principles as, in their opinion, shall most conduce to their own happiness, is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it, nor ought it to be frequently repeated. The principles, therefore, so established are deemed fundamental. And as the authority from which they proceed is supreme and can seldom act, they are designed to be permanent. This original and supreme will organizes the Government, and assigns to different departments their respective powers. It may either stop here or establish certain limits not to be transcended by those departments.

"The Government of the United States is of the latter description. The powers of the Legislature are defined and limited; and that those limits may not be mistaken or forgotten the Constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a Government with limited and unlimited powers is abolished if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested that the Constitution controls any legislative act repugnant to it, or that the Legislature may alter the Constitution by an ordinary act. Between these alternatives there is no middle ground. The Constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the Legislature shall please to alter it. If the former part of the alternative be true, then a legislative act contrary to the Constitution is not law; if the latter part be true, then written constitutions are absurd attempts on the part of the people to limit a power in its own nature illimitable. Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be that an act of the Legislature repugnant to the Constitution is void.

"This theory is essentially attached to a written constitution, and is consequently to be considered by this court as one of the fundamental principles of our society. It is not, therefore, to be lost sight of in the further consideration of this subject. If an act of the Legislature, repugnant to the Constitution, is void, does it, notwithstanding its invalidity, bind the courts, and oblige them to give it effect? Or, in other words though it be no law does it constitute a rule as operative as if it was a law? This would be to overthrow, in fact, what was established in theory; and would seem, at first view, an absurdity too gross to be insisted on. It shall, however, receive a more attentive consideration. It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must, of necessity, expound and interpret that rule. If two laws conflict with each other the courts must decide on the operation of each. So, if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

"If, then, the courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.

"Those, then, who controvert the principle that the Constitution is to be considered in court as a paramount law are reduced to the necessity of maintaining that courts must close their eyes on the Constitution and see only the law.

"This doctrine would subvert the very foundation of all written constitutions. It would declare that an act which, according to the principles and theory of our Government, is entirely void, is yet in practice completely obligatory. It would declare that if the Legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the Legislature a practical and real omnipotence, with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits, and declaring that those limits may be passed at pleasure.

"That it thus reduces to nothing what we have deemed the greatest improvement on political institutions, a written constitution, would of itself be sufficient in America, where written constitutions have been viewed with so much reverence, for rejecting the construction. But the peculiar expressions of the Constitution of the United States furnish additional arguments in favor of its rejection.

"The judicial power of the United States is extended to all cases arising under the Constitution. Could it be the intention of those who gave this power to say that in using it the Constitution should not be looked into? That a case arising under the Constitution should be decided without examining the instrument under which it arises? This is too extravagant to be maintained."

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"Why does a judge swear to discharge his duties agreeably to the Constitution of the United States if that Constitution forms no rule for his government—if it is closed upon him, and cannot be inspected by him? If such be the real state of things this is worse than solemn mockery. To prescribe or to take this oath becomes equally a crime.

"It is also not entirely unworthy of observation that in declaring what shall be the supreme law of the land the Constitution itself is first mentioned, and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution have that rank.

"Thus the particular phraseology of the Constitution of the United States confirms and strengthens the principle supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument."

Then I assert that decision lays down the doctrine that the first section of this bill saying that the Supreme Court shall have no cognizance is in violation of what is the known decision of the Supreme Court where it has set forth fully what are its rights; and I assert that court can, and will, and ought, whenever the question comes before it, to take cognizance of any law no matter when, how, or by whom passed. And this Congress, in my judgment, is passing its proper bounds whenever it attempts to say to a coördinate department of this Government it shall not decide this, that, or the other. That is for the court; that is for the judicial power, and it is because that power is sought to be annulled that we deny the power of Congress to do it.

This bill also attempts to take away the power of the President of the United States as Commander-in-Chief under the Constitution of the Army and Navy. What does it say? It says in substance that every military commander, every subordinate of the President, shall have the right and power to do what he pleases with these people, to try them before courts-martial, deprive them of their liberty and property, divest them of their rights, without appeal from their order, however flagrant it may be, except to a general in the Army himself a subordinate, when the Executive swears under the Constitution that he will see that the laws are faithfully executed, and that no man

shall be punished without trial before a jury of his peers, especially in time of peace and when the courts are all open as they are or ought to be now. It takes all power from the President and transfers it to the General of the Army, and makes it a high misdemeanor for the President to interfere with or in any manner attempt to control him or the subordinates he may see fit to appoint.

In other words, it makes the General of the Army, whoever he may be, absolute despot over all these people. That we say is unconstitutional and cannot stand. Why, sir, the proposition is monstrous, that the President of the United States, made by the Constitution Commander-in-Chief of the Army and Navy, who, when called upon, is bound to aid any State in putting down insurrection by the military force of the country, who swears that he will see the laws faithfully executed, can, by a coördinate branch of the Government be deprived of all those powers and prerogatives, and reduced to the low level of subserviency to the General of the Army, who may control him with absolute sway. That is another reason why we say that such an act as this is unconstitutional, null, and void—simply because it proposes to transfer to an officer subordinate to the President powers vested in the President as Commander-in-Chief, and which he is required by his oath of office to exercise.

Does any gentleman pretend that if General Grant or any other general should attempt to take away the life, liberty, or property of any of the people in the South—men, women, or children, loyal or disloyal—the President would not have the right to interfere? By this bill the civil governments are declared at an end, the writ of *habeas corpus* is suspended, and the absolute will of the commanding general is made the law of the land; and it is contended that this is constitutional! If gentlemen would come forward and say, "We are revolutionists," I could understand them; but when they say, "We are the Congress and are acting in accordance with the Constitution" then I say it is impossible that they can defend the position assumed.

And in this connection let me refer for a moment to the remarks made yesterday by the gentleman from Missouri, [Mr. LOAN.] He said:

"But gentlemen on the other side may declare such a course to be unconstitutional. In fact, if I did not misunderstand the remarks of the gentleman from New York [Mr. BROOKS] this morning, he denies our right to interfere in any way with those rebel governments. The gentlemen on the other side of the House may declare such a course to be unconstitutional—revolutionary. I will not stop to controvert their views, but will rely upon precedents in the past to sustain the position."

He had not time to stop to consider so small a matter as a constitutional question; he did not care to argue about that, but he could take time to indulge in remarks about "making treason odious" and loyalty respectable, and all that kind of thing. What have such considerations to do with a constitutional question? What have they to do with this bill? If it is unconstitutional we ought not to pass it, for every man who, knowing it to be unconstitutional, votes to pass it, is violating the oath which he has taken to support and maintain the Constitution. I do not believe this bill is constitutional. Other gentlemen say they believe it to be constitutional, and that is the excuse they give for voting for it. But I do not understand how any gentleman can get up here and say that he does not care about the constitutional question, that he does not pretend to inquire whether it is constitutional or not, but will go to what he considers the graver question, "precedents in the past."

There are some great principles of government which the gentleman from Missouri would do well to study—principles upon which the party with whom I am acting have planted themselves. Let me read a statement of some of those principles; and let the gentleman, after hearing them, see whether he cannot make a better argument. I refer to the first inaugural address of Thomas Jefferson as containing the true principles upon which this Government is based; and all departures from them are, in my judgment, violations of constitutional liberty. A few of those principles—and I have time to state only a few—are thus stated therein:

"Equal and exact justice to all men of whatever State or persuasion, religious or political, the support of the State governments in all their rights as the most competent administrators of our domestic concerns and the surest bulwarks against anti-republican tendencies, a jealous care of the right of election by the people, the supremacy of the civil over the military authorities, freedom of religion, freedom of the press, freedom of person under the protection of the *habeas corpus* and trial by juries impartially selected—these principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment. They should be the creed of our political faith, the text of civil instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or alarm let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety."

I tell both of the gentlemen that if they intend to be regarded as leaders of the people, they will respect the rights of the States, freedom of elections, freedom of speech, freedom of the press, trial by jury, and the protection of personal liberty by the writ of *habeas corpus;* they will abandon at once their military tribunals, and restore the right of trial by civil tribunals, where every man may obtain justice by an impartial jury, before which he may be brought face to face with his accusers and their witnesses. All these things are a part of the rights of every man, and whenever they are stricken down the liberty of the citizen is destroyed.

And is not this done under the provisions of the bill before us? What is to prevent any lieutenant of the Army in the ten States from seizing a citizen, without regard to his antecedents, and depriving him of liberty and property? Nothing whatever. And is not the South in a state of peace? Has it not been so proclaimed? Is it not more than two years since there was any hostile army there? Has not the Supreme Court decided that in time of peace, when the courts are open, no man can be deprived of his rights under the law by a military tribunal? Have you not done it already, and will you not do it more effectually by the passage of this bill? What does the court say in the case of Milligan? Let me read from that decision, which speaks of a time when war was raging in parts of the country:

"The proposition is this: That in a time of war the commander of an armed force—if in his opinion the exigencies of the country demand it, and of which he is to judge—has the power, within the lines of his military district, to suspend all civil rights and their remedies, and subject citizens as well as soldiers to the rule of his will; and in the exercise of his lawful authority cannot be restrained, except by his superior officer or the President of the United States. If this position is sound to the extent claimed, then when war exists, foreign or domestic, and the country is sub-divided into military departments for mere convenience, the commander of one of them can, if he chooses, within his limits, on the plea of necessity, with the approval of the executive, substitute military force for and to the exclusion of the laws, and punish all persons as he thinks right and proper, without fixed or certain rules.

"The statement of this proposition shows its importance; for if true, republican government is a failure, and there is an end of liberty regulated by law. Martial law, established on such a basis destroys every guaranty of the Constitution, and effectually renders the military independent of and superior to the civil power—the attempt to do which by the King of Great Britain was deemed by our fathers such an offense that they assigned it to the world as one of the causes which impelled them to declare their independence. Civil liberty and this kind of martial law cannot endure together; the antagonism is irreconcilable and in the conflict one or the other must perish.

"But it is insisted that the safety of the country in time of war demands that the broad claim for martial law shall be sustained. If this were true, it could be well said that a country preserved at the sacrifice of all the cardinal principles of liberty is not worth the cost of preservation. Happily it is not so.

"Martial rule can never exist where the courts are open and in proper and unobstructed exercise of their jurisdiction. It is also confined to the locality of actual war.

"From the first year of the reign of Edward the Third, when the Parliament of England reversed the attainder of the Earl of Lancaster, because he could have been tried by the courts of the realm, and declared, 'that in time of peace no man ought to be adjudged to death for treason or any other offense without being arraigned and held to answer; and that regularly when the king's courts are open it is time of peace in judgment and law,' down to the present day, martial law as claimed in this case, has been condemned by all respectable English jurists as contrary to the fundamental laws of the land, and subversive of the liberty of the subject."

I would like to refer to other cases, but my time is nearly out. I hold, however, in my hand a celebrated document which has been read every fourth of July in this country for more than ninety years, and is the pride and glory of the American people. I will read a few sentences from it to see if the Supreme Court was not right in its assertions which I have just quoted:

"The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this let facts be submitted to a candid world.

"He has dissolved representative Houses repeatedly for opposing with manly firmness his invasion on the rights of the people.

"He has made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries.

"He has kept among us in times of peace standing armies without the consent of our Legislatures.

"He has affected to render the military independent of and superior to the civil power.

"For imposing taxes on us without our consent.

"For depriving us in many cases of the benefits of the trial by jury.

"For suspending our Legislatures and declaring themselves invested with power to legislate for us in all cases whatsoever.

"He has abdicated government, thereby declaring us out of his protection, and waging war against us.

"A prince, whose character is thus marked by every act which may define a tyrant, is unfit to rule a free people."

Pass this bill and then say if there is anything in that declaration pronounced against the king of Great Britain by the American people that would not, as the court says in the case of Milligan, properly be pronounced against this Congress in depriving the people—all the people of the southern States of their undoubted rights and privileges. I could go on and show from the time of Edward III of England, that no man was ever tried in that kingdom except by the judgment of his peers without prompt and condign punishment overtaking those who violated the laws in that regard. Yet in the face and eyes of all these facts, and in utter disregard of all these principles, you seek to pass this bill. We said in the minority report, and I say now at the close of my defense of it, that I object to this bill, because it will involve the whole country in commotion and civil strife, the end of which no man can foresee.

No man can look at the decisions of the court in Marbury *vs.* Madison, to which I have referred, and the message of the President sent to this Congress, which I hold in my hand but have not time to read even an extract from, in which he pledges himself whenever a coördinate department of the Government is stricken down to consider what his duty is: without fear and trembling for the result. No man can be without serious apprehensions when Congress undertakes to monopolize all the powers of the Government. The judicial department, as was said to-day, had a right independent of any act of Congress to do the very thing which Congress is prohibiting them from doing, and it is the duty of the Executive under his oath to see the laws faithfully executed whatever this Congress may do. I say then that Congress ought to be careful what they do.

The gentleman from Ohio [Mr. BINGHAM] said yesterday that we of the minority did not object to that part of this bill which provides for the punishment of any person who undertakes to interfere with or violate its provisions. Everybody knows what that section means. It is known that many gentlemen who would be, perhaps, willing to impeach the President and remove him from office contended before that they could not do it unless he had violated some law, the violation of which had been previously declared a misdemeanor and punishable by indictment. This section is put in now so that there may no longer be any reason why the President may not be put out of his place.

[Here the hammer fell.]

Mr. FARNSWORTH obtained the floor.

Mr. GRAVELY. I move that the time of the gentleman from Kentucky be extended, so as to enable him to conclude his remarks.

Mr. BECK. I am much obliged to the gentleman. I have gone very hurriedly over the question, and I will not ask more than five minutes.

The SPEAKER. Is there objection to the gentleman's time being extended five minutes?

[Cries of "No objection."]

Mr. FARNSWORTH. I understand that no objection is made to the gentleman going on.

Mr. ELDRIDGE. We understood that somebody objected.

Mr. BECK. I understood there was objection, and therefore I gave way.

The SPEAKER. No objection was made, and the gentleman is entitled to proceed.

Mr. BECK. I thank the House for its courtesy, but I will not occupy any further time.

Mr. FARNSWORTH. Mr. Speaker, if I know anything about this matter, and about what the majority of the Committee on Reconstruction desire, and about what the majority of the House wishes, they wish to secure personal liberty, freedom of speech and of the press, and fair, impartial trial by jury to all the citizens of this Government. Those are the great ends we had in view; and I propose, while I discuss the bill now before the House, to show that no provision of this bill antagonizes with those principles or with the Constitution of the United States, about which we have heard so much.

The first section of this bill declares that in the ten revolted and unreconstructed States there are no civil State governments republican in form, and further provides that neither the Executive nor the judiciary shall recognize those governments as legal and binding State governments.

Now, I will say in the outset that my impression is that the latter part of that section is surplusage; that it is sufficient for Congress to declare that they have not legal State governments republican in form, and leave it there. If Congress has the right to make this declaration, and if it be true that there is no legal State government republican in form in either of these States, then it follows, as a matter of course, that neither the Executive nor the judiciary can recognize an illegal government. But surplusage can do no harm, and especially such as this, under existing circumstances.

The first question presented to the House is this: is it true that there are no legal State governments republican in form in those ten States; and second, has Congress the right to make this declaration and thus put it out of the power of the judiciary or of the Executive to recognize such governments? I hold the affirmative of these propositions, and I propose to convict the gentleman who last addressed the House [Mr. BECK] out of the mouth of the very Supreme Court for which he seems to have such peculiar respect and veneration.

Why, sir, I need not go over the history of this war; it is all fresh in the recollection of every gentleman on this floor. Gentlemen on the other side have repeated here the resolution of the House of Representatives of 1861, when the House declared what the purposes of the war were. I do not deny that the House passed such a resolution. I have heard it quoted, I suppose, five hundred times before; it is not new at all to me. I was not here at the time, but I suppose the House of Representatives passed such a resolution as a tub to the whale.

Mr. MAYNARD. I would ask the gentleman from Illinois [Mr. FARNSWORTH] if he is prepared to admit in debate here that either Congress or any department of the Government has done anything from that time to this that was in contravention of the resolution we have heard so much about, and which has been quoted here so often?

Mr. DAWES. I am ready to vote for it now.

Mr. FARNSWORTH. In reply to the gentleman from Tennessee [Mr. MAYNARD] I will say that I am not prepared to make any such admission. I do not think the House of Representatives or Congress has ever done anything in contravention of that resolution. But it was a mere resolution of the House of Representatives thrown out at the commencement of the war, stating for what the war was waged on our part. It was true at that time and it is true now. We waged the war to maintain the Union, the Constitution, and the laws; and having maintained the Union, the Constitution, and the laws, and conquered our enemies, the war ceased, as the House of Representatives said in that resolution it ought to cease.

I now propose to call the attention of the House to a decision made in 1862 by the Supreme Court of the United States in reference to the States then in insurrection, so that we may judge from that decision whether the Supreme Court then recognized a State government existing in any one of those States. I refer to the decision in the case of the schooner Brilliante, in the "prize cases." I quote from the opinion of the court, as given by Judge Grier, in 2 Black's Reports, page 672. He says:

"The appellants contend that the term 'enemy' is properly applicable to those only who are subjects or citizens of a foreign State at war with our own. They quote from the pages of the common law, which say 'that persons who wage war against the king may be of two kinds—subjects or citizens. The former are not proper enemies, but rebels and traitors; the latter are those that come properly under the name of enemies.'" * * * * * *

"They contend, also, that insurrection is the act of individuals and not of a Government or sovereignty; that the individuals engaged are subjects of law; that confiscation of their property can be effected only under a municipal law; that by the law of the land such confiscation cannot take place without the conviction of the owner of some offense; and, finally, that the secession ordinances are nullities and ineffectual to release any citizen from his allegiance to the national Government, and consequently that the Constitution and laws of the United States are still operative over persons in all the States for punishment as well as protection."

Now, if you will sum up the arguments used on the part of the opponents of this bill, and of every other reconstruction bill which has been passed by this House, you will find them embodied in this language, where the Supreme Court summed up what was contended for by the counsel for the appellants in that case. And how does the court answer it?

"This argument rests on the assumption of two propositions, each of which is without foundation on the established law of nations. It assumes that where a civil war exists, the party belligerent claiming to be sovereign cannot, for some unknown reason, exercise the rights of belligerents, although the revolutionary party may. Being sovereign, he can exercise only sovereign rights over the other party. The insurgent may be killed on the battle-field or by the executioner; his property or land may be confiscated under the municipal law; but the commerce on the ocean which supplies the rebels with means to support the war cannot be made the subject of capture under the laws of war, because it is '*unconstitutional!!!*"

The word "unconstitutional," as it stands here in this law-book, reminds me very much of the manner in which I have heard it screeched out upon this floor a great many times. It looks very much as if the court were mocking the men who have incessantly been crying "unconstitutional" whenever we have passed a bill either to subjugate the enemy or to maintain the Government. Here is the word in italics and quotation-marks and followed by three exclamations of surprise. "*Unconstitutional!!!*"

The measures necessary for the salvation of the Union have been opposed as "unconstitutional" all the way through. It was "unconstitutional" to coerce a State—"unconstitutional" for the President to issue a proclamation calling for troops—"unconstitutional" to pass laws appropriating money to pay them—"unconstitutional" to cross Mason and Dixon's line. Every measure designed to suppress rebellion and vindicate the integrity of the Government has been "unconstitutional." The court here quotes this objection which we have heard so often, and italicizes it and marks it with all these exclamations of wonder and amazement.

The court proceeds as follows:

"Now, it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights. (see 4 Cranch, 272.) Treating the other party as a belligerent, and using only the milder modes of coercion which the law of nations has introduced to mitigate the rigors of war, cannot be a subject of complaint by the party to whom it is accorded as a grace or granted as a necessity. We have shown that a civil war, such as that now waged between the northern and southern States, is properly conducted according to the humane regulations of public law as regards capture on the ocean.

"Under the very peculiar constitution of this Government, although the citizens owe allegiance to the Federal Government, they owe also a qualified allegiance to the State in which they are domiciled. Their persons and property are subject to its laws.

"Hence, in organizing this rebellion, they have acted as States"—

This is the language of the Supreme Court. "Hence, in organizing this rebellion, they have acted as States"—not as a few "misguided, erring brethren"—their State constitutions remaining in full force, their State institutions unimpaired, to be revived the moment the war is ended. No; they acted as States. It was a war between those revolted States and the national Government, not between citizens of those States and the Government.

"Hence, in organizing this rebellion, they have acted as States, claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State. Their right to do so is now being decided by wager of battle. The ports and territory of each of these States are held in hostility to the General Government. It is no loose, unorganized insurrection, having no defined boundary or possession. It has a boundary marked by lines of bayonets, and which can be crossed only by force—south of this line is enemies' territory because it is claimed and held in possession by an organized, hostile, and belligerent power."

"Enemies' territory"—not republican States of this Union.

"All persons residing within this territory whose property may be used to increase the revenues of the hostile power are, in this contest, liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors."

I have often heard gentlemen on this floor argue as if it were no great matter for a man to be a traitor—that we might have traitors who are not "enemies"—that though these men were for a while traitors and fought us a few years they were not enemies: they were our "erring brethren," whom we should take to our bosoms the moment the war ceased. But this court, for whose judicial opinions gentlemen have so much newly-awakened veneration and respect, declares that they are none the less enemies because they are traitors.

Now, Mr. Speaker, that is the condition in which we find those States; that is the condition which the Supreme Court declared those States were in during the war. What next? After the close of the war Mr. Johnson issues a proclamation unauthorized by law, but in which he himself declares that all civil governments are overthrown in those States and that they are left without any civil governments. What then? Why, sir, the Constitution provides that "the United States shall guaranty to each State a republican form of government."

The Constitution provides that "Congress may admit new States." The President can do neither one nor the other. He can neither guaranty nor dictate the kind of government a State shall have. If there were no States there with republican institutions such as it is our duty to recognize during the war, I ask in what better condition were they when Lee surrendered at Appomattox court-house? Did they arise from the ashes of the war into full-grown States? It is true the paper upon which their constitutions were printed was still in existence, but those States were dead. They had been overthrown, and other hostile constitutions had been adopted in their place by

virtue of the sovereignty of those States. In not one of them was there a State government republican in form, or in any other form in harmony with the Government of the United States. Did the officeholders who held office under those State governments at the time they revolted, did they all by a sort of prestidigitation, by the operation of law go back to the places they held when they went into war? By no means. Other men had been selected under other State governments which they had set up. Not a single vestige of a single constitutional State was left in any one of them at the time this rebellion was suppressed.

Mr. MUNGEN rose.

Mr. FARNSWORTH. I have no objection to any gentleman interrupting me, provided I have plenty of time to carry on that kind of discussion, but not without.

That, sir, was the condition of these States—an inchoate, chaotic, unorganized, dismembered, disjointed mass of people upon land which had constituted States of this Union. The President now commenced the work of organization without any authority of law; without any constitutional right so to do he assumed by his mere proclamation to call State conventions, and dictated to the people of those States what they should put into their constitutions and what they should leave out. This has never been recognized by the courts. The governments set up in obedience to his dictation have never been recognized by Congress. The Senators and Representatives elected by the States so constituted were refused admission to the floors of Congress; and in admitting Senators and Representatives or refusing to admit them Congress recognizes or refuses to recognize the government of a State as proper and republican in form.

Now, sir, if I am right in all this, these States are in no better condition now than they were at the date of the surrender of their soldiers. They were from that time to this never recognized, nor any government they have formed. We have refused to admit their representatives. We have from time to time passed laws regulating the keeping of the peace, maintaining order, recognizing provisionally, simply for the purpose of maintaining order, such governments as we found there, just as Congress may and has recognized such governments and institutions as they have found in purchased or acquired territory, until they shall have established a better government. That is all we have done. That, then, is the condition of these States.

Gentlemen say that this first section is not true; that there are civil governments there republican in form. I deny it. The Supreme Court have said that the sovereignty of a State resides in the people. The sovereignty of a State is not in the people, and that State is not republican in form where one half or the majority of its citizens are deprived of the elective franchise. What kind of a sovereignty is that which exists in a minority of the people? What kind of republicanism is that where the minority controls and makes laws for the majority? I deny that any State is or ever was republican where the majority of the people were held as slaves, or were disfranchised; and it requires no prophet or the son of a prophet to predict that in the next fifty years no one can be found who will say that that is a republican State where the majority of its people are slaves.

Now, Mr. Speaker, I propose to call the attention of the House to another decision of the Supreme Court. I think I have shown that the declaration is true that they have no legal State governments in those States. Now, I wish to read from another decision of the Supreme Court, in order to show what that court held in regard to this question, of whose duty it is to declare whether a State has a government in accordance with the Constitution. I refer to the celebrated Rhode Island case, Luther *vs.* Borden, *et al*, to be found in 7 Howard's Reports. I ask the Clerk to read from pages 42, 45, 46, and 47.

The Clerk read as follows:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and on the application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence.

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue; and as no Senators or Representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there and not in the courts." * * * * * *

"The power given to the President in each case is the same, with this difference only, that it cannot be exercised by him in the latter case, except upon the application of the Legislature or executive of the State. The case above mentioned arose out of a call made by the President by virtue of the power conferred by the first clause; and the court said that, 'whenever a statute gives a discretionary power to any person, to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts.' The grounds upon which that opinion is maintained are set forth in the report, and we think are conclusive. The same principle applies to the case now before the court. Undoubtedly, if the President in exercising this power shall fall into error, or invade the rights of the people of the State, it would be in the power of Congress to apply the proper remedy. But the courts must administer the law as they find it.

"The remaining question is whether the defendants, acting under military orders issued under the authority of the Government, were justified in breaking and entering the plaintiff's house. In relation to the act of the Legislature declaring martial law, it is not necessary in the case before us to inquire to what extent nor under what circumstances that power may be exercised by a State. Unquestionably a military government, established as the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it. But the law of Rhode Island evidently contemplated no such government. It was intended merely for the crisis and to meet the peril in which the existing Government was placed by the armed resistance to its authority. It was so understood and construed by the State authorities. And, unquestionably, a State may use its military power to put down an armed insurrection too strong to be controlled by the civil authority. The power is essential to the existence of every government, essential to the preservation of order and free institutions, and is as necessary to the States of this Union as to any other government. The State itself must determine what degree of force the crisis demands. And if the government of Rhode Island deemed the armed opposition so formidable and so ramified throughout the State as to require the use of its military force and the declaration of martial law, we see no ground upon which this court can question its authority. It was a state of war, and the established government resorted to the rights and usages of war to maintain itself and to overcome the unlawful opposition. And in that state of things the officers engaged in its military service might lawfully arrest any one who, from the information before them, they had reasonable grounds to believe was engaged in the insurrection; and might order a house to be forcibly entered and searched when there were reasonable grounds for supposing he might be there concealed." * * * * * * *

"Much of the argument on the part of the plaintiff turned upon political rights and political questions, upon which the court has been urged to express an opinion. We decline doing so. The high power has been conferred on this court of passing judgment upon the acts of the State sovereignties and of the legislative and executive branches of the Federal Government, and of determining whether they are beyond the limits of power marked out for them respectively by the Constitution of the United States. This tribunal, therefore, should be the last to overstep the boundaries which limit its own jurisdiction, and while it should always be ready to meet any question confided to it by the Constitution, it is equally its duty not to pass beyond its appropriate sphere of action, and to take care not to involve itself in discussions which properly belong to other forums. No one, we believe, has ever doubted the proposition that according to the institutions of this country the sovereignty in every State resides in the people of the State, and that they may alter and change their form of government at their own pleasure; but whether they have changed it or not by abolishing an old government and establishing a new one in its place is a question to be settled by the political power, and when that power has decided the courts are bound to take notice of that decision and to follow it."

Mr. BUTLER. Will the gentleman from Illinois yield for a motion to adjourn?

Mr. FARNSWORTH. I will do so if it is the pleasure of the House.

The SPEAKER. The Chair will state that there are probably twice as many gentlemen who desire to speak on this bill as will have an opportunity of speaking before the time for debate expires.

Mr. FARNSWORTH. Then I will go on now. It had occurred to me that it would probably be unfair to other gentlemen if I did not proceed.

Mr. Speaker, I have had the opinion of the Supreme Court in the Rhode Island case read for the purpose of bringing before the House freshly—the doctrine is not new at all—that opinion of the court which places this whole question in the hands of the political power of the Government. In that decision they declare that the question is a political one, that the question what institutions or what government of a State shall be recognized by the Government of the United States is a political question, and the court goes on to say that, jealous of its own power and rights, jealous of the encroachments of other departments of the Government, the court should be very careful how it encroaches upon the prerogatives of the other departments and attempts to entertain a political question with which it has nothing to do. I commend that decision to the attention of gentlemen upon the other side of the House who have so much to say about our having no constitutional authority to declare what is and what is not to be recognized as the institutions and government of a State. If that decision was the law then it is the law now. It was the decision of the whole court, and if it was the law we have a right to declare, and no other department can say no, what State governments we will and what State governments we will not recognize as legal and republican in form.

I think I have said enough upon that point in answer to the constitutional objections which have been raised upon the other side of the House. As I said in the outset, in my opinion, we might as well have left off the latter portion of this first section, for when Congress has once placed that declaration on record, that these State governments are not legal, the Executive and the courts have no right to recognize them at all and probably will not. I pass to the next section.

Considerable complaint is made of that section because it transfers to General Grant the powers heretofore given to the President in reference to the detail of officers for the command of these several districts and the removal of civil officers within those districts. It is said that, as the Constitution declares that the President shall be the Commander-in-Chief of the Army and Navy, Congress has no right to prescribe the duties of any subordinate officer. The gentleman last up said that, as the Constitution required the President to take an oath that he will see that the laws are faithfully executed, we have no right to provide that any lesser officer shall execute those laws. Why, sir, the President does not execute the laws. He does not take an oath that he will execute the laws. The laws are executed by subordinates, by agents provided by Congress for their execution, and when we provide by law that General Grant shall do this or that it is still as much a part of the duty of the President to see that General Grant executes this law as it is his duty to see that any other agent of the Government executes any other law.

We pass laws providing that the marshals and clerks of the United States shall perform this and that duty. It is the duty of the President to see that those officers perform the duties required of them by law. We make laws that the subordinate officers of the Army shall do this and that thing, and it is the duty of the President to see that those laws are executed. This provision of the Constitution means nothing more nor less than this: the President is Commander-in-Chief of the Army, and shall command the Army subject to the law of the land, for the execution of the

law of the land, and in accordance with the directions contained in the laws of the land. It is true, we cannot take from the President the right to be Commander-in-Chief of the Army; we cannot say that General Grant shall command the President, or that any lower officer shall command the President to do this or that; but we can say that General Grant shall command the Army, and we have said it. We said so in the bills by which and in pursuance of which he was made first Lieutenant General and then General of the Army.

While sitting here listening to the remarks of the gentleman who last addressed the House [Mr. BECK] I found in about five minutes, while looking over the acts of the Thirty-Ninth Congress, and of one session of that Congress, at least six or eight laws where Congress provided by law that the Secretary of War should do this or that with the Army, and that the Secretary of the Navy should do this or that with the Navy; and Andrew Johnson signed those bills. I will call your attention to some of those laws, without reading from them, though I have them before me. We provided that the Secretary of War should assign officers of the Army to the charge of the Military Academy. Well, sir, if we can make a law that the Secretary of War shall assign officers of the Army to take charge of the Military Academy we can pass laws that the Secretary of War shall assign officers to take command of the district of South Carolina. And if we can pass a law that the Secretary of War may do that, we can provide that any other subordinate may do it. Yet the President signed that bill.

We also provided by law that the Secretary of War should detail commissioned officers and enlisted men from the battalion of engineers for the performance of signal duty. And if we can provide that the Secretary of War may do this, without the order of the President; if we can provide that the Secretary of War shall detail officers and men for the performance of signal duty, then we can provide that he may detail officers and men for the performance of equally "signal" duty by the arrest of rebels and protection of Union men. We provided by law that the Secretary of War might detail officers and enlisted men for the establishment of schools at garrisons and the protection of camps. We also provided by law that the Secretary of War should determine how long the provost marshal general's office and bureau should be continued, and the President, though Commander-in-Chief of the Army, also signed those bills. The President is also Commander-in-Chief of Navy, yet we provided by law that the Secretary of the Navy should detail a steam vessel to assist in laying the telegraph cable between the Western and Eastern continents, and the President signed that bill February 26, 1866. We also provided by law that the Secretary of the Navy should determine who should be promoted to the grade of rear admiral on the retired list; and we also provided by law that the Secretary of the Navy should detail officers for the examination of candidates for the naval volunteer service; and we also provided that the Secretary of the Navy should be authorized to retain or appoint under existing laws such volunteer officers of the Navy as the exigencies of the service might require.

You can hardly cast your eye on a single act in reference to either the War or the Navy Department during either of the last two Congresses without finding some provision giving power to the Secretary of War, or the Secretary of the Navy, or the General of the Army, precisely like the power which the bill under consideration proposes to put in the hands of General Grant; and in every one of those instances Andrew Johnson approved and signed the bills. If the bill under consideration is unconstitutional then all those bills were unconstitutional. That is all I have to say about that. Yet no gentleman raised the point here when any of those bills were under consideration. And we all know that though Mr. Johnson is extremely careful of any encroachment upon his prerogatives and rights, he raised no point of the kind. Why, sir, does not the Constitution give to Congress the right to make rules and regulations for the government of the Army and the Navy? Certainly it does; and in pursuance of that right have we not made regulations and articles of war? And is it not as much the duty of the President of the United States to see that those articles of war and those rules and regulations which have been established by Congress are conformed to and executed as it is to see that any other law of Congress is executed?

Another section of this bill—the next section, I believe, in order—provides that the President shall not use any part of the land or naval forces in behalf of those illegal governments in the revolted States as against the power of the General Government. Now, I am free to confess, Mr. Speaker, that in my opinion this provision also is surplusage; that it amounts to little else than a declaration that it shall be unlawful for the President to violate the laws. But it does no harm in the bill; for it is necessary that we should give to this man, Andrew Johnson, "line upon line and precept upon precept; here a little and there a little." It is necessary that we should hem him in. Why, sir, if the Senate had last July agreed to that provision passed by this House, putting this power in the hands of General Grant, we should not now have to complain of the state of things existing in many of those revolted States. Sheridan would have been continued, and within a very few weeks from the time when he was removed would have carried out what he had intended and what ought to have been done. He would have removed every rebel officer within his department, from governor to constable, and appointed loyal men in their places. Sickles, the gallant Sickles—maimed and mutilated in the service of the Republic—would have been retained in his place. He would have maintained order and peace within his department. Pope would not have been removed. None of these acts, which have greatly encouraged the rebels, would have taken place.

Why, sir, last July, when we passed that supplemental reconstruction bill, and up to the time of the adjournment of Congress and the removal of those officers by the President, the rebels were comparatively subdued. They were quiet. They suffered elections to be fairly held. Members of the conventions of these several States were elected. No violence was used to keep men away from the polls. The rebels respect power. Whenever they find power over them they respect it. When that power is withdrawn they cease to have any respect for either the Government of the United States or the power which is afar off. Put that power over them again. Let them understand that the rights of the freedmen and loyal men in those States shall be maintained at all hazards, and again they will take to their holes, they will withdraw to their houses, they will become the peaceful, law-abiding, respectable "southern gentlemen" that they were while Sheridan and Sickles were in command.

The gentleman from New York, [Mr. WOOD,] who was not permitted to conclude his speech, commenced it by an onslaught upon this side of the House because of an attack, as he said, upon a very gallant officer, because that officer would not obey the behests of Congress, but "had some respect to the civil power and the courts." But I know very well, if reports from that district are true, the reason why that gallant officer has commended himself so greatly to the affections of these gentlemen. It is for the same reason that Sheridan—the gallant "Phil. Sheridan"—secured their condemnation. Sheridan was the idol of the loyal men and the freedmen in Louisiana and Texas. Hancock, I regret to say, is the idol of the disloyal—the rebels, the traitors, the enemies of the Government in that department. And whoever commends himself to the affections of the rebel element there commends himself equally to the affections of their rebel brethren on this floor.

Mr. MUNGEN. I call the gentleman to order.

The SPEAKER. The gentleman will state the words to which he excepts.

Mr. MUNGEN. I except to the remark of the gentleman that whoever commends himself to the rebels of the South commends himself to their rebel brethren on this floor.

The SPEAKER. The Chair decides that those words are not proper to be used in regard to members of this House.

Mr. MUNGEN. I want to have this matter understood, for I have borne this kind of talk as long as I am disposed to bear it. I desire that the words——

The SPEAKER. The Chair has ruled that the words are not in order.

Mr. MUNGEN. I demand that the words be taken down.

The SPEAKER. The words will be written out as taken down by the reporter, and the Chair will rule upon them.

Mr. ROSS. My colleague should take his seat, under the rules.

The SPEAKER. The gentleman can take his seat until this point is decided. The gentleman has seven minutes remaining of his hour. The Clerk will report the words as taken down by the reporter.

The Clerk read, as follows:

"And whoever commends himself to the affections of the rebel element there commends himself equally to the affections of their rebel brethren on this floor."

The SPEAKER. The Chair decides that it is not proper to allude to members on this floor in that way. The gentleman from Illinois will proceed unless some gentleman objects.

Mr. GETZ. I do object to the use of such language, but I do not object to his going on in order.

Mr. MUNGEN. I desire to move a resolution of censure on the gentleman from Illinois.

The SPEAKER. The Chair understands the gentleman to object.

Mr. MUNGEN. I do.

Mr. FARNSWORTH. I desire to explain, which I have the right to do under the rules.

Mr. MUNGEN. Personally I do not accept any explanation. I believe I have done more to put down the rebellion than the gentleman from Illinois. [Laughter.]

The SPEAKER. It is for the House to determine whether he shall be permitted to explain or not.

Mr. DAWES. I make that motion.

The motion was agreed to.

Mr. FARNSWORTH. I will state that I did not intend to make any personal application of these words, and am sorry gentlemen should apply them to themselves. I therefore withdraw the words "on this floor." [Laughter.]

Mr. ROSS. If my colleague meant them for that side of the House I have no objection. [Renewed laughter.]

Mr. DAWES. I call the gentleman to order.

Mr. KERR. I rise to a point of order.

The SPEAKER. There is one now pending on this question of privilege.

Mr. BOUTWELL. I move that the gentleman from Illinois be allowed to proceed in order, as his explanation is sufficient.

Mr. RANDALL. I desire to know whether the gentleman withdraws the words "rebel brethren on this floor?"

The SPEAKER. He withdraws the words "on this floor," and leaves the words "rebel brethren." The words will then be as follows:

"And whoever commends himself to the affections of the rebel element there commends himself equally to the affections of their rebel brethren."

The gentleman from Massachusetts moves that the gentleman be allowed to proceed in order.

Mr. MUNGEN. I object, because the apology is in my opinion worse than the insult. [Laughter.]

Mr. ROSS. I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. BOUTWELL'S motion was agreed to.

Mr. MUNGEN. I move the adoption of the following resolution:

Resolved, That the member from Illinois [Mr. FARNSWORTH] be reprimanded by the Speaker of the House for the use of words as reported by the Clerk just now.

[Laughter.]

Mr. DAWES. I move that the resolution be laid on the table.

Mr. WASHBURNE, of Illinois. What are the words?

Mr. DAWES. He means the withdrawal of the words "on this floor." [Laughter.]

Mr. WASHBURNE, of Illinois. I desire to know what we are voting on; what words are referred to?

Mr. MUNGEN. The offensive words calling gentlemen upon this floor "rebel brethren."

Mr. WASHBURNE, of Illinois. That is not so stated in the resolution.

Mr. MUNGEN. I desire to have it so stated, and I will modify my resolution in that way.

Mr. WOOD. I hope I shall enjoy the sole honor of censure and that the gentleman from Illinois may escape.

The SPEAKER. The Clerk states he cannot modify the gentleman's resolution, and he will have to do it himself?

Mr. DAWES. I move that it be laid on the table so as to give the gentleman time to modify it.

The SPEAKER. Will the gentleman state in his seat the words excepted to?

Mr. MUNGEN. The words, if I remember them correctly, were these:

"And whoever commends himself to the rebel element in the South commends himself to their rebel brethren on this floor."

The SPEAKER. The Clerk will report the words as taken down by the stenographer and incorporate them in the resolution.

The Clerk read the resolution with the words incorporated, as follows:

Resolved, That the member from Illinois [Mr. FARNSWORTH] be reprimanded by the Speaker for the use of the words used by him as reported by the Clerk just now, as follows:

"And whoever commends himself to the affections of the rebel element there commends himself equally to the affections of their rebel brethren on this floor."

Mr. MUNGEN. I demand the yeas and nays on laying the resolution on the table.

The yeas and nays were refused.

The resolution was then laid on the table.

The SPEAKER. The gentleman from Illinois will now proceed.

A MEMBER. In order. [Laughter.]

Mr. FARNSWORTH. Mr. Speaker, after what I have said in reference to the officer in command in New Orleans, I wish to say this much in addition. I have based the remarks I have made with reference to him upon what information is in my possession—upon letters and facts which have come to my attention. I am very sorry to believe any of these reports, and I wish to say that having always regarded him as a gallant soldier and a personal friend, it surprised me perhaps as much as it did any one else when I read his order, and when I received by letters and newspaper reports accounts of the joy with which, as is alleged, he had filled the hearts of the rebels in his district.

And I will say further that after that officer had been ordered to relieve General Sheridan I met him in Washington on his way to the South; and as I knew him well, having fought by his side in the field, I spoke to him and said: "Why, General, you are going to New Orleans, are you?" "Yes," said he; "and some people have got the idea, because I am sent down there to relieve General Sheridan, that I am a copperhead; but they will find themselves greatly mistaken. I have fought rebels too long in the field to be a copperhead now." I was therefore surprised when I read the first order he issued, and still more at the second.

Mr. RANDALL. Will the gentleman allow me to put a question?

Mr. FARNSWORTH. Yes, sir.

Mr. RANDALL. I would inquire whether that was not a private conversation, and whether the gentleman is justified in repeating it in public?

Mr. FARNSWORTH. I did not regard it as such, as there were one or two gentlemen, I think, standing by at the time; and what is more, I repeated the same conversation within a few days after it occurred at a public meeting in the gentleman's [Mr. RANDALL'S] own city of Philadelphia.

Mr. RANDALL. I do not know about his being a "copperhead," but I object to this use of a private conversation.

Mr. FARNSWORTH. That certainly is not a question of order.

Mr. GETZ. Does the gentleman think that General Hancock has proved himself a copperhead from the simple fact that he has proclaimed that the civil law should be supreme?

Mr. FARNSWORTH. If it is true that General Hancock has filled the rebels of his department with joy, and that they hail him with cheers and songs upon his arrival at the theater and other public places, while he has filled the hearts of the loyal men and of the freedmen with sorrow and mourning, I leave it to the gentleman to judge whether he is a copperhead or not.

Mr. GETZ. If I knew what the gentleman meant perhaps I could answer it.

Mr. FARNSWORTH. The order of General Hancock alluded to by the gentleman with reference to the civil authorities filled me with very great surprise and alarm. That a subordinate officer, sent to the command of a district, should set at defiance an act of Congress, the very act which placed him there, and set above it the laws of a bogus government which that act of Congress declared illegal, is certainly very surprising. Gentlemen talk about recognizing the civil law. The civil law which it is his duty to recognize is the act of Congress under which he went there. General Hancock said to me he was going to New Orleans to execute the laws of Congress in addition to what I have already repeated. He certainly has not done it if the reports are true. If he answers the petitions for his intercession that are made to him by loyal men to save them from the oppression of rebels by referring them to the juries and sheriffs and constables and rebel magistrates, I think he is not executing the law of Congress by any manner of means, for the law of Congress makes it his duty not only to keep the peace but to see that every man there has equal and exact justice, without reference to condition or color; and we do know, all of us, that their laws and the officers that they have there to administer them do not execute justice. We do know very well that no northern man, no loyal man, no freedman can get justice in one of their courts before their juries. You will find it in the reports made to Congress by committees time and time again, and from the evidence of all the military commanders who have held commands in the South during the last two or three years.

[Here the hammer fell.]

Mr. PAINE obtained the floor.

Mr. BUTLER. Will the gentleman yield to me?

Mr. PAINE. I will yield for a motion to adjourn.

Mr. BUTLER. I desire to offer an amendment to the pending bill, and I ask that it may be read.

The SPEAKER. An amendment is not in order while the motion to recommit is pending.

Mr. BUTLER. It is an amendment to the motion to recommit. I move that it be printed.

The motion was agreed to.

Mr. BUTLER. I now ask that it be read.

The Clerk read, as follows:

Amend the motion to recommit by adding "with instructions to report," instead of the first section of the bill as reported, a section substantially as follows:

Be it enacted, &c., That in Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, and Arkansas there are no civil governments republican in form, and that the so-called civil governments in said States respectively are hereby declared invalid and without any legal force and effect whatever. In order to supply the places of such governments so declared illegal, the several constitutional conventions of each of said States, as soon as such conventions respectively shall have submitted to the people a constitution or frame of government for their ratification, shall have power and authority to appoint all civil officers heretofore provided by the laws of said States, such officers to have all the powers and shall perform all the duties pertaining by law to such offices respectively; it shall be the duty of the several district commanders to confirm the appointment of such officers by the conventions, to install each officer in his office; to cause to be put into the possession and control of each officer the records and archives and other property of the State pertaining to his office, and to do all other acts which may be necessary to enable such State officers respectively to perform the functions of their offices; each of said officers may be removed for cause, to be stated in the order of removal by said district commanders respectively, and in case of vacancies, by death or otherwise, the same may be filled by appointments of the district commanders respectively; such State governments so organized shall continue in force and authority until each State respectively shall be admitted into the Union and other State officers shall have been elected and qualified under the constitutions thereof.

Mr. PAINE. I yielded the floor for a motion to adjourn, and for no other purpose. I must resume the floor.

The SPEAKER. The gentleman from Massachusetts desires to offer an amendment to the motion to recommit.

Mr. PAINE. I cannot consent to yield for that purpose.

The SPEAKER. Then the motion to amend is not before the House.

Mr. BUTLER. I merely propose to move an amendment to the motion to recommit.

Mr. PAINE. The question will have to be taken on such an amendment as much as on an amendment to the bill.

The SPEAKER. The gentleman from Ohio, [Mr. BINGHAM,] who submitted the motion to recommit, has the right to withdraw that motion at any time; in which case any amendment which may be pending would fall with the motion. Should the motion to recommit not be withdrawn, then the first question would be upon any amendment pending thereto.

Mr. PAINE. Very well; I will not object to the amendment with that understanding.

The amendment was received and ordered to be printed.

Mr. O'NEILL. Will the gentleman from Wisconsin [Mr. PAINE] yield to enable me to introduce some bills and a resolution for reference?

Mr. PAINE. Certainly.

BOLTON AND PATTERSON.

Mr. O'NEILL, by unanimous consent, then introduced a bill (H. R. No. 447) to refund certain overpaid duties to Bolton & Patterson; which was read a first and second time, and referred to the Committee on Commerce.

SHIP GOLCONDA.

Mr. O'NEILL, by unanimous consent, also introduced a bill (H. R. No. 448) to change the name of the ship Golconda; which was read a first and second time, and referred to the Committee on Commerce.

LIFE-SAVING APPARATUS.

Mr. O'NEILL, by unanimous consent, also submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of War be directed to communicate to this House the report of the commission for examining into life-saving apparatus which held its sitting in New York city in 1867.

Mr. PIKE. Will the gentleman from Wisconsin [Mr. PAINE] now yield to allow me to introduce a bill for reference?

Mr. PAINE. I have no objection.

Mr. BURR. I object.

Mr. HOLMAN. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By Mr. BENTON: The remonstrance of Hon. W. W. Stickney, and 22 others, members of the bar in Rockingham county, New Hampshire, against the removal of the sessions of the circuit and district courts from the town of Exeter.

By Mr. FERRY: The petition of Samuel F. Crawford, of Michigan, late a soldier in the war of the rebellion, praying that in view of his services in the field the Government grant him a quarter section of land described in petition.

By Mr. GARFIELD: The petition of citizens of St. Augustine, Florida, for the grant of a lot of land on which to erect a building for a freedmen's school.

By Mr. JENCKES: The petition of William Hunter, for relief.

Also, the petition of Martha M. Jones, administratrix of Samuel T. Jones, for relief.

By Mr. KELLEY: The petition of merchants, manufacturers, and others, of the city of Philadelphia, praying that the existing tax of two and a half cents per pound on the cotton crop of 1867 be repealed.

By Mr. KELSEY: The petition of 24 citizens of Geneva, New York, for a pension for Henry Snelling.

Also, the petition of Arilla Foster, for relief.

By Mr. KOONTZ: The petition of Daniel Burrows, and 4,871 others, colored laborers of Washington, District of Columbia, asking that contractors under the Government be prohibited from discriminating against them in the employment of laborers.

By Mr. MAYNARD: A memorial of Assistant Engineer John Blankenship, praying for arrearage of pay.

By Mr. MOORE: The petition of Stephen R. Parkhurst, for extension of his patent for ginning cotton and burring wool.

By Mr. MYERS: The petition of Lewis A. Uhl, late first lieutenant company C one hundred and eighty-eighth Pennsylvania volunteers, for pension corresponding to his rank when wounded.

By Mr. PERHAM: The petition of Michael Kinney, for increase of pension.

By Mr. PLANTS: The petition of Daniel Sheets, for an invalid pension.

By Mr. ROBERTSON: The petition of William Northedge, of the city of Washington, for relief.

By Mr. UPSON: The petition and papers on behalf of Barbara Weiss, praying for a pension, &c.

IN SENATE.

THURSDAY, *January* 16, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PRIVILEGE OF THE FLOOR.

Mr. SHERMAN. I wish to bring to the notice of the Senate a matter that can only be done by unanimous consent, but I believe no Senator will object to it. The Commissioner of the Internal Revenue and the Special Commissioner of Revenue have constant necessity to be on the floor, especially when revenue bills are being considered. I propose that the rule relative to admissions to the floor of the Senate be so modified that those two officers be allowed the privilege of admission to the floor when bills affecting their department are under consideration. I think there can be no objection to that.

The PRESIDENT *pro tempore*. It can be done by unanimous consent. Is there any objection to the motion? None being made, the rule is so modified.

HOUSE BILLS REFERRED.

The bill (H. R. No. 278) to provide for the discontinuance of district land offices in certain cases; the bill (H. R. No. 858) for the relief of settlers on the late Sioux Indian reservation in the State of Minnesota; and the bill (H. R. No. 359) amendatory of the homestead law, were severally read by their titles, and referred to the Committee on Public Lands.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from Hon. E. M. Stanton, Secretary of War, communicating, in compliance with a resolution of the Senate of the 9th of April, 1867, the names of volunteer officers in the military service of the Government at the time that resolution was received at the War Department, together with a list of such officers at present retained; which was referred to the Committee on Military Affairs, and ordered to be printed.

COTTON TAX.

The PRESIDENT *pro tempore* laid before the Senate the message from the House of Representatives announcing that it non-concurred in the amendments of the Senate to the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

Mr. SHERMAN. The Committee on Finance have instructed me to move that the Senate recede from its amendments, with an amendment to the House bill. The committee propose to leave the House bill stand as it was sent to us originally, with this proviso added:

Provided, That raw cotton imported from foreign countries on and after July 1, 1868, shall be exempt from duty.

I should like to have a vote now on the question.

Mr. FESSENDEN. I hope we shall not recede, thus abandoning the principle we established, that we would only provide for a suspension of the tax for one year.

Mr. SHERMAN. Does the Senator want further time? I was going to propose that we have a direct vote, and take the sense of the Senate.

Mr. FESSENDEN. The Senate is not full now. Let it lie over until the Senate is full, and then it can be called up.

Mr. SHERMAN. I have no objection to allowing it to lie over for a little while.

Mr. HENDRICKS. I desire to inquire of the Senator from Ohio what is the duty on imported cotton now?

Mr. SHERMAN. The duty on imported cotton now is about the same as the internal tax. I think it is three cents a pound. Formerly there was no duty on imported cotton, because there was no internal tax on cotton.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate recede from its amendments, with the amendment just read.

Mr. FESSENDEN. The Senator from Ohio, I understand, is willing that the matter should lie over for a while until the Senate is full.

Mr. SHERMAN. I should like to have a vote, but if the Senator desires to have the matter lie over for the present I have no objection. Perhaps the Senate is now as full as it will be during the morning; I have no desire to discuss it.

Mr. TRUMBULL. Let us agree to vote at one o'clock. The Senate will be full then.

Mr. FESSENDEN. Let us finish the morning business first.

Mr. TRUMBULL. I move that the further consideration of this bill be postponed until one o'clock. The Senate will probably be full then.

Mr. SHERMAN. I have no objection, if we can have a vote at that time. I ask the Senator from Maine if he desires to discuss the question?

Mr. FESSENDEN. Not at all. I only want a full Senate when the vote is taken.

Mr. SHERMAN. Very well, then; I have no objection to its being postponed until ten minutes before one.

Mr. TRUMBULL. Say one o'clock.

Mr. SHERMAN. There is a special order for one o'clock.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the further consideration of this matter be postponed until one o'clock.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. CATTELL. I present a petition, numerously signed by prominent merchants, manufacturers, and others of the city of Philadelphia, praying that the existing tax of two and a half cents per pound on the cotton crop of 1867 be repealed. As this matter has been acted on by the Senate, I move that the petition lie on the table.

The motion was agreed to.

Mr. CATTELL also presented a petition of citizens of Pennsgrove, New Jersey, praying for a daily mail route between that place and Woodstown; which was referred to the Committee on Post Offices and Post Roads.

Mr. EDMUNDS presented a petition of citizens of Montpelier, Vermont, calling attention to a resolution passed by the Legislature of that State in 1850, and praying, in accordance therewith, the establishment of a line of mail steamships between the United States and Liberia; which was referred to the Committee on Post Offices and Post Roads.

Mr. CHANDLER presented a memorial of citizens of Texas, praying that non-residents of the State be not confirmed by the Senate to Federal offices therein; which was ordered to lie on the table.

Mr. SUMNER presented resolutions and petition adopted at a meeting of citizens of Marlborough, Massachusetts, setting forth the rights of American citizens in other countries, and asking for a law of Congress on the subject; which was referred to the Committee on Foreign Relations.

Mr. TIPTON presented a petition of citizens of Seward county, Nebraska, praying the establishment of a mail route between Lincoln, Nebraska, and the mouth of Douglas Creek, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. MORRILL, of Maine, presented a petition of Ezra Carter, jr., late collector at Portland, Maine, praying that the accounting officers of the Treasury be authorized to audit and credit him the sum of $875 90 for moneys disbursed for the use and benefit of the United States, the vouchers for said disbursements having been destroyed during the fire last year; which was referred to the Committee on Commerce.

Mr. TRUMBULL. I present the memorial of Thomas S. Williamson, Stephen R. Riggs, and John P. Williamson, who are familiar with our Indian affairs, and seem to have examined them very carefully. They set forth various reasons why the present mode of dealing with the Indians is objectionable, and they petition Congress to incorporate the Indians into the United States and extend the laws of the United States over them. They suggest the propriety of having officers of the Government stationed at places where the Indians come in contact with the white population, to look after their interests. They believe that by a system of this kind we can manage the Indians much more economically and civilize them and avoid wars, and they cite as examples of this the conduct of other nations with regard to Indian tribes. It is a paper drawn up with very considerable care. I move its reference to the Committee on Indian Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WILLIAMS. I am instructed by the Committee on Finance, to whom was referred the bill (S. No. 180) relating to United States notes, by which the legal-tender act is reënacted and provision made for contraction payable in gold, to report it back to the Senate, and move that it be laid on the table, as it is their opinion that it is not proper at this present time to proceed with that legislation.

Mr. RAMSEY, from the Committee on Post

Offices and Post Roads, to whom was referred the bill (S. No. 85) to authorize the Southern Minnesota Railroad Company to construct a bridge across the Mississippi river, between La Crosse, in the State of Wisconsin, and the opposite bank of said river, in the State of Minnesota, and to establish said bridge as a post route, reported it with amendments.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of owners, masters, pilots, and engineers, of steamboats at Evansville, Indiana, praying an amendment of the steamboat inspection law, so as to give to that port a local board of inspectors for boilers and hulls, asked to be discharged from its further consideration.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 44) relating to the sale of the marine hospital at Evansville, Indiana, reported it without amendment.

Mr. HARLAN, from the Committee on Post Offices and Post Roads, to whom was referred the petition of William H. Murphy, praying additional compensation for carrying the mail on post route No. 10686, in the State of Missouri, submitted a report, accompanied by a bill (S. No. 253) for the relief of William H. Murphy, of Farmington, Missouri. The bill was read and passed to a second reading, and the report was ordered to be printed.

NATIONAL SCHOOL OF MINES.

Mr. STEWART. I desire to move that the Committee on Mines and Mining be discharged from the further consideration of Senate bill No. 156, to establish a national school of mines, for the purpose of enabling me to make some explanation of that bill, and submit some remarks upon the subject-matter; and I desire to do so this morning if the Senate will allow me. I believe it is a subject of great importance. The amount of bullion produced has been falling off in the last year, and I desire to place before the Senate a view of the question and the reasons and the remedy. It is a subject of considerable importance in connection with the finances, and I shall occupy but a short time in explaining it. I will not interfere with the morning business, but I desire to proceed as soon as the morning business is through.

Mr. FESSENDEN. I desire to introduce some bills.

Mr. STEWART. Very well.

BILLS INTRODUCED.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 254) to change the terms of the district court of the United States for the district of Maine; which was read twice by its title.

Mr. FESSENDEN. I wish simply to remark, for the benefit of my colleague and all others, that the bill is in the handwriting of the judge of the district court, and my colleague can examine and see whether it is agreeable to him. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

THE TREASURY DEPARTMENT.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 255) to reorganize the Treasury Department; which was read twice by its title.

Mr. FESSENDEN. I propose to move the reference of the bill to the Committee on Finance, and I wish to remark to that committee that I hope it will receive their early and earnest attention. It will be recollected that we have for several years appropriated a considerable sum of money, to be at the disposition of the Secretary of the Treasury, for the purpose of increasing the compensation of some of his officers and employés. That has been very objectionable to a great many persons, and is objectionable to me, if any other remedy can be found. I am satisfied that he has only been able to keep a very considerable number of his best officers in the Department, whose services are absolutely essential, by increasing their compensation out of that fund. That policy, however, is objectionable, and has been substantially abandoned. It is therefore necessary that the Department should be reorganized at an early day. In view of the continuing application for an increase of twenty per cent. on the pay of clerks, &c., which give us a great deal of trouble at every session, I think something definite should be resolved upon. I am satisfied that the compensation of many officers named in the bill should be increased; but whether or not it should be increased to the amount specified in the bill, which was drawn at the Treasury Department, is for the committee to decide. I hope it will receive their early attention, so that it may become a law in some shape at this session of Congress. I move its reference to the Committee on Finance, and that it be ordered to be printed.

The motion was agreed to.

CONSULAR APPOINTMENTS.

Mr. CHANDLER. I now move to take up the resolution which I called up yesterday morning, with a view to its reference to the Committee on Commerce.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (S. R. No. 74) in relation to consular appointments, the pending question being on the motion of Mr. CHANDLER, to refer the joint resolution to the Committee on Commerce.

Mr. GRIMES. Mr. President, when this question was under consideration yesterday I had the temerity to state that some of the consuls serving the United States in foreign countries received more than the compensation fixed by law, or that which was understood to be fixed by law——

Mr. STEWART. I hope that matter will not be taken up now. It will lead to discussion, and I understood the Senate to consent to give me the residue of the morning hour after the morning business was disposed of.

Mr. GRIMES. I am not particular about it.

Mr. CHANDLER. It will take but a moment to dispose of this subject. All I want is to refer it to the committee to which it belongs.

Mr. STEWART. There is a dispute between the two committees in regard to this joint resolution, and it will occupy the whole morning hour.

Mr. CHANDLER. No dispute at all.

The PRESIDENT *pro tempore*. The Senator from Iowa has the floor.

Mr. STEWART. I hope this question will be postponed inasmuch as my motion was pending, and I only gave way temporarily to allow the morning business to be disposed of.

Mr. CHANDLER, (to Mr. GRIMES.) How long do you want to take?

Mr. GRIMES. I do not know how long I shall take. I simply propose to show that the chairman of the Committee on Commerce is not the only person who is informed as to the consular system and as to the compensation that is paid to consuls, and to prove the statement that I made yesterday, that there is at least one consul who is receiving compensation at the rate of from fourteen thousand to sixteen thousand dollars a year.

Mr. SUMNER. I should like to know who he is and how he receives it?

Mr. GRIMES. He is the consul at Manchester, in England, and he receives his pay in this way: he has an outlying dependency at Tunstall, where he has stationed a consular agent by the name of Lewellyn, who received during the twelve calendar months ending June 30, 1867, the sum of $11,030, of which no part went into the Treasury. In addition to that, I understand this consul is in the habit of receiving eleven shillings sterling on each certificate of invoice, which is sixteen cents in excess of the legal charge; that he employs there an attorney as his agent who does the work at fifty cents each invoice, giving the consul $2 60 each, over nine thousand dollars in addition.

Mr. SUMNER. What is his name?

Mr. GRIMES. The Senator will see by a reference to the list of consuls.

Mr. SUMNER. I have not the list with me.

Mr. GRIMES. I might give other instances.

Mr. SUMNER. I will inquire of the Senator whether all that was not previous to the act of July 25, 1866?

Mr. GRIMES. I have already stated that it was for the twelve calendar months ending June 30, 1867.

I understand that the way the thing is arranged by these consuls is that specified by the Senator from Vermont [Mr. MORRILL] yesterday; that they have a kind of outlying agency through whom a large portion of their business is done; and that these agents, not being included either in the schedule B or C, mentioned in the last section but one of the act of July 25, 1866, receive these fees, and they are paid into the pockets of the consuls who appoint these agents.

Mr. SUMNER. But the Senator is aware that the statute provides—

"That all fees collected by any consul or commercial agent not mentioned in schedule B or C, or by any vice consul or commercial agent appointed to perform their duties, or by any other person in their behalf, shall be accounted for to the Secretary of the Treasury."

"Any other person in their behalf." How, then, can they have an agent who can make these large gains without paying them over into the Treasury? It cannot be done without a violation of law.

Mr. GRIMES. It is not my business to explain how they succeed in evading the law. It is only a question of fact. I stated yesterday that the purpose of the joint resolution that was under consideration was simply to authorize the President, if he saw fit—not imperative upon him at all, but if he saw fit—to select any retired officers whom he thought were competent to perform this duty; that they might be appointed to these consulships, receiving no larger compensation than they are receiving now. In response to that I was told that this bill would allow rear admirals, who would receive a compensation of $4,000, to be appointed as consuls, which would be a detriment to the Treasury of the United States. I rejoined to that that some of these consuls were now receiving much larger compensation than a rear admiral would receive, even admitting that an officer of that rank should be sent abroad as a consul; to which it was replied that no consul of the United States at this time was receiving anywhere over $5,000. I happened to know from interviews that I have had with Treasury officers that that was a mistake; and as the issue was fairly made here on that question I felt it incumbent upon me either to retract what I stated yesterday or else to produce some evidence in verification of it.

Now, sir, I feel no special interest in this joint resolution. I am content that the Senate should dispose of it just as it chooses; but I enter my protest against the idea that because the Committee on Naval Affairs introduce a resolution that relates solely to the *personnel* of officers of the Navy, simply authorizing the President to select one of them if he chooses, but if he does so choose the officer shall not lose his commission—that is all there is in it—that the Committee on Commerce shall arrogate to itself the exclusive jurisdiction of the matter.

Mr. PATTERSON, of New Hampshire. I will state that the Committee on Retrenchment have this whole subject of the foreign service under consideration, and perhaps they may be able to settle this controversy. I therefore move, if it is in order, that this joint resolution be referred to that committee. They are now preparing a bill, which will be ready to be presented to the Senate in a few days, that will cover the whole ground.

Mr. GRIMES. I am perfectly content that it should be referred to that committee. I have no objection.

Mr. CHANDLER. The Senator from Iowa has made a statement here of which I know nothing. I know that the law prohibits any con-

sul from retaining any fees except for office rent and a certain amount for clerk hire, and provides that all the rest shall go into the Treasury. That is the law. When the consular system was revised in 1865 or 1866, as it was, it was not a paying system, and at that time it was discovered that great frauds were perpetrated on the Treasury by the undervaluation of goods and merchandise sent to our shores. At that time we passed a law compelling each shipper to have his invoices countersigned by the consul on the spot and compelling the shipper to pay, I think, two dollars or two dollars and a half for the consular certificate. Each consul was directed to make himself conversant with the value of merchandise manufactured at and exported from the point to which he was appointed. I am informed that since the adoption of the new system the labors of consuls have greatly increased, and Governor Seward told me the other day that the consular system, instead of being a burden on the Treasury, would this year pay some one hundred and thirty thousand dollars or one hundred and forty thousand dollars into the Treasury. It has become more than a self-sustaining department of the Government.

But, as I said before, the duties of a consul are strictly commercial. He must know, or is supposed to know, the value of the merchandise which he certifies at the point where it is manufactured, to wit: in Manchester, of the fabrics of Manchester; in Lyons, of the fabrics there. I do not know but that the occupation of a naval officer may eminently fit him for the performance of these duties. It may be that there is no man in the United States so well qualified to perform them as a retired naval officer. Of course the President can now select a naval officer for one of these positions as well as any one else, and send his name for confirmation to the Senate. This resolution, as I understand it, is not, as the Senator states, to prevent a naval officer from being displaced from the Navy if he receives such an appointment, but to give him shore duty pay instead of retired pay. The retired pay of a rear admiral is $2,000 a year, and the shore-duty pay of a rear admiral on land service is $4,000; of a commodore it is $1,800, and for the land service, $3,200; of a captain $1,600 retired pay, $2,800 land duty pay; of a commander $1,400 retired pay, and $2,240 shore duty pay. But that is immaterial.

I am informed and believe that the Treasury has been benefited by this new consular system to the extent of more than twenty million dollars a year. If an invoice is found to be incorrect, if a fraud is attempted upon the Treasury, the invoice is immediately returned to the consul who certified that it was correct, and it is his duty to thoroughly investigate it and bring to justice the perpetrator of the fraud. As I said before, it is of vital importance that a consul should have thorough business knowledge; that he should be a man who thoroughly understands all about the mercantile transactions between the point to which he is accredited and the United States. I simply want the committee under whose charge this whole system is to investigate this measure. If we find that retired naval officers are the very best agents that we can get we shall report in favor of the resolution. We might save perhaps a few hundred dollars by passing it now, but we should lose as many millions.

The Senator says that he wants to show the Senate that the Committee on Commerce is not the only committee that understands this question. It may be that frauds have been perpetrated. I know nothing about that. If they have been it was the duty of the Secretary of the Treasury to call the attention of the Committee on Commerce to the fact, in order that it might be remedied. When the Navy Department built twenty iron-clads at an expense of $10,000,000, and not one of them would float, I never charged the chairman of the Committee on Naval Affairs with incompetency because he permitted it to be done. I was ordered, as a member of the Committee on the Conduct of the War, to investigate those iron-clads, and I found that the Navy Department had built twenty, not one of which would float, but I never called in question the competency of the chairman of the Committee on Naval Affairs because of that fact. It was a great blunder, but it was not a blunder of the chairman of the Committee on Naval Affairs by any means; nor is the Committee on Commerce responsible if a fraud or even an abuse has crept into the consular system. We have been told that the Committee on Retrenchment is examining into the consular system. I do not know what the Committee on Retrenchment has to do with the consular system. The Committee on Commerce will revise the consular system if it comes up for action here, because it is under our charge. I hope this joint resolution will be referred to the committee to which it belongs, and that we shall be allowed to act upon it.

Mr. GRIMES. I do not propose that the Senator from Michigan shall divert the attention of the Senate from the issue that is before us by his allusions to the Navy Department. Whether or not the Navy Department made great blunders during the war in the construction of ships has nothing to do with this question, as I apprehend. The issue was one between the Senator and myself. He charged the Naval Committee with knowing nothing about the consular system; and we did not profess to know anything about it; but in support of his statement he said that this joint resolution would give larger salaries to the consuls than are now authorized by law, and he stated specifically that there was no consul in the interior of England who received more than $3,000 per annum in salary and in fees. I controverted that position, and I think I have proved it to-day.

Now, as to the other point. The only question between the Senator and the Committee on Naval Affairs is this: a naval officer is a man who was taken when he was a youth and educated for the service of his country, instructed at the Naval Academy in international law; during a service of twenty or twenty-five years he has mingled among gentlemen, both in our own country and abroad; it is his business to understand the commercial laws, for that is a part of the profession of a naval officer, and he is sent abroad for the purpose of enforcing them; and we think that competent men may be selected from that branch of the service to perform consular duty. We think that is a very good school in which to prepare them for these consulates. The Senator, on the other hand, imagines that a proper school is to be furnished perhaps in his own State, perhaps in the traffic in whisky, in shingles, and white fish on the classic banks of Saginaw, or in trapping on the Upper Peninsula, with an opportunity occasionally to mingle in the polite society of Mackinaw, where the trapper will go annually to exchange his skins for a new supply of fish-hooks and traps and whisky. That is the issue. I leave it with the Senate.

Mr. STEWART. I move to postpone this matter and take up my motion relative to Senate bill No. 156, and on that question I wish to be heard.

The PRESIDENT *pro tempore*. The Senator from Nevada moves to postpone the joint resolution under consideration for the purpose of taking up the bill mentioned by him.

Mr. STEWART. I wish to be heard on that motion.

Mr. CHANDLER. Mr. President——

Mr. STEWART. I have the floor.

Mr. CHANDLER. I hope the Senator will give way for a moment or two.

Mr. STEWART. I do not ask for any action on the motion which I have submitted, and which I now propose to take up, and I intend to withdraw it when I get through with my remarks. In order that the subject-matter of my remarks may be understood I ask the Secretary to read the bill as part of my speech.

Mr. POMEROY. I would rather the bill should be taken up before it is read.

Mr. STEWART. I wish to explain a very important subject, with which I believe the Senate is not entirely familiar, a subject to which I have given eighteen years of study.

The PRESIDENT *pro tempore*. There can be no debate on the question of reading a paper. That must be decided without debate. I suppose it is in order for a Senator to have anything that he thinks pertinent read as a part of his argument.

Mr. POMEROY. What is the motion before the Senate?

The PRESIDENT *pro tempore*. The motion is to take up the bill referred to by the Senator from Nevada.

Mr. WILSON. Is not this a motion to postpone a question which is before the Senate? And I ask whether it is in order on the question of postponing a pending measure to call for the reading of a bill on any subject?

The PRESIDENT *pro tempore*. The question is on taking up for consideration the bill named by the Senator from Nevada.

Mr. WILSON. That is not the motion as I understand it.

The PRESIDENT *pro tempore*. The motion is to postpone the present business for the purpose of taking up that bill.

Mr. STEWART. I want the Senate to be informed as to what the subject-matter that I move to take up is, and I ask for the reading of a short bill for explanation and as part of my speech.

Mr. WILSON. There is a pending question before the Senate, and the Senator moves to postpone that for the purpose of taking up another subject.

Mr. STEWART. I have the floor, and I claim the right to debate that question.

Mr. CHANDLER. I make the point of order that the Senator from Nevada is out of order in thus interposing a speech on the question of postponement—proposing to make a speech on one subject when the question is on postponing another.

Mr. HENDRICKS. I should like to know how the Senator from Michigan can make a point on a speech the Senator from Nevada proposes to make. [Laughter.] He has not heard the speech; he does not know whether it is in order or not. The Senator from Nevada has clearly a right to present to the Senate the proper reasons for considering one subject instead of another. Now, he is going to make a speech on that subject, and I claim that that is in order.

The PRESIDENT *pro tempore*. The question is on postponing the matter under consideration for the purpose of taking up the bill mentioned by the Senator from Nevada.

Mr. TRUMBULL. I should like to hear that bill read, to know what it is that we are asked to take up. I think that is in order. I cannot vote to postpone this matter and take up something else unless I know what it is that we are to take up.

The PRESIDENT *pro tempore*. The bill proposed to be taken up will be read by its title.

Mr. STEWART. I want it read at length.

The PRESIDENT *pro tempore*. It may be read as a part of the argument of the Senator from Nevada.

The Secretary proceeded to read sections one, two, three, four and five of the bill (S. No. 156) to establish a national school of mines.

Mr. STEWART. The Secretary may now stop. I do not ask for the further reading of the bill. Enough has been read to show what it is, and I will proceed with my remarks.

Mr. WILSON. I wish to hear the bill read through.

Mr. STEWART. I rise to a point of order. I do not think the gentleman can regulate my speech. I called for the reading of the bill as part of my speech, and I have a right to have those portions of the bill read through which I desire.

The PRESIDENT *pro tempore*. The reading will proceed.

The Secretary read the sixth section of the bill.

Mr. DOOLITTLE. I rise to make a suggestion before we proceed any further. I think that we are about establishing a very dangerous precedent if on a mere motion to postpone one bill and take up another you can bring in and have read at length a long bill. It may take two or three hours sometimes to read a bill. I understand the rule to be this: that when a Senator moves to postpone one subject and take up another he can state in a short speech what it is about, to inform the Senate, but not go into a long reading of bills or into a long speech on a motion to postpone. I understand that to be the rule. I think we shall fall into a dangerous precedent if we are to have a long bill read on a simple motion to lay aside one order of business and take up another. If we allow this to be done we shall be placed in a position that will be embarrassing hereafter, I think. I call the attention of the Chair to the suggestion which I make, that while it is not out of order to make a short statement, it is out of order to make a long speech and to go into the merits of the thing on a motion to postpone.

The PRESIDENT *pro tempore*. How long a speech may be made?

Mr. DOOLITTLE. It must rest somewhat in the discretion of the Chair.

Mr. STEWART. I trust I am not to be interrupted in an honest effort to make a speech, on which I have spent some time, and which I do not think would be annoying to Senators if they would listen to it. It does not raise any political question, but it is connected with our finances and the material interests of the country. I have spent a great deal of labor on it, and I do not like to see so much captiousness about my having the floor. Time has been spent this morning very unprofitably. I rose in the first place and requested a part of the morning hour, but that was consumed in a discussion which has not thrown much light on the Senate, and which was quite as irrelevant to any pending proposition as anything could be.

Mr. HENDRICKS. Will the Senator yield me the floor a moment that I may make a suggestion?

Mr. STEWART. Certainly, sir.

Mr. HENDRICKS. The Senator from Nevada has suggested the subject of his argument. It is a very important one. It is one that not only relates to the interest of his own section, but, in my judgment, to the interest and prosperity of every section of this country. I move that he be allowed now to make his argument upon his bill, and that all business be suspended for the purpose of allowing that argument to be made.

Mr. MORRILL, of Maine. I call for the order of the day.

The PRESIDENT *pro tempore*. It becomes the duty of the Chair at this time to call up the special order, which is the unfinished business of yesterday, being the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the Quartermaster's Department of the Government for the fiscal year ending June 30, 1868, and for other purposes.

Mr. HENDRICKS. My motion is to postpone that until the completion of the argument of the Senator from Nevada.

The PRESIDENT *pro tempore*. So I understand. The Senator from Indiana now moves that the special order be postponed for the purpose of taking up the bill mentioned by the Senator from Nevada.

Mr. MORRILL, of Maine. I trust the Senate will do no such thing. Here is a deficiency bill sent to us, a portion of it before the recess of the Senate in December. Here are many of the employés of the Senate and House of Representatives clamoring at our doors, and they have been this month; they are unpaid and have been since July, and are in distress. They are importuning Senators in all directions to pass this bill. There is absolute distress among the employés of the Senate and House of Representatives who have been unpaid since July. I know it to be so. But that is not the *gravamen* of this bill. Besides that, here is a deficiency of some ten million dollars for the Quartermaster's Department, which is greatly needed, which presses the Government, and presses beyond measure. It has been so represented to us, and we have been importuned on account of it. This bill was set down for yesterday at one o'clock, but in view of the urgency of the measure then before the Senate I did not feel authorized to press it against the wishes of the honorable Senator who had charge of that bill.

Mr. DOOLITTLE. The honorable Senator from Maine will allow me to make a single statement. I understand that the honorable Senator from Nevada does not propose any action on his bill now, but simply to take the floor, being prepared to address the Senate at this time. I understand that about three quarters of an hour is the length of time he will occupy. I suggest that the special order be informally laid aside, so as not to lose its precedence, simply that the Senator from Nevada may make his speech.

Mr. MORRILL, of Maine. I suggest that the speech be laid aside until we send this bill to the other House, and then the Senator from Nevada can be heard. I hope this bill will not occupy the attention of the Senate for one half hour, for it is of the utmost importance; and it strikes me that to interpose a speech against a bill involving so much public concern as this does is not exactly the thing. If my honorable friend had been on the floor for half an hour and was engaged in the delivery of his speech, I should certainly be very reluctant to interpose; but the speech has not begun, and the question is on postponing an appropriation bill to begin a speech. I trust the Senate will proceed with the bill.

Mr. POMEROY. I feel the same interest in this bill that the Senator from Maine feels, but I am entirely willing that it should be laid aside informally to allow the Senator from Nevada to make his remarks. It is a courtesy which we constantly extend to Senators, and I should be glad to have the Senate extend it to the Senator from Nevada on this occasion. I should be grieved to have the Senator from Nevada deprived of the opportunity of making his speech this morning.

Mr. FESSENDEN. I think from the experience I have had it is wise, as a general rule, to allow the chairman of the Committee on Appropriations, who is better informed on the subject than the body of the Senate can possibly be, to decide if he thinks it very important that an appropriation bill should be passed at a particular time, and that other business should not be allowed to interfere with it. I know I found myself sometimes embarrassed in the disposition of the business that was submitted to me as chairman of the Committee on Finance, before the labors of that committee were divided, by the disinclination of the Senate to take up bills which I considered it important to take up at a particular time, although I must say that as a general rule the Senate was very kind and considerate to me in relation to those matters. I hope the same consideration will be extended to my colleague, who certainly must be able to judge of the pressing nature of the bill which he presents. He has already given way one day, and if his bill is now the regular order of business it would not be according to the usages of the Senate to put that bill out of its order for other business against his protest.

The PRESIDENT *pro tempore*. The motion of the Senator from Indiana is to postpone the order of the day for the purpose of proceeding to the consideration of the bill mentioned by the Senator from Nevada.

The question being put, there were on a division—ayes 13, noes 9; no quorum voting.

Several SENATORS called for another division.

The PRESIDENT *pro tempore*. The Chair is aware that there is a quorum in the Chamber, but there is not a quorum voting.

Mr. HENDRICKS. I should like to say one word before this vote is taken. I have given very little attention to the subject on which the Senator from Nevada proposes to speak, but I know the fact to be, so far as I have been able to ascertain it, that the productions of our mines are gradually decreasing, and in the present condition of our finances I consider this one of the most important questions to which Congress can give its attention—the increase of the gold and silver of this country. It is of prime importance. The Senator from Nevada, representing the gold region of the country, believes that he has a measure of great importance in connection with this great interest. Now it is proposed that he shall not be heard, that we shall take up a deficiency bill; a bill to provide for payments out of the Treasury where officers of the Government have paid money without authority of law.

Mr. MORRILL, of Maine. No, sir; no such thing.

Mr. HENDRICKS. Then the bill is not properly entitled. If it is a deficiency bill that is its character. It is to pay money out of the Treasury. I would ordinarily support the chairman of the Committee on Appropriations in any of his propositions, but I think he presses his bill now unreasonably when we wish to hear this argument; and as his bill is not important to the Government I hope he will yield to allow the Senator from Nevada to make his speech.

Mr. MORRILL, of Maine. It is remarkable to me that a deficiency bill is to be denominated a bill to appropriate money that has been illegally taken from the public Treasury.

Mr. HENDRICKS. I said taken without authority of law.

Mr. MORRILL, of Maine. Deficiency bills never bear that relation to the legislation of the country. This bill is for deficiencies of the Army, chiefly the quartermaster's department, growing out of the fact that no appropriation was asked for the quartermaster's department for the last year, relying upon the surplus in that department, together with the fact, known to the Senate and to the country, that the increased expenditures of the department come from the exigencies of the Indian war, not then known to any of us. It is to meet that condition which the bill provides for. I say to my honorable friend from Nevada that I do not like to stand here to urge unreasonably the consideration of this or any other bill before the Senate; but he will consider that many of the items of this bill were presented to us in a deficiency bill which failed between the two Houses before the recess of the Senate, and that it is to meet the public exigency to which I have alluded. Then I submit to him whether I am to be charged with a disposition unreasonably to press this upon the consideration of the Senate when it is in order in the order of business of the Senate. The Senate will consider that they assigned yesterday at one o'clock for the consideration of this bill, and that it was then allowed to go over to accommodate the chairman of the Committee on Finance.

Under these circumstances I feel it my duty to press the bill on the consideration of the Senate. No Senator here would be more willing than myself to accommodate the honorable Senator from Nevada; but it is simply a question of whether a bill situated as this is should be put out of its order that we may listen to a speech from the honorable Senator, which, however interesting and important it may be, can be just as well made after the passage of this bill as at the present time.

Mr. HARLAN. It has always been usual in the Senate when a Senator felt a deep interest in a subject and was prepared to proceed with its discussion to permit him to do so; and the objection must be very extraordinary, I think, on this occasion if the usual courtesies of the Senate are not to be extended to the

Senator from Nevada. I understand the motion of the Senator from Indiana is merely to pass over the regular order informally until this speech shall have been concluded. I hope that the usual courtesy may be extended for that purpose to the Senator from Nevada. He will doubtless not consume more time than is necessary. The subject is one of considerable importance to those of us who live in the West, and I desire personally very much to hear the views of the Senator. I would not willingly disoblige the chairman of the Committee on Appropriations——

The PRESIDENT *pro tempore*. The Chair will say that the motion of the Senator from Indiana is to postpone the regular order for the purpose of taking up the bill indicated by the Senator from Nevada, without anything being said as to its being taken up for a particular purpose.

Mr. HARLAN. I hope the Senator from Indiana will modify his motion so as to pass over informally the regular order until the Senator from Nevada can conclude his speech.

Mr. HENDRICKS. I accept that proposition, certainly.

Mr. CONKLING. It seems to me the chairman of the Committee on Appropriations is entirely right in pressing, as he does, this bill; and yet I hope that he and the Senate, under what I think are rather the peculiar circumstances of this case, will not object to the Senator from Nevada proceeding with his remarks. He had the floor a quarter of an hour before the morning hour expired. He was proceeding in order and the Chair so ruled. He had submitted no remarks which were not entirely germane to the motion that he made. Notwithstanding that, Senators by points of order exhausted the morning hour, and now half an hour, lacking a minute or two, has elapsed since this question first arose. The Senator from Nevada wishes, as I understand, to occupy the floor not exceeding three quarters of an hour; and although I admit the importance of proceeding with this bill, yet under all the circumstances, and as the easiest and most speedy solution of this question, I submit to the honorable chairman of the committee that we had better allow the Senator to proceed.

The PRESIDENT *pro tempore*. The Senator from Indiana modifies his motion and now moves that the Senate informally pass over the order of the day for the purpose of taking up the bill mentioned by the Senator from Nevada.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill (S. No. 156) to establish a national school of mines is before the Senate on the motion of the Senator from Nevada to discharge the Committee on Mines and Mining from its further consideration.

The bill was read, as follows:

A bill to establish a national school of mines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tax levied and collected upon gold and silver bullion be set apart so long as the same shall be collected by the Government as a special fund for the endowment and support of a school of mines, to be located on the line of the Pacific railroad, west of the Rocky mountains, as near as practicable to the center of the mining States and Territories.

SEC. 2. *And be it further enacted*, That each State and Territory located in whole or in part west of the eastern base of the Rocky mountains may appoint one member of a board of directors, a majority of whom shall constitute a quorum; and in case of failure on the part of any State or Territory so to appoint, the President shall appoint such member, by and with the advice and consent of the Senate; but no part of the fund herein provided for shall be expended in salaries, traveling, or other personal expenses of the said board of directors.

SEC. 3. *And be it further enacted*, That the said board of directors shall have power to make rules and regulations for the organization and government of the school: shall appoint its professors, teachers, and officers, and exercise supervision and control over the fund herein appropriated.

SEC. 4. *And be it further enacted*, That no professor, teacher, or other officer of this institution shall be removed except upon charges and specifications duly investigated by the board of directors, and the decision of the Secretary of the Treasury, to whom the facts and the evidence shall be reported, shall be conclusive.

SEC. 5. *And be it further enacted*, That tuition in this institution shall be free to any citizen of the United States who may present proper evidences of qualification, to be determined by the faculty; and it shall also be free to students from other countries, duly recommended by the authorities of the schools in which they shall have become qualified; but all expenses for books and stationery, and all personal expenses for lodging, subsistence, and traveling, shall be borne by the students themselves.

SEC. 6. *And be it further enacted*, The primary object of the school being an increase of the bullion product of the country, by the practical application of science to mining, and the diffusion of correct knowledge among miners as to the best methods of treating the ores, no charge shall be made for assays, tests, metallurgical or other experiments, except to cover the actual cost of material used.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury, on and after the 1st day of July, 1868, shall set apart the fund hereby appropriated for the purpose named in this act; and he shall, after receiving a report from the board of directors, locate the school and furnish plans and specifications for all necessary buildings and improvements, which shall be plain and substantial and upon the most economical plan consistent with the purposes of the institution.

SEC. 8. *And be it further enacted*, That in order that the board of directors may be placed in possession of the most approved systems of education, the Secretary of the Treasury shall cause an examination to be made of the principal mining schools of Europe, and a report to be prepared upon the same, the expense of such service to be paid out of the unexpended balance of the appropriation heretofore made for the collection of mining statistics.

SEC. 9. *And be it further enacted*, That the duties now performed by the special commissioner appointed by the Secretary of the Treasury to collect mining statistics in the States and Territories west of the Rocky mountains, shall, upon the organization and completion of the school of mines created by this act, be performed under a permanent system by the faculty of said institution, and their report shall be transmitted annually to the Secretary of the Treasury, to be by him laid before Congress.

SEC. 10. *And be it further enacted*, That the professors and teachers, under the direction of the president of the institution, shall make annual visits to the principal mining districts, accompanied by their respective classes, for the purpose of examining the mines, mills, and modes of working and instructing the pupils in the practical operations of mining and metallurgy; and the said professors and teachers shall also, as far as their time will permit, give free lectures to the miners on geology, mineralogy, metallurgy, and mining engineering, and kindred subjects.

SEC. 11. *And be it further enacted*, That the Secretary of the Treasury shall require from the disbursing officer or officers appointed by the board of directors such bonds and vouchers as he may deem necessary for the security and proper disbursement of the fund.

SEC. 12. *And be it further enacted*, That from and after the expiration of the fiscal year commencing July 1, 1868, not exceeding one half of the fund arising from the tax levied upon gold and silver bullion shall be expended by or on behalf of the institution, the remaining half to be set apart by the Secretary of the Treasury and invested in Government securities, which shall remain, both principal and interest, a permanent fund for the support and maintenance of the institution; and no part of the reserved half, either principal or interest, shall be drawn so long as the Government shall continue to impose a tax upon gold and silver bullion, but after such tax shall have ceased the interest on the reserved fund shall be used for the purposes hereinbefore mentioned.

Mr. STEWART. This bill suggests several important considerations. Congress must be satisfied that the proposed institution is of national importance, special in its character, and one in which every State in the Union has an interest. And it should further appear that the results proposed will not be realized by private enterprise. In determining the propriety of legislation upon this question it will be necessary to take into consideration the magnitude of our mining interests, the necessity to the Government of an increased supply of the precious metals, the means of increasing that supply, the effect upon the currency, and the national debt.

It may be stated generally that the explorations of the last eighteen years have demonstrated that veins of ore containing the precious metals are found over all that vast extent of territory from the eastern slope of the Rocky mountains to the western decline of the Sierra Nevadas and from British Columbia on the north to Mexico on the south; that these veins exist in great numbers and are of extraordinary richness, surpassing both in value and extent the mineral fields of any other nation on the globe. Placer mining commenced in California about twenty years ago, and has been prosecuted in that State and in several of the Territories with remarkable success, adding largely to the supply of the precious metals throughout the commercial world; but placer mining for the last ten years has been gradually on the decline, until it has ceased to be a reliable source of supply.

Vein mining was of little comparative importance previous to the discovery and development of the Comstock lode in Nevada. At that time no discoveries of veins had been made east of the Sierra Nevada mountains, and but few in California were being worked. Our people were unacquainted with the business, and the veins of California had failed to attract much attention from miners abroad.

Two millions per annum would be an overestimate of the entire yield from this source in the year 1860, when the Comstock lode first attracted attention. The enormous wealth which this vein exhibited attracted men of learning and skill from all parts of the world. Many millions were expended in experiments; many millions wasted in those experiments; and notwithstanding the cost and the waste this great vein has contributed annually to the supply of the precious metals from that time till now from twelve to sixteen million dollars.

But the most marked and beneficial results from this discovery are the impetus it has given to vein-mining elsewhere and the knowledge which has been imparted by the rare combination of talent, skill, and mining erudition brought in requisition by the development of this lode. Large numbers who were unsuccessful here returned to California with their new stock of information and proceeded to develop the gold-bearing veins of that State, the production of which has been increased mainly from this cause from $2,000,000 to over eleven million dollars per annum.

Others explored eastern Nevada, Idaho, Montana, and Arizona in search of more Comstock lodes, and their labors prove most conclusively that our mining resources have no practical limitation in extent or intrinsic value, but that the only limitation upon the supply is fixed by our capacity to work the ores with profit. When that shall have been demonstrated there will be no lack of men and money. During the last year many of the experiments in the interior have been disastrous. A want of confidence is felt by those unacquainted with the reasons for these failures. It is certain that the ore is rich; fire assays show that fact. It is certain the veins are large and continuous; every new development tends to prove it. It is certain that hundreds of large and expensive mills have been erected and that many eastern men have large investments in that country, and pay large assessments but receive no dividends. Why is all this? Undoubtedly there have been swindles, mistakes, and blunders.

But the principal reason is want of knowledge. The ore differs from the Comstock, contains more arsenic or antimony, or some other rebellious substance; and the ore of each district differs from that of every other. The process used on the Comstock fails at Reese river or Humboldt. The metal is not saved; the ore is wasted, and disaster follows. If each one of these mines was a Comstock, to induce the same enterprise, to support the same extravagance in experiments and general management, they would undoubtedly be worked with great profit and great waste; but such is not the fact. Few such mines exist where so large a mass of rich ore is found so near the surface, and consequently in mining, as in all other business, it is necessary to proceed intelligently and economically. Even the Comstock lode could not now be worked since depth has been obtained but for the early experiments and special knowledge acquired in robbing it of its richest ores.

The following table will indicate the advantage that scientific knowledge would be in the working of this mine, but the lack of knowledge here bears no comparison to the utter ignorance which prevails in regard to the mines

of the interior, where no experiments have been made, and where no experienced men of science have contributed their counsel.

Comparative statement of loss in reduction from assay value, per cent. and proportion of the bullion saved from 15,639 tons of ore by the Hale and Norcross Company in 1866-67.

Mills.	Quantity reduced.	Assay value.		Total Gold and Silver.
	Tons.	*Gold.*	*Silver.*	
14	15,639	$465,190 14	$822,942 65	$1,288,132

Amount produced, gold	$397,157 99
Amount produced, silver	419,819 63
	$816,977 62
Amount lost, gold	$68,474 45
Amount lost, silver	403,123 02
	$471,597 47
Average per centage extracted	.65

The foregoing may be regarded as a fair average of the results of the present workings of ores on the Comstock, which is a great improvement upon the early operations.

Without pursuing details further, it will be admitted that the reason why the product of the precious metals has not increased in the last two years is not from the want of mines, for they are admitted to be abundant and rich; not altogether the want of facilities for transportation, for the ascertained value of the ore of many mines should leave a margin above all expenses; not altogether from want of capital, for capitalists have invested liberally, if not judiciously; but principally for want of knowledge and want of capacity to treat the ores.

If experience in the development of our own mines had not demonstrated the necessity of the application of art and science to mining, a consideration of the fact that mining for the precious metals involves a knowledge of art and science to a much greater extent than any other industrial pursuit, must satisfy us of the necessity of the study of those sciences employed in mining.

At every stage of progress, from the time the miner starts on his voyage of exploration and discovery to the stamping of the coin at the Mint, art and science must be invoked.

It is important for the man who hunts for precious metals to know where there is a possibility that they will be found, and equally important to know where they certainly will not be found, if such knowledge is attainable.

Practical experience of individual miners undoubtedly assists in directing the attention of the prospector to the proper fields for his exploration; but it takes years to acquire this experience. The labor of thousands, constituting a large majority of the miners of the Pacific, has been utterly wasted in vain attempts to find mines where geology teaches mines cannot exist. If these men could have had the experience of mankind to have guided them in their investigations millions of dollars and years of toil might have been saved and directed to some useful purpose. According to Ure—

"An acquaintance with the general results collected and classified by geology must be our first guide in the investigation of mines. This enables the observer to judge whether any particular district should, from the nature and arrangement of its rocks, be susceptible of including within its bosom beds of workable ores. It indicates also to a certain degree what substances may probably be met within a given series of rocks, and what locality these substances will preferably affect. For want of a knowledge of these facts many persons have gone blindly into researches equally absurd and ruinous."

While the great energy and indomitable perseverance of the American miner have led to the exploration of more mines than are found in any other country, the same traits of character, admirable in themselves and invaluable when properly directed, have resulted in a loss of labor and money unparalleled in the history of mining operations. It is not only necessary that the explorer for mines should understand the character of the earth's surface in the enlarged sense comprehended in the science of geology, but a more accurate and minute knowledge is requisite. He should know precious metals when he finds them. But to distinguish gold or silver ore from ordinary granite involves some knowledge of mineralogy. If he chance to discover a piece of ore containing metallic gold or silver it requires but little experience to determine that fact, but if the precious metal is in the form of a chloride or sulphuret or any other combination which has the appearance to the uninitiated of common earth or rock, the want of knowledge of mineralogy will be appreciated, and especially when it is a well-known fact that most of our valuable mines have been passed by for years and seen by hundreds of persons until some accidental experiment has demonstrated the fact that they were mineral veins.

The Comstock lode furnishes a striking illustration. The original discoverers regarded silver sulphurets worth three or four thousand dollars a ton as a valueless but troublesome substance which interfered with the amalgamation of the free gold for which they were mining. And the value of this great lode would probably be still unknown but for the accidental fact that a passer-by carried a piece of the ore to an educated German, familiar with the science of mining, who at once understood its value. The original owners were bought out for a song and the great Comstock excitement followed, creating the new State of Nevada and causing the exploration of almost a continent.

When ore has been found it becomes necessary to form a rational estimate as to the character of the discovery. Whether it be a vein of sufficient extent laterally and in depth and containing ore of sufficient value to warrant the necessary expenditure of capital for its development involves a most serious consideration of both geology and mineralogy. The body of ore may be a mere local deposit, or it may be a wedge-shaped surface formation or any of those formations of frequent occurrence which must speedily be exhausted, or it may be a regular fissure vein extending into the earth without any practical limit, and of sufficient length and thickness to warrant an abundant supply of ores for years. These questions the miner must determine at his peril, for ruin or success may follow the conclusion at which he arrives. Will it be contended that he should not in so important a matter avail himself of the experience of mankind?

After a vein has been discovered and when the miner has determined that the probabilities of extent and richness justify its development, he must not only invoke geology in determining the situation and how it will be most readily reached by shafts or tunnels or both, but he must call into requisition mining engineering in its most enlarged sense in erecting machinery, planning his modes of excavation, and securing the mine from caving, and in extracting the ore with the least possible expense. Drainage and ventilation, always important and sometimes exceedingly difficult, require some knowledge of hydraulics and hydrostatics. In short, to work a mine successfully, an accurate knowledge of all the sciences pertaining to that subject should be combined with thorough practical experience.

When the ore is extracted, it must be crushed or ground to an impalpable powder before any process of separation or amalgamation now in use can be made available. This requires heavy and expensive machinery; but in this the American citizen has succeeded beyond all others; for the American is emphatically a mechanic. And the schools of the old world may here learn new lessons in machinery applicable to the business of mining. Not only in the machinery used for stamping or pulverizing the ore has the American mechanic contributed to the art of mining, but in every process of treatment where machinery is used his skill and inventive genius are conspicuously exhibited. But there is another part of metallurgy dependent upon chemistry and the kindred sciences in which our miners need education. If they had the requisite scientific knowledge, their superior aptitude for mechanics would readily make them expert and successful metallurgists. For metallurgy, or the art of extracting metals from their ores, involves the application of machinery and science; and successful results depend both upon perfection in the former and a knowledge of the latter judiciously applied.

Our mines are the heritage of the whole nation, bought and retained at the expense of common blood and treasure. The nation is interested in making them available for great and beneficial purposes. A debt of gratitude is due to the pioneer who has discovered the hidden wealth of that recently unknown region of the Rocky and Sierra Nevada mountains. It is but just that the mines should be free to him. He must be rewarded for his risks and sacrifices or others will cease to explore, and discoveries of the precious metals will terminate. But it is vandalism to require men to learn the art of mining, not only at the sacrifice of their own labor and time but at the expense of millions of dollars in waste of the richest ores, while the experience of mankind is of record and could be made available to all by means of a common center of mining intelligence and instruction.

No one will controvert as an abstract proposition the correctness of the position which we have assumed, for where the application of art and science is necessary in a given pursuit it will not be denied that instruction in their principles is important. I am aware that scientific knowledge has been depreciated and even brought into disrepute. It is frequently asserted that science never finds mines, and that uninstructed individual experience must be our only guide, that all the rest is chance, and that men of science are unlucky and visionary theorists. The reason for this may be found in the fact that there are pretenders in science as in everything else. The confidence of the people has been abused in many notorious instances by persons claiming to be scientific miners who had no practical knowledge whatever, and little or no real knowledge of science. The difficulty has been that these pretenders knew less of the subject than the average of practical miners who had given years of honest observation to the business. There is no conflict between the real man of science and the practical miner. They work in perfect accord and sooner or later expose the pretender and expel him from the field of his operations. The number of truly scientific and practical men who have been engaged in the examination and working of our mines is extremely limited, so much so that I can claim a personal acquaintance with nearly every one of them, and speak from personal knowledge when I say that, so far from any prejudice existing against them on the part of the miners, they are held in great respect and their services universally sought. Even foreigners, who would be liable to excite jealousy if at once elevated to the highest position in any other vocation, are placed at once in charge of the most important enterprises, receiving enormous salaries, with the universal approbation of the community. An education at Freiberg is a guarantee not only to position and influence, but to the regard and confidence of the humblest miner.

If experience in the United States and the nature of the business of mining fail to convince the Senate of the importance of a scientific instruction, the beneficial results of the mining schools of Europe, and especially those of Germany, furnish conclusive reasons for an earnest attempt, at least, to imitate their example. These institutions have not only collected and preserved the knowledge of the ancients so far as it was possible, but they have constantly examined every step of progress made in mining for the last four hundred years, classified and prepared this vast stock of human experience in simple forms for the use of mankind. During all this period the most beneficial results have accrued to the industries and civilization of those countries,

and not to them alone, for the education and skill of the European miner, in directing the developments in Mexico and South America, have contributed largely to the present supply of the precious metals. Not only have these scientific schools been conspicuous in their contributions to the wealth, progress, and civilization of all modern nations, but the individuals educated there have monopolized the first positions in science and art both in Europe and America.

In Europe, either by custom or law, no one occupies a responsible position in a mine, a mint, or an assay office unless he is a regular graduate of one of these institutions. If this were only true of Europe it might be said to be the effect of their forms of government. But it is equally true in America, where every avenue of promotion is open to all. We find that nearly all of our professors of science and art have been educated abroad; and this is more especially true in regard to those branches of science which pertain to the treatment of precious medals. In the important and often most lucrative places in our mints, in our assay offices, in our refining and metallurgical establishments, in mining, in chemical manufactories, and in short in every department of industry in which either the science of geology, mineralogy, metallurgy or chemistry is involved, we find experts educated in these German schools. We are mainly dependent upon their learning and skill for success in these important branches of human industry.

Is it not a reproach to this great nation with its unbounded mineral wealth that our people should be dependent upon foreigners to teach them the component parts of the most simple formation of ore that can be dug from the earth? Ought not our young men to be at once placed in possession of the existing stock of knowledge, so that they may start even in the race of future exploration, discovery, and invention in this important branch of industry? Is there anything in the peculiar form of our Government that prohibits aid from Congress? It certainly cannot be found in the Constitution. It was not so understood during the early period of our history. In the message of President Washington delivered to both Houses of Congress on the 7th of December, 1796, (Annals of Fourth Congress, second session, page 1595,) the most cogent argument is used in favor of a national university for general education as well as of a military academy. The Military Academy was founded, the Naval School followed, and our late war has demonstrated the wisdom of these institutions. Other schemes have been devised and largely endowed by Congress for the promotion of knowledge among the people and for various scientific purposes. There is a Patent Office to secure the rights of inventors, an Agricultural Department for the encouragement of the farming interest, a Coast Survey, Light-House Board, consular system, Bureau of Statistics for the convenience of commerce and navigation, a Bureau of General Education for the collection and dissemination of information as to the best modes of instruction—all supported by direct appropriations of millions of dollars annually and involving the exercise of the same constitutional powers required in the establishment of a national school of mines.

I am not disposed to criticise what has already been done in these respects further than to suggest that some of these establishments fail to subserve the purpose for which they are intended; because, after all, instruction is a necessary element in any scheme or plan for the dissemination of scientific information among the people. It may well be doubted whether the generous design of Mr. Smithson in his liberal donation "for the increase and diffusion of knowledge among men" would not have been more faithfully executed by the Government in the establishment of a scientific school where men could be taught and go forth to teach others and enlighten the world than to have created an institution of abstract philosophy having little direct influence upon the practical concerns of life, and treating of few subjects bearing upon the material progress of the country. I need not refer to the misdirection of the funds in buildings or Arkansas bonds; it is sufficient to say that this bequest has not been without cost to the Government, involving direct appropriations from the Treasury. The expense of the agricultural and other bureaus in the maintenance of a large number of employés, the publication of useless books, in the cumbersome business of sending damaged seeds and other worthless articles through the mail, and the general want of adaptation of means to the desired ends, it is hoped will make Congress hesitate before it consents to the establishment of any more bureaus for the dissemination of knowledge.

At first I supposed that some encouragement might be given to mining through the instrumentality of a bureau and introduced a bill for that purpose, but after consultation with the Senator from California [Mr. CONNESS] I was induced to examine the question more thoroughly, and became fully satisfied that any institution of the kind located at Washington would be wholly useless if not positively injurious to the mining interests; expensive to the Government in sending large masses of ores and specimens of rocks through the mail, and annoying to the miners in misrepresenting the real condition of affairs. I therefore abandoned the project. But in this connection it is sufficient for my purpose that Congress has repeatedly aided similar designs—sometimes wisely and sometimes unwisely. I believe always wisely when it has aided institutions of instruction. There have been no mistakes made in that direction. The blundering has been in new schemes and new plans without the light of practical experience to guide the way. In perfecting and carrying into execution the plan for a national school of mines now under consideration we have as model institutions those of Freiberg, Clausthal, Schemnitz, and others in Europe, based upon centuries of experience and all supported by Government aid.

The bill proposes to appropriate the bullion tax of one half of one per cent. for the endowment of the school. During the first fiscal year commencing July, 1868, the whole tax, amounting to about two hundred and fifty thousand dollars, is to be used. This will be sufficient to erect buildings and procure the necessary fixtures and apparatus for the commencement of operations; after which one half is to be used for the current expenses of the institution, the other to be invested in Government securities until the interest on the accumulation shall be sufficient to defray expenses, when it is anticipated the mining tax will cease. It would not be unreasonable or unwise to support such an institution by direct Government aid, regardless of any special tax; and it certainly cannot be regarded as an improper expenditure of public money to divert this bullion tax in the manner proposed. The tax itself is unjust and oppressive. The collection of such a tax is absolutely injurious to the Government. It may be confidently asserted that the Government loses far more by the effects of the decreased yield than the small amount collected from this source. It is a tax upon production where the producers are more heavily taxed than any other occupation. Food, clothing, machinery, chemicals, and mining supplies generally are heavily taxed at the most convenient markets. But owing to the remote and isolated regions, generally in the midst of mountains or deserts, in which the mines are situated, great delays are occasioned and enormous freights added to the original cost, until the accumulation of costs, taxes, and expenses become almost ruinous.

But the most oppressive feature of the tax is its great inequality. Dividend and non-dividend paying mines are taxed alike upon their gross proceeds. The latter, by far the most numerous and producing much the larger portion of the aggregate yield, are wholly unable to pay. This is a tax upon unproductive effort—a tax upon the privilege of using money at a loss for the purpose of developing a mine. It increases the hazard, and although small yet it does actually hasten the day of final disaster. The Government must have gold and silver, and it is very impolitic to embarrass honest effort engaged in its production.

The want of a mining school, however, is so severely felt that if this tax could be applied in the manner proposed, so as to render substantial benefits and increase the yield of the mines, the compensation thus afforded would so far exceed the inconvenience of the burden that it would be borne with patience. If it should afterward seem oppressive and Congress should become satisfied that no tax ought to be levied for any purpose upon the product of the mines it could be removed and the institution sustained by a direct appropriation.

The location of the school on the line of the Pacific railroad as near the center of the mining region as practicable is a wise provision. Science and practice must be combined. There is great advantage in studying nature in her own laboratory.

It would be no more inconvenient to study navigation on a desert than mining where no mines exist. In either case some theory might be learned; but it would be regarded as hazardous to trust a commander graduated a such a maritime school, excluded from all navigable waters, to cross the Atlantic in charge of a steamship with freight and passengers; but he would be quite as well qualified as an educated mining engineer who had never seen a mine to take in hand the development of a mineral vein.

The management of the institution by a board of directors appointed by each mining State and Territory will secure an honest and vigorous administration of its affairs. No provision is made for salaries or traveling expenses of these directors, for it is anticipated that the States and Territories sending them, being so directly interested, will not only provide for this trifling expense of their respective delegates, but that they will be extremely guarded in the selection of suitable persons. These directors, besides representing the miners and being responsible to the miners as constituents, will also bring to the common center much local information collected in their several districts; and by a thorough interchange of views in the discharge of their official duties will be enabled to impart valuable information to the people whom they represent.

It is also expected that the institution will at all proper times be open to visitors and the examination of persons sent from any other State or any institution of learning therein. The professors, teachers, and officers are to be appointed by the board, and subject to removal only for cause. The board of directors shall organize the school under such rules and regulations as they may deem proper, after having examined a report of the various mining schools of Europe, from which they may either select models or adopt suggestions. The plans for the buildings, &c., are to be prepared by the Secretary of the Treasury on the most economical principles; and he is to require of the disbursing officers such bonds and vouchers as he may deem necessary.

Tuition is to be free, and all other expenses are to be paid by the students themselves. No charge will be made for assays, tests, or metallurgical or other experiments except to cover the actual cost of the materials used. Teachers under the direction of the president of the school must make annual visits to the principal mining districts accompanied by their respective classes for the purpose of examining the mines, mills, and modes of working, and instructing the pupils in the practical operations of mining and metallurgy; and the professors and teachers shall also, as far as their time will permit, give free lectures to the miners on geology, mineralogy, metallurgy, mining, engineer-

ing, and kindred subjects. This I regard as one of the most useful provisions of the bill; it is the only convenient method of combining science and practice in a mining education. By these visits the teacher, the pupil, and the miner will be taught and the pupil prepared for the active scenes of real life. Men educated in this way will not be pretenders or be ridiculed or despised by practical miners. It being also a part of the business of the institution to collect statistics and to report to Congress these annual visits will afford ample opportunity for obtaining information for that purpose.

An institution thus situated and brought in immediate communication with the miners will be inspired by the spirit of progress which animates that enterprising people. The blending of science and practice in the system proposed possesses many advantages. It will insure the best methods of exploring, of mining engineering, and of metallurgy, and will greatly enhance production of the precious metals. It will become a great mining center, the depository of the learning of the Old World vitalized by the experience of the New. It will classify and record each experiment and invention for the benefit of all. It will become authority not only to the scientific but to the business world. The character and condition of the mines in the various mining districts, together with information required for the purposes of investments of capital and other commercial transactions, will be made known. It will save waste of time and capital in enterprises condemned by experience. It will reduce the expense of *bona fide* undertakings, and enable the miner to work ores now valueless, in which the country abounds. This school, taken in connection with the Pacific railroad and other improvements that must follow, would greatly increase and soon more than double the present yields of the precious metals. It does seem reasonable that with these facilities the mines already discovered, not one in ten of which is being worked, might soon yield the enormous sum of $200,000,000 per annum. But if this matter be neglected I fear that it will be found very difficult, even with the assistance of the Pacific railroad, to add largely to our present product. If the proper encouragement is given to enable the valuable mines now discovered to be worked, new veins will be found, and it is difficult to estimate the supply of the precious metals that may be anticipated.

I need not resort to argument to prove that such increase of production would contribute to the prosperity of the nation. Experience has taught that fact. It is realized and enters into the calculations of all good business men. But few inquire the reason; the fact is accepted. The reason would be unimportant if this industry could prosper without encouragement in spite of neglect or oppressive burdens, but it cannot. Government must encourage, or the prospect for increased or even undiminished supplies is by no means favorable. The argument against mining is that the aggregate yield does not equal the aggregate expense; that on an average it costs more than a dollar to produce a dollar. We have endeavored to explain this fact and to suggest a remedy. Individuals occasionally make large profits, which stimulates others to vigorous effort. It is mainly due to the influence of these successful examples that mining is continued, and if success was sufficiently frequent the business would need no encouragement. If there was a net profit on the aggregate production of all the mines, mining would be the most prosperous business in the world; for it is prosecuted with more energy and possesses greater fascinations than any other avocation. If mining is not profitable to the miner, it is frequently asked, why not let him quit the business? Who has any interest in his continuing to waste his money and labor? Better have it directed to some useful employment. This argument would be good if applied to any ordinary pursuit. But I maintain that this nation has a vital interest in the prosecution of mining, although it should become necessary to apply a portion of the revenue derived from other sources to its encouragement.

Assume, what is probably a reasonable estimate, that the amount of metallic currency now in the commercial world is $3,600,000,000. By this $3,600,000,000 all values are measured and all commercial transactions are regulated. Suppose it were possible at once to double this amount and place in the commercial world $7,200,000,000 of coin in lieu of the $3,600,000,000. How would values be affected? Political economists have recognized the fact that the value of all other commodities must also be doubled. In other words gold and silver would be cheaper, because the supply would be greater. Reason and authority establish the principle that the value of gold and silver furnishes no exception to the general rule; but is determined, like the value of other commodities, by the law of supply and demand. Double the supply and you will greatly decrease the demand, and according to the laws of trade, other things being equal, you will reduce the price about one half. This proposition is liable to be rejected by the unreflecting.

There is a popular error that gold of a given degree of fineness has a fixed and unchangeable value. The mistake arises both from the office performed by gold as a medium of exchange and because production is seldom so rapid as to occasion great fluctuations in the supply. And when those fluctuations do occur we are liable to suppose that the value of gold is the same but that other values have changed. For instance, if at one period a bushel of wheat will buy a dollar in gold and at another it will buy two, we say that wheat has raised and not that gold has fallen. There have been several periods, however, when large additions were made to the supply of the current coin in so short a time as to cause the people to realize the fact that its value had depreciated.

During the sixteenth century, and after the discovery of gold and silver in Mexico and South America, the quantity of metallic currency in the commercial world was increased fourfold, and the price of labor and every other commodity correspondingly advanced. A similar effect has often been produced, but in a less degree, by the discovery of new mines. The additions to the stock of the precious metals from all parts of the world for the last eighteen years are variously estimated from one hundred and fifty to two hundred millions per annum, and it is also estimated that the amount of the current coin has been nearly or quite doubled during that period. It will require but a slight examination to satisfy any one that gold is cheaper than it was eighteen years ago, or, what is the same thing, a given amount of labor or property will purchase more than formerly.

It is manifest that the more we increase the supply of gold the easier and cheaper we can buy it. And inasmuch as we have a large debt to pay and a large amount of gold to buy, it is for our interest to increase the supply and make it as cheap as possible. If we can double the supply and reduce the value one half, so much the better; it will take only half as much property to pay the national debt. But decreased yields of the precious metals will advance their price, depreciate property, and increase the burden of the debt. The supply must increase with population and wealth in the commercial world. Much is exported to Asia, never to return; much is consumed for manufacturing purposes, plate and ornaments, and one tenth disappears every thirty-six years by loss and wear. The product must be large or the demand will greatly exceed the supply.

The United States is compelled to lead in the production of the precious metals; for Mexico and South America, the only countries in the world where mines exist in sufficient quantity and extent to rival our own, are paralyzed by civil war and revolution. The day of their prosperity, when their mines can again be opened and worked to advantage, must be postponed until order and security for life and property can be maintained. Every nation encumbered by debt is interested in the production of precious metals and the development of mines wherever they may exist.

During the first half of the present century the production of gold and silver was greatly retarded by the revolutionary condition of the Spanish-American States, and the supply did not increase equally with the growing importance of trade and commerce. This deficit was most severely felt in Great Britain after she emerged from her wars with Napoleon, loaded with accumulated debt.

While the statesmen and financiers of that country were laboring to mature a system of finance and taxation which would render the burdens of the people tolerable and enable the Government to resume specie payment, they investigated most thoroughly the question of increased supplies of the precious metals. The debates in Parliament during that period and the excellent work of Mr. Jacobs prepared upon the suggestion of the great financier, Mr. Huskisson, shed much light upon this important subject, and prove conclusively that more relief is afforded to a nation thus burdened with debt by additions to the precious metals than much larger accumulations of other commodities; and that it was not important in what part of the world or by whom this accumulation of metallic wealth was made. The fact of its existence in the commercial world was demonstrated to be of universal advantage. Vigorous but not very successful efforts encouraged by British statesmen were made to reopen the mines of Mexico and South America and to discover new mines in various parts of the world. Substantial relief did not come until the discovery of the gold mines in California, followed by similar discoveries in Australia, and a general revival of mining enterprise among all civilized nations. English financiers have frankly conceded that but for these new and sudden accumulations ruinous and oppressive taxation would have distressed the people, embarrassed the Government, and ultimately led to national bankruptcy. The most glowing description of the beneficial effects upon the prosperity of Europe caused by this influx of gold and silver is given by Alison, the historian, in which he attributes to these new discoveries deliverance from universal bankruptcy, if not national dissolution.

Between the years 1850 and 1860 unparalleled prosperity existed in the United States. The assessed value of the property of the country rose, in round numbers, from seven to sixteen thousand millions.

An increase of $9,000,000,000 in one decade beginning with a capital of $7,000,000,000 would be miraculous if caused by the ordinary accumulations of labor.

Is it not reasonable to attribute much of this advance to the increased supply of the current coin?

Is it not a well-known fact that the price of labor and property advanced during that period almost as rapidly as the quantity was augmented by the great growth of the country?

The assessment roll of 1860 shows an advance only attainable by greatly enhanced values as well as large accumulations.

It is idle to anticipate a similar increase in the future unless like agencies can be employed.

Industry must be stimulated and values advanced by continued productions of the precious metals, or the hope of relief by accumulations of wealth, corresponding with those of that prosperous period, cannot be realized.

It is a pleasant and hopeful view of the situation to predicate the growth of the nation in wealth and population upon the success of the ten years preceding the war; for without going into detailed calculation the debt, which is probably about fifteen per cent. of the property of the country, would in thirty years be reduced without any diminution of the nominal sum to one or two per cent. of the vast accumulations which such a ratio of increase would produce. Every effort should be made to approximate, if we do not fully realize, these results. We must, if possible, avoid a decline in our mining

interests, for that will inevitably produce a corresponding decline in values and stagnation of business.

The burden of the debt depends upon our ability to pay, and is ascertained more accurately by the ratio of our obligations to the population and wealth of the country than by the arbitrary amount. By increasing our wealth, or even the estimated value of our property, we diminish the ratio of the debt to that property.

It may be impossible to enhance values and accumulate property as rapidly as has been anticipated; still it is the duty of the Government to make the attempt by aiding in the development of our resources. If the present generation does not pay the debt, which it ought not to do, it should grow rich and prosperous, so that the next may have the means of easy and speedy liquidation.

The failure of our mines and consequent stringency of the money market will so embarrass the business of the country that the payment of the interest will be exceedingly oppressive.

While commerce with foreign nations is important, it is not desirable for the United States to be ambitious to supply the factories of Europe with raw material to secure a foreign trade.

The exportation of such articles as are not capable of being materially enhanced in value by the cheap labor of Europe will not deprive the poor in America of employment. Refined gold is the best commodity for export.

It is more nearly at its maximum value than any other commodity except food or manufactured articles. Unlike cotton, it does not come back to us in large quantities with its value many times multiplied by the appliance of labor to bring us in debt for the labor of other countries while our own people seek in vain for employment. But gold has another advantage as an export over any other product; it remains permanently in the commercial world stimulating industry and enhancing values.

Take from the present supply the amount of the precious metals in existence previous to the commencement of the nineteenth century and general ruin and bankruptcy would follow, while cotton produced a few years ago has now no existence. In developing our mineral resources we are laboring not only for our own benefit, but for posterity, of whom we require the payment of the debt; while in producing cotton for export we are struggling for a temporary existence for ourselves and for the accumulation of wealth in Europe. There is another important argument in favor of the development of our mines. The region of country in which they are situated is far removed from market, and the agricultural resources of themselves are insufficient to induce settlements and the development of the fertile valleys and arable lands which we find interspersed among the mountains and deserts. The mines furnish a ready market, enhance the value of the lands, build up agricultural communities, induce the construction of railroads and other internal improvements, cause the erection of manufactories, school-houses, and churches, and attract all the advantages of civilized society. It is highly important that these mountain valleys should be inhabited. They are more healthful and invigorating for the habitations of men than any other portions of the United States. There civilization and free institutions will prosper. We want the Pacific and the Atlantic united by a continuous line of population as well as by railroads and other artificial channels of communication.

It is unsafe for the Pacific slope, with its genial climate, unbounded resources, and vast commercial advantages, soon to be inhabited by many millions of men, to be separated from the Atlantic by hundreds of miles of uninhabited country. The prosperity of the mining interests is the only means that will induce settlement of the intervening space and secure its development. Here we have a country that may be divided into small farms, requiring no monopoly of land excluding population and free schools to favor the production of a single commodity, which after it has desolated the country we are called upon to crown king. No part of the United States is more admirably adapted to the physical and intellectual development of man, the advancement of science and civilization, and the accumulation of that kind of wealth which will benefit the whole people and relieve the nation from pecuniary embarrassment than this vast region of mountain, valley, and desert, which a few years since was supposed to be valueless. The people of the United States have capital, energy, enterprise, and increasing numbers, sufficient to realize in a short period all the advantages to be derived from the settlement of this part of the country. But it is necessary that the capital, energy, and enterprise of our people should be properly directed. Reason and example indicate that a school of mines is an essential agency for the promotion of these objects.

It is always difficult to devise adequate means for the accomplishment of great ends. Gentlemen may entertain doubts of the importance of such an institution or the benefits to be derived from it. All plans for the advancement of any great undertaking are liable to be criticised, and doubts entertained of their success, unless they have been tried under similar circumstances. Confidence is inspired by a knowledge of the fact that success has been attained by the same means where like difficulties existed. Since steamships have sailed around the globe nobody doubts that the ocean can be crossed by steamers; and with the examples of the European schools before us we cannot regard the present scheme as experimental. We know that these institutions have so systematized mining that ores can be worked with profit which would be valueless in any part of America if they were three times as rich in the precious metals; and that we send certain classes of ores to that country at a cost of transportation far exceeding the expense of working them in our own country if we had the requisite knowledge. The advantages of these institutions are attracting the attention of the miners of the Pacific coast to such an extent that young men of that region are now sent to Europe to learn to mine in their own country. At Freiberg alone, where the whole school consists of one hundred and five pupils, forty-one are Americans. If these schools have been successful in Europe why should not success attend similar institutions in the United States?

Every condition which differs from those attending the operations of such establishments in Europe is favorable to success in our country. Our people are more energetic, more generally intelligent, and possess greater aptitude for the application of mechanics than those of any other nation; and the field for their operations surpasses in richness and extent all mineral fields of the world now accessible to European enterprise. I am aware that a mining school may at first be regarded as an insignificant means for accomplishing the great ends proposed. It is not always the most extravagant and expensive schemes that accomplish the greatest good. It is the adaptation of means to ends that insures success. The great school at Freiberg, poor at first and never sufficiently endowed, by its favorable location among the mines, by its consistent course in directing the application of science to the business of mining, by its faithful record of the experience of others may be justly regarded as the model of scientific institutions in this department of industry. To it may be traced directly or indirectly more of the success which has attended the development of the mineral resources of the world and the enhancement of values by increased supplies of the precious metals than to all the schemes of statesmen and financiers.

I have no fear of the ultimate prosperity of that great country west of the Rocky mountains. The rare combination of geographical position, of climate, soil, variety of product, mineral wealth, and commercial advantages of the Pacific States and Territories promise a future grandeur and power unsurpassed in the history of modern civilization. The coming millions will develop these bountiful resources of nature and realize beyond our present conception the progress of western empire. We may delay by neglect the realization of this manifest destiny. We may deprive the present generation of its share of the benefits of this common heritage to them and to posterity. We may allow the full weight of our national debt incurred for us and for them to fall upon the East unaided by the timely relief proffered by the West. We may allow that country to struggle on, neglected and unaided, until it shall have worked out a glorious destiny for itself which the Atlantic States will not feel was the result of common effort. It is impossible for that destiny to be achieved in time to relieve existing embarrassments without the cordial coöperation of the Government.

I do not place this in the light of a favor asked; I do not wish to make further drafts upon our already depleted Treasury; but I present a proposition of primary necessity which to my mind promises more relief to the finances of the country, more permanent advantage to its material prosperity, than any measure yet suggested. It also promises more benefits to science and civilization than any expenditure heretofore made for the diffusion of knowledge. What we gain in this direction we shall never lose. Its influence will be permanent. The supply of the precious metals will be continued; the accumulation of knowledge will be preserved and those whom we educate will pursue the exploration of new fields of wealth after we shall have passed away. The prosperity and power of this nation must depend upon its people, its civilization and the development of its natural resources. While it is the duty of the Government to reject ill-digested and extravagant schemes for public improvement, it can at no time safely disregard these elementary agencies, so inconsiderable in their cost, for the advancement of science and the increase of material wealth, which the experience of the world has demonstrated to be indispensable.

I cannot believe that this nation will fail to realize the advantages of its boundless natural wealth. While the aid of the Government is extended to agriculture and commerce it is unreasonable to suppose it will be withheld from the development of its mineral resources.

Our mines have been hid from the foundation of the world and revealed at a time when these treasures were most needed in solving the great problem of free government in America. Simultaneously with the breaking out of the war discoveries of veins commenced east of the Sierra Nevadas. While the war progressed with its horrors, sacrifice of life and property and accumulation of debt the western pioneer was exploring a continent of unknown wealth, from which resources may be realized to repair the loss of property, relieve the burdens and open a new career of prosperity to the nation. The progress of events in the last few years has been controlled by a higher agency than man.

Previous to the war there was no pressing necessity in the United States for supplies of the precious metals beyond what could be realized by unskilled labor from the placers of California, but as our wants were multiplied new fields of wealth and enterprise were unfolded in regions formerly regarded as destitute of resources and unsuited to the habitation of man. These treasures are denied to the indolent, the timid, and the ignorant. Nature has interposed barriers of mountains and deserts as if to exclude idleness and incapacity; she has imbedded her treasures in rock-ribbed vaults and mingled them with rebellious combinations as if to invite enterprise and intelligence. It would be dangerous to the morals of society if this vast wealth could be attained without effort. The necessity for skilled labor and scientific education

will result in the preservation of order, encourage the settlement of the country by families, and advance civilization.

If the action of this Government is controlled by wise counsels it needs no prophetic eye to foresee the proud eminence to which we tend in all that is good, great, and useful, our country stretching as it does from ocean to ocean, abounding throughout in elements of wealth and prosperity, commanding the trade of the eastern and the western hemispheres, the exemplar of free institutions, of science, and civilization.

The PRESIDENT *pro tempore*. The Senator from Nevada has moved to discharge the committee——

Mr. STEWART. I withdraw that motion.

DEFICIENCY APPROPRIATION BILL.

The PRESIDENT *pro tempore*. Then that bill is not before the Senate. The unfinished business of yesterday, being House bill No. 320, is now the regular business in order.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, which had been reported by the Committee on Appropriations with several amendments. The first amendment of the committee was to insert at the end of the bill the following:

Legislative:
For increased compensation to Congressional Printer, to June 30, 1868, $1,344 44.
To supply a deficiency in the contingent expenses of the House of Representatives for the present fiscal year, the following sums, namely:
For stationery, $15,000.
For furniture, repairs, and packing-boxes for members, $20,000.
For miscellaneous items, $15,000.
For folding documents, including materials, $50,000.
For newspapers, $12,500.
To supply a deficiency in the contingent expenses of the Senate for the present fiscal year, namely:
For clerks to committees, and pages, $33,804.
For additional messengers and laborers, $15,000.
For labor and materials in the folding-room, to be provided by the Sergeant-at-Arms, $5,000.

The amendment was agreed to.

The next amendment of the committee was to insert at the end of the bill the following:

Judiciary:
For salary of the marshal of the Supreme Court of the United States, from April 3, 1867, to June 30, 1868, at $3,500 per annum, $4,355 77.

The amendment was agreed to.

The next amendment was to insert at the end of the bill:

Department of Education:
For amount required for salary of Commissioner to March 30, 1867, $192.

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. 2. *And be it further enacted*, That so much of the first section of the act of March 3, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," as authorizes the President, on the application of the Secretary of any Department, to transfer the moneys appropriated for a particular branch of that Department to another branch of expenditure in the same Department be, and the same is hereby, repealed.

The amendment was agreed to.

The PRESIDENT *pro tempore*. That disposes of the amendments reported by the Committee on Appropriations.

Mr. MORRILL, of Maine. I ought, perhaps, to state to the Senate the character of this bill. I begin by saying that it embraces three classes of appropriations: first, to cover the expenses in the military districts under the reconstruction act. It will be seen from the book of estimates that the expenses estimated for under that head were $1,152,254 12. Upon the best information accessible to the committee we became satisfied that perhaps a smaller sum might answer, and we have reduced it to $657,000, which is believed to be the lowest sum to which it would be safe to reduce it. These expenditures are for the expenses of registering the voters and for the incidental expenses incident to the execution of the law for the reconstruction of the rebel States.

The next class is for the quartermaster's department, and will be found in the estimates of the Treasury Department, on page 9. They are: "for regular supplies of the quartermaster's department, $4,000,000; for incidental expenses of the quartermaster's department, $1,000,000; for the purchase of horses for cavalry and artillery, $500,000; for transportation of the Army, $8,500,000." It will be seen that the committee have reduced these sums somewhat. The aggregate amount asked for was $13,500,000. The amount reported in the bill is $12,000,000 in round numbers. These appropriations become necessary chiefly from the necessities growing out of the difficulties with the Indians on the border. When the original estimates were made the expenses incident to that service were not contemplated by the Department, and these deficiencies are absolutely necessary, as has been found by the committee of the House as well as of the Senate, to meet the expenditures in that Department for that particular branch of the service.

The rest of the bill is for deficiencies in legislative expenses, and I may say that all these items were passed upon in the first deficiency bill that was sent to the Senate from the House of Representatives before the recess in December; so that the remaining items have all been passed upon by both branches of Congress, and perhaps in that sense may be considered to have the judgment and approbation of both branches. They are brought in here now for this reason: it will be remembered that some difference of opinion sprang up between the two branches on a collateral question, and on that question, the question of stationery, the House concurred in the Senate's proposition, but non-concurred in its appropriation for the payment of the employés of the Senate; so that it still left the bill pending at so late an hour in the session before the recess that it was impossible to act upon it. The Committee on Appropriations have thought fit to insert the uncontroverted items of the former bill in this one.

The only remaining section of this bill relates to the repeal of the proviso to the first section of the act of March 3, 1809, which I will read:

"*Provided, nevertheless*, That during the recess of Congress the President of the United States may, and he is hereby, authorized, on the application of the Secretary of the proper Department, and not otherwise, to direct, if in his opinion necessary for the public service, that a portion of the moneys appropriated for a particular branch of expenditure in that Department be applied to another branch of expenditure in the same Department; in which case a special account of the moneys thus transferred and of their application shall be laid before Congress during the first week of their next ensuing session."

The committee, on an examination of the practice under that proviso, have come to the conclusion that irregularities in the several Departments, to say the least, amounting, in the judgment of the committee, in many instances to a positive abuse, have grown up under it, and for that reason they have recommended its repeal.

Mr. SHERMAN. The power to transfer appropriations has undoubtedly been abused and it ought to be limited, and several efforts have been made to limit it; but I submit to the chairman of the Committee on Appropriations that this section does not meet the difficulty at all. The act of 1809 is only one of seven or eight acts that confer this express power, and the repeal of the act of 1809 will not affect the power. It will be necessary to go a good deal further, because by reference to the general statutes it will be found that the act of the 3d of March, 1817, confers this power to transfer, and the act of May 1, 1820, confers it in still broader language.

Mr. GRIMES. Read it.

Mr. SHERMAN. It is as follows:

"The above-mentioned act of the 3d of March, 1809, shall be, and the same is hereby, so amended that the President shall be authorized to direct a portion of the moneys appropriated for any one of the following branches of expenditure in the military department, namely, for the subsistence of the Army, for forage, for the medical and hospital department, for the quartermaster's department, to be applied to any other of the above-mentioned branches of expenditure in the same Department. And that the President shall be also further authorized to direct a portion of the moneys appropriated for any of the following branches of expenditure in the Navy Department, namely, for provisions, for medicine and hospital stores, for repairs of vessels, for clothing; to be applied to any of the above-mentioned branches of expenditure in the same Department; and that no transfers of appropriation from or to other branches of expenditure shall be hereafter made."

Mr. GRIMES. That limits the power.

Mr. SHERMAN. I know that this act of May 1, 1820, repeals the act of 1809, except in these particulars; but there are other laws on the statute-book which authorize transfers. The act of July 2, 1836, provides:

"The President of the United States is hereby authorized, under the restrictions of the act of the 1st of May, 1820, to make transfers from one head of appropriations for fortifications to that of another for a like object whenever in his opinion the public interest shall require it."

The act of April 6, 1838, also provides that—

"There shall exist in the President and in the Postmaster General the same power to transfer funds from one to another head of appropriations between the appropriations above made for the service of the General Post Office, as exists in the President and any other head of an executive department to transfer funds appropriated under one head to the service of another, in any other branch of the public service."

There are other provisions in the law of 1842 and other laws authorizing general transfers. If, therefore, the committee have examined the subject sufficiently to induce them to believe that we should prohibit all transfers, the language of the amendment ought to be more general. I am inclined to think that the prohibition will embarrass the Government, especially certain departments of the Government; but the power has been abused. I am not now prepared to state what limitations ought to be made on a general bill. I have no doubt there are cases constantly arising in the Departments where it is necessary to transfer from one head of appropriation to another, but I do not know but that it would be better, in order to prevent the abuses that have occurred under the authority conferred by the law, to repeal the power entirely, leaving to Congress hereafter to provide for such cases of transfer of appropriations as may be necessary and proper. If the section is amended in the particular to which I have referred I have no objection to it, although it may involve some embarrassment in different departments of the Government.

The PRESIDENT *pro tempore*. The bill is before the Senate and open to amendment.

Mr. SHERMAN. I do not wish to interfere with the bill, but I will move to insert at the end of the second section the words: "And no further transfers shall be made for any purpose." That will at any rate put a stop to the practice.

Mr. MORRILL, of Maine. I will suggest this language: "And all other acts or parts of acts authorizing such transfers be, and the same are hereby, repealed."

Mr. SHERMAN. Very well; anything that will accomplish the purpose will satisfy me.

The PRESIDENT *pro tempore*. The amendment will be reported from the desk to see if the Clerk has got it right.

The SECRETARY. It is proposed to amend section two as it now stands in the bill by adding:

And all acts and parts of acts authorizing such transfers be, and the same are, repealed.

Mr. SHERMAN. The Senate should distinctly understand that this is dealing with a very difficult question, and it may be very embarrassing one. It may create a great deal of trouble in the management of the Departments not to have the power to transfer from one head of appropriation to another, and within certain limits that power is right enough; but still, as I know it has been abused, and cases have been brought to my attention where the abuse has been gross and scandalous, I am rather inclined to think that we had better cut

up the whole system, and then allow them to present cases where transfers are proper.

The amendment was agreed to.

Mr. MORGAN. I am instructed by the joint Committee on the Library to offer the following amendment, to come in after line fifty-seven, on page 3, of the bill:

To enable the joint Committee on the Library to pay the balance due P. R. Fendall for labor performed in editing the writings of James Madison, $2,100.

Mr. MORRILL, of Maine. I raise the question of order whether that is or is not a private claim. I should like to hear a statement from the Senator in regard to it.

Mr. MORGAN. Whether it is or is not a private claim the Senate must decide. It is, I believe, a just claim. Mr. Fendall was employed to edit the writings of Mr. Madison. His original claim was $4,000; but it was finally reduced by the committee to $3,000, $900 of which has been paid to him, and $2,100 is the balance, now proposed to be paid by this amendment. A bill passed the House of Representatives last year appropriating that sum, but it was not considered in the Senate. It was not considered by the various committees that were appointed. Whether this is or is not a private claim the Senate must decide. I am instructed by the Committee on the Library to offer it on this deficiency bill.

Mr. MORRILL, of Maine. There is some difficulty, perhaps, about this matter. I will read the resolution by which the authority for the publication of these papers was given:

"Whereas the joint Committee of the two Houses of Congress on the Library were authorized by an act approved August 18, 1856, and amended June 25, 1860, to cause to be printed and published one thousand copies of the papers of James Madison; and whereas the sum appropriated for such purpose has been found insufficient: Therefore,

"*Resolved, &c.*, That the said joint Library Committee are hereby authorized to contract for the publishing of five hundred copies of said papers, in lieu of the one thousand copies heretofore authorized, and for the same sum."

It seems to me to be very clear that there was no authority for the expenditure of any larger sum than was appropriated. After it was found that $8,000 would not pay for the one thousand copies ordered, the whole matter seems to have been arranged and adjusted by authorizing a less number for the same sum of money. The inference would seem to be very clear that this was to be in full for the five hundred copies which have been furnished. I do not understand that any larger number has been furnished. It seems to me, therefore, that there was no authority of law for this expenditure; that at best this is in the nature of a private claim, and I raise that question whether it is or is not a private claim.

The PRESIDENT *pro tempore*. I suppose it is a private claim, and therefore it cannot be attached to an appropriation bill. It seems it is to pay a certain individual an indebtedness due him, and I suppose it is not in order as an amendment to this bill.

The bill was reported to the Senate as amended.

Mr. MORRILL, of Vermont. I do not rise to oppose the appropriations in this bill to which I wish to call attention, because the money having been expended I suppose it must now be paid; but, as a matter of curiosity, I should like the chairman of the Committee on Appropriations to inform the Senate whether this appropriation of $15,000 for the stationery of the House of Representatives and of $12,500 for newspapers is for sums expended in the brief summer weeks of the extra session on the part of the House for those purposes.

Mr. MORRILL, of Maine. I understand, and it was so stated on a former occasion when this other deficiency bill was before the Senate, that those sums relate to a deficiency for the two short sessions of March and July. But as I understood, the habit of the committee of the Senate was to trust very much to the committee of the other House in estimating the deficiencies of that House. I am not able to say very particularly how that matter is.

Mr. ANTHONY. I presume the appropriation for stationery in the bill probably includes a considerable amount that is now on hand; that it does not follow that the amount was all consumed during the short session; and so of the newspaper money. I take it that it is for the whole year.

Mr. MORRILL, of Vermont. No.

Mr. ANTHONY. At all events, the members of the House are limited to a fixed and certain sum for newspapers and stationery.

Mr. MORRILL, of Maine. I think perhaps the inquiry of the Senator from Vermont would convey a wrong impression. This appropriation is not for a deficiency for those two sessions simply; but it is a deficiency for the entire year ending June 30, 1868. Probably the greater portion of it, not the entire portion, arose from the fact of those extra sessions. But we considered the action of the House on those items, so clearly within its own control and judgment, as a sufficient voucher for our own action.

Mr. MORRILL, of Vermont. I do not object to the appropriation; but the Senator from Maine cannot be right, because there was a regular appropriation made at the regular session for the entire year.

Mr. MORRILL, of Maine. Those appropriations were found insufficient, I suppose, in consequence of the extra sessions of Congress.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. TRUMBULL. As it is the intention to cut up by the roots this discretion that has been exercised by the Departments of using money appropriated for one purpose for another, and as I am not entirely satisfied that the amendment that has been adopted as a second section will accomplish that object, I offer the following, to come in at the end of the amendment that was adopted in Committee of the Whole:

And no money appropriated for one purpose shall hereafter be used for any other purpose than that for which it is appropriated.

Mr. CONNESS. If that is to be adopted I wish to insert the words "without authority of law" in the place where they will appropriately come in, because otherwise this might amount to a repeal of authority already given to use appropriations.

Mr. TRUMBULL. That is the intention.

Mr. CONNESS. Never mind about the intention. I want to make it clear. I have a case in my mind where it might give trouble, and if it is the intention there can be no objection to the insertion of these words.

Mr. TRUMBULL. That will defeat the whole object of the section. They claim that they have authority of law to make these transfers from one appropriation to another. Now, I understand the design of the Senator from Maine and of the Senate to be to stop this use of money for a different object than that for which it has been appropriated. If you insert in the amendment the words suggested by the Senator from California——

The PRESIDENT *pro tempore*. That amendment is not in order unless it is received as a modification of the Senator's motion.

Mr. CONNESS. I will state a case to the Senator, and then I think he will concede something in the matter. Congress last year authorized a geological survey to be made of the region between the Rocky and Sierra Nevada mountains provided the expenses of the same should be taken from unexpended appropriations in the War Department. That work is now going on. It is not the object of the Senator to stop that; and yet if this amendment be adopted, and it is to be construed, being a law more recently passed, as a repeal of the authority formerly given, it would have an effect that I should not like it to have.

Mr. TRUMBULL. I suggest to the Senator from California that the amendment would not probably affect the case to which he alludes. The money is already appropriated for that purpose, I suppose. I do not know the facts about the case to which he alludes.

Mr. CONNESS. In this case there never was a specific appropriation made, but there were unexpended balances in the War Department which might be used and were authorized to be used for that purpose.

Mr. MORRILL, of Vermont. If these balances exist of course they will be appropriated by the law that the Senator refers to.

Mr. CONNESS. Unless this provision should stop it.

Mr. MORRILL, of Vermont. This would not stop it.

Mr. SHERMAN. My friend from California makes a very strong argument in favor of the adoption of a provision of this kind; but I do not think his case is really met by the provision before us.

Mr. CONNESS. I do not think I am making a strong argument in favor of a proposition of this kind. Congress has a right to do what it chooses with the public money for public purposes, and in the case to which I refer it was very well understood that it was an appropriation of money.

Mr. SHERMAN. I will state to the Senator that in the case put by him I think the action of Congress heretofore would be sufficient to authorize the application of unexpended balances for the purpose he states; but the very fact that money appropriated for the transportation of the Army might be used to pay the expenses of a geological survey is a pretty strong case, and yet it may have been done and has been done. Cases as marked as that have occurred in the War Department, where appropriations made to feed the soldiers have been transferred to some purposes entirely outside of that.

Mr. CONNESS. The Senator will say that it would not be a strong case unless the Department had, without authority of law, made the transfer. They did not do so; they refused to do so; but by the distinct authority of law it was an actual appropriation. But after the remarks of the honorable chairman of the Finance Committee developing that statement that this provision would not have such an effect, I have no further objection to it. What I want is that the Department in discriminating should have a guide to go by, and that this should not be received as a repeal of what we have done.

Mr. MORRILL, of Maine. By no possibility could this amendment reach the case supposed by the Senator from California. I think I will state a single instance to show the irregularity of the proceedings under this proviso to the act of March 3, 1809. It will be seen in the report of the Secretary of the Treasury, embracing the Quartermaster General's estimates, that there was no appropriation asked for the current year for the quartermaster's department. They seemed to rely upon a balance in that department of $19,139,000 as adequate; but it turns out that at the same time they really contemplated the expenditure of some $46,000,000. Where was it to come from? Why, they were to obtain it by the exercise of the authority of this proviso in the act of March 3, 1809. It will be remarked that the proviso only authorizes such a transfer when Congress is not in session. If an emergency arises when Congress is not in session, then, under that act, the President of the United States may authorize such a transfer. But the Quartermaster General, anticipating the exercise of that authority, it will be seen, asked for no appropriation, and so far as Congress or the country is concerned the presumption would be that he is running his department from the balance in his hands of $19,000,000. Where was he to get this fund from? It was said he was to get $15,000,000, which he puts down in this way, and which has been really transferred to the quartermaster's department and used—"transfer appropriation, warrant No. 60"—that is all the reference made to it—for $15,000,000 which the quartermaster's department has used up. If you look to "transfer warrant No. 60" it will be found to be a sum theretofore appropriated for the recruiting service, and which was left

on hand for that service, but which, after the adjournment of Congress, was, under the exercise of the power of this proviso, transferred to the quartermaster's department and has been expended.

It will be noticed that the law provides that it shall be the duty of the department the first week of the session to make a specified return of the transfer to Congress, how it was appropriated, and from whence it came, but the only information the Quartermaster General communicates to Congress is: "Transfer appropriation, warrant No. 60, $15,000,000," giving no information whatever to the uninitiated, to the ordinary sense. Then it was contemplated that there would be $13,115,979 75 from a balance of an appropriation for collecting, drilling, and organizing volunteers. The Quartermaster General made an application, as I understand, for the transfer of that sum; but failing to get that transferred he is obliged to make an application to Congress for a deficiency. The deficiency arises out of the considerations to which I have referred. The committee think that is an irregularity, to say the least of it.

One other instance was brought to the notice of the committee which suggests the same thing: On the fourth page of the book of estimates it will be found that $68,882 40 are asked for to refund that amount to the appropriation to the Treasury extension used for furniture furnished to the various offices; that is to say, Congress having made an appropriation for the extension of the Treasury, that fund, under the proviso to this act of March 3, 1809, was used for furnishing certain offices in the Treasury Department; which, to say the least of it, would be an irregularity such as the committee think ought not to be authorized.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment offered by the Senator from Illinois, to the amendment adopted in Committee of the Whole.

The amendment to the amendment was agreed to.

The amendments made as in Committee of the Whole were concurred in.

Mr. MORRILL, of Maine. I wish to suggest one verbal amendment, which is in line fifty-two, page 3, after the word "pages" to insert the words "horses and carryalls," so as to make that appropriation specific.

The amendment was agreed to.

Mr. BUCKALEW. The amount of appropriation by this bill to the contingent expenses of the House of Representatives is $112,500. Now, sir, I have heard no explanation for any necessity to appropriate so large an increased amount. I wish the chairman of the Committee on Appropriations would inform us how much we appropriated in the ordinary appropriation bill for the contingent expenses of the House of Representatives for the present year. This certainly is a very large sum of money: $15,000 for stationery; $20,000 for furniture, repairs, and packing boxes for members; $15,000 for miscellaneous items; $50,000 for folding documents, including materials; and $12,500 for newspapers; making a sum of $112,500 of a deficiency.

The chairman of the committee has just handed me the general appropriation law; but the amounts are not added up in it, and it will take some little time to ascertain the whole amount of the appropriations.

It seems to me, however, that this is a very large appropriation to cover a deficiency in the contingent expenses of the House of Representatives—exceeding one hundred thousand dollars. In the appropriations for the Senate there is one of $33,804 for clerks to committees and pages; and there are two other small items amounting to $20,000, making the whole appropriation for the purposes of the Senate, $53,804.

Now, sir, in this time of reform, when everybody insists that one of the necessary things to be done is to curtail the expenses of the Government, I think a very good point to begin would be in this very department of the outlay of the two Houses of Congress. Certainly we are passing a bill which makes a very liberal, perhaps extraordinary, outlay for a deficiency in the expenditures of the House.

The bill itself makes an appropriation of $657,000 to cover outlays in the business of reconstruction in the South. I remember that at the last session estimates were sent to us amounting to something over one million six hundred thousand dollars for this object; but, after debate, the Senate, on my motion, reduced the amount of the appropriation to $1,000,000, striking off between six hundred and seven hundred thousand dollars from the amount asked for; and the idea then held and announced was, that the expenditures in question should be kept within the amount of the appropriation. In this bill, however, the amount which we then cut off reappears, and we are about voting it, as far as I know, without one word of explanation to show why the condition of things has changed since July last, when we voted the former amount of $1,000,000. It would seem that the estimate for that unappropriated sum had formed the basis for the present bill.

In one of the acts passed in March last we appropriated $500,000 to cover the expenses of reconstruction. Again, by the appropriation bill to which I refer we appropriated $1,000,000. The present deficiency bill contains the sum of $657,000 in addition, making the aggregate of outlay, or of appropriation to this object, $2,157,000. Now, sir, at least this amount is intelligible; but it is impossible for me or for any person upon the face of official documents and upon the face of our statutes of appropriations to ascertain how much money is appropriated for this object through the military appropriation bill. The whole of those appropriations are made in a general form and we cannot trace their outlay and ascertain how much is expended for this purpose of reconstruction, how much for the ordinary outlays of the War Department, and for the expenditures upon the Indian border.

I find, however, in this bill an appropriation for military expenses amounting in the aggregate to $12,000,000. This is applied to the quartermaster's department, for the purchase of cavalry and artillery horses, Army transportation, and appropriations to the office of the chief of engineers. Of the whole amount appropriated, $3,500,000 only apply to regular supplies for the Army. I suppose these outlays go in two directions; to some extent possibly to the Indian border in connection with the difficulties which have occurred during the past year in that section of the country; probably a portion of them also to the southern country. There is no information, however, by which we are enabled to draw the line of distinction between outlays made for these different purposes.

Now, sir, I should like to ascertain in some way, when we are called to vote appropriations of public money, how the money is applied and what the objects are to which it is applied, and hence be enabled to judge of the necessity of the bills for which my vote is asked. I know it is a fruitless thing to resist the passage of appropriations of this sort, especially when the person objecting, not having had the means of investigation, is unable to pursue his inquiry in detail and point out particular items upon which there can be curtailment and reform. With reference to these things we must depend upon the committees to whom our money bills are referred. All I have to say is that, so far as I am concerned, the Committee on Appropriations and all other committees that during the present session are to bring bills before us inviting outlays of the public money, will find my vote given for all retrenchment and limitation of public expenditure which is at all compatible with the execution of the laws and the energetic administration of the Government. Sir, we must all bend our attention with earnestness and with sincerity in this direction. We may or may not be able to devise grand schemes of finance; we may or may not be able to strike the precise point where our public debt ought to be struck by our enactments. We may have difficulties with reference to the currency and banking systems which obtain in this country; but clearly one thing we can do—bestow our efforts in the proper direction with a due amount of zeal; we can reduce, and reduce enormously, these expenditures of government in the several departments of the civil administration as well as in the military department, and which are now, every gentleman knows, entirely out of all proportion to what those same expenditures were before the war. Sir, we ought not to have our outlays for all civil purposes, and I may add also for military purposes, as they now are, at least more than double what they were in 1860. However, I did not mean to go into a general debate on the question of economy, but rather to invite the chairman of the committee to some further explanation of the particular items of this measure to which I have called his attention.

Mr. MORRILL, of Maine. I will send to the desk to be read, in explanation of the items for the contingent fund of the House of Representatives to which particular attention is drawn, the statement of the Clerk of the House of Representatives.

The Secretary read as fellows:

CLERK'S OFFICE,
HOUSE OF REPRESENTATIVES UNITED STATES,
WASHINGTON, D. C., *December* 4, 1867.

SIR: There will be required to be appropriated to supply the deficiencies in the contingent expenses of the House of Representatives of the United States for the present fiscal year the following sums, namely: for stationery, $15,000; for furniture, repairs, and packing boxes for members, $20,000; for newspapers, $12,500; for miscellaneous items, $15,000; and for folding documents, including materials, $50,000. The deficiencies for newspapers and stationery were occasioned by order of the House of July 5, 1867; that for folding documents, by order of the House of Representatives of July 9, 1867, retaining certain employés during the late recess, and for materials used in the distribution of documents; that for miscellaneous items, by the payment of expenses of investigating committees; and that for furniture, repairs and packing boxes, by the necessary recarpeting of committee and other rooms, the purchase of matting and other material for the Hall at the summer session, by the recushioning of the galleries and the purchase of new sofas and extra chairs for the Hall.

Very respectfully,

EDWARD McPHERSON,
Clerk of the House of Representatives.

Hon. THADDEUS STEVENS, *Chairman, &c.*

Mr. DAVIS. I move to strike out all of the bill between line eight and line seventeen, inclusive.

The Secretary read the words proposed to be stricken out, as follows:

To provide for the expenses of carrying into effect the act to provide for the more efficient government of the rebel States: for the first military district, the sum of $50,000; for the second military district, the sum of $110,000; for the third military district, the sum of $97,000; for the fourth military district, the sum of $150,000; and for the fifth military district, the sum of $250,000; making in all the sum of $657,000.

Mr. DAVIS. The reason upon which I base my motion is this, that these items appropriate money to subjects over which Congress has no constitutional power whatever. The so-called reconstruction policy has already cost the Government a great many millions; that policy has done no service to the country or the Government, and it is time that it should be abandoned, and abandoned absolutely and unconditionally.

We had before the Senate some days since a proposition to abolish the tax upon cotton. It was said in reply that cotton had produced $23,000,000 to the revenue during the last year, and it was anxiously inquired, if we abolish the tax upon cotton, where should we supply the sum which that tax produced? I am ready with an answer. Here is the Freedmen's Bureau—in my judgment a subject as much without the constitutional and proper power of Congress as the reconstruction policy. It is time, Mr. President, in my judgment, that the Congress of the United States should return to its reason, to the Constitution of the United States, under which it derives all its powers, and outside of the pale of which it has no authority whatever to act. We have an enormous Army that is greatly too large for any useful purpose of the country or the Government. That Army ought now forthwith to be reduced, or a law should be passed authorizing the Pres-

ident to reduce that Army to a maximum of twenty thousand men, rank and file, in my judgment. If Congress in good faith want to enter upon a system of wise retrenchment and economy, and to limit their expenditures within their just powers, and as a wise and statesmanlike administration of the affairs of Government would suggest, let them immediately disband or authorize the Army to be disbanded to a maximum limit of twenty thousand men, rank and file; let them repeal the bill establishing the Freedmen's Bureau and all bills amendatory or supplementary to that measure; let them abandon the reconstruction policy in the South, which is so flagrantly outside of the pale of the just and constitutional powers of Congress, and that has done so much of infinite mischief, not only to that particular section of our country but to the whole country.

The people we all admit are oppressed, and greatly oppressed, by the great burdens of taxation, and they ought to be relieved as far as it is practicable; and if the suggestions which I now make should be adopted and acted upon by Congress, the result would be to save to the country more than fifty millions of money annually. I have no doubt that these reforms, and other useful and practical reforms, if entered upon in an honest spirit, with a view to economize to the utmost the expenditures of the Government, and to relieve the people of the country from taxation as far as practicable and useful, will save many millions of dollars. I believe that reformation in expenditures and retrenchment might be made at this session to the extent of $100,000,000.

Sir, I offer this amendment as an initiatory step now to be taken by Congress to give assurance to the country of reform, and of great and essential reform, that in the future, instead of consulting party politics and party ends in the voting of money, they shall look exclusively to the public good, and that no large amounts of money shall in the future be appropriated except to national and important objects, and all within the legitimate and constitutional powers of Congress. I therefore move the amendment, with a view that this shall be the first step toward a general and a great system of retrenchment in the expenditures of the Government, and to retrace the steps by which Congress have reached over and grasped these subjects of legislation that require such heavy amounts to be annually appropriated to carry them into operation. With a view to reform this vicious and unauthorized course of legislation and appropriation I move to strike out so much of the bill as I have indicated, and upon that question I ask for the yeas and nays.

Mr. MORTON. I agree with the Senator from Kentucky in part that it is very important that we shall reduce the expenses of the Government; it is very important that we shall be able to reduce the Army; and I regret that it is necessary for us to make appropriations of the character to which the Senator excepts.

Now, Mr. President, if the Senator desires that we shall retrench the expenses of the Government and reduce them to a much lower figure, let him and the party to which he belongs coöperate in bringing about the work of reconstruction and the settlement of the difficulties in the southern States. Those who prevented the constitutional amendment from being accepted in 1866 as the basis of reconstruction, and who then kept the question open, and those who are now trying to defeat the present system of congressional reconstruction are responsible for these expenses of the Government; the responsibility is with them and not with us. This work of reconstruction must take place; it cannot be suffered to remain open; and those who try to defeat reconstruction and to keep it open for the purpose of taking the chances of future political benefit are responsible for these expenses of the Government. If we can bring about reconstruction speedily we can reduce the Army and we shall have to make no more appropriations of this kind. But if reconstruction be defeated and the question be kept open, we shall have to make future appropriations of this character, and the responsibility will be with those who shall defeat reconstruction and with nobody else.

Mr. DAVIS. If there be any reconstruction needed I am for reconstruction; but I am for reconstruction by the appropriate and constitutional power. What is proposed to be reconstructed? The governments of the ten southern States severally. What power is there in the Congress of the United States to reconstruct the State governments of those ten States? What authority have both Houses of Congress to make governments, constitutions, and laws for any of the States in the Union? They have no such power—not one vestige of it. What power would Congress have to reconstruct the government of the State which my honorable friend so ably represents? He will answer that his State was never in rebellion. That I concede. I ask him and I challenge any man to produce the authority in the Constitution that authorizes Congress to reconstruct the government of a State the people of which have been in rebellion. There is no such power—not a vestige of it; and a great and bold leader of the Radical party in the other branch of Congress frankly and boldly avows it. He says that his party and all of this policy now are "outside of the Constitution;" and he says so truly. He says, in addition, you must yield the question that you have any power under the Constitution to adopt your present policy in relation to the States that were in rebellion; if you still adhere to the Constitution you are violating its letter and its spirit; and he charges, if I have been informed aright by reading the newspapers, that those who persevere in this policy of reconstruction, and who do not concede that it is outside of the Constitution and only revolutionary, are guilty of the crime of perjury in their oaths to support the Constitution. That I understand the great leader of the Radical party in the House of Representatives to concede; and I think it is the simple truth of the case. I believe this Congress has no more power to legislate for reconstruction in the ten southern States than it has in the New England States or in any other States in the Union.

Mr. MORRILL, of Maine. Will the Senator allow me to ask him one question?

Mr. DAVIS. Certainly,

Mr. MORRILL, of Maine. I ask the Senator whether he did not at an early day introduce a bill in the Senate to remit those States to a territorial condition on certain contingencies?

Mr. DAVIS. No, sir; I did not.

Mr. MORRILL, of Maine. On some other occasion I will undertake to satisfy the honorable Senator that he did.

Mr. DAVIS. I will refer to that. I have a distinct recollection of what the honorable Senator alludes to, and I will answer him as I answered him once before on that subject. The honorable Senator from Massachusetts, [Mr. SUMNER,] a few years ago, introduced a series of resolutions declaring that by acts of rebellion of the people of the southern States, their governments were forfeited. In a few days afterward I introduced a series of resolutions entirely antagonistical to his propositions. My friend, the honorable Senator from Maine, confronted me with those resolutions some two or three years ago. I was ready then, and am ready now, and always ready to be confronted by them. There is not a principle or proposition in them that I have ever stood in opposition to or crossed. This is the position to which my honorable friend refers. I said that it was the right, the exclusive right and power of the people of each rebel State to form their own constitution and State government, and that if any of the rebel States refused thus to act, to form any governments, to send any representation to Congress in the Senate or in the House of Representatives, folded their arms, and would take no occasion either to perform their duties to the General Government as members of the United States, or to perform any acts to organize their own governments, Congress would have the right to authorize the establishment of military governments under that state of things, to prevent disorder, anarchy, and an utter disruption of society and of all government. That is the full extent of the proposition which I then made, and my honorable friend will find it so whenever he recurs to it again.

But I was proceeding. So far as power and constitutional right is involved, Congress have as much right to go into the State of Indiana, notwithstanding its eminent and noble adhesion to the Union and to its duty to the United States Government, and dismantle the present government of that noble State as they have to go to the southern States with their bills of reconstruction. Sir, my principle is plain on this subject and has been all the time. I have always adhered to it by declaration, and attempted to support it by argument, that the power of Congress over insurrection and rebellion is simply to suppress it, and when it is suppressed the power is exhausted, and Congress have not, then, a particle of authority over the subject. I concede that the rebels and those engaged in insurrection may be guilty of treason or other crimes, but whenever the insurrection is suppressed by force of arms another department of the Government intervenes—the judiciary—and it becomes the duty of courts and juries to punish those crimes according to law.

Congress has but one solitary power in relation to State governments, and that is to see that they are republican in form; and the whole of that proposition is that they shall be governments of the same form and of the same principles as the governments of the several States at the time the Declaration of Independence was pronounced, and in the year 1789, when the present Constitution went into effect. We had then models, exemplars of republican forms of government. Every State in the Union presented an example of a republican form of government. So says Mr. Madison in one of the numbers of the Federalist, where he dissects, analyzes, and gives a definition to that phrase, and he cites particularly the government existing in New York at that time as an example of a republican form of government.

But, Mr. President, I have been drawn deeper into this matter than I intended to be. What I here asseverate, and my honorable friend from Maine will, I think, live long enough to occupy exactly my principle and position, is that Congress has not a particle of power to organize a constitution and State government for any State in the Union under any condition or state of fact. That is a power which devolves upon the people of the State, and of each State exclusively and alone.

The majority in the two Houses of Congress, under the great excitement produced by the rebellion and in the flush of victory and of the powers which they had claimed and exercised in the conduct of the war, at length came to the point of claiming power at their pleasure to abolish the governments of the several southern States, set up by the people themselves under the advice of the President and with the sanction of the judicial department of the Government, and under the sanction of Congress, too; because Congress submitted to those States the thirteenth proposition to amend the Constitution of the United States; and in that way our Government, in all of its departments, came to be committed to the principle that the States which had been lately in rebellion had the power to frame their own constitutions and forms of government, as was certainly and clearly their right under the Constitution. The intermeddling of Congress with that subject has been a most fruitful source of disorder, of profligacy, of great expenditures of money, of utter disregard of the Constitution, of trampling upon the rights reserved to the States themselves, and of usurping powers that the Convention never dreamed and never would have thought

of reposing in Congress at all. For the reasons which I have stated I make my motion to strike out.

Mr. HOWARD. I move that the Senate proceed to the consideration of executive business.

Several SENATORS. Let us finish this bill.

Mr. MORRILL, of Maine. I hope the Senator from Michigan will allow us to take a vote on this bill now. I think we can finish it in a few moments.

Mr. HOWARD. Very well; I withdraw the motion.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Kentucky, on which question he demands the yeas and nays.

Mr. DAVIS. I withdraw the call for the yeas and nays.

The amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time; it was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad; in which it requested the concurrence of the Senate.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, transmitting a copy of a letter from the acting Commissioner of Indian Affairs submitting an estimate of appropriations required for surveying boundaries of land selected to be patented to certain persons named, related by blood to the Cheyenne and Arapahoe Indians, under the fifth article of the treaty with the Cheyenne and Arapahoe Indians of October 14, 1865; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a copy of a letter from the acting Commissioner of Indian Affairs submitting an estimate of appropriations required to defray the expenses of a delegation of Osage Indians on a visit to the city of Washington for the purpose of negotiating a new treaty; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting, in answer to the resolution of the Senate of the 14th instant, a statement of the amount of money paid on account of the new jail in the District of Columbia, and to whom paid; which was referred to the Committee on the District of Columbia.

HOUSE BILL REFERRED.

The bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad was read twice by its title and referred to the Committee on the Pacific Railroad.

ADJOURNMENT TO MONDAY.

Mr. DRAKE. I move that when the Senate adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

REDUCTION OF THE ARMY.

Mr. WILSON. I move to take up the joint resolution (S. R. No. 87) to provide for the gradual reduction of the Army of the United States. I do not propose to have it acted upon now, but simply to leave it as the unfinished business.

The motion was agreed to.

COTTON TAX.

Mr. HOWARD. I now move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I trust the Senator from Michigan will withdraw his motion for a moment so that we may take a vote on the cotton bill, which is pending on amendments between the two Houses. I simply desire to have a vote upon it. If there is any debate I will move to leave it as the unfinished business for to-morrow.

Mr. HOWARD. Very well.

The PRESIDENT *pro tempore*. Does the Senator from Michigan withdraw his motion?

Mr. HOWARD. Yes, sir.

Mr. SHERMAN. Then I move that the Senate take up the bill referred to. I should like to have a vote upon it.

The motion was agreed to; and the Senate proceeded to consider its amendments to the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, which had been disagreed to by the House of Representatives.

Mr. MORRILL, of Vermont. I am somewhat surprised that the Committee on Finance should report this bill back again in precisely the same shape in which it originally came to us from the House of Representatives. The Senate, after a long and full discussion, reached a conclusion very different from that of the House. While the House proposed to repeal utterly and entirely and for all time the tax on cotton, the Senate merely proposed to suspend it for one year, reserving, therefore, the power hereafter to consider the subject in connection with other subjects of internal revenue or with the changed condition of the country. When the judgment of the Senate has been made up after a long and patient discussion, I do not understand why we are to be called upon on a sudden to entirely surrender our views to those of the House. Certainly there should be some explanation why the Senate are to give up the bill as agreed upon by them without any controversy or without a why or wherefore. I trust the Senate will adhere at least to its original proposition.

Mr. CAMERON. I move now that we go into executive session.

Mr. SHERMAN. Let us have a vote on this measure.

Mr. CAMERON. We cannot get a vote on it to-day.

Mr. SHERMAN. It will take but a minute, as I do not desire to reply at all. The question is before the Senate. I will not even take the time to reply to the Senator from Vermont, but I call for a vote.

Mr. CAMERON. We cannot have the vote to-day, I am satisfied. There will be some discussion upon it.

Mr. CONKLING. I understand—I was absent from the Chamber for a moment—that the matter under consideration is the bill relating to the cotton tax. Without having heard the remarks which the Senator from Vermont was just concluding as I came in I wish to call the attention of the Senate to one fact. This bill and the proposition it contains were very recently the subject of elaborate discussion in this Chamber. Its various phases were presented, and especially was the proposition now reproduced urged upon the attention of the Senate. First, in Committee of the Whole, upon a vote by yeas and nays, the Senate by a decided majority struck out the language which made the provision permanent and restricted it to a suspension for a single year. The bill having passed from the Committee of the Whole into the Senate, the Senator having the matter in charge insisted upon a yea and nay vote again upon that proposition, and a second time the Senate by a considerable majority determined that this suspension should be confined to a single year.

Mr. CAMERON. The Senator from New York will allow me to interrupt him. I had the floor and I gave way only because some gentleman said this would not lead to discussion, but it has led to discussion; and now, if the Senator from New York will allow me, I will again move that the Senate proceed to the consideration of executive business. We cannot dispose of this bill to-day, and we have important business in executive session to attend to.

Mr. SHERMAN. If that is done I hope it will be with the understanding that this shall come up as the unfinished business on Monday. I am perfectly willing to go on now with the debate.

Mr. WILSON. I will merely say to the Senator from Ohio that I called up a measure with the view of having it left as the unfinished business.

Mr. SHERMAN. I am willing, if it is the pleasure of the Senate, to sit this bill out to-night.

The PRESIDENT *pro tempore*. I do not understand that the Senator from New York has yet yielded the floor.

Mr. CAMERON. There are several questions pending in executive session, which it is important to the country we should decide to-day. It is evident that we cannot get through with this question now, and if my motion be adopted, it will come up on Monday of course. I therefore renew my motion to go into executive session.

The PRESIDENT *pro tempore*. Does the Chair understand that the Senator from New York yields the floor for that motion?

Mr. CONKLING. I give way to enable the sense of the Senate to be taken on that motion. If it does not prevail, I shall then like to say a word.

Mr. SHERMAN. I wish, if it is in order, now to move to reconsider the vote by which we agreed to adjourn to Monday. ["No, no."]

The PRESIDENT *pro tempore*. There is a motion pending. If the Senator from Pennsylvania will withdraw his motion for that purpose, the Senator from Ohio can make the motion he indicates.

Mr. HOWARD. If he withdraws it I shall renew it.

Mr. CAMERON. My motion is before the Senate; I do not withdraw it.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that the Senate proceed to the consideration of executive business.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will clear the galleries and close the doors.

ADJOURNMENT TO MONDAY.

Mr. MORTON. Before the doors are closed I move to reconsider the vote by which the Senate resolved that when it adjourn to-day it be to meet on Monday. I think we ought not to do that.

Mr. CONKLING. I rise to a question of order. I submit to the Chair that after the Senate has voted to proceed to the consideration of executive business, and the Chair has announced that decision, it is not in order for the Senator to say that before proceeding to executive business he moves a reconsideration of a vote passed in open Senate.

The PRESIDENT *pro tempore*. Since I have been here I have always considered that it is rather irregular after a motion has been adopted, to go into executive session to have other questions considered; but it has been the constant practice amid the confusion of clearing of the galleries, a great many motions have been made constantly, and I suppose rather by common consent than otherwise.

Mr. MORTON. Is the objection overruled?

The PRESIDENT *pro tempore*. The Chair does not like overruling the constant practice of the Senate, although he thinks it would be a very good thing if it was overruled.

Mr. BUCKALEW. I submit that in all those cases those motions have been made by common consent, when there was no objection. I never knew of their being made when any member objected.

Mr. MORTON. I move, then, that the doors be opened to take the vote on that question. There is too much business pressing on the attention of the Senate for us to adjourn over to next Monday, in my opinion.

The PRESIDENT *pro tempore*. The Sen-

ator from Indiana moves that the doors be opened for the purpose of allowing him to make the motion indicated by him.

The motion was not agreed to.

The Senate then proceeded to the consideration of executive business; and after some time spent in executive session the doors were reopened and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 16, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

INTERNATIONAL COPYRIGHT.

Mr. ARNELL, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on the Library is hereby instructed to inquire into the subject of international copyright, and the best means for the encouragement and advancement of cheap literature, and the better protection of authors; and to report to this House by bill or otherwise.

IMPROVEMENT OF SAVANNAH RIVER.

Mr. ELIOT, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of the Treasury be directed to communicate to this House such information as may be in possession of the Department concerning a contract made in the spring of 1866 with Henry S. Welles for the removal of obstructions in the Savannah river, whether such contract has been performed, and, if not, what remedy, if any, can be made available to the Government.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. BANKS, by unanimous consent, presented the proceedings of a mass meeting held at Lawrence, Essex county, Massachusetts, Hon N. P. H. Melvin, mayor, presiding, upon the subject of the rights of naturalized citizens in foreign States, and especially upon the course of Great Britain in regard to American citizens; also, the proceedings of a mass meeting of the citizens of North Andover, Massachusetts, upon the same subject, with resolutions denouncing the seizure, conviction, and execution of adopted citizens of the United States upon the ground that they were subjects of Great Britain; which were referred to the Committee on Foreign Affairs.

SHIP ERICSSON.

Mr. VAN WYCK, by unanimous consent, introduced a bill (H. R. No. 449) authorizing the Secretary of the Treasury to change the name of the ship Ericsson to Grand Duchess; which was read a first and second time, and referred to the Committee on Commerce.

AGRICULTURAL DEPARTMENT.

Mr. BEAMAN. I ask unanimous consent to submit from the Committee on Appropriations a report, which I ask the Clerk to read.

The Clerk read as follows:

The Committee on Appropriations report:

That having had under consideration so much of "No. 1" of the "estimates of additional appropriations required to complete the service of the fiscal year ending June 30, 1868, and previous years," as relates to the Agricultural Department, they have arrived at the conclusion that not one of the items therein stated is properly a deficiency of appropriation.

That most of said items are for mere unsettled claims against the Department, and, if contracted at all, were contracted without authority of law.

That previous to July 1, 1867, no books of account whatever were kept showing the dealings and transactions of the Department or the disposition of the various items of appropriation; and the character of the disbursements can be ascertained only by an examination of the vouchers on file in the Treasury Department.

That the moneys appropriated for the use of the Department were disposed of without any special reference to the particular objects for which such appropriations were made.

That of the "unpaid bills due by Department of Agriculture June 30, 1867," as stated on pages 6 and 7 of the estimates, there is no account whatever in the books of the Department; and that there is no written evidence of their validity save what appears from the existence of the bills on file.

Your committee, therefore, beg leave to report back to the House so much of "No. 1" of the estimates as relates to the Agricultural Department, and they ask to be discharged from the further consideration thereof; and they recommend that the "unpaid bills, &c.," stated on pages 6 and 7 as aforesaid, be referred to the Committee of Claims.

The SPEAKER. Is there objection to the reception of the report?

Mr. BROOKS. I would like to know what the gentleman from Michigan [Mr. BEAMAN] proposes shall be done with this report.

Mr. BEAMAN. I move that the bills mentioned in the report be referred to the Committee of Claims, (because the subject is a proper one for the investigation of that committee,) that the report be laid on the table, and printed, and that the Committee on Appropriations be discharged from the further consideration of the subject.

Mr. BROOKS. I do not object to that. I am glad that the Committee on Appropriations have arrived at the conclusion stated in regard to deficiency bills; and I hope they will extend it to all the Departments of the Government.

Mr. ROSS. I move to amend the motion of the gentleman from Michigan [Mr. BEAMAN] so as to refer the matter to the Committee on Agriculture instead of the Committee of Claims. I think the subject appropriately belongs to the Committee on Agriculture.

Mr. BEAMAN. Evidently this subject does not belong to the Committee on Agriculture. The matters in question are in the nature of claims against the Government, and it is but justice that they should be referred to the Committee of Claims for investigation. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. ROSS was rejected.

The motion of Mr. BEAMAN was then agreed to.

Mr. BEAMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (H. R. No. 213) to suspend further reduction of the currency, with an amendment, in which he was directed to ask the concurrence of the House.

DUBUQUE AND SIOUX CITY RAILROAD.

The SPEAKER. The first business in order during the morning hour is the bill pending at the expiration of the morning hour yesterday, being the bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad, on which the gentleman from Wisconsin [Mr. HOPKINS] is entitled to the floor.

Mr. BARNES. I ask unanimous consent to offer a resolution at this time.

Mr. WASHBURNE, of Illinois. I demand the regular order.

The SPEAKER. The regular order is demanded, and the gentleman from Wisconsin must proceed or surrender the floor.

Mr. RANDALL. I ask the gentleman from Illinois to withdraw the demand that I may introduce a bill for reference.

The SPEAKER. Does the gentleman from Illinois withdraw the demand for the regular order?

Mr. WASHBURNE, of Illinois. I cannot.

Mr. HOPKINS. I now demand the previous question.

Mr. MAYNARD. I ask that the written report accompanying this bill be read.

The SPEAKER. There is no written report.

Mr. MAYNARD. Do I understand that this bill has been reported from the Committee on Public Lands without a written report?

The SPEAKER. That is very frequently done.

Mr. MAYNARD. And we are expected to vote away all this large amount of land——

The SPEAKER. The remarks of the gentleman are in the nature of debate, which is not in order pending the demand for the previous question. The question is on seconding the demand for the previous question.

Mr. WASHBURNE, of Illinois. The gentleman from Wisconsin [Mr. HOPKINS] proposes to allow me twenty minutes of his hour, and I shall not interpose any objection to the seconding of the previous question.

The previous question was seconded, and the main question ordered.

The SPEAKER. The gentleman from Wisconsin [Mr. HOPKINS] is now entitled to one hour to close the debate.

Mr. HOPKINS. I now yield ten minutes of my time to the gentleman from Iowa, [Mr. HUBBARD,] the author of the bill.

Mr. HUBBARD, of Iowa. Mr. Speaker, I do not think I shall occupy the attention of the House for ten minutes. This is simply a bill to extend to the State of Iowa time for the completion of the Dubuque and Sioux City railroad, a land-grant road; and all the provisions contained in the bill, with the exception of a simple provision extending the time, are limitations and restrictions on the original grant. I have inserted those provisions in the bill for the purpose of protecting the interest of the people along the line of the road as well as the interests of the Government. They are guards and restrictions and limitations on the original grant, and the bill which has been passed by this Congress contains provisions of the character such as are contained in this bill.

The road under that grant, the Dubuque and Sioux City railroad, has been completed about one half of the distance, about one hundred and forty miles, and for that distance is now in running order. Fifty-five miles now of the road are forwarded toward completion. This bill proposes to give to the State an additional time of four years, provided they shall complete the fifty-five miles of the road now partially constructed during the present year. It also provides that the State shall complete not less than forty miles each year. It provides further, sir, in case of the failure in any single one of these provisions on the part of the State, the grant shall revert to the General Government.

I provide further in the bill that there shall be a resurvey and relocation of the line, and until that resurvey and relocation are made and the maps are filed in the department, the whole grant shall be open to homestead entry.

All these limitations and restrictions have been inserted for the benefit of the people and the benefit of the Government. I am not laboring in this matter on behalf of the railroad company. I want the House to recollect that this extension is not for this railroad company. It is for the State, leaving it under the control of the State, as is general in grants of a similar character.

These are the main features of the bill, and I apprehend there can be no objection to giving the State of Iowa the extension of time granted to other States. We have given similar extensions to Wisconsin, Minnesota, and Michigan, and I apprehend that this extension of time will not be refused to our State. We must recollect that during the last ten years it has been a hard time to build railroads, owing to the financial embarrassments of the country. We now ask an additional time of four years, and my bill provides that the road shall be constructed within that period of time. That, sir, is all I have to say in explanation of the bill at this time.

Mr. HOPKINS. I now yield five minutes to the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I want your explanation first.

Mr. HOPKINS. Mr. Speaker, I suppose the policy of Congress is settled in regard to the extension of time for completing land-grant roads by the various acts which have been passed, and I look upon it as perfectly just, in view of the circumstances and embarrassments under which these companies have labored during the time they have had these

grants in charge, that a reasonable extension should be given to them. We all know that four years of the time this company has been in existence we have been engaged in such a war that the capital and labor of the country have all been absorbed in that direction, and it has been impossible to carry on these great enterprises requiring millions of money. I think, as has been shown by the gentleman from Iowa, that this company has exhibited a disposition to act in good faith. They have attempted to complete the road, and they should have a reasonable extension of time in which to complete it.

This company, sir, simply asks for three and a half years to complete a railroad three hundred miles in extent, the last and western portion through a country almost entirely unsettled. I have that from the gentleman who represents that portion of the State. I regard this as a just measure of relief.

Mr. HUBBARD, of Iowa. It runs through a country almost entirely treeless, which never would be settled but for this road.

Mr. HOPKINS. I have no doubt of that. The gentleman is familiar with the road, for it runs through his district. This House passed not long ago a bill of a similar character granting extension of time for the completion of a road in Michigan and Wisconsin. I know of no reason why we should make an exception in this case. This bill is drawn more carefully with a view of protecting the interests of the people than any bill of the kind I have ever known to be presented. It provides, as the gentleman from Iowa [Mr. HUBBARD] says—what seems almost impossible for the company to do—that they shall complete within one year sixty miles of this road and have it in running order; and every year thereafter it provides that they shall complete forty miles. I do not know how you can tie them up any tighter. I do not know but the gentleman from Illinois [Mr. WASHBURNE] will claim this as an extensive grant to a railroad company. I assert that it grants not a single acre of land, but is simply a measure of relief, to allow this company to go on and complete this road. It is one of the old grants made in 1856 allowing six sections to the mile, unlike those that have been made since where larger quantities of land have been donated. It grants a less quantity of land than have been granted to railroads by more recent acts.

As I said before, I not only regard this as a necessity, but I consider it the duty on the part of Congress to give this company the relief asked for. They have shown the desire and the ability to build the road, because they have already built one hundred and forty miles, and they would have completed it had it not been for the embarrassment which the war created. Every gentleman here knows how great that embarrassment has been to the railroad enterprises of this country. When the war commenced iron was selling at thirty dollars per ton; when it closed it was worth $120. The cost of labor has increased in almost a corresponding ratio; and at one time during the war it was almost impossible for these railroad companies to get laborers at all.

There is another feature of this grant which the gentleman from Illinois, [Mr. WASHBURNE,] perhaps, had better discuss. The Government of the United States has been liberal toward the West in helping along these works of internal improvement which develop that region of country and which are necessary to its development and prosperity. But although it has granted land to aid in the construction of railroads, it has carefully guarded the interests of the United States by granting one section of land and putting up the price of the section alongside of it, thereby retaining the same value to the Government of the United States as both sections would have sold for originally if the alternate section had not been granted for these public improvements.

I do not know but the gentleman will say that these grants have not been beneficent in their object and purpose; but I regard them as the most beneficent that this Congress has ever made. Without this aid we would not have had many of these great works of internal improvement. It is through the aid of Congress by just such grants as this that they have been accomplished. Without this railroad running through our country our land is almost valueless. We need this road in order to promote settlement, build up the country, and make the people prosperous.

Mr. SELYE. Will the gentleman allow me to ask a question?

Mr. HOPKINS. Certainly.

Mr. SELYE. Does this bill appropriate any money?

Mr. HOPKINS. Not a dollar of money nor an acre of public land.

Mr. SELYE. Does it renew the old appropriation?

Mr. HOPKINS. It does not. It simply extends the time for the completion of the road. The time runs out on the 15th of May next. I now yield to the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I am sorry that I am confined to twenty minutes, but as it was the best I could get I have to take it, although it will be impossible for me in that length of time to state my objections to this bill. It was merely by a parliamentary device yesterday that this bill went over, and I am graciously permitted to-day, on behalf of my constituents to say one word against this proposed scheme.

I must in the first instance call the attention of gentlemen for a moment to the manner in which we are doing business here. Bills are brought in from committees, and, without explanation or debate, are put through under the gag of the previous question. And I submit, sir, that in view of the legislation of the last four years, it is time for the members of this House, if they have the independence which should belong to American Representatives, to pause, and to determine that this practice shall no longer be tolerated. Why, sir, it was only the other day that you had a similar bill brought in for Michigan and Wisconsin, and I undertake to say there were not five men in this House who knew what its provisions were, and which was put through under the previous question, and it turned out that it appropriated five hundred and seventy-four thousand acres of the public lands.

Mr. HOPKINS rose.

Mr. WASHBURNE, of Illinois. I cannot yield unless the gentleman will allow me further time. Yesterday we had another bill, taking away all the guards which we have thrown around the laws for the protection of the public lands, thrust through the House under the previous question. And, sir, what has this gag brought us to? Let our Republican friends examine the history of the legislation for the past few years. Let them look at the extravagant and profligate expenditures of the last few years, which have aroused the attention and the indignation of the American people, and let them beware, if we go on in this manner, that our constituents do not drive us into the Potomac and send other men here who will more vigilantly guard their interests and their rights. I have seen this thing of the previous question long enough. As the gentleman from New York [Mr. VAN WYCK] well said the other day, it is time it was "played out" or we are no longer a deliberative body. Measures of every nature and description are gagged through here. I tell gentlemen on this side of the House let us beware. I have seen a party before come into this House in the pride of its power and strength, with a two-thirds majority, and have seen them crowd measures upon the country which sent back other men to take their places in a succeeding Congress. Let gentlemen beware that they do not press this thing too far.

Sir, I wish I had time to discuss the policy of railroad land grants. Whatever may have been its policy heretofore I think that it is not good policy now; when our country is loaded down with debt, when bankruptcy and ruin and repudiation confront us in this Hall, I submit to gentlemen if it is wise for us to go on further in this way, squandering our patrimony and exhausting our Treasury. Whatever the policy may have been at one time, whether good or bad, I repeat it is not good policy now, and I say that we cannot afford to give it our sanction or our indorsement at this time.

Sir, I say that I cannot go into an argument as to the general principle. Oh, no. I am on a procrustean bed. I can only speak twenty minutes here on a matter which involves millions of dollars' worth of public land. That is the time to which I am limited. A bill of four pages is brought in here, without any written report to which we can refer, without any examination, and we are called upon to pass it in a brief hour, without any such examination as belongs to a measure of this character.

Now, sir, what is this measure? In 1856 Congress made this grant. They provided for a certain road, and they provided that the road should be built from the Mississippi river, at Tete des Nortes, to a given point on the road. That road, to aid which the State granted the lands, has refused to carry out the conditions of the grant, and refused to build and put in running order that branch of railroad as the law provided. I state that as a matter within my personal knowledge; and I state upon the authority of my distinguished friend from Iowa [Mr. HUBBARD] that under some curious decision of the land office, and in defiance of the plain letter of the law, they have permitted that railroad to go one hundred miles in advance of the terminus and take up land, and have given them patents for it.

Mr. HUBBARD, of Iowa. If the gentleman will permit me——

Mr. WASHBURNE, of Illinois. I cannot yield to my friend if it is to be taken out of my time. What I have said is what my friend [Mr. HUBBARD, of Iowa] told me yesterday; and I have no doubt of it.

Well, sir, we gave ten years of time to this company to build this road before the grant was to expire. They failed to build the road. In 1865 the parties in interest slipped through Congress another bill extending the time for two years. They have not taken advantage of that extension and built their road. What do we see now? We see them come in and demand of us that we should give them four years longer.

Now, gentlemen very well understand how these land-grant bills and other bills are brought in here. They are brought here by the parties in interest. My friend from Wisconsin, [Mr. HOPKINS,] who so ably advocates this bill, of course has no interest in this matter. The United States has no interest in this matter of giving away between six and seven hundred thousand acres of the public land, as I take it. Then let me ask who is interested in this legislation? Why, sir, it is a railroad company. And let me ask my friend from Wisconsin [Mr. HOPKINS] what railroad company it is? Does he know? What railroad company is it we are legislating for?

Mr. HOPKINS. As I understand it we are legislating for the benefit of the State of Iowa.

Mr. WASHBURNE, of Illinois. That does not answer my question. What railroad company is to have the benefit of that grant?

Mr. HOPKINS. I understand it is a railroad company building a line of road from Dubuque to Sioux City.

Mr. WASHBURNE, of Illinois. That is what we want to get at. I live in that neighborhood, and I understand a few things. I wish, gentlemen, in the first place, to examine this ring-streaked and speckled map [exhibiting a map] and see the land we have given to Iowa already. We have given more than six millions of acres of the people's land to that State.

Mr. HOPKINS. How much land have we given to Illinois?

Mr. WASHBURNE, of Illinois. I do not know; I think it was about two million seven

hundred thousand acres. But let me tell my friend that I am not responsible for any of the land given to Illinois; and when I get to that question I will show that that grant to the State of Illinois may have been in the end the greatest curse that could have been inflicted upon it. It has gone into the hands of British bondholders; and a great foreign corporation, without interest in or sympathy with our people, has been built upon our soil, to oppress the people by its rapacity and extortion, a great overgrown foreign power in our very midst. So the gentleman cannot take anything from me on that score. But I have the official documents here from the Commissioner of the General Land Office, who tells me that the whole number of acres of land granted to the State of Iowa has been six million seven hundred and fifty-one thousand two hundred and seven acres.

Mr. HUBBARD, of Iowa. Allow me to correct the gentleman.

Mr. WASHBURNE, of Illinois. I cannot yield unless I can have my time extended. I want more time, but I cannot have it under the previous question. I have a letter from the Commissioner of the General Land Office which I have obtained since yesterday. I wish I could read it in full, but I must hurry on. I am sorry for it. It is only a brief moment that I will have to press this question upon the House. To whose benefit does this land grant inure? I call it a grant because if we do not pass this bill this land will revert to the United States. The gentleman from Wisconsin [Mr. HOPKINS] said that this bill covered about five hundred thousand acres. I presume he did not wish to mislead the House; but it is more than six hundred thousand acres. But to recur; to whose benefit is it to inure? I will tell the House, and there will be no contradiction of the statement, I am sure.

The Sioux City railroad, which figures here as having this grant, instead of building this road in good faith, as it should have done, failed to do so; and no longer ago than last October it leased its whole road and franchises and everything else to the Illinois Central railroad. And this grant, in point of fact, will inure to the Illinois Central railroad. Why, sir, if gentlemen knew the facts they would know that the road has been built about half way across the State. Now, the Illinois Central Railroad Company has leased that portion for twenty years, with the privilege, I understand, of taking it on a perpetual lease at the end of that period. The Illinois Central Railroad Company will be obliged to build that road to the Missouri river from its present terminus, whether this land be granted or not; and the question is merely whether we shall give this Illinois Central Railroad Company land to the amount of six hundred and twelve thousand acres. Are gentlemen prepared to accede to that proposition? Are we prepared to grant away any more land or any more money. Is it not known that this Congress has already sanctioned the gratuity of $2,500,000 to the Illinois Central railroad under the pretext of paying it for the transportation of freight and troops for the Government during the war, when the company was bound to transport them for nothing? We know that, for the records of Congress show it.

Now, sir, while the land proposed to be granted by this bill goes nominally to the State of Iowa, I claim it will go to the benefit of the Illinois Central railroad, for the continuation of the road which it has leased. The Illinois Central railroad has obtained the control of the road up to Iowa Falls, in Harding county, as I understand, and it must finish it to the Missouri river, land or no land. Are we prepared to give anything more to these British bondholders and the British stockholders of the road, who demand this grant at our hands? Their stock is now selling at 135 per share in Wall street. To be sure, we owe much to these friends of ours who, during the war of the rebellion, drove our commerce from the ocean by their piratical cruisers, who planned in Canada raids into our country to rob and murder our citizens. As we have a flush Treasury and a large public domain, it is but fitting, I suppose, that we should give away these lands which belong to the people.

Mr. Speaker, I wish I had time to call the attention of the House to the amount of land which we have already appropriated for these purposes, and let the gentlemen see where we stand.

Mr. MAYNARD. I would like the gentleman to state whether the benefit of this grant inures to the State of Iowa or to the Illinois Central railroad.

Mr. WASHBURNE, of Illinois. The grant was to the State of Iowa; but I say the benefit went in the first place to the Dubuque and Sioux City railroad, which has sold out, or rather leased out, to the Illinois Central. That company, having built their road about halfway through the State, leased, as I have stated, that portion, in defiance, as I believe, of the will and rights of the people, for twenty years to the Illinois Central Company, and the latter company is obliged at any rate to build the road to the Missouri river. The only question, I take it, is whether this Illinois Central Company shall bear the expense of building it or whether we shall aid them by this grant of between six and seven thousand acres of the public lands.

Mr. HUBBARD, of Iowa. Will the gentleman permit me to correct him?

Mr. WASHBURNE, of Illinois. I have not time to yield.

Mr. HUBBARD, of Iowa. The gentleman is mistaken.

Mr. WASHBURNE, of Illinois. I say, Mr. Speaker, that the ultimate benefit of this grant must inure to the Illinois Central Railroad Company. They must have this outlet at any rate, and are bound to complete the line, whether they get any land or not.

Mr. HOPKINS. The State of Iowa has granted this land to the Dubuque and Sioux City railroad.

Mr. WASHBURNE, of Illinois. That may be; but I say that, without this grant the road will be built, and that the Illinois Central Railroad Company is to get the advantage of this grant.

Mr. HOPKINS. How does the gentleman know it?

Mr. WASHBURNE, of Illinois. Because the Illinois Central railroad has a lease from the Dubuque and Sioux City Railroad Company. Does the gentleman deny it?

Mr. HOPKINS. I do not know whether that is so or not.

Mr. DAWES. Does the gentleman from Wisconsin mean to say that the land is going one way and the road another, or does he mean to say that the land is granted for the very purpose of getting the road built?

Mr. HOPKINS. I suppose the grant is for the purpose of building the road, not for the purpose of aiding the Illinois Central Railroad Company.

Mr. DAWES. Then does not the corporation that builds the road get the benefit of the land?

Mr. HOPKINS. I understand that the State of Iowa has granted this land to the Dubuque and Sioux City railroad.

Mr. DAWES. For the purpose of building the road?

Mr. HOPKINS. For the purpose of building the road.

Mr. DAWES. I understand further that the company can only get the land in successive portions as it builds each twenty miles of road.

Mr. HOPKINS. Exactly.

Mr. WASHBURNE, of Illinois. I must go on without further interruption. I have been watching, Mr. Speaker, to see your hammer descend. We are only permitted by grace to say anything in opposition to these schemes; and I am thankful for the privilege on this occasion, for it is not usually permitted that any discussion shall be had on questions of this character.

But, sir, I am prepared to see this bill pass. I am used to being in minorities. You know, Mr. Speaker, and I know how often, how earnestly, and how persistently, but how feebly and unsuccessfully, I have endeavored to thwart measures of this kind; and I know, sir, and you know all the obloquy and all the reproach which is heaped upon men who dare to thrust themselves between the Treasury and schemes of public plunder. So far as I am concerned I defy them all; and when the demon of our outraged and betrayed constituencies shall stalk through this Hall and shake his gory locks at us for our betrayal of their interests, I will be able to say, "Thou canst not say I did it."

Mr. HOPKINS. I now yield ten minutes to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. Mr. Speaker, I am not here for the purpose of advocating any stupendous scheme of public plunder, but still, sir, I am in favor of the passage of this bill. And while the gentleman from Illinois [Mr. WASHBURNE] generally is pretty well informed about the subject on which he speaks to this House, he has manifested an entire absence of information on this bill.

The gentleman charges that this is a bill the purpose of which is to transfer a land grant in the State of Iowa to the Illinois Central Railroad Company. Now, if he knows anything about this, he knows that is not so. This land grant is to inure to the benefit of the Dubuque and Sioux City Railroad Company, the grant being made to the State for the purpose of constructing that road. An arrangement has been made for the completion of that road from its present western terminus to the Missouri river. It is to be constructed by the company raised in Iowa, although it is true that on the running uses of the road the Illinois Central has a lease. But the road is owned and constructed by an Iowa corporation, and I can say to the gentleman from Illinois we never intend that the Illinois Central or any other company shall bring its corporate body into Iowa to do business there as in Illinois.

Mr. WASHBURNE, of Illinois. Its soul is there now.

Mr. WILSON, of Iowa. Then I suppose the gentleman is so far satisfied that he has got rid of the soul of that corporation.

Mr. HUBBARD, of Iowa. I ask my colleague whether the Legislature of Iowa does not have the whole control of the matter?

Mr. WILSON, of Iowa. Certainly. The gentleman from Illinois says he is not representing any great corporation; that he is defending the Government and representing his constituents; that he wants to save this six hundred thousand acres of land to the Government. Is it to benefit his constituents? Have his constituents locked up in their safes a large amount of agricultural college scrip, which they are anxious to locate on this land if we refuse to pass this bill? The Government of the United States will get no benefit of our refusal to pass this bill. Agricultural scrip now in the hands of private holders will be located on this land the moment the title passes back to the Government.

And let me say, sir, to the gentleman from Illinois that we prefer the construction of railroads in Iowa to develop our lands to the holding of large bodies of them by his constituents or the constituents of any other member for the purpose of future speculation.

Mr. WASHBURNE, of Illinois. I tell my friend that my constituents do not want the land; they want the settlers to have it.

Mr. WILSON, of Iowa. If his constituents hold this agricultural scrip they want this land.

Mr. WASHBURNE, of Illinois. My constituents have none of that scrip, and I will agree to provide that none shall be located on this land. Will he go with me?

Mr. WILSON, of Iowa. We have that provision already in the law. Upon the reversion of this land to the Government then you will have to provide additional legislation. The gentleman has a map on which he has the lands granted to Iowa marked in colors.

Mr. DAWES. I ask my friend whether he

means this is a race between two "grabs" as to who shall have it?

Mr. WILSON, of Iowa. I only say the people of Iowa want a road constructed on the original line. It is necessary to the development of that part of the country. The gentleman from Massachusetts, represents, no doubt, some of the gentlemen who have derived more pecuniary benefit directly from these western land grants than the people of Iowa have, for they were all given to our eastern friends who came to build our roads for us. Had it not been for this grant the State of Iowa, when the rebellion commenced, would not have marshaled eighty thousand men to fight for the Republic. It would have been an undeveloped wilderness.

Mr. DAWES. I will say to the gentleman that I represent a constituency that has built more miles of railroad in Iowa than it has itself, without a dollar from the public Treasury or an acre of public land, and with a constituency whose soil is made up of rocks and mountains.

Mr. WILSON, of Iowa. Ah, Mr. Speaker, if the gentleman from Massachusetts will only inform himself on that subject he will find that all these broad acres appropriated for the benefit of internal improvements in the State of Iowa have been turned over to such gentlemen as he speaks of. They have furnished the money and we have given them the land.

Mr. DAWES. They do not complain.

Mr. WILSON, of Iowa. Nor do we complain of them. We are obliged to them for coming in and helping us. Now, sir, as to the grant to the Dubuque and Sioux City Company, it was nominally about one million five hundred thousand acres. They will get about one million one hundred thousand.

Mr. WASHBURNE, of Illinois. I have the official figures here showing the exact amounts.

Mr. WILSON, of Iowa. The original grant to the Burlington and Missouri River Company would have given them an equal number of acres if the Government had not disposed of much of the land before. But under the original grant to that company they got two hundred and eighty-seven thousand acres, which was increased afterward to some four or five hundred thousand acres.

Mr. WASHBURNE, of Illinois. It is very easily settled what the number of acres was.

Mr. WILSON, of Iowa. What is the number?

Mr. WASHBURNE, of Illinois. I will read from the letter of the commissioner.

Mr. WILSON, of Iowa. Just give the number.

Mr. WASHBURNE, of Illinois. The commissioner certifies that the number of acres is one million two hundred and seventy-six thousand one hundred and sixty-three and eighty-nine hundredths, to be correct to a fraction.

Mr. WILSON, of Iowa. That is the grant to the Dubuque and Sioux City Railroad Company. Now, the other grants would have been equally large if the Government had had the lands to grant; but along the lines of these other roads the Government had sold them, so that under the original grant the Burlington and Missouri River Railroad Company got only two hundred and eighty-seven thousand, the Mississippi and Missouri Railroad Company four hundred and seventy-four thousand, and the Cedar Rapids Company seven hundred and seventy-five thousand, so that the grants look much greater on paper than when you come to ascertain the actual number of acres they got.

Now, Mr. Speaker, I do not know what the object of the gentleman from Illinois [Mr. WASHBURNE] is in bringing the Illinois Central Railroad Company into this discussion. I know they are not to build this road. It is to be built by an Iowa company, and I hope this House will not be frightened by the noise the gentleman has made over this subject into a refusal to extend this time. That is all there is of it. We are taking nothing from the revenue of the Government, nothing from its assets, because the grant is already made and the time has not expired; therefore the land has not reverted to the Government.

Mr. WASHBURNE, of Illinois. When does it expire?

Mr. WILSON, of Iowa. It expires within a year.

Mr. WASHBURNE, of Illinois. Next May.

Mr. WILSON, of Iowa. Very well; that is within a year. Now, it is merely an extension of time that is asked to enable the company to complete the work. The gentleman from Illinois must know, as every one knows, that during the war it was with very great difficulty that these improvements could be carried on properly. Give us this road and the State will go on and prosper. We now number about a million in population, and we want to develop these prairies that we may not only enrich our own people, but add to the assessable property for the benefit of the entire Government. We are strengthening the revenues of the Government by opening new channels in the resources of the country whence those revenues are derived.

[Here the hammer fell.]

Mr. HOPKINS. I now yield five minutes to the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. Mr. Speaker, when this bill was reported I did not intend to say one word in reference to it. I considered it so plain a case that I did not suppose discussion could arise on the bill. But I must acknowledge, if I had come into the House and known nothing of the matter except what I have heard here from the gentleman from Illinois, [Mr. WASHBURNE,] I should have supposed there was some gigantic swindle in the proposition before the House.

Now, sir, the whole story can be told plainly in a moment. The Congress of the United States granted to the State of Iowa certain lands for the construction of certain roads. The grant was made in 1856 to extend to 1866. These roads have not been completed, and the State—not the company but the State—asks an extension of time. The question that comes up in the mind of every gentleman who has thought about the matter is, why do they ask this extension? Why were the roads not built within the specified time? The answer is a very simple one. In 1861 war was upon this land, and in the State of Iowa the men left to go into the ranks of the loyal Army to fight the rebellion, and the women of that country had to plant the corn and to gather it, and they could not do that and build this railroad also. For that reason and for no other reason these roads were not built, and this road among others. The time for building these land-grant railroads has been extended in every case that has come before this House until now, and it will be extended now in this case. The common sense and common honesty of the House will see at a glance that there is only one way to do this thing. Why, sir, to hear the gentleman from Illinois, [Mr. WASHBURNE,] whose honesty and integrity I do not doubt for a moment—to hear him, without knowing the facts, one would suppose there was money in this bill, there was blood in this bill, and everything else in it, lands included. There is not a dollar of money, a drop of blood, or an acre of land in it; not an acre. It simply extends the time that the State of Iowa may have to have this road built by some company. It grants it to no company.

There is one more fact which ought to settle this question, if no other does. Honest laboring men have gone out into that wild prairie—and I may say to the gentleman from Illinois that land there has been sold for ten cents an acre for taxes, and nobody would redeem it—men have gone out there and paid $2 50 an acre for land in the sections reserved to the Government under this grant, and are living upon it and improving it, expecting this road to be built. Suppose you refuse to extend the time and the road cannot be built, are you not interfering with the rights of those men, their vested rights?

Mr. WASHBURNE, of Illinois. Will my friend tell me——

Mr. PRICE. I cannot yield when I have only five minutes.

Mr. WASHBURNE, of Illinois. I want him to explain one important feature in this bill.

Mr. PRICE. I will yield cheerfully if it is not taken out of my time.

The SPEAKER. That depends on the gentleman from Wisconsin, [Mr. HOPKINS.] Does the gentleman from Wisconsin object to an extension of the time of the gentleman from Iowa?

Mr. HOPKINS. No, sir.

Mr. WASHBURNE, of Illinois. I want the gentleman to explain that part of the bill which provides that where lands are taken up for homesteads, the railroad company or the State for whose benefit the railroad is to be made shall be permitted to go anywhere within thirty miles and take the very eyes of the land, its prairies, and groves, and springs.

Mr. PRICE. Let me correct my friend right there. One object of this bill, and the only object except the granting of the extension of time, is to restrict the company so that they shall not travel away from the line for lands. That is one of the righteous features of the bill, and I do not think it could be tortured into meaning what the gentleman alleges by any ingenuity that had not been schooled under the immediate shadow and direction of the Illinois Central railroad. [Laughter.]

Mr. WASHBURNE, of Illinois. Will the gentleman read the bill? There is a dispute between us. Will he have that provision of the bill read?

Mr. PRICE. I have looked at the bill. It restricts the company from running further south for their lands than a certain point. It keeps the company near to the lands selected under the original grant. Why, Mr. Speaker, these lands, which, as I have already said, have been taken up by settlers at $2 50 an acre, solely and entirely because this land grant has been made to this railroad company—this land could not have been sold by the Government at more than a dollar and a quarter an acre, if it could be sold for that amount. Now, these settlers have bought this land with the expectation that this road should be built there. Now, shall there be any railroad built there?

Mr. HUBBARD, of Iowa. I would ask my colleague [Mr. PRICE] if he does not know that thousands of men have bought land for $2 50 an acre along the line of this road, settled upon those lands and improved them, with the expectation that this road would be constructed?

Mr. PRICE. That is the very point I have been trying to make, and we now ask an extension of time for the building of this road.

[Here the hammer fell.]

Mr. HOPKINS. I now yield to the gentleman from Indiana [Mr. JULIAN] for five minutes.

Mr. JULIAN. I do not desire so much as even five minutes for the purpose of discussing this bill. I wish merely to remind the House of what must be quite apparent to it already, that nothing is so easy as general declamation. The gentleman from Illinois [Mr. WASHBURNE] illustrates this fact every day of his congressional life.

He talks about "a stupendous scheme of public plunder." Mr. Speaker, the gentleman certainly draws upon his imagination, and forgets the courtesy due to his fellow-members and to the standing committees of this body. Why, sir, the Committee on Public Lands, which unanimously reported this bill, is quite as innocent of any scheme of public plunder as even the gentleman from Illinois himself. In proof of this I am willing to appeal to the records of Congress.

As a committee I believe they have generally united with him in resisting extravagant and improper appropriations of the public domain, though certainly with a less ostentatious parade of their virtue and of their love of economy. Yet he now makes war upon the very instrumentality which has stood here

as a guard over the lands of the United States. Cannot the gentleman discriminate between a scheme of public plunder and honest legislation?

Sir, this bill does not provide for the grant of an acre of land or the appropriation of a dollar of money. It simply provides for the extension of a land grant for four years under a guarantee that the company shall build forty miles of road per year, and that on failure to do so the land shall revert back to the United States. I submit, sir, that nothing could be more manifestly reasonable and proper or more entirely within the precedents of our legislation here on the subject involved. And I am surprised that the gentleman from Illinois should have given vent to such language as he has employed, and for which there is neither reason nor apology.

Mr. WASHBURNE, of Illinois. What is that?

Mr. JULIAN. I decline to yield to the gentleman. He evidently believes in much speaking, and I have discovered that he speaks quite as well upon one proposition as upon another, and upon the wrong side as upon the right side. He pours out about the same amount of patriotic fervor upon every question that arises in this House, interfering on all occasions with all legislative movements here, whether advocated by one man or by another, and whether they are right or wrong. I believe I define his position correctly, and I thought it proper to say this much by way of compliment to the distinguished gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I accept the compliment.

Mr. HOPKINS resumed the floor.

Mr. PETERS. I would inquire of the gentleman whether this report comes unanimously from the Committee on Public Lands?

Mr. HOPKINS. It does.

Mr. WASHBURNE, of Illinois. I demand the reading of the report.

The SPEAKER. The rules do not require that a committee shall make a written report in each case; that is sometimes done, and sometimes it is not done. The Committee on Commerce often report bills without their being accompanied by written reports.

Mr. WASHBURNE, of Illinois. I suppose that in a matter involving more than a million dollars there would be a written report upon the files of the House.

The SPEAKER. There appears to be none in this case.

Mr. VAN WYCK. Will the gentleman from Wisconsin [Mr. HOPKINS] allow me to offer an amendment, which I think will make the bill less objectionable and more satisfactory?

The SPEAKER. The House is now acting under the operation of the previous question. No amendment can be entertained except by unanimous consent.

Mr. WILSON, of Iowa. I object.

Mr. HOPKINS resumed the floor.

Mr. PETERS. Will the gentleman yield to me for a few moments?

Mr. HOPKINS. Certainly.

Mr. PETERS. I understand that this bill was reported unanimously from the Committee on Public Lands. The question involved, as I understand it, is a question of fact. I hear one statement from one gentleman and another statement from another gentleman. Now, the bill having been reported to this House by a unanimous committee, I see no other safe and judicious course for the House to take than to follow the indorsement of its standing committee; because the matters stated by the gentleman from Illinois [Mr. WASHBURNE] are flatly contradicted by the whole committee, who have taken time to look into the details of this measure, and who have unanimously made their decision upon this question.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I should like to know what fact that I stated has been contradicted? No fact that I stated can be contradicted.

Mr. JULIAN. All the supposed facts of the gentleman have been contradicted. His facts are not facts.

Mr. PETERS. Yes, sir; every statement of fact made by the gentleman from Illinois has been flatly contradicted by other gentlemen.

Mr. HOPKINS. Mr. Speaker, how much time have I remaining?

The SPEAKER. Four minutes.

Mr. HOPKINS. Mr. Speaker, I do not care to consume the little time I have by any attempted defense of railroad corporations; and therefore I shall not reply to that portion of the speech of the gentleman from Illinois, wherein he has sought to throw odium upon the Illinois Central Railroad Company. That is a matter which concerns him, not me. I know that that company is rich and powerful; I know it is a great corporation; I know it is charged with being oppressive in its dealings with the people. But, nevertheless, I will say in behalf of the Illinois Central Railroad Company that it has assisted largely in developing the resources of the State of Illinois, and has enriched the people there to an almost incalculable extent.

One word in regard to the connection of this company with the Dubuque and Sioux City Railroad Company. I understand, perhaps, the way in which the gentleman from Illinois has wrung in upon this bill his remarks on the Illinois Central Railroad Company. That company is rich. It has a road running to Galena. It may be that it loaned its credit to the Dubuque and Sioux City Railroad Company to enable the latter to obtain iron, &c., to build its road. But the road is not owned by the Illinois Central Railroad Company. This land is the security for the loan; but the road has not been placed in the hands of the Illinois Central Railroad Company, and the gentleman knows it full well. For my own part I do not care, and I believe the citizens of Iowa who are to be benefited by this road do not care, who builds the road. They want the road built in order to develop the resources of their section of the country and afford a market for their products.

Mr. HUBBARD, of Iowa. With the consent of the gentleman I would like to add a word to what he has just said. I understand that the Illinois Central Railroad Company under its charter has no power to build a rod of road in the State of Iowa.

Mr. HOPKINS. I was saying that I do not believe the people care, provided this road be built, whether the money be furnished by the rich corporation known as the Illinois Central Railroad Company or whether the means come from some other source. Their great object is to get a road. The gentleman from Illinois knows very well that while his State is checkered over with railroads, intersecting each other like the lines upon a checker-board, (the greatest of those roads having been built by the munificent aid of the Government of the United States,) Iowa, Minnesota, and the surrounding States do not enjoy similar advantages. They ask aid in securing the railroad facilities which they need; and when the State of Illinois has received more benefit from the Government of the United States in the form of grants of public land than any of the surrounding States, it comes with very poor grace from the gentleman from Illinois to oppose an extension of time to a road in one of these other States, when he knows, as every other man knows, that during four years of the time heretofore granted to this company it has been unable to proceed with the work because of the existence of a great war, which was absorbing in its operations the labor and capital of the country.

Mr. Speaker, what we want in the West is these works of internal improvement; and this is a matter that interests not us alone. I say to gentlemen representing eastern constituencies, "You are interested in developing the vast resources of the great West. You want increased facilities for transportation, and you cannot better secure these than by giving us aid in the form of grants of land to help us carry out these great projects." I know that, as the gentleman from Massachusetts [Mr. DAWES] has said, the eastern men have generally been generous toward us in the West. I am glad to acknowledge it here and elsewhere. The only opposition in this House to these beneficent measures comes from the distinguished gentleman from Illinois, [Mr. WASHBURNE.]

[Here the hammer fell.]

The SPEAKER. The question is on ordering the bill to be engrossed and read a third time.

Mr. WASHBURNE, of Illinois. I move that the bill be laid on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 104, not voting 51; as follows:

YEAS—Messrs. Baker, Broomall, Chanler, Cobb, Dawes, Ela, Fox, Getz, Golladay, Grover, Haight, Holman, Hulburd, Johnson, William Lawrence, McCarthy, Moorhead, Mullins, Pike, Plants, Polsley, Randall, Scofield, Selye, Spalding, Taylor, Lawrence S. Trimble, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, and Wood—33.

NAYS—Messrs. Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Boyer, Bromwell, Brooks, Buckland, Burr, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Farnsworth, Ferriss, Gravely, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Ingersoll, Jenckes, Judd, Julian, Kelsey, Kitchen, Koontz, Laflin, Lincoln, Loan, Loughridge, Mallory, Marvin, McClurg, McCormick, Mercur, Miller, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Peters, Poland, Pomeroy, Price, Pruyn, Raum, Robinson, Ross, Sawyer, Schenck, Smith, Aaron F. Stevens, Stewart, Stokes, Taber, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—104.

NOT VOTING—Messrs. Adams, Allison, Arnell, Barnes, Beck, Blaine, Coburn, Cook, Cornell, Covode, Cullom, Eckley, Ferry, Fields, Finney, Garfield, Glossbrenner, Griswold, Halsey, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Ketcham, Knott, George V. Lawrence, Logan, Lynch, Marshall, Maynard, McCullough, Moore, Morgan, Morrell, Phelps, Pile, Robertson, Shanks, Shellabarger, Sitgreaves, Starkweather, Thaddeus Stevens, Stone, Taffe, John Trimble, Van Auken, Burt Van Horn, Henry D. Washburn, Woodbridge, and Woodward—41.

So the House refused to lay the bill on the table.

During the vote,

The SPEAKER stated that Mr. COOK, absent on account of sickness in his family, asked leave of absence indefinitely; Messrs. HUNTER, COBURN, and SHANKS leave of absence for to-day, and Mr. LYNCH for two weeks.

There was no objection, and it was ordered accordingly.

The vote was then announced as above recorded.

The question recurred on the amendments of the Committee on Public Lands.

First amendment:

On page 2, line eighteen strike out "fifty" and insert "forty."

The House divided; and there were—ayes 71, noes 11; no quorum voting.

The Speaker ordered tellers; and appointed Mr. HOPKINS and Mr. WASHBURNE of Illinois.

The House again divided; and the tellers reported—ayes 81, noes 19.

So the amendment was agreed to.

Second amendment:

On page 3, line three, section three, strike out "fifty" and insert "forty."

The House divided; and there were—ayes 75, noes 17; no quorum voting.

The Speaker ordered tellers; and appointed Mr. JULIAN and Mr. BROOMALL.

The House again divided; and the tellers reported—ayes 77, noes 19.

So the amendment was agreed to.

The question then recurred on ordering the bill to be engrossed and read a third time.

The House divided; and there were—ayes 73, noes 11; no quorum voting.

The Speaker ordered tellers; and appointed Mr. HUBBARD of Iowa, and Mr. RANDALL.

The House divided; and the tellers reported—ayes 80, noes 15.

Mr. WASHBURNE, of Illinois. I want the engrossed bill read.

Mr. WILSON, of Iowa. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 27, not voting 55; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks Barnes, Barnum, Beaman, Benjamin, Bingham, Blair, Bromwell, Buckland, Burr, Butler, Cake, Cary, Chanler, Churchill, Reader W. Clarke, Cullom, Dixon, Dodge, Donnelly, Driggs, Eldridge, Eliot, Ferriss, Fox, Garfield, Golladay, Gravely, Grover, Harding, Hawkins, Higby, Hill, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Judd, Julian, Kitchen, Koontz, Laflin, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, McClurg, McCormick, Mercur, Miller, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Peters, Plants, Polsley, Pomeroy, Price, Pruyn, Raum, Ross, Sawyer, Schenck, Smith, Stewart, Stokes, Taber, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—106.

NAYS—Messrs. Baker, Boutwell, Boyer, Broomall, Cobb, Dawes, Ela, Ferry, Getz, Haight, Holman, Hulburd, William Lawrence, Maynard, McCarthy, Moorhead, Mullins, Randall, Scofield, Selye, Sitgreaves, Taylor, Lawrence S. Trimble, Van Trump, Ward, Elihu B. Washburne, and Wood—27.

NOT VOTING—Messrs. Adams, Allison, Arnell, Beck, Benton, Blaine, Brooks, Sidney Clarke, Coburn, Cook, Cornell, Covode, Eckley, Eggleston, Farnsworth, Fields, Finney, Glossbrenner, Griswold, Halsey, Chester D. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kelsey, Kerr, Ketcham, Knott, George V. Lawrence, Lynch, Marshall, McCullough, Moore, Morgan, Morrell, Phelps, Pike, Pile, Poland, Robertson, Robinson, Shanks, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, John Trimble, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, and Woodward—55.

So the House ordered the bill to be engrossed and read third time.

During the roll-call,

Mr. TRIMBLE, of Kentucky, stated that his colleague, Mr. JONES, was detained from his seat by sickness in his family.

The result having been announced as above recorded,

Mr. JULIAN moved to reconsider the vote by which the bill was ordered to be engrossed; and demanded the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 92, not voting 69; as follows:

YEAS—Messrs. Baker, Broomall, Cobb, Dawes, Fox, Getz, Haight, Holman, Kelsey, Mullins, Orth, Paine, Plants, Polsley, Pomeroy, Schenck, Scofield, Sitgreaves, Taylor, Lawrence S. Trimble, Trowbridge, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, and Wood—27.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Beaman, Benjamin, Bromwell, Brooks, Buckland, Burr, Cake, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Dodge, Donnelly, Driggs, Eldridge, Eliot, Farnsworth, Ferriss, Gravely, Griswold, Grover, Harding, Higby, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Judd, Julian, Ketcham, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, McCormick, Mercur, Miller, Moore, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Peters, Poland, Price, Raum, Robertson, Robinson, Ross, Sawyer, Smith, Spalding, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Thomas, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—92

NOT VOTING—Messrs. Adams, Allison, Archer, Arnell, Axtell, Banks, Barnes, Barnum, Beck, Benton, Bingham, Blaine, Blair, Boutwell, Boyer, Butler, Coburn, Cook, Cornell, Covode, Cullom, Dixon, Eckley, Eggleston, Ela, Ferry, Fields, Finney, Garfield, Glossbrenner, Golladay, Halsey, Hawkins, Hooper, Chester D. Hubbard, Richard D. Hubbard, Hunter, Jones, Kelley, Kerr, Knott, George V. Lawrence, Lynch, Marshall, Maynard, McCarthy, McClurg, McCullough, Moorhead, Morgan, Morrell, Nunn, Perham, Phelps, Pike, Pile, Pruyn, Randall, Selye, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Taffe, John Trimble, Van Auken, Van Trump, Henry D. Washburn, and Woodward—69.

So the motion to reconsider did not prevail.

The bill was then read the third time.

Mr. WASHBURNE, of Illinois. I demand the reading of the engrossed bill.

The Clerk read the engrossed bill.

Mr. JULIAN. I demand the previous question on the passage of the bill.

On seconding the previous question there were—ayes 67, noes 18; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. KELSEY and ROSS.

The House divided; and the tellers reported—ayes 82, noes 18.

So the previous question was seconded, and the main question was ordered.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the passage of the bill.

The yeas and nays were refused.

The bill was then passed—ayes 83, noes 15.

Mr. HOPKINS. I move to reconsider the vote by which the bill was passed; and also move to lay the motion to reconsider on the table.

The latter motion was agreed to—ayes 88, noes 7.

The SPEAKER. The morning hour has expired.

SURVEY OF LANDS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs submitting estimates of appropriations required for surveying certain lands for the benefit of the Cheyennes and Arapahoes under treaty stipulation; which was ordered to be printed, and referred to the Committee on Appropriations.

DELEGATION OF OSAGE INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting estimates of appropriations to defray the expenses of a delegation of the Great and Little Osage Indians to Washington—$2,500; which was ordered to be printed, and referred to the Committee on Appropriations.

FORFEITURE OF LAND GRANTS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a report from the Quartermaster General relative to the forfeiture to the United States of all lands granted by Congress in 1856 to the States of Mississippi, Alabama, Louisiana, and Arkansas for railroad purposes.

Mr. GARFIELD. I move that it be printed and referred to the Committee on Military Affairs.

Mr. JULIAN. I move to amend by referring it to the Committee on Public Lands, which has that question specifically before it.

Mr. GARFIELD. I have no objection to referring it to that committee.

The communication was accordingly ordered to be printed, and referred to the Committee on Public Lands.

PROPERTY SEIZED IN LOUISIANA.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with resolutions of the House of February 21 and March 8, 1867, a report in reference to property seized or taken possession of by the Government in the State of Louisiana.

Mr. GARFIELD moved that the communication be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

TAX ON COTTON.

The SPEAKER also laid before the House the resolutions of the constitutional convention of Georgia in regard to the cotton tax; which were referred to the Committee of Ways and Means, and ordered to be printed.

CONTRACTION OF THE CURRENCY.

Mr. SCHENCK. I ask the House to take from the Speaker's table the bill, (H. R. No. 213,) the anti-contraction bill, which has been returned from the Senate with an amendment, that it may be referred to the Committee of Ways and Means, giving us an opportunity to report it back to-morrow.

There was no objection; and it was ordered accordingly.

DEPOSITS OF PUBLIC MONEYS.

Mr. RANDALL, by unanimous consent, introduced a bill (H. R. No. 450) to regulate deposits of the public moneys; which was read a first and second time, and referred to the Committee on Banking and Currency.

PROPOSED NEW TERRITORY.

Mr. ASHLEY, of Ohio. I ask unanimous consent to present the memorial of General Casement, Delegate-elect from the proposed Territory of Wyoming, and also the memorial of the people of that part of Dakota Territory lying west of the one hundred and fortieth degree of latitude, asking for the establishment of said new Territory; and I also ask leave to introduce a bill to organize the Territory of Wyoming.

Mr. WASHBURNE, of Illinois. I object. I object to any more Territories.

RECONSTRUCTION.

The House then resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto; upon which Mr. PAINE was entitled to the floor.

Mr. PAINE. I yield twenty minutes of my time to the gentleman from Massachusetts, [Mr. ELIOT.]

Mr. ELIOT. Mr. Speaker, I think that it must be grateful to the House after the work upon which we have been engaged for the last hour, and that it must relieve especially the faithful officers of the House who have had our names upon their lips so many times during that period, that we proceed now to consider the important bill which has been presented to the House by the gentleman from Ohio, [Mr. BINGHAM,] upon which, sir, by the courtesy of my friend from Wisconsin [Mr. PAINE] I propose to occupy the attention of the House for a few minutes. I shall state, briefly as I may, the reasons which will influence my vote in favor of the bill.

Mr. Speaker, I can entertain no doubt whatever as to the full, incontrovertible power of this Congress under the Constitution to legislate in the line of this bill or to pass into law the provisions of the bill as it comes to us from the Committee on Reconstruction. I do not propose, in the very brief time that I shall speak, to enter upon the discussion of the abstract question of constitutional power.

This bill and all similar bills are outside the line of ordinary laws, and they must find their defense upon two grounds: first, upon the rights which rebellion, civil war, and military defeat of these rebel States have conferred. Now, in regard to that, I know very well that there are differences of opinion which go back to the very beginning of the war. I have upon my table a letter received last evening from a gentleman in Louisiana, one of the best, truest, and most loyal men in that State, loyal at heart, although differing from me as many of them are and do, who believes that this civil war which has just now been brought to a partial close—a close so far as the fight upon the field is concerned—was nothing from its inception but an immense organized riot; and that the same principles are applicable, and have been applicable all through, which would have been applicable in the case of a riot in a city, or in a county, which was successfully subdued by the military arm of the State. Looking from that stand-point at this civil war, I can easily understand how it is that gentlemen, honest enough it may be, question the legality of bills similar to the one now under discussion. But that question has been settled over and over again on the floor of Congress. It has been settled more than once in the Supreme Court of the United States.

This rebellion, organized by slave States, against the Government of the United States was not a "riot," nor was there any time since

the first attack was made in South Carolina, when the laws, applicable in time of peace to such disturbances, could have been made effective. No, sir; it was war—organized, relentless war, and none the less so because waged against the Government by the combined action of States seeking to overthrow the Government and to establish a new and independent confederacy. It was civil war, begun, continued, and ended as such upon the field—and the rights and powers of Congress were such as a condition of war created—so Congress determined and so the Supreme Court of the United States has adjudged.

Therefore, in our legislation we must regard that as one of the questions not open to debate. And with the surrender of Lee those rights did not cease, but until Congress has so legislated as to secure in those States a free government in full, harmonious, political relation with the General Government, they must of necessity continue.

Mr. Speaker, this legislation rests also upon another ground that is the promise which the Constitution of the United States itself has made to guaranty to those southern States republican forms of government. First, the right to pass such legislation grows out of the war power, that war having been successfully carried on to its conclusion; and, secondly, out of the guarantee of the Constitution itself. Upon these two broad grounds the right of Congress to act in the line of this bill will be found.

But it would be manifestly a work of supererogation for me to discuss that abstract question here and now. I have done so upon other occasions. First, if I recollect right, in 1862, when the confiscation bill was before the House, and upon other occasions since that time. The question has been argued upon this bill most ably by the gentleman who reported it to this House; and it has been argued by others during this debate.

And besides all that, we have, upon this side of the House, members of the party with whom I am associated, who have been the responsible conductors of the legislation of this country during the rebellion, who legislated to raise and to equip and to maintain our armies and navies, who passed all the laws which from time to time that rebellion made it needful to pass in order that the Government should be maintained and the rebellion crushed. We upon this side of the House entertain upon this question no doubt, nor are we faltering in our purpose. Therefore it would clearly be of no use to occupy the time of the House in discussing the abstract question of the power of Congress to legislate in this way, for upon our part our minds are made up.

So far as gentlemen on the other side of the House are concerned, those gentlemen who, since the time of the attack upon Fort Sumter, have been acting against us upon every measure which was calculated to strengthen the Government and to defeat the rebellion, upon every measure which it was deemed necessary for us to adopt in order that the life of the nation should be saved; who have opposed upon constitutional grounds, as they understand the Constitution, all that we have said and sought to do, and all that we have done from the beginning of this war down to the present day—of what avail would it be for me to discuss the power of Congress to act in this regard? Why, sir, though one rose from the dead they could not be persuaded.

But so far as Congress is concerned, and so far as this House is concerned, the exact principle of this bill has been consented to; we have committed ourselves to it. It may not be exactly right for me to say that the members of this present Congress have done so; but certainly it is true that the last Congress did so; and the House of Representatives, upon two distinct occasions, enacted into law, so far as that House could do so, bills which recognized distinctly the principle of the first section of the bill now under consideration.

As regards one of those measures I desire to say a word. It will be remembered that some time in the month of February, during the second session of the Thirty-Ninth Congress, the committee that had had in charge the examination into the New Orleans riots and the condition of affairs in Louisiana, after great consideration, after careful personal inspection of the ground, and after deliberate examination, combining, as I think they did, the most valuable features of all the bills which prior to that time had been submitted by one and another gentleman for the action of this House—that committee reported a bill which, not upon great discussion, for the principles of the bill had been debated before that time, was passed by a very decided majority of this House and sent to the other branch of Congress.

Now, it is true that the Senate preferred the military bill, which had also been previously passed by this House, and, adopting that, sent to us what has been known as "the military reconstruction bill," leaving the other unacted upon in that branch. Nevertheless, that other bill upon its face, as did also the military bill itself, assumed as a conceded fact that in those rebel States in consequence of the defeat of the rebels and the success of our arms, there vested in the Congress of the United States a full and indisputable right to ignore, to supersede, to set aside, to disregard the then existing civil State governments in these southern States. The military bill was not, in its provisions, so stringent as the bill which this House passed reëstablishing civil government in Louisiana. It assumed upon its face to be more aggressive; but upon examination of those bills you will find that as to the bill reported from the committee to which I have referred, affecting Louisiana alone, although it rested upon a civil basis—although it did not purport to be a military bill, yet its provisions were such as would, I believe, in the shortest period have restored civil government within the confines of Louisiana; and under that bill loyal men would have presented themselves upon the floor of this House and would have represented, in my judgment, a State loyal throughout.

That bill which I hold now in my hand creates a civil government, appointing for the time a loyal governor, and prescribing his qualifications. It provides for a provisional council, and prescribes their duties. It provides for a popular election of a governor and a Legislature, and prescribes the qualifications of electors. It provides for an immediate registration of loyal voters. It provides for the election of members of a convention to adopt a constitution. It provides that the constitution shall be submitted to the people, and that during all this time the protection of the military power of this Government shall be extended over the loyal men of Louisiana in the exercise of the rights secured to them under the provisions of the bill.

But it is needless at this time to debate that bill. I do believe, however, that if its provisions had been substantially enacted into law and extended to all the rebel States of the Union we should before this time have found them in much better condition than we find them now. Yet I am not sure that this would have been so, because it is manifest that the reconstruction bill which this House and the Senate did pass was altogether sufficient, would have worked out its own end in the right way, and would have successfully presented to the people of this country a reconstructed Union, reconstructed upon a broad, free, and enduring basis, if only the action of this House and the other branch had been in good faith carried out by the parties who happened to hold the administrative power of this Government. If we had been fortunate enough to have in the White House a gentleman who would have consented to help Congress instead of opposing it, who could have felt it within his heart to do something in aid of the parties and principles and measures to the support of which he consented when chosen to office, we should have had a different state of facts existing now.

Mr. Speaker, it is pretty hard work for the Congress of the United States, legislating upon new and untried questions, in great emergencies under circumstances never heretofore existing and never heretofore imagined—it is pretty hard work for Congress so to legislate with the Chief Executive directly opposed to them, he believing, as I am bound to assume he believes, that it is his duty to head off Congress rather than to aid it; that it is his duty to obstruct the law rather than to aid in its execution; that having taken an oath to support and maintain the laws he is bound so to exercise his functions as that the law shall be neutralized and made of no effect. It is hard, I say, for Congress so to legislate as by any one or two bills to clear away all the difficulties and make straight work to the desired end. I say the great obstructor is in the White House. It is no fault of ours, excepting, indeed, that he holds his office at our hands. I do not like these continual amendments of our reconstruction laws. I do not like the necessity imposed upon us of amending legislation which if fairly and *bona fide* carried out would be all-sufficient.

[Here the hammer fell.]

Mr. PAINE. I yield to the gentleman from Massachusetts [Mr. ELIOT] ten minutes more of my time.

Mr. BUTLER. Before the gentleman from Massachusetts resumes I desire to ask him a question. He has said that it is no fault of ours that the "great obstructor" is in the White House. Is the gentleman quite sure that it is no fault of ours?

Mr. ELIOT. Now, Mr. Speaker, my colleague [Mr. BUTLER] ought not to lead me away from the line of my argument. This House refused to impeach Mr. Johnson, not because he did not deserve it, but because in the existing condition of things there were other affairs more imperatively demanding attention.

Why, sir, the great heart of this nation is burdened by a mountain of taxation which ought to be lifted up that it may breathe. There is an amount of expense continually incurred aggravated by the civil war which must be reduced. There are questions of finance to be considered and the immense debt which has been accumulating during all these years of war must in some way be brought together that in the end it shall be liquidated dollar by dollar in good, solid coin, and the pledged faith of the nation redeemed. No, sir, we had other things to do besides stopping to impeach the President of the United States.

Now, Mr. Speaker, if that has been imputed to any lack of political firmness, if any one supposes there was any timidity on the part of the House, if anybody on this side or upon the other side entertains such belief as that, I will say they will find themselves in error.

Now, Mr. Speaker, let me devote the few remaining minutes to a consideration of this bill. Sir, every attempt we have made which was mild in form, which was gentle in its character, seems only to have necessitated some more stringent measure. The fault is not with Congress, because we did not commence at the other end. We tried to get along without this stringent legislation, which recent events show now to be necessary. The time, sir, may come when it will be seen that the most radical policy would have secured the earliest peace.

It was believed, sir, when the bill which we are now amending was passed, that its provisions were sufficient. But they are not sufficient; and it has become necessary for us to legislate further on the subject. Upon these questions, in whose belief and in what interests are the members of the House desirous to legislate? Do you want to help the rebels? Do you want to strengthen the arms of those who have been endeavoring to strike down the power of this Government? If so, then do not pass this bill. Is it necessary to help the loyal men of the country? Cries come up from every quarter that unless some such measure as this is passed we will find continual obstructions

thrown in our way so great that it will be a long time to come before those States are restored to the Union.

Mr. Speaker, when they do come back we mean that they shall come back as loyal States. We mean "to fight it out on this line if it takes all summer." The Republican party have declared their doctrine. They have taken their ground and they are prepared to defend it. If obstructions are put in their way they are prepared, with the blessing of God, to remove those obstructions.

What does this bill contain? It provides that these existing State governments shall not be recognized as valid by executive or judicial authority. Sir, they ought not to be recognized as valid. We have been tampering too long with that question. We have allowed those State governments to be recognized for too many purposes. It was well enough to have provisional governments established—I cannot stop to criticise that action on the part of the Executive—but they should not have been continued after Congress met and after Congress could act. Sir, they have been in our way heretofore. They are in our way now. The officers carrying them on are opposed to us, and it is utterly in vain to attempt to bring them back.

Mr. HARDING. I should like to have the gentleman answer a question.

Mr. ELIOT. I do not like to refuse to answer, but I have not time.

Mr. HARDING. I ask whether this bill authorizes the general in command of the district to recognize and establish these rebel governments?

Mr. ELIOT. I think not.

Mr. HARDING. Yes, sir.

Mr. ELIOT. If the gentleman will read the bill he will find that is not its character. It provides the general shall have power at his discretion to remove those civil officers of these governments. It provides that the President shall have no power to detail military officers to the military departments or to remove them. I think we have experience enough that if left in the hands of the general of the Army the power will be safely and judiciously used. It provides that the Army of the United States shall not be used against the authority of the United States. It is a wonderful provision, marvelous in its character, and if it had not been introduced by so cautious, so judicious, so conservative a member of this House as the gentleman from Ohio, [Mr. BINGHAM,] I should feel apprehensive that some how or other some radical breathing had been infused into the ears of the committee, and had found expression in this bill.

It provides that illegal interference to prevent action or obstruct the law shall be a crime punishable by fine and imprisonment. Who is there that can object to that? It is a strange thing, Mr. Speaker, that we are called upon in this year of grace by our friend from Ohio [Mr. BINGHAM] to legislate upon a proposition like that. It ought not to be needful, but we know right well that it is needful, and there stands not a man on the floor of the House who can give a good reason against its exercise. It is no good reason that by possibility it may apply to and affect the officer who now occupies the chair of the Chief Executive of this Government. It can do no harm to any one who seeks to stand by the law; and if it be a terror to evil-doers, let them not find their champion in this House.

Sir, if gentler measures have failed, more stringent must be adopted. As it was in the field, so it must be in council, until here, as there, the flag of disloyalty shall be struck, and its forces surrender, and a Union perpetual, because free, shall be secured.

Mr. PAINE. Mr. Speaker, I yield to the gentleman from Ohio, [Mr. BINGHAM,] who desires to submit a motion.

RECESS TO-DAY.

Mr. BINGHAM. I ask that the House consent to take a recess from half past four until six o'clock, and that the evening session be for debate only. I beg leave to say that after the morning hour to-morrow I shall call the previous question and take the sense of the House.

The SPEAKER. The Chair will state that seven o'clock has been the usual hour for an evening session. It is very difficult for members to get here at six o'clock.

Mr. BINGHAM. I accept the suggestion, and modify my motion accordingly. I desire it to be understood that there will be no vote taken till to-morrow.

Mr. ROSS. I suggest that the debate be limited to half an hour for each speaker, in order that more members may have an opportunity to be heard.

The SPEAKER. That motion can be made after the present one is disposed of. This can be decided by a majority.

The motion of Mr. BINGHAM was agreed to; and the House accordingly resolved to take a recess from half past four o'clock till seven o'clock this evening, the evening session to be for debate only.

LIMITATION OF DEBATE.

Mr. ROSS. I move that each member be limited to half an hour in the discussion this evening.

The motion was agreed to by unanimous consent.

RECONSTRUCTION—AGAIN.

Mr. LOUGHRIDGE. Mr. Speaker, from the manner in which some of the gentlemen upon this side of the House speak of the acting President, I am led to think that they are upon the stool of repentance for their vote on the question of impeachment. If not now, I apprehend from the signs of the times that they will, ere long, regret their course in opposing the impeachment of that officer, guilty, as he most assuredly has been, of the grossest usurpations. If by his power, influence, and patronage, exerted in opposition to the loyal people of the South, the wrong should triumph and the right be crushed, the victims cannot shake their gory locks at me and say that I did it.

Sir, the object of this bill, as of the former bills passed by Congress upon the same subject, is to provide by law the proper means to carry into effect that clause in the Constitution of the United States guarantying a republican form of government to every State, and thus to enable the people of the lately rebellious States to organize republican governments. The first section of the bill declares that in the States named there are no civil governments republican in form. And the remaining sections of the bill provide means for the more speedy enforcement of the laws heretofore passed to organize governments in those States.

Now, sir, is the declaration in the first section of the bill, that in the States named therein there exists no legal governments republican in form, true? If it is not true; if there are legal governments in those States republican in form, then there is no cause for the passage of this bill. If it is true, then most assuredly it is the duty of some proper power, having the authority for that purpose, to see to it that those States are speedily guarantied legal governments republican in form.

When the ten States named in the bill entered into the rebellion against the Government and compassed its overthrow the people of those States voluntarily set aside and destroyed their previously existing State governments, and set up in their stead new and strange governments in opposition and hostility to the Government of the United States. For the purpose of overthrowing such rebel governments the United States prosecuted a war against them for nearly four years—a war which cost the Government untold millions of treasure and the lives of hundreds of thousands of its best citizens, and after a long and bloody struggle succeeded in totally overthrowing and and destroying such rebel governments.

What, then, was the condition of those States at the close of that war? Most obviously, sir, they were destitute of any civil government. They had themselves destroyed their old governments and set up others, which had an actual existence four years, and they were in turn destroyed by the power of the United States; and thus they were left without any governments. I desire to refer the gentlemen upon the opposite side to the language of the President in his proclamation of May 29, 1865, organizing a provisional government in the State of North Carolina; and I refer to this with more confidence in the weight to be given it by them because the acting President has recently been rebaptized into the Democratic church, and is now a member in good and regular standing. I trust he may show more fidelity to his new friends than he has to those who placed him in power.

In the proclamation of May 29, 1865, for the organization of a provisional government in the State of North Carolina—a paper drawn up undoubtedly with great care—Mr. Johnson used the following language:

"Whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof," * * * * "has, in its revolutionary course, deprived the people of the State of North Carolina of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina in securing them in the enjoyment of a republican form of government: Now, therefore, I, Andrew Johnson, do appoint Wm. W. Holden provisional Governor of the State of North Carolina."

Now, sir, here is one point, at least, upon which the Executive and Congress agree perfectly, namely: that at the close of the war the States which had been in rebellion were without any form or kind of civil government. Then, if they have since that time had any civil governments, they must have been instituted by proper authority. The States being without any civil governments, the Constitution devolved upon the United States the duty of guarantying them such governments, republican in form. Upon what department of the United States Government was this duty devolved?

And here, sir, upon this point has arisen the difference between the present acting President of the United States and Congress. Congress, as the supreme legislative power of the country, claims that prerogative. The acting President denies it, and claims it for the executive office. He saw fit at the close of the war, instead of calling a session of Congress, as he should have done at so important a juncture in the history of the country, to take the power in his own hands, and upon his own discretion to decide that those States were without civil governments, and to organize for them governments called by him "provisional governments," appointing governors, prescribing the qualifications of electors, dictating to the people of those States what they should do, and what they should not do, and exercising over them as arbitrary powers as any despot ever assumed; and all this without any authority from or any consultation with any other department of the Government, and in this way set up the only kind of governments that have existed in those States since the rebellion.

Sir, I deny *in toto* the authority of the President to do such acts or exercise such powers. I defy any gentleman upon this floor to place his finger upon a single clause in the Constitution of the United States giving any such powers to the Executive, directly or indirectly; it cannot be done. I affirm that in doing these acts the President exercised high powers not granted to him by the letter or spirit of the Constitution, authority not coming to him through that instrument. In his late message to Congress the President uses the following language:

"If the authority we desire to use does not come to us through the Constitution we can exercise it only by usurpation, and usurpation is the most dangerous of political crimes."

Now, sir, the authority he has thus exercised does not come to him through the Constitution, and by his own admission he is guilty

of usurpation. These late pretended governments are the creatures of usurpation, and are void *ab initio*. The power to reorganize governments in those States and to guaranty them republican governments is in Congress and Congress alone. Go to the Constitution; its provisions are plain; so plain that they need not be misunderstood. Article four, section four, from which the President claimed to derive the authority for his acts, reads as follows:

"The United States shall guaranty to every State in this Union a republican form of government."

This power is here given, not to the President nor to Congress directly, but to the Government in general terms. Then the question arises, in which department does the Constitution vest the execution of this duty? I claim that all the powers vested in the Government and not expressly granted to the other departments are vested in Congress. The executive and the judicial departments have no powers other than those expressly granted; they have no implied powers. All the implied powers of the Government are in Congress. If any power is granted to the Government and the Constitution is silent as to which of the departments shall exercise such power it is in Congress. This is plain by the eighteenth clause of section eight, article one, which reads as follows:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Now, sir, this "guarantee" power is vested in the "United States" Government, and this last quoted section provides that Congress shall have the power to make all laws necessary for the carrying into execution such power. It seems to me that these provisions are so plain that there ought to be no difference of opinion in relation to them. Now, sir, at this point I desire to introduce the opinion of a great statesman of the past, one who, while greatly in error upon the question of State rights, was yet one of the greatest writers of this or any other country, and his peculiar views upon State rights should give to his opinion here introduced greater weight, certainly with the people of South Carolina, who deny so stoutly our power here. His opinion should be entitled to great weight, and State rights Democrats certainly will not question the authority. I refer to John C. Calhoun, and request the Clerk to read from page 217, volume one, of Calhoun's works.

The Clerk read as follows:

"I shall begin with the legislative department, which in all popular governments must be the most prominent and, at least in theory, the strongest. Its powers are vested in Congress. To it all the functionaries of the other two departments are responsible through the impeaching power, while its members are responsible only to the people of their respective States: those of the Senate to them in their corporate character as States; and those of the House of Representatives in their individual character as citizens of the several States. To guard its members more effectually against the control of the other two departments they are privileged from arrest in all cases, except for treason, felony, and breach of the peace, during their attendance on the session of their respective Houses and in going to and returning from the same; and from being questioned in any other place for any speech or debate in either House. It possesses besides, by an express provision of the Constitution, all the discretionary powers vested in the Government, whether the same appertain to the legislative, executive, or judicial departments. It is to be found in the first article, eighth section, eighteenth clause, which declares that Congress shall have power 'to make all laws necessary and proper for carrying into execution the foregoing powers,' (those vested in Congress,) 'and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.' This clause is explicit. It includes all that are usually called 'implied powers;' that is, powers to carry into effect those expressly delegated, and vests them expressly in Congress so clearly as to exclude the possibility of doubt. Neither the judicial department nor any officer of the Government can exercise any power not expressly and by name vested in them either by the Constitution or by an act of Congress; nor can they exercise any implied power in carrying them into execution without the express sanction of law."

Mr. LOUGHRIDGE. The gentleman from Wisconsin [Mr. ELDRIDGE] claimed on yesterday that Congress cannot derive the power to reconstruct these States from section four of article four, for the reason that as no governments existed, that could not be guarantied which does not exist. Now, sir, this view would make that provision of the Constitution a fallacy. According to him, as long as the power is not needed it exists, but the moment it is needed it at once ceases to exist; assuredly as long as republican governments exist the power is not needed. Suppose that the State of Wisconsin should destroy her present republican government and set up one anti-republican in its stead. Where is the remedy for the minority of the people of that State? There must be a remedy. Is it in the executive power of the President? Could he forthwith decide for himself that the new government was anti-republican and appoint a provisional governor, as he did in North Carolina, and organize a provisional government? I apprehend he would not attempt such high-handed power with the citizens of that gallant State. Where, then, is the remedy? The gentleman says it is not in Congress under the guarantee section for the reason that no republican government exists, and that cannot be guarantied which has no existence. The argument is fallacious. The Government has the power in such case to guaranty; the grant of this power is the grant of all necessary powers to carry such power into effect. Consequently, under the "guarantee" section taken in connection with the eighteenth clause of section eight, article one, the Government, acting through Congress, has the implied power; first, to declare whether such government is republican in form or not, and having declared it not to be; second, to pass all needful laws to carry the "guarantee" into effect, one of which would be to provide for the institution of a government where none existed, and then having instituted it to guaranty its existence.

I beg leave to refer again on this point to the writings of Mr. Calhoun. On page 332 of the work before referred to I find the following:

"Take, for illustration, what is called the 'guarantee section' of the Constitution, which, among other things, provides that 'the United States shall guaranty to every State a republican form of government, and protect each of them, on application of the executive, (when the Legislature cannot be convened,) against domestic violence.' Congress, of course, as the representative of the United States, in its legislative capacity, has the right to make laws to carry these guarantees into execution. This involves the right, in reference to the first, to determine what form of government is republican."

The gentleman from Wisconsin must not wander from the old land-marks of the party or disregard the teachings of its fathers. But, sir, the President, in his North Carolina proclamation, in which he alleges that no civil governments existed in that State, predicates his right to institute governments upon this "guarantee" section. The only mistake he made was in presuming that he constituted the United States. Sir, I claim, then, that it is true that no civil governments exist in said States; that those pretended governments set up by the President are void; and that Congress not only has the power but that it is the duty of Congress, made such by the Constitution, to guaranty republican governments to said States; to pass the proper and needful laws for that purpose; and, when governments are formed, to decide whether or not they are republican in form before they shall be valid; and when governments are formed by proper authority and decided to be republican by Congress, then, and not till then, should those States be admitted to the places and position in the Government from which they by their voluntary action withdrew for the purpose of destroying the Government; and the only reason they are now claiming their forfeited rights is because they had not the power to overthrow the Government and blot it from the map of the nations of the earth.

The gentleman from New York who makes the minority report seems to lay great stress upon the fact that four of the States named in the bill were of the original thirteen which framed the Constitution. Sir, does that in any manner affect the power of Congress over such States or lessen the guilt or responsibility of their people? By no means. It adds to their guilt. They are, it is true, of the oldest States. But, sir, age does not always bring virtue nor experience wisdom. I can point the gentleman to a new State in the far West, the eastern border of which is laved by the Father of Waters—a State which was a wilderness inhabited by savages and wild beasts for forty years after the time when these four States participated in framing this Government. And yet, when these ancient and honored States raised their parricidal hands to destroy the Government they had assisted to create, this new State of the West rushed to its rescue, and sent to the battle-field in its defense eighty thousand soldiers as brave as ever trod the green earth. It need not be told to the people of Iowa to-day that because South Carolina was one of the "original thirteen" she is above the power of the United States to guaranty her a republican form of government. You may tell them that, sir, but they will not believe you.

It is exceedingly unfortunate for the country, and especially so for the rebel States, that the President has seen fit to continue his contest with the legislative power of the country. Had he acquiesced in the action of Congress, indorsed as it has been time and again by the loyal people of the land, those States would to-day have been represented in these Halls and fully restored. I believe it to be the will and the settled determination of the loyal people of this land—they who have always been true to their flag, they who by immense sacrifices have saved the Republic from threatened destruction, and restored its authority, they whose brothers and sons in countless numbers lie unknelled and uncoffined where they fell in defense of the Government, on the hills, in the valleys, and along the rivers of the South—that before these States are readmitted and restored to their former relations there shall be sufficient guarantees in the proper construction of their governments; that the people shall never be called upon to fight down another rebellion. They ask no indemnity for the past. They submit to lose all they have of treasure and of life, but they do demand, and they have a right to demand, security for the future. And I say to gentlemen who seem to be flattering themselves with the idea that upon this question a reaction is taking place among the people of the North, "lay not that flattering unction to your souls."

The people, upon this question, were never more determined than they are to-day. There is too much good sense among the people of this Government to permit them to so act as to throw away all they have gained for themselves, for their country, and for the cause of universal liberty, by their untold sacrifices made in the suppression of the most accursed and unnatural rebellion that has stained the annals of history. And, sir, when the issue is fairly made, as it will be in the next presidential election, whether the loyal people of the land shall be robbed of the fruits of their glorious struggle and the Government placed in the hands of those who have endeavored to destroy it, or whether it shall be retained in the control of those who saved it, I have no fears of the result. For after the sacrifices and struggles and glorious triumphs of the past eight years it would be criminal in me to doubt the intelligence and patriotism of the people and their ability to carry this Government safely through the most severe trials, unawed by fear and undeceived by sophistry.

Mr. PAINE. Mr. Speaker, the President will, of course, veto this bill. He will probably give us the same reasons which he has so often given us for vetoing and opposing our reconstruction acts. He will denounce, as in his Texas proclamation of August 20, 1866, and in his veto of our last reconstruction bill, and in his last annual message he denounced this legislation, as inconsistent with the decla-

ration made at the commencement of the rebellion by both Houses of Congress, that the war was not—

"Waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects 'were' accomplished the war ought to cease."

This resolution was adopted by the Senate on motion of Mr. Johnson himself on the 25th day of July, 1861. A similar resolution had been adopted by this House on the 22d of the same month. The war had just commenced; Senators and Representatives were staggering under the first thunderbolt of the rebellion. All at once they saw the country swept by the tide of civil war. They knew not how soon all would go to the bottom. They knew not how many traitors were among the crew. In agony, almost in despair, they groped for means and measures to save or help their imperiled country. As drowning men, they caught at straws. It would not have been surprising if they had then accepted from Mr. Johnson a resolution which might possibly have involved them in inconsistency at a later stage of the struggle. But fortunately they did not become involved in any such inconsistency. We may well be amazed that they did not. For when nations embark in war they cease to be their own masters. They may commence it, offensively or defensively, and at its commencement may solemnly declare its character and purpose, but when it is once begun the resistless current of events sweeps away like sand-heaps their solemn declarations, and God only knows how soon or how often the character and issues of the struggle may change, into what unknown seas of strife it may drift, or what its end may be. It might have been true that a resolution which correctly set forth the character and issues of the war at the outset would fail to give a correct statement of its character and issues at its close; for in a war involving millions of combatants, covering a continent and raging through a period of four years, what man or hundred men or thousand men could assume to determine the course of its stupendous events, rushing upon one another with the speed of the lightning and the confusion of the whirlwind? What man or thousand men would be able to regulate its issues, shape its character, or fix its limit? It might well be that in a war of such proportions measures which at the outset appeared unnecessary to the accomplishment of the grand objects of the struggle would be shown in the progress of events to be absolutely essential to success. In such a case what patriot would say that a mere expression of opinion at its commencement by two hundred of its citizens should be permitted to inure to the ruin of the Republic? Why, sir, if such a mistake had been made in the form of a statute law it would simply have been our duty to repeal it and save the nation. But this resolution never took the form of law; it was not even a joint resolution: it was not even a concurrent resolution. The whole of it was that the two Houses of Congress adopted, each on its own responsibility, substantially the same resolution. It was, therefore, only the expression of the opinion of some two hundred citizens of the United States. If it had been a law or joint resolution, and had proclaimed issues which, although then actually subsisting, were subsequently changed by the overwhelming tide of war, would it not have been the part of statesmen and patriots to repeal the law or resolution? Would it not have been for enemies of the Republic to insist that the law or resolution should stand unrepealed, a permanent obstacle to reconstruction and peace? Could we have absolved ourselves from our duty to save the Republic, to maintain the Constitution, and preserve the Union by the plea that we had promised rebels or anybody else not to do it?

But, sir, it happened in this case that what these Senators and Representatives declared to be the purpose of the war in the beginning continued to be the purpose of the war at the end. I repeat that it would not have been strange if this purpose had changed; and if it had changed this nation would not have been in honor bound to die rather than repeal the law; still less would it have been bound to die rather than disregard a paper manifesto of two hundred of its citizens.

Sir, the whole nation was ready to declare at the outset that the war was not waged for the purpose of emancipating the blacks; and it was true, for not one soldier in ten entered the Army for that specific purpose. Now, suppose that the nation had in some form put that declaration on record, as did Mr. Johnson's Secretary of State, and afterward in the agony of the struggle had found that it must either free and arm the blacks or perish, where is the patriot who will say that it was the duty of the nation to withhold freedom and the bayonet from the blacks and lie down and die? Suppose that the Government had at the commencement of the war or at any stage of its progress solemnly declared that it was not the object of the Government to secure suffrage to the blacks in the rebel States and yet had afterward reached the conviction that in order to save the Republic it was necessary to give not only freedom and the bayonet but also the ballot to the blacks, where is the patriot to stand up and say that it would be the duty of the Republic to flounder forever upon a sea of half-suppressed rebellion rather than enfranchise the blacks because their enfranchisement had not been the original object of the war notwithstanding it appeared to be a measure absolutely essential to the accomplishment of that object?

Consistency is, indeed, a jewel. But consistency requires no nation to stand upon a declaration of fact at the end of a war which is then false, though true at the beginning. Consistency does not require a nation to reject a measure found necessary as the means of attaining the grand object of a war because such measure was not at first its object.

Let us recur, sir, to the precise language of this resolution. First, it is declared that "the war is not waged on our part in a spirit of oppression." No impartial judge who shall carefully read the history of this war, commencing with the indignities and outrages heaped upon northern patriots by southern traitors for twenty years in the Halls of Congress, and in every part of the Republic, from the St. Lawrence to the Rio Grande, and ending in the horrors of Fort Pillow, Andersonville, and New Orleans, will venture to charge us with a spirit of oppression. Until we were actually driven to the wall by rebel atrocities was it not the ceaseless jeer of southern rebels that northern men were utterly destitute of even spirit enough to vindicate their own manhood? Oppression! Sir, pusillanimity would have been the appropriate word but for the iron virtues which rebel outrages finally forged out of our yielding natures. There has been no spirit of oppression on our part at the commencement of the war, during its progress, or since its close. Impartial history will record, as candid men throughout Christendom will admit, that never were such rebels treated with such amazing tenderness when overcome. In the cause of liberty John Brown and his associates perished on the scaffold for treason to the State of Virginia. No scaffold has yet arisen for one of the leaders of those who in the interest of the most merciless bondage ever known on earth and in modes of unparalleled atrocity perpetrated treason against the American Union.

It is next declared that the war was not waged on our part "for any purpose of conquest or subjugation." This proposition has also been, from the beginning of the war to its end, in letter and in spirit true. Conquest and subjugation were never our objects. They became necessary means for the accomplishment of our grand object, the maintenance of the Union and the Constitution, and we used them as means and thus only. Nor was it expressed or implied in this resolution that the nation ought not to or would not resort to such measures for the accomplishment of the great purpose of the war. It turned out that the Republic could be saved only by conquering the rebel armies and subjugating the confederacy. If this sentiment of the resolution, instead of being a mere opinion of individuals, had been an absolute covenant of the American people, of perfect obligation, never to make conquest or subjugation a purpose of the war, neither consistency nor good faith would require the nation to die or be forever racked by revolutions rather than use these measures when necessary for the accomplishment of the real object and purpose of the war, the salvation of the country. Inasmuch as this resolution in fact contained no pledge to cover the future exigencies of the gigantic struggle, but only a statement of a state of things then existing, it is hard to regard with patience an attempt to perpetuate rebel State sovereignty upon such a flimsy pretext.

It is next asserted that the war was not waged on our part "for the purpose of overthrowing or interfering with the rights or established institutions of those States." What institutions? Of course, slavery first and foremost. Does the President, notwithstanding all he said and did as emancipator of Tennessee, insist that by this expression we were bound at the end of the war to leave intact slavery as well as the rebel State governments? It is true that we did not enter upon the war with a purpose of abolishing slavery or interfering with the semi-sovereign powers of those States. But it is equally true that this resolution involved no pledge that if the fiery flood of war should ever sweep them away, we would instantly restore them; it contained no pledge, express or implied, that if at any time the exigencies of the struggle should demand it, we would not ourselves destroy slavery and repudiate the rebel State governments. On this point, as on the others, the resolution only purported to set forth a statement of facts then existing; it gave no pledge of future conduct. If it had contained such a pledge it would have bound nobody except as a paper manifesto of a handful out of millions of citizens of the Republic.

It is finally asserted that the war was waged "to maintain and defend the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired;" and that "as soon as these objects" were "accomplished the war ought to cease." The President seems to perceive in this clause abundant reason for denouncing our repudiation of his provisional governments. I will not stop to discuss the logic or consistency which can justify the abolition of seven existing State governments by executive proclamations and the substitution therefor of mere creatures of the executive will, and can at the same instant denounce us for repudiating—not the State governments which existed at the capture of the rebel armies, for the President had already extinguished them—but the nondescript governments which he himself had set up in their stead. Certainly if this resolution was obligatory upon anybody it was obligatory upon its author, now President of the United States.

To maintain the supremacy of the Constitution and laws, and to preserve the Union with all the dignity, equality, and rights of the States unimpaired, was at the beginning of the war, ever since has been, and now is, our object and purpose. It certainly has not been our purpose to justify or uphold the crimes of particular States at the cost of the existence of the nation and the Constitution. It has not been our purpose to sacrifice the Union and the Constitution in order to shield particular States from the consequences of their own crimes. It has not been our purpose to perpetuate by force the State existence of a particular community struggling to throw it off. It

has not been our purpose to force back upon any particular people a State existence under the Constitution which they may have insolently thrown off. It has not been our purpose to enable eleven rebel States to trample under foot the dignity, equality, and rights of twenty-five. It was not our purpose so to use the military resources of the country that those eleven States, after the sacrifice of a million of loyal men and billions of treasure, could assume at once such an attitude of State sovereignty as would enable them to commence the accumulation of resources for a repetition of their treason. It was not our purpose to reward crime by arresting from loyal and faithful States their undisputed, undoubted rights, and heaping upon traitor States such privileges and immunities as are not conferred by the Constitution even upon loyal States. No, sir; such was not our object. It was our purpose so to wage the war that the dignity, equality, and rights of all the States should for all coming time be placed upon their true solid constitutional ground. This could only be accomplished by vindicating the supremacy of the Constitution and the sanctity of the Union. We knew then, as we know now, that to permit particular States to repudiate the Constitution and destroy the Union was not the true way to preserve the dignity and rights of the States under the Constitution. We knew that if the supremacy of the Constitution and the integrity of the Union could be maintained, then and then only would the rights and dignity and equality of the States be preserved, whatever temporary penalties particular States might pay for their attempts to subvert them.

Ordinary statutes, enacted for the punishment of crime, aim to protect the rights of individuals. Can it be said that this object is disregarded when the man who attempts murder is arrested and temporarily deprived of his weapons, his liberty, or his vote? How else can you protect the rights of the rest of the world? How can you protect the rights even of the criminal himself except by vindicating the majesty of the law? If the law is set at naught not only are the rights of all other men imperilled but even his also. For when his disability shall be removed his restored rights will be valuable to him still. But they will perish with the law. It was so with the rebels. It was absolutely inevitable that we should temporarily delay the restoration of their State governments or see the Union either perish at once or tremble, for how long a time God only knows, on a smouldering volcano of revolution. In that event the rights—the qualified sovereignty guarantied by the Constitution to the States—would have been of no value to them or to us. But by vindicating the majesty and sanctity of the Union and the Constitution against all enemies, whether individuals or States, we have preserved and perpetuated these rights not only to ourselves but also to the rebels, and the day will come when they will thank God that we have enforced a policy which, though to them a temporary annoyance, will prove even to them a permanent blessing; the time may come when they will rejoice that we have reared a bulwark of national strength which they can interpose between their own rights and threatened wrongs from other States.

The President, in his annual message, denounces our reconstruction legislation as unauthorized by the Federal Constitution. We shall doubtless hear the same denunciations in his coming veto. I regret that a remark of the ablest champion of freedom on this floor has been misconstrued into acquiescence in the justice of this charge. When the gentleman from Pennsylvania [Mr. STEVENS] arose to move the previous question on the passage of our amendatory reconstruction bill over the President's veto on the 20th day of last July, he said:

"The President starts by asserting what, if true, makes out all the rest of his argument legitimately. He says that the Constitution of the United States is theoretically operative in the conquered southern States. If that were true then all we have been doing is rank usurpation, and all he has been doing is legitimate action. I deny that the Constitution is theoretically or actually in operation in any one of those States any more than it is in a Territory."

This statement occasioned a profound sensation in this House and throughout the country. "Any more than it is in a Territory." Unfortunately too many, both here and elsewhere, overlooked or forgot the qualification contained in these words. The gentleman did not then assert that the Constitution was wholly inoperative in those rebellious districts. He denied that it was operative there otherwise than in the Territories, which was tantamount to denying that it was in operation there as in the recognized States of the Republic. In this almost all loyal men in the country will agree with him. But this memorable speech has been tortured into a denial that the Federal Constitution was operative at all in those districts. It has been an overflowing fountain of aid and comfort to the foes of these reconstruction measures, and of sorrow and chagrin to their friends. If he had declared that the Constitution had no operation at all in those districts I could not have acquiesced in the declaration any more than in the proposition that the Constitution has no operation at all in the Territories. But if the Constitution is in operation in those districts as in the States I do not think it follows that the President's policy was legitimate action, although it certainly does follow that ours was rank usurpation. The President's course would be in that case no less a usurpation than our own. For neither the President nor the Congress has a right to deal with States as they have dealt with these districts.

If, however, the gentleman from Pennsylvania had asserted that the admission that the Constitution was operative at all in those districts involved the admission that the President's course was legitimate action and ours rank usurpation, then would the truth have been, I think, exactly the reverse of his proposition. For while it is very clear to my mind that if these districts sustained under the Constitution the relation of Territories, whether conquered or not conquered, the President's course was rank usurpation, it is equally clear that if they were in no sense under the Constitution it is not for us to denounce the action of the President as rank usurpation. I should be glad to know by what law we are to try his official acts in the premises unless by the Constitution of the United States. If these districts are not subject to but outside of the Constitution I should be glad to know by what rule the powers and functions of government to be exercised in this case are to be distributed among its several executive, judicial, and legislative branches. Who is to say that this or that act performed by one of the departments of the Government is an invasion of another, a usurpation of anything or against anything, if such act is not to be tested by the Federal Constitution? Where else than in that Constitution do you read that Congress shall wield the legislative power of the nation? If the work of reconstruction lies outside of it, who can say what the President or Congress or the Supreme Court may or may not do in the premises? Which Department can presume to circumscribe the functions or powers of another? Will it be said that under the law of nations, without any constitution, all governmental power in this Republic, executive and judicial, as well as legislative, would reside in Congress? Show me, sir, the page of the law of nations upon which any such doctrine as that is written. Certainly it is for this law of nations to indicate what our Republic, as one of the sovereign Powers of the world, may or may not do. But never can that law be permitted to determine the interior distribution of sovereign powers and functions among the several departments of any government. It nowise concerns the law of nations whether these powers are centered in an absolute monarch or more or less distributed, as in a constitutional monarchy or republic. Tried by the law of nations, then, the President's career in the lately rebellious States is no usurpation as against Congress. It is not for that law to decide between him and us. In the eye of that law it is a matter of absolute indifference whether he exercises our powers or we exercise his, or the Supreme Court usurps the whole.

If, therefore, the gentleman from Pennsylvania had shown that the Constitution had actually nothing to do with these communities, instead of convicting he would have honorably acquitted the President of usurpation; he would have sounded the signal for a triangular contest between the several departments of the Government for the controlof these districts. If he is of the opinion that such a doctrine would, to use his own words, render reconstruction as easy as any problem in Euclid I humbly differ with him. I think the result of such a triangular squabble would be that the base and the hypothenuse would get completely wrecked while the perpendicular would sweep triumphantly around the circle. But if he meant, what his language obviously imports, that the Constitution was neither wholly inoperative in those districts nor operative there as in States, but as in Territories and only as in Territories, then, indeed, does his doctrine remove all difficulties from the case. For whether you regard them as sustaining to the Constitution a relation analogous to that of mere Territories, or the relation of conquered Territories, you are alike free from embarrassment. If you treat them as Territories subject to the Constitution, your Constitution shows by what departments respectively the regulations for their government are to be framed and administered, and what all of these departments together may do. If you regard them as conquests, the law of nations shows what the nation may do in the premises, and the Constitution shows by what particular departments of the Government its several powers are to be exercised. Whether you call them, then, mere Territories or conquests, or both at once, you find that in either character they fall into the hands of Congress, the legislative department of the Government, and that all the powers of reconstruction springing from both of these relations vest in Congress, which may at its option exercise one class or the other, or both, in the reconstruction of the lately rebellious States.

The President assails us for declaring in our military bill that these governments are not legal and at the same time authorizing the district commanders to use them. But there is no ground for any such charge. We found there certain political machines in operation which the President had manufactured by his seven memorable proclamations, and which he called State governments. And the question considered by the Committee on Reconstruction, and afterward by the House, was whether we should at once annihilate these machines or so legislate that the district commanders could lawfully make use of whatever, if anything, they might find useful in them. If we had annihilated them we should have compelled each district commander to appoint without delay thousands of officers and to frame entire systems of general and local laws. This would have involved immense labor upon details which, if it could possibly have been performed at all, could only have been performed at the sacrifice of other duties which could neither be delegated nor deferred. Nor could the district commanders have appointed thousands of officers at once in those districts, without making many appointments of very bad men whom they would upon trial have found it necessary to remove.

We decided, therefore, to permit the district commanders to use these officers and systems of laws, or not to use them, as they saw fit, making it their duty to remove all who should be disloyal to the Government or hinder the work of reconstruction. We framed such a law that these systems and officers, while so used, were made valid and legal. But this validity springs altogether from the act of Congress. It is derived from no State law, from no presidential act or proclamation. These

officers and systems when so used are not State officers nor State governments nor State laws, but the creatures and temporary agents of the national Government. During the short time that reconstruction was to be in the hands of the district commanders it was necessary that peace and order should be maintained by the use of some system of rules and regulations and by the employment of officers of some kind to enforce them. We found governments, laws, and officers there in actual though unauthorized existence. We provided that the district commanders might use such of them as they should find useful, and being so used they are made valid and lawful by act of Congress.

The charge of inconsistency therefore falls to the ground. It is true that Congress has declared these governments illegal as State governments, but it is not true that Congress attempts to administer them as State governments, whether legal or illegal. In its hands they are machines which as emanations of State sovereignty or executive usurpation had no legality or validity, but which while permitted by the district commanders or by Congress to exist stand as its own adopted means of reconstruction upon Federal law duly and constitutionally enacted.

The President is quite correct when he says in his last veto message that it would be—

"A novel spectacle if Congress should attempt to carry on a legal State government by the agency of its own officers."

Congress never did. I trust, sir, Congress never will attempt to carry on a legal State government by the agency of its own officers. But, sir, there would be no novelty in such an attempt on the part of the President. He now insists that these communities were, when their armies were captured, just as truly and completely States, and their governments just as truly and completely State governments as ever. And yet in May, June, and July, 1866, he actually appointed seven governors to carry on these legal State governments, having removed those the rebels had chosen, and thenceforth actually did carry on these legal State governments, as he called them, by the agency of his own officers, the governors so appointed.

The President, in the same veto message, says:

"It is yet more strange that Congress attempts to sustain and carry on an illegal State government by the same Federal agency."

A more careful examination of the act would have shown him that Congress did not attempt to carry them on as State governments, whether legal or illegal. Congress has not attempted, I trust will not attempt, so indefensible an act. But such an attempt on the part of the President would not be strange; for two years ago he proclaimed these State governments—now so sacred in his eyes—so illegal as to be utter nullities, and yet proceeded to carry them on by the agency of governors of his own appointment. No, sir, we have not attempted to carry on illegal State governments by Federal agencies as State governments. We found in actual existence illegal governments which had been substituted by Andrew Johnson for other illegal governments which he had found in actual existence; and such parts of these—such of their laws and officers as we have found convenient to our hands—we have taken hold of and legalized by Federal statute, and used, not as State governments, State laws, or State officers, but as temporary Federal agencies for the reconstruction of the rebel States.

And these State governments being illegal we could not without a gross violation of duty revive them instantaneously in the hands of their rebel administrators. Our duty to the Republic, yet rocking on a bloody sea of suppressed rebellion, beneath whose waves lay lost such priceless treasures of life and gold, forbade it. Our duty to the soldiers, both the dead and the living, forbade it. Our duty to the stern men and tearful women who sent them forth to the battle and followed them with their benedictions and prayers forbade it. Our duty to those southern patriots who bore aloft unsullied the flag of heaven while they themselves walked in the infernal fires of southern treason, forbade it. Our duty to the faithful blacks who demanded that their fidelity to the Union should not drag them down into unwonted torments forbade it. Our duty to the human race, for whom we bore the ark of the covenant of human freedom, forbade it. Nay, sir, our duty to the rebels themselves and to their posterity, whose destiny is bound up with ours and our common country's, forbade it. If we had done so, God who smote us with war and gave us the victory that slavery might die and the nation live, would have cursed us for our cowardly bequest of wars and woes to future generations.

The President complains that we have stripped him of many of his constitutional prerogatives while he still remains bound by all his constitutional responsibilities; that we deprive him of the power to appoint officers, and yet hold him to the correlative duty of taking care that the laws are faithfully executed. It is not to be denied, sir, that his conduct has compelled us to withdraw temporarily from the President powers with which, in the days of Washington and Lincoln, nay, even in the days of Fillmore and Tyler, the people were content to intrust him. But in this we have not violated the Constitution. The President errs when he supposes that the duty to see that the laws are executed, and the power to choose and control officers are coextensive or inseparable. For, while the Constitution does make it his duty to see that the laws are faithfully executed, it does not empower him to appoint a single officer. He shares that power with the Senate. He may nominate himself, but he can only appoint by and with the advice and consent of the Senate. And yet, Mr. Speaker, the Constitution does not require the Senate any more than the House to see that the laws are faithfully executed. Now, this constitutional duty of the President is fully performed when he uses such means as the law provides for compelling officers duly appointed to execute laws duly enacted.

In his proclamation, that he "can never give his assent to be made responsible for the faithful execution of laws and at the same time surrender that trust and the powers which accompany it," meaning the appointing power, he utterly overlooks the fact that the Constitution gives this power not to the President alone, but to the President and Senate, or, at the option of Congress, to the heads of Departments and the courts. In truth nine tenths of all the officers are appointed by the heads of Departments and by the courts without the slightest possibility of interference by the President. Does this relieve him of nine tenths of his responsibility? Certainly it does if there is anything in his argument. But there is nothing in his argument. The Constitution in no way connects the power of appointment with the duty to see that the laws are faithfully executed. The President is just as solemnly bound to take care that the laws are faithfully executed by the ninety officers appointed by the courts or heads of Departments as by the ten appointed by himself. In either case he does his whole duty when he sees that all who neglect to execute the laws are dealt with according to the law.

The President observes in his last veto message that "another ground on which our reconstruction acts are defended is this: that these ten States are conquered territory and their citizens conquered people." He denies this very emphatically, but gives no reasons. He contents himself with the bald assertion that the United States holds not a foot of land in those regions by conquest except such as may have belonged to the Federal Government. It might be sufficient to meet assertion with counter assertion, but the error lies so near the surface that its exposure will necessitate but a moment's delay. The Supreme Court in the prize cases decided that the late war of the rebellion had "such character and magnitude as to give the United States the same rights and powers which they might exercise in the case of a national or foreign war." I believe these cases were reported and this syllabus drawn by the same hand which drew the President's last veto message. The opinion of the court contains these words:

"It is not necessary that the independence of the revolted province or State be acknowledged in order to constitute it a party belligerent in a war according to the law of nations." * * * * "The law of nations is also called the law of nature; it is founded on the common consent as well as the common sense of the world. It contains no such anomalous doctrine as that which this court are now for the first time, desired to pronounce, to wit: that insurgents who have risen in rebellion against their sovereign, expelled her courts, established a revolutionary government, organized armies, and commenced hostilities, are not enemies, because they are traitors; and a war levied on the Government by traitors in order to dismember and destroy it is not a war, because it is an 'insurrection.' It is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights."

The President speaks of the Supreme Court as "that august tribunal," and evinces the deepest reverence for opinions of that court, even when only gathered by far-fetched inference from immaterial acts of mere routine. Let him not, then, treat with contempt this carefully expressed opinion. For it is so sound and wise that he will in vain appeal from it either to the American people or to Christendom, either to the present generation or to posterity. Does the President mean that in the late war the United States had not the same rights and powers which they would have had in a war against a foreign enemy as the Supreme Court decided? If they had does he mean that the right to conquer the rebels was not one of them, or does he mean that we did not, in fact, conquer them? If he admits that we had a right to conquer them and did conquer them, does he mean that conquest in war does not give the conqueror the right to dispose of the conquered, subject to no limitations except those of humanity, of which he is sole judge? The meaning of the President is obscure. But if he asserts that in the late war we had not belligerent rights, I appeal from him to the undisputed doctrine of all the teachers of international law recognized and enforced by our Supreme Court in the prize cases. If he asserts that the right of conquest is not a belligerent right, I appeal from him to that august tribunal of public teachers, who have written a contrary doctrine upon the tables of international law. If he means that conquest does not give the rights which we have exercised in these reconstruction acts, all of them to their utmost verge, I appeal from him to the same august tribunal. If he means that we have not conquered the rebels in fact, I appeal from him to Grant, Sheridan, and Sherman.

Another reason which the President will probably give for his veto of this bill will be one which long ago became threadbare in his hands. He will, I suppose, inform us that we pretended to wage this war for the preservation of the Union; that the measures of reconstruction which we have adopted suppose the rebels to be out of the Union, and so our war has been a failure. Well, sir, I frankly admit that if we had waged this defensive war against the rebellion to compel these districts to enjoy the rights and privileges of States of the Union it would have been a most wretched failure. But, sir, we waged the war not to force rebels to enjoy privileges but to force them to perform duties. We waged it to compel obedience to the national Constitution and laws and allegiance to the national Union, not to force them to retain the forms or enjoy the rights and privileges of State governments against their will. If, sir, it were true that nobody could owe allegiance to the Union or obedience to the Constitution except citizens of regularly organized States, then indeed was the war a failure. But this is not true. The citizens of Colorado and Dakota and South Carolina and Alabama are just as certainly to-day subject to the national Constitution and within the American Union as are those of Wisconsin and Indiana. And the only reason why South Carolina and Alabama are to-day subject to the Constitution

and in the Union is that the war was successful, and by the bayonet we forced them into that condition.

But, sir, we have not been stupid enough to expend so much of life and treasure to force them to enjoy any rights or privileges, whether of State semi-sovereignty or of any other kind. That concerned them vastly more than it concerned us. We were willing they should enjoy them; nay, we preferred that. But, sir, we never thought of fighting to enforce it. Our object was not, like that of our friends on the other side, to conduct the war in such a way as to preserve carefully to the rebels while fighting and when conquered all their States rights, privileges, organizations, and power in the Federal Government, so that as soon as conquered they might with the help of their northern friends rule again the nation they had failed to ruin, and as soon as possible thereafter be prepared by the accumulation of fresh resources, again to attempt the overthrow of the Union and the Constitution. We fought to save the nation, to save the constitutional government under which it exists, with its system of national, State, municipal, and individual rights fully and finally vindicated. Across our track we found the confederacy and the rebel State governments, and we smote it and them and saved the nation.

Mr. Speaker, the first and second great provisions of this legislation declare the southern governments illegal as State governments and place these districts under military power. Its third great feature is that it secures the right of suffrage to the colored citizens of the Republic. This also the President opposes. It is true that after the reconstruction of State governments shall have been consummated and the Federal arm withdrawn it will be theoretically possible for the States to disfranchise them; but this will not be a practical possibility, for the blacks themselves will have a voice and a vote on the question of their own disfranchisement, and for an indefinite period of time they will be so strong that it will not be done without their consent. Far, far hence will be the day when they will give their consent. Justice demanded this at our hands on the day when the dying echoes of the last rebel gun were sounding in our ears. But prejudice, timid and pusillanimous, stood in our way, as did green-eyed jealousy in the way of our Democratic adversaries. At last love of life, more potent than duty or prejudice, came to the rescue. We saw that there was no safety, absolutely no safety, to the nation except upon the solid rock of loyal reconstruction; that to such loyal reconstruction loyal majorities were indispensable; that we could not have majorities of white votes, and therefore must either have black votes or not have the majorities. Thank God, the necessities of the nation thus rose up as handmaidens to duty. While future generations must award to Congress the honor of this great step in human progress, they will not fail to record who was the President who used the power conferred upon him by Union men to thwart and hinder it. And by this bill we entrust the execution of this plan henceforth to the man whose duty it will be, as our next President, to carry it to a final consummation.

These are the main features of our work The rest are important, but subordinate. We have provided a system of registration intended, and, I believe, well calculated, to secure legal elections. We have prepared an antidote for the bane of presidential pardons. We have made the iron-clad oath the touchstone of official qualification. We have relieved the Attorney General from all responsibility and anxiety about the execution of these laws. And finally, we have provided that our agents shall aim in the execution of the law to carry out our real meaning and not by so-called strict construction thwart it.

And there stands our work. Red-handed rebels cannot now resist it. Their northern allies will be powerless to undermine it. Their presidential agent will be puzzled to evade it. Lukewarm, timid friends will not defeat it. The gates of hell shall not prevail against it. It will be blessed of God, and through it the Republic will be saved and purified, to be perpetuated, I hope and trust, to remote generations.

Mr. KERR obtained the floor.

The SPEAKER. As the hour of the gentleman from Indiana will not expire until five minutes after half past four, the time fixed for taking a recess, if there be no objection the House will not take a recess until the expiration of his hour.

No objection was made.

SALE OF ARSENAL GROUNDS.

Mr. PILE, by unanimous consent, introduced a bill (H. R. No. 45) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

POSTAL TELEGRAPH SYSTEM, ETC.

Mr. FARNSWORTH. I ask unanimous consent to introduce the following resolution:

Resolved, That the Committee on Post Offices and Post Roads are hereby directed to inquire into the expediency of providing by law for the adoption of a postal telegraph system in connection with the Post Office Department; and that said committee also inquire into the expediency and necessity of modifying or repealing altogether the franking privilege; and that they report by bill or otherwise.

Mr. MUNGEN. I object.

RECONSTRUCTION—AGAIN.

The House resumed the consideration of the bill reported by the Committee on Reconstruction.

Mr. KERR. Mr. Speaker, the depth and earnestness of the conviction on my mind that this proposed legislation is utterly vicious and unfit to become a law is so great that it excites in my mind painful apprehension for the welfare of our country. I look upon it, sir, as no matter of passing interest; as no act of ordinary legislation, as no question about which men as mere politicians may wrangle or quarrel. It impresses my mind as involving the very life, the very fundamental principles of this Government; and it is for this reason that I oppose it. I tremble when I reflect that it is proposed by the majority in this House, by this kind of law, to wipe out of existence every limitation upon their power as a party in this country, and to assume almost the power to establish a king; or at least a dictator over a part of our country. I do not envy them the position that will be assigned to them by the future historian of our country and of the political conflicts of this day; and pardon me here for saying that if that distinguished gentleman who seems to be the predestined candidate of this party for the Presidency this year elects to make this bill his platform, then, in my humble judgment, the people of this country will furnish to the future historian another illustrious example of an "engineer hoist with his own petard."

Mr. Speaker, gentlemen upon the other side of this House, from the distinguished gentleman who opened this debate [Mr. BINGHAM] to the gentleman from Illinois, [Mr. FARNSWORTH,] may sneer at our constitutional objections. They may tell the House and the country that it is a joke to come in here and say that anything they propose to do is in violation of the fundamental law of the country; but if gentlemen can find any argument in that kind of thing they are welcome to it. I have heard no new arguments in favor of the constitutionality or the validity of this law in this discussion. I have heard nothing that has not hitherto fallen upon my ear in this House. Aye, Mr. Speaker, I may say that even the magnificent rhetoric of the gentleman from Ohio [Mr. BINGHAM] is not new. It does not fall here upon unfamiliar ears; and I may say more, that the people of this country demand at the hands of this Congress something more than magnificent or maudlin rhetoric and limping logic. They must go to the very pith and marrow of this thing, and convince the judgments of the people by fair and just reasoning, not by appeals to hate and passion, that these schemes are constitutional and designed to promote the welfare of the people, and not merely to advance the interests of party, or they will some day be brought to a realization of the folly and crime of their refusal to do it. Can it be done? I think not, and hence the failure to attempt it.

The honorable gentleman who opened this debate [Mr. BINGHAM] undertook to say various hard things about the Democratic party and their opposition to these measures upon constitutional grounds. So far as the Democratic party is concerned, of which I am so humble a member, I beg leave to say to the gentleman that when we desire to present ourselves to the country upon principles and a platform we know how to do it and need no aid from him. And when he undertakes to attribute to us purposes that are not ours; when he undertakes to say that we would pay the rebel debt, or pension rebel soldiers, or pay for emancipated slaves, or repudiate the payment of a dollar of our own public debt, or to say that we are in any sense a reactionary party, he utters what, in my judgment—and if he does not know it the country knows it—is utterly baseless. The Democratic party is not, never was, and, until it changes its great principles, never can be a reactionary party. It is conservative and reformatory—not revolutionary. Its high destiny is to build up and preserve—not to subvert and destroy.

Now, that honorable gentleman, in the outset of his remarks yesterday, it seemed to me, in cruel irony, if not in solemn mockery of the intelligence of the people of this country, undertook to say that in his judgment the Supreme Court of the United States, if it ever passed upon this law, would hold it to be constitutional. Why, sir, does the honorable gentleman forget that in the very first section of his bill the provision is inserted that the validity of none of these governments shall be recognized either by the executive or judicial power or authority of the United States?

The other day that last citadel of the liberties of the people of this country, hitherto uninvaded, in which preside those magistrates who are supposed to be above the mere squabbles, contentions, or passions of party—that citadel was invaded, and an attempt was made to gag them in the exercise of their high and solemn duties. It is now the pleasure of the honorable gentleman from Ohio to go a step further in that direction, and to say that not only shall not a majority of that tribunal pass upon this law, but the entire court shall not do it. And then, by a provision at the end of this bill, it is provided that if they attempt to exercise that high power, and to hold that this law is unconstitutional, they are to be lashed into obedience to the behests of a party by a fine of $5,000; and then he talks to us about the Supreme Court admitting the constitutionality of this law. The bill further suspends over the magistrates who preside in that court, and over the President, a threat of partisan impeachment, because an attempt to exercise such forbidden jurisdiction by them is therein declared to be a "high misdemeanor;" and under the Constitution such offenses, if previously so declared by law, may be made the ground of impeachment against such officers. It is in this way that the purity and independence of the judiciary are to be preserved. It is in this way, and by this kind of machinery, that gentlemen on the other side of the House seek to protect the rights and liberties of the people. May God save the people from such protection!

Mr. Speaker, if it is in this way that the institutions of this country are to be preserved by this party, I can tell them that the country will discharge them from the sacred offices they now hold, and which, in my judgment, (meaning no personal offense,) they abuse by passing this kind of law.

Mr. Speaker, it is said—for, despite the sneers that sometimes come to the faces of gentlemen, I propose to invite attention to

some of these great constitutional questions—it is contended by nearly every gentleman who has spoken on the other side that this bill is constitutional because the Constitution confers upon Congress the duty of guarantying governments republican in form to the States of this Union. And in that connection the honorable and eloquent gentleman from Ohio bursts into ecstacies of praise of the great fathers and expounders of the Constitution. He seems to felicitate himself upon the idea that he alone is sustained in his positions by these distinguished patriots. I say to the gentleman and to every other gentleman on this floor that I defy the production of one solitary scintilla of authority, either in the books or in the writings of the patriots of this country, for that proposition. Yes, I defy it.

And now I invite the attention of gentlemen and I invoke their admiration for a few utterances of the fathers on this question. Congress must guaranty governments republican in form. What does that mean? Does it mean that Congress may go into a State of this Union—aye, a State never out of the Union and forbidden to go out—and undertake by its own power to build up a system of State governments without their consent? Does it mean that Congress may dictate the form of government to any of the States of this Union? Does it mean, in any sense whatever, to take from the people of this Union their sacred, God-given right of local self-government? Ah, gentlemen, that is the question. It is a question that affects the most vital and indestructible principles of human liberty.

And now listen to the language of Mr. Madison, from the forty-third number of the Federalist. Referring to this provision in the Constitution he says:

"It may possibly be asked whether it may not become a pretext for alterations of the State governments without the concurrence of the States themselves."

Yes, Mr. Speaker, it has come to pass this day. In times past, in the history of this party, it has come to pass. The very danger which he feared is realized by this country now.

"It may be answered that, if the General Government should interpose by virtue of this constitutional authority, it would be, of course, bound to pursue the authority."

Not to go beyond it, but to be limited by it, to be controlled by it—not to attempt to add to it, to make it subservient to temporary or partisan ends.

"But the authority extends no further than to a guarantee of a republican form of government which supposes a *preëxisting government of the form which is to be the guaranteed.*"

Yes, Mr. Speaker, and that is just what we have in this country. In every one of these States there existed a government republican in form—so held by these same patriots—so recognized throughout this Union and the world. It is to this preëxisting government, this established government, resting upon the consent of the governed, that this guarantee extends—not one inch beyond it. To undertake to extend it beyond it is simply a revolutionary attempt on the part of Congress to clothe itself with absolute authority.

Mr. BOUTWELL. Will the gentleman permit me to ask him a question?

Mr. KERR. I fear that the hammer of the Speaker will fall before I have concluded my remarks, but I will yield to the gentleman for a question.

Mr. BOUTWELL. The question which I desire to put to the gentleman is this: if there be in either of these ten States a republican government, which the United States under the Constitution is bound to guaranty, I wish the gentleman to say which government in a particular State it is—whether the government existing there prior to the rebellion or the government created during the rebellion, or the government established since the rebellion, or since flagrant war ceased?

Mr. KERR. My answer is easy. I recognize not one particle of validity in one single act of the rebellion. I hold that the government to be guarantied under this provision is that one which antedates the rebellion. I hold that this government was never destroyed, is not destroyed this day, that it survives the rebellion, and that its functions were simply suspended during the war. That is my doctrine upon this point.

I hold, therefore, and I may as well advert to the point here, that when the President found these States in a condition of disorganization, it was his right under the Constitution, as Commander-in-Chief of the Army and Navy in this country, to see to it that they had the necessary facilities to enable them to make the transition from that condition of disorganization or rebellion to a condition of subordination to the Constitution of the Union. And this is all he did; this is all he attempted to do. This is the only legitimate and constitutional aim that the war could have had. It is the only power that Congress possesses; and when we have exercised that power I say we have exhausted the constitutional functions of this body. That is my answer to the gentleman.

One word further on this point. I hold in my hand the opinion of another of the fathers of this Republic and of the greatest expounders of the Constitution. I refer to no less distinguished a man than Alexander Hamilton. What does he say? Referring to the right of the people of the States by pacific and constitutional modes to change their governments at pleasure, he says, in the twenty-first number of the Federalist:

"This right would remain undiminished. The guarantee could only operate against changes to be effected by violence."

Have you any right, then, under this grant of power to go into those States and not only tear down a preëxisting form of government republican in its character, so recognized by our forefathers ever since its existence, and by the exercise of this power set up a government there that shall carry out your partisan schemes and purposes? I deny it. Before God and the Constitution I denounce such a doctrine as revolutionary.

Mr. DAWES. Will the gentleman allow me to ask him one question?

Mr. KERR. I will hear the question.

Mr. DAWES. The difficulty under which my mind has labored (and I would like to hear the gentleman's solution of it) is this: suppose the State of Massachusetts or the State of Indiana, or any other State of this Union, should actually set up a government not republican in form—so clearly so that there would be no dispute about the matter on the part of the gentleman or of any one else in this House—a government unquestionably not republican in form—a monarchy——

Mr. KERR. Do not make an argument; ask a question.

Mr. DAWES. What is the process; what is the *modus* in which the United States, in the language of the Constitution, can rectify that evil?

Mr. KERR. Mr. Speaker, the gentleman has supposed a case not involved in this argument, which does not present itself in the circumstances of this country to-day. I say, however, that is an issue which never can arise, and which under this guarantee in the Constitution was never expected to rise. It is the duty of the Federal Government, then, in that case, to throw itself back upon this grant of power, or rather to say to that revolutionary State it will maintain its preëxisting republican government.

Let me give the gentleman an answer that will touch his question. The State of Rhode Island lived under a charter granted in 1663 as a member of this Federal Union until the year 1845. In 1842 Thomas W. Dorr and some other men undertook to set up a government which they said was republican in form and to abolish that existing under the royal charter of King Charles. The establishment of that government, republican in form as they claimed, was resisted by the old charter government; and what did they do? They appealed to President Tyler for militia to aid them in defending that government. Subsequently an issue arose as to the validity of that government in the Supreme Court. And that brings me to another of the main propositions upon which these gentlemen place the vindication of this bill—to the case of Luther against Borden. In that case the Supreme Court say that the Federal Government, the political power of the Union, having recognized the charter government in the State of Rhode Island as republican in form, the judicial department and every other department of the government were bound to so hold and decide, were absolutely concluded by that recognition.

Mr. DAWES. I will not interrupt the gentleman if my questions annoy him.

Mr. KERR. They do not annoy me, but my time is short.

Mr. DAWES. I should like to have an answer to my question.

Mr. KERR. What is the question? I will hear it.

Mr. DAWES. I am obliged to the gentleman for his courtesy. The gentleman has by this quotation from the case of Luther *vs.* Borden answered his own case. I suppose a case——

Mr. KERR. I do not yield for an argument, but for a question.

Mr. DAWES. I suppose a case that in the place of an actual existing republican form of government the State itself sets up a true monarchical form of government.

Mr. KERR. I answer the gentleman that the Federal Government must go back and maintain the republican form of government of that State.

Mr. DAWES. I want to know the *modus*—by force or not?

Mr. KERR. Let us come back to this case of Luther *vs.* Borden, by which the honorable gentleman intimates I have answered myself. The case of Luther *vs.* Borden simply decided this one question—and I defy the most astute lawyer on this floor to point to a single paragraph in that case which justifies any other conclusion—that the President of the United States having recognized that charter government as the one being entitled to Federal protection the court was concluded. The court went on further to say that inasmuch as in the State of Rhode Island there was a pretended new government alleging it had the right to supersede an existing old government—in other words, inasmuch as there were *two* governments there, the duty devolved upon the Executive to determine which was the proper and legal government. There were *two* governments there. There is where the learned gentlemen on that side particularly fail to appreciate the logical basis of that decision. The Supreme Court said that where there were two contending governments in a State the one recognized at the hands of the Federal Government as the government republican in form is the government of that State. No man on this floor can point to any other decision.

Then, sir, I say their argument falls; it becomes simply the political—; I was going to use a word for which I might be censured. [Laughter.]

The honorable gentleman yesterday undertook to refer in this connection to what he called "the conclusive opinion" of the Supreme Court of the United States on that question. He referred to the opinion of Chief Justice Taney, that venerable man whom the "great Commoner" of this House [Mr. STEVENS] not long since said he was "afraid had been damned to everlasting fire."

What did that venerable jurist say? Let us hear his own words. I read from 7 Howard's Reports, page 43; referring to the act of February 28, 1795, he said:

"By this act the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President. He is to act upon the application of

the Legislature or of the executive, (of the State,) and consequently he must determine what body of men constitute the Legislature and who is the governor, before he can act. The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict like the one of which we are speaking it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government; and the President must of necessity decide which is the government, and which party is unlawfully arrayed against it, before he can perform the duty imposed upon him by the act of Congress."

That venerable judge said no such thing as has been so often attributed to him, and the court made no such decision as is claimed by the gentleman. He simply said it is the duty of the political department of this Government to determine "what government is established in the State;" and the very words, the very form of expression, "what government," implies the existence of a controversy between *two* or more governments, each claiming to be the rightful government of the State, and it is then the duty of the Executive to determine which one of them is the true one. But he nowhere tolerates the idea that there exists in the Executive or Congress any power to make or dictate a form of government for any State.

Now, I invite the attention of gentlemen to the case in 4 Wallace of *ex parte* Milligan, in which this question of the construction of the legal meaning and effect of the decision in the case of Luther *vs.* Borden is settled, and settled forever, exactly in harmony with my position. In referring to the latter case, the court say:

"This court held that a State may use its military power to put down an armed insurrection too strong to be controlled by the civil authority; and if the Legislature of Rhode Island thought the peril so great as to require the use of its military forces and the declaration of martial law, there was no ground on which *this court* could question its authority; and as Borden acted under military orders of the charter government, which had been recognized by the political power of the country, and was upheld by the State judiciary, he was justified in breaking into and entering Luther's house. This is the extent of the decision."

"This is the extent of the decision," the court say. Now what becomes of the position of the learned gentlemen as to the authority contained in that case? They are welcome to all they can make of it. It condemns them and their policy.

But gentlemen insist in this same connection that the authority to enact this law is also contained in the opinion in what is called the prize cases. I will not undertake to read at length from that decision, but I will state what I understand to be the undeniable, incontestible law of that case, and no lawyer who fully understands himself and the law will question what I say. It is in the power of cunning men to prowl through the opinions of the courts and pick out sections and paragraphs that may seem to some minds to look both ways, but when you come to take the points decided by the court, which alone you have any right to take, then it is that you reach the true legal effect and meaning of the decision.

Now, the sole effect of the decision in the prize cases was to hold that a state of war existed in the States in rebellion and that that state of war not only conferred upon the people engaged in the rebellion the rights of belligerents, but that it also conferred upon the Federal Government the right to exercise belligerent power as against the forcible resistance of the government that had assumed the attitude of rebellion. The court held then that there resulted from that legal conclusion what follows in all wars, and that the Government of the United States was authorized to blockade their ports, to battle down their military forces, and overcome any resistance that they might interpose to the rightful exercise of Federal power. For what purpose did they say this might be done? Was it for the purpose of enabling a party to build up a system of government in order to perpetuate itself in political power? A thousand miles from any such vicious conclusion does this decision go.

Now, Mr. Speaker, I will read one paragraph from that opinion, and I beg the attention of gentlemen to it, and particularly the attention of the honorable gentleman from Illinois, [Mr. FARNSWORTH,] who undertook yesterday to comment on this decision:

"By the Constitution Congress alone has the power to declare a national or foreign war."

Congress alone, not the President.

"It cannot declare war against a State or any number of States by virtue of any clause in the Federal Constitution."

Why, in God's name let gentlemen answer why. It is because it is the duty of Congress not to subjugate States, not to conquer and crush out States, not to destroy or subvert pre-existing State governments republican in form, but to vindicate the law. Yes, it is the sole duty of Congress to go into those States, and if needs be by the strong arm of power assert the supremacy of the Federal Constitution there and to vindicate the preëxisting government of the States against violent overthrow; but that done their power is exhausted, their duty is done. That is the logical result of this decision.

But I read further—

"The Constitution confers on the President the whole executive power."

That doctrine was laughed at yesterday. Why, it is trifling with the House to say that the Executive has any power! Yes, the General of the Army may be made to control the mightiest power in this country. Mr. Speaker, it is apparent from what has transpired here in the last few days that the great aim of all this legislation is, as some of the presses of the Republican party allege, to secure its own hold upon power. Its whole aim is to so shape the future conduct of affairs in this country as that the party in power shall be able to perpetuate its hold upon power, not for the benefit and protection of the people, not for the protection of the equal rights of the States; by no means. Within the last two days we have had an illustration of the greedy and unexampled tenacity with which some gentlemen in that party cling to power at the expense of decency, at the expense of good breeding, and in defiance of every precedent and every law that ever has been known in this country or in any civilized government approximating freedom.

Now, Mr. Speaker, I desire to read a little further from this remarkable decision:

"He [the President] is bound to take care that the laws be faithfully executed."

Is he to execute these laws under the lash of another Department of this Government, or does the power conferred upon him carry with it some discretion in its exercise? If the General of the Army can issue his orders for the disposition of the military forces and power of this Government, then let us suppose a simple case that might occur. The State of the gentleman from Massachusetts is in revolt. The executive of that State applies to the President for military aid. The President issues his military orders to a general of the Army to go to Massachusetts with two regiments to aid that State in suppressing the revolt. The General of the Army, under this bill, issues a counter order sending that same general of the Army and that same military force to California or to Fort Snelling or to the devil. [Laughter.] Who then controls it? What becomes of the prerogatives of the Executive in that case?

Mr. ELDRIDGE. To the devil—that is, in the southern States. [Laughter.]

Mr. KERR. Yes, that is in the southern States, where Radicalism now holds high carnival among the rights of men. But I read further:

"He is Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States. He has no power to initiate or declare war either against a foreign nation or a domestic State; but by the acts of Congress of February 28, 1795, and 3d of March, 1797, he is authorized to call out the militia and use the military and naval forces in case of invasion by a foreign nation, or to suppress insurrection against the government of a State or of the United States."

In other words, his whole power is executive; and, in the very language of the Constitution, his duty is "to see that the laws are faithfully executed." When those words were put into our fundamental law they were not put there as a mere vain formula, meaning nothing; they were put there as a solemn grant of powers; and gentlemen who would take them from the President undertake to do what they have no shadow of warrant for. They invade a coördinate Department of the Government, and to the same extent the safeguards for the liberties of the people.

Now, under what law was it that the President of the United States in 1842 recognized the old royal and superannuated charter government of Rhode Island as the true legal government of that State, republican in form, and therefore entitled to protection? Why, the gentleman from Massachusetts and his party to-day would no more recognize a government of that kind if erected in one of the southern States than they would recognize a government there that should be copied from that of the island of Cuba; not one whit sooner. That same law under which President Tyler recognized the validity of that charter government of Rhode Island is the law of this country to-day. The act of 1795 stands unrepealed to this hour, and at this day confers upon the President the same power that it conferred upon President Tyler, and he has exercised that power in reference to these southern States, and you are concluded by your own precedent from now denying the existence of that power. Now, for the proof of that. In the exigencies of party it became necessary at one period in the history of our distracted country that there should be admitted to seats in this House and at the other end of the Capitol representatives from what was called the State of Virginia. I say what was called the State of Virginia, but it was after Virginia had withdrawn her authorized Representatives and Senators from Congress, and they had gone home and into rebellion. I refer to that irregular and revolutionary attempt to build up a State government in the counties of Virginia west of the mountains which was organized in 1861 at the city of Wheeling, and which sent its Senators, in the persons of Messrs. Carlile and Willey, to the Senate of the United States to demand admission into that body as Senators representing the State of Virginia.

The "State of Virginia" was not there, neither in her territorial limits nor in the expression of her people nor by any authorized act of the people toward the formation of a government. Yet, what did Congress do? In both ends of this Capitol you recognized that government so established without authority of law. On what ground did you make that recognition? I will show you, and from the mouth of a venerated member of the Senate at that time, now no more. I refer to Hon. Jacob Collamer, of Vermont. In speaking of the recognition of the existence of that organization as the State of Virginia he said:

"There are two difficulties which are suggested in this case. First, it is said that this is a certificate coming from a new government of Virginia, a new organization separated from the rest of the State, but acting for the State as a State. This is in the nature of a judicial proceeding; we are now judging of the qualification of our members. It is not at all an uncommon thing in our highest tribunals that points arise in the investigation of cases where the court are constrained to say 'that is a political question; with that the courts have nothing to do.' For instance: whether a foreign Government recently commenced has become an independent people, whether in court it is to be treated and considered as a nation, is not a point on which the court can decide. That is a political question; and if the executive head of the Government has received ministers from that Power, recognized it as a Power on earth, the courts cannot go into the question whether he did it right or did it wrong. It is a matter of political action, and the political power is what settles it, and we cannot examine into it any more.

"In analogy to that, in this judicial proceeding must we not be governed by the fact that the government of Virginia that has executed these papers and sent them to us is recognized by our Executive? They have called on him for militia, and have received militia from him. He recognizes them as the government of Virginia. It is a political question; it is settled. There is no occasion for our inquiring

further into that. We, as a judicial body on this question, have nothing to do with that. Here is the executive of that State, recognized by the Executive of this Government; there is the end of that subject."

He held that the action of the Senate in that case was in its nature judicial in determining whether there was a State government or not. Is not the same rule applicable to the condition of the southern States? It was not a question for this Congress to inquire into as to whether those governments theretofore existing were such as they wanted or would approve, or would make or adopt. But the question was a judicial one, consisting simply of the inquiry, did those State governments have an existence in legal acceptation? That existence was settled by President Johnson. When? After they had put themselves in harmony with the Federal Government he then recognized them as being States of this Union, and he made that recognition as the political head of this Government. He knew that those States had by the voluntary action of their people put their preëxisting State governments into harmony again with the Federal Government, and they were therefore under the Constitution and laws entitled to be recognized as in full fellowship in the Union and to enjoy equal rights with all the other States.

Mr. DAWES. Will the gentleman yield to an inquiry?

Mr. KERR. Yes, sir; for an inquiry.

Mr. DAWES. I would like to inquire of the gentleman from Indiana [Mr. KERR] if he means to say that President Johnson recognized the governments in those States antedating the rebellion?

Mr. KERR. I do, most emphatically. After they had been put into harmony with the Federal Government, and the people had set aside and repudiated all the acts of their rebellion, it was his duty to recognize them. They were in every material sense the State governments which antedated the war.

Mr. DAWES. I understand the proclamation of President Johnson, in the case of North Carolina, to declare expressly that there was no republican form of State government there.

Mr. KERR. Mr. Speaker, the gentleman from Massachusetts [Mr. DAWES] is evading the question. I say that at the time President Johnson issued that proclamation he may well have said that there was not then any vitalized State government in that State; that it had been disorganized. He says that, by reason of the disorganization which had intervened in the State of North Carolina, there was no vitalized State government there; but that after the people of that State, and of the other southern States, should by their voluntary action reorganize their State governments, and put their hitherto suspended functions into operation again, and in harmony with the Federal Government, he, as the political head of the nation would recognize those preëxisting State governments as being in existence. And President Lincoln did the same thing as to two or three States.

Mr. DAWES. I have not that proclamation before me, but I venture to say that in it Mr. Johnson expressly, in so many words, declares that there is not existing in the State of North Carolina a government republican in form.

Mr. KERR. Now, Mr. Speaker, the gentleman's statement makes no variation in my answer, and requires nothing further to be added. I will therefore hasten on.

Now, Mr. Speaker, when the learned gentleman [Mr. BINGHAM] who introduced this bill was, by an inquiry of my friend from Wisconsin, [Mr. ELDRIDGE,] driven from the position he had assumed, he found it expedient to fly for refuge to that provision in the Constitution which declares in effect that Congress shall have all the power necessary and proper to carry into execution the foregoing powers. Now, I submit to every candid and intelligent man that there is in this position of the gentleman not one particle of weight. It amounts to nothing. It proves nothing. In the language of the clause to which I have just referred there is no grant of power, and so it has been held by the courts of this country ever since their organization. I defy the gentleman to produce one solitary decision to the contrary of what I say. I now invite the attention of learned gentlemen on this floor, who are of course familiar with the laws of their country, to an interpretation which simply expressed the effect of the legal decisions on this question which has been given by Chief Justice Story. I read now from his Commentaries. Referring to that provision he says:

"The plain import of the clause is, that Congress shall have all the incidental and instrumental powers necessary and proper to carry into execution all the express powers. *It neither enlarges any power specially granted, nor is it a grant of any new power to Congress;* but it is merely a declaration for the removal of all uncertainty, that the means of carrying into execution those otherwise granted are included in the grant. Whenever, therefore, a question arises concerning the constitutionality of a particular power the first question is, whether the power be expressed in the Constitution. If it be, the question is decided. If it be not expressed, the next inquiry must be whether it is properly an incident to an express power, and necessary to its execution. If it be, then it may be exercised by Congress; if not, Congress cannot exercise it."—*Story on the Constitution*, sec. 1243.

Now, what becomes of the gentleman's declaration that in that provision there is a grant of power? Why, gentlemen might as well say that in each of the first eleven amendments to the Constitution of the United States there has to be found a grant of power, whereas the Supreme Court of the United States has repeatedly held that those amendments embraced only limitations upon the power of Congress, and are designed to protect the States of this Union against the aggressive hand—ay, if gentlemen will pardon me, against the vandal tread of radicalism and absolutism in this country. That is the purpose of those amendments. That is the purpose of this Constitution. What becomes of your Constitution granting to the General Government limited delegated powers and withholding other powers, if you can place upon that instrument this latitudinarian interpretation and make it mean just what you please? It becomes a mere delusion, a rope of sand, a vain labor on the part of its framers.

Mr. Speaker, I desire to invite attention to another proposition which the gentleman from Massachusetts, [Mr. BUTLER,] by an amendment which he offered yesterday, proposes to incorporate in this bill. That proposition is nothing less startling and unprecedented than this: that the State conventions that have been organized in those southern States under the arm of military power and partisan manipulation shall be made the agents of the Federal Government to exercise powers that shall be conferred upon those conventions by Congress. No man knows better than the gentleman from Massachusetts that Congress, under the Constitution of this country, has no scintilla of right to confer Federal power on any agent or officer of a State. He knows that, and every lawyer knows it. Yet he proposes by this provision to confer upon these State conventions—these revolutionary negro State conventions—the power to regulate civil government in those States, to appoint all civil officers, to completely subvert the preëxisting governments in those States. In other words, the gentleman's amendment contains the remarkable and most damaging confession that this whole system of reconstruction is simply a partisan scheme to create in the southern States, by the interference of Congress against the will of the people, a power that shall come to the rescue of radicalism in future elections in this country. That is what the gentleman's amendment means. For what other purpose does he propose to confer this power? Why, those conventions, if they have any validity at all, are conventions of the people of those States. They are not conventions of Congress. They express the sovereign power of the people of the States respectively, and cannot be invested with any power except what is conferred upon them by the people for whose immediate government they are convened to form constitutions. But this amendment is in the true spirit of all this legislation. It assumes what is true, that these conventions are in fact but the tools of a party, and it is proper to confer upon them the partisan power, under mere color of law, necessary to enable them successfully to perform the business assigned them by their masters.

If these southern State conventions do possess powers not derived from the people of their respective States—and this proposed amendment says they do—then I say the language of the gentleman from New York [Mr. WOOD] yesterday, so far as designed to characterize this measure, is just, because it is infamous in every sense of the word. A government so forced and fastened upon any people is an outrage, and violates every principle of our institutions.

Now, Mr. Speaker, a few words more and I will have done. When the bill was reported the other day proposing to invade the power of the Supreme Court I was alarmed. I am alarmed now. This bill, however, now before the House is tenfold worse than that. This bill proposes in one word almost to repeal that court, to wipe out that department of the Government, thereby destroying the only safeguard for the liberties of the country against extreme and revolutionary parties. That court is the only power that now stands between the people and their complete overthrow.

Mr. Speaker, these facts call to my mind a parallel in history. Over two hundred and fifty years ago, when that tyrant of England, James I, was undertaking to extend the prerogative power so as to swallow up the liberties of the people of that realm, the judges of England almost alone rallied to the vindication of the rights of the people; and on one occasion these judges were summoned into the council chamber of that tyrant king, and when they made their spokesman that glorious old Roman, Lord Chief Justice Coke, he proceeded to say to the king that the judges of England must be bound by the law and not by his arbitrary will. The king in great rage exclaimed, "Then I am *under* the law, which it is treason to affirm."

That brave old chief justice replied in these immortal words, "*Rex non debet esse sub homine, sed sub Deo et lege:*" "The king ought not to be under man, but under God and the law." I say to these gentlemen now, if that high court properly vindicate their high powers, their sacred trust, they will say to this House, to this Congress, that Congress is not king in this country, and its partizan will is not law. They will say to Congress, "If you ought not to be under a coördinate department of the Government you ought at least to acknowledge allegiance to God and the Constitution of the country."

Mr. Speaker, when I reflect upon the results to which this policy is tending, I say to you with all the solemnity and earnestness which ever actuated a man that I look upon the institutions of our country, necessary to the most essential interests of the people, as being in imminent peril. I fear—not in any partisan sense, but in my heart of hearts—I fear the sands of our national life are running out, and ere long this glorious Republic, whose foundation principles rested upon such an eternal basis of truth and justice, is about to prove, as all previous republics have, a failure in the history of men. I fear that another generation of men may be necessary to vindicate anew, sanctify anew, to establish again, the outraged principles of our system of government. And when the gentleman from Ohio [Mr. BINGHAM] undertakes to waste his rhetoric upon the men of the country, I say in the early future, he will find that the people of this country have at last been aroused to the vital issues which are now before them.

It is not my custom, sir, it is certainly inconsistent with my nature, to speak in any mere partisan spirit. If I have done so in anything I have said to-day it has been unconsciously to me. I have endeavored to stand where my judgment, after the most mature reflection and consideration of these questions, has placed me; but I would do violence

to my own conscience if I said less or said it differently from what I have. I therefore, in conclusion, appeal to gentlemen on this floor to remember that their power is not eternal, that they themselves, by the strong hand of time, must soon pass from this stage of life, and if they do not regard anything else they should at least have regard for the interests of their posterity, for the interests of generations yet unborn, and leave them liberty, controlled by law.

[Here the hammer fell.]

Mr. GARFIELD obtained the floor, and yielded it to Mr. DAWES.

Mr. DAWES took the floor.

The hour of half past four having arrived, the House took a recess till seven o'clock p. m.

EVENING SESSION.

The House reassembled at 7 o'clock p. m.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, with an amendment, in which he was directed to ask the concurrence of the House.

RECONSTRUCTION—AGAIN.

Mr. DAWES. Mr. Speaker, the gravity of the subject embraced within the bill before the House, as well as the serious condition of things to which it applies, forbids any member of the House, in my opinion, approaching its discussion without preparation; and for that reason I shall refrain in the few remarks which I desire to offer on this occasion from discussing the details of the bill or of the history of the States in rebellion which renders, in my opinion, legislation necessary. I have sought the floor merely to make more plain, if I were able, in a little more time than I had a right to ask the gentleman from Indiana (Mr. KERR) during the delivery of his able speech in the course of the afternoon, or more than I had a right to expect of him to turn aside from the line of his argument to elucidate merely at my suggestion. Sir, the most of the gentleman's argument, indeed the whole of that able argument, was based upon the idea that a form of government springing up in those States asking for recognition by the United States as a republican form of government was to be passed upon, and passed upon conclusively, by the Executive, and that no other branch of the Federal Government was authorized by the Constitution to interfere with the decision thus made by the Executive. A moment's consideration, it seems to me, should have led the gentleman to see to what end and what length such a doctrine leads, and for him to have seriously inquired whether there did exist such an anomaly in the constitutional government of this country as that upon the vital question whether there existed in the States of the Union a republican form of government the sole power of deciding rested upon one man.

The gentleman from Indiana based his argument upon what he said was the authority of the Supreme Court of the United States, and before undertaking to demonstrate what was the decision of that court he deprecated the practice in argument of prowling around among the decisions of the courts and selecting from them here and there a passage that suited purposes and theories, and bringing them before the House regardless of the drift, force, scope, and purpose of the decisions taken as a whole. Sir, I join with him in that deprecation, and while I trust I shall not follow his example in that regard I venture to say that the very authority to which he resorted to support his argument will overthrow the argument itself.

He appealed to the well-known case of Luther *vs.* Borden, about which I think there has been more said and more misunderstanding during the political controversies of the last few years than about any other decision of the Supreme Court that has gone into the books. I do not know of any one who has had a theory in reference to the status of the rebel States, or the powers of the one or the other of the three branches of the General Government in relation to them, who has not appealed to that decision for support of his theory. I cannot hope in the brief time I have to be able to escape the common error into which the gentleman from Indiana [Mr. KERR] while deprecating it seemed to me to have fallen more radically than any gentleman who has commented upon that decision in this House.

Sir, the decision in Luther *vs.* Borden in the Rhode Island case had no application to the present state of things; and it decided nothing that is applicable to the present state of things. The gentleman stated what the case was clearly enough, but he went far from stating what the basis of the decision was. There was an insurrection in the State of Rhode Island, a setting up by one party of a distinct and independent government in that State, and an attempt thereby to overthrow the existing government of Rhode Island, and causing, necessarily, an insurrection, a breach of the peace which neither of those parties felt competent or strong enough itself to put down, and both parties appealed to the Executive of the United States for help. The act of Congress of 1795 required of the Executive, upon the application of the Governor or the Legislature of a State for aid to put down an insurrection, to send the militia of any other State into that State for that purpose. Under that law application was made to the President of the United States. The duty that the statute imposed upon him involved the necessity on his part of deciding for the time being which of those two governments was the legal one, so as to enable him to determine to which of them to send the succor which the law required him to send. He was, in the performance of the duty imposed upon him by law, compelled to decide in the discharge of that duty which of those two governments was the legal government, so far as he was concerned, and President Tyler responded, and in responding he put his answer precisely upon that ground, that the law of Congress had imposed upon him the duty to send succor to the Governor of Rhode Island upon his application. Two men called upon him, each claiming to be the Governor under separate and independent forms of government in Rhode Island, and he must decide between the two whether it was the Dorr government or whether it was the other, but he said himself it was Congress that imposed this duty upon him. And the Supreme Court, when they came to give their opinion in the case that grew out of that rebellion, put it precisely upon that ground. Now, let me read from their decision, and let us see how the gentleman from Indiana has overlooked this decision. I read from Chief Justice Taney:

"So, too, as relates to the clause in the above mentioned article of the Constitution providing for cases of domestic violence. It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might if they had deemed it advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere."

Congress could have put it in the power of the court as well as in the power of the President.

"But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, provided that 'in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on the application of the Legislature of that State, or of the executive (when the Legislature cannot be convened) to call forth such number of the militia of any other State or States as may be applied for, as he may judge sufficient to suppress such insurrection.' By this act the power of deciding whether the exigency had arisen upon which the Government of the United States was bound to interfere was given to the President."

"By this act!" That is by an act of Congress—just what we propose to make here to-day. The same power which made that act can change, amend, alter, or repeal that act.

"He is to act upon the application of the Legislature," &c.

That was the case of Rhode Island. How unlike the case of North Carolina and her sister States at the close of the war! There was no Governor; there was no Legislature to apply to the President of the United States under the act of 1795. The government was prostrate. The Legislature had died a violent death. There was no government there. If there was the form of government that existed before the rebellion, it was a form merely without the breath of life in it, for it had no functionaries to perform any of the duties imposed upon it. It could not, therefore, bring itself within the case of Rhode Island, for there was no executive of the State to apply to the President for aid to put down domestic insurrection. There was no Legislature to apply. None did apply. The President was called upon to answer the question "What is my duty?" not in response to one of two conflicting executives or one of two conflicting Legislatures, to decide between them, which to put up and which to put down, but "What is my duty?" in respect to the State of North Carolina, without a government, but with a people; with a people without protection of law, without officers to enforce the laws, without courts of justice in which to secure their rights, without any of the functions or functionaries that belong to a State government. What did he say, sir? Did he go to work to decide which of any given number of governments that had existed there at any time during the rebellion or before the rebellion was republican in form, and therefore to send the power of the United States to set up and maintain it? No, sir; just the contrary. He went to work upon a theory just the opposite of that, the theory that there was no government in North Carolina; and such are his very words. In the first proclamation issued by the President in reference to the rebel States—the one appointing William W. Holden provisional governor of that State, not for the purpose of setting up again the government that existed before the rebellion—are to be found these words:

"And whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress deprived the people of the State of North Carolina *of all civil government.*"

Sir, the gentleman from Indiana [Mr. KERR] said that the government which antedated the rebellion was the government of North Carolina; that it was the business of the Executive of the United States to decide between that and any other government, and that his decision was conclusive upon the Congress and upon the country. The Supreme Court of the United States, to whom that gentleman appealed, declared that it was the business of Congress so to decide. And the very Executive to whom he appealed has declared not only that the government which antedated the rebellion was not a government in North Carolina, but also that North Carolina was without any and without all civil government.

Under another clause of the Constitution of the United States, namely, that which requires the United States to guaranty to a State a republican form of government, the Executive felt it his duty to undertake to set up, not the constitution or government that antedated the rebellion, but a new government. Now let us appeal to the very decision of the Supreme Court, which the gentleman held in his hand when he announced this doctrine, and see from that decision whether he himself is not at war with the Supreme Court of the United States. Chief Justice Taney says:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and on the application of the Legislature or of the executive

(when the Legislature cannot be convened) against domestic violence.

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State."

I beg leave to repeat those words from this decision of the Supreme Court: "it rests with Congress to decide what government is the established one in a State."

"For, as the United States guaranties to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not."

And the Supreme Court have told us what is the form by which the United States recognizes a government in a particular State as republican in form. Here it is:

"And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision"——

Not the decision of the Executive of the United States, which it has been proclaimed to us from the Democratic side of the House is conclusive not only upon the Congress of the United States but upon the people thereof, but the decision of Congress—

"and its [Congress's] decision is binding on every other Department of the Government, and could not be questioned in a judicial tribunal."

Mr. BINGHAM. That includes the States.

Mr. DAWES. My friend says "that includes the States." Sir, that includes everything.

Mr. Speaker, that is about all that I rose to say. I desired to show my friend from Indiana, [Mr. KERR,] although I listened with great attention to his learned and able speech, how unconsciously sometimes men fall into the very error they are deprecating even while they are giving utterance to that deprecation.

Knowing full well as I do from my personal intercourse with that gentleman how far he is from knowingly departing from his convictions, and also how clear a head he has, I was surprised to see how utterly oblivious he seemed to be of the very decision of the Supreme Court which he held in his hand and made the basis of his own argument.

If I may be indulged a moment, I desire to say that it has seemed to me all along that very little legislation was required at our hands beyond this, which of itself has seemed to me to be enough to tax all our energies and all our sagacity; and that was to see to it that every human being in these several States, left with their governments destroyed—in the language of Andrew Johnson—left without government, without law, without judicial tribunals, without executive officers to protect them in their rights, or shield them from the violence and passion and prejudice which have outlived the war, it seemed to me to be duty enough for us to take care by legislation that every man, high or low, humble or exalted, defenseless—and they are all so down there—is protected in the enjoyment of his rights.

A republican form of government will grow up of itself. It may be assisted; and I find no fault with any proper effort of legislation that is designed to aid in bringing up a republican government in each of those States. But it will grow of itself, and in my opinion quite soon enough. And if we shall protect every human being down there in the enjoyment of his rights there will quite soon enough come up of themselves governments that shall be republican in form. And when they shall have repaired their waste places, when they shall have recovered from the losses which they have sustained, when they shall have built up their homes and their fireside, their churches and their institutions, then governments of republican form will have come up.

And when they shall have sent Senators and Representatives here, and upon an examination of the authority which sent them here they are admitted to this and the other House of Congress, the Supreme Court of the United States has declared that by that very act of admission the government under which they come and which they represent upon this floor and in the other branch of the national Legislature is thereby recognized as republican in form. And all the guarantees of the Constitution spring into existence and force in relation to such governments; and the obligations of this Government go forth, with all the power of the Government behind them, to secure that kind of government against domestic violence and insurrection as well as invasion.

I now yield to the gentleman from Rhode Island [Mr. JENCKES] the remainder of my time, if I have any left.

The SPEAKER. The gentleman has three minutes of his half hour remaining.

Mr. DAWES. I wish there were more.

Mr. JENCKES. I wish to correct another statement made by the gentleman from Indiana, [Mr. KERR,] which has not been remarked upon by my friend from Massachusetts, [Mr. DAWES.] That is, that the Supreme Court of the United States in the case of Luther *vs.* Borden, recognized the then existing government of Rhode Island as the constitutional and legal government of that State, because it had been recognized by John Tyler, then by the accident of the hour the President of the United States.

Now, sir, that was not so. John Tyler himself did not interfere in that controversy because of his own judgment as to which was the true government there. And before I take my seat I will ask the Clerk to read a passage from a letter of President Tyler to Governor King of Rhode Island, dated April 11, 1842, in which he expressly states that the ground of his interference in favor of what is called the "charter government" was because it was the existing government of Rhode Island recognized by Congress "through all time," as he expresses it; that is, since the origin of the General Government.

The gentleman from Indiana [Mr. KERR] further said that the government of Rhode Island was one of such a character that if such a government should now be established in a southern State, or in any portion of the territory of the United States, Congress would not recognize it. Sir, it was the purest democracy that ever was established on this planet. And the gentleman would be recreant to his professions if he, after an examination of the principles of that government, would not recognize it as such, and as the truest form of democratic government he ever knew.

I ask the Clerk to read the extract from the letter of President Tyler to Governor King, which I have marked.

The Clerk read as follows:

"I have, however, to assure your excellency that should the time arrive—and my fervent prayer is that it may never come—when an insurrection shall exist against the government of Rhode Island, and a requisition shall be made upon the Executive of the United States to furnish that protection which is guarantied to each State by the Constitution and laws, I shall not be found to shrink from the performance of a duty which, while it would be the most painful, is at the same time the most imperative. I have also to say that in such a contingency the Executive could not look into real or supposed defects of the existing government in order to ascertain whether some other plan of government proposed for adoption was better suited to the wants and more in accordance with the wishes of any portion of her citizens. To throw the executive power of this Government into any such controversy would be to make the President the armed arbitrator between the people of the different States and their constituted authorities, and might lead to a usurped power, dangerous alike to the stability of the State governments and the liberties of the people. It will be my duty, on the contrary, to respect the requisitions of that government which has been recognized as the existing government of the State through all time past, until I shall be advised, in regular manner, that it has been altered and abolished, and another substituted in its place by legal and peaceable proceedings, adopted and pursued by the authorities and people of the State."

Mr. BURR rose.

Mr. BINGHAM. If the gentleman from Illinois will not object I hope the gentleman from Rhode Island will have ten minutes more.

The SPEAKER. There are more gentlemen desiring to speak than can probably be heard.

Mr. BINGHAM. I ask that the gentleman from Rhode Island have ten minutes.

Mr. BURR. I do not object if it does not come out of my time.

Mr. JENCKES. I will take some other opportunity.

Mr. BURR then addressed the House. His remarks will appear in the Appendix.

Mr. WARD. Mr. Speaker, I have examined with some degree of care the important bill under consideration, and have come to the conclusion it will become my duty to support it. One thing is evident, painfully evident to the people of this country that now, nearly three years since the armed power of the rebellion was broken, the people of the South inhabiting the districts which were overcome and affected by this rebellion have not been reconstructed or resumed their peaceful, harmonious relations with the Government of the United States. The inquiry we naturally make now, sir, is, first, whether the bill under consideration will accomplish this desired result; and secondly, whether the bill is of such a character as we can constitutionally pass, so that when it shall become a law it will be effectual for the purpose for which it was intended.

Mr. Speaker, ever since that foulest blow of all time which struck down and murdered Abraham Lincoln, and the present Executive filled the presidential chair, and by his actions and by his declarations, and by, I must be permitted to say, his usurpations, indicated a purpose to transfer the executive power of this Government from the loyal people who conquered to the conquered traitors—when it became evident that all the patronage and all the power of the executive branch of this Government was to be used persistently and determinedly to return the power of this country to the southern State organizations, and to the men whose hands are red with the blood of our brothers, and upon whose foul skirts lay the stain of treason, which sowed our land with graves, shrouded it with mourning, and burdened it with debt, it became evident to my mind that it was the solemn duty of Congress, in a constitutional way, to remove from the track all the obstructions which stood in the way of reconstruction. It is evident that we must either abandon all idea of reconstruction altogether or we must accomplish it independently of the President. The question now is, are the public exigencies such that that reconstruction shall be immediate, or shall we wait for the expiration of the term of the present Executive? Shall we permit this condition of discord and confusion to continue? Sir, we cannot wait with a starving South, with hundreds of thousands of people at the North out of employment, with our finances disordered; with our finances in that condition requiring our greatest efforts and highest wisdom to remedy them, when the mutterings of public discontent come up to these marble halls proclaiming that something must be done with this diseased member of the body-politic.

Either the diseased member must be cured, either the disease must be eradicated, or the whole system will become affected. I am free to say that I do not believe it is consistent with the spirit and genius of our institutions, with free government, with the ends and aims for which our Government was established, to maintain, for any great length of time, military governments over large portions of our people, and that it can be done with safety no longer than it is absolutely necessary for the national preservation. I say, therefore, that the highest interest of the country, its future prosperity and the perpetuity of our institutions, require us to bring about a speedy and effectual reconstruction.

We have conferred upon the President the right and the duty to execute the reconstruction acts. Has he done it? He prevented reconstruction for eight months by refusing to call Congress together after the cessation of hostilities; and when Congress did assemble and proposed a just and equitable scheme of reconstruction to the people of the South,

known as the fourteenth constitutional amendment, what did the President do? He treated it with contempt, pronounced it unjust, and encouraged the people of the South to resist it. The Democratic party aided him in this work, the southern rebels coöperated with him, and the result was the rejection of that constitutional amendment.

A year passed accomplishing this experiment. A year's delay had occurred in consequence of the President's resistance. All that precious time was lost by the action of the President, sustained by the Democratic party. A year and eight months had gone in consequence of the failure of the President to call Congress together, and the failure of the experiment to obtain reconstruction on the basis of the fourteenth amendment to the Constitution. And what did Congress do when it reassembled in the fall of 1866 and also in July last? It was apparent that the South would do nothing under the proposition submitted to it. No action could be brought about in those disorganized States. They proposed to come in on their own terms or on no terms whatever. They proposed to stay in rebellion, scowling and frowning upon us, while their territory was disorganized and the whole country was affected by their treason. In that state of things Congress was appealed to to inaugurate an affirmative policy, a policy that would execute itself, a policy that should not depend for its execution upon the consent of the people who had been in rebellion. Congress found a large mass of the people in the South that had been loyal and faithful to the Government, and it said to them: "We will clothe you with the ballot; we will give to you the high prerogative of citizenship; you aided us in putting down the rebellion; you have been loyal to your country all the way through; you have fought and prayed for it; your hopes are bound up in the Union of the States; now we will give you the means not only of protecting yourselves but of reconstructing the Union."

We then passed a very decided bill on that subject and sent it to the President. He vetoed it. Then the country clamored for impeachment. Then gentlemen in this Hall talked about impeachment. The President feared it, and appointed good and true men to execute the reconstruction laws. He appointed General Ord, General Pope, General Sheridan, and General Sickles. He seemed to give an earnest to the country of his determination faithfully to execute the law. But when the wholesome fear of impeachment had vanished he removed these faithful officers. Since then by his messages, proclamations, and patronage, coöperating with the Democratic party and with that miserable faction which I must characterize as the most contemptible of all, the Conservative party, he has been constantly obstructing and embarrassing the work of restoring the rebel States, so that in order to accomplish the work we are, it seems to me, compelled to do something further, and not depend any longer on the Executive at all.

We all remember that dark epoch during the war when the land was covered with gloom and despondency, shortly before the gentlemen who have been expounding the Constitution to us so vehemently in this Hall declared in their platform at Chicago that the war was a failure. I remember how dark the prospect was, and how anxiously we looked around for help. Then we sought and found a commander in the West in whom we placed our hopes of success in crushing out the rebellion; and the result was that the rebel armies surrendered, the rebellious flag went down, I hope forever, in its infamy in the dust, never to rise, and the old flag floated again triumphantly over every inch of the national domain.

Now, sir, we have been speculating and scheming and trying in our work of reconstruction to get under the President and over the President and around the President, and some of us have been trying to get through the President, [laughter,] and we have not succeeded. We have accomplished nothing complete as yet, and now we are obliged to appeal to this same magnificent commander to come up to the rescue and help us out of this difficulty, and secure the fruits of that valor which he and his compatriots evinced on the field of battle.

But, sir, gentlemen tell us that all this is unconstitutional. "Unconstitutional!" Why, it seems to me, Mr. Speaker, that I have heard that objection before. There is nothing alarming to me in that sort of talk. Why, sir, when we proposed to put down the rebellion by force of arms these gentlemen said that it was unconstitutional to coerce traitors. When the credit of the Government was so low that we could not borrow a dollar in the markets of the world, in consequence of the want of confidence which was felt in the money markets of the world of the ability of our Government to pay its obligations; when we could not borrow a dollar abroad in consequence of this, and of the declaration on the part of England and France of the belligerent rights of the confederates, and we proposed to make our notes legal tenders, that was said to be unconstitutional. When we proposed to draft men into the Army to fill its depleted ranks they said it was unconstitutional. When we proposed to strike the shackles from the bondman and to relieve his arms from the bondage of slavery, so that he might take his musket and fight for the flag that had only brought him stripes and scars instead of protection; when we did that, and when Abraham Lincoln performed the grandest act in history, and issued his emancipation proclamation, they said all that was unconstitutional. Indeed, everything has been "unconstitutional" that has been undertaken by the Union organization from the commencement of the great struggle, which is not yet ended, down to the present hour.

Now, sir, I heard a gentleman upon this floor the other day talking to us about our unconstitutional proceedings, telling us about the monstrous conduct of this Congress and about the monstrous conduct of the Republican party, and he took the Constitution of the United States into his especial keeping. I refer to my colleague from New York, [Mr. WOOD,] and I will ask the Clerk to read in this connection a correspondence between him and Mr. Toombs.

Mr. BINGHAM. Do you mean Robert Toombs, of Georgia?

Mr. WARD. Yes, sir.

The Clerk read as follows:

Correspondence between Senator Toombs and Mayor Wood.

MILLEDGEVILLE, *January* 24, 1861.

To his Honor Mayor Wood:

Is it true that any arms intended for and consigned to the State of Georgia have been seized by the public authorities in New York? Your answer is important to us and to New York. Answer at once.

R. TOOMBS.

To this the mayor returned the following answer:

HON. ROBERT TOOMBS, *Milledgeville:*

I regret to say that arms intended for and consigned to the State of Georgia have been seized by the police of this State, but the city of New York should in no way be made responsible for the outrage. As mayor I have no authority over the police. If I had the power I should summarily punish the authors of this illegal and unjustifiable seizure of private property.

F. WOOD.

Mr. WARD. And in that connection I desire to refer to a letter of Mr. Franklin Pierce, in which he informed Mr. Jefferson Davis for his consolation that blood should flow in northern streets—or something to that effect—if the "rights" of the traitors of the South should be interfered with.

And I also desire to refer to the provisions of the Chicago platform—which, I believe, all my Democratic friends here subscribe to—that the war for the suppression of the rebellion was a failure, and that unless a restoration of the Union could be had by peaceable arrangement with those rebels we could have no Union. Consequently the inference was that unless the Union could be restored by peaceable consent of the rebels we could have no Union.

Mr. ROSS. I hope the gentleman will quote that platform correctly.

Mr. WARD. I think I have quoted it correctly in substance. Now, behold my colleague, [Mr. WOOD,] the gentlemen who made these provisions in the Chicago platform, and these followers of Franklin Pierce have suddenly taken the Constitution of the United States into their special and exclusive keeping. And who are helping them to take care of the Constitution? Why, sir, Bob Toombs and Jeff. Davis. And every rebel newspaper in the South and every copperhead newspaper in the North, that croaked all along that we could not put down the rebellion, and said all the time that treason would succeed, and grumbled all the while at everything we did to put down this rebellion and save the Union, are also aiding them in preserving the Constitution. I think, if you will search the columns of the Express and other papers—and I think, in fact, that if you will search the record of every one of these gentlemen who are now so earnestly engaged in defending the Constitution, who are now its special guardians, if their theories had prevailed we should now have had no constitution, no government, no flag; even the name of America would be to-day blotted from the book of nations; the last experiment of self-government by the people would be a failure; and with shame and humiliation we would now be bowing down before some autocrat or despot, and these gentlemen would have the pleasure and gratification of knowing that they were the authors of all that direful result.

I do not want these gentlemen to quote to me any constitutional law. I tell them that the Constitution was made to preserve the nation, not to destroy it. And if the Constitution is not broad enough, great enough, and strong enough to save this country in its time of peril and in the days of its emergency, then Madison, Mason, Randolph, Hamilton, and the other illustrious men who framed that great instrument did not comprehend their duties and did not perform them.

It is a part of every nation's rights, as it is a part of the rights of every individual, to take the necessary measures to preserve its own existence. Self-preservation is the first law of nations as of nature. A Government has always the right to protect itself and to preserve itself. You cannot so frame a Government that that right does not attach to it. That is a part of the constitution and framework of every Government, otherwise your Government is a failure, it is defective and will crumble to atoms.

Sir, the Constitution of the United States was framed to build up the grand and glorious fabric of a free Government and free institutions—a Government which shall extend its power and protection down along the avenue of generations yet to come and over the people who shall live under its flag, and a cardinal principle of that Government is freedom to the masses; the cardinal principle of that Government is that the people shall rule; that all men under the flag, white or black, naturalized or native born, stand equal before the law, as they stand equal before God. And when that Constitution was framed, when our fathers assembled in the Convention of 1787, their object was to frame a form of government which should remedy the evils of the Confederation, which was a weak Government, a Government rarified through the States, a Government in which the States triumphed over the national authority, a government that could not collect a dollar's tax, that could not command respect at home or abroad; a Government which, having lost the respect of our own people as well as of foreign nations, was crumbling to pieces. Their object was to make a stronger Government, a Government that would hold together, a Government that would be firm and unyielding, and would secure the rights of the people at the same time that it respected the just rights of the States. This object they declared in the preamble in these words:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the

blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

To that end they said that Congress could declare war; to that end they said that the United States shall guaranty to every State a republican government; to that end they said that Congress had the power to suppress insurrection; to that end they clothed Congress with the power to provide for the common defense and the general welfare; to that end they clothed Congress with the right to levy taxes, with the right to make rules and regulations for the government of the land and naval forces; with the right to control in fact the whole purse and the whole sword of the nation. And when, sir, the great objects of the Constitution are assailed, when the great cause of liberty is in jeopardy, when there is danger that the nation will be destroyed, no combination of men hostile to the Government can by any machinery defeat the execution of this great duty and by technicalities cheat us out of our national salvation.

Sir, the President has refused to execute the law. It is said that we cannot impeach him, and that if we do impeach him we cannot suspend him from office until he is tried. This being the case, if he refuses to execute wholesome laws which we enact what is our remedy? If we cannot find an Executive that will carry out our laws what can we do? Shall we surrender the country to destruction? Oh, no. We must find some other agent. We are clothed with a great and responsible trust, involving the salvation of the nation. We are clothed with the prerogative of preserving this nation at all hazards and under all circumstances. If the Executive is false; if the people in certain sections are disorderly and treasonable, forming combinations to overthrow the Goverment; if we find that a great party in the South is leagued with a great party in the North, embracing many men acting under the dictates of an honest judgment, perhaps, but still whether intending it or not, supporting, through devotion to party, measures calculated to override justice, crush out loyalty, and elevate traitors to power—in such an emergency as this it becomes the duty of Congress fearlessly and nobly to take the responsibility and to find an agent that *will* execute its will.

We must not trifle with this question. There is too much at stake. If we do not find authority in the letter of the Constitution we must find it in the fact that the public liberty is in danger and the national life in jeopardy. We must act upon the same principle on which we tear down a building to save a city when a fire is raging; upon the same principle on which we throw overboard a portion of the ship's cargo in order that the residue may ride safely through the storm; upon the same principle on which the commander of a ship in an hour of extreme peril has a right to enforce obedience to his commands even by taking the life of some of the disobedient. The duty rests upon Congress; and Congress is the exclusive judge of the emergency, subject only to the superior authority of the people. If we find there is such a state of public peril as requires the exercise of this great power, we can say to the Executive, "Stand back; we will not clothe you with the power of executing this law; we will find a man who is a proper, an honest, a true man, an earnest man, who has fought in the conflict and who has shown his faith by his works. We will charge him with this great duty, and under his lead we will march to success.

Do not tell me that the people of the United States will not indorse such a movement. Sir, we have trifled too long with the people of this country; we have waited too long on this precipice; we have listened too long to the clamor of these disturbing elements North and South. We must go on, sir, to the performance of our high duty; we must reconstruct the South upon the great, immutable principles of justice; we must elevate the loyal men and place them in a position at least equal with these traitors: we must lighten the burdens of the people financially, and in every other way lift them up from the despondency and gloom into which they have fallen. Sir, with this purpose in view, earnest, faithful, unterrified by clamor, we can endure any sort of denunciation and abuse. We can submit to denunciation from all those interested in the overthrow of those principles upon which alone this Government can be restored, and among them I am sorry to say is the Democratic party itself. We can endure all this; we can preserve our self-respect, do our duty to the Government and the people, and I believe we shall be sustained by the people as we will be by our own convictions of right.

Mr. ELDRIDGE. Mr. Speaker, I have lost very much of the desire I had at the beginning of this discussion to speak on this question, from the fact that my friends from Indiana [Mr. KERR] and from Illinois [Mr. BURR] have very ably covered pretty much of the ground I intended to occupy. But, sir, I cannot look upon this measure in the light of recent events without serious apprehension and alarm. I have watched one after the other of these so-called reconstruction measures as they have come from the committee, miscalled the reconstruction committee with the hope that each one might prescribe or point out to the country and to the oppressed people of the southern States a platform upon which they might be permitted to assume their rights, duties, and obligations under the Constitution. But, sir, notwithstanding that committee and those in accord with it have brought us four different bills on this subject, they have never yet dared to commit themselves to any plan to lay down anything like a finality. They have, in fact, at no time had any defined or settled policy. They differ with the President, they complain of him that he has had a policy, and they have claimed for themselves the virtue of opposing the President; but they have never yet dared to proclaim to the country or to the southern States any policy or plan by which they may be restored to the Union and exercise the rights of citizens under the Constitution.

And now, sir, comes this measure which words would fail me to denounce in full accord with the emotions and feelings it has inspired. But every new bill on this subject has some new enormity, and, if possible, is a wider departure from the Government of our fathers, and is in more flagrant violation of the Constitution than its predecessor. The lovers and supporters of the Constitution may well stand appalled by the provisions of this bill—provisions which not even the committee itself would have dared to support when it was first raised; provisions which if carried into effect must assuredly overthrow and destroy our system of Government altogether; provisions by which Congress will usurp and swallow up all the constitutional powers of the Supreme Court and strip the Executive of all his constitutional powers and prerogatives. It lays at the feet of Congress all the vast interests of the people, with no check, no restraint, upon its grasping and ever-growing powers. It makes Congress, in fact, the dictator of the judgments of the Supreme Court and the court its slave, and subjects the Army and Navy to its supreme command.

I have listened in vain for some gentleman advocating this measure to show us under what warrant or authority of our Constitution they claim the right to adopt this bill. I expected the able and eloquent gentleman from Ohio, [Mr. BINGHAM,] from his known ability, from his great reputation as a lawyer—a constitutional lawyer—that he would have given us some foundation upon which he himself could rest this last measure; but when I appealed to him to know under what provision of the Constitution he claimed the right to pass this bill, he, with some qualification and hesitation, referred to that provision of the Constitution, so often misused and misapplied, which requires the United States to guaranty to the several States a republican form of government.

Now, let us look at this measure for a little, and see whether it has its warrant in this provision of the Constitution—and I shall not be driven by any contempt which gentlemen may feel for the Constitution, so often expressed on this floor, from examining this bill by the provisions of the Constitution—"to guaranty a republican form of government." I put it to the gentleman when he was making his speech, and I put it to him now again, whether, when under this provision a government is to be guarantied, it does not imply a preëxisting government? I ask him when he comes to reply to tell us what preëxisting government it is we are authorized to guaranty?—what government it is he proposes to guaranty, whether it be the civil government existing prior to 1861, subsequent to that date, or the military governments, or a government to be created by this Congress?

Mr. BINGHAM. Does the gentleman wish an answer now?

Mr. ELDRIDGE. I am willing the gentleman shall answer now if he will do so briefly.

Mr. BINGHAM. I will answer him very briefly.

Mr. ELDRIDGE. What government does he intend by this bill to be guarantied?

Mr. BINGHAM. I intend that form of government to be guarantied which is contemplated by the words "a republican form of government;" and inasmuch as the majority in every one of the ten States lately in insurrection battered down by treason——

Mr. ELDRIDGE. Oh, do not give us rhetoric now; give us your answer. [Laughter.]

Mr. BINGHAM. If you want my answer you shall have it in a few words. They battered down by treason——

Mr. ELDRIDGE. Never mind the "battered down by treason." [Laughter.]

Mr. BINGHAM. That is the fact; you may call it rhetoric, but it is the fact. They battered down their governments by treason and——

Mr. ELDRIDGE. Mr. Speaker, I resume the floor; the gentleman does not answer my question.

Mr. BINGHAM. I am going to answer it.

Mr. ELDRIDGE. Well, I cannot wait.

Mr. BINGHAM. The gentleman should not ask me, then, to answer it.

Mr. ELDRIDGE. If he will answer he shall have the privilege, but I do not want rhetoric.

Mr. BINGHAM. Well, is not that a fact? [Laughter.]

Mr. ELDRIDGE. It is a fact that the gentleman gives nothing but rhetoric. [Laughter.]

Mr. BINGHAM. Is it not the fact that treason battered down the governments of the South?

Mr. ELDRIDGE. Supposing it is; tell that on the stump—what has that to do with answering the question?

Mr. BINGHAM. None of your rhetoric, sir. [Laughter.] The fact——

Mr. ELDRIDGE. Answer my question or I must resume the floor——

Mr. BINGHAM. I do answer it, and in the words of the maker of your Constitution, James Madison, who said——

Mr. ELDRIDGE. I resume the floor—the gentleman will not answer——

The SPEAKER. The gentleman from Wisconsin resumes the floor and must not be interrupted.

Mr. ELDRIDGE. I yielded, but the gentleman did not answer. He dare not; I repeat, he dare not answer whether that "guarantee" under the Constitution must not attach itself to some preëxisting government upon which it is to operate, and what that government is.

Mr. BINGHAM. I dare do it if you will allow me. [Laughter.]

Mr. ELDRIDGE. Well, Mr. Speaker, the gentleman tells us he dare do it and that he

will do it. Did not he have an opportunity? [Laughter.]

Mr. BINGHAM. Well, I did not. [Laughter.]

Mr. ELDRIDGE. Did not I give him the opportunity when he was making his speech, and he failed to answer?

Mr. BINGHAM. And I did it.

Mr. ELDRIDGE. The gentleman did not answer. He dare not answer.

Mr. BINGHAM. Well, I dare. [Laughter.]

Mr. ELDRIDGE. I will give the gentleman another opportunity now if he will answer the question in one minute.

Mr. BINGHAM. Well, a minute is rather short. [Laughter.]

Mr. ELDRIDGE. I know it is short, but I want to cut off the rhetoric. [Laughter.]

Mr. BINGHAM. Shakspeare gave a fellow forty minutes to girdle the earth. [Laughter.]

Mr. ELDRIDGE. Well, I do not want you in answering to go round the globe. [Laughter.]

Mr. BINGHAM. In one word, the man who is called the father of the Constitution has answered it for the gentleman. James Madison knew as much as both of us, and he declared this, touching that very clause of the Constitution of which he was the author: that when the majority of a State battered down their government by treason it was the right and the duty of the Federal Government to enable the minority to rebuild it. That is my answer. [Applause in the gallery.]

Mr. ELDRIDGE. In answer to the gentleman I say that is not the fact. Mr. Madison never said so; never uttered any such statement.

Mr. BINGHAM. I beg leave to say that I will prove it to-morrow.

Mr. ELDRIDGE. Oh, to-morrow!

Mr. BINGHAM. Yes, to-morrow.

The SPEAKER. Any manifestation of applause or disapprobation in the gallery is out of order.

Mr. BINGHAM. Mr. Speaker, when the gentleman answers me in that way I tell him that I know all he knows on this subject and I know what I know besides. [Laughter.]

Mr. ELDRIDGE. The gentleman never loses an occasion to put before Congress and the country what he does know and a great many things, I think, that he does not know. [Laughter.]

Mr. BINGHAM. Yes, sir. [Laughter.]

Mr. ELDRIDGE. I insist, Mr. Speaker, that that clause of the Constitution does require, by necessary import, a preëxisting government to be guarantied. I say that the United States is bound to guaranty in each of these States a republican form of government, and that the republican form of government which they are to guaranty is the government existing before or at the time when these States went into the rebellion. But even if the term guaranty imports an original independent power to make or create, if that position could by any possibility be correct, "guaranty" does not, cannot mean to destroy or overthrow; it does not mean to subvert or tear down; it cannot mean to take away from the people republican governments and give them military governments in their stead. It cannot authorize Congress to take from them all civil governments and subject them to rule of the sword. And by what logic or reasoning it can be claimed that this bill is an execution of the power to guaranty to those States a republican form of government by declaring that all the civil governments existing in those States shall be overthrown, destroyed, subverted, and the people put under the control of the military power of a military despot, is beyond my comprehension, beyond my ability to understand. Is it guarantying republican form of government to those States to prohibit the Executive and the judiciary from recognizing any of their civil rights, from protecting them in the right to their State governments, in the rights of life, liberty, and property? Is military government, is the government by the bayonet, the republican government to be guarantied to the States?

But, sir, when I drove the gentleman by the question which I put to him when he was making his speech from this clause of the Constitution he attempted to take refuge under another, and that one where all men who would exercise ungranted power, who are not content with the powers granted by the Constitution, flee when driven from more solid ground; he took refuge under that clause of the Constitution which provides that the Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

But, sir, I insist that he cannot find power for this bill under that clause of the Constitution. That provision must of necessity be construed with reference to the powers actually delegated, expressly given by some express power of the Constitution, and upon that point I refer to the very authority which the gentleman himself cited in his speech. He undertook to show that because Congress is authorized to guaranty republican forms of government, it may under this general clause do any thing original in its effect, original in its purpose, which shall in the end or may by possibility restore republican governments. In other words, the power which the gentleman claims under this provision is that he may create a republican form of government, and upon that hang his guarantee—upon that exercise the power of guarantying republican form of government.

Mr. BINGHAM. No, sir.

Mr. ELDRIDGE. He claims virtually that this Congress may go to work and create a government republican in form in those States. No other conclusion can be drawn from what he said, that as there are no governments existing there since all the civil governments have been destroyed—abrogated, as he expressed it—Congress can make a something in their places, and by the power of the word "guaranty" turn that something into a republican government; and he claims that that can be done under this general clause of the Constitution. Now, I insist that that general clause is limited to the carrying out of the express powers granted by the Constitution, and so the authority to which the gentleman referred holds, notwithstanding the sentence or paragraph which he quoted in his speech. Chief Justice Marshall, who certainly is entitled to the high encomium paid him, says, with reference to this general clause:

"But we think a sound construction of the Constitution must allow to the national Legislature that discretion with respect to the means by which the powers it confers are to be carried into execution which will enable that body to perform all the duties assigned to it in the manner most beneficial to the people. Let the end be legitimate; let it be within the scope of the Constitution; and all the means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

There is the doctrine and that is the conclusion of the whole case. That is the point settled by the case and all that the case decides. Congress may make all laws and rules necessary for carrying into effect the foregoing powers. Let it be within the scope of the Constitution; let the power be granted, and all the means for carrying it out may be devised by Congress. The power must be given and the action of Congress must be within its scope and meaning. It must rest its action upon expressly granted powers. Congress cannot find its warrant for this measure in that clause of the Constitution nor in the two together, even if the object of the bill was to do what is claimed for it, which certainly I cannot admit, which I do not believe.

But the gentleman devoted most of his time to the first section of this bill. What is that section? It declares that "the so-called civil governments in those States respectively shall not be recognized as valid or legal State governments either by the executive or judicial power or authority of the United States."

Sir, I insist that that section is in direct conflict with more than one provision of the Constitution of the United States. The Constitution provides that "the executive power is vested in the President." It also provides that "the judicial power is vested in one Supreme Court" and such inferior courts as may be established. Now, what does this bill provide? It provides that these States shall not be recognized as having valid and legal State governments either by the executive or the judicial power of the Government.

That is an injunction upon "the exercise of the power." It is not that the President shall not do a certain act, or that the judges of the court shall not perform certain specified acts, but it is that "the power" shall not be exercised. It is a prohibitory injunction against the exercise of a power granted by the Constitution. If it merely prohibited the President from doing some act not within the scope of executive power it might not, then, prohibit the exercise of "the executive power" conferred upon him by the Constitution. If it was to prevent the court from doing some particular act, it might not, then, restrict or prohibit the exercise of "the judicial power."

But there is a power vested in the executive and the judiciary coming from the same source from which Congress derives all its power, the original source of all governmental power, the people. This bill attempts to circumscribe and limit the exercise of "the power" itself, a power not conferred upon Congress, not subject to its control. The executive and judicial power is as much above and beyond the control of Congress as is the legislative power vested in Congress by the Constitution above the control of the executive and the judiciary. And yet this bill by its terms expressly declares that these powers of the executive and the judiciary shall not in a given case be exercised. What is this but the exercise of these powers by the Congress? If it may say when and when not the powers shall move, if its discretion and not theirs is to determine when they shall be put in force, they are both overthrown and destroyed.

But it not only limits "the power;" it goes further. If the bill means anything, if it does anything that is intended by the framers of it, by the committee that reported it, it actually decides judicially by this Congress the whole question whether there are legal or valid State governments in those States. It is, therefore, a judicial act; Congress is not only prohibiting the exercise of the judicial power vested in the judiciary, but it assumes to exercise that power itself, not for itself only, but for the court and the people, making its decision final and irreversible.

And, sir, the bill goes further, and provides that although the judicial department and the executive department of the Government may deem it their duty to interfere, may see that the case calls for the exercise of the power vested in them by the Constitution and under their oaths of office, yet they shall be prohibited from exercising those powers under severe penalties. Congress not only usurps the power of the judiciary and the power of the executive, and determines to exercise that power itself, but it prohibits those departments from exercising their own legitimate power, and affixes penalties upon them for disregarding its will.

Now, it is said that there are no civil governments in those States, and what follows from this? If there are no civil governments in those States then there can be only military governments there. If there are civil governments in those States, then certainly the judiciary and the executive have the right and power, and it is their duty, to recognize them as such. If the institutions in those States are civil institutions under the Constitution and laws of the United States then there is no power in Congress to prohibit the execu-

tive and the judiciary from recognizing them as such. It is the duty of those departments of the Government to do so; they are bound by their oaths of office, by their obligations to the Constitution, from which their authority is derived, to recognize them on all proper occasions. Whenever their power is invoked it is their duty to recognize them as civil governments. At all events they must have the power to decide the question, and to decide they must recognize them if they exist as such.

If they are not civil governments then they are military governments; and if they are entirely military establishments then this bill violates the Constitution of the United States; because, by that Constitution the President is made the Commander-in-Chief of the Army and of the Navy. His duty, then, as Commander-in-Chief, requires him to control them as military establishments; so that the President's powers and duties are interfered with and abridged by this bill in any view that can be taken of the subject. If they are civil governments it is the duty of the executive and the judiciary to recognize them as such. If they are military establishments the duty and office of Commander-in-Chief require the President to take charge of them, and to command all the officers within the limits of those States. And if they are governments *de facto* only, the remnants of the war permitted by the military authorities to continue after the armies were withdrawn, in the exercise of governmental powers, they are civil governments within the meaning of the law, and the President and the judiciary bound, whenever the respective powers are invoked, to recognize them as such. The law of nations as well as our own internal polity requires this doctrine. This has been affirmed by our Supreme Court. It will be recollected that in the case of Cross *vs.* Harrison, in 16 Howard, in a case which arose out of the collection of duties enforced in the then unorganized Territory of California, this decision was rendered by the court. Hon. Robert J. Walker, then the Secretary of the Treasury, gave instructions to the collector of one of the ports in California, and the court, Justice Wayne delivering the opinion, recognized those instructions as the law of the case, and approved of the direction and advice given by the Secretary of the Treasury to the collector on that occasion. The Secretary used this language, which the court adopts as the law in its decision:

"In the meantime the condition of the people of California is anomalous, and will require on their part the exercise of great prudence and discretion. By the conclusion of the treaty of peace the military government which was established over them under the laws of war, as recognized by the practice of all civilized nations, has ceased to derive its authority from this source of power. But is there for this reason no government in California? Are life, liberty, and property under the protection of no existing authorities? This would be a singular phenomenon in the face of the world, and especially among American citizens, distinguished as they are above all other people for their law-abiding character. Fortunately they are not reduced to this sad condition. The termination of the war left an existing government, a government *de facto* in full operation; and this will continue, with the presumed consent of the people, until Congress shall provide for them a territorial government."

Not till Congress shall place over them, after a year or more of peace, a military establishment, virtually renewing the war, but "until Congress shall provide for them a territorial government."

Now, sir, governments exist in those States. I care not how they sprung up; I care not how they came into existence, whether saved from 1861 by the war destroying the rebellion, by the will and authority of the President, by the permission of Congress, or by the voluntary act of the people themselves; there were and are existing in all those ten States civil governments. Notwithstanding this fact, this bill provides that the President, acting in his official capacity, exercising the executive power or the powers of Commander-in-Chief of the Army and Navy, and the judiciary exercising the judicial power, shall not recognize them as such. Can it be that the bill is not obnoxious to the Constitution in this regard?

But this decision goes further:

"This government *de facto* will of course exercise no power inconsistent with the provisions of the Constitution of the United States, which is the supreme law of the land."

Here, then, is a territory conquered from a foreign nation, having only a *de facto* government, that government a civil establishment recognized by the Executive, and, as this decision holds, properly recognized by him and governed only in subordination to the Constitution and laws of the United States. But under what provisions of the Constitution do you find authority for creating General Grant supreme dictator to govern that people with the sword? Under what provision of the Constitution do you find authority to control the lives, the liberties, and the property of twelve million people by the sword alone, without law, without any civil government, without any legal protection, with no rights recognized except such as the dictator, in his wisdom or unwisdom, may think it proper for the people to enjoy? I refer to the language of Justice Wayne to show that this opinion which I have read is the law of the case. He says:

"From the letter of the then Secretary of State and from that of the Secretary of the Treasury we cannot doubt that the action of the military governor of California was recognized as allowable and lawful by Mr. Polk and his Cabinet."

The court goes further, and says that this government was rightfully recognized by Mr. Polk and his Cabinet:

"We think it was a rightful and correct recognition under all the circumstances; and when we say rightful we mean that it was constitutional, although Congress had not passed an act to extend the collection of tonnage and import duties to the ports of California."

Here, then, the President and his Cabinet recognized this *de facto* government, notwithstanding Congress had passed no law with reference to this Territory. How, now, can gentlemen say that the President had not the right to recognize these States? I insist that it was and is his duty to recognize them. When he has recognized them it is an adjudication of the case for this purpose. He is a part of the political power of this country, as much a part of it as Congress itself, and his act is binding upon Congress.

In this connection allow me to read a paragraph from the decision of the Supreme Court in the celebrated case of Luther *vs.* Borden, in 7 Howard:

"By this act the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President. He is to act upon the application of the Legislature or of the executive; and consequently he must determine what body of men constitute the Legislature and who is the governor before he can act. The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict, like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government; and the President must of necessity decide which is the government and which party is unlawfully arrayed against it before he can perform the duty imposed upon him by the act of Congress."

When the President or Congress in the legitimate exercise of their constitutional powers, have recognized those States as having civil governments existing there (and both of them have done so) neither can deny the fact; neither can deny the right of those people to the enjoyment of civil governments. And if it were conquered territory taken by conquest from a foreign enemy all that Congress could do would be, when peace had been declared, to permit the existence of *de facto* governments until territorial governments should be established. Sir, there is no view that can be taken of this bill which does not show it to be an abomination. If it shall be passed it will cover this nation with infamy.

[Here the hammer fell.]

Mr. BOUTWELL. Mr. Speaker, I believe it is understood that it is the design of the committee to close debate on this bill to-morrow, and I have risen for the purpose of moving this House now adjourn, unless other gentlemen desire to speak. If there be any I venture to ask the House that it shall be understood I shall have the floor when the House does adjourn, whether present or not.

There was no objection, and it was ordered accordingly.

Mr. HIGBY. Mr. Speaker, I have been drawn into this debate more from the peculiar turn it has taken within the last two days than from any previous intention to discuss the questions involved, and I shall not attempt in the half hour allowed me to review all the points which have arisen in the consideration of this bill. I shall only touch upon one or two.

Mr. Speaker, before proceeding upon the main points I intend to discuss I wish to take notice of the word "guaranty" in the Constitution, which has been so much dwelt upon by many speakers in this House in the course of this debate and others. The word is found in this connection:

"The United States shall guaranty to every State in this Union a republican form of government."—*Constitution*, art. 4, sec. 4.

I am led to the conclusion, from the manner in which opposition members have dealt with this word, that they would have it mean that the Government of the United States shall force upon a State a republican form of government whether the people will have it or not. The gentleman from Wisconsin, [Mr. ELDRIDGE,] who has just preceded me, who has the reputation of being a good lawyer, and I presume he is entitled to that reputation, has dealt with this word in his argument as if it had that meaning. Now, sir, I will settle the question of the meaning of this word right here, and there is not a lawyer in this House, and I will include the gentleman, who will dissent from the definition.

Mr. ELDRIDGE. I will say in the view I took of this word my purpose was to give the definition and the effect it had upon this question, not whether we should force upon a people a government they would not accept. I did not intend to go any further.

Mr. HIGBY. I assert that it is not in the power of this Government to force a State government of any form whatever upon any State. Now, sir, I make a legal statement that will strike the mind of every lawyer, for the purpose of defining this word guarantee. A owed B $500, but B did not allow A to become so indebted until C became guarantor for A—a surety, who engaged to see that the stipulations of A were performed. In the case stated the true definition of the word guarantee is contained. C's obligation is a guarantee. If A pays the debt to B when due no further obligation rests upon C—the obligation of guaranty is gone. Again, if B should release A from payment by refusing to receive the amount named, surrendering to him all evidence of the indebtedness, the guarantee of C goes with it.

Let me give the definition from "Webster," which defines it as explicitly as I have illustrated it. It means "to undertake to secure to another, at all events, as claims, rights, or possessions." Then he illustrates it thus:

"In the treaty of 1778 France guarantied to the United States their liberty, sovereignty, and independence, and their possessions."

Suppose the United States at any time thereafter had seen fit to yield that liberty and independence to another Power, the question of guaranty on the part of France is gone. The Constitution guaranties a republican form of government to a State, but if the State does not want that government it is out of the power of the United States to guaranty it, for the obligation of guaranty is gone.

This word has been misinterpreted, not only to-day, but during the discussion of questions for the last two years. The effect has been to convey the idea that the Government of the United States is compelled to give to a State a republican form of government. "Webster" continues that, in return, "and the United States guarantied to France its possessions in America." Now, suppose France saw fit to part with those possessions by treaty stipulations to another Power than the United States then the guaranty would be gone.

Mr. ELDRIDGE. Does the gentleman be-

lieve it is possible for one of these States to secede, to go out of the Union?

Mr. HIGBY. That is the very point upon which I desire to dwell; about the only point, because there is not time to take the bill in detail, and I have made no preparation for anything of the kind. I say right here, as I have said at all times, that to my mind it is as clear as sunlight that the power is in any State of this Union to destroy its own State government, and it is not in the power of the Government of the United States to compel the people to live under that State government.

Mr. ELDRIDGE. Right there I would like to ask a question. Does the gentleman claim that it is in the power of the United States to permit or allow them to destroy their government?

Mr. HIGBY. Yes, sir; I do claim that it is in the power of the people at any time to destroy their State government. What is the object of a State government? It is simply the right to control and regulate their domestic relations within the limits of the State. It is a privilege to the people themselves to have it, and if they see fit to throw it away they can do so.

Let me illustrate. The people of a Territory organize a State government under an enabling act, or, as in the case of California, to which the gentleman referred, without any enabling act. The people under the military government held a convention. The delegates framed a constitution, submitted it to the people, who voted upon it, and having adopted it, they elected members to the House of Representatives and chose two Senators and sent them here. Congress examined their constitution, was satisfied with it, and admitted California as a State under that constitution. And when I cite the State of California I cite the process by which every State was admitted to the Union after the original thirteen. They had their State organizations and their State coustitutions. The people in the State frame and ratify their constitution, and when they ask to be admitted under it Congress looks at it and asks but one question, namely: is it republican in form? And when ascertained to be so, and the Territory is admitted as a State, the "guarantee" in the Constitution of the United States is a barrier against encroachment from within or without. It insures to the people of the State free government, presuming that the people want it, but if they do not they can destroy it. That is my idea.

Now, sir, how is it that these Representatives get here? Of course there is a machinery of government, and it is supposable that the people are going to sustain with fidelity every branch of the government. It is presumed that when the people do have a State government with a right to send Representatives to this Hall they will do so, and the presumption also is that they want to send Representatives here. But supposing that they see fit to throw it aside, by non-action if you please, to elect no Representatives to Congress, to elect no Governor and Legislature, and of course to choose no Senators; in short, to have no State organization and go back to chaos. It is beyond the power of this Government to force them to do these things, and the gentleman from Wisconsin [Mr. ELDRIDGE] will not gainsay what I have said. All power is with the people and nowhere else.

Let any State refuse to do these things for ten, fifteen, or twenty years. Is there nothing to be done by the General Government in that case? It has not the power to enforce action on the part of the people. Guarantee is not the question. But while it has not the power to enforce a State constitution it has the power to enforce a territorial government to a certain extent. It can send Federal laws into the Territory and make the people obey them. That is all the kind of government it is possible for the United States to enforce upon any people in any State of this Union where the State government is against their will.

Suppose, Mr. Speaker, that the people of a State have done this for ten years and the Federal Government has been forced, in order to secure jurisdiction over the territory and the execution of the laws of the United States, to make a territorial government of some character, such as it can enforce; but after ten years the people wake up and finally come to the conclusion that they will do as they were wont to do, adopt again a State government and elect Representatives and Senators to Congress. Well, sir, I do not know but we might divide on political questions, but unless there was something of a political character to divide us I think I would find the gentleman from Wisconsin [Mr. ELDRIDGE] with me, if we were here, looking with some little astonishment at the exhibition of men coming from such a State after ten years, and presenting themselves as members-elect to Congress from the State of Nimshi. [Laughter.]

"What business have you here?" is the inquiry which would run all through this Hall. "Ten years ago you threw off your State government; you have not elected a Governor; you have not elected a Legislature; you have not sent Senators to the other end of this Capitol nor Representatives to this end of the Capitol. What does this mean? What are you about? Not only that, but this Government has made as much of a territorial government as was possible for your people. What has become of your State organization?" I think the gentleman from Wisconsin would agree with me, unless it was on political grounds, and it might be in his favor, in saying, "It is very dangerous policy for us to allow these men to come here and Senators to come to the other end of the Capitol until we see what all this means. You have no State government; you repudiated it and trod it under your feet. There is no call for this Government to guaranty the State government you had, for you repudiated it yourselves."

Mr. Speaker, it is no matter whether it be by non-action or whether it be by positive action, as by rebellion, that the people throw off their State government. By the rebellion these ten States themselves destroyed their governments. They repudiated their State governments and built up others, and the inquiry is, as their cases are presented to this House, what their condition is. We have had proof indisputable that such was the course that they pursued. We had evidence over and above their internal action at home by their fighting against this Government for four years in an attempt to destroy it. They are in no better nor worse condition than the case that I stated in the first instance of a people who by non-action should destroy their State government. But, sir, I must pass on.

Now, sir, I have no difficulty in getting at the status of these different States that were in rebellion with relation to this Government. They were traitors to the Government. They destroyed the guarantee when they destroyed their State governments. They had none when the rebellion closed which this Government could, with any safety to republican institutions, recognize. And it has been the effort of the majority in Congress ever since the close of the rebellion in the spring of 1865, to restore those States to their former positions in the Union if the people themselves would build up governments that would cherish and sustain those institutions which are cherished and sustained by those States that were faithful and loyal to the Union in its late death struggle with rebellion.

Mr. ELDRIDGE. I wish to know of the gentleman if it is not a fact recognized by us all that at all times since 1861 and the breaking out of the rebellion there have been loyal and true men in these States, and in every one of them, claiming the benefit of this guarantee, and if, during all the time and up to this day, they have not had the right to claim it?

Mr. HIGBY. Yes, sir; let me answer that question right here. Every law of reconstruction from the beginning down to this time has been called for by the loyal people of the southern States, and to-day, with all the carping of men here in this Hall in regard to the treatment of the South, it is only those men who are complaining who were engaged in the rebellion. The loyal men of all colors are asking Congress to pursue the very course that we are pursuing with reference to reconstruction. That is my answer. Sir, if the loyal voice of the South could be heard as loudly as the rebel voice, we would hear it echoing and reëchoing loud plaudits to the Radicals of the Thirty-Ninth and Fortieth Congresses for the course they are pursuing with reference to reconstruction. It was not until after long and weary importunity that the Thirty-Ninth Congress would take any steps upon this subject in the way it did. It was not until the measures proposed by Congress, far more mild and moderate than the military bill, had been trampled under foot and spurned with contempt by the rebel governments instituted by Andrew Johnson that finally, by the importunities of the loyal people of the South, we were brought to the reconstruction act that was passed and also to this amendment.

Mr. Speaker, I fear we shall suffer more from moderation than we shall from promptness. The rebellion never had any defeat that was fatal to it. The Government of the United States never had any substantial success until it made war directly upon the institution of slavery. While it was fighting around slavery and trying to kill the rebellion without killing slavery also the rebellion was all the time growing in strength. But when it made war right through slavery then the work of crushing the rebellion was successfully commenced. And I am fearful that by our lenity in our attempt at reconstruction, by going around Andrew Johnson, we will fail, and that we will find our only way to success to be by pushing right on through or over him to reconstruction, and only in that way.

Mr. Speaker, as I view these things, the States which were engaged in the rebellion—we call them "States" for convenience sake—have now no State organizations; they have wrought their own destruction. And until something is done there by the loyal people to restore State governments, those people who are and were in favor of free and republican institutions, there will be nothing there which this Government should or ought to recognize as State governments. And it is for that reason that I assist in passing such measures as these more stringent ones, in order if possible to put a restraint upon those who were engaged in armed rebellion against the Government of the United States, and who are in spirit in rebellion, until the loyal people of those communities can reorganize State governments there. And every one of these steps is for the purpose of giving better and more favorable opportunity for that work to progress. For that reason I favor this series of measures as they are from time to time presented for our consideration.

There has been a great deal said here about attempts to trench upon the Supreme Court of the United States. Now, I do not want any of these gentlemen to answer me by reference to precedents or to laws of Congress. I ask the attention of the gentleman from Ohio [Mr. BINGHAM] and the gentlemen from Wisconsin [Mr. ELDRIDGE] and Indiana [Mr. KERR] to what I am about to say.

A great deal was said by the Democratic members of this House a few days ago when the judiciary bill was under consideration about trenching upon the powers of the Supreme Court. My opinion is that in the passage of that bill we threw away a part of our own power in allowing six members of the Supreme Court to destroy any act of Congress by their decision against it. I would ask those gentlemen where they find in the Constitution of the United States the power given to the Supreme Court to invalidate any law of Congress? I find only that they are to deal with cases in law and equity arising "under the Constitution of the United States," and—supplying the words

which should be repeated—"under the laws of Congress." That is the language of the Constitution of the United States.

And, sir, I somewhat question, in my own mind, whether, if that bill was here now to be voted upon, I would assist in thus voting away the power of Congress. I think there are times when we should hold on to what power belongs to us and give it to no other coördinate branch of the Government. We are here to be wakeful and watchful of the great interests of the people, in the most trying crisis through which the people have been called to pass since the organization of the Government.

Mr. ELDRIDGE. Does the gentleman mean to say that the Constitution is not the paramount law for the judiciary?

Mr. HIGBY. I say you find no place in the Constitution where power is given to the judiciary to invalidate any law of Congress.

Mr. ELDRIDGE. Has not the decisions of the court——

Mr. HIGBY. I say show me that power outside of precedents.

Mr. ELDRIDGE. Is not "the judicial power" vested in the Supreme Court?

Mr. HIGBY. It is, and through the power given to Congress by the Constitution, that same court can be stripped entirely of all its power through impeachment.

Mr. ELDRIDGE. Is not the judicial power the power to decide? And when the court is called upon to decide any case, must it not decide the whole case? And in case where one law is in conflict with another, is it not to decide which law is to have force and effect, and which not?

Mr. BINGHAM. I desire to inquire of my friend from California [Mr. HIGBY] whether he knows a single instance in which the Supreme Court of the United States ever yet decided an act of Congress to be unconstitutional?

Mr. HIGBY. That is going aside from the question which I desire to discuss. The courts may in some instances have departed from the Constitution; so may Congress; so may the President. But I am going to the foundation of this question, and I wish to have an answer whether there is any power given in the Constitution to the Supreme Court to declare an act of Congress unconstitutional?

Mr. BINGHAM. I only wanted to call the gentleman's attention to the question whether there are any such cases?

Mr. HIGBY. I know of none.

[Here the hammer fell.]

Mr. NIBLACK obtained the floor.

Mr. MARSHALL. With the consent of the gentleman from Indiana [Mr. NIBLACK] I desire to put an inquiry to the gentleman from California, [Mr. HIGBY.] In case of a conflict between the Constitution of the United States and an act of Congress, which does the gentleman regard as the paramount law?

Mr. HIGBY. The Constitution of the United States.

Mr. MARSHALL. Is not the Supreme Court bound to decide what is the law in questions coming before it; and if two laws come in conflict is it not bound to give preference to that law which is paramount?

Mr. HIGBY. Why should the judgment of the court in such a case overrule that of Congress?

Mr. MARSHALL. I wish to know by what authority this Congress or any other power on earth can give to the opinion of the minority of a court the effect of a judgment of that court, and have it entered as the judgment of the court, against the opinion of the majority. That is what the bill passed here the other day attempts to do.

Mr. BINGHAM. Not at all.

Mr. MARSHALL. By the bill passed last Monday it is provided that when any circuit or district court of the United States decides an act of Congress unconstitutional the case shall be certified to the Supreme Court, and that, unless two thirds of the members of this court are in favor of affirming the judgment of the court below, a decree of reversal shall be entered. So that if six judges sit in the hearing of the cause, and five are of the opinion that the act in question is void, while one is of opinion that it is valid, the opinion of one judge is entered as the judgment of the court, and the other five judges must file a dissenting opinion! I say there is no power in Congress or any other tribunal in any civilized country on earth to authorize the opinion of a minority of a court to be entered as the judgment of the court, compelling the majority to file a dissenting opinion. It is contrary to every principle of jurisprudence and of constitutional law. I submit that what is meant by the judgment of a court at common law and according to the legal vocabulary of every civilized country on earth is the judgment of the majority of the court. The opinion of the minority of the court, against that of the majority, cannot be entered as the judgment of the court. And an attempt by act of Congress to make it so is, I respectfully submit, a most palpable attempt to usurp the functions of or destroy the powers conferred upon the Supreme Court by the Constitution. The judicial department established by the Constitution is an independent coördinate branch of the Government—as independent within its sphere as Congress itself is within its appropriate sphere. It is a violation of every principle of jurisprudence and constitutional law.

Mr. BINGHAM. By leave of my friend I want to make a statement. In the first place, there is no court outside of the Supreme Court of the United States which has power to pass on the constitutionality of any act of Congress or which can pronounce any judgment at all upon the constitutionality of any act save by leave of Congress.

Mr. MARSHALL. What has that to do with the point I have just made?

Mr. BINGHAM. It has this to do with it, and by leave I will answer. In one of the most carefully considered questions which ever went to the Supreme Court at all, because it involved the direct issue of life and death, it was solemnly decided that because Congress did not allow the exercise of the judicial power in that case either in circuit or district courts the decision made by a mere commissioner was final. But the gentleman must see, I think, by reference to that solemn decision that no tribunal short of the Supreme Court of the United States has any power to pronounce any judgment of any kind on the constitutionality of any law but by act of Congress, and therefore subject to such terms as Congress may prescribe in the act.

Mr. MARSHALL. I put it to the gentleman, and submit it to the House, that he does not in any respect whatever answer or meet the point I have made.

Mr. NIBLACK next addressed the House. His speech will appear in the Appendix.

And then, on motion of Mr. BINGHAM, (at ten o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DRIGGS: The petition of Aaron B. Ryno, of Gains, Genesee county, Michigan, for remuneration for losses during the war.

Also, the proceedings of a meeting of citizens of East Saginaw, Michigan, and vicinity, to consider the rights of American citizens in foreign countries, with resolutions in reference to the treatment of Irish American citizens by Great Britain.

By Mr. FARNSWORTH: The petition of Jane A. Green, of Aurora, Illinois, to be paid the amount of a United States bond which was destroyed by fire.

Also, the petition of Carter & Pimory and others, citizens of Kane county, Illinois, for a law providing a better mode of appointing collecting and disbursing officers of the Government.

By Mr. MULLINS: The petition of William Wehle, a citizen of Kentucky, praying an appropriation by Congress of $800 as rent for occupation of a lot of ground by the United States Army, situated in the city of Nashville, Tennessee.

By Mr. NIBLACK: The petition of sundry citizens of Knox county, Indiana, praying that more efficient protection be extended to citizens of the United States, both native and naturalized, while traveling abroad, and especially in Great Britain.

By Mr. O'NEILL: The petition of citizens, manufacturers, and dealers in paper-collars in New York and Philadelphia, praying that the internal revenue tax on these goods may be removed.

By Mr. PHELPS: The claim of Mrs. Ellen Craig, widow, of Baltimore, Maryland, for damages sustained during the war.

By Mr. PRICE: The petition of citizens of second congressional district of Iowa, asking for prompt action by Congress for the protection of naturalized citizens in foreign countries and to compel the Government of Great Britain to recognize the validity of the naturalization of those citizens.

By Mr. ROBERTSON: The petition of Ezra Kipp, of the city of Washington, praying for compensation for property taken and destroyed by the troops of the United States in Virginia during the rebellion.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 17, 1868.

The House met at twelve o'clock m. Prayer by Rev. O. H. TIFFANY, D. D., of New Brunswick, New Jersey.

The Journal of yesterday was read and approved.

PRIVATE BILL DAY.

The SPEAKER stated, this being Friday, the first business in order in the morning hour was the call of committees for reports of a private nature.

ANTI-CONTRACTION BILL.

Mr. SCHENCK. I have no public report to make from the Committee of Ways and Means, but I have a report on the anti-contraction bill to submit, that the House non-concur in the amendment of the Senate, and I hope it will be received at this time.

Mr. BENJAMIN. I object until after the morning hour.

DEFICIENCY BILL.

Mr. BUTLER, by unanimous consent, moved that the amendments of the Senate to House bill No. 320, known as the deficiency bill, be taken up and referred to the Committee on Appropriations.

The motion was agreed to.

SESSION FOR DEBATE.

Mr. HOLMAN. I move when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WASHBURNE, of Illinois. I hope my friend will withhold his motion until we see how business progresses before the House. We may then agree to have a session to-morrow for debate.

The SPEAKER. Several gentlemen have informed the Chair that they wish to speak to-morrow.

Mr. HOLMAN. I withdraw my motion.

BRIDGE OVER THE OHIO.

Mr. EGGLESTON. I ask unanimous consent to submit the following preamble and resolution:

Whereas the enactment of February 17, 1865, authorizing the construction of a bridge over the Ohio river at Louisville specially provides, first, that such bridge shall be located above the falls; second, that it shall be constructed with at least three draws; and third, that it shall in no way interfere with the navigation of said river; and whereas it is currently reported that the bridge at present being constructed is in flagrant violation of the above provisions and most seriously obstructing the navigation of said river: Therefore,

Be it resolved, That the Secretary of War is hereby

instructed to cause an immediate examination of the above facts to be made by the corps of Government engineers at Louisville, and report the same promptly to this body.

Mr. BENJAMIN. I object. It is not a private bill.

Mr. EGGLESTON. It is in regard to a private railroad company.

The SPEAKER. It is not a private bill.

Mr. WASHBURNE, of Illinois. This is simply a resolution.

Mr. EGGLESTON. It is in reference to building a bridge across the Ohio river at Louisville.

The SPEAKER. It is of a public character.

LANDS ON THE PACIFIC RAILROAD.

Mr. PRICE. I ask leave to report from the Committee on the Pacific Railroad a joint resolution restoring lands to market along the Pacific railroad and branches. I think this comes under the head of bills and joint resolutions of a private nature. It restores lands to private settlement.

The SPEAKER. It is a public bill, and can only be considered by unanimous consent.

Mr. BENJAMIN and Mr. WASHBURNE of Illinois objected.

ADVERSE REPORT.

Mr. JULIAN, from the Committee on Public Lands, reported adversely on the petition of Samuel F. Crawford; and the same was laid on the table.

CHANGE OF REFERENCE.

On motion of Mr. GARFIELD, the Committee on Military Affairs was discharged from the further consideration of the petition of Susan Libby, of Maine, for bounty, back pay, and pension for the service of her son; and the same was referred to the Committee on Invalid Pensions.

TWENTY PER CENT. ALLOWANCE.

On motion of Mr. GARFIELD, the Committee on Military Affairs were also discharged from the further consideration of the letter of the Secretary of War *ad interim*, in answer to a resolution of the House of the 11th instant relative to the twenty per cent. allowance to the clerks in his Department; and the same was referred to the joint Committee on Retrenchment.

BULLET MACHINE.

On motion of Mr. GARFIELD, the Committee on Military Affairs were also discharged from the further consideration of the petition of A. G. Snyder for compensation for his invention of a bullet machine, now used in the ordnance department; and the same was referred to the select Committee on Ordnance.

ADVERSE REPORTS.

Mr. GARFIELD, from the same committee, reported adversely on the petition of Philip W. Stanhope, captain of the twelfth United States infantry and brevet lieutenant colonel of the United States Army, for pay for three months as colonel of the fifth Kentucky volunteers, of which he was in command, and for which he never received a commission; and the same was laid on the table.

Mr. GARFIELD, from the same committee, reported adversely on the memorial of H. G. Tibbals, late captain of the twelfth Ohio infantry, who asks pay for the space of about three months when he was a prisoner of war; and the same was laid on the table.

A. F. ROCKWELL.

Mr. GARFIELD, from the Committee on Military Affairs, reported a joint resolution (H. R. No. 153) for the relief of A. F. Rockwell; which was read a first and second time.

It directs the proper officer of the Treasury and pay department to settle the accounts of A. F. Rockwell as first lieutenant of infantry from the 25th day of October, 1861, to the 17th day of September, 1863, which rank as an officer in the military service of the United States he is hereby recognized as having held during the whole of said period.

Mr. WASHBURNE, of Illinois. I call for the reading of the report.

The SPEAKER. The Chair is informed there is no written report.

Mr. GARFIELD. I will explain the case. Captain Rockwell was appointed aid-de-camp on the staff of General Buell, and went on duty in October, 1861, having been appointed a lieutenant in the sixty-fifth New York volunteers, but he did not receive his commission for several months owing to irregularities in the muster of troops in New York at that time. He, however, actually went on duty and performed all the duties of his position, received his pay, and has been steadily in the service of the Government until the present time. He is now in the regular Army. The papers on file in the case show all the facts in the case. The only trouble is he is not able to close his accounts in the War Department in consequence of the time at which he was mustered not corresponding to the time at which he went on duty. The vouchers are complete and full, showing that all the services were performed; the pay has all been granted, and it is only a matter of accounts. The joint resolution does not take any money out of the Treasury whatever. It simply provides that his accounts may be adjusted on the condition named, to wit: that he has been in the service and has performed the duties. The joint resolution is simply a repetition of what has been done scores of times in similar cases. I ask the previous question.

Mr. WASHBURNE, of Illinois. I would like to ask a question if it is permissible to make an inquiry in regard to this matter.

Mr. GARFIELD. I will withdraw the previous question for that purpose.

Mr. WASHBURNE, of Illinois. I would inquire if this does not set a precedent under which ten or fifteen thousand cases will be brought in?

Mr. GARFIELD. I answer the gentleman, not at all. This precedent has already been set in a hundred cases. The private laws show case after case of precisely this character, and I have had it referred to the War Department. The certificates of the officers of the Department are among the papers that I have sent up. I have tried to be very careful, and the committee have agreed to be exceedingly careful, in reference to such cases.

Mr. WASHBURNE, of Illinois. I thought from the reading of the joint resolution that the proposition was just enough. But I should like to know how far this may be extended and to what extent the precedent will take us.

Mr. GARFIELD. The precedent cannot take us at all from just such cases as this, and such a precedent has been set, as I said before, a score of times already from the beginning of our military legislation to the present time.

Mr. SPALDING. I desire to ask my colleague a question. If an officer performed his duties as an officer before he was mustered in can he have pay for that time?

Mr. GARFIELD. There is a specific law which embraces cases of that kind.

Mr. WASHBURNE, of Illinois. There are cases of members of this House that are embraced in that proposition, and I think there ought to be a general law on the subject, and that we ought not to make fish of one and flesh of the other.

Mr. GARFIELD. There is a general law for all cases occurring after a certain date. But this was the case of the appointment of an aid-de-camp by the general of a department in the field, and the officer served, supposing there was legal authority for that appointment, and several months elapsed before his commission came and he was properly mustered in. This only authorizes a settlement of accounts in this specific case. The committee think it safer to decide each case on its own merits than to pass a general bill which might be construed to include cases which on the merits do not deserve to be included; and as a protection and to avoid letting in too large a class of cases we prefer to adopt this mode.

Mr. PAINE. As I understand the chairman of the Committee on Military Affairs, this is not a case where a commission was issued to an officer who at the date of the commission was actually on duty in a grade corresponding with his commission, but it is a case where an appointment was made by an officer in the field unaccompanied by a commission to the grade in which he was at the time doing duty.

Mr. GARFIELD. No, sir; he received an appointment, but not a commission. He received an appointment from the Governor of New York, but the commission did not come for some three months.

Mr. PAINE. I correctly stated what the gentleman from Ohio had already announced to the House. Now, if it had been proved that a commission was issued to this gentleman at that time, the case would fall clearly within the principle already established and repeatedly recognized by the Second Comptroller of the Treasury, who has decided that where an officer has satisfied him that he received a commission on a given day, and that from that day he was discharging the duties proper for that grade to which he was commissioned, he will pay him from the time when the commission was issued. But here is an entirely new principle; here is a principle entirely different from that, where the Committee on Military Affairs proposes to authorize persons who have been merely appointed, but not commissioned, to draw pay back beyond the time of their commission to the date of their appointment, according to the grade in which they happened to be serving at the time when they were appointed. Now, it seems to me that the precedent established by the Comptroller of the Treasury is a reasonable one, a rule that we in Congress may safely follow. The proposition of the Committee on Military Affairs made to the House this morning will involve us in danger, for we know not to what extent it will go. I am opposed to setting aside the precedent of the Treasury Department without very good reason for so doing.

Mr. GARFIELD resumed the floor.

Mr. WASHBURNE, of Illinois. I ask the gentleman to yield to me for a few moments.

Mr. GARFIELD. Certainly.

Mr. WASHBURNE, of Illinois. I entirely misunderstood the proposition of the Committee on Military Affairs. I supposed, as a matter of course, that it was the case of an officer holding a commission. I did not suppose we were to go back and pay an officer for a time he never held a commission. I know some generals who, in Missouri, went on and made officers indiscriminately, and issued commissions to men who have never been paid. If we are to go on and pay men who never received commissions I do not know where we will be led.

Mr. GARFIELD. The gentleman certainly does not understand this case. The Governor of the State of New York sent a letter of appointment to this officer as a lieutenant. On that letter of appointment the general commanding the department of the Ohio detailed him as his staff officer, or rather appointed him as aide-de-camp on his staff. On these two papers he proceeded to perform his duties and drew his pay. Three or four months afterward his commission came on. He therefore had the two letters or papers, the one of appointment from the Governor of New York and the other from the general commanding the department of the Ohio. When he came to settle with the Treasury Department as a quartermaster in the service, the accounting officer of the Treasury said to him: "Your commission does not cover all the time for which you have drawn pay. We cannot settle with you any of your accounts until that matter is all settled." This officer now asks the passage of a bill to cover his case.

These papers have been before the War Department, have been approved by that Department and by the General of the Army. In addition to that, let me say that the committee at the same time had under considera-

tion a proposition to cover the cases of a large number of General Fremont's staff officers, and they unanimously rejected them, because they lacked the requisite authority from the War Department. But the same committee which unanimously rejected that class of cases have unanimously authorized me to report favorably in this case. I now call the previous question.

The question was then taken upon seconding the previous question; and upon a division there were—ayes 51, noes 47.

Before the result of the vote was announced, Mr. WASHBURNE, of Illinois, called for tellers on seconding the previous question.

Tellers were ordered; and Mr. SPALDING and Mr. STIGREAVES were appointed.

The House again divided; and the tellers reported that there were—ayes 53, noes 60.

So the previous question was not seconded.

Mr. WASHBURNE, of Illinois. I now move to recommit this joint resolution to the Committee on Military Affairs. I do not know but it may be correct enough, but I am not entirely satisfied with it at present. I would like to have it recommitted to the Committee on Military Affairs for a further examination as to how far the principle of this joint resolution will carry us.

Mr. GARFIELD. I hope the gentleman will move its reference to some other committee. We have already examined this measure with the utmost care, and reported unanimously in its favor.

Mr. WASHBURNE, of Illinois. Very well; I move that it be referred to the Committee on Claims.

The motion to refer was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. HILL and Mr. HALSEY.

CAPTAIN CHARLES P. JOHNSON.

Mr. DODGE, from the Committee on Military Affairs, reported a bill (H. R. No. 452) for the relief of Captain Charles P. Johnson; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of War to pay to C. P. Johnson, late a captain of the seventeenth Iowa infantry, the amount allowed by law to a captain of infantry in the regular Army upon the retired list, said pay to commence from the time of his muster out of the said seventeenth Iowa infantry.

Mr. ROSS. I raise the point that this bill must first be considered in Committee of the Whole, as it is an appropriation bill, if I mistake not.

The SPEAKER. The Chair overrules the point of order. This is not an appropriation bill; it is a bill to pay a certain amount out of the money already appropriated for the service of the War Department.

Mr. DODGE. This officer, Captain Johnson, commanded a company in the division of General Logan in the campaign in rear of Vicksburg in the year 1863. He was wounded at the battle of Jackson, there captured by the enemy and taken to Atlanta, where he was held in the hands of the enemy until recaptured a year afterward by our forces and sent North. Since that time he has been confined to his bed from the wound he received at Jackson. The case of this officer came to the knowledge of the General of the Army and of the Secretary of War. The General of the Army indorsed upon his muster-out roll a recommendation that he be retained in the seventeenth Iowa regiment until that regiment was mustered out of the service, and that he then be placed in the regular Army in the highest vacancy upon the retired list. The Secretary of War, Mr. Stanton, endeavored to do so, but there is a law which prohibits the appointment of any officer in the regular Army unless he be physically competent for the active service of the position. This officer, therefore, could not pass an examination in that respect, for he has laid in one position, upon his face, for more than four years. A photograph of this officer, showing the nature of his disability, is in the possession of the Committee on Military Affairs, and any gentleman is at liberty to examine it. I now desire to have the Clerk read the surgeon's certificate in this case.

Mr. BAKER. Before that paper is read I ask the gentleman to yield to me for a brief statement.

Mr. DODGE. Certainly.

Mr. BAKER. It was on my motion that this case was referred to the Committee on Military Affairs. In my opinion it is as just and meritorious a case as can be. This young man lives in my district. This gallant officer, while fighting bravely at the battle of Jackson, in May, 1863, was shot through the hips, the ball passing through both hips, and wounding him internally in a most extraordinary and distressing manner. He has laid prone on his face, with his back upward, from that time to this, now more than four years and seven months. It is one of the most pitiable, one of the most affecting, and withal one of the most deplorable cases I have seen or ever heard of. I presume there are a score of such cases within the United States. I hope there will be no opposition on the part of any gentleman to the passage of this bill.

Mr. RAUM. Will the gentleman from Iowa [Mr. DODGE] yield to me for a moment?

Mr. DODGE. Certainly.

Mr. RAUM. I will merely add to what has been said that I know this officer well. He served in my brigade, and I saw him after we captured Atlanta. The statement of the case made here is true. I hope the bill will pass.

Mr. DODGE. I now ask to have read the paper I send to the Clerk's desk.

The Clerk read as follows:

Captain Charles P. Johnson (late of the seventeenth regiment Iowa infantry volunteers) having applied to me for a certificate, I do hereby certify that he has been under my care for the past fourteen months, and that he is suffering from a gunshot wound passing through both hips and severely wounding the rectum, (received at Jackson, Mississippi, May 14, 1863.) His wounds are still open and discharging. He is very weak and emaciated, is not able to sit up, has to lie in one position, "flat on his face," the entire time, causing the bones of the hips to wear through the flesh, giving him great pain in addition to the extreme suffering he undergoes from his wounds. He is perfectly helpless, cannot use a bed-pan, has to have quilts under him for necessary purposes, his mother having to wash and tend him the same as she would a babe. His condition necessitates attendance day and night.

His widowed mother has given her entire time, strength, and means to his care for the past four years, "thirteen months of the time in a southern prison," going through the lines for that purpose, undergoing great dangers and privations in going and while there.

The severity of the captain's wounds, his long imprisonment and inhuman treatment, the great suffering he has and still endures, with his totally helpless condition, makes his case a peculiarly sad and deserving one.

His muster-out of the seventeenth Iowa volunteers leaves him without means for the support and care of himself and widowed mother; and his entirely helpless condition precludes the possibility of his making any exertion to that end.

I would, therefore, very respectfully and earnestly recommend him to the sympathy and bounty of the Government, to whose service he has given his all.

Signed at Upper Alton, October 8, 1867.

E. RODGERS, M. D.,
Late First Assistant Surgeon eightieth regiment Illinois volunteer infantry.

STATE OF ILLINOIS, MADISON COUNTY, ss.

I, Richard M. Benbow, a notary public in and for the town of Upper Alton, Madison county, State of Illinois, do hereby certify that Dr. E. Rodgers, whose signature is affixed to the above certificate, is a physician and surgeon in good standing and practice, and is a person of perfect reliability.

Given under my hand and notarial seal this 8th day of October, A. D. 1867.

RICHARD M. BENBOW,
Notary Public.

Mr. DODGE demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROPOSED NEW TERRITORY.

Mr. ASHLEY, of Ohio. I ask unanimous consent to present the memorial of General Casement, Delegate-elect from the proposed Territory of Wyoming, and also a memorial of the people of that part of Dakota Territory lying west of the one hundred and fortieth degree of latitude, asking for the establishment of said new Territory; and I also ask leave to introduce a bill to organize the Territory of Wyoming.

Mr. BENJAMIN. I object until we get through with the private business.

SETTLEMENT OF ENGINEER ACCOUNTS.

Mr. DODGE, from the Committee on Military Affairs, reported a joint resolution (H. R. No. 154) in relation to the settlement of accounts of certain officers and agents who have disbursed public money under the direction of the Chief of Engineers; which was read a first and second time.

The joint resolution directs that the Secretary of the Treasury, in settlement of the accounts of Captain George W. Cullum, Captain James B. McPherson, Captain Charles E. Blunt, and Lieutenant John C. Palfrey, of the corps of engineers, to allow to the credit of Captain Cullum the amount receipted for to him by Charles H. Bigelow; to the credit of Captain James B. McPherson and Captain C. E. Blunt the amounts receipted for to them respectively by Abiel W. Tinkham; and to the credit of Lieutenant John C. Palfrey the amount receipted for to him by John J. Lee, and to the credit of Mr. John J. Lee the amount receipted for to him by L. H. Eaton; provided that the said Charles H. Bigelow, Abiel W. Tinkham, John J. Lee, and L. H. Eaton shall each be held to the same accountability to the United States for the amounts transferred to them, respectively, at the time of transfer, and for advances made to them from the Treasury, as was at the time of transfer required by law and regulations from officers of the corps of engineers; and provided further, that this authority shall have no further application than to such accounts of aforesaid persons as have been already examined and approved by the Chief of Engineers, and are found to contain a full and satisfactory accounting for all the public money which came into the hands of the aforesaid persons under the circumstances aforesaid, namely: C. H. Bigelow, $38,351 74; J. J. Lee, $3,508 95; A. W. Tinkham, $12,910 13; L. H. Eaton, $90 85, all of which money having been expended upon the fortifications of the States of Massachusetts, New Hampshire, and Maine.

Mr. DODGE. Mr. Speaker, every dollar's worth of this property has been properly accounted for by these officers, as can be seen by reference to the letters of General Grant and General Humphreys, who is at the head of the corps of engineers, and this joint resolution is only made necessary to remove a technical objection to the settlement of these accounts.

Mr. WASHBURNE, of Illinois. Let the report of the committee be read.

The SPEAKER. There is no written report.

Mr. DODGE. I ask the Clerk to read the letter of General Humphreys.

The Clerk read as follows:

HEADQUARTERS CORPS OF ENGINEERS,
WASHINGTON, *November* 14, 1867.

GENERAL: In May, 1861, it became necessary to relieve Captain George W. Cullum, corps of engineers, from the charge of the defensive works at New Bedford, Massachusetts, in order that he might report

for duty in this city on the staff of Brevet Lieutenant General Winfield Scott, by whom his services were desired.

The inclosed copy of a letter, dated May 3, 1861, from Brevet Brigadier General J. G. Totten, shows the authority had by Captain Cullum for turning over public funds in his hands to Mr. C. H. Bigelow.

Upon the settlement at the Treasury of the accounts of Captain Cullum he was refused credit for $18,556 99, the sum transferred by him to Mr. Bigelow. After some correspondence this sum was passed to the credit of General Cullum, but charged to General J. G. Totten, (then deceased,) under paragraph one thousand and seven, Army Regulations.

Inclosed herewith is a statement of the account of Mr. C. H. Bigelow, and it will be observed that he faithfully accounted for all the public money which passed into his hands. The accounts were examined as usual at this bureau, and being approved, were forwarded to the Treasury Department for settlement.

They were returned to the engineer bureau by the Third Auditor, as not admitting of settlement by the proper accounting officers of the Treasury for want of evidence that Mr. Bigelow had been appointed an engineer agent for the disbursement of public money, and had filed in the office of the Second Comptroller of the Treasury the bond required by the fourteenth section of the act of August, 1854, chapter two hundred and forty-two.

No formal appointment as engineer agent was given to Mr. Bigelow, and no bond was entered into by him. These requirements were overlooked amid the unusual cares and responsibilities pressing upon all branches of the public service at that time. The Treasury Department is itself not altogether blameless in this matter, as requisitions for public money in favor of Mr. Bigelow and Mr. J. J. Lee were filled by its agents, as appears from the statement herewith.

It seems, however, necessary now to remove all existing difficulties, which are purely technical, that Congress shall be asked to enact a law in the terms of the inclosed sketch.

The accounts of several other officers of engineers, namely: of Captain C. E. Blunt, T. L. Casey, J. B. McPherson, Lieutenant J. C. Palfrey, and H. M. Robert, were complicated in the same manner, about the same period, and for similar reasons, with the accounts of Mr. A. W. Tinkham, J. J. Lee, and L. H. Eaton.

These persons, like Mr. Bigelow, all enjoyed the confidence of the Chief of Engineers and those of his subordinates with whom they had served, and had exhibited marked faithfulness and zeal in the performance of duty.

The inclosed statement shows that they all rendered just and full account for the public money placed in their hands. I respectfully suggest that the Secretary of War recommend to Congress the enactment of a law in the terms indicated in the inclosed draft.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier General of Engineers, Commanding.

General U. S. GRANT, U. S. A.,
Secretary of War ad interim.

Mr. WASHBURNE, of Illinois. The reading of that letter gave me no little satisfaction. I think it shows this is a just claim and that we ought to pass this resolution. I am glad to have a report which states the facts clearly for our action. If it had been a railroad grant for one or two million acres of the public land we would have had no report.

Mr. DODGE demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHANGE OF REFERENCE.

On motion of Mr. KETCHAM, the Committee on Military Affairs was discharged from the further consideration of the petition for the relief of the sureties of Otis A. Whitehead; and the same was referred to the Committee of Claims.

ADVERSE REPORTS.

Mr. PILE, from the Committee on Military Affairs, reported adversely on the memorial and petition of Henry P. Freeman, A. B. Mills, H. H. Trask, and W. G. Duckett, praying that certain moneys deposited by them in the Merchants' Bank may be refunded; and the same was laid on the table.

Mr. PILE, from the same committee, also reported adversely on three memorials of enlisted men detailed as clerks at headquarters of the department of Missouri, praying for additional compensation; and the same were laid on the table.

S. G. LYFORD.

Mr. PILE, from the same committee, reported back House bill No. 391 relieving S. G. Lyford, of the ordnance department of the United States Army, from any responsibility for money lost in the Government mail, with a recommendation that it do pass.

The bill directs the credit to Mr. Lyford of $241 60, being the amount of Government money which was lost in the United States mail while in transit from Vicksburg to Cairo on or about the 24th of April, 1863, while he was chief ordnance officer of the department of Tennessee.

Mr. UPSON. Did we not pass a law authorizing settlement in such cases?

Mr. PILE. I know of no general law.

Mr. UPSON. There is a general law of that kind providing for referring them to the Court of Claims for adjudication.

Mr. PILE. I have among the papers in a case of this kind an application to the ordnance department for relief which was declined on the ground that it was not authorized.

Mr. UPSON. The law authorizes claims to be adjudicated where money or vouchers are lost without fault.

Mr. PILE. When was that law passed?

Mr. UPSON. In the first session of the last Congress—in May, 1866, I believe.

Mr. PILE. Upon that statement I withdraw the bill for the time being.

ADVERSE REPORT.

Mr. RAUM, from the Committee on Military Affairs, reported adversely on the petition of George Wilson, asking for an appropriation in consideration of his services in detecting the Camp Douglas conspiracy; and the same was laid on the table.

NANCY WEEKS.

Mr. PRICE, from the Committee on Revolutionary Pensions and of the War of 1812, reported a bill (H. R. No. 453) increasing the pension of Mrs. Nancy Weeks, widow of Francis Weeks, of Georgia; which was read a first and second time.

It directs an increase of the pension of Mrs. Weeks, widow of Francis Weeks, late of the State of Georgia, a soldier of the war of 1812, to ten dollars per month from and after the passage of this act, to continue during her natural life.

Mr. WASHBURNE, of Illinois. Read the report.

The report was read.

Mr. WASHBURNE, of Illinois. I ask for further explanation.

Mr. PRICE. This is an old lady between seventy and eighty years of age, drawing a pension now as a widow of a private. She is in fact the widow of an ensign, and therefore entitled to a pension as such. The papers at the desk establish these facts and the additional fact of the loyalty of the party.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN KELLEY.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 454) granting a pension to John Kelley; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll the name of John Kelley, late a private in company H sixty-seventh regiment Pennsylvania volunteers, to date from the 16th day of January, 1865, subject to the provisions and limitations of the pension law.

The report was read.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DAVID VAN NORDSTRAND.

Mr. PERHAM also, from the same committee, reported a bill (H. R. No. 455) granting a pension to David Van Nordstrand; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of David Van Nordstrand, company H one hundred and twenty-seventh regiment Indiana volunteer infantry, on the pension-roll at the rate of fifteen dollars a month from and after the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADVERSE REPORT.

Mr. PERHAM also, from the same committee, reported adversely on the petition of Julia A. Wing, asking an increase of pension; and the same was laid on the table.

CHANGE OF REFERENCE.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Betsey Wallingford, and of the petition of N. B. Eastman, James Ross, and 120 other citizens of Ohio, asking that pensions be granted to the surviving officers and privates in the Army of the war of 1812; and the same were severally referred to the Committee on Revolutionary Pensions and of the War of 1812.

MINOR CHILDREN OF PLEASANT STOOPS.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll the names of the minor children of Pleasant Stoops, late a member of company F eighteenth regiment United States infantry, to date from the day of his death, subject to the provisions and limitations of the pension laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NAVAJO INDIANS.

The SPEAKER, the morning hour having expired, laid before the House a communication from the Secretary of the Interior, transmitting estimates for appropriations for the Navajo Indians in New Mexico; which was referred to the Committee on Appropriations, and ordered to be printed.

SESSION FOR DEBATE.

Mr. WASHBURNE, of Illinois. After consultation with the gentleman from Ohio [Mr. BINGHAM] I now make the proposition to the House that there shall be a session to-morrow exclusively for debate, and the gentleman from Ohio will propose that the vote shall be taken on his bill on Monday after the morning hour.

The SPEAKER. Is there objection to the proposition of the gentleman from Illinois?

No objection was made.

Mr. BINGHAM. I understand the gentleman to mean that the reconstruction bill shall not be acted on until Monday morning.

The SPEAKER. The proposition of the gentleman from Illinois does not interfere with that bill at all. If the House shall occupy the whole of this day's session with the consider-

ation of this bill it will then go over until Monday morning after the morning hour.

Mr. BINGHAM. If I understood the gentleman the bill is to go over until Monday, and the previous question is to be sustained immediately upon the expiration of the morning hour.

Mr. WASHBURNE, of Illinois. That was the proposition.

Mr. BINGHAM. If that pleases the House I have no objection to it.

Mr. BLAINE. Is it the understanding that the session of to-morrow shall be devoted to debate on this bill or general debate?

The SPEAKER. General debate, as the Chair understands.

Mr. BINGHAM. I do not know that I have any objection to that. Any gentleman who wants to discuss this bill to-morrow can do so. I desire, however, that the vote shall be taken on Monday after the morning hour, subject to my right to close the debate at that time.

The SPEAKER. If there be no objection that will be the understanding.

There was no objection.

REDUCTION OF THE CURRENCY.

Mr. SCHENCK, by unanimous consent, reported back from the Committee of Ways and Means the amendments of the Senate to the bill (H. R. No. 213) entitled "An act to suspend further reduction of the currency."

Mr. SCHENCK. I ask that the bill of the House and after that the substitute proposed by the Senate be read.

The Clerk read the bill, as follows:

Be it enacted, That from and after the passage of this act the authority of the Secretary of the Treasury to make any reduction of the currency by retiring or canceling United States notes shall be, and is hereby, suspended.

The Clerk read the amendment of the Senate, as follows:

Strike out all after the enacting clause and insert the following:

That so much of the act approved April 12, 1866, entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,'" approved March 3, 1865, as provides that the Secretary of the Treasury may retire and cancel United States notes to the extent of $4,000,000 per month be, and the same is hereby, suspended; and the amount of such notes now existing shall not be further reduced until Congress otherwise provides.

Mr. SCHENCK. Mr. Speaker, it is not my purpose to delay the progress of the important business now demanding the consideration of the House; but the committee have thought it advisable that this subject should be in some way immediately disposed of, so that the country may be set at rest as soon as possible in regard to the legislation affecting the contraction or expansion of the currency. If the House will give me its attention for less than ten minutes I think I can show what is the precise issue between the House and the Senate on this subject.

Every one will admit that the House bill is at least not hard to be understood. In some four or five lines of manuscript is condensed the whole idea of the House as emphatically expressed upon this subject. Let me read. The bill provides—

That from and after the passage of this act the authority of the Secretary of the Treasury to make any reduction of the currency by retiring or canceling United States notes shall be, and is hereby, suspended.

This, in plain, simple, direct, positive language, puts an end for the present to any further exercise on the part of the Secretary of the Treasury of the power which he has held to withdraw United States notes, and thus reduce the volume of currency needed for the business of the country.

The Senate propose to strike out that provision and insert as a substitute the following:

That so much of the act approved April 12, 1866, entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,'" approved March 3, 1865, as provides that the Secretary of the Treasury may retire and cancel United States notes to the extent of $4,000,000 per month be, and the same is hereby, suspended; and the amount of such notes now existing shall not be further reduced until Congress otherwise provides.

It is here declared that so much of the act as provides that the Secretary of the Treasury may retire and cancel United States notes to the extent of $4,000,000 per month shall be suspended. The first remark I have to make on this is that there is no such provision of law as the Senate recites. Let me read the first section of the act of April 12, 1866, so much of which is to be repealed as in the opinion of the Senate gives the Secretary of the Treasury power to cancel $4,000,000 of the currency per month.

The first section of the act of April 12, 1866, provides:

"That the act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865, shall be extended and construed to authorize the Secretary of the Treasury, at his discretion, to receive any Treasury notes or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or which may be issued under any act of Congress, the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt: *Provided*, That of United States notes not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month."

It will be observed that the legislation of the Senate relates to this last proviso, that not more than $10,000,000 may be retired and canceled within six months after the passage of the act. The act was passed April 12, 1866, and the six months expired October 12, 1866. Within that period $10,000,000 might be withdrawn, and "thereafter," the proviso proceeds, "not more than $4,000,000 in any one month."

The Senate refer to this as a provision "that the Secretary of the Treasury may retire and cancel United States notes to the extent of $4,000,000 per month," and they provide that this shall be suspended. Now, the Secretary of the Treasury had a general power, which was reaffirmed by the act of April 12, 1866, to retire these notes at his discretion; but the effect of the proviso was to declare that after the 12th of October, 1866, the Secretary of the Treasury should not retire more than $4,000,000 in any one month, not to declare that he should retire $4,000,000. The peculiarity of this legislation is that it does not confer any power upon the Secretary of the Treasury, but restricts the power previously given. Before that restriction was imposed he could at his discretion retire these notes. But this act provided that after October 12, 1866, six months after its passage, the exercise of his power should be limited so that he should not retire more than $4,000,000 per month.

Now, what do the Senate do? They propose in effect (whether that was the intention or not) to remove the restriction and thus throw the matter open, so that the Secretary of the Treasury may at his discretion retire these notes to an unlimited extent. Discovering, apparently, what they had done they inserted this additional clause, conflicting with the first part of the bill:

And the amount of such notes now existing shall not be further reduced until Congress otherwise provides.

This legislation of the Senate—and I say it with all due respect to that body—amounts, as I understand, to this: they find that by the law as originally enacted, before being restricted by the act of April 12, 1866, the Secretary of the Treasury had full authority at his discretion to withdraw these notes. Then there was a restriction provided that within six months from April 12, 1866, the Secretary should retire only $10,000,000, and after October 12, 1866, not more than $4,000,000 per month. The Senate, in their description of this act, omit the words "not more than," thus in effect repealing the restriction; and if the bill stopped there the whole matter would be thrown open to the power of the Secretary. The Senate, however, add two lines which repeal their repeal. The Secretary having had the power to withdraw these notes at his discretion, his power of withdrawal was afterward restricted to not more than $4,000,000 a month. The Senate provision would take away that restriction; and seeing that the effect would be to throw the whole thing open, they add this language: "And the amount of such notes now existing shall not be further reduced until Congress otherwise provides," thus repealing their suspension to a certain extent, and accomplishing, by this ambiguous phraseology, if anything be accomplished, an object which the House proposes to accomplish in a direct, plain, unmistakable manner, the House having simply said that "from and after the passage of this act the authority of the Secretary of the Treasury to make any reduction of the currency, by retiring or canceling United States notes, shall be, and is hereby, suspended."

And instead of that plain, direct provision sent to them in the shape of the enactment by the House they substitute another provision, from which it may be inferred by fair construction perhaps that currency of that kind is not to be reduced below what it is at the date of the passage of this bill, but you can only get it by inference. I report back the bill, therefore, with the unanimous recommendation of the committee, all being present but one member at the time, that the House non-concur in this Senate substitute and adhere to their own simple, plain, positive bill. I now demand the previous question.

The SPEAKER. The gentleman from Ohio does not ask that the House shall adhere, which is a final motion.

Mr. SCHENCK. I mean only to non-concur, leaving it to the Senate to ask a committee of conference.

The previous question was seconded and the main question ordered; and under the operation thereof the Senate amendment was non-concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendment of the Senate was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECONSTRUCTION.

The House then resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto; upon which Mr. BOUTWELL was entitled to the floor.

Mr. BOUTWELL. I yield twenty minutes of my time to the gentleman from Ohio, [Mr. GARFIELD,] chairman of the Committee on Military Affairs.

Mr. GARFIELD. Mr. Speaker, I shall spend none of the few minutes given to me in discussing the constitutionality or propriety of the first section of this bill. Whatever may be the opinions of any gentleman here, the doctrine involved in that section was decided by the Thirty-Ninth Congress, and that decision was ratified by the people when the Fortieth Congress was elected. No political issue was more clearly defined or more decisively settled. Let me remind the House what that issue involved and what was decided by the result. The President and his followers held that, though the rebellion had overthrown all civil government in the rebel States, yet he, as the head of the Federal Government, had set up new governments, which he deemed republican in form, and which were therefore entitled to representation in Congress.

Congress denied the authority of the President to build State governments, and claimed that by the decision of the Supreme Court it was made the duty of Congress to provide for carrying into effect that clause of the Constitution which declares that—

"The United States shall guaranty to every State in the Union a republican form of Government."

Congress decreed that until the restoration shall be accomplished the rebel territory shall be held in the military grasp of the Republic; and in order to restore them at the earliest possible day a law was passed enabling the loyal people to form governments and build again where rebellion had destroyed. Congress did not commit itself to the dogma that those States were out of the Union, but it proceeded upon the acknowledged fact that their civil governments were utterly destroyed and should be rebuilt. The congressional plan and the President's plan were placed on trial before the people in the fall of 1866. That the verdict was against the presidential plan and in favor of the congressional plan is witnessed by the relative strength of the two parties on this floor to-day. We are here to obey the people who sent us. The first section of this bill is but a repetition, in clearer language, of the law of the Thirty-Ninth Congress. For all political purposes, therefore, the doctrine of the first section is settled and the case is closed.

The only feature to which I desire to call the attention of the House this morning is the second section of the bill. This section makes it the duty of the General of the Army to assign such officers of the Army as he may think best to the work of carrying out the reconstruction law. That work has heretofore been placed in the hands of the President. Here we are met at the threshold by gentlemen on the other side with the declaration that Congress has no power to assign the General of the Army and his subordinates to this duty because of that clause of the Constitution which makes the President Commander-in-Chief of the Army and Navy. I ask the attention of the House for a few moments to the consideration of this objection. Under the constitution of Great Britain the king is not only commander-in-chief of the army and navy, but is empowered to make rules and regulations for the government of the land and naval forces of the realm. He can declare war and conclude peace. He is, therefore, in the full sense of the term, commander-in-chief. The Parliament controls him chiefly by its right to grant or withhold all supplies for the army and navy. When our fathers framed the Constitution of Government under which we live they so far copied the British constitution as to declare that the President of the United States should be the Commander-in-Chief of the Army and Navy; but they proceeded to limit and restrict that grant of power by six distinct clauses in the Constitution giving six distinct powers to Congress. These restrictions are found in the first article of the Constitution, section eight, and are as follows:

"1. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

"2. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

"3. To provide and maintain a navy.

"4. To make rules for the government and regulation of the land and naval forces.

"5. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

"6. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress."

The power, therefore, which is conferred upon the President by the declaration of the Constitution that he is Commander-in-Chief must always be understood with these limitations. Without the authority of Congress there can be no War Department, no Army, no Navy. Without the authority of Congress there can be no General of the Army. Without the authority of Congress there can be no officers, high or low, in the Army or Navy of the United States. We therefore begin with these constitutional limitations laid around this Commander-in-Chief.

Now, how has Congress used its power heretofore in reference to officers of the Army? I will refer to a few examples. In 1789, by an act approved August 7, Congress established a War Department and laid down laws to govern it, and from time to time thereafter established subordinate departments and bureaus in that Department.

Now, let it be noticed that another clause of the Constitution might also be applied here. Congress may authorize the heads of Departments to appoint inferior officers. It might have authorized the Secretary of War to appoint every officer of the Army. It can do so now. It is plainly in our power to take every military appointment from the President and place it solely in the hands of the Secretary of War.

But Congress did not choose to take that course, but it did establish all the subordinate departments of the Government and prescribed the duties of officers in those departments.

By an act of Congress, approved May 22, 1812, the Quartermaster General is authorized to appoint barrack-masters. Now, can the President appoint barrack-masters in contravention of that law? Congress conferred that power upon the Quartermaster General, and the President, though Commander-in-Chief, cannot exercise that function without usurpation. The same act requires quartermasters to give properly secured bonds before performing any of the duties of their appointment. Can the President legally order them upon any such duty before such bonds are given?

By a law of Congress approved April 10, 1806, it is declared that—

"The Judge Advocate or some person deputed by him or by the General or officer commanding the Army, detachment, or garrison shall prosecute in the name of the United States."

Can the President of the United States prosecute a case before a court-martial? He cannot, because Congress has conferred upon a subordinate officer of the Army that power, and the President, though Commander-in-Chief, cannot set it aside.

A friend near me says these are subordinates. I answer that the General of the Army of the United States is also a subordinate. He is to Congress as subordinate as a judge advocate, a quartermaster, or a barrack-master. It makes no difference how high his rank may be, he is nevertheless a subordinate to Congress. The President is Commander-in-Chief, but he must command in accordance with the Rules and Articles of War—the acts of Congress.

I call attention to the oath that every officer and enlisted man takes before entering the Army. It is in these words:

"I do solemnly swear that I will bear true allegiance to the United States," * * * * "and will observe and obey the orders of the President of the United States and the orders of the officers appointed over me according to the rules and articles for the government of the Army of the United States."

Now, should the President of the United States give to the humblest officer of the Army an order contrary to the Rules and Articles of War or to the law of Congress, the subordinate can peremptorily refuse to obey, because the order has not been given in accordance with the rules and regulations of the power which commands both him and the President.

Now, if Congress can make laws assigning special duties to subordinate officers, such as judge advocates, quartermasters, and barrack-masters, what new doctrine is this that it may not also assign special duties to the General of the Army? The volumes of statutes are full of laws of Congress commanding all classes of officers to perform all kinds of duties. It is now proposed to require of the General of the Army the performance of a special duty, namely, the duty of directing the operations of that part of the Army which occupies the States lately in rebellion. If the General should neglect this duty the President as Commander-in-Chief can call him to account for such neglect, but he cannot prevent his obedience to the law.

So much for the constitutionality of this section. I now come to inquire why this legislation is needed. It is because this Congress, in its work of restoring to their places the States lately in rebellion, authorized the President to assign the officers of the Army to the duties prescribed in the law, and the President has made such use of that authority as to obstruct and delay the restoration of those States.

Without violating the letter of the law, he has been able in a great measure to hinder the full and efficient execution of the law. His acts and those of his advisers are to-day the chief obstacles to the prompt restoration of the rebel States, and Congress proposes to remove those obstacles by transferring the power to the hands of one who has shown his loyalty to the country and his willingness to obey the laws of the Union.

Mr. Speaker, I will not repeat the long catalogue of obstructions which he has thrown in the way by virtue of the power conferred upon him in the reconstruction law of 1867, but I will allude to one example where he has found in a major general of the Army a facile instrument with which more effectually to obstruct the work of reconstruction. This case is all the more painful because an otherwise meritorious officer, who bears honorable scars, earned in battle for the Union, has been made a party to the political madness which has so long marked the conduct of the President. This general was sent into the district of Louisiana and Texas with a law of Congress in his hand, a law that commands him to see that justice is administered among the people of that country, and that no pretense of civil authority shall deter him from performing his duty, and yet we find that officer giving lectures in the form of proclamations and orders on what ought to be the relation between the civil and military departments of the Government. We see him issuing a general order in which he declares that the civil should not give way before the military. We hear him declaring that he finds nothing in the laws of Louisiana and Texas to warrant his interference in the civil administration of those States. It is not for him to say which should be first, the civil or the military, in that rebel community. It is not for him to search the defunct laws of Louisiana and Texas for a guide to his conduct. It is for him to obey the laws which he was sent there to execute. It is for him to aid in building up civil governments, rather than preparing himself to be the presidential candidate of that party which gave him no sympathy when he was gallantly fighting the battles of the country.

Mr. Speaker, the Union party will take no step backward in this work of reconstruction. The policy inaugurated by the Thirty-Ninth Congress we are now carrying out. The State of Tennessee has already been restored to its relations to the Union. Alabama has prepared a constitution, and on the 4th of February her loyal people will vote to adopt or reject it, and before the middle of February I expect to see her clothed and in her right mind, and her Representatives occupying seats in these Halls. Seven more States are now holding conventions and framing constitutions of government in pursuance of the laws of Congress; and in the two remaining States, Florida and Texas, elections have been ordered and the people will soon vote for or against a convention. The work is going on, and, if there be no adverse action to thwart it, before another twelvemonth we shall see these States completely restored. Who now is opposing it? Gentlemen upon the other side are manifestly arrayed with the President in endeavoring to obstruct the work of reconstruction, and without charging upon them rebel sympathies or imputing to them any improper motives I do say that their conduct is pleasing to every unrepentant and unhanged rebel in the South. The whole mass of the rebel population are in favor of obstructing the reconstruction policy of Congress. There is not a man who went into rebellion against the Government, not a guerrilla who shot down our wounded soldiers in ambulances, not a man that burned our cities and steamboats, not a man that starved our prisoners, not a man who aided in the assassination of our President, not a rebel from one end of the country to the other, who is not to-day in sym-

pathy with this party in Congress in its attempts to obstruct and defeat the reconstruction policy of Congress.

With such an array, with such a combination against us, does anybody expect that we will take one step backward; much less does anybody expect that we will permit an officer of our Army to fling back in our faces his contempt of our law and tell us what ought to be and what ought not to be? It was reported in the public papers only yesterday that the Governor of Texas had sent word to General Hancock that murderers in Texas could not be punished by the civil law. Yet this general sends back word to the Governor of Texas that he does not wish to interfere in any civil matters. Sir, he was sent down there for the very purpose of interfering in such matters as the non-punishment of murderers.

[Here the hammer fell.]

Mr. BOUTWELL. This bill has been so long under discussion that I have hardly the amount of assurance necessary to enable me to address the House at this time. I have observed that many persons in the House and in the country proceed upon the idea that the Congress of the United States, in undertaking to prescribe rules and regulations either for the judicial department of the Government or for the Army and the Navy, is usurping power and exercising authority not conferred upon it by the Constitution.

It is a general error that it is possible for Congress, meaning in popular acceptation the House and the Senate, by a majority to consummate any act of legislation whatever. It has happened, fortunately for the country, during these two years of great peril, that there has been in each branch of the national Legislature a two-thirds majority, by which, according to the provisions of the Constitution, we have been able to compensate the country, in the promotion of the public welfare, for the loss of executive sympathy and executive coöperation with the popular will in support of the Constitution. When the two branches of the Legislature, acting under the Constitution, have passed a bill and submitted it to the Executive for his consideration and received his veto according to the forms of the Constitution, and by a two-thirds majority of each House have passed the bill over the executive veto, then by the Constitution they have annulled or superseded the executive authority in that particular. By the Constitution, for a special purpose and to a limited extent, the executive power is merged in the legislative department of the Government.

Sir, I have listened with great pain to charges of legislative usurpations, when, upon an analysis of the acts complained of, nothing had been done except that which was authorized by the Constitution. The exercise of legislative authority and power, in passing a law by a two-thirds majority, which for the occasion and by virtue of constitutional powers supersedes the executive veto, is always a legitimate and often a necessary proceeding. Following in the lead of this fatal, fundamental error, has been the conduct of the President, supported by a large and, I fear, constantly increasing public sentiment, that he has a right to question the authority of the laws which have been passed by Congress.

I was relieved in some degree yesterday when my friend and colleague [Mr. ELIOT] said that if there had not been so great a pressure of other business the President of the United States might have been impeached. I know that there is a pressure of important public business. But I know of no business more important than the restoration of this Government, the rehabilitation of ten States, now prostrate, and laboring under wrongs such as no people ever before endured.

The record comes up to me from Texas, a record that I am forced to believe, that since the close of this war two thousand persons have been murdered, and their deaths are yet unavenged, for there is no law, no justice there for the protection of loyal men in that State. I know not what business was pressing upon the mind of my friend and colleague which led him to make the observation which he did make. But I know of no business more important than the acts of legislation and government which look directly and necessarily to overcoming and removing obstructions in the way of a restoration of this Government to republican unity and harmony.

But, in following the lead of this great error, the President considers—not only considers, but he takes advice—not only takes advice, but he contemplates measures—not only contemplates measures, but he inaugurates a policy not to carry out the laws of Congress, but to defeat them. The people of this country, when they complain of Congress, should take notice that for twenty-four months we have struggled here for a reorganization of these States against a man whose sympathies and purposes are with the rebellion. And if he is to be the candidate of the Opposition represented on the other side of the House, (as he is likely enough to be, for to-day he is the most formidable man of them all,) I have only this expectation, that when in November next in the southern States, which before that time will be restored to the Union, the people attempt to exercise the right of suffrage, without distinction of race or color, then, by Mr. Johnson's connivance, the black men, who in some of the States are in a majority, and in all of them are a formidable minority, sufficient with the white loyalists to make a majority, will be driven from the polls. In February, 1869, we shall receive certificates of the election of electors who have given their votes to the candidates of the Opposition; and this country will be brought again to the extremity of civil war, or we shall be compelled to surrender at discretion to the rebels, who, through four years of bloody conflict have been our enemies, and who are yet struggling through their alliance with the Executive to destroy the Government.

I know of but one way, and this country will yet see that there is but one way out of these difficulties. I coöperate with my friends heartily in whatever is necessary for the execution of the laws that we have passed for reconstruction; but I know that Andrew Johnson will thwart these measures as he has thwarted others. But whether the future be for weal or for woe, our duty is still the same, to maintain the authority of the people as represented here and to assert and enforce by every constitutional power the right of the loyal people of this country to govern the country.

Gentlemen on the other side may take notice, if they please, of what I say upon another point. The struggle is to-day whether the disloyal men of the South shall control the ten States, and through their authority control this Government, or whether those ten States shall be placed in the hands of loyal men. And, sir, knowing this, even if I were disposed to disregard the rights of the negro, if I believed in his inferiority, if I desired this to be "a white man's Government," I should say that it is more important that the Government shall be loyal than it is that it shall be "a white man's Government." There cannot be a loyal government in either of the ten States unless the negroes participate in it. The struggle is upon the question whether the governments of those ten States shall be loyal or disloyal.

Without occupying more time upon what I intended to be merely preliminary observations, I come to the consideration of the great proposition in the first section of this bill. It is herein provided that in Virginia and the nine other States there are not civil governments, republican in form. This is the declaration we propose to make. Yesterday when the gentleman from Indiana [Mr. KERR] was addressing the House, I put to him the question whether the republican government which he desired the United States to guaranty in either of these States was the government existing there prior to the rebellion, or the government established by the rebellion, or the government set up in those States under the dictation of the President since the rebellion. He said, in answer, that the governments existing prior to the rebellion were the governments he desired to see guaranteed by the United States, forgetting or not regarding the declaration of Mr. Johnson in his proclamation, that the rebellion, in its revolutionary progress, had destroyed all civil governments in those States. I now ask the gentleman whether he regards the amendments made to the constitutions of those States in 1865, under the dictation of the President and the Secretary of State, as a portion of the republican governments in those States which it is the duty of the United States to guaranty.

Mr. KERR. Mr. Speaker, in reply to the gentleman from Massachusetts I have to say that I do not consider that amendment as part of the constitutions of those States, but as part of the Constitution of the United States, regularly ratified, and as being in those States a part of the supreme law of this country, therefore binding and obligatory on them in every sense. That is my answer.

Mr. BOUTWELL. Mr. Speaker, the gentleman very well knows that only one or two points are covered by the amendment to the Constitution of the United States. The thirteenth article of amendment to the United States Constitution is silent in reference to the debts incurred in the rebellion and to the ordinances of secession which are declared invalid by the amended constitutions of the rebel States.

Mr. KERR. If the gentleman will pardon me, I should like to say another word.

Mr. BOUTWELL. I yield for an answer and not for an argument.

Mr. KERR. I will answer and not make an argument. I occupy this position, that in putting these governments in harmony with the Federal Government and its Constitution, those States had the right to incorporate into their fundamental law those provisions ignoring every single act of the rebellion, and wiping out, as it were, from the record of the country everything of that kind.

Mr. BOUTWELL. The answer, then, is that the governments which existed in those States previous to the rebellion are not the governments which the gentleman from Indiana thinks it is the duty of the Government of the United States to guaranty, but different governments, governments set up for them by the President of the United States. Then he will be compelled to admit what the President of the United States stated in his proclamation of 1865, that there were no civil governments in those States.

Mr. KERR. My view of the case of those States in reference to these negative or nullifying propositions in their constitutions is that they are not a part in any active sense of their constitutions. They are rather a denial of any validity in what they did before, and therefore properly inserted in the constitutions they subsequently passed. They are only a mode, and a proper mode, of forever undoing what they had attempted amiss.

Mr. BOUTWELL. Now, sir, following this branch of the subject, I desire to call the attention of the House to the provision of the Constitution which provides that the Government of the United States shall guaranty to each a State government republican in form, and also to the nature of the guarantee which the Government of the United States is bound to furnish. The word "guarantee" in the Constitution has a larger meaning than is given to it when used in reference to the individual relations of men. The Constitution guaranties to each State a government republican in form. Suppose in a given State we find on observation that there is no government, what then is the force and effect of our guarantee? To create for them a government republican in form? No, sir; because on our theory a republican form of government cannot be constructed in that way. The effect of our guarantee is this: we provide the ways and means and furnish incidental security by which the

people themselves set up a republican form of government and which, when set up, we inspect; and if in the judgment of the Congress of the United States it is republican in form we then guaranty that government to the State. In the next place, if we find a government not republican in form, then the United States is bound in some way to remove it and to give the people an opportunity to establish a republican form of government. We must perform this service, or otherwise the provision of the Constitution is utterly ineffectual. If in a State you find there is no government, is not your obligation under the Constitution binding upon you to guaranty to them a government republican in form? And is not the guarantee entirely inoperative unless you furnish ways and means and security through which they may form a government? If in another State you find a government manifestly not republican in form, a monarchy, an aristocracy, a military government, are you obliged to be silent, to be inactive, to allow that government to continue, as inevitably you must if the doctrine maintained on the other side of the House be true, that it is only when there is a republican government that this provision of the Constitution becomes operative. You must remove these governments and give the people an opportunity to set up a republican government. And this was the doctrine of the Supreme Court in the case of Luther *vs.* Borden, to which reference has so often been made. The court say:

"Unquestionably a military government, established as the permanent government of a State, would not be a republican government, and it would be the duty of Congress to overthrow it."

And again, in the same case, the court say:

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for, as the United States guaranty to each State a republican form of government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not." * * * * "And its decision is binding on every other Department of the Government, and could not be questioned in a judicial tribunal."—*Luther* vs. *Borden*, 7 Howard, p 142.

Can anything be clearer than that the whole subject of observation, of inquiry, of judgment is open to the United States which means for purposes of political action, Congress and the President coöperating; and upon such inspection, observation, and judgment to decide, first, whether there is any government. If they find that there is a government, then next to inquire whether it is republican or not, and if Congress find either that there is no government or that the government is not republican, it is a duty to provide ways and means for the establishment of a republican government. Otherwise, in the only cases where the provision would be of any service it would be utterly ineffectual and worthless to the country. If, for example, in Massachusetts, where, though we are often abused, our constitutions are republican in the highest degree, an aristocracy should be set up, in New York a military government, and in some other State a monarchy, is the Government of the United States to be both blind and silent to what is going on in the country? And if its attention is called to these facts, is it to say, "We can do nothing, because the government is not republican," and thus render the constitutional guarantee inoperative, while in Pennsylvania, where they have a republican government and do not need the intervention of the United States, the guarantee is to apply?

As I followed the remarks made yesterday on the other side of the House, I came to the conclusion that it was a received opinion there that the President had power to decide whether the government of a State was republican or not. Reference was made to the Rhode Island case, and especially to the action of John Tyler, when President of the United States. While I cannot stop to read from the opinion of the court, or to discuss it at any length, the character of the constitutional provision in this relation, it seems to me perfectly clear that the President has no such power.

In the first place, if you examine the Constitution of the United States you see this to be the leading and characteristic feature of the whole instrument, derived naturally and necessarily from the principles which underlie our form of Government. First, the representatives of the people in the Senate and House, acting for themselves in concurrence with the President, are the means by which the people constitutionally express their will in laws. There are in fact no other means. Nothing can be originated of a political character in this country under this Government except by the representatives of the people. When in the Constitution it is declared that the United States have authority to do a particular act it is necessarily implied that Congress is included in the term United States, for without Congress no act in the name or by authority of the Government can be done. It gave motion originally to the Government, and its action is absolutely essential to the continuance of the Government.

The President is a magistrate of limited powers. The executive and judicial departments are distinguished from the legislative in this: the legislative branch of the Government is the means by which the people express their will in laws. The executive and judicial departments of the Government are the instruments under the Constitution by which the will of the people, through their representatives, expressed in laws, is executed and administered. Therefore there are no implied powers given to the executive or judicial departments of the Government. They cannot resort to powers not granted in order to exercise a power that is granted. But Congress is clothed with certain defined powers; and to it also is granted full power to do everything which is needful for the exercise of those powers which are granted. Nothing is more clear than this doctrine, whether you examine the Constitution itself or rely on the case of McCulloch against the State of Maryland, in which Chief Justice Marshall explained and enforced the doctrine with even more than his accustomed clearness and power.

The Constitution declares that—

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof."

With this provision of the Constitution in view the court says, in the case of McCulloch *vs.* Maryland:

"The Government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means."

Let us, then, apply this doctrine to the provision of the Constitution which requires the United States to guaranty a republican form of government to each of these ten States. We are first to examine them with a legislative eye under the provisions of the Constitution, to ascertain whether there are now existing State governments which we are bound to guaranty as *republican* governments in form.

Gentlemen on the other side say that we are bound to guaranty to South Carolina her old State government. My answer to that is that the rebellion swept it away by the power of the people of the State by whom the Constitution was created, by whose will it was sustained, and without whose political breath it ceased to exist. By the rebellion it was destroyed as well as by the action of the State when they inaugurated the rebellion. Thus that government passed away. They established a government during the rebellion. No one on either side of the House, as I understand, claims that we are to guaranty that government as a republican form of government. Mr. Johnson set up a different government there; but it is no government at all under the Constitution until Congress recognizes it as a republican form of government, which we have never yet done. Therefore, when we look at these ten States we do not find in either a government which can be recognized as a republican form of government. And, sir, I shall hail with great satisfaction the passage of the first section of this most important bill. We have formerly declared that the governments in those States were not legal governments; but now we take the language of the Constitution and declare that there are no republican governments in these States, and the President and the Supreme Court will recognize that declaration or fail to recognize it at their peril.

The whole object of the reconstruction bills, which by the pertinacity and obstinacy of the President we have been obliged to amend from time to time, is to establish in a regular and proper way republican forms of government in the ten States which we can recognize under the Constitution as republican governments, and guaranty to the States where they are established.

Now, Mr. Speaker, passing from this branch of the subject, I wish to call the attention of the House briefly to the provisions of the second section of the bill, by which authority is given to the General of the Army to detail officers in the military districts of the South. A difference of opinion exists upon the point whether that authority thus granted to the General is within the limits of our constitutional powers. The President, by the Constitution, is made Commander-in-Chief of the Army, but Congress has power by the Constitution to make rules and regulations for the government of the Army. Therefore it follows that the President is Commander-in-Chief of that Army which Congress creates. He is Commander-in-Chief of that Army which is created, and he is Commander-in-Chief of that Army subject to the rules and regulations which Congress pleases to establish. This statement covers the whole case. In Congress, by the Constitution, is vested a discretionary power as to what rules and regulations it will establish. This is an unlimited power, and the Supreme Court, in the case of Luther *vs.* Borden, held that—

"Whenever a statute gives a discretionary power to any person to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts."

With stronger reasons this must be the rule in those cases where the Constitution has given discretionary power to Congress.

Undoubtedly we are not to exercise this power so as to deprive the President of the command of the Army and Navy, but we may establish such rules and regulations for the government of the Army and Navy as seem to us expedient. The question, then, arises whether the proposition before us is, under the circumstances, an improper regulation, that is, whether it interferes with the command of the Army by the President. What is the essence of the power of the President to command the Army? It is in that provision of the Constitution which I have often before quoted, that he is to take care that the laws be faithfully executed. That is the admonition to him from the Constitution in reference to this bill, if it shall become the law, as it is to every statute. He commands the Army subject to the regulations prescribed by law, and performs his duty when he takes care that the law is faithfully executed.

If General Grant does not detail officers as required by this bill, it becomes the duty of the President to take steps to see that the work is done.

Does anybody suppose that it is not in the power of Congress, in the matter of establishing regulations for the government of the Army, to decide that a particular officer shall command the forces of the Goverment in a particular place, subject, of course, to the authority of the President as Commander-in-Chief? Assume that during the war it had become apparent to Congress that the President of the United States was likely to remove a valued, trusted, and capable officer from the command of a corps, or of an entire army, and transfer him to the Pacific coast, so that his services would no longer be of use to the country, would it not have been com-

petent for Congress to have intervened, and by law to have continued the officer at the head of the army of the Potomac or at the head of the army of the Cumberland? Most clearly so. The opposite doctrine involves the fatal theory that the President, by his incapacity, or by his dishonesty, or by his subserviency to the caprices and evil purposes of other men, may ruin the country as Commander-in-Chief of the Army.

Sir, I say in one word, we may by solemn act which shall have the force and effect of law, "set a squadron in the field" if we think it necessary for the public welfare to do so.

What do we propose by this bill? We have said that the General of the Army shall detail officers to the command of the several military districts, the number of districts having by previous law been fixed at five. We do nothing more in principle than what has been done previously and often under the Constitution. We do that only which is authorized by the Constitution; we do that only which in principle is absolutely essential to the public safety. If you take the opposite view and say that Congress cannot intervene, then our Army may be dispersed; three fourths of it may be sent by authority of the President to freeze in the wilds of Alaska, and if we acquire St. Thomas the remainder may be transported to be shaken by earthquakes there.

Sir, our power is higher and holier than the execution of a policy in subservience to the will of the President. We are elected by the people to express their will under the Constitution, and if in doing so we deem it important that a particular officer of the Army shall do a particular service, then we make that will a part of the law of the land. That law will control the President as it will control the lieutenant of a regiment serving on the Rio Grande.

I desire, before taking my seat, to call the attention of the House and of the country to the tendency of the reactionary movement which has taken place in two or three States of this country. Ohio and New Jersey, under the lead of this reactionary feeling, temporary, I have no doubt, but still formidable, propose to withdraw the consent which those States have given to the fourteenth article of amendment to the Constitution of the United States.

Mr. WOOD. Will the gentleman permit me——

Mr. BOUTWELL. I cannot yield. I have but little time left, and the gentleman had an opportunity the other day to make a speech.

Mr. WOOD. I had no opportunity. [Laughter.] I would like to put a question to the gentleman.

Mr. BOUTWELL. I cannot yield now. The effect, Mr. Speaker, of this reactionary movement is to invite repudiation of the national debt and the assumption of the southern rebel debt. Above all, if this is to be a "white man's government," and these ten States are to be restored on that principle, then one hundred thousand white men in the South will exercise political power equal to that possessed by one hundred and fifty-two thousand white men in the North. That is the entertainment to which the northern people are invited if they deny to the black men of the South the right to vote and the right to be represented in the government of the country.

More than that, we are thus invited to create an American Ireland, ten times as large as "the Emerald Isle" which sits upon the borders of the Atlantic in poverty, misery, and civil war, her sons driven to other lands or groaning under oppression at home. Above all, this reactionary and unjust policy scatters the four millions of black people, who otherwise would enjoy homes and a happy existence in the South, over the North to compete with the free laborers of that region. Thus, if this policy be pursued, will Divine Justice inflict the penalty of national iniquity upon all the people of the land.

Mr. BROOKS. Mr. Speaker, whenever I hear the earnest, the energetic, and the eloquent voice of the honorable gentleman from Massachusetts [Mr. BOUTWELL] I am reminded of the public men who in olden times have acted the part he is now acting in this House and before the people of this country. When I see the course of the honorable gentleman so earnest, so devoted to his principles, whatever they are; so faithful and energetic in the promulgation of them—above all, sincere, which all gentleman are not; and when I consider the object of this bill, to turn a military man into a dictator over one half of this country and to subvert all the civil powers of this Government, I am reminded of those scenes which happened in the Cromwellian Parliament, when a Congress not unlike this, through its "Praise-God Barebones," wished to create a dictatorship like that which the honorable gentleman from Massachusetts is now supporting. And Praise-God Barebones was equally sincere, equally energetic, equally faithful to his principles, equally determined to overthrow the constitution of England and inaugurate a dictator of the Cromwellian dynasty in its stead. We have now proposed in this House a military dictatorship—the subversion and destruction of all the powers of this Government—and the honorable gentleman from Massachusetts, energetic and devoted, like his Puritan ancestors, advocates and upholds this measure, following precedents which I had supposed were exploded long ago in England. But "there is nothing new under the sun." The world rolls on, and the ever-recurring scenes are the same. History but repeats itself. Whoever looks upon the action of this House to-day finds that we are doing now exactly what was proposed in the Parliament of England in the days of Cromwell, when the like purpose of creating a dictatorship for one man arbitrarily to rule over thousands of others.

"A republican form of government" the honorable gentleman from Massachusetts is particularly earnest that this Congress shall create. What authority has this Congress to create "a republican form of government?" A republican form of government springs from the people—from the sovereign people in their primary assemblies and particular States, never by authority or direction of Congress. If the gentleman is so anxious to create "a republican form of government" why does he favor the exclusion of thousands and tens of thousands and hundreds of thousands of intelligent white men, and intrust the government to the most ignorant portions of the population of those States? Do you call that a republican form of government which ignores women, which ignores minors, which thus ignores more than one half of the body-politic, which denies to white women, far more intelligent than these negroes, the right of suffrage and self-government, and which gives the ignorant, the brutalized negro of the South the power to govern the women, the wives, and the sisters of the people of the South; and above all, puts us of the North, whose wives and children are denied suffrage, into copartnership with and under the control of those negro States of the South as they will be represented here upon the floor of this House.

Mr. KELLEY. With the consent of the gentleman I desire to correct a single statement which he has made. The whole number of the white population disfranchised in the South by the legislation of Congress is not fifty thousand. It is largely exaggerated by the statement of the gentleman.

Mr. BROOKS. Sir, it is easy to make assertions upon the floor of this House. I say the number is nearer two hundred and fifty thousand than fifty thousand. But, sir, let me answer the gentleman in another way. By the constitution of Alabama, about to be presented to this House, every man who cannot take an oath that for all time he will support negro suffrage, is to be disfranchised. In this way almost the whole white population of Alabama will be excluded, and the whole governmental power of that State will be thrown into the hands of the negro population.

Mr. KELLEY. If the gentleman will yield me the time I will show that my assertion is not mere assertion; I will demonstrate it by the facts. The gentleman speaks of what has been done by the constitution of Alabama. I desire to say that that constitution——

Mr. BROOKS. I cannot allow any further interruption.

Mr. KELLEY. The gentleman will permit me to finish the sentence. The constitution of Alabama is yet to come before Congress. It has not been submitted to the people.

Mr. BROOKS. The gentleman from Massachusetts [Mr. BOUTWELL] tried to alarm the country by foretelling that the Democracy, if reinstated in power, would undo what the Republicans have been doing; but I think he will give joy to the country rather than alarm by assuring them of that. He instanced, to increase that alarm, what the Democracy had been doing in Ohio and in New Jersey, and to them he might have added New York. Sir, Ohio and New Jersey are but the beginning of the end. We intend to undo almost everything that has been done for the last three years by this and the preceding Congress. We intend to change the present majority here, and to repeal all the destructive acts which you now have in process of construction.

The proceedings in Ohio and in New Jersey are but the beginning in that great march of revolution which has already made its appearance elsewhere. The precedents, prerogatives, and powers which the majority of this House are assuming in the most revolutionary manner, we intend to make use of, for the purpose of undoing the revolutionary and unconstitutional proceedings here; to hold them up as precedents and prerogatives wherewith to destroy the most of these acts. And the honorable gentleman from Massachusetts [Mr. BOUTWELL] may as well know now as hereafter that we intend to carry on these reactionary proceedings to the legitimate end. We do not intend to deprive the negro of his liberty or of his civil rights. We do intend to allow them five-fifths representation in Congress in lieu of the three-fifths in the Constitution before it was amended, and we intend to give the negro in the South every right and privilege that the negro has in the North. But we do not intend to let the people of the North be brought into a negro copartnership and be ruled by rotten borough negro communities in the South. We do not intend to sacrifice our white man's government and make it a government of black men, South or North.

We intend, in short, to undo all your radical, revolutionary proceedings here, not by force, but by the might and majesty of the people operating through the ballot-box. We have already undone them in part by legislation in Ohio and New Jersey, and if you press on such violent measures as you have been pressing here the week past, we intend to undo them in New York by no fifty thousand majority as in November last, but by one hundred thousand at least. The honorable gentleman from Massachusetts may, then, well be alarmed at the reaction which has already taken place there, for every bad thing, sir, that has been done is to be undone. The coming voice of the people is no longer heard in whispers, but in the loud roar of the whirlwind which rushes up from all parts of the country; and the time will come, sooner or later, when, instead of the present large majority upon this floor, the people will substitute in their place a large majority of the Democracy. If the statistics of election be entered into it will be found that a considerable majority of those on that side of the House, holding seats and voting for all of these bills, no longer represent their constituents, but on the contrary, act in open and utter defiance of the will of the people who sent them here.

But, sir, there is little that is new here or elsewhere, and little that is new in history, as I started with saying. There is no novelty in a struggle to consolidate this Government and to do away with the States. There was a party at the foundation of the Government which

struggled to consolidate it, without regard to the rights of the States. This bill before us, however, has this novelty that all the powers of the Government are to be absorbed by and consolidated in Congress and in Congress alone. The power of a two-thirds majority in these Halls is to override, we are told, all the other powers of the Government. This is going beyond what the Federal party claimed in its palmiest days. Hamilton never contemplated any more than a consolidated Government with separate legislative, executive, and judicial departments, but this bill disregards, denies, and overthrows every Department of the Government but its own.

The gentleman from Massachusetts has said upon the floor of this House that it is within the power of Congress, being a two-thirds majority, to supersede—that was the word—the Executive of the United States, who is as much a part of the United States as Congress itself. Here is the theory presented for the first time that there is no judiciary, no executive, no government, except the two-thirds majority of this Congress, which is erected into the most absolute and illimitable of despotisms. The Republican party upon this floor thus has gone far beyond their predecessors, the old Hamiltonian-Federalists of the country, that party which went out of power under the administration of John Adams in 1800, and never secured its restoration until 1860. The apprehension of the people of all this, sir, is now producing a revolution as emphatic as that of 1800, which brought Thomas Jefferson into power, and what was the fate of the Hamiltonian-Federalist then is sure soon to be yours now.

I admire the ingenuity and legal astuteness of the gentleman from Ohio, [Mr. BINGHAM,] as a lawyer. He can make anything out of nothing, and turn nothing into everything. His dialectics are more creditable to his skill than to his common sense. Other honorable members of the legal profession have presented their quotations of authorities and their legal disquisitions before us, who are not educated to the bar, and they may be all clear and comprehensible to the mere legal mind while they are incomprehensible to us.

But I tell these gentlemen, however astute they are as lawyers or professional men, there is a higher faculty than in all these quotatons written in their books, imbedded in the instincts of the people, and which sees through all this by an instinct born of God and nobler than any written in these books. This instinct will leap over your words, periods, colons, and commas, and irresistibly rush to to the conclusion, first, that this bill before us suppresses all the civil governments of the South; next, that it supersedes the constitutional Executive of the United States, and, third, and above all, it arrays itself against that last resort of human liberty, that ark to which we have hitherto resorted to in all cases when domestic violence or desolating storms have overwhelmed us or when trouble and strife have through political parties threatened the safety of the State; I mean the Supreme Court of the United States.

This bill demolishes that ark. The party in power, for the first time in the history of this country, levies a sledge-hammer blow on that ark of the Constitution. Not content with this, but knowing that the court will protect itself if left to the precedents of law and history, they hurry through this House in a single day, without printing even, an act—I will not dignify it with the name of law—which nullifies all the precedents of the common law and requires the concurrence of six out of eight judges in order to undo what this Congress has done, is doing, or intends to do. The instinct of the gentleman from Ohio there was higher than his logic. He knew by that instinct which he cannot get rid of, though he so often gets rid of reason, that the Supreme Court of the United States would declare unconstitutional all these bad laws he is now concocting; and by that instinct, which is better than his law, he precipitated through this House a bill which makes it necessary to have six of the eight judges to create a majority. As well might the Supreme Court, sitting in the old Senate Hall, pass a resolution of this kind:

Resolved by the Supreme Court of the United States, That in order to enact a law three fourths of the House of Representatives and three fourths of the Senate of the United States shall be required.

As well might they pass such a resolution as for Congress to give such direction as it is now attempting to give to a coördinate branch of the Government, created by the Constitution, and as much a part of the Government as this House.

Sir, you will not overthrow that court. You may overthrow Andrew Johnson; you may destroy the Executive of the country; you may overwhelm the ten southern States and turn them over to negro rule and barbarism; you may turn the whole South into a Hayti, a Jamaica, an Africa, but when you throw yourselves against that bulwark of the Constitution, the court of Jay, of Ellsworth, of Marshall, of Taney, your puny arm will shake and quiver and become palsied at the very first stroke you attempt to give.

But, says the gentleman from Illinois, [Mr. FARNSWORTH,] "the party to which you belong are Constitution screechers—screechers for the Constitution." Sir, throughout all time we have been screechers for the Constitution. We have done little else but screech for the preservation of that Constitution throughout the war, and before the war, and since the war. I know the sarcasm that is involved in that word, and yet it is a high compliment to the party with which I am associated. I am proud of that devotion to the Constitution. It is a thing to be proud of in all future time; and when the history of these Congresses is written the historian when drawing his pen will recite with pride, and posterity will read with pleasure, how we have been defenders of, and, if you choose, screechers for, the Constitution.

When the fugitive slave law—a law enacted during the administration of George Washington by the fathers of the country in the first Congress of the United States—was violated in Ohio, in Massachusetts, and elsewhere, however unpopular and odious it might have been, as defenders and upholders of the Constitution we said it was in the Constitution, and we contended for the Constitution, and only for the Constitution. We have never given up to popularity in any and every time the Constitution of our country, but in the darkest periods of our history, when the Constitution was unpopular, when it was not easy to defend it, we have never ceased to screech for it. When the United States marshals were mobbed in Ohio, and when in the very streets of Boston the Federal officers could not execute Federal laws declared by the Supreme Court of the United States to be constitutional, however unpopular it might have been, we have loudly screeched in defense of the Constitution.

When John Brown, furnished by the Radicals or Republicans with pikes and pistols and other murderous weapons, left the North and went against the defenseless people of Virginia near Harper's Ferry, thus opening this war—it did not begin with the firing of the guns at Fort Sumter, but with the invasion of John Brown—and when that violation of the Constitution was defended by the party in power, then, more than ever did we "screech" for the Constitution. And, sir, we shall continue, popular or unpopular, throughout all time, living or dying—the Democracy, as it always has done, will continue to "screech" for the Constitution, and if the Constitution falls they will say, in the language of the poet:

"Freedom shrieked when the Constitution fell."

Mr. KOONTZ. Will the gentleman allow me to ask him a question?

Mr. BROOKS. I cannot; I have not time; I am to yield part of my hour to another gentleman.

The gentleman from Massachusetts, [Mr. ELIOT,] who hails from about Plymouth Rock, and better represents that rock than any other gentleman from Massachusetts, fervent and pious, but hard as the rock from which he comes, unable exactly to defend this bill upon constitutional principles, said that it was to be defended outside of the Constitution, and said that if the six bills already passed are not enough to govern the people of the South—if more are necessary, he is ready, perhaps week after week, as has been done heretofore, to present, defend, and enact new reconstruction bills. Let me tell the honorable gentleman from Massachusetts that there is that in the spirit of an American, no matter where he is born, whether upon the shores of the Mississippi or of the Passamaquoddy—there is that in the bosom of an American which abhors tyranny and oppression and which will resist tyrants and oppressors in every form.

Mr. ELIOT. Mr. Speaker——

The SPEAKER. The gentleman from New York declines to be interrupted.

Mr. BROOKS. I will yield to the gentleman from Massachusetts, as I referred to him.

Mr. ELIOT. I simply desire to know from the gentleman from New York what induces him to say that the gentleman from Massachusetts—referring to me, I suppose—stated that this legislation was outside of the Constitution. I did not say any such thing.

Mr. BROOKS. I so understood. Am I mistaken?

Mr. ELIOT. Yes, sir.

Mr. BROOKS. I so understood you. But the gentleman certainly said that if more bills were needed, more would be enacted by this House in order to govern the people of the South. Am I right in that?

Mr. ELIOT. The gentleman is entirely right in the substance of what he now says.

Mr. BROOKS. Well, I can tell him that he may pass bill after bill like this and it will never govern and never subdue and never subjugate the spirit of an American citizen, no matter whether he resides in Louisiana or resides at Plymouth Rock.

"Tyrants, in vain ye trace the wizard ring,
In vain ye limit mind's unwearied spring;
What! can ye lull the winged winds asleep,
Arrest the rolling world or chain the deep?"

Oppression, tyranny, violence, and force will everywhere, in all quarters of our country, thank God, be resisted by the people—the descendants of Patrick Henry and Marshall and Rutledge, as well as of the Adamses and Hamiltons of the North.

No bills of yours will ever subjugate the people of any section of this country, and the more bills of this sort you pass, the more you resort to violence, as in Ireland, in Lombardy, in Austria, or Poland, the more you will have to pass, and you may make of us all not Fenians exactly in name, but you will inspire the great body of the American people with a Fenian spirit of resistance to your oppression and tyranny. Let the honorable gentleman from Massachusetts, who is a classical scholar, read the story of Enceladus and remember that although mountains were piled upon him the spirit within him was such that whenever he turned over in his struggles there was a convulsion throughout. And whenever the Mount Etna of oppression and tyranny is piled upon any portion of the people of this country, they will be constantly writhing and turning in their agony, and make it more necessary to pile Etna upon Etna or Atlas upon Atlas, in order to enable their oppressors to carry out their schemes of tyranny and subjugation.

I had intended to pay my respects to the honorable gentleman from Ohio, [Mr. GARFIELD,] but I have promised a large portion of my time to the honorable gentleman from Connecticut, [Mr. HUBBARD,] who will examine these legal questions with far more ability than I can. Therefore I must yield, without responding, except to a small extent to the remarks made here, to a gentleman who will do ample justice to what I have left undone. I now yield to the honorable gentleman from Connecticut, [Mr. HUBBARD.]

The SPEAKER. There are twenty-three minutes of the gentleman's time unexpired.

Mr. HUBBARD, of Connecticut, then addressed the House. His speech will appear in the Appendix.

Mr. PETERS. I do not rise, Mr. Speaker, to make a speech at this time, or to deliver an argument upon this question, which has already been fully and thoroughly discussed. I intend merely to make some brief remarks, and then to yield the remainder of my time to others who are interested in taking part in the close of this debate.

I propose to take this opportunity to lay before the House some evidence which is in my possession in reference to the present political condition of the South, so far as relates to the reconstruction of that portion of our country. I shall, in a moment, send to the Clerk's desk and ask to have read a letter which I have received from a gentleman now living in Alabama, because it comes from a somewhat official source, and because I know him to be a person of the most reliable and trustworthy character. That letter goes to show the necessity of the passage of the bill now under consideration, and all the evidence I have received from that region, whether oral or written, is to the same effect.

Sir, this House has been shaken and convulsed almost from its sense of propriety by a recital of the injuries and wrongs alleged to have been inflicted in a foreign country upon some of our naturalized citizens. But tenfold more cruel and savage have been the wrongs and outrages which, by our inaction heretofore, we ourselves have allowed to be inflicted upon white and black loyal men by rebels of the South—those in many parts of the South who are as much rebels to-day as they were during the meridian of the rebellion.

Before I proceed any further in this connection I ask the Clerk to read a letter which I send up to the desk.

The Clerk read as follows:

MONTGOMERY, ALABAMA, *December* 29, 1867.

DEAR SIR: Allow me to introduce myself to you personally, though you may have some remembrance of me in Bangor. My object in writing is to furnish you, as a member of Congress from the district in which I used to live, some truthful information regarding the condition of political affairs in this State, and to urge upon you to do whatever may be done, and that promptly, for our relief. A continuous experience as an officer of the bureau since the first month of the surrender has enabled me to estimate with some degree of correctness the dangers and necessities of our cause. I speak without exaggeration or desire to mislead when I declare that the acts and disposition of the rebels of Alabama are more malignant and desperate than at any former period. The constitution presented to the people, while it possesses features of strength that their (the rebels) previous acts and disposition absolutely demanded for the safety of friends of the Government, is yet without a shade of vindictiveness. Yet, since it deprives them of the power to put their feet upon the necks of loyal people, as they have done under the rule of the President's policy, they are marshaling their forces to defeat it with all the bitterness, violence, and recklessness of justice and candor that marked the inception of the rebellion. The Republican executive committee of my county advised the formation of local clubs in the various precincts for the purpose of conferring together, hearing political news, studying the constitution, &c., in a peaceable manner. Rebels have formed armed gangs and broken up these simple gatherings, firing upon the houses where they had assembled. Colored men, and white also, identified with our cause, have been obliged to leave house, home, and family to escape the violence of these political tyrants. A man who is likely by his intelligence to be a political leader is placed under a system of espionage and intimidation which will in most cases effectually silence him. The rules of the slave community are still enforced. One colored mechanic, of considerable means and intelligence, was notified that he had too much company at his house on Sundays, and he must quit or take the consequences. At another time they forced him by threats to open and let them into his house after night to see if he had a political meeting there. The bloodiest threats are made against the whole mass of colored citizens if they dare to vote against their old masters. The same vigilant and violent repression is exercised nearly as was used during the war. In short, the political freedom of colored citizens, apart from the large towns, is reduced to a mere nullity. Coming from my station to-day, to secure the presence and moral effect of a visit of cavalry to these remote precincts, I was met by the news that Generals Pope and Swayne were removed, and found rebels jubilant and arrogant as they were when Sumter fell. This will make bad worse, and soon Union men cannot live in any part of the land. Last Tuesday night an innocent colored man was wantonly murdered in the village where I am stationed. The murderer escaped, and to-day not one out of five of the white citizens would raise a hand to arrest him if he should come upon the streets. Two nights before a woman was knocked dead by a chair in the hands of a white man in Lowndes county. Within a week a colored man was found hung on a tree near Fort Deposit in Lowndes county. Two nights ago a man was shot dead three miles from this place. A short time since some ruffians attempted to break up a political meeting near Camden, Wilcox county, and killed a colored man who tried to prevent them.

Such are some of the results of the new license which has been granted rebels by the condemnation of faithful administrators of the reconstruction policy. If there is any way in which Congress can check the President's reckless moves, I hope every man will stand faithfully by us. You have no conception of the actual condition of affairs, I think, or there would be no delay in counteracting the evil effects of the President's latest stroke. It is boldly avowed that this act is to throw the power into their hands and defeat the ratification of the Constitution. They claim that they will secure the removal of the present chief of registration in the State and the appointment of an irresponsible ex-Federal officer who is a noted copperhead, and thereby effect a complete change in the boards of registration, so as to give rebels and their sympathizers the control of the ballot-box.

If the constitution is defeated there are only two results possible—the utter subjugation of all who will not assist voluntarily in giving the power of this State, and consequently of the nation, into rebel hands, or the employment of a much larger military force than is now in the State to enforce order on strict military principles under martial law.

Hoping you will pardon the imperfect presentation of the subject, which is due partly to haste, and give it the most careful and candid consideration, I remain, yours, respectfully,

———
Member of Constitutional Convention.

Hon. JOHN A. PETERS.

Mr. WASHBURNE, of Illinois. With the permission of the gentleman from Maine [Mr. PETERS] I desire to say in this connection that I have received a letter from one of the most reliable citizens of Alabama, a gentleman well known to me, which fully bears out the statements of the letter just read by the Clerk. And he states a fact that is not stated in that letter, in regard to the rebel General Clanton, who is stumping the State against reconstruction, and telling the colored men everywhere that to vote for reconstruction is to vote for open war between the rebels and the colored race. He speaks also of a convention of peaceable persons at Tallapoosa which was broken up and dispersed by armed rebels. In fact, he states that matters there are tending to a state of things which, if the reconstruction policy of Congress is not adopted, will be worse than the condition of San Domingo ever was.

Mr. PETERS. Mr. Speaker, when I sent that letter to the Clerk's desk I intended that the name of the writer should be read, but at the suggestion of my friends about me I suppress the name for the present, because the party who wrote it would, if his name were disclosed, be in absolute danger of his life.

I hold in my hand another letter which I have received this morning from another gentleman, of the most reliable character, residing in the same State. From this letter I will read a few sentences:

"We are having a hard time. The removal of Pope and Swayne was a terrible blow to us. The rebels were defiant and fierce, and were sure of turning over our whole system of registration and postponing the election. Thank God they have 'caught a Tartar' in Meade. I am feeling more encouraged. I confess I anticipate bloodshed on election day in certain counties. Murder of freedmen is common, and on the whole we almost seem approaching the dark days of old Kansas. We have not a sufficient military force here—only about one full regiment in the State. The rebel leaders are advising white men to come to the polls fully armed and take possession and challenge every voter. Rebel planters are inserting in their contracts with freedmen a clause whereby they bind themselves not to attend political meetings and to vote, if at all, as the employer shall say. In violation of this they lose their places and all accrued pay. The rallying cry is 'a white man's government,' at whatever cost. I tell you we are enjoying a 'reign of terror.'

"In some counties nominees have resigned, partly because the rebels compelled them to do so and partly for fear. In this respect, however, no trouble will come, because we have been able always to fill the ticket.

"I think we shall ratify the constitution, but we have an immense work to do it. I hope you will pass the bill reported Saturday making Grant commander of these rebel States, and perhaps authorizing the various conventions to choose provisional governments. Could you be among us a few days and see the inside workings of this 'rebellious hell' you would all put your shoulders to the wheel and swear 'by the eternal' that 'loyal men should govern a preserved Republic,' and would teach rebels, whether in the Executive Mansion, the Army, or all over the South, that the blood of three hundred thousand dead Union men and the burden of the war debt were terrible realities, and it is too late now to show the 'white feather.' If we fail in reconstruction Alabama will be too hot for us, and we must leave by the underground railroad. I trust you will pass the bill requiring simply a majority of the votes to ratify, not a majority of the registered votes.

"We are looking to you with anxiety. Do all you can; we will not yield an inch till compelled. Our lives are in our hands, and we will maintain our honest convictions."

Mr. Speaker, when I heard to-day the remarks of the gentleman from Connecticut, [Mr. HUBBARD,] who professes loyalty, my mind was involuntarily carried back to periods during the rebellion when we heard similar protestations made by Democratic orators all over the country. They were professed loyalists. They were always willing that the rebellion should be put down; but when any efficient measure was proposed to accomplish that object, whether it was to use the negro, or to resort to confiscation, or to any other measure that was likely to be destructive and terrible to the enemy, nice, technical constitutional objections were raised. Although I have great respect for the gentleman from Connecticut, yet during his remarks I could not help feeling a little of the old emotion which I felt during the dark days of the rebellion toward men of the class I have mentioned. Whatever we thought of the sincerity of their professions, we always distrusted their ability to help the country out of the rebellion. I just as much distrust their ability now to propose efficient measures for the restoration of peace and harmony.

Sir, in this work of reconstruction we have been lopping off branch by branch. Two years ago we ought to have struck the ax at the very root of the tree; and I believe that in this bill we are coming nearer to that policy than we have ever come before. And in this connection let me say one word in relation to our power to pass an act of this kind.

Congress has repeatedly declared, and the courts have concurred in establishing the doctrine, that in the midst of the rebellion there were no valid governments in the States engaged in that rebellion; and as to the people there, Congress had the power, of course within the bounds of humanity and international law, to do with them precisely what it pleased. Now, I desire to ask this question, (for I believe it has not been elaborated if it has been presented in this discussion:) when did the state of facts which conferred upon Congress that jurisdiction cease? This is a question of fact, of course. The Supreme Court cannot decide a question of fact, as they are only the arbiters of questions of law. Of course it is not for the rebels to say, it is only for us to say, when a sufficient degree of national safety has been obtained; and from the reading of these letters and from the information before the country, are we willing to say the rebellion, with all its results, is "crushed out" to-day? To be sure the military power of the rebellion has been reduced to ashes; but I tell you, if you believe these papers and the information they furnish, there may be live coals still in these ashes which may be blown into the flames of another civil war.

We have as much right to pass this bill now as we had to force our armies over the Potomac or to capture Richmond. If we had the right to put down the rebellion, why, in the name of God, have we not the right to keep it down? We have the same right to take care of these after-births of the rebellion that we have to seize and try Jeff. Davis or any other traitor.

We have our hold upon them, and when shall we release it? If the Supreme Court say we shall release it now, they might have said we should release it before the capitulation of Lee and his army. If they have the jurisdiction to say so at one time they had the same jurisdiction to say so at all times; and I say before high heaven I would not trust them with that power since the beginning of the rebellion.

Mr. Speaker, I find I am taking up more time than I expected. I have an extract from an address of Professor Parsons, of the Cambridge law school, which, I think, clearly and accurately states the principle lying at the bottom of this bill. It is as follows:

"But some persons will say all this is probable enough and sad enough, but what right have we to interfere with the States in this matter? I beg to ask such persons just this: Have not the rebels, by their rebellion, forced upon us emancipation; and have they not, therefore, forced upon us the duty of protecting them whom we emancipate from certain misery and probable destruction; and if those States have forced upon us this duty, have they not given us a perfect right to discharge this duty? This question of right disturbs some excellent persons. Let me then ask again, have not the rebels compelled us to emancipate the slaves, and thereby make it our imperative and solemn duty to provide that this emancipation shall not be disastrous to them; and have they not, therefore, and necessarily, given us full and perfect right to do all that this duty requires of us? And what is this? I cannot doubt that it is to hold those States in our military possession until their constitutions provide that political right shall not depend on race or color, or until Congress shall pass an amendment to the national Constitution to the same effect. Then we may wait safely; for State after State will be sure to come up, and the work will be done.

"Let no man suppose that I undervalue State rights. At no moment of my life was my conviction stronger than it is now that the whole prosperity of this country demands the preservation of the balance between the sovereignty of the nation and the rights of the States. It is because I so value these rights that I would not permit a State which has renounced them all utterly to resume and repossess them until we have reasonable security that it can exercise them with safety to itself and to the whole country.

"Remember that this nation must choose between two alternatives, for there is no third one. Of these two, one is to give to the men who were slaves and are not now by our act—to give them by the right of suffrage, because it cannot be given them otherwise—adequate power of self-protection and defense. The other alternative is to cast off from them the chains of slavery and bind them anew, hand and foot, by the chains of disfranchisement; and to deliver them thus bound, helpless and hopeless, into the hands of those who were their owners, and whom we have made, in good part at least, their bitter and exasperated enemies."

One single thing more, as it glances before my mind, in reply to the gentleman from Connecticut, [Mr. HUBBARD.] He says not only that the second section of the bill before the House is unconstitutional, but that it is impracticable from what may be done by the President of the United States. He inquires how can General Grant order one of his officers to one place when the President orders him to another? Mr. Speaker, there is no act of Congress which the executive officer may not have some influence in blocking, in dissipating, in weakening, or in destroying, if he sees fit. There is no doubt the President might make it awkward and difficult to execute in some of its phases this reconstruction act. If he should do that, then the remedy is the one which the gentleman from Ohio [Mr. ASHLEY] proposed, and which we have not yet used; and when the time comes that it is necessary it will be used. That is a perfect answer to the gentleman.

I now yield the remainder of my time to the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES took the floor, but yielded to Mr. BINGHAM, who desired to submit a motion.

ORDER OF BUSINESS FOR TO-MORROW.

Mr. BINGHAM. I ask that by common consent the order of business for to-morrow be so changed that the debate shall be confined exclusively to the bill now under consideration.

The SPEAKER. There are several gentlemen who desire and expect to speak to-morrow in the Committee of the Whole on the President's message.

Mr. BINGHAM. The House can say whether it desires the change of order.

Mr. DAWES. I desire to state that there is a long list of gentlemen who wish to speak in the Committee of the Whole—so long a list that probably some of them will not be reached this session, and so long that very many of them cannot be reached unless the rule is enforced more rigidly than it has been heretofore limiting the speeches to one hour. There are at least four or five who have indicated a desire to speak to-morrow in Committee of the Whole.

The SPEAKER. It requires unanimous consent.

Mr. HUBBARD, of West Virginia. I object.

RECONSTRUCTION—AGAIN.

The House resumed the consideration of the bill reported by the Committee on Reconstruction.

Mr. JENCKES. The gentleman from Massachusetts [Mr. DAWES] was kind enough last evening to yield me three minutes of his time for the purpose of explaining some points in the case of Luther *vs.* Borden, commonly called the Rhode Island case, and making clear by reference to contemporaneous documents such portions of the decision of the Supreme Court as had not, as it seemed to me, been well understood or properly presented in this debate. The questions raised in that case were political as well as judicial, and the Supreme Court then settled by their decision, not only what questions were judicial and what political, but also by what tribunal the political questions should be and had been determined. The action of the executive department is referred to in the opinion of the Chief Justice, but the documentary evidence on which that action was based does not appear in the report. I caused to be read last evening an extract from a letter of the then President of the United States, John Tyler, to the Governor of Rhode Island, in which the President gave the reasons which governed him in sustaining what was then known as the "charter government" instead of what was then called the "people's government," whose head was the so-called Governor Dorr. In order that the point may be better understood, I ask the Clerk to read again the extract from the letter of President Tyler to Governor King, dated April 11, 1842.

The Clerk read as follows:

"I have, however, to assure your Excellency that should the time arrive—and my fervent prayer is that it may never come—when an insurrection shall exist against the government of Rhode Island, and a requisition shall be made upon the Executive of the United States to furnish that protection which is guaranteed to each State by the Constitution and laws, I shall not be found to shrink from the performance of a duty which, while it would be the most painful, is at the same time the most imperative. I have also to say that in such a contingency the Executive could not look into real or supposed defects of the existing government in order to ascertain whether some other plan of government proposed for adoption was better suited to the wants and more in accordance with the wishes of any portion of her citizens. To throw the executive power of this Government into any such controversy would be to make the President the armed arbitrator between the people of the different States and their constituted authorities, and might lead to a usurped power, dangerous alike to the stability of the State governments and the liberties of the people. It will be my duty, on the contrary, to respect the requisitions of that government which has been recognized as the existing government of the State through all time past, until I shall be advised, in regular manner, that it has been altered and abolished, and another substituted in its place by legal and peaceable proceedings, adopted and pursued by the authorities and people of the State."

Mr. JENCKES. Such was the position assumed by the President when he was first asked as to the action he would take in the event of a collision between the two parties which claimed to be the regularly constituted government of Rhode Island. The officers of both governments either had been or were about to be elected, and each set were to have been inaugurated in the first week in May next after the date of that letter. Both Legislatures actually met. The "charter government" organized at Newport, where the annual election had been held from what, to us, was time immemorial, the earliest date of our existence as a Government. The Legislature under the new constitution, with Dorr as governor, organized at Providence, and then with bands of armed men and with great array and in defiance of the "charter government," pretended that it had been installed as the government of Rhode Island.

The charter Legislature at Newport passed a resolution calling upon the President for aid. In response to their resolution he replied in a letter from which I will ask the Clerk to read an extract.

The Clerk read as follows:

"I freely confess that I should experience great reluctance in employing the military power of this Government against any portion of the people; but, however painful the duty, I have to assure your Excellency that if resistance be made to the execution of the laws of Rhode Island by such force as the civil posse shall be unable to overcome, it will be the duty of this Government to enforce the constitutional guarantee—a guarantee given and adopted mutually by all the original States, of which number Rhode Island was one, and which, in the same way, has been given and adopted by each of the States since admitted into the Union; and, if an exigency of lawless violence shall actually arise the executive Government of the United States, on the application of your Excellency, under the authority of the resolutions of the Legislature already transmitted, will stand ready to succor the authorities of the State in their efforts to maintain a due respect for the laws."

Mr. JENCKES. This, Mr. Speaker, was a demand upon the President for aid to suppress domestic violence. He recognized his obligation to what was called the charter government for the reason that that government had been recognized as the government of Rhode Island since that State adopted the Federal Constitution, and because the Congress of the United States by its solemn acts had so recognized it. Hence he considered the Executive of the United States bound to recognize it in this emergency.

Immediately following the date of that correspondence the attempts at domestic violence were overcome, and Dorr and his forces disappeared from our territory. When the President was next called upon it was not to suppress domestic violence, but to aid in repelling invasion. It was represented to him that bands of armed men had been organized in New York, Connecticut, and Massachusetts, and were collecting on the borders of Rhode Island with a view to invade that State, and on proof of that fact being submitted to him and upon new resolutions of the Legislature calling for aid being forwarded to him, he sent the Secretary of War to Rhode Island with plenary powers. But the order to the Secretary of War was not dated until after the entire suppression of the rebellion and the driving off of the invading forces, and not until after the act had been committed which was complained of as a trespass in the case of Luther vs. Borden.

But in the next year when a new Congress took it upon themselves to examine into the acts of the Executive upon this occasion, he was catechised upon the subject and requested to state the reasons why he had interfered between the two governments of Rhode Island. He was then distinctly called upon to state what he deemed to be the duty of the President in the case of doubtful and conflicting State governments. His answer was given after deliberation and not without advice. I will now ask the Clerk to read an extract from President Tyler's message to Congress in 1844, setting forth the reasons which governed him in his action with regard to the affairs of Rhode Island in 1842.

The Clerk read as follows:

"That, 'requests and applications' were made to the Executive to fulfill the guarantees of the Constitution which impose on the Federal Government the obligation to protect and defend each State of the Union against 'domestic violence and foreign invasion'; but the Executive was at no time convinced that a *casus fœderis* had arisen which required the interposition of the military or naval power in the controversy which unhappily existed between the people of Rhode Island. I was in no manner prevented from so interfering by the inquiry whether Rhode Island existed as an independent State of the Union, under a charter granted at an early period by the crown of Great Britain or not. It was enough for the Executive to know that she was recognized as a sovereign State by Great Britain by the treaty of 1783; that a later day, she had in common with her sister States poured out her blood and freely expended her treasure in the war of the Revolution; that she was a party to the Articles of Confederation; that at an after period she adopted the Constitution of the United States as a free, independent, and republican State, and that in this character she has always possessed her full quota of representation in the Senate and House of Representatives; and that up to a recent day she has conducted all her domestic affairs and fulfilled all her obligations as a member of the Union, in peace and war, under her charter government, as it is denominated in the resolution of the House of the 23d of March.

"I must be permitted to disclaim entirely and

unqualifiedly the right on the part of the Executive to make any real or supposed defects in any State constitution or form of government the pretext for a failure to enforce the laws or the guarantees of the Constitution of the United States with reference to any such State. I utterly repudiate the idea, in terms as emphatic as I can employ, that those laws are not to be enforced or those guarantees complied with because the President may believe that the right of suffrage or any other great popular right is either too restricted or too broadly enlarged. I, also, with equal strength resist the idea that it falls within the Executive competency to decide in a controvery of the nature of that which existed in Rhode Island on which side is the majority of the people or as to the extent of the rights of a mere numerical majority. For the Executive to assume such a power would be to assume a power of the most dangerous character.

"Under such assumptions the States of this Union would have no security for peace or tranquillity, but might be converted into the mere instruments of executive will. Actuated by selfish purposes, he might become the great dictator, fomenting assaults upon the State constitutions, and declaring the majority of to-day to be the minority of to-morrow, and the minority in its turn the majority, before whose decrees the established order of things in the State should be subverted. Revolution, civil commotion, and bloodshed would be the inevitable consequence. The provision in the Constitution, intended for the security of the State, would thus be turned into an instrument for their destruction: the President would become, in fact, the great constitution-maker for the States, and all power would be vested in his hands."

Mr. JENCKES. That is the only case which has arisen in the history of our country which has called for the definition of the powers of the several departments of its government. In that case we have the decision of the Supreme Court as well as of the Executive, that the authority and power to decide as to what is the constitutional government of a State is not in the executive or in the judicial department of the Government, but in Congress. The Supreme Court has so declared in so many words, "The right to make that decision is there, [in Congress,] and not in any court." The Executive says distinctly that it is not vested in him, therefore the only department of this Government which has jurisdiction over this matter is the Congress of the United States.

Now, in the light of this precedent, what is the true ground for the action now proposed? We all agree with the opinion of the present President, in the spring of 1865, when he issued his proclamation for the reorganization of the State of North Carolina, that there was no civil government there; that all civil government there had been utterly destroyed by the rebellion. During the period immediately preceding the meeting of the last Congress he undertook to do what his predecessor, Mr. Tyler, under similar circumstances, said he had no power to do, to raise and construct State governments. It is true, he said all the time that the action of the people of those States, and of the executive department in that regard, would be subject to the approval and ratification of Congress when it assembled.

Now, when Congress did assemble the acts of the President and those under his authority were not satisfactory to that tribunal. It was a long time before the Thirty-Ninth Congress could obtain official information of what had been done. Congress met on the first Monday of December; and the message of the President, transmitting that information to Congress, was not received until the month of March following.

In the meantime evidence of hostility to the Government of the United States, which was unmistakable in its character, had been received from every quarter of the South. The Executive did not conceal his disappointment at the coolness with which his efforts at reconstruction had been received by the people. Congress undertook to settle the difficulty by proposing an amendment to the Constitution of the United States, establishing a due proportion between the representation and the voting constituency. Instead of the acceptance of that amendment either by these pretended State governments or by the Executive, it was opposed by the latter and rejected by the States most interested in it. Therefore the plan of the President had failed, and the first plan of Congress had not succeeded. The pretended governments of these States were fast drifting into open rebellion. There was no disguising the fact that there was no harmony between the so-called Legislatures of Mississippi, South Carolina, &c., and the Government of the United States as represented in Congress.

What was to be done? Was Congress to allow a new rebellion to be instigated, to be fostered into life by the Executive? or were they to undertake other means for keeping peace throughout the nation? They decided that it was their duty to undertake other means and those means are these reconstruction acts. Instead of being acts of tyranny and oppression, as characterized by the gentleman from New York, [Mr. BROOKS,] they are acts of the greatest beneficence. Instead of being acts for the assassination of ten States, as stated by the gentleman from Connecticut, [Mr. HUBBARD,] they are acts of resurrection for the ten States. No lawful governments have existed in those States since the surrender of Lee's army. Since that time they have all lain prostrate beneath the sword of the Republic.

These governments fostered by the Executive could not sustain themselves unless backed by the sword of the Government. No government can be maintained in that territory without physical force to sustain it. Congress, while recognizing those executive governments as provisional governments merely, made provision, as it clearly was within their power to do under this precedent, to raise up new republican governments, under which every citizen resident within that territory should have all his rights and exercise his just proportion of political power.

Now, sir, it is the grossest perversion of terms to call this beneficent action tyranny. How else could these States be restored to new life? It was well asked by the gentleman from Massachusetts, [Mr. DAWES,] how were the guarantees of the Constitution to be carried out by the United States except by the power of the United States? If its moral and legal forces are not sufficient, if the laws which it enacts cannot be carried into effect by a *posse comitatis*, then they must be carried into effect by the sword and under the sword. The last resort of power must be had in order to give the laws vitality. That is all that is proposed to be done here and now. Under the sword of the General of the Army executing the law of Congress, no man can be oppressed. There can be none who will not enjoy his right to participate in organizing a peaceful constitutional government without let or hinderance. The hostile elements which have heretofore stood face to face; those who have regarded labor as dishonorable and those who have been compelled to perform enforced labor will now be obliged to work together harmoniously, and the condition of violence and hostility which has heretofore existed must cease. This is the purpose for which Congress proposes to use the Army—to keep the peace, repress violence, and secure freedom of action to all.

The simple effect of this bill is that there shall be no power in any officer under the Constitution or Government of the United States to obstruct the execution of the laws of the United States. If Congress has the complete jurisdiction over this subject, as the Supreme Court and a former Executive have declared, then we must see to it that this jurisdiction is not impaired; that every officer, from the highest to the lowest, is powerless unless in accord with the law; and for this purpose it is a declared fact that the presidential office in all its functions, even in that of Commander-in-Chief of the Army, is as powerless and vacant as if the incumbent had been removed. He has no right to exercise his power in this respect, against the power of Congress; and I will say to the gentleman from Connecticut [Mr. HUBBARD] that the language which he quoted from the first section of this bill is not to be perverted nor explained away nor qualified, but means exactly this: that Congress being the ultimate and exclusive power under the Constitution to decide upon this matter, the Executive shall not set up an opposite opinion, nor shall any court, even that which is called supreme. If the gentleman can point me to any authority, any decision, or any statute which gives the Supreme Court jurisdiction over subjects of this kind, or which gives the Executive jurisdiction without the consent of Congress, then the remarks of the gentleman may have some foundation. But when both those branches of the Government have by solemn act declared that it is not their duty to decide questions of this kind, but that it is the duty of Congress, then when Congress has undertaken to perform this duty it is also bound to call into existence its full power to enforce its jurisdiction.

What has been the course with regard to our reconstruction laws? The Executive has pretended to see that they were carried into execution; yet when one commander had just become familiar with his duties he has been removed and another put in his place. Time has thus been consumed and wasted. Notwithstanding the utmost efforts of this Congress and its officers, notwithstanding the most vigorous attempts to enforce our laws through these unwilling instruments, no State has yet presented itself for readmission into this House. There are ways of defeating the law without directly opposing it; and sometimes, as in this case, those ways are more fatal than direct opposition would be. The man who ought to execute the laws, and those who ought to support him in their execution, make no secret of their desire and intention that these laws should fail; that these acts of Congress, clearly devolving upon them the duty of carrying them out, shall be of no force, but that some other plan shall be adopted by which States shall be organized upon a different basis from that of equality before the law and the common rights of all. In other words, that the first principles of the reorganization of those communities shall not be the principles of the Declaration of Independence, but shall be some other of a more rigid, more aristocratical, more oligarchical character.

Mr. Speaker, the whole purport of the bill is to assert and enforce our authority over this subject, and for that reason I give it my support. We propose by this bill simply to execute the clear duty which has fallen upon us, and to declare that no one amenable to the laws of the Republic shall stand in the way of the execution of those laws. Even though he be the Commander-in-Chief of the Army, yet he is subject to the laws which regulate the Army. The power to raise and support armies resides here and not elsewhere. The constitution of those armies and the regulations by which they shall be governed emanate from these Halls, not from the office of the General of the Army or of the Commander-in-Chief. The purpose for which these armies may be used must be declared by Congress. Having this power we propose to say to the southern people: follow out the line prescribed in these acts, give to each man his just rights, exclude from voting only those who by their former conduct have shown themselves unfit to exercise the privilege, organize your communities on a sound republican basis, and you shall be admitted here as new States with all the rights of the old, and we with you will form again this great Republic, not to be shaken or dissevered by any such cause like that which has heretofore threatened to rive it asunder.

Mr. PETERS. I yield now to the gentleman from Wisconsin, [Mr. PAINE.]

SALE OF SEA ISLANDS.

Mr. PAINE, by unanimous consent, from the Committee on Freedmen's Affairs, reported a bill (H. R. No. 457) to provide for the sale of certain lands and lots on the sea islands of Beaufort district, South Carolina, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

ESTATE OF ISAAC PHILLIPS, DECEASED.

Mr. WILSON, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No.

458) for the relief of the estate of Isaac Phillips, deceased, who was a private in the revolutionary war; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

REPORT OF MAJOR GENERAL THOMAS.

Mr. MAYNARD. I move that five thousand extra copies of the report of Major General George H. Thomas be ordered to be printed.

The motion, under the law, was referred to the Committee on Printing.

DEFICIENCIES FOR INTERIOR DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a draft of the appropriations required by that Department to supply deficiencies for the present fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

HARBORS OF OSWEGO AND SALMON RIVER.

Mr. CHURCHILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish to this House any information in the possession of the War Department concerning the condition and requirements of the harbors of Oswego and Salmon river, on Lake Ontario, received since the date of the last annual report of the Secretary of War.

OPELOUSAS RAILROAD.

Mr. BANKS, by unanimous consent, presented the memorial of the Legislature of Louisiana in reference to continuing the grant of lands to the Opelousas railroad; which was referred to the Committee on Public Lands.

Mr. WASHBURNE, of Illinois, moved to reconsider all the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECONSTRUCTION—AGAIN.

Mr. ROSS obtained the floor.

Mr. KERR. I ask the gentleman from Illinois to yield to me to move to adjourn.

The SPEAKER. That will not give the gentleman the floor on Monday, as, according to agreement, the gentleman from Ohio [Mr. BINGHAM] is to have the floor after the morning hour to call the previous question.

Mr. ROSS. Mr. Speaker, I can hardly hope to be able to reverse the determination of the majority of this House to press to its passage the bill now pending before the House. I cannot hope, sir, to turn the Republican party from its course in reference to this important and most momentous question. It is a measure which, in my judgment, was concocted in the same spirit which breathed the breath of life into the miscalled Reconstruction Committee. No more important or momentous question has ever claimed the attention of a deliberative body than the one now pending before this Congress. I ask, therefore, the calm and dispassionate consideration of the House to this important, this revolutionary, this most dangerous proposition.

It provides, sir, in the first section that there are no civil governments republican in form in the southern States. The questions which naturally present themselves for the consideration of this House are, first, the legality and constitutionality of this measure which it is proposed to pass into a law; and, secondly, the expediency and propriety, if unconstitutional, of taking from the Supreme Court its lawful rights and powers. I claim that we have no power under the Constitution to pass this bill, and that if we had such a power it is inexpedient to do so. Why have we no State governments in the southern States which are republican in form? Sir, these State governments substantially as they exist at the present time are the same State governments which were passed upon by Washington, Madison, Jefferson, and the early Congresses which acted on these questions. In what respect I ask gentlemen do they differ from those constitutions that were adopted by the early fathers of the Republic? They differ in this: that they are so modified as to have abolished slavery, provided that the national debt shall be paid, and that the confederate debt shall not be paid. Now, I submit whether these changes in the fundamental laws constitute these governments anti-republican in form? That is the theory which the gentlemen take. These modifications in the fundamental law have all been made since the adoption of the early constitutions. With these exceptions they remain exactly or essentially as they were established by the early fathers.

The gentleman from Indiana [Mr. KERR] argued with great force yesterday that the fact that these State governments had been reorganized by the President was sufficient. But this position is controverted by the gentleman from Massachusetts and others, who assert that they must be recognized by the Congress of the United States in order to be valid. Sir, Congress did recognize the validity of those State governments since they abolished the institution of slavery—not, to be sure, to their full extent; but in some degree at least, even during the period of the war. I call the attention of gentlemen to the fact that this recognition has been made by the party in power during the continuance of the war.

One instance of the recognition of Congress was when it distributed taxation among the different States of the Union. That was an act of the present party in power.

Again, in 1862 the Republican Congress by the passage of a bill, approved by Abraham Lincoln, determined that they were entitled to representation in the national Congress by awarding a certain number of Representatives to each one of these States.

Again, those States were recognized as such by President Lincoln when his Secretary of State enunciated to foreign Governments that it was a mere rebellion in this country, and that the seats of the southern members were waiting their return to be reoccupied by them.

Again, at a later period the principle was recognized when a bill was passed dividing those States up into judicial circuits and the Supreme Court recognized them by assigning judges to those circuits.

Again, the legality of those State governments was recognized by the party in power in permitting their Representatives to remain long after the acts of secession had been passed. The present President of the United States continued to occupy his seat in the Senate of the United States long after the act of secession had been passed by the State of Tennessee.

But the main argument on which the gentlemen rely for their authority to pass this measure is that they are authorized under the Constitution to guaranty to each State a constitution republican in form. Sir, there is a difference between guarantying a government republican in form and overthrowing and obliterating civil government. I take it that the authority to guaranty republican governments in form does not justify the Congress of the United States in laying its hand upon governments which have been in existence and have been recognized by the national authority as such, wiping them out and instituting in their place governments of a despotic, arbitrary, military character.

I understand these southern States now have Governors, Legislatures, courts of justice, and all the machinery appertaining to ordinary civil governments. What does this bill propose to do? It proposes to strike down, under the authority to guaranty republican governments, these State governments and to erect upon their ruins a military rule more despotic than was ever fastened upon a free people. I submit whether a government is republican in form where the people have not the right to choose their own representatives and their own rulers. I regard no government as republican in form where the Constitution of the country is trampled down and there is placed in the hands of a single individual the power to turn out civil officers and fill their places at will. This bill does exactly that thing. It authorizes General Grant to turn out every civil officer in the ten southern States and to fill their places with persons not elected by the people. Tell me that this is guarantying to the people a republican form of government!

But, sir, to show that this measure is recognized by its authors as illegal, unconstitutional, and revolutionary, they have provided that the governments of these ten States "shall not be recognized as valid or legal State governments either by the executive or the judicial power of the United States." Why was this provision put in and why was the Supreme Court of the United States muzzled? Sir, it was because these gentlemen knew full well that this law could not stand the scrutinizing test of judicial investigation. Full well did they know that they were trampling upon the Constitution of the country. If I understand the Constitution the Supreme Court was expressly organized for the purpose of passing upon these constitutional questions. By act of Congress, if this bill becomes a law, you strike down that department of the Government; you determine that one of the very questions which, under our form of Government, is left to be determined by the judicial power of the country shall not be thus determined. Sir, the effect, if not the purpose, of this bill is to take from the executive and judicial departments the powers that properly appertain to them and absorb them by the Congress of the United States.

Gentlemen were not satisfied with the extraordinary and revolutionary measure which was passed through here a day or two since in hot haste and without discussion, providing what had never been done in our Government before, that it shall require six judges to overrule the action of Congress, while three shall be sufficient to sustain the action of Congress. I submit to the House and the country whether this does not show that this Congress is now trampling upon that sacred instrument, the Constitution, and that it is its deliberate purpose to break down the barriers of the Constitution and overthrow and destroy the Government under which we live? I do not think the action of Congress within the last few years has ever afforded *prima facie* evidence that its acts were constitutional, and yet those acts may be sustained and declared to be the law of the land by three judges while all the other members of the court may be against it. This is the law which you have passed. Why, Mr. Speaker, did you lay your vandal hands upon one of the noblest departments of the Government? Who are these judges that you are making war upon? Five of the eight judges, if my memory serves me right, were appointees of Abraham Lincoln, and are of the party to which you belong. Sir, they happen to be honest men; they happen to be men who rise above party strife and party spirit, feeling the weight of the responsibility resting upon them; they will give decisions in accordance with the Constitution as it was made by our fathers and has been interpreted by the judiciary of the country. Why this distrust of the Supreme Court? Sir, these gentlemen may well distrust the Supreme Court. They have turned their backs upon the principles which brought them into power by repudiating the platform that was adopted at Chicago and repudiating the resolution which has been read in relation to the objects and purposes for which the war was to be prosecuted.

What more have they done? Why, sir, in the first place, in order to get control of the Supreme Court of the United States, they provided that the number of judges should be increased, I think, to ten. When they had fallen out with their President and were unwilling to let him make further appointments of judges, they provided that no further appointments should be made until the number was reduced to seven, thereby attempting to use the Supreme Court of the United States as an instrument for party purposes and party ends. The court is not willing to be so used. It is too noble, too elevated; it lives in a higher

and purer atmosphere than this. The people will be anxious to know why it is that it takes more judges to decide against Congress than to decide for it. It will be a pertinent inquiry for the people of this country why it takes six judges to decide against Congress while three may sustain Congress, and yet, sir, such is the effect of the unconstitutional measure you have passed.

But they were not satisfied with that. Fearing that even the Chief Justice and some of the other justices, who have been dabbling in the dirty pool of party politics, might rise above the party influences which surround them and that the entire judiciary would decide this measure to be unconstitutional, they have provided in this bill that they shall not touch this subject at all—that they shall not investigate it or decide against it.

They further make provision to strip the President of the United States of his power, and the able gentleman from Massachusetts [Mr. BOUTWELL] says that Congress has the constitutional right to do it; that they have the right to determine what the Army shall be, where it shall be, and who shall command it. Then what is left for the President to do? Nothing at all. You take the Army entirely out of the hands and control of the Executive and Commander-in-Chief and place it in the hands and under the control of a subordinate officer. Now, I contend you have no constitutional right to do any such thing.

Mr. Speaker, I do not concur in the sentiment expressed the other day by the gentleman from New York, [Mr. WOOD,] that this is not a famous Congress, that this is an odious Congress. Why, sir, this is the most powerful body of men ever assembled in this country. No Congress, since the days of Washington, ever had the power to do what this Congress has done. This has been a bold Congress. It is the first Congress that ever closed its doors against legally-elected members taking their seats here, and thereby violated the plain provisions of the Constitution of the United States. This is the first Congress that ever had the boldness to determine that an order from some officer should be a sufficient justification for any offense committed. Under a law passed by Congress a man might be guilty of rape and larceny and forgery, and if he had a certificate from an officer authorizing him to do those things that certificate was a sufficient answer in a court of justice.

Why, sir, this is a glorious Congress. No other Congress ever ventured upon such delicate ground. It is a Congress which will live in history for its acts in trampling down the very foundations of the Government, and overthrowing the institutions established by our fathers.

Sir, I say these things with no feelings of anger. I say them in sorrow. When I look back at the history of governments I see scattered everywhere along the highway of nations the failures of efforts to establish and maintain republican forms of government. I had hoped better things for ourselves. I had hoped that our Government was founded upon the immutable principles of truth and justice, and that it would endure as long as water ran or grass grew; but I entertain very serious fears upon this subject. If I thought I could have any influence upon the few members whom I now see around me, that I could lead them to exert their influence and power in behalf of maintaining and upholding the Constitution of my country, I would gladly make the effort to secure that result.

Gentlemen here have had a great deal to say about the attachment we profess to the Constitution. Why, my colleague [Mr. FARNSWORTH] said on yesterday that we had got to be—what was it?—"screechers for the Constitution;" that he had become sick and tired of this "screeching for the Constitution." Sir, I do love the old Constitution; I do revere and venerate the old Government made by our fathers; and no sneers from gentlemen upon the other side of the House will drive me to yield up the devotion and veneration I have for the Constitution of my country. My colleague saw fit to call hard names and to cast epithets upon others here. I regret that he should have felt it necessary to do so. It is the best evidence of the want of sound argument when gentlemen resort to such things. That gentleman is, no doubt, a gallant gentleman. His modest allusions since he has been here to his services in the Army show that he is a gallant man; because all great men are very modest, especially military men; they hardly ever say anything about themselves. Of his loyalty there can be no reasonable doubt. A man who can rotate from a brigadier generalship into Congress, and rotate back again whenever he pleases, and part of the time draw the pay for both places, of course must have his loyalty greatly enhanced.

Mr. WASHBURNE, of Illinois. I would ask my colleague [Mr. Ross] to whom he now refers?

Mr. ROSS. I was making some remarks about military gentlemen.

Mr. WASHBURNE, of Illinois. What gentleman does he accuse of having violated the law?

Mr. ROSS. I do not accuse any gentleman.

Mr. WASHBURNE, of Illinois. The gentleman's speech made that assertion.

Mr. ROSS. I made no accusation against any gentleman.

Mr. WASHBURNE, of Illinois. The gentleman spoke, as I understood, of some member of Congress who had drawn pay for two offices.

Mr. ROSS. I say that if a man can rotate from the position of brigadier general into Congress and again from Congress into the position of brigadier general, it is likely to make him very "loyal;" and if he can draw pay part of the time for services in both capacities it will make him exceedingly "loyal;" and his "loyalty" will be of the most ardent character if he can have a part of his relatives in the Army wearing shoulder-straps, and the balance of them in foreign missions or making large profits as contractors under the Government.

Mr. WASHBURNE, of Illinois. I desire to know whether my colleague applies that remark to any military man from the State of Illinois?

Mr. ROSS. I have applied it in just the manner in which I have stated.

Mr. WASHBURNE, of Illinois. Then the gentleman makes a charge and refuses to back it up.

Mr. ROSS. I have made no charge. I say that such things as I have mentioned have a tendency to make any one "loyal." If I had all my relatives either in foreign missions or wearing shoulder-straps, drawing large pay from the Government of the United States, it would enhance and vivify my "loyalty" very greatly. I do not expect it to have that effect on my colleague here, [Mr. WASHBURNE, of Illinois,] because he is one of those cold-hearted men whose patriotism could not be warmed up in the least by any such thing. But there are a great many men who are susceptible to such influences; and when they can have their brothers and their friends holding foreign missions or wearing shoulder-straps in the Army, hunting cotton and trading in the South, it has a very peculiar effect upon their patriotism. I know that such influences have no effect upon my colleague. There are gentlemen who rise entirely above any such considerations. Some of them may perhaps act as groomsmen for expectant military candidates. [Laughter.] I do not know whether that is so or not. If they do, let them perform their duty well. Some of them may attempt to bring into the field presidential candidates who are the bond-holders' candidates, brought out in the city of New York by the bond-holders; but, sir, these men will have a good time of it when they attempt to overcome the popular will, when they undertake to stem the tide of public sentiment in this country.

I am aware, Mr. Speaker, that we are to have a terrible conflict—a conflict between the combined powers of despotism, the purse, and the sword on one side, and on the other side the great masses of the American people—the laboring men of the country. The question is to be decided whether the bond-holders shall control this country through the aid of the bayonet. Let the gentleman bring out his presidential candidate. Let him place that candidate, if he pleases, upon the platform proposed by the bond-holders of New York. Let him desert, as he did the other day, all his colleagues in this House upon the question of the contraction of the currency. Mr. Speaker, I submit to the House whether the fact that the gentleman's candidate was first put in nomination by the bond-holders of New York—the fact that he, representing that candidate, is trying to bring us back prematurely to specie payments, and to coerce from the people their hard-earned money to pay in coin our large national debt—is not evidence of the policy of the gentleman's candidate. Couple this with the policy of the sword, subjecting to military power ten sovereign States of the South, controlling their ballots by force, and here you have the issue which is to be fairly made before the people of this country.

I am not as sanguine as some gentlemen are about the perpetuity of free government. Still, sir, I propose to be found battling on that side. I know the power of concentrated wealth. My colleague the other day took me to task for being in favor of paying the national bonds in the currency of the country. He said that I was proposing to "water the currency." Why, sir, who "watered" this currency first? Who poured the water in upon this currency until his friends had invested it in Government bonds, and then, as soon as they had got their greenbacks, worth forty or fifty cents on the dollar, invested in Government bonds, proposed to put on the brakes and to get back to a hard-money currency—to make the taxpayers of the country pay the full penalty of the bond, even if it takes their flesh and blood? Those, Mr. Speaker, are the issues which are to be made in the coming canvass.

Gentlemen may discuss it as they please, but, sir, if we are true to ourselves, if we are true to the great principles of self-government left by our fathers, the people will come to the rescue of this endangered and imperiled country, as in days that are passed. I feel hopeful that such will be the case.

I agreed to give the gentleman from New York [Mr. PRUYN] a part of my time.

Mr. WASHBURNE, of Illinois. I want the floor.

Mr. ROSS. For how long?

Mr. WASHBURNE, of Illinois. A few minutes.

Mr. ROSS. I have sixteen minutes left, and I give my colleague half of that time.

Mr. WASHBURNE, of Illinois. I do not believe that I want half of the gentleman's time. I do not propose to reply to the harangue he has made here. I only interrupted him because he made an extraordinary imputation against a gallant soldier from Illinois, [Mr. FARNSWORTH.] I desired my colleague to state whom he meant to insult, but instead of coming out boldly like a man and saying whom he made the charge against——

Mr. ROSS. I desire to say that I disclaimed at the time, and do now, making a charge against any of my colleagues.

Mr. WASHBURNE, of Illinois. I know very well the value of the gentleman's disclaimer. I know the imputation he meant to cast upon that gallant soldier who is absent, for if he had been here he would never have dared to cast such an imputation upon him. I leave the gentlemen to settle it among themselves.

Then, sir, by indirection he intended to cast an imputation upon me. I desire to state to the gentleman that I have not been engaged in the performances to which he alludes. No, sir; I am not like some of his friends taking contracts and making money out of the Gov-

ernment, and then using that money to break down the Government and turn it over into the hands of the rebels.

I scorn, sir, to reply to his imputation about my getting relatives into office. I have no relatives in office who are there by my recommendation; and the gentleman had no right to make the imputation. In making it he was guilty of the grossest calumny, which I did not expect from a colleague of mine.

I may have done many things, my distinguished military colleague may have done many things which may have been wrong, but I believe neither of us ever took the part of the public enemy in time of war.

Mr. ROSS. If the gentleman intends that for me, it is false.

Mr. WASHBURNE, of Illinois. I do not say anything about it, but the gentleman said certain things. I say that I never did, and that my military colleague never did. I do not say that the gentleman never did. I say that neither I nor my colleague ever belonged to the Knights of the Golden Circle or attempted to destroy our Government. I will say that neither I nor my colleague ever voted in this House against paying the soldiers, or ever voted against taking care of the sick and wounded soldiers in the war. Neither I nor my colleague ever voted against a law to punish guerrillas for shooting down our constituents, nor did we ever collude to murder Federal enrolling officers. We never came into this House with our hands red and dripping with the blood of our fellow men.

Mr. ROSS. Mr. Speaker, the insinuations which the gentleman has made, if intended for me, are without foundation in fact or in truth.

In relation to voting for the soldiers, I will say that the gentleman did vote against increasing their pay, and so did his colleague. You will recollect, Mr. Speaker, when the gentleman from Kentucky, Mr. McKee, from the Military Committee introduced a bill, to which I offered an amendment to increase the soldiers' pay to twenty dollars a month, that amendment was adopted.

But what did the gentleman and his friends do? They moved to recommit that bill to the Military Committee and the chairman of that committee reported it back from his seat at once, leaving off the amendment which I had put on increasing the pay to twenty dollars a month.

Mr. WASHBURNE, of Illinois. I will explain that if the gentleman will allow me.

Mr. ROSS. I cannot yield. When that was done my colleague in his seat tauntingly said to me, "I am opposed to your proposition because I want to give them twenty-five dollars." The record of the proceedings of the House show it. With all his pretended friendship for the soldiers there is not a word of sincerity in it.

Mr. WASHBURNE, of Illinois. Mr. Speaker——

Mr. ROSS. I decline to yield.

Mr. WASHBURNE, of Illinois. You dare not allow me to say a word.

Mr. ROSS. I will tell you what my colleague could do; he could three several times vote in favor of a law to increase the pay of officers. Of course he had no friends in the Army, no brothers or kindred, but three times he voted for a bill, which was passed, giving them two months' extra pay after they were mustered out of the Army. And when I made that proposition for the boys in blue, who carried the knapsacks, to give them twenty dollars a month and it was defeated, he sneeringly remarked that they were going to give them twenty-five dollars. I never heard anything more of his twenty-five dollars a month.

The gentleman took occasion the other day, after some remark that I had made, to say that my majority had fallen off very considerably in my district. I thought that was quite unkind in him as I had never alluded to his senatorial canvass in our State. He should bear in mind that republics are sometimes ungrateful.

Mr. WASHBURNE, of Illinois. That is true; it came very near being so in your case. [Laughter.]

Mr. ROSS. Not quite as near as you said, but perhaps for a great man it is near enough. [Laughter.]

Mr. WASHBURNE, of Illinois. Oh, yes; as great a man as you are. [Laughter.]

Mr. ROSS. My colleague said he would help get banks in our country. He got into a row with some of my friends for preventing his friends from electing him, and I suppose he wanted to pay them off in helping them to get the banks. He charged me with being interested in the banks. I never had a dollar in the banks.

Mr. WASHBURNE, of Illinois. I supposed you were a large stockholder in the Bank of Pittsfield.

Mr. ROSS. I never had a dollar in a bank ever since General Jackson's time. I have voted against them in every form. I am for hard money as soon as we pay off this debt. Pay it off and then come to the constitutional, democratic currency of the country. But these bonds, issued at a time when the greenbacks were worth forty cents on the dollar, should be paid in the same currency. The gentleman from Ohio took ooccasion to say that some of our men are in favor of issuing $2,000,000,000 of greenbacks at once. No man has ever said any such thing. He alluded to Mr. Pendleton. Mr. Pendleton says that the national debt should be paid off in the same currency that is paid to other creditors, as far as we can constitutionally do so. I would like to have these bonds funded, if the money gets too plenty, in a five per cent. bond, payable in greenbacks or lawful currency, subject to the ordinary rate of taxation. But my colleague wishes to protect the bond-holders and the banks. He is a bold man and worthy of being a member of a bold Congress. He could put himself in opposition to his thirteen colleagues on the currency question and stand here as the single Representative from the State of Illinois in favor of the banks and the bond-holders. He knew, of course, that his candidate had to stand upon that doctrine, because he had him in training. He was preparing him for the race, and he relied upon the power and influence of the national banks and bond-holders to carry the election. He expected to pour hundreds of thousands of dollars into the country in order to demoralize the people and control the elections, with the aid of the bayonet, down South, bringing in ten States under negro rule.

They tell us now they are going to let up on taxation. This is a bold Congress. It has put more taxes on us than was ever paid by any people in the world. It is a bold Congress that in a single year can run up the expenses of the Army to $77,000,000, and of the Navy $47,000,000. Must it not be a bold Congress that will do things of this kind? They have done it, and my colleague voted for it. But now, as the election draws near, they say, "You voting men, we are going to reduce your taxes." What does that mean? Why, it means that they want to get a new lease of power, and when they have gained that, the poor man will find that the same influences which have ground him down for the last four or five years and placed the burdens upon his back that the bond-holders may grow rich and the banks may make large dividends, will again control the legislation of the country. This is the policy of my colleague. He plays a bold game. He is a bold man and I admire him for it.

Now, if any friend will agree to say nothing more about my losing a few hundred votes in my district——

Mr. WASHBURNE, of Illinois. A few thousand.

Mr. ROSS. I will agree to say nothing more about his race for the Senate. How many votes did you get for Senator? [Laughter.]

Mr. WASHBURNE, of Illinois. I do not know. I refer my colleague to the records of the caucus. [Laughter.]

Mr. ROSS. I suppose that is good authority. I have no doubt his party friends will do justice by my colleague yet. He is a great admirer of Illinois. I introduced a bill and had it referred to the Committee on Commerce especially because he was on that committee, proposing to appropriate $200,000 for the improvement of the Illinois river, but he has let it sleep; he has kept it there ever since; I suppose he put it in his breeches pocket. [Laughter.] One great financial measure which he has agitated since he has been in Congress was a measure to make the Illinois Central Railroad Company pay the Government a large amount of money, when he knows that the State receives a percentage on the earnings of that company and that it would have taken three or four hundred thousand dollars out of the State treasury of Illinois. I hope he has not got a grudge against the State and voted to deplete its treasury because they did not send him to the Senate. He has foreign missions and Cabinet positions glittering before his imagination, and I do not blame him for turning his back upon Illinois while these magnificent prospects are before his enchanted vision. [Laughter.]

Mr. Speaker, I have said about all I intended to say upon this occasion, and I am thankful to the large number who have given me their attention this evening.

Mr. PRUYN obtained the floor.

Mr. WASHBURNE, of Illinois. Allow me one moment to reply to my colleague.

Mr. PRUYN yielded.

Mr. WASHBURNE, of Illinois. I have listened with a good deal of amusement to the last remarks of my colleague, made in exceeding good humor, after the few pleasant remarks that I made. There are some things a little curious, which it is well enough to have go into history.

In regard to the charge which the gentleman has made of the extravagance of Congress, I take it that no measure of any kind appropriating money has passed that my colleague has not voted for. I take it that he will not deny that he has acted upon this principle all through the rebellion, that he wanted to load down the Government so as to break it down and cause a repudiation of the debt.

Mr. ROSS. I do deny it.

Mr. WASHBURNE, of Illinois. I am astonished at the boldness of my colleague. I knew he was a bold man. I knew that he ran against General Lippincott, our Doorkeeper here, a most excellent man.

Mr. ROSS. I know he is.

Mr. WASHBURNE, of Illinois. He is a military man, against whom my colleague entertains a most deadly hostility.

Mr. ROSS. Not at all; he is my personal friend.

Mr. WASHBURNE, of Illinois. One of his charges against me is that I had brothers who went into the Army in the war to put down the rebellion. He brings that as a charge against me. I understand that sort of talk. I know that he and his party did everything to load the country down and voted for every appropriation; and many of them, more honest than my colleague, admitted that it was for the purpose of breaking the Government down so that they could repudiate the public debt.

Mr. HOLMAN. I move that the House adjourn.

Mr. WASHBURNE, of Illinois. The gentleman has not the floor.

Mr. HOLMAN. The gentleman from New York [Mr. PRUYN] yields to me.

The SPEAKER. The gentleman from New York [Mr. PRUYN] is entitled to the floor, and can resume it whenever he chooses.

Mr. PRUYN. I resume the floor. I presume there is no use in protracting this controversy.

Mr. WASHBURNE, of Illinois. I am very sorry the gentleman feels it necessary to come in to protect my colleague.

Mr. ROSS. The gentleman's colleague can take care of himself.

Mr. PRUYN. If the House now adjourns,

Mr. Speaker, shall I be entitled to the floor when the consideration of this bill is resumed?

The SPEAKER. By the order of the House on Monday after the morning hour the gentleman from Ohio [Mr. BINGHAM] is to be recognized to move the previous question on this bill and to make the closing speech.

Mr. HOLMAN. Will not the House be in session to-morrow?

The SPEAKER. It will be, but in Committee of the Whole.

Mr. ELDRIDGE. Can any business be entertained except debate?

The SPEAKER. Nothing will be in order but debate in Committee of the Whole. The gentleman from New York may be able to make his remarks on Monday if he can get the consent of the gentleman from Ohio, [Mr. BINGHAM.]

Mr. PRUYN. The gentleman told me he had agreed to yield a part of his time to the gentleman from Massachusetts, [Mr. BUTLER.]

The SPEAKER. The gentleman from Ohio might, before calling the previous question, allow the gentleman to go on. The Chair does not know what is the intention of the gentleman from Ohio except as he has publicly announced it.

Mr. PRUYN. I am sorry he is not here. I supposed that the gentleman from Illinois [Mr. WASHBURNE] represented him. Is that so?

Mr. WASHBURNE, of Illinois. I do not.

Mr. PRUYN. I do not wish to occupy the floor for any considerable length of time; I suppose that fifteen or twenty minutes is as much as I would desire. But I should prefer to go on either to-morrow or on Monday. The House being still in session I presume that it is in our power to direct at this time any arrangement for Monday morning that we may see fit.

The SPEAKER. Whenever an arrangement of this kind has been made in a full House, and members have left with the understanding that there shall be nothing but debate, the Chair has always felt it proper that the arrangement should not be changed unless the members present take the responsibility upon themselves.

Mr. PRUYN. I am willing that this arrangement should be made—that, unless some gentleman objects, I shall have on Monday morning not more than twenty minutes to make my remarks.

Mr. WASHBURNE, of Illinois. I do not see how we can now properly adopt any different arrangement from that which has been agreed to in a full House.

The SPEAKER. The gentleman from Ohio can accommodate the gentleman from New York by not rising to claim the floor at the expiration of the morning hour on Monday. At that time the gentleman from Ohio will be entitled to the floor to move the previous question. If he should not rise to claim the floor, but should choose to postpone for twenty minutes the calling of the previous question the gentleman from New York [Mr. PRUYN] would be entitled to the floor.

Mr. PRUYN. I think under the circumstances I shall trust to the liberality of the gentleman from Ohio to make that arrangement.

Mr. HOLMAN. I now renew the motion that the House adjourn.

Mr. MALLORY. I ask the gentleman to yield to me a moment that I may introduce a bill.

Mr. HOLMAN. I will do so.

PACIFIC RAILROAD BRANCH.

Mr. MALLORY, by unanimous consent, introduced a bill (H. R. No. 459) to aid in the construction of a railroad and telegraph line from Portland, Oregon, to connect with the Pacific railroad at the northern bend of the Humboldt, in the State of Nevada, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. HOLMAN, (at five o'clock and thirty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ASHLEY, of Ohio: The petition of Egbert Hudson and others, owners of "Yerba Buena," California, praying for the protection of their rights.

By Mr. BEAMAN: The petition of Jacob Houghton and 20 others, citizens of Detroit, Michigan, urging the importance of a repeal of the internal taxes on manufactures and productions, except luxuries, with such simplifying and changing of the tax list as shall remove burdens wholly unnecessary, and thus relieve and stimulate the productive industry of the country.

Also, the petition of George H. Parker and 32 others, of the same place.

Also, the petition of J. B. Wayne and 27 others, of the same place.

Also, the petition of David R. Pierce and 75 others, of the same place.

Also, the petition of Moses W. Field and 33 others, of the same place.

Also, the petition of Joseph Burton and 20 others, of the same place.

Also, the petition of W. Watkins and 81 others, of Ypsilanti, in said State.

Also, the petition of J. K. Bires and 243 others, of Hudson, in said State.

Also, the petition of W. J. Baxter and 56 others, of Jonesville, in said State, to the same effect.

By Mr. BECK: The petition of a large number of citizens of Kentucky, accompanied with the resolutions of a public meeting in Lexington, asking for such action by Congress as would best protect naturalized citizens from oppression while in foreign countries.

By Mr. BLAIR: The petitions of James Lindsey and Luke M. Thayer, of the fourth Michigan cavalry, for payment of the reward for the capture of Jefferson Davis.

By Mr. DRIGGS: The petition of Wakes & Co., and 20 others, of Flint, Michigan, asking the repeal of internal revenue tax on manufactures and productions, except luxuries.

By Mr. FERRY: The petition of T. King & Co., Blodgett Brothers, and others, of Lowell, Michigan, praying for such modification of the internal revenue law as will relieve and stimulate the productive industry of the country.

By Mr. HULBURD: The petition of sundry citizens of Norfolk, New York, as to rights, protection, &c., of naturalized citizens.

By Mr. MERCUR: The petition of 133 citizens of Columbia county, Pennsylvania, asking for the establishment of a postal route from Catawissa, in said county of Columbia, via Mendenhalls Mills, Valentine Voughts, in the county of Montour, to Elysburg, in the county of Northumberland.

By Mr. NUNN: The petition of Mrs. Mary Geary, for relief.

By Mr. ORTH: Petitions from numerous citizens of Fort Wayne, Mishawaka, Terre Haute, and La Fayette, Indiana, asking for repeal of internal taxes on manufactures and productions, except luxuries.

By Mr. VAN TRUMP: The petition of William H. Safford and 558 others, citizens of the twelfth congressional district of Ohio, praying Congress to take such legislative action as will define the status of naturalized citizens of the United States and compel the Government of Great Britain to recognize the validity of the naturalization of those citizens she now holds in durance and to do justice to them by reinstating them in the liberties and immunities of which they have been deprived in violation of their rights as American citizens.

By Mr. WASHBURN, of Massachusetts: The petition of citizens of Clinton and Leominster, Massachusetts, for the repeal of certain taxes.

By Mr. WASHBURN, of Wisconsin: The petition of citizens of Chippewa and Eau Claire counties, Wisconsin, praying for a grant of lands to aid the construction of a wagon road for military and postal purposes from Chippewa Falls to Ashland on Lake Superior.

By Mr. WELKER: The petition of the judges of the supreme court and petit and grand jurors of the District of Columbia, asking that the compensation of jurors be fixed at four dollars per day.

Also, the petition of S. B. Scaggs and 70 others, citizens of the county of Washington, District of Columbia, praying that the voters of said county may be allowed to elect the members of the levy court, and also to elect a Delegate in Congress for the District of Columbia.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 18, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATIONS.

Mr. ROSS. I ask unanimous consent to make a personal explanation. I shall not occupy more than five minutes.

The SPEAKER. The gentleman will proceed if there is no objection.

There was no objection.

Mr. ROSS. Mr. Speaker, in looking over The Daily Globe of this morning I find that in the running debate of last evening I am reported as making some remarks which it is probably proper I should either take back or modify. A portion of what I refer to is in these words: "and part of the time draw the pay for both places." In justice to myself and to the House and to my colleagues it is proper I should say that I have no knowledge or information of their drawing pay at the same time for two positions, and consequently it is proper and just to them that I should take back that remark.

Mr. FARNSWORTH. I ask consent to make a brief explanation.

The SPEAKER. If there is no objection the gentleman will proceed.

There was no objection.

Mr. FARNSWORTH. Mr. Speaker, I was very much surprised this morning, on reading first in the morning papers and afterward in The Globe, the remarks made yesterday in my absence by my colleague, [Mr. Ross.] The gentleman's retraction is very well as far as it goes; but it does not cover the whole case. I desire the Clerk to read the passage in The Globe which I have marked.

The Clerk read as follows:

"Gentlemen here have had a great deal to say about the attachment we profess to the Constitution. Why, my colleague [Mr. FARNSWORTH] said on yesterday that we had got to be—what was it?—'screechers for the Constitution;' that he had become sick and tired of this 'screeching for the Constitution.' Sir, I do love the old Constitution; I do revere and venerate the old Government made by our fathers; and no sneers from gentlemen upon the other side of the House will drive me to yield up the devotion and veneration I have for the Constitution of my country. My colleague saw fit to call hard names and to cast epithets upon others here. I regret that he should have felt it necessary to do so. It is the best evidence of the want of sound argument when gentlemen resort to such things. That gentleman is, no doubt, a gallant gentleman. His modest allusions since he has been here to his services in the Army show that he is a gallant man; because all great men are very modest, especially military men; they hardly ever say anything about themselves. Of his loyalty there can be no reasonable doubt. A man who can rotate from a brigadier generalship into Congress, and rotate back again whenever he pleases, and part of the time draw the pay for both places, of course must have his loyalty greatly enhanced.

"Mr. WASHBURNE, of Illinois. I would ask my colleague [Mr. Ross] to whom he now refers?

"Mr. Ross. I was making some remarks about military gentlemen.

"Mr. WASHBURNE, of Illinois. What gentleman does he accuse of having violated the law?

"Mr. Ross. I do not accuse any gentleman.

"Mr. WASHBURNE, of Illinois. The gentleman's speech made that assertion.

"Mr. Ross. I made no accusation against any gentleman.

"Mr. WASHBURNE, of Illinois. The gentleman spoke, as I understood, of some member of Congress who had drawn pay for two offices.

"Mr. Ross. I say that if a man can rotate from the position of brigadier general into Congress and from Congress into the position of brigadier general, it is likely to make him very 'loyal;' and if he can draw pay part of the time for services in both capacities it will make him exceedingly 'loyal;' and his 'loyalty' will be of the most ardent character if he can have a part of his relatives in the Army wearing shoulder-straps, and the balance of them in foreign missions or making large profits as contractors under the Government.

"Mr. WASHBURNE, of Illinois. I desire to know whether my colleague applies that remark to any military man from the State of Illinois?

"Mr. Ross. 'I have applied it in just the manner in which I have stated."

Mr. FARNSWORTH. No one can fail to see, from the remarks just read by the Clerk, that my colleague did at the time, whether intentionally or not, apply those remarks to me. The charge, as it appears in The Globe, is not only that I drew the pay of a brigadier general and a member of Congress at the same time, but that I rotated from one position to the other and back again at pleasure, and also that I had my relatives wearing shoulder-straps or in foreign missions.

Mr. ROSS. The gentleman will permit me here to say a word. I desire to say that that remark was not intended for him at all, and I think perhaps the reporters did not get my words in full, because my other colleague [Mr. WASHBURNE, of Illinois] applied the remark at the time to himself, and it was so understood by gentlemen around me.

Mr. FARNSWORTH. Not being present myself I cannot undertake to say what was understood by the House at the time; but no one reading The Globe can fail to put upon the remark the construction I have stated.

Now, Mr. Speaker, the only relative I ever had in the Army wearing shoulder-straps that I know anything of—I had several in the garb of a soldier—I say my only relative who ever wore shoulder-straps was killed at the battle of Gettysburg, a gallant soldier and officer. And, sir, I have no knowledge that I have any relatives enjoying the honors and emoluments of foreign missions, nor did any relative of mine ever take any contract under the Government that I know of.

Mr. ROSS. It should be satisfactory to the gentleman when I say the remark was not intended for him.

Mr. FARNSWORTH. I believe, sir, I have the floor.

So far as my own course is concerned, I deny that I am in the habit of alluding to my services either in the field or anywhere else, either modestly or otherwise. I leave that, however, to the House, whether I am in the habit of alluding to the services rendered by me anywhere. My services have been small anywhere, and, sir, I can only wish they had been greater.

I say further, Mr. Speaker, that I did not rotate from one position to another. My term as a member of Congress expired on the 4th of March, 1861. The war then began. I raised a regiment and took it into the field. I commanded that regiment until I was elected to Congress while still in the field fighting the enemy to the best of my ability. Without any agency of mine my constituents elected me to Congress. I wish I could say as much for my colleague. While I was south of the Potomac fighting the rebels my constituents elected me. I wish I could say that my colleague was not a member of the Knights of the Golden Circle who were at that time fighting us in the rear.

I certainly was not drawing the pay of a member of Congress. I was elected in the fall of 1862. I held my commission and continued to serve until March 4, 1863, and on that very day I resigned, and have the acceptance of the Secretary of War of that date. While I might, as it subsequently turned out, have continued to serve as brigadier general and drawn pay as such, not drawing the pay of member of Congress at the same time, until December, I was at that time in doubt about the question; and, sir, not wishing to remain in doubt on the question at all, I tendered my resignation, when the Secretary of War sent for me, asked why I resigned, discussed the point with me, and complimented me by requesting me to remain in the service. I told him no—that my constituents said I should represent them, and I thought it my duty to resign; and I did so, dating from March 4, 1863. That is all I have to say on that question.

Mr. ROSS. Mr. Speaker, allow me one minute. I desire to say that any allusion to my having been a member of the Knights of the Golden Circle, or anything of that kind, is entirely without any foundation in truth. I never was a member of it. I never had any sympathy with those who were trying to destroy the Government by rebellion, nor have I any sympathy with those who are now trying to destroy the Government.

Mr. FARNSWORTH. I should like to ask my colleague a question. I inquire whether he did not repeatedly state upon the stump in Illinois that this was an abolition war, an unholy war; that he never had and never would vote a single dollar out of the Treasury to carry on such a war? I appeal to him for an answer.

Mr. ROSS. I tell my colleague I never said any such thing.

Mr. FARNSWORTH. Or words to that effect.

Mr. ROSS. Or words to that effect. I did say that it was an abolition war; that it had degenerated into the prosecution of a war for abolition purposes. I objected to it as the rest of the Democratic party did, the object of the war having been turned from its original purpose of the restoration of the Union.

The gentleman has charged me with having voted against appropriations. I have not looked up the particular bills to which he refers, but I know that I voted for all necessary appropriations unless there was something extremely obnoxious in the bill.

Mr. FARNSWORTH. As the gentleman has answered my question I am, of course, obliged to believe him; but I am bound to tell him I asked the question because I heard not only before but this very morning he had so spoken.

This very morning in this Hall I was informed by a gentleman of the very highest respectability that he had now in his possession a speech made by my colleague in a lodge of the Knights of the Golden Circle, reported by a person who was present, and he could produce it. I was also told by another very creditable and reliable gentleman that my colleague did repeatedly on the stump all over his district say this was an abolition war, an unholy war, and he never would vote a dollar to carry it on. I presume I can present the certificates or affidavits of both of these gentlemen to the facts.

Mr. ROSS. If the gentleman can get affidavits that I was ever in a lodge of that kind or had anything to do with it it will be false in every respect. I never belonged to such a lodge and never had anything to do with any. I have always been for the Government.

PRESIDENT'S MESSAGE.

Mr. KELSEY. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the President's annual message.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of the President's annual message, Mr. BLAINE being entitled to the floor.

Mr. BLAINE. Mr. Chairman, I am entitled to one hour, of which I propose to yield thirty-five minutes to the gentleman from Illinois, [Mr. BAKER.] I am not entirely prepared to go on now, and I ask unanimous consent that I may be allowed to speak, if at all to-day, at the close of the session.

There being no objection it was understood accordingly.

Mr. BLAINE. I now yield to the gentleman from Illinois, [Mr. BAKER.]

THE RUSSIAN TREATY, AND THE NATURAL LAW GOVERNING THE GROWTH OF THE REPUBLIC.

Mr. BAKER. Mr. Chairman, I propose to discuss the recent Russian Treaty, and the Natural Law governing the growth of the Republic.

Russian America lies between latitudes fifty-four degrees forty minutes and seventy-one degrees twenty minutes north. It is in its most southern reach about four hundred miles north of our Pacific territory, and in its northern limit it touches a line about eleven hundred miles from the pole. It contains an area of five hundred and sixteen thousand square miles, and a population of fifty-four thousand souls, composed almost entirely of Indian tribes, living in a state of savage ignorance and poverty, there being only a few hundred Russians in the territory. It is almost, if not quite wholly a detached hyperborean waste, lying far north of British America, and either deluged with shivering rains in its southern and western parts or glittering in perennial ice and snow beneath the polar arch.

This territory we are invited to annex, at a present cost of $7,200,000, and a probable prospective annual cost of some millions of dollars for its keeping.

Two questions arise for our determination: first, the President and Senate having negotiated with Russia for the territory, has Congress legitimate power to defeat the purchase by way of refusing the appropriation or otherwise? and secondly, the question of power aside, is it expedient to complete the purchase? I have reached a definite conclusion as to both of these questions. I think the treaty, though complete in form, is inchoate in law, that is, is not yet the supreme law of the land, until it receives the free sanction of the legislative department by way of approving the acquisition and appropriating the money; and I think the acquisition ought to be disapproved and the appropriation refused.

I admit that the question of the legitimacy of the legislative power, in such case and to such an extent, is not without some difficulty, very eminent men having held opposite views upon the point—Madison, for instance, being on one side and Washington on the other; but I am well grounded in the conviction that the difficulty comes of incomplete and inaccurate thinking—that the sounder and safer opinion, the one which is freest from embarrassments, which best preserves the vitality and effectuates the objects of all the parts of the Constitution bearing on the subject, is that which asserts the validity of the power.

Before stating in brief and definite form the legal logic of the question as it lies in my own mind, I will produce a few extracts of opinion which appear to me to embody great weight of reason as well as authority.

On the 7th day of April, 1796, pending the truly great debate upon the treaty with Great Britain, popularly known as the Jay treaty, the House of Representatives adopted the following resolution, introduced by Mr. Thomas Blount, of North Carolina, by a vote of 57 to 35:

"*Resolved*, That it being declared by the second section of the second Article of the Constitution that the President shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senate present shall concur, the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

Such was the opinion of the House of Representatives of the Fourth Congress, expressed by a large relative majority, and retracted by no vote upon the particular question from that day to this. Mr. Madison remarked that, "this was the first instance in which a foreign treaty had been made since the establishment of the Constitution, and the first time the treaty-making power had come under formal and accurate discussion." The resolution was adopted for the very purpose of rebutting the opinion expressed in the message of President Washington, which was in effect that Congress rightfully possessed no other option but to automatically legislate in execution of the treaty. Mr. Madison, who heartily supported and voted for the resolution, said of the message that it drew "none of its reasoning from the text of the Constitution," that "it had merely affirmed that the power of making treaties is exclusively vested by the Constitution in the President, by and with the advice and consent of the Senate;" and that "nothing more was necessary on this point than to observe that the Constitution had as expressly and exclusively vested in Congress the power of making laws as it had vested in the President and Senate the power of making treaties."

Mr. Madison argued the question at much length, and with extraordinary ability and earnestness. I am clear that his reasoning utterly overbears the message of Washington. With his characteristic accuracy and analysis he stated five constructions which had been or might be placed upon the treaty-making power, all of which he discarded except the last, which he regarded as the true one. To his statement of this view, which I regard as exceedingly clear and powerful, I invite the particular attention of the House:

"He came next to the fifth construction, which left with the President and Senate the power of making treaties, but required at the same time the legislative sanction and coöperation in those cases where the Constitution had given express and specific powers to the Legislature. It was to be presumed that in all such cases the Legislature would exercise its authority with discretion, allowing due weight to the reasons which led to the treaty. Still, however, this House, in its legislative capacity, must exercise its reason; it must deliberate, for deliberation is implied in legislation. If it must carry all treaties into effect it would no longer exercise legislative power; it would be the mere instrument of the will of another department, and would have no will of its own. Where the Constitution contains a specific and peremptory injunction on Congress to do a particular act Congress must, of course, do the act, because the Constitution, which is paramount over all the departments, has expressly taken away the legislative discretion of Congress. The case is essentially different where the act of one department of Government interferes with a power expressly vested in another and no where expressly taken away; here the latter power must be exercised according to its nature, and if it be a legislative power it must be exercised with that deliberation and discretion which is essential to the nature of legislative power."

Surely it must be admitted that there is very great weight of reason in this opinion of Madison, and I leave it without comment, to stand upon its own strength.

That greatest of American judges, Chief Justice Marshall, by whom reason was so much more prized than authority, was of precisely the same opinion with Mr. Madison. In the case of Foster *vs.* Neilson, 2 Peters, page 253, he said:

"Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the Legislature, whenever it operates of itself, without the aid of any legislative provision. But when the terms of the stipulation import a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial, department, and the Legislature must execute the contract before it can become a rule for the court"—

that is, before it becomes the supreme law of the land, for the moment it becomes such it of course addresses itself to and is binding upon the court.

I will next state in exact form, and in the most summary manner possible, the view I entertain of the question.

1. The Constitution confers, in general terms, the treaty-making power on the President and Senate, that is, in terms that do not specify the particular objects covered by the power.

2. It confers, in specific terms, various powers on Congress; the Constitution being equally the warrant and authority for both classes of powers.

3. It happens that this general treaty-making power must sometimes embrace in the scope of its negotiation objects the power over which is vested by the Constitution exclusively in Congress, and then it calls in the aid of the Legislature to help out its own inadequacy of power to perfect the negotiation.

4. When the legislative department is thus called on to make a law with a view to perfecting a treaty negotiation, it acts by virtue of power specifically and exclusively conferred on it by the Constitution, just as the treaty-making power has acted by virtue of power generally conferred upon it by the same instrument; and both within their respective spheres must act with equal freedom, because both act by virtue of a warrant of equal dignity. To say in such a case that the treaty is already perfect, that it is already the supreme law of the land, and hence binding upon the freedom of the legislative, is to assert that that is supreme law by force of the Constitution, upon which, in fact, the Constitution has not yet exhausted its force; which, I submit, has very much the appearance of a legal absurdity.

5. The Constitution provides that treaties made "under the authority of the United States" shall be the supreme law of the land. "Authority of the United States," as it stands in the Constitution, means not a part but the *whole* of the authority of the United States appertaining to the subject, and all treaties in which such entire authority of the United States has expressed itself are undoubtedly the supreme law, and binding upon every department of the Government. Such is the case with every treaty which, in the language of Chief Justice Marshall, "operates of itself without the aid of any legislative provision." All such treaties embody in themselves a complete expression of the "authority" of the United States, and therefore become at once the supreme law. And such is the case with all treaties which have received the concurrent sanction of Congress in the needed exercise of some power committed to Congress. These, too, become supreme law, embodying, as they then do, the full "authority" of the United States, duly expressed through the several agencies provided by the Constitution. In a case, however, where the President and Senate have acted, but where something else is required to be done, the doing of which the Constitution has submitted exclusively to Congress, a part but not the full and entire "authority of the United States" is expressed; and the negotiation, therefore, at this stage, is not supreme law, nor consequently binding on the freedom of the legislative department.

6. The foregoing view is not only reasonable in itself, but it is powerfully supported by that great and often-employed rule of construction, that in a case of interfering parts of a contract, statute, or constitution, the whole, if practicable, should be so construed as to stand together. In the instance before us it would be a gross violation of this rule to prostrate so many great legislative powers specifically granted in the Constitution before a general power of no higher authority. Under this perversion the President and Senate might, for example, swallow up the power to regulate commerce with foreign nations, which the Constitution has devolved expressly upon Congress; for they might in the form of treaties stipulate with all commercial nations the terms upon which they should trade to our ports; and if we assume that treaties thus overlapping and involving the specific powers of Congress are yet the supreme law of the land before receiving the sanction of Congress, there would be no remedy but to submit. Candidly, it appears to me that such a notion of the treaty-making power in its relation to the powers of Congress is as absurd in law as it is mischievous in tendency.

7. But aside from the plain power of Congress to act according to its own free discretion in appropriating money for the purchase of new territory—which might be a hundred or two hundred millions as well as the sum we are now called upon to vote—there is another ground upon which I rest the power of Congress to reject such a treaty. The Constitution provides that "new States may be admitted by the Congress into this Union," and thus Congress is made the sole judge of what new elements shall enter into the political body of the Republic. This great power, than which none can more deeply and permanently affect the welfare of the nation, is virtually stricken down and removed from Congress if the treaty-making power can, of its own motion, and without the sanction of Congress, buy a State and bring it to our door. Potentially, and in its necessary effect, this controls the admission of such State into the Union—for our system is totally hostile to the policy of permanently governing an outlying territory as a province. The rational and effectual exercise of the power, to be of any real avail, must commence at the moment that it is proposed to bring a new territory and a new people within the domain and jurisdiction of the Republic. This should not be done without the sanction of Congress, whether the treaty of acquisition involves an appropriation or not, else that most vital power to admit new States into the Union—to modify the composition of the Republic—becomes merely a ministerial one.

Sir, for the foregoing reasons, I am perfectly convinced that Congress possesses rightful power to reject the treaty sent to us by the President—both by way of refusing the appropriation and upon the general ground that Congress possesses the power to concur or not concur in any treaty for the acquisition of new territory.

I proceed next to the question of expediency. I think it inexpedient to acquire these Russian possessions for a minor and for a greater reason. The minor, though important reason, springs out of the character of the country and its inhabitants, and the present and prospective drain which its purchase will entail upon our Treasury. In view of our existing financial condition, I am satisfied we should create no additional source of public expense except for real and necessary cause. I am also satisfied that in the present case there is no such justifying cause for taking on a new financial burden—and upon this I say no more.

The greater reason springs out of my intense conviction that the enlargement of our domain at the present time is a dangerous mistake, as being in violation of that Natural Law which prescribes the healthful growth of nations; and upon this I desire for a time to fix the attention of the House.

There is a natural law regulating the growth of all things. This law applies with inexorable rigor to the growth of nations. It is not more certainly present in the tree, in the animal, than it is in the State. The law is that the well-being of the growing vegetable, the growing animal, the growing nation, is best conserved by appropriating extraneous material at such time and in such measure that it may be harmoniously assimilated. This is the law of all healthy growth, as it is the law of longevity and true strength. Its violation leads to blight, to ill-compacted organization, and premature dissolution.

The Roman empire, which sought to reduce under one sway the best parts of Europe, Asia, and Africa, was an enormous glutton. It violated the natural law of growth; it consumed beyond its power of digestion. It took province after province into its rapacious maw in such rapid succession that it never assimilated them to the Roman life. In its hasty greed to kindle the fire of Roman civilization to a greater volume it piled smothering, extinguishing loads upon the flame. With an area of six million square miles, extending from the Euphrates to the British Isles, and from the southern confines of Germany to the mountains of Africa; with a population of one hundred and

twenty million souls, at a time when the world was not very populous, composed of twenty million citizens, forty million provincials, and sixty million slaves, made up of jarring, inharmonious elements, it was never a unit, never a crystal, but an immense conglomerate, held together by no sufficient centralizing affinity, and falling to pieces very soon after it had reached the maximum of its dimensions. Had the Roman statesmen known and observed the law of healthful and natural growth, it is very conceivable that the ten dark ages might have had no place in the world's history, and that the civilization of Christendom might have been some centuries in advance of what it is to-day; for upon that supposition, it is eminently probable that the Roman State would have flourished in growing greatness and power during those very ages when it lay prostrate, dismembered, and whelmed in barbarism; and it is possible that the great intellectual impulse of the sixteenth century would have taken place several ages earlier, and conducted society to a point at this very hour which it will not attain for ages to come. Natural law is too strong for disobedient nations, as it is for disobedient men; and nothing is more certain than that the real greatness of a nation may be impaired and civilization retarded by that raw, shallow, and heedless greed, which, in the name of progress, endangers unity in the hungry and premature pursuit of bulk.

When I consider the application of this natural law to the present condition of our own Republic I am perfectly clear that the well-being of the nation loudly and imperatively demands a period of rest from territorial growth, during which it may harmonize its jarring and hostile elements, restore its crippled industries, complete its great channels of intercommunication, and unify itself by building up in the hearts of its people that *amor patriæ* which such immense numbers of them have lost. And I declare, sir, that these great objects, all of them vital, all of them exigent and urgent and lying next our hand, are large enough to employ all the capital, all the labor, all the intellect, all the patriotism and moral force that now are or will be in the Republic for several decades to come; and that, too, with a return of results a thousand times more profitable and necessary to the country than can come of any untimely investments in wild, desolate, detached territorial acquisitions.

Properly considered we have now no spare money, no spare force of any sort to expend upon such extraneous enterprises, and we shall violate natural law to our hurt by so doing. All our power, all our means, all the life-force we have may not only be well employed, but are absolutely necessary to the grand and overshadowing object of making wieldy our already immense domain, and making homogeneous and national our discordant and embittered people. This done, there will then be a natural, safe, and reasonable basis for further extension. The nation can then grow forth in compact integrity, having first assimilated to itself all it now holds, and being thus enabled, it may be, to assimilate, at appropriate stages of expansion, all the outlying domain and adjacent islands of the continent. But until this preliminary work of unification shall be accomplished all schemes of expansion must be as ridiculous in fact, and as absurd in reason, as would be the spectacle of a strippling of tender years staggering under the mail of Achilles and whining for a larger harness and a heavier lance. Great as our people is, prodigious as its recent performance has been, it is indeed a mere stripling when viewed in relation to the vast physical area over which it is distributed.

Look, sir, at those ten States, extending wide and far from this capital to the Mexican Gulf and the Rio Grande. Territorially considered, a fair-sized empire in themselves; salubrious in climate, generous in soil, abounding in minerals, and admirably watered; yet how prostrate, how desolate, how defective in communication, how sparsely peopled and undeveloped in every respect! withal, how alien to the great ideas of nationality and liberty which have recently carried the Republic triumphantly through its terrible struggle for life! In the name of all that is reasonable I declare that here is not only room but loud cry for an immense portion of every sort of reforming and recuperative energy the nation possesses. Look at that great Northwest, extending from the Ohio river over a teeming soil and vast natural meadows far beyond the dancing Minnehaha, and the ever-sounding falls of St. Anthony—a region that will not be over-peopled when it alone shall contain double the present population of the entire Republic. Look at that still larger and all but unpeopled expanse, stretching away nearly two thousand miles over plain, mountain, and plateau, from the great river to the Pacific ocean—containing vast areas of physical conformation, representative alike of Europe, Asia, and America, and whose central solitudes have not yet been startled by the whistle of the locomotive or vexed by the hand of civilization. Reflect upon the defective intercommunication of this truly immense domain; think of the great road-trunks north and south, and the other great trunks east and west, branching in a hundred directions and gleaming with Bessemer steel, which will be needed as one of the indispensable means of permanently holding so great a territory together. That shrewd remark of Tallyrand, that America was a giant without bones, is still in a very great measure true.

In addition to all this, reflect upon the tendency of widely differing climates to invade the nationality of a people. Reflect upon the fact that here in these States have recently met and blended into a composite, resembling a chemical mixture rather than a chemical compound, well-nigh all the races of Europe, Asia, and Africa. Reflect upon the fact that these exotic races of which our nation is composed have not yet entered into harmonious rapport with the continent to which they have been transplanted. Reflect upon the fact that the diverse, contrasted, antagonizing elements of our national life have not yet been subjected to the harmonizing influence of a system of national education. Reflect upon the fact that the recent civil war was stern notice that the present human contents of the Republic, left to their own inclination, were ready to explode into fragments, and that the order we now have comes not of choice, but of a hundred battles and the sacrifice of a half million lives. Reflect upon the fact that the great fruits of this terrible conflict—stable nationality and equal liberty—are still in jeopardy, and that the loyal masses of the Republic, whose courage and endurance have already gauged the high-watermark of human history, must make one more united and triumphant effort before we can be assured that the bloody sacrifice which has made our Republic the monumental sufferer of the nations has indeed saved to it that nationality for which its heroes have died. Reflect upon the fact that the nation feels the mighty and exhaustive strain to which it has been subjected by the war; that it feels the great debt it has to carry and the heavy taxes it has to pay; that, like a lacerated living organism, it takes intuitive notice of its condition, calls for a period of repose, recuperation, retrenchment, economy, and, wiser than some of its servants, gives no sign whatever of any present inclination to increase the tension upon its life and the burden of its taxation both now and permanently, by extending its dominions under the Polar star.

Sir, in view of all these considerations, and others tending to a like result, which I omit for brevity, it appears to me that no folly could mount higher or sink lower or be more mischievous than the folly of entering upon a new career of territorial expansion at this time and under the existing condition of the country. But if anything could intensify this folly it would be the circumstance of commencing the process at a point four degrees and twenty minutes north of the Arctic circle.

Tell me not that upon the acquisition of Russian America you will stay your hand. The first false step involves the last. Russian America means British America, and the logic of that will be a southern counterpoise, composed of the West Indies, Central America, and Mexico; and thus, if this system of policy prevails, the life of the nation may be smothered by the enormous and crude masses which will be flung prematurely upon it. Tell me not that Russian America is needed in order to aid us in holding in our own hands the great transit highways across the continent which will control the commerce of Eastern Asia and the Pacific islands. These transit lines must run south of Russian America until the globe experiences a tilt upon its axis. Tell me not that Russia is our good friend, and that we must, therefore, sanction this negotiation for her Polar possessions, whether we want them or not, and whether their acquisition will be injurious to us or not. I appreciate the friendship of Russia at its value, and that value is high indeed; but I have no sympathy whatever with that weak, mawkish, sickly courtesy, which, for fear of wounding her friendship, would abdicate the free and independent exercise of American statesmanship upon a subject deeply affecting the internal polity and well-being of our Republic—thus, at the very most, realizing the wisdom of the old adage by "losing at the bung-hole while saving at the spiggot." Nations, like individuals, have a right to expect that their friends will exercise good sense, and it can give no imaginable real offense to Russia if Congress, charged as it is with free custody of the nations purse, and free and prevenient custody of that great power which looks to the enlargement of the Republic by the admission of new States into the Union, says to her, in a spirit of the utmost kindness and good will, that under the existing conditions of our Republic the purchase and annexation of her American possessions would ill affect the welfare of our own country.

Sir, I certainly believe in historical destiny—that complex and definite result which may be wrought out by the freedom of the human will acting in conjunction with that overruling infinite Intelligence which through Natural Law prescribes and upholds the stable order of things. But I have no faith whatever in that species of "manifest destiny" which ignores this latter condition, which takes no notice of natural laws, and yields itself to the blind guidance of heedless will and unchastened greediness. So sure as this idea of its destiny shall take complete and permanent possession of the Republic, so sure, in my judgment, will its career be broken by disruption. As the stars fought against Sisera, so nature will fight against it. It will sacrifice its solidarity to premature bulk. It will disintegrate from over feeding and bad digestion.

This big, raw continent—raw in civilization, though geologically older than its eastern sisters—is too vast in extent, contains too many differing climates and physical conditions, too many trackless wilds and uncongenial peoples, to be safely gulped down in the hot haste with which "Young America" and "manifest destiny" would have us swallow it. Something else is needed besides swallowing, though Young America, rapt in the fine frenzy of his sophomorical spread eagle, is thoroughly ignorant of the fact. He knows of no other physiological function but that of swallowing. God grant that our Republic may indeed become an ocean-bound one; but God forbid that it should attain these immense dimensions too soon. In the latter case the danger is imminent that we shall break in pieces, and thus repeat here upon this Continent the experience of Europe; for it is a law of all organisms, that they are held together and made one by the unitizing power of the life-force inhering in the organism; and it is an inexorable corollary of this law, peculiarly applicable to States, that when the gross bulk of the organism outgrows the

life-force the tendency is to dissolution or dismemberment. The teaching of nature is that life-force and bulk shall grow harmoniously together, that the spherule of life, which is bound up in a young nation as it is in the seed grain of a plant or the germinating cell of an animal, shall expand *pari passu* with the mass which it aggregates around itself.

If we shall be wise enough to observe this great natural law; if, while airing our eagle high above Arcturus or the Pleiades we shall not forget that he, like all other fowls born of this circumambient orb, is limited in time and space and amenable to the laws of the universe; if we shall refuse to be misled by high-sounding, shadowy and vague views of national grandeur—born not of enlightened intellect, but of crude and uncompact imagination—and shall place ourselves in definite common-sense relation with the solid facts of nature and experience; if we shall place a proper estimate upon culture and quality, and thus hold public sentiment above the superficial vulgarity of confounding greatness with physical dimension of empire; if we shall not foolishly forget or fail to comprehend the great lesson of our past history, written at length in letters of fire and blood upon half the Republic, that disintegration is one of the chief enemies with which we have to contend: if we shall firmly refuse at this inauspicious epoch to add to the strain upon our overstrained national life by renewing the process of piling on superincumbent weights of territory, and instead of that shall adhere for a season to the work of healing our bruised and lacerated nationality, giving our wounds time to knit and our cartilage time to harden into bone, we shall duly reach a period when, as already suggested, it may be proper and wise to extend our territorial area; and by observing this natural law of growth, and only by that means, we may be able in time to assimilate into one compact, solid, stable, long-lived republic the entire continent and its dependencies.

Such, sir, is the magnificent possible destiny of our Republic, and such the law of growth which will probably lead to the attainment of that destiny. The observance or non-observance of this law, when viewed in its ulterior influence upon the country, is seen to involve a question of the highest possible magnitude. Believing, as I do, that in our present condition the acquisition of foreign territory would be a violation of the law and injurious to the well-being of the Republic; and having no doubt, as I do, that we possess the requisite power under the Constitution to avert the mischief, I enter for myself and on behalf of the people I represent a stern protest against the appropriation of $7,200,000 for no object of benefit whatever, but, as I firmly believe, to the positive and serious hurt of the country. Let us rise to the height of the question—to the dignity of independent and manly statesmanship, by disposing of this subject in a spirit of no mean subserviency to those who have no constitutional ascendency over us in the matter, but in the free exercise of the great powers which the Conatitution has expressly devolved upon Congress.

CONTRACTION AND TAXATION.

Mr. KELLEY. Mr. Chairman, war is not an unmitigated evil. It calls into action the worst of human passions and the highest of human virtues. It contrasts the spirit that conceived and gloated over the horrors of Libby, Belle Isle, and Andersonville, by the uncomplaining patriotism and fortitude with which those horrors were endured. It may be called the science of destruction, yet it develops the germs of future prosperity, evokes wealth from unrecognized sources, and frequently leaves communities, which for the time it seems to have decimated and desolated, richer than they were in the peaceful seasons which preceded it. This is not often true of mere dynastic wars, but of such as involve a question between forms of government or are waged for the transfer of territory from an oppressive to a liberal government it is almost an invariable consequence.

The unparalleled struggle through which we have gone was of the latter class, and illustrates most forcibly the truth that in God's providence, so often inscrutable, war has its purposes. We mourn hundreds of thousands of the prematurely dead, among whom were the bravest, best, and most beautiful of the circles in which they moved. The maimed soldier meets us at every turn in the bustling highway, and the widows of those who fell for our country have not yet laid aside their weeds or their tender children lost the memory of the lineaments of him they loved, and who, but for his patriotism, might have lived to shield them from the ills they endure in poverty and orphanage. They suffer, but the people in whose cause they suffer were richer, more powerful, and consequently abler to endure additional taxation, on the 19th of April, 1865, when Johnston surrendered, than it was on the 14th of April, 1861, when the guns of the rebellion opened on Fort Sumter.

Mr. Chairman, I venture the assertion, and doubt not that history will demonstrate its correctness, that the war for the suppression of the rebellion developed a productive power in the country more than equal to the indebtedness, national, State, and municipal, incurred in support of it and by the payment of bounties and pensions. And when gentlemen speak of securing the results of the war I ask them to regard this fact, and to see to it that it, as well as the purely political results of the struggle, be secured, in order that those who survive its victims may share its happier consequences. The policy which had with rare and brief intervals controlled the legislation of the country from its foundation to the opening of the rebellion was not calculated to develop the resources or improve the condition of the laboring people of the country. It did not aim at these results. It was conceived and enforced by those whose interests were peculiar and adverse to the general prosperity. Under the ancient *régimé* the legislative power of the country resided for more than sixty years in a Democratic congressional caucus, the preponderance in which of the slaveholders of the South was almost, if not absolutely, without intermission. Controlling the caucus of the dominant party, they controlled the legislation of Congress, and except in the brief periods from 1825 to 1833 and from 1843 to 1847 the policy of the caucus was to prevent the diversification of employments, impair the demand for, and so diminish the wages of, free labor, and by compelling the masses to engage in the production of provisions to so cheapen them as to make it to the advantage of the slaveowner to produce nothing but leading staples, and depend upon the farmers of the North for cheap food for themselves, their animals, and slaves. It was their aim to make mechanical labor unprofitable and degrading, that they might be able to discourage immigration by contrasting the condition of the well-fed slave with that of the laborer of the North, who in freedom should by the exercise of his skill be able to obtain but a precarious support for himself and family. I do not make this arraignment. History presents it. That remarkable southern book, "Cotton is King," is but an elaboration of it running through well-nigh a thousand finely-printed pages; and in his remarkable address at the close of the grand fair of the Mechanics and Agricultural Fair Association of Louisiana, held in the city of New Orleans November, 1866, one of the ablest writers and most cogent thinkers of the South, William M. Burwell, Esq., in their behalf, pleaded guilty to it when, in stating "such points of southern opinion and policy as bear upon the causes of subjugation," he thus enumerated them:

"1. That the Federal Government had no right to administer any duties save those which were written down in its charter.

"2. That staple culture by slave labor was the most honorable, the most virtuous, and the most military system of State polity.

"3. That commerce, the mechanic arts, and the banking system were incompatible with the social safety of the slave States, and tended to disparage the high standard of virtue, courage, intellect, and patriotism which accompanied the pursuits of agriculture and the institution of slavery.

"4. That great cities were great sores, aggregations of people an evil, immigrant numbers and capital not desirable, and works of internal commerce only to be allowed where they were built at the private cost of those who used them. The ocean was regarded as 'a scene of strife,' and it was thought our ships and workshops should be stationed beyond the Atlantic."

Concise as these propositions are, they present a comprehensive statement of the policy of the leaders of the Democratic party. They were foes to commerce and the mechanic arts, and, in view of the extent of our country, its boundless, varied, and equally-distributed natural resources succeeded to a degree that is almost incredible in stationing "our ships and workshops beyond the Atlantic." In the southern theory of society the free laboring man had no place; its philosophy gave him no consideration. It regarded him as a nuisance, an interloper, who had no place in a well regulated State. In its ideal republic there were to be two classes of people only: the wealthy producers of agricultural staples and laborers, the slaves they owned and upon the sweat of whose brows and by the sale of whose offspring they should live.

But so great were our natural advantages, so ingenious our people, and so largely was American industry and inventive power protected by our patent laws, that in spite of legislation, which produced commercial crises with almost regular periodicity, the manufacturing interests of the North had come to be very considerable. We, however, still remained a commercial dependency of England, and were, indeed, her principal and most profitable dependency; and, sir, we continue to be such, notwithstanding the enormous development of our productive power during the war, as is shown by the official statement of the exports from the United Kingdom to the various countries of the world during the first half of the last two years. In introducing this table the compiler remarks that there has been a considerable falling off in our American trade during the last year, owing chiefly to the prohibitory tariff and the scanty harvest of 1866. It appears that the exports from the United Kingdom to her two greatest dependencies in the periods designated were:

	1866.	1867.
To India	£9,406,838	£10,[illegible]5,920
To the United States	15,228,220	11,951,179

India stands, in the exhibit from which I obtain these figures, at the head of the list of her colonial customers, and the United States heads the column of foreign dependents.

Sir, it would weary the committee were I to bring to its attention the many illustrations that occur to my mind of the wondrous increase of our productive power during the war, but I beg you to bear with me while I submit a few of them. The war, endeavor to disguise it as we may, was an irrepressible conflict between two systems of labor, one of which regarded the laborer as a thing to be owned, and the other of which recognized his manhood, kindled his hope, and quickened his aspirations by opening to him the avenues to all public honors, and which sought to secure him, however humble he might be, such wages for his work as would enable him to shelter, care for, and give culture to his family. The triumph of freedom over slavery in this contest was of inestimable pecuniary value. But at the beginning of the war we were unable to clothe our soldiers and sailors or provide them with arms and ammunition of our own production. Most of the men who responded to President Lincoln's first requisition for troops, though newly equipped, were in rags when they reached the capital. Our "boys in blue," after a few days' exposure to alternate rain and sun, were surprised to find themselves wearing red coats, and looking rather like English than American soldiers. The prospect of war had flooded the country with what Carlyle calls "cheap and nasty" British fabrics, the warp and woof of which were shoddy, and the indigo blue of which had been derived from logwood.

We had neither the wool in which to clothe them nor the spindles and looms to fashion it

into cloth. Nor were we capable of producing iron fit for gun-barrels or cannon; yet when at the close of the war the armies marched on successive days through Pennsylvania avenue, more than one hundred and eighty thousand strong, they were clad as substantially—I think I may say with truth more comfortably and substantially—than had ever been a great army returning from the fields of its conquest at the close of a protracted war. They then wore the wool of America, spun by American spindles and woven in American looms; and I was assured about that time by the Secretary of War and gentlemen connected with the ordnance department that their choicest arms were of native production, and that we could manufacture better gun-barrel iron than we could import.

Every railroad company whose line runs north and south was then suffering depression, if not in actual embarrassment. Their condition was not improving but deteriorating, notwithstanding the fact that communities in the same latitude can and should produce the same commodities, and that the natural course of inter-State and international trade is across and not along parallels of latitude. The Democratic policy of stationing "our ships and workshops beyond the Atlantic" contravened these natural laws, and by compelling the people of the North and South to make their commercial exchanges beyond the Atlantic instead of in our own country had deprived the roads from north to south of business adequate to their maintenance. They were single-track roads, and a number of them had fallen into such dangerous dilapidation as to cause them to be regarded as "man-traps" and "dead-falls." Yet such was the healthful influences of active business and prompt pay in the irredeemable notes of a somewhat expanded currency that many of them, while reducing or extinguishing their indebtedness, renewed and doubled their tracks during the war, and all of them procured adequate motive power and rolling stock for any amount of business, public or private, that might offer.

At the beginning of the war the iron of Lake Superior was not an article of commerce, but at its close the Marquette region was furnishing one eighth of the entire production of the country. In 1861 we were dependent on foreign factories for steel; but under the impulse of the war we are manufacturing ordinary and Bessemer steel in such quantities and of such superior quality as to justify the hope that a few years will enable us to compete in the markets of Central and South America with the nations on which we have hitherto depended. At the beginning of the war the great western coal basin had not been tested experimentally. Intelligent gentlemen from Indiana, Illinois, Missouri, Iowa, and Kansas spoke of the wonderful coal deposit which underlies their respective States as a matter of belief, or theory; but now every railroad through those States has either provided itself or is devising means to procure cars adapted to the transportation of that cheap and convenient fuel. Brazil, Indiana, was then an obscure and inconsiderable railroad station, but now, as the center of an iron and coal producing district, its population is increasing with greater rapidity than any town in the State, and trains of cars laden with coal leave it daily for the iron mountain of Missouri, to supply the furnaces and forges of that vicinity with fuel, and return from the iron mountain to Brazil freighted with ore to be smelted and wrought in the midst of coal beds which experience has proven to be an inexhaustible deposit of almost pure carbon. Active demand and prompt payment in irredeemable greenbacks have elicited the demonstration at both points that in Indiana and Missouri are natural deposits that will, if properly developed, before the close of another generation, dwarf the relative importance of England, Wales, or Belgium as coal, iron, and steel producing centers.

Thus did the country respond to the necessities of the Government, and thus did the demand for industry created by the war and prompt pay by the Government for all that it bought from its citizens, in irredeemable but well-secured greenbacks though it was, enable the people to respond promptly and amply to its calls for men, money, and materials. Our progress was not, as already appears, confined to the military direction, but other branches of industry were also quickened into life. At the beginning of the war the West made no zinc or brass or clocks or watches, and she depended on foreign nations for sugar and molasses. But now the zinc of Illinois and the copper of Michigan, smelted by native fuel, is furnishing the West with merchant brass that is preferred to foreign by engravers. The town of Elgin, Illinois, which rivals the most beautiful New England villages, and which produces watches equal to the best productions of any nation, has sprung up since Sumter was fired on; and in Austin, a suburb of Chicago, not yet three years old, they make clocks, the brass, the glass, the enamel, the steel, and the frames of which, whether simple or ornate, are all of native production, and into which no particle of material enters that has ever been on salt water or paid duty at a custom-house. The inhabitants of the town of Chatsworth, Illinois, did not number two hundred at the close of 1863; they now number nearly two thousand people, who use in their intercourse fourteen of the dialects of Europe, and are producing this year nearly one thousand tons of sugar from beet roots, and an amount of molasses that will pay each laborer good wages, and for the coal consumed by the whole community; and not only did we prove ourselves able to clothe our Army and improve the material, texture, and durability of its clothing, but we increased the variety and improved our woolen fabrics for private wear so much that we are able to enter the list with the most successful woolen manufacturing nations. But, sir, that we did during the war add to our productive power and realized wealth more than the principal of our debt is to my mind demonstrated by the fact that though the taxes upon our industry, trade, income, and the earnings of our corporations, were heavier than now by hundreds per cent., they were, after the first year of the war, or from the time that greenbacks relieved the want of adequate currency, paid cheerfully, because they were paid from monthly or annual profits. Our people were steadily increasing in wealth, every exchange of property between them was for mutual advantage, and by increasing their wealth added to the taxable resources of the country. The able report of the Special Commissioner of the Revenue, D. A. Wells, Esq., thus corroborates this view:

"As has been already shown, the national expenditures, exclusive of appropriations for the redemption of the public debt and for interest, attained during the five years from 1861 to 1866 the extraordinary average of over seven hundred and twelve million dollars per annum, to which must also be added the great increase during the same period of State and local expenditures. Now, while by far the largest portion of the money represented by this expenditure was borrowed, it must nevertheless be borne in mind that the average annual money statement for the years specified is in a great degree, if not entirely, the measure of the labor annually furnished to the Government in the form of commodities or services rendered in the Army or Navy, for the war in the main was conducted by means of the services of the soldiers rendered at the time, and by means of the food, clothing, and material of war raised or made during the period of hostilities, and for which money or an acknowledgment of indebtedness was given. It therefore appears that during the years from 1861 to 1866 labor and commodities were continually withdrawn from the productive employments of peace to the destructive occupations of war, and that the measure of this unproductive diversion was in excess of $712,000,000 per annum, and yet during the continuance of all this drain the northern and Pacific States did not cease to make a real progress in the creation of substantial wealth. Thus the aggregate of the northern crops, measured in bulk and quantity, and not in money, did not decrease, but increased; the area of territory placed under cultivation was continually enlarged; railroads continued to be built, mines to be opened, and mills, stores, and dwellings to be erected."

As if to emphasize this statement, the Commissioner adds the following foot note:

"It is not believed that any great amount of northern capital accumulated prior to the war was used or destroyed during the war, but that the service and commodities used were mainly the product of the time."

Mr. Chairman, so immensely had ready demand, the rapid circulation of commodities, and prompt pay in greenbacks stimulated our industry that the amount of American productions—agricultural, mineral, scientific, or mechanical—that had been devoted to the work of destruction are thus shown to have been in excess of the requirements for civil life in a season of prosperity, and certainly in increasing excess of the production of former years.

But, sir, the war has ended; we are again at peace; the jurisdiction of the Government extends over the whole country. Twelve million of producers and consumers have been brought within our jurisdiction by the extinguishment of the confederate government, under whose laws they had lived and to whose treasury they had paid tribute during the war, and the commissioner, in this connection, submits this proposition, to which I propose, briefly as I can, to reply. He asks:

"If a portion of the country could contribute of its surplus labor and capital an annual value of $21 67 *per capita* for destructive purposes, will it not be easy for the whole country, with its labor and capital restored to productive employments, to contribute $8 73 *per capita* for the payment of interest, expenses, and the reduction of the debt?"

This diminished rate of taxation, the Commissioner tells us, will not only provide for an annual expenditure of $140,000,000 for ordinary expenses, $130,000,000 for interest on the public debt, but $50,000,000 annually for the reduction of the principal of the debt.

Mr. Chairman, whether the people can bear this rate of taxation, reduced as it is, will depend upon our legislation. Had Congress one year ago, when I urged it to that course, repealed the taxes that have not only burdened all but prostrated many of the industries of the country during the past year, and withheld from the Secretary of the Treasury the power to contract the currency, I believe there would be no doubt on this question. My views on this point are the results of much deliberation, and have undergone no recent change. Experience has but made that history which for the two last years I have uttered to the House as prediction. When addressing the House on January 31, 1866, I said:

"England, if supreme selfishness be consistent with sagacity, has been eminently sagacious in preventing us from becoming a manufacturing people; for with our enterprise, our ingenuity, our freer institutions, the extent of our country, the cheapness of our land, the diversity of our resources, the grandeur of our seas, lakes, and rivers, we should long ago have been able to offer her best workmen such inducements as would have brought them by millions to help bear our burdens and fight our battles. We can thus raise the standard of British and continental wages and protect American workmen against ill-paid competition. This we must do if we mean to maintain the national honor. The fields now under culture, the houses now existing, the mines now being worked, the men we now employ, cannot pay our debt. To meet its annual interest by taxing our present population and developed resources would be to continue an ever-enduring burden.

"The principal of the debt must be paid; but as it was contracted for posterity its extinguishment should not impoverish those who sustained the burdens of the war. I am not anxious to reduce the total of our debt, and would, in this respect, follow the example of England, and as its amount has been fixed would not for the present trouble myself about its aggregate, except to prevent its increase. My anxiety is that the taxes it involves shall be as little oppressive as possible, and be so adjusted that, while defending our industry against foreign assault, they may add nothing to the cost of those necessaries of life which we cannot produce, and for which we must therefore look to other lands. The raw materials entering into our manufactures, which we are yet unable to produce, but on which we unwisely impose duties, I would put into the free list with tea, coffee, and other such purely foreign essentials of life, and would impose duties on commodities that compete with American productions, so as to protect every feeble or infant branch of industry and quicken those that are robust. I would thus cheapen the elements of life and enable those whose capital is embarked in any branch of production to offer such wages to the skilled workmen of all lands as would steadily and rapidly increase our numbers, and, as is always the case in the neighborhood of growing cities or towns of considerable extent, increase the return for farm labor; this policy would open new mines and quarries, build new furnaces, forges, and factories, and rapidly increase the taxable property and inhabitants of the country. Would the south accept this theory and enter heartily upon its execution, she would pay more than now seems her share of the debt

and feel herself blessed in the ability to do it. Her climate is more genial than ours; her soil may be restored to its original fertility; her rivers are broad and her harbors good; and, above all, hers is the monopoly of the fields for rice, sugar, and cotton. Let us pursue for twenty years the sound national policy of protection, and we will double our population and more than quadruple our capital, and reduce our indebtedness *per capita* and per acre to little more than a nominal sum. Thus each man can 'without moneys' pay the bulk of his portion of the debt by blessing others with the ability to bear an honorable burden."

Confirmed in the correctness of these views by subsequent observation and reflection, at the final session of the Thirty-Ninth Congress I introduced a resolution instructing the Committee of Ways and Means—

"To inquire into the expediency of immediately repealing the provisions of the internal revenue law whereby a tax of five per cent. is imposed on the mechanical and manufacturing industry of the country."

And on the earliest day the rules would permit I offered another resolution declaring—

"That the proposition that the war debt of the country should be extinguished by the generation that contracted it is not sanctioned by sound principles of national economy and does not meet the approval of this House."

On the 3d of January, 1867, in addressing the House in opposition to the views of the Secretary of the Treasury in favor of the maintenance of extraordinary taxes, contraction of the currency, and resumption of specie payments within two years from the date of his Fort Wayne speech, or of his annual report, and the extinguishment of not less than $100,000,000 of the principal of the debt annually, I said:

"Peace is restored, our currency approximates the specie standard, and it is discovered that by aid of our inordinate internal taxes foreign manufacturers are monopolizing our home market. Our publishers buy their paper and print and bind their books in England or Belgium; our umbrella-makers have transferred their workshops to English towns; our woolen and worsted mills are closed or closing, and the laborers in these branches are not only wasting their capital, which consists in their skill and industry, but drawing from the savings banks or selling the Government bonds in which they had invested their small accumulations to maintain their families during the winter; and our enlarged importations of foreign goods are swelling the balance of trade against us and preparing us for general bankruptcy."

And again:

"The experiment, if attempted as a means of hastening specie payments, will prove a failure, but not a harmless one. It will be fatal to the prospects of a majority of the business men of this generation and strip the frugal laboring people of the country of the small but hard-earned sums they have deposited in savings banks or invested in Government securities. It will make money scarce and employment uncertain. Its object is to reduce the amount of that which in every part of our country and for the hundreds of thousands of millions of dollars of domestic trade is money and to increase its purchasing power; and by unsettling values it will paralyze trade, suspend production, and deprive industry of employment. It will make the money of the rich man more valuable and deprive the poor man of his entire capital, the value of his labor, by depriving him of employment. Its first effect will be to increase the rate of interest and diminish the rate of wages, and its final effect wide-spread bankruptcy and a more protracted suspension of specie payments."

Sir, these predictions were not only not heeded but were denounced as the vagaries of a mere theorist by gentlemen whose position made their voices potential; and I remember that when the productions of the hand-loom weavers of the country had been freed from taxation by the votes of both Houses the committee of conference upon the disagreeing votes of the two Houses on the tax bill, seizing the fact that the Senate and House had differed as to the use of a verb, restored the provision providing for the tax, and the chairman of the committee in each House proclaimed the possibility of the exemption of these comparatively unimportant productions producing a deficit in the revenue. Some reduction in the scale of taxation was made by the bill to which I refer, and it is well for the country that it was. Large as it was, it would have been better had every direct tax upon our industry been removed. Nor would the revenue of the Government have suffered from the change, for we collected during the year 1866–67 $143,904,880 more than was required for payment of interest on the public debt and current expenses. These inordinate exactions determined the line between profit and loss on many branches of industry and diminished our production by paralyzing or suppressing such branches. Without the $67,778,082 70, the amount derived from direct taxes on manufactures other than spirits, malt liquors, and tobacco in its various forms, we would have been able to extinguish more than seventy-five million dollars of the principal of the debt.

Permit me to say, if I may use a homely figure, that we lighted our candle at both ends by attempting to collect such heavy taxes while contracting the currency. The loom and the spindle, no longer able to yield profit to their proprietor, stand idle; the fires are extinguished in forge and furnace, and the rolling-mill does not send forth its hum of cheerful and profitable industry. On one day of last month eighteen hundred operatives in the glass factories of Pittsburg were deprived of the poor privilege of earning wages by honest toil at the trade in which they were skilled. The establishments in which they worked are closed. In the absence of productive employment for men or machinery the small holders of bonds are selling them to save themselves from bankruptcy if they are the proprietors of establishments, or to feed themselves and families in involuntary idleness if they were laborers whose hard-earned savings had been loaned to the Government in its exigency. Look where we may, to any section of the country, we hear of "shrinkage" in the value of manufactured goods, of reduction of wages, or of the hours of labor, of factories running on part time, or closed or to be closed. I present no jaundiced or partisan view of the case, for the gentleman who submitted to this House the report of the committee of conference to which I have alluded, and who resisted proposed reductions of taxes with such persuasive ability, [Mr. MORRILL, of Vermont,] in a recent discussion in the Senate on the repeal of the cotton tax, said:

"It may be said that the South are clamoring for the repeal of the tax on cotton. Is there any less clamor in the West or the North or the East for a repeal of taxation? I deny it. I say there is as much urgency for a relief from taxation in the North, the East, and the West as in the South. Look at the industries that are at the present moment unusually depressed. Take, for instance, the entire woolen interest. There is not an establishment that is not losing money to-day. Take the wool-grower; not a pound of wool raised last year that will bring within ten cents per pound of its cost. Take the cotton interest; the whole circle of manufactures are in no better circumstances. Look at the value of their stocks; for instance, take the Bates manufacturing stock of Maine, worth two years ago one hundred and sixty cents on the dollar, now there are more sellers than buyers at one hundred. Take the Lyman mills on the Connecticut, worth two years ago ninety-eight to one hundred, now selling at sixty-nine or less; and so I might go on almost through the whole list. They all suffer. Take the West—Ohio, Illinois, or Iowa—look at their hog crop. Why, if they had given away all their hogs, or if they had slaughtered them a year ago and thrown them away, they would have been better off to-day. They have absolutely lost their hog crop by feeding out grain to them, which unfed would have brought more than all their pork."

Mr. Chairman, accepting the business of the oldest and best-managed savings bank for the receipt of small deposits in Philadelphia as a good index to the condition of the laboring class of the country, I have obtained a statement of the number and amount of drafts made by the depositors whose whole deposit is under one hundred dollars, and of the whole number of drafts of depositors for the month of December of the years 1865, 1866, and 1867, and the total amount drawn in each year. It is as follows:

Months.	Year.	Under $100.	Whole number of payments.	Amount.
Dec	1865	846	1,186	99,603 10
Dec	1866	811	1,174	104,430 95
Dec	1867	1,128	1,596	144,205 70

To gentlemen used to large business transactions the movement of the small sums enumerated in this exhibit may not seem important, but they tell a story of bankruptcy as grievous to the victim whose hours of toil were solaced by the reflection that he was by his small deposits garnering a trifling capital for his children or a shelter for his age as is one which is telegraphed to the press of every section of the country by reason of the large amount involved. Nay, more than that, these drafts upon the small accumulations of years of toil tell a story of practical agrarianism and confiscation that would shock gentlemen if it applied to the bonds or land of the wealthy. The attempt to force a resumption of specie payments by contracting a volume of currency which was actively, legitimately, and profitably employed is as dishonest as it is unwise. The object and effect of such a movement is to increase the purchasing power, the value of the rich man's hoarded or invested dollars, and its projectors pause not, though they discover that it robs millions of laborers of their whole estate. The laborer's income is derived from the exercise of his thews and sinews and the skill of his cunning right hand. These are his estate—these and his little savings—and of these millions are being robbed by the mad attempt of the Secretary of the Treasury to bring about specie payments while the balance of trade is heavily against us and our gold-bearing bonds are so largely held by foreigners that resumption would in less than thirty days induce the return of bonds enough to drain us of specie and make us feel the curse of absenteeism as distinctly as Ireland ever felt it. Were our bonds held at home, or were commercial exchanges greatly in our favor, we might maintain a forced resumption; but with our bonds abroad, and the balance of trade heavily against us, we could not maintain it a month. And if Congress does not restrain Mr. McCulloch from persisting in the attempt he will unsettle the value of every species of property, curtail the productive power of the country, bankrupt men of enterprise, and rob millions of laboring people of their whole estate.

But permit me to inquire what effect this experiment will have on the public revenues? Can an honest bankrupt contribute much to the exchequer of his country? Are those who are conducting business at a loss apt to make large contributions to the fund derived from income tax? And are unemployed laborers who have drawn and consumed their last dollar in a condition to buy dutiable or taxable commodities? No, sir; as the number in each of these classes increases the public revenue diminishes; and in view of the facts I have hastily presented I am prepared to say that with full employment, even though prices had continued as high as they were during the war, which I maintain was impossible under the influence of our increasing activity and productive power, the people could better pay the taxes they then endured heavy as they were, than they can with a contracting currency, low prices, and but partial or no employment for men and machinery, pay the greatly diminished rate suggested by the commissioner.

Mr. Chairman, two policies were open to us at the close of the war. We have tried one, and the results are but too painfully apparent; the other is still open to us. It is true we cannot repair the losses already endured, but we can check the downward tendency, quicken industry, and give a new impulse to the productive power of the country. It was open to us to diminish the depreciation in the rate of wages by diminishing taxes and furnishing, as we had done during the war, a sound circulating medium adequate in volume for the rapid exchange of commodities among our own people, and thus secure employment to our laborers with fair wages for their work; or, on the other hand, we could by imposing taxes not demanded by our exigencies and contracting the currency impair confidence, force sales, palsy enterprise, reduce wages, and deprive the laborer of a market for the only commodity he has to sell—his industry.

Gentlemen will say there can for the present be no employment because the markets are

overstocked, and there is what political economists often speak of, "a glut in the market." Sir, the time has never been when the markets of the world were glutted. When that event shall come, every home will be well furnished and every human being well clothed. A superabundance of the necessaries of life can not exist while the urgent wants of millions cannot be supplied. Our markets are not glutted. The stock of goods of every kind in the hands of merchants is unusually low, and there are unemployed people in the country who need them all and who would gladly labor for the means to purchase them all. The wretch that shivers in a cheerless home without food, fuel, or adequate clothing; she who, ill-fed herself, shares her last crust with her hungry children; and they who in the midst of winter are deprived of the privilege of toiling, and as their goods are thrown rudely into the street realize a landlord's power when rent is in arrear, do not believe that the market is glutted. Nor is it. The disease from which we suffer is not glut or plethora. Its seat is in the functions of circulation. It is congestion produced by a financial tourniquet applied by a charlatan. That phrase "glut in the market" involves a perversion of terms and is used to express the fact that the masses are from some cause unable to consume their usual supply of the comforts or necessaries of life. It does not, as it implies, express the fact that there is an over supply of commodities essential to the comfort of man, but that there is financial derangement. It is a convenient phrase for the theorist, a veil used to conceal a fact the occurrence of which should admonish every statesman that there is something wrong in the prevailing practice of government.

The author of the next treatise on popular fallacies should make "glut in the market" the subject of a leading chapter; for they who use the phrase invariably confound terms and designate the consequence as the cause. Thus the Irish Republic, in the course of a very able article in its issue of January 4, says:

"From all parts of Massachusetts and Connecticut we have been receiving, during the past six weeks, the very unwelcome intelligence that mill owners and manufacturers were either contracting their producing operations or suspending them altogether. Running half or quarter time appears to be the order of the day; while not unfrequently the engine fires are blown out and the machinery left to rust in idleness. The cause is obvious. There is little or no demand for goods. The consequences are what we have already stated. The hands of hundreds of thousands of honest workmen are idle, and their children are ill-fed and ill-clad under the biting blasts of a North American winter."

Let me point out the fallacy of this statement. Fires are blown out and machinery left to rust in idleness, not because there is no demand for goods, but because throughout the South and West there is no circulating medium with which to effect exchanges; and the policy of the Secretary of the Treasury with the cry of the creditor class for resumption have destroyed confidence in individual credit. The proposition should be stated thus:

"There is little or no demand for goods. The cause is obvious: it is that the hands of hundreds of thousands of honest workmen are idle, and their children ill-fed and ill-clad, because mill owners and manufacturers have been compelled to contract their operations and withhold from laborers employment and wages with which they would be able to purchase the products of the farmer and manufacturer."

The general theory I am advancing is not new, and is one that should never be disregarded by those who legislate for the people of a republic. The social evils we are enduring, the bankruptcy that is overtaking so many men of enterprise, the want and enforced idleness that prevails so largely among our laboring classes are due to two causes:—excessive internal taxation and the curtailment of our currency at a time when the numbers and activities of our people were rapidly increasing. The Secretary of the Treasury and his adherents are responsible for this general prostration of credit and business. They talk of the honor of the country, and the necessity of maintaining it by making the paper dollar equal to the gold dollar, and of hastening the day when our bonds shall be paid in gold. The means to which they resort will not produce the results they desire, but will defeat them. Nor are those who resist them hostile to the bond-holder. They aim to secure the laborer the possession and just fruits of his hard inheritance, and by the rapid development of the boundless resources of the country and the restoration of general prosperity to enable the Government to meet the utmost of its obligations with honor at maturity. The contest is between the creditor and the debtor class—the men of investments and the men of enterprise; and during all such contests the laboring classes are inevitable sufferers.

The issue thus raised is as old as civilization. And now, as always heretofore, the creditor class is the aggressor. Alison, in his history of Europe from the fall of Napoleon to the accession of his nephew, says:

"Whoever has studied with attention the structure or tendencies of society, either as they are portrayed in the annals of ancient story or exist in the complicated relations of men around us, must have become aware that the greatest evils which in the later stages of national progress come to afflict mankind, arose from the undue influence and paramount importance of realized riches. That the rich in the later stages of national progress are constantly getting richer and the poor poorer is a common observation, which has been repeated in every age, from the days of Solon to those of Sir Robert Peel; and many of the greatest changes which have occurred in the world—in particular the fall of the Roman empire—may be distinctly traced to the long-continued operation of this pernicious tendency." * * * "For the evils complained of arose from the unavoidable result of a stationary currency, coexisting with a rapid increase in the numbers and transactions of mankind; and these were only aggravated by every addition made to the energies and productive powers of society."

Again, he says:

"But if an increase in the numbers and industry of man coexists with a diminution in the circulating medium by which their transactions are carried on, the most serious evils await society, and the whole relations of its different classes to each other will be speedily changed; and it is in that state of things that the saying proves true that the rich are every day growing richer and the poor poorer."—*Alison's History of Europe*, 1815 to 1852, chapter 1.

As Sir Archibald Alison was not gifted with more than human prescience he could not have forseen the condition of our country in the years that are passing. If, therefore, he described it, he did so by declaring a general law. That he did portray our condition with nice discrimination no one can controvert. Let us see how exact a compliance the contraction policy is producing with all the conditions the conjunction of which he tells us must produce the most serious evils to society.

The close of the war found us with a currency expanded somewhat beyond the amount to which we had been used before the rebellion, but with everybody in the North well employed. Men of character were able to borrow money at moderate rates of interest, and were everywhere engaging in new enterprises that were not merely speculative, but calculated to add to individual and national wealth. Labor was in demand at fair wages. It is true that food was high, for a great war had raged through a series of years, and been succeeded by years of drought or excessive rain, during which the fields had not yielded their usual crops. This no legislation could have averted; but in spite of it the people at large were prosperous and confident that a fruitful year would adjust the cost of food to the prices of other commodities. From ten to twelve millions of our people, occupying more than six hundred thousand square miles of our most fertile territory, which abounded in water power and varied mineral resources, were almost without currency. Their whole capital, other than lands and houses, railroads and canals, had been invested in confederate loans or otherwise exhausted. Their banks and insurance companies were bankrupt. They had cotton, tobacco, naval stores, and the fields from which to produce them and all other agricultural commodities. They had laborers skilled in their arts of cultivation, and willing to toil for wages unreasonably low, but they had no currency, no circulating medium with which to make commercial or other exchanges of property or to pay their laborers.

At the same time an unusual stream of emigration was flowing to us from transatlantic countries. Enterprise was pushing rapidly westward, and towns and cities were rising where the buffalo had roamed over unbroken prairies when the war began. With these additions to our population and to the area over which it was to circulate what was there to indicate the propriety of a curtailment of the medium by which transactions between man and man and community and community were to be carried on? For myself I was unable to see any, and protested against the mad theories of the Secretary of the Treasury and his disciples. In the course of my remarks on the 3d of January, 1867, to which I have alluded, I said:

"Neither the Secretary of the Treasury nor Congress know whether our currency is in excess of the amount required by legitimate and healthful trade, or if it be, how long it will remain so if undisturbed by legislation. Nor can we settle these points by an appeal to experience, for many of our conditions are novel. That would be a curious and instructive calculation which would show the country the precise demand for currency created by the operation of the Bureau of Internal Revenue, or by the enlargement of the Army and Navy and clerical force of the Government.

"Under the discipline of Providence the southern people will, before many years glide away, consent to permit their fields to be tilled, their mines to be worked, and their cities to be rebuilt and expanded; and who can tell the amount of currency that will then be required by the four million enfranchised slaves and the two million poor whites, who did not in the past, but are henceforth to earn wages and buy and sell commodities, or for handling the crops and mineral productions of the South? Since we last adjourned the iron horse has crossed Nebraska on one of the routes to the Pacific, and his snort has been heard in the neighborhood of Fort Riley on another; and during the last year three hundred thousand industrious people, who had been fed and clothed through unproductive childhood at the cost of other nations, came and cast their lot among us to till our fields, smelt our ores, work our metals, and manage our spindles and looms; and I cannot guess what amount of currency these energetic people and the westward-marching column of our civilization will require. But, sir, of one thing I am certain, and it is that had the Secretary of the Treasury not destroyed all sense of security in the future, the demand for currency to purchase, especially in the South, mineral and other lands, and develop their productive power, would have prevented the accumulation of the immense deposits which now lie paralyzed in bank or are loaned on call to speculators in the necessaries of life. We unsettled values and made or scattered fortunes by the rapid expansion of the currency; and the people implore us to avoid another violent change fraught with like consequences, and to stay the work of contraction till we shall have ascertained, at least proximately, the amount of currency required by healthy and legitimate trade."

But, Mr. Chairman, gentlemen ask, do you not wish to return to specie payments? I answer, yes; but not by the way of bankruptcy and repudiation; and that way leads contraction in the midst of an increase such as never existed before in the numbers of men and fields for their activity. Return to specie payments! Are we doing it? No, sir. The difference between the greenback and gold dollar widens with each month. And while a greenback dollar will buy less gold it will purchase much more of any other commodity than it would a year ago. The rate of interest demanded for loans in the West and South is so inordinate that it has suspended enterprise and must exhaust the resources of any man who attempts to pay it; and while the laboring people are idle the capital which should furnish them employment may be borrowed from the banks of Boston or New York, in whose vaults the bulk of our currency has accumulated, by those who have gold or United States bonds to offer as security, at four per cent. per annum. Contraction has destroyed confidence. The possessors of "realized riches" have no faith in spindles and looms that are producing goods for a falling market, or forges and furnaces the productions of which must be sold at a loss, and invest their funds in Government bonds, or let them lie on deposit till they can buy, at a small percentage of their value, mills, factories, mines, and other valuable properties, when bankruptcy shall cause them to be exposed at public or judicial sale. Sir, we are not on the road to resumption, and will not be till we restore confidence and quicken industry by repealing

needless taxes which are giving foreign manufacturers an advantage in our market, and deprive the Secretary of the Treasury of his power to contract the currency and tamper with the market value of every species of property by secret operations in gold and the credit of the country.

Mr. Chairman, the Secretary and his adherents will assume to find a response to the suggestions I have made in the facts set forth by the Special Commissioner of Revenue in his able and valuable report that the income of the country from either internal revenue and customs has not fallen off during the last two years. The Commissioner's statements are indisputable, and I thank him for the industry, patience, and care he has exhibited in procuring and digesting the materials for his report. But, sir, there is a fact that deprives this response of anything like conclusive power. It is not alluded to by Mr. Wells, because it touched no point he assumed to discuss. Let me state it. The revenues of the country from 1860 to 1865 were derived from the loyal States. During that time the confederate States did not contribute to our public revenue, and Maryland, Kentucky, Tennessee, and Missouri were ravaged by war. To find a reply to my argument in the Commissioner's report it should show not only that our revenues during the last fiscal year have exceeded those of 1864 and 1865 in the ratio of our ordinary growth and progress, but also how largely the ten States now being reconstructed, with Missouri, Tennessee, Kentucky, and Maryland, when freed from the tramp of war, were able to contribute to the resources of the country. To this fact the Commissioner does not allude. No, sir; it requires the contributions made by the people of the insurgent and border slave States during the last fiscal year to furnish the Commissioner with the gratifying figures he presents to the country and its creditors. A fair statement of the account would contain the amount received from the southern States as a credit and be debited with the amount lost by the paralysis of industry and the productive power of the North. Were the account thus stated it would be apparent to all that, notwithstanding the addition of fifty per cent. to the taxable population, the current revenue derived by the Government was not increased, but simply steadily maintained.

Gentlemen may say that the South has yielded but little internal revenue besides that derived from the cotton tax, and I freely admit that she has not contributed so largely as we might well have hoped; but I affirm that her contributions would have been much greater had our policy been wiser. It has affected that section of the country more potently for evil than it has the North. Our society was not disorganized and our industrial force was admirably arranged and producing its best results, yet we are suffering derangement and paralysis. Wide sections of the South had been ravaged by war, and, as I have already said, its financial institutions and the accumulated capital of its citizens not invested in lands and buildings had been absorbed by the confederate loan or consumed in the war; but by judicious treatment its recuperation should have been so rapid as to have been the marvel of the world. That the natural resources of the South are greater than those of the North is undeniable. She is capable of producing every agricultural product that can be grown in our climate. Her mineral resources are greater and more varied than ours; she lies near the sea and abounds in navigable rivers, affording cheap water transportation to seaports for the greater portion of her productions, and to her belongs the monopoly of the production of cotton, fine tobacco, rice, and naval stores, and, until now that we are availing ourselves of the beet, of the sugar fields of the country also. Immense bodies of land, as fertile as any in the country, and which has never felt the pressure of the plowshare, are to be found in every southern State. Louisiana alone has sixty thousand such acres which will yield cotton or sugar, wheat or corn. Marvelous as was the increase of the productive power of the loyal States during the war, that of the southern States almost equaled it. Gentlemen will not forget that her Merrimac had sunk the Cumberland before our first monitor was ready to measure power with her. Great Britain supplied her with much of her munitions of war, but the unmechanical South overwhelmed us with surprise by the large share of these she produced for herself. Great Britain again, in defiance of our admirable blockade, clothed many of the confederate soldiers, but the spindles and looms of the constantly increasing factories of the South were each year supplying a larger percentage of cloths for civic and military wear. She had depended on New England for boots and shoes, but she found that she could tan her own hides, and people were found to make boots and shoes. Thomasville, North Carolina, is the Lynn, though not the only shoe manufacturing town of the South. Without detaining the committee by details of the improvement and extension of her railroad system, I will mention the fact that though Virginia and North Carolina had never been able to build a road from Danville to Greensboro', whereby a central through route from North to South would have been completed, that road was built in the first year of the war. This increased the value of every foot of a chain of roads extending from Richmond to New Orleans, and which now carries a large portion of the freight passing between the eastern States of the North and the South and Southwest.

But, sir, without elaborating the point, let me state in general terms that the value of the lands of the South were trebled by the recognition of facts which the war compelled the southern people to recognize, namely: that they could raise their own food, and that they had advantages over those on whom they had hitherto depended for food for man and beast in the markets of the eastern States, Central and South America, the West India Islands, and Europe. As cotton and sugar had been the only crop of the greater portion of their country the people had come to believe that they had but one harvest season—that in which those crops were gathered and prepared for market. But when the armies of the confederacy had to be fed from the fields within its lines they discovered that they had three harvest seasons—the spring for wheat and grasses, summer for corn, and autumn for cotton and sugar. And in this very year many a broad acre, after having yielded its golden harvest of wheat, will have the stubble turned under and be planted in corn that will mature before the frost threatens it. The necessities of the war also taught them the value of deep plowing, fertilizers, and of keeping procreative stock for the work for which they had kept only mules in the past. As an illustration of the value of these discoveries, let me say that it is within my knowledge that Mr. McDonald, of Concord, North Carolina, in order to settle the question of the value of deep plowing and the application of phosphates in the production of cotton, tried two experiments on fields which together embraced one hundred acres of land that had ever been regarded as too poor for cotton land. Wishing to make the experiment for public as well as private advantage, Mr. McDonald took the opinion of the planters of his section of the State as to the possibility of making cotton on such land, and found no man among his neighbors or visitors who believed that it would return him the value of the seed with which he would plant it. But with a heavy old-fashioned Pennsylvania plow he broke the land and turned in a given amount of super-phosphate to the acre, and lo, when the season came for gathering cotton he had the demonstration that the poorest land in Cabarras county had been made to yield the finest crop of cotton ever raised within her limits, and which many of her citizens pronounce the finest ever raised in North Carolina. The many intelligent planters who observed this experiment now know that by the aid of proper implements and adequate stimulants to the soil their fields may be made to yield a hundred per cent. more cotton than they ever have yielded, and that with but fifty per cent. of the labor hitherto applied.

But, as I have before said, the people of this wonderfully endowed section of our country were without a circulating medium. This was their paramount necessity. For the want of it all their interests were suffering. The Commissioner of Internal Revenue suggests that our condition is such that "soothing and sustaining" treatment rather than the "heroic" is most likely to promote and hasten our recovery, and I beg leave to inquire whether his suggestion is not much more applicable to them. Inordinate taxes have borne more heavily upon the people of the South than upon us, and contraction has operated with still more aggravated severity upon them, as whatever redundancy there may have been in our currency at the close of the war would have been absorbed by the inviting fields of enterprise offered by the South, and would have gone there to quicken her resources and enable her people to consume dutiable goods and those from which internal revenue is collected by the sale of stamps. That the productive power the war developed in the South has been suppressed by lack of currency, and that by contraction we are abstracting from her people the little they had is becoming apparent to every observing man. We find evidence of it in every paper that comes from the South. The Standard, (Raleigh, North Carolina,) of the 4th instant, says:

"Everything seems to have fallen in price except breadstuffs and meats, which maintain former prices on account of their scarcity. Judgments are passed, execution sales are common, the bankrupt law is taking hold of estate after estate, property of all kinds is rapidly falling in price, lands are changing hands and will soon be knocked off for a mere song; and there is no prospect, so far as we can see, that this condition of things will speedily improve. One of the first effects will be to greatly restrict if not abolish the credit system. Every step, no matter how painful or how much to be deplored, is in that direction. Credit is based on confidence between man and man, and where there is no confidence there can be no credit. The end will be that a large majority of our people will find it impossible to meet their obligations, and must have indulgence in some way, or the hard earnings of many years will be sacrificed under the sheriff's hammer or in courts of bankruptcy."

And a correspondent of the New York Tribune, writing from Hinesville, Liberty county, Georgia, last month, says:

"A sale has taken place at this county seat that so well marks the extreme depression in the money market that I send you the particulars: Colonel Quarterman, of this county, deceased, and his executor, Judge Featter, was compelled to close the estate. The property was advertised, as required by law, and on last court day it was sold. A handsome residence at Walthourville, with ten acres attached, out-houses, and all the necessary appendages of a first-class planter's residence, was sold for $60. The purchaser was the agent of the Freedmen's Bureau. His plantation, four hundred and fifty acres of prime land, brought $150; sold to a Mr. Fraser. Sixty-six acres of other land near Walthourville, brought three dollars; purchaser, Mr. W. D. Bacon. *These were all bona fide sales. It was court day, and a large concourse of people were present. The most of them were large property owners, but really had not five dollars in their pockets, and in consequence would not bid, as the sales were for cash.* In Montgomery, Alabama, lots on Market street near the capitol, well located, 50 feet by 110 feet averaged about two hundred and fifty dollars each. The Welsh residence on Perry street, two-story dwelling houses, including four lots, sold for $3,500; Dr. Robert M. Williams was the purchaser. The same property in better times would not have brought less than $10,000. The Loftin place, near Montgomery, containing one thousand acres, was recently rented at auction for forty cents an acre. The same lands rented the present year for three dollars an acre."

It is proper that I should admit that something of this depression is due to the resistance leading men of the South present to her constitutional restoration to the Union and the hostility the baser sort of her people exhibit toward northern settlers; yet there are wide sections of the country into which northern men may go and find themselves welcomed as benefactors if they go to engage in any industrial pursuit; and it must also be admitted that under

our present scale of taxation, and with the Secretary of the Treasury constantly threatening contraction and able to execute his threat, that capital will not engage in any new enterprise either North or South.

Commissioner Wells is right in prescribing "soothing and sustaining" rather than "heroic" treatment for our diseased body politic; and if the capitalists of the country do not wish to swell the cry of repudiation till it shall become the shibboleth of a party they had better abate their demand for the further contraction of the currency and consent to the repeal of taxes that are proving the correctness of Dean Swift's proposition that "We can double the taxes and diminish the income one half." The rapid development of the wondrous resources of our country and recuperation of the South will, under happier conditions, soon swell the volume of our exports beyond that of our imports and enable us to recall our bonds from abroad in exchange for commodities, and resume specie payments without grinding into bankruptcy or beggary the men of enterprise and laborers of the country. In refutation of the favorite theory of the contractionists that the price of gold regulates the price of domestic productions I pause to refer to the fact that the difference between gold and greenbacks widens daily, yet the purchasing power of a greenback is now for almost every article of home production twice what it was when the bulk of our bonds were subscribed for, and is increasing coevally with a steady rise in the price of gold. The suit of clothes in which I stand, and which I know to have been woven from pure Ohio wool, was bought for forty dollars in greenbacks; not from what is called a slop-shop, but from the merchant tailors who have made my clothes for years. In 1864 it would have cost twice that sum. Many styles of cotton goods which were commanding an advance of four hundred per cent. at that time are now selling at prices less than those they brought before the war. If any gentleman be disposed to dispute the increased general purchasing power of greenbacks, irrespective of the price of gold, I recommend him to examine pages 42, 43, and 44 of the Report of the Special Commissioner of Revenue. He will there find abundant evidence of the fact.

Had Congress at the close of the war hastened to relieve the country of the taxes against which I am protesting, and while avoiding any expansion of the currency protected its volume from diminution, and assured the people that no essential change in its volume should be made until the business of the country had adjusted itself to the conditions of peace, production would have advanced and our bonds would have been returning to us in the pockets of emigrants or in settlement of a favorable balance of trade, and millions of people North and South, who are to-day eating bread they have not earned, would have been busily employed and adding to the nation's wealth by earning each day more than they consume. A gradual decline in prices was inevitable, but it would not have destroyed confidence and suspended production, and with immensely increased production, both agricultural and manufacturing, there would have been no cry of a "glut in the market." The people of the South, whose agricultural stock and implements, furniture and apparel, were exhausted during the war, would have been supplying their wants by the sale of the results of their industry. Under the influence of northern capital and enterprise water-power that now runs to waste through cotton fields would have been moving spindles and looms. Forges, furnaces, and rolling-mills such as those the war developed at Chattanooga, Atlanta, Lynchburg, and other points, would be in profitable operation, and by supplying merchantable iron diminishing our dependence upon England and keeping down that balance of trade which with the interest on our bonds held abroad must prevent the resumption of specie payments as long as we continue the "heroic" treatment of sacrificing all other interests in order to give increased value to the hoarded wealth of the possessors of "realised riches." An increasing demand for skilled labor in the South would also be a powerful agent in the works of reconstruction and the redemption of the country from financial embarrassment.

Mr. Chairman, Bishop Kingsley, in one of his admirable letters from Europe, from Sweden, I think, stated that there were ten million industrious people in Europe eager to leave their fatherlands, cross the Atlantic, and identify themselves with us. This statement seemed to bear the aspect of exaggeration, but is confirmed by the judgment of every judicious traveler with whom I have conversed. We have room for them all; we need them all, and could give them "ample room and verge enough" in which to live prosperously could the navies of the world bring them all to us in a single year. We need them on our vine and pasture lands and our grain-fields; in our forests, our mines, and our ore-beds. We want the industrial secrets and experience they possess, but which have not been introduced into our country. We need them to guide our magnificent water powers running to waste, and so harness them that they shall labor for us as they speed their way to the sea. But would they better their condition to come to us at this time? I fear not. Most of them can live where they are, and are used to the ills they suffer; but could they hope to prosper as strangers in a strange land, in which there is not adequate employment for the native workingman; in which that most powerful of productive agents, the steam-engine, is idle and powerless, and machinery is decaying in inaction, because the Government arbitrarily interferes with a volume of currency to which all values had adjusted themselves, and which as a medium of exchanges in internal trade was enhancing the wealth and power of the nation in a ratio unprecedented in its history or the history of the world?

Sir, it is in the power of Congress, by reanimating the industry and restoring the confidence of the country before the sun of May shall have fitted the fields of the North for the plow, to prepare a welcome for all these people who may be able to come to us. I have indicated the principal measures by which this is to be done. There are other measures suggested to which I would gladly allude, but for the discussion of which the future will offer more fitting occasions. I have no fear for the distant future. There is nothing in our condition to justify a dread of repudiation. We are not poor and exhausted, but are richer than we or any other people ever were. I have shown that the country was richer at the close of the war by a newly created productive power far more than equal to the entire indebtedness created by the war. I have pointed to the fact that the South, now the home of freedom, will under its inspiration be no longer a burden upon the exchequer of the country for her postal system and other Government service, as she has hitherto been, but will contribute as liberally to its income as the most prosperous portions of the North have done or will do. Contraction of the currency and excessive taxation have temporarily diminished our productive power, and may produce a period of most unhealthy agitation, but the strife waging in our midst is, as I have shown, the offspring of the natural desire of the possessors of riches to expedite and increase their profits. But we are not here to legislate for them beyond the protection of their just rights. Our charge is far nobler than that; it is the welfare of a great, intelligent and enterprising people. Justice to all will injure none, and by laboring to promote the welfare of the poor and lowly we will do most to protect the property and guaranty the rights of those whose estates are largest. Were it in our power and within the scope of our functions to organize a system of coöperation, or by any other means to harmonize the conflict between labor and capital—employer and employed—it would confer the highest blessing upon our country and give stability to every interest. There is, could we but discover it, a solution of that difficult question, and let us hope that with our vast wealth, our immense bodies of public land, the intelligence and enterprise of our people, we may solve the difficult problem and by the the happy condition of our people compel the rulers of the Old World to follow our example and guaranty to every citizen of their countries the right to exercise every privilege and prerogative of a freeman.

DEBT AND CURRENCY OF THE COUNTRY.

Mr. WOODWARD. Mr. Chairman, I have somewhat to submit on the debt and currency of the country. When I found myself elected to this Fortieth Congress I felt, and all I saw and heard tended to confirm the impression, that the financial condition of the country was the subject most worthy to engage the attention of a Representative sincerely desirous of relieving the industry of his constituents from the burdens and embarrassments that were weighing it down.

But the subject was many-sided, and in its details quite complex and intricate: and, besides, it lay out of the line of the studies to which my life had been devoted. I felt, therefore, more sensibly than ever before, the want of a guiding hand to conduct me through these unfamiliar mazes of finance. I looked around for an oracle, and I found so many, and heard such discordant responses, that instead of being enlightened and guided, I was bewildered and puzzled. I doubt if the builders of Babel understood each other so badly as the men who, through newspapers, magazines, and pamphlets, have discussed the fiscal affairs of the country. A few weeks ago a public letter from a distinguished source, marking out a financial policy, was extensively read, which an intelligent friend in the eastern part of the State of Pennsylvania very earnestly commended to my attention as a wise and comprehensive statement of what was best for us; and about the same time a friend of equal intelligence in the western part of the State wrote me to express his sadness at the exhibition of mental imbecility which the author of that letter had presented. This illustrates the contrariety of opinion which prevails in regard to every scheme of finance that is proposed. And when I came into this House and listened to honorable members I found the same diversity of opinion that prevailed outside. A former House, with singular unanimity, approved of the policy of the Secretary of the Treasury for contracting the volume of paper money; this House suspended contraction. We repealed the tax on cotton; the Senate virtually restores it. Some gentlemen insist on paying the five-twenty bonds in greenbacks; others deprecate it as repudiation. Some would hasten a return to specie payments; others would postpone it apparently "to the last syllable of recorded time." The national banks are praised and abused as the wisest and the worst of institutions. Tariffs and tax laws are made and altered until they become so unwieldy as to defy the best efforts to execute them. Public loans are proposed to consolidate our debt at the same time we are impairing the public credit. And thus we flounder on, confounding and confounded, darkening counsel with words, and settling and adhering to no stable policy.

Now, sir, in the midst of all this jargon and discord of opinion, I know of no wiser course than to recur to certain great first principles which are either universally confessed to be true, or which can be easily defended. This is necessary in all seasons of doubt. The storm-tossed mariner corrects his reckonings by the meridian sun, the mathematician, when lost in the labyrinths of the differential calculus recurs to the axioms and first principles of his science; and though in moral and political science we have not the same simple and sure standards of truth to appeal to, yet the habit

of frequent recurrence to fundamental principles is as necessary and wise in these departments of knowledge as in the more exact sciences. If I am incapable of seeing how a particular line of policy is going to affect the business of the country, and am, therefore, unable to judge of it by its fruits and consequences, I *can* bring it to the test of certain great and well-ascertained truths upon which our political fabric is built, and if it will not bear that test I will reject it, however promising its proposed results, or however specious and plausible the reasoning by which it is supported.

What I propose to-day is simply to stir up the pure minds of the House to a remembrance of some of the principles of political economy and of constitutional law in connection with the financial condition of the country. I have no scheme of finance to propose. The great political party with which I have the honor to act is out of power, and is unable to carry out a policy, if it should mark one out, never so plainly. When the responsibility of administering the Government is again laid upon the shoulders of that party, as it no doubt will be next year, it will be soon enough to develop the line of policy upon which the party shall move. Meanwhile, the responsibility rests upon the Republican party under whose administration the public debt, from about eighty million dollars in 1860, grew in five years to the enormous sum of $2,757,689,571 43. According to the report of the Secretary of the Treasury this debt had been reduced on the 1st of November last to $2,625,502,848 02. This may be taken as the aggregate of the public debt as ascertained, settled, and registered upon the books of the Treasury Department, but it does not include numerous claims upon the Government, growing out of the war, which are as yet unadjusted and insusceptible of even an approximate estimate. While some of these claims are exorbitant, unreasonable, and dishonest, many are doubtless equitable and just, and such as the conscience of the country will ultimately acknowledge. Whatever the aggregate of these claims may be, it will, by so much, swell the public debt beyond the big figures which now express it.

The annual interest we pay on this debt in gold is $143,781,591 91. This was the sum the Secretary stated we paid during the fiscal year ending June 30, 1867, but for the quarter ending September 30, 1867, the interest on the public debt was stated at $38,515,640 47, indicating aconsiderable increase of interest, if not of debt, for the current year.

Although the debts of some of the principal Governments of Europe exceed the aggregate of our registered debt, the people of this country pay annually a larger *interest* than is extorted from the people of Great Britain, France, Russia, Austria, or Prussia, and a sum nearly twice as large as was required for all the annual purposes of the Government before 1860. Yes, sir, the men of this generation grew up under an annual expenditure by the Government, to support the civil list, the Army, the Navy, the pension list, internal improvements, and all the other objects to which appropriations were made, of half the sum which is required now to defray the single item of interest. And then direct taxation was unknown. Now the land swarms with tax-gatherers, who eat up the substance of the people like locusts. The estimates for the War and Navy Departments and the civil list for 1868 is $182,000,000, which is more than five times as much as the actual cost of the same service in 1860.

That the people should be restive and uneasy under such extraordinary burdens is not to be wondered at. Nor is it strange that this monstrous debt depresses industry and enterprise; for debt is the enemy of industry and enterprise. It rests, like an incubus, upon the labor of the people, and if it is ever paid their labor must pay it; for though labor is not the only source of value (time, place, and circumstances may all be sources) yet it is the great, the chief source of all individual and national wealth. It is fashionable to discourse largely on the wonderful resources of this country; and it is true, indeed, that a bountiful Providence has given us a vast extent of fertile lands, and inexhaustible minerals that match the wealth of all the world besides, but what are all these resources except as the hand of labor cultivates and develops them? The fertile fields, if the farmer plows them not, the rich minerals, if the miner digs them not, will never pay a dollar of the debt. I want to emphasize this thought. I would have the Government and all its creditors realize how entirely they depend on the producing classes of the country, the laborer, whether he tills the soil, or delves in mines, or toils in shops and factories. Even gold itself derives its value from the labor necessary to produce it. Were it as common as stones, and as easily picked up, it would be no more valuable than stones. And then see what a load of debt we have laid on labor! It has to bear municipal and State taxation, support and educate children, build up homes and construct highways; and yet the Federal Government taxes the citizen higher than either England or France tax their subjects. I have seen a comparative statement of our taxes and those of England and France for the fiscal year of 1866, reckoning both in our currency, as follows:

English taxes	$00.09 per cent. on valuation
United States taxes	$3.93 per cent. on valuation
English taxes	$10.92 per capita
French taxes	7.97 per capita
United States taxes	16.00 per capita

Thus it appears, sir, that we have, in the last few years, outgone the principal nations of the Old World in charging industry with annual interest and in imposing general taxes upon our people. In seven years we have built a pyramid of debt like that it took them more than seven hundred years to rear. And now, the party under whose administration these burdens have fallen upon the people, have resting upon them the responsibility of devising measures of relief. To their wisdom and statesmanship the country has a right to look for such reasonable and practical measures as shall increase revenues while they lighten taxes, and shall stimulate and reward industry and enterprise. But those of us who have been sent here by Democratic constituencies are bound to contribute our best counsels to the dominant party. We have no right to say to the Republicans, your sectional principles and policy brought on secession, and war, and overwhelmed the country with debt and taxation, and now, without our help, extricate the country, as best you may, from the difficulties into which you brought it. However just such language might be by a *party* out of power, when addressed to a party in power, *individuals* who are placed in responsible representative positions, though they may belong to the party that is out of power, are bound to advise and counsel and warn, according to their ability, for the good of all parties and of the whole country. They have no right to fold their arms and let the ship of State drift to destruction because they are not at the helm. If they see dangers ahead they are bound to point them out, and then, if the dominant party will persist in running us upon rocks or shoals, all that can be done is for the masters of the crew to throw them overboard and restore the ship to those who have guided it safely through many storms and dangers. In discharge of my personal duty I proceed, therefore, to point out certain general views and principles which ought never to be lost sight of by those who have the power to give shape to public measures—general views and principles upon which the public debt and its incidents and consequences ought to be treated.

And, first, the public debt should not be regarded as a permanent fixture, to descend to posterity, but should be put in process of liquidation, so as to be paid off or reduced within manageable proportions during the present generation.

The author of all mischief never invented a worse falsehood than the saying that a national debt is a national blessing. Debt is no more a blessing to a nation than to an individual, and most of us know how it oppresses the individual man, cramping his energies, depressing his ambition, and virtually making him a slave, if not of his creditor, of his circumstances. "The rich ruleth over the poor, and the borrower is servant to the lender."

However congenial a great national debt may be to monarchical institutions which rest upon the principles of primogeniture and an hereditary aristocracy, no representative and popular Government like ours can be truly independent beneath such a load of debt as has been piled upon us. Why, sir, at this moment we are restrained from buying territorial additions, and from exploring the extent of the precious metals in the public domain, and from other necessary and advantageous expenditures, by the presence of this debt. It stands like a hideous specter in the path of our progress. And suppose we had to resent a national affront, or vindicate a national right, by war; suppose, for example, what is quite supposable, that to compel European nations to respect the doctrine of expatriation, upon which our system of naturalization is built, we would find it expedient to adopt a belligerent policy, would not this debt tend to make us timid, obsequious, self-sacrificing? I fear it would make some politicians

> "Crook the pregnant hinges of the knee,
> Where thrift may follow fawning."

I have said, sir, that if the debt be ever paid labor must pay it; but to enable labor to do its work it must have the assistance of capital; and capital, habitually timid, is scared away from enterprises of pith and moment by this overshadowing cloud. At this moment every industrial interest in the country languishes, and every look out into the future discourages both capital and labor. Between capital and labor there is, naturally, not only no antagonism, but a strong elective affinity, which, if undisturbed by repelling forces, will draw them into harmonious coöperation. A national debt is the worst of all repelling forces. In England and France individual wealth may be invested in public funds without material injury to labor, because the Government becomes the employer of labor and dispenses the wealth which is lent to it; but with us the Government is and ought to be confined to its appropriate functions as a political power, and can engage in no internal improvements or public works which are not necessary for common defense or ordinary governmental purposes. All the wealth, therefore, which the Government concentrates in public loans is so much withdrawn from the common avocations of life and from the rewards of labor. When, as in the instance before us, a system of banking is based upon the Government bonds and the Government abstracts from the labor of the country a gold interest to pay to the bankers, who sell it at a premium and divide the profits among themselves, the public debt becomes a peculiar curse to the people. The only currency which the banks furnish the people is a depreciated paper currency, which has the effect of enhancing the price of all the necessaries they consume, while they return to the banks a coin interest to swell the profits of these favored corporations.

But a more comprehensive objection to a permanent public debt is its consolidating power. This is strikingly illustrated in England, where, under the operation of their public debt and their system of intestacy, an aristocracy has grown up which possesses most of the wealth of the country and controls its legislation. This moneyed aristocracy has ground the millions down into abject poverty. Dwelling itself in mansions of regal splendor, it has sent labor to eat its scant meal and sleep its hard sleep in small and mean cottages, sometimes made of mud, and often with no roof but a thatch and no floor but the ground. Ill-smothered dis-

content and often open outbreaks of popular passions have been the consequences of the false relation that exists between capital and labor in that country. Hence the necessity for a standing army, an armed police, and a hireling constabulary to keep the people in order and to enable capital to wring the last drop of sweat from the brow of industry. All this, I repeat, may be well enough for a monarchy, but let not our simple republican institutions fall under the control of a moneyed aristocracy, else the people of this country will share the fate of their kindred in the mother country. Everything which tends to a consolidation of money power, or political power, is inimical to the principles and genius of our American liberty. Our system of intestacy is one of the best institutions of the country, for it diffuses the accumulated wealth of families; but charters of incorporation avoid and defeat the operation of the intestate laws. When we see a vast array of banks, based upon a great public debt, and rapidly accumulating wealth, while the people at large are embarrassed to pay their taxes, we may well take alarm and conclude that if we would preserve and perpetuate republican institutions we must get rid of that debt.

I do not propose to pay the debt at once. It is too big to be wiped out suddenly, but we can place ourselves upon sound principles, which, if steadily adhered to, will extinguish the debt within the lifetime of living men. And the moment the world sees that we have adopted a system of finance that shall be based upon the world's measure of values, that we have begun to retrench expenses in earnest, that we have levied such reasonable taxes as can be collected, and that we consider no debt paid until it is redeemed in gold and silver, our debt, great as it is, will, for *all* practical purposes, disappear. It will be virtually paid from that hour.

My next observation is that Government bonds ought to be taxed as bonds. The text of several of the acts of Congress under which they were issued exempts them from *State* and *municipal* taxation, but not from taxation for the purposes of the Federal Government. The income derived from them by our own citizens is, I believe, included in taxable incomes, but as distinct forms of property they have escaped taxation, while all other forms of property have been laid under contribution to pay interest on these very bonds, and to support the Government, which gives them all the value they possess. This is not equitable or just.

But it will be said these bonds were placed in the market and sold with the understanding, express or tacit, that they were not to be taxed. Sir, the taxing power is vested in Congress as a trust for the people, to be exercised for their protection and benefit, but not to be aliened, mortgaged, or given away. No former Congress could take the taxing power away from this or any other future Congress. The dead cannot bind the living. This Congress assembled with all its constitutional functions and powers unimpaired by what former Congresses or Treasury agents had said or done in respect of the taxing power. "Congress shall have power to levy and collect taxes," says the Constitution, and to argue that *we* have not this power, because of what our predecessors did, is to make the Constitution repealable by an act of Congress or a Treasury circular. The taxing power is the vital breath in the nostrils of the Government. If it may be suspended in respect of one form of property, it may in respect of all other forms of property, and thus be extinguished, which would be suicide of the Government.

But if the power exists, it may be ill faith, a sort of repudiation to exercise it. Not so. The public creditor knows what the legislative powers of the Government are when he lends his money, and he takes the risk of a constitutional exercise of those powers. Salaries are fixed by law as solemnly as these bonds promise to pay, and judicial salaries are protected from diminution by the Constitution, yet the Government does not hesitate to tax salaries, and nobody reproaches it with repudiation. The fact is, all forms of property, whether they be houses and lands, stocks, bonds, or offices enjoy governmental protection, and therefore owe the correlative duty of support to the Government. This is the principle upon which the foreign bond-holder can be justly taxed. His property, so far as it is invested in bonds, is here to be protected and defended by our Government. What he holds in his strong-box across the ocean is only the title-deed, the evidence and sign of the thing signified. The substance is here in our hands, to be guarded, preserved, and returned; and as all these are governmental duties, whatever and whoever enjoys governmental protection is bound to contribute to the support of Government. Nor will there be any expensive machinery necessary to collect this tax, for it can be deducted from each coupon as it falls due, and go directly to the relief of the Treasury. It will, tend also to equalize and render uniform all public burdens, and thus take away the irritating contrast that is now presented between Government bonds and other forms of property, the invidious discrimination between bondholders and taxpayers in general.

My third observation is, that we should fix a time for the resumption of specie payments, first, of all sums not exceeding twenty dollars, and a more distant day for all other sums. The advantage of doing this now by a declaratory act would be to give the country notice to prepare for specie payments, and such is the elasticity and adaptability of our people that they could, with ample notice, prepare for this return to our normal condition without material sacrifice or inconvenience. The proposition includes, of course, the repeal of so much of the act of Congress of 25th February, 1862, and of subsequent acts, as made Treasury notes legal tenders in payment of debts. By the act of 1862 $150,000,000 were authorized, and by subsequent acts some five hundred and fifty millions more—making an aggregate of some seven hundred millions of irredeemable notes that were made legal tenders in payment of debts. How many of these notes have been issued and are still outstanding I am unable to ascertain from the official reports, but they entered at once into the circulation of the country, and were used to pay off all debts that had matured. Ground rents and mortgages were paid off to a vast extent in Pennsylvania—debtors hunting their creditors as keenly as, in other circumstances, creditors pursue debtors. As these notes have not averaged in value more than from sixty to seventy cents in the dollar, and yet were made legal tenders at par, it is apparent that the debtor who used them saved a third of his debt and his creditor lost it. And yet all the debts of the country, except such as stipulated for payment in specific articles, were contracted on the specie basis, and were redeemable, before these acts of Congress were passed in nothing but gold and silver coins. If these coins were expressly stipulated for in the contract, of course the legal obligation existed to render them, but if they were not expressly stipulated for the creditor had a right to demand them, for nothing else was a legal tender. When Congress created another legal tender, worth only two thirds as much as that upon the faith of which contracts had been made, they tempted every debtor to use the cheaper and baser currency to pay his debts, and they annihilated a third of the debts of the country. If any man would measure the sacrifice and havoc of private rights which this legislation has caused let him inquire into the aggregate of debts, public and private, State, municipal, corporate and individual, that have been extinguished by greenbacks, and a full third of that aggregate may be regarded as lost to the country, confiscated, annihilated.

And now it is proposed to pay off the five-twenty bonds, which bear a six per cent. interest in coin, with these greenbacks that bear no interest, and it is argued that the text of the act of 1862 authorizes this to be done. I believe this suggestion originated with Mr. Pendleton, of Ohio, but it has found an able defender in this House in the person of the member from Massachusetts, [Mr. BUTLER.] The gentleman from Ohio [Mr. CARY] also favors the suggestion, and indeed he seems to think greenbacks are a better currency than gold and silver. The gentleman from Massachusetts [Mr. BUTLER] is not faithful to the cause he has espoused when he admits that the indebtedness of the Government, antecedent to the act of 1862, must be paid in coin, and the reason he gives, to wit: that that indebtedness was contracted on the specie basis, would have applied to the millions of private and corporation debts that have been paid in greenbacks. Does not the honorable gentleman know that the courts have decided that the act of 1862, the first legal-tender law, applies to all antecedent debts, public and private, even those expressed to be payable in coin? Interest on the public bonds and duties are the only exceptions mentioned in the act. All other debts, public and private, are within its sweep. And though loans created by *subsequent* acts, which stipulated for coin, would not be within the operation of the legal-tender acts these prior loans, which the gentleman so carefully excepts, would be, if we take the acts, as we are bound to take them, according to the judicial interpretation they have received.

The question, then, is a somewhat larger one than the honorable gentleman seemed to suppose. It is no less than this, whether not only all the five-twenties but all prior loans shall be paid in greenbacks? Obviously the interest on these bonds cannot be so paid, for the act of 1862, in establishing the paper legal tender, expressly saves interest on Government bonds. This item of interest, being expressly excepted out of the enacting clause, cannot be paid in greenbacks and must be paid in coin. But as to the *principal* of all bonds except those issued under acts of Congress subsequent to legal-tender acts, the question is, does the law authorize the payment of them in greenbacks? This question touches the $500,000,000 authorized by the act of 1862 and whatever had been authorized by prior acts, and it must be confessed that the phraseology of the act of 1862 favors the proposition to make them payable in greenbacks. It does not prescribe coin for any debts except interest and duties, and it does make Treasury notes legal tenders in payment of "all claims and demands against the United States of every kind whatsoever," except for interest on bonds, and it declares also that they "shall be lawful money and a legal tender in payment of all debts public and private within the United States, except duties on imports and interest as aforesaid."

If Congress had power to make such an enactment most certainly the holders of five-twenty bonds, and of all previous bonds have no more right to complain that they are paid in greenbacks than all other private creditors had, and their complaints were unheeded. The words of the enactment are large and comprehensive enough to include these bondholders, and it is impossible to conceive of any equity they have, above other creditors, to be taken out of the enactment. The gentleman from Maine [Mr. BLAINE] was at considerable trouble to show from our current history that the bonds were negotiated with the understanding that they were to be redeemed in coin; but it has been well answered that advertisements and circulars issued by the Secretary of the Treasury or any of his agents cannot alter the tenor of the law upon the faith of which the bonds were issued. That law was open to the purchaser of the bonds, and it must be presumed he purchased subject to it.

The gentleman from Ohio [Mr. CARY] has discovered, at length, that the bondholders did not buy their bonds upon any high and patriotic motive, but simply as a speculation. Then it is no hardship to treat them as we treat the sol-

dier who fought our battles, and the soldier's widow, the day-laborer, and all the other most meritorious creditors of the Government.

So long, sir, as you will maintain two legal tenders, of diverse values, I shall vote for paying "all debts," not expressly excepted, in the cheapest of those tenders. If you will pay the most meritorious creditors of the Government in greenbacks, they are good enough, in my judgment, for those bondholders whom the honorable gentleman from Ohio [Mr. CARY] has found to be no more patriotic than other people.

But, sir, I do not believe that Congress had any constitutional power to make greenbacks a legal tender. I know the courts of last resort in several States have decided the act of 1862 to be constitutional, by a bare majority of judges, and the Supreme Court of the United States have not yet passed upon the question. So far as the judicial mind of the country has been expressed upon the subject, I confess myself bound to regard the act as constitutional, and would, therefore, for the present vote for applying it to all debts, public and private, which are not excepted from its operation; but believing it to be of evil example, destructive of that good faith which should belong to all contracts, violative of the constitutional rights of citizens, and not within the delegated powers which we are sent here to exercise, I would wipe all such stains out of our statute-book. The effect of repealing that bad legislation would be happy in many respects. It would take away the ugly question started by Mr. Pendleton and so fiercely discussed on this floor, because, instead of leveling the bondholder down to the other creditors, it would level the other creditors up to the bondholder. It would bring us back to gold and silver, the constitutional currency, which I was sorry to hear the honorable gentleman [Mr. CARY] sneer at as "hard money" and "the idol of the Democratic heart." It is hard, to be sure, hard to get and hard to keep, but while you keep it it is so hard that it will not perish on your hands. That it is Democratic money is also true, because it is constitutional, and I need not tell so intelligent a gentleman as my friend from Ohio that all things which are constitutional are democratic.

And if we would repeal this law by easy stages, as I propose, it would occasion the country no shock; while, if it should happen to be knocked in the head in the Supreme Court, the multifarious interests that are bound up in it would for a time be greatly damaged. These are my reasons for suggesting immediate steps for a gradual repeal of a law that has done us more dishonor and injury than any other enactment of our day.

I will not to-day argue the constitutional question, but I wish to bring to the notice of the committee the collocation of the thoughts which led to the enactment of the legal-tender law of 1862, as contained in the report of the Comptroller of the Currency, which has been laid upon our desks. If gentlemen will look into that report they will see that all the leading members of both Houses placed the law, not upon the Constitution, but upon "uncontrollable necessity," "the unusual exigencies of the country," "necessity, not choice." Mr. SHERMAN, of Ohio, brought out sharply the prevailing thought when he said, "The Senator from Vermont, (Mr. Collamer,) whose opinion is certainly entitled to the highest consideration, and who supports it with an able argument, contends that this measure is unconstitutional. I confess," he adds, "if I did not feel its necessity, I would shield myself behind his conviction and vote against it." Not a voice seems to have been raised in behalf of the constitutionality of the measure, but the necessities of the time, real or imagined, were permitted to set aside the Constitution. And such has been the line of argument in the courts, as if necessity were a higher law than the Constitution. I will not enter into these questions to-day, but I beg leave to refer to and quote an opinion, which I put upon record on the 24th of May, 1865, in the following words:

"By overthrowing the specie basis and flooding the country with a depreciated paper currency at a time when the Government was the chief purchaser and consumer of the products of the country, it raised prices on itself and unnecessarily augmented the public debt, which will be a burden upon the industry of the country. Did the people grant to their Representatives the power to do this thing? They granted the power to *furnish* a metallic currency, but in what part of the fundamental law did they grant the power to take it away? If it be true that war cannot be carried on without paper money, it is not true that war requires paper money to be made a legal tender. Our Government has carried on several wars, foreign and domestic, and a commerce that has penetrated every part of the globe upon a paper currency, State and Federal, having a sound specie basis, without making a dollar of that paper currency a legal tender. Where, then, is the ground for the assumption that these acts of Congress were demanded by the exigencies of our civil war? Had Congress borrowed gold and silver enough at current rates to maintain the specie basis of our paper currency the debt of the country had been less than half what it is to-day, and no effort of the Government to subdue the rebellion would have lacked energy or effect."

These, Mr. Chairman, were my convictions three years ago, and subsequent observation and reflection have tended to confirm them. And it gives me great pleasure to see how strongly corroborative of these views are the observations of Secretary McCulloch in his late report, especially on page 15. He there says in terms that the "financial evils under which the country has been suffering for some years past, to say nothing of the dangers which loom up in the future are in a great degree to be traced to the direct issues by the Government, an unconvertible currency with the legal attributes of money."

When the necessities of the hour were so strongly insisted on in 1862 the evils and dangers to which our minister of finance alludes ought not to have been forgotten. A really prudent statesmanship would not have overlooked them, nor have underrated the evil consequences of impairing the obligations of contracts, of inflating prices, of stimulating rash speculations and lavish expenditures, and inducing high taxation. All these are demoralizing agencies and forces, and they have led to loss of credit, onerous debt, the most daring frauds upon the revenue, a general derangement of the business of the country, and a debasement of the moral sense of the people. Such are some of the consequences of substituting printed rags for the constitutional currency, that "idol of the Democratic heart"—silver and gold—which are the measures of value throughout the civilized world, and which was our standard from the adoption of the Constitution of 1787 until overthrown by the act of Congress of 1862.

My next thought is, that if we would repair the mistakes of the past and get back to specie payments we must curtail the expenses of the Government. And the first and most obvious reform would be to abandon that crazy policy which, with grim facetiousness, we call reconstruction. Here are ten States, some of them older than any of us, all of them fully organized with legislative, executive and judicial departments after the model of all the republican States of our Federal Union, known at all times by the same names and boundaries they have to-day, except Virginia, whom we have carved in twain against her consent, what reconstruction do they need? If the proposition was to restore the Old Dominion to her fair proportions, reconstruction would so far be intelligible; but as it does not mean this, what does it mean? These States, according to the doctrine of the Declaration of Independence, which certain gentlemen are fond of misquoting, were "free and independent States," and originally had "full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do." Such States may confederate and they did confederate. Such States might form a more perfect union, and they did so under the Constitution of the United States. That instrument contemplated a permanent and irrepealable Union, because it did not anticipate any infractions or violations of its provisions. But it so happened that it was violated, and then those ten States, considering that a bargain broken on one side, was broken on all sides, repealed their acts of accession to the Federal Union and passed ordinances of secession. That brought on war which resulted in compelling them to repeal their ordinances of secession, which had the effect of restoring their acts of accession. For it is a rule of the common law that when a statute which repeals a prior statute is itself repealed the prior statute is revived. Besides, every department of the Federal Government treated the ordinances of secession as null and void. Ordinances and statutes which are null and void, and which are repealed in form by the power that passed them, are as if they had never been passed. They impaired not the vitality and integrity of the States. What the war overthrew was the southern confederacy, not the southern States.

Now, through all this process of secession, formation of the southern confederacy, and war, these States were alive and acting *as States*, with the same form of government they adopted from the first. Our armies had indeed overrun them and had suspended the civil functions of some of their officers, and the President wisely considered that, as he was the Commander-in-Chief, it was his duty at the close of the war to so withdraw his Army as to set those States on their legs again and restore them to their normal condition. This he was accomplishing peacefully and naturally when some evil genius whispered into the ear of the legislative department that reconstruction belongs to them, and straightway legislators set about impeaching the President and enacting a series of harsh and vindictive measures that could only be carried out by a standing army and could result in nothing but the domination of the negro over the white race. And these destructive measures are what are called, by a great abuse of language, reconstruction. Upon the plain statement of historical facts which I have made it is apparent that readmission of these fully-constructed States into the Union, at the close of the war, would not only have cost us nothing, but would have saved us a large and unnecessary expenditure, besides bringing into productive contribution to our commerce one of the most fertile regions of the whole country. Under the ill-starred measures to which I have alluded the President tells us in his message that the payments at the Treasury on account of the service of the War Department from January 1 to October 29, 1867, a period of ten months, amounted to the amazing sum of $109,807,000! Although all of this sum was not expended in keeping the South down under the military heel the greater part of it was, for the President immediately adds, "The expenses of the military establishment, as well as the numbers of the Army, are now three times as great as they ever had been in time of peace."

Military expenses and numbers three times as great as ever before in times of peace. Why? Why this waste? Is not this a time of peace? Have not the rebels grounded the arms of their rebellion? Why are a hundred millions of the people's money thrown away upon the Army when public debt and taxes are weighing labor down to the earth? That "reconstruction" may have free course and be glorified. This is the whole cause and reason of this reckless expenditure. And by many an infallible token it is now apparent that the whole philosophy of reconstruction is to force negro suffrage upon the southern States as an entering wedge with which to drive it home upon all the States. Let the country understand, therefore, that one hundred millions of their money go annually to setting up the negro to rule over white men. I say this is wrong and ought to be stopped. Bondholders and bankers had better see to it that this criminal waste be stopped, or their wealth may turn to ashes.

But this is not all the negro is costing us. We have a Freedman's Bureau as part of the furniture of "reconstruction." And that we may see to what objects our money is appropriated through that machine, I take from the last report of the Secretary of War *ad interim* the following items:

For schools and school buildings	$553,915 79
For subsistence stores	1,460,326 28
For transportation of refugees, freedmen, teachers, and agents	227,754 63
For salaries of agents, clerks, &c	521,421 44
For medical department	331,001 21
For quarters and fuel	135,098 64
For clothing	116,688 80
For printing, postage, and other contingencies	251,190 86
Total	$3,597,397 65

There are three and a half millions more of money thrown away upon the negro. The Secretary says the freedmen, as a people, are making rapid progress in education, in mechanic arts, and in all branches of industry; and surely they ought to be, for no white men were ever so cared for by this Government or any other. Fed, clothed, warmed, educated, doctored, and carried about the country at the expense of a Government staggering under a load of debt and actually deliberating about compelling the public creditor to take a non-interest-bearing promise to pay in lieu of the interest-bearing promise he holds!

Sir, my constituents build their own schoolhouses and educate their own children. They get annually a small allowance out of the State treasury to aid the work of education, but they never got a dollar from the Federal Government for such a purpose. I commend to their notice the above annual expenditure of $500,000 for the education of negro children. Now, sir, I complain not of the education of children, white or black. On the contrary, I rejoice when any human intellect gains a single ray of added illumination, but I protest against the Federal Government engaging in this work of educating negroes at the expense of white men. Let the parents of colored children do as the parents of white children—labor to educate their offspring. If we had admitted the southern States, directly the war ended, they might by this time have been able to lend a helping hand to parents in this noble work of education; but we have so harried and persecuted them with our military reconstruction that they have been unable to attend to any domestic interests.

Mr. Chairman, this Government was not instituted for any of the purposes which the Freedmen's Bureau is pursuing. It is misuse and abuse of our powers; it is an insult to the white race of the country; it is an intolerable despotism. Again, I warn bondholders and bankers not to perpetuate this outrage by their votes. If we were out of debt, and taxation were light, it would be a gross perversion of public funds, this expenditure on the standing army and the Freedmen's Bureau, but in our actual circumstances it is madness.

Let no one suppose, however, that these large expenditures are even a faint reflection of all that reconstruction has cost us. Besides the hundreds of millions already wasted in that work, we have so deranged the relation of capital and labor in the South that southern planters are forced to turn farmers, and instead of growing cotton to be manufactured in northern looms or sent abroad in northern ships to pay our foreign debts they betake themselves to manufacturing and to the cultivation of cereals. Thus we have destroyed our best market for northern manufactures and agricultural products. The injurious consequences of this folly are but just beginning to be felt, but before we get through the sea of troubles that encompass us we shall find we have paid more dearly for our whistle than ever whistle was paid for before. New England, largely profited by the war, can afford to rest awhile upon her accumulated riches; but the suspension of her manufactories and ship-building impairs the industry of the middle States. Our agricultural products, which feed New England operatives, and our coal and iron, suffer when labor languishes in that quarter.

It has been said that whenever man attempts to do anything great he begins by building a fire. The pure anthracite of the great coal-fields of Pennsylvania is his best fuel. Whether ships and steamboats are to be propelled; cotton, wool, or paper manufactured; iron wrought into the thousand forms in which it is made to subserve human wants; railroad transportation sustained, or any other great and useful work accomplished, our coal is wanted. But to mine, prepare, and transport it to sea-board markets require a large outlay of money which depends for its profits upon the other industrial pursuits of the country. Whatever depresses these strikes a blow at our great Pennsylvania staples. Your reconstruction policy has done us incalculable injury in this regard. Every mill and manufactory, every furnace and forge, and every steamship you stop stops so much mining of coal. We are so completely members one of another, the ligaments of trade hold distant communities in such intimate and sympathetic union, that—

"Any link you strike,
Tenth or ten thousandth, breaks the chain alike."

Nor will the West fail to reap bitter fruits from reconstruction. Hitherto paper money has kept up the price of agricultural products, though it has kept up also the price of all the farmer has had to buy, but to a great extent the depression of manufacturing labor in the eastern States injures the markets of western agricultural products in the same way it touches our coal trade. The great mischief, however, which reconstruction is doing to the western farmer is that it is destroying his southern market and raising up rival farmers among the growers of cotton, rice, and tobacco.

Now, sir, all this loss and suffering in the various sections of the country, past, present, or future, are chargeable to that unfriendly and unwise legislation that treats southern States as conquered provinces, that keeps them out of the Union, that threatens confiscation, that taunts and wounds southern sensibilities, that forces the negro into relations and responsibilities for which he is unfitted, that disfranchises free white American citizens. Such legislation breaks up the relations which God and nature established between men, dislocates the joints of society, and cramps and cripples the whole body-politic. No arithmetic can compute the cost of it, no prescience can forecast all its evil consequences.

The importance to us in a financial view of a settled condition of affairs in the southern States cannot be overrated. The vast capacities of that fertile region are all needed to pay our debt and reduce our taxes, and if the people could be permitted to settle their internal political affairs and to regulate their industry without interference from us its contributions to the national wealth would soon become what they were before the war. In 1859 the whole export trade of the country was $278,392,080, of which the productions furnished by the southern States amounted to $188,693,496.

And even for the year 1867, notwithstanding all the embarrassments we have imposed upon the southern industry, the exports of its products—including northern products shipped from Baltimore and New Orleans—amounted to sixty-nine per cent. of our whole export trade. If a liberal deduction were made for northern products shipped from those ports, southern productions furnished for the year 1867 full one half of the exports of the country.

I have obtained from the bureau of statistics a table of the exports of cotton from the United States for the past twelve years, which I introduce as an instructive document bearing directly upon the financial questions of the day.

Exports of cotton from the United States from July 1, 1855, to June 30, 1866, inclusive, as stated in the reports of the Register of the Treasury on Commerce and Navigation, and for the fiscal year ended June 30, 1867, as shown by the records of the bureau of statistics.

During the year ended June 30.	Pounds.	As reported in currency.	Gold value.
1856	1,351,431,701	-	$128,382,351
1857	1,048,282,475	-	131,575,859
1858	1,118,624,012	-	131,386,661
1859	1,386,468,556	-	161,434,923
1860	1,767,686,338	-	191,806,555
1861	307,516,089	-	34,051,483
1862	5,010,011	$1,180,113	1,161,243
1863	11,384,986	6,652,405	4,846,925
1864	11,992,911	9,895,854	6,323,229
1865	8,894,374	6,836,400	3,384,356
1866	650,572,829	281,385,223	199,563,987
1867	666,576,314	202,911,410	143,908,801

See, sir, how quickly the war brought down the production of cotton from 1,767,686,338 pounds in 1860, valued at $191,806,555, to less than 400,000,000 pounds in 1861, producing less than $35,000,000. And observe how, in 1866, the first year after the war, the production went up again to more than 650,000,000 pounds, a crop which, though greatly less in bulk than that of 1860, sold for more money, in consequence of the high price to which cotton had advanced during the war. In 1867, though there was increase in quantity over the production of 1866, it sold for less money, because the price had declined in the Liverpool market, which is the great cotton market of the world.

I am assured on the best authority that the cotton crops of 1866 and 1867 have not quit cost, and that every northern capitalist who has invested in cotton plantations has suffered disappointment and loss. This has resulted from the disorganized condition of labor in the South, from the high rates of interest for money, equal in some instances to three and four per cent. a month, from the cotton tax, and from the protective tariff. From these causes, most of which belong to reconstruction, we have managed to render worthless the great staple which that region is so willing and ready to produce. We keep down its production to the lowest point to which we can repress it, and then we make that cost us more than it returns to us, so that raising cotton under reconstructive legislation, instead of helping to pay our debt, is really increasing it and impoverishing the country.

Do gentlemen imagine that the people of the North, East, and West are going to long endure this unnatural state of things? Will they not soon say, in a voice of thunder, that, seeing how grievously we are oppressed with taxes, we ought to have, *and will have*, the rich contributions to our financial resources which the excluded States are capable of yielding? That voice will come booming over the Rocky and Alleghany mountains; it will swell up from the valleys of the Mississippi, the Ohio, and the Susquehanna; it will come riding on the blasts from the North and the East; and gentlemen whose nerves are now disturbed by what they call "screechings" for the Constitution, will be more startled to hear that this trifling with the great interests of the nation must stop—that vociferous speeches about treason and Sumter, well enough when men had to be stimulated to fratricidal slaughter, will not serve our purpose in these days of debts and taxes, when we need all the resources of all the States—that the negro, a fit object of our sympathies and our care, is unfit for political partnership with the white man—in a word, that this sham called reconstruction and all its artificers and engineers are dismissed to the oblivion that shall be eternal. When that day of truth-telling comes the disguises of the hour, and that have served so good a partisan purpose in the dreary years of war and reconstruction, will be torn off and rent into atoms. The people, no longer blinded by pretenses of excessive loyalty and patriotism, will see that the war, fought by

the soldiers for the honest purpose of restoring the old-time Union, was overruled by the politicians to prevent that restoration, to perpetuate division, estrangement, and ill-will, and that reconstruction means nothing more or less than negro suffrage. Let the bondholders and the officers of the sixteen hundred and fifty national banks be prompt to learn these truths. These highly respectable and powerful classes of moneyed men have, for the most part, hitherto, thrown their votes and influence in favor of the devotees of negro suffrage. Will they continue to do so? Will the tinsel of epaulettes, or the lighter metal of loyal speeches still attract them in the same direction? Then, sir, they may write "Ichabod" upon their bonds and the walls of their banks.

Mr. Chairman, I have not time to-day to discuss negro suffrage. I mean to take an early opportunity to express my views on that subject. Having suggested the line of policy which I believe would heal the wounds and restore the prosperity of the country, I conclude by saying that the constituents whom I represent, as loyal men to all the true interests and glories of the country as the sun in the heavens shines upon, are opposed to all schemes of repudiation, for repudiation would be a stain which they would feel worse than a wound. They demand restoration of the ten excluded States as white States and not particolored. They demand a repeal of the cotton tax and of all laws that deprive us of the immense profits we derived in former days from that great staple. They want no restoration of slavery, which is constitutionally impossible, and certainly have no thoughts of superadding the rebel debt to our own, which they think is large enough now, but they want to live in union with the white people of the South, to obliterate as fast as possible the bitter memories of fraternal strife, and to be coworkers with them in redeeming the credit of the Government by paying all its debts in gold and silver coin and in developing the great resources of our magnificent country. All legal-tender laws that substitute paper for gold, and all reconstruction laws, so called, that sacrifice the industrial interests of the country to negro suffrage, they would dismiss to the winds; and each State fully restored, with no miserable test-oaths to remind us of common sins and common misfortunes, they would leave negro suffrage and all other domestic questions to the unconstrained will of those respective States. Thus, sir, I represent my constituents on this floor to-day, as I believe they would have me represent them.

Mr. HUBBARD, of West Virginia, obtained the floor, but yielded five minutes to

Mr. BLAINE, who said: I desire, Mr. Chairman, to say a few words in response to the honorable gentleman from Pennsylvania, [Mr. WOODWARD,] to whose speech I have listened with great attention and with that respect which eminent ability always inspires. I understand the gentleman to be a firm advocate of the resumption of specie payment; but I understand him at the same time to imply that the Government possesses the right to pay off the five-twenty bonds in legal-tender notes. He opposes the policy, but advocates the right of so doing. The gentleman must admit that this right cannot be exercised unless Congress is prepared to issue an unlimited amount of greenbacks. Is Congress so prepared? Or, if willing, has Congress the right to go beyond a certain, well defined, limited amount of greenbacks? That question can be definitely answered by a specific provision of law which, it seems to me, must have escaped the attention of the gentleman from Pennsylvania. Let me quote that provision.

In 1864, after the negotiation of the first series of five-twenties, when our military situation was very gloomy and the financial situation proportionally discouraging, Congress had to go before the country for fresh loans, and in all the financial markets the Secretary of the Treasury was met with this declaration: "Your loans cannot be negotiated if you continue to issue an irredeemable paper currency at the rate you have been going for two years past." The Secretary of the Treasury was blocked, Congress was blocked, the whole Government was blocked by that cry; and the power to borrow money seemed to be at an end. How did Congress meet the exigency? Why, sir, it met it wisely and firmly by inserting in the loan bill of June 30, 1864, the provision to which I invite the attention of the gentleman from Pennsylvania. It is as follows, and is inserted as a proviso to the second section of the act:

"*Provided*, That the total amount of bonds and Treasury notes authorized by the first and second sections of this act shall not exceed $400,000,000 in addition to the amount heretofore issued; *nor shall the total amount of United States notes issued or to be issued ever exceed* $400,000,000.

Mr. PRUYN. What page is that?

Mr. BLAINE. Page 44 of the pamphlet containing the loan bills. It is to be observed that this pledge is distinct and unqualified; that in no event should the United States notes then in existence or thereafter to be issued ever exceed the sum of $400,000,000. The point, therefore, which I submit to the gentleman from Pennsylvania, without stopping to reargue the question of whether the five-twenties may be paid in greenbacks—throwing that behind me for the time, or even admitting for the sake of argument that the bonds may be so paid—the point I make is that by the law of contract, which the gentleman is so much more competent to construe than I am, by all the laws of honor, truth, and fair dealing toward all classes of its creditors, the Government is estopped from issuing a single dollar of legal tenders beyond the $400,000,000 to which it thus by its own pledge limited itself. I can conceive of no dishonor equal to that which would violate the express pledge and the express condition without which the loans to carry on the war for the suppression of the rebellion could not have been negotiated.

It is idle, therefore, to talk about present payment of the five-twenty bonds in greenbacks. Such payment cannot be made without a vast inflation of the amount of greenbacks now in existence. We have to-day some three hundred and sixty millions in circulation. We can lawfully issue only $40,000,000 more; and how, I ask any gentleman, are we ever to have enough of these in the Treasury at one time to pay off our vast bonded debt? The agitation is merely mischievous and ought to be stopped. We are not prepared to pay off our debt either in gold or greenbacks for years to come, and either form of payment at this time would be an intolerable burden to the people. Let us, therefore, abandon this useless agitation and address ourselves to the more profitable and more practical task of reducing the taxes that now rest so heavily on the people, and of devising at the same time some equitable plan by which Federal securities may be made to bear their just share of taxation.

Mr. HUBBARD, of West Virginia, resumed the floor.

Mr. LAWRENCE, of Ohio. I ask the gentleman to allow me to put one question to the gentleman from Maine.

Mr. HUBBARD, of West Virginia. I will allow the gentleman three minutes.

Mr. LAWRENCE, of Ohio. I ask the gentleman from Maine if Congress did not in fact authorize the issue of more than four hundred million dollars of legal-tender notes?

Mr. BLAINE. No, sir.

Mr. LAWRENCE, of Ohio. Including compound-interest notes?

Mr. BLAINE. Ah! I admit that; but "United States notes" is a technical phrase known to mean legal-tender notes. The compound-interest notes were but another form of interest-bearing securities. The legal-tender notes were limited to the $400,000,000 "issued or to be issued."

Mr. LAWRENCE, of Ohio. The compound-interest notes, however, were made legal tenders in the payment of debts.

Mr. BLAINE. They were redeemable in a specified time, and were essentially different from legal tenders. Indeed, Secretary Chase always claimed that they did not add to the circulation.

THE NATIONAL DEBT.

Mr. HUBBARD, of West Virginia. Mr. Chairman, the national debt is to-day the absorbing question before the American people. It comes home to every man's business and pocket, and demands attention. Various propositions have been submitted to this committee touching the mode and manner of its payment, differing in many respects both as to the time when and the manner how, but all concurring in the assurance that the debt must be paid, that the national faith must be sustained, the nation's contracts kept intact, and "the nation's honor be in no way compromised or impeached." In this assurance I accept the proposition that "the public debt of the United States, as represented by the bonds of the Government, should be paid and redeemed according to law, and not otherwise," fully believing that if the law be kept inviolate the public contracts will not be impaired nor the public faith broken. I therefore propose to examine somewhat in detail the provisions of the acts under which this debt was created and these bonds issued, that it may more clearly be understood what is meant by payment and redemption according to law; then to refer to some of the financial propositions which have been brought to the notice of the committee in connection with the debt, and to submit others for such attention as they may merit, with such general remarks as I may think pertinent to the question under consideration.

I propose first to inquire whether that portion of the public debt contracted by the act of February 25, 1862, known as five-twenty bonds, can now, the five years having expired, be legally paid in United States notes as lawful money; and whether it would be good policy and for the public welfare now to issue $500,000,000 of United States legal-tender notes for the purpose of paying said bonds.

It may seem strange that one who is not a lawyer by profession and who makes no pretensions to legal knowledge should undertake to examine the legal question embraced in this proposition, especially as the gentleman from Massachusetts [Mr. BUTLER] has forewarned even the lawyers as follows:

"There is the plain letter of the law. I need not discuss this point further. If there is any lawyer who, reading this law without taking into consideration anything except what stands on the statute-book, will tell me that this law enacts that the principal of the five-twenties is payable in coin, then 'for him have I offended,' and either he is or I am so stupid as not to be worthy of an argument."

I beg leave to say that is not the question at issue. The real question is, if it has any practical bearing, are these bonds now payable, and if so, can they in accordance with the law be paid in United States notes issued for that purpose? If this be not the real question, and the question has only reference to the payment of the bonds at maturity, fifteen years hence, then the question is devoid of all practical bearing, and may for all practical purposes be answered fifteen years hence.

Let us turn to the law. The act of February 25, 1862, which provides for the issue of these bonds and also for the issue of $150,000,000 of United States legal-tender notes, in which it is claimed that these bonds may be paid, in the first section says:

"And such notes herein authorized shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind, due to the United States, except duties on imports, and for all claims and demands against the United States of every kind whatsoever; except for interest upon bonds and notes, which shall be paid in coin; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

Observe, the act first specifies the use which may be made of these notes with reference to the United States: "they shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States;" next, the use that may

be made of them when the United States becomes the payer: "they shall be receivable in payment for all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin." If the act had said they shall be receivable in payment for all debts due by the United States, as it does say all debts due to the United States—and it should have been so drawn, if the framers of the act intended it to mean what it is claimed it does mean—then no question could arise. But I submit that debts are not claims and demands until they become due and payable; that the five-twenty bonds issued by authority of this act are not due and payable, and will not be until the 1st day of May, 1882; that payment of them by their holders can neither be claimed nor demanded; that they are not in any legal sense, at this time, claims and demands against the United States, and that consequently the Secretary of the Treasury cannot legally tender to the holders thereof in payment the notes issued by authority of this act.

There is a third clause in the section which provides that these notes "shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest, as aforesaid." I again submit that the first clause having provided specifically for all cases in which these notes shall be received in payments made to the United States, and the second clause having provided as specifically for those cases in which these notes shall be received in payments made by the United States, in one case where the United States is the payee, in the other where the United States is the payor; the third and last clause must refer to debts within the United States to which the United States is not a party, and the term public as there used must be construed to mean States, municipalities, corporations, or other public bodies, and not the United States. And while States and corporations may legally tender these notes in payment of all debts of whatever kind, the United States is precluded from so doing by the express terms of the act which limits the use of these notes on the part of the United States to that class of debts which are claims and demands. Having thus examined in detail the section of the act of February 25, 1862, by authority of which the first issue of United States notes was made, and having shown, I hope, to the satisfaction of the committee, that it contains no authority which would justify the Secretary of the Treasury in tendering at this time to the holders of the five-twenty bonds those notes in payment thereof, I turn to the acts authorizing the subsequent issues of United States notes.

The act of July 11, 1862, authorizes an additional issue of $150,000,000 of United States notes under the same provisions as to their issue, the purposes for which they may be used, and the mode of their redemption as the act of February 25, 1862, except that this act contains this additional provision:

"That any notes issued under this act may be paid in coin, at the direction of the Secretary of the Treasury, instead of being received for certificates of deposit for which the Secretary of the Treasury was required to issue to the holder an equal amount of bonds of the United States bearing interest at the rate of six per cent. per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years and payable twenty years from the date thereof"—

as provided in the act of February 25, 1862. The act of July 11, 1862, also gives the additional power to the Secretary of the Treasury:

"That he may exchange for such notes any bonds of the United States bearing six per cent. interest, and redeemable after five and payable in twenty years, which have been or may be lawfully issued under the provisions of any existing act, may reissue the notes so received in exchange, may receive and cancel any notes heretofore lawfully issued under any act of Congress, and in lieu thereof issue an equal amount in notes such as are authorized by this act, and may purchase at rates not exceeding that of the current market, and cost of purchase not exceeding one eighth of one per cent., any bonds or certificates of debt of the United States as he may deem advisable."

The act of March 3, 1863, authorizes an additional issue of $150,000,000 of United States notes, including the $100,000,000 authorized by joint resolution of January 17, 1863, under substantially the same provisions recited in previous acts, except that this act repeals the provisions of the acts of February 25, 1862, and July 11, 1862, for funding the issues under those acts, unless they be presented before the 1st day of July, 1863.

These are all the acts providing for the issue of United States notes as lawful money and a legal tender for all debts within the United States, and I have recited their provisions thus fully in order that it may be clearly seen what are the powers and duties of the Secretary of the Treasury under these laws. I find that he may issue and reissue them; may pay them in coin if he deems it best to do so; and that he may use them in the purchase of any bonds or certificates of debt of the United States he may deem advisable at rates not exceeding that of the current market, but nowhere do I find the power given him to use these notes in the redemption of five-twenty bonds, the only shape in which those bonds are presented to him to-day.

I now turn to the acts authorizing the issue of the bonds, and here one will answer for all. I quote again from the remarks of the gentleman from Massachusetts, [Mr. BUTLER,] and this time I am under the necessity of correcting his statement. He says, referring to the act of February 25, 1863:

"Now, what does the second section provide? It authorized $500,000,000 of bonds, registered or coupon, payable at the option of the United States in five years, and in twenty years at all events."

I am sorry to have to say the second section does not so provide. It authorizes $500,000,000 of bonds, registered or coupon, redeemable, not "payable," at the pleasure of the United States in five years, and payable in twenty years. And when he comes to quote from the law he leaves out that part which, if he had quoted it, would have been fatal to his whole argument, as showing that the bonds are only redeemable, not payable now. I will not suppose that the gentleman omitted this part of the law intentionally, but it seems a little strange that he does not use the word redeemable once in his whole speech, though the word occurs continually in the acts in connection with the bonds. And yet not so strange either, for the word has a meaning which has no place in his financial scheme, for it means a repayment of value, or as Mr. Webster, the lexicographer, has it—

"That may be purchased or paid for in gold and silver, and brought into the possession of government or the original promiser."

I regret to see in a published report sent forth by the Senate of the United States, and challenging the attention of the country, the incomplete quotation that these notes "shall be lawful money and a legal tender in payment of all debts, PUBLIC or private," omitting the very important words "within the United States," and with the word public printed in capital letters, evidently intended to convey the impression that these notes shall be a legal tender in payment of all debts due by the United States, as well as all debts within the United States, while the law does not so read, and, in my judgment, should not be so construed.

I desire to make a further reference to this report in reference to the "redeemable" feature of these bonds. The report says:

"It is clear that if the bonds are 'payable' when due in legal tenders they are 'redeemable' after five years from the date in the same kind of money."

I do not admit the conclusion, as I have already endeavored to show. All must admit that except for the express terms of the law under which the bonds were issued, the bonds under the previous legislation of the country would have been payable in gold and silver as the only lawful money; but when the bonds become "payable," they are "claims and demands against the United States," and by the terms of the law "these notes," that is, the legal-tender notes, "shall be receivable in payment." But until the bonds become "payable," and are "claims and demands," these notes cannot be tendered in payment and the bonds must be redeemed, if redeemed at all, in what was lawful money and a legal tender under previous statutes of the country. So that I cannot admit that these bonds, under the law as it now stands, may be redeemed in the same kind of money which may be tendered to the holders in payment when the bonds become due and payable.

I desire to make another remark in this connection. The law does not say these notes shall pay a debt, but that "they shall be receivable in payment," and the Government, as between its citizens, says in effect to the creditor, you must take the promise of the Government to pay, instead of requiring payment of your debtor; which promise to pay the creditor may hold against the Government, or may tender in payment in the transactions of business; but no payment will absolutely be made until the Government shall pay these notes in the money of the commercial world, gold and silver, or equivalent value. And the same as between the Government and its citizens, who present their claims and demands, the Government says in effect, under the law, you must take my notes without interest until such time as they can be paid; for the Government does not pay a debt by issuing these notes, but only defers the time of payment, which must eventually come, or the debt in effect be repudiated.

I now turn to the examination of another proposition of the gentleman from Massachusetts, [Mr. BUTLER.] He says:

"A dollar greenback as it stands to-day is one twenty-five hundred millionth part of the debt of the United States, secured by a mortgage upon every dollar of public or private property in the United States. Is it not that under my theory and anybody else's theory of finance?

I agree with him that it is such a part of the debt, but not as he would infer that it forms or should form one twenty-five hundred millionth part of the currency or lawful money of the United States; and, as I follow his argument, I am reminded of the banking and currency scheme of the famous John Law, who held—

"That land was a better commodity for money than silver, and that the currency of a country might be increased to the whole value of its lands; that the effect of such an increase would be not depreciation, but merely a lowering of interest, by which trade would be encouraged and wealth augmented."

This scheme, carried to its legitimate results, made it the most memorable bank in history, from its connection with the most extensive and ruinous scheme of speculation which history records, and whose crowning finale at the end of four years, though sustained by the whole power of the regent of France, who also undertook in this way, in connection with Law, to pay off the public debt of the kingdom of France in paper as gentlemen propose to pay the public debt of the United States. But it was soon found impossible to sustain such a circulation, and the regent, undertaking to reduce the value one half, the notes at once ceased to have a circulation, and the government was again compelled to fund a part of the notes in a loan at two and two and a half per cent., and a part fell dead in the hands of their owners. I trust this Congress and the American people are not disposed to repeat history after this fashion.

There is another view which may be taken of this proposition as a question of public policy. The great body of the people regard it as unnecessary and tending strongly toward repudiation. I admit that the debt is a heavy burden, that it is grievous to be borne, but he would be a bold man who would stand up in his place and say that the people are unable to bear it, that this vast nation, with its teeming resources, is unable or unwilling to pay it, and nothing but inability should be a valid excuse for men or nations for not paying their debts. A great outcry has been raised against the holders of these bonds, and an effort is being made to prejudice public opinion against them. They are called the "bondocracy," as if they ought to rule through this influence, and the highest

executive officer of this nation has not hesitated to enter the lists and style them the "bond-holding aristocracy."

Having had something to do in a small way with selling these bonds, and knowing something of the character of the purchasers in the interior portions of the country, I beg leave to quote from the report of the Secretary of the Treasury, whose statement in this respect fully accords with my own knowledge:

"They were sold at the highest price that could be obtained for them—not chiefly to the capitalists of the cities, but to men of moderate means throughout the country, who subscribed for them, not for speculation, but to aid the Government in its struggles with a gigantic rebellion; and it is a significant fact that with rare exceptions, the complaint come from those who, doubtful of the result of the conflict, declined to invest in them."

And in this connection I ask leave to read an extract from a private letter bearing on this point. The writer is an old man, now nearly seventy years of age, for forty years a Methodist minister, one of that class of men who in days gone by used to sing—

"No foot of land do I possess,
No cottage in this wilderness,"

but who, more fortunate than many of his compeers, had gathered together a small portion of this world's goods. One of the thoroughly loyal men of West Virginia, who "kept back no part of the price," who gave his only son, his first-born a sacrifice for the life of his country, under Sheridan at Five Forks, and, as he says, would have sacrificed all he had rather than see the rebels succeed, now, in his old age, with the widow and children of that son depending on him to some extent for support, gives his opinion of the proposition to pay off the national debt by an issue of "greenbacks" as follows:

"I dashed off a letter to you the other day touching the national debt, taxing United States bonds, &c. I have thought much on the subject since, and the more I have reflected on it the more am I astonished at the stupendous villainy proposed by those who would pay off the debt by a flood of greenbacks." * * * * "I look at it thus: in the darkest hour I lent all I could to the Government, when, at the very same time I could have lent it at ten per cent. just as I did lend to a friend in Iowa, and to another man there whose note, secured by a mortgage, I still hold. Well, my bonds are worth five per cent. premium, while all who invested in real estate find their investments worth from thirty to one hundred and fifty per cent, *i. e.*, while I have gained five, men who would not lend one cent to the Government have gained from thirty to one hundred and fifty. And now they clamor to have what is owing me virtually repudiated. They who would do nothing to help the Government (and many of them wished the rebellion to triumph) have reaped the chief pecuniary benefit, while I, who would have sacrificed all I had rather than see the rebels succeed, am to be beggared, if they can succeed in their wholesale swindling."

This is but one case of thousands like it all over the country. For nine times in ten those who gave their sons to the Government gave their property also, and those who withheld themselves or their relatives from the good cause withheld their pecuniary support. And those who are most deeply interested pecuniarily in the decision of this question are not the rich and wealthy, who could sustain their loss without being impoverished, but those of more moderate means, who have trusted their all to the Government in full confidence that the Government would in letter and spirit fulfill to the uttermost all its engagements, and who are now turning with great anxiety to this Congress for its decision on this all-absorbing question.

I cannot believe the people demand this measure at our hands; that they will be accessory to a policy the results of which have been so well described by the Secretary of the Treasury that I again beg leave to quote.

On page 36 of his report the Secretary says:

"It is not too much to say that an additional issue of $500,000,000 of United States notes would reduce the $700,000,000 of paper money now in circulation to one half their present value, so that a legal-tender note or a national bank note, now worth seventy per cent. in coin, would not be worth more than thirty-five per cent., even if the apprehension of further issues did not place it on a par with confederate notes at the collapse of the rebellion. The bonds would of course decline in value with the currency in which they would be payable. Can any one seriously propose thus to depreciate, if not render valueless, the money and securities of the people? Can any one, knowing the effect which such an issue would have upon the Government bonds, upon the currency now afloat, upon business, upon credit, upon the public morals, seriously advocate such a measure, not as a matter of necessity but to anticipate the payment of debts due many years hence? The statement of the proposition exposes its wickedness. When fairly considered it cannot fail to be stamped with universal condemnation. It is a proposition that the people of the United States, who own four fifths of the national obligations, shall, by their own deliberate act, rob and ruin themselves, and at the same time cover the nation with inexpressible and ineffaceable disgrace."

I may be met with the clap-trap question, "Are you in favor of paying the bonds in gold?" I reply I am in favor of paying them according to law. And long before these bonds are payable, before they are claims and demands against the United States, if the nation is true to its best interests, the lawful money of the United States will be equal to gold and silver, and the question will have no practical bearing. But, say the advocates of this measure, is not the money that pays the soldier and supports those wards of the nation, the pensioners, good enough for the bondholder? I reply I am in favor of making the money which pays the soldier and the pensioner equal to that which pays the bondholder. And it could be no benefit to the soldier or the pensioner to take such a course with the bondholder as would reduce by at least one half the value of the pay of the soldier and the pensioner. And the advocates of this policy well know this would be the inevitable result, and under cover of love and sympathy for the welfare of the soldier and the pensioner they advocate a policy which would deprive him of one half his means for supplying his wants or providing his comforts. And any further progress in this policy of issuing United States notes for the payment of bonds, or any other purpose, with a view of increasing the currency, would only result still in further depreciating its value, until it would lose its purchasing power, and that which is now the favorite paper currency of the people would be repudiated by them as unfit for the purposes of money, and these notes would find their way to the same pigeon-hole in the escritoire of history with Continental money and French assignats, unless the Government should gather them up and again fund them in interest bearing bonds.

The gentleman from Illinois [Mr. Ross] calls this issuing of additional legal-tender notes "watering the currency." I fear he would find it drowning the currency. Even in the present condition of the currency, on account of its liability to great fluctuation in value, merchants who deal largely in imported goods, which must be paid for in gold, have adopted gold as the basis of their transactions, and purchases of coffee, tea, spice, &c., are to-day made of the importers in all our large cities in gold or its equivalent. Any great accession to the amount of inconvertible paper currency would increase this liability to fluctuation, and the probability of continued accessions to it would lead the people to distrust it as unfit for the purposes of money, and thus that which when made convertible will prove the best paper currency this or any other country has ever had would be condemned and repudiated, and the country be compelled to adopt some other substitute or to resort to gold and silver or barter as a medium of exchange.

To avoid such a result and to secure within reasonable time a convertible paper currency, in which all the people would have the fullest confidence, as well to relieve the public burden to that extent by taking up an interest-bearing debt and substituting therefor a non-interest-bearing debt, thereby saving a large amount in interest, I favor the withdrawal of the national bank notes and the issue of legal-tender notes to an equal amount, but not in the mode proposed by the gentleman from Massachusetts, [Mr. Butler,] which, if I understand it correctly, would issue to the banks $300,000,000 of legal-tender notes and still leave them in possession of their bonds; and as the banks would still hold the bonds the Government would have to pay the interest. The result would be, the Government would redeem the circulation of the banks, the banks receiving therefor $300,000,000 in legal-tender notes, and the national debt be increased by that amount without any saving of interest. That I do not misrepresent him I will read:

"Mr. Chairman, when the committee rose I was endeavoring to put before it the way in which the national bank circulation might be withdrawn from the banks and legal-tender notes substituted without shock to the business of the country. I agree, sir, that any proposition of legislation is vicious which tends in any considerable degree to interfere with the industrial pursuits of the people, but I propose we should enact in some proper form that the Secretary of the Treasury should each month retain in the Treasury all the national bank bills which have been collected by the collectors of the internal revenue, or which have come through other means into the Treasury of the United States, and at the same time should issue to the banks, if they desired to receive them, or to issue in payment of the interest-bearing notes which are payable in currency an equal amount of legal tenders. In a very few months, four or five, the national bank notes would be withdrawn from circulation and their place supplied with greenbacks without any shock to the business of the country; and, *pari passu*, the bonds of the banks held as security for these notes could be restored to them."

I much prefer the plan proposed in House bill No. 44, known as Mr. Randall's bill, which provides that the notes of the national banks received into the Treasury shall not again be put into circulation; that the Secretary of the Treasury shall pay out for circulation, as the wants of the Government may require, an amount of legal-tender notes equal to the amount of national bank notes so received; that when the national bank notes of any one bank so received, shall accumulate to a certain amount, the bank shall be required to redeem them in lawful money and to present the notes to the Secretary of the Treasury for cancellation; who is directed to cancel said notes and return to the bank the proportionate amount of United States bonds deposited as security for the same. But, should the bank neglect or decline to redeem said circulating notes after reasonable notice, the Secretary of the Treasury is authorized and directed to cancel said notes, and to pay to the bank in legal-tender notes the market value of the proportionate amount of bonds deposited as security for the same, and to transfer the bonds to a sinking fund or to cancel them, as may be thought advisable; and further provides that the amount of legal-tender notes issued in exchange or instead of national bank notes, shall be invested by the Secretary of the Treasury in bonds or other interest-bearing debt of the United States, for the formation of a sinking fund or for cancellation, as Congress shall determine. The result would be, the banks would redeem their own notes, control their own bonds if they desired to do so, the country have the same amount of circulation, and the Government be relieved of paying interest on whatever amount of bonds $300,000,000 of legal-tender notes would purchase. The process would be so gradual that the banks would be able to learn in the mean time, each for itself, whether there would be sufficient business in the community where it is located to justify the continuance of a bank after its circulation shall have been withdrawn. But these remarks will be more in order when that bill shall come up for consideration.

I am in favor of withdrawing the circulation of the national bank notes and substituting therefor legal-tender notes, not alone on account of the interest thereby saved to the Government, but because I believe it is essential, if this country is to return to specie payments during the lifetime of the banks. I am no advocate of immediate resumption of specie payments, but that this country shall continue to carry on its vast agricultural, manufacturing, mining, and commercial interests for an indefinite number of years with an irredeemable paper currency I trust no one seriously advocates; but all concur in the opinion that the best good of all interests and all classes demands that somewhere in the definite future that point shall be reached, and that our legislation should tend in that direction. I may be mistaken, but I can see no road in that

direction which lies through the national banks as at present constituted.

In the first place, it would be impossible for the banks to sustain themselves under a system of specie payments, with all their capital locked up in bonds, and those bonds beyond their reach, as the whole history of stock banking in this country abundantly proves. Besides, it is so directly the interest of the banks, while they have their circulation, to oppose any plan which would compel a redemption of that circulation, that it is only reasonable to expect that their whole influence would be exerted against it. And I feel that I hazard nothing in saying that the Secretary of the Treasury would find it much easier to resume and maintain specie payments with $700,000,000 of legal-tender notes in circulation than with $400,000,000 in legal-tender notes and $300,000,000 of national bank notes. For, should the Secretary of the Treasury make any effort to resume specie payments on the legal-tender notes the national banks, in order to provide their own specie reserve, would simply be so many agencies to gather up the legal-tender notes and return them to the Treasury for redemption.

I am, therefore, of opinion that the first step toward a safe and positive financial basis is to decide which shall form the paper currency of the country in the future, national bank notes or legal-tender notes. That both can continue to be the paper money of the country, the one redeemable in the other, and both redeemable in coin, I think a manifest impossibility. I shall at some subsequent time undertake to show that in any fair comparison between them the legal-tender notes will best fulfill all the requirements of a paper currency, which, in my judgment, in order to answer all the purposes of money, should be of equal value in all parts of the country, a legal tender in payment of all debts of every kind, and redeemable in coin at the place of issue.

A uniform paper currency having been adopted, steps should be taken to bring that currency to the specie value just as soon as the interests of the country and the ability of the Treasury will permit. Nor do I think that a further contraction of the currency will be necessary to that end. The legislation of Congress and the general opinion of the country indicate that $700,000,000 of paper money will not be more than the business of the country will demand. That having been assumed as the requisite amount, it will be better to conform to it in our future legislation, and not attempt to contract or expand it until specie payments shall have been resumed. As it is evident that whenever the Treasury can redeem the United States legal-tender notes those notes can and should be taken in payment of duties on imports, the true way to test the effect upon the business of the country and the ability of the Treasury would be to advance their value by authorizing a certain proportion of these notes, say ten or twenty per cent., to be received in payment of duties, and this proportion to be increased by ten or twenty per cent. annually, until at the end of five, or at most in ten years, they would be equal to gold in the payment of duties, and the Treasury would virtually have resumed specie payment.

This policy once adopted, all could see the steps by which specie payments would be reached. The progress would be gradual, but positive. The business of the country would be adjusted to the new order of things. No jar, or crash, or great decline in prices would follow. But comparative stability, that great want of the country, would be at once attained, and new enterprises would be undertaken. Credit and confidence would be restored; for the policy of the country would be clear and definite, and the financial future, now involved in doubt and uncertainty, would begin to take definite shape and character, and the most desponding begin to realize that there is solid ground ahead.

That the country may keep pace with these progressive steps of the Treasury, and other values advanced in a like ratio, the expenses of the Government must be reduced to the smallest possible amount compatible with a vigorous execution of the Government, and taxation limited, until the resumption of specie payments, to the necessary expenditures of the Government, including the interest on the public debt; the manufactures and productions of the country (except luxuries) should be exempt, as far as possible, from taxation; so that the values produced by labor may, to the greatest possible extent, remain in the hands of the producer to give increased values from year to year. For in this way only can we hope to reach specie payments without a great decline in comparative values.

To meet the just demands of the country, that all the property of the country shall bear a fair proportion of the burdens of Government, I favor the taxation of the present bonds rather than the issue of new bonds at the present time for that purpose. I do not propose to tax them for State purposes, the law having given the holders the assurance that "they shall not be taxed by or under State authority," but to tax them for national purposes, to an amount equal to that borne by other property for State purposes, and to apply the tax thus collected to the payment of bonds.

Nor do I conceive that such a tax, unless extended to all other securities, would be a palpable violation of public faith, any more than a tax on cotton and not on wheat has been a violation of public faith, or a tax on tobacco and not on corn, or a tax on whisky and not on cider. If the public interest demands that a special tax should be levied on cotton and tobacco and whisky, and not on wheat and corn and cider, the same interest demands that a tax should be levied on national securities for national purposes, and not on other securities, which are already taxed for State purposes; and the fact that they are exempt from taxation, by or under State authority, implies that they are subject to taxation by national authority; at least we have authority for such reasoning in the report heretofore referred to, which says that—

"The interest on the public debt being exempted from the legal-tender clause implies that the principal of the debt is not excepted."

Again, it seems to me it would be more in accordance with straightforward dealing and of less doubtful propriety, and, in my judgment, would give more satisfaction to the bondholders themselves, to tax the present bonds directly in the hands of the holders, and thus enable them to say they are bearing their fair proportion of the burdens of Government, than to tax the bonds indirectly by requiring them to be exchanged for another bond bearing a less rate of interest under the implied penalty of having them redeemed in "greenbacks," if they do not make such exchange, and still leave the holders liable to the charge and the prejudice thereby created, that they are holding property which requires the protection but shares no part of the burdens of the Government, State or national.

That a new loan could be sold to advantage in the present condition of the country, for the purpose of redeeming the present bonds, I think very problematical, to say the least; and the promise to pay "principal and interest in coin" would avail but little to secure confidence of the capitalists of the country and the world so long as the outcry for another deluge of "greenbacks" finds encouragement in this House, under the plea of "watering the currency," and astute lawyers and leading statesmen are seeking apertures in the legislation of the country through which to admit the current.

I think it far better that no new loan should be offered until specie payments be reached and the assurance thus given that the principal and interest will be paid in coin. Then such a loan would be considered the best in the world and our whole debt be consolidated at a rate of interest that would be a saving of many millions on the rate that would have to be adopted to secure that object at the present time and under present circumstances.

I know no "new way to pay old debts." With nations as with individuals the means to pay debts must be acquired by saving and earning, and any effort to pay them in any other way will result in somebody being cheated.

Congress should set the example in saving, and no act would give more encouragement to the people, who must do the earning, than the voluntary reduction of the salaries of its members to something near the amount they were before the rebellion. The example would not be lost upon the country. It would be an assurance that Congress was in earnest in talking about retrenchment, and that we are not disposed to "bind burdens on other men's shoulders which we will not touch with our own fingers." The people would hail it as the dawn of a better day and the public burdens would be more cheerfully borne, from the assurance that they would not be unnecessarily increased. The national debt is a constant reminder of the price paid for the integrity of the country. It was debt or disunion; taxation or the triumph of the rebellion. The debt thus assumed will not be dishonored. The loyal people will encourage no attempt to evade or repudiate it. They will accept its binding obligations and preserve the honor of the nation untarnished.

That there be no faltering in the path of national duty and national obligation the financial course of Congress, in my judgment, is plain. Withdraw the national bank notes and issue United States legal-tender notes in their stead, not so rapidly as to justify any abrupt change in the business of the banks, but gradually, that the banks may have an opportunity to learn, each for itself, whether it would be advisable to continue its business without the advantages of its circulation. Limit general taxation to the actual expenses of the Government, including the interest on the public debt. Tax the national debt for national purposes in proportion as other property is taxed for State purposes, and apply the tax thus collected to the reduction of the debt, that the serpent born of rebellion, and which now threatens to destroy the honor and good name of the Republic, may thus begin to destroy itself. Adopt a policy by which the legal-tender notes will be steadily increased in value to the specie standard, a policy so definite and positive that all can understand its bearings and influence, and yet so gradual that the debtor class, the great producing class of the country, may realize that they are not to be destroyed by the rapid decrease in values; and the capitalist may understand that money and bonds will not be the most profitable things to hold, and thus be willing to engage in new enterprises, which would give employment to labor, develop the resources, and increase the wealth of the country.

A definite financial policy thus adopted, easily to be comprehended and understood by all men, would at once give a safe basis of action for all departments of business. The clog which now checks the wheels of commerce would be removed. Men would buy and sell and get gain. Labor would receive its legitimate reward. Each man would bear his own share of the public burden the more willingly, knowing that his neighbor bore his equal share. The national debt, which now hangs like a pall over the industry of the country, would begin to lighten, with glimpses of a clear sky beyond, and the whole nation enter on a new life of progress and prosperity, which would soon repair the waste places of the war and make "the land we love" "the joy of the whole earth."

Mr. AXTELL. Mr. Speaker, I propose to continue the debate upon the bill introduced by the learned and very able gentleman from Ohio, known as a reconstruction bill. This measure is of such vast importance and so novel and startling in its scope and character that I feel unwilling to remain silent during its discussion and passage. I wish at least to enter an appearance for my constituents and to place upon the record their protest against the pas-

sage of this unconstitutional and uncalled for and cruel measure. My remarks are not intended as a full examination of the proposed bill, but simply as a continuation of the debate. It is a most extraordinary spectacle for the legislative branch of the Government in time of profound peace to establish by law military governments over a portion of our country. We are, in fact, attempting to delegate to the General of the Army a power which is conceded not to inhere in this body—the power to frame and impose State governments upon and to determine who are or who are not legal voters in ten States of this Union; to pave the way and afford a fair field and virgin soil for this new enterprise. The bill under consideration abolishes all governments now existing in those States. To further pave the way for "the coming man" and to remove from his mind all shadow of annoyance and all fears of interruption the bill takes from the President of the United States the command of the Army, so far as its operations in these States are concerned. "Truly, if the fruits of the war" are not now secured and counted before next November, there is no reliance to be placed in partisan legislation.

Mr. Speaker, the power of Congress to pass the bill under consideration has been ably and fully debated. This is the important, the vital question. If Congress does not possess the power to abolish these civil or provisional governments the debate is at an end. The marked ability and research displayed in this discussion is a gratifying evidence that we are not "dying at the top." The good temper, patience, and liberality of the learned author of the bill and the majority party on this floor is also an evidence that our hearts as a people are kind and sound. We hasten to accept this as a good omen. Let us hope that as the war recedes the spirit of truth and tolerance may resume its sway over men of all sections and parties, and that the time has come to rebuke that spirit of intolerance which can brook no dissent from its own arbitrary standard of men and methods. While we favor a different policy from that urged by a majority of this House, we beg members to believe—and I am satisfied from my personal acquaintance with many of them that they will be glad to believe—that we love our whole country with a devotion as pure and as ardent as their own. Every difference of opinion is not a difference of principle. I do not believe that there are any in this House who would wish to dissolve this Union or to change its republican form of government. If there are any, allow me to say to this House, in the language of Thomas Jefferson, "let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated when reason is left free to combat it." If the courtesy of debate has been marred by language unbecoming the council halls of a great nation, let us charitably hope that it was the mistake of ignorance and not the promptings of a malignant heart.

In my judgment the article of our Federal Constitution relied upon to sustain this measure was placed in that grand charter and bulwark of our liberties for an entirely different purpose. When I read that the United States shall guaranty to all the States a republican form of government I cannot, I dare not, give my vote to place a State under martial law. Congress derives its existence from the States, not the States from Congress. This branch of the argument has, however, been exhausted by men patient in research and experienced in debate. Men upon this floor, of equal education, patriotism, and honesty of purpose, differ in their conclusions. I place myself most heartily and entirely with the negative, and emphatically deny that Congress has the power either to abolish the State governments or to deprive the President of the United States of the command of the Army. I do not at this time propose to debate this branch of the question, but simply to speak to the policy and necessity of this legislation.

The happiness and well-being of all the people in the southern States are placed by the fortunes of war measurably in our hands. It is a most solemn and sacred trust. They are our kinsmen, educated with us, speaking the same mother tongue—greatest bond of nations—professing the same religious faith, imbued with the same love of civil and religious liberty, and accustomed to the same forms of government with ourselves. In dealing with such a people for the purpose of bringing them again into harmonious action with us in one common, equal, and free government, it is certain that we must obtain the good will and assent of a majority of their people. To do this our demands upon them must be just and reasonable, and our conduct toward them honorable and kind. All harsh and arbitrary measures or cruel and insulting language—for a word can wound deeper than a blow—are unworthy of our power and position in this controversy. Conciliation and magnanimity shed resplendent luster upon the powerful and victorious, while arrogance, repulsive at all times, is hideous when joined with victory. Behold tyrannous victors, "how they hide their faces, miserable in their ignominy." If we fail to conciliate and win the love and assent of this great people to unite with us again in friendly and fraternal relations we not only fail in the objects of the war but we fail in the highest hopes and aspirations of the century—liberty, unity, and fraternity.

The civil war recently waged between ourselves and this people originated from various causes. Its object on the part of the South was independence; on the part of the North at first simply to prevent this. Afterward, as the struggle continued and events gave birth to thoughts and shaped designs, an issue was boldly tendered by the North; nor ever, allow me to say, in the days of highest chivalry can an instance be found in romance or poetry or knightly legend when a more heroic challenge was given, or with more pomp or formality! The North by her heralds said to the South: "Your independence and our integrity as a nation are wagered upon this battle. You tendered that issue. We add now to the prize for which we fight the freedom of your slaves. Take ninety days in which to consult your people." The South did not require ninety minutes. She accepted the terms of the fight with alacrity, for it welded her people as one man. The battle that was now fought, whether we consider the number, valor, and intelligence of those engaged or the prize for which they contended, has no equal in ancient or modern history. The existence of a mighty Republic; the freedom of four million people! The South had many brave and gallant sons; their graves are thick and green over all her fair land; her daughters bewail upon the mountains, and the voice of weeping is in all her borders; her wealth has departed, and her voice is no longer heard in the councils of nations!

There never was a people who fought more bravely or yielded more bravely than the South. How happy I am that they are my countrymen! How proud I am that our noble troops met such foemen! The unity of the Republic and the freedom of all men under its flag are the legitimate fruits of this war. When the South yielded she as much gave up these two points as if every man within her borders had signed a convention to that effect. Nor has she to my knowledge ever denied or sought to recede from these propositions. Should she ever do so we must seek and apply a remedy—even if it should be the sword. No drop of the precious blood which makes our battle-fields holy shall ever cry in vain to us from the ground! Lives so precious have sealed this compact that any breach of it would be a crime too great for death. When the South yielded the North virtually guarantied to her as a whole people the same relative proportion in the Union which she occupied before the war with the right of self-government in all things, except as she might be restricted by the Federal Constitution and the implied contracts of the surrender. She at once and in good faith proceeded to carry out the contract. She placed solemn guarantees in her State constitutions against slavery, and proceeded, with the aid of her recent slaves, now freedmen, to reconstruct her shattered fortunes. The arts of peace, with that elasticity peculiar to our society, soon displaced the trade of war; and there seemed a happy future in store even for this generation. That the scars must remain upon the hearts of the principal survivors was to be expected, but that the rising generation, under the kindly influences of peace, would conform to the new order and take kindly to the North was both hoped and expected. But woe worth the day! There were shepherds in the North so eager to save this flock that they commenced "hounding them back with dogs"—a poor way, Henry Ward thinks, to save lost sheep. And finally, after three years of vacillation and change and failure, now, on account of a difference of opinion or political quarrel between the Republican party and its President, the dominant power in Congress propose this bill, which abolishes their State governments, suspends the laws of the United States as to them, and deprives them of every civil and legal right. Why this is to be done I have never learned. What its result will be no living man can prophesy. Once entered upon a course of injustice, our descent to the shades will be swift and facile. The law of compensation is universal; what you sow that you shall reap. When Burke, in his great speech on the conciliation of the colonies, announced in his impassioned rhetoric that every blow struck at American liberty undermined and weakened the British constitution, he only made an individual application of the divine formula that "Whatsoever ye would that men should do unto you, do you even so unto them." There is an "irrepressible conflict" between right and wrong, and the United States will soon be all free and equal, organized and governed by written laws, or they will be all without constitutions and governed by arbitrary and irresponsible power. The South cannot be enslaved and the North remain free; arbitrary power and constitutional liberty are "opposing and enduring forces." When the South laid down her arms after the solemn arbitration in the court of death, and the North accepted the surrender, we were and still are under mutual and equal obligations. This is not only in accordance with the law of nations, but is enjoined upon us by a law older and more sacred—the rights of human nature. Any attempt to impose upon that people laws which are repugnant and distasteful to them, or to interfere with the management of their private affairs, or to impose new conditions not either demanded in the war or stipulated or implied in the surrender, is not merely ungenerous; it is unjust and oppressive. The doctrine that the magnitude of their crime has barred their entrance to the temple of justice is simply atrocious. Whoever is the author of the sentiment is a coward and a villain.

A few words as to the freedmen and I have done. Wendell Phillips said, a short time since, "The Republican party have abolished slavery, but the difficulty is they have not abolished the master." That they are now proceeding to do; for it seems to be generally conceded by his school that if it was not for the white people in this country there would be no further difficulties in the way of reconstruction. The whole North abolished slavery—won it in a square stand-up fight. The Republican party as such did not nor could not touch a link of its shackles outside of their district. The negro was put up on this fight, and the South lost him. He is legitimately our negro. The whole North fought this war, not the Republican party alone. And the faith of the whole North, irrespective of party, is pledged to guaranty to the negro his freedom and to protect him in his natural and inalienable rights, not because he fought in the war on our side, for but comparatively few of them did—but because the rights of

human nature demanded it, and our sons and brothers "died to make them free." Their liberty has been bought with an inestimable price, and can never be subverted or taken from them either by fraud or force. It is well for all men North and South to understand this. As to those antediluvians who expect success or seek ephemeral fame by building a party upon the defects or deformities of any of God's creatures, let them also stand as monuments of the good temper and patience of the people, who are willing to tolerate with a compassionate smile the weakness of a man who dares to reason that because a negro is inferior he should therefore be oppressed. The brave, the strong, the benevolent, and the wise tolerate this drivelling from the same noble principle that dictates their action toward the negro—compassion to the weak. That to protect the negro in his inalienable rights of life, liberty, and pursuit of happiness, it is necessary to confer upon him the ballot and make him a law-giver is begging the entire question. To-day, I believe, in most of the northern States the colored men stand in the courts of justice on an exact equality with other citizens as to all civil rights and remedies.

And I know of no sentiment or principle in the Democratic party which seeks to deprive them of these rights. Equal and exact justice to all is the corner-stone and foundation principle of our political temple. The elective franchise, or right to vote, is neither a natural nor inalienable right; it is simply a political privilege granted or withheld according to the judgment of those who plant a State and establish its fundamental laws. It is not even a necessary attribute of citizenship, nor has it any necessary connection with legal rights and remedies.

The large and intelligent bodies of foreign-born men in this country will justify me in these positions, and unanimously affirm that they enjoyed all rights and liberties as well before as after they were invested with the franchise. Our wives and daughters and minor sons and widowed sisters, and the dear old maids, all of whom we love as tenderly as the Republicans can possibly love the negro, will certainly bear witness that they stand equals with us before the law and enjoy with ourselves the full protection of Government. I will endeavor to avoid irritating my Republican friends by using the word Constitution, for I know how sensitive they are upon this point, and I will simply assert that Congress has no power to determine who shall be voters in any State, and that it is very weak and absurd for us to seek to confer power upon others to do what we cannot do ourselves.

It is asserted that the majorities in the southern States will, if not checked, oppress the negro. While I do not believe this, for the sake of argument admit that it is true, and I still deny that negro suffrage and martial law is the remedy. If we must legislate for the negroes let us do it ourselves, as we do for the District of Columbia. My own thought has been and still is that these freedmen occupy a peculiar relation to the Government, something like the Indians, only more docile, teachable, and governable. If it becomes necessary let us purchase lands for them and remove them to reservations, or, if necessary, let us establish numerous courts, as we have a right to do, throughout the South, and empower and require the judges appointed by ourselves especially to guard the rights of these unfortunate people. Let us try every measure before we resort to this desperate experiment. It is unjust, tyrannical, and revolutionary, and tends to most disastrous consequences. We must not innovate and tamper with the sacred principles which lie at the foundation of our Government. Should we pluck down this grand old temple of liberty the negro, as the inferior and weaker, would lie buried deepest beneath its ruins. If we bring to this debate the candid temper and impartial judgment which characterized the founders of our Republic we shall meet with no insurmountable obstacles to the restoration of our beloved but now unhappy country. We all know and ought to have the manhood to admit that the South is no more responsible for the existence of African slavery than the North. We of the North know that our fathers helped to establish the institution and always recognized its legality, and we know that our fathers would not nor could not have permitted their emancipated slaves to have sat with them at board and in council. Why do we insist upon breaking the golden rule?

To deprive the southern people of the right of self-government; to force upon them negro suffrage; to press and cramp them by martial law to comply with our demands is not only unjust and cruel to them, but is most humiliating and degrading to ourselves. To the candid mind such measures seem to be urged either from malicious or interested motives. Is it possible that the Republican party dares to play with the heart-strings of the nation for the purpose of carrying a paltry presidential election? The contemplated passage of this bill has already disturbed and embarrassed the country to an alarming extent. The candid and wise legislation of the early part of the session encouraged and invigorated the country; the conservative men joined hands and aided each other to restore public confidence in the stability and harmony of the Government; the impeachment bill was promptly ignored; the ruinous and arbitrary contraction of the currency checked, the cotton tax repealed, and measures introduced and debates inaugurated which looked to earnest and statesmanlike legislation. And allow me to point to a significant fact: gold receded in consequence ten per cent., or every man in the Union who possessed $100 of currency was ten dollars richer for the wisdom and moderation of Congress. One week of this useless and unhappy legislation has brought gold back from thirty-three to forty per cent., depreciated the value of public funds, and thrown, in the dead of winter, thousands of laboring poor out of employment. Freedom! what crimes and follies are perpetrated in thy sacred name! In conclusion let me serve notice upon the authors and supporters of the bill that the artifice to entrap the President into the commission of a "high misdemeanor" while in the conscientious discharge of his duty is thoroughly understood and properly appreciated by all candid and right-minded men.

Mr. WASHBURN, of Indiana, obtained the floor.

Mr. BLAINE. Mr. Chairman, this morning I yielded my right to speak because I did not care about going on on Saturday, and I did not wish to block the debate by holding the place. My desire was that I might have the floor the first time the House went into Committee of the Whole on the President's message on another day than Saturday. And if that is unanimously assented to, I will now give way to the gentleman from Indiana.

The CHAIRMAN. If there be no objection the gentleman from Maine will be entitled to the floor the first time the House goes into Committee of the Whole on the state of the Union on the President's message on any day other than Saturday.

No objection was made.

Mr. BLAINE. With the consent of the gentleman from Indiana, I now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

And then, on motion of Mr. HUBBARD, of West Virginia, (at four o'clock and twenty minutes p. m.,) the House adjourned.

PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By the SPEAKER: The petition of G. W. S. Hunter, of Almona, Randolph county, Alabama, praying that he may be allowed to distill spirituous liquors for medical purposes in said State free of internal revenue tax.

IN SENATE.

MONDAY, *January* 20, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating an estimate of appropriations required for the Navajo Indians at or near Fort Sumner, New Mexico, for the residue of the fiscal year ending June 30, 1868, and for the fiscal year ending June 30, 1869; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the constitutional convention of Georgia in favor of the repeal of the tax on cotton; which were ordered to lie on the table.

He also presented resolutions adopted at a meeting of citizens of North Andover, Massachusetts, urging the protection of the naturalized citizens abroad; which were referred to the Committee on Foreign Relations.

Mr. MORGAN presented the petition of George W. Doty, United States Navy, praying to be placed on the Navy Register as a commander on the retired list; which was referred to the Committee on Naval Affairs.

Mr. HENDRICKS presented a memorial of Jonathan Crews, attorney for the heirs of Francis and Antoine Renault, deceased, praying the passage of an act authorizing them to locate four hundred acres of land each in the old donation tract of the Vincennes land district; which was referred to the Committee on Private Land Claims.

He also presented the petition of citizens of Louisiana, praying relief for the New Orleans, Opelousas, and Great Western Railroad Company; which was referred to the Committee on Public Lands.

Mr. COLE presented a resolution of the Legislature of California, urging the survey of the mouth of the Eel river, in Humboldt county, in that State; which was referred to the Committee on Commerce.

Mr. WILSON presented a memorial adopted by the national convention of manufacturers assembled at Cleveland, Ohio, signed by citizens of Boston, Massachusetts, proposing a plan for a change of internal revenue taxation; which was referred to the Committee on Finance.

He also presented resolutions adopted at a meeting of citizens of Hampden county, Massachusetts, urging the protection of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

He also presented a petition of William Henry, late sergeant company F, third United States infantry, praying that certain money intrusted by him to Lieutenant Thomas D. Parker, who was killed in battle June 27, 1862, may be refunded to him by the Treasury; which was referred to the Committee on Claims.

Mr. CHANDLER presented a petition of citizens of Michigan, praying the establishment of a mail route from Big Rapids to Millbrook, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILLEY presented a petition of citizens of West Virginia, praying that a pension be granted to Edmund J. Hays, late a private in company B, sixth West Virginia volunteers; which was referred to the Committee on Pensions.

Mr. HOWE presented a petition of William B. Parks, praying that $300 paid by him to obtain exemption from draft be refunded; which was referred to the Committee on Claims.

Mr. THAYER presented the petition of Moses F. Shinn, praying that a patent may be issued to him for the northeast quarter of section sixteen, township fifteeen north, range thirteen east, Omaha district, Nebraska; which was referred to the Committee on Private Land Claims.

Mr. POMEROY presented a petition of Stephen C. Millet, president of the Port Royal Railroad Company, asking for aid in the construction of that road; which was referred to the Committee on Public Lands.

He also presented a memorial of Israel S. Diehl, praying the remission of duties paid on imported goats; which was referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORRILL, of Maine, it was

Ordered, That the petition and papers in the case of Anna E. Bronaugh, on the files of the Senate, be referred to the Committee on the Judiciary.

On motion of Mr. NYE, it was

Ordered, That the resolutions of the Legislature of Nevada in favor of an appropriation for the relief of the inhabitants of Humboldt county, in that State, on the files of the Senate, be referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the joint resolution (H. R. No. 79) relative to the purchase of Hall's carbines, reported adversely thereon.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a motion to print the petition of the regents and curators of the Kentucky University, praying compensation for property and medical apparatus destroyed by fire while occupied as an hospital by United States troops, to report it back to the Senate and ask to be discharged from its further consideration. The petition has been referred to the Committee on Claims, and if the Committee on Claims desire to have it printed it is proper for them to make a motion to that effect.

The report was agreed to.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the memorial of the stockholders and bondholders of the Central Branch Union Pacific Railroad Company, praying that Congress construe by joint resolution the act of July 3, 1866, so that said road may not be prejudiced, submitted a report accompanied by a bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company. The bill was read and passed to the second reading, and the report was ordered to be printed.

Mr. WILLIAMS, from the Committee on Appropriations, to whom was referred a petition of citizens of Oregon, and of Washington and Montana Territories, praying an appropriation for the construction of a wagon road from Horse Plains to Cabinett Landing, Montana Territory, asked to be discharged from its further consideration, and that it be referred to the Committee on Territories; which was agreed to.

ORDER OF BUSINESS.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of Senate bill No. 166.

Mr. CHANDLER. I desire to call up the joint resolution which was under consideration during the morning hour on Thursday last.

The PRESIDENT *pro tempore*. The motion of the Senator from Oregon is first in order.

Mr. MORGAN. Let us get through with the morning business.

Mr. CRAGIN. I ask leave to introduce a bill.

The PRESIDENT *pro tempore*. Does the Senator from Oregon wish his motion put now?

Mr. WILLIAMS. I do not wish to interfere with the morning business, but I desire to have the bill taken up and then I am willing to give way. It is a bill in reference to a land grant in Missouri.

Mr. CHANDLER. If the Senator will allow the joint resolution to which I referred to come up I will consent to lay it aside informally in order to enable him to dispose of his bill.

Mr. WILLIAMS. It will take but a few minutes to pass this bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon, to proceed to the consideration of the bill (S. No. 166) for the relief of the owners of the land within United States survey No. 3,217, in the State of Missouri.

The motion was agreed to.

Mr. WILLIAMS. I am now willing to give way informally for the introduction of any morning business. I do not wish to interfere with that.

BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 257) for the relief of Clement T. Rice and Chauncey M. Noteware, late register and receiver at Carson City, Nevada; which was read twice by its title, and referred to the Committee on Claims.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 258) to incorporate the National Union Manufacturing and Publishing Company of Washington city, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 259) to renew the charter and to extend the boundaries of the city of Washington; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 260) to prohibit the payment of bounty to deserters, and for other purposes; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 261) to grant one million acres of public lands for the benefit of public schools in the District of Columbia; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 262) concerning district judges; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 263) to facilitate the administration of justice; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 264) for the relief of Henry C. Noyes; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 265) to increase the salaries of the judges of Utah Territory; which was read twice by its title, and referred to the Committee on Territories.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 91) for the relief of Moses F. Shinn; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 92) for the relief of Israel S. Diehl; which was read twice by its title, and referred to the Committee on Finance.

VESSELS PURCHASED FOR WAR PURPOSES.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War furnish the Senate with the names of vessels of all kinds purchased by the War Department or any bureau or officer connected with that Department during the late war of rebellion, the tonnage and amount paid for each vessel, the amount of contract price and its date.

Also the names of the vessels of all kinds hired or employed in the same way and by the same authority during the said war, the tonnage when given, and when not given the size or description of each, the value when specified, and when not specified the value by estimation, with the amount paid by the day, month, or other term, with dates for each time. The price for which any of the foregoing vessels were sold by the Government, giving dates of sale, terms, and times of payment. And in every case the names of the party or parties from whom any such vessel or vessels were purchased or hired, and to whom they were sold.

CAPTURED AND ABANDONED PROPERTY.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, in answer to the resolution of the Senate of December 9, 1867, calling for information in relation to the action of that officer in cases of claims for captured and abandoned property or the proceeds thereof.

Mr. TRUMBULL. Let the communication be read.

The Secretary proceeded to read the communication, and after some time,

Mr. SHERMAN. I think the usual course ought to be taken with this communication. I move, therefore, that it be printed and referred to the joint select Committee on Retrenchment, which has charge of the subject.

Mr. TRUMBULL. I do not know how long the communication is; but it is in reply to a resolution offered by me, and I should like to know what the answer is.

Mr. SHERMAN. It is unusual to read such long letters, but the practice is to order them to be printed.

Mr. TRUMBULL. I do not want the documents read, but I should like to hear the Secretary's reply unless it is very voluminous. I understand from the Clerk it will take only about five minutes to finish the reading.

Mr. SHERMAN. Very well; I withdraw my motion for the present.

The PRESIDENT *pro tempore*. The reading of the communication will be continued.

The Secretary continued and concluded the reading of the communication, which is as follows.

TREASURY DEPARTMENT, *January* 16, 1868.

SIR: In reply to a resolution of the Senate, adopted December 9, 1867, requiring certain information in relation to the action of this Department with reference to captured and abandoned property, I have the honor to report as follows:

That on the 2d of March, 1867, in reply to a resolution of the Senate of February 5, 1867, I communicated a list of parties to whom cotton or its proceeds had been released or given up, together with a statement of the value and amounts of the same.

A copy of this former communication (Senate Executive Document, No. 37, Thirty-Ninth Congress, second session) is annexed and made a part of this communication.

This statement was made up from the books and records in the Secretary's office, and was believed to be substantially correct. I have now caused to be added, in answer to the further inquiry of the present resolution, the name of the State in which the claimant professed to reside. On revision only one case is ascertained to have been omitted and that by accident. It is known as the Gibbes' cotton case, in which the property was detained for a time and then allowed to be shipped, as stated in the accompanying letter marked C.

It will be observed that the document above referred to reports only releases of cotton. Releases of miscellaneous property, other than cotton, have been small in amount. A list of the cases will be prepared and forwarded as soon as possible in a supplementary report, this reply having already been unavoidably delayed too long on account of the resignation of the Assistant Secretary and of the head of the captured and abandoned property division.

Household furniture, family relics, books, &c., generally taken by military order for temporary use and subsequently transferred to Treasury agents, were ordered to be restored to the original owners by my circular letter of September 6, 1865, whenever the conditions named therein were complied with. (See document marked D, annexed.) In one case, that of Lewis Washington, the household furniture having been sold at auction by mistake of the Treasury agent, the proceeds of sale, amounting to $1,162 71, were restored in lieu of the furniture.

In compliance with the request of a sub-committee of the joint Committee on Retrenchment, dated April 4, 1867, no releases of property held as captured or abandoned have been since made, nor claims in connection therewith paid, except for expenses in collecting the property. In the interval of a month between the report to the Senate thereto attached and the request of the Committee on Retrenchment claims to the amount of $7,126 82 were allowed. One compromise, however, has been made in the case of a suit pending against the United States in the United States circuit court of New York, known as the "Dennistoun" cotton case. The agent of the United States was under a replevin bond in this suit of $400,000; which amount of money the Government deposited to the credit of his sureties in the Farmers' Loan and Trust Company of New York. As this cotton was not ostensibly the property of the late rebel government, nor captured nor abandoned, but was alleged to have been purchased legally after the close of the rebellion from a foreign firm by Dennistoun, Wood & Co., of New York, it was thought advisable by eminent counsel to pay the sum of $53,000 for a final settlement and release the money on deposit.

The resolution requires me to report the evidence upon which such property or its proceeds was released. To copy the affidavits filed during nearly five years in these cases would apparently employ any force I have at my command for such a purpose for over six months. I have, therefore, thought it more in accordance with the wishes of the Senate to make this present answer to the other points of inquiry, and in regard to the evidence to propose to send for its inspection the documents on file in any particular case that may be demanded, or to make a supplementary report whenever it can be prepared.

The evidence in each case is of the nature indicated briefly in my letter of March 2, 1867. Prior to the close of the rebellion claimants were invariably required to furnish competent proof of loyalty.

The authority under which action had been taken by the Department and cotton and other property or its proceeds returned to the owners, was also concisely, but distinctly, stated in the aforesaid letter. It was the opinion of my predecessors in office that it was not only the right but the duty of the Treasury Department to examine the facts in relation to all property coming to the hands of its agents, and if it appeared that the same had been taken in violation of law to restore it or its proceeds to its owners. The rule as adopted by them was sufficiently broad to authorize them to adjudicate the title to property taken by the Army or Navy and turned over to agents of the Treasury Department. But after the capture of Savannah and of the large amounts of cotton therein the Attorney General gave the Department his opinion that all questions arising with reference to property taken by the military authorities could be adjudicated only in the Court of Claims; which opinion has since governed the action of the Department as to cases considered as fairly within the purview of the same.

In relation, however, to cotton or other property taken possession of by the Treasury agents without military assistance or intervention, I have followed the practice of my predecessors, and have investigated the circumstances of the seizures; and if it has appeared in any case that the property was not rightfully subject to seizure I have restored the same or its proceeds to its lawful owners.

In view of the action taken by my predecessors, who established the settled practice of the Department, and in the absence of any legislature for the purpose of altering that practice, it seems to me that it would not only have been inexpedient but unlawful for me to have refused to take similar action to revise and correct the errors, mistakes, and frauds of my own subordinate officers and agents. It would hardly have been tolerated if the Department at the close of the rebellion had sent throughout the South agents to collect captured and abandoned property and had refused to exercise the authority to revise and control their proceedings. If an agent seized the private property of an individual through mistake or error or for fraudulent purposes, and the owner presented himself at the Department with full and undisputed proof of the facts, could the Department justify itself in refusing to correct the wrong done to a citizen and refer him to the Court of Claims for his only remedy? If such had been the rule acts of robbery and oppression without number would have attended the efforts which were made to secure the property which rightfully belonged to the Government. In the view taken by the Department the late Attorney General, Hon. James Speed, concurred, as will be seen by his opinion in the case of Joseph P. Billups, a copy of which is herewith transmitted, marked E.

After the rebellion was practically terminated by the surrender of the confederate armies in the spring of 1865 all restrictions upon trade were removed; and it was decided to confine the action of the Department to the seizure and conversion to the uses of the Government of property which had been transferred by its owners to the uses of the so-called confederacy, and had become in form the property of such confederacy, or such as had been captured by the military forces, or which had been used directly or indirectly, or intended to be used, in aid of the rebellion. While thus engaged in making collections of the aforesaid property agents of the Department frequently seized the property of private individuals, who complained to the Department for redress, which, upon clear proof, was duly afforded. In some cases of this character it is possible that property seized or detained was restored to its owners without requiring proof that they had not aided the rebellion. To have required such proof would have been practically allowing the agents of the Department to seize, after the war closed, the private property of any southern citizen, when their instructions were to collect only property which answered to the above description. In no case, however, it is believed, was property or its proceeds restored to any unpardoned rebel.

In some important cases, in which the numerous and imperfect affidavits seemed to require a more rigid analysis than usual, I have not trusted to the clerks in charge for a report nor my own judgment exclusively, and have procured the opinion of eminent counsel before action. Not involving a distinct point of law for decision, these cases could not be submitted to the Attorney General, whose duties do not embrace the investigation of facts. In such cases the fee of special counsel has been made a charge upon the proceeds of the property in question, whether the petition for release was allowed or rejected. In no other way have claimants been required by any action of the Department "to pay any fee or compensation of any kind to any attorney or other person."

In further reply to the resolution of the Senate, I have the honor herewith to transmit copies of the correspondence between this Department and the various officers of the Court of Claims in relation to judgments rendered in said court in cotton cases. Judgments to the amount of $131,450 58 having been rendered by the court in favor of claimants of cotton taken by the military forces during the rebellion, I deemed it my duty, on account of the importance of the questions which had arisen and of the large amounts involved in similar cases to follow, to endeavor to secure appeals therein to the Supreme Court of the United States. A motion being duly made for that purpose and fully argued, the Court of Claims decided that no right of appeal to the Supreme Court existed by statute in this class of cases, and refused to allow the appeals. Being called upon, therefore, in pursuance of law, to pay the judgments, I submitted the question to the First Comptroller of the Treasury, who advised that the decisions were not conclusive as to the net proceeds remaining in the Treasury of any specific property, and that it was my duty to ascertain the exact amount thereof before paying the judgments. Knowing that the calculations made by the court were based upon the deposition of an agent whose accounts had not been officially examined and passed, I revised them to make them conform to the official statement; and in all cases paid what was ascertained to be, as nearly as possible, the correct amount.

With great respect, your obedient servant,

HUGH McCULLOCH,
Secretary of the Treasury.

Mr. SHERMAN. I move that the communication be referred to the joint select Committee on Retrenchment, and printed.

Mr. TRUMBULL. I should like to inquire whether the Committee on Retrenchment are taking charge of the matters referred to in that report. If they are, I have no objection to its going to them.

Mr. EDMUNDS. The Committee on Retrenchment, by a resolution of one or both Houses—I have forgotten which—were instructed to inquire into this whole cotton subject, and a sub-committee of that committee have been for many months diligently pursuing that matter, and they have it under consideration now. I have myself no motion to make about it. The pleasure of the Senate will be my pleasure as to where this communication shall go.

Mr. SHERMAN. It was referred to the Committee on Finance, but they have not time to go into a detailed examination and inquiry. I trust, therefore, the reference I have proposed will be made.

Mr. TRUMBULL. I have no objection to its going to the Committee on Retrenchment. I only hope it will not escape consideration there, and that the admissions made in the report that the Secretary of the Treasury has paid the proceeds of cotton to rebels without any inquiry, and some other statements that are made in the report, will be inquired into by the Committee on Retrenchment.

The motion was agreed to.

LAND CLAIM IN MISSOURI.

Mr. WILLIAMS. I now call for the consideration of the bill which the Senate on my motion agreed to take up.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 166) for the relief of the owners of the lands within United States survey No. 3,217 in the State of Missouri.

The bill proposes to release, grant, relinquish, convey, and confirm, in fee simple and in full property, to the legal representatives of Ann O. Camp and Antoine Reilhe, all the right, title, and interest of the United States in and to all of the land within United States survey No. 3,217, in townships forty-four and forty-five north of the base line in ranges six and seven east of the fifth principal meridian line, in the State of Missouri, being the same land that was surveyed by the United States for Madame Camp and Antoine Reilhe's representatives, containing two thousand nine hundred and five arpens and fifty-six perches and forty feet, which is equal to two thousand four hundred and seventy-one acres and seventy-six hundredths of an acre.

The Committee on Private Land Claims propose to amend the bill by inserting after the words "legal representatives" in lines five and thirteen respectively the words "and assigns."

Mr. DRAKE. I would suggest to the honorable chairman of the Committee on Private Land Claims that it would perhaps be as well not to make that amendment for this reason: From the earliest times, in reference to old Spanish and French land grants in Missouri, the confirmation has been to "the legal representative" of the original grantee. That is a well-known technical phrase which runs through all the confirmations and all the acts of Congress which have ever been passed in reference to the confirmation of those claims. The term "legal representatives" necessarily includes the assignee of the original grantee. Now, to introduce a change in the phraseology which has been customary for more than fifty years in connection with these land grants may lead to complications and difficulties about this particular case which I am sure the chairman of the committee would not desire to have grow out of this bill. I state this for the information of the honorable chairman of the committee, and I hope that he will find in it sufficient reason for allowing the bill to pass in the shape in which it was originally introduced, drawn up by a lawyer in St. Louis who is very familiar with our land titles, and the phraseology of it adapted to all the phraseology which has ever been used in similar cases in confirmations and in acts of Congress for the last fifty years.

Mr. WILLIAMS. I am not very particular as to the phraseology, but I supposed that this amendment would be a greater protection to the purchasers and owners under this claim than the mere words "legal representatives," and that was the opinion of the committee. It may be that in reference to the Spanish land grants the words "legal representatives" have acquired a peculiar meaning; but they do not ordinarily in law embrace "assigns." "Legal representatives" is a phrase that has a technical meaning in law and does not, as a general rule, embrace purchasers and assigns; and when this amendment was proposed by the committee the gentleman from St. Louis who has charge of the case was consulted about the proposed amendment and did not object to it, although he said that it would be satisfactory to the parties concerned to have the words "legal representatives" in the bill and no other words used. I am quite indifferent about it, one way or the other, but it is my opinion that the word "assigns," added to the words "legal representatives," will be a greater protection to those who now occupy these lands and hold them than the mere words which were in the original bill. I suppose the honorable Senator, though, is the representative of those persons; and if they desire this change, if they think these words of the original bill sufficiently protect them, it is not a matter of any consequence to the committee, one way or the other. The amendment was only proposed out of abundant caution for their protection.

Mr. DRAKE. I supposed that that was exactly the motive of the committee and the object they aimed at in proposing this amendment; but I will state again to the Senate and

to the chairman of that committee, that in the many thousands of confirmations which have been made in the State of Missouri of old Spanish land grants to parties claiming under the original grantee, this term "legal representatives" has been uniformly used from the beginning, and it is well understood there to include all parties deriving titles through the original grantee, whether by devise or purchase or descent; and I would prefer, as the honorable chairman of the committee says he is not at all anxious about it, that the bill should be passed in the shape in which it was originally drawn, for fear that the insertion of words which have never been used in that connection before might lead to some difficulty which we cannot foresee.

Mr. WILLIAMS. I am willing that the Senate should disagree to the amendments. They are not of any great consequence.

The amendments were rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 213) to suspend further reduction of the currency.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 452) for the relief of Captain C. P. Johnson;

A bill (H. R. No. 453) increasing the pension of Nancy Weeks, widow of Francis Weeks, a soldier of the war of 1812;

A bill (H. R. No. 454) granting a pension to John Kelly;

A bill (H. R. No. 455) granting a pension to David Van Nostrand;

A bill (H. R. No. 456) granting a pension to the minor children of Pleasant Stoops; and

A joint resolution (H. R. No. 154) in relation to the settlement of the accounts of certain officers and agents who have disbursed public money under the direction of the chief of Engineers.

CONSULAR APPOINTMENTS.

Mr. CHANDLER. I now renew my motion that the Senate proceed to the consideration of the resolution named by me.

Mr. JOHNSON. I would inquire of the honorable Senator from Michigan how long it is likely the resolution he has mentioned will occupy.

Mr. CHANDLER. But a very short time; not more than ten or fifteen minutes, I think. I was prevented from making a response to an assault personal to myself and the State which I in part represent on Thursday last, and I simply claim the usual courtesy which is extended to Senators in such cases.

Mr. TRUMBULL. The Senator from Iowa is not in his seat.

Mr. CHANDLER. I cannot help that; I have waited long enough.

Mr. JOHNSON. I made the inquiry because I propose to call up the case of my colleague elect, which is a privileged question.

Mr. CHANDLER. I shall not occupy more than ten or fifteen minutes.

Mr. JOHNSON. Then I yield.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 74) in relation to consular appointments, the pending question being on the motion of Mr. CHANDLER to refer the joint resolution to the Committee on Commerce.

Mr. CHANDLER. Mr. President, I regret that the Senator from Iowa [Mr. GRIMES] is not in his seat. He saw fit at the close of his remarks on Thursday, to which I tried to respond at the time, to make some personal allusions to myself and likewise to the State which I have the honor in part to represent. Now, sir, the consular system to which this joint resolution refers is to-day more efficient than it has ever been since the foundation of this Government. In 1860 the chairman of the Committee on Commerce was the rebel Mr. Clay, of Alabama, and nearly every consular agent abroad was of rebel proclivities. They neither knew nor cared anything for the commercial interests of the United States. Great frauds had crept into the consular system. In point of fact, honorable American citizens were almost driven from certain branches of importations. False invoices, fraudulent invoices, were passed through the custom-houses, and honorable Americans could not transact the importing business. Since that time the whole consular system has been revised. At the suggestion of our consul at Manchester, in 1863, we changed the plan of consular indorsements, compelling every shipper to the United States to have his bills indorsed by the consul at the place where the goods were manufactured for shipment. This new law has transferred the consular system from a burden upon the Treasury to a paying institution. It formerly cost the Government about one hundred thousand dollars a year more than the whole receipts from consular fees to pay for the consular system. Now, as I was informed by the Secretary of State on Saturday, the revenue from consular fees exceeds the whole expenses of the consular system about one hundred and thirty thousand dollars in gold, which is paid into the Treasury. In addition to that these frauds have ceased, and more than twenty million dollars a year in gold have been saved to the Treasury from this new system. After its adoption it became the duty of each consul to become thoroughly conversant with every manufacture which took place in the district to which he was accredited. For example, a consul in Germany had to become acquainted with all the products of Germany, and become conversant with the values of the invoices to which he should certify. In France he became conversant with the qualities and values of silks and wines, and in England with all the varied products of English industry. The bills were all signed in duplicate, and in case a fraud was discovered or a fraud was attempted the original invoice was sent to the consul, and it was his duty to investigate and see if there was a fraud, he having one of the original certified bills.

As I said before, under this new system, from a burden on the Treasury, the consular service has become not only self-sustaining, but now pays an annual tribute to the Treasury of the United States of something like one hundred and thirty thousand dollars in gold, and the Treasury has been benefited to the amount of over twenty million dollars. And yet, sir, notwithstanding this improvement upon the consular system, the Senator from Iowa now proposes to change it. He proposes that line officers of the Navy on the retired list, not below the rank of commander, may be appointed to consulates.

COTTON TAX.

The PRESIDENT *pro tempore*. The time has arrived when it is the duty of the Chair to call up the unfinished business of the last sitting of the Senate, which is the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

Mr. SHERMAN. I will state in regard to that matter that on examining the rules and conversing with the Chief Clerk I am advised that the motion I made in regard to this bill is not in accordance with the rules or practice of the Senate. I propose, therefore, with the consent of the body to ask at once for a committee of conference, as the shortest way of getting at the question. I move that the Senate insist on its amendments to the cotton tax bill, and ask for a conference on the disagreeing votes of the two Houses. That will not give rise to any debate, and we may as well take the vote now.

Mr. CHANDLER. Very well.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio with regard to House bill No. 207.

The motion was agreed to; and the President *pro tempore* being authorized to appoint the committee, Messrs. SHERMAN, CONKLING, and MORRILL of Vermont were appointed.

CONSULAR APPOINTMENTS.

The Senate resumed the consideration of the joint resolution (S. R. No. 74) in relation to consular appointments.

Mr. CHANDLER. I say, Mr. President, that, notwithstanding the state of things which I have explained, the Senator from Iowa now makes a proposition to authorize the President to appoint line officers of the Navy on the retired list, not below the rank of commander, as consuls. Why this provision is confined to line officers I am unable to say. Officers not in the line might possibly be conversant with business affairs. For example, paymasters are compelled to purchase supplies for the ships, mingle somewhat in commercial transactions, and might in some cases be fitted for the performance of these duties. Engineers would be far better fitted than line officers, and even surgeons and clergymen would be better fitted than the line officers, and why the resolution should be confined to line officers is to me a mystery. I think, if there is to be a selection from any class of naval retired officers, it should be from the paymasters, as the fittest class in the Navy.

But, Mr. President, it is perfectly evident from the remarks of the Senator that he at present misapprehends the case. He says:

"Now, as to the other point. The only question between the Senator and the Committee on Naval Affairs is this: a naval officer is a man who was taken when he was a youth and educated for the service of his country, instructed at the Naval Academy in international law; during a service of twenty or twenty-five years he has mingled among gentlemen, both in our own country and abroad; it is his business to understand the commercial laws, for that is a part of the profession of a naval officer, and he is sent abroad for the purpose of enforcing them; and we think that competent men may be selected from that branch of the service to perform consular duty. We think that is a very good school in which to prepare them for these consulates. The Senator, on the other hand, imagines that a proper school is to be furnished perhaps in his own State, perhaps in the traffic in whisky, in shingles and white fish on the classic banks of Saginaw, or in trapping on the Upper Peninsula, with an opportunity occasionally to mingle in the polite society of Mackinaw, where the trapper will go annually to exchange his skins for a new supply of fish-hooks and traps and whisky. That is the issue. I leave it with the Senate."

Now, sir, it is perfectly evident to me that that good old individual, so dearly beloved and deeply mourned in song and story for hundreds of years, never died at all. He lived in the time of the ancient Vikings, when a naval commander's duties were multifarious. He could not only cut a throat and scuttle a ship neatly, but he was the merchant of those days. He was in the habit of sacking towns and carrying the products of his piracies to the markets of the world. He knew the value of everything which pertained to household effects, from a hoop-skirt—if they used them in the days of the Vikings—to the most elaborate article of chamber furniture. He knew the value of every article of wearing apparel. He knew the value of every article of household furniture. He was the merchant of those days, and it is not surprising that the Senator from Iowa should not understand, as he has been asleep from that day to this, that there has been any change.

But, sir, he did awake once. About the time the Jesuits took Mackinaw the Senator awoke from his long slumber, and looked in upon Mackinaw and Saginaw and upon the Upper Peninsula. He found that into Mackinaw the Indians came to traffic their furs for a new supply of fish-hooks and traps. It was so, sir. He has described the condition of Mackinaw to a single iota as it was at the time when he was on the earth. Since that time, however, a thousand millions of commerce a year pass by Mackinaw. But what does he know about it? He has not lived, at least has not been awake, since that time, and he

talks of it as it was when he was on the earth. At that time there were none there besides the Indians except a few Jesuits, but to-day it has become a watering-place, second only to Saratoga. But what does he know of it? He describes it as it was when he was on the earth.

He visited the Upper Peninsula, and there he found Indians who caught fish. True; but at that time the mines were not worked. Since then the export of the iron of Lake Superior has reached from three hundred thousand to five hundred thousand tons a year, and the copper produced there is more than all the rest of the copper produced in the United States. But what does he know of it? When he was alive there were no mines worked. He has been asleep from that day to this, and how should he know of any change?

And, sir, he visited Saginaw in 1640, and there he found that they made a few shingles and caught a few fish and sold some whisky. Well, sir, it was just so. He describes Saginaw exactly as it was when he was alive; but since that time Saginaw has grown to be a city of more than fourteen thousand inhabitants. Saginaw to-day exports more than four hundred million feet of lumber a year, and Saginaw exports more than three million barrels of salt a year. Saginaw has merchants who can buy the town where he lives for a lumber-yard and lack room. [Laughter.] But what does he know about it? It was not so when he was alive! [Laughter.] He describes Saginaw as it was in 1640, when he was on the earth, and has seen nothing since, and how should he know of any change? Why, sir, it is perfectly apparent that he must have slept from that time to this. He lived in the time of the ancient Vikings, took a long nap of several hundred years, awoke, rubbed his eyes, visited Saginaw and the Upper Peninsula and Mackinaw, and then went to sleep, and he has been asleep ever since; and now, forsooth, he awakes and discovers that in his time, when he was alive, the naval officers were the best merchants of the age in which he lived!

Mr. President, I am perfectly delighted that he has awakened at last. I am glad that he has awakened to the importance of economy, and I hope he will not go to sleep again until he brings the most rigid economy into the naval department of this Government. I am disposed to furnish him with occupation for the rest of this session—occupation that requires his immediate attention. I find from the Naval Register in my hand that we have to-day two hundred and sixty-four ships of war. Why does he not recommend that all of these ships of war except perhaps one hundred, more or less, be sold and the money put into the Treasury, instead of allowing them to rot? I call his attention, and the attention of the Committee on Naval Affairs, since they have got awake, to this matter. I hope his chief has awakened, too. He seems to have been asleep about as long as the Senator from Iowa. [Laughter.] I hope his chief will awake, too, and that they will put the knife to the very root of the abuses in the Navy.

Sir, I find another thing. I am told, and believe it to be true, that in our navy-yards there are some ten thousand workmen constantly engaged at an expense of about ten million dollars a year. Of what possible use are these ten thousand workmen? No man knows outside of the Navy Department. The only use known by the outside world is to carry here and there, by transferring them from one navy-yard to another, a democratic district. But what cares the Senator for that? I hope he will care now that he is awake. I hope the knife will be put to that abuse, and that these ten thousand workmen and these $10,000,000 will be dispensed with from this day forth, and I hope that these vessels will be sold.

Then, sir, I find by this Naval Register that there are over fifteen hundred officers, or persons who are designated as such, on this Register, great and small, in the employment of the Government. Sir, if we had had a Stanton in the Navy Department as well as in the War Department I believe that millions and tens of millions of dollars would have been saved within the last two years that have been squandered upon the Navy. Secretary Stanton at the close of the war at once reduced the Army, dismissed his officers, cut down the expenditures, and saved more than a hundred million dollars to the Treasury. Had the Secretary of the Navy done the same thing millions upon millions of dollars would have been saved to the Treasury of the United States. I hope, now that the Senator has awakened from his long nap, that he will devote himself, body and soul, and his committee also, from this time forth to cutting down these enormous expenditures of the Navy. All we require of a Navy now is simply a police of the seas. Ten million dollars a year would be an abundant appropriation for the support of all the Navy we need. I hope the Senator and his committee will take hold of this thing and put the knife to the very root of this evil, and introduce a bill that will cut down the expenses of the Navy Department from the estimated $47,000,000 to $10,000,000, and that they will do it promptly. There is room enough for the Senator to operate in in his own Department, and I hope that from this time forth he will devote himself to it, and that this resolution will be referred where it belongs, to the Committee on Commerce.

Mr. GRIMES. Mr. President, the Senate certainly ought to feel under very great obligations to me, for I suppose that I am in some measure instrumental, indirectly and unintentionally on my part, I admit, in furnishing them the delightful entertainment with which they have been furnished this morning. Such a display of genuine humor, of sarcasm, of irony, and of all the qualities that sometimes are supposed to constitute wit, I have never had the opportunity to witness before. Such a display of the real, genuine, Attic salt it has not been my fortune to listen to in my previous experience in this body. The Senator himself ought to be indebted to me, for if it had not been for my instrumentality, in some degree, the Senator might have been compelled to pay thirty-two cents a bushel to the salt boilers of Saginaw and Syracuse for this same Attic salt which he has spread so liberally around over the Senate to-day.

Now, sir, I am not going to be diverted from the subject in hand. I am not going to be led off into a discusssion of the expenses of the Navy. The question with us is, whether this resolution should belong properly to one committee or the other. I am not going to deny that paymasters would be very proper persons to be made consuls. That is a question to be considered when the resolution comes under discussion upon its merits in the Senate. I am inclined to agree with the Senator that the resolution should be made open, so that any naval officer or any retired Army officer should be eligible to these positions.

Let us see what the issue was between us. The Senator stated the other day that there was no consul or consular agent who received a salary of over five thousand dollars in any place, and only $3,000 in the interior of England. I controverted that position and told him that there was a gentleman from the State of Michigan who was receiving $16,000 at least. It turns out that he is receiving nearer thirty thousand dollars; that he has an outlying consular agency at a place named by me the other day, Tunstall, I believe, at which he has an agent, an attorney; not a commercial man, not a merchant who is conversant with the prices of the articles specified in the schedules and invoices to which he affixes his name at the foot of a certificate, but an attorney who represents Mr. Lord, who is the consul at Manchester, at this place called Tunstall; that he has received from that consulate at Tunstall $11,030; that he has received upwards of nine thousand dollars in excess of charges for certifying to these invoices, and $3,000 salary for his consulate at Manchester. Now, the Senator attempts to divert attention from the consideration of this issue that was made between us, and says, first, that it may be true; that there may be imperfections of the law; but the Senator says we have been in the habit of changing these laws every ten years, because in the course of ten years some little consular place may grow up into importance; but, mind you, sir, the law under which this consul receives over twenty thousand dollars a year was passed in 1865; only two years ago, or a little over two years ago, and passed at the instance of the Senator from Michigan.

Mr. CHANDLER. And at the suggestion of Mr. Lord.

Mr. GRIMES. And at the suggestion of Mr. Lord; and Mr. Lord seems to have been very careful in excluding his own case. This is not the only subordinate consulate that Mr. Lord has; he has more. What may be received at the other points I do not know. I only alluded to this case of Mr. Lord to satisfy the Senator that when he charged the Naval Committee with knowing nothing about this subject he was mistaken; that we did happen to know quite as much as he did; for I have no doubt he stated the truth when he said he did not believe there was any consul in the interior of England who received more than $3,000. It is information which I have furnished the Senator and for which I trust he feels duly grateful.

Now, sir, as I said before, I do not care what becomes of this resolution. I think the Government will save a considerable amount of money by allowing naval officers who are receiving half pay to be appointed consuls. In doing so we follow the practice of every commercial nation in the world. One half of the consulates of Great Britain throughout the world are held by half-pay officers both of the army and of the navy. It is the same case with the other Governments of the world. That was the only purpose we had in introducing this resolution. Knowing that these men were familiar with commercial transactions, that that was a part of their training, and believing that they would make efficient officers—more efficient by far than many of the persons who hold such positions at present.

Mr. CHANDLER. As I said before, I do not know anything about the case to which the Senator alludes. I applied at the State Department for information on the subject and Mr. Seward knew nothing about it. I applied to the Assistant Secretary. He said that at the Treasury, where these figures come from, they knew very little about the operation of these laws. For example, he said that all of the fees at most of the consulates went into the Treasury, although they were reported as going to the men who appointed the vice consuls. I requested the Secretary of State to have the case thoroughly investigated, and if there were any cases where the law appeared to require alteration or change to report them to me. I have received as yet no report from the Secretary of the Treasury on the same subject. I will say of Mr. Lord that a more honorable man, a better merchant, or a man of purer character does not exist on the face of the earth.

Mr. GRIMES. I did not pretend that Mr. Lord was receiving any more than he was entitled to receive under the law, and never so stated. I suggest to the Senator that he does not go to the right place to obtain his information. I can tell him that the Fourth Auditor is the officer who has charge of these matters and to whom the accounts are returned, and if he will inquire at that office as to the consulate at Aix la Chapelle, held by a man by the name of Vesey, he will find the amount received by him greatly in excess of that received by Mr. Lord.

Mr. CHANDLER. The Committee on Commerce are investigating that subject, and will in due time report. I hope this resolution will be referred to the Committee on Commerce.

Mr. MORRILL, of Vermont. I have no question but that there are a great number of consuls who are all that they should be; but

the system is a corrupt one. Now I undertake to inform the Senator from Iowa that he cannot obtain all the emoluments of the consuls even from the Fourth Auditor of the Treasury. The law provides a certain amount that shall be received for certificates of invoices, and there is no law or general system in relation to consular affairs that is entitled to the credit for that restriction. In 1862 a proposition was inserted in the tariff law that one dollar should be charged for these consular certificates. Afterward the price was raised to $2 50. Now most of the consuls, instead of charging the exact sum of $2 50, charge for inserting the date and signing their names an extra fee; and instead of taking ten shillings and fourpence in England, as they ought, they charge eleven shillings and sixpence or twelve shillings and sixpence, for every certificate that they make out; and of course all that is in excess of the proper amount they put in their own pockets. This sum alone in one of the consulates amounts to more than five thousand dollars, as I am informed. The abuse of the system is almost universal throughout Europe and in the Canadas. Wherever we have consuls they appoint consular agents and make bargains with them to return the fees that they get and to allow the consul one half or more.

I am decidedly in favor of a reform on this subject. I think it can be reached in one way by providing that these consular certificates shall be paid for here at home when the duties are paid upon the invoice and not paid abroad at all, and that then the consuls should be supported by a salary and be prohibited from receiving these fees.

The PRESIDENT *pro tempore*. The Senator from Michigan [Mr. CHANDLER] moved the reference of this joint resolution to the Committee on Commerce. The Senator from New Hampshire [Mr. PATTERSON] moved its reference to the select Committee on Retrenchment. The first question will be on the reference to the standing committee, the Committee on Commerce."

Mr. HENDRICKS. The only question that has been discussed for some time on this joint resolution is whether it should go to the Committee on Naval Affairs or to the Committee on Commerce. In one respect, perhaps, it was proper that the Senate should have sent the resolution to the Committee on Commerce; but in another respect, and in my judgment a much more important one, the Senate thought fit to send it to the Committee on Naval Affairs. If this resolution proposed a change of the consular system of the United States to regulate the duties of consuls or to describe the qualifications of persons for that office, it would then be important, perhaps, that it should go to the Committee on Commerce; but as the resolution proposes nothing of the sort, no material modification of the consular system, but only proposes that in certain cases some of the naval officers who can be spared from the naval service may be assigned to consular duties, it did seem to me that the reference to the Naval Committee was a proper one. I think that that committee investigated the resolution with as much care as any committee can bestow upon the subject. It affects the Navy in this, that the resolution proposes to allow, at the discretion of the President of the United States, retired naval officers to be assigned to consular duties with a view of saving expense.

Let me ask, in this connection, where is the propriety of referring this resolution to the Committee on Retrenchment? Anybody without any consideration can see at once that it is a resolution for economy. The retired officer of the Navy receives his pay as such anyhow, and if he is assigned to the discharge of consular duties he only receives the same salary. This resolution does not increase the salary of the retired officer, but it gives him land pay, just what he would receive if he were loafing upon the shores of our own country. The question whether he be a competent man to discharge the duties of a consul is one that we refer, of course, to the Executive, as we refer that question to the Executive in the appointment of all consuls.

We all know that under the existing law consuls are often appointed for political considerations. I do not speak of the present year or the present Administration, for this has been the policy as far back as I have examined the subject. Appointments are made by the President in many instances for political considerations. Are we likely to have a better service with appointments thus made than by selecting proper men from the Navy, who have, during the course of their professional life, been thrown in contact with the foreign service? It seems to me to be absurd to say that this resolution proposes an inferior grade of men to those we already have. I have no complaints to make of the consuls abroad. I do not know but that as a class they are excellent men. I do not question it. My point is, that it is merely a question how will this resolution affect the Navy? It does not change your consular system; it does not propose to modify commercial law at all; but it proposes to allow some retired naval officers to discharge consular duties; and the main question in the resolution is, whether the Navy can safely spare these men from the naval service?

In view of that fact it seemed to me a very plain question that it was for the Naval Committee and not for the Committee on Commerce; and I beg to say to the Senator from Michigan that the Senate did no discourtesy to his committee in referring to the Naval Committee that which mainly belonged to that committee. Suppose it is one of mixed jurisdiction as between the committees—the Naval Committee has already investigated it—does any Senator say that that committee has not fully done its duty in examining this joint resolution? Does the Senator from Michigan appeal from the judgment of that committee upon two questions: first, the qualifications of a naval officer to discharge consular duties; and secondly, whether the Navy can spare these men from their duties in the Navy to discharge these other duties? Those two questions the Naval Committee has examined. What further question is there for the Committee on Commerce to examine? Will the Senator be pleased to tell me? If the Committee on Naval Affairs has in fact examined the two questions that properly went to that committee, as I said, first, the question whether the naval officers are likely to be men fit for this office, and secondly, whether the Navy can spare them to discharge this service, does the Senator from Michigan wish to review that examination? Is any Senator prepared to say that the Naval Committee has not properly examined them? I want to know what subject there is in this resolution left for the examination of the Committee on Commerce? It does not change your laws; it does not change your regulations; it does not change even the policy said to be now adopted in the Department of examining men upon commercial or international law before they are appointed. This resolution changes none of these, but leaves it as it now stands, simply that the President may appoint naval officers not in the service—retired men, holding their pay in the consular service precisely as they hold it in the retired list of the Navy—when they are fit to discharge consular duties.

I do not choose to have the Naval Committee questioned in an examination which is made upon a resolution that is properly referred by the Senate to them, upon a resolution that presents to the Naval Committee the importants points that it presents to the Senate. Now, I want to know what question there is in this resolution for the Committee on Commerce to examine? Are that committee going to say that naval officers are not qualified for consuls? Do the Committee on Commerce know as much about the ability of naval officers as the Committee on Naval Affairs? I deny it. If that is the question, I say the Committee on Naval Affairs are presumed to know more of the qualifications and fitness of naval officers to discharge consular duties than the Committee on Commerce, because the Committee on Naval Affairs are presumed to come in contact and intercourse with the officers of the Navy.

I do not know what Saginaw and Mackinaw and those delightful regions toward the North have to do with this resolution. The Committee on Naval Affairs has examined this resolution, and I say all the important questions involved in the resolution are properly to be examined by the Committee on Naval Affairs. Now, it is proposed, after the Committee on Naval Affairs has reported upon the resolution, to send it to the Committee on Commerce, and if the subject belongs to naval affairs it involves a question of the correctness of our investigation. With these remarks I am ready to vote upon the reference.

Mr. MORRILL, of Maine. It did not occur to me that I should be induced to say a word about this subject, but as the debate is becoming a little spirited I think I will say a word or two with the indulgence of the Senate.

In the way that the business of the Senate is transacted there is evidently a fitness of things, that subjects belonging to certain classes should be examined by the appropriate committees. Matters commercial belong to the Committee on Commerce. Matters that are naval belong to the Committee on Naval Affairs. The only question I wish to propound to the Senate is, to which class does this measure belong? Is this a question of naval affairs or of commercial affairs? I should like to ask my honorable friend from Indiana, who speaks with some spirit on this subject, whether he means to say that the subject-matter is naval or commercial?

Mr. HENDRICKS. In reply to the question of the Senator from Maine, I say that the question whether a naval officer is a fit man to discharge the duties of a consul, and whether his services can be spared from the Navy, are questions properly to be examined by the Naval Committee.

Mr. MORRILL, of Maine. I understood the Senator to say that before, but that does not come very near answering my question. It is with reference to consuls. What is a consul? A naval officer? Not a bit of it. He is a commercial agent. That is what he is; nothing more nor less; and that is what you are about appointing here. What has the Committee on Naval Affairs to do with that? My honorable friend from Indiana asks, does anybody doubt that the Committee on Naval Affairs is competent to know whether a naval officer is a fit commercial officer? Yes, I doubt it, sir; and I deny your jurisdiction in the case altogether. A consul is a commercial agent, with which you have nothing to do, over which subject you have no jurisdiction or control, and into whose character the presumption is you have no right to examine. Whether he is a fit agent for commercial purposes—is that a subject for the Committee on Naval Affairs?

Mr. GRIMES. That is not the question here.

Mr. MORRILL, of Maine. That is the question I make. That is the question which arises in the case. We are about to appoint commercial agents. My honorable friend from Indiana asks, "Do you mean to say that the Committee on Naval Affairs do not know as well about that subject as you do?" I say the presumption is the Naval Committee do not, because that is not their specialty. The Senate have referred to the Committee on Commerce all such questions. The honorable Senator asks, "Do you mean to make an issue with the Committee on Naval Affairs, that we do not know whether the Navy can afford to spare these naval officers to perform this duty?" No; I do not raise that question, nor do I suppose that that question arises; for I can easily understand that the naval service would not suffer at all by the appointment of these men who are retired from the Navy as no longer fit for the naval service, who are not

on shore duty nor on active duty, but are retired as being wholly unfit for naval duty, to consulates or anything else. So that I suggest to my honorable friend it is not a question whether the Navy can spare these men from the service. The question is whether the commerce of the country and whether the foreign affairs of the country can afford to take from the Navy men who are unfit for any duty in that Department and make them the agents for the commerce of a great country. That is the question, and on that question I object to the Committee on Naval Affairs assuming to foist men totally unfit for that branch of public duty upon a service so important as that which has been prosecuted by the commercial agents of the country abroad.

There is another idea here which perhaps will illustrate this. I understand the great solicitude which my honorable friend the chairman of this committee has to take care of the Navy. It is commendable. I have always applauded it. I like it. I like to see him magnify his jurisdiction. I like to see him exalt the Navy. I like to see the interest he evinces in taking care of that particular branch of the public service; but I want him to be a little careful how he magnifies his jurisdiction in other directions. What is naval I do not propose to infringe upon, but what is commercial I suggest to him he had better leave to the jurisdiction of the committee that has special control over it.

Now, let us see what the proposition of this resolution is. It is to take men whom my honorable friend from Indiana says can be spared from the naval service—men who are totally unfit for the naval service, and who are retired on what is called retired pay—and put them into the consular service and double their pay. That is the inducement. That is what my honorable friend from Iowa is trying to do. He is trying to exalt the naval service. He is trying to take these men who are unfit for service and on a certain pay and double their pay. That is commendable. Now, all we ask—we do not prejudge his resolution—is, that resolution having had the examination of the Naval Committee, and they having determined that they can spare these men from the naval service, that the Senate send it to the Committee on Commerce to see whether the commerce of the country can afford to take them and double their pay. I hope the Senate will see the propriety of both committees, as, to say the least of it, it is a complex question——

Mr. GRIMES. I should like to know upon what authority the Senator thinks this resolution would double the pay of these officers?

Mr. MORRILL, of Maine. Perhaps I have stated it extravagantly; but I mean to say this: the resolution contemplates taking persons who are retired from the naval service altogether on a low pay and transferring them to this consular service and giving them the pay of naval officers on shore duty. Perhaps it is not double; perhaps I am mistaken there; but that it increases the pay is sure. Now, let us see what the shore-duty pay is. Rear admirals get $4,000 shore-duty pay; retired pay, $2,000. That is double. So I am right in that. Commodores on the retired list get $1,800; they receive $3,200 on shore duty—nearly double; captains, shore-duty pay, $2,800; retired pay, $1,600; commanders, shore-duty pay, $2,200; retired pay, $1,400. Perhaps I was a little extravagant in saying double pay; but that is the increase; double in some instances, largely increased in all.

I have said all I desire to say. I submit to the Senate that the Committee on Naval Affairs have properly enough considered the question of whether they can afford to spare these officers from that service. The next question, a great question and the one affecting the commerce of a great people is, whether we can afford to take men unfit for that service and give them double pay for this. That is the question. That is commercial, wholly commercial, and belongs to the committee on commercial affairs, the Committee on Commerce; and if the Senate do not pretend to ignore that committee, I should like to have my honorable friend tell me how it is they can refuse to send this resolution to us for examination?

Mr. NYE. When this controversy first commenced I enjoyed it. I supposed it was a mere matter of sparring between the honorable chairman of our committee [Mr. GRIMES] and my friend on my right, [Mr. CHANDLER,] who felt aggrieved at living in the State where Mackinaw was. [Laughter.] But, sir, it seems that this has really become a serious matter. The distinguished Senator from Maine [Mr. MORRILL] takes up the cudgel, and if there had been any doubt about it his manner has fully demonstrated that he is in earnest. Now, sir, I happen to be a member of the Committee on Naval Affairs, and I am not quite disposed, even at the very affirmative declaration of the Senator from Maine, to sit silently and hear it said that the Committee on Naval Affairs acted outside their duty when they considered this question. Neither am I satisfied with his reasoning, that because a man has borne the burden of the Navy, has fought the battles of his country, has dared the danger of every climate and the dangerous element of the sea until he is perhaps disabled in limb in the service of his country, he must be by the solemn assertion of the Senator from Maine set down as a fool in every thing that does not pertain simply to the sailing of a ship.

Mr. MORRILL, of Maine. My honorable friend does not pretend to represent me in that way.

Mr. NYE. I am not going to misrepresent you by any means. You denied most emphatically that men reared in the Navy could know what it was essential should be known by these commercial agents abroad, to wit, the value of goods, &c.

Mr. MORRILL, of Maine. I beg the pardon of my friend. I said no such thing.

Mr. NYE. I so understood you.

Mr. MORRILL, of Maine. I said I denied altogether that the Committee on Naval Affairs were qualified to judge. That is what I said. I was arraigning the Committee on Naval Affairs.

Mr. NYE. That explanation is satisfactory, so far as the officers are concerned, I think. [Laughter.] It may not be quite satisfactory in regard to the Committee on Naval Affairs.

Mr. MORRILL, of Maine. We will try that.

Mr. NYE. I am very glad that the distinguished Senator has changed the *onus* of his remark. Now, so far as that is concerned, judging from the fruits of the two committees I am prepared to submit to this body and to the country which committee has judged most wisely, if the persons that are sent abroad are the fruits of the labor of the Committee on Commerce. Who are they? What laurels have they reaped? Some of them, to my knowledge, are the merest pot-house politicians that this country has produced, and some who have been sent have not stayed long enough to warm themselves comfortably in their position when their own interest forced on them the propriety of returning; and yet we are told that through this crucible of the Committee on Commerce nothing but wisdom has run. Look at your trophies and your fruits, and judge! That you have had some good ones there is no doubt; but that as good ones could be selected, and with a great saving to the country, is a fact I trust beyond contradiction.

Who are these naval officers, and what is the standard of judgment on which the Naval Committee has acted? I understand the consular duty to go beyond the mere fact of signing invoices of goods. I understand that many of their duties are of the most delicate character and kind. Men to discharge them properly should be well versed in national and international law. Frequently they are called upon, in the absence of ministers, and in places where we have no higher representatives, to pass upon the most delicate questions, pertaining not only to our commerce, but to the friendly relations of the country.

Mr. President, why should not the Committee on Naval Affairs judge on such a matter as this as well as the Committee on Commerce? Certainly, barring myself, there are as intelligent gentlemen upon that committee—you have heard from two or three of them—as upon the Committee on Commerce. But above all I object that that committee shall be arraigned and held up here by the Committee on Commerce for having performed their duty upon a petition that was submitted to them, and made a recommendation which the honorable Senator from Maine will at least say was entitled to respectful treatment, even at the hands of the Committee on Commerce. I have the highest respect for the Committee on Commerce and for their ability, and especially for that of the honorable Senator; but I differ in the mode of expression; he has none at all for the Committee on Naval Affairs.

Mr. MORRILL, of Maine. No, I did not say that.

Mr. NYE. I submit that if this question is to be passed upon by the Senate it may as well be passed upon on the recommendation of the Committee on Naval Affairs as on the recommendation of the Committee on Commerce. My objection to this course is (and that is personal,) to allowing this Committee on Commerce alone, after the avowals they have made of the estimation they hold the Committee on Naval Affairs in, to sit in judgment on their acts. I propose to take them mingled with the rest of the Senate. I object, therefore, to this resolution being referred to the Committee on Commerce.

Mr. DRAKE. Mr. President, I am one of that unfortunate Committee on Naval Affairs that has been so severely arraigned here this morning, and but for that fact I should not attempt to say a word about this joint resolution; but I really think there is a very great disturbance made about it here without any necessity, and I think the question has hardly been fairly met yet. It appears to me that there is nothing in it but just this simple question, whether some forty or fifty individuals, citizens of the United States, or a part of them, may be selected to perform certain consular duties, who are not now capable in law of being selected for such duties. Here are forty or fifty naval officers who, without this affirmative action of Congress, cannot be appointed to a consular position abroad. Now, the question is not whether they are fit for that position, because that would come up before the Committee on Commerce when any one of them should be nominated for the position by the President. The question of personal fitness, therefore, is not a matter to be discussed here to-day; the sole question is whether a disability now existing by law shall be removed from these individuals. The honorable chairman of the Committee on Commerce says that there is no disability by law. I affirm the fact to be that the President of the United States cannot, with the consent of the Senate, send a naval officer abroad as a consul, for the reason that his first duty as a naval officer is to the Navy, and he is liable to be ordered into the naval service at any moment.

Mr. CHANDLER. With the consent of the Senator from Missouri I desire to ask if General Kilpatrick, an Army officer, was not sent as minister to South America, and whether several Army officers have not been so sent? ["They resigned."] So of course would naval officers be obliged to resign if appointed. Of course a man cannot hold two offices; but there is no disability. Any naval officer can be appointed to any foreign consulate to-day.

Mr. GRIMES. But he cannot hold his commission in the service at the same time.

Mr. DRAKE. Then if a naval officer can be appointed to a foreign consulate to-day why is the chairman of the Committee on Commerce fighting this matter in the way he is? What is the need of it? If this thing can be

done why do the gentlemen of the Committee on Commerce contest the ground as they do?

Mr. CHANDLER. A man cannot hold two offices.

Mr. DRAKE. You want to compel him to resign his naval position, and that is exactly the very thing that ought not to be done, because, notwithstanding the remarks of the Senator from Maine, the country may need his services at any moment in a naval position, and then according to the terms of this resolution he should be recalled.

But, sir, it is not on the ground that he would be holding two offices, I judge from the remarks of the Senator from Maine, but because, forsooth, these men who have served in the Navy thirty, forty, fifty years are no longer fit for anything under the sky, according to the Senator from Maine. They are unfit, he says, to perform naval duties, and he asks, are you going to put them into your foreign consulates? There is the error of this whole matter. The question is not as to the fitness of A or B or C on the retired list for the position, because when nominated that would come before the Committee on Commerce, and they would pass on him as they would on any other man, but the question is whether you shall allow these officers, who have spent so long a time in the service of the country, to be put in these positions if found capable.

Now, sir, suppose every one of the fifty retired officers above the grade of commander should resign to-day, and the President should nominate two or three of them for consulships, would it be an argument here against them that they had been on the retired list of the Navy? Very far from it. Therefore, the question is not as to their fitness; that question will come up when they are nominated; but the simple question is whether you will take away a barrier now which separates them from these positions for which, by their education for many years in the Navy, I contend that they are abundantly and accurately adapted.

As to the Committee on Naval Affairs acting upon this matter, I presume that that committee will act upon any subject that is referred to them, and if they think it is not properly referred they will report it back and ask to be discharged and have it referred somewhere else. But sir, I do not understand that all the wisdom of this Senate, even upon commercial subjects, is concentrated in the Committee on Commerce. Whatever recommendations that committee may make (as is the case with those of the Naval Committee) must come under the revision and decision of the Senate; and if they make wise recommendations they will be adopted; if they make unwise ones they will not be adopted. So, sir, at last the question is not necessarily to go to the Committee on Commerce to determine whether these men are fit subjects for consular appointments, because that will come up when they are nominated; but the question is simply whether the Navy can give them up for this public work and this public duty.

Mr. MORGAN. Mr. President, I am very glad for one that this measure has been introduced, and I am not at all clear that it ought not to pass. That, however, is a question on which I do not propose to speak now. If I understand the case, the question before the Senate is as to the proper reference of the joint resolution. The Senate has hitherto been quite particular in relation to the reference of subjects to the appropriate standing committees; and it cannot possibly be the object of any Senator to have a bill or joint resolution taken from the consideration of the appropriate committee. It seems to me that it is perfectly clear on the question of reference that this belongs to the Committee on Commerce. That is indicated by its very title. What is it? "A joint resolution in relation to consular appointments." That subject has always belonged to the Committee on Commerce. While it was proper for the Senator from Iowa or for any other Senator to introduce such a measure, still when it comes to be referred it belongs to the Committee on Commerce, where I hope it will go.

Mr. PATTERSON, of New Hampshire. I made a suggestion the other day that this resolution should be referred to the Committee on Retrenchment, thinking it might allay the controversy that has grown up between the two committees of the Senate who are disputing in regard to it. I will say now that the Committee on Retrenchment has this whole matter of the foreign service under consideration, both diplomatic and consular, and that they have a bill nearly prepared looking to a new method of appointment, looking to an examination of those who are to enter the foreign service, so that our consuls abroad may be better qualified to fulfill their duties; and one bill on the subject which has been introduced in the Senate has already been referred to that committee. It would seem very proper, therefore, that this proposition, looking to the same object, should be referred to the same committee, that they may all be considered together and brought forward here as a single measure.

Mr. ANTHONY. Mr. President, this is merely a question whether one committee of this body shall revise the proceedings of another. When this measure was first introduced it was a very fair and open question to which committee it should go. On that question the Senate passed judgment; they sent it to the Committee on Naval Affairs; and if now, when the Committee on Naval Affairs have considered it and reported upon it, it is referred to the Committee on Commerce, it will be not because it was not properly referred in the first place to the Committee on Naval Affairs, for the Senate has settled that question once, but it will be because the Committee on Naval Affairs are not competent to consider the matter. I hope that the Senate will not make such a decision by any vote upon this question.

To refer it to the Committee on Retrenchment might be very proper, but the Committee on Retrenchment has the subject already before it, and will not have the subject any more under its consideration by this reference than it has already. The question whether a particular naval officer nominated for an especial consulate is suited for the place or not very properly will go before the Committee on Commerce when such a nomination shall be made. If the nomination of a naval officer comes here for a consulate it should not go the Committee on Naval Affairs, but to the Committee on Commerce. Whether, however, naval officers are suitable persons as a class to be appointed consuls is eminently a question to go to the Committee on Naval Affairs. But, sir, whatever may be the merits of this question it has been settled by the Senate in the original reference, and now the point is whether the Committee on Commerce shall be appointed as guardians over the Committee on Naval Affairs. If so, it seems to me it would be better for the Committee on Naval Affairs to make their reports directly to the Committee on Commerce, and then have them, if it shall please that committee, presented to the Senate, and not to have them first reported to the Senate and then referred to the Committee on Commerce.

Mr. GRIMES. I confess I never was more astonished than at the controversy that has grown up on this question. I was perfectly innocent of it myself when I introduced the joint resolution; and I did not imagine there would be any controversy of the kind when it was reported back from the Committee on Naval Affairs. The facts seem to be these: the Committee on Naval Affairs are unanimously in favor of the passage of this joint resolution; but the Committee on Commerce, I judge from the demonstrations we have had from the Senator from Michigan and the Senator from Maine, are utterly hostile to it. The Senator from New Hampshire states that the Committee on Retrenchment—a committee in whom, I think, on all sides of the House, we have entire confidence—have this subject in charge. I am perfectly content, so far as I am concerned, and I think the members of the Naval Committee would be content, that the resolution should take that direction, that it should go to the Committee on Retrenchment and be considered in their general bill.

I disclaim again any intention of trenching at all upon the jurisdiction of the Committee on Commerce. I never thought of such a thing. I supposed that the question as to whether a particular man was competent to fill one of these offices would be determined in the future; whether he was a naval officer or was a civilian would be determined by the President when he appointed him and by the Senate when they came to act upon his confirmation; and that the only question involved in this proposition was whether the naval service could well spare a man for that position. And let me say in response to the statement of the Senator from Maine that a great many of these naval officers are employed by the Navy Department. Some of them are unqualified for sea duty, but they have all the capacity for doing shore duty. We have a surplus of officers. They have the capacity to do such duties as pertain to a consular agency, though they would not be able to command a ship in a storm or in a conflict with a foreign enemy.

The question of the details of the measure, as to the amount that shall be paid to these officers, has been under discussion. That will be a proper subject for consideration when we come to pass upon the measure itself. It is not before us at this time. There was a difference of opinion in the Naval Committee as to the amount that should be allowed them. There was only a small majority in favor of giving them the pay specified in the resolution. A very respectable minority in point of numbers was in favor of giving them only the pay that now pertains to consulates.

I say again that I am content to accept the proposition of the Senator from New Hampshire and get rid of this controversy by sending the proposition to the Committee on Retrenchment.

Mr. CONNESS. The morning has been spent in a discussion as to which of two committees of the Senate this measure properly belongs; and we have been told, pending the discussion, that the Committee on Retrenchment are preparing a general measure on this whole subject. Whatever may be the merits of the discussion before the Senate in the direction it has taken, it is apparent that we should not act upon this resolution now, in view of the statements that have been made. I will not at this time state what my opinions are in regard to the question that has been discussed; but it is evident that we cannot act on the measure now. I think it will suit the Senate better to lay it on the table than to decide between the two committees from the manner in which the question has been put, and I therefore make that motion.

Mr. MORRILL, of Maine. I ask the Senator to withdraw that motion for a moment until I can make a single statement, and then I will renew it if he insists upon it.

Mr. CONNESS. The Senator can make his statement by unanimous consent pending the consideration of my motion.

Mr. MORRILL, of Maine. I wish to say, in reply to a remark of the Senator from Rhode Island——

The PRESIDENT *pro tempore*. Does the Senator from California withdraw his motion?

Mr. CONNESS. Yes, sir, for the purpose of hearing the explanation of the Senator from Maine.

Mr. MORRILL, of Maine. The Senator from Rhode Island made a remark, the tendency of which was to prejudice the action of the Committee on Commerce rather than to argue the merits of the case. He suggested that the proposed action of the Committee on Commerce would be invidious to the Committee on Naval Affairs, inasmuch as it would be to say that the Committee on Commerce was more competent to examine this question than the Committee on Naval Affairs. He said the

Senate had already passed judgment, inasmuch, particularly, as this question had been determined by the Senate when the joint resolution was referred to the Committee on Naval Affairs. Now my honorable friend knows that nothing is more foreign from the fact in this case, and from the fact in almost all cases, than such a supposition. The Senate never passed any judgment at all upon this question. The member who chooses to introduce a bill generally gives any direction to it that he pleases. The very title of this proposition would have indicated, if it had not been directed out of its ordinary channel, that it should have gone to the Committee on Commerce. What presiding officer would have thought that a bill touching the consular service of the country should properly go to the Committee on Naval Affairs? I could answer the honorable Senator with some little severity, I think, if I were to say that if the Senate passed judgment in this case it was induced by a misdirection of this bill in the hands of the party who offered it.

A word now in regard to my honorable friend from Iowa. He puts me in the attitude of saying that I have prejudged this case, and am utterly hostile to the measure. I do not think I have said anything to authorize that Senator to put me in that position toward this resolution before the country, and particularly before the officers of the Navy. What I have said is, that the Committee on Naval Affairs have undertaken to judge and determine in a question that does not belong to them. Whether these men are competent or not, whether this is the best thing or not, I say does not belong to the Committee on Naval Affairs. That is all I have said; and the Senator from Iowa is not authorized to declare that from what I have already said I am hostile to this measure and therefore disqualified to examine it impartially.

Mr. GRIMES. All I have to say, then, is that I, in company with all my friends around me, was very unfortunate in understanding the Senator from Maine.

Mr. JOHNSON. Mr. President, I gave way to the honorable member from Michigan upon his statement, in which, of course, he was sincere, that the measure now before us would not occupy the Senate more than a few minutes. It has occupied its time already some hour and a half. If a vote is to be taken now I shall not make the motion which I would otherwise make——

Several SENATORS. Let us vote.

Mr. JOHNSON. If the friends and opponents of the measure are willing that the vote should now be taken, I will not make the motion I was about to make to postpone it until to-morrow.

Mr. CONNESS. The honorable Senator will permit me to suggest that I had just made a motion to lay it on the table, and I think the Senate is ready to vote upon that proposition.

Mr. JOHNSON. Very well.

Mr. CONNESS. I move that this resolution lie upon the table.

The motion was agreed to.

CONTRACTION OF THE CURRENCY.

On motion of Mr. SHERMAN, the Senate proceeded to consider the action of the House of Representatives upon the amendments of the Senate to the bill (H. R. No. 213) to suspend further reduction of the currency.

Mr. SHERMAN. I move that the Senate insist on its amendments and ask a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and the President *pro tempore* being authorized to appoint the conferees on the part of the Senate, Messrs. CATTELL, TRUMBULL, and MORTON were appointed.

HOUSE BILLS REFERRED.

The following bills were read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 453) increasing the pension of Nancy Weeks, widow of Francis Weeks, a soldier of the war of 1812;

A bill (H. R. No. 454) granting a pension to John Kelly;

A bill (H. R. No. 455) granting a pension to David Van Nostrand; and

A bill (H. R. No. 456) granting a pension to the children of Pleasant Stoops.

A bill (H. R. No. 452) for the relief of Captain C. P. Johnson was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 154) in relation to the settlement of the accounts of certain officers and agents who have disbursed public money under the direction of the chief of Engineers was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

SENATOR FROM MARYLAND.

Mr. JOHNSON. I rise to a privileged question. I move to take up the case of my colleague-elect, in order to ascertain whether he is or is not entitled to his seat in this body. I move, therefore, that the Senate proceed to the consideration of the resolution I offered on that subject.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on taking the oaths prescribed by the Constitution and laws of the United States.

Mr. JOHNSON. It is not my purpose to discuss further the resolution now before the Senate. I do not know whether I shall find it necessary to say anything further after the debate shall have been concluded by those who may speak on either side. I leave the matter in the hands of the Senate, and such members as may desire to address the body can do so now.

Mr. HENDRICKS. Mr. President, in the committee I was in favor of reporting a resolution that Governor Thomas was entitled to his seat in this body under the election by the Legislature of Maryland. The committee concurred in that view, as appears by its report, upon every question except one. From the evidence it appeared that on the night before the son of Governor Thomas left his home with a view of going into the Southern army his father gave him $100, with a knowledge at the time he gave him the money that the son intended, if he could do so, to get into and serve in the Southern army; and upon the question whether that disabled Governor Thomas from taking the oath prescribed in the act of 1862 the committee thought it proper to express no opinion to the Senate, and I understand the report of the committee to leave that as the only open question, in its judgment, for the decision of the Senate; and I suppose the decision of that question will depend on the construction of the law in the light of the precedents and in the light of the testimony bearing upon that particular question.

There are one or two facts that are not in dispute. First, Governor Thomas himself, during the war, or the greater portion of it, was living upon his farm in Maryland, taking no part in public affairs, and it is not claimed that by any act of his, except this particular act, he gave any support, aid, or comfort to the southern cause; and the evidence is, that he was what is called in Maryland a constitutional Union man, dissenting from the political policy of the Administration at that time, but concurring in the necessity of the maintenance of the Union through the power of the General Government.

It is not disputed, further, that the son, then not fully of age, after a protracted effort, found his way into the southern army in the year 1863 or 1864—I do not recollect precisely which—and remained there for some time.

I claim that the weight of testimony establishes this state of case: that young Thomas desired to join the southern cause, so expressed himself from time to time, and that for a very considerable length of time, covering many months, his father protested against his doing so, and by his earnest protest and entreaty prevented the young man from leaving his home; but finally the young man had made some other arrangements by which he supposed he would be able to accomplish his end, and informed his father that he would go whether it was agreeable to him or not; and then, on the evening before the young man left home, Governor Thomas said to him that he ought not to go; that he ought not to leave his home; that he ought not to join the southern cause; that Maryland was a State in the Union; and that it was his duty at least to remain at home.

Upon this question I will read a very little of the evidence. In the course of the testimony the young man says:

"I had been trying to gain his permission for a long while to leave my State and go into the army, and he dissuaded me on all occasions, and so much was he opposed to it that there was a coolness between us for some time. When the raid was made into Maryland, after the battle of Gettysburg, I was then anxious to leave and join the rebel army, and he told me then that I ought not to do it; and as a citizen of the State of Maryland, and that State in the Union, I had no right whatever to do it."

Upon that point that is the evidence; and then upon the question as to what took place at home the evening before the young man left the following is the testimony:

"*Question.* When he gave you $100 when you left home did he know that you were receiving that money to go off and join the enemies of the country and fight against it?

"*Answer.* He did not think that I would get there; he knew that it was my intention to start for there, but when he gave me the money he told me that I never would get there; he said that he knew I never would get there; but that if I was so headstrong as to oppose his wishes I should not starve, and he gave me this money to supply my wants."

That is the evidence upon this particular subject—the circumstances attending the giving of the money by Governor Thomas to his son. It is not disputed by the Governor or anybody else that the evening before the young man left his home he did give him the $100, and that followed a series of protests for many months against his leaving home for any such purpose. I beg Senators to observe the testimony. The young man says that at the time he was informed by his father that he would never get where he sought to go, that he would fail in that, but that if he persisted in leaving his home he did not want him to starve, he did not wish him to suffer, and that to provide for his wants, to secure him against suffering, he would give him the money. Again the young man is asked if his father did not earnestly on various occasions invoke him to abandon all idea of going South; and he answers, "Yes, sir, repeatedly." Then his father asks him, "Was there not a coolness between you and me on account of your persistence in the determination to go there?" He answers, "There was." Then he is asked by the father, "Did I not present the objection to your going there in every conceivable shape of which I was competent?" And he answers, "I think so."

That is all the testimony that I care to read on this subject, for that testimony covers just two points—first, the conduct of Governor Thomas for many months in advance of his son's leaving home, and second, the conduct of the Governor at the time, and the very time, that the young man did leave. In judging of any man's acts the law says it is proper to take into consideration what he says at the time. If a man be charged in court with the commission of an act of bankruptcy, it is fixed law that the court shall hear what the party said at the time he did the act, as forming a part of the transaction and as giving character to it. Then on the evening before the young man left his father's roof his father said to him: "You ought not to go; your State is a State in the Union; you have no right to join the enemies of the country." Earnestly as man could protest he protested against the proposed conduct of his son, and there remained but one thing for him to do, and that was to use physical force to prevent his going. How that physical force should be used I need not undertake to say; for I think no Sen-

ator will say that any man is driven that far to prevent a son leaving the paternal roof at the age of this young man.

Now, sir, the question that is presented to the Senate is, can Governor Thomas properly take this oath under the act of 1862 in view of the facts that are proved:

"I do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto."

These last are the words that are supposed by some to cover the case now before the Senate: "that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto." A direct act of furnishing food, clothing, or medicine to the military forces engaged against the United States would leave no question on one side; and so the discharge of an obligation of nature, not intended to give aid to the enemy, in my opinion makes no question on the other side. How will the Senate construe this statute? Shall it be construed according to its strict letter or according to the purpose of Congress in its enactment and according to the construction which the House of Representatives has put upon it? Now, I wish to ask the attention of Senators to a report made at this session in the House of Representatives upon this particular question, upon a case that attracted the attention of the whole House, and much of the attention of the country—the question of the right of the Kentucky delegation to their seats. The report was made on the 3d day of last month by Mr. COOK, from the Committee of Elections. The committee say in the report:

"Whenever it is shown by proof that the claimant has by act or speech given aid or countenance to the rebellion he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public, and must have been done or said under such circumstances as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion."

That report was made to the House of Representatives, and I believe that the House concurred in the resolution reported by the committee in accordance with the doctrines of the report. The resolution accompanies the report, and, I understand, was agreed to by the House. Then, sir, it is the construction of the House of Representatives that an act which shall exclude a man from a seat in Congress must not only be such as is calculated to give aid and comfort to the enemy, but such as the party designs shall have that effect; and I submit to Senators that if this be at all a doubtful question, inasmuch as the popular branch of Congress has fixed a construction, is it not well for the Senate to concur in that construction? If it be a question of doubt in any respect ought not the Senate to give great weight in its judgment to the judgment of the other House upon the proper construction of the law? Then, I submit to Senators, that if we agree to this construction that the act done must be designed by the party to give aid and comfort to the enemies of the country, no case, not a shadow of a case, is made against Governor Thomas.

Independently of the construction given to this law by the House of Representatives, is not this view consistent with the whole system of laws that we respect in this country? Can any Senator refer to a case in our criminal code, either State or Federal, in which a man is punished or punishable for an act without any reference to the design? If an act be without a corrupt and bad design, a wrong, a crime is not attributed to the party that does the act. The design of the party in doing the act is the very essence of the crime. Then I say upon principle, as it has come down to us for centuries in connection with our penal and criminal laws, the design is most important in deciding what is the conduct of the party. Although a party may have done an act that has in point of fact given aid and comfort to the enemy, if he did not intend that it should give aid and comfort to the enemy the law does not say that he did that act. The law says that, not designing it, he did not give aid and comfort to the enemy.

Allow me to suggest a case, sir. A wounded soldier of the southern army being found by a man of kindly nature is relieved; his wounds are dressed; he is cared for; and he is restored to health. Afterward he is exchanged; and in the progress of the war he goes back into the southern army again and fights the battle over. What was the purpose of the Samaritan who saw him upon the road-side? Not to give aid and comfort to the enemy; not to add another soldier to the southern army; but his purpose was to relieve human suffering. He saw a case of suffering by the road-side and he contributed to the relief of the suffering man. If he had not touched the man perhaps he might have bled to death, and then the southern army would have lost a soldier. The act contributed to give some strength to the southern cause; but the motive, to relieve human suffering, was a high, honorable, and holy motive, and the law says that his motive and design being to relieve suffering and not to aid the enemy, he is chargeable only with relieving suffering, and is not chargeable with giving aid and comfort to the southern cause.

Let me state another case. A being indebted to B in the sum of $100, is called upon by B for the debt. B says to him, "I want my money; I want to leave home to-morrow morning; I want to go and join the southern army, and therefore I want you to pay me before I go; I want my money to equip myself for this cause." A says to him, "I am not willing to aid you in equipping yourself to join the southern army; I am against your enterprise, and I would dissuade you from it; I would persuade you as a neighbor not to go; but if you make your demand upon me to fulfill my promise to pay when called upon, of course I will pay you the $100." A pays the money in the discharge of a legal obligation, for the purpose of discharging the legal obligation; and yet the payment of that $100 may enable the person who receives it to join the southern cause; but who would pretend that you have a right to attribute crime to the man who pays the $100 under such circumstances? He but pays a debt; that is his act; and the use of the money afterward is the act of the other party. His motive and his design being right the law does not attribute to him a crime, which requires a bad motive and a bad design.

But, Mr. President, I think that we have some cases which settle this subject. I think the Senate has decided this very question in the case of our distinguished friend from Tennessee. The Senate decided that Judge PATTERSON was entitled to his seat as a Senator from Tennessee; and yet the facts did show that during the progress of the war he accepted a commission as a judge in East Tennessee, and that in order to accept and obtain that commission he had to take an oath to respect the constitution of the southern confederacy. This being known to the Senate, what was the decision of the Senate? It was known that he was a patriotic man. It was known that he had given of his substance to support the Union cause. It was known that, in every way possible he had contributed his aid, his personal efforts to support the cause of the Union in East Tennessee. It was known to the Senate that it was important that he should hold that office, not only for the purpose of upholding order in society, but for the purpose of protecting Union men in eastern Tennessee. Guided by these motives, good and pure and honorable, he did an act which would have connected him with the southern cause if he had done that act with the opposite motives. If he had taken an oath to support the constitution of the southern confederacy for the purpose and with the design of supporting that cause and building up the strength of the armies against us then his motive would have given character to the act, and the Senate would have said at once that he could not be admitted to his seat; but because he did the act with a proper motive, and the holding of the courts resulted in good to the Union cause, his personal conduct in that regard being favorable to the cause of the Union, the Senate said that his motive should give character to the act, which otherwise would have been questionable, and the Senate, in that case, has given construction to this law—a construction in accordance with the humanity of the criminal and penal law of England and of this country, that a man shall not be punished for doing an act unless the motive was wrong.

But, sir, in the House of Representatives there was a more marked case under this law. I speak of the case of Mr. STOKES, of Tennessee, and the House of Representatives acted upon his case with a full knowledge, and in that case gave construction to this law. Now, I ask the attention of the Senate to a letter which was written by Mr. STOKES as far back as May 10, 1861, soon after the war commenced; the month after. This letter was written by Mr. STOKES, and the purpose of writing it seems to be explained in the letter itself, which I will read:

LIBERTY, *May* 10, 1861.

DEAR SIR: I have just learned from a friend that there is some gross misrepresentations going the rounds in your section in regard to my position in this trying crisis, and for the benefit of yourself and others I write this.

I have been a zealous advocate of the Union up to the time of Lincoln's call for seventy-five thousand troops; that being in violation of law, and for the subjugation of the South. I commend Governor Harris for his course, and for arming the State and resisting Lincoln to the point of the bayonet, and have enrolled my name as a volunteer to resist his usurpation. I have, in Congress and out, opposed coercion and all forced measures, believing that it was better to recognize the independence of the "southern confederacy" than to attempt to coerce them back.

I have always opposed secession, but claim the right of revolution, and the right to resist the oppression of the Federal Government, and to throw off their allegiance to the same when that oppression becomes intolerable. That time has now come. I have been, and am now, for standing by the border slave States, for they are to be the great sufferers during the conflict. I am opposed to being tacked on to the southern confederacy at present, (except as a military league.) But when peace is restored, if the two nations cannot live in peace, let all the fifteen slave States elect delegates, meet in convention, frame their constitution, and submit it to the people for their ratification.

The South ought to be a unit during the war, by all means. I had announced myself as a candidate for reëlection, but on seeing Lincoln's proclamation for troops abandoned the canvass at once, and I am no candidate. I claim to have done my duty in trying to heal our difficulties and restore peace. That having failed I shall now march forward in the discharge of my duty in resisting Lincoln, regardless of false charges, or what-not, by those who are trying to put me down. Time will tell where we all stand, and who have been faithful.

Hoping to hear from you soon, I remain yours truly, WILLIAM B. STOKES.

Mr. JOHN DUNCAN, *McMinnville.*

The question came before the House of Representatives whether Mr. STOKES, after having written a letter like this, could take the oath that he had given no aid, counsel, countenance, or encouragement to the southern cause? He made his explanation in the House of Representatives; and that explanation, as I now recollect—I have not read the debate very recently—consisted of a statement of his motives. The letter spoke for itself; he wrote to his friend that his friend and the people in that part of the State might know his purpose and his position, that he might disseminate his views, which were that Mr. Lincoln and his troops ought to be resisted; that Tennessee for war purposes ought to be leagued with the southern confederacy; that coercion ought to be met and overcome. This declaration of his views for the purpose of influencing the conduct of the people he addressed could not be and was not questioned; and the only possible explanation he urged was that his motives were correct and that his conduct soon thereafter was guided otherwise, and by proper motives all the while. This explanation was received by the House, and he was admitted to his seat, and he helps now to make the laws of the country after having taken an oath that he had never voluntarily given aid, counsel, or encouragement to the cause of the South.

What a contrast we have here, Mr. Presi-

dent! Here is a letter written by a distinguished southerner, as it is said upon the face of the letter itself, to prevent misunderstanding and misconception of his position, to place himself right in a political point of view before the people, in which he takes as strong grounds in favor of resistance to the military authority of the United States as can be expressed. This was voluntarily done. The letter states expressly that it was written because he desired to write it, because he desired to place himself, as he thought, right before the people whose good will he desired to retain. The case which the Senate is now considering is that of a father whose son, disregarding his counsel, turning his back upon his advice, is about to leave his home—a boy eighteen or nineteen years old—and the father, in the perplexity of his spirit, and governed by no political desire, by no desire for fame or to put himself right with anybody, as that boy is about to leave his house, says to him, "I protest against your going; I protest against your joining this cause; the State that we live in is a State of the Union, and not a State of the southern confederacy; you have no right to go, you should stay; you will fail to reach your end; but if you will go, I cannot bear the thought that you shall starve and hunger among strangers." What a contrast! One act influenced by the purest and holiest motives known to human nature; the other, this letter written when the country needed all the moral support it could command, voluntarily, for the purpose of placing a politician right in his State; and yet when an explanation is made that it is hardly possible to reconcile, perhaps, with the face of the letter, that the motive is right, the House of Representatives say, "We will not charge this against you."

Mr. EDMUNDS. What was the date of the letter?

Mr. HENDRICKS. In May, 1861, after the seventy-five thousand troops had been ordered out, for he refers to the order of Mr. Lincoln calling for the troops. The House of Representatives has allowed this gentleman to take his seat, has said that his case is not within the spirit of the law because of the explanation which makes the motive satisfactory to the judgment and to the conscience of the House. Is any Senator prepared to say that when his own disobedient child shall turn his back upon his advice, and governed by a hardy purpose leaves the paternal roof, you will allow him to go without any money in his pocket, even if he be going upon a purpose that you condemn? I have heard a great deal in my time of that Roman stoicism which sacrifices the best and holiest sentiments and passions of human nature upon what is supposed to be a public altar, where a man gives up his child to public punishment without an effort to save him. I have never known many such cases in practice, and I would rather risk the stability of a government that is held together by such fond affections as hold the family circle together. I do not think we make our institutions any stronger when we ignore such affections and say that it is a crime to love a son, even to the extent of sustaining that son in doing what is not right. Why, sir, it is plain that Governor Thomas did not design, all the proof is plain that he did not design, to aid his son in going into the southern army. All the proof upon the subject is that he protested against it; that he said, "You cannot reach there, you will starve, but you shall not starve if $100 will prevent it; I give it to you for that purpose and for none other." Here is the motive accompanying the very act, proved by the language accompanying the very act.

Now, Mr. President, how can the Senate consistently with the decision in the PATTERSON case, how can the Senate consistently with the decision in the STOKES case say that Governor Thomas for doing this act, the immediate results of which were not to give aid to the enemy, the motives for which were not to give aid to the enemy, shall be excluded from the seat to which his State has elected him? I do not think that public morals, political morals, will be promoted by our saying that we will not look at the motive in a case like this. What will the country suppose of a decision like this if we exclude Governor Thomas? To what purpose on the part of the Senate can it be attributed? Surely there is no Senator who thinks that it was a bad thing, personally wrong, personally wicked to furnish his son $100 that he might not suffer after he left the paternal roof. No Senator feels so. Then why exclude him upon the dryest construction of the letter of the law—I say a forced construction of it? because the act itself did not give aid and comfort, though it might result in that; the motive was not that: and then when the public read this other record made in the House of Representatives, upon an act done the month after the war commenced, what construction can there be?

But, Mr. President, I claim that the construction given in the two branches already should form a rule to the Senate. Precedents become a part of the law. The precedents that I have referred to, and the elaborate construction of the law by the House committee at this session, in a report agreed to at this session by the House, stand as the construction by that body of this law—that an act done without a design to aid the southern cause does not come within the spirit of the law which prescribes the oath. And shall we not stand by this construction? Are Senators able to say that they are doing right in excluding Governor Thomas when they allow in both branches seats to be occupied by men whose acts were as questionable, to say the least, as the act of Governor Thomas in this matter, and the design could not be freer from wrong?

I shall not occupy the attention of the Senate in reading the whole of this testimony nor in reviewing the argument of the Senator from Vermont, [Mr. EDMUNDS,] which I did not hear, but have hastily read. He rests his argument, as I understand, upon a distinction between a motive and a purpose. I do not believe I understand that distinction exactly; of course it is my fault—not that he is too metaphysical, but he takes a distinction, as I understand, between the motive and the purpose, and he says that a man is presumed to have, as the purpose of his act, that which is the natural consequence of his act. I say you cannot interpose a presumption when the facts exclude that presumption. You cannot attribute to a man either a motive or a purpose contrary to that which is shown by the evidence. If I do an act which is susceptible of an innocent construction, and at the time I do the act I use language which shows that my motive is innocent, then there is no room for construction. I have the benefit of the whole taken together. This is the humane spirit of the law; but it would be rather fine work after the decision in the STOKES case to keep a man out of his seat in the Senate upon a distinction between a motive and a purpose. I do not think the country will ever be able to appreciate that exact metaphysical distinction. The question is what did a man want to accomplish when he did an act? That is the question without philosophical refinements. Did Governor Thomas, when he gave this money to his son, want to enable his son to go into the southern army, or did he want to secure him against hunger and suffering? That is the question. If he wanted to do the one, it is criminal; if he wanted to do the other, and that only, it is innocent; and I say to the Senator from Vermont that there is no criminal court in this country which furnishes him respectable authority for saying that you may attribute to a man by construction a motive wicked in itself when the act is susceptible of being attributed to an innocent motive, and when the party at the time he does the act explains it by his language, and that explanation shows it to be innocent.

This is consistent with the law that will not allow you to presume fraud; it must be proved. If a man does an act which might be construed as fraudulent, and if at the time he does the act he explains it and shows an honest motive for it, and that motive is consistent with the facts, the court cannot construe fraud upon him. So of crime. A man does an act which may be construed to be innocent or to be criminal; what he says at the time shall come in and explain and sustain him. Then at the very time this money was given, Governor Thomas said to his son, "You ought not to go; it is your duty to stay; if, however, you will go, I have no faith that you will reach the southern army; you will come to suffering, possibly to want; rather than see that, my heart says I will give you this $100."

Now, with that evidence and that all the evidence, the Senator says it is right to attribute to him a motive to aid the southern cause. He has no right to attribute a motive at all that is contrary to a man's duty in law. There was a possibility that that money might aid his son in getting into the army, but his design was to keep him from suffering. Then, sir, under all the decisions that have been made and under the express construction given by the committee of the House of Representatives and approved by the House by its vote, I stand upon the law as being that if a man does an act that is calculated to give aid to the enemy and he designs it, he is responsible, but if his act is not in its nature calculated to give aid and if he did not design it to give aid, he is not responsible.

Mr. FRELINGHUYSEN. Mr. President, as a member of the Committee on the Judiciary I feel that it may be proper for me to give my reasons for the conclusion to which I have come on this case.

Mr. SHERMAN. Does the Senator from New Jersey prefer to go on now, or will he let this matter go over until to-morrow? There is a little bill here in regard to whisky meters which, if it passes at all, ought to pass soon, for it expires by its terms——

Mr. FRELINGHUYSEN. I shall be very brief.

Mr. SHERMAN. If the Senator prefers to go on now I shall not interpose.

Mr. FRELINGHUYSEN. Mr. President, this case merits our calm consideration, for by a superficial view of the case we come to one conclusion, and by a careful examination of it we may come to another. One aspect of the case is that a gentleman offers himself here for a seat in the United States Senate who has given $100 to enable his son to join the enemies of his country while the very heartstrings of loyal men were breaking because they were called upon to part with their sons to overcome the infamous power to which he was contributing. That is a view that addresses itself to our passions and arouses our indignation; and so looking at the case no person here can feel that indignation more keenly than do I. But there is another presentation, and it may be the true one. It is this—a father, after he had done all that he could by command, by entreaty, by coolness, and by tears, when he believed that his son would not be able to reach the enemy's lines, when he believed that it would not alter the result, from parental solicitude and affection gave him money to avert his sufferings and thereby committed a grave mistake rather than a flagrant crime. The first view stated addresses itself to our passions and the other only to our charitable judgment.

This, sir, is not a political question. If it were, my opinions would lead me to vote that no one should be a member of the Senate or of Congress who did not hold to the cardinal principle of the equality of all men under our Government. It is a judicial question, and should be tried dispassionately according to the law and the fact.

Permit a few words as to the law. I understand that the Constitution requires four things, namely, that one to be a Senator must be thirty years of age; that he shall have been nine years a citizen of the United States; that he shall at the time of his election be an inhabitant of the State he represents, and that he

take the oath prescribed to support the Constitution—with these requirements the Senator elect can comply; but statutes add requisite qualifications in addition to those of the Constitution. No person can be a Senator whom any statutes renders infamous and ineligible for office by reason of crime. The Senator elect is not thus disqualified.

There is another statute, passed in 1862, called familiarly the iron-clad—with that the Senator elect offers himself as ready to comply. That is not a statute describing who may hold office. It is on its face a test-oath. One must have a conscience clad with iron to take that oath unless he is loyal to his country. But he has a right to take it. The statute says that if the oath taken is found to be false, he who has taken it shall be deprived of the office which by taking the oath he has attained.

The Senator from Vermont [Mr. EDMUNDS] asks how we distinguish this case from the provision of the reconstruction act where we all hold that, although there was an affidavit to be taken by the voter that was not conclusive upon the register. I answer that if that statute had provided that if a voter took that oath and it was found afterward to be false his ballot should be taken from the box, then the statutes would be similar, for this law provides that if any officer acquires his office by falsely taking this oath he shall be deprived of his office. The provision of the law is not that he shall have no opportunity of taking the oath; hence if Governor Thomas is ready to take the oath he is ready to comply with the statute.

The question then immediately arises, already asked, would you admit one as a Senator who was at the time disloyal if he was willing to take the test-oath? I answer unequivocally that I would not. The Constitution does not say that one, to hold office under the Government, must be loyal; and neither the Constitution nor the laws should so declare. That requirement is inherent in every fiber of the framework of our Government. Revelation, I believe, nowhere makes the formal declaration that there is a God, and the assertion would weaken the truth; and it is so with loyalty to this great nation. I believe there is no proof of a present want of loyalty in the Senator-elect.

The question is also asked whether one shall be admitted to office notwithstanding his previous disloyal conduct? Should Jefferson Davis be admitted to a seat in the Senate if he should offer himself, saying that he is now repentant and loyal? I answer no; the Constitution gives the Senate the right to determine as to the qualification of its members, and is bound to maintain its own dignity; and one may be as notoriously disloyal and infamous by his known acts as by the judgment of the courts. That class of men we have a perfect right as well as power to exclude. I do not understand that the Senator-elect comes under that classification.

If Governor Thomas is to be excluded, it is for the reason that when a person, from motives not to be condemned, (for all admit that his motive was parental affection,) does an act which may tend to help the enemies of the country, he should be excluded. That is the position the Senate must, I think, take to exclude him. A much stronger case than that made against Mr. Thomas is made against all those persons in the northern States who discouraged the draft; against all those persons who went through townships collecting money so as to pay $300 a head rather than send men to the war, and thus technically complied with the letter while they violated the spirit of the law; and a stronger case is made against those who in 1864 declared the war a failure. I do not say that the Senate should not adopt the rule suggested against Governor Thomas, but I respectfully submit that if that is the rule which is to govern the Senate it should be prescribed, written beforehand; for the difference between administering justice according to arbitrary will and according to a carefully considered law is, as I understand it, the difference between justice and its opposite.

Such are my views of the law. A word as to the facts, and I shall not further detain the Senate. The first fact against Mr. Thomas is that he urged his son not to join the enemy, simply because Maryland was not in the rebellion. It does not appear by the testimony, either of the father or of the son, that in all their conversations he ever said to his son: "You must not join the enemy because it is a war against your country." I am free to say that I admire the frankness of the Senator-elect in adhering to the truth, but I abhor the doctrine of State sovereignty and its correlative, State allegiance; but that doctrine is held by a vast number in this country. It is held by gentlemen in this chamber, and I do not see that we can undertake to put a candidate who is sent here by Maryland under examination, and see whether we approve or disapprove of his political sentiments.

The next point is that he did not prevent his son from going to the war. It is said that he should have imprisoned his son. If he had so done he must have kept him in prison as long as the war lasted, or it would have been of no avail, for as soon as released he would have had an additional inducement to leave his home for the field. But he gave his son $100. Unless that money aided him in getting to the enemy he is not within the provisions of the statute as to giving aid to the enemy, even if you take the statute as containing a description of the persons who may or may not hold office. The testimony is that the money was all spent before he left Washington, and that it did not aid him. But it is said that he obtained clothing with the money, and was so aided in getting to the enemy. Admitting that, we come to the question of motive. There was a unanimity, I think, in the committee that his motive was parental affection.

Mr. EDMUNDS. My friend will excuse me; I did not admit that proposition, for one.

Mr. FRELINGHUYSEN. I was mistaken, then, sir; but I think my friend from Vermont admitted it in the Senate and based his whole argument upon it.

Mr. EDMUNDS. My friend will excuse me again; I did not admit it in the Senate. I said that assuming the ground on which it was claimed by the Senator from Maryland [Mr. JOHNSON] that he ought to be admitted, that his motive was what I named, still the consequence did not follow. I simply took it for granted for the sake of the argument.

Mr. FRELINGHUYSEN. I understood the Senator's argument to be this: that the fact of Mr. Thomas's motive being parental affection did not change the case, because his purpose was to enable his son to get to the enemy. There, I think, the Senator from Vermont begs the whole question. The purpose was not to enable his son to get to the enemy. The father would have given many times the amount he gave to have carried his son to the mountains of Vermont instead of to the enemy. The motive was affection for the son, not, I admit, regard for this country, and because Maryland was not in the rebellion. The motive of Governor Thomas was parental solicitude; his purpose was to prevent the son from suffering.

Now, Mr. President, motive is everything. We are judging of the character whether the candidate is a proper person to be permitted to become a Senator or not. Reverse this case; suppose the testimony had shown that he gave his son $100 for the purpose of carrying him to the enemy's lines, and that he failed to get there, all would say that he was unfit to be here because he manifested a disposition to aid the enemy. Here he has manifested a disposition to keep his son from suffering. He committed a grave mistake, but I do not see that it proves him disloyal. Take this case: a husband sues for a divorce from his wife for desertion, and it is proven that the husband, when his wife was about to leave the house, gave her $100. We know that if there is any collusion between the parties the divorce cannot be granted.

The husband, however, proves that he begged his wife to stay, and that such was his affection for her that he was unwilling that she should suffer even if she would leave, and he therefore gave her the money. Would that be held to be such collusion as would prevent the husband obtaining the divorce? I think not. Motive, sir, is everything. And I insist that no man under our law is punished for anything but a moral dereliction. If a man raises a gun and kills a stranger, what is he punished for? It is not for the physical act of pulling the trigger, for if so you would punish an idiot as well as a sane man. He is not punished because he knew that the result would follow. One is not punished for the *actus intellectualis*, but for the moral wrong, and when you draw the indictment you charge that it was done with "malice aforethought." The act itself proves the malice. So the act here unexplained proves the disloyalty; but if on explanation we believe that the motive was parental solicitude, then the act ceases to be criminal, and is, as I said, a grave mistake.

I believe that it is a principle running through all law that *intentio mea imponet nomen operi meo*—my intention gives the name to my act. If Governor Thomas' motive was to save his son from suffering, he committed a mistake; but I am not prepared to say that he perpetrated a flagrant crime. These are the reasons which control my vote.

Mr. HOWARD. Mr. President——

Mr. SUMNER. The Senator from Michigan kindly yields the floor to me that I may make a motion to proceed to the consideration of executive business. We have arrived at a stage in this discussion where, I think, perhaps it may be interrupted.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 20, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday the first business during the morning hour is the call of States and Territories, beginning with the State of Maine, for bills and joint resolutions, to be referred to appropriate committees, and not to be brought back into the House by motions to reconsider.

PORTS OF DELIVERY.

Mr. PIKE introduced a bill (H. R. No. 460) to authorize the Secretary of the Treasury to establish ports of delivery, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

TOGUS MILITARY ASYLUM.

Mr. BLAINE introduced a bill (H. R. No. 461) making an appropriation for rebuilding the United States military asylum at Togus, Maine; which was read a first and second time, and referred to the Committee on Appropriations.

PAYMENT OF NAVAL PENSIONS.

Mr. PERHAM introduced a bill (H. R. No. 462) providing for the payment of certain naval pensions out of the naval pension fund; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RELIEF OF DRAFTED MEN.

Mr. VAN AERNAM introduced a bill (H. R. No. 463) to amend an act for the relief of certain drafted men, approved February 28, 1867; which was read a first and second time, and referred to the Committee on Military Affairs.

POST ROUTE IN NEW YORK.

Mr. VAN AERNAM also introduced a bill (H. R. No. 464) to establish a post route from Little Valley to Randolph, New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CHARLOTTE CRANE.

Mr. STEWART introduced a bill (H. R. No. 465) for the relief of Charlotte Crane; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

COASTING TRADE AND FISHERIES.

Mr. MOORE introduced a joint resolution (H. R. No. 155) in relation to vessels enrolled and licensed for employment in the coasting trade and fisheries; which was read a first and second time, and referred to the Committee on Naval Affairs.

Some time subsequently,

Mr. WASHBURNE, of Illinois, said: Mr. Speaker, I desire to call attention to a resolution introduced by the gentleman from New Jersey, [Mr. MOORE,] and referred to the Committee on Naval Affairs. I think it should go to the Committee on Commerce.

The SPEAKER. The joint resolution took that reference on motion of the gentleman from New Jersey.

Mr. WASHBURNE, of Illinois. I would suggest to the gentleman from New Jersey [Mr. MOORE] to give his joint resolution a proper reference.

The SPEAKER. The joint resolution has already been referred, and under the rule it cannot be brought back for a change of reference by a motion to reconsider. The only way to reach the object of the gentleman from Illinois [Mr. WASHBURNE] is to move, after the expiration of the morning hour, to suspend the rules.

WILLIAM SPONSLER.

Mr. KOONTZ introduced a bill (H. R. No. 466) for the relief of William Sponsler, late a private in company B, one hundredth regiment Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EXEMPTION OF MANUFACTURES.

Mr. MILLER introduced a joint resolution (H. R. No. 156) to exempt from taxation all such manufactures as relate to the industrial interests of the country; which was read a first and second time, and referred to the Committee of Ways and Means.

ALOYSIUS J. KANE.

Mr. MILLER also introduced a bill (H. R. No. 467) granting a trial by court-martial to Aloysius J. Kane, late ensign in the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

MARY COVER.

Mr. MILLER also introduced a bill (H. R. No. 468) granting a pension to Mary Cover, of Middletown, Pennsylvania, widow of Samuel Cover, deceased, late a private in company G, fifty-sixth regiment Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES MAUS.

Mr. MILLER also introduced a bill (H. R. No. 469) granting a pension to Charles Maus, of Lewisburg, Pennsylvania, a soldier in the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

WASHINGTON AND PENNSYLVANIA RAILROAD.

Mr. THOMAS introduced a bill (H. R. No. 470) to authorize the building of a railroad from Washington City, District of Columbia, to connect with the Northern Central railroad at or near the State line between Pennsylvania and Maryland; which was read a first and second time, and referred to the Committee on Roads and Canals.

FIRE EXTINGUISHER FOR STEAMERS.

Mr. EGGLESTON introduced a joint resolution (H. R. No. 157) in regard to requiring steamboats to use a newly-invented fire extinguisher; which was read a first and second time, and referred to the Committee on Commerce.

POST ROUTE IN OHIO.

Mr. VAN TRUMP introduced a bill (H. R. No. 471) to establish a post road from Berne station via Hartzler, Fairfield county, Ohio, to West Rushville, Fairfield county, Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

BANKRUPT LAW.

Mr. MULLINS introduced a bill (H. R. No. 472) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States;" which was read a first and second time.

Mr. MULLINS. I move that the bill be referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa. I would suggest to the gentleman from Tennessee [Mr. MULLINS] that it would be better to refer this bill to the Committee on Revision of Laws of the United States, of which the gentleman from Rhode Island, [Mr. JENCKES,] who reported the bill which was passed into the present bankrupt law, is a member. The Committee on the Judiciary have agreed to send all bills and resolutions on that subject before them to the Committee on Revision of Laws.

Mr. MULLINS. I have no objection.

The bill was referred accordingly.

PENSION LAWS.

Mr. NUNN introduced a bill (H. R. No. 473) further extending the provisions of the pension laws; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PAYMENT OF PENSIONS IN COIN.

Mr. WASHBURN, of Indiana, introduced a bill (H. R. No. 474) to provide for the payment of pensions in coin; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DISTRICT JUDGES.

Mr. COBURN introduced a bill (H. R. No. 475) concerning district judges; which was read a first and second time, and referred to the Committee on the Judiciary.

PAYMENT OF BOUNTIES TO VETERANS.

Mr. COBURN also introduced a bill (H. R. No. 476) requiring the War Department to pay to veteran volunteers their bounties in accordance with General Orders Nos. 191 and 216 of that Department for the year 1863; which was read a first and second time, and referred to the Committee on Military Affairs.

HEIRS OF GIDEON WALKER.

Mr. HUNTER introduced a bill (H. R. No. 477) for the relief of the heirs of Gideon Walker, of Indiana; which was read a first and second time, and referred to the Committee of Claims.

JOHN B. CHAPMAN.

Mr. WILLIAMS, of Indiana, introduced a joint resolution (H. R. No. 158) for the relief of John B. Chapman; which was read a first and second time, and referred to the Committee on Foreign Affairs.

BOUNTIES.

Mr. CULLOM introduced a joint resolution (H. R. No. 169) in relation to bounties for soldiers transferred to the Navy during the late war; which was read a first and second time, and referred to the Committee on Naval Affairs.

ADMIRALTY CASES IN DISTRICT COURTS.

Mr. JUDD introduced a bill (H. R. No. 478) to amend an act entitled "An act extending the jurisdiction of the district courts to certain cases upon the lakes and navigable waters connecting the same," approved February 26, 1845; which was read a first and second time, and referred to the Committee on the Judiciary.

PAY FOR HORSES LOST IN SERVICE.

Mr. BROMWELL introduced a bill (H. R. No. 479) to pay officers, musicians, and privates for horses lost in the service, not killed in battle; which was read a first and second time, and referred to the Committee on Military Affairs.

JURORS IN DISTRICT OF COLUMBIA.

Mr. INGERSOLL introduced a bill (H. R. No. 480) in relation to the pay of grand and petit jurors in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

IDIOTS, ETC., IN THE DISTRICT.

Mr. INGERSOLL also introduced a bill (H. R. No. 481) in relation to idiots, lunatics, and habitual drunkards in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

NATIONAL LIFE INSURANCE COMPANY.

Mr. INGERSOLL also introduced a bill (H. R. No. 482) to incorporate the National Life Insurance Company of the United States of America; which was read a first and second time, and referred to the Committee for the District of Columbia.

CANAL AND SEWERAGE COMPANY.

Mr. INGERSOLL also introduced a bill (H. R. No. 483) to incorporate the Georgetown and Washington Canal and Sewerage Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

METROPOLITAN, ETC., INSURANCE COMPANY.

Mr. INGERSOLL also introduced a bill (H. R. No. 484) to incorporate the Metropolitan Fire and Marine Insurance Company of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

RIGHTS OF ADOPTED CITIZENS.

Mr. VAN HORN, of Missouri, introduced a joint resolution (H. R. No. 159) in regard to rights of naturalized citizens; which was read a first and second time.

By unanimous consent the resolution was read *in extenso*, as follows:

Whereas it appears that one Michael O'Brien, claiming to be an American citizen, has recently been tried, convicted, sentenced, and executed for an alleged offense in England; and whereas it also appears that said O'Brien was denied the benefit of a mixed jury, which by the law of England is granted subjects or citizens of other nations; and whereas it further appears that said O'Brien appealed to the American minister at London, Mr. Adams, claiming his interference on the ground that he was a citizen of the United States and innocent of the crime charged, and that Mr. Adams refused to take any action in his case: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby instructed to demand of the British Government an explanation in the matter of Michael O'Brien and such satisfaction and redress as the facts may warrant.

And be it further resolved, That the President is hereby instructed to represent to the Government of Great Britain that the United States acknowledge no right of interference by other States with her naturalized citizens by reason of their nativity or former allegiance; that they are recognized as entitled to all rights and protection accorded natural-born citizens, and that the infringement of those rights by foreign Governments will be held as cause of war by the Government and people of the United States.

And be it further resolved, That it is the duty of the President to at once recall Mr. Adams.

The joint resolution was then referred to the Committee on Foreign Affairs.

HELIA A. COOKSEY.

Mr. McCORMICK introduced a joint resolution (H. R. No. 160) granting a pension to Helia A. Cooksey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DES MOINES AND ROCK ISLAND RAPIDS.

Mr. WILSON, of Iowa, introduced a bill (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island Rapids, in the Mississippi river; which was read a first and second time, and referred to the Committee on the Judiciary.

AGRICULTURAL COLLEGES.

Mr. DONNELLY introduced a bill (H. R. No. 486) to amend an act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July 2, 1862; which was read a first and second time, and referred to the Committee on Public Lands.

COMPENSATION OF MEMBERS OF CONGRESS.

Mr. HUBBARD, of West Virginia, introduced a joint resolution (H. R. No. 161) fixing the compensation of members of Congress; which was read a first and second time, and referred to the Committee on Appropriations.

COLORADO POST ROUTES.

Mr. CHILCOTT introduced a bill (H. R. No. 487) to establish certain post routes in the Territory of Colorado; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

JAMES MARTIN.

Mr. CHILCOTT also introduced a bill (H. R. No. 488) for the relief of James Martin; which was read a first and second time, and referred to the Committee on Military Affairs.

RAILROAD GRANTS.

Mr. CHILCOTT also introduced a bill (H. R. No. 489) explanatory of the several acts granting lands to railroads within the States and Territories of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

ARIZONA COLLECTION DISTRICT.

Mr. BASHFORD introduced a bill (H. R. No. 490) to create the collection district of Arizona; which was read a first and second time, and referred to the Committee of Ways and Means.

BOUNTY TO DRAFTED MEN.

Mr. POLAND introduced a bill (H. R. No. 491) giving a bounty to soldiers drafted into the Army of the United States; which was read a first and second time, ordered to be printed, and referred to the Committee on Military Affairs.

JOHN T. COX.

Mr. CLARKE, of Kansas, introduced a joint resolution (H. R. No. 162) for the relief of John T. Cox, late regimental quartermaster of first regiment Indiana home guards; which was read a first and second time, and referred to the Committee on Military Affairs.

ORPHANS OF SOLDIERS AND PENSIONERS.

Mr. KELLEY introduced a joint resolution (H. R. No. 163) relating to orphans of soldiers and pensioners; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ACTUAL SETTLERS.

Mr. LAWRENCE, of Ohio, introduced a bill (H. R. No. 492) to secure to actual settlers the right to purchase lands hereafter granted to railway and other companies; which was read a first and second time, ordered to be printed, and referred to the Committee on Public Lands.

ABIGAIL REYNOLDS.

Mr. UPSON introduced a bill (H. R. No. 493) granting a pension to Abigail Reynolds; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and War of 1812.

HARBOR IMPROVEMENTS IN MICHIGAN.

Mr. UPSON also introduced a bill (H. R. No. 494) making an appropriation for the improvement of Saugatuck harbor, in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

Mr. UPSON also introduced a bill (H. R. No. 495) making appropriation for the improvement of the harbor of St. Joseph and the harbor of South Haven, in the State of Michigan; which was read a first and second time, and referred to the same committee.

COLLECTORS OF CUSTOMS.

Mr. PERHAM introduced a bill (H. R. No. 496) defining the duties of collectors of customs in certain cases, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

SOLDIERS' BOUNTIES.

Mr. CHURCHILL introduced a joint resolution (H. R. No. 164) explanatory of section 13 of the act approved July 28, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes;" which was read a first and second time, and referred to the Committee on Military Affairs.

NORTHERN DISTRICT OF NEW YORK.

Mr. CHURCHILL also introduced a bill (H. R. No. 497) to regulate the sessions of the district court for the northern district of New York; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FORT JESSUP RESERVATION.

Mr. JULIAN introduced a bill (H. R. No. 498) to declare the Fort Jessup reservation of lands restored to the United States and subject to homestead entry and settlement; which was read a first and second time, and referred to the Committee on Public Lands.

PENSIONS TO WIDOWS AND ORPHANS.

Mr. MYERS introduced a joint resolution (H. R. No. 165) providing that the increased pensions allowed to widows and orphans shall not be decreased because of their being inmates of public institutions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BUREAU OF STATISTICS.

Mr. BALDWIN introduced a bill (H. R. No. 499) to abolish the office of director of the bureau of statistics and transfer the business of the bureau to the department of education; which was read a first and second time, and referred to the joint Committee on Retrenchment.

CUSTODY AND EXPENDITURE OF MONEYS.

Mr. BUTLER introduced a bill (H. R. No. 500) for the better regulation of the custody and expenditure of public moneys; which was read a first and second time, and referred to the Committee on Appropriations.

Mr. BUTLER. I ask that a report of the committee be printed with the bill.

The SPEAKER. That would be in the nature of a report from a committee, which the Chair thinks would not be in order under this call.

Mr. BUTLER. I withdraw the motion to print the report.

IMPRISONMENT OF AMERICAN CITIZENS.

Mr. BROOKS introduced a joint resolution (H. R. No. 166) upon the subject of imprisonment of American citizens abroad; which was read a first and second time, and referred to the Committee on Foreign Affairs.

The call of the States for bills and joint resolutions having been completed,

The SPEAKER proceeded to call the States and Territories for resolutions, commencing with the State of Michigan.

EXAMINATION OF THE PAY DEPARTMENT.

Mr. COBB offered the following resolution, and demanded the previous question thereon:

Resolved, That the select Committee on the Workings of the Pay Department, which was appointed on the 19th day of July, 1867, be, and is hereby, authorized to summon witnesses and continue to take testimony by the examination of the same; also, to send for such papers, records, and documents as may be deemed necessary in finishing the investigation; and that when said committee shall meet for the purpose of examining witnesses the Paymaster General shall be notified of such meeting and be allowed to be present and cross-examine the same if he shall elect to do so; and before any report shall be made inculpating any officer of the Government such officer shall be notified to appear and explain his conduct before said committee.

Mr. BLAINE. I rise to a point of order. Is that committee now in existence?

The SPEAKER. It can be revived by a vote of the House.

Mr. BLAINE. Does this resolution revive it?

The SPEAKER. It does revive it.

Mr. WASHBURNE, of Illinois. I would like to know the expense the committee has been at already?

Mr. COBB. I call the gentleman to order.

Mr. BLAINE. I hope the resolution will not be adopted.

The question was put upon seconding the demand for the previous question; and there were—ayes 37, noes 29; no quorum voting.

Tellers were ordered; and Messrs. COBB and BLAINE were appointed.

The House divided; and the tellers reported—ayes 59, noes 44.

So the previous question was seconded.

The main question was then ordered.

Mr. WASHBURNE, of Illinois. I move to lay the resolution on the table.

Mr. SPALDING. I demand the yeas and nays on that motion.

The yeas and nays were not ordered.

The question was put; and the House refused to lay the resolution on the table.

The resolution was then adopted.

Mr. COBB moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLAIMS BEFORE THE DEPARTMENTS.

Mr. WASHBURN, of Wisconsin, introduced a joint resolution (H. R. No. 167) in relation to the prosecution of claims before the Departments; which was read a first and second time.

The joint resolution was read. It provides that from and after its passage no person who has been Secretary, Assistant Secretary, head of bureau, or clerk in any of the Departments of the Government shall be permitted to practice as an attorney or as an agent for the prosecution of claims before the Department in which he has been such Secretary, Assistant Secretary, head of bureau, or clerk until after the expiration of two years from the time his term of service expires.

Mr. WASHBURN, of Wisconsin, demanded the previous question on the joint resolution.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD RATES.

Mr. WASHBURN, of Wisconsin. I ask leave to introduce a joint resolution, which I send up.

The SPEAKER. The gentleman having already introduced one resolution under this call he can only introduce another by unanimous consent.

Several MEMBERS. Let the resolution be read.

The Clerk read the joint resolution. It proposes to constitute the Secretary of War, the Secretary of the Interior, and the Attorney General of the United States a board of commissioners, whose duty it shall be on the 1st day of July in each year to establish a tariff for freight and passengers over the Union

Pacific and Central Pacific railroads and their branches, which tariff shall be equitable and just and not exceeding double the average rates charged on the different lines of railroad between the Mississippi river and the Atlantic ocean in latitudes north of St. Louis, Missouri, and that it shall not be lawful for said railroad companies to charge any sum in excess of the rates so fixed.

Mr. DODGE. I object.

ARMY SUTLERS.

Mr. JOHNSON submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Military Affairs be hereby instructed to inquire into the necessity of reëstablishing the office of sutler in the Army for the Pacific States and Territories, or the extension of the act authorizing the establishment of trade stores in those States, or any of them, not now provided for by that act.

PACIFIC RAILROAD RATES.

Mr. WINDOM introduced a joint resolution (H. R. No. 169) to regulate the tariff for freight and passengers on the Union and Central Pacific railroads and branches; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. WINDOM. Upon that question I call for the previous question.

The joint resolution was read at length. It provides that the Secretary of War, the Secretary of the Navy, and Attorney General of the United States shall constitute a board of commissioners, whose duty it shall be on the 1st day of July in each year to establish a tariff for freight and passengers over the Union Pacific and Central Pacific railroads and their branches, which tariff shall be equitable and just, and not exceeding double the average freights charged on the different lines of railroad between the Mississippi river and Atlantic ocean in latitudes north of St. Louis, Missouri, and it shall not be lawful for said railroad companies to charge any sum in excess of the rates so fixed and established.

The question was upon seconding the call for the previous question; and upon a division there were—ayes 53, noes 55.

Before the result of the vote was announced, Mr. WINDOM called for tellers.

Tellers were ordered; and Mr. WASHBURN of Wisconsin and Mr. JOHNSON were appointed.

The House again divided; and the tellers reported that there were—ayes 51, noes 63.

So the previous question was not seconded.

The question then recurred upon ordering the joint resolution to be engrossed and read a third time.

Mr. HIGBY. I desire to debate this joint resolution.

The SPEAKER. The gentleman from California [Mr. HIGBY] rising to debate the joint resolution, it goes over under the rule.

MRS. J. M. HOCKADAY.

Mr. CARY asked and obtained leave to have withdrawn from the files of the House copies of the papers in the case of Mrs. J. M. Hockaday.

CONGRESSIONAL TEMPERANCE SOCIETY.

Mr. DONNELLY submitted the following preamble and resolution, upon which he called the previous question:

Whereas a society has been formed by members of Congress called "The Congressional Temperance Society;" and whereas it is contemplated by said society to hold a public meeting on Sunday, the 26th instant, at seven o'clock p. m.: Therefore,

Resolved, That the Hall of the House of Representatives be granted for that purpose, to enable members of the House to take part in the ceremonies on that occasion.

Mr. SPALDING. Does not that resolution require a two-third vote?

The SPEAKER. It does not.

Mr. SPALDING. Is not there a rule of the House forbidding the use of the Hall for such purposes?

The SPEAKER. Rule 155, while providing that the Hall of the House shall not be used for any other purpose than the legitimate business of the House, especially excepts those "occasions where the House may by resolution agree to take part in any ceremonies to be observed therein."

The previous question was then seconded upon a division—ayes 69, noes 43.

The question was upon ordering the main question.

Mr. WASHBURNE, of Illinois. I move that the resolution be laid on the table; and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 41, nays 112, not voting 35; as follows:

YEAS—Messrs. Archer, Delos R. Ashley, Baker, Barnum, Boyer, Bromwell, Brooks, Burr, Chanler, Dodge, Eldridge, Farnsworth, Ferriss, Fox, Getz, Glossbrenner, Griswold, Haight, Hotchkiss, Humphrey, Kerr, Marshall, McCarthy, Niblack, Nicholson, Pike, Poland, Pruyn, Schenck, Scofield, Spalding, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Robert T. Van Horn, Van Trump, Elihu B. Washburne, Thomas Williams, and Wood—41.

NAYS—Messrs. Adams, Allison, Ames, Anderson, Arnell, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Beaman, Beck, Benjamin, Bingham, Blair, Boutwell, Broomall, Buckland, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Dawes, Dixon, Donnelly, Eckley, Eggleston, Ela, Eliot, Ferry, Fields, Garfield, Golladay, Gravely, Grover, Harding, Higby, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Johnson, Jones, Judd, Julian, Kelley, Kelsey, Kitchen, Knott, Koontz, William Lawrence, Lincoln, Loughridge, Marvin, Maynard, McCormick, Mercur, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Plants, Polsley, Pomeroy, Price, Randall, Raum, Robertson, Ross, Sawyer, Shanks, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Windom, Woodbridge, and Woodward—112.

NOT VOTING—Messrs. Barnes, Benton, Blaine, Butler, Cornell, Covode, Cullom, Driggs, Finney, Halsey, Hawkins, Hill, Hooper, Richard D. Hubbard, Ketcham, Laflin, George V. Lawrence, Loan, Logan, Lynch, Mallory, McClurg, McCullough, Morgan, Mungen, Phelps, Pile, Robinson, Selye, Shellabarger, Thaddeus Stevens, Stokes, Taffe, Ward, and Stephen F. Wilson—35.

So the motion to lay the resolution on the table was not agreed to.

The question then recurred on ordering the main question.

The main question was ordered; and under the operation thereof the resolution was adopted.

Mr. DONNELLY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTINGENT EXPENSES OF CLERK'S OFFICE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Clerk of the House of Representatives, transmitting his annual report of the contingent expenses of his office; which was referred to the Committee on Appropriations, and ordered to be printed.

EMPLOYÉS IN CLERK'S OFFICE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Clerk of the House of Representatives, transmitting a list of employés in his office for 1867; which was referred to the Committee on Appropriations, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. MAYNARD. I have received a note from my colleague, Mr. STOKES, stating that he is compelled, for the first time in his congressional life, to ask, on account of domestic calamity, leave of absence for ten days, which I hope will be granted.

Leave was granted.

PRIZE PROCEEDINGS, ETC.

Mr. WOODBRIDGE, by unanimous consent, introduced a bill (H. R. No. 501) supplementary to an act entitled "An act to regulate prize proceedings and the distribution of prize money, and for other purposes," approved June 30, 1864; which was read a first and second time, and referred to the Committee on the Judiciary.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. VAN AERNAM, by unanimous consent, presented resolutions adopted at a mass meeting held in Alleghany, Chatauque county, New York, January 2, 1868, declaring the rights of American citizens abroad; which were referred to the Committee on Foreign Affairs.

Mr. BOYER. I ask unanimous consent to present a petition on the same subject as the resolutions just presented.

The SPEAKER. If there is no objection, the gentleman will proceed.

There was no objection.

Mr. BOYER. I present the petition of over three hundred citizens of Pennsylvania, residents of the district which I have the honor to represent in this House, praying that Congress will take such legislative action as will not only define the status of the naturalized citizens of this Republic before the world, but also compel the Government of Great Britain to recognize the validity of the naturalization of those citizens whom now she holds in durance, and do justice to them by reinstating them in the liberties and immunities of which they have been deprived, in violation of their rights as American citizens.

Mr. Speaker, instead of filing this petition with the Clerk in the ordinary way, I have preferred to call the attention of the House to it in this more conspicuous manner, on account of the growing importance of the subject, and especially in view of the fact that the latest news from Europe has brought us intelligence of the arrest of native-born American citizens immediately upon their arrival in England, not for any offense committed or alleged to have been committed within the British dominions, but simply for the exercise of free speech in their native country.

The petition was referred to the Committee on Foreign Affairs.

OBITUARY ANNOUNCEMENTS.

The SPEAKER. The delegation from the State of Missouri have stated to the Chair that they desire to announce, on Wednesday next, at three o'clock, the death of their late colleague, Mr. Noell. The delegation from Ohio have stated their wish to announce, on Thursday next, at two o'clock, the death of their late colleague, Mr. Hamilton. The delegation from Kentucky desire to announce, on Friday next, at three o'clock, the death of Mr. Hise, who was elected a member of this House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed an act (S. No. 166) for the relief of the owners of the land within the United States survey No. 3217, in the State of Missouri; in which he was directed to ask the concurrence of the House.

It further announced that the Senate insisted on their amendments to House bill No. 207, to provide for the exemption of cotton from internal taxation, and asked for a committee of conference; and had appointed, as the managers on the part of the Senate, Mr. SHERMAN, Mr. CONKLING, and Mr. MORRILL, of Vermont.

BOUNTIES.

Mr. NIBLACK, by unanimous consent, submitted the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of extending the provisions of so much of the act of July 28, 1866, as grants bounties to certain soldiers of the late war for the suppression of the rebellion who volunteered in the year 1861, so as to include within its benefits the same class of soldiers who were discharged by reason of disability incurred in the line of their duties; and to report by bill or otherwise.

Mr. PILE. I desire to say to the gentleman [Mr. NIBLACK] that the Committee on Military Affairs already have this subject under consideration.

The resolution was adopted.

RECONSTRUCTION.

Mr. SPALDING. I call for the regular order.

The SPEAKER. The morning hour having expired, the House, as the regular order, resumes the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867. The gentleman from Ohio [Mr. BINGHAM] is entitled to the floor, he having announced that he would, at the expiration of the morning hour to-day, rise for the purpose of closing the debate.

Mr. BINGHAM. During my absence on Friday the gentleman from New York [Mr. PRUYN] obtained the floor on this bill; and under the circumstances I deem it my duty to submit to the House whether that gentleman may not be permitted to proceed for half an hour, to be followed by several other gentlemen who have indicated to the Chair their desire to speak, I postponing the call for the previous question until twenty minutes past three o'clock this afternoon. If that be the pleasure of the House, I will yield to the gentleman from New York [Mr. PRUYN] for half an hour.

The SPEAKER. If there be no objection the debate will continue in half-hour speeches until twenty minutes past three o'clock this afternoon.

There was no objection, and it was ordered accordingly.

The SPEAKER. The gentleman from New York, [Mr. PRUYN,] who obtained the floor at the adjournment on Friday last, is entitled to the floor this morning for half an hour.

Mr. BUTLER. I wish to inquire whether the gentleman from Ohio will not let all the amendments offered come in before he calls the previous question, so that a vote can be had on them?

Mr. BINGHAM. I will say to the gentleman that I propose to withdraw the motion to recommit, to offer amendments to perfect the bill, and then to demand the previous question, which will, of course, cut off the amendment of the gentleman from Massachusetts.

Mr. BUTLER. I hope the gentleman from Ohio will allow us to offer amendments and take the vote of the House on them. There is no use in discussion unless that is done.

Mr. BINGHAM. I can only say the committee considered very fully the amendment the gentleman speaks about, and I feel myself instructed on the subject of that amendment.

Mr. PRUYN. Mr. Speaker, as my time is limited, I will say that I do not wish to be interrupted during the course of my remarks.

When it is proposed in this House to subvert the fundamental principles of our Government, and to break down the landmarks which guard our free institutions, it is to be expected that the best minds of those engaged in the work will assign the best reasons they can give for their bold attempt. And those who happen to be placed at the post of duty must meet these movements, whether they proceed from secessionists on the one side or from revolutionists on the other, with the firm determination never to disregard, never to abandon, the great principles intrusted to their keeping.

I listened with interest to the eloquent words, to the warm utterances, to the fancy, and to the rhetoric, with which the gentleman from Ohio [Mr. BINGHAM] opened this debate; but I listened in vain for any substantial reasons which could justify the extraordinary legislation he proposed.

In the short time I am entitled to the floor I can only briefly advert to some of the features of the bill under consideration, and to the views by which it is supported. I am forced to omit an examination of those parts of it which attempt to override the rights of the Executive and to interfere with the power of the judiciary. Should the bill become a law both these attempts will fail—as the General of the Army will still, on well settled principles, be subject, under the Constitution, to the orders of the Commander-in-Chief, and the Supreme Court will most assuredly, if the law be brought before them, adjudicate its provisions, and I doubt not hold them to be unconstitutional and void, as they will also the act, should it become a law, a kindred measure to this, which passed this body a few days ago, and by which it is intended, for political purposes, to undermine the judicial power of the United States. These subjects and the large field of discussion which they open I must pass by, and proceed to consider other views presented in support of the bill.

The measure I understand to be advocated on two grounds. The one is this: that the southern States, by reason of the success of our arms have ceased to exist as independent States, and that Congress may organize them as they please, under the war power, or that it may treat them as Territories and make all "needful rules and regulations" for their government, under the second section of the fourth article of the Constitution.

The other view recognizes the existence of the States as such, and claims that their constitutions which existed before the rebellion have been swept away; that their governments now in existence are not republican in form; and that, therefore, it is the duty of Congress under the fourth section of the fourth article of the Constitution, to interpose and establish new governments for them. The section reads thus:

"The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

The first view is based upon the theory of the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] which he presented to this House in the Thirty-Eighth Congress, where, to the best of my ability and opportunity, (for the previous question then, as now, was constantly interposed to check discussion,) I controverted it, which theory he has at all times boldly advocated, and is entitled to the credit of having frankly admitted that its consequences carry its supporters "outside of the Constitution."

Those who maintain the other view of the subject are not as frank in their avowals as the gentleman from Pennsylvania, although their doctrines are almost if not quite as pernicious; for if there be any choice it is in favor of the first, as its supporters go outside of the Constitution, leaving the fabric untouched, while the latter, under the guise of friendship, stab it in its vital parts.

To discuss these positions to the extent which the importance of the subjects—present as well as future—demands would require almost as many hours as I have minutes allowed me, and I must be content to call attention in a very general way to some views in regard to them.

The theory that the southern States are conquered territories proceeds upon the assumption that they became belligerents in the full sense of the term by reason of the President's proclamation of blockade, that the war was thenceforth, as Mr. STEVENS claims, a war between nationalities, and that the conqueror, under the laws of war, had the right to do what he pleased with the conquered territory. In other words, that a measure expressly declared to be in and of the steps taken to suppress the rebellion and to restore the Union should be treated as one conceding rights to the rebel States and giving strength and importance to the effort it was designed to extinguish; and further, that although neither the States nor Congress could constitutionally dissolve the Union, the President might if he pleased do so by his proclamation giving belligerent rights to the rebels. The statement of the case of itself confutes the conclusion thus sought to be drawn from it. Nor does the territorial clause of the Constitution help the matter.

It certainly never was assumed by the framers of the Constitution that any State could be reduced to a territorial condition. It was the object of the "guarantee" section, if I may so call it, to preserve the States in their integrity for all time to come. The territorial clause, from the very nature of the compact as well as from the force and meaning of the words used, applied to territory outside of the States. The northwestern territory had already been received by the Government as a Territory, and it was to acquisitions of this kind that the Constitution was intended to apply.

The very able remarks of the distinguished gentleman from Pennsylvania, [Judge WOODWARD,] made on Saturday last, and to which the House listened with such marked attention, disposed so effectually of another branch of this discussion that I cannot do better than to refer to them. His conclusion on clear principles of law was, that the repeal by the southern States of the ordinances of secession and kindred legislation revived the former order of things, and that their constitutions and form of government which were in force at the outbreak of the rebellion were by such acts of repeal fully restored. It was well said by him that "what the war overthrew was the southern confederacy, not the southern States." And as bearing on this question as to the effect of civil war, I may here remark that, according to all authorities, civil war is an inchoate or imperfect war, and never produces "the effect of a political war between several States." (See Heffter *Droit Inter. Public de l' Europe*, sec. 114; Grotius, book 1, chap. 3, sec. 1; Halleck's International Law, page 332.)

Nor was the war in any way a war of conquest. It was a war to enforce jurisdiction, not to acquire territory. The idea of acquisition or conquest was never put forth by any branch of the Government, and as far as Congress was concerned it was denied in explicit terms by the well known Bull Run resolution.

Let us see how the Supreme Court of the United States have regarded this matter.

In the case of the Venice, which arose in Louisiana, and was decided by the court in December, 1864, (2 Wallace's Reports, page 278,) they expressly negative the idea that the South was subjugated by conquest. Let me read the following brief extract from the opinion of the court, pronounced by Chief Justice Chase:

"When flag officer Farragut, in his first letter to the rebel mayor of New Orleans, demanded the surrender of the city and promised security to persons and property, he expressed the general policy of the Government. So, also, when Major General Butler published his proclamation and repeated the same assurance, and made a distinct pledge to neutrals, he made no declaration which was not fully warranted by that policy. There was no capitulation. Neither the assurance nor the pledge was given as condition of surrender. Both were the manifestation of a general purpose which seeks the reëstablishment of the national authority and the ultimate restoration of States and citizens to their national relations under better forms and firmer guarantees, *without any views of subjugation by conquest.*"

I wish, also, to call special attention to the very decided opinion on this point also pronounced by the Chief Justice in the case of Shortridge *vs.* Macon, in the North Carolina circuit. Referring to the acts of secession and the legislation of North Carolina on that subject the Chief Justice says:

"But these acts did not effect even for a moment the separation of North Carolina from the Union any more than the acts of an individual who commits grave offenses against the State by resisting its officers and defying its authority can separate him from the State."

Further:

"On no occasion, however, and by no act have the United States ever renounced their constitutional jurisdiction over the whole territory, or over all the citizens of the Republic, or conceded to citizens in arms against their country the character of alien enemies, or to their pretended government the character of a *de facto* government."

These decisions fully dispose of the legal question, provided the decisions of the Supreme Court are to be regarded with the respect they once were.

Nor could the South under the law of nations have been considered a conquered territory, for, in addition to other well settled principles applicable to the case, it is an established rule of that law that the inhabitants of a conquered territory change their allegiance. (The case of the Fame, 5 Robinson's Reports, p. 106;

opinion of Sir William Scott cited in Whiting's War Powers, page 337.) Will it be claimed that the southern people by their acts of secession accomplished a change of their allegiance? Was not the war on the part of the North carried on in express denial of the right claimed by the South to do so? Did we not seek to force them to remain in the Union?

In no legal point of view, therefore, can the South be looked upon as territory acquired by conquest. I will now call attention to the status of the southern States as determined by the acts of the executive and the legislative departments of the Government.

Congress has by many acts, since the outbreak of the rebellion and during its continuance, recognized the existence of the southern States as States and as belonging to the Union.

As to the United States courts: See the act of July 15, 1862, which distinctly names all the insurrectionary States; the several acts of May 22, July 27 and 28, 1866.

As to the public lands: The act of June 30, 1864; that of June 21, 1866, specially recognizing laws of the southern States; and the act of March 2, 1867.

Non-intercourse acts: Act of July 13, 1861; act of May 20, 1862; act of June 2, 1864.

Political recognition by joint resolutions: That of February 8, 1865, as to the Electoral College; those of February 1, 1865, and June 16, 1866, as to proposed amendments of the Constitution.

Also as to direct taxes: Acts of August 5, 1861; June 7, 1862; February 6, 1863; June 25, 1864; March 3, 1865; and July 20, 1866.

Sundry proclamations of the President of the United States may also be cited—those of April 15, 19, and 27, and August 3, 10, and 16, 1861; May 12 and 19, July 1, August 16, and September 22, 1862; January 1, April 2, and December 8, 1863.

This mass of facts and opinions from all quarters thoroughly disposes of the doctrine that the southern States are to be looked upon as conquered territory with State lines erased and State sovereignty lost—a heresy which lies at the foundation of most of the views urged in favor of the bill under consideration. I can but briefly refer to the meaning of the "guarantee" clause of the Constitution. I quote from Story's Commentaries on the Constitution, book 3, section 1809:

"The Federalist has spoken with so much force and propriety upon this subject that it supersedes all further reasoning. 'In a confederacy,' says that work, 'founded on republican principles and composed of republican members, the superintending Government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a Union may be the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government under which the compact was entered into should be substantially maintained.'"

Section 1811:

"If the General Government should interpose, by virtue of this constitutional authority, it will be, of course, bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guarantied. As long, therefore, as the existing republican forms are continued by the States, they are guarantied by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for anti-republican constitutions—a restriction which, it is presumed, will hardly be considered as a grievance."

I call special attention to the position here assumed, sound beyond all question, that the authority of the United States in this matter extends no further than to a guarantee of a republican form of government where a pre-existing government of that form exists. It gave no rights beyond this—no right to enter with military force into a State and with its bayonets establish a government. With us that work is to be left to the people in their sovereign capacity, uninfluenced by the power of Government, unawed by an armed despotism. My time has most run out, and I must close.

I had intended to say something on the subject of our national finances, so intimately connected with that of the full restoration of the southern States. This restoration is fundamental in any sound scheme of finance. No country with a great debt can properly maintain its credit with the productive energies of one third of its population largely impaired and the other two thirds called upon, in addition to enormous legitimate burdens, to pay, as we are now doing, about one hundred million dollars annually in standing watch and ward over those with whom we ought to live on terms of confidence and regard. It is the duty as well as the interest of those who hold the securities of the Government to look to this matter and to force their influence to bring about an end of the oppressive and unconstitutional course of the Government towards the southern States.

I see before me, Mr. Speaker, on the Republican side of the House, a large number of gentlemen well read in the history of our country, a large number who were bred to the bar, many who have been judges in our courts and expounders of our laws. I call upon them—I call upon all in considering this measure—not to sacrifice in a blind devotion to party those great principles of civil liberty which date back to Magna Charta, and are so fully developed, and, as our people had fondly hoped, so thoroughly secured "to ourselves and our posterity" by that great work of the fathers of the Republic, the Constitution of the United States.

Mr. SCOFIELD obtained the floor.

Mr. PRUYN. I promised to yield to the gentleman from Pennsylvania if I had any time left.

Mr. WOODWARD. I ask leave to submit a resolution to which there will be no objection.

Mr. SCOFIELD. I cannot yield now.

Mr. WOODWARD. I will offer it another time.

Mr. SCOFIELD. Why is it, Mr. Speaker, that all reconstruction legislation is regarded by one side of this House as unconstitutional, revolutionary, and despotic, while the other side, more numerous, not less honest, not less patriotic, not less learned in the principles of the Constitution, not less devoted to human liberty nor opposed to every form of human oppression, look upon the same legislation as constitutional, appropriate, and necessary? I impugn the motives of neither side, but I ask for a solution of this disagreement. I suppose it is because the two sides of the House look at the subject from different stand-points. One side holds that the confederate States are now, and all the time have been, constructed and ready for admission; while the other side hold that the regular constitutional State governments were destroyed by the war, and that new ones must be originated by somebody to take their place before they can elect Senators and Representatives to Congress. From these stand-points the view of either side is correct. It was somewhat so during the war. One party started out with the theory that it was unconstitutional to coerce a sovereign State into submission to the General Government, and of course from this stand-point all war measures were unconstitutional; while the other party, holding that coercion was constitutional, approved of all measures calculated to accomplish that result.

The difference between us on the question of reconstruction is mainly a question of fact. If it be true that the confederate States have now legal and constitutional governments all reconstruction is, as is claimed, unconstitutional, revolutionary, and despotic; but if they have no such governments it must be admitted that reconstruction of some kind is an absolute necessity. If South Carolina, for instance, has now or has had since 1861 a legal State government, I will thank some gentleman on the other side to tell me what it is. Is it the old government that existed prior to the war? I admit that this constitution is printed in a book and laid away in the libraries of the country, but I deny that it has any existence outside of books. If it has any other existence, where is it? It has no Governor, no Legislature, no judge. There is not a single person within the limits of the State who professes allegiance to it, and no one inquires what it prohibits or what it commands. It is like the unsepulchered skull—

"Sans teeth, sans eyes, sans taste, sans everything."

I know the gentleman from Indiana [Mr. KERR] claimed the other day that the State government might be revived. Indeed I think he said it had been revived. But that would involve the exercise of all the power that anybody claims in the legislation which we are now enacting. To reconstruct and to revive a government that is dead means the same thing.

Is it the confederate State government that exists in South Carolina? It did exist there, when Congress adjourned in March, 1865; but when we assembled in December, 1865, it had disappeared. Mr. Johnson and his Secretary of State had gone down there and disposed of it. They had scuttled the hull and sent the confederate ship, with all its treasonable machinery, to the bottom, leaving to the country nothing but the hateful memory of its crimes.

But Mr. Johnson and Mr. Seward have set up some governments in the late confederate States, and it is said that Congress should recognize them. Why? Because they have been accepted by the people there? No, sir; they were not submitted to the people in any State except North Carolina, and in that State a majority voted against it. And in the election of delegates to the conventions only about one third of the white voters participated at all, and a portion of those gave their votes against the whole scheme. Of course the blacks were excluded altogether. Shall we accept them because they are republican in form? No, sir. A large portion of the people, in two of the States, at least more than half, are excluded from all participation in them. Shall we accept them because they secure to those States only a fair proportion of Federal representation? No, sir; the represented people in South Carolina and Mississippi secure a little more than twice as many votes in this House and in the Electoral College as are given to the same number of represented people in Pennsylvania or any northern State. Are we bound to accept them because they had a lawful origin? What article of the Constitution or what law of Congress authorizes the President and his Secretary to start in the business of making State governments or to coerce and cajole a handful of the people to coöperate with them in such an undertaking? Do you not recollect, Mr. Speaker, that in the summer of 1865, while Mr. Johnson and Seward were still reconstructing, our political opponents applied to their work the same three ugly words that they now apply to our plan—"unconstitutional, revolutionary, and despotic?" Before they discovered how bad these governments would be, they taught us the principles upon which they ought to be rejected. We were bound, then, by no principle of law, equality, or justice to accept these anti-republican productions of the President, and Congress rejected them by a majority of nearly three fourths. The question was submitted to the people at the elections in the fall of 1866, and after four months' debate they indorsed the action of Congress by an emphatic vote. Inasmuch, then, as these governments were illegal in their origin, (our opponents themselves being judges;) inasmuch as they were never sanctioned by any considerable portion of the people, white or black, in those States; inasmuch as they secure to a disloyal population nearly double as much power in the Federal Government as the same amount of loyal population in other States possess, and inasmuch as they were rejected by nearly three fourths of Congress, and that action indorsed by the people, I come to the conclusion that they are not governments which any man is bound by law or justice to respect.

But the gentleman from New York [Mr. BROOKS] thinks the decision of the people in 1866 is not conclusive. He infers from the

elections of 1867 that public sentiment is changing, and that in 1868 a President and Congress will be chosen whose political opinions will coincide with his own. He is kind enough to inform us what will then be done. "The enactments of the last six years," says he, "shall be repealed." Humanity, justice, and equality shall be dethroned, and the old slave power, unchristian, intolerant, insolent, and cruel, shall reign in their stead. Suppose your dreams were realized; suppose the people in an evil hour had put you in possession of all the departments of the Government; suppose the gentlemen who during the last six years have wrought such terrible ruin in the South and brought such deep sorrow to the North and all the land were here to aid or lead your efforts; suppose the servile code restored, fugitive slave law and all; suppose the demolished slave prisons rebuilt, the rusty manacles reburnished, and the overseers engaged, how will the gentleman secure his victims? His legislative work will then be accomplished; his services will no longer be needed here. Imagine the gentleman then leaving his place and going home to ask his Christian constituents, learned through his instructions in the mysteries and measurement of shins and heels, to arm themselves with lassoes and handcuffs and follow him in one grand hunt for emancipated bondmen. The gentleman and his party, in great patience and meekness, have long labored for the disloyal masters; but when this heavy task shall be imposed upon them it will be one hair too much even for their uncomplaining backs. This utterance of unattainable hopes brought to the gentleman's seat many admiring friends. I could not hear the congratulations, but I can well imagine they were much like Falstaff's address to his prince: "Thou wilt have no back seats for traitors and no free niggers in America when thou art king; wilt thou, Hal?"

Having shown that there are not now, and have not been since the close of the war, any legal constitutional governments in these States, I proceed to inquire who should originate new ones. If I correctly understand gentlemen on the other side they claim that new governments ought to originate with the people of the States. Very well, sir; how long shall we wait for these people to move? It is more than two years since the war closed, and no unprompted movement in that direction has been made by them to this hour. Oh no; I mistake. They did elect a convention in Louisiana, and it will be recollected that there was great joy among the anti-progressives and back-going politicians when it was known that the delegates were mobbed and murdered, the convention dispersed, and the popular movement crushed out. Suppose the people of South Carolina, for instance, would undertake to construct a government. The disloyal people might originate one, the blacks another, and the loyal white men another. Congress must determine at last which is the real government of the State, and this determination involves the exercise of the same power necessary to the passage of our reconstruction acts. But, as I said before, the people have not moved in this matter at all. There is, therefore, no alternative. Congress must call upon and authorize the people to reconstruct their governments or leave them either under military rule or rebel anarchy forever. On the 2d of March last Congress passed an act for this purpose. And what was it? Simply this: it authorized a major general in the Army to make a list of all the legal voters in a particular State, and call upon them to assemble on a day fixed and elect delegates of their own free choice to a convention which should frame and submit to them a form of State government. That, sir, was our reconstruction, and that was all of it. That is what is now pronounced unconstitutional, revolutionary, and despotic. I forgot, sir; that is not quite all. It authorized the officer, in the absence of governments, and in the midst of vindictive and lawless men, to preserve the peace until the new governments should come in power. Our opponents have found a few things to be mad at even in this simple formula. They charge that we omitted from the list of voters a large number of persons, simply because they waged a long and bloody war against a Government not only the best, but most lenient and munificent in the world. I deny it. Not one man was left off the list for this cause alone; and only a small number was left off for any cause. Those who committed treason, and in order to commit this crime first committed perjury, were left off, and no others. The number was comparatively small. The number of white voters now registered under this law is only 76,000 less than all the votes cast in these States in 1860, and is just about double the number of voters that participated in the Johnson-Seward elections of 1865. When it is remembered that large numbers of those who voted in these States in 1860 have disappeared in the war, and thousands more have moved to northern and western States, it will appear that the number of perjured traitors omitted from the list is quite too small to justify such deep grief among their northern friends. Again, it is alleged that we impose this plan upon the southern people against their will. Not at all, sir. The law provides that the electors may, on the same day they vote for delegates, vote also for or against a convention. All who dislike this plan can vote against it. Then, sir, unless it had a majority of all the voters—not only a majority of all the votes cast, but a majority of all the legal voters in the State, counting those who from any cause omit to vote against it—the whole plan falls to the ground. Again, when a constitution is framed it must be submitted to the people, and if a majority vote against it that is the end of it. What despotism is there in that?

But you have put the names of colored men upon your list of voters; why is that? Mr. Speaker, there is a large number of white voters in those States who are opposed to the continuance of the Federal Union. They have not only so said, but leagued themselves together to destroy it. To be sure, the armed power of the confederacy has been overthrown, but its memory and purpose is still enshrined in the hearts of its followers. They put their money in that cause and now hold its bonds and notes. Their affections, going out to their fallen kindred, are in it. Their honor is linked with it, and as they crave a good name in the future they must forever defend it. The confederacy is gone, but the cause survives and comes back to struggle through the ballot-box for a triumph not achieved in the field. They will vote no pension to the crippled soldier nor honors to the gallant captain. The colored people in the States, on the contrary, are interested in the preservation of the Republic. They are grateful to it for liberty already conferred, and they look to it for future protection. We allowed them to vote because we saw in their votes justice to the soldier and safety to the Union. They are not numerous enough to out-vote the disunionists, to be sure; but they are numerous enough to counteract in some degree their wicked purpose. It so happened, in the providence of God, that in seeking the perpetuity and safety of the Republic and the liberties vouchsafed to us all under it we could do some little justice to a long-wronged but hard-working and meritorious class of our fellow-beings, and approximate more closely the great principle which underlies our form of government, to wit, the equality of the human race. We availed ourselves of this opportunity more, I fear, from necessity than from a sense of justice. This is what is called "unconstitutional, revolutionary, and despotic."

A bill of a few lines, supplementary to the legislation of March last, is now made the occasion to renew this coarse and undeserved denunciation. What is the bill? As long ago as last June the President discovered that the act of March was liable to be misconstrued or differently construed in the different districts of the South, and that no person was authorized to correct or unify these various constructions. We concur with the President. We propose to clothe an officer of the Army, superior in rank to any now charged with the execution of these laws, to supervise the whole, to detail officers and instruct them in their duties. It is in accordance with the President's suggestion. What possible objection can there be to that? None, I suppose; at least I have heard none. But it is claimed that we have made a mistake in selecting the officer who is to perform these duties. We have devolved them upon the General of the Army; whereas, it is said, that the Commander-in-Chief would have been the fitter officer. To a plain man it would seem as if the gentlemen were trifling. The rules of the Army authorize the captain to supervise his company and give orders to his inferior officers, the colonel his regiment, the brigadier his brigade, but the General of the Army commands the whole. We impose duties and liabilities upon each grade of officers, but nobody ever before supposed that it violated the Constitution of the United States.

The gentleman from Connecticut [Mr. HUBBARD] says that the General of the Army might order an inferior officer to one duty and the President order him to another at the same time. Does not that often occur? Has it not always occurred? The inferior must obey the Commander-in-Chief, but the Commander-in-Chief is answerable to his constitutional judges if he gives an order in violation of law. But there is another provision. It re-declares that the Johnson-Seward governments are void. I have already shown that these governments are void. Why should we not declare it by act of Congress? These are the simple and proper provisions which are so fiercely denounced as "unconstitutional, revolutionary, and despotic." From the other side of the House we do not hear even the gentlest admonition to the men who tore down and destroyed the old constitutional fabrics in these States; but every effort to rebuild them and restore the States to their old places in the Union is followed here with this unchanging cry: "Unconstitutional, revolutionary, and despotic!" and then, without apparent shame, they charge us with interposing the obstacles to the readmission of these States.

Mr. KOONTZ addressed the House for half an hour. [See Appendix.]

TAXES ON MANUFACTURES.

Mr. SELYE, by unanimous consent, submitted the following preamble and resolution; which were referred to the Committee of Ways and Means:

Whereas the business interests of the country are depressed, industry is paralyzed, and thousands of skilled artisans and industrious laborers thrown out of employment and subjected to penury and want in consequence of the burdens of taxation imposed on articles of domestic manufacture: Therefore,

Resolved, That the Committee of Ways and Means be instructed, in their proposed revision of the tax law, to provide for the total abolition of taxes on all such articles of manufacture as enter into general home consumption, or are largely exported to foreign countries, and to confine the taxation of manufactures hereafter to articles of luxury.

UNIVERSAL SUFFRAGE.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to introduce a bill relative to universal suffrage, and have it referred to the Committee of the Whole on the state of the Union.

Mr. MUNGEN. I object.

Mr. STEVENS, of Pennsylvania. I do not ask the gentleman to vote for the bill, for I know he is opposed to it. I only ask to have it referred.

Mr. MUNGEN. I object to the introduction of the bill.

DISMAL SWAMP CANAL.

Mr. WOODWARD, by unanimous consent, submitted a preamble and joint resolution (H. R. No. 168) in relation to the interest of the United States in the Dismal Swamp canal; which was read a first and second time.

The preamble recites that it is reported that the sale of the stock held by the State of Vir-

ginia in the Dismal Swamp Canal Company produced only five per cent. of the par value of said stock, and that the sale of the stock in said canal held by the United States promises no better return; also that valuable land, at and near the terminus of said canal on Elizabeth river, suitable for important naval purposes, has been offered to the Government on fair terms in exchange at par for the stock in said canal held by the Government of the United States.

The joint resolution authorizes and directs the Secretary of the Navy to appoint suitable commissioners to examine the said lands and the terms of exchange offered or to be offered for said stock, and to report thereon with his opinion to Congress; it also postpones the sale of said stock heretofore ordered until Congress shall have received and acted upon the aforesaid report of the Secretary of the Navy.

Mr. WOODWARD. I move that the joint resolution and preamble be referred to the Committee on Naval Affairs.

The motion was agreed to; and the joint resolution was referred accordingly.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted on its amendment, disagreed to by the House, to the bill (H. R. No. 213) to suspend further reduction of the currency; asked a conference on the disagreeing votes of the two Houses, and had appointed Messrs. CATTELL, TRUMBULL, and MORTON as conferees on the part of the Senate.

RECONSTRUCTION.

Mr. PHELPS resumed the floor upon House bill No. 439, additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, but yielded to

Mr. CARY, who said: As I have no time to give my views upon this subject I desire to ask my colleague [Mr. BINGHAM] when he shall close this discussion to answer four questions, and as those questions shall be satisfactorily answered will my vote upon this bill be determined.

1. If General Grant shall neglect or refuse to execute the provisions of this law, or if in its execution he should act in a cruel and oppressive manner, to what tribunal can he be amenable for his nonfeasance or malfeasance?

2. As by the terms of the bill the President cannot interfere, can the General be tried by court-martial; and if so, who can order and who shall constitute the court?

3. Not being a civil officer can he be impeached; and if so, by whom and before what tribunal?

4. If he cannot be arraigned by any earthly tribunal, is he not made an absolute despot?

Mr. PHELPS. Mr. Speaker, had I been fortunate enough to have obtained the recognition of the Chair at an earlier period of this discussion, it was my intention to have submitted considerations somewhat at length upon the constitutional aspect of the question presented by the bill now before us. But inasmuch as the views I had prepared to submit on that aspect of the case have been very ably enforced by other gentlemen who have preceded me, as I have been anticipated to a very great extent upon the points upon which I mainly relied to demonstrate the unconstitutionality of the measure now under consideration, I shall proceed to consider the merits of the bill independent of that point.

This measure virtually assumes that the Congress of the United States is in fact omnipotent over all other departments of the Federal Government, supreme over the Executive, supreme over the judiciary, supreme over the people, as if, in short, there were assembled here not only the distilled and concentrated wisdom, but the blended and exclusive sovereignty of the nation.

And even upon that startling hypothesis, upon a broad and comprehensive review of the philosophy of this bill, taken in connection with the whole system of legislation of which it is a part, as it appears from the stand-point of an enlightened and practical statesmanship, I think it will be demonstrated that the strange compound of Asiatic despotism and African barbarism, miscalled reconstruction, of which the pending measure is the latest and worst development, is destructive, pernicious, anti-republican, anti-democratic, and revolutionary. It is upon this ground, as well as upon my firm conviction of the utter repugnance of the system to every principle of the Constitution, that I have uniformly voted against the measures which have preceded it. There is another reason why I deem it unnecessary at this late stage of the debate to consume time in a discussion of the constitutional objections to this measure, and that is the fact that the unconstitutionality of the measure and of the system of which it is a feature is at last admitted and plainly stamped upon the face of the system itself. It is provided in the first section of the bill now pending that—

> "The so-called civil governments in said States respectively shall not be recognized as valid or legal State governments either by the executive or judicial power or authority of the United States."

What is that but a confession of judgment? The validity of the present "so-called civil governments" in the States referred to is one of the great underlying legal questions upon whose decision must ultimately depend the fate of the reconstruction measures themselves. There is but one department of this Government competent to pronounce authoritatively upon that question in the last resort. That department is the judiciary. As if the scrutiny of the Supreme Court was to be shrunk from, this proposed act starts out in its very first section by undertaking to withdraw from that tribunal any consideration whatever of the fundamental legal question on the determination of which its validity mainly depends. And by another act, kindred to this and but recently passed, this House has undertaken to control, if not absolutely to gag, the voice of that court even upon questions of constitutional law which they are still permitted to consider, by requiring that in all cases where the effect of their judgment is to invalidate an act of Congress, upon the ground of repugnance to the Constitution of the United States, a majority of two thirds (which, with the present composition of that court, is equivalent to a majority of three fourths) shall be required, thus attempting to establish for the especial protection of the reconstruction measures an arbitrary and unprecedented rule of decision which has never been applied to any of those other important and vital questions which from time to time, during the history of our Government, have passed before the cognizance of that high tribunal. A confession of weakness so extraordinary and significant, extorted from the doubts and fears of the framers of this bill and its supporters, shows plainly enough what is their opinion of its constitutionality when that question comes to be tested before the only tribunal in existence competent to pass upon it.

Sir, it will not do to discuss this question as if the war were still raging. It will not do to bring to bear here the arguments which were so frequently employed to justify the course of the Government during the war for the suppression of the rebellion. Nor will it do to attempt to support this and kindred measures by contemptuously referring to the objections which were successively urged against other and totally different acts of Congress during the war, acts which were defended at the time upon the ground of their necessity as war measures. Those days have passed, and passed forever. The object of that legislation has long been accomplished. The rebellion has been suppressed, slavery abolished, and peace prevails over the entire land. This bill, sir, must be defended upon its own intrinsic merits, not upon the merits of legislation which has preceded it during the existence of the rebellion. It is but a flippant and meretricious defense of this obnoxious legislation to endeavor to excite in its behalf the same passions which have heretofore been appealed to with so much success to enkindle a patriotic spirit in support of the Government, the Constitution, and the laws, to rally the people round its flag when it was in danger and before their capital when threatened. Those appeals have been made, and they have produced their effect. They have had their effect upon me as well as upon gentlemen here who are so prolific in those utterances now. The time has passed for that species of discussion. We have done with the war; and, sir, we have done, or ought to be done, with war measures. A different state of things now prevails; and the question is upon what terms peace shall be made secure and lasting, throughout all time, upon republican and democratic principles. The most vital of those principles is that which builds government upon the consent of the governed, and secures its stability by the intelligence and virtue of the masses received into the body-politic.

Sir, the practical question which gentlemen must meet here and before the country is too apparent to be masked by the flimsy gauze of passionate declamation. The question is simply whether it is proper, statesmanlike, wise, or safe, to undertake to enforce universal negro suffrage over one third of this continent against the consent of the people who have heretofore exercised in that section political power—against the will of a majority of the people of the North, as exemplified by their own practice, and to continue to enforce it by military power at an expense to the Government of $180,000,000 at the present time, to be increased fivefold or even tenfold perhaps in the future. The estimates for the support of the Army and Navy for the current fiscal year exceed the enormous sum just mentioned, and although it is true that the whole amount is not to be charged to an unnatural and despotic system of reconstruction, and that a moderate deduction should be made for the necessary support of a legitimate military and naval establishment, yet the fact remains that to preserve the order of Warsaw in communities made restless and hostile by maladministration will require a large standing army, with its lavish expenditures, for a period of years beyond human foresight to limit.

Do gentlemen seriously believe, Mr. Speaker, that Africanized State governments, flanked by cavalry, infantry, and artillery, will be long tolerated by the tax-payers of this country at their own expense? Do they seriously believe in the practicability of forcing by outside pressure heterogeneous elements into close relations, and fusing into one harmonious body-politic races which have heretofore, from the beginning of time down to the present hour, refused to intermingle upon terms of equality? And while they are considering these questions let them also meditate over another problem. We have now to raise $140,000,000 of gold per annum to pay the interest on our bonds; to collect that amount of coin through the custom-houses will require $400,000,000 or $500,000,000 of imports in gold per annum, taking the present average rates of duties and allowing for smuggling and undervaluation. To meet this drain we must find other exports to equalize exchange than the gold and silver of our western States and Territories and our bonds. That section of the country now undergoing the experiment of reconstruction contributed before the war more than two thirds to the exports of the country. If allowed the republican right of self-government under the Constitution of the United States as it stands to-day, even with slavery abolished; if relieved from the choking pressure which now paralyzes industry and enterprise, that unhappy region would doubtless reorganize its system of labor upon a just and liberal basis, which would restore to it more than its ancient prosperity, attract labor and capital, and enable it again to pour its exports into the outward channel of our com-

merce in time to arrest the swift descent which the country is now making down a steep grade to poverty and bankruptcy.

Mr. Speaker, instead of adding another turn to the screw, instead of bolder and more impudent aggressions upon the rights of the people, the rights of States, the rights of the Executive and the judiciary, it is time, high time, to retrace your steps. It has been found necessary to repeal, at least so far as this House is concerned, the tax on cotton, and soon the indignant voice of the people will demand the repeal of the remainder of that destructive system, of which the cotton tax was but one feature.

The system is radically defective and unsound in the philosophy upon which it is founded. Certain high-sounding and specious catchwords are assumed as axioms of eternal truth, and from these by a syllogistic process logical deductions are drawn and inexorably applied to the affairs of men, without regard, on the contrary with the most sublime contempt, for their real condition, character, habits, interests, prejudices, or wants. It is the part of true statesmanship to adapt legislation to the temper of the people governed. Even a wise despot will do as much as that. It is only a Jacobin revolutionary convention in France, or a Radical reconstruction Congress, that forces mankind to the changing whimsies of its legislative experiments, and disturbs the peace and destroys the prosperity of society, under pretense of accomplishing "equal and exact justice to all men."

Such was Robespierre when he exclaimed to the French revolutionary convention, staggered for the moment by the catastrophe of St. Domingo, "Perish the colonies rather than sacrifice one iota of our principles!"

That is precisely the spirit that now presides in these Halls, and dictates the abominable legislation against which I protest. Perish commerce, perish agriculture and its staples, perish industry and honest labor, perish the shipping of America, perish the national credit and the principles of civil liberty, perish the colonies that we have degraded from States, rather than sacrifice negro suffrage and with it the ascendancy of the Radical party.

Here is another of your men of ideas, who would victimize a whole generation of men, women, and children to a logical syllogism from a fancy premise. "Cursed," says Wendell Phillips, "cursed be the soul of Benjamin Franklin, who taught the American people the value of a penny!"

The American people are to-day paying annually in Government, State, and municipal taxes a greater amount *per capita* than is paid by any people of any country of debt-ridden Europe. Notwithstanding the vigorous anathemas of Mr. Phillips and the lusty cries of "equal and exact justice" from his sympathizers on this floor, it is extremely doubtful, to say the least, whether the American people will much longer indulge either him or them in the luxury of enforcing universal negro suffrage at the point of the bayonet at their expense, whether for the sentimental gratification of the men of elevated moral ideas or for the tangible emolument of practical spoilsmen.

And more particularly is this the case, Mr. Speaker, when the vociferations for equal and exact justice come from gentlemen who represent constituencies that have never yet been able to see justice in that light for themselves. In the mouths of honorable gentlemen from Pennsylvania, from New York, from Ohio, from Indiana, and Illinois, and even from Kansas, it sounds rather like cant, and savors somewhat of hypocrisy, to claim the ballot for the swarming negroes of Virginia, the Carolinas, and the Gulf States, when they have over and over again refused it to the very inconsiderable number of colored men, and those comparatively intelligent, at home.

It seems to be thought by some that the people of this country can be gradually inured to this abuse, that their prejudices may be overcome, their instincts stifled or extinguished, and that ere long they will come to recognize this system as a beneficent power, and thus reconstruction will be finally consummated. Let me tell gentlemen that the tide is setting the other way, and so far from there being any gradual approximation among the white people of this country toward that elevated plane on which gentlemen claim to stand, who come from regions where there are few of the black race, and who would have us stand also on that plane recognizing what they call the rights of human brotherhood, I think the conviction is becoming more and more strong in the minds of the people that there can be no such thing in this country as the permanent, harmonious living together of these two races upon a footing of equality, marked as they are by nature with such inextinguishable signs of diversity. You have two parties now in each of the States in which you are experimenting with your reconstruction scheme. With a few inconsiderable exceptions the blacks vote on one side, the whites vote on the other. You have, therefore, the white man's party and the black man's party, and that distinction will probably continue so long as the characteristics which God and nature have stamped upon these two races shall exist.

I have nowhere found this principle more clearly or forcibly stated than in the terse language of Mr. Lincoln. In a speech which he delivered during his celebrated canvass against Judge Douglas, at Ottawa, Illinois, he expressed himself upon this subject as follows:

"I have no purpose to introduce political and social equality between the white and black races. There is a physical difference between the two, which, in my judgment, will probably forbid their ever living together upon the footing of perfect equality, and inasmuch as it becomes a necessity that there must be a difference, I as well as Judge Douglas am in favor of the race to which I belong having the superior position." * * * * "I agree with Judge Douglas he is not my equal in many respects. Certainly not in color, perhaps not in moral or intellectual endowments."

And again, at Columbus:

"I am not, nor ever have been in favor of bringing about in any way the social and political equality of the white and black races; I am not and never have been in favor of making voters or jurors of negroes, nor of qualifying them to hold office or intermarry with the white people; and I will say in addition to this, that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned the white race."

If those declarations were true then they are equally true now; if they were true in Illinois, or Ohio, they are equally true in Virginia and the southern States. The same physical distinctions, the same moral and intellectual diversity which existed then exist still. Neither of them has been modified or changed by any of the events which have since transpired. The negro, notwithstanding all the attempts that have been made to elevate him to a position of political equality with the white man, remains and will continue to remain a negro still. All these attempts amount to nothing more than white-washing. And when the storms come, as come they will, to which every race must be exposed that undertakes to maintain an equal position among a superior race, his artificial covering will fall off and leave its possessor in a worse condition, probably, than when it was applied.

Sir, it is impossible successfully to violate the laws of nature and the laws—I say it with reverence—of God himself. And to show that these ideas are beginning to spread now over the country, that so far from the people becoming reconciled to this forced blending of heterogeneous races, and prepared to acquiesce in the system as a finality, serious doubts are beginning to be manifested, even in quarters where the idea of negro equality might be supposed to have taken the strongest hold, I will read from the forty-eighth annual report of the Vermont Colonization Society, at its meeting in Montpelier, October 1867, an extract or two from an address which was delivered before that society by one of its members, and published by its order:

"To show what one of the first and ablest men of the negro race thinks of his countrymen in this connection, we may here quote from the inaugural address of President Roberts of Liberia, delivered on the 3d day of January, 1848. It was the first inaugural to the first republic of Africa since the days of Carthage—since the days of that ancient republic which has the honor of producing a man whose wise saying will stand as long as gladiatorial Rome will stand: *that nothing in the shape of humanity was foreign to him.* 'But if there be any among us,' says President Roberts in his first inaugural, 'if there be any among us dead to all sense of honor and love of their country; if deaf to all calls of liberty, virtue, and religion; if forgetful of the benevolence and magnanimity of those who have procured this asylum for them, and the future happiness of their children; if neither the examples nor success of other nations, the dictates of reason and nature, or the great duties they owe to their God, themselves, and their posterity, have any effect upon them; if neither the injuries which they received in the land whence they came, the prize they are contending for, the future blessings or curses of their children, the applause or reproach of all mankind, the approbation or displeasure of the great judge, or the happiness or misery consequent upon their conduct in this and a future state, can move them; then let them be assured that they deserve to be slaves, and are entitled to nothing but anguish and tribulation. Let them banish forever from their minds the hope of ever obtaining that freedom, reputation, and happiness, which, as men, they are entitled to. Let them forget every duty, human and divine; remember not that they have children, and beware how they call to mind the justice of the Supreme Being; let them return into slavery, and hug their chains, and be a reproach and a by-word among all nations.'"

"Another writer says: 'They ought to be made to feel that it is their highest privilege, as well as their imperative duty, to cast in their lot with the pioneers in the work of Africa's civil, social, and religious redemption, and sacrifice themselves, if need be, in the stupendous work of spreading free government and civil institutions over all Africa, and bringing her uncounted population all under the dominion of the Kingdom of Heaven.'

"If the negro cannot feel this degree of enthusiasm, cannot entertain this sense of duty, and arrive at this pitch of heroic devotion to a great cause, it may well be questioned whether he is a fit member of a republic anywhere, either in America or Liberia. His stay in this country must ever be attended with such depressing influences as to dwarf and stunt his faculties, and render his condition anything but desirable to high minded men, of whom it is said that States are constituted. The spirit that becomes relieved from some great oppression like that of slavery, and does not feel in response an ardent glow of benevolence and good will to all men, and a desire to carry this good will into practical operation toward his fellow-beings, can be of but little use to our system of civilization anywhere, whether in America or Africa.

"With regard to the policy of keeping the negro among us by the forcible detention—for where no suitable facilities are offered for his going he is in a measure forced to remain—we may say that such a course tends to the loss of our national identity, and consequently of our national character. Our institutions were not devised for Africans, Asiatics, Europeans, or Indians. They were especially framed to suit the condition of a certain kind of people who had grown up under peculiar circumstances in the forests of a new world and were setting a new and worthy example for the corrupt nations of the Old World. Neither the African nor Indian, nor coolie, nor modern European, had any voice in the compact by which these institutions were established. Just in proportion, therefore, as we adapt these institutions to the peculiarities of other men than those for whom they were fashioned in that same proportion must their spirit and character become changed. If we admit other races and nations into the national partnership with us we may expect to adapt our institutions to them instead of fashioning them wholly to our institutions. The great fault of our war administration has been that it did not make use of the war power to assert the supremacy of the American Constitution and of the American character over the heterogeneous elements of which our people have come to be composed, instead of pursuing the weak course of altering the constitution to suit it to our degenerate condition.

"There is no instance in either ancient or modern times, says an able writer, of two separate and distinct races of men living together, in which one or the other has become inferior, and in no one case have the members of the inferior race been able to show themselves as capable of getting along in the world as the superior race. But where the races have been separated the inferior race has then been able to display quite as much aptitude in all that is essential to the growth and support of society as any other race of men have done. The separation of two such races is indispensable to the success of the inferior race. We might as well try to raise a good crop of apples in a thick grove of oaks or pines as to cause one race to thrive under the overshadowing influence of a more powerful one. If this be true, as it undoubtedly is, then our institutions cannot possibly extend equal rights and privileges to the African without losing some of their original force and character. We are indeed stretching the capacities of our Government too far when we force it to include heterogeneous elements that do not properly belong

to it. For wise purposes God has made a diversity of races and nations, and men must conform their political theories to this law or else expect discord and trouble."

"For our own part we are one who believed that when our Government became invested with the extraordinary powers inevitable to a state of war it ought to have made use of those powers for establishing the colonization of Africa as our policy with respect to our African population. We thought that the Government should enter into an agreement or contract with every negro regiment which it raised to serve for a certain time and receive its lands in Africa. No State could subsequently annul this compact, and it would have been a much better method of abolishing slavery than the wretched course of tinkering the Constitution for this purpose which was pursued by the Administration. It was but a narrow view to take of our national obligations to suppose that these obligations were satisfied by the mere knocking off the chains from our slaves. The blood and treasure so profusely lavished in the war should have brought a much higher return than this. It should have insured the best possible good, not only to ourselves, but to Africa and to all mankind. It should have insured an ultimate separation of the races and an end to the predominating influence of the unhomogeneous elements from the Old World that are intruding upon our nationality."

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"It would have been far better to regard every slave that fell into the hands of the Government troops as a recaptured slave, and to treat him accordingly, as all recaptured slaves are treated, namely: return him to Africa, than to leave him as he is, a melancholy prey to the party contests, the cupidity, the prejudices, and the convenience of the whites. It is plain to see that the offering him a vote is like giving money and whisky to the Indian for his lands—that he is merely made use of as an evil to counterbalance that other evil, the European vote, and that he is ultimately to fall a sacrifice to the rougher nature of the white race, to our final hurt."

"The dominant party in the United States, doubtless claim philanthropic motives in seeking to extend political rights to the negro, but it is an empty endowment to offer him mere political equality without an eligibility to social equality, without an eligibility to intermarry with our race and to hold high stations of honor and profit with them in the Army and Navy and in civil life, which few believe that he will ever enjoy. But which is the higher order of philanthropy—to give the negro mere political rights in the United States, without landed possessions and without social or civil equality, or to give him a country where he can enjoy all, not only political equality, but the possession of land and social and civil equality and national life and character?

"We have, it must be acknowledged, many able colored men among us; but why do they persist in staying here where their ability is looked upon with disfavor, and where it is not needed, and not enter upon the great and inviting field of labor in Africa, where their abilities are needed? When there is such a demand for able men in Liberia, why has our Administration held out fallacious inducements to able colored men to remain here, where there is no need of their services?

"But is it, indeed, thought by our politicians that we have need of the negro to complete the subjugation of the rebellion, and that we cannot do without him? Do they admit that all our armed hosts, all our immense treasure, and all the republican qualities of the white race have not been sufficient to conduct the war of the rebellion to a successful issue, but that to accomplish this end we are dependent upon the black race? If so, we are indeed in a very humiliating condition. Nothing could be more so than to owe our safety to the race which we have so long oppressed."

Mr. BINGHAM obtained the floor.

NATIONAL BANKS.

Mr. LOGAN. Will the gentleman allow me to offer a resolution calling for information?

Mr. BINGHAM. I yield for that purpose.

Mr. LOGAN. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Treasury be directed to communicate to this House any information in his possession concerning the loan by any national banks of the United States, in violation of section twenty-nine of the national currency act, of any portion of their capital in excess of the limit provided by said act, upon railroad or mining stocks at fictitious values, and whether he has any information in his possession that any officers of such banks are engaged in speculative operations in such stocks, which involve the capital and credit of their respective institutions; and that in the event of his not being in possession of the necessary facts to furnish this information, he take immediate steps to cause proper examinations to be made, and to adopt such measures as will compel a compliance by said banks with the provisions of the national currency act.

No objection was made.

Mr. BROOKS. I think the gentleman ought to specify, so that the Secretary of the Treasury may know what he wants. As I understand the resolution there is no specification in it.

Mr. LOGAN. I guess the Secretary will understand it when it goes to him.

The resolution was adopted.

RESTRICTION OF IMPORTATIONS.

Mr. MOORHEAD. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the tariff laws as to restrain importations so as to throw the balance of trade largely in our favor by which the specie product of the country may be retained at home, and thus a coin basis be provided sufficient for an early resumption of specie payments without any further contraction of the currency.

Mr. ELDRIDGE. I do not rise to make any objection, but I ask the gentleman from Pennsylvania to modify his resolution so that it shall require the balance of trade to be in our favor any way. [Laughter.]

There being no objection, the resolution was considered and agreed to.

MARITIME EXHIBITION AT HAVRE.

Mr. BANKS, by unanimous consent, presented a letter from the Secretary of State in relation to the maritime exhibition at Havre; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

RECONSTRUCTION—AGAIN.

Mr. BINGHAM. I now withdraw the motion to recommit the bill, and move the amendments to section two and section five, which I send to the Clerk's desk, and upon the amendments and the bill itself I demand the previous question.

The Clerk read the amendments, as follows:

On page 2, line nine, (in section two,) after the word "and" insert "is authorized at his discretion;" so that it will read:

And is authorized at his discretion to remove by his order from command any or all of said commanders and detail other officers, &c.

After the word "aforesaid" in line four of section five insert the following:

Or any refusal or willful neglect of any person to issue any order or do any act required by this act, or either of the acts to which this act is additional and supplementary, with intent to defeat or delay the due execution of this act, or either of the acts to which this is supplementary; so that it will read:

SEC. 5. *And be it further enacted*, That any interference by any person, with intent to prevent by force the execution of the orders of the General of the Army made in pursuance of this act and of the acts aforesaid, or any refusal or willful neglect of any person to issue any order or do any act required by this act, or either of the acts to which this act is additional and supplementary, with intent to defeat or delay the due execution of this act or either of the acts to which this is supplementary, shall be held to be a high misdemeanor, and the party guilty thereof shall, upon conviction, be fined not exceeding $5,000, and imprisoned not exceeding two years.

Mr. BUTLER. I appeal to the gentleman from Ohio to withdraw the previous question to allow me to offer the amendment which I had printed for information.

Mr. BINGHAM. I must insist on the demand for the previous question.

Mr. BUTLER. Then I hope the previous question will be voted down.

Mr. LOGAN. I would ask the gentleman from Ohio [Mr. BINGHAM] to allow me to suggest an amendment for his consideration.

Mr. BINGHAM. I will hear it.

Mr. LOGAN. The second section of this bill provides that "the General of the Army of the United States is hereby authorized," &c. Would it not be well to amend that so that it would read, "the General or other military officer who shall or may be placed in command of the Army of the United States is hereby authorized," &c.

Mr. BINGHAM. I cannot at present yield for any such amendment.

Mr. LOGAN. If the President should relieve General Grant there would be no medium through which the law could be enforced.

Mr. BINGHAM. We could soon supply that.

Mr. FARNSWORTH. And the President could not relieve General Grant without the consent of the Senate.

The question was upon seconding the call for the previous question; and being taken, upon a division there were—ayes 61, noes 49.

So the previous question was seconded.

The main question was then ordered.

Mr. BINGHAM. I now yield to the gentleman from Massachusetts [Mr. BUTLER] thirty minutes of the time to which I am entitled under the rules to close the debate.

Mr. BUTLER. Mr. Speaker, it is always an invidious task to argue a question after it has been virtually decided. The Committee on Reconstruction, through their organ on this floor, propose to hold the parliamentary power they have, and will not permit any amendments to be offered to their bill. As a friend of the measure I desired to perfect it, or at least bring before the House, as I may now only succeed in bringing before the country, an amendment which I think is necessary to its more perfect action. I trust I may say here without offense that a committee which has tried four times to get their measure in a right form and failed each time on their own confession might have been a little modest in preventing even the consideration of amendments. I think, at least, they might have permitted the House a vote upon such amendments as were proposed without choking us down with the previous question; but the committee have decided otherwise. I do not mean to say that the committee have failed in their bills on any proposition of principle; but I do mean to say that in my judgment they have failed in matters of detail necessary to the working success of their plans of reconstruction.

I have no difficulty with the great question which has been argued here as to the constitutionality of our acts in this regard. There are at least three several provisions of the Constitution of the United States under which all we have done may be well maintained.

But if I had ever had any such difficulty the time for stating it has long since passed. I understand that the constitutional objection urged upon the other side is that this bill tends to take away from the President of the United States his power as Commander-in-Chief of the Army of the United States. I find by reference to the law that when the grade of General was revived he was authorized to command only during the pleasure of the President of the United States. I have before me the law establishing the grade of General. It provides for the appointment of "a person of courage, skill, and ability, who, being commissioned as General, may be authorized, under the direction and during the pleasure of the President, to command the armies of the United States." This is the only authority for having any General at all.

But in March, 1867, tacked on to the appropriation bill there is a provision—

"That the headquarters of the General of the Army shall be at the city of Washington; and all orders and instructions relating to military operations issued by the President and Secretary of War shall be issued through the General of the Army, and in case of his disability through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at his headquarters, unless at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this sections shall be null and void."

And I find this legislation printed as having been approved by the President of the United States; therefore, if I had any doubts before they would be resolved now. Certainly no man has hitherto attempted to interfere with the action of this provision of law.

While I say it is quite competent for Congress to put all this matter of reconstruction in the hands of the General of the Army, and I trust it will be so put, at least so much of supervision over it as will require unity of action by the commanders of the several districts, still, in my judgment, the details of the bill require some revision, in order that a system and officers of civil governments in the rebellious States may be set up and appointed at once which shall afford to loyal men and the friends of the Government security for life, liberty of action, and exemption from outrage until these States shall be again represented in the Congress of the United States. This I have attempted to provide for in the amendment which has been printed for the information of the House as a

substitute for the first section reported by the committee.

I have ventured to bring to the notice of the House this amendment to the bill, proposing to permit the officers of the civil governments in the States to be selected and appointed by the constitutional conventions of the several States, after they shall have framed their constitutions and put those constitutions before the people for their ratification. I am told that the district commanders will do this under the bill as it stands. To this I answer that although the district commanders have had the power to appoint such civil officers ever since we passed the first reconstruction bill last March, yet they have not done it, and the State governments in those States are still under rebel control; and because they have not done it our friends, the loyal men of the South, are suffering and the cause of reconstruction is endangered. There has not been an hour since last March when these appointments might not have been made by the district commanders under the authority of Congress. Will Hancock make these appointments? Can Meade do it? Hancock says he will not, and Meade says he cannot do it. Yet we insist on going on in this same direction by the bill now before us without remedying the evil. Meade telegraphs he cannot find loyal men enough in Georgia to fill the State offices. I can easily understand why he says so. He goes there a stranger; he knows nobody; he has no sources of information. How can he find at once fit men, loyal and true, pathmasters, overseers of the poor, justices of the peace, constables, coroners, county supervisors, and the thousand and one officers necessary for the minute machinery of civil government over so large a territory as that of the empire State of the South? But our loyal friends in the convention coming from every county, precinct, and district, can find them, can designate them; and therefore the amendment I offer proposes to put this power in the hands of the convention, which can and will exercise it rather than leave it solely in the hands of the commanders who cannot and who have not exercised it.

The adoption of this proposition will, I think, entirely silence a principal objection urged by the other side of the House. They claim that by our reconstruction measures we institute State governments over the people of the South wholly by military command. I propose instead to institute State governments under the authority of the convention of the people elected by the people for the very purpose of organizing government, who are to put down the very foundations of government. I propose that the convention shall begin the work of reorganization of loyal State governments at once; that it shall select the officers as well as institute the governments of the State; that it shall in every way and in every form set in motion all the machinery of government; emanating from the people, representing the people, this body shall set up the government of the people loyal and true to Union, and that government shall remain in force until the State is admitted to representation in the Union, and until an election is held under the constitution which they shall frame and the people shall ratify. The amendment further provides that when these officers have been selected by the convention the military power shall come in only to approve, to confirm, to install, and to support.

Mr. Speaker, I have said all that I care to say upon the operation of the amendment. I now proceed to consider some of the objections to its action. It has been objected that if we give this power to the convention the convention will fail to exercise it. Can this be possible? If I understand the condition of things in the South it is one of tyranny to loyal men, both white and colored, such as never yet has been seen since the South had an existence. Heretofore the master owned the slave and had some interest in well-treating him. Now the colored men of the South are substantially without protection, either from the power of the Government or from the interest of the owner in their well-being, which formerly insured them at least safety and food. Sir, let me tell you, as one form of this tyranny, that the former masters, who are still the landowners, (for we have left the lands in their possession, so that the negro of the South cannot yet get a foot of land which he can call his own,) refuse to hire any negro unless he will agree to vote the way that his employer orders; and thus he is forced to forsake his old friends, and, even further, to go down on his knees and say that he is sorry for his loyalty to the Union before he can be allowed to fulfill even the primeval curse, to earn his bread by the sweat of his brow. I beg leave, sir, to send to the desk a copy of the Richmond Examiner of the 17th of December, containing an article recommending that the contract, which shall thus reënslave the negro, therein set forth, shall be enforced all over the South, and was agreed by the conservative convention at Richmond, as I have been informed, to enforce that contract as a course of policy to overthrow our reconstruction.

The Clerk will oblige me by reading.

The Clerk read as follows:

"From another county one of the most distinguished of the eminent men of Virginia informs us that the plan of employing no negro who belongs to these vile oath-bound leagues and midnight gatherings, is working admirably. The negroes are leaving the leagues by the scores and dozens, and the people have no difficulty in securing their labor at fair prices. We are indebted to this distinguished gentleman for a copy of a paper which the people of his county require the negroes to sign or no work. As the people in other counties may desire to profit by the example we append a copy of this paper, which may serve them as a suggestion for something of the same sort in their own respective localities. The following is the paper referred to:

"'The undersigned, freedmen, voted at the late election the Radical ticket. We did so because we had been led to believe that our late masters, if restored to power, would seek to reënslave us. Satisfied now that they entertain no such intention or desire, and fully alive to all the evils which must arise among a divided people, and which cannot be beneficial to either, but must be injurious to both, we have determined, for weal or for woe, to cast our lot among those with whom we have been raised, and hereafter to coöperate with them in all the measures designed to preserve the harmony, promote the interests, and consolidate the power of the community of which we are a part and in which we live. And such of us as belong to any organization of our race, hereby (as they are advised they have an undoubted right to do) renounce all connection therewith, fully, completely and forever.

"'Witness our hands this —— day of ——, 1867.'"

Mr. BUTLER. Now, Mr. Speaker, will you tell me how much we have done toward reconstruction while no man can get employment without he signs away his manhood by such a paper as that? What have we done toward the protection of our loyal friends when we have left governments in force under our reconstruction bill which sustain such contracts as that? If I am told the conventions will not appoint new State governments which will remedy the evils under which our friends and the friends of the country suffer, I answer, your district commanders have not. If I am told it is dangerous to leave it in the power of the conventions to fill these offices lest they should not act with promptness and efficiency, I answer, it is still more dangerous to leave it in the power of the commanding generals of the districts, who either say they will not or cannot act.

I am told we shall have under this new bill one general over all—General Grant—and therefore we shall get a different state of facts. To that I answer, General Grant has now all the power you are going to give him by this bill, because under the law I have just read the President can transmit no order except through him, and by the other reconstruction acts he has full control of the district commanders. Therefore, without saying by a word whether he has done right or wrong in permitting these State governments to exist to our detriment and the oppression of loyal men, I only say he has not suppressed them and supplied their places with officers true to our cause and the cause of right. If you allow the present state of things to go on, from my experience of the South, from what I learned by a recent visit there, by what I learn from an extensive correspondence there, from what I learn from day to day in the telegrams coming to my table praying for and urging this very proposition which I have presented to the House, reconstruction in half of the States of the South has failed, and we are responsible for the failure. If you empower the constitutional conventions to elect all State officers, protect and instal them by the military power, and put them in the full exercise of their functions, from that time you have legal State governments in every State of the South, giving protection to our friends in every form in which protection is derived from all the ramifications of State government, and the States are in fact reconstructed with governments republican in form and in fact, only to be superseded by the governments set up under the new constitutions.

In any plan of inaugurating these governments under the bill without amendment the insuperable difficulty is of getting appointed the governors, judges, supervisors, overseers of the poor, justices of the peace, and all similar officers. The district commander has neither the time nor the physical power even, whatever may be said of the legal power, to make these appointments. And if he attempts to remove a single officer see how he is thwarted and the reconstruction hindered.

Why, sir, how stands it to-day? Let us see what the power of a commander amounts to in practice toward helping reconstruction. General Meade went down to Georgia with every intention to do right. He orders Governor Jenkins to allow money to be taken from the treasury of Georgia to pay the convention, according to the act of Congress. What then? Governor Jenkins refused. What then? General Meade puts in another governor, an officer of the Army. What then? He puts in a new treasurer, another officer of the Army. He opens the treasury doors, to find what? That Governor Jenkins had sent all the money in the treasury to New York, subject to his own order, and for the very purpose of preventing General Meade from getting a dollar of it. And thus, without a full reorganization of the State governments, the whole power of your district commander is defied and set at naught, and General Meade telegraphs he cannot find loyal men to hold the offices, and therefore he cannot reorganize the State government of Georgia. What are we here for, sir, but to legislate to meet just such a state of facts as this?

We are called radicals; but by our legislation we only touch the topmost branches, never seeking to cut up the roots of all this trouble. We do not come to the trunk of the tree, much less at the root of the evil.

Now, sir, have I overstated this matter? I hold in my hand the National Intelligencer—always good authority when any wrong is done—from which I read:

"FROM GEORGIA.—It is reliably stated that there are no funds in the State treasury, all having been removed in view of the probability of such a seizure."

In Mississippi, too, the convention of the people was not allowed to sit until it was insulted by a gas company, organized under the State government, requiring security for the gaslight which might be used by the convention assembled to reorganize the organic law of the State under the authority of Congress. Yet what remedy did Ord or Gillem give either the convention or Congress—for both were insulted this contumely? This is the temper in which you are met, and of such are the State governments composed which for many months you have kept there, and which you you propose to keep there, so far as any remedy under this bill is to be had; for, I say again, your district commanders, however much they desire to do, have not and cannot make these governments what they should be—in friendly relations with Congress, a stay and protection to the friends of the Union, and a terror to evil doers.

What other or better remedy can be proposed for these so great evils? The only remedy,

again I say, is to put it into the hands of those who are able and willing, and every constitutional convention will be willing. Give these governments into the hands of loyal men, and then enact that the military shall sustain these loyal governments. When once these governments are in power as the civil governments of these States as well *de facto* as *de jure*, then men like General Hancock are already pledged to sustain the State governments which are acting under the civil law. Not only that, sir, but when you have set up these governments you have brought to bear on your side, on the side of loyalty and right, all that great power, the power of organization. No gentleman in this House is ignorant of the great strength of that power in carrying any cause. Why, sir, had the organized governments simply of the loyal States been against us when the rebellion began we never should have succeeded, although the people were loyal to the heart's core. Why did the rebellion come so near success? Because they had all the State organizations on their side, although hardly a majority of the people were with them. Why were we able to overcome the rebellion? Because we had the organization of State governments with us, and we had every part of the State organizations down to the very finest and smallest ramification of government. This was the great engine of power which sustained this country in the great struggle for its life. That power we have thrust aside for ten months and given over to our enemies in this work of reconstruction, and now your committee refuse to allow us even to consider an amendment which proposes to put into the hands of our friends for the reconstruction of these States that great power. Why, sir, in an ordinary election in any State what do you count an entire organization of all the branches of State and municipal governments against you? You count it half at least.

Let us see another advantage which would accrue to the country if the governments are inaugurated under this amendment: I propose to leave these States under these loyal governments thus set on foot until they come into the Union again; or, in the language of the amendment, "until their Representatives are admitted on this floor." Now, then, if any change takes place in the politics of the country, any change of party; if, as the gentleman from New York [Mr. BROOKS] threatened the other day, he and his associates come into power, what do they find? They find, at any rate, loyal State governments *de facto* and *de jure* in the South, which they will be obliged to sustain. At any rate, they cannot disturb these governments until they get a majority of this House, a majority of the Senate, and the President, whom they hope to elect, all to agree to repeal the laws under which these State governments are established. These governments of ours will stand there as monuments of loyalty and of right, and not only as monuments but as muniments of loyalty and right for years, until the Senate itself succumbs to what they call reaction. Long before that, even if the gentleman should for a time succeed, there will be an uprising of the true people of the land that once again will sweep the rebellion out of power. Therefore, it is for the very safety of the Union that we take the earliest possible and most direct means by which we may get in every school district, when they are districted, in every county, in every town, in every department of the State government, loyal and true men selected by the loyal and true men who are a majority in every convention in every State in the South.

But I am told, "Oh, it will not do; (and that argument, I learn, was used in the committee,) it will not do to put the selection of these State officers into the hands of our convention friends, lest they should select somebody that is black in the face for a State officer." I have no objection to their selecting anybody that is black in the face if he is white in the heart. There is where I would look to guide the selection. Let them get a loyal black man and I will prefer him to a disloyal white man; and any party that does not make that preference will and ought to go down, and no man found base enough to write its epitaph. Why should we be afraid to have our friends select our friends for office? Let me tell gentlemen if they go into that South they will be very glad to see smiling black faces around them with loyal, true hearts, instead of surly, grinning, scowling white men, who are only restrained by the knowledge that there are Union bayonets there from letting their hate break out into open action.

Mr. PAINE. Will the gentleman yield to me for a moment?

Mr. BUTLER. Certainly.

The SPEAKER. The Chair will state to the gentleman from Massachusetts that he has but three minutes of his time remaining.

Mr. PAINE. I will not detain him one minute. The gentleman informed the House that the argument that these conventions might select colored officers was used in the committee. I have this to say to the House, that I was present at every meeting of the committee at which this bill was considered, I believe, and I, for one, never heard that argument used.

Mr. BUTLER. Then I am sorry to say the matter has been misreported to me. I have no doubt that my friend from Wisconsin is exactly correct. I can only say that I was misinformed. In my endeavors to find out what the trouble was, why my amendment was not acceptable to the committee, I was told that we must yield somewhat to the "prejudices of the people of the North." Well, I understand what that means. Nobody doubts on that subject and nobody can doubt.

I am sorry that I have not longer to elaborate these suggestions, even to the trouble of the House. Perhaps the House will be equally glad that the rule cuts me off. But I ask the House before we pass this bill to see to it that it is perfected. Cut off all there is of objection to it as a military bill solely by putting these State governments upon the people through their conventions, by putting the people to make States for us, and allowing the military to confirm the action of the people, and then see to it that the military sustain the governments so created. Otherwise you leave yourselves open to the suggestion that you have made military governments, when, in fact, it will be in the future as it has been in the past, that there are no military governments in these States; that the military only sustain rebel governments in the States which, although you declared them void and of no effect months ago, still are in full action, collecting taxes, oppressing our friends, obstructing our laws, with no man to gainsay or hinder them.

Mr. BINGHAM. Mr. Speaker, it is my purpose in the remarks that I make to confine myself to the discussion of the bill that is before the House. Having discharged my duty in this behalf, it will remain with the members of the House to discharge theirs.

As the organ of the House, Mr. Speaker, the Reconstruction Committee have, after due deliberation, deemed it their duty to submit the bill in manner and form as it stands presented. I shall speak but few words in addition to those which I uttered in the opening of this discussion in support of the authority with which the people have clothed their representatives in Congress to enact this legislation.

Sir, I listened with due attention to the concededly able gentlemen who deemed it their duty to oppose this bill. I regret to say that denunciation with them assumed the place of argument, and in the storm of their denunciation the voice of reason itself was silenced. Those gentlemen, sir, whether conscious of it or not—I say it with all respect—in the heat and excitement of this controversy gave to party what was meant for mankind, and, forgetting for the moment the interests of our common country, enacted precisely the rôle which was played when the Constitution itself was on trial for its deliverance as it came from the hands of those mighty men whom God taught to build for glory and for beauty and to frame the fabric of American empire. The argument, sir, urged in that day against the ratification of the Constitution as it was approved by Washington and by his associates was that it conferred, for the common defense, to suppress insurrection, and to repel invasion, unlimited power upon the legislative department of the Government. The gentlemen who oppose this bill might have found their objections, all of them, as well stated and as forcibly stated by the men who opposed the formation of our Government, the ratification of our Constitution, and the efforts of our people to assume their place in the family of nations, as they have in this debate stated them themselves. I answer the objections which have been urged against this measure in the words of the men who framed our Constitution, and thereby proved themselves second to no men who ever lived since man was upon earth, and to whom were intrusted the destinies of a great people.

The words of Hamilton ought to be inscribed in this hour of our nation's trial upon the very lintels of your doors:

"The powers for the common defense ought to exist without limitation, because it is impossible to foresee or to define the extent and variety of the means which may be necessary to satisfy them. The circumstances that endanger the safety of nations are infinite, and for this reason: no constitutional shackles can wisely be imposed upon the power to which it is committed."

Thus spoke Hamilton, a man almost matchless in his own age or any age, of the power vested by the Constitution in Congress to provide for the common defense, to suppress insurrection, and repel invasion.

And Madison, called "the father of the Constitution," took up those words and reiterated them in another form, saying that "it is in vain to oppose constitutional barriers to the impulse of self-preservation." A higher lawgiver than Madison or Hamilton, who was before worlds were, who will be when worlds perish, gave the law for the government of individual man and of collective men, the citizen and the State: preserve thy life.

It is the duty of this nation, to which, in the language of the fathers of the Republic, "God in His providence has committed the greatest trust ever committed to a political society," to preserve its own life.

That life was assailed, as the people of America and the people of the civilized world know full well, for four long years by armed revolt and treason. Three years have now well nigh elapsed since the broken battalions of that armed revolt surrendered to the victorious legions of the Republic.

When the cloud of battle lifted from the stricken fields of conflict, from the banks of the Potomac to the banks of the Rio Grande, the fact was disclosed that State institutions, constitutional State governments, had vanished in the strife and conflict of arms. The people of the United States—and when I speak of the "people of the United States" I speak of that American nationality organized under constitutional State governments, standing by the Constitution, covering the continent, looking out upon Europe from their eastern and upon Asia from their western homes—that people in the hour of their triumph, with a magnanimity unparalleled in history, asked not indemnity for the past, but only security for the future.

In their proposition of restoration, as they presented it in 1865 and 1866, to the late insurgents in arms, the victorious people of the Republic asked only that an irrepealable covenant be placed in the Constitution of the United States, by the consent of the vanquished, which would make a like rebellion forever impossible, and which would realize, by the silent majesty and force of law, the grand purpose for which the Constitution itself was ordained; the establishment of justice and the security of liberty.

That is what the nation, by its representatives in Congress assembled, asked. The people of the North accepted it with a unan-

imity without a precedent in the political contests of this age, or of any age. It was rejected with scorn and contempt by those who but yesterday lifted their hands in violence against the holy temple of our liberties.

To-day, sir, we stand here, the Representatives of the people, to adopt and use such means as will enable such as have returned to their loyalty and such as never struck hands with those who engaged in this mad revolt to accept this condition, and in the language of the bill "be restored to political power in the Union."

But, say gentlemen, you ask South Carolina before she is admitted to accept the constitutional amendment and ratify it. Most undoubtedly. Gentlemen say if she is not a State capable of exercising the political powers of a State within the Union can she ratify and accept the amendment? Most undoubtedly. Gentlemen reply it is impossible for South Carolina to exercise this power of ratification until she shall have been restored to representation in Congress.

Sir, I tell the gentlemen that the question which they raise was settled more than thirty years ago under the administration of President Jackson, by almost the united vote of Congress, instructed in their decision by the elaborate opinion of his then Attorney General. The people of an organized Territory, without any previous action of Congress authorizing what they did, exercised those rights which by the express terms of the Constitution are to be exercised only by States in the Union, namely, the election of two Senators to the Senate of the United States, which your Constitution declares in words can be chosen only "by the Legislatures of the respective States of this Union." They also elected a Representative to the Congress of the United States, which the first article of your Constitution declares shall be done only by the people of the several States. The people of that Territory did this months before they were admitted to this Union. Yet, sir, what they did was not undone; for the Congress of the United States, exercising the authority vested in it by the people, affirming what the people had done, by relation, made their acts valid; and from that day to this no man in America has challenged the legality of the proceeding.

The ratification of the fourteenth article of amendment is what we demand of the insurgent States in the name of the people. Gentlemen on the other side say this shall not be done. Let the people decide between us, whether those States shall impose taxation indefinitely to reimburse the cost of their rebellion and to make compensation for emancipated slaves; whether they shall come into this Hall and the Hall at the other end of the Capitol, and in the persons of their Senators and Representatives repudiate and violate the plighted faith of this nation. The nation that violates its faith is dishonored and must die. That is the issue which is made here. That is the issue upon which we go to the people. That is the purpose for which we enact this law. We say to the General of the Army, "Carry out the provisions of this act in good faith," that the people of the States lately in insurrection may be speedily restored to political power in the Union.

My colleague, [Mr. CARY,] rises in his place and asks, "Is the General of the Army responsible if he violates this law and tramples upon the rights of the people?" I regret that my colleague deemed it his duty to make any such inquiry. Sir, the General of your Army, like all executive or judicial officers of this Government, is neither above the people nor above the power of the people's laws. The General of your Army is but the creature of a congressional enactment. The breath that made him General may unmake him to-morrow. I answer my colleague further that, if the General of the Army be guilty of any violation of this law, he is liable, by the very terms of the fifth section, to be arraigned before a civil tribunal of the United States upon indictment, held to answer for his high misdemeanor, and upon conviction must take his place in the penitentiary and pay a forfeit not exceeding five thousand dollars, as provided in the bill. I trust that my colleague is altogether satisfied with the severity of the penalty.

Another objection raised by these gentlemen is that by this bill we invade the province and power of the judiciary. Sir, I respect the national judiciary as much as any gentleman who volunteers here to be its defender. But, sir, in this contest I cannot forget if I would the utterance of that profound man, Montesquieu, who, speaking of the three departments of Government, legislative, executive, and judicial, declared what every man knows to be the truth touching the power of each to deal with those questions which go to the foundations of civil government, that the "judiciary is next to nothing." It has neither force nor will, nothing but judgment, and no power to execute that save at the pleasure of the Executive. The judiciary has its functions to perform. I am perfectly willing that the judiciary should be left free and untrammeled in the faithful and honest performance of those functions. But, sir, the judiciary of the United States has no power to review the political questions intrusted exclusively to the legislative department of this Government, among which is that involved in this legislation whether a community is or is not a State within this Union, and whether it has or has not a republican form of Government. This question has long since come before that high tribunal, the Supreme Court of the United States, and it has solemnly decided that it is a question for the political department of the Government and that the decision of it by that department concludes the judiciary.

Why, sir, it must be self-evident that if the judiciary of the United States has the power to intervene in this matter and decide to-day, contrary to the decision of Congress, that South Carolina has now a republican form of government and is entitled to exercise political power in this Union, the same judicial tribunal may also intervene and decide to-morrow the very converse of that proposition in regard to Ohio. If the Supreme Court of the United States can decide of one State that it has a republican government and is entitled to exercise political power in the Union, it may decide as to all the residue of the States that they have not republican governments and are not entitled to exercise political power.

Why, sir, that would put it in the power of a bare majority, as the law now stands, of the court to pronounce final judgment against the life of this nation. The nation's life is under the shelter of the nation's laws. The Supreme Court cannot touch that question. Sir, whenever the Supreme Court dares to interfere with that question and decide it against the declared decision of the legislative power of the nation, it lays violent hands upon the very ark of the covenant of the people, and ought to suffer instant annihilation. Let that tribunal recognize without challenge as conclusive the broad seal of the State of Ohio when it comes there by force of the act of Congress, and so of every other State in the Union.

Why, say gentlemen, this could not apply to the original States. I beg gentlemen's pardon; it does; for that same court declares this recognition of the existence of the constitution of every State government in the Union is solemnly declared by Congress every year in the admission of Representatives to this floor. There is no room for controversy about this question. But it is further objected to the bill that there is no grant in the Constitution authorizing Congress to vest in the General of the Army power to detail officers of the Army as is therein provided. Permit me to say that it is expressly provided in the Constitution, as though to meet this very emergency, that the "Congress shall have power to make rules," that is, laws, "for the government and regulation of the land and naval forces." Why, said Mr. Madison, it is the very essence of executive power faithfully to execute the laws, and faithfully execute the laws in manner and form as the laws themselves prescribe for their execution. That there might be no mistake about it, that even the wayfaring man might not err therein, the makers of the Constitution used the words in the instrument itself, that the President, who is vested with the executive authority, shall take care that the laws be faithfully executed, and that he should not evade in any manner the discharge of this high trust—they took care further to provide that he should be bound by oath—that adamantine chain which binds the consciences of men to the throne of eternal justice—to execute to the letter this requirement of the Constitution and faithfully execute the laws.

Mr. CARY rose.

Mr. BINGHAM. I cannot yield now. Let the President discharge faithfully his duty, let him regard the obligation of his official oath, and all is well with the Republic. Gentlemen need not speak of the law oppressing anybody or wronging anybody or outraging anybody. No such legislation is proposed. It was the right of the victorious people of the Republic to make inquest for blood all over that land which is ridged with the graves of your unreturning braves, and consign the guilty either to the darkness of the grave to sleep the sleep of death in a felon's tomb, or to go into returnless banishment. As one of their Representatives, I say it with pride and gratitude, the people have otherwise decreed. That great and generous people only insist that civil governments shall be restored, and restored speedily, in accordance with their own law, over that vast belt of country lately blasted with armed rebellion. That country is three times the area of the empire of France, and is capable of furnishing homes of abundance and comfort to three times the population of France, more than one hundred million freemen. It is a part, sir, of your native land and mine, and I stand here as the Representative of the people to insist that it shall rise from its ashes, clothed in the form and dignity of law, and invite thither the industrial power of the representatives of every civilized nation of the globe, and pay its tribute from year to year and from generation to generation to the Treasury of our common country in order to make good our plighted faith to the living and dead defenders of the Republic.

Let this be done, Mr. Speaker, and all is well with the living millions and the millions who are to come after us. Let this be done, and the dream of the illustrious founders of the Republic will be fully and speedily realized. Let this be done, and that word, the Republic is saved, will go out over all the earth and shake the foundations of every tyrant's throne and compel every despot to hold the reins of power with a tremulous and unsteady hand. Surely something will have been gained for humanity, the world over, when in the land of Washington, of Madison, of Jefferson, and Franklin, filled with a people second to none among the nations of the world, it shall be acknowledged that before the majesty of their law every human being is equal—equal in the rights of person, equal in those rights which are as universal as the material structure of man, equal in those rights which are the gift of God, and to protect which governments are instituted among men. I submit that gentlemen do but imitate the example of those who contrived this rebellion years ago in the councils of the nation, by the arguments which they adduce here in answer to what we have said and what we say now in support of this measure. When I repeat the utterances and reiterate the deathless words of your immortal Declaration, every one of which, like the words of Luther, were half battles, gentlemen rise in their places, as their predecessors did years ago in the Senate, and declare that the words of the Declaration are but glittering generalities, rhetorical flourishes, and the self-evident truth itself, that all men are created equal and endowed with the rights of life and liberty by the common Father, who is the God of all the nations, is, after all, but a

self-evident lie. That is their answer. It is all "rhetoric," it is a "glittering generality," it is a "self-evident lie."

Sir, it is written in your Constitution that there are persons who are natural-born citizens in this land. I would like to know by what method of reasoning gentlemen revive the ancient dogma that this world was made for Cæsar. I would like to know how gentlemen on this floor have arrived at the conclusion that any of their fellow-citizens, born with them within the limits of this Republic, have not the same right to live here, and, if God so please, to die here, as the gentlemen themselves? That is one of the issues involved in this contest—the right of every natural-born, law-abiding citizen of the Republic to live on the spot of his origin. I have no doubt we could get rid of all controversy at once if we would surrender the great trust given to us and say to the men, red with the blood of our murdered countrymen, seize again the control of all the political power of the nine disorganized States, trample down under your iron heel the four million native-born children of the Republic, who were once citizen-slaves, now citizen-freemen, the men who never forgot during all the four years of conflict that your flag was the symbol of liberty; the men who never forgot to whisper a word of cheer and comfort to the wounded and dying soldiers of the Republic in the great struggle for the nation's life; the men who never failed to aid your defenders in their escape from those prison-pens in which their comrades were subjected to untimely death by the slow tortures of famine and poison. Surrender these men, faithful to the last, to the traitors in rebellion, and the contest is ended. Allow Jefferson Davis to come back and sit down in his senatorial robes in the Senate; call home that hatchet-faced conspirator from France (Slidell of Louisiana) and restore him to his place; call home that other Senator watching across the border in Canada (Mason) and restore him to his place; call back all the Representatives who went out in the year 1861 from this Hall clothed with perjury as with a garment, lifting their hands in violence against your Government and Constitution, and the contest will be ended.

Sir, I cannot speak for others, but for myself, so help me God! living or dying, I am against any such proposition. Let the friends of the Republic ever keep the Republic in their hands. That being done its safety is assured, and the time will come within the life, I trust, of every man now honoring me with his attention, when the laws of the Republic in all our borders will be so just, so humane, so impartial in their justice and in their humanity, that the poorest and the humblest human being between these oceans will find equal protection with the richest, the noblest, and the most powerful citizen.

Mr. BUTLER. I rise to a privileged motion. I move to reconsider the vote by which the main question was ordered in order that I may offer my amendment.

The question being put and appearing to be lost,

Mr. BUTLER demanded the yeas and nays.

The yeas and nays were ordered.

Mr. WARD. Would it be in order to have the amendment read?

The SPEAKER. Not on the motion to reconsider. It is not yet before the House.

Mr. WINDOM. I move that the House adjourn.

The SPEAKER. The Chair will state that the Senate has asked for a committee of conference on two important bills, and the chairman of the Committee of Ways and Means desires to have them acted on this afternoon.

Mr. WINDOM. I withdraw the motion for that purpose.

REPEAL OF COTTON TAX.

On motion of Mr. SCHENCK, the House took up from the Speaker's table House bill No. 207, to provide for the exemption of cotton from an internal revenue tax, and agreed to the committee of conference asked for by the Senate to the disagreeing votes of the two Houses thereon.

The SPEAKER appointed as conferees on the part of the House Messrs. LOGAN, MAYNARD, and BROOKS.

REDUCTION OF THE CURRENCY.

On motion of Mr. SCHENCK, the House also took up from the Speaker's table House bill No. 213, to suspend further reduction of the currency, and agreed to the committee of conference asked by the Senate on the disagreeing votes of the two Houses thereon.

The SPEAKER appointed as conferees on the part of the House Messrs. SCHENCK, HOOPER of Massachusetts, and NIBLACK.

WITHDRAWAL OF PAPERS.

On motion of Mr. PILE, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the several cases of H. H. Rusk, A. B. Mills, Henry V. Freeman, and W. E. Duckett, copies being left.

Mr. WINDOM. I renew the motion to adjourn.

Mr. WASHBURN, of Indiana, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. WASHBURN, of Indiana, called for tellers.

Tellers were ordered; and Messrs. WINDOM and WASHBURN, of Indiana, were appointed.

The House divided; and the tellers reported —ayes ninety-one, noes not counted.

So the motion was agreed to; and thereupon (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ARCHER: The petition of Richard M. Green for compensation for use of his patent right in the United States navy-yards.

By Mr. BAILEY: Two several memorials from the Oneida County New York Manufacturing Association for a reformation in the mode of appointments to office, whereby character and fitness shall be deemed essential qualifications.

Also, the petition of Woods, Bucknor, and others of the twenty-first and twenty-second congressional districts of New York, to be refunded certain moneys deposited by them with collectors for Tice's meters.

Also, the petition and memorial of Pomroy Jones, of Oneida county, New York, praying that the surviving soldiers of the war of 1812 may be placed on the pension list.

By Mr. BUCKLAND: The petition of J. R. Clymer, P. W. Poole, and 185 others, citizens of the ninth congressional district of Ohio, asking Congress to take such action as will effectually protect the rights of naturalized citizens of the United States in all parts of the world, and to compel Great Britain to recognize the validity of the naturalization of those citizens whom she now holds in durance in violation of their rights as American citizens, and to restore them to liberty. Also, resolutions from the same citizens upon the same subject.

By Mr. COOK: The petition of citizens of Will county, Illinois, for the passage of a law declaring and protecting the rights of naturalized citizens.

By Mr. DONNELLY: A memorial of the Legislature of the State of Minnesota asking for an appropriation for the improvement of the Mississippi river at the Falls of St. Anthony, and setting for the grounds for the same.

Also, the petition of Charles E. Vanderburgh, N. H. Hemriep, H. O'Brien, J. B. Gilfillan, H. B. Hancock, Charles E. Flandrau, R. J. Baldwin, W. D. Washburn, D. Morrison, Cyrus Aldrich, George A. Brackett, and a large number of other citizens of Minneapolis and St. Anthony, in the State of Minnesota, praying that Congress would define the status of naturalized citizens of the United States, and protect the rights of such citizens in foreign countries.

Also, the proceedings of a meeting of citizens of Hennepin county, Minnesota, with a series of resolutions upon the same subject.

By Mr. DODGE: The petition of Zachariah Lawrence, asking remuneration for captures of ships during the war of 1812.

Also, the memorial of A. G. Aukrey, asking pay of expense incurred on recruiting service.

By Mr. DRIGGS: The petition of Reuben Dodge, of Caseville, Huron county, Michigan, praying Congress to grant pensions to the soldiers of the war of 1812.

By Mr. ELIOT: The petition of Susan A. Mitchell, for pension.

Also, a memorial of citizens of Alabama, praying for continuance of the Freedmen's Bureau.

By Mr. ELA: The petition of W. H. Rhines, of Dover, New Hampshire, for pension for disabilities incurred in the Navy.

Also, the petition of citizens of the first congressional district of New Hampshire, to have the status of naturalized citizens defined and their rights protected.

By Mr. EGGLESTON: The petition of John H. McCutchen, administrator of John McCutchen, deceased, claiming compensation for clerical services in the Treasury Department.

By Mr. FERRISS: Two memorials of citizens of New York interested in the navigation of Lake Champlain, praying for a repeal or modification of the law under which the Northern railroad and the Vermont and Canada railroad have constructed a draw in the bridge crossing said lake.

By Mr. FERRY: The petition of W. J. Thomas and 63 others, discharged soldiers, praying that the soldiers' equalization bounty law may be passed.

Also, the petition of Charles H. Scaddin and 45 others, discharged soldiers, praying for passage of same law.

By Mr. HUNTER: The petition of sundry citizens of Monroe county, Indiana, asking that a pension be granted to certain officers and soldiers of the Mexican war over the age of fifty years.

By Mr. JONES: Resolutions adopted at a large meeting in the city of Covington, asking immediate action by Congress in reference to and for the protection of American citizens abroad.

By Mr. KOONTZ: The petition of Mrs. Sophia Ludwig, and 35 others, widows residing at Chambersburg, Franklin county, Pennsylvania, asking relief for losses sustained by them in the burning of Chambersburg by the rebel General McCausland in 1864.

By Mr. LAWRENCE, of Ohio: The petition of Drs. A. Fulton and J. C. Hunter, of Bellefontain, Ohio, asking that the fee for licenses for physicians be graduated according to income.

By Mr. MOORHEAD: The petition of A. Fulton, Son & Co., and others, manufacturers of Pittsburg, Pennsylvania, praying for an abatement of tax upon the manufacture of articles of necessity.

Also, the petition of Carrol Snyder, S. Severance, and others, citizens of Pittsburg, Pennsylvania, praying for the adoption of a civil service bill.

By Mr. NIBLACK: The petitions of sundry members of the bar, merchants, and others, citizens of the city of Evansville, Indiana, praying for the establishment of a United States district court in that city.

Also, the petition of Ralph H. Donvan, and 90 others, citizens of Knox county, Indiana, praying that more efficient protection be extended to citizens of the United States, both native and naturalized, while traveling abroad, and especially in Great Britain.

By Mr. O'NEILL: The petition of citizens of Pennsylvania and New York engaged in manufacturing and dealing in refined coal oil,

numerously signed, praying that the present method of ascertaining the quantity of the same by gauging by the calipher or straight rod may be abandoned as unreliable, and that a system of weighing may be authorized and established by the internal revenue department.

By Mr. PAINE: Petition for payment of damages.

Also, the petition of James Smith, for amendment of internal revenue law.

Also, the petition of D. S. Curtis, for amendment of act granting extra pay to officers.

By Mr. PERHAM: The petition of Rachel P. Waterhouse, for back pension.

By Mr. ROBERTSON: The petition of Colonel Stephen Baker and other citizens of the tenth congressional district, of New York, praying for such legislative action as shall define the status of naturalized citizens of the United States, and compel the Government of Great Britain to recognize the validity of the naturalization of all such citizens.

By Mr. STARKWEATHER: Several petitions from citizens of the third congressional district of Connecticut, praying Congress to take legislative action to define the rights of naturalized citizens, and to compel the English Government to recognize the validity of American naturalization.

By Mr. TROWBRIDGE: A memorial of the mayor and common council of the city of Port Huron, St. Clair county, Michigan, asking that a portion of the Fort Gratiot military reservation may be sold.

Also, the petition of Charles Dreher, of Sanilac county, Michigan, William Hartsuff, postmaster at Port Huron, St. Clair county, Michigan, and 70 others, citizens of these two counties, asking for the establishment of a mail route from the city of Port Huron, in St. Clair county, through Davisville, in Sanilac county, to Mindon Post Office, in Sanilac.

By Mr. VAN AERNAM: The petition of Thomas Connoly, sixty-ninth New York volunteers.

By Mr. VAN HORN, of Missouri: The petition of John M. Fleming, of Missouri, asking compensation for loss sustained by destruction of property, by order of Colonel Mulligan, at Lexington, Missouri, in September, 1861.

IN SENATE.

TUESDAY, *January* 21, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WILLIAMS presented two petitions of residents of the State of Oregon and of Washington and Montana Territories, praying an appropriation to be expended in building a wagon road from Horse Plains to Cabinett Landing on the Pen d'Oreille river, in Montana Territory; which were referred to the Committee on Appropriations.

Mr. RAMSEY. I present the petition of a large number of citizens of Minnesota, who represent that under the present condition of our relations with foreign Powers the nature of the citizenship conferred on naturalized foreigners is neither understood nor acknowledged by those nations, and that in consequence many of them, and in particular the Government of Great Britain, assume the right to exact allegiance from citizens who have been duly naturalized under the provisions of the Constitution of the United States, and to hold and punish them for acts done within the territory of the United States; and the petitioners therefore pray that Congress will adopt such legislative action as will not only define the status of the naturalized citizens of this Republic before the world, but also compel the Government of Great Britain to recognize the validity of the naturalization of those citizens whom now she holds in durance, and to do justice to them by reinstating them in the liberties and immunities of which they have been deprived in violation of their rights as American citizens. I move that this petition be referred to the Committee on Foreign Relations.

I also present the proceedings of a meeting of citizens of Saint Paul, Minnesota, representing substantially this subject as do the petitioners whose prayer I have just stated. I move that this also be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. WILSON presented a memorial of State officers of certain States, praying the adoption of legislation providing for suitable memorials of the services of those who have, by the sacrifice of life and limb in the national Army, become entitled to a grateful public recognition of their services, in enduring form, for distribution to individuals or their representatives; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of Brevet Brigadier General Orlando Brown, late captain and assistant quartermaster United States volunteers, praying to be relieved from all liability for property expended under General Orders No. 46, issued by General Butler for the issue of public property; which was referred to the Committee on Claims.

He also presented a memorial signed by Isaac Seely, and several others, members of the constitutional convention of Georgia, praying that the convention may be authorized to institute a civil provisional government in that State; which was referred to the Committee on the Judiciary.

He also presented resolutions adopted at a meeting of citizens of Worcester, Massachusetts, relative to the rights of American citizens abroad; which was referred to the Committee on Foreign Relations.

Mr. ROSS presented a memorial of the Council and House of Representatives of Colorado Territory in favor of reopening the military reserve known as Camp Collins, subject to the preëmption and homestead laws; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARLAN presented a petition of citizens of Alabama, praying that Judge William B. Wood may be relieved from all disabilities imposed on him by laws of Congress, so that he may continue to preside as judge; which was referred to the Committee on the Judiciary.

He also presented the petition of Francis Miller, praying the passage of a bill regulating the sale of hay and straw in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. TIPTON presented a petition of citizens of Nebraska, praying the location of a land office at West Point, in that State; which was referred to the Committee on Public Lands.

Mr. TRUMBULL. I have received, Mr. President, a petition from Samuel Bullock and some two hundred others, citizens of Warm Springs, Meriwether county, in the State of Georgia, setting forth the fact that Mr. Bullock is old and blind, and has a family to support, and is unable to support them by farming; and therefore he prays that the privilege be granted to him of distilling spirituous liquors for medicinal purposes from grain and fruit with a fifty gallon copper still, without paying a tax or license, as is ordinarily required, as he is unable to pay it. As this matter relates to the finances of the country I move to refer the petition to the Committee on Finance, to inquire whether the condition of the country will allow Mr. Bullock to use his fifty gallon still without paying the tax required by law.

The motion was agreed to.

Mr. TRUMBULL also presented a petition of Lucinda R. Johnson, widow of Dr. Bluford Johnson, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SUMNER. I present resolutions and petition adopted at a meeting of citizens of Hampden county, Massachusetts, setting forth the rights of American citizens traveling abroad, averring that the honor and dignity of the nation require their protection, and declaring that the doctrine promulgated by the English law officers is not recognized as the law of the United States on this subject, and asking the action of Congress. I move their reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SUMNER. I present also a petition from citizens of Texas, eminent citizens—most of them appear to be in important public trusts there—in which they complain of the confirmation of appointments to offices in Texas made from non-residents of Texas. They say that the collectors of customs, the United States marshal for the eastern district of Texas, the superintendent of taxes in the State, and other responsible offices have been filled by what they call importations; and that in many important offices there are men not well disposed to the Union, and none of them the friends of the suffering Union men of the State. These petitioners go on to say that there are good and true Union men in Texas to fill all these offices; that there are men who served in the war on the side of their country; but that these men are all passed over and neglected in order to give office to some supporters of the Administration. Against this policy they protest, and they ask the Senate to refuse to confirm such nominations. I had hesitated with regard to the presentation of this petition, whether to present it in executive session or in open session, but as the considerations urged seemed to be of what I may call a political character, and were kindred to topics so often discussed in open session, I thought on the whole I should best discharge my duty to the petitioners by presenting it as I now do. As there is no committee to whom it should properly be referred I move that the petition lie on the table.

The motion was agreed to.

Mr. WILLEY. I offer the petition of Robert B. Kingsberry, of the city of Brownsville, State of Texas, in which he sets forth that he has been ardently devoted to the Union all his life; that he voted against the ordinance of secession and opposed the movement altogether, but that afterward, while in the discharge of his duties as a deputy collector, at the breaking out of the rebellion, in the city of Brownsville, under the pressure and terror by which he was surrounded, for his own safety and other considerations, he was induced to continue over in that office and to take the oath of allegiance to the southern confederacy; that while in that situation he had it in his power, as he shows by evidence accompanying his petition, frequently to be of great service to Union refugees, helping the families of the persecuted in that section out of Texas and into other parts of the United States, and in various other modes manifesting his heartfelt attachment to the Union and his abhorrence of the rebellion; that after the overthrow of the rebellion, on the recommendation of Governor Hamilton and other distinguished Union men of that State, he was appointed collector of internal revenue in the second district of Texas, but was not able to take the oath prescribed by Congress; that while in the discharge of his duties he collected some two hundred and fifty-seven thousand dollars of revenue and faithfully paid it over to the Treasury; and he files with his petition a certificate of Mr. Rollins, Commissioner of Internal Revenue, that his accounts had all been adjusted and fairly stated. Upon these facts he asks, first, that his political disabilities may be removed by an act of Congress, and that he may be allowed compensation according to the law for the term for which he served as collector of internal revenue; and I have been furnished with a bill predicated upon these facts and the prayer of this petition asking relief from these disabilities, which I will send to the Clerk with the petition, and ask to have read a first and second time.

There being no objection, leave was granted

to introduce a bill (S. No. 267) for the relief of Robert B. Kingsberry; which was read twice by its title.

Mr. WILLEY. I am at some loss where the bill ought to go to; the Committee on the Judiciary, I reckon.

The PRESIDENT *pro tempore*. The petition and bill will be referred to that committee, if there be no objection.

REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on the Library, to whom the subject was referred, reported a bill (S. No. 268) for the relief of Philip R. Fendall; which was read, and passed to the second reading.

Mr. PATTERSON, of New Hampshire. The Committee on Retrenchment have directed me to report a bill (S. No. 269) in addition to an act entitled "An act regulating the tenure of certain civil offices." I give notice that I shall call it up at an early day, as it is a very important bill, for the action of the Senate; I will say to-morrow at one o'clock.

The bill was read, and passed to the second reading.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the petition of James R. Lowe, late consul to Tehuantepec, Mexico, praying compensation on account of losses and expenses incurred in being prevented, by reason of the disturbed condition of the republic of Mexico, from reaching his destination after proceeding a portion of the way by the usual traveled route, have had the same under consideration, and have directed me to report it back to the Senate with a recommendation that it be indefinitely postponed. I ask the action of the Senate on the report now.

Mr. COLE. I should like to know what the effect of that motion will be; whether it finally disposes of the subject-matter.

The PRESIDENT *pro tempore*. An indefinite postponement finally disposes of the question.

Mr. SUMNER. It is not a final disposition. It is, of course, an adverse report.

Mr. GRIMES. It does not stand here as an adverse report. It can be called up again.

Mr. SUMNER. Not if the committee report an indefinite postponement.

Mr. COLE. I am well acquainted with the circumstances of this case, and I am so well convinced that this is a meritorious claim on the Government that I should like to have the matter laid over.

The PRESIDENT *pro tempore*. Objection being made, the report goes over under the rules.

BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 270) for the temporary relief of the destitute people in the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 271) to regulate the sale of hay and straw in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 272) for the relief of Captain Bernard McMahon; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 273) to establish certain post routes in the State of Oregon and Washington Territory; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 274) to fund the public debt and to amend the banking laws of the United States; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

CITIZENS IMPRISONED BY GREAT BRITAIN.

Mr. CONNESS. I offer the following concurrent resolution:

Whereas it is stated on credible if not undoubted authority that American citizens have been arrested and are deprived of their liberty by the Government of Great Britain upon suspicion of conspiracy and the commission of overt acts of hostility against the peace and dignity of that Government; and whereas the first duty of a Government is the protection of its citizens against the hostile acts of foreign States: Therefore,

Resolved by the Senate, (the House of Representatives concurring,) That the President of the United States is hereby directed to cause immediate investigation as to the fact of such alleged arrests of American citizens, and if it shall be found that any have been so arrested who have committed no overt acts hostile to the Government of Great Britain, nor conspired to disturb the peace of that nation, then the President is hereby directed to demand the unconditional and immediate liberation of such person or persons, and also indemnity for such violations of the rights of persons so arrested or held in custody; and the President is hereby authorized to use such part of the land and naval forces of the United States as shall be necessary to enforce said demands.

I shall not attempt to discuss the resolution this morning. I ask that it be printed and laid on the table, and I give notice that at an early period I shall call it up for consideration and ask a vote of the Senate upon it.

The PRESIDENT *pro tempore*. That order will be entered if there be no objection.

DISTRIBUTION OF DOCUMENTS.

Mr. HOWE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire and report some suitable measure for the disposition of the public documents and books in the custody of the Secretary of the Interior, a list of which is contained in his report made to the Senate of the United States on the 25th day of January, A. D. 1864.

JAMES A. SEDDON.

Mr. THAYER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to inform the Senate, if in his judgment not inconsistent with the public interests, whether James A. Seddon, lately pardoned by the President, was Secretary of War of the so-called confederate States during any portion of the time while Henry Wirz, tried, condemned, and executed by order of the President for barbarities inflicted by him upon Union soldiers while under his charge, was keeper of the Andersonville prison; also, that the President be requested to inform the Senate how many Union soldiers died from starvation and from other cruelties inflicted upon them in rebel prisons, in violation of the rules of civilized warfare, while the said James A. Seddon was Secretary of War of the so-called confederate States.

SOUTHERN STATE GOVERNMENTS.

Mr. DOOLITTLE. I desire to state to the Senate that I intend to call up a resolution which was offered by the honorable Senator from Indiana [Mr. MORTON] the other day—a resolution to instruct the Committee on the Judiciary upon the great subject of reconstruction. I am not anxious to call it up to-day; I can call it up to-morrow, if that will be more agreeable to the Senate. I desire to call it up for the purpose of offering an amendment, of which I gave notice some days ago, and for the purpose of submitting some remarks to the Senate upon that question. If it be the pleasure of the Senate that it be not called up this morning, I will call it up to-morrow morning. I am not anxious to speak upon it to-day.

Mr. WILSON. I hope the Senator will call it up to-morrow, and not insist upon it to-day.

Mr. DOOLITTLE. Then I give notice that I shall ask the Senate to take up that resolution to-morrow.

PAYMENT OF SOLDIERS' BOUNTIES.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 331) to facilitate the payment of soldiers' bounties under the act of 1866. It proposes to direct the Secretary of the Treasury to employ, by transfer or otherwise, a sufficient number of additional clerks, not less than fifty, in the division of the Second Auditor's office of the Treasury Department, furnishing information to the Paymaster General in regard to soldiers claiming bounty under act of July, 1866, to speedily pay those bounties, to be continued so long as there is a necessity for the same, giving in all cases preference in this employment to soldiers and sailors honorably discharged from the service of the United States.

The second section proposes to direct the Secretary of the Treasury to procure and to provide adequate and convenient rooms for all clerks employed in the examination of the muster-rolls in the Second Auditor's office.

The third section is a direction to the Assistant Treasurer of the United States in the city of New York to pay duplicate checks, upon notice of the loss of the original check or checks, under such regulations as the Secretary of the Treasury may direct.

The Committee on Military Affairs and the Militia proposed to amend the bill by striking out the words "or otherwise" after "transfer" in line four of section one.

The amendment was agreed to.

The next amendment was to strike out in section one, line eight, the words "act of July, 1866," and insert:

The provisions of sections twelve and thirteen of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866.

Mr. FESSENDEN. If the Senator from Massachusetts merely proposes to give the Secretary of the Treasury power to transfer clerks from other offices to that of the Second Auditor, why does he put in at the close of the section words declaring that he shall give preference in such transfers to discharged sailors and soldiers? It may be that they are not so good clerks as some others for this business, and if they are already employed, why do you want to give preference to them when you merely provide that he may transfer them from other offices? What is the object?

Mr. WILSON. I will answer the Senator by simply saying that the provision to which he refers was in the House bill. The House bill provided for the employment of fifty additional clerks "by transfer or otherwise." The Committee on Military Affairs thought there were enough clerks in the Treasury Department without appointing any more, and therefore struck out the words "or otherwise."

Mr. FESSENDEN. If that is the case, I move to amend by striking out the clause with regard to giving preference to discharged soldiers and sailors.

Mr. GRIMES. I suggest to the Senator from Maine that it would be better to strike out all of the section after the sixth line, so as to leave it simply "that the Secretary of the Treasury be, and he is hereby directed, to employ by transfer a sufficient number of additional clerks, not less than fifty, in the division of the Second Auditor's office of the Treasury." That is all that is wanted.

Mr. FESSENDEN. That is all that is necessary.

Mr. WILSON. I have no objection to that amendment.

The PRESIDENT *pro tempore*. The questions io n the amendment moved by the Senator from Iowa.

The amendment was agreed to.

Mr. SHERMAN. If I recollect aright, the Second Auditor states that it is impracticable to employ any more force in furnishing this information than is now employed in his office. I have not his official report before me, but my recollection from my reading of it is that he says the evidence is derived from the rolls and only a certain force can be employed on those rolls without endangering their safety, and perhaps endangering the evidence on which the whole military service of the country is based. I should not like to have a measure of this kind passed without consulting with the Second Auditor. I think in the report he

states officially that he would settle the cases more rapidly if he could, but he is unable to do so from the fact that his office acts on the rolls, and they cannot be examined by more than a certain number of persons, who are now actually employed. I think we ought not to pass the bill without consulting the Second Auditor.

Mr. FESSENDEN. It had better go over until we get information.

Mr. WILSON. I have no objection to its going over until we obtain that information. I understood from a gentleman who had the care of this bill in the other House, and who introduced it there, a gentleman from Indiana, that he had consulted the Departments in regard to it, and that they were all satisfied with it.

Mr. SHERMAN. I do not want to delay the matter, but I have sent for the report and have it here now. I see that what I stated was substantially correct, except that the report states it a little more strongly. Until the Senator from Massachusetts can read this report, and answer its suggestions in some way, I would prefer to have the bill lie over.

Mr. WILSON. I have no objection to the bill going over to allow time to ascertain the facts. I have no doubt that Mr. French has been consulted in regard to the measure, and that it is all right; but at the same time I do not know the fact so that I can authoritatively state it.

Mr. CORBETT. I should like to have the last section read, as I wish to offer an amendment to it.

The Secretary read the third section of the bill.

Mr. CORBETT. I should like to have that section amended so as to extend to other cities the same provision which is made in regard to the payment of checks at New York.

The PRESIDENT *pro tempore*. There is a motion pending to postpone the bill until to-morrow.

Mr. SHERMAN. I do not myself desire to postpone it particularly, but I will read what the Second Auditor says, and then the Senate may do as they please. I think this report shows that it is impracticable to have any more clerks employed in this business. I read from the report of Mr. French, the Second Auditor:

"The office has also been called upon to make examination of the rolls and report to the Paymaster General the data from which the claims of discharged soldiers for additional bounty may be either rejected or paid. A large force of clerks has been detailed for that purpose, and every possible effort has been made that could be, without impairing the efficiency of the office and neglecting its legitimate work, to furnish replies as speedily as possible. It could not be expected that the claims of the heirs of deceased soldiers, or of soldiers who have lost their discharges, which have been presented to this office for settlement, should be laid aside for the purpose of making larger reports to the Paymaster General. As many men have been and are now engaged in obtaining information from the rolls for the purpose of making settlements in this office and reports to the Paymaster General, as experience has proved, can be profitably employed. The rolls are vouchers in paymaster's accounts which are undergoing or awaiting settlement, and, at the risk of injury, misplacement, or loss, it is necessary to use them in the settlement of all claims for bounty and arrears of pay. In the general movement of the business between this office and the Second Comptroller's, where settlements are revised, there are constantly upon the average twenty thousand rolls at his office with the settlements from this. It will be apparent that to secure the safety of the rolls and the regular and certain conduct of the business there must be a limit to the number of clerks that can be employed in their examination. There has been no lack, either of desire or effort, to meet the just expectation of the country in the settlement of these claims, and the belief is warranted that in one year from this date the settlement of the claims of heirs for additional bounty will have been completed."

Under these circumstances, in the face of this report, we ought not to require him to put these rolls in the custody of fifty additional clerks. I think this statement ought to be conclusive, unless the committee have examined it and investigated the whole subject-matter.

Mr. WILSON. I move that the bill be postponed for that purpose.

The motion was agreed to.

ROBERT M. PATTON.

Mr. STEWART. I move to take up the bill for the relief of Robert M. Patton.

Mr. SUMNER. I would ask whether that has been examined by a committee?

Mr. STEWART. It has been considered and recommended by the Judiciary Committee.

Mr. SUMNER. The Senator knows that it opens a very important question.

Mr. STEWART. I do not think, when the bill is read, any Senator will object to it. It is only a single line.

The motion was agreed to; and the bill (S. No. 246) to remove political disabilities from Robert M. Patton, of Alabama, was read the second time and considered as in Committee of the Whole. It removes the disabilities imposed upon Robert M. Patton, of Alabama, by the several acts of Congress known as the reconstruction acts.

Mr. STEWART. I can state the case in a moment. It will be perceived that this bill relieves Governor Patton from the disabilities imposed by the reconstruction acts. His case is certainly one that deserves special consideration at the present time. I believe he was the only Governor in the southern States who recommended the adoption of the constitutional amendment. It is recommended by General Pope, General Swayne, and a large number of citizens, thirty-seven of whom are members of the constitutional convention of Alabama, that the disabilities be removed from Robert M. Patton. As General Pope's letter is very short and states the case pointedly—it is but a few lines—I would like to have it read.

The Secretary read as follows:

ATLANTA, *November* 28, 1867.

MY DEAR SIR: This note will be handed to you by Hon. R. M. Patton, Governor of Alabama, of whom it is only necessary for me to say that he has been an open and active supporter of the reconstruction measures, and is entitled to every consideration for his firm and consistent support of the military authorities in this district in the performance of their duties.

He wishes to be relieved at the earliest day from his political disabilities, and I think him fully entitled to this mark of consideration. I trust, therefore, that you will further his wishes on this subject as far as may be consistent with propriety and with the policy of Congress in the matter.

Very respectfully and truly, yours,

JOHN POPE.

Hon. L. TRUMBULL,
United States Senate, Washington, D. C.

Mr. STEWART. I have only to add that there are a number of southerners who were connected with the rebellion perhaps involuntarily, and some that went into it voluntarily, who have since the war closed manifested a desire to maintain the Government and preserve order, and who have sustained Congress under very trying circumstances, and Governor Patton is one of them. Notwithstanding our legislation excluded him from office and place he has in the very responsible position of Governor of the provisional organization in Alabama, used his office to aid in reconstruction on the congressional plan. He has done it vigorously and effectually. I have had a large number of letters addressed to me, before the matter was referred to our committee, from General Swayne and others, stating the important services he has rendered. I believe that fact is conceded. We reported the name of Robert M. Patton singly for the purpose of testing the sense of the Senate as to whether they will relieve the disabilities of persons who are aiding the Government in the work of reconstruction, who have been consistent since the fall of the rebellion in their endeavors to restore good government to the South. I think it will have a very beneficial influence to show that we are willing to receive and recognize the services of those who will befriend the Government. I hope the bill will pass.

Mr. BUCKALEW. Mr. President, I think this bill is worthy of some debate before the Senate shall agree to enact it. It proposes the exercise by Congress of a pardoning power, or rather of a dispensing power, one which is executive in its very nature.

Mr. STEWART. I think if the Senator will read the bill he will see that he is mistaken in that. The bill simply proposes to remove disabilities imposed by act of Congress. I suppose Congress has the power to repeal any acts it has passed. It does not involve any question of the kind the Senator supposes.

Mr. BUCKALEW. By the existing laws of the United States on the subject of reconstruction, men who have been guilty of a criminal offense against the United States are subjected to certain disabilities penal in their nature. In the act of 2d March, 1867, I think it was, Congress reserved a power of withdrawing this inhibition, but in the very nature of things that was to be by some general enactment, by classifying individuals, by applying some general rule. A bill excusing individuals for former offenses, or withdrawing the disabilities incurred under our laws, which should apply to a class or to individuals by general description, might be legislative in its nature. The Senator is now proposing to single out a particular person and to exercise a dispensing power with regard to him, and to do that by legislation.

Now, sir, I have to suggest, in the first place, that this would be a very inconvenient jurisdiction if Congress undertook to exercise it. If all the individuals in the southern States who have particular merits, who by reason of their conduct since the close of the war are entitled to indulgence, are to come here by petition and apply to Congress to have the existing laws as to them dispensed with, and their cases are to be investigated, one after another, we are entering upon a very large business; we are entering upon a business entirely new, one which we shall find extremely inconvenient, one which will be attended by partiality, and which I suspect will become intolerable before we are done with it.

In the next place, in the very nature of things, it is impossible that bodies such as the Senate of the United States and the House of Representatives, can take up the case of individual offenders in the southern country, and pass upon them. That must be done either by the judicial or by the executive power. It is not one which can be exercised by the Legislature——

The PRESIDENT *pro tempore*. The hour has arrived when it is the duty of the Chair to call up the unfinished business of yesterday.

Mr. STEWART. I hope we may be allowed to have a few moments more, and we can pass this measure.

Mr. JOHNSON. I must insist upon the business before the Senate yesterday being taken up.

The PRESIDENT *pro tempore*. It is before the Senate without any motion.

Mr. SHERMAN. The Senator from Maryland, [Mr. JOHNSON,] and also the Senator from Michigan, who is entitled to the floor, [Mr. HOWARD,] are willing to let us take up the bill in regard to the spirit-meters, which I think will pass without debate and ought to be acted upon.

Mr. HOWARD. If that bill is not likely to occasion any debate I will yield.

Mr. SHERMAN. If it does occasion debate of any length I will yield.

Mr. STEWART. I will ask that the bill in regard to Governor Patton be postponed until to-morrow at one o'clock.

The PRESIDENT *pro tempore*. That bill is not before the Senate now. The unfinished business of yesterday is before the Senate, and the Senator from Ohio moves that the unfinished business be postponed for the purpose of taking up the bill mentioned by him.

Mr. SHERMAN. Informally, subject to be called up.

The PRESIDENT *pro tempore*. The Chair hears no objection to that course.

SPIRIT-METERS.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 140) to provide for a commission to ex-

amine and report on meters for distilled spirits. It provides for the creation of a commission, to consist of five persons, to be appointed by the Secretary of the Treasury, whose duty it shall be to carefully examine all meters and mechanical contrivances or inventions that may be presented to them, intended to measure, test, and ascertain the productiveness of grain, or other articles prepared for distillation, or the actual quantity and strength of distilled spirits, subject to tax, produced therefrom, giving due notice of the times and places where such examination will be conducted. The commission is to meet and proceed to the performance of these duties, under the instructions of the Secretary of the Treasury, at the earliest practicable day, and to report in detail to the Secretary, to be communicated to Congress, the result of their examination, with such recommendation as they may deem expedient and most to the interest of the Government, on or before the 15th of February next. Pending the action of the commission, and until their report be made and a meter be by law adopted, all work on the construction of meters under the direction of the Treasury Department is to be suspended; and in the mean time no further contract for meters is to be made by the Secretary of the Treasury under the fifteenth section of the act entitled "An act to amend existing laws relating to internal revenue, and for other purposes," approved March 2, 1867. The Secretary of the Treasury is to pay the expenses incident to the carrying out of this joint resolution, and also a reasonable compensation for the services of the commissioners who may be appointed under it.

The Committee on Finance proposed to amend the resolution by inserting in section one, line five, after the word "be," the words "in connection with the existing commission of the Academy of Science."

Mr. GRIMES. I should like to know who compose this commission on the part of the Academy of Science whom our commissioner is to act in conjunction with.

Mr. SHERMAN. Professor Henry and Professor Hilgard, and General Meigs was until he was sick and went away. I will state further, that it is not disclosed on the face of the paper, but it was stated in the House of Representatives that a commission had been agreed upon, to be composed of one engineer officer, Professor Henry, a naval officer, and two other very eminent and distinguished scientific men, in no way connected with politics; and it is the understanding that they are to be appointed to examine the various meters, and they are to report by the middle of February on the subject. The amendment proposed by the committee of the Senate simply adds to the five commissioners two that have already examined the subject and reported upon it—Professor Hilgard and Professor Henry.

Mr. GRIMES. I inquire whether Professor Hilgard and Professor Henry have not been engaged in this business during the last year?

Mr. SHERMAN. That is the commission that decided on the Tice meter.

Mr. GRIMES. They did decide in favor of it?

Mr. SHERMAN. They did.

Mr. GRIMES. Has it not been practically demonstrated that the Tice meter is utterly worthless?

Mr. SHERMAN. On the contrary it is said by the officers of the internal revenue department and of the Treasury that it is the best. They think it the best.

Mr. SUMNER. And it is very efficacious.

Mr. SHERMAN. They propose to submit the whole matter to this new commission; but the internal revenue department is convinced that the Tice meter is the very best.

Mr. GRIMES. I never saw one of these meters, and I do not know anything about them; but I am told by those familiar with the subject that they are worthless.

Mr. SHERMAN. I do not know anything about them; but the evidence before us was very decidedly and strongly in favor of the Tice meter.

Mr. GRIMES. It strikes me as one of the most absurd things in the world to select a man who is a mere mathematician, a statist, who does not know anything about the distillation of whisky, who knows nothing about mechanics, to perform the duties of such a commission as this. I am not going to oppose the joint resolution; but I have no doubt the result will be exactly what we have got now, nothing more.

Mr. CONNESS. I do not know how much these scientists know of practical mechanics, which after all I suppose will govern the utility of any invention such as the one spoken of and for the purpose that it is proposed. Being something of a mechanic myself, I have had some conversations with practical mechanics, who do not profess to be scientists on this subject of meters, and I am informed and I believe that the adoption of any meter whatever, for the purpose of giving as a better collection of the public revenue, will not only not result in that but will be the very means of all others that distillers would prefer that the Government should adopt. I believe, and it is the opinion of some of the best mechanics in the country, to whom I have had access, that no form of meter can be adopted in connection with the application of which frauds innumerable cannot be carried out against the revenue; and my opinion is, from what attention I have given to the subject, that we can proceed in no direction which will lead us into such impracticable and inextricable confusion, in connection with the revenue to be derived from spirits, as the one now proposed. Let the capacities of stills be taxed. Let that be ascertained, which is a practicable, ascertainable fact, and tax the capacity of the still for the number of days that its owner prefers to employ it, and then they will work up to that capacity and the Government will get the tax imposed.

I had hoped, Mr. President, that before this Congress should have proceeded far we should have adopted a system of internal taxes which would relieve the manufacturing and productive interests of this country; that the public expenditures would be so gauged and put down as that we should be called upon only to collect a tax upon spirits, wines, tobacco, and a few other items that need not now be mentioned, which, added to the taxes on imports, would give us the amount of revenue necessary to carry on the Government at this time. But if this system shall be adopted and the tax on spirits left as it now is by law, at two dollars per gallon, which, in my opinion, was always too high, is too high, and should be reduced, I shall give up all idea of success in the direction in which I have looked.

The honorable chairman of the Committee on Finance says that he knows nothing himself of meters. I suppose not. These scientific gentlemen know all about meters; nay, there is nothing on the earth, over the earth, or under the earth, that they do not know. They are a useful set of gentlemen, and I have no doubt they aid society much by their knowledge and efforts; but if I were so placed as to need the invention of some mechanical contrivance for a specific purpose, with the greatest possible respect and regard for the gentlemen named here and for all belonging to their class, they would be the very last persons to whom I should go or whom I would select. A commission is to be appointed by the head of the Treasury Department, and that commission has been pretty well agreed upon, we are told. It is to have a distinguished naval officer, a distinguished engineer of the Army, and somebody else, and somebody else, and they are going to invent a mechanical contrivance which shall tell just how much spirits a certain manufactory can or does produce, and we are to accept that as the legal gauge, and every trick carried on behind that is to be at the loss of the public revenue. I close by saying, as I have already said, that I shall give up all hopes of collecting the revenue from spirits if this scheme shall be adopted.

Mr. HOWARD. I supposed that this resolution was not going to occasion debate, and therefore I yielded the floor; but I think we had better go on with the regular order of business.

Mr. MORRILL, of Vermont. I desire to occupy but a moment in reply to the Senator from California.

Mr. HOWARD. I call for the regular order of the day.

Mr. SHERMAN. I do not think, with the leave of the Senator from Michigan, that we shall have a moment's debate about it. Indeed, I said there would be no debate, and I do not see that the debate we have had has had any reference to the subject-matter of the resolution.

The PRESIDENT *pro tempore*. The unfinished business of yesterday was passed over informally, as it was said there was to be no debate on this joint resolution. It is under the control of the Senate, however.

Mr. SHERMAN. I insist on a vote, because the present Tice meter is now established by law, and this resolution provides for a mode of examining into the objections made to the Tice meter and see whether some other meter can be adopted. There ought to be no discussion about it.

Mr. SUMNER. Then I suggest to the Senator an amendment must be made to strike out the second section.

Mr. SHERMAN. I have no objection to that.

Mr. HOWARD. I am satisfied that this subject will give rise to a long debate.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the Senate proceed to the consideration of the order of the day, which is the unfinished business of yesterday.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House insisted on its disagreement to the amendment of the Senate to the bill (H. R. No. 213) to suspend further reduction of the currency, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses, and had appointed Mr. ROBERT C. SCHENCK of Ohio, Mr. SAMUEL HOOPER of Massachusetts, and Mr. W. E. NIBLACK of Indiana, the managers on the part of the House.

The message further announced that the House insisted on its disagreement to the amendment of the Senate to the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, agreed to the conference asked by the Senate, and had appointed Mr. JOHN A. LOGAN of Illinois, Mr. HORACE MAYNARD of Tennessee, and Mr. JAMES BROOKS of New York, managers at the same on its part.

The message also announced that the House had passed the joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto;

A bill (H. R. No. 503) for the relief of William B. Todd;

A joint resolution (H. R. No. 104) authorizing the transmission through the mails free of postage of certain certificates by the adjutant general of New Hampshire;

A joint resolution (H. R. No. 167) in rela-

tion to the prosecution of claims before the Executive Departments; and

A joint resolution (H. R. No. 171) for the relief of destitute persons in the South.

SENATOR FROM MARYLAND.

The PRESIDENT *pro tempore*. The unfinished business of yesterday, being a resolution offered by the Senator from Maryland [Mr. JOHNSON] for the admission of Philip F. Thomas as a Senator in this body, is now before the Senate.

Mr. HOWARD. I ask for the reading of the resolution now before the Senate.

The Secretary read the resolution submitted by Mr. JOHNSON on the 18th of December, 1867, as follows:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

Mr. HOWARD. Mr. President, the question about to be determined by the Senate is, in simple phrase, whether the Senator-elect from Maryland can truthfully and conscientiously take the oath prescribed by Congress in the act of 1862; in other words, whether he can veraciously and conscientiously swear that he has "never voluntarily borne arms against the United States since he became a citizen thereof, and that he has voluntarily given no aid, counsel, countenance, or encouragement to persons engaged in armed hostility thereto." If he takes his seat in this Chamber he takes this oath and all of it. He not only swears that he has not voluntarily given any aid and assistance to persons engaged in hostility against the United States, but that he has never given any countenance or encouragement, direct or indirect, to persons thus engaged. To give aid and comfort to the enemies of the United States is one thing. It is in itself an act of treason, punishable under the old law with death by hanging; but to give countenance, counsel, or encouragement to traitors or persons engaged in hostile operations against the United States is not so heinous an offense; indeed, I do not know that it would be regarded as an act of treason. Nevertheless, we find it embodied in the oath which we are all required to take when we enter this Chamber.

Now, sir, can Mr. Thomas truthfully and conscientiously swear that he has never given countenance, counsel, or encouragement to persons engaged in hostilities against the Government of the United States? That is the plain, simple question of fact. It is to be decided of course by evidence, evidence tending to show the one thing or the other; and I call the attention of the Senate for a few minutes to that evidence. I think, with my present views, and with my notions of allegiance and duty to the Government of the United States, that Mr. Thomas cannot take this oath; and shall therefore be obliged to follow my convictions in this regard when the question shall be finally taken.

Mr. Thomas was a member of Mr. Buchanan's Cabinet, appointed Secretary of the Treasury on the 10th of December, 1860, and by his resignation of that office ceased to be such on the 11th of January, 1861. He was in the habit of meeting the other members of Mr. Buchanan's Cabinet in Cabinet council. We have a right to presume that he was there at all the meetings, unless his friends here are able to say that he was not, and that he well understood every subject-matter brought up for discussion in that council. Now, sir, we found on looking at the record that on the 29th of December, 1860, John B. Floyd, Secretary of War, resigned his office. In his letter of resignation he gave his reasons for that resignation. He speaks in a note addressed to Mr. Buchanan, dated the 29th of December, as follows:

"SIR: On the morning of the 27th instant I read the following paper to you in the presence of the Cabinet"—

Mr. Thomas being, of course, presumptively present at that meeting. Now follows the note which he addressed to Mr. Buchanan and read at that Cabinet meeting on the 27th:

"SIR: It is evident from the action of the commander of Fort Moultrie that the solemn pledges of the Government have been violated by Major Anderson. In my judgment but one remedy is now left us by which to vindicate our honor and prevent civil war. It is in vain now to hope for confidence on the part of the people of South Carolina in any further pledges as to the action of the military. One remedy is left, and that is to withdraw the garrison from the harbor of Charleston. I hope the President will allow me to make that order at once. This order, in my judgment, will alone prevent bloodshed and civil war."

That is the language read to the Cabinet and to Mr. Thomas by Mr. Floyd on the 27th of December, 1860, urging the President and arguing with the Cabinet that it was then necessary in order to prevent civil war that the garrison should be withdrawn from the harbor of Charleston. This was the distinct point made by Floyd, and, as I shall show, I trust, before I take my seat, this doctrine had the complete concurrence of Mr. Thomas, then a member of the same Cabinet, and present at the same council. According to Mr. Floyd, in order to prevent a civil war, it was necessary that the troops should be withdrawn from the harbor of Charleston, and that all our public works should be delivered up to the rebels in arms from South Carolina and other States, who then surrounded that harbor. In short, the mode of preventing a civil war, according to this doctrine of Floyd, concurred in by Mr. Thomas, was that the Government of the United States should tamely and obsequiously, in the most cowardly and contemptible manner, abandon the property of the United States, their fortifications, and everything else, and allow the rebels a speedy triumph and complete success. In other words, the doctrine of Floyd and Thomas was that the United States not only had no right to make war for the protection of the property of the United States, and to uphold the Government of the United States, but that it was the duty of the Government to yield at once with submissive poltroonery to the claims of rebels in arms.

This was on the 27th of December. It seems that this doctrine was not entirely acceptable to Mr. Buchanan, and I speak it to his credit. We find him a few days after inditing the following spirited paragraph in a communication which he sent to certain commissioners from South Carolina. He says:

"It is under all these circumstances that I am urged immediately to withdraw the troops from the harbor of Charleston, and I am informed that without this negotiation is impossible. This I cannot do; this I will not do. Such an idea was never thought of by me in any possible contingency. No such allusion had been made in any communication between myself and any human being. But the inference is that I am bound to withdraw the troops from the only fort remaining in the possession of the United States in the harbor of Charleston, because the officer there in command of all the forts thought proper, without instructions, to change his position from one of them to another.

"At this point of writing I have received information by telegraph from Captain Humphreys, in command of the arsenal at Charleston, that 'it has today (Sunday, the 30th) been taken by force of arms.' It is estimated that the munitions of war belonging to this arsenal are worth $500,000.

"Comment is needless. After this information I have only to add that while it is my duty to defend Fort Sumter, as a portion of the public property of the United States, against hostile attacks, from whatever quarter they may come, by such means as I possess for this purpose, I do not perceive how such a defense can be construed into a menace against the city of Charleston."

The "old public functionary" seems to have got his temper up and to have made up his mind at least to make an attempt to defend the public property. Such, sir, was the state of things in Charleston harbor; such was the state of things existing in the Cabinet of the President of the United States with the full knowledge and concurrence, I have a right to presume, of Mr. Thomas. On the 8th of January following, Mr. Jacob Thompson, Secretary of the Interior, sent in his resignation to President Buchanan. In it he says:

"It is with extreme regret I have just learned that additional troops have been ordered to Charleston. This subject has been frequently discussed in Cabinet council"—

undoubtedly, where Thomas was—

"and when on Monday night, 31st of December ultimo, the order for reënforcements to Fort Sumter were countermanded, I understood from you that no order of the kind would be made without being previously considered and decided in Cabinet. It is true that on Wednesday, January 2, this subject was again discussed in Cabinet, but certainly no conclusion was reached, and the War Department was not justified in ordering reënforcements without something more than was said. I learn, however, this morning, for the first time, that the steamer Star of the West sailed from New York last Saturday night with two hundred and fifty men, under Lieutenant Bartlett, bound for Fort Sumter. Under these circumstances"—

continues the patriotic Thompson—

"I feel myself bound to resign my commission as one of your constitutional advisers into your own hands."

He resigned because President Buchanan and a majority of the then Cabinet were in favor of reënforcing Fort Sumter, because they were in favor of making some show of defense of the property and rights of the United States in South Carolina. He and those who concurred with him resigned because they wished to discourage every effort on the part of the Government to put down the rebellion. Sir, will anybody say, will the honorable Senator from Maryland who introduces this resolution say that this resignation of Thompson, for the reasons which he gives in his letter, was not giving "countenance and encouragement" to the rebels then in arms in South Carolina? Will any man say that the resignation of Floyd, given in only a few days before, was not a solemn expression of countenance and encouragement to the rebellion then brewing? Why, sir, no greater encouragement could have been given to the rebels than the resignation of the leading Cabinet officers of the President of the United States for such reasons. It was saying to the rebels who were attacking us, "You are right; go on; proceed in your bloody work, and we will do all in our power to prevent any effort on the part of the United States at self-defense." Does anybody doubt that John B. Floyd was a traitor? Does anybody doubt that he was at the time he wrote that letter as flagrant a traitor as ever lived unhung? Does anybody doubt that Jacob Thompson was an equally flagrant traitor, animated by precisely the same principles and the same designs? Sir, it is impossible. The world knows what the hearts of those two men were. The universe is perfectly acquainted with their treasonable purposes, their treasonable conduct, and character. Was Mr. Thomas any better? What did he do? Did he abstain from giving similar encouragement and countenance to the rebels? No, sir; he made hot haste to follow the example of those two members of Buchanan's Cabinet, and on the 11th of January, 1861, after being in office exactly one month, he addresses to Mr. Buchanan the following letter:

"MY DEAR SIR: It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina; nor do I think it at all probable that I shall be able to concur in the views which you entertain"—

"Old Buck" was in favor of fighting at that time; Thomas was not—

"so far as I understand them, touching the authority under existing laws to enforce the collection of the customs at the port of Charleston.

"Under such circumstances"—

Mark the language:

"Under such circumstances, after mature consideration"—

He had viewed the whole field of controversy and of argument, and had come to a mature conclusion, as he says:

"I have concluded that I cannot longer continue in your Cabinet without embarrassment to you and an exposure of myself to the just criticism of those who are acquainted with my opinions upon the subject."

That was a very sad condition for a gentleman to be in! Rebels only would criticise him for remaining; but in resigning he was exposing himself to the just criticisms of the whole Union party of the United States. Those criticisms would have charged him with neglect

of duty in leaving his post at such a critical moment. He would have been criticised by the Union people only because he was not in favor of prosecuting a war to put down the rebellion. And he says in conclusion:

"I therefore deem it proper to tender my resignation of the commission I now hold as Secretary of the Treasury, to take effect when my successor shall be appointed and qualified."

He could not remain in Mr. Buchanan's Cabinet because he did not concur with Mr. Buchanan in the necessity of defending the public rights; he could not remain there, because if he did it would become necessary for him as Secretary of the Treasury to honor the requisitions of the Secretary of War for the purpose of prosecuting a war to put down the insurrection. He would not consent to sign an official paper for the prosecution of that war. It is but too clear that all his feelings, all his sympathies were against the cause of the country, and if they were in favor of anything in favor of the rebel cause. He was opposed to all attempts to crush the rebellion. Sir, was not such conduct at such a moment giving "countenance and encouragement" to the rebels? If similar acts by Floyd and Thompson gave that countenance and encouragement, why may not the same be predicated of Mr. Thomas under exactly the same circumstances? He resigned for precisely the same reasons that governed Floyd and Thompson. In such a moment, when the Government itself appeared to be on the verge of dissolution, when the great experiment of our fathers of establishing a free Government was manifestly in imminent peril, what was the duty of every patriotic man who was a friend of the Constitution and Union? It was clearly to aid the Government by all the means in his power; if it was necessary to raise troops; to proceed in that business; if to pay money, to contribute in that form to the common cause. Mr. Thomas did nothing of the kind. He withdrew from the Cabinet because the Government of the United States, even under Mr. Buchanan, was not cowardly enough to sneak out of a contest thrust upon them by traitors, the object of which, on their part, was the complete destruction of the Government.

Sir, I do not believe that Mr. Thomas, with this record before him, can truthfully and conscientiously take the oath of 1862. He cannot swear that he never, by any act or word of his, gave encouragement or countenance to the enemies of the United States. I look upon this conduct of his at this juncture as importing much more of disloyalty than his conduct in contributing $100 to his son, about which I shall comment in a moment. He was placed by the Government at a most important post—he was serving there at a most critical juncture in our history—at a moment when patriotism bade him stand by his country and exert every faculty of his soul in defending his Government from the attacks of traitors. He shrank from duty—he was willing that treason should triumph, and because his remaining in the Cabinet was likely to expose him to the criticism of his friends, that is to say the secessionists, he withdrew, abandoned his post, and went home to Maryland.

Mr. President, I have a few words to say upon the other branch of this case. It seems that Mr. Thomas had a son who, in 1863, was about eighteen years old. That son had been recommended by his father to pursue the necessary studies to become a member of a learned profession, a physician. The young man, however, took it into his head that he would go off into the rebellion and join the enemies of the country. Mr. Thomas proves by him that he, the father, remonstrated against this course of the young man, that he discouraged the boy from time to time, and that their difference of opinion upon this subject had produced a temporary alienation of feeling between them. Mr. Thomas tells his son that he has no right to go out of the State of Maryland to take up arms against the United States. Why? Not because such an act would be in itself treason, punishable with the halter, but for the reason that the State of Maryland had not yet gone out of the Union! she had not yet, forsooth, passed an ordinance of secession! It seems that he had, upon principle, no objection at all to the young man taking up arms against the Government except that he was not yet authorized to do so by a formal ordinance of secession by the State of Maryland. He entertained the same opinions upon the subject of national allegiance that were entertained by Jefferson Davis and all the rebels. The young man could not go into the war, could not go out of the State of Maryland and become a traitor, because he had not yet received the warrant of Maryland for so doing. But the lad persisted; he was determined to take part in the rebellion, and it finally resulted in this: that being ready to start, to pass the lines of both armies and get into Virginia for the purpose, as he told his father over and over again, of joining the rebel forces, his father, taking pity on him on account of the danger he was about to run of being captured or reduced to want, gave the young man $100 on his starting early on the morning of the 22d or 23d of November, 1863, at the door of the paternal roof.

Mr. President, I have not the heart to comment with severity upon such a state of things; but, viewing this transaction in the light in which I do, I cannot suppress the prominent fact that the boy was intending to commit the crime of treason against the United States; he told his father that such was his purpose; he told him so repeatedly; and the father, knowing such to be his purpose, not only omitted to take any steps whatever to prevent this incipient treason, but under the pretense of aiding his personal necessities gave him at the moment he left home a sum of money more than sufficient to pay his passage from the State of Maryland into Virginia, where he intended to join the rebel forces. I say the father knew that such was the purpose of the son. I ask Senators one question: how does such a case as this differ in point of morals from the crime of misprision of treason? Suppose the boy had been off and committed the crime of treason, and had returned safely to his father in Maryland, and suppose the father had concealed from the public authorities the fact that this returned boy had committed the crime of treason; he would have been guilty of misprision of treason, punishable under the act of 1790. Here he knew the fact that the boy was about to commit the crime, and it turns out in the sequel that he did actually commit it, for he swears to it himself; he served eleven months in the rebel army. Could not the father, at the time the lad was in Maryland, have found some officer of the law into whose kind care he could commit the person of his offending son? Was it necessary for him to relax even his own parental authority over his son, and to suffer him to depart and commit the crime? What would be said of me if I was aware of the fact that a son of mine had joined a band of conspirators whose object was to burn a house in a neighboring township or a neighboring city, and I, out of parental tenderness and compassion, should so far forget my duty to my son and to the public as to furnish him with the means of joining the band of desperadoes and proceeding to the commission of the crime? How would the public regard me? The question needs only to be asked. Everybody would say at once, "You gave the means of committing a crime to your son, knowing that he was intending to commit it, and you have therefore made yourself an accessory before the fact to the felony; you are to all intents and purposes *particeps criminis* in the transaction."

But it is said the father could not endure the thought that his son should be brought to starvation for want of means in his pocket to pay his current personal expenses. Suppose the boy had come to want in his peregrinations while endeavoring to reach the rebel lines, and had been captured and thrown into a Union prison, would that circumstance have reflected more dishonor upon the father and upon the son than the confessed fact has done of the boy going off, joining the enemies of his country, and committing treason?

There are other facts connected with this transaction to which I beg to allude. The boy left home, as he swears, about the 23d of November, 1863, not long after the battle of Gettysburg. He took the money to Baltimore, according to his own statement, and there expended a portion of it in clothing. He made three or four attempts to cross the Potomac on its upper waters for the purpose of joining the rebel army, in all which he failed. He finally brought up in the city of Washington, where he remained four long weeks to await, no one knows what. But the testimony of the boy himself brings out the further and very important fact that the father was aware that he, the boy, was in the city of Washington during all this time. I read from his own testimony as submitted in the report of the committee:

"*Question.* Did you have any communication with your father after you left home with this $100 the first time?

"*Answer.* I did not.

"*Question.* Did he not know that you were here in Washington?

"*Answer.* Yes, sir; he knew that I was here.

"*Question.* But you had no communication with him?

"*Answer.* No communication at all. I had a letter from my mother, in which she said that she had just been talking to father on the subject, and he had urged her to write to me, begging me to come back and abandon the expedition."

Sir, why did not Mr. Thomas come down to Washington from his home in Maryland? Here were provost marshals who could arrest the boy and prevent his committing that great crime and reflecting this great dishonor upon the father! But the father remained quietly at home, had no communication with the son, and made no effort whatever to prevent his getting through the lines to the rebel army. I do not make a question of veracity with him on that point; but I ask with all earnestness, and with a desire to have an answer given by those gentlemen who are in favor of admitting him to a seat here, how did it happen that Mr. Thomas utterly neglected to come to Washington and seize his boy himself in person or employ a provost marshal to do the same thing? He now regrets that the boy took such a course. Why did he not prevent it when he was able?

Sir, I would, as I have already said, be charitable to Mr. Thomas; I do not wish to cast a suspicion upon his personal integrity or veracity; but I cannot overlook conduct like this. I can scarcely pardon a man for such neglect. He knew that the boy's purpose was to commit the crime of treason—the most heinous in the catalogue of crimes—and he had it in his power actually to prevent it. He omitted entirely to take one single step in that direction. I leave it to his friends upon the other side to reconcile this strange conduct, which, to my mind, presents a very singular incongruity, to say the least.

But my main objection to admitting him to his oath is that he did countenance and did by his public conduct encourage persons engaged in hostilities against the Government of the United States, and did it, as I think, deliberately and with intent to break up the Government.

Mr. MORTON. Mr. President, in my present condition I will, with the indulgence of the Senate, speak sitting in my chair without rising.

Mr. President, there is an inherent qualification to office, an unwritten qualification, which pervades the constitution of every country. That is the qualification of loyalty to the government under which the man proposes to hold office. The Constitution of the United States, in prescribing the qualifications of a member of this body, does not say that he shall be loyal, but that is an inherent qualification, and the members of the Senate would be dere-

lict in the performance of their duty if they permitted any man to take a seat upon this floor who was not loyal to the Government of the United States. If a man comes here who is a criminal, a felon, this body has a right to protect itself from his presence. There is an unwritten code of law on this subject, recognized by every deliberative body in the world, by which it has a right to protect itself from the presence and fellowship of disloyal men or of great criminals or felons.

Now, sir, in referring to the evidence in this case, I do not so much allude to any particular passage as I do to the whole of it; and it seems to me no Senator can read all this evidence together without coming to the conclusion that Mr. Thomas was engaged in the rebellion, that he was a disloyal man, and that he gave to it such aid and comfort as he could, living as he did within the Union lines, in the State of Maryland. We have a large amount of testimony taken by the committe, and I desire to call the attention of the Senators to portions of this testimony taken by Mr. Thomas himself in his exoneration from charges that have been made against him.

After Mr. Thomas was nominated last spring by his party for this office he made a speech to the caucus, thanking them for his nomination, and I desire now to begin the examination of this testimony by calling the attention of the Senate to what he said last spring after his nomination.

The man who reported his speech was brought before the committee and stood by his report. No witness was called on the other side to disprove the truth of the report. A report slightly different in its character, which was sent to two or three other newspapers, was presented and read; but the author of that report was not summoned to prove that it was correct, and the report of the speech of Mr. Thomas, made by the person who was examined, stands uncontradicted, and it shows his animus at the present time. I will refer to that report:

"Mr. Thomas ascended to the speaker's desk, and, after returning thanks for the honor conferred upon him, said he would pledge himself, if permitted to take his seat in the United States Senate, to assert the rights of his native State, and at the same time to use his best efforts to assist in the maintenance of the Federal Union. Alluding to the rebellion, he said he would not remind his audience of the scenes of blood and the estrangement of friends occasioned by the war; that was now past. Of Congress, he said that the men now assembled at Washington, before the war occurred, were bent upon dissolving the Union and they went to war, believing it tantamount to its dismemberment."

Here is a distinct charge that it was the Union party of the North and the Union party in Congress who went to war, who made the war for the purpose of dissolving the Union.

"He said they were now bent upon the establishment of a military despotism. He would go to the Senate to face those men who are now and always were traitors to the Union."

Thus designating every Union member of this body as a traitor to the Union, and saying that he was coming here to face them. Well, sir, if he does come here to face them it will be by their permission. This indicates the present temper of Mr. Thomas, and now I will refer to the testimony of his son. I do not wish to charge his son with having evaded the truth, with having committed perjury, but we cannot read this evidence without being impressed with the fact that there has been a strong coloring given in his testimony for the protection of his father. We find that Mr. John Thomas begins his testimony after a few questions in this wise:

"*Question.* State what Mr. Thomas's position was during the war of the rebellion?
"*Answer.* I am quite uncertain as to his position."

How can it be possible that that son of his, who had remained at home during the war until 1863, eighteen years old, was quite uncertain about his father's position? Does anybody believe that? Does anybody believe that a child twelve years old, about his father's house, and who had heard the conversations around the family hearthstone, did not know his father's position about so great an event as this mighty war which was raging in the land? He says further:

"It depends entirely in what light you look on it, what construction you put on the question."

This is the answer of the son.

"I have always considered him a constitutional Union man."

Well, sir, I think I understand that kind of a man. A "constitutional Union man," as I understand it, during the war, was a man who lived inside of the Federal lines, but whose heart and soul and sympathies were with the rebellion; who tried by every means in his power to bring about the success of the rebellion by denying the power of the Government, under the Constitution, to put it down by force of arms. That is what I understand to have been a "constitutional Union man."

He is next asked where his father was during the war, and he answers:

"He was in Talbot county, on his farm.
"*Question.* Do you recollect when he went there from Washington?
"*Answer.* I think it was in April or May, 1861.
"*Question.* Do you know whether he remained there during the continuance of the war; whether he cultivated a farm during the whole war?
"*Answer.* He did.
"*Question.* State if you know of his doing any acts either in aid of the Government or of the rebellion?
"*Answer.* I do not know of his having done anything openly on either side."

The son, upon his own oath, cannot state that he knows of his father having done anything openly upon either side.

"*Question.* Do you know of his having done anything privately or secretly either way?
"*Answer.* No, sir.
"*Question.* Do you know of his furnishing any means or any aid to anybody engaged either for the Union or against the Union?
"*Answer.* No, sir."

This son, an acknowledged rebel, swearing now for the purpose of protecting his father in the enjoyment of a seat upon this floor, proves conclusively that he never did anything on behalf of the Union: he swears that he cannot tell upon which side his father was!

There are other passages in this evidence to which I might refer, but I do not want to take up the time of the Senate. Presently this question is put to the son by the Senator from Vermont [Mr. EDMUNDS] in the committee:

"*Question.* In these statements of opposition that your father made to your going, did he object to your going on the ground that you would be fighting on the wrong side, and that you ought to enter the Union Army; or on the ground that the war was unjust on the part of the rebels, and that you ought not to aid them; or what was the ground on which he put his opposition?"

Here the question is a searching one; upon what ground did your father put his opposition to your going into the army; was it upon the ground that the rebellion was wrong; was it upon the ground that he was opposed to this great movement of secession? and the answer is: "Indeed, I cannot positively say." A young man of some twenty-two or twenty-three years of age when he gave this testimony, living constantly about his father's house up to the year 1863, when he attempted to go into the rebel army, is wholly unable to say upon what ground his father opposed his going into that army!

Sir, there is a large volume of truth that comes right out here in defiance of the testimony. We, who know the intimacy of the family relation, who know how freely these things are talked of at home, cannot believe for one moment that this young man did not know just where his father stood, upon what ground his father opposed his going into the rebel army; and if that ground had been because the rebellion was wrong he would have sworn to it when his father's seat in the Senate was depending upon his oath. The Senator from Vermont then asks him to give his recollection about it:

"*Question.* State to the best of your recollection.
"*Answer.* One expression he used I told you. When the rebel army made a raid into Maryland, after the battle of Gettysburg, he said I had no right, as a citizen of the State of Maryland, to leave my State in the Union and join in the ranks of the rebel army. That was his expression."

As the Senator from Michigan [Mr. HOWARD] remarked a little while ago, here was a clear and distinct recognition of the right of secession. The only objection he urged to his son's going into the rebel army at that time was that Maryland had not gone into rebellion, thereby admitting that if Maryland had given her assent to the rebellion he would have had the right to go into the army. I say it proves too much for their cause, because here is a clear and distinct admission of the doctrine of secession.

Mr. President, I do not deny or doubt that Mr. Thomas was opposed to his son's going into the rebel army. Almost every father would have a natural repugnance to his son going into the army, and especially upon a desperate venture like that which the rebellion seemed to be at that time. I have known many Union men—fathers—as good and true Union men, as there were in the country, who still did not want their sons to go into the Union Army; and I have known good and true Union men, when their sons have gone in under age, to take them out under a writ of *habeas corpus*. The fact that Mr. Thomas did not want his son to go into the rebel army does not prove for a single moment that he was not in favor of the rebellion.

Taking this evidence together, Mr. President, we cannot doubt for a single moment that the heart of Mr. Thomas was in the rebellion—that his objections to his son going into the army were not on account of the rebellion being wrong, but simply from parental solicitude; and perhaps Mr. Thomas, being a man of sagacity, could see in 1863, after the battle of Gettysburg, that the rebellion was upon its last legs and could not finally succeed.

If there was no other evidence in regard to the status of Mr. Thomas except the testimony of his son it would be overwhelming to my mind; but, unfortunately for the case of Mr. Thomas, it does not stop there. Now, bearing this evidence in mind, I ask you to give your attention to his letter of resignation just read in your hearing by the Senator from Michigan.

Mr. JOHNSON. What is the date of that letter?

Mr. MORTON. January 11, 1861. From the character of this letter and from the whole testimony in this case I cannot for myself doubt that Mr. Thomas was one of the original conspirators in this rebellion. I say one of the original conspirators in this rebellion; and he would have been as actively engaged in it as any other man but for the fact that Maryland was unexpectedly snatched from the jaws of rebellion by subsequent events. He expected his own State to go into it. It was known at that time that there was not a more disloyal city in the Union than the city of Baltimore. It was the confident expectation of leading men of Maryland that Maryland would go with Virginia and South Carolina and North Carolina, and if it had not been for the subsequent course of events, by which Maryland was held for the time in the Union by force of arms, I have no doubt Maryland would have passed an ordinance of secession. When gentlemen talk about the loyalty of Maryland allow me to say that it was a constrained loyalty. Maryland would have gone into the rebellion but for the presence of the armies of the United States, that prevented her from doing so, and we should then have found where Mr. Thomas stood.

Sir, what is this letter when we come to examine it? I will again read a portion of it for the purpose of connecting it with the great events to which Mr. Thomas himself refers. This letter was written to Mr. Buchanan; and here I wish to say a word in regard to Mr. Buchanan. When the work of secession first began and South Carolina took the first steps in that direction, the sympathies of Mr. Buchanan then, as I presume they always were, were entirely with the South and opposed to the North. When Congress met in December, 1860, Mr. Buchanan sent his message to that body, in which, while he theoretically denied the right of secession, he yet declared that there was no constitutional power to prevent a State seceding from the Union; and he there-

fore declared that the Government of the United States was powerless to prevent the work of secession. He thereby announced to all the rebels that they might go on with their work with impunity; they would meet with no opposition on his part. And, sir, I am sorry to say, but the truth is, that in this declaration he was sustained by the great body of his party in the North. But in the course of December, 1860, and January, 1861, the position of Mr. Buchanan on that subject became very uncomfortable. There were men with whom he was consulting, such men as Edwin M. Stanton and Judge Holt, and others that might be named, who strongly insisted that it was his duty to snuff out this taper of rebellion, then just beginning to burn.

Mr. Buchanan was for a long time hesitating; but at last the State of South Carolina demanded of him peremptorily, impudently, and confidently that he should order the evacuation of Fort Moultrie by the United States troops then holding it under the command of Major Anderson. Mr. Buchanan decided at one time that he would reënforce Fort Moultrie, but he afterward reconsidered that determination, and then South Carolina still demanded that he should withdraw the small handful of troops who were there. Mr. Buchanan finally, under the influence of the men I have named, hesitated, and decided that he would not withdraw them. After it had become impossible to collect the customs in Charleston at the custom-house it was decided by Mr. Buchanan, under the same influences, but most reluctantly, that he would collect the customs on board a revenue-cutter in Charleston harbor; and then it was that Mr. Thomas came forward with his letter of resignation. He could no longer honorably stay in Mr. Buchanan's Cabinet after such a flagrant outrage on the rights of South Carolina in refusing to evacuate the last place we held in that State and in proposing to collect the customs on the deck of a revenue-cutter. He says:

"It has not been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina; nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority, under existing laws, to enforce the collection of the customs at the port of Charleston."

The "condition of things in South Carolina" that he could no longer consent to was that we still continued to hold Fort Sumter, to which Major Anderson had gone from Fort Moultrie; we had not chosen to evacuate it and to haul down our flag in obedience to the demand of the Legislature of South Carolina, and it had been determined in Cabinet, as we could not collect the customs at the custom-house, to collect them on the deck of a revenue-cutter; and in view of these circumstances he says:

"Under such circumstances, after mature consideration, I have concluded that I cannot longer continue in your Cabinet without embarrassment to you and an exposure of myself to the just criticism of those who are acquainted with my opinions upon the subject."

Certainly he would compromise himself with the men who were acquainted with his opinions on that subject. Who were they? The members of that Cabinet with whom he had conspired. We all know now as matter of history that the rebellion, if not absolutely born in Mr. Buchanan's Cabinet, was nursed there for at least three years. Mr. Thomas's opinions were well known, and he tells Mr. Buchanan: "I cannot compromise myself with the men who know my opinions by longer remaining in your Cabinet after you have so flagrantly outraged the rights of South Carolina as to refuse to evacuate Fort Sumter and to propose to collect the customs on the deck of a revenue-cutter in the harbor of Charleston!

"I therefore deem it proper to tender my resignation of the commission I now hold as Secretary of the Treasury, to take effect when my successor shall be appointed and qualified."

Now, Mr. President, connect this letter with the history of the times to which it refers; connect it with Mr. Thomas's subsequent course; connect it with the evidence of his own son in this case; connect it with his speech that he made at Annapolis only last spring, and then say, if you can, that Mr. Thomas is or was a loyal man. Mr. Thomas was charged at the time he was in the Cabinet, or shortly after, with being a party to an arrangement to dishonor the credit of the United States by suffering our stocks to go to protest on the 1st of January, 1861, for the non-payment of interest. The charge was then made and was believed by a large part of our people. Mr. Thomas has taken a large body of testimony here to disprove that charge, and it may be that he has done so. I will give no opinion upon that point; but I will say that he was a member of a Cabinet which, by most of its members, had contrived and conspired to make the rebellion a success by previously laying the foundation of it. We know what Floyd did as Secretary of War—that he had scattered our little Army where it could be picked up when the rebellion came, and could be of no service to the Government. We know that our Navy had been scattered to the four quarters of the earth. We know that the arms had been sent South that they might be seized when the rebellion came, and that operations had been carried on in that Cabinet not only for months, but for years, with a view to the coming of the rebellion and to the making of it a success.

Mr. Thomas was called into that Cabinet, I have no doubt, by the consent of the leading members of it at the time. Mr. Buchanan had changed a portion of his Cabinet, or some portion of it resigned, and he got other advisers, and he finally paused in the treasonable and deadly course that he was pursuing; but Mr. Thomas was true to his friends, and said he dared not compromise himself, and he went out of the Cabinet for the reasons which are given here. Now, sir, I should like to hear the distinguished Senator from Maryland [Mr. JOHNSON] explain this letter. I should like to hear him reconcile this letter and the testimony with the loyalty of Mr. Thomas.

I conclude by reiterating the opinion that, taking all the evidence together, I believe he was one of the original conspirators in this rebellion, and if Maryland had not been held in the Union by force of arms he would have been as actively engaged in it as Mason, Slidell, Breckinridge, or any of the rest of them.

Mr. WILLIAMS. Mr. President, I have read the evidence reported by the Committee on the Judiciary in this case, and I am not able to persuade myself that upon that evidence the Senate ought to exclude Mr. Thomas from a seat in this body.

When a citizen of the United States is chosen for Senator in Congress two jurisdictions are involved, distinct from each other. One is the jurisdiction of the Legislative Assembly of the State, and the other is the jurisdiction of the Senate conferred upon it by the Constitution of the United States. When the question arises before a Legislative Assembly as to whether or not a certain man shall be elected a Senator there are certain questions which are passed upon by that body, the decision of which, in my opinion, is conclusive upon all other tribunals in the nation. When a man presents himself as a candidate for Senator before the Legislative Assembly of a State, objection may be made to him that he is not sufficiently intelligent to represent that State in Congress; that objection is considered by the Legislative Assembly, and they decide as to whether or not the person has sufficient capacity to represent that State in the Senate; and if the Legislature decides that he is a man of sufficient intelligence, is that a judgment which can be received and reversed by the Senate of the United States?

Suppose objection is made to a candidate before the Legislative Assembly that he is not a man of integrity, that he is a dishonest man, and therefore ought not to be elected. That question is considered by the Legislative Assembly. All that may be said in favor of the candidate is heard; all that may be said against him upon that ground is heard; and the Legislature decide that question, and they hold that he is an honest man entitled to their confidence and support. Can that decision of the Legislative Assembly of the State be reviewed and reversed by the Senate of the United States?

Suppose objection is made to a candidate before the Legislative Assembly that he is not patriotic enough to be a Senator in Congress; objections are made to him upon that ground, founded upon his antecedent history; and those objections are considered by the Legislature, and they pass upon all the arguments which are made upon that question, for and against the candidate; what is the effect of the decision which is made by the Legislative Assembly of the State upon that question?

When a man is duly elected by the Legislature of a State, possessing the qualifications prescribed by the Constitution of the United States, and he comes here with his credentials, can the Senate of the United States say that the State shall not have the representation which the Constitution gives to it because the man is not sufficiently intelligent, because he is not a man of personal integrity, or because he is not a man who loves his Government and his country as much as, in the judgment of the Senate, he ought to love that Government and that country?

These are questions that must be decided by the Legislature of the State, or they must be decided by the Senate of the United States; or it may be that the Senate of the United States has appellate power and may review and reverse these decisions when made by a State Legislature; but according to my view of the subject, these are questions that are left, as a general rule, to the decision of the Legislative Assembly of the State. There may possibly be exceptions to this rule, but as a general proposition it must be admitted that the exercise of power by the Senate of the United States to exclude a man from a seat in this body who has been duly elected by the Legislative Assembly of a State is the exercise of a doubtful and dangerous power. It is doubtful because it is found with great difficulty, if it can be found at all, in the Constitution of the United States. It is dangerous because it may enable the dominant political party in this body to exclude from a seat here any man who is elected who happens to belong to the political minority.

It is an undeniable fact of which we must take notice that in this country at this time one political party is charging the other with disloyalty. Republicans charge Democrats with disloyalty to the Government, and Democrats charge Republicans with disloyalty to the Government. If this power can be exercised without any limitation on the Senate of the United States then the dominant party, if they be Republicans, may exclude all Democrats from the body, because in their judgment they are not sufficiently patriotic or sufficiently loyal; and if the Democrats should obtain the ascendency they may exclude all Republicans from any participation in the deliberations of this body on the ground that they are not sufficiently patriotic or loyal to the Government.

The Constitution of the United States prescribes the qualifications of a Senator: that he shall be of a certain age, that he shall have been a citizen of the United States a certain number of years, that he shall be an inhabitant of the State from which he is elected; and there is no sort of doubt that the Senate of the United States has a perfect right to determine whether or not the Senator-elect possesses these qualifications; but it seems to me very doubtful whether the Senate in considering a case of this kind can go beyond these qualifications and review those identical questions which have been passed upon and determined by the Legislative Assembly of the State. If the Senate can exercise this power where is the limitation upon it?

It may be argued that to adopt this view of the subject would be to enable persons who

are disloyal to the Government to occupy seats in this body. Is there any more danger in trusting the power to decide upon what is not defined in the Constitution to the Legislative Assembly of a State than there is in trusting that power to the Senate of the United States? Is not the Legislature of a State interested in its welfare, its prosperity, its good reputation? And is it not probable that the Representatives of a State Assembly in its Legislature will take as good care of the interests of that State as the Senate of the United States will? Is it to be assumed that the Senate of the United States is more competent to decide upon the personal fitness of a man, to decide upon his character, to decide upon his personal qualifications, than the Legislative Assembly of a State?

Suppose, sir, a man is chosen from a State who is intemperate in habits and for that reason unfit in the estimation of a majority of this body to occupy a seat in the Senate, has this body a right to revise the decision of the State Legislature upon that question? Suppose a man is objectionable on any other ground of moral delinquency, who is to decide and determine that question? Is there danger in allowing the Legislative Assembly of a State to decide these questions which concern the personal fitness of a candidate? Does not the Constitution contemplate that the Legislative Assembly of the State shall decide some questions which are concerned in the election of a Senator? If so, what questions are to be determined by that body?

Now, sir, I know the answer which is made to the arguments that are offered in favor of this view of the subject, and it is that some man who is disloyal may be admitted to a seat in this body. To that I say I do not question the power of the Congress of the United States to define the qualifications of a Senator in this body, and he must possess, before he can be admitted to a seat here, those qualifications which are defined by law; but I deny that the Senate of the United States can make a qualification for each individual case as it may arise. The Senate has a right under the Constitution to decide as to the qualifications of its members. What does that mean? Does it not mean that the Senate may determine whether or not a man possesses those qualifications which the Constitution and the laws of the country require that he shall possess? Or does it mean that when a man is duly elected by a State and comes here with his credentials the Senate may object to him on special grounds applicable only to that individual? Can the Senate make a qualification and say he ought not to be admitted to his seat because he is not an honest, an intelligent, or a patriotic citizen, or because he does not possess some other personal quality which in the judgment of the Senate he ought to possess?

Congress may provide by law that no man who has given aid and countenance to the rebellion shall be allowed to occupy a seat in Congress; but according to my view of the law—and I suppose in that respect I differ with a majority of the members of this body—there is no enactment upon the statute-books of the United States declaring that any man who has been connected with the rebellion shall be disqualified from holding a seat in this body. There is a statute which was passed on the 2d of July, 1862, which requires every person who is appointed or elected to office to take a certain oath which that law prescribes; but it does not say that the oath shall be true when it is taken, or otherwise the party shall not be allowed to take his seat. When a man, elected to the Senate, comes here with his credentials and proposes to take this oath, can the Senate decide that he shall not take the oath and so not allow him to qualify himself as the law prescribes?

This law applies to all officers of the United States, with the exception of the President, and the question is not as to whether the candidate has or has not been connected with the rebellion, but the question is, what means has Congress prescribed for ascertaining and determining that fact. Does not Congress say in effect in this law that the question as to whether or not the candidate has given aid to the rebellion shall be determined in the first place by the oath of the candidate?

This law, as I say, applies to all persons appointed or elected to office. Suppose a man is appointed collector of internal revenue, and possesses all the other qualifications prescribed by law and proposes to take this oath, are there any proceedings known to the law by which he can be prevented from taking the oath and entering upon the discharge of the duties of his office? Suppose a man is appointed Secretary of State, and he is qualified in all respects, and proposes to take this oath, what tribunal has power to decide that he shall not take the oath and so enter into the possession of his office? Every Senator must admit that, with the exception of members of Congress, every officer of the United States may take this oath and nobody is authorized to object. That is not true in point of fact, but the law authorizes him to take the oath, and when he has taken it he becomes entitled to the possession of the office. Now, is there one rule under this law for Senators and Representatives in Congress and another rule for all other officers under the Government?

Manifestly the law contemplates that this course shall be pursued, for it provides that:

"Any person who shall falsely take said oath shall be guilty of perjury, and on conviction, in addition to the penalties now prescribed for that offense, shall be deprived of his office and rendered incapable forever after of holding any office or place under the United States."

Does not the law contemplate that a person who is otherwise qualified may at his peril take this oath and enter into the possession of his office, and that if the oath be false when it is taken he may be prosecuted, convicted of perjury, and under the law he may then be deprived of his office? But can he be deprived of his office under this law before he takes the oath? Does this law contemplate that an officer appointed or elected shall be put upon his trial for perjury before he takes the oath; or does it mean that he shall be put upon trial for perjury after the oath is taken and after he has entered into the possession of the office?

Now, sir, what is the rule that obtains throughout all legislation in reference to proceedings of this kind? Whenever the law gives to a man a right upon his affidavit, is it not true that when the affidavit is made as required he becomes entitled to that right, no matter whether the oath be true or false? Suppose that the plaintiff in a suit may have an attachment against the defendant upon filing his affidavit in court setting forth certain facts, and he proceeds and files his affidavit according to law, I ask if he is not entitled to the attachment, though every word of the affidavit may be false? Who is to determine whether it is false or true? No doubt, if the law so provides, after the attachment is issued the defendant may controvert the truth of the affidavit; but that is only in cases where the law so expressly provides. But, sir, when the plaintiff appears before the court and makes that affidavit as the law requires can the defendant appear and defeat his application on the ground that the affidavit which he proposes to make will not be true?

When a man is appointed to an office he either has or has not a right to enter into its possession. It seems to me that if this law contemplated that before the oath was taken a proceeding should be instituted to determine as to whether it would or would not be true, provision would have been made for its application to all officers under the Government. Nobody will pretend that it applies to any, or can be made to apply to any, but Senators and Representatives in Congress; and so a different rule is made for one set of officers from that which applies to another set of officers under the Government.

I know it will be objected that if this view of the subject be correct, John C. Breckinridge, if he should be elected to the Senate from the State of Kentucky, or Jefferson Davis may come here and take this oath, and so become a member of this body. As was well remarked by the Senator from Illinois [Mr. TRUMBULL] the other day, these extreme cases prove nothing as to a law or as to a rule. It is an improbable if not an impossible case that John C. Breckinridge or Jefferson Davis should appear in this body and before the world take this oath that they had never been connected with this rebellion at all, and so stand in the eyes of all mankind convicted of perjury. I would not allow Jefferson Davis or John C. Breckinridge or any man of that description to occupy a seat in this body; but if one of those men should so far forget what was due to himself and to truth, should be so base and corrupt as to come here and in the presence of this nation swear that he had never been connected with the rebellion, I would have him prosecuted forthwith for perjury under this law, as he might be, and forthwith ejected from his seat.

Mr. CONNESS. Suppose you had not votes enough to expel him?

Mr. WILLIAMS. Sir, I have too much respect for the members of the Senate of the United States to suppose that when a man has been duly convicted of perjury that they would not expel him from his seat in this body. Somebody has got to be trusted in reference to this matter. Are we afraid to trust ourselves? Are we afraid that if we know a man of that description has committed the crime of perjury we will not have self-respect enough to purge the Senate by his expulsion from his seat?

Now, sir, I can suppose a case on the other side. Suppose some young man was inveigled into this rebellion at the beginning of the war and took part against the Union cause at the first battle of Bull Run, and then, discovering his mistake, joined the Union Army and adhered to the fortunes of the Union cause throughout the war and was everywhere foremost in the hottest fight; suppose such a man, scarred and battle-stained in the service of his country, should come here elected duly by the Legislative Assembly of his State, would this Senate undertake to reject him if he was willing to take the oath which the law prescribes?

Mr. President, it is well known that in this country there has been every shade of opinion in reference to the rebellion. Some men have been prominent and conspicuous agitators and leaders as Jefferson Davis, Breckinridge, and others were, and others have only given countenance and aid by their words and their votes. Is the Senate of the United States to undertake whenever a Senator-elect comes here to pass upon all these questions that grow out of this state of things, to investigate the opinions of the man at all times during the war, and determine as to whether or not he has had any secret sympathy with the rebellion? Is it not better to submit the question to his conscience and let him decide for himself? And if it be a flagrant case of connection with the rebellion then he may be indicted and prosecuted for perjury.

Suppose, Mr. President, I am mistaken. Suppose whenever a Senator is elected in the State of Ohio or in the State of California and he comes here with his credentials, and, though he proposes to take the oath, is not allowed to do so, but put into the hands of an investigating committee, and perhaps excluded; then I say if this power is to be exercised by the Senate it must, as it seems to me, be exercised in a case that is beyond controversy or doubt. Senators have argued here in favor of the exclusion of Mr. Thomas from his seat, and they have proceeded from the beginning of this rebellion up to the present time, and they have picked up an item of evidence here and an item of evidence there, and they have endeavored to put these circumstances all together and make out a case of disloyalty against Mr. Thomas.

Now, sir, if the Senate of the United States undertakes to exclude a man who has been duly elected by a State on the ground of dis-

loyalty I say it must do it upon some other than circumstantial evidence of his guilt. If I am called upon to justify a vote of this description I do not desire to make a long metaphysical argument to show its propriety; but if I vote for a proposition of this kind I want to be able to point to the history of the country and say that the man who is excluded was a man whose position during the rebellion was in no manner of doubt.

What does this law mean? Does it mean that every man who sympathized with the rebellion is not to be allowed to have a seat in this body? Take all that is urged against Mr. Thomas, and I undertake to say that I can make as good a case, if not a better one, against one half of the men in my State who say they belong to the Democratic party. In the State of California, as the Senator [Mr. CONNESS] well knows, in June, 1861, the Democratic convention solemnly resolved that the Government had no right or power to coerce the rebel States, and affirmed that it was better to recognize the southern confederacy than resort to arms. Similar resolutions were adopted by conventions of like political character in my State. Are all the men who participated in those conventions, who took that ground during the war, to be excluded from seats in this body, when they have been duly elected, on the ground that they sympathized with the rebellion?

I shall not undertake to discuss this evidence in detail at all. I will not undertake to explain the course of Mr. Thomas while he was a member of Buchanan's Cabinet, or his act of resignation. I am willing to admit, for the sake of the argument, that he sympathized with the rebellion throughout the war; but I say in that respect he stands, I am sorry to say, with a large minority of the American people. But did he give that aid and comfort to the rebellion, did he take that conspicuous and active part which this law contemplates that a man should take before he becomes disqualified to hold any office under the Government? If this power is to be exercised it should be carefully and sparingly exercised.

Nobody can charge me, because I believe it is our duty to admit Mr. Thomas to his seat, as apologizing for the rebellion or excusing anybody who sympathized with it; but I say we have admitted men to seats in this body who have expressed as much sympathy with the cause of the rebels as Mr. Thomas did; and since I have been here I have heard upon this floor speeches that contained more treason in them than anything in the record that has been produced here against Mr. Thomas, and yet no question was made as to the propriety of allowing the member to continue in his seat.

The Senator from Michigan compares this rebellion with a midnight conspiracy, and the Senator from Nevada the other day put it in the light of a burglary. Suppose a father, he said, should give his son money when he was about to commit the crime of burglary, could he be excused? Would he not be an accessory before the fact? Sir, that may be true. Burglary is a crime; rebellion is a crime; but in all other respects they are dissimilar. No matter what the fact ought to be, we know that at the beginning of this rebellion and during the progress of the war and at this time we do not treat the men who were in the rebellion as we do murderers, burglars, or thieves. The men who have been conspicuous in the rebellion come here and they meet us on terms of social equality; they are received to our houses and our homes. We do not feel degraded because we are seen in their company or because we treat them with civility. Who would be found associating himself with a burglar or an assassin or a notorious thief? This may be right or it may be wrong; I am speaking of the fact; and it is a well-known fact that at the beginning of this rebellion men did not view it in the light of a great private crime like assassination or burglary. Men took another and a different view of it, and human nature is so constituted that people will not look at a great political crime like this of rebellion as they look at a private transgression of the law for mercenary or wicked purposes.

Mr. President, without detaining the Senate any longer on this subject, I say that in my opinion these questions as to the fitness of a person to represent a State, as to his intelligence, as to his honesty, as to his patriotism, are questions within the jurisdiction of the State Legislature, and when they have been decided by that Legislative Assembly the decision is conclusive, except so far as the law of the land may prescribe other qualifications. There is no law that determines how much intelligence a man shall have to be a Senator; there is no law that determines how much honesty a man shall have to be a Senator; there is no law that determines how much patriotism a man shall have to be a Senator. But there is a Constitution that says he shall be of a certain age, that he shall be a citizen of the United States, an inhabitant of the State by which he is elected; and there is a law which says that he shall take a certain oath. Possessing all these qualifications which the law prescribes, it seems to me that it is the duty of the Senate to allow the person elected to take his seat; and the Senate is not without remedy, for if the oath be false he may be convicted of perjury and expelled from his seat.

Mr. EDMUNDS. Not until after conviction in a court of law? You would have to keep him all that length of time!

Mr. WILLIAMS. Certainly; I admit we should have to keep him that length of time; but that, if it be any fault at all, is the fault of the law. Are we to disregard a law because it may not suit our convenience or our wishes to observe it? When the law prescribes that a certain course shall be pursued in order to punish a man for a certain offense are we to disregard the law and punish him otherwise because in our judgment it is not safe or proper to follow the law?

Be that as it may, Mr. President, I say if the Senate of the United States undertake to exercise this power it should be in a clear and unquestionable case. I doubt the legality, the justice, and the expediency of excluding a man from a seat in this body when he has been duly elected by a loyal State of this Union because his political opinions do not agree with ours and because he belongs to the Democratic party. Sir, this may be a dangerous precedent to establish, and it may return to plague its inventors. It is because I fear the effects of this precedent that I hope the Senate will not refuse to allow this gentleman to take the oath which the law says he shall take. Are there not others elected who must go through the same ordeal before they can be admitted to their seats here if the precedent proposed in this case is to be established? Are there not others elected and to be elected whose votes and opinions will be as objectionable to the majority here as has been the course of Mr. Thomas?

I say, Mr. President, that in this case honest men may differ about this evidence. Some will construe it to establish the guilt of Mr. Thomas and some will construe it as consistent with his innocence. There is nothing in the fact of giving $100 to the son that is absolutely inconsistent with an innocent intent. If the question as to whether or not Mr. Thomas had committed perjury in saying that he did not sympathize with or give aid and comfort to the rebellion, within the meaning of this law, was submitted to a jury upon this evidence, I think it is very questionable whether a verdict of guilty could be obtained. Are we to constitute ourselves into a jury in every case that comes up here of a Senator elected of contrary political opinions to our own? And if we can find, by traversing the history of his life for years, circumstances that satisfy us that he had some sympathy with the rebellion, are we to exclude him from a seat in this body? Can we afford to do it?

Sir, if I was to look aside from the legal question involved I would ask, what are we to expect upon grounds of expediency? Are we to suppose if Mr. Thomas is excluded from this seat that the Legislative Assembly of Maryland will elect any man whose views are more in correspondence with our own, who was not as much as Mr. Thomas during the rebellion—a sympathizer with the enemies of the Union? It may be that if this seat is made vacant by the vote of the Senate, the probabilities are that a man who secured the votes and confidence of the Union men and then betrayed them to their enemies may follow in his footsteps into this Senate; and so far as I am concerned I would rather see ten open, frank opponents occupy seats here than one man who, if not an enemy to his country, has been a traitor to his friends. Therefore, there is nothing to gain by the exclusion of Mr. Thomas. I doubt very much whether you can find in the State of Maryland a man of sufficient intelligence and character to exercise influence there who belongs to the Democratic party, now in the ascendancy in that State, whom that party will elect and send here, who is less objectionable than Mr. Thomas.

He did nothing, as it appears, during the rebellion. He was quiet and obscure. He retired from the Cabinet of Mr. Buchanan because he did not agree with him. It may be because he sympathized with the rebellion, or it may be because he desired to avoid a collision of forces, and there were thousands of men in the country at that time who doubted the wisdom of bringing about an armed collision if it could possibly be avoided. But I am not excusing him on that ground. He retired to private life. He continued there. He said nothing during the war. He did nothing. He remained quiet, inactive, passive. He did not perhaps perform his duty. He may be open to criticism because he did not take his gun and go and fight the battles of the Union. But are we to take the ground that all men who occupied that position are unfit to be Senators here? True, when his son was about to go away to the rebellion he gave him $100. It may be because he sympathized with the rebellion, or it may be because, as he says, he was wholly prompted by parental affection. This is a circumstance of which we may well take a charitable view. Men differ in their feelings and affections. Some may be like the Roman father who ordered the lictors to seize and carry his son to execution because he had fought the enemies of his country contrary to military discipline; and others may be like King David, who, when he saw his son dead, ingrate and traitor though he was, exclaimed in the agony of his heart, "O my son! my son! would to God I had died for thee." It may be that the representations of Mr. Thomas are true, and that he was opposed to his son's entrance into the rebel army, and that he was only prompted by feelings of affection for him when he gave him the money.

Taking all the circumstances together, they do not make a clear case; they do not make a case that will not need explanation to the people of this country; and when you go before the people and you are challenged as to the ground upon which you denied a loyal State—I speak of it now in the legal sense of the term—its right to representation here, you must make an elaborate argument explaining and construing evidence; and when you have gone through the record men will differ in judgment as to whether your case is made out or not. Upon that ground, if upon no other, I think it is of great consequence to us and to the country that this decision should not be against Mr. Thomas upon the evidence in this case.

Mr. MORRILL, of Maine. Mr. President, I do not rise to reply to the honorable Senator from Oregon, nor to any other Senator, but simply to state briefly the grounds which will control my vote on this question.

If I supposed by any possibility that the country would understand that the Senate of the United States were considering whether it would require all persons appointed members

of this body to be of one political opinion, I should have great apprehension from what we were doing. If I supposed we were liable to be misunderstood, as the honorable Senator from Oregon seems to argue, as endeavoring to fix the standard of political opinions for the Senate of the United States, I should regret as much as he possibly can the entertainment of any such proposition. But, sir, if I understand the object of the Senate it is to provide against the possibility of the return of men to this Chamber who, within the last six or seven years, left it for traitorous purposes. That I understand to have been the object of the legislation of Congress when this law was enacted, and the object of the Senate now in undertaking to enforce it.

Have we no admonition on this subject? Do we not know that for the last two years this class of persons have been here asking admittance, demanding admittance? My honorable friend from Oregon asks who supposes that Breckinridge is likely to be elected to the Senate and come here for admission? He says that is a violent supposition, an extreme case. Why, sir, the fact is that that very class have been here, elected from these States, demanding admission and denouncing the Congress as a body of usurpers because it would not admit them. The second man in the confederate States, the vice president of the confederate States, was here within a twelvemonth after the confederacy was no more, demanding admission. I say, therefore, we are admonished on this subject.

But let that suffice on that point. Now, Mr. President, the rule in this case is laid down by the law; and it is not, as my honorable friend supposes, that we are to inquire who has given aid and comfort to the enemy simply; but it is broader. It is quite as broad as the question of allegiance and the question of loyalty in its general acceptation and significance. The second clause of this oath requires every man admitted here to swear that "I have never voluntarily given any aid, countenance, counsel, or encouragement to persons engaged in armed hostility" to the United States. I do not know that it is pretended that this man falls within either of the other provisions of the oath prescribed by the act; but he must swear that he has neither given aid, countenance, counsel, nor encouragement to the rebellion. If either of these conditions can be shown in his case he is absolutely excluded.

I agree with the honorable Senator from Oregon that this should be made clear to every man's conscience and every man's judgment, made clear by the facts in the case; it should not be left to doubt and hesitation.

Now, are there any facts in this case—I mean any settled and uncontroverted facts—which enable us to judge? There are two ways, perhaps, of trying this case, as almost all others; first, by the facts that are conceded, and then by the general facts that appear. It is true that in this case we have both these classes of facts. Here are certain facts that are conceded, not controverted or denied by anybody. And then this man has a general history outside of these facts which enables us to judge whether he falls within the terms of this oath. The prominent facts alluded to here, set forth in this report, are only two, I believe; first, the $100 given to the son, which is, in some sense, supposed to be aid, comfort, and encouragement; and, second, the resignation by this man of his public office in January, 1861. These are the two prominent facts. The other class of facts is the history of this man before he went into the office, while he was in the office, since he retired from the office, and up to the present time.

Now, let me call the attention of the Senate for a brief moment or two to what I maintain is the great fact in this case, which underlies the whole of it, and which influences my judgment more than all the others combined, and that is the resignation of his high office on the 11th of January, 1861. If we can ascertain precisely the motives which induced the man in the hour of his country's peril, when the services of every loyal man and every competent man were needed at his post, which influenced him then, I think we can settle his case. In order to do that it is necessary to look at the surroundings and see what was the condition of affairs at the time.

Bear in mind that this man had been an officer of the Government, I do not know how long, but many years.

Mr. HOWARD. One month.

Mr. MORRILL, of Maine. Much longer. He was Commissioner of Patents before that. He became Secretary of the Treasury on the 10th of December previous and was about a month in the office of Secretary of the Treasury. The country was in peril; the times were out of joint. On the 22d of December South Carolina passed an ordinance of secession and claimed to have dissolved the Union. On the 31st of December Mr. Benjamin arose in his seat here in the Senate and announced his determination to join his State in her purpose of rebellion. On the 29th of December Secretary Floyd left his place in the Cabinet and went to Virginia to incite that State in her purpose of rebellion against the Government of the United States. Prior to that time Mr. Cobb resigned his position as Secretary of the Treasury and left to encourage rebellion in the southern States. A few days after the resignation of Mr. Floyd, Mr. Thompson, the Secretary of the Interior, left the Cabinet to join his friends in the general purpose of inciting rebellion in those States. On the 25th of December, as I recollect, Fort Moultrie was abandoned by Major Anderson for Fort Sumter. Thereupon the question arose in the Cabinet as to the policy of the Government in retaining its authority in the State of South Carolina. The Cabinet were divided. Mr. Buchanan was disposed to maintain the authority of the Government. The gentlemen to whom I have referred were opposed to it. Mr. Thomas tells you that he took the side against Mr. Buchanan, and if you will look at his letter you will not be in doubt as to the motives which influenced his resignation, I think.

Mr. President, my ground is that the act of resigning under these circumstances was an act of positive disloyalty on the part of Mr. Thomas; that having taken an oath to support the Constitution and laws of the United States, it was his bounden duty to stand at his post. If it were treason in Floyd to resign his post and retire to Virginia with the purpose of inciting rebellion and civil war and to join in it, was it not disloyalty in Mr. Thomas to follow within ten days upon the ground stated here in his letter of resignation, that he could not stay longer in the Cabinet on account of his opposition to the views of Mr. Buchanan? What were those views? Simply that the authority of the Government of the United States should be upheld in South Carolina. He says:

"It has been in my power, as you are aware, to agree with you and with a majority of your constitutional advisers in the measures which have been adopted in reference to the present condition of things in South Carolina; nor do I think it at all probable that I shall be able to concur in the views which you entertain, so far as I understand them, touching the authority, under existing laws, to enforce the collection of the customs at the port of Charleston.

"Under such circumstances, after mature consideration, I have concluded that I cannot longer continue in your Cabinet without embarrassment to you and an exposure of myself to the just criticism of those who are acquainted with my opinions upon the subject."

That is to say, "Sir, I cannot support you in your purpose to sustain the authority of the United States in South Carolina, she having rebelled. I agree with those who say you have no authority, and I resign my place because I am not disposed to maintain the authority of the United States in South Carolina." Sir, an abandonment of his post, an abandonment of his duty with his oath upon him that he would support the Government of the United States and its authority, with that declaration, is a confession in open court. It is absolute disloyalty. It is so near to an overt act of treason that I think it would be difficult to draw the distinction between it and that. It only needed one quality more to make it absolute treason; and my own conviction from the record is that he contemplated the consummation of that other act whenever the contingency should arise that Maryland should go out of the Union, as it was then contemplated she would.

Now, sir, it is difficult for me to see how it is possible to draw the distinction between the conduct of this man, who left the Cabinet about the same time that the other Cabinet officers left. I do not see any distinction between the cases, except that Mr. Thomas went to Maryland, took up his associations, as the evidence is, with the secessionists, was in sympathy with them during the rebellion, but committed no overt act, because, as I think the record abundantly shows, he was waiting for the action of his State. If his State had passed an ordinance of secession, as the States to which the other Cabinet officers went did, I cannot doubt that he would have taken the same course that they did.

A few words now, Mr. President, on the other branch of the subject, because I am not going to argue the case, but simply to state the grounds on which I shall vote against the admission of this man. The other point is, that he gave some encouragement or some aid or some countenance to his son, who was about leaving home to join in the rebellion. Is that clear? The facts in that respect are not denied. He had a son at the age of eighteen, a minor, an infant, a boy who by the laws of God and man was under his absolute control. It was his duty to guard and protect him, to teach and defend him in the ways of loyalty and duty. He had absolute control over him; we do not disagree about that. Was he bound to exercise it? For his good, certainly. Was he bound to exercise that control for his country's good? Most obviously he was. Did he attempt to do it? Not a bit of it. There is no evidence in this record that I have been able to see that he did more than expostulate with him, nothing more than point out the dangers and difficulties which he would encounter by joining the rebellion. He did not undertake to inculcate to that child one single sentiment of loyalty and duty to country. Not a word of that kind do you find. There is no remonstrance against the wrong; it is only the personal danger against which he warns him. There is no word here saying, "Your country calls you: your duty is on the side of your country." His advice to his son was that he should not join the other side on account of the personal peril which would befall him.

Mr. President, he knew the purpose of this lad. This lad was within his power. He had notice that on a given day he was to proceed to the rebel lines. It will not be doubted by my honorable friend who has just taken his seat that when the boy left the house and took the first step toward rebellion it was an act of treason to his Government. Nobody would doubt that. When he proceeded toward the lines, left his father's house to join the enemy, he was a traitor the moment he departed in that direction. Did the father know it? Certainly he did. The evidence is that the father was up in the morning anticipating the departure of the son, saw him ready to depart, and as he departed gave him the money; for what? To meet his necessities, it is said. My honorable friend from Oregon says we ought to be charitable and to consider that he was a father. I do not see, Mr. President, that our sympathies are at all invoked in that direction. We are trying to find what was the motive of this father. Instead of that act, every sense of duty to country, to God, to cause, to humanity, and to his boy required that he should arrest him and prevent him. With the power to do it, and the duty calling upon him to do it, it is impossible for me to draw any other conclusion than that he had rather his boy would not have gone under the circumstances, but that he did not oppose

his authority to the lad's going, growing out of the fact of the sympathy which he had had in the beginning with the rebellion, and growing out of his opinions that the South were right, and the Government, in attempting to enforce its authority over these States, was wrong; and therefore, if the boy would go, he would not interpose his authority to prevent him.

Mr. President, if it were treason in the lad, as I maintain it was, to leave that house and go in the direction of the rebel lines with the purpose of joining the enemy and taking up arms, it was misprision of treason in the father to allow it. I maintain that that is sound law. If it was a crime in the son, which he was about perpetrating with the knowledge of the father, it was misprision of treason in the father not to arrest him. I do not mean to say it was such in a positive, active sense, but in the negative sense. Every man is responsible who knows a crime about to be committed and neglects to inform of it.

Therefore, Mr. President, I suggest to my honorable friend from Oregon that on these facts, if they are liable to this interpretation, there is nothing doubtful in this case. We are not left to conjecture. If the country shall call upon us to know why we refuse this man admittance into the Senate our answer is, first, that he resigned his great office in the Cabinet at a time when the country was in peril to avoid serving on the side of the country, because he favored rebellion, because he believed in the right of secession, because he believed that the authority of South Carolina was superior to that of the national Government. Hence he resigned his trust; he would not serve this Government when its authority was called in question by one of the States. For that reason he has no right to ask to serve it now. The further answer would be, of course, that having a child under his power and within his authority who owed service to the Government of the United States, instead of requiring that service for the Government of the country, he not only suffered and allowed the boy to depart with a full knowledge of these facts, but, to use the very language of this law, he encouraged him on his way by giving him material aid.

Besides, it should not be forgotten that while the lad was on this side of the lines, lingering on this side of the lines, and attempting to reach the rebel lines, the father was advised of his whereabouts; that he was here; he had written to his mother; he had received clothing and other things from the family, and there was no time during the month he was on this side of the lines attempting to reach the other side when the father made the slightest effort to arrest him, or to admonish him, or to give information to others, that he might be arrested.

Therefore, Mr. President, with these suggestions of the difficulty in my own mind on this subject, and not with any view of arguing the matter to the Senate, I have to say that without any hesitation whatever I shall vote against allowing this man to take the oath.

Mr. STEWART. Mr. President, if this were a doubtful case, if I had any doubt in my own mind upon the facts, I should be inclined to give the benefit of the doubt to the claimant; but I have no doubt of this state of facts. I have no doubt that Mr. Thomas thoroughly sympathized with the rebellion from the beginning to the end, and that his sympathies have not been changed. In the whole history of this case I can see no expression and no act of his in favor of the country. He left Mr. Buchanan's administration because it was too much inclined to support the authority of the Government. That appears to be the sum and substance of it. He retired to Maryland, and was in full sympathy with that portion of the inhabitants of that State that sympathized with the rebellion. He declined to vote or to participate in any of the elections in that State held under the constitution that was formed by the loyal men there. During the rebellion his son, a boy of eighteen years of age, completely under his control, went into the rebel army, and although his father knew where he was going he gave him $100. He said he did that on account of his affection for his son. He knew the purposes to which that money was to be put; he knew that it was to aid his son to join in the rebellion. His son was a month in getting through the lines. It would have been very easy to have had him stopped during that time. Mr. Thomas made no effort to do so. He pursued the course I have indicated until the Democrats and those who sympathized with his views came into power in Maryland, and he was elected to the Senate. After he was elected he made a speech, the most favorable version of which, to say the least of it, was not in harmony with the sentiments of the people who had sustained the country, not in harmony with the principles upon which the war had been fought, but in perfect sympathy with the adversaries of the country.

Now, I undertake to say that there is enough in the case to show motive, if you are to determine this question upon motives. We have a right to take into consideration his whole conduct to give character to that act of contributing $100 to his son. If I could find in all this record one circumstance that would induce me to believe that he had any desire that his son should not aid the rebellion, that he had any sympathy with the cause of the Union, I should be inclined to go as far as possible in attributing to him a desire simply to relieve the wants of his son. He knew the purpose for which the money was to be appropriated, and all the facts of this case go to show that that purpose was in harmony with his sympathies and his desires. There is no doubt of the fact that this was aid and comfort to the enemy. There is no more doubt of it in my mind than there is of any other proposition that can be imagined. Certainly if this was a criminal case, and it was a question whether he was an accessory before the fact to the commission of the crime, testimony of this kind would convict him before any jury. It is amply sufficient, and no one would doubt it. The only way to avoid it is to say that the rebellion was not a crime. There is no confusion when you apply the facts of this case to ordinary criminal jurisprudence. He was an accessory before the fact. He did contribute his son and gave him money to aid in this rebellion.

So far as the facts are concerned, although the case of Mr. Thomas is not as notorious as would be the case of Jefferson Davis if he were to present himself here, it seems to me it comes within the same rule; and with me the question comes back, would we exclude Breckinridge or Jefferson Davis if they were elected and sent here, because it is not the amount of aid that he gave the rebellion, but the fact that he did give it that we are to determine.

We have an oath here which it is said the applicant may take and then take his seat and we have no jurisdiction of the matter. If that be true, we have been acting very foolishly in investigating the subject beforehand. The Senate determined that it would inquire into the question by referring it to a committee for examination to see whether Mr. Thomas was entitled to take this oath. It has indicated that it intended to enforce this rule, that a person who had been engaged in the rebellion should not take a seat in Congress until the disabilities it created were removed. While I am in favor of removing disabilities; while I am in favor of amnesty in all proper cases; while I was in favor originally, and will be whenever the time shall come again, of extending amnesty to all persons who will extend rights and suffrage to the poor and the weak; while I am willing to extend mercy to those who will do justice, and it is a part of my creed; while I am anxious all the time to relieve any one who shows that he is now willing to coöperate in the cause of his country and let bygones be bygones, I am not willing to extend amnesty and indulgence unless I get the equivalent on the part of these men, of justice and protection to the weak and the oppressed among them, unless I have some evidence that they are now in favor of sustaining the Government. I have seen no such evidence on the part of the ruling classes of Maryland. I have seen no such evidence on the part of those who support Mr. Thomas in Maryland. I have no such evidence on his part. I have not yet heard from him that he is willing that every Union man in Maryland should be protected by the law; that the civil rights bill should be there enforced. I have seen nothing of that kind, and the case comes to me simply upon the law and the admitted facts that he did give aid and comfort to the rebellion, that his sympathies were with the rebellion. It comes to me in that naked form. There is no circumstance appealing to this Senate in his behalf, showing that he is ready to extend protection to those who are willing to be loyal in that State. Consequently it seems to me that while these laws remain on the statute-book it is our duty to investigate and to administer them.

The oath that is to be taken before admission to a seat in this body requires that the applicant for admission shall swear—

"That I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto."

Although it may be said we have nothing to do with this question, that it depends upon him, yet we have undertaken to exercise jurisdiction, and after having investigated the case, it seems to me it comes with an ill grace to say that we shall stand by and see him take that oath, when, in the judgment of the Senate, he ought not to do so.

It is contended by some that if this be an additional qualification we cannot impose it; that we cannot impose a qualification that is not in the Constitution; that we cannot require anything but the simple oath to support the Constitution. That would lead to very strange results, and, in my judgment, would deprive us from carrying out the intent and meaning of the Constitution. If that construction were carried out to the full extent contended for by the Senator from Wisconsin [Mr. HOWE] the other day, I suppose it would admit Jefferson Davis, Breckinridge, and every other rebel into this body; and certainly if it had been enforced during the rebellion, it would have been the destruction of this Government. It certainly would have been the destruction of the Government if we had admitted it at that time. Who can say that it may not now be dangerous to admit enemies of the country into this Senate?

If there is in the Constitution an inherent right that compelled us to take the necessary measures to maintain the existence of this Government and to exclude its enemies, who proposed to destroy it, Congress must judge of the necessary means. It would be a strange construction indeed that would force Congress to admit into these halls persons who were determined to destroy the Government. Mr. Johnson has taken a different view. The President has contended from the beginning that we could exclude disloyal persons. He has so stated in most of his messages. He has conceded that jurisdiction to Congress in the fullest possible way. I understand that to be a part of the President's policy, that disloyal men are to be excluded from Congress. He says we can do that; that we are the judges, and the rule by which we are to judge whether applicants are loyal or disloyal we have determined in this oath. It is therefore not only our right, but it is our duty to exercise the necessary power to protect the Senate from disloyal persons, to protect them from Breckinridge or Jeff. Davis; for the logic of the contrary doctrine, as was admitted, would admit Breckinridge into this Chamber at once if he were sent here from Kentucky.

The question of what is meant by the word "necessary" in the Constitution, the necessary power that Congress should exercise, and the latitude it possessed in judging of that question, is discussed generally and very forcibly in the opinion of Chief Justice Marshall in the case of McCulloch *vs.* The State of Maryland. There are some passages in that

decision so utterly in conflict with the theory maintained here, that the Senate cannot exclude a rebel or cannot prescribe an oath of office that would exclude rebels, that I cannot resist reading a few of them:

"The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers to insure, as far as human prudence could insure, their beneficial execution. This could not be done by confining the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate and which were conducive to the end. This provision is made in a Constitution intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs. To have prescribed the means by which Government should in all future time execute its powers would have been to change entirely the character of the instrument and give it the properties of a legal code. It would have been an unwise attempt to provide by immutable rules for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared that the best means shall not be used would have been to deprive the Legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances."

Those who say that we should find a constitutional provision for every movement of the Army, and that Congress has no discretion in exercising the power necessary to carry into force the other provisions of the Constitution and to maintain the Government, are justly denominated constitutional demagogues.

"If we apply this principle of construction to any of the powers of the Government we shall find it so pernicious in its operation that we shall be compelled to discard it. The powers vested in Congress may certainly be carried into execution without prescribing an oath of office."

Here is what Chief Justice Marshall says of the oath of office:

"The power to exact this security for the faithful performance of duty is not given, nor is it indispensably necessary. The different departments may be established; taxes may be imposed and collected: armies and navies may be raised and maintained; and money may be borrowed, without requiring an oath of office. It might be argued with as much plausibility as other incidental powers have been assailed that the Convention was not unmindful of this subject. The oath which might be exacted—that of fidelity to the Constitution—is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the Legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest."

Then, in discussing the powers of the Government to establish a corporation here, he goes on to say that it is one of the convenient modes of carrying into execution the powers expressly granted, that Congress is the judge of the means to the given end; and he says if they were not allowed to judge of it in that case they would not be allowed to judge of it in any others; and by way of argument instances the very case of the oath of office. He says the oath of office is prescribed in the Constitution, but a man would be insane to say that further additions could not be applied to that oath. This was a consideration of the question when there was no excitement upon this point. The question comes up by way of illustration as being an exceedingly plain one.

Then I say it was perfectly competent for Congress to establish a rule and to provide an oath for its protection against the enemies of the country. It will not be applied to ordinary political questions. It is only urged against the enemies of the country. This oath is but the rule by which we are to determine the question, and as we have undertaken to investigate the propriety of taking the oath *in limine*, as we have done this, I say we have no right to sit by and throw the responsibility now upon Mr. Thomas to take the oath, if he chooses to do so. The responsibility is upon us. The oath is a rule that we have prescribed by which we will protect the Senate in the necessary exercise of those powers to preserve the Government which are implied in every line of the Constitution and given in express words where it says that Congress shall have power to pass all laws necessary to carry into effect the provisions of the whole instrument. But, in addition to that, we have submitted a constitutional amendment, which I maintain is now a part of the Constitution, upon as high authority and upon as just principles as any part of our legislation or any of our acts of authority since the rebellion commenced. I believe I can show that the adoption of this constitutional amendment rests upon the same exercise of authority, the same theory, that allowed us to pass laws after the South had seceded; that allowed a portion of the States to elect a President of the United States and carry on the Government; that allowed us to submit the first constitutional amendment abolishing slavery; and allowed us to adopt it. I believe that the States now represented in Congress have all the authority vested in the United States by the Constitution. I might call the attention of Senators to the particular language that authorizes an amendment to the Constitution. Certainly if we could submit a constitutional amendment, if there were States enough to submit it, it necessarily follows there were enough to adopt it. The Constitution says:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

The very first line of the provision requires that there shall be a vote of two thirds of both Houses of Congress. Another section of this same Constitution provides what shall compose the two Houses of Congress. It says that the members of the lower House shall be chosen in the several States—all the States. It says that no State shall be deprived of its equal representation in the Senate. If any objection can be urged against the complete ratification of this constitutional amendment, it can be contended with the same plausibility that it has not been submitted at all. That is the position, as I understand, of the Johnson party; that is the position of Mr. Johnson, that inasmuch as there were not two thirds of both Houses voting for the proposition it could not be submitted; that we were not a Congress entitled to submit it; and three fourths of all the States not having ratified it, it is not a part of the Constitution.

Now, in the first instance, we must explain why we had a right to propose it without having two thirds of all the States represented here; we must explain why we acted with eleven States absent. That proposition must be explained to vindicate our right to submit the constitutional amendment at all. When we go into that vindication we are forced to show that those States are not entitled to representation, are not loyal States, have no such State organizations as entitle them to the right to carry on this Government. If that be true shall the Government stop? You have decided that it should not; President Johnson decided that it should not stop; that the States that were left should carry on the Government. But how did it happen that all the States were not represented? There is so much confusion about that point, how that happened, how they happened not to be here, &c., that I wish briefly to express my views upon this important question.

We agree that a State had no legal right to secede, that it had no right to destroy any law of Congress or to deprive the Government of the United States of its jurisdiction over the entire territory. It is also true that a man has no right to commit murder, but still the fact sometimes occurs. Although they did not deprive the United States of exercising this jurisdiction but temporarily, only until the United States could conquer them, although they were unable to deprive the United States of the jurisdiction over the territory, unable to secede, to carry their States out, and set up an independent organization, they did something with those States; and what was it? They overthrew the loyal State governments and put them out of existence. They usurped and exercised every function of local State government. Those organizations that usurped the place of the States were not in harmony with the Government of the United States. That all will admit. They were at war with the Government of the United States. They were not entitled at that time to sue in our courts or to be represented in Congress—I believe all parties agree to that—for the reason that they were rebel organizations which had usurped the authority there. Then what follows? Before they were entitled to take part what must be done? Something must be done. If it is admitted that there was a time when South Carolina had no State government which was not entitled to be represented here and exercise the functions of a State, it must be admitted that there must be something done in order to entitle some organization there to be heard, for there was no organization in South Carolina during the rebellion entitled to be represented in Congress or to sue in the courts. After the close of the rebellion Mr. Johnson took the position that there were no State organizations in the South. He treated these rebel organizations as nullities. He was correct in that. Then if they were nullities something must be done; some organization must be had which would have a practical relation with the Union. Practical relations must be restored. They were broken off. These States, then, were not entitled to be heard. But if something must be done somebody must judge when that something was done. That is plain. If something had to be done there must be some power in the Government to determine the fact when those States were organized, so that they could be recognized as States in the Union and participate in the Government of the country. Mr. Johnson says he is the one to ascertain and determine that fact; that he can set them up; that he has the power. Whoever heard of an Executive whose duty it is to execute the laws having a policy? What discretion has he in the execution of the laws? He is sworn, like all other officers, to execute the laws. He has no policy, no legislative control. Some say that the Supreme Court must determine whether this revolution is ended.

Mr. DAVIS. Will the honorable Senator permit me to ask him a question?

Mr. STEWART. Not now. I shall be through in a moment. Some say the Supreme Court must determine this fact; that they must determine when the rebellion is closed. If they had jurisdiction of the matter why did they not issue an injunction to stop the rebellion? If they had jurisdiction of the whole matter to determine what these States ought to do, why did they not interfere and save five hundred thousand Union lives? They control political events! In no Government ever organized was the judicial power allowed to control political events and consequences. No one ever thought of intrusting them with jurisdiction over political affairs. The party having power to control must exercise the jurisdiction. It is not lodged in the Supreme Court. It is not lodged in the Executive, because he has no legislative functions. Where is it? The only power that has legislative functions to determine legislative questions is Congress. The Constitution places in Congress the power to determine political questions and in no other body. They must have jurisdiction over this matter. Congress is the only department of the Government to which a similar jurisdiction is intrusted. It admits new States. It provides for the organization of States. It has a policy. It has control of this matter. It represents the people. It is the only department of the Government to whom the Constitution intrusts the authority to establish a policy.

Then, if Congress has jurisdiction of this matter, it is the duty of Congress to determine whether these are States in the sense used by the Constitution; whether they are States to participate in making your laws, to participate in submitting constitutional amendments, to participate in the ratification of those amendments. Is Congress to determine that question? When you admit the jurisdiction of Congress you have admitted the whole case,

because, if Congress alone has jurisdiction, it matters not whether it decides right or wrong, whether the policy is correct or not; it is an exercise of power given by the Constitution. You may object to laws because you think them impolitic, but you dare not disobey them if they are within the scope of the legislative authority. There Congress has jurisdiction; and Congress has determined that the practical relations which were broken off by war, which these rebel States, although without power to secede, did destroy by violence and fraud and rebellion, were not restored, and that for no purposes were they States within this Union with the right to control its political destinies. Having declared that, and having decided that the Government shall go on and exist, as we must and as we have done, then we are clear of all the rubbish, and the same principle that allows us to legislate and carry on the Government without those States which have broken off their practical relations and have no right to be heard allows us to do anything that the Constitution permits, and to amend it and perfect it as the exigencies of the case demand. We have submitted a constitutional amendment; three fourths of the States entitled to be heard have ratified it; and I contend that it is a part of the Constitution of the United States. Being of that opinion, I propose to examine it and see how it bears on this question. It provides that—

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may by a vote of two-thirds of each House remove such disability."

Now, I think there is as plain a disqualification in this Constitution as anything that can be written. Mr. Thomas, by his sympathies and by his associations, did much. They colored his subsequent transactions. By them we could not judge him. A man could not be excluded for his sympathies and associations unless there were evidence of participation; but amid all his care to keep himself within the letter of the law he did overstep the mark and committed the overt act. He sent a son to the rebel army and gave him $100 to aid in destroying this Government, and to fight upon the battle-field against the son of the northern man and the northern mother, as dear to them as this son was to him. If he believed in this Government he should have reflected that the best blood of this nation was being poured out for its preservation. He should have reflected that the young man sent to fight against his country might shoot down the favorite son of some poor widowed mother. He should have reflected on all that; but no; his only reflection was the danger of his son's being hurt. His arguments were all of that character. The only appeal that he made to his son was his own danger. He did not tell him of the crime he proposed to commit. If that young man had been properly reared, if he had been taught to love his country and defend it, it would have been very easy to manage him. There would have been no necessity for harshness; but when you appeal to a young man and say, "there is danger of your being hurt," a proud man is disgusted with such an appeal. You must place something higher and nobler before a young man than that if you are to deter him from going into the army. I say his appeals to him on the ground of personal danger were paltry and calculated to make the young man go into the army. If there was no other reason what proud-spirited young man would not go? Mr. Thomas is responsible for the whole thing. He gave the $100, he sympathized with the rebellion, and the Constitution says that if he has given aid or comfort to the rebellion he shall not hold a seat in this body; and I am prepared to vote against him.

Mr. DOOLITTLE. I desire to say a few words in relation to the case pending before the Senate.

Mr. ANTHONY. I presume the Senator from Wisconsin would hardly like to go on with his remarks at so late an hour.

Mr. DOOLITTLE. I shall complete all I desire to say in ten or fifteen minutes.

Mr. JOHNSON. I think we had better adjourn and allow the honorable member to go on to-morrow, if he will permit me.

Mr. DOOLITTLE. I yield to the Senator.

Mr. JOHNSON. It is not my purpose to request the Senate to vote upon this question to-day; but I rise to say to the Senate that I will, if the Senate will indulge me in it, solicit them to vote in the course of to-morrow. The Senate is now thin. Many members have left here understanding that the vote would not be taken to-day, but I hope they will all be in their seats to-morrow. The honorable member from Wisconsin, perhaps, would serve the side which he is about to advocate, as I understand, more effectually if the Senate shall be more full than now; and therefore, with his permission, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 21, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

EXPORTATION OF AMERICAN WHISKY.

Mr. BUTLER, by unanimous consent, submitted the following resolution; which was read considered, and agreed to:

Resolved, That the Committee of Ways and Means be requested to devise some measure by which distilled spirits of American manufacture may be exported under the laws.

Mr. ELIOT. I ask leave to report from the Committee on Freedmen's Affairs a very short resolution which ought to be passed at this time in order to accomplish the good it seeks to do.

Mr. WOOD. I demand the regular order of business.

Mr. ELIOT. Let it be read.

Mr. WOOD. I object.

RECONSTRUCTION.

The SPEAKER. The House resumes the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the amendments pending thereto, upon which the previous question has been seconded and the main question ordered. The gentleman from Massachusetts [Mr. BUTLER] has moved to reconsider the vote by which the main question was ordered, and the yeas and nays have been ordered on that motion.

The question was taken; and it was decided in the affirmative—yeas 83, nays 75, not voting 30; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Beck, Benton, Broomall, Burr, Butler, Cake, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dawes, Donnelly, Driggs, Ela, Eldridge, Ferry, Fields, Fox, Getz, Glossbrenner, Golladay, Gravely, Grover, Harding, Hooper, Hotchkiss, Humphrey, Hunter, Johnson, Jones, Judd, Julian, Kelley, Kelsey, Kerr, Knott, William Lawrence, Logan, Loughridge, Maynard, McCarthy, McCormick, Mercur, Morgan, Mullins, Mungen, Newcomb, Niblack, Nicholson, Nunn, Perham, Robertson, Ross, Schenck, Shanks, Sitgreaves, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, Van Wyck, Ward, William Williams, Stephen F. Wilson, Windom, Wood, and Woodbridge—83.

NAYS—Messrs. Archer, Bailey, Baker, Barnes, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Boyer, Bromwell, Brooks, Buckland, Cary, Cullom, Dixon, Dodge, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Garfield, Griswold, Haight, Higby, Holman, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Jenckes, Ketcham, Kitchen, Koontz, Lincoln, Marshall, Marvin, Miller, Moore, Moorhead, Morrissey, Myers, O'Neill, Orth, Paine, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Sawyer, Scofield, Selye, Smith, Starkweather, Stewart, Taber, Trowbridge, Upson, Van Aernam, Van Auken, Burt Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, and Woodward—75.

NOT VOTING—Messrs. Adams, Barnum, Cook, Cornell, Covode, Finney, Halsey, Hawkins, Hill, Hulburd, Laflin, George V. Lawrence, Loan, Lynch, Mallory, McClurg, McCullough, Morrell, Peters, Phelps, Pruyn, Randall, Raum, Robinson, Shellabarger, Stokes, Stone, Taffe, Twichell, and John T. Wilson—30.

So the vote by which the main question was ordered was reconsidered.

During the roll-call,

Mr. MAYNARD said: I am requested by my colleague, Mr. STOKES, who was granted leave of absence yesterday, to say that had he been here he would have voted for the bill and for the amendment of the gentleman from Massachusetts [Mr. BUTLER] which is involved in this vote.

Mr. ELDRIDGE said: I rise to a question of order. I insist that the vote now being taken is in violation of the order of the House in regard to this bill.

The SPEAKER. The roll-call cannot be interrupted, as the gentleman well knows. The point of order should have been made before the commencement of the roll-call.

The result of the vote having been announced as above recorded, the question recurred upon ordering the main question; and being put, the House refused to order the main question.

Mr. BUTLER. I propose now to offer the amendment of which I spoke yesterday, and then I desire to move the previous question upon the pending amendments reported by the Committee on Reconstruction and upon my amendment.

Mr. WOOD. Is it in order to move to lay the amendment upon the table?

The SPEAKER. The Chair will first state to the gentleman from Massachusetts that in order to arrive at his object, as his amendment is not an amendment to either of the amendments reported by the committee, he should first move the previous question on the amendments reported by the committee, and, after they are disposed of, the gentleman can then offer his amendment.

Mr. BUTLER. Well, I move the previous question on the amendments reported by the committee. I have no objection to them.

Mr. WOOD. Is it in order to move to lay the amendment of the gentleman from Massachusetts [Mr. BUTLER] on the table?

The SPEAKER. That amendment is not now pending. The pending amendments are those moved by the gentleman from Ohio [Mr. BINGHAM] on yesterday.

Mr. WOOD. I give notice that when that amendment is offered I will move to lay it on the table.

The SPEAKER. The motion to lay an amendment on the table, if carried, will take the bill with it.

Mr. ELDRIDGE. I move to lay the bill and pending amendments on the table; and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 43, nays 122, not voting 23; as follows:

YEAS—Messrs. Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—43.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Lincoln, Logan, Loughridge, Marvin,

Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Taylor, Thomas, John Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NOT VOTING—Messrs. Adams, Barnum, Cornell, Covode, Finney, Hawkins, Hill, Hulburd, Laflin, George V. Lawrence, Loan, Lynch, Mallory, McCullough, Morrell, Peters, Randall, Robinson, Shellabarger, Thaddeus Stevens, Stokes, Taffe, and Twichell—23.

So the motion to lay on the table was not agreed to.

The question recurred upon seconding the previous question upon the amendments reported from the Committee on Reconstruction.

The previous question was seconded, and the main question was ordered.

The amendments of the committee were as follows:

Amend section two by inserting before the words "to remove" the words "is authorized," and inserting after the words "to remove" the words "at his discretion;" so that portion of the section will read:

The General of the Army of the United States is hereby authorized and required to enjoin, by special orders upon all officers in command within the several military departments within said several States, the performance of all acts authorized by said several laws above recited, and is authorized to remove at his discretion by his order from command any or all of said commanders and detail other officers of the United States Army, &c.

Also to insert after the words "of the acts aforesaid" in section five the words "or any refusal or willful neglect of any person to issue any order or do any act required by this act, or either of the acts to which this act is additional and supplementary, with intent to defeat or delay the due execution of this act, or either of the acts to which this is supplementary;" so that the section will read:

SEC. 5. *And be it further enacted*, That any interference by any person, with intent to prevent by force the execution of the orders of the General of the Army made in pursuance of this act and of the acts aforesaid, or any refusal or willful neglect of any person to issue any order or do any act required by this act, or either of the acts to which this act is additional and supplementary, with intent to defeat or delay the due execution of this act or either of the acts to which this is supplementary, shall be held to be a high misdemeanor, and the party guilty thereof shall, upon conviction, be fined not exceeding $5,000, and imprisoned not exceeding two years.

The question was taken upon the amendments, and they were agreed to.

Mr. BUTLER. I move to amend the first section of the bill by striking out all after the enacting clause and inserting in lieu thereof what I send to the Clerk's desk.

The Clerk read the amendment, as follows:

That in Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Texas, Florida, and Arkansas there are no civil State governments republican in form, and that the so-called civil governments in said States, respectively, shall not be recognized as valid or legal State governments either by the executive or judicial power or authority of the United States. In order to supply the place of such governments so declared illegal the several constitutional conventions of each of said States, as soon as such conventions, respectively, shall have submitted to the people a constitution or frame of government for their ratification, shall have power and authority to appoint all civil officers heretofore provided by the laws of said States; such officers to have all the powers and shall perform all the duties appertaining by law to such offices respectively. It shall be the duty of the several district commanders to confirm the appointment of such officers by the convention; to install each officer in his office; to cause to be put into the possession and control of each officer the records and archives and other property of the State pertaining to his office, and to do all other acts which may be necessary to enable such State officers, respectively, to perform the functions of their offices. Each of said officers may be removed for cause, to be stated in the order of removal, by said district commanders respectively; and in case of vacancy by death or otherwise, the same may be filled by the appointment of the district commanders respectively. Such State governments so organized shall continue in force and authority until each State, respectively, shall be represented in the Congress of the United States and other State officers shall have been elected and qualified under the constitution thereof.

Mr. BUTLER. Mr. Speaker, I do not propose to trouble the patience of the House further than to state that the only difference between this amendment and the proposition contained in the bill reported by the committee is that the amendment proposes the appointment of the State officers by the several constitutional conventions, after they shall have submitted the respective constitutions to the people, instead of permitting those officers to be appointed by the district commanders. I have offered the amendment in response to a universal demand to this effect coming from every southern State.

I think I ought not to trespass upon the generosity of the House by further discussion, and I propose to move the previous question when I have yielded to my friend from Pennsylvania, [Mr. STEVENS,] who has been absent during the discussion heretofore, and who desires now to submit some remarks.

Mr. STEVENS, of Pennsylvania. I desire but five minutes.

Mr. BUTLER. I cheerfully yield to the gentleman, with the understanding that I shall resume the floor at the close of his remarks to call the previous question.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I have no desire to debate this question; but in view of my position as chairman of the committee, and of the fact that I have not joined in the report, it may be proper that I should give my reasons for dissenting from the conclusions of my colleagues.

In the first place, I do not perceive that the present bill will add any efficiency to our present legislation. As chairman of the committee I have, very naturally, been addressed upon subjects of this kind by the several conventions, they not knowing the slight part I take in these matters now. From all the conventions now in session, I believe, with the exception of three, or at most four, there have come to me requests to introduce and advocate a measure similar to the proposition which has been offered by the gentleman from Massachusetts, [Mr. BUTLER.] I will state the reasons on which these applications have been based.

It is thought that after the military power has so far protected those populations as to enable the conventions to go on quietly in framing constitutions and submitting them to the people, the designation of the officers to carry those constitutions into effect will be much better made by the civil than by the military power. There is naturally some objection down there, as there is everywhere, to the unnecessary prolongation of military rule in this country.

In addition to this, the men composing the conventions are, as a matter of course, much better acquainted with the proper agents to carry their work into effect than the military authorities can possibly be. It is believed, also, that there will be a much better chance for the success of these constitutions before the people if the conventions have the appointment of the agents than if the appointments be made by the district commanders. I need not say that the former system is also more consonant with our form of Government.

I believe the loyal people there are nearly unanimous on this subject. Having received the draft of a bill very similar in substance to the amendment of the gentleman from Massachusetts, I have come to the conclusion that the system of appointment thus proposed is vastly more proper and more likely to be effectual in getting these States speedily back again than the system contemplated by the bill now before us. For these reasons I advocate the proposition. I have no desire, of course, to make any factious opposition upon a question of this kind. I support the amendment of the gentleman from Massachusetts because it is in accordance with what I know to be the wishes of the great majority of those who are to be affected by it.

Having said this much I now yield the floor to the gentleman from Massachusetts, [Mr. BUTLER,] that he may call the previous question.

Mr. KELLEY. I ask the gentleman from Massachusetts to yield to me for a moment, that I may read a letter.

Mr. BUTLER. I yield to the gentleman for that purpose.

Mr. KELLEY. I desire to lay before the House portions of a letter which I have received this morning from Little Rock, Arkansas, dated January 11, 1868. It is written by a member of the convention now in session at that place—a gentleman for whose veracity and general character I can vouch from my personal knowledge. He writes as follows:

"There is a memorial before the Republican members of the convention in caucus assembled asking Congress to confer upon the convention the authority now vested in the military to organize and control the State; to remove all officers of the State, and to appoint other officers in their stead." * * * *

"Since the convention has been in session (only five days) five Union men have been murdered in this State for their Union sentiments; and with the present incumbent officers men in the same faith are summoned as grand jurors and no bill is found, and if found, petit jurors of like faith are picked out and their verdict is in favor of the rebel.

"You will remember the conversation we had in General Eaton's office in Memphis when you were on your southern tour, in which you requested me to write you on any matters of importance. If I had an opportunity to talk with you now an hour I could tell you just how matters are; but writing is a poor way to express a man's feelings.

"Hoping that our friends in Congress will put this matter through we await your action, feeling that humanity and justice demand an early action on this subject. I request your personal attention in consideration of this matter."

Mr. SCOFIELD. If these conventions suspend their business of making constitutions to go into the election of State officers, will it not divide them up into numberless and irreconcilable factions and throw the whole system of reconstruction into chaos and ridicule?

Mr. KELLEY. I have an answer, but yield the floor to the gentleman by whose suffrage I hold it.

Mr. BUTLER. I am glad to answer that question. The amendment provides there shall be no action by the conventions in making State officers until they have performed their appropriate work of submitting to the people a form of constitution to be voted for, and then, having done that, they are at liberty to turn their attention to putting into operation the machinery by which that constitution is to be supported and loyal men are to be protected, and having in that the full aid of the military in support of the civil power. That is the precise working of the amendment, and it will cause the constitutional convention to hurry up as fast as proper their work in sending out a form of constitution so that they may get ready the State machinery. It will rather urge speed than retard it.

I now demand the previous question, and shall not be able to yield to further discussion, in justice to the House.

Mr. HARDING. I ask whether this provision ought not to be included? that no person shall be permitted to hold office in the so-called provisional or State governments referred to in this act who has not or shall not be qualified by taking the oath of office prescribed by law of the United States called the test-oath.

Mr. BUTLER. All I can say is that the majority of every convention in the South is composed of men who have been tried as with fire, and I am quite ready to trust them; and I am certain they will not do wrong with the power. All have now been elected, and there is no danger in our having wrong men. I am willing to leave it to them whether they will put on any test-oath; and the only fault I find with them is, they have been giving too much attention to oaths and too little to penalties for doing wrong. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. WOOD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 112, not voting 23; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Banks, Broomall, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Donnelly, Driggs, Eckley, Ela, Ferry, Fields, Gravely, Harding, Higby, Hunter, Judd, Julian, Kelley, Kelsey, Kitchen, William Lawrence, Logan, Loughridge, Maynard, McClurg, Mercur, Mullins, Newcomb, Nunn, Perham, Raum, Schenck,

Shanks, Thaddeus Stevens, Taylor, Thomas, John Trimble, Robert T. Van Horn, Van Wyck, Ward, William Williams, Stephen F. Wilson, and Windom—53.

NAYS—Messrs. Archer, Axtell, Bailey, Baker, Baldwin, Barnes, Barnum, Beaman, Beck, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Boyer, Bromwell, Brooks, Buckland, Burr, Chanler, Cook, Cullom, Dawes, Dixon, Dodge, Eggleston, Eldridge, Eliot, Farnsworth, Ferriss, Fox, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Halsey, Holman, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kerr, Ketcham, Knott, Koontz, Lincoln, Marshall, Marvin, McCarthy, Miller, Moore, Moorhead, Morrissey, Mungen, Myers, Niblack, Nicholson, O'Neill, Orth, Paine, Peters, Phelps, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Pruyn, Robertson, Ross, Sawyer, Scofield, Sitgreaves, Smith, Spalding, Starkweather, Aaron F. Stevens, Stewart, Stone, Taber, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Burt Van Horn, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Wood, Woodbridge, and Woodward—112.

NOT VOTING—Messrs. Adams, Ames, Cornell, Covode, Finney, Hawkins, Hill, Laflin, George V. Lawrence, Loan, Lynch, Mallory, McCormick, McCullough, Morgan, Morrell, Randall, Robinson, Selye, Shellabarger, Stokes, Taffe, and William B. Washburn—23.

So the amendment was rejected.

During the roll-call,

Mr. CAKE said: My colleague, Mr. MORRELL, is absent. He would have voted "no" on the amendment and "ay" on the bill. He is paired with my colleague, Mr. RANDALL, who desired to vote "no."

Mr. VAN TRUMP. My colleague, Mr. MORGAN, is unavoidably absent. He would have voted "no" if he had been here.

Mr. WARD. My colleague, Mr. LAFLIN, was compelled to go South on account of the serious illness of a relative.

The result having been announced as above recorded,

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BINGHAM. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 123, nays 45, not voting 20; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Lincoln, Logan, Loughridge, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—123.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Robinson, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—45.

NOT VOTING—Messrs. Butler, Cornell, Covode, Finney, Hawkins, Hill, Laflin, George V. Lawrence, Loan, Lynch, Mallory, McCullough, Morgan, Morrell, Randall, Shellabarger, Stokes, Taffe, John Trimble, and Elihu B. Washburne—20.

So the bill was passed.

During the roll-call—

Mr. CAKE repeated his statement that his colleague, Mr. MORRELL, was absent and was paired with Mr. RANDALL. The former would have voted "ay" and the latter "no."

Mr. VAN TRUMP. My colleague, Mr. MORGAN, is unavoidably absent. He would have voted "no" if present.

Mr. KETCHAM. My colleague, Mr. LAFLIN, is absent on account of the sickness of his brother. If present he would have voted in the affirmative.

The result having been announced as above recorded,

Mr. WOOD and Mr. BINGHAM rose.

The SPEAKER recognized the latter.

Mr. BINGHAM. I call the previous question on the title of the bill.

Mr. WOOD. Will the gentleman yield for an amendment?

Mr. BINGHAM. I cannot.

Mr. WOOD. Mr. Speaker, I submit that I had the floor.

The SPEAKER. Both gentlemen rose at the same time and the Chair recognized the gentleman from Ohio, who was entitled to the floor.

Mr. WOOD. Will the gentleman allow the amendment to be read? If it is objected to I will withdraw it.

Mr. BINGHAM. I decline to yield.

The previous question was seconded and the main question ordered; and under the operation thereof the title of the bill was agreed to.

Mr. BINGHAM. I move to reconsider the votes by which the bill was passed and the title adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TRANSFER OF LABORERS.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to offer a resolution to transfer some laborers from the folding row to the laborers' row. It is a matter of convenience to the Doorkeeper, who asks that this order be made:

Resolved, That the Doorkeeper of this House be authorized to transfer four laborers from the folding row to the laborers' row from the 1st of January: *Provided*, That no additional expense be thereby incurred.

The resolution was agreed to.

CHANGE OF REFERENCE.

On motion of Mr. ELDRIDGE, by unanimous consent, the Committee on the Judiciary was discharged from the further consideration of the petition of N. H. Coverdale, of Delaware, for relief from penalties for failure to fulfill a contract with the Navy Department; and the same was referred to the Committee on Naval Affairs.

REPORT OF THE COMMISSIONER OF REVENUE.

Mr. ELA, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of this House ten thousand extra copies of the report of the Special Commissioner of Revenue, with all the appendices, and one thousand copies for the use of the Treasury Department.

UNITED STATES TEN-FORTIES.

Mr. LOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to furnish for the use of this House as soon as practicable a statement showing the amount of United States ten-forty bonds issued or disposed of by the Treasury Department since the 1st day of October, 1867, the dates and prices at which they were sold, the names of the persons to whom they were sold, and the amount of commissions, if any, paid for such sales and he names to whom they were paid, together with the reasons which, in the opinion of the Secretary of the Treasury, rendered it expedient to withdraw so large an amount of currency from the business of the country; and that he be further requested to report to this House what action has been taken by his Department concerning the withdrawal of any five-twenty United States bonds held by the United States Treasurer to secure the circulation of the national banks and the substitution therefor of United States ten-forty bonds, and his reasons for such action.

RELIEF OF SOUTHERN DESTITUTION.

Mr. ELIOT, by unanimous consent, from the Committee on Freedmen's Affairs, reported a joint resolution (H. R. No. 171) for the relief of destitute persons in the South; which was read a first and second time.

The joint resolution authorizes the Secretary of War to issue for the relief of any and all classes of destitutes in the South such desiccated potatoes and desiccated mixed vegetables as have accumulated during the war and are not needed for the use of the Army; the same to be issued under the direction of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands.

Mr. ELIOT. I will say that this resolution meets the approbation of the commanding officer and of the committee unanimously.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

KENTUCKY CONTESTED ELECTION.

Mr. DAWES. The Committee of Elections, to whom were referred the credentials of John Young Brown, claiming to be a Representative in the present Congress from the second district of Kentucky, and the memorial of Samuel E. Smith, claiming to have been duly elected as such Representative, have instructed me to submit a report, accompanied by a series of resolutions. I ask that the resolutions be read, and that the report be laid on the table, and ordered to be printed for future action.

The Clerk read the resolutions, as follows:

Resolved, That John Young Brown, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky, or to hold a seat therein as such Representative.

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

Resolved, That the Speaker be directed to notify the Governor of Kentucky that a vacancy exists in the representation in this House from the second congressional district of Kentucky.

The report was laid on the table, and ordered to be printed.

Mr. KERR. On behalf of the minority of the Committee of Elections, to whom the case just mentioned was referred, I submit a report, and ask to have it printed with the report of the majority. At the proper time I will offer such resolutions as, if adopted by the House, shall supersede those reported by the majority.

The minority report was received, laid on the table, and ordered to be printed with the report of the majority.

ELECTION CONTEST—M'KEE VS. YOUNG.

Mr. DAWES. I also rise to what I deem to be a question of privilege. I observed upon the desks of members this morning a paper which was prepared for the use of the Committee of Elections and under their directions, printed by their order at the expense of the Government, to be used in a hearing of a case still pending before the committee, and which without their knowledge has been put upon the tables of members.

Perhaps it would be of but little consequence were it not for the fact that, although this paper was prepared by the direction of the committee, it was prepared under peculiar circumstances, and the contents of it were not known to the committee until it appeared upon the tables of members this morning. I allude to what purports to be a brief of Mr. Young in the case of McKee *vs.* Young.

It is a rule of the Committee of Elections to require parties contesting before them to prepare a brief of their points and authorities, which the committee have always caused to be printed for their use at the expense of the Government. In this case it was not convenient for Mr. Young to have his brief in readiness until after his argument.

In this paper, printed after the argument, and thus put upon the tables of members without the knowledge of the committee, I find that

points are raised and presented which were never argued nor presented to the Committee of Elections. I find also incorporated in this paper evidence which was taken after the time allowed by the House for the taking of testimony, after it was agreed by all parties before the committee that the testimony was closed. In respect to this testimony I would say that after it was taken without authority, and, as I supposed, in violation of the express agreement by the parties when this evidence was submitted before the committee and rejected by them, it was agreed that no application should be made to the House for permission to use it before the committee.

Under these circumstances it appears to me to be not only a breach of the privileges of this House, but also a breach of good faith, to insert in this paper this matter, and much more so to circulate it, though printed for the use of the committee, among the members of this House without the knowledge of the committee. Of course I know not by whose authority this is circulated, and therefore I make no complaint of any particular individual, but I feel called upon to assert the rights of the committee here in this House and therefore I have called the attention of the House to this paper.

The SPEAKER. The Doorkeeper has requested the Chair to state that this paper was not distributed by his authority.

Mr. KERR. In reference to this brief, a copy of which I hold in my hand, I desire to say that I have not read it; I have not had time to read it, and know nothing of its contents, and did not know until a short time since that it had been placed upon the tables of members this morning. But I desire to say a few words on behalf of the party holding the certificate in this case.

It is true that this case has been argued before the Committee of Elections, as suggested by the chairman of the committee, [Mr. DAWES.] It is also true that it was understood by the committee that these briefs were to be prepared and printed by the order of the committee for the use of the parties and of members of the committee. But I know of no order of the committee which forbade Mr. Young to incorporate into his brief any points not argued before the committee. I know of no rule of this House that prevents him from giving to his brief just such latitude as he pleases. I know of no order of the committee that prevented his doing so.

Now, it is stated by the chairman of the committee, [Mr. DAWES,] and no doubt correctly—for I have not read this brief and I do not know what its contents are—that there are references in it, evidence or testimony, that was not received by the committee. On that point I have this to say: that the very evidence to which the chairman undoubtedly refers was presented to the committee, and they were requested to receive it and act upon it as a part of the case made by the party holding the certificate here. And to this hour I am not advised that the committee, as a committee, have acted upon that request of Mr. Young, the party holding the certificate, and refused to receive that evidence. Am I right in that?

Mr. DAWES. Mr. Speaker, I stated that the testimony in this case was closed, according to the order of the House, on the 1st of December last, and in pursuance of the agreement of the parties; yet that this testimony was taken in violation of that agreement made before the committee, and that when it was brought before the committee the committee informed the parties that it could not be read without the authority of the House. It was agreed by the parties that no application would be made to the House for authority to use that testimony before the committee.

Mr. KERR. I desire further to inquire of the chairman of the committee——

Mr. WASHBURNE, of Illinois. I rise to make a privileged report.

The SPEAKER. The gentleman from Indiana [Mr. KERR] is upon the floor.

Mr. WASHBURNE, of Illinois. What is the pending proposition?

The SPEAKER. There is no question before the House. The chairman of the Committee of Elections [Mr. DAWES] has submitted a statement in regard to the improper publication, as he alleges, of a brief in a contested-election case.

Mr. KERR. I desire further to inquire of the chairman of the committee whether, at the time this evidence was presented before the committee and when the argument upon the case commenced, it was not distinctly understood and agreed that the whole case should be submitted, that no preliminary point should be considered or decided by the committee until the final submission of the case to the committee, and that this evidence stood upon that ground?

Mr. DAWES. I dislike to take up the time of the House with this discussion. I made a simple statement according to what I understood to be the facts. If the proceeding in question commends itself to the gentleman from Indiana [Mr. KERR] and other members of the House as perfectly fair and proper, I have nothing further to say about it. I do not desire to argue the question. If any gentleman of the House deems it proper for a man to make a new case without the knowledge either of the other party or of the tribunal before whom he makes it, or to put into his brief what it has been agreed shall not be used as evidence—if that is deemed proper by the gentleman from Indiana and the other members of the House, I have nothing to say about it. I have obtained somehow an impression that that is not fair dealing, that it is not proper to submit a case to the House in that way. I may be mistaken. It may be that on this question I am an "old fogy."

Mr. KERR. I want the honorable gentleman to understand that, so far as I am personally concerned, I have been no party to any violation of the rules of this committee, and that if any such thing has been done I do not approve it. But I do not understand, Mr. Speaker, that in this case there has been any attempt by any gentlemen to violate the rules of the committee or of the House, or of decency or propriety, unless it is attempted by the gentleman from Massachusetts in bringing this matter into the House to prejudice the case of Judge Young.

Mr. DAWES. If the gentleman from Indiana thinks I am mistaken——

Mr. KERR. I will detain the House but one minute longer.

Mr. FARNSWORTH. I call for the regular order.

The SPEAKER. There is no question pending before the House.

Mr. DAWES. I desire to inquire of the gentleman from Indiana——

Mr. WASHBURNE, of Illinois. I rise to make a privileged report.

The SPEAKER. The gentleman from Illinois [Mr. FARNSWORTH] calls for the regular order, which is the call of committees for reports, commencing with the Committee on the Post Office and Post Roads.

Mr. WASHBURNE, of Illinois. I rise to make a privileged report.

Mr. DAWES. I hope that my friend from Illinois will not ask the House very soon to grant unanimous consent to accommodate him.

Mr. WASHBURNE, of Illinois. If I did I should not expect to get it.

The SPEAKER. Of what character is the report which the gentleman from Illinois desires to present?

Mr. WASHBURNE, of Illinois. It is a report from the Committee on Appropriations of a bill which they are specially authorized to report at any time.

The SPEAKER. The report is an order.

DEPARTMENTAL CONTRACTS FOR STATIONERY.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Appropriations to report back without amendment joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year.

The joint resolution was read *in extenso*. It provides that it shall not be lawful in the present unsettled state of prices for any of the Executive Departments to make contracts for stationery or other supplies for a longer term than one year from the time the contract is made; and whenever propositions for supplies have been solicited the parties responding to such solicitation shall be duly notified of the time and place of opening the bids, and be permitted to be present either in person or by attorney, and a record of each bid shall then and there be made.

Mr. WASHBURNE, of Illinois. The committee unanimously recommend its passage.

Mr. MAYNARD. Would not an amendment be germane to strike out the words "in the present unsettled state of prices."

Mr. WASHBURNE, of Illinois. I hope the gentleman will not send the bill back, as it is important it should be passed at once.

Mr. MAYNARD. How long will it be in force, supposing we enact it?

Mr. WASHBURNE, of Illinois. It will be in force until repealed.

Mr. MAYNARD. Will it be in force longer than during the "present unsettled state of prices." It seems to me it will not.

Mr. WASHBURNE, of Illinois. If no one desires to discuss the bill let the vote be taken.

Mr. BOUTWELL. I move to strike out the words "in the present unsettled state of prices."

Mr. WASHBURNE, of Illinois. The joint resolution accomplishes the object. I would not have put that language there, but it does not interfere with anything.

Mr. MAYNARD. What I propose, and I believe that is the proposition of the gentleman from Massachusetts, is to strike out these words: "in the present unsettled state of prices." It seems to me, to use "the strong Anglo-Saxon expression" which fell from the gentleman from Connecticut the other day, it "emasculates" the joint resolution.

Mr. PRUYN. After the passage of the reconstruction bill we are likely to have an unsettled state of affairs for a long time.

Mr. MAYNARD demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment was agreed to.

The joint resolution, as amended, was then ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE F. SAWYER, UNITED STATES NAVY.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution of inquiry:

Resolved, That the Secretary of the Navy be directed to communicate to this House copies of the complete record of the proceedings and findings of the court-martial convened on the 2d day of October, 1867, at the navy-yard at Portsmouth, New Hampshire, in the case of George F. Sawyer, second assistant engineer of the United States Navy, and also of all and every part of the testimony in that case, together with copies of all letters, complaints, reports, or other communications made to the said Secretary, or to any official person in the Navy Department, or to any officer of the Navy, in relation to the offense charged against said second assistant engineer Sawyer, and of all replies, orders, or instructions given or made in relation to such charge or offense by the Secretary or any official of the Navy Department or by any officer of the Navy.

Mr. BROOKS. That is so long I think I had better object.

MORNING HOUR.

The SPEAKER stated that the morning hour had now commenced, and committees would be called for reports, beginning with the the Committee on the Post Office and Post Roads.

POST OFFICE, ETC., AT PEORIA, ILLINOIS.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back a joint resolution (H. R. No. 34) to provide for the erection of a building at Peoria, Illinois, for the accommodation of the post office and internal revenue office, and moved that it be referred to the Committee on Appropriations.

NEW ORLEANS AND CHATTANOOGA RAILROAD.

Mr. FARNSWORTH, from the same committee, also reported back House bill No. 296, to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road, and for other purposes, with a substitute.

The substitute was reported, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the New Orleans, Mobile, and Chattanooga Railroad Company is hereby authorized and empowered to construct, build, and maintain bridges over and across the navigable waters of the United States on the route of said railroad between New Orleans and Mobile, for the use of said company and the passage of its engines, cars, and trains of cars, passengers, mails, and merchandise thereon; and said railroad and its bridges aforesaid, when constructed, completed, and in use, in accordance with this act and the laws of the several States through whose territory the same shall pass, shall be deemed, recognized, and known as lawful structures and a post road, and are hereby declared as such: *Provided, however*, That the said company, in the construction of its bridges over and across the waters known as East Pascagoula river, and the bay of Biloxi and the bay of St. Louis, shall construct and maintain drawbridges in the channels thereof, which when open, shall give a clear space for the passage vessels of not less than eighty feet in the channels of the East Pascagoula, of the bay of Biloxi, and of the bay of St. Louis, and of not less than one hundred feet in the channel of the Great Rigolet; and said company shall at all times open the said drawbridges and shall provide reasonable facilities for the passage of all vessels requiring the same, except during and for ten minutes prior to and after the time of the passage of the mail and passenger trains of said company.

The substitute was agreed to.

Mr. FARNSWORTH. I demand the previous question on the passage of the bill.

Mr. WASHBURNE, of Illinois. I desire to state that before this bill was introduced I understood it followed the precedents heretofore introduced. It seems the draw provided in this bill is not as wide as in other bills.

Mr. WASHBURN, of Wisconsin. There is a bill about to be introduced to bridge the Mississippi river at La Crosse. It was in reference to that that I stated to the gentleman from Illinois [Mr. WASHBURNE] that it conformed to the grants heretofore made for the bridging of the Mississippi at Winona and other points. But this bill allows this company to bridge certain streams and bayous between New Orleans and Mobile with not of the same width of draw as the bridges proposed across the Mississippi, because there is no necessity for any such width of draw. I have had my attention called to this road. It is a line of road skirting along the Gulf and crosses tide-water at several bays and small streams, no streams, however, comparing in any way to the Mississippi or that are navigated by large vessels; for instance, the Tombigbee and others. The width of draw provided here is entirely ample to accommodate the commerce of these streams, and there is nothing in this bill which can in any way interfere with the free navigation of those streams.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOUTHERN MINNESOTA RAILROAD.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back, with a recommendation that it do pass, House bill No. 96, to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river and to establish a post road.

The bill was read. It authorizes the Southern Minnesota Railroad Company, a corporation existing under the laws of the State of Minnesota, to construct and operate a railroad bridge across the Mississippi river between the city of La Crosse, Wisconsin, and a point opposite in the State of Minnesota, with the consent of the Legislatures of the States of Minnesota and Wisconsin, and declares the said bridge a post route subject to all the terms, conditions, restrictions, and requirements, and entitled to all the privileges named in an act approved July 25, 1866, entitled "An act to authorize the construction of certain bridges and establish them as post roads."

Mr. FARNSWORTH. I presume this bill requires no remark.

Mr. WASHBURNE, of Illinois. I ask to be permitted to make an amendment.

Mr. FARNSWORTH. I will hear it.

Mr. WASHBURNE, of Illinois. I desire to move an amendment to repeal the act legalizing the Clinton bridge.

Mr. FARNSWORTH. Oh, no.

Mr. WASHBURNE, of Illinois. I desire further to state to the House the influences by which that bill was passed by the House at the last Congress.

Mr. FARNSWORTH. I cannot consent to that.

Mr. WASHBURNE, of Illinois. The influences brought to bear on the chairman of the Committee on the Post Office and Post Roads.

Mr. FARNSWORTH. My colleague can introduce a bill for that purpose if he chooses. This bill simply authorizes a railroad bridge across the Mississippi river at La Crosse, in accordance with the acts of the Legislatures of Wisconsin and Minnesota, subject to the same conditions in all respects as the bridges authorized by the act of Congress referred to in this bill, such as the bridges authorized to be constructed at St. Louis, Quincy, and some other points on the Mississippi. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FARNSWORTH. I move the previous question on the passage of the bill.

Mr. PILE. I desire to ask the gentleman if the provisions of this bill will not authorize this company to construct a bridge without requiring them to conform to the present law in reference to bridging the Mississippi river?

Mr. FARNSWORTH. The bill expressly provides that they shall conform to the present law.

Mr. PILE. I think not, from my hearing of the bill. I think the bill should specially provide that the bridge shall be so constructed as to conform to the conditions heretofore imposed as to length of span, the draws, the piers running parallel with the current, and so forth. Unless that provision is specially made the bill will authorize the company to construct just such a bridge as they please.

Mr. FARNSWORTH. The bill under consideration provides that the bridge shall be constructed subject to the conditions in all respects of the act to authorize the construction of certain bridges, and to establish them as post routes, approved July 25, 1866, which authorized the construction of the bridges at St. Louis, Quincy, and some other points. It refers to that act, and makes this company subject to its conditions. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GOVERNMENT ADVERTISEMENTS.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back, with an amendment in the nature of a substitute, joint resolution (H. R. No. 132) in regard to the construction of section ten of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes."

The substitute was read. It provides that the tenth section of the act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, shall not be so construed as to authorize the publication in papers published in the District of Columbia of proposals for carrying the mails in any State except the States of Maryland and Virginia, nor the publication of any advertisements, notices, or proposals for contracts from any executive department of the Government in papers published in the District of Columbia when the service to be rendered or the objects to be attained by the publication of such advertisements are not required to be rendered or done in said District or in the States of Maryland or Virginia.

Mr. FARNSWORTH. I now yield to my colleague on the committee, [Mr. JOHNSON,] who desires to move an amendment to the substitute reported by the committee.

Mr. JOHNSON. I move to amend the substitute by adding to it the following section:

And be it further resolved, That no publication, or notice, or advertisement under this act, or the act to which this is amendatory, shall be made in any except one morning newspaper.

I understand, from the investigation I have been able to make upon this subject, that the sum of $40,000 is paid to each of these two papers, making $80,000 in all. Of course we cut down that expense considerably by the joint resolution now under consideration; but we would cut it down still further by the amendment I have offered. My amendment proposes to confine this publication to one morning newspaper; and that will save perhaps $30,000 to the Government.

Mr. FARNSWORTH. I would state to the House, so that this matter may be understood, that the act of March 3, 1845, authorized the publication of these notices in two papers in this District. By the act of June 12, 1858, that provision was repealed, and the publication for proposals to carry the mails was authorized to be made in the District papers. By the act of March 3, 1865, authority was again given for this publication; and by the act of March 2, 1867, it was provided as follows:

"*And be it further enacted*, That all advertisements, notices, and proposals for contracts for all the Executive Departments of the Government, and the laws passed by Congress and executive proclamations and treaties, shall hereafter be advertised by publication in the two daily papers published in the District of Columbia now selected under the act of the first session of the Thirty-Ninth Congress making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes, until otherwise ordered by Congress, and in no other District of Columbia papers: *Provided*, That the charges for such publication shall not be higher than such as are paid by individuals for advertising in said papers: *And provided also*, That the same publications shall be made in each of said papers equally as to frequency: *Provided further*, That all printing of any kind ordered by the Executive Departments shall be executed by the Government Printer when practicable, and if not, at such office as may be designated by the Clerk of the House of Representatives, at rates not exceeding the current rates for such printing."

Now, we propose so to modify that section that this publication of proposals for carrying the mails shall not be made in newspapers published in the District of Columbia, except for the States of Maryland and Virginia. As many of the mail routes in those States tend to the city of Washington, it is proper enough that Washington papers should publish these advertisements. But as regards the other States we propose to cut off this expenditure. And in doing this we also propose by this bill that advertising for proposals for contracts, &c., for other Departments of the Govern-

ment where the service to be rendered or the thing to be done is not required to be rendered or done here shall not be published in the papers here. If any member will cast his eye over any paper here in which this publication is made he will find numerous advertisements the publication of which here is of no earthly use in the world. There are advertisements for the War Department, for the quartermaster's and commissary departments, for transportation on the Pacific coast; for mules to be delivered in Arizona; for corn to be delivered in Iowa, or Nebraska, or Kansas, or Colorado; for an auction in St. Louis to sell some old Government wagons; all these things are advertised in the papers here. By the law we propose to have enacted these advertisements will be published in the papers of the locality where the service is to be rendered or the thing to be done.

So, too, with reference to the carrying of the mails. The law now provides that propositions for carrying the mails shall be published in two papers in each State: and they will still publish these proposals should the pending joint resolution be passed. But it is to the State papers, to the papers of the districts in which the mails are to be carried, that persons naturally look to see the proposals of the Government.

It seemed to the committee that if we could cut off this leech from the Treasury, which draws from it some forty or sixty thousand dollars a year, we would be doing the country some service. Therefore I am instructed to report this joint resolution.

It will be observed by the House that as to the publication of the laws, proclamations, and treaties, the advertisements by the Executive Departments for proposals, where the supplies are to be furnished or the services rendered here, publications will still be made in newspapers of this District. But in these days, when we are called upon to retrench in our various expenditures, it seemed to the committee that there was a manifest propriety in stopping this leak in regard to advertisements published here when the work is to be done in some other locality.

Mr. PRUYN. Mr. Speaker, I am just as anxious as the gentleman from Ohio [Mr. LAWRENCE] and his colleagues on the committee to economize wherever it may be possible in the expenditures of the Government. But the question which suggests itself to my mind is whether, by suspending the publication of these advertisements in the papers of the District of Columbia, we may not in some cases prevent that competition which is desirable for the interest of the Government. I desire information on that point. Suppose, for instance, that at St. Louis (I name that city because it has been named by the gentleman) some Government work is to be done or some Government supplies are to be furnished. Parties in adjacent States might desire to put in bids for the performance of the work or the furnishing of the supplies. Now, parties of that class—and there are a large number of them throughout the country—make it a point, as I understand, to take the Washington papers, for the reason that they find in those papers all the Government advertisements with regard to contracts, &c. Now, if in the case I have supposed the advertisements for bids be confined to the city of St. Louis, they will escape the attention of parties residing elsewhere, and thus the Government will lose the benefit of that competition which might otherwise exist. I would like to know whether this point has been guarded by the committee, and how broad the bill is.

Mr. FARNSWORTH. The substance of the bill is as I have stated it. For the information of the gentleman from New York, [Mr. PRUYN,] and any other gentleman who may desire it, I ask the Clerk to read again the substitute reported by the committee. It will explain itself.

The Clerk again read the substitute.

Mr. PRUYN. Mr. Speaker, the provisions of the substitute are very proper, so far as regards post office advertisements, but with reference to the remainder of the bill—not having before me the act of Congress which it proposes to modify—I cannot say with confidence whether it is proper or not. It seems to me, however, that the subject requires some examination, because by preventing competition in regard to contracts for supplies and work for the Government we may inflict upon the Treasury greater loss than it now suffers in the expense of these advertisements. I suggest to the gentleman from Illinois, [Mr. FARNSWORTH,] who has charge of this bill, that he had better withdraw it for the present that the committee may give the matter further examination. If the gentleman declines to do that, I believe I shall move to strike out the last clause.

Mr. FARNSWORTH. The committee, I think, gave this matter due examination. The bill does not cut off advertisements in papers outside of the District of Columbia, nor does it forbid advertisements in the papers of the District where the services are to be rendered or the supplies delivered here. The different Departments now publish their notices for proposals not only in the papers of the different States where the work is to be done or the supplies furnished, but also in the papers of this District. The committee propose to dispense with this additional and useless publication in the District of Columbia.

Mr. PRUYN. That does not meet the case which I put. It constantly occurs in all parts of the country that not only parties living in the locality where work is to be done bid for the contract, but also those residing at a distance. Take the case of a job of work to be done at St. Louis—the city named by the gentleman. We all know that parties in adjoining States would be bidders if they knew that the work was open for bids. If in such cases we authorize advertisements only in the local papers, we prevent the competition of a large body of men who would otherwise put in their bids, and by whose competition the Government might save in a single contract more than all the advertising in this District would cost in a year.

Mr. GETZ. With the permission of the gentleman from Illinois I will say one word. I think the resolution as reported from the Committee on the Post Office and Post Roads is a very sensible one. It is one that will receive the concurrence of every business man. The papers of the District of Columbia are to a great extent mere local papers, having but little circulation outside of the District, and to advertise in them for proposals for work to be done in remote portions of the country is a proposition that no business man would entertain for a moment. It is wisely provided in the resolution that only advertisements for proposals for contracts in Virginia and Maryland shall be published in the papers of this District. The papers of this District have some circulation in those adjoining States, and it is proper such advertisements should be published in those papers for circulation. But, sir, to advertise in them for work to be done in St. Louis, New York, or Philadelphia, is what no business man would approve of. I hope the resolution will pass.

Mr. FARNSWORTH demanded the previous question.

The previous question was seconded and the main question ordered.

The question recurred on Mr. JOHNSON's substitute for the substitute, and it was adopted.

The substitute of the committee, as amended, was then agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MAIL CONTRACTORS PACIFIC COAST.

Mr. JOHNSON, from the Committee on the Post Office and Post Roads, reported back adversely House joint resolution No. 43, authorizing the Postmaster General to secure to the mail contractors in the Pacific States and Territories payment of the contract pay at San Francisco, California.

The SPEAKER. It will be laid on the table.

Mr. JOHNSON. Mr. Speaker, before submitting a motion to lay on the table I desire to say a few words on that resolution, as it relates directly to my own State. Heretofore there has been a necessity for something of this kind. There is now, for it is a great inconvenience for the people on that coast to be compelled to transact their business with the Departments here through the mails. But this resolution would involve the establishment of a post office department on the Pacific coast, which would be located at San Francisco. Now, if such a department were established there parties living twelve or fourteen hundred miles distant from that point would be subjected precisely to the same inconvenience as now, for they would have to transact their business through the mails. They could do it as well with the Department here as with any department established in San Francisco.

Then, besides, sir, within the six months when the resolution would go into effect, if passed, the Central Pacific railroad will meet the Western Pacific railroad, and we will have direct communication across the country. I do not, therefore, see how the resolution would be of any practical use to my people.

The joint resolution was laid on the table.

FREE MAIL MATTER.

Mr. CLARKE, of Ohio, from the Committee on the Post Office and Post Roads, reported back House joint resolution No. 104, authorizing the transmission through the mails, free of postage, of certain certificates by the adjutant general of New Hampshire, with the recommendation that it do pass.

The joint resolution provides for the transmission through the mails, free of postage, of certificates of thanks voted by the Legislature of New Hampshire to the soldiers thereof, under such regulations as the Postmaster General may direct.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLARKE, of Ohio, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FOREIGN MAILS.

Mr. LINCOLN, from the Committee on the Post Office and Post Roads, reported back House bill No. 176, to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, with the recommendation that it do pass.

The bill provides for the repeal of the fourth section of the act indicated in the title.

Mr. LINCOLN. The act of March, 1864, prohibits the overland mails from carrying printed matter except newspapers from the office of publication to *bona fide* subscribers.

Mr. WASHBURNE, of Illinois. And by repealing that act you let all printed matter go through.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. LINCOLN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FIRST PRESBYTERIAN CHURCH OF WASHINGTON.

Mr. KOONTZ. I ask the unanimous consent of the House to put on its passage a bill that passed both Houses before the adjourn-

ment for the holidays, but failed to receive the signature of the President because it did not reach him in time. I do not deem it advisable to have it recommitted inasmuch as it has received the sanction of both Houses. It is a bill (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church of Washington.

Mr. HOLMAN. Has this bill been referred?

Mr. KOONTZ. It has been acted upon and passed by both Houses, and only failed because it did not reach the President in time to receive his signature.

Mr. HOLMAN. This subject has not been referred to a committee. It is an entirely new measure.

The SPEAKER. The gentleman from Indiana objects; the bill therefore cannot be put on its passage.

The bill, by unanimous consent, was read a a first and second time; and referred to the Committee for the District of Columbia.

WILLIAM B. TODD.

Mr. INGERSOLL, from the Committee for the District of Columbia, introduced a bill (H. R. No. 503) for the relief of William B. Todd; which was read a first and second time.

It directs that there be refunded to William B. Todd, of the city of Washington, the sum of $319, being the amount paid by him to the United States on the 27th of June, 1856, for certain land in the city of Washington, which had been before sold and the United States paid therefor.

Mr. HOLMAN. Is there a report accompanying this bill?

Mr. INGERSOLL. There is not; but I have a letter on the subject which I ask to have read.

The Clerk read as follows:

WASHINGTON CITY, *December* 27, 1866.

SIR: During my incumbency of the office of the Commissioner of Public Buildings I sold to William B. Todd, Esq., at a public sale of Government lots, on the 27th of June, 1856, south half of lot fifteen in square six hundred and thirty-six. When Mr. Todd was about to take possession of the property he found it in the occupancy of another person, who claimed to have purchased it a long time prior to the sale at which he purchased. My attention was called by Mr. Todd to the subject, and a few days since I called at your office and made a thorough examination of the title. Mr. Robert Ould, as you are aware, was employed by the Secretary of the Interior in 1854 or 1855 to examine the records of your office and the land records of the county of Washington to ascertain and report the lots the titles to which still remained in the Government. In preparing the list of lots for sale I was mainly governed by Mr. Ould's report, as it was intended for the guidance of the Commissioner in the disposal of Government lots. The north half of lot fifteen in square six hundred and thirty-six is stated in his last report to have been sold to C. T. Krebs, and the record of the deed is to be found in the land records of the county, Liber W. B. No. 60. According to the report the title to the south half of the lot was in the Government; but the "register of squares" in your office shows that it was sold February 12, 1838, to C. T. Krebs. To place the matter beyond doubt, on leaving your office I repaired to the office of the register of deeds and there found a deed from Commissioner Noland, Liber W. B. No. 69, folio 12, to C. T. Krebs for the south half of lot fifteen, square six hundred and thirty-six, which settles the title of the whole lot to be in Krebs, and consequently my sale to Mr. Todd was a nullity. The half lot sold to Mr. Todd contained twenty-two hundred and seventy-nine feet, which was struck off to him at fourteen cents per foot, and he paid me $319 06, the full amount of the cost of the lot. The money was disbursed for Government purposes, and of course you will refund it to Mr. Todd; and in view of the fact that the Government has had the use and benefit of it I respectfully submit that he ought to be allowed interest.

Very respectfully, your obedient servant,
JOHN B. BLAKE.

Major B. B. FRENCH,
Commissioner of Public Buildings.

Mr. WASHBURNE, of Illinois. Is interest charged?

Mr. INGERSOLL. No, sir; the money was paid several years ago, but no interest is charged. If there is no further information desired I ask that the bill be put on its passage.

Mr. WASHBURNE, of Illinois. I would like to hear some further explanation.

Mr. INGERSOLL. I ask the Clerk to read a letter from Commissioner French.

Mr. HOLMAN. I appeal to the gentleman that it is hardly worth while to consume any more time on this subject. It seems to me eminently a just claim.

Mr. INGERSOLL. There is no question about it at all.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEAM FRIGATE JAVA.

Mr. BARNES. I ask unanimous consent to offer the following resolution:

Whereas the United States steam frigate Java, which has been three years in building and now lies in an unfinished condition, exposed to the weather, in the Brooklyn navy-yard, and upon which all work has recently been suspended; and whereas in her present condition she is being seriously damaged by the elements, and if work is resumed thereon she can be finished and equipped by the coming autumn; and whereas great suffering exists on account of the discharge of laborers from the yard at this season of the year: Therefore,

Be it resolved, That the Secretary of the Navy be, and he hereby is, instructed to have the said frigate Java completed without unnecessary delay.

Mr. WELKER. I object.

Mr. BARNES. I would like to explain. At a recent visit to the navy-yard my attention was particularly called to this unfinished vessel.

Mr. HARDING. I object.

CANAL AND SEWER COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back a bill (H. R. No. 232) to incorporate the Georgetown and Washington Canal and Sewer Company, and moved that it be recommitted to the Committee for the District of Columbia, and ordered to be printed.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TIMBER FOR NAVAL VESSELS.

The SPEAKER laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of December 9, 1867, regarding the quantity of seasoned and green timber on hand for building vessels of war; which was referred to the Committee on Naval Affairs, and ordered to be printed.

MIDNIGHT MAIL TO NEW YORK.

The SPEAKER also laid before the House a communication from the Postmaster General, in reply to a resolution of the House of the 10th instant, relative to the discontinuance of the transmission of the midnight mail from New York to Philadelphia, &c.; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

WALTER B. PLOWDEN.

The SPEAKER also laid before the House a communication from the Secretary of War, relative to the petition of Walter B. Plowden, asking payment for his services as a scout; which was referred to the Committee on Military Affairs, and ordered to be printed.

FORT LEAVENWORTH RESERVATION.

The SPEAKER also laid before the House a communication from the Secretary of War transmitting certain papers connected with the right of way across the military reservation at Fort Leavenworth by the Leavenworth and Des Moines and Northwest and Leavenworth railroads; which was referred to the Committee on Military Affairs, and ordered to be printed.

MEMORIALS.

The SPEAKER also laid before the House the memorial of the Legislature of the State of Wisconsin, asking for a grant of lands to the State of Wisconsin to aid in building a wagon road from Chippewa Falls to Ashland, Wisconsin; which was referred to the Committee on Public Lands, and ordered to be printed.

The SPEAKER also laid before the House a memorial of the Legislature of the Territory of Dakota, praying for a grand of lands to aid in the construction of a railroad from Sioux City, Iowa, to the mouth of the Big Cheyenne river, Dakota Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

The SPEAKER then resumed the call of committees for reports.

RECONSTRUCTION MEASURES.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged from the further consideration of a bill (H. R. No. 254) to amend an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to facilitate restoration; and a bill (H. R. No. 214) to facilitate the restoration of the late rebel States, and for other purposes; and a bill (H. R. No. 30) to regulate the practice and define the powers of the Supreme Court of the United States in certain cases arising under the Constitution and laws thereof; and the same were severally referred to the Committee on Reconstruction.

SUPREME COURT.

On motion of Mr. WILSON, of Iowa, the same committee was discharged from the further consideration of a bill (H. R. No. 379) requiring the concurrence of two thirds of the judges of the Supreme Court of the United States in order to pronounce a law passed by Congress to be unconstitutional, and the same was laid upon the table.

TENNESSEE BLIND SCHOOL.

On motion of Mr. WILSON, of Iowa, the same committee was discharged from the further consideration of a bill (H. R. No. 385) to appropriate money for the rebuilding of the Tennessee blind school buildings; and the same was referred to the Committee on Appropriations.

CHANGE OF REFERENCE.

On motion of Mr. WILSON, of Iowa, the same committee was discharged from the further consideration of the petition of William H. Conover, fourth Michigan cavalry, praying the payment of the reward for the capture of Jefferson Davis; and the same was referred to the Committee of Claims.

On motion of Mr. WILSON, of Iowa, the same committee was discharged from the further consideration of the petition of citizens of the fourth ward of the city of Washington, praying Congress to strike from the city charter the property qualification and the word "white," &c.; and the same was referred to the Committee for the District of Columbia.

TAXING UNITED STATES NOTES.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary were also discharged from the further consideration of House bill No. 244, to authorize State authorities to tax non-interest-bearing United States notes; and the same was referred to the Committee of Ways and Means.

JOHN F. CONOLEY.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary were also discharged from the further consideration of the petition of John F. Conoley, late judge of the county court for the county of Dallas, Alabama, praying that he may be relieved from political disability and allowed to hold office under the Government of the United States; and the same was referred to the Committee on Reconstruction.

FEES OF MARSHALS, ATTORNEYS, ETC.

On motion of Mr. ELDRIDGE, the Committee on the Judiciary were discharged from the further consideration of House bill No. 78,

to amend an act entitled, "An act to regulate the fees and costs to be allowed to clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853; and the same was laid on the table.

MARSHAL FOR DISTRICT OF COLUMBIA.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, reported back House bill No. 288 to provide for the appointment of marshal for the District of Columbia with an amendment.

The original bill was read. The first section provides that the appointment of marshals for the District of Columbia shall be vested in the supreme court of said District, and that the judges of said court shall nominate, and by and with the advice and consent of the Senate appoint, a marshal, whose term of office, duties, and compensation shall be the same as those now pertaining to the office of marshal for said District.

The second section provides that all acts and parts of acts inconsistent with this act shall be repealed.

The amendment of the committee was to strike out all after the enacting clause of the bill, and to insert in lieu thereof the following:

That the supreme court of the District of Columbia is hereby authorized to appoint a marshal of the United States for the District of Columbia, whose powers and duties shall be the same as the powers and duties of the marshal of the United States for the District under existing laws; and the said marshal so appointed shall receive the same compensation for his services as the marshal now receives for like services; and from and after such appointment the office of said marshal, now held under appointment of the President, shall cease and determine.

SEC. 2. *And be it further enacted*, That an act entitled "An act to authorize the appointment of a warden in the jail of the District of Columbia," approved February 29, 1864, be and the same is hereby repealed.

Mr. LAWRENCE, of Ohio. I now call the previous question on the bill and pending amendment.

Mr. HOLMAN. Before the gentleman calls the previous question I hope he will allow me to submit an amendment.

Mr. LAWRENCE, of Ohio. I cannot yield for that purpose.

The question was then taken upon seconding the call for the previous question; and upon a division there were—ayes 54, noes 38; no quorum voting.

Tellers were ordered; and Mr. LAWRENCE of Ohio and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported that there were—ayes 70, noes 44.

So the previous question was seconded.

The main question was then ordered.

The first question was upon the amendment reported from the Committee on the Judiciary.

Mr. LAWRENCE, of Ohio. I will state very briefly what this bill is, and then I apprehend there will not be any serious objection to it. The first section of the bill provides that the supreme court of the District of Columbia shall have power to appoint the marshal for the District. The second section repeals the act of February 29, 1864, which authorizes the President of the United States to appoint the warden for the jail in the District of Columbia. The effect of the repeal of that law is to restore the law as it stood before that time, and to leave the appointment of the warden in the hands of the marshal of the District. In that respect the second section of the bill now before us is simply to restore the law as it stood almost from the foundation of the Government to the time of the passage of the act of February 29, 1864.

I think it will be conceded by gentlemen on both sides of this House that the supreme court of the District are much better qualified to judge of the merits and qualifications of persons who are applicants for the office of marshal than the President possibly can be. In the multitude of the duties of the President it is not possible that he can have personal knowledge of the qualifications of all the men whom he may be asked to appoint to office.

This bill simply proposes to vest in the supreme court of the District of Columbia the power to appoint their own marshal. I suppose this Congress has settled the question of the propriety of giving to the courts of this District the power to appoint their own officers.

Mr. HOLMAN. I desire to ask the gentleman from Ohio whether he proposes to confer upon the Federal courts in the other districts this same power of appointment with regard to marshals, or whether he designs to confine the provision to this particular court?

Mr. LAWRENCE, of Ohio. This bill relates only to the supreme court of the District of Columbia. We do not propose to accomplish everything at once. We propose to do only one thing at a time. I think that, as a general proposition, it would be better if all the courts of the United States had the power to appoint their own officers. They are better judges of the qualifications and claims of those who may apply to them for appointment than the President possibly can be.

Mr. SPALDING, [in his seat.] Does not that depend a little on their political sentiments?

Mr. LAWRENCE, of Ohio. Congress passed an act, which was approved by the President on the 2d of March, 1867, authorizing the Supreme Court of the United States to appoint its marshal; and the bill now before us proposes simply to establish the same policy with regard to the supreme court of this District. Now, our legislation in reference to this District has, as a general rule, been separated from the legislation designed for the States and for the country at large; and, following out that same policy, this bill simply proposes, as I have remarked, to settle the question as to the mode of appointing the marshal for the supreme court of the District. I hope that the bill will pass.

I now yield to my colleague on the committee, the gentleman from Illinois, [Mr. MARSHALL.]

Mr. WASHBURNE, of Illinois. Will the gentleman from Ohio [Mr. LAWRENCE] pledge himself not to bring in a bill to repeal this bill in the course of a year?

Mr. SPALDING. No; he will not do that.

Mr. LAWRENCE, of Ohio. That will depend on circumstances.

Mr. MARSHALL. I wish to speak with all due respect of all matters of legislation coming before this House for its deliberation and action. But I must say that I regard this bill as a specimen of very petty legislation indeed. It seems to me in its purpose and effect wholly indefensible. I regret that the Judiciary Committee of this House has allowed itself to be made an instrument for accomplishing such an object as that intended by the bill before the House. This bill is another specimen of the mere bread-and-butter legislation of which we have had so much during the Thirty-Ninth and Fortieth Congresses. A year or two ago we heard a great deal said about a bread-and-butter party. Now, if there ever was upon earth, and especially in the United States of America, a bread-and-butter party, it is the party now having the control of the Congress of the United States. While the people are groaning under the burdens imposed upon them, we find that in this House the important business of the country is from day to day pushed aside for the purpose of adopting legislation in regard to some petty office which it is found happens to be occupied by some man who does not go the whole figure in support of the radical measures of this Congress. For this purpose the tenure-of-office bill was passed by the last Congress. Quite a number of bills aiming at precisely this object have been proposed by the present Congress. Now, I say, with all due respect, that such measures are unworthy of the American Congress. If one Congress degenerates into practices of this kind another may follow the example. A bill like this establishes a bad precedent, and one which ought not to be tolerated.

What is the immediate demand for such legislation as this at the present time? Why must the important business of the country be stopped while Congress enters upon the consideration of such a measure? The whole purpose is simply to get at a petty office in the District of Columbia by special legislation. And for what reason? Is the present incumbent incompetent? Has he been accused of neglect of duty or of any dereliction whatever? I know very little personally concerning the present occupant of this office, but I am told that he has proved himself a most excellent officer, and that no charge of want of ability or neglect of duty can be brought against him.

Mr. MYERS. Will the gentleman yield for one moment?

Mr. MARSHALL. No, sir; I cannot yield now.

Mr. Speaker, why should we make any distinction between the mode of appointing the marshal in the District of Columbia and the manner of appointing marshals in the Federal courts throughout the States? These officers perform duties of the same character, and if there is any propriety in devolving the appointment upon the courts in one instance there is the same reason in all. It may be said that the marshals, if not appointed by the court, are not properly subject to the power of the court; but this is not true.

They are subject to the power of the court as far as the court ought to have control of their action.

If it be proper that the appointment of the marshal of this court should be taken from the present appointing power, will the gentleman introduce a general law to extend it to all the Federal courts in the United States? If that were done we could then see the propriety, or rather the consistency, of this legislation. But nothing of that kind is proposed in the bill now before the House; and I therefore submit it must be manifest to the House that this is a mere attempt to stop important legislation for the purpose of getting at some petty office in which to put some partisan of the party which now controls this Congress. I can see no other purpose, and I submit there is no other purpose. The House and the country, I believe, will agree with me in this.

It is proposed also to abolish the office of warden and to attach the duties thereof to the office of marshal. We know how and for what purpose the office of warden was established. Congress did not happen to be satisfied with the conduct of the marshal for this District, Marshal Lamon, who was appointed by Mr. Lincoln. It was thought, so long as Lincoln was in power, there was no chance for his removal, and therefore a large part of the profits of that office were taken from him, making the warden a separate and distinct office from that of the marshal. Now the time has come round when it is supposed the supreme court of the District of Columbia is in full sympathy with the party in power in Congress, and it happens to be that the incumbent of the office of marshal of this District is not in full sympathy with that party. I know nothing about his politics and care less, as far as it may affect my action here. I do not suppose it is a subject that ought to be brought to the attention of the House. I submit that it is not worthy the dignity of Congress thus to be changing legislation from day to day merely to get at a little more of the spoils of office. Now that the facts are as I have stated, it is proposed to abolish the office of warden and again to attach it to the office of marshal, so that the new incumbent provided for in this bill may have a more lucrative office. I submit it is unworthy of the dignity of a great legislative body to be constantly and perpetually changing the laws, merely to get at a little more plunder for the camp-followers of the party in power.

Is it worthy of a legislative body of this character to pander to the greed of the hungry

cormorants who are constantly prying into every hole and corner of the land to find something to satisfy their voracious appetites?

It is time, Mr. Speaker, that legislation of this character should be stopped; and I appeal to gentlemen on both sides of the House that they owe it to their own character and dignity not to carry this further. And there is an additional reason why the marshal of the District of Columbia should be appointed by the President rather than by any other power or tribunal. By immemorial custom the marshal of the District of Columbia has social and confidential relations with the President of the United States. He is the officer who introduces all guests who attend the receptions and levees at the Executive Mansion. This has grown up as a custom. I do not know that any law devolves the duty upon him. It is one in which there is a manifest propriety, and from which I can see no good reason for departing. I submit that it would not be decorous for an officer holding these relations with the President to be appointed by a petty court in this District, having no relations with the Executive.

Now, Mr. Speaker, the object and purpose of this bill cannot be disguised. There is no present necessity for it. There can be no allegation of want of ability to discharge the duties on the part of the incumbent. If you pass this law, then, every party that comes into power will follow the precedent and do likewise. At least there will be danger of this. It is a precedent that ought not to be established. Our legislation has already very greatly degenerated, and we should go no further in so objectionable a direction. I think there can be no question as to that, and I submit that the House ought not, for the mere purpose of crowding one man out of a little petty office and putting in his place some instrument of their own, exact legislation of this character.

I suppose the man to be provided for is already selected. Who he is or may be of course it is impossible for me to divine. I suppose he is some broken-down ex-provost marshal, or some petty satrap who has been dethroned, or some vulture or wolf that has been prowling among the starving people of the South for prey and has returned without sufficient plunder to satisfy the cravings of his appetite, so he comes here and appeals to his friends in Congress to put him into an office that he has found is not yet filled by a partisan who will swear to the omniscient wisdom and immaculate purity of the present Congress. Possibly he may be the military Jeffreys, of Kentucky, who was so fortunate in arresting and massacring non-combatants and peaceful citizens and imprisoning women and children placed under his jurisdiction, and who has been hanging around the Capitol all winter, demanding some reward for his preëminent services, and the result of such demand is the bill now before the House.

I make these remarks with all due respect, because I think it is due to the House, to the country, and to the party in power that they should heed this appeal not to enact this kind of legislation that reflects on their own dignity, their own character, and their own manhood as legislators. Having submitted this appeal, I will leave it with honorable members to act as they may think their duty, character, and dignity demand in considering a measure of this peculiar and extraordinary character.

Mr. HOLMAN. I trust the gentleman from Ohio will yield to me.

Mr. LAWRENCE, of Ohio. The gentleman from Pennsylvania [Mr. STEVENS] wishes me to yield.

Mr. STEVENS, of Pennsylvania. I would inquire who it is that appoints the officers of the jail in the District of Columbia?

Mr. LAWRENCE, of Ohio. The warden is appointed by the President of the United States. A law was passed on the 29th of February, 1864, giving to the President the appointment of the wardens. Prior to that time, almost from the foundation of the Government, the control of the jail was in the hands of the marshal. We propose by the second section of the bill simply to return to the original, long-continued, and never-departed-from policy of the Government until the act of 1864 was passed.

Mr. STEVENS, of Pennsylvania. For instance, the surgeon or physician of the jail—is he appointed by the marshal?

Mr. LAWRENCE, of Ohio. That I do not know. This bill——

Mr. STEVENS, of Pennsylvania. Proposes to give it to him?

Mr. LAWRENCE, of Ohio. Says nothing on that subject; leaves it where it is.

Mr. STEVENS, of Pennsylvania. I care nothing about it except that the marshal is part of the judiciary, always was everywhere; and it seems strange, as he belongs to the court, that his appointment should ever be taken from the court. I hope we shall return to that practice. I do not look upon it as the gentleman from Illinois [Mr. MARSHALL] does, who thinks that this is a small bread-and-butter concern. For my part I do not object to it. So far as I have been able to get at it, it is pretty good pabulum. [Laughter.] Does the gentleman object because it is small and light food? Does he object to the bread-and-butter part because the food lies so light on his stomach? [Laughter.] Must we go higher? About how high must we go in order to raise it to the dignity of a party in power? Must we have beef or must it be pork? [Laughter.] If we were Jews we would say no pork, [laughter,] because we would have all that excluded by the law. If we were butchers we would insist on having heavy cattle, weighing eleven hundred pounds or so. What does the gentleman mean by small bread-and-butter party? There are some larger animals that have been turned out. I hear gentlemen all around me saying they were nothing but animals. They object to turning out big cattle, and my friend across the way objects to turning out "small deer and mice."

In the name of conscience give us the exact standard up to which we may go. Some must be turned out and of course everybody cannot stay in. When parties change—at least the President thought so and said so—and when principles change, and especially when you want to change principles, you must turn out and put in. [Laughter.] I do not speak particularly of change of principles, but men do change them, and I think that was what was spoken of by our friend at the White House. Give us some such standard, but let this bill pass. It is a small "bread-and-butter" concern. Give us some standard by which months hence we can regulate exactly how far we shall go. I have no doubt at all that the gentleman from Ohio [Mr. LAWRENCE] will regulate his bills accordingly, and will graduate them so that it will be something more than "bread and butter" if it is necessary; not less, I hope, because we can hardly live on less. But let us know where we should stop. Some gentlemen would prefer milk punch. [Laughter.] I would not care much to join them in that. But do not reproach us for the feed which we do get. Let us take what we choose, either as meat or drink. If it is unwholesome the worse for us; if it is wholesome the better for the nation, because then we can propagate our principles. [Laughter.] The gentleman indulged in facetious remarks when he called us a "bread-and-butter party." I know that all around us there are hundreds of men who are all but starving and who want twenty per cent. added to their pay. Let the gentlemen go with us and we will add the twenty per cent. and make it above a "bread-and-butter party." I will give them a little sausage for their dinners—something solid. [Laughter.] I would give it to the lowest men among them. But, if we have nothing but brown bread and butter, I pray the gentleman not to taunt us with our poverty. [Laughter.]

Mr. LAWRENCE, of Ohio. I yield one minute more to the gentleman from Illinois, [Mr. MARSHALL.]

Mr. MARSHALL. As the gentleman from Pennsylvania [Mr. STEVENS] applied a portion of his remarks to me, I wish to say that I am not in favor of any kind of bread and butter party. I am opposed to every species of bread and butter legislation. It is legislation of that character which is now taking the bread and butter from the mouths of hundreds of thousands of people throughout this broad land, and I am opposed to all such legislation, which brings starvation to the millions of the people who are paying the taxes of the country.

Mr. LAWRENCE, of Ohio. I now yield five minutes to the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. Mr. Speaker, if the object of this bill were to confer upon the Federal courts generally the power to appoint the marshals of their respective districts I do not know that the remarks I have to make would be applicable; but the purpose here is manifestly to legislate with reference to a particular officer, and I regret that the leader of the House, the gentleman who of all others directs opinion here, has thought proper to throw the weight of his influence into a controversy of this character and in support of such a measure.

The gentleman says that the Federal courts throughout the country ought to have the appointment of their officers, and that the appointment of the marshals properly belongs to the judiciary; but the gentleman will observe that here there is no general system proposed, but simply a discrimination against a particular officer, the marshal of this District, and no pretense of a general change in the system. This bill does not propose to give to the various courts throughout the Union the power to appoint their marshals. It simply provides that the marshal of the District of Columbia, who, by the laws now in force, has been appointed, I believe, by the President of the United States from the formation of the Government up to this time without any interruption, shall be appointed by the district court of this District, and the present incumbent be turned out of office, and that, too, in violation of the spirit and principle of the civil-tenure act, for the purpose of getting the place for some one else.

Now, sir, who is it who is to be thus turned out of his office? He is a citizen of Indiana, well known throughout the State and well known to the gentlemen who represent that State in this House; and I say here—and it cannot be gainsaid by my friend from Ohio, but will be indorsed by every one of my colleagues—that a more honorable gentleman or one who was truer to the cause of the Union during the late war did not exist in the State of Indiana. Sir, I have time and again stood by his bed-side while for weeks he lay in the town of Lawrenceburg, in my own district, suffering from a gunshot wound in his breast, received while in the service of his country. And it is this soldier, who bears upon his person the marks of wounds received in the service of his country, in the cause of the Union, against whom the power of Congress is invoked, and who is to be stricken down by this special enactment! Does such a proceeding become the Congress of the United States?

It has been suggested, and it seems to me very properly, that there is and always has been an intimate and proper connection between the marshal of this District and the President in the social intercourse of the President with his fellow-citizens. Such has been the case from the foundation of the Government, hence the propriety of the appointment being made by the President. And when the gentleman from Ohio [Mr. LAWRENCE] is not able to suggest a single act on the part of the present marshal of official negligence, nor indeed of any act which might justify censure, when his record as a public man and as a pri-

vate citizen is not impeached, when during the late war he had suffered in the cause of his country, it does seem, sir, the most ungracious act ever committed by Congress to turn him out of office before the expiration of the term for which he was appointed, and by that act, unexplained, subject an honorable gentleman to an implied censure.

I had thought that the gentleman from Ohio, out of some consideration for the views and opinions of the Republican members as well as the conservative members of Congress, of the State of which Judge Gooding is a citizen, would have allowed me to offer an amendment that this act should not take effect until the termination of his term of office. The gentleman thought proper to refuse all opportunity of amendment, for, indeed, to allow Judge Gooding to hold the office until the expiration of his term would defeat the very purpose of this bill, the act being aimed at him alone.

The tenure-of-office bill has been held by the majority of the House to be a wise provision of law, by giving some stability to official positions, favorable, as gentlemen assume, to the public service, and yet for the purpose of reaching a comparatively unimportant office the House is called upon to violate the principles of that bill, and strike at and ostracise a brave and gallant soldier of the Republic.

Sir, I trust for the credit of this House this will not be done. I trust the spectacle will not be exhibited to the country of a House of Representatives, to which the people are looking with so much anxiety for important reforms, exhausting its time over such matters as this—the proscription of a soldier and a faithful officer for the benefit of some applicant for office—when the gravest and most solemn duties that any Legislature ever had to encounter are pressing upon us.

One word more and I have done. I trust this subject will not assume a partisan character; it certainly shall not from any word that may drop from my lips. I am here rather to defend the reputation before this House and country of a citizen who is thus to be proscribed than to utter any word of partisan complaint. I know that gentlemen who are acquainted with the reputation and character of Judge Gooding will not consent that he shall be singled out from all the various officers of this country and made the object of special congressional proscription. This House owes it to its own honor to condemn this measure.

REDUCTION OF THE CURRENCY.

Mr. SCHENCK. I rise to a privileged question, and present the report of a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 213, to suspend the further reduction of the currency, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments, and agree to the bill of the House with an amendment, as follows:

Add to the said bill of the House the words "and nothing herein contained shall prevent the cancellation and destruction of mutilated United States notes and the replacing of the same with notes of the same character and amount."

And the House agree to the same.

ROBERT C. SCHENCK,
SAMUEL HOOPER,
WILLIAM E. NIBLACK,
Managers on the part of the House.

A. G. CATTELL,
LYMAN TRUMBULL,
O. P. MORTON,
Managers on the part of the Senate.

Mr. SCHENCK. I think there is no difficulty in understanding the agreement to which we have come. I therefore call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was agreed to.

Mr. SCHENCK moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARSHAL FOR DISTRICT OF COLUMBIA.

The House then resumed the consideration of House bill No. 288, to provide for the appointment of marshal for the District of Columbia; upon which Mr. LAWRENCE, of Ohio, was entitled to the floor.

Mr. LAWRENCE, of Ohio. I now yield five minutes of my time to the gentleman from Tennessee, [Mr. MULLINS.]

Mr. MULLINS. Mr. Speaker, five minutes is a very short time in which to meet the array of gentlemen on the other side who have pitched into our "bread and butter." [Laughter.]

Now, Mr. Speaker, I rise merely for the purpose of saying a few words in advocacy of the passage of this bill upon its intrinsic merits, regardless of what may be said about the majority party in this Congress being a "bread-and-butter" party. Of all the parties that ever existed on the Continent of America, the party represented by gentlemen on the other side has, God knows, the least apology for accusing any other party of being a "bread-and-butter party." Why, it has never been regarded in any other light; and we see an exemplification of its instincts in the manner in which its members lick at the "pillar of salt" up here at the other end of the avenue—not Lot's wife, but the great "I am." [Laughter.] They all go like the rat to the cheese, and nibble at him, so voracious are they for "bread and butter." And they have got their "bread and butter" at the expense of the people of this country until now their cakes, like those of Ephraim, are one side raw and the other burnt. [Laughter.] And I am sorry to say there is more blood in this matter than butter.

Now, sir, this officer here is unmistakably an officer of the court, and why should the President checkmate the court? Gentlemen speak of this "little, petty court." A few days ago, when we had before us another bill relating to the judiciary, the cry was different. In that bill we proposed to reach out our arms to save the life of the Government still imperiled. Gentlemen on the other side objected to that measure, contending that the Constitution does not allow us to defend the life of the Government. But, sir, the great law of self-preservation lies, thank God, deeper than the Constitution, and justifies any measures necessary for the preservation of the Government. This is a struggle for self-government, bread and butter to the contrary notwithstanding. [Laughter.]

When Mr. Fillmore went out of office there were $47,000,000 in the Treasury; and when Pierce came into power the great "bread-and-butter" party, represented by gentlemen on the other side, succeeded in reducing it to $17,000,000. Then when Mr. Buchanan came into power his Administration succeeded in using up, in the way of "bread and butter," not only that $17,000,000, but $87,000,000 of borrowed capital. Have gentlemen on the other side forgotten the declaration of an individual formerly living in the South, but who has long since paid the debt of nature, that their party was held together by "the cohesive power of public plunder?" That sentiment of John C. Calhoun stands on record to-day. Though he is dead his works live after him. Look at the condition of the country. It is hung in mourning. And yet the cry about "bread and butter" comes from the party which, following the teachings of Calhoun, brought on the rebellion which has deluged this land in blood. And the country is not yet out of peril; but we will save it, "bread and butter" to the contrary notwithstanding. We will have roast beef and two dollars a day, friend Stevens. [Laughter.] And it shall be none of your poor beef—not a bit of it; and it shall not be that beef which is dried on foot. Nor shall we have India-rubber biscuit. We shall have the pure brown bread and roast beef from the fattest cattle.

This bill proposes to declare that the marshal of this District shall be appointed by the supreme court of the District. If there is anything wrong in this measure let gentlemen tell what it is. Let them not complain about "bread and butter" and say that we are going about smelling into holes for the purpose of finding "bread and butter." God knows that of all the offensive holes there ever were in the world this "conservative" hole is the worst. Anybody can smell it without a nose. [Laughter.]

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio. I now yield three minutes to the gentleman from Indiana, [Mr. JULIAN.]

Mr. JULIAN. Mr. Speaker, there are two or three facts which I desire to state, and in the light of which this bill should be judged. In the first place, the officer against whom it is aimed is not charged with any misconduct or negligence in office. The gentleman representing the Judiciary Committee so admits, and no pretense to the contrary is set up. In the next place, this officer during the late war zealously espoused the cause of the Union, rendered that cause some valuable service, and in doing so separated himself from the party with which he had acted and its treasonable policy. For this he should not be punished. Finally, although his subsequent conduct in deserting the Republican cause and espousing that of the President is bad enough, and can find no defender or apologist in me, yet for this we have already punished him by the action of the last Congress, cutting down his emoluments to the lowest figure.

I agree, sir, with the gentleman from Pennsylvania, [Mr. STEVENS,] that these officers ought as a general rule to be appointed by the courts; and if a bill had been reported making this policy universal throughout the country, as a matter of principle, I would have raised no question on its passage. But this is not proposed. Most certainly it ought to be, if the purpose of this bill is defensible.

This one case is singled out here as the sole object of the Judiciary Committee, and without any reason for their action that I can perceive. Some of the members of the committee have frankly said to me that they regard the bill as a tolerably small specimen of legislation. It seems so to me; and while I am always inclined to question my own rectitude when I find myself mustering in the company of gentlemen on the other side of the House, and am known here and everywhere as a most pronounced Radical, yet I really doubt the propriety of doing so small a business here as the enactment of this bill. There is larger work before us, and great need of its performance.

Mr. ORTH. I wish the gentleman from Ohio to yield to me for one minute.

Mr. LAWRENCE, of Ohio. Not now. Mr. Speaker, I do not desire to occupy any considerable time in the closing remarks upon this subject.

It seems to me that this bill has been strangely misunderstood. The gentleman from Indiana [Mr. JULIAN] who last addressed the House, and the other gentleman from Indiana on my left, [Mr. HOLMAN,] have conceded that the general policy of authorizing courts to appoint their own officers is a wise one. This bill proposes, as to one of the courts, to carry out that policy. Their objection is not to the policy of the bill, but that it does not accomplish for all the courts what it proposes to accomplish for one. I submit if the policy be good for all of the courts it is good for the court in this District. When gentlemen concede the wisdom of the general policy proposed by this bill, I cannot comprehend the force of the objection that it does not accomplish all it might. Let us pass this bill and adopt this policy as to one of the courts, and if it is found to work well it may be extended to other courts.

But it is said by the gentleman from Illinois

[Mr. MARSHALL] that this is a proposition to turn a gentleman out and turn a partisan in. I suppose, as a general thing, the men who hold office in this country belong to, or, more properly, act with some political party. I submit it is no worse to turn a partisan in than to get a partisan out. Whoever will fill this place will belong to some political party, and the only question for us to decide is, what is the proper mode of appointment? Should it rest with the President or with the court?

Mr. Speaker, it is not suggested anywhere that there is any constitutional objection to this bill. On the contrary, we find that it is provided in the Constitution as follows:

"But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

The framers of the Constitution foresaw that if all officers were to be appointed by the President it would clothe him with an immense power, which might be wielded for political purposes, and never could be exercised with a personal knowledge of the merits or qualifications of those whom he might be asked to appoint. To avoid these evils it was wisely left to Congress to distribute the appointing power so that it could be more understandingly exercised, less liable to the fluctuations and changes of political parties, and made more conducive to the public interests. Heretofore the power of appointing the marshal has been in the President of the United States. I asked the gentleman from Illinois whether, from the very nature of the case and with the multiplied duties devolving upon the President of the United States, it was possible he could so well judge of the qualifications and claims of applicants for offices like this as could the courts of which they are officers? He made no answer to that question at all, and it is not pretended by any gentleman on this floor that the President can as well judge of men who ought to be appointed as the court themselves. I say, then, Mr. Speaker, that the object of the bill is to settle a policy right in itself in this regard, a policy against which no gentleman has dared to rise in his place and utter one word.

Mr. WASHBURNE, of Illinois. Will the gentleman yield to me to ask him a question?

Mr. LAWRENCE, of Ohio. Certainly.

Mr. WASHBURNE, of Illinois. Is not the object of this bill to put one man out and another man in? Is not that the purpose?

Mr. LAWRENCE, of Ohio. The object of the bill is to confer upon the court the power of appointment. The present incumbent may be an applicant for appointment if he desires. His qualifications are perfectly well understood by the court, and if his relations to the court and his merits give him superior claims to any other I do not see why he may not be reappointed.

Mr. WASHBURNE, of Illinois. Do I understand the gentleman to say that the present marshal is satisfactory to the court?

Mr. LAWRENCE, of Ohio. I say nothing upon that subject; I know nothing about it. I have heard no allegation against him by any member of the court. I wish to say this as a matter of justice to the court and to the marshal. I have no personal acquaintance with this officer, and can entertain no prejudice or feelings of disrespect toward him. I make no allegation against him, for I have none to make. I do not rest the merits of this bill upon the ground that it is expedient to turn any one out or put any one in, but on the ground of policy. If you pass this bill its principle may then be extended to other cases. The court ought to have the privilege of selecting officers of their own choice, in all respects acceptable to the judges, when no public necessity exists for a different course.

And now, Mr. Speaker, the gentleman from Illinois [Mr. MARSHALL] tells us that the marshal of the District occupies certain social and personal relations with the President; that usage has made it his duty to be present at receptions and render such aid as he may to the President on occasions like that. Sir, there is no law which makes that any part of his duty. I believe it is perfectly well understood that that duty has been performed not only by the marshal of the District, but by the late Commissioner of Public Buildings and Grounds; and the President can select any gentleman, official or otherwise, to perform that duty. There is no special reason or propriety in devolving that duty upon the marshal of the District. The relations of the marshal with the court are both official and personal, and these render it extremely proper, both for the marshal and the court, that the most perfect accord should exist between them. How this may be now I do not know or care, nor do I make any allegations upon the subject. I put this measure entirely upon other grounds.

It is alleged that this is a partisan measure. I submit to the House that this is one measure, at least, which is not partisan, but which seeks to remove from partisan politics the appointment of officers. Why, sir, what is the position of the gentleman from Illinois and those who oppose this bill? It is that the appointments of the Government shall be consolidated in the hands of the President. I say that our policy is to distribute these appointments so that we may not concentrate all power in the hands of one man. We all know that the political wheel in its revolutions turns one President out and puts another in, and that if all appointments are in the hands of the President we are more likely to have periodically a grand sweep of all officers upon purely partisan grounds than we can have if the appointments are distributed among the courts and heads of the Departments, and in those hands to which Congress may, by the Constitution, assign appointments. The necessary tendency and effect of this bill will be to destroy the theory of partisan appointments, and by distributing them in various hands to remove from the appointing power the temptation to make changes merely for partisan purposes. The courts of the country, it is to be hoped, will be influenced less by partisan considerations than Presidents have been for the last thirty years.

It is said that this bill will turn a soldier out. I have already said that the bill will not necessarily do any such thing. But if it shall turn an equally or vastly more meritorious soldier in, there can be no ground of complaint on that score. I know no reason why any gentleman should lay continued claim to office to the exclusion of other soldiers equally meritorious with himself.

And now, sir, has any gentleman given any reason for continuing this appointing power with the President?

Sir, the great danger of the Republic lies in the overshadowing power and patronage of the executive branch of the Government. We have seen great intellects yielding to the love of office, and sacrificing principle to hold on to place. We have seen this one-man power of appointment reaching out into every portion of our wide domain, corrupting all who were base enough to betray principle, country, and all its interests to gain or hold official position, and attempting to strike down the power of the people whose will should be the supreme law.

This, sir, is at war with the fundamental principles of our Government. A similar power on any large scale is utterly unknown in the States. The people would not tolerate it there for a day. Unless this gigantic power in the national Government be shorn of its strength, as it will be in part by distributing it in many hands, it may yet prove that ours is a Republic only in name if it does not accomplish our overthrow. I hope the bill will pass.

I now ask that the vote be taken.

Mr. WOODBRIDGE. I ask the gentleman to yield to me a few moments.

Mr. LAWRENCE, of Ohio. I yield to my colleague on the committee the remaining five minutes of my time.

Mr. WOODBRIDGE. Mr. Speaker, as I voted in the committee in favor of this bill, and as I voted for a bill of a similar character at the last session of Congress, I desire in a moment to give the reasons why I did so vote. I did not cast my vote for this proposition because I desired to take these appointments from the President. I did not cast my vote for it because I am dissatisfied with the present marshal of this district. He was an ardent friend of President Lincoln, and he was a Republican, as I understand, of activity and influence in the State of Indiana. What his politics are now I do not know, but as I do not much believe in falling from grace I presume he is a Republican still. But, sir, I voted for this bill in the committee simply upon the principle that these officers were officers of the court, and that as such their appointment should be with the judges of the court. If one man has the appointing power independent of the court, then, without reference to politics, a person may hold the office beyond and outside of the control of the court, and hence the duties of his office are liable to be improperly performed.

Mr. HOLMAN. Will the gentleman allow me a single question? I desire to know if the grounds of the gentleman's action are sufficient to sustain it. Why does he not favor a bill proposing to confer upon all the Federal courts the power to appoint their marshals? Why apply the rule to a single officer?

Mr. WOODBRIDGE. Because the Federal courts are differently constituted from the courts in this District, and the officers in the Federal courts that are analogous to the marshal of this District have duties to perform that are very different from those performed by the marshal. He is appointed to execute the processes of the court, and the jailor is also appointed to execute those duties which are under the direction of the court. Hence I say that they, being simply the officers of the court, should be appointed by that body whose servants they are.

There is nothing partisan in this matter, and there is certainly nothing unconstitutional in it, because by the terms of the Constitution we have a right to confer these appointments upon these judicial tribunals which are established under the laws of the United States. I believe it would be better to pass this bill. I believe that public duties devolving upon these officers would be better performed by passing it; and I certainly desire here to divest myself, in the opinion of gentlemen around me, of any sort of partisan policy or political motive in the views which I give respecting the bill, and of the right of the President to appoint these officers. It seems the President would agree with me on this subject. Presidents change—change with the will of the people. Courts do not, except as they are changed by death or resignation; they have no political motives to govern their course; they are actuated merely by a sense of their duty; and I have no doubt that it would be wiser and better for these officers to be appointed by the courts whose servants they are than to be appointed by the President, or by anybody else, where they may be put in and put out merely upon political grounds.

[Here the hammer fell.]

Mr. ORTH. Believing that this bill ought not to pass, I move to lay it on the table.

The question was put; and there were—ayes 72, noes 52.

Mr. LAWRENCE, of Ohio, demanded tellers.

Tellers were ordered; and Messrs. ORTH and LAWRENCE of Ohio were appointed.

The House divided; and the tellers reported—ayes 72, noes 45.

Mr. LAWRENCE, of Ohio, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 61, not voting 42; as follows:

YEAS—Messrs. Adams, Allison, Arnell, Axtell,

Baldwin, Barnum, Beaman, Beck, Benton, Blair, Boyer, Bromwell, Brooks, Burr, Cary, Dawes, Dixon, Dodge, Donnelly, Driggs, Eldridge, Eliot, Ferry, Fox, Getz, Glossbrenner, Goldaday, Griswold, Grover, Haight, Halsey, Harding, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Johnson, Jones, Julian, Kelley, Kerr, Ketcham, Knott, Koontz, Lincoln, Loughridge, Marshall, Marvin, Moorhead, Mungen, Nibback, Nicholson, Orth, Paine, Perham, Phelps, Poland, Pomeroy, Pruyn, Robertson, Robinson, Ross, Sawyer, Sitgreaves, Smith, Stewart, Taylor, Taber, Law rence S. Trimble, Twichell, Van Auken, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, William Williams, Windom, Wood, and Woodward—85.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, Bailey, Baker, Bingham, Boutwell, Broomall, Buckland, Butler, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Eckley, Eggleston, Ela, Ferriss, Fields, Gravely, Higby, Hooper, Hopkins, Asahel W. Hubbard, Ingersoll, Judd, Kelsey, William Lawrence, Logan, Maynard, McCarthy, Mercur, Miller, Moore, Mullins, Myers, Newcomb, Nunn, O'Neill, Peters, Pile, Price, Schenck, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—61.

NOT VOTING—Messrs. Archer, James M. Ashley, Banks, Barnes, Benjamin, Blaine, Cake, Chanler, Churchill, Cornell, Covode, Farnsworth, Finney, Garfield, Hawkins, Hill, Kitchen, Laflin, George V. Lawrence, Loan, Lynch, Mallory, McClurg, McCormick, McCullough, Morgan, Morrell, Morrissey, Pike, Plants, Polsley, Randall, Raum, Selye, Shellabarger, Spalding, Starkweather, Stokes, Stone, John Trimble, Upson, and Ward—42.

So the bill was laid on the table.

Mr. ORTH moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SOUTHERN LAND GRANTS.

The SPEAKER. The next business before the House is a bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes.

This bill was recommitted to the Committee on Public Lands. On the 10th of December the gentleman from Indiana, [Mr. JULIAN,] the chairman of the committee, moved a reconsideration of the vote by which the bill was recommitted, and on the 20th of December the further consideration of that motion was postponed until Tuesday, January 14, after the morning hour. It is now reached in the regular order of business, and the gentleman from Indiana [Mr. JULIAN] is entitled to the floor.

Mr. SCOFIELD. I ask the gentleman to allow me to introduce a joint resolution for reference.

Mr. JULIAN. I yield for that purpose.

THOMAS H. STEVENS.

Mr. SCOFIELD, by unanimous consent, introduced a joint resolution (H. R. No. 172) relative to Captain Thomas H. Stevens, United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

REPEAL OF COTTON TAX.

Mr. LOGAN, from a committee of conference, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 207, to provide for the exemption of cotton from internal taxation, having met, after full and free conference, have to report that they are unable to agree.

J. A. LOGAN,
HORACE MAYNARD,
JAMES BROOKS,
Managers on the part of the House.

JOHN SHERMAN,
ROSCOE CONKLING,
J. S. MORRILL,
Managers on the part of the Senate.

The report was received, and the committee discharged.

Mr. LOGAN. I move that the House still further insist upon its disagreement to the amendments of the Senate, and ask for the appointment of another committee of conference.

The motion was agreed to.

RECONSTRUCTION, DEFICIENCY BILL, ETC.

Mr. BUTLER, from the Committee on Appropriations, reported back the amendments of the Senate to House bill No. 320, making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws, and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, with a report, as follows:

The Committee on Appropriations, to whom the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws, and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, with the amendments of the Senate thereto, was referred, having considered the same, beg leave to report as follows:

That they recommend concurrence with the amendments of the Senate, numbered, one, two, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen.

That they recommend non-concurrence with the amendment of the Senate numbered fourteen.

That they recommend concurrence with the amendment of the Senate numbered three, with an amendment as follows:

Provided, That no Senator or Representative shall receive any newspapers except the Congressional Globe, or stationery, or commutation therefor, exceeding $125, for any one session of Congress.

Mr. BUTLER. It will be recollected that the Senate added as an amendment a section in which they undertook to regulate the transfer of appropriations from one branch of the service to another. The Committee on Appropriations have had that subject under consideration, and have instructed me to report a separate bill on the subject, as they deem it best not to tack it on to an appropriation bill.

We have also reported a proviso to one of their amendments, which is stated in the report of the committee. That is the only addition we make to any Senate amendment.

The question was upon concurring with the amendments of the Senate.

Mr. ROBINSON. I move that the House now adjourn.

Mr. WASHBURNE, of Illinois. I hope we will first pass upon this deficiency bill. There are employés of the Government now suffering for want of their pay, which they have not received for months.

Mr. ROBINSON. It is now pretty late, and I think we had better adjourn.

Mr. WASHBURNE, of Illinois. I hope the House will not adjourn until some arrangement is made for the consideration of this bill at some hour to-morrow.

The SPEAKER. If the House shall adjourn now this bill will come up as unfinished business the first thing after the reading of the Journal to-morrow morning.

Mr. WASHBURNE, of Illinois. I desire some arrangement by which this bill can be considered in the House instead of being referred to the Committee of the Whole.

The SPEAKER. The bill is now before the House for consideration, the point of order under the rule not having been raised when the bill and amendments were reported from the Committee on Appropriations.

Mr. ROBINSON. I insist upon my motion to adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. AMES: The petition of Walter B. Studley and others, citizens of Abington, Massachusetts, for the passage of a law protecting the rights of naturalized citizens.

By Mr. BLAINE: The petition of W. McK. Jordan, of Pensacola, Florida, for relief from disfranchisement.

By Mr. BLAIR: The petition of a large number of citizens of the third congressional district of Michigan, requesting Congress to declare the rights of naturalized citizens abroad.

Also, the petition of several veterans of the war of 1812, for a pension law in their favor.

By Mr. DAWES: The proceedings of a public meeting of citizens of Hampden county, Massachusetts, protesting against the treatment received by American citizens traveling abroad, and asking the intervention of our Government.

By Mr. ELIOT: The petition of the American Freedmen Union Commission, praying for continuance of the law establishing the Bureau of Freedmen and Refugees.

By Mr. FLANDERS: The petition of Thomas Redman, asking a pension.

By Mr. LAWRENCE, of Ohio: The petition of John Hamilton, of Urbana, Ohio, for a pension.

Also, the petition of Sarah A. Wilklow, widow of Myron Wilklow, late of company B, forty-seventh Ohio volunteers, and M. Warren, attorney, for pension.

Also, the petition for pension to Hester Faulkner, widow of John Faulkner, private company G, third Ohio volunteer cavalry, by S. T. McMorran and others.

Also, the petition of Aaron Devers, of Mechanisburg, Ohio, for a pension.

Also, the petition of William Hutchen, of Ginghamsburg, Ohio, for a pension.

Also, papers relative to the pension claim No. 24382 of Dr. Jedediah H. Dorwin, of Laura, Ohio.

Also, papers relative to the claim of Albert E. Grafton, first lieutenant of company C, one hundred and thirteenth Ohio volunteer infantry, and petition of his attorney, S. T. McMorran, for an act to enable him to draw his pay.

By Mr. SELYE: A memorial of the citizens of Rochester, New York, asking for an amendment of the law granting pensions to the soldiers of the war of 1812.

Also, a memorial of 5,000 citizens of the twenty-eighth congressional district of New York, asking for further protection to citizens of foreign birth while traveling or sojourning in foreign countries.

By Mr. STARKWEATHER: The petition of many citizens of the third congressional district of Connecticut, praying for such legislative action as shall define the status of naturalized citizens, and compel the Government of Great Britain to recognize the validity of the naturalization of such citizens.

By Mr. TROWBRIDGE: The petition of Robert H. Jenks, Henry Whiting, and 10 others, citizens of St. Clair, Michigan, earnestly urging the importance of a repeal of the internal taxes on manufactures and productions, except luxuries, with such simplifying and changing of the tax list as shall remove burdens wholly unnecessary, and thus relieve and stimulate the productive industry of the country.

By Mr. WASHBURN, of Wisconsin: The petition of citizens of Dodge county, Nebraska, for a reduction of the freight and passenger tariff of the Union Pacific Railroad Company.

By Mr. WILSON, of Pennsylvania: A letter from Oliver Donaldson and William Larkin and the petition of 686 others, citizens of the eighteenth congressional district of Pennsylvania, praying Congress to take such legislative action as will not only define the status of naturalized citizens of this Republic before the world, but also compel the Government of Great Britain to recognize the validity of the naturalization of those citizens whom she holds in durance, and to do justice to them by reinstating them in the rights and immunities of which they have been deprived in violation of their rights as American citizens.

NOTICE OF BILLS.

The following notice for leave to introduce bills was given under the rule:

By Mr. ELIOT: A bill to encourage the establishment of public marine schools; and

A bill to provide for the examination of masters and mates in the merchant service.

IN SENATE.

WEDNESDAY, *January* 22, 1868.

Prayer by Rev. B. LORABEE, D. D., of Massachusetts.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The bill (H. R. No. 503) for the relief of William B. Todd was read twice by its title, and referred to the Committee on the District of Columbia.

The joint resolution (H. R. No. 171) for the relief of destitute persons in the South was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 167) in relation to the prosecution of claims before the Executive Departments was read twice by its title, and on motion of Mr. CONNESS, referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 104) authorizing the transmission through the mails free of postage of certain certificates by the adjutant general of New Hampshire was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

SUPPLEMENTARY RECONSTRUCTION BILL.

The bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, was read a first time by its title.

Mr. DOOLITTLE. I feel constrained to object to the second reading of that bill this morning.

The PRESIDENT *pro tempore*. Then it goes over.

Mr. DOOLITTLE. I desire to state the ground of my objection. It is not for the purpose of delay, but I wish to address the Senate on a motion to instruct the Judiciary Committee in relation to that bill, and to move a certain amendment before it shall go to the Committee. I am prepared to go on and address the Senate this morning, but I do not desire to interrupt the morning hour, and the case of Mr. Thomas is pending before the Senate, and I do not wish to interrupt the discussion on that. My objection is not for the sake of delay, but for the reason I have stated.

The PRESIDENT *pro tempore*. Of course the bill cannot be read the second time now, objection being made.

CONTRACTS FOR STATIONERY.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year.

The amendment, which was in lines three and four, to strike out the words "in the present unsettled state of prices," was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 213) to suspend further reduction of the currency.

The message also announced that the House further insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. R. C. SCHENCK of Ohio, Mr. J. K. MOORHEAD of Pennsylvania, and Mr. C. B. BECK of Kentucky, managers at the same on its part.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 96) to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river, and establish a post route;

A bill (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864;

A bill (H. R. No. 296) to establish and declare the railroad and bridge of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road, and for other purposes; and

A joint resolution (H. R. No. 132) in regard to the construction of section ten of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes."

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, transmitting an estimate from the Commissioner of Indian Affairs of appropriations required for supplying deficiencies in the appropriations made for the Sioux Indians, in Dakota, Arickarees, Gros-Ventres, Mandans, Crows, and Yanktons, for the fiscal year ending June 30, 1868, and for subsistence purchased for the Poncas; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of the State of Wisconsin, asking a grant of lands to that State for the purpose of building a wagon road from the village of Chippewa Falls, in Chippewa county, Wisconsin, to Ashland, in the county of Ashland, in that State; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of Dakota Territory, in favor of a grant of land to aid in the construction of a railroad from Sioux City, Iowa, to the mouth of the Big Cheyenne river, in Dakota Territory; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of Dakota Territory, in favor of a grant of land to aid in the construction of a railroad from the Minnesota State line to the Missouri river, at Yankton, Dakota Territory; which was referred to the Committee on Public Lands.

Mr. WILLEY presented a petition of R. B. Williamson, praying compensation for property taken by United States troops in 1862; which was referred to the Committee on Claims.

He also presented the petition of William Burley, of Virginia, praying compensation for forage taken by United States troops during the late rebellion; which was referred to the Committee on Claims.

Mr. POMEROY presented a memorial of the Legislative Assembly of the Territory of Dakota, in favor of a grant of land to aid in the construction of a railroad from Sioux City, Iowa, to the mouth of Big Cheyenne river, in Dakota; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of the Territory of Dakota in favor of a grant of land to the Minnesota and Missouri Railroad Company to aid in the construction of a railroad from the Minnesota State line to the Missouri river at Yankton, Dakota; which was referred to the Committee on Public Lands.

Mr. VAN WINKLE presented a petition of Charles A. Pitcher, praying compensation for the use of a valuable patent of the petitioner's in the penitentiary in the District of Columbia; which was referred to the Committee on Claims.

Mr. CONNESS. I present the memorial and statement of a large number of American citizens resident in Japan, giving an account of the affair and engagement between the United States steamship Wyoming, commanded by Captain David McDougal, and the Japanese forts and ships-of-war, which is connected with many other papers relating to the same matters. This affair, it appears, has never been noticed by the Government in any manner whatever; and although a large and considerable indemnity was exacted because of the part taken by our naval forces in those seas in compensation for the injury done us, no act has ever transpired on the part of the Government proposing to give compensation or even thanks to the gallant officers and men who did us such great credit on that occasion. I present this statement and memorial of foreign residents in Japan concerning this matter, together with many other papers connected with the affair, and move their reference to the Committee on Naval Affairs.

The motion was agreed to.

Mr. SUMNER. I present a report and resolutions in the nature of a petition, adopted by the Knights of St. Patrick in New York, which have been communicated to me by their President with a request that I would lay them before the Senate. In these resolutions it is set forth that certain American citizens are now detained without cause by the British Government; and it is alleged to be the duty of the Executive to interfere promptly in their behalf; and in their resolutions the Executive is most earnestly urged to such interference. I offer this paper and ask its reference to the Committee on Foreign Relations.

It was so referred.

Mr. CONKLING. I present a petition very numerously signed by citizens of different States, praying appropriation for the removal of obstructions which impede the navigation of the East river in New York harbor at Hurl Gate. In presenting this petition I beg to say that the subject is a very important one. The present condition of this entrance involves an annual loss stated to be upward of a million dollars, and the belief of these petitioners is that a moderate appropriation properly applied would be of immense service to the commerce of the country. I move that the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. DRAKE. I present the petition of William C. Anderson, of Missouri, praying the passage of an act authorizing the settlement on principles of equity of the accounts of William C. Anderson, sr., late pension agent at St. Louis, Missouri. I do not know exactly to what committee the petition should go; it is not a claim that is made by the petitioner, but simply a request for the interposition of Congress to authorize a settlement of accounts between his deceased father and the Government on principles of equity, owing to the fact that his father was struck with paralysis and unable to make out and close his accounts with the Government before he died. It seems to me rather appropriate that the petition should go to the Committee on Finance, and I move its reference to that committee.

The motion was agreed to.

Mr. TRUMBULL. I have received and been requested to present to the Senate a memorial adopted at the national convention of manufacturers, assembled at Cleveland, Ohio, December 18, 1867, complaining of the manner in which appointments and removals are made of officers connected with the collection and disbursements of the public moneys, and recommending that a system of examination should be adopted into the moral and educational fitness of all candidates for office. I move the reference of this petition to the Committee on Retrenchment, which I believe has that subject in charge.

The motion was agreed to.

CONTRACTION OF THE CURRENCY.

Mr. CATTELL, from the committee of conference on the bill (H. R. No. 213) to suspend further reduction of the currency, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill of the House No. 213, to suspend

further reduction of the currency, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendment, and agree to the bill of the House with an amendment, as follows:

Add to the said bill of the House the words "but nothing herein contained shall prevent the cancellation and destruction of mutilated United States notes and the replacing of the same with notes of the same character and amount."

And the House agree to the same.

A. G. CATTELL,
LYMAN TRUMBULL,
O. P. MORTON,
Managers on the part of the Senate.

ROBERT C. SCHENCK,
SAMUEL HOOPER,
WILLIAM E. NIBLACK,
Managers on the part of the House.

The report was concurred in.

COTTON TAX.

Mr. SHERMAN, from the committee of conference on the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 207, to provide for the exemption of cotton from internal tax, having met, after full and free conference, have to report that they are unable to agree.

JOHN SHERMAN,
ROSCOE CONKLING,
J. S. MORRILL,
Managers on the part of the Senate.

J. A. LOGAN,
HORACE MAYNARD,
JAMES BROOKS,
Managers on the part of the House.

Mr. SHERMAN. The House of Representatives have asked for another committee of conference. The Senate conferees were not prepared to abandon the position taken by the Senate; and now, in order to relieve us from the difficulty in which we are placed, I will move that the Senate agree to the further conference asked for by the House of Representatives, and that the Senate conferees be instructed to recede from the Senate amendments, with some provision allowing imported cotton to be admitted duty free. I will make this motion with a view to relieve the difficulty that exists between the two Houses on the cotton-tax bill. It should be remembered by Senators that the House passed a bill repealing or suspending indefinitely the cotton tax. The Senate amended the bill so as to suspend the tax for a year simply. The House conferees, in the free conference which we had, refused to agree to that amendment, and as things now stand the bill will be lost unless some arrangement is made by which a concurrence may be brought about. For the purpose of doing that I move that we agree to the new conference, and that the second committee of conference on the part of the Senate be instructed to recede from the Senate amendments, with some provision, which the House, I understand, are willing to agree to, that imported cotton shall be admitted duty free, so as to restore the state of the law to the precise condition it was before the war. I make that motion. I do not propose to discuss it.

Mr. HENDRICKS. I would inquire of the Senator from Ohio when that provision in regard to the duty on imported cotton found its way into our legislation? I do not understand that that was one of the provisions of the Senate; was it?

Mr. SHERMAN. Certainly. That is now a part of the proposition of the Senate, and the House conferees were willing to agree to that. I will state further that in the tariff laws of 1861 and 1857 and 1846—we have looked back that far—there was no duty on imported cotton. The reason the provision was inserted here by the Senate is, that there are some few manufacturing establishments in the United States which use a little Surat cotton for the purpose of making coarse fabrics, and it is necessary that they should be placed on an equal footing with the English manufacturers manufacturing these coarse fabrics for exportation. There is really no objection to the provision; it was in the tariff laws for twenty years. The House is willing to agree to that portion of our amendments, but is not willing to agree to a mere temporary suspension of the cotton tax.

Mr. MORRILL, of Vermont. Mr. President, I trust that the proposition of the Senator from Ohio will not be adopted. Of course I need not say that I am opposed to any action which wholly repeals the tax, whether of the House or Senate. The proposition made by the Senator was to suspend the tax on cotton for one year. The proposition of the House was to repeal the tax after the present year—that is to say, to apply the repeal to crops produced after next year. I should like to know how you can apply the law so as to tax the crop of one year and exempt that of the next, or all which may follow? When is the point of time that is to be fixed? How are you to designate it? I am not in favor of doing anything of this sort, but the majority of the Senate have decided this point.

Mr. SHERMAN. I do not understand the Senator.

Mr. MORRILL, of Vermont, I am merely stating the proposition of the House, and contrasting it with that of the Senate.

But, Mr. President, this question has been fully discussed, and at the last discussion I suppose the minds of many Senators here were influenced more or less in consequence of a report made by the Boston Board of Trade. I desire to call attention to some of the alleged facts that we were required to accept as reported by the Board of Trade. One was that we might expect a supply of cotton next year from Egypt of two hundred and fifty thousand bales. Any one who has examined the subject will find that that is an over-statement, that nobody expects more than two hundred thousand bales. Another statement was that there would be a stock on hand next year of one million four hundred thousand bales, and that there was on hand on the 1st of October a stock of one million ninety-two thousand bales. Now, sir, on the 1st of September last there were seven hundred and eighty thousand bales of cotton on hand in Liverpool, but since that time the stock on hand in Liverpool has gone down to about four hundred thousand bales. One day last week it was less than four hundred thousand, and the last telegraphic report left it at four hundred and twenty-five thousand. The stock on hand in New York has decreased since the commencement of the debate on this bill, I think, from one hundred and five thousand bales to less than seventy-five thousand bales. This does not indicate the enormous accumulation at the end of the year predicted by the Boston report.

Another statement here is that the amount of cotton to be expected from all other countries, besides America, Egypt, and India, is nine hundred thousand bales. If you will look at the report of our commissioner, Wells, made last year, you will find that the whole amount that we received from all other countries from 1861 to 1865 averaged less than three hundred thousand bales a year, notwithstanding the stimulus of most extravagant prices; and yet this report would give us to understand that there will be nine hundred thousand next year. The exact average amount received annually from 1861 to 1865, I think, you will find by looking at the report was two hundred and seventy thousand bales. It is on the basis of such speculations that we are called upon to act.

Another statement is that we may expect from India seventeen hundred and fifty thousand bales. Up to this time there have been exported and received from India about four hundred thousand bales, leaving the amount of thirteen hundred and fifty thousand bales to be received during the residue of the year. Does anybody expect that statement will be fulfilled by the facts hereafter to transpire? No one expects any such amount can be received from India during the rest of the year.

Another fact to which I desire to call the attention of the Senate is that since we have been discussing this question, as I predicted would be the fact, the price of cotton in New York has risen two and a half cents a pound. It was fifteen cents when the debate began; the day before yesterday it was seventeen and a half, and I suppose we may expect that it will rise to twenty cents a pound. The stock of cotton required to supply the world is greater and the supply smaller than was represented when the great fall in the price of cotton commenced last summer.

Mr. President, I was in hopes that this question would be postponed until we could consider the whole subject. I suppose it may not be many weeks before we shall have the subject of the internal revenue laws in full before us; and why the necessity for acting on this question now? What need of haste is there about it? This is not intended to operate at all on the crop of this year. I think it had much better be postponed until the general subject is considered; but at all events I trust the Senate will stand by the position it has heretofore assumed on this question, and not yield up everything, after so long and so full a debate.

Mr. CONKLING. I think it fair, before the Senate votes upon this proposition, that it should know one fact in reference to the management of the question in the conference committee. I will venture to state so much of what transpired in committee as this: the managers on the part of the Senate did not stand simply upon the vote of the Senate in what they proposed, but the sense of the managers on the part of the House was taken upon a proposition suspending the tax, in accordance with the vote of the Senate, for a year and reducing it largely for the future if it should continue. That proposition was rejected, and the managers on the part of the House stood simply, first and last, upon the bill as passed by the House. As the honorable Senator from Ohio [Mr. SHERMAN] has said, there was no contrariety of opinion in reference to the provision of the Senate amendments touching the import duty upon foreign cotton; but as to the subject-matter which the conference really met to dispose of, there was no proposition on the part of the managers of the House except that we should accept the House bill precisely as it stood. In that view of the case, and regardless of the private convictions of the managers on the part of the Senate, it was thought that we were not at liberty to part with the whole question and sacrifice the position which had been taken by the Senate twice upon a vote by the yeas and nays by a decided majority; and, indeed, a third time by ordering the conference.

Mr. SHERMAN. The Senator from New York has stated substantially the result of the conference. The Senate conferees, as a matter of course, stood by the position of the Senate; but the House conferees insisted that to suspend the tax for one year, with a threat or a provision that it should be renewed after that, would only deter people from embarking in this enterprise, and that it was much more important for us now to encourage the cultivation of cotton than to discourage it by any suspending over the producers of the sword of Damocles or any threat of a tax, and therefore they insisted on a general suspension or repeal of the cotton tax. They told us a vote had been taken in the other House, and there had been great unanimity on the subject, and hence they were not at liberty to yield their position. It is manifest that either the Senate or the House must yield somewhat. They proposed to us an unconditional repeal of the cotton tax. We submitted to them two propositions: one that the cotton tax should only be suspended for one year; and second, that imported cotton should be admitted duty free. They made no point on the latter clause, and were willing to agree to that; but they insisted that this tax should be removed, and they further notified us, as we are already informed by the newspapers, that proceedings are being had now in the House looking to a general reduction of taxes on productive industry, and that we may anticipate in the course of the session some general legislation of that kind to relieve

the great body of the manufacturing industry of the country from internal taxation.

Of course when I was acting on the conference I acted for the Senate, but as an individual member of the body I think that this is the best solution of the question. I think it is better for us at once to relieve the production of cotton not only from all tax but from all threats of future taxation. I believe that this would be a mere empty threat, that the tax suspended for one year would never be renewed. Why, then, continue to hang such a threat over the industry of the South and prevent the people from embarking in this enterprise? I do not wish to discuss it, because enough has been already said. I have no doubt the Senate is ready to express its decision.

Mr. CONKLING. It is proper, perhaps, to state that the managers on the part of the Senate did not forget the obvious answer to this argument made on the part of the House. The House managers did remind us that the papers had informed us that the expectation was to emancipate industry generally, to take away the taxation from manufactured articles as a general rule. In answer to that we stated that if the event should prove so, if, when the general revenue measure was brought forward, such a general reduction could and should be made, it was a matter of course that the cotton tax would go with it; and that any argument which went to show that we could dispense with it once for all would prove practically that the whole point was gained by taking at this moment a suspension for a single year, it being certain, in the event they supposed of a general reduction of the taxes, that it would never be resumed. It seems to me that that argument very fully met the position; and that, if it be true, as I hope it is, that the Ways and Means Committee of the two Houses will be able to reduce the taxes so generally as they propose, and entirely to emancipate, as I hope they will, all manufactures from taxation, then the whole point as to cotton is gained; for every Senator can see that under such circumstances the tax will not be restored or enforced again.

Mr. CONNESS. As I shall now vote for the instructions that are asked for by the chairman of the committee, and I voted heretofore against the House bill, I feel disposed to say one word in explanation of my course. I voted against the House bill because I believed it was the duty of the Finance Committees of the two Houses to enter upon a general system of reduction of taxation, and to include the cotton question in that general reduction. We advance in the session and that is not done. If this tax is to be reduced at all, as has been properly stated in the debate, it should be done soon. We now have the assurance of the committees that they contemplate a general reduction of internal taxes upon the productive industry and manufactures of the country. I would have been better pleased if the honorable chairman had been prepared to say that the committees would enter upon that work at once, in place of having said, as he has, that before the session is over they will do it. There is, in my opinion, no one subject that demands such immediate attention from both Houses of Congress as the reduction of the internal taxation now oppressing the industries of this country. But, sir, I feel disposed not to prolong by my vote this disputation; I merely state these as my reasons for the vote I shall give.

Mr. ANTHONY. I should like to have the pending motion read.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio will be read.

The Secretary read as follows:

Resolved, That the Senate agree to the further conference asked by the House of Representatives on the disagreeing votes of the two Houses on bill (H. R. No. 207) to exempt cotton from internal tax, and that the conferees on the part of the Senate be instructed to recede from the amendments of the Senate to the said bill, and to agree to an amendment to the bill which shall provide for the importation of cotton free of duty.

Mr. ANTHONY. I should like to have the resolution worded differently, that the committee be instructed to recede from the amendments of the Senate, except that amendment which relates to imported cotton. That amendment with regard to imported cotton is very happily expressed, and I do not like to lose it and take the chance of what may come.

Mr. SHERMAN. I do not care in what form it is put; the Senator can have it in any form he pleases, that is, the effect of it. I made the motion verbally and the Secretary has put it in writing in the form read.

Mr. ANTHONY. If the Senate is prepared to recede from its main amendment to the bill on condition that the amendment removing the duty from imported cotton is retained what is the use of having another committee of conference? Why not take that action at once ourselves?

Mr. SHERMAN. I thought so at first, but we have no power to amend our amendment. I am so informed by the Chief Clerk, and on looking at the rules I find he is correct.

Mr. ANTHONY. Then I wish the Senator would vary his motion so as to recede from the Senate amendments, except the amendment which relates to imported cotton. That is much more important than is generally supposed, and I think the amendment is very happily worded.

Mr. SHERMAN. I have no objection to that.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio, as modified, will be read.

The Secretary read as follows:

Resolved, That the Senate agree to the further conference asked by the House of Representatives on the disagreeing votes of the two Houses on the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, and that the conferees on the part of the Senate be instructed to recede from the amendments of the Senate to the said bill, except that part of the amendments which relates to imported cotton.

Mr. MORTON. These apparently harmless instructions that are moved by the chairman of the committee require the Senate to abandon its entire policy upon this subject, and to agree that in the future for all time there shall be no tax upon cotton. I do not intend to go into a discussion of the question, but I move to amend the instructions which have been proposed by substituting for them a direction that the conferees agree to a provision for a suspension of the entire tax on cotton during the year 1868, and that the tax thereafter be one cent per pound.

Mr. SHERMAN. The Senator was not in, I think, and did not hear the statement made by the Senator from New York. He stated that the conferees on the part of the Senate made that proposition. It is scarcely worth while to renew it.

Mr. MORTON. If the Senate is to yield its point and its policy in order that there may be an agreement that is an argument I shall not attempt to answer. I propose to amend the instructions in the way I have said, and on the amendment I ask for the yeas and nays.

The yeas and nays were ordered; and being taken resulted—yeas 18, nays 23; as follows:

YEAS — Messrs. Cole, Conkling, Cragin, Drake, Edmunds, Ferry, Fessenden, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Ramsey, Sumner, Thayer, Tipton, and Wade—18.

NAYS—Messrs. Anthony, Bayard, Buckalew, Cattell, Conness, Davis, Dixon, Doolittle, Frelinghuysen, Grimes, Hendricks, Johnson, Morgan, Norton, Patterson of Tennessee, Pomeroy, Sherman, Sprague, Trumbull, Van Winkle, Willey, Williams, and Wilson—23.

ABSENT—Messrs. Cameron, Chandler, Corbett, Fowler, Guthrie, Henderson, Nye, Patterson of New Hampshire, Ross, Saulsbury, Stewart, and Yates—12.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question is now on the motion of the Senator from Ohio.

Mr. HOWE. I am not going to occupy the time of the Senate in opposing this motion, but I am going to vote against it. I think the proposed action illustrates the fatality that is apt to attend legislation when under the control of sympathy. I recollect this bill was brought in here very early in the session, and was urged upon our immediate attention upon the ground that for want of such a measure of relief our erring brethren down South were starving to death, and therefore we must hurry to take off the tax on cotton to save life; and their poverty and their destitution were brandished in our faces until I began to feel a little sick at the stomach myself, and began to think there was or might be an urgent occasion for relief. The Senator from Massachusetts [Mr. WILSON] took occasion toward the close of the debate to urge that view of the case upon us, but he dropped some remarks in the course of his observations which led me to think at the time, and I believe it was mentioned by some one, that, after all, the distress might be in another quarter instead of that which we had heard so much about; and now the proposition seems to come down into simply this: that in order to relieve the producers of cotton, who are starving to death down there, we must enable the manufacturers of cotton to buy without any duty or any tax; we must import it free and we must raise it free.

Now, that of itself is a proposition that I like. I have said before, and I say it again, I do not like these taxes that you impose upon the industry of the country. The Senator from Ohio encourages us to believe that measures will be devised by which we can relieve the country from all these taxes. If you wait until you present us such a measure you will find no man on this floor give it a more hearty or cordial support than I will; but why are we to be asked now to pledge ourselves against all taxes upon this one kind of production, a large portion of which, we have been told from the beginning, was paid not by the American consumer, but was paid by foreign consumers? Why, in the face and eyes of that fact, are we to be hurried——

The PRESIDENT *pro tempore*. The Senator will suspend his remarks. The hour has arrived when the unfinished business of yesterday is before the Senate.

Mr. SHERMAN. I hope that will be laid aside for the present.

Mr. DOOLITTLE. I have no objection to its going over informally for a few minutes without losing its place. It ought to be disposed of. The case of Mr. Thomas has been here for a very long time and discussed several days, and I hope we shall come to a vote.

The PRESIDENT *pro tempore*. Will the Senate agree to pass by the special order informally for the purpose of finishing this business? If there is no objection the Senator from Wisconsin [Mr. HOWE] will proceed.

No objection being made, the Senator will proceed.

Mr. HOWE. I was trying to say that I could not understand why we should be hurried into a pledge against a tax on this one kind of production. If the chairman of the Committee on Finance would be content to take a law which says the tax shall not be imposed at all during the present year, and then rely upon the assurance that he gives us that he will provide revenue without putting a tax on any industry, then he furnishes the producers of this material all the relief they want. But from the fact that he urges us now to pledge ourselves against putting a tax under any circumstances and at any time on this one production, I must say that I am led to distrust a little the assurance he gives us that he is going to be ready to relieve other branches of industry; and if you are going to tax production here at all this is the last kind of production that I want to see relieved.

The PRESIDENT *pro tempore*. The question is on agreeing to the motion of the Senator from Ohio.

Mr. HOWARD called for the yeas and nays, and they were ordered.

Mr. FESSENDEN. I wish simply to say that the Committee on Finance, for whom, collectively and individually, I have very high respect, always seem to be traveling in a very

interesting road. I believe we have had three bills from that committee at this session. One of them proposes, as it has passed, a large expansion of the currency, because under the lead of that committee the Senate voted down the idea that we were not to vote an expansion, and it seems to be the opinion of very excellent lawyers that the result is that we are to have it. That is one of their measures. The next is to take the tax off cotton for the sake of relieving our southern brethren particularly. The third is to collect a tax from the people at large, getting nothing, as we should get nothing, from the southern States, and then distribute it in a manner that will enable the South to pay off the confederate debt. Take the three measures together and they will exhibit an excess of liberality and kindness which goes even beyond anything I have ever been disposed to do.

Mr. SHERMAN. I will postpone any reply to the rather remarkable speech made by my honorable friend from Maine until another occasion.

Mr. CONKLING. Like the honorable Senator from Wisconsin, [Mr. HOWE,] I do not wish to detain the Senate in combating this proposition, but I wish to say before the vote is taken that I concur heartily with what he has said. If I felt sure that other objects of taxation, the products of labor, manufactures, would be emancipated from taxation—if I felt sure that the woolen interest of this country, for example, would be acquitted of all tribute, as the cotton interest is to be, I should witness with great pleasure the vote which I have no doubt the Senate is about to give. But, like the Senator from Wisconsin, I feel quite as strong an interest in the relief which I know is demanded by the industry of this country as any Senator feels in this particular measure, and if the relief is to be general, if it is to go to those objects which deeply concern the people whom I represent, then this tax on cotton will go also. But if, perchance, when we come to the latter days of this session and to the revenue measure, we shall find that, having parted with $23,000,000 on cotton, we are compelled to hold other interests in a position where they are grievously taxed, I think there will then come a memory of regret that we did not for the time being do what was called for in the time being and leave the far hereafter of this question to be disposed of with other things.

Mr. STEWART. Inasmuch as I have voted against the removal of this tax constantly, and expect now to vote for the proposition of the Senator from Ohio, I will say this, that I am informed, after conversation with several members of the committees having the matter of taxation in charge, that taxes are to be removed from the industries of the North generally; the internal taxation is to be materially reduced, reduced everywhere, and to such an extent that it will be proper for the cotton tax to go with it; and inasmuch as the House are firm upon this question, I have come to the conclusion to allow the bill to pass.

Mr. MORGAN. After the debate that has taken place this morning I desire to say a single word, especially in regard to the remarks of my friend the honorable Senator from Maine, [Mr. FESSENDEN.]

When this bill first came to the Senate its passage did not seem to be doubtful. It had been recommended by the Secretary of the Treasury in his annual report. It had also been recommended by the Special Commissioner of Revenue in a very elaborate report. It had been recommended and petitioned for by boards of trade and chambers of commerce in all sections of the country. I believe there has never been any remonstrance against it. It received the unanimous indorsement of the Committee of Ways and Means of the House of Representatives. It passed the House of Representatives after a very considerable discussion by a majority of about four to one. It came to the Senate. It received the vote of every member of the Committee on Finance save one; but during the four or five days' debate upon it in the Senate an unexpected and unlooked-for division of opinion was found here, resulting in the passage of an amendment suspending the tax for a single year. It went back to the House of Representatives, and the House of Representatives insisted on their original bill. The Committee on Finance of the Senate recommended that the Senate recede. I hope the Senate will recede; but I wish the Senate to bear in mind the expression of public opinion so far as I have related it.

Mr. President, if the position of the cotton question is as stated by the Senator from Rhode Island [Mr. SPRAGUE] a few days ago, if we have lost the monopoly of the cotton culture, we may well pause and hesitate about taxing it two and a half cents per pound. But suppose this view to be erroneous; suppose it is not entirely true; suppose we have in the United States advantages of soil, of climate, and of labor superior to any other part of the world for raising cotton, is it the part of wisdom to trifle with these advantages, to throw them away? What would you think of a merchant who had been for a long time successful who should demand an entrance fee to his store? Some few might go in and trade with him, but the great majority would never darken his doors. Sir, while we continue to import as we have been doing and are doing and are likely to continue to do, and have to pay $140 for every $100 that we bring from a foreign country, and these balances, whatever they are, must be settled in gold, it does not appear to be the part of statesmanship to embarrass the export of anything. Cotton is our great article of export.

I do not advocate the repeal of the tax on cotton as a measure of justice to the South alone, although I think there is enough in it, as far as the South is concerned, to influence us to support it; but I advocate it as a measure of justice to every section of the country, North, South, East, and West. I believe that the $51,000,000 that we have collected from cotton since the first imposition of this tax is the dearest $51,000,000 that we have ever extracted from the people.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 25, nays 18; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cattell, Cole, Conness, Corbett, Davis, Dixon, Doolittle, Frelinghuysen, Grimes, Hendricks, Johnson, Morgan, Norton, Patterson of Tennessee, Pomeroy, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Williams—25.

NAYS—Messrs. Chandler, Conkling, Drake, Edmunds, Ferry, Fessenden, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Nye, Ramsey, Sumner, Thayer, Tipton, and Wade—18.

ABSENT—Messrs. Cameron, Cragin, Fowler, Guthrie, Henderson, Patterson of New Hampshire, Ross, Saulsbury, Wilson, and Yates—10.

So the motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee of conference be appointed?

Mr. SHERMAN and others. By the Chair.

The PRESIDENT *pro tempore*. That will be taken to be the sense of the Senate if there be no objection, and the Chair will appoint Mr. MORRILL of Vermont, Mr. SHERMAN, and Mr. HENDRICKS.

MARITIME EXHIBITION AT HAVRE.

Mr. DOOLITTLE. I suppose the order of the day is now before the Senate?

Mr. SUMNER. With the indulgence of the Senator from Wisconsin, and also of the Senator from Maryland, I will ask the Senate to put on its passage a joint resolution reported from the Committee on Foreign Relations the other day, and which it is important should be acted upon promptly. I have nothing to say about it.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin yield the floor for that purpose?

Mr. DOOLITTLE. I will do so informally if it leads to no debate.

Mr. JOHNSON. I have no objection.

Mr. SUMNER. It is Senate joint resolution No. 89, providing for the representation of the United States at the international maritime exhibition to be held at Havre. It is merely for a detail of naval officers. There will be no objection to it.

Mr. TRUMBULL. There certainly will be objection to it. I think we have had about enough of these international exhibitions.

Mr. SUMNER. Let the resolution be read, and then I am sure the Senator will not make any objection to it.

Mr. TRUMBULL. I understand it is for another commission to go wandering to some far-off portion of the globe to attend an exhibition.

Mr. SUMNER. Let it be read, and then the Senator will see precisely what it is.

Mr. TRUMBULL. I have no objection to its being read, but I certainly have an objection to its passage.

The PRESIDENT *pro tempore*. The Secretary will read the resolution.

The Secretary read as follows:

Resolved, &c., That the Secretary of the Navy be authorized to detail one or more officers of the Navy, as he shall think best, to be present at the international maritime exhibition, to be held at Havre, under the auspices of the French Government, from the 1st of June to 31st of October of the present year, there to represent the United States, and otherwise to promote the interests of exhibitors from our country.

Mr. SUMNER. That is all.

The PRESIDENT *pro tempore*. The question is on taking up this resolution for consideration.

Mr. TRUMBULL. I hope it will not be taken up. I certainly shall object to it.

Mr. SUMNER. If objection is made of course I cannot intrude upon the Senator from Wisconsin. I had supposed there could be no objection to it. It has been carefully considered in the Committee on Foreign Relations, and the chairman of the Naval Committee has also considered it. There is no appropriation in it and there is no view to any appropriation hereafter.

The PRESIDENT *pro tempore*. The resolution can only be considered by common consent.

Mr. TRUMBULL. I remember very well when we got up a commission to the Exhibition at Paris it commenced with a very small affair.

Mr. SUMNER. But that was an appropriation.

Mr. TRUMBULL. And not much was to be paid, and it kept growing and growing, and I think you will find this will cost something.

Mr. SUMNER. Not at all.

Mr. JOHNSON. I must request the honorable member from Massachusetts to agree to the postponement of this measure in order that the case of my colleague-elect may be taken up at once. I consented very cheerfully to postpone it for a moment or two with the understanding——

Mr. SUMNER. If the Senator from Illinois perseveres in his objection I have nothing to say.

Mr. JOHNSON. He does, I understand.

The PRESIDENT *pro tempore*. It can be taken up only by unanimous consent, inasmuch as there is another matter before the Senate. The Senator from Wisconsin is entitled to the floor on the resolution offered by the Senator from Maryland, [Mr. JOHNSON.]

REPORTS FROM COMMITTEES.

Mr. TRUMBULL. As the Senator from Wisconsin is in a very good humor and willing to give way, I ask leave to make a few reports from the Committee on the Judiciary.

Mr. DOOLITTLE. I will not object if they lead to no discussion.

The PRESIDENT *pro tempore*. The Chair will receive the reports, no objection being made.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred a resolution of the Grand Council of the Union League of Maryland in favor of extending the

principles of the military reconstruction law to that State; the resolutions of the Republican State convention of Maryland in relation to the convention to form a State constitution; a petition of citizens of Connecticut in favor of granting the elective franchise to women wherever the jurisdiction of Congress extends; a petition of women of Minnesota, praying that women be allowed equal suffrage with man wherever the jurisdiction of Congress extends; a petition of women of Ohio, praying to be allowed the elective franchise; the petition of citizens of Oberlin, Ohio, in favor of granting the elective franchise to women; a memorial of citizens of Little Rock, Arkansas, remonstrating against the passage of any law to remedy the defects in the sale of property for the non-payment of the United States tax; a memorial of citizens of Alexandria, Virginia, in relation to the manner in which the election was held in that city March 5, 1867; and a memorial of citizens of Alexandria, Virginia, in relation to the decision of the commissioners of election not to receive the votes of colored citizens at the election held March 5, 1867, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the convention of manufacturers at Cleveland, Ohio, praying for an examination into the moral and educational fitness of candidates for office, asked to be discharged from its further consideration, and that it be referred to the joint select Committee on Retrenchment; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 43) further to amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 211) to amend an act entitled "An act to provide for a district and circuit court of the United States for the district of the State of Nebraska, and for other purposes," reported adversely thereon.

Mr. CONKLING, from the Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 34) relative to the holding of courts in the southern district of New York, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the resolution of the Senate of the 11th of March, 1867, instructing that committee to inquire and report whether the sale of unarmed and unmanned vessels to belligerent powers by American citizens is now unlawful, asked to be discharged from its further consideration.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 171) for the relief of destitute persons in the South, to report it without amendment. I should like to put this resolution on its passage at once, but I shall not ask it now.

BILLS INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 275) to amend an act entitled "An act further to provide for the collection of duties on imports," approved March 2, 1833; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 276) to grant lands to the Northern Michigan Railroad Company in extension of the Northern Pacific railroad; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

JAMES A. SEDDON.

Mr. THAYER. I offered a resolution yesterday calling upon the President for certain information. That resolution is not as concise as I desire to make it; and in order that we may have an opportunity to reconsider and modify it I submit the following resolution:

Resolved, That the President be requested to return to the Senate the resolution passed by this body on yesterday, calling for information in reference to James A. Seddon, late Secretary of War of the so-called confederate States, and the number of Union prisoners who died in rebel prisons from cruelties while the said James A. Seddon was Secretary of War as aforesaid.

The resolution was considered by unanimous consent, and agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to some amendments, disagreed to others, and agreed to the third amendment of the Senate to the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws, and for the service of the quartermaster's department of the Government, for the fiscal year ending June 30, 1868, and for other purposes, with an amendment.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 274) providing for holding a circuit court at the city of Erie, Pennsylvania;

A bill (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island rapids in the Mississippi river;

A bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania; and

A bill (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church of Washington.

The message further announced that the Speaker of the House of Representatives had signed the enrolled bill (H. R. No. 213) to suspend further reduction of the currency.

RELIEF OF DESTITUTE IN THE DISTRICT.

Mr. HARLAN. With the leave of the Senator from Wisconsin I desire to make a report. The Committee on the District of Columbia, to whom was referred the bill (S. No. 270) for the temporary relief of destitute people in the District of Columbia, have instructed me to report it back with an amendment and recommend its passage. I think it will take but a few minutes to dispose of the bill. It is necessary that it should be acted on at an early day; and if it does not elicit any discussion I shall be very much gratified if the Senate will agree to take it up now.

Mr. DOOLITTLE. I hardly think I can consent to that.

Mr. HARLAN. This is a matter of charity, and if the Senator objects to it of course he has the power to control it.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider it at this time.

Mr. DOOLITTLE. If it leads to no discussion I have no objection.

Mr. HARLAN. If it leads to any discussion I shall not object to its going over.

The PRESIDENT *pro tempore*. No objection being made, the bill is before the Senate as in Committee of the Whole, and will be read.

Mr. EDMUNDS, and others. What is the bill? Let us hear it first.

The PRESIDENT *pro tempore*. That will be found out after it is read.

The Secretary read the bill, which proposes to appropriate the sum of $25,000 for the temporary relief of the destitute population in the District of Columbia, to be expended under the supervision and direction of the Commissioner of Refugees, Freedmen, and Abandoned Lands; but as far as practicable this sum is to be expended in the employment of persons upon the public grounds and works in the District of Columbia for which appropriations have been heretofore made by Congress, such laborers to be under the direction of the officer acting as Commissioner of Public Buildings and Grounds.

The Committee on the District of Columbia reported an amendment to the bill, reducing the appropriation from $25,000 to $15,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time and passed.

SENATOR FROM MARYLAND.

The Senate resumed the consideration of the following resolution submitted by Mr. JOHNSON on the 18th of December, 1867:

Resolved, That Hon. Philip F. Thomas, Senator-elect from Maryland, be admitted to his seat on his taking the oaths prescribed by the Constitution and laws of the United States.

Mr. DOOLITTLE. Mr. President, in acting upon this case of the admission of Mr. Thomas, Senator-elect from Maryland, we are called upon to act in a judicial capacity; and the same general rules which should control judges and courts in weighing and determining the effect of testimony are the rules which should govern us. I know that some extreme cases have been supposed. Some Senators have supposed the case of Mr. Davis and Mr. Breckinridge being elected by the States in which they reside as Senators to this body, and appearing here and coming forward to the desk and taking the oath which is required, swearing positively that they had never engaged in the rebellion or given it any aid, support, or countenance whatever; and they have said that would be intolerable. These are extreme cases which it is impossible should ever arise. In the first place, it is not to be supposed that any State would ever elect a man Senator to this body who would come here and deliberately commit open, palpable, notorious perjury, and perjury which all the world would know at once was a perjury the moment the oath was taken. It is impossible to suppose it. But, sir, even if that should happen, that a State should elect a man who was openly, notoriously, and actively engaged in the rebellion, and he should come here and go to that desk and take the oath by which he would swear that he had not engaged in it, when all the world knew that he had, it is just as impossible to suppose that the Senate would suffer any such man to remain as a Senator in his seat here. They would expel him at once. It is not by appealing to such extreme cases as these that judges or courts or Senators can properly weigh the testimony which is adduced, and which alone should be considered in deciding upon a question of this kind.

Mr. President, the only possible case which can ever arise is a case where some doubt must exist as to the fact whether the Senator-elect did or did not sympathize with or countenance the rebellion. It is impossible to suppose that Jefferson Davis, or Mr. Breckinridge, or any person who was openly and actively engaged in the rebellion, could come here and take the oath which is required. The only case where any doubt or difficulty can arise, is where a person may have done acts which are susceptible of a double construction; one which is in accordance with his innocence, and the other which would only be in accordance with his guilt. Mr. President, it seems to me that the law which has been passed by Congress requiring the person to take this oath, commonly called the test-oath, the "iron-clad oath," is the very mode which Congress has adopted in order to reach the conscience of the person who appears here, to try and dispose of the question in the first instance. I have heard no Senator make any substantial reply to the argument made the other day by my colleague, [Mr. HOWE,] and the argument of the honorable Senator from Oregon [Mr. WILLIAMS] yesterday, that this is the mode which the law has established to try and determine the question in the first instance. I do not say that it goes so far as to prevent the Senate afterwards, after the Senator has been admitted, from trying the question when a motion is made to expel him; but in the

first instance, when a Senator comes here and offers to take the oath, and he is ready to take the oath which the law requires, and he does take it, complying with what the law requires, he is entitled to his seat. I have not heard any gentleman make an argument which weighed with me in reply to the argument made by those two Senators bearing upon that point.

Now, Mr. President, the two facts which are relied upon by those who oppose the admission of Mr. Thomas are these: first, that he resigned his office in the Cabinet of Mr. Buchanan; and second, that when his son left him to join the rebellion he gave his son $100 in money. I I maintain that both of those facts are susceptible of a double construction. I admit you may give a construction to either of them which would tend to show his guilt, that he sympathized with or countenanced the rebellion; but I maintain, on the other hand, that both of those facts are entirely consistent with his innocence. Take the first fact, the fact of his resignation. It is said that he resigned his position in the Cabinet of Mr. Buchanan because he did not believe with Mr. Buchanan that he had a right to maintain a military force in the harbor of Charleston. That is what is alleged. Suppose that to be true; does that show that Mr. Thomas was in favor of the rebellion? It shows that Mr. Thomas had a wrong opinion as to the power of this Government. It shows that Mr. Thomas was of opinion that the Government either had not the power, or that it would be against good policy for the Government to exert the power by force to hold the harbor of Charleston.

Do we not know it to be a fact that hundreds and thousands of men from their education were led to believe and did believe that the Government of the United States had not the power by force of arms to hold a State in the Union? The great mass, I may say, of the southern people were educated in that belief. I have no doubt a great many persons in the State of Maryland were educated in that belief, and had been for a whole generation. The right of a State to separate from the Union was a doctrine which had been inculcated in all the States of the South, in the universities of the South, in the pulpits of the South, in the press of the South. I may say that a whole generation had been reared under the trainings and teachings of that very doctrine, that a State had a right to withdraw itself from the Union, and that the allegiance which the citizen owed in any State was an allegiance to the State first and to the Union afterward. I agree that this is a most fatal heresy, a heresy which led to this rebellion, and which bathed the whole land in blood, costing the South two hundred thousand or three hundred thousand of the lives of their ablest and strongest and best, and costing us half a million more. But, sir, it was an opinion entertained by many, and even if Mr. Thomas entertained that opinion I maintain that the holding of that opinion was not of itself treasonable. It did not make him guilty in any respect of the crime of treason, unless he gave his countenance and support to the rebellion.

What does he say in this letter of resignation? He says that he is not able to concur in the views entertained by President Buchanan "touching the authority, under existing laws, to enforce the collection of the customs at the port of Charleston." He states to Mr. Buchanan that he does not agree with him in opinion, and for that reason he proposes to withdraw from the Cabinet. Is there in that fact anything which goes to show that Mr. Thomas was in favor of the rebellion? No, sir. It may show that Mr. Thomas did not believe that we had the power by force of arms then to enforce the collection of the revenues in the harbor of Charleston. You remember that as long ago as 1833 a question arose about enforcing the revenue laws in the harbor of Charleston, and the celebrated force bill was brought forward and passed in 1832 or 1833, I believe. But that law was not standing upon the statute-book in 1860. That law was only temporary, and Mr. Thomas may have been of the opinion that it required new legislation on the part of Congress before you could resort to force to collect the duties in the harbor of Charleston; and because he disagreed with Mr. Buchanan, rather than embarrass him, he tendered his resignation and retired from the Cabinet. I insist that this act of Mr Thomas is susceptible of a construction in accordance with his entire innocence of any connection with the rebellion.

Then, as to the other fact—the fact that he gave to his son on the morning when he left home $100 in money—I agree that if he gave that money to his son with a view to aid him on his way to the rebellion it would be susceptible of a construction which would make him guilty of aiding the rebellion. But, sir, what are the facts as stated? His son states that he had made his arrangements to go, that he had determined to go, that he informed his father that he was then ready to go, and would go. The father told him the ground, and the only ground, upon which he gave him this money. It was not to aid him to go to the rebellion, but that in case he was imprisoned or in suffering he might have a sum of money with him. It was the prompting of his paternal heart, while with tears in his eyes he was protesting against his son going. I submit that this is susceptible of two constructions; and if it be susceptible of two constructions, one of which is consistent with his innocence, we are bound, in the ordinary charity which administers justice among men, to give to it the innocent rather than the guilty construction.

Mr. President, we may establish here a precedent of the most dangerous character. When the person elected, against whose veracity I believe no one has ever raised a question, whose private character as an individual stands above reproach, comes here and is ready in the presence of this Senate and of Almighty God to put his hands upon the Gospels and take the oath that he never did countenance or aid the rebellion in any way whatever, I say, in the absence of any evidence which goes to show conclusively, against any reasonable doubt, that he is guilty, we are bound to receive him. We tender this oath to him; we make him the witness in the case. In equitable proceedings, if a party chooses to make the other party his witness, he is bound by his testimony. And I say if we choose to put this oath to the applicant and call him here to swear whether he is loyal to the Government of the United States or not, and if he is willing to do it, knowing him as we do, his character as it stands before us being above reproach as an individual, what right have we not to believe the statement which he makes if the facts which appear are susceptible of a construction in accordance with innocence rather than with guilt?

I say it may be establishing a most dangerous precedent. This question of loyalty is a question difficult at times to define. By loyalty we generally mean a disposition and purpose to maintain the Government and the Constitution of the United States. A wrong opinion on such a subject must not be taken to be criminal. A wrong opinion is not treason. Sir, let me put cases which may possibly arise. Take the case of Wendell Phillips, of Massachusetts, who about 1860 or afterward, coming here to the city of Washington, made a public speech in which he declared that he was in favor of a dissolution of the Union, and had been for twenty years. Suppose Wendell Phillips should be elected to the Senate of the United States, and the time should come when the majority was changed in this body, and the question should be put whether Wendell Phillips was loyal to the Government or not, he having made this public speech in the city of Washington declaring that he had been in favor of a dissolution of the Union for twenty years, and a majority should believe that the maintenance of an opinion like that on the part of Wendell Phillips was inconsistent with the loyalty of a Senator, and therefore should exclude him?

Take the case of Mr. Greeley, who in 1860, for nearly six weeks through the Tribune, advocated the doctrine that if a majority of the people of any State at the South desired to withdraw from the Union they had a right to withdraw. We know very well, from what we have read in the public newspapers, that when the convention of Georgia voted, notwithstanding the speech of Alexander H. Stephens appealing to them against it, in favor of secession, Robert Toombs, who had left this Senate Chamber for the purpose of joining the rebellion, in the convention of Georgia, with the New York Tribune in his hand, carried the convention in favor of secession. He read the articles of Horace Greeley stating that if a majority of the people of a State desired to secede they had a right to do it. Suppose that Horace Greeley should be elected a Senator to this body, and the question of his loyalty should be put to him because he had advocated a doctrine like this?

Sir, is it safe, as a precedent, for the Senate to adopt a resolution declaring that because a man entertains a wrong opinion he shall be deemed disloyal or be excluded from his seat for that reason? Take another case. It was stated upon the authority of Albert G. Brown, formerly a member of this body, that when he withdrew from this Senate Chamber, after giving his reasons for joining the South, between the door of this Chamber and the Supreme Court room he met Edwin M. Stanton, and Mr. Stanton urged him to go forward, applauded him in his course, and urged him to go home to the people of the South and stand up for the doctrines for which he contended.

Mr. SUMNER. I will ask my friend if he does not know that that has been positively denied?

Mr. DOOLITTLE. I have never seen it denied.

Mr. SUMNER. I understand that it is a pure invention.

Mr. DOOLITTLE. Albert G. Brown made the allegation in a speech in the confederate Congress.

Mr. SUMNER. Very well; but does the Senator believe it?

Mr. DOOLITTLE. I ask the honorable Senator if he has ever seen it denied? If he has he has seen what I never have.

Mr. SUMNER. I always understood that it was an untruth.

Mr. DOOLITTLE. I have never seen it denied. It has been published in the newspapers here in the city of Washington.

Mr. JOHNSON. I do not think Mr. Stanton has denied it.

Mr. SUMNER. Mr. Stanton's whole life denies it.

Mr. JOHNSON. That is another matter.

Mr. DOOLITTLE. Mr. President, I say this: that the precedent now proposed to be established is most dangerous. I do not stand here to charge Mr. Stanton with disloyalty. Mr. Stanton went into the administration of Mr. Lincoln and devoted his whole energies to help to sustain the Government during the rebellion. What I did state was this——

Mr. EDMUNDS. What was the date when Mr. Brown is said to have had this conversation?

Mr. DOOLITTLE. The day on which he made his speech here, withdrawing from the Senate—in December, 1860, I believe; I do not remember the exact date.

Mr. SUMNER. It was in January, 1861, that that speech was made.

Mr. DOOLITTLE. Whenever he withdrew from the Senate.

Mr. EDMUNDS. May I ask was it before or after Mr. Stanton went into Mr. Buchanan's Cabinet?

Mr. DOOLITTLE. I believe Mr. Stanton was not in the Cabinet. It was before he went into the Cabinet, I think

Mr. SUMNER. And when he went into the Cabinet he went in to bear his testimony for the country against the rebellion.

Mr. DOOLITTLE. I read from the Intel-

ligencer. I do not make the charge on my own responsibility. I simply read what he stated for the purpose of putting the case:

"When Mr. Stanton went into the War Office he might have been a Union man, but just before his nomination, when the rebellion was in its incipiency, he applauded the course of John C. Breckinridge, and meeting Senator Brown, of Mississippi, at the door of the Supreme Court room, after Brown had bid farewell to the Senate and announced his intention to join the rebels, Stanton cheered him on, asserted that he was right, that his course was the only one to save the South, and urged him to keep his constituents up to the mark."

Mr. DRAKE. Is that an editorial in that paper?

Mr. DOOLITTLE. This is stated——

Mr. DRAKE. Editorially stated?

Mr. DOOLITTLE. Yes, sir.

Mr. CONNESS. I ask the Senator upon what authority is that stated?

Mr. DOOLITTLE. It is stated upon the authority of a speech which was made by Albert G. Brown in the confederate congress, which was published in most of the newspapers of the country.

Mr. SUMNER. Albert G. Brown at the time was a rebel.

Mr. DOOLITTLE. I agree.

Mr. SUMNER. Speaking to rebels?

Mr. DOOLITTLE. That is a fact.

Mr. SUMNER. And the Senator quotes that speech!

Mr. DOOLITTLE. Yes, sir; that is a fact.

Mr. CONKLING. Will my friend indulge me one moment?

Mr. DOOLITTLE. Yes, sir.

Mr. CONKLING. It so happened that as a member of a special committee of the other House I had occasion to know, I think as well as most persons here knew, the convictions Mr. Stanton held when he entered the Cabinet of Mr. Buchanan, which must have been about the time alleged in the statement we have heard. From my knowledge at the time, as well as since, I feel warranted not only in discrediting Mr. Brown's statement, but in denying the truth of any statement imputing to Mr. Stanton any sentiment or act or omission not to be expected from an able, earnest man, doing his utmost to resist the tide of treason then rising in the Cabinet of Mr. Buchanan and spreading over the country.

Mr. DOOLITTLE. Mr. President, I am stating this as an allegation which is made in relation to Mr. Stanton. I state the authority upon which it is made. I have only stated it by way of putting a case. Suppose that Mr. Stanton were to be elected as a Senator from Ohio or Pennsylvania, whichever State he may reside in, and when he came here to this Senate Chamber the question was raised upon him whether in truth and in fact he did say to Mr. Albert G. Brown, after he left this Senate, that he was right in the course he was pursuing, and did urge him to go home and have his people sustain him in that course as the only way to save the South; suppose that fact were to appear; if Mr. Stanton was willing to take the oath that he had never by word or deed in any way whatever countenanced or aided the rebellion, I insist that it would be our duty to receive his oath.

And, sir, if the truth be that at that time Mr. Stanton did make this statement to Brown, who does not know that at that time there were hundreds and thousands of men who believed that this whole performance on the part of the southern Senators, Slidell, Brown, and others, in withdrawing from this body was a mere political maneuver on their part to bring the people of the North to terms and bring them to a new compromise. There were hundreds and thousands of men who went into just those kinds of proceeding then, not that they intended to carry it to the point of blood and to the point of disunion, but they intended it as a mere political contrivance to alarm the fears of the people of the North, that the South should pretend to show that she was about to resist the Federal Government for the purpose of compelling the new Administration of Mr. Lincoln, which had then been elected, to yield and come to a compromise with the men of the South. Sir, I doubt not that was the motive which governed hundreds and thousands of men at the outset, and it was consistent, not with their treason or with their guilt, but it was consistent with something far short of treason, far short of guilt; it was on their part but a political maneuver which they were willing to sanction for the time being, never expecting that it would result in bloodshed or in an actual attempt to destroy the Government.

Now, Mr. President, on this question of loyalty: it will not do for us to exclude men because they entertain opinions of a different character from our own. There lies on your table a bill which has come in from the House of Representatives which in my judgment is just as unconstitutional as an act of secession. That bill in my judgment is just as revolutionary. In my judgment it is just as destructive of this Government as the acts of secession themselves. But, sir, because I believe that, if a man who favors it is elected a Senator in this body shall I vote that he shall not be permitted to take his seat because he is in favor of such a measure as that; because he is in favor of a measure that I deem revolutionary and destructive to the Government? No, sir. I have no right to do that, in my judgment.

I think, therefore, sir, that acting in this capacity, when the acts which are presented to us are capable of a construction in accordance with the innocence of the party, it is our duty to give that construction to them, especially when the party himself—a gentleman whose character, personally, has never been questioned—is prepared to take this oath, which has been provided by law, which searches the conscience, which tries it, which is like a test-oath, a touchstone to try the very question as to his intent, whether he has ever had the intent, or whether he has ever done anything to aid or countenance rebellion against the Government.

Mr. President, I do not intend to detain the Senate any longer on this matter, because, as I am told, it is expected that the question is to come to a vote to-day, and I have no disposition by any protracted discussion to prevent the vote being taken.

Mr. DRAKE. Mr. President, I do not propose to prolong the debate upon this subject, but I deem it proper to make a brief statement of the considerations which influence me in giving the vote which I shall give upon this resolution. I cannot vote for the admission of Mr. Thomas to a seat on this floor for the reason that I consider, upon the facts before us, that he cannot truthfully take the oath which he is required to take in order to obtain his seat here. Were there no other fact in the case I should consider that his resignation of his place in the Cabinet of Mr. Buchanan at the time, and under the circumstances in which that resignation was tendered, and for the reasons given by him therefor, was sufficient in itself to settle this matter. But the other great fact which stands out in the case, the affording of aid to his son to go into the rebel army, gives still more point and force to the previous consideration; and when you associate these two facts with the whole history of Mr. Thomas, from the outbreak of the rebellion down to its close, as developed in the testimony in the case, it seems to me clear that he cannot take this oath truthfully.

It is sought to break the force of the act of Mr. Thomas in giving money to his son on the eve of his departure for the rebellion by drawing a distinction between such an act as that and the act of openly and actively abetting the rebellion. Now, sir, with all respect to gentlemen who entertain that view, I take the ground that not so does the oath read. The oath does not say that he has given voluntarily no open and active aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States, but that he has given no aid to them, open or secret. Why, sir, I can point you, in my own State alone, to thousands of rebels who did not engage openly and actively in the rebellion, but who did secretly and constantly give aid and comfort to it in every way that their means would enable them to do. Sir, the intention of this oath is to search the innermost recesses of the rebel conscience, so far as it is possible for an oath to search such a conscience, and to exclude from this floor every man who has given any aid, countenance, counsel, or encouragement, open or secret, to the rebellion.

It is claimed that if Mr. Thomas will take the oath, we have, before he is admitted to his seat, nothing to do with whether he takes it truthfully or falsely; but if we find after he is admitted that he took it falsely, then we can expel him for the perjury that he has committed. Mr. President, are the whole Senate of the United States to be made accessories to the fact of perjury before it is committed, by allowing an individual to come here and take the oath, when every Senator knows, or may know, that he takes it falsely? Is it the idea that Senators are to attain seats on this floor through perjury, and then be turned out afterward for the perjury? I consider not, sir.

If this gentleman took this oath under the circumstances which have been developed here, and a motion were made to expel him, we might be met with this position, taken hundreds and thousands of times all over this country, that the oath is unconstitutional, null, and void, and that therefore he committed no perjury in taking it. I state, sir, as a matter within my own knowledge, that throughout the whole rebel party in the State which I in part represent here, perjury was not only justified, but inculcated as an act of virtue, and more than that, sir, as an act of piety toward God. Perjury in taking a similar oath to this, perjury in taking an oath of expurgation of complicity in the rebellion, was openly, in the public prints of Missouri, and by her public men in favor of the rebellion, inculcated upon the rebels of Missouri, to enable them to attain power there.

Sir, I have found in my experience of rebels that, so far as they have a conscience at all, it is all of one type throughout this nation, and that they stop short of nothing to accomplish their purposes. The party that, in one of its wings, will tolerate the open inculcation of perjury for the sake of overthrowing the power of Union men will do it in another; and if an individual will in Missouri commit perjury for the purpose of overthrowing the power of the Union men, another individual of the same stripe will do it in Maryland.

So it is, sir, that the doctrine, in its legitimate bearings and consequences, is announced on the floor of the Senate that a man may come here and claim a seat, through perjury, in defiance of the conscience of the Senate. That is the doctrine which has been announced here in effect by the honorable Senator from Wisconsin [Mr. DOOLITTLE] this morning, when he said that we have nothing to do with whether the party does in fact commit perjury in the taking of the oath until after he has taken it, and then we can expel him for the perjury, though we all sit here when the oath is administered to him and know as well as we know that we live that that oath is false as it passes his lips. I do not believe in that doctrine. I do not believe in the Senate of the United States countenancing perjury in that way. This applicant for a seat in the Senate may really have convinced himself that he is not swearing falsely in taking this oath. That is not the question. The question for us to adjudicate is whether he will in fact swear falsely; and if we are satisfied that he will, then I protest, as one member of this body, against such a desecration of the Hall of the Senate, of the Senate itself, of the Constitution, and of the Word of God upon which he will put his hand when he takes this oath.

But, Mr. President, it is said that this act of giving money to his son as he was starting to go into the rebel army, and when the father had but to say a word to a military officer to have prevented him going there, is open to two con-

structions, and that if one of them is inconsistent with the innocence of Mr. Thomas, that is the one which we ought to take. Very well, sir; if Mr. Thomas were on trial for perjury before a jury, or on trial for aiding and abetting the rebellion, that would be very good doctrine; but he is not so on trial. The principles which would apply in such a case as that do not apply here. I take it that, so far as we are to act as Senators, the very reverse is the rule. We are charged here with great public interests, and not by any means the least among those interests is to keep this Chamber free from the tread of rebels and traitors.

A grave and most weighty responsibility rests upon us in this particular; and the more so, as once let the precedent be set of admitting into this Senate one who is proved to have given aid and comfort to the rebellion, and you will never be able to overrule that precedent in the future. Let into this Chamber one man who has given aid and comfort to the rebellion, and your doors are thrown wide open to all rebeldom. It will be in vain to talk about keeping out Jefferson Davis and John C. Breckinridge after that. Where will you draw the line of distinction? Between the big rebel and the little one? Between the open rebel and the secret one? Between the active rebel and the indolent one? What law authorizes us to draw that distinction? What rule of evidence authorizes us to draw that line between these two classes? Both have given aid and comfort to the rebellion; one has given it openly, bravely, defiantly; the other secretly, sneakingly, like a dog. And now, sir, are we to run a line of difference here between the two classes? If we are where is the justification for it? Where is the warrant for it in this oath when it says in its terms that the party must have given no aid. Ah, we shall be answered, perhaps, that he only gave the small matter of $100 aid to his son when that son went into the rebel army, and he did not do that to help him to get to the rebel army; he only gave it to him to help him in the starvation that might come upon him. Sir, I do not appreciate this doctrine. I do not comprehend it. It is contrary to all the rules of law in this world and contrary to the rules which have come to us from another world. The spirit, the intent, the purpose of an act done is that which affords a criterion of its guilt; and, whether it is a big act or little one, the intrinsic guilt is the same.

Now, sir, a few words upon this matter of the $100. I am going to use two or three plain and homely illustrations in regard to it. I will take this case: first, that young Thomas should have announced to his father, "I am going over yonder, fifty miles, to burn the house of John Smith, my enemy and your enemy;" and the father should have said to him, "My son, you had better not do that; you may get hurt, or you may get short of food on the way; you may be bothered in several different ways; but have you got any matches?" "No, sir." "Well, here is a box; take it; you might get cold in the night time lying out in the woods, and you may want to kindle a fire to warm yourself, and you had better have a box of matches along with you."

Again, sir, another case: the boy announces to the father, "I am going yonder, twenty-five miles, to kill Jim Brown, my enemy and your enemy." The father responds, "Well, my son, you had better not; Jim Brown may kill you; you may get a broken leg; some accident may befall you; but have you got a revolver?" "No, sir; I have not any." "Well, here is one; you had better take it along, for fear some one may attack you on the way."

Now, Mr. President, I say, taking the case presented in these illustrations, there is not a jury in this land which, if the arson were committed in the one case or the murder in the other, would not convict the father of being an accessory before the fact; and they would pay no more attention to his excuse that he gave the matches in the one case to enable the boy to kindle a fire in the night-time to keep himself warm, or in the other that he gave him the revolver to enable him to repel attacks made upon him on the way there, than they would give to the idle wind that blows. And what is the difference between those cases and this? Here is a boy who says, "I am going into the confederate army," and the father says, "Do not go there; you will lose your chance to study your profession; you will lose a leg or an arm, or you may get killed; do not go." So speaks the father. "Your State has not seceded from the Union, and therefore you have no right to take up arms against the United States; do not do it." There speaks the State-rights devotee, the believer in the monstrous heresy of State allegiance. But while he says this he puts his hand in his pocket and gives the boy $100, accompanying it with the statement that it is done to keep him from starvation. There speaks the astute lawyer, accompanying his act with that explanation which he can give in evidence afterward, as a part of the *res gestæ*, to excuse himself upon the ground of his paternal anxiety for this son.

Mr. President, I have been a little too long engaged, now these seven years, in conflict with rebels and with rebel sympathizers, to be fooled by any such nonsense as that. I know them. I know, from an experience of seven years, right among them and alongside of them from day to day, that there is no possible conception of devilish ingenuity which they are not adepts in to further their rebellious purposes; and I do not choose to suffer myself to be turned here on the floor of the Senate from the path of right in this matter by any such paltry excuse as that for a traitorous and rebellious act.

I have thus, Mr. President, very briefly endeavored to state the grounds on which I cannot vote for this resolution. I have but one word more to say in repetition of a part of the remarks which I have made, and as a warning to Senators on this floor. The other day the Senator from Indiana [Mr. HENDRICKS] made a large part of his speech in favor of the applicant for a seat here, upon the basis of a precedent set by the Senate in the case of the Senator from Tennessee, [Mr. PATTERSON.] Ay, sir, and so it will be hereafter. Admit this individual from Maryland and you make an enduring and ineffaceable precedent to be thrown into our teeth every time a convicted rebel, one convicted before a committee of this body, comes up here with the overt act proven upon him, but assigning some excuse, some motive known only to himself, in palliation of the act. We shall be told forever hereafter, "See what you did in the case of Mr. Thomas, of Maryland; you let him in; why should you not let in another, and another, and another?" till at last the Senate Chamber of the United States will become polluted again with the breath of rebels and traitors. God helping me, sir, while I sit here, I never will vote to admit any such man under any stress of circumstances.

Mr. TIPTON. I regret that there is so little in this case in the report to guide us in our decision upon it. As I understand it, however, the Committee on the Judiciary have reported that there is not, in all the voluminous testimony taken in the case of Mr. Thomas, of Maryland, enough to justify his exclusion from the Senate, unless it should be found in the facts with regard to the circumstance of his contributing money to his son, who subsequently entered the rebel service. I take it for granted, then, that the question is narrowed down to that one point, and I do not desire to wander very far from that point; but as reference has been made to the circumstances under which he left the Cabinet of Mr. Buchanan I may as well allude for a moment to his letter of resignation from that Cabinet.

All that can be proven by the letter which he transmitted to Mr. Buchanan at the time when he left his Cabinet is simply that he did not agree with Mr. Buchanan in regard to what was probably to be his policy on the subject stated in the letter. Now, I care not how much he differed with Mr. Buchanan on that subject if his action stopped there. If he never went any further, if he never backed up any opinions which he entertained at that time, and which were referred to or couched in that letter, it matters not at all, so far as this case is concerned, what was the character of that original letter; and it is the opinion of the Judiciary Committee that there is not enough in the letter to convict him of any crime sufficient to exclude him from his seat in the Senate.

The next circumstance alleged against Mr. Thomas is the speech he made to the Legislature at the time of his election. What was the first impression which was made on the Republican side of the Senate when it was announced to us that a Senator from Maryland was about to claim a seat on this floor who had on a previous occasion, at the time when he received his election, declared that he was about to meet here and to confront men who were traitors to the Union? We felt sensitive: I know I felt sensitive on the subject. Still, so far as that is concerned, if he made the remark, it was an intemperate remark; and every Republican Senator on this floor knows for himself that public men are apt to make remarks in the heat of discussion for which they ought not to be held to a very strict accountability. I know, for myself, that in the heat of public discussion I have characterized those men who have not been acting with my party during the war and since as copperheads, as traitors, as rebels in disguise; and if we are met with the charge of being ourselves disunionists we cannot avoid that. It comes back upon us; and the question is to be decided between our charges and the charges of the other side. Certainly, for that reason this gentleman is not to be excluded from a seat on the floor of the Senate.

So far as the cases of the Senator and Representative from Tennessee have been referred to, they prove only this: that we are occasionally embarrassed when we would introduce one of our friends from the South to the floor of the Senate or the House of Representatives. There were times when many of them held views such as Mr. Thomas, of Maryland, held; but if they never carried out those views, if they repented of those opinions, if they ceased to follow in their wake, we have received them here and allowed them the privilege of recantation, and they are Senators and Representatives to-day. Consequently on that score the committee do not pretend that there is enough to justify the exclusion of Mr. Thomas.

The Senator who just preceded me, the Senator from Missouri, [Mr. DRAKE,] has well made the point that the spirit in which the act was performed is the criterion by which we are to judge of the eligibility of the Senator to his position here. That undoubtedly is true, and I propose for a few moments to call the attention of the Senate to the evidence in this case. The mere act of giving is nothing here or there. The mere act of giving proves nothing here or there. He had a right by every law of humanity to take into his own household and to meet at his own table the famishing soldier, either of the Union or rebel army; and if he saved a life by furnishing food it was his privilege to do so, and there is no man here who will deny it. Therefore, if the charge was explicitly made here to-day and it was true that when the rebel army invaded the State of Maryland Senator Thomas received his own rebel son home after an unfortunate battle and when he was wounded, that he cared for him at home, that he fed him at home, it would not cause his exclusion from this body, for it would not be held that under these circumstances he should be regarded as doing a criminal act. If after having remonstrated with the young man, after having done everything to prevent his going except to restrain his liberty by a positive arrest, he had received him back, wounded and cared for him, famishing, and had fed him, the mere act of having done it would weigh nothing with the Senate and nothing with the country in regard to his being a loyal man and unfit to occupy a place in the

Senate. The spirit, the intent, of the act is that with which we have to do. On the 19th page of the report, in the examination of young Mr. Thomas, the question was directly put to him what was said by his father, and the answer is this:

"One expression he used I told you. When the rebel army made a raid into Maryland, after the battle of Gettysburg, he said I had no right, as a citizen of the State of Maryland, to leave my State in the Union and join the ranks of the rebel army."

I presume there is no question in regard to that, and I want to know whether there is anything in that declaration to be condemned—"you have no right, as a citizen of the State of Maryland, to leave your State, which is in the Union, and to join the ranks of the rebel army." If every father in the State of Kentucky, if every father in the State of Tennessee, if every father in every border State, had said to his son, "You have no right to leave your State, which is in the Union, and to join the rebel army," and if that advice had been taken, what would have been the consequence? It would have been that no son of any parent giving such advice would have entered the rebel army along all the border. That advice would have been loyal advice. That advice would have been advice that you and I would have commended and would have dictated to any man to say to his son. The most loyal man in the country might have given that advice. The man who felt his misgivings in regard to the power of the Government to coerce rebels might have given that advice. If every father had given that advice, and if that advice had been taken, it would be vindicated to-day before the Senate, and no man here would undertake to say that it was semi-treason to declare to a son, "You have no right to leave your State and join the ranks of the rebel army."

But, sir, that is not all the testimony in this cause. The son testifies that the father not only told him that he had no right to fight against his State, but that he had no right to fight against the Government; and he went further than that, and the testimony shows that he told him that there was no reason whatever which could be assigned which would justify him in leaving the State of Maryland and entering the ranks of the rebellion. He not only gave this as his advice but persisted in it. I find in the testimony that the father asks the son this question: "Did I not appeal to you on the ground of your duty to the State and to the Government?" and further: "Did I not 'declare' that there was no reason to justify your going?" and the son answers that he did. It is further in evidence that he continued to follow up these remonstrances:

"*Question.* Have you not on occasions heard me give advice when asked for it by young men who thought of going into the southern army?
"*Answer.* I have.
"*Question.* Have I not invariably, whenever asked in your presence or consulted, advised them not to go?
"*Answer.* You have.
"*Question.* Have I not taken the ground, in your hearing and presence, to other young men who thought of going, that they had no right to go for the reason assigned—that they were citizens of Maryland?"

And as citizens of Maryland they had no right to leave the State or to engage in rebellion against the State or against the Government. After having delivered this wholesome advice I want to know whether there is anything in this case which shows that he acted precipitately or that he acted at any time not in accordance with this sage counsel? Was he slow in gratifying the young man's desire to leave? The testimony on that subject is:

"*Question.* Did I ever give you a dollar to go from home with until you informed me that there was nothing I could say or do that would stop your going?
"*Answer.* No, sir.
"*Question.* And until you had informed me distinctly that it was vain for me to oppose it—that you would go?
"*Answer.* No, sir.
"*Question.* Were you not making an arrangement for the means to go?
"*Answer.* Yes, sir.
"*Question.* Was it not in your power to have made the arrangement?
"*Answer.* Yes, sir.
"*Question.* When I gave you that money did I not state to you that I gave it to you because I did not want you to be subjected to the suffering and want which you were likely to be subjected to, either in the attempt to cross the lines or after you got to the South?
"*Answer.* Yes, sir.
"*Question.* I told you I could not give my own consent to let you go and suffer?
"*Answer.* Yes, sir; you said so.
"*Question.* Did I not depict the sufferings that you were bound to endure there?
"*Answer.* Yes, sir."

If that is true, so far as it conveys any idea of the intent of the father it is that he never would consent, and that he never did consent, and did nothing to further the young man's purpose until it was utterly impossible to control him any further by his counsel. Then did he act promptly or did he act tardily? Let us see:

"*Question.* When you left my house, as you were about to start, did I not go to the door, early in the morning, out of my bed, and did I not then invoke you to abandon your intention of going away?
"*Answer.* You did."

Let it be understood here that it was not until eight o'clock on the night before he left that the young man told the father there was nothing he could say, and there was nothing he could do which would keep him at home and prevent him from joining the ranks of the rebel army. He says that his father told him of the folly of his course; told him he would perish; he would suffer; but, nevertheless, as he was determined to go—as he could not prevent him, in order to obviate that suffering, he would give him the money, and he did give it. After he had furnished him with those means, what then? You would suppose that if he had offered him the money for the purpose of facilitating his going there would have been an end of it. But it seems not to have been so, for I find this in the testimony as to what occurred the next morning:

"*Question.* Was not the last word I uttered to you when you drove from my door to beseech you, almost with tears in my eyes, to abandon the thing because nothing but want and suffering would come of it?
"*Answer.* Yes, sir."

Then it is a fact that he persisted all the time, and until the very last hour, when the son was about to leave his habitation, declared that it was folly for him to go; that he must not go, that he should not go; and finally, after he leaves home, after the son reaches Washington city and remains here seeking an opportunity to cross the lines, having failed in one effort to do so, does the father cease his importunity? He was in Washington, unable for a time to get into the rebel lines. In regard to that point the testimony is—

"*Question.* Did you not, as soon as it was known at home, receive from your mother a letter in my name most earnestly entreating you to abandon your project and return to your home?
"*Answer.* I did."

If he had given the money for the purpose of inducing his son to join the rebel army, that would have been understood by the language in which it was communicated. If he had given him the money and was indifferent about it there all his efforts would have stopped. But after the young man reaches Washington, and the father learns of it, the mother communicates with him, and the letter is written in the name of the father, still imploring him to come back, to abandon his intentions, and to return again to the parental roof. This is not the conduct of a man who desired, for a moment, to aid his son in entering the rebel service, nor is it the action of a man who was willing to any extent whatever that his son should become a rebel soldier.

You understand, Mr. President, how difficult it was for men, both North and South, for men who were loyal and for men who were disloyal, to prevent their minor sons from entering the military service at a time when their constitutions were not sufficiently matured to justify them in any campaign as soldiers. His troubles were just of this character. Here was a boy of eighteen, restive, anxious, determined, quarreling with his father in regard to his determination to leave home and join the army; the father protesting, advising him not to think of it, arguing with him against the propriety of going, giving the same advice to other young men in his presence, refusing to consent until he could refuse no longer with any hope of benefiting him, and then following him to Washington with his entreaties to come back again and give up his idea of becoming a rebel soldier.

I say, therefore, that it is possible that this parent, this Senator from the State of Maryland was, as he himself declares, utterly opposed to that son becoming a rebel soldier. There is no question of that, or the evidence is all false. He was utterly opposed to it, and he never consented by word or act that he ever should become a rebel soldier. Now, I will admit that his sympathies were, to some extent, with the rebellion. He did believe that it was wrong to coerce the rebellious States, I have no doubt. I have no question that he did rest his argument upon the doctrine of State rights to some extent; I know not how far and I care not how far. If he was under the influence of any such heresies it was his privilege, I suppose, to entertain them and remain at home a private citizen. It was his privilege, I suppose, to hold his heresies, but it was not his privilege to put those heresies into active practice. If he retained these doctrines at home, as the witnesses say he did, if he never went from the State of Maryland, if he never performed an act with the intent of nerving a single traitorous arm, and if all he did was simply done as a fatherly act towards his son leaving home under this most trying and afflicting circumstance, I dare not, I cannot, when he comes here from a State that was never out of the Union, I have no power, as I understand my position as a Senator, to look the State of Maryland in the face and say, "You shall not sit in judgment on the qualifications of your citizens to represent you on the floor of the Senate of the United States when those citizens are willing and anxious to comply with the requirements of the Constitution and the laws of the Union in such case made and provided."

Mr. President, I would not have said this much; I had no desire to participate in this debate, but I must necessarily go upon the record, and am willing to go upon the record. I desired to say a word to explain the circumstances which would induce me to vote for the proposition presented in the resolution now under consideration moved by the Senator from Maryland, [Mr. JOHNSON.]

Mr. BUCKALEW. Mr. President, when this question was first brought to the attention of the Senate, at a former session, two objections were made against the swearing in of the applicant for the seat. One objection made to Mr. Thomas was that he had made an unpatriotic speech upon the occasion of his nomination for the office to which he was afterwards chosen. The other objection, and a more serious one, was that when he was Secretary of the Treasury under Mr. Buchanan he had taken such action that the payment of the interest on the public debt was endangered, and the public credit was subjected to detriment.

Upon these two objections, which were made in debate and stated in strong and exaggerated terms, the Senate voted to send the question of his right to a seat to the Judiciary Committee for its examination. That was the action taken by the Senate at a former session on this subject. At the present session, on the 18th of December, 1867, the Judiciary Committee made a report to us of the result of their inquiries. They reported that they had taken the evidence submitted with their report, and that they found "nothing sufficient in the opinion of the committee to debar said Thomas from taking his seat, unless it be found in" a particular circumstance which they recited, and which had no relation whatever to the points or questions upon which the reference was originally had.

Then, sir, it is manifest that this gentleman, claiming to be duly elected by the Legislature of the State of Maryland, has been kept out of his seat for many months—during two frag-

mentary sessions and a part of the present regular session—upon charges or objections which are wholly unsustained, which the committee in their report ignore, or rather report as not sufficient, in their opinion, to justify his exclusion from his seat.

Mr. President, this fact ought to admonish us that there is a very serious question involved in this case, which may be involved in many future cases that will come before the Senate for its consideration; and that is the question of deferring the admission of a member when he presents himself in a regular way, with due credentials, from taking his seat until some preliminary questions outside of the constitutional qualifications which relate to the office are examined into. If this practice, which is new, which in former years or in former times did not obtain in the Senate of the United States, is to be entered upon, we establish an innovation which, in my opinion, will be found very mischievous and dangerous in future. I think the old practice conformed to sound principles—the practice that when a gentleman appeared here with credentials showing that in due form of law and in a regular manner he had been appointed by his State to represent it in this body, he should be forthwith sworn in and take his seat; that the presumption should be that he was a member of the Senate, and entitled as such to participate in its proceedings. I say, then, in view of the facts of this case, we have an admonition against acting hereafter upon the precedent which this case would apparently establish, of sending credentials away from us into the hands of some committee to examine matters of fact, investigate objections outside of those constitutional qualifications which all members of the Senate must possess.

The committee, then, sir, have reported to us substantially against the charges which were preferred when Mr. Thomas first appeared claiming his seat in this body. The committee—as I understand, unanimously—for there is no dissent expressed or reported to us—have determined that these charges, if not groundless altogether, are in law and in point of fact insufficient to justify the rejection of this applicant. If their report had stopped at that point I suppose there would have been no debate and no further delay. But they submit to the Senate on the evidence which they have taken a question of fact. It arises from the circumstance that upon one occasion during the late war the son of this gentleman, about to abandon his father's domicile and proceed on his way toward the confederate lines, was befriended by his father to the extent of a small donation of money for his immediate necessities. The committee do not report to us that this is sufficient cause for his rejection. They do not report to us that this act, which, upon the face of it, would seem exceptionable and offensive, was traitorous and criminal. They have not passed upon the question of his intent or of his guilt. Therefore it is that we have precipitated upon us this prolonged debate upon the evidence which accompanies their report, through which members have been constantly groping to ascertain what was this gentleman's purpose or motive in the particular act in question. If we were to take up the case where the committee leave it, accepting their judgment as conclusive or reasonably satisfactory upon the matters of accusation which were referred to them, we should be confined to this one question which I have mentioned, to wit: the conduct of the father in assisting his son at the time he left home. The debate, however, has not been so confined.

It would seem that Senators have not accepted the report of the committee as concluding anything, and therefore we have been carried back to the transactions which took place in the President's Cabinet and in the South at the outbreak of the war; we have been again conducted into a caucus-room at Annapolis and invited to investigate certain literary questions with regard to the accuracy of a report of some impromptu speech there made very late in the evening, at the end of a heated caucus, by this gentleman. Questions of philology, or questions of the accurate translation or expansion of a reporter's notes, have here been intruded upon us.

Mr. President, upon grounds of objection apparently so slight, having no foundation in the Constitution of the United States, which prescribes the qualifications of office, or even in any statute law enacted by any recent or former Congress, I think the Senate will be safe in taking the report and judgment of the committee without attempting to reopen debate and to form opinions sounder than those which the committee have reached. However, sir, I must submit a suggestion or two upon particular points that have been made by gentlemen, not because their arguments, in my opinion, have been strong or weighty, but because they have been pressed with very much of apparent sincerity—certainly with very considerable vehemence.

What was not even charged at a former session when this case was sent to the committee, what was not reported upon by the committee, is brought into this debate, and that is the resignation by Mr. Thomas of the office of Secretary of the Treasury.

Mr. HOWARD. That is contained in the committee's report.

Mr. BUCKALEW. It is not mentioned in the report of the committee which I have read. There is evidence relating to it accompanying the report; but I am speaking of the report proper. Mr. President, one of the absurdest charges possible of disloyalty that could be made is the particular charge that is here made against Mr. Thomas, that he, an alleged friend of the rebellion, a secession sympathizer, desirous, if gentlemen's opinions are correct, to assist the rebellion, did what? Exercise the powers of Secretary of the Treasury in aid of the rebellion?

No, sir; that charge is refuted by the proof laid before the committee and is condemned by their report. Did he do any act or thing, as an officer of this Government, which would aid the rebellion? No; but possessing, as it is said, some degree of sympathy with the rebellion, possessing some degree of personal and political association with men who were concerned in it, instead of helping them he resigned the office of Secretary of the Treasury, where he could have assisted them, where his traitorous abilities could have been exercised with some effect, and went home to Maryland, settled down on his farm in a quiet section, and followed rural pursuits there during the entire war. Yes, that conduct of his is gravely stated in this debate as a ground upon which to reject him; as a proof that he did assist the rebellion in some way, and thus contribute to the cause of the enemy instead of supporting the cause of his country. Sir, the apparent absurdity of this whole point of objection upon its mere statement is such that, after merely calling the attention of the Senate to it, I should be ashamed to go on and occupy time with enlarged or prolonged argument or with any declamatory remarks by which the futility of the objection could be made more evident.

Then we are referred to his speech at Annapolis, in which he said that there were men here in this Government who were disunionists. I believe the report of his speech upon which reliance is had did not state this accusation near so strongly as the President of the United States himself did on a certain signal occasion. But the accuracy of that report is impugned. Another reporter who was not hostile, as this one was, politically to Mr. Thomas made a report which is comparatively inoffensive; and again, if you go back to the original notes of the reporter relied on you will find that when he came to write out his report he expanded it somewhat beyond what his original notes would justify. But all this is a small matter and hardly deserves formal debate.

Now, Mr. President, we come to the new point reported by the committee—the relief rendered by Mr. Thomas to his son when he was about leaving home, destitute and needy—a relief which extended only to his immediate necessities, and in the very nature of things could not render him permanent support, maintenance, or assistance. Mr. Thomas gave his son the sum of $100. Suppose that should be held to be ever so wrong. I am not called upon to approve his conduct. The explanations which he gives may not be entirely satisfactory. We may think he ought not to have given his son the money. If you come to an abstract standard of loyalty and of patriotic devotion to the Government of the country and to a high standard of morals you may think this gentleman should be condemned. Who is there among us that can be tried by such standards as these and be found without fault and without blame in his past life?

But our question is a different one. Is this man in point of law, whether constitutional or statute, entitled to take his seat in the Senate of the United States as a representative from the State of Maryland? Concede all that is claimed with regard to his donation of money to his son, the question yet remains, was he guilty of a statutory offense, of a public crime? But we cannot try that. The Senate is not competent to try a question of criminal law. It has conferred upon it no criminal jurisdiction. It cannot exercise the functions of a jury to pass upon the intent with which an act was committed. In the very nature of things it is impossible for it to resolve itself into a court of justice, and try this question of criminal or treasonable conduct and pronounce an intelligent, just, and constitutional judgment upon it.

It is a question of the intent with which the act was committed. It will not be possible for the Senator from Vermont, [Mr. EDMUNDS,] with all his acuteness, with all his technical nicety and logical power, to convince us that the question with regard to this man's conduct on that occasion, so far as the laws of the country are concerned, must not resolve itself into the question of the intent with which the act was committed. If that intent was benevolence; if it was to relieve his son; if the act was not done and performed with the design of aiding the enemies of the United States, there is neither in law nor in morals any element of guilt which can be charged as a crime under the laws of the country or under the laws of God.

Several gentlemen have said that Mr. Thomas did nothing after his son left home to dissuade him from his purpose. That is in flat contradiction of the proof. The proof is that when the father and mother ascertained that the young man was in Washington, before he had got over the lines, she, at the instance of her husband, sent a most urgent and affectionate letter to the son here, imploring him to return home and abandon his purpose. What Mr. Thomas in this way did through the boy's mother was done judiciously. It was, perhaps, the means best calculated to secure the object in view—the recall of the young man from his hazardous and improper enterprise and to place him again beneath the protection of the paternal roof. It will not do to say that Mr. Thomas did nothing for the return of his son home because he wrote no letter himself. The most likely means to induce the son to abandon his purpose was that his mother should appeal to him and bring to bear upon him all those tender ties of affection by which he was knit and bound to her—perhaps more intimately and strongly than he was bound even to his father.

But it is said that under the laws of Maryland there might have been somewhat more of coercion exercised upon the son. Now, Mr. President, we know perfectly well that throughout the whole country during the war family ties were very much relaxed. The obedience of children to their parents was much weakened, and frequently the duty was altogether disregarded. Thousands of young men, minors under the laws of the respective States in which they were located, legally bound to obey the will of their parents, enlisted in the Army, went

off into the public service without parental consent and against parental protest. It happened everywhere. Even minors under the age of sixteen went into the Army, and we were obliged by act of Congress to make it a punishable offense for any officer to enlist such; and we had other provisions for minors under eighteen years of age. We know that during a time of war and violence those ordinary rules which affect civil society and domestic life are very much impaired. Thus it was during our war; parental control was relaxed, and often a parent was obliged to see a son, too young and tender to perform efficient service to the Government, a son who had been entrapped or induced by associates to enlist, go forth into the Army never more to return.

In this case the son broke through the duties which he owed to his parent, perhaps in a manner which he would not have thought of in more quiet and settled times.

We are not here to pass judgment upon the conduct of Mr. Thomas as a question of morals or as a question of propriety. We are here, as far as this case is concerned, to judge him and his State under the Constitution and laws of the country. And what do they say?

The Constitution says that a Senator shall have attained the age of thirty years; that he shall have been nine years a citizen of the United States; and that he shall, when elected, be an inhabitant of the State for which he is chosen. Again, it declares that Senators and Representatives, as well as certain other officers of the United States and of the several States, "shall be bound by oath or affirmation to support this Constitution." These things are what the fundamental law requires. They are plain. Nobody can question them. None of them are involved in this debate. What more is required? In July, 1862, you passed a law providing a new oath of office; and this case is to be adjudged under that law. You have no other ground to go upon. For the purpose of the argument, I assume that that law is constitutional and valid; that it confers authority of some sort upon the Senate, and that it binds the Senate in some way by public obligation or duty. Now, all that we are to do in this case is measured by that law. It is not a case which arises under either of the constitutional qualifications; and if there be ground upon which we are to reject this gentleman it must be found within the statute of July 2, 1862, commonly called the oath act.

What does that statute do? Let me call the attention of the Senate to it now, in the conclusion of the debate, because upon it must our decision be made, if it be made fairly, with any pretense to legality or propriety whatsoever. That law says in effect, according to the accepted construction, that when a member appears in the Senate he shall be required to take the oath prescribed in it, commonly called the "iron-clad oath." That is the first thing. It says, secondly, that if he takes that oath falsely he shall be indicted in a criminal court and punished as guilty of perjury under the laws of the United States; and we know that, independently of that law, we should have the power of expelling him by a two-thirds vote, because that power is conferred by the Constitution. Now, what has the Senate to do in this case except to administer the oath to Mr. Thomas? Does that law confer upon us authority to do anything else? Clearly not. I demand of gentlemen who insist that we shall reject Mr. Thomas the production of some statute of the United States authorizing us to do it, authorizing this proceeding—the passage of a resolution that a man standing here before us with a certificate of election from the State of Maryland shall be turned away. Where is your law? I do not ask for construction of law; I ask for a pretense of a statute to do that.

Mr. EDMUNDS. Allow me to ask the Senator if he means to say that there is no case in which we should be justified, without any other Constitution or law than we have now, in refusing to admit a man who came with regular credentials and who was a citizen?

Mr. BUCKALEW. If the Senator had waited a moment he would have found that I would soon reach that point in the argument. At present I am inquiring for the statute which authorizes the Senate by resolution to slam the door of this Chamber in the face of a man with a certificate of election from one of the adhering States of this Union. No such statute exists. It is not to be found anywhere. It is not among the somewhat remarkable enactments of the Thirty-Eighth and Thirty-Ninth Congresses, and it exists nowhere else. I say, then, clearly, as the law has not conferred upon the Senate jurisdiction to act in this manner, if we adopt a resolution such as suggested, we perform an act that is wholly unauthorized, and therefore open to the most signal reprehension.

The statute of July 2, 1862, was passed for the purpose of preventing men who had been engaged in the rebellion from taking seats in Congress at all. It was the remedy then provided by the wisdom of the legislative department to secure that result; and as no other remedy has been provided by legislation, if this law is deficient, it will be our business to pass another; but the Senate cannot take upon itself authority and power which is not conferred by any statute and certainly does not exist in the Constitution.

The Senator from Vermont has put an interrogatory to me which suggests a point, the examination of which concludes the argument. He says, suppose a public enemy appeared at the door of this Chamber, a traitor——

Mr. EDMUNDS. I did not put any such question.

Mr. BUCKALEW. Well, sir, I will suggest the question myself, then. I understood him to put that.

Mr. EDMUNDS. My question was, if the Senator will allow me to state it, whether he meant to say, under the Constitution and the law as it now is, there was no case in which we could refuse to admit a man who came with regular credentials and with regular citizenship and was willing to take the oath?

Mr. BUCKALEW. I say unquestionably, as a point of law, there is no such power. Our authority must be founded in the Constitution of the United States or in the laws which have been enacted by Congress. We derive no power from any other source whatever. But the point upon which I was going to speak in conclusion is this: suppose an enemy of our Government, a man whose presence here, in the judgment of the members of this body, would be dangerous were he to appear here, would we be obliged to admit him? To make the case more specific and clear, perhaps, let me suppose that during the rebellion one of those men who had abandoned their seats in this Chamber and turned their backs upon it and gone into the ranks of the enemy, had appeared here and claimed to take his seat, what would then have been done or could have been done?

It would have been a case not provided for by your law. You could not under the laws of the United States exclude him, and no constitutional disqualification would have appeared. You, however, under the law of public safety, in a time of war or in time of public danger, would have been justified in using any means in your power to protect yourselves. You would have been justified as much in resisting the entrance of a traitor into your Senate Chamber by all the means within your power, whether of resolution or of vote or the exercise of the physical force of yourselves and your officers, as those who were enlisted in your armies were justified in resisting a public enemy on the field of battle.

But, sir, we are not discussing here a question of immediate danger pressing upon us, justifying the shutting of our doors against an applicant for admission. We are here called upon to try and judge a man for an alleged offense committed in former years, to assume a judicial function, to resolve ourselves into a criminal court for the time being, try him for an alleged criminal offense, and pronounce upon him a judgment of deprivation of office. We are to do this in peaceful and quiet times, years after the war is ended, and when no man pretends that this proposed act of ours is necessary to the public safety, that it is justified by the argument of necessity. There is, therefore, no reason for the act outside of the law. I agree that there may be extreme exceptional cases when men may do acts for which the law has made no provision; but no man can pretend that this case falls within any of these exceptions, that it is covered by any principle which can be invoked in favor of extraordinary extra judicial action by Government.

Sir, that argument of necessity we heard used and abused during the war. We heard it to justify many things. However, sir, I will not go over that field of inquiry, because I should be intruding matter foreign to the debate, and perhaps I could not command those feelings which are created in my breast whenever I attempt to traverse in mind that particular department of public action during the late war, in which the argument of necessity was invoked—an argument which the great poet informs us the Prince of Evil invoked "to excuse most devilish deeds."

But, sir, however it may have been during the war we are in a time of peace, and I say to the Senator from Vermont that now, when he desires any action by Government in any one of its branches, whenever he desires any action by this Senate upon the rights of a State or of one of the citizens of a State, he is bound to show his law; and he cannot ask us to break law or to make a special law for the case, without any authority, upon some vague and strained suggestion of what is morally impossible that some Davis or Breckinridge will appear here to subvert the Senate of the United States, or at least to contaminate it by his presence.

Mr. President, with a clear judgment upon the law of this case, whether as relates to the individual concerned, or as to his State, or to those common principles which are the protection of all the States in their representation in this Government, I shall vote in favor of the resolution submitted by the Senator from Maryland.

Mr. FESSENDEN. Mr. President, all the argument that could possibly be adduced on either side of this question has probably been brought forward and exhausted. I have no expectation that I shall add anything to the force of the argument one way or the other; but, nevertheless, as this is a judicial matter upon which each Senator is to decide, it may not be amiss for me to state the conclusion to which I have come and the reason that has operated upon me to bring about that conclusion.

I shall vote in favor of allowing Mr. Thomas to take the oath prescribed by the law. The question as it is here presented is, whether or not we will permit him to take the oath which he professes himself ready to take and which is prescribed by the law. It has been remarked very properly by the honorable Senator from Pennsylvania, that so far as the constitutional requisites are concerned there is no objection to Mr. Thomas, and if any objection exists it must be an objection founded upon the law itself or some other objection outside of it which is of an overruling character.

I wish to say in the outset that I have held, and still hold, that there may be cases in which the Senate would not only have the right but in which it would be its duty to protect itself against the admission of a person who ought not to sit here, or who could not sit here without destroying or injuring exceedingly the character of the Senate itself, by refusing him his seat. Those cases, however, must necessarily be very extreme cases; and in a time like this certainly, which is a time of peace, in order to justify such action to the country, a case of that description must be a very palpable and plain one. We are exercising in any such case an extra-constitutional power. I think it

exists as other powers which we have asserted during the war exist; but, as I said before, they are only to be exercised in very extraordinary cases.

As we stand now, it would be, in my judgment, dangerous in the extreme for Congress to assume the power of excluding a man who was sent here with the proper credentials on mere presumptions or mere suppositions or mere ideas of what the man is. The ordinary question presented to the Senate in such a case is with regard to his qualifications as prescribed by the Constitution itself; and it is only within a very recent period that it has become necessary to go further, as we have gone further, and as we unquestionably had a right to do, and prescribe another qualification, if you choose so to call it; that is to say, prescribe a rule of admission by designating an oath to be taken which has reference to the qualifications, or rather to the disqualifications, of the individual. I voted for that. I think we had a right to pass it. I think that it was our duty to pass it; and I stand by it now.

The question, however, as presented to us now, is beyond that. It is whether we shall assume the responsibility of refusing to permit this gentleman to take the oath. He professes himself willing to take it. We are called upon by many gentlemen who have spoken here to say that he shall not be permitted to do it, because it is one of those cases where we are called upon, outside of any constitutional provision, and outside of any legal provision, to exclude this man on the doctrine of self-protection, for no other, I think, can be adduced to support the proposition. While I do not give up the right in any case that may present itself to exercise my own judgment with reference to that matter, I wish to say generally that the power which we have under the Constitution to judge of the qualifications of members of the body is not a mere arbitrary power, to be exerted according to the will of the individuals who may vote upon the subject. It ought to be a power subject to certain rules and founded upon certain principles. So it was up to a very late period, until the rebellion. The rule simply was, if a man came here and presented proper credentials from his State, to allow him to take the ordinary oath, which we all took, to support the Constitution, and be admitted, and if there was any objection to him to try that question afterward. That was the universal rule. If, however, there was a very serious objection interposed to his doing that, it sometimes raised a question, but almost invariably we went no further. He was first admitted, and the question of his right to his seat was tried afterward.

The ground now assumed, the objection, is one not of that character at all. Gentlemen have said he should be admitted, but we could expel him afterward, if we chose. The rule of expulsion is not a rule of a majority, and there is, therefore, no resemblance between the cases, and my mind is not affected by that argument. But I still revert to the original proposition, that while I claim that the power which we assert outside of the Constitution (that is not given by any particular provision of the Constitution) and outside of any enactment of law might be exercised in certain instances, yet it would be extremely dangerous for us, upon mere doubtful grounds, upon anything that can be explained consistently with a man's innocence, to say that we will not allow him to purge himself by taking the oath that is prescribed by the law referred to.

What would be the consequence? It is, in fact, asserting that each case may be tried by itself; that every individual of the Senate, without any legal rule or constitutional rule, is to judge for himself whether he thinks the man ought to come here—that is about the amount of it—on his own idea of what the man is and what he has been. Well, sir, carry that out, make a precedent of it, make a practice of it, and what becomes of the Senate of the United States or of the House of Representatives, if such questions arise in the House of Representatives? It is a mere arbitrary decision; and arbitrary decisions founded upon no constitutional or legal rule, although they may be absolutely necessary in some cases, make a precedent which, if followed, exposes the very existence of the Senate itself or the body which resorts to it. It is apt, and may and would be very likely, to degenerate into a mere question of party acts and party views. Suppose, for instance, we stood here in a majority of one simply, and this gentleman should present himself, and if he came in his vote would make a tie in this body, or that we stood already a tie, and if he came in his vote would give a majority to the Democracy, the temptation would be very strong, if we could get up any excuse for it, to keep him out if we thought we could do so. I am unwilling to expose any body of which I am a member to such temptations arising from establishing an arbitrary rule which neither the Constitution nor the law justifies.

We must reflect that all these things have a bad tendency. Parties do not remain in power always, and if one sets an evil example or a dangerous example, from whatever good motives, the probability is that the other will follow it. I will say, moreover, that I think in doing this, even putting the worst construction upon it, we should be doing no worse in reality than the Senate has done heretofore since I have been a member of it, when the Democratic party was in power, when they excluded gentlemen from their seats who were legally and properly elected. But, leaving all that out of the question, I am unwilling to subject the Senate to the danger. I think the example is an evil one, to undertake to do anything of our mere will under circumstances which are not strong enough to bring about the necessity or to be a clear proof of the necessity of which I have spoken.

Apply these principles to the case of Mr. Thomas. There have been two objections made to him outside of his speech in Maryland to which I attach no sort of consequence whatever. There have been worse speeches ten times over made in my State by men about whom we could not raise a question if they should come here and present themselves as Senators; and it is very doubtful what the speech was. But take the admitted facts and decide upon them. What are they? One of them is that he resigned his post as Secretary of the Treasury at a trying time to the country. Well, sir, with regard to that, if he was in sympathy with the rebels, and I have no doubt he was—that is my opinion of him from all that I have seen—if his sympathies were really with the rebels upon that occasion, it has been well answered by the Senator from Pennsylvania that the way for him to have advanced their purposes would have been to stay in the Treasury, where he could have been of use to them, and not leave his post and go back to his farm in Maryland. That would have been the natural thing for him to do. But, sir, I do not place the construction upon that letter of his which other gentlemen do. I have read it carefully more than once with a view to see what it does mean. In my judgment, it refers to nothing else in the world than the mere question of collecting the revenue in the manner then proposed.

Mr. HOWARD. It is far broader than that.

Mr. FESSENDEN. The language is a little broader in the first part of the sentence, but it is qualified by the other. There is no evidence whatever that he referred to anything else. He is speaking of how he may embarrass Mr. Buchanan and Mr. Buchanan's Cabinet; and the whole sentence to my mind conveys this idea: "Sir, you have decided to collect revenue in the port of Charleston in a particular manner. That manner, in my judgment, is not justified by existing laws. I have expressed that opinion repeatedly. I think so now; and thinking that you have no right to do it, and it having been decided to do it under existing laws, and I thinking that there is no such power, my staying in the Treasury will embarrass you, and I therefore withdraw. I cannot remain consistently with my expressed opinions on that subject." In my judgment, that is all there is of that letter; that is the true construction of it; it has no reference to anything else. He was speaking of matters that came under his own personal management as Secretary of the Treasury—the collection of the revenue. In that I agree with him. There was no law to authorize the collection of the revenue in that way. If justified at all, it is justified by the necessity of the case. He was right with regard to the law: the revenue could not be collected on board ship. The law with regard to the collections of the customs had fixed definitively how the revenue could be collected, and where and in what manner. Therefore, so far as any legal provisions were concerned, he was right about it; and Congress so decided, because at the very next session, in July following, Congress passed a law expressly for that purpose, to authorize the collection on board ship.

Mr. JOHNSON. They did it in 1832 also.

Mr. FESSENDEN. But for this case, admitting the fact that there was no law, no legal provision by which the revenue could be collected at that time, according to the decision of the Cabinet, in the harbor of Charleston, in the July session following Congress provided for it in order to legalize it, and if gentlemen will turn to the act, which is familiar to us all, with reference to that matter, they will so find. Here is all there is of that, in my judgment; and I do not think it amounts to anything or shows anything one way or the other, except that Mr. Thomas having, as he states himself, expressed his opinion openly and decidedly, on more than one occasion, that it could not be legally done, and they having decided to do it, he said, "I withdraw from the Cabinet; I will not embarrass your action; I cannot do what I believe to be illegal." Therefore that matter, with reference to Mr. Thomas' letter of resignation, has produced no influence whatever upon my mind.

With regard to the other point I have but very few words to say. It is a matter that we do not agree about, even on this side of the House, among Republicans. There are those among ourselves, there were those upon the Committee on the Judiciary, who believed that Mr. Thomas's act was an innocent act so far as furnishing his son with money was concerned. That he was not much of the old Roman; that he was not a stern and severe father, that he did not love his country as it stood better than he did his child, is very evident. As I said before, it is quite evident to me, from the whole history of Mr. Thomas, that his sympathies, like the sympathies of a great many leading men of Maryland, perhaps the most of them, were with the rebellion. But, nevertheless, suppose they were. Suppose Mr. Floyd—and he is an eminent instance—had written a letter to Mr. Buchanan, saying, "Sir, I withdraw from the Cabinet because my sympathies are with the people of Virginia; I think they have a right to secede; and I therefore cannot embarrass you by staying here," and upon that letter had gone home, and gone on to his farm in Virginia, and refused utterly to take any part in what was going on, one way or the other, either to aid his country at large or his State, one side or the other; he might come, and properly take this oath. I do not see how I could vote to exclude him if he was elected by the State of Virginia and came up here and offered to take the oath.

Mr. HOWARD. Will the honorable Senator answer me one question here?

Mr. FESSENDEN. If I can. The Senator is very acute. I do not know that I shall be able to do so.

Mr. HOWARD. There is no acuteness about it. I ask the honorable Senator whether in the case of Mr. Floyd such an act would not have been giving countenance and encouragement to the rebellion? It is upon that language that I want him to comment.

Mr. FESSENDEN. No, sir; I think not. Encouragement or countenance to a rebellion is not by saying, "I sympathize with it." That is not what is meant by that rule at all. It is an act, something done, not something felt. Why, sir, if we should do that, we have got to vote against pretty much all the members of the Democratic party when they get into power and are elected here. Take my friend's own State: how many of the leaders of the Democracy there, if elected, could come here and we not be able pretty well to show that they sympathized with the rebellion? I know it is so with a very large number of them in my own State; and unless you mean to lay down a principle that when a Democrat is elected to the Senate you have a right to search his conscience and his record, and find how he felt during the rebellion, not what he did, you must admit him to take the oath, or else you are establishing a rule that cannot be sustained on any principle whatever. It means an act, something done by way of encouragement; not how a man feels or how he says he feels. If he says he feels a sympathy, and does nothing one way or the other, that does not exclude him. He may have repented.

Mr. EDMUNDS. Suppose he gives advice; is that doing something?

Mr. FESSENDEN. That is a very delicate, nice question. That does not come into the present question. That might depend upon the circumstances connected with the advice; I cannot tell. But it is an act; it is something done, not something felt, in my judgment, with reference to that matter.

Now, sir, what was the nature of this act? Mr. Thomas furnished, under certain circumstances, a sum of money to his son when he knew his son intended to join the rebels. He has stated the circumstances; his son has stated the circumstances. I might believe, individually, that this thing was somewhat plastered over; I might believe, individually, that it is a sort of a "catch;" that he was not willing quite to say it, and yet was willing that his son should go. It is like the story of the old Quaker captain, which I have told to some members of the Senate, and therefore I will not entertain the whole Senate with it. I might believe that he was willing to see the thing done while he did not wish to put his hand to it in any way. But, sir, after all, it is a question of intention. It is a doubtful matter, to say the least, because when members of the Judiciary Committee can believe from hearing the testimony—and men who hear it can judge much better than men who read it—that his act was innocent in intention, and that his sole object and purpose was to do a kind and paternal thing by his child, and not with any view to aid the rebellion or expecting it would aid it, we may well hesitate to say at once that it admits of only one construction, and that only one conclusion can be drawn from it. If I understood the honorable Senator from Nebraska [Mr. TIPTON] rightly, his conclusion on reading the testimony is, that the act was done with innocent intent; that it was merely the effect of paternal feeling, a desire to save his son. That is his conclusion from reading it. No one will accuse the honorable Senator from Nebraska of any design or wish to shield Mr. Thomas in any shape or form. It does not exist here. I am certain I have none of it, for as I said before, I believe in regard to him, from all I have heard, taking it all for truth, that his sympathies were with the rebellion, and that if Maryland had gone into it, he would have gone with her. But, sir, all his remonstrances to his son, all his objections were founded upon paternal regard and feeling; and the argument that he had no right to go and ought not to go was carried up to the very moment that he left his door in the morning and repeated before he departed. It is easy to talk of sternness, of what we would have done in such cases; that we would have arrested our sons and put them in prison; that we would have exercised the paternal authority severely and stiffly. Perhaps some of us might and some might not. I do not know but that I am considered rather a hard man. I doubt, however, whether I could see my son go from my door, even with that intent. I rather think I should lay him by the heels so that he could not go; but if I could not do that, and I found he was to expose himself to danger, I am afraid I should be soft enough to do something to avert it if I could possibly do so.

But leaving all that, the ground upon which I put my action is that it is a doubtful question; it is a matter resting on intent, to make the worst of it. What did he intend to do? The question then arises, how shall we decide? Shall we in a doubtful case, where even among ourselves we differ as to the real intent, as shown by the evidence, say to Mr. Thomas, "Sir, you shall not have an opportunity to purge yourself of that evil intent; we will not allow you to take the oath now in a time of peace, although you have done no act which you admit or which everybody clearly admits to be an act done with a view to aid the rebellion; we will not allow you to go to the desk and swear, as you must substantially if you do take the oath, that your intent was not so; that it was an innocent one; that the action was not done to aid the rebellion, but simply out of paternal regard for your son." Sir, that is treading upon very narrow and very dangerous ground. I do not feel authorized to say so; and inasmuch as these two points are the only points that have been adduced having a pretense of force in them, I must close as I began, by saying that I feel compelled to vote to allow Mr. Thomas to take the oath, if he is ready to do so.

Mr. TRUMBULL obtained the floor.

The PRESIDENT *pro tempore*. The Chair will receive a message from the House of Representatives.

DEATH OF HON. THOMAS E. NOELL.

Mr. MCPHERSON, the Clerk of the House of Representatives, appeared at the bar and said: Mr. President, I have been directed by the House of Representatives to communicate to the Senate the resolutions adopted by the House in regard to the death of Hon. THOMAS E. NOELL, late a Representative from the State of Missouri.

Mr. HENDERSON. I call for the reading of the proceedings of the House of Representatives.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 22, 1868.

Resolved, That by the death of THOMAS E. NOELL, late Representative in Congress from the third district in the State of Missouri, this House has lost a worthy and useful member, the country a most estimable citizen, and his family, relations, and intimate associates a steadfast and valued friend.

Resolved, That to give expression to their due appreciation of the talents, attainments, and patriotism of the deceased, and to indicate their regret and sorrow for his lamented death, the members of this House will wear the usual badge of mourning for thirty days.

Resolved, That these resolutions be spread upon the Journal of the House of Representatives, and that a copy thereof be sent by its Clerk to the family of the deceased.

Resolved, That in respect to the memory of the deceased this House do now adjourn.

Mr. HENDERSON. Mr. President, my acquaintance with the deceased commenced during the late war of rebellion. His father I had known for many years previous. The father, John H. Noell, for a long time occupied prominent rank as a lawyer in the courts of Missouri, and is well remembered by many Senators as an active and useful member of the House of Representatives during the Thirty-Sixth and Thirty Seventh Congresses. He was reëlected to the Thirty-Eighth Congress, but died before the commencement of its first session.

The son, THOMAS E. NOELL, at the commence ment of the war was about twenty-two years of age, and had been admitted to the bar with the most flattering prospects of success.

His home was yet in the county of his nativity, lying on the Mississippi river in the southeastern part of the State, a section which had been settled by French emigrants from New Orleans, who, at an early day, began to penetrate the West and plant settlements upon what was then the territory of France. These were the first white navigators of the great river. They, like the Indian, pressed up against its current in canoes, and, however strange it may seem, the affection of these old navigators for the river itself seems to have been proportioned to the labors of the voyage. From a short distance above the mouth of the Ohio up to St. Louis, the west bank of the river was chiefly settled by these pioneer Frenchmen. This section includes Perry county, the home of Mr. NOELL.

His parents were Virginians; but they and all others who came into this region after the change of sovereignty, were more or less influenced by the manners and customs prevailing among the French settlers. These people were proverbially hospitable and kind. With the people of Louisiana they were connected by old family ties, and their business relations had been most intimate.

Hence, when the insanity of secession, passing along from South Carolina, seized upon the unfortunate people of Louisiana the chords of sympathy between them were touched. The first impulse here was to stand by their friends. It is thus that sometimes crime itself is superinduced by the better feelings of our nature. Perhaps not more in this section of the State became disloyal than in other sections, but no doubt fewer would have become so but for the associations and sympathy of which I have spoken.

Whoever else may have proved unfaithful to the Government at this period, Mr. NOELL did not. If influences prejudicial to loyalty surrounded him they were not permitted to sunder or even to affect his attachment to the Union. He promptly entered the military service in the State militia, and placed himself under orders of the department commander At that day the soldier's life was a rugged one He had none of the comforts that a generous Government and a charitable and grateful people afterward brought to his relief. The State government was disloyal, and the national Government was not then provided with the means to lighten his burdens. The exposures of this service fastened upon Mr. NOELL the disease which has hurried him to an untimely grave and cut short a career which promised to be useful to the country.

In 1862 he was appointed to a captaincy in the regular Army, and continued faithfully and bravely to uphold his Government until he was elected to the Thirty-Ninth Congress. In that body he soon took rank as a young man of superior abilities. He was courteous and kind to his colleagues, generous and sincere with all. At his first election in 1864 he was returned to Congress as a Radical, according to party designations then existing in the State.

When the differences sprang up between Congress and the President during the winter of 1865-66 Mr. NOELL took the side of the President and became exceedingly active in the support of his policy. Notwithstanding a large majority of those who voted for him in 1864 were opposed to the presidential policy of reconstruction, as subsequently developed, yet such was the confidence reposed in him by the people of his district that he was returned at the general election in 1866 a member of the Fortieth Congress.

If in this apparent change of opinion it be said he was inconsistent, it may be answered that he was sincere, and this at least is the test of purity. That he was sincere I do not doubt. The belief that he was in error must be conceded to his political opponents, but that belief would not stain his character as an honest man.

In this world of uncertainty, where falsehood is so often garbed as to counterfeit the very image of truth, and where the wisest of men are daily forced to admit the fallacy of what yesterday seemed the perfection of reason, we

should be exceedingly slow to condemn. If a particle of sand may change the course of rivers, and a pebble carelessly tossed upon the bosom of the ocean may change the location of continents, is it strange that the slightest impulses of passion may disturb the human judgment?

The mind of man may be compared to the sensitive plate of the photographer—the stronger the light the more enduring the picture. And so one marked case of wrong may leave an impression which can never be effaced. One individual case of suffering which could not be avoided may drive the friends of the sufferer to disregard the miseries of millions of their fellow-beings. How often a wrong done to one of our own race blinds us to the wrongs borne by thousands of others equally entitled to the kind offices of humanity! A relative excluded from the ballot for disloyalty may cause us to endure the crime of treason, and forgive him for excluding others.

Mr. NOELL, in September last, while on a visit to St. Louis, was stricken down by disease and died in that city on the 4th of October. His death comes to remind us here, in the discharge of duties, that life, with all its passions and conflicts, is of short duration. The offices we perform to-day for him must soon be performed for each of us. As we cannot escape the inexorable law of our nature, we should so live, as I believe he endeavored to live, that those who take our places may find in our labors the cause of civilization promoted and the condition of mankind made better.

Mr. President, I offer the following resolution:

Resolved, That the Senate has received, with deep sensibility, the announcement of the death of Hon. THOMAS E. NOELL, late a member of the House of Representatives from the State of Missouri.

Resolved, That the members of the Senate, as a mark of respect for the memory of the deceased, will go into mourning by wearing crape on the left arm for the space of thirty days.

Resolved, That, as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

Mr. DRAKE. Mr. President, after the remarks of my colleague in reference to the death of this young friend of ours in the other House, I do not feel that there is much room for anything additional to be said by me. The particulars in reference to the life of Mr. NOELL have been stated, and all that I can say is that in the limited acquaintance which I enjoyed with that gentleman I was always struck with his amiable disposition, his courteous demeanor, and his uprightness of character. He lived at a considerable distance from my home, and I had but very slight personal acquaintance with him. These are the impressions that that acquaintance made upon my mind, and I take pleasure in bearing my testimony to his worth here on this occasion.

The resolutions were adopted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 22, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of yesterday was commenced, but before it was concluded,

Mr. BOUTWELL moved that the further reading of the Journal be dispensed with.

The motion was agreed to.

FIRST PRESBYTERIAN CHURCH.

Mr. HOLMAN. Mr. Speaker, by some misapprehension, a bill introduced yesterday by the gentleman from Pennsylvania, [Mr. KOONTZ,] House bill No. 502, to incorporate the First Presbyterian Church of Washington, District of Columbia, was referred to the Committee for the District of Columbia. A bill precisely similar was passed by both Houses before the late holiday recess, but on account of some oversight failed to reach the President in time for his signature. I move to reconsider the vote by which the bill was referred, and hope that the House will consent to take up the bill and pass it now.

The SPEAKER. If there is no objection, the motion to reconsider will be regarded as adopted, and the bill will be put upon its passage.

There was no objection.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

The SPEAKER. The first business in order this morning is the bill pending last evening when the House adjourned—House bill No. 320—making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes.

Mr. BUTLER. I move that this bill be considered by the House as in Committee of the Whole, five minutes being allowed for speeches for or against amendments.

There being no objection, the motion was agreed to.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. BOUTWELL, by unanimous consent, presented resolutions adopted at a mass meeting in Lowell, Massachusetts, in regard to the rights of American citizens abroad.

The resolutions were read, as follows:

Resolutions read and adopted at mass meeting of citizens held at Huntington Hall, city of Lowell, Massachusetts, January 18, 1868, his Honor G. F. Richardson, the mayor, president:

Whereas the United States of America having invited to her shores the oppressed of all countries, the martyr of every creed, the victim of despotic arrogance or superstitious frenzy, to find refuge, and by renouncing forever all allegiance to every prince, potentate, State, or sovereignty whatever, confers on them the right of citizenship; and whereas in taking said oath every Irishman believed that he had forever renounced the yoke of English tyranny that has for centuries oppressed his native land; and whereas for the past two years the Government of Great Britain has in direct violation of international law and without justification seized on the persons of American citizens traveling abroad, and have detained them in prison without legal accusation or indictment; and whereas these outrages have led to a revival of the claim which produced the war of 1812, and is now decided by the English court, "Once a subject a subject forever," under which decision American citizens have been hung as traitors to a Government to which they owed no allegiance without any remonstrance from the United States minister to Great Britain:

Resolved, That as the oath of allegiance imposes on the naturalized citizen the same duties as the native born, they should also receive the same protection from the Government to which they have sworn allegiance, and we call upon the Executive of the United States to enforce this principle at all hazards in order to preserve her national honor and dignity.

Resolved, That we call upon the United States Government to define the rights of citizens abroad, and a complete disavowal of that infamous principle of English law, as recently expounded by English judges, "That a naturalized citizen of the United States still remains a subject of England."

The resolutions were referred to the Committee on Foreign Affairs.

SALE OF HAY AND STRAW.

Mr. STONE, by unanimous consent, introduced a bill (H. R. No. 504) to regulate the sale of hay and straw in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PERSONAL EXPLANATION.

Mr. PILE. I ask unanimous consent to make a brief personal explanation.

The SPEAKER. If there is no objection the gentleman will proceed.

There was no objection.

Mr. PILE. Mr. Speaker, in the Globe containing the proceedings of this House of Saturday, 11th instant, I am made to say the following:

"I desire to say, in explanation of what I said on the day before yesterday, at the suggestion of two gentlemen from Illinois, with regard to Dr. Fowler and his connection with certain transactions at St. Louis, that the doctor has since called upon me and assured me that he withdrew from the firm connected with Mr. Goodell before the majority of those transactions to which so much odium attaches in that section of country, and was not personally responsible for them, whatever they may have been."

What I meant to say was that Dr. Fowler stated to me that the firm of which he was a member dissolved in the summer of 1864. This was before the transactions occurred that I have heard referred to in the West.

I wish to correct this statement accordingly, and to say that I know nothing myself personally of the connection of either of those men with the Government as contractors. Their names were used by me in the form of a question to the gentleman from Illinois [Mr. MARSHALL] on the suggestion and authority of the two other gentlemen from Illinois, [Mr. LOGAN and Mr. WASHBURNE.] I disclaim any personal knowledge of fraud by the firm of E. S. Fowler & Co. or the two gentlemen named.

MILITARY RESERVATION, FORT RILEY.

Mr. CLARKE, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to inform the House of the number of acres of land contained in the military reservation of Fort Riley, and whether or not the whole of said reservation is needed for military purposes.

STEAMSHIP VANDERBILT.

Mr. TABER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be directed to report to this House what service the United States steamship Vanderbilt is employed in, where stationed, and the present condition of the hull and machinery of said vessel.

AARON DEVERS.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill (H. R. No. 505) granting a pension to Aaron Devers, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

HESTER FAULKNER.

Mr. LAWRENCE, of Ohio, by unanimous consent, also introduced a bill (H. R. No. 506) granting a pension to Hester Faulkner, widow of John Faulkner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SARAH A. WILKLOW.

Mr. LAWRENCE, of Ohio, by unanimous consent, also introduced a bill (H. R. No. 507) granting a pension to Mrs. Sarah A. Wilklow; which was read a first and second time, and referred to the Committee on Invalid Pensions.

WILLIAM HUTCHENS.

Mr. LAWRENCE, of Ohio, by unanimous consent, also introduced a bill (H. R. No. 508) granting a pension to William Hutchens, a soldier of the war for the suppression of the rebellion; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NAVY-YARD AT GRAND HAVEN, MICHIGAN.

Mr. FERRY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be, and are hereby, instructed to inquire into the expediency and propriety of establishing a navy-yard and naval depot at Grand Haven, Michigan; and they have leave to report by bill or otherwise.

WESTERN JUDICIAL DISTRICT OF MISSOURI.

Mr. GRAVELY, by unanimous consent, introduced a bill (H. R. No. 509) to create the southwestern judicial district of Missouri; which was read a first and second time, and referred to the Committee on the Judiciary.

SUFFERINGS OF SOLDIERS IN ALASKA.

Mr. BUTLER, by unanimous consent, submitted the following preamble and resolution; which was read, considered, and agreed to:

It having been reported in the public journals that

great suffering from cold and hunger has happened to our soldiers in Alaska: Therefore,

Resolved, That the Secretary of War be requested to send to the House copies of all the dispatches and reports upon that subject, and all orders or directions given by or through the Department of War in consequence thereof.

DEFICIENCY APPROPRIATION BILL.

The SPEAKER stated the first business in order was the consideration of the amendments of the Senate to House bill No. 320, making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, as in Committee of the Whole on the state of the Union, the debate being limited to five minutes for, and five minutes against amendments.

First amendment:

Add at the end of the bill:
For increased compensation to Congressional Printer, to June 30, 1868, $1,344 44.

The Committee on Appropriations recommended a concurrence.

The amendment was concurred in.

Second amendment:

Add as follows:
To supply a deficiency in the contingent expenses of the House of Representatives for the present fiscal year, the following sums, namely.

The Committee on Appropriations recommended a concurrence.

The amendment was concurred in.

Third amendment:

For stationery, $15,000.

The Committee on Appropriations recommended concurrence with the following amendment:

Add the following proviso:
Provided, That no Senator or Representative shall receive any newspapers excepting The Congressional Globe, or stationery, or commutation therefor, exceeding $125 for any one session of Congress.

Mr. WASHBURNE, of Illinois. I move to substitute for the amendment of the committee the following:

Provided, That hereafter no member of either House of Congress shall be allowed or paid for newspapers, except The Congressional Globe, and for stationery for any one year a larger sum than $125 in money or its value; and no further allowance for stationery or newspapers shall be made to any member of the House of Representatives for the year ending the 3d day of March, 1868, than that already ordered by the House.

Mr. Speaker, I have offered, as an amendment to the amendment of the Committee on Appropriations the same proposition which the House passed upon, as will be remembered by gentlemen who paid attention to our proceedings, with the exception of excluding The Congressional Globe, and I make that more certain which was perhaps in some doubt. The difference between the two propositions is this: my proposition provides there shall be no further allowance for the present year to the members of the House. And I submit it to the gentlemen of the House whether, when we are playing the rôle of economists, striking down officers here and cutting down salaries there, it is the proper thing in this indirect way to put up our own salaries?

Mr. BAKER. I wish to know why the committee reserves and proposes to preserve as part of the law this allowance of $125 to each member of Congress for newspapers?

A MEMBER. And stationery.

Mr. BAKER. Is it not bogus?

Mr. WASHBURNE, of Illinois. The gentleman addresses me. I am not chairman of the committee. His remarks would be more properly directed to the member reporting the bill. What I was going to call attention to is this: by order of the House at the first session in March last an allowance was made to each member of forty-five dollars for stationery and fifty dollars for newspapers, making ninety-five dollars. By a further order made in the July session each member was allowed forty-five dollars for stationery and fifty dollars for newspapers, making the total allowance $190 up to the commencement of the present session. Now, we have already received, or are entitled to receive for the present session the sum of seventy-five dollars for stationery and fifty dollars for newspapers, making the total allowance for this year $315 to each member, independent of his salary of $5,000 a year.

Mr. BROMWELL. Will my colleague yield to me for a suggestion?

Mr. WASHBURNE, of Illinois. What is the suggestion?

Mr. BROMWELL. I ask my colleague if he has informed himself how much more some of the members receive by way of mileage by way of Chicago and New York?

Mr. WASHBURNE, of Illinois. The gentleman asks me a question which I cannot answer. It is foreign to this proposition. What I wish to submit to the House is this: that I do not believe gentlemen desire to stand on the record as receiving for this year the sum of $315 for stationery, as we shall do unless this amendment is made. The proposition went through when the bill was first under consideration without any marked opposition. It went to the Senate, and I supposed that the Senate would adopt that proposition as a settlement of this whole stationery question. But, instead of doing that they thought they would bluff the House by cutting it all off and sending to us a proposition not to receive any stationery. The House, much to the disappointment of the Senate I have no doubt, took up the gauntlet which the Senate had thrown down and adopted their proposition, and when it came back to them they took no action whatever upon that bill which had that proposition in it, but attached other items in that bill to the present bill. That is all I desire to say.

Mr. BUTLER. The difference between the two propositions—the one reported by the committee and the one offered by the gentleman from Illinois, as an amendment—is precisely this: owing to the extraordinary sessions in March and July, wherein, for the service of the country and for no other purpose, upon the same salary, without any extra travel or compensation, many members of Congress left their homes and came here for the purpose of doing the business of the country. Yet it was found necessary to use stationery and have newspapers, if a newspaper is ever necessary, and thereupon the usual course was taken. Now, then, we come to this session of Congress, and the question is whether we shall cut off for this year all allowance for those members who have come here for the first time and have not received any, and whether we shall cut ourselves off for this year. The committee propose that hereafter there shall be a fixed amount applying as well to the Senate as to the House, giving to each member $125 and no more; so that this thing can never happen again.

But we found other difficulties. We found that some gentlemen had already received their commutation, had already ordered their newspapers for this session, and it would be an unjust and invidious discrimination against them. And while I am quite willing, and know my associates on the committee will bear me out in saying I have been ever ready, to move in the committee and to vote in this House any measure of economy, applying as well to the members as to everybody else, yet I think we should not, under the idea of economy, do an act of injustice. Therefore the committee have instructed me to report this proviso instead of the one the gentleman has advocated. I now yield to the gentleman from Ohio.

Mr. SPALDING. Mr. Speaker, I believe it is conceded that the Committee on Appropriations is sufficiently regardful of the rules of economy. If there be any difficulty at all attending the deliberations of this committee it is whether they will appropriate enough money to keep the wheels of the Government in motion. There is no difference of opinion in the committee in respect to the necessity for just adherence to economy, but upon this simple measure there was a difference of opinion. As was correctly stated by my colleague on the committee, some of the members of this House have gone home on leave, their health requiring it, and inadvertently have drawn their pay for stationery and newspapers for this long term of Congress, to wit: seventy-five dollars for stationery and fifty dollars for newspapers, which is the amount allowed under the rule of the House for the long session.

There are other new members here who have never for the current year received anything for newspapers and stationery. We dislike to cut off those men, on the one side, who have received nothing from this small pittance which enables them to pay for their newspapers and stationery, and we dislike also to call upon our friends to refund what they have taken, honestly supposing it to be their right. This is a little matter, and we propose to establish a general rule that hereafter there shall be no greater allowance made than $125 for any term of Congress, long or short, for newspapers and stationery together.

Mr. MAYNARD. Will the gentleman from Ohio allow me to ask him a question?

Mr. SPALDING. Certainly.

Mr. MAYNARD. What reason is there for specifying any particular sum, *in numero, eo nomine*, for stationery and newspapers? Why not let every member of the House have all the stationery that he needs in the exercise of his duties, and put it to his own honor and responsibility that he does not abuse the law? Occasionally you may have a man here who would steal. If there was one thief among the Twelve Apostles we might possibly have a thief here occasionally; but it seems to me that if we would put the law upon the principle of allowing each member to use what stationery he needs, and trust to his own honor and responsibility that he does not abuse the privilege, it would not cost the Government by fifty per cent. as much as it now does. I understand that was originally the law. There is a tradition how it came to be changed. I do not know whether the tradition is true or not; but it seems to me that if it was changed for any such reason as is alleged it was a very poor reason.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to say that that system was one practised here, and under it it was found that members bought pantaloons and shirts and shaving soap enough to last them five years after they went out. [Laughter.] This went on until the expense became enormous, and it seemed likely that members would clothe their whole families for generation after generation. [Laughter.] Congress was obliged to repeal that law and put some limit to it when it was found that it ran up as high as, I will not say thousands, but near that in several sessions for several members. That was the reason why it was changed.

Mr. MAYNARD. Mr. Speaker——

[Here the hammer fell.]

Mr. MAYNARD. I ask pardon of the gentleman from Ohio, [Mr. SPALDING.] I was not aware the debate was limited. I owe him an apology.

The question was upon the amendment offered by Mr. WASHBURNE, of Illinois, to the amendment reported by the Committee on Appropriations.

Mr. MAYNARD. Is an additional amendment in order?

The SPEAKER. It is not. The Senate amendment is the original text, and then there is an amendment pending, and an amendment to the amendment.

The question was put on Mr. WASHBURNE'S amendment, and there were—ayes 32, noes 71.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The question was put on ordering the yeas and nays; and there were—ayes 17, noes 89.

Mr. WASHBURNE, of Illinois, called for tellers on the yeas and nays.

The question was put on the call for tellers, and eighteen voted in the affirmative.

Mr. WASHBURNE, of Illinois. Count the other side.

The SPEAKER. Not a sufficient number. Ninety-five is a quorum, and it takes nineteen to order tellers.

Mr. WASHBURNE, of Illinois. Will not the Chair vote in the affirmative? [Laughter.]

The SPEAKER. The Chair does not do so. Tellers are refused, the yeas and nays are refused; and the amendment to the amendment is rejected.

The question recurred upon the amendment reported from the Committee on Appropriations.

Mr. MAYNARD. I move to amend the amendment by striking out the last line, in order to say this: from my knowledge of the history of this body, I am not prepared to admit that the reason which is commonly given for this limitation upon the stationery and newspapers of members is the real reason. I have heard the reason; we have all heard it.

Instances are given, no doubt correctly and truly, where the old law was repeatedly abused. Those instances are seized upon as affording sufficient reason for this restrictive legislation. Now, it is a part of the history of Congress that until the year 1856 the members of this body were most inadequately paid. There was a great deal of legislation aimed at doing indirectly what the law until that time did not attempt to do directly; that is, to give increased compensation to the members of this House, in the form not merely of newspapers and stationery, but of books that were distributed to each member to the amount of thousands of dollars.

Now, I undertake to say that we would have very few cases of the kind to which I alluded if we would reduce the stationery system and the newspaper system to the principle of allowing each man to use what he himself shall believe to be necessary for his use, keep an account with him, and let that account be published from year to year, as we publish the other expenses in connection with the Clerk's office, so that if a man carries home to New York or to any other place stationery enough to set up a bookstore he shall be held up for observation and for animadversion. I put it to every gentleman here, to his own conscience, whether he would feel at liberty to take any more stationery than he needed for the transaction of the business connected with his seat. As the law now stands, and the reports of our Clerk will show such to be the case, members do not use one half of the stationery that is nominally allowed them, but the rest of the allowance is commuted by the payment of money.

So far as newspapers are concerned, I do not know that since the first session I was here I have taken a single newspaper through the Clerk's office. I subscribe for and buy my own newspapers as I want them, and receive in commutation the amount of my allowance in money.

I think, as a matter of economy—and I submit that consideration to gentlemen who have charge of this bill—that it would be a saving to this Government to put this matter of stationery upon the old basis, with this proviso, that an account shall be kept with every member for the articles that he takes, which account shall be open for inspection, and the sum totals to be published with the annual report of the Clerk.

Mr. BROMWELL. In my opinion this whole matter of appropriating money for newspapers and stationery is just adding so much to the salaries of members, for there are now more newspapers sent to members here than they can read, or get time to read. Now, I do not suppose that as a general rule the members of the House expend the money thus appropriated, or any great part of it, for newspapers. At all events the appropriation for newspapers and the appropriation for stationery might just as well be included in the salary, and let each man spend as much money for newspapers and for stationery as he may desire. I am perfectly willing to buy the small amount of paper and envelopes that I use, and say nothing more about it.

I now desire to say this in regard to the suggestion which I made to my colleague [Mr. WASHBURNE, of Illinois,] in reference to mileage, and how I came to make it, because it has been remarked to me that my suggestion may contain some reflections upon members. My colleague is famous for taking charge of the public interests in small matters as well as great matters of economy. Manifestly if the little leakages in newspapers and stationery are to be stopped it would be well to look up some other and larger leakages which may possibly exist. I made the suggestion I did for the reason that the officers of this House assured me that it was the custom of the western members to charge their mileage by way of Chicago and New York, and they urged me to make my charge in that way, in order to conform to what was done by the rest of the western members. I think they spoke to me generally. I am very sure they included Illinois. That I understood was the manner of charging the mileage of members from Illinois.

Mr. BUTLER. For the first time in my life I must rise to a point of order. I do not see that the subject the gentleman is discussing has anything to do with stationery.

The SPEAKER. The Chair sustains the point of order. The gentleman from Illinois [Mr. BROMWELL] must confine his remarks to the amendment.

Mr. BROMWELL. I yield to the gentleman from Missouri, [Mr. ANDERSON.]

Mr. ANDERSON. Mr. Speaker, I was absent from the House when this question of mileage was brought into this debate, and I desire to state to the House, so that it may go to the country, that no member of this House coming from any of the northwestern States or from the West has been allowed mileage by way of Chicago. The Chicago member himself comes by the direct route to the city of Washington; and all mileage from that direction has been computed on that basis both by myself and the Speaker.

Mr. ROSS. I would like to ask my colleague a question.

Mr. BROMWELL. I will yield for a question.

Mr. ROSS. I desire to ask the gentleman whether he would not be willing to have the bill amended so as to stop the pay of members of Congress while traveling in Europe? [Laughter.]

Mr. BROMWELL. I shall not object to any amendment which the House may deem proper. I desire to say that I would not have intruded upon the House these remarks on the subject of mileage except for the purpose of explaining why I made my suggestion on that subject to my colleague, [Mr. WASHBURNE, of Illinois.]

[Here the hammer fell.]

Mr. MAYNARD. I withdraw the amendment.

Mr. BROMWELL. I renew the amendment.

The SPEAKER. The gentleman from Illinois [Mr. BROMWELL] cannot speak again while any other gentleman desires to speak. The gentleman from Massachusetts, [Mr. BUTLER,] who claimed the floor at the same time as the gentleman from Illinois, is recognized.

Mr. BUTLER. Mr. Speaker, has the amendment withdrawn by the gentleman from Tennessee [Mr. MAYNARD] been renewed?

The SPEAKER. It has not. The question is now upon the amendment of the committee, which is open to debate, five minutes for and five minutes against the amendment.

Mr. BUTLER. I do not desire to address the House upon that, but merely to say that I have no doubt the Committee on Appropriations will hereafter attend to one or two "leaks" which may have escaped their notice. But this bill embodies the best conclusion which the committee could reach at present. I trust that a vote will be taken on the amendment.

Mr. MILLER. Mr. Speaker——

The SPEAKER. Does the gentleman from Pennsylvania [Mr. MILLER] rise to oppose the amendment of the committee?

Mr. MILLER. Yes, sir; I wish to say a word on this subject. I am opposed to any attempt on our part to fix the sum to which the Senate shall be limited in regard to stationery, as I think it equally improper for the Senate to undertake to regulate the expenditures of this House in regard to this matter. I have no objection to this House fixing the amount of stationery to which members here shall be entitled. Let the Senate also regulate the matter for itself. The whole sum expended annually for stationery for the two Houses has been but $15,000, under the system by which each House regulated its own expenditures in this particular.

Now, Mr. Speaker, the gentleman from Illinois [Mr. WASHBURNE] says that the Senate has thrown down the gauntlet on this question, and that we ought to take it up. Why? Because the Senate saw fit to strike out the whole appropriation for stationery. No wonder the Senate did that, because we have undertaken to interfere with the immemorial custom of that body in regard to their stationery. Now, sir, the country understands this matter. We talk of economy; but if we want to practise economy, let us commence to retrench where there are expenditures of millions, instead of beginning with this small matter of stationery, and parading it before the country as our achievement in the direction of economy. Mr. Speaker, if we intend to be economical, let us begin where our actions will amount to something, and not upon these small matters. And not only that, we are here proposing to legislate how much the Senate shall charge. Let the Senators regulate that matter among themselves.

I know it is perfectly just and proper that we should economize, for it is absolutely necessary that the taxes should be reduced. But we should begin to economize, not on these petty matters, but with large expenses, which will amount to something, where millions are expended and where millions may be saved. I am for retrenchment and reform, but I am for commencing where it will amount to something.

Mr. WASHBURNE, of Illinois. I advise the gentleman to commence his reform at home.

The amendment of the Committee on Appropriations was agreed to; and then the amendment of the Senate as amended was concurred in.

Fourth amendment of the Senate:

Add:
For furniture, repairs, and packing boxes for members, $20,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Fifth amendment:

Add:
For miscellaneous items, $15,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Sixth amendment:

Add:
For folding documents, including materials, $50,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Seventh amendment:

Add:
For newspapers, $12,500.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Eighth amendment:

Add:
To supply a deficiency in the contingent expenses of the Senate for the present fiscal year, namely.

The Committee on Appropriations recommended concurrence.

The amendmemt was concurred in.

Ninth amendment:

Add:
For clerks to committees, and pages, $33,804.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Tenth amendment:

Add:
For additional messengers and laborers, $15,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Eleventh amendment:

Add:
For labor and materials in the folding-room, to be provided by the Sergeant-at-Arms, $5,000.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Twelfth amendment:

Add:
Judiciary:
For salary of the marshal of the Supreme Court of the United States from April 3, 1867, to June 30, 1868, at $3,500 per annum, $4,355 77.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Thirteenth amendment:

Add:
Department of Education:
For amount required for salary of Commissioner to March 30, 1867, $192.

The Committee on Appropriations recommended concurrence.

The amendment was concurred in.

Fourteenth amendment:

Add:
SEC. 2. *And be it further enacted*, That so much of the first section of the act of March 3, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," as authorizes the President, on the application of the Secretary of any Department, to transfer the moneys appropriated for a particular branch of that Department to another branch of expenditure in the same Department be, and the same is hereby, repealed.

The Committee on Appropriations recommended non-concurrence.

The amendment was non-concurred in.

Mr. BUTLER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had adopted the report of the committee of conference on House bill No. 213, to suspend the further reduction of the currency.

The SPEAKER. The next business in order is the call of the committees for reports. The morning hour has commenced.

The Committee on the Judiciary being called,

Mr. WILSON, of Iowa, rose to make a report.

PERSONAL EXPLANATION.

Mr. KNOTT. I rise to a question of privilege. I ask the indulgence of the House for a few moments to make a personal explanation.

Several MEMBERS. How long?

Mr. KNOTT. Only a few minutes.

Mr. SPALDING. Five minutes?

Mr. KNOTT. Not over five minutes. The gentleman from Massachusetts [Mr. DAWES] in speaking to a question of privilege yesterday indulged in imputations involving my reputation for professional if not personal integrity, which imputation I desired at the time to repel, but owing to want of familiarity with the rules of the House I had not an opportunity to do so. That imputation is contained in language used by the gentleman, inadvertently I hope, or at least without a full knowledge of all the facts and circumstances. In alluding to the brief of Judge Young, distributed upon the desks of members, he says:

"In this paper, printed after the argument, and thus put upon the tables of members without the knowledge of the committee, I find that points are raised and presented which were never argued nor presented to the Committee of Elections."

This may be true. I who wrote that brief never on any occasion had the pleasure of being present when the argument was made before the Committee of Elections; consequently I am unable to say what points were or were not presented in the oral argument. I, however, thought in drawing that brief, and still think, that no point was raised in it which might not have been legitimately raised before the committee or before the House.

The gentleman further said:

"I find also incorporated in this paper evidence which was taken after the time allowed by the House for the taking of testimony, after it was agreed by all parties before the committee that the testimony was closed. In respect to this testimony I would say that after it was taken without authority, and, as I supposed, in violation of the express agreement by the parties when this evidence was submitted before the committee and rejected by them, it was agreed that no application should be made to the House for permission to use it before the committee."

With regard to that I have this to say: it is true there was testimony taken in the case after the time allowed by the statute in such cases had elapsed; but that testimony was presented to the Committee of Elections with this understanding, at least on my part, that if the committee should determine that the testimony was incompetent it should not be insisted upon before the House. But it was further understood that all questions as to the competency of the testimony were to be reserved by the committee and not adjudicated upon until the final determination of the case by them. That, in my estimation, left the question as to the competency of that testimony open and perfectly pertinent to be argued in the brief; and hence, without knowing whether my colleague had alluded to it or not in his oral argument before the committee, I thought, and still think, I had a right to treat it as competent testimony, and I understand from one of the members of the committee that it has never yet been decided to be incompetent.

The gentleman from Massachusetts further said:

"Under these circumstances it appears to me to be not only a breach of the privileges of this House, but also a breach of good faith, to insert in this paper this matter, and much more so to circulate it, though printed for the use of the committee, among the members of this House without the knowledge of the committee."

I did not know that there was any rule which prescribes to counsel the points to be raised in a brief upon facts to be alluded to, or that it is either a breach of privilege or of good faith to rely upon any legal proposition or any question of fact bearing upon the matter in issue.

The gentleman further charges that this brief was paid for by the Government. I am satisfied the gentleman was not apprised of all the facts in regard to this matter, and in justice to myself as well as Judge Young, who is voiceless on this floor, I have this to say: when that brief was written it was written with the idea that it was for the use of the Committee of Elections. The committee ordered a certain number of copies—I do not know exactly how many—to be printed for their use. Judge Young, ascertaining that the brief of the contestant, Mr. McKee, had been distributed and was as thick in this House almost as the leaves of Vallambrosa, at once had one hundred copies of his own brief printed, not knowing that by circulating it among the members of the House he would be guilty of any breach of privilege or any violation of the rules of this House.

I beg leave to further say on behalf of Judge Young, knowing him as I do, that I feel no hesitation in asserting that he would be the last man to violate the rules of this House or a parliamentary privilege. He came here last summer a stranger to members of the House. He was met by the contestant and saw upon these tables a document carefully prepared by the contestant to prejudice the minds of members against him and forestall their opinion with regard to the merits of this case.

Again, he found the brief of the contestant, Mr. McKee, circulated among members; and if he has erred in this matter at all; he has erred ignorantly and following the example of one who has had two years' experience on this floor.

Mr. DAWES. I ask leave to make a brief personal explanation.

No objection was made.

Mr. DAWES. Mr. Speaker, in the remarks I made yesterday I had not the slightest intention of casting any reflection upon the personal character of any gentleman, either a member now or contesting a seat in this House, and if I had not been shut off as I was I think there would have been no occasion for any explanation to-day. I am very glad the gentleman from Kentucky has brought the matter before the House to-day, for now I think my friend from Illinois [Mr. WASHBURNE] cannot take me off the floor while I make a simple statement to the House. I have not seen The Globe nor a single word which I said upon the floor yesterday, but I say, in all frankness, that I did not mean to intimate that any member or contestant or claimant had clandestinely or covertly placed upon the tables of members here anything that it was improper to place there; but I did think that there had been placed upon our tables that which was both irregular and improper to be placed there, whatever might have been the motive. And the reason for it is in the explanation of the gentleman from Kentucky this morning, that he prepared this brief and caused it to be placed upon our tables without having any personal knowledge himself of what transpired in the committee.

Mr. KNOTT. The gentleman will allow me to correct him.

Mr. DAWES. Whether he caused it to be placed upon our tables or not I do not know; but it has been placed on our tables in that form, because my friend from Kentucky—he will allow me to call him so—was not aware, not being present in the committee during the hearing, of what transpired there. Not that I thought there was any particular harm in placing the brief upon the tables of members, a thing which is resorted to very frequently in this House; but it was this: that there was embraced in it, in addition to certain points which the gentleman was not aware were not taken before the committee, and that takes the other side at a disadvantage—there was embraced in it testimony which not only was not lawful to be used by the committee, but which it was perfectly agreed before the committee that there should be no application made to the House to use before the committee. And the reason why I called the attention of the House to that was simply that I thought this was an improper way of getting before members of the House testimony touching an election case which was not proper and not lawful to be considered by the committee. I thought it was my duty to call the attention of members of the House to it that the case might not be prejudiced one way or the other. If the gentleman from Kentucky or any other gentleman here inferred that I got up here to impugn the motives of any gentleman inside or outside of the House he misunderstood my intention, however unfortunate may have been my language. I thought that inadvertently, and without thinking of the propriety of the matter, the gentleman had in that way got into the House and before members testimony which was not lawful, and that, therefore, I ought to call the attention of the House to it.

Mr. ELDRIDGE. I wish to inquire of the gentleman from Massachusetts if that testimony to which he has alluded is not still before the committee, and if the question whether it shall be used in the hearing of the case or not is not still in reserve?

Mr. DAWES. Most certainly not, and the gentleman from Kentucky [Mr. KNOTT] would not have made that statement if he had been before the committee.

Mr. ELDRIDGE. I understand from the gentleman's colleague upon the committee [Mr. KERR] that the committee have not yet determined whether they will receive that testimony in evidence or not. If that be so, and the committee is holding that testimony under consideration, the question of its use to be hereafter determined, then I ask if when the committee require a brief to be made it was not entirely proper that the person preparing the brief should anticipate the testimony and comment

upon it provided the testimony should ultimately be held by the committee as proper to be received by it?

Mr. DAWES. The gentleman is aware that I was trying to make an inquiry of the gentleman from Indiana [Mr. KERR] on yesterday when the House, or some member of it thought I had worried their patience long enough. I will say to the gentleman that I do not understand any such thing. If I had understood that there was still pending before the Committee of Elections the question whether this evidence was to be used or not, then I should agree with the gentleman from Wisconsin [Mr. ELDRIDGE] that it was the most proper thing in the world to embody in in a brief the views of the gentleman drawing the brief why it should be used. But if my friend from Indiana [Mr. KERR] so understands the case, he understands it entirely different from me or any other member of the committee around me.

Mr. ELDRIDGE. Two members of the committee, the gentleman from Indiana [Mr. KERR] and another gentleman, so understand it.

Mr. DAWES. I understand the case to have been argued and closed before the committee; and the party himself declining to use the testimony, it now remains sealed up in the committee-room and has not been used or read before the committee. The question whether it should be offered to the committee or not was argued there. And upon the committee, without any dissent from anybody, notifying parties that by the law they must come here to the House to get authority to use that testimony, they informed the committee, after having retired for consultation, that they would not do that, but would close their case without it. Why, then, when I take up here this brief and find that it embodies that evidence, should I not infer that that was an improper way of getting before the House evidence that was excluded by the committee?

Mr. WILSON, of Iowa. I would inquire of the Chair if all this comes out of the morning hour?

The SPEAKER. It does.

Mr. DAWES. It appears that I have again exhausted the patience of this House.

Mr. WILSON, of Iowa. If this discussion is to come out of the morning hour I must object to its continuing any longer, and resume the floor.

Mr. DAWES. I desire to say——

The SPEAKER. The gentleman from Iowa [Mr. WILSON] is entitled to the floor, the gentleman from Massachusetts [Mr. DAWES] having already spoken seven minutes.

Mr. DAWES. I rise to a point of order. My point of order is that when I get leave of this House for a brief personal explanation, I submit, with great respect to the Chair, that I never knew before that that meant I was to be limited to five minutes.

The SPEAKER. Will the gentleman from Massachusetts [Mr. DAWES] state to the Chair at what point he is to be arrested in his remarks when he obtains leave for a brief personal explanation?

Mr. DAWES. I know the Speaker will receive what I say in the spirit in which I say it.

The SPEAKER. Certainly.

Mr. DAWES. I suppose it must be brief.

The SPEAKER. At what point, inside of the hour, must the Chair arrest the remarks of the gentleman under such circumstances?

Mr. DAWES. My reply to the Chair is that unless I was limited as to time I would be entitled to an hour; but I think that would be an abuse of the privilege granted to me to make a brief personal explanation. I wanted to apologize to the House for having exhausted its patience thus much. I shall never ask this House again for leave to make a personal explanation. I did so this time merely to assure the gentleman from Kentucky [Mr. KNOTT] that I did not intend to impugn his integrity.

The SPEAKER. The Chair will state to the gentleman from Massachusetts [Mr. DAWES] that he did not arrest his remarks. The gentleman from Iowa, [Mr. WILSON,] who had possession of the floor for making reports from the Judiciary Committee, insisted upon resuming the floor. If the Chair is to understand that a brief personal explanation shall extend to an hour he will so rule with great pleasure.

Mr. ASHLEY, of Ohio. I object to any such understanding.

Mr. WILSON, of Iowa. I did not understand that the personal explanation of the gentleman from Kentucky [Mr. KNOTT] and of the gentleman from Massachusetts [Mr. DAWES] were to come out of the morning hour or I should have objected at the time. This is the last morning hour that the Committee on the Judiciary will have probably for several months.

Mr. WASHBURNE, of Illinois. I hope the gentleman will have his morning hour, as he was acting under a misapprehension.

Mr. WILSON, of Iowa. The gentleman from Kentucky rose to a privileged question, and I understood that the Chair ruled me off the floor.

The SPEAKER. The gentleman from Kentucky obtained the floor for a personal explanation and was asked how long he wanted. He said five minutes. He received unanimous consent and spoke for five minutes. It was not a privileged question, but a personal explanation. The gentleman from Massachusetts was also allowed to make a personal explanation. The gentleman from Iowa then rose, and he was accorded the floor. If the gentleman has been aggrieved by any misapprehension the Chair can only regret it.

Mr. KERR. I wish the gentleman to give me five minutes.

Mr. WILSON, of Iowa. I ask that the morning hour shall commence after the gentleman's personal explanation.

There was no objection, and it was ordered accordingly.

PERSONAL EXPLANATION.

Mr. KERR. Mr. Speaker, in reply to what the chairman of the Committee of Elections has stated on this subject this morning, I say I fully agree with him it was understood and agreed before that committee the gentleman presenting the evidence in question should not ask leave of the House to use it as part of the case made by the contestee, should not ask leave of the House to use it, and I desire to emphasize that particular part of his remarks. That is true, and that is the understanding; but I also distinctly understood, and never heard a word in committee or out of committee, except from the honorable gentleman himself, that the question whether the committee should consider that evidence or not had been acted on by the committee. On the contrary, I understood the gentleman from Kentucky, [Mr. BECK,] who presented the case before the committee, distinctly asked the committee to receive that testimony, and it was agreed between him and the committee then that the receipt or non-receipt of that testimony should be determined by the committee on the final consideration of the case, and not before. So far as that is concerned, my memory does not coincide with that of the chairman of the committee. For this I have a great degree of regret, for I dislike to differ with any gentleman as to a question of fact, but my recollection is entirely clear as to the fact itself.

Mr. UPSON. I ask the gentleman a question, whether he considered it was necessary for the committee to act on it after the parties had declined to apply to the House for leave to receive it in argument?

Mr. KERR. My answer is, the committee agreed that the final disposition of this particular testimony should abide the result of the decision of the committee.

Mr. UPSON. I agree with the chairman of the committee and against the gentleman.

Mr. KERR. That is all I have to say in addition to what I said yesterday.

ENROLLED BILL.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 213) to suspend further reduction of the currency; when the Speaker signed the same.

SIOUX INDIAN RESERVATION.

Mr. DONNELLY, by unanimous consent, submitted the following preamble and resolution; which was read, considered, and adopted:

Whereas the Sioux Indian reservation, in the State of Minnesota, was, on the 2d of December, 1867, under proclamation of the President of the United States, exposed to sale:

Resolved, That the Secretary of the Interior is hereby requested to furnish to this House information as to the number of acres of lands sold at said sale; the price per acre paid therefor; what portion of the same was timbered lands, and the price per acre paid for the same; what portion of the lands so sold had been entered by preëmption settlers, and what was the value of the improvements made by said settlers on said reservation; and also, what was the total number of settlers on said reservation prior to said sale, and what portion of said settlers filed affidavits of their inability to pay for said lands prior to 2d of December, 1867.

GETTYSBURG ASYLUM, ETC.

Mr. VAN WYCK, by unanimous consent, from the Committee on Retrenchment, submitted a report concluding with the following resolution:

Resolved, That the Commissioner of Internal Revenue be requested to revoke the permit heretofore given exempting the Gettysburg Asylum for Disabled Soldiers from the payment of special tax and license, said revocation to take effect from May 28, 1867, and that taxes and license be collected from said association the same as if no permit had ever been given.

Mr. VAN WYCK. I move that the further consideration of this subject be postponed until to-morrow, and that the report be printed.

The motion was agreed to.

DIRECT TAX IN DELAWARE.

Mr. NICHOLSON, by unanimous consent, introduced a bill (H. R. No. 510) to facilitate the collection of the direct tax in the State of Delaware; which was read a first and second time, and referred to the Committee of Ways and Means.

DES MOINES AND ROCK ISLAND RAPIDS.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back, with an amendment in the form of a substitute, a bill (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island rapids in the Mississippi river.

The bill provides that whenever, in the prosecution of the improvements in the Mississippi river at either the Des Moines or Rock Island rapids therein, it becomes necessary or convenient to take possession of the right of way over any lands, or to use any earth, quarries, or other property lying adjacent or near to either of said works needful for its prosecution, the officer in charge of said work or his assistant may take possession of and use the same, after having first paid therefor the value thereof, which shall have been ascertained in the mode provided by the laws of the State wherein such property lies for assessing the value of private property which may be needed for any public improvement. It is provided, however, that when the owner of such property shall fix a price for the same which, in the opinion of the officer in charge, shall be reasonable, he may take the same at such price without further trouble or delay.

The second section provides that a portion of the appropriations made or to be made for the prosecution of the improvements aforesaid, not exceeding $50,000 in amount, may be applied in payment of the property so taken and used.

The amendment reported by the committee was read, as follows:

Strike out all after the enacting clause and insert the following:

That whenever, in the prosecution of the improvements in the Mississippi river, at either the Des Moines or Rock Island rapids therein, it becomes necessary or proper to take possession of the right of way over any land, or to use any earth, quarries, or other materials lying adjacent or near to either of said works, and needful for its prosecution, the officer in charge of said work or his assistant may, in the

name of the United States, take possession of and use the same, after having first paid or secured to be paid the value thereof, which may have been ascertained in the mode provided by the laws of the State wherein such property or materials lie for adjudging the value of private property which may be needed for any public improvement: *Provided, however,* That when the owner of such property or materials shall fix a price for the same, which in the opinion of said officer in charge shall be reasonable, he may take the same at such price without further delay.

SEC. 2. *And be it further enacted,* That a portion of the appropriation made or to be made for the prosecution of the improvements aforesaid, not exceeding $50,000 in amount, may be applied in payment of the property or materials taken and used as aforesaid.

Mr. WILSON, of Iowa. Mr. Speaker, the object of this bill is merely to enable the officers in charge of the construction of the canal around the Des Moines rapids and the improvement of the Rock Island rapids to avail themselves of the benefit of the laws of Iowa and Illinois in obtaining the right of way and the material necessary in the construction of those improvements. The bill merely provides for applying in those cases the laws of the respective States. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment reported by the committee was adopted.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. R. No 75) limiting contracts for stationery and other supplies in the Executive Departments to one year; when the Speaker signed the same.

ESTIMATES OF NAVY DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting revised estimates for that Department for the fiscal year ending June 30, 1869; which was referred to the Committee on Appropriations, and ordered to be printed.

CIRCUIT COURT AT ERIE, PENNSYLVANIA.

Mr. WILLIAMS, of Pennsylvania, from the Committee on the Judiciary, reported back without amendment House bill No. 274, providing for holding a circuit court at the city of Erie, Pennsylvania. The bill provides that the circuit court of the United States for the western district of Pennsylvania, in addition to the terms now held, shall be held at the city of Erie at the same times now fixed by law for holding terms of the district court for said western district of Pennsylvania at the city of Erie.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLIAMS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BANKRUPT ACT.

On motion of Mr. CHURCHILL, the Committee on the Judiciary was discharged from the further consideration of the following bills and joint resolutions; and the same were referred to the Committee on the Revision of the Laws of the United States:

A bill (H. R. No. 372) to amend an act approved March 2, 1867, entitled "An act to establish a uniform system of bankruptcy throughout the United States;"

Joint resolution (H. R. No. 134) relative to the publication of official notices in bankruptcy;

A bill (H. R. No. 318) to amend an act to establish a uniform system of bankruptcy; and

A bill (H. R. No. 350) to authorize clerks of courts of record to administer oaths in proceedings of bankruptcy.

ORGANIC ACT OF IDAHO.

Mr. CHURCHILL, from the same committee, reported back House bill No. 263, amendatory of the organic act of Idaho Territory extending jurisdiction of justices of the peace, with a substitute therefor.

The substitute was read at length.

Mr. CAVANAUGH. I ask the gentleman to yield to me for an amendment.

Mr. CHURCHILL. I will do so.

Mr. CAVANAUGH. I move to amend by striking out "$2,000," and inserting "$3,000" for the probate court.

I also move to amend by adding the following:

SEC. 3. *And be it further enacted,* That the provisions of this act be, and they are hereby, extended to and shall include the Territory of Montana.

Mr. ASHLEY, of Ohio. I ask the gentleman who reported this bill to allow it to be printed and recommitted to the Committee on the Judiciary.

Mr. CHURCHILL. I yield for that motion.

The bill was accordingly ordered to be printed and recommitted to the Committee on the Judiciary.

PUBLICATION OF IMPORTS.

Mr. MORRELL, from the Committee on Manufactures, reported the following preamble and resolution, and demanded the previous question thereon:

Whereas the theory of commerce is the exchange of the product of the labor of one people for that of another; and whereas the practical workings of our system of foreign commerce has been to drain us of our precious metals and to transfer to foreign holders, in settlement of balances of trade, a large amount of our public securities: Therefore,

Resolved, That the Committee on Commerce be, and it is hereby, directed to inquire into the expediency of providing by law for the periodical publication of the relative values of imports on foreign and domestic account, and what proportion of the capital invested in such importing business and of the profits therefrom pays taxes to this Government, distinguishing between raw materials and manufactures, and specifying the relative values of such imports warehoused on foreign and home account, and report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

INDIAN APPROPRIATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, submitting estimates of appropriations required for supplying deficiencies in the appropriations for certain Indian tribes for the current fiscal year; which was ordered to be printed, and referred to the Committee on Appropriations.

REMOVAL OF DISABILITIES.

The SPEAKER also laid before the House resolutions of delegates to the Mississippi constitutional convention asking for the removal of the disabilities of R. W. Flournoy, J. S. Morris, E. A. Peyton, and William T. Thompson; which were referred to the Committee on Reconstruction.

IMPROVEMENT OF WASHINGTON.

The SPEAKER also laid before the House a petition of the common council of Washington in behalf of citizens now out of employment, and praying for the improvement of the city under plans reported by General Michler, in charge of the public buildings and grounds; which was referred to the Committee on Public Buildings and Grounds.

THE CONGRESSIONAL DIRECTORY.

Mr. WINDOM. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the joint Committee on Printing be instructed to withhold from distribution the second edition of the Congressional Directory for the second session of the Fortieth Congress, and that they publish a correct edition of said Directory at as early a day as practicable.

Mr. SPALDING. I object.

Mr. WINDOM. I desire to make a single remark. I suppose the gentleman does not object to that.

Mr. SPALDING. Not at all.

Mr. WINDOM. I am informed by gentlemen all around me that this Directory is full of errors. I know that, so far as I am concerned, I instructed the gentleman who was preparing the Directory in writing distinctly that my family were with me and it does not so appear. I find that similar mistakes are made in regard to other members. Other gentlemen are put down as residing at places where they do not reside. I think there has never been a Directory published yet that contained a quarter the errors that this does. I think we had better circulate none than such an incorrect one. If there had been simply a mistake in regard to myself I would not have offered the resolution; but on consultation with other gentlemen, who desire that the Directory shall be withheld, I have presented it to the House.

Mr. SPALDING. I think I have never known so good a Directory as this.

Mr. WINDOM. The fact, I am informed by a gentleman who has consulted the person who got the Directory up, is, that having sent circulars to members asking corrections and those corrections having been returned to him, he discarded all the corrections given to him and went to the post office and took the old incorrect Directory, that no one supposed was intended for this session.

Now, so far as the first edition is concerned, I believe it is generally correct; but when you come to the second edition, they have thrown away all the instructions they received from members, and filled it with errors instead of correct statements.

Mr. WASHBURNE, of Illinois. I think the gentleman had better modify his resolution so as to instruct the committee to inquire into the expediency of withholding the distribution, and then, I think, there will be no objection to the resolution. I must say, in regard to this Congressional Directory, that I think there is nothing in which there has been a greater reform than in the manner of getting it up and in regard to the expense. There may be some errors, but certainly a very accurate and competent man has had charge of it. He may have made mistakes, and I presume he has from what the gentleman says, but I do not think it would be proper to adopt the resolution without having it referred to a committee.

The SPEAKER. The resolution is not before the House unless the gentlemen from Ohio [Mr. SPALDING] withdraws his objection.

Mr. SPALDING. I insist on my objection.

Mr. CAVANAUGH. I am in the same position as the gentleman from Minnesota, although I gave full instructions to the compiler of the Directory.

The SPEAKER. The resolution is not before the House.

MIAMI INDIAN RESERVATION.

The SPEAKER resumed the call of committees for reports.

Mr. SHANKS, from the Committee on Indian Affairs, reported a bill (H. R. No. 511) authorizing the Secretary of the Interior to cause the lands known as the Miami Indian reservation, in the State of Indiana, to be patented; which was read a first and second time.

The bill authorizes the Secretary of the Interior to cause the land reserved to the band of "Me-to-sin-ia" by the second article of the Miami treaty of November 6, 1838, and which was conveyed to "Me-shin-go-me-sia," son of "Me-to-sin-ia," by the seventh article of the treaty with the Miamies, of the 28th November, 1840, to be patented to the members of the band by name, (naming them,) or to such of them and their children as may be living at the date of the passage of the bill, and said lands shall thereafter be subject in all respects to the laws of partition and descent of the State of

Indiana, said patent to convey the land in fee simple, provided that in the partition of the lands the homes they now severally occupy shall be secured to said persons so far as may be done consistently with the fulfillment of the other requirements of this act, and that the lands shall not be held liable for any debt and claim whatsoever held by any person or persons prior to the date of the conveyance, nor for the fees of any agent or attorney in connection with said conveyance.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Indiana [Mr. SHANKS] will give the House some explanation of this bill.

Mr. SHANKS. In the counties of Wabash and Grant, in the State of Indiana, there was granted in 1838, to a band of Indians known as the Me-to-sin-ia band of Miama Indians, six thousand four hundred acres of land. At the death of that chieftain there was another treaty made with the United States, by which this land was granted to the son, Me-shin-go-me-sia, in trust for the land.

That chief, Me-shin-go-me-sia, now eighty years of age, together with his band, ask the United States to patent to them in fee the lands so ceded to him in trust. The lands are now held in trust, and outsiders are interfering with their timber. They ask that these lands be patented to them by name and jointly, so that they may become subject to the laws of the State of Indiana.

These Indians are civilized, and carrying on farming and other labors as white men do; and they ask to be placed on the same footing with white men. They do not ask to be exonerated from taxation, but I have asked for them that they be exonerated from liability for debts incurred prior to the passage of this bill. They say that they do not know that there are any debts against them.

I have asked that the lands may be ceded to them by name. And they have also requested me—for they are my constituents—to ask Congress to pass laws by which they may be secured in the homesteads which they have improved, so far as it can be done without damage to the rights of the band. That, however, they would be entitled to at any rate under the laws of the State of Indiana. There is this difference, however, between the effect of the laws of the State upon them and upon white people: one Indian is considered the same as another, let his age be what it may. This bill proposes to grant this land to these Indians jointly, to be divided equally among them, so that each will have the same interest in them that any other member of the band has. I know these parties personally. It is provided that these Indian lands shall not be liable for any debts against them.

Mr. WASHBURNE, of Illinois. I wish the gentleman would explain the reason for such a provision.

Mr. SHANKS. I will explain that with a great deal of pleasure. I will read the language upon the subject used by the chief himself. He says:

"A number of the members of the band are the heads of families, and are desirous to know what interest they are to have in the lands, that they may have the same set apart to them to permanently improve, cultivate, and enjoy; and while they are clearing up their places, and making them ready for cultivation and profit, they respectfully ask that their lands may be exempt from taxation for a reasonable time—say five years. We know of no indebtedness, judgments, or decrees that would be a lien upon said land, but for fear that some of that class of men known as Indian traders may hereafter bring up old claims against us—claims long since paid—we respectfully ask that it may be provided that such claims may not be brought against said land."

It is to provide against that class of men, of whom the Indians have justly become afraid.

Mr. WASHBURNE, of Illinois. If the claims have been paid how can they be brought up again?

Mr. SHANKS. I have given the language of this honest old man. I know these parties, and I will say to the House that they are worthy of the protection of the Government. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SHANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SETTLERS ON OSAGE INDIAN LANDS.

Mr. CLARKE, of Kansas. I am directed by the Committee on Indian Affairs to move that the committee be discharged from the further consideration of joint resolution (H. R. No. 149) for the relief of settlers on the Osage Indian lands in Kansas, and that the same be referred to the Committee on Public Lands.

The motion was agreed to.

BUSINESS OF INDIAN COMMITTEE.

Mr. WINDOM. Mr. Speaker, at a meeting of the Committee on Indian Affairs this morning I was unanimously instructed to report a bill which requires for its preparation some examination of treaties, and for that reason I have not yet prepared it. I ask the consent of the House to report it to-morrow.

The SPEAKER. That is a question for the consideration of the committee that will be entitled to the morning hour to-morrow—probably the Committee on Military Affairs. Is there objection to permitting the gentleman from Minnesota [Mr. WINDOM] to report during the morning hour to-morrow a bill which he has been authorized by the Committee on Indian Affairs to report, but which he has not had time to prepare?

Mr. GARFIELD. Will that arrangement prejudice the interests of the Committee on Military Affairs?

The SPEAKER. Unless some arrangement to the contrary be made it certainly would. The Committee on Indian Affairs has, as the Chair understands, completed the presentation of the reports it has in readiness, and the Committee on Military Affairs would be entitled to the remainder of the morning hour to-day and to the morning hour to-morrow.

Mr. WINDOM. I ask that the Committee on Indian Affairs be authorized to report the bill during the morning hour next Friday.

The SPEAKER. That is private bill day.

Mr. WINDOM. This is a private bill, and I presume our committee would at any rate be called on that day for reports of a private nature.

The SPEAKER. The call for reports of a private nature is now resting with the Committee on Invalid Pensions, and that committee will probably occupy with private business the whole of the morning hour on Friday.

Mr. WINDOM. I ask unanimous consent to report this bill from the Committee on Indian Affairs on Friday, immediately after the Committee on Invalid Pensions have concluded their reports.

The SPEAKER. If there be no objection that will be the understanding.

There was no objection.

SALE OF A MILITARY SITE.

Mr. GARFIELD. I am directed by the Committee on Military Affairs to report back without amendment a bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania.

The bill, which was read, proposes to authorize the Secretary of the Treasury, in his discretion, to sell to the highest and best bidder the military site of three acres of land at Waterford, Erie county, Pennsylvania, belonging to the United States, and to pay the proceeds into the Treasury of the United States.

Mr. GARFIELD. I ask the Clerk to read, as an explanation of this bill, a letter on the subject from the Treasury Department.

The Clerk read as follows:

TREASURY DEPARTMENT,
SOLICITOR'S OFFICE, *July* 30, 1867.

SIR: Your letter of the 26th instant is this day received, inquiring whether the Solicitor of the Treasury has power to sell a lot of three acres of land belonging to the United States at Waterford, Pennsylvania, or whether a special act of Congress will be required for such sale.

It seems that the land in question was purchased at private sale in 1818, for the use of the War Department, for the purpose of establishing an arsenal thereon, but was never used for that purpose or for any purpose. In 1850 it was offered for sale, but no satisfactory bid having been received it was not sold.

By the act of Congress of June 12, 1858, "all existing laws or parts of laws which authorize the sale of military sites which are or may become useless for military purposes," are repealed, "and said lands shall not be subject to sale or preemption under any of the laws of the United States."

The Solicitor of the Treasury is authorized to sell only such lands as have been taken, either by judicial process or otherwise, in payment of debts, &c., due to the United States.

So that as to the lot at Waterford there is no law which authorizes the sale thereof either by the Solicitor of the Treasury or otherwise, and an act of Congress will be required for the sale of the same.

Very respectfully,

EDWARD JORDAN,
Solicitor of the Treasury.

S. B. BENSON, Esq., *Waterford, Pennsylvania.*

Mr. GARFIELD. I believe that this letter furnishes all the explanation it is necessary to give in regard to this bill. The property in question is a small tract of land which the Government has never used for any purpose. The fact that it belongs to the United States was almost forgotten until recently, when attention was called to the matter; and the request has been made that the Secretary of the Treasury be authorized to sell the land. This he was once authorized to do under a law which has now expired. The bill which we have reported proposes simply to give him again this authority. I suppose no one will object to the measure, and I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FINES, ETC.

Mr. PIKE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of repealing so much of the act "to regulate the disposition of fines," &c., approved March 2, 1867, as provides for the search and seizure of merchants' books and papers.

PARIS EXPOSITION.

Mr. GRISWOLD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed to furnish this House with copy of report of Abraham S. Hewitt, special commissioner from the United States to the Paris Exposition.

SUPREME COURT REPORTS.

Mr. KERR, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas many of the decisions of the Supreme Court of the United States possess no intrinsic value for the profession or the country, and are yet required by the law to be reported: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of giving power by law to said court to direct that decisions which they consider of such character shall not be reported, and to report by bill or otherwise.

TAXING NATIONAL BANK SHARES.

Mr. BLAINE, by unanimous consent, introduced a bill (H. R. No. 511) in relation to taxing shares in national banks; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

REPORT OF LIEUTENANT WILLIAM HAWLEY.

Mr. MAYNARD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the House whether any report has been made to Major General Winfield S. Hancock by Lieutenant William Hawley, commanding

post at Marshall, Texas, of a riot at that place on the 31st of December, 1867; and if so to transmit a copy of the same.

SUSPENSION OF ISSUE OF TEN-FORTIES.

Mr. ROSS. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury be, and he is hereby, instructed to suspend any further issue of ten-forty United States bonds until further congressional action shall be had thereon.

Mr. UPSON. I object.

SPECIAL TREASURY AGENTS.

Mr. INGERSOLL. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury is hereby directed to inform this House the number of revenue inspectors and special Treasury agents now in the employ of the Government, and by whom they were appointed, and upon whose recommendation; and if any of them were appointed on the indorsement or recommendation of the present Commissioner of Internal Revenue state how many; and if any were appointed without the indorsement or recommendation of the Commissioner of Internal Revenue state how many, and upon whose recommendation they were appointed and by whom appointed.

Mr. WASHBURNE, of Illinois. I object, as two resolutions have already been adopted on that subject.

AFFIXING OF STAMPS BY PAYEE, ETC.

Mr. HAWKINS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety of so amending the act of —— as to authorize the payee in all bills, single promissory notes, and bonds for the payment of money, to affix and cancel the steamer stamps now required by law to be affixed to any of said instruments in all cases where the maker thereof has failed to do so, but in such manner as not to release the party making any of said instruments from the penalties now provided by law; and that they report by bill or otherwise.

ABOLITION OF FRANKING PRIVILEGE.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That in view of the great and constantly increasing frauds connected with the franking privilege, and the manifest necessity of economy in every department of the Government, the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of totally abolishing said privilege.

SOUTHERN SCHOOLS.

Mr. JULIAN, by unanimous consent, also offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Education and Labor be instructed to inquire into the expediency of providing by law for a general system of education in the districts lately in rebellion, including a sufficient number of common schools for the education of every child, irrespective of race or other distinction, between the ages of five and twenty years.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendment of the House to the joint resolution of the Senate (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year.

The message further announced that the Senate had passed a bill (S. No. 270) for the temporary relief of destitute people in the District of Columbia; in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had agreed to the further conference asked for by the House on the disagreeing votes of the two Houses on the bill (H. R. No. 207) to provide for the exemption of cotton from an internal tax, and had appointed Mr. MORRILL of Vermont, Mr. SHERMAN, and Mr. HENDRICKS the conferees on the part of the Senate.

EXAMINATION IN THE MARINE SERVICE.

Mr. ELIOT, by unanimous consent, introduced a bill (H. R. No. 514) to provide for the examination of masters and mates in the marine service; which was read a first and second time, and referred to the Committee on Commerce.

PUBLIC MARINE SCHOOLS.

Mr. ELIOT, by unanimous consent, also introduced a bill (H. R. No. 514) to encourage the establishment of public marine schools.

TERRITORY OF WYOMING.

Mr. DODGE asked unanimous consent to introduce a bill to provide a temporary government for the Territory of Wyoming.

Mr. WASHBURNE, of Illinois, objected.

SOLDIERS' BOUNTIES.

Mr. WASHBURN, of Indiana, from the Committee on Military Affairs, to which was referred the Senate amendment of House bill No. 127, in relation to additional bounty, reported the same back with an amendment.

The original House bill was read, and then the amendment of the Senate, as follows:

Strike out all after the enacting clause and insert: That if a person entitled as a soldier to the bounty provided by sections twelve and thirteen of the act making appropriations for the civil service, approved July 28, 1866, has died or shall die before receiving said bounty, it shall be paid to the heirs of the soldier, as designated in said act, in the order therein named, and to none other.

The amendment reported by the committee was to insert in line one after the word "person" the words "or persons," and to strike out in line two the words "as a soldier;" so that it will read, "that if a person or persons entitled to the bounty," &c.

Mr. HOLMAN. I desire to state that I introduced the original bill which passed the House at the July session. It is impossible for me to tell from so hasty a reading of the amendment of the Senate whether it accomplishes the same object that I sought or not. Of course if it does my end is accomplished. I trust the bill with the amendments will be recommitted with a motion to reconsider, so that it can be called up at any time hereafter and passed. Give us an opportunity to see whether the object aimed at is fully accomplished.

Mr. WASHBURN, of Indiana. I cannot tell the object aimed at by the gentleman in July. The amendment of the Senate extends the bounty to all the parties in the order named in that act, where the party entitled under the act has died, whether the soldier, widow, or children, as named in the act. If they have died we give it, to the heirs, as designated in the bounty act.

Mr. HOLMAN. After the passage of the act?

Mr. WASHBURN, of Indiana. After the passage of the act.

Mr. HOLMAN. The object to be accomplished by this measure was to provide that where a soldier had died before the passage of this bounty act, but after he left the service of the United States, then his widow and children in order should receive the bounty. That was certainly the intention of the House when the bill passed.

Mr. WASHBURN, of Indiana. Where the soldier has died at any time after leaving the service we give it to the widow, and if the widow is dead we give it to the children.

Mr. FARNSWORTH. Does this bill as it now stands extend the benefits of the bounty act to the widows and heirs of soldiers who have died since that act passed, but who were not at the time of the passage of that act entitled to its benefits by reason that the soldiers had not died then, and does it cover the cases of deaths from disability incurred in the service from disease as well as from wounds?

Mr. WASHBURN, of Indiana. The Committee on Military Affairs have under consideration a proposition to increase the number of persons who shall be entitled to the benefits of the bounty act; but they thought it was better first to pass an explanatory act, so as to let those who are entitled to bounty under the original act get it, and afterward extend the bounty law so as to give bounty to others. The original act did not give it to persons who were discharged on account of disease contracted in the service, and whether it would be wise or wrong to include them the committee have not as yet decided. They have the whole subject under consideration.

Mr. FARNSWORTH. Everybody else has decided the question if the committee has not. I think that if a soldier died of disease contracted in the service his heirs should be entitled to bounty.

Mr. WASHBURN, of Indiana. That may be, but we did not propose to settle that question in this bill. I now call the previous question.

Mr. HOLMAN. I hope my colleague will allow me to ask him a question.

Mr. WASHBURN, of Indiana. The morning hour is nearly out, and I must insist on the demand for the previous question.

The SPEAKER. The morning hour has expired and the bill goes over until to-morrow.

Mr. PAINE. I suggest that the bill and amendments be printed in the Globe.

Mr. HOLMAN. I make that motion.

Mr. FARNSWORTH. I think it had better be printed in the ordinary way; and I move that the bill and amendments be printed.

The motion was agreed to.

SOUTHERN LAND GRANTS.

The SPEAKER. The House resumes the consideration of the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes, which was pending yesterday after the morning hour; and upon which the gentleman from Indiana [Mr. JULIAN] is entitled to the floor.

Mr. JULIAN. In order that the House may understand the bill, I ask that it be read.

The Clerk read the bill. The first section declares all the public land in the States of Alabama, Mississippi, Louisiana, and Florida, which were granted to said States in the year 1856 to aid them in the construction of railroads therein, and which have not been lawfully disposed of by the United States, said grants having now expired by limitation, forfeited to the United States, and that they shall henceforward be subject to homestead entry and settlement, under the act of Congress approved June 21, 1866, for the disposal of the public lands for homestead actual settlement in said States, precisely as are other public lands therein under said act.

The second section provides that when the corner posts or field marks of the public surveys in any of the States aforesaid have been so obliterated as to make it impossible to identify particular tracts of land, it shall be the duty of the Commissioner of the General Land Office to appoint an efficient and trustworthy deputy surveyor, at a compensation to be fixed by him, and which shall be paid by the United States, who shall retrace the lines of the original survey, and establish them in exact accordance with the field notes of the public surveys which have heretofore been executed under the authority of the United States; and no other surveyor or person shall charge or receive any fees for the survey of any land in any of the States to which the said act of June 21, 1866, applies, nor shall any register or receiver in any of said States charge any claimant of land under said act any fees, or receive the same, other than those expressly provided for in said act. And it further provides that no reduction of the quantity of land of any claimant shall be exacted on account of its proximity to any railroad.

Mr. JULIAN. Mr. Speaker on the 20th of last December I called up this bill for consideration, and it being doubtful whether a quorum of members were then present, many having already left for their homes, I agreed, at the suggestion of several gentlemen, to the postponement of the measure until the 14th of January, and now under the regular orders of the House we have again reached it. Let me briefly restate the main facts necessary to a right understanding of the question involved.

In the year 1856, it will be remembered, Congress granted to the States of Alabama,

Mississippi, Louisiana, and Florida large grants of lands, amounting in the aggregate to nearly five million acres, and gave them ten years within which to comply with the conditions of the grant. The following is a statement of the several grants, which has been furnished me by the Commissioner of the General Land Office:

Certified to Florida, August, 1857, August and November, 1858, and October, 1860, under act of 17th of May, 1856—	
1. For Florida road, acres	281,984.17
2. For Alabama and Florida road, acres	165,688.00
3. For Pensacola and Georgia road	1,275,212.93
4. For Florida, Atlantic, and Gulf Central road, acres	37,583.29
Total to Florida	1,760,468.39
Certified to Alabama, May, 1859, and January, 1861—	
(1.) Under act of May 17, 1856—	
1. For Alabama and Florida road, acres	394,522.99
2. Under same act, for Alabama and Tennessee road, acres	440,700.16
(2.) Under act of 3d June, 1856—	
1. For Northwestern and Southwestern road, acres	289,535.58
2. For Coosa and Tennessee road, acres	67,794.96
3. For Will's Valley road, acres	471,920.57
4. For Mobile and Girard road, acres	504,145.86
Total to Alabama, acres	1,868,610.12
Certified to Mississippi, September, 1859, under act of August 11, 1856—	
For Southern railroad, acres	171,550.00
Certified to Louisiana, October, 1859, and January, 1861, under act of 3d June, 1856—	
1. For Vicksburg and Shreveport road, acres	353,211.70
2. For New Orleans, Opelousas, and Great Western road, acres	719,193.75
Total to Louisiana	1,072,405.45

Recapitulation.

To Florida	1,760,468.39
To Alabama	1,868,610.12
To Mississippi	171,550.00
To Louisiana	1,072,405.45
Total approved to all southern States	4,973,033.96

There being none approved to Arkansas under the acts referred to.

Soon after this action of Congress these States created corporations for the purpose of accepting the grants and performing the work as to several of the roads specified. But very little, in fact, was done prior to the breaking out of the rebellion. This event, of course, put a stop to all further movements, but it does not excuse these corporations, for every one of them, on the initiation of civil war, promptly and eagerly espoused the rebel cause and contributed all of their power and resources to the work of dismembering the Union.

They are, therefore, not only inexcusable, but, in common with the States which created them, are criminally recreant to their obligations. They are entitled to no favors at the hands of Congress, for they not only failed to perform their engagements, or even to attempt it, but signalized their bad faith by treason. These grants having expired by limitation the lands granted are already forfeited to the United States; and the first section of the bill I have reported simply declares that forfeiture and subjects them to homestead entry and settlement by the landless poor of the South. They are now held in the clutches of these corporations, and without such action of Congress as I propose must remain so, and no man can lawfully settle upon an acre of this forbidden soil.

To show that I am right in regard to the spirit and character of these railroad corporations I will ask the Clerk to do me the kindness to read from a report very recently submitted by the Secretary of War *ad interiem* for the use of the Committee on Southern Railroads, containing an official statement of facts communicated by the Quartermaster General respecting the conduct of these corporations.

Mr. WASHBURN, of Indiana. Will my colleague allow me to ask him a question?

Mr. JULIAN. Certainly.

Mr. WASHBURN, of Indiana. I wish to ask the gentleman if the railroad corporation known as "The Tennessee and Alabama Railroad Company," from Nashville to Decatur, was not loyal before and during the war, and if they were not driven from their work by the rebels?

Mr. JULIAN. I shall refer particularly to that road before I get through, and then I will answer the gentleman. I ask the Clerk now to read the passages I have marked.

The Clerk read as follows:

"The close of the war found the railroad companies of the South in a financial condition bordering upon bankruptcy—their treasuries as completely collapsed as the rebellion itself. In almost every case the management of the roads had been closely identified with the initiation of rebellion, and had contributed to sustain it against the Government, both by the influence and means of the companies. During the war they had followed the fortunes of the bastard government with a zeal most commendable had it been in a worthy cause, but most contemptible and criminal, being manifested in the cause of treason. While their roads were occupied by the rebels they had strained their capacity in the concentration of troops and supplies, and no class of men were louder in their defiance of the power of the United States.

"When the strong arm of the Government forced the rebels to retire from their roads, the management of the railroads aided them in removing munitions of war, and afterward retired behind the new lines of the rebellion—taking with them as much of the property of their roads as they could—and then again derided the efforts of the Government to put a stop to their treason. They manifested their confidence in the ultimate destruction of their country by investing their means in confederate bonds, and in contracting with the confederacy to run the blockade established by the United States, to export cotton and import munitions of war, and to carry the mails, to give the so-called confederate States of America the likeness of a nation, and enable it to exercise the prerogatives of independence at home and upon the high seas, in defiance of the United States Government.

"Commensurate with their crimes was their punishment, had the Government they sought to destroy exercised its inalienable rights to their property, which they had converted into munitions of war for the benefit of its enemies."

Mr. JULIAN. That, sir, is the character of these companies.

Mr. CHANLER. Will the gentleman allow me to ask him one question?

Mr. JULIAN. Certainly.

Mr. CHANLER. I would inquire whether this is a report of General Grant, or any acting general of the war, or if it is not simply the opinion of a subordinate officer?

Mr. JULIAN. It is a report submitted by General Grant, from the Quartermaster General, made out, I believe, by Captain Hamill, acting in the capacity of quartermaster, and to whom was specially submitted the inquiries about which he reported.

Mr. CHANLER. It has been referred to the special committee to which the subject was referred. The gentleman is simply taking from that committee the merit of their labor. I only wanted to know if he was aware that this was simply the individual opinion of a subordinate officer.

Mr. JULIAN. I understand the character of that report, which is public property and has been printed. It is accessible to every member of the House who desires to use it. I merely use the facts which it officially presents.

Mr. CHANLER. The report has not yet been made by the chairman of the special Committee on Southern Railroads, [Mr. McCLURG,] to which it was referred by General Grant as Secretary of War *ad interim*.

Mr. JULIAN. The chairman of the Committee on Southern Railroads is in perfect accord with me on this question and understands perfectly the use I make of this report. It bears upon the bill I have reported, and I have a perfect right to fortify my position by its facts.

Mr. HAWKINS. Is not this simply the report of a gentleman who had no means of knowing the facts which he reports except from public rumor? Has he ever had the slightest opportunity in his life to investigate and ascertain what the facts really are?

Mr. JULIAN. Mr. Speaker, the gentleman at the proper time can have the floor to assail that official document, if he desires to do so. I have already given its character, and I think it entitled to consideration by this House. In regard to these interruptions, however, I desire to state that I propose to give ample opportunity to debate this bill. Its opponents shall be heard; and I will say further that after I have concluded what I have to say I will gladly reply to any questions. But I desire now to be permitted to go on without further interruption.

Mr. Speaker, it appears from this official statement, and it will appear also from the concurring testimony taken before the Committee on Southern Railroads, that what I have asserted as to the disloyalty of these railroad corporations at the beginning of the war and during its prosecution is true. And the bill which I have reported from the Committee on Public Lands simply declares the grant of lands made in 1856 forfeited to the United States, as I have already stated, and opens them to settlement and tillage by the homeless poor, whether black or white.

Mr. GLOSSBRENNER. I ask the gentleman to yield to me for a moment.

Mr. JULIAN. I must decline to be interrupted.

Mr. GLOSSBRENNER. The gentleman has made an erroneous statement affecting myself, and I desire to correct it right here.

Mr. JULIAN. I will yield for that purpose.

Mr. GLOSSBRENNER. I did not hear the remark of the gentleman; but I am informed that he has made the statement that this bill was reported with the unanimous concurrence of the Committee on Public Lands.

Mr. JULIAN. I did not say so. If the gentleman had heard my remark he would have been saved the trouble of interrupting me.

So much for the first section of the bill, as to which I think there will be very little diversity of opinion among those who stand on the side of their country.

The second section is in the nature of an amendment to the southern homestead law, and provides that in all cases where the original lines of survey have been obliterated the Commissioner of the General Land Office may appoint a deputy surveyor, who shall retrace the lines of the original survey according to the field-notes of the surveys heretofore executed by the United States. This is rendered necessary by the fact that in many cases in the South men pretending to be surveyors, and to have authority as such, charge the poor claimant as high as twenty-five, thirty, and thirty-five dollars for the survey of eighty acres of land, there being no voucher of its accuracy when made and no authenticity attaching to it.

The second section of the bill guards against that imposition in the manner I have stated, and I have framed it to meet many complaints from the South of imposition and fraud such as I have specified.

Mr. Speaker, having now briefly explained the two sections of the bill I desire to urge one or two general considerations in support of its passage.

In the first place, I beg leave to repeat what I said here in December, as to the great and imperative need of homes throughout these States. It is true that under the southern homestead law of June 21, 1866, a large belt of country is dedicated exclusively to homestead entry and settlement, all further sale of it being henceforward forbidden. But a very great proportion of this land is worthless for tillage, and failed to find purchasers prior to the war, even under the inducements supplied by the old graduation laws of Congress. It is manifestly inadequate to supply the demand of the millions in those regions for homes. Let me state a few instructive facts in support of my position. In 1850 Congress granted to the three States of Louisiana, Florida, and Arkansas twenty-six million acres of the best lands in those States under the name of "swamp and overflowed land," a large proportion being dry land, and among the very best in the nation. The lands thus granted to those States were bought up in vast tracts by Jacob Thompson of Mississippi, Robert W. Johnson of Arkansas, and other leading rebels, and to-day are held as a remorseless monopoly upon which the loyal and landless poor of these States may not set their feet.

Let me state another instructive fact—and I have it from the census table and from the official reports of the General Land Office—namely, that in the five land States of the South there are fifty-two million acres of land held by speculators, from which, of course, the poor are totally excluded. In point of fact, more than two thirds of the population of those States are landless, and if you exclude their towns and cities not more than one person in fifteen of their agricultural population is a landholder. Fourteen fifteenths of the people of an exclusively agricultural country, only one tenth of which is improved, own no land, and are at the mercy of the graceless few who do own it. These are startling facts, and they invoke our early and earnest action.

Mr. Speaker, from these considerations it is seen at once how necessary it is that we should multiply the opportunities for acquiring homes in those States; and I repeat here what I said in this Hall five years ago, that the great want of this southern country is small farms, thrifty tillage, free schools, closely associated communities, social independence, respect for honest labor, and equality of political rights, in the place of great plantations, widely scattered population, wasteful agriculture, social degradation, the decay of literature, contempt for honest labor, and a pampered aristocracy lording it over millions of the poor. Sir, on these general and pregnant grounds I ask that the House shall consider favorably the enactment of this bill.

Let me present, Mr. Speaker, another ground on which I support this measure. We have had a good deal of debate in this House and in the other end of the Capitol about the tax on cotton. Sir, I submit that a far more important question is how to increase the production of cotton, and that this can best be done by the multiplication of small farms and the decimation of large estates. Cotton should be cultivated as we cultivate other crops in the middle and western States. It should not of necessity be king, but may be alternated with other crops under the policy of a diversity of pursuits and a division of labor. The plantation system, with its monotony of labor, should give place to small homesteads, to be tilled by their owners. This will increase the production of the South, whether the product be cotton or corn. These ideas, Mr. Speaker, have been taking root all over the South. The New Orleans Republican, the New Orleans Tribune, the New Orleans Bee, and other leading papers of the South frankly declare that the only policy which can really save that section is the policy of breaking up the great landed aristocracy there and parceling out the soil in small homesteads to be tilled by their independent owners. We find, Mr. Speaker, that even poor "Old Virginia" begins to see dimly this vital truth. Speaking through Henry A. Wise she makes her significant confession of faith in an address recently delivered in Richmond, from which I ask the Clerk to read the following extract.

The Clerk read as follows:

"These changes demand an absolute change in agriculture, a change from the plantation to the farming system. This requires a new mode of culture, new implements, new crops, more various, on a smaller scale, more contracted and concentrated, requiring more skill, more care, and yielding the most profit on the smallest space. Virginians, if they would not be driven out from their own inheritance, should themselves do this work of farming for themselves. They must not call on Hercules, nor freedmen, nor German, nor Swede, nor immigrants from any clime."

Mr. JULIAN. The fact is well known that in Texas prior to the war the Germans demonstrated the profitableness of raising cotton on tracts of only a few acres. Each farmer raised only so much as his family could take care of, and it was a better article and produced a better price in market than cotton raised on great plantations under the system of "gang labor." But I need not appeal to the experience of Texas, nor speak of cotton only. Every great political economist tells us that in France, where the policy of small farms has been tested, and in all those countries on the Continent in which it has been thoroughly tried, the maximum of productiveness has been the result, while it invariably educates the cultivator, and promotes the virtues of temperance and frugality, and renders his calling respectable and attractive. Sir, the South needs a new dispensation, suited to the rule of free labor. Her system of wasteful tillage on great stretches of land by uneducated labor must pass away; and the attempt to preserve it will be as ruinous as the same experiment in the island of Jamaica after slavery had been abolished. Political economy promises no blessings and no rewards to those who disown common sense and the teachings of experience.

On these considerations, then, I ask that these lands of the South, wantonly committed to the keeping of these rebel corporations, shall be opened up to those who need it.

The aggregate grant of this land, as I have said, amounts to nearly five million acres. It consists of alternate sections along the lines of these roads for a distance of six miles on either side. By putting up the price of the even sections to $2 50 an acre it has interdicted settlement on them, thus making a solid belt of twelve miles along the fertile valleys of the States in which they lie. By thus excluding this belt from all settlement and tillage it necessarily has driven away from a considerable territory contiguous to that belt settlements which else would have been made.

Why, sir, the prodigal legislation of Congress has in this way doomed to utter barrenness fifteen million acres of land, at a moderate calculation, which ought at the earliest moment to be restored to tillage in the form of homesteads for the poor.

I come now, Mr. Speaker, to consider a threefold opposition which is made here to the bill in its present form.

The first is a memorial from New Orleans praying a revival of the grant made to the New Orleans and Opelousas Railroad Company. This memorial has been placed on the desks of every member of the House, and it asks for an accounting with the company, and that the United States shall pay the company for the use and occupation of the road.

Mr. Speaker, my first remark respecting this memorial is that Louisiana has not yet been born again into her proper practical constitutional relations to the Union; and I think a child that is not yet born is rather too young to make railroads. Louisiana has no civil government to whom we could revive the grant. When she comes back into her proper status through the gateway that Congress has provided, with a loyal government, and her loyal people shall ask us to revive this grant, we shall be ready to consider the question. As chairman of the Committee on Public Lands I pledge myself to deal with her with the same even-handed liberality which we have awarded in similar applications from the northern States. But it is too soon for Louisiana to ask what she does in this memorial.

I remark, in the next place, that the leading petitioners on this memorial during the war were rebels of the very meanest description, and are so to-day. They cannot, therefore, come here with clean hands, and they have no right to ask for our help at present. And as they have sent here a public memorial with their names attached, I propose to do them the kindness of advertising their character as rebels, which I have taken some pains to ascertain. I will mention a number of the leading petitioners, who have been, and I doubt not still are, rebels:

"Pipe, Lepeyre & Bros., bankers; H. Doane, vice president Factors' and Traders' Insurance Company; J. Madison Wells, ex-Governor of Louisiana; J. N. Lea, member of the bar; Alfred Moulton, president Home Insurance Company: T. A. Adams, president Board of Underwriters; Thomas Sloo, president Sun Mutual Insurance Company; George Jonas, president Canal Bank; Jules A. Blank, president Louisiana State Bank; E. Ridgney, president Atlantic Insurance Company; John Pemberton, president Merchants' Insurance Company; John J. Adams & Co., wholesale grocers; Henry Peychaud, president Hope Insurance Company; Slocum, Baldwin & Co., wholesale hardware; Stark, Stouffer & Co., wholesale hardware; Adam Griffin, State Treasurer; A. Carriene, president P. T. Citizens' Bank; C. Cammack, paying teller Citizens' Bank; A. Chaipella, president Union Insurance Company; E. J. Forstall, agent B. Bros. & Co.; W. H. Letchford & Co., wholesale dry goods; Smith, Newman & Co., bankers: W. Henderson, firm of Henderson & Gaines: Gaines & Relf, wholesale crockery dealers; McStea & Value, wholesale dry goods; A. D. Grief & Co., wholesale grocers."

These rebels come here to ask the revival of this grant from Congress, kindly submitting to this body the form of a bill which they desire us to pass and which they have framed for us. The first section provides for the reinstatement of this grant for eight years, and it has the following proviso:

Provided, That the construction of said road shall be completed within eight years from the date of this act; and in consideration of the services of said road and company, rendered the United States during the late war and since the capture of New Orleans, the proper officers of the Treasury are hereby authorized and required to adjust and liquidate the open accounts of said company with the Departments of the General Post Office and the Quartermaster General.

They ask us to pay them for the use and occupation of their road, its machinery and rolling stock in the service of the Union during the war. They ask us to pay the expenses of flogging the scoundrels when we were compelled to do it by their own infernal treason, and to save the nation from ruin. Why, Mr. Speaker, the impudence of such a demand is next to sublime. Is any stronger proof of the rebel character of this petition needed? And the president of the road comes here with a statement which he asks Congress to consider, to some passages of which I desire to refer in order to illustrate the fact which I have stated as to the disloyalty of these people. He says that all their accumulated new material and the major portion of their rolling stock and railroad stores after the capture of New Orleans——

Mr. CHANLER. I rise to a point of order. The gentleman is not discussing the question before the House, but is discussing a question which has been referred to a special committee of this House which has not yet reported with regard to the rolling stock and personal property of these railroads.

Mr. JULIAN. That is rather a sage point of order. I leave the Chair to decide it.

Mr. CHANLER. The gentleman is not discussing the bill which relates to land grants, but is talking about the rolling stock on these railroads.

The SPEAKER. The Chair did not hear the last remark of the gentleman from Indiana, but the Chair is of opinion that the general line of discussion pursued by the gentlemen has been in order on this bill. The bill is entitled "A bill to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes." It relates, therefore, to railroads in the Southern States, and especially in those four States which are named. He is speaking of a railroad in Louisiana, as the Chair understands.

Mr. CHANLER. I merely wish to state that the question the gentleman is debating anticipates one that is in the hands of the gentleman from Missouri, [Mr. McCLURG.] Of course, if these gentlemen are of accord on this question, it is a matter of very little consequence to me, a minority member of the committee. That is all.

The SPEAKER. The gentleman from New York understands very well that sometimes the same matter is referred to and considered by two different committees at the same time, the one in a larger degree and the other in a less degree.

Mr. COVODE. I make the point of order that the gentleman from New York [Mr. CHANLER] must address the Speaker from his seat. [Mr. CHANLER was occupying a seat on the Republican side of the House.]

The SPEAKER. The point of order comes too late. The gentleman should have made it when the gentleman from New York rose.

Mr. JULIAN. I hope the gentleman from New York will possess his soul in as much patience as he can under this exposure of the rebel character of his friends South.

Mr. CHANLER. The gentleman in making any such assertion uses the words of a coward, taking advantage of his position——

The SPEAKER. The gentleman is not in order. His words are out of order.

Mr. CHANLER. I appeal to the Chair if the gentleman had any right to make a personal allusion to me?

The SPEAKER. The gentleman is out of order. He cannot take the floor from the gentleman from Indiana except upon a point of order.

Mr. CHANLER. I make a point of order. I ask that the words be taken down which the gentleman has uttered.

The SPEAKER. The Chair decides the words of the gentleman from New York out of order, if the Chair understood them. The Chair heard the word "coward."

Mr. CHANLER. It is a question of personal allusion to me, which, as a member of this House, I have a right to appeal to the Chair to protect me from.

Mr. WILLIAMS, of Pennsylvania. I rise to another point of order.

The SPEAKER. The Chair has excepted to words used by the gentleman from New York, [Mr. CHANLER,] and will first rule upon them as soon as they are transcribed by the reporters for The Globe and read from the Clerk's desk.

Mr. CHANLER. I ask that the words of the gentleman from Indiana [Mr. JULIAN] be also taken down and read from the Clerk's desk.

The SPEAKER. The words of both gentlemen will be read when written out by the reporters.

The Clerk read the words used by Mr. JULIAN, as follows:

"I hope the gentleman from New York will possess his soul in as much patience as he can under this exposure of the rebel character of his friends South."

The Clerk then read the words used by Mr. CHANLER, as follows:

"The gentleman in making any such assertion uses the words of a coward."

Mr. CHANLER. I also said: "in availing himself of his position." [Cries of "order," "order."]

The SPEAKER. The gentleman from New York [Mr. CHANLER] is out of order.

Mr. CHANLER. I wished merely to state other words I used in that connection. If I find an error in the statement of my own words have I not the right to correct it?

The SPEAKER. If the gentleman questions the correctness of the statement of his words as reported by the reporters he can correct it.

Mr. CHANLER. I added to the words read by the Clerk these words: "in presuming upon his position upon the floor and preventing me from replying to his remark."

The SPEAKER. The Chair rules that the language of the gentleman from New York was unparliamentary and out of order. No qualification justifies one member in calling another member a coward.

Mr. CHANLER. Certainly, if he is one.

Mr. JULIAN. If the gentleman from New York believes what he says he can test that question himself at any time.

Mr. CHANLER. Very well; I will take an early opportunity to do so. [Great laughter.]

Mr. JULIAN. If the House will now permit me I will proceed.

Mr. CHANLER. Are the words of the gentleman from Indiana [Mr. JULIAN] ruled in or out of order?

The SPEAKER. The Chair has heard no point of order made on the words last used by the gentleman from Indiana.

Mr. CHANLER. I mean the words to which I took exception at first.

The SPEAKER. It is too late to raise a point of order on them now.

Mr. CHANLER. I raised a point of order on them at the time they were uttered.

The SPEAKER. If the gentleman states that he raised the point of order upon them at the time the Chair will rule upon them.

Mr. CHANLER. I did raise the point, and I ask the ruling of the Chair upon it.

The SPEAKER. The Chair will say that the words of the gentleman from Indiana, although they may not have been agreeable to the gentleman from New York, did not violate any rule of parliamentary law with which the Chair is familiar.

Mr. JULIAN. I hope the gentleman from New York is satisfied now.

The SPEAKER. Those words may have been perhaps severe in their inference, but they do not violate parliamentary law.

Mr. JULIAN. I hope I may now be allowed to go on with my remarks.

The SPEAKER. The Chair will remind the gentleman from Indiana [Mr. JULIAN] that it is now three o'clock, the hour when, by previous arrangement, the delegation from Missouri are to announce the death of their late colleague.

Mr. JULIAN. I suppose this interruption upon the point of order does not come out of my time?

The SPEAKER. It does not.

Mr. JULIAN. If I yield now will I be entitled to the floor to-morrow?

The SPEAKER. The gentleman has spoken thirty-five minutes, and will be entitled to twenty-five minutes at the expiration of the morning hour to-morrow.

DEATH OF HON. THOMAS E. NOELL.

Mr. NEWCOMB. Mr. Speaker, it becomes my duty to announce to this House the death of my colleague, Hon. THOMAS E. NOELL, Representative from the third congressional district of Missouri. He died in the city of St. Louis, on the 4th day of October, A. D. 1867, after a long and painful illness.

Mr. NOELL was born in Perryville, Perry county, Missouri, on the 3d day of April, 1839, and at the time of his death was but twenty-eight years of age. He was the youngest man in the Thirty-Ninth and Fortieth Congresses, having but just attained the age required by the Constitution when elected to represent his district in this House.

Mr. NOELL's opportunities for education were limited to such advantages as the schools of that portion of the State afforded, and was not beyond the common English branches. Yet his own industry and studious habits, with a decided literary taste, compensated largely for any defect in his early education. His reading was quite extensive for one of his years, and of the best and choicest authors.

Mr. NOELL selected early in life the law as his profession, entered the office of his father, and was admitted to the bar when twenty years of age, and had just entered upon a successful practice when his legal pursuits were interrupted by the war. When the first call was made for volunteers Mr. NOELL hastened to the defense of our country, like so many noble heroes; he gave up all his professional prospects and entered the Army, and no one ever questioned his loyalty or patriotism. In the Army he contracted the disease of which he died. He was appointed major in the first organization of the Missouri volunteers, where he served until 1862, when he accepted the commission of captain in the nineteenth regiment of regular infantry.

Upon the death of his father, Hon. John W. Noell, the able Representative of the third district of Missouri in the Thirty-Eighth Congress, and of whom the loyal people of Missouri will ever be proud, THOMAS E. NOELL returned on leave of absence to Missouri, and was warmly welcomed by his friends and the people of that part of the State. After making arrangements for the comfort of his widowed mother and young brothers and sisters he returned to duty in the field. In 1864 he revisited Missouri on recruiting service, and while thus engaged was honored with a nomination and election to Congress by a constituency then in arms in defense of their homes from raiding rebels.

Mr. NOELL entered public life at a time when questions of weighty importance and far-reaching consequences were forcing themselves upon Congress, and being inexperienced in public life and young in years it must not be considered strange that in many things he failed to fulfill the hopes of his party friends. It is well in times like these to judge each other charitably and withhold our censure or praise until from the more certain stand-point of the future we may look back and determine who has acted wisely and who foolishly.

But it is his private character rather than his public acts that shows what manner of man he was. Here Mr. NOELL shines with peculiar beauty. Social and kind in his nature, he always attracted a large circle of personal friends, who, in despite of political differences, were ever constant and true. Personally, he had no enemies. High-toned and unstained by any vicious habits, his associations were pure, his tastes those of the true gentleman. In his library were found the choicest works of the purest and best authors. These were his companions during his leisure hours.

Upon the death of his father the care of his mother, brothers, and sisters devolved on him. With an estate embarrassed, if not insolvent, he applied himself with his usual energy and good judgment to pay the debts and provide for the family. No attention or comfort that could add to his mother's happiness was denied her; he assumed the care and education of his young sisters and brothers with an interest and delight truly worthy of himself.

It is in this family circle that his death is felt most keenly; keenly, too, did he feel the loss it would be to his mother, sisters, and brothers. A few days before his death, in speaking of the uncertainty of his recovery, he said to the speaker "that he would like to live, but would be reconciled to die if he could see clearly how his poor mother, brothers, and sisters could get along without his help." This alone gave him trouble, but he trusted the God of the widow and fatherless.

Mr. NOELL was a religious man, and died in the faith of the Catholic Church, and was cheered with the consolations of religion in his last hours; and as life sank apace and his end came to view he seemed to review the past with satisfaction, and looked into the future by faith and was satisfied. Honest Representative, noble son, true brother, good citizen, fare thee well!

His body is interred in the family burying-ground in Perryville, the home of his youth, near the Father of Waters, amid the retiring spurs of the Ozark mountains; while his spirit, we believe, mingles with the just in the eternal adoration of the God he worshiped.

Mr. Speaker, I offer the following resolutions:

Resolved, That, by the death of THOMAS E. NOELL, a late Representative in Congress from the third district in the State of Missouri, this House has lost a worthy and useful member, the country a most estimable citizen, and his family, relations, and intimate associates a steadfast and valued friend.

Resolved, That, to give expression to their due appreciation of the talents, attainments, and patriotism of the deceased, and to indicate their regret and sorrow for his lamented death, the members of this House will wear the usual badge of mourning for thirty days.

Resolved, That these resolutions be spread upon the Journal of the House of Representatives, and that a copy thereof be sent by its Clerk to the family of the deceased.

Resolved, That, in respect to the memory of the deceased, this House do now adjourn.

Mr. BURR. Mr. Speaker, one of the first members with whom I became acquainted upon my entrance into the Fortieth Congress was the lamented THMMAS E. NOELL, of Missouri, whose memory we respect by the exercises of the hour.

His genial nature, warm heart, and affable demeanor were calculated to retain fully the friendship created and sympathy evoked by our first interview. In him I recognized a bold, original thinker, ready on all proper oc-

casions to give candid expression to his views and convictions on every important question. Indeed, none other than a bold nature could have assumed and maintained, under all the circumstances, the position of prominence and influence assumed and maintained by our departed friend.

Living in a State more intensely excited than any other during the stormy period of 1861, when the friends of constitutional government were in many localities borne down and overwhelmed by the tide of wild, mad, revolutionary fanaticism that swept with peculiar force over the "border States," he breasted the storm, met in its full fury the madness of the hour, adhered to his integrity, and in answer to all the demands of treason replied with unshaken firmness, "I am for the Union of the States under the Constitution of our fathers."

Young in years but ripe in statesmanship, he adhered more firmly to principle in proportion as principle was unpopular, and bore "true faith and allegiance" to his Government through the dark periods of the rebellion that tried men's souls. Elected to the Thirty-Ninth Congress and returned to the Fortieth by the Union voters of his district, his conduct as a Representative was marked by the same boldness of thought and independence of action that characterized his course as a citizen and soldier contending against attempted revolution in his own State.

Refusing to obey the dictates of any party, but relying entirely on the promptings of his own patriotic heart and the convictions of his own earnest mind for a guide to his political conduct, he, by his independence and boldness, gave proof of the possession of the elements of true greatness. In clearness of intellect, candor of expression, independence of action, and adherence to principle, THOMAS E. NOELL was a great man; and in contemplating the life, services, and untimely death of our late companion we may adopt the poetic thought—

> "Lives of great men all remind us
> We may make our lives sublime;
> And, departing, leave behind us
> Footprints on the sands of time—
> Footprints which perhaps another,
> Sailing o'er life's troubled main—
> Some forlorn and shipwrecked brother—
> Seeing, may take heart again."

Mr. KERR. Mr. Speaker, I have learned more of the personal history of our lamented friend, THOMAS E. NOELL, from the remarks of the gentleman from Missouri [Mr. NEWCOMB] than I ever knew before. It was my pleasant privilege to know him only as a member of this House, and during the Thirty-Ninth Congress to occupy a seat next to his own. During the time I sustained such relation to him I had peculiarly favorable opportunities to study his personal character, and to watch the processes of his exceedingly interesting mind. The result of the acquaintance and familiarity which thus grew up between us was a sincere mutual friendship. We were led to very frequent interchanges of opinions upon the important duties which daily demanded fit action at our hands. In the performance of his high duties, by reason of our intimate relations, I gathered the most conclusive evidence that all he did in his honorable and responsible office as a Representative of the people he did with a sincerity and purity of purpose, and with an honest fidelity to the convictions of his own conscience, which were seldom surpassed. Having come here, if I am not mistaken, in a great degree untrammeled by the too exacting obligations of mere party, he acknowledged unquestioning allegiance to neither side of this House. He followed the path indicated by his very intelligent judgment and his noble and generous impulses. The obvious aim of all his official action was to do right and to promote the best interests of our common country. Although he had borne an honorable part in the late unhappy conflict of arms between the sections of our country, he brought with him into this Hall none of the asperities or vengeful feelings so often generated by domestic war.

In private and social intercourse Mr. NOELL was not only kind, agreeable, and liberal, but many times very charming and delightful. His mind was highly cultivated, especially in *belle lettres*, and he had a rich and never-failing humor. His few formal efforts on this floor partook very greatly of this element in his mental organization. If I mistake not, he was at one period of his life identified with the press of St. Louis in some literary capacity, and while so engaged he seems to have cultivated a style of critical and humorous composition with very great success. That style followed him here, and he several times made it contribute to the illustration of his ideas on some of the great questions that demanded solution or consideration at our hands. In all his efforts of this kind, if he did not convince us, he did at least amuse and delight us by his inimitable wit, his keen and peculiar humor, his quaint, original, and impressive similes and illustrations. I shall never forget that remarkable speech, remembered by us all who were in the Thirty-Ninth Congress, on the right of women to be invested with the suffrage. It was the most successful argumentative burlesque to which it was ever my pleasure to listen.

But while his mind seemed willing to clothe its thoughts and modes of reasoning in such singular and pleasant manner his conclusions and convictions were manifestly deep, earnest, and sincere, if not profound. He was an honest legislator and a faithful student of our fundamental law and of all its limitations upon power for the better protection of the rights of the people. I shall ever cherish his memory and hold in high esteem his manly example. I sympathize most deeply with those to whom his premature death is at once a sad and painful affliction and an irreparable loss.

Mr. PILE. Mr. Speaker, I regret that against my remonstrance I should have been assigned by the delegation from Missouri to pay this tribute of respect to the memory of Hon. THOMAS E. NOELL, from the fact that I did not have the pleasure of his acquaintance in private life and was only associated with him in this Hall during a very brief period, namely, during the months of March and July, at the first session of the Fortieth Congress. I am sure that I could not add to the eloquent words that have been spoken by the gentlemen who have preceded me, who knew him better personally and are better qualified by ability to speak of him.

I only desire now to pay an earnest tribute to his unstained private character, to his goodness of heart, to his geniality of nature, and especially to the great fact in his life that when the war cloud of 1861 spread its dark mantle over Missouri, when the time came to that great Commonwealth that "tries men's souls," THOMAS E. NOELL was found among the first brave sons of Missouri on the side of the Union and loyalty against treason and disunion, and ready to enter the field as a soldier, where he did good service in suppressing the rebellion by force of arms. Whatever differences of opinion may exist as to the correctness of the conclusions to which his very singular and unique type of mind led him in his after political career, his loyalty, his attachment and devotion to the cause of his country, and the honesty and earnestness of his purpose have never been questioned, so far as I know, by any one in the land.

It is true that in the midst of life we are at the door of death, to vary the quotation. I have fixed in my memory as a living picture the scene that occurred at the conclusion of the July session of this House, when he stood before us full of life and humor, of wit and vivacity, with as high hopes and as reasonable prospect of a long life as any of us. But how suddenly has he been called to the silence and stillness of the grave! In these Halls we shall see his face and hear his voice no more, and meet him no more in this life. The death of a good and true man is only the commencement of a higher life; it is like the morning star that, rising, never sets, but melts away into the purer light of heaven. I believe that such was the death of our lamented friend and my colleague,

> "When at last he cast his eyes
> Athwart the gathering gloom of death,"

he was cheered and comforted by the Christian's hope of immortality.

Mr. McCORMICK. Mr. Speaker, in addition to the remarks of my colleague, I desire to add a word as a tribute of respect to the memory of my immediate predecessor. Knowing Mr. NOELL, as I did, from early youth up to the time of his death, and being often and intimately associated together, I feel competent to speak of him in those relations of life where friends get hold upon our confidence and teach us to love them. That warm, genial, and unrestricted flow of friendship always indicative of purity of heart and rectitude of purpose was possessed by Mr. NOELL in an eminent degree, and secured for him that popularity awarded by society to those alone entitled to its confidence. His faithful devotion to a widowed mother, thrown almost wholly on his care after the death of his father, his efforts to educate his younger brothers and sister, are circumstances which brings to view the nobler sentiments of his nature.

If the social qualities of Mr. NOELL were pleasing and attractive, his moral and religious character was not the less elevating and ennobling. Ever mindful of his obligation to the Creator, he practiced the precepts of Christianity. During his life he was an exemplary member of the Roman Catholic Church, and in his death was not without its consolations. His services to the country, both in the field and in the council, have found a place upon the pages of history; his devotion to friends and family lives in the memory of those who know him best.

And now, although an early grave has closed over him and death has forever dimmed his prospects, he has not lived to impair his own good name; and, now dead, he is entitled to an epitaph which many living long will fail to earn.

Mr. NIBLACK. Mr. Speaker, I will only add a few words to what has been so well said on the present occasion. Ten years ago, when I first became a member on this floor, one of the earliest acquaintances I formed was that of Hon. John W. Noell, then a Representative from the State of Missouri and the father of the gentleman to whose memory we are now paying our tribute of respect; and during my whole service in Congress anterior to the war, embracing as it did the Thirty-Fifth and Thirty-Sixth Congresses, there was no member of the House for whom I had a more sincere respect than for him. His fairness, ability, and ardent patriotism commanded at all times my admiration.

On returning at the close of the war, as a member of the Thirty-Ninth Congress, I formed for the first time the acquaintance of the deceased. My kind recollections of the father induced me at the earliest moment to form the acquaintance of the son. I was very much gratified, on making his acquaintance, to find that he possessed many of those sterling, genial, and excellent traits of character which I so much esteemed in his father.

He also possessed much of that classic wit and dry humor which always give an interest and zest to social life, which are always a passport to good fellowship. We all remember many very quaint and at the same time impressive things which he said during his brief service as a member of this House. I well remember with what undivided attention he occupied this floor for the last hour of the last July session of the present Congress, and what convulsions of laughter he created by the severity of his wit and the quaintness of his argument. Never in all my life have I been called upon to pay a passing tribute to the memory of any person at whose death I

realize more fully the uncertainty of human life and the emptiness of all human affairs than in the case of him of whom we are now speaking. Sir, "what shadows we are and what shadows we pursue!" We are here to-day and to-morrow we are gone, never to return. Our vacant places are soon filled by others and the world sweeps on as before. But, sir, as others have spoken more fully of his life and character than my short acquaintance with the deceased would enable me to do, I will not detain the House. I heartily second the resolutions offered by the gentleman from Missouri, [Mr. NEWCOMB.]

Mr. KNOTT. Mr. Speaker, although I had not the pleasure of meeting the deceased as a member of this House, I trust it may not be considered inappropriate that I, a former citizen of the glorious Commonwealth, and honored in times gone by by the same noble constituency who sent him here, should avail myself of this melancholy occasion to pay my humble tribute to his memory, though it should add but a single leaf to the garland of admiration and esteem which his former associates on this floor would twine about his tomb. I arise, however, to pronounce no encomium upon his genius, no eulogy upon his character and ability as a statesman and legislator, but to testify my highest admiration of those private virtues which distinguished him through life and which lie at the foundation of all public worth. I care not how dazzling may be his intellectual endowments, how versatile his genius, how profound and comprehensive his acquirements, no man can be a true representative of the popular interests in this or any other Government unless he possess that stern, invulnerable, unbending integrity of character, that high moral sensibility, that deep abiding, conscientious love of truth and right which, in spite of all the allurements of ambition, of place, and of power, will suffer no deviation from the strictest line of rectitude, justice, and honor. These characteristics Mr. NOELL possessed in a preëminent degree. He distinguished both his public and private life, and in this regard his memory is entitled to our profoundest respect, and his example worthy of our constant emulation. He is now gone from the sphere of usefulness and labor, cut down in the flower and pride of manhood, just as he had stepped upon the arena of public life; and now, while we are paying our last sad tribute to his memory, I trust that we may remember that our tenure of existence is as precarious as his was; that one swell in the ocean of time and we may go down beneath the wave which will obliterate the names we have feebly traced on the sands which line the shore, but that the influence of our transactions here, like the circling waves which eddy around the stone dropped in mid ocean, will continue to widen and expand until it dies away upon the far off shores of future generations; and may we, under the influence of these salutary reflections, learn to emulate the moderation, the prudence, and the justice which distinguished the deceased through life.

The resolutions were unanimously adopted; and, then, in accordance with the concluding resolution, the Speaker (at three o'clock and forty minutes p. m.) declared the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: A memorial of James E. Serrell, of New York, in relation to a new East river and the filling up of Hurl Gate; also, the change in the location of the United States navy-yard, New York.

By Mr. BECK: The petition of James Wesley Johnson, praying that a pension be allowed him as a sailor in the United States service in the war of 1812.

By Mr. BOUTWELL: The petition of 2,500 citizens of Lowell, in reference to the rights of American citizens abroad.

By Mr. COBB: The petition of James Greenhalgh, of Wisconsin, for change in the internal revenue.

By Mr. EGGLESTON: A memorial of Mrs. Sarah Wilcox, praying for a pension for services rendered as nurse during the late rebellion.

By Mr. HALSEY: The petition of Julian Hibbert, for pension.

By Mr. MAYNARD: A memorial of Port Oak Council Union League, tenth civil district, Sevier county, Tennessee, praying for the confiscation of rebels' property to pay the war debt and to reimburse the losses of loyal men.

By Mr. PERHAM: A memorial of Mrs. G. W. F. Wood, for arrears of pension.

IN SENATE.

THURSDAY, *January* 23, 1868.

Prayer by Rev. E. G. BROOKS, D. D., of New York.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

The PRESIDENT *pro tempore* signed the enrolled bill (H. R. No. 213) to suspend further reduction of the currency, which was yesterday signed by the Speaker of the House of Representatives.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Post Offices and Post Roads:

A bill (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864;

A bill (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road and for other purposes; and

A joint resolution (H. R. No. 132) in regard to the construction of section ten of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes."

The bill (H. R. No. 274) providing for holding a circuit court at the city of Erie, Pennsylvania, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island rapids, in the Mississippi river, was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 368) authorizing the sale of an unoccupied military site at Waterford, Pennsylvania, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The bill (H. R. No. 502) to incorporate the congregation of the First Presbyterian Church of Washington, was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on the District of Columbia.

Mr. HARLAN. This bill, I understand, is in the exact language of a bill that has already passed the Senate, having been reported from the committee. I prefer, therefore, that this bill should remain on the table, so that it may be called up without a reference.

The PRESIDENT *pro tempore*. The bill will lie on the table, if no objection be made to that disposition of it.

BRIDGE AT LA CROSSE.

The bill (H. R. No. 96) to authorize the Southern Minnesota Railroad Company to construct and maintain a bridge across the Mississippi river and establish a post route was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY. The Committee on Post Offices and Post Roads have fully considered that whole subject and that particular bill; and for the purpose of economizing time I ask the Senate to act upon it now.

Mr. SHERMAN. I should like to have some reports disposed of in the ordinary way first.

Mr. RAMSEY. I think this bill can be passed in two minutes.

Mr. SHERMAN. I shall have no objection to it after the morning hour.

Mr. RAMSEY. To defer it till then will be substantially the loss of the bill, for I shall not be able to get it up after the morning hour; other business will prevent.

Mr. CONNESS. I hope the Senator will let it lie over till we get through the morning business proper.

Mr. RAMSEY. Very well; let it lie over until the morning business is through with.

The PRESIDENT *pro tempore*. The bill will lie over for the present.

SUPPLEMENTARY RECONSTRUCTION BILL.

The bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, was read the second time by its title.

Mr. DOOLITTLE. In moving the reference of this bill to the Committee on the Judiciary I desire to say that I shall move to amend the ordinary motion of reference by adding certain instructions which I shall send to the Chair.

Mr. WILSON rose.

Mr. DOOLITTLE. I do not yield to the Senator.

The PRESIDENT *pro tempore*. The Senator from Wisconsin has the floor.

Mr. WILSON. It is very strange that the morning hour is occupied in this way all the time.

Mr. DOOLITTLE. Mr. President, there is more involved in this measure than in any other, all others, perhaps. I see in it a complete overthrow of the Constitution in ten States of the Union. I see in it a practical dissolution of the Union. I see a Republic in form, at least, still remaining north of the Potomac. I see an empire rising south of it. I see in it the realization of the wildest dream of Calhoun—a dual Executive—a President to execute the laws in the Republic of the North; a military dictator, independent of the President, to make as well as execute laws in the negro empire of the South. My heart is oppressed with a sorrow too deep for full utterance; and yet, with the indulgence of the Senate, I would make a last appeal to modify this policy. I deem it a duty which I owe to the country to do so now, before this bill goes to the committee, for in that committee I have no voice, and I know when its report is once made, and they are fully committed to the measure, it will be too late. I fear I am already powerless to influence the judgment of the Senate. But as I love my country and her republican institutions, as, next to the God of heaven, I have worshiped them from my youth up, and as I verily believe, although I pray Heaven I may be mistaken, they are now the most imminent peril of utter destruction if the bill shall become a law, I know that Senators, if they do not agree with me, will pardon me for giving expression to those earnest convictions which I could hardly repress if I would.

As I can have no hope that Congress will wholly abandon its reconstruction policy, for the purpose of asking the Senate to consider the question of modifying it so far as to limit negro suffrage to certain classes I submit as the basis of my remarks this morning the following motion, which I now send to the Chair and request the Secretary to read.

The Secretary read as follows:

Resolved, That the bill be referred to the Committee on the Judiciary, and that the said committee be instructed, in said bill, or in any other bill which may be reported by them having reference to the question

of reconstruction, so-called, in any of the States not represented in the present Congress, to insert the following proviso:

Provided, nevertheless, That upon an election for the ratification of any constitution, or of officers under the same, previous to its adoption in any State, no person not having the qualifications of an elector under the constitution and laws of such State previous to the late rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, namely:

1. He shall have served as a soldier in the Federal Army for one year or more.

2. He shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or,

3. He shall be seized in his own right, or in the right of his wife, of a freehold of the value of $250.

Mr. DOOLITTLE. Mr. President, the question presented in the instructions proposed by me is whether Congress is still resolved to subject the white people of the southern States to the domination of the negro race at the point of the bayonet, or whether Congress, in deference to the recently expressed will of the American people, will now so far modify their policy as to leave the governments in those States in the hands of the white race and of the more civilized portion of the blacks? That is the naked question. Strip it of all useless verbiage and specious arguments about sustaining loyal men and punishing rebels, it is nothing more or less than this: shall the General of the Army put the negro in power over the white race in all the States of the South and keep him there? That purpose is boldly avowed by some, and that will be the effect of this Radical reconstruction now as it stands, or as it will stand, if this bill shall become a law. On the the other hand, the amendment which I offer, if adopted, would leave the governments in those States where they belong and where they ought always to remain—in the hands of our own race—while, at the same time, it would allow the right of suffrage to all those negroes who have any claim to it by reason of intelligence or patriotic services or estate subject to taxation, namely:

1. To those who have served in the Federal Army;

2. To those who have sufficient education to read the Constitution of the United States and to subscribe their names to an oath to support the same; or

3. To those who have acquired and hold real property to the value of $250.

But the question may be asked, why not apply the same tests to the white men of the South? The answer is plain and twofold. First, by the constitutions and laws of those States the right of suffrage is already secured to them, and we have no rightful power to take it away. To do so would trample under our feet one of the most sacred rights reserved to the States. It is by extending suffrage to the negroes that Congress is overturning the constitutions of those States. In my opinion, this is a usurpation, which its advocates justify upon the ground of necessity alone. I neither admit the power nor the necessity; but, granting both, no reason can be given, and no necessity but that of party ascendancy can be urged, for going any further in this revolutionary work than to admit to suffrage the classes of negroes named in this amendment.

The second answer is, that white men have for centuries been accustomed to vote. They have borne all the responsibilities and discharged all the duties of freemen among freemen; and it is a very different thing to take away from a freeman a privilege long exercised by him and by his ancestors, from what it is to confer one never before enjoyed upon ignorant, half-civilized Africans just released from slavery. Three generations back many of them were cannibals and savages of the lowest type of human kind. The only civilization they have is that which they have received during their slavery in America.

To confer this great privilege upon the more enlightened negroes might tend to elevate the mass in the end. But to confer it now upon their ignorant hordes can only degrade the ballot and the republican institutions which rest upon it.

No answer to this view has ever been given, no answer can be given, by the friends of universal negro suffrage, except this: "The ignorant foreigner is allowed to vote, why not let the ignorant negro vote?" Thus to compare the civilized European, accustomed to free labor, to self-support, and self-government, to all the duties and responsibilities of a freeman, and who withal, before he is allowed to vote in most of the States, must appear in open court, and, after five years' residence, prove by the testimony of two citizens a good moral character, and that he is well disposed toward the Government and institutions of the United States—to compare him with the poor degraded mass of Africans, plantation slaves just set free, is an atrocious libel upon ourselves, upon our ancestors, upon the results of Christian civilization, and upon that Caucasian race which for thousands of years has ruled the world.

But suppose it to be true that too many ignorant foreigners of our own race are admitted to suffrage already, is that any reason or any apology even for admitting six hundred thousand half-civilized men of another race—men whose natural home is in the tropics, who are exotics here, transplanted, not by their own free will, but by the cupidity of Old and New England, as slaves, and whose whole education and civilization, so far as they have any, have been derived from slavery to the white man? I do not say there are not some ignorant white men, foreign and native born, who are not qualified to vote; but they are exceptions to the general rule. I do not say there are not some persons of Indian, of Chinese, or of African descent who are qualified; but they are exceptions to the general rule also. Society must, in the main, be governed by general laws. While the general rule is that white men are capable, and therefore suffrage may be made universal among them, on the other hand the general rule is that Indians, Chinese, coolies, and negroes are incompetent; and especially is this true of the negroes in the plantation States. Therefore the general rule should exclude them from suffrage. At all events it should be no further relaxed than to admit the excepted classes mentioned in this amendment.

The effect of the adoption of this amendment would be to allow all who have the qualifications required by the constitutions of those States before the rebellion, not specially disfrancised, to vote; that is to say, the mass of white men, and at the same time it would allow the most liberal negro suffrage at all compatible with the maintenance of civilized governments in those States.

Let Congress now pause, and modify its course in accordance with the provisions of this amendment, and I have every reason to believe the people of those States would at once take part in the work of reconstruction, a solution of our difficulties would be attained, and peace restored to the country.

But if Congress will insist upon its suicidal measures, if Congress is still determined to establish those governments upon negro supremacy, then chaos comes again; a war of races is inevitable at the South.

Mr. Alexander H. Stephens, one of the ablest living men of the South, and who speaks from long and actual observation, can—

"See nothing in the policy of reconstruction but the operation of a fearful scheme, whose ultimate result will be the destruction of either the black or the white race. Every day, it becomes more painfully evident that the estrangement between the races is widening—on the part of the negroes from the effects of such instruction as teaches them to distrust and oppose the whites, and on the part of the latter from an abhorrence of the negro leaders and an instinctive aversion to be ruled and legislated for by ignorance and semi-barbarism. From what fell under his own observation in Georgia he was unable to detect anything like a spirit on either side tending to mutual sympathy of sentiment and interest. Radical emissaries from the North have sown the seeds of evil dissension with a terrible earnestness, and the diametric opposition of the races now visible all over the South must, in the very nature of things, lead, at some time or other, to fearful collisions. This inevitable result, as a dispassionate observer, forces itself irresistibly on his attention. A war of races, desired by some, and indifferently heeded by others, is, to his mind, a consequence as sure to happen, under the Radical method of reconstruction, as it is impossible to avoid, if the precedents of history or the impulses that control human nature be taken into account."

And such is the united testimony of the intelligent men of the South.

But, sir, why press this negro supremacy over the whites? What reason can you give? I have heard three distinct answers to this question worthy of notice:

First. Because the States of the South rejected the constitutional amendment submitted by Congress;

Second. Because the negroes are loyal and the whites disloyal; and

Third. Because it will secure party ascendancy.

Let us consider the first answer, that the States of the South have rejected the constitutional amendment submitted by the last Congress as the basis of reconstruction.

I admit the Legislatures of all the southern States rejected that amendment with great unanimity; but is that any sufficient reason for the adoption of this harsh policy? I think not. In the first place, that amendment contains one provision which made its adoption impossible by the southern people, at least until you change the human heart and destroy all sense of personal honor. It disfranchises from holding office all the men of the South in whom they had ever placed any public confidence—all who had ever held any office, State or Federal. And disfranchises them for what? For simply doing what they themselves had done.

I can understand how one may say in argument that the leaders should be disfranchised. But how any man of common sense, or common manhood, could ever suppose it possible for the people of the South to vote to disfranchise men esteemed by them as equal to, if not better than themselves, for an offense of which they themselves were equally guilty, is beyond my comprehension. You ask the southern people to betray the men whom they trust. You ask them to dishonor those whom they honor, to uproot the affection of years from their hearts. You ask them to strike with a serpent's tooth the bosom of a friend. But until human nature shall cease to be what God has made it, honorable men, to save themselves, to save even their lives, would not incur the guilt of such unnatural treachery by voting for such a provision. When it was pending before the Senate, June 8, 1866, I urged and implored Senators to allow the several provisions of that amendment to be separately submitted and voted upon, and I warned the friends of the measure that this provision would inevitably defeat its adoption by every southern State. But, sir, the majority were deaf to all appeals. The caucus had resolved; the deed was to be done; and it was done. On account, mainly, of that provision, the amendment was rejected almost unanimously by every southern State.

Again, when examined more closely we find that provision required them to vote to disfranchise thousands who had received pardon and amnesty, and a restoration to all their rights as citizens under the proclamations of President Lincoln and President Johnson, by virtue of a law of Congress, which you yourselves enacted, which expressly authorized them to grant such pardon and amnesty upon just such terms as they thought proper. An amendment offered by me in the Senate the 31st of May, 1866, to except those men who had "duly received pardon and amnesty under the Constitution and laws," was voted down by an unyielding majority. I can never view this provision in any other light than a most palpable violation of the plighted faith of this Government given to those persons in the most solemn form.

If the emperor of Russia, by proclamation, were to grant full pardon to such Poles as would take an oath of allegiance to his crown, and if he should afterwards deliberately break his word, what denunciations would be, and ought to be, heaped upon his head by the civilized world! The perfidy of such an action

would only be equaled by its folly as a measure of pacification to Poland. Congress authorized the President to give pardon and amnesty to thousands whom Congress now calls upon the people of the South to vote to disfranchise.

Again, sir, there is another feature of that provision which no sentiment of justice should tolerate or excuse. In that sweeping disfranchisement no distinction whatever is made between those who voluntarily engaged and those who were compelled to engage in the rebellion; no distinction whatever between the innocent and the guilty.

The Senate will remember that when this amendment was pending I offered an amendment to restrict that disfranchisement to those who had voluntarily engaged in the rebellion; and it was voted down by the same unyielding majority.

Partisan zeal and party necessity may account for many things. But when the history of these times shall be written it will seem incredible to our posterity that learned men and able Senators could ever for one moment bring themselves to believe it possible that the people of the South should vote for such an amendment.

It contains still another objectionable feature in violation of an important principle in every good government, confounding executive with legislative duties. If there be any prerogative which more than another pertains to the executive in all Governments, ancient and modern, that prerogative is the power of pardon.

This amendment proposes to change the Constitution so as to take that power away from the Executive and confer it upon the two Houses of Congress. It is revolutionary, and worse than that. It vetoes the power of clemency in advance. It not only takes that power from the President, but it takes it away from a majority of Congress, and requires two thirds of both Houses in order to exercise the power of pardon, the same majority which is necessary to pass a law over the presidential veto. In what civilized Government upon earth was there ever such a restriction upon the power of pardon? Can it be found even among the savage tribes?

Sir, this amendment makes it impossible for a majority of the people of the United States, by the choice of a President or by the election of the Houses of Congress, to grant pardon and amnesty.

I speak with all becoming respect for the opinions of others and for the sincerity of their motives. I know it never could have been intended, but judging this provision by its own words, standing in its own light, it seems to be born of distrust in the intelligence and magnanimity of the people; the offspring of cowardice and revenge, of unforgiving hate and lust for political power.

And is it because the Legislatures of the South rejected such a proposition that Congress should now enforce this policy and establish a combined negro and military despotism in all the States of the South, and under its iron heel trample in the dust our own race and kindred and people?

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate.

Mr. HENDRICKS. I move that the unfinished business be postponed in order that the Senator from Wisconsin may be allowed to complete his remarks.

Mr. SHERMAN. Ordinarily I would not oppose this motion; but it does seem to me that the extraordinary fact that the Senator from Wisconsin takes the floor and proceeds at great length to submit a partisan speech on a motion of this kind—on a motion to refer—ought to induce the Senate to preserve the regular rules. We have been cut off from the regular morning business, the passage of bills in their last stages, and I think, therefore, the Senator ought to give way for the regular order of business and let us have half an hour at least for the disposition of the regular morning business. The Senator's speech being written, no doubt we shall have the benefit of it the next time he gets the floor. I very rarely make an objection of this kind, but the occasion is an extraordinary one, and the circumstances under which the speech is made are extraordinary. I trust, therefore, that the Senate will not consent to this postponement.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate pass over the order of the day informally for the purpose of allowing the Senator from Wisconsin to conclude his remarks.

Mr. CONNESS. One objection, I believe, is enough to defeat that motion.

Mr. SUMNER. I object to any passing over informally of the regular order.

Mr. TRUMBULL. I have no objection myself to the motion of the Senator from Indiana, if he desires to hear the speech of the Senator from Wisconsin, and then the time of the Senate is to be devoted to this subject. I am quite ready and willing myself to meet this partisan speech rung in here out of time and place, and to denounce as revolutionary and unconstitutional the abominable doctrines set up in behalf of rebels and traitors. But, sir, I object to laying aside the regular order of business merely to hear this harangue without meeting it in fitting terms the moment the Senator from Wisconsin shall have taken his seat.

Mr. DOOLITTLE. I should prefer to conclude my remarks now, if it be the pleasure of the Senate to allow me to do so; but if it be not, and they desire to take up another subject, I have no objection. I ask no favors of gentlemen if they do not desire to extend them.

Mr. HENDRICKS. I did not make this motion because it was the Senator from Wisconsin who was concluding his remarks, nor because I knew the subject he was discussing, for I had not heard any part of his speech, and I did not know whether it was upon some particular bill or upon politics generally. I was surprised, indeed, when the Senator from Illinois showed so much excitement. It is hardly worth while to become excited, because I can assure the Senator these questions will be discussed. They are the questions the people are thinking about, and they will be discussed here and elsewhere. We may as well discuss them calmly, and not allow passion to control us for the time being. The Senator from Wisconsin is entitled to just the same courtesy that any one of us is entitled to, and I made the motion in his behalf just exactly as I insisted in favor of the Senator from Nevada [Mr. STEWART] the other day, on another question, and with some persistence insisted upon it, and the Senator from Nevada was heard. He commenced his speech in the morning hour and the Senate allowed him to conclude it; and I thought, of course, there could be no objection to the motion I made in this case. If the Senator from Illinois or any other Senator were interrupted by the expiration of the morning hour I should make just the same motion.

Mr. SHERMAN. The case here is not the one presented by the Senator from Indiana. The Senator from Wisconsin takes the floor on a formal motion to refer.

Mr. DOOLITTLE. A motion to instruct the committee, I beg to inform the Senator from Ohio, who was not present when the motion was made.

Mr. SHERMAN. I was present. He introduces instructions to the committee on a formal motion to refer the bill on its second reading, and having the floor on the motion to refer, by the rules of the Senate he is allowed to debate it. A single Senator is thus enabled to stop the ordinary order of business and to occupy the whole morning hour, which is specially reserved for morning business. Under these circumstances, it seems to me, he ought not to ask a departure from the rules. He himself has violated the ordinary rule with regard to the order of business. It is not the case put by the Senator from Indiana, where a Senator by the assent of the Senate gets the floor upon a particular subject and then proceeds to debate it.

Mr. DOOLITTLE. I desire to say a single word in reply to the Senator from Ohio when he speaks about my violating any rules of the Senate. The honorable Senator from Indiana [Mr. MORTON] the other day introduced a resolution on this subject to instruct the Committee on the Judiciary on this question. I then moved an amendment to that motion. Yesterday morning, when the question came up before the Senate on the second reading of this bill, I distinctly advised the Senate that my purpose was, when it came up for a second reading this morning, to move to instruct the committee for the purpose of submitting my views to the Senate. The motion of reference was brought up by the Chair in the usual course, and I must then make my motion to instruct or not make it at all. I have done so, and have addressed the Senate thus far. If the regular order of business, the case of Mr. Thomas, should come up and be disposed of, and I could then take the floor and finish my remarks, it would suit me. I am not desirous of crowding upon gentlemen of the Senate. At the same time I do not think the objections which are taken that I am violating any rule have any foundation. I give my honorable friend from Illinois to understand, as chairman of the Judiciary Committee, that I expect to discuss this motion to instruct his committee on this question whenever this bill is sought to be referred. It will never get to that committee until this motion is discussed; and I supposed it was my duty to make the motion before it went to the committee or I could not make it at all. I leave it to the Senate; they can do as they please. I do not ask any special favors.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

Mr. TRUMBULL. I am unwilling to agree to the motion of the Senator from Indiana as he presents it, simply to lay aside the order of the day for the purpose of hearing the Senator from Wisconsin. I assure the Senator from Indiana that I am laboring under no such excitement as he may suppose. I am only a little astonished at the effrontery of the gentlemen who assume that the Constitution is always with them, and assume that those men who fought to destroy it are the proper persons to guard and protect it.

Mr. DOOLITTLE. I submit, if it be not in order for me to go on and discuss this question, whether it is in order for the Senator from Illinois to do so?

Mr. TRUMBULL. I am replying to the suggestion of the Senator from Indiana at this moment.

The PRESIDENT *pro tempore*. The motion is debatable.

Mr. TRUMBULL. If the Senator from Indiana will change his motion so as to continue this matter before the Senate I shall have no objection to it; but I do object to taking up the time of the Senate in this unusual manner to hear a partisan speech, and then closing down on it. If the Senator will change his motion for one I will vote for it. Let the order of the day be set aside and the Senator from Wisconsin may finish his studied speech and we will reply to it as best we can.

Mr. DOOLITTLE. If it can be the understanding of the Senate that when the case of Mr. Thomas, which is the regular order, is disposed of, I can then go on, I will yield.

Mr. SUMNER and Mr. CONNESS. There can be no such understanding.

Mr. DOOLITTLE. Then I prefer to go on now.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

Mr. EDMUNDS. What is that motion?

The PRESIDENT *pro tempore*. To pass over the order of the day for the purpose of hearing the speech of the Senator from Wisconsin.

Mr. CONKLING. I shall make no objection to this course unless the Senator from Indiana proposes that this speech shall proceed to its conclusion, and that then the ordinary business of the Senate shall be resumed. If that be his motion, the effect of it is to prevent any reply to this speech; and for one I do object to that. Whether the Senator from Wisconsin has violated the rules of the Senate or not he has presented here a proposition instructing a committee with regard to a certain bill, and, in the language of his proposition, all other bills relating to that subject, to do certain things which he specifies; and he hangs upon that a prepared speech, offensive, I think I may say, to the sense of a great majority of this Senate. I have no objection to the Senator from Wisconsin taking this occasion or any other to publish any essay which he has prepared declaratory of his views and calculated to asperse a great body of the people of this country; but I do object to the proceedings of the Senate being warped and bent for the purpose of having this argument exploded, if I may so say, without an opportunity being reserved to any other member of this body who may see fit to reply to it. Whether I shall feel any disposition, for one, to reply to it or not I do not know. At any rate, I do not speak in my own behalf at this moment; but if it is the pleasure of the Senate to surrender this day to such a discussion, so be it. I do object, however, to the Senator from Wisconsin, or any other particular member of this body, being permitted, without let or hinderance, to absorb the morning hour, and then shutting the door against anybody else.

Mr. CONNESS. I rose——

Mr. WILSON. What is the motion?

Mr. CONNESS. The motion is the motion or suggestion of the Senator from Indiana, as I understand it.

Mr. FESSENDEN. I suggest that that can only be done by unanimous consent; and the Senator from Massachusetts [Mr. SUMNER] has already refused his assent to it.

Mr. CONNESS. I knew that; but I was going to make a suggestion by way of agreement which I think this side of the Senate will accept and agree to, and to which I hope the Senator from Indiana and his friends will consent, and that is that this bill shall be considered now, giving every Senator an opportunity to discuss it until the Senate shall have finally acted upon it. As to its reference to the Judiciary Committee, I apprehend there is not a proposition involved in it that has not been considered again and again, in and out of the committees of this body. If the Senator from Indiana and his friends are ready to go on with its consideration I will vote with him to set all other business aside and go on with its consideration until it shall have been acted upon finally.

Mr. WILSON. If the Senator from Maryland, who has charge of the resolution concerning the admission of the Senator-elect from his State, will yield the floor for the purpose, I think we had better make this arrangement and go on with this debate; but if it is intended to bring up Mr. Thomas's case after the Senator from Wisconsin closes, I, for one, object to it. I think the movement made here to-day to prevent reconstruction ought to be met now, and the country ought to understand it.

Mr. JOHNSON. I rose to say, but with all possible kindness to the honorable member from Wisconsin, that, though I am willing at all times to extend to him or any other member of the Senate every courtesy in my power, I cannot, under the circumstances, yield any right that I may have to call up the case of my colleague. His credentials were presented as far back as March last, referred to the committee, I think, on the 20th of March, and I have been from that time and still remain without a colleague. Our Legislature is in session and exceedingly anxious to have the question of his right to be admitted to this floor decided at the earliest possible period. The honorable member from Wisconsin can, if the Senate will permit him, after the case of my colleague is disposed of, continue his speech.

Mr. DOOLITTLE. I will do so with pleasure.

Mr. HENDRICKS. If that is agreeable to the Senator from Wisconsin I withdraw my motion. I have not desired to interfere with the business of the Senate, and I do not wish the Senate to be seriously interrupted in the consideration of the question that properly comes up at this hour; and if it is agreeable to the Senator from Wisconsin I will withdraw the motion, and let him conclude his remarks after the case of Mr. Thomas is disposed of.

The PRESIDENT *pro tempore*. The motion is withdrawn.

Mr. STEWART. I renew the motion in a different form, that this discussion continue for the day. This is a very important subject, and after the Senator from Wisconsin has proceeded with his remarks to the extent that he has, I think he had better conclude, and let us occupy the day on the subject. If the Senator from Wisconsin had been one of those opposed to the admission of Mr. Thomas, it would be a different thing; but inasmuch as this subject is brought up here and the speech is nearly through, I should like to have it entire and such reply as Senators may feel disposed to make to it. I should like to test the sense of the Senate on the motion. It seems to me we had better go on with this debate.

Mr. JOHNSON. I understood the honorable member from Wisconsin as declining to address the Senate further at this time if it was the wish of the Senator from Maryland that the case of his colleague should be taken up.

Mr. DOOLITTLE. I prefer that that case should be taken up rather than interrupt the order of proceedings, and I will endeavor to get the floor and finish my remarks after that is out of the way.

The PRESIDENT *pro tempore*. I understand there is still a motion pending to pass by the order of the day for the purpose of permitting the Senator from Wisconsin to finish his speech. Do I understand that motion to be renewed?

Mr. STEWART. For the purpose of continuing the discussion on this resolution to-day.

Mr. SUMNER. I suggest to the Senator from Nevada that the proper motion to make would be to proceed with the consideration of the reconstruction bill to the exclusion of the pending order; in other words, to postpone the pending order in order to proceed with that measure.

Mr. STEWART. I accept that suggestion.

Mr. CONNESS. I cannot, though I wish to vote with my friends, vote for this motion if made against the question of privilege, after the remarks of the honorable gentleman from Maryland who has charge of that subject; but I suggest that the motion of the Senator from Wisconsin, of reference and instructions, be temporarily withdrawn, that the bill may be read a first and second time.

Mr. DOOLITTLE. It has been read a second time to-day.

Mr. CONNESS. Then I have nothing further to say, but shall sustain the Senator from Maryland.

Mr. JOHNSON. I am not very familiar with the rules of the Senate. The admission of my colleague I understand to be a question of privilege. If it be a question of privilege, and the honorable member from Wisconsin were disposed to continue his speech to a conclusion, I should then at once ask that the question be taken up; but as the honorable member has stated that it is not his desire to continue the debate any further, I hope Senators will do my State the justice of having her right to be represented by two Senators on this floor decided at once.

The PRESIDENT *pro tempore*. By the rules of the Senate the unfinished business at the expiration of the morning hour is before the Senate without any order of the Senate on that subject. Then came a motion to postpone that for the purpose of hearing a speech; and that motion, I understand, although withdrawn by the original mover, is renewed by the Senator from Nevada.

Mr. STEWART. My motion is to proceed with the consideration of the resolution offered by the Senator from Wisconsin.

The PRESIDENT *pro tempore*. That is the same motion in effect as the other.

Mr. STEWART. And upon that motion I ask for the yeas and nays.

Mr. POMEROY. There was no resolution offered by the Senator from Wisconsin. I should have objected to it if he had put his proposition in that form.

Mr. STEWART. It is a resolution of instruction.

Mr. POMEROY. It is not a resolution, for if it was in that form I should have objected to it, and it could only have been proceeded with by unanimous consent; but the motion of the Senator from Wisconsin was to refer the bill with instructions. That was an order and could not be objected to.

Mr. CHANDLER. I ask the Senator from Nevada to amend his motion so as to move simply that the pending business be postponed until to-morrow, and that will give an opportunity for the continuation of this debate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nevada to postpone the consideration of the unfinished business until the speech of the Senator from Wisconsin be finished. That is substantially the motion. The subject is under the control of the Senate.

Mr. EDMUNDS. I did not understand the motion to have been made precisely as the Chair states it, which seems to limit its operation to the conclusion of the speech of the Senator from Wisconsin.

The PRESIDENT *pro tempore*. I understand the Senator from Nevada to limit it in some way. I do not know that I understand him aright. I wish the Senator from Nevada would state his motion more particularly.

Mr. STEWART. My motion is to postpone the pending and all prior orders for the purpose of continuing the discussion of the motion made by the Senator from Wisconsin.

Mr. JOHNSON. That may take a week.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nevada as he has now stated it.

Mr. WILLIAMS called for the yeas and nays, and they were ordered.

Mr. EDMUNDS. I certainly hope that every Senator on our side of the House will extend the courtesy which is due on so important an occasion as this to the Senator from Wisconsin. I certainly hope they will not imitate the bad example of any other time and party and undertake to stifle or to interrupt the flow of truth and patriotism that seems to have been welling out this morning from that Senator. I want to remind the Senate and my friend from Maryland, who wishes to interpose this election question, that the questions are exactly the same. The Senator from Wisconsin is speaking the sentiment of the absent Senator from Maryland. He is defending the same cause that that Senator defended as far as he dared during the war; therefore it is no great injustice to the consideration of the case of Mr. Thomas to proceed with it in a little different form. I hope we shall all go on with it.

Mr. POMEROY. I understand the motion now to be to postpone the present order and proceed with the consideration of the reconstruction bill.

The PRESIDENT *pro tempore*. To continue its consideration.

Mr. POMEROY. My point is that we cannot proceed with the consideration of this bill, it having been read twice to-day. We cannot act upon it and proceed to its third reading in its present shape.

The PRESIDENT *pro tempore*. The question is on referring the bill to the Judiciary Committee with instructions, and it is proposed to hear arguments on the instructions.

Mr. POMEROY. That was not the motion of the Senator from Nevada.

Mr. STEWART. Yes, that is it.

Mr. CONKLING. The motion was to continue the consideration of the motion to refer.

Mr. POMEROY. If that is the motion of the Senator from Nevada I have no objection to the motion being put. I want to say, however, to my friend from Indiana that I did sustain the Senator from Nevada the other day in proceeding with his remarks after the morning hour, but that Senator did not desire to speak until we had concluded the morning business. Our petitions, memorials, reports from committees, and bills had all been presented before the Senator from Nevada tried to occupy the floor. I sustained him in that effort, but I cannot sustain the Senator from Wisconsin.

Mr. WILLIAMS. I have understood that the question relative to the Senator-elect from the State of Maryland was a question of privilege. It has been so treated, at any rate, so long as it has been pending before the Senate. I am not very familiar with parliamentary rules; but it seems to me that it is an unusual proceeding, where a question of privilege is pending before the Senate, to make a motion to postpone that question for the purpose of proceeding with the ordinary business of the Senate. If a motion of that kind can be entertained and can prevail it is idle to talk about a question of privilege, for any motion to postpone a question of privilege and take up the ordinary business of the Senate overrides the question of privilege. I doubt very much whether, under the rules, this motion can be entertained; but, if I am wrong in this, it seems to me to be so unusual and so unprecedented that the Senate ought not to sustain this motion, and it is due to the Senator-elect and due to the State of Maryland that the question should be determined. If Mr. Thomas is such a monster of iniquity, if he is the embodiment of the rebellion, as the Senator from Vermont would imply, then it is due to the State of Maryland that his application should be rejected, and that State enabled to choose another man to fill his place. I say there is something due to the State in this respect as well as to the individual involved, and as the Senator from Wisconsin does not desire to continue his remarks now, and is willing that the question of privilege which was pending yesterday shall be proceeded with at this time, it seems to me to be a very extraordinary thing for the Senate now to compel him to go on when he proposes to give way for this question of privilege.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nevada, on which the yeas and nays have been ordered.

The Secretary proceeded to call, and concluded the call of the roll.

Mr. THAYER. I had intended to vote "yea," prompted by courtesy to the honorable Senator from Wisconsin; but as he has voted "nay" himself it somewhat embarrasses me. I, however, voted "yea." [Laughter.]

Mr. CONNESS, (who had voted in the negative.) I cast my vote from personal considerations mainly to the honorable Senator from Maryland. I do not intend to explain further, but I prefer as a general rule to go with my friends, and I ask now to vote with them in the affirmative.

The result was announced—yeas 30, nays 17; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Drake, Edmunds, Ferry, Frelinghuysen, Grimes, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Trumbull, Wade, and Wilson—30.

NAYS—Messrs. Bayard, Buckalew, Cragin, Davis, Dixon, Doolittle, Fessenden, Hendricks, Johnson, Norton, Patterson of Tennessee, Pomeroy, Tipton, Van Winkle, Willey, Williams, and Yates—17.

ABSENT—Messrs. Corbett, Fowler, Guthrie, Harlan, Patterson of New Hampshire, and Saulsbury—6.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Wisconsin is entitled to the floor and will proceed.

Mr. SHERMAN. With the consent of the Senator I desire to present a report from a committee of conference.

Mr. DOOLITTLE. I give way for that purpose.

COTTON TAX.

Mr. SHERMAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendment to the bill of the House, and agree to the same with an amendment, as follows:

Add to the bill the following words: "and cotton imported from foreign countries on and after July 1, 1868, shall be exempt from duty;" and the House agree to the same.

JOHN SHERMAN,
J. S. MORRILL,
T. A. HENDRICKS,
Managers on the part of the Senate.
R. C. SCHENCK,
J. B. BECK,
Managers on the part of the House.

The report was concurred in.

PETITIONS AND MEMORIALS.

Mr. POMEROY. With the leave of the Senator from Wisconsin, I wish to present a petition.

Mr. DOOLITTLE. After the courtesy extended to me by the Senate, I suppose I am bound to yield to these little matters of morning business, if they will not lead to discussion.

Mr. POMEROY presented the petition of William Fitch, attorney for the trustees of the Barry estate, praying compensation for wood taken by the Government from the Barry farm, near St. Elizabeth asylum, in the District of Columbia; which was referred to the Committee on Claims.

Mr. GRIMES presented a petition of Charles H. Bell, rear admiral United States Navy, commandant of the navy-yard at New York, praying that a pension be granted to Caroline and Margaret Swartwout, sisters of Commander Swartwout, United States Navy, who died in February, 1867; which was referred to the Committee on Pensions.

He also presented the petition of George M. Colvocoresses, captain in the United States Navy, praying to be restored to the active list; which was referred to the Committee on Naval Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORGAN, it was

Ordered, That the memorial and accompanying papers of Robert P. Parrott, on files of the Senate, be referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the joint resolution (H. R. No. 136) providing for the sale of iron-clads, reported it with an amendment.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 162) for the relief of the heirs of Simeon Castro and their assigns, reported adversely thereon, and submitted a report; which was ordered to be printed.

Mr. CORBETT, from the Committee on Indian Affairs, to whom was referred a petition of citizens of Oregon praying compensation to Jacob Leabo for services rendered as one of the express guard to accompany Jacob Meek across the Plains in 1848, and for property lost on the Plains, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

INSTRUCTIONS TO GENERALS POPE AND MEADE.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be respectfully requested to communicate to the Senate any and all instructions given to General Pope on his being assigned to the command of the fourth military district under the reconstruction acts or at any time while in command thereof; also any and all instructions given to General Meade on his being assigned to the same command; also, copies of any and all minutes of the discussions, opinions, and votes in Cabinet meetings respecting the construction of said acts.

Mr. BUCKALEW subsequently said: Before the Senator from Wisconsin goes on I should like to enter a motion to reconsider the resolution offered by the Senator from Michigan. I move to reconsider that vote.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that the vote by which the resolution of the Senator from Michigan was passed be reconsidered.

Mr. BUCKALEW. I will simply state that the vote was taken before I was aware of it, and I desire to speak upon one clause of that resolution.

Mr. GRIMES. Just enter the motion, and let it lie over.

Mr. POMEROY. I think it had better be considered now.

Mr. BUCKALEW. I am ready to go on now or hereafter.

The PRESIDENT *pro tempore*. It can be proceeded with by common consent. The Chair understands there is objection. The motion to reconsider will be entered for consideration hereafter.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 277) amendatory of the homestead act, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 278) to provide for the appointment of a marshal for the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 279) for the relief of Henry Otis; which was read twice by its title, and referred to the Committee on Claims.

INTERNATIONAL MONETARY CONFERENCE.

Mr. ANTHONY. I desire to offer a resolution for printing additional copies of the President's message relating to the international monetary conference, and I move its reference to the Committee on Printing:

Resolved, That two thousand additional copies of the President's message of the 17th of December, 1867, and of the accompanying papers relating to the international monetary conference held at Paris in June and July last, be printed for the use of the Department of State.

The resolution was referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 127) in relation to additional bounty, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H. R. No. 511) authorizing the Secretary of the Interior to cause the lands known as the Miami Indian reservation, in the State of Indiana, to be patented, in which it requested the concurrence of the Senate.

The message also announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year.

DEFICIENCY APPROPRIATION BILL.

On the motion of Mr. MORRILL, of Maine, the message of the House of Representatives, communicating its action upon the amendments of the Senate to the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30,

1868, and for other purposes, was referred to the Committee on Appropriations.

SUPPLEMENTARY RECONSTRUCTION BILL.

The PRESIDENT *pro tempore*. The bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, is now before the Senate; and the question is on the motion of the Senator from Wisconsin to refer it to the Committee on the Judiciary with the instructions proposed by him. The Senator from Wisconsin is entitled to the floor.

Mr. DOOLITTLE. Mr. President, I regret myself that the case which was pending yesterday was not disposed of either yesterday or this morning before we proceeded with the further discussion of the question on which I am entitled to the floor. I suppose that the case of Mr. Thomas, which was under discussion yesterday, could probably be disposed of in an hour; but the Senate have thought proper to determine that the discussion of this other question shall proceed. I shall, therefore, finish the remarks which I rose to make, and which probably would have been finished long ago but for the interruptions that have occurred. I shall not take any exception to the course pursued by any Senator in relation to this matter. I am bound to believe that it is out of courtesy to me that they have determined that I shall finish my speech on the present occasion. I voted against the courtesy myself, because I did not quite "see it." [Laughter.] I thought the proper disposition of business before the Senate was first to dispose of the case of Mr. Thomas, and then go into the general discussion of this question; but I was perfectly willing myself to wait until after that case was disposed of, and then resume my argument; but the Senate have determined otherwise.

Mr. President, Congress has proposed from time to time many schemes, but they may all be resolved into two distinct policies, radically opposed to each other.

First. Reconstruction by the constitutional amendment on the white basis.

Second. Reconstruction by negro suffrage and military force.

The first assumed that peace had come; that the States were in the Union, with governments organized, with Legislatures having power to ratify or to reject constitutional amendments; and, furthermore, that those governments were in the hands of white men, with power, as in all the other States, to admit or to exclude negroes from suffrage. And, in case the amendment were adopted by three fourths of the States, the only effect of admitting or excluding negroes from the ballot, in any State, would be to change its number of votes in the other House of Congress, and in the Electoral College.

The second assumes that we are still at war; that the southern States are not States in the Union at all, but conquered provinces, with no Legislatures which can either ratify or reject a constitutional amendment; that the white people of these States shall no longer have any power over the question of suffrage; that Congress by the bayonet will disfranchise the whites and enfranchise the blacks; and thus by military power and negro votes compel the adoption of a new Union and a new Constitution. Because they rejected the constitutional amendment Congress now resorts to the bayonet and negro suffrage to compel its adoption.

True, I admit they did reject the amendment. But how did they reject it? By the votes of their Legislatures. They could reject it in no other way, for it was only to their Legislatures that Congress submitted the question. But how could their Legislatures reject it if they had no Legislatures at all? If they had Legislatures which could reject it they had Legislatures which could ratify it. To do either is the highest act of a State Legislature, for it then acts upon the fundamental law not only of its own State and people, but of all the States and all the people of the United States. Conceding they had power, as you claim, to reject your amendment, by what shadow of right do you deny to those Legislatures power to choose Senators in this body? As well deny to a living body the right to breathe.

But perhaps you say if they had ratified the amendment, then they had Legislatures which had the right to vote. But as they voted to reject it they had no Legislatures, and no right to vote. In other words, if they voted with you they had a right to vote; if they voted against you they had no right to vote at all.

Again, sir; all the world knows the whole object of the war was to put down the rebellion and to maintain the union of States under the Constitution. Every act and resolve of Congress, every dollar spent, every blow struck, every drop of blood shed, was to compel the people and the States of the South to live in the Union and obey the Constitution. And now that we have succeeded, now that the people and the States of the South have surrendered to the Constitution and laws, you say they shall not live in the Union under this Constitution at all. They shall first form another Union, and come into that Union under another or an amended Constitution.

Mr. President, having thus shown that this first answer to that question is unreasonable, inconsistent, and absurd, I repeat the question a second time. Why press this negro domination over the whites of the South? What reason can you give?

A second answer is, because the negroes were loyal and the whites disloyal. Let us examine this bold assertion. Is it true? Were the negroes loyal during the rebellion? Recall the facts. Who does not remember that at least three fourths of all the negroes in those States during the whole war did all in their power to sustain the rebel cause? They fed their armies; they dug their trenches; they built their fortifications; they fed their women and children. There were no insurrections, no uprisings, no effort of any kind anywhere outside the lines of our armies on the part of the negroes to aid the Union cause. In whole districts, in whole States even, where all the able-bodied white men were conscripted into the rebel army, the great mass of negroes, of whose loyalty you boast, under the control of women, decrepid old men and boys, did all they were capable of doing to aid the rebellion.

Again, sir, the assumption is equally groundless that the whole of the white population, or a majority even, ever voluntarily engaged in the rebellion. It is true, the great majority in the end were compelled to acquiesce; but it was not until after the Federal Government, speaking through President Buchanan, had abandoned the loyal people of the South and declared that neither the President nor Congress had the power to make war to compel the States to remain in the Union; in a word, it was not until after President Buchanan, in his message of December, 1860, declared that this Government had neither the right nor the power to defend itself from overthrow at the hands of the radicals of the South that a majority of the southern people were disposed to consent to secession, nor did they even then acquiesce in rebellion until hostilities, actually begun, had organized an irresistible military power over them. Then the majority were compelled to succumb.

It should not be forgotten that allegiance on the part of the citizen and protection on the part of the Government are correlative duties. Has a Government the right to demand the one if it do not afford the other? Has it the right to punish the citizen for yielding to a superior force against which it makes no attempt to protect him? Such a claim would be monstrously unjust.

We know very well that the radicals of the South had a powerful organization. They were as bold, as earnest, as reckless of consequences and as restive under constitutional restraints as the boldest of the present radicals of the North.

Mr. NYE. With the permission of the honorable Senator from Wisconsin, I should like to know what he means by "the radicals of the South?"

Mr. DOOLITTLE. I mean the secessionists.

Mr. NYE. Ah!

Mr. DOOLITTLE. I will not leave you to misunderstand, sir, to whom I refer.

Mr. SUMNER. I should like to ask the Senator what is his authority for the expression?

Mr. DOOLITTLE. As I perceive that my honorable friend from Massachusetts proposes to enter upon this discussion, I trust he will allow me to finish what I have to say, and then he will have ample opportunity to be heard. I shall refer to several things before I get through that will perhaps attract his attention.

The PRESIDENT *pro tempore*. The Senator from Wisconsin is entitled to the floor, and cannot be interrupted without his consent.

Mr. YATES. I should like the Senator to answer me as a question of fact——

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin give way?

Mr. YATES. Does the Senator wish to be understood as saying that the negroes of the South favored the rebel cause?

Mr. DOOLITTLE. I said they did all they were capable of doing in the ways I stated—feeding their armies, digging their trenches, and some of them went into the armies, and some of them drove their teams.

Mr. YATES. Does the Senator mean——

Mr. DOOLITTLE. I prefer to go on and finish.

Mr. YATES. I simply wish to understand the Senator.

Mr. DOOLITTLE. I presume I shall be fully understood by the honorable Senator. I do not mean to keep anything back.

Mr. YATES. I want to know if you charge them with the intention of favoring the rebel cause?

The PRESIDENT *pro tempore*. The Senator from Wisconsin cannot be interrupted without his consent.

Mr. DOOLITTLE. I was speaking of the radicals of the South and the extremest radicals of the North, and I say they are similar in all the main elements of character, cherishing even to fanaticism opposite extremes of opinion, equally removed from the truth. Had they exchanged places and educations, in all human probability the radical of the North would have been a most violent radical at the South, and the radical of the South an equally violent radical at the North.

Mr. MORTON. With the permission of the Senator from Wisconsin, I should like to ask him one question. I do not often interrupt.

Mr. DOOLITTLE. I will yield to the Senator, if it is for a question bearing on my argument.

Mr. MORTON. I want to ask the Senator if the men whom he calls the radicals of the South, who he says are secessionists, are not now acting with the Democratic party?

Mr. DOOLITTLE. That is not to the point I am considering, and these interruptions are evidently out of order. I do not wish to be discourteous to any gentleman; I do not intend to be discourteous to any; and I hope that no gentleman will deem that I am wanting in courtesy if I decline to be interrupted for such questions as these. I do not know but that perhaps the Senator from Illinois will take offense at my refusing to yield to him, and then yielding to the Senator from Indiana. I did not intend to make any distinction between the gentlemen. I did hear the question of the Senator from Illinois, and also the question of the Senator from Indiana. I hope there will be no further interruptions.

The PRESIDENT *pro tempore*. It is understood that the Senator from Wisconsin does not wish to be interrupted, and the Chair hopes he will not be.

Mr. DOOLITTLE. Mr. President, it is a striking fact, showing how easily extremes some-

times meet, that the radical cry of the secessionists of 1860 is identical with that of the northern radical of to-day, namely, "The Union is broken; the constitution in all the States of the South is gone. Down with the old Union, down with the old Constitution; we are outside the Union and outside the Constitution; we will have a new Union and a new Constitution to suit ourselves or we will have none at all." The cry was the same, the purpose the same—political power. The radicals of the South raised that cry to build up their power upon negro slavery; the radicals of the North to build up their power upon negro supremacy, upheld by the bayonet.

And, sir, shall we make no allowance for the great mass of the southern people who, by force, by terror, by persuasion, by the abandonment of the Government, and by all the excitements, passions, and necessities of actual war, were plunged into that terrible conflict by the radicals of the South as by a power they could not control? We all know the influence over any party or community of a small, well organized minority, strong in will and reckless of consequences. What have we seen in the Republican party itself within the last three years? We have seen a comparatively small number of earnest radicals reverse and absolutely overturn from its foundations the policy of reconstruction adopted by Mr. Lincoln before his reëlection, and sustained by the convention which renominated him and the party which reëlected him in 1864. His policy was reconstruction upon the white basis. The negro was excluded altogether.

Even the Wade and Davis reconstruction bill, which passed Congress by Republican votes, and which Mr. Lincoln refused to sanction, but not for that reason, confined reconstruction to the white basis alone. It excluded all negro suffrage. It left that question, where it belongs, to the white race to determine in each State for themselves.

Upon this subject I quote and adopt the language of the Senator from Indiana [Mr. MORTON] while Governor of that State:

"I call your attention to the fact that Congress itself, when it assum d to take the whole question of reconstruction out of the hands of the President, expressly excluded the negro from the right of suffrage in voting for the men who were to frame the new constitutions for the rebel States."

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"If Mr. Lincoln had not refused to sign that bill there would to-day be an act of Congress on the statute-books absolutely prohibiting negroes from any participation in the work of reorganization, and pledging the Government in advance to accept of the constitutions that might be formed under the bill, although they made no provision for the negro beyond the fact of his personal liberty."

I repeat, we have seen a little handful of Radicals, by their boldness, persistency, and force, persuade, cajole, or drive the great majority of the Republican party away from their own avowed policy of reconstruction upon the white basis, and compel them to adopt the policy of universal negro suffrage, to establish negro governments, and now, at last to propose in the bill on your table an absolute military dictatorship in all the States of the South. I shall say nothing unkind of the Senator from Indiana; I admit his patriotism and eminent abilities and his almost incomparable services during the late war to put down the rebellion. But if anything were wanting to demonstrate the power which these Radicals have had over the mass of the Republican party in changing their opinions and reversing their policy, we have only to point to the able Senator from Indiana himself, once among the most powerful advocates of the Lincoln Johnson policy of restoration upon the white basis, now bound hand and foot, and dragged in chains at the victorious chariot wheels, to grace the triumph of Wendell Phillips and the Senator from Massachusetts, [Mr. SUMNER.] Even his great mind now lends its powerful influence to favor the establishment of governments based upon universal negro suffrage, to hold, it may be, the balance of power in this Republic under the control of the bayonets of the regular Army.

I well remember the effect produced by the speech of the Governor of Indiana in 1865. It came at a time to be most gratefully remembered by me, for I was engaged in a struggle at that time against the Radicals in my own State, to prevent them from changing the creed and reversing the policy upon which the Union party fought and mastered the rebellion, and by which alone their victory was achieved. I endeavored to demonstrate the same truths set forth in that great speech, and when it came, with its irresistible eloquence and unanswerable force of argument, I rejoiced to lean upon his strong arm for support. Like him, I had on more than one occasion attempted to prove that Mr. Johnson inherited and was faithfully carrying out the policy of his predecessor. We did not then have the positive testimony of General Grant and of Mr. Stanton to prove that Mr. Johnson's North Carolina proclamation was drawn by Mr. Stanton and read over in Mr. Lincoln's Cabinet. Had those facts then appeared it might have saved that honorable Senator and myself the labor of proving the identity of the policy of Mr. Johnson with that of Mr. Lincoln, which the Governor of Indiana demonstrated in a manner so complete that no man has ever been able to answer him. I do not doubt his patriotism nor his sincerity. But of all surrenders to the radical negro-suffrage policy of reconstruction, none filled me with so much surprise, none gave me so much pain, as that of the honorable Senator from Indiana, except one. I refer to General Grant.

Again, sir, if it were true that the whites were disloyal during the rebellion, they are not rebellious now. Rebellions cannot exist or continue without real or supposed cause. Slavery, the cause and the pretext for the late rebellion, is gone forever. It can never be revived. Nothing can incite another rebellion at the south, for they have no power to organize one against the Government, and will not have for many years to come.

Upon this point allow me to read an extract from a letter of Hon. Benjamin Fitzpatrick, formerly the Presiding Officer of this body, and known by all the older Senators as being opposed to secession, a gentleman of the highest honor and undoubted integrity. Hear what he says:

"It is said by some that it was made to keep down rebellion. What have the people of the South to commence or carry on a rebellion with? Our laves are all set free; our fields barely cultivated under the new system of labor, and many of them grown up in briars and weeds since emancipation, and almost everything in a state of dilapidation and decay. The cry for bread which comes up from almost every hill and valley in the State has scarcely ceased ringing in our ears, and it was only hushed by the liberal donations from the benevolent of the North and West. No people of the Old World in any of their long and desolating wars ever longed for peace more than we do. We want peace, but not degradation. We wish to be left free to act for ourselves, and free from the intermeddling of those who do not live among us, but come here to foment discord and speculate upon our troubles."

Sir, this is the language of one who knows the white people of the South and speaks for them.

And why, sir; why should they not desire peace? For that rebellion, into which in an evil hour the radicals of the South plunged them, they have been punished already by the sacrifice of all their slave property, valued at three to four thousand million dollars; by the sacrifice of more than three-fourths of all other personal property, probably two thousand millions more; by the sacrifice of their public and private credits—at least a thousand millions more; by the depreciation of the value of all their real estate at least seventy-five per cent.—amounting probably to more than two thousand million dollars more—making in all a sacrifice of property, credits, and values in the southern States alone of at least nine thousand million dollars.

But there is another bloody and terrible page in this account—a page in account with death. It is estimated there have perished in battle by disease, exposure, or other cause incident to the war, at least three hundred thousand able-bodied white men of the South. I take no account of the unutterable anguish of millions of crushed and bleeding hearts. No language can express, no figures measure that. For that rebellion the white man of the South has been most terribly punished! Nine thousand millions of values are gone—lost forever! Three hundred thousand able-bodied white men of the flower and strength of the South now lie in their bloody or premature graves! Great God! Is not this punishment enough? Must we go further? Must we now punish the white men of the South by placing them under the domination of half-civilized Africans? And in order to do that shall we punish ourselves by giving over to stolid and brutish ignorance the political control of one fourth of the States, and, it may be, under the control of the Army the balance of power in the United States? Shall we Africanize the South and Mexicanize the whole Republic?

I know these measures of Congress have done much to wound, nothing to heal. Yet, notwithstanding all that Congress has done to embitter their hatred toward the radical policy, there is neither thought nor wish nor hope to restore slavery, nor to separate from the Union, nor of rebellion against the authority of the Government; all evidence proves the contrary.

In the whole rebel army which surrendered I challenge any Senator to point me to a single instance in which a rebel officer has violated his parole; or to a single man, of any position or prominence at the South, who after taking the oath of allegiance has violated his plighted faith.

No man can more deeply feel than I do the great and monstrous folly and crime of that rebellion, which brought so much of agony and of blood upon all parts of our beloved land, which robbed us of our sons and dearest kindred and threw a shade of sorrow over our hearts which will never pass away until they cease to beat. But, now that blood has ceased to flow; now that three years of peace have elapsed; now that the whole South has surrendered and every interest they have or can hope for is to be found in the Union and under the Constitution; now that they have in good faith pledged anew their allegiance, and desire to join with us in rebuilding the waste places overrun by this desolating war; now that they have, in fact, ceased to be rebels, why shall we continue to denounce them as rebels, and do all in our power to compel them to be rebels, and to remain rebels and enemies forever? Is that the way to restore prosperity? Is that the course of wise statesmanship? Will that bring permanent peace?

Sir, let me put the extremest case. Suppose that these States of the South before the war had been foreign States, and that we had conquered them by arms; would not wise statesmen adopt the policy of conciliation? Would not they treat them as friends and make them fellow-citizens at the earliest possible moment? How much more earnestly should we adopt that policy because from the beginning we have always declared that our purpose was not to subjugate but to maintain the Union with the equality and rights of the States unimpaired.

We had a war with Mexico, resulting in the acquisition of people and territory. By treaty the people were made citizens at once, with all the rights of citizens. We have had wars with Englishmen; but when the bloody strife was over, when peace had come, what course did our great ancestors pursue? We all know the war of the Revolution was a civil war. During the strife, confiscation and disfranchisement were the order of the day. But when peace came and they sought to lay the foundations of the Republic broad and deep, what did they do? Do you find in the Constitution they formed or the laws they passed under it any test-oaths; any bills of attainder; any military reconstruction bills? No, sir. No; they were too great and too wise. They had too much faith in man, and liberty, and truth, and God for that. On the contrary, they declared that no bills of at-

tainder, no *ex post facto* laws should be passed; no man not in the military or naval service should be subject to military trials under the arbitrary power of the bayonet; and that even for treason itself there should be no corruption of blood or forfeiture beyond the life of the guilty party; and, furthermore, that no man should be convicted except upon presentment by a grand jury and after a fair trial, confronting his accusers, by the verdict of a jury of his peers.

In the Declaration of Independence, also, even in the midst of war, reason remained supreme over passion. They were equal to the grand occasion. In one of its sublimest sentences they declared they would hold the people of England, their fellow-countrymen, with whom they were then engaged in civil war, as they did the rest of mankind, "enemies in war, in peace, friends." If we cannot equal them, may we not endeavor to follow their example?

What do the great examples of history teach us in dealing with rebellions if not that, after force has been subdued by force, magnanimity is more powerful than revenge; that love conquers what hate never can—the hearts and affections of a people?

When Latium, one of the Roman provinces, revolted, and the revolt was put down by arms, the question arose in the Roman Senate, what shall be done with Latium and the people of Latium? There were some then who cried, "disfranchise them:" others said, "confiscate their property." There were none who said, "subject them in vassalage to their slaves."

But old Camillus, in that speech which revealed his greatness and made his name immortal, said: "Senators, make them your fellow-citizens, and thus add to the power and glory of Rome." In this high place, in this Senate of the great Republic of the world, outgrowth of the civilization of all the ages, cannot we, Senators, rise to the height of that great argument?

To descend to humbler examples, may we not even take lessons from some of our Indian tribes? It is well known that the civilized tribes of the Indian territory took sides in our terrible conflict. Civil war in its direst and most savage form raged through all their country. Their dwellings were sacked and burned; their hands were red in each other's blood. Yet they have made peace. They have reorganized their governments. They now live side by side in perfect tranquillity. Prosperity is once more smiling upon their beautiful land. Cannot Christian statesmen have equal faith in magnanimity—equal courage to forgive and to believe that love is the power by which to reach the hearts of our late enemies?

But, sir, suppose the statement be true that the negroes are loyal and the whites disloyal in heart, have we even then the right to degrade the whites in vassalage to the negroes? I answer no. For their criminal acts we would have the legal right to try and convict and sentence to imprisonment and to death even. But now, without trial, by what operates as a substantial bill of attainder and *ex post facto* at that, to subject them to negro governments is a crime against the Constitution, against our own race, and against civilization itself. It is to impose upon them against their will a degradation which every State of the North would reject, and one tenfold greater than has ever been attempted in any northern State. It would make them unfit to be our fellow-citizens, and place the States of the South upon a footing inferior to that of the other States in the Union.

Sir, we claim to have fought for liberty and against slavery. The issue of 1860 was the extension of slavery into the Territories. By the election of Mr. Lincoln the people of the United States decided against that. The radicals of the South, another name for the secessionists, rebelled against that decision and endeavored to reverse it by arms. That rebellion raised another and greater issue—the existence of the Government itself. It also placed at stake slavery in all the States. By the reëlection of Mr. Lincoln in 1864 the people decided in favor of a vigorous prosecution of the war until every rebel should lay down his arms, and also in favor of an amendment to the Constitution to abolish slavery in all the States and Territories forever.

At present, what do we behold? Now that the war is over, now that every rebel has laid down his arms, now that the people of the South have unanimously agreed to abolish slavery forever, to obey the Constitution and discharge every duty as citizens of the United States, the radicals of the North have morally begun a new rebellion against the Union and the Constitution; for, raising anew the old cry of the radicals of the South, they now declare that the States of the South are outside the Constitution, and that Congress, acting outside the Constitution, has unlimited power over them as over conquered territories. In their blind zeal for the advancement of the negro they propose to overthrow the Constitution in order to practically subject the white race to the domination of the negro.

As men who claim to be the friends of liberty, we have no right to do that.

As Christians who claim to have learned something of forgiveness from the teachings of our Saviour, we have no right to do that.

As members of that great Caucasian race which has given the world its civilization, we have no right to do that.

As statesmen who desire to restore the blessings of peace, we have no right to do that which would inevitably make eight millions of our own race and kindred in our own land eternal enemies of the Government.

As statesmen who, with ordinary sagacity, should look to the future and to possible wars with foreign Powers, we ought to make haste to restore sentiments of affection and patriotism in all that vast region, larger and richer by far in natural resources than England, France, and Prussia all combined.

And I ask, Mr. President, with all the earnestness of which the soul is capable, can any human being conceive of a measure so well calculated to make the whole white people of the South, men, women, and children, hate and loathe our Government, to hate it with a perfect hatred, to gather around the family altar upon their bended knees to curse it, and in the agony of prayer to call upon God to curse it, as this radical reconstruction which seeks to disfranchise the heart and brain of the South, and to subject at the point of the bayonet the white race to the dominion of their late half-civilized African slaves? Instead of peace it gives them a sword; instead of hope it fills them with despair; instead of civil liberty it gives them military despotism. White disfranchisement and negro domination was the idea which inspired and provoked the riot at New Orleans. It has arrayed everywhere the blacks and whites in hostility to each other, often resulting in bloodshed all over the South. It tends directly to bring on that war of races which in the West Indies enacted scenes of horror to sicken and appal the world.

That war is now impending over all the South—it is only the presence of the Federal Army which prevents its outbreak upon a gigantic scale—a war which, once begun, will end, I fear, in the exile or extermination of the blacks from the Potomac to the Rio Grande. I know the Senator from Ohio, [Mr. WADE,] in a speech in the late canvass, had no fears of such a war or of its results. He is reported to have said, "let that war come; let them fight it out." God grant that war may never come! But, if it does come, no amount of military discipline can compel the white men of the North to take part in the massacre of their own race and kindred.

Mr. President, having considered at some length the second answer to my question, and finding that it is not sustained by the facts, that it is bad in principle and worse in policy, I repeat the question a third time—why press this negro supremacy over the whites of the South? What reason can you give?

The leader of the Radical forces—that inexorable Moloch of this new rebellion against the Constitution,

> "The strongest and the fiercest spirit
> That fought in Heaven, now fiercer by despair,"

answers with boldness, and in plain English gives the true reason, namely, to secure party ascendancy. This is the third and last answer which I propose to consider on this occasion. On the 3d of January, 1867, Mr. STEVENS, in the House of Representatives, used this language, which I find reported in the Globe:

> "Another good reason is, it would insure the ascendancy of the Union party. Do you avow the party purpose, exclaims some horror-stricken demagogue? I do."

The party purpose is here avowed in the House. In his speeches and letters elsewhere Mr. STEVENS again and again, in stronger language, avows the real purpose of this legislation, to them I mainly refer. The negroes, under the tutillage of the Freedmen's Bureau, led by Radical emissaries, or pushed by Federal bayonets, must take the political control of these States in order to obtain their votes in the Electoral College or in the House of Representatives in the election of the next President. Here is a reason, and just such a reason as the bold Radical would give. It is in keeping with his revolutionary measures, and in keeping with his own revolutionary history.

The letter of General Pope, when in command of one of the districts, recently published, draws aside the vail and discloses the fact that the same party purpose seeks to control the bayonet also.

This argument, for party ascendancy, all can understand. It is bold, clear, and logical. It is the argument of necessity addressing itself to unscrupulous ambition. One syllogism contains the whole of it: "We must," says the Radical, "elect the next President. The negroes, under the lead of our bureau or the control of our bayonets, will vote for our candidate. The whites, outraged by our attempt to put the negro over them, will vote against him. Therefore the bayonet must place the negro in power in these States to give us seventy electoral votes for President, twenty Senators, and fifty members of the House."

All honor to the Radical chief, the great Commoner, who, with all his faults, is too great a man to resort to subterfuge or shams, or attempt to conceal his real purpose in this legislation.

Some who favor these measures do not admit his leadership. But the truth is, in some way or other he does lead or drive the Radical party in the end into the support of all his revolutionary schemes. Now and then one shrinks back. More than once I have seen the "galled jade wince," but never fail at the last to obey the lash of her master. Would to heaven it were otherwise! Would to heaven that the Radical party could pause and modify its suicidal policy! But I fear the majority have become bound to it—bound hand and foot with chains they cannot break; that, however much some may regret it or strive to conceal regret, political necessities compel you to go on, and right on to the bitter end. You have staked your all upon it. You must live or die by it.

The Senator from Massachusetts, [Mr. WILSON,] as if by authority, says, "We will take no step backward." Mr. COLFAX, in his recent letter, reëchoes, "Not a hair's breadth." Such, I fear, is the fatal resolution taken by the majority.

The result of the recent elections, showing that a majority in the northern and western States is opposed to that policy, so far from changing a resolution from which the Radical party dare not retreat, is pushing it on to the madness of despair. It sees that its majority in the North and West is already lost. It dare not exclude the South in the next election. The South must be forced at the point of the bayonet, by white disfranchisement and negro

suffrage, to vote for the Radical candidate, or he will be beaten. The majority in the northern and western States against him must, therefore, be overcome by the negro votes of the South.

Sir, we shall see if the people of the United States will allow the regular Army, which now controls this ignorant negro vote in the South, to hold the balance of power in the Republic and to elect to the Presidency the candidate of negro supremacy, upheld by military despotism. Shall Pretorian bands control the Presidency, as in the degenerate days of Rome they set up the empire for sale? I am no prophet; but, if not mistaken in the signs of the times, the American people are not yet prepared for that. The Democratic party, everywhere freeing itself from the errors of the past, planting itself upon the living issues of the hour, welcoming into its ranks all who are opposed to this radical and barbarian policy of subjecting the States of the South to negro supremacy by military dictatorship, all who are in favor of maintaining the integrity of the Union, the rights of the States, and the liberties of the people under the Constitution, and all who neither admit the doctrine of southern radicalism which brought on this rebellion, that a State may secede from the Union, nor admit that other doctrine of the northern Radical, no less revolutionary, that Congress may exclude or disfranchise ten States from the Union, are now coming together upon the platform of the fathers of the Constitution, and in the same fraternal spirit in which it was formed, and by which alone it can be maintained.

Sir, there are times when public opinion is like a placid stream gently flowing within its banks, when slight obstacles may for a time arrest or change or divert its course. Then, it may be said, the voice of the people is the voice of politicians; the voice of the people is the will of a party. But there are other times when the heavens are overcast, the rains have descended, and the floods have come that its majestic current rolls on, emblem of wrath and power, when resistance maddens its fury and increases its strength. Then it overflows its banks. The barriers of party caucuses and politicians are all swept away and become mere flood-wood on the surface of the troubled waters. The voice of the people then is no longer the voice of politicians; then it is that the voice of the people is the voice of God.

Sir, we have passed through such crises in our day. You well remember when a feeble minority in this body raised its voice against that overbearing majority which, under the dictation of southern radicals sought to force a State government, with negro slavery, upon the people of Kansas against their will. That monstrous wrong stirred the hearts of the people to their very depths, and party lines and party names were forgotten. Party ties were sundered like flax at the touch of fire. You remember that, sir.

Again, when these same radicals of the South, because the people of the North indignantly refused to sanction the subjugation of Kansas, rose in arms to destroy the Union and the Constitution, what became of party then. The people rose as one man. Large masses of the Democratic party gave their political support to the administration of Mr. Lincoln, forming the Union Republican party; and to their eternal honor be it said that the great mass of the Democratic party, with some exceptions, gave to his war measures a hearty and unflinching support. Without that support the war would have been a failure.

In the actual prosecution of the war, in the camp and on the field of battle, in the rank and file, as well as in command, we found no distinction whatever. Shoulder to shoulder Democrats and Republicans stood together like brothers on every battle-field from the beginning to the end of the rebellion. To defend the Union and the Constitution against overthrow by southern radicalism, in arms against them, they braved every danger and endured every hardship. Together they stood in the day of the conflict, freely bared their bosoms in each other's defense; together often their life's blood gushed and mingled, and side by side they now sleep their last sleep in their honored graves. There they will sleep together till Heaven calls them to their reward.

And now, sir, what do we behold? A dominant majority in this Senate and in Congress, under the lead of northern radicalism, at the point of the bayonet forcing negro suffrage and negro governments upon ten States of the Union and six million people against their will. What was the outrage upon Kansas compared to that? We see them practically dissolving the Union by excluding ten States from the Union, thus doing what the rebellion could never do, and what we spent $5,000,000,000 and five hundred thousand lives of our best and bravest to prevent. For long months we have seen them encroaching steadily and persistently upon the just rights of the Executive; and now, to rivet their chains upon us and to crown the whole of their usurpations, they propose to subjugate the Supreme Court; to overturn justice in her sacred seat in this tribunal of last resort. They would compel the court whose office it is to hold an even balance between the States on the one hand and the Federal Government on the other, and also between the several departments of the Government, to place false weights in the balances. They would make the weight of the opinions of three judges in favor of the usurpations of Congress more than equal the weight of the opinions of five judges in favor of the rights of other departments, the rights of the States, and the liberties of the people.

Sir, we are in the midst of a new rebellion, bloodless as yet, but which threatens to destroy the Constitution, and with it the last hope of civil liberty for the world. But let us not despair. Let us not surrender our faith in the people nor our faith in republican institutions. The people everywhere are coming to the rescue. They are again rising above party and the clamors and denunciations of partisans. Hundreds and thousands of the earnest Republicans who supported Mr. Lincoln's Administration have already severed their relations to this revolutionary party. Hundreds of thousands more are ready to do so and to strike hands with the great mass of the Democratic party to rescue the Constitution from this new rebellion against it.

They are organizing everywhere, from Maine to California, not upon the dead issues of the past, for inglorious defeat. There is too much at stake, and they are too terribly in earnest for that. But with living men, upon the living issues of the present, they will organize for a victory so complete and overwhelming that the votes of the negro States of the South cannot hold the balance of power and decide the election against them. That same patriotism which led hundreds of thousands of Democrats to sustain the Republican party in putting down the rebellion of the southern radicals will now lead hundreds of thousands of Republicans to act with the Democratic party to overcome the no less dangerous doctrines of the radicals of the North. They are fighting in the same cause of the Union and the Constitution, and, for the spirit which gives them life.

Mr. NYE obtained the floor.

Mr. NORTON. Before the Senator from Wisconsin takes his seat I should like, with his permission, to ask him the question that I asked him while he was speaking. The Senator spoke of the radicals of the South. I desire to ask him if the secessionists of the South, whom he calls the radicals of the South, are not now acting with the Democratic party, and did not act with them before the war?

Mr. DOOLITTLE. In relation to that question I am perfectly free to say that in the southern States before the war there were three parties existing; but a majority, I believe, of the southern States acted with the Democratic party. There were three parties there, however: one in favor of Douglas, another in favor of Bell, and the other in favor of Breckinridge. I think, if my recollection is not mistaken, Breckinridge had the majority of the electoral votes of those States. Whether there was a majority on the popular vote for Breckinridge in those States over Bell and over Douglas I do not now remember. In relation to the Democratic party of the North—I believe the honorable Senator referred to the Democratic party of the North——

Mr. MORTON. Yes, sir. I desire to ask if those men whom you term the radicals of the South are not now calling themselves Democrats and acting with the Democratic party of the North?

Mr. DOOLITTLE. It may be that some of those radicals of the South are acting with the Democratic party. I never knew a majority in this country in which there were not some radicals. This great majority here has several that I could point out on this floor. [Laughter.]

Mr. NYE. I yield the floor to the honorable Senator from Illinois with great pleasure.

Mr. TRUMBULL. I designed, if no one else did, making some reply to what the Senator from Wisconsin has said; but I certainly shall not take the floor from the Senator from Nevada.

Mr. NYE. I yield it with pleasure.

The PRESIDENT *pro tempore*. The question is on referring the bill to the Committee on the Judiciary with instructions.

Mr. TRUMBULL. The Senator from Nevada seems to prefer, if I have anything to say, that I should say it now, and I will do so. I thought that the extraordinary speech of the Senator from Wisconsin deserved some reply, not that I am aware that he has said anything particularly new or advanced any positions that have not been before heard in the country. Sir, it is very common with a certain party in the country to claim to be the friends of the Constitution and the Union upon all occasions; and it is a little remarkable that that party should embrace within its organization all the men who have fought to destroy the Constitution and the Union. It is not the first time in the history of the world that an attempt has been made to destroy that which was good by claiming to be its advocate. Liberty has been stricken down everywhere from the beginning of the world by those who claimed and professed to be its peculiar champions. This assumption on the part of the spokesmen of this organization, that they are the particular friends of the Constitution and the Union, is so often repeated that the unthinking are almost ready to believe there must be some truth in the assertion. Sir, the men who fought to uphold the Constitution and the Union, the men who legislated in these Halls for the maintenance of this Government, the hundreds of thousands who went forth to defend the Constitution and the Union upon the field of battle, are in favor of these very measures which the Senator denounces as unconstitutional. Is the world to be made to believe that all these friends of the Constitution and the Union are now seeking their destruction, and that they who hazarded their all for their overthrow are now their only defenders? It is unreasonable so to suppose.

But the Senator tells us in the opening of his protracted speech that the country is in imminent peril. I do not agree with him; but if it be in danger it is because of such assumptions and avowals as he has made here to-day, such, I was about to say, misrepresentations, such misapprehensions at least of the designs and intentions of the ruling party in the country, and nothing else. But, sir, I do not agree that this country is in great peril. These reconstruction measures which so alarm the Senator from Wisconsin are being carried peaceably and quietly into execution. What is there to alarm us? What is the danger? Reconstruction is going on. Every State which has voted upon the question of calling a convention to reorganize its government and resume its position in the Union has carried the measure. The conventions in several of the

States are now in session. One has met and adjourned, after adopting a constitution, and has submitted that constitution to be voted upon some two weeks hence. Reconstruction is going on. A few weeks or a few months at most will restore these ten States to the Union and relieve them from the military control which so alarms the Senator from Wisconsin. Why not join with us and hasten the period? If the desire is to avoid what the Senator calls military despotism, if the desire is to establish civil governments in the rebel States, why not join in the measures which have been proposed, and let republican governments be formed in those States and the power of those governments placed in the hands of loyal men, and then welcome them to their positions in the Union? Sir, is it the way to give peace and quiet to the country, which the Senator calls for, to oppose the very measures which have been adopted to restore peace and quiet and civil government? I do not share this alarm which is expressed by the Senator from Wisconsin. I believe that our reconstruction measures have met with as great success as any reasonable person could have anticipated. I believe that we have only to stand by them to see their accomplishment, and that speedily.

The Senator says that we will not modify our policy. Certainly not. After mature deliberation, after the greatest consideration, the Congress of the United States adopted a plan for the reconstruction of the rebel States. That plan, though it may not be the best possible, was the best which we were able to agree upon; and I believe to-day it was a most excellent plan. I do not agree with those gentlemen in Congress or out of Congress who say it was full of defects. It was a most excellent plan, well calculated to accomplish the object for which it was designed; and I am for standing by it, and for seeing it consummated. I regard it as a weakness on the part of the friends of reconstruction to admit for a moment that the plan adopted has any fatal defects. It has none. The only occasion there has been to pass amendatory acts has arisen from the fact that the execution of the reconstruction measures has been in the hands of men who have attempted to thwart their plain and obvious meaning. It has only been necessary to meet this perversion of the law by other legislation; and in any future legislation that may be adopted I trust we shall go no further than to see carried out the original intent of Congress.

A great portion of the Senator's argument is based upon the assumption that there is an intention on the part of Congress to place the governments of the South under negro control. The answer to that is, it is not true in point of fact; it is a false assumption; and of course the whole argument based upon it falls. What is the truth? Why, sir, in all the southern States to which the reconstruction act applies, with the exception of Mississippi and South Carolina, the white population largely preponderates. In the State of Alabama, in 1860, the date of the last census, there were five hundred and twenty-six thousand whites, in round numbers, and only four hundred and thirty-five thousand slaves, and two thousand six hundred and ninety free colored people. There were nearly one hundred thousand more whites than blacks in Alabama. In Arkansas the whites predominated nearly three to one. In Florida a large majority of the population were whites. In Georgia there are one hundred thousand more whites than blacks. In North Carolina the white population preponderates nearly two to one. In Texas more than two to one. In Virginia more than two to one. Now, sir, what becomes of this assertion that there is an attempt to place the governments in the rebel States in the hands of negroes? If you will look at the registration you will find more whites than blacks registered in most of the States; but if the whites have not registered whose fault is it? The fault of the Senator from Wisconsin, and just such speeches as he has made to-day, to prevent the white population from taking part in this work of reconstruction.

But, the Senator says, you have disfranchised the whites. How many? Why, sir, only those who led in the rebellion have been disfranchised. The number is comparatively small. But he says it embraces the brains and talent of the South. Is it true that the brains and the talent of the white population of the great State of Virginia, amounting to nearly a million, were all concentrated in the few persons who held office in that State prior to the rebellion? All of us who know anything about southern society and southern politics know that offices run in families in that section, and always have. Men once in office there frequently hold office for life. We all know that when a member was sent to the House of Representatives or to this body from any of the southern States in former years he was very likely to be continued as long as he lived or was willing to come. They were not in the habit of changing their officers in that section as we are in the North, and hence the disqualifying clause affects but few. And who are they that are disqualified? Why, sir, they are the leaders of the rebellion. The Senator had the frankness to tell us that the people of the South were not in favor of rebellion; that a majority of the white people of the South were opposed to it. How, then, came they to go into rebellion? He says they afterward united in it. How did that happen? Why, sir, they were forced into it by these very leaders, according to his statement, whom he now seeks to place again in power. They are the last men to be intrusted with authority after having, as he would have us understand, overawed and forced an unwilling people into rebellion.

There is, then, no truth in the allegation that there is any attempt to place the southern States under negro supremacy; and if the white people of those States are subjected to any such supremacy it is because they choose it. They have in nearly every one of those States a majority of votes. In all the conventions which have been held, with the exception of perhaps South Carolina, a large majority of the members have been white. So that this accusation of the Senator not being true in point of fact, there is no need of replying to the horrid condition of affairs which he has painted as resulting from negro supremacy.

It is asserted by the Senator that the rebel States are States in the Union, and he says that we submitted to them a constitutional amendment to be ratified, and he wants to know how we can refuse Senators elected by a Legislature which had submitted to it a constitutional amendment. If you submitted it, he says, to these State Legislatures for approval they had a right to reject it, and having rejected it they have a right to send members here. Does that follow? Why, sir, it was nothing but a proposition which we submitted.

Without going into the argument as to whether these States were in a condition to pass upon the constitutional amendment one way or the other, without inquiring whether their assent was necessary or not, it was at the most but a proposition submitted to them. Did the submission of that proposition recognize them as legitimate State governments? It might as well be contended that when the President of the United States during the war went down to Fortress Monroe and there upon the James river entered into negotiations with the representatives of the rebel government and submitted propositions to them which they rejected that he thereby recognized that rebel government as legitimate. Had the rebel emissaries agreed to the propositions submitted by Mr. Lincoln in the beginning of 1865 and their followers laid down their arms and submitted to the authority of the Government we would have recognized that as a valid act on their part; we would have given them the benefit of that agreement, and the war would have ceased. But because we would have done that does it follow that when they rejected the proposition we were bound to recognize them as a valid government? By no means. We were willing to recognize them as a government so far as to submit to them a proposition by the acceptance of which the war might have been closed at that time. Their refusal to accept it placed us under no obligation whatever to recognize them as a legitimate government, nor would the acceptance by them of a proposition submitted for their approval have carried with it an obligation on our part to recognize them as a valid government for any other purpose than that of agreeing to the proposition submitted.

It is in the power of Congress in its discretion at any time to recognize as legitimate any government which may be set up in any of the rebel States which comes within the constitutional definition of a republican form of government, and doubtless, if the Legislatures organized under the auspices of President Johnson had ratified the constitutional amendment known as the fourteenth article, Congress would have taken that as an evidence of their loyalty and submission to the Constitution, and would have recognized them as valid governments. But they did not do it. They refused to accept the proffered terms, and thereupon Congress was at perfect liberty to refuse to recognize them as legal governments, which has never been done. Congress acted with great deliberation in that matter. It waited to see what would be the result of the attempt to organize State governments made under Mr. Johnson's auspices. When it was found that that effort was a failure, when it was found that the State governments, instead of going into the hands of loyal men, were placed in the hands of the very leaders of the rebellion, when it was found that they rejected the terms proffered on the part of the Government, Congress refused to recognize them, and took the necessary steps for the formation of State governments in accordance with the Constitution and such as should be necessary for the future safety and peace of the country. I see nothing inconsistent in that.

But the Senator proceeds in his carefully written speech to declare that the Radical party, as he chooses to call it, of the North is opposed to the Union and is not willing that these States should be part of it. Now, is that true? By no means; and so far from it the great Union party of the North is striving at the earliest practicable moment to have these State organizations perfected, that the States may be received. I speak of them as States coming into the Union, because they have now no State organizations. I have no trouble in regard to the condition of the rebel States. I call them States; and they are in this sense, that they have the territory of States and the people to constitute States. The people of South Carolina and every other rebel State have been subject to the laws of the United States during the whole rebellion, and are now, in my judgment, as completely as they were before the war.

It is true, we could not at one time execute the laws of the United States in South Carolina because the authority of the Federal Government was expelled from that State; but in a legal point of view, as a legal proposition, the authority of the United States extended as completely over the citizens of South Carolina during the war and since the war as it did before the war. They could not take themselves out of the Union and they could not take their State out of the Union; but what could they do and what did they do. They had a State organization. They could destroy that State organization, and they did destroy it. The political organization of the State was, by their own act, destroyed in 1861, and then the people of that State had no ability to perform any act under the Constitution of the United States which it required a political State organization to perform. Hence they could not elect a Senator to the Congress of the United States. Why? Because they had no political State organization, no Legislature; and the Constitution says that Senators shall be elected by the Legislatures of their respective States. Hence their representation ceased. Of course

a hostile organization—one which, under the Constitution of the United States, we had authority to put down by force of arms, and which we did put down by force of arms—could not elect a Senator to this body. That was not the State organization contemplated by the Constitution, because the Constitution provided for a State Legislature composed of members who were loyal and true to the Constitution of the United States. By that instrument every member of the Legislature in the State of South Carolina was required to take an oath to support the Constitution of the United States. And yet the Legislature that assembled in South Carolina in 1862 took no such oath. Indeed, it took an oath not to support and defend the Constitution of the United States, but to defend a constitution and a government which had been set up in hostility to the United States and was making war upon them. Hence there was no State government in South Carolina, and that state of things continued for more than four years. Had we authority to put down by force of arms the State organization which existed in the State of South Carolina during that period? We had no authority to drive South Carolina out of the Union, no authority to expel its people, if you please, from the Union; but we had authority and were enjoined by the Constitution of the United States to call out the militia for the purpose of putting down the insurrection in South Carolina, which grew till, in the judgment of the whole civilized world, of the judicial tribunals of the country, of Congress, and of everybody, it became a civil war. We had authority by force of arms to put down that hostile government. We did overthrow it and extinguish it; and what then was the condition of South Carolina?

The loyal government had been destroyed by the enemy; the enemy government had been overwhelmed by the forces of the United States; her people were there and subject to our laws; the boundaries of the State remained unchanged. What was to be done? When our advancing armies, under the command of Lieutenant General Sherman, took possession of that State what was to be done? There was no existing civil authority; there was not an officer in the State who had taken the oath to support the Constitution of the United States; there were no officials to preserve the peace, to protect neighbor against neighbor; and anarchy must have prevailed unless the general commanding had by military authority controlled that people for the time being and until a State government should be organized in harmony with the Constitution of the United States. That took time. Mr. Johnson undertook to do this without convening Congress. Congress, when it did convene, waited to see the result. If the government inaugurated under his auspices had been of such a character as to justify Congress in recognizing it, that would have become the State government of South Carolina. If the people of South Carolina, without any assistance or advice from the President, had got together as loyal men in the commencement of 1865, called a convention voluntarily, abandoned all their hostility to the Government of the United States, accepted the condition of things as they then existed, recognized the rights of all men within their borders, the extinction of slavery, and the equality of all their people—if they had done this, and placed their government in the hands of loyal men, does anybody doubt that Congress would have recognized that State organization?

But, sir, suppose that instead of doing that they had set up a government even worse than the one which they did inaugurate; suppose that after the subjugation of the rebel government by force of arms the people there had set up a government which was confessedly antirepublican; suppose they had made a king, or established a nobility in South Carolina, does anybody contend that the Congress of the United States must have recognized that as the State government of South Carolina? If not, then Congress is to judge. This is a political question, and somebody must determine what is the State government organized in South Carolina. Who is to determine it? That point has been settled by the judicial authority of the country as belonging to Congress. And if it had never been settled by the judicial authority of the country, it is a political question belonging to the legislative department to settle. Congress may have settled it rightly or wrongly, if you please; it is not a question to be revised anywhere else, and until a government is inaugurated in South Carolina which is recognized by the legislative department of the Government as the State government there is no existing State government in that State. That time has not yet arrived.

And, sir, Congress is not committed, nor is anybody committed; because when the attempt was made in South Carolina to inaugurate a State government it was thought proper, as is alleged, to submit certain propositions to amend the Constitution to a body that assumed to be the Legislature of that State. They may have been submitted for the purpose of seeing whether the body of men which had assembled and assumed to be a State organization would agree to such terms as would be satisfactory, to test the loyalty of the organization, if you please. The constitutional amendments were never, in point of fact, submitted by Congress to any of these rebel States. They were proposed and submitted to the States of the Union. The Secretary of State thought proper to send a copy of them to the organizations that then existed in the rebel States. This was proper enough, and I would have been glad if they had all ratified those constitutional amendments. It would have been some evidence to show that those then assuming to exercise authority in the rebel States were willing to accept the proffered terms. The Secretary of State, after three fourths of all the States, including those whose State organizations had not been recognized, had ratified one of the proposed constitutional amendments, published a proclamation or gave notice, as the statute required, that said amendment had become part of the Constitution of the United States. We had the acquiescence of these pretended State governments to it, and it did no harm. I am glad we had it. That it was necessary I do not admit. But what I do say is that it by no means follows because a proposition of this kind was submitted to see whether the organizations assuming to be State Legislatures in the rebel States would approve it or not that we thereby recognized them as legitimate State governments.

Mr. FESSENDEN. The submission was by the Secretary of State, not by Congress.

Mr. TRUMBULL. So I have said; but if it had been by Congress it would not alter the case in my judgment. We had the assent of these pretended organizations to our first proposed constitutional amendment, whatever that assent was worth. That was one circumstance in their favor, and if they had gone on in well-doing in other respects, probably Congress would have recognized them eventually as the legitimate State governments. They failing to do that, Congress has failed thus far to recognize them.

In my judgment, Mr. President, the constitutional authority of Congress over these States is complete. I do not think the proposition can be successfully controverted that, under the authority to make war, to raise armies, and to provide for putting down insurrection and rebellion, Congress had the right by use of the military force to overthrow the hostile governments in the rebel States. Will anybody deny that? Having overthrown them by force of arms there was a time, be it shorter or longer, as you please, when the people of those States were subject to the military power called forth by Congress, because there were no civil tribunals among them, and because in the midst of the conflict of arms military authority is necessarily supreme. All the parts of the Constitution are to be construed together. While the right of trial by jury is given, and while it is provided that no person is to be subjected to trial for a criminal offense except on the presentment of a grand jury, that state of things applies to a country and a condition of affairs where courts can be held and where jurors can assemble, and where there is no such obstruction to the ordinary administration of justice that the law cannot be executed by the civil tribunals. It has no application to a condition of things where the courts are overborne and expelled. The power to make war is just as clearly given by the Constitution as the security of jury trial, and both provisions are to be construed together. The jury trial is to apply where the conflict of arms or opposition to the law is not so great as to destroy or render it impossible, and the military power is to control where the civil authorities are expelled by force of arms and can no longer execute the law.

This was the condition of things in the rebel States. The military authority expelled, the hostile governments took possession of those States, and had control for some length of time, one week or one month, if you please. Will anybody deny that? Now, if it had control for a week or a month, who is to say when that control shall cease? We may differ about that; but who is to determine that question? Was General Sherman to determine it at Atlanta, in Georgia, or at Columbia, in South Carolina? Who was General Sherman? He was but the creature of the law, and subject to the rules and regulations established by Congress. He could do no act contrary to law; and if he is to determine when military control shall cease he must do so in accordance with law. No, says one, he is not to determine it. Then who is? The President of the United States? Is he anything more than General Sherman, except that he is Commander-in-Chief? As President of the United States he has no authority whatever over the question. All the authority he gets in the case is as Commander-in-Chief of the Army, and in that character is just as much subject to the law as General Sherman. I beg you, sir, not to confound these two characters of the President—as President of the United States to see that the laws are faithfully executed in ordinary times and through the civil tribunals, and as Commander-in-Chief of the Army. Whatever powers he had over reconstruction in South Carolina or in any of the other rebel States are just such powers as belong to him as Commander-in-Chief. If General Sherman, while in command, could not have set up a civil government in South Carolina that you were bound to recognize, Andrew Johnson could not do it. The whole power which the President had in the rebel States, every particle of it, belonged to him as Commander-in-Chief of the Army, and not as President, so far as it is different from the power which he had in Ohio, Illinois, or any other loyal State. He might as President just as well undertake to set up a civil government in one of the loyal States as in South Carolina. There is not in the Constitution a line or a word giving him any power whatever as President to inaugurate governments anywhere. Whatever power he has in the rebel States greater than that possessed by him in other States was his military power as Commander-in-Chief of the Army, and when he exercises that power he is subject to the rules and regulations established by Congress.

So much, sir, for the condition of these States. As I said, there being a certain length of time, as all must admit, when they were subject to military authority, somebody is to decide how long that period of time is to continue. The general cannot do it contrary to law. Whatever he does is subject to the superior authority of the legislative department of the Government, because the legislative department of the Government makes rules and regulations for his government. Congress could have taken all the Army away from South Carolina. It could have refused to raise a soldier to put down the rebellion. It is only in pursuance of acts of Congress that armies are

raised. The President may command them when raised by virtue of his office as Commander-in-Chief, but he cannot without the consent of Congress call forth a single soldier.

Congress in the exercise of its discretion has decided that except in Tennessee no loyal, legal governments have yet been organized in the rebel States. That is the end of that question. Nobody else can decide it. It does not belong to the President; he has nothing to do with it. It does not belong to the judiciary; that department has nothing to do with it. As well might the judiciary have undertaken by a process in the hands of a marshal to stop the march of our advancing armies as they went through the rebel States as to attempt now to compel them to withdraw and Congress to recognize as valid governments set up in defiance of its authority. As well might the judiciary undertake to say how the Army shall march and when it shall fight as to say when it shall withdraw from South Carolina. Is the court to issue a *mandamus* or other process to compel the military to leave one of the rebel States? Congress says to the military, "stay there for the protection of this nation;" it says to the commanding officer, "preserve the peace there for the safety of the people; make use as far as you can of any local organizations or tribunals to assist you; but the moment you see that they are interfering with the peace of the country or with your military authority suppress them and establish others." That is military control, and that control must continue till legitimate civil governments can be established, of which Congress is a judge.

Mr. President, the Senator from Wisconsin spoke in solemn tones and with a pleading voice for the people of the South. He portrayed the desolation of that portion of the country. He told us of the thousands of millions of dollars that the war had cost the rebels. He told us of the three hundred thousand who had fallen in battle and perished by disease in consequence of the war, of the crushed hopes and bleeding hearts of the people of the South. Sir, who caused all this? What brought it upon them? Was it not the brain and the talent of the South that forced them, as he says, into the rebellion, and that he now seeks to restore to power. But, sir, in that connection did he tell us anything of the bleeding hearts of loyal men? Did he tell us of the $4,000,000,000 of treasure it had cost us to put down this wicked rebellion? Did he tell us of the hundreds of thousands of patriot lives that had been sacrificed to put down the rebellion? Not a word, sir. An army of patriots, who if they stood in single file side by side would reach from this political Capitol of the nation to its great commercial emporium, sacrificed their lives to put down this horrible rebellion. Scarce a home can be found in all the loyal States to which mourning and sorrow were not brought by this wicked rebellion. And the Senator stands up here and pleads for political rights for the men who occasioned all this, calling them the brain and the talent of the South.

I am for no harsh measures. I am for no confiscation laws now. I was once. When this war was progressing, when the conflict was upon us, I was for confiscation and pushing the war with all the power we had. I was then for making rebellion as odious as the rebels made loyalty where they had the power. But the time has gone by; the war is over so far as the conflict of arms is concerned; and now I would have these people who have slain the five hundred thousand patriots of the land of whom I have spoken, I would have even them, with the exception of the leaders, restored to the condition and the freedom of other citizens. I would even allow them to vote at the polls, but I think I should not be willing that some of the chiefs should again hold office.

But the Senator tells us that that is a monstrous proposition! He says that we propose taking away the pardoning power by the proposed constitutional amendment; that in all Governments the pardoning power is lodged with the Executive, but that we propose to take it away and not allow a man to be pardoned except by Congress, and then only by a two-thirds vote. Is that so? Have we done any such thing? We have provided that a certain class of persons shall not hold office. Is that taking away the pardoning power? The original Constitution of the United States prescribes the qualifications for office to a certain extent. It declares that no one shall be a member of this body who has not attained to the age of thirty years. That takes away the pardoning power, I suppose! It takes it away just as much as the proposed article fourteen and no more. If a pardoned rebel chief cannot hold office, neither can a pardoned criminal who is under thirty years of age be a Senator.

The Senator closes his argument by a reiteration of his devotion to the Constitution, and a reiteration of the assertion that somebody, meaning, as I understand him, those who favor the congressional plan of reconstruction, are seeking to overthrow it. I have already, Mr. President, endeavored to reply to that suggestion by stating that it simply is not true. The great Union party of this land is not seeking to overthrow the Constitution nor to destroy the Government. We have quite as much devotion to both as the Senator from Wisconsin, and a great deal more than most of those with whom he is acting. I know not how to meet an assertion of this kind except by denying it. I have endeavored to show that the authority which the Government is exercising over the rebel States is a legitimate and constitutional authority. I think I have done so. I have endeavored to show that the accusation that there is an attempt to establish negro supremacy is not true in point of fact. I deny that any of our legislation is outside of the Constitution. It is within it.

The Senator says that there is an attack upon the Supreme Court; and he assumes to say that a measure is proposed by which three judges may maintain as valid an act of Congress, while five judges are prohibited from deciding in favor of liberty. Why, sir, the acts of Congress to which he alludes are on the side of liberty. These very acts of which he complains are acts extending rights, civil and political, to all people. Is that despotism? How is it known that three of the judges are in favor of the constitutionality of the acts of Congress and five against them? I have heard enough of this on the streets. If it be true that the judges of the Supreme Court, or any of them, in advance of any case coming before them involving the question, have given their opinion that certain acts of Congress are unconstitutional, then I say those judges thus expressing their opinions in advance are infamous. If these reports be untrue, then they who circulate them deserve to be branded as liars.

Mr. JOHNSON. If the honorable member will allow me to interrupt him, I should like to know upon what information he states that five judges of the Supreme Court have formed such an opinion?

Mr. TRUMBULL. The Senator from Wisconsin spoke of five judges——

Mr. JOHNSON. I regret very much to hear any such statement. I did not hear the Senator from Wisconsin when he stated it. I do not believe the statement is true in point of fact.

Mr. TRUMBULL. Nor do I, Mr. President.

Mr. JOHNSON. I agree with the honorable member that, if it be true, it is exceedingly censurable.

Mr. TRUMBULL. I am very happy to have the testimony of the Senator from Maryland that he does not believe it to be true. I do not believe a word of it. I give no credence to these reports raised for party purposes on the streets, pretending to give in advance of the hearing of a case in court the opinions of the judges upon that bench.

The Senator from Wisconsin did not say that five judges had expressed opinions upon these reconstruction acts. I wish not to be misunderstood about that. The Senator from Wisconsin was speaking generally, and I understood him to say that an attempt was made to subjugate the Supreme Court by a provision under which three judges could maintain an act of Congress and five judges would be prevented from deciding in favor of liberty. I presume the Senator from Maryland has seen in the newspapers and heard upon the streets reports as to the opinions of the judges on the reconstruction acts.

Mr. JOHNSON. I have not, Mr. President. I am so situated that I read the papers very seldom, and indeed I am hardly able to read them at all. I have neither seen nor heard of any such report, and I do not believe there is one word of truth in it. I have so much confidence in the judges collectively and individually—all of the judges—as to be satisfied that whatever decision they may pronounce upon any case involving those questions will be the result of their calmest judgment, uninfluenced by any partisan feeling whatever.

Mr. TRUMBULL. I should hope the Senator from Maryland was correct. I am not prepared to believe any such reports either; the law to which the Senator from Wisconsin alluded is proposed as a permanent statute.

Mr. DIXON. Allow me to ask the Senator whether he understood the Senator from Wisconsin to state that five judges had expressed or entertained a given opinion?

Mr. TRUMBULL. I have already stated that I did not so state.

Mr. DIXON. I misunderstood the Senator.

Mr. TRUMBULL. Now, Mr. President, the proposition to require something more than a majority of a quorum of the Supreme Court to pronounce an act of Congress unconstitutional is no new subject. It has been talked of for years. There is a great deal to be said in favor of such a law. In the early organization of the Government, when the first question was presented to the Supreme Court of the United States involving the validity of an act of Congress, it was with great hesitation that the judges came to the conclusion that they had the right under any circumstances to declare an act of Congress unconstitutional. They finally, however, did come to that opinion. They held that the Constitution was the supreme law of the land, and that in judging upon a case between parties which came legitimately before them they had a right to inquire whether an act of the Legislature was in conflict with the paramount law of the Constitution so far as it affected the right of that particular case. That is all their decision amounts to in any case.

In a court composed of eight judges, as we have it now, as to which a law is proposed that five shall constitute a quorum, it might happen that three of the judges might decide a law to be unconstitutional. I think that ought not to be. Irrespective of these political questions, which do not belong to the court at all, it seems to me that less than a majority or two thirds of the whole court should never be permitted to pronounce an act of Congress invalid by reason of its repugnance to the Constitution of the United States. Why, sir, we are under the same obligation to support the Constitution of the United States as the judges of the courts. We all take the same oath, and none of us vote for a law which we believe to be unconstitutional; and when a bill has passed this body and the other House by a majority, and is sent to the President of the United States, he acts upon his own responsibility in approving or disapproving it; and if he disapproves it a majority of all the people's representatives in the other House and a majority of all the representatives of the States in this House cannot make it a law; it requires two thirds of all the representatives of the States of the Union and two thirds of all the reprtentatives of the people to make it a law in opposition to the President; and when it has thus become a law shall a majority of a quorum of the Supreme Court, three out of eight judges, be permitted to say it is no law; a

majority of a quorum of a tribunal not organized for the purpose of making laws; a majority of a quorum of a tribunal which in the origin of the Government doubted its power in any case to set aside a law as unconstitutional? There is a great propriety in requiring as large a proportion of the whole number of the court to set aside a law as is required of the two Houses of Congress to make a law when vetoed by the President.

Possibly it would not be going too far to require the unanimous opinion of the whole court to pronounce a law unconstitutional. These are questions for calm consideration on the part of Congress. I am sorry that they are lugged into this discussion. They have nothing to do with it.

Mr. JOHNSON. They do not belong to it.

Mr. TRUMBULL. In passing upon that proposed act of Congress which has passed the other House I trust this body will consider it as a question disconnected entirely with any pending or supposed pending questions in the country, and pass upon it as may be best as a permanent law, and not with reference to any supposed case that may be got up for political effect. That is the view I shall be disposed to take of it, and without on the present occasion committing myself either for or against such a law, I deny that its passage would tend to degrade or subjugate the Supreme Court.

The Senator from Wisconsin, in concluding, goes into a discussion of the party politics of the country and presidential prospects, which seem to have been the occasion of his elaborately prepared speech. Now, sir, so far as I am concerned, and I trust so far as this body is concerned, we will legislate upon these great and important questions with reference to the best interests of the country, not with reference to the advancing of any man's interest as a candidate for the Presidency. I do not know whether any particular candidate is to be benefited or to be injured by the contemplated bill. If I believe it best for my country I am for it; but if I believe it against the best interests of the country I am against it.

The considerations which should govern us all are the public interests, the public welfare, and a desire to restore all the States to their proper condition in the Union, not under negro supremacy, but in the hands of loyal men. In all the States where conventions have been called large bodies of whites have taken part in the elections; thousands and tens of thousands of whites have gone to the polls and voted in favor of these reconstruction measures wherever they have had a chance. Many more thousands of whites have voted in favor of conventions than there are of persons disfranchised, and many more would have voted if left free to act.

Now, sir, all that this reconstruction policy means is to place the governments in the rebel States in the hands of men who are and will be true to the Union and to the Constitution, about which the Senator says so much. He complains that we are not willing to modify our policy. I tell him, no; for one, I will never modify that policy which requires the State organizations to pass first into the hands of loyal men. I will never agree that they shall be controlled by the men who were chiefly instrumental in strewing the land with desolation and death. I will never agree that the loyal people of the rebel States shall be left to the mercy of State governments organized and controlled by the chiefs of the rebellion, the plunderers of the nation's wealth and the murderers of half a million of the nation's heroes.

Mr. MORTON. Mr. President, I desire to speak to this question, but not to-night, and as it is now nearly half-past four o'clock I move that the Senate adjourn.

The PRESIDENT *pro tempore*. Will the Senator allow the Chair to receive a message from the House of Representatives?

Mr. MORTON. I withdraw the motion for that purpose.

DEATH OF HON. CORNELIUS S. HAMILTON.

Mr. McPHERSON, the Clerk of the House of Representatives, appeared at the bar and said: Mr. President, I have been directed by the House of Representatives to communicate to the Senate the resolutions adopted by the House in regard to the death of Hon. CORNELIUS S. HAMILTON, late a Representative from the State of Ohio.

The resolutions were read.

Mr. SHERMAN. Mr. President, the death of CORNELIUS SPRINGER HAMILTON, now formally announced to the Senate, is a most impressive lesson of the frail tenure of human life and of all earthly hopes. A few weeks ago he stood among his associates in the House of Representatives in the vigor of manhood, in perfect health, possessed of ample property, secure in the confidence of his constituents, and in the warm affection of wife, children, kindred, and friends. He died by the hand of an insane son—a lad of eighteen—the eldest son of a family of six children. So melancholy an event may well cause us to pause in the midst of our duties, not only to express our natural grief at the loss of an associate but to reflect upon the shadowy dangers that surround us at every step from the cradle to the grave. No one among us had better reason to anticipate a long and happy life than Mr. HAMILTON, yet he is the first to render the dread reckoning; and the manner of his death naturally excites in the human mind a feeling of horror which death in the chamber of death cannot produce. Yet there are few among us who could meet this fate better prepared than he was. I do not speak of him in the formal language of eulogy, but I can say to the Senate, in the name of his constituents, that he had no enemy among them; that he was uniformly regarded as an earnest and an honest man of more than ordinary ability, modest and retiring, but fully able to vindicate his opinions with logic and effect. If he had lived longer he would have ranked among the ablest of his associates in Congress, and would have secured here, as he had at home, the confidence and respect of all who knew him.

Mr. HAMILTON was born in Muskingum county, Ohio, on the 21st of January, A. D. 1821. He was the fifth in descent from Charles Christopher Springer, the Swede, of Wilmington, Delaware, so favorably referred to by Clay in his Annals of the Swedes and by Ferris in his Original Settlers on the Delaware. His surviving brothers and kindred are among the most respected citizens of Ohio. He was married to Miss Louisa Vausant, in Muskingum county, Ohio, and three daughters and three sons survive him. Mr. HAMILTON was a lawyer of ability, with a large practice in his section of the State, and was many times elected by his neighbors to offices of trust and responsibility. He was a member of the last constitutional convention in Ohio, and also of the Senate of that State, and in each body exercised great influence, not so much by making speeches, although he could do that if necessary, but by his gentlemanly and conciliatory bearing and his practical talent for legislation. When the internal revenue law took effect he was appointed without any application on his part as assessor, and served in that capacity with great credit until 1866. His methodical business habits fitted him admirably for that office. He was displaced for political reasons, and that fall was elected a Representative in Congress from the eighth congressional district of Ohio. He had scarcely entered upon this trust before we are compelled to announce his death.

The manner of his death presents one of the most striking examples furnished by human history of the strange and mysterious operations upon the human mind of the malady of insanity. He was killed by his own son, Thomas, a lad of eighteen, who, until two or three weeks before this event, was a lad of great promise, manly, steady, trusty, and obedient to his parents and courteous to his friends. He was a regular attendant at school until after his father came here, but had latterly exhibited evidences of deep and singular melancholy. It was thought best to send for Mr. HAMILTON, who received the message as his associates were leaving to enjoy the holidays. He informed me of his errand home, but seemed to regard it as a case of ill health rather than insanity. On his arrival at Columbus he met his son, who had been taken to the city the day before and placed in charge of his uncle, Dr. Hamilton. His son returned with him to his home at Marysville, Ohio, but it soon became apparent that his melancholy was culminating into dangerous madness, and preparations were made to convey him to the lunatic asylum at Columbus on Saturday, the 21st of December, but some delay occurred, and the journey was postponed until Monday. Mr. HAMILTON had the boy accompany him wherever he went, and seemed to have a cheering influence over him. On the same day he wrote to a friend as follows:

"My wife wrote me that my oldest boy, Tom, eighteen years old, was threatened with insanity. I have found, on my arrival, that her fears had a real foundation, but I hoped that it would be but a temporary trouble, until yesterday, when his conduct was such that I despaired of managing the case at home or at a private water-cure, and I have made arrangements to take him to the asylum at Columbus. He has been one of the most quiet, industrious, and exemplary boys I ever knew, and my chief reliance for the management of my affairs and the control of my other children in my absence."

On the morning of Sunday, the 22d day of December, while accompanied only by this son, and while engaged in feeding his stock, he was suddenly killed by a single blow with a club in the hands of his son. The maniac, still fatally bent on mischief and in the fiercest frenzy of madness, then attempted the life of his brother John, a lad of eleven; then, with an up lifted ax, pursued his mother; then his little brother and sister, and then attacked the neighbors who rushed to the rescue. It is fortunate for the survivors of this unhappy family that the son and brother who committed this tragedy is free both by human and Divine law from all responsibility, from all conscious guilt, but was the blind agent of an irresistible power. Still, in a moment, without fault, their former happy condition is changed, and the deep mourning that falls over them is shared by all their neighbors, by all Mr. HAMILTON'S constituents, and by the sympathy of the whole country, startled by this extraordinary tragedy.

It only remains for me to add a few words in regard to Mr. HAMILTON'S personal character. In his intercourse with men his manner was unusually kind and winning. He had strong convictions, and in his political opinions was an earnest radical Republican. He believed in universal liberty, and in the equality of all citizens in political rights and power. He maintained this faith without regard to its popularity and applied it to all without distinction or prejudice. It was the corner-stone of his political life; but the same charity that moved him to demand equal rights for all made him respect the opinions and even the prejudices of others. He scattered no thorns in his path, and therefore he died with the sincere respect of all who knew him. In manner he was quiet, modest, and retiring. He did not often speak, but when he did he was always earnest and effective. He was plain in his dress and bearing. He enjoyed the blessings of life without exciting the envy of others, and this not from the love of popularity, but because it was the natural promptings of his character. He was not a member of any church, but supported and respected the Christian faith and worship. He was always guided by moral principle, and so far as I have ever heard was never charged with any act inconsistent with honor or honesty. In his family relations, as son, brother, husband, and father, he was singularly happy, and the earnest support he received, and deep sympathy evinced by his immediate townsmen show that he was equally fortunate as a neighbor and friend. I, perhaps, am the only member of the Senate who knew Mr. HAMILTON intimately. He was

my immediate Representative. I live in his district and know his constituents and those familiar with him since his boyhood. I have conversed with him about public and personal matters, and latterly frequently and fully; I can only add to the voices that come to us from the House of Representatives my earnest tribute of respect to his memory and deep sympathy for the wife and children who now mourn his untimely fate.

Mr. President, I offer the following resolutions:

Resolved, That the Senate has received with deep sensibility the announcement of the death of Hon. CORNELIUS S. HAMILTON, late a member of the House of Representatives from the State of Ohio.

Resolved, That the members of the Senate, as a mark of respect for the memory of the deceased, will go into mourning by wearing crape on the left arm for the space of thirty days.

Resolved, That, as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions were adopted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 23, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MAIL SERVICE ON THE PACIFIC.

Mr. FLANDERS, by unanimous consent, presented a joint memorial of the Territory of Washington, praying mail service by sea from San Francisco, California, to Olympia, Washington Territory; which was referred to the Committee on the Post Office and Post Roads.

MRS. ELLA E. HOBART.

Mr. BAKER, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire what measure of relief would be proper in the case of Mrs. Ella E. Hobart, for services rendered by her as chaplain of first regiment of Wisconsin volunteer artillery, and report by bill or otherwise.

SOLDIERS' BOUNTIES.

The SPEAKER. The first business in order is the call of the committees for reports, and under that call the House resumes the consideration of House bill No. 127, in relation to additional bounty, pending at the expiration of the morning hour yesterday, reported from the Committee on Military Affairs with an amendment by the Senate, upon which the gentleman from Indiana [Mr. WASHBURN] has the floor.

Mr. WASHBURN, of Indiana. In answer to the question of the gentleman from Illinois [Mr. FARNSWORTH] whether this amendment as amended by the committee covers cases arising from disability in the service, I will say that the original act already covers those cases, as will be found by referring to section twelve of the bounty act of 1866.

Mr. HOLMAN. Allow me to ask a question in this connection. I inquire whether the widows and children of soldiers who died after being discharged and before the taking effect of the act of 1866 receive the additional bounty, or is it confined to those who died during the service or survived until after the passage of the act of 1866?

Mr. WASHBURN, of Indiana. In answer to my colleague I will say that this bill gives it to all the classes who are entitled to it under the twelfth and thirteenth sections of the act of July 28, 1866.

Mr. HOLMAN. My question is this: I admit that the widow and children of a soldier who was living at the time that law took effect receive the bounty; but in the case of a soldier who was honorably discharged and died before the taking effect of that law, do his widow and children receive this bounty under the original act?

Mr. WASHBURN, of Indiana. As I stated yesterday, it was not the intention of the Committee on Military Affairs in this bill to enlarge the classes entitled to bounty under the bounty act. We have a bill before us, and will report it in a short time, embodying the views of the committee in reference to enlarging the provisions of the bounty bill so as to include other classes. But we did not wish to complicate this bill. This is a bill that is made necessary by a decision of the Second Auditor; and while we do not want to enter into a discussion of the question whether certain other classes should not have the bounty, we do think that this bill giving it to those who were intended to have it ought to pass. We provide that all those who are entitled to it under sections twelve and thirteen of the act of July 1866 shall have it. This is simply an explanatory act, and does not extend the bounty to different classes. The original bounty bill does in exact words answer the question of the gentleman from Illinois, [Mr. FARNSWORTH;] and I will further say that the bill now pending is almost in the identical words of the bill presented by him a day or two ago. I move the previous question.

Mr. HOLMAN. I trust that my colleague will not move the previous question on this bill, but will allow a little discussion.

Mr. WASHBURN, of Indiana. What does the gentleman want?

Mr. HOLMAN. I wish a few minutes to explain the bill and the effect of the amendment.

Mr. WASHBURN, of Indiana. How long?

Mr. HOLMAN. About five minutes.

Mr. WASHBURN, of Indiana. I yield my colleague that much time.

Mr. HOLMAN. I trust that this bill, although it affects only a small class of persons, the widows and children of a certain class of our soldiers, will not be overlooked; for the class of persons it does affect are entitled to great consideration at the hands of the House. The act passed by Congress in 1866 did not confer upon the widows and orphan children of soldiers who died after being honorably discharged and before the taking effect of the act of 1866 the additional bounty. That class of persons was entirely left out of the provisions of the act of 1866. The bill which the House passed in July last was intended simply to confer upon the widows and orphan children of soldiers who were honorably discharged, but died before the taking effect of the additional bounty act, the additional bounty of $100. That was the effect of the bill passed by the House last July. The Senate amended that House bill so as not to embrace that class at all, but simply to confer upon the widows and children of those who died after the taking effect of the act of 1866 the additional bounty. Now, I trust that, instead of any attempt to amend the Senate amendment, my colleague will, for the purpose of getting a committee of conference on this question which may reconcile the difference between the House and the Senate, move to disagree to the amendment of the Senate and let the subject go to a committee of conference; for I am very certain that a committee composed of members both of the House and the Senate, when they come to consider the question, will not deprive the widows and orphan children of soldiers who were honorably discharged, but who died before the taking effect of the act of 1866, of the additional bounty which is manifestly due to them as much as to any class of persons entitled to the benefits of the bounty act.

I am aware, sir, that upon such a subject as this it is almost impossible to gain the attention of the House; the class of persons affected by this bill are not a power in this country; and it is very possible that by hasty legislation the purpose which the House had in view when they acted upon this bill with so much unanimity in July last will be entirely defeated.

But my colleague does not propose to reach the widows and children of those who were honorably discharged and died before July, 1866, but simply of those who have died since the taking effect of that law. I insist that this House owes it to the country, to the gallant soldiers who were honorably discharged from the service and died before the taking effect of this additional bounty law, that these widows and children shall have the bounty which their fathers and husbands would have received if they had survived until the law of 1866 took effect.

This amendment of the Senate, with the proposed amendment of the committee, accomplishes really nothing, but leaves the widow or children of the soldier who died after being honorably discharged and before the taking effect of the law of 1866 without this additional bounty—an injustice so glaringly manifest that it ought to arrest the attention of every gentleman here who desires that the widows and orphans of those who suffered in the cause of their country shall receive the benefits to which the services of their husbands and fathers entitle them.

Mr. WASHBURN, of Indiana. I yield nothing to my colleague [Mr. HOLMAN] in my love for the soldier. I believe that this House and the country owe to the widows and orphans of the soldiers a great deal more than that bill gave them. I thought so then, this House thought so, and voted that they should have more. But we are willing to take—not by way of full and complete settlement—something we can get without controversy from the Senate. The Senate already have before them two bounty bills covering all the gentleman desires: and if they desire to do more for the soldier they can do so by action on those bills. We propose now merely to legislate to meet the decision of the Second Auditor of the Treasury, which is that where a man has filed his claim, or where a widow has filed her claim, and afterward died before the award was made the heirs could not receive the additional bounty. We propose to remedy that defect. I now yield to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. The class of persons to whom the gentleman from Indiana [Mr. HOLMAN] has referred is only one of a number of classes legislation for the relief of which the Committee on Military Affairs now have under consideration, and when the committee shall have arrived at their conclusion upon the general question of bounties I think they will bring in a bill which will be sufficiently liberal to meet the wishes not only of the gentleman from Indiana, [Mr. HOLMAN,] but of every other gentleman who wishes to extend to the soldiers and to their widows and orphans such relief as they have earned by their patriotic services in suppressing the rebellion.

But what we now seek by this bill is simply to set aside the ruling of the Second Auditor cutting off from the benefits of this bill the widow of the soldier whose claim is now on file in the Department if he happened to die before the award was made. That ruling of the Second Auditor also cut off the minor children of the soldier if the widow, after making application to the Department under the law, happened to die before the award was made. Under that ruling the application falls to the ground if the applicant dies before the award is made, the settlement of the case requiring a year or more.

What this bill proposes to do is simply to explain and make clear and distinct what was the original intent and meaning of the law as it now stands applying to the class of persons to which I have referred. At a future time the committee will bring in a bill covering the class named by the gentleman from Indiana [Mr. HOLMAN] and other meritorious classes of soldiers, their widows, and orphans. I hope this bill will pass.

Mr. WASHBURN, of Indiana. I now yield to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. I hope that sooner or later we will pass a bill to give to the widows and heirs of those soldiers who died before the act of July, 1866, took effect the same benefit which this bill gives to soldiers who became

entitled to this bounty and afterward died. But inasmuch as I see before me a bill which has already received the sanction of both Houses of Congress, and which secures these benefits to the heirs and widows of soldiers who have actually been entitled to this provision under the act of July, 1866, I am disposed for one to avail myself of the benefits which this legislation, so far matured, secures to the widows and heirs of such soldiers, trusting to future legislation to make the provision so complete and full as to include the cases of soldiers who happened to die before the act of 1866 took effect. Now, with the gentleman from Indiana [Mr. WASHBURN] I cordially concur in a demand that this House and the Senate shall adopt some provision of law which shall secure to the widows and heirs of these soldiers precisely the benefits which this bill gives to the widows and heirs of soldiers covered by its provisions. But I am not willing to sacrifice the good which I see can now be secured by the passage of this bill for the purpose of conferring some further benefits which are still demanded and which this measure may fail to secure. Let us secure to-day the good which is within our reach and trust to future legislation for the rest.

Mr. FARNSWORTH. Will the gentleman from Indiana [Mr. WASHBURN] yield to me five minutes?

Mr. WASHBURN, of Indiana. The time of the committee is limited; and I wish to bring this bill to a vote as soon as possible; but I will yield to the gentleman five minutes.

Mr. FARNSWORTH. Mr. Speaker, I think the original bill of the House is much better than the Senate amendment. If the latter is to be adopted I wish to offer an amendment to it.

Mr. WASHBURN, of Indiana. I cannot yield for that purpose.

Mr. FARNSWORTH. I will read to the House the amendment I desire to offer if the previous question should not be sustained. It is to add the following provision:

Provided, That the heirs of soldiers who have died or may die in consequence of disease contracted in the service and in the line of their duty shall be placed upon the same footing as though such soldiers had died or should hereafter die of wounds received in battle.

Mr. WASHBURN, of Indiana. Let me call the gentleman's attention to the last clause of section twelve of the act we are amending. I ask the Clerk to read it.

The Clerk read as follows:

"And the widow, minor children, or parents, in the order named, of any such soldier who died in the service of the United States, or of disease or wounds contracted while in the service and in the line of duty, shall be paid the additional bounty of $100 hereby authorized."

Mr. FARNSWORTH. Yes, sir; but that means the widows and heirs of those who had died before the passage of the act, and is so construed. That is the trouble. My amendment would extend the act to those who have died since the passage of the act, so that the heirs of a soldier who has died of disease since the passage of the act shall be placed upon the same footing as if he died of wounds received in battle.

Mr. WASHBURN, of Indiana. If the soldier has died since the passage of the act will not the widow receive the bounty under our amendment?

Mr. FARNSWORTH. No, sir; the amendment of the Senate as amended by the committee does not meet the case at all, because many a soldier at the time of the passage of the act was not entitled to the bounty because he had not died, if I may be allowed that expression. I refer to cases in which the soldier had not served his two years, but was discharged before the expiration of the two years on account of disease incurred from exposure in the line of his duty. If he had been discharged on account of wounds his heirs would get the bounty; but as he was discharged because of disease and has since died his heirs cannot get the bounty. That is the distinction which is made; so that the amendment of the Senate does not meet the case. It is for that reason I desire to offer my amendment, and I think there can be no objection to it. I desire that the heirs of soldiers who have died from disease contracted in the line of their duty shall be placed upon the same footing as the heirs of soldiers who have died from wounds received in battle.

Mr. GARFIELD. The gentleman will allow me to say that they are both embraced in the present law.

Mr. FARNSWORTH. They are not.

Mr. GARFIELD. Begging the gentleman's pardon, I must say that he is mistaken.

Mr. FARNSWORTH. No, sir; I tell the gentleman that the present law, under the construction given to it, does not give the bounty to the heirs of soldiers who have died since the passage of the law if they were discharged on account of disease before the expiration of their two years; while it does give the bounty to the heirs of those who were discharged on account of wounds before they had served the two years. That is the distinction.

Mr. GARFIELD. Let me read the concluding clause of the twelfth section of the act of 1866:

"And any such soldier enlisted for not less than three years, who has been honorably discharged on account of wounds received in the line of duty, and the widow, minor children, or parents, in the order named, of any such soldier who died in the service of the United States, or of disease or wounds contracted while in the service and in the line of duty, shall be paid the additional bounty of $100 hereby authorized."

Mr. FARNSWORTH. Now, let me call the gentleman's attention to the effect of that provision. If a soldier had died from disease before the passage of the act it would meet his case; but it does not meet the case of a soldier who has since died of disease. The first part of the provision read by the gentleman from Ohio [Mr. GARFIELD] applies to the case of a soldier enlisted for three years and discharged on account of wounds before serving the three years; but it does not apply to the case of a soldier discharged on account of disease.

Mr. GARFIELD. Will the gentleman allow me to say one word? The Committee on Military Affairs have had before them so many propositions in reference to bounty that they have decided to act upon all questions touching enlargement of the bounty separately. They agreed that in this case they would take no action to enlarge the scope of the bounty act, but would merely perfect the details of the law, so as to embrace all cases in which the law intended to give bounties. In the amendments we have offered we have sought to do this: we have sought to do nothing else. We hope that the House will pass this bill in its present form, and allow the committee to deliberate very carefully on any proposition that may come before them for enlarging the bounty. I hope the House will not include in this bill any proposition for extending the scope of the bounty act.

Mr. FARNSWORTH. Mr. Speaker, I suppose we all want a good bounty bill; that all sides are in favor of a fair bounty bill and want to place our soldiers upon an equality with reference to it. This bill does not accomplish that purpose; and I ask my friend from Ohio [Mr. GARFIELD] whether he has any objection to placing the heirs of soldiers who died from disease incurred while in the Army upon the same footing as the heirs of those who died from wounds received in battle? Can there be any objection to it? I think no member can object to it. Then let us incorporate this in the amendment. If we cannot do so let us non-concur and try to get a good bill in the committee of conference. This bill does not meet the case, although we have gone on patching and patching it.

Mr. HOLMAN. I desire to put an inquiry to my friend.

Mr. GARFIELD. I hope the previous question will be called for.

Mr. WASHBURN, of Indiana. I demand the previous question.

The House divided; and there were—ayes 40, noes 38; no quorum voting.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Mr. WASHBURN, of Indiana, and Mr. HAIGHT were appointed.

The House again divided; and the tellers reported—ayes 60, noes 39.

So the previous question was seconded.

The main question was then ordered to be now put.

The question first recurred on the following amendments of the Committee on Military Affairs:

Amend Senate amendment as follows:
In line three insert after the word "person" the words "or persons."
Strike out the words "as a soldier" in line three.

The amendments were severally agreed to.

The question then recurred on the amendment of the Senate, as amended, as follows:

Strike out all after the enacting clause and insert: That if a person, entitled as a soldier to the bounty provided by sections twelve and thirteen of the act making appropriations for the civil service, approved July 28, 1866, has died or shall die before receiving said bounty, it shall be paid to the heirs of the soldier as designated in said act in the order therein named, and to none other.

The House divided; and there were—ayes 43, noes 30; no quorum voting.

Mr. HOLMAN. If the House votes down the Senate amendment cannot the whole subject then go to a committee of free conference between the two Houses?

The SPEAKER. When the operation of the previous question has commenced it must be executed.

Mr. HOLMAN. If the Senate's amendment be rejected cannot the subject then be referred to a committee of conference?

The SPEAKER. That will be for the House to determine

Mr. HOLMAN. I demand the yeas and nays on the Senate amendment as amended.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 51; not voting 52; as follows:

YEAS—Messrs. Ames, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Barnes, Beaman, Benton, Bingham, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dawes, Dixon, Dodge, Driggs, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Hawkins, Higby, Hopkins, Hulburd, Hunter, Jenckes, Judd, Julian, Ketcham, Koontz, Mallory, Marvin, Maynard, Miller, Morrell, Mullins, Myers, Nunn, O'Neill, Paine, Perham, Pile, Plants, Poland, Polsley, Pomeroy, Price, Robertson, Sawyer, Schenck, Scofield, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Thomas, John Trimble, Trowbridge, Twichell, Upson, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and Stephen F. Wilson—85.

NAYS—Messrs. Allison, Anderson, Axtell, Barnum, Beck, Boyer, Burr, Chanler, Cook, Covode, Donnelly, Eckley, Eggleston, Eldridge, Farnsworth, Fox, Glossbrenner, Golladay, Gravely, Griswold, Haight, Harding, Holman, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Johnson, Jones, Kelsey, Kerr, Knott, William Lawrence, McClurg, McCormick, Mercur, Moore, Moorhead, Morgan, Newcomb, Niblack, Randall, Ross, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, Van Wyck, James F. Wilson, John T. Wilson, Windom, and Woodward—51.

NOT VOTING—Messrs. Adams, Archer, Delos R. Ashley, Banks, Benjamin, Blaine, Blair, Brooks, Cary, Cornell, Cullom, Finney, Grover, Halsey, Hill, Hooper, Richard D. Hubbard, Humphrey, Kelley, Kitchen, Laffin, George V. Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marshall, McCarthy, McCullough, Morrissey, Mungen, Nicholson, Orth, Peters, Phelps, Pike, Pruyn, Raum, Robinson, Selye, Shellabarger, Stokes, Stone, Taber, Taffe, Taylor, Van Aernam, Van Auken, Burt Van Horn, Wood, and Woodbridge—52.

So the Senate amendment, as amended, was concurred in.

During the roll-call,

Mr. CULLOM said: I was detained on a committee until the roll-call was completed. If I had a right to vote I would vote "No."

Mr. BANKS. I was engaged on the Committee on Foreign Affairs with other members. I did not know that the roll was being called until it was closed. I ask leave that my colleagues on the committee and I may vote.

The SPEAKER. The Chair cannot ask unanimous consent.

Mr. BANKS. I would have voted "No."

Mr. ORTH. I was also detained on the same committee. I would like to vote.

Mr. ROBINSON. I was also attending the committee.

The SPEAKER. The Clerk will read the rule on this subject from the Digest.

Mr. ROBINSON. If I had been present I would have voted "No."

The Clerk read the rule, as follows:

"And when any member shall ask leave to vote the Speaker shall propound to him the question—Were you within the bar before the last name on the roll was called? and if he shall answer in the negative the Speaker shall not further entertain the request of such member to vote."

The SPEAKER. This rule was adopted to prevent asking unanimous consent.

The result having been announced as above recorded,

Mr. WASHBURN, of Indiana, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Indiana. I ask the unanimous consent of the House for an amendment to the text of the bill just disposed of, so as to improve its phraseology. I propose in the amendment to strike out "has died" and insert "shall have died," and also to substitute "any" for "a."

The SPEAKER. If there be no objection that amendment will be made.

There was no objection.

NORMAN WIARD.

Mr. GARFIELD. I am instructed by the Committee on Military Affairs to report back the memorial of Norman Wiard, asking for reimbursement of expenses incurred in delivering certain steamers to the Government of the United States, and ask that it be referred to the Committee of Claims. A bill on this subject passed the House, and I believe passed the Senate, during the last Congress.

The memorial was accordingly referred to the Committee of Claims.

EXTRA PAY TO VOLUNTEER OFFICERS.

Mr. GARFIELD. I am instructed by the same committee to report adversely on the petition of twenty-four citizens of Norristown, Pennsylvania, late officers of volunteers of the United States Army, praying Congress to pass an act entitling the officers of the late volunteer Army of the United States who have been commissioned since March 3, 1865, to the three months' extra pay allowed by act of Congress to those commissioned prior to that date.

I will state the reason for making this adverse report. A large number of cases are being presented to the Committee on Military Affairs, asking the enlargement of the scope of the payments out of the Treasury for claims of a military character. This petition is one of that class. It was provided by law that officers mustered into the service prior to the 4th of March, 1865, should receive when mustered out three months' extra pay. This petition asks that officers mustered in after the 3d of March be placed on the same footing. If we should make another limit anywhere there would be somebody beyond the line who would want it extended to cover his case. If we admit this case we ought to admit several thousand other cases. The committee therefore conclude that they see no reason for changing the law in that regard. And I make this remark to indicate the general policy of the committee in cases of this sort.

The petition was accordingly laid on the table.

SALE OF ARSENAL GROUNDS.

Mr. PILE, from the Committee on Military Affairs, reported back House bill No. 451, providing for the sale of the arsenal grounds at St. Louis, and Liberty, Missouri, and for other purposes, with a substitute.

The bill was read. It authorizes the Secretary of War to sell, at such time and in such manner as he may deem most advantageous to the interests of the Government, subject to the provisions hereinafter contained, the following military reservations and public property, namely:

First. The ground now occupied by the St. Louis arsenal, in the city of St. Louis, Missouri, and that occupied by the United States arsenal situated at Liberty, Missouri, together with such public buildings, machinery, and other property appertaining thereto as cannot be advantageously employed in the construction or improvement of other arsenals or military posts.

Second. That portion of the military reservation known as Fort Leavenworth, which lies on the east side of the Missouri river, together with that portion of said reservation situated on the west side of the Missouri river, which lies between the city limits of Leavenworth City and a line commencing on the Missouri river at the mouth of Corral Ravine and running parallel with the south line of said reservation to its western boundary.

Section two provides that the ground occupied by the Saint Louis arsenal shall be divided into blocks and lots of convenient size for building purposes, with public streets, conforming as near as may be, without detriment to the interest of the Government in the sale, to the public streets of the city of Saint Louis adjoining said grounds; a plat of this division, made in accordance with the laws of the State of Missouri, shall be filed with the proper officer in the city of Saint Louis, and the said lots shall be sold at public auction to the highest bidder after giving thirty days' notice by advertisement in at least three daily papers in the city of Saint Louis, payment to be made one third in cash, the remainder in one and two years, with six per cent. interest per annum, secured by deed of trust on the lots sold. The stone wall surrounding said arsenal shall be sold in sections not exceeding one hundred feet in length.

Section three provides that the grounds occupied by the Liberty arsenal and that part of the Fort Leavenworth reservation specified in section first, shall be sold at public auction, after due notice by public advertisement of the time and place of said sale, in such parcels, blocks, and lots as may be deemed most advantageous to the interest of the Government by the Secretary of War, upon the terms and conditions as to payment specified in the previous section.

By the provisions of section four the Secretary of War is authorized to establish an arsenal at Jefferson barracks, Missouri, for the repair and storage of arms, and for that purpose to remove from the St. Louis arsenal such machinery, tools, stores, and public property as can be advantageously used, and to expend so much of the proceeds of the sale of the St. Louis and Liberty arsenals as may be necessary, not exceeding ——— dollars. The remainder of the proceeds of the sale of the property provided for in this act shall be paid into the Treasury of the United States.

Mr. PILE. I desire to call the previous question on this bill before the expiration of the morning hour, and I will say that if the previous question be sustained I will yield to gentlemen who desire to ask for information or to debate the bill, or to amend it, the most of my hour.

The SPEAKER. The bill cannot be amended after the previous question is sustained.

Mr. PILE. By unanimous consent.

Mr. WASHBURNE, of Illinois. By unanimous consent the bill can be left open to amendment after the previous question is called.

The SPEAKER. The morning hour having nearly expired, the gentleman from Missouri proposes to call the previous question, and states that if it shall be sustained he will yield the most of his hour for questions or debate.

Mr. GARFIELD. Is it understood that the bill shall be open to amendments?

The SPEAKER. The Chair was about to submit that question to the House. Is there objection to allowing the bill to be open for amendments after the previous question has been seconded?

No objection was made.

The previous question was seconded and the main question ordered.

Mr. PILE. I send to the Clerk's desk a letter from General Grant, Secretary of War *ad interim*, inclosing a letter of General Dyer, chief of ordnance, on this subject. I ask that both letters be read.

The Clerk read as follows:

WAR DEPARTMENT,
WASHINGTON CITY, *January* 10, 1868.

SIR: I have the honor to transmit herewith, for the consideration of the proper committee, a communication of January 2, 1868, from the chief of ordnance, suggesting that action be taken for the removal of the St. Louis arsenal to the Jefferson barracks reservation; in which suggestion this Department concurs.

Very respectfully, your obedient servant,
U. S. GRANT,
Secretary of War ad interim.

HON. SCHUYLER COLFAX,
Speaker of the House of Representatives.

ORDNANCE OFFICE, WAR DEPARTMENT,
WASHINGTON, *January* 2, 1868.

SIR: The growth of the city of St. Louis, Missouri, both in extent and population, renders it advisable to take measures now for changing the site of the arsenal in that city. Since the establishment of that arsenal the extension of the city—at that time sufficiently remote from its site—has brought it into close and dangerous proximity to the arsenal and its operations. The occupation of the present site is also disadvantageous to the growth of the city, and it is requisite for its necessities. These considerations induced, as far back as 1861, the passage of a law authorizing and requiring the removal of the arsenal from the city, with a provision for its establishment on the Government reservation at Jefferson barracks. The law, however, was not carried into effect in consequence of the rebellion, and was subsequently repealed. The same considerations for changing the site of the arsenal and for its establishment on the Government reservation remote from the city now exists in a greater degree. I therefore recommend that an act similar to that approved March 2, 1861, be enacted, authorizing and requiring the removal, as soon as it can be properly effected, of the arsenal and all its operations from its present site in the city of St. Louis to a site, to be selected by the Secretary of War, on the Jefferson barracks reservation. The mode of effecting this should be similar to that prescribed by the act of 1861, namely, first, to divide into building lots that portion of the arsenal site not now used or required for the manufacture or storage of ordnance supplies, and to sell those lots to the highest bidder, after due previous public notice of the intended sale; then to proceed with the removal of all the military supplies and of the machinery and tools at the arsenal as fast as suitable buildings for their storage and application can be erected on the new site; and to divide into lots, as before, the residue of the site and sell them, with the buildings thereon, as before directed, applying the net proceeds of those sales, as fast as received, to the removal of the military supplies, machinery, and tools and the rebuilding and reëstablishment of the arsenal on the Jefferson barracks reservation on such scale as the Secretary of War may approve and authorize.

Very respectfully, your obedient servant,
A. B. DYER,
Brevet Major General, Chief of Ordnance.

General U. S. GRANT,
Secretary of War ad interim.

Mr. PILE. Mr. Speaker, the arsenal at Liberty, Missouri, has been abandoned and is not occupied either for storage or repairs. It is of no further use to the Government, and of course there can be no question as to the propriety of a sale of the ground upon which that arsenal was situated. The arsenal at St. Louis, as stated in the letter of the chief of ordnance, is inside the city limits. It is now thickly surrounded by buildings on the north, west, and south, and the population in that part of the city are in dangerous proximity to the arsenal. It is a source of great inconvenience to the inhabitants of that part of the city. The Government has a reservation twelve miles below St. Louis, removed from the city, where the arsenal will not endanger the lives of the citizens of St. Louis and will not be endangered by the proximity of so many fires and so many people in its vicinity. The arsenal can be removed to this reservation, twelve miles below the city, and the ground which it now occupies sold. I think the bill contains all the necessary restrictions and directions as to the details how this ground shall be sold, divided into lots and blocks, so that the common laborer, the

small trader, and the mechanic, who has money enough to buy one lot and build a house, but not to buy more, will have an equal chance with men who have more capital to get himself a home upon this ground.

Mr. MAYNARD. I would ask the gentleman how much ground there is at this St. Louis arsenal?

Mr. PILE. About twenty-seven acres.

Mr. MAYNARD. How near is it to the business part of the city?

Mr. PILE. There are business places and manufactories all around it on three sides.

Mr. MAYNARD. Are there any purchasers in contemplation?

Mr. PILE. Every lot will be bought at auction when it is exposed for sale.

Mr. MAYNARD. I would ask whether this property, if it were retained by the Government, would not appreciate in value and become more valuable, say in the course of five or ten years from this time?

Mr. PILE. It possibly would; but the Government is in danger every month that it retains the machinery and stores at these buildings of losing by accident, from the proximity of the arsenal to manufactories and private dwellings built right up against it, five times the appreciation that may be attained by holding the property for four or five years longer.

With reference to the reservation at Fort Leavenworth I will say that it is a very large reservation, six miles one way and three and a half the other. About two thousand acres of the reservation is on the east side of the Missouri river, low, flat, bottom land, which was previously covered by a dense growth of timber, but that has been cut off by the military authorities for use as fuel and lumber at the fort, until now it is almost stripped of timber.

This is of no further use to the Government; it is not deemed by the military authorities of any further value to the Government, and they recommend that that part of the reservation be sold.

Adjoining the city of Leavenworth there is a strip of land embracing about six hundred acres, between the city limits of the city of Leavenworth and a line running parallel with Corral Ravine, commencing on the Missouri river at the mouth of Corral Ravine. This will leave one mile between the boundary thus fixed and the fort, so that there will be no danger of bringing the population of the city in too close proximity to the fort by the sale of this portion of the reservation. It is very desirable that this land should be sold. The officers in charge of Fort Leavenworth favor the sale of that portion of the reservation, as do General Sherman, General Sheridan, General Grant, and the Secretary of War.

I now desire to make a single remark upon one provision of the bill, and then I will yield for any question gentlemen may desire to ask, or to any suggestion other gentlemen may desire to make. I refer to that provision of the second section of the bill providing that in the sale of the ground upon which the St. Louis arsenal is situated, the sale shall be made by lots, payment to be made one third in cash, the balance in one and two years at six per cent. interest.

I have been familiar for years with the sale of real estate in St. Louis. I know it has been frequently attempted to sell real estate there for cash, and that in every such instance the owner has failed to realize by twenty to twenty-five per cent. what property right alongside of that has realized when sold in the manner indicated in this bill. There are so many people there who want to buy property, and who have money enough to pay one third of the price, and not enough to pay the balance; and money is worth so much there for use to a large number of the population that they will pay from twenty to twenty-five per cent. more for land if they can buy it on these terms than if it is sold for cash down.

If the officers having charge of this sale execute deeds of trust for the use and benefit of the United States Government, which is the method in use there of securing payment for land sold, there will be no danger of any loss on the part of the Government. The Government will get six per cent. interest on the deferred payments, and I am certain more will be realized, by from twenty to twenty-five per cent., than if the sale was made for cash.

Mr. WARD. Will the gentleman yield to me for a question?

Mr. PILE. Certainly.

Mr. WARD. I was out of the Hall when this bill came up to-day. I would inquire of the gentleman what object there is in tearing down one arsenal and building up another?

Mr. PILE. I think if the gentleman had given attention to the explanation——

Mr. WARD. I was not present.

Mr. PILE. Very well; I will answer the gentleman from New York [Mr. WARD] by saying that the present arsenal at St. Louis is inside the city limits. It is surrounded by population on three sides. This population, with the manufactories, saw-mills, steam-mills there, using fuel, is in such proximity to this arsenal, with its stores of powder and ammunition, make the danger of explosion very great, and the inconvenience to citizens is of such magnitude, that the growth of that portion of the city is very much hindered. The United States Government has a reservation only twelve miles below.

Mr. WARD. Can this land be sold for enough to pay for erecting a new arsenal?

Mr. PILE. For three times as much. There is a blank in the fourth section to be filled, to limit the amount that shall be expended for the establishment of this arsenal at Jefferson barracks.

I shall move at the proper time to fill that blank by inserting $200,000. The arsenal grounds in the city of St. Louis will certainly sell for from four hundred thousand to five hundred and fifty thousand dollars. Some persons are of opinion that they will bring even $600,000; and I have seen some estimates as high as $1,000,000.

Mr. WILSON, of Iowa. I ask the gentleman from Missouri [Mr. PILE] to yield to me that I may offer an amendment.

Mr. PILE. I will hear the amendment.

Mr. WILSON, of Iowa. It is to strike out the fourth section providing for the establishment of an arsenal at Jefferson barracks. I propose to offer this amendment for the reason that the Government has already established an armory and arsenal at Rock Island, and is expending a great deal of money in erecting works there which shall answer all the demands of the Government in that part of the country.

Mr. PILE. I will allow the gentleman to offer the amendment.

Mr. WILSON, of Iowa. I move to amend by striking out the fourth section of the bill. My object is to prevent a large expenditure for the establishment of a new arsenal, when the arsenal at Rock Island will, as I think, answer every purpose. I desire also to offer another amendment, providing that the money received from the sale of these grounds shall be paid into the Treasury of the United States.

Mr. GARFIELD. There is already a provision of that kind in the bill.

Mr. PILE. Mr. Speaker, I wish to say a word in reply to the gentleman from Iowa, [Mr. WILSON.] The chief of ordnance, the Secretary of War, and General Grant are all very strongly opposed to abandoning entirely the arsenal at St. Louis. They say that the necessities of the military service in the West and South require an arsenal for storage and repairs solely, either at St. Louis or Jefferson barracks. The bill is so guarded that this arsenal shall be only for storage and repairs, not for manufacturing. Very little repairing will be done there. During a part of the year it is difficult to reach Rock Island, the river being frozen. Hence such an arsenal as is proposed in this bill is necessary to furnish supplies in the West, the Southwest, and the South. This arsenal is for storage mainly and for repairs in a very small way. It will not cost probably $200,000. The chief of ordnance is of opinion that it will not cost that much. I have no objection to reducing the amount, if it be deemed proper, to $150,000.

Mr. WASHBURNE, of Illinois. I hope the gentleman will offer such an amendment. I think there should probably be in the neighborhood of St. Louis an arsenal merely for the deposit of arms.

Mr. LOGAN. An arsenal for repairs cannot be constructed for $150,000.

Mr. WASHBURNE, of Illinois. I did not suppose the bill contemplated anything more than an arsenal for storage. I do not think it right to build up another extensive arsenal in that portion of the country when we have spent so much money on the Rock Island arsenal.

Mr. PILE. An arsenal for storage is a necessity either at St. Louis or Jefferson barracks.

Mr. WASHBURNE, of Illinois. Then I suggest to the gentleman to amend the bill so as to specify "an arsenal for storage and the preservation of arms."

Mr. PILE. I move to amend by striking out the words "repair and," so as to make the clause read "an arsenal at Jefferson barracks, Missouri, for the storage of arms."

There being no objection, the amendment was agreed to.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] has moved to strike out the fourth section. The vote on that amendment will be reserved.

Mr. MUNGEN. I simply wish to say that an arsenal for the storage of arms should imply the right to overhaul and repair those arms whenever necessary. When arms have laid in an arsenal a year or two they need overhauling, cleaning up, &c.

Mr. PILE. I have no doubt that will be understood as included in the term storage. I yield now to the gentleman from New York.

Mr. BARNES. I desire to ask whether it is incorporated in the bill that this property shall be sold otherwise than for cash?

Mr. PILE. The movable property is to be sold for cash. The real estate, the ground, it is provided shall be sold at public auction, payment one third in cash, and the balance in one and two years, secured by deed of trust on the property sold, with six per cent. interest. The Government will realize from twenty to twenty-five per cent. more in this way.

Mr. WASHBURNE, of Illinois. I ask the gentleman to amend the bill so that the title, until all the money shall be paid, shall remain in the Government, and thus save the Government from going through the form of a deed of trust and being compelled to go into a court of chancery for the purpose of getting a decree.

Mr. PILE. If the gentleman was well acquainted with the law of the State of Missouri and the practice there in reference to the sale of real estate he would not object. When real estate is sold the vendor gives a deed to the purchaser, and the purchaser secures the deferred payments to the seller by deed of trust. That deed of trust is executed and the property sold to make the money, without process of law, on advertisement of twenty days. It is that which I desire to accomplish by a deed of trust.

Mr. LOGAN. I ask the gentleman to insert the word "only" after the word "storage."

Mr. PILE. I think it is explicit enough now.

Mr. LOGAN. It may be explicit enough for us, but not for others. I therefore ask the word "only" shall be inserted.

Mr. PILE. I have no objection to accept that as a modification of the bill.

Mr. CLARKE, of Kansas. I offer the following amendment to the third section of the bill:

Provided, That no part of the Fort Leavenworth reservation west of the Missouri river shall be sold in lots exceeding ten acres each.

Mr. WILSON, of Iowa. I desire to modify

the amendment I have offered so as to strike from the fourth section all after the word "the" down to and including the word "of," so it will then read:

And be it further enacted, That the proceeds of the sale of the property provided for in this act shall be paid into the Treasury of the United States.

Mr. BOUTWELL. Let me have the attention of the gentleman from Missouri for one moment. Is it not true if we establish an arsenal for any purpose it will soon come to be an arsenal for all purposes and involve the expenditure of immense sums of money? That is the history of all these small beginnings.

Mr. PILE. The military authorities are all in favor of this work, and they are distinct in saying they have no desire to establish such an arsenal as the gentleman refers to. It is tied up in this bill so there can be no such arsenal without further legislation by Congress. But an arsenal is necessary there for the purposes of storage. The military authorities agree in that opinion, and when only $150,000 is asked for I hope there will be no serious objection to the establishment of this arsenal for storage only.

Mr. VAN WYCK. What is the necessity for destroying the arsenal at Liberty, Missouri?

Mr. PILE. There is no arsenal there, but simply arsenal grounds.

Mr. VAN WYCK. I ask the gentleman whether the magnificent arsenal at Rock Island is not sufficiently near to answer all the purposes of storage of arms? There is an immense arsenal there which has cost us a large amount of money.

Mr. PILE. I have already answered that question two or three times, that during some seasons of the year, the river being closed up, the arsenal at Rock Island is not easily accessible. The arsenal provided for in this bill is necessary for supplying the forts in the South and Southwest, and the military authorities are unanimous in its favor.

Mr. VAN WYCK. Cannot the quartermaster's department find sufficient storage at Fort Leavenworth during that season when Rock Island is closed up? And I would like to know what quantity of land it is proposed to sell of the Fort Leavenworth reservation?

Mr. PILE. About six hundred acres on the west side of the river and two thousand on the east side.

Mr. VAN WYCK. Then I think the amendment of the gentleman from Kansas [Mr. CLARKE] is proper. Will the gentleman allow an amendment to be offered providing that the lots in St. Louis shall be sold separately? The history of the country shows a little experience in frittering away these reservations. I therefore ask the gentleman to accept the amendment.

Mr. PILE. It is provided now that they shall be sold by lots.

Mr. VAN WYCK. Separately.

Mr. PILE. If you can sell by lots without selling separately——

Mr. VAN WYCK. They are to be put up in lots and sold, but I understand no provision is made requiring them to be sold separately. You may sell a thousand in one parcel. I ask if it is the intention of the committee not to accept the amendment?

Mr. PILE. If the gentleman will give me his attention I will satisfy him in that regard by yielding to him with the greatest possible pleasure to move to insert the word "separately." He need not become so vehement on the subject. [Laughter.] I have no objection to the amendment, though I think the bill abundantly makes that provision.

Mr. VAN WYCK. I desire——

The SPEAKER. Does the gentleman from Missouri [Mr. PILE] yield to the gentleman from New York, [Mr. VAN WYCK?]

Mr. PILE. I decline to yield further.

Mr. VAN WYCK. Then I will crave the indulgence of the House to offer the amendment.

The SPEAKER. The gentleman from Missouri has the floor.

Mr. PILE. I yield to the gentleman from Illinois, [Mr. HARDING.]

Mr. HARDING. I desire to say, in the hearing of the House, that there is a communication in the depth of winter between Rock Island and St. Louis, and that in 1862 and 1863 if there had been no communication there would not have been any of the gentleman's constituents under the old flag in that neighborhood. [Laughter.]

Mr. PILE. I desire to say, in answer to the remark of the gentlemen from Illinois, [Mr. HARDING,] that the loyal people of St. Louis took care of the arsenal there and captured Camp Jackson, with the treasonable hordes that were collected there, and were abundantly able themselves to take care of the St. Louis arsenal. And, with reference to the suggestion about the railroad communication, the gentleman from Illinois [Mr. HARDING] must know that the transportation of ordnance stores, including ammunition, by railroad is a dangerous thing, and the War Department desires to avoid it. I now yield to the chairman of the committee five minutes.

Mr. GARFIELD. I desire to say only a word in regard to the bill.

Mr. HARDING. I was there with my regiment anyhow. [Laughter.]

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] has the floor.

Mr. GARFIELD. The Committee on Military Affairs in considering this subject adopted a rule that whenever public property was sold in any considerable quantity the proceeds should be paid into the Treasury of the United States, and then if any buildings were wanted they could be built in accordance with the law and paid for out of the Treasury. It was thought to be more business-like to do so. We therefore struck out all the provisions in the original bill relating to Rock Island and only consented that enough of this money should be directed to provide for the proper storage and repair of arms in the Jefferson barracks. The word "repair" has now been stricken out, and there was a blank purposely left for the amount to be inserted for the arsenal for storage purposes.

Mr. WILSON, of Iowa. Will the gentleman allow me to ask a question?

Mr. GARFIELD. Yes, sir.

Mr. WILSON, of Iowa. The gentleman states correctly that the word "repair" has been stricken out, but the provision for machinery remains. What is to be done with that?

Mr. GARFIELD. The word "storage" is left in. I suppose they can have it stored, if it is desired.

Mr. WILSON, of Iowa. The bill provides for machinery.

Mr. GARFIELD. The gentleman need not have interrupted me, for I agree with him. I do not deem it necessary now to provide for the arsenal at all at Jefferson, there being an arsenal at Rock Island and at Fort Leavenworth, and one recommended further west, which we shall probably ask for before long. But I suggest that whatever is needed to be done hereafter may be done by a separate bill.

Mr. PILE. The effect of that would be to defeat the whole sale of the St. Louis arsenal grounds. I am certain that if the bill is so modified and no provision for an arsenal at St. Louis is included in the bill, and it goes to the Senate, and they refer to the military authorities, the military authorities will be so urgent in their representations of the necessity of an arsenal there to be established now, so that the stores and other public property can be transferred from St. Louis to Jefferson barracks during the time of the laying out and sale of this ground, that they will defeat the whole bill.

I am certain that the Secretary of War and the General of the Army will not recommend the passage of the bill and the sale of the St. Louis arsenal without a provision to establish an arsenal for storage at Jefferson barracks. To yield the provision establishing an arsenal at Jefferson barracks is, in my judgment, to yield the whole bill so far as the sale of the arsenal at St. Louis is concerned.

Mr. WASHBURN, of Indiana. I desire to ask the gentleman if we have not got an arsenal at Indianapolis in direct communication with St. Louis and another at Columbus, Ohio?

Mr. PILE. I do not know the character of the arsenal at Indianapolis.

Mr. WASHBURN, of Indiana. It cost a good deal of money at least.

Mr. PILE. I now ask that the vote be taken.

Mr. VAN WYCK. I move to amend the second section by adding after the word "sold" in the ninth line the word "separately." While that section provides for the surveying and cutting up into small lots of this very valuable tract of land, it nowhere requires that the lots shall be sold separately.

Mr. PILE. I have no objection to that amendment.

Mr. MAYNARD. I move to lay the bill and amendments on the table. You and I, sir, have some recollections of the sale of Fort Snelling, and this seems to be something analogous.

The SPEAKER. The gentleman from Missouri [Mr. PILE] desires to offer a further amendment.

Mr. MAYNARD. I withdraw my motion to allow it to come in.

Mr. PILE. I move to fill the blank in section four with the words "one hundred and fifty thousand."

Mr. WASHBURNE, of Illinois. I move to add after those words the words "and no buildings or works shall be contracted for to cost a larger sum."

Mr. STEVENS, of Pennsylvania. I desire to ask the gentleman from Missouri [Mr. PILE] a question. If I recollect our legislation aright, there was a very large appropriation made for this same purpose for the arsenal at Rock Island. I want to know how much was appropriated at the last session of Congress for the arsenal at Rock Island?

Mr. PILE. I do not remember the amount of the appropriation for Rock Island. I will say to the gentleman from Pennsylvania that that is not involved in this bill. This is not in reference to the Rock Island arsenal.

Mr. STEVENS, of Pennsylvania. No; I know that; but if we have an arsenal at Rock Island, that may obviate the necessity of this large appropriation. My recollection is that the appropriation was over half a million.

Mr. PILE. I think it was something over half a million. But there is now at St. Louis an arsenal for storage and repairs, and that arsenal is situated on ground within the city limits of St. Louis, with a population all around it on the north, west, and south sides. That population is in dangerous proximity to the arsenal. The military authorities are of the opinion that it should be removed to Jefferson barracks, the present arsenal being broken up and an arsenal for the storage of arms and ammunition for the supply of the West and Southwest established at Jefferson barracks, on the reservation twelve miles below St. Louis, to cost not more than $150,000.

The proceeds of the sale of the arsenal at St. Louis will exceed by two hundred and fifty or three hundred thousand dollars, probably four hundred thousand dollars, the cost of the establishment of an arsenal at Jefferson barracks.

Mr. STEVENS, of Pennsylvania. My idea was that there was no necessity for an arsenal there.

Mr. PILE. The military authorities say otherwise.

Mr. MAYNARD. I now renew the motion that the bill and pending amendments be laid on the table.

The question was taken; and upon a division there were—ayes 42, noes 55.

Before the result of the vote was announced,

Mr. MAYNARD called for the yeas and nays.

The yeas and nays were not ordered.

The motion to lay on the table was not agreed to.

The question recurred upon the pending amendments to the substitute; the first of which was the amendment moved by Mr. VAN WYCK, to insert the word "separately" in section two after the words "sold by lots."

The amendment was agreed to.

The next amendment was the one moved by Mr. CLARKE, of Kansas, to add to section three the following:

Provided, That no part of Fort Leavenworth reservation, west of the Missouri river, shall be sold in lots exceeding ten acres each.

The amendment was agreed to.

The next amendment was one moved by Mr. PILE, to fill the blank in section four with "$150,000" as the sum to be expended on the new arsenal at Jefferson barracks.

The question was taken; and upon a division there were—ayes fifteen, noes not counted.

So the amendment was not agreed to.

The next amendment was one moved by Mr. WASHBURNE, of Illinois, to the effect that no building or other work should be contracted for at Jefferson barracks to exceed the amount fixed by the section.

The SPEAKER. The House having refused to fill the blank, the amendment of the gentleman from Illinois [Mr. WASHBURNE] is not applicable to the section.

The amendment was not agreed to.

Mr. PILE. The fourth section of the substitute has been modified so that the arsenal to be erected at Jefferson barracks shall be used for the storage of arms only. Another provision of that section provides for the removal from the St. Louis arsenal to the arsenal at Jefferson barracks of "such machinery, tools, stores, and public property as can be advantageously used." I desire to modify that provision by striking out the words "machinery, tools," so as to make it conform to the section as now modified.

The SPEAKER. That is not now in order.

Mr. LOGAN. I desire to move to strike out all of the fourth section that provides for the establishment or building of another arsenal.

The SPEAKER. That is the amendment of the gentleman from Iowa, [Mr. WILSON,] now pending.

The question was upon the amendment moved by Mr. WILSON, of Iowa, to strike out of the fourth section the following:

The Secretary of War be, and he is hereby, authorized to establish an arsenal at Jefferson barracks, Missouri, for the storage of arms, and for that purpose to remove from the St. Louis arsenal such machinery, tools, stores, and public property as can be advantageously used, and to expend so much of the proceeds of the St. Louis and Liberty arsenals as may be necessary, not exceeding —— dollars. The remainder of—

So that the section will read as follows:

SEC. 4. *And be it further enacted*, That the proceeds of the sale of property provided for in this act shall be paid into the Treasury of the United States.

The amendment was agreed to.

The question recurred upon the substitute as amended.

Mr. MUNGEN. I move to amend section three by adding to the provision moved by the gentleman from Kansas [Mr. CLARKE] the following:

But shall be sold in lots of half an acre, separately, if desired by purchasers.

The proviso will then read:

Provided, That no part of Fort Leavenworth reservation, west of the Missouri river, shall be sold in lots exceeding ten acres each, but shall be sold in lots of half an acre, separately, if desired by purchasers.

The amendment of Mr. MUNGEN was agreed to.

Mr. RAUM. I move to amend the substitute by adding thereto the following section:

And be it further enacted, That such proportion of the machinery of the St. Louis arsenal as may be of value shall be removed to the Rock Island arsenal.

Mr. DODGE. There is no building at Rock Island in which to store that machinery. I would, therefore, suggest to the gentleman from Illinois [Mr. RAUM] that it would be better to amend the fourth section of the substitute by adding to it the following:

Provided, That the machinery, ordnance, stores, and arms that the Government desire to reserve from sale shall be stored at any arsenal now established or to be established by law.

Mr. RAUM. I will accept that in lieu of my amendment.

The amendment was agreed to.

The question recurred upon the substitute as amended; and being taken, it was adopted.

The bill as amended was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PILE. I call the previous question on the passage of this bill.

The previous question was seconded, and the main question ordered.

Mr. MAYNARD. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then passed.

Mr. PILE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEATH OF HON. CORNELIUS S. HAMILTON.

The SPEAKER. The delegation from the State of Ohio stated to the House a few days ago, through the Chair, their intention to announce at two o'clock to-day the death of their late colleague, Mr. HAMILTON. That hour has now arrived.

Mr. LAWRENCE, of Ohio. Mr. Speaker, the sad and melancholy duty has been devolved upon me, by a meeting of the Ohio Senators and Representatives in Congress, of announcing the decease, at his home in Marysville, on the 22d day of December last, of one of our colleagues, Hon. CORNELIUS S. HAMILTON, of the eighth congressional district of Ohio. The painful calamity which terminated his earthly career and makes this solemn announcement necessary adds to the grief and affliction which naturally follow the unlooked for demise of an honored member of the Government suddenly withdrawn from the public service; of a citizen removed from usefulness in society and from cherished friendships; of a husband and father cut off from the hallowed associations and duties of home, of family, of wife, and of children.

If custom had never made it appropriate on occasions like this to pay a truthful tribute of respect to the memory of a departed colleague, yet in the life, character, and services of the deceased there is so much to illustrate the value of republican institutions—so much to admonish all that merit is the true road to success, so much that is worthy of example—that we may find in them ample food for profitable reflection and study, and material deserving an enduring record. A personal and, I may say somewhat intimate, acquaintance with the deceased of nearly twenty-five years has enabled me to know at least some of his many virtues, and to sympathize and unite in condolence with and share in part the grief of those who deeply mourn his loss.

Of his personal and official history I will briefly speak:

CORNELIUS SPRINGER HAMILTON was born January 2, 1821, in the township and county of Muskingum, in the State of Ohio, where he resided with his parents until they and he removed to Union county early in 1839. His father and paternal grandfather were men of commanding personal presence, fervent piety, and much native force of intellect. An uncle, Rev. Samuel Hamilton, was in the early part of his life, and perhaps to the age of fifty years, a man of very superior gifts. The mother of the deceased—of the family of the Springers—like her kinsmen, was distinguished by great force of character. She was diffident, quiet, with deep piety, untiring energy, and strong, vigorous intellect. The paternal and maternal ancestors belonged to the class of independent farmers. The father died only a few months since in the seventy-ninth year of his age; and though he raised twelve children, ten sons and two daughters, every one of whom was living when the youngest reached majority, yet it is said and truly "that he did not live long enough ever to have heard one of his children swear an oath, to see one chew or smoke tobacco, or to know of one ever having been intoxicated, or even to have taken a dram at a place of public drinking." The energy, industry, and pure morality of the parents were inherited by their children, including the deceased. Up to his eighteenth year he labored assiduously on the paternal farm in Muskingum, with the ordinary advantages of common schools for two or three months each winter during the latter half of this period. After the removal to Union county, for two years he directed and with great energy and determination assisted the labor by which the father's newly acquired forest of fifteen hundred acres was in rapid process of being converted into delightful farms. During his twentieth and twenty-first years he devoted about eighteen months with great industry in improving his education at Granville college. He early gave evidence of superior intellectual power, and during the years of his farm labor he was a daily student of history, biography, or other works. His early but well-read library consisted of Weem's Life of Washington, the Life of Marion, History of Western Adventures, Goodrich's History of the United States, histories of Rome and Greece, and American biography, to which were added by his uncle, Rev. C. Springer, Johnson's Rambler, Boswell's Life of Johnson, and the Spectator. Upon the removal to the forest home in Union county a good supply of works of standard poets was added—those of Pollok, Milton, Shakspeare, Pope, Goldsmith, Campbell, Lamb, Kirke White, and Rodgers, not omitting Burns.

Though few, if any, surpassed Mr. HAMILTON, on that great forest farm in daily labor, yet he was a devoted and industrious student of these great masters. He realized the necessity of great application to develop the mind and store it with abundant knowledge, and he has illustrated the words of a great author of antiquity:

"Nil sine magno,
Vita labore dedid mortalibus;"

or, as Wirt has, with some latitude, translated it into his own almost unrivaled eloquence: "There is no excellence without great labor. It is the fiat of fate from which no power of genius can absolve."

The age of twenty-two found this rising man a fine English scholar, with a rare knowledge of the authors I have named, and of that book of books, the Bible, which a father's care and a mother's love had earnestly and always taught him to study, to reverence, and to obey; whose precepts he accepted and through life made a rule of practice and of faith by practice, rather than in professions, or in adherence to any particular and established school of doctrine. Of him it may be truly said "he loved virtue for virtue's sake," and with a firm belief in the truths of Christianity his "life was in the right."

He continued his agricultural pursuits up to about the year 1847. In the mean time, about 1845, he held the office and performed the duties of land appraiser and assessor in his county. In 1850 he was elected a member of the constitutional convention which, during its sittings in 1850 and 1851, framed the present constitution of the State of Ohio. He was soon after admitted to the bar and engaged in the practice of the law. About the same time he became the editor and proprietor of the Marysville Tribune, which he conducted with marked ability, contributing much to mold the political and moral sentiment of the community in which he resided.

In 1856 and 1857 he represented his district

in the Senate of Ohio with a fidelity and an ability which secured for him a high reputation throughout the State. During the first session he was made chairman of a committee intrusted with the important duty of investigating certain alleged frauds connected with the leasing of the public works of the State. His investigations and researches were prominent topics of discussion by the press and political parties, but the concurrent testimony of all connected with them is that he dared to do what he conceived to be his duty, and no party fealty could induce him to swerve from that, whatever might be the peril to him personally or to the party whose general principles he supported. In the discussions to which this led he wielded a pen the power of which has never, perhaps, been more forcibly felt in any State controversy; but it belongs rather to the history of Ohio than to especial consideration here. When the national internal revenue act of July 1, 1862, was put in operation he was appointed by President Lincoln assessor of the eighth congressional district of Ohio, and performed the duties of the office with an ability, energy, and fidelity which commanded the public approval and the confidence of all in his unsullied integrity. After the Philadelphia convention of 1866, being opposed to the policy of President Johnson, he was relieved of the position he had so well and so faithfully filled.

In August, 1866, he was nominated as a candidate for Congress in the eighth Ohio district, and in October of that year was elected over his competitor by over eighteen hundred majority.

While engaged in his duties here as a member of the present Congress during the past month he was notified by his wife that one of their sons was seriously afflicted with indications of insanity. He immediately repaired to his home to find his worst fears realized. On Saturday, the 21st December, he had made arrangements to remove the insane son to an asylum on the Monday following. On the morning of the next day, the Sabbath, while engaged in feeding his stock, the son, in a fit of frenzy, bereft of reason and unconscious of crime, with a strip of plank struck the fatal blows which, fracturing the skull of his father, produced instant death.

This son is described in perhaps the last letter ever written by our departed colleague, thus:

"He has been one of the most quiet, industrious, and exemplary boys I ever knew, and my chief reliance for the management of my affairs and the control of my other children in my absence."

Thus passed away, in the prime of manhood, by a sad calamity, just as he had entered on an enlarged sphere of usefulness, one among the able and useful men of the nation, honored and beloved by all who knew him. Few men in Ohio wielded an abler pen, or wielded it from higher convictions of duty, than did Mr. HAMILTON.

In 1855 two distinguished citizens were proposed as rival candidates before the Republican State convention of Ohio for Governor; the one since a chief justice of Ohio, and the other now Chief Justice of the United States. Both were radically anti-slavery in their views, though Chief Justice Chase had been, perhaps, more prominently distinguished in this respect, and was, for that reason, preferred by Mr. HAMILTON. When remonstrated with on the score of the loss of patronage to the press he controlled and of expediency as a party measure of running candidates of such decided opinions, he said, with great emphasis:

"Of one thing the public may be assured: whoever shall be nominated I will not be the apologist of any form of iniquity. Whatever is right is right, and I will offer no apology for advocating what is right."

When the Thirty-Ninth Congress commenced the discussion of the great work of reconstruction Mr. HAMILTON wrote and published a masterly pamphlet in favor of extending suffrage to men in all the late insurgent States, regardless of race or color. It attracted wide attention and produced a deep effect on the public mind, being at the time of its publication in advance of public opinion.

"His simple faith adored his country's flag and saw its true glory in extending its protection to the humblest equally with the highest."

One of the leading newspapers of the capital of his native State recently and truthfully said:

"Mr. HAMILTON was a man of very decided convictions and an iron man. He had a scorn of all trimmers and an impatience amounting almost to utter intolerance of all half-way measures. He made no compromises and asked none. His position was always sharply defined and rigidly maintained. He left no one in doubt where to find him, and he was generally found where such men love to be—out on the skirmish line of the advance. He detested all bomb-proof coverings, both for himself and his party, preferring to be the assailant. He was an indefatigable worker.

"He was a pronounced Radical in politics. His views were presented on the stump in a clear and forcible manner, without rhetorical flourish, and he never talked for the sake of talk. He was more ready with the pen than with the tongue."

He did not seek to imitate the qualities which in some men "dazzle and consume to little or no valuable purpose, who seldom belong to the great benefactors of mankind;" but he surpassed in those practical qualities which "noble ends by noble means" attain. In all his public acts it was characteristic of Mr. HAMILTON that he never lost sight of that sentiment of Salust; "*pulchrum est benefacere reipublicæ.*" As a lawyer he won a reputation and success by his habit of investigation, his strong intellect, and the confidence inspired by his honesty of purpose and the purity of his life. As a citizen he was public-spirited, generous, and liberal, and had deservedly secured universal confidence and respect. As a husband and father none can know his virtues so well or appreciate his untimely loss so much as the wife and children whose fireside and home will no more be cheered by his provident care and by his tender affection and devoted love.

"But the narrative of his life, the evidences of his patriotism, the wisdom of his counsels, and his private virtues, present a picture that friendship need not flatter and individual judgment is unable to exaggerate."

He has passed from earth to the "sublimer views of another and a better world which Christianity has unfolded with such inexpressible glory—'when this corruptible shall put on incorruption and this mortal shall put on immortality.'"

Men pass away, but the lofty spirits that conceive, and, from right motives, execute good works here, these cannot perish:

"These shall resist the empire of decay,
When time is o'er and worlds have passed away;
Cold in the dust the perished heart may lie,
But that which warmed it once can never die."

Mr. Speaker, I move the adoption of the following resolutions:

The Clerk read as follows:

Resolved, That in the death of Hon. CORNELIUS S. HAMILTON, late Representative in Congress from the eighth district of Ohio, this House has lost a worthy and useful member, the country a most estimable citizen, and his family, relatives and associates, a steadfast and valued friend.

Resolved, That, to give expression to our due appreciation of the talents, attainments, and patriotism of the deceased, and to indicate their regret and sorrow for his lamented death, the members of this House will wear the usual badge of mourning for thirty days.

Resolved, That these resolutions be spread upon the Journal of the House of Representatives, and that a copy thereof be sent by its Clerk to the family of the deceased.

Resolved, That as a mark of respect for the memory of the deceased this House do now adjourn.

Mr. MORGAN. It is a pleasant duty, Mr. Speaker, to commemorate the virtues of the dead, and to embalm in our hearts the attributes which adorned the character of one who has passed away from among us. At all times and under all circumstances there is a dread solemnity in death; and yet, sir, it is but the beginning of an eternal life. It was but the other day that our friend and colleague was among us full of life and strength and hope in the discharge of his duties to his constituents. The holidays came, and while all other hearts were filled with joy and gladness, his was gloomed by sorrow. We hastened to our homes to receive the joyous welcome of our wives and children; he was summoned away to die by the hand of a son bereft of reason. In one brief day the father became a corpse, the wife a widow, the son a parricide, and a hopeless maniac. The imagination cannot conceive, language cannot describe the anguish which has parched up the heart of the wife and mother. For her there is no future sunlight on earth; for her the only hope is Heaven. And yet we trust that the memory of the many virtues of the husband and the father, the sincere sympathy which animates every bosom, may in some degree, at least, heal the wounds whose scars must endure forever.

But, sir, the wife and the orphans are not the only mourners. The people of the eighth district of Ohio have lost an earnest and a faithful representative, and my own constituents profoundly regret the untimely death of one who was born in their midst, and whose character they all respected.

HAMILTON is gone! No longer will his name be borne on our rolls; and a stranger will soon fill the seat which was so lately occupied by him. But though he will return no more his memory will be cherished in the hearts of those who remain behind; and when we look upon his vacant seat we will all be reminded that death never ceases to knock at the portals of life, and that the next summons may be for one of us. It is a warning for all to remember that "in life we are in the midst of death," and that we should endeaver so to discharge our duties that when the summons does come we may not be unprepared.

Mr. BUCKLAND. Mr. Speaker, the eloquent and appropriate remarks of my colleagues on this occasion leaves little for me to add, but I esteem it a great privilege to have an opportunity of recording my concurrence in all that has been said of the pure and noble character of our lamented friend.

My first acquaintance with Mr. HAMILTON was as a member of the Ohio Senate in 1856. I soon discovered him to be a man whose society and friendship it was profitable to seek and to cultivate, and it was my good fortune very soon to form an intimate and reciprocal friendship with him, which continued without a moment's interruption to the day of his sad death.

I was standing by his seat on this floor, conversing with him, when he received a dispatch from home giving the first unwelcome news of the illness of his son, Thomas. The sudden change which the reading of that dispatch produced in his countenance is still fresh in my mind. In answer to an inquiry from me he stated the nature of his son's illness, and expressed his fears as to the result. He spoke most tenderly of his son, and said he had been a remarkably good and faithful boy, and was his main reliance for the care of his family and affairs in his absence, and had never before exhibited any symptoms of aberration of mind. I saw my friend for the last time as he was about leaving the hotel, the same evening, to take the cars for home, bidding me as he clasped my hand a sorrowful adieu. A few short days and the heart sickening news was sent over the country, with lightning speed, that my friend was dead by the hand of this unfortunate son, whom he loved so well. Mr. Speaker, that terrible tragedy is too sad to dwell upon.

My intercourse with Mr. HAMILTON in the Ohio Senate, where we served together two sessions, gave me an opportunity of becoming familiar with his characteristics; and I desire to say that I never knew any man more devoted to truth and justice, or more fearless or persevering in the pursuit of what he believed to be right. He was not a man of many words, but his mind was active, discriminative, and remarkably accurate, and when he spoke he confined himself closely to the question under discussion in language that could not be misunderstood; and his manner forced the conviction upon his hearers that he believed every

word he uttered; never offensive, but always positive.

During Mr. HAMILTON'S service in the Ohio Senate, he gained for himself an enviable reputation for ability and integrity, by his successful efforts in ferreting out and exposing the fraudulent designs of a powerful combination then existing in Ohio, for the purpose of controlling the public works of the State, and even the State treasury. I well remember how earnestly he labored in that cause, and how indignantly he spurned the numerous attempts which were made by interested parties to divert him from his purpose. The plunderers of the public treasury found in him a public servant who could neither be driven or corrupted. The State of Ohio owes him a debt of gratitude for his services in that contest.

I had not seen much of Mr. HAMILTON after he left the Ohio Senate, until he came to Washington last spring to take his seat as a member of the Fortieth Congress. Knowing his superior qualities as a man and as a statesman, I was most happy to greet him once more as a colleague, feeling assured that he would be one of the most useful members of this Congress and command respect from all. Only those who knew him well can fully appreciate his loss to this body and to the country.

Mr. Speaker, I never had the pleasure of enjoying the society of Mr. HAMILTON at his home, in private and social life, but during all his stay in Washington I was with him more or less every day, and we spent many hours together in walks and at our rooms. He was a social, kind, and genial companion, very fond of conversing with his friends, always cheerful and hopeful when they were desponding. His opinions on the topics of the day, whether political, moral, or religious, were never concealed or doubtful. He spent much of his time when not engaged in public affairs in reading religious books. I was in his room the night before he was called home until a late hour. He had been reading Gezot's Meditations on the Essence of Christianity, and that furnished the principal topic of our conversation. He was a firm believer in the Christian religion and in the immortality of the soul; but his mind appeared to rise entirely above mere sectarianism, and to rest upon the broad principles or essence of Christianity, embracing the divine love of all mankind. He seemed to be endowed with that spirit of Christianity which has been denominated by a recent author "the enthusiasm of humanity;" and upon that subject he was himself enthusiastic. With him the brotherhood and natural equality of all men was a divine truism and the groundwork of all just social and political action. No doubt lingered in his mind as to the final triumph of that principle; but in the advocacy of his views he set aside all sectarian and party shackles. Appeals to his judgment always received his most earnest consideration, but any attempt at party dictation met his indignant contempt. Unwavering in his party attachments from a firm conviction that the success of that party was necessary for the future welfare of the nation, and the final triumph of the principles of universal liberty and equality which he believed to be absolutely necessary to the permanence of free institutions, yet he never permitted party considerations to influence him to do an act which he believed to be wrong.

Mr. Speaker, I might fill many pages with truthful eulogy upon the virtues of our departed friend, but I leave the rest to others. All is comprehended in the declaration, which I feel perfectly justified in making, that in his death the nation has lost a patriot and all mankind a friend.

Mr. WELKER. Mr. Speaker, I feel that I ought not to allow this occasion to pass without saying a few words in relation to my departed friend and late colleague. In doing so I cannot hope to add anything to what has already been, in fitting words, so eloquently said by my colleagues. But my personal relations to him, and my high esteem for him while living, now that these friendly ties are sundered forever, induce me to make a few remarks by way of additional tribute to his memory.

Stricken down in the full vigor of manhood, in perfect health, without one moment's warning, his fate should teach us a solemn lesson. How great are the uncertainties of life! In the very triumphs of success, in the midst of its sweetest and proudest enjoyments, "the silver cord is loosed" and "the golden bowl is broken."

Human life has been likened to "a snowflake upon a river—a moment here, then gone forever." Or, as an old author well says:

"Grass, smoke, a flower, a vapor, shade, a span,
Serve to illustrate this frail life of man."

This sad dispensation of Divine Providence should admonish us to be ready for that hour when we, too, may be called to our final home.

Mr. HAMILTON was born in Ohio in 1821. His life and career is a fine illustration of western energy and perseverance. Born before any common-school system was established in his native State, his early opportunities for education were very limited. He and the associates of his boyhood saw no "flowery beds of ease" along their rugged pathway. In the deprivations of new settlements, with few and far distant school-houses, it was no easy matter to acquire even the rudiments of education. It is said by the Greeks that the "gods sell everything to labor."

Reared to labor, without pecuniary means, he, like many of his associates of that day, was compelled "to paddle his own canoe," which he did with a strong arm and bold heart.

Hard study, hard work, self-denial, poverty, and obscurity were his companions in early life. With lofty ambition, a heart confident of ultimate success, with a mind that never swerved from its purpose, he never faltered in life's bitterest struggles. In his darkest days and gloomiest prospects he never

"Bated a jot of heart nor hope,
But bore up and steered right onward."

It is the pride of this country that here ambition does its own climbing. With us there is no royal road to success in life. No "enlightened few" crowd the avenues to distinction and fame, to the exclusion of the "many." The highest places in the country are open to the most obscure boy in the broad land. All may aspire to be great and the associates of the distinguished.

Deeply imbued with these American sentiments, with a true and high ambition to make himself useful in his day and generation, Mr. HAMILTON commenced the great battle of life. It is now ended, leaving to us its results.

What he accomplished—the high and responsible positions he attained—his faithful discharge of their various responsibilities—have already been spoken of by my colleagues, and I will not repeat them.

As his friend of many years, I feel at liberty to speak of his ability and character. He was no ordinary man. He was endowed with a high order of intellect; not great genius, but uncommon mental capacity. His strong practical common sense, his clear and comprehensive mind, enabled him to appreciate and understand, beyond ordinary men, the great questions upon which he was called to act. These qualifications would have made him a valuable member of this body.

Possessed of generous impulses, fine social qualities, he attached to himself, with hooks of steel, all who were so fortunate as to make his intimate acquaintance. High-minded and honorable, he despised mean actions, and emulated magnanimous and good ones.

Fearless and independent in thought, he never hesitated to express his convictions at all times and upon all proper occasions.

Honest and straightforward, with a courage rarely excelled, he never "trimmed" his course to suit the popular breeze. What he believed to be right he endeavored to reach without circumlocution. With the largest and broadest charity for all opinions he freely examined all, whether sanctified by antiquity or of recent growth, in order to find Right and Truth in reference to all subjects of discussion. No man in private or public life was more loved and respected by his acquaintances than he for his many sterling qualities. A true friend and honest counselor, he possessed the entire confidence of all his associates. Liberal to a fault, he was at the head of all benevolent enterprises at his home, contributing his money and his time to the cause of humanity. Whether as a lawyer, an editor, a Senator, or a member of Congress—an officer or private citizen—he at all times sustained himself with honor and credit, never shrinking from a fearless and honest discharge of his duty, never seeking to avoid the stern responsibilities thrown upon him.

By his untiring industry, his great energy, high character, and ability he had won for himself a proud position in his State.

During the time of the nation's struggle for existence in the recent rebellion he was a most active worker, contributing his time, his energies, and means to save the Republic. No truer friend of his country and all its great interests participated in the stirring scenes through which we have just passed.

Although not active in the daily transactions of this House, yet he took a deep interest in all that was done; and by his advice and thorough examination of all questions, exercised great influence in its legislation.

In his death the country, his State, and his district have sustained a great loss; his family and immediate friends an irreparable one.

The resolutions were adopted unanimously.

And then, in accordance with the concluding resolution, the Speaker (at two o'clock and forty minutes p. m.) declared the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of sundry citizens of Kentucky, praying the establishment of a mail route from Barboursville to Boston, in that State.

By Mr. BARNUM: The petition of E. S. Davis and others, to secure the rights of naturalized citizens.

Also, the petition of citizens of the United States, praying an appropriation for the removal of obstructions which impede the navigation of the East river approach to New York harbor at Hell Gate.

By Mr. HULBURD: The petition of Albert Hobbs and numerous others, citizens of Franklin county, New York, relative to the rights, &c., of naturalized citizens.

Also, resolutions of a public meeting held at Malone, New York, on the same subject.

By Mr. O'NEILL: The petition of Mrs. Jane Abbott, widow of Commodore Blakeley, formerly of the United States Navy, asking for a pension.

Also, the petition of citizens and others of Perquimans county, North Carolina, to change the port of entry and headquarters of the Albemarle district from its present location at Plymouth to Edenton.

By Mr. ORTH: The petition from sundry citizens of Indiana, asking for pensions to the soldiers of the war of 1812.

By Mr. POLSLEY: The petition of L. A. Phelps, late major fifth Virginia infantry, for relief.

By Mr. PERHAM: The memorial of Mrs. Barbara Wetteroth, for arrears of pension.

By Mr. SCHENCK: The petition of Gilbert, Bush & Co., and 112 others, citizens of Troy, New York, praying Congress not to disturb the present system of national banks.

By Mr. STEVENS, of Pennsylvania: The petition of William Rittenhouse, of Marietta, Lancaster county, Pennsylvania, for a pension.

By Mr. VAN HORN, of New York: The petition of 226 citizens and tax payers of Wil-

son, Niagara county, New York, asking an appropriation to improve the harbor at the mouth of Twelve Mile creek in said county.

By Mr. WARD: The proceedings of a public meeting held in Elmira, New York, praying Congress to take such action as will define the status of our naturalized citizens and compel foreign Governments to recognize the validity of the naturalization of our citizens who have been maltreated abroad and to secure justice to them.

Also, the petition of 300 citizens of the twenty-seventh congressional district of New York to the same effect.

WITHDRAWAL OF PAPERS.

Mr. TROWBRIDGE withdrew from the files of the House the petition and papers of the heirs of Daniel Bedinger, a lieutenant in the revolutionary war, asking for the half pay to which he was entitled.

IN SENATE.

FRIDAY, *January* 24, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes.

ENROLLED BILL SIGNED.

The PRESIDENT *pro tempore* signed the enrolled joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year, which was yesterday signed by the Speaker of the House of Representatives.

HOUSE BILLS REFERRED.

The bill (H. R. No. 511) authorizing the Secretary of the Interior to cause the lands known as the Miami Indian reservation, in the State of Indiana, to be patented, was read twice by its title, and referred to the Committee on Indian Affairs.

The bill (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, returning, in compliance with a resolution of the 22d instant, the resolution of the 21st instant, calling for information in relation to James A. Seddon, late Secretary of War of the so-called confederate States; which was ordered to lie on the table.

CONDITION OF EQUAL RIGHTS BILL.

The PRESIDENT *pro tempore* also laid before the Senate the following message:

To the Senate of the United States:

I have received the following preamble and resolution, adopted by the Senate on the 8th instant:

"Whereas Senate Bill No. 141, and entitled 'An act for the further security of equal rights in the District of Columbia,' having, at this present session passed both Houses of Congress, was afterward, on the 11th day of December, 1867, duly presented to the President of the United States for his approval and signature; and whereas more than ten days, exclusive of Sundays, have since elapsed in the session without said bill having been returned, either approved or disapproved: Therefore,

"*Resolved*, That the President of the United States be requested to inform the Senate whether said bill has been delivered to and received by the Secretary of State, as provided by the second section of the act of the 27th day of July, 1789."

As the act which the resolution mentions has no relevancy to the subject under inquiry, it is presumed that it was the intention of the Senate to refer to the law of the 15th September, 1789, the second section of which prescribes—

"That whenever a bill, order, resolution, or vote of the Senate and House of Representatives, having been approved and signed by the President of the United States, or not having been returned by him with his objections, shall become a law or take effect, it shall forthwith thereafter be received by the said Secretary from the President; and whenever a bill, order, resolution, or vote shall be returned by the President, with his objections, and shall, on being reconsidered, be agreed to, be passed, and be approved by two thirds of both Houses of Congress, and thereby become a law or take effect, it shall, in such case, be received by the said Secretary from the President of the Senate or the Speaker of the House of Representatives, in whichsoever House it shall last have been so approved."

Inasmuch as the bill "for the further security of equal rights in the District of Columbia" has not become a law in either of the modes designated in the section above quoted, it has not been delivered to the Secretary of State for record and promulgation. The Constitution expressly declares that "if any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he has signed it unless the Congress by their adjournment prevent its return, in which case it shall not be a law." As stated in the preamble to the resolution the bill to which it refers was presented for my approval on the 11th day of December, 1867. On the 20th of the same month, and before the expiration of the ten days after the presentation of the bill to the President, the two Houses, in accordance with a concurrent resolution adopted on the 3d of December, adjourned until the 6th of January, 1868. Congress by their adjournment thus prevented the return of the bill within the time prescribed by the Constitution, and it was therefore left in the precise condition in which that instrument positively declares a bill "shall not be a law."

If the adjournment in December did not cause the failure of this bill because not such an adjournment as is contemplated by the Constitution in the clause which I have cited, it must follow that such was the nature of the adjournments during the past year, on the 30th day of March until the first Wednesday in July, and from the 20th of July until the 21st of November. Other bills will therefore be affected by the decision which may be rendered in this case, among them one having the same title as that named in the resolution, and containing similar provisions, which, passed by both Houses in the month of July last, failed to become a law by reason of the adjournment of Congress before ten days for its consideration had been allowed the Executive.

ANDREW JOHNSON.

WASHINGTON, *January* 23, 1868.

Mr. EDMUNDS. I move that that communication be referred to the Committee on the Judiciary, and on its reference I have simply a word to say. It is perfectly manifest to me, from an examination that I have made of the subject since the resolution calling for that information was introduced, that the construction which the President puts upon the Constitution is altogether wrong, and that the transaction of public business would be vastly impeded if Congress were to acquiesce in such a construction; and I hope that we shall be able to adopt some measures which will put all the departments of the Government upon a common understanding upon that subject. Of course, this is in no sense a party question. Although it happens to arise now upon a bill which passed upon a division of parties, after all the question has no political idea involved in it whatever; and I shall hope, therefore, when the matter comes to be considered in committee and reported upon, that we may consider it in a spirit which has no connection with and no incitement from the fact that this particular bill happens to be the subject of a difference of opinion. The same question exactly arose in the State of New Hampshire in 1863, under a constitution which, like most of our constitutions, contains the same provision, as was stated the other day by the honorable Senator from Maryland. I have examined the opinion in that case. It was an opinion pronounced by the court at the request of the Legislature of that State, under a provision of their constitution and laws for obtaining such opinions. The subject is carefully and elaborately discussed, evidently without any feeling about it, and I think any gentleman who will read that opinion, to be found in the forty-fifth volume, I think, of New Hampshire Reports, cannot fail to be satisfied that this construction of the Constitution now held by the Executive is altogether erroneous, and would in practice lead to very serious inconveniences.

Mr. JOHNSON. I am inclined to concur with the honorable member from Vermont. It is a question that I have more than once considered, and I arrived at the same conclusion to which the court of New Hampshire arrived. The language of their constitution is precisely the same with that of the Constitution of the United States except that the time is less than ten days. I think the time is three days.

Mr. EDMUNDS. Five.

Mr. JOHNSON. But the other words are identical. I also concur with the honorable member in thinking—and I suppose as to that all departments of the Government will concur—that it is very desirable that the question should be settled. I suppose there will be no difficulty in the Judiciary Committee coming to a conclusion, and I have every reason to suppose, without any actual knowledge, that whatever that conclusion may be it will be one in which the Executive will acquiesce.

The PRESIDENT *pro tempore*. The question is on referring this message to the Committee on the Judiciary.

Mr. EDMUNDS. I move that the communication be printed as well as referrred.

Mr. BUCKALEW. It may be observed that Congress have already given the same construction to the Constitution which is stated by the President in his message. They have given it by their action upon a bill exactly similar to the present one. If there were any force in the reasoning now stated by the Senator from Vermont it would have been appropriate for him to raise the point at the session in November. Instead of that being done that session passed by, and a new bill was introduced and passed in the month of November.

The language of the Constitution is very peculiar, different from that of most of the States. It says that if Congress by their adjournment prevent the return of a bill within ten days the bill shall not become a law. The language is positive. The phraseology is very different ordinarily in the State constitutions. Of course where either House of Congress adjourns during a period not exceeding three days no question would arise. Either House can adjourn for three days without the consent of the other. Such a partial or casual adjournment, which constantly takes place in practice, would not be such an adjournment as is intended by the clause in the Constitution; but where an adjournment for more than three days takes place by the joint action of both Houses, it seems to me it falls within the express letter of the Constitution, and that it is impossible to give any other construction to it. Now, sir, it seems to me, in view of the clearness of that provision, and the fact that Congress has already twice acted upon that construction, it would be best for the Committee on the Judiciary and for the Senate to acquiesce in what has already been established so far as congressional and executive action is concerned, and not raise this point.

Mr. EDMUNDS. I think my friend from Pennsylvania is mistaken in supposing that Congress has given the same construction to the Constitution that the President does. It is true that in one instance it appears we have passed a bill a second time which contained the same phraseology that the first did; but I am sure he will not claim that that should have the controlling weight of a precedent when we all know that it passed without this question being considered or adverted to at all, as a mere way of hastening the accomplishment of the thing that Congress had in view in that particular bill without waiting to leave it to

be settled by the Departments or the courts, whether the previous bill was a law or not, because it would only be a piece of unnecessary legislation to pass the second bill if the first one had become law. So we have done nothing to commit ourselves to the view of the President.

Now, one word (and I do not want to occupy the morning hour with extended debate) as to the other branch of my friend's proposition. He says that Congress is adjourned, in the language of the Constitution, when each body with the consent of the other adjourns for more than three days, and the bill is therefore prevented, in the language of the Constitution, from being returned. I wish to submit it to him whether the true construction of that phrase is not an adjournment of Congress as the legislative body, the practical termination of its legislative functions as such? whereas the language of the Constitution touching the adjournment of each House is simply a limitation upon the power of each House to adjourn itself for more than three days without the consent of the other; and therefore under the Constitution it would be perfectly lawful, I think, for the Senate, with the consent of the House of Representatives, to adjourn for a week, or two weeks, or two months, although the House might continue in session all the time. That would not be an adjournment of Congress. Now, suppose that the same resolution contains a mutual consent, which is the effect of these concurrent resolutions, how does that alter the case? It therefore appears to me to be far from an adjournment of Congress because it happens that each House, consenting to the adjournment of the other, adjourns at the same time for the same length of time. That is the view on the other side. I merely state it now that both views may be considered together.

Mr. BUCKALEW. Mr. President, I suppose that in case one House only adjourns, after having asked the consent of the other, if the House in which the bill originated still continues in session the bill would have to be returned within ten days.

Mr. EDMUNDS. Suppose it did not remain in session, what then?

Mr. BUCKALEW. That is another case. I am answering the one the Senator put.

Mr. SUMNER. I merely wish to suggest that the term "adjournment," which is the subject of comment now, in the place where it occurs in the Constitution, should be interpreted to be an adjournment *sine die;* that is, such an adjournment as brings an existing session of Congress to a complete close. If we give to it that interpretation then of course the action of the President is inappropriate. But I do not wish certainly to dogmatize on a question of that kind; I think it is open, perhaps, to serious discussion, and I am very glad that it is to be referred to our Judiciary Committee, who I hope will furnish us a report which will enable us to arrive to a binding conclusion for the future.

As to the instance to which the Senator from Pennsylvania has referred, by which, as he suggests, Congress has already interpreted this clause, I wish to suggest that it seems to me he attaches to it too much significance. I had the honor of introducing that bill myself, and I know that in introducing it I had no purpose of making any concession on this question. I did it in order to speed the bill. It seemed to me at the time and under the circumstances better to push the bill in that way, and for the present waive the question of interpretation. I did not believe, however, that I or any of those who voted for the bill at that time would bind themselves as to the interpretation of that word in the Constitution for the future. I do not believe they did. I believe that to all intents and purposes it is still an open question, not controlled by any precedent.

The PRESIDENT *pro tempore.* The question is on the motion of the Senator from Vermont, to refer the message to the Committee on the Judiciary and order it to be printed.

The motion was agreed to.

ADDITIONAL BOUNTY.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 127) in relation to additional bounty; and, on motion of Mr. WILSON, the bill and amendments were ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. FERRY. I present certain resolutions in the nature of a memorial adopted at a meeting of the citizens of Bridgeport, Connecticut, on the 17th of January, 1868, wherein they say that the question of American citizenship is an American question, and that when the Government of the United States has accepted the allegiance of any person of foreign birth it is its right and its duty to give him protection as such citizen everywhere, and they earnestly call upon the Representatives and Senators of the American people in Congress assembled to take such action as will assure the people that they are the citizens of a Government which will defend and protect them against all invasions of their rights everywhere; at home or abroad. In presenting these resolutions I desire simply to say that I entirely concur with the principle and object of them, and I believe Congress will speedily adopt measures which will secure the accomplishment of the wishes of the memorialists. I move their reference to the Committee on Foreign Relations.

The motion was agreed to.

Mr. CORBETT presented a petition of citizens of the Pacific coast, asking that cotton be admitted free of duty and that the duties on bags be the same as the duties on the material out of which they are manufactured; which was referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition and papers of George Henry Preble be taken from the files of the Senate and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 223) in relation to islands in the Great Miami river, reported it with an amendment.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad, reported it without amendment.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the bill (S. No. 184) granting a pension to Mrs. Ann Corcoran, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Michael Hennessy, reported a bill (S. No. 280) granting a pension to Michael Hennessy, of Platte county, Missouri; which was read, and passed to the second reading.

He also, from the same committee, to whom was referred the petition of Anne Dycher, reported a bill (S. No. 281) granting a pension to Anne Dycher, widow of Mathew D. Dycher; which was read, and passed to the second reading.

He also, from the same committee, to whom was referred the petition of Annie E. Dixon, reported a bill (S. No. 282) granting a pension to Annie E. Dixon; which was read, and passed to the second reading.

Mr. VAN WINKLE. The same committee, to whom was referred the petition of Nathaniel Bragdon, praying an increase of pension, ask to be discharged from its further consideration, on the ground that if the allegations set forth in the petition are true the party can get his pension at the Pension Office; and this report is without prejudice to any future application he may make here.

The report was agreed to.

Mr. VAN WINKLE, from the same committee, to whom was referred the petition of Mary C. Ringold, praying an increase of pension, submitted an adverse report thereon, and asked that the committee be discharged from the further consideration of the petition; which was agreed to.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 241) authorizing the Commissioner of Patents to pay certain employés of the Patent Office for services rendered, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the petition of Robert Robinson, praying compensation for services rendered as special agent of the Post Office Department, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 55) for the relief of Leonard J. Smith, for carrying the United States mails from Great Salt Lake City, Utah, to Bannock City, Montana Territory, asked to be discharged from its further consideration; which was agreed to, and submitted a report, which was ordered to be printed.

DEFICIENCY APPROPRIATION BILL.

Mr. MORRILL, of Maine. The Committee on Appropriations, to whom was referred the action of the House of Representatives upon the amendments of the Senate to the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, have instructed me to report it back and recommend that the Senate recede from its fourteenth amendment and non concur in the amendment of the House to the third amendment of the Senate. These are the only questions now pending between the two Houses on this bill.

The PRESIDENT *pro tempore.* The fourteenth amendment will be read.

The Secretary read the fourteenth amendment of the Senate, which was to add the following additional section:

SEC. 2. *And be it further enacted,* That so much of the first section of the act of March 3, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," as authorizes the President on the application of the Secretary of any Department to transfer the moneys appropriated for a particular branch of that Department to another branch of expenditure in the same Department, be, and the same is hereby, repealed; and all acts or parts of acts authorizing such transfers of appropriation be, and the same are hereby, repealed; and no money appropriated for one purpose shall hereafter be used for any other purpose than that for which it is appropriated.

Mr. MORRILL, of Maine. I will say for the information of the Senate that I understand the reason of the House of Representatives to be that they have already a bill upon that subject, which is supposed to be more perfect and better to secure the objects contemplated by this amendment.

Mr. GRIMES. I hope the Senate will not recede. It seems to me that it will be ample time for us to take action based upon what the House of Representatives may do when the House has passed such a bill as it is supposed it may pass. The House has passed no such bill at this time, I apprehend, and it is altogether doubtful whether it will pass it or not. At any rate, we have a right to presume that it will be contested there, and is as apt not to pass as to pass.

Mr. President, we must do something of this sort, or else it will be utterly impossible for us to keep any track of the appropriations that are made by Congress. I am disposed to tell the Senate one reason why I voted in favor of this amendment before, and why I hope we shall now insist upon it. The fact was developed that the War Department a year ago made no estimate whatever for the quartermaster's bureau, knowing at the time, however, that there would be at least $48,000,000 required

for quartermasters' purposes. They expected to get a transfer from the appropriations that were made to other branches of the War Department to carry on the expenses of that particular branch. They expected to obtain, and did obtain, a transfer of $15,000,000 from the commissary department. They expected to receive, but failed to receive, $16,000,000 from an old appropriation made during the war for the purpose of raising, equipping, and disciplining the militia. They expected to obtain, and did obtain, a considerable amount from quartermasters' stores and other property sold. But failing to obtain this transfer from an old appropriation for raising, equipping, and disciplining the militia of $16,000,000, they were compelled to come to Congress and ask for a deficiency of $12,000,000, and show us upon what they had hitherto based their expenditures. I, as one member of the Committee on Appropriations and as a member of this body, thought that it was the duty of the Department to estimate from the start, and inform the House of Representatives and Senate exactly what they wanted, and not go back to an old appropriation made three or four years before for a specific purpose, and have that transferred from the purpose for which we appropriated it in order to carry on another branch of the Government.

I could specify a great many other instances where transfers have been made of this kind. There is nothing in the world under the act of 1809 to prevent the Secretary of War, if he can obtain the consent of the President to that effect, from transferring an appropriation for the improvement of a river or harbor in the West to the construction of a fort on the Atlantic coast. The President can, under that act, transfer any appropriation from any one branch or bureau of the War Department, or of the Navy Department, or of the Treasury Department, to the prosecution of any other work in another branch or bureau of the same Department. When the House shall have passed their bill and sent it here I shall vote for it with great alacrity as cumulative upon the law which we propose to put upon the statute-book now; but I trust we shall not fail to avail ourselves of the first opportunity to record our condemnation of this manner of making transfers from one bureau to another.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, that the Senate recede from this amendment.

Mr. GRIMES. I move that the Senate nonconcur with the action of the House.

The PRESIDENT *pro tempore*. The result of one motion determines the other, and I think a motion to recede takes precedence of a motion to non-concur.

Mr. MORRILL, of Maine. I withdraw that motion, and move that the Senate insist on its amendment.

The PRESIDENT *pro tempore*. That motion takes precedence.

The motion to insist was agreed to.

Mr. MORRILL, of Maine. Now I move that we non-concur in the amendment of the House to our third amendment.

The Secretary read the amendment of the House of Representatives to the third amendment of the Senate, which was to add to that amendment:

Provided, That no Senator or Representative shall receive any newspapers (except The Congressional Globe,) or stationery or commutation therefor exceeding $125 for any one session of Congress.

Mr. MORRILL, of Maine. I desire to say one word in reference to that matter, which I feel justified in saying by the notice I see of it in the papers. In the other House some comments seem to have been deemed justifiable by the Representative who had charge of the bill, in which he said, after recounting the action of the Senate on the previous deficiency bill:

"But instead of doing that they thought they would bluff the House by cutting it all off and sending to us a proposition not to receive any stationery. The House, much to the disappointment of the Senate I have no doubt, took up the gauntlet which the Senate had thrown down and adopted their proposition."

I call the attention of the Senate to that language, deeming it wholly unparliamentary and out of order, I should suppose, in any deliberative body; and that the language may be noted as well by the Senate as by the House—and I think it my duty to say that, instead of the Senate having acted on that bill in any such spirit as is supposed by the Representative whose words I have read, the Senate understood that the provision contemplated by the House bill was to relieve the House from a dilemma into which its members had been thrown by its own action at previous sessions, by which they were to receive a much larger sum than they felt justified in retaining without some explanation—I will read the proviso in the former bill which justifies this remark:

"That hereafter no member of either House shall be allowed or paid for newspapers and stationery for any one year a larger sum than $125 in money or its value, and no further allowance for stationery and newspapers shall be made to any member of the House of Representatives for the year ending on the 3d day of March, 1868."

So far as it was a limitation on the amount which the House had voted themselves and operated as a restraint to the members of the House receiving any further sum, of course the Senate had no objection to it; but here we are met with the statement in the House of Representatives that the Senate was playing bluff with the House of Representatives. This is, to my mind, language quite as offensive as it is possible to employ between the two branches. I move that the Senate non-concur in this amendment of the House.

The motion was agreed to.

DESTRUCTION OF NATIONAL BANK NOTES.

Mr. VAN WINKLE. I am directed by the Committee on Finance to report a bill to further amend an act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864. This bill will save $200 a day to the Treasury. It is simply to amend the national act so as to allow the notes of the national banks, when returned to the Treasury for cancellation or destruction, to be destroyed by maceration instead of by burning. I ask for its present consideration.

The PRESIDENT *pro tempore*. The bill will be read for information.

The bill was read. It proposes to amend and reënact section twenty-four of the act of June 3, 1864, so as to make it read:

That it shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any such banking associations from which the signatures of the president and cashier shall have been punched out, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to such association other blank circulating notes to an equal amount. And such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books in accordance with such regulations as may be established by the Comptroller, as well as all circulating notes which shall have been paid or surrendered to be canceled, shall be thoroughly macerated in the same manner that the legal-tender and other notes and securities of the United States are now treated, in the presence of four persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, one by the Treasurer of the United States, and one by the Register of the Treasury, under such regulations as the Secretary of the Treasury may prescribe. And a certificate of such destruction, signed by the parties so appointed, shall be made in the books of the Comptroller and a duplicate thereof forwarded to the association whose notes are thus canceled, and copies thereof, signed in like manner, shall be made in the books prepared for that purpose in the office of the Secretary of the Treasury, Treasurer of the United States, and the Register of the Treasury.

The second section of the bill proposes to amend section forty-three of the same act by striking out the word "burned" and inserting the word "destroyed."

Mr. FESSENDEN. What is the use of the last section of this bill?

Mr. VAN WINKLE. I have not the banking law before me; but there is a section in it, the forty-third section, which refers to the return of bills, and it speaks of their being "burned." It is now proposed to destroy them by maceration, and the word "destroyed" is introduced in order to agree with the principal section, section twenty-four, which is amended by this bill. I have here a letter from General Spinner, the Treasurer of the United States, suggesting these amendments. I took the trouble to go there and witness the whole process, and I am satisfied it is perfectly safe for the United States and very profitable in the respect of saving money.

Mr. GRIMES. I would inquire of the Senator if it is not possible to accomplish his object by reënacting the section which he proposes to amend, substituting the word "destroyed" for the word "burned." This introducing a bill going back to a statute three or four years old, and proposing to amend that by striking out the word "burned" in a certain line of a certain section in that statute, is rather an inartificial way of drawing statutes.

Mr. VAN WINKLE. In preparing the bill I redrafted section twenty-four of the banking law, because there are several alterations in that section necessary, not only by introducing a statement of the process to be used, but by the introduction of the Comptroller of the Currency as an officer to be represented, but I did not think it necessary to redraft section forty-three, where but one word is changed. The section only refers to what is to be done with certain bills, and speaks of their being "burned;" and now, as they are not to be burned, we propose to substitute the word "destroyed."

The bill (S. No. 283) to further amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, was read three times, and passed.

NEW YORK CUSTOM-HOUSE EMPLOYÉS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to report, for the information of Congress, whether the number of employés has recently been increased in the New York custom-house, and if so, at what additional expense to the Treasury, and also whether the business at said custom-house is, or has been, such as to warrant the additional force of employés since the meeting of Congress in July last, and also to report what reduction, if any, can be made in the number of said employés without detriment to the public service.

THE FREEDMEN'S BUREAU.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands forward for the information of the Senate his circular discharging the officers and agents of said bureau on the 16th of February proximo, in certain States, with the reports of assistant commissioners and others detailing the effect of the issue of the said circular letter.

RELIEF OF DESTITUTE IN THE SOUTH.

Mr. WILSON. I move to take up the joint resolution (H. R. No. 171) for the relief of destitute persons in the South. It is a short resolution of three or four lines, and I should like to put it on its passage now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which authorizes the Secretary of War to issue for the relief of any and all classes of destitutes in the South such desiccated potatoes and desiccated mixed vegetables as have accumulated during the war and are not needed for use in the Army; the same to be issued under the direction of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SUPPLEMENTARY RECONSTRUCTION BILL.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is the order of the day, being the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and

the acts supplementary thereto, which is now before the Senate.

Mr. HOWARD. Before we proceed to the consideration of that subject I ask the consent of the Senate to call up a resolution of inquiry which was passed by the Senate yesterday, but as to which a motion was made to reconsider. I ask that the order of the day be laid aside informally for that purpose.

The PRESIDENT *pro tempore*. If it is the expression of the Senate that that resolution may be taken up without objection, it is before the Senate and will be read.

Mr. GRIMES. Oh, no; that will take time.

The PRESIDENT *pro tempore*. Is there objection?

Mr. GRIMES. Yes.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered now. The order of the day is before the Senate, and the Senator from Indiana [Mr. MORTON] is entitled to the floor.

Mr. MORTON. Mr. President, if I had not been referred to by my honorable friend from Wisconsin [Mr. DOOLITTLE] in the debate yesterday I should not desire to speak on this question, especially at this time. I fear that I shall not have the strength to say what I wish to.

The issue here to-day is the same which prevails throughout the country, which will be the issue of this canvass, and perhaps for years to come. To repeat what I have had occasion to say elsewhere, it is between two paramount ideas, each struggling for the supremacy. One is, that the war to suppress the rebellion was right and just on our part; that the rebels forfeited their civil and political rights, and can only be restored to them upon such conditions as the nation may prescribe for its future safety and prosperity. The other idea is, that the rebellion was not sinful, but was right; that those engaged in it forfeited no rights, civil or political, and have a right to take charge of their State governments and be restored to their representation in Congress just as if there had been no rebellion and nothing had occurred. The immediate issue before the Senate now is between the existing State governments established under the policy of the President of the United States in the rebel States and the plan of reconstruction presented by Congress.

When a surveyor first enters a new territory he endeavors to ascertain the exact latitude and longitude of a given spot, and from that can safely begin his survey; and so I will endeavor to ascertain a proposition in this debate upon which both parties are agreed, and start from that proposition. That proposition is, that at the end of the war, in the spring of 1865, the rebel States were without State governments of any kind. The loyal State governments existing at the beginning of the war had been overturned by the rebels; the rebel State governments erected during the war had been overturned by our armies, and at the end of the war there were no governments of any kind existing in those States. This fact was recognized distinctly by the President of the United States in his proclamation under which the work of reconstruction was commenced in North Carolina in 1865, to which I beg leave to refer. The others were mere copies of this proclamation. In that proclamation he says:

"And whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of the State of North Carolina of all civil government."

Here the President must be allowed to speak for his party, and I shall accept this as a proposition agreed upon on both sides: that at the end of the war there were no governments of any kind existing in those States.

The fourth section of the fourth article of the Constitution declares that "the United States shall guaranty to every State in this Union a republican form of government." This provision contains a vast, undefined power that has never yet been ascertained—a great supervisory power given to the United States to enable them to keep the States in their orbits, to preserve them from anarchy, revolution, and rebellion. The measure of power thus conferred upon the Government of the United States can only be determined by that which is requisite to guaranty or maintain in each State a legal and republican form of government. Whatever power, therefore, may be necessary to enable the Government of the United States thus to maintain in each State a republican form of government is conveyed by this provision.

Now, Mr. President, when the war ended and these States were found without governments of any kind, the jurisdiction of the United States, under this provision of the Constitution, at once attached; the power to reorganize State governments, to use the common word, to reconstruct, to maintain and guaranty republican State governments in those States, at once attached under this provision. Upon this proposition there is also a concurrence of the two parties. The President has distinctly recognized the application of this clause of the Constitution. He has recognized the fact that its jurisdiction attached when those States were found without republican State governments, and he himself claimed to act under this clause of the Constitution. I will read the preamble of the President's proclamation:

"Whereas the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas the President of the United States is by the Constitution made Commander-in-Chief of the Army and Navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina in securing them in the enjoyment of a republican form of government."

I read this, Mr. President, for the purpose of showing that the President of the United States, in his policy of reconstruction, started out with a distinct recognition of the applicability of this clause of the Constitution, and that he based his system of reconstruction upon it. It is true he recites in this proclamation that he is the Commander-in-Chief of the Army of the United States; but at the same time he puts his plan of reconstruction, not upon the exercise of the military power which is called to its aid, but on the execution of the guarantee provided by the clause of the Constitution to which I have referred. He appoints a Governor for North Carolina and for these other States, the office being civil in its character, but military in its effects. This Governor has all the power of one of the district commanders, and, in fact, far greater power than was conferred upon General Pope or General Sheridan or any general in command of a district; for it is further provided:

"That the military commander of the department, and all officers and persons in the military and naval service, aid and assist the said provisional governor in carrying into effect this proclamation."

We are then agreed upon the second proposition, that the power of the United States to reconstruct and guaranty republican forms of government at once applied when these States were found in the condition in which they were at the end of the war. Then, sir, being agreed upon these two propositions, we are brought to the question as to the proper form of exercising this power and by whom it shall be exercised. The Constitution says that "the United States shall guaranty to every State in this Union a republican form of government." By the phrase "United States" here is meant the Government of the United States. The United States can only act through the Government, and the clause would mean precisely the same thing if it read "the Government of the United States shall guaranty to every State in this Union a republican form of government."

Then, as the Government of the United States is to execute this guarantee, the question arises, what constitutes the Government of the United States? The President does not constitute the Government; the Congress does not constitute the Government; the judiciary does not constitute the Government; but all three together constitute the Government; and as this guarantee is to be executed by the Government of the United States it follows necessarily that it must be a legislative act. The President could not assume to execute the guarantee without assuming that he was the United States within the meaning of that provision, without assuming that he was the Government of the United States. Congress could not of itself assume to execute the guarantee without assuming that it was the Government of the United States; nor could the judiciary without a like assumption. The act must be the act of the Government, and therefore it must be a legislative act, a law passed by Congress, submitted to the President for his approval, and perhaps, in a proper case, subject to be reviewed by the judiciary.

Mr. President, that this is necessarily the case from the simple reading of the Constitution seems to me cannot be for a moment denied. The President, in assuming to execute this guarantee himself, is assuming to be the Government of the United States, which he clearly is not, but only one of its coördinate branches; and, therefore, as this guarantee must be a legislative act, it follows that the attempt on the part of the President to execute the guarantee was without authority, and that the guarantee can only be executed in the form of a law, first to be passed by Congress and then to be submitted to the President for his approval, and if he does not approve it then to be passed over his head by a majority of two thirds in each House. That law, then, becomes the execution of the guarantee and is the act of the Government of the United States.

Mr. President, this is not an open question. I send to the Secretary and ask him to read a part of the decision of the Supreme Court of the United States in the case of Luther *vs.* Borden, as reported in 7 Howard.

The Secretary read as follows:

"Moreover, the Constitution of the United States, as far as it has provided for an emergency of this kind, and authorized the General Government to interfere in the domestic concerns of a State, has treated the subject as political in its nature and placed the power in the hands of that department.

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasions; and upon the application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence.

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For, as the United States guaranties to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding upon every other department of the Government, and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue; and as no Senators or Representatives were elected under the authority of the Government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there, and not in the courts."

Mr. MORTON. In this opinion of the Supreme Court of the United States, delivered many years ago, the right to execute the guarantee provided for in this clause of the Constitution is placed in Congress and nowhere else, and therefore the necessary reading of the Constitution is confirmed by the highest judicial authority which we have.

Mr. JOHNSON. Do you read from the opinion delivered by the Chief Justice?

Mr. MORTON. Yes, sir: the opinion delivered by Chief Justice Taney. He decides that this power is not judicial: that it is one of the high powers conferred upon Congress: that it is not subject to be reviewed by the Supreme Court, because it is political in its nature. It is a distinct enunciation of the doctrine that this guarantee is not to be executed by the President or by the Supreme Court, but by the Congress of the United States, in the form of a law to be passed by that body and to be submitted to the President for his approval; and should he disapprove it it may become a law by being passed by a two-thirds majority over his head.

Now, I will call the attention of my friend from Wisconsin to some other authority. As he has been pleased to refer to a former speech of mine to show that I am not quite consistent, I will refer to a vote given by him in 1864 on a very important provision. On the 1st of July, 1864, the Senate having under consideration, as in Committee of the Whole, "a bill to guaranty to certain States whose governments have been usurped or overthrown a republican form of government," Mr. Brown, of Missouri, offered an amendment to strike out all of the bill after the enacting clause and to insert a substitute, which I will ask the Secretary to read.

The Secretary read as follows:

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act entitled 'An act further to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, they shall be, and are hereby declared to be, incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States, and until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress hereafter to be passed, authorizing the same."

Mr. MORTON. The honorable Senator from Wisconsin voted for that in Committee of the Whole and on its final passage. I call attention to the conclusion of the amendment, which declares that they shall be—

"Incapable of casting any vote for electors of President or Vice President of the United States or of electing Senators or Representatives in Congress until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States, and until such return and obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress hereafter to be passed, authorizing the same."

Recognizing that a state of war shall be regarded as continuing until it shall be declared no longer to exist by the President, in virtue of an act of Congress to be hereafter passed. I am glad to find by looking at the vote that the distinguished Senator from Maryland [Mr. JOHNSON] voted for this proposition, and thus recognized the doctrine for which I am now contending; that the power to execute the guarantee is vested in Congress alone, and that it is for Congress alone to determine the status and condition of those States, and that the President has no power to proclaim peace or to declare the political condition of those States until he shall first have been thereunto authorized by an act of Congress.

I therefore, Mr. President, take the proposition as conclusively established, both by reason and authority, that this clause of the Constitution can be executed only by Congress; and taking that as established, I now proceed to consider what are the powers of Congress in the execution of the guarantee, how it shall be executed, and what means may be employed for that purpose. The Constitution does not define the means. It does not say how the guarantee shall be executed. All that is left to the determination of Congress. As to the particular character of the means that must be employed, that, I take it, will depend upon the peculiar circumstances of each case; and the extent of the power will depend upon the other question as to what may be required for the purpose of maintaining or guarantying a loyal republican form of government in each State. I use the word "loyal," although it is not used in the Constitution, because loyalty is an inhering qualification not only in regard to persons who are to fill public offices, but in regard to State governments, and we have no right to recognize a State government that is not loyal to the Government of the United States. Now, sir, as to the use of means that are not prescribed in the Constitution, I call the attention of the Senate to the eighteenth clause of section eight of the first article of the Constitution of the United States, which declares that—

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or any department or officer thereof."

Here is a declaration of what would otherwise be a general principle anyhow, that Congress shall have the power to pass all laws necessary to carry into execution all powers that are vested in the Government under the Constitution. As Congress has the power to guaranty or maintain a loyal republican government in each State, it has the right to use whatever means may be necessary for that purpose. As I before remarked, the character of the means will depend upon the character of the case. In one case it may be the use of an army; in another case perhaps it may be simply presenting a question to the courts, and having it tested in that way; in another case it may go to the very foundation of the Government itself. And I now propound this proposition: that if Congress, after deliberation, after long and bloody experience, shall come to the conclusion that loyal republican State governments cannot be erected and maintained in the rebel States upon the basis of the white population, it has a right to raise up and make voters of a class of men who had no right to vote under the State laws. This is simply the use of the necessary means in the execution of the guarantee. If we have found after repeated trials that loyal republican State governments, governments that shall answer the purpose that such governments are intended to answer, cannot be successfully founded upon the basis of the white population, because the great majority of that population are disloyal, then Congress has a right to raise up a new loyal voting population for the purpose of establishing these governments in the execution of the guarantee. I think, sir, this proposition is so clear that it is not necessary to elaborate it. We are not required to find in the Constitution a particular grant of power for this purpose; but we find a general grant of power, and we find also another grant of power authorizing us to use whatever means may be necessary to execute the first; and we find that the Supreme Court of the United States has said that the judgment of Congress upon this question shall be conclusive, that it cannot be reviewed by the courts, that it is a purely political matter; and therefore the determination of Congress, that raising up colored men to the right of suffrage is a means necessary to the execution of that power, is a determination which cannot be reviewed by the courts, and is conclusive upon the people of this country.

The President of the United States, assuming that he had the power to execute this guarantee, and basing his proclamation upon it, went forward in the work of reconstruction. It was understood at that time—it was so announced, if not by himself, at least formally by the Secretary of State, Mr. Seward—that the governments which he would erect during the vacation of Congress were to be erected as provisional only, that his plan of reconstruction and the work that was to be done under it would be submitted to Congress for its approval or disapproval at the next session. If the President had adhered to that determination I believe that all would have been well, and that the present state of things would not exist. But, sir, the Executive undertook finally to execute the guarantee himself without the coöperation of Congress. He appointed provisional governors, giving to them unlimited power until such time as the new State governments should be erected. He prescribed in his proclamation who should exercise the right of suffrage in the election of delegates. And allow me for one moment to refer to that. He says in his proclamation:

"No person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken and subscribed the oath of amnesty, as set forth in the President's proclamation of May 29, A. D. 1865"—

which was issued on the same day and was a part of the same transaction—

"And is a voter qualified as prescribed by the constitution and laws of the State of North Carolina in force immediately before the 20th day of May, A. D. 1861."

The persons having the right to vote must have the right to vote by the laws of the State, and must, in addition to that, have taken the oath of amnesty. The President disfranchised in voting for delegates to the conventions from two hundred and fifty thousand to three hundred thousand men. His disfranchisement was far greater than that which has been done by Congress. In the proclamation of amnesty he says:

"The following classes of persons are excepted from the benefits of this proclamation"—

He then announced fourteen classes of persons—

"1. All who are or shall have been pretended civil or diplomatic officers, or otherwise domestic or foreign agents, of the pretended confederate government."

* * * * * * * * * *

"13. All persons who have voluntarily participated in said rebellion, and the estimated value of whose taxable property is over twenty thousand dollars."

And twelve other classes, estimated to number at the least two hundred and fifty thousand or three hundred thousand men, while the disfranchisement that has been created by Congress does not extend perhaps to more than forty-five thousand or fifty thousand persons at the furthest. These provisional governors, under the authority of the President, were to call conventions; they were to hold the elections, and they were to count the votes; they were to exercise all the powers that are being exercised by the military commanders under the reconstruction acts of Congress. After those constitutions were formed the President went forward and accepted them as being loyal and republican in their character. He authorized the voters under them to proceed to elect Legislatures, members of Congress, and the Legislatures to elect Senators to take their seats in this body. In other words, the President launched those State governments into full life and activity without consultation with or coöperation on the part of Congress.

Now, sir, when it is claimed that these governments are legal, let it be remembered that they took their origin under a proceeding instituted by the President of the United States in the execution of this guarantee, when it now stands confessed that he could not execute the guarantee. But even if he had the power, let it be further borne in mind that those constitutions were formed by conventions that were elected by less than one third of the white voters in the States at that time; that the conventions were elected by a small minority even of the white voters, and that those constitutions thus formed by a very small minority have never been submitted to the people of those States for ratification. They are no more the constitutions of those States to-day than the constitutions formed by the conventions now in session would be if we were to proclaim them to be the constitutions of those States without first having submitted them to the people for ratification. How can it be pretended for a moment, even admitting that the President had the power to start forward in the work of reconstruction, that those State governments are legal formed by a small minority, never ratified by the people, the people never having had a chance to vote for them. They stand as mere arbitrary constitutions, established not by the people of the several States, but simply by force of executive power.

And, sir, if we shall admit those States to representation on this floor and in the other

House under those constitutions, when the thing shall have got beyond our keeping and they are fully restored to their political rights, they will then rise up and declare that those constitutions are not binding upon them, that they never made them; and they will throw them off, and with them will go those provisions which were incorporated therein, declaring that slavery should never be restored and that their war debt was repudiated. Those provisions were put into those constitutions, but they have never been sanctioned by the people of those States, and they will cast them out as not being their act and deed as soon as they shall have been restored to political power in this Government. Therefore I say that even if he concedes that the President had the power, which he had not, to start forward in the execution of this guarantee, there can still be no pretense that those governments are legal and authorized and that we are bound to recognize them.

The President of the United States, in his proclamation, declared that those governments were to be formed only by the loyal people of those States; and I beg leave to call the attention of the Senate to that clause in his proclamation of reconstruction. He says:

"And with authority to exercise, within the limits of said State, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations with the Federal Government."

Again, speaking of the Army:

"And they are enjoined to abstain from in any way hindering, impeding, or discouraging the loyal people from the organization of a State government as herein authorized."

Now, sir, so far from those State governments having been organized by the loyal people, they were organized by the disloyal; every office passed into the hands of a rebel; the Union men had no part or lot in those governments; and so far from answering the purpose for which governments are intended, they failed to extend protection to the loyal men, either white or black. The loyal men were murdered with impunity; and I will thank any Senator upon this floor to point to a single case in any of the rebel States where a rebel has been tried and brought to punishment by the civil authority for the murder of a Union man. Not one case, I am told, can be found. Those governments utterly failed in answering the purpose of civil governments; and not only that, but they returned the colored people to a condition of *quasi* slavery; they made them the slaves of society instead of being, as they were before, the slaves of individuals. Under various forms of vagrant laws they deprived them of the rights of freemen, and placed them under the power and control of their rebel masters, who were filled with hatred and revenge.

But, Mr. President, time passed on. Congress assembled in December, 1865. For a time it paused. It did not at once annul those governments. It hesitated. At last, in 1866, the constitutional amendment, the fourteenth article, was brought forward as a basis of settlement and reconstruction; and there was a tacit understanding, though it was not embraced in any law or resolution, that if the southern people should ratify and agree to that amendment, then their State governments would be accepted. But that amendment was rejected, contemptuously rejected. The southern people, counseled and inspired by the Democracy of the North, rejected that amendment. They were told that they were not bound to submit to any conditions whatever; that they had forfeited no rights by rebellion. Why, sir, what did we propose by this amendment? By the first section we declared that all men born upon our soil were citizens of the United States—a thing that had long been recognized by every department of this Government until the Dred Scott decision was made in 1857. The second section provided that where a class or race of men were excluded from the right of suffrage they should not be counted in the basis of representation—an obvious justice that no reasonable man for a moment could deny; that if four million people down South were to have no suffrage, the men living in their midst and surrounding them, and depriving them of all political rights, should not have members of Congress on their account. I say the justice of the second clause has never been successfully impugned by any argument, I care not how ingenious it may be. What was the third clause? It was that the leaders of the South, those men who had once taken an official oath to support the Constitution of the United States and had afterward committed perjury by going into the rebellion, should be made ineligible to any office under the Government of the United States or of a State. It was a very small disfranchisement. It was intended to withhold power from those leaders by whose instrumentality we had lost nearly half a million lives and untold treasure. The justice of that disfranchisement could not be disproved. And what was the fourth clause of the amendment? That this Government should never assume and pay any part of the rebel debt; that it should never pay the rebels for their slaves. This was bitterly opposed in the North as well as in the South. How could any man oppose that amendment unless he was in favor of this Government assuming a portion or all of the rebel debt and in favor of paying the rebels for their slaves? When the Democratic party North and South opposed that most important and perhaps hereafter to be regarded as vital amendment they were committing themselves in principle, as they had been before by declaration, to the doctrine that this Government was bound to pay for the slaves, and that it was just and right that we should assume and pay the rebel debt.

This amendment, as I have before said, was rejected, and when Congress assembled in December, 1866, they were confronted by the fact that every proposition of compromise had been rejected; every half-way measure had been spurned by the rebels themselves, and they had nothing left to do but to begin the work of reconstruction themselves; and in February, 1867, Congress for the first time entered upon the execution of the guarantee provided for in the Constitution by the passage of the first reconstruction law. A supplementary bill was found necessary in March, another one in July, and I believe another is found necessary at this time; but the power is with Congress. Whatever it shall deem necessary, whether it be in the way of colored suffrage, whether it be in the way of military power—whatever Congress shall deem necessary in the execution of this guarantee is conclusive upon the courts, upon every State, and upon the people of this nation.

Sir, when Congress entered upon this work it had become apparent to all men that loyal republican State governments could not be erected and maintained upon the basis of the white population. We had tried them. Congress had attempted the work of reconstruction through the constitutional amendment by leaving the suffrage with the white men, and by leaving with the white people of the South the question as to when the colored people should exercise the right of suffrage, if ever; but when it was found that those white men were as rebellious as ever, that they hated this Government more bitterly than ever; when it was found that they persecuted the loyal men, both white and black, in their midst; when it was found that northern men who had gone down there were driven out by social tyranny, by a thousand annoyances, by the insecurity of life and property, then it became apparent to all men of intelligence that reconstruction could not take place upon the basis of the white population, and something else must be done.

Now, sir, what was there left to do? Either we must hold these people continually by military power, or we must use such machinery upon such a new basis as would enable loyal republican State governments to be raised up; and in the last resort, and I will say Congress waited long, the nation waited long, experience had to come to the rescue of reason before the thing was done—in the last resort, and as the last thing to be done, Congress determined to dig through all the rubbish, dig through the soil and the shifting sands, and go down to the eternal rock, and there, upon the basis of the everlasting principle of equal and exact justice to all men, we have planted the column of reconstruction; and, sir, it will arise slowly but surely, and "the gates of hell shall not prevail against it." Whatever dangers we apprehend from the introduction of the right of suffrage of seven hundred thousand men, just emerged from slavery, were put aside in the presence of a greater danger. Why, sir, let me say frankly to my friend from Wisconsin that I approached universal colored suffrage in the South reluctantly. Not because I adhered to the miserable dogma that this was the white man's Government, but because I entertained fears about at once entrusting a large body of men just from slavery, to whom education had been denied by law, to whom the marriage relation had been denied, who had been made the basest and most abject slaves, with political power. And as the Senator has referred to a speech which I made in Indiana in 1865, allow me to show the principle that then actuated me, for in that speech I said:

"In regard to the question of admitting the freedmen of the southern States to vote, while I admit the equal rights of all men, and that in time all men will have the right to vote without distinction of color or race, I yet believe that in the case of four million of slaves just freed from bondage there should be a period of probation and preparation before they are brought to the exercise of political power."

Such was my feeling at that time, for it had not then been determined by the bloody experience of the last two years that we could not reconstruct upon the basis of the white population, and such was the opinion of a great majority of the people of the North; and it was not until a year and a half after that time that Congress came to the conclusion that there was no way left but to resort to colored suffrage and suffrage to all men except those who were disqualified by the commission of high crimes and misdemeanors.

Mr. President, we hear much said in the course of this debate and through the press about the violation of the Constitution. It is said that in the reconstruction measures of Congress we have gone outside of the Constitution, and the remark of some distinguished statesman of the Republican party is quoted to that effect. Sir, if any leading Republican has ever said so he spoke only for himself, not for another. I deny the statement *in toto*. I insist that these reconstruction measures are as fully within the powers of the Constitution as any legislation that can be had not only by reason but by authority. And who are the men that are talking so much about the violation of the Constitution and who pretend to be the especial friends of that instrument? The great mass of them only three years ago were in arms to overturn the Constitution and establish that of Montgomery in its place, or were their northern friends, who were aiding and sympathizing in that undertaking.

I had occasion the other day to speak of what was described as a constitutional Union man—a man living inside of the Federal lines during the war, sympathizing with the rebellion, and who endeavored to aid the rebellion by insisting that every war measure for the purpose of suppressing it was a violation of the Constitution of the United States. Now, these men who claim to be the especial friends of the Constitution are the men who have sought to destroy it by force of arms, and those throughout the country who have given them aid and comfort. Sir, you will remember that once a celebrated Frenchwoman was being dragged to the scaffold and as she passed the statue of liberty she exclaimed: "How many crimes have been committed in thy name;" and I can say to the Constitution, how many crimes against liberty, humanity, and progress are being committed in thy name by these men who, while they loved not the Constitution and sought its destruction, now, for party purposes, claim to be its especial friends.

My friend from Wisconsin yesterday compared what he called the Radical party of the North to the radicals of the South, and when he was asked the question by some Senator, "who are the radicals of the South," he said, "they are the secessionists." Sir, the secessionists of the South are Democrats to-day, acting in harmony and concert with the Democratic party. They were Democrats during the war who prayed for the success of McClellan and Pendleton, and who would have been glad to vote for them. They were Democrats during the war, men who sympathized with the rebellion, who aided in bringing it on. These are the radicals of the South, and my friend from Wisconsin, after all, is acting with that radical party.

The burden of his speech yesterday was that the reconstruction measures of Congress are intended to establish negro supremacy. Sir, this proposition is without any foundation whatever. I believe it was stated yesterday by the Senator from Illinois [Mr. TRUMBULL] that in every State but two the white voters registered out-numbered the colored voters; and the fact that in two States the colored voters out-number the white voters is owing to the simple accident that there are more colored men in those States than there are white men. Congress has not sought to establish negro supremacy, nor has it sought to establish the supremacy of any class or party of men. If it had sought to establish negro supremacy it would have been an easy matter by excluding from the right of suffrage all men who had been concerned in the rebellion, in accordance with the proposition of the distinguished Senator from Massachusetts, [Mr. SUMNER,] in his speech at Worcester, in 1865. He proposed to exclude all men who had been concerned in the rebellion and confer suffrage only on those who were left. That would have established negro supremacy by giving the negroes an overwhelming majority in every State; and if that had been the object of Congress it could have been readily done. But, sir, Congress has only sought to divide the political power between the loyal and the disloyal. It has disfranchised some fifty thousand disloyal leaders, leaving all the rest of the people to vote. They have been enfranchised on both sides, that neither should be placed in the power of the other. The rebels have the right to vote so that they shall not be under the control and power of the Union men only, and the Union men have been allowed to vote so that they shall not be under the control and power of the rebels. This is the policy, to divide the political power among those men for the protection of each. Sir, the charge that we intend to create a negro supremacy or colored State governments is without the slightest foundation, for it would have been in the power of Congress to have easily conferred such supremacy by simply excluding the disloyal from the right of suffrage—a power which it had the clear right to exercise.

Now, Mr. President, allow me to consider for a moment the amendment offered by the Senator from Wisconsin, and upon which his speech was made, and see what is its effect—I will not say its purpose, but its inevitable effect—should it become a law. I will ask the Secretary to read the amendment which the Senator from Wisconsin has proposed to the Senate.

The Secretary read as follows:

Provided, nevertheless, That upon an election for the ratification of any constitution, or of officers under the same, previous to its adoption in any State no person not having the qualifications of an elector under the constitution and laws of such State previous to the late rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, namely:

1. He shall have served as a soldier in the Federal Army for one year or more.
2. He shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or,
3. He shall be seized in his own right, or in the right of his wife, of a freehold of the value of $250.

Mr. MORTON. Sir, these qualifications are, by the terms of the amendment, to apply to those who were not authorized to vote by the laws of the State before the rebellion—in other words, the colored men. He proposes to allow a colored man to vote if he has been in the Federal Army one year, and he proposes to allow a rebel white man to vote, although he has served in the rebel army four years! He proposes that a colored man shall not vote unless he has sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same, whereas he permits a rebel white man to vote who never heard of A and does not know how to make his mark even to a note given for whisky. [Laughter.]

Again, sir, he proposes that the colored man shall not vote unless he shall be seized in his own right or in the right of his wife of a freehold of the value of $250, a provision which, of course, would cut off nine hundred and ninety-nine out of every thousand colored men in the South. The colored man cannot vote unless he has a freehold of $250, but the white rebel, who was never worth twenty-five cents, who never paid poll-tax in his life, never paid an honest debt, is to be allowed to vote. Sir, what would be the inevitable effect of the adoption of this amendment? To cut off such a large part of the colored vote as to leave the rebel white vote largely in the ascendancy and to put these new State governments there to be formed again into the hands of the rebels. Sir, I will not spend longer time upon that.

My friend yesterday alluded to my indorsement of the President's policy in a speech in 1865. I never indorsed what is now called the President's policy. In the summer of 1865, when I saw a division coming between the President and the Republican party, and when I could not help anticipating the direful consequences that must result from it, I made a speech in which I repelled certain statements that had been made against the President, and denied the charge that by issuing his proclamation of May 29, 1865, he had thereby left the Republican party. I said that he had not left the Republican party by that act. I did show that the policy of that proclamation was even more radical than that of Mr. Lincoln. I did show that it was more radical even than the Winter-Davis bill of the summer of 1864. But, sir, it was all upon the distinct understanding that whatever the President did that his whole policy or action was to be submitted to Congress for its consideration and decision; and, as I before remarked, if that had been done all would have been well. I did not then advocate universal colored suffrage in the South, and I have before given my reasons for it, and in doing that I was acting in harmony with the great body of the Republican party of the North. It was nearly a year after that time, when Congress passed the constitutional amendment, which still left the question of suffrage with the southern States, left it with the white people; and it was not until a year and a half after that time that Congress came to the conclusion that we could not execute the guarantee of the Constitution without raising up a new class of loyal voters.

And, sir, nobody concurred in that result more heartily than myself. I confess (and I do it without shame) that I have been educated by the great events of this war. The American people have been educated rapidly; and the man who says he has learned nothing, that he stands now where he did six years ago, is like an ancient mile-post by the side of a deserted highway. We, Mr. President, have advanced step by step. When this war began we did not contemplate the destruction of slavery. I remember well when the Crittenden resolution was passed, declaring that the war was not prosecuted for conquest or to overturn the institutions of any State. I know that that was intended as an assurance that slavery should not be destroyed, and it received the vote, I believe, of every Republican member in both Houses of Congress; but in a few months after that time it was found by the events of the war that we could not preserve slavery and suppress the rebellion, and we must destroy slavery—not prosecute the war to destroy slavery—but destroy slavery to prosecute the war. Which was the better? To stand by the resolution and let the Union go, or to stand by the Union and let the resolution go? Congress could not stand by that pledge, and it was "more honored in the breach than the observance." Mr. Lincoln issued his proclamation of emancipation, setting free the slaves of rebels. It was dictated by the stern and bloody experience of the times. Mr. Lincoln had no choice left him. When we began this contest no one thought we would use colored soldiers in the war. The distinguished Senator sitting by me here, [Mr. CAMERON,] when in the winter of 1861 he first brought forward the proposition, as Secretary of War, to use colored soldiers, was greatly in advance of public opinion, and was thought to be visionary; but as the war progressed it became manifest to all intelligent men that we must not only destroy slavery but we must avail ourselves of every instrumentality in our power for the purpose of putting down the rebellion, and the whole country accorded in the use of colored soldiers, and gallant and glorious service they rendered. In 1864 a proposition was brought forward in this body to amend the Constitution of the United States by abolishing slavery. We do not think that is very radical now, but it was very radical then; it was the great measure of the age, and almost of modern times, and it was finally passed; an amendment setting free every human being within the limits of the United States. But, sir, we were very far then from where we are now. All will remember the celebrated Winter-Davis bill, passed in June, 1864, which took the power of reconstruction out of the hands of the President, where it did not in fact belong.

I refer to Mr. Lincoln; but if that bill had passed it would perhaps have resulted in the destruction of this Government. We can all see it now, although it was then thought to be the most radical measure of the times. What did it propose? It proposed to prescribe a plan, to take effect when the war should end, by which these rebel States should be restored. I refer to that bill simply to show how we have all traveled. It required but one condition or guarantee on the part of the South, and that was that they should put in their constitutions a provision prohibiting slavery. It required no other guarantee. It required no equalization of representation; no security against rebel debts, or against payment for emancipated slaves; and it confined the right of suffrage to white men. But it was thought to be a great step in advance at the time; and so it was; but events were passing rapidly, and in 1865 the President came forward with his proposition, and I am stating what is true from an examination of the documents when I say that but for the want of power with the President, his scheme in itself considered was far more radical than that of the Winter-Davis bill; but events were rapidly teaching the statesmen of the time that we could not reconstruct upon that basis.

Still, Congress was not prepared to take a forward step until the summer of 1866, in the passage of the constitutional amendment, which we now regard as a half way measure, necessary and vital as far as it went, but not going far enough. That was rejected, and we were then compelled to go further, and we have now fallen upon the plan of reconstruction which I have been considering. It has been dictated by the logic of events. It overrides all arguments, overrides all prejudices, overrides all theory, in the presence of the necessity for preserving the life of this nation; and if future events shall determine that we must go further, I for one am prepared to say that I will go as far as shall be necessary to the execution of this guarantee, the reconstruction of this Republic upon a right basis, and the successful restoration of every part of this Union.

Mr. President, the column of reconstruction, as I before remarked, has risen slowly. It has not been hewn from a single stone. It is com-

posed of many blocks, painfully laid up and put together, and cemented by the tears and blood of the nation. Sir, we have done nothing arbitrarily. We have done nothing for punishment, ay, too little for punishment. Justice has not had her demand. Not a man has yet been executed for this great treason. The arch fiend himself is now at liberty upon bail. No man is to be punished; and now, while punishment has gone by, as we all know, we are insisting only upon security for the future. We are simply asking that the evil spirits who brought this war upon us shall not again come into power during this generation, again to bring upon us rebellion and calamity. We are simply asking for those securities that we deem necessary for our peace and the peace of our posterity.

Sir, there is one great difference between this Union party and the so-called Democratic party. Our principles are those of humanity: they are those of justice; they are those of equal rights; they are principles that appeal to the hearts and the consciences of men; while on the other side we hear appeals to the prejudice of race against race. The white man is overwhelmingly in the majority in this country, and that majority is yearly increased by half a million of white men from abroad, and that majority gaining in proportion from year to year until the colored men will finally be but a handful in this country; and yet we hear the prejudices of the white race appealed to to crush this other race, and to prevent it from rising to supremacy and power. Sir, there is nothing noble, there is nothing generous, there is nothing lovely, in that policy or that appeal. How does that principle compare with ours? We are standing upon the broad platform of the Declaration of Independence, that "all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." We say that these rights are not given by laws; are not given by the Constitution; but they are the gift of God to every man born into the world. Oh, sir, how glorious is this great principle compared with the inhuman—I might say the heathenish—appeal to the prejudice of race against race; the endeavor further to excite the strong against the weak: the endeavor further to deprive the weak of their rights of protection against the strong.

Mr. NYE. I yielded yesterday to the distinguished Senator who has just addressed the Senate, [Mr. MORTON,] and I think I speak the sentiment of this body when I say that I feel that it is well that I did. That he has said what was necessary to be said upon this occasion much more ably than I could say it will be fully appreciated by the time I shall have sat down.

The proposition made by the honorable Senator from Wisconsin [Mr. DOOLITTLE] could have been presented at this time for no other purpose than to elicit, as he must have known it would, a political discussion and a presentation of the differences between the two parties at the present time. I think he will learn, before he gets through, that his purpose is well answered, and that the challenge which he so gallantly and valiantly threw down has been taken up and hurled back against him with terrible power. Sir, if there is any one thing that the country needs at this time and that the Union party of this country requires, it is a manly, bold discussion of the principles to which they have adhered, and to which they intend to adhere, notwithstanding the recreancy of some of their former friends or the natural opposition of the Democratic party at all times.

The history of the Republican party is told in a few words. It was brought into existence just as the atmosphere began to be thick with the fragments of this dissolving country. It brought to its support and to its standard the liberty-loving and country-loving people of all this nation. It was the great center where the friends of liberty rallied on the one side, and its opponents or cowardly sustainers rallied on the other. Its potency has been manifested in every step of its progress. It has been heard in these Halls and it has been echoed throughout the entire land. And, sir, as the strains of liberty were sounded, recruits from every quarter came rushing in till the opposing party had really not enough to count. Its power has been manifested upon every battle-field from the Potomac to the Rio Grande. It has been felt in the very atmosphere that surrounds us, and its power is still to be felt till this great work is completed. Notwithstanding the opposition of the honorable Senator from Wisconsin and his terrible apprehension, this party, that girded on its armor for the emancipation of this country, will never lay it aside until the work is done.

In the last great and final struggle of the two contending armies there were just such soldiers as there are politicians and statesmen, who feared and doubted after all whether that man of iron, General Grant, would be able to crush the rebel army; and they were found far in the rear, stragglers; but the business of the hour was such that there was no time to look them up. There were enough who had hearts intent upon the object before them to perform the work, and the only loss to the army or to the individuals who loitered in the rear was that they did not share in the glory of the final triumph.

Now, sir, I am ready and willing to make large allowance for the weakness of men. I am willing to see men change, and I desire to see them change when they are wrong. The honorable Senator from Wisconsin has evidently changed, and such a change is to me marvelous. No man has a more melodious voice or a better power of using it than that distinguished Senator. I have sat in these galleries rapt and entranced by his eloquence when he was uttering the sweet sounds of freedom and liberty. I have heard him upon the stump when thousands stood enchanted by his eloquence. Why, sir? Not only for his own power, but for the magic words that he uttered and the undying principles that he sustained. I believe that some time in the course of the honorable Senator's life (if I recollect correctly the discussion that occurred between him and his colleague last winter) he himself had espoused the cause of negro suffrage. If I am wrong he will correct me. If now he finds that he was wrong in that he has the right to abandon it of course. But, sir, my task will be, in the short time I shall occupy the attention of the Senate, to examine the reasons that he himself gives for this unaccountable change.

I, sir, am a Radical. I glory in it. My friend was, but is not. What is he? Not a Democrat; and when I say that I hardly know which I ought to apologize to—the Democratic party or my friend. He is a Conservative, rallying under the banner of conservatism. Mr. President, I have looked about in everything that has been at my command to find something that would exactly describe the political status of my friend from Wisconsin; I have consulted prose and poetry, sacred and profane, and I can find that no author has exactly described it save Milton in his blindness. [Laughter.] To show my distinguished friend in a word the exact status of a political conservative, I will read from Milton, and from Milton's Paradise Lost, [laughter,] a work that I commend to the perusal of my distinguished friend:

"For spirits, when they please,
Can either sex assume, or both; so soft
And unconfounded in their essence pure;
Not tied or manacled with joint or limb,
Nor founded on the brittle strength of bones,
Like cumbrous flesh; but, in what shape they choose,
Dilated or condensed, bright or obscure,
Can execute their aery purposes,
And works of love or enmity fulfill."

Milton, it seems to me, had the distinguished Senator in his eye when he wrote that description—not tied by bones and limbs nor cumbrous flesh, but one who can either sex assume, or both, as suits Conservatives best. [Laughter.] Such, sir, is the attitude in which the Senator stands who has introduced this bold measure of instructing the Committee on the Judiciary of this body to do certain things. I have had a presentiment that it would come, and my wonder is that it did not come before. The President, in his message, called upon Congress to do just as inconsistent a thing—to repeal the reconstruction laws. When I heard that I knew where the echo would come from here, and I expected it. Now it comes in the shape of a proposition to instruct the Committee on the Judiciary to do a thing that would tarnish the record now so brilliant which Congress has made for itself upon the great measures of reconstruction. This conservatism, so supple, not cumbered with limb or flesh, dares to do anything, to assume any attitude that will embarrass or thwart this great measure.

Mr. President, I propose to call the attention of the Senate and of the country to the former position of the distinguished Senator from whom this proposition comes upon all this great question. Why did he vote that the work of reconstruction was for Congress alone? Then he was right, and then he aided in this great work of reconstruction, and for all that he did in that direction the country will now and hereafter thank him. The Senator from Indiana has given in a succinct and able manner the history of our reconstruction measures, and I assert that no one step has been taken in reconstruction which was not dictated by the necessities of the time and born and brought forth by the spirit of patriotism.

Never, Mr. President, did the Democratic party, or their left wing, the Conservatives, exhibit any fear upon the question of reconstruction or negro suffrage until it was ascertained that the negroes as a body would vote the Republican ticket. The leading papers of the South and the vilest copperhead paper of the North, the Chicago Times, at one time openly advocated the measure, and called upon the Democratic party to adopt it. I submit to my Democratic friends on the other side whether it was not at one time a question of party consultation among them whether they should adopt that measure, and, to use the parlance of the day, vote the negro, or leave him to vote himself in the opposition to them. All that was not startling then. It has only become startling when they, in their ignorance and in their blindness, as described by the honorable Senator, see enough to perceive the beauty of freedom, and know enough to know that they have felt the horrors of its opposite. Now, however, as some new-born light seems to have broken in, there is a holy horror expressed that the men of the South are to be overridden by a—I use the words of the honorable Senator—half barbaric race. Sir, I felt especially hurt, I felt worse than my friend felt when he wept over what he called the recreancy of Grant, to hear him denounce here yesterday as disloyal a class of whom every man, woman, and child that was not forced to be otherwise, was as true to the loyal cause as the needle to the pole. He charges upon the negroes that they built the rebel intrenchments. So they did; but they built them under the rod of their task-masters. He says they dug the rebel trenches. So they did; and for that reason emancipation became a necessity. When the nation awoke to the truth that they were performing these important services emancipation was born. I submit to the honorable Senator's sense of justice that it was doing a gross injustice to that class of persons when he accused them of disloyalty.

But, sir, another charge that he brings against them is that they submitted so meekly to the direction of women and decrepit old men. True, they did. They had bowed their necks to the yoke for centuries; it had become a part of their education to obey; and be it said to their eternal credit they raised no insurrection. Like true Christians they bided and waited their time. It came. It was far better than though their hands had been reddened with defenseless blood. And yet that now is brought as an evidence that these men were disloyal to the Government under which they lived!

Sir, the trouble is that these negroes are to vote. I consider the question of reconstruction as settled forever. It is, indeed, a thing of the past. Conservatism may lay across its track and retard its progress, but it cannot stop it. We have given the ballot to seven hundred thousand men. Now, Mr. Conservative, take it away if you can. But how are you going to do it? In what spirit was it given, and for what purpose? This is a point to which I desire to call the attention of the Senate and of the country, for it has been often misrepresented. In the necessity of the hour, under the pressure of surrounding circumstances, when we found that the leopard could not change his spots, nor the rebel become loyal and patriotic, when we must have loyal civil governments, we had to use the only available material that existed in the rebel States. The ballot was given for two purposes and confined to two elections; first, to the voting upon the question of whether they would have a convention; and second, upon the adoption of the constitutions if constitutions should be framed and submitted by such conventions. That was all. Therefore, if these men are so desirous of coming into harmonious action with this Government all they have to do is to join hands with the loyal element and make for themselves constitutions, and fix their standard of suffrage as they please. Not a single right is given to the colored people that the necessities of the times did not demand; and I submit to the Senator from Wisconsin that they have exercised the right of suffrage and privileges conferred with more dignity than any class of men of which history speaks ever before exercised it for the first time.

From South Carolina the proposition first emanated to advocate negro suffrage on the part of the rebels. They did advocate it. They claimed that the old masters could control the votes of the negroes. They little understood the column of intelligence upon which their lever rested. They little appreciated and understood that innate love of liberty which pervades every stage of life from the cradle to the grave. They did not oppose the proposition till they found that these people appreciated for what they were voting, and were going to vote in solid column against them. Their only hope now—I charge it upon those who introduce such propositions as that which is now presented to us—is in retarding reconstruction, for the purpose of endeavoring to modify our policy of negro suffrage. I think the honorable Senator from Wisconsin will agree with me when I say that I am justified in coming to the conclusion that his resolution is introduced for no other purpose than to retard this work of reconstruction by raising anticipations that will never be realized. They may do that. They may retard it; but reconstruction will surely come. They may put it back for a year, or two years, but cannot defeat it. The right is given, and has been exercised; and before this discussion is ended the State of Alabama will be here to unite through her representatives with us in the work of legislation. There will be one State reconstructed; and then I should like to know how what is denominated the Administration or the Democratic party can undo that work or get rid of that representation?

Mr. President, it is wise for us occasionally to consult the oracles of the past; and my attention is called to this matter by the very hopeful close of the honorable Senator' speech. He saw in the future a tremendous gathering, a gathering of all the clans from all the quarters, that was to drive this Radical party from power. I wish I knew through what vision the honorable Senator saw that. I tried to realize in its fullest extent the gathering that he described, and the music to which they would march. What column will Davis lead, and what will be his music? "Dixie," with variations? [Laughter.] Under whose banner, and to whose corps will my friend from Wisconsin attach his little squad? [Laughter.] Will he join Davis, or will he come in under the northern wing of the same party? Will he have Mr. Vallandigham for a commander or Pendleton for a leader? I should like to see that gathering. It will be easily numbered. What the uniform would be I hardly know. My friend from Wisconsin would hardly dare to don the gray; and to wear the blue he certainly could not. The rebels and their hosts, who would be the strongest in such a gathering for such a purpose, would all be clad in gray? Under what banner will he march—under the stars and stripes or under the stars and bars?

Mr. DOOLITTLE. We march under the flag with thirty-seven stars. [Applause in the galleries.]

The PRESIDENT *pro tempore*. Order must be observed.

Mr. NYE. Mr. President, we intend that the Senator shall march under that flag, and no other. We intend that those hosts, when they gather, shall march under thirty-seven stars undimmed by conservatism or rebellion. But the action of the honorable Senator seems to me to be trying to prevent it. I assert that if the southern States had been let alone by outside influences, Conservative and Democratic, as they are called, they would be marshaled here to-day under a banner of thirty-seven stars; and if they are not back here as soon as they might have been they have nobody to charge it to but the opponents of the Republican party.

Now, says the honorable Senator, we are establishing a despotism, a black despotism, in the South. I understand a despotism to be a power that crushes out the rights of the citizens and tramples them under foot. The despotism that the Union party has given, or that these Radicals have given to the South, is that we have offered them a constitutional amendment, with impartial suffrage, that they could regulate for themselves, but they would not take it; and then all that was required in addition was that they should put in their constitutions a constitutional inhibition against oppressing any portion of their citizens, for race or color or any other cause. That they refused, and by their refusal they asserted they intended to do just the opposite thing. And when they refused to accede to that humane requirement they advertised to the world that they would do just the opposite. Then, sir, and not till then, were our reconstruction bills passed.

In this gathering of the clans my friend has turned his eye hopefully to the Democratic party. Now, sir, I desire to speak in all kindness of that party. My early political life was spent in its ranks, and I have many kindly recollections of it. I ought to say, perhaps, in justice to that party and for my own credit, that I quit it when I was quite young. [Laughter.] I left it when it had forgotten its old standards, and when it had trailed its proud history in the dust and become an apologist for slavery in every form, and made the fatal mistake of preferring temporary success to permanent honor. My Democratic friends will excuse me when I say as a matter of history that the last and culminating effort for dissolution was made in their party when the arch traitor was in the War Department, and it commenced upon the fields of Kansas. There the final issue between slavery and freedom came, and there upon those green fields the first blood was spilled against the aggressive policy of slavery. The Democratic Administration removed Andrew H. Reeder, of Pennsylvania, as Governor of that Territory for no other reason than that he would not bow to the behests of slavery, and they put in his place the honored man who is now Governor of Pennsylvania, Mr. Geary, and he, too, soon fell under the same power.

Mr. President, the battle then commenced; the victims then began to be offered up. In the distant State that my honorable friend [Mr. CONNESS] represents the first blood that flowed there was the blood of the noble Broderick, and with his dying lips he declared that he fell a victim to the cruelties of slavery. Everywhere at that day and under all circumstances the Democrat who dared for one moment attempt to withstand the typhoon of slavery was ingulfed either as a political victim or a real one. Sir, they did not stay their acts there. A man whose name this nation will ever revere, and the mention of which will moisten the eyes of countless thousands—no less a man than Stephen A. Douglas—on this floor held a long and bitter controversy with the leader of the rebellion upon the aggressiveness of slavery. He ventured to oppose it, and his doom was written, his sentence was passed, and it was executed at Charleston under the lead of the arch-traitor, now a leading Democrat. Sir, they did more. To heal an apparent schism, to spread a plaster over this increasing incision which had been made, they nominated Mr. Buchanan on the express written promise that he would leave the question of slavery in Kansas to a vote of the people; and yet they made him, old as he was, commit the—no, I will not use the word I was about to utter, but they made him take back and swallow the written pledge that he had made. This party is a part of that noble phalanx which the honorable Senator from Wisconsin sees through his conservative spectacles! Oh! what a host of patriots there will come, Buchanan at their head, Davis leading one column, Vallandigham another, and my friend from Wisconsin another.

But, sir, if my honorable friend waits for redemption to come from that source he is too old to ever see it. I have often wondered what his feelings must be since he has laid down the bugle-notes of liberty which he used to sound, and played upon the jews-harp strains of conservatism. What a change! It is that party to which my friend looks for aid. It is that party for whose success he prays. It is with that party he votes. For myself, with all kindness to my Democratic friends, I look for no help from that direction.

But my friend from Wisconsin says he reads in the signs of the times great changes of opinion. That may account for his course! I neither see the signs nor appreciate them; and if I did see them I could not follow my honorable friend. Having entered myself early in the fight, and placed myself on the eternal and abiding platform of freedom, no signs that I could see would tempt me to wander from the ranks. We had better ride out the storm amid all the conflicting elements; and if for the present freedom is to have a temporary burial, I tell my friend it will rise again with redoubled power and assert its dignity. But, sir, I see no signs of the times that indicate such a change as he anticipates. I call my friend's attention to the papers in Cincinnati. As he is walking by signs, he may there see a little sign. They trumpet it aloud that by an arrangement with one wing of the Democratic party Vallandigham was beaten in the Ohio Legislature for United States Senator, and his friends now declare war to the knife. What sign is that? Though strange elements may commingle for a time and produce certain results, yet in the end will their labors be thwarted and the principles of right be reëstablished.

Mr. President, I think it is intuitive to conservatism to hear strange noises, if they hear at all, and to see strange sights; but you do not wonder at it. The deserter from an army is always apprehensive of pursuit. He is seeking for places to hide. He seeks concealment. He hides in the blaze of day and walks in the darkness of night, and that is the time to see signs. My noble friend never saw such signs when he had on the armor of freedom and was fighting the battle with me. Then he saw but one star, by which he was guided, and that was the star of eternal right. He was then happy and bold in his marches, but he is now doubtful and hesitating. There is no doubt as to what the fate of the Conservative party will be. Old Colonel Benton, in the day of his power, described what was then a balance-of-power

party, and he said it was always in the market. Certainly this little branch of conservatism can expect to be nothing more than a balance-of-power party. But they will get no bids from this quarter, I trust. We do not want them. We want no such soldiers that tire and faint.

But, Mr. President, I have a little further parley to hold with the Democratic party, for we have been fighting long enough on the defensive, and I do not propose for one to fight in that way any longer. I arraign the Democratic party of this nation before an indignant people that they betrayed them in the several points I have suggested; that they made Mr. Buchanan falsify his word: that they went down on their very knees to the power that my gallant friend so nobly helped to overthrow. Even the Republican Congress and Mr. Lincoln went down on their very knees to a defeated Democracy, he promising by the position he held and by his honor as a man that he would not interfere with the question of slavery where the institution existed. But they would not be satisfied. They panted for this rebellion. Have it they would, and have it they did.

Now, it is left for the honorable Senator from Wisconsin to tell the terrible losses that the rebels met with, and after enumerating them and assessing their damages at $2,000,000,000—more than their whole property was assessed at the year before the war—and pointing to three or four hundred thousand graves, he inquires, "Oh, God, is not that enough?" Yes, it is enough. Do not impose upon them the further terrible infliction of giving them a Democratic Administration. [Laughter.] Do not give them any Conservatism.

But the danger lies in another direction; and here I will say that I was greatly surprised yesterday that my distinguished friend's philanthropy and humanity were bounded alone by the terrible sacrifices of the rebels. On former occasions he has portrayed the other side; but the reason that he renders now is, they have been punished enough. So say I. But, sir, the highest evidence that they could give that they have been punished enough is to yield a manly obedience to the laws of the land. Were it not for the little branch of our army that is there to-day the stars and stripes would not be seen in ten States of this Union. An incident happened with a friend of mine the other day illustrating this in the State of Georgia. Walking up the street, as he was going by the headquarters of the Freedmen's Bureau there flaunted the old flag. Said he, "I must cross the street here; I have sworn I would never walk under that flag again." That man has not been reconstructed.

Mr. President, I know and feel perhaps as strongly as anybody the prejudice of race. I was brought up in a section of this country where colored men were seldom seen, and I imbibed prejudices founded upon color; but when I saw almost three hundred thousand of them enlist under a flag that had heretofore been only a symbol of oppression to them, and cross bayonets with enlightened white men, the enemies and foes of this country, and die transfixed with them, my prejudices disappeared. The Senator will learn and the world will learn that it is far safer to trust ignorant loyalty than cultivated disloyalty. It is a lesson that should not be forgotten.

Sir, I was shocked when I heard him yesterday declare that he had anchored away back in the past on the policy of Lincoln and Johnson, and that he was going to ride it out upon that anchorage, though the main fleet had moved onward to a surer and safer haven—the haven of progress and liberty. The Lincoln and Johnson policy! Sir, I once attempted to rescue the fair fame of Lincoln from that connection. If I failed then I should now. But I declare, as a matter of history and of fact—ay, sir, upon the sworn evidence of the Secretary of War—that Lincoln had no policy in regard to the question of negro suffrage when he died, and if he had the world is not bound to stop in its onward march of progress to tie itself to Mr. Lincoln's policy if it was found insufficient for the end in view. No man admires and reveres the memory of another man more than I do that of Abraham Lincoln. He was the Moses that led us through this terrible wilderness. And it is only to give character to this Johnson policy, to make it palatable to an intelligent world, that they attach the name of Lincoln to it.

Mr. President, the history of the last six years need not have been written to have impressed it with indelible power upon the mind of every one present. While my friend from Wisconsin has seen this terrible suffering in the South, and it has moved him to these noble exhibitions of almost unparalleled magnanimity, there have been other visions, other facts, other scenes, other curtains lifted. Sir, I see the dead of the loyal army. I see a murdered President. I see, above all, the liberties of our country endangered by the efforts of rebels, who would destroy the last drop of vital blood in republican institutions. They have been foiled. Republican freedom lives; rebellion is dead in a warlike sense; and yet my honorable friend yesterday seemed to invoke it again. He repeated what the Democracy of the North promised these rebels in the beginning of the rebellion. The Democracy told them then that no northern army should aid to put down that rebellion. My friend from Wisconsin yesterday said that when this war of races comes the four million blacks would stand alone to fight against the whites of this country; ay more, he said, as a fling at the Army, let the military discipline be what it might it could not bring them up to it—an invitation of two kinds: first, an invitation to the whites at the South to commence the massacre of the blacks, and next, a pledge that the northern whites would not interfere. Sir, I apprehend no danger from this war of races, and I do not understand the arithmetic from which my friend cyphers when he sees the danger of four million black people overturning thirty-three million whites. Where are the six million whites of the South, so noble, so chivalric, so invincible, as my friend described them yesterday, that are to be put down by this half barbarian race? Why do they recoil before this inferior class, who have been their goods and chattels? Sir, it is a pretext, it is a subterfuge.

Worthless as my friend would intimate this race to be, groping around in the darkness of ages, only valuable when they had their dollar and cent price, I hold out a more encouraging view. Sir, the windows of their ignorance are being opened, and widely and rapidly opened, and to-day we behold this heretofore benighted race gleaning from every source of learning and panting for it with more avidity than the whites. Sir, this plea of ignorance, if it is one, would debar many of us from the polls. Shall every man have the standard of judgment of my friend from Wisconsin before he can vote? Then I should not vote, and perchance my honorable friend on my left [Mr. SUMNER] would be in doubt, for he hardly writes a legible hand. [Laughter.] Does a property qualification—and I ask the particular attention of the Conservative branch of this body to this point—make men understand better how to vote? Here is a man by the name perchance of Langston, who in point of moral character and classic acquirements would not suffer in comparison with any of us. He has got no coin; he has not the $250 worth of property. Therefore, the noble, generous, gushing heart of Conservatism would say, "Stand back until you have that amount of property." Why, sir, if that doctrine was promulgated in Connecticut it would revolutionize its eight little counties. [Laughter.] That was the doctrine of the darker ages. It was the doctrine that was broken down by the Democratic party (and that first made me like that party) after being established by the old Federal party in the State of New York. There white men had to have $250 worth of property to vote. An ignorant rich man could vote, while a deserving and intelligent poor man could not. I really hope that that is not the doctrine of this new, advancing, Conservative party—that they are not going to roll back the wheels of progress and erect the old Federal standard that wealth instead of intelligence shall vote. Sir, it is an insult to the intelligence of the age. It is downright barbarism to attempt to rear that standard, and it would cause a revolution in the Democratic party such as they never witnessed. Great God! Take out of their party those who cannot read and write and where would be the balance? [Laughter.] Be careful, my Conservative friend, or you will come into collision with your more advanced Democratic leaders.

Sir, for one I repudiate all such doctrine. I would stamp citizenship with manhood everywhere, regardless of color. A citizen of the United States ought to have the power to vote. What is citizenship without a vote? Why did we insult the intelligence of the blacks by clothing them with the garments of citizenship, and now undertake to prevent them from the exercise of privileges incident to citizenship? It is an insult to the age. What a generous gushing my honorable friend from Wisconsin must have had when he said to seven hundred thousand ignorant voters, "If you can read and write, vote; if you cannot you must not," and "if you cannot read and write you must have $250 or you cannot vote." And yet they stand clothed in the imperishable habiliments of American citizenship! What would foreign countries think of us, what would the enlightened of our own country think to see such a standard as that reared, and reared, too, by conservatism? Oh, how clearly Milton saw that conservatism which is—

> "Not tied or manacled with joint or limb,
> Nor founded on the brittle strength of bones,
> Like cumbrous flesh."

And which "can either sex assume, or both," or anything to stay in its march the onward progress of the Republic toward justice and liberty. I envy them not their work. The result is unseen, but not unknown.

Now, Mr. President, I have a word for my Republican friends. We have fought this battle under your leadership for many years. We have fought it in the everlasting faith that we were right. I have seen the Republican party grow from smaller proportions than this conservative wing with which we are now dealing, to become the Aaron's rod that swallowed up all other parties. Now, I want to submit to my Republican friends one proposition. If God in His Providence has destined that we have not yet got through our struggles, that we have yet greater sacrifices to make than we have made, that the day in which freedom shall stand forth unshackled has not yet arrived, but that we must go into a minority to rise again with more resplendent power, where is the Republican that has red blood circulating in his veins who is not ready to do so? Senators, let there be no skulking, no subterfuge, no letting down of our standard; but let us advance with it. I agree with the honorable Senator from Indiana that if further things must be done to bring these States into harmonious action I will stand with the advanced guard, and there had I ten times rather die than be found a skulker in the day of final reckoning. Sir, it is they who endure unto the end that get the reward. It is they who fight in the faith anchored upon the rock of principle that prevail. Mr. President, I entered this fight, as was stated the other day, with no weapon but the simple sling of principle and the smooth stone of truth. I have seen this Republican party grow until it has swallowed up all others, and yet, sir, its work is not done.

I regretted exceedingly yesterday to see the *animus* of this movement. When my friend from Wisconsin mourned over the advance of his friend from Indiana, he took occasion to remark that no individual action had pained him more except that of General Grant. I hope that the General has not seen the report in the Globe to-day. If he has, it will disturb

him. [Laughter.] This conservatism is a more fearful enemy than Lee with his martial host. In New England in early days they tried old Dr. Leland for heresy frequently. His triers were not men of the largest caliber, but they annoyed him by their frequent attacks. Finally, when the last court was convened on him, he said to them, "Did you ever see a dog bark at the moon?" They said, "yes." Said he, "Did you ever see him bite it?" "No." "Well," said he, "I am as much out of your reach as the moon is out of the reach of the dog." [Laughter.] So I say, for General Grant's comfort, my friend from Wisconsin will not bite.

But, sir, he set a back fire before there was any in the front. Now we see the *animus*. My Democratic friends act wisely. They put out these conservatives for fuglemen, and lie back to see how it is going to come out. [Laughter.] They are astute men, good tacticians. The Senator from Wisconsin is just the man for this service. If he is slain, they say, "He is not of our party, but of yours." They propose to lie back and see how the fight terminates. They have sent out this Conservative skirmish line to see how they can affect Grant.

Sir, I have not much to say of General Grant; his history is written. He exhibited no conservatism when he met his foes. He never made propositions that were not honorable to his country and to himself. He fought, and, fighting, conquered. He has written his name upon the imperishable scroll of time. Hereafter, when France talks of her Napoleon, the American has got to utter but one single word, "Grant," and Frenchmen will say no more. Hereafter, when England boasts of her Wellington, we will simply say "our Grant." Hereafter, when the roll of patriots is called, his name will stand foremost. If any of my conservative friends (as I trust they may by stern repentance) should happen to have their names inscribed on that roll they will not be out of reach.

The honorable Senator from Wisconsin, not content with annihilating the Senator from Indiana, having been put forward on this service, and anxious to convince his Democratic friends that he was up to the work, turned around and engaged the invincible Grant. Well, sir, like the struggle between the animal on the railroad track and the steam engine, while I admire his courage I cannot say much for his discretion. [Laughter.] Grant will survive, whether the Conservative branch of this body does or not. Sir, let me give my Conservative friends a word of advice. Grant belongs to that class of the animal creation that has vertebræ; conservatism has none. He has back-bone; conservatism none.

One word more, sir, as to the object of this discussion, and then I have done. I have described the gathering—not very minutely—that my friend from Wisconsin sees so clearly. I have shown of what it will be composed. Now, I have a word to say to this Senate about what we ought to do ourselves. I think if there has been any fault to be found with the Republican party for the last twelve months it has been in sins of omission. What rebellion needed to conquer it was constant fighting. What it needs to reconstruct it is a steady, firm hand. I believe that if the President of the United States had acted in unison with Congress, every rebel State would be represented here to-day. I believe that his course and the course of the Conservative and Democratic portion of this Chamber has been to retard its consummation. As soon as Sheridan had got reconstruction almost completed in Louisiana, notwithstanding that his history had made this country glorious; notwithstanding that he, like the lightning's flash, had swept the enemies from our country, at no matter how great a sacrifice, rather than have this Radical Congress succeed, Sheridan must become a victim, immolated upon this vacillating platform of conservatism. When Pope, whom other generals did not sustain, had got the work of reconstruction almost done in Georgia, his head was brought to the block.

Sir—and that is what gives me confidence—when the anger of men expends itself the wisdom of God steps in. They sent General Meade there, and I do not know which was the most disappointed, the Conservative branch of this body or the President of the United States in his action. I saw it published in a Georgia paper, when General Meade was appointed, that they had got rid of a tyrant and had got a gentleman, one who had been educated with gentlemen. I read a Georgia paper the day after Governor Jenkins was removed, and that did not call General Meade a gentleman. It called him something else—a Lincoln hireling and a tyrant. I believe now the only consolation we have is that the list of generals who are authorized to take these places is exhausted. If we had another Meade's head would go to-morrow. No matter what his services may have been, civil or military, anybody who stands in the way of "my policy" must go down.

The honorable Senator from Wisconsin grows bold as he concludes and charges upon the Radicals of the North that they are secessionists. Sir, I hurl back upon the honorable Senator, with all the indignation of which I am capable, that base and foul and false assertion. It does not exist in fact. Is Meade a secessionist? Is Sheridan a secessionist? Let the Senator from Wisconsin go tell either of them so, and what response will he receive? This body of men with whom he has been educated and has acted secessionists! He knows better; and if he had not been out upon this skirmish line of Democracy he would not have made such utterances; but this being his first advance, he would show himself gallant and reckless in the charge. I care not what the Senator may think of my being a patriot or a secessionist; I leave that for those who come after me to say. If I endure faithful unto the end I shall receive the crown. If I fall by the wayside I shall not, and ought not. Did he mean that my honorable friend on my right, [Mr. HOWARD,] who has grown gray in this cause, was a secessionist? If so, he has done him great wrong. Did he mean to say that you, sir, who have so long been engaged in this cause, were a secessionist! The history of twenty years of honorable service to the country falsifies the assertion. Did he mean to say that my honorable friend on my left, [Mr. SUMNER,] who has bore the beatings and bruisings of the rebellion, was a rebel? Did he mean to have it recorded here and go out to all the earth that the Republican party, with which he so long acted, and which has fought this great battle for liberty, were secessionists? On a former occasion I put the honorable Senator a question which I desire to put now: What reason on earth exists that he should love this country better than I love it? What reason on earth exists thas he should love this country better than any of the patriots who surround me? There is none, there can be none, except in that disturbed fancy through which he sees such strange sights and hears such strange things. Sir, I could not forego denying this charge in justice to the living and the dead.

The Senator told us yesterday that Democrats and Republicans rushed into this fight for the country. So they did. Many of them went in as Democrats, but they were baptized in blood into the great Union party, and there they have abided. Go count the vote upon the battle-field and see how much of Democracy was there. Once, while I was down at the front in company with a gentleman who was a Democrat, I visited a Vermont regiment, and he said to one of them, "I suppose you have some Democrats here?" The reply was, "We are from Vermont." That was considered a full answer to the question. Sir, they were all from Vermont when the struggle was over.

Why should the distinguished Senator from Wisconsin love his country better than General Grant, who has stood amid the flying missiles of death thicker than the countless hail with a cheek unblanched and an eye unmoved. Tell me, with all candor and truth, why Conservatives should love their country better than Grant?

Sir, these things annoy me. It perplexes me when I see even pebble stones thrown before this wheel of progress that is moving on. I cannot see by what spirit the men are moved or by what principles they are actuated who do not join with me, and who are not anxious to share in the glory of giving freedom and the ballot to every citizen of the United States. That is what the Republican party have done. That history is made. Let all the powers on the earth join to overthrow it, they cannot destroy its history.

My honorable friend from California [Mr. CONNESS] will bear me witness that amid the din and confusion of the war the Republican party commenced and have well nigh completed the mighty work of connecting the two oceans with iron bands. In all the days of Democratic glory they dared not undertake it; they would not because they could not get it far enough south. But, sir, while every energy was put forth to put down this rebellion by the Republican party, and that alone, this mighty work was commenced, the result of which is to change the entire channels of the commerce of the world; and there on that distant coast we stand now reading news three hours before it is sent upon the wires. That great work was born of Republicanism. Sir, let the history of the Republican party stop here, and it is clothed with immortal glory. Let it make no move, and it stands defying through all coming time the feeble shafts of conservatism or the more embittered ones of Democracy. There its history stands.

The child yet unborn, when it reads the history of these mighty achievements, will inquire under whose leadership they were done, and when he is told that it was by that party that was born of the emergencies of the rebellion he will not only himself, but he will teach his children to sing peans of praise to the party that accomplished such works. I have faith in the future. When it shall be asked in the future who struck the shackles from four million slaves, the answer will be the Republican party. When it shall be asked who clothed these emancipated slaves with the garments of citizenship, the answer will be the Republican party. When it shall be asked who has made these fields, once so barren, bud and blossom like the rose, it will be answered, it was the fruit of the labor of the Republican party. Finally, when men stand in judgment for the deeds done here, He who judges aright will say, "You felt for those that were in bonds, as though you were bound with them; you spoke freedom to the enslaved; you gave liberty to the oppressed." Sir, let it be my boast to my latest day that I shared in a small degree in the glorious triumphs that I have pictured. Then let those who fell back stand and see the glory of which they are shorn. Let them listen to the distant music, not only of four million ransomed slaves, but of Christians of all the world. Ay, sir, and sublimer yet, let them listen to the angelic chorus that will come in, "Well done, good and faithful servants;" and they will regret then, as they should regret now, that they had not put forth all their energies to aid in this glorious achievement.

Mr. WILSON. I move that the further consideration of this question be postponed until to-morrow.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. GRIMES. I move that when the Senate adjourn to-day it adjourn to meet on Monday next.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, recommending an appropria-

tion for the purpose of purchasing of Messrs. Little, Brown & Co. two thousand copies of the fourteenth volume of the United States Statutes at Large, for distribution; which was referred to the Committee on Appropriations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 152) for the relief of the widow and children of Henry E. Morse;

A bill (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry;

A bill (H. R. No. 246) granting a pension to Milton Anderson;

A bill (H. R. No. 257) for the relief of James L. Dickerson;

A bill (H. R. No. 258) for the relief of Mary E. Craig;

A bill (H. R. No. 280) to grant a pension to Margaret Huston;

A bill (H. R. No. 411) for the relief of Almira Wyeth;

A bill (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco;

A bill (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late a private in company A, thirty-seventh Ohio volunteers;

A bill (H. R. No. 518) granting a pension to to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 519) granting a pension Eliza J. Rennard, widow of William K. Rennard, late a private in tenth Ohio volunteers of the war of 1861;

A bill (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-rolls;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-rolls;

A bill (H. R. No. 522) granting a pension to W. W. Cuningham;

A bill (H. R. No. 523) granting a pension to James S. Todd;

A bill (H. R. No. 524) granting a pension to Austin M. Partridge;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallet; and

A bill (H. R. No. 526) increasing the pension of Susan A. Mitchell.

MARITIME EXHIBITION AT HAVRE.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate joint resolution No. 89.

Mr. JOHNSON. What is it?

Mr. SUMNER. It was up the other day. There is no objection to it.

Mr. BUCKALEW. Let us hear the title of it.

The PRESIDENT *pro tempore*. The question is on the motion to take up the joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

The motion was agreed to; and the joint resolution was read the second time, and considered as in Committee of the Whole.

Mr. CONNESS. I think that resolution should be amended so as to provide against any accruing expenditure to be charged to the Treasury. I know there is no provision in the joint resolution for the expenditure of money, but I fear unless provision is placed there to provide against it such an event will occur. Therefore I will move to amend it by adding a proviso which I will write in a moment.

Mr. SUMNER. As there is no expenditure authorized by the resolution I think that the anticipation of the Senator is entirely unnecessary. I only fear that he may cause a delay.

Mr. CONNESS. I offer my amendment in this shape:

Provided, That no expenditure shall accrue therefrom to the Treasury, nor shall any compensation be paid to such persons as may be designated under the authority of this resolution.

Mr. SUMNER. But the Senator does not intend to exclude them from their pay as officers of the Navy?

Mr. CONNESS. No, sir; I do not; and I will modify it so as to say "nor shall any additional compensation be paid."

Mr. SUMNER. With that modification I have no great objection to the amendment.

Mr. GRIMES. It is not possible for these gentlemen to receive any compensation under the resolution.

Mr. CONNESS. I know that; but this will prevent claims being presented hereafter.

Mr. GRIMES. But we do not send a ship; we do not send commissioners. We simply authorize the Secretary of the Navy to detail naval officers, just as he would order them to go from one navy-yard to another, or order them to be transferred from one ship to another.

Mr. CONNESS. I have no doubt that will be done.

Mr. GRIMES. Then there is no necessity for the amendment.

Mr. CONNESS. In my opinion, unless such an amendment be adopted, additional expenditures will accrue and be paid.

Mr. JOHNSON. I have no particular objection to the amendment, but it is wholly unnecessary. The officers are to be paid by their regular pay. The Secretary of the Navy has a right to detail them on any duty; and all they can get is what the law as it now stands gives as the pay of an officer when upon duty.

Mr. FESSENDEN. But they ought to be allowed their personal expenses. They may receive their pay as officers of the Navy while there, but the expenses of going there ought to be paid.

Mr. SUMNER. I hope the Senator from California will withdraw the amendment.

Mr. TRUMBULL. I am opposed to the whole measure; but if it is to be adopted I hope this amendment of the Senator from California will prevail, or something like it. I should like to inquire why the necessity for this resolution; why the necessity of authorizing the Secretary of the Navy to detail a naval officer to go to this exhibition? If there is a naval officer who wants to go there let him go. No expense, it is said, is to be incurred by it. I remember very well when the Senator from Massachusetts came in here with his first resolution to send commissioners to the Paris Exhibition. I recollect the debate that occurred at that time, when the contemplated expense was about twenty thousand dollars, if I recollect rightly; and yet it had swelled up the last time I knew about it to something like half a million, and probably has cost much more than that. Now there is to be some other exhibition somewhere, and a resolution is offered that the Secretary of the Navy shall have authority to detail an officer of the Navy to attend it. We have many officers of the Navy who, I suppose, have not much employment since the war, who are floating over the world, being feasted at the courts of Europe and elsewhere; and if the Secretary of the Navy has authority to send them to St. Petersburg, to Stockholm, to Lisbon, and upon the Mediterranean, is there any difficulty in his sending them to this point, Havre?

Let some of those naval commanders who are now off on these expeditions stop there if they want to do so. Why an act of Congress on this subject? Cannot the Secretary of the Navy send one of our vessels or authorize one of our vessels to go to Havre as well as to Copenhagen? I see no necessity for the resolution; but if it is to pass I hope this amendment or something like it will prevail. I will suggest, however, in order to avoid the objection to phraseology, that the Senator from California alter the amendment to read in this wise:

Provided, No expense whatever shall be incurred by the execution of this resolution.

Mr. CONNESS. That is its language substantially.

Mr. SUMNER. Do I understand that the Senator from Illinois would have the officer of the Navy who is employed deprived for the time being of his pay?

Mr. TRUMBULL. No; the language I suggest would not deprive him of his pay. My proposition is that no expense shall be incurred by the execution of this resolution.

Mr. SUMNER. Say "no expense but the pay of the officer."

Mr. TRUMBULL. That is not necessary. This resolution does not stop the pay of the officer.

Mr. CONNESS. Let my amendment be reported.

The Secretary read the amendment, as follows:

Provided, That no expenditure shall accrue therefrom to the Treasury, nor shall any additional compensation be paid to such persons as may be designated under the authority of this resolution.

Mr. BUCKALEW. I think, sir, that this amendment to the resolution would read a little ungraciously, as if we were afraid of the small expense that might be incurred by these persons. I would prefer to have the resolution stop at the word "year," to simply confer upon the Secretary of the Navy power to delegate or appoint certain officers of the Navy to attend the exhibition as representing the Navy Department.

Mr. SUMNER. That is the original resolution.

Mr. BUCKALEW. But then there is a tail to the resolution, that they are to do this, that, and the other thing. It is indicated that they are not only to represent the United States but to assist exhibitors in some way.

Mr. SUMNER. That is the object.

Mr. BUCKALEW. That embraces the idea of our being connected—as we were on a former occasion in regard to another exposition—with an expensive system of transporting articles and exhibiting them there. If the Senator from Massachusetts will leave off the concluding clause of the resolution I suppose no one will care to press the amendment. Then it would be a simple resolution authorizing the Secretary of the Navy to appoint a number of officers to represent the Department at this exhibition. If it is put in that simple form I think we shall avoid the question which has been debated here.

Mr. SUMNER. I hope this resolution will be adopted without any further discussion, and I appeal to the Senator from California not to press his amendment. The resolution in the form reported was carefully considered.

Mr. CONNESS. The Senator cannot suppose I offered this amendment with any view of obstructing the passage of the resolution.

Mr. SUMNER. I fear it would embarrass it.

Mr. CONNESS. The Senator knows we are in a period when it is necessary to observe economy, and the Senator will remember that there are attached to all the Departments of this Government large contingent funds out of which immense amounts of money are paid which we know nothing about, for which special appropriations are never made. The number of secret agents appointed and duplicated and triplicated, and paid, nobody knows how much, ought to open our eyes, and we ought to stop this mode of expenditure. I know that the mere delegation of a few officers who are now in Europe will not result in expense; but, as stated by the Senator from Pennsylvania, the latter part of the resolution points to certain facilities which they are to give to exhibitors, and I certainly am unwilling to make another great show in France.

Mr. SUMNER. I am perfectly willing to strike out those words.

Mr. CONNESS. If the Senator will do that I will withdraw my amendment.

Mr. SUMNER. Let us strike out, then, all after the word "year." The words to be stricken out are:

There to represent the United States and otherwise to promote the interest of exhibitors from our country.

Mr. CONNESS. I withdraw my amendment for the purpose of allowing that change to be made.

Mr. CONKLING. How will the resolution read then?

The SECRETARY. It is proposed to amend the resolution so as to make it read:

That the Secretary of the Navy be authorized to detail one or more officers of the Navy, as he shall think best, to be present at the international maritime exhibition to be held at Havre under the auspices of the French Government, from the 1st of June to the 30th day of October of the present year.

Mr. SHERMAN. I should like to inquire of the Senator from Massachusetts what is the purpose of this resolution?

Mr. SUMNER. Here is an elaborate document on the table of the Senator, being papers communicated by the French Government to ours, and by the Department of State transmitted to the Senate, letting us know that there is to be a large international maritime exhibition at Havre during the coming season.

Mr. SHERMAN. An exhibition of vessels?

Mr. SUMNER. Of vessels and of everything relating to vessels and to navigation, being matters in which our Government and our people are peculiarly interested. I believe that every Government of Europe has already appointed commissioners to be present at the exhibition. Ours has not; but there are already thirty-seven American exhibitors who have entered their names on the list of exhibitors, and there is a committee organized in New York in order to promote the exhibition and the interests of the exhibitors. The simple object of this resolution is to carry out a suggestion from the Department of State, that we should in some way have some agent or representative at Havre who can look after the interests of our exhibitors, and do for them what the commissioners of other Governments will do for the exhibitors of their countries respectively.

Mr. SHERMAN. It is perfectly manifest, from the statement of the case by the Senator from Massachusetts that this will involve a great deal of expense.

Mr. SUMNER. Not at all; the Senator is mistaken.

Mr. SHERMAN. The Senator will allow me to conclude. I have not examined the papers, and therefore I cannot speak from the papers. But as a matter of course if we now officially recognize this exhibition we commit ourselves to send vessels——

Mr. SUMNER. Not at all; no vessel is to be sent. I beg the Senator's pardon.

Mr. SHERMAN. This is to be an exhibition of vessels, I understand, including, probably, men-of-war and vessels of various characters.

Mr. CONNESS. And guns—ordnance.

Mr. SUMNER. No ordnance.

Mr. SHERMAN. Iron-clads.

Mr. SUMNER. No; if the Senator will only read the papers he will see that he is incorrect. He is speaking of papers he has not read. This is to be a commercial exhibition entirely.

Mr. SHERMAN. I think the resolution had better go over until Monday.

Mr. SUMNER. I submit to the Senator that it is important that this should be acted on now. The arrangements must be made some time in the month of February. This has been carefully considered by the Committee on Foreign Relations, and unless the Senator has really looked into the subject and prepared himself against the measure I do ask that he will allow it to pass.

Mr. SHERMAN. I have not looked into it; but I think the Senator might let it go over as unfinished business until Monday.

Mr. SUMNER. Then we lose time. I appeal to the Senate to let this resolution pass. I have tried to get it up every day this week. I have been pressed by another Department of the Government to speed it. It is important that we should act upon it now if we act upon it at all. I hope there will be no objection.

Mr. TRUMBULL. I cannot consent that this joint resolution shall pass the Senate in this way without consideration. It is very manifest that it will cost the Government thousands of dollars, from the statement of the Senator himself.

Mr. GRIMES. What statement is that?

Mr. TRUMBULL. The statement of the Senator from Massachusetts was that the same facilities are to be afforded our exhibitors as are to be afforded those of other countries.

Mr. SUMNER. Very well.

Mr. TRUMBULL. Is that to cost nothing? Now, why the necessity of bringing this matter here if the Secretary of the Navy can do all this without a resolution? It is said he can detail an officer to go there if he thinks proper. Then why this resolution? I am surprised that an attempt should be made to force this resolution through at such an hour as this——

DEATH OF HON. ELIJAH HISE.

Mr. MCPHERSON, the Clerk of the House of Representatives, appeared at the bar and said: Mr. President, I have been directed by the House of Representatives to communicate to the Senate the resolutions adopted by the House in regard to the death of Hon. ELIJAH HISE, late a Representative from the State of Kentucky.

The resolutions of the House were read.

Mr. DAVIS. Mr. President, ELIJAH HISE was born in Alleghany county, Pennsylvania, on the 4th of July, 1801. In his early infancy his father, with his family, emigrated to Kentucky, and settled in Logan county, in which the deceased was raised and lived and died. His education was not thorough, though it comprehended a fair knowledge of his own and the Latin languages, and some of the plainer branches of mathematics and natural philosophy.

He was endowed by nature with intellectual powers of uncommon strength and solidity. Throughout his life he was an assiduous reader and student, and a patient, profound, and original thinker. He chose the profession of the law for his pursuit, and rapidly achieved in it juridical learning, forensic eloquence, and pecuniary competence. In conformity to the genius, taste, and habitudes of the profession in his State, he blended early political with his legal studies. He became a disciple of the Jeffersonian school of politics, and gave to it all his intellect and all his heart; and of its great host of illustrious advocates few were more able, none more true, constant, and courageous. The powers of the Government of the United States, conferred upon it by the Constitution, received the sanction of his judgment; but the sovereignty and rights of the States which they reserved to themselves possessed every faculty of his intellect and every sentiment of his soul, and he never faltered in their support.

When a young man he was elected to represent his county in the State Legislature; but taking decided ground against the political promotion of Mr. Clay, he, with most of his associates in Kentucky, had to succumb to the great statesman's resistless power with the people. The Democratic party nominated Mr. HISE as their candidate for Lieutenant Governor in opposition to Hon. Charles A. Wickliffe, who had been selected by the Whigs, and these opposing champions made a canvass over the whole State, unsurpassed in the power and eloquence of their public addresses and the earnest and great efforts made by the Whig and Democratic parties for their respective leaders; but on that banner opposed to Mr. HISE was written a name in Kentucky always victorious, Henry Clay. In 1847 Mr. HISE was appointed United States minister to the republic of Central America, in which position he served his country for some years and then resigned it. He returned to his country, resumed the practice of his profession, from which he was called by the people to fill a seat on the bench of the court of appeals, our highest judicial tribunal, in which he served his State for a full term, becoming near the close of it the chief justice.

On the death of Hon. Henry Grider he was elected a Representative to fill the residue of his term; and after its expiration, on the 5th of May, 1867, was reëlected by the largest majority ever cast in the district, and on the 8th day of May following he died by his own hand.

Mr. HISE was a strongly marked man. He possessed a great natural intellect, in which the reasoning faculty was the predominant power, and that he sedulously improved by an extensive course of reading and patient and deep thought. He was conscious of his own strength both by endowment and acquisition, and few men were more self-reliant. He formed and adopted principles and opinions by the lights of his own reason with singular independence and correctness, and adhered to them with a constancy and fidelity that were never surpassed; and he adorned all the places which he filled by his ability, integrity, and virtues. He was greatly attached to our mixed system of national and State governments; it was, in truth, his political idol, and few men had a more perfect comprehension of it. He believed that this great work of our fathers had been assaulted and was about to be subverted by the demon of faction; that there was not enough of courage, intelligence, and virtue left to the people to save it; and he chose to die rather than witness the consummation of so direful a catastrophe. This was his sad, settled, deep conviction, and he sealed its sincerity with his own blood; but in this he committed a deplorable and irreparable error. Mr. HISE should never have despaired of the Republic. He should have protracted his life to its greatest possible length, and to its last day he should have given his great powers to the rescue of that Constitution and those liberties which he loved so dearly.

Mr. President, I move the adoption by the Senate of the following resolutions:

Resolved, That the Senate has received with deep sensibility the announcement of the death of Hon. ELIJAH HISE, late a member of the House of Representatives from the State of Kentucky.

Resolved, That, as a mark of respect for the memory of the deceased, the members of the Senate will wear the usual badge of mourning for thirty days.

Resolved, That, as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

Mr. HENDRICKS. Mr. President, in rising to second the resolutions offered by the Senator from Kentucky, I am not able to speak of Mr. HISE'S qualities from observation. My personal acquaintance with him was but slight. I was introduced to him by Mr. Guthrie in this Chamber, and felt that I was standing in the presence of two of the strong men of Kentucky—men of a class that contributed largely to the solid fame of that Commonwealth.

The resolutions adopted by the bar and spread upon the records of the circuit court of the county in which he lived enable me to say that his intellectual faculties were of the highest order, that he was a cultivated scholar, an able and successful lawyer, an independent thinker, and bold and self-reliant in action. He attained to the office of chief justice of Kentucky, and the thirteenth and fourteenth books of Monroe's Reports place him among the enlightened jurists and impartial judges.

His death was the saddest we can contemplate. The cloud that hangs over his last act has no silver lining. The ages are past in which a false philosophy allowed the taking of one's own life and a vicious sentiment clothed suicide with the glory of heroism. It is condemned by the judgment of the present age.

Perhaps there is not proof of insanity in his case, and that defense of his conduct may not be interposed, yet in extenuation I think it may be justly allowed us in generous sympathy to believe that a dark and gloomy melancholy brooded over his intellectual and moral faculties and disturbed their relations and their harmonious action. Advancing age and failing health and extreme solicitude for the welfare of the country seem to have broken his strong will and overcast his clear intellect with the deepest gloom. The plaintive cry of a broken spirit is in his last message to his friends. Our profoundest emotions are excited when we hear the cry of a strong man:

"I have lost all hope of being able to aid in saving

the country from impending disaster and ruin." * * * * "I am enfeebled by the infirmities of age and by disease. I am weary of the world, and intend to leave it. I am sick at heart and resort to death for relief."

Upon his own motion he has left the court below. He has laid down the weapons of forensic contest forever. The scales of justice are no longer held in his firm and steady hand. The term is over; the records are closed. He now stands in the presence of that higher tribunal where there are no dilatory pleas nor motions in arrest of judgment nor writs of error, but where the right must prevail—the right as fixed by God's law, and administered under His infinite mercy.

The resolutions were agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 24, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being private bill day, the first business in order is the calling of committees for reports of a private nature, commencing with the Committee on Invalid Pensions,

PACIFIC RAILROAD BRANCH.

Mr. PRICE, by unanimous consent, reported back from the Committee on the Pacific Railroad a bill (H. R. No. 459) to aid in the construction of a railroad and telegraph line from Portland, Oregon, to connect with the Central Pacific railroad at the northern bend of the Humboldt, in the State of Nevada, and to secure to the Government the use of the same for postal, military, and other purposes; which was ordered to be printed, and recommitted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, reported from the Committee on Appropriations a bill (H. R. No. 515) making appropriations for the naval service for the year ending 30th June, 1869; which was read a first and second time, ordered to be printed, and recommitted.

Mr. WASHBURNE, of Illinois. To accompany that bill I desire to present a report in the form of tabular statements, which I desire to have printed. I wish also to state that my purpose in having this bill recommitted is that the Committee on Appropriations may examine it in connection with the revised estimates which have been sent in by the Secretary of the Navy. His original estimates for the next fiscal year amounted to between forty-seven and forty-eight million dollars.

Mr. BUTLER. He still having in his hands unexpended $15,000,000.

Mr. WASHBURNE, of Illinois. Yes, sir, there being, as I understand, $15,000,000 of the appropriations for the Navy Department yet unexpended. The appropriations embraced in the bill which I have just reported amount to less than nineteen millions dollars, which amount the committee think sufficient to meet every exigency of the public service in that Department and to sustain the Navy in all its efficiency. By this bill, reported by a Republican committee of a Republican Congress, the estimates originally sent in by a Democratic Secretary of the Navy of a Democratic Administration are reduced from forty-seven to forty-eight million dollars to eighteen or nineteen millions.

Mr. SPALDING. It should be stated, in justice to a high officer of the Government, that the Secretary of the Navy has revised his original estimates and reduced them to $25,000,000.

Mr. WASHBURNE, of Illinois. I was about to state that the Secretary of the Navy, having originally sent in estimates amounting to more than forty-seven millions, has now sent in a revisal of those estimates, cutting them down, I am advised, to twenty-four or twenty-five million dollars. That the committee may examine the bill in connection with these revised estimates I have moved the recommitment of the bill. I move also that the tabular statements which I now present be printed as a report accompanying the bill.

The motion was agreed to.

PROTECTING PASSENGERS ON EMIGRANT SHIPS.

Mr. CHANLER. I ask unanimous consent to introduce a preamble and resolution in reference to the protection of passengers on board of emigrant ships and to correct certain abuses.

The Clerk read as follows:

Whereas the commissioners of emigration for the city of New York, at a stated half monthly meeting held on 22d January, 1868, took up the case of the unlucky ship Liebnitz, examined into and established the truth of the following statement of facts, namely:

That said ship left the port of Hamburg on the 2d of November, 1867, with 544 passengers—adults, 395; minors, 108; infants in arms, 46. Most of the male adults were farmers from Mecklenburg, bound for Illinois and Wisconsin; forty were Prussians, and a few Saxons. Of these 544 passengers, 108 died of typhus fever, namely: 105 on the passage and 3 in the bay of New York. The first death occurred on the 25th of November last. Whole families perished on this ship of this disease on this voyage: Therefore,

Be it resolved by the House of Representatives, That a select committee of nine be appointed by this House to inquire into the best means to prevent such evils for the future, and that they have power to report by bill or otherwise at any time.

Mr. CHANLER. I will say that I do not wish to be on the committee myself.

Mr. SPALDING. I object to any more special committees.

Mr. CHANLER. Then I will agree to have it referred to the Committee on Commerce.

Mr. SPALDING. The resolution being modified in that respect, I withdraw my objection.

The preamble and resolution, as modified, were adopted.

Mr. CHANLER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. BENJAMIN, from the Committee on Invalid Pensions, made adverse reports on the following cases; and the same were laid on the table:

An act (H. R. No. 398) granting a pension to William B. Looney;

Petition for the relief of Samuel Naylor;

Petition of Joseph W. Hitchcock, of Ellisburg, Jefferson county, New York, for increase of pension; and

Petition of Caroline E. Burdett.

HENRY E. MORSE.

Mr. BENJAMIN, from the same committee, reported back House bill No. 152, for the relief of the widow and children of Henry E. Morse, with a substitute.

The substitute provides that the Secretary of the Interior shall be directed to place upon the pension-rolls the name of the widow and minor children under sixteen years of age of Henry E. Morse, late private company G, ninth regiment Vermont volunteers, subject to the provisions and limitations of the pension laws.

The report states that the evidence shows the following facts: that Henry E. Morse, private company G ninth regiment Vermont volunteers, in the war for the suppression of the rebellion, while serving with his company near Yorktown, Virginia, was detailed as a cook for the company officers. He constructed a temporary shed or kitchen for that purpose. On the 23d of September, 1863, some one of his company officers informed him that outside of the camp-guard, but within the picket line, were some old, deserted barracks, which had been formerly used by the rebels and in which were some window-sashes much needed in the kitchen aforesaid, and also informed him how he could in the night get past the camp-guard. While attempting to do so, and for the purpose aforesaid, he was shot and instantly killed by a colored soldier of the Union Army who was doing guard duty at the time. Not being in the line of duty, the case does not come within the provisions of the general law, but it is clearly shown that in attempting to perform this service he had the consent of his company officers. Therefore the committee report a bill for the relief of his widow and minor children.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BENJAMIN B. NAYLOR.

Mr. BENJAMIN, from the same committee, reported a bill (H. R. No. 516) granting a pension to the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of the widow and minor children under sixteen years of age of Benjamin B. Naylor, late pilot on the gunboat Patapsco, on the pension-rolls at the rate allowed pilots in the Navy, to commence on the 15th of January, 1865, the same to be subject to the provisions and limitations of the pension laws, and paid out of the naval pension fund.

The report in the case was read. It states that on or about the 2d of January, 1865, Benjamin B. Naylor, husband of the petitioner, was appointed by Commodore G. Scott a pilot in the Navy, subject to the approval of the admiral commanding the fleet in Charleston harbor, Commodore Scott being the senior officer. Upon his appointment Naylor was sent on board the gunboat Patapsco, which vessel, while on picket duty on the night of January 15, was blown up by a torpedo and all on board, including the husband of the petitioner, were drowned. Only three days elapsed between his appointment and his death, therefore the appointment was never confirmed, and the vessel's papers being lost it does not appear at the Navy Department, and no pension can be granted to the widow under the general law. The fact of his appointment and death is clearly proved by officers of the Navy.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JANE M. JUDD.

Mr. MILLER, from the Committee on Invalid Pensions, reported adversely on House bill No. 301, for the relief of the legal heirs and representatives of the late Jane M. Judd; and the same was ordered to be laid on the table.

JAMES L. DICKERSON.

Mr. MILLER, from the same committee, reported back House bill No. 257, for the relief of James L. Dickerson, with a substitute.

The substitute, which was read, directs the Secretary of the Interior to place on the pension-rolls the name of Mr. Dickerson, late private in company D, first West Virginia artillery, in the war of 1861, and that he be paid a pension the same as is allowed to privates, subject to the provisions and limitations of the general pension laws, to commence from the 27th of June, 1865.

The report in the case was read. It states that on the 16th of August, 1862, Dickerson enlisted as a private at Wheeling in Battery D, West Virginia artillery, for three years or during the war, and on the 20th of the same month

he was mustered in. At the time of his enlistment he was carefully examined by the surgeon and found to be in sound health and fit for military duty. The captain of the said battery testified that he was a robust, stout young man, and that he served "right along" with the battery in the field faithfully, without sickness or even complaining, for two years and five months. On the 2d of February, 1865, his battery started from Parkersburg to Clarksburg in the rain. That night there was no shelter except fence rails and some hay. It turned cold and froze, and continued freezing for three days. When the battery reached Clarksburg the petitioner had contracted a cold, became worse, and was sent to the United States hospital. He continued to perform duty until his discharge with the rest of the company in 1865. When he came home the cold settled on his lungs and ran into consumption. He is now confined to the house, a helpless burden on a poor widowed mother. It appears that he made application for a pension, but his application was rejected on the ground of want of evidence that his disease was contracted while in the service. He has since been examined by a surgeon, and testimony has been taken from which it appears that his disease originated in the line of his duty. The company had no regular surgeon, and the name of the acting surgeon was not recollected by the applicant. The committee report that the evidence is sufficient to satisfy them that a pension should be allowed.

The substitute was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CORNELIA K. SCHMIDT.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late private in company A, thirty-seventh regiment Ohio volunteers; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension rolls the name of Cornelia K. Schmidt, widow of Adam Schmidt, late a private in company A, thirty-seventh Ohio volunteers, and pay her the pension allowed a private during her widowhood, subject to the provisions and limitations of the pension laws, to commence on the 10th day of April, 1864; and in case of her death or marriage, then the pension to be paid to the minor children of said Adam Schmidt, deceased, who may be under sixteen years of age, subject to the provisions of the general pension laws.

From the report it appears that Adam Schmidt enlisted at Cleveland, Ohio, on the 24th of August, 1861, as a private in company A, thirty-seventh Ohio volunteers, for three years or during the war, and on the 10th of April, 1864, while at home at Cleveland on veteran furlough died of chronic diarrhea, leaving a widow and three children, the latter all minors. Application was made to the Commissioner of Pensions for a pension, but it was rejected upon the ground that the disease of which the deceased died was contracted while he was on furlough. The committee are of opinion from the evidence adduced that the disease was contracted while in the service.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CORRECTION OF THE JOURNAL.

Mr. WASHBURNE, of Illinois. I rise to a question of privilege.

The SPEAKER. The gentleman will state it.

Mr. WASHBURNE, of Illinois. My vote on the reconstruction bill was not recorded. I voted and voted distinctly for the bill, being in favor of it. I am surprised to learn upon inquiry at the Clerk's desk that my vote was not recorded.

The SPEAKER. The gentleman has a right to have the Journal corrected.

Mr. WASHBURNE, of Illinois. I ask that it shall be corrected.

The SPEAKER. And the gentlemen's vote recorded in the affirmative?

Mr. WASHBURNE, of Illinois. Yes, sir; recorded in the affirmative.

The SPEAKER. The Journal will be corrected accordingly.

GEORGE F. GORHAM.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry; which was read a first and second time.

The bill was read *in extenso*. The first section directs the Secretary of the Interior to place upon the pension-rolls the name of George F. Gorham, late a private in company B, twenty-ninth Massachusetts volunteer infantry, in the war of 1861, and that he be paid the same amount of pension allowed in similar cases, subject to the provisions and limitations of the general pension laws, to be computed from the 16th day of January, 1865.

The second section provides that inasmuch as the said George F. Gorham is now insane, and his father, John J. Gorham, has been appointed his guardian, the pension may be paid over to the said guardian to be applied to the support of said George F. Gorham.

From the report it appears that George F. Gorham when twenty years of age, on the 26th of August, 1861, enlisted as a private for the term of three years in company B, twenty-ninth Massachusetts volunteer infantry; that he served in the Army faithfully for three years, and on the 1st of January, 1864, received an honorable discharge; that he reënlisted in the same company as a veteran volunteer, and on the 16th of January, 1865, was discharged on a surgeon's certificate for disability, and that he has since become insane. It further appears that Gorham had been afflicted with epilepsy prior to his enlistment, but that at both times of enlistment he was carefully examined by the surgeons appointed for that purpose and found to be a proper person to perform military duty. The committee are of opinion that the heart disease which resulted in the derangement of his mind was contracted in consequence of over-exertion and excitement at the battle of Weldon railroad.

Mr. LOGAN. I did not understand the last clause of the bill distinctly when it was read. Does it provide that the father shall draw this pension during the natural life of the son?

Mr. MILLER. Only during his insanity. The father is to act as trustee to receive this pension, to be applied to the support of the young man.

Mr. LOGAN. To be applied to the support of the young man during his insanity?

Mr. MILLER. Yes, sir.

The SPEAKER. The Chair would suggest to the gentleman from Pennsylvania [Mr. MILLER] to amend the bill by adding to it the words "during his insanity." Those words are not now in the bill.

Mr. MILLER. I do not think that necessary. This is regulated by the general pension law, and it would be but a repetition to put those words in the second section.

Mr. LOGAN. I move to amend by adding the words "during his insanity."

Mr. MILLER. I have no objection to the amendment, though I think it is mere surplusage.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZA J. RENNARD.

Mr. MILLER, from the same committee, also reported a bill (H. R. No. 519) granting a pension to Eliza J. Rennard, widow of William K. Rennard, deceased, late a private in the tenth battery Ohio volunteers in the war of 1861; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and regulations of the pension law, the name of Eliza J. Rennard, widow of William K. Rennard, late a private in the tenth battery Ohio volunteers, to receive a pension during her widowhood, the pension to commence on the 1st of March, 1865, and in case of her death or marriage to be continued to the minor children under sixteen years of age.

Mr. WASHBURNE, of Illinois. I ask that the report be read.

The report was read. It states that William K. Rennard, on the 2d December, 1861, at Xenia, Ohio, was enrolled as a private in the tenth battery Ohio volunteers to serve three years or during the war. He served faithfully until August 17, 1864. The battery was then encamped near Marietta, Georgia. During the absence of the captain Rennard with two other privates ventured beyond the picket line in search of fruit or berries, and when a mile or two beyond the pickets, in a public road, they were surprised by some rebel cavalry. One of the privates escaped; the other two were captured and consigned to a rebel prison. After a time Rennard and Mitchell, the two privates thus captured, were removed to the rebel prison at Salisbury, North Carolina, where Rennard sickened and died on or about February 15, 1865, leaving a widow and two minor children, who are poor and without support.

On the records in the Adjutant General's office Rennard is recorded as "deserted August 17, 1864, at Marietta, Georgia." On the muster-out roll of the tenth Ohio battery he is reported "captured while outside the picket line without leave, near Marietta, Georgia, August 17, 1864." Captain J. R. Crane, commanding the battery at the time, testifies that inasmuch as the private was captured while absent from his company without leave he was marked as a deserter under the Army regulations. He also testifies that the deceased had served his country honorably and faithfully, and that he believes he had no intention to desert or do anything wrong. The captain also testifies that Michael Mitchell, a private of the same battery, who was captured at the same time and in like manner, reported as a deserter, returned to his battery after his release from the rebel prison, and upon a statement of the facts, together with the recommendation of his officers, the disability was removed from him.

From the evidence it is clear that the unfortunate man did not intend to violate his duty. It is not to be supposed that he would contemplate desertion when he had nearly served out his time. Had he lived there is no doubt that the stigma of desertion would have been removed from him as it was from Michael Mitchell, who was captured at the same time and under like circumstances.

The widow made application for a pension in due form of law to the Commissioner of Pensions, but it was rejected on the ground that at the time of her husband's capture by the rebels he was not in the line of his duty. This technically may be true, but in this case it would be hard to deprive the widow and young children of the small aid asked for because of a little indiscretion on the part of a faithful soldier who lost his life in a rebel prison. Under the circumstances the committee recommend the passage of the accompanying bill.

Mr. UPSON. If I have rightly understood this report, it admits this to be the case of a deserter.

Mr. MILLER. No, sir; it is a case in which by mistake soldiers have been marked on the rolls as deserters, when in fact there was no desertion. These men were encamped near Marietta, Georgia, and while the captain was away they went out to get some provisions or fruit for the company. Straying a short distance beyond the picket lines, they were captured by rebel cavalry scouting in that section. There was no desertion on their part, and no intention to desert. They served their country faithfully.

Mr. UPSON. That explanation is satisfactory.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

The message further announced that the Senate had disageed to the amendments of the House to the third amendment of the Senate to the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, and had insisted on its fourteenth amendment, disagreed to by the House.

Mr. BURR obtained the floor.

Mr. LOGAN. I ask my colleague [Mr. BURR] to yield to me that I may present a petition.

Mr. BURR. I will do so if it does not provoke discussion.

ILLINOIS AND MICHIGAN CANAL.

Mr. LOGAN. I desire, by unanimous consent, to present a memorial of citizens of Illinois in reference to the Illinois and Michigan canal and river improvements; and I move its reference, with the accompanying papers, to the Committee on Roads and Canals.

Mr. EGGLESTON. I suggest that it be referred to the Committee on Commerce. That committee had the subject under consideration last year.

Mr. LOGAN. I prefer that the memorial should be referred to the Committee on Roads and Canals.

The SPEAKER. It will be so referred, if there is no objection.

Mr. EGGLESTON. I move to amend the motion of the gentleman from Illinois [Mr. LOGAN] by striking out "Roads and Canals" and inserting "Commerce." I want all these matters to go before one committee, so that they may be acted on intelligently.

Mr. LOGAN. I desire that this memorial shall be referred to the Committee on Roads and Canals, first, because the chairman of that committee [Mr. COOK] resides in the vicinity of the location of this canal and is perhaps more conversant with the interests of that part of the country and with the operations of the canal than any gentleman upon the Committee on Commerce.

Mr. BURR. If this discussion is to continue I must resume the floor.

Mr. WASHBURNE, of Illinois. I hope my colleague upon the Committee on Commerce [Mr. EGGLESTON] will not insist on his motion.

Mr. BURR. I believe I must resume the floor.

Mr. CULLOM. I hope the gentleman from Ohio [Mr. EGGLESTON] will withdraw his amendment.

Mr. BURR. I decline to yield further. I must proceed with the reports from the Committee on Invalid Pensions. And I desire to say that, although each bill which I shall report is accompanied with a written report, I hope gentlemen will not insist on the reading of the reports, because the time of the committee is limited.

HERMAN J. EHLER.

Mr. BURR moved that the Committee on Invalid Pensions be discharged from the further consideration of the petition of Herman J. Ehler, asking a pension for services in the War of 1812; and that the same be referred to the Committee on Revolutionary Pensions and of the War of 1812.

The motion was agreed to.

JOHN Q. A. KECK.

Mr. BURR, from the Committee on Invalid Pensions, reported back with an amendment in the form of a substitute a bill (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry.

The substitute, which was read, proposes to direct the Secretary of the Interior to place the name of John Q. A. Keck, late a private in the third Missouri cavalry, on the pension-rolls, the pension to commence December 19, 1862, and to be subject to the provisions and limitations of the pension laws.

The substitute was adopted.

The bill, as amended by the adoption of the substitute, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPHINE K. BUGHER.

Mr. BURR, from the same committee, also reported a bill (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-rolls; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-rolls the name of Josephine K. Bugher, at the rate of twenty dollars per month, commencing the 1st of August, 1861, as the widow of Captain William K. Bugher, subject to the limitations and restrictions of the pension laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLOMON ZACHMAN.

Mr. BURR, from the same committee, reported a bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-rolls; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Solomon Zachman, of Marion county, Ohio, company D, eighty-second regiment Ohio volunteers, on the pension-rolls at eight dollars per month, to commence on the 30th of May, 1864, subject to the limitations and requirements of the pension laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY B. CRAIG.

Mr. BURR, from the same committee, reported back House bill No. 258, for the relief of Mary B. Craig, with a substitute.

The substitute authorizes and directs the Secretary of the Interior to place the name of Mary B. Craig, of Marshal county, West Virginia, widow of Samuel F. Craig, on the pension-rolls, at the rate of eight dollars per month, to commence on the 1st of July 1865, subject to the limitations and provisions of the pension laws.

The substitute was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARGARET HUSTON.

Mr. BURR, from the same committee, reported back House bill No. 280, to grant a pension to Margaret Huston, with a substitute.

The substitute authorizes and directs the Secretary of the Interior to place the name of Margaret Huston on the pension-rolls, as a widow, at the rate of seventeen dollars per month, from the 1st of January, 1865, subject to the limitations and provisions of the pension laws.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILTON ANDERSON.

Mr. NUNN, from the same committee, reported back House bill No. 246, granting a pension to Milton Anderson, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to place the name of Milton Anderson, late private company K, one hundred and fifteenth regiment Illinois infantry volunteers, on the pension-rolls at the rate of fifteen dollars per month, to commence from the 1st day of May, 1863, and to continue during his natural life.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BURR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. BRIDGET O'CONNOR.

Mr. NUNN, from the same committee, reported adversely on the petition of Mrs. Bridget O'Connor, widow of Richard O'Connor, late private company K, Merrill's horse; and the same was laid on the table.

MICHAEL KINNEY.

Mr. VAN AERNAM, from the same committee, reported adversely on the petition of Michael Kinney, for an increase of invalid pension; and the same was ordered to be laid on the table.

AUSTIN M. PARTRIDGE.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 524) granting a pension to Austin M. Partridge; which was read a first and second time.

The bill directs the name of the petitioner, late wagoner of company F, second Iowa infantry, to be placed on the pension-rolls, subject to the provisions and limitations of the pension laws, the pension to commence March 26, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

W. W. CUNNINGHAM.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 522)

granting a pension to W. W. Cunningham; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of the petitioner, late sergeant of company C, thirteenth New York cavalry, on the pension-rolls, subject to the provisions and limitations of the pension laws, the pension to commence from the 25th of October, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES S. TODD.

Mr. VAN AERNAM, from the same committee, also reported a bill (H. R. No. 528) granting a pension to James S. Todd; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of James S. Todd, of North Carolina, father of two sons who died in the first regiment North Carolina volunteers.

Mr. SPALDING. I call for the reading of the report.

The report was read. It states that the petitioner had four sons in the United States service, two in the Navy and two in the Army. The two in the Army both died in the service; one who served in the Navy is supposed to be dead; the other is married and lives in Philadelphia. The petition is signed by numerous citizens of North Carolina, who testify to the father being in destitute circumstances.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALMIRA WYETH.

Mr. VAN AERNAM, from the same committee, also reported back House bill No. 411, for the relief of Almira Wyeth, with a recommendation that it do pass.

The bill, which was read, directs the placing on the pension-rolls of the name of the widow of James M. Wyeth, late private in company I, seventieth regiment Illinois volunteers; the pension to commence March 5, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JEREMIAH T. HALLETT.

Mr. TRIMBLE, of Kentucky, from the Committee on Invalid Pensions, reported a bill (H. R. No. 525) granting a pension to Jeremiah T. Hallett; which was read a first and second time.

The bill, which was read, directs the placing of the name of the petitioner on the pension-rolls, late a member of company I, first United States infantry, subject to the provisions and limitations of the pension laws, the pension to commence March 10, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUSAN A. MITCHELL.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 526) increasing the pension of Susan A. Mitchell; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Susan A. Mitchell, mother of Lieutenant Leander F. Alley, late of company I, twentieth regiment Massachusetts volunteers, and pay her a pension as mother of a second lieutenant in lieu of the pension she is now receiving.

From the report of the committee, which was read, it appears that Mrs. Mitchell is now in the receipt of a pension of eight dollars a month as the dependent mother of Lieutenant Leander F. Alley, late of company I, twentieth Massachusetts volunteers, who was killed in battle on the 13th of December, 1862. The only reason why she does not receive a pension as the mother of a lieutenant is this: her son, at the time he was killed, had been commissioned as second lieutenant, and was actually in command of his company, but the War Department decided that there was no vacancy in his company of second lieutenant, though there were vacancies in the higher grades of company officers. It appears, however, by the records of Massachusetts, that these higher grades had been filled by promotions, which left a vacancy of second lieutenant on the day the commission was issued to Lieutenant Alley.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PENSION BILLS.

Mr. PERHAM. It will be remembered that on Friday last the Committee on Invalid Pensions had but a few moments to report, and the morning hour to-day has been broken into by other matters. The committee have a few more reports which they desire to make, and I hope that the House will unanimously grant us a portion of the next morning hour to complete our reports.

Mr. WASHBURNE, of Illinois. I very reluctantly interpose objection to allowing further time to the Committee on Invalid Pensions; but there have been several requests from committees to have their time extended, and it is unjust to the committees that are behind. The Committee on Commerce and other committees are waiting very anxiously to report.

The SPEAKER. The Chair understood the gentleman from Maine [Mr. PERHAM] to mean on Friday, private bill day.

Mr. WASHBURNE, of Illinois. I do not object to that. He did not put it in that shape. He said the next morning hour.

The SPEAKER. How much time does the gentleman from Maine ask for?

Mr. PERHAM. I think an hour will be sufficient.

Mr. WASHBURNE, of Illinois. I have no objection to that.

The SPEAKER. The gentleman from Maine, [Mr. PERHAM,] the chairman of the Committee on Invalid Pensions, asks unanimous consent that that committee be allowed further time to make reports on the next private bill day. Is there objection?

No objection was made.

CAPTURE OF JEFFERSON DAVIS.

The SPEAKER, the morning hour having expired, laid before the House a communication from the Secretary of War, transmitting all the information on file in that Department relative to the capture of Jefferson Davis; which was referred to the Committee of Claims, and ordered to be printed.

LOANS BY NATIONAL BANKS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 20th instant, a communication from the Comptroller of the Currency relative to loans by national banks; which was referred to the Committee on Banking and Currency, and ordered to be printed.

REVENUE-CUTTER SERVICE.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House of November 30, 1867, in relation to the revenue-cutter service; which was referred to the Committee on Commerce, and ordered to be printed.

SESSION FOR DEBATE.

Mr. WASHBURNE, of Illinois. I have been requested by several gentlemen who desire to make speeches to ask that there shall be a session of the House to-morrow for speeches only in Committee of the Whole on the state of the Union.

There being no objection, it was so ordered.

WAR CLAIMS.

The SPEAKER. The House, by unanimous consent, ordered that to-day, after the morning hour, the bill (H. R. No. 234) to prevent the payment of certain claims should be taken up, and that bill is now before the House.

The bill was read at length. It provides that hereafter no money shall be paid out of the Treasury on any claim in the following class of cases, arising during the war of the rebellion, until the further action of Congress: first, on account of the seizure or impressment of, or for damages or demurrage or detention of, any appliances of transportation—whether land or water—such as steamers, boats, barges, trains of wagons, or cars, &c., in insurrectionary States; second, for transportation service, tolls, ferriage, and so forth, beyond the tariff of rates fixed by the Quartermaster General during the war; and third, for the use and occupation of land in the insurrectionary States used for fortifications and other military defensive purposes during the war for the suppression of the rebellion.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. WASHBURNE, of Illinois. I desire to move a verbal amendment, to strike out the words "damages or," so that it will read "for demurrage or detention of any appliances of transportation," &c.

The amendment was agreed to.

Mr. HOLMAN. I desire to call attention to the following class of cases which this bill forbids the payment of:

First, On account of the seizure or impressment of, or for damages or demurrage or detention of, any appliances of transportation, whether land or water, such as steamers, boats, barges, trains of wagons, or cars, &c., in insurrectionary States.

I desire to inquire of my friend from Illinois [Mr. WASHBURNE] what would be the effect of this provision upon such a case as this: in the year 1863 a loyal man takes a steamboat from the waters of the Upper Ohio or the Upper Mississippi down South, and it is found necessary to take it for the public use, and while in the employ of the Government it is destroyed by the rebel forces. My attention has been called to some cases now pending before the Third Auditor where citizens of the States of Ohio, Indiana, and Illinois went South after the fall of Vicksburg, and their vessels were pressed into the Government service and destroyed by the rebels.

Mr. WASHBURNE, of Illinois. This bill has nothing to do with that class of cases. This bill is for the purpose of preventing the claims which are being put in and paid from the Treasury under the general sweeping appropriations which we have made in military bills. But I am advised that it is very important for the public interest to have this limitation placed upon this particular class of cases.

Mr. HOLMAN. I submit that the language of this bill which I have quoted is broad enough to embrace just the case I put. I refer to the case of a steamer, for instance, which was

taken from Cincinnati to Memphis in 1863, was there pressed into service by the quartermaster to carry troops to the Red river, and was there destroyed by the rebels.

Mr. WASHBURNE, of Illinois. All those claims which are proper have already been paid. This bill is strictly in the public interest, to protect the public Treasury against improper drafts, which, I am told, are made every day.

Mr. HOLMAN. Does not the first clause of this bill cover just the case I have put?

Mr. WASHBURNE, of Illinois. I think not; I think the case the gentleman puts is covered by a different law.

Mr. HOLMAN. I think this bill does apply to the case I have put; and unless that portion of the bill can be modified I cannot vote for it. When a steamboat was taken down South from the upper waters of the Ohio or Mississippi, and was there pressed into the service of the Government and lost or destroyed, I do not think it is just for the Government not to pay for it.

My attention was called this morning to the case of Captain Wilbur, as loyal a man as there is in my congressional district. He went to Memphis with a steamboat load of produce for sale. His steamboat was pressed into the quartermaster's service, taken up the Red River in the Banks' expedition, and there it was destroyed by the rebels. That case has not yet been paid. I think it should be paid for, and the loss sustained by the Government.

The effect of the first clause of this bill is certainly to deprive the Treasury Department of the power to adjust certain claims. I am willing to go to any extent with the gentleman from Illinois [Mr. WASHBURNE] to put an end to the payment of the great body of claims which are springing up, and which Congress has indicated its purpose not to pay for the present.

Mr. ELIOT. It is possible that the criticism which the gentleman from Indiana [Mr. HOLMAN] makes in regard to this bill may have foundation here. And yet, as I understand it, it is not the purpose of this bill to interfere with claims of the description to which he has referred.

I would suggest, with the leave of the honorable gentleman from Illinois, that the words "on account of the seizure or impressment of, or" be stricken out, so that the clause will read "first, for damages or demurrage, or detention of, any appliances of transportation, &c." That would cover, as I understand, the class of cases intended to be embraced in this bill. If a vessel while under charter has been exposed to loss within the terms of the charter, such a case is not intended to be embraced by the bill. If, instead of there being a charter, the vessel has been seized by the Government, I do not understand that a claim arising in such a case under the existing statute is intended to be covered by the bill.

Mr. HOLMAN. Will the gentleman from Massachusetts [Mr. ELIOT] allow me to make a suggestion? I think myself that under this provision payment would still be made to the proper officer under the charter. But the vessels employed by the quartermaster's department in the Lower Mississippi, in the years 1863 and 1864, consisted in large proportion of vessels engaged in the ordinary commerce with Memphis, Vicksburg, Natchez, &c., and which it was found necessary upon the spur of the occasion to seize for the purpose of transporting troops to different points. In this way the larger proportion of the transportation was done during a part of the years 1863 and 1864. I apprehend that even with the amendment suggested by the gentleman from Massachusetts the effect of this first clause would still be to deprive the quartermaster's department of the power to adjust this class of claims. I believe that the object of the gentleman from Illinois would be accomplished if it were expressly stated that the provisions of the act shall not apply to claims authorized to be adjusted by the act of 1849 and the amendatory act of 1863. Without having before me the titles of those two acts I move to add the following:

Provided, That the first clause of this section shall not be construed to apply to claims authorized to be adjusted under the act of 1849 and the act amendatory thereof passed in 1863.

Mr. PILE. I have prepared an amendment which I think would cover the case. It is to add the following proviso:

Provided, That the provisions of this act shall not apply to claims now on file in the proper Department for loss of steamers or vessels owned by citizens in the loyal States and seized by the Government.

Mr. HOLMAN. That amendment, I think, will accomplish the purpose I had in view. I withdraw my amendment that the gentleman may offer his.

Mr. PILE. Mr. Speaker, I offer the amendment which I have just read. I recognize, sir, to the fullest extent the necessity at this time for economy in public expenditures. I am ready to coöperate with the gentleman from Illinois [Mr. WASHBURNE] and other gentlemen in preventing wherever practicable leakages of the Treasury, and in interposing every possible obstacle to the engineering of improper claims through any Department of the Government. But in our haste to accomplish this grand result—economy—we should not override all justice. We should remember that justice, as well as economy, is one of the public virtues which we ought to practice. There are persons in St. Louis, Cincinnati, and other places who have claims against the Government for vessels which, being seized by the Government under military orders, were sent down the Mississippi river and up the Red river, the Alabama river, and other rivers, where they were sunk, burned, or otherwise destroyed. Under the pressure to reduce the expenses of the Government and the taxes imposed upon the people we should not attempt to appropriate to the use of the Government without compensation property embracing in many cases the entire fortune of private individuals.

I know it may be answered that the persons having these claims may present them to Congress and obtain a settlement of them.

With regard to the class of claims excepted by the proviso I wish to say that the claimants have already gone to great labor and expense in getting up the necessary papers and proofs in order to have their claims properly adjusted by the Third Auditor. And the proof required in the claims of which I have any knowledge is most thorough, proof of the seizure of the vessel, its value, the absolute loyalty of its owner, and so on. Now, in those cases in progress of litigation owned in the loyal States for property seized by the Government in these insurrectionary States, the claimants have gone to the trouble of getting up the proof at great expense of money and labor, and I do not think they ought to be required to commence *de novo* before Congress.

Mr. WASHBURNE, of Illinois. If no other gentleman desires to be heard I will demand the previous question.

Mr. MUNGEN. I desire to submit a few remarks.

I believe, Mr. Speaker, that we all should be in favor of retrenchment and reform, but I also believe it is the duty of the Government to pay its honest debts just as soon as possible. If the Government is not able to pay them, then let us say so. But by all means let us have a fair and honest settlement of the amounts due these men whose property has been seized and used by the Government.

I know of many of these cases where steamboats have been taken from private owners and pressed into the United States service. I know of boats being stopped on the western rivers and the passengers taken off and the boats used for the service of the Government. Some of these vessels were sent up Steele's bayou, Muddy bayou, Black bayou, Mason's bayou, and other places; and particularly in trying to get across from the Mississippi to the Yazoo river, to get in rear of Haines's Bluffs, and thus turn the right flank of the enemy and attack Vicksburg in the rear, many of these boats were ruined and literally rendered worthless. The claimants have presented their claims for this property under all the provisions of the law now in force and at great expense and trouble. If they are just they ought to be paid, and no further delay ought to be imposed upon these claimants.

I know of a great many vessels for which damages for "demurrage" are claimed. Vessels were detained by authority of the United States, and it was understood at the time these things were done that as soon as the claims were presented they would be settled. Now it costs these men in some instances more than their claims are worth to prosecute them under the system of retrenchment and reform which is now being adopted. Even the claims of soldiers for bounty and back pay are delayed beyond all reasonable excuses. Report No. 5 to the House of Representatives, Fortieth Congress, second session, made to accompany the bill H. R. No. 331, under date of December 19, 1867, shows how this matter stands. In the testimony on pages 26 and 27, to which I respectfully refer, we find the sworn statement of B. W. Brice, Paymaster General of the United States Army, and he very positively states that claims could be paid by his department "much faster"—"double the number" that were paid at the time he so stated, which was December 5, 1867—if I remember correctly. He says in his testimony that, "we are now averaging not more than thirteen thousand a month at the outside"—"we can pay thirty thousand a month. Now, Mr. Speaker, I do not think the fault is in this case entirely with the Second Auditor, for I know of a claim agent in the town of Findlay, Ohio, where I reside, who has from thirty to fifty claims which have passed the Second Auditor's department and have been in the hands of the paymasters many of them since April and May last, and he has the letters of the paymasters to show this fact.

Mr. WASHBURNE, of Illinois. While the gentleman's remarks are no doubt just in reference to claims' agents, I must insist he shall confine his remarks to the bill.

Mr. MUNGEN. I merely cite it in illustration. I think it is germane to this proposition. I know that it now requires as much to get a claim through under the present system as the claim amounts to in many cases; and I fear if we interpose any further delay these claimants will not live long enough to see their claims adjusted. They will be like some Florida claims and stand unsettled for forty or fifty years. Let us do what is right now, and do not let us put an embargo on these claimants. I believe in the Government paying its honest debts as soon as possible. I insist that much of this legislation, put forward under the plea of reform and retrenchment, is a fraud, an imposition, a wrong, and an outrage upon honest, and, if the gentleman from Illinois pleases, "loyal" men. Let us cease such proceedings and act the part of legislators.

Mr. LOGAN. I desire to know whether the intention of the bill is to cut off entirely the payment of damages for labor performed by the parties or for anything seized in the rebellious States?

Mr. WASHBURNE, of Illinois. Mr. Speaker, if my colleague had paid attention he would have known the word "damage" has been stricken out.

Mr. LOGAN. Suppose boats under charter-parties were to go down to Vicksburg during that campaign and were released at Vicksburg, but before they had ascended the river and returned into the waters of the loyal States should be seized again by authority of the United States, does this cut off all such claims?

Mr. WASHBURNE, of Illinois. I will explain that when I come to reply.

Mr. LOGAN. It seems to me that it does cut off that class.

Mr. MAYNARD. How far does the gentleman expect the third clause to apply to lands

used for earthworks or fortifications, or lands employed for hospital purposes or for any other military purpose?

Mr. WASHBURNE, of Illinois. I will answer the gentleman when I take the floor.

Mr. MAYNARD. I would like to hear what the gentleman's views are now, because it is a matter of some importance. As matter of fact, there was a great deal of real estate used. Of course the use of land implies and covers all that was on the land. Buildings were used for hospitals, for store-houses, and for headquarters, and frequently very much damage was occasioned by the use of the property.

I know a case that comes very near to me personally—I will not say whose case it is—where a man's dwelling-house and all the buildings were used for months as headquarters, and the buildings were left in a very damaged and ruinous condition. Glass was broken, crops, trees, and shrubbery destroyed, the garden inclosure used as a pen for mules and horses, outbuildings destroyed, and to this day not one dollar of compensation has been paid. I submit that the Government cannot afford to do these things without giving compensation. It is not right. It makes no difference whether the owner of the property lived in Tennessee, or in Virginia, or in Missouri, or in Illinois; I take the broad ground, and I insist upon it here and before the country, that the nation cannot afford to be unjust to these loyal citizens. A man who stood as a friend to the Government in the State of Tennessee is entitled to just as much consideration and as high degree of protection as he who was at a safe distance from the conflict in the remoter parts of Illinois or any other State of the Union. If this section means what I suppose it does, and what it would seem to mean, it is most singularly, most glaringly, most wickedly unjust; and no man, knowing the facts, can vote for it, in my opinion—I will not say with a clear conscience, but he cannot afford to do it as an American citizen—consistent with the obligation of the Government, in taking individual property for public use, to pay for it. It is manifestly, clearly, and palpably wrong.

I will mention another instance. There lived in the neighborhood of Nashville, within a mile of the capitol, a member of the legal profession, who had invested nearly all the earnings of his life in a pleasant home, a mansion that he had erected at an expense of many thousand dollars upon a beautiful elevation of land, where he had hoped to spend with his family the residue of his days. A military gentleman thought that elevation was peculiarly fitted for the military defense of Nashville. Accordingly he took possession of it, tore down the mansion, converted it into a fortification, and used what material he wanted. He then went off to a neighboring rebel's ground and got wood for the building and paid the rebel for it, giving him full compensation. But the owner of the mansion, whose family was turned away and whose house was pulled down over his head, was never paid the first farthing, though he was as loyal a man as you or I. I think there are few more loyal than he.

Now, I repeat that this Government cannot afford to do these things. It is a degree of injustice that is simply outrageous, and it will not bear scrutiny. It cannot be defended, and I trust that no such measure as this will pass this House.

Mr. WASHBURNE, of Illinois. I now call the previous question.

Mr. TRIMBLE, of Kentucky. I desire to ask a question.

Mr. WASHBURNE, of Illinois. I will withdraw the call to hear the question.

Mr. TRIMBLE, of Kentucky. I desire to know whether under the existing law any debt can be paid by the Treasury Department unless it is a just one against the Treasury, and comes within the provisions of some law enacted by Congress?

Mr. WASHBURNE, of Illinois. I will answer that when I take the floor.

Mr. TRIMBLE, of Kentucky. I wish to inquire further whether, by the legislation of Congress, any man can be paid for anything that comes under the provisions of the law unless the claimant proves satisfactorily to the Treasury Department his loyalty to the Government of the United States?

Mr. WASHBURNE, of Illinois. I will answer that, too, when I take the floor.

Mr. TRIMBLE, of Kentucky. I would like to have an answer before the previous question is seconded.

Mr. WASHBURNE, of Illinois. I prefer to answer it after.

Mr. TRIMBLE, of Kentucky. Then I hope the previous question will be voted down. I think it is a dangerous precedent to pass a law of this kind, which, in my opinion, violates the faith of the nation and repudiates its just debts.

Mr. WASHBURNE, of Illinois. This bill is reported from the Committee on Appropriations. I have not called the previous question, but have given every gentleman the floor who desired to speak, and as this is a special order, and if it is not acted on to-day will go over indefinitely, I renew the demand for the previous question. Gentlemen can vote it down if they choose. I have no interest in this matter except to save money to the Government.

The question was put upon seconding the previous question; and there were—ayes 36, noes 33; no quorum voting.

Tellers were ordered; and Messrs. WASHBURNE, of Illinois, and TRIMBLE, of Kentucky, were appointed.

The House divided; and the tellers reported—ayes 51, noes 49.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. STEVENS, of Pennsylvania. I move to lay the bill on the table.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURNE] is entitled to the floor to close the debate.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I did not anticipate that there would be any opposition to this bill, particularly upon this side of the House, and I think that gentlemen have been entirely misled in regard to its character. I wish to state to the House precisely how matters now stand and what is the necessity for the passage of a bill such as this which has been reported unanimously by the Committee on Appropriations.

We make very large appropriations in gross for the quartermaster and commissary departments and for other objects, which go in gross to the War and other Departments of the Government, and it is found that under the peculiar rulings of this Administration and of the officers under this Administration hundreds of thousands of dollars are going out of the Treasury almost every day; and it was deemed necessary by the Committee on Appropriations to bring in a bill providing that there shall be no further payments made in cases of this kind unless Congress shall pass upon them.

The gentleman from Ohio [Mr. MUNGEN] asks, "Why not pay honest claims?" I ask him why not let us here, as the representatives of the people, determine whether or not they are honest, instead of leaving it to the heads of these Departments who are paying these claims—I will not say under the direction and by the authority of the President of the United States, going out of his legitimate line of action and directing these claims to be paid? That is the reason why the bill is brought in.

In relation to the amendment of the gentleman from Missouri, [Mr. PILE,] let me say to him and to the House that every just and honest claim which has arisen in the cases to which he refers I believe has been paid. But, sir, when these claims have been once rejected influences are brought to bear upon these Departments and they are ordered to be paid, and paid out of these gross appropriations that we have made. If there are any just and righteous claims which should be paid let the claimants come here and present their claims to us, and let us examine them, and if they are just let them be paid.

Mr. BOUTWELL. I would ask the gentleman from Illinois whether claims are paid at a Department which have not been examined, audited, and approved by the Auditor and Comptroller in the ordinary way.

Mr. WASHBURNE, of Illinois. I understand that payments have been made entirely without the line of the ordinary proceedings in those Departments. I understand that orders have been given to individuals that they should have these claims paid, and they have been paid to the amount of hundreds of thousands of dollars—claims which would not for one instant bear the investigation of this House.

Mr. BOUTWELL. By whose order are these claims so paid?

Mr. WASHBURNE, of Illinois. Well, sir, they are paid by the order of those in authority.

Mr. BOUTWELL. Who are in authority?

Mr. WASHBURNE, of Illinois. The gentleman from Massachusetts knows too well who are in authority now.

Mr. BOUTWELL. Not by my consent.

Mr. WASHBURNE, of Illinois. No, sir.

Mr. MAYNARD. I would like to ask the gentleman what good his law will do if men now, in violation of law, put their hands into the Treasury?

Mr. WASHBURNE, of Illinois. Well, sir, the officers contend that they have a right to pay the claims out of these funds. I contend that they have not a right to do it; and I contend that it is our duty, if we intend to guard the Treasury, to put the limits which we now propose to put upon these persons in office.

Mr. MAYNARD. Why does not the gentleman visit his indignation on those officials who, in his judgment, violate the law, and not upon honest claimants?

Mr. WASHBURNE, of Illinois. I am visiting no indignation on honest claimants. If men have honest claims let them come to us and show that they are honest, instead of sneaking up to the Departments and getting their claims allowed.

Now, I undertake to say that no injustice will be done by the first clause of the bill; and in regard to the second clause nobody has objected to it.

I now come to what was said by the gentleman from Tennessee, [Mr. MAYNARD.] He made an appeal to the House not to pass this bill. His appeal might be a very good one to be addressed to the House when there was a bill before it of the kind he describes. But does not the gentleman from Tennessee know what has been the practice, and what may be the practice, unless we put in this limitation here? How much has been paid—not to loyal men, of whom the gentleman speaks, but to rebels—for the very things which we provide they shall not be paid for, for the use and occupation of land in the insurrectionary States? My friend's speech here was an argument which might be addressed to the House if we had under consideration the question of paying for the casualties of war. When that question comes up I will be ready to meet my friend.

But I can say to him that there are claims enough of this very character now before the Committee of Claims—as I am advised by a member of that committee—to bankrupt any Government on the face of the earth. This Government never has determined, no Government on the face of the earth ever has determined, to pay claims for the casualties of war. All we provide for here is that these claims shall not be paid until we have first passed upon them here in Congress. Is there anything unjust or improper in that? We have not made an appropriation of a single dollar here; no man has voted to appropriate a single dollar to pay for the claims recited in the third paragraph of this bill.

Mr. MAYNARD. Will the gentleman permit me to ask him a question?

Mr. WASHBURNE, of Illinois. Yes; certainly.

Mr. MAYNARD. I would inquire of the gentleman whether in the last Congress he did not vote for a resolution forbidding the Committee of Claims to investigate any claim that came from that portion of the country; and also whether, when I introduced a proposition to except the claims of the loyal citizens of Tennessee, he did not object to it and prevent its introduction?

Mr. WASHBURNE, of Illinois. It is very possible that I did. I know that I voted with three fourths of the House in regard to the first resolution named by the gentleman. And I know I should have voted against his proposition upon the ground I am now stating; that we cannot be called upon to pay for these casualties of war.

Mr. MAYNARD. I wish to suggest to the gentleman that having shut the door of this House upon us, so that we cannot come here and get even a hearing, cannot get even an investigation into the merits of our claims by the Committee of Claims, whose duty it is to investigate such claims—having closed the door of this House against us, the gentleman now seeks to close the door of the Treasury against us, so that we shall not be permitted to go up there under the general rule of law that applies to other citizens. I want no better commentary on this bill than that; it is unjust and wrong.

Mr. WASHBURNE, of Illinois. I decline to yield any further.

Mr. MAYNARD. I suppose the gentleman does not want to hear any more.

Mr. STEVENS, of Pennsylvania. Will the gentleman yield to me for a moment?

Mr. WASHBURNE, of Illinois. Certainly.

Mr. STEVENS, of Pennsylvania. I desire to ask the gentleman whether by "casualties of war" he means the order by one of our officers to destroy or seize private property for military purposes?

Mr. WASHBURNE, of Illinois. The gentleman from Pennsylvania [Mr. STEVENS] asks me what I consider the case of one of our officers ordering the destruction of private property. That would be a matter for this House to consider and determine whether there was any authority vested in a lieutenant, for instance, to destroy property in the rebel States to the amount of millions and millions of dollars, and that we are concluded from investigating the case, but must vote away the property of loyal men of the North to pay for the property of men in the South. That is my answer to the gentleman.

Mr. HAWKINS. Will the gentleman yield to me for a moment?

Mr. WASHBURNE, of Illinois. I must decline to yield. If gentlemen want to vote down this bill I cannot help it. I have only stated the reasons which impelled the Committee on Appropriations which you have created here to try and do something to stay this tide of extravagance which has been sweeping over the country.

The committee have learned from the highest authority that large amounts of the public money are going out of the Treasury to meet claims which should properly pass an examination by Congress. Hence they have deemed it necessary to report this bill for the action of the House. If the House thinks the passage of the measure will not subserve the public interest let it be voted down. I have nothing further to say.

Mr. PILE. As the gentleman from Illinois has referred to me, I hope he will yield me five minutes for a reply.

Mr. WASHBURNE, of Illinois. I do not know that I have referred to the gentleman, but I will yield to him.

Mr. PILE. The gentleman from Illinois has stated that the claims of the class referred to in my amendment have already been collected. I beg leave to say that I have better information on that subject.

Mr. WASHBURNE, of Illinois. The gentleman from Missouri [Mr. PILE] does not, I know, wish to misrepresent me; and he will permit me to remark that I did not say that all these claims had been collected. I said that I had been informed, and that I believed, every just and proper claim of this description has been paid, and if there are any other claims which would fall under that provision they should be brought here to us and we should pass upon them.

Mr. PILE. That is the very point on which I take issue with the gentleman.

Mr. STEVENS, of Pennsylvania. I wish to say that I know of claims of this description, amounting to hundreds of thousands of dollars, which were brought here and reported upon favorably in the first Congress after the war, and the payment of which has been stopped by that very resolution referred to by the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. PILE. There are within my personal knowledge a number of cases of vessels and steamers which were sent south from St. Louis, the owners of which not only are loyal but suffered in the war the loss of all they were worth, so that the last remaining vestige of their property is involved in the claims now pending before the Third Auditor for vessels seized by the Government and sent into the insurrectionary States after the Mississippi river was opened. These men have expended considerable money and labor in preparing their claims for presentation. They have gone before notaries public and clerks of the courts to attest their papers; they have sent to various localities for affidavits and certificates as to the ownership of the vessels and the service rendered by them. There are now pending before the Third Auditor cases of this kind in which there is no question as to the loyalty of the claimants or the justice of the claims—cases the settlement of which has been delayed thus far only by technical difficulties with regard to the perfection of the papers.

Now, sir, I am willing to coöperate with other gentlemen here in excluding from payment all claims of rebels, in preventing every improper leakage in the Treasury, every expenditure that is without warrant of law. But I protest against making this bill so broad in its terms as to shut out the class of persons to whom I have referred. All I ask is the adoption of the proviso I have offered, excepting from the operation of the bill claims now on file provided for by existing law, and now in process of adjudication under the law; claims presented by parties resident in the loyal States; parties who never resided in the insurrectionary States; parties whose loyalty is unquestioned, and whose claims are undoubtedly just. I do not object to extending the operation of the bill to cases where the parties have not yet filed their claims, where they have not been subjected to the expense and labor of perfecting their papers, and where this extraordinary hardship will not be imposed. But I beg leave to suggest to the gentleman from Illinois that when the present enormous tide of "reform" shall have run its course, when the presidential election shall have passed by, and when we shall not have so many men seeking to build up a cheap reputation for economy on small matters of reform, we may find, in reviewing the history of our legislation, that in the appropriations by Congress there have been as many leakages as in the settlement of these claims by the appropriate Departments. I question whether, in the long run, it will be found more economical to have these claims passed upon by Congress than to have them adjusted as they are under the present law. I hope the amendment which I have offered will be adopted, so that we shall not impose this extraordinary hardship upon the class of persons to whom I have referred.

Mr. NICHOLSON. Will the gentleman yield to me for a single remark upon this bill?

Mr. PILE. Yes, sir.

Mr. NICHOLSON. Mr. Speaker, the gentleman who reported this bill [Mr. WASHBURNE, of Illinois] stated, during the course of his argument, that it was reported with the unanimous concurrence of the Committee on Appropriations. Now, sir, I think the gentleman is mistaken in that respect.

This bill did not and does not meet with my approval. I was only present on the occasion when the bill was ordered to be reported by the committee. It is true that I made no distinct and direct opposition to the bill. I believe there was no formal vote taken on it. It was ordered to be reported by the majority. It does not meet with my approval; for, sir, these claims cannot be paid except in accordance with existing laws, and there I think the matter should rest.

Mr. WASHBURNE, of Illinois. I do not know that what my colleague on the committee has said has changed my statement. I did not understand him to make any opposition to the bill, and I understand him to say now that he did not, although he is opposed to it now. I should suppose he and the gentlemen on his side of the House would oppose this bill, and I was surprised he gave it his nominal assent in committee.

Now, Mr. Speaker, one word in reply to the gentleman from Missouri [Mr. PILE] and in relation to his amendment. If the House wants to defeat the bill the best way to do so is for it to adopt these amendments. The gentleman's amendment proposes this provision shall not apply to the claims on file in the proper Department, that is to claims now filed for losses of property owned in the loyal States incurred by seizure of the Government. We might, if that be adopted, as well strike out the first section of the bill; for, as a matter of course, all these claims are now on file. And by passing the amendment you in effect give a sort of sanction to that kind of claims.

One word further in regard to the general subject. The gentleman from Missouri is in favor of economy. Yes, sir, every gentleman is in favor of economy on general principles; but when it comes to a matter in which he is interested, then he talks about demagogism and cheap reputation of those who desire to apply the same honest principle to the action of Congress in all like cases. Sir, I can say to him that I am not in pursuit of any reputation, cheap or dear; but I am here to do my duty as a Representative of the people generally, and of my constituents of the third congressional district of Illinois particularly. And, sir, I shall not be deterred from that duty by these flings. I am sure that I shall lose no reputation by them.

I am here to-day representing the Committee on Appropriations in presenting this bill to the consideration of this House, which they deem imperative for the public interest; and having discharged that duty I leave it for the House to determine. If they reject the bill let them take the responsibility.

Mr. BUTLER. My colleague on the committee yields to me.

Mr. Speaker, I was unfortunately absent from the committee at the time this bill was under consideration, and therefore I have never given it any consideration in committee, and, sir, I now only desire to call the attention of the House to one or two matters which I think may not be within the attention of the House.

A large number of cases will be carried by this proposition which I do not think was in the intention of my colleague or the committee who has reported the bill. This class of cases arose in the beginning of the war. The rebels took from our people all the vessels that were in their waters when the war broke out, either steamers, sailing vessels, or barks. Having taken those vessels when we recaptured the ports in which they were, many of those vessels were used by the United States for the purpose of transportation. Some have been restored to the loyal owners and some were kept during the war and have not been restored. And there were other cases arising in this way. Vessels were sent down to southern ports, to the port of New Orleans, and to

Port Royal in South Carolina, and at a subsequent period to ports in Virginia and North Carolina, by loyal men in the course of trade, to those ports opened by the President's proclamation, and while those vessels were down there the necessities of the Army required they should be taken for transportation, though coming from Boston, New York, Philadelphia, and other places in the course of trade, and owned by loyal men. The necessities of the Army required generals commanding to take these vessels for the time being for the purpose of transportation, using them as long as it was necessary, returning them in some cases and in some cases not. They were paid for in some cases and in some not.

Now, while I fully agree to the third clause of this bill, yet the first clause in its full and unlimited extent I cannot vote for, because I think we ought to put ourselves in a position to be just; and I think it is bad economy to perpetrate injustice. I am willing to vote with any man to cut off all unnecessary expenditure, but I am not willing to vote to do injustice; and I am certain that my colleague on the committee would himself not vote in that direction.

Take this case: a loyal man living in New York sends a steamboat to New Orleans with General Banks, for instance, when his expedition went down there. The general finds it necessary, when the vessel is discharged, to take it with him in his movement up the Red river or into Texas. He uses the steamboat and the owner has not been paid for it.

Mr. WASHBURN, of Wisconsin. I desire to ask if the gentleman knows of any case of that kind where the claimant has not been paid?

Mr. BUTLER. Yes, sir; I know two or three.

Mr. WASHBURN, of Wisconsin. What reason was assigned?

Mr. BUTLER. Generally that there has been no proper vouchers or papers filed. In some cases it has been because the quartermaster's trains were lost containing the papers. There is a considerable number of cases of that sort.

Mr. WASHBURN, of Wisconsin. It is a proper case, then, to bring to Congress.

Mr. BUTLER. Undoubtedly it would be a proper case to come to Congress. But let me state a case that occurred. A man living at Wheeling owned a steamer running in southern waters at the time of the rebellion. The rebels seized it, and upon its recapture it was returned to him, not, however, until it had been used by the quartermaster's department of the United States for some considerable time. It was all the man had in the world. He came to the department commander, but that officer was not able to pay him under the law and sent him to the War Office. The War Office has not paid him because no proper vouchers can be found. The reason why they cannot be found in that particular case, so far as I know, is that the quartermaster is dead or made the vouchers informally, as was done in many cases in the early part of the war, because the quartermasters did not understand the regulations. Now, then, ought not that man to be paid?

Take another case, where a steamer went to South Carolina with troops. After she discharged her cargo in the harbor of Port Royal she was seized and used to carry troops, and she has not been paid for because of the change of commander and want of a proper certificate. And so in various cases.

Now, I suggest first, that where the property at the time, not by a subsequent transfer, but at the hour it was taken stood registered in loyal hands in loyal States, the fact that it was found in the waters of the insurgent States should be no reason why the owner should be made to bear more burden of the war than other men bore. Because, you see, you thereby put the whole burden of the war, so far as that man is concerned, upon him by taking his property, simply because he was in the legitimate exercise of the right of commerce; or perhaps, as in the case I put, because he turned over his steamer to the Government for the purpose of conveying troops.

Mr. MAYNARD. I desire to ask the gentleman whether he thinks an owner living in New York or Philadelphia is entitled to any higher consideration than a loyal owner living in a State in rebellion?

Mr. BUTLER. Certainly not.

Mr. MAYNARD. And I would inquire, further, how long it would take Congress to fairly investigate the number of honest claims that will be entirely cut off by the operation of this bill, supposing it does nothing else but form itself into an auditing board to pass upon them?

Mr. BUTLER. As to that question the gentleman can judge as well as I. But as to the first question, I think better of a loyal man who remained strictly and truly loyal to the flag under all the difficulties and disadvantages of living in a rebel State than of an equally loyal man who lived in a loyal State. I esteem him as one step above any other class of loyal men. But here is the difficulty—and it is a difficulty which no man will appreciate better than my friend from Tennessee—that the moment you say loyal men living in disloyal States have this privilege, then every man who has got a claim becomes loyal so far as affidavits and testimony go. That is the difficulty. A great door is open to wrong and fraud. And it is on that account that we have to deal with the matter by a general law under which some just claimants may suffer.

Mr. MAYNARD. I would ask the gentleman if he does not suppose that fraud of that kind would be just as potent in its operation upon Congress as upon the Departments, and whether it is not better now, when the proof is fresh and recent, to pass upon the cases than to put them off and leave them to come up a few years hence?

Mr. BUTLER. I was going to suggest a remedy to my friend in this class of cases, and that is, to refer them to the Court of Claims. Let the bill apply generally to other cases and refer this class to the Court of Claims, where the very first requisite is that the loyalty of the claimant from the beginning to the end of the rebellion must be established.

Mr. WASHBURNE, of Illinois. Let me say in regard to that matter that the Court of Claims has jurisdiction now on this very subject and the claimants can go there and present their claims. What we want to do is to provide against their payment until Congress or the Court of Claims shall pass upon them.

Mr. BUTLER. Ah! I thought my friend's bill went further than he intended.

Mr. WASHBURNE, of Illinois. No, sir, it does not.

Mr. BUTLER. Let us see. It provides "that hereafter no money shall be paid out of the Treasury on any claim in the following class of cases, arising during the war of the rebellion, until the further action of Congress."

Now, under that provision no money can be paid out of the Treasury, by virtue of a decision of the Court of Claims, or of anybody else, in this class of cases.

Mr. WASHBURNE, of Illinois. It is the same in regard to every other class of cases that comes before the Court of Claims. Congress has to appropriate the money to pay the judgments of the Court of Claims, and the cases to which the gentleman alludes would be in precisely the same position as every other case.

Mr. PILE. I think the gentleman is mistaken. It needs no appropriation to pay judgments rendered by the Court of Claims.

Mr. WASHBURNE, of Illinois. I beg the gentleman's pardon; it does.

Mr. BUTLER. I think the truth on this subject lies between my two friends, and it is this: we appropriate in gross for the judgments of the Court of Claims and not specifically.

I have said all I desire to say upon this matter.

Mr. WASHBURNE, of Illinois. The amount of the gentleman's argument is that he is in favor of the amendment proposed by the gentleman from Missouri [Mr. PILE] and not opposed to the other provisions of the bill. Now, sir, I consider that amendment most fatal, and one which ought not to be adopted by the House if we propose to stop this thing. If we do not propose to stop it—if we propose to let millions be taken out of the Treasury—then we can adopt the amendment and pass the bill. But there is no logic in the gentleman's amendment. He confines it to claims which have been filed. Why does not he embrace other claims which have not been filed? They may be quite as just as those claims which have been filed.

Mr. PILE. For the simple reason that the persons who hold claims and have not filed them have not been at the labor and expense of perfecting their claims and filing them. The cases to which my amendment refers are now pending and they do not amount to millions.

Mr. WASHBURNE, of Illinois. The gentleman has no idea of the amount of these claims. If he will consult the Committee of Claims of this House he will get some idea of the demands that are made upon us; and if we do not stop this thing at the threshold we might as well open the sluices of the Treasury and let it go. I ask for a vote.

Mr. HOLMAN. I move to reconsider the vote by which the main question was ordered, with a view of moving to recommit the bill to the Committee on Appropriations.

REPEAL OF THE COTTON TAX.

Mr. SCHENCK. I rise to a privileged question. I am directed by the committee of conference upon the disagreeing votes of the two Houses on the cotton-tax bill to submit a report which I send to the Clerk's desk.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendment to the bill of the House, and agree to the same with an amendment, as follows:

Add to the bill the words "and cotton imported from foreign countries on and after July 1, 1868, shall be exempt from duty," and the House agree to the same.

R. C. SCHENCK,
JAMES B. BECK,
Managers on the part of the House.
JOHN SHERMAN,
J. S. MORRILL,
T. A. HENDRICKS,
Managers on the part of the Senate.

The question was upon agreeing to the report of the committee of conference.

Mr. SCHENCK. Before the vote is taken I will ask the indulgence of the House to explain very briefly what is the substance of this report. It will be observed that the Senate, having amended the bill of the House so as to change it from a repeal of the cotton tax after the crop of 1867 to a suspension only of the tax for the year 1868, this report recommends that the Senate recede from their amendment and accept the bill of the House with an amendment. The bill of the House provides for the entire repeal of the cotton tax of the crop of 1867. It is recommended that the Senate accept the bill, with an amendment that, as there is to be no tax on cotton after the year 1867, there shall be no duty imposed upon any cotton imported after July 1, 1868.

The tariff duty upon imported cotton has recently been three cents per pound. At one time it was admitted duty free, then a duty of two cents per pound was levied upon it, and afterward that duty was increased to three cents per pound. The Senate propose that, as the bill proposes to take the three cents per pound tax off the home product, they will accept it if the tariff duty is taken off the foreign cotton.

The conferees on the part of the House were very reluctant to agree to this amendment of

the House bill, and we did not agree to it—as I may say on behalf of the gentleman from Kentucky [Mr. BECK] who signed the report with myself—until we became entirely satisfied that unless we came to such an agreement the whole bill would fall. We were not disposed to agree to it, because we recognized as the policy of the country that no duty ought to be imposed upon the products of the soil where there is any likelihood that by doing so we fail not only to get any considerable amount of revenue from such products, but at the same time to give any protection to the interest of the country employed in raising these products of the soil. For the same reason that we would not remit the tariff upon wheat, corn, flax, and flaxseed, or any other raw material grown in the country, so, carrying out the principle in all legislation in reference to special matters, we thought we should be equally liberal in regard to cotton.

When, however, we looked to the effect of this amendment it amounted to so little that, though it be in some degree a violation of what we think ought to be the settled policy of the country, it does not materially affect the growing interest on the one hand or the revenue on the other.

One reason why the Senate insisted upon having the tariff upon imported cotton remitted was founded upon the fact that during the war, when the price of cotton was exceedingly high, a few establishments grown up in the United States which had used for the manufacture of coarse bagging and other textures an inferior quality of Surat cotton, of short staple, very cheap, and of little value.

Gentlemen will remember, however, that the whole quantity of cotton imported at any period before the war never amounted to a million pounds a year. During the war it increased very largely; in 1862 to twenty-nine million pounds; in 1863 to over thirty-three millions; in 1864 to over twenty-six millions; and in 1865 to over thirty-six million pounds. But as soon as the war ceased the amount imported decreased to six million pounds in 1866, and in 1867 to eight hundred and twenty-five thousand pounds. And when the returns of the present year come in the amount will probably be found not to exceed half a million pounds.

Mr. HOOPER, of Massachusetts. The gentleman will allow me to correct him on one point. A large proportion of the cotton imported has been American cotton returned to this country.

Mr. SCHENCK. The gentleman does not correct me on that point, because that very remark I was going to make in less than a minute, if the gentleman had waited.

The whole amount of importation for the year 1867 (and in 1868 the amount will probably be considerably less, measured by value) was one hundred and ninety-seven thousand four hundred and forty-five pounds, the tariff upon which would be only $24,771. But inasmuch as a large proportion of this importation of cotton was American cotton brought back to this country, probably not more than eight or ten thousand dollars, and perhaps less, was derived from foreign cotton imported. Hence, it will be seen that there is no material effect upon the revenue, whether we have a tariff on cotton or not. Considering, therefore, that neither the revenue of the Government nor any material interest of the country is affected by this matter in any considerable degree, the conferees on the part of the House were ready, for the sake of saving the bill, to agree to the proposition of the Senate, that, while the tax of three cents per pound should be taken off, the tariff of three cents per pound should also be taken off. As the tariff and the tax have recently been about equivalent, cotton will, when both are taken off, be left relatively in the same condition as heretofore.

I now yield to the gentleman from Pennsylvania, [Mr. MOORHEAD,] my colleague on the committee, who desires to make an explanation as to his action in this matter.

Mr. MOORHEAD. Mr. Speaker, I do not rise specially for the purpose of opposing the adoption of this report, although I am opposed to it. I rise more particularly to explain my own position with regard to this matter and to state why I have declined to sign the report which has been signed by my colleague on the committee.

Two or three years ago I was very anxious, as were many other members of the House, to impose a tax upon cotton, because we at that time believed that a large amount of revenue could be derived from this source and that the producers of cotton would not feel the tax. At this session I became satisfied from the testimony presented that the tax of three cents per pound on cotton was interfering seriously with the production of the article.

As it is exceedingly important that this staple should be largely produced and that we should have it for export, I yielded my former opinion in favor of taxing the article, and agreed to the removal of the tax.

I was opposed to the Senate amendment contemplating a suspension of the tax for one year, because I believed that such a measure would not stimulate the production, and would therefore fail to accomplish the object which I desired to effect by the removal of the tax. Hence I have insisted upon a total repeal of the tax. To this the Senate has acceded; but it has added another amendment which I consider entirely inconsistent with all the principles upon which I have acted and upon which, I believe, this House has acted. The effect of the Senate amendment is, that while we are endeavoring to stimulate the production of cotton we take off the tariff and admit free of duty an article that comes at once in competition with our coarse cotton. This is my reason for refusing to sign the report. I have deemed it proper to make these remarks to explain my position on this question.

Mr. SCHENCK. I now yield to my colleague on the committee, the gentleman from Kentucky, [Mr. BECK,] who concurred with me in signing the report.

Mr. BECK. Mr. Speaker, in common with my colleagues on the conference committee, I objected to the repeal of the duty on imported cotton as a condition to the repeal of tax on cotton produced in the United States. But I was satisfied, as was the chairman of the House committee, that we either had to make that concession to the views of the Senate or the House bill would fail altogether. That committee was instructed not to recede further, and they assured us the Senate would not, and that no further conference would be had. The season for planting the next cotton crop was rapidly approaching, and unless something was done soon the repeal of the cotton tax would be of no practical value to the people of the South. Besides, the amount of cotton imported, as shown by the report for 1867, was only eight hundred and twenty-five thousand seven hundred and twenty-one pounds, of the value of $197,445, and the tax thereon $24,771; and with the tax equally removed from the imported and home-produced article we could see no reason why the imports should be increased, and we regarded it as too small a matter to cause the loss of an important bill. If the imports increase largely proper taxation can be again imposed on it. Besides, we were informed that the cotton imported is a Surat cotton of very coarse quality, which did not compete with our cotton, but was used to make a coarse bagging by a few factories. We were further assured that a majority of the former House committee had agreed to remove the duties on imported cotton, and that the Senate had receded from its amendments in the faith that the House committee to be appointed would adhere to that position. For these reasons, while I disapproved the Senate amendment, I concurred in the report.

Mr. SCHENCK. I yield now to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MOORHEAD. I take exception to the statement that the majority of the previous committee agreed to take the duty off imported cotton.

Mr. MAYNARD. Mr. Speaker, I was on the first committee of conference which failed to agree on this bill, and I certainly did not give my assent to the duty being taken off of foreign cotton. I assume, sir, it is the interest of this country to foster, protect, and, if possible, to reinstate the cotton-producing interest that was utterly overturned and prostrated by the war. The law as it now stands gives this advantage to the American over the foreign producer in the American market: that while the home producer is taxed two and a half cents the foreign producer is taxed three cents, and that in gold, giving the American producer the advantage of one half per cent. and the gold premium of something like forty per cent. This bill as it is proposed by the committee of conference takes off the two and a half cents on our own cotton, and it also takes off the three cents per pound on imported cotton. My friend from Ohio [Mr. SCHENCK] has offered statistics to show that the amount of foreign cotton now imported is very small. Statistics show it is not a very heavy importation and that of a particular kind; but I should like the gentleman from Ohio [Mr. SCHENCK] or the gentleman from Kentucky [Mr. BECK] to tell us what reason there is for the removal of the duty? What interest now suffers by it? Very little is now imported. Is it desired to import more? Cotton can be brought from India and Brazil and landed at New York as cheaply as at Liverpool.

I have not the time, or I will not take the time, to show by an array of statistics that we have during the war lost the control of the foreign market. There is more India and Egyptian cotton manufactured upon the continent of Europe to day than American cotton; and instead of furnishing seventy-five to eighty per cent. of the cotton sold in the Liverpool market, as before the war, we have now, if I mistake not, less than forty per cent. And this bill proposes to do more—to take from us the American market by putting the foreign producer into competition with our own producer upon our own soil.

And it is this particular point I wish to bring to the attention of the House. It is the labor of the country which produces cotton, the labor of the white man and the black man, who work in the sun in the cotton-fields. You take away the protection now given to their industry and put them into competition with the coolie and ryot of Asia and the slaves of Brazil. What will be the consequence? While we are deliberating on this bill intelligence comes from Montgomery, Alabama, that men are hiring for the year at from twenty-five dollars to thirty dollars per month, barely ten cents a day for working days—not enough to keep a gentleman in his cigars. In South Carolina five dollars a month and rations—not five dollars and board, but five dollars and raw provisions. In Mississippi the same thing prevails. Can labor endure it?

Pray who is to gain by this bill? We are told two or three establishments that manufacture India cotton, or as it is usually called, Surat. They now pay three cents a pound duty, and I do not hear any complaint that they are not doing well enough. Let them go on and continue to work. Does it interfere with their business that American cotton no longer pays a tax of two and a half cents, or however much cheaper it may be made by taking off the tax? We do not interfere with their operations in any way. Let them go on as they are now doing.

I would like my friend from Ohio [Mr. SCHENCK] to say why we should not take off all duties on foreign wool. He did give us some very good reasons less than a year ago. The same argument that operated to impose the duty on foreign wools operates with greater force to impose a duty on foreign-grown cotton; because there are some wools brought in which scarcely enter into competition with wool grown in this

country. By this bill we propose to take the tax off all foreign cotton and let it in without duty of any kind, thus compelling our growers to compete in American markets with the worst paid labor of the uncivilized world.

I am for protection; I am, in the parlance of political economy, what is called a protectionist; but I am for the protection of labor, of industry. Capital is very able under any and all circumstances to protect itself. I trust the House will not concur in this report, but send it back and have another committee of conference. They may possibly succeed in agreeing upon something better. They are not likely, in my judgment, to do anything worse. I will not prolong the discussion now, for the reason that our time is limited. I would like to discuss this subject at some time more at length.

Mr. SCHENCK. I yield to the gentleman from Iowa, [Mr. ALLISON.]

Mr. WASHBURNE, of Illinois. Mr. Speaker, I wish to inquire if there is any order of business for this afternoon?

The SPEAKER. About three o'clock the Kentucky delegation intend to announce the death of Mr. HISE.

Mr. ALLISON. I will only occupy the attention of the House for a moment. I object, in the first place, to considering an internal tax bill and a tariff bill under the same head and at the same time. This is the first time we have ever been called upon to adjust a tariff question by a change of duty when we have had under consideration an internal tax bill. And why is it forced upon us? It is because some of those who are interested in this question of cotton are not willing to wait until this House considers a tariff bill, and then adjust the tariff upon raw cotton in accordance with our legislation with reference to the internal tax.

Now, I know full well that a duty of three cents per pound on imported raw cotton is too much if we repeal the internal tax on cotton produced in this country. But why are we forced here in the consideration of this internal tax bill to consider also the tariff question? I want to ask the gentlemen who are interested in the reduction of taxes upon the manufactures of this country and who seek the entire repeal of the taxes on American industry whether they are willing that I shall propose a proviso, when that question comes into the House for consideration, that there shall be a reduction of ten per cent. of the tariff duty upon similar manufactured articles imported into this country? Yet, if we follow the precedent sought to be made by this conference report, we would consider these two questions together in the same bill, and by a sweeping provision in a tax bill readjust the whole tariff question.

Mr. WASHBURNE, of Illinois. I would like to know under what rule the conference committee acts in putting the two questions together.

Mr. ALLISON. I suppose under the rule of necessity, and no other.

Mr. SCHENCK. The conference committee acted with reference to what was before them; and one part of the Senate amendment before them, and to which they had to direct their attention, was this very proposition.

Mr. ALLISON. I have only one word more to say on this question. I object also to the time when this tariff duty on cotton is to be removed. We propose to repeal the tax on cotton produced in this country after the year 1867, and the conference report repeals the import duty, July 1, 1868. Now we all know the growing crop of 1868 will not reach the market before the middle of September or first of October, while foreign cotton can come in free July 2, or more than two months before, and compete with the crop of the year 1867, which pays two and a half cents per pound.

I think, under the provisions of this bill as agreed upon in conference, the effect will be to bring foreign cotton in competition with American cotton long before the crop of 1868 or any portion of it is able to reach the markets, thus giving the manufacturer of cotton the advantage of the untaxed cotton of other countries, to the detriment and injury of the producer or holder of American cotton produced during the year 1867, and paying a tax of two and a half cents per pound, or twenty per cent. of its whole value. I think this bill will work a great injustice to the producers of cotton, or at least to the holders of American cotton, prior to December, 1868.

We are told by two of the gentlemen upon this conference committee that it is either this or nothing. If I was convinced of this I should probably vote for the report of the committee, but I would do so reluctantly, for the reason that I think it will not have the effect desired by many gentlemen—to encourage the growth and production of cotton in this country, during the next year. I should accept this report only as an alternative of this bill thus amended, or the defeat of the whole measure.

Mr. BLAINE. I think the gentleman from Iowa hast given most admirable reasons for voting the opposite way to that in which he intends to vote. I hope the House will vote down the report of the committee of conference, and let us see if we cannot get a better report from another committee.

Mr. SCHENCK. The hour approaches at which this debate will have to be brought to a close. Gentlemen have appealed to me for explanations. I will only say, as I have already stated, that as one member of the committee of conference, and I may speak also for the other manager on the part of the House who concurred with me in the report, we have not reported in favor of this amendment of the Senate because it approves itself to our judgment, but we only made a concession after the first committee of conference had entirely failed, and after, in this second committee of conference, the Senate had entirely given up their own bill, which merely suspended the cotton tax for a year instead of repealing it; it was only then, when we arrived at that point, that we made the concession which we did, because of the assurance we had that in that conference at least no possible terms could be obtained better than those offered, and because of the further assurance that as the Senate had instructed their managers in the conference in precise terms, stating what alone the Senate would agree to, so no future committee of conference on the part of the Senate would be able to agree to better terms. It is for that reason only that we make this report.

Mr. COVODE. Will the gentleman allow me a moment?

Mr. SCHENCK. The gentleman is aware that the hour is approaching beyond which we cannot possibly go in this discussion.

Mr. COVODE. I only want a moment. I cannot as an individual vote to concur in the report of the committee of conference. I believe that the time has not come for the House to take action on this subject of cotton, but that it should take its course along with all the other productions of the country when we come to revise the tariff and the internal revenue laws.

There is another reason why I cannot vote to concur in this report. Provision is made for the introduction into this country of foreign cotton free of tax, the effect of which would be to enable the manufacturer who wishes to use the inferior cotton imported into this country to make goods of a quality no better than those made of wool and shoddy, to put inferior cotton along with the long-staple cotton produced in this country, and thus impose upon the purchasers of goods an article which has no value compared with that which is made of American cotton. Is it in order to move to lay the report of the committee of conference on the table?

The SPEAKER. That would carry the bill itself on the table.

Mr. COVODE. Well, I make that motion.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] is entitled to the floor.

Mr. SCHENCK. Before I give the gentleman an opportunity to make that motion I desire to call the previous question on the motion to concur in the report of the committee of conference. The gentleman will understand that if the report of the committee of conference shall be voted down there will still be an opportunity for further conference; but if you lay the bill on the table there will be an end of the whole matter.

Mr. COVODE. It can come up with the general bill.

Mr. BARNES. Will the gentleman from Ohio allow me one minute?

Mr. SCHENCK. I have but four minutes left. I am sorry I cannot yield to the gentleman, but he will perceive that it is absolutely necessary that I insist on the demand for the previous question, which I now do.

The previous question was seconded and the main question ordered.

The question was upon agreeing to the report of the committee of conference.

Mr. BENJAMIN. Upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. As it is now near the time fixed by the Kentucky delegation for announcing the death of the late member-elect from the third congressional district of Kentucky, the Chair will state before the yeas and nays are taken that that delegation have notified him they will wait until this conference report is disposed of, if it does not take a great deal of time.

The question was then taken; and it was decided in the negative—yeas 67, nays 81, not voting 40; as follows:

YEAS—Messrs. Ames, Archer, Baker, Baldwin, Barnum, Beaman, Beck, Bingham, Boutwell, Boyer, Brooks, Buckland, Chanler, Churchill, Reader W. Clarke, Cook, Cullom, Eckley, Eggleston, Ela, Eldridge, Fields, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Hooper, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Johnson, Jones, Kerr, Kitchen, Knott, Mallory, Marshall, Marvin, Mungen, Niblack, Nicholson, Perham, Pile, Pomeroy, Pruyn, Randall, Robinson, Ross, Schenck, Sitgreaves, Aaron F. Stevens, Stewart, Taber, Thomas, Lawrence S. Trimble, Twichell, Upson, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, William Williams, and Woodward—67.

NAYS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Barnes, Benjamin, Benton, Blaine, Blair, Bromwell, Butler, Cake, Cary, Sidney Clarke, Cobb, Coburn, Covode, Dodge, Donnelly, Ferriss, Ferry, Gravely, Halsey, Harding, Higby, Hill, Holman, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelsey, Ketcham, Koontz, Laflin, William Lawrence, Loughridge, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Peters, Polsley, Price, Robertson, Sawyer, Scofield, Shanks, Smith, Starkweather, Thaddeus Stevens, Taffe, Taylor, John Trimble, Trowbridge, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—81.

NOT VOTING—Messrs. Adams, Axtell, Banks, Broomall, Burr, Cornell, Dawes, Dixon, Driggs, Eliot, Farnsworth, Finney, Fox, Griswold, Jenckes, Kelley, George V. Lawrence, Lincoln, Loan, Logan, Lynch, McCarthy, McCormick, McCullough, Morgan, Morrissey, Phelps, Pike, Plants, Poland, Raum, Selye, Shellabarger, Spalding, Stokes, Stone, Van Auken, Van Trump, John T. Wilson, and Wood—40.

So the report of the committee of conference was not agreed to.

Mr. ALLISON. I now move that the House still further insist upon its disagreement to the amendment of the Senate, and ask for the appointment of another committee of conference.

Mr. SCHENCK. I move to amend that motion by instructing the next committee of conference, if one shall be appointed, to adhere to the bill as it passed the House, without the amendment of the Senate. I make that motion, not because I think it right and fair to put committees of conference in strait-jackets; and I am not sure it is exactly according to the rules of courtesy, to say the least of it, if it be according to the rules of the two Houses. But I desire the House to bear in mind that when we met the Senate conferees we found they had their instructions and were

unwilling to do anything except according to the instructions which had been given them by the Senate.

The SPEAKER. The Chair will state to the gentleman from Ohio, [Mr. SCHENCK]—and he is familiar with the practice—that it is not generally regarded as parliamentary to instruct committees of conference, because they are known in the books as "free committees of conference." But as the gentleman has said and the Chair had observed it in the proceedings of the Senate as published in the Globe, the committee of conference on the part of the Senate were specially instructed by that body. The gentleman from Ohio, therefore, is only following the precedent established in this case by the Senate.

Mr. SCHENCK. I merely propose to pursue the course the Senate pursued. The Senate went into the conference instructing their conferees.

Mr. WASHBURNE, of Illinois. I hope that will not be done.

Mr. BLAINE. We should not follow a bad example.

Mr. SCHENCK. I will not insist upon the instructions in form; but I hope the conferees on the part of the House will take notice of the fact I have stated.

Mr. BROOKS. Will not that practically defeat the bill?

Mr. SCHENCK. I think that very frequently, where the House has a determined mind and so expresses itself, the Senate is as ready to recede as any other body I know of. But I withdraw my motion for instructions.

Mr. ALLISON. I call the previous question on my motion.

The previous question was seconded and the main question was ordered; and under the operation thereof, the motion of Mr. ALLISON was agreed to.

The SPEAKER appointed as the conferees on the part of the House Mr. ALLISON, Mr. BLAINE, and Mr. TRIMBLE of Kentucky.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed without amendment the joint resolution (H. R. No. 171) for the relief of destitute persons in the South.

The message further announced that the Senate had passed an act (S. No. 283) to further amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; in which the concurrence of the House was requested.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, submitting a clause to be inserted in the appropriation bill for the current year; which was referred to the Committee on Appropriations, and ordered to be printed.

DEATH OF HON. ELIJAH HISE.

The SPEAKER. The delegation from the State of Kentucky stated to the House a few days ago, through the Chair, their intention to announce at three o'clock to-day the death of Hon. ELIJAH HISE, a member-elect to this House. That hour has now arrived.

Mr. GOLLADAY. Mr. Speaker, it is with no ordinary degree of feeling that I arise to address this House to-day. The circumstances that surround me in the discharge of a mournful duty are of a most distressing nature, and however grateful to my heart in its expressions of sorrow is such duty I would that to some abler person than myself were committed that solemn task. Once before in my life it was my misfortune to pay a tribute to the memory of a departed colleague on the floor of Kentucky's State Legislature, and my sincere prayer then was that it might never be my lot to do so again. But in the to us inscrutable ways of Providence I find myself again constrained by a sense of duty, and in justice to the memory of the dead, to say a few words in relation to the death and in memory of my illustrious predecessor, Hon. ELIJAH HISE, who departed this life in Russellville, Kentucky, on the 8th of May, 1867. Although this House is not unapprised of his death, yet I am sure that the formal announcement of the fact on this floor will send a thrill of pain to many a heart in this presence. But a few short months since that old man eloquent stood upon this floor, soon after taking his seat, and announced the untimely death of his predecessor, Hon. Henry Grider, and spoke the fitting tribute to his worth and services, little dreaming, perhaps, that the shaft of death was then leveled at his own breast, and that he was doomed so soon to mingle his dust with that of the departed. But who shall stay or interpret the dread decrees of that Providence who rules over the destinies alike of men and nations? Who, standing with us to-day upon this floor, can say that when next we meet all of us will be here?

Mr. Speaker, however sad the memory, I can but run my mind's eye over the history of the past few years to trace the melancholy page which records the fatality which has followed the distinguished members-elect from the third congressional district of Kentucky—Ewing, Clarke, Bristow, Grider, Hise! Where are they? In the deep, deep graves. What a lesson this to all of us! What a dreadful commentary upon the uncertainty of life! But, Mr. Speaker, before I proceed further on this painful theme justice alike to myself, to my constituents, my country, and the dead require that I, to some extent, rescue the memory of ELIJAH HISE in this presence from the unmerited sting which insatiate ambition heaped upon it a few days ago. I might content me with the fact that I repelled the charges at the time by putting the dead against the living. It was a venerated maxim among the Romans "to speak nothing of the dead unless it were good." My friend, and indeed I have ever regarded him such, forgot, I am sure, this to him once familiar and admired sentiment.

I envy not the head nor heart of that man who can have happiness in thus indulging the baser feelings of humanity at the expense of what good men have been pleased to regard as honorable. I disclaim, however, any intention of an attack on him, but leave him to his conscience, and pity him for the sting which in his better moments he will feel as he contemplates himself making charges revolting to his friendship for the living and unjust to the memory of the dead. Mr. Speaker, allow me to say, and I here proclaim it to this House as an incontrovertible fact, that the late Hon. ELIJAH HISE never during the war from 1861 to 1865 made a single political speech. Such was his reticence that although asked frequently within my knowledge to give his views publicly upon the duties of the hour he invariably refused. The Union men claimed him and the southern men reflected on him for this course, in some instances charging him with trying to shirk the questions of the day to protect his interest in the North.

It is within my knowledge that some extreme men refused to vote for him because, as they said, he never gave a dollar to nor expressed the least sympathy for those with whom they agreed in sentiment. ELIJAH HISE made no speeches other than at the bar in the practice of his profession, until the Democratic party reorganized (after peace was declared) in the spring of 1866, when he announced himself for Duval upon the platform of the Democratic party of that year.

After the war was entirely over, say in 1866 and 1867, he made all of his disloyal speeches as charged, and most of them on this floor, in all of which he announced himself as having been opposed to secession "as wrong in theory and inexpedient in practice."

He did not hesitate to condemn in open, manly debate many of the acts of the Government during the war, and that, too, in this presence, in language not perhaps as select as would suit the taste of some; and I here venture to assert that he used more bitter terms upon this floor than anywhere else.

Yet he is charged with uttering treasonable sentiments here in 1867, two years after the war was ended. I most respectfully submit if there were not gentlemen enough on this floor who had loyal nerves sufficient, to say nothing of patriotism, to arrest him in the proclamation of such sentiments.

Mr. Speaker, the records of this House are before us, and I challenge the investigation of all of Judge HISE'S speeches, made here or elsewhere, for anything to sustain this unfounded charge. He was ever a Democrat of the strict construction school, and to those views he adhered through life with a tenacity and severity that ofttimes savored of dogmatism, yet never failed to challenge admiration. Mr. Speaker, the melancholy circumstances of his death makes his loss and character, in connection with the recent unfortunate war, a subject of serious reflection. That disease had fastened upon his vitals to that extent which paralyzed his energies and partially unhinged his great mind is conceded on all hands. The motives which induced the act of self-destruction have passed into the grave with the life-current which ebbed and flowed with the act. The mental anguish of this great man in the agony of trouble, superinduced by a profound conviction of the fact that he was powerless to relieve his country from the difficulties which surrounded it, and, in his judgment at least, threatened the destruction of constitutional liberty, must be imagined and can be inferred from the note which he left, stating in terms of heartfelt despair that he had entered public life too late to serve his country in her hour of trouble, and therefore sought relief in the tomb. Mr. Speaker, this was not the language of disappointment, but the ebullition of a patriotic sentiment just after his reëlection to Congress by the largest majority ever cast in his district for another, and with the confidence of his constituents to that extent that, with many able and highly popular aspirants in the district, no one dared to put his claims in opposition to him.

Mr. Speaker, the life and character of ELIJAH HISE, if properly presented, would be a subject to challenge the emulation of the youth of the land. Born of humble parents, without education and without money, in early life he made his way up the hill of life by his own unaided exertions. He was born in Alleghany county, Pennsylvania, on the 4th of July, 1801, a historic and suggestive era for the birth of such a man. He devoted himself for the most part to the study of his profession in earlier life. He entered public life as a representative of the county of Logan in 1829, filling his term with marked ability and with great satisfaction to his constituency. In 1847 he was appointed minister to Central America, which position he filled with credit to himself and honor to his Government. He was elected by the people in 1851 one of the judges of the appellate court, and his decisions while chief justice of that body are pointed to with pride by the profession throughout the State.

In earlier life he made sundry races for Congress as the standard bearer of the Democratic party and was defeated after some of the most brilliant canvasses known in that part of the State by Hon. J. R. Underwood, a man not unknown to fame, as this House know. That he was beaten in those races was not owing to any want of popularity or ability on his part, nor of the overmatch of his distinguished competitor, but because of the overwhelming Whig majority in the district against him.

He was ever the idol of his party; at the bar, for which he was particularly qualified, and in the entire circuit of his practice, he had few peers and no superiors. He was always employed on one side of an important case at fabulous fees. Few false witnesses or meaner litigants could stand before the fiery glance of his eye or the fierce invectives which scathed the dishonest and made even the innocent

shrink from the satire and eloquence of language not always just.

Mr. Speaker, the political speeches of ELIJAH HISE before the people and in the Council Halls of the nation indicate most unmistakably his great and comprehensive mind in its rapid analyses of history and the law of other Governments, as well as his able exposition of and familiarity with the Constitution of his own country, absolutely carrying conviction to the minds of his opponents in some cases and raising reasonable doubts in others. Such was the universal respect for his legal opinions and knowledge that few litigants were willing to continue a case if a compromise could be effected when he was known to be employed against them. His conversational powers were naturally of a high order, and he had so added to them by hard application and study that any circle of friends would regard themselves most fortunate if they could find him unemployed, so as to enjoy a social hour in hearing his original manner of presenting the most simple fact in history or science, which he managed to clothe with an interest not felt in its presentation by another.

His style was not only *sui generis*, but with the novelty he exhausted his subject and carried conviction to his audience as they followed him in his great analytical powers. His education, though not thorough, was most creditable, and the more so that he obtained it in and of himself for the most part. Indeed, it was one of his peculiarities that he would not learn of others that which he could study out for himself. He repudiated all reasoning that he did not subject to the analysis of his own logical mind in his own way, and adopted only that which was clear to him. Hence it was that he was one of the most laborious men I ever knew. Of the purity of his life, of his unchallenged personal honor, and of his lofty patriotism, his whole life and history stands a faithful witness. He was an independent thinker, and always expressed what he thought wholly regardless as to who might differ or agree with him, and sometimes so unfortunately as to have entitled him, in the estimation of the superficial observer, to be regarded rather rough. He knew nothing of the arts of the demagogue, but when satisfied of the justice of a conclusion absolutely defied any sentiment to the contrary, however popular, with a total disregard of the effect upon himself.

In conclusion, Mr. Speaker, allow me to say that with this you have before you, in a most unvarnished style, the man as he was. What may have been his mental anguish or his despondence none can ever know. It is not my province to scrutinize his acts. A great man has fallen by his own hand, and we leave him and his act in the hands of an all-wise and merciful Being, in whose mercy alone we look for forgiveness of all errors in the great hereafter.

Mr. Speaker, I move the adoption of the following resolutions:

Resolved, That the House has heard with profound regret and sorrow of the melancholy death of one of its most distinguished members, Hon. ELIJAH HISE, of Kentucky.

Resolved, That we tender to the family and friends of the deceased our heartfelt sympathy in their irreparable loss.

Resolved, That in consideration of this great calamity the members of this House will wear the usual badge of mourning for the period of thirty days; and that these resolutions be spread upon the records, and a copy of them be sent by the Clerk of this House to the widow of the deceased.

Resolved, That this House do now adjourn.

Mr. GROVER. Mr. Speaker, a great man has fallen! ELIJAH HISE, whose voice but recently echoed through these Halls with fervid eloquence in defense of that constitutional form of government which he so ardently cherished, is dead! The place that once knew him shall know him no more forever.

The State of Pennsylvania gave him birth. Kentucky—the State of his adoption, cherishing him as one of her jewels—gave him position, reputation, honor, all of which he fairly earned by the labor of a long life devoted to study, to science, to law, and to the common good of his State and the nation.

Judge HISE was no common man. He was endowed with intellectual faculties of the highest order. His mind was massive and well stored with that useful information which qualified him for the practical affairs of life. As a lawyer he was the peer of the ablest members of the profession. As judge of the appellate court and chief justice of the State his published opinions take rank with the profoundest jurists of the country, giving him a reputation, State and national. His services abroad as minister from the Government of the United States to Central America for a series of years, and his more recent service as a member from the third district of Kentucky to the Thirty-Ninth Congress, are well remembered by us all, and have become a part of the history of the nation.

Judge HISE was a patriot no less than a statesman. He loved his country with a devotion which knew no section and was circumscribed by no boundary short of the whole country. His last utterance was:

"I have lost all hope of being able to aid in saving my country from impending disaster and ruin. I have been brought into the public service at an age too advanced and at a period too late to allow me even to hope that I can do anything in aid of the restoration of constitutional government."

With these sentiments trembling upon his lips the lamented HISE, on the 8th of May, 1867, yielded up to the God who gave it a life devoted to the service of his country. Kentucky mourns her great loss, and, like "Rachel weeping for her children," will not be comforted, for he is not.

It is not my purpose here and now to allude to the frailties of Judge HISE (if he had them, and who of the living have not?) nor further to disclose his merits;

"There they alike in trembling hope repose,
The bosom of his father and his God."

In life Judge HISE was ever prepared for every emergency. When death summoned him he shrunk not from his approach; and when "the pale horse shall come with his rider" in panoply of white, even though he find us as he did the lamented HISE, "sick at heart and weary of the world," may he find us, as he did our illustrious friend, devoting ourselves to the service of our country and our whole country, conscious of having performed our duty as citizens and statesmen, and our whole duty.

Mr. Speaker, I second the motion for the adoption of the resolutions offered by my colleague.

Mr. TRIMBLE, of Kentucky. Mr. Speaker, this is the second time death has entered the small circle of the congressional delegation from Kentucky. Since I have been a member of this House Henry Grider and ELIJAH HISE are no more. They were both men of mark, and by their own efforts worked their way to places of eminence and distinction not only in Kentucky but in the nation. Judge HISE succeeded Henry Grider as the Representative of the third district of Kentucky. He also succeeded him upon the celebrated Committee of Reconstruction. Judge HISE, after weeks and months of incessant labor on that committee in behalf of a restored Union, with the constitutional guarantees of life, liberty, and property to each and every citizen of this great Republic, honestly believing, as he did, that the Federal Government was one of limited powers derived solely from the Constitution, and the grants of power made therein ought to be strictly construed by all the three great departments of the Government, and that the encroachments upon the Constitution, the executive and judicial power by Congress would in the end destroy the Government of our fathers, failed to impress these views upon that committee or Congress. Advanced in age, afflicted as he was, he despaired of the Republic. In his own language, in the most solemn and melancholy manner, he declared that—

"He lost all hope of being able to aid in saving the country from the impending disaster and ruin in which despotic and unconstitutional rule has involved her. I have been brought into the public service at an age too advanced and at a period too late to allow me even to hope that I can do anything in aid in the restoration of constitutional Government."

Thus believing, on the 8th of May last, after a triumphant indorsement by the people who knew him best, by reëlection to the Fortieth Congress, blessed with plenty, surrounded by a loving wife and kind relatives and friends, he refused longer to live, and quit the world.

I have not risen, Mr. Speaker, for the purpose of eulogy or panygeric, but I would be unjust to the feelings of my own heart should I fail to declare how deep and sincere was my sorrow for the loss of this distinguished Representative, especially at a time the country so much needed the services of her truest and best men. For nearly twenty years I knew him as one of the great leaders of the Democratic party of Kentucky; especially well and intimately during the last session of the Thirty-Ninth Congress. No one who witnessed his devotion to principle through that dark and gloomy hour could fail to venerate his sincerity and patriotism, for he stood immovably by the Constitution as the guide for rulers and people in war and in peace. He was a profound lawyer, a learned and conscientious judge; he was a prompt and ready debater; he was an active and vigorous thinker; he was a brave and bold apostle of the faith which he held. What he said he thought; what he thought he seemed to believe in the inmost recesses of his great soul. What he believed he uttered, and what he uttered he was prepared at all times to defend with all the powers of his great, his mighty intellect. During all of his exciting political controversies no word of suspicion has ever been breathed against his integrity. He was an honest man—the noblest work of God. To appreciate Judge HISE was to know him intimately. To know him thus was to endear you to his noble traits of head and heart.

Sir, let it be spoken here in his honor. He lies cold in death, but he could have no better epitaph than this: "Here rests one who would not surrender to the enemies of constitutional liberty." With his political friends, admirers, afflicted wife, and relatives, I claim a share in his fame and a right to participate in their bereavement in his untimely death.

With them I ask the privilege of paying this poor tribute to his memory and throwing a garland upon his tomb. He has passed from these Halls; his seat is now filled by another; the place which has known him shall know him no more forever. Let us learn from his death how uncertain is the tenure by which we hold our own lives, and how trifling become earthly honors and earthly powers when they are brought face to face with death. May we by this dispensation be induced to heed that solemn warning, "Therefore be ye also ready; for in such an hour as ye think not the Son of man cometh."

Mr. JONES. Mr. Speaker,

"The ocean of to-morrow
Breaks upon life's rocky shore,
With its turmoil, with its sorrow,
Evermore, ah, evermore!
Flowing, ebbing; ebbing, flowing,
Its emotions change and glide;
Fears of unknown trouble throwing
Solemn shadows o'er the tide."

The lessons of yesterday and to-day, sir, should inspire us with deep solemnity and invite our serious contemplation. Happy would it be for us, and for the dear country whose servants we are, if in the midst of our noisy harangues, bitter differences, and jarring disputes we could find more frequently some circumstance or occasion (if, indeed, not unfortunate for others) in which to give us pause, patience, and charity. If such resolutions then and now before the House bring not to our notice events producing these divine influences, then it would seem we are lost to the kindlier instincts and sympathies of civilized men. "Grief should be the instructor of the wise."

Unnatural acts or incidents impress us gravely, often strike us with alarm, and overcome us with awe.

Which of us would have supposed, sir, that the estimable Representative from Ohio, who so lately left this Hall, with joyous heart to repose for a brief period in the bosom of his family, was soon to be stricken down by the hand which he himself had warmed into life, and upon which he hoped to lean in his declining years? What a sad and pitiable aberration of poor human nature was there! What desolation is spread around a home and family but yesterday so bright and beautiful! Impenetrable gloom now pervades where the sunlight of joy had its blessed abode. And who would have thought, sir, that the manly form of Kentucky's distinguished statesman, which not many moons ago stood in this presence nobly pleading for the Constitution of his country as the only bond of peace, law, and Union, would soon be crumbling to its mother earth, vanquished by himself alone? May we not from these startling examples take heed of the vanity of all earthly ambition and power, and so conduct ourselves in the business of our high calling as to accomplish the ends of good government, and with becoming humility and reverence invoke the aid of the Omnipotent in restoring a bleeding country to its wonted liberty, prosperity, and peace.

How soon, Mr. Speaker, among the strange fatalities of our being may such calamities as have overtaken our distinguished compeers fall upon us? Should we not lay up in our hearts these signal and instructive dispensations? We are children of the same proud race, bound together by the inheritance of the dear-bought liberties of a common ancestry, cherished and exalted by a common religion, and going down the tide of time, we and our posterity to share together the same ignoble or glorious destiny—

"Commune periculum
Una salus ambobus erit."

Upon the subject of these resolutions, most fitting eulogiums have just been made. I would not mar their aptness by any attempt at special delineations of his character or his useful services to the State, in the various phases of his public history, but would simply venture a word of general tribute to his memory. A man of singular constituent elements of character, he was the builder of his own fame and fortune; peculiar in his nature and his habits, often dark, mysterious, and impenetrable, he stood almost alone among men a purely intellectual embodiment; kind and generous, it is true, when awakened by the exigencies or misfortunes of others, but generally wearing a forbidden aspect, although under a manly and most imposing exterior. He walked the stage of this world, wrapt in the solitude of his own exalted thoughts, but often from the vast caverns of his brain there burst forth elucidations of great principles, and comments upon the grander affairs of men with wonderful significance and power, making a lasting impress, especially upon those who came within his sphere of action. He seemed not born to live so much for the endearments or amenities of social life, but to study and expound the Constitution and laws of his country. In this the entire man seemed to be absorbed.

"Deep on whose front engraven,
Deliberation sat and public care."

As one of Seriphus said of Themistocles, "He was not honored so much for his own sake, but for his country's." And like that great Athenian soldier and statesman this man rose from obscurity, and by his unaided intellect and energy placed himself in the front rank of his State and his country. Like Themistocles, too, he came to the same sad termination of being, as also did Demosthenes and Cato, and other renowned heroes and statesmen of the past. Similar examples also have unfortunately occurred of great men in more recent history. But still shall not their names be honored? If Chatham shall say of the great Lord Clive, "A heaven-born general who without experience surpassed all the soldiers of his time;" if Macaulay shall say of the same, "Every person who takes a fair and enlightened view of his whole career must admit that our island, so fertile in heroes and statesmen, has scarcely ever produced a man more truly great either in arms or in council," may not, then, Kentucky be proud of her self-slain statesman, and we here aptly pay homage to his worth? Who shall challenge the decrees of fate? Who shall judge the cause of his sad "taking-off?" "Judge not, lest ye be judged."

"The hour shall come
When they who think to bind the ethereal spirit,
Who, like the eagle hovering o'er his prey,
Watch with quick eye and strike and strike again
If but a sinew vibrate, shall confess
Their wisdom, folly."

Mr. Speaker, of the man whom we mourn, it may be defiantly said, even in these times of the oft-questioned loyalty of men, *he* was a true and high-souled patriot. His loyalty, sir, indeed, was not vague and indefinite, but consisted in exact obedience to law and in devotion to the liberties of the people, as regulated and guarded by the well-defined balances and checks of the Federal Constitution. Cicero's maxim was his—"*Libertas est potestas faciendi id quod jure liceat.*" He made the Constitution the polar star of his voyage in life. He loved his country with his whole soul; it absorbed his being, and was the cause of his death. He wished to raise it up and set it free, but felt powerless for the task. An exertionless, unhonored existence he could no longer brook, and he truly despaired of the Republic.

Thus passed away a man of singular courage, zeal, and genius. Let us tread lightly on his grave and draw a moral from his life. Accuse not, detract not, envy not. It is said Alexander read on the tomb of a great monarch—

"O man, whosoever thou art and whensoever thou comest, (for come I know thou wilt,) I am Cyrus, the founder of the Persian empire, envy me not this little earth that covers my body."

Mr. Speaker, Kentucky at least will remember her great men, and in future times, when her admiring sons shall call the roll of her illustrious statesmen, by no means the least in that bright array will stand the name of ELIJAH HISE.

"Unmoved
Unshaken, unseduced, unterrified,
His loyalty he kept, his love, his zeal;
Nor numbers nor example with him wrought
To swerve from truth or change his constant mind."

The resolutions were adopted unanimously.

And then, in accordance with the concluding resolution, the Speaker (at three o'clock and fifty-five minutes p. m.) declared the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COBB: The petition of citizens of Rockbridge, Henrietta, Bloom, and Forrest, in Richland county, Wisconsin, for a post route.

Also, the petition of citizens of Henrietta, Bloom, and Forrest, Richland county, Wisconsin, for post routes.

By Mr. HARDING: The petition of citizens of Adams county, Illinois, praying for terms of United States courts in Quincy, Illinois, and for additional district courts in Illinois.

By Mr. LOGAN: A memorial of the State of Illinois in reference to the Illinois and Michigan canal and river improvements.

By Mr. MUNGEN: The petition of Henry Wuscher, late a private in company F, thirty-seventh regiment of Ohio volunteer infantry, asking relief in regard to pension, &c.

By Mr. SCHENCK: Additional evidence in case of John R. Reynolds, of Dayton, Ohio, who claims remuneration for corn taken by and for the United States Army in Mississippi.

By Mr. STARKWEATHER: The petition, signed by more than 1,000 citizens of Norwich, Connecticut, praying for legislative action by Congress defining the status of naturalized citizens, and demanding that their rights be respected by the British Government.

By Mr. UPSON: The petition of John M. Glavin, and 153 others, citizens of Berrien county, Michigan, praying for an appropriation for improving the harbor of New Buffalo, Michigan.

Also, the petition of W. M. Egan, and 63 others, of Chicago, for the same purpose.

By Mr. VAN HORN, of Missouri: The petition of members of the Legislature of Missouri, asking for the establishment of a United States district court at Kansas City.

By Mr. WELKER: The petition of Daniel McDonald, of Ashland county, Ohio, asking a change in the fractional currency, by substituting for the present paper currency fifty cent, twenty-five cent, and ten cent pieces, composed of porcelain or gross, with proper devices, and colored red, white, and blue.

By Mr. WILLIAMS, of Pennsylvania: The petition and papers of Sarah A. Hays, of Alleghany county, Pennsylvania, mother of William A. Hays, a soldier, praying for a pension and arrears of pay and bounty.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 25, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. KELSEY. As the only business in order to-day is, I believe, debate in Committee of the Whole, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PAINE in the chair,) and resumed the consideration of the President's annual message, on which Mr. WASHBURN, of Indiana, was entitled to the floor.

Mr. WASHBURN, of Indiana. I yield the time to which I would be entitled to the gentleman from New Jersey, [Mr. SITGREAVES.]

STATE OF THE UNION.

Mr. SITGREAVES. Mr. Chairman, while manifold schemes have been and are being proposed in and out of Congress for the reconstruction of the States—schemes viewed from a civil or military, a partisan or fanatical stand-point—I propose to view the state of the Union from a Christian stand-point, by the light of Christianity, and by so doing I only anticipate history. From that stand-point and by that light the acts of individuals and nations of the past are now viewed and are now commended or execrated, it matters not whether the individual wore the imperial diadem of ancient Rome on his brow or the crown of a modern queen "on whose dominions the sun never sets," or wielded the power of a great republic, proclaiming the "liberty, fraternity, and equality" of man by the bastile and the guillotine, or whether men or nations in the pride of power and lust of plunder dismembered a people and hushed every murmur by the dungeon, the mine, and the bayonet, or marched to conquest through rivers of human blood; the pen of impartial history from that stand-point has assigned to the actors their true places on the scrolls of fame or of infamy, and there they will remain by universal consent forever. From that stand-point the acts and actors in "the great rebellion" both of the conquered and the conquerors will be viewed and a record made as enduring as time, and from which posterity will not appeal. We cannot escape a record from this stand-point if we would. It is in vain to allege, as many do allege, "the atheism of the Constitution." It is in vain to ignore the divinity of Jesus of

Nazareth (as it was ignored by a member of the Thirty-Ninth Congress when he characterized "the doctrines of the sermon on the Mount" as "a duplicate of the writings of Socrates") and deduce from this that the men and acts of this generation will not be weighed by posterity in the scales of Christianity.

Sir, there is no atheism in the Constitution; the assertion is a foul libel on the men who framed it. They were nominally Christians. They were men or compatriots of the men who, on the 4th of July, 1776, solemnly appealing to "the Supreme Judge of the world," in the name and by "authority of the people," declared that the Colonies were, and of right ought to be, free and independent States; and for the support of that declaration, "with a firm reliance on the protection of Divine Providence," mutually pledged their lives, their fortunes, and their sacred honors. The framers of the Constitution met, not to declare the religious belief of the people, but to frame a civil compact between the States, to be ordained, established, and ratified by the people of the United States through State conventions. But while the framers of the Constitution ignored a declaration of religious belief, they required an official oath or affirmation—a sanction which would not be required by a convention of atheists in the provisions of an atheistic Constitution, for no oath or affirmation could be binding on the conscience of an atheist, as he could swear by no one greater than himself. Sir, the idea that the men of the Revolution framed or intended to frame an atheistic Constitution for themselves and their posterity is at war with the sentiments of the people they represented, expressed through their Colonial laws—at war with the frequent and fervent national appeals to Almighty God that He would give success to their arms in the mighty conflict for independence—at war with reason. I do not believe it possible that a sane man can be an atheist. I believe, with the great Apostle of the Gentiles, uttered eighteen centuries ago, that the works of creation and the laws of nature manifest the invisible power and Godhead of an Almighty Creator—a fact thus beautifully expressed in song by the gifted Addison:

"The spacious firmament on high,
With all the blue ethereal sky,
And spangled heavens—a shining frame—
Their great Original proclaim.

"The unwearied sun from day to day
Does his Creator's power display,
And publishes to every land
The work of an Almighty hand.

"Soon as the evening shades prevail
The moon takes up the wondrous tale,
And nightly to the listening earth
Repeats the story of her birth;

"Whilst all the stars that round her burn,
And all the planets in their turn,
Confirm the tidings as they roll,
And spread the truth from pole to pole.

"What, though in solemn silence all
Move round this dark terrestrial ball!
What, though no real voice nor sound
Amidst their radiant orbs be found,

"In reason's ear they all rejoice
And utter forth a glorious voice,
Forever singing as they shine
The hand that made us is divine."

There were infidels among our fathers, as there are infidels among their sons, but no atheists.

The questions, then, are—was "the Supreme Judge of the world," recognized and appealed to by our fathers in the hour of their peril, the God of the Christian or the God of the infidel? Are we, and have we ever been, a Christian nation? Sir, the acknowledgment of the revealed law incorporated in the municipal rules of action of the Colonies and States; the fifty-four thousand houses of public worship throughout the length and breadth of the land dedicated to the living God; the observance of the Christian Sabbath by the Congress, the State Legislatures, and the people; our modes of thought and our ideas of right and wrong, molded by the precepts of the revealed law; our varied institutions for the relief of suffering humanity; our measurement of time, not from the creation of the earth nor the hegira of Mahomet, but from the birth of Christ; our position as a Christian people in the family of nations, accorded to us by universal consent—all proclaim that "the Supreme Judge of the world" to whom our fathers appealed, and who led them, as it were, in a pillar of cloud and fire through the storm and darkness of the Revolution, was the God-man of whom it was predicted before His incarnation at Bethlehem that His name should be called "Wonderful! Counselor! The Mighty God! The Everlasting Father! The Prince of Peace!" This and every enlightened nation on earth now bows before His altars and acknowledges the truth of His revelation and god-head; every advance in science confirms this revelation; the astronomer views it in the stars, the geologist sees it recorded in the rocks, the philosopher reads it in the laws of nature, the student finds it in the accomplishment of prophecy, and we can all now see, even without the visions of the seer, that His dominion over the earth will be "an everlasting dominion."

By the light, then, of Christianity will the acts and motives of men and nations be viewed and recorded in all future history. Would to God that the recording angel could drop a tear on the record of the last decade of years and "blot it out forever." Would to God that the people North and South had listened to the teachings of Him whose advent was announced by the song of angels as an advent of "peace on earth and good will to men," whose mission was a mission of love, and who taught us to pray "forgive us our trespasses as we forgive those who trespass against us;" then we should not mourn a dismembered Union and the blood of five hundred thousand of our sons shed in fratricidal strife on a hundred battle-fields.

Ten years since, this Republic, in the resources of her varied climate, in the liberty and happiness of her citizens, in the energy of her sons, in the observance of law and order, stood without a peer among the Governments of the earth; her destinies shaped under God by Democratic men and measures, marched to a power and freedom that has no parallel under Heaven.

What is the state of the Republic now? A desolated South, a broken Union, ten States governed by the iron hand of a military despotism; a taxation which sits like an incubus on the industry and energies of the whole people; public lands sufficient for the territories of a vast empire (the common inheritance of the people) given to incorporated companies; a national debt created in four years greater than England, with her thousand ships and long and bloody wars waged to maintain the balance of power in Europe, has been accumulating for the last two centuries; the compacts of the Constitution violated by legislation and public faith laughed at.

Why is this? Why, in the short space of ten years, has this Eden of national political happiness been turned into an earthly hell? Why? Because the accursed serpent of radicalism was permitted to enter the sacred portals of liberty. We listened to his promise, "Thou shalt not die." We ate of the forbidden fruit, and the result was sorrow and mourning, desolation and death. The radical well knew that the only weapon which could accomplish his hellish work of war and disunion was the weapon of hate. The radical of the South inculcated a political and moral hatred of the North, argued the right of secession as no infraction of the Federal compact, and appealed to the ambition and greed of the great southern heart. The radical of the North inculcated a moral and political hatred of the South in the forum, in the press, and finally by scattering the Helper book, indorsed by sixty members of Congress, as a campaign document broadcast over the land—a book intended to excite sectional hatred, massacre, spoliation, servile and fratricidal war.

The Democratic party stood, as it always had stood, for the Constitution and the Union, between "the living and the dead, and the plague for a while was stayed." They appealed to the people by the memories of their fathers and the glories of the old flag. The representative radical proclaimed that flag "a flaunting lie." By the compacts of the Constitution the representative radical proclaimed that Constitution "a covenant with death and a league with hell." By the blood of our sons, threatened to be shed in a fratricidal war, the representative radical proclaimed that blood-letting was necessary. In vain they told the people that sectional hatred would dissolve the Union, and made every effort to save that Union by compromises, by an appeal to that law of love which God implanted in the bosoms of our fathers when they established and ordained the Constitution. Their voice was unheeded. The radical derided them as "Union-savers," and told the people that there would be "no rebellion, no dissolution of the Union;" and when at last the power of the Democracy went down under the triumph of a sectional party, inspired by sectional hatred, elected by a minority of the people, the die was cast and the result was disunion and blood. The result we feel in every section of this broad land, and it will be felt by generations yet unborn. Such has been the result of the radical doctrine of hate, in opposition to the precepts of the Christian gospel of love.

The die was cast; the flag of the Union was unfurled; from every hill and valley of the North our sons gathered around that flag, determined that not a star should be torn from that glorious banner. They marched to sustain the Constitution and maintain the Union. The representatives of the nation, with, I believe, but two dissenting voices, declared by solemn resolution—

"That this war is not waged on our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the right of established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired."

This declaration was a solemn pledge to the South in the name of the North and the nation, a pledge to the world—a covenant with the gallant men who marched to sustain the old flag, and poured out their hearts' blood in its defense. Under that pledge our sons pressed to the conflict, under that pledge they fought, under that pledge they died; by that pledge we obtained men and money from the North, and by that pledge we constructed and strengthened a Union party in the South. Had the war been waged for the purposes now declared our sons had not died. Surely in the eyes of that God who will hold nations as well as individuals responsible for violated faith and broken pledges the radical will be held responsible for the blood of our sons. Sir, when the Union soldier met the rebel in deadly conflict, the one to sunder the Union, the other to maintain it, who does not know that if the radical had then proclaimed in any city of the North what he now proclaims, that the war was waged for the purposes of conquest, and when the war ended by the triumph of northern arms, the States in rebellion would be declared "conquered provinces" and given over to negro domination, he would have been denounced as a sympathizer with the South, as a traitor who would create disaffection in the Army, disloyalty among the people, and he would have been hung unshriven to the nearest lamp-post by a loyal mob.

Mr. Chairman, I never had any sympathy with the monstrous heresy of secession. I gave my time and means and only son to aid in crushing the rebellion and maintaining the Constitution and the Union. I regard that Constitution, and the Union guaranteed by that Constitution, as a sacred gift of God to our fathers, to be bequeathed intact to the teeming millions of posterity who will live and die under the flag of the Republic. But I do have a sympathy for the honor and faith of my country. I hold that the faith of a nation should

be sacred under all circumstances. I would have the faith of my country, like "Cæsar's wife, not only pure, but unsuspected." I hold that the legislator in the legislative hall should maintain faith and honor in his legislative acts, as he would maintain his own personal faith and honor. Take away the faith and honor of a Government and you take away from that Government all that is desirable in the eyes of God or man. In the light of Christianity I charge the radical, when he proclaims that the States lately in rebellion are "conquered provinces," that they are out of the protection of the Constitution, out of the Union, and places them under a military despotism, with a gross violation of the national faith, solemnly plighted by the representatives of the nation on the floor of Congress, I charge him with an infraction of the plainest precepts of Christianity, and believe that for this infraction God has brought upon us as a nation the curse and punishment due to the covenant-breaker.

How was this pledge of a Christian nation redeemed? Under it our young men gathered to the fight; under it some States were saved to the Union; under it the battle was fought, the victory won; every drop of blood that was shed was to maintain, not to destroy, the Union. Secession and its champions are trampled in the dust. A radical Congress assemble and pass acts for the government of the States lately in rebellion as conquered provinces, and radical leaders declare that "the liberty, property, and lives of the conquered are at the mercy of the conqueror by the laws of war." What laws of war? Not the laws of war ameliorated by the humane teachings of Christianity, but laws of war which justified the Tartar Khan in rearing his pyramid of a hundred thousand human skulls; laws of war which justified slavery; laws of war, recognized and established by robber chieftains and ruffian feudal lords, when might was right and vengeance a virtue. The Thirty-Ninth Congress did by legislation what the southern traitors by force of arms could not effect, a dissolution of the Union; the Thirty-Ninth Congress reënact what the rebel confederacy enacted, that an act of secession puts the seceding States out of the Union; the Thirty-Ninth Congress resolved that the seceding States should be kept out of the Union by the bayonet; the seceding States attempted to keep those States out of the Union by the bayonet, a heresy against which we protested, and against which we struggled in a four years' war in fields of blood and carnage unparalleled in the history of modern warfare.

Sir, the Christian patriot and statesman, revering the compacts of the Constitution, will say, as the nation said during the great rebellion, that no State can put itself out of the Union either by peaceable secession or by force of arms. We appealed to the God of Battles and God gave us more than a victory of arms—He gave us a repentant people. The Southron had been educated in an idea that his paramount allegiance was due to the State. He fought for that idea. He was defeated. He offered to purge his heresy by an oath that he would support and defend the Constitution and the Union. The radical spurned the repentant sinner. His cry was hate and vengeance. Sir, any Government would have hailed the return of its prodigal children as a matter of policy except a radical Government. The patriot who loves his country should hail it; the statesman who would have the Republic perpetual in the love of her citizens should hail it. A Christian republic, acting in accordance with the benign principles of the Man of Calvary, would rejoice that this "my son was dead and is alive again; he was lost and is found."

Mr. PRICE. Will the gentleman from New Jersey allow me to ask him a single question?

Mr. SITGREAVES. Yes, sir.

Mr. PRICE. The gentleman is referring to the history of the prodigal son. As he is speaking from a Christian stand-point I would like to know whether he wishes us to understand that the rebels who took up arms against the Government occupy to-day the position of the prodigal mentioned in the Scriptures?

Mr. SITGREAVES. The great mass of them.

Mr. PRICE. That is all I wanted to know.

Mr. SITGREAVES. I resume at the point where I was interrupted.

I never doubted the honor, patriotism, and magnanimity of the nation. I know that the nation would have hailed the return of these erring children, and thus bound them to the Union by chains of love, stronger than adamant, forever. I say "the Union," for they were bound to our republican form of government by education and instinct. They did not wage war against "a republican form of government," but against the Union; they warred for the preservation of their property in slaves; they adopted a constitution as republican in form and spirit as the Constitution of 1787. There was no reason to doubt their devotion to a republican form of government; the indissolubility of the Union was the rock on which they split. Yet when they were willing to renounce this heresy and give freedom to the slave, we rejected their advances with scorn; and although beggared and disarmed, incapable of making either an aggressive or defensive war, we subject them to all the horrors of a military government, to be followed by political subjection to a race of men just emerged from slavery, under the pretense that they "are opposed to a republican form of government."

Mr. Chairman, a code of laws framed in a spirit of hatred is bad policy in every Government, but suicidal in a republic. The pages of history tell us that no monarch, no nation, can violate the Christian laws of love with impunity by the administration of oppressive laws. Where is the individual or nation who has been taught by oppression to love the oppressor. Look at Ireland. Has oppression taught her sons to love the hand of her Saxon tyrant? Centuries have passed away since the independence of Ireland was trodden down in the blood of the O'Connors and ten thousand Irishmen on the fatal field of Athonræ; for centuries their loyalty has been enforced by the bayonet; yet at this hour the sons of Ireland in every land only bide their time when they can crush their oppressors. Centuries have passed away, yet hostility to their oppressor and hatred to the union with Great Britain have been transmitted as an heir-loom from father to son, (a fact known to the world and candidly admitted by Mr. Gladstone in a recent speech to his constituents.) This undying faith in the redemption of Ireland, this undying hatred to the oppressor and soul-longing for the restoration of the green flag, is thus truly expressed by an Irish bard:

"The Irish mother, as she pressed
The warm, full nipple to her breast,
Thus lullabied her babe to rest:
'Twill rise again.'

"It crossed the sea, the Irish race,
Uprooted from their dwelling place,
Came here new destinies to face—
It rose again.

"Oh, generous, proud, and gallant race,
So often rash, so rarely base;
Sure as the bright sun holds its place
'Twill rise again.

"The old green flag, the good old cause,
Despite the check of cramping laws,
Shall yet obtain the world's applause,
When risen again.

"Wherever England's flag may float,
Or slaves may wear her scarlet coat,
Leap, Fenians, at the tyrant's throat,
And try again!"

Ah, when the time shall come when England shall be compassed with hostile fleets or her throne rocked in the throes of revolution, her statesmen will then know that Ireland should have been governed by the Christian law of love. And that time will come. The green flag "will rise again;" the Irish harp, so long silent in Tara's halls, will sound the jubilee of Irish freedom.

Acts of hatred by individuals or nations are visited, sooner or later, by the retributive justice of Heaven—to the individual by the halter, the penitentiary, or the undying, withering scorn of men, as in the case of the jailor of Andersonville; to the nation by revolution, rebellion, demoralization of the people, or destruction of their material interests. Cotton was once king; it gave us the balance of trade, it erected our manufactures, and spread the sails of our merchant ships on every ocean. The insane hatred of the Thirty-Ninth Congress, by a refusal to restore the Union and by the imposition of an onerous tax on cotton, has not only driven that great staple of the South from the markets of the world, but has driven it away forever. We have the testimony of a Republican Senator on the floor of the Senate that the British manufacturers now produce from India cotton an article equal to the American staple, and he feared we had lost this great interest forever; and so we have, for the vast lands of the British Empire, capable of producing that staple, will hereafter supply the world. The Thirty-Ninth Congress have dethroned cotton as king of trade; but at what a cost!—starvation of the Southern people, stagnation of Northern capital, and destruction of a great national resource of the nation for all time to come.

Official dishonesty was once the exception, now it is the rule. The gross violation of the national faith and disregard of constitutional rights by the Thirty-Ninth Congress have produced their legitimate fruits in an official corruption that has no parallel among men. But a few days since the astounding and humiliating fact was proclaimed on the floor of this House by the able chairman of the Committee of Ways and Means [Mr. SCHENCK] and the eloquent member from Illinois, of the same committee, [Mr. LOGAN,] that it was impossible to collect the whisky tax through the authorized agents of the Government; that the major part of the great army of revenue officials were composed in effect of double rectified rascals. And, sir, these declarations are true. The hard-handed laborers, the industry of the country, pay an annual tax of millions to fill up the deficit made by these stupendous official frauds.

Legislation inspired by hate—denunciations of hatred in and out of Congress, ignoring the law of love by giving free rein to the unbridled passions of men, inculcation of revenge in the press, upon the stump, and in the legislative hall—has resulted in a fearful demoralization of the people. Violence, rape, fraud, and arson stalk rampant throughout the whole land. The Police Gazettes record the fact that not a day passes without the shedding of blood by the hand of the murderer.

The spirit of hate inaugurated by the radicals, North and South, during the rebellion and perpetuated by the Thirty-Ninth Congress, in the names of "loyalty, liberty, and humanity," has invaded even the sanctuaries of the Most High—men wearing the livery of the court of heaven, ordained to minister at the altars of Him who summed up all the commandments in one great law of love, preach all the uncharitableness of party hate, blasphemously incorporate it in their prayers, trail the standard of the King of Kings in the filthy mire of politics, and "crook the pregnant hinges of the knee" to Cæsar, and they have their reward. Surely there is no more pitiable sight on God's footstool than the modern political priest. Angels must view such treason to Jesus with amazement, the true Christian with abhorrence, and even the radical, while "he loves the treason, must despise the traitor."

Sir, who does not know that hatred is the corner-stone on which every measure of reconstruction is based? The animus is seen in almost every speech on reconstruction. No measure has been proposed or passed without an appeal to the bitter passions engendered in the late conflict of arms. An appeal to this fell spirit by radical legislators, a radical press, and radical priests has enabled the radicals to tear ten stars from our glorious old flag, and to enthrone a government of the bayonet over the

ruins of the Constitution in ten States; while the firmness of one man, under God, prevented the establishment of a military government in every State of this Union. I allude to the act of Congress of the 6th of February, 1866, to amend the Freedmen's Bureau, extending military jurisdiction to all parts of the United States containing freedmen or refugees. I need not say that this embraced, or could in a day be made to embrace, every State in this Union, loyal or disloyal. This bill intended to subvert the constitutions of the States, strike down the right of trial by jury, and trample down the God-given liberties of the people under the heel of military power—this bill, which, in violation of the plainest precepts of the Constitution, placed the military above the civil power—this bill, intended to give the President the power of an autocrat, and which was passed by every Republican vote in both Houses, only failed to become a law by the patriotism and firmness, under God, of that President. Such is the recorded act of the intentions of a Republican Congress, and there it will stand on record forever as a warning to future generations of the madness and danger of partisan legislation inspired by partisan hate.

Mr. Chairman, the great leader of the Republican party in this House [Mr. STEVENS] has introduced a bill, intended as a model school for all the schools in the nation, requiring that the equality of man enunciated in the Declaration of Independence shall be inscribed "in large capitals," on "unfading material," over the main entrance of every school-room, and cause it to be recited at least once a day by the students; and that over every school cemetery should be inscribed the "immortal words:"

"Pallida mors equo pulsat pede pauperum tabernas regum turres."

Sir, I would advise that this bill of the 6th of February, 1866, providing for the extension of military jurisdiction in all the States, should be engraved on tablets of bronze or marble and placed in every legislative hall, that future legislators may read it as a Republican commentary of a Republican Congress on the powers of the Constitution, and over the grave of radicalism, now being dug so deep that there will be no resurrection, I would inscribe "on unfading material:"

"Quem Deus vult perdere prius dementat."

I have said that this attempt to establish a military jurisdiction in all the States was only prevented, under God, from becoming a law by the patriotism of Andrew Johnson. From the hour that Andrew Johnson returned that bill to the Senate with his veto he has been hunted by the bloodhounds of party hate with a ferocity unparalleled in the modern history of partisan warfare. That veto is the key to impeachment; that veto was in reality the "high crimes" of which he was guilty in the eyes of the Radicals; that veto explains why the legislative would curtail the executive power of the Government; that veto explains the astounding fact that a member of the House of Representatives was permitted unrebuked to proclaim before the nation and the world the atrocious charge that Andrew Johnson, President of the United States, was accessory in the murder of Abraham Lincoln.

Andrew Johnson does not hold his high position by my vote or by the vote of the Democratic party, yet I cannot but admire the man for honestly adhering to the principles for which the war was waged. I admire the man as he stands erect and undismayed, for the compacts of the Constitution and for the restoration of the Union, against party hate enunciated by a partisan press and a partisan Congress, firm and unyielding as a rock in the ocean lashed by the fury of the tempest.

It will not be denied that a party has existed since the days of Alexander Hamilton in favor of a construction of constitutional power in favor of the Federal Government and against the reserved powers of the State. It will not be denied that the Democratic party have ever been the champions of the reserved rights of the States, while at the same time they maintain in letter and spirit every power delegated to the Federal Government. By these principles of the Democratic party the Government has been administered and its policy shaped. Under God that grand old party has placed this Republic in the van of nations. That policy was a strict adherence to the letter and spirit of the Constitution.

Sir, I believe, with the Democratic party, that the Constitution is a masterpiece of wisdom, capable of embracing a continent or a world; that it is a constitution of checks and balances—checks against despotic powers, a triple government of legislative, executive, and judicial branches; that you cannot impair the power of one without disturbing the harmony of all; that centralization of the powers of the Government in one branch is a despotism.

Sir, the Constitution of our fathers was founded on the Christian law of love; it was a work of compromise, glorious in its inception, intended to be as lasting as time; a sacred covenant which no man under its protection can break without meeting the retributive justice of heaven. The men of the South attempted to break this heaven-born compact, and their land is desolate, their people beggared, and mothers weeping in almost every household, and will not be comforted because their sons are not. The very instincts of the people of the North are to maintain sacred the compacts of that Constitution in all their entirety in letter and spirit; for this they poured out their blood and treasure as no other people have done. They were earnest in the war for the Constitution to the death; they are earnest now. I am not a prophet nor the son of a prophet, but I predict to the dominant party in this House that if you carry out infractions of the Constitution, by bills of reconstruction and confiscation and legislative centralization, before ten years have run their course you will as a party be ground to powder between the upper and nether millstones of the States and the people.

I said the Constitution is a compact; it is a covenant with the States, a covenant with the people, and a covenant with the individual man. Constitutions are made for minorities, not for majorities. Under the ægis of that covenant the wood-sawyer in your streets, the pioneer woodcutter of the West in his log cabin, has rights as sacred as the shoddy millionaire in his brownstone palace; these rights all the power of a Congress or a State Legislature cannot destroy under any pretense whatever. In these rights he should be protected against the world. Sir, if there were but a single loyal man in the South who had rights under that covenant before the rebellion, when you strike down those rights and place him under a government of the bayonet, and say that his life, liberty, and property may be disposed of without due process of law, you violate the most sacred rights of a citizen of the Republic; and when you violate the rights of one you violate the rights of all; you stab liberty at the very horns of her altar.

When you strike down that great bulwark of the right of the citizen against executive or legislative despotism—the great writ of *habeas corpus*—extorted from a tyrant king at Runnymede, and incorporated in our Constitution, you violate his constitutional rights, and you again stab liberty at the very horns of her altar. When you ignore constitutional law to legislate for partisan power or partisan hate you display to the world an inconsistency, an ignorance, and a folly that must retard the advance of republican principles and strengthen the thrones of kings. We see it in every bill of reconstruction. While you curse England with a grievous curse for recognizing the rebel confederacy as a "belligerent power," you bless the great "Commoner" of this and the last Congress with a heartfelt blessing for his new version of international law that the rebels were a "belligerent power," which alone could make them "conquered provinces." Under the great law-giver of Israel half the tribes stood on Mount Gerizim to bless the good, and half on Mount Ebal to curse the evil; it was reserved for the modern Radical Levite to denounce the alternate curse and blessing of Heaven on the same principle and the same act.

Congress, under the inspiration of Radical leaders, forgot the fact, settled for ages, that if a people engaged in war are belligerents they cannot be traitors, and if traitors they cannot be belligerents, and legislate against these people as belligerents and at the same time refuse them representation as traitors.

Radical statesmen seem utterly oblivious and sublimely ignorant of the fact that they expose themselves to the derision of every well-read lawyer on earth when they urge the legislative branch to declare the rebels as belligerents, and at the same time urge the judicial branch to try the rebel chief as a traitor.

Mr. Chairman, I do not believe that the sacred ark of our liberties can be overthrown by armed traitors or a hostile world. I do not believe it can be overthrown by the Executive, because he has no aggressive powers; I do not believe it can be overthrown by the judiciary, for they have no aggressive power; but I do believe that it can be overthrown by a foe more potent than armed traitors or a hostile world—that foe is constructive power. All writers on mixed forms of government agree that the legislative branch is aggressive; and it was against this aggressive usurping power of the Legislature that the barriers of the judiciary were erected. Sir, it is no wonder, then, that the nation was startled at the assumption of power by this Congress, first by a bill requiring a two-third vote of all the justices of the Supreme Court, and finally by a bill forbidding the Supreme Court by even a unanimous vote to declare an act of Congress unconstitutional. Sir, precedent begets precedent, and this precedent would enable any Congress to overturn the Republic.

Mr. PILE. Will the gentleman allow me to ask him one question?

Mr. SITGREAVES. Yes, sir.

Mr. PILE. The gentleman has spoken, as I understand, of the protection of the rights of loyal men in the South. I wish to ask the gentleman whether those loyal men, white and black, in the South do not ask Congress for their protection to overthrow and repudiate those State governments set up by Mr. Johnson, and reconstruct those States upon the policy of Congress?

Mr. SITGREAVES. The gentleman has misunderstood me. I was speaking of loyal men who were entitled to the rights guarantied by the Constitution prior to the rebellion.

Suppose your reconstruction schemes are carried out by giving the domination of the southern States to the black man, and some future partisan Congress should find it necessary to disfranchise a State in order to maintain their power—they declare that New York, Ohio, or Pennsylvania have no republican form of government because they have not given suffrage to the negro—they may enact (as they would have a right to do under this precedent) that the Supreme Court shall not decide the unconstitutionality of an act of Congress without the concurrence of every member of the bench, and one justice would thus control the action of the court. That one justice could be found. Human nature is the same in every age. The despot James II found a Jeffreys to execute his hate and bathe the ermine of a chief justice in the blood of judicial murder; and party malice can find Jeffreys now to execute party hate. Or Congress may declare (as this Congress have declared) that they have the exclusive power to decide the form of a State government, and in either case the result would be that the people of New York, Ohio, or Pennsylvania would be disfranchised and placed by some reconstruction act under a government of the bayonet, and could not appeal from this damning outrage. Sir, this very argument will be used by the radical when the southern States are reconstructed on a negro basis.

Sir, before this constructive power claimed by Congress to overthrow the judiciary—that august bulwark against despotism; that pride and glory of American people—all other powers claimed by this and the last Congress shrink into insignificance. Sir, I ask any member of this House, Conservative, Radical, or Democrat, if the framers of the Constitution ever intended to confer such a power on Congress? I ask, if it had been incorporated in the Constitution, if the people of the States or the people of a single State would ever have ratified it? Yet this is the Constitution you would give to your children—a power in Congress to disfranchise a State, and place the lives, liberties, and property of its citizens under military rule upon the same pretense now urged for the passage of reconstruction bills, and without appeal to any human tribunal. Sir, the time is rapidly approaching when these "glittering generalities" about "republican form of government" and "liberty, equality, and loyalty," which now conceal the schemes of reconstruction, will be torn from radicalism like the glittering vail from the face of the false prophet of Khorassan, and the people will see the face of a hideous serpent.

Yes, sir, there are modes of overturning the Constitution by violating its spirit while adhering to its letter. It was done in New Jersey. The late constitutional amendments were never submitted to the people. The Legislature was convened in extra session but two months before the annual election, to prevent that submission and to pass these amendments, and they did pass them. This act of the New Jersey Legislature was in strict accordance with the letter, but who will say that it was not a gross violation of the spirit of the Constitution? thus showing that the organic law may be altered not only without the knowledge but against the will of the people. Yet this action of the New Jersey Legislature was applauded by men who disfranchised ten States because they had "no republican form of government."

Such are a few of the many fruits of reconstruction. Sir, we want no reconstruction; we want restoration. This Congress can restore the Union in an hour, and thus confirm the principles of and obey the behests of that great Magna Charta of the American States and the American citizen—the Federal Constitution.

Continue your insane policy of reconstruction, based on the corner-stone of partisan hate and partisan ambition, those accursed principles which impel Satan in every conflict with God and man, and so correctly personified in Milton's Portress of hell; carry out your policy of striking down the independence of the judiciary and the constitutional powers of the Executive, and so sure as effect follows cause so sure will this Republic be drowned in a sea of blood, so sure will the fairest temple of human liberty that the sun of heaven ever shone upon go down with a fall that will shake the nations, and you and your children and the hopes of human freedom will perish alike in the mighty ruins.

But disband your southern army; restore the Union of the States; let your legislation now and henceforth be inspired by the law of Christian love, by that heaven-born charity which alone recognizes the true brotherhood of man; forgive your brother his trespasses as you hope to be forgiven; let the sublime doctrines of Him who spake as never man spake permeate every law; let the ministers of the living God burn no more unhallowed incense on His altars, but teach the people that "Righteousness exalteth a nation, but sin is a reproach to any people." Then the voice of disunion will be heard no more in our borders; then, with the eye of undoubting faith, we can look through the cycles of coming ages and behold this great Republic standing immutable in her strength, waving her glorious flag, emblazoned with a hundred stars, over these States, over the British Provinces, over the land of the Montezumas, and the Antilles islands of the sea, the great symbol of human freedom and the sovereignty of God as the Ruler of the nation, until the last seven thunders shall utter their voices, until the heavens shall be rolled together as a scroll, and the elements shall melt with fervent heat.

Mr. WILLIAMS, of Indiana, obtained the floor.

Mr. PRICE. I ask the gentleman from Indiana [Mr. WILLIAMS] to yield to me for a few moments. I wish to reply to the answer the gentleman from New Jersey [Mr. SITGREAVES] gave me in regard to the parallel between the rebels and the prodigal son.

Mr. WILLIAMS, of Indiana. I will yield to the gentleman if the time he may occupy does not come out of my hour.

Mr. PRICE. I hope it will not.

The CHAIRMAN. That will require the unanimous consent of the committee. Is there any objection? The Chair hears none. The gentleman from Iowa has the floor for ten minutes.

Mr. PRICE. Mr. Chairman, both sides of this House will, I believe, give me credit for having been an attentive listener during the whole of this session. If I possess no other good quality, I certainly am "a good listener." I have listened for the purpose of ascertaining where the truth may be; and I do not propose to occupy the attention of the committee now except to reply to one single point of the argument of the gentleman from New Jersey, [Mr. SITGREAVES,] if argument it may be called.

I have heard Story and Blackstone and Vattel, and I know not how many other writers upon the law, common and international, quoted here, and when I hear these quotations I always reserve to myself in my own mind the right to judge of their correctness or incorrectness, the applicability or inapplicability, because these authors were only men. But when I hear a gentleman speak from a Christian stand-point, taking for his text an injunction of Scripture, when I hear him quoting from the Bible to prove the correctness of his position and his principles, I listen then with double attention, because if he is able to support himself by authority from that point I take no appeal. And I give my Republican friends in this House notice that if it can be proved that the rebels of the South occupy to-day the position of the prodigal son in the Scriptures, to which my friend from New Jersey has referred, then I will bid them a final farewell and seek admission into the party that can prove its doctrines true by the Scriptures. But before I sever my connection with the political party with which I have been connected for some years past, I propose to inquire whether this claim in behalf of the rebels will bear the test of examination.

Now, I have not read very lately the passage of Scripture with reference to the prodigal son, and I may not quote it exactly right; but I will give the substance, and I will thank any gentleman for correcting me if I depart from the record in any material particular. As I recollect the history of the prodigal son, it was something like this: in the union which existed at that time (I must call it a union for the sake of the parallel) there were three States, one older than the other two. At a certain time one of the States conceived the idea of seceding. When this idea took possession of the mind of the party controlling that State he did not, as the rebels did in our case, bid defiance to the residue of the Union and those composing it, but he made an amicable arrangement—and if I am correctly read in Scripture history it was not only an amicable but a legal arrangement—with them, by which he took his part of the property and no more. It was conceded by the States remaining in that union that that part of the property belonged to him, and by an amicable and legal adjustment he retired from the concern, taking with him only the property which belonged to him.

Without reviewing the transaction in detail, I will merely say that the State that went out of that union, after behaving as insanely, if you please, (and I will agree that here the parallel may run,) as the rebels of the South have done, after expending, according to the record, "all his substance in riotous living," was reduced to a point bordering on starvation; and here again the parallel runs pretty fairly. And then, sir, if I remember correctly, he was sent out into the fields to feed swine, a not very reputable business in that country at that time. But, sir, at that point the parallel ceased entirely, if I have read the record correctly. I do not propose to give my opinions dogmatically in this matter, but I propose to review the transaction; and I say that in my judgment the parallel ceases at that point. My friend from New Jersey, who seems to be read up in Scripture history, has undertaken what no other man has had the courage to undertake within the last five or seven years: he has undertaken, if I understood him correctly, to prove that the rebels are right from a Christian stand-point.

Mr. SITGREAVES. The gentleman has misunderstood me.

Mr. PRICE. If I have mistaken the gentleman's meaning I hope he will correct me. Of course I do not wish to misrepresent him.

Mr. SITGREAVES. Nor did I intend to make a parallel between the history of the prodigal son and his return to his father and the history of the rebellion, but merely to illustrate the law of Christian forgiveness.

Mr. PRICE. Yes, sir, I understand that. But I asked the question, because I thought I might have misunderstood the gentleman, if he intended to compare the rebels with the prodigal of the Scriptures, and he answered me, as the reporters will testify and as the gentleman himself will not deny, that he did intend so to say.

Now, then, at the point where the prodigal was feeding swine we find him reduced almost to death by starvation. And there, I say, the parallel ceases. Why, he was so hungry, according to the record, that "he would fain have filled his belly with the husks," the food intrusted to him with which to feed the swine. But at that moment of starvation to which he was reduced he was too honest to steal. And I ask if the rebels have not tried to steal everything?

Mr. CAVANAUGH. Will the gentleman allow me a question?

Mr. PRICE. No, sir; I am occupying the floor by the courtesy of the committee for only a few minutes. I ask whether the rebels did not steal everything they could carry away and much that they could not carry? Why, if they had been in the position of the prodigal, does any one doubt that they would not only have stolen the food given to the swine, but the entire herd of swine in the bargain? [Laughter.]

Mr. CAVANAUGH. I hope the gentleman will permit me to ask a question.

Mr. PRICE. Not for a moment; I have not time. Now, the prodigal stood there as an example of an honest man, but misled and in error. But the record says "when he came to himself." I quote from memory, and if I am incorrect there are plenty of gentlemen who can correct me. Now, when he came to himself and found out his abject condition, when, looking back along the history of the past, he reflected on his conduct for the last years, as insane and wicked as it could be, what did he do? Did he say, "I will return to the old Union. I will say to those who remain there, I propose again to take part in the government of that concern?" Not a word of that kind, sir. Did he say, "I will go back and examine the record that they have been making since I have been gone, and if I find anything that they have done in my absence that I do not agree with I will tell them it amounts to nothing, it is unconstitutional because they did it while I was out of the Union or was not represented?" Not a word of that kind; but he looked the facts square in the face—and to this I call the particular attention of my friend from New Jersey—and said, as an honest and repentant man, "I will arise and go to my father." What then? "I will say, 'Father,

I have sinned against Heaven and in thy sight, and am no more worthy to be called thy son; make me as one of thy hired servants.'" He did not ask to be taken in on terms of equality. He begged only to be taken under the old roof-tree—in the old Union. He said, "Give me a place never so humble and menial, but only take me back on any terms. I am willing to be a servant in the household; I do not ask to be made an equal."

That is what the prodigal did. But how is it with regard to the rebels of the South? I shall be glad to hear that they are repentant; and when they come back in the way the prodigal came, I am as ready to receive them as my friend from New Jersey or any other man can be.

Mr. CAVANAUGH. I desire the gentleman when he quotes Scripture to quote it correctly.

Mr. PRICE. My friend—whose name, by the way, I do not happen to know—says I do not quote Scripture correctly. If he will correct me I will be obliged to him.

Mr. CAVANAUGH. I said I desired that the gentleman should quote Scripture correctly. In the case of the prodigal, when he came home his father fell on his neck and welcomed him.

Mr. PRICE. Oh, I had not got to that part yet. [Laughter.] I had not come to the crying part. [Laughter.] My friend on the left will not take it ill.

Mr. CAVANAUGH. Certainly not.

[Here the hammer fell.]

Mr. PRICE. I want to say to the gentleman who interrupted me——

The CHAIRMAN. The ten minutes allowed to the gentleman from Iowa have expired.

Mr. PRICE. I did not ask for ten minutes.

The CHAIRMAN. If there be no objection the time of the gentleman will be extended.

Mr. ELDRIDGE. I will not object if some gentleman on this side is allowed to quote Scripture in reply.

The CHAIRMAN. The gentleman desires an extension of his time. That requires unanimous consent.

Mr. HIGBY. I rise to a point of order.

Mr. PRICE. I do not make any such request. My time was not limited.

Mr. CULLOM. I submit that the gentleman from Iowa was not limited in the time allowed him.

Mr. HIGBY. That is the point I was about to make.

The CHAIRMAN. The Chair understood the gentleman from Iowa to apply for not exceeding ten minutes, and the question was so put and voted on by the committee.

Mr. HIGBY. This is the first I have heard about ten minutes.

Mr. PRICE. I should close in a few minutes any way.

The CHAIRMAN. If there is no objection the time of the gentleman will be extended.

Mr. ELDRIDGE. I ask the Chair to put the question in the form I suggested, that the same length of time be granted to some gentleman upon this side of the House.

Mr. PRICE. I do not ask an extension of time, for my time was not limited. I only want to say, in conclusion, that when these people at the South come back in the way the prodigal son did I am willing to receive them; but without some guarantee embedded in the bulwarks of the Constitution for their future good behavior, never; no, never.

Mr. HIGBY. I hope the gentleman will be allowed to go on, and that some gentleman on the other side will be heard.

Mr. ELDRIDGE. All we ask is that we be allowed time to vindicate history and the Scriptures. [Laughter.]

Mr. PRICE. I do not ask further time.

Mr. WILLIAMS, of Indiana, then addressed the committee on general political topics for one hour. [See Appendix.]

FINANCIAL CONDITION OF THE COUNTRY.

Mr. MORRELL. The financial condition of the country is not unlike its military condition during the first years of the late war. There is now, as there was then, urgent need for action; but it is impossible to take a single step without endless debate, and the men of theory seem to be masters of the situation. The history of the late eventful years justifies some disrespect for precedent and very slight regard for prophecy. We revolutionized the art of war, and we must do as much in finance. The work, great as it is, demands neither scholarship nor genius, but qualities which are as useful in the conduct of public affairs—practical sense, earnestness, and above all conscientiousness. Such common qualities in their best development have the force of genius, and in new circumstances they inspire originality.

Our revolution is half completed, for old things have passed away, and it remains to make all things new. We see exhibited in the southern States the disasters resulting from an effort to return to an old order of industry, which made their working men chattels and enslaved the labor of the whole country; and we have suffered from an administration of national finance which, if it had any policy, sought to restore the *statu quo ante bellum* by what is called a return to specie payments. I take it to be the part of common sense to recognize accomplished facts, and it appears to me quite as easy to reënslave the negro as to reinstate the planting interest or revive the monetary system displaced by the war. To go back is clearly impossible. We must accept the situation, honestly appreciating all its obligations and embarrassments, and out of new circumstances we must carve a new path by which we may advance to order and security. That the present condition of the country is perilous all must admit; but the way to safety possibly lies close beside us. We may be surprised to find how plain and easy it is, and the greatest help may be derived from seeming obstacles. If we will only act, advance, anything, everything, is possible. Men of theory who opposed the voyage of Columbus drew their strongest arguments from the known spherical form of the earth—he might sail down on one side, they said, but how could he sail up on the other? After he set sail he never encountered this difficulty.

Every day that passes without announcement of some definite policy aiming at a certain resumption of specie payments, is fraught with danger to our national honor. From the enunciation and discussion of a multiplicity of financial theories, one dominant question has at last shaped itself, and it is summoning mighty opposing forces for a conflict, the issue of which no man can anticipate. It is the question whether the financial indebtedness of the country shall be paid with what all the world recognizes as money, or with that which has the character of money imposed upon it by the mere authority of law. Shall the Government inforce its option to prematurely redeem its bonds in an irredeemable currency or shall it provide for their payment at maturity in coin?

It has been asserted and denied that the various laws authorizing the creation of different forms of debt bind the Government to their payment in specie. It has been asserted and denied that whatever doubt may be in the law must be set at rest by the representations of the authorized agents of the Government made while negotiating the loans. On the one side it is alleged that it is of right the imperative duty to pay the bond-holders in the same sort of money which they loaned to the Government. On the other, this proposal is denounced as a gross breach of faith and as repudiation in disguise. Men of reputed statesmanship and conspicuous patriotism give to each side the weight of their abilities and the sanction of their personal character. A multitude of obscure questions are thrust into the controversy, so that the understanding of plain people is darkened and the popular conscience in danger of serious perversion. I believe that there are many men of this nation who have not a sense of mere fractional responsibility for the honor or shame of their Government, and who will never approve the policy of quasi repudiation. I think they will give little weight to a nice construction of the law; for if the language is at all doubtful it should be taken most strongly against the Government. It should at least be taken in the sense in which it was construed at the time the contract was made; for, if through misunderstanding one of two contracting parties must suffer loss, the party who occasioned it should bear it. It is a question not only of morals but also of policy. We cannot afford to palter with the public creditor in a double sense—to keep the word of promise to the ear and break it to the hope.

The principal of the debt must be paid in lawful money, and if another sort of debt is made lawful money for the purpose of payment, the latter must also be paid. The only hope of profit from this devious way arises from the expected degradation of the public credit. It is believed that the legal tenders issued in payment of the bonded debt will be so nearly worthless that they need never be redeemed, or that they may be funded so as to bear but a nominal rate of interest, in bonds which may be made payable at some indefinite time—in another sort of promises made lawful money. If the nation is constrained to eventual honesty this sort of trick and subterfuge can bring no profit. It is repudiation by circumstance.

It is said that this is not a question of morals; but its decision must affect the popular conscience. The Government of the United States should practice the morality which it is its province to prescribe. It is its duty to define right, impose law, and prepare a way that Christian people may walk therein, and it should exhibit in all its dealings the most scrupulous honor, and set examples of rectitude for the imitation of its citizens.

I regard the scheme of paying bonds with legal tenders as a prelude to a project of general repudiation, which already finds its advocates. It is a step upon the downward road leading to national disgrace and dissolution. I hope it may not be taken; but if it is taken my hope is that, the consequences being apparent, the aroused conscience of the people will denounce it as a crime.

The premature agitation of this question is an ill omen. It shows an urgent haste and defiant preparation for wrong-doing that would create opportunity where none exists. I believe no part of the funded debt of the United States is presently demandable; but the Government option of redemption is now operative upon a large portion, the interest upon which is most burdensome, for no one denies that the interest must be paid in coin.

I think, sir, it will be well to postpone for a time the discussion of payment of the principal, and give all our energies to a wise and earnest effort to make the currency equal in value to gold. It will be easier to do this now, while recognizing the force of every express and implied obligation and while credit is unimpaired, than after awhile, when we will have destroyed the nation's credit and impoverished our own citizens, who are the holders of more than three fourths of the public debt. If we do this the question of repudiation will never arise, for it will be a matter of no consequence to the creditor whether he receives coin or currency.

It is clear to me that we cannot begin to pay gold till we have it, and having it we should not begin to pay it until we have provided that it shall not escape to foreign countries, but shall surely find its way again in sufficient quantities to the public Treasury. During six years of suspension the Treasury reports show that we have paid away to foreign nations in excess of receipts nearly three hundred million dollars in precious metals, or coin, an amount about equal to the total annual production throughout the world. Considering this in connection with our immense export of other domestic products and interest-bearing evidences of debt, it is plain that our trade with foreign countries is absorbing all the commodities we can export, including gold, and leaving a debt against us, to secure which we are placing a

foreign mortgage upon our own labor and that of future generations. While this state of things continues we cannot expect resumption of specie payments, and it is very doubtful if the Treasury will be able to procure the $150,000,000 of gold annually which will be required to pay the interest of the debt after all outstanding obligations are funded in six per cents. To obtain this from customs, the only source accessible under present laws, we must import foreign merchandise at present rates of duty to the amount of about three hundred and seventy-five million dollars, an excess over the large average importations of the ten years prior to 1860 of $70,000,000, or an average of ten dollars per capita for the whole population of the country estimated at thirty-six and a half millions.

Experience has demonstrated that the effort to take more than eight dollars per capita of foreign commodities results in disaster and the loss of the capacity either to purchase abroad or produce at home. Besides, under this system we must constantly be getting worse off instead of better; for, allowing for undervaluations, the country would be incurring a debt of $100 to be paid in gold abroad for every thirty-three dollars that would accrue to the Treasury. Here is the dilemma, I think, plainly and fairly stated, and I invite its consideration by those who clamor for immediate return to specie payments. We can never obtain the power to use gold as currency by consuming foreign commodities. It is throwing the shad to catch a sprat. Seeking in that way for gold to pay interest we are rapidly and surely changing the character of the principal of our debt. It was a debt due from the Government of the people to the people, onerous, it is true, but the creditor had part of the burden and the debtor had part of the benefit, and beyond the first loss which it represents nothing of value was withdrawn from circulation. It is now fast becoming a debt due by the Government and the people to foreign nations, representing a loss in which there is no honor and demanding payment which admits of no evasion and from which there will be no profit. It was a memorial of the precious things which a self-sacrificing people cast into the furnace of patriotic war. It is assuming the likeness of dishonored obligations of luxurious and fraudulent insolvency.

Sir, we must suspend the payment of gold abroad before we can resume at home. We must stop the ebb of the precious metals and make the tide flow to our own shores; we must substitute economy for wastefulness, homespun and home-made for foreign manufactures; in short, in our commercial relations with other countries we must cease to be a debtor nation.

The effort to put the balance of trade in our favor by curtailing our imports will involve some loss of duties to the Treasury which the country, out of its resulting gains, will be able in some way to make good.

In only two years of the ten prior to 1866 would duties upon imports, at existing rates, have approximated the sum of $150,000,000. I need not say that one of these years precipitated the disasters of 1857, and the other prepared similar calamity, which was in a measure lost sight of in the patriotic passions kindled by the breaking out of civil war. At the present rate of forty per cent. duty, the average imports of those ten years, involving two calamities, would have paid $122,000,000.

By reducing imports to this average, if we had no mistakes to repair, and if we could maintain the exports of our great staples at the high point reached in 1866, we might, upon the estimate of Mr. Secretary McCulloch, put the balance of trade slightly in our favor. But we know how greatly the export of cotton has fallen off, and the Secretary's estimate of the balance against us in the trade of 1866 is certainly too low by $100,000,000. I have carefully examined the Treasury reports, and also the estimates of business men upon our financial operations with foreign countries, which leave no trace in the custom-house, and making the most moderate and favorable calculation, I conclude that our foreign trade of 1866, after absorbing $82,000,000 in gold, left upon us a debt of not less than $200,000,000, which was settled by transferring $280,000,000 in bonds to foreign countries. I know that this estimate will be regarded by many as too small, though double that of the Secretary; but I desire not to be regarded as an alarmist, and I would encourage the country by holding forth the possibility of salvation through an act of heroic public virtue. It is merely a question of time. As yet the matter is within our control, and we may choose whether we will renounce extravagance, economize our means, and provide for our wants by the work of our own hands, or persist in the course we are now pursuing and await the day when sharp necessity will dictate harder terms to us. If we will voluntarily impose such duties upon imports as will effect their reduction to the extent that otherwise must soon be forced upon us, domestic industry will bridge over the gap, and having command of the precious metals we may begin to pay our debts in gold, or in currency that is as good as gold. A reduction of imports to $250,000,000 will cause a temporary Treasury deficit of needed gold duties to the amount of perhaps $25,000,000, which may easily be obtained from a few sources without imposing undue burdens upon productive industry. Whisky might be made to pay to the Treasury $40,000,000 in gold, and $15,000,000 in gold might be obtained from tobacco.

The necessity of resorting to these or similar sources will probably not arise, for the effect of adopting a sound customs policy will be to stimulate production and enable the country to take and pay for such an amount of imports as will provide revenue without endangering our financial solvency. I would rely upon the surplus fund now in the Treasury to make good temporary deficiencies; but if it should fail it will be easy to provide in the way I have indicated for the largest demand that can posssibly be made, and larger than will be made; for with the balance of trade and exchange in our favor, the interest on $1,000,000,000 in bonds held by foreign countries will be paid without remitting a dollar in gold or drawing a dollar from the Treasury; and such a surplus will rapidly accumulate as must insure an early resumption of specie payments.

To maintain this favorable situation I would, to use a mechanical phrase, impose a "governor" upon our foreign commerce of such legal construction as to make its operations nearly automatic. Our system of *ad valorem* duties, with their attendant frauds and accompanying undervaluations, makes it difficult to set up a reliable alarm-clock in the custom-house, or we might adopt a feature of the Belgian tariff with satisfactory results. I allude to the special schedule by which linens coming from France are charged with a specific duty until the quantity of four million pounds has been imported. When the amount imported exceeds that quantity, and does not exceed six million pounds' weight, the duty is increased upward of fifty per cent.; and when the quantity exceeds six million pounds' weight all imported within the year is charged double the rate of the first four millions. (Revenue Commission Report, No. 10.) If we could apply such a system, not to a single article for its protection, but upon the entire schedule of imports, with a view to checking excesses and maintaining the balance of trade in our favor, the results would be beneficial to all interested in foreign and domestic commerce.

Other methods involving the same principle and free from practical difficulty suggest themselves. Let it be provided that whenever in any quarter the export exceeds the import of bullion and coin, ten per cent. duty shall be added upon the whole list of dutiable imports until equilibrium is restored, with corresponding reduction whenever the tide shall turn the other way. Or let the Treasury record the daily rate of exchange, and whenever it rules for thirty days at above $1 88 per pound sterling, add ten per cent. to customs duties, of which the Secretary of the Treasury shall give notice, with like additions after every period of thirty days until exchange is at par or in our favor. Under such a system the Secretary should have little or no discretion, and it would produce no disturbing or disastrous effects, for its operations would always be anticipated. It would become the interest of importers to watch carefully the effect of their operations, and see that they did not press the country beyond its needs and its power to pay. I make these suggestions in the hope that they will meet with criticism which will demonstrate the practicability of operating in some way a system of checks and balances that will regulate foreign trade, so that our national expenditures, honestly estimated, shall not exceed our income.

It is possible for this country to have a healthy commerce, for imports may be reduced without hardship to about what they were in 1863. I have not the data which would enable me to make a careful analysis of the trade of the past year; but judging from its general results it has been in every respect as disastrous to the country as that of 1866, the details of which are now accessible to everybody. I have therefore made them the basis of argument and illustration. Taking the Secretary's estimate of undervaluations in the year 1866, we sent abroad for over twenty million dollars' worth of iron and steel manufactures, which we should have made better and perhaps cheaper at home. We imported $20,000,000 worth of cotton piece goods and brought our domestic mills to a stand. We sent abroad bonds or gold for $33,000,000 worth of silk goods, in which we bravely arrayed our women, in anticipation of a speedy return to specie payments. We spent $70,000,000 for textile woolen fabrics, breaking down our home manufactories most thoroughly and effectually. We inflated our corporeal circulation with $7,000,000 worth of foreign spirits and wine, and smoked $3,000,000 worth of fine foreign cigars. To the extent that we refrain from going abroad for these things, or for anything, I think it is clear that we will effect a saving to the country.

I know this idea is deemed by some to be chimerical. It is claimed that trade enriches a people, and that if we do not buy we cannot sell nor make a profit. I am certain that foreign countries take from us only what they must have, and if we did not get our pay in other commodities we would get it in coin, upon the same principle that they take coin from us. Buy where you can buy cheapest is the maxim of the free trader; and we must compete with the world if we carry our products to the markets of the world. To the turgid sentiment of Cobden, free trade the international common law of the Almighty, it is sufficient to oppose an universally recognized fact finding its expression in this simple maxim: "There is no friendship in trade." I do not see how foreign trade is to help us in our effort to distribute equitably the waste of five years of destruction over fifty of production —or one hundred, if we may have so large a divisor. Our debt must be paid from the surplus earnings of our own industry. We must buy less and produce more; we must work harder and more skillfully; we must cultivate and mine and manufacture; old industries must be increased and new ones introduced. We may be awkward about something at first, but in the end we will do it quicker and better than any Englishman or Frenchman or German that lives beyond the seas.

In the prosperity of the industry of the country all financial questions will find their ultimate solution; but without our commitment to a sound financial policy we shall never commit ourselves to the economies which will stimulate industry and make national independence possible. It was for the purpose of having the country committed to a policy that I proposed a bill (H. R. No. 75) to provide for a reserve

of gold in the Treasury and in the national banks.

If it be true that the Treasury must soon be unable to meet the demand for gold interest, then resumption upon its present store would be wickedness or idiocy. It would transfer gratuitously to private coffers millions which must at once be bought back at a premium. Any honest and business-like plan which may be proposed will involve some ancillary legislation, and if this bill becomes a law and it is determined that a certain amount of gold will insure resumption, a way will be found to get the money. I would not prolong for one unnecessary hour the curse of a depreciated currency. Now that the war which necessitated the depreciation of the currency is over, it is a shame to the country that its credit is degraded, and the more humiliating because it is needless. Any private individual having proportionally such means as the United States has, who would allow his paper to be depreciated from thirty to fifty per cent. would be regarded as a dolt by men of business. The desire of honest and prudent citizens is for resumption of specie payments; but they do not wish to see it attempted without due preparation or under the risk of probable failure. It was and is my desire in suggesting the accumulation of a certain amount of gold in the Treasury, to secure the adoption of a plan which will give ample notice and prepare the way in such fashion that the country may advance step by step, not rapidly but surely; so establishing itself at every step that revulsion will be impossible. This brings me in conflict with those who will use no means, brook no delays, and who demand immediate resumption without regard to consequences.

Probably $1,000,000,000 is less than the amount of interest-bearing indebtedness of the Government and people of the United States held by foreigners. A large portion of this would be returned for redemption instantly upon the appreciation of the currency to gold value. The Englishman who yesterday bought a thousand-dollar bond for $750, in gold, would send back his bond for reconversion and demand the gold. He would not wait an hour, for fear that the experiment of resumption would prove a failure; and he would be justified in so believing while the balance of trade remained against us. If the ability of the Treasury to continue to pay gold was doubted, everybody would want gold; but I would so assure its ability to pay gold that next to nobody would want it. Prepare the way so that all the world can see and note the gradual and certain means to this end, and everything will help us to reach it. The present rate of interest of our bonds would tend to neutralize the very gradual increase of their exchangeable gold value from day to day, and owing to this gradual increase of value they would be more sought after as a permanent investment, and they would be at or above par abroad before we touched the point of resumption. At home the effect would be similar. The currency would gradually rise to a gold level, and all business interests would adjust themselves to the new order of things without panic or any derangement of industry. It is an easy macadamized road, leading upward and forward, wide enough to accommodate the appliances and accumulations of enterprise and labor. It is an advance to specie payments, while what is called a return to specie payments is a Bull Run route, leaving arms, accouterments and baggage in the hands of the enemy.

One hundred millions of gold in the Treasury is not enough to begin with; indeed, I doubt if any sum short of our entire indebtedness would be enough while the current of trade is sweeping it by millions from our shores. But if we commence to accumulate by turning the tide in our favor, and provide that it shall remain so, we may safely resume at any time. I would provide for the accumulation of $200,000,000 in gold as a means of bringing the balance of trade in our favor, as well as an evidence that it is so.

If we will confine our imports of merchandise below the value of our exports we will secure national solvency, insure the convertibility of our currency at all times into coin at par, and, allowing the volume of the currency to be regulated by demands of business, an abundance of money would make a ready home market for Government securities at a low rate of interest. I risk nothing in predicting that our whole national indebtedness could be converted as rapidly as it can be called in into a long four per cent. loan. The Treasury expedient of selling specie has had just the opposite effect from what it was intended and expected to produce. It raised the price of gold, for the reason that it stimulated importers and foreign agents to order goods. Increased importations overreached the Secretary. Bad in policy, it was worse in principle, and deserves to be stigmatized as speculation in national disgrace. It is amazing that such operations should be reported with official complacency; for it is as if a business man should publish in his annual balance sheet as a part of his profits, the money he has made by buying in his own paper at a large discount.

The Secretary and his friends deem it essentially necessary that the price of all commodities should be reduced, and confidently assume that the only means of effecting a reduction of prices is to reduce the volume of the currency, for the alleged reason that the amount of money in the country is at all times an exact measure of all values—a theory which has been philosophically disproved, and which may be discredited by the most superficial observation.

In times of great financial embarrassment, when the currency was reduced to the lowest points, as in the years from 1839 to 1845, much of the business of the country was done without the use of money. The farmer traded his eggs and butter for tea and sugar, and exchanged his heavier crops of grain, &c., for what he needed that he could not produce; and thus the transfer of crops and purchase of supplies was made in many instances without the actual payment of a single dollar in what is termed money. There have been times within the last ten years when many of the largest manufacturing establishments of the country were compelled to pay their workmen in traffic or suspend operations. Indeed, I am informed that such is now the condition of affairs in some of the iron and mining districts of Pennsylvania and also in the far West—the order on the store for supplies taking the place of money. Yet who will contend that there is no value in this traffic because no money is used to measure it? Money cannot be the exact measure of values, otherwise there would be no value where there was no money. Money is but one of the means of making exchanges, and its abundance or scarcity only affects values in the proportion of its own solvency and the facilities it affords as a stimulant to the production, transportation, and consumption of commodities. Bread and meat were lower priced in the third year of the war than in the year before the war, though they were floating upon a rising tide of irredeemable currency; and they are as high now as they were in 1865, notwithstanding the very considerable reduction of the currency and its wider distribution by the opening of the southern States.

Taking the last six years it is impossible to demonstrate by comparison that the average cost of the necessaries of life has been determined by the amount of money in circulation; and such comparison suggests the possibility of getting back to old prices, if that be desirable, without destroying the machinery by which exchanges are now made.

I believe it to be a fact that increase of the volume of the currency has had of itself but an imperceptible effect upon prices, and the philosophy of this may be very simply stated. When the country is prosperous additional millions of currency are rapidly absorbed by industries, and increased production tends to equalize values. The additional millions, if spent at home, are a spur to industry; and though there may be two purchasers for a certain commodity where before there was but one, or though the purchaser may have doubled his consumption, the producer has also enlarged his powers and more than doubled his capacity of production, or there are two producers where there was but one before. Under a sound home-trade policy, expansion of the currency can produce no permanent effect in enhancing prices until it passes beyond the point where it may be overtaken by expanding productive industry. That we have never yet reached this point may easily be demonstrated.

Want of faith in the Government, threats of foreign interference, and relative and absolute scarcity were the principal causes of the great fluctuations in prices during the war. The first two causes conspired to raise the price of gold, which spurns the image and superscription of imperiled nationality, and which was desired either for commerce with foreign countries or as a refuge in the day when our American gonfalon, the Treasury note, should go down forever. To the extent that these desires interfered between buyer and seller, and to the extent that the fears out of which they sprung could be influenced from day to day, the prices of all commodities were influenced, yet not nearly so much as has been imagined. The great cause of increase of prices was relative or absolute scarcity. The constant and imperative demand for articles of prime necessity for the use of the armies of the United States greatly stimulated the industry of the country, and it could have been supplied had it been regular. But the consumption of war is necessarily varying and spasmodic, and its unexpected demands have the effect of disturbing the markets and all contributing industries. The wants of the armies were supplied through a few agencies, and required enormous concentrations of food and material at a few places within limited periods of time. The men composing the armies would in peace supply their needs by means of innumerable agencies at a multitude of places without haste or disturbance. They did not consume more after their enlistment, but the method of supplying them and the waste and destruction of war caused a relative scarcity. Added to this there was an absolute scarcity of certain articles of prime necessity. I do not concede that any part of the expansion in the price of commodities was directly and necessarily caused by the expansion of the currency, and I maintain that if during a like period of expansion domestic industry should receive from law the protection accidentally afforded it by war, prices would not rise, but would steadily decline under the influence of the active competition of increased production.

Popular theory is at fault with regard to the effects of expansion; but its worst fallacy lies in the assumption that the effects of contraction and expansion are inversely and uniformly proportionate. Contraction has an immediate and far-reaching effect, widely different however from the expectations of its advocates. An invalid might gain in weight a pound a day for a limited time, and the increase would be both a consequence and cause of vital power; but to suffer an equivalent loss would entail the loss of something more than a proportionate amount of strength—it would result in death. As everything concurs to neutralize expansion within certain vital limits, so everything becomes the ally of contraction and increases its effect. The mere rumor of it is potent for disaster. It is contended that a reduction of the volume of the currency would cause only a proportional shrinkage of current values. I cannot believe this. It is supposed that this shrinkage would be uniform and equable. Most certainly it would not be. We are told that it is the road to specie payments. I believe it to be a no-thoroughfare, a *cul-de-sac*, flanked by sheriff's officers and closed in by the poorhouse.

We have been told how much easier it would be to pay taxes if we had but half the amount

of money we now have, and what profit would result from this reduction to agriculture, manufactures, labor, and trade. We have been lectured to "restore the currency to its natural volume," whatever that may be, and assured that "whenever the excess of currency is withdrawn wages will return to their natural rate." I, for one, would like to know whether the natural volume of the currency is thirty dollars per capita, as in France, or twenty-five dollars, as in England, or $12 50 as in the United States. I would also like to know whether the natural rate of wages is thirty cents a day, as in Belgium, fifty cents a day, as in Great Britain, the $1 50 of Pennsylvania, or the peck of corn and pound of bacon per week of the late so-called southern confederacy. But what will be the relation of the capitalist to this new order of things in which it will be easier to pay a large debt with little money than with a great deal, and in which everybody will save by the loss of a large portion of the circulating medium of the country? The first effect of anticipated or actual scarcity of money is to embarrass the operations of trade, reduce consumption, and hamper or suspend productive industry. Whatever is most readily convertible into money suffers least, but upon the house and farm, in which are stored the savings of industry, the storm falls with cumulative violence. The schemes of the improver come to nought and the horn of the moneylender is exalted. Beneath the weight of his lien the roof-tree falls. In such times labor ceases to be convertible and the condition of the laborer is most to be pitied, for it is not a question with him whether he shall receive nominally less for his commodity, but whether it will find a purchaser at any price. His pretended friends would make him believe that he is now robbed of his rights by a redundant currency; but when no longer befriended by the greenback he will make acquaintance with the non-exemption note, a form of contract which the devil had not the hardihood to propose to Doctor Faustus.

From facts lying within the range of my daily observation I deny that expansion of the currency has made poor men poorer. While it was in progress I have seen incumbrances paid off, a multitude of small holdings acquired, and comfortable homes of workingmen established and adorned. It has been the friend of industry, and, coupled with the accidental protection of the premium upon gold, has done much to mitigate the hardships and repair the waste of war. I do not speak from theory but from facts within my own knowledge; and I could give names and times and values and particular instances from a history which does not disclose one single exception. Furthermore, while rearing and paying for a home, not a few, but a large number of workingmen, spared enough of their earnings to send abroad to Wales or England or Ireland or Germany the money to bring into the country some relative, a skilled workman, unable himself to save the cost of emigration from his scanty wages. The stream of thrifty and intelligent men thus poured upon our shores kept in motion the wheels of manufacturing labor and was largely effective in sustaining the financial and military powers of the Government.

During the period of which I speak the Cambria iron works expanded in size and nearly doubled their capacity, and at the same time sent nearly every man in its service liable to bear arms into the ranks of the Union Army. I bear this testimony as a manufacturer from no exceptional phenomena, for I can confidently appeal to my brother iron-workers for corroborating testimony. While this was the condition of the iron-workers I ask what interest was oppressed and what poor man was made poorer? How was it in the rural districts? What effects did the currency expansion produce among farmers? Has the small proprietor fallen to the condition of tenant and laborer, or has the laborer generally risen to ownership? Have wages been better or worse compared with the cost of living? Have mortgages been paid off, or have they accumulated? What are the facts? If they will bear against the expansion of the currency why are they not collected and published? I know how severely the draft bore upon rural communities, and what it cost in men and money to fill their quotas; but notwithstanding this I deny that during the period of expansion their poor became poorer, either positively or relatively; for accumulated wealth was constantly losing its proportional power, and all productive industry was enjoying the benefits of protection.

I doubt not the financial history of the country will show that heretofore excessive increase of paper currency has been the forerunner of business disasters and popular distress. But it was not, therefore, their cause. From my observation in business I was ready to believe what an able statistician has lately demonstrated, namely, that "bank expansion has heretofore been a direct consequence of increased importations," his tabular statement and comparison extending from 1815 to 1860, showing over-issues of notes regularly following excessive imports, and culminating in bank suspension and prostration of business. Of course it was not the currency that did the mischief. The country was doubling its consumption of foreign products, and the banks were extending their credits to pay for and diffuse them. The foundation of the bank currency narrowed as the superstructure enlarged; for gold or its equivalent was necessarily sent abroad to pay for foreign goods which destroyed the home market for home industry. The contractionists falsely blame our business troubles in the past upon the expansions and fluctuations of paper money. Let them charge the mischief to the domination of foreign commerce, which has always taken advantage of low tariffs to reap a doubtful benefit and do us a double injury. From the year 1833, the last of an era of protection, to the year 1836, in which the effects of a low tariff culminated, our per capita consumption of imports nearly doubled, while bank-note circulation increased sixty per cent., making inevitable the crash of 1837. Suppose, however, that imports had remained stationary and there had been corresponding increase of consumption of products of home industry, there must necessarily have been a proportional increase of currency; but would there have been any suspension or revulsion? Who will dare to assert it? Can industry and thrift have too much credit? Will they ask it? Could it be forced upon them? Can idleness coupled with extravagance have any credit without cheating somebody and bringing somebody to ruin?

Within certain vital limits increase of the volume of the currency is increase of power, human power for all purposes, and therefore mainly for beneficent purposes. The period of expansion characterized by prosperity of labor was not less distinguished by the benefactions of wealth. The poor man who was made rich, the rich man who was made richer, seemed to feel that they held their riches not for themselves but in trust for the good of their fellow men. It was an era of charities, public and private, organized and individual. While the Christian and Sanitary Commissions and Soldiers' Aid Societies were distributing their millions churches were erected, colleges endowed, and capital made its best donation to labor by building new factories and increasing the capacity of the old—a gift of larger power, liberty, and elevation of life. I am weary of the cant denunciations of luxury, which come only from the luxurious, and I do not believe that we must return to barbarism to save ourselves from vice. That the practice of the Spartan Commonwealth in exposing its feeble and deformed infants to perish is a shocking thing to us, precisely illustrates the difference between the iron money of Lycurgus and a United States Treasury note.

I have briefly disputed the theories which trace fancied evils to our "redundant currency;" but they may be answered more briefly. There is no redundancy of the currency. England needs and uses of money twenty-five dollars per capita, double the amount we have in this country, and France employs thirty dollars per capita. It cannot be said that the United States require less than France and England, for our population is more widely diffused than that of either of these countries, with the larger and more varied demands growing out of larger liberty, and our exchanges are made with less rapidity than theirs. Money here has less purchasing power than there—turns itself more slowly, and has in every way less utility. An equal amount of money would not place us upon an equal footing. Let us go honestly to work to make our currency exchangeable at par for gold and silver, and then remove all restrictions from banking capital and bank issues, so that the "natural volume of the currency" may be established and maintained by the same law of supply and demand which regulates production and business.

As we must always have paper currency and banks of issue, I wish to see our national banking system reformed, extended, and perpetuated. The arguments for and against it have been so able and exhaustive that I can add nothing of worth to the controversy. But I must say that I would regret to see the United States Treasury become the only bank of issue in this country. It is better for the Government and the people that this business should be in the hands of the people. Whatever profits are made from it are not lost to the country; and the fact that men of all parties have direction of the banks and own the United States bonds on which their privileges rest is a warranty against their becoming a political power, and will tend greatly to sustain the stability and credit of the Government. I think it has been satisfactorily shown that in the taxes the banks pay and the services they render, the Government receives compensation for their privileges. If they are dissolved and the country is turned back upon the old State banking system, the bonds they own will be thrown upon the market. The interest upon these must still be paid, and the sure revenue yielded to the Treasury by the taxation of banks will be lost.

The national system may be made to give equitable local distribution to the currency. It now certainly effects a vast saving in brokerages and exchanges to the whole people. Certain amendments to the system should be made. Existing gross inequalities in the distribution of banking privilege should be corrected, so that the West and South may have their fair share. More important still, there should be for national bank loans a uniform rate of interest prescribed by the laws of the United States. This more than anything else will tend to give their notes a local habitation and local uses, to prevent centralization and relieve depression, check speculation, and favor the people. The interests of the people demand a plentiful currency, and it should be so cheap that the enterprising business man and the laboring poor man may have the use of it. The much-talked-of "tyranny of capital" consists solely in the high charges which may be made for the use of money; and in this the Government has made itself the ally of the money-lender by placing its loans at a high rate of interest. Just as soon as it is possible, consistent with the good faith to the public creditor, our six per cent. bonds should be converted into four per cents, and five per cent. should be fixed as the uniform rate of bank interest. It should not be the policy of the Government to induce capital to subsist at ease upon the tax which it derives from labor, but rather to make it profitable or necessary for it to ally itself with labor, to create and share the rewards of industry. Make capital cheap and we will have many capitalists who are laborers and laborers who are capitalists. Make it cheap, and money will ally itself with work upon terms constantly more favorable to work. At present, securing itself from all risk, and without having even the necessity of watchfulness or supervision, money demands

and receives over seven per cent. of profit, and it will not assume risks without largely-increased compensation, which labor must pay, and which is just so much withdrawn from the share of the laborer. In England and on the Continent, money once safely united with labor in productive industry is seldom withdrawn. The projector dies, and his widow carries on the business. His sons in time succeed, and their sons follow them. The style of some firms has not changed for centuries.

In those countries Government is the ally of industry, and provides that capital, if it will have perfect ease and absolute safety, shall find it only in three per cent. investments. It is owing to this policy that their laborers are enabled to sustain vast military establishments, a costly aristocracy and monarchy, and pay the interest upon enormous public debts. We may well adopt it, not for the benefit of a ruling class, for we have none, nor to maintain armies which we do not need, but for the benefit of the whole people. Should our Government continue its alliance with the money power this will soon be the worst country in the world for laboring men, and it would be so now were it not for the vast bodies of public lands open to free settlement. The national banking system gives opportunity to effect this beneficent reform, to which the banks will not object, for upon its adoption all the complaints of their opponents will be silenced.

The proposition to retire the national bank currency and substitute greenbacks has been urged as a measure of economy; but instead of doing this I would at once authorize new organizations of banks to such an extent as to give them $200,000,000 more of notes for circulation. This, with the greenbacks in existence, will make the currency amount to nearly nine hundred millions, approaching but not equaling the per capita circulation in England.

This increase can be so apportioned as to remedy the present most unjust discrimination against the West and the South, now nearly destitute of banking capital and money, and the volume of circulating medium will not be increased to that extent, because the greenbacks will be largely held as a reserve and for purposes of redemption. When resumption is effected it will be safe to throw open the banking privilege without limitation, as it would then be regulated by the demands of business; and being free and open to competition like other occupations it would be subject to the same laws. I am confident that no more banks would be organized and no more notes would be put in circulation than could find proper and profitable employment. The requirements of economy can be met by making the taxes upon the banks equivalent to the interest upon their bonds deposited in the Treasury, if that is deemed advisable; but I feel assured it will not be advisable to burden them in this way, as much of their excessive profits will disappear with the premium on gold, and the remainder will disappear if a uniform maximum rate of five per cent. interest is estabtablished for the benefit of the people. Besides, they must and will play a most important part in the work of resumption. The increase of their circulating notes to the amount of $500,000,000 would require them to lodge with the Treasurer, to secure circulation, not less than $610,000,000 of bonds, bearing $36,500,000 of interest. If the banks are required to retain this gold in their vaults as a part of their reserve it will have an immense effect in helping us to specie payments and a greater effect in maintaining them. To illustrate this, assume that the Treasury can resume in two years with a sufficient fund; the banks will have accumulated $75,000,000, and the banks being required to pay their notes in coin, and the Treasury being required to pay its notes in coin, the banks and the Treasury can mutually draw upon each other and thus sustain each other. Without the banks the gold paid out by the Treasury would be thrown, as it were, into the sea, and could only be fished out by custom-house officers in the shape of duties on imports; but with the banks the accumulated interest upon one fourth of the debt cannot escape, and will be available for resumption.

There is one danger incident to the greenback currency, which would be presently fatal to immediate resumption, for the reason that it would make customs payable in Treasury notes. Let the Treasury resume to-morrow, as has been proposed, and the stock of coin it holds may be rapidly absorbed by the interest account, redemptions, and ordinary expenses. Duties, if still payable in coin, would be really paid in greenbacks; for the Treasury must furnish the coin, which would be simply drawn out and then returned without the gain of a dollar, there being no way in which greenbacks redeemed could be reissued. The money available for lawful payments of debts would be thus reduced unless the gold paid out took the place of circulating notes. Would it do so? I think it would not.

The President estimates, no doubt from official data, that in addition to $111,000,000 of coin in the Treasury there are $40,000,000 in circulation on the Pacific coast and a few millions in the national banks—in all about one hundred and sixty millions. He further takes the estimated amount of coin in the country in 1849, and balancing reports of productions, coinage, and importations against exports since that date he finds $300,000,000 not accounted for in exportations, and assumes that it is in the pockets of the people. His Excellency has not considered the enormous consumption of the precious metals in the arts during a period of eight years, which, if taken into account, would reduce his balance very considerably. The President's estimate is strengthened by that of a distinguished Senator who has a well-deserved reputation for accuracy, yet they alike rest in good part upon uncertain data, and their conclusions cannot be considered as reliable.

Outside of the banks and the Treasury are there $300,000,000 of coin in the country? Who has it? Where is it kept? What do the owners do with it? It may be possible that we have not got this gold in the country, and that we must produce it and save it before we can have a sufficient basis for resumption. I think it can be provided in the way I have suggested; that is, if there is a broad and stable basis of confidence and business prosperity. No congressional act or secretarial fiat can effect the work of resumption. It must be accomplished here by moral and material agencies as various and powerful as those which made suspension necessary, and these must draw gold from its hiding-places before the act or the fiat can take effect. At present between coin and currency there is a great gulf fixed. We cannot leap over it, but statesmanship can and must plan a bridge so wisely, and enterprise and industry must construct it so well, that the nation, bearing an infinity of interests, can venture upon it in unwavering confidence.

Among the numerous financial schemes originating within and outside of this House one will attract attention because of its simplicity and apparent originality. It combines a foreign loan of $250,000,000 of coin and a revenue tariff, with plausible professions of a desire to relieve manufacturing industry from the intolerable burdens it is now obliged to bear.

To an embarrassed debtor the device of borrowing on mortgage at a heavy discount may be more pleasant than a resort to rigid economy. United States bonds have been quoted lately in London at 71, and it is probable they would go much lower if an additional $350,000,000 were thrown upon the market. Assuming they could be negotiated at 71, we must send out more than three hundred and fifty-two million dollars to get $250,000,000 of coin, and to what end? After our special agent has gathered up the coin, which would be some time after we have paid the debt of nature, the Government will send a first-class war steamer to bring it across the seas, and will guard it with special escort, and solemnly deposit it in the vaults of the Treasury, unconscious of the fact that all the while, almost daily, vessels are carrying away to foreign countries millions of our own gold. Sir, this dramatic expedient strikes me as farcical. It is a remedy that does not touch the disease, and reminds me of the attempted transfusion of blood, once popular in theory, but ineffective or fatal in practice. But I never read of any quack, mediæval or modern, who placed leeches on every artery of his patient while he attempted to inject life-saving blood into his impoverished veins. Sir, our circulation will be neither better nor worse than our own vital power can make it, and a foreign element borrowed would neither be assimilated nor retained.

When the country is enabled to resume specie payments it should make no exhaustive effort for speedy payment of the national debt. The average increase of expenses of the Government during each period of six years from 1825 to the spring of 1861 was not quite forty per cent. Allowing this percentage of increase during the six years commencing with the war, it will appear that over five hundred million dollars of its cost or one sixth of the whole, (excluding payments of interest amounting to over three hundred million dollars,) does not appear in the public debt. This shows an actual extraordinary payment by the Government, beyond what would have been its requirements if peace had continued, of $800,000,000, which, when added to increased State and municipal taxation, and the still greater contributions in the way of bounties and charities growing out of the war, is all that this generation ought to be called on to pay of the gigantic cost of the salvation of the nation. For a few years, at least, it is enough to require the country to pay the war claims annually falling due, that they may not increase the debt. It will be time enough to see about diminishing it when we can reduce our ordinary expenses to something like what a peace establishment would require. Industry has been so oppressed with various burdens that it is now prostrated. The Secretary of the Treasury in taking in greenbacks has been drawing away its life-blood, while he has demanded from it superhuman exertions to do what no one asks and no obligation requires. It is related that Milo, of Cretona, by beginning with a calf and carrying it every day was able at last to carry with ease the full-grown ox. Our Secretary, without the wisdom of the Greek, is trying at once to carry the ox. He will fail miserably and get gored into the bargain.

It is useless affectation to fix by act of Congress a day on which the Treasury will pay its debts in coin. Unless resumption has taken place before the day fixed, then the Treasury will not or had better not resume.

It has been proposed to oblige the banks to begin by redeeming bills of five dollars or under in coin. This would simply have the effect of driving these bills from circulation and substituting shinplasters in their stead.

An infinity of projects, all aiming to get something out of nothing, are advocated here or elsewhere with the same infatuation which inspired the seekers after the principle of perpetual motion and the philosopher's stone. Sir, let me direct your attention to the only source of national wealth, the only means of financial restoration—the labor of the people. I see the laborers of the United States—a vast army in the field, the mine, the mill, and the workshop, not as I have seen them in times past, busy with hands and brain, full of hope and inspired by patriotism, but idle and gloomy, looking for hard times, doubting the wisdom of that party of ideas and progress which saved the nation, and almost ready to become the tools and the victims of demagogues who would ruin the country. Sir, it is a received theory of English politics that the protection of property should be the first consideration of Government; but in this country it is and must be the protection of men, and the poorer the man the more reason he should have the beneficent guardianship of his Government.

I offer no apology for taking up time in discussing the policy of contraction, for its friends are all in high places, and I believe them to be enemies of the workingman. I do not impugn the motives of the Secretary of the Treasury, but I believe that most of his followers are moneyed men, who wish to give their money more power over labor and its products. Disguise their purpose as they may, it is plain that they desire to see the American laborer reduced to the level of the laborers of England, France, and Germany. I tell them plainly that this cannot be done—cannot and will not. The American workingman must live in a house, not a hut; he must wear decent clothes, and eat wholesome and nourishing food. He is an integral part of the municipality, the State, and the nation; subject to no fetters of class or caste; neither pauper nor peasant nor serf, but a free American citizen. He has the ballot, and if it were possible it would be dangerous to degrade him. The country stands pledged to give him education, political power, a higher form of life than foreign nations accord their laborers, and he must be sustained by higher rates of wages than those of Europe. Our industries operated by American citizens must be freed from foreign interference and organized into a distinct American system, which will exact some temporary sacrifices, but result in general prosperity and true national independence. In maintaining our diversified industries we utilize every talent, provide a field for every capacity, and bind together the whole people in mutual dependence and support, assuring the strength and security of our Republic. More than this, placing American life upon a higher plane we are elevating the life of man in other nations of the world. If we will establish a distinctive and liberal American system of work and wages, industry, and finance, and maintain it for a few years, we may raise our currency to the value of coin, and, breaking down all barriers, we may then enter upon equal terms into free trade with all nations of free people.

Mr. STONE next addressed the committee. [See Appendix.]

The CHAIRMAN. The Chair desires, in justice to the gentleman from Ohio, [Mr. MUNGEN,] to make a statement to the committee. The gentleman from Ohio desired to interrupt the gentleman from Indiana, [Mr. WILLIAMS,] and the gentleman from Indiana declined to be interrupted. Then a point of order was made by the gentleman from Ohio, and the Chair understood the point of order to be this: that the gentleman from Indiana, by turning to gentlemen upon the other side of the House and pointing to them, entitled the gentleman from Ohio to interrupt him. The gentleman from Ohio, however, informs the Chair that the point of order actually made was substantially this: that the fact that the gentleman from Indiana spoke of gentlemen upon the other side as "dogs" entitled him to raise the point of order that the gentleman used unparliamentary language. If the Chair had understood that to be the point of order it would certainly have been sustained.

THE FINANCES.

Mr. WILSON, of Ohio. Mr. Chairman, it is, I believe, admitted that among all the great questions which agitate the public mind none occupy so large a place in the hearts and minds of the people as the question of finance, so that it may well be said this question is paramount to all others; and in my judgment there is no one thing the country so much needs and desires at the present time as a comprehensive, practical, and just financial policy, a policy worthy in all its parts of the respect and attachment of a just and magnanimous people. From the Atlantic to the Pacific, far and wide, the people are anxiously looking and waiting to see what the present session of Congress will do in this regard, and it is encouraging to know that very many of the best financial minds, possessing the very best financial skill and ability of this or any other country, are just now engaged on this intricate, abstruse, and momentous question, and I have no doubt will succeed in solving the problem as to how, upon what plan, and under what system can we best succeed in gradually diminishing, and finally, and during the life of the present generation, in liquidating in full at least the interest-bearing portion of our indebtedness, thereby preserving and maintaining our hitherto untarnished integrity and honor, encouraging and stimulating at the same time the industry and enterprise of our people by refraining from such legislation as will tend to burden and cripple industry by undue taxation. There are, doubtless, many gentlemen here who, in the present financial exigency, have settled and fixed views adequate to the occasion, with which they will in due time favor the House and the country.

As the success of any financial scheme which may be devised will depend very much upon when, how, and in what kind of money our national securities are to be paid, it would seem eminently proper that the judgment of Congress, by a declaratory joint resolution on this subject, should be expressed. Until this is done there will be two opinions extant, one favoring payment in gold, the other in lawful money. We have had able arguments on this floor, both *pro* and *con*, but no definite settlement of the question. Why should we leave this an open question; why keep the people in suspense; why not declare to the country and the world by positive declaration in what kind of money the debt is to be paid? Of course there are no doubts as to the kind of money the ten-forties, the pension fund, and the gold certificates are to be paid in, but there are serious doubts in regard to other classes of securities—indeed there seem to be grave and well-founded objections to paying them in any other than lawful money.

True, it may be asked why I am so anxious for a settlement of this question now, when we have neither the gold nor the greenbacks to pay the debt. My answer is, it would satisfy the demands of the country, produce uniformity of action, and tend to harmonize conflicting sentiments; and, moreover, it is my intention before I get through to submit a plan for the gradual reduction and final payment of all the interest-bearing debt in about nineteen years, without retarding the industry and enterprise of the people. Of course I do not claim that this will be superior or even equal to other plans which may be submitted, but I do claim that it will accomplish all I propose.

FIVE-TWENTY BONDS.

Certain gentlemen on this floor have argued very fairly and successfully to prove that the principal of the five-twenty bonds under the act of February 25, 1862, is payable in greenbacks, but almost in the next breath have argued that the six per cent. 1881 bonds are payable, both principal and interest, in coin, simply from the fact, as they have alleged, that these bonds were issued in 1861, when coin was the only lawful money known in the land.

This position seems strangely at variance with the express declaration of the law, which in relation to greenbacks says:

"They shall be legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest on the public debt."

If this be a correct theory then why was it that promissory notes, bonds, and contracts of every description made and dated in the same year of 1861, and not maturing until after the date of the legal-tender act, were invariably and universally held to be payable in legal-tender notes; even obligations given in exchange for gold and promising on their face to pay in gold were made subject to the same rule; and now to undertake to change it in favor of the bondholder would be a most unjust and unfair, not to say invidious, discrimination.

While we remain in the condition of suspended specie payment, the only legal and equitable view of the question seems to be that taken by those who favor paying all our debts in precise accordance with law and contract; when we have stipulated to pay in gold so let the payment be made; when the contract is silent let the law govern. The opposite view, in my judgment, stands not only in opposition to law and usage, but also in violation of the rights of the taxpayers of the country.

In consequence of the straitened and embarrassed condition of our national finances, brought about by a rebellion of gigantic proportions, of severity and power unparalleled in history, the law-making power of the Government was compelled to authorize the suspension of specie payment, which was effected by the passage on the 25th of February, 1862, of the act commonly known as "the legal-tender act," by which the Government issues of paper money were made "a legal tender for all debts, public and private, within the United States, except duty on imports and interest on the public debt." In the provisions of this law, superinduced by necessity, there was a very general and willing acquiescence. The result was we were compelled to inaugurate the system of measuring values by the standard of a depreciated paper currency. The consequence was that everything, and especially such articles of consumption as enter most largely and more immediately into the support of individuals and families, went up to fabulous prices. Specie was not and still is not known except as an article of commerce. The day-laborer, the mechanic, and the farmer received and gave proportional prices.

The soldier in the field and the clerk in the office were compelled to receive their monthly pay in a greatly depreciated currency. The merchant and the banker, in like manner, were compelled to take, in discharge of their bills receivable, contracted on a specie basis, a depreciated paper currency. The man who in 1860 or 1861 sold his farm at its gold value, taking notes therefor payable in one, two, and three years, with interest, (which is a very common practice in some localities,) had the pleasure—if you will allow me the ironical expression—of receiving in full for his farm greenbacks at par, for which he could realize no more than fifty cents to the dollar; so of the man who loaned his money, and so with every man who sold or loaned on time. These were but the natural effects and consequences of war, against which I enter no complaint, knowing that all nations are subject, sooner or later, to like calamities.

But, sir, what I do complain of is the unjust discrimination sought to be made between our citizens by those who advocate the doctrine of paying the five-twenties, principal and interest, in gold. Adopt this policy and you will justify the silly clap-trap which has been going the rounds to the effect that the tendency of the policy of the dominant party in Congress is to make the rich richer and the poor poorer. I I know there is such a principle as honor, and that the American people and Government always have, and I doubt not always will be, actuated and controlled by it.

I know, also, that there is such a thing as false, or, it may be, interested notions as to what honor is, but if any gentleman's notions lead him to believe a nation to be honorable must first pay its debts according to law and contract and then add on thirty to forty per cent. over and above the stipulations, then with him I take issue. My own State under the law of 1862 has been paying the interest and reducing the principal of her debt at a very satisfactory rate in legal tenders; every other State, I believe, except perhaps it may be one or two, has been doing the same, and I have not heard that any of them have been charged with repudiation or branded with either moral or legal dishonor. The banks of every State, with all other corporations, have in like manner been using legal tenders in the payment of their liabilities, so that the man who undertakes to brand his fellows with dishonor will find that he has rather a big job on his

hands, for he will have to implicate not only individuals and States at large but also every member of Congress who voted for the legal-tender act.

Purchasers of five-twenty bonds certainly had no legitimate ground to believe they would be paid in coin; neither the language of the law nor the financial condition of the country justified such a conclusion, but precisely the reverse, and that they did not so believe is apparent from the price which they paid. The average gold value of the bonds since the close of the war in New York and London has been about seventy cents or a fraction over that sum; certainly, if it had been the belief or expectation of capitalists that the principal as well as the interest was payable in gold, they would have been bringing and would be worth to-day very nearly, if not quite, par in gold.

The fact that British consols bearing but three per cent. interest are all the time worth from twenty to twenty-five per cent. more in the London market than our six per cents. can only be accounted for on the principle that capitalists there do not believe the latter are payable in gold.

It is no part of the theory of those who favor paying these bonds in the lawful money of the country to inflate the currency to any considerable extent for that purpose. Such a course would be unwise, unjust, and dishonorable. But it is their purpose to keep gold at a premium until at least the larger portion of our indebtednesss shall have been paid, and in no other way can justice be done to all parties, in no other way is it possible to make the capital invested in these bonds bear its equal proportion of the depreciating effects of the war.

If these bonds are to be paid in gold surely the man who invested his greenbacks in them is a stranger to the depreciating and devastating effects of the rebellion, and it matters not with him if the war had lasted a generation provided the Government had remained solvent. But this is not the worst feature of the case. The man who held on to his gold until it went up to from one hundred to one hundred and eighty per cent., and then invested in greenbacks, and in pursuance of the same sharp practice reinvested his greenbacks in bonds, made rather a nice thing of it at the expense of the country. True, that portion of these bonds which may remain unpaid when the finances of the country will justify a resumption of specie payment will undoubtedly be paid in gold, but then our policy ought to be to pay the great bulk of our indebtedness before that period arrives.

But another theory has been presented to the country which, monstrous as it is, has found many advocates. It proposes to issue greenbacks in amounts sufficient to pay off the whole of the five-twenty bonds as fast as they reach that period when they are at the option of the Government. This theory, if carried out, would give just now to our already large volume of currency an addition of greenbacks amounting to about five hundred and fifteen million dollars, and at no distant day would give us an addition of more than one thousand six hundred million dollars, making our circulation of greenbacks alone more than two thousand million dollars; and the plan, I believe, goes still further, and proposes to substitute greenbacks for the $300,000,000 of national bank notes now in circulation, making the whole volume more than twenty three hundred million dollars, which (judging from the gold value of the $690,000,000 of paper money now in circulation) would be worth less than twenty, possibly, less than ten cents to the dollar, the result of which would be not only to dishonor and disgrace the Republic but to ruin the bondholders, whom they represent as being "clothed in purple and fine linen, faring sumptuously every day," all at the expense of and from the toil and sweat of the poor man's brow, thereby traducing the rich and endeavoring to array the poor against them.

Next to the soldiers of the Union by whose valor, strength, and skill the Republic was saved, I honor the men who in the hour of their country's need stepped forward and furnished the sinews of war. We could not have survived without either the one or the other of these classes, and I have no doubt the Government will do justice to both. Carry out this mammoth greenback doctrine and instead of paying fatherless children, pensioned widows, and maimed soldiers in valuable funds, as is now done, you will pay them in a depreciated and worthless currency, worth perhaps less than ten cents to the dollar, eight dollars of which per month will not buy food and raiment sufficient to keep the soul and body of the pensioner together; and thus by turning your maimed heroes upon the world as beggars you will disgrace your country forever.

If this policy is to prevail as well might the rebellion have been a success. Ruin the finances and you ruin the nation; by striking down her credit you neutralize every element of prosperity. Downright, undisguised, and unblushing repudiation would be preferable. While the American people, in my judgment, are opposed to such measures as will tend to force the country to a specie basis, they are equally opposed to an undue and prodigal issue of paper money.

PAYMENT OF THE PUBLIC DEBT.

Mr. Chairman, I cannot allow myself to adopt the theory which has been so often advocated by gentlemen on this floor and elsewhere, to the effect that we ought not to try to pay our national debt during the present generation; that we should provide for the interest and leave the principal for the next generation to grapple with. These are not my views, neither do I believe they are the views of the sound thinking men of the country. According to the census of 1860 the real value of property within the United States, both personal and real, amounted to a trifle less than sixteen billion one hundred and sixty million dollars. In this sum was included the value of slaves, since wiped out. This was on a specie basis. I am willing to be liberal, and suppose that in view of present fictitious values, making a due allowance for a moderate increase of solid wealth, the amount on a legal-tender basis might possibly now reach $25,000,000,000, and in view of the loss to the country by war it certainly could not reach a higher sum.

From the report of the Secretary of the Treasury it will be found that our national indebtedness is, in round numbers, $2,500,000,000, and if we add the gold premium to that portion of the debt which is certainly payable in gold it will increase the amount more than one hundred million dollars, so that from the very best showing we can make we are in debt fully one tenth of all we are worth.

Now, this thing called interest has the same consuming powers, whether applied to a nation or to a private individual, and what prudent man can be found who, finding himself in debt to the extent of more than one tenth of the value of his entire property, upon which he is paying interest, will not, instead of folding his arms and leaving the debt for his children to grapple with, bestir himself at once not only to provide for the interest but also to diminish the principal as rapidly as may be consistent with the prosperity of his estate. It is true, there are nearly four hundred million dollars of the debt in paper money, upon which we pay no interest; but as soon as we get upon a specie basis, for which there is just now a great clamor in some quarters, we will pay interest upon the whole or nearly so. I know we are a great nation, possessing a great country, with unbounded resources; but I also know we owe an immense debt, and if we allow ourselves to sleep over it and fail to make every laudable effort to pay up, it will not only consume a large part of our annual surplus in interest but will also retard us in reaching our destiny, which is, doubtless, to be the very first Power on the globe.

The present is our golden opportunity, and, in my judgment, if we let it pass unimproved generations yet unborn will not see the debt paid.

TAXATION OF BONDS.

Mr. Chairman, the true system of taxation is conceded by all to be that which is levied on every description of property according to its true value in money. The justice of this principle is so universally admitted that the States of the Union have very generally incorporated it into their tax laws. To say that any description of values should be exempt from this rule is but to argue in favor of exclusive privileges to the few in disregard of the rights of the many, which will not and ought not to be tolerated in a Government where the people rule. And aside from this, very few men care to hold a species of property which must always be unpopular with the masses, solely on the ground that it does not in any form bear its equal proportion to the expenses incident to the Government, either State or national. This question is and has been absorbing public attention, and the action of Congress in relation thereto will be watched with intense solicitude. Our indebtedness being more than one tenth of the value of all the property in the United States, and yielding, as it does, to the owners a profit about equal to other classes of property, it would be very difficult to convince any intelligent mind that it ought not to bear its equal proportion of the burdens of taxation.

Many of our soundest lawyers, not only in this House but elsewhere, have conceded the right on the part of Congress to tax national bonds for Government purposes. It is expressly enacted in the law of February 25, 1862, that—

"All stocks, bonds, and other securities of the United States held by individuals, corporations, or societies within the United States shall be exempt from taxation by or under State authority."

While it is hardly probable that the words "and other securities" were intended to prohibit the States from taxing the greenback currency in circulation, yet it has been so decided; hence an act conferring this power seems necessary in order to settle this important question. But no possible misapprehension can exist as to the clause prohibiting the States from taxing the bonds held by citizens therein, which prohibition was a specific agreement on the part of the Government with its creditors that the bonds purchased by them should not be taxed by the States, and no American can be found dishonorable enough to ask Congress to violate this sacred pledge.

It was doubtless a wise measure on the part of Congress to prohibit States from taxing United States bonds, and it was equally wise not to abandon the right on the part of the General Government. Stocks and bonds issued by and under State authority have been made to contribute their equal share with other property to the burdens of State and municipal taxation, and none have questioned the right of State Legislatures to enact laws for that purpose. It was right and proper during the existence of our national troubles and when we were compelled to expend immense sums of money, mainly to be loaned, in prosecuting the war for the Union to refrain from taxing bonds, from the sale of which we principally depended for the sinews of war.

It was a kind of bounty given to the capitalist similar to that given to the soldier, certainly not to be continued indefinitely, nor are the bondholders, in my judgment, desirous that this exemption shall be continued, knowing that the bonds will be more stable and, as a consequence, more valuable with than without taxation; and one of the leading objects should be to make our securities popular with the masses, for no individual cares to be spotted by the people of the village, city, or county as the man who pays no taxes for any purpose whatever.

But aside from considerations of this kind,

I feel assured that those men who in the hour of their country's extremity rushed forward and took the Government loan with avidity, not caring to calculate whether the investment were a good or a bad one financially, actuated as they were by patriotic motives, will not now, for the sake of harmony and justice, complain to pay a fair rate of tax on their bonds.

What they do ask, in my opinion, is, that inasmuch as they have loaned their money to the General Government and receive their interest therefrom, that they may be allowed to pay their tax into the national Treasury, and thereby be saved from the enormous tax incident to incorporated villages and cities, reaching, as a general rule, from three to five per cent., leaving to the holder of bonds from one to three per cent. as the net annual proceeds of interest on which they rely for support; and in addition to this, they, in common with other citizens, ask that now in time of peace we may have a steady, comprehensive, and equitable financial policy as well as protection to the persons and property of all citizens, without regard to race or color.

This, it is believed, would give entire satisfaction to the tax-payers of the country, who, while they believe that Government securities ought to be taxed, are, in my opinion, totally indifferent as to whether it is done by national or State authority, as in either case the effect will be to equalize the burdens of taxation; and as it is intended that all our indebtedness, both State and national, shall be honorably paid to the last dollar, it can make no real difference to which class the revenue arising from our tax on bonds shall be applied; but it does seem most fair that it should be applied to the extinguishment of the debt from which it is derived.

SPECIE PAYMENT.

Mr. Chairman, a speedy return to specie payment as a sovereign cure for all financial ills is strenuously urged, and a strong pressure from some quarters is being brought to bear for the adoption of such measures by Congress as will hasten the golden period, while very little is said about cutting down the general expenses of the Government to a corresponding basis. It would, doubtless, be very agreeable to the officers of the different Departments of the General Government, with their almost innumerable appendages, to receive gold in pay for their official services; but it might not be quite so agreeable to the laboring, manufacturing, and producing classes to have the prices of their labor and products cut down to suit these golden times. It might suit capitalists who have loaned their money to the General Government, to corporations, or to private individuals on a legal-tender basis and at a legal-tender rate of interest, to receive their debts, principal and interest, in gold; but it would not suit the toiling millions who have these debts to pay quite so well.

Is there any sane man to be found who, having a large debt hanging over his head and having the power, would voluntarily bring prices down until he had first discharged his indebtedness in whole, or at least in part? Was it ever heard that any nation, being in a state of suspended specie payment, with an immense debt resting on it and its credit at a heavy discount, resumed a specie basis and afterward paid its indebtedness, and I might also add, or ever intended to? And where is the American to be found who is willing to see his own dear country in this condition?

It will do no good to go back and inquire into the cause of our indebtedness, or what per cent. in gold value we received on each dollar comprising it; we must deal with circumstances and facts as they are, and not as we would have them. We are now in the condition of suspended specie payment, and as the "legal-tender act" contributed very largely in swelling our indebtedness to its present immense proportions, sound national policy, in my judgment, dictates that it should aid us in diminishing that indebtedness; and this may be done without injustice to the creditors or oppression to the people. When we succeed, as I have no doubt we shall, in so amending our revenue laws as honestly to get what is contemplated, we shall receive certainly not less than $50,000,000 from whisky alone in addition to what is now received, to say nothing of other innumerable leakages.

While taxes may and doubtless will be greatly reduced, the people are quite as much concerned about an equitable distribution of them among property holders and a faithful collection and application to the public debt as they are about the amount collected. Who would not tire to be always paying and yet never reducing the principal; and with present and prospective means derived and to be derived, not only from the proceeds of industry but also from a judicious retrenchment in public expenditures, who will not hold the law-making power responsible for the folly of a failure to provide for a permanent annual reduction of the principal of the debt?

I aver, here and now, in the face of the opinions and recommendations of the chief executive and financial officers of the Government, the report of the Finance Committee of the Senate, to say nothing of the wishes of those representing large moneyed interests in our cities and elsewhere, that the very worst thing we can do for the interests of the tax-paying millions is to force the country to a specie basis at no very distant day, and I submit to the House and to the country whether it will be wise or prudent to come to a specie basis with a debt of $2,500,000,000 hanging over us, nearly all of which was contracted at from forty to sixty cents in specie on the dollar, thereby increasing the value of our securities to the holders from thirty-three to forty per cent., and the effect would be to make our debt harder to pay by at least $1,000,000,000.

FUNDING THE DEBT.

A bill is now pending in the Senate called, I believe, a loan or funding bill, one object of which is to convert our five twenties payable under the law in legal-tenders into a six per cent. bond, due in forty years, payable, principal and interest, in coin. I am opposed to all such bills; I do not wish to change the bargain, neither do I want forty years to elapse before the debt is paid in full. This funding system, in common parlance, means giving new obligations for old ones with the advantage ordinarily as in the present case on the side of the holder. The capitalist is not desirous to have the principal due him paid, for it is the goose which lays the golden egg, hence he prefers a long bond to a short one, a gold bond to one payable in currency, and will readily make the exchange. Most other men would do the same, for it is not in human nature to refuse the best end of the bargain when offered, and especially when offered by so wealthy and so respectable a gentleman as our Uncle Sam.

This funding system, as it is called, so far from having a tendency to bring about the payment of the debt, thereby freeing the country from the burden, has precisely the opposite effect; and but few instances are to be found in history where nations, who after commencing this system did not continue it indefinitely from generation to generation, paying the amount of the principal in interest over and over and over again, without being able to reduce the principal of the debt a single dollar, did not finally, and when they could do no better, quietly conclude to let the obligation remain, and like England proclaim to the world "that a public debt was a public blessing," leaving their children to struggle under the load.

Not so with young America; he is never so happy as when paying his debts; never sleeps so well as when his obligations are fully met and discharged; and when he gives his son a farm he does not want it encumbered by a Government mortgage to the extent of ten or fifteen per cent. on its value. In a respectable work on English finances, written twenty years ago, the following statement occurs:

"All the money borrowed a century ago by the English Government has been repaid five times over in the shape of interest, without one jot of progress toward ultimate relief."

The people of the United States are paying an interest which, if compounded semi-annually as we pay it, would exceed the principal every nine years; and yet, instead of preparing to pay up vigorously, we talk of funding a debt not yet due by many years.

The first section of this funding bill authorizes the Secretary of the Treasury to issue an amount of six per cent. gold bonds sufficient to cover all outstanding or existing obligations of the United States, which of course includes the non-interest-bearing greenbacks in circulation, which it is necessary to take up in order to reach a specie basis, so much desired in some quarters, thereby riveting upon the nation a six per cent. gold debt of $2,500,000,000. This section also provides—

"That the expenses of preparing, issuing, and disposing of such bonds shall not exceed one per cent. of the amount disposed of."

No one doubts that the expense incident to preparing and negotiating the bonds would reach the maximum of the one per cent. allowed, making the net little sum of $25,000,000 to be transferred from the pockets of the people to the pockets of a few well-to-do individuals, (who might or might not appreciate the favor,) which, instead of being thus squandered, might be applied to the payment of the debt.

The terms of the Government have been so liberal toward its creditors that shrewd men everywhere have been withdrawing their capital from agriculture, commerce, and other pursuits of life which tend to develop the resources of the country and add wealth to the nation, to invest in our securities, from which they realize a handsome profit without labor or risk.

And, Mr. Chairman, who can tell how long it will be before we are embroiled in another war? I would fain hope we may have long-continued peace, but we can have no guaranty against the horrors of war; and if such a calamity should overtake us at no very distant period, despite our prowess and skill, with a debt of $2,500,000,000 hanging over us, our financial ruin would be well nigh complete.

And shall that intrepid, inflexible party of patriots, who suffered everything but death for the salvation of their country, men who in the darkest days of the rebellion, exposed to danger and death on every hand, stood inseparably and indissolubly united, now separate on mere questions of national policy, and hand over the Government won by their swords to a party whose patriotism may be measured by its declaration in 1864, that "the war for the Union was a failure," and whose love of equality and freedom may be judged by its untiring opposition to human rights.

SINKING FUND.

Mr. Chairman, I believe there is not a single instance on record of a sinking fund established on a proper basis, conducted with common wisdom, economy, and skill, having failed to meet, and more than meet, the expectations of its friends. I know there have been failures where the fund has been borrowed at interest and its management characterized by stupidity and extravagance, or where the Government, too impatient or, perhaps, too needy to leave it uninterruptedly to accumulate and gradually but certainly to accomplish that for which it was designed, has been constantly appropriating its funds to other purposes than those for which they were intended, thereby destroying its powers of accumulation. Our own Government in 1790 established a sinking fund, which was kept in successful operation for more than forty-five years, greatly aiding us in the payment of the debt contracted during the Revolution, as well as that incurred during the war of 1812.

Many of the States have formed a sinking

fund—a most efficient auxiliary in the discharge of their indebtedness—and very few, if any, who have tested the system would be found willing to abandon it. A sinking fund forms a part of the financial policy of my own State, and under the efficient management of our commissioners is enabling us to pay the interest and reduce the principal of our debt at a very commendable rate. It is stated by Allison in his History of Europe that if the sinking fund established under the administration of Pitt in 1786, and which continued until 1813—a period of twenty-seven years—but which was broken in upon by the succeeding minister, had been allowed to go on accumulating until 1843 it would have amounted to a sum sufficient to have paid in full the immense British debt, but that now it is conceded to be impossible, and no statesman ever thinks of fixing a period, however remote, when the debt can be paid.

And so it will be with ours or any other Government which, instead of making early and proper provision for the payment of its debts, suffers them to run on until, like an incurable cancer on the body-politic, they eat out and consume the energies of the nation. In order to get the necessary amount of money to establish an efficient sinking fund without borrowing I propose that we issue $100,000,000 of United States notes; that we sell at the market price all the surplus gold that can possibly be spared from the Treasury, which might amount to $50,000,000, more or less, and that we add to it from time to time any surplus we may be able to spare from the Treasury until the amount reaches another $100,000,000, the $200,000,000 thus provided to be applied to the redemption of an equal amount of five-twenty bonds now at the option of the Government, the gold interest on which would amount semi-annually to $6,000,000.

Assuming that our national debt bearing coin interest will in a few months, and when the outstanding seven-thirty securities shall have been fully converted into five-twenty six per cent. bonds, will be about two thousand one hundred million dollars, the annual interest on which will vary but little from $126,000,000; and assuming that a tax of one per cent. for Government purposes will be levied on these bonds, to be deducted and withheld from the payment of interest, which tax will amount annually to $21,000,000; and assuming, also, that this tax will go to the sinking fund, then we will have at the end of each six months an addition of $10,500,000 arising from the tax, and a further sum of $6,000,000 arising from the $200,000,000 in bonds, making together $16,500,000 in gold, which, at a premium of thirty-three per cent. (and certainly the premium would as likely be higher as lower) would make $22,000,000 in currency, to be reinvested at the end of the first six months in five-twenties, and so on compounding semi-annually from year to year, rapidly increasing in amount until it at least approximates the sum of our indebtedness.

Gentlemen are perfectly aware of the prodigious powers of accumulation of money at compound interest, and especially when compounded every six months, and still more especially when we have, as in the present case, in addition to compounding semi-annually at six per cent. the benefit of a premium of thirty-three per cent. on gold, making the rate of interest precisely equal to eight per cent. compounded semi-annually. Following the method which I have laid down and which I regard as strictly legitimate, it will be found that the interest arising from the $200,000,000 proposed as the basis for a sinking fund, together with the semi-annual additions of the $10,500,000 in gold arising from tax on bonds, will amount at the end of five years, when added to the original $200,000,000, in round numbers to the sum of $464,000,000. Following the same rule, the sum at the end of ten years will amount to $855,000,000; at the end of fifteen years to $1,484,000,000, and at the end of nineteen years to $2,092,000,000, being a sum sufficient within a fraction to pay the entire interest-bearing debt.

Of course this plan embraces and carries with it the idea that Congress will not divert any part of the principal or accumulated fund to other purposes than the one contemplated. Also the amount of tax to be received from bonds would gradually diminish in proportion to the amount of securities taken up, which trifling deficiency could be supplied from the Treasury in order to preserve the operations of the fund intact, and if it were continued but ten years our interest-bearing debt would be reduced more than eight hundred and fifty-five million dollars. Neither is it indispensable to the success of this plan that we should remain very long in a state of suspended specie payment. A resumption would cause the accumulations to be less rapid, but success would be equally sure, longer time only being required. And if after a trial it should be deemed advisable, we could add to the fund from time to time by a further issue of greenbacks if we thought proper, or by savings from the Treasury, or both, such sums as we might be able, thereby hastening the payment of the debt.

Nothing is easier than to assert that the idea of a sinking fund for the purpose of paying a debt is a simple absurdity; that it were far more wise to apply the money necessary to establish such a fund directly to the reduction of the debt, thereby accomplishing at once all that could be done. This proposition has a plausible appearance. But it must be borne in mind that the sum so applied loses its power to accomplish further valuable results; whereas if put into a sinking fund, there to remain unmolested for a given period, facts and figures prove that it will accomplish precisely the results claimed for it. And while the country continues to pay the interest alone, which can scarcely be felt by the masses, (arising, as it does, mainly from duties on imported luxuries, consumed mostly by the rich,) the principal of the debt would be constantly reduced and absorbed by the operations of the sinking fund, and finally wiped entirely out. And it must not be forgotten that the accumulative powers of the fund will be enhanced from one third to one half by the premium on gold; thus transferring this large profit from the pockets of the bondholders, through the sinking fund, to the pockets of the people.

But, Mr. Chairman, this plan will hardly be honored with a respectful examination. If for no other reasons it will be opposed because it contemplates a continued suspension of specie payment to an indefinite period and the issue of an additional $100,000,000 of greenbacks. Such propositions cannot be expected to meet the favor of gentlemen who are wedded to the doctrine of a speedy return to a specie basis and a further curtailment of the currency as necessary to that end. Capitalists who have invested largely in Government securities, together with all persons who live upon fixed salaries or incomes, will likewise object; but in my judgment a very large majority of the American people demand some such measure as I am now advocating, and I believe the unparalleled energy and enterprise evinced in all the industrial pursuits since the end of the war in developing and augmenting the resources of the country have been such as to justify a further emission of paper money to the extent I have named.

Stagnation and dullness pervades all branches of business. The distress existing among the laboring classes is immense. Hundreds of thousands of working men are out of employment. Money throughout the West commands an interest of from ten to twenty-four per cent.; and while a further issue would reanimate and encourage business of every kind, it is not believed the price of gold would be materially affected, and if it were enhanced five or ten per cent. who would be hurt? To my mind it seems perfectly obvious that the issuing of $100,000,000 would not only be a great relief to the country but would also greatly aid us in establishing a sinking fund which would very much accelerate the payment of the public debt.

We now have a circulation of some $690,000,000, while the tax for Government purposes alone during the last fiscal year absorbed $490,000,000, leaving but $200,000,000—a sum far less than the immense State and municipal taxes paid during the same period—leaving nothing for the purposes of commerce until national, State, and county treasuries were unlocked. Prior to the war, when the volume of currency was limited, the business of the country was conformed and adapted to the amount in circulation, much larger use being made of private paper in commercial transactions than currency of any kind; and in the absence of the use of this private paper prices of everything must have reached a standard ruinously low to the laborer, producer, and manufacturer. But since that time, partly in consequence of the demands incident to the war and partly in consequence of the redundancy of currency, prices have ranged at figures extremely high. And any legislation that will tend to the reduction of values while an immense debt contracted on full-tide prices remains unprovided for and unpaid, either in whole or in part, will, in my judgment, be highly reprehensible.

I could wish all the financial views of Secretary McCulloch were of such a character as to justify my concurrence therein as fully as the following, taken from his last annual report:

"Old debts are hard debts to pay." * * * * "The longer they are continued the more odious do they become." * * * * "If the present generation should throw the burden of this debt upon the next it will be quite likely to be handed down from one generation to another, a perpetual if not a constantly increasing burden upon the people." * * * "Our country is full of enterprse and resources." * * * * "The debt will be lightened every year with great rapidity by the increase of wealth and population." * * * * "With a proper reduction in the expenses of the Government, and with a revenue system adapted to the industry of the country and not oppressing it, the debt may be paid before the expiration of the present century." * * * * "The wisdom of a policy which shall bring about such a result is vindicated in advance by the history of nations whose people are burdened with inherited debts and with no prospect of relief for themselves or their posterity."

Mr. McCulloch's inconsistency is apparent, from the fact that in the same report he recommends a continued contraction of the currency, the funding of the debt in long six per cent. gold bonds, and a speedy return to specie payments, which recommendations, if carried out, so far from accelerating the payment of the public debt, would stand as insurmountable barriers to its payment within the next fifty years, if ever. Make money scarce in order to facilitate the payment of debts, take up currency bonds and give gold ones in order to benefit the holders, come to a specie basis in order to reduce values, thereby tempting the people to repudiate. Greater absurdities and incongruities would be hard to find.

It is true that we have a country of almost unbounded extent, possessing all the elements of individual and national wealth; it is true that the resources of the country are being rapidly developed and that our population is increasing at a rate unequaled in the history of the world; but is that any argument why we should not avail ourselves of the present propitious times and lay such a foundation as will insure the payment of our indebtedness within the next twenty years without any undue taxation or oppression to the people? Certainly not.

The fertility of our valleys, the richness of our mines, and the extent of our domain are among the glories of the American citizen; but, so far from having anything in this line for sale from which to pay our debts, an unconquerable desire seems to crop out in high places for the possession of more country, without regard to its quality or to our ability to pay for it.

RIGHTS OF CITIZENS.

Mr. HAWKINS. Men have several great objects in the establishment of governments, and among these are to be found a desire to form a combination which shall have power sufficient to defend the individual members of society against the vicious and power to punish offenders in such manner as to deter others of like evil dispositions from the commission of offenses against the rights and morals of the community. Another great reason for the organization of government is to so concentrate power that the people, through the regularly established government, may be enabled to repel armed force which may threaten to overthrow the well-established laws or customs of a community; and in the absence of any provision in the fundamental law to that effect the plainest principles of national justice, it would naturally seem, would enable any unprejudiced mind to see that the burdens of all governments established for the benefit of communities should be equally borne by all the people; and by no people in the world was the principle of equality more highly prized than by those patriots who established the Government of the United States, and one of the greatest objects which they had in view was the full and most ample protection to the right of individuals who composed the Government. All that was done was done in the name of and for the people, and not for or in the name of the States or the General Government. The Government was not created for the rich nor the poor, but it was for the people, and we shall see that it was not for the benefit of one section, but for the whole and entire country. And this is clearly demonstrated by the fact that all the higher attributes of sovereignty were surrendered by the States to the General Government. But even that was not unconditional, but the grants of power to the General Government had fixed upon them, and as a part of the grant, a limitation upon the granted powers, as is to be seen in section eight of the first article of the Constitution:

"The Congress shall have power to levy and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, excises, and imposts shall be uniform throughout the United States."

Here the power to tax is conferred upon the Government of the United States; but it is not that power which is generally exercised by the sovereign power of a great nation. It does not confer the right usually assumed by sovereign powers to tax their people at will, and to discriminate between individuals, classes, or sections composing the entire nation. Here is manifestly shown that earnest desire entertained by the framers of our Government to distribute fairly and equally the burdens of Government among the whole people. The burden of providing for the common defense of the country against foreign or internal foes was not to be thrown upon any one locality. But it is expressly provided that it shall be equally divided between the entire country or among all the people equally.

This same section provides that Congress may raise and support armies; "but no appropriation of money to that use shall be for a longer term than two years." Here again there is a power granted to this Government which would generally have been exercised by a sovereign power without any special grant, and is to-day exercised as one of the incidents of sovereignty by perhaps every sovereign power in the civilized world except by the United States. And why not by it? Because the people of the nation, when they formed the Government for their protection and the advancement of their great material interests and happiness, saw proper specially to delegate the power that they might couple with the grant a limitation which, in their judgment, was necessary to their protection against encroachments upon their individual rights and to prevent the means from being diverted from the object designed.

Another of the incidents of sovereignty is the right to make such laws as it in its wisdom may deem expedient for the general welfare, and to raise armies, and in the exercise of its powers and discretions to station or quarter them just where it may deem best, whether in peace or in war. But the framers of this Government had just passed through a terrible war, and had full in view those hardships which were likely to fall upon individuals in the event that we should ever have upon us such a calamity; and they never for one moment thought of departing from the great principles which they had in view—equality among the people and a just distribution of the burdens of government. And with this great object in view, and a fixed determination to correct the evils and errors which had existed in other governments, they determined to regulate and limit the power of the Federal Government; and, therefore, it was provided by the third article of the amendments to the Constitution:

"That no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law."

Why was it deemed expedient by the great men who framed this Government to insert in the Constitution such a limitation upon the sovereign power of the nation? The answer is plain and easy to any one who will for a moment consider the great ends and objects to be attained in the formation of this Government, and when they reflect for a moment that it is a Government not created by sovereign States, and not for the benefit of particular sections or classes, but a Government made by the people of the United States and for the protection of the people of the Union, and that they recognized no government as safe or free which had the power to encroach upon individual rights, and that they believed that governments were organized for the purpose of protecting the life, liberty, and property of the individuals who belonged to the organization, and not for the purpose of consuming or destroying their property or trampling down their liberties.

But it may be said that great emergencies may arise, and that necessity might require that in time of war the power or rights of the Government should be greater than in time of peace, and that troops and armies might necessarily have to be stationed in the houses of individuals for the purpose of promoting the general welfare of the nation. Nobody would pretend to deny this; and the framers of the Government foresaw and provided for just such a state of affairs; and that provision is to be found in the third article of the amendments to the Constitution, which has already been referred to. When it was therein stated that no soldier should be quartered in any house in time of war but in a manner to be prescribed by law, was it intended thereby to confer upon the law-making power of the Government the right to provide by law for quartering soldiers in the houses of private individuals who are citizens of the Republic? Most assuredly it was so intended; but it is just as sure, just as certain, that there was fixed upon and as a part of that grant of power a limitation for the purpose of advancing the great end and what should be the aim of all Governments: to make a fair and equal distribution of all the burdens of the Government, whether in war or in peace. The right to use private property for the common good is clearly admitted in case of war; and if the provisions of the Constitution had stopped here it might have been contended that it was the intention of the framers of the Government, in the exercise of full sovereign power, to provide by law for the use of individual property for the common good without any responsibility to the individual owner; but, as before stated, it was intended that the burdens of this Government should be equally distributed, and that no one, not even the humblest individual to be anywhere found in our extended domain, was to be compelled to contribute more than his ratable share to the support of the Union, which was created for the common defense and protection of all, and therefore it was provided by the fifth amendment to the Constitution—

"That no person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation."

Here the limit upon the sovereign power possessed or to be possessed by the Government is as clear as language can make it, and this limitation is in exact accordance with justice and entirely in keeping with the idea which runs through the entire Constitution, and places prominently before us that equality and justice which should everywhere exist between man and man, and for the attainment of which governments are organized. Suppose that a different rule should prevail, and that it should be assumed that in time of war, when our country should be invaded, that the Army had the right to appropriate just whatever its necessities might demand, without regard to the rights of the owner, and use it just as though it was common property. Then why was Congress clothed with the power to levy taxes, and why was it provided that these taxes should be uniform? Why not levy them just where they could be most conveniently collected? Could anybody pretend to say that it would be in accordance with any known rule of justice that our Army should strip the inhabitants of any one district of country of all its supplies, and then tax that district just as much as the district that had not furnished a dollar's worth of supplies? Still, taxation must be uniform, and no power can be found which enables Congress to discriminate in favor of the district which had furnished its share in kind; and if there was such a power it would operate unequally between the citizens of the district, a thing which would be abhorrent to a republican Government, and the solution of the difficulty can only be found in a just compensation to be made to the individual for the property taken.

It matters not what rule may have prevailed in other Governments, either before or after the making of our Constitution. It was made to create and to limit powers in the United States, and article six and section two of the Constitution provides—

"This Constitution and the laws made by the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

It is clear that no State can annul the fifth amendment of the Constitution, and it is clear that the national Government has not attempted to do so. Then, if the question as to whether the Government is bound to make just compensation to the individual whose property it used during the rebellion could come before the judicial tribunals of the country, they would be bound to decide that the compensation should be made. But the question cannot reach the courts. This is a great, powerful, and sovereign nation, and there is no court through which the citizen can reach it unless it should so provide by law, and it has failed to do. It would seem that when the sovereign is dealing with its citizens, who cannot approach it through judicial tribunals until it so manifest its will and pleasure, it should be stimulated to bring into active use that highest attribute which a sovereign should possess: justice and fair dealing, especially with its own citizens. And if it should undertake to adjust their demands against it it should do so according to the well-known and long-established rules of justice, and not reverse all such.

But it is sometimes said, and it has been by high authority, that these people were within the confederate States—that they were within an enemy's country. This was never true to the extent that it has been argued. But, suppose that the fact was so, what difference does it make to the loyal man whether he was within an enemy's country or out of it? He was not there because of any choice or fault of his, but because he did not possess the power or ability of himself to get out of it or repel the enemies

of the country, and then it was that he hoped and expected to profit by being a member of the Union, and relied on the nation to keep the faith with him and to come forward and defend him against public enemies, and thereby to fulfill the very purpose for which the Government was organized. When he complained that the nation had permitted him to be overrun and his rights as a citizen of the United States, both in person and property, trampled under foot, what reply was given? That at the time the Government was not able to furnish the protection, and he must endure all the punishment that was inflicted on him because he was still asserting his allegiance to his country, and the country was asserting its rights and powers over him as a citizen and requiring him to perform his obligations to the country. But it is sometimes insisted or stated that some of the States withdrew from the Union. It would be nearer the truth to say that some of the people of a part of the States attempted to withdraw from the Union. But then it is assumed by others that by a majority vote some of the States declared that they had withdrawn from the Union.

It is no part of my purpose to debate that branch of the subject or to examine as to what effect it may have had upon the rights of those who participated in the act, but simply to examine the position of those citizens of the States making the effort to withdraw from the Union, and the power of the majority in a State over the minority. The power of the majority of the people of a State over the minority, when it is exercised in conformity with law and with proper regard to the limitation of power belonging to State governments, would be very great, if not absolutely controlling. But a citizen of one of the States of this Union owes a paramount allegiance to the Government of the United States, and any action of the majority of the people of a State which would be in conflict with the Constitution of the United States could not deprive the citizen of the State of any of his rights under the Government of the United States or release him from any of his liabilities, duties, or obligations to the Federal Government. If the Legislature of a State should attempt to make a change in the relations of a citizen of the State to the United States without the consent of the citizen, then the Legislature would have exceeded the authority delegated to it by the citizens of the State; and, if there was no other reason for it, the action would be void for want of authority.

But there is another and more powerful reason why the action would be void. The Constitution of the United States and the law made in pursuance thereof are the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding. It was evidently intended by this article to preserve the union of the States, and to sweep away any pretext which might be set up by any part of the people in any one of the States, when they should come in conflict with the laws of the United States, that they were acting under authority of the laws or constitution of their respective States. If force is to be given to this article of the Constitution, the citizen of one of the States attempting to withdraw from the Union and to destroy the allegiance of its citizens to the Government was under no legal obligation to obey any law having for its object such an illegal and nefarious purpose; such a law would have on him no effect. The Constitution of the Federal Government, upon the very instant of its promulgation, struck it down; and it served no other purpose but to indicate what would have been done by those treasonable men who in several of the States assumed to be legislative bodies, for they are not entitled to be called legislative bodies. For the very moment that they transcended the powers granted to them, or those which they might legally exercise under the Constitution of the United States, they became a band of illegal and treasonable conspirators for the overthrow of both State and Federal Governments. But by the fraudulent exercise of pretended powers which they did not possess they succeeded in drawing to their support the lawless, and by this unlawful combination they attempted to accomplish by force what they could not by law or legislation. Then force was resisted by the strong arm of the Government, and the illegal action of those men overthrown; and the citizen who had not participated in the rebellion was left at the close of the war precisely where he was at the beginning.

If this be true, there was no point of time at which the Constitution of the United States was not the supreme law of the land, as well in the States of Alabama, Georgia, Tennessee, or any other State or Territory over which the national authority was exercised at the commencement of the war; and every act done by any and all persons in support of the rebellion was in violation of the supreme law of the land; and every act by any one of them which deprived a citizen of any one of these States of his personal liberty or of his property was an illegal and unauthorized act and the party was a trespasser; and those parties who refused to participate in this illegal action had at the time and still have the right to call on the Government for that protection against armed violence which formed one of the greatest inducements for the formation of governments. The Government, in the prosecution of the war for the suppression of the rebellion, had the right to call upon any citizen of the United States for any property which he might have and to take it for public use, and it mattered not whether his residence was in Tennessee, Ohio, Indiana, Pennsylvania, or Massachusetts. But the supreme law of the land fixes the terms upon which this could be done. It creates an obligation on the part of the Government to pay to the citizen a full and fair compensation for the property so taken; an obligation as binding as any that can be entered into between man and man; an obligation the terms of which were fixed before the Government touched the property or declared its intention.

The conditions of the obligation were not oral; they were not such as were fixed by an officer or agent of the Government, in the exercise of a power which had been granted to him, and with the right to exercise a discretion. The people who framed the fundamental law of this land were too tenacious upon the subject of individual right to trust them where there could by any possibility be a chance for their overthrow. And, therefore, the people of this great nation fixed the conditions upon which the public had the right to take the individual's property, and placed that condition in the Constitution, and provided that all the officers of this Government should be bound by solemn oath to observe it. And the nation is bound by every principle of honor to discharge the obligation. And it is in its nature no less binding on the honor and conscience of the nation than a bond issued by the Secretary of the Treasury, under and by authority of an act of Congress. The one the Government binds itself to pay by an act of the legislative branch of the Government, sanctioned by the Executive; and the liability of the Government in the other is fixed by the Constitution, and every officer of the Government is bound in a manner as solemn as man knows how to bind the action or conscience of his fellow-man; and it becomes the solemn duty of every member of Congress and every officer of the Government to provide ways and means for the purpose of discharging these liabilities of the nation; and every citizen throughout the whole land who believes in equal taxation, or who feels himself bound by the Constitution, is bound by both principle and honor and the great laws of justice to see that these debts are paid.

This nation has debts of several kinds, created in different ways and at different times. Does that make it more incumbent on the Government to pay one than another? Surely not. Should there be any distinction made between the creditors of the Republic? It would seem that in all ordinary cases there should not. But a case might arise where the great merit of the case or its superior equity might appeal to the country for an early satisfaction of the demand. Ruin might threaten to overwhelm one creditor, while reasonable delay upon the part of the Government in discharging the debt of another would work no permanent injury. And in deciding which of the two would be paid and discharged first I presume that every man would at once decide in favor of the payment of the debt where the necessity of the creditor was the greatest, even though the debts were of the same character and of equal dignity.

Then, with a view of reaching the merit of the different classes or kinds of the obligations of the United States to pay to its citizens, we will examine the origin of the different obligations.

And first we find that the nation is indebted more than two thousand million dollars, and that this debt had a consideration and has assumed the shape of a settled indebtedness, and such a shape that, contrary to the rule of the Government, it pays interest upon it, and not only does it pay interest but it pays it in coin, in money better than it pays the principal of other indebtedness in, even after the adjustment of the claim. What was the consideration for which this interest-bearing debt was created? It may be well just here to examine it and to compare the considerations for the different classes of indebtedness, that the people of the country may have their attention called to the merits of these demands; and when we look into the circumstances under which these debts were created or contracted, we find that the country was engaged in war; that a portion of the people were engaged in insurrection against the Government, and in an attempt to dissolve and overthrow it; that their effort was not only to withdraw and sever a part of the States from the Union, but that they sought to establish by armed force that each one of the States was an independent and separate sovereignty, and that the allegiance which its citizens owed to it was of a higher order than the allegiance which they owed to the Federal Union; and that a majority of the people of a State had the right at pleasure to withdraw from the family of States, and by their action to force the minority within their borders to dissolve their allegiance to the United States without their consent—principles which struck at the very foundation of the entire Government, and if established would have formed a precedent which would very soon have resulted in the entire overthrow and destruction of the Republic, and would have established as the foundation or underlying principle of such new unions of States as might have been formed such an element that they would scarcely have lasted long enough to have given time for the smoke of battle to have cleared away. It was under circumstances of this kind that the nation resolved to resort to force, not merely for the purpose of preventing dismemberment, but for the purpose of saving its very life, and to establish in full view of the nations of the earth that the great Republic, founded upon equal rights and the immutable principles of justice and equality, possessed both the will and power to maintain its own existence as a nation.

But to carry out this resolve it was necessary to have armies and munitions of war; it was necessary to have iron-clad fleets; it was necessary to have means of transportation of all the known kinds. Horses and mules were required in great numbers. How was the nation to meet all these demands? It is true that it has the right to demand the services of each individual over whom its jurisdiction extends in so great a public emergency. It had a clear right to impress men into the Army and into the public service, and into just such service as the exigency might demand. Some might have been impressed and employed in building ships of war, others in the manufacture of arms, others in producing clothing for the Army, and, in fact, every necessary in the prosecution of the great war which was being waged for the public good. It might have

impressed for the public use horses and mules and wagons, or any other necessary supply, at any point within the national limits, where its rightful authority was not obstructed by those engaged in armed rebellion against its legitimate authority. But in the exercise of its discretion it did not choose to do so. Perhaps more arms were required than could have been manufactured in time to meet the demand within the limits of the country, and the necessity required that they should be purchased abroad. Suppose, then, that the nation had not possessed a dollar, what of it? It had just the same right to have impressed for its use every dollar in coin that was within its jurisdiction and to have sent it abroad to have purchased these arms. But is there anybody who would have argued that if all these impressments should have been made the Government would not have been under the most solemn obligations to have, in the language of the Constitution, made to the parties just compensation? Surely not. But still, though it might have acknowledged the indebtedness, it might, as now seems to be so in similar cases, have refused to provide any means by which the parties entitled could have obtained a settlement of their just demands, or it could have made the plan of adjustment so imperfect, or have left so much discretionary power in the hands of its agents, that they might impose upon the claimants such unjust and unreasonable terms as to render it impossible for them to establish their demands. This might be done in many ways: one would be to require the claimants to make proof, which would in the very nature of things be impossible, or by a reversal of all the well known and long established rules of evidence. But would this be a compliance with the provisions of the fundamental law of this land, according to either the letter or spirit thereof? Surely not. Neither would it be such action on the part of the Government in the discharge of its obligations to its citizens as would be consistent with its honor and dignity.

But the supplies in the States where the power of the Government was not obstructed were not impressed as it is assumed they might have been. The people in that part of the nation had coin; and, notwithstanding the necessities of the Union were great and urgent and the rebellion struck at the very life of the nation, when it called for a loan of the gold to enable it to sustain its existence and offered a fair reward for the use of it by way of interest, those who held the treasure were slow to lend it, and the country was forced to issue its notes, some bearing interest and others not. These notes were paid out for the supplies which might have been impressed, and to the soldiers. But in one way or another, best known to those who were engaged in the transaction, the credit of the Government was so impaired as to greatly depreciate its notes, and the necessary supplies of the Army were purchased at fabulous prices, and the pay of the private soldier who was engaged in fighting the battles of the country became so depreciated in value that it required a month's pay to purchase $5 50 in gold. Why and by whom was the credit of the nation so impaired? It was not because the soldier had lost confidence, for the Army continued the bloody struggle; it was not because the sailor had lost confidence, for the Navy continued to hurl its broadsides in the face of the enemy; it was not because the great mass of the people had lost their faith in the ability and power of the Government to sustain itself and preserve its honor untarnished, because they continued to fill up the ranks, notwithstanding more than three hundred thousand brave men perished in the terrible struggle. It is sure that the reason for the depreciation of the paper of the Government is not to be found in the action of any of the classes I have mentioned; and I leave the question, with the hope that the common sense of every observing man will answer it truly.

And I will now briefly examine the manner in which our great bonded debt was created. The great money interest of the country, which had grown into power while the great mass of the people groaned under the burdens of the war, saw a favorable opportunity, when our national paper had been greatly depreciated, and then they with their gold, which had been held in reserve waiting a favorable opportunity for investment, came forward and kindly purchased our paper at the most ruinous rates of discount. But even then the money-holder did not see proper to hold the Treasury notes or greenbacks, but, with most gracious kindness, came forward and proposed to loan the Government its own paper, that the soldier or his wife or the laboring man might be paid by the Government his just dues in this paper; but even then it must be upon the condition that he must have an exorbitant interest; and he could not afford to take that in currency, but it must be in gold. And then, unless the moneyed interest could still have another and additional advantage, it has been said that even the gold-bearing interest bonds of the Government would be depreciated, and therefore another concession had to be made to the great money power in the country, and they must have the liberty of banking upon the national bonds, and the right to circulate their notes and use them for a profit, while they were drawing a heavy interest on their bonds. And to accomplish this, and to conciliate the money power, the bonds must be exempt from taxation, and $300,000,000 of greenbacks must be withdrawn from circulation to make room for the notes of the banks thus created. The price of property of every kind must be depreciated, but still the interest upon these bonds must continue to be paid and at the same rate.

It would seem that points enough had been yielded to the moneyed power of the country, and that it ought to be content. But power is ever resistless and grasping in its demands; and now it is found that this moneyed interest is pursuing with the Government just the same course that it has in all ages of the world pursued with individuals. Now its power is so great it is not content with the fulfillment of the contract made between it and the Government, but demands that, while the currency for the great laboring classes of the country is to be paper worth less than gold, the nation should go even further than the contract, and must redeem its bonds in gold, though every movement of the laboring man's muscle is to be taxed to its utmost capacity to bear. Notwithstanding all of these facts and the unjust and unreasonable demands made by this great power in the land, I sincerely hope that the nation will fulfill to the very letter the contract made with these bondholders, but that nothing further shall be yielded to their unjust demands; and that while faith is kept with this class of creditors, that other creditors of a class who are equally meritorious, and to whom the indebtedness of the nation is just as clear, may not be ignored, and with them that the national faith shall be kept and the honor of the Government maintained and preserved.

In but few of the northern States was anything in the way of supplies taken for the Army by impressment. The Treasury notes were issued and the supplies furnished by contract, and paid for perhaps at the time of delivery, those who furnished them receiving a just compensation, agreed on between them and the Government; and in every instance, I believe, this was so, except the supplies taken in Indiana and Ohio by the national forces in pursuit of Morgan and his raiders, and it may be that a small amount was taken in Pennsylvania. If a citizen in Illinois had corn or flour which the Government had need for in suppressing the rebellion it was purchased from him at the market price, paid for, and transported to the point where needed for consumption. If a citizen in Ohio had a horse, cattle, pork, or anything which the Government had need for to enable it to prosecute the war, it was, as a general rule, purchased and paid for at the market price. But if a citizen residing in one of the southern States had corn, meat, a horse, mule, wagon, or any other war material, it was impressed, or, to use the phrase, it was taken by the Army; and if there was no great haste in the matter he was perhaps receipted for it; but in thousands of instances men who were as loyal as any in the nation were stripped of every visible article which could be of service to the Army by marching forces and no receipt given or any other written evidence made of the fact. Of this no loyal man will complain if afterward he is put upon exactly the same footing of other loyal men; and if he is not, who would say that he has not a right to complain? because the very first principle of our republican Government, the equal protection of individual rights, is violated, and he is made to bear more of the burdens of the nation than his brother who may be so fortunate as to reside in another section of the country.

For the sake of illustration let us take the case of Ohio and Indiana. When the Federal troops were in pursuit of Morgan they covered only a small part of those States, and, for aught I know, on the line of their march may have drawn their supplies of forage and rations, and possibly horses, from the people of those States residing along that line. Suppose, for the sake of the argument, that this was so, and that those people were not paid for them. Then, would it be just that the Government should collect taxes from these men to raise money to pay for the horses and other supplies for the Army purchased in sections of those States where Morgan did not go? No reasonable and just man can think so. And still there is no way in which these men can be exempt from the payment of their ratable share of the tax; and then they are made to bear the losses inflicted upon them by the rebel raiders and the loss of supplying the national forces, as a punisment for permitting the raid—a thing which they could not help.

But the largest amount of these claims for supplies furnished to our Army comes from States south of those I have mentioned, and perhaps from no State in the Union come more of these claims than from the State of Tennessee, my own State; and as I have heretofore examined into the merits of the bonded debt of the nation, I now propose briefly to examine the claim; yes, the just demands of the loyal people of Tennessee upon the Government of the United States to be compensated for all the supplies which any one of them furnished to the Army, quartermaster's, commissary's, or any other kind of supplies furnished to the Army which was engaged in suppressing the rebellion. It has already been asserted that there was ample power to impress or take the property of any individual for public use, but that just compensation must be made therefor; and I now only propose to examine the situation and conduct of the loyal people in Tennessee with a view of having a fair and impartial examination into the merits of their demands, and to compare those merits with the merits of other demands against the Government. What, then, was the true situation of the loyal people of Tennessee and how have they conducted themselves during this great emergency? After some of the southern States had proposed to withdraw from the Union, and done all that they could by legislative action to accomplish it, the people in Tennessee, in February, 1861, were called on by their Legislature to vote as to whether they would hold a convention to consider their Federal relations, and at the same time to vote for members to the convention. They went to the polls at the time appointed and by a majority of about sixty-four thousand they elected unflinching Union men to the convention.

But such was their attachment, such their love and devotion for the Government of their fathers, that notwithstanding they had the most entire confidence in the truth and fidelity of the men they had elected, to the Union, still they were not willing to clothe any man living with the right or the power to disturb their relations with the Union of States. Such was their

admiration for the Constitution, such their love for the individual rights which it protected, such was their confidence and faith in its justice and its power to guaranty to them the most ample protection, that in the assertion of those individual rights which belonged to them as a free people, that by a very decided majority they voted the convention down, and firmly held in their own hands the right for each man to fix his own status. Then there was not within the State any armed force hostile to the Union. The people were so determined, the vote so decisive, that the enemies of the Government seemed for the time dismayed, and the loyal people believed that the storm had passed and that they were safe from the plots and intrigues of those who would destroy the Government. But in those days of wild fanaticism, when disloyalty seemed to be in the atmosphere and treason an epidemic monomania, the officers of State, corrupt and ready to sacrifice the people and their dearest interests, surrendered such arms as belonged to the State, under the control of a disloyal Governor. Then came the bombardment of Sumter; then a scene which will never be realized by any except those who looked upon it. The wildest state of excitement pervaded the whole country. The Governor called the Legislature to assemble in extra session by telegraph. It, in violation of the State constitution, closed its doors and sat in secret session, and when the doors were again opened the loyal people found that the Legislature, without having authority for any such act, and in the face of the majority of sixty-four thousand given in February, had annulled the provisions of their constitution and formed a league with treason. Troops from the seceded States were admitted into the State and an election ordered to sanction or to condemn the action of the Legislature. The principal towns and cities were occupied by rebel troops; Union men were everywhere threatened and denounced in the most bitter and unrelenting manner; and under circumstances of this sort what was called an election was held. In many parts of the State long-tried and trusted leaders, in whose patriotism the people had hitherto had the most unbounded confidence, quailed before the terrible storm, and, in some instances, espoused the cause of treason.

But it is true that others breasted the excitement, and although it seemed to be at the peril of their lives went forth to defend with arguments based upon the Constitution and the love of country the union of these States, and more than forty thousand votes were cast in favor of the Union, notwithstanding that in large districts of country Union men were intimidated by rebel bayonets and out of fear failed to go to the polls. At this time the people were rich, not because of the gold they possessed, but because they were more universally than any other people upon the earth surrounded by all the comforts of life. Their farms were well stocked, their granaries were full. Not only did they possess the necessaries of life, but luxury was everywhere to be seen, and there was no such thing as poverty and want in the land. From the 8th of June, 1861, until the 1st of January, 1862, the communication of the Union people of Tennessee and the States south of it was cut off; and to them all was dark and gloomy, though there seemed to be a lull in the storm of persecution. But then it broke out in a fury which seemed to have no bounds. The loyalist refused to treat confederate treasury notes as money, and for that offense even tax collectors were imprisoned, and good and true loyal neighbors of mine were thrust into prison at New Orleans, where they remained until the flag of their country had humbled the pride of the haughty city.

Next came the order from rebel authority to disarm them; this they regarded as the prelude to conscription, and thousands with their old sporting guns fled to the mountains and the friendly swamps for protection. Then in swarms came the officers in confederate uniforms to conscript them, and hundreds and thousands fell into their hands; they filled southern jails or left their muskets at rebel camps and sought protection in the dark forests; their property was made to supply the demands of the rebel army. Thousands, by scaling mountains and wading swamps, under shelter of the darkest hours of the night, piloted and led by that unyielding devotion to their country and faith which know no doubt, finally reached the Army of the Union. To prevent them from going into the Federal Army laws were passed providing for the confiscation of their property. These they defied, and asserted their citizenship of the United States; and at the time as earnestly believed as they did the fact that every man must die that their Government would protect and defend them. Their faith in its power to sustain itself against the assaults of its enemies, and in its justice to its citizens and friends, was only equaled by their zeal in its support. Again the scene changed; the army which carried the flag they loved came through the State, and in almost every regiment they found their friends and they gave to them a hearty welcome. The old and the young, the male and female, rejoiced in the fact that the nation's success in maintaining its existence was being made manifest, and all that they could do for the soldier was done with a hearty good will. But the varied successes of the contending forces produced in these people all the varied shades of feeling to which a human being is subject; to-day General Buell moved in triumph across the State, and then the rebel General Bragg, by a flank movement across it, made it necessary that Buell should countermarch. Then in turn Bragg falls back, and Buell and Rosecrans move forward. These movements, and many others of a similar character, with all their attendant posts and flanking forces carried the Federal soldier to very near every residence in the State, whether it was a palace or a cabin. If the owner was loyal the soldier was always welcome; it made no difference whether he came for the purpose of bringing glad tidings or whether he was hunting supplies for the Army.

The loyal people of Tennessee believed that the obligations between the citizen and the Government were mutual, that the citizen was bound to be faithful and true to the Government through good and evil report, and they just as sincerely believed that it was the duty of the Government to protect and defend the citizen in person and property at all hazards, and to cease not in its efforts until every right was fully guarantied. It was such opinions as these, which had been derived from the Constitution, which caused more than forty thousand of the loyal white men to enter the Army of the Union. And when they were called upon for supplies they did not stop to inquire whether the officer making the demand was a quartermaster or a commissary, whether he was a general or a sergeant. I have seen them, when six thousand Federal troops were marching without a train of supplies, furnish, within six hours after they had received notice of the fact, rations and forage for two days, and not a foraging party was sent out; but it was all brought by the citizens to the camp; not a receipt was asked, not a receipt was given. I have seen them bring their horses to the camp and donate them to the private soldier, and then I have seen these same people made so poor by the ravages of war and the foraging parties from first one side and then the other that in that vicinity there was not on an average one bushel of corn to the family.

Notwithstanding the fact that those who were so disloyal to the Government were vehement in their declarations that the Union men were to be treated just as those were who had engaged in the rebellion, they could be induced to believe no such thing; they repelled the charge, and boldly asserted, as they believed, that the Government would be just to them; their faith was unshaken, and the greater the necessity of the nation the more active and zealous were they in its support; and in thousands of instances, when the husbands were hundreds of miles away in the Union army, the wife and the mother, with her half-clad children standing around her, was called on to divide her scanty store of provisions or to surrender the last horse. Though starvation seemed to threaten her little ones, still hope had not been extinguished, and her faith in the justice of the Government was not diminished; though her heart was heavy and sad at the thought that the sacrifice had to be made, still she remembered that it was for her country, and her prayers and her blessings went with her little store. What a difference in the situation of the loyal citizens of a northern and a southern State! In the one case the aged and the families of the soldiers and their property were secure from molestation, and law and order prevailed. Not so in the South; their property was liable to confiscation by confederate laws, and was every day liable to destruction, and the very life of the loyal man was every moment in peril. The one was far removed from danger, and the other was in its very presence.

Let us examine one moment more into the action of the loyal men of Tennessee. In 1862 the President of the United States offered an inducement for those not represented in Congress to send forward their representatives, and forthwith, though hostile and contending forces were in their very midst, they elected and sent forward loyal men to represent them. Again the wave of war rolled over them, but the very moment that they had time to breathe, upon the call of the military governor to organize their State government by the election of county officers, they nobly did so, on the 4th of March, 1864, electing loyal officers. Their officers were arrested and by rebel authority lodged in southern prisons. Still their love and devotion to the Union were not extinguished, and early in 1865, still more determined than ever to assert their rights as citizens of the United States, they assembled in convention and proposed amendments to their State constitution to make it conform to the changes in circumstances, and to show to the people of the Union and civilized world that it was not for the gold that the national power might be able to gather from its citizens that they adhered to its cause, but that they were devoted to the sacred principles of equality, justice, and liberty, for the preservation of which the Government had been formed. And they regarded these principles as being of more value than all treasure. Moved by feelings of this kind, they, with a heroism and determined purpose which has perhaps never before been equaled, marched boldly forward and sacrificed upon the altar of their country's welfare their slave property, of the value of $150,000,000; and let it be borne in mind that this was done at a time when a war of the most desolating character had swept away nearly all the wealth they had possessed of every other kind.

And still the war raged. Is this all? No, sir. Without expense to the nation they have reorganized their State government, they have brought order out of confusion and established their relations with the Federal Government. Notwithstanding their bank capital and school fund were swallowed up in the terrible war, her railroad interests were prostrated and their liabilities upon their internal improvement bonds largely increased by interest accruing during the war, still they moved steadily forward, and have met all the liabilities of the State and raised by taxation a school fund of more than eight hundred thousand dollars. The demoralization consequent upon the war had to be corrected, and the prosecutions have cost the State $175,000. And that the changed relations of the people might produce no serious difficulty it was deemed advisable to maintain a militia force, which has cost $194,595. Still all this has been paid. The charitable institutions of the State, like the property of her loyal citizens, suffered most terribly during the war, and in some instances the very buildings were leveled to the ground to make room for the fortifications of our Army. And still

they have not been paid for; still these people pay their ratable share of taxes to the Government, even though they are so enormous upon one of their great staples that they will have entirely to abandon its cultivation. They have earnestly believed that the Government to which they have been so devoted would be just, and so believing they have steadily gone forward, until to-day they are the advance-guard in the grand march of progress.

And now I invite the serious attention of this House to the consideration of the rights of this people, and their just demands against the Government. And I believe it will fully concur with me in the opinion that the claims of all loyal citizens for supplies furnished the Army, let them reside where they may within the territorial limits of the United States, are just and legal demands of equal grade and dignity with any other class of demands or dues against the United States, and that it is just as incumbent upon the nation to pay them as it is any other demand. It will be remembered that not one word has been said about the claims of those who were disloyal to the Government during the war. No such thing is insisted upon. But the demand is made for the payment of the loyal claimants of Tennessee upon the distinct ground that it is just, and that the honor and integrity of the nation demand it. I am opposed to repudiation, let it come from whatsoever quarter it may, or whenever, or in any and all its varied shapes and disguises; but while there is so much vigilance upon the part of this House to guard against it, so far as the payment of the bonds of the Government is concerned, let it be distinctly borne in mind and fully realized by every member of this body that the payments of the bonds issued by the Government is not the only legal and binding obligation upon the nation to pay money, and that the refusal to pay the loyal men their just and legal demands against the Government, or to provide all the necessary ways and means by which they can be paid, is just as much repudiation as it would be to refuse to pay a bond of the United States, or to provide the ways and means to do so, and that the one would inflict upon the national character just as deep a wound and as dark a stain as the other; and the precedent would be dangerous in the extreme.

What has been done by Congress to provide for the payment of these claims? An act was passed and approved on the 4th of July, 1864, which is as follows:

"An Act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation of, or damage to, property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion, from the commencement to the close thereof.

"SEC. 2. *And be it further enacted*, That all claims of loyal citizens in States not in rebellion, for quartermasters' stores actually furnished to the Army of the United States, and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of and used by said Army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement.

"SEC. 3. *And be it further enacted*, That all claims of loyal citizens in States not in rebellion, for subsistence actually furnished to said Army, and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Commissary General of Subsistence, accompanied with such proof as each claimant may have to offer; and it shall be the duty of the Commissary General of Subsistence to cause each claim to be examined, and if convinced that it is just, and of the loyalty of the claimant, and that the stores have been received or taken actually for the use of and used by said Army, then to report each case for payment to the Third Auditor of the Treasury, with a recommendation for settlement."

The first section of this act limits and restricts the jurisdiction of the Court of Claims so that it cannot take jurisdiction of any claim against the United States growing out of the destruction or appropriation of or damage to property by any part of the Army or Navy from the commencement to the close of the war, and effectually prevents any judicial investigation having for its object to ascertain or establish the legal liability of the United States in such cases; and I submit the question whether or not such a course can be regarded as proper or just upon the part of a great nation, which was established for the purpose of protecting the rights of the individuals who compose it, and who had been so careful as to provide in the supreme law of the land that private property should not be taken for public use except upon just compensation. This is not only a failure to provide the ways and means within the power of the nation, but it was intended to limit such as were in existence.

The second section is rather more liberal, but far from such an act as should have emanated from the legislative power of so great a nation as this. By its provisions it is limited in its operation to the loyal States and to the loyal citizens of those States, and provides that the parties may produce such proof of facts in regard to the taking of their property and their loyalty, and the Quartermaster General shall cause such claim to be examined, and if convinced that it is just, and of the loyalty of the claimant, and that the property was taken for the use and actually used by the Army, then to report the case to the Third Auditor, with a recommendation for a settlement. Just here I will put a plain question. How and by what process or what character of evidence is the citizen to establish to the satisfaction of the officer that the property was taken for and used by the Army? He might be able to establish by the testimony of his neighbors that it was carried to the Army; but I apprehend that it would be totally impossible for him to prove by direct testimony what portion of it was used by the Army; but he must still prove, in addition to this, how it was used. I had supposed until very recently that the Congress of the United States was the law-making power of this Government, and when it, by an act, provided that a citizen upon making proof of any state of facts, and failed to provide for the particular character of proof that was to be made, that then the ordinary rules of evidence in use in the courts of the country, sanctioned by law and long usage, would govern and control in such cases. But in this I find, by reference to a circular issued from the Quartermaster General's office on May 29, 1867, that I was wonderfully mistaken.

In all ordinary cases it is enough to trace the property to the hands of the party sought to be charged, and then it would be his duty to show such a state of facts as would relieve him from the responsibility. But not so, according to this circular. Before this officer can be convinced, under this act of July, 1864, the claimant must first show that he was loyal. I have no complaint to make to that; but let the proof be taken openly and boldly and upon due notice to the opposite party, and for the sake of justice let the party have the right to cross-examine the witness who is to prove him disloyal.

2. He must prove that the property was taken by proper authority to supply a legitimate want of the Army, and was so used; and that the property was applied to a proper and necessary use. I have already shown that it was wholly impossible for the citizen to show how the property was applied or used by the Army, but the claimant must even do more than this, according to the requirements of this circular. He must prove that the supplies were necessary for the Army; the Army made no written reports to the citizens of its necessities.

But this is not all that he is required to prove; he must prove, by the property returns, or, in the absence of this evidence, by the affidavits of the officers who ordered the appropriation or took charge of the property, the facts necessary to establish his demand. Can it be possible that any man of ordinary experience and business capacity should fail to see how utterly impossible it would be for any man to establish his demands under such a rule as this? How, in the first place, was the citizen to know, who in a great army issued the particular order under which his property was taken? how could he tell or know to which corps or division, brigade, regiment, or company it was carried? how is he to know whether his grain was used for forage or rations for the men? how could he tell to what particular company his particular forage or rations were issued? and if he should chance to know and be able to prove these facts, then how could he establish the fact that it was necessary that the Army should have had it? For the sake of the illustration let us suppose a case, and we will take as the illustration the army of Generals Burnside or Sherman marching through Tennessee and supplying its wants from the country, and that $500 worth of supplies, forage, and rations, horses, cattle, wagons, &c., were taken from the house of a man who was hundreds of miles away in the Federal Army, and upon his return he finds himself reduced so low that his family is almost at the point of starvation, a wife and from four to six children standing around him pressed by want. Would it not be interesting to see him start out to find the man who issued the order or the officer who took charge of the property; and then to prove the necessity for it, and that it was actually eaten or used in the Army; and then to find the man who could identify him as the owner, and it would seem that that individual must be an officer? The whole thing is preposterous and absurd in the extreme; and I cannot see how any man could have penned such instructions as are contained in this circular without discovering the fact that it would be totally impossible to obtain justice by such a course. Why was it found necessary to insert the following paragraph?

"The loose allegations of late officers, in general terms, that 'to their certain knowledge a large amount of property was taken from claimant for the use and used by the Army, by order of its officers, in the absence of statements of facts within their knowledge showing by orders of what officers, and in what amount, or for what purpose, the property was taken and used, cannot be regarded as expressing more than opinions or impressions, and cannot be admitted to establish a claim of this character."

Suppose that this paragraph be strictly applied to any claim other than one where there was a regular purchase by a quartermaster and an issue to a commissary, and then, if the issue was to a regimental officer, I venture that there is not an officer in the Army who could say truthfully that he, of his own knowledge, could say whether the property was used by the troops and in what way, and that it was necessary; and if I was disposed to speculate I could assume, as this circular does, that the stores might have been captured, might have been burned, might have been stolen from the camp, might have been disposed of by the men in many ways too numerous to specify. If it was the intention of Congress not to pay these just demands then this is a splendid arrangement to avoid it, and at the same time to create the impression for a time that it was the intention to pay. But if it was the intention to pay, then the intention of the legislative branch of the Government has been almost entirely defeated by the action of its officers. No doubt it is very commendable in an officer to take care of the money intrusted to his care, but when that is done by withholding from the citizen that which the Government justly owes him it amounts to a fraud upon the citizen, and nobody would doubt but it is a serious offense to defraud the Government, but surely it is worse for it to defraud the citizen.

When payment is demanded for these claimants the almost invariable answer is that their payment would bankrupt the nation. What would be thought of an individual if, when he should be called on to pay for the property which he had received from his neighbor and used, he should answer that to pay for it would bankrupt him, and that he would use his im-

mense income in some other way. But let us see how far these statements are supported by the facts. It appears from the report of the Commissary General of the 19th of October, 1867, that the total amount of claims filed in his office under the act of July, 1864, is $2,493,257 45, and that of this amount there has only been approved seven hundred and thirty claims, amounting in the aggregate to $206,955 92; and it appears on page 8 of the Quartermaster General's report that during the fiscal year the entire amount of claims presented at that office is $13,924,764 10, and that $5,440,041 48 have been approved. These reports show that the aggregate of claims filed in these offices is less than sixteen million dollars, and that the aggregate amount approved is $5,646,996 32, and that the entire amount of claims filed as above stated, including valid and unjust, is less in amount than the amount received by the Government since the close of hostilities for unserviceable animals, that amount being $16,245,716 46, an amount nearly three times as great as the amount approved.

The aggregate amount of these claims, even if they should all, upon examination, prove to be just and legal demands against the United States, which is by no means probable, would be less in amount by more than three million dollars than the Government pays in gold to the wealthy bankers for the privilege of circulating the notes of the national banks, and but little over half if this gold payment was converted into currency. And this national bank currency, it is believed, could be withdrawn and its place supplied by greenbacks, and thus there would be saved to the Treasury annually an amount almost sufficient to pay these claims twice over. Can it be possible that the glitter of wealth has such charms for the American people that they are to contribute such an amount to pamper the rich and to be so unjust as to be willing to refuse to pay to the poor their just and legal demands against the Government, or has capital concentrated in the hands of the few such power over the nation that it fears to be just? Have we become so enslaved by it that we are afraid to assert the existence of the first principles of government? This cannot, it must not be; the nation must keep its faith with its citizens—more of the burdens of the Government must not be imposed upon one citizen than another. The honor of the country must not be sacrificed.

Justice demands that provision shall be made for the adjustment and satisfaction of these claims, and that the act of July, 1864, which was by joint resolution, approved June 8, 1866, and by an act approved July 28, 1866, and by joint resolution approved March 2, 1867, extended to a part of West Virginia, Tennessee, Ohio, and Indiana, which has up to this time only proved a source of annoyance to the people, shall be so amended or explained as to enable those having claims against the Government to have an opportunity of a full and fair investigation of the matter. The present mode of investigation, as conducted by the Government through its secret agents, operates most unjustly upon their reports, made upon mere hearsay, the very existence of the claimants is frequently ignored, and the sworn testimony of witnesses set aside; and others are pronounced disloyal upon mere rumor, and their evidence, taken regularly, is discredited by mere opinion, formed upon rumor, and that opinion expressed without the solemnity of an oath. Such a mode of taking evidence is contrary to all the rules of evidence and not sanctioned by judicial opinion or practice anywhere, and the injustice is so glaring, the grievance so great, that justice demands an open and fair investigation according to the well established rules of law.

A bill will be presented, the object and purpose of which will be to enable the loyal citizen to establish his just demands against the Government, and so guarded as to protect the Government against fraud; and it is to be hoped that Congress will take such action upon it as will satisfy the citizens that the nation intends that, while it requires them to preserve and maintain true allegiance to it, it will fulfill the great end and object of government and strictly comply with all of its duties to the citizen, and that it will faithfully and promptly pay and discharge all its liabilities to the individual citizens according to the letter and spirit of the obligation.

Mr. MAYNARD then moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PAINE reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

And then, on motion of Mr. MAYNARD, (at five o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. SCHENCK: The petition of William P. Thomasson, (together with accompanying papers,) of Louisville, Kentucky, praying Congress to reimburse him for certain damages sustained while acting for the Government as superintendent of freedmen's affairs.

By Mr. WASHBURN, of Massachusetts: Resolutions unanimously passed at a large mass meeting held in Fitchburg, Massachusetts, at the town hall, January 18, 1868, in favor of this Government protecting its citizens abroad, and that it insist that Great Britain shall accede to these claims.

IN SENATE.

MONDAY, *January* 27, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles respectively, and referred to the Committee on Pensions:

A bill (H. R. No. 152) for the relief of the widow and children of Henry E. Morse;

A bill (H. R. No. 236) granting a pension to John Q. A. Keck, late a private in the third Missouri cavalry;

A bill (H. R. No. 246) granting a pension to Milton Anderson;

A bill (H. R. No. 257) for the relief of James L. Dickerson;

A bill (H. R. No. 258) for the relief of Mary E. Craig;

A bill (H. R. No. 280) to grant a pension to Margaret Huston;

A bill (H. R. No. 411) for the relief of Almira Wyeth;

A bill (H. R. No. 516) for the relief of the widow and minor children of Benjamin B. Naylor, late a pilot on the gunboat Patapsco;

A bill (H. R. No. 517) granting a pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late a private in company A, thirty-seventh Ohio volunteers;

A bill (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

A bill (H. R. No. 519) granting a pension to Eliza J. Rennard, widow of William K. Rennard, deceased, late a private in tenth Ohio volunteers of the war of 1861;

A bill (H. R. No. 520) to place the name of Josephine K. Bugher on the pension-rolls;

A bill (H. R. No. 521) to place the name of Solomon Zachman on the pension-rolls;

A bill (H. R. No. 522) granting a pension to W. W. Cuningham;

A bill (H. R. No. 523) granting a pension to James S. Todd;

A bill (H. R. No. 524) granting a pension to Austin M. Partridge;

A bill (H. R. No. 525) granting a pension to Jeremiah T. Hallet; and

A bill (H. R. No. 526) increasing the pension of Susan A. Mitchell.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, communicating, in compliance with a resolution of the Senate of the 24th instant, a copy of the circular letter discharging the officers and agents of the bureau on the 15th of February, proximo, and the reports of assistant commissioners and others relative to the effect of the issue of said circular letter; which was referred to the Committee on Military Affairs and the Militia.

COTTON TAX.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had non-concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 207) to exempt cotton from internal tax.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 171) for the relief of destitute persons in the South; and it was signed by the President *pro tempore*.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the State constitutional convention of Mississippi in favor of a continuance of the Bureau of Refugees, Freedmen, and Abandoned Lands until the work of reconstruction shall have been completed, and that inquiry be made into the character and sympathies of many of the officers and agents in that State, and the dismissal of such as are found to be incompetent; which were referred to the Committee on Military Affairs and the Militia.

He also presented resolutions adopted at a mass meeting of citizens of Fitchburg, Massachusetts, in relation to the rights of American citizens abroad; which were referred to the Committee on Foreign Relations.

He also presented resolutions of the constitutional convention of Georgia, urging that Congress authorize that body to declare vacant the chief executive office of the State and to fill the same; also to provide for the removal through the executive officer thus selected of all persons hostile to reconstruction and the filling of the vacancies by said Executive and a modification of the "test-oath;" which were referred to the Committee on the Judiciary.

Mr. EDMUNDS presented two petitions of citizens of Vermont, praying the establishment of a line of mail steamships between the United States and the republic of Liberia; which were referred to the Committee on Post Offices and Post Roads.

Mr. SUMNER presented a petition of citizens of Washington, District of Columbia, praying an appropriation for the pavement of Indiana and Louisiana avenues in that city; which was referred to the Committee on the District of Columbia.

Mr. HARLAN presented a petition of Nicholas Callan, clerk of the levy court of the District of Columbia, praying that the register of Washington, register of Georgetown, and the clerk of the levy court may be compensated for their services in preparing the ballots and drawing the jurors for the courts of the District; which was referred to the Committee on the District of Columbia.

Mr. CAMERON presented a petition of citizens of Philadelphia and Delaware county, Pennsylvania, praying an appropriation for building a pier at Chester, Pennsylvania; which was referred to the Committee on Commerce.

He also presented a petition of Caroline M. Purviance and Francis Wyeth, praying compensation for the use of their property in St. Joseph, Missouri, and for the destruction of

the same; which was referred to the Committee on Claims.

He also presented a petition of iron and steel manufacturers in Pennsylvania, praying an increase of the duties on imported iron and steel; which was referred to the Committee on Finance.

He also presented a petition of citizens of Schuylkill county, Pennsylvania, praying such legislation as will give protection to the labor and industry of the country; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pennsylvania, praying the passage of a general pension law for the benefit of the surviving soldiers and the widows of soldiers of the war of 1812; which was referred to the Committee on Pensions.

Mr. WILLEY presented a petition of Louisa Fitch, widow of the late E. P. Fitch, captain and assistant quartermaster United States volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. TIPTON presented a petition of citizens of Nebraska, praying the establishment of a land office at Beatrice in that State; which was referred to the Committee on Public Lands.

Mr. NYE presented a petition of members of Oneida tribe of Indians, praying the passage of a law enabling them as a tribe or nation to obtain redress for lands sold from them by the State of New York; which was referred to the Committee on Indian Affairs.

Mr. HOWARD presented a petition of John Dean, late a lieutenant in the Army, praying that the act giving three months' extra pay proper to all officers below the grade of brigadier general who shall be in commission previous to the 3d day of March, 1865, may be so amended that all officers below that grade being in commission previous to the 3d day of March, 1865, and who served till the close of the war or until mustered out, may be entitled to the benefits of the act, notwithstanding they may not have been mustered into the several regiments to which they were commissioned by reason of their being in the field at the date and receipt of their commissions; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORTON presented additional papers in relation to the application of Charles N. Goulding, late assistant quartermaster of volunteers; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. RAMSEY, it was

Ordered, That leave be granted to the widow of Thomas Gregg to withdraw from the files of the Senate the memorial of citizens of Pennsylvania praying the renewal of the patent for ball-proof vessels to the widow of Thomas Gregg, deceased, together with the accompanying papers.

Mr. SUMNER. I move that the Committee on Pensions be discharged from the further consideration of the petition of Ann Augusta Pinkney, praying to be allowed a pension, and that the petitioner be authorized to withdraw her papers from the files. No report has been made on the case, and I make this motion at the suggestion of the chairman of the committee.

The motion was agreed to.

Mr. FERRY. I move that the Committee on Pensions be discharged from the further consideration of the petition of certain citizens of Connecticut, praying that a pension be granted to Charles McElroy. There has been no adverse report, and I make the motion at the suggestion of the chairman of the Committee on Pensions. I move also that the petitioner have leave to withdraw the papers.

The motion was agreed to.

On motion of Mr. WILSON, it was

Ordered, That the Committee on Pensions be discharged from the further consideration of the petition of William Trevor, praying an increase of pension, and that the petitioner have leave to withdraw his petition and papers.

Mr. CONNESS. I move that the Committee on Pensions be discharged from the further consideration of the memorial of Frederick Richards, praying that a pension be granted him, and that he have leave to withdraw the papers, it being the opinion of the committee that the Pension Bureau may now grant the prayer of the petitioner without legislation.

The motion was agreed to.

On motion of Mr. ANTHONY, the Committee on Pensions were discharged from the further consideration of the petition of Mary H. Burke, praying to be allowed a pension, and the petitioner was granted leave to withdraw her papers.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of the Governors and State officers of several States urging the distribution to pensioners of the individual memorial invented by B. C. Baker and F. C. Wetherly, asked to be discharged from its further consideration, and that the memorialists have leave to withdraw the memorial from the files of the Senate; which was agreed to.

Mr. ROSS, from the Committee on Pensions, to whom was referred the petition of W. B. Edwards, praying an increase of pension, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

GOVERNMENTAL POLICY.

Mr. DAVIS submitted the following resolutions; which were ordered to be printed and lie on the table:

Whereas the people of the United States are grievously burdened by an enormous public debt, and a system of unequal and unjust taxation to raise money to pay the interest upon it, and from time to time portions of the principal, and their industry and business have been greatly disorganized and depressed by the ravages and destruction of the war, and by misgovernment and unnecessary and wasteful expenditures since its termination; now to inaugurate some measures for their relief:

Be it resolved, That Congress ought at once to cease its war upon the Constitution, the President, the Supreme Court, and the white people of the southern States, and give sedulous and faithful attention to its own appropriate duties.

Resolved, That the people of the southern States ought not to be further obstructed by Congress in their efforts to resume fully their proper relations to the Government of the United States, by the formation of their respective governments and laws under the Constitution, and to regain their former prosperity by giving their undivided attention, time, and energies to their industries and business.

Resolved, That Congress ought immediately, earnestly, and in the best faith to enter upon a thorough system of reform, retrenchment, and economy in the administration and expenditures of the Government in every branch of the public service.

Resolved, That the Freedmen's Bureau ought to be forthwith abolished, that the people may be relieved from taxes to the amount of the annual tens of millions which they have to pay for its maintenance, and both the black and white races of the South be left to choose their own fields of labor and to struggle for their own support.

Resolved, That to relieve the people from the payment of other taxes to the amount of $50,000,000 annually, the standing army should be reduced to twenty thousand men, rank and file.

Resolved, That to save the further heavy drafts upon the Treasury caused by the reconstruction policy of Congress, it ought to be abandoned, and the acts organizing it be repealed.

Resolved, That the unconstitutional tax on cotton ought to be wholly abolished, and the tax collected be refunded to those who paid it.

Resolved, That spirits, tobacco, and luxuries ought to be so taxed as to produce the largest amounts of revenue from them; and to this, and as well as to prevent frauds and perjuries without limit, and to obviate a most complicated and expensive system of assessment and collection, whisky should be taxed at the rate of fifty cents per gallon, to be paid by the distiller.

Resolved, That the bonds of the United States held by individuals and corporations ought to be assessed with a reasonable rate of tax.

Resolved, That the necessaries of life, and raw materials and other articles entering into manufactures and ship-building, ought to be subjected to the lowest rates of duty that the financial necessities of the Government will permit.

BRITISH TRIALS OF AMERICAN CITIZENS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if in his opinion not incompatible with the public interest, to communicate to the Senate copies of any correspondence on the files of the State Department relating to the arrest and trial of Rev. John McMahon, Robert Lynch, and John Warren by the British Government, with a report of the action of the Government of the United States in these cases, and generally what has been done by our Government for the maintenance of the rights of fellow-citizens abroad.

CAPTURED AND ABANDONED COTTON.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate a statement of the amount of each sale of captured and abandoned cotton, together with the name of the agent by whom each sale was made, the time when it was made, the time when the proceeds of each sale were covered into the Treasury of the United States, and in whose hands or possession the money received from each sale was from the time of such sale till it was so covered into the Treasury, the name of every person who, during that period, had possession or control of such proceeds, or any part thereof, and for how long a period; and that the Secretary also furnish the Senate a statement showing the names and residences of all individuals by, through, or under whom each person to whom any captured or abandoned cotton, or its proceeds, in the custody of the Department or any of its agents, as captured or abandoned cotton, was released or given up.

BILLS INTRODUCED.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 284) to provide for the admission of imported dye-stuffs free of duty; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 285) to remove the disability of certain citizens of Virginia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 287) granting the right of way and lands to the Pecos and Placer Mining and Ditch Company of New Mexico; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 288) for the relief of P. Jennings; which was read twice by its title, and referred to the Committee on Claims.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 289) granting lands to aid in the construction of a railroad and telegraph line from Fort Scott, Kansas, in the direction of Santa Fé, New Mexico; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 290) respecting the even-numbered sections of the public lands along the lines of the Pacific railroads; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 93) granting permission to officers and soldiers to wear the badge of the corps in which they served during the war; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

ROBERT M. PATTON.

Mr. STEWART. I move that the Senate proceed to the consideration of the bill for the relief of Robert M. Patton. It is very important that this bill should be acted on, so that the Committee on the Judiciary, to whom a large number of similar cases have been referred, may know what the action of the Senate is to be. The action of the Senate on the case of Patton will be a guide to the committee in other cases.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 246) to remove political disabilities from Robert M. Patton, of Alabama.

Mr. STEWART. I will state in regard to this case that it is recommended by General Pope, General Swayne, and thirty-seven members of the constitutional convention of Alabama, together with a large number of Union citizens, that the disabilities of Governor Patton be removed. Inasmuch as the question was pointedly asked the other day what Robert M. Patton has done to entitle him to this consideration, I ask for the reading of an extract from a letter by General Pope to General Grant, dated October 1, 1867. It was not written with reference to the removal of disabilities, but simply to report the condition of affairs there, and in that letter is an extract referring to Governor Patton's case, which I send to the desk and ask to have read.

The Secretary read as follows:

[Extract.]

HEADQUARTERS THIRD MILITARY DISTRICT,
(GEORGIA, ALABAMA, AND FLORIDA,)
ATLANTA, GEORGIA, *October* 1, 1867.

GENERAL: I am specially indebted to Governor R. M. Patton, of Alabama, for the cordial support and assistance he has given me in the execution of my duties.

Deeply concerned in the welfare and devoted to the interests of the people of Alabama, he has been willing to lay aside all feeling of personal unpleasantness on account of the unexpected and of course distasteful relations in which the reconstruction acts have placed him with the military authorities of this district, and has been anxious, if he could not do all he wished for the benefit of the people of Alabama, who had confided their interests to his hands, to do all he could.

In this spirit he has met me, and I am glad to say that I have derived great benefit from his experience and assistance in the affairs of Alabama.

I am, general, very respectfully, your obedient servant,
JOHN POPE,
Brevet Major General United States Army, Commanding.

U. S. GRANT, *General-in-Chief United States Army, Washington, D. C.*

Mr. STEWART. That is a condensed statement of the general testimony in this case. There are a large number of letters and papers, and they all concur in awarding to Governor Patton a great deal of praise for the manner in which he has conducted the duties of the very responsible and very delicate position he has occupied.

Mr. HOWARD. The Senator will allow me to ask him to state whether Mr. Patton has occupied any public position in the State of Alabama?

Mr. STEWART. He has been Governor of the State during these troubles—during the whole progress of reconstruction; and both General Pope and General Swayne have been in constant communication with him, and they both accord to him much praise for assisting them in carrying into execution the reconstruction laws. Although those acts imposed disabilities upon him, he has disregarded that fact and advocated their adoption, and coöperated, as General Pope and General Swayne both bear testimony, in carrying them into effect. He was the only southern Governor who recommended the adoption of the constitutional amendment proposed by the Thirty-Ninth Congress. The Committee on the Judiciary, to whom this matter was referred, thought that here was a very clear case: that if we were to have any action upon any such cases we had better take the sense of Congress upon the case of a man in prominent position, who had, notwithstanding the fact that disabilities were imposed upon him, aided in reconstruction—aided in carrying into execution the laws of Congress. It does seem to me that it is one of those cases contemplated where we should remove the disabilities which we have imposed upon Robert M. Patton.

Mr. HOWARD. Is the Senator from Nevada able to inform the Senate whether Mr. Patton took any part in the rebellion against the Government?

Mr. STEWART. He did take a part in such a manner as disqualifies him from taking the oath. As I understand, he was originally a Union man, but engaged in the rebellion, although rather reluctantly, in some civil capacity, to such an extent that he is disqualified from taking the oath, and consequently disabilities attach to him.

Mr. HOWARD. I suppose he participated in the rebellion, and rendered it aid and comfort in some way so as to exclude him under our law.

Mr. STEWART. He was not an active man in the rebellion, as I understand. He occupied some civil position. I do not know what position he occupied during the rebellion, but he held some office not in the military service. I did know the particulars of that, but they have escaped my memory. I have been rather investigating what he did since the rebellion.

Mr. POMEROY. I hope that this bill will pass, and there are very many cases of the kind that I think ought to be relieved. I do not know what reason we can assign for continuing disabilities upon persons who are now willing to unite with our friends in the system of reconstruction that we have provided. It does not make so much difference what a man did in the past; if he is willing now to come forward and unite with us upon our plan and method of reconstruction, act cordially with our friends in the conventions, and agree to reconstruct upon the basis we have laid down, why should we not relieve disabilities? Why should we want to entail disabilities on persons who are willing to coöperate with us now and for all time to come? This, of course, is a very strong case, but there are many others lying back of it, and I am for removing disabilities whenever the parties evince a disposition in good faith to coöperate in the reconstruction of their State governments upon the plan laid down by Congress.

Mr. HOWARD. I shall support this bill very cheerfully. I understand that Mr. Patton has shown his faith by his works and that he has in good faith coöperated with the friends of the Government in the State of Alabama, with a view to reëstablish civil government there upon the basis of the reconstruction acts of Congress. I am ready at all times when a case of this kind presents itself to the Senate to relieve the party from the disability now resting upon him; but I shall expect, or rather I shall insist, so far as I can in all cases of this kind, upon proof to the Senate that the party has really shown his faith by his works; in short, that he has done works meet for repentance. It is no punishment, it is no hardship to exact of parties making such applications evidence that they are, at present at least, in fact true to the Government and are willing to coöperate in the plan of reconstruction which has been enacted by Congress. I hope that there are many more cases of this kind in the rebel States; I trust there are; and I believe that if Congress shall manifest its purpose in this form clearly and distinctly to the people of the rebel States we shall multiply, vastly multiply, the number of our friends and supporters in those States.

Mr. DRAKE. I very reluctantly feel constrained to differ from the honorable Senator from Michigan on this subject. I cannot vote for this bill now, for the simple reason that the time has not, in my judgment, yet arrived when you can judge of the sincerity of any rebel's repentance by his works. I do not think that time will have arrived until after the work of reconstruction shall have been finished. It is a very easy thing for rebels now, prior to the work of reconstruction, to make these manifestations in order to reinstate their political privileges in the reconstructed States and then to turn and leave us the moment they have got into that position. I cannot consent for one, knowing rebels as I do, to vote at this period in the history of the country for any relief to any individual who lies at present under the disfranchisement which our laws prescribe.

Mr. BUCKALEW. I interposed the other morning an objection to action upon this bill when it was first called up by the Senator from Nevada, and I then submitted some considerations as they occurred to me upon the spur of the moment in regard to the policy of entering upon this kind of legislation. Subsequent reflection has confirmed in my mind the objections which I then held.

Now, sir, if we are to take up by separate bills each individual case in the southern country where merit can be alleged for dispensing with the disabilities imposed by the reconstruction laws, we shall have a very large amount of business thrown upon us, which, in my opinion, does not belong to the legislative department of the Government. We shall be subjected to great inconvenience in attempting to exercise this novel power. Why, sir, each of these cases as they come to us, and their name may be legion—doubtless they will be very numerous—will have to be examined by our committees, and the time and energies of gentlemen who are members of those committees will be absorbed in this business.

I think the proper manner in which the Legislature should act with reference to former laws is, either to repeal them outright if their operation is found to be inconvenient or disastrous, or to amend and mitigate them in those respects in which they are found to operate badly, and as the particular classes of persons who may be hardly affected by them, relief ought to be extended by some general provision. We ought to have a supplemental act providing that individuals falling within a given description, individuals of a certain class, should no longer be subject to the operation of the former law. What I object to is the taking up of individual cases and acting upon them by Congress—an inconvenient and, in my opinion, an improper jurisdiction for us to exercise.

By the fourteenth proposed amendment to the Constitution it was provided that disability imposed by the third section might be removed by Congress. I believe that is the only provision inviting the introduction of such a measure as this to be found anywhere in the Constitution or laws of this country. That law reads:

"But Congress may by a vote of two thirds of each House remove such disabilities."

There was a special provision applicable to this class of cases proposed by Congress for the adoption of the States as a fundamental rule, that those described in that constitutional amendment who were disfranchised from holding office under the United States or under their respective States might have their political capacity restored to them by an act of Congress, which should be passed by a two-thirds vote of each House. There was a policy proclaimed by Congress that was sent out to the people of the country. It is yet pending before the Legislatures of the several States for their adoption. That is the plan of action on this subject to which Congress committed itself. Now, however, the Senator from Nevada introduces a bill here and proposes to pass it through both Houses by a mere majority vote of each House, which shall take effect as to one person in the southern country, abandoning altogether the arrangement which was established by the proposed constitutional amendment, about the adoption of which I believe gentlemen differ. Some think it is already adopted, while others hold that it has not been.

Now, sir, if Congress are to exercise the jurisdiction proposed in this case; if they are to exercise a dispensing power, relieving particular individuals by name from the operation of general laws which apply to all the rest of the people in the United States, it ought certainly to be done under some such rule as that proposed in the constitutional amendment; it ought to be a two-third vote, so that we should be certain beforehand that the decision of Congress was not dictated by partiality, by favoritism to particular individuals; that they were not misled by any influence which disturb that sober and sedate judgment which ought to be exerted in all cases by Congress where indi-

viduals are concerned, but especially where the pains and penalties of the criminal laws are to be dispensed with, or of laws which are in their operation *quasi* criminal.

So much, Mr. President, with regard to the general objection which, in my judgment, lies against this proposed legislation. There is another and a practical objection, and that is this: that it is impossible that Congress should exercise this dispensing power in a fair and just manner. It is in the very nature of things impossible that prejudice and partiality should not come into our deliberations and influence the votes of members, and hence it is in the highest degree impolitic for us to enter upon the enactment of bills of this sort.

As to Governor Patton, what do the Senate know about him, except that the Senator from Nevada reads a letter from some military officer expressing an opinion about this gentleman's merits? Is he any more meritorious than perhaps twenty thousand other citizens of the State of Alabama? Where is his superior merit over that of other individuals in that State? No doubt there are thousands and thousands of men in the State of Alabama who have just as much merit as individuals as this gentleman has, and yet he is to be picked out by a bill or resolution of Congress and all political disabilities removed from him, while all the others equally meritorious with himself are to be subject to the pressure of the existing laws. Is this a fair system? Is this distributing justice in a regular and proper manner to the inhabitants of the country? Or is it not what I said it was, in its very nature a system of favoritism, to which the Senate ought not to commit itself? I might say many other things, but I only mention the leading points.

Mr. JOHNSON. Mr. President, I rise merely to say that I shall vote for this bill; but I should very much prefer that an amnesty almost universal should be issued now. I took occasion at an early day after the termination of the war to advise the issuing of such an amnesty, but that has not been done, and I see no present opportunity at least, and none likely to exist for some time to come, when a measure of that sort would be adopted. In the meantime, whenever application shall be made to Congress to remove disability from any one of the southern gentlemen who I think should have the disability removed from him, I shall vote for it. I concur, however, with the honorable member from Pennsylvania [Mr. BUCKALEW] in saying that it may be attended with inconvenience. We are now dealing with a population who have been involved in the difficulties in which the particular gentleman is involved, numbering some six or seven million people——

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of the last sitting is before the Senate.

Mr. TRUMBULL. I trust the Senator from Massachusetts, [Mr. WILSON,] who, I believe, has the floor on the special order, will allow a vote to be taken upon this proposition.

Mr. SUMNER. The unfinished business is the resolution from the Committee on Foreign Relations.

Mr. TRUMBULL. Well, whatever it may be, let it be laid aside for the present.

Mr. FESSENDEN. There will be some debate on this. I notice that the Senator from Kentucky desires to speak.

Mr. TRUMBULL. If the debate is likely to be protracted, I will not ask it.

Mr. FESSENDEN. I desire to say something about it also. Perhaps there may be others.

Mr. DAVIS. I shall not occupy more than five minutes.

Mr. JOHNSON. I have said, Mr. President, all that I propose to say on the subject.

Mr. TRUMBULL. Do I understand the Senator from Kentucky to say that he desires to debate at any length the proposition?

Mr. DAVIS. I want to say a few words, not to occupy more than five minutes.

Mr. FESSENDEN. I want to say something about it.

MARITIME EXHIBITION AT HAVRE.

The PRESIDENT *pro tempore*. The order of the day is the joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

Mr. WILSON. I will allow the regular order to go over for half an hour.

Mr. SUMNER. My resolution is before your matter.

The PRESIDENT *pro tempore*. The joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre is before the Senate as in Committee of the Whole.

Mr. SUMNER. I hope that will be voted on now without any further discussion.

Mr. TRUMBULL. I move to postpone that, if that be the order of the day, and all other business, for the purpose of going on for half an hour with the question under consideration, the bill for the relief of Mr. Patton from disabilities. I move to postpone all business before the Senate for the purpose of continuing the consideration of that bill.

Mr. SUMNER. I think it would be a better economy of time for the Senate to dispose of the resolution which is the actual order at this moment, and which has already been twice before the Senate. I am not aware that there is to be any discussion on it. I do not desire to say anything more. It is a resolution that explains itself. It is of practical interest to a large number of persons at this moment, and I submit that there should be no delay. I hope, therefore, by general consent, we can take the vote, and then I shall make no objection to proceeding with the proposition of the Senator from Nevada.

Mr. RAMSEY. When will this exhibition occur?

Mr. SUMNER. The coming spring and summer.

Mr. RAMSEY. At what time?

Mr. SUMNER. The exhibitors are to file their notices in the month of February.

Mr. RAMSEY. We have time enough for that matter.

Mr. SUMNER. I assure the Senator there is not time enough. I feel it my duty to speed it. I am sure there is no occasion for discussion. I have no desire to discuss it. There is nothing which involves any appropriation. It is simply in the nature of an authorization to the Navy Department to send one or more Navy officers to be present at the exhibition, and in going there they are simply to do what the smallest Governments of Europe have done; what I think Greece has done; what Prussia has already done; what some of the secondary states of Germany, like Bavaria and even the Grand Duchy of Baden, have done; what Spain and Portugal have done; what Brazil has done. All of these have appointed commissioners to be present at this exhibition. Now, the people of the United States are preeminently a commercial people. Our interests in commerce are second only to those of one other Power in the world, if they are second there. Here is a peculiarly commercial exhibition, in which our citizens are interested. There is no appropriation; there is no expense involved. The committee to whom it was referred, on careful consideration, have put aside every idea of expense, and have reported a resolution which simply provides for a representation by a Navy officer detailed by the Navy Department. Now, I hope that the Senate will act on the resolution without any further discussion.

Mr. TRUMBULL. If we are to discuss that resolution there is something to be said upon the other side with regard to it. I have moved to pass it by and proceed with the matter which was under consideration during the morning hour. I hope the Senate will do that; but if we are to proceed with this resolution I have something to say about this coming exhibition, which is got up by the city of Havre, as I see by looking at the papers. There is going to be an exhibition at Havre of the same things which were at Paris in the general exposition last year. Belgium and Italy are going to exhibit the same "articles pertaining to their marine which figured at the grand exposition, and have appointed special commissioners to reside at Havre." "Great Britain has promised to appoint a commissioner, and no less than seven hundred and thirty-three English exhibitors are now inscribed." "Sweden, Norway, and Denmark have already appointed commissioners, and their Governments have promised to send all the objects exhibited by their marine departments at the Paris Exhibition." "Prussia has appointed a commissioner, and will exhibit its marine models, &c., which figured at Paris." The city of Havre, it seems, wants an exposition, and has got these Governments to send articles that were at Paris down there, and they have applied to the emperor and empress of the French to give it their countenance. The circular of our consul at Havre states:

"I learn from a reliable source that his majesty the emperor, the empress, and the prince imperial will all furnish a number of prizes."

But, sir, I am called upon by Senators to let the vote be taken on the motion to lay aside this and all other business and proceed with Governor Patton's case. I yield for that purpose.

Mr. SUMNER. Mr. President, I listened in vain to hear any reason from the Senator from Illinois. He tells us that certain Powers of Europe have appointed commissioners to be present there. Sweden, Norway, Denmark, Prussia, Hamburg, Bremen, Spain, and Portugal, he says, have appointed commissioners to attend this exhibition. I understand his argument to be that therefore we should not appoint them. I cannot put the two things together in any other way than that. Now, it does seem to me that the commercial position of the United States at this moment imposes upon it certain obligations. There is an old saying of the feudal times, "nobility obliges." Commerce obliges, also. Commerce imposes its obligations upon those who represent it on so grand a scale as our country does at this moment. Here is a commercial exhibition in which the commerce of the United States is interested. There is not a sailor who sails the sea, there is not a merchant who owns a vessel, there is not a manufacturer who sends his articles across the ocean, who is not interested in this exhibition. Now, if I understand the Senator, he proposes that the United States shall renounce all association with such an effort, that it shall absent itself, that it shall do nothing there. I do not agree with him. I do not ask any appropriation by which our country shall be led into any additional expense, but I do wish that our country should be associated with the other countries of the world in the support of this commercial enterprise, that is all.

I hope there will be a vote on this proposition. I do not wish to say anything more. I do not wish to extend my remarks. What I have said I have made as brief as possible.

Mr. MORRILL, of Vermont. Mr. President, for one I am indisposed to enter into any competition where we are sure to be beaten. We expended $500,000 in order to make a show at the exhibition at Paris, and that was so insufficient that we came out, if not disgraced, without credit, because it was not equal to our known capacity or what was notoriously within our ability to do if we had been more liberal in the expenditure or if the Exposition had been not so far away from us. Now, I do not know how we can get along without some expenditure in sending a commission abroad. It may be that we can, but if we undertake it in that way we are sure to come out as we did before, if not disgraced, far below any position we ought to occupy. I am, therefore, not for taking any national recognition of this second edition of

an affair when the first was not satisfactory. The most inferior Government upon the Mediterranean or any of the inland seas of Europe is sure to make an exhibition that will eclipse anything we can afford to send from our shores. I regard it, therefore, as the part of prudence for us not to engage in a competition of this kind. If we should get up some exhibition of this sort at New York we should then be able to take other people at a disadvantage, as they now take us, and we could make a show there which they would find it hard to beat: but at the present moment we are not ready, the place and time are inconvenient, and I am utterly opposed to making or attempting to make any exhibition of our commercial marine at Havre.

Mr. CONNESS. It is very evident that a continuation of either of these subjects now will, so to speak, waste the day. I call, therefore, for the order of the day, which I understand is the motion that was pending when the Senator from Massachusetts [Mr. WILSON] took the floor for one o'clock to-day.

The PRESIDENT *pro tempore*. That is not the order of the day. The order of the day is the unfinished business of the last sitting of the Senate, which is the resolution mentioned by the Senator from Massachusetts, [Mr. SUMNER.] That intervened between the postponement of the other motion and the adjournment, and is therefore the unfinished business of the last sitting.

Mr. CONNESS. Then I hope we shall come to a vote.

Mr. SUMNER. I hope we shall have a vote.

Mr. STEWART. The proposition of the Senator from Massachusetts has already had fifteen minutes. If the Senate will allow the other proposition to have the same length of time it can be passed.

Mr. CONNESS. Let us vote on the motion of the Senator from Illinois.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the order of the day be passed over for the purpose of continuing the consideration of Senate bill No. 246.

Mr. TRUMBULL. My motion was to postpone it, and on that motion I will say a word. I was cut off in my remarks before by the appeal of Senators around me not to discuss the proposition, but to let the vote be taken. I was disposed to acquiesce; but the moment I sat down the Senator from Massachusetts rose and said that I had given no reason against our participating in this municipal exposition that is to be got up at Havre. I had not got through with my remarks. I have reasons against it. In the first place it is a mere municipal affair, got up by a city in France, that I suppose thinks it will be benefited by it, and it has appealed to the emperor and empress to give it their countenance, just as I suppose in this country, if an exhibition was got up at Boston, the originators of it would send an invitation to the President of the United States and ask him to open it and give it his countenance. It is a municipal affair—to do what? To exhibit over again the trinkets they had at Paris. That is what Prussia proposes to do; that is what the other Governments have promised—that they will bring there the things that they had at the Paris exhibition.

The Senator says it is entirely commercial. I do not know what he means by the term "commercial." It is agricultural. There is an agricultural department there, and goods are to be exhibited.

Mr. SUMNER. Aqui-culture; culture of water, not of land.

Mr. TRUMBULL. The twenty-fourth class is "textiles: cotton, flax, hemp, &c., wools, horse-hair." The twenty-fifth class is "colonial goods for consumption; home produce, (similar.") The twenty-sixth class is "corn." Is not that an agricultural article, or is that something else? Is corn "aqui-cultural" according to the Senator from Massachusetts? The twenty-seventh class is "dyeing and chemical produce." The twenty-eighth class is "greasy and oily substances." The twenty-ninth class is "woods, wrought or unwrought;" and the thirtieth class is "all kinds of metals."

The Senator assumes that no expense is to be incurred; but what did he tell us the other day was the object of this very simple proposition, which was to pass without any opposition, to which nobody would object! What is this "simple" proposition?

"The simple object of this resolution is to carry out a suggestion from the Department of State, that we should in some way have some agent or representative at Havre"—

who can do what?

"who can look after the interests of our exhibitors, and do for them what the commissioners of other Governments will do for the exhibitors of their countries respectively."

That is not to cost anything, I suppose! I find in this document a list of prices similar to what we find at resturants, specifying what each dish will cost. Here are put down the expenses of a superficial yard inside of the galleries costing twenty-five francs, a superficial half-yard fifteen francs. It seems we are to do the same things that other Governments do. It is very likely other Governments may do as they did at Paris, put up buildings for the convenience of their exhibitors. It is evident that we are to launch into a system of expenditure for the benefit of an exhibition that is to be got up at Havre, I presume instigated or originating in a desire to give some importance to that town. It really seems to me we should have nothing to do with it, and I am quite sure if we do have anything to do with it, unless the resolution be amended, we shall find it attended with very considerable expense.

Mr. STEWART. Inasmuch as the time that was accorded by the Senator from Massachusetts, who is regularly entitled to the floor, [Mr. WILSON,] is now pretty much used up, I move that both these matters be postponed until to-morrow, so that he may proceed with his remarks.

Mr. CONNESS. I move that the pending business be laid on the table.

Mr. SUMNER. I hope the Senator will not make his motion in any such form.

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. SUMNER. I hope the Senator will not make his motion in that form.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, to lie on the table.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of War, communicating, in compliance with a resolution of the Senate of March 11, 1867, information in relation to the cost of opening for first class steamboat navigation bayou Manchac, Annite river, and lakes Mawrepas and Ponchartrain; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, and a letter from the agent in charge of the Quapaw Indians, in relation to the suffering condition of those Indians, and recommending the passage of an act authorizing the diversion of the sum appropriated for that tribe, to be used in purchasing subsistence, clothing, and other articles necessary for their relief; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, requesting the immediate consideration by Congress of the items embraced in an accompanying "statement," with a view to an appropriation of the amounts thereof, in advance of the general appropriation bill, to carry out treaty stipulations with various Indian tribes; which was referred to the Committee on Indian Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 234) to prevent the payment of certain claims, in which the concurrence of the Senate was requested.

SUPPLEMENTARY RECONSTRUCTION BILL.

Mr. CONNESS. I now move that the Senate proceed with the consideration of the so-called reconstruction bill and the pending motion in regard to it.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary with the instructions proposed by him.

Mr. WILSON. Mr. President, when the honorable Senator from Wisconsin, in the morning hour of Thursday last, submitted his motion to instruct the Committee on the Judiciary to report the reconstruction bill with a provision which would enable the rebels to defeat the new constitutions of the States lately in rebellion, I rose to ask him to postpone the delivery of his speech until after the close of the morning hour. The Senator petulantly refused to be interrupted, and precipitated the Senate into the debate upon the reference of the pending bill. When I sought to postpone the debate for an hour I was not aware that it had been announced, perhaps authoritatively, that the honorable Senator was to deliver on that day "the greatest speech of his senatorial career, embracing a thorough exposition of the policy of the Administration, and laying out the platform of the conservative party in the next presidential campaign." Had I known that it was expected that the Senator would that day deliver the greatest effort of his senatorial career, which he had been several weeks in preparing, I could not have been so unkind as to have interposed an objection. I therefore ask the honorable Senator's pardon, and perhaps I ought to ask the pardon of the Senate for attempting to keep from them, even for a few moments, this exposition of the policy of the Administration and the platform on which conservatism is expected to stand in the impending presidential contest.

Thirteen years ago I took my seat in the Senate of the United States. These thirteen years have been crowded and eventful years. The Senate Chamber has been the theater of a gigantic struggle between the representatives of a brutal and degrading barbarism and a humane and Christian civilization. Words have been uttered and deeds have been wrought on the one side that will live in the memories of mankind, and words have been uttered and deeds wrought on the other that will blacken the pages that bear them down to after generations. During these years this Chamber has rang with fiery menaces of disunion, passionate threatenings of civil war, and vehement and wicked appeals to the darkest passions of human nature. I have listened to the utterances of the dominating Davis, the blustering Toombs, the pompous Mason, the unscrupulous Slidell, the insincere Benjamin, the plausible Breckinridge, and their compeers in crimes against country, against liberty, against justice and humanity. But I remember no words of theirs more unpatriotic, more false to the rights of struggling humanity, or more wicked than the scope and spirit of the speech of the honorable Senator from Wisconsin. I listened attentively, sir, to the speech of the honorable Senator from Wisconsin in support of his proposition to prevent the rebel States from being restored to their practical relations to the Union according to the existing laws of the land. As I listened to that Senator's arraignment of the men from whose ranks he has broken, his reproachful utterances against the millions we have made free, and his exposition of the purposes of the reactionary politicians he

now assumes to lead, I could not but indulge the hope that whatever punishments God in His providence may mete out to this nation he will not again inflict upon us for centuries to come a President who shall abandon the principles and betray the party that shall clothe him with executive power. The treachery of President Johnson, by seducing the weak and corrupting the pliant, has wrought a work of demoralization in the public affairs of the country the effects of which will be felt by the nation long after the public men of this generation have passed away.

The Senator from Wisconsin demands the immediate abandonment of the well-settled policy of reconstruction. The congressional policy of restoration is almost an accomplished fact. Nine States, by majorities amounting to nearly a half million votes, have chosen conventions to revise their constitutions. The convention of Alabama have framed a constitution, and it will be adopted early next week by an overwhelming popular majority. The conventions of eight States are now in session, and within thirty days they will present to the people constitutions modeled upon the constitutions of the most enlightened commonwealths. On the 10th of February distant Texas elects delegates to a convention, and recent intelligence leads us to hope that this the most doubtful of the States will accept the plan of restoration submitted to it by the laws of the land. The Senator from Wisconsin, in the interest of unrepentant rebels, now proposes, in face of the wonderful success of the policy of reconstruction—a success no man in this Chamber foresaw or hoped for on the 2d of March when the bill was finally enacted—to strike the ballot from the hands of half a million patriotic black men and empower their late masters to defeat constitutions that secure equality of rights and privileges.

The Senator from Wisconsin has no word of cheer to give, no helping hand to extend to six hundred thousand black men and a quarter of a million white men who are struggling in the States of the rebellion to bring those recreant Commonwealths back into these Chambers with constitutions embodying the spirit of loyalty, liberty, and justice. Nothing is clear to the vision of that Senator but negro supremacy, an army of despotism, a rising empire, impending civil strife, and a war of races. Patriotism sees with clear vision the President's ephemeral creations from the Potomac to the Rio Grande passing away; lawlessness, disorder, and brutality vanishing, and regenerated Commonwealths and law and order and liberty slowly but surely rising in the ascendancy. The Senator talks wildly about despotism and of forcing negro suffrage with the bayonet of the regular Army. Does the Senator know that for more than twenty months lawlessness, disorder, violence ran riot; that white loyalty was oppressed, degraded, and insulted; that black loyalty was wronged, outraged, and murdered, and that for all these wrongs, outrages, and murders no white man was brought to execution? Does he not know that when the reconstruction act of the 2d of March last become the law of the land it gave peace, order, and protection to that section of the country? Does he not know that under the protection of the Army he now assails the people of those States have enjoyed during the past ten months a degree of liberty, of order, of law, and of personal security such as they have not possessed for the past thirty years? Thought and speech and the press have been free. Under the protection of that law patriotic and liberty-loving men have for the first time during the last generation breathed out their feelings, sentiments, and opinions in that section of the country.

Protected by the law, by the bayonets of the Army and the ballots in the hands of more than six hundred thousand freedmen the great questions of restoration, of civil rights, of political rights and privileges, of education, of material development have been discussed on every square mile of rebel soil. Heart, conscience, and reason have been addressed in tones as earnest as ever issued from human lips; sad hearts have been lightened and darkened intellects instructed, and the fruits are ripening before the eyes of the nation. The nine constitutional conventions, in all of which there are some black men, are conducting their deliberations in a manner that should win the respect if not the admiration of the country. There may not be Madisons and Marshalls in those conventions, they may not have the learned and elaborate discussion that distinguished other conventions in the olden time, but these plain, unlettered men, patriotic, liberty-loving, and just, are borrowing and incorporating into their constitutions all that is great and grand and glorious in the constitutions of the most liberal and enlightened States. They will give those ten southern States constitutions more liberal, humane, and just than those commonwealths ever knew.

Sir, the eminent men who made the constitutions of those southern States in the early days of the Republic, could they return to earth, might bow in profound reverence before the sense of justice, the love of liberty, and the spirit of liberality manifested by the members of those conventions. Within thirty days the constitutions of those States will be before the people for their adoption, and the Senator from Wisconsin and the Administration for which he speaks know it. Those constitutions will be republican in spirit as well as in form, and the Senator and the Administration expect them to be so. Is it because these constitutions, framed by loyal men, will breathe the spirit of patriotism, of liberty, and of justice that the Senator, backed by the Administration and the Democracy, now proposes to defeat the final consummation of a work so glorious? Sir, I say to the Senator from Wisconsin that if he and his associates in these Halls, if the President of the United States, if the judges of the Supreme Court, will let alone the laws of the land, reconstruction in ninety days will be an achieved success. Why, sir, in the name of our rent, torn, and bleeding land, will not the Senator from Wisconsin and the President of the United States allow the loyal people of those States to accomplish the work we have committed to them? Why does he propose to smite down half a million of loyal men and allow the traitors, the unrepentant rebels, the men who stand before the Christian world today the champions of the inhuman, unchristian, and barbarizing sentiments of the past to vote down constitutions framed to secure equal civil and political rights and privileges?

Sir, I now charge that this proposition made by the Senator is an unpatriotic proposition; that it is a proposition to keep those States out of the Union, to keep their representatives out of these Chambers, and to keep those States in the hands of men who mourn over the lost cause and regret nothing but its defeat. Sir, I now charge that this proposition made by the Senator is a movement against the rights of working men. Will it not be a sickening sight when the Senator from Wisconsin, the champion of the Administration, and his Democratic associates stand up here in face of the laboring men of the country, the landless working men, who fought our battles, and put the brand of degradation upon the brow of toiling men? Can they degrade black working men without dishonoring white laboring men? Has it not been true that whenever the black laboring man was smitten the white working man felt the blow? Sir, I tell the Senator from Wisconsin, I tell President Johnson, I tell their Democratic, conservative, aristocratic supporters, that the man who would degrade the black laboring man would, if he had the power, put the brand of degradation upon the brow of the white laboring man.

If there be a man in the United States who needs the ballot for the protection of his manhood, his rights, and privileges as an American citizen, that man is the poor, landless working man. It matters not whether he be a white man or a black man, the possession of the ballot increases his sense of self-respect, augments his power, and wins the consideration of others. Sir, I appeal to the toiling men of the United States to mark this proposition to take the ballot from at least six hundred thousand working men unless they are the possessors of freeholds to the value of $250. If the white working men of the United States are true to themselves, to the spirit of our republican institutions, they will see to it that this reactionary policy, which is the policy of the Administration and the platform of blind and unreasoning conservatism, shall be marked and branded with their sternest condemnation.

Sir, I welcome the contest here inaugurated by the champion of the Administration and the leader of the Conservatives. Standing upon the basis of eternal right, of liberty for all and of justice to all, we will join issue with gentlemen who fight under the banner on which is inscribed freehold qualifications for landless working men.

The honorable Senator from Wisconsin questioned the patriotism of the black men of the South during the rebellion. He did not assert that they were disloyal, but he told us they did the work of disloyalty. Sir, I heard these observations of the Senator, who was once with us, if not of us, with profound regret. Because the black men did not raise the banners of insurrection, did not inaugurate a war of races, did not redden their hands in the blood of women and children, and thus bring destruction upon themselves and danger to the cause of loyal America, the Senator from Wisconsin questions their loyalty to the country. Can anything be more unjust, more cruel? In the lights that flash upon us from four years of civil war the loyalty of the black men of the rebel States is clear to the comprehension of intelligent patriotism. The unvarying testimony of our military commanders and of our soldiers is that the black men of the South welcomed and cheered the old flag whenever and wherever it appeared among them.

Wherever our armies marched, wherever our soldiers wandered in the land of the rebellion, the black men of the South met them with warm and generous greetings. Ever were they faithful to the flag, ever did their prayers ascend to God for the success of their emancipators. They were ever true to our sons who fought the battles of the country while living, and they cover with flowers the graves of our fallen heroes. These people, possessing far more intelligence than the Senator accords to them, clearly comprehended the condition of affairs, bided their time, gave their hopes, and daily invoked in their lowly cabins the blessings of Almighty God upon their country, its cause, and its defenders. The name of Abraham Lincoln is known and revered in every black man's cabin in the rebel States as no human name is known or revered. I need not say, sir, that the name of Andrew Johnson is held in abhorrence in every black man's cabin. The name of the Senator from Wisconsin, after the proposition he has made and the speech he has delivered, will certainly not be a household word in the homes of the men from whom he would take the most sacred rights given them by their country.

The Senator told us that war was impending over the rebel States. Sir, there is not the shade of the shadow of truth in the declaration, be it made by whomsoever it may. The Senator quoted the authority of Alexander H. Stephens, a gentleman who, when he was shut up in Fort Warren, was ready to go as far as any of us in securing the rights of those black men, but who, since he came out of imprisonment, maintained the old doctrine of secession, and has been one of the most potent enemies of reconstruction. He quotes, too, the authority of Governor Fitzpatrick, a gentleman who heads the address of the southern Radicals, as the Senator calls them, which they have just issued, invoking the people of Alabama not to vote at the coming election, but to trust to the

sick, to those who have removed, to those who cannot go to the polls, to prevent a majority of the persons registered voting in favor of the constitution which has been framed in that State.

I am not surprised that the Senator who assumes here to be the champion of the rebel cause should put so much reliance on this rebel testimony: but I do not fail to remember that your Stephens and your Fitzpatricks, your southern radical secessionists or Democrats or Conservatives, whichever you may choose to call them, told us that if we emancipated the black people we should have civil war, and I remember that on every issue of the last thirty years these men have been the champions of a brutal and degrading barbarism, that they have prophesied and predicted, and that never has one of their prophecies or predictions been fulfilled, nor never will be.

But the Senator told us that if it came to war, if we had a war of races, no discipline would save the freed people. Sir, these millions of emancipated bondmen do not intend to have a war of races. They have borne since the close of the rebellion more insults, wrongs, and outrages, peacefully and patiently, than any people have borne in any portion of the Christian or civilized world in modern times, and yet not a single man has been executed for the murder of these hundreds of freedmen; and whenever such a man has been convicted the President has pardoned him or remitted his sentence. No murderer of these people has been punished. They know it; but they have borne it all hopefully and prayerfully, trusting that the time would come when the loyal, liberty-loving people of these States would frame constitutions and elect officers that would secure to them the protection that belongs to all the children of the human race.

They do not intend to have a war of races; and does the Senator mean to tell us that if the brutal champions of barbarism inaugurate a war of races no power in this Government, no discipline in our armies, can protect American citizens against the bloody instincts of those whose champion he has become? Does the Senator from Wisconsin, from his high place here in this council Chamber, mean to say to the men who are struggling to prevent the restoration of the Union on the basis of equal, civil, and political rights, that if they inaugurate a war of races, the discipline of the Army, the laws of the land, the sense of justice, the spirit of humanity of the people of Christian America, are powerless to prevent the butchery of the despised and hated race? Does he mean by these words to inspire men whose hands are reddened with the blood of hundreds of thousands of the nation's defenders to imbrue their hands in the blood of the smitten children of the African race? Why does he talk about the impending war of races? Is it the policy of the Administration to incite a war of races? Are the Conservatives to fight on that platform in the coming presidential election? I tell the Senator from Wisconsin, the Administration, the Democracy, the secessionists, and disunionists, one and all, that the loyal, liberty-loving people of Christian America, who put down the slavemasters' rebellion with the iron hand of war, have resolved it, and they will proclaim it in the ears of guilty men everywhere, that they will put down a war of races, by whomsoever begun, with the same iron hand. They did protect the innocent and they will punish the guilty.

But the Senator from Wisconsin, doubtless for a purpose, talks of northern radicals and southern radicals. This coupling together the words northern radicals and southern radicals is not original with the honorable Senator. Within a few days after the President of the United States entered upon the reactionary policy, after he abandoned his vaunted doctrine of putting the rebels on the back seats, he had a great deal to say about rebels at both ends of the line, about the next rebellion being in the North, about sloughing off the northern radicals and the southern radicals. Now, the Senator from Wisconsin uses the language of the President, of whose policy he is the champion, although he is reluctant to admit that the southern radicals of whom he speaks are now Democrats acting with him. Northern radicals and southern radicals! Sir, I accept the Senator's descriptive phrases. These terms, "northern radicals and southern radicals" are not in any sense geographical terms; they are intended to express the embodiment of ideas, principles, and policies. Northern radicals believe in the fatherhood of God and the brotherhood of humanity; in breaking every yoke and letting the oppressed go free; in doing to others as they would that others should do unto them; in the sublime creed of the Declaration of Independence, and in the maxims and precepts of the founders of the Republic. They are committed, fully and unreservedly committed, in favor of the unity of the country and the equal rights and equal privileges and the equal protection of the citizens of the United States of every race.

Southern radicals being a sort of trinity of secessionists, Conservatives, and Democrats, scoff at the Declaration as a self-evident lie, a glittering generality, disown the doctrines of the republican fathers, and proclaim this to be the white man's country and the white man's Government, and deny civil rights and political privileges to American citizens whose skins are darker than their own. The northern radicals are striving to make the Christian creed embodied in the Declaration of Independence the vital, animating, and living faith of the Republic, to enlighten the darkened intellect, protect and lift up the poor, the dependent, and the lowly. The southern radicals, to preserve the spirit of caste, to preserve the soul of slavery, though the body is dead, are striving to excite the cowardly, brutal, and vulgar fear of negro supremacy. A man may be a northern radical and live in South Carolina. The Senator is illustrating to us the fact that a man may be a southern radical and live in Wisconsin. Sir, the Senator has deserted the northern radicals and gone over to the southern radicals. He thinks the northern radicals might have been southern radicals if they had been born and reared in the South. The honorable Senator has become a southern radical, although he was born in the North. His proposition and his speech embody the spirit of the party to which he has gone, and of whose cause he assumes to be a champion and a leader.

Mr. President, the country has been stirred to its profoundest depths during the last fourteen years between these northern radicals and these southern radicals. Words have been uttered and deeds have been done by the southern radicals that have brought shame and dishonor upon the country and will stain forever their memories. They have never breathed a patriotic sentiment, never uttered a word for liberty, never spoken for justice, never achieved an act for humanity, or anything to advance Christian civilization on the globe. There has not been a moment for the last fourteen years when these southern radicals have not been either against their country, the rights of man, or the advancing current of Christian civilization that is carrying humanity forward. Words have been uttered and deeds have been performed by these northern radicals during the last fourteen years that the muse of history will fling upon the canvas of the world in tints that will not fade or die.

Sir, during fourteen years these northern radicals, who have been reproached by the Senator in this Chamber and in the other Chamber and before the people, in peace and war, on the battle-field, everywhere, have been the steady and consistent champions of patriotism—that patriotism that embraced the whole country, that loved the whole country, that comprehended the whole country, the past, present, and future of the Republic. They never fired upon the flag of your country; they never shot down one of the country's defenders. They have been for their country, their whole country, and the people of the whole country. No man can breathe a suspicion against their sublime fidelity to their country amid all its trials. They have been for liberty, for equal, universal, and impartial liberty; liberty at home and liberty abroad. Wherever on God's green earth a man has spoken for liberty he has had the sympathies of these northern radicals. Kossuth, Mazzini, Garibaldi, John Bright—all the champions of popular rights in the Old World are loved by these radicals of the New World as they are by the liberty-loving men of the Old World. At home these radicals, branded here now because they want to finish the great work they begun, have smitten the chains from four and a half million human beings, lifted them up to manhood, given them civil rights and political rights, and are struggling to-day in the face of a terrible opposition of misrepresentation and prejudice and every unholy passion of human nature to complete their grand work of making every man of every race an American citizen, and clothing him with all the rights and privileges of an American citizen. Sir, since the morning of creation there has not been a political organization on this planet that has fought a battle so unselfish, that has fought on so high a plane for humanity as these branded radicals of the North; and I tell the Senator from Wisconsin they will finish their work in spite of his abandonment of their cause. We may miss him, but others will take the places that he and his associates have made vacant. Let him go; let them go; let him and them hurl back at us their vituperative phrases, and cover, if they can, our cause with opprobrium. We will remain true to our convictions, to our sense of public duty, to our endangered country, to the oppressed, whoever may desert us and whatever future may betide us.

Sir, measured by the standard of justice, these northern radicals, believing in human equality, believing in the inspiring utterances of Washington, Franklin, Adams, Jay, Jefferson, Madison, and the illustrious statesmen who founded the Government of the United States, have stood during these fourteen years amid obloquy and reproach, apostacy on the right hand and the left. These northern radicals, denounced by the Senator from Wisconsin as he quits their ranks, have stood at every sacrifice as the champions of equal and impartial justice to mankind. Sir, we intend to stand there, and, God willing, we mean to triumph there. The apostacy of Presidents or Cabinet officers or of Senators or Representatives will not defeat this body of men who believe in God, in humanity, and justice, and who will fight it out on that line until a crowning victory shall be achieved. Measured by the standard of a broad and comprehensive humanity that sympathizes with the poor, the oppressed, and the down-trodden the wide world over; a humanity that contributed $75,000,000 during our great war to relieve the sufferings of our soldiers; that humanity which went into the hospitals and sat by the sick and the dying, that dealt tenderly even with rebels; that humanity that lifts up but never pulls down, that breathes itself out for the poor and the oppressed of our common race, where on God's green earth has there been or is there a body of men who have done so much or been so true as these radicals of the North?

Sir, you may open the volumes of our history, and every word they have uttered, every sentiment they have breathed, every act of theirs has been to aid the suffering and to lift up and carry forward the cause of humanity. These men who never fired on the flag of the country, never murdered one of the country's defenders, never shed a drop of loyal blood; who stood by the country in the dark and troubled night of civil war; these northern radicals who maintained the liberties of a poor, despised, and hated race; these northern radicals who have contended for the same justice to the poor toiling man that is given to the wealthiest man of the land; these northern radicals whose

hearts throb for humanity, who have been the champions of Christian civilization in the western world; these northern radicals who have written their names on the pages of history that the world will not let die, have a record which coming ages will reverence. When their deeds are traced, as they will be, by the iron pen of history, they will be read and studied by coming generations with beaming eyes and throbbing hearts. Here, in the Senate of the United States, when their grand work is nearly accomplished, they are assailed, their motives questioned, their purposes misrepresented, and they who have been the champions of patriotism, liberty, justice, and humanity, are now branded as despots and tyrants. I tell the Senator from Wisconsin that in spite of obloquy and reproach, misconception or misrepresentation, they will with renewed and resolved spirits go right forward to the final accomplishment of their high destiny.

The triumph of the doctrines avowed as the policy of the Administration and the southern radicals by the Senator from Wisconsin would brutalize and barbarize the American people. Their triumph would smite civilization in the face. Sir, the human race cannot afford to have men like the Senator from Wisconsin and the men whose cause he advocates triumph in this country. I can almost say, without irreverence, that God cannot permit such a crime to be committed against all that is pure and holy on earth as would be by the triumph of the cause which the Senator from Wisconsin advocates. The amendment now before us was offered for the purpose of defeating the almost completed policy of the restoration of this country, to strike the power from loyal hands and give it to unrepentant rebels whose hands are dripping with loyal blood. That is the purpose of it. Every effort has been made to defeat this policy of restoration. The Attorney General was dragged out to give an opinion. Then the President struck down General Sickles, a gallant soldier, whose blood reddened the field of Gettysburg. Then Sheridan, one of the grand names in the history of the country, was stricken down; and then Pope and Swayne. Thank God, General Meade has shown himself as he did at Gettysburg, the champion of his country, and has not betrayed it as the reactionists expected he would do.

The Senator tells us that hundreds of thousands of Republicans will desert the radicals of the North and go over, as he has done, to the radicals of the South, the secessionists and the conservatives. I know that the Senator from Wisconsin is a hopeful man. I remember that on a certain time he attended a weeping convention at Philadelphia in which northern men walked arm-in-arm with unrepentant rebels; and then he and some of these rebel friends of his went up North to teach the loyal people how to vote. He was quite as jubilant then as now; but the people did not see it in that light. Now, sir, cheered by a few successes that will do us no harm, but will be to us what a little ill luck was in 1862, an incentive to the future, he having passed over, himself, from the radicals of the North to the radicals of the South, having borrowed their weapons, somehow or other has got an idea that everybody else will follow his example. While he was speaking, there sat in these galleries one of the ablest men of the North, an ex-Governor of a great State, who, after listening to the Senator's speech, said that it would give the Republicans ten thousand votes in the State in which he lived; that it was a sale outright to the Democratic party, and that he and other Republicans would not be sold.

Sir, instead of hundreds of thousands of radicals deserting the cause by which they have stood at every cost, I say to the Senator from Wisconsin he will find that they will stand together as we stand together in the House of Representatives and in the Senate—a perfect unit—more united to-day than in any day of our history, and more resolved to finish our great work. Instead of thronging over to stand on the platform he has made for them, or that other platform introduced here this morning by the Senator from Kentucky, [Mr. DAVIS,] it will be found that thousands of the men who have been seduced by the deserting President and his friends will seek an early occasion to come back again and fight in the ranks of these branded radicals of the North.

Sir, what a temptation it must be for a Republican to desert his party at this time and follow the example of the Senator from Wisconsin! What a glorious record those men in whose ranks he has taken refuge have made to the country! Why, sir, there has not been a question concerning the rights of the country or the rights of man during the last fourteen years, beginning with the repeal of the Missouri prohibition up to this hour, upon which they have not taken the wrong side. I wish to call the attention of these Republicans whom the Senator hopes to win over to the contest that we have passed through. In the spring of 1854 these southern radicals, as you will remember, sir, for you were here, opened half a million square miles of free territory to slavery. The northern radicals opposed it. The southern radicals were for it, and I believe the Senator from Wisconsin was in their ranks then. Then a class of these southern radicals rushed over into Kansas, seized the ballot-boxes, elected a Legislature, established slavery, and made it a penitentiary offense for a northern radical to say that slavery did not exist there. Not content with that, they made the Lecompton constitution, and had the whole influence of the then southern radical administration to force it through Congress; but it failed, and failed, too, by the efforts of these northern radicals.

Then the southern radicals demanded that the Supreme Court should proclaim the Dred Scott decision, and the Supreme Court proclaimed it. After Mr. Lincoln's election these southern radicals plunged the nation into the fire and blood of civil war. They came into this Chamber and asked northern radicals to establish slavery south of 36° 30′, to allow them to take their slaves into the States of the North, to declare that a negro should not be a citizen, and that slavery should never be abolished in the District of Columbia without the consent of the southern radicals of Maryland and Virginia. We northern radicals would not consent to their wicked demands, and then they went on with the war. They raised their hands against their country, murdered three hundred and fifty thousand loyal soldiers, maimed and wounded four hundred thousand more, put a debt upon the country of $2,500,000,000, and murdered the President of the United States. All through the war we had tests of patriotism, tests of liberty, tests of justice, from that little act making free the slave who was put into the rebel army by his master up to the crowning act of emancipation by the constitutional amendment.

We had a series of acts by which slavery was destroyed and the country made free, and all these acts were sternly contested by the Senator's new-found friends. We have had a struggle on the civil rights bill, on the reconstruction policy of the Government, and on the constitutional amendment, and on all of these measures these southern radicals have been against their country and against human rights, and the northern radicals have marched from victory to victory in favor of making their country united and free.

Let me say to the Senator that we Radicals, we Republicans, intend to maintain our integrity, to stand by our country and the equal rights of all our countrymen; and we intend to win, too. Sir, I welcome the contest he has inaugurated. If it is the Administration policy developed, if it is the platform of conservatism upon which the southern radical secessionists are to stand, let them take their place upon that platform. I say to the Senator that we expect to win, as we have in the past, to achieve a victory for our country, and a victory to make our Government, in the words of Abraham Lincoln, "a Government of the people, by the people, and for the people."

The honorable Senator told us that we were forcing negro suffrage by the Army, that we were establishing negro governments in the rebel States. He told us, too, that the black men of the South were barbarized. It may be that the African race in the southern States is half civilized and barbarized, but they are now carrying the banner of Christian civilization, and they are now fighting the battle of Christian civilization against the barbarizing prejudices, sentiments, opinions, and policies of their once dominating masters. These six hundred thousand loyal black men and two hundred thousand loyal white men are bearing the banners, not of barbarism but of civilization, and their old rebel masters are now fighting for the preservation of the barbarizing policies of the past.

The honorable Senator comes into this Chamber and covers us with reproaches for not deserting the friends who are bearing our struggling cause in the South, and asks us to follow his lead in placing in the hands of the old, unrepentant rebel masters the destinies of ten States, so that they may preserve the barbarizing codes of other days. The Senator would defeat the established policy of restoration and bring the rebel States into these Halls rebel end foremost. We, his old comrades, in spite of Presidents and courts and all opposing influences, mean to enforce the established policy of reconstruction and to bring these rebel States into these Chambers loyal end foremost. The policy of the Administration seems to be to restore the unity of the country by annexing the United States to the rebel States, subordinating loyalty to disloyalty and reëstablishing the sway of the old slavemasters. The policy of the Republican party is, and will continue to be, to annex the rebel States to the United States, to subordinate disloyalty to loyalty, and to put the government of those States and the country into the keeping of a patriotic and liberty-loving people.

Now, sir, I close by asking for the yeas and nays on this proposition. I want a vote taken upon it, and I desire to have a vote by yeas and nays upon it.

The PRESIDENT *pro tempore*. On the question of referring this bill to the Committee on the Judiciary, with instructions, the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. FRELINGHUYSEN obtained the floor.

Mr. JOHNSON. If my honorable friend from New Jersey will permit me to address the Senate in advance of himself he will oblige me. My professional engagements are such that I am afraid I shall be compelled to leave the city to-morrow; and what I have to say I can say in the course of an hour or two.

Mr. FRELINGHUYSEN. I yield the floor.

Mr. JOHNSON. Mr. President, I cannot begin to address the Senate upon the matters before them without returning my very sincere thanks to the honorable member from New Jersey for yielding to me the floor. It is a courtesy which I anticipated of him, and which I shall always be ready to reciprocate.

It was not my purpose, Mr. President, to speak on the questions which have been discussed for the last two or three days until the measures out of which they arose should themselves be before the Senate for action. I therefore regretted—my friend from Wisconsin [Mr. DOOLITTLE] will pardon me for saying it—that he should have introduced the subject at this particular period, and that regret was founded upon circumstances to which it is not necessary now to refer; but I am sure I shall be understood both by the honorable member from Wisconsin and by the other members of the Senate. But as the questions have been discussed, and as, in my opinion, doctrines have been maintained which are not warranted by anything found in the Constitution, and are, in my judgment, exceedingly mischievous, I deem it due to myself and due to the country which I am here in part to represent, that I should state why it is that I believe them to be unsound and mischievous.

I refer now more particularly to what fell from the honorable member from Illinois, the chairman of the Judiciary Committee, [Mr. TRUMBULL,] and to what fell from the honorable member from Indiana [Mr. MORTON] in the very able speech delivered by him on Friday. What I am about to say in relation to what fell from the honorable member from Illinois is not to correct any erroneous opinion which he stated that he himself entertained expressly, but to correct what I think will be mischievous to the country: the conclusions to be drawn from the suggestions in which the honorable member indulged. I understood him to say—and if I misunderstood him I hope he will at once correct me—that in the beginning of the organization of the judiciary it was thought to be exceedingly doubtful by the judiciary itself whether it could adjudge a law of Congress to be void because of its being in conflict with the Constitution of the United States. I am the more disposed to reply to that suggestion because, coming from a gentleman of his admitted ability, his known professional learning, and the high official station which he holds in the Senate as the chairman of the Judiciary Committee of this body, even a suggestion upon a question of that sort from him is calculated to carry weight to the public mind.

Mr. President, the Constitution, as we know, went into practical operation in 1789. The judiciary act was passed in that year. That act defined the jurisdiction of the Supreme Court of the United States. It provided the cases to which that jurisdiction should apply, and among others of its provisions it authorized the tribunal to do what the Constitution itself, in the second section of the third article constituting the judicial department, intended that department should be permitted to do; that is to say, that it should have jurisdiction in "all cases in law and equity, arising under this Constitution" and "the laws of the United States." In 1791, Congress having passed a law which made it the duty, if they had the authority to pass it, of the judges of the Supreme Court to do certain acts, in connection, I believe with the pension system, the circuit court in New York decided that it was void for want of authority; that the act which they were directed to perform, not being judicial in its nature, and their functions being under the Constitution exclusively judicial, Congress had no authority to impose upon them any other duty which was not judicial. The same decision was pronounced in North Carolina and in Pennsylvania; and when the question came before the Supreme Court of the United States the decision of that tribunal upon that question was not a doubting one, but one expressed with absolute confidence. And in the subsequent case of Marbury *vs.* Madison, reported in 1 Cranch; and in the still more recent case of McCulloch *vs.* The State of Maryland, reported in 4 Wheaton; and again in the case of Osborn *vs.* The Bank of the United States, reported in 9 Wheaton, not a word is to be found in the opinion of any judge indicating a doubt that it was the province of the judiciary to stand by the Constitution in any case rather than an act of Congress, if, in their judgment, the latter conflicted with the provisions of the former.

It is true (and perhaps that was the ground upon which the honorable member from Illinois made the suggestion) that the then learned Chief Justice Marshall, who pronounced the decision in the cases I have mentioned, entered into an elaborate argument for the purpose, not of satisfying the minds of the court that they had the power to declare an act of Congress unconstitutional, but to satisfy the public mind. It was, in one sense, a grave inquiry. It affected the powers of the legislative department of the Government, and they might well, therefore, have felt that it was their duty to place their judgment upon grounds as strong as any which they could command, and this they accomplished by an opinion in each of the cases amounting almost to the demonstration of a mathematical problem.

Before the Constitution was ratified by the people it is only necessary to remind the Senate that in the seventy-eighth number of the Federalist, from the pen of Mr. Hamilton, there appeared an argument for the purpose of showing that the judiciary should have the power; that it was necessary to the preservation of the liberties of the people, which the Constitution was intended at all times to preserve, and under all circumstances and forever that such a power should be vested in such a department of the Government. But Mr. Hamilton, neither in that number nor in anything that ever fell from his pen, never expressed (nor did any member of the Convention by whom the Constitution was framed) a doubt not only that the power was included in the Constitution as adopted, but that freedom would be insecure without the existence of such a power. In the number of the Federalist which I have mentioned Mr. Hamilton said:

"The complete independence of the courts of justice is peculiarly essential in a limited constitution. By a limited constitution I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no *ex post facto* laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to delare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."

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"There is no position which depends on clearer principles than that every act of a delegated authority contrary to the tenor of the commission under which it is exercised is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize but what they forbid.

If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other Departments, it may be answered that this cannot be the natural presumption where it is not to be collected from any particular provisions in the Constitution. It is not otherwise to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will to that of their constituents. It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the Legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges as a fundamental law. It must, therefore, belong to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents."

That eminent jurist, Mr. Justice Story, in his Commentaries on the Constitution, section fifteen hundred and seventy-four, expresses in fitting terms an idea on this point, which I wish to submit to the Senate:

"Every Government must, in its essence, be unsafe and unfit for a free people where such a department does not exist, with powers coextensive with those of the legislative department. Where there is no judicial department to interpret, pronounce, and execute the law, to decide controversies, and to enforce rights, the Government must either perish by its own imbecility or the other departments of Government must usurp powers, for the purpose of commanding obedience to the destruction of liberty. The will of those who govern will become, under such circumstances, absolute and despotic; and it is wholly immaterial whether power is vested in a single tyrant or in an assembly of tyrants."

On the same subject Mr. Chancellor Kent, in his Commentaries on American Law, &c., page 449 *et seq.*, says:

"The courts of justice have a right, and are in duty bound, to bring every law to the test of the Constitution, and to regard the Constitution first of the United States, and then of their own State, as the paramount or supreme law, to which every inferior or derivative power and regulation must conform. The Constitution is the act of the people, speaking in their original character, and defining the permanent conditions of the social alliance; and there can be no doubt on the point with us that every act of the legislative power contrary to the true intent and meaning of the Constitution is absolutely null and void. The judicial department is the proper power in the Government to determine whether a statute be or be not constitutional. The interpretation or construction of the Constitution is as much a judicial act, and requires the exercise of the same legal discretion as the interpretation or construction of a law. To contend that the courts of justice must obey the requisitions of an act of the Legislature when it appears to them to have been passed in violation of the Constitution would be to contend that the law was superior to the Constitution, and that the judges had no right to look into it and regard it as a paramount law. It would be rendering the power of the agent greater than that of his principal, and be declaring that the will of only one concurrent and coördinate department of the subordinate authorities under the Constitution was absolute over the other departments, and competent to control, according to its own will and pleasure, the whole fabric of the Government and the fundamental laws on which it rests.

"The attempt to impose restraints upon the exercise of the legislative power would be fruitless if the constitutional provisions were left without any power in the Government to guard and enforce them. From the mass of powers necessarily vested in the Legislature, and the active and sovereign nature of those powers; from the numerous bodies of which the Legislature is composed, the popular sympathies which it excites, and its immediate dependence upon the people by the means of frequent periodical elections, it follows that the legislative department of the Government will have a decided superiority of influence. It is constantly acting upon all the great interests in society and agitating its hopes and fears. It is liable to be constantly swayed by popular prejudice and passion, and it is difficult to keep it from pressing with injurious weight upon the constitutional rights and privileges of the other departments. An independent judiciary, venerable by its gravity, its dignity, and its wisdom, and deliberating with entire serenity and moderation, is peculiarly fitted for the exalted duty of expounding the Constitution and trying the validity of statutes by that standard. It is only by the free exercise of this power that courts of justice are enabled to repel assaults and to protect every part of the Government and every member of the community from undue and destructive innovations upon their chartered rights.

"It has accordingly become a settled principle in the legal polity of this country that it belongs to the judicial power, as a matter of right and of duty, to declare every act of the Legislature made in violation of the Constitution, or of any provision of it, null and void."

Mr. President, I do not think I exaggerate at all when I say that but for the power which seems now to be in some measure questioned the Government would not have had the success and the country would not have been as prosperous as it is now or was before the rebellion broke out. If the members of the Senate will turn to the famous debate between Mr. Webster and Mr. Hayne they will find that the latter denied the authority upon the ground that it was for the States alone to decide whether the Constitution was or was not obligatory upon them at any time and at all times. He denounced the doctrine that the judiciary had any jurisdiction upon that question. On the contrary, in the speech of the former, splendid in the magnificence of its eloquence and splendid in the power of its argument, Mr. Webster assailed the doctrine of secession on the ground that there existed a judicial department by which, and by which alone, questions of that kind should be decided. He considered it the only possible remedy to which resort could be had for the purpose of deciding differences of opinion that might exist between the States and the United States, or between the citizens of any of the States of the Union and the Congress of the United States; and he held up the great attributes of this high tribunal as a safeguard to individual liberty and a safeguard for the continuing perpetuity of the Union.

But now, by one of the bills which has been introduced into this discussion, it is, as I understand, proposed to deny to that court the authority to examine the laws which we are asked to pass. What the particular provisions of those laws are it is not necessary for the purpose that I have now in view to call to the particular attention of the Senate. It is sufficient for me to say that no matter how they may conflict with the rights of the States, how totally they may abrogate the guarantees of individual rights contained in the Constitution, the States and the people are to submit, because in the judgment of the present Congress, as that judgment is to be collected from those bills, its will is to be conclusive.

I have said now, Mr. President, all that I intended to say as to the powers of that tribunal. How far in the particulars involved in the bills referred to the powers of that court are denied I shall have occasion, I suppose, hereafter to state to the Senate. I proceed now to the speech of the honorable member

from Indiana, [Mr. MORTON.] In common with every member of the Senate, I listened to that speech not only with pleasure but with admiration. It was courteous, logically argumentative, and had the true spirit of eloquence. It was a speech of which the Senate has cause to feel proud. It brought back our debates, if they have wandered from that standard, to the standard of former days, when no personal reflections were indulged in, when high and elevated principles guided the discussion, when the good of the country alone seemed to be considered, and not the mere success of party. I repeat, therefore, that no member of the majority of the Senate admired that speech more than I did; but I believe also that it contains doctrines which the Constitution does not admit of, and that those doctrines may in their practical operation prove to be injurious. I therefore proceed, with proper distrust of my own ability, to meet the argument of the honorable member, to state the reasons why I am not able to concur with him.

The honorable member places the authority to pass the bills upon your table exclusively under that clause in the Constitution which provides that—

"The United States shall guaranty to every State in this Union a republican form of government."

He renounces, (and I was glad, though not surprised to hear it,) and he almost denounces, the doctrine that Congress or any department of the Government can wander from the Constitution for the purpose of finding any authority outside for any measures which it may think proper to adopt. He relies, therefore, exclusively upon the clause of which I have spoken. The logical acumen of the honorable member has evidently taught him, in his careful study, for which he deserves the credit that every member deserves who appears before this body prepared, understanding the matter of which he professes to speak—he must have discovered in his meditations in his closet that he would be unable to invoke the aid of that clause for the support of these measures unless he could interpolate into the clause a word not to be found in it. I do not mean by using the word "interpolate" to say anything offensive to the honorable member, for that I am sure he knows I am incapable of. I could not do it without warring against my own feelings. What I mean to say is, that he believed it to be necessary for the purpose of his proposition to read the clause as if it contained a word not to be found in it. He therefore reads it as if our fathers had written it, that the United States shall guaranty to every State in this Union a "loyal" republican form of government. That there is no such phrase to be found in the clause the honorable member conceded; but he placed his right to consider it as virtually within the clause upon the ground that loyalty is inherent, and must therefore be considered as existing both in relation to that clause and every other part of the instrument.

Mr. President, unless I am greatly mistaken, the honorable member is evidently in error. When the Constitution was being framed there were thirteen States, each of which was then sovereign; each of which, not only in the judgment of its own people, but in the judgment of all the other States, was republican in form. That was a time when each, therefore, was to be considered in that particular as standing upon the same footing with all the rest. The object of the convention was to preserve that unity of form, to preserve republican liberty by preserving a republican form of government, not to guard against the abuses of those who might be called upon to administer a government of that form, but, leaving any such abuses to be corrected by time and by the subsequent reflection of the people, to preserve them all as they then existed, republican States in point of form.

What was the condition of each of the States? In the most of them slavery existed, and the Constitution contained a provision by which the number of slaves might for a period of twenty years be increased by immigration, and placed that particular provision beyond the power of amendment And in all of the States, as I believe, at that time, there existed no universal right of suffrage. In most of them the voter was required to have a property qualification. In all of them he was required to have a particular period of residence within his own State, and to be of a certain age. Did anybody suppose at that day, did any member of the Convention for a moment imagine when he signed his name to that Constitution, did it enter into the imagination of the three great men who recommended it to the adoption of the American people in the celebrated letters of Publius, that there lurked within it a provision which might be used by Congress for the purpose of taking away from the States the authority to regulate suffrage, to prescribe the qualification of voters, or the qualification of those who should be voted for?

Did any member of the Convention, above all, think at that time that the institution of slavery and the provision for its increase might be entirely defeated by measures which Congress in the future might adopt under the authority of this clause which the honorable member correctly characterizes, if his doctrine is right, as including within itself a mass of undefined power? So far from it, in one of the letters of Publius, written by Mr. Madison, No. 43, in which he discusses the meaning of that clause, he recommends it to the adoption of the people; and meets any possible objection that might be made in the State conventions thereafter to assemble for the purpose of ratifying the Constitution, by stating that the object of the clause was to preserve the States as they then were. He was apprehensive—for those celebrated letters examined every power contained in the Constitution—that those who were fearful of conferring upon the General Government powers that might be used to the injury of the States, powers that might be used to destroy the reserved rights of the States, might construe this particular clause as authorizing such legislation; and he therefore, in commenting upon the clause, said what I send to the desk and ask to have read.

The Secretary read, as follows, from No. 43 of the Federalist:

"It may possibly be asked, what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the General Government should not be needed the provision for such an event will be a harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues and influence of foreign Powers? To the second question it may be answered that if the General Government should interpose by virtue of this constitutional authority it will be, of course, bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guarantied."

Mr. JOHNSON. Now, Mr. President, it is evident that in the judgment of the men of that day it was not thought that there was included within this particular clause any power to interfere with the government of a State; in other words, it was held that it conferred upon Congress no power to create a government for a State. Its purpose was to protect the States and nothing else. Its object and its effect was to defend the States, and not to confer upon Congress the power to interfere with the government of a State. It supposes, in the language of Madison, that there exists a government in point of fact republican in form, and that the government in point of fact which the States are entitled to have is one of their own creation; and until now, as far as my knowledge extends, it never was pretended that Congress had any power under this clause to make a constitution for any State.

But again, Mr. President, the honorable member reads the clause as if the word "loyal" was in it. Hence the admission, from the necessity under which he labors of reading the clause with that word in, is that without it it would not serve the purpose of his argument. Now, we have examined the clause; it contains no such word. What is loyalty? What meaning does the honorable Senator attach to the term in that connection? Does he mean to say that a republican form of government does not exist because its people, few or many, entertain opinions which, in his judgment, are not loyal to the United States?

Mr. STEWART. Will the Senator allow me to ask one question?

Mr. JOHNSON. I would rather not be interrupted. With all courtesy to the honorable member, I prefer going on, and afterward, when I shall have concluded, I will answer any question he may propound to me.

Now, what is loyalty? What do we understand it to be at this time of day? The war is over; not an arm is raised in any part of our wide domain in resistance to the just authority of the Government; peace, in the sense of that term as contradistinguished from war, prevails throughout the land. Is it disloyalty to entertain abstract opinions upon the meaning of the Constitution, to have believed in the doctrine of secession in the past or to believe in it now? Is it disloyalty to believe that the measures which the Congress of the United States have adopted or propose to adopt are not such as should be adopted, looking to the true interests of the country? Is it disloyalty to believe that so far from their tending to the interests of the country they violate many of the positive limitations to be found in the Constitution, limitations placed upon the power of Congress for the purpose not only of protecting the States against the invasion of State power, but for the purpose of protecting the individual citizen against the violation of the guarantees of personal liberty to be found in the same Constitution? Is that disloyalty? The honorable member will hardly say that it is. It may be, and in his judgment, no doubt, is, an error of opinion; it may be, and in his judgment, no doubt, it is, an error attended with mischief to the country at large; but differences of opinion do not make him who holds one loyal and him who holds the opposite opinion disloyal.

Mr. President, if I may be permitted to illustrate by referring to my own case, if I can do so without any violation of good taste, as I hope I may, am I disloyal because I differ with the majority in this House? Am I disloyal because I have differed, and no doubt shall continue to differ, with some of the doctrines of the Executive of the United States? Am I disloyal because I have occasionally differed, and no doubt shall continue to differ, from some of the opinions pronounced by the Supreme Court of the United States? I hope not. In the exercise of my own honest judgment and having at heart the prosperity and safety of my country, I did, from the commencement of the rebellion and before, denounce it as resting upon a doctrine finding no support in the Constitution of our country, but, on the contrary, at war with many of its express provisions. I had, however, the charity to believe, and I believe now, that the opposite doctrine to my own was maintained with equal sincerity by hundreds and thousands of citizens to be found in every State of the Union. It had for its support, or was supposed to have had for its support, the name of Jefferson, the apostle of liberty, according to our view of his character, the author of the Declaration of Independence. He was the draftsman of the Kentucky resolutions of 1799; and no one can read those resolutions without coming to the conclusion that he himself thought that there might exist, and probably would exist, a state of things in which a State would have a right to abandon the Union.

The immediate cause of the apprehension under which he labored was the passage of the alien and sedition laws. He found no authority for such legislation in any power conferred upon the Congress of the United States. He believed that they trampled upon the guarantied rights of the citizens and of the States, and he, in advance, told the country, by the res-

olutions to which I have referred, which came from his pen, and which he knew would be adopted by Kentucky, and which were adopted by the unanimous voice of the Legislature of that State, that the country would come into a condition which would justify Kentucky or any other State in the Union in abandoning what he considered as a confederacy. On more occasions than one I have, with the little ability I may possess, controverted the doctrine. It is, in my judgment, as antagonistic to the true spirit of the Constitution of the United States as it is fatal to the continuing existence of a Government formed, as ours is, of States as well as of people; but in 1799, if I had been old enough then to form an opinion upon the subject, I never should have dreamed of imputing to Jefferson disloyalty, in the sense in which the honorable member from Indiana evidently uses the term when he reads it in connection with this clause. I never should have thought, and certainly the Congress of the United States at that time never dreamed, that there existed in this clause or in any other clause of the Constitution a power to interfere with the government of Kentucky upon the ground that her citizens were not, according to their judgment, loyal to the Government of the United States.

Look to my own State; look to the State so ably represented by my friend who now sits next to me, [Mr. CONKLING,] New York. Are these States to be brought within the grasp of that large mass of undefined powers which are supposed to lurk within a clause that professes to give no power, but to guaranty an existing government? The honorable member from Indiana says the southern States can be brought within that clause, because, in his opinion, they are not loyal; because, in his view, republican forms of government in those States cannot be secured unless the Congress of the United States shall form State governments and State constitutions for them, or prescribe the conditions upon which they shall come into the Union as States.

The honorable member from Indiana, not, I am sure, meaning to cast any reflection upon me in what he said in regard to my State, stated in substance, in the speech to which I am now replying, and in one made a few days before upon the right of my colleague to take his seat in this body, that the government of that State was now in the hands of persons who sympathized with the late rebellion. It is not for me to comment with any unkindness upon the character of the men in whose hands the destinies of the State are now placed. In my judgment they are in the possession of the government rightfully, as far as the laws and constitution of the State are concerned, and as far as the Constitution of the United States is concerned. That they errred in the past in sympathizing with the South nobody is more satisfied than I am; and they are satisfied, more than satisfied, that if wiser counsels had not prevailed during the rebellion by which the State was retained within the orbit of her duty and she had attempted secession she would have been the battle-ground of the war, and her own great city, in all human probability, would have been laid in ashes; every house, now the abode of happiness and of freedom, might have shared the same fate; her children would have fallen in the idle and, as I believe, unconstitutional attempt to destroy the Government to which she, as every State in the Union, is indebted for all the power and all the prosperity which she possesses.

But many of them, no doubt, thought different. Now, however, the war is over, the rebellion is at an end. No man dreams of reviving it, as I think. For centuries no man but a madman will think of reviving it. It was insane as well as unconstitutional in its origin, in my judgment. It was fatal, as I was sure from the first it would be, to the very institution which its authors thought to preserve by it—fatal to slavery. In my view, great as have been the losses of the war, terrible as has been the loss of life North and South, there is to be found in the fact that slavery no longer exists and is no longer a blot upon the fair fame of this nation, compensation almost entire for all that has occurred. There is another compensation; it has ended, and, as I believe, forever, the doctrine of secession; and that doctrine terminated and slavery forever terminated, I cannot for the soul of me imagine why it is that we are not at once to become more prosperous than before, and possess the security that, happen what will, if we move within the respective orbits to which the State governments and the Government of the United States are limited, we shall continue to exist forever a free and a powerful nation.

Mr. President, there is another error into which the honorable member has fallen in his argument. He reads the clause of guarantee as if there were no other clauses in the Constitution. Now, nobody knows better than my friend from Indiana that it is a familiar principle of construction, of universal application, that when you desire to ascertain the meaning of any particular clause, whether it be in a constitution or in any other written agreement, you are to read it in connection with the other clauses. But the honorable member's reading of it, and his application of it to the measure now before the Senate, in my judgment, disregard many of the other clauses which were designed not only to be restrictions upon the particular clause but upon every other clause bearing on the subject to be found in the Constitution. What are they? In the Constitution as it was originally framed it is provided that "no bill of attainder or *ex post facto* law shall be passed"—a positive, commanding inhibition intended to be in force throughout all time, specially provided, as the terms show, as a restriction upon the legislative department of the Government. Rebellions have existed the world over under every form of government. During their existence and subsequent to their termination bills of attainder and *ex post facto* laws have been passed. The men who framed the Constitution, imbued as they were with the pure spirit of freedom, deemed it their duty, for the security of freedom, not only to denounce but to prohibit such legislation, and they did it by the provision to which I am adverting.

But there is another provision. The scaffolds of the Old World had for ages been soaked with the blood of political offenders under the doctrine of constructive treason. The courts, in those days, when, as it was said by some political writer, the winter of ages upon ages had settled on the cause of human freedom, were so much under the influence of the Government that they held almost every act of resistance to the authority of the Government to be treason. This our fathers knew, and they therefore provided that "treason against the United States shall consist only"—the word "only" is pregnant with the meaning they had in view—"shall consist only of levying war against them, or in adhering to their enemies, giving them aid and comfort." There was another security they wished to afford: it is the security of a grand jury, and the further security of a petit jury. These securities had, by their operation for ages, however inefficient they were in the beginning, made England the freest Government in the world until we emerged from her dominion and became ourselves freer even than she was. Every man is to be indicted and tried by his neighbors; and finally and above all no man either in peace or war is to be subjected to any other mode of trial, unless he belongs to the land or naval forces of the United States or the militia when called into the service of the United States in time of war or public danger. The men of that day feared, as well they might—the history of the world furnished instances enough to cause the apprehension—that there was danger to liberty from military power. They wished, therefore, if possible to guard the citizen against its exercise, and with that view they protected him by providing that unless he was in the Army or in the Navy, when, of course, he would be subject to such laws as Congress might pass for the government of the Army and the Navy, he had a right to stand upon the Constitution and demand his trial by indictment and by a petit jury, and with all the other securities the Constitution affords: the right to confront his witnesses, the right to a speedy trial, the right to have counsel for his defense.

Now, Mr. President, what is the bill upon the table which the honorable member from Indiana supposes to be constitutional by virtue of the guarantee clause and by virtue of that clause alone? To place ten of the States of the Union—whether they are States or not I will inquire in a moment—entirely under the dominion of the military of the United States. It is not necessary for the purpose I have in view now to examine into the right to place the power of the Army of the United States into the hands exclusively of the present General-in-Chief, or whoever may be its chief commander other than the President; but assuming that power to exist, he is for the time being made a military despot. He may not use the power despotically. That is immaterial to the principle. That he will not, I believe. I have confidence in him as a man, and I feel, in common with all the country, a grateful sense of the debt which we owe to him for having led our armies to victory and having, by so doing, crushed the rebellion. But if he were Washington himself I would not intrust to him such power as you propose to intrust to him by one of the sections of the bill upon the the table—the power to arrest, the power to imprison, the power to execute, the power to disregard all the securities of the rights of the people of the South, which it was the object of the Constitution expressly to provide against.

If that clause stood alone, if it was the only constitution of the Government which we have, if such a thing could be supposed, in my judgment it would not authorize any such interpretation; but when it is found in a constitution which contains special and positive guarantees intended to be limitations upon the power of Congress, it is warring with any rule of construction with which I am acquainted to suppose that it can be used so as entirely to disregard all the restrictions upon the power of Congress. May Congress pass laws, now that the war is over, providing for the attainder of the people of the South? May it pass laws making matters criminal which were not criminal before, when they were perpetrated; in other words, *ex post facto* laws? He might as well claim it; and yet, as the Senate know, Congress is restrained from passing acts of that description in very positive terms.

Mr. President, the next question with which I shall trouble the Senate is an inquiry as to whether the southern States are or are not States of the Union? The honorable member from Indiana, however he may be able to involve in inconsistency the President of the United States or those who may have maintained the constitutionality of his policy in relation to this particular question, cannot so involve me. From the first I believed—and I have some reason to think that the Senate at that time, that is to say, when the war first commenced, in 1861, concurred in that opinion—I believed, and I have continued to hold the doctrine ever since, that the States never for a moment ceased to exist as States. The power to which the Government resorted for the purpose of enforcing obedience to its authority was the power conferred upon Congress of calling out the militia and using the Army and Navy of the United States for the purpose of suppressing insurrection. The first proclamation issued by the President in April, 1861, calling for seventy-five thousand men, was issued under that authority. The act passed on the 13th of July, 1861, giving to the President the power to proclaim States or portions of States that he might find in insurrection to be in insurrection, and that all commercial intercourse between them and the other States was to cease, provided that that commercial intercourse should be restored the

moment the insurrection terminated in that State or in that portion of a State which might have been proclaimed by the President to be in a condition of insurrection.

The doctrine that the United States, exercising its power of self-preservation by denying to any State the authority to abandon its allegiance to the United States, could itself work the destruction of that State, seemed to me at the time—not so much now, because it is entertained by gentlemen for whom I have very great confidence—to be almost an absurdity. I was glad, however, to find, on discovering that I differed in opinion from so many gentlemen in whose judgment I had great confidence and whose ability I have always recognized, that I had the support of the present Chief Justice of the United States. The war being over, he opened his circuit in North Carolina, and this case was brought before him: a citizen of North Carolina was indebted, upon a promissory note, to a citizen of one of the States called loyal. When the war ended the creditor sued his North Carolina debtor to recover the amount of the note, and this defendant urged as his defense that North Carolina herself, after her secession, passed a law sequestrating that debt in his hand and compelling him to pay over the amount of the note to the commissioners of sequestration. What said the Chief Justice? That is no defense. The act of sequestration was absolutely void. It was the act, to be sure, of a government in fact; but it was the act of a government that had no legal existence; and when the war terminated that debtor stood in relation to his creditor just as he would have stood if the State had not seceded. He was met in argument at the bar with the principle which I am now contesting, that North Carolina had ceased to be a State of the Union, and that what she did, therefore, was binding upon her people, they being, from the fact of her ceasing to be a State of the Union, not responsible to the General Government. He meets that in a single sentence, which I will read. Speaking of the act of secession and the subsequent acts of North Carolina, he says:

"But these acts did not affect, even for a moment, the separation of North Carolina from the Union, any more than the action of an individual who commits grave offenses against the State by resisting its officers and defying its authority can separate him from the State. Such acts may subject the offender even to outlawry, but can discharge him from no duty nor relieve him from any responsibility."

Mr. President, here is a judge of eminence, the head of the judiciary of the United States, who in the first place opens his court in what is not considered a State of the Union. His powers there are limited to controversies arising between citizens of one State and citizens of other States. Here is North Carolina, said to be in the hands of Congress, to be treated with just as Congress thinks proper, to be free or not to be free, her citizens to be entitled to the guarantees contained in the Constitution or denied them just as Congress may think proper, upon the doctrine that her ordinances of secession placed her outside of the union of States and reduced her to the condition of a Territory. The learned Chief Justice says that, so far from it, they do not even for a moment change her relation as a State of the Union.

Mr. President, I will not trouble the Senate with reading any further passages from this opinion. The learned Chief Justice comments in it upon what had been supposed by some to be the effect of the decision of the Supreme Court in the prize cases, and in speaking of that decision he says, almost in words, that it never was designed by the court to say anything more than this, that during the existence of the rebellion the relations between the people of the States and the Government of the United States were suspended, that with the termination of the rebellion they revived and became as obligatory as they were before the rebellion commenced.

Now, Mr. President, has the war ended? The honorable member from Indiana said in his speech that the war ended in April, 1865; he could not help saying that. The unanimous opinion of the Supreme Court in the Milligan case held that the war had ended, and all the judges held, those in the minority as well as in the majority, that when the war had terminated there was no power whatever in the Congress of the United States to subject a citizen to the obligations of martial law. The only difference between the majority and the minority was this: the majority ruled that it was not in the power of Congress in any State where the laws were actually in practical operation and not obstructed, although there was a war going on in other States, to subject a citizen to trial by military commission; while the Chief Justice and those who concurred with him held a different doctrine. They held that there might be a case of a civil war waging in one State which would make it the duty of Congress to suspend the writ of *habeas corpus* throughout the country and to try men by military commission; but the Chief Justice himself, who spoke for the minority of the court, held that when peace was restored the military power was at an end and the citizen was entitled to all the privileges and rights secured by the Constitution.

To show that I state the views of the court correctly, I will refer to the very words of the opinions as reported in 4 Wallace. Mr. Justice Davis, in giving the opinion of the majority, said:

"By the protection of the law human rights are secured; withdraw that protection, and they are at the mercy of wicked rulers or the clamor of an excited people. If there was law to justify this military trial, it is not our province to interfere; if there was not, it is our duty to declare the nullity of the whole proceedings. The decision of this question does not depend on argument or judicial precedents, numerous and highly illustrative as they are. These precedents inform us of the extent of the struggle to preserve liberty and to relieve those in civil life from military trials. The founders of our Government were familiar with the history of that struggle; and secured in a written Constitution every right which the people had wrested from power during a contest of ages."

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"The securities for personal liberty thus embodied were such as wisdom and experience had demonstrated to be necessary for the protection of those accused of crime. And so strong was the sense of the country of their importance, and so jealous were the people that these rights, highly prized, might be denied them by implication, that when the original Constitution was proposed for adoption it encountered severe opposition, and but for the belief that it would be so amended as to embrace them it would never have been ratified.

"Time has proved the discernment of our ancestors: for even these provisions, expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise, when rulers and people would become restive under restraint and seek by sharp and decisive measures to accomplish ends deemed just and proper; and that the principles of constitutional liberty would be in peril unless established by irrepealable law. The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people equally, in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of Government. Such a doctrine leads directly to anarchy or despotism; but the theory of necessity on which it is based is false, for the Government within the Constitution has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority."

In the opinion of the minority, the Chief Justice, speaking of the war-making power, says:

"This power necessarily extends to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and the conduct of campaign. That power and duty belong to the President as Commander-in-Chief. Both these powers are derived from the Constitution, but neither is defined by that instrument. Their extent must be determined by their nature and by the principles of our institutions.

"The power to make the necessary laws is in Congress; the power to execute in the President. Both powers imply many subordinate and auxiliary powers. Each includes all authorities essential to its due exercise. But neither can the President in war more than in peace intrude upon the proper authority of Congress, nor Congress upon the proper authority of the President. Both are servants of the people, whose will is expressed in the fundamental law. Congress cannot direct the conduct of campaigns, nor can the President or any commander under him, without the sanction of Congress, institute tribunals for the trial and punishment of offenses, either of soldiers or civilians, unless in cases of a controlling necessity, which justifies what it compels, or at least insures acts of indemnity from the justice of the legislature.

"We by no means assert that Congress can establish and apply the laws of war where no war has been declared or exists.

"Where peace exists the laws of peace must prevail. What we do maintain is, that when the nation is involved in war, and some portions of the country are invaded and all are exposed to invasion, it is within the power of Congress to determine in what States or districts such great and imminent and public danger exists as justifies the authorization of military tribunals for the trial of crimes and offenses against the discipline or security of the Army or against the public safety."

The honorable member from Indiana says that there are two parties in this country, and two ideas entertained by two several parties. The Democratic party, he thinks, are of opinion that the war was wrong, and that those engaged in it in the southern States forfeited no rights; and the Republican party think the war was right and that they did forfeit rights. That may be true, but what rights? Was the forfeiture so complete that they cannot invoke the protection of the Constitution of the United States? Can they be tried now by military commissions? Every member of the Supreme Court in the Milligan case denounced that doctrine as fatal to liberty. Whatever may be the relation toward this department of the government of those States, one thing in the judgment of that tribunal is clear: that the war being at an end, no man can be tried for treason or any other offense committed during the pendency of the war, except in the manner prescribed by the Constitution of the United States, and no man can be convicted of treason unless it can be shown that he levied war against the United States or adhered to its enemies, giving aid and comfort. The doctrine of necessity was resorted to in the argument of that case and has often been resorted to, as I believe, in this Chamber and in the other Chamber. There is no such doctrine to be found in the Constitution.

The Supreme Court—and in that particular there is no difference between any members of the bench—was of opinion that the Constitution was made to meet every emergency, made for war as well as for peace; that the doctrine of necessity as a grant of power is hostile to every idea of freedom; in a word, according to the rulings of the Supreme Court, and, as I believe, according to the true reading of the Constitution, in the vocabulary of the Constitution there is no such word as "necessity." The doctrine is altogether new, was never dreamed of before this war, and not dreamed of until after the lapse of a year or two after the war was declared. But now, when the war is over, when no hostile foot treads any part of the soil of the country, when all the States are in our power, when those who wandered away are seeking to return to the councils of the nation as represented in the legislative department, they are told that there is in the Constitution under some clause or other (for if the particular clause relied upon by the honorable member from Indiana does not answer the purpose, there is another clause to be interpolated in the Constitution to give the power, that is, a clause placing the power on the doctrine of necessity) which enables us to treat them now as having no rights whatever to any of the securities to be found in the Constitution; that we now have authority to hold them to all the obligations of the Constitution and to deny them all the guarantees of personal liberty to be found in the same instrument; that it is one Constitution for us and another Constitution for them; that we are in its full enjoyment—they can only have it as we please to extend it to them!

Mr. President, I have said substantially all that I proposed to say, and I have but a few words now to add. I took occasion this morning to state that from the first, when the rebellion ended, I was in favor of a general

pacification, a general amnesty. I firmly believe that if that policy had been adopted the country would at this time be quiet and prosperous; but it is not. Now, it is idle to deny that in the judgment of a large mass of the people of the United States, of a large number of persons who have heretofore acted with the Republican party, this state of things is to be referred either to the measures which Congress have adopted or to what they have failed to adopt. We cannot account for the elections during the fall in any other way; and if, for the sake of ascertaining public opinion, you refer to the most enlightened journals which have generally supported the Republican party you are led to the same conclusion, that there is an opinion prevailing throughout the land, influencing hundreds and thousands who have acted with the Republican party, that they have failed in their duty, that they have done this either by legislation that was mischievous in its result or by the failure to legislate beneficially. Confidence is lost. The business of the country is in a measure suspended. Thousands and hundreds of thousands of honest laboring citizens are out of employment. The manufacturing industry of the country is paralyzed. The taxes are felt to be exceedingly burdensome. Fears are entertained, and doctrines are advanced looking to the same result, that repudiation will be the consequence, and then the faith and the name of the nation will be subjected to dishonor. Bring back the South; give to instead of keeping from it the rights which the Constitution confers upon it; bring into active life its great potential means of wealth; let the country be quieted; remove by such legislation the belief which has fastened itself upon the minds of thousands that the legislation of the day is intended to subserve a party purpose, not to promote the general welfare, and all will be as it once was, prosperous and happy. Then, and not until then, shall we have the blessings for which thousands and hundreds of thousands of voices are raised on every revolving Sabbath in prayer to God—unity, peace, and concord.

Mr. FRELINGHUYSEN. Mr. President, I——

Mr. STEWART. It is pretty late in the evening, and with the consent of the Senator from New Jersey I will move that the further consideration of this subject be postponed until to-morrow, and that we proceed to the consideration of the bill for the relief of Robert M. Patton.

The PRESIDENT *pro tempore*. Does the Senator from New Jersey yield the floor for that motion?

Mr. FRELINGHUYSEN. I yield to allow this bill to be displaced temporarily, but with the understanding that it shall be the order of the day for to-morrow.

The PRESIDENT *pro tempore*. If there be no objection the business now before the Senate will be passed over informally. The Chair hears no objection, and that will be regarded as the sense of the Senate.

ROBERT M. PATTON.

On motion of Mr. STEWART, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 246) to remove political disabilities from Robert M. Patton, of Alabama.

Mr. STEWART. To make the bill more definite, I move to amend it by striking out all after the enacting clause and inserting:

That the disabilities imposed upon Robert M. Patton, of Alabama, by force of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the act of Congress supplementary thereto, passed March 23, 1867, and the act supplementary thereto, passed July 19, 1867, are hereby removed.

The amendment was agreed to.

Mr. DAVIS. I rose this morning to address the Senate briefly upon this bill; and I now propose only to utter a very few words in relation to it.

When this rebellion was inaugurated I was one of the persons who thought it a great crime; and I supposed that it would prove a greater evil to the whole country than a crime. My conviction of these two truths has not lessened, but has greatly augmented, during the progress of the war and up to the present moment. I had, however, no imagination that the evils to result from this great crime would assume anything like the proportions which they have; and I now stand to the fullest and most distinct judgment against secession and against rebellion as one of the greatest political crimes ever perpetrated on the earth. I still am more convinced, also, that it was a greater social and moral evil than a crime.

My soul is unstained by this crime. Whether the person for whose benefit this bill has been introduced stands equally guiltless I do not know. If I stood before the Senate of the United States and asked immunity from the punishment which the laws denounce against the crime of treason or any other crime I should feel a deep consciousness of my own guilt; and I presume this person, Governor Patton, presents himself in that posture before the Senate, that he feels deeply conscious that he has committed against the United States the crime of treason, and to save himself from the punishment consequent upon that crime he wants a law passed for his personal indemnity. If this traitor—if a traitor he be—was smitten with remorse and compunction for his legal and moral guilt, and was to ask this immunity from punishment for the purpose of shrinking into retirement, and by a life of contrition and penance to make reparation for the crime, it would be well to give him the immunity that he asks; but I do not understand that he has any such purpose as that. His object is to be put into a position where he can again fill office. It is not to make moral atonement for the commission of a most atrocious crime; it is simply to separate himself from the legal consequences of this crime, that he may again fill office and place and power.

I take it for granted, Mr. President, that this person, Governor Patton, is a traitor; that in the war of rebellion he committed treason. If it be so he has subjected himself to death by the halter; and if he could get his legal and moral deserts he ought so to be punished, instead of being placed in position to fill another office and to become a traitor again to that office.

None of us can doubt that Governor Patton once adhered to the cause of secession and rebellion. In assuming to espouse that cause, he became a traitor to his country, to the United States. He committed the greatest and the foulest crime that a citizen of the United States could commit against his country. He became a base traitor, unworthy to have confidence placed in him further by arraying himself in arms as a traitor against his country and its Government. This man, then, was once a traitor, as everybody admits him to be. What now is his position? The rebels and secessionists whose cause he united with, and of whom he was one, he has now betrayed and he presents himself to the Senate of the United States in the attitude of a double traitor. Sir, when a man has once betrayed me, it is his fault; if he betrays me a second time, it is mine; but I am not going to give him my confidence to enable him to perpetrate such a moral offense against me the second time. Sir, this Governor Patton, or any man who presents himself here in the position which he is made to assume by this bill, of having been a traitor to his country, of having violated its penal laws and subjected himself to capital punishment by committing the crime of treason, and of now coming forward in a second treachery to the criminals with whom he associated himself in the first instance, is not an object that ought to receive the consideration, the magnanimity, or the forgiveness of the Senate.

But, Mr. President, this is my position in relation to the matter: a man who commits treason cannot be tried by the military courts of the country. If you find him with arms in his hands, resisting the laws or authority of the United States, you may shoot him down, and he ought to be shot down; but when he surrenders and becomes a captive he ceases to be subject to the military law, and the civil law and the civil courts then intervene to take charge of him; and by the civil law and courts he can be tried and convicted of treason, and sentenced to be hung, and ought to be hung; but you cannot punish him any further. My principle, to which I have adhered through all this war, and to which I shall adhere while I have the breath of life, is that no man in this country can be tried and punished except by law and according to law; and if that be treason gentlemen may make the most of it. That is my principle, and it is the principle of liberty. It not only concerns the culprit himself that he should be tried and punished according to law, but it is a matter of concern to every other citizen; because when one man, though steeped all over with crime and guilt, is punished outside of the law and without its authority, it is the precursor of the punishment of other men in the same mode; and against that principle I stand up in life-long opposition.

I hold, then, according to this principle, that you cannot denounce punishments against past crimes and past treasons, and you cannot examine past crimes and past treasons, and inflict any mode of punishment or any amount of punishment upon them that the law did not denounce against them at the time they were committed. If you do that you pass what is called technically an *ex post facto* law. Now, if the majority of the Senate choose, or if anybody chooses, to indict men who went into the rebellion for treason and to have them arraigned before a civil court, and tried for treason, and they be convicted and sentenced as guilty of treason, you can punish them as the law denounces the punishment of treason, and in no other way. All punishment outside of that is arbitrary and oppressive. Suppose that I now, with a deadly weapon, was to slay the honorable Senator from Nevada, and I was immediately arrested, or should surrender myself into the hands of the officer of the law; any friend of the honorable Senator's who chose to retaliate by slaying me would become himself as much a murderer as I was when I struck my honorable friend to the dust. Sir, the only way to avoid the commission of crimes in the execution of the law is to conform to the law in the modes of trial and punishment.

Now, Mr. President, the disabilities from which Mr. Patton asks to be exempt involve, as I understand, the judgment of death which the law would pronounce against a traitor. Sir, I will vote for no such immunity. If this man has committed treason, and he does not wish to suffer the penalty of death for the commission of that crime, let him submit himself to the civil tribunals of his country, let him be tried, and if he is convicted let him go to the President of the United States and have the pardoning power extended to him. I tell the honorable Senator from Nevada that I do not think he is going to make much out of an original traitor to his country and Government who afterward becomes a traitor a second time to his associates in crime. When he trusts such men he will find, whenever the opportunity is presented and there is sufficient inducement, there will be a third treachery, and he himself will be betrayed. I do not believe in making officers of the Government out of any such material. There are enough men in the country whose souls stand unstained by crime; who never had an emotion or a purpose but of patriotism; who have obeyed the laws of the land; who have labored with the best faith for the maintenance and authority of the Constitution and laws of the United States, to place in trust and offices without resorting to once or twice or thrice tried traitors to make officers of. I shall therefore vote against this measure and all such measures.

Mr. STEWART. I am well pleased with a large portion of the speech of the Senator from Kentucky. If he is sincere in it, it is really——

Mr. DAVIS. I must be thankful to the hon-

orable Senator, for I believe he never before approved anything I have done.

Mr. STEWART. But he does not properly understand this particular case. Governor Patton received a pardon from the President and was elected one of the provisional governors. The Senator did not understand exactly the situation of the party about whom he was talking.

Mr. DAVIS. I will ask the honorable Senator this question: does that pardon make him a better man than he was before?

Mr. STEWART. I think not. But, sir, it is a fact which I regard as of some little importance, and which I think the Senate will so regard, that Mr. Patton is sorry that he engaged in the rebellion. If all those men who engaged in the rebellion were sorry, if all those whom the President has pardoned were sorry, and would coöperate now in carrying on the Government, the work of reconstruction would be an accomplished fact. The trouble is that they are not sorry. The reason that we are in favor of liberating Mr. Patton from the disabilities under which he labors is because he has shown symptoms of repentance and a desire to coöperate with the Government in carrying it on in good faith; because he has evinced a desire to become a good citizen of the United States. It is those who continue to be rebels, those who continue to violate the laws, against whom we have to guard. It is idle to say that they are within the reach of criminal punishment. The great mass of those who resist the laws to-day have received the pardon of the President and defy Congress and the country.

Mr. DAVIS. And you want to bestow offices on them now.

Mr. STEWART. I do not want to bestow office on any man who is in opposition to the country. I do not want to bestow office upon those men who declare that they have no regrets for the crimes they have committed. Those men whom the Democratic party say should come in here and take charge of the country and take charge of legislation I am in favor of keeping out. I am in favor of keeping them out of the control of this country until they promise to do right. We cannot get a promise to do right from those haughty rebels.

There is much said about our effort to establish negro governments and negro supremacy in the South. We say that that is not our object; that we are anxious that the whites shall coöperate with us. We are anxious that they shall sustain the Government; and when a gentleman like Governor Patton, who has been pardoned by the President and who was chosen provisional governor of his State, comes forward and says that he is willing to coöperate with the Government and willing to execute the laws, and not only says that, but by his acts proves it, I say it is time to remove his disabilities. I say to all the people of the South, "Come forward; let by-gones be by-gones; coöperate with us in maintaining the laws of the country; cease your rebellion;" but the Opposition say, "No; the South must come in with their rebellion unrepented of; they must come in and take absolute control of their several States; if you do not give them complete control you are establishing a negro Government." You drove us to the necessity of arming the negro with the ballot or to allow these traitors, denounced by the Senator from Kentucky, to have supreme control in the South and there to set up hostile governments.

In this connection let me say that I saw a great fallacy in the argument of the Senator from Maryland when he denied the proposition of the Senator from Indiana, that loyalty was an inherent quality in the Constitution, and that a State organization could not be recognized as republican within the sense of the Constitution unless it was loyal to the Government. I should like to ask him if he thinks Congress has no right to interfere in case a government is set up in one of those States hostile to the United States?

I am willing to extend amnesty and pardon to any man in the South who will come forward and sustain the laws, and by his acts satisfy Congress and satisfy the country that he is willing that justice shall be executed, and that rebellion shall cease. Mr. Patton does regret that he was in the rebellion, and I honor him for that regret. I honor him because he is now willing to sustain the laws, and I am in favor of removing this disability from him, as I am in favor of removing it from any citizen in the South who will come forward in like manner, except those who conspired to carry their States out, or committed such cruelties in the conduct of the war as to outrage humanity. I mean I am willing to extend amnesty to the masses of the South. To all of them who will come forward and now agree in good faith, and show by their acts that they are willing to be good citizens, we extend the cordial hand of fellowship. That is the disposition of the nation; that is what we expect to do; but we will not under any circumstances surrender the power of this Government to men who are not sorry for their treason, but still defy the authority of the nation. Those we oppose, and we shall do so as long as our constituents allow us to occupy these seats. That is the position upon which we place this bill, and upon which we ask its passage.

Mr. BUCKALEW. I stated before the general objection which I had against legislation of this sort, without going into the particular case presented by the Senator from Nevada. The purpose of my remarks was to call the attention not only of the Senate, but of persons outside of the Senate who observe our proceedings, to the course of the proposed legislation, to elicit public thought upon what I supposed to be hereafter perhaps a settled policy in Congress with reference to the removal of disabilities from persons in the South.

Now, sir, the Senator from Nevada has brought out the particular point involved in the bill, and which recommends it to his support, and, as he thinks, ought to recommend it to the support of the majority of the Senate. It is that this man and other men who are willing "to do right" shall be reinstated in all their political privileges and be authorized to take office under the Government of the United States and under the governments of their respective States, notwithstanding the provisions which are contained in existing laws.

Mr. FESSENDEN. Will my friend allow me to ask him what political privileges are restored to Mr. Patton under this bill except simply the privilege of voting on the question of a constitution and electing a Legislature under it, according to the reconstruction acts? Nothing else, I apprehend.

Mr. BUCKALEW. Certainly the right of holding office and voting, both.

Mr. FESSENDEN. What offices?

Mr. BUCKALEW. In the State.

Mr. FESSENDEN. No, sir; only to be a member of the convention. If the Senator will look at the bill he will see that it goes no further than that. That is the only office that he could hold, and the convention has already been held.

Mr. BUCKALEW. And to hold office under the provisional government, also under the existing State government; so that he could hold any office whatsoever in the State at the present time.

Mr. FESSENDEN. He could only be a member of the convention which has already been held, or a member of the provisional government.

Mr. BUCKALEW. All the existing public offices which a man can hold in the State in which he resides he can hold if this bill passes.

Mr. FESSENDEN. It does not give him any right to hold office under any new constitution.

Mr. BUCKALEW. That will depend on the provision of the constitution itself.

Now, sir, what does the Senator from Nevada mean by being "right?" Let us get rid of words—this general declamation about loyalty and disloyalty. What does he mean by being "right?" He means that where, under the reconstruction laws, a political question is submitted to a vote of the electors of the State of Alabama, the man who votes according to the political wishes of the Senator shall be reinstated, and the man who, in the exercise of his judgment, votes against the Senator's wishes and opinions shall not be restored. In other words, the standard of restoration proposed by this bill and which will be proposed by all bills which are to follow it, and which are similar to it in character, will be, not a standard of abstract loyalty or of devotion to the Government of the United States and to the institutions of the country, but conformity to the political opinions of the Senator from Nevada and of those who think with him.

There can be nothing else drawn out of this debate when you rid it of the declamation, the vague and general language with which the subject is sought to be encompassed. What then, sir? You have precisely the system which I indicated and objected to in my remarks this morning—a system of favoritism, to be exercised by a section of the legislative department of the Government in favor of those who will act politically with them, and to promote those political objects to which they are devoted, while a rule of iron exclusion is to be exercised as to all others. Will not this be a scandal? Is it not such in its mere statement? Will it stand in the forum of any honest and intelligent debate? Is it not based upon the selfish interest of a class of electors in the North and in the central States, as well as in the South? Does it not look to an object alien to any public policy such as will endure examination here or elsewhere?

I suppose that objections against a bill born of such motives and pressed upon such arguments will be unavailing in this body. But one object at least will be accomplished by calling attention to the character of this measure; it will be considered elsewhere, and will be one of those things which, when taken into consideration, will help to form the opinion of the people of this country upon the passing events of the time.

Mr. STEWART. The development in this argument shows very plainly that the greatest crime that Mr. Patton has committed was not that of engaging in rebellion, but his crime, as indicated by the Senator from Kentucky, and the opposition to amnesty on the part of the Democrats, consists in his willingness to obey these laws.

Mr. BUCKALEW. The Senator will permit me to make one remark. I stand ready and am content to pledge myself to vote forthwith, to-day, or to-morrow, or any other day of the present year, for a bill which will include all persons who have shown devotion to the Government of the United States—all persons in the same category with this man.

Mr. STEWART. I do not doubt that.

Mr. DAVIS. Did I understand the honorable Senator from Nevada to say that my objection to this man was not that he had committed the crime of treason?

Mr. STEWART. No. I said that the argument adduced by the Senator in so many words was that Governor Patton had already committed a double treason; that he had betrayed the traitors with whom he was associated, and would commit a third treason if permitted to do so.

Mr. DAVIS. I repeat all that.

Mr. STEWART. And I say that it is evident from the course of this debate that it is that double treason that gentlemen complain of. The fact that Governor Patton has separated himself from the rebels and is coöperating against them and in favor of loyal men is what makes this bill meet with such opposition. Senators say they are willing to extend amnesty generally; that is, if their friends—those who are opposed to the reconstruction of these States; those who oppose the granting of equal rights; those who are not sorry for having been engaged in the rebellion, but still defy the Government—can have amnesty; if they can be served the same as those who are sorry for their crimes, then they have no objection. But

let us try those who are sorry first, before we extend this amnesty to those who still defy the Government.

Mr. HENDRICKS. As I shall not vote for this bill I desire to say simply that I think the restoration ought to be upon some general proposition, not a selection of any one man for reasons that may be agreeable to some persons and not agreeable generally. I did not believe in the proposed constitutional amendment; nor did I believe in the proposition contained in what is called the reconstruction policy, which excludes from participation in public affairs in the South a very large class because they have held office under the Government of the United States; but I am not in favor of selecting out some one man from a class and restoring him to political rights, although he may be equally or more guilty than others originally, and the only merit which he can present to the Senate at this time being that he is in accord with the majority politically. I cannot vote upon such a proposition as that. I could not vote to restore a man in the South, and for that reason alone, because he was with the Democrats. I would vote for restoring classes, because I think it is for the good of the country.

This case stands, I suppose, thus: Governor Patton had held office under the Government of the United States before the rebellion, had taken an oath to support the Constitution of the United States, and the argument has been that by going into the rebellion he was guilty of the violation of that oath. It has been upon that ground that men have been excluded. The legislation is based upon the proposition that a man is not to be trusted in the exercise of political power in this country who before the rebellion took a solemn oath that he would support the Constitution of the United States and violated that oath by making war against the Government. Now, what exception is made in this man's favor? Simply that he is in favor of executing laws that for my part I do not believe to be for the good of the country; laws that I believe to be anti-republican in their character and subversive of the Constitution of the country.

Suppose a citizen of a southern State shall vote against ratifying one of these constitutions, is that to be regarded as a resistance of the laws of Congress? Have you not provided that it shall be submitted to his judgment; and if his judgment is against it ought he not to vote against it? If his judgment was against calling these peculiar conventions in the South, ought he not to have voted against it; and did you not submit it to his judgment in that regard by the passage of the law? But if a man has favored a convention and now favors these constitutions that are being formed, providing for reconstruction according to a certain political policy, he is to be restored by name. Is that right? Then the question whether a man is to be restored or not will be made to turn upon his politics, upon that which he believes to be right in regard to public affairs. The moral turpitude is not involved, because that is all past. The record is closed in that regard against Governor Patton and against all the rest down there. None of them propose doing any further acts against the authority of the Government, but stand simply under the charges made by the legislation of Congress of having taken an oath to support the Constitution of the United States and disregarded that oath by going into the rebellion. That is the whole case. Now you propose to remove those disabilities, for what reason?

I was told the other evening of the case, I think, of the person who is now Governor of Florida, who was selected to be Governor of that State because of the position that he occupied prior to the war. He resisted the rebellion and the demand for secession to the very last. He stood out among the very last men of Florida to yield to popular opinion and popular demand. He cannot vote, while the man who presided over the convention that passed the secession ordinance of Florida can vote. The one is regarded as virtuous politically. Why? Because he had never taken an oath to support the Constitution in any office. Although he presided over the convention that took the State out and did the most efficient act possible to carry the State out and to bring on war, he can vote; while the other man, because he had held an office under the Government and had taken the oath, although he resisted secession to the very last, as long as it was possible to use any influence upon the question, cannot vote because he finally yielded to the demands of his State.

But I did not intend to go into the discussion at any length, and simply to state my proposition clearly. I did not believe in the legislation that prescribes a man for this reason. I think that an official oath, an oath of office, has its force while the man holds the office, and that perjury cannot be assigned upon that oath for an act done after the man has gone out of office. It is an oath of office, binding upon him while he holds the office; and after he goes out of the office, in regard to his allegiance to the country, he is in precisely the same condition as any other citizen; and therefore I thought this legislation was not fair and right.

I am in favor of restoring Governor Patton to his political rights, but not by singling him out for a reason that I do not think ought to govern us. I do not admit the doctrine of the Senator from Nevada, that the men who go with him politically are the men who repent. I think there is a very large class in the southern States who go with him politically, who were the fiercest men in the war, because they think now they may clutch office. Instead of that circumstance going to their credit it goes to their discredit.

I am in favor of relieving that man who now is willing to hold up the authority of the Government, to maintain its dignity and its power, and to obey the laws, whether he goes with you politically or with me politically. The honest citizen who stands by his duty to his country, whatever may be his political views, his conscientious judgment upon the important questions of the time, I am in favor of restoring; and I am not going to inquire in the Senate, when I am asked to restore a man to political position and influence, whether he goes with me politically or against me. I am going to ask simply, is he now true to his country; in the sentiment of Mr. Lincoln's proclamation of 1863, will he now swear to support the Constitution of the United States and be a true man to his country?

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. STEWART. I call for the yeas and and nays on the passage of the bill.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. THAYER (when his name was called) said: I had hoped I might once in my life vote with my Democratic and Conservative friends; but it seems I cannot. I vote "yea."

The result was announced—yeas 26, nays 5; as follows:

YEAS—Messrs. Cattell, Cole, Conkling, Conness, Corbett, Cragin, Doolittle, Frelinghuysen, Harlan, Howe, Johnson, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Ross, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Willey, Williams, and Wilson—26.

NAYS—Messrs. Buckalew, Davis, Drake, Fowler, and Hendricks—5.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Dixon, Edmunds, Ferry, Fessenden, Grimes, Guthrie, Henderson, Howard, Morgan, Morton, Norton, Pomeroy, Saulsbury, Sherman, Sprague, Sumner, Wade, and Yates—22.

So the bill was passed.

The bill (H. R. No. 234) to prevent the payment of certain claims was read twice by its title, and referred to the Committee on Claims.

Mr. RAMSEY. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 27, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER proceeded, as the first business in order, to call the States and Territories for bills and joint resolutions for reference to the appropriate committees, not to be brought back into the House by motions to reconsider, commencing with the State of Maine.

TAXATION OF NATIONAL BONDS.

Mr. BENTON introduced a bill (H. R. No. 527) to make partial compensation for expenses incurred in the prosecution of the war by providing for the taxation of national bonds; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

MARGARET LEWIS.

Mr. HOTCHKISS introduced a bill (H. R. No. 528) granting a pension to Margaret Lewis; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SARAH E. PICKELL.

Mr. KELSEY introduced a bill (H. R. No. 529) granting a pension to Sarah E. Pickell, widow of the late Colonel John Pickell; which was read a first and second time, and referred to the Committee on Invalid Pensions, together with the papers in the case filed during the Thirty-Ninth Congress.

WHITEHALL AND PLATTSBURG RAILROAD.

Mr. FERRISS introduced a bill (H. R. No. 530) granting a right of way to the Whitehall and Plattsburg Railway Company; which was read a first and second time, and referred to the Committee on Military Affairs.

THOMAS J. CANTWELL.

Mr. HUMPHREY introduced a bill (H. R. No. 531) for the relief of Thomas J. Cantwell; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JACOB FOX.

Mr. HUMPHREY also introduced a bill (H. R. No. 532) for the relief of Jacob Fox; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CHARLES O. CONNOR.

Mr. HUMPHREY also introduced a bill (H. R. No. 533) for the relief of Charles O. Connor; which was read a first and second time, and referred to the Committee on Invalid Pensions.

OBSTRUCTIONS IN HELL GATE.

Mr. TABER presented the resolutions of the State Legislature of New York for the removal of obstructions from Hell Gate; which were referred to the Committee on Commerce, and ordered to be printed.

MIDLAND PACIFIC RAILWAY.

Mr. VAN WYCK introduced a bill (H. R. No. 534) making a grant of land to the Midland Pacific Railway Company, to aid in the construction of a certain railroad in Nebraska; which was read a first and second time, and referred to the Committee on Public Lands.

ASSESSORS AND COLLECTORS.

Mr. MILLER introduced a bill (H. R. No. 535) to prohibit assessors and collectors of United States revenue and their deputies from being interested directly or indirectly in any forfeiture for a violation of the revenue laws; which was read a first and second time, and referred to the Committee of Ways and Means.

POST ROUTE IN PENNSYLVANIA.

Mr. VAN AUKEN introduced a bill (H. R. No. 536) for the establishment of a post route from Damascus via West Damascus and

New Albany to Philadelphia; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

APPOINTMENT OF GOVERNMENT AGENTS.

Mr. MYERS introduced a bill (H. R. No. 537) to regulate the appointment of Government agents; which was read a first and second time, and referred to the Committee on Retrenchment.

COLLECTION DISTRICT OF PHILADELPHIA.

Mr. O'NEILL introduced a bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia; which was read a first and second time, and referred to the Committee on Commerce.

J. W. WATERSON.

Mr. BUCKLAND introduced a bill (H. R. No. 539) for the relief of J. W. Waterson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HEIRS OF MAJOR A. L. BREWER.

Mr. ECKLEY introduced a joint resolution (H. R. No. 174) for the relief of the heirs of Major A. L. Brewer; which was read a first and second time, and referred to the Committee on Military Affairs.

TERRITORY OF WYOMING.

Mr. ASHLEY, of Ohio, introduced a bill (H. R. No. 540) to provide a temporary government for the Territory of Wyoming; which was read a first and second time, and referred to the Committee on the Territories.

CHARLES J. DAVIS.

Mr. LAWRENCE, of Ohio, introduced a joint resolution (H. R. No. 175) to refer the claim of Charles J. Davis, administrator of the estate of John Davis, to the Court of Claims; which was read a first and second time, and referred to the Committee of Claims.

COLUMBIA DEAF AND DUMB INSTITUTION.

Mr. SPALDING introduced a bill (H. R. No. 541) making an appropriation for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution: which was read a first and second time, and referred to the Committee on Appropriations.

NATIONAL CURRENCY AND NATIONAL DEBT.

Mr. CARY introduced a bill (H. R. No. 542) to establish a uniform currency, provide for the management and liquidation of the national debt, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

LAGRANGE COLLEGE, TENNESSEE.

Mr. NUNN introduced a bill (H. R. No. 543) for the relief of the trustees of Lagrange College, Tennessee; which was read a first and second time, and referred to the Committee of Claims.

ORR, LANHAM, AND SMITH.

Mr. HUNTER introduced a bill (H. R. No. 544) for the relief of Arthur Orr, Bryant N. Lanham, and Samuel J. Smith; which was read a first and second time and, with the accompanying papers, referred to the Committee of Claims.

GALLUS KIRCHNER.

Mr. HUNTER introduced a joint resolution (H. R. No. 176) for the relief of Gallus Kirchner, of Indiana; which was read a first and second time and, with the accompanying papers, referred to the Committee of Claims.

GAFF AND STOCKMAN.

Mr. HOLMAN introduced a bill (H. R. No. 545) for the relief of Thomas W. Gaff, Thomas Gaff, and M. D. Stockman; which was read a first and second time, and, with the accompanying papers, referred to the Committee of Claims.

MRS. MINNE HESS.

Mr. BURR introduced a bill (H. R. No. 546) for the relief of Mrs. Minne Hess, of Scott county, Illinois; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NATIONAL CURRENCY.

Mr. COOK introduced a bill (H. R. No. 547) to amend an act entitled "An act to provide a national currency secured by the pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

NEW BUFFALO HARBOR, MICHIGAN.

Mr. UPSON introduced a bill (H. R. No. 548) making an appropriation for the improvement of the harbor at New Buffalo, in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

POST ROUTES IN MICHIGAN.

Mr. UPSON also introduced a bill (H. R. No. 549) to establish certain post routes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

FORT GRATIOT, MICHIGAN.

Mr. TROWBRIDGE introduced a bill (H. R. No. 550) providing for the sale of a portion of the Fort Gratiot military reservation, in St. Clair county, in the State of Michigan; which was read a first and second time, referred, with the accompanying papers, to the Committee on Military Affairs, and ordered to be printed.

AGRICULTURAL COLLEGE LIBRARIES.

Mr. TROWBRIDGE also introduced a joint resolution (H. R. No. 177) for the supply of current public documents to the libraries of agricultural colleges; which was read a first and second time, and referred to the Committee on Agriculture.

ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 171) for the relief of destitute persons in the South; when the Speaker signed the same.

LEWIS D. SMITH.

Mr. FERRY introduced a bill (H. R. No. 551) for the relief of Lewis D. Smith; which was read a first and second time, referred, with accompanying papers, to the Committee on the Post Office and Post Roads, and ordered to be printed.

APPEALS, ETC., BY THE UNITED STATES.

Mr. WILSON, of Iowa, introduced a bill (H. R. No. 552) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security;" which was read a first and second time, and referred, with accompanying papers, to the Committee on the Judiciary.

A. W. BALLARD.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 553) for the relief of A. W. Ballard; which was read a first and second time, and referred to the Committee on Military Affairs.

LAND GRANT TO MINNESOTA.

Mr. DONNELLY introduced a bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PAYMENT OF OREGON VOLUNTEERS.

Mr. MALLORY introduced a bill (H. R. No. 555) to provide for the payment of two companies of Oregon volunteers and their expenses; which was read a first and second time, and referred to the Committee of Claims.

UNION PACIFIC RAILROAD, CENTRAL BRANCH.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 556) relating to the central branch Union Pacific Railroad Company; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

ROBERT B. KINGSBURY.

Mr. HUBBARD, of West Virginia, introduced a bill (H. R. No. 557) for the relief of Robert B. Kingsbury; which was read a first and second time, and referred, with accompanying papers, to the Committee on the Judiciary.

RESOLUTIONS OF NEVADA LEGISLATURE.

Mr. ASHLEY, of Nevada, presented resolutions of the Legislature of the State of Nevada concerning an export charge levied on lumber and wood by Alpine county, California; which was referred to the Committee on Public Lands, and ordered to be printed.

AMENDMENT OF PREËMPTPON LAWS.

Mr. TAFFE introduced a bill (H. R. No. 558) amendatory of the preëmption laws, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

SWAMP LANDS IN NEBRASKA.

Mr. TAFFE also introduced a bill (H. R. No. 559) to extend the provisions of an act entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits" to the State of Nebraska; which was read a first and second time, and referred to the Committee on Public Lands.

OLIVER P. MASON.

Mr. TAFFE also introduced a bill (H. R. No. 560) for the relief of Oliver P. Mason; which was read a first and second time, and referred to the Committee on Military Affairs.

DAMAGES FROM INDIAN DEPREDATIONS.

Mr. CHILCOTT introduced a bill (H. R. No. 561) for the relief of persons for damages sustained by reason of depredations and injuries committed by certain bands of Arrapaho, Sioux, and other hostile Indian tribes; which was read a first and second time, and referred to the Committee on Indian Affairs.

TREATY WITH BLACKFEET INDIANS.

Mr. CAVANAUGH presented a joint memorial of the Legislative Assembly of the Territory of Montana relative to a proposed treaty with the Blackfeet Indians; which was referred to the Committee on Indian Affairs, and ordered to be printed.

OBSTRUCTIONS IN MISSOURI RIVER.

Mr. CAVANAUGH also presented a joint memorial of the Legislative Assembly of the Territory of Montana, asking for an appropriation to remove obstructions in the Missouri river above the American falls; which was referred to the Committee on Commerce, and ordered to be printed.

ENABLING ACT FOR MONTANA.

Mr. CAVANAUGH also presented a joint memorial of the Legislative Assembly of the Territory of Montana, asking for an enabling act; which was referred to the Committee on Territories, and ordered to be printed.

BRANCH MINT.

Mr. CAVANAUGH also presented a joint memorial of the Legislative Assembly of the Territory of Montana, asking for the establishment of a branch mint; which was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

IMPROVEMENT OF MISSOURI RIVER.

Mr. CAVANAUGH also presented a joint memorial of the Legislative Assembly of Montana Territory, asking for an appropriation to remove obstructions in the Missouri river, between the mouth of Milk river and Fort Benton; which was referred to the Committee on Commerce, and ordered to be printed.

WILLIAM A. CAHILL.

Mr. WARD introduced a bill (H. R. No. 562) for the relief of William A. Cahill, late first lieutenant of the eighty-ninth New York volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NEW MISSOURI POST ROUTE.

Mr. NEWCOMB introduced a bill (H. R. No. 563) providing for establishing a post road from Rolla, in the State of Missouri, to Batesville, in the State of Arkansas; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

HELL GATE, NEW YORK.

Mr. CHANLER. I ask leave to present the following:

STATE OF NEW YORK,
IN SENATE, *January* 22, 1868.

Mr. Norton offered the following:

Whereas the steamer Artisan and propeller Glaucus, while entering the harbor of New York a few days since, stranded in Hell Gate, thereby imperiling the lives of a large number of passengers and jeopardizing much valuable property; and whereas it is estimated that one coasting sailing vessel out of every fifty which passes through that channel sustains more or less damage by reason of the existing obstructions there; and whereas it is the duty of the national Government to improve navigation where practicable for the encouragement of commerce: Therefore,

Be it resolved, That Senators MORGAN and CONKLING and the Representatives in Congress from this State, be requested to urge upon Congress the immediate propriety of making an appropriation for the purpose of removing the obstructions at Hell Gate, and the improvement of the eastern entrance to the harbor of New York.

The question being put on the resolutions, they were unanimously adopted.

By order of the Senate:

JAMES TERWILLIGER,
Clerk.

The SPEAKER. That has already been presented and referred.

UNITED STATES BONDS.

Mr. RANDALL introduced a bill (H. R. No. 564) making all purchases, sales, or conversions of United States loans and bonds open to public competition; which was read a first and second time, and referred to the Committee of Ways and Means.

STEAM-FRIGATE JAVA.

Mr. BARNES introduced a joint resolution (H. R. No. 177) to finish the steam-frigate Java; which was read a first and second time, and referred to the Committee on Naval Affairs.

TWENTY PER CENT. ADDITIONAL COMPENSATION.

Mr. SPALDING introduced a joint resolution (H. R. No. 178) giving twenty per cent. additional compensation to the clerks and other employés of the Executive Departments at Washington city receiving salaries not under one thousand nor over two thousand dollars per year in the aggregate; which was read a first and second time, and referred to the Committee on Appropriations.

GEORGE LATIMER.

Mr. WOODBRIDGE introduced a bill (H. R. No. 565) for the relief of George Latimer, formerly United States consul at St. John, Porto Rico; which was read a first and second time, and referred to the Committee on Foreign Affairs.

GRÛETTI VEREIN.

Mr. KELLEY introduced a bill (H. R. No. 566) to incorporate the Grûetti Society of Washington, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

SWISS BENEVOLENT SOCIETY.

Mr. KELLEY also introduced a bill (H. R. No. 567) to incorporate the Swiss Benevolent Society of Washington, District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

TITLE TO LAND WARRANTS.

Mr. SMITH introduced a bill (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases;" which was read a first and second time, and referred to the Committee on the Judiciary.

INDIANOLA WAREHOUSE, ETC.

Mr. ELIOT introduced a bill (H. R. No. 569) allowing merchandise to be withdrawn from warehouse at Indianola and to be transported in bond to San Antonio, Texas, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

PACIFIC RAILROAD.

Mr. MOORHEAD introduced a joint resolution (H. R. No. 179) to declare the meaning of the acts relating to the Pacific railroad; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

BOUNTY.

Mr. PERHAM introduced a bill (H. R. No. 570) providing for bounties to the widows and children of certain soldiers who were killed or died in the service, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

OFFENSES AGAINST THE REVENUE LAWS.

Mr. COBURN introduced a bill (H. R. No. 571) to prevent compromises of offenses against the revenue laws and making such compromises felonies; which was read a first and second time, and referred to the Committee of Ways and Means.

PRESIDENTIAL OFFICE.

Mr. COBURN also introduced a bill (H. R. No. 572) to provide for the office of President of the United States in case of the expiration, before the next presidential election, of the term of service of the United States Senator acting as President; which was read a first and second time, and referred to the Committee on the Judiciary.

DISTRICT COURT IN LOUISIANA.

Mr. WILSON, of Iowa, introduced a bill (H. R. No. 573) for the better organization of the district court of the United States within the State of Louisiana; which was read a first and second time, and referred to the Committee on the Judiciary.

COMPENSATION OF COLLECTORS OF CUSTOMS.

Mr. HOOPER, of Massachusetts, introduced a bill (H. R. No. 574) to amend the act of July 28, 1866, to fix the compensation of certain collectors of customs, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

NEW YORK AND WASHINGTON MIDNIGHT MAIL.

Mr. O'NEILL introduced a joint resolution (H. R. No. 181) to secure the carrying of a daily midnight mail from New York to Philadelphia, Baltimore, Washington, and intermediate places, and to provide for the expense of such mail service; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

OFFICES AT THE NAVY-YARDS.

Mr. ELA introduced a bill (H. R. No. 575) to establish certain offices at the navy-yards of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

BRANCH MINT AT SANTA FÉ.

Mr. CLEVER introduced a bill (H. R. No. 576) to establish a branch mint at Santa Fé, in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Coinage, Weights, and Measures.

MARINE HOSPITAL AT CAIRO.

Mr. LOGAN introduced a joint resolution (H. R. No. 182) requiring the Secretary of the Treasury to appoint a commission to establish a marine hospital at Cairo, Illinois; which was read a first and second time, and referred to the Committee on Commerce.

WASHINGTON COÖPERATIVE ASSOCIATION.

Mr. HALSEY introduced a bill (H. R. No. 577) to incorporate the Washington Coöperative Association in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

HANNIBAL AND PEORIA PORTS OF DELIVERY.

Mr. INGERSOLL introduced a bill (H. R. No. 578) to revive section two of the act of April 5, 1866, entitled "An act to constitute Hannibal, Missouri, and Peoria, Illinois, ports of delivery;" which was read a first and second time, and referred to the Committee on Commerce.

NATIONAL SAFE DEPOSIT COMPANY.

Mr. INGERSOLL also introduced a bill (H. R. No. 579) supplemental to an act to incorporate the National Safe Deposit Company of Washington, in the District of Columbia, approved July 22, 1867; which was read a first and second time, and referred to the Committee for the District of Columbia.

NOTARIES PUBLIC IN THE DISTRICT.

Mr. INGERSOLL also introduced a bill (H. R. No. 580) in relation to the appointment of notaries public in the District of Columbia in certain cases; which was read a first and second time, and referred to the Committee for the District of Columbia.

FAMISHING PEOPLE OF SWEDEN AND NORWAY.

Mr. HARDING introduced a joint resolution (H. R. No. 183) for the relief of the famishing people of Sweden and Norway; which was read a first and second time, and referred to the Committee on Naval Affairs.

It instructs the Secretary of the Navy to dispatch to a feasible port on the coast of Norway or Sweden one or more national ships necessary to transport any supplies for the famishing people of Sweden and Norway which may be donated for their relief, in quantities sufficient to load a vessel.

WINONA AND ST. PETERS RAILROAD.

Mr. WINDOM introduced a bill (H. R. No. 581) for the relief of the Winona and St. Peters Railroad Company; which was read a first and second time, and referred to the Committee on Commerce.

FLORA MEIGGS.

Mr. HUMPHREYS introduced a bill (H. R. No. 582) to grant a pension to Flora Meiggs; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GUSTAVUS B. HORNER.

Mr. RANDALL introduced a bill (H. R. No. 583) for the relief of the legal representatives of Gustavus B. Horner, deceased; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

The SPEAKER, having concluded the call of the States and Territories for bills and joint resolutions, proceeded as the next business in order to call the States and Territories for resolutions, resuming the call where it was suspended on Monday last, with the State of Oregon.

NATIONAL FINANCES.

Mr. MALLORY submitted the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of authorizing the Secretary of the Treasury:

First. To employ any and all the legal-tender notes which may come to his possession in excess of the amount necessary to pay the current expenses of the Government, in purchasing at their market value such of the interest-bearing securities of the United States as he may be able to obtain with such notes and to cancel and destroy the same;

Second. To employ all the gold in the Treasury in excess of $30,000,000 in purchasing at market value, such of the interest-bearing securities of the United States as he may be able to obtain, and to cancel and destroy the same:

Third. To authorize a loan equal to the whole amount of the present interest-bearing debt of the United States, and to issue bonds running fifty years, bearing four per cent. interest per annum, payable semi-annually, principal and interest payable in gold, the loan to be offered only as the gold may be required

to pay the current expenses of the Government or to purchase the present interest-bearing bonds to be retired;

Fourth. To require the national banks to replace the bonds now on deposit by them in the United States Treasury by bonds of the United States, payable in gold and bearing a rate of interest not to exceed four per cent. per annum, payable semi-annually in gold, or surrender their charters;

And report by bill or otherwise.

Mr. FARNSWORTH. Is that resolution a resolution of instruction?

The SPEAKER. It is not mandatory. It instructs the committee to inquire into the expediency.

The resolution was agreed to.

ELECTIVE FRANCHISE IN MONTANA.

Mr. CLARKE, of Kansas, submitted the following preamble and resolution, upon which he demanded the previous question:

Whereas by act of Congress passed January 24, 1867, it was provided that "there shall be no denial of the elective franchise in any of the Territories of the United States now or hereafter to be organized, to any citizen thereof on account of race, color, or previous condition of servitude, and all acts or parts of acts either of Congress or the Legislative Assemblies of said Territories, inconsistent with the provisions of this act, are hereby declared null and void;" and whereas it is reported that the Territorial Legislature of Montana have passed a bill which was approved by the Governor of said Territory on the 22d day of November, 1867, containing the following provisions: "All white male citizens of the United States, and those who have declared their intention to become citizens above the age of twenty-one years, shall be entitled to vote at any election for Delegate to Congress and for territorial, county, and precinct officers, provided they shall have resided in the Territory twenty days and in the county ten days where they offer to vote next preceding the day of election:" Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire whether the Territorial Legislature of Montana has passed any act in conflict with the aforesaid law of Congress, and whether the Governor of said Territory has approved any such act, and report the facts to this House, together with such measures as may be necessary to secure obedience on the part of the Legislature and Governor of Montana to the laws of the Congress of the United States.

Mr. WASHBURNE, of Illinois. I hope the gentleman will amend his resolution so as to provide that if the Judiciary Committee find the facts to be as stated they shall report a bill to repeal the act creating the Territory of Montana.

Mr. CAVANAUGH. Will the gentleman yield to me for a moment? As the Delegate from the Territory of Montana I insist on the right to be heard.

Mr. CLARKE, of Kansas. I insist on the previous question.

Mr. ASHLEY, of Ohio. I wish to make a suggestion to the gentleman and to the House. I think that this and all other propositions relating to the organic acts of the Territories ought to go to the Committee on the Territories.

Mr. CAVANAUGH. I ask the gentleman from Kansas to yield to me for a moment.

Mr. BLAINE. Is debate in order?

The SPEAKER. It is not; and if the gentleman from Kansas withdraws the previous question and debate arises the resolution will go over.

Mr. CLARKE, of Kansas. I do not withdraw it.

Mr. BURR. I call for tellers on seconding the previous question.

Mr. CAVANAUGH. I desire to ask a question of the Chair for information. Is it in order for me now to move to lay the resolution on the table?

The SPEAKER. It will be in order as soon as the result of the vote is announced on seconding the previous question.

Mr. WILSON, of Iowa. I desire to ask a parliamentary question of the Chair, whether it is not in order for the gentleman from Kansas to modify his resolution so as to direct the Committee on the Territories to make this inquiry instead of the Committee on the Judiciary?

The SPEAKER. It would be in order for the gentleman from Kansas to modify the resolution before the previous question is seconded, if he saw fit to do so.

Mr. WILSON, of Iowa. Well, I hope he will do it.

Mr. CLARKE, of Kansas. I will modify the resolution so as to make it an instruction to the Committee on the Territories.

Mr. BURR. I withdraw the call for tellers to enable the gentleman from Montana [Mr. CAVANAUGH] to make his motion to lay the resolution on the table.

The previous question was then seconded.

Mr. CAVANAUGH. I move that the preamble and resolution be laid on the table.

Mr. BURR. On that motion I call for the yeas and nays.

Mr. WASHBURN, of Indiana. Can a Delegate make such a motion?

The SPEAKER. The Chair thinks the usage has been uniform that Delegates may make motions.

Mr. WASHBURNE, of Illinois. It has not been uniform. I know it has been decided directly the other way in some cases.

The SPEAKER. The Chair would thank the gentleman from Illinois [Mr. WASHBURNE] if he will cite any case where a different ruling has been made.

Mr. WASHBURNE, of Illinois. I recollect distinctly that the decision was different in one case.

The SPEAKER. The Chair recollects a decision that a Delegate could not make a motion to reconsider, because the rule requires that the member making such motion shall have voted with the prevailing side; and a Delegate cannot vote.

The question was upon laying the preamble and resolution on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 122, not voting 29; as follows:

YEAS—Messrs. Archer, Axtell, Barnes, Barnum, Beck, Boyer, Burr, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—37.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Cary, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dawes, Dixon, Dodge, Donnelly, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Harding, Hawkins, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NOT VOTING—Messrs. Adams, Brooks, Butler, Churchill, Cullom, Driggs, Finney, Fox, Getz, Griswold, Higby, Richard D. Hubbard, Hunter, Ketcham, George V. Lawrence, Lynch, McCullough, Moorhead, Morrell, Pile, Poland, Robinson, Shellabarger, Smith, Stewart, Stokes, Stone, John Trimble, and Wood—29.

So the motion to lay on the table was not agreed to.

The question was, "Shall the main question be now put?" and being taken, it was agreed to.

The question was upon agreeing to the preamble and resolution.

Mr. CAVANAUGH. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 126, nays 37, not voting 25; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Burr, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—37.

NOT VOTING—Messrs. James M. Ashley, Brooks, Butler, Cullom, Finney, Fox, Getz, Griswold, Hawkins, Richard D. Hubbard, Ketcham, George V. Lawrence, Lynch, McCullough, Morgan, Morrell, Pike, Poland, Robinson, Shellabarger, Stokes, Stone, Thomas, John Trimble, and Wood—25.

So the preamble and resolutions were adopted.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the preamble and resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OSWEGO AND SALMON RIVER, NEW YORK.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with the resolution of the House of the 17th instant, a report by the chief of engineers relative to the condition, &c., of the harbors at Oswego and Salmon rivers, on Lake Ontario; which was referred to the Committee on Commerce, and ordered to be printed.

INDIAN APPROPRIATIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs asking for an immediate appropriation to carry out certain Indian treaties; which was referred to the Committee on Appropriations, and ordered to be printed.

ESTIMATES OF POSTMASTER GENERAL.

The SPEAKER also laid before the House a communication from the Postmaster General, transmitting an amended statement of the estimates of appropriations required for his Department for the fiscal year ending June 30, 1869; which was referred to the Committee on Appropriations, and ordered to be printed.

RECONSTRUCTION IN GEORGIA.

The SPEAKER also laid before the House preamble and resolutions of the constitutional convention of Georgia in reference to the reorganization of the State government, the removal of disabilities, and the modification of the test-oath; which were referred to the Committee on Reconstruction, and ordered to be printed.

REMOVAL OF GENERAL HANCOCK, ETC.

The SPEAKER also laid before the House a petition of members of the constitutional convention of Louisiana asking for the removal of General Hancock and the State and parish officials; which was referred to the Committee on Reconstruction, and ordered to be printed.

FREEDMEN'S BUREAU IN MISSISSIPPI.

The SPEAKER also laid before the House resolutions of the constitutional convention of Mississippi relative to the Freedmen's Bureau; which were referred to the Committee on Freedmen's Affairs, and ordered to be printed.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER also laid before the House resolutions of a public meeting held at Fitchburg, Massachusetts, in reference to the rights of American citizens abroad; which were referred to the Committee on Foreign Affairs.

Mr. JONES, by unanimous consent, presented a petition of citizens of Harrison county, Kentucky, praying Congress to take such legis-

lative action as will define the status of American citizens abroad and compel the Government of Great Britain to recognize the validity of the naturalization of those citizens she holds in durance, and to reinstate them in the liberties and immunities of which they have been deprived, in violation of their rights; which was referred to the Committee on Foreign Affairs.

Mr. SITGREAVES, by unanimous consent, presented resolutions of a public meeting of citizens of New Brunswick, New Jersey, asking Congress to pass a law to protect the nationality of native and naturalized citizens abroad; which were referred to the Committee on Foreign Affairs.

WAR CLAIMS.

The SPEAKER. The morning hour has expired, and the House resumes the consideration of the bill (H. R. No. 234) to prevent the payment of certain claims, upon which on Friday last the previous question was seconded and the main question ordered. The pending question is, on the motion of the gentleman from Indiana, [Mr. HOLMAN,] to reconsider the vote by which the main question was ordered.

Mr. WASHBURNE, of Illinois. I would like to know the object of the motion to reconsider.

Mr. HOLMAN. The object is, of course, to recommit the bill.

Mr. WASHBURNE, of Illinois. I do not see any necessity for recommitment. If the House is opposed to the bill let it be voted down. I move to lay on the table the motion to reconsider.

On agreeing to the motion of Mr. WASHBURNE, of Illinois, there were—ayes 65, noes 54.

Mr. HOLMAN. I call for tellers.

Tellers were ordered; and Messrs. HOLMAN and BANKS were appointed.

The House divided; and the tellers reported—ayes 65, noes 54.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 75, nays 77, not voting 36: as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baker, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Buckland, Cake, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dawes, Driggs, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Hill, Hooper, Hulburd, Hunter, Judd, Kelsey, Ketcham, Laflin, William Lawrence, Lincoln, Loughridge, Marvin, McCarthy, Mercur, Moore, Orth, Paine, Perham, Pike, Plants, Polsley, Pomeroy, Price, Robertson, Scofield, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Taylor, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Windom—75.

NAYS—Messrs. Adams, Anderson, Arnell, Axtell, Baldwin, Barnes, Barnum, Beck, Boyer, Broomall, Burr, Cary, Chanler, Sidney Clarke, Dixon, Dodge, Eckley, Eggleston, Eldridge, Glossbrenner, Golladay, Gravely, Grover, Haight, Hawkins, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Jones, Julian, Kelley, Kerr, Kitchen, Knott, Koontz, Loan, Lynch, Mallory, Marshall, Maynard, McCormick, Miller, Moorhead, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Pile, Randall, Raum, Ross, Schenck, Sitgreaves, Starkweather, Stewart, Taber, Taffe, Thomas, Lawrence S. Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, Henry D. Washburn, William Williams, John T. Wilson, and Woodward—77.

NOT VOTING—Messrs. Archer, James M. Ashley, Banks, Blaine, Brooks, Butler, Cullom, Donnelly, Finney, Fox, Getz, Griswold, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, George V. Lawrence, Logan, McClurg, McCullough, Morgan, Morrell, Morrissey, Peters, Phelps, Poland, Pruyn, Robinson, Sawyer, Shellabarger, Thaddeus Stevens, Stokes, Stone, John Trimble, Twichell, Wood, and Woodbridge—36.

So the House refused to lay on the table the motion to reconsider.

The question then recurred on the motion to reconsider.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 74, nays 72, not voting 42; as follows:

YEAS—Messrs. Adams, Anderson, Arnell, Axtell, Baldwin, Barnes, Barnum, Beck, Boyer, Burr, Cary, Chanler, Sidney Clarke, Dixon, Dodge, Donnelly, Eggleston, Eldridge, Glossbrenner, Golladay, Gravely, Haight, Hawkins, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kelley, Kerr, Kitchen, Knott, Koontz, Loan, Mallory, Marshall, Maynard, McCormick, Miller, Moore, Morrissey, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, Pile, Plants, Randall, Raum, Ross, Schenck, Sitgreaves, Starkweather, Stewart, Taffe, Thomas, Lawrence S. Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, Henry D. Washburn, James F. Wilson, and Woodward—74.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baker, Banks, Beaman, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Dawes, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Harding, Hill, Hooper, Hulburd, Hunter, Judd, Kelsey, Ketcham, Laflin, William Lawrence, Loughridge, Marvin, McCarthy, Mercur, O'Neill, Orth, Paine, Perham, Peters, Pike, Polsley, Pomeroy, Price, Robertson, Sawyer, Scofield, Selye, Smith, Spalding, Aaron F. Stevens, Taylor, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, and Woodbridge—72.

NOT VOTING—Messrs. Archer, James M. Ashley, Benjamin, Benton, Blaine, Brooks, Butler, Cornell, Cullom, Driggs, Eckley, Finney, Fox, Getz, Griswold, Grover, Halsey, Asahel W. Hubbard, Richard D. Hubbard, George V. Lawrence, Lincoln, Logan, Lynch, McClurg, McCullough, Moorhead, Morgan, Morrell, Phelps, Poland, Pruyn, Robinson, Shanks, Shellabarger, Thaddeus Stevens, Stokes, Stone, Taber, John Trimble, Twichell, Windom, and Wood—42.

So the motion to reconsider was agreed to.

The question then recurred on ordering the main question.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays. We might as well meet this matter now, and if gentlemen are in favor of keeping up the system of depleting the Treasury, to which this bill proposes to put a stop, let them say so upon the record.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 67, not voting 48; as follows:

YEAS—Messrs. Ames, Delos R. Ashley, Bailey, Baker, Banks, Beaman, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Covode, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Hill, Hooper, Hopkins, Hulburd, Hunter, Judd, Kelsey, Ketcham, Laflin, William Lawrence, Lincoln, Loughridge, Marvin, McCarthy, Mercur, Moorhead, Orth, Paine, Perham, Pike, Plants, Polsley, Pomeroy, Price, Robertson, Sawyer, Scofield, Selye, Smith, Spalding, Aaron F. Stevens, Taylor, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, and Windom—73.

NAYS—Messrs. Adams, Anderson, Arnell, Axtell, Barnes, Barnum, Beck, Boyer, Cary, Chanler, Dixon, Eldridge, Glossbrenner, Golladay, Gravely, Grover, Haight, Hawkins, Higby, Holman, Hotchkiss, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kelley, Kerr, Kitchen, Knott, Koontz, Loan, Mallory, Marshall, Maynard, McCormick, Miller, Moore, Morrissey, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Pruyn, Randall, Ross, Schenck, Sitgreaves, Starkweather, Stewart, Taber, Taffe, Thomas, Lawrence S. Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Van Trump, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, and Woodward—67.

NOT VOTING—Messrs. Allison, Archer, James M. Ashley, Baldwin, Benjamin, Blaine, Brooks, Burr, Butler, Sidney Clarke, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Finney, Fox, Getz, Griswold, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, George V. Lawrence, Logan, Lynch, McClurg, McCullough, Morgan, Morrell, Peters, Phelps, Pile, Poland, Raum, Robinson, Shanks, Shellabarger, Thaddeus Stevens, Stokes, Stone, John Trimble, Twichell, Van Wyck, James F. Wilson, Wood, and Woodbridge—48.

So the question was ordered to be now put.

The question then recurred on Mr. PILE'S amendment, which was read as follows:

At the end of section one add the following proviso:

Provided, That this act shall not apply to claims for the use or loss of vessels owned by citizens of loyal States seized by the Government in insurrectionary States, now on file in the proper Departments.

On agreeing to the amendment there were—ayes 33, noes 50; no quorum voting.

Mr. PILE. I demand the yeas and nays.

The yeas and nays were refused.

Tellers were ordered; and the Chair appointed Messrs. PILE and ELIOT.

The House divided; and the tellers reported—ayes thirty-three, noes not counted.

So the amendment was agreed to.

Mr. HOLMAN. I move to lay the bill on the table, and on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 66, nays 82, not voting 40; as follows:

YEAS—Messrs. Adams, Anderson, Arnell, Axtell, Barnum, Beck, Boyer, Burr, Cary, Chanler, Sidney Clarke, Cornell, Dodge, Eggleston, Eldridge, Glossbrenner, Golladay, Gravely, Grover, Haight, Hawkins, Higby, Holman, Hotchkiss, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kelley, Kerr, Kitchen, Knott, Koontz, Mallory, Marshall, Maynard, McCormick, Miller, Morrissey, Mullins, Mungen, Myers, Niblack, Nicholson, Nunn, O'Neill, Pile, Polsley, Pruyn, Raum, Ross, Schenck, Sitgreaves, Starkweather, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Van Auken, Robert T. Van Horn, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, and Woodward—66.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Broomall, Buckland, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Dawes, Donnelly, Driggs, Ela, Farnsworth, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Hill, Hooper, Hopkins, Hulburd, Hunter, Judd, Julian, Kelsey, Ketcham, Laflin, William Lawrence, Lincoln, Loan, Loughridge, Marvin, McCarthy, Mercur, Moore, Orth, Paine, Perham, Peters, Pike, Plants, Pomeroy, Price, Robertson, Sawyer, Scofield, Selye, Smith, Spalding, Aaron F. Stevens, Stewart, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, William Williams, James F. Wilson, Windom, and Woodbridge—82.

NOT VOTING—Messrs. Archer, Barnes, Blaine, Bromwell, Brooks, Butler, Cake, Cullom, Dixon, Eckley, Eliot, Finney, Fox, Getz, Griswold, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, George V. Lawrence, Logan, Lynch, McClurg, McCullough, Moorhead, Morgan, Morrell, Newcomb, Phelps, Poland, Randall, Robinson, Shanks, Shellabarger, Thaddeus Stevens, Stokes, Stone, John Trimble, Van Trump, Thomas Williams, and Wood—40.

So the bill was not laid on the table.

The bill was then ordered to be engrossed, and read a third time.

Mr. MAYNARD. I demand the reading of the engrossed bill.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time, and on that I demand the yeas and nays.

Mr. SCOFIELD. I rise to a question of order. What will be the effect if the bill goes over now?

The SPEAKER. If upon the call for the reading of the engrossed bill it is not present, it goes upon the Speaker's table, and it can be reached after the morning hour each day.

Mr. SCOFIELD. I ask the gentleman not to interpose any dilatory motion.

Mr. WASHBURNE, of Illinois. It will not take five minutes to engross the bill. I withdraw the motion to reconsider and move that the House do now adjourn; and on that I call the yeas and nays.

Mr. HOLMAN. Nothing will be gained by the call for the reading of the engrossed bill, and I appeal to the gentleman from Tennessee to let us take a direct vote on the bill.

Mr. MAYNARD. I am not here to make issues or make records. I desire that the House shall pause before it passes a measure which I believe to be wrong.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 91, not voting 59; as follows:

YEAS—Messrs. Cake, Cary, Chanler, Sidney Clarke, Cornell, Ferriss, Glossbrenner, Golladay, Grover, Haight, Hawkins, Higby, Hill, Holman, Hopkins, Hotchkiss, Richard D. Hubbard, Humphrey, Ingersoll, Jenckes, Jones, Kerr, Kitchen, Logan, Marshall, Morrissey, Mullins, Mungen, Niblack, Nunn, Pile, Pruyn, Randall, Scofield, Sitgreaves, Smith, Van Auken, and Woodward—38.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Benjamin, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Dixon, Donnelly, Driggs, Ela, Eliot, Farnsworth, Fields, Garfield, Halsey, Harding, Chester D. Hubbard, Hulburd, Hunter, Johnson, Judd, Julian, Kelley, Kelsey, Koontz, Laflin, William Lawrence, Lincoln, Loan, Lynch, Marvin, McCarthy, McClurg, McCormick, Mercur, Miller, Moore, Moorhead, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Pomeroy, Price, Robertson, Ross, Selye, Spalding, Starkweather, Aaron F. Stevens, Taffe, Taylor, Thomas, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B.

Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, James F. Wilson, and Windom—91.

NOT VOTING—Messrs. Adams, Archer, Axtell, Baker, Barnes, Barnum, Beck, Benton, Blaine, Boyer, Brooks, Burr, Butler, Cullom, Dawes, Dodge, Eckley, Eggleston, Eldridge, Ferry, Finney, Fox, Getz, Gravely, Griswold, Hooper, Asahel W. Hubbard, Ketcham, Knott, George V. Lawrence, Loughridge, Mallory, Maynard, McCullough, Morgan, Morrell, Nicholson, Phelps, Poland, Raum, Robinson, Sawyer, Schenck, Shanks, Shellabarger, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, John Trimble, Robert T. Van Horn, Van Trump, Van Wyck, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—59.

So the House refused to adjourn.

The bill, having been engrossed, was then read the third time, as follows:

A bill to prevent the payment of certain claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no money shall be paid out of the Treasury on any claim in the following class of cases, arising during the war of the rebellion, until the further action of Congress:

1. On account of the seizure or impressment of, or for demurrage or detention of any appliances of transportation—whether land or water—such as steamers, boats, barges, trains of wagons, or cars, &c., in insurrectionary States.

2. For transportation service, tolls, ferriage, &c., beyond the tariff of rates fixed by the Quartermaster General during the war.

3. For the use and occupation of land in the insurrectionary States, used for fortifications and other military defensive purposes during the war for the suppression of the rebellion.

The question then was on the passage of the bill.

Mr. WASHBURNE, of Illinois, demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. HOLMAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 65, not voting 38; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Cook, Cornell, Dawes, Donnelly, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Hill, Hooper, Hopkins, Hulburd, Hunter, Judd, Kelley, Kelsey, Ketcham, Laflin, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Marvin, McCarthy, Mercur, Moore, Moorhead, Orth, Paine, Perham, Pike, Plants, Polsley, Pomeroy, Price, Robertson, Sawyer, Scofield, Selye, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Stewart, Taylor, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—85.

NAYS—Messrs. Anderson, Arnell, Axtell, Barnes, Barnum, Beck, Boyer, Burr, Cary, Chanler, Sidney Clarke, Coburn, Dixon, Dodge, Eldridge, Glossbrenner, Golladay, Gravely, Grover, Haight, Hawkins, Higby, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kitchen, Knott, Koontz, Mallory, Maynard, McCormick, Miller, Morgan, Morrissey, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Pile, Pruyn, Randall, Raum, Ross, Schenck, Starkweather, Taber, Taffe, Thomas, Lawrence S. Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Henry D. Washburn, and John T. Wilson—65.

NOT VOTING—Messrs. Adams, Archer, Blaine, Brooks, Butler, Cobb, Covode, Cullom, Driggs, Eckley, Eggleston, Farnsworth, Finney, Fox, Getz, Griswold, Asahel W. Hubbard, Kerr, George V. Lawrence, Logan, Marshall, McClurg, McCullough, Morrell, Peters, Phelps, Poland, Robinson, Shanks, Shellabarger, Thaddeus Stevens, Stokes, Stone, John Trimble, Twichell, Van Trump, Wood, and Woodbridge—38.

So the bill was passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SUFFERING CONDITION OF QUAPAW INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs relative to the suffering condition of the Quapaw Indians, and making certain recommendations relative thereto; which was ordered to be printed, and referred to the Committee on Appropriations.

NATIONAL ARMORY IN PENNSYLVANIA.

Mr. WOODWARD. I ask unanimous consent to submit the following resolution:

Resolved, That a select committee of five be appointed to consider the expediency of locating and establishing within some one of the anthracite coal fields of Pennsylvania a national armory for the construction, manufacture, and supply of ordnance, materials, and equipments for the Army and Navy of the United States.

Mr. DAWES and Mr. ALLISON objected.

BINGHAM'S SURGE RELIEVERS.

Mr. KELLY, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be directed to inform the House whether he has caused any investigations to be made of the value of Bingham's surge reliever, and to communicate the results of such investigations, together with a copy of the report of Captain Balch on the subject of said surge reliever.

SECOND ASSISTANT ENGINEER SAWYER.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to this House copies of the complete record of the proceedings and findings of the court-martial convened on the 2d day of October, 1867, at the navy-yard at Portsmouth, New Hampshire, in the case of George F. Sawyer, second assistant engineer of the United States Navy; and also of all and every part of the testimony in the case, together with copies of all letters, complaints, reports, or other communications made to the said Secretary, or to any official person in the Navy Department, or to any officer of the Navy in relation to the offense charged against the said Second Assistant Engineer Sawyer, and all replies, orders, or instructions given or made in relation to such charge or offense by the Secretary, or any official of the Navy Department, or by any officer of the Navy.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I desire to ask the House to take up a matter of public business, the deficiency bill, which has been returned from the Senate. The gentleman from Massachusetts, [Mr. BUTLER,] who has charge of the bill, is, I understand, out of the city, and there is a good deal of urgency for action on the bill. I move to take it up.

No objection was made, and the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermasters' department of the Government for the fiscal year ending June 30, 1868, and for other purposes, was taken up.

Mr. WASHBURNE, of Illinois. I do not know what the exact position of the bill is, whether the Senate have asked for a committee of conference or not.

The SPEAKER. They have not. They have disagreed to the action of the House on two points involving the stationery question and the transfer of appropriations.

Mr. WASHBURNE, of Illinois. Then I move that the House insist on its action on those amendments and ask a committee of conference.

The motion was agreed to; and the Speaker appointed Messrs. WASHBURNE of Illinois, BEAMAN, and PHELPS as managers of the conference on the part of the House.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. BANKS. I ask unanimous consent to report from the Committee on Foreign Affairs a bill concerning the rights of American citizens in foreign States, in order that it may be printed and recommitted, so that the committee may, when called for reports, be able to report the bill to the House for action.

No objection was made.

The bill (H. R. No. 584) was received and read a first and second time.

Mr. HARDING, of Illinois. I ask that the bill be read at length.

The bill was read, as follows:

A bill concerning the rights of American citizens in foreign States.

SECTION 1. *Be it enacted, &c.*, That all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances. And the President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the principles of public law which have been insisted upon and maintained by the Government of the United States in regard to the rights of naturalized citizens: *Provided always*, That no citizen of the United States who is guilty of crime against the laws of any foreign State committed within its jurisdiction; or of desertion from actual service in the army or navy of such State; or who shall have acquired naturalization by misrepresentation or fraud in regard to residence or otherwise; or who by treason or other crime against the United States shall have forfeited, or who shall have renounced, his rights as a citizen; or who shall establish a continuous residence beyond the limits of the United States for a term exceeding five years, shall be entitled to the protection contemplated by this act.

SEC. 2. *And be it further enacted*, That whenever it shall be duly made known to the President that any naturalized citizen of the United States has been arrested and is detained by any foreign Government, in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign, or if any citizen shall have been so arrested and detained whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States; and the President shall, without unreasonable delay, give information to Congress of any such proceedings under this act.

SEC. 3. *And be it further enacted*, That if any naturalized citizen of the United States shall return to his native country with intent to resume his domicile therein, or if any citizen shall leave the United States with the intention of permanent residence in any foreign State, or shall fail to make annual return of his property in the United States for taxation to the assessor of internal revenue for the district of the United States in which such citizen last resided, or shall engage as an army or navy belligerent in any foreign war or service, such citizen shall not be entitled to the interposition of the Government in his behalf under the provisions of this act.

SEC. 4. *And be it further enacted*, That the term "domicile" in the preceding section shall be construed to mean a continuous residence of more than five years in the native country of the naturalized citizen, or establishing himself in any business which denotes an intention to resume a permanent residence.

Mr. BANKS. I now move that the bill be printed, and that it be recommitted to the Committee on Foreign Affairs.

The motion was agreed to.

Mr. BANKS. I now move that the report accompanying the bill be printed for the use of the House; and I also move that it be printed in The Globe, as it will hardly be printed in time for use here when the committee is called.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the bill was recommitted; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ILLINOIS AND MICHIGAN CANAL.

Mr. LOGAN. There was referred, the other day, to the Committee on Roads and Canals, a memorial of the State of Illinois in reference to the Illinois and Michigan canal and river improvements, with accompanying documents. I move that the memorial and papers be printed.

The motion was agreed to.

OVERLAND MAIL.

Mr. CLARKE, of Kansas. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Postmaster General is hereby directed to furnish, for the information of the House, copies of all contracts with Benjamin Holliday for the transportation of the overland mail; also, copies of all contracts with said Holliday to carry the mails from the end of each branch of the Union Pacific railroad to Denver City; also, to report all changes that have been made since the contracts with Holliday were executed, either in service or compensation, the whole amount of money paid during the last two years to Holliday and others for overland mail service west of the Missouri river, and whether any portion of said mail service is performed by railroad transportation, and the amount and character of mail matter transported.

Mr. ELDRIDGE. I object.

ADDITIONAL LEGAL-TENDER NOTES.

Mr. INGERSOLL. I ask unanimous consent to introduce, for consideration at the present time, a bill authorizing an additional issue of legal-tender notes to the amount of $45,000,000, and for other purposes.

Mr. WASHBURNE, of Illinois, and others objected.

Mr. INGERSOLL. Very well. I give notice that on the first opportunity I will introduce the bill and press its consideration.

NATIONAL FINANCES.

Mr. BOUTWELL. I ask unanimous consent to submit for consideration at the present time the following resolution:

Resolved, That the Committee of Ways and Means consider the expediency of providing by law—

I. That the Secretary of the Treasury shall give public notice, whenever the amount of coin in the Treasury belonging to the United States exceeds $20,000,000, that he will anticipate the payment of interest then first to become due upon the bonds of the United States to an amount as near as may be of the excess of coin over said $20,000,000; such payments to be subject to a rebate of interest at the rate specified in the bonds.

II. That a new loan of $600,000,000, with interest at the rate of six per cent., payable semi-annually, shall be authorized, principal and interest payable in coin, upon the following conditions, namely:

1. Said loan shall be issued to citizens of the United States only, and not transferable or payable to any person not a citizen of the United States.

2. That said loan shall be payable in sums of $50,000,000 per annum, the first sum of $50,000,000 to be made payable on the 1st of January, 1888, and a like sum of $50,000,000 to be payable on the 1st day of January in each year thereafter.

3. That said loan shall be subject to State and local taxation, but not at a rate greater than the rate of such taxation upon other moneyed securities, nor to an amount exceeding one per centum in any one year.

4. That holders of bonds known as five-twenty bonds may exchange such bonds for the bonds herein specified.

III. That a new loan of $400,000,000, principal and interest payable in coin, interest at the rate of four and a half per cent., be authorized upon the conditions following:

1. That the principal and interest may be made payable either in the United States or at Frankfort, or London, at the option of the taker.

2. That said loan shall be made payable as follows: $50,000,000 on the 1st day of January, 1900, and $50,000,000 on the 1st day of January of each succeeding year until the whole of said $400,000,000 shall have been paid.

3. That neither said bonds nor the interest thereon shall be taxable either by the authority of the United States or by the authority of any State or municipality.

4. That holders of bonds known as five-twenty bonds may exchange such bonds for the bonds herein specified.

IV. That the Secretary of the Treasury be prohibited from making sales of gold.

Several members objected.

TRIAL OF JOHN H. SURRATT, ETC.

Mr. VAN WYCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed to inform this House of the cost of the arrest and trial of John H. Surratt, whether the proceedings on said trial have been published in book form, and if so, by what authority and at what expense.

STATISTICS OF NAVAL SERVICE.

Mr. SELYE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be instructed to report to this House a statement of the number of vessels owned by the United States Government on the 1st of January, 1861, the capacity and number of their armanent, and value and quantity of munitions of war; the number of officers and men employed at that time in the naval service and their annual pay and compensation, together with the annual expenses of the entire Naval Department for five years preceding that day.

VESSELS FOR WAR DEPARTMENT.

Mr. RANDALL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House the following information:

1. The number of vessels built for the War Department since April 1, 1861, their names and tonnage, when built, where built, by whom built, and the cost of each vessel.

2. The number and names of all vessels of every description, and the tonnage of each vessel, purchased by or for the War Department since April 1, 1861, when and where purchased, by whom purchased, the amount paid for each vessel, and the amount of commissions paid on such purchase and to whom; how many of such vessels have been lost or destroyed, and how many of them have been sold, the names of those sold, when sold, to whom sold, and whether at public or private sale, and for how much sold, and the names of the parties selling them or in any wise connected with such sale; how many of said vessels, and the names and tonnage thereof, remain unsold, and where such unsold vessels now are, and what is the use to which they have been put.

3. the number and names of all vessels of every description, and the tonnage of each vessel, chartered by or for the War Department since April 1, 1861, the rate of such charter and the total amount paid in each case, and to whom; the amount of commissions for procuring such charters and to whom paid; how many of said vessels were lost, and how much was paid for vessels lost, and, if any chartered vessels are now in its service, to what use they have been put.

SOUTHERN LAND GRANTS.

Mr. ROSS. I call for the regular order.

The SPEAKER. The regular order is the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, and Florida, and for other purposes. On this bill the gentleman from Indiana [Mr. JULIAN] is entitled to the floor for twenty-five minutes. Before the gentleman proceeds the Chair will, if there is no objection, lay before the House several executive communications.

VOLUNTEER OFFICERS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the Adjutant General, containing information relative to volunteer officers; which was referred to the Committee on Military Affairs, and ordered to be printed.

IMPROVEMENT OF SAVANNAH RIVER.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in reply to a resolution of the House of the 16th instant, relative to a contract made in 1866 for the removal of obstructions in the Savannah river; which was referred to the Committee on Commerce, and ordered to be printed.

TREASURY DEPARTMENT CONTINGENT FUND.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the act of August 26, 1842, sundry reports showing the state of the contingent fund of the Treasury Department for the fiscal year ending June 30, 1867; which, on motion of Mr. MARVIN, was referred to the Committee on Expenditures of the Treasury Department, and ordered to be printed.

SOLDIERS IN ALASKA.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting a report from the Adjutant General in reference to the alleged suffering of the United States soldiers in Alaska; which was referred to the Committee on Military Affairs, and ordered to be printed.

SURVEY OF ILLINOIS RIVER.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with law, a report from the chief of engineers respecting the survey of the Illinois river; which was referred to the Committee on Roads and Canals, and ordered to be printed.

IMPORTATION OF FOREIGN STOCK.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Commissioner of Agriculture relative to the importance of a modification of the tax of twenty per cent. upon the importation of foreign stock; which was referred to the Committee of Ways and Means, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. INGERSOLL. I desire to announce that my colleague, Mr. CULLOM, is confined to his house by illness.

I will also state that in The Globe I am reported as voting for the bill which provided that the supreme court of this District should appoint the marshal, when in reality I voted against it.

ADDITIONAL ISSUE OF LEGAL-TENDER NOTES.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 585) authorizing an additional issue of legal-tender notes to the amount of $45,000,000, and for other purposes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

Mr ALLISON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OBSTRUCTION TO THE LAWS.

Mr. SPALDING asked unanimous consent to submit the following resolution:

Resolved, That the Committee on Reconstruction be authorized to inquire what combinations have been made or attempted to be made to obstruct the due execution of the laws; and to that end the committee have power to send for persons and papers and to examine witnesses on oath, and report to this House what action, if any, they may deem necessary.

Mr. ROSS. That is to get up a "campaign document," and I object.

Mr. SPALDING moved that the rules be suspended.

Mr. NIBLACK demanded the yeas and nays.

The yeas and nays were ordered.

Mr. SPALDING modified the resolution so the committee shall have leave to report at any time.

The question was taken; and it was decided in the affirmative—yeas 103, nays 37, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pile, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Taylor, Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Woodbridge—103.

NAYS—Messrs. Adams, Barnes, Barnum, Beck, Boyer, Burr, Cary, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Haight, Hawkins, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Taber, Lawrence S. Trimble, Elihu B. Washburne, Windom, and Woodward—37.

NOT VOTING—Messrs. Archer, Axtell, Benton, Blaine, Brooks, Butler, Cake, Cullom, Dodge, Eckley, Eggleston, Ela, Finney, Fox, Getz, Griswold, Halsey, Hill, Ketcham, Laffin, George V. Lawrence, McCullough, Miller, Morgan, Peters, Phelps, Pike, Plants, Poland, Robinson, Schenck, Selye, Shellabarger, Sitgreaves, Thaddeus Stevens, Stewart, Stokes, Stone, Taffe, John Trimble, Twichell, Van Auken, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Stephen F. Wilson, and Wood—48.

So the rules of the House were suspended, more than two thirds voting in the affirmative.

Mr. ELDRIDGE moved that the resolution be laid on the table, and demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 104, not voting 51; as follows:

YEAS—Messrs. Adams, Barnes, Beck, Boyer, Burr, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morrissey, Mungen, Niblack, Nicholson, Pruyn, Randall, Ross, Taber, Lawrence S. Trimble, Elihu B. Washburne, Windom, and Woodward—33.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry,

Fields, Garfield, Higby, Hooper, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Laflin, William Lawrence, Lincoln, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Spalding, Aaron F. Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, and Stephen F. Wilson—104.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Axtell, Barnum, Blaine, Brooks, Butler, Cullom, Dawes, Dodge, Eggleston, Ela, Finney, Fox, Getz, Gravely, Griswold, Halsey, Harding, Hawkins, Hill, Ketcham, Kitchen, Koontz, George V. Lawrence, Loan, McCullough, Miller, Morgan, Morrell, Phelps, Pike, Pile, Plants, Robinson, Shellabarger, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, John Trimble, Van Auken, Van Trump, Ward, Cadwalader C. Washburn, John T. Wilson, Wood, and Woodbridge—51.

So the House refused to lay the resolution on the table.

Mr. NIBLACK. I move that when the House adjourns to-day it adjourn to meet on Wednesday next.

The motion was disagreed to.

The previous question was then seconded.

Mr. ROSS. I move that the House adjourn.

The question was put, and appearing to be lost,

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 88, not voting 66; as follows:

YEAS—Messrs. Adams, Barnes, Barnum, Beck, Burr, Cary, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kelley, Knott, Marshall, McCormick, Moorhead, Morrissey, Mungen, Niblack, Nicholson, Pomeroy, Pruyn, Randall, Taber, Lawrence S. Trimble, Van Auken, Windom, and Woodward—34.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Benton, Bingham, Boutwell, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cornell, Covode, Dixon, Donnelly, Driggs, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Harding, Hawkins, Higby, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Koontz, Laflin, William Lawrence, Lincoln, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Moore, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Poland, Polsley, Price, Robertson, Sawyer, Scofield, Selye, Shanks, Spalding, Starkweather, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, and James F. Wilson—88.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Axtell, Blaine, Blair, Boyer, Bromwell, Brooks, Broomall, Butler, Coburn, Cook, Cullom, Dawes, Dodge, Eckley, Eggleston, Finney, Fox, Garfield, Getz, Gravely, Griswold, Halsey, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Kerr, Ketcham, Kitchen, George V. Lawrence, Loan, Logan, Loughridge, Maynard, McCullough, Miller, Morgan, Morrell, Phelps, Pike, Pile, Plants, Raum, Robinson, Ross, Schenck, Shellabarger, Sitgreaves, Smith, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, John Trimble, Van Trump, Van Wyck, Ward, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—66.

So the House refused to adjourn.

The main question was then ordered.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 31, not voting 58; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Benton, Bingham, Blair, Boutwell, Broomall, Buckland, Cake, Cary, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Koontz, Laflin, William Lawrence, Lincoln, Logan, Lynch, Mallory, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Poland, Polsley, Pomeroy, Price, Sawyer, Schenck, Scofield, Selye, Shanks, Spalding, Starkweather, Aaron F. Stevens, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, and James F. Wilson—99.

NAYS—Messrs. Adams, Barnum, Beck, Burr, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, McCormick, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Taber, Lawrence S. Trimble, Van Auken, Elihu B. Washburne, Windom, and Woodward—31.

NOT VOTING—Messrs. Anderson, Archer, Delos R. Ashley, Axtell, Baker, Barnes, Benjamin, Blaine, Boyer, Bromwell, Brooks, Butler, Churchill, Cullom, Dawes, Finney, Fox, Garfield, Getz, Gravely, Griswold, Halsey, Hawkins, Hill, Asahel W. Hubbard, Richard D. Hubbard, Ketcham, Kitchen, George V. Lawrence, Loan, Loughridge, Marshall, Marvin, McCullough, Miller, Morgan, Morrell, Morrissey, Nunn, Plants, Raum, Robertson, Robinson, Shellabarger, Sitgreaves, Smith, Thaddeus Stevens, Stewart, Stokes, Stone, John Trimble, Van Trump, Ward, William B. Washburn, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—58.

So the resolution was agreed to.

During the roll call,

Mr. LAFLIN stated that his colleague, Mr. MARVIN, was paired with Mr. MORRISSEY. Mr. MARVIN, if present, would vote ay.

The result having been announced as above recorded,

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ELDRIDGE moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions &c., were presented under the rule, and referred to the appropriate committee:

By the SPEAKER: The petition of C. Hutton, aged seventy-six, P. Thornton, aged eighty-four, U. Grant, aged eighty, Mr. Marion, aged seventy-four, W. Moore, aged seventy-five, of Jasper county, Indiana, soldiers of the war of 1812, for a bill granting the soldiers of the war of 1812 pensions.

Also, the petition of Egbert T. Smith and 10 others, citizens of New York, praying that Congress will assist the starving people of Tunis.

By Mr. BROOMALL: The petition of citizens of the United States residing in North Carolina, praying for the passage of a law removing all political disabilities from S. McDonald, so that he may accept the office of postmaster at Buckingham, North Carolina.

By Mr. BUCKLAND: The petition of J. W. Waterson, late a lieutenant in the seventy-second regiment Ohio volunteer infantry, for relief.

By Mr. DAWES: The petition of Stimpson & Co., and others, as to taxation on piano legs.

By Mr. FIELD: The petition of Asa J. Holcom, asking for a pension.

By Mr. CAKE: The petition of citizens of Schuylkill county, Pennsylvania, numerously signed, in favor of protection to American labor and industry, setting forth that the whole country is suffering from the heavy importation of various fabrics produced by the low labor, cheap capital, and immense machinery built up in Europe under their protective systems; also, that our difficulties are greatly increased by the uncertainty which prevails on account of the failure of the tariff bill before the last Congress, and the apparent disinclination to meet the question now.

By Mr. DRIGGS: The petition of citizens of Houghton, Lake Superior, for an extension of time for completing military wagon road from Wisconsin to Houghton and Keweenaw counties, Lake Superior, Michigan.

By Mr. FERRY: The petition of Lieutenant John Dean, of Elmira, Grand Traverse county, Michigan, praying that act of Congress shall be so amended that all officers below grade of brigadier general being in commission before the 3d of March, 1865, and served faithfully until mustered out, shall be entitled to benefits of act giving three months' extra pay to said class of officers who were in commission after the 3d of March, 1865.

Also, the petition of N. W. Nelson, Benjamin Farley, John Le Rue, George Ray, and 260 others, praying for the establishment of a mail route from Manistee via Portage Lake, Huntington's Dock, and Herring Lake to Frankfort, thence via Platte and Empire Dock to Glen Arbor, Michigan.

By Mr. HOOPER, of Massachusetts: The memorial of the Massachusetts Horticultural Society, for repeal of duty on imported trees, plants, and shrubs.

By Mr. JENCKES: The petition of citizens of Washington, praying for pavement of Indiana and Louisiana avenues.

By Mr. JONES: The memorial and petition from citizens of Harrison county, Kentucky, praying Congress to take such legislative action as will define the status of American citizens abroad and to compel the Government of Great Britain to recognize the validity of the naturalization of those citizens she holds in durance, and to reinstate them in the liberties and immunities of which they have been deprived, in violation of their rights.

Also, the petition and claim of Richard Everson, for rent of property and damages done by Federal troops.

By Mr. MERCUR: The petition of Martha S. Woodward, widow of Warren L. Woodward, late of Bradford county, Pennsylvania, asking for a pension for herself and child.

By Mr. NIBLACK: A memorial of the common council of the city of Evansville, Indiana, praying the establishment of a United States district court in that city.

By Mr. PIKE: The petition of Captain George W. Colvocoresses, to be restored to the active list in the Navy.

By Mr. RAUM: The petition of Hugh Worthington, of Metropolis, Illinois, for compensation for three fifths of the steamer Eastport.

By Mr. STEVENS, of Pennsylvania: The petition of citizens of Lancaster city, Pennsylvania, setting forth the necessity of Government buildings for post office, internal revenue, and other public purposes, and praying for an appropriation to erect the same.

By Mr. VAN HORN, of Missouri: The petition of John R. Ray, of Missouri.

Also, the petition of William O. Dodge, of Missouri.

By Mr. WELKER: The petition of Agnes Cox, widow of James Cox, late of company B, first Ohio heavy artillery, asking for a pension.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. MYERS: A bill to regulate the appointment of Government agents.

IN SENATE.

TUESDAY, *January* 28, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

ROBERT M. PATTON.

Mr. CONKLING. I perceive that on the division of the Senate yesterday, pending the bill relieving Governor Patton from disabilities, the name of my colleague [Mr. MORGAN] does not appear. I beg to state that he was detained from the Senate on yesterday by indisposition. That is the reason of the absence of his name.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the constitutional convention of the State of Virginia in favor of extending the period during which the first clause of the bankrupt act shall operate, and that modification be made in regard to exemptions by increasing the value of such exemptions and providing for the exemption of real and personal property at the option of the bankrupt; which were referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore* presented the following memorial from the constitutional

convention of the State of Mississippi; which was read:

To the Congress of the United States:

The constitutional convention elected under the laws of Congress for the reconstruction of civil government in the State of Mississippi, now in session in the city of Jackson, of said State, beg leave to represent to your honorable body that the loyal people of this State, in our opinion, require your immediate aid to remove obstructions impeding the action of their representatives in convention assembled.

The loyal Union men of Mississippi have accepted in good faith the reconstruction laws, and are laboring to institute a civil government that shall recognize the rights and protect the liberties of the citizens, and on such principles as shall render it acceptable to the national Congress.

The reconstruction laws of Congress, nine months ago, found the State under a civil government, so called, organized in 1865 by not more than one third of the white men, who were authorized to vote by the President's proclamation.

They found this government administered by rebels, not in name merely, but really such in heart, in head, in policy, indeed in all respects save open hostility.

When the terms of reconstruction were announced by Congress in the early part of last year, it was hoped by many sanguine friends of the Union that they would be willingly accepted by the great mass of the southern people. Not so, however, has been the result, and as the work of reconstruction advanced there was gradually developed and made manifest first doubt, then fear or apprehension, then opposition, and lastly an absolute and unmistakable hostility.

During this transition state of public sentiment from doubt to hostility it may be imagined what proscription and abuse the faithful Union loyalists had to meet.

All this has been borne with a calm defiance and unfaltering devotion to country, to liberty, and the Union; and now this rebel sentiment has culminated on the floor of this convention itself by a member in a report to this body averring that the convention is an unauthorized assembly, called by an unconstitutional law of Congress, and has therefore no legal or binding power over the State of Mississippi in compelling obedience to its ordinances.

In addition to the impediments thrown in the way of the convention by this popular sentiment arising from the broken fragments of secession and rebellion, which may very safely be permitted to drift aloof from all participation in reconstruction, there is another and a much more formidable power, productive of far greater embarrassment to reconstruction than that already brought to view, namely, the administrators of the provisional government of the State whose terms of office have expired.

These incumbents, continued in office by the forbearance of Congress, were elected by only a portion of the people in 1865, when if any Union candidate had presented his claims for office he would have had no chance. Their continuance in office endangers the restoration of peace and order; at least their action or non-action may result greatly to the embarrassment of this convention in its work of reconstruction.

We therefore, in the name and in behalf of the loyal people of Mississippi, in the name of justice, liberty, and humanity, do most earnestly and respectfully petition your honorable body to authorize this convention to declare all civil offices in the State vacant, and to fill them at once by the appointment of true and loyal men who, we humbly trust and confidently believe, will greatly add to the success of the congressional plan of reconstruction; all of which is most respectfully and deferentially submitted to the consideration of your honorable body, and, as in duty bound, we will ever pray.

The memorial was referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore* also presented a memorial of the Legislative Assembly of the Territory of Dakota, relative to Indian affairs in that Territory; which was referred to the Committee on Territories.

Mr. DAVIS presented a petition of Robert Gibson, praying compensation for the use and occupancy of his farm by United States troops and for the destruction of property thereon; which was referred to the Committee on Claims.

Mr. WILSON presented a petition of members of the Georgia constitutional convention, praying Congress to establish a civil provisional government in Georgia; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented resolutions of the Senate of New York, asking for an appropriation for removing obstructions at Hell Gate and the improvement of the eastern entrance to the harbor of New York; which were referred to the Committee on Commerce.

He also presented the petition of Martha M. Jones, widow and administratrix of Samuel T. Jones, deceased, for the confirmation of the extension of a patent which was granted February 23, 1866, for the manufacture of the white oxyde of zinc; which was referred to the Committee on Patents and the Patent Office.

Mr. RAMSEY presented resolutions adopted at a meeting of citizens of Hennepin county, Minnesota, relative to the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

He also presented resolutions adopted at a meeting of citizens of St. Paul, Minnesota, held on the 23d of January, 1868, relative to the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

He also presented a memorial of the Legislative Assembly of the Territory of Dakota, relative to the survey of public lands on and near Red river of the North; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of the Territory of Dakota relative to a United States land office in the Red river valley; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislative Assembly of the Territory of Dakota, praying for an appropriation to construct a wagon road from Fort Abercrombie down the Red river of the North; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Legislative Assembly of the Territory of Dakota, praying for the establishment of a mail route from Fort Totten to St. Joseph, Dakota Territory; which was referred to the Committee on Post Offices and Post Roads.

Mr. HARLAN presented resolutions of the Board of Supervisors of Polk county, Iowa, praying that immediate action be taken to protect American citizens everywhere; which were referred to the Committee on Foreign Relations.

Mr. FERRY presented a memorial of manufacturers of wool and constructors of burring machines, remonstrating against an extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845; which was referred to the Committee on Patents and the Patent Office.

Mr. CATTELL presented a petition of citizens of Pennsylvania, asking the repeal of the internal taxes on cotton and on all textile cotton and woolen fabrics; which was referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SUMNER, it was

Ordered, That the petition and papers of William McDonagh, of Williamsport, New York, be taken from the files of the Senate and be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 170) to provide for deficiency of expenses incurred in the survey of Indian reservations, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 358) for the relief of settlers on the late Sioux Indian reservation, in the State of Minnesota, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 252) to create an additional land district in the State of Minnesota, reported it without amendment.

Mr. VAN WINKLE. I am instructed by the Committee on Pensions, to whom was referred the bill (S. No. 160) extending the provisions of the pension laws to provost marshals and enrolling officers killed or wounded in the discharge of their duties, to report it back and ask that the committee be discharged from its further consideration, and that it be indefinitely postponed. The provision asked for is in the law of July, 1866.

The report was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Ann Kelley, widow of Bernard Kelley, praying to be allowed a pension, submitted a report, accompanied by a bill (S. No. 291) granting a pension to Ann Kelley, widow of Bernard Kelley. The bill was read and passed to the second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Maria Raferty, widow of Patrick Raferty, praying to be allowed a pension, submitted a report, accompanied by a bill (S. No. 292) granting a pension to Maria Raferty. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. VAN WINKLE. I am also directed by the same committee, to whom was referred the bill (S. No. 195) for the relief of George W. Gibson, to ask that the committee be discharged from its further consideration, and that it be indefinitely postponed. I will state for the information of Senators that a decision at the Pension Office, after the passage of the act of 1866 increasing the pay of certain classes of pensioners, prevented those who had had their pensions by special act of Congress from getting the increase. That decision has been reviewed and reversed, and those who are entitled to the benefits of it, although they got their pensions by special acts of Congress, can now apply at the Pension Office and in all proper cases get their pensions.

Mr. HENDRICKS. I am entirely satisfied with the report of the committee on this bill; but ask leave to withdraw the papers that accompanied the bill in order that they may be presented under the decision to the Pension Office.

The PRESIDENT *pro tempore*. That order will be made.

Mr. VAN WINKLE. I am also directed by the same committee to report back the petition of Mrs. Mary A. Thompson, praying for arrearages of pension, and for future payment of her pension. She was accused of disloyalty, the case investigated, and her pension discontinued. This petition is for the pension that accrued during that interval. We learned from the Commissioner of Pensions that that has been paid to her. I move that the same disposition be made of this petition.

The motion was agreed to.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the petition of A. J. Campbell, praying the payment of $10,000 in satisfaction of the claim due to his father, Scott Campbell, under the ninth article of the Indian treaty made June 19, 1858, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the petition of Isaiah Walker, praying to be reimbursed for ferry privileges, which have been destroyed by an act of the State Legislature of Kansas, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred a communication from the Secretary of the Interior, transmitting an estimate of an appropriation required for surveying the boundaries of certain lands that formerly lay within an Indian reservation, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the papers in the case of S. B. Wallace and others, claiming to be reimbursed for expenses incurred by them for the suppression of Indian hostilities, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to.

Mr. MORGAN, from the Committee on Finance, to whom the subject was referred, reported a joint resolution (S. R. No. 94) directing the Secretary of the Treasury, whenever any State shall have been, or may be in default for the payment of interest or principal or investments in its stocks or bonds held by the United States in trust, to retain moneys due to such State from the United States;

which was read and passed to the second reading.

Mr. PATTERSON, of New Hampshire, from the joint select Committee on Retrenchment, reported a bill (S. No. 296) in addition to an act entitled "An act regulating the tenure of certain civil officers;" which was read twice by its title; and he gave notice that he would call it up to-morrow morning, and that it was in the nature of a substitute for a bill on the same subject heretofore reported by him.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print additional copies of the message of the President of the United States, communicating the result of the international monetary conference, reported it without amendment; and it was considered and agreed to, as follows:

Resolved, That two thousand additional copies of the President's message of the 17th of December, 1867, and of the accompanying papers, relating to the international monetary conference held at Paris in June and July last, be printed for the use of the Department of State.

SUSPENSION OF SECRETARY STANTON.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for the printing of additional copies of the report of the Committee on Military Affairs, and of the views of the minority of that committee in relation to the suspension of Hon. E. M. Stanton from the office of Secretary of War, report it back, and recommend its passage. I ask for its present consideration.

By unanimous consent the Senate proceeded to consider the following resolution:

Resolved, That ten thousand copies of the reports of the majority and minority of the Committee on Military Affairs and the Militia in regard to the suspension of Hon. Edwin M. Stanton from the office of Secretary of War be printed for the use of the Senate.

Mr. CONNESS. I am not prepared to vote for the publication of these copies. The whole country has been furnished with this report and the views of the minority in the newspapers. It is now a past event in which there is no considerable interest, at least, centering any longer. If political parties on either side want to draw sustenance or strength from the circulation of either of these documents, I hope it will be left for them to publish them at their own expense. This seems to me to be one of those documents the publication of which ought not to be indulged in by Congress. With the economical fit upon the country, and the great need of it, I think we may begin here, little as this item may be. I hope the resolution will not pass.

Mr. ANTHONY. The printing will cost about sixty-five or seventy dollars.

Mr. CONNESS. That is very cheap.

Mr. BUCKALEW. The expense of this printing, of course, will be quite insignificant. It will not make a sensible amount in the expenditures of Congress for this object—printing; but it occurs to me that if we issue a pamphlet to the people, giving them information about the case of Mr. Stanton, we ought to publish the President's message on that subject. That message and the report of the majority of the committee and the views of the minority are all connected together, and any person in the country that wants to understand this case ought to have all the documents under his eye at one time. Therefore, if we are to give information to the people, it will be necessary to accompany this publication with the President's message. The cost of the entire pamphlet so made up would, as I remarked before, be exceedingly small; but the only object of printing this document being to give the people of the country information about what has taken place here, and enable them to form a judgment upon the merits of the controversy between the President and the Secretary of War, it is manifestly proper to print the whole case, and not a part of it. Every man who will get your pamphlet will be inquiring about the President's message, which is referred to in this report and in the views of the minority. I move to amend by inserting "and also the message of the President of the United States, communicating his reasons for the removal of Mr. Stanton, to the Senate."

The PRESIDENT *pro tempore*. I apprehend that would not be in order, inasmuch as the injunction of secrecy has not been removed from the publication of that message, I believe.

Mr. BUCKALEW. We can hardly debate that question in open Senate.

The PRESIDENT *pro tempore*. That is the difficulty.

Mr. BUCKALEW. Under my view of the subject, there is no injunction of secrecy which applies to that message.

The PRESIDENT *pro tempore*. It was considered in executive session, and I do not know that it was determined whether that was an executive document or not. There was some doubt expressed about it; but I believe all that was said about it was in executive session, and that leads me to doubt whether it is in order to amend the resolution in the way proposed. Perhaps I am wrong about it, however.

Mr. JOHNSON. The message found its way into the papers in some way or other, I do not know how; but it was received in executive session, considered in executive session, and the reports which we are now asked to print were also made in executive session. There is, therefore, no more impropriety, it seems to me, in directing the message to be published in connection with the reports than there is in directing the reports themselves to be published so far as concerns the character of the papers. That the reports ought to be published, with all due respect to my friend from California, I think is very clear. It is true that they have been more or less circulated throughout the country; but they have very rarely been published at large. Both reports, I think, are drawn up with very great ability. The majority report presents the case according to the view taken by the members of the committee, who concur with the majority report in very strong terms; and I think the report made by the minority of the committee is equally characterized by ability. It seems to me that the public are interested in knowing what views are entertained by such a committee as the one making these reports. It is a grave question; it involves the construction of an act of Congress supposed by some to be unconstitutional and perhaps by many who have not made up their minds on the question of constitutionality to be of very doubtful validity. I think the public mind ought to have all the light that can be afforded by the researches and the reasoning of the several members of the committee. It was for that reason that, as one of the members of the Committee on Printing, I concurred with the rest of the members, for we were, I believe, unanimous on the subject in reporting to the Senate that in our opinion the number of copies stated in the report just made by the chairman of the committee should be published.

The PRESIDENT *pro tempore*. I will state that, as I understand, the injunction of secrecy was removed from both reports, but not from the message. That is my recollection, and I believe it corresponds with that of the Chief Clerk.

Mr. CONNESS. But the message has gone out to the public, and the removal of the injunction of secrecy is a matter of mere form.

Mr. CONKLING. If the injunction of secrecy had been removed from this message I think the Senate might well justify itself in the publishing of these two reports and the omission of the message; and for this reason the President (whether in violation of any duty or any rule of decorum or not everybody will judge for himself) chose, having transmitted this message to the Senate as an executive and confidential document, almost simultaneously with that transmission to deliver it to the representatives of the press for publication. It was not published unexpectedly to him, as was the majority report published unexpectedly to the chairman of the committee; but confessedly it was furnished by the author of the message to the representatives of the press for publication. I have my own view and Senators have theirs of the propriety of such a proceeding as that; but, at all events, suffice it to say for this purpose the President elected in his own way, and in his own extraordinary way, to give publicity to this document.

Now, I think it may fairly be said that, the President having taken his own way of giving so wide and universal a circulation to his message, the Senate is not bound to publish it for public information, or even for form's sake, or even in that consideration of respect which, perhaps, ordinarily might make it exceptional and invidious to omit this document if the others are to be published. Then if we are to do this thing at all I think, for myself, I shall be content to vote for the publication of these reports without including this message, which, in advance of anything that we could do, has been published without our knowledge and without our consent.

Mr. POMEROY. The Senator from Pennsylvania moves that we print another document. The Chair, I think, has very well intimated that the motion is hardly in order; but the point of order which I now rise to make upon it is whether under our rules we can proceed to print another document without having the motion referred to the Committee on Printing. Can we adopt a motion to print extra copies of the message of the President by attaching it as an amendment to this report of the Committee on Printing, it not having been referred to the committee itself?

Mr. GRIMES. I move that the subject be postponed until to-morrow.

Mr. POMEROY. I should like the opinion of the Chair on my point of order.

Mr. GRIMES. It is unnecessary that the point of order should be decided if the Senate is in favor of postponing the subject.

Mr. BUCKALEW. After the remarks of the Senator from New York [Mr. CONKLING] I am obliged to say a word or two further. The Senator's remarks impeach the conduct of the President in permitting the publication of his message to the Senate, in my judgment, without any foundation in justice. There is no reason why an executive communication from the President of the United States shall be any more private than a legislative one. Either may be public: legislative ones always are, and executive ones may be. I understand that the Senate of the United States have always had a rule, and that is the only rule on the subject, that communications transmitted them and marked "confidential" by the President are not to be given to the public; the Senate are to take them into consideration in secret session, and the duty of secrecy remains under the rule until the Senate formally remove it by some subsequent vote. This message was not sent by the President to the Senate as a confidential communication.

The PRESIDENT *pro tempore*. I will state to the Senator that it was marked like all the rest of the executive documents, "executive," and considered in executive session.

Mr. BUCKALEW. It was simply an executive message, and so indicated on the outside. It was not marked "confidential," and it was not treated as confidential by the President of the United States, who had perfect control over it. The case does not differ at all from the ordinary one of a legislative message sent to us at the opening of the session and ordinarily furnished by the President to all the leading newspapers of the country in advance of its transmission to Congress, with a simple injunction that it shall not be actually printed until it is delivered here.

Now, sir, it is impossible for the Senate to make this a private communication so far as the President is concerned. He has a right to address the Senate, in fact it is his duty under the law which we have passed, and to address the Senate in a public manner. He did so here. You cannot apply your rule to him if you try. You cannot compel him to

make a communication which he sends to us private. You have no authority over him. I insist, therefore, that upon every ground, whether of our own rule or with reference to the powers of the President of the United States over the business transacted by himself there is no ground for impeaching his conduct. It is because the Senator from New York now in open session raises the point, which is groundless, that I have thought it necessary to say a word on this subject to repel his remark.

Mr. CONKLING. The Senator from Pennsylvania was hardly warranted in saying that I impeached the conduct of the President. However, as he makes the point, I beg to respond to him in two respects. In the first place, this message was sent under the statute by force of which it is in essence and in form an executive document; and in that sense a confidential document. Why? Because the rules of the Senate from time immemorial have denominated and treated as confidential the particular subject and class of subjects to which this message related. Therefore, while it may be true, as the Senator says, that technically the President violated no law——

Mr. BUCKALEW. The Senator will permit me to ask him whether it has not been the uniform practice always, when the President sent an executive communication making nominations to the Senate, although our proceedings on nominations were secret, that the facts were published in all the newspapers?

Mr. CONKLING. Will the Senator in response let me ask him a question? He says this is not one of the confidential messages of the President. Will he do me the favor to tell me what sort of a message is confidential from the President—what he means?

Mr. BUCKALEW. Unquestionably those which are marked so by the President.

Mr. CONKLING. Which are they? I think the Senator knows as well as I do that messages do not come here marked in that manner at all. They come here as ordinary messages, and they come marked "executive," and that is the word which shows that they belong to executive business; in that sense confidential business; and although I will not venture far upon my experience in the Senate, certainly I may say that during the brief time I have been here I have never known any message to be confidential in any sense except that. When printed in the Senate; when, for example, a treaty is printed, when a long list of nominations, as military or naval nominations, is printed, the printer puts upon the top of the pamphlet which he sends to us the word "confidential;" but the mark which the Executive puts upon his message in sending it, as I understand it, is the word "executive."

I was going to say that while it may be that technically no law or, if the Senator pleases, no duty is thus imposed upon the President, yet a fair consideration of decorum arises out of the fact that it has always been the practice and understanding of the Senate that by the action of the Senate, if at all, the injunction of secrecy was to be removed. But, sir, if this were all, if this were the only point that had been disregarded in this case, it might be casual, it might be passing, it might be for some reason not the proper subject of such a remark as I made; but the Senate will remember, what the Senator from Pennsylvania perfectly well knows, that there was a special purpose in this case, a special purpose on the part of the President in publishing this message. What was it? To avail himself of the general right of making public messages which he might send? To give information in the abstract to the public which he thought might be useful or interesting? Not at all. But it so happened that he was waging a warfare with this particular officer, and sending a message here which, so far as the law pointed out his duty, was for the sole purpose of giving information to this body; and he gave it publicity for the purpose of perverting that act so as to enable him in advance to asperse the character of the officer whom he assailed. Everybody knows that that was his motive. Everybody knows that, as a question between him and Mr. Stanton, he was seeking by the premature publication of this message to get an advantage; he was seeking to address the public ear, to occupy the public mind, to foreclose the public judgment in advance of anything that Mr. Stanton might say or that might be said on his behalf. Everybody who hears me knows that, and the whole country, partisans of the President who are candid, as well as his opponents, will admit that that was the fact.

I state this in extenuation of what I said before, which the Senator deems the impeachment that I ventured to make of the President. I say that it was a departure from the rules and courtesies controlling intercourse between the President and the Senate; and I say in addition that it was an act prompted, if not by malice, by a disposition to seize upon the particular official opportunity that he had more effectually to asperse Mr. Stanton before the public than he would be able to do if he kept within the ordinary limits of his duty.

Mr. BUCKALEW. I do not care to protract this debate. It is scarcely worth while. It is in order for me to read the rule, I suppose, as it is in the published rules of the Senate. The thirty-ninth rule is:

"All confidential communications made by the President of the United States to the Senate shall be by the members thereof kept secret," &c.

This message was not such a confidential communication, and was never treated as such by the President. It was for him to decide whether it was confidential or not. That is the point which I made before.

Mr. CONKLING. That is all true. Rule thirty-nine speaks of confidential communications. It does not say how they are marked or by what badge the Presiding Officer of the Senate is to know that they are confidential. What determines that? The usage of the Senate, the mode which the Senate has always employed, or which the Executive, addressing the Senate, has always employed, to distinguish these particular messages. What is that word? It is the word "executive," which the Senator will find carried into the printed version of these messages. "Executive" is the word. Why? Because the Senate goes into executive session to consider them; because the motion always is that we proceed to the consideration of executive business. Did the Senator ever hear a motion made here to proceed to the consideration of confidential business? What does "executive business" mean? The matter of the confirmation or rejection of nominations and of treaties. That is all there is of it. That is executive business, whether the business to be acted on be a treaty or whether it be a nomination; and that is precisely the thing to which this rule refers, as the Senator knows. I think, so far from proving by what he says that this was not a confidential message, he shows that it was within the very meaning of this rule a matter which the President and everybody else was instructed to keep secret.

Mr. CONNESS. I move to lay the matter on the table, as it is consuming our morning hour.

Mr. POMEROY. I should like to have a decision on the point of order I raised, so as to prevent its coming up on another day.

Mr. GRIMES. The morning hour is nearly gone.

Mr. CONNESS. There can be some business done. Some Senators are waiting here to present morning business. I move to lay this matter on the table. It can then be taken up at any time.

The motion was agreed to.

DUBUQUE AND SIOUX CITY RAILROAD.

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 208. I will state in one word that it is a bill of interest to the State of Iowa, and ought to be acted on soon on account of its requiring State legislation to carry it into effect. It was reported from the Committee on the Pacific Railroad unanimously, and I am quite sure it will not occasion any debate.

The PRESIDENT *pro tempore*. This is just the hour when the unfinished business of yesterday is in order, but if there be no objection the Chair will entertain the motion.

Mr. EDMUNDS. I think we had better go through the morning business. We have got some bills to introduce.

Mr. HARLAN. Let us pass this bill. It will take but a moment.

Mr. EDMUNDS. I will not object.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 208) extending the time for the completion of the Dubuque and Sioux City railroad.

The Secretary read the bill.

Mr. HENDRICKS. I wish to inquire if that bill is reported from the Committee on the Pacific Railroad?

The PRESIDENT *pro tempore*. It is so reported.

Mr. HENDRICKS. Then I wish to inquire why the bill has not gone to the Committee on Public Lands? I will state that there are very many cases in which the roads to which land grants have been made are asking an extension of time, and I presume the Committee on Public Lands will adopt some policy in that regard. It would seem ridiculous that one committee should be considering the subject in regard to one road and another committee in regard to another road. If there be no reason in the nature of the case why that bill should not be considered by that committee, I move its reference to the Committee on Public Lands.

Mr. MORRILL, of Vermont. I think the Senator from Indiana is entirely correct——

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to announce that the unfinished business of yesterday is before the Senate.

Mr. HARLAN. I have no objection to this bill going to the Committee on Public Lands if any member of that committee desires it. It was referred, without any motion of mine, to the Committee on the Pacific Railroad. It has been examined carefully, and I think is right; but I am perfectly willing that it should go to the other committee if any member of the committee wishes it.

The PRESIDENT *pro tempore*. It is not before the Senate now. By the rule the unfinished business of yesterday is before the Senate at this hour without any motion for that purpose; and if anything is done with this bill it must be done by a vote of the Senate.

Mr. HARLAN. Let it be done by unanimous consent. Let it go to the Committee on Public Lands.

Mr. HENDRICKS. I suppose the Senator from New Jersey, who is entitled to the floor, will allow the vote to be taken on my motion.

The PRESIDENT *pro tempore*. If there be no objection the Chair will put the question on the motion to refer the bill to the Committee on Public Lands.

The motion was agreed to.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 293) to grant lands and aid to the Port Royal Railroad Company in the States of South Carolina and Georgia; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 294) to regulate procedure in cases of impeachment and to enforce the orders and judgments of the Senate in such cases, and for other purposes; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORGAN asked, and by unanimous

consent obtained, leave to introduce a joint resolution (S. R. No. 95) authorizing the Light-house Board to place warnings over obstructions at the entrance of harbors or in the fair-way of bays and sounds; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 295) for the relief of Eliza Mascher, widow of John F. Mascher; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 512) in relation to taxing shares in national banks, in which it requested the concurrence of the Senate.

DEFICIENCY APPROPRIATION BILL.

The message also announced that the House insisted on its disagreement to the fourteenth amendment of the Senate, and on its amendment to the third amendment of the Senate to the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, asked a conference on the disagreeing votes of the two Houses, and appointed Mr. E. B. WASHBURNE of Illinois, Mr. F. C. BEAMAN of Michigan, and C. E. PHELPS of Maryland, managers at the conference on its part.

On motion of Mr. MORRILL, of Maine, the Senate insisted on its previous action, and agreed to the conference asked by the House of Representatives.

The PRESIDENT *pro tempore* was, by unanimous consent, authorized to appoint the conferees on the part of the Senate, and Messrs. MORRILL of Maine, HOWE, and GRIMES were appointed.

SUPPLEMENTARY RECONSTRUCTION BILL.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being, on the motion of the Senator from Wisconsin, [Mr. DOOLITTLE,] to refer the bill to the Committee on the Judiciary with the instructions proposed by him, and upon that question the Senator from New Jersey [Mr. FRELINGHUYSEN] is entitled to the floor.

Mr. FRELINGHUYSEN. Mr. President, I rose yesterday to submit a few observations on the interesting question before the Senate, and with great pleasure gave way to the distinguished Senator from Maryland, [Mr. JOHNSON,] from whom the Senate and the country are always glad to hear. The formality of my having the floor thus obtained may create the impression that I purpose an extended and elaborated discussion of this subject. Such is not my purpose. All I intend is to give my reasons for my vote in reference to reconstruction, and I make this statement in order that other members of the Senate who contemplate participating in the debate may be on the alert, as I shall not occupy the attention of the Senate for any great length of time. I believe my friend from Wisconsin, [Mr. HOWE,] thinking that the status of his State requires his interposition, contemplates making some remarks.

I am glad the Senator from Wisconsin [Mr. DOOLITTLE] has provoked this debate. The discussion has already in its results been beneficial to the nation. Intent upon doing our duty to this shattered country, rather than on self-vindication, we have for the past year received messages from the President and heard speeches from our political adversaries charging us with violation of duty and of the Constitution, and we have suffered them to pass unanswered. It was time that we spoke out. The charge that a party persistently by one act after another violate the Constitution implies either that we are so obtuse as not to know or so guilty as not to care what are the requirements of that instrument. This is a charge under which I desire not to rest.

I hold that the message from the President at the commencement of this session was unauthorized by his official position. No enactment of Congress is the supreme law of this land unless made in pursuance of the Constitution, because the language of that instrument is that "this Constitution and the laws made in pursuance thereof shall be the supreme law of the land." It becomes, then, an important question to ascertain who shall determine the constitutionality of an enactment. The first ordeal the constitutionality of a bill must pass is a majority vote of the two Houses of Congress, every member of each acting under the obligations of his oath to support the Constitution. The second ordeal that it must pass is the approval of the President, he acting under the obligations of his oath that to the best of his ability he will preserve, protect, and defend the Constitution. If it meets his approval it is a law. If it does not, the third ordeal of constitutionality is a vote of two thirds of each House, each member acting under the sanctions of the same oath and in the light of the President's objections. The fourth ordeal a law must pass is the judgment of the Supreme Court of the United States in the case submitted to them.

First Congress, then the President, then two thirds of Congress, then in the given case the Supreme Court pass upon the question. And after a bill has become a law by a vote of two thirds of Congress, notwithstanding the President's objections, he has no more official authority to send us a message declaring that law to be unconstitutional than he has to send his edict to the Supreme Court charging them with having violated their conscience and their oath in an adjudication they have given in a particular case. Yet, in his message the President tells us that the reconstruction acts are an assumption of ungranted power and in direct conflict with the provisions of the Constitution. Yes, more; he tells us that he had seriously contemplated opposing by force the expressed will of the supreme power of this nation when acting on a subject over which they alone could take any cognizance. I say the supreme power of this nation, for that power in a nation that makes the law is necessarily the supreme power. He contemplated force! Few are able to attain to the virtue that can accept with patience that word addressed to themselves as individuals, and when addressed to the supreme power of the nation can we wonder that it warms the blood? There is no nation upon this earth that may with impunity resist by force the expressed will of the supreme power of this nation, and it is indeed surprising that one acting officially should ever have contemplated such forcible resistance.

I read from the President's message:

"How far the duty of the President, 'to preserve, protect, and defend the Constitution,' requires him to go in opposing an unconstitutional act of Congress is a very serious and important question, on which I have deliberated much, and felt extremely anxious to reach a proper conclusion. Where an act has been passed according to the forms of the Constitution by the supreme legislative authority, and is regularly enrolled among the public statutes of the country, executive resistance to it, especially in times of high party excitement, would be likely to produce violent collision between the respective adherents of the two branches of the Government. This would be simply civil war; and civil war must be resorted to only as the last remedy for the worst of evils. Whatever might tend to provoke it should be most carefully avoided. A faithful and conscientious Magistrate will concede very much to honest error, and something even to perverse malice, before he will endanger the public peace; and he will not adopt forcible measures, or such as might lead to force, as long as those which are peaceable remain open to him or to his constituents."

He seriously contemplated and deliberated upon the exercise of force, but finally concluded not to resort to it! As the representative in part of a State which did its duty in the struggle that laid the foundation of this governmental structure, and within the boundaries of which thousands of hearthstones by their desolation testify how faithfully her sons have fought to maintain it, I protest against that assumption. I am happy that the better genius of our country led the President finally to counsel those things which make for peace. Let the Executive of this nation set up his will against the expressed mandate of the supreme power of the nation and we cease to be a Republic and become a despotism; we cease to be a Government of law and become one of arbitrary will. What should we think of a sheriff or marshal who, with the power of the county at his back, should go forth to suppress an insurrection, with the baton of authority in one hand and a flaming proclamation in the other, declaring that the laws they were resisting were oppressive and unconstitutional, and declaring that he had himself seriously contemplated resorting to force in opposition to the laws they were resisting? Is it any wonder that we are obliged to maintain a military force at the South? Is it any wonder that this nation, now borne down with debt and taxation, is obliged to be at the expense of maintaining that force? No; the wonder is that under such counsel, a people animated still by the hate that inaugurated a war the wounds of which are not yet healed, do not require regiments where there are only squads to keep them in subjection.

In the same spirit, sir, was the declaration of the Senator from Wisconsin [Mr. DOOLITTLE] in his speech of Thursday, when he declared that a war of races was impending at the South. Does the Senator not know that his prophecy, made in this high Council Chamber, going to the whole nation, renders possible, probable, and even to be expected, the very event that he predicts? Does he not know that he is thus frescoing the southern skies with scenes of massacre, which by being gazed at fire their passions until it breaks forth in a devouring flame? And is the distinguished Senator entirely sure that he is not deluding, as heretofore done, as well as encouraging them when he tells the South that not even military force could send white men there to put down any such outbreak?

I believe, I trust, that no such calamity as that he predicts will befall this nation; but should it come, let me tell the Senator that from the hills of New England, from the shops and fields of the middle States, and from the fertile plains of the West would go forth thousands and hundreds of thousands prepared to show to the world that in this land

"The sovereign law, the States' collected will,
Sits empress, crowning what is good, repressing what is ill."

It is the emergencies and the exigencies of this country that prove that not in station or in senatorial robes, but in the humbler walks of life are found our greatest men, our truest patriots.

But to return to the President's opinion of the reconstruction acts. If his opinion is not official, what weight has it? It is an opinion on first impression. There is no adjudication to sustain it. A hundred and seventy Representatives of the people acting under their official oath, each of whom I may, with no disrespect to the President, say, having an average judicial ability equal to his, have said that they consider those acts constitutional. In this balancing of opinion is there any doubt as to the preponderance of authority? As to the charge made in the message, and repeated here, that we are attempting to establish negro supremacy in the country, I ask what foundation is there for it, when in eight out of the ten rebel States there are a majority of white voters registered; and when in the country at large there are four hundred white voters for every forty negro voters, and the forty without property, without political or other influence, without education? Is not that charge made to incite the prejudices of this country against the party which befriends the colored man? Sir, it is not negro but

loyal supremacy that we purpose to establish. Our purpose is not to incite one race against another, but it is to establish and maintain the great principle for which our fathers fought and died—that the governed shall have a voice in making the laws that govern them—and to establish that great principle so beautifully expressed by Burke, that "justice is the supreme policy of nations."

Mr. President, I desire to say a word as to the constitutionality of the laws in question. The argument against them embrace a preface or introduction and two propositions. It is the introduction to the argument that gives to it its color and spirit. That preface is that each State of this Union is a sovereign power, and in many respects, even when in rebellion, beyond the control of Congress. If the States were sovereign powers when and after the Constitution was formed in 1788 it is very easy to insist that they, as sovereigns, only entered into a league or compact or treaty which, being for no definite time, may at pleasure be retired from the States and remitted to their original sovereignty, and of course all legislation in regard to them when they have so retired is unconstitutional and void. That which gives life to all the arguments against the reconstruction acts is the principle of State sovereignty. Now, sir, are the States sovereign in any such sense as is insisted?

Originally these Colonies were provincial, chartered, and proprietary. In 1776 they became independent sovereignties; it is true, they were without any power to give expression among the nations of the earth to that sovereignty; they were petty in their nature, tribal in their character, but yet had all the attributes of sovereignty. In 1781, when the articles of "confederation and a perpetual union" were established between the States, they still retained their sovereignty. They remained sovereign down to 1788, when they transferred their sovereignty to this great nation. That was done by several steps. One step was this: that while the Articles of Confederation in express terms declared that the States while entering into that confederacy retained each its individual sovereignty, the Constitution of the United States omitted any such declaration; and next the Constitution commenced by saying that "We, the people of the United States, for the purpose of forming a more perfect union." "More perfect" in what? Not in perpetuity, for the articles of confederation were "articles of confederation and perpetual union." More perfect in nationality, in unity, in sovereignty. The history of the times shows that this was the purpose of that instrument. To form a more perfect union what did the people ordain? A league? A compact? A treaty? No; a "Constitution"—the bones and sinews and nerves of a new being, a new nationality. The next thing done was that these sovereign States disrobed themselves of every element of sovereignty by declaring that they should not make war or treaties or alliances, emit coin, keep an army or have ships of war, or, in fact, have or do anything which is essential to sovereignty; and then with that which they had disrobed from themselves they enrobed this newly-created nation; and the last provision of the Constitution was that "this Constitution and the laws of the United States which shall be made in pursuance thereof" "shall be the supreme law of the land," of every foot and rood and acre, of every Territory, district, and State; and so they ceased to be sovereigns, and we became a great nationality.

And, after all, sir, the United States Government is only a sovereignty with limited powers. It possesses only such as are expressly or impliedly given in the Constitution. The source and repository of sovereignty in this country are the people, and there is a vast residuum of it with them that has never yet been put forth. The people have given constitutional rights to the States, some sovereign powers to this Government; while they have, by providing for amendments to the Constitution, established an easy means by which power can be reclaimed by the people, or by which more power can be transferred from the people to the Government. This idea is well expressed in the tenth amendment to the Constitution, passed the year after the Constitution itself was adopted—

"The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people."

Some constitutional powers had been given to the States and some to the national Government, and all not parted with remained with the same people mentioned in the beginning of the Constitution, who are styled "the people of the United States."

It may be said that it makes no difference whether the powers which the States possess are termed sovereignty or whether you call them constitutional rights. It makes a vast difference. The correlative of sovereignty is allegiance; and it is just that heresy of allegiance to State sovereignty that has made this land to flow with blood, and which to-day calls forth the unbidden sigh from the patriot father's heart, has sent desolation to all the households of this country, and has cast upon us a crushing debt, which by honest toil at loom and anvil and in the field is yet to be paid. I read the other day a published letter to General Scott from the wife of a distinguished rebel general, in which she said, "My husband sheds tears of blood over this terrible war; but what else could a man of honor and a Virginian do?" And in the ballad sung by the scions of the best families of the neighboring State, beginning "Maryland, my Maryland," is contained the sentiment that has made many of the young men of that State tarnish for life their honor and their fair name by rushing into the rebel ranks. I intended to read, but I will not occupy the time of the Senate by doing so, the views of Hamilton and Madison, as expressed in the debates on the Federal Constitution, upon this subject of State sovereignty. It is, sir, a doctrine which is now insidiously invoked to render our legislation unconstitutional, as if there was a certain sovereign sanctity about these States even in rebellion which places them beyond the power of Congress.

So much for the introduction or preface to the argument against our laws. Now, the two propositions upon which the argument depends are these: first, that the rebel States are in the Union, that the ordinances of secession are nullities, that the President and the Departments have acted on that principle from the beginning, that the Supreme Court in banc have included these ten States in their circuits; and, second, that these States being in the Union are entitled to all the rights of States that never rebelled, such as the right to representation, to regulate their own suffrage, the right of voting on amendments to the Constitution of the United States, the right to have a republican and not a military government. Such are the two propositions.

Now, Mr. President, speaking for myself, and not committing my friends here, I admit, because I believe, that the rebel States are now in the Union, and admitting that I admit that they never have been out of the Union; and whoever claims that they are in the Union now must also admit that they never have been out of it, because nothing has been done by the only branch of this Government that has the right to act to restore them to the Union. I believe that the ordinances of secession are perfect nullities; that the President, the judiciary, the Departments of the Government have done right in treating the rebel States as in the Union. The Constitution declares that the Constitution and the laws made in pursuance thereof shall be the supreme law of the land. In that supremacy every State of this Union has an equal right.

The State of New Jersey has as much right to be heard on the question whether Kansas is in the Union as has Kansas; and so of every other State. No State can pass an ordinance to take a State out of the Union that is anything more than a nullity. But how is it with the second proposition, that the rebel States being in the Union have all the rights of States that have not rebelled? Let us examine that proposition. States that have not rebelled hold very intimate relations to the General Government; they have a right to send Senators and Representatives here from districts which are entirely within the geographical boundaries of their States. If this proposition is true, that rebel States have all the rights of States that have not rebelled, then Congress was bound to admit Representatives from these rebel States to its war councils while the war existed, for there is no change in the relations of these States to the Union since the termination of the war. Loyal States, sir, have also under the Constitution a right to be protected from invasion and domestic violence; and if rebel States have all the rights of loyal States, we surely had no right to invade their territory ourselves, and Sherman's march was a most unconstitutional procedure. Again, citizens of loyal States have a right to all the privileges and immunities of citizens of the several States. Then when Lee went to Pennsylvania with his followers they should have been received as citizens of Pennsylvania.

Loyal States have also by the Constitution the right to fix the qualification of voters for Representatives. Then we are, and always have been bound to recognize and submit to a disloyal constituency. Loyal States, too, are entitled to have full faith and credit given to all their legislative acts and judicial proceedings. Then what right had we to call upon the rebel States to repeal their ordinances of secession, to abolish their rebel debt? Mr. President, has a rebel State all the rights that are possessed by a State that never has rebelled? No, sir. It is a pure absurdity. The States are and ever have been in the Union; the Constitution and the laws made in pursuance thereof are over them; no ordinance of secession is valid; but they by war have forfeited just such rights as this Government, for the purpose of maintaining its supremacy and the welfare of the whole nation, and for the protection of the rights of all the people, see proper to declare forfeited. The Constitution, too, in express terms gives Congress the right—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States."

Now, I ask whether one of the powers vested in the Government of the United States is not the power of self-preservation, and to preserve it by maintaining the loyalty of the constituency of this nation? It has, by the express words of the Constitution, the power to make all laws necessary for that purpose; and yet we are told that in the passage of the laws, directed to that end alone, we have been guilty of assuming the exercise of ungranted powers, and are acting in direct violation of the provisions of the Constitution!

Those who with fire and sword have endeavored to destroy this nation cannot cry out for the guarantees of the Constitution. They have forfeited just such guarantees as we choose to declare forfeited. If a wife violates marital rights the husband need not have it dissolved; he can hold the marriage binding, and may cause her to forfeit marital rights. If one violates a contract or lease that does not absolve him therefrom; the other party can hold it abrogated or can hold it binding.

Look, sir, at the consequences of this doctrine that the rebel States retain all the rights of States that have not rebelled. It would place it in the power of States by rebelling, by destroying a quorum of Congress, to destroy the action of the Government. And, again, one of the grandest features of our Government is our ability by means of amendments to the Constitution and without revolution or the shedding of blood to effect great political reforms; but ten States rebelling, if they retain their right of voting on an amendment, can destroy all the

benefits of this power. They, by rebelling, can make it necessary to have an amendment, and by their rebellion destroy the ability of the nation to make the amendment, ten States being more than one fourth of the whole number of States!

Mr. President, we did not go into the war on the principle that we could not gain and the rebels could not lose. We did not agree that if the rebels succeeded they would establish their nation and so lose nothing, and that if they were defeated they should be restored to all the rights that States possess which have not rebelled; while we, on the other hand, if defeated should lose our nation, and if we succeeded should only transfer the rebellion from the fields to the council halls of the country.

But it is insisted that these rights were suspended during the war and restored at its termination. In other words, the rebels lost their rights by going to war and gained them by being defeated. The distinguished Senator from Maryland yesterday insisted that the war was over and made that fact the fulcrum of his skillful argument. Is the war, with its consequences and its incidents in fact over when we are now compelled, although laboring under heavy debt, to maintain, at great expense, a military force in the rebel States that we may preserve the authority of the nation? Are not those States in a different condition from the State of Pennsylvania and the State of New York, and are they any more loyal than they should be? Have they supererogated anything of loyalty? Is the war and its consequences over when four millions of our allies there require our protection, and even now we are told are in danger of being massacred? Is the war over until the enemy accepts such terms as Congress alone is authorized to lay down for the restoration of our friendly relations? Those terms are the reconstruction acts. The Senator from Maryland, however, and myself may differ as to whether the war and its consequences are over. But there is one tribunal which must settle that question; that tribunal is the Congress of the United States. The President has no right to attempt to settle it. The Supreme Court has no right to take jurisdiction of the question, and they do not assume it. The principle upon which that court acts is stated in the case of Luther *vs.* Borden, thus:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government." * * * * "Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for as the United States guarantied to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not; and when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the Government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal."

The same doctrine is expressed by that court in Cross *vs.* Harrison, in 16 Howard.

When the proper tribunal, the Congress of the United States, determines that war, with its consequences and incidents, is over, then, in contemplation of law, it is over, and not till then. The idea that the judiciary can determine when it is over is not recognized by the courts. They can say in a State where no war has existed that the State is not in a state of of war, as they said as to Indiana in the Milligan case; but if we declare war against England, and questions relative to prizes come before the court, could they say that we were at peace with England? No; they would be bound by the declaration of war made by Congress.

The idea which has gone forth that the judiciary have anything to do with the subject of reconstruction is a strange one. The Constitution says that—

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."

It is "the judicial power," not the political, which is thus vested. It would be a strange thing if this nation, after all the wars we have had, after living for ninety years thinking we lived under republican democracy, should wake up and find that our Government was an aristocracy, and that one or five members of the Supreme Court could regulate the political interests and relations of the country.

Suppose the Supreme Court thought, as many did, that our acquisition of the Louisiana territory was unconstitutional, thinking that we had no power to acquire further territory, and some suitor in that territory had complained that the laws of the United States were exercised over him, and he had asked the Supreme Court for relief, could that court have said the acquisition is unconstitutional and the laws of the United States had no rightful control over him? Certainly not; and they do not assume any such power. The acquisition of territory is a political question and for Congress alone to consider and determine; and so it is for Congress alone to say when we make war, and when war with its incidents and consequences is over, and on what terms war and its incidents shall cease, and how the territory which they have brought under the power of their arms shall be governed; and it is for no other power to determine. Congress fixes the relations of this nation with all the nations and states and kingdoms and territories on the earth, and its conclusion is final, because it is a political and not a judicial question.

But it is said that the Supreme Court will, in the McCardle case, decide the reconstruction acts unconstitutional, and that the moral effect will be injurious. I do not believe they will so decide, because I believe that those laws can be demonstrated to be constitutional, and because I believe that the Supreme Court will not make a deliberate usurpation of the authority of the Legislature. We, sir, are engaged in laying anew the foundations of a government for ten rebel States, for twelve or fifteen million people. It is a most difficult work, and is rendered more delicate by the fact that there are four million human beings recently held as chattels now to be brought up to the position of citizens. It is a more difficult task than that our fathers had when they formed this Government. They made one great error by suffering to exist in the framework of our Government, like a viper in a chaplet of roses, the great moral evil, slavery, from which have sprung all our ills. Let us, profiting by our sad experience, take care that in this work of reconstruction we do not commit a like error.

Being thus engaged, if expedient or necessary for the more speedily effecting reconstruction, Congress, it is clear, has the right to withdraw all supervisory power of the Supreme Court over the reconstruction acts.

McCardle is a citizen of Mississippi, and went into the district court there complaining that the laws in question were exercised over him and were unconstitutional, and the courts decided that those laws were constitutional and properly binding upon him. Now, how does he get his case before the Supreme Court? He asks the appellate power of the Supreme Court, and that court gets its appellate power only by virtue of an act of Congress on the 24th of September, 1789, which gives them all their appellate power, and there is not a lawyer in the land who will not say that if that law was repealed this case would fall.

But, further, the Constitution on its very face, in giving jurisdiction to the Supreme Court, gives original jurisdiction in only two classes of cases. First, "in all cases affecting embassadors, other public ministers, and consuls;" and second, cases "in which a State shall be party." The Constitution provides that in all other cases stated in the foregoing clause of the Constitution "the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make." Therefore Congress can by the express words of the Constitution except all appeals under the reconstruction acts. They have a perfect right to do so, and need only reënact the words of the Constitution in doing so. The Supreme Court have in several cases decided that Congress had a right to limit their appellate jurisdiction and to regulate it just as they see proper. In the opinion of Chief Justice Taney, delivered in a case decided in the year 1846, to be found in 5 Howard, page 119, the Chief Justice says:

"By the Constitution of the United States the Supreme Court possesses no appellate power in any case, unless conferred upon it by act of Congress; nor can it, when conferred, be exercised in any other form or by any other mode of proceeding than that which the law prescribes."

Chief Justice Marshall, in 1816, in a case reported in 6 Cranch, page 312, expressed the same doctrine; and so did Chief Justice Ellsworth, in 1796, in a case reported in 3 Dallas. I will read the language of Chief Justice Ellsworth in that case:

"The Constitution, distributing the judicial power of the United States, vests in the Supreme Court an original as well as an appellate jurisdiction. The original jurisdiction, however, is confined to cases affecting embassadors, other public ministers, and consuls, and those in which a State shall be a party. In all other cases only an appellate jurisdiction is given to the court; and even the appellate jurisdiction is, likewise, qualified; inasmuch as it is given 'with such exceptions and under such regulations as the Congress shall make.' Here, then, is the ground, and the only ground, on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings we cannot exercise an appellate jurisdiction; and if the rule is provided we cannot depart from it. The question, therefore, on the constitutional point of an appellate jurisdiction is simply whether Congress has established any rule for regulating its exercise."

There is perfect power in Congress to take away the whole jurisdiction, and it follows that they can regulate it. The Constitution expressly declares that Congress may regulate this appellate jurisdiction. I can see no objection to a regulation requiring two thirds to render a decision in that it might affect unjustly individual suitors where the constitutionality of a law of a State came before the court. One having an unconstitutional law in his favor might succeed, even though a majority of the court considered the law void. I am not advised of any necessity for changing the law granting and regulating the powers of the Supreme Court. The whole question is, what is best for the country? The chairman of the Judiciary Committee has in charge the case in the Supreme Court to which I have alluded; and I am satisfied the interests of the country will have all proper attention. But what, let me ask, in this view of the law, becomes of the charge of the Senator from Wisconsin that we were unconstitutionally authorizing the justices of the Supreme Court to throw false weights into the scales of justice? Should we desire to pass such a law as he denounced we could do so by enacting almost the very language of the Constitution itself.

Mr. President, the Senator from Wisconsin complains of the policy as well as the unconstitutionality of the laws. Sir, the policy of the reconstruction acts is simply to have a loyal constituency. Let a rebel constituency, unqualified by the element of loyalty which we seek to infuse into it, come here, and these results might follow; they would have no care for the pledged faith of this Government, and having no pecuniary interest in our debt, they would feel every assessment for taxation as a new wound to their pride as well as draft upon their pockets; and by making combinations with those they might find ready to confederate with them by various machinations they might cut off tributaries to our Treasury and also deplete it; and thus, bringing us to the verge of bankruptcy, make repudiation easy and even necessary, and so destroy perpetually the honor and faith of this Government.

Again: entertaining feelings of hostility toward a race who for centuries have supported and now maintain them—a hostility so intense that we are told they contemplate their slaughter and annihilation—when possessed of the State governments they would enact laws which

their victims would be powerless to resist, and which would bring them back to a state of bondage worse than that from which they were delivered: for while the self-interest of the master would not induce him to provide protection and nourishment they would be deprived of all the privileges and blessings of freedom.

And again, let a rebel constituency come here unrepentant for wrongs, unchanged in principles, still adhering to the heresy of State sovereignty, seeing how our country is weakened by the results of the recent rebellion, they might reënact their defiant exodus from these Halls and attempt the reëstablishment of their confederacy. And might not this nation, pressed down by debt and disappointed in not having gathered the fruits of the last heroism, fail to have a heart for resistance? At all events, I withhold my voice and vote, my hand and heart, from contributing to these possibilities.

My friend from Maryland favored us yesterday with a discussion on loyalty. He did not properly define loyalty. He discussed loyalty as if it were a matter of opinion, and with great delicacy and propriety asked, "Am I not loyal?" Surely the distinguished Senator from Maryland is loyal; that would be the verdict of every member of the Senate; it is the verdict of the country, and it will a hundred years from this be the verdict of history; and if it is not indelicate for me to say so, I will go further and say that his associates—our political adversaries here—are all loyal; and the great apostle of liberty to whom he referred was loyal, though with the Senator and his associates, as well as with Jefferson, I differ widely in some of my opinions. Loyalty is not a matter of opinion; it is a matter of feeling. It is not a matter of the head; it is a matter of the heart.

The man is loyal who loves and respects his country; and he is disloyal, no matter what his opinions may be, if he hates and despises it; if he would make war upon his country; if he would trample our flag as an unholy thing under his feet; if he scorns our offers of amnesty and refuses to submit to her authority; and it is because of that disloyalty at the South that they will not be admitted here until it is reformed or until we are satisfied that we have infused into that constituency a neutralizing element of loyalty. The word "loyalty," he says, is not in the Constitution. No; those seven letters are not there, but the principle is written all over it. Every enactment made under the Constitution is but a declaration that loyalty is essential in this Government, because every law is simply calling upon the citizen to be submissive and obedient to the Government.

It seems to me, Mr. President, that the Senator from Wisconsin, in discussing the policy of the reconstruction acts, missed the true question. In discussing the policy of the measure he treated it as if the question was whether it would not be better for this country that we should all be of one family of the human race and of one color. All the evils that his gloomy fancy drew were drawn from the fact of two different races living together. That is not the question we are forced to consider. Perhaps many might agree with him that we would be happier if we were all of one family and of one color. Some, it is true, might believe that the Disposer of human events knew better what was best for us than we do ourselves, and that even if we thus would be happier that happiness is not the highest object of life; that character, the character of a nation, is a grander object even than its happiness, and that we as individuals and as a nation are made morally better by now exercising justice toward a race that for centuries we have oppressed. Then, too, the statesman might insist that the nation could not now dispense with the material results of the black man's labors.

The question, however, which fact, event, and history force upon us is whether it is better for this nation, in violation of its cardinal principle that the governed shall have a voice in the laws that govern them, to deprive a population more numerous than were the inhabitants of this country at the Revolution, who have fought our battles and help pay taxes, of all political right and self-protection and render them a poor, oppressed, ignorant race, festering and throbbing with degradation; or is it better now, when we have an opportunity we never shall have again, to give them those political rights which experience has proven have elevated all who ever possessed them? On that question, whatever may be the answer of an unhallowed prejudice, when I remember that it affects millions who will live and die when I am moldering in the grave, I have no hesitation as to what should be my answer. We are bound now to do justice to that race. Almost the first vessel for trade that sailed up the James river in 1621 carried twenty slaves from Africa, and from that day for two centuries millions of that race were hurried across that thirsty continent to the dismal baracoons at the seaboard, and thence, amid all the untold horrors of the middle passage, they were transported to this country to live in perpetual servitude. The Constitution, adopted more than a hundred and fifty years after this, did not prohibit this traffic, but did provide that no law should be passed forbidding it before 1808, and did authorize an import duty of ten dollars a head, and that instrument did in terms studied, so that the enormity should not be patent, recognize this servitude.

I do not say who was guilty for this; English avarice, northern cupidity, and southern pride are all responsible; but there was the evil, and no man could see how we were to be delivered from it. Deliverance came; but it was by an anguish more fearful than that which visited the home of the Pharaohs, when the Angel of Death waved his dark wing over that devoted land. Deliverance having come, let us now compensate for the wrong that we for two centuries have done. That race has been obedient to our laws; they have been patient under suffering; from a certain gentleness in their nature they have been submissive under exactions which would have made us friends. They have not been drones living on our charity. No; the father and the mother and the daughter and the son have all labored as no other people ever labored. Independent of making their own bread and clothing, of giving wealth and affluence to their masters, and of educating their children, generation after generation, independent of the products of the dairy, and of the rice and sugar and tobacco and corn, and of all the cotton used in our own land, they have on an average brought to this country about one hundred and eighty millions a year, as the return for the cotton produced by their labor and exported to other countries.

They are abused, called semi-barbarians; and yet, what would be the condition of the country this year with our $90,000,000 of gold in our Treasury if you exclude from the country the $144,000,000 of gold that their labor has brought to us? I think they have some rights here, and I believe that justice is, as stated, the supreme policy of nations. While the ballot will do them good it cannot injure us. They will all vote the Democratic ticket, or they will all vote the Republican ticket, or a part will vote the Republican ticket and a part of them will vote the Democratic ticket; and in either event, while they can protect themselves by voting, they will only swell the great current of popular sentiment in the country, and will not direct or control it.

Why, sir, there was the same opposition to the emancipation that there is to the enfranchisement of the colored man. I remember that the emancipation proclamation carried the State of New Jersey against the Republican party by sixteen thousand. Denunciatory speeches were then made. Where are those denunciations now? All sunk like useless *debris* in the sea of oblivion. Who now, North or South, insults freedom? She sails forth gloriously, and is a thing of beauty as, with her white sails and silver spars, bright against the heavens, she circumnavigates this continent. Five years from this the wonder will be that in republican America anybody should question whether seven hundred thousand native-born, free American citizens, who fought our battles and who helped pay taxes, should or should not have the privilege of voting.

Why distrust this principle? Ninety years of experience have verified it. Its success makes kingly power tremble all over the world, while those who have long been subjects of oppression are coming forth from the seclusion of ages and claim a right to be heard. Hundreds of thousands have come to our shores. They have enjoyed this privilege and have been elevated, while we have not been injured, but have been profited. Why distrust it? A principle is always true to itself. You may take an acorn and place it under the forcing glass and nurse it, or you may throw it out to the winter's snows and the summer's rains, and it will never produce anything but an oak. A principle, moral or political, that is good for me is good for you; if it is good for the white man it is good for the black man. Does any one think that this principle of self-government will ever die? No; it is truth, and it has something of omnipotence and immortality of its great source. It may be retarded; it may be hindered; it may be, as was intimated by my distinguished friend from Maryland, that in sustaining this franchise the Republican party has a heavy load; but I am glad to belong to the party and help to carry it. It is a true principle, and though retarded will not be destroyed—

> "Truth crushed to earth will rise again.
> The eternal years of God are hers."

Take the doctrine that the governed shall have a voice in making the laws that govern them from this country and you destroy our characteristic, that which makes this America, and you leave it a mammoth country within the broad extending ribs of which there is no soul, no spirit.

Sir, there are those in this country, and I think their voices will be heard, who believe that the possession of political privileges benefits a man not only for time. There are those who believe that as the degradation of bondage tends to vice, so the elevation of freedom and of political privilege points to God.

Sir, there was a time when the President of the United States had full faith in this principle. "Go read that paper which says that all men are created equal and are endowed by their Creator with certain inalienable rights," said John Adams, "at the head of the Army, and every sword will be drawn from its scabbard, and the solemn vow made to maintain it or to perish on a bed of honor. Publish it from the pulpit; religion will approve it, and the love of religious liberty will cling around it resolved to stand with it or fall with it. Send it to the public halls, there proclaim it; let them hear it who heard the first roar of the enemy's cannon; let them see it who saw their brothers fall on the field of Bunker Hill and in the streets of Lexington and Concord, and the very walls will cry out for its support."

Mr. President, that principle will yet live and have power in this country. The soil of this country is too deeply saturated with the blood of patriots who died to establish the principle that the governed should have a voice in making the laws that govern them for it now to be surrendered or impaired.

As to the amendment of the Senator from Wisconsin, which provides that only those having a freehold or being able to read shall vote, and which thus offers a reward addressed to the prejudice and pride of the South, if they will keep the colored men in perpetual ignorance and poverty, I have no remarks to make. It is buried up in the lumber of this debate. But if that is not asking this nation to give its children a stone when they ask for bread and a serpent when they ask for a fish, then I do not know where that expressive simile would be appropriate.

Mr. POMEROY obtained the floor.

Mr. SHERMAN. I hope the Senator from

Kansas will give way to enable me to submit a motion for the appointment of a committee of conference asked for by the House on the cotton bill; and I desire also to have action on another bill with his consent.

Mr. POMEROY. I yield for that purpose.

COTTON TAX.

The Senate proceeded to consider its amendments to the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, disagreed to by the House of Representatives, and upon which the House had asked a further conference.

Mr. SHERMAN. I move that the request of the House be granted, and that the Senate agree to the appointment of another committee of conference.

Mr. MORRILL, of Vermont. Before the vote is taken on that motion I desire to call the attention of the Senate for a single moment to some incidents in the progress of this bill. It was sent here from the House a bill repealing the tax on cotton after the present year. The Senate made certain amendments to it suspending it after the present year and suspending the duty on imported cotton, and it was sent back. Those amendments were non-concurred in by the House, and a committee of conference was asked for and granted by the Senate. A majority of that committee of conference were understood to assent to the proposition as stated by the chairman of the Committee on Finance, to allow cotton imported after July 1, 1868, to be exempt from duty. It seems that the House are under the impression that they have only got to insist upon their provisions and the Senate will yield. I confess that I am so recently from the House that I rather admire the pluck of the House. I thought, indeed, when I came to the Senate that I was coming to a body of at least equal position and of equal power in all matters of legislation save that of originating revenue bills; but I find that the chairman of the Committee of Ways and Means informs the House as follows:

"I think that very frequently, where the House has a determined mind and so expresses itself, the Senate is as ready to recede as any other body I know of."

Now, Mr. President, it does not belong to me to indicate to the Senate what is proper to be done under these circumstances. I leave it for older and better-informed members of the Senate. For one, I should feel very much like adhering to the bill, and allow the House to pass it or not, as they choose; but I only desire to call the attention of the Senate to the circumstances and to the character we are supposed to be making so far as it relates to this particular issue.

My State has not a particle of interest in this question. We do not sell any considerable amount of grain to go out of the State, so as be interested in having cheap bags. The effect will be to increase the price of grain bags something like four or five cents each, for they will weigh something like a pound or a pound and a half; and if this tariff is still continued upon this cheap Surat cotton, of which these cheap bags are made, it will necessarily enhance their cost. But the amount of raw cotton that we are to import for this purpose is very inconsiderable, and the duties arising from it would not amount in ten years, I should suppose, to as much as the sum that would be absolutely annihilated in the cost of machinery recently purchased to use Surat cotton by refusing to grant the proviso to the bill. I suppose that there is at the present moment invested in machinery for the purpose of manufacturing this coarse Surat cotton into grain bags a larger amount at least than would accrue upon the cotton for ten years. In my own State we have no manufactories engaged in this sort of business. We sell no grain to go abroad and manufacture no Surat cotton; and if other Senators are content to allow this to pass I am.

Mr. SHERMAN. I think the remark of my colleague in the other House was just as wrong as the Senator from Vermont can suppose it to be. I think such remarks made in either House, which tend to prevent a free conference and tend to prevent the two Houses from reconciling differences, are very unfortunate, very unhappy. Such a remark ought not to have been made; but at the same time it is our duty, as a matter of course, the House having asked for another conference, to give them the conference. There can be no question about that.

Now, a word in regard to the history of this matter. The cotton tax has been debated here until we are all tired of it. Both Houses desire, as they have shown by their votes, to repeal the cotton tax after the last year. The Senate put on an amendment to this bill, in which I concurred, and which I think is right, to give to the manufacturer of cotton here the same opportunity of importing cotton of a certain class that the English manufacturer has; in other words, to restore the cotton tax to the condition it was before the war, to allow certain kinds of cotton to be imported free of duty and also to take away the internal tax. But the action of the House grew up out of a misapprehension of the action of the Senate; and it just shows how these differences of opinion between two Houses, who are not debating in the face of each other, arise.

If you will read the proceedings of the House of Representatives it will be seen that the Speaker of that House made the point that the Senate, contrary to usage, had instructed its committee of conference to adhere to such and such propositions. We did no such thing. Upon my own motion the Senate proposed to recede from the great body of the disagreement. Instead of proposing to adhere, or to give instructions to adhere, or anything of that kind, we proposed to recede from the body of the disagreement, excepting only the one provision to which we have still adhered. The Speaker fell into a misapprehension, and upon that he states that the Senate have resorted to the extraordinary expedient of instructing its committee, which was simply a misapprehension on the part of the Speaker of the actual facts as they occurred here. Probably he did not read our proceedings. So the remark made by my colleague in the House, following immediately after the remarks made by the Speaker, showing a little feeling and a disposition to create a contest between the two Houses, it seems to me, was wrong.

But, sir, there is but one course for us to pursue, and that is to appoint a committee of conference to meet again the committee of conference on the part of the House. If they can report an agreement to us, as a matter of course, then we shall have our decisive vote upon it. If they cannot agree that is the defeat of the bill; that is the result of it. I therefore move, in the usual way, that a committee of conference be appointed. As a matter of course, it will be appointed with a view to carry out the wish of the Senate, which is no doubt in favor of repealing the cotton tax and also of repealing the duty on imported cotton. Undoubtedly the committee will be organized with that view.

Mr. CONNESS. I only wish to say that when this question was originally voted upon I voted with those who were in favor of continuing the tax on cotton at this time until the whole subject of the reduction of taxation was reviewed; but finally, upon condition of the repeal of the tax on imported cotton, I changed my vote and voted to recede with the instructions proposed by the chairman of the Finance Committee. I have no doubt that the vote of the Senate would still be against the proposition to take the tax from cotton without that amendment, and I trust that the Senate, in the appointment of its committee and in conducting this negotiation or conference with the other House, will adhere to the position it has taken of carrying with this proposition the repeal of the duty on imported cotton. Otherwise it is not only repealing the tax on American produced cotton, but it is affixing and continuing a tax upon the agriculture of the country which uses cotton bagging. I only wish to add what I have said to what has been stated by the honorable Senator from Vermont and the Senator from Ohio, the chairman of the Committee on Finance. I hope that this provision will be kept in the bill.

Mr. GRIMES. I am satisfied that there is considerable misapprehension, which is very natural, because one would not understand exactly what was the object of the members of the House by the debate when they refused to concur in the amendments of the Senate. I say I am satisfied that there is a misapprehension as to what was the reason which induced the House to non-concur with the Senate. It is not that a majority of the members are not in favor of repealing the duty on imported cotton; but it is because they are unwilling to repeal the duty on imported cotton on the 1st of July and allow cotton to come in free from the 1st of July until the 1st of December, when the American cotton will have an opportunity to be brought to market. I know that that was the motive which influenced a good many members of the House. Their purpose was to restore the condition of things in regard to cotton exactly to what it was before the war; that is to say, to take off the duty on Surat and all other imported cotton at the same time that you take off the internal tax on American cotton. Now, you take off the internal tax on American cotton virtually when it is picked and pressed and sent to market; that is to say, you take it off in November or December.

Mr. ANTHONY. September.

Mr. GRIMES. Well, September. The House, or many members of the House, enough to control the action of the House, were desirous that the duty on imported cotton should be continued until such time as the internal tax on American cotton should be taken off; and their reason was—I do not know with what truth; I do not know as to the amount of cotton that is imported; but the reason they allege is—that if we do so the warehouses along the Atlantic coast would be filled to repletion with free cotton imported after the 1st of July and before the time when the American cotton comes to market.

Mr. ANTHONY. Mr. President, we have given up all of our amendments except that which relates to imported cotton. Now, if we go back to a committee of conference we go back to give up that; if not, what is the use of going there at all? If it is only to postpone the time when the repeal of the duty shall take place two months it is not of very great consequence; but, as I read the debate of the House, it was placed upon very different principles from that stated by the Senator from Iowa. I understood that many members of the House took the ground that it was interfering with the principles of the tariff. I do not want to do anything that shall arrest this amendment of the Senate. The duty on Surat cotton now paid in gold amounts, when it gets into the cloth, to one cent and a quarter a yard upon heavy standard sheetings, the only cotton goods that we export, and the only cotton manufacture that goes abroad to take the place of gold to adjust the balance of trade. The repeal of that duty, if we have a short cotton crop next year, as everybody expects we shall, is a matter of very great importance to the manufacturing interest, for all the finer grades of cotton will be taken in Europe for the manufacture of the finer class of goods, and we shall be obliged to use the Surat cotton to make the heavy sheetings. That cotton wastes more than any other. It takes a pound and a half of Surat cotton to make a pound of cloth, and when that cotton gets into cloth it pays a duty that amounts to forty-two and a half per cent. I am not willing to agree to any measure which shall jeopardize this amendment of the Senate. I do not care about the postponement of the repeal of the duty for two months if we could have any assurance that that would be the result of the conference.

Mr. SHERMAN. The better way is to let it go to a committee of conference, and then

the whole matter is within our power. As a matter of course, the conferees will represent the opinion of the Senate. I take it, the opinion of the Senate has been fairly expressed in favor of both of these propositions. I can say that I for one am not disposed to yield either, especially after what has been said. At the same time, I do not think we ought to embarrass the conferees by any instructions or by any recommendations, because their action is to be reported to us, and then we shall act finally on the subject.

Mr. MORRILL, of Vermont. I think the Senator from Iowa is mistaken. I have read the entire debate in the House, and I believe there was but one member who participated in the debate who suggested even the idea of an objection as to the point of time. One gentleman objected to it because he would not any more take off the duty on imported cotton than he would the duty on wheat, corn, and flax. Another gentleman objected to it because it was against the principle that we have adopted, which, he said, was the principle of encouraging cotton. Mr. President, the principle of protection, if it will not in the end produce the article cheaper and enable the country to get along without protection, ought to be abandoned. We had protection upon cotton for years—say from 1790 to 1846, although for the last twenty-five or thirty years it was merely nominal—and we did get cotton so that it required no protection. It was said by one gentleman that there should be as much protection upon cotton as upon wool. That is not the fact. We produce three or four times as much of cotton as we consume ourselves; while of wool we produce only two thirds as much. I think the Senate ought to adhere to its previous action on this bill. I do not think it would be any disrespect to the House to do so. At the same time, of course, I am willing to yield my opinion to that of older members.

Mr. CORBETT. I simply wish to state that I have been informed that one of the reasons why the House was opposed to this amendment was that the time was not sufficiently extended to prevent the bringing of cotton from Mexico into some of our ports previous to the new crop of cotton in this country that comes into market about the 1st of October; but if the time was extended to the 1st of October there would probably be no objection to this amendment in the House. For my part I should have no objection, as the Senator from Rhode Island states, to extending that time to the 1st of September, or October, if necessary, that we might have that protection and to satisfy the House; but further than that I do not think the Senate should give way.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate insist upon its amendment and agree to the conference asked by the House.

The motion was agreed to; and by unanimous consent the President *pro tempore* was authorized to appoint the conferees on the part of the Senate.

Messrs. MORGAN, CONNESS, and BUCKALEW were appointed.

SPIRIT METERS.

Mr. SHERMAN. I will further appeal to the Senator from Kansas to give way to let me have a vote on the joint resolution providing for a commission to examine and report on meters for distilled spirits, which was reported from the Committee on Finance some time ago. The time fixed for the examination and report of the commission expires on the 15th of February. The Committee of Ways and Means of the House are now engaged in the examination of the subject, and they ought to have the report of the commission, so as to guide them in the bill they are preparing. I trust, therefore, that by general consent that resolution may be taken up and disposed of.

Mr. POMEROY. If there is any public necessity for it I will give way.

Mr. SHERMAN. There is a public necessity for it. The necessity for the action of the Senate is apparent.

Mr. POMEROY. I do not wish to interpose any remarks that I have to offer against anything of any public necessity. It is in the control of the Senate, however. If the joint resolution can be proceeded with by unanimous consent I will not object.

Mr. SHERMAN. If it is taken up I think I can in two minutes show the Senate the necessity of passing it, and passing it now, if at all.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. POMEROY. I understand that the Senator from Ohio asks to proceed with it by unanimous consent.

Mr. SHERMAN. Yes.

The PRESIDENT *pro tempore*. Is there any objection to proceeding with the consideration of the joint resolution named by the Senator from Ohio at this time? The Chair hears no objection.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits.

Mr. SHERMAN. I move to extend the time from the 15th of February until the 1st of March. Some delay has occurred here, and it is necessary to extend the time.

The PRESIDENT *pro tempore*. There are some amendments reported from the Committee on Finance pending which will first be acted upon.

The first amendment of the committee was in section one, line five, after the word "be" to insert "in connection with the existing commission of the Academy of Science;" so as to read:

That a commission, to consist of five persons, to be appointed by the Secretary of the Treasury, is hereby created, whose duty it shall be, in connection with the existing commission of the Academy of Science, to carefully examine all meters, &c.

The amendment was agreed to.

The next amendment was in section three, line five, after the word "of" to insert the words "such of;" and in line six to insert the word "said" before "commissioners;" and in the same line to strike out the words "who may be thereunder appointed" and to insert "as are not now officers of the United States or members of the said Academy;" so that the section will read:

SEC. 3. *And be it further resolved*, That the Secretary of the Treasury is hereby authorized and directed to pay out of any money in the Treasury not otherwise appropriated the expenses incident to the carrying out of this joint resolution, and also a reasonable compensation for the services of such of the said commissioners as are not now officers of the United States or members of the said Academy.

The amendment was agreed to.

Mr. SHERMAN. Now, I move to insert the "1st of March" instead of "15th of February" where the latter words occur in the joint resolution, as the time within which the commission shall make their report; and at the request of several Senators I will state what this resolution is. Under the existing law the Secretary of the Treasury is authorized to select a meter for use in distilleries. He having no mechanical science and skill himself, selected under the existing law the Academy of Science to make the examination of the various meters that were presented. The Academy of Science designated its proper committee, Professor Henry, Professor Hilgard, and General Meigs, to examine the subject. Finally they determined that the Tice meter was the best. They selected that. Contracts were made, in compliance with the law, to supply the Tice meter to the various distilleries. But complaints arose that the Tice meter was not the best; that it was not effective. Complaints, some of them from interested parties, were made. Finally, the Committee of Ways and Means of the House of Representatives undertook to examine the matter themselves and give their opinion as to whether the Tice meter was the best. They concluded that they were not skilled in the business, and abandoned it; and they reported this joint resolution, by which a commission of five gentlemen, agreed upon, I believe, between the committee and the Secretary of the Treasury, all men of science, whose names will command the respect of the Senate, are to be appointed commissioners to reëxamine and look into the whole subject of meters; and it was proposed to have the report of this commission in time for that committee to prepare their bill which is now under examination. I believe that is the whole resolution.

Mr. GRIMES. I would inquire of the chairman of the Finance Committee if this will not be substantially a reindorsement of the Tice committee? The Academy of Science, it seems, have decided in favor of the adoption of the Tice meter by a committee of three members. Now we add these three men to this other committee from whom we propose to get a disinterested judgment—almost a majority of the committee.

Mr. SHERMAN. The Senator is mistaken in that. I will state how this amendment came to be proposed. Professor Henry himself came to us and said that Professor Hilgard was his only associate on that committee of the Academy of Science, General Meigs having gone abroad sick, and the services of Professor Hilgard were very necessary. The commission will substantially be composed of six members, because Professor Henry was one of those agreed upon. The amendment of the committee will make the commission consist of six members. The only effect of the amendment will be that the commission, coming new upon the subject, will have the benefit of the advice and experience of Professor Hilgard. It is hardly to be supposed that Professor Hilgard alone will be able to control all the other five members of the commission.

Mr. GRIMES. Is not Professor Henry one of them?

Mr. SHERMAN. He is one of them.

Mr. GRIMES. And he was one of the commission that decided in favor of the Tice meter?

Mr. SHERMAN. Yes.

Mr. GRIMES. And Professor Hilgard also?

Mr. SHERMAN. Yes; that makes two to four.

Mr. GRIMES. That is, one third of your commission have already prejudged the question.

Mr. SUMNER. The title of this joint resolution, I perceive, is "a joint resolution to provide for a commission to examine and report on meters for distilled spirits." I have no objection to that; indeed I think we need something of the kind; but I am at a loss to understand why we should have section two, which provides that pending the action of this commission the Treasury Department shall suspend its action with reference to the existing meter. The evidence, so far as I am aware, is in favor of that meter.

Mr. SHERMAN. I will state the reason given, and the Senate can judge whether it is sufficient. The Tice meter or any meter is a very expensive machine, costing more than one thousand dollars, I understand. The law requires distillers to attach this meter wherever required by the Secretary of the Treasury. Now, when there is a doubt whether the Tice meter is to be retained, is it worth while to compel distillers, at a very large expense, to attach that meter? The effect of the second section is merely to suspend the attachment of the Tice meter until a definite conclusion shall be arrived at by Congress. Whether the second section is left in or stricken out will not make very much difference. If it is left in it prevents the attachment of the Tice meter until it is reëxamined by this commission. If it is stricken out the Tice meter may be forced on the distillers and then may be thrown away as worthless.

Mr. SUMNER. If the second section is adopted for the time being there will be no meters applied, and, in short, it seems to me that that section is to give a carnival to the distillers. It is to give them an absolute letter

of license so that they may go on in their ways, and there will be no end to whisky frauds. Now, as I understand it, and my friend can correct me if I am wrong, the Tice meter has in its favor, first, the gentlemen of science who have examined it, and then positively it has in its favor the internal revenue department. I understand that all who are connected with the administration of that business are entirely in favor of the Tice meter. They say that whenever the Tice meter is offered to a distillery the distiller at once stops. He knows that there is a tell-tale or a detective under the observation of which he cannot escape. The effect of the Tice meter, I believe, according to the information that I have, has been very much like the appearance of Captain Scott when he pointed his rifle at the coon: the coon came down at once, because he knew that his fate was inevitable. And so I understand it is with the distillers who are disposed to fraud: when the Tice meter is offered to them they come down at once. That is the information which I have from persons in whom I place entire confidence connected with the administration of the internal revenue. I believe the head of that bureau is in favor of this meter. Now, I ask my honorable friend why, while we are providing for a new meter, we should suspend action on the old, with regard to which there is such good evidence? If doubt had been thrown over the Tice meter, if the internal revenue bureau testified against it, if they suggested in any way that we should not continue it, then I think there would be some ground for the action proposed.

In this view I hope the Senator from Ohio will pardon me if I move to strike out the second section of this resolution. It seems to me it does not belong there. It is not needed, and I believe it would be injurious should it become a law.

Mr. SHERMAN. There is an amendment pending which I hope will be acted on first.

The PRESIDENT *pro tempore*. The question now is on the amendment proposed by the Senator from Ohio, in section one, line nineteen, to strike out the words "15th of February" and to insert "1st of March."

The amendment was agreed to.

Mr. SUMNER. I now move to strike out the second section.

The PRESIDENT *pro tempore*. The Secretary will read the section proposed to be stricken out.

The Secretary read as follows:

SEC. 2. *And be it further resolved*, That pending the action of said commission, and until their report be made and a meter shall be by law adopted, all work on the construction of meters, under the direction of the Treasury Department, be, and is hereby, suspended. And in the meantime no further contract for meters shall be made by the Secretary of the Treasury under the fifteenth section of the act entitled "An act to amend existing laws relating to revenue, and for other purposes," approved March 2, 1867.

Mr. SUMNER. I should like to have the yeas and nays upon that amendment. I hope the Senator from Ohio will make no objection to it.

Mr. SHERMAN. I do not know that I shall make objection. I have stated the reason why this section was inserted, and perhaps it is doubtful whether it ought to be stricken out. The Senator says if this section is retained there are no guards. There are no guards now. The Tice meter is not used in one in a hundred, perhaps one in a thousand, distilleries. It cannot be furnished. It is a new invention, and the manufacturers are making them as fast as they can, but it will take a long time to furnish them. Wherever it has been adopted, I agree with the Senator, it has done very well; but the question is whether now, until its final selection shall be determined upon, it is right and just to the distiller to compel him to pay one, two, three, or four thousand dollars, whatever the cost may be——

Mr. HENDERSON. About one thousand five hundred dollars.

Mr. SHERMAN. About one thousand five hundred dollars, my friend tells me, for a meter that next month may be rejected by this commission and may be prohibited by the law. This section does not do any great injustice to Mr. Tice. It is simply to suspend the operation of the present contract until after the report of this commission. Mr. Tice, who is a very clever gentleman, came before our committee. He insists that his meter is altogether the best, and he is satisfied with this commission. He wants to submit his meter to the test of this new commission. He is confident, or he seems to be, that they will pass favorably upon it. Certainly it is not right to compel private parties to expend large sums of money in applying a meter that may be rejected. If it is not rejected he will get the benefit of the sale of the meter at any rate. So I think the Senator had better let the section stand. If it is stricken out it will only, probably, give him the sale of a few meters during the month of February, instead of postponing the sale until the month of March, in case his meter is finally adopted.

Mr. SUMNER. I am not thinking of Mr. Tice at all. I do not know him. I do not know from what part of the country he comes. I know nothing about him. I am thinking of the revenue interests of our country. Senators are aware that at this moment there is no abuse greater, perhaps, than that connected with whisky. The whisky fraud is at this moment one of the enormities, if I may so express myself, of the time; and I think that Congress is called upon at this moment to do everything that it can to encounter the whisky fraud. It is by the application of the meter that we are to find assistance in encountering it. We cannot fight our battle with the whisky fraud unless we have a meter. Now, if I understand my friend from Ohio, he proposes, while this commission is in session, to leave everything open. This will be notice to the distillers that they have an absolute letter of license. I am against giving them any such notice.

The Senator says that possibly the commission may find a better meter. Very well; then we will require the better meter; but meanwhile let us continue to require a meter which all existing testimony shows to be good. A commission of the Academy of Science has reported in its favor. The Department reports in its favor. What more could you desire? I am willing to unite in any legislation that shall look to something better, but I am unwilling to expose the revenue to additional frauds during this interim. I think that we should take advantage of the meter that we have, with regard to which there is so much good testimony, and continue it until we get something better. I do not understand the philosophy of the Senator who proposes, because we are looking around for something better, that during the interim we should give up what all the testimony shows to be good. I do not undertake to suggest that the Tice meter is the best. On that I have no knowledge; but I do say that all the testimony on which we can rely is, that the Tice meter at this moment is a good meter. Therefore, under the circumstances, I think we ought to continue it. I would not show to the whisky trade that we are disposed now to any relaxation, not for a week, certainly not for the several weeks, if not months, that will be required for the report of this commission.

Mr. CONNESS. Mr. President, it appears to me that this discussion, as it proceeds, only the more plainly develops that the adoption of this meter business by our law from the beginning has been a mistake; and if that be the case the continuation of it must be a continuation of that mistake. We are told by the honorable Senator from Massachusetts, and he gives us the best information, as he says, in his possession, and that is all he can do, that the Tice meter is regarded as conclusive in the case. Indeed, Mr. Tice is rendered classical hereafter by the Senator's allusion in connection with this meter. Where he points, the object he points at must come down. Well, sir, we have all got crotchets, I suppose. Mine is, that what would bring the coon down in this case is to determine by some practical man the capacity of a still, that a given still would make a given number of gallons per hour when driven to its utmost capacity, and that the still should be taxed according to that capacity, and then the proprietor of the still might shut down, as he does in view of the application of the Tice meter, or not, just as he saw fit. When he ran his still or worked it, he would pay according to its capacity to the Government, and he would be sure to make whisky according to that capacity; so that he would pay according to the proportion in which he made whisky.

But we adopted the meter business, it appears, by law. We are told by the honorable Senator from Ohio that the law referred the matter to the Secretary of the Treasury, who, without any knowledge upon that or any other subject, he says, referred the matter to a commission of the Academy of Science, and they adopted the Tice meter; and the Tice meter has been found insufficient by its application and all other contrivances, human and mechanical. The source of revenue that should have given us from one hundred to one hundred and twenty-five millions per annum has yielded us, I believe, about fifteen millions; and yet we are asked to continue, perpetuate, and give additional character to the meter business, by doing what? By calling in a few more scientific men, professors, gentlemen of great knowledge upon a thousand great subjects, but I apprehend not possessing half the knowledge upon the question of a meter that an ingenious Yankee or some crotchetty German might have, who might be easily reached by the Department. We are to make an appropriation out of the Treasury to pay those gentlemen. Certainly, if we command and enforce their services, they ought to be paid. The whole thing seems to me like persisting in a blunder and continuing it. I, for one, cannot vote for it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to strike out the second section of the bill, on which question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. FESSENDEN. I should like to have the section read, so that we may know what it is.

The Secretary read the second section.

Mr. FESSENDEN. Does the resolution fix a definite time within which the report shall be made?

Mr. SHERMAN. We have extended it until the 1st of next March, so that this section only operates during the month of February.

Mr. HENDERSON. I will state before the vote is taken that according to my understanding the Tice meter is not now furnished, as the Senator from Ohio stated, to one in five hundred distilleries. The article cannot be procured. It is not manufactured in sufficient quantities to attach it to all the distilleries. The result of adopting the amendment offered by the Senator from Massachusetts would be to stop all the distilleries between now and the time this report is made. The fifteenth section of the act referred to in the resolution, the act of March 2, 1867, provided that the Secretary of the Treasury should be authorized to adopt and prescribe for use a meter. Mr. Tice, as I understand, constructed this meter, presented it to the Secretary of the Treasury, and the Secretary did prescribe that it should be used; but, as I understand, he is not now satisfied that it is the best invention that can be produced to prevent frauds.

The Senator from Iowa [Mr. GRIMES] the other day said, if I did not misunderstand him, that the whole thing was a humbug, and that it had been demonstrated to be of no use or to serve no good purpose whatever. I confess that I do not myself know anything about it. I have heard various opinions given, and given by distillers themselves and by scientific men. Some say that it does no good, while others say, as the

Senator from Massachusetts does, that it is a perfect test of honesty and correctness. We know this, however, in distilling, that where the Tice meter has been used we have got rid of the frauds in the distillation of whisky. The difficulty, as I understand, is in the officers of the revenue. Some officer must superintend this Tice meter, and that officer may turn it back so as not to indicate the quantity of whisky or the quality of the article that has passed through. It is by collusion between the distiller and the officer that the frauds are committed, and no matter what meter may be adopted those frauds I apprehend will be committed until we have officers who are above suspicion, who are perfectly honest and true and faithful to the Government.

The difficulty presented by the Senator's amendment is that it will stop all distillation between now and the 1st of March. Therefore I apprehend that it ought not to be adopted. It strikes me as being improper. However, if the Senate feel disposed to stop distillation between now and that time they can do so. The amendment itself will stop all distillation, if I understand it, unless the Secretary of the Treasury shall repeal his order prescribing that this meter shall be used. I understand that the Secretary of the Treasury concurs with this resolution; that he is of the impression that the Tice meter is not the best meter that may be procured, or at least he is in doubt about it.

Mr. SUMNER. Does the Senator understand that the Secretary is in favor of discontinuing its use during this interim?

Mr. HENDERSON. I did not so state, and I do not know, because I have not consulted with the Secretary in regard to it. My understanding is that the Secretary is not satisfied that this meter will prevent frauds, as the Senator imagines; he thinks the frauds are as great now as they were before, and the meter has not made the distillers "come down." The Secretary of the Treasury, as I understand it, is perfectly willing, and more than that, he is anxious to have this investigation to see if something can be adopted that will be more successful than the Tice meter. That is my understanding of the position of the Secretary of the Treasury. He knows of the pendency of this resolution, and if he is satisfied with the Tice meter, as he was authorized under the fifteenth section of the act of 1867 to select a meter, why does he not protest against the passage of any such measure as this? I understand it is proposed to add other gentlemen to this commission in order to get something better than the Tice meter. It is a question for the Senate to say whether it will stop all distillation between now and the 1st of March. It is a plain, simple proposition. I have no feeling about it one way or the other.

Mr. BUCKALEW. I should like to ask the Senator why the members of the former commission are continued on the commission proposed by this resolution. It seems to me a very peculiar arrangement.

Mr. SHERMAN. The commission now consists of Professor Henry, Professor Hilgard, and Professor Alexander, who has gone away, so that there are but two members of the commission. It was proposed to have this new commission composed of Professor Henry, an officer of the Army, a naval constructor, and two very eminent scientific men, whose names were given. Professor Henry came before the Committee on Finance and said that Professor Hilgard had got together a large amount of very valuable statistics and information, and at his suggestion, and not from discourtesy to this second commission, who are working for the Government without pay and to whom this matter was referred, we simply added Professor Hilgard. That was one of the amendments reported by the committee, and we did it upon the statement made by Professor Henry and for the reason given, that the examination made by Professor Hilgard would enable him at least to give information to the other commissioners, but certainly not to give him a vote sufficient to overpower them, because it will still require the same number to agree.

Mr. CONKLING. This resolution relates to a very important subject. We all appreciate that. Whether the measure itself is of much importance or not I wish I could know. I do not believe that it requires even one man of science to predict that all this experiment of meters and all this search in quest of the best meter is to be a failure. I do not believe that any scientific knowledge is necessary to enable the least-informed member of this body to foresee that no meter will ever be invented which will check or stop these frauds.

The honorable Senator from Missouri has alluded to the consideration which I think is productive of this want of faith. At last, with apparatus no matter how curiously contrived, no matter how well adapted to ascertain given facts, the test is the integrity of the officer making the observations. If the officers doing this work were honest, I presume the poorest, the least artificial, the least ingenious of all these contrivances, would answer the purpose; and with the officers dishonest the best of all will surely fail.

I can understand why inherently in the case there is difficulty in getting in all instances men proof against temptation; but I cannot understand any practical difficulty in having a reformation of the case as it exists. I am told, and not entirely by what may be denominated hearsay, that where instances exist of men notoriously dishonest, notoriously unfit, notoriously profligate in their personal and official habits, and when those cases are reported, nay, reported over and over again, to the Secretary of the Treasury, still the work goes on. I am told that the Commissioner of Internal Revenue, having brought to his knowledge instances in which the frauds are enormous and persistent, has asked over and over again for permission to remove the very man, naming him and pointing him out, through whom enormous thefts are committed, and he asks in vain.

The Senator from Maryland inquires, whom does he ask? He asks his official superior, the Secretary of the Treasury; and I am told that the Secretary of the Treasury, taking refuge behind his official superior, says that, although he is the financial minister and the head of his Department, he is prevented by a power above him from dismissing men who are unfit; and I am told that the reason underlying all this is a political one—that those who toss high their ready caps in air for a certain policy and for certain men, no matter how dishonest they may be, are tolerated and continued in the collection and embezzlement of the revenue. I do not like to believe this; but I cannot wink so hard as not to see that there is too much reason to believe it. It comes to me, as I say, not by way of rumor, but it comes to me, as I am sure it has come to other Senators, some of whom do me the honor to listen to what I say, through channels of communication which forbid me to doubt that it is only too true.

Now, sir, we may sit here and legislate for scientific commissions to guess upon meters, and we may offer bounties for the most cunning of mechanical contrivances, and they will all be baffled and useless in the presence of these frauds which go "unwhipt of justice," and in the presence of criminals too great and too useful to be punished. Therefore I say, that while this seems to me a very important subject, I am unable to ascertain the measure of importance to be attached to the proposition, and equally unable to ascertain the importance to be attached to the amendment offered by the Senator from Massachusetts. If, as the Senator said a moment ago, it is a simple question whether between now and the 1st of March, without let or hindrance, distillation shall go on, illicit and otherwise, escaping the payment of revenues, it is perfectly palpable what is the duty of every Senator who votes for it. But if, on the contrary, the simple question is, as the Senator from Ohio has said, whether these men shall be called upon to pay $1,500, or whatever the sum may be, for a meter, and that then the mockery may continue of robbing the revenue by a system of swindling, only a little more complex, of course, the vote which is to be given here becomes more doubtful in the considerations on which it ought to depend.

Mr. HENDERSON. I wish to remark to the Senator that the considerations presented by him had their full weight with the committee, but we thought that if a meter could be adopted it would require the concurrence of the distiller and the officer in order to perpetrate a fraud. A meter, therefore, is not objectionable. The Senator will find that a meter is a very good thing, provided we have an honest officer. With the meter and an honest officer we can prevent illicit distillation. Without a meter a distiller may defraud the Government without the concurrence of the officer, but with the meter it requires both to concur in order to commit fraud.

Mr. CONKLING. Does the Senator think that increases or diminishes the chances of robbery practically?

Mr. HENDERSON. I do not know.

Mr. CONKLING. I declare I do not. I confess I do not know, from all I hear, whether, if you so fix it that in order to perpetrate fraud the officer or one of this crowd of inspectors and agents, as they are called, is to concur in it and participate in it, you thereby increase or diminish the chances of its occurrence. I shall want some little time to consider even that. If, by the use of the meters or by other requirements, you so arrange that two men are to concur in the commission of every fraud, you do, upon the doctrine of chances, diminish the probability of its occurrence. That may be, but that is a very loose and vague sort of satisfaction to derive from the proposed legislation.

Now, Mr. President, the truth is here—and I do not think the political bias of any Senator can prevent his seeing it and acknowledging it—we need a reformation in the administration of this department. Fraud holds high carnival throughout the revenue service, not only the internal revenue service, but, I repeat, the revenue service of the country. The Senate is not to blame for it; the House of Representatives is not to blame for it; a political party at large is not to blame for it; but that executive government, that particular officer, whoever he may be in the instance put, who has the power, the duty, and the responsibility of administering this department, and who, knowing of robbery, knowing of wrong, and knowing of frauds, does not interpose to prevent them. He is the man in whose case and in whose person we need, not a meter, but a reformation. That is the truth about it.

Whether there is anything in this measure which looks to relief is, I think, very doubtful. I am willing, for one, to vote under the advice of the Committee on Finance, able as that committee undoubtedly is and earnest in looking out the true remedies; but I felt on this occasion like saying, for one, what I think we all know, that the trouble is not with the lack of ingenious contrivances or instruments for measuring spirits, but it is in the fact that the *personnel* of this department is so far debauched and degenerated that other men ought to be put there to do the work which is neglected and scandalized by those who have it in charge.

Mr. HENDRICKS. Mr. President, it is a very easy thing to make charges against gentlemen who hold high and responsible office; and when the charges are made so deliberately and from so high a source as we have just heard, I think they ought to be supported. The Senator from New York has not confined his criticism to the administration of the internal revenue service, but he says that in all the revenue services fraud holds high carnival. Now, sir, if there be fraud in the collection of the duties on imports, which is more directly in the charge of the Secretary of the Treasury, it was due to the Secretary, I think, that the Senator should have specified the ground of the accusation that he brings against the Sec-

retary. I have heard none. I have heard much complaint in regard to the collection of the internal revenue; and yet I have never thought myself justified in saying that the Commissioner of Internal Revenue was lacking either in honesty or capacity. I have brought no accusation against him, for my conviction is that the trouble is not in the *personnel*, as the Senator says, but in the subject itself. You have undertaken to collect a tax that the moral sentiment of the country does not feel to be just. Upon an article that it costs but thirty cents to produce, you impose a tax of two dollars, making it the interest of corrupt persons to evade that tax at the rate of six to one. The producer or dealer in liquors can venture much because if he escapes the tax he saves as against the Government of the United States two dollars, while if he loses his whisky he loses but from thirty to forty cents. I believe the trouble is there.

As to the character of the officers over the country who collect this revenue I am not going to comment upon it, because I have not the evidence which would justify me in doing so. I am not going to comment on the character of the officers who collect the duties on imports at the different ports of the country, for I have no evidence that justifies it. So far as the collection of import duties is concerned I suppose that service has been as fairly done and as honestly done as we may reasonably expect. And perhaps the internal revenue has been collected as faithfully as it can be. I think there ought to be some change either in the law or in the persons that collect it. It is a startling fact that so many millions of revenue remain uncollected; but this much I know from my knowledge of the interests in the section of country from which I come, that honest men have been nearly altogether driven from the business of manufacturing whisky, and that it of necessity has fallen into the hands of men who are willing to risk something to evade the tax.

Mr. EDMUNDS. Will the Senator allow me to ask him a question?

Mr. HENDRICKS. Certainly.

Mr. EDMUNDS. Are they the men whose moral sentiment the Senator alluded to a little while ago as not sustaining so heavy a tax?

Mr. HENDRICKS. I spoke of the moral sentiment of the whole country as not sustaining an unequal tax. I stand by that. I do not think when other interests are taxed twenty, thirty, or forty per cent. the interest and production of one section of the country ought to be taxed six hundred, seven hundred, or a thousand per cent. There is nobody who believes that to be right. I do not hesitate to say that whisky should bear a fair tax. You may call it a luxury if you like. It is no luxury to me; but it is understood to be a luxury to some persons. The Senator from New York suggests that it is a necessity. He must judge of his own State for himself. [Laughter.] It is no necessity to me; and so far as I have a knowledge of the people of Indiana it is not a necessity to them, and yet they have no Puritanical scruples on the subject.

Mr. President, I feel that in regard to this whisky tax there is a serious embarrassment upon Congress. The experiment has been made of collecting two dollars tax on each gallon of whisky, and for two years it has been substantially a failure—a failure to such an extent as that whisky is sold in the markets of the country at much less than the tax; so that an honest man cannot produce it and pay the two dollars; so that, to a very large extent, you have destroyed the business in portions of the country. What is the remedy? If you suddenly reduce the tax you destroy the men who are now holding whisky. This is not desirable. It is one of the pursuits of the country; it is a part of the commerce of the country. If you reduce the tax to one dollar suddenly the men who are holding in large quantities will be destroyed. My opinion is that the whisky tax ought to be reduced, and ought to be reduced gradually. I think we could collect one dollar a gallon, and that would be three hundred per cent. of a tax. I think we could collect that amount; but the reduction to that sum ought to be very gradual. A correspondent in the West has suggested to me that the reduction might be at the rate of eight and a third cents per month, so that at the end of a year the tax should come down to one dollar, and thus destroy nobody. The business of the country would soon adjust itself to this arrangement; the stock on hand would be gradually disposed of. The stock on hand has been an embarrassment to Congress always in legislating upon this subject. But I think we can deal justly to men who are holding liquors by legislation such as I suggest, justly to the men who are producing in the end, and favorable to the revenue of the country.

I do not know anything about the meters; I never did see a meter; but if there is any meter that is of sufficiently ingenious construction to outwit men who would outwit the Government I have not heard of it. You put the meter to protect the two dollars; give the manufacturer the inducements that the tax now gives him and I think the meter will probably be a failure. I would not undertake to say which meter I am in favor of, for I have never had the pleasure of seeing any of them. This legislation in regard to meters, I think, is more a legislation that will result to the interests of the maker of the meter than to the interests of the revenue.

But, sir, I do not intend to discuss this question. I rose because I thought the remarks of the Senator from New York were harsh toward the Secretary of the Treasury. Without naming him they pointed in that direction. I know the responsibility of the Secretary of the Treasury for the collection of the internal revenue, and I believe that faithfully and energetically he has sought to collect these taxes. I know that he has been surrounded with embarrassments, and cases most embarrassing are brought before him from the internal revenue office. That he has always decided correctly I would not undertake to say; but that he has decided as an honest man should decide I do not doubt, upon the best judgment he could form. There are very many embarrassing cases in regard to the liquor tax, as my practice in the courts enables me to know. One came under my observation very recently, the particulars of which I will not explain, because it is a case in the courts, showing the embarrassment of the producer under these laws—an honest man, as I believe the defendant in that case to have been. I believe that we shall collect twice as much revenue by reducing the tax to one dollar as we shall collect by continuing it at two dollars. This is not a very flattering view of the subject, so far as the honesty of a good many men is concerned; but we may as well consider facts as they are. When does smuggling prevail, as shown by the history of the world? When the duties are enormous, and when the smuggler is willing to risk a little, as he supposes, to gain much: The distiller who wishes to defraud the Government risks but thirty cents, the cost of a gallon of whisky to him, as against the two dollars the Government claims from him. I desire, while the law remains as it is, that it should be enforced; and every officer of the Government having any connection with this business should diligently and honestly labor to collect the tax as fixed by Congress; but when we see, after a long experience, that its collection is a failure we should modify the law.

Mr. DAVIS. Mr. President, I feel some obligation to say a word on this subject, and I think I have some right to do so, because the article called "Old Bourbon" had its birth in my county, and it won its highest celebrity and fame in that identical location. I agree with the remark made by the honorable Senator from Indiana, that the defect in relation to the tax upon whisky is in the measure itself. Wherever there is a duty or tax upon any article that will pay for the risk of fraud upon the revenue fraud necessarily results.

The honorable Senator from Missouri, I think, will bear me out in these statements of fact: that for the last year it is estimated upon probable authority that about ninety million gallons of whisky were manufactured; that the amount of tax which that distillation ought to have produced, according to the present rate, was $180,000,000; and that instead of reaching that amount it was less than thirty millions.

From the facts reported from the Department and by the admission of members of the committee, the tax that was levied upon whisky and that was collected was only about one sixth of what should have been collected upon the amount distilled. Whence does this great abuse and fraud result? From the system itself, from the excessive tax imposed upon the distillation of whisky, and the complicated system by which the tax is assessed and collected, that affords such great facilities for fraud. If this system is to be reformed at all, the first essential principle in its reformation is to reduce appreciably the rate of tax upon whisky. My own opinion is that the highest maximum tax that ought to be levied upon whisky should be fifty cents per gallon. It would be much easier to collect fifty cents per gallon of tax upon it than two dollars, because the fifty cents afford only one fourth the margin of fraud that the two dollars do. Reduce the amount of tax upon whisky to fifty cents and there is but one fourth of the inducement to distillers and persons who defraud the revenue to commit fraud upon it that exists under the present system. I have consulted with distillers in the congressional district in which I live. There was about one hundred and fifty thousand dollars of revenue collected there in the month of December upon the distillation of whisky. I know many of those distillers and I have conversed with them, and they all agree that the distiller could pay fifty cents a gallon out at his distillery, and the imposition of that rate of a tax to be paid by the distiller would remove entirely the complicated machinery in the recesses of which there is so much opportunity to commit fraud upon the assessment and collection of the tax.

It is, as the Senator from Indiana stated, a truth proven by the experience of the world, that wherever there have been enormous duties imposed in the form of taxation frauds upon the revenue in all forms were the inevitable consequence. This fact demonstrates that taxes may be too high for the purposes of revenue, may be so high as to essentially diminish revenue and encourage the perpetration of fraud; and that is the present condition of our tax upon whisky. These frauds are perpetrated mostly at the large establishments in the cities of New York, Chicago, and Cincinnati. Previous to the war there were but five or six distilleries in the cities of New York and Brooklyn combined, and there are now upward of five hundred. The proportion has increased in something like the same ratio in Cincinnati and Chicago; and I am told that you may pass into any street in the city of New York where whisky is for sale and buy any quantity of it at from $1 25 to $1 75 per gallon. Whence does this result? It results from the enormous frauds committed upon the revenue in accounting for the distillation of whisky. These frauds are engendered, as it were, in a hot-bed, by the enormous rate of taxation that is imposed upon whisky. Reduce that tax to one fourth of its present amount and you reduce in that ratio all the inducement that men have to commit fraud in the distillation of whisky, either in giving in or paying the amount of tax upon the product of their distilleries.

Mr. President, it operates in favor of fraud in another way. These meters are in operation to some extent. They cost from five hundred to two thousand dollars per meter. The consequence is that the small distilleries cannot pay the price of a meter. There are many copper distilleries in my district that make from one hundred and fifty to five hundred barrels

of whisky during the season. They are subjected to the requirement of having a meter. They are obliged to purchase a meter, and this meter costs them from five hundred to two thousand dollars. They cannot buy a meter and continue the business. The profits of these small distilleries are so inconsiderable that they cannot purchase up the revenue officers who are engaged in assessing and collecting the whisky tax. They do not make the profits that are necessary to offer a sum sufficient to purchase the officers, if they are purchased, and we all know as a general result that they are.

I do not believe that these frauds originate with the Secretary of the Treasury. I believe he is an able, faithful, and capable officer, and that he administers his Department in the collection of the revenue generally, as well as in the whisky branch, with as much success and fidelity as any other man would; but it is not within the capacity of human nature to carry on and administer so complicated a system of revenue and prevent frauds upon the public Treasury to an enormous extent. It cannot be done; and all the machinery that can be devised by Congress or by the experience of the world would fail in excluding fraud from so complicated a system of revenue as exists in the United States.

You must simplify your system; you must have fewer officers; you must have fewer opportunities and chances for purchasing up officers; you must have less of maze in your system where fraud may hide itself successfully. To effect that you must simplify the system, and you cannot simplify it while the present rate of taxation is continued. You must reduce it, and you must reduce it essentially. The most practical distillers want it reduced to twenty-five cents. I believe that would be too low. I believe that a rate of taxation of fifty cents, payable by the distiller, would produce five or six times the amount of revenue from the distillation of spirits that the present system does produce.

I think, then, that the financial committees of Congress ought to do away with the meter system wholly; they ought to reform their system; they ought to simplify it; they ought to dispense with the numerous revenue officers that are engaged in the administration of this most complex system, and that can be done by having simply an assessor and collector of taxes to be assessed upon a distiller, and to be paid by him.

I trust, therefore, Mr. President, that the subject of the consideration of meters will be dispensed with by the Senate now and forever; that they will exclude it from the whole system so far as it relates to the assessment and collection of a tax upon distilled spirits. They cannot, however, exclude it from the system until they reduce the tax to one fourth or one eighth its present rate, and make the distiller himself pay the tax at the place of distillation when the distillation takes place.

Mr. CONKLING. Mr. President, I had no idea of arousing the criticism of the honorable Senator from Indiana by what I said; and yet I ought, perhaps, to have been prepared for it. I know that when one makes, in any view, an attack upon whisky, without referring to anything else, he is deemed by our friends on the other side to be assailing the foundation-stones of their platform; and when, in addition to that, he ventures to discuss at all the way in which this Administration has been for the last year or two distributing its patronage for the purpose of affecting elections and political results, he is the committer of a double crime against the Democratic party.

I understand the honorable Senator from Indiana to take exception in two respects to what I said: first, he thinks I ought not to have alleged generally that fraud (as he says I expressed it, and very likely I did) holds carnival in the revenue service of the country; and, secondly, he thinks I ought not to have pointed any criticism at the Secretary of the Treasury for specific acts or omissions.

Now, as to the first impropriety which he thinks I committed, I shall take refuge in what I am sure is very high authority with the Senator from Indiana, and quote to him the statement of the President of the United States, who said recently, in a message entitled "A message sent at the commencement of the regular session of the Fortieth Congress," this, among other things:

"It is well and publicly known that enormous frauds have been perpetrated on the Treasury"—

that expression "on the Treasury" is very felicitously chosen, the Senate will see—

"It is well and publicly known that enormous frauds have been perpetrated on the Treasury, and that colossal fortunes have been made at the public expense. This species of corruption has increased, is increasing, and if not diminished will soon bring us into total ruin and disgrace. The public creditors and the taxpayers are alike interested in an honest administration of the finances, and neither class will long endure the large-handed robberies of the recent past. For this discreditable state of things there are several causes."

That perhaps is language almost as sweeping, almost as energetic, as the expression which the Senator no doubt truly attributes to me. But, sir, I went further than this in what he criticises. I laid, he says, at the door of the Secretary of the Treasury specific allegations. So I did; and as I am not in the habit of indulging myself in statements of this description without reflection, I beg to repeat to the honorable Senator from Indiana and to the Senate what I meant to say, to the end that if denials or investigations of any sort may bring about an ascertainment of the fact the Senator may see and the Senate may see whether or not I was warranted in the statement that I made.

My allegation is this: that I am informed and believe that in cases not isolated or exceptional, but in instances repeated both North and South, information is brought first to the head of the bureau of internal revenue, the Commissioner of that bureau, that A B, and C D, and E F, officers of the revenue, are engaged in instances specified and proved in official malversations, gross, unmistakable, prejudicial; that the Commissioner of Internal Revenue, investigating these accusations, satisfying himself of their truth, presents to his official chief his recommendation that these men be displaced and others put in their position who, at least, have not been charged with or convicted of wrong, and that these applications and recommendations are presented in vain, leading in many instances to no response, except that a power higher than that of the Secretary of the Treasury will not consent to the removal.

I go a little further to gratify a curiosity which may be supposed to be peculiar to the Senator from Indiana and the few members of this body who sympathize with him politically, and I say that these delinquent appointees, many of them, hold their places, having been put there in the stead of men against whom no accusations were made, and having been put there as a part of that policy which began or culminated—I do not know which—at the Philadelphia convention of August, 1866.

Now, that I may speak explicitly, I say again that I am informed and believe that men have been put in position as assessors and collectors of internal revenue for political purposes, to the end that primary meetings and caucuses might be carried, to the end that the so-called policy of Mr. Johnson might be carried; to the end that the Republican party in some of its outskirts might be demoralized and debauched by losing such soldiers of fortune as could be bought for pelf and patronage. I say that men put in these positions of responsibility for the reasons which I have assigned, at the times of which I have spoken, and for the purpose of giving strength to this presidential policy, are among the men reported as steeped to the eyes in official transgression, are among the men against whom allegations are made most specific, most conclusive of their unfitness, if they are true; and that these men thus put in place, thus retained in position, are allowed immunity from executive touch.

Now, sir, if this information be false; if the men against whom these criticisms are leveled suffer unjustly by them, they have the opportunity to challenge investigation, or at least to interpose that denial which will provoke investigation. I hope, for one, it may be done; and I stand by the belief; and I stand by the allegation not based upon rumor or hear-say either, that the revenue service does reek with corruption; that in revenue districts a large part of the revenue is dishonestly absorbed, and that that has been done not only for weeks but for months without the executive grasp ever being laid upon the instrumentalities of reformation.

Sir, I have no personal wish to say these things. They do not touch me personally, and very likely it would not have occurred to me that it was incumbent upon me to state them so fully but that the honorable Senator from Indiana took me up, first because I alleged the general fact with which the whole country resounds from its center to its circumference, that fraud generally and upon great scales do prevail; and second, and more particularly, because I said that these delinquent officers were not brought to their accountability and others put in their places. Therefore it is that I accept the responsibility, and I respond to any obligation which there may be upon me in answer to the Senator, to declare frankly the belief which I have and the information which I have received.

Mr. HENDRICKS. Mr. President, I am not able to perceive that the Senator has changed the position which he occupied in his speech some minutes ago. He stated then that fraud held high carnival in the revenue service, and he qualified it emphatically by saying that he did not confine this accusation to the internal revenue service, but that in all the departments of the revenue service fraud held high carnival.

Mr. CONKLING. No, Mr. President, if the Senator will pardon me; I did not, if I understand his expression now, say that it was so in all the departments, thereby meaning, for example, that at every custom-house, in every district, fraud was practiced. I said that fraud prevailed, as I believed, largely, not only in the internal revenue service but throughout the revenue service of the Government, not meaning by any means to cover every district or every officer.

Mr. HENDRICKS. My reply to the Senator was that the Secretary of the Treasury was more directly responsible for the collection of the duties on imports than for the collection of the internal revenue; that in the organization of the service the internal revenue is more distinctly placed in the charge of a special officer for that purpose, and that I was not aware of any charges being made against the revenue service so far as it was connected with the collection of the duties. In his response does the Senator attempt to make his sweeping charge good? Does he locate fraud anywhere except where I admitted it to exist, in the internal revenue service? I have not in any remarks that I have made to-day or at any other time questioned that the revenue was defrauded in the particulars that I mentioned some time ago, but if the Senator saw fit to extend his accusation beyond that service I questioned it. I called upon him to make it good if he intended to make that charge directly against the Secretary of the Treasury.

Now, in his reply, where does he locate it? He says that the Commissioner of Internal Revenue has recommended the removal of men and that the Secretary of the Treasury and the President have not responded to that recommendation. That is his present position, and that, too, without making the charge specific but quite as general as it was in the first instance, quite as comprehensive and as wanting in specific accusation as the first. Now, sir, if there be fraud in that service in the connection that the Senator charges it ought to be known; but as I do not believe that either the

Secretary of the Treasury or the President has refused in a single instance to remove men where the proof showed that they ought to be removed for fraud, it is not for me to call for the investigation. If I believed that the Treasury was being defrauded because of a policy adopted by the Secretary of the Treasury in continuing men after proof against their integrity was satisfactory, then I would call for the evidence; I would ask for investigation, and I would not let it stand upon a general accusation. I believe when investigations are made the proof will be that the frauds are where I located them, in the collection of these taxes, that are so enormous that they invite the corrupt all over the country to undertake to defraud the Treasury.

If the Senator from New York does believe (which I do not) that the President has refused a removal when there was satisfactory evidence before him, or that the Secretary of the Treasury has refused to consent to a removal when there was satisfactory evidence before him, of fraud on the part of any official connected with the internal revenue, I think he should ask for investigation, and I think that I am the last man in this body who would undertake in such a case to shield even a personal friend, not a political friend, for Mr. McCulloch and myself perhaps never cast a vote alike in the world. He is from Indiana, and I take pride in his reputation as a business man. He did not come to the Treasury without a reputation; he came into this service from the head of the banking system of Indiana, esteemed by all the people as a man of the highest integrity and financial ability. I feel it to be not only a duty but a pleasure to protest against any general accusation involving his integrity or his fitness for the office which he holds.

I am not, then, sir, upon general charges made by the Senator, going to ask for an investigation; but until investigation shall show to the contrary I will demand for Secretary McCulloch the benefit of that principle of law which esteems every man innocent until the contrary is shown. I believe him to be an officer of integrity and ability; and if the Senator makes the investigation he will find, in my opinion, the causes of complaint to be where I have located them. I have heard this charge made—it is easily made, hard to be established—that the men appointed by the present Executive are lacking in the moral qualities for the offices. I know of no evidence to support that. I know of no evidence to show that the men appointed by Mr. Johnson since the Philadelphia convention are not as competent to the discharge of the duty as the men who held the offices at any time since the passage of the internal revenue law. If there be such evidence let Senators who believe it call for it. It is not for me, inasmuch as I give no credit to the charges.

Mr. CAMERON. Mr. President, it is always unpleasant to make charges against men in high official station; I think they are generally more slandered than they ought to be: but to my mind it is evident that our revenue system is badly managed, and it does not yield what it ought to produce to the public Treasury. Last year, I believe, whisky produced a revenue of some twenty-nine million dollars, and this year we shall not get fifteen millions. We have had no report of it since the 1st of July last, but the revenue from whisky is decreasing constantly. It is known by every intelligent business man that the revenue is defrauded by the revenue officers. A set of men are employed, intentionally or unintentionally, by the Government who are dishonest and unfitted for their places, as well by their ignorance as by their dishonesty. I can get a company to-morrow who will agree to give the Government $75,000,000 a year for the whisky tax, if the Government will farm it out to a company. We make about one hundred million gallons a year, and at the present tax we ought to receive from it $200,000,000.

Gentlemen say you cannot collect a two dollar tax because it is so large a sum. Why, Mr. President, the man who will steal two dollars will steal one dollar or a quarter of a dollar. The man who does it is a rascal in the grain; he steals all he can get. Why do we not collect this revenue as other countries do? We have the same power to enforce the collection of taxes that the Government of Great Britain and the Government of France and other Governments of Europe have. It is natural that a people unaccustomed to taxation should have some difficulty for a time; but if we give up the system at the cry of interested persons we shall never receive enough money from taxation to support our Government. It is just as easy to collect two dollars as one dollar tax. The man who wants to drink whisky will pay $2 50 a gallon for it as readily as he will pay a quarter of a dollar. He will get it at any rate.

It is known to everybody that now, while the tax on whisky is two dollars a gallon, it can be bought in the market for $1 50. The production of whisky costs about forty cents a gallon, and, of course, we see by this bare statement how the revenue is defrauded. Under the present arrangement most of the whisky which was formerly made in the North is now made in the South—at Richmond, at New Orleans, at Montgomery, in Alabama, and at Augusta, in Georgia. These cities and other southern cities that I might name are now the places where the greatest amount of whisky is manufactured. It is manufactured in a country where the corn is not produced and at the most expensive places, and yet it is furnished now for $1 50 a gallon.

The only way, in my opinion, by which we shall collect this tax will be to make the offense obnoxious by heavy penalties and put men into the penitentiary. A man can afford to pay a fine of one dollar a gallon probably if he can put into his pocket another dollar fraudulently. I know of a number of men in my own State who have been relieved of the penalties attempted to be placed upon them by revenue officers through the influence of members of Congress. A fellow robs the Treasury through his distillery; an honest revenue officer—for there are a few such—discovers that he is committing fraud, and proceedings are had against him. Then he comes down here and gets a member of Congress—perhaps a Radical, but more likely a Democrat—to go to the President and say, "This is an excellent man, a most honest and zealous supporter of yours, and he cannot be dishonest, but if he is dishonest let us not have him punished until after the election." That is a common thing.

I have heard of such things being done frequently. Why, sir, there was a scamp in my neighborhood who was a revenue officer; I think they called him a detective or something of that kind. Four or five months ago I called on the Secretary of the Treasury and told him that I knew that man was cheating, and the Secretary said he would inquire into it. I called upon the Commissioner, Mr. Rollins, and he said he would inquire into it, but nothing was done. I came along there one day lately, and I happened to call into the revenue office. I said, "Why do you not turn out this rascal who everybody knows is cheating the Government?" I was told, "We will turn him out as soon as we send up a detective to see whether it is true that he is stealing." The person who said this turned to some one in his office and said to him, "You will go up next week and inquire into this matter;" and the man at once said, "There is no use of me going up; I know he is a rascal. I knew the distillery he had charge of was built for the purpose of defrauding the revenue. I went there and examined it, and the whole thing was a cheat." He told me there in the revenue office that in that distillery vats were placed over pipes; a large copper pipe was taken down through the wall and a vat put upon the top; and it was carried down to the ground and the liquor carried under ground to the railroad, and so arranged as to put the barrels in the cars, and those barrels were shipped to a bonded warehouse; but after a while the barrels were got out somehow, filled with water, and the Government, of course, lost the tax. I could relate many of these things, but I hope the Committee on Finance will inquire into them; and I am satisfied that they can, if they will, adopt some process by which we shall get this revenue.

Do not tell me that you cannot collect a tax of two dollars a gallon! I know better than that. I repeat I will get a company to-morrow that will agree to give the Government $75,000,000 a year for the tax on whisky. I think I could get $100,000,000, but I will guaranty to get up a company that will give $75,000,000 for it to-morrow.

I think the Senator from New York is right in saying that there is rascality in other branches of the revenue besides the internal revenue. I met a gentleman the other day who had been spending three or four years in France, and who before that had been connected with the custom-house in California. He told me that he heard a great deal in Paris about people bringing over costly silks and laces and diamonds and other things which ought to pay a very high rate of duty. He told me that he remained on board ship two hours after the arrival of his vessel in New York to see how these things were carried out, and he found it to be a very simple process. One person, for example, had five trunks; an officer came along, and he saw that man put his hand into his own pocket and directly the officer put something into his pocket, and the five trunks went out without any examination.

I am told that this is an ordinary occurrence when a ship lands. That the whole revenue system is demoralized there is no doubt. You want at the head of it a man of indomitable energy and a man of ability, who will devote himself to making a reputation by collecting the revenue.

I do not think the Secretary of the Treasury gives much thought to the subject. I think he is much more occupied in taking care of the general interests of his Department without looking into matters of detail.

I trust when this subject comes up after a while I shall have some facts to lay before the Senate. I have been collecting information which at the proper time I shall lay before the body.

Mr. WILSON. Mr. President——

Mr. MORRILL, of Vermont. I hope we shall be allowed to vote on this.

Mr. POMEROY. This proceeding has been by unanimous consent, I understand, and I hope it will be concluded to-night.

Mr. MORRILL, of Vermont. It is a question that ought not to have consumed any time. This resolution certainly will not do the service any harm, and it may do some good. We have a meter now, and it is by all the tests that have been applied the best that can be ascertained. It is not expected that it is going to supersede integrity, but it will measure the quantity and it will measure the proof, and there is certainly no harm in it. I hope we shall be allowed to take the vote, in order that other measures may come up in proper place.

Mr. WILSON. If we can obtain a vote I do not ask the attention of the Senate; but if not I have a word to say.

Mr. SUMNER. As there is to be a vote on the proposition I have made, I desire to say one word, not to follow Senators in the discussion which has taken place, but simply to call the attention of the Senate to the actual state of the question.

It is proposed, as I understand, by the joint resolution as it comes from the committee that there shall be no requirement with regard to the Tice meter during this coming month. The report is to be made on the 1st of March. How soon after that there can be legislation founded on the report I will not venture to say; but until that legislation is to take place, unless this section is dropped, there will be no requirement with regard to the Tice meter. Now, I do insist that at this time we cannot afford for one month to abandon any reasonable precaution with regard to these frauds. Here have been various calculations—some that we

ought to have received $200,000,000 from the whisky tax, others $100,000,000, others put it up at $50,000,000. Taken even at the smallest calculation, one month will count by several million dollars, and will you allow that one month to go without this additional guard? I am not insensible to the importance of integrity. An honest man is the best meter. Unhappily we have not such everywhere in the administration of the Government. But we cannot now afford to dispense with this precaution. It is for the sake of the revenue and without any reference to any individual, without any reference to any personal or private interest, that I do ask the Senate not to require that the employment of the Tice meter should be suspended during the coming month. Let us continue to use a meter which has thus far, according to the best testimony, proved to be good.

Mr. MORRILL, of Vermont. Allow me to suggest to the Senator from Massachusetts that it takes some time to adapt one of these meters to any distillery. Very few of them now have it; and if we are to adopt another one permanently it seems to be rather onerous upon the part of Congress to impose on distillers the expense of getting one meter and then abandoning it for another.

Mr. SUMNER. Does the Senator think anything is onerous on these distilleries? The Senator knows that if the distilleries had paid a just tax we should have had fifty or one hundred and possibly two hundred million dollars. I find nothing onerous in requiring that every one of them should be brought to the test of the Tice meter. The testimony is that wherever the Tice meter has been applied the distillery has been stopped. It is a detective. However, I will not say anything more.

Mr. HENDERSON. For the information of the Senator from Massachusetts, and in order to settle this question, I will say that I understand from the member of the House committee who has had this matter under his charge that there are now thirty of these Tice meters——

Mr. SUMNER. There ought to be a great many more.

Mr. HENDERSON. I know there ought to be, but there are not any more than the thirty and not as many as that attached to distilleries. They are supposed to be much less than thirty, and the distilleries all over the country are running now. If the Senator wants to stop the distilleries he must legislate on that subject. It requires something more than this joint resolution, either the one way or the other. Even if his amendment is adopted it will not stop the distilleries, and if it is not adopted it will not stop the distilleries. I understand they are going on now, and if the Senator really wants to stop them until this examination can be made he must legislate for that purpose.

There are thousands of distillers in the country, and the meters cannot be made and supplied to all the distillers within the next two years in all probability. No matter what meter is adopted it will take a great length of time to manufacture and supply a sufficient quantity. If hereafter he desires to stop the running of distilleries until the meter adopted by this commission shall be made in sufficient quantities to furnish all the distilleries, of course he must legislate to that end. The Senator accomplishes nothing in this way, because the distilleries are now running, and we are relying upon the law as it stands. It is utterly impossible to furnish these meters in sufficient quantities, and, besides, they do no good where they have been furnished, or scarcely any, as I understand. This is a mere experiment to see if we can adopt something which will avail for the good of the revenue. I do not know whether it will accomplish anything or not; but as it does not cost the Government any money, and does not permit any more frauds to be committed between now and the 1st of March than will be committed but for this legislation, we thought we would try it. There is no harm in it at all events.

Mr. SUMNER. Well, Mr. President, I submit that there is harm in it because it opens the door for one month. I am unwilling to open it.

Mr. HENDERSON. But I tell the Senator the door is already open; the distilleries are running; they will run anyhow.

Mr. SUMNER. But if you continue to apply the Tice meter you have a check to a certain extent. I do not say that it is a complete check, but the evidence I have obtained from the Commissioner of Internal Revenue is to the effect that this meter, wherever it has been applied, has been most efficacious.

Mr. HENDERSON. I should like to ask the Senator where he expects to get the Tice meters between now and the 1st of March. If he were to put forty factories in operation they could not manufacture enough of the article to apply it to all the distilleries between now and then.

Mr. SUMNER. Then why proclaim to the distillers and to those who are disposed to defraud the revenue that during the coming month you will be idle and do nothing?

Mr. HENDERSON. The distillers are running the distilleries now without the Tice meter all over the country everywhere.

Mr. SUMNER. Some of them are.

Mr. HENDERSON. All, except a very few.

Mr. SUMNER. The information of the Senator is entirely different from that which has been supplied to me from the Commissioner of Internal Revenue. He has great confidence in the Tice meter. He finds that wherever it has been applied it has been efficacious. Now, I accept his testimony. Personally I know nothing about it.

Mr. HENDERSON. I should like to ask the Senator what his information is in regard to the number of Tice meters now applied to distilleries?

Mr. SUMNER. I do not know how many there are; but I know it has been applied often enough to enable the officers who are interested in it to have a positive opinion in regard to its merits.

Mr. HENDERSON. Let us have a vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to strike out the second section of the joint resolution; and upon that amendment the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 13, nays 24; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Corbett, Doolittle, Fessenden, Frelinghuysen, Harlan, Nye, Sumner, Tipton, Wade, and Wilson—13.

NAYS—Messrs. Buckalew, Cameron, Cole, Conkling, Cragin, Davis, Fowler, Henderson, Hendricks, Howe, Morrill of Vermont, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Thayer, Van Winkle, Willey, and Williams—24.

ABSENT—Messrs. Anthony, Bayard, Dixon, Drake, Edmunds, Ferry, Grimes, Guthrie, Howard, Johnson, Morgan, Morrill of Maine, Morton, Saulsbury, Trumbull, and Yates—16.

So the amendment was rejected.

The joint resolution was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

EXECUTIVE SESSION.

On motion of Mr. CHANDLER, the Senate proceeded to the consideration of executive business; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 28, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 246) to remove political disabilities from Robert M. Patton, of Alabama, in which he was directed to ask the concurrence of the House.

CLERK TO THE COMMITTEE ON PRINTING.

Mr. LAFLIN. I rise to a privileged question. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That the Committee on Printing be authorized to employ a clerk at the usual rate of compensation.

Mr. Speaker, when the gentleman from Illinois [Mr. WASHBURNE] introduced his resolution for the appointment of clerks of committees I did not happen to be in the House, or I should have been able, as I think I have since been, to convince him of the necessity of a clerk for our committee. If there is any committee in this House that can make a clerk available to the interests of the Government that committee is ours. There are many matters of detail which it is impossible for the members of the committee to examine.

Mr. HOLMAN. Is this resolution before the House?

The SPEAKER. It is. The Committee on Printing is authorized to report at any time.

Mr. HOLMAN. On matters that have not been referred to them?

The SPEAKER. There is no limit in the rule. They can report anything that grows out of their deliberations. The House will determine whether the resolution ought to pass or not.

Mr. LAFLIN. Unless some gentleman wishes to ask me any questions I will move the previous question.

Mr. WINDOM. I desire to ask the gentleman if any pay, any extra compensation of any kind has been given to the gentleman who has been acting as clerk of this committee for the preparation of the Congressional Directory for the second session of the Fortieth Congress?

Mr. LAFLIN. That matter is under the control of the clerk of the Senate committee, the clerk of Printing Records.

Mr. WINDOM. Is that a different committee?

Mr. LAFLIN. The Senate committee act on the matters that come before them, and we act on those that come before us. The Directory is gotten up under the control of the Senate committee.

Mr. WINDOM. Well, as the gentleman is a member of the joint committee, I will ask him if he knows what compensation is paid, if any?

Mr. LAFLIN. To that man?

Mr. WINDOM. Yes, sir.

Mr. LAFLIN. No, sir; I do not.

Mr. WINDOM. I will ask the gentleman one question further, whether the clerk of the joint Committee on Printing is to be the clerk of the House Committee on Printing?

Mr. LAFLIN. Not at all, sir; not at all.

Mr. WINDOM. Then, as I understand it, the House Committee on Printing is to have a clerk, and the Senate committee is to have a clerk, and then the two committees acting together jointly are to have a joint clerk.

Mr. LAFLIN. Oh, not at all, sir; not at all.

Mr. WINDOM. Then I do not understand it.

Mr. LAFLIN. There will be a clerk to the Committee on Printing of the Senate and a clerk to the Committee on Printing of the House.

Mr. WINDOM. And then you have a clerk to the joint committee.

Mr. LAFLIN. No, sir; you cannot say that we have a clerk to the joint committee. Whenever the two committees meet in joint committee the clerk of one of the committees would undoubtedly act as clerk of the joint committee. But everybody knows that most of the business done by the committees is done by them as separate and distinct bodies. Very little business comes before us, as the law now is, as a joint committee.

Mr. WINDOM. What I desire to understand is whether the joint Committee on Printing has a clerk acting for nothing. If he is, then I have no fault to find with the manner in which he has done his work; if he is paid for it, then I have very serious fault to find with his work. If he is paid I do not see the propriety of there being three clerks for two committees.

Mr. LAFLIN. It is not so; the gentleman is entirely mistaken.

Mr. HIGBY. I would ask the gentleman from New York [Mr. LAFLIN] if it is proposed to pay this clerk a salary or a per diem?

Mr. LAFLIN. A per diem. I now call the previous question.

The previous question was seconded and the main question ordered.

The question was then taken upon the resolution; and upon a division, there were—ayes 58, noes 33; no quorum voting.

Mr. WINDOM. I call for tellers.

Tellers were ordered; and Mr. LAFLIN and Mr. WINDOM were appointed.

The House again divided; and the tellers reported that there were—ayes sixty-seven.

Before the noes were counted,

Mr. WINDOM said: I am informed by the gentleman from New York [Mr. LAFLIN] that the party to whom I object is not to have this appointment. Therefore, so far as I am concerned, I withdraw all objection to the resolution.

The resolution was adopted accordingly.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for one week for Mr. BUTLER and Mr. KERR; also for Mr. CULLOM for one week, on account of his own sickness.

CONGRESSIONAL ELECTION IN OHIO.

Mr. EGGLESTON. I desire to make a personal explanation upon a question of privilege.

Mr. BLAINE. For how long a time?

Mr. EGGLESTON. For three minutes.

No objection was made.

Mr. EGGLESTON. I ask the Clerk to read the paragraph I have marked in the paper I send up to him.

The Clerk read as follows:

"General John Beatty, Republican, was yesterday elected in the eighth district of Ohio as the successor of the late Hon. Mr. Hamilton, the majority being more than one thousand."

[Laughter.]

Mr. MUNGEN. I move to amend by adding that "the Republicans lost eight hundred votes in the district."

The SPEAKER. The Chair thinks this is not a question of privilege.

Mr. EGGLESTON. I have done all I desired to do.

SOUTH CAROLINA TAX COMMISSIONERS.

Mr. PAINE. I ask unanimous consent to offer a resolution calling for certain executive information; and I will explain it in a few words. In 1863 the President of the United States issued certain instructions to the tax commissioners of South Carolina. In 1866 a law was passed by Congress referring to these instructions and confirming certain proceedings had under them by the Board of Direct Tax Commissioners. But the instructions were not recited in the statute, and no part of them has ever been recited in any statute. It follows that a portion of these instructions is virtually incorporated in the legislation of the country, and yet, as I am informed, they have never been printed. I now ask consent to offer a resolution calling upon the Secretary of the Treasury to furnish an official copy of those instructions. They are really a part of the statute law of the United States; the title of real estate in parts of South Carolina depends upon them; and they constitute an interesting feature in the documentary history of the country. I ask leave to offer the following resolution:

Resolved, That the Secretary of the Treasury be instructed to communicate to this House an official copy of the instructions issued by Abraham Lincoln, President of the United States, to the tax commissioners of South Carolina on the 16th day of September, 1863.

No objection was made, and the resolution was received and adopted.

Mr. PAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS AND SAILORS IN NAVY-YARDS, ETC.

Mr. SHANKS, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and adopted:

Whereas it is reported that the Secretary of the Navy has recently issued an order abolishing all discriminations in favor of employment of soldiers and sailors in that Department; Therefore,

Be it resolved, That the Secretary of the Navy be requested to furnish this House with copies of all orders and communications issued by the Navy Department in reference to the employment or discharge of soldiers and sailors at the Washington navy-yard and other places, and also all orders making discriminations for or against them.

REPORTS OF COMMITTEES.

The SPEAKER. The first business in order during the morning hour is the call of committees for reports.

The Committee on Naval Affairs having been called,

Mr. PIKE said: I ask the consent of the House that the Committee on Naval Affairs may exchange places with the Committee on Banking and Currency, so that the latter committee may report now, and the former present its reports when the Committee on Banking and Currency shall be reached in regular order.

Mr. WASHBURNE, of Illinois. Will that arrangement give the Committee on Banking and Currency one morning hour or two?

The SPEAKER. Two morning hours, unless some limitation be imposed. Is there any objection to the arrangement proposed by the gentleman from Maine, [Mr. PIKE?]

There was no objection.

TAXING SHARES IN NATIONAL BANKS.

Mr. POMEROY, from the Committee on Banking and Currency, reported back without amendment a bill (H. R. No. 512) in relation to taxing shares in national banks.

The question was on ordering the bill to be engrossed for a third reading.

The bill, which was read at length, provides that the words "place where the bank is located and not elsewhere" in section forty-one of the act to provide a national currency, approved June 3, 1864, shall be construed and held to mean the State within which the bank is located; and the Legislature of each State may determine and direct the manner and place of taxing all the shares of national banks located within said State, subject to the restriction that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State. It is provided, however, that the shares of any national bank owned by non-residents of any State shall be taxed in the city or town where the bank is located and not elsewhere.

Mr. POMEROY. I will state to the House very briefly how this bill proposes to change the existing law in regard to taxation of national banks. Those members of the House who were here at the time of the passage of the original bank act, when the provision contained in section forty-one for the taxation of bank shares was adopted, will recollect that there was then considerable controversy as to the manner in which the assessment should be made. There were two systems of assessment and taxation prevailing in the different States in regard to banks. For instance, in the State of New York the custom invariably had been, under our free banking system, to tax the banks as corporations. Under that system the whole capital of the bank was assessed at the place where the bank was located. In the State of Maine, and in various other States of the Union, the custom had been to tax the shares as personal property, taxing each shareholder at the place of his residence on the amount of banking capital he might own. After considerable discussion as to the merits of these two systems the former was adopted in the national bank act. By section forty-one of that act it is provided that the shares of the national banks shall be assessed and taxed at the place where the bank is located and not elsewhere.

Some of the States have found great trouble in conforming their systems of local taxation to the system established in our law. I think every person here will agree that as a general rule all acts of Congress should conform as fully as possible to local laws and usages; and this is peculiarly so in regard to all questions of assessment and taxation, regarding which every member of the community is peculiarly sensitive, especially at the present time. The Committee on Banking and Currency have had this subject again under review and have unanimously instructed me to report the present bill, which proposes but a single change in the existing law. The committee are unanimously of the opinion that each State should continue to have the benefit of the taxation derived from the shares of all banks located within the State; but they propose so far to amend the law that the Legislature of each State may provide for the taxation of the shares of resident shareholders within the State, either at the place where the bank is located or at the place where the shareholder resides, leaving shares owned by non-residents to be taxed as now, at the place where the bank is located. If this bill be passed, we shall have conformed to the fullest extent possible our system of taxation of national bank shares to the laws and customs prevailing in the different States. Each State then as now will have the benefit of the assessment and taxation of the holders of stock of banks located within the State. The Legislature of each State can provide for the assessment and taxation of shares of its residents in such manner as it shall provide. I believe that covers all that is contained in the bill.

Mr. WELKER. I should like to ask the gentleman a question. Is there any provision which prevents the States from taxing the banks where located as well as where the stockholders reside?

Mr. POMEROY. It leaves it to the discretion of the Legislature of each State to determine that according to its own laws and customs.

Mr. WELKER. Is there any provision to prevent State Legislatures taxing in the county where the bank is located, and also taxing the stock in the hands of outside stockholders?

Mr. POMEROY. They must tax at one place or the other and not at both, and that is to be determined in the discretion of the Legislature of each particular State.

A MEMBER. Not taxed twice?

Mr. POMEROY. Not twice, of course.

Mr. LOGAN. Suppose a stockholder resided in one State—New York, for instance—and the Legislature of that State desires to tax the stock of the banks held by residents, and the Legislature of Massachusetts desires to tax the stock of residents, and suppose this resident should transfer his stock to a Boston man, would it not become taxable there?

Mr. POMEROY. No, sir.

Mr. LOGAN. Would not the tax be controlled by legislative action?

Mr. POMEROY. If the gentleman will bear in mind, the law as it now stands is this: the shares of the shareholders are taxed without reference to the State of their residence, but at the point where the bank is located. The laws of the different States provide for the assessment of shareholders and the collection of the tax at that place. If this bill should pass it simply changes the law in this respect, so far as the resident of any particular State is concerned:

that at the time the assessment comes to be made he may be assessed at his place of residence if the Legislature shall so determine. And if the assessors go to the bank for the list of the shareholders they will find there the name of every person non-resident of the State, and of course they will assess the stock, if the holder is a non-resident of the State, at that place and nowhere else.

Mr. LOGAN. Suppose the man is a resident without any property except bank stock; is that provided for in any way?

Mr. POMEROY. The bill provides that each State shall determine the mode of assessment and collection of the tax, and it is safe to assume that every State availing itself of this act to change the existing laws of assessment will provide for the assessment as non-resident stock in all cases where the stockholder shall not claim the benefit of his residence and designate some other place within the State other than where the bank is located as the place of his assessment.

Mr. GARFIELD. I hope the gentleman from New York will let me make an inquiry. I was not in when he made his remarks. I recollect when the bill was up before I offered a resolution that the stockholders of banks should be taxed in the place where they lived. I want to know what is done by this bill in that respect.

Mr. POMEROY. It covers that principle as far as applies to the residents of States. It leaves this stock to the jurisdiction of the law of each State as to the locality of the taxation.

Mr. GARFIELD. I want to say in regard to that, that in Ohio, as elsewhere, there may be a bank at the county seat and $200,000 of the stock owned in townships in other parts of the country. If assessed at the county seat they will have the benefit of the tax for their township purposes, while people who own the stock in other townships will have no advantage of that tax at all.

Mr. POMEROY. This is intended to relieve that particular difficulty, and if there is any precision in language I think it does.

Mr. GARFIELD. I am glad of that.

Mr. POMEROY. Every word has been carefully studied, and I believe it meets the just expectation of the gentleman in that regard.

Mr. BLAINE. I think the reading of the bill clearly explains its purpose and effect, if any explanation were necessary after what has been said by the chairman of the committee. I will read the bill. It is as follows:

That the words "place where the bank is located, and not elsewhere," in section forty-one of the act to provide a national currency, approved June 3, 1864, shall be construed and held to mean the State within which the bank is located; and the Legislature of each State may determine and direct the manner and place of taxing all the shares of national banks located within said State, subject to the restriction that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State: *And provided always*, That the shares of any national bank owned by non-residents of any State, shall be taxed in the city or town where said bank is located, and not elsewhere.

I wish merely to say in addition, so far as the present system of taxing bank stock is concerned in such States as have been in the habit of taxing bank stock, they had better have no system at all. It is a system of evasion and dodges, and nothing more. This bill will give to each State, without interfering with their local laws and customs, the right to settle the question for themselves.

Mr. PRUYN. I wish to ask the gentleman from New York whether he has provided in this bill for the mode of collection as well as assessment.

Mr. POMEROY. No, sir; that is left by the original act to the local laws of the States.

Mr. PETERS. I ask the gentleman to yield to me a moment.

Mr. POMEROY. I will do so.

Mr. PETERS. I wish to make a statement of interest on this subject. It is the opinion of the best lawyers in the State of Maine that if the present law is not changed bank stock is not taxable anywhere under any circumstances in our State, and for this reason: there is a constitutional provision, the words of which I do not at this moment call to mind, which requires that there shall be no tax upon one sort of personal property different from the tax on all other personal property. The question is now before our supreme court whether stock can really be taxed in the place where the bank is situated. And it is the opinion of eminent lawyers in that State that it cannot be thus taxed, and unless we get relief in this form I have no doubt it will not be taxable in any place in the State of Maine. Hence the Legislature is sending resolutions to Congress on the subject, and petitions are coming from the various districts in which a great interest is felt on this question. I, for one, have no doubt—and I have examined the question pretty thoroughly—that if this property is not taxable where it is owned in the State it is taxable nowhere in the State.

Mr. HARDING. I ask the gentleman to allow me a word.

Mr. POMEROY. I yield.

Mr. HARDING. I desire to enter my protest against this bill, which is about all I expect to be able to do. I am opposed to the intervention of this Congress in the question of the rate of taxation upon personal property of the people of the United States by State authority. Shares of bank stock are personal property. We have no right to declare to Illinois and Maine what shall be the rate of taxation upon personal property in those States.

Mr. BLAINE. If the gentleman will allow me, the law in that respect is in force to-day, so that this bill does not alter it in the least.

Mr. HARDING. I go against the principle of the bill, no matter what the law is. I enter my protest against the bill. It is brought in here to obtain special privileges for giant corporations by the action of Congress above those enjoyed by the owners of personal property in the several States. Now, I protest against any dictation as to the right of taxation in the several States. Let each State regulate the rate of taxation for itself. If you attempt to legislate in favor of bank stock you will be asked to legislate in favor of mules or some other species of personal property.

One word further. I consider it the business of this Congress, if it makes any rule at all on the subject, to make a law requiring personal property in bank shares to be taxed where the owner lives. Now, this bill enables me, if living in Illinois, to dodge the tax at home. I may send my children to a free school and enjoy all the privileges of society there, but I may exempt every dollar of my property from taxation by sending it down to Connecticut and investing it there, where they give a premium to a man who owns bank stock—where there is more distributed by the Government than there is collected. I hold that wherever the person is there he is interested, there is his fortune, there is where he is protected, and there is where he should be made to pay his taxes.

Mr. POMEROY. I wish simply to say to the gentleman from Illinois that I think if he will take the bill and examine its provisions he will find that it provides exactly for what he wants.

Mr. HARDING. Does it not limit the tax to one per cent.?

Mr. POMEROY. No; it does not change the existing law at all.

Mr. HARDING. Does it not provide that non-residents shall be taxed where the bank is?

Mr. POMEROY. I will say, in answer to the gentleman from Illinois, that the committee was entirely unwilling that capitalists in Boston or New York should establish banks in Illinois or Wisconsin and be taxed thereon if they could be found for the purpose of taxation somewhere down on Cape Cod or Long Island. The intention of the committee is that each State shall have the benefit of the taxation of the banking capital within the State, and this act simply provides that the Legislature of a State shall have control of the mode of taxing shares held by residents of the State.

Mr. HOLMAN. Mr. Speaker, I very fully concur in the views which have been expressed as to the policy of this provision giving to the Legislature of each State power to determine "the manner and place of taxing all the shares of national banks" located within the State. This is certainly right. It is equally manifest that where a citizen living beyond the limits of the State holds shares in such banks the tax on such shares ought to be imposed in the locality where the bank is established; and it is equally manifest that the tax on these shares ought to be the same as that imposed on other property of the State for all State and municipal purposes. Nothing could be more just and reasonable; indeed, the constitutions of some of the States would compel this to be done in the absence of any act of Congress.

But there are two points to which I wish to draw attention, and I do it with reference to the legislation on this subject of the State which I in part represent. And the first is as to the meaning of the term "share." It is manifest that this principle of taxation ought to be made as equal and uniform as possible. The par value of a share of this stock is $100. In some of the States it is held by the Legislatures that the fair construction of the act of 1864 is that it means shares at par value and nothing more or less. It is so held by the State authorities of Indiana, and in others it is held that a share of stock is like any other property and the tax ought to be imposed upon its actual value. That is one point to which I desire to call the attention of the gentleman from New York. I think that a provision ought to be inserted here that the tax shall be imposed upon the actual value of the share. The actual value of the shares depends to a very large extent upon the accumulated capital of the bank, and if the tax is not imposed on the accumulated capital in this form, as a general thing, it will not be imposed on the banks at all. If the actual value of shares is subject to taxation the actual value can always be ascertained and then the surplus fund of the bank is taxed as represented by the shares; otherwise it would not be taxed at all. In most of these banks, the actual value of whose shares is one hundred and thirty to one hundred and fifty dollars per share instead of $100——

A MEMBER. We leave that to the Legislatures.

Mr. HOLMAN. The Legislatures would necessarily differ upon that point and it would be better for Congress to expressly authorize the taxation of these shares at their real value. This would increase and not restrict the legislative power of the States over this subject of taxation, as it seems to be conceded that the power to tax these shares depends on the act of Congress creating this system of banks.

In the next place the question arises as to whether a State may impose this tax for any other than State purposes. It seems to be held in some of the States that this tax cannot be imposed for municipal purposes. Such is the law in the State of Indiana. It seems to have been the judgment of the Legislature that the act of Congress confers upon the Legislature power to impose this tax for State purposes but not for municipal purposes. The result is that as all these banks are located in incorporated towns these shares escape a burden which is imposed upon every other species of property.

I insist, then, Mr. Speaker, that to give perfection to this measure, to give uniformity and equality of taxation throughout the country upon this particular subject two things should be provided for by this bill: first, that the shares should be subject to taxation upon their actual value, upon exactly the same principles as taxes are imposed upon other species of property; and, second, that these shares shall be subject to taxation for State and municipal purposes. I therefore suggest to the gentleman from New York, [Mr. POMEROY,] who has honored me thus far with his attention, that there should be added to this bill the proviso

that such shares may be taxed at their actual value for all State and municipal purposes at a rate not exceeding that above expressed.

Mr. CLARKE, of Ohio. I would ask the gentleman if this bill does not authorize all State Legislatures now to tax these shares for all purposes? Is there any restriction?

Mr. HOLMAN. I admit there is no restriction in the act of 1864. The language of that act is as follows:

"*Provided*, That nothing in this act shall be construed to prevent all the shares in any of the said associations held by any person or body corporate from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under State authority at the place where such bank is located, and not elsewhere, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State."

Mr. CLARKE, of Ohio. If the gentleman will indulge me a moment further, I think it would be entirely proper for Congress to leave the State Legislature to exercise their own discretion in regard to the manner of assessing taxes upon personal property. If we undertake to restrict or restrain them in any way, it will be subject to the objections suggested by the gentleman from Illinois, [Mr. HARDING.] Let them treat their own citizens as they please. If the Legislature of Illinois see fit to tax citizens of Illinois for property owned by them outside of the State it is their right to do so; and if the Legislature of Ohio think it better to pursue another course they can do so. If Congress undertakes to become the guardian of the people against the several State Legislatures it will take a very large job on its hands.

Mr. POMEROY. In regard to the proposition made by the gentleman from Indiana, [Mr. HOLMAN,] and also in regard to suggestions made by several other gentlemen upon matters foreign to the subject of this bill, I desire to say that I want an expression of the will of the House upon the principle embraced in this bill.

There is but one proposition in this bill, and that is whether the Legislature of a State shall have the right to tax the shares held by its residents throughout the State wherever it may see fit. There is no other proposition embraced in this bill. So far as the objection of the gentleman from Indiana is concerned, all I can say is that no such objection has ever been brought to the attention of the committee. If any such exists in Indiana none such exists in New York; there has been no trouble of that kind there. It is all now within the scope of the legislative authority of the State.

The intention of this bill, as I before said, is to reach this one specific difficulty; and I do not propose to open the bill to amendment for any other purpose. If the existing law, or the law as it shall be if this proposed bill shall become a law, is defective and there exists in any State grievances in regard to assessment and taxation, if any member will bring that grievance before the Committee on Banking and Currency I assure him it will have our careful attention and consideration. But until some such consideration shall come before the committee I do not propose to open this bill in any respect to amendment, except for the specific purposes of this bill.

As there is another matter which I desire to get before the House this morning, I will now call the previous question on this bill.

Mr. PAINE. I hope the gentleman will withdraw the call for the previous question for a question.

Mr. POMEROY. Certainly, I will do so.

Mr. PAINE. This bill provides that this taxation shall not be at a greater rate than that assessed upon other moneyed capital in the hands of individuals. I now desire to ask the chairman of the Committee on Banking and Currency [Mr. POMEROY] to state to this House what he means by the words "moneyed capital;" if he means "personal property," or what does he mean.

Mr. POMEROY. I do not understand the language as meaning anything different from the language of the existing law. If there is any difficulty in assessing and collecting taxes, by reason of ambiguous or uncertain language in the existing law, the Committee on Banking and Currency are ready to give their attention to the matter; but, so far as regards the present bill, we have simply taken the existing law just as it stands and have reported a single simple amendment, the necessity of which has been brought to our attention.

Mr. PAINE. The gentleman, of course, is not responsible for the existing law, nor is this House. But if we to-day pass a new act we shall be responsible for its provisions; and before the vote is taken on this bill I wish to know the exact meaning of the words I have mentioned. If they mean personal property then the objection of my friend from Illinois [Mr. HARDING] can have no weight; but it may be that they have another and a very different meaning, and it is proper that the gentleman, if he understands what those words mean, should explain them.

Mr. POMEROY. My own impression is that they mean capital invested in similar interests—bank shares of State institutions as they originally existed.

Mr. PLANTS. Will the gentleman allow me to ask him a question?

Mr. POMEROY. Yes, sir.

Mr. PLANTS. I desire to inquire whether, under the provisions of this bill, banking capital may not under certain circumstances be taxed twice? Suppose a gentleman residing in New York owns shares in a bank in Tennessee. Under this bill, as I understand, those shares will be liable to taxation in the State of New York as well as in the State of Tennessee.

Mr. POMEROY. That is expressly provided against beyond all possibility of misconstruction.

Mr. TRIMBLE, of Kentucky. Will the gentleman from New York [Mr. POMEROY] yield to me for a moment?

Mr. POMEROY. Certainly.

Mr. TRIMBLE, of Kentucky. I agree with the gentleman in desiring an expression of opinion upon the isolated question of taxing the banks. I ask the gentleman to permit me to offer an amendment on that subject.

Mr. POMEROY. I would yield to the gentleman if I had not already declined to yield to other gentlemen for a similar purpose. The gentleman can read his amendment for the information of the House.

Mr. TRIMBLE, of Kentucky. My object is that the States, while empowered to tax national banks, shall be prevented from taxing the national banks to an extent to which they do not tax their State institutions. The amendment which I desire to offer is to add to the bill the following:

Provided, That the tax upon the shares and circulation of national banks and State banks shall be the same in the States and by the Federal Government.

Mr. POMEROY. I suppose that is provided for in the existing law.

Mr. LYNCH. Will the gentleman from New York yield to me for a moment?

Mr. POMEROY. Yes, sir.

Mr. LYNCH. I would like to offer an amendment which I would have offered in committee if I had been present when the subject was considered.

Mr. POMEROY. I cannot yield to allow an amendment to be offered.

Mr. LYNCH. Will the gentleman permit the amendment to be read?

Mr. POMEROY. I will allow it to be reported.

Mr. LYNCH. I send the amendment to the Clerk.

The Clerk read as follows:

Strike out all after the enacting clause of the bill and insert the following:

That the words "place where such bank is located, and not elsewhere" in section forty-one of the act to provide a national currency be stricken out.

Mr. POMEROY. I cannot consent to that amendment.

Mr. LYNCH. The gentleman will permit me to explain its effect?

Mr. POMEROY. Certainly.

Mr. LYNCH. The national bank act contained the following provision:

"*Provided*, That nothing in this act shall be construed to prevent all shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under State authority, at the place where such bank is located, and not elsewhere," &c.

Now, by striking out "at the place where the bank is located, and not elsewhere," simply leaves it to the States to tax bank shares as they tax all personal property. I cannot for the life of me see any reason, if we intend to abandon taxation in the States, why we should not leave it there as it ought to be left, to be taxed as all other personal property is taxed. That gets rid of all these questions which the gentlemen from Illinois and from other States have raised.

Mr. POMEROY. I would be glad to give longer time for discussion, but I have another important measure to report this morning.

In conclusion I wish to say to this House, so far as the State is concerned which I have the honor in part to represent upon this floor, it has no interest in this question. The existing law meets with the views entertained by that State and its people ever since our free banking law of 1838. If this law passes I apprehend no movement will be made for any change in the existing law of that State. And I only ask for the passage of this bill because I have felt the embarrassment under which gentlemen were laboring in other States which had different modes of assessment. If the House does not wish to pass this bill into law I am content. I leave it with it to say. I demand the previous question.

Mr. LYNCH. Let me ask a single question.

Mr. POMEROY. I yield for that purpose.

Mr. LYNCH. I ask the gentleman whether the amendment I offer does not accomplish all this bill accomplishes, besides freeing it from all these embarrassments?

Mr. POMEROY. In answer to the gentleman from Maine I will say that his amendment not only accomplishes all this act accomplishes but so much more as to make me rather fear more the adoption of his amendment than the continuance of the existing law. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. POMEROY demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. POMEROY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEPOSITS OF PUBLIC MONEYS.

Mr. POMEROY, from the Committee on Banking and Currency, reported back House bill No. 450, to regulate the deposits of the public moneys, with the recommendation that it do pass.

The bill provides that a national bank shall not be selected in any State or place where there is located a Treasurer or Assistant Treasurer of the United States as a public depositary. All public moneys collected and received in any such place for the Government shall be deposited with such Treasurer or Assistant Treasurer, and shall be subject only to draft of the Secretary of the Treasury or the Treasurer of the United States, as provided by law, and under such regulations as the Secretary of the Treasury from time to time shall deem it expedient to establish. And any public officer violating this provision of law and depositing public money otherwise than is here directed, and

any other person who shall aid therein shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined a sum not exceeding $5,000, and imprisoned for a term not exceeding three years, or either, at the discretion of the court.

Mr. POMEROY. Mr. Speaker, I will say that this bill simply enacts into law a resolution passed by this House at the last Congress by an almost unanimous vote, prohibiting the Secretary of the Treasury or any officer under this Government from depositing public moneys in any other place than with the Treasurer and Assistant Treasurers of the United States at the places where they are located.

It has been brought to the attention of the committee that that resolution has not been regarded, and this bill is therefore reported in the shape in which it is so as to enforce, if any legislative power can do so, the rule that moneys of the United States shall be kept with the Treasurer and Assistant Treasurers of the United States wherever they are located, and not deposited in national banks or in any other place. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. POMEROY. I now yield to my colleague on the committee, [Mr. RANDALL.]

Mr. KELLEY. I desire to ask the chairman of the committee to give me some information. Some weeks ago the House adopted a resolution which I had the honor to submit, calling upon the Secretary of the Treasury for a statement of the amount of money on deposit in the national banks at the termination of a series of months. The resolution was amended, on the motion of the gentleman from Wisconsin, by requesting the Secretary to name the amount in each bank. I desire to know whether that resolution has been responded to by the Secretary of the Treasury?

Mr. POMEROY. I believe it has. I think I saw this morning for the first time the report of the Secretary of the Treasury giving the information. I may be mistaken.

Mr. KELLEY. May I inquire whether the Speaker has any knowledge on the subject?

The SPEAKER. The Chair is under the impression that the resolution was answered two weeks since.

Mr. RANDALL. I would say to my colleague that this bill proposes to break up that whole system.

The SPEAKER. The Chair will state that the resolution was answered on the 8th of January. It was offered on the 4th. It inquired for the amount of Government funds on deposit in the national banks from the 1st of June, 1866, to October, 1866.

Mr. KELLEY. Was the communication printed?

The SPEAKER. It was ordered to be printed and referred to the Committee on Banking and Currency.

Mr. KELLEY. I would inquire, further, if it has ever come to the committee?

Mr. RANDALL. I have not seen the report. It may have come to the clerk or chairman, but it has not, to my knowledge, been considered by the committee.

Mr. KELLEY. I hope the bill will pass, but I would like the reply to my resolution to be before the country.

The SPEAKER. The Chair supposes it may be found in the document-room now.

Mr. RANDALL. I learn it is not yet printed.

Mr. Speaker, as long ago as 1866, shortly after you did me the honor to place me on this committee, this abuse of the national bank system was brought to my attention, and I took the opportunity of having incorporated this same feature in a bill which was then before the committee and was subsequently reported to the House for the purpose of correcting the abuse. That bill, however, failed; and in July last I offered a resolution directing the Secretary of the Treasury to cease depositing the public money in the national banks in every place where there was a Treasurer or an Assistant Treasurer of the United States. To that resolution, I am sorry to say, little, in fact no attention has been paid. I have it, however, semi-officially that the resolution was referred to Mr. Van Dyck for his opinion in the city of New York, and that he reported that it was impracticable. Now, sir, I do not know how the question was put to Mr. Van Dyck, but I can very well understand how a question can sometimes be put to a public officer so that the response will be satisfactory to the party who puts the question.

In advocating this bill I do not propose to make any war upon the general system of banking, but to confine myself to the correction of this abuse. In the first place I want to direct the attention of the House to the fact that the system is wrong of giving to the Secretary of the Treasury or any officer of the Government the right of choice where the deposits of the public funds shall be placed. And then it is wrong to give to individuals the right of trading upon the taxes of the people which may have come into the possession of the Government.

Now, sir, in an examination which we made into the Merchants' National Bank the fact was developed that one gentleman was paid four per cent. for inducing the deposit of the public money in a particular bank. I do not know whether the same evil exists in other parts of the country, but I have heard it stated that in my own State (Pennsylvania) the collectors of the revenue have been solicited, and some have been induced, to deposit the public funds in particular banks, so that those banks might trade with profit upon the public money. This is the sole object of the bill. It is not necessary for me in this House to go back over the history of the past in connection with the deposits of the public money. We have had the United States Bank, and then the "pet banks" system; and then we had a system which seemed to meet the entire approval of the country, the sub-Treasury system, which, although at first resisted by one of the political parties in the country, was finally acquiesced in as being the most desirable method of keeping the moneys of the Government. And now I want that this House and the Government shall go back as far as possible to that system which will keep all the moneys safely and which will prevent corruption. There is no view which can be taken of this subject which does not indicate the propriety of the passage of this bill. I hope, therefore, that the House will adopt the report of the committee.

Mr. BARNES. Mr. Speaker, the fact that these deposits of public money have been made in national banks against a resolution of this House and against the public sentiment of the country is an evidence of the political power possessed by these banks which is now about to be resisted by the legislation of Congress. What has been stated by my colleague on the committee [Mr. RANDALL] I suppose is well understood and believed by the members of this House, that collectors of the revenue in different districts are paid for depositing these moneys, which rightfully belong to the sub-Treasury of the United States, in banks, to be there used for the benefit of those banks, and for which they pay nothing except in suborning public officers.

Mr. ALLISON. I would like the gentleman from New York to state if he knows that any revenue collector has been paid for influencing these public deposits?

Mr. BARNES. I have not made the assertion that I knew this of my own knowledge. I said I supposed it was believed by other gentlemen, as it is believed by myself, that such are the facts in numerous cases, and the statement made by my colleague on the committee from Pennsylvania [Mr. RANDALL] that such was the development in the Merchants' Bank case is an answer to the question of the gentleman from Iowa.

The sub-Treasury of the United States is a safe depository for Government funds. The national banks have proved not to be safe depositories for Government funds, and have proved not to be safe depositories for individual funds, and we all know that individuals will exercise more care and more prudence in their own affairs, in the deposit of their own money, than they will as officers of the Government, and for that reason it is necessary that we should restrict those having the care of public money to those institutions where there can be no doubt of its safety.

I assume there is no opposition to the general principle of this bill. There can be but little said against it. It is approved by the common sense of the House, and I trust that it will pass without opposition.

Mr. POMEROY. I now yield the floor to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. Mr. Speaker, I welcome this bill as one of the most efficient steps in the right direction that has been proposed during the Fortieth Congress. It is a step to break up a system of notorious corruption in connection with the public funds, a step by which the Government will save, I apprehend, from two millions to two and a half millions in gold which it has been paying the banks for investing its own money which it had deposited with them in its bonds. The average of deposits, as I learn from the Secretary's response to my resolution of inquiry, which I have only seen since this debate commenced, from the 30th June, 1866, to the 31st of October, 1867, appears to have been, for I have not had time to calculate it, nearly thirty million dollars. Each bank can soon ascertain its average balance and it is their practice to invest it in gold-bearing bonds on which they draw from the Government six per cent. in gold for lending it its own funds.

The question is asked by gentlemen whether public functionaries have received a consideration for making these deposits. Gentlemen of the West, do you not know that the banks of New York and Boston pay interest on the deposits your western banks make with them? Do not trustees and others commanding large sums know that the banks will pay them interest on an average line of deposit? Every business man is familiar with these facts, and I apprehend there is not a custodian of Government funds that has not by some arrangement, secret or open, direct or indirect, been receiving pay for making deposits in these banks and swelling them as largely as possible.

Do gentlemen ask whether any considerable sums have thus been left with these banks? Let them turn to page 5 of Executive Document No. 87, the response of the Secretary of the Treasury to which I have referred, and they will find that in the First National Bank of Cincinnati there was in July, 1866, on deposit of United States funds the sum of $1,641,925 08; in August, 1866, $1,582,265 56; in September, $1,078,396 22; in October, $1,160,369 78, and so on. This example is taken at sight from the first page at which I opened the report. It is doubtless full of instances of this kind. The average balance, in bonds available for investment, was not less than $1,000,000. That $1,000,000 could be invested by the bank in six per cent. gold-bearing bonds with entire safety to its general business, for if the Government should happen to make an unexpected call for its money, and the deposits of its customers were not sufficient to meet it, all the bank would have to do would be to take its gold-bearing bonds and borrow the amount on call for a short time, until ordinary depositors should make it up.

But, again, the great evil from which our country is now suffering is a concentration of its currency in a few hands, or in a small portion of the country. We have $300,000,000 of banking currency; and of that New York and New England have fifty-eight and five tenths per cent. The southern States proper have but two per cent.; the southwestern States have but two and nine tenths per cent.; and the extreme western States are nearly as deficient of circulation as they.

This system of depositing Government funds

in the national banks has aggravated immensely the evils under which the country is suffering; which is plethoric congestion at the heart and inanition and paralysis in the extremities. Boston and New York are gorged with money, and the public deposits lie there in volume to be speculated upon; while the South and West are without the means of making the commonest exchanges of commodities save by barter.

There is not currency in the South and West with which to do marketing and the common retail purchases; and the people are compelled to use and do use openly, yet not in defiance of law or of the Government, but simply because it is their only medium of exchange, counterfeit representatives of the currency of the United States. When I put the question to man after man in the South who was passing or receiving counterfeit paper, "Do you believe you are injuring the Government or its currency by this?" the answer was "Not at all, sir; not at all; society cannot exist without some medium of exchange; and we had better be found with five or ten or twenty or fifty or a hundred dollars of counterfeit paper when the day of settlement comes and we can procure a lawful currency than go back to barbarism." But, Mr. Speaker, I must leave this branch of the subject.

This bill promises a return to the sub-Treasury system, the wisest financial system ever practiced by this Government for any period, long or short. It is true its adoption overthrew the Administration that established it; but at the end of four years no man dared raise his voice against it. It proved to be a natural regulator of the commerce and trade of the country. When the revenues of the Government were excessive the currency was abstracted from circulation, and business men were gently admonished to pause in their career. And again, when the business of the country had ceased to yield the Government the amount required for its current expenses the currency again flowed forth in natural channels. It balanced business and prevented crises; and as it did when we had a gold currency so will it do with our present currency, better in many respects than that of gold; a currency equally well secured as to ultimate redemption, and more easily transmitted from point to point or borne upon the person than gold.

I welcome, therefore, the promised adoption of this bill as an assurance to the country that the Fortieth Congress is about to put its financial system on a basis as secure as that on which it rested before the war; and that, whether it can point the road to an early resumption of specie payment or not, it will deprive the Secretary of the Treasury, through his agents and pets, of the power to amass fortunes by sporting with the credit and currency of the country.

Mr. POMEROY. The principle of this bill meets with such general concurrence that I do not know but a little more stringency in its provisions may make it better, and I desire to offer an amendment.

The SPEAKER *pro tempore*, [Mr. COOK.] The previous question having been seconded, unanimous consent is necessary to permit an amendment to be offered.

Mr. POMEROY. I ask unanimous consent to offer the following amendment:

In line three, after the word "place," insert "or within fifty miles of any such city or place;" and insert the same words after the word "place" in line seven.

The SPEAKER *pro tempore*. Is there objection to allowing the amendment to be offered?

Mr. BROOMALL. I object.

Mr. POMEROY. Will the gentleman object if "twenty-five" be inserted instead of "fifty?"

Mr. BROOMALL. Yes, sir.

Mr. POMEROY. In order that I may offer the amendment I have just read I move to reconsider the vote by which the previous question was seconded.

I understand that great abuses are perpetrated by sending public moneys right through a city or place where there is a Treasury and depositing it in a national bank at a place beyond. If such a practice is carried on we should make provision against it in this bill.

The motion to reconsider was agreed to.

The question then recurred on seconding the demand for the previous question.

Mr. POMEROY. I withdraw the call for the previous question, and offer the amendment I have already read, upon which I demand the previous question.

Mr. BROOMALL. Mr. Speaker, has not the morning hour expired?

The SPEAKER *pro tempore*. The previous question operates to continue the bill after the expiration of the morning hour.

Mr. BROOMALL. Does not that rule cease to operate when the call for the previous question has been withdrawn?

The SPEAKER *pro tempore*. The Chair understands that it does not when the call for the previous question has been withdrawn for the purpose of offering an amendment.

The question being upon seconding the demand for the previous question on the amendment offered by Mr. POMEROY, the previous question was seconded and the main question ordered; and under the operation thereof the amendment was adopted.

The question recurring upon ordering the bill as amended to be engrossed for a third reading,

Mr. POMEROY demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill,

Mr. BARNES called for the yeas and nays.

The yeas and nays were not ordered.

The bill was passed.

Mr. POMEROY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has now expired.

MESSAGES FROM THE PRESIDENT.

Several messages in writing from the President of the United States were presented by Mr. W. G. MOORE, his Private Secretary.

PARIS EXPOSITION.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives of the United States:

In answer to a resolution of the House of Representatives of the 22d instant, calling for a copy of the report of Abraham S. Hewitt, commissioner of the United States to the Paris Universal Exposition of 1867, I transmit a report from the Secretary of State and the papers which accompanied it.

ANDREW JOHNSON.

WASHINGTON, *January* 27, 1868.

Mr. ALLISON. As the report of Mr. Hewitt relates, I understand, exclusively to the subject of the manufacture of iron in connection with our tariff duties, I move that this message, with the accompanying documents, be referred to the Committee of Ways and Means, and ordered to be printed.

The motion was agreed to.

ACQUISITION OF RUSSIAN AMERICA.

The SPEAKER also laid before the House the following message from the President of the United States; which, with the accompanying documents, was referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Senate and House of Representatives:

I transmit a report from the Secretary of State, and the documents to which it refers, in relation to the formal transfer of territory from Russia to the United States, in accordance with the treaty of 30th March last.

ANDREW JOHNSON.

WASHINGTON, *January* 27, 1868.

PRINTING BANK CURRENCY, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 14th instant, information in relation to the expense incurred by the United States Government in the printing, &c., of currency for circulation by national banks; which was referred to the Committee on Banking and Currency, and ordered to be printed.

INDIAN AFFAIRS IN DAKOTA.

The SPEAKER, by unanimous consent, also laid before the House a memorial and joint resolution of the Legislative Assembly of the Territory of Dakota relative to Indian affairs in said Territory; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ADMISSION OF COLORADO.

The SPEAKER, by unanimous consent, also laid before the House resolutions of the House of Representatives of Colorado Territory, asking for the admission of Colorado into the Union as a State; which was referred to the Committee on the Territories, and ordered to be printed.

MINNESOTA AND MISSOURI RAILROAD.

The SPEAKER, by unanimous consent, also laid before the House a memorial of the Legislative Assembly of the Territory of Dakota, praying for a grant of lands to the Minnesota and Missouri River Railroad Company, to aid in the construction of the railroad from the Minnesota State line to the Missouri river at Yancton, Dakota Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

RAILROAD GRANT TO DAKOTA.

The SPEAKER, by unanimous consent, also laid before the House a memorial of the Legislative Assembly of the Territory of Dakota, praying for the grant of lands to aid in the construction of a railroad from Sioux City, Iowa, to the mouth of the Big Cheyenne river, in Dakota Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

BANKRUPT LAW.

The SPEAKER, by unanimous consent, also laid before the House a resolution of the constitutional convention of Virginia relative to the bankrupt law; which was referred to the Committee on the Revision of the Laws of the United States, and ordered to be printed.

APPOINTMENT OF STATE CIVIL OFFICERS.

The SPEAKER, by unanimous consent, also laid before the House the proceedings of the constitutional convention of Mississippi relative to Congress granting to the convention power to declare vacant all civil offices in the provisional government; which was referred to the Committee on Reconstruction, and ordered to be printed.

JOSEPH SEGAR, OF VIRGINIA.

Mr. MAYNARD, by unanimous consent, introduced a joint resolution (H. R. No. 184) for the settlement of certain claims of Joseph Segar, of Virginia; which was read a first and second time, and referred to the Committee of Claims.

MUSTERING OUT WAR DEPARTMENT OFFICERS.

Mr. POLSLEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire whether the expenses of the War Department cannot be reduced by mustering out of service supernumary adjutant generals and inspector generals, and if so, they be permitted to report a bill for that purpose.

CHARLESTOWN NAVY-YARD.

Mr. BANKS, by unanimous consent, presented a memorial from one thousand mechanics of Charlestown and its vicinity, Massachusetts, praying that the Government will provide for further employment of mechanics at the navy-yard, and protesting against discontinu-

ance of work at this season, with letters from Hon. Mr. Hull, mayor of the city, Hon. E. L. Norton, and Hon. Gideon Haynes upon the same subject.

LICENSE TAX ON ATTORNEYS, ETC.

Mr. PERHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be directed to inquire into the expediency of so amending the internal revenue laws that the tax for licenses to attorneys and claim agents shall be to some extent according to the amount of business each may do; also to inquire whether licenses for attorney shall not authorize the holder to act as a claims agent, and report by bill or otherwise.

EEL RIVER MIAMIS.

Mr. SHANKS, by unanimous consent, introduced a joint resolution (H. R. No. 185) in relation to the Eel river band of Miamis; which was read a first and second time, and referred to the Committee on Indian Affairs.

PUBLIC BUILDINGS AT TOPEKA.

Mr. CLARKE, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to.

Resolved, That the Committee on Commerce be directed to consider the expediency of making an appropriation for the erection of public buildings at Topeka, Kansas, for the use of the United States courts, post office, and land office, and other public offices.

TEST-OATH.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Rules be instructed to inquire into the propriety of requiring ex-members of Congress seeking admission to the floor of the House to take the test-oath.

TENNESSEE LOYAL CLAIMANTS.

Mr. ARNELL. I ask unanimous consent to submit the following resolution:

Resolved, That the Committtee of Claims be instructed to report a bill to facilitate the payment of loyal claimants in the State of Tennessee.

Mr. ALLISON. I object.

SETTLEMENT OF CHAMPAGNE SUITS.

Mr. HULBURD, by unanimous consent, offered the following preamble and resolution; which were read, considered, and agreed to:

Whereas it is rumored that certain suits known as the champagne cases, lately pending in New York, for alleged frauds in invoicing imported wines, have been compromised and discontinued: Therefore,

Resolved, That the Secretary of the Treasury be directed to inform the House as to the present status of said suits, if they have been settled and withdrawn, or if a settlement and withdrawal is contemplated, the number of such suits, the names of the parties thereto, the respective amounts involved in each case, the terms and conditions of every such settlement or contemplated settlement, the reason therefor, and the authority under which such settlement has been or is to be made; also, to state in detail the expenses in any way connected with such suits, including also the names of all persons, agents, attorneys, or counsel who have been at any time employed by the Government, in the United States or in any foreign country, with reference to these cases, with a statement in detail of the salaries, fees, expenses, and retainers paid or to be paid to every such person or persons from the time of his or their first employment by the Government, with copies of all his or their bills or accounts or claims allowed or rendered, for salary or other compensation whatever, including traveling or other expenses incurred or charged by reason of such employment; also, whether or not any such agent or agents, employed at home or abroad, have claimed to be informers in any case or cases investigated and worked up by such agent or agents; if so, to state the name or names of such agent or agents, in what cases such claim has been made, the amount, if any, paid to or claimed by every such agent as informer, and whether or not in the settlement and compromise of the champagne cases alleged to have been recently made in New York, or wine cases elsewhere, provision has been made for the payment by the claimants or defendants of the expenses of the suits, or of the fees and expenses of such agents and attorneys, as informers or otherwise, and if so, to whom and to what extent; also, whether any such agent or agents are now in the service and pay of the Government; if so, the name or names of the same, the salaries, fees, expenses, or perquisites paid or to be paid, allowed or to be allowed, to them respectively.

Mr. HULBURD moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ARBITRATORS UNDER BRITISH TREATY.

Mr. FERRISS, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Foreign Affairs be instructed to inquire what services, if any, have been performed by the judges and arbitrators appointed in pursuance of the provisions of the treaty with Great Britain, of April 7, 1862; and also to inquire into the necessity of continuing said officers, and if continued, the necessity of continuing them as salaried officers; and said committee be instructed to report by bill or otherwise.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that that body insisted upon its disagreement to the amendment of the House to the third amendment of the Senate; and also upon its fourteenth amendment, disagreed to by the House, to the bill of the House, (H. R. No. 320.)

FAMINE IN SWEDEN AND NORWAY.

Mr. HARDING, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed to communicate to this House such information as may be in the State Department relative to famine in Sweden and Norway.

BUREAU OF CIVIL SERVICE.

Mr. LOGAN, by unanimous consent, introduced a bill (H. R. No. 586) to provide for a bureau of civil service at Washington, in the District of Columbia; which was read a first and second time, and referred to the joint Committee on Retrenchment.

CHARGES AGAINST TREASURY OFFICERS.

Mr. LOGAN also, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to communicate forthwith to the House of Representatives the names and occupations of all the officers of the Treasury Department now in office against whom written charges have been preferred by any one, or who may have been recommended by the Commissioner of Internal Revenue for suspension, removal, or dismissal for corruption or inability in any way to perform their duties since the 1st day of July, 1867, and that the papers in each case be forwarded with such statement, and a report showing what action has been taken in each case, and the reasons therefor.

STATE BANK CIRCULATION.

Mr. TRIMBLE asked unanimous consent to offer the following resolution:

Resolved, That the Committee on Banking and Currency be instructed to inquire into the expediency of repealing the tax on the circulation of State banks.

Mr. ALLISON objected.

CHEROKEE LANDS.

Mr. LOUGHRIDGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to inform the House what steps have been taken in relation to the sale of the lands ceded in trust to the United States by article seventeen of the treaty between the United States and the Cherokee Indians, concluded July 27, 1866, and if said lands have been sold, to what parties, in what manner, and upon what terms, and what provision was made, if any, for settlers thereon.

SOUTHERN LAND GRANTS.

Mr. MUNGEN. I call for the regular order.

The SPEAKER. The regular order is the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, and Florida, and for other purposes. On this bill the gentleman from Indiana [Mr. JULIAN] is entitled to the floor for twenty-five minutes.

Mr. JULIAN. I have agreed that two amendments may be offered to this bill, and I would be glad if the gentlemen desiring to offer them would have them read now for information. I yield for that purpose.

Mr. ARNELL. I desire, when it shall be in order, to offer the following amendment:

At the end of section first insert the following proviso:

Provided, That this forfeiture shall not apply to the grant of lands made by the United States to the State of Alabama for the benefit of the Tennessee and Alabama Central railroad, which is now known as the Nashville and Decatur railroad.

Mr. PILE. I desire at the proper time to offer the following amendment:

Add to the first section the following additional proviso:

And provided further, That this act shall not apply to lands granted by the United States to the State of Alabama to aid in the construction of certain railroads in said State by act of Congress, approved June 3, 1856, and which lands were granted by the State of Alabama to the Alabama and Tennessee River Railroad Company.

Mr. BLAINE. I desire to give notice of my intention to offer the following amendment as an additional section:

And be it further enacted, That all other land grants to any States or railroad corporations that have expired by limitation are hereby declared forfeited and made subject to settlement under the regulations of the homestead law.

Mr. JULIAN. Mr. Speaker, before resuming my remarks on this bill I must renew my request not to be interrupted, for the simple reason that I cannot otherwise conclude what I desire to say within the time allotted me. Besides, sir, I am afraid that some bloody results might follow if the altercation of the other day should be renewed between myself and some of the belligerent gentlemen on the other side of the House. [Laughter.] Let me say again, also, that I wish to have this bill fully and thoroughly discussed, and that I hope, therefore, no dilatory motions will be interposed. I ask that the proposition shall be met and disposed of upon its merits, and to this end I have agreed that certain amendments may be offered which some gentlemen deem important. The bill has had two postponements already, and the recommitment of it to the committee which reported it or any similar policy of evasion or delay would very probably be fatal. Let us discuss it and dispose of it under the opportunities which now invite us to do so.

Mr. Speaker, when I was interrupted in the previous discussion I was proceeding to comment upon the loyalty of the New Orleans and Opelousas Railroad Company, and I was referring to their own memorial to Congress, setting forth the grounds on which they ask a revival and continuance of their land grant. They say in this memorial—

'That the relations of the managers of this railroad company to the Government from the first day of the capture of New Orleans have been entirely friendly, and that the legal existence of the corporation was at all times officially recognized by Major Generals BUTLER, BANKS, and Canby, the military Governor, General Shepley, and the acting mayors of New Orleans, and their subordinate officers, as can be fully shown by the records."

I submit, sir, that the fact that General BANKS, and General BUTLER, and General Shepley recognized the legal existence of this corporation is by no means a ground on which to rest their application for indulgence at the hands of Congress.

They go on to say—

"That from that early period of the war, 1st May, 1862, to its close, during which, and until the transfer of the road to the company again, 1st February, 1866, the United States Government, through its officers, have had the free occupation and use of its road, material, and machinery, for military purposes, having the first night of the capture of the city quartered Colonel McMillan's Indiana regiment in their spacious depot at Algiers and suspended the running of its trains."

Mr. BANKS. I desire to say that I never recognized the legal existence of that road.

Mr. JULIAN. Then the fact which I read from the memorial of this company is untrue. But suppose it were true that General BANKS or General BUTLER recognized the legal existence of the corporation, or that they seized this road and its depot while Colonel McMillan quartered his Indiana regiment in it on its arrival in the city; I submit that the mere fact that this corporation yielded to overwhelming force is by no means a proof of their loyalty or of their right to ask any favor whatsoever at the hands of Congress. I do not understand that there is any special merit in yielding to what is inevitable; certainly not. They were compelled to "accept the situation," for the simple reason that there was no other alternative left them.

"The fear o' hell's a hangman's whip
To haud the *wretch* in order;"

And when the members of this company come here parading the fact that they yielded to the forces of the United States they parade their own disloyalty and brand themselves as unworthy to be heard in their prayer to the Congress of the United States. But they go on to say in conclusion that—

"In consideration of their services as a company, [they ask] the adjustment and liquidation, by the proper officers of the Treasury, of their open accounts for private freights, engines, cars, steamboat, and barge, and other railroad property, and for the transportation of the United States mails, as set forth and respectfully submitted in the accompanying form of a bill, marked A."

Why, Mr. Speaker, the blessedness and beauty of this petition are certainly refreshing, to say the least. The sweet heavenly-mindedness that could have prompted these men to come here and ask Congress to pay them for the use of their railroad in crushing their treason and saving the country is so marvelous that it defies all definition. I cannot do the subject justice.

Suppose, Mr. Speaker, that in the course of this war we had captured the railroad connecting this city with Richmond and had held it, with its machinery and rolling stock, using it in the service of the United States till the end of the rebellion, and the Virginia rebels at the close of the war had asked us to pay them for the use and occupation of that road in conquering a peace; the case would have been precisely like that of these New Orleans rebels who ask us to pay their claim. Sir, little as I think of Virginia rebels I doubt whether they ever would have had the diabolic audacity of these Louisiana bankers and merchants who ask Congress to pay them for the use of their capital and machinery in compelling them to obey the Constitution and laws.

Now, sir, in order to show the real character of this application from the New Orleans and Opelousas Railroad Company and its friends, I ask the Clerk to read an extract from a letter which I have received from a very intelligent and worthy gentleman in New Orleans, whose high character was indorsed to me the other day by the editor of the New Orleans Republican, then in this city, and who is personally known to some members of this House.

The Clerk read as follows:

"It will, perhaps, be of value to you to know something of the nature and quality of the land through which this road runs. On the map you will observe that from Opelousas the road runs north, bearing west to town three south, range one east, where it turns to the west, running north 70° west, crossing the numerous little streams that form the Mermenteau and Calcasieu rivers. The streams rise in a sandy ridge covered with pine timber, the land being of but little value. But along the base of this ridge is a belt of fertile land about twenty miles in width, through which the railroad is projected, and almost all of it is taken by this grant. As you descend these streams from this belt the land becomes flat, with a white clay soil entirely worthless for cultivation. On the Calcasieu river there is some pine timber that is valuable, but all the land of any value has been selected by the State as overflowed lands. Of the three million acres of Government lands in this State about nine hundred thousand acres are held by this grant, and I think I can safely say that there are not one hundred thousand acres of Government land fit for cultivation outside of this grant. The confiscation of the State lands would open about half a million acres of land to entry that could be made available for settlement for freedmen.

"I have written particularly in reference to the New Orleans, Opelousas, and Great Western railroad, because the Vicksburg and Shreveport railroad, which is included in the same grant, has but an inconsiderable amount of good land within its limits. It seems to me very inconsistent for a Congress that talked of confiscating plantations for the benefit of freedmen to give away the only available land to a company of speculators under the pretext that northern capitalists are interested in it.

"It would, perhaps, be of no avail for me to detail to you the difficulties attending the settlement of freedmen on homesteads. Many poor people are living on these New Orleans and Opelousas railroad lands who were there before the passage of the original grant, but being ignorant of the course to pursue to secure their homes they were thrown out of their preëmption claims. Almost all of these people have been throughout the war Union people, resisting secession and conscription often to death, flying to the swamps for protection, and when our Army came through the country eagerly gave valuable information, and many of them joined the Army. I have placed some freedmen upon these lands, supposing that the limitation terminated the grant, and opened the land for entry. I consulted an attorney, who gave it as his opinion that the land was subject to entry. I think Congress will not, at least, refuse this act of justice to these people.

"The fact that northern capitalists are interested in the road is no good reason for renewing the grant.

"It is the northern capitalist as well as the southern planter that the poor freedman has to contend against now. Under the present contract system he is in a worse condition, in many instances, than when in slavery. He gets fifteen dollars a month and one ration of five pounds of pork and one peck of meal per week. The planter sells him the food for his family, and at the end of the year the freedman is in debt. And I assure you it is not only the rebel planter that does this but also the pretended Republican that comes here and rents the plantation. Working under the auspices of the Bureau of Refugees, Freedmen, and Abandoned Lands, (but without pay,) I have spent a years' time and about three thousand dollars in efforts to get freedmen upon homesteads. I am free to say that the greatest and most effective opposition that I have met with has been in part from professed Union men and those interested, directly or indirectly, in the planting interests, politicians, &c. And when I went to the editors of the Republican, supposing, of course, that they were interested in the welfare of the freedmen, I discovered that they were interested in the Opelousas railroad speculation and opposed to giving the land to the freedmen, as they wished to speculate upon it. Officers of colored regiments would sometimes dissuade their men from going upon homesteads and induce them to contract with planters, receiving for each man five dollars. The case is freedmen *vs.* capital.

Mr. JULIAN. Mr. Speaker, the character of that testimony corroborates what I said the other day respecting the need of homesteads in these regions, and especially the need of opening up the lands now tied up in the hands of this rebel corporation, so that the landless poor there may be enabled to acquire homes. In the concluding passage of the paper just read the case is properly presented as that of "the freedmen *vs.* capitalists;" and I hope this Congress will take the side of loyal and homeless poor in opposition to the capitalist, whether rebel or loyal, and whether in the North or the South. There are men in the North (and I have confessed it often) who believe that the "almighty dollar" is the only living and true God, and who have, in fact, as little sympathy with the poor and for humanity as the rebel planter himself. I stand opposed to both of these classes and on the side of those who are struggling in their poverty and helplessness for homes and independence.

I need only add that the editor of the New Orleans Republican, who is referred to in the paper just read, informs me that this road will be built, whether we renew these grants of land or not. Under these circumstances, therefore, I ask that the men having it in charge shall build it, or, at least, that we shall not aid them now at the expense of larger and far more important interests.

The State of Louisiana, as a State of the Union and in the Union, is dead—constitutionally dead and politically damned, [laughter]—and she has no right to come here now and ask of us the revival of a land grant made to her in 1856. When she shall come here in her right mind, on the conditions prescribed by Congress, restored once more to her constitutional orbit as a State, and when the loyal element down there shall ask us, under proper restrictions, to renew the grant or make another, we shall probably consider favorably their application. But we cannot do so now. In five or six weeks, it may be, the opportunity will come for the loyal people of Louisiana to be heard.

Mr. Speaker, I spoke the other day of a threefold opposition to this bill in its present form; and I pass now to the other branches of the opposition.

Mr. TRIMBLE, of Kentucky. Will the gentleman from Indiana [Mr. JULIAN] yield to me for a question?

Mr. JULIAN. I cannot yield now. I refer to the Decatur and Nashville Railroad Company and the Alabama and Tennessee River Railroad Company, and I take occasion now to answer the question which my colleague [Mr. WASHBURN, of Indiana] put to me the other day respecting the first of these companies, and to which I promised to refer again. I acknowledge that I was not strictly accurate in the sweeping statement which I made the other day as to all of these corporations in the South. It is true, however, that when the rebellion broke out this company acquiesced in it and was on the side of the rebellion during the war, as is shown by the testimony taken by the Committee on Southern Railroads. It is likewise true that the company has set up a claim of $625,000 for the use and occupation of its road during the war, and that it also claims that General Buell, early in the war, made a contract by which the Government was to pay rent for the use of this road in our hands. These are facts which do not indicate very decided loyalty on the part of the Decatur and Nashville Railroad Company. But with these qualifications that company has behaved well, and its case stands out in admirable relief when considered in connection with the character and conduct of other railroad corporations in the South.

As to the Alabama and Tennessee River Railroad Company, I wish the Clerk to read an extract from the official document from which he read the other day.

The Clerk read as follows:

"The affairs of the Alabama and Tennessee River railroad were terribly mismanaged by the directory, headed by Thomas J. Walker. Not only were its interests permitted to suffer from neglect, but their violation of solemn obligations, and their readiness to make new promises without a shadow of a hope of being able to comply with them, characterized their control as a reign of ruin.

"They had leased the property sold them by the Government, in violation of the specifically expressed terms of purchase, to a contractor, who was permitted to use the property without complying with a single clause of his contract except so far as might benefit him. Neither was the road being extended nor was the stipulated rent being paid. The successors of this management found themselves embarrassed on every hand by its unwise action."

Mr. JULIAN. Mr. Speaker, such was the character of that railroad corporation during the war. It was as bad as it could be. But I agree that the stock of this company has been bought to a large extent by northern capitalists, by whom it is now controlled, and several prominent gentlemen of the city of New York, men well known to the country, and of unquestionable loyalty, have been here urging that the lands granted to this road should be excepted from the operation of the general forfeiture declared in this bill.

The same class of men are asking us to except from forfeiture the lands granted to the Nashville and Decatur Railroad Company, upon the ground that it is now controlled by loyal men, which is true; and on the further ground, which I concede, that the road is of great commercial advantage to the country. This is doubtless true as to both the roads now under notice. I do not believe myself that we ought at present to except either of these roads from the operation of this bill; and as the text for the reasons I desire to give I ask the Clerk to read a letter I have recently received from a gentleman of high character in Alabama, and well known to many members of this House personally. I mean Mr. Bingham, of Athens, Alabama, who died recently.

The Clerk read as follows:

"I am glad to see that you have reported a bill declaring the lands granted in 1856 to southern railroads forfeited. These grants were the result of very injudicious legislation, because they gave away a very large part of the public domain to corporations, to be used as a monopoly, entirely disproportioned to the cost of the works these lands were to foster and encourage; and the events of the rebellion have demonstrated the wisdom of withholding them from these corporations, since they have not complied with the conditions of the grants, as all these corporations are under control of men who have been thoroughly identified with the rebellion, and would use their roads to promote the interests of the party with which they sympathized and affiliated during the war. A strong effort was made by the rebel officials of these roads in Alabama to obtain the indorsement of the constitutional convention of this State to a memorial praying Congress to renew the grants, but it was defeated by a vote of some 50 to 20. To illustrate the impolicy of giving these lands away to railroads I will cite a single case in this State. The north and south road connecting Decatur with Montgomery, which may be built at an average cost of $20,000 per mile, would receive over four hundred thousand acres of the best coal lands in the State, with a large amount of land containing iron ore equal in point of malleability to the ore of Pilot Knob, Missouri; and the control of this company is in the hands of the most uncompromising rebels in the State. When we get the State of Alabama back into the Union we shall ask aid of Congress to build this road, as it is

the only remaining link to connect the Northwest via Cincinnati and Louisville with the Gulf of Mexico; but the aid we shall ask will be the bonds of the Government instead of the land heretofore granted.

"At present the same dominant diabolical spirit that prevailed during the rebellion still exists, and the masses are as much intimidated, as completely under the dominion of the slaveholding rebel influence, as they were during the war, for the reason that their weapon is now starvation, and the threat that if they vote for the ratification of the constitution they—the negroes—shall have no land to work nor employment. There has been the largest and most abundant crop made in Alabama this year in proportion to the land under cultivation I have ever seen in the State, (and I have been here since 1853;) and yet in the midst of plenty there will be great suffering unless Congress feeds and clothes the negro and poor whites through the winter. This state of things does not result from idleness or improvidence on the part of the laborer, but from the refusal of the employer to pay; and there is not a civil officer in the State who will enforce a claim in favor of a negro."

Mr. JULIAN. Mr. Speaker, it will be seen by this document, the statements of which I think cannot be contradicted, and will not be, that under these land grants more than four hundred thousand acres of valuable coal and iron lands are included, some of the latter being as rich as those of Pilot Knob, Missouri. I have before me a geological map of Alabama, showing the remarkable character and extent of these minerals. Under the act of Congress of 1856 no exception or reservation happened to be made of mineral lands, and the renewal of this grant in its present form might establish an immense monopoly in the hands of these corporations. If the facts are as I understand them to be these lands never should have been granted. Let them be forfeited. It cannot harm these northern capitalists, because, not being agricultural lands, men will not take them for homesteads, and the southern homestead law will not allow them to be used for any other purpose. This is frankly admitted by these capitalists. The passage of this bill, therefore, will only work a delay of some six weeks, when Alabama will be here with Representatives of her loyal element to speak for her and ask for what that element shall deem proper as to these grants. We shall certainly deal with the same liberality toward Alabama that we have shown to the States of the northwest. But at present the loyal men there, speaking through their constitutional convention, ask us to open up for settlement and tillage the lands covered by these grants which are fit. They are imperatively needed; while the revival of the grant and the terms and conditions of it can wait till Alabama shall be here as a State in the Union.

The SPEAKER. The gentleman's time has expired.

Mr. CHANLER obtained the floor.

Mr. JULIAN. I would like to have five minutes more.

There was no objection; and it was ordered accordingly.

Mr. JULIAN. I repeat, Mr. Speaker, that the loyal people of Alabama have spoken on the very question involved in this bill, as the letter which has been read shows. By a vote of fifty to twenty a proposition to revive these grants was voted down by the loyal people of Alabama as represented in the constitutional convention which recently adjourned. If these men were able to make a constitution they are able to instruct Congress respecting the railroad corporations of the State and the best interests of her people. I am here, sir, to obey their instructions.

I have agreed, however, that an amendment should be offered excepting from forfeiture the grant of lands to the Alabama and Tennessee river railroad and to the Nashville and Decatur railroad. I am willing the House should vote on these amendments, but I cannot vote for them myself for the reasons I have stated. I would gladly accommodate capitalists who have invested their money in these enterprises if I could properly do so. They, however, took their stock in these roads as a man takes his wife, for better or for worse. They knew the circumstances under which they invested, and Congress cannot overlook the larger interests of the whole country for the narrower interests of a few men, however enterprising, worthy, or patriotic. The House will pass upon these amendments, and I prefer that they should be adopted rather than that the entire bill should fail. My purpose is to render the best service to the country I can in my advocacy of an important measure; and therefore I would not resist the adoption of these amendments in such a spirit as to endanger the measure itself on its final passage. The great body of these railroad lands are outside of the grants covered by the proposed exceptions, including the most desirable agricultural lands of the South. The measure, with or without the exceptions, will be one of great and far-reaching beneficence; and I earnestly hope it may receive the sanction of this House.

Mr. CHANLER. Mr. Speaker, I do not appear in the discussion of this bill as the advocate of those northern capitalists who have chosen to invest their money at their own personal risk in railroads in the southern or unreconstructed States, but I do feel called upon, in the present state of feeling in this House upon this question, to say something against the passage of a measure which declares forfeited to the United States, as this bill does, certain lands granted to railroad corporations in the States of Alabama, Mississippi, Louisiana, and Florida. The general object of these grants was to open up the country by a railroad system and to develop thereby the agricultural resources of that section. The bill now before us proposes to take these lands from these railroads and give them to actual settlers, to small proprietors, in order, as the chairman of the committee who reported the bill asserts, to give homes to the millions in those States and to break up certain monopolies which now hold control of these lands, leaving the people, except in the cities, homeless.

Now, sir, this bill may or may not tend in that direction. It may or may not throw these agricultural lands open in a manner more advantageous to the people of that section of country than the railroad companies could have done under the original grant. I do not pretend, however, to enter into the discussion of that question. My object is to draw the attention of the House to the injustice of such a measure as this at this time, taking away as it does from these companies, under a general charge of disloyalty, the grants which they have held in good faith, and under which they have gone on and constructed their roads, until at this day some of them are nearly completed—the injustice which is done to all interested in the general welfare of that section of the country by hastening to bring before this House a bill, based upon charges unsustained by any testimony that has yet been laid before the committee having special charge of this matter, and while the testimony is yet in the hands of the Department upon which the demand is made by the chairman of the Committee on Southern Railroads, [Mr. McCLURG,] and is soon to be put in his hands. It is impossible, without due information, for this House or for any committee to report this measure in such a way as to do justice even to the poorest class of inhabitants of the southern States.

Now, sir, with regard to the amendments proposed, I am opposed to any amendment whatever. This is a general bill, sweeping in its character, striking at all these corporations that have been involved, owing to the fact of the existence of war in the southern States, in confusion and trouble, as the report of the committee will show. They have been so paralyzed in their efforts that they could not in any way carry out the requirements of the original grant. It would be unfair at this time, in the absence of full testimony, to make an exception in favor of any road, however strongly the reasons might be urged upon the committee; and I therefore hope that this bill will be acted upon and passed or defeated unamended.

With regard to the loyal character of these railroad companies, I have to say that personally I have no acquaintance with any one connected with their direction, but as a member of the committee I have had an opportunity of obtaining information which I think the House should consider before it acts upon this measure. If these lands are to be forfeited under the plea that these corporators were rebels, were voluntarily aiders and abettors of the rebellion—if these soulless corporations are to be held responsible for the acts of individual members of the corporations, and if innocent parties both at the North and South are thus to be robbed of their property, this House should certainly not act until it receives a full statement of the facts.

But, sir, without detaining the House by reading the report on this subject, which is in the hands of every member, I will simply refer to that report. It is No. 3 of the House of Representatives, from the select Committee on Southern Railroads, Fortieth Congress, second session. It contains ample proof that these companies were in duress. They gave, it is true, what they call voluntary service to the confederate government, but they all testify that they did so with the full conviction that if not given voluntarily they would have been compelled to give it by force. I will quote a few passages from the testimony in support of what I say. I read first from the testimony of Algernon Snyder Buford, on page 1:

"*Question.* Tell the committee how, and by what authority, the southern railroads were operated during the war, so far as your knowledge goes.

"*Answer.* I had no connection with railroads until since the war. From my own observation, and from knowledge derived from all other sources, the southern railroads were operated by the companies owning them, they being more or less controlled by the confederate authorities. I mean to say by that, that they exercised the control of military supremacy. Whenever they wanted them, of course, they used them. It was very often a duress—a violence almost. When they needed the railroads they had the use of them, as far as my observation went."

I read next from the testimony of Richard Morton, treasurer of the Richmond and York river railroad, on page 13:

"*Question.* So far as your knowledge extends, under what authority were the southern railroads generally operated during the rebellion? Were they run by the companies on their own responsibility, or under orders from what was called the confederate government? I ask not alone in regard to your own road, but also in regard to other roads in the southern States?

"*Answer.* Nearly the whole of them were retained by their own officers and managed by them; but of course they were all compelled in a measure to conduct their roads under restrictions imposed by the Quartermaster General's department. Some few might have been operated entirely by the confederate officers, but I am not aware of any particular one."

And so on all through the testimony. On page 74, J. W. Sloss, president of the Nashville and Decatur railroad, testifies as follows:

"*Question.* Do you consider that the services rendered by the road during the rebellion to the confederate government were compulsory or voluntary?

"*Answer.* I should regard it as voluntary. It was just something of this: if we did not do it they would force us to do it, and we preferred to keep it as much as possible in our own hands. When the United States military occupied this country we had a consultation with General Buell, and he wanted us to run the road. We had not the rolling stock to do so, and he concluded that it was best for the Government to take the road and run it."

And again, on page 105, here is the testimony of Samuel Tate, president of the Memphis and Charleston Railroad Company:

"*Question.* Was the service rendered by the company to the then existing government voluntary or compulsory?

"*Answer.* I think you might regard it as voluntary, from the fact that we knew we had to do it anyhow. If we did not do it, it would have been made compulsory. Orders were issued to the effect, and the service was rendered without requiring any compulsory military order, except in specific cases. The confederate government would give us specific orders to do certain things, which we did. There was no resisting it at all."

Again, on page 110, the same question is answered by A. M. West, president of the Mississippi Central railroad:

"*Question.* What was the service rendered to the confederate government by the road during the rebellion?

"*Answer.* It was such service as was rendered to

the Government of the United States since—the transportation of its troops and munitions of war.

"*Question.* State whether that service was rendered voluntarily or was compulsory.

"*Answer.* It was rendered voluntarily at the beginning of the war; subsequently it was compulsory and voluntarily. There was no discretion. Whenever an order came it was obeyed. They had a system of impressment. The government appointed a superintendent prior to my administration. The requisitions for transportation were issued by the quartermasters, and it was given on these requisitions. In other words, the old Army rules were adopted by the confederates."

On page 115 we find the testimony of John R. Branner, president of the East Tennessee and Virginia railroad, from which I quote:

"*Question.* Under what authority was your road operated during the rebellion?

"*Answer.* The rebels.

"*Question.* In what way was their authority manifested or made known to you?

"*Answer.* By an order from the quartermaster general, Mr. Myers, I think it was.

"*Question.* Did you consider the service rendered by your road compulsory?

"*Answer.* Yes; made upon a positive order to us.

"*Question.* Was there at any time opposition manifested by the officers of the road to the then existing rebel government?

"*Answer.* I cannot say that any outward opposition was manifested, because it would have done no good. They seized my road once and took it from me, and charged me with being disloyal and being a Union man, and they had another man to take charge of it."

Such, upon a cursory view of the testimony in this Document No. 3, are the facts presented by the different railroad presidents throughout the South, as gathered in the late tour of the Committee on Southern Railroads through that section.

Now, sir, there is another point in connection with these land grants that I think it well to present to the House, and that is the indebtedness of these roads to the Government of the United States. I shall not anticipate the report of the able chairman of the Committee on Southern Railroads [Mr. McCLURG] in reference to this point, but that report will be laid before the House before very long, and I shall be sustained in what I now say, that these roads are largely indebted to the United States on their bonds given when their rolling stock was handed over to them to enable them to keep their roads in operation to the great benefit of that section of country. As a matter of economy, as a matter of wise legislation, is it expedient for us to take away from these roads by forfeiture these large land grants and leave them more impoverished than they now are, having been made so by the usages of war? Had we not better leave them in possession of these lands until a balance shall be struck between the companies and the Government of the United States? If they then fail to meet their liabilities to the Government these lands can with perfect justice be resumed by the Government in payment of that indebtedness. The amount of this indebtedness to the Government will be seen from the following table, which is to be found on pages 89 and 90 of Document No. 3:

Statement of the Indebtedness of Railroad Companies for Purchases of Railway Material of the United States, under Executive Orders of August 8 and October 14, 1865, showing the Appraised Value of Property Purchased, Amounts of Payments Made, and Total Balance due, including interest, on November 1, 1867.

Name of railroad company.	Value of property sold.	Payments by—			Payments.	Dates between which payments were made.	Balance due Nov. 1, including interest.
		Cash.	Transportation accounts.	Mail service.			
Wills Valley	$30,248 52	$3,300 00	-	-	$3,300 00	November 30, 1865, and November 1, 1867.	$31,261 32
Edgefield and Kentucky	114,772 86	-	$287 12	-	287 12	November 30, 1865, and November 1, 1867.	131,340 24
Macon and Brunswick	93,237 50	79,551 06	520 95	$549 64	80,621 65	November 30, 1865, and November 1, 1867.	15,656 12
Montgomery and West Point	38,559 66	15,308 43	14,333 96	9,866 67	39,509 06	November 30, 1865, and November 1, 1867.	2,233 76
Southwestern	46,159 89	46,159 89	-	-	46,159 89	November 30, 1865, and May 4, 1866.	-
Rome	22,086 05	18,425 26	1,424 88	2,024 88	21,875 02	November 30, 1865, and November 1, 1867.	1,930 77
Memphis and Ohio	106,929 13	27,001 40	3,477 80	15,142 50	45,621 70	November 30, 1855, and November 1, 1867.	75,082 04
Memphis, Clarksville and Louisville	337,993 72	2,245 57	439 97	-	2,685 54	November 30, 1865, and November 1, 1867.	382,777 27
Mississippi and Tennessee	127,750 52	32,755 52	2,309 05	10,229 17	45,293 74	November 30, 1865, and November 1, 1867.	97,387 55
Alabama and Florida	51,912 00	20,649 93	13,801 27	17,417 59	51,868 79	November 30, 1865, and November 1, 1867.	13,933 44
East Tennesse and Georgia	366,183 02	25,680 76	15,333 46	26,192 18	67,206 40	November 30, 1865, and November 1, 1867.	353,153 15
Muscogee	5,244 20	5,645 11	2 89	-	5,648 00	November 30, 1865, and May 15, 1867.	-
Macon and Western	83,638 15	56,387 46	27,270 69	-	83,638 15	November 30, 1865, and November24, 1866.	-
Nashville and Chattanooga	1,566,551 73	137,553 59	76,192 58	25,202 72	238,948 89	November 30, 1865, and November 1, 1867.	1,556,803 57
Mobile and Ohio	505,143 70	173,753 02	96,478 19	80,787 95	351,019 16	November 30, 1865, and November 1, 1867.	198,745 35
Mobile and Great Northern	14,637 73	620 00	10,405 41	8,109 88	19,135 29	November 30, 1865, and October 12, 1867.	-
Memphis and Charleston	547,494 09	467,971 72	61,179 17	48,680 14	577,831 03	November 30, 1865, and October 16, 1867.	-
Alabama and Tennessee river	183,276 49	15,340 18	2,793 64	7,324 86	25,458 68	November 30, 1865, and November 1, 1867.	183,348 62
Mississippi, Gainesville and Tuscaloosa	33,476 39	6 00	1,299 49	-	1,305 49	November 30, 1865, and November 1, 1867.	37,143 89
Georgia Railroad and Banking Company	11,935 05	-	11,935 05	-	11,935 05	January 4, and January 12, 1866.	-
New Orleans and Ohio	32,150 00	-	4 46	7,116 36	7,120 82	November 30, 1865, and November 1, 1867.	29,537 12
Nashville and Decatur	405,193 92	121,061 58	16,185 07	18,276 19	159,522 84	November 30, 1865, and November 1, 1867.	293,638 14
Western and Atlantic	472,944 66	447,989 74	27,197 05	24,728 26	499,915 05	November 30, 1865, and November 1, 1867.	42,453 29
East Tennessee and Virginia	265,655 65	8,959 10	10,985 02	27,326 61	47,270 73	November 30, 1865, and November 1, 1867.	259,164 51
Southwestern Iron Company	32,515 00	32,515 00	-	-	32,515 00	December 13, 1865.	-
Adams Express Company	4,361 45	4,361 45	-	-	4,361 45	December 18, 1865.	-
Nashville and Northwestern	525,400 26	1,476 82	26,243 13	3,611 25	31,331 20	November 30, 1865, and November 1, 1867.	575,920 56
Mississippi Central	78,460 00	12,360 00	12,346 05	38,799 83	63,505 88	November 30, 1865, and November 1, 1867.	20,932 28
New Orleans, Jackson, and Great Northern	200,865 58	149,851 15	5,543 46	35,929 02	191,323 63	November 30, 1865, and November 1, 1867.	24,512 86
Selma and Meridian	146,327 92	15,033 22	70,270 69	8,575 00	93,878 91	November 30, 1865, and November 1, 1867.	65,645 47
Virginia and Tennessee	102,880 00	5,689 97	21,959 66	41,000 00	68,649 63	December 31, 1865, and November 1, 1867.	46,299 10
Wilmington and Weldon	110,000 00	43,854 38	17,574 13	35,213 94	96,642 45	November 30, 1865, and November 1, 1867.	22,525 91
Atlantic and North Carolina	51,453 93	151 56	9,060 48	7,989 81	17,201 85	December 3, 1865, and November 1, 1867.	40,636 85
Western North Carolina	14,269 82	-	2,583 58	3,680 70	6,264 28	December 12, 1865, and November 31, 1867.	9,632 14
Petersburg	65,000 00	33,798 54	24,025 67	9,790 23	67,614 54	July 20, 1865, and July 31, 1867.	-
Virginia Central	70,000 00	15,062 27	21,419 18	23,778 21	60,259 66	August 1, 1865, and November 1, 1867.	18,186 31
Richmond, Fredericksburg, and Potomac	7,449 27	7,449 27	-	-	7,449 27	January 3, 1866.	-
Orange and Alexandria	118,895 74	58,887 52	12,214 25	32,827 25	103,929 02	December 31, 1865, and November 1, 1867.	26,522 26
Alexandria, Loudon, and Hampshire	62,592 96	-	-	2,764 56	2,764 56	December 30, 1865, and November 1, 1867.	68,205 38
Manassas Gap	4,623 51	309 09	-	-	309 09	March 17, 1866.	4,885 01
McMinnville and Manchester	46,508 54	-	-	-	-	- - -	49,043 21
South Carolina	23,458 50	-	25,105 26	-	25,105 26	January 31, 1867.	-
Memphis and Little Rock	153,275 01	1,496 11	66,386 71	-	67,882 82	November 1, 1865, and November 1, 1867.	103,041 73
New Orleans, Opelousas, and Great Western	113,773 45	68,249 41	-	8,292 89	76,542 30	February 28, 1866, and November 1, 1867.	44,510 77
San Antonio and Mexican Gulf	48,775 19	6,102 78	-	-	6,102 78	March 25, 1866, and November 1, 1867.	47,526 97
Knoxville and Kentucky	12,335 63	2,532 62	-	-	2,532 62	August 6, 1866, and November 1, 1867.	10,793 66
	$7,456,396 39	$2,169,546 48	$708,569 48	$581,228 39	$3,459,344 29		$4,884,500 62

QUARTERMASTER GENERAL'S OFFICE, *November* 26, 1867.

I cite this table as proof of the assertion I have made and as the basis of the argument which I have advanced, that it would be unwise and bad economy to impoverish these debtors to the Government by forfeiting the lands held by them.

Mr. PRUYN. Will my colleague yield to me for an inquiry?

Mr. CHANLER. Certainly.

Mr. PRUYN. I would inquire if the testimony upon this subject taken by the committee is before the House now? Has it been printed?

Mr. CHANLER. Taken by which committee?

Mr. PRUYN. By the Committee on Public Lands.

Mr. CHANLER. I do not know anything about the testimony taken by the Committee on Public Lands.

Mr. PRUYN. It seems to me that in reference to so important a measure as this we should have the report of the committee before us in print; we should know upon what ground the committee has proceeded in reporting this bill. I hope this bill will be passed over until such time as we can have full information upon the subject.

Mr. CHANLER. Before taking my seat I desire to call the attention of the House to what appears to be the object of this bill. It appears to be aucillary to the bill relating to homesteads in the northern States, of which the following is the first section:

That from and after the passage of this act all the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of according to the stipulations of the homestead law of 20th May, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," and the act supplemental thereto, approved 21st March, 1864: *Provided*, That no distinction or discrimination shall be made in the construction or execution of this act on account of race or color.

Now, I have no objection to furnishing homesteads to everybody who can pay for them; but the policy of legislating land to the house-

less poor is, to say the least of it, more generous than wise. The revolution in the South has made a great many houseless and homeless, who, if I understand it correctly, might enter upon those lands and hold them, not to the advantage of the agricultural interests of the South, and not to the advantage of those particular persons, they not being either desirous or capable of doing anything more than keeping others off the land.

In other words, it is proposed that we shall take this land from these railroad corporations, which is held by certain responsible parties interested in the development of every interest of that section of country, and give it to persons who may or may not be interested in doing what is for the public benefit. It is, to say the least of it, a very questionable course of policy. Whatever motives of generosity may actuate it the policy cannot be carried out with equal justice to all the settlers in that section or the houseless and homeless throughout the United States. It is special legislation, discriminating between classes to the general injury of the whole country. And on that general ground I am opposed to the bill.

I will close with the remark that this bill is crude and premature, and cannot fail to work injustice. It has been brought in here to intercept the action of a select committee appointed to do this very work, and who have not been able yet to report upon this subject because of the want of testimony. If there is any testimony before the Committee on Public Lands upon which to base this action it certainly ought to have been imparted as well to the committee having charge of the subject of southern railroads.

The testimony now before the Committee on Southern Railroads is conclusive simply in regard to the rolling stock and personal effects of those roads. All information and all reports relative to the landed property of those roads have, as yet, been withheld from the committee. If the Committee on Southern Railroads were to-day called upon for a report they would have to close it with a reference to the rolling stock and personal effects of those roads. That is the state of the question to-day.

Mr. PRUYN. I would inquire of my colleague whether the fact to which he refers arises because the committee were not inclined to take the testimony or because they could not get it?

Mr. CHANLER. The only difficulty is that the testimony from the War Department, called for by the chairman of the Committee on Southern Railroads [Mr. McCLURG] has not yet been sent to the committee.

Mr. PRUYN. Then I understand that the committee desire to take the testimony?

Mr. CHANLER. As a member of that committee I should be inclined to ask the House to give us more time to investigate this very question. All the zeal I have shown in this matter arises from the fact that I feel a certain amount of responsibility is resting upon the committee having special charge of this subject. Therefore I have at every stage of this bill endeavored to have it postponed; but not from any personal antagonism to the chairman of the Committee on Public Lands, [Mr. JULIAN.] And whatever personalities may have arisen between the gentleman from Indiana [Mr. JULIAN] and myself in this discussion, they should not influence the mind of the House in acting upon this bill or militate against the interests of the parties to be affected by it. I understand that the gentleman in opening his remarks to-day alluded to the risks which might arise if he should yield to any member. I only desire to say that there is no need of apprehension on that point. Having closed that matter myself the other day in a manner perfectly satisfactory to myself and my friends, I intend to leave it there on the records of the House; and if the gentleman from Indiana or any other gentleman who feels himself aggrieved by what I said on that occasion and is dissatisfied with that record should choose to call me to any responsibility I am at his service.

Mr. BLAINE. Will the gentleman from New York [Mr. CHANLER] now yield to me?

Mr. CHANLER. Yes, sir; I yield to the gentleman ten minutes.

Mr. BLAINE. I desire to ask the chairman of the Committee on Public Lands [Mr. JULIAN] what number of railroad corporations will have their grants devested by this bill.

Mr. JULIAN. I presented to the House in the opening of my remarks on Wednesday last a list prepared at the General Land Office, giving full information on that subject. It is not now before me, and I do not remember how many roads there are—some ten or twelve in all, or perhaps more. The lands granted to these States are already forfeited by lapse of time and by failure to fulfill the conditions of the grant. This bill proposes simply to declare that forfeiture and subject them to settlement.

A MEMBER. How many acres of land are there?

Mr. JULIAN. About five million acres.

Mr. BLAINE. Mr. Speaker, two acts have recently been passed by this House giving to some of the northern States a renewal of railroad grants, amounting, I think, to one million three hundred thousand acres in all. Those bills will be recollected by most members on account of the very stubborn resistance made to their passage by the gentleman from the Galena district of Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. Very ineffectual resistance, however.

Mr. BLAINE. Very ineffectual, but still very strenuous.

Now, I do not propose in the ten minutes which the gentleman from New York has kindly yielded me to discuss the merits of this question with the gentleman from Indiana, [Mr. JULIAN.] I have but a single suggestion to make. We expect that within the next few weeks, or at most the next few months, the States which are to be immediately affected by this legislation will be represented on this floor. We expect—at least those who concur with the gentleman from Indiana and myself expect—that those States will have on this floor Representatives in the interest of the very class in whose behalf he advocates the passage of this bill—the loyal men, white and black, of the southern States. The gentleman has expressed his expectation that Alabama will be represented here in the course of the next six weeks, and the other States will speedily follow. Now, Mr. Speaker, is it not at least fair that before passing a bill of this kind we should wait until the Representatives from those States shall come upon this floor and be heard in their own behalf? The gentleman says that these lands are forfeited now. We shall, therefore, lose nothing by waiting. Why, then, just as the reconstruction system is approaching its consummation and within four or five weeks when, as we expect, some of these States will reappear by their Representatives in the Halls of Congress, should we rush through a bill of this kind?

Mr. JULIAN. As I said awhile ago, the State of Alabama, speaking through her constitutional convention and representing her loyal people, asks us to throw open these lands for homesteads.

Mr. BLAINE. Speaking through a body that has nothing to do with this business. The constitutional convention of Alabama has nothing to do with land grants. On that subject there may be at one time in the convention an accidental majority one way, and at another time an accidental majority another way. But the Representatives and the Senators who will in a short time come into these Halls from those States should be heard on this subject, as the Representatives and Senators from Iowa and Wisconsin have been heard this session in regard to land grants to their States. I greatly distrust the wisdom in the abstract of this mode of proceeding. I greatly distrust the wisdom of denying to these southern States the means of finishing their lines of transportation. If these lands were ever necessary to those States, I believe them to be much more necessary to-day than they were at the time when they were originally granted. I do not say that I shall vote in favor of a renewal of these grants. I have not voted for other land grants this session. But I do say that a snap judgment ought not to be taken in this way when the interests of the United States will not be jeoparded by waiting. We lose nothing by waiting; we risk nothing. All we do is to leave the status as it is.

Mr. JULIAN. We lose millions of homesteads.

Mr. BLAINE. The gentleman from Indiana says we lose millions of homesteads. Why, sir, was not his interest excited in reference to homesteads when we revived and renewed similar railroad grants to Wisconsin and Iowa, notwithstanding the earnest opposition of the gentleman from Illinois, [Mr. WASHBURNE?]

Mr. JULIAN. In those cases the States showed their good faith by an honest endeavor to build the roads, whereas these rebel States and corporations abandoned their enterprises and waged war against the Government.

Mr. BLAINE. I submit that is the most irrelevant argument possible. I do not deny, sir—I suppose it would be quite useless to deny these corporations are lawlessly made up of rebels; yet if that southern country is ever to be built up again, then upon those lines of railroad depend the future growth of the South just as if rebels never had anything to do with them. To-day they are in the hands of loyal men, whether owned by rebels before or not, and I submit they are as essential to the growth and development of the agricultural interest there now as they were the day the lands were granted to aid in their construction.

And if I were speaking alone for the interest of the freedmen of the South I should say let those land grants stand. I am willing to wait until the representatives of the freedmen shall appear here and indicate their wishes and wants; and, sir, as the loyal people there express their wishes on this subject so I will vote.

Mr. JULIAN. I fully agree with the gentleman from Maine as to the importance of these southern railroads and the propriety of reviving these grants under proper restrictions and at the proper time. The present question is simply as to the forfeiture of these grants.

Mr. BLAINE. I ask the House why, then, we shall pass this bill now when we will have all this labor to go over again in a few weeks?

But there is another feature of the gentleman's bill. He lets in amendments in favor of some favorite corporations in which some New York gentlemen have their fingers. Not only excepting one of these pet roads, but two or three of them. I do not accuse him of favoritism, but why except those roads? Why will he not let in my amendment, that if we cut off one of these roads from the grant of lands then, without exception or limitation, we shall cut them all off? Why does the gentleman not admit my amendment?

Mr. JULIAN. I did admit it, just as I allowed the other amendments. I am willing the House shall vote upon all of them.

Mr. BLAINE. I am obliged to the gentleman for that. If we treat the South in this way let us treat the West in the same way. Let every one stand upon its own bottom. We do not treat the South as well as the Northwest, for the latter have Representatives here, and they have been effectual in getting the grants extended and renewed where the law has not been fully complied with, and now, when there are no Representatives of the South upon this floor, with not a voice to speak in her behalf, we propose to cut them off for similar violation of law.

Mr. JULIAN. Whose fault is it that they do not appear here by their Representatives?

Mr. BLAINE. It is not the fault of the loyal men down there. It is not the fault of the freedmen.

Mr. JULIAN. No.

Mr. BLAINE. Then the gentleman should

not be in such a hurry to pass this bill. We do not propose to have rebels here. Reconstruction is to bring loyal men here, and the best loyal men. Why, then, cannot the gentleman wait until they get here?

Mr. ELDRIDGE. I ask the gentleman to let me answer the question of the gentleman from Indiana. He asks whose fault it is.

Mr. BLAINE. I do not intend, so far as I am concerned, to have this degenerate into a political discussion. I am speaking for the interests, the material interests of the freedmen and the loyal men of the South. I put the rebels out of the account. I say there is no hope for the growth of cotton and grains down South on the part of the loyal men there unless we furnish them with the magnificent facilities for transportation to market afforded by these very lines of railroad. It is, therefore, a ruinous policy to strip these railroads at this time. The interest of the country demands their speedy completion.

Mr. CHANLER. I yield now to the gentleman from Kentucky, [Mr. TRIMBLE.]

Mr. WASHBURNE, of Illinois. I ask the gentleman to yield to me for one moment.

Mr. TRIMBLE, of Kentucky. I yield to the gentleman.

Mr. WASHBURNE, of Illinois. I desire to say one word, as the gentleman from Maine has alluded to me. I am in favor of the original bill as reported, and I am in favor, to be consistent, with the amendment offered by the gentleman from Maine.

But the reason why I desire the floor particularly now is to call the attention of the House and the country to the bill passed through here the other day in regard to the Iowa railroad grant. The gentleman who advocated the passage of that bill stated here in the face of the House that it was not for the benefit of the Dubuque and Sioux City Railroad Company.

Yet the very next day after that bill had passed we received a message from the Governor of Iowa arraigning that railroad to which we had given some six hundred thousand acres of land for its bad faith. He has addressed a message to the Legislature requesting them to withdraw from the Dubuque and Sioux city railroad the grant which was originally made to it.

Mr. ALLISON. Will the gentleman from Kentucky yield to me?

Mr. TRIMBLE, of Kentucky. I cannot. I desired, a few moments ago, to propound to the gentleman from Indiana [Mr. JULIAN] a question in regard to the effect of this bill. Presuming that he knows the amount of land to be taken from these railroads in the various States named, I desire to know from him the number of roads, their length, and the amount of land to be forfeited; and further, whether or not the lands granted to the Mobile and Ohio, the New Orleans and Jackson, the Great Northern, and the Mississippi Central railroads, which have their termini in the State of Kentucky, are included?

Mr. JULIAN. I understand that this bill does not forfeit any of the lands affecting the roads the gentleman has named.

Mr. TRIMBLE, of Kentucky. It does not?

Mr. JULIAN. It does not, as I understand the bill. I have, however, furnished the House, as the gentleman will find in the Globe of January 23, I think, a detailed statement made by the Land Office of the roads concerned and the amount of land granted to each.

Mr. TRIMBLE, of Kentucky. There are so many documents presented to us that I am unable to read them all. If the gentleman can tell me just what roads are included——

Mr. JULIAN. I cannot specify all the roads affected by the bill, but I can furnish an official statement of the aggregate amount of land granted. It is nearly five million acres.

Mr. TRIMBLE, of Kentucky. I hope, then, as the gentleman states, that the bill does not apply to the roads I have named, he will not object to an amendment excepting those roads specifically from the operation of the provisions of the bill.

Mr. JULIAN. I have agreed that three amendments may be offered; I am not willing to allow any more.

Mr. TRIMBLE, of Kentucky. I think this character of legislation should be calmly considered by every member of the House.

Mr. JULIAN. Will the gentleman vote for the bill if the exceptions he names are made?

Mr. TRIMBLE, of Kentucky. No, sir; but I desire especially that these roads, which affect the welfare of the entire western country connected with the South, should be exempt from the provisions of this forfeiture. I desire it not so much on account of the stockholders of those roads, for I assert without fear of successful contradiction that although the people of the South are interested in the vast railroad enterprises of that section so far as the benefit they derive from the roads running through the country and facilitating communication, yet nine tenths of the real interest in the roads running from this city to the Gulf of Mexico and the Rio Grande are owned east of this city. I mean by that that nine tenths of the bonded debt upon the southern roads are owned by eastern and foreign capitalists. The interest that the people of the South have in these roads is in the stock that is to-day worthless by reason of these mortgage liens upon them held by people in the North. Now, so far as legislating for or against a particular class or particular party is concerned, it seems to me upon an occasion like this we should legislate for the interest of the entire country. And if the object sought by the forfeiture of these lands is to affect these poor unfortunate people of the South who have no representation here to-day, I assure the gentleman that he will be sadly disappointed; he will strike his own friends in Boston, New York, and elsewhere. If the provisions of this bill are carried into effect the result will be to embarrass and cripple these railroads, and to that extent more directly to affect these northern capitalists.

In a question of this kind the entire country is interested. The North and South and the East and West are equally interested, and the same rule that is applied to the roads in the South should be applied to the North and West. The object of these grants by the Government of the United States was not so much to benefit any particular section as to develop the resources of the country by building railroads and increasing the aggregate wealth of the entire country. Maine is interested in every one of these roads. You have a committee upon this question of southern railroads, who have not yet reported to this House the results of their deliberations. We know not yet what their report will be, and I appeal to gentlemen here to-day, before they pass this bill that will affect so vitally every railroad interest throughout the entire southern country, to pause and reflect upon its provisions, especially as the honorable gentleman who reported the bill cannot tell us from his seat what roads will be affected specifically by its provisions.

I now yield to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. Mr. Speaker, I desire to say a word or two in reference to a railroad bill which was passed by this House a few days ago, when I was absent from my seat, and which was alluded to just now by the gentleman from Illinois, [Mr. WASHBURNE.] With reference to that railroad, I will say to the honorable member that he is entirely mistaken as to the facts in every respect. As I understand the bill which passed the House, the extension is given to the State of Iowa and not to any company; and in addition to that I will say that an amicable adjustment has already been entered into between the parties who have built and those who desire to extend that railroad from its present western terminus to the Missouri river, provided the land grant could be extended as it has been by the action of this House: and I can only say that had I been in my seat I should have supported and voted for that bill.

It is true that the retiring Governor of the State of Iowa has found some fault with the Dubuque and Sioux City Company because they have not extended the road as rapidly as they should have extended it; but the State of Iowa will take care that the lands granted shall be faithfully applied for the purpose of building a railroad in the State of Iowa in accordance with the original grant, and the Governor only recommended resumption on the part of the State in order that the grant may be extended under such restrictions as will insure the early completion of the road; and the policy of our State government in Iowa is to encourage the extension of its railroads, as one of the means of securing the speedy development of its material resources.

Now, Mr. Speaker, I wish to say a few words while I have the floor with reference to this bill. Unless I have more information than I possess at present upon this subject I shall cast my vote in such a way as will secure better knowledge on the subject and a report in detail of the present condition of these grants and the rights of persons with reference to them. The chairman of the Committee on Public Lands has not been able, so far as I have as yet seen, to answer the question propounded by the gentleman from Kentucky [Mr. TRIMBLE] as to what roads the grants which it is proposed to forfeit apply.

Mr. JULIAN. Mr. Speaker, in my opening remarks here a week ago I gave to the House a detailed statement of the grants to the States of Alabama, Mississippi, Louisiana, and Florida, in the aggregate amounting to above five million acres. I gave to the House a particular statement of the different roads and the amount granted to each; and in the Globe of the 23d of this month, which I have not by me at this moment, the gentleman will find that full statement.

Mr. ALLISON. What I desire to know with reference to this subject is how far these railroad companies have complied with the conditions of the land grants and what portion of the roads have been built under the land grants. Is that information contained in the Globe?

Mr. JULIAN. The statement to which I refer in the Globe will only give the information the gentleman calls for in part. I will state, however, that in respect to the Alabama and Tennessee River railroad and the Nashville and Decatur railroad a very considerable amount of work has been done upon them in good faith and is now being rapidly executed. And on account of that fact I have allowed amendments to be offered so that the House may except them, if it sees fit, from the general operation of this bill. As to the remaining roads little or nothing has been done showing diligence or loyalty on the part of the States or the corporations. The precise extent of roads completed on the two routes in Alabama I am not able to say, and it is wholly immaterial in this discussion. Eighty miles have been completed on the New Orleans and Opelousas road.

Mr. ALLISON. I desire to ask the gentleman another question.

Mr. TRIMBLE, of Kentucky. Allow me to say that a great many of the roads are already completed and in running order from one terminus to the other, in accordance with the grants; but there are some instances where the title to the lands has not passed from the Government of the United States.

Mr. JULIAN. The roads covered by this bill are none of them completed, and several of them not even begun.

Mr. TRIMBLE, of Kentucky. The Mobile and Ohio railroad is completed from the Ohio river to Mobile.

Mr. ALLISON. I would ask the chairman of the Committee on Public Lands if this bill applies at all to those railroads that have been completed in these southern States? If it does I certainly shall not vote for it.

Mr. JULIAN. The bill does not apply to those roads. Several of the roads to which it does apply are paper railroads that the

rebels never meant to build when they got the grant.

Mr. ALLISON. I now desire to ask the chairman of the Committee on Public Lands [Mr. JULIAN] why it is that the State of Arkansas, which is also a rebel State, has not been included within the provisions of this bill?

Mr. JULIAN. Because no land has been certified to the State of Arkansas under the acts of Congress of 1856.

Mr. ALLISON. Then why was an act passed by the Thirty-Ninth Congress, approved July 28, 1866, which came from the Committee on Public Lands, giving an additional grant of land to the State of Arkansas for railroad purposes?

Mr. JULIAN. That is not, as I understand it, one of the grants included in and covered by the bill I have reported to this House.

Mr. ALLISON. Reported at this time?

Mr. JULIAN. Yes, sir.

Mr. ALLISON. So I understand, and I want to know why the Memphis and Little Rock railroad—as I learn from the report of the Commissioner of the General Land Office, which I now hold in my hand—received under the provisions of the act of July 28, 1866, an additional grant of three hundred and sixty-five thousand acres of land? I want to know why an exception is made in favor of the railroad running from Memphis to Little Rock, the president of which I understand is a rebel general, while these other railroads have taken from them the lands which have already been certified to them by the Commissioner of the General Land Office?

Mr. JULIAN. The gentleman is discussing a railroad which is not at all involved in this bill, which rests upon peculiar merits presented to the last Congress, the gentleman himself participating in the debate upon it. That question is wholly irrelevant to this bill. That was the case of a grant of land and did not involve the question of forfeiture at all.

Mr. ALLISON. I understand the gentleman from Indiana [Mr. JULIAN] to base his support of this bill upon the idea that the States therein named were in rebellion, and by that rebellion had forfeited all their rights under these land grants. If that be the reason, then I should like to know why the provisions of this bill are not made to apply to all the rebel States as well as to only four of them?

Mr. JULIAN. This bill applies to all the lands which, according to the Commissioner of the General Land Office, have been certified to any of these States, and which have been forfeited. No lands granted to Arkansas have been forfeited.

Mr. ALLISON. I agree with my friend from Illinois [Mr. WASHBURNE] that if we are to declare these land grants forfeited because of non-compliance with the terms of the grant, then we should not select a few of the railroads and make examples of them, but we should make a sweeping provision applicable to all railroads that have failed to carry out the provisions of the several acts granting lands for railroad purposes.

But I differ with that gentleman, as I do to some extent with the gentleman from Indiana, [Mr. JULIAN,] as to the object of these land grants. These grants are not made primarily for the benefit of railroad corporations; at least I do not vote for them merely because they tend to build up railroads; but because they are necessary and essential to the development of the land States of this Union and tend to encourage the rapid growth of such States, and because there is no money, either directly or indirectly taken out of the public Treasury by voting away these lands; the alternate sections being reserved at double the minimum price.

Mr. WASHBURNE, of Illinois. There is money taken from the settlers, though.

Mr. ALLISON. Not so; because they have the opportunity of entering the reserved alternate sections for homesteads. And in reference to that question I desire to call the attention of the gentleman from Indiana [Mr. JULIAN] to one feature of this bill.

[Here the hammer fell.]

The SPEAKER. The hour of the gentleman from New York [Mr. CHANLER] has expired.

Mr. McCLURG obtained the floor.

Mr. ALLISON. I desire but a few moments longer.

Mr. McCLURG. I will yield to the gentleman.

Mr. ALLISON. These alternate sections are subject to entry at double the minimum price; that is, at $2 50 per acre. And it may be that a large portion of these very lands in the southern States have been entered by settlers upon the idea that the other sections would be used and appropriated for the purpose of building railroads there. Is it good faith to those settlers to prevent the building of these railroads by declaring the grants of land forfeited; or does not good faith require that we should at least give an opportunity to these corporations to build those roads, by allowing them a reasonable time for that purpose, unless they have forfeited their claim upon Congress by gross negligence or by flagrant acts of rebellion against the Government?

Mr. JULIAN. This bill only provides that all lands granted to those States, which have not been lawfully disposed of, shall be forfeited to the United States.

Mr. ALLISON. The gentleman misapprehends my question. These alternate sections the General Government permits to be entered at $2 50 per acre. Now, it may be that settlers have entered upon those lands on the faith that these railroads would be extended to those settlements. By taking away these lands we may prevent the building of the roads and thereby deprive the settlers of the advantage which they expected to acquire when they paid their $2 50 per acre for the lands occupied by them.

Mr. JULIAN. I will answer the gentleman. I know of no such purchases of the reserved sections; but I know that numerous letters have been written to me by those who have settled in good faith on these lands, and who now ask that the grant to these corporations shall be forfeited and that they shall be allowed to preempt the homesteads on which they have settled.

Mr. ALLISON. Now, Mr. Speaker, it may be that this bill should pass; but I can see no objection to deferring the measure for a little time until the people in the States to be affected by it can have an opportunity to be heard upon this floor on the subject. Certainly no harm can result from postponing action of this kind for a short time.

The gentleman from Indiana has expressed his desire to open up these lands for homesteads. Now, if I am correctly informed, there are at the present time in these four southern States nearly forty million acres of public lands open to homestead settlement; and, notwithstanding the act of July, 1866, but a very few thousand acres have been taken there as homesteads during the last year and a half.

Mr. JULIAN. The gentleman will allow me to correct him. There are, it is true, in the five land States of the South, more than forty million acres of public lands; but as I have heretofore stated, the greater proportion of those lands is worthless for tillage; and hence the necessity for opening up the fertile lands lying along the lines of these roads. There is, I know, a very great demand for them.

Mr. ALLISON. A large portion of these lands, and, indeed, as I am informed, the larger portion of them, consists of timber lands, which would be utterly worthless for farming purposes, and which will not be opened up for many years to come by settlers, because of the difficulty in making improvements.

No man on this floor will go further in a proper way to secure homesteads to the honest loyalists of the South than I will, and if that would be the effect of this bill I think even the railroad companies should not object, as one honest, industrious farmer on each eighty acre tract is of more value to the railroads in the way of securing business and traffic than the absolute ownership of these lands could be, if left for any considerable time without cultivation. I only ask deliberation and caution with reference to this subject in the interest of all those who may be affected by it. Under our advancing civilization railroads are essential to the rapid growth of any country, and all the people are deeply interested in encouraging their extension especially when such extensions do not involve in any way appropriations from the public Treasury.

Mr. JULIAN. Millions of acres of fertile lands in the valleys are tied up in the hands of these corporations.

Mr. McCLURG. I now yield to my colleague, [Mr. PILE,] who desires to propound a question to the gentleman from Indiana, [Mr. JULIAN.]

Mr. PILE. The question which I desire to have answered by the chairman of the Committee on Public Lands [Mr. JULIAN] is this: where a grant has been made to a railroad company under an act of Congress, and that company has finished a part of the road in accordance with the provisions of the law, and has received for the part finished the proportionate number of acres of land, part of which land remains unsold by the company, the patents consequently not being made out and certified, will this bill forfeit such unsold lands which have been received by the company for portions of the road built in accordance with the law?

Mr. JULIAN. I suppose that in such a case the land would be forfeited, but I suppose also that when these States shall ask for a revival or renewal of these grants such a case would furnish an admirable equity in behalf of the application. So far, however, as our present legislation is concerned, the act of 1856 settles all these questions. It provides that on the completion of every twenty miles of road one hundred and twenty sections of the land, I believe, shall become the property of the railroad company. If, under the provisions of the law, those lands have been disposed of, this bill of course will not operate to the detriment of the purchasers.

Mr. McCLURG. I now yield to the gentleman from Michigan, [Mr. DRIGGS,] who desires to have read for information an amendment which he would like to offer.

Mr. DRIGGS. I am obliged to the gentleman; but I find there is no necessity for the amendment which I had intended to propose.

Mr. McCLURG. I now yield to the gentleman from Wisconsin to ask a question.

Mr. ELDRIDGE. I understand the gentleman from Indiana to assert this forfeiture is intended to cover lands which possibly may have been disposed of by the several States to which they were originally granted. I understand him further to assert, under certain circumstances, or in a certain contingency, he himself will report or advise the renewal of these grants to the States. I understand his principal reason for urging the passage of this bill at this time to be to open up these lands to settlement by the freedmen. I ask the gentleman, if he means to be candid and fair with this House, if he means to be sincere, whether it will be possible, if we now declare these lands forfeited and open to preëmption and sale, and there are such equities as he refers to, or the contingency shall happen to which he refers, whether it will be possible to renew to those States these grants of lands? It seems to me it will not. When we declare the lands forfeited and open to preëmption, and preemption rights accrue upon them, it will be impossible for us to do what is equitable and just in case we shall renew these grants to these railroads.

Mr. JULIAN. I have said that when these States shall come back into the Union, as they will do in a few weeks, I will be in favor, under proper restrictions and limitations, of renewing and reviving these grants as we have done in

the northern States. In reference to the equity the gentleman suggests where these lands may have been taken up for homesteads in the mean time I have only to say that a large portion of the land granted to these States is coal and iron lands, rough lands, wholly unfit for tillage, and will not be affected by forfeiture, while, on the other hand, there are fertile lands in the South fit for preëmption and settlement, the best of the whole lands down there, which, I think, should be open for settlement and tillage. While some of these lands may be taken up in that way, I can only say this should be done until these States appear here upon this floor, and through loyal Representatives are heard in their own behalf.

Mr. ELDRIDGE. Let me suggest to the gentleman from Indiana that he is placing himself in a predicament so he will not be able to fulfill his pledges. He will perceive at once he is involving this matter in innumerable difficulties. I understand him to say there are to-day settlers upon the lands which are claimed by the States; that they are covered all over with these people, and yet the gentleman undertakes to press this bill through at this time.

Mr. JULIAN. The lands not lawfully disposed of in these States will be forfeited under this bill, but it cuts off no right from these States to come here and ask for relief. As to settlers who have gone on these lands, they desire to have them forfeited, so that they may have them as homesteads.

Mr. ELDRIDGE. The gentleman presses the passage of this bill, and yet he cannot tell the roads it operates on or show the necessity for it. He cannot tell how large the forfeiture will be, what railroads it affects and to what extent, and yet he asks us to pass it upon such a report as he has given.

Mr. JULIAN. I informed this House some days ago, on the opening of this discussion, presenting a detailed statement showing the grant to each road, the State in which it lies, and all about it, and if the gentleman has been too indifferent to this subject to inform himself I am sorry for him. He will find it in The Globe of the 23d instant.

Mr. ELDRIDGE. The gentleman from Kentucky asked the gentleman a question, and I understood the gentleman to say that it affected no road in operation. I now understand that it affects the New Orleans and Opelousas railroad.

Mr. McCLURG. I must now resume the floor.

Mr. ELDRIDGE. I should like the gentleman from Indiana to clear the matter up.

Mr. McCLURG. Mr. Speaker, the Committee on Southern Railroads have been so referred to and the testimony taken by that committee so commented upon, that I could not, were I so disposed, avoid saying a few words in justice to the committee and the principle involved in the pending measure.

I wish to say that I am in accord with the gentleman from Indiana [Mr. JULIAN] on the principle involved in this bill, and in every measure that tends to withhold rewards from traitors who engaged in the late rebellion. I have, however, no authority to speak for the Committee on Southern Railroads. The subject of the forfeiture of lands granted to the former States named in the bill, as has been said by the gentleman from Indiana, has been referred to the Committee on Southern Railroads, and it has also been referred to the Committee on Public Lands, from which this bill emanates. I see no impropriety, therefore, in either committee, if prepared, asking action by the House. The Committee on Southern Railroads are not prepared to report upon the forfeiture of these lands, but in a very few days will report upon the other question referred to them under instructions from the House. The Committee on Public Lands are prepared. I care not what committee reports a bill if I approve it.

The Committee on Southern Railroads were desirous of placing before the House all the information that could be obtained in relation to the lands in question before making their report; not, as I understand, that such information could affect the principle that should govern in determining the policy to be pursued, but that the House might know the facts. They therefore took the necessary steps through the War Department to ascertain what disposition, if any, had been made of the lands in question by those States, the amount of land transferred to the railroads, the quantity sold or otherwise disposed of by the roads, with the quantity to each individual. But if any lands have been disposed of so as to vest a right even under a color of title in individuals, such information can only satisfy the House if such individual titles are not to be disturbed as to the quantity that would revert to the Government under this bill. The principle upon which I presume the House will act will not be changed by any information that may be obtained. As I understand it the principle grows out of the fact that the former States named in the bill declared themselves separated from the Government which made such munificient grants, and arrayed themselves in armed hostility to the Government.

On this point the House needs no other testimony than the letters of blood written on every page of our country's history during the four years of desolating war. These former States erected for themselves a government and confederated together for rebellion, thus forfeiting all claim to the kind consideration of the parent Government which they in their madness attempted to destroy.

Still, Mr. Speaker, we hear it reiterated that a State cannot rebel. I have not heard it in this discussion, but I hold in my hand a report which I may have occasion in a few days to allude to more at length, which says:

"A State cannot rebel. In contemplation of law I believe it is conceded that a State, as such, cannot rebel. There can be no confiscation of the property of a State; certainly there cannot be confiscation without judicial proceeding. A citizen may be punished, his property may be confiscated, but a State cannot be convicted of treason or punished, or its property be confiscated."

Now, let me say to gentlemen who attempt that argument that this is very different from the opinion of the Supreme Court, which I now cite from 2 Black's Reports, page 373:

"Now it is a proposition never doubted, that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights." * * * * "Under the very peculiar Constitution of this Government, although the citizens owe supreme allegiance to the Federal Government, they also owe a qualified allegiance to the State in which they are domiciled. Their person and property are subject to its laws. Hence in organizing this rebellion they have acted as States claiming to be sovereign over all persons and property within their respective limits, and in asserting the right to absolve their citizens from their allegiance to the Federal Government several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State."

But, Mr. Speaker, for present purposes it is enough for us to know that the lands in question were granted for railroad purposes, and that the officers, stockholders, &c., of the roads thus to be benefited were engaged in rebellion, and to know that those States could pass no valid title to any corporation or individual until they had complied with the conditions of the grant. No gentleman will contend differently. I believe, however, that very little of the land has been disposed of to individuals.

But, Mr. Speaker, these very railroads were used, so far as they were in operation, in aid of the rebellion in transporting rebel troops and supplies, as is clearly shown not only by the history of the country but by the testimony taken by the Committee on Southern Railroads. I presume I may very properly refer to that testimony, as it has already been commented upon by my colleague on the committee, [Mr. CHANLER,] and as it is printed and accessible to every member of this House. And I certainly say truly that that testimony is clear, distinct, positive that all the roads except one short branch road—the Rogersville branch of the East Tennessee and Virginia road—in the States that were declared in rebellion, were engaged during the rebellion in carrying troops and munitions of war, &c., for the rebel government, and that the service was rendered voluntarily by the officers of the roads, with no remonstrance on the part of the stockholders or any portion of the stockholders of any one road; and I defy contradiction of this statement from the testimony that has been taken by the Committee on Southern Railroads. At all events I may safely say that in all the testimony taken by the committee in relation to loyalty in seven of the rebel States, scarcely ten individuals—and I may say without fear of contradiction certainly not twenty individuals—interested in railroads were named by all the witnesses examined as loyal to the United States Government during the rebellion. Then, to the testimony as to the loyalty of the officers and stockholders of southern railroads. If any gentlemen, however, have made up their minds to ignore altogether the past and grant public favors alike to those who attacked and to those who defended the Government, to such the testimony is worthless.

But, Mr. Speaker, the most earnest and active opponents of this bill have based their opposition to it upon what they assert to be the loyalty of the stockholders in these roads. I hold in my hand the Globe of the 13th of July last, and the debate in this House on the 12th of that month will show that the opposition made by the gentleman from New York, [Mr. CHANLER,] and also by another gentleman from New York, who has not been present in the House for some days, [Mr. WOOD,] was based upon their assertion that loyal stockholders would be proved to have been in all these rebel States. The gentleman from New York [Mr. CHANLER] at that time said it was a fact before the committee that loyal men were interested as stockholders in the roads in Tennessee and throughout the South, and said he, "The question of loyalty lies at the bottom of the whole investigation by the committee." Now, if in July last the question of loyalty was at the bottom of the investigation, I ask why is it not so to-day? I desire now to say that what loyalty was proved to have existed in the States lately in rebellion was only in a few cases constituting exceptions to the general rule. In some cases it appears that a small proportion of the stock was held at the North; but in no case does it appear that the stockholders either North or South protested against the use of the roads in aid of the rebellion or even remonstrated.

Mr. WASHBURN, of Indiana. I would ask the gentleman whether rolling stock of the Nashville and Decatur road was not seized and taken by military force?

Mr. McCLURG. I will answer that question presently.

Mr. WASHBURN, of Indiana. Will the gentleman allow the Clerk to read the passage from the testimony of Mr. Sloss, president of the Nashville and Decatur railroad, which I have sent up?

Mr. McCLURG. Yes, sir.

The Clerk read as follows:

"*Question.* Did the United States authorities do any damage to your rolling stock?

"*Answer.* As the confederate forces fell back from here we got our rolling stock. The passenger cars and engines and some freight cars had been taken by General Sidney Johnston. He first sent a demand for the stock, which we refused. He then sent an order to Colonel Scott, in command of the cavalry forces, to bring it to him at all hazards, and Colonel Scott did so. Part of it fell into the hands of the Federals at Corinth; one of these engines was afterward used by General Mitchel. When they evacuated Huntsville they destroyed that engine. Another engine they were using at Salisbury was blown up there by some mismanagement and two men killed on it."

Mr. McCLURG. When I get to that point I will reply to the gentleman, and I think answer satisfactorily to this House. I am disposed to think that there were a few loyal men in Tennessee, and especially in east Tennessee; but this question of the forfeiture of lands does not relate to Tennessee as to the other States. It appeared that in a few roads some stock was owned at the North; and in one, the Macon

and Western road, which, in July last, was referred to by the gentleman from New York, [Mr. Woon,] probably the greater part of the stock was owned North, but the history of the rebellion and the evidence before the Railroad Committee do not show that northern men were necessarily loyal; far from it. There were many in the North disloyal. The Committee on Southern Railroads examined many railroad men, presidents and others, of Virginia, South Carolina, Georgia, Mississippi, and Tennessee, and their testimony is conclusive that there was little or no loyalty among them, and that the officers voluntarily used the roads in aid of the rebellion.

The cases of loyalty will be shown to be very few, so few that it will not be difficult to give relief in such cases by special legislation.

I now desire to present a little testimony upon this point, especially as my colleague upon the committee from New York [Mr. CHANLER] has commented upon the testimony found on two or three pages of the report of the Committee on Southern Railroads. And let me say, what I would say to the gentleman himself if he were in his seat, that he is too good a lawyer not to know that he should not take isolated portions of testimony and present them to this House. He read the following answer of one of the witnesses, the president of two railroads running from Richmond:

"I had no connection with railroads until since the war. From my own observation and from knowledge derived from all other sources, the southern railroads were operated by the companies owning them, they being more or less controlled by the confederate authorities. I mean to say by that that they exercised the control of military supremacy. Whenever they wanted them of course they used them. It was very often a duress—a violence almost. When they needed the railroads they had the use of them, as far as my observation went."

He quoted that language of the witness to show that the use of these roads for the confederate government was compulsory. If he had turned to page 4 of the same report he would have found the same witness testifying as follows:

"I do not intend to say that the use of them was compulsory, except the extent of the use to which they were sometimes put. I do not mean to say that the use of these roads was withheld; on the contrary, I would say they were given freely for the purposes required."

Now, I will invite the attention of the House to a few other extracts from the testimony contained in that report. On page 9 the superintendent of the Virginia Central railroad testifies as follows:

"*Question.* Do you know any stockholders in your road during the rebellion who were called loyal to the United States Government?

"*Answer.* I know several.

"*Question.* You say several. Do you mean many or few?

"*Answer.* I should suppose there were very few compared with the large mass of stockholders."

On page 12 the president of the Virginia Central railroad testifies:

"*Question.* Have you an extensive acquaintance with railroad men in Virginia and in the adjoining States?

"*Answer.* I have a general acquaintance with railroad men in Virginia. Out of the State my acquaintance is rather limited.

"*Question.* Are you acquainted with any leading railroad men—presidents and other officers—who were called during the rebellion loyal to the United States Government?

"*Answer.* I do not think I do."

On page 15 (gentlemen will notice that I take these extracts almost at random) the treasurer of the Richmond and York river railroad tetifies:

"*Question.* Do you know any stockholders in that road who were called loyal to the United States Government during the rebellion?

"*Answer.* I really do not think I do. I am not very familiar with the stockholders of the company. A very few of them live in Richmond, and none of these, I think, would be so considered."

On page 18, the superintendent of the Richmond, Fredericksburg, and Potomac railroad testifies:

"*Question.* Have you known or been informed of any protest or remonstrance on the part of the northern stockholders against the use of the road in aid of the rebellion?

"*Answer.* None that I am aware of.

"*Question.* Have you an extensive acquaintance with railroad men—presidents or other officers of railroads of this State or in adjoining States?

"*Answer.* I have.

"*Question.* Do you know any who were during the rebellion called loyal to the United States Government?

"*Answer.* I know nothing positively. I only know from what I have heard."

On page 21, the President of the Richmond and Petersburg railroad testifies:

"*Question.* Have you an acquaintance with other railroad men in Virginia and the adjoining States?

"*Answer.* I know a great many of them.

"*Question.* Do you know of any who during the rebellion were called loyal to the United States Government?

"*Answer.* I do not. I have no particular information in regard to their political opinions. It is one of those matters that do not come up among railroad men, who are all men of business."

On page 22, the treasurer of the Richmond, Fredericksburg, and Potomac railroad testifies:

"*Question.* Have you an extended acquaintance with railroad officers in your own and other States?

"*Answer.* I know nearly all in Virginia and some in other States.

"*Question.* Do you know any officers of roads who were regarded as loyal to the United States Government during the rebellion?

"*Answer.* I do not."

Mr. TRIMBLE, of Kentucky. Will the gentleman allow me to ask him a question?

Mr. McCLURG. Certainly.

Mr. TRIMBLE, of Kentucky. I desire to inquire of the gentleman if the Committee on Southern Railroads have investigated or inquired into the political status of all the officers of all the railroads in the South affected by this bill, and whether they have found that all the officers of all the roads were disloyal?

Mr. McCLURG. I stated at the commencement of my remarks that the committee that had had referred to them the subject of these southern railroads were not prepared to report finally upon this subject. But I say that so far as testimony has been taken—and it applies to almost every one of these States, but not directly in connection with land grants—the testimony is conclusive that there was no loyalty there.

Mr. TRIMBLE, of Kentucky. If there has not been testimony enough to enable the committee to report finally upon this subject, then I ask the gentleman why report this bill?

Mr. McCLURG. There is sufficient to satisfy me; but at the same time I would say the committee were not prepared to report a bill. But a bill having been reported by another committee, we must take a stand either for or against it. And there is sufficient evidence to satisfy me that the bill should pass.

I will read a little further, and then leave this subject so far as I am concerned. On page 29 the superintendent of the Charleston and Savannah railroad, residing in Charleston, South Carolina, testifies:

"I do not know that I knew any railroad officer during the rebellion who was loyal to the United States Government."

On page 34 the president of the South Carolina railroad, residing at Charleston, South Carolina, also testified as follows:

"*Question.* Can you name any railroad officers who were called loyal to the United States Government during the rebellion?

"*Answer.* I do not. I do not know a railroad president who was not doing precisely what I did."

Then he goes on to state that they were engaged in the transportation of troops and supplies and munitions of war.

Mr. TRIMBLE, of Kentucky. Did he not also say that it was involuntary?

Mr. McCLURG. The testimony is clear throughout this whole volume, with one or two exceptions, that this service was rendered voluntarily. There is probably one or two to which I may refer. I will not attempt to enumerate them all, but I will say that this testimony does not disclose the names of twenty in those States who were loyal to the United States Government during the rebellion. There were a few exceptions. I believe not more than ten. Perhaps they may run up to twenty.

On page 40 the president of the Georgia Central railroad testified as follows:

"*Answer.* I take it for granted that those in the North were loyal to the United States Government. Those in the South, I presume, were as the southern people generally were."

Meaning, of course, they were engaged in the rebellion.

On page 44 the Secretary and Treasurer of the Atlantic and Gulf railroad testified "There was nothing compulsory." "I do not know any railroad officers who were loyal to the United States Government during the rebellion."

Mr. Speaker, from that volume of testimony taken by the committee in the several southern States, covering one hundred and thirty pages, I can read the same character of testimony which I have just read, page after page, but I will not weary the House with it. It is the same on every page where the subject of loyalty is spoken of. I say, therefore, the evidence is clear of general disloyalty. There is no conflict of testimony. I will say, further, that this fact was understood. When these railroad men testified to the general disloyalty of railroad men in the South during the rebellion they always included themselves.

Mr. ELDRIDGE. Let me ask the gentleman a question.

Mr. McCLURG. Not now. I will first answer the question of the gentleman from Indiana; that is, with regard to the railroad in reference to which we have heard so much testimony. Mr. Sloss, the president of the Nashville and Decatur railroad, was a loyal man. He was instrumental in withholding that road as long as he could from the rebels, and it was finally taken by force. I wish to read what he says in regard to the loyalty of the stockholders of that road. It is as follows:

"*Question.* Do you consider the services rendered by the road during the rebellion to the confederate government were compulsory or voluntary?

"*Answer.* I should regard it as voluntary. It was just something of this: if we did not do it they would force us to do it, and we preferred to keep it as much as possible in our own hands. When the United States military occupied this country we had a consultation with General Buell, and he wanted us to run the road. We had not the rolling stock to do so, and he concluded it was best for the Government to take the road and run it. We had no means of running the road, and we made them a tender of it and they accepted it.

"*Question.* What officers of your road, if any, were loyal to the United States Government at the outbreak of the rebellion, and until the road was taken possession of by the United States Government?

"*Answer.* Speaking of the directors and officers, I know of only one man that was a secessionist. After the State of Alabama went out they acquiesced, as far as I know. You will remember that North Alabama was very largely opposed to secession.

"*Question.* Can you name any of the stockholders of your road who were loyal to the United States Government at the beginning of and during the rebellion?

"*Answer.* I consider them all loyal at the beginning. All that country was opposed to secession: but afterwards they all acquiesced in the action of the State."

The same gentleman gave us that testimony, a portion of whose testimony was the letter read to the House a few minutes ago. I will say for him that he was loyal; that they had to take the stock of his railroad by force; but he himself declares that the stockholders were disloyal.

Mr. ELDRIDGE. I wish to call the gentleman's attention to a fact I supposed conceded on all hands, that the policy of granting lands for railroad purposes was to develop the country, and for the benefit of the people at large, and not for the sole benefit of particular localities. The gentleman seems to place his advocacy of this bill on the single fact that the managers were at some time during the rebellion disloyal to the Government. Now, it seems to me, since this war has ended and pacification is so desirable, it would be better to continue the policy upon which the United States granted these lands to the States for railroad purposes, and thus continue to develop the resources of the country in every section for the general good.

Mr. McCLURG. I understand the gentleman. I have anticipated it, and will presently reply to it. I will say now that when the report of the Committee on Southern Railroads is made it will be found that question is fully discussed.

All the testimony, as I have said, is in harmony as to the disloyalty of these railroad men. I hold in my hand a letter from Brevet Brigadier General Saxton, headquarters third military district, chief quartermaster's office, Atlanta, Georgia, December 14, 1867, a portion of which is as follows:

"Your letter to General Grant upon the subject was referred by the Quartermaster General to me, and I have endeavored to obtain the information from the Governors of Alabama and Florida, thus far unsuccessfully. The Governor of Alabama has promised, but I have, as yet, received no reply from the Governor of Florida. I have, in addition, addressed letters directly to the president of every railroad company in the two States, propounding directly your questions. I think it is somewhat doubtful whether they will answer them. So far as my own experience in this district goes, and it is somewhat extensive, the prominent men connected with these roads have been disloyal to the Union, and that every road has been used in aid of the rebellion and not one in aid of the Union, except upon compulsion."

Now, Mr. Speaker, I ask the gentleman from Wisconsin. [Mr. ELDRIDGE.] and he can answer at a future time, whether he is prepared to reward treason? If we are prepared to do so then let us vote down this bill; but if we are prepared to stand by the poor loyal men of the South let us pass this bill.

Mr. ELDRIDGE. I will answer the gentleman.

Mr. McCLURG. How long do you want?

Mr. ELDRIDGE. One minute.

Mr. McCLURG. Very well, then.

Mr. ELDRIDGE. I am not in favor of rewarding treason, nor am I in favor of punishing indiscriminately a whole people without trial, without a jury, without ascertaining the fact in a proper manner before the courts of their guilt; neither am I prepared to visit the penalties of this bill upon that people or a report which the gentleman himself admits does not determine any fact with reference to individuals, nor scarcely a fact in reference to any railroad liable to be affected by this measure.

Mr. McCLURG. Mr. Speaker, I am as desirous as any gentleman can be whose friends have invested capital in corporations controlled by rebels, knowing them to be such, and prepared, of course, to take the responsibility. I am as desirous as they can be to see the prosperity of the South return, as well as that of all portions of our common country. It is that very desire, I would say to the gentleman from Wisconsin and to others, that our common prosperity may never again be interrupted by those who attacked the life of the Union and stagnated its channels of commerce. I almost feel willing that God shall visit, as I have no doubt He will, that land with desolation, as He visited in times of old those who knew Him not, until they shall return to their duty to humanity, and come out from the tombs of corruption where they have so long dwelled. And that is my answer to the gentleman from Wisconsin. When they shall have done that, and shown unmistakable signs of returned reason, sitting in their proper places by their own voluntary action, clothed in garments of loyalty, then I shall, in any legislation, be willing to treat them as loyal States; but not till then. Northern capital did not prevent them from throwing off their loyal garments, and we have no assurance it will aid in putting them on.

Let me say that Tennessee occupies that loyal position which I have attempted to describe. The evil spirit that possessed her has been cast out, or if still present it is in chains and powerless; if not in chains it is restrained as it should be by the bayonets and ballots of loyal men. Occupying this position, covered with loyal robes, Tennessee can properly ask legislation to exempt her from the effects of this bill. She can do so without violating the principle in the bill. This is the course, as I am informed, that the Tennessee delegation in this House will pursue. Then this side of the House should remain united on this bill. Prodigal States will then be taught that they must come into the presence of the parent Government in their right minds, and ask and not demand favors.

Mr. Speaker, as the testimony taken by the Committee on Southern Railroads is more especially designed to be applied to other subjects referred to that committee, which will be reported upon in a very few days, when my colleague [Mr. CHANLER] will either present a minority report or conclude to concur with the majority—which last he may possibly do—I will make no further allusion at present to the testimony and no further remark. I yield the remainder of my time to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE took the floor, but yielded to

Mr. MYERS, who moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of William C. Shimonick, of Washington, District of Columbia, late a soldier of the regular Army, for bounty.

Also, the petition of David Herin and 15 others, citizens of Newton county, Mississippi, for a special act of Congress for the protection of loyal citizens, &c.

Also, the petition of Mason Phelps and 36 others, citizens of Minnesota, residing in the vicinity of Fort Ridgely, for the sale of said fort and reservation.

By Mr. ADAMS: The petition of H. H. Hunter, of Knox county, Kentucky, for pension on account of wounds received in the military service of the United States.

Also, the petition of Mary Bingham, of Harlan county, Kentucky, for arrears of pension due to Patsy Depriest.

By Mr. BARNUM: The petition of James H. Olmstead and 150 others, of the town of Stanford, Connecticut, to secure the rights of naturalized citizens.

By Mr. BURR: Proceedings of the city council of Rock Island, Illinois, relating to the rights of American citizens in Europe.

By Mr. ELIOT: The petition of Theodule Drouett, of New Orleans, Louisiana, praying for reinstatement in his rights as an American citizen.

By Mr. FARNSWORTH: The petition of a large number of citizens of Lake county, Illinois, for an appropriation to construct a harbor at Waukegan.

By Mr. FIELDS: The petition of Ferris Jacobs, jr., for relief.

By Mr. GOLLADAY: The petition of Mrs. Elizabeth Lackey, mother of Henry K. Lackey, praying for pension.

By Mr. HALSEY: The petition of A. A. Harderbergh and others, in favor of Congress aiding the establishment of a line of steamships between New York and European ports.

By Mr. KELLEY: Nine petitions from citizens of Pennsylvania, asking for the repeal of internal taxes on cotton and woolen fabrics, &c.

By Mr. KELSEY: The petition of Daniel H. Bissell and others, soldiers of the war of 1812, for a pension.

Also, the petition of Emeline Gage, for increase of pension.

By Mr. PRICE: The petition of the supervisors of Polk county, Iowa, asking for immediate action by Congress for the protection of citizens of the United States.

By Mr. VAN HORN, of New York: The petition of officers of the court and county of Erie, New York, asking an appropriation to pay Emanuel Hensler, a deputy collector of customs in said county, for losses sustained by him in the discharge of his duty as a public officer.

By Mr. WASHBURNE, of Illinois: The petition of citizens of the third congressional district of Illinois, asking Congress to pass the necessary laws to secure the rights of American citizens abroad.

IN SENATE.

WEDNESDAY, *January* 29, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, transmitting correspondence in relation to the formal transfer of territory from Russia to the United States, in accordance with the treaty of the 30th of March last; which was referred to the Committee on Foreign Relations, and ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 512) in relation to taxing shares in national banks was read twice by its title, and referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the House of Representatives of the Legislative Assembly of the Territory of Colorado, in favor of the admission of that Territory into the Union as a State, and that a portion of the Territory of Dakota south of the forty-second degree of north latitude and west of Nebraska be annexed to and made a part of Colorado; which were referred to the Committee on Territories.

Mr. JOHNSON presented the petition of Mary Riggles, praying compensation for pecuniary loss sustained by her in the death of her son Lewis Riggles, who was killed by the horses of a Government wagon on the 18th of January, 1863; which was referred to the Committee on Claims.

He also presented a memorial of Thomas H. Dowling, praying the passage of a law restoring to him the possession of so much of his property, known as the Island of Yerba Buena, in the harbor of San Francisco, California, as may not be required for public use, and that he may be compensated for what is retained by the Government; which was referred to the Committee on Private Land Claims.

Mr. ANTHONY presented the petition of Edward St. Clair Clarke, late acting assistant paymaster United States Navy, praying that an additional allowance may be made to him to cover losses sustained by him in the discharge of his duties, by over payments to officers and crew and losses in clothing and small stores incident to the hurry in transferring and receiving them on the various stations to which he was attached during the war; which was referred to the Committee on Claims.

Mr. CORBETT presented additional papers in relation to the claim of Jacob Leabo, for compensation for property lost and services rendered as an escort to Joseph L. Meek, bearer of dispatches to the Government in relation to the Indian difficulties in Oregon in 1848; which were referred to the Committee on Claims.

Mr. EDMUNDS presented a petition of citizens of Vermont, praying such legislation as will define the status of naturalized citizens of this Republic before the world, and compel the Government of Great Britain to recognize the validity of the naturalization of those citizens she now holds in durance, and reinstate them in their liberties, of which they have been deprived; which was referred to the Committee on Foreign Relations.

Mr. SHERMAN presented resolutions of the New York Produce Exchange, in favor of a reduction of the tax on whisky, and that it be collected at the place of manufacture; which were referred to the Committee on Finance.

Mr. DIXON presented the petition of H. & S. French, praying that an American register be granted to the vessel Highland Mary, built in Germany in 1844; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILSON, it was

Ordered, That the petition of James M. Ellison be taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. FOWLER, it was

Ordered, That the papers of W. A. Griffin be taken from the files of the Senate, and referred to the Committee on Claims.

On motion of Mr. FOWLER, it was

Ordered, That the papers in the case of the application of Robert Ford be taken from the files of the Senate, and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the bill (S. No. 237) in relation to the promulgation of the laws of the United States, reported it with an amendment.

He also, from the same committee, to whom was referred a resolution to print four thousand copies of the Patent Office Report of 1866, reported it without amendment; and it was considered and agreed to, as follows:

Resolved, That four thousand copies of the report of the Commissioner of Patents for 1866 be printed for the use of the Senate.

Mr. ANTHONY. The same committee, to whom was referred a resolution for printing five thousand additional copies of the report of the Indian peace commissioners, report it back and recommend its passage. This is for the printing of the report without the accompanying papers.

Mr. WILLIAMS. What peace commission is it that it is proposed to print the report of?

Mr. ANTHONY. The commission appointed to negotiate peace with the Indian tribes, of which the Senator from Missouri [Mr. HENDERSON] was a member, with General Sherman.

Mr. CONNESS. There is no use of printing these extra copies.

Mr. ANTHONY. The Committee on Printing do not want them. It was the desire of western members, those representing States adjoining the Indian country, that the report should be printed, and the committee have accordingly recommended the passage of this resolution.

Mr. CONNESS. I shall have nothing to say here at any time against the printing of a document the circulation of which will lead to any public benefit.

Mr. SHERMAN. I hope, if there is debate about this matter, it will be postponed or laid aside until my friend from Missouri, who takes a good deal of interest in the subject, comes in.

Mr. CONNESS. Then let it lie over.

The PRESIDENT *pro tempore*. The Senator from California moves to postpone——

Mr. ANTHONY. Let it lie over as objected to.

Mr. TRUMBULL. The resolution goes over to-day if objection is made by a single member.

The PRESIDENT *pro tempore*. The Senator from Illinois is right. Objection being made to its present consideration, the resolution will lie over.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 220) to abolish the district court for the eastern district of Texas, and to extend the jurisdiction of the district court for the western district over the whole State, reported in favor of the indefinite postponement of the bill.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 65) amendatory of a joint resolution approved July 25, 1866, reported in favor of its indefinite postponement.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 297) to amend an act entitled "An act to authorize the construction of certain bridges, and to establish them as post roads;" which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. TIPTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 298) granting lands to aid in the construction of a railroad from Brownsville, in the State of Nebraska, to intersect the Union Pacific railroad at or near the one hundredth meridian west longitude; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 299) for the creation of a national bureau of insurance; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 300) to enable admiralty courts to decree salvage to incorporations formed for wrecking or salvage purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 301) authorizing the purchase of certain public lands in Alabama; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 96) for the relief of certain Winnebago Indians residing in Minnesota; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 97) to provide for the publication of the medical and surgical history of the rebellion, and the medical statistics of the Provost Marshal General's Bureau; which was read twice by its title, and referred to the Committee on Printing.

SALE OF IRON-CLADS.

Mr. GRIMES. I move that all prior orders be postponed, and that the Senate proceed to the consideration of House joint resolution No. 136.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 136) providing for the sale of iron-clads. It proposes to authorize the Secretary of the Navy to dispose of such iron-clad vessels as in his judgment are not required by the interests of the service, at a price to be determined by appraisal, to be made by a board of not less than five naval officers, two of whom shall be engineers; and report is to be made to Congress, as fast as the vessels are sold, of the amounts realized from such sales, and the parties to whom sold, and the proceeds of all such sales are to be paid into the Treasury of the United States.

The Committee on Naval Affairs reported the joint resolution with an amendment, in line four, after the word "vessels" to insert "except those of the Dictator, Kalamazoo, Monadnock, and Passaic classes."

Mr. CONNESS. There are on the Pacific coast two of these iron-clads. One is the Monadnock, included in the exception of the amendment, and the other is the Comanche. Those are the only means of public defense there at the present time, for at this day wooden ships can scarcely be called means of defense. There is in those waters at this time one of the best iron-clads in the English navy. I will not state what the opinion of naval men is of the British iron-clad to which I refer as to its power and impregnability, but it is essential that sufficient protection be maintained by this Government in those waters. Now, if we authorize the Secretary of the Navy to dispose of the Comanche there, I do not know that we can get anything to take her place. The Navy Department was very slow indeed, notwithstanding the great public need of this class of defense there, in sending the iron-clads to our coast. One of them was put up and built there, and the other sent around through the Straits of Magellan. All the applications that were made from that coast to the present Secretary of the Navy were in vain, and but for the intervening of President Lincoln we never should have had an iron-clad there, in my humble judgment. I should like to inquire of the honorable chairman of the Committee on Naval Affairs what provision there is, if any, or what understanding there is as to the replacement of the iron-clad proposed to be sold there by any the Government now has or is building on the Atlantic coast? Otherwise, I should like to offer an amendment so as to except that vessel also.

Mr. GRIMES. I do not know of any understanding of the kind on the part of anybody, and I do not know that we are constructing any iron-clads at this time. The fact is that we are constructing no vessels. Notwithstanding all the comments that have been made in the newspapers on the subject, there has not been a keel laid by the United States in any of our navy-yards since the close of the war.

The House of Representatives passed this joint resolution authorizing the Secretary of the Navy to sell all iron-clad vessels belonging to the United States which, in his judgment, might not be required by the interests of the service. The Committee on Naval Affairs of the Senate did not choose to intrust this power to the Secretary; were not willing to say that he should part with the whole iron-clad navy; but they were willing to dispose of a certain portion of that navy, and therefore the vessels being known by classes, one class of vessels being known as those of the Dictator class, another of the Kalamazoo class, the Kalamazoo being one of the four of that description, another known as the Miantonomah or Monadnock class, there being four of that kind, all sea-going, and another class known as the Passaic class, in which there are eight, we chose to except these from the general provision as passed by the House of Representatives. We knew that it might be advisable to sell some of the Passaic class, but we thought Congress would be willing to pass a law authorizing it at any time when the Department and the committees chose to recommend it; and if at some future day during the session we shall think it proper to sell the Comanche, or any other vessel, we can introduce a bill for that purpose and very easily pass it through, but we cannot specify in this bill the particular vessels that ought to be sold or that ought not to be sold.

Mr. HOWARD. I shall be very much obliged to the honorable chairman of the Committee on Naval Affairs if he will state how many iron-clads we own now.

Mr. GRIMES. The exception——

Mr. HOWARD. I mean the whole number.

Mr. GRIMES. The resolution, if amended as we propose, will authorize the Secretary of the Navy to sell thirty-five, and it will leave nineteen.

Mr. HOWARD. Then the whole number is thirty-five added to nineteen?

Mr. GRIMES. Yes, sir. I will say, Mr. President, that one reason why we propose to authorize these vessels to be sold is that they are deteriorating very rapidly, and are preserved at a good deal of expense. A good many of them are at Mound City, another large portion at New Orleans, and they can be brought around to the Atlantic coast and put in dock only at very great expense. We lost twenty-five men of yellow fever at New Orleans alone last season. Watchmen must be kept on board each vessel, and then somebody to superintend the watchmen and see that they perform their duty. I am not prepared to say what has been the expense of keeping those iron-clads that are at Mound City, but it is very considerable.

Mr. CONNESS. I notice, on a closer examination of the amendment offered by the committee, that the class to which the Comanche belongs is excepted from this provision of sale. I had failed to observe the word "classes" in the amendment, and thought the names employed referred to particular ships, but I see

on closer examination that it excepts particular classes. I am, therefore, entirely satisfied with the amendment.

The amendment was agreed to.

Mr. HOWARD. I do not understand the necessity of selling these iron-clads, and I should be very much obliged to the honorable chairman of the committee if he would explain more fully the necessity, if there be any, for making sale of these vessels which are so necessary to our naval defense. It seems, according to his statement, that the Government at present owns fifty-four iron-clads, and proposes to sell thirty-five of them. I should like to know what necessity there is for making this disposition of the Navy of the United States. As at present advised I do not see it.

Mr. GRIMES. The principal reason is that which I stated when on the floor before—that these vessels are deteriorating quite rapidly, and that the expense of keeping and preserving them is very great. As I said before, they are scattered over the United States—some at New Orleans, a good many at Mound City, some at League Island, and some at other points on the Atlantic coast. We lost twenty-five men last summer from yellow fever among those who guarded the iron-clads at New Orleans. I am not inclined to say anything in regard to the quality of the vessels that we propose to authorize the sale of, because I do not want to be accused (as I might, perhaps, if I praised them too much) of having made false representations after they shall have been sold, and I do not think it would be wise for me to undertake to depreciate them, inasmuch as we are going into the market for the purpose of selling them. On the whole, as my friend from Vermont [Mr. EDMUNDS] suggests to me, they are very respectable vessels, but vessels which, on account of the condition of the public Treasury, we are anxious to part with on as good terms as possible.

Mr. CONKLING. I should be glad to obtain a little information, if I can, from the honorable chairman of the Committee on Naval Affairs. I should like to know what is the particular merit attributed to this mode of disposing of vessels. I observe there is to be no competitive sale in any way; no proposals are to be received; no auction in form or in effect is to be held; but they are to be sold upon the appraisal of five officers. And, if I understand the resolution, there is no guard in this respect: there is no option reserved to the Government to fix a minimum sum, and then allow Governments or agents of Governments who want these vessels to propose beyond that. In other words, as I understand, the absolute discretion is committed to the Secretary of the Navy to sell any or all of these vessels at such time as he determines, and then the price depends solely upon an appraisal to be made by five officers; and if some Government or the agent of some Government should stand ready to bid or to give a much larger price there is no mode of ascertaining it, but the lucky man, whoever he may be, takes it at the appraisal which is fixed. I presume there is some reason for that, but I should like, before the vote is taken, to hear an explanation from the honorable chairman of the committee on that point.

Mr. GRIMES. I believe experience has demonstrated that even when you undertake to sell such things as muskets or quartermasters' stores at auction, as there are but few purchasers who desire such articles, a "ring" is immediately formed by which certain persons control the sale and obtain the articles sold at just what they choose. If that is the case in regard to articles of that kind, how much more would it be the case when you undertake to sell vessels of this description! I suppose there are not a great many purchasers of iron-clads, and it is doubtful whether we shall be able to sell them; but, inasmuch as they were costing a great deal on our hands and we wanted to get rid of that expense, and they were certainly not improving in their quality by being retained by us, the committee of the House and of the Senate concurred in the opinion that they had better be sold.

Mr. CONKLING. But, if the honorable Senator will allow me, I do not yet see precisely the answer to my suggestion. Suppose the resolution were to provide that the Secretary of the Navy, in the manner proposed, if you please, shall proceed to determine the appraised value of these vessels, and then shall proceed further to invite proposals or bids, surely in that case there could be no fear of what the Senator denominates as "rings"—men agreeing not to bid against each other—but two safeguards would be obtained: first, there would be an appraisal of the vessel, fixing the price below which it should not be sold; and, second, there would be the opportunity to see whether agents of foreign Governments, (because I suppose the purchasers will be confined mainly to foreign Governments,) speaking each for his own authority, were prepared to give more than that. It does not occur to me that the suggestion of the Senator militates at all with that view of the case. Therefore I should prefer, for one, if these vessels are to be sold, to retain a provision that there shall be a mode of fixing their value in the estimation of our Government or the agents or appraisers of our Government, and that then if beyond that price one Government is prepared to give more than another we should have some way of ascertaining the fact.

Mr. GRIMES. Does the Senator understand that they are not to be appraised by disinterested parties before they are sold?

Mr. CONKLING. I understand that they are, at such time as the Secretary shall determine, to be appraised by five officers, selected by him, I suppose, and that then the purchase is to take place upon the basis of that appraisal. My point is, that after that appraisal has been had, or some other mode taken of ascertaining the value of the vessel, I see no reason why proposals should not be invited or bids invited, to the end that if any Government chooses to give more than that we should profit by the advance.

Mr. HOWARD. Will the honorable Senator from New York offer an amendment, in accordance with his views, establishing a minimum?

Mr. CONKLING. I would be very happy to do it if I had the opportunity. If the Secretary will send me the resolution, which I have not before me, I will endeavor to suggest such an amendment. I will suggest a very hasty form of arriving at this, which the honorable Senator from Iowa, no doubt, can readily improve, as he is much more familiar with the subject. After the word "sold," in line eleven, I move to insert:

Provided, That after such appraisal public notice shall be given that proposals will be received for thirty days for the purchase of said vessels, and that the highest price so proposed shall be accepted therefor.

Mr. CORBETT. "Above the appraisal."

Mr. CONKLING. That should be so. I will modify it to read "the highest price so proposed, not less than the appraisal, shall be accepted therefor." I suggest, if the chairman of the Committee on Naval Affairs should think well of the amendment, that the resolution had better be passed over informally until it can be put in more certain form.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from New York, to insert the following proviso:

Provided, That after such appraisal public notice shall be given that proposals will be received for thirty days for the purchase of said vessels, and that the highest price so proposed, not less than the appraisal, shall be accepted.

The amendment was agreed to.

Mr. GRIMES. I have no objection to the amendment as I understand it. It does not preclude, as I take it, the Secretary of the Navy from selling them at some future time if he does not get any response at the end of thirty days.

Mr. CONKLING. It is not intended to do so; but I suggested to the honorable Senator that it might be well to pass over this resolution until we could have a moment to put it in proper form. It was not the intention of my amendment to do what he suggests; and I am inclined to think it does not; but, as it was prepared on the spur of the moment, without reflection, I am not ready to say what its effect may be.

Mr. GRIMES. Let it be read again.

The Secretary read the amendment.

Mr. GRIMES. I am satisfied with it.

Mr. CONKLING. I take it the original resolution did not design to clothe the Secretary with the power to sell for less than the appraisal.

Mr. GRIMES. No, sir.

Mr. CONKLING. Then the question which the Senator puts becomes, I submit to him, rather immaterial, because if persons are ready to buy at the appraisal, of course they will put their willingness to buy in the form of a proposal or bid; so that I do not see that any difficulty can arise in that way.

The PRESIDENT *pro tempore*. The amendment is already agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. CONKLING. I move to amend verbally by inserting the word "further" after the word "provided," where it occurs a second time. That at least should be done.

The PRESIDENT *pro tempore*. That amendment will be made.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time; it was read the third time, and passed.

SUSPENSION OF SECRETARY STANTON.

Mr. ANTHONY. I wish the Senate would dispose of the resolution that was under discussion when the morning hour expired yesterday—the resolution to print the report of the majority and the views of the minority of the Committee on Military Affairs upon the Stanton case. I should like to have the decision of the Senate upon it one way or the other. I move to take it up.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That ten thousand copies of the reports of the majority and minority of the Committee on Military Affairs and the Militia in regard to the suspension of Hon. Edwin M. Stanton from the office of Secretary of War be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. BUCKALEW. I desire to inquire what has become of my amendment?

The PRESIDENT *pro tempore*. The Chair thought the amendment was out of order.

Mr. BUCKALEW. I believe I shall not appeal from the decision of the Chair, although I do not concur in that opinion. It is scarcely worth while to make a contest about it. I will let it go.

Mr. WILLEY. I desire to inquire of the chairman of the Committee on Printing whether he has made any estimates of the cost of this additional printing?

Mr. ANTHONY. I believe the cost is minuted on the resolution. I think it is from sixty-five to seventy dollars.

Mr. WILLEY. Sixty-five or seventy thousand dollars?

Mr. ANTHONY. No, sir, sixty-five or seventy dollars for the whole work.

Mr. WILLEY. Well, sir, the cost is so inconsiderable that I shall make no objection since the committee has reported the proposition favorably; but I think it is time that Congress should pause in its expenditures for what, after all, is, in my opinion, unnecessary printing. Take this case, for instance. There is not a public man capable of forming public sentiment or appreciating the questions

involved in the controversy between the President and the Secretary of War that has not already definitely made up his opinions and been placed fully in possession of all the facts in the case. The public journals of the country have spread them broadcast. It does seem to me that it is time, when we are so heavily pressed with taxation, that Congress should pause in its publication of documents of every character; but as there seems to be a sentiment prevailing in a contrary direction in this case I shall make no objection since the expense is so immaterial.

Mr. HENDRICKS. I do not think that upon further thought on this subject the Senate will be willing that a part of the documents in regard to an important question should go to the country without the rest. Whatever may be the temporary and momentary feelings on that subject I do not believe they are willing to stand before the country as claiming to send a partial statement of public documents to form the judgment of the country upon. The answer that the President's communication to the Senate has been published in the newspapers is not a sufficient answer. This is to be a document that is to go into the libraries of the people as a part of the permanent records which they keep, to which they may refer in all time to come upon this important question. I think that the Senate is not willing to say that the whole case shall not be presented to the judgment of the people. It is not right to say that the newspaper communication shall go to the country of a part of it and the rest of the case shall be made in a permanent document sent to the people. Therefore I move that the consideration of the subject be postponed until the injunction of secrecy can be taken from the entire list and set of documents.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the order of the day, which is the unfinished business of yesterday, being House bill No. 439, upon which the Senator from Kansas [Mr. POMEROY] is entitled to the floor.

Mr. ANTHONY. I do not wish to interfere with the Senator from Kansas who has the floor; but if the Senate would take a vote on this resolution without any further debate it would be more convenient, because in all these cases of printing the type is standing, and it is important, at least very convenient for the office, and often economical, to know whether it is to be done or not.

Mr. POMEROY. If the vote can be taken without any debate I have no objection.

Mr. HOWE. I do not want to debate the question, but let me ask my friend from Rhode Island if we cannot, by letting the resolution stand over until to-morrow, arrange some way so as to secure the printing of the President's message with these reports. I agree with the Senator from Indiana; I do not want those reports to go to the country unless the message goes with them. I want the document to go in that shape.

The PRESIDENT *pro tempore*. All this debate is out of order. There is nothing before the Senate except it be House bill No. 439.

DEFICIENCY APPROPRIATION BILL.

Mr. MORRILL, of Maine. With the permission of the Senator from Kansas I desire to make a report from a committee of conference, which I think will occupy no time.

The PRESIDENT *pro tempore*. It cannot be received unless the Senator from Kansas gives way for that purpose.

Mr. POMEROY. If it can be proceeded with by unanimous consent I shall not object; but if it is a matter that is going to be discussed all day I would rather not give way.

Mr. MORRILL, of Maine. It is the conference report on the deficiency bill.

Mr. POMEROY. Will it be discussed all day?

Mr. MORRILL, of Maine. Not a moment. If it gives rise to discussion I will consent to lay it aside.

Mr. POMEROY. If it can be proceeded with by unanimous consent I shall not object.

The PRESIDENT *pro tempore*. The Chair will receive the report, no objection being made.

Mr. MORRILL, of Maine. I submit the following report from the committee of conference on the disagreeing votes of the two Houses on the deficiency bill.

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate concur in the amendment of the House to the third amendment of the Senate with an amendment, as follows: in the first line of said House amendment after the word "that" insert the following words: "from and after the 3d day of March, 1868."

That the House of Representatives recede from their disagreement to the fourteenth amendment of the Senate and agree to the same.

L. M. MORRILL,
J. W. GRIMES,
TIMOTHY O. HOWE,
Managers on the part of the Senate.
E. B. WASHBURNE,
F. C. BEAMAN,
Managers on the part of the House.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 344) to incorporate the "Washington Target-Shooting Association" of the District of Columbia;

A bill (H. R. No. 450) to regulate deposits of the public money.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 320) making appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes; and it was signed by the President *pro tempore*.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being, on the motion of Mr. DOOLITTLE, to refer the bill with instructions to the Committee on the Judiciary.

Mr. POMEROY. Mr. President, I should like to have the Secretary read the resolution of the Senator from Wisconsin, which he has moved in the form of instructions to the Committee on the Judiciary.

The SECRETARY. The Senator from Wisconsin moves that the bill be referred to the Committee on the Judiciary, and that the said committee be instructed, in said bill, or in any other bill which may be reported by them having reference to the question of reconstruction, so called, in any of the States not represented in the present Congress, to insert the following proviso:

Provided, nevertheless, That upon an election for the ratification of any constitution, or of officers under the same, previous to its adoption in any State, no person not having the qualifications of an elector under the constitution and laws of such State previous to the late rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, namely:

1. He shall have served as a soldier in the Federal Army for one year or more;
2. He shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or,
3. He shall be seized in his own right, or in the right of his wife, of a freehold of the value of $250.

Mr. POMEROY. Mr. President, it is said that "we are in the midst of a new rebellion, bloodless as yet, but which threatens to destroy the Constitution, and with it the last hope of civil liberty for the world."

Thus spoke the Senator from Wisconsin [Mr. DOOLITTLE] on the 23d day of January, 1868; and this, I suppose, is his sentiment to-day, that we are "in the midst of a new rebellion," "bloodless as yet," but which he fears will not be so long. Mr. President, I propose to inquire into this "new rebellion," and to point out who are engaged in it, what their platform is, and to what they aspire; and I shall close my remarks by vindicating in some measure the policy and principles of the majority in Congress, upon whom has devolved the responsibility of inaugurating measures designed "to restore the waste places in our country" and "build again the foundation of many generations." And this work has been the more arduous from the fact that it has met with the decided and persistent opposition of the President of the United States, from whom we had reason to expect better things.

"A new rebellion." What is it? And where is it?

The armed rebellion brought upon us in 1861 by designing men who had undertaken to "Africanize" the whole country (to use one of their very distasteful phrases) and to prostitute the public domain and all the States to their possession has ceased. That concern surrendered in April, 1865, and gave up its ghost of entailing Africa upon American civilization. But this new rebellion inaugurated by the President and the Senator from Wisconsin and those allied with them has not yet surrendered. And the Senator fears that this rebellion, too, will be "bloody." Well, sir, that will depend very much upon whether they propose to make it so, and to what lengths they are prepared to carry their rebellion against the laws.

That I may be clearly understood I will state that the only new rebellion that I have seen has been this, now patent to all: a rebellion against the law reorganizing the States of the South. It is a rebellion against the restoration of ten States in the manner provided by law to their proper and practical relations to the Federal Union; and the Senator seems to foreshadow that he intends to spread his new rebellion even over the States of the North and West during the approaching canvass. This "new rebellion" he proposes to make consist of hostility to reconstruction established by law, and now being everywhere peacefully and successfully prosecuted; and also to compel a return to that heathenism which he, with cruel inelegance, applied to the colored voters of the South when he spoke of their being "half civilized" and of "savage races."

I do not understand the condition of the head or the heart of any man who can look upon the condition and prospects of the uncomplaining millions who have been doomed to human slavery for three hundred years, and who now, in the bright hour of their emancipation and elevation to the standard of American freemen, with the light of the history of their unavenged wrongs flashing in his face, and in full knowledge of their almost divine purpose of forgiveness of injuries and of loving their oppressors—who have waited, with undying Christian faith and resignation, for this day of their deliverance, and who never in any degree, when committed to the care of the helpless and the weak, undertook to avenge their own wrongs, and thus make the household of their oppressors desolate with blood and terror—I say I cannot understand or fathom the cruelty of the man who will now slander them and tarnish their glaring record by pronouncing them in a state "half civilized" and "half savage barbarians." Is this the way to speak of American citizens protected by the Constitution and laws?

And to what entertainment do the advocates of this "new rebellion" invite us? To this,

namely: it is, as seen in the platform of the honorable Senator, the disfranchisement of American citizens, unless they have "all the qualifications of electors in the South before the late rebellion," and if a man belongs to this "half savage, barbaric race" he must have served one year in the Union army, or be able to read and write, or either he or his wife shall have and own a freehold worth at least $250.

Mr. President, this is the lowest and most despicable entertainment to which I was ever invited. Think of it again and again, and let me change the phraseology so as to illustrate its meaning:

First. All rebels left unhung and gone unwhipped of justice can vote!

Second. Having served (willingly or not, honorably discharged or not) in the Federal Army one year a man can vote!

Third. Having for three hundred years past bolted the school-house door against him, and made it a penal offense to teach him, having thus legislated the spelling-book and the Bible, with its hopes of immortality away from him, now if he can read and write he may vote!

Oh, what an insult to add to the injury of centuries!

Fourth. If he or some person he has been allowed (through the grace of a master) to call his wife be possessed of $250 he can vote. Aye, sir, cheap enough, and degrading enough. What, sir, put $250 owned by himself or somebody else into the scales where justice and the rights of man are being weighed out? Barter off the elective franchise, the highest right of a free American citizen, for the paltry sum of $250, or any other sum to be counted out by dollars and dimes! What votes in such a case, the man or the dollars? If the man, then perish the dollars; if the dollars, then let a man vote in proportion to the number of dollars he has got.

But, sir, we are notified in this most remarkable speech of the Senator from Wisconsin, this first gun of the approaching campaign, that this platform is the basis of the organization of this "new rebellion" against the laws of restoration for the South.

We are organizing, he said, "everywhere—from Maine to California—not upon the dead issues of the past, for inglorious defeat." No; they have had enough of that. "There is too much at stake," he says, "and too terribly in earnest for that. But living men, upon living issues will organize for victory." That, Mr. President, is what this means. That is the "new rebellion" which the Senator hopes will be "bloodless." This is a rebellion against the laws of the land! against the return of ten States to the Union, and against the enfranchisement of man. Upon this basis we are told the country is organizing, and they are "living issues" and hold out the "hope of victory." Sir, these "issues" have been dead and damned for years! They belong to the dead and buried past—to the years before the flood—and have no existence in the "living present" or opening future. It is an ignoring of man; a recognition of some accidental acquirement or attainment in his stead. It is stripping him of his crown of glory, his manhood, which places him only a little lower than the angels and allies him to God.

The doctrine of a property qualification or even a literary attainment being substituted for manhood is a monstrous proposition. There has been a deluge of wrath poured out upon this land since that platform was adopted in any State. If it should be reënacted now I would expect to hear the thunderings and lightnings of Sinai waxing louder and louder. It will be sustained now only by that class of fossils who, decaying always, have their back to the future and faces in the past forever looking backward over the left shoulder.

But the "organization" has been formed. The Senator from Wisconsin has taken the lead here. But the first convention to which I paid any attention of this new rebellion was held some time since in Cincinnati, Ohio, and the first response that I saw was from Robert Toombs, in the following letter, written to Mr. W. M. Corry, corresponding secretary of the Democratic central committee of Ohio, from Washington, in the State of Georgia:

"After the reception of yours of the 6th instant, with the proceedings of the Cincinnati convention, I accept with the greatest pleasure the position to which I have been assigned"—

Of course, birds of a feather will flock together—

"and will cheerfully give my utmost effort to promote, establish, and vitalize those principles." * * * * "I therefore accept any man as a brother in peace or war who will honestly stand by and defend them. I will be with him as long as the weakness of humanity will enable me to stand by the truth to my own hurt."

There is a little fling at the Democratic party for not standing by the South to their hurt; they only stood by it long enough to get benefits, not to stand blows.

"Therefore, sink or swim, survive or perish, I am with the West and the South for the maintenance of the Cincinnati platform of April 13. I will take immediate measures to organize the State of Georgia on that basis, and will urge the true men of the so-called ten rebel States to fall into line. You [secretary of the Democratic central committee] can fully count on them. I have tried them."

* * * * * * * * * *

"I regret nothing in the past but the dead and the failure. I am ready to-day to use the best means I can command to establish the principles for which I fought.

"Very respectfully and truly, your friend,

"ROBERT TOOMBS."

These are the "living men" upon "living issues" organized, as said the Senator from Wisconsin, "for victory," aye, and for spoils.

But there is no disguising the facts, and I have no disposition to wink them out of sight. This pending contest, the canvass of 1868, will be the winding up of the great contest of these fifty years, as well as the wiping out of all that remains of the old rebellion and of the "new." We shall fling out to the breeze the whitest and purest banner that ever led to victory. On it will be inscribed, in letters of living light, enfranchisement for man, because of his manhood; education for all the people, as free as the air they breathe; no inequality of rights among citizens of the United States, but equal and just laws for all; no war of races and no countenance to any such war.

What will be on this other banner, the standard of the "new rebellion?" Proscription of human rights, dependent upon skin or hair! American born citizens, Africanized and pronounced "barbarous and half civilized," a poor commentary upon that divine and patriarchal institution which they have so long upheld! And then will be painted on their banner in terrific letters, "negro equality," because they cannot approach to it. Finally, a "war of races," of which they alone are the instigators by threatening it and then predicting it as inevitable. This will be a banner where helpless ignorance and honest poverty shall deprive a man of the highest boon of an American freeman, and where the greatest criminals of the country go unwhipped of justice, and find a welcome at the ballot-box.

Go out before this people with such a banner; spread it to the breeze before the defenders of our country, and it will trail in the dust before the battle begins!

Anything short of human equality, even-handed justice, and the legal and inalienable rights of all men secured, will be a loathing and abhorrence to the American people. The low prejudices appealing to the basest passions of the human heart will now meet with but a feeble response. The world has moved, and with the revolutions of the last five years we have traveled a century. Go backward ye who can—revolutions will go forward, and the darkness of the present shall blend into the light of the future, until we behold the new heavens and the new earth.

But this movement of opposition to legal reconstruction, assuming the form of a "new rebellion," will soon run its race and spend its fury; for before the election in November next at least eight of the ten States will be restored to the old family of the Union. The evil spirit cast out, they will be "sitting clothed and in their right minds." This new organization of which we are hearing will be only a breeze to fan the dying embers of the old rebellion and prolong for a while the hostility to the Union, which if let alone will die out and perish of its own corruption.

"I regret nothing but the dead and the failure" is now being echoed all over the South in response to the movement of the friends of the new rebellion in the North. Indeed this sentiment is so common among the class of leading noisy rebels that it is almost universal. They are giving more labor to the question how they shall restore a "lost cause" than they do to "restoring again their waste places" and repairing the ruin they caused.

Mr. President, the discussion upon the "restoration policy," as it has been called, adopted by Congress, has arrested the attention of the Senate already, perhaps, too long. There is only one view of the subject which I desire to present that has not already been presented to the Senate; and to this one thought I shall direct my remarks.

It is said that our plan of restoring loyal State governments in the South is radically defective, because we undertake to legislate for a people who already have valid Legislatures and legal constitutions and governments. Here is precisely the point where the two plans diverge, and here it is where we parted company with some who had for many years traveled the same road we had pursued; and the new rebellion took its rise here; and this separation has now become so wide and apparent that an agreement seems impossible.

The legislation of Congress has been directed pointedly to the early restoration of the southern States upon a basis of loyalty and equality, the same as though they had no State constitutions and no civil governments.

I come now to ask how did we obtain the right to legislate for the people of the South? While I admit the argument based upon the rights of the conqueror. in the hour of his triumph, to dictate terms of peace and a basis of settlement, yet in this particular case I undertake to say that all the rights we claim over the States lately in rebellion were yielded to us by the very terms of the surrender when Lee and Johnston surrendered the confederacy in arms to the forces of the American Union. To the very pertinent question, who gave us the right to legislate for that people? I answer, we obtained it in the surrender.

Now, sir, what was surrendered on that memorable morning of April, 1865? I answer, everything not especially excepted in the terms of the surrender. In that forever-to-be-remembered struggle there was an issue made up of conflicting events for more than half a century. The war was not of one discordant element, but of many; not because for once the South did not elect their President, but because of what they considered many aggravations. And I undertake to say that the surrender contained all the issues that went to make up the elements of the controversy. All they went to war about was involved in the terms of the surrender. I repeat, nothing was saved not specially excepted in the written terms of the surrender. And what were the terms of this surrender? Simply this in substance: "Go home, rebels; lay down your arms; obey the laws, and you shall be free from arrest."

What then, I ask, was excepted in the terms of the surrender? Nothing but their necks, with freedom from arrest while they obeyed the laws of the United States.

And what was surrendered? Everything they went to war about; every issue of the war; everything in controversy between the two contending parties. In that one surrender they surrendered all. And what beside the property and military stores did Lee and Johnston surrender while they stood there representing the organized head of the southern

confederacy? Why, sir, the old horses, arms, commissary stores, and quartermaster supplies were the very least things of the surrender. They surrendered everything that went to make and uphold the confederacy, and everything that was an element in controversy valuable in peace or potent in war, whether of their confederate government or of their State governments: everything that was allied to and a part of the support of the rebellion was surrendered. The old dogma of State sovereignty, the right of a State to nullify the laws of the General Government, was in the issue and was surrendered. The dogma of supreme allegiance to the State and of a man's paramount duty to his State when it was in conflict with his duty to the United States was in the conflict and was surrendered. And every institution of the South which made up the "irrepressible conflict" of half a century was put into this contest and was surrendered by the terms of the surrender. All the forts and arsenals which had been taken at the outbreak of the war were surrendered; and not those only, but every boat, ship, and steamer, whether on their rivers or in mid-ocean, was in this surrender. Every bale of cotton and every species of property belonging either to the confederate or State governments was given up to us in the surrender.

But all this was as nothing if we acquired only the property engaged in the support of the war. Then would the surrender have been barren, indeed—not worth the blood of a single man. What, then, did we acquire by the surrender that was worth all the blood and treasure spent in the conflict? I answer, in a word, we had surrendered to us all the confederate and State governments, including both their State and confederate constitutions and laws. All that went to make their governments, the very parchments upon which their laws were written, was all surrendered; every State constitution and State law, as well as their confederate constitution and confederate laws, because they had been changed and used to promote the rebellion. In short, everything which upheld the rebellion and was not specially excepted in the written terms was surrendered; and the United States took immediate and rightful possession. They had changed every statute and sworn every officer into the service of the rebellion, and of course they were surrendered with the surrender.

Now, then, in answer to the question, how did we acquire the right to legislate for the people of the States lately engaged in rebellion, I answer we acquired it by the terms of the surrender. Their helpless condition invited it, and their necessities—to have any civil government—compelled it. They had prostituted everything to aid the rebellion; they put it all into what they called "their cause," and surrendered all. Why, then, did we not acquire the right to legislate for them? There is not a law in all the South to-day of any binding obligation which Congress has not enacted or sanctioned.

Having acquired the right to legislate, I shall now proceed to show that we enacted nothing which was not right in itself and necessary to secure the objects we had in prosecuting the war. Who would have prosecuted the war for an hour save only to establish the authority and unity of the General Government and secure the freedom and equality of the American citizen? And in the reorganization who is so recreant to his trust as to fail to insist that the very objects sought for and fought for shall be attained. The General Government having acquired the right to legislate by the terms of the surrender, and all civil law and constitutions having been surrendered for that purpose, what have we enacted? Several things:

First. The constitutional amendment abolishing slavery throughout the land.

This measure, manifestly so just, is not now strenuously resisted by any one. Even those slave States where slavery was abolished, not in the rebellion, seem to acquiesce in it. The day of deliverance for this people had come. With or without this constitutional amendment they would all have been free. Their freedom was decreed in the proclamation of emancipation a year before, and if that had not secured it slavery was surrendered with the other elements of the contest in the terms of the surrender. No complaint can be reasonably chargeable upon Congress for this act. Indeed it is the brightest page of American history, even if it was inevitable. The three hundred years of their captivity were ended and their time had come, for in the hour of our country's need they were able to strike the redeeming blow of their own freedom, and mingled their blood with that of patriots of every land who fought and fell together in the ranks of the Union Army, thus consecrating this North American continent as a heritage of freedom for man in all time and of all nations.

Then to make valuable and permanent this freedom we enacted the "civil rights bill," so called, as another step toward the reconstruction of those States. The dogma that these people "had no rights which white men were bound to respect" was thus destroyed and abandoned. Then came the constitutional amendments of 1866. These were to be equally binding upon all the States, and so could not be held to be any form of legislation adapted to any particular State or section of the country. But they were adopted by the requisite majority of the adhering States, and indeed by the required majority of all the States which had valid Legislatures, and were in accredited relations with the General Government. But, whether a part of the Constitution of the United States or not at this time, those several articles or sections have been so far adopted that the questions involved may well be considered as settled. This proposition—

1. A recognition of the status of an American citizen. It is to be born or naturalized in America, and that there shall be no inequality of rights among citizens of the United States.

2. This amendment committed the country to the inviolability of the loyal debt, while it blotted out the rebel hope that we should ever assume the payment of the rebel debt.

What can be more just and wise than the early settlement of these questions? And there is not one proposition contained in that constitutional amendment that any man or party not desiring extinction can for a moment resist.

Who now proposes to establish inequalities among citizens of the United States? None, unless those engaged in this "new rebellion." Why does not some one bring in a bill to reënact the monstrous iniquities which we have abated by law? Why is it that there is no one left to sigh over the fading records of pro-slavery legislation and pro-slavery proscription, now vanishing away in fading memories like dissolving views? Why, sir, it is because this new legislation is only a part of the history of this new era, where the doctrine of human freedom and the rights of man has made every page historic and glorious!

Who now doubts that the faith and resources of this nation are all pledged to uphold and ultimately to cancel the loyal debt? And why should we not? It is the price of our freedom. It is what we incurred to save the life of this nation! It is the cost of civil liberty upon this continent as an inheritance for coming generations and the hope of mankind! It should be cherished as we do the memory of the just or the blood of the martyrs.

But let the rebel debt perish, for it was but a contribution to treason. Let the confederate bondholder, whether in this country or in Europe, hold on to his bond! I am gratified to know that for the most part those aristocrats in England who spent their sympathy for the rebellion took their pay in confederate bonds! Sir, let them hold on to the bonds. Let the father invoice them to his son, that the boy may see what his father contributed to destroy the freest Government on the earth and to blot out a united and free Republic upon the western continent. No, sir, they never should be paid. Let them hold on to their bonds, according to the old adage, "while fire burns or waters run;" while the skies vault themselves or the blue arch spans the heavens; while God is worshiped in temples or heard in the thunder! Let them hold on to their bonds as their heritage of treason or for their sympathy with rebellion. They are the "fruit of their own doings." Let them hold on to them.

These constitutional amendments and the legislation which followed have settled the status of those State governments, and left us free to adopt such legislation as their necessities might require and as the enlightened judgment of mankind would justify. And the reconstruction acts of the last Congress were such as made plain and easy the work of reorganization, if the men of the South were truly disposed to "accept the situation" and acknowledge the equality of all men in their legitimate rights. But that invitation to return to their relations to the Federal Union fell upon, to some extent, unwilling ears, and was resisted by rebel hearts, who are now encouraged by the new rebellion. "I regret nothing but the dead and the lost cause" was uttered by many and felt by thousands beside Robert Toombs; and the encouragement they have received from the Executive and the party allied to him in the North has retarded somewhat the work and may make further legislation necessary. If this party had withheld its encouragement, and the South had in good faith accepted the former legislation and hastened their restoration, that legislation should have been as a covenant between us and them. I would have asked for nothing more, while I should have insisted upon nothing less. But it met their strong opposition, and then it was that we found that the only true basis of restoration was the loyalty of the people; and it was determined that the class most loyal should not be left out. Then it was, too, that we put the ballot into the hands of every man, being a citizen of the United States, who had not forfeited this right by rebellion and treason.

Why should not every loyal man have the ballot? Who has made one innocent man better than another? And who has acquired the right to limit such a man in his rights? When we took them into the Union Army we only required of them a capacity for the work in hand. What more do we want now? If they are ignorant whose fault is it? Let them now be enlightened. If they are uneducated then unlock the storehouses of knowledge and let in light, free and pure as the waters of life.

Should they not be immediately educated? The very instinct which guided them to the north star, by day and by night, during the years of their captivity, which led them to the Union side during all our contest with their old masters, which enables them to perceive the right with most unerring certainty, will also guide the hand with the ballot, and the hopes of their most sanguine friends shall be fully realized. The ballot educates, protects, and elevates. Let the slander started by the President in one of his numerous veto messages, that we "proposed to Africanize the South," perish, for it is not worth an answer or a denial. What has Africa to do with American-born citizens, whose ancestors have been here for two hundred years? Talk about "inferior races," when we are considering only the rights of this great American race; and of men who know no other country or other clime! Talk about a war of races upon this continent! Who wants to get up a war of races here? Certainly not those who have just achieved their rights. If they refrained from making war when deprived of all rights, what motive have they to commence one when their rights, civil and political, are secured? Aye, sir, if there is a war of races, it will be produced by those who would deprive them of their rights and restore them again to the ignorance and deg-

radation from which they have just emerged. Of course men will predict a "war of races," and expect one, when they pursue the very course to incite it. Shut him away once more from your school-houses by law; tear from his hand the ballot, now that he has learned to value it; deprive him of the right of representation for himself and a place in the jury-box; carry out in this respect your platform to the fullest extent, and what can be expected but a war of races? Neither man nor angel can submit to such a robbery, and the Almighty has no attribute to take the side of the oppressor.

But it is too late to talk of a "war of races," for the victim of your hate and oppression is now clothed in the garments of American citizenship. You will be slow to make war upon citizens with the power of the ballot in their hands and at their command. There is power enough yet in this Government to protect American citizens.

While I, Mr. President, have spoken of cordially welcoming the return of the States lately in rebellion when they honestly and fairly come with a full compliance with the laws made for their restoration, and while I have no sympathy with the new rebellion which would keep them out, still I do not mean to say that I am satisfied to draw a vail over the crimes of the past and let the guilty leaders go unpunished. I am not for opening every prison door and making a hero of the chief leader of the rebellion. Those who voluntarily took up arms against this Government, it being their own Government, committed crimes deep enough and dark enough to condemn a race; but the crime of the multitude who followed those who had the responsibility of leading sinks into insignificance and whitens almost into insolence when compared with the few leading men who planned the revolt and led it on to execution. Why has not the majesty of law and government been vindicated? Why have the leaders gone unwhipped of justice, while their poor followers, deluded into crime, lie bleaching in half-covered and unmonumented graves, or, if alive, writhing in the twofold agony of a lost cause and a desolated household? Sir, with all my forbearance and anxiety for the return of the late rebel States, it is my deliberate judgment that it is high time somebody had been hung for treason. Some blood should have been shed long before this for the vindication of justice and violated law. I know we have hung some for assassination, and the trial of another is yet to come; but that is not the crime they committed, and in that they only were the duped instruments, not the moving spirit, not the "head center," where all responsibility pivots and hangs. But even these tools of the inspiring genius at the head struck at the life of the President of the United States, not the inoffensive citizen, Abraham Lincoln. That pistol-shot was aimed at the head and life of this Government, and those who confederated with Booth were his partners in the attempt to destroy this Government by striking at the head of the President and, at the same hour of night, at the heads of the Departments, showing that their crime was treason, not assassination. It was making war on this Government, adhering to its enemies, giving them aid and, for the moment, comfort. Yet during all these three years no wretch has had a trial for treason, and no conviction has even been aimed at.

I am expecting, however, that during the March term of one of our courts we shall have what I have so long waited for. Instead of any such thing, the head and front of this, the greatest crime of the ages, in the person of one for whose arrest we paid more money as a reward than we took for his bail, was feasted in prison, and is now faring sumptuously, I suppose, traveling for his health. Oh, sir, while the memory of Libby and of Andersonville lingers in the loyal heart there will be grief, if not anguish, that this chief of criminals escapes conviction. Voices not audible to our ears will plead for his punishment; and mercy, which is the highest type of justice, will not be dumb at their pleadings. I care not what others may say, but to my mind it is time some one, at least, expiated his crime of treason by hanging between the heavens and the earth, as unfit for either, a spectacle to mankind and a lesson to the nation!

But, Mr. President, justice sleeps for the moment; it lies napping in the lap of time. It will be summoned ere long, and, if not in our way, in some way the crimes of the past shall be atoned for, and all things will be made even. Sufficient for the moment it may be that the leaders of this "lost cause" have lost their leadership; having been false as well as wicked guides they are no more to be trusted or followed. Other men will be raised up, other hands will point the way, and other voices will be heeded. All this time the work will go on. The laborers may fall, but the edifice will rise. Those who have been dumb for generations, because forbidden to speak, will now have voices. Those left out of the enumeration when men were counted will now all be numbered. "Those that were not will put to naught those that were." So that the dream of the fathers, who sighed for a free representative Republic, shall be realized.

In this work there is no room for discouragement. Nothing worth preserving is ever lost. Baffled for the moment, we return with renewed energy and purpose, and "the work goes bravely on." The voice of executive opposition only insures success. A bill vetoed is surer to become a law, and each statute is an advance in the work. Encouraging voices are speaking to us from every southern State. No man is trampling upon the rights of the freedman, for he has a ballot and sits upon boards of registration and in constitutional conventions. The "war of races" has passed, for every voter is a "fellow-citizen." He is now appealed to by the leaders in the South with kind and loving words, just before election at any rate. His odor has gone! his manhood is recognized; the ballot is omnipotent. It is better for protection than a standing army. It is invincible.

"It executes a freeman's will
As lightning does the will of God."

Mr. BUCKALEW. Mr. President, one aspect of the general subject of reconstruction has not been made prominent in this debate so far as it has progressed. I think we should take up this great subject and discuss it with reference to the question of party power which is involved in it, and which, whatever may appear upon the surface, really inspires those who speak on both sides. We shall get a very inadequate idea of the subject of reconstruction if we confine ourselves to a discussion of the matter of the acts of Congress which were passed in relation to it during the past year. We shall get a very inadequate idea of it if we discuss it with reference to the capacity of the adult colored men of the South for the exercise of the right of suffrage. We shall fail to grasp and to comprehend it as it must be grasped and comprehended by the highest intelligence if we confine ourselves to those considerations which relate to it as a mere plan for the political reorganization of the South.

Because this is so, as I believe, I shall begin my remarks by describing the existing organizations of power in the Government of the United States, or rather in the legislative department or branch of that Government. Mr. President, by referring to statistics, which are now within reach, we shall ascertain that recently there were at the popular elections held in the northern, central, and western States votes given which, when aggregated together, amounted to a little more than two million one hundred thousand in favor of what is known as the Republican party; and votes were also given in favor of what is known as the Democratic party, or Conservative party, amounting to a little over two million. The difference between the sums total of votes given to each party was about one hundred and fifteen thousand:

ELECTIONS OF 1867.

	Dem.	*Repub.*	
Maine	46,272	58,038	—Governor.
Rhode Island	3,340	7,554	—Governor.
Massachusetts	70,360	98,306	—Governor.
New Hampshire	32,663	35,809	—Governor.
Connecticut	47,575	46,585	—Governor.
New York	373,029	325,099	—Secretary of State.
Vermont	11,510	31,694	—Governor.
New Jersey	67,468	51,114	—Legislature.
Pennsylvania	267,751	266,824	—Judge of Supreme Court.
Maryland	63,739	22,110	—Governor.
Delaware	9,810	8,598	—Governor, 1866.
Ohio	240,622	243,605	—Governor.
West Virginia	14,943	20,573	—Legislature, not complete.
Kentucky	90,225	83,939	—Governor.
Independent	13,167		
Tennessee	22,548	74,484	—Governor.
Indiana	155,102	169,618	—Secretary of State, 1866.
Illinois	147,058	203,045	—Congress, 1866.
Michigan	67,708	96,746	—Governor, 1866.
Iowa	58,880	90,789	—Judge of Supreme Court.
Wisconsin	68,873	73,637	—Governor.
Missouri	40,958	62,187	—Superintendent of Public Schools, 1866.
Minnesota	29,543	34,887	—Governor.
Nebraska	3,948	4,093	—Governor, 1866.
Nevada	4,065	5,208	—Governor, 1866.
Kansas	8,151	19,370	—Governor, 1866.
California	49,905	40,359	—Governor.
Oregon	9,956	10,283	—Governor, 1866.
	2,019,169	2,134,554	

This statement is arrived at by taking all the interesting and full elections which were held in those States in 1867, and where no such elections were held in that year, borrowing the figures from the previous year—1866—which will give a very favorable aspect to the returns for the Republican party, because it was much stronger before the people in 1866 than it was in 1867. In the States of Indiana, Illinois, Michigan, Iowa, and Missouri, lying together in the West, contiguous to each other, there were Republican majorities given at the elections in 1866 amounting to the large aggregate of one hundred and fifty-two thousand six hundred and seventy-nine. If elections had been held in those States in 1867, elections which would have called out the full vote, would have induced a complete expression of the voice of the people upon public affairs, no one can doubt that the greater portion of this aggregate of one hundred and fifty-two thousand of political majorities would have been swept away. Instead of their amounting to that large number they would most likely have not been over twenty or thirty thousand altogether; and if you took the same proportion of loss that occurred in the State of Ohio in 1867 as compared with the previous year this aggregate majority would have been either wiped out altogether or reduced to an insignificant amount.

But, sir, I have not made any correction of the numbers as they appear upon the face of the returns. I have taken the elections for 1867, as far as those elections were full, and the elections for the previous year, where later information could not be obtained. This statement commences with Maine and goes through all the States represented in Congress at this moment, including even the dominion of Brownlow. Tennessee is included, and every other State represented in the Senate. The aggregates made up in the manner I have described are of Democratic and Conservative votes 2,019,169, and of Republican votes 2,134,554, giving an apparent Republican majority in the represented sections of the United States of 115,385. That is the result of the figures, and upon a total vote amounting to 4,153,728.

Here you have in these election returns the voice of the people of the United States as pronounced at the latest periods at which we can have a due and clear and satisfactory investigation, and I have made up this statement not in a partial or unfair manner, but in one which is liberal and favorable to the Republican party. Then how ought the people of the United States, whom we represent here, to be heard here?

How ought their voices to be pronounced in the Senate, not upon this measure only, but upon all measures which come before us? According to a principle of numbers, according to a rule of equality based upon numbers, the majority in this Chamber ought to have twenty-eight members and the minority twenty-six; that is, upon this and upon all other political questions which are voted upon here, if the voice of the people were represented exactly as it has been spoken in the latest and most authentic form, the vote ought to be twenty-six to twenty-eight; and that allows the majority the advantage of a member upon a fraction of only three fourths of a ratio.

Is that not so? But I need not answer the question. Every one knows that the fact should be so. The actual constitution of this body at present is this: it is composed of fifty-three members, there being a vacancy in the representation of the State of Maryland; and of those fifty-three members forty-three belong to the political majority, and ten only to the minority, the latter being composed of a member from the State of Connecticut, one from Pennsylvania, two from Delaware, one from Maryland, two from Kentucky, one from Indiana, one from Wisconsin, and one from Minnesota. That is, all the members who are classed either as Democrats or Conservatives, combined together, count but ten, while the majority party counts forty-three, or more than four to one.

Such, sir, is the political composition of the Senate of the United States at a time when the people of the United States, whose voice ought to be pronounced here, are about equally divided, as the returns of the elections show. The majority have, therefore, an unjust power if it be measured by a principle of equality, based upon numbers, amounting to fifteen voices in this body, the difference between twenty-eight and forty-three, and as that fifteen is taken from one side and added to the other, the result is in effect an unjust voice and vote on political questions in the Senate amounting to thirty. Thus, it is almost impossible that any subject which shall approach a party complexion in this body can be determined otherwise than in conformity with the most radical and extreme opinions which may prevail among the majority members; for we know how a political party acts, or rather, how it is directed. It is controlled almost uniformly by the most violent, by the most ardent members among those who compose it. They are triumphant in caucus—in the private consultations where the action of the party is determined upon. In debate they apply the lash to their more moderate colleagues, and drag them forward to support the most extreme and radical measures which they may propose. When, therefore, a majority in this or any other body of similar constitution is so large as four to one, you may take it for granted that the extreme and violent men in the majority will rule the action of that majority in the first instance, and in the next the action of the representative body, and thus dictate the legislative policy of the Government.

Such is the fact here, as we all know. Measures which were received with reluctance at first are all, one after another, in the course of time accepted and acted upon by the political power which controls. Let us go back in mind to the beginning of the war, and trace the political history of this body down to this time, and is not that statement true? Does not the Senator from Massachusetts who has spoken in this debate [Mr. WILSON] utter the truth when he says that the radical men, the pioneers in agitation and in political action, uniformly triumph sooner or later? Of course they must triumph, and they always will triumph, under such an arrangement and organization of power as that which I have described.

Well, sir, if you should leave the Senate Chamber and pass to the other end of the Capitol and investigate the composition of the House of Representatives, which is a more popular body in its constitution, where the principle of numbers was intended to prevail more directly than in the Senate, you find the same condition of things at this moment and the same political history in recent years. You find there that, whereas in the elections to which I have referred you there was about an equal division of the vote in the country, that House, like the Senate, stands about four too ne as between political parties, and it has been and is now controlled by extreme party men.

I think this fact is a great evil. I do not believe that free government can be carried on in this country or in any other country upon any such foundation permanently. I believe that difficulty and disturbance will come in, and that eventually there will be a crash, a collapse of the system, a departure from it, an abandonment of it, a substitution of something else, a dictatorship, or some other form of evil or misfortune. One thing nobody can question, and that is that here, in point of fact, in the Government of the United States, there is a prodigious departure from republican principle, from the fundamental idea of republican representative government, that the people with whom is lodged the electoral power of the country shall control the Government, shall have a fair and equal voice, and that legislation and the administration of the laws shall be according to their will and subservient to their interests.

Mr. President, if there had been a representation of the people of the United States—I mean the people in the adhering States, the States that did not go into rebellion—if there had been a representation of the people during the war, and particularly since the war, in conformity to a rule of abstract justice and propriety, according to true republican principle, we should be in a far different and better condition to-day than we are. Our debt would not be half what it is; our country would not be disunited at this moment; and we should not have before us the future which now impends. But, sir, we cannot change the past; we must accept what has taken place as unalterable, and our attention must be directed to the future. It is directed to the future by this debate. Before, however, I proceed to point out the considerations connected with the future policy of the Government in regard to representation in the two Houses of Congress, it will be necessary, or at least instructive, to point out the causes of the present condition of representation in Congress such as I have described it.

Why is it that twenty-one hundred thousand electors have forty-three voices in the Senate and two million have ten? The first cause is the undue representation of particular States and sections. For instance, the six States east of the Hudson have an aggregate population, according to the census of 1860, of 3,135,283, with twelve members of the Senate, giving a Senator to each 261,273 inhabitants. Taking all the States of the Union represented in Congress, you will find that it requires on an average a population of 444,972 for each Senator. The result is that that particular section of the Union which lies east of the Hudson has six members of the Senate more than it would be entitled to if there were a distribution to the different sections of the country according to numbers. I mention this without enlarging upon it.

In the next place, one cause of this inequality has been the legislation of Congress. In 1864 you, sir, [Mr. WADE,] introduced bills into the Senate, which were enacted, providing for the organization of new States in the West—for the organization of Nevada, Nebraska, and Colorado. That was about the time when the late President, Mr. Lincoln, was reorganizing States in the South, or taking steps for that purpose. He was having proceedings carried on with that object in Arkansas, in Louisiana, and in one or two other of the southern States; and there can be no question that the rapid introduction of new States in the West made, from Territories there, was urged and supported here with reference to that policy of the President and to countervail it. It was very naturally thought, and very naturally said by some, that it was necessary to strengthen the free State interest in the West as against the time when the South should be again represented—when she should again come into the Union with her former political power, and be in a condition to contend again for the mastery of the political affairs of this Government.

However that may be, in 1864 there were three bills passed, one for each of the Territories I have named, as they then existed; and it was provided in those bills that the proceeding for organizing State governments should be carried on to the very end, and the constitutions transmitted to the President of the United States, and he should by proclamation declare those Territories admitted as States without any further action by Congress. That was a very remarkable provision, something new in our political history. Congress beforehand, before the proceeding of organization was complete, provided for their admission. It was not required that the proceedings should be completed and the constitution laid before the two Houses, and an act of admission then passed, as had been the previous practice. The idea was to introduce the new States west rapidly, in order to secure political power in this Government as against the expected reintroduction of Senators and Representatives from the South. Well, sir, under the proceedings which were instituted in accordance with those laws, Nevada organized herself as a State, chose her Senators and Representatives, and became a State of the Union, the President issuing his proclamation in pursuance of the law. This scheme for hurrying in new States, however, came to grief in Colorado, and failed for a time also in Nebraska. But, subsequently, application was made here for the admission of Colorado with an irregular constitution, which was contested a long time. A majority of the Senate and of the House voted in favor of an admission bill; it did not, however, become a law. At the next session a bill of admission was again introduced, again passed, and met an executive veto; and then with great difficulty, indeed, was it possible to array one third of the Senate against it and prevent its enactment into a law. I recollect one scene very distinctly. After the hour of midnight we were sitting in this Chamber and the struggle was going on to know whether the vote could not be hurried before members were present in their seats who were opposed to the bill, and the State admitted over the veto of the President of the United States. The attempt failed and the bill failed. Well, sir, what do we hear now in the newspapers? It was nearly two years ago that this question arose with reference to the admission of Colorado; and now what do we hear? This twice-rejected Territory is here, her so-called Senators are in the lobbies of the Senate and about the Capitol, and the suggestion is thrown out that we are to be called upon once more to admit Colorado as a State, not under any new proceeding in the Territory, but under the old one, the former one. If this Senate were organized in a different manner, if there were a balance of power or a just arrangement of power in this Government, such things would not be thought of; they would not be mentioned even in newspapers, or if they were they would be hooted at as calumnies upon a republican Congress. Now they can be talked about, and after the experience we have had for three or four years of extraordinary measures who knows what may not take place, at least what may not be attempted.

Nebraska came in last year. We had a contest with reference to her also. The bill of admission was vetoed by the President, but afterward passed under political pressure and under nothing else, and the unfair majority in this body was thus swollen two more in number.

By the admission of Nevada and of Nebraska you account for four of the forty-three votes

which belong to the political party in the majority in the Senate. By the transactions in reference to Colorado you see the attempt which was sanctioned by a majority for the admission of two more.

Now, sir, need I go over the facts in regard to these cases? I will just read some figures in relation to them and pass on.

Nebraska, at the last election held, which was in 1866, for Governor, had a total vote of 8,041; and for a member of Congress a vote of 8,892, being 851 more than the vote for Governor. Colorado had in 1866 a total vote of 6,996 on Delegate to Congress, and for the Legislature in 1867, the very latest vote, 9,349. In Nevada the whole vote for Governor in 1866 was 9,273. At the latest accounts which we have, in neither one of those three proposed States, bills for which were rushed through away back in 1864, are there ten thousand electors, who would represent only a population of 50,000, or less than half the number of inhabitants required, under the existing apportionment law, for a member of Congress.

These are the undisputed facts in regard to these three cases. Now, sir, let me call attention to some other facts shown by authentic figures relative to other Territories. No enabling acts have been passed for any other of the western Territories, either in 1864 or subsequently. In New Mexico, at the last election, in 1867, there was a vote of 17,685 for a Delegate to Congress; in Montana, for Delegate to Congress, in 1867, there were 10,900 votes; in Utah, for Delegate to Congress at the election on the 4th of February, 1867, 16,281 votes; and in Idaho about the same vote for Delegate, or nearly the same vote as that given in Colorado in 1866. You see here that there are several Territories having a much larger population than these three, the attempt to introduce which I have described. Utah has a population more than double that of either one of them; New Mexico has a population also double that of either of them.

If you will look at the election returns from all these Territories you will find the fact to be that in the three which it was attempted to introduce into Congress, and with reference to two of which the attempt has succeeded, they had Republican majorities when the attempt was made and have yet, while in the others the fact was not so. At the last election in Idaho the Democratic vote was 3,641, the Republican 2,923, for Delegate to Congress; in Utah there was no division politically; in Montana for Delegate to Congress the Democratic vote was 6,004, the Republican 4,896; in New Mexico for Delegate to Congress in 1867 the Democratic vote was 8,891, and the Republican 8,794. There was no object for the introduction of these Territories, two of which had when this business began in 1864 each more than double the population of either one of the then proposed new States.

Mr. FESSENDEN. Did either of them ask for admission?

Mr. BUCKALEW. Not that I know of. The question has been put sometimes, did the Territories for which enabling acts were not introduced ask for admission? We know a great many things are asked for when they are invited, while upon other occasions they are not asked because there is no invitation and no inducement to ask. The facts standing clearly on the record are that you had State organizations proposed for three Territories, in neither one of which was there a population equal to half the ratio for a member of Congress, and you had no such bills with reference to other Territories where the population was much greater, and the political complexion of the different Territories explains fully the reason for this difference. At all events, the fact remains that by the legislation of Congress, by the introduction of two new States from the West, you have added in cases destitute of all merit, if numbers be at all regarded and the magnitude of interests be regarded, four new members to the Senate, in order to swell the mass of majority power.

Mr. STEWART. Will the Senator allow me to correct him? I suppose he wants to be entirely accurate.

Mr. BUCKALEW. I will say at this point that if any gentleman wants to correct me on a question of fact I will give way with great pleasure.

Mr. STEWART. I simply want to say that the Senator is mistaken about the numbers in Nevada at the time of the passage of the law. At the election of that year the vote was seventeen thousand and the population may be reasonably estimated at something over seventy-five thousand. I do not think the population has increased since that time; but the vote of last year was very small. The population is now increasing. The vote of last year is not a very fair estimate of the strength of the parties, for it did not call out their full vote. The voters in our State have to go a very long distance to the polls, and it takes perhaps the excitement of a presidential contest to bring out a very full vote.

Mr. BUCKALEW. I am perfectly aware that in the mining sections population shifts very much. It is migratory in its character; and I may add, as suggested by a member, that it is composed mainly of males, of voting population; because settlements have not become permanent, and that is one objection to the formation of these States, that the numbers you find there in any one year are no certain criterion of what the population will be half a dozen or ten or fifteen years hence. They may have departed entirely and shifted to some other quarter.

Another mode by which party power in the Senate has been maintained has been, of course, by the exclusion of the States of the South from all representation, a point which I simply mention without enlarging upon, as it is the very foundation of our whole debate, a thing which requires no explanation.

Again, the majority power in this Chamber was increased by a decision upon a case of membership from New Jersey—the case of Mr. Stockton. That case was debated at great length in the Senate, and decided by a very close vote. Of course I am not going over the merits of that question; I merely allude to it in passing. There was virtually an expulsion of a member (as I think) under the form of a decision upon the regularity of his election. A person claiming membership in this body, in whose favor there was a report from the Judiciary Committee, with but one dissenting voice, was rejected—virtually expelled, as I think—by a political vote; and thus one member, as the event turned out, was taken from one party of this Chamber and added to the other.

The great cause, however, of incorrect representation in the Government at this time arises from the majority rule in elections. The members of State Legislatures are elected by that rule, which has obtained throughout the country from the foundation of the Government; and those members, when they come to choose Senators, always act upon the same rule, by which it happens that a political majority obtains more than its due share of representation in the Government. The same cause of inequality operates in choosing Representatives to the other House. That is a defect that extends throughout our political system. It affects the action of Government here as well as in the States. Of course this is a defect of our system for which no party is specially chargeable.

Now, Mr. President, without dwelling upon these points I come to the material inquiry as put before us in this debate. It is now proposed by a party of the country, which holds about four times the amount of relative power which it should in both Houses of Congress, to organize State governments in the South and to obtain from them Senators for introduction here and members for introduction in the other House; it is proposed by a political party to so mold and shape the political institutions in one third of the United States that their present power shall be increased in both Houses, or at all events, if disaster should befall them in other sections, that their power in both these Houses shall be retained in future. Sir, when you put aside all the questions which are intruded upon our attention and discussed at length as connected with reconstruction, here is the vital point; and if this were not involved our debates would be much briefer than they are; fewer members would speak; less interest would be manifested, and a decision, and doubtless a proper one, would be speedily reached. This is a struggle for political power. It is an attempt by which a party already possessing unjust power shall hold on to it, by which it shall secure itself against the accidents of the future, and maintain that supremacy and that domination in the Government of the United States which it has held since the elections of 1860.

Mr. President, I am against this odious and injurious scheme. I am against this plan by which party power shall be maintained in this Government regardless of fundamental principles which are sacred and necessary to our prosperity and safety. If there was to be a disturbance of party power for a single election or two, capable of being corrected in the future, it would be quite a different matter; but here is a permanent arrangement to be substantially unchangeable in the future to give direction to the Government of the United States in all future time; to be beyond the reach of any ordinary political corrective; to be so placed and fixed in our political system that the people by voting against it hereafter cannot undo what has been accomplished.

"Gentlemen say, with a tone of triumph, "this is all arranged; here is a law; proceedings are taking place under that law; men will be elected to this Senate and will be elected to the House, and will be received in each; constitutions will be formed and accepted; and the whole business of reconstruction will be completed within the period of twelve months;" and then the question is sneeringly asked, "What are you going to do about it? How are you going to help yourselves?" Mr. President, I had supposed (at least until recently) that this was a Government of the people. I had during my entire life, down to a very recent time at least, rested under the positive conviction that the people of this country could do whatsoever they pleased with their political institutions, whether fundamental or casual, whether the question related to territorial or provisional forms of government, or to something permanent and settled by constitutional provision; and yet we are told that reconstruction is to be placed, or is about being placed, beyond our reach, so that we cannot affect it or disturb it in any way whatever.

Let the fact be considered and pondered upon that this question of degraded suffrage in the South has never been submitted to a popular vote anywhere in the United States. Sir, take that fact home to your reflections. Let every gentleman consider it. An arrangement of suffrage which is fundamental, which affects the constitution of the political body itself, it is said, is to take place in the United States without the people having passed directly upon the question in any way whatever. In no single State of the South which is to be affected by this new rule of suffrage has there been a popular vote upon it; nor has the question been submitted to any State even of those which are represented in Congress. In some of the States north the question of a rule of suffrage similar to this has been submitted and uniformly voted down; but upon this great question, which affects the whole country and affects our future institutions in all coming time, there has not been a vote of the people of any portion of the United States invoked or permitted by Congress. Why, sir, can anything be clearer than that the rule of suffrage in a State as regulated by its constitution is changeable only by the same authority which made the constitution; that you must submit that question, if you submit no other question, to the people themselves; that they alone have the sovereign power by

which it can be regulated? And yet this has not been submitted in any State of the South; nor has it been submitted even to the people who are represented in this Government in the States North or West.

I say, then, that this whole scheme is brought forward and is to be put upon the people of the country without their consent. Their consent has not been asked. Why, sir, even in the elections of 1866, when the present members of the House of Representatives were chosen, this question was not submitted even indirectly to the people. What was it you sent down for their decision at that time? You sent down a proposed constitutional amendment, now called the fourteenth, in which you proposed some half a dozen things all grouped together in one amendment, and to be accepted altogether or rejected altogether; but you did not propose then, as you do now or have done during the last year by your enactments, this rule of suffrage as compulsory. You did not inform the people of the country that you intended to impose it by congressional power. No, sir, it was all voluntary then. This amendment was to be submitted to the Legislature of each of the States, both the adhering and the seceding States, and each was to be at perfect liberty to accept or reject it; and upon that proposition you went to the people and held your congressional elections and obtained your majorities in the congressional districts of the North and West. That was in the fall of 1866. Last winter, however, on the 2d and 23d of March, and again in July, you built up your structure of reconstruction. You laid then its foundations. You built it up from nothing until now it towers and overshadows the land.

That scheme of reconstruction you have never submitted to the people anywhere for their judgment. To be sure, at the last fall elections they took this subject somewhat into consideration. They observed what you were doing, and in an indirect manner they expressed their opinion upon your works; and it was not a favorable one. When you sent to them in Ohio and in other States a proposition that they should make their local State constitutions conform to this model which you are setting up for the South, they said no; and they said it in tones which you heard. I wish, sir, that you would regard it. You certainly heard it. We all heard it, because it resounded throughout the land. Our people refused to take this scheme home to their own firesides, to apply it to their own political institutions in those States which are represented in this Government, which have a voice and are entitled to a voice in it beyond all question. I repeat, sir, your whole scheme of reconstruction, based upon degraded suffrage, (because it all comes to that,) has been sprung upon the country, and you are attempting to impose it without the consent of the people either of the South or North. If you are judged by the facts, you must concede that this is a just description of your proceeding, a faithful delineation of its character.

The Senator from Wisconsin [Mr. DOOLITTLE] some days ago commenced this debate by speaking upon his resolution of instruction to the Judiciary Committee on the reference of the bill. He was answered by four members of the majority in succession, who one after another took up, as they said, the gauntlet, the gage of battle, which he had thrown down. They replied to him. Other gentlemen have spoken since in the debate. You see what is the result of constituting this Senate as it is, four to one politically. The Senator from Wisconsin can speak upon one side and four gentlemen can be paired off with him on the other side. For whom do they speak? The people of the United States? The population is equally divided in political sentiment. Here is an illustration of the effect of that political composition of this body to which I have alluded. The Senator from Illinois, [Mr. TRUMBULL,] the Senator from Indiana, [Mr. MORTON,] who sat near me when he delivered his remarks, the Senator from Nevada, [Mr. NYE,] and the Senator from Massachusetts, [Mr. WILSON,] all followed the Senator from Wisconsin in this debate before any other voice was heard in support of the proposition which had been introduced by him. This is, perhaps, not to be complained of. It is a result of the existing condition of things, and only to be mentioned as a small illustration of what is taking place and what must take place constantly in the Government in consequence of the present unfair representation of the people.

But, sir, among those who thus spoke in answer to the Senator from Wisconsin there was but one speech which made much impression upon those who listened; but one which invites an answer in debate. Upon particular points that answer was given by the Senator from Maryland, [Mr. JOHNSON,] and it would be quite unnecessary work for me to travel over a road which he has traversed already. He gave a sufficient reply, in my judgment, to the argument of the Senator from Indiana [Mr. MORTON] upon the particular legal points which were brought in controversy between them.

But, sir, there were some other things in the speech of the Senator from Indiana which I desire to notice. The Secretary of this Senate, who conducts "two newspapers, both daily," has informed us, in regard to the speech of the Senator from Indiana, that "it is an unanswerable vindication of congressional reconstruction, both as matter of policy and as matter of right." Far be it from me to disparage that member's speech as an intellectual effort. I listened to him with a very considerable degree of satisfaction, and if I could convey to him in proper terms of compliment my appreciation of his merit both as an individual and as a speaker I should be happy to do so. But, sir, what we are mainly concerned with is not the private merits of the Senator from Indiana nor the accomplishments which he may possess for addressing the Senate or people of the United States. What we are concerned with is his argument, the question of its solidity, of the truth and force of the sentiments which he uttered with the design of influencing our opinions upon public affairs. The Senator said, among other things:

"I believe it was stated yesterday by the Senator from Illinois [Mr. TRUMBULL] that in every State but two the white voters registered outnumbered the colored voters." * * * * "Congress has not sought to establish negro supremacy."

Again he said:

"It has disfranchised some fifty thousand disloyal leaders, leaving all the rest of the people to vote."

The day previous the Senator from Illinois had said:

"If you will look at the registration you will find more whites than blacks registered in most of the States."

And in another portion of his remarks he called attention to the fact that the white population exceeded the black in all those States except two, leaving the inference to be drawn, as he was then understood by his friend from Indiana and by others, that the registration had followed, with reference to the division of numbers, the rule which obtained from the census. Mr. President, it seems to me surprising that gentlemen of such intelligence as these members undoubtedly possess, and are known to possess, should cast out before the country statements of this description. I hold in my hand a report of the registration in all of the States of the South except one. It is as follows:

	White.	*Black.*
Virginia	120,101	105,832
North Carolina	103,060	71,657
South Carolina	46,676	80,714
Georgia	96,262	95,973
Alabama	72,746	93,543
Florida	11,151	15,541
Louisiana	45,169	83,249
Mississippi	47,434	62,091
Arkansas	43,170	23,146
	585,769	631,746

Showing a black majority in the nine States named of forty-five thousand nine hundred and seventy-seven. These are the numbers from the World Almanac. Those given in the Tribune Almanac are substantially the same. There are variations as to several States, not affecting the result in any one however. The returns from Mississippi and Arkansas in the Tribune Almanac are imperfect. The summing up, however, is five hundred and seventy-one thousand one hundred and thirty-three whites, and six hundred and nineteen thousand six hundred and fifty-five blacks. The only difference is, that the returns in the Tribune Almanac are less perfect than the other; I suppose from having been printed a little earlier.

In Texas, which is the only remaining State, we are informed that the total of the registration is one hundred and four thousand two hundred and fifty-nine. An election is to be held in that State from the 10th to the 14th of February, inclusive, and a revision of the registration is to take place during a period of fourteen days prior to that election. I have seen it stated that the registration in Texas shows an excess of black persons registered. Another statement, which I find in the Tribune Almanac, shows a registration of fifty-six thousand six hundred and sixty-six whites, and forty-seven thousand four hundred and thirty blacks.

Mr. President, these are the facts, and it appears that instead of there being but two States in the South in which the black persons registered exceed the white, they do so exceed in Mississippi, Louisiana, Florida, Alabama, and South Carolina.

Mr. SHERMAN. Will my friend allow me to ask him a question in that connection?

Mr. BUCKALEW. Yes, sir.

Mr. SHERMAN. The figures he gives us take me somewhat by surprise; but I ask him whether the explanation is not that thousands of white citizens who were entitled to be registered under the act refused to register themselves, it being an act of volition on their part? Is it not true that in every State but two the white persons entitled to be registered exceed the number of black persons entitled to be registered? I ask the Senator whether that is not the explanation of this difference?

Mr. BUCKALEW. That is another point. I am coming to it in its turn. At present we are upon the question of fact raised by the Senator from Indiana [Mr. MORTON] in conformity with a statement made by the Senator from Illinois [Mr. TRUMBULL] in his speech the day before. I prove by the facts, collated from reliable sources and carefully examined, that instead of the black registration exceeding the white in two States of the South only, it exceeds it in no less than five, and in every one of the five largely. Besides that, in the State of Georgia the numbers are about equal, furnishing a substantial control also to the colored element in that State, acting as it does compactly under the discipline of agents selected for the purpose, and the slightest aid of white votes, either of northern persons who have gone down there who are connected with this movement, or of persons native to the State, would give a preponderance to the scale in that direction. In the State of Texas, also, unless the revisions of the registrations should change things greatly, there is a substantial balance between the two, liable to be turned in the same way. In Virginia the excess of the white registration would be changed by so small an amount as eight thousand of the white votes out of one hundred and twenty thousand; and in North Carolina by a somewhat larger number than that. In only one of all the States in question, and that is Arkansas, is there a heavy preponderance of registered whites; so that you cannot expect that an election held with a division of race will be determined in favor of the whites in more than one or two of these States.

The other point of the Senator's remark was in regard to disfranchisement. He says some fifty thousand disloyal leaders have been disfranchised. That is his statement. The result is affected in those States by a double process; in the first place, by having the black vote registered, and registered fully, if not fraudulently; and in the next place, by dis-

franchising a portion of the whites. The Senator from Indiana informs us that the amount of that disfranchisement is fifty thousand. Now, sir, this question has a history, and I propose to give it. When the reconstruction bill of March 2, 1867, was under consideration in the Senate upon the House amendments to the Senate amendments, we considered the question of the number of persons who would be disfranchised if the bill passed in the proposed form. The Senator from Ohio, [Mr. SHERMAN,] who had charge of the bill, informed us of the number that would probably be disfranchised by the House amendment. I will read what he said:

"The only material objection I would have would be to that clause which disfranchises ten or fifteen thousand leading rebels from voting at the elections; but, for one, I am perfectly willing to agree to the amendment.

"Mr. GRIMES. Only at one election.

"Mr. SHERMAN. It does not prevent them from voting on the ratification of the constitution. I shall therefore vote for the amendment."

Subsequently in the debate he said:

"It excludes about from six to ten thousand, and when? Only at the first election of delegates for the convention. After that they can vote."

And, again, in alluding to the Senator from Massachusetts, [Mr. SUMNER,] he spoke of him as—

"Willing to stand with me upon a platform which will exclude about six thousand out of a million."

Upon this explanation of his, with regard to numbers, the Senate concurred in the disfranchising clause of the House amendment.

Mr. SHERMAN. The Senator reads what I said on the passage of the bill of the 2d of March. I desire now to state to him, what probably he is aware of, that when the reconstruction act was first presented by me as an amendment to a military bill it disfranchised no man. I have always regretted, from the day of the passage of the House amendment to this hour, that any man was disfranchised from voting in the southern States. My own conviction was then that when we extended suffrage to all the negroes of the southern States we ought to have extended suffrage to all the white people of the southern States. That was the opinion of the Senate, and every Republican in the Senate voted for a proposition that would have enfranchised every man in the southern States, white and black. The proposition voted for by every Republican Senator made no discrimination on account of color; but declared that every male citizen of the United States, above the proper age, should be entitled to vote, and that proposition received the unanimous vote of the Republican Senators. It was the Democratic members of the House of Representatives who, by joining with a minority of the Republicans of the House of Representatives, and voting down this liberal proposition, and resorting to political tactics to prevent a vote upon it, finally got the House in such a position that, in order to relieve themselves from that position, they adopted the amendment of the House. It was against the votes of a majority of the Republican members of the House. It was done by a combination between a minority of the Republican members and the Democrats, who, resorting to parliamentary tactics, prevented a vote on the Senate amendment, and that finally led to the various amendments which are now complained of.

When those amendments came back to the Senate the question arose whether we should entirely defeat reconstruction at that stage of the session or whether we should agree to the amendments proposed by the House. It is true that I stated that the number disfranchised by the amendment of the House was only six or seven thousand. I think I understated the number, as the facts now show. But the act of the 2d of March was much more liberal to the southern States than the subsequent ones proposed by Congress. The act of the first session of the Fortieth Congress was much more stringent in its terms, and extended somewhat the reconstruction act of March 2; but I suppose that under the operations of the act of the 2d of March, as it stood, the number disfranchised would not have exceeded over twenty thousand. Some other provisions were inserted in the explanatory act of March 23 which were undoubtedly more onerous to the white voters of the southern States. That act excluded more, and required various provisions that were not contained in the original act. For instance, it was the act of March 23 that required a majority of the registered voters to vote in order to carry either the convention or constitution that should be framed by it.

Mr. EDMUNDS. That was not more onerous to the whites, but less so.

Mr. SHERMAN. No; that was not more onerous; but it was more onerous in some of its provisions. But now, when Senators are treating this proposition in a party sense, in a political sense, and when they are stating, as my honorable friend from Pennsylvania does state, the history of this transaction by quoting what was said at the time, they ought also to state that by the proposition made by the Republican Senators no man was disfranchised in the southern States, and that the broad and liberal proposition was made to them that all persons, white and black, affected by the law should have the right to vote for members of the convention and participate in organizing and forming their own governments, and that all the measures that have transpired afterward were on account of a political combination between the Democrats of the House of Representatives and a portion of the Republicans, which finally led to the exclusion of a portion of the white people from voting.

Now, in regard to another point made by the Senator, if I do not interrupt him, for I do not wish to mingle again in this debate——

Mr. BUCKALEW. Go on, sir.

Mr. SHERMAN. There is no doubt whatever that the white people of the southern States, under the reconstruction act, have the majority in all but two of those States. I have not examined the figures, but we know it from the census; we know that the political power of the country will rest, under these very laws, in the white people of the southern States. But they choose to forego political power conferred upon them, because they say they will not share it with "niggers." That is about the feeling in the southern States. If they refuse to vote it is not the fault of Congress. We cannot register them nor compel the people in the southern States to be registered unless they wish to do so; and if the whole white population remain away from the ballot-box or away from the registering officers, ought they to complain? I think there can be no doubt that at any time the white people authorized to vote under the reconstruction acts can step forward in every one of the southern States and assume the control of political power in those States.

Even in South Carolina, with the superior intelligence of the white voting population, with their education, with their aptitude and capacity for politics, they could at any time step forward and control the majority in that State. But simply because they will not share political rights with the blacks, therefore they complain. They refuse to be registered; they refuse to exercise the power given to them by the law; and then come here and complain that they are disfranchised. It is their own voluntary act and will. When these governments are restored and reconstructed, as they will be, and I hope and trust will be soon, under these various reconstruction acts, then the white people will be very anxious to come forward and exercise the political power conferred upon them by the law; but until then they have no right to complain.

Mr. BUCKALEW. I am very happy to yield to the Senator for explanation, but I intend to hold the debate strictly to the line upon which I was conducting it. This question of numbers is a distinct and clear point, and not capable of being covered up by words nor pushed out of sight, if one does his duty to the logic of the argument. I will pause, however, for a moment to say that the point which the Senator from Ohio mentions was sufficiently debated at the time it arose, to wit: the question of who was responsible for what was done by the House of Representatives by way of amending the reconstruction bill. It will be in vain for the Senator from Ohio or any other gentleman to impose upon the minority the responsibility for anything which is contained in the act of the 2d or 23d of March, or that of the 19th of July. They were against all action from the beginning to the end in both Houses of Congress and so voted. Whatever difficulties there may have been within the ranks of the majority in shaping their action is quite another question. It is impossible to impose any responsibility for them upon the minority. They were opposed to the bill in the form in which the Senate amended it in the first instance. They were opposed to it in the form in which the House amended it afterward.

I gave the proper answer to this complaint when it was made before in the Senate, when the Senator from Ohio, on behalf of those who thought with him, complained that the minority in the House had not voted in a particular way, by reason of which the obnoxious amendment came to us from the House. My answer was plain, and it met the whole point. I said, "Let us reject the amendment then. All you have to do is to vote with the minority here and reject the amendment. You say that three fourths of the House are opposed to it in the form in which it passed. All you have to do, then, is to reject the amendment and send it back to the House, and let that overwhelming majority of two thirds or three fourths be felt on the single vote of receding." But, sir, that course was not adopted by the majority here. The idea was to pass the bill as it was amended by the House, with disfranchisement in it, and then to hold the minority responsible in some way before the country. Hence, the Senate voted to concur in the amendment. The Senator from Indiana [Mr. HENDRICKS] and myself were here at that time. The minority were not so numerous that we do not remember who were here, nor what was said by us. Sir, the answer was conclusive, and it is upon record in the pages of the Congressional Globe.

Now, the Senator from Ohio says truly that he expressed himself as opposed to disfranchisement at the time that bill was passed. He yielded to the voice of the House, as he and others have often done before and since. The House, unlike the Senate, has a master or had a master in those days, and his rule was one of iron. When his will was not gratified within his own party ranks, it is very true he invited aid from the other side by some proposition which would catch their votes, which men voting sincerely must vote for. Perhaps he managed at that time to get the measure into a particular form and send it back to the Senate in that form. What was the business of the majority in this Senate? To defeat him by voting against his proposition. That was all we asked them to do. They would not do it. By their votes they put it in the law; and it is sought now to shift the responsibility from their own shoulders and throw it upon us. No, sir; disfranchisement as found in the reconstruction laws was voted in by the political majority in the House, was concurred in by the political majority in the Senate, went upon the statute-book, and went to the country with the full responsibility of that majority for it; and I am sorry that any of them are willing or desirous to throw it off and cast it upon the few voices here who said "no" to that iniquity.

But I come back to the point on which I was speaking, the question of numbers. The Senator from Ohio said that six or ten thousand persons would be disfranchised, and at another time he said fifteen thousand. Upon that explanation we took Mr. STEVENS's pill, or the majority took it. I have never yet received political medicine or sustenance from that quarter. They took his disfranchisement, put it into the law, and we were told it would disfranchise only six or ten thousand leading rebels whose hands were dripping with blood,

traitors, horrible men, just a few should stand aside, and then all the great mass of the people, black and white, would be upon that platform of equality and of justice of which the Senator from Indiana spoke the other day—upon which this reconstruction column was to rise as from a rock, and stand so firm and immovable that "the gates of hell should not prevail against it."

Sir, I agreed with him when he uttered that sentiment. I do not think that the gates of hell will prevail against the reconstruction column. It is an impression upon my mind that if the infernal powers concern themselves at all in the proceedings of this Government, instead of endeavoring to prostrate that column, they would yield it all the support within their power. Instead of prevailing against it, they would desire to see it maintained and upheld. The instrumentality by which I suppose that black column is to be laid prostrate is the votes of the freemen of the United States, not the infernal powers, with whom we have no concern, and who, we suppose, are "sympathizers," if they sympathize at all, with our opponents. [Laughter.]

Well, sir, the Senator from Ohio told us that from six to ten thousand persons were disfranchised. Now, the Senator from Indiana gives us an improved statement of numbers. He admits fifty thousand—a pretty good rise in the number. It has gone up five times since the bill was passed upon the former statement. I insisted in that debate—I think I can quote my language—that "instead of there being but six thousand excluded from the right of holding office under the United States, or under the particular States, by the language of the constitutional amendment," (which was incorporated in the bill we were then passing,) "the number was more likely sixty thousand, or probably still more." That was supposed to be a very extravagant estimate. I do not know but that I incurred the disadvantage of being thought very extravagant in expressing that opinion. Now, what is the actual number? Three hundred thousand at least. Upon these registrations, by a careful estimate, the number cannot be put one below that. Three hundred thousand white voters in the southern country are excluded, and that under a law (because I do not admit that the act of the 23d of March changed the act of the 2d of March in any material respect as to the number disfranchised) which we were told would disfranchise only from six to ten thousand.

Mr. STEWART. How do you prove that?

Mr. BUCKALEW. It can be proved in several ways. It can be proved by taking the census and taking a percentage from the totals of population. It can be proved by taking the former election returns in those States, and in various ways.

Mr. EDMUNDS. The Senator will allow me to ask him if he means taking all those who did not register as being disfranchised?

Mr. BUCKALEW. Certainly, of course. I say the whole number disfranchised, at all events the whole number who do not appear upon these registrations in those States, is fully three hundred thousand. Now, how was this result produced? In the last resort, when everything else fails them, the whole responsibility is sought to be put upon those whose names are not placed upon the registration by their own default. We are told they would not register. What a stubborn race of people indeed!

A benignant act of Congress holding out magnificent privileges submitted to them and they refused the terms! The spirit of rebellion rampant in their breasts, they spurn the benignity of Congress! This is the last resort of argument. We have got past all the others. Now let us examine that for a moment. In the reconstruction act, as I stated before, all those persons are excluded from voting at the first election and from holding office who are disfranchised by the proposed fourteenth constitutional amendment. The language of the law of the 2d of March is as follows:

"That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States nor shall any such person vote for members of such convention."

The third section of the constitutional amendment referred to reads as follows:

"No person shall be a Senator or Representative in Congress, or elector of the President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

Now, sir, the question is as to the number of persons who were excluded by that clause of the proposed constitutional amendment which was incorporated in the law of the 2d of March. In the act of the 23d of March, as I understand it, no change was made in this rule of exclusion. That provided a residence of one year in the State, and then it went on and prescribed an oath to be taken by every person who was registered. That oath recites, in substance, the constitutional amendment provision, and the act of the 23d of March leaves the subject there. So I understand that your rule of exclusion is to be sought in that proposed amendment to the Constitution as far as these laws are concerned.

Upon the 19th of July we passed the explanatory act to which reference has been made, in which it was alleged there was no departure from the former laws. It was said that the language then incorporated in the statute was simply declaratory of what was the law before. It goes on to define who, having held office, should be disqualified from voting and holding office because of connection with the rebellion, and then it proceeds:

"And the words 'executive or judicial office in any State' in said oath mentioned shall be construed to include all civil offices created by law for the administration of any general law of a State or for the administration of justice."

Now, sir, how many persons were excluded? In the State of Texas the boards of registration proceeded upon a circular which was sent to them, which read as follows:

"Memoranda of disqualifications for guidance for the boards of registration under the military bill passed March 2, 1867, and the act of Congress supplementary thereto, passed March 23, 1867:

"1. Every person who has acted as Senator or Representative in Congress.

"2. All who have acted as electors of President and Vice President.

"3. Every person who held any position in the Army or Navy of the United States.

"4. All persons who held any position under the United States in which they were required to take an oath before they entered upon the duties of the office, such as officers in the custom-house, clerks, and post office, judges and all officers of the United States courts, clerks, marshals and their deputies, commissioners, and others.

"5. All who have held any office in any State, under the constitution and laws of such State in force prior to February 1, 1861—such as Governor, State senator, or representative, secretary of State, treasurer, comptroller, auditor, commissioner of land office, surveyors and deputy surveyors of districts, county surveyors, judges of courts, county commissioners, treasurers, justices of peace, clerks of courts and deputies, sheriffs and deputies, constables and deputies, tax-collectors, assessors, coroners, police, jurors, auctioneers, pilots, harbor-masters, recorders of conveyances and mortgages, county recorders, notaries public, and all commissioned officers in the State militia; any person who has acted as a mayor of a town or city, treasurer, comptroller, recorder, alderman, assistant alderman, assessor, tax collector, administrator of the charity hospital, and member of the board of health, commissioner of elections and his clerks, chief of police, lieutenant of police and town or city marshal, and all who have served on the force; wardens and under-wardens of county prisons and work-houses; board of school directors, city surveyors and deputies, street commissioners and deputies, city attorney and assistant attorneys, superintendent of public schools, inspectors of tobacco, flour, beef, pork, and weighers and measurers, managers and superintendents or directors of the asylum for deaf and dumb, blind and lunatic, and sextons of cemeteries.

"6. All who, in 1862 and 1864, registered themselves as aliens, or obtained protection papers from the representatives of foreign Powers.

"Any person who, at any time, held any of the above offices, and who afterward engaged in the rebellion against the United States."

Mr. EDMUNDS. What is the date of that?

Mr. BUCKALEW. It is not dated. Now, the act of July 19 gives a construction to the previous disfranchisement, which I suppose was just, that it included all officers in the State concerned in the administration of the general laws of the State. Of course it would include all magistrates; it would include all constables and other peace officers. It would include all officers in the militia also, for they were, as I suppose, sworn to support the Constitution of the United States. Now, I aver that in the single item of constables there would be an exclusion equivalent to the whole number mentioned by the Senator from Indiana; that there could have been no less in the whole southern country than fifty thousand white persons disqualified from holding office because at some period of their lives they had held such office in their respective communities.

Mr. EDMUNDS. Will the Senator permit me to ask him if constables, by the laws of Pennsylvania, in his State, are obliged to take an oath to support the Constitution of the United States?

Mr. BUCKALEW. Certainly.

Mr. EDMUNDS. They are certainly not in my State.

Mr. FESSENDEN. Nor in mine.

Mr. EDMUNDS. Nor in any other State that I know of.

Mr. BUCKALEW. They are sworn in open court to support the Constitution of the United States and the constitution of the State.

Mr. EDMUNDS. They are mere municipal officers with us.

Mr. BUCKALEW. Your constitutional amendment takes hold of all persons holding office under the State who were sworn to support the Constitution of the United States, and a constable is an executive officer of the State, coming under the constitutional provision which requires that oath. Such is the law.

Mr. HENDRICKS. The Senator from Pennsylvania will allow me to suggest that the law of last spring excludes all persons who held any civil office, whether they took an oath or not.

Mr. CONKLING. If the Senator will allow me to state the reason of that, I will remind him that in Virginia, for example, by statute they had dispensed with the taking of oaths to support the Constitution of the United States, for the purpose of giving their office-holders immunity in that respect; and finding that in Virginia the obligation to support the Constitution of the United States and to take an oath to do so had been evaded in this way, the language of our law was changed so as to apply not only to men who had in fact taken the oath but to men who had assumed official obligations, and then in defiance of those obligations had gone into the rebellion afterward.

Mr. HENDRICKS. I did not rise for the purpose of considering the reason that controlled the majority for the extension of the disfranchisement. I spoke of the extent of it.

Mr. CONKLING. But my honorable friend will allow me to say that it does not extend it. On the contrary, the original act was designed to apply to all persons who had held the specified offices, and the assumption was that in all of the States alike they had taken the customary oath; but it was found that a part of the persons thus substantially described were not technically described for the reason that in certain States the taking of the oath had been dispensed with. Therefore, without extending the disfranchisement, we simply made it apply in the very letter to the same persons to whom the spirit of the act already applied.

Mr. HENDRICKS. In other words, the law was made to go finally as far as the Senator from New York intended it should have gone in the first place. In the first place it only excluded from the right of voting those who had held an office at any time during their lives and in taking that office took an oath to support the Constitution of the United States. Afterward the law was so amended as to include in the disfranchisement those who held office but took no oath to support the Constitution of the United States, and made

the mere fact of having held office an exclusion from the right of voting.

Mr. CONKLING. It did not extend it beyond the original act.

Mr. BUCKALEW. Mr. President, I stand upon sure ground. Nothing that can be said by gentlemen will shake my convictions that I am correct upon this point. The constitutional provision is the sixth article, as follows:

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

The first law ever enacted by the Congress of the United States, on the 1st of June, 1789, provided in the third section, following the language of the Constitution and making it a statute, as follows:

"That the members of the several State Legislatures, at the next sessions of the said Legislatures respectively, and all executive and judicial officers of the several States who have been heretofore chosen or appointed, or who shall be chosen or appointed before the 1st day of August next, and who shall then be in office, shall within one month thereafter take the same oath or affirmation, except where they shall have taken it before, which may be administered by any person authorized by the law of the State, in which such office shall be holden, to administer oaths," &c.

Mr. EDMUNDS. If my friend will not consider it an interruption I should like to make a suggestion to him.

The PRESIDENT *pro tempore*. Does the Senator from Pennsylvania give way?

Mr. BUCKALEW. I do if the Senator wants to make a correction.

Mr. EDMUNDS. Yes, sir; I wish to call his attention to the fact that under those same laws, under this constitutional amendment and the acts of March, 1867, the Attorney General issued an opinion—or a circular was issued on his advice—classifying the persons in the various States who were excluded and those who were not; and in that classification of those who were not he included not only constables and the mere municipal officers of townships, but a considerable number of other persons; and thereupon the act of July 19 defined what an executive and judicial officer of a State was; that is, an officer appointed by the State, and not by a township or a school district, as being the executive or judicial officer of a State.

Mr. BUCKALEW. I recollect very well that the Attorney General gave an opinion with reference to the construction of this law—in my judgment not impairing it—and I recollect also that Congress met together for the purpose of overruling him, and that it was specially with reference to that object that the act of the 19th of July was enacted, and that into that law was put the very clause which I have read, that the former statute should include each and every one of the executive and judicial officers of the State concerned in the execution of the laws of the State. And further than that, it provided that "no district commander or officer of registration or officer acting under them should be bound in his action by any opinion of any civil officer of the United States."

To return: no person can sit down and carefully examine the particular classes of officers enumerated in the circular used by the boards of registration in Texas and not see that it would exclude a very considerable portion of the population from the right of registration. As I said before, the number of peace officers alone excluded under the registrations in the South would amount to more than the fifty thousand stated by the Senator from Indiana. Besides, great numbers of other officers are excluded who have held office under the laws of their States.

If this disfranchisement had been confined to persons who were in office at the time of the rebellion and who were concerned in taking their States out of the Union, or attempting to do so, it would not have been so unreasonable; but it went back, and it applied to every person who had held any of the offices in question at any period of time in their past lives. So that if you take a particular township or precinct in a State you would probably find half a dozen, in some cases eight or ten persons, who had held the office of constable; three or four persons who had held the office of magistrate; a number of persons who had held other positions or other offices under the law of the State who are excluded; men of sixty and seventy years of age who may have held an office forty or fifty years ago; and other persons falling within the description of the law following the constitutional amendment, who have ever been sworn to support the Constitution of the United States, would be excluded.

Mr. STEWART. The Senator does not mean to state it in that form; but who had held an office and subsequently went into the rebellion.

Mr. BUCKALEW. Certainly.

Mr. STEWART. That language would not apply to any persons under twenty-nine years of age.

Mr. BUCKALEW. I do not know what twenty-nine years of age has to do with it.

Mr. STEWART. The rebellion commenced in 1860. The man who held office then must have been twenty-one years old. That is eight years ago. He must now be twenty-nine; so that it would not cut off anybody under twenty-nine years of age. It only applies to those who are now over twenty-nine years of age, and who held office in former years and participated in the rebellion subsequently to the holding of office.

Mr. BUCKALEW. Mr. President, I have been so anxious to confine myself to a few points that I have, strangely enough, taken more time than I should have done if I had taken more freedom as to the topics.

The Senator from Indiana [Mr. MORTON] spoke at length upon the subject of the guarantee clause of the Constitution, insisting that our power to enact the reconstruction laws was founded upon that provision. As I said before, the Senator from Maryland made a reply upon that branch of the debate, which, so far as he covered it, was, in my judgment, most complete and satisfactory. But one consideration will be alluded to by me. I understand the guarantee clause of the Constitution to be an engagement to the States as political communities; an engagement in their favor and not against them; in short, an engagement for their protection, and that against three species of danger.

I will read the clause. It is the fourth section of the fourth article:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on the application of the Legislature, or of the Executive, when the Legislature cannot be convened, against domestic violence."

The three dangers, then, against which that guarantee was given to the several States as political communities were these:

First, invasion of their territory from abroad;

Second, domestic insurrection within their borders against their State governments; and

Third, the subversion or change of their governments from the republican form.

The "common defense" was one of the principal objects of the union, as proclaimed in the preamble to the Constitution; therefore, the United States is to defend each State from invasion. The power to raise armies, to call out the militia, to construct works of defense, and to raise revenue by customs and taxes were given to the Federal Government with direct reference to this object, the common defense. State defense against external enemies is therefore confided to the General Government, which is thus endowed with full power and with full means to execute the duty charged upon it. The duty would have existed at all events, but it is here put in the form of an express provision, and it is to be performed whenever the necessity for protection shall arise.

In the next place, the guarantee is against domestic insurrection or violence, and this clearly is for the protection of the State government. The Legislature may call for this protection; and when it is not in session the Governor of the State may do so. The protection is not to be volunteered by the United States. The General Government is not to enter the State to suppress disturbance or insurrection save in cases of an appeal to it by the Legislature or Governor of the State.

In the third place, the form of government in a State may be changed, and that from two sources; and this danger is guarded against by the clause in question. Such change may occur by the edict of a conqueror, or with greater probability by the usurpation of power by State officials or by individual citizens of the State. No foreign hand shall impose upon them a master. No Cæsar or Cromwell among themselves shall usurp power. The forms under which alone liberty can be secured shall be maintained to them forever. This is the engagement which the United States Government has made to each State; an engagement which was coeval with its creation, and which speaks to it perpetually and always as a most solemn and obligatory duty.

The guarantee of a republican form of government must attach to governments of that form set up or kept up by the people of the States, either those which existed when the Constitution of the United States was ratified, or the same as properly amended or changed afterward; or lastly, new ones set up in their stead by the same authority which had established the former. And by "the people," in any case must be understood the political community of a State; in other words, the qualified electors of the State, described and defined from time to time in its constitution. The guarantee was given to them originally as a consideration for adopting the Constitution of the United States; and they alone can demand its fulfillment. It was made for their protection against fraud or force by which the forms of their government might be subverted, arbitrary and unjust rule established over them, and they subject to the grievous fate of the republics of former times.

The guarantee of a republican form of government to a State does not impute a power to create or establish such form by the guarantor. The obligation is not to create, but to preserve. When we consider the subject-matter of the guarantee all question upon this point must disappear. Our republican forms were all popular in their origin, and are such in their very nature. It is not possible that they should be dictated to the people who are to be bound by them; and they must repose always upon the free assent of the people. Therefore, under pretense of this guarantee, Congress cannot make a State constitution, nor impose one upon the people anywhere, in Territory or State. And if Congress cannot make a constitution for a State nor impose one upon its people, it can dictate no single provision to be contained in such constitution. The greater includes the less. The popular power to make a constitution is a power to make the whole of it; and there can be no limitation upon such power so long as the republican form is maintained and respect be paid to the grants and limitations of the Federal Constitution.

Measured by this clear principle the reconstruction acts must be deemed as outrageous and void, considering both what they express and what may be implied from them. They fix the rule of suffrage for the States South, and that by imperial power. No popular assent is asked for the rule nor popular dissent from it permitted. It is imposed; it is ordered; and it is to be submitted to, instead of being accepted. Not one particle of popular assent, as I have already argued, has been directly or regularly given to this rule of suffrage either North, South, or West. It has not been submitted to a vote in any one of the States immediately concerned, nor in any of the States represented in Congress. In those northern States, as I mentioned before, where a similar rule for local application has been proposed it has been spurned by the people.

Now, sir, what do the reconstruction acts provide? The act of March 2, 1867, provides, in its fifth section—

"That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as shall have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same; and when said State, by a vote of its Legislature elected under said constitution shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oaths prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention."

The act of March 23, 1867, provides for a registration of voters by military authority, and declares that the registration—

"Shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation:

"I, ——————, do solemnly swear (or affirm) in the presence of Almighty God, that I am a citizen of the State of ——; that I have resided in said State for —— months next preceding this day, and now reside in the county of ——, (or the parish of ——,) in said State, (as the case may be;) that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I never have been a member of any State Legislature, nor held any executive or judicial office in any State, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath, as a member of Congress of the United States or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States and afterwards engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof."

Then comes the act of July 19, 1867, which provides that the boards of registration—

"Shall have power, and it shall be their duty before allowing the registration of any person, to ascertain, upon such facts or information as they can obtain, whether such person is entitled to be registered under said act, and the oath required by said act shall not be conclusive on such question, and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine under oath, (to be administered by any member of such board) any one touching the qualifications of any person claiming registration."

It is further provided by this act of July 19—

"That the true intent and meaning of the oath prescribed in said supplementary act is, (among other things,) that no person who has been a member of the Legislature of any State, or has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the commencement of the rebellion, or had held it before, and who has afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof is entitled to be registered or to vote; and the words 'executive or judicial office in any State' in said oath mentioned shall be construed to include all civil offices created by law for the administration of any general law of a State, or for the administration of justice."

Now, while the guarantee clause of the Constitution cannot justify reconstruction upon the plan contained in these laws; while it cannot be invoked in argument as a substitute for the war power of which we heard so much formerly, it yet has its place in our debates, and a most important application to the States of the South. It imposes upon us the clear duty of recognizing governments there which are republican in form and duly established by the people.

What do the reconstruction laws do? Recognize a republican form which has been established by the people in the several States concerned? Invite them to create a republican form, if it be assumed that none exists at present? No, sir. Your reconstruction acts proceed to perform the function of a constitution for each of the States of the South. You provide the rule of suffrage which shall obtain in selecting the members of constitutional conventions. You provide the rule of suffrage which shall prevail in accepting or rejecting the constitution which shall be so formed. You introduce into the political body a vast mass of population who were excluded by former constitutions in those States, as they existed in 1789, when the Constitution of the United States went into effect, and at all periods of time subsequently. More than that, sir; in your reconstruction acts you proceed to order what provisions shall be put into the constitutions made by those conventions, or you do what amounts to the same thing; you provide that if the constitutions so made by these conventions shall contain particular provisions then they shall be accepted or be acceptable by Congress, and representation shall be renewed to the people of those States. In other words, you declare what provisions, when incorporated in those constitutions, shall entitle the people of those States to your favor and to a restoration of that former political relation which existed between them and the Government of the United States.

This is substantially, if not in form, the dictation of the provisions in the constitutions of those States; and it is virtually the making of those constitutions by Congress, so far at least as these provisions are concerned.

Stated in a word, these acts undertake to establish the fundamental law of the several States of the South, and to dictate to the free inhabitants of those States what provisions shall be contained in their fundamental laws. It does this in violation of right; first, because no such power has ever been conferred upon Congress by the Constitution of the United States; and next, because it violates the very principles which give life to the republican system. What, sir! A constitution in Georgia containing a rule of suffrage prescribed and imposed by the Congress of the United States to be considered as republican! No, sir. Instead, therefore, of your legislation of March and July executing the guarantee of a republican form of government to the States of the South, it bears a directly contrary character. Instead of guarantying republican forms, it subverts them. Instead of maintaining republican principles, it strikes them down and prostrates them. Instead of guarantying an advantage and a benefit to the people of the States, the control of their political institutions, the maintenance of republican principles, you enter the States to invade the most sacred principles of liberty and of republican government.

Oh, sir, what a caricature upon all logic is this pretense of executing that guarantee when you consider the instrumentalities which you use! Republican forms for the South; and yet your laws are enacted by bodies in which there is no single representative of all those populations! You, who are foreign to them, who are aliens, so far as their local policies are concerned, make their fundamental laws; and you call that maintaining a guarantee of a republican form of government! Oh, monstrous perversion of language! Most shocking insult to common intelligence and to common sense!

What more, sir? Your republican form assumes for the time the features and lineaments of a complete military dictatorship. I do not call it a despotism, although it may become such in fact. In form and in intention at present it is simply a dictatorship, such as was set up in the proud city of Rome at one period of history for the government of a population which had become too licentious to bear free forms and maintain free institutions longer. You set up a dictatorship such as are set up in Spanish America, where the populations are fit for nothing but a government of force, incapable of maintaining their republican forms, unfit for them and unworthy of them. You are to bring down our free America, our States united, to the level of former republics and of existing so-called republics who have utterly and ingloriously failed in their mission. You set up a dictatorship by act of Congress; you have done it already in your former laws; you now propose to intensify your former arrangement, to make the grip of military power upon the free citizen stronger and more exacting than it has ever been before; and all under pretense of maintaining a republican form of Government! What! our republican forms maintained by the bayonet, by the rule of your brigadier general, and your colonel, and your major, and your lieutenants, holding military commissions to pass upon the dearest rights of person and property placed within their grasp by your laws? Is that the way in which liberty and republican forms are to be maintained? Could you adopt a system more directly calculated to trample out every vestige of that form which your fathers guarantied by the Constitution of the United States? Such is the character of your legislation for the time being.

It has existed now nearly one year; it is to exist for an uncertain period of time in the future. Suppose that trouble comes between races; suppose crime runs rampant; suppose the feelings and the passions of men held in check by force for a time should break loose into violence, and public danger and social danger should appear in the horizon, you must execute your system then, having entered upon it; you must vote men to do this work; you must vote money to support men to do this work. This business of governing the South, which you have undertaken and assumed to yourselves in violation of every republican principle which can be conceived, must become still more dictatorial and despotic in future if necessities invite it. You cannot stop half way unless you stop altogether and undo your work, go back upon your own declarations, proclaim your mistake in the face of the world, acknowledge that there has been wrong, or at least error, in the policy which you have undertaken and thus far have pursued.

Well, sir, perhaps you are content to dare the future. You may scorn all its dangers. You may read history without heeding any of its warnings. You may by a confusion of terms which is calculated to awaken surprise, at least, if not indignation, call a dictatorship a republican form. You may call State constitutions established by acts of Congress republican forms of constitution as valid, as good, and as laudable as if created by the people themselves. You may do all this; but no one can have any question, surprising as all these things are, of the motive with which you do this, of the object with which it is done, of the controlling passions and emotions of the soul which give direction to your conduct and shape your laws and your administration for the South. It is that that unjust power which you now hold in this Government, out of all proportion to any rule of equality or of justice, shall be secured and maintained in the future; that it shall not be torn from your grasp by the votes of those people; but that, if they turn from your policy with detestation and abhorrence, or with simple condemnation merely, you shall have a guaranty against them. You do not intend the guarantee of a republican form of government to the South, but your legislation is intended as a guarantee to yourselves and against the people of our country, whose servants you are and whose voice it is your duty to obey, but who are to be circumvented and bound, so that those who speak for you can say, "Well, what of it? Help yourselves if you can! What will you do about it? Have we not done this; and will we not fasten our work firmly upon you? Protest as you please; this guarantee which we take to ourselves, this bond of the future, we will have, and we will have it de-

spite the Constitution which we trample under foot; despite the populations whose rights under this guarantee we despise."

We will take it to ourselves because this is the day of our strength and of our power; we will improve the golden moments as they pass, and taking to ourselves the ignorant and imperfect elements of society in the South build our political institutions and our party power upon them and they shall be our allies to secure us against the indignation of our countrymen in the future. Finally, to those who question our conduct or impeach our authority we will present such arguments as occur to us upon the guarantee clause of the Constitution!"

Mr. MORRILL, of Maine. Will the Senator allow me to ask him a question, that I may understand his position?

Mr. BUCKALEW. Certainly.

Mr. MORRILL, of Maine. I wish to ask the Senator whether he maintains that this Government is bound to guaranty the States organized by the President?

Mr. BUCKALEW. No, sir.

Mr. MORRILL, of Maine. I speak of the States that are now existing in fact, provisionally, as organized by the President.

Mr. BUCKALEW. That is a question of power. The question of duty is another thing. I hold that the Congress of the United States is bound to exercise an honest judgment in the admission of Senators and Representatives from each one of the States of the South; that its jurisdiction upon that question is incapable of dispute, and must be exercised upon its own judgment and uninfluenced by the action of any other department of the Government, according to the truth and honesty of the case. I hold also that this guarantee of a republican form of government, which is quite a distinct thing from, and has nothing to do with, the other question, is simply an engagement that the United States, which means the Government of the United States, as the Senator from Indiana well put it, is bound to maintain to the people of each State the republican form which they have established; not to make a government for them, but to maintain their republican form of government in each State against invasion from abroad and against the usurpation of their rulers. But that alludes merely to the form.

Mr. MORRILL, of Maine. Does that guarantee apply to the State governments existing now in the South in fact, as organized by the President?

Mr. BUCKALEW. I have my own ideas of that.

Mr. MORRILL, of Maine. I want to know what they are.

Mr. BUCKALEW. I intended to have closed by this time; but I will proceed on this one point, as the Senator has called my attention to it.

When the war concluded in April, 1865, as it did in point of fact, an arrangement was proposed between General Sherman, who commanded our forces, and General Johnston, who commanded the confederate forces, by which, if it had been acceeded to by the Government of the United States and by the confederate authorities, there would have been a condition of things created in this country very different, and in my judgment much better than that which did occur afterward. In that case there would have been an agreement between the Government of the United States and the existing governments in the States that had rebelled, which would to some extent have bound the good faith of the parties, and would have been a just and proper exercise, so far as we were concerned, of the war power, the exercise of which was conferred upon the President of the United States; and if Congress had subsequently chosen to accept that arrangement, by receiving Senators and Representatives, the transaction would have been complete, and the guarantee clause of the Constitution would have applied to those governments so recognized, and our faith would have been bound to them.

Just so with regard to the governments which were set up not by the President, but upon his invitation by the people themselves in the several States. If we had accepted Senators and Representatives from them this guarantee would unquestionably at once have applied to their maintenance and preservation. The duty would have been charged upon the United States from that moment, indefinitely in the future, so long as they might exist in the same or an amended form retaining their republican character.

I am stating the legal point as I hold it. I go upon the fundamental ground that a constitution can be made only by the people who are to be bound by it, and that it must be made free from all coercion or constraint whether from the President or Congress either. I deny that the President of the United States has any more authority than an individual citizen to set up a State government anywhere. I acknowledge just as little right in him as I do in the Congress of the United States. Neither of them has any power to do it, nor any right to do it, nor, under ordinary circumstances, any business to meddle with it. At the conclusion of the war, however, it was competent for the President, holding military control of those States, by proclamation to withdraw the military pressure and allow the people to form State governments, if he chose. There was nothing objectionable in that; there was nothing that invaded any principle of right in that; but to the validity of those constitutions so made it was essential that they should be the act of the people themselves without the dictation of any provision whatever by the President of the United States.

Mr. MORRILL, of Maine. Allow me to call the Senator's attention to the fact that the President of the United States proclaimed to these States the terms on which their governments must be reconstructed in order to receive his sanction or recognition.

Mr. BUCKALEW. No; that is not it.

Mr. MORRILL, of Maine. Yes, sir; that is precisely the position in which the matter stands. President Johnson proclaimed to these States that they must abolish slavery forever within their borders; that they must declare the secession ordinances null and void; that they must repudiate the rebel debt. The Commander-in-Chief, the President of the United States, named these as the conditions on which the States were to be recognized.

Mr. BUCKALEW. What is the Senator reading from?

Mr. MORRILL, of Maine. From the same authority from which my honorable friend read, the President's proclamation as given in the almanac he quoted.

Mr. HENDRICKS. The proclamation as the Senator reads it, not as it reads.

Mr. MORRILL, of Maine. The proclamation as stated in this book, and which purports to be an extract from it, or a statement of its contents.

Mr. HENDRICKS. Those expressions, "they must do this," are not found in the proclamation.

Mr. MORRILL, of Maine. No, sir; but they are stated by the President to be conditions precedent to the organization of the States, and conditions precedent to his recognition of the States. That is my point. Besides, the honorable Senator will recollect that those conventions were dictated to by Mr. Seward by dispatches stated to come from the President from time to time as they were organized.

Mr. BUCKALEW. I am perfectly aware of the argument which is made against the President of the United States in connection with reconstruction under his proclamation. It is not material to me to enter upon that debate and to vindicate him in all respects. I stand in the same position in which I have stood from the time the war came to a conclusion, as an independent member of this body with reference to all these questions. But as I understand, substantially, the constitutions made under the proclamation of the President were made freely by the people of the several States; his proclamations withdrew the pressure of the military authority; the provisional governors whom he appointed merely invited the people to hold conventions. No terms were imposed by way of order or by way of law.

Mr. STEWART. I should like to call the Senator's attention to a whole page of terms in greater detail than our reconstruction laws.

Mr. BUCKALEW. I choose to go on with my own statement rather than to hear the Senator with his.

What I understood was done was this: that Mr. Seward, as Secretary of State, wrote advisory letters—that is the word—advising gentlemen connected with the business of reconstruction, or interested in it, of what would be satisfactory, if the people chose to do it, of what would be expected before the people of the adhering States would agree to receive them to their fellowship again and to admit their Senators and Representatives in Congress. It was not so much with reference to what the President would do; it was advice, ordinarily sent to the provisional governors, which was unofficial in its nature, although coming from the Secretary of State. It was the giving of information of an advisory character as to what would be expedient and what was expedient. But in no case was any order issued, nor was there anything in the nature of coercion or force applied.

The President and his Secretary of State, no doubt, sincerely stated what they believed would be satisfactory to the people of the adhering States. In advising a provision repudiating the rebel debt and other things which were mentioned, and which were done by the people of these States, they, no doubt, stated in good faith what they believed would be satisfactory to the people of the United States and to Congress. I say, however, that those constitutions set up under the invitation of the President must have been the free act of the people of the States concerned or they were not valid. Otherwise the proceeding would be open to all the denunciation that gentlemen can level against it. I agree that the President had no power in strictness of law to do any act in the forming of a State constitution, and Congress stands in precisely his position in that respect. A constitution must be made by the people themselves.

But, sir, there is another principle which comes into play. I agree that although a constitution may have been formed somewhat irregularly, without a compliance with all the legal forms which apply to the case, yet if the people to be bound by that constitution acquiesce in it, and some time passes, it may be good. In the case of a private corporation, where the corporation proposes to do an act outside of its corporate authority, against which any individual stockholder could object, if he do not object and the corporation does the act, and some time elapses, the courts will not listen to an objection. They will say that although this act was unwarranted by the fundamental law of the corporation, yet, inasmuch as it was done without objection and acquiesced in, it shall stand as valid and effectual.

As to these constitutions made in the South, I do not care so much how the proceeding was started, whether it was by the voluntary action of individuals, such as took place in Pennsylvania when the constitution of 1776 was formed, or in a more regular manner. The convention was called by a committee of public safety, a voluntary body, in Philadelphia. I do not care so much how the proceedings are initiated or begun; all that I want to inquire is, whether the people in point of fact make the constitution and acquiesce in it. That is the only material question in any such case, as in the case in Kansas, the objection made here in both Houses of Congress was that the constitution as made was not the act and deed of the people of Kan-

sas. The objection was good if the facts fully bore it out.

Mr. MORRILL, of Maine. I do not wish to interfere with the honorable Senator, but I should like to ask him one more question to illustrate his position.

Mr. CONNESS. I ask the Senator from Maine whether he will not give way at this time to a motion to adjourn?

Mr. MORRILL, of Maine. I will give way when I ask my question.

Mr. BUCKALEW. I do not want to be carried over to another day.

Mr. MORRILL, of Maine. The question I desire to propound is this: whether the governments of these States which the United States Government is bound to guaranty, in the judgment of the Senator from Pennsylvania, are the State governments which ante-date the rebellion, which were in existence prior to the rebellion, prior to the passage of any ordinance of secession; whether those still remain the governments of those States which we are bound to guaranty, or whether the governments to which the guarantee clause applies are some other governments which have since been interposed and organized by somebody else?

Mr. BUCKALEW. The guarantee certainly, as a technical point, cannot apply to State governments which existed before the war, if they are no longer in existence and have been superseded by others republican in form. My whole argument is that the guarantee can only apply to an existing form. The people of a State may abandon one State government of republican form and establish another.

Mr. President, all I proposed to do on this point on which I was speaking was to add a suggestion with regard to the adoption of State constitutions. The Senator from Indiana argued that as the southern constitutions formed during the year 1865 had not been submitted to a vote of the people—I mean those constitutions which were set up at the invitation of the President—they did not bind them; that there was some imperfection in them for that reason. And he argued that if we accepted those constitutions as valid, and received Senators and Representatives elected under the governments established by them, we should have no security for anything which was contained in them; for instance, the repudiation of the rebel debt. In other words, the Senator seems to entertain the opinion that it is necessary to the validity of a State constitution that after it shall have been formed by a convention it shall be submitted to a vote of the people. No doctrine can be more unfounded than that, tested by the precedents in our political history.

Why, sir, at this moment the people of the State of Pennsylvania are living under a constitution which was never submitted to a popular vote. The constitution of 1790, after it was formed by the convention, was simply proclaimed by a procession in the city of Philadelphia, and being thus announced, it was accepted as the fundamental law of the State, and we are living under that constitution yet, although it has been amended. It would be a solecism to say that a constitution made by a convention duly authorized was not valid. The people, in their sovereign capacity, can authorize their delegates to form a constitution for them, which will be valid and effectual to all intents and purposes without anything more. If the people could not authorize delegates to make a constitution for them in this manner they would be stripped of their sovereignty—they would no longer possess it. Then in the southern States a constitution made by a convention of delegates elected to make it is good and effectual without a popular vote. It is a mere question of discretion or of policy whether it shall be submitted to such a vote or not where there is no limitation upon the powers of the convention.

I submit, then, that upon this point also the Senator from Indiana was mistaken.

Mr. CRAGIN obtained the floor, and on his motion the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 29, 1868.

The House met at twelve o'clock m. Prayer by Rev. JULIUS E. GRAMMER, D. D.

The Journal of yesterday was read and approved.

CUSTOMS REVENUE LAWS.

Mr. ELIOT. I ask unanimous consent to take from the Speaker's table Executive Document No. 4, in relation to customs revenue laws, and communicating to the House a draft of a bill on the subject. It was sent here from the Treasury Department last December, laid on the table, and ordered to be printed. I move its reference to the Committee on Commerce.

The motion was agreed to; and the communication was accordingly referred to the Committee on Commerce.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body further insisted on its amendments to House bill No. 207, to provide for exemption of cotton from internal tax, and agreed to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MORGAN, Mr. CONNESS, and Mr. BUCKALEW as conferees on its part.

It further announced that the Senate had passed House bill No. 140, to provide for a commission to examine and report on meters for distilled spirits, with amendments, in which the concurrence of the House was requested.

WASHINGTON TARGET-SHOOTING ASSOCIATION.

Mr. BALDWIN, by unanimous consent, reported back from the Committee for the District of Columbia House bill No. 344, to incorporate the Washington Target-Shooting Association, with an amendment.

Mr. HOLMAN. I desire to ask a question. It is very manifest that a good deal of this legislation is necessary and a good deal has already occurred. Does the Committee for the District of Columbia propose to introduce a bill authorizing a general law incorporating such companies? It will save a great deal of inconvenience and trouble to Congress.

Mr. WASHBURNE, of Illinois. We have passed bills for about everything on the face of the earth for the District of Columbia, and I hardly think there could be anything more covered by a general law.

Mr. HOLMAN. If there is a general law authorizing the incorporation of such companies it is not necessary to pass this bill.

Mr. BALDWIN. There is no general law, and no proposition to enact such a law has been brought before our committee; but I hear it said that such a proposition is under consideration before the Senate Committee for the District of Columbia.

Mr. ROSS. I desire to ask whether this corporation is to be confined to loyal persons or not? I should object to it unless there is that proviso in the bill.

Mr. HIGBY. And without distinction of race or color.

Mr. ROSS. Yes, sir; and without distinction of race or color, and also requiring the test-oath to be taken.

Mr. MULLINS. I desire to make a single remark in reply to the gentleman last up, [Mr. Ross.] I hope the majority of this House will make that bill so comprehensive in its provisions and so little sectional that even the gentleman can come in and shoot if he desires. [Laughter.]

Mr. ROSS. Do you think it will let Tennessee in then?

Mr. MULLINS. I am now in. [Laughter.]

The bill was reported. It constitutes Charles Klomann and others a corporation by the name of the Washington Target-Shooting Association; fixes the capital stock at $100,000, divided into shares of twenty-five dollars each; allows nine directors; gives the corporation the right to make and prescribe by-laws; and provides that the members shall not exercise target-shooting on the Sabbath day.

The amendment reported by the committee was in section four after the word "corporation" to insert the words "not inconsistent with the laws in force in the District of Columbia."

Mr. BALDWIN. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. UPSON. I move to lay the bill on the table.

The question was put, and there were—ayes 23, noes 74.

So the House refused to lay the bill on the table.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question then was, Shall the bill pass?

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. VAN WYCK. I wish to vote intelligently upon this question, and I would like the gentleman from Massachusetts to inform the House why it is that these individuals cannot enjoy the liberty of shooting at a mark without all the machinery of an act of Congress. The whole object here seems to be that they shall shoot at a mark, except the "moral and social" part of it, which I do not understand. Is it not possible for these men to enjoy all the advantages of mark-shooting under the Constitution without an act of Congress?

Mr. BALDWIN. The purposes of the association require a large lot of land, with suitable structures and other facilities for target practice. They find it necessary to own the land, structures, other property; and they ask to be incorporated, in order that they may, as an association, acquire legal title to such property.

The question was taken upon the passage of the bill; and it was decided in the affirmative—yeas 96, nays 21, not voting 71; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Delos R. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Beaman, Benjamin, Blair, Boutwell, Bromwell, Buckland, Burr, Cake, Cary, Chanler, Cobb, Coburn, Cook, Dixon, Donnelly, Driggs, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Garfield, Glossbrenner, Hawkins, Higby, Hill, Holman, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Judd, Julian, Kelley, Kerr, Koontz, Laflin, Loughridge, Mallory, Marvin, McCarthy, McClurg, McCormick, Mercur, Morgan, Morrell, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Paine, Peters, Phelps, Pike, Plants, Poland, Polsley, Price, Pruyn, Raum, Sawyer, Scofield, Shanks, Smith, Starkweather, Taffe, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—96.

NAYS—Messrs. Barnum, Broomall, Reader W. Clarke, Sidney Clarke, Cornell, Ferriss, Getz, Golladay, Harding, Hotchkiss, Asahel W. Hubbard, William Lawrence, Mullins, Pile, Pomeroy, Ross, Sitgreaves, Spalding, Upson, Van Wyck, and Woodward—21.

NOT VOTING—Messrs. Adams, Allison, Arnell, James M. Ashley, Barnes, Beck, Benton, Bingham, Blaine, Boyer, Brooks, Butler, Churchill, Covode, Cullom, Dawes, Dodge, Eckley, Eldridge, Finney, Fox, Gravely, Griswold, Grover, Haight, Halsey, Hooper, Hopkins, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelsey, Ketcham, Kitchen, Knott, George V. Lawrence, Lincoln, Loan, Logan, Lynch, Marshall, Maynard, McCullough, Miller, Moore, Moorhead, Morrissey, Nunn, Perham, Randall, Robertson, Robinson, Schenck, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Trowbridge, Van Auken, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Thomas Williams, James F. Wilson, Wood, and Woodbridge—71.

So the bill was passed.

Mr. BALDWIN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TAXATION ON BOOKS, ETC.

Mr. O'NEILL, by unanimous consent, introduced a bill (H. R. No. 587) to so construe

the words "books and book-binding" in section ten of the "act to reduce internal taxation," &c, approved June 30, 1864, and acts amendatory thereof, approved July 13, 1866, as to include albums for photographs; which was read a first and second time, and referred to the Committee of Ways and Means.

Mr. O'NEILL moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. SPALDING. I call for the regular order.

The SPEAKER. The Committee on Foreign Affairs are entitled to the remainder of the morning hour for reports.

Mr. CAVANAUGH. I rise to a personal explanation.

The SPEAKER. The gentleman from Massachusetts, [Mr. BANKS,] as chairman of the Committee on Foreign Affairs, is entitled to the floor.

Mr. CAVANAUGH. The gentleman from Massachusetts [Mr. BANKS] promised to yield to me for five minutes.

Mr. BANKS. I will yield, if it is not to be taken from the time of the Committee on Foreign Affairs.

The SPEAKER. That will require unanimous consent.

Mr. SPALDING. I object.

Mr. BANKS. Then I cannot yield. I now report back from the Committee on Foreign Affairs the bill of the House No. 584, concerning the rights of American citizens in foreign States, with a recommendation that the same do pass.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section provides that all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances. And the President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the principles of public law which have been insisted upon and maintained by the Government of the United States in regard to the rights of naturalized citizens; provided always that no citizen of the United States who is guilty of crime against the laws of any foreign State committed within its jurisdistion, or of desertion from actual service in the army or navy of such State, or who shall have acquired naturalization by misrepresentation or fraud in regard to residence or otherwise, or who by treason or other crime against the United States shall have forfeited or who shall have renounced his rights as a citizen, or who shall establish a continuous residence beyond the limits of the United States for a term exceeding five years, shall be entitled to the protection contemplated by this act.

The second section provides that whenever it shall be duly made known to the President that any naturalized citizen of the United States has been arrested and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign; or if any citizen shall have been so arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and the President shall, without unreasonable delay, give information to Congress of any such proceedings under this act.

The third section provides that if any naturalized citizen of the United States shall return to his native country with intent to resume his domicile therein; or if any citizen shall leave the United States with the intention of permanent residence in any foreign State; or shall fail to make annual return of his property in the United States for taxation to the assessor of internal revenue for the district of the United States in which said citizen last resided; or shall engage as an army or navy belligerent in any foreign war or service, such citizen shall not be entitled to the interposition of the Government in his behalf under the provisions of this act.

The fourth section provides that the term "domicile," in the preceding section, shall be construed to mean a continuous residence of more than five years in the native country of the naturalized citizen, or establishing himself in any business which denotes an intention to resume a permanent residence.

Mr. BANKS. It is not the purpose of the Committee on Foreign Affairs to occupy much of the time of the House in the consideration of this question. Yet it seems indispensable that it should be considered at this time, for if it be assigned to a day certain it must follow several other prior special orders, and will go over for some weeks, perhaps for one, two, or three months. If it is necessary to act at all upon this subject it should be considered at this time. I am not disposed to occupy much time myself. I am willing to concede for the discussion as much time as the House may be willing to accord to the consideration of this subject.

Mr. SPALDING. I would like to have a few minutes upon this bill.

Mr. BANKS. Certainly.

Mr. SPALDING. I would like to offer an amendment to the bill.

Mr. BANKS. I will first state the purpose of the bill, and then I will yield.

Mr. SPALDING. Before the gentleman speaks I desire to indicate the nature of the amendment so that he may comment upon it if he desires.

Mr. BANKS. Very well; I will hear the amendment.

Mr. SPALDING. I desire to amend the second section by striking out the provision authorizing the President to seize and imprison, by way of reprisal, subjects in this country of the Government offending the principle of this bill, and inserting a provision that such offense shall be considered just cause of war.

Mr. WILSON, of Iowa. The first clause of the first section of this bill is an affirmative declaration as to what shall be regarded the law of this country with reference to the doctrine of expatriation. But that declaration is negatived by the next clause of the bill; which reads as follows:

> And the President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the principles of public law which have been insisted upon and maintained by the Government of the United States in regard to the rights of naturalized citizens.

I propose, when opportunity shall offer, to move to strike out that clause of the first section, because the Government of the United States has never insisted upon and maintained the doctrine of the right of expatriation.

Mr. BANKS. Mr. Speaker——

Mr. FARNSWORTH. Will the gentleman allow me to call his attention to another provision?

Mr. BANKS. I think I had better be allowed to make my statement.

Mr. CHANLER. I hope the gentleman will leave the bill open to discussion.

Mr. BANKS. I do not propose to call the previous question.

Mr. FARNSWORTH. I desire to call the attention of the gentleman to a provision of this bill.

Mr. BANKS. Very well; I will hear the suggestion of the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. I observe that the proviso of the first section declares that "no citizen of the United States who is guilty of crime against the laws of any foreign State committed within its jurisdiction" shall be entitled to the protection contemplated by the act. I desire to make an inquiry with reference to the effect of this proviso. Of course we do not intend that a man shall avail himself of the benefits of this act to shield himself from the consequences of his crime. But because a man may at some time have committed a crime in another country, is he therefore to be deprived of the benefits of this act when, for instance, military service is claimed of him by that country, or when he is put on trial for something else?

Mr. BANKS. This bill does not contemplate the protection of a man who has committed a crime; but failing to perform military service is not a crime in the contemplation of this bill.

Mr. CHANLER. Will the gentleman from Massachusetts [Mr. BANKS] yield to me for a question as to the effect of this bill in a certain direction?

Mr. BANKS. I will hear the gentleman.

Mr. CHANLER. Will this bill protect those American citizens who were formerly subjects, for instance, of Prussia, in which country, under its military system, by virtue of the clause in their law instituting the "*land-wehr*" and "*land-sturm*," the subject continues liable to compulsory military service until death? Is there any provision in the bill whereby a former subject of Prussia, having become a citizen of the United States, will be protected should he return to Prussia? Will not such a person be liable under this bill to be arrested under the laws of Prussia as a deserter? I will say to the chairman of the Committee on Foreign Affairs that I am prepared to lay before the House important facts upon this subject; and if we should fail to make provision upon this subject in this bill we shall be doing injustice to a large part of the German population of this country. We shall thus bring upon this House a responsibility which it will have to meet after the bill is passed, and we might as well have the courage to meet that responsibility now. Let the bill be discussed on its merits; let amendments be offered; let us recognize the duties of this Government to every citizen, native or foreign born; let us not allow our citizens to be subjected to the military despotism of Prussia or of any foreign Government.

Mr. BANKS. I will say, in reply to the gentleman from New York, [Mr. CHANLER,] that this bill is intended to protect, and I believe will protect, naturalized citizens in the case he suggests.

Mr. CHANLER. If the gentleman will allow me, I will say——

Mr. BANKS. I must deline to yield further. I will state the purpose of the bill, and will then leave it with the House.

Mr. JUDD. Will the gentleman allow me to make a suggestion?

Mr. BANKS. What is the nature of the suggestion?

Mr. JUDD. It is that the importance of this bill and the various amendments already suggested, together with the fact that the bill has only been before the House twenty-four or forty-eight hours, indicate to my mind that a day certain should be fixed for the consideration of the measure.

Mr. BANKS. As I have already said, I should be very willing to postpone the consideration of the bill if it could be done consistently with the urgency of the question; but if it be necessary to act at all upon this subject it is important to act now. We cannot postpone the bill and make it a special order without placing it after several other special orders, so that it would be carried over for weeks or perhaps months. I propose now to state the object of the bill, and then leave the question with the House.

Mr. Speaker, this bill is presented by the Committee on Foreign Affairs, with the unanimous approval of its members, in the hope that it may decide, to some extent, the substantial

question as to the rights of American citizens in foreign States. It does not relate to special questions which have been presented, and will continue to be presented, to the House by its members, as well as to the executive department of the Government.

In regard to the arrest of American citizens in Great Britain or elsewhere, inasmuch as we have not received official information on that subject some time since called for the committee have not passed its judgment upon it. Hereafter, it is probable that will be presented to the House if official correspondence shall justify any action of that kind.

This bill refers to the general question, and not to any special case which may arise under the general question. It is a difficult subject to treat, inasmuch as it depends in some measure upon legislative and executive action with foreign States. It is almost impossible to embrace in any single measure a complete remedy for the universal complaint which is heard on every quarter. Of seventy or one hundred papers which have been presented in this House, and referred by order of the House to the Committee on Foreign Affairs, I believe there is not a single one which undertakes to present a remedy for the universal complaint which is made all over the country, as well as by the representatives of the people from all parts of the country. I therefore assume that it is not clear in the minds of gentlemen what should be done on this question. The Committee on Foreign Affairs, taking up this question, did not see immediately and perfectly a solution of the difficulty presented; but the bill comes as near it as any one we can present. As I have said before, it received the unanimous assent of the members of that committee after mature deliberation; and every suggestion made by gentlemen here was considered in committee, and dismissed in the belief that the general provisions of this bill furnish all the protection it is competent for the Government to give to any class of citizens. These may be doubtless improved in the phraseology in some respects.

In the first place, sir, it is necessary to consider in what respect we may not be willing to protect American citizens in foreign States. We must admit this to be right: that a man who commits a crime against a foreign State while within a foreign State must submit himself to the criminal jurisdiction of that State, and we cannot interfere, except so far as to secure to him a just and impartial trial. A man who is in the army or navy of a foreign State, under its flag, borne upon its roster, wearing its uniform, who deserts that service, would be held by that Government precisely as he would be held by the American Government if he were a deserter from its service. Therefore, one charged with acts that constitute a crime according to the laws of civilized States would be liable to punishment.

Mr. ELDRIDGE. Will the gentleman yield for a question?

Mr. BANKS. I will occupy the floor for a few moments only.

Mr. ELDRIDGE. I wish to ask a question in connection with what the gentleman is saying.

Mr. BANKS. I prefer not to yield the floor at this moment.

Mr. Speaker, in most of the European States a deserter would be liable to complete his military service and suffer some punishment. In the American service he would be liable to the penalty of death. It is a crime from which we cannot expect to relieve American citizens; but it does not affect those who are under a prospective or contingent obligation. If a subject who, being a subject of a foreign State, may possibly be called on for service some years afterward, and emigrates with the actual or implied consent of his Government, he cannot be held as a deserter from the military service of that Government. I am liable to do military service in the State of Massachusetts, of which I am a citizen; but I am free to emigrate from that State, and I commit no crime against the State of Massachusetts, because I owe at the time no immediate and positive military obligation.

Another class of cases upon which the Government is frequently called to act is that of men who obtain naturalization papers by misrepresentation and fraud. It is a frequent case that men come from South American States, from Costa Rica, or from Europe, remain here just long enough to make application for naturalization papers, go back when it is time to get full papers, and thus without residing in this country for any length of time and never acting in good faith toward this Government, obtain recognition as naturalized citizens, their intention being to reside in foreign countries, to do business there, and escape their obligations, pecuniary and otherwise, to those Governments by pleading American citizenship, and at the same time escaping all their obligations to this country, pecuniary and otherwise, as citizens. We cannot undertake to protect cases of fraud like this. It is not the interest of the Government, and I am sure the House will not expect the committee to press a proposition of that kind.

There is another class of men claiming to be or who are citizens of the United States, who leave this country, drawing ten or fifteen per cent. interest from their property here, go to Paris or some other European capital, to live in luxury, recognizing no obligation to any Government, and living on a less sum than their tax to this Government would be, thus escaping their obligation to this country. We do not propose to allow to such persons the exercise of any privilege of that kind, and the bill provides a necessary remedy for this evil.

So, too, when a naturalized citizen goes abroad, establishes himself in business elsewhere, buys land, for instance, and cultivates it, or establishes a commercial house, escaping his obligations to this country as well as those justly due to the Government where he he resides, the bill presented provides an effectual remedy.

These are some of the general exceptions which the Government must recognize and which the committee commend to the good judgment of the House for its approval in the bill now under consideration.

We come, then, to the general question, which is of the highest importance to this Government, connected with the right of American citizenship. The question is asked: what are the rights of naturalized citizens in foreign States, even who are naturalized in good faith and who exercise in good faith the rights they thus obtain of this Government? The answer is that the naturalized citizen has exactly the same right in a foreign Government that a native-born citizen of the United States enjoys. There is no difference. There is no privilege for one that the other may not claim, and it is the first and highest duty of the American Government to accord its protection to the naturalized citizen in exactly the same degree that it does to the native-born citizen. And this bill proposes to establish that principle. It is the first time that it has been proposed in the form of a legislative declaration.

The gentleman from Iowa and others who have spoken to me upon the subject have said that this cannot be the case, because the Government of the United States has never recognized the right of expatriation. Mr. Speaker, that is a subject which has been carefully considered by the committee, and the judgment of the committee is exactly the reverse of the conclusion which gentlemen have reached. In the very nature of the Government the right of emigration and of naturalization, which together constitute the act of expatriation, is admitted and has been exercised from the foundation of the Government up to this moment.

Mr. VAN TRUMP. Will the gentleman allow me a question?

Mr. BANKS. Excuse me. I know there are differences of opinion in different departments of the Government on this subject. The President called the attention of Congress to this subject in his last annual message. The courts of the United States have said, not directly, never judicially, that expatriation was not the right of an American citizen, because it was not the right of an English subject at the time of the adoption of the Constitution. But we do not recognize this as the law of this country. It is not the law of this country. It has never been sanctioned by a solemn adjudication. Whenever it has been alluded to in the courts of the United States it has always been cited as English law, and that class of judges who recognized English law existing at the time of the American Revolution have cited it as the inferential law of this country at this time, but never, I believe, declaring it to be American law.

But the executive department of the Government has maintained the opposite doctrine in almost every case. One or two distinguished public officers have yielded to the suggestions of the judicial tribunals and have recognized the doctrine of emigration and naturalization in the English sense; but they have never declared it as the doctrine of the United States. On the contrary, in the war with Great Britain, in all the negotiations previous to the war of 1812, and by almost every leading statesman, from that day up to this day, representing the executive department of the Government it has held the right of emigration and naturalization elsewhere to be the right of American citizens. The report of the committee quotes the declaration of Mr. Webster upon this question, where he distinctly recognizes this as a right which the American Government has always demanded of foreign States. But naturalized citizens have been informed, when making application for passports, of the laws of foreign States, and warned of the difficulties which might attend their visits to such countries. But it is not recognized as American doctrine of allegiance or citizenship. When Mr. Webster was Secretary of State he was informed by officers of the Government of the Sandwich islands that American citizens were settling there and were carrying on business in those islands. Mr. Webster in his dispatch replies, in so many words, if they have left this country and settled in the Sandwich islands they cease to be American citizens. That is the doctrine of the executive Government, as I understand it, at the present time.

Every member of the House will remember the ground taken on this subject by Mr. Marcy in the Koszta case. So that the subject stands at the present time in this light: while the judicial tribunals have occasionally cited the English law, and while there is a class of jurists who maintain that in this country, even to this day, the English law existing at the time of the Revolution is the American law now by which we are bound, yet no court, as I understand it, has solemnly decided that law to be binding in this country; while on the contrary, the legislative departments, and especially the executive departments, have denied the interpretation of the rights of Governments in regard to allegiance which has been maintained by the European States, a doctrine founded on feudal ideas of society, and contrary, in spirit, in terms, and in effect, to the doctrines of all democratic political associations.

The question is asked me by many gentlemen, and doubtless will be suggested to the House in this debate, why has it not been declared heretofore, and why is it not now declared, that the right of expatriation is a right of American citizens? The answer is perfectly apparent. The Government of the United States has at no period in its history made such a declaration by legislative act, and if to-day we should make any such declaration recognizing the right of expatriation on the part of the people of the United States it would be interpreted by the Governments of Europe as a declaration that from the date of the act only we recognize the right of expatriation, and that

would effectually cut off all the claims of the naturalized citizens of this country up to this day for protection while in foreign States. It is for this reason that whenever the question has been presented, and such a proposition has been made, without acting affirmatively or negatively, the Congress of the United States has always dismissed it as being unnecessary and inconsistent with the required and established rights of American citizens.

Mr. MAYNARD. I would like to ask the gentleman a question in connection with the case of Martin Koszta.

Mr. BANKS. I will hear it if it has reference to my remarks.

Mr. MAYNARD. Yes, sir.

Mr. BANKS. I pray the gentleman, who is a native of New England, to put his inquiry in the form of a question, and not a speech.

Mr. MAYNARD. Martin Koszta was not a naturalized citizen, but one who had declared his intention to become such. Does the gentleman intend to provide for that class of persons?

Mr. BANKS. No; we do not propose to define naturalization. The case of Martin Koszta is an interesting one, because it brings up in the strongest possible light this question. He was not a naturalized citizen. He had only declared his intention to become such. He did not go to his own country. He went to Turkey, then friendly as now to the United States and its citizens. Martin Koszta being an Austrian, his surrender was demanded by the Government of Austria, and the Government of Turkey declined to surrender him on the ground that the extradation treaty did not require it. But Turkey would have surrendered Koszta, had he not by force or threats of force been deterred, to the officers of the United States.

This case shows the importance of this great subject very clearly. Koszta could not travel to any State in Europe, could not travel to his own country, could not be present in any State in Europe without being liable to be surrendered by that Government to the Government of his native country, Austria. Thus if the claim be allowed, all naturalized citizens of the United States and all the native-born people of this country, so far as they are affected by the condition of the naturalized citizens, will be precluded from that right of travel abroad which has always existed in civilized States, and which must be claimed by every Government that has the slightest sense of personal and public liberty.

Mr. MAYNARD. Does the bill undertake to define what is naturalization?

Mr. BANKS. The bill does not undertake to define naturalization. It is based upon the rights of naturalized persons, admitting them to be naturalized. I believe the Government of the United States has not since maintained in its full force and strength the doctrine of Mr. Marcy, that a resident of the United States who had declared his intention to become a citizen was to all intents and purposes a citizen of the United States.

In 1812 the Government of the United States declared war against Great Britain, because Great Britain had invaded our territory, had stopped our ships, and taken from the service of the United States, from beneath the American flag, those whom they claimed to be English subjects. It was estimated that she had ten thousand of our citizens in her service or in her custody for refusing service. The prime minister of England admitted that some two or three thousand Americans had been arrested in that manner, and that at least fifteen hundred native-born American citizens had been impressed in the naval service of that country by the exercise of this power.

In 1842 Mr. Webster made very earnest efforts, very earnest appeals to the British Government to surrender this claim, but his request was rejected, or at least declined. Therefore up to this day the right of Great Britain, as maintained by her Government, has never been surrendered.

The interest of the United States in this matter is now stronger than it was then. There were then in this country but 120,000 emigrants from European States; there are now 6,640,000, and they and their descendants amount to three fifths of the entire population of this country at this time. According to a report from the Bureau of Statistics, the persons who have emigrated to this country from foreign States since the organization of this Government, with their descendants, number 21,750,000. Now, European law holds all these people to the second and third generation, even, "perhaps for all time" according to Mr. Westlake's authority as to English law, to the obligation of subjects of those European Governments.

Now, it will not be contended that all these people can be impressed; but if one out of five or six is liable to arrest, the peace and the rights of all the people of this country will be disturbed. So, too, when an American citizen, traveling in Europe, guilty of no crime, and without offense to any nation or any law, is arrested, confined, imprisoned, or put in the army for service for the rest of his life, the peace and the rights of the whole people of this country are impaired and imperiled.

I do not mean to speak extravagantly on this subject, but I will venture this remark, that this claim which, maintained by the European States, especially by Great Britain, affecting, directly or indirectly, so large a proportion of the people of the United States, this Government can never peacefully recognize.

We go one step further than did the Government of 1812. Great Britain had then asserted her right to enter upon our territory and to seize and impress American citizens beneath our flag. Upon that we made our contest, and the God of battles gave us the victory. It did not give us the right which we claimed, but it led the British Government to abandon the practice upon which she had acted from the foundation of our independence. Since then our population has increased till we number thirty-five millions. Three fifths of them are interested in one way or another with the claims made by the European States. The greatest punishment that can be inflicted upon any man or any nation is the denial of the right of locomotion or of travel.

Americans must have, as other nations have, the right to travel in civilized States, committing no crime against the laws of those States and charged with no intent or purpose of wrong. Yet if this assumption of European States is submitted to, that privilege accorded in all periods to the people of every civilized nation is in a great degree impaired, if not destroyed. To this we as a nation cannot submit. Whether the bill proposed by the committee meets the case I, of course, cannot answer for the House; but I think gentlemen will find, after careful consideration of every point, that this measure concedes nothing to European Governments that must not of right be conceded to them, that would not be demanded by us upon the same ground; that it claims from European Governments on behalf of our citizens, naturalized or native born, nothing which must not be maintained at whatever cost.

The SPEAKER. The morning hour has expired, and this bill goes over till to-morrow, when the gentleman from Massachusetts [Mr. BANKS] will be entitled to thirty minutes. The next business in order is the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, and Florida, and for other purposes. On this bill the gentleman from Missouri [Mr. PILE] is entitled to ten minutes, being the residue of the hour of his colleague, [Mr. McCLURG.]

Mr. INGERSOLL. Is it not in order, Mr. Speaker, to move to postpone the regular order, so that we may go on with the consideration of the bill which has just been under discussion?

The SPEAKER. The gentleman from Missouri [Mr. PILE] is entitled to the floor.

Mr. INGERSOLL. Perhaps the gentleman would yield to take the sense of the House on that question.

Mr. PILE. I cannot yield. I think that after further consideration we shall be better prepared to act upon the bill before the House during the morning hour.

Mr. INGERSOLL. I do not wish to insist upon my suggestion if the gentleman has the least objection.

SOUTHERN LAND GRANTS.

The House, agreeably to order, resumed the consideration of the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, and Florida, and for other purposes.

Mr. PILE. Mr. Speaker, I desire, in the first place, to make a statement of facts with reference to the Alabama and Tennessee River railroad, as furnishing the reasons why the amendment I have offered should be adopted if the bill should pass; and, in the second place, I wish to say a few words with reference to the general provisions of the bill.

In May, 1866, Mr. A. W. Breed, of the city of Cincinnati, a thoroughly loyal citizen of the State of Ohio, made a contract with the president and board of directors of the Alabama and Tennessee River railroad, agreeing to grade and complete the superstructure of the unfinished portion of the road and to restock the road with rolling stock, taking for the labor and material to be furnished by him the bonds of the road. He went to New York for the purpose of negotiating these bonds; and upon conferring with capitalists in the city of New York he found that he could not negotiate these bonds unless, first, the president of the road should be changed; second, a change of three individuals should be made in the board of directors; and third, a majority of the stock of the company should be transferred outright and *de facto* to those parties in New York who were to furnish the money upon those bonds. The railroad company conceded these terms. The president, in obedience to the desire which had been expressed, resigned; a majority of the stock was transferred, and these parties in New York, who were all loyal citizens and many of whom contributed most materially toward the prosecution of the war and the defense of the Government, agreed upon those terms to take each a specified number of the bonds of the road and furnish the money necessary to complete the unfinished portion of the road and restock it with rolling stock. Among these gentlemen were Mr. Barney, Mr. Delano, Mr. J. J. Astor, Mr. U. A. Murdoch, S. P. Chittenden, C. H. Marshall, and others, gentlemen against whom, so far as I know, no accusation can be made in regard to their loyalty to the Government and their assistance in the prosecution of the war. This man, under the arrangement made with these capitalists in New York, sent to Europe and purchased the iron to complete the whole of that unfinished portion of the road.

Thirty miles or near that have been graded. Some six hundred hands are now at work, and they say within less than one year from the 1st of January, 1868, the whole of this unfinished portion of the road will be completed, and there remains to be finished only thirty-seven miles. There are involved in this road only about one hundred and thirty-seven thousand acres of land.

Now, the point I wish to make in regard to this company, in view of the importance of completing this road, as the connection of Rome with Dalton will make a line connecting the cities of Washington and Baltimore with Mobile and New Orleans ninety-five miles shorter than any existing line; in view of the additional fact that the majority of the stock of this road, as well as of connecting roads between that and Dalton, has passed abso-

lutely into the hands of loyal men; and in view of the further important fact that they are building this road, all hands are at work, its construction is being pressed with all possible vigor; in view, sir, of its great importance in the development of that country, I say that it is unwise and unfair now to deprive them of this grant and pass a law which will declare these lands forfeited, not only for the part of the road unfinished but all the lands remaining unsold for the part they have finished, in accordance with the provisions of the law under which the grant was made.

It will be remembered by the House that I propounded to the chairman of the committee yesterday the question as to what the effect of this bill would be on the lands remaining unsold upon the portion of these railroads which have been finished, and he replied that they undoubtedly would be forfeited; that this bill would not only forfeit the lands for the unfinished portions of these roads, but also the lands remaining unsold for the finished portions—finished in accordance with the provisions of the law by which the grant was made.

The chairman of the committee stated that would furnish undoubtedly an equitable reason why at some future time this grant for this particular road, or the grants for similar railroads, shall be revived. But does not the gentleman see, and can the House fail to see, that this would impose great hardship on this road, from the fact that declaring these lands forfeited and opening them to preëmption on that portion of the road which has been completed according to the law, would render the restoration of these lands to the company an impossibility? Taking these facts, whatever may be the convictions of gentlemen as to the propriety of passing this bill, I submit that this road, now in process of rapid completion and owned by loyal men, should not be included. I trust, therefore, my amendment excluding it for the reasons I have stated will be adopted in case the bill is not recommitted to the Committee on Public Lands.

Now, sir, a word in reference to the general provisions of this bill. I think it is premature now to pass on this whole question.

The SPEAKER. The gentleman's time has expired.

Mr. TABER obtained the floor.

Mr. PILE. I ask the gentleman to yield to me for a few minutes.

Mr. TABER. I yield to the gentleman.

Mr. PILE. I think it unwise, Mr. Speaker, while the process of reconstruction is being completed, with the prospect of an early restoration of these States, when it is the general feeling that they should be represented upon this floor by loyal men whom we believe and expect they will send. I say I think it is unwise by one sweeping law, covering all roads, placing them all upon the same basis, to treat them all alike, whether they have done much or little, whether they are important or unimportant to the country, whether partially finished or not begun, to forfeit all these lands and take it from these roads which are now furnishing employment to the poor people down there, white and black. I know it is said if we pass this bill now we can take up these cases hereafter, one after the other, when the States are represented here by loyal men; but he fails to perceive the great wrong done by this bill in declaring these lands forfeited and opening them up to homestead entry. Men may come in and settle upon the line of these roads and the roads will then be compelled to purchase the right of way. I think it would be better to return the bill to the committee and wait for the southern States to send Representatives here. It is unwise to tear down in order to build up again.

At the proper time I intend to make a motion to lay on the table the motion to reconsider the order of the House recommitting the bill to the committee. If that is carried the committee can then take more time to consider the matter and be better prepared to report a bill that will protect the interests of innocent and deserving parties.

INCOME AND REVENUE TAX.

Mr. SELYE. I ask unanimous consent to offer the following resolution:

Resolved, That the Commissioner of Internal Revenue be directed to report to this House at his earliest convenience the number of persons paying an income tax in each State, with the aggregate amount so paid by States; also, the number of manufacturers in each State paying revenue tax with the aggregate amount paid in each State.

Mr. BENJAMIN. I suggest that the inquiry be made of the Secretary of the Treasury.

Mr. SCHENCK. I merely wish to remark that three-fourths of all that information is now in print, and gentlemen have it on their tables if they choose to look at it; everything relating to the amount of tax in the different States.

Mr. KELLEY. I object to the introduction of the resolution.

MAIL ROUTE.

Mr. BURR, by unanimous consent, introduced a bill (H. R. No. 588) to establish a mail route; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SOUTHERN LAND GRANTS—AGAIN.

The House resumed the consideration of the bill to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, and Florida, and for other purposes.

Mr. TABER. Mr. Speaker, when this bill was before the House just before the adjournment in December, I took occasion then to express my disapproval of its provisions. I had not then had time, nor do I think the committee had time, to give to this subject the consideration which its merits demand. I have since then, however, given to the subject a more careful consideration, and the more I have examined it the better have I become satisfied of the injustice it will work, and of the impropriety of passing it in its present form, and at this time.

I find from documents which I hold in my hand, sent to me at my request by the Commissioner of Public Lands, that the amount of land certified to the four States embraced in this bill is four million eight hundred and seventy-three thousand and thirty-three acres; and that there are still remaining in those States thirty-five million eight hundred and eighty thousand acres subject to entry under the homestead and preëmption act. It would seem, therefore, that the plea of the gentleman from Indiana, [Mr. JULIAN,] that the lands that are proposed to be confiscated by this bill are absolutely necessary to supply the wants of the landless poor in the South is not substantiated by this report, by which it appears that the amount of these grants is not more than one eighth of the aggregate amount of public lands in those States.

Mr. PRUYN. I made an inquiry yesterday, when my colleague [Mr. CHANLER] had the floor, but which I desire to renew in somewhat broader terms. It is this: on what facts did the committee act when they ordered this bill to be reported? what evidence was before them? when will it be presented to the House? and are we to have a report in writing from the committee, and when may we expect it? On a subject of this importance we ought to have full information before we legislate.

Mr. TABER. So far as I know there has been no testimony whatever taken by the committee or laid before it. I believe at the time it consented to the report it did so for the simple purpose, and with the express understanding, of having the bill as amended in the committee printed and recommitted to the committee, so that it might have that fair and careful consideration that its importance demanded. I believe now I am justified in saying that the majority of the committee still desire that the bill may take that direction.

Mr. Speaker, by acts passed by the Thirty-Ninth Congress, we have renewed grants in Arkansas, Missouri, Iowa, Michigan, Wisconsin, and Minnesota. Those grants were originally obtained at or about the same time that these southern grants were made. The former have been renewed and extended, and in almost every instance they have been nearly doubled. That is to say, where the limit of the original grant conveyed three miles in alternate sections on each side of the road, it has been in nearly or quite every instance, extended to five miles, thereby granting six million five hundred and thirty-two thousand nine hundred and ten acres. Three acts were passed at the first session of that Congress to renew and add to original grants to the State of Arkansas. The act making a grant to the Iron Mountain railroad from Pilot Knob, in the State of Missouri, to Helena, in Arkansas, was reported and sustained in the House by the chairman of the Committee on Public Lands. I will read the second section:

"SEC. 2. *And be it further enacted*, That there be, and is hereby, granted to the State of Arkansas, for the purpose of aiding in the construction and extension of a railroad from the point where the Iron Mountain railroad intersects the southern boundary line of Missouri, by the nearest and most practicable route, to a point at or near the town of Helena, on the Mississippi river, every alternate section of land designated by odd numbers, for ten sections in width on each side of the road," &c.

The grant is not only revived but there are four sections of land added to each mile of the road. The original act was passed in 1853. Two other bills were reported by the Committee on Public Lands precisely of the same character, and became laws, relating to the State of Arkansas. It strikes me, therefore, that the chairman of the committee can, with very great propriety and consistency, permit this matter to rest for the present in the condition it is now in. That is all that I desire. I only wish that the matter shall remain as it is until these States are represented here. When they are so represented I shall be quite as willing to take up the subject and give it a fair consideration, giving to each road and each State all that it is entitled to and no more, as the gentleman from Indiana. By that time the House will be in possession of information that will enable it to act understandingly and intelligently. I trust, therefore, that the motion of the chairman of the committee will not prevail, but that the bill will be again returned to the committee. I yield twenty minutes of my time to the gentleman from California, [Mr. AXTELL.]

Mr. AXTELL. Mr. Speaker, this is a bill dealing with values; property is presumed to change hands by its passage. It is therefore proper that we should consider whether there are vested rights which may be disturbed by our legislation. Heretofore, more than ten years ago, Congress relinquished the title of the United States to several million acres of lands lying in the southern States for railroad purposes. It is stated by the chairman of the Committee on Public Lands that the amount was about five million acres. Those grants were made in the same form as other grants made by Congress for the same purpose, not alone or principally to benefit the stockholders in the roads, but rather to benefit the country through which they pass, and by enhancing the value of the alternate sections thereby adding to the wealth of the United States. The condition attached to those grants was that the railroads should be completed in ten years. The ten years have elapsed and the railroads are unfinished; the conditions have not been complied with, and the gift reverts to the donor. The land remains in the United States without legislation, and it is hard to understand what object will be attained by this bill unless it is to render the forfeiture notorious, advertise the lands, and prevent affirmative legislation in favor of the railroads.

This bill simply declares a certain state of facts to exist. It is, perhaps, merely a notice in advance to the southern people that we stand upon the letter of the bond and they

need expect no favors. On the other hand, it is presumed (for the roads have not yet been heard upon this floor) that they will excuse or justify their failure to complete the roads on account of the actual existence of war in their borders, pleading the act of God and public enemies. We reply that the existence of war was their own act and that they cannot take advantage of their own wrong. What their reply to this would be, if represented here, we do not know, and as there can be no haste necessary in the matter, it is to be hoped that the moderate and fair dealing men upon this floor will wait until this great interest is represented here before taking final action.

But, sir, rights have vested, for the roads have been partially built. We have heard during this debate, from the gentleman who reported this bill, that in the case of the Opelousas road the State of Louisiana owns a large amount of the stock, and other portions of it are owned by various parishes in the State that have subscribed to the building of the road. Other stock, again, is owned by individuals residing North and South and abroad; and while, if they have failed to comply with the conditions of the grant and have no excuse, it is true that the lands revert to the Government, still when we consider the condition of our country for the last five or six years it may be well for us to pause before giving this emphatic notice that they will call in vain on us to renew the grants after they have invested their money and completed large portions of the roads.

It may be well for us to consider whether the grant was originally a wise one. I presume that no gentleman upon this floor will now stop to debate the advantage of railroads. It is stated by the mover of this bill that his object is to release these lands from the hands of corporations and thereby give homes to the landless poor. According to his statement of the case it is "the freedmen *vs.* capitalists." The gentleman from New York [Mr. TABER] has replied to that by figures, showing that there are thirty-five million acres of land in those States yet belonging to the Government and subject to preëmption and location, and therefore these five million acres are not needed to furnish homesteads to the landless poor. We are approached upon the mercy side. "The Greeks are to be feared even when bearing gifts." It is well for us to consider the justice of the case before we debate the propriety of taking these lands from men who have already a vested right in them to give them to the landless poor. Railroads are the poor man's roads—the railroad car the poor man's carriage; and while we propose to give homes in our country to the landless poor we also propose to give them roads by which they can reach those homes. There are too many western men on this floor to be told that eighty or one hundred and sixty acres of land in an unbroken wilderness without roads is any home for the poor. It is rather a place where a rich man would starve to death. We propose by railroads to give homes to the poor and bread to the poor. These railroads reaching into a fine grain-growing country will bring cheap products to the poor of the South. The capitalists of the South cannot be arrayed against the poor of the South. We would give the poor not only homes but food and employment, and the man who attempts to array capital against labor is a political and social incendiary. There neither is nor can be any just or natural antagonism between them. The lands are there and will remain there forever, and when owned by the Government they are owned by a corporation that overwhelms and swallows all corporations; whoever holds them holds them for sale, and it is a notorious fact that wild lands in the United States are held at a mere nominal price, for it is not the land that is wanted by the Government or the road; it is the settler that is needed.

It is said this is to provide homes for the freedmen, these children of the Republic, born of the war. We should be untrue to ourselves if we did not seek earnestly to advance the interests and improve the social condition of this peculiar people. It is fair to assume that the more intelligent portion of them—the house-servants, mechanics, and skilled laborers—will find no difficulty in obtaining employment either in those States or in neighboring ones. It must not be lost sight of that the freedman is no longer a fixture. He is now at liberty to choose his own field of labor and of enterprise. The Government is bound to protect him, as she is bound to protect all who live under her flag.

As it was well remarked by the gentleman from Massachusetts [Mr. BANKS] in the debate this morning in relation to the rights of American citizens abroad, the right of locomotion is one of the inalienable rights of American citizens. And if the people of the South are so blind to their own interests as not to desire to make the field of labor agreeable to the freedman and to provide him with all those appliances and comforts necessary to his condition, but rather desire to force him to remove, then they will lose this valuable labor; for the right of locomotion is one of the freedman's inalienable rights. To my mind it is quite probable that Mexico and Central America will be the future home of the much-abused and badly-debated negro. When his slow mind comprehends his present condition he will naturally turn his attention to the south land left for him, and for him a paradise. That we can put him in this generation to any use in America outside of labor is probably not the earnest conviction of a dozen men on this floor. That we can benefit and intend to benefit and improve their condition is entirely true. That we will provide them homes on an equality with other men is entirely true. They shall be guarantied, Mr. Speaker, your birthright and mine and the privilege of every foreigner who lands upon our shores—the privilege to toil.

But, as I have already said, the house-servant, the merchant, and the skilled laborer among the colored population South can obtain remunerative employment in the settlements. Then who will be left to take up these lands? The field hands, men and women, just out of the condition of slavery, without any capital, without a year's provision to sustain them until they can raise a crop; without money, without ability to go into those distant fields of labor, unopened by roads. They cannot plant themselves there, and even if they should be placed there by means of the policy which is the pet theory of the majority in this House—gifts and donations levied upon the industry of the North—they could not keep themselves from starvation and death. And yet this plea of homes for the landless freedmen is urged with apparent gravity and earnestness by the advocates of the bill.

The letter which was read from the Clerk's desk yesterday, at the suggestion of the learned gentleman from Indiana, [Mr. JULIAN,] propounded the query why the Government permitted these railroads to continue to hold large amounts of public land while it proposed to confiscate for the use of the freedmen private property.

This bill is one of confiscation, of pains and penalties, though under the specious plea that these lands are necessary for the freedmen of the South, for the poor loyal men of the South. It is for this reason that we are asked here to aid and encourage this system of wrong, this system of confiscation.

Mr. Speaker, these poor white men of the South have lived upon these lands for generations without any restraint. They have raised nothing upon them but hoop-poles, and those they could not get out to the settlements for want of transportation. And even those in the interior of this country who had capital could make nothing out of it, because they had no transportation. Railroads were needed when they were commenced, and they are needed now. Had this debate rested entirely upon the legal right of the owners of these roads, or had it been placed when affirmative legislation was asked here upon the policy of the Government either to retain these lands or to continue these grants in force, and give an extension of time, as we have, and justly too, to the roads in the great West—I say, Mr. Speaker, if the question was merely one of the policy of the Government toward these roads, then this portion of my speech would have been irrelevant.

But the advocates of this bill have had the audacity to state upon this floor that they desire it as a measure of punishment for their rebellious subjects in the South. And the gentleman from Missouri [Mr. MCCLURG] has even gone so far as to use the following language: "I almost feel willing that God shall visit, as I have no doubt he will, that land with desolation." I am therefore justified in treating this as a "desolating measure," and addressing myself to the policy of such measures, and the motives and passions of men who advocate them. If these men have really searched into the councils of the Infinite, and ascertained to their satisfaction that God desires them to smite this bleeding and helpless people, I make no doubt their hand will love the work, and that they will proceed with swift alacrity. It is said "treason must be made odious." Injustice and cruelty and malice are odious of themselves. Severity is the ready and often the only argument of a weak man. Malice and rage are born of cowardice, and cruelty is a fool's argument. If treason is not "odious" without punishment it will not be odious with it. The danger is that the bigotry of these self-called apostles of liberty will make loyalty odious. The Union without liberty would be a curse, and every man who supported it would be a tyrant. A Government sustained by fear is despotism. We support the Union in order "to establish justice, insure domestic tranquillity, promote the general welfare, and secure the blessings of liberty" to all within our borders. We must believe that it is the object of all men on this floor "to promote the lasting welfare of that country so dear to us all, and secure the freedom and happiness" of all men under the flag.

I have been led to indulge in this line of remark by the language and sentiments of those who have advocated this bill. It has been asserted in this debate that the great State of Louisiana is "constitutionally dead and politically damned." Does the gentleman from Indiana, [Mr. JULIAN,] who made this remark, mean to say that the great State of Louisiana must not pay her debts—that she has no rights of property? Is the doctrine advanced here that she has no rights which loyal men are bound to respect? Is the doctrine to obtain that men once in rebellion have passed out of the pale of humanity and human justice? Is it maintained that the men living in Louisiana, when they have invested their money and their labor, have acquired no rights which the majority of this House are bound to respect? What other meaning can be attached to the assertion that Louisiana is "constitutionally dead and politically damned?"

Mr. Speaker, in concluding the remarks which I have, by the courtesy of the gentleman from New York, [Mr. TABER,] had the honor to make, I desire to call the attention of all kind-hearted and Christian men on this floor to the fact, undisputed through the history of ages, that force and fear can create no true Union; that "desolating" men have pursued "desolating" measures to their hurt; "have taken the sword and perished by the sword." The Union we desire to establish and preserve is one of mutual friendships, interests, and esteem. Easy means of intercourse and personal contact and communication help greatly to effect this object. Had railroads run North and South as extensively as East and West, and intercourse, trade, communication, and intermarriage been as universal between the North and South as between the East and West, it is quite probable that this war would never have been. But the country has been fearfully desolated, and it should now be our

aim to build it up and restore its waste places, if not from higher, at least from politic and prudential motives. We require the products of the southern States—their cotton and tobacco—to balance our exchanges. It is good as gold. We should by all legitimate legislation encourage its cultivation, and in the place of attempting to draw the freedmen from the plantations at present we should rather encourage them to labor on the rich and cultivated lands, either as tenants or laborers, as their skill and means may permit. Homes for the freedmen in the wild and uncultivated forests is a delusion and a snare. There is abundance of cleared land for all the labor now in the South, and freedmen and all men must possess some capital before they can clear and settle lands. Viewed from a financial point alone, it is wisdom for us to cease at once from these desolating and destructive measures, so that capital may again visit the South and feel secure in its investments.

The idea that has been urged here, that because these railroads have carried treasonable armies and supplies for the rebellion, they should be torn up and destroyed or crippled in their resources, is vandal in its conception, and so un-American that I am compelled to believe that the gentlemen who advocate that destructive policy, now in the third year after the war has closed, have become, to some extent, demented by fanaticism, and have lost that noble power of reason which belongs to humanity.

Let us wait till these roads come here for an extension of their grants. Then let each one stand or fall on its own merit or demerit, and if punishment is to be inflicted upon individual stockholders or officers let us single them out and punish them, and not do as this omnibus bill proposes, strike at them in a lump, giving them all one neck and severing it with a single blow; and, as to punishment in general, let us mete out their deserts at once and make an end of it. There can be no worse policy than this, which advances step by step from one measure of punishment to another, looking apparently with greedy eyes to the final confiscation of these lands and the utter desolation of their homes. A decent self-respect demands that we reach a finality in this matter, and make known to the white populations of the southern States our ultimatum. This uncertainty and agitation destroy them and us alike. They prevent capitalists from taking hold of works of public improvement and discourages all branches of industry. Wise rulers seek to remove causes of discontent, weak and wicked ones punish outbreaks and crush and desolate their rebellious subjects.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The message also announced that the Senate had passed joint resolution (H. R. No. 136) providing for the sale of iron-clads, with amendments, in which the concurrence of the House was requested.

RECONSTRUCTION DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I rise to a privileged question, and submit a report from the committee of conference upon the bill (H. R. No. 320) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The Clerk read the report, as follows;

The committee of conference on the disagreeing votes of the two Houses on amendments to the bill (H. R. No. 320) "making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws and for the service of the quartermaster's department of the Government for the fiscal year ending June 30, 1868, and for other purposes," having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses as follows:

That the Senate concur in the amendment of the House to the third amendment of the Senate with an amendment as follows: in the first line of said House amendment after the word "that" insert the following words: "from and after the 3d day of March, 1868."

That the House of Representatives recede from their disagreement to the fourteenth amendment of the Senate and agree to the same.

E. B. WASHBURNE,
F. C. BEAMAN,
Managers on the part of the House.

L. M. MORRILL,
J. W. GRIMES,
TIMOTHY O. HOWE,
Managers on the part of the Senate.

Mr. WASHBURNE, of Illinois. I desire to say a word or two in explanation of this report.

The Senate agree to the amendment of the House in relation to stationery, with an amendment providing that the proposition should not take effect until the end of this Congress. To that I was opposed. In the first place, as the House will bear me witness, I was in favor of limiting the stationery to what was already drawn, and afterward in favor of the Senate amendment in lieu thereof cutting it off entirely. The proposition that now comes to us is substantially the proposition of the House as it passed and was understood by the House. In order to make the matter more plain in reference to the allowance for stationery, and that no question might arise hereafter, the proposition is amended so as to make it read, "after the 3d day of March, 1868." That is precisely the way in which the House understood it, much against my consent, of course; but I agreed to this report in order to have an end of the matter and have the question settled; so after the 4th of March, 1868, there will be no question in regard to the matter of stationery.

Mr. GARFIELD. How much is allowed?

Mr. WASHBURNE, of Illinois. One hundred and twenty-five dollars for a year. The Senate are to have the same and no more than we have.

Mr. GARFIELD. How much does it cut the Senate down?

Mr. WASHBURNE, of Illinois. I cannot tell. It is known to the members of the House that there has never before been any limitation on the Senate in the matter of stationery. In this proposition we apply the limitation to the Senate as well as to the House.

The next subject of disagreement was a proposition forbidding transfers to be made from one fund to another in the Treasury Department. Both Houses were in favor of that proposition; but the House Committee on Appropriations having directed a report to be made by the gentleman from Massachusetts [Mr. BUTLER] on that subject to come in as a separate bill, we thought it best to strike out the Senate amendment on the subject in this bill. It was insisted by the Senate that there was a necessity for immediate action, and though this amendment did not go as far as the very elaborate and complete measure which the gentleman from Massachusetts prepared, yet it was thought best to take this for the present, and then to pass his bill through as soon as possible. I now demand the previous question.

Mr. PHELPS. I wish to say a word.

Mr. WASHBURNE, of Illinois. I yield to my colleague on the committee. I should have said, what he will say for himself, that he did not agree to this report on the ground that he, like myself, was opposed to having any allowance. But as it was necessary to get to the end of this matter and to have this bill passed, so our employés should be paid, I signed the report. I yield to my colleague on the committee.

Mr. PHELPS. Mr. Speaker, I was a member of this committee of conference, and am, I think, competent to explain my own position. I was the only member of the committee of conference whose name does not appear signed to that report, and I will state the reasons why I declined to sign it. I have taken the ground in the Committee on Appropriations from the first that, inasmuch as the necessities of the Government were apparent, and it was time an earnest effort was made to retrench expenditures in all departments of the Government service, we ourselves should begin right here at home by setting an example of economy in reality and showing our own good faith. And it is for that reason, sir, I have deemed this a proper time to cut off entirely the appropriation for extras in the way of stationery and newspapers, and to limit the amount of stationery allowed to committees to what is absolutely required for the service of those committees. I do not design trespassing on the time of the House in elaborating a matter so obvious to every man who addresses himself earnestly to the consideration of the subject; and I will content myself with the single remark that I declined to sign this report of the committee of conference because I am opposed to the appropriation allowed by this report for extras in the way of stationery and newspapers.

The report was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INSPECTION OF IMPORTS.

Mr. JUDD, by unanimous consent, introduced a bill (H. R. No. 589) to regulate the appraisement and inspection of imports, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

SOUTHERN LAND GRANTS—AGAIN.

The House resumed the consideration of the bill to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, and Florida, and for other purposes.

Mr. TABER. I now yield to the gentleman from Ohio, [Mr. CARY.]

Mr. CARY. Mr. Speaker, I avail myself of the courtesy of the gentleman from New York, in the few moments allowed me, to say a few words by way of explanation of my position on this and other subjects involving the question of the disposition of the public domain.

This bill discloses waste and improvidence of the people's inheritance on the part of Congress. Nearly five million acres of fertile lands belonging to the whole people, and of which Congress is only the trustee, handed over to soulless corporations! Of all monopolies the most to be dreaded is a monopoly of the soil. To such an extent has this evil prevailed that scarcely a section of good land can be found upon which the settler can build himself a home without going to the furthest limits of civilization. Corporations and speculators and land-sharks have been allowed to possess themselves of what should be sacredly reserved for the homes of actual cultivators of the soil. In ownership of the soil lies the foundation of manhood, independence, liberty, and civilization. By the accumulation of lands in the hands of the few we shall have serfdom, vassalage, ignorance, and barbarism.

If the moments allowed me were adequate for the purpose I would like to call the attention of Congress and of the country to facts which would admonish us that our predecessors in this House have set us a very dangerous example. One corporation—the Illinois Central Railroad Company—is now advertising fifteen thousand farms for sale, being the small amount left of the magnificent grant of Congress.

Mr. WASHBURNE, of Illinois. I do not wish to interrupt my friend from Ohio, because I am very much interested in his speech and in his doctrines, but I wish to ask him if he did not vote the other day to extend a grant

for the benefit of the Illinois Central railroad to a road in Iowa.

Mr. CARY. I will explain that in a moment. I hold in my hand an advertisement from a single firm which shows what has become of the lands which Congress donated to the States for the purpose of establishing agricultural colleges. Let us see what has become of those millions of acres of the people's property during the past year. This firm—Lewis & Co.—say:

"During the past two years we have purchased from the State of Kentucky all the warrants issued to her, amounting to three hundred and thirty thousand acres; all issued to Indiana, three hundred and ninety thousand acres; all issued to Maryland, two hundred and ten thousand acres; all issued to North Carolina, two hundred and seventy thousand acres; all issued to New Hampshire, one hundred and fifty thousand acres; from Massachusetts, two hundred thousand acres; from Ohio, four hundred thousand acres, and from Pennsylvania six hundred and thirty thousand acres; smaller lots from other parties, making all our purchases aggregate over three million acres within the last two years."

This one firm has procured all those lands.

Now, sir, I have only time to add in the few moments allowed me that where lands have been granted to railroad companies—and here I answer the gentleman from Illinois [Mr. WASHBURNE]—and they in good faith have prosecuted their works, but have failed to complete them within the time limited by reason of the civil war, I will vote to extend the time, and that was the case with the Dubuque and Sioux City railroad.

Mr. WASHBURNE, of Illinois. If the gentleman will read the messages of the two Governors of Iowa—the outgoing and the incoming Governors—he will see that that very railroad company has not acted in good faith, and they call upon the Legislature to take everything away from it.

Mr. CARY. I do not know what the two Governors may have said, but I understand that the bill was simply to extend the time to enable the company to complete the road, the work having been interrupted by the civil war. And upon the same principle I am ready to vote to extend the time to all those railroads in the South that have been interrupted in the prosecution of their work by the civil war; but in cases where they have not begun the work I am in favor of taking the lands back again and revoking the grants. Hence I am in favor of referring this bill back to the committee, or of keeping it there and having it so modified that only those roads that have in good faith undertaken the prosecution of the work shall have the lands granted.

I state here now distinctly that under no circumstances will I vote, while I have a place upon this floor, to give one single acre of the public domain to any corporation under heaven. I hold that Congress is simply trustee of these lands, and as trustee we should keep the lands for homesteads for laborers, native and foreign born. The reason why our cities now are crowded with persons seeking employment, consumers instead of producers, is because you cannot find a section of land this side of the borders of civilization that is not in the hands of some corporation or some great speculator.

Why, sir, the State of Iowa would have a hundred thousand more population to-day, and ought to have them. Yet there is not now a section of land in that State which a laboring man can procure, except it be in a mosquito swamp or some other place equally undesirable. And so it is in all the western States. The gentleman from California [Mr. AXTELL] said, and he said truly, that the railroad is a poor man's road. Yet the moment a railroad is projected all the land not taken by the road is taken up by speculators.

Mr. BENJAMIN. Will the gentleman yield to me for a moment?

Mr. CARY. I have but little more to say; after I get through the gentleman from New York [Mr. TABER] can yield to the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. BENJAMIN. I desire to say that there are plenty of public lands in the State of Missouri within reach of civilization.

Mr. CARY. There may be just now; but it was not so before the rebellion.

Mr. BENJAMIN. It was so before the rebellion.

Mr. CARY. I am entirely opposed to donating these lands. It is a false idea that by giving lands to railroads we are building highways for poor men. If we should pass a law that no man should be the owner of land unless he settled upon it we might help the poor man; we should then furnish him a home where he could erect his altar and worship God according to the dictates of his own conscience.

My time is now exhausted. At another time, when I have a better opportunity, I will give my views more at length. I wanted to explain my vote on the Dubuque and Sioux City railroad bill. I may have voted under a misapprehension. If it had been an original proposition to give land to that road I would not have voted to give them a single acre, but as they were interrupted by the war I did vote to extend their time. That I understood to be the whole extent of my vote. I have nothing further to say.

Mr. CAVANAUGH. Will the gentleman yield to me for a few moments?

Mr. TABER. For what purpose?

Mr. CAVANAUGH. For a personal explanation, for five minutes.

Mr. TABER. I will yield to the gentleman from Montana [Mr. CAVANAUGH] for five minutes.

Mr. CAVANAUGH. Mr. Speaker, as the gentleman from Kansas [Mr. CLARKE] the other day traveled out of the legitimate sphere of action here by introducing a resolution censuring the Territory of Montana for passing laws in relation to suffrage in opposition to the legislation of Congress, I desire to say a few words. I took the trouble of sending a telegram to Hon. Green Clay Smith, Governor of that Territory, as follows:

WASHINGTON, D. C., *January* 28, 1868.

To GOVERNOR GREEN CLAY SMITH,
Virginia City, Montana:

Did the Legislature pass any law interfering with the law of Congress relative to negroes voting in the Territories? Answer.

JAMES M. CAVANAUGH.

To that telegram I have received the following reply:

VIRGINIA CITY, MONTANA TERRITORY,
January 28, 1868.

Hon. JAMES M. CAVANAUGH, *Washington, D. C.:*

Congress wrongfully informed on Montana election law. Have forwarded copies.

GREEN CLAY SMITH.

As the gentleman from Kansas [Mr. CLARKE] sprung the previous question upon me, I desire now to say that I represent sixty-five thousand American citizens; I represent a Territory nearly twice as large as the State of Kentucky; I represent a Territory that this year sends $25,000,000 of gold to the Treasury of the United States—thus adding largely to the wealth of the nation. Had this attack upon my Territory come from Massachusetts, or New Hampshire, or Vermont, or Rhode Island, I should not have felt it necessary to say one word. I have no fault to find with my friend Governor BANKS, or Mr. DAWES, or any other gentleman who comes from New England where negro suffrage is allowed, for what they may say upon the subject. Had either of them introduced that resolution I should not have raised my voice here in regard to it otherwise than to correct false impressions and unfounded charges.

But it was introduced by a gentleman whose State at the last election, by a majority of nine thousand and seventy-one votes, refused the privilege of voting to the colored man; whose State, by a majority of over ten thousand, refused suffrage to the white women of the United States, and by only a majority of six hundred and eighty-two carried the proposition to "disfranchise rebels." And yet he comes here and endeavors to force upon Montana what Kansas has refused to allow in her own borders. Let the gentleman correct the evils in his own State before he attempts to legislate for my Territory. To say the least of it, he certainly has taken impertinent liberties with the rights of the people of Montana, and has been indelicately obtrusive in the matter.

I merely desire to say that the Legislature of Montana has not done what has been charged; and I will further say to the gentleman from Illinois, [Mr. FARNSWORTH,] as well as to the gentleman from Kansas, [Mr. CLARKE,] that the people of Montana are as loyal as the people of Kansas or the people of Illinois or the people of any other State in the Union. However much the citizens of Montana may differ with the political sentiments of the majority of this House it is due to them to say that they have ever given a ready assent and cordial support to the laws of Congress. I know the constituency, the people I have the honor to represent; and know them to be as true, loyal, patriotic and intelligent as any that are represented on this floor.

Mr. TABER. I now yield to the gentleman from New York, [Mr. MCCARTHY.]

POST ROADS IN NEW YORK.

Mr. MCCARTHY, by unanimous consent, introduced a bill (H. R. No. 590) establishing a post road from Marathon to Smithville Flats, New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

He also, by unanimous consent, introduced a bill (H. R. No. 591) establishing a post road from Syracuse to Euclid, New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SOUTHERN LAND GRANTS—AGAIN.

Mr. TABER. I now yield to the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. Mr. Speaker, I have asked a few moments from the gentleman from New York [Mr. TABER] that I may briefly reply to the remarks of the gentleman from Ohio, [Mr. CARY.] I must say that I was particularly surprised the other day at the vote of my friend from Ohio on the Iowa land-grant bill. I had supposed that he was in favor of the policy of "land for the landless;" and I was surprised that he should vote for a bill which would deprive the very men of whom he has spoken of the privilege of entering upon this land without paying tribute to a railroad corporation.

Now, sir, the gentleman has fallen into a mistake. This railroad company was not prevented from building its road on account of the war. The reason the company did not build the road was that it did not want to build it. It wanted to wait till settlements should grow up and the lands become more valuable. Hence the company came in here and by indirection got its grant extended for two years. During those two years it took scarcely a single step toward the construction of the road. Then the company came in and demanded another extension—for how long? Not for two years, but for four years, thus keeping the land out of the market, withholding it from settlement, and compelling every man who may desire to settle upon the land to pay a double price for it.

Mr. CARY. I wish to say but a word in reply to the gentleman from Illinois [Mr. WASHBURNE.] If the position of that gentleman had not been so successfully controverted the other day I should have voted with him. I at first felt inclined to do so; but examination and reflection satisfied me that good faith required us to grant, under the circumstances, an extension of time, as it was not proposed to make any additional grant of land.

Mr. TABER. I now yield to the gentleman from California, [Mr. JOHNSON.]

IMMIGRATION OF CHINESE, ETC.

Mr. JOHNSON. I ask unanimous consent to offer the following resolution:

Resolved, That the Judiciary Committee be hereby instructed to inquire whether it be in the power of Congress to prevent the immigration of Chinese and

other inferior races to our country; and also whether the civil rights act and the proposed amendments to the Constitution of the United States confer the rights of citizenship, including the right of suffrage, upon Chinese as well as all other males born in the United States over the age of twenty-one years, and to report by bill or otherwise.

Mr. PILE. I object.

Mr. JOHNSON. I simply desire the reference of this subject to the Committee on the Judiciary. I hope the gentleman will withdraw his objection.

Mr. PILE. I must insist on the objection. I think the resolution is a burlesque on common sense.

FEDERAL AND STATE JURISDICTION, ETC.

Mr. JOHNSON, by unanimous consent, introduced a joint resolution (H. R. No. 186) declaratory of the rights and powers of the Federal and State Governments and the rights of citizenship; which was read a first and second time, and referred to the Committee on the Judiciary.

IMPROVEMENT OF NEW YORK HARBOR.

Mr. CHANLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be, and hereby is, requested to inquire into the expediency of making an appropriation for the purpose of removing the obstructions at Hell Gate, and the improvement of the eastern harbor of New York; and to report by bill or otherwise.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 320) making appropriations to supply the deficiences in the appropriation for the execution of the reconstruction laws, and for the service of the quartermasters' department of the Government, for the fiscal year ending June 30, 1868, and for other purposes.

DREDGING THE POTOMAC RIVER.

Mr. INGERSOLL. I ask unanimous consent to introduce a bill providing for dredging a part of the Potomac river by convict labor.

Mr. HARDING, of Illinois. I object.

ADDITIONAL ISSUE OF TREASURY NOTES.

Mr. INGERSOLL. I ask unanimous consent that the bill I introduced yesterday, and which was referred to the Committee of Ways and Means, in reference to the issue of additional Treasury notes, shall be ordered to be printed.

There was no objection; and it was ordered accordingly.

LUKE BLACKMER.

Mr. LYNCH, by unanimous consent, introduced a bill (H. R. No. 592) to remove the political disabilities from Luke Blackmer, of Salisbury, South Carolina; which was read a first and second time, and referred to the Committee on Reconstruction.

SOUTHERN LAND GRANTS—AGAIN.

Mr. DONNELLY. Mr. Speaker, the debate which has already taken place has, I think, demonstrated the great importance of this measure. It involves, as has been stated by the chairman of the Committee on Public Lands, [Mr. JULIAN,] very nearly five million acres of land, and it proposes that these five million acres of land shall become subject to the operation of what is known as the southern homestead law, under which the right is given to actual settlers to enter public lands in the South to the amount of forty acres each. If this bill passes, Mr. Speaker, it will furnish more than one hundred thousand homes to the poor of the South, white and black, and at the average of population to the heads of families it will furnish homes and the means of support to over six hundred thousand human beings in that southern country. It will furnish homes and subsistence to one seventh of the entire population made free by the events of the war. It is therefore, Mr. Speaker, a question of great magnitude, and it is proper it should be carefully considered and wisely decided.

The bill does not, as seems to have been understood by some gentlemen on this floor, divest the railroad companies referred to of any lands they now possess. These grants are, by the terms of the original acts, already forfeited, but the lands embraced in the grants have been "certified" to the respective States, so that there is such a color of title in the States to which those lands were granted that the southern homestead law cannot apply. And it is simply a question for this House to determine whether they will destroy that color of title and throw these lands back into the common fund of the public lands of the nation, so that they may be taken possession of by the poor of the South, white and black, and be turned into homesteads for their benefit and advantage, or whether they will leave them in the hands of the present corporators.

Mr. Speaker, I do not approach the consideration of this subject in any narrow or illiberal spirit. I do not advocate this bill as "a measure of desolation," as has been claimed by gentlemen on the other side of the House, or as a measure of punishment to the people of the South. I believe it is our first duty to develop that country and to do everything that may in us lie to increase its prosperity; and that if we do not do this from motives of liberality and humanity we should at least do it upon broad grounds of statecraft, because the prosperity of the South will be the best possible guarantee of peace for all the future. The question involved in this bill, therefore, is in what way we can best promote the growth and prosperity of that country.

Now, Mr. Speaker, it is well known that the land grants made to the southern States lately in rebellion, long prior to the outbreak of the rebellion, were made to the ruling, wealthy class of the South, because they alone controlled the State Legislatures by which these grants were awarded to individual corporators; and it is a well understood and acknowledged fact that the wealthy class of the South were the leaders of the rebellion; that they were, in fact, the very soul which inspired and the brains which directed it; that the beneficence of our institutions had pampered and nursed them into rebellion, and that by their skill, ability, and social position they had dragged the ignorant masses of the community after them.

These grants being in their hands, if we permit them to remain in their hands we are, by the action of the General Government, making still more wealthy the rebels of the South; we are strengthening the hands of the enemies of the Government; we are increasing the power of those whose cherished object has been and is to overthrow the Government of the United States.

Now there are, in general terms, two classes in that country. There is the wealthy, aristocratic, arrogant class—the former planter class, the lordly possessors of thousands of acres, who are almost invariably the enemies of our country. If their hopes and aspirations succeed this Government of ours cannot stand. There is another class, the poor class, the poor white man and the still poorer black man of the South, who can only be developed and lifted up by the benign influence of our Government—who are now or speedily will become the friends of this Government; and it is a question for us, Mr. Speaker, whether we shall strengthen the hands of the first class or the last; whether we shall strengthen the hands of our friends or our enemies. The rebellion grew in a great degree out of the aristocratic contempt for labor entertained by the wealthy class of the South—a contempt which the South visited upon the laborer, there a slave, and which they readily transferred to the entire North, where labor and the laborer have been from the first prized and honored. It was their cherished theory that we were a degraded people, a race of "mud-sills," and therefore a cowardly race who would strike no blows to preserve the national life, and that the perfection of society could only be found where the laborer was owned by the capitalist.

And, Mr. Speaker, it is most plain to-day that it is the intention of that aristocratic class of the South, the old ruling class, to undo the work of reconstruction by degrading and impoverishing the men whom we have liberated. Rev. Petroleum Nasby, whose letters seem to be logic sheathed in sarcasm, has in one of his latest productions pointed out the policy they are pursuing. Under the pretense of advising them how to retain power he tells them to refuse to sell lands to the negro, to refuse to rent lands to the negro, to suffer them to work only on the most degrading conditions, and at such ruinous rates of wages as will not support them or their families, and then he says this degraded class will become idle, discontented, turbulent, and finally will rise up in insurrection; and then they will point to their condition as a conclusive answer to all the humane impulses of the North and of the civilized world. In other words, their purpose is to prove to mankind that liberty, in the case of the negro, is an unmixed evil, and that only slavery is good. The first step toward reaching this consummation is to deprive the negro of all opportunity to obtain possession of the soil, well knowing that once possessed of any portion of the cultivable soil his industry is to a great degree within his own control and beyond the reach of their cruel and iniquitous laws.

The copy of agreement read the other day by the gentleman from Massachusetts [Mr. BUTLER] from a Richmond paper, clearly shows that the wit of the satirist has been anticipated by the course of events in the South, and that even Nasby could devise nothing worse than rebels have already put in practice. That agreement showed not only the purpose to deprive the negro of land, to give him work only on degrading terms, but to bind him not to be a Republican and to support the rebel element at the polls. Upon no other terms was he to obtain the means of life.

Now, Mr. Speaker, here are five million acres of land already forfeited, already in the hands of the Government, and shall we not say that they shall go to those poor laboring people of the South? Shall we not say they shall be taken out of the hands of those who are the enemies of the country and placed in the hands of those who are its friends? that houses may spring up there; that fields may be cultivated, and liberty there may rest upon the solid foundation of the possession of the soil?

Mr. Speaker, one of the gentlemen who preceded me in this debate [Mr. CARY] has already pointed to the vast importance that the possession of the soil exercises upon the development of civilization. It is not too much to say, sir, that a large degree of the liberty of England and its development grew out of that ancient law of the realm that "every man's house was his castle," inviolable even by majesty itself. The home, Mr. Speaker, must be the foundation of liberty and the foundation of civilization, as it is the foundation of all real prosperity; and we have acted wisely in prescribing that the public land of the South shall be divided into tracts of forty acres each, and be given away as homes to the landless poor of the South. Let us go a step further, and add to that common fund of public lands these five million acres.

My friend from Maine [Mr. BLAINE] yesterday proposed an amendment to repeal all the grants of lands which had lapsed by reason of the non-fulfillment of the terms of the grant. His error seems to be that he does not discriminate between loyalty or disloyalty. If he can point to any railroad in the North the corporators of which have almost unanimously contributed their means to destroy the Government, and whose grant is now under the control of Congress, I will cheerfully give my vote to repeal such grant.

Mr. BLAINE. Are these railroads con-

structed for the benefit of the corporators or for the benefit of the great number of freemen, of loyal men, in the States in which lands were granted for their construction?

Mr. DONNELLY. Mr. Speaker, the great object of all railroad grants must be the construction of means of transportation. The incidental result is, however, necessarily the enrichment of the corporators. It is a question for this House whether we shall enrich the rebel stockholders of these roads, and enrich thereby the enemies of the country, or whether we shall enrich its friends. If we let the grants stand we enrich its enemies; if we divide the grants into forty-acre tracts and give them to the poor of the South we enrich its friends; and while we strengthen the nation we do an act of justice and mercy to over one hundred thousand families—we put the means of happiness and prosperity within the reach of over six hundred thousand human beings. If this Congress should hereafter conclude that railroads are of more consequence to that country than homes, we can, when those States come back—as I trust they soon will, renewed and rehabilitated—we can then, if necessary, recreate these grants, but recreate them so that all the incidental advantages will ensue to the friends and supporters of the national life. But it is objected that this cannot or will not be done; that destroyed now, these grants will never be renewed. Mr. Speaker, I do not believe it. I do not believe there is any reasonable legislation the reconstructed States of the South can ask at the hands of the North which the North will not willingly and promptly grant. Being once back in the Union, it will be our pleasure and delight to nourish them into prosperity and to do everything to develop that entire southern country. But we must not increase the power of the very men who are now laboring to overthrow our work of reconstruction. We must not impair the opportunities of the very men who are assisting us in that work of reconstruction. We must, in the language of the illustrious Andrew Johnson, "make the rebels take back seats" on all these questions, in the building of railroads as well as in the creation of States.

Loyalty in the South is now laboring under contempt. The loyal man is the poor man, in most cases the black man, and heretofore necessarily the ignorant man and the despised man. We must make loyalty respectable in that country. While the laws should be equal for all, the gifts, the largesses of the Government should be given to its friends alone. The Government that does not distinguish between its friends and its enemies cannot and does not deserve to live. If these grants are to be made again let the matter be brought before the House and examined by the Committee on Public Lands. Let them be given to the reconstructed States, and let the Legislatures of those reconstructed States award the benefits that may arise from the grants to the friends of this nation.

It may be said that in this measure we seek to pursue a course toward the South different from that which we have been pursuing toward the West. The circumstances of the two regions are greatly different.

The West is a new country, a country mainly without population. I refer, of course, to those States and Territories for which these grants are now asked. These grants are made with a view to induce emigration and create population. There is no oppressed class in the West, no class deprived of the right to take possession of the soil. There is no rebel element there that seeks to hold down in the dust the poor, struggling, loyal element of the country. If there were we should have no merits before this House or before the country. Hence I think that the comparisons that have been sought to be instituted between the West and South cannot have any force in the discussion of this question. In the South there is already a large population, only one fourteenth of which possess any part of the soil. The soil, therefore, is the one thing needed, not population. Great cities have grown up; the country is close to the great markets of the nation. Enormous crops are every year raised there, crops valuable not alone to our own country but to the whole civilized world. Under such circumstances the building of railroads in that country must be merely a question of time. The situation of the country is vastly different from the new States of the remote West, where we find vast expanses of unsettled, valueless land, where means of transportation must precede or immediately accompany population; where land is a drug and population the one thing needed.

This bill, then, narrows itself down to this: shall we permit the aristocratic, wealthy, disloyal class at the South to retain possession of this great gift of the nation; to enrich themselves; to add to their power; and to use that power for the purpose of crushing out the friends of this Government? Or shall we strengthen the hands of the friends of the Government, either by giving them homesteads on that land, or by giving it, if given for railroads at all, to loyal corporations?

It has been said that in the *interim* between the passage of this act and the time when these States may return and demand a renewal of these grants a considerable portion of the lands would pass into the possession of settlers under the southern homestead law. If such be the case, Mr. Speaker, who will regret it? Who will be injured by such a result? Will it be the nation? The nation is interested in every acre of land that is plowed and put under cultivation in that country; it is interested in every house that is built, however rude, however humble it may be; it is interested in dividing up these lands into as many small farms as there are settlers ready to take them; it is interested in seeing the land of the South owned by not one fourteenth of the people but by nearly all the people; and the whole country covered with farms, school-houses, churches, and a prosperous and intelligent population, who shall contribute for their rich soil enormous crops to swell the wealth of the civilized world, but who shall contribute from their hearts a still more precious crop—loyalty and love for the great nation which shelters and protects them.

I yield the remainder of my time to the gentleman from Tennessee, [Mr. TRIMBLE.]

Mr. TRIMBLE, of Tennessee. Mr. Speaker, in addressing the House on this subject, I desire to speak to it from a national stand-point. I am a national man, a thoroughly national man, and I desire to look at this matter solely in that point of view. I wish not only to speak but to vote on every question that is presented here without any sectional bias, without regard to the special interests of the North or South, East or West. Such has been my position heretofore, and such it is now. I regard the country as a whole nation.

I am not satisfied, Mr. Speaker, with the bill which has been reported from the Committee on Public Lands. My instincts and my intuitions rejected it as soon as it was introduced. Some years ago the Congress of the United States donated five million acres of land to these States for railroad purposes. It was either a wise donation or an unwise one. I think it was a wise one. There can be no better use made of the public lands, in my opinion, than to divide them up and donate them to railroad and to common school purposes, especially to the latter. They soon come into the possession of the settlers. I deem this disposition of the public lands as a wise one, not as affecting any section of the country, but for the interest of the whole nation. It is a great national measure. The country, as a whole, is interested in the building of these railroads.

The bill reported from the Committee on Public Lands proposes to declare these grants of lands forfeited, and to open the lands to settlement in homesteads of forty acres. I am not satisfied with the bill. As the matter now stands, these lands are now forfeited, as I understand it, and the title to them is now in the United States. They were granted upon the condition that those railroads should be completed within ten years from the date of the grants. That time has expired, and the roads are not yet completed. The lands, therefore, are forfeited, and the legal title to them reverts to the United States; there is no question of that; and there is no doubt of the legal right and power of the Congress of the United States to declare this forfeiture and to devote these lands for another purpose. That power I admit is clear; the legal right to do so is very plain.

But the question now is, whether there is not another and a higher view of this matter, a more equitable view which we should take of it. One of the first votes I gave in this House was in favor of an extension of time, asked for by the people of Wisconsin, or some other northwestern State, for the completion of some railroad, the name of which I have forgotten; and I expect to vote for such extensions whenever they are asked for upon proper and reasonable grounds.

These southern land grants are now forfeited. The question is, what shall be done with them? What shall be the action of the Congress of the United States under the circumstances? What is for the best interest of the country? I think it is to leave these lands where they are now, belonging to the United States, and then to redonate them as Congress shall be asked, if the request is made in a proper and patriotic spirit. I think they should be redonated upon different terms from those upon which they were donated before. If redonated to those roads I think it should be upon a valuation to be represented by stock in the roads, which stock should be donated to the States for the purpose of building up common schools in those States. In that way you will accomplish the construction of the railroads, and at the same time accomplish a much higher object—the founding of free schools in the South where they are most needed. I should be loth to see these lands redonated to those roads without some such equitable condition attached to the grant. Those lands, if turned over to the railroads, will increase the value of their stock, the increased value of which will go into the pockets of the stockholders, who are still a stubborn rebel class of men. I am unwilling to agree to any such disposition of these lands; I am unwilling to grant benefits to those who are now rebels, as a general thing, as they have heretofore been rebels.

I would like to see this bill recommitted to the Committee on Public Lands. Then when a proper request is made to redonate these lands to those States for railroad purposes, let it be done with the condition that the value of the land shall be represented by stock which shall be devoted to establishing common schools in those States. That, I think, would be the best disposition we can make of these lands. In that way we will secure the construction of those roads, the Tennessee and Tallahassee railroad, for instance, which I understand is now entirely completed, with the exception of an interval of about one hundred miles. You will secure the construction of the road from New Orleans to Texas as well as other roads. You will secure the construction of railroads which will result in benefit to the whole nation, and not for the South alone. The North is interested in them; the East and the West are interested in them; every part of the country is interested in the construction of these railroads in the southern States.

Mr. Speaker, if I had time I might say something upon other aspects of this question, but I hardly deem it proper to do so now. I hope this bill will be recommitted to the Committee on Public Lands, and that they will report in favor of redonating these lands upon the condition I have mentioned, that the value of the lands shall be represented by stock of

the roads, which stock shall be donated to the States respectively for common school purposes; a higher end than even the building of railroads.

Mr. BLAIR. Mr. Speaker, I desire to make some remarks upon this bill, chiefly because it seems to me to be necessary to say something upon the general subject of this kind of legislation, as it relates not only to the South but to the North.

I was very much pleased to hear the gentleman from Tennessee, [Mr. TRIMBLE.] who has just taken his seat, say that he intended to discuss this subject from a national point of view. So do I, sir; and I hope the House generally is disposed to so consider this measure. I trust that some time or other in the history of this country we shall stop legislating with a view to benefit some one in particular.

The time must come when we shall again regard this whole country, from one end to the other, as one country with common interests. I believe, sir, that that time has already arrived. While I shall go "as far as he who goes the farthest" to secure the equal rights of all men all over this broad land, I shall at the same time endeavor to secure to every part of the country all the benefits which it is fairly entitled to receive from the Government of the United States.

Now, sir, my chief objection to this measure has been that it seemed to be introduced rather with a feeling of unfriendliness toward the South. Why, sir. there is now, as there always has been, though it could not always be seen, a loyal South. It is a growing element. It looks to Congress for support and aid. It has a right to expect it. I do not doubt that it will receive it. On behalf of that loyal South I to-day make my opposition to this bill. Seeking the benefit of the very class which it proposes to benefit I am opposed to the measure. In my judgment its effect will be exactly the reverse of that which the chairman of the Committee on Public Lands [Mr. JULIAN] seems to anticipate.

Now, sir, this policy of granting land to aid in the construction of railroads is well established. For many years it has been the policy of the Government to aid these enterprises by donations of public lands. Whether this be a wise or an unwise policy I do not propose to discuss at any length. But, sir, this policy rests upon the ground that the improvement of the country by opening it to settlement requires the building of railroads. These are, as has been very well said here, the great avenues for transacting the business of the country.

By the growth of our railroad system every other means of communication has been dwarfed into insignificance. Congress has sought to stimulate throughout the country the building of railroads, and in so doing it has, I think, acted wisely. At the same time, while stimulating the building of railroads, Congress has sought to secure the Government against loss by doubling the price of the even-numbered sections of land along the line of these roads. This policy has been abundantly successful. Who does not understand that when a railroad has been built the sections of land retained by the Government are not only doubled in value but are worth fourfold what the whole of the land was worth before the building of the road? Acting in view of this fact, Congress has settled its line of policy. My friend from Illinois [Mr. WASHBURNE] struggles earnestly and conscientiously against this policy. I understand very well the ground on which he acts. In opposing these propositions he strikes at all alike, believing that the principle is not a wise one. But, sir, this principle, which is, in my judgment, wise, is certainly well established. The question then is, how should this principle be applied—where should exceptions be made?

And this brings me to my first objection to this bill, which is that it makes the South an exceptional case. It seems to declare that for some reason or other the southern people shall not be entitled to the advantages of this land-grant policy. Why not, sir? These grants were made not to individuals, either rebels or loyal men, but to the States. Congress has taken care, in all these grants, to make the States the recipients of its bounty; and to the States has been left the disposition of these lands. When these grants of land were made to the southern States the land, of course, went to the States, to be disposed of by them. "But," says the distinguished chairman of the Committee on Public Lands, "these States are dead; they no longer exist." I shall not quarrel with the gentleman upon the question whether the political bodies known as the States have expired or not; for I do not regard that point as very material in this discussion. At least the country is there; the land is there. If the States are dead the people are not. Here are great populations intended to be benefited by these roads; and although the States may not be in existence, still the people are in existence as much as they ever were; and it is as much the duty of Congress to take care of those people as it would be if the States were still in existence.

But it is said by some gentlemen—and the point seems to be regarded as of great weight—that many of these people are rebels. I suppose this is so. I am very sorry it is so. But, sir, these people are not all rebels. On the contrary, the gentleman from Indiana [Mr. JULIAN] has himself said—and I was very glad to hear the remark—that probably within six weeks from this time the State of Alabama, one of the States to be affected by this bill, will have her Representatives on this floor to speak for her.

Sir, I want to wait until she comes, and I will listen to her when she speaks upon this floor in behalf of a grant made for her benefit. And she will speak, I have no doubt, in behalf of the loyal people, black and white.

Gentlemen say she does not ask. How can she ask? She is voiceless here on this floor, as every one of these States are. Why need we hurry with this proposition? Why need we press it forward with this unseemly haste? Why not wait until these States come here to speak for themselves. I do not know what they think about it. I heard the gentleman from Tennessee [Mr. TRIMBLE] say that he spoke on this subject from a national point of view. He comes from that country partly interested in this, and knows something about the freedmen. I think his advice is worth something. And as we have to wait so short a period for the southern States to come back I am disposed to do so.

I know, Mr. Speaker, it is under great disadvantages that we attempt to legislate for States which have no Representatives here. Our chief business has been, and is even now, to look to the reconstruction of these States and bring them back among us, so that we may hear from them what is the best for that country where they dwell. I know well no gentleman can speak so well for my State as one coming from there and knowing something of the interests of the people of that State. So it is with every State represented upon this floor. When we undertake to legislate for the South we do it out of the necessity of the case. We acknowledge the South shall be reconstructed, and I will go as far as the farthest to make that reconstruction complete and perfect as soon as possible, so they may have Representatives here to speak for them.

Another proposition has been made here, and it is in regard to homesteads. I make no quarrel with the homestead law at all. I have no opposition to the principle of the homestead law. But, sir, its benefits have been greatly exaggerated. I will say to my friend from Minnesota [Mr. DONNELLY] that no man in the United States who was worth possessing a farm or knew enough to manage it or to keep it ever was poor because he could not get land in the United States. Land has passed from hand to hand. It has been nothing but an article of common traffic.

I do not get frightened in the least when my friend from Ohio [Mr. CARY] talks about land monopoly. You cannot make a land monopoly in the United States with these millions of acres of land unoccupied. When these railroads get the land into their hands their first effort is to part with it, and in doing so they are more industrious than the United States. And a few days ago I ran through the Southwest and every paper was full of advertisements of plantations and farms for sale.

There is this unfortunate condition of freedmen in question, but the freedman must make it his first duty to take care of himself. That is the great object of all our legislation, to remove his bonds and to make him free, and to give him the opportunity and the means to take care of himself.

Now, do we not know—we who live in the West, where homesteads are plenty and the people are moving in great masses into the wilderness—that the difficulty is not to purchase land, but to get the means for settling upon that land and making a home of it? The new price of eighty acres of land—$100—is small, and few fail in this regard at all. The main difficulty is otherwise than this; it is to be capable of building a house, to get his farming implements, and to remove his family out there, to get himself into a neighborhood where he will have the advantages of cheap transportation. And let me say that for this purpose these railroads are the first requisite.

I want to say a word in regard to the statement that the men who build these railroads will get rich. I do not know how it is elsewhere, but in every solitary instance where I know anything about them they are built long before they pay, for they march straight off into the wilderness.

A land-grant railroad is a pioneer. It marches straight into the wilderness. The money has got to be advanced and then the owners of the road have got to wait a long time until the country fills up and business comes to replace the money in their pockets which they have paid out in the first place. I believe it will be found to be almost the universal rule that where a railroad is built the country will settle, but until it is built it cannot settle. And I believe in nine cases out of ten the original stock of these land-grant railroads is wholly sunk or lost. In many cases I know it to be true. They use the lands, take what subscriptions to the stock they can get, and then go abroad and buy iron, giving a mortgage upon the road therefor. Finally, the whole stock, land grant and all, has to go. Nevertheless the country is greatly benefited. Nothing is of so much benefit to a new country as the building of a railroad through it.

Now, sir, what I desire to urge upon this House is the right of the people of the South to be heard on this subject. I think it would be better to recommit the bill and let it remain with the committee and wait for the reconstruction of these States, which I joyfully look for soon. Everything tends in that direction. I think we have the best reason to hope that there will be loyal governments in the southern States very shortly, and when that time arrives there will be no need of gentlemen being afraid that we shall benefit the rebels.

Mr. JULIAN. Will the gentleman yield?

Mr. BLAIR. Certainly.

Mr. JULIAN. I desire to remind the gentleman that I agree with him thoroughly that the loyal people of Alabama and these other States ought to be heard; but there has been nothing said on this floor indicating an indisposition on the part of anybody to hear them at the proper time and renew their grants on proper conditions. But the question presented by this bill relates to present forfeiture of the lands granted to these States in 1856, so that they may be opened up to settlement; and I desire to call the gentleman's attention to this fact, that of the three million acres of public land in Louisiana nine hundred thousand are

covered by one of these land grants, and that there are not more than one hundred thousand acres of land outside of that grant in Louisiana fit for homesteads. The object of this bill is to subject these lands to settlement and tillage in the interest of those who need them, reserving for the judgment of Congress any application that may be made hereafter, when Alabama and Louisiana shall be restored as States, for the renewal of these land grants.

Mr. BLAIR. Mr. Speaker, it is true the gentleman did say in his opening speech to the House that he was willing to receive applications for a renewal of these grants. But it seems to me idle for gentlemen to go on and destroy these grants upon the principle which the gentleman advocated in order that the lands might be taken up for homesteads, and then six weeks afterward listen to applications for a renewal. To what end should that be done? It is true, as has been said, that the forfeiture has already attached, but the forfeiture is not complete until the passage of this bill, else the gentleman would not have introduced the bill at all. The object of the bill, of course, is to insist upon the forfeiture of these lands to the United States. If the Government does not insist upon it, then nothing is accomplished. We have never heretofore so insisted.

Mr. JULIAN. We have never heretofore insisted upon such forfeiture, because we have never had such a rebellion. I dare say if Michigan, for instance, had rebelled, having first received a rich land grant and treated it with contempt by waging war against this Government, we would have declared the grant forfeited without much delay, especially if multitudes of loyal poor had asked it for homesteads. It is not discriminating against the South but discriminating in favor of loyalty until such time as loyal men can be heard on the subject through their proper representatives.

Mr. BLAIR. I desire to make myself understood. I did not undertake to say that the question of loyalty was really involved in this measure. But the act stands until there is a loyal body to take the lands. I do not want to strike out the grant while there is no loyal body to accept it, inasmuch as there will be one shortly coming to claim it. In the meantime a portion of it will be used and the grant will become substantially valueless. But however that may be, I submit that inasmuch as the gentleman himself has told us he expected there would be a loyal body here shortly asking for these grants, we had better wait for that loyal body to come. That is the very question that is in dispute between us. I want to wait until a loyal body is ready to receive the lands and not to take advantage of the fact that the rebellion has destroyed the power of the States to act in this respect.

It seems to me, Mr. Speaker, that this bill goes a good deal too far. Will the gentleman allow rebels to take these homesteads? Of course they will take them, and there was no worse rebel element in the South than the poor white population. I have heard it said here to-day that the principal rebel element in the South was the aristocracy there. They perhaps gave rise to the rebellion and managed it, but the most venemous and determined rebels we had to meet in the field were those rebels who were poor, and degraded, and ignorant, and carried the arms and fought the battles of the South. They form to-day a large proportion of the landless poor of the South, and they will get the benefit of these homesteads. Does the gentleman propose to stop that? The other day we repealed the tax upon cotton and the House is insisting strenuously upon that, as I believe they ought to do, for the purpose of relieving the industry of the South. Will not the rebels raise cotton and will we not benefit the great body of the rebels by that measure? Assuredly we shall. But if a rebel will stop his rebellion and go to raising cotton, in God's name let him raise as much as he likes. That is the way I feel about it. I propose that the laws of this Government shall be made with reference to the whole people, and if any one is to be punished and kept from engaging in the industry of the country let it be done directly, and let us know who it is and for what reason it is. We cannot stop here, in passing upon measures to ask ourselves whether some rebel or other will not get some benefit under the general laws that we pass.

Mr. JULIAN. One further question. The gentleman propounds a question as to what will become of these lands if we declare the forfeiture now, inasmuch as the railroad companies may hereafter want the lands, and in the meantime they may have been taken as homesteads. I desire in reply to ask the gentleman a question, and it is the paramount question as to what in the meantime is to become of the thousands of landless poor in the South who want homes now, and are to be postponed in the interest of rebel corporations who at this moment hold these lands in their clutches and have done since June, 1866? I submit to the gentleman that the larger interest of the loyal multitude should prevail over the smaller interest of a few rebel capitalists. Let these corporations look to Congress hereafter for proper grants, or for such other aid from the Government as may be proper. Their own act has brought them into such a dilemma, and we cannot visit its consequences upon the unoffending poor.

Mr. PILE. With the permission of the gentleman from Michigan [Mr. BLAIR] let me suggest that there are millions of acres of land now open to homestead settlement in the South at the graduated prices, running down to twelve and a half cents an acre.

A MEMBER. Where are they?

Mr. PILE. Scattered through all these States named in the bill. Let me suggest further that they cannot get labor in the South now to till the land already occupied and that has been under cultivation. The want of the South is not land, but labor and capital and means of transportation. That is what is needed. Land is abundant and cheap; land that has been cultivated; land that has houses on it; land that has been fenced; land that is ready to till; and what they want in the South is reconstruction, loyal governments, labor and capital; it is not land.

Mr. JULIAN. Allow me to answer that.

Mr. BLAIR. I am obliged to the gentleman from Missouri for answering the question for me.

Mr. JULIAN. I want to say to the gentleman from Missouri that he is mistaken in a matter of fact. It is true there is a large quantity of unappropriated public lands in these States——

Mr. PILE. State how much.

Mr. JULIAN. Something over forty million acres in all, but I state, on the authority of the Commissioner of the General Land Office, that by far the greater proportion of it is worthless for tillage, and that the landless poor are an overwhelming majority there. The whole of the land in these land States, outside of the towns and cities, is held by one fifteenth of the people; fourteen fifteenths, according to the census of 1860, are at the mercy of the one fifteenth who own the land. As to buying lands at low prices there under the graduation laws I have only to say that those laws have been repealed.

Let me say further, that the rebels of these States deny to the poor the opportunity to buy land, and compel them to labor on the great estates at such prices as their rapacity exacts.

Mr. BLAIR. I was going to reply to the gentleman that what I have been urging all the while was in answer to what he said; that is, that I want to hear from the representatives of those people just what the truth is about this matter before I cast my vote upon it.

I understand that there are some forty million acres of public lands in the southern States outside of these grants. Therefore, the five million acres covered by this bill is but a small portion of the great body of public lands in the southern States. And I repeat, what I said before, that I do not believe there is a solitary person in the South who really desires land who cannot get it.

Mr. ARNELL. Will the gentleman yield to me for a moment?

Mr. BLAIR. Certainly.

Mr. ARNELL. I ask the Clerk to read a communication from the Commissioner of the General Land Office, which I send up to his desk.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
January 22, 1868.

SIR: In answer to the inquiry in your letter of this date, I have the honor to state that at the close of the fiscal year ending on the 30th June last the quantity of public land remaining undisposed of and subject to homestead entry in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida was as follows, namely: in Alabama, 6,915,000 acres; Mississippi, 4,930,000 acres; Louisiana, 6,582,000 acres; Arkansas, 11,757,000 acres; and Florida, 17,540,000 acres. There are no public lands of the United States in Texas.

Very respectfully, your obedient servant,

JOSEPH S. WILSON,
Commissioner.

Hon. S. M. ARNELL, *House of Representatives.*

Mr. BLAIR. I am very much obliged to the gentleman from Tennessee, [Mr. ARNELL.] It appears, then, most conclusively, that what I have been saying is true—that none of the landless poor of the South, black or white, need seek in vain for a homestead if he really wants one. There are more than forty-five million acres of public lands in the South open to homestead settlement; nearly seven millions in Alabama, nearly five millions in Mississippi, six and a half millions in Louisiana, over eleven and a half millions in Arkansas, and over seventeen and a half millions in Florida. There can, therefore, be no difficulty in this regard; there is land for homesteads everywhere.

And I say again, what I said before, that it is not so much land that the poor man wants as the ability to go upon it and work it. There are great populations swarming in the large cities all over the land—idle, thriftless, a great many of them to some degree criminal—who ought to go out upon the lands of the country and become producers. But they are either too idle to go or too poor to get there.

Although the homestead law is a good law and furnishes a great many people with homes, yet in a great many instances that law is of no benefit to the person who should have a homestead.

Now, if these facts are true, can we not wait for the consideration of this question until these States are represented upon this floor, and then take it up and consider it carefully in all its magnitude?

Some suggestions have been made by the gentleman from Tennessee [Mr. TRIMBLE] in regard to these land grants in connection with public schools in the southern States. It is quite possible something may be done in that direction. Most assuredly I will go a great deal further to establish free schools in the South than to give homesteads to the people there. I know very well that if you take an ignorant man and send him to school and give him some education he will obtain a homestead whether you give one or not. A school is a much greater means of advancement for a people than is a homestead or a railroad, although a railroad is very important also in that connection.

Mr. Speaker, I have said much more and occupied much more time than I thought of doing when I rose. I will now yield the floor to any gentleman who desires it.

Mr. COBURN obtained the floor.

Mr. LAWRENCE, of Ohio. I ask the gentleman from Indiana [Mr. COBURN] to yield to me, that I may have read for the information of the House an amendment which I desire to offer when the opportunity shall arise.

Mr. COBURN. I will yield to the gentleman for that purpose.

Mr. LAWRENCE, of Ohio. I send my amendment to the Clerk's desk.

The Clerk read as follows:

Add the following as a new section:

SEC. —. That all lands which may be granted to any of the States mentioned in the first section of this act to aid in the construction of railroads thereon, whether to carry into effect existing laws or laws hereafter enacted, shall be sold by such grantees only to actual settlers in quantities not greater than one-quarter section to any one person, and at a price not exceeding $1 25 per acre, with interest at six per cent. per annum from the date of the grant to such company; and the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect; and no person shall be deemed an actual settler who does not furnish evidence in such form as the Secretary of the Interior may prescribe that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase as and for a homestead.

Mr. LAWRENCE, of Ohio. Will the gentleman from Indiana [Mr. COBURN] permit me to say a word or two in explanation of this amendment?

Mr. COBURN. I cannot yield any further at present.

Mr. Speaker, I desire to state briefly the reasons which influence me in giving this bill my support. I believe that it is right in principle; that it is expedient as a measure of legislation; and that it is properly urged upon our attention at the present time. I disagree with the gentleman from Michigan, [Mr. BLAIR,] who says that it is a measure of punishment. I disclaim all sympathy with those who advocate this bill as a measure of punishment. It is a measure of reconstruction, not of punishment. We are now inaugurating a series of measures by which the southern country is to be reclaimed and brought back into the Union upon a proper basis; and it seems to me that this bill is properly one of such a series of measures. Why? My friend from Minnesota [Mr. DONNELLY] has already stated that the corporations of that section have been in the hands of leading rebels; and the object of this legislation is not to inflict punishment upon those rebels, but to take power from their hands; and in this view I regard the measure as proper and right.

The gentleman from Michigan [Mr. BLAIR] asks, "Why make the South an exception in carrying out our railroad policy?" Sir, we are not making these southern States an exception. They have made themselves an exception. By raising the arm of rebellion against the Government, by refusing to fulfill their obligations as members of the Union, by throwing obstacles in the way of the completion of the public works for which these lands were granted, by inaugurating and for four years prosecuting war against the nation, they have made themselves the exception. It is not any legislation on our part that makes them such.

The gentleman says further, that there is no difficulty in obtaining homesteads in the South. But to this it has been well answered by my colleague [Mr. JULIAN] that the very best lands in the South have been selected by these railroad companies; and that the lands held by the Government in the South are to a great extent unfit for occupation and entry, poor, barren, sandy, swampy, or mountainous. These railroad companies were very careful in their selections of land and were engaged several years in making them. By referring to the pamphlet which the New Orleans and Opelousas Railroad Company has submitted to this House we see that they were some five years in making selection of lands for that railroad. The report of the Commissioner of the General Land Office shows that the other roads were several years engaged in selecting lands under the grant. The selections were carefully made, and it is to be presumed fairly and justly that the lands which have been taken in the South have been the very best there.

It has been well said that one man in fourteen is a landholder in that portion of the South, only a small portion of the whole. And in view of the fact that the best lands have been selected by these rebel corporations, I think it is our duty to open them up to sale and settlement, now that they have reverted to us.

I submit a statement of the Commissioner of the General Land Office, showing the land grants made by Congress in the year 1856 to the States of Florida, Alabama, Mississippi, and Louisiana, and which have been forfeited by a failure to construct the roads within ten years from the grant:

Certified to Florida, August, 1857, August and November, 1858, and October, 1860, under act of 17th of May, 1856—	
1. For Florida road, acres	281,984.17
2. For Alabama and Florida road, acres	165,688.00
3. For Pensacola and Georgia road	1,275,212.93
4. For Florida, Atlantic, and Gulf Central road, acres	37,583.29
Total to Florida	1,760,468.39
Certified to Alabama, May, 1859, and January, 1861—	
(1.) Under act of May 17, 1856—	
1. For Alabama and Florida road, acres	394,522.99
2. Under same act, for Alabama and Tennessee road, acres	440,700.16
(2.) Under act of 3d June, 1856—	
1. For Northwestern and Southwestern road, acres	289,535.58
2. For Coosa and Tennessee road, acres	67,784.96
3. For Will's Valley road, acres	471,920.57
4. For Mobile and Girard road, acres	504,145.86
Total to Alabama, acres	1,868,610.12
Certified to Mississippi, September, 1859, under act of August 11, 1856—	
For Southern railroad, acres	171,550.00
Certified to Louisiana, October, 1859, and January, 1861, under act of 3d June, 1856—	
1. For Vicksburg and Shreveport road, acres	353,211.70
2. For New Orleans, Opelousas, and Great Western road, acres	719,193.75
Total to Louisiana	1,072,405.45
Recapitulation.	
To Florida	1,760,468.39
To Alabama	1,868,610.12
To Mississippi	171,550.00
To Louisiana	1,072,405.45
Total approved to all southern States	4,973,033.96

Also the following statement of the Commissioner relative to swamp lands granted to the same States:

Florida, acres	11,790,637.46
Alabama, acres	479,514.44
Mississippi, acres	3,070,645.29
Louisiana, acres	10,218,317.95
Of these, there have been approved and patented to these States, as follows:	
To Florida, acres	10,644,468.04
To Alabama, acres	None.
To Mississippi, acres	2,651,383.16
To Louisiana, acres	8,391,903.71
Total acres	21,687,754.91

The gentleman from Iowa [Mr. ALLISON] asked a question in view of the forfeiture of these lands, whether injustice would not be done to those men who had purchased the alternate sections reserved by the Government at $2 50 per acre along the line of these roads? These railroad companies have ten years in which to construct their roads. Those who may have purchased lands at $2 50 per acre along the line of the road did so with full notice that there was this limitation and this condition that the road should be completed within ten years, and having that notice in view they took the risk as to the completion of the road in that time. We are therefore doing no injustice in not continuing the grant. I say there is no such settler as named by the gentleman from Iowa to whom injustice is done by declaring these lands forfeited. Whoever purchased did so with full notice of the law and the facts.

Another objection is urged to the bill by the gentleman from Kentucky, [Mr. TRIMBLE.] He stated that a large amount of this stock was owned in the northern States; that a large amount of the property in these railroads was held by northern Union men. That is no reason, to my mind, why we should fail to carry out this measure. But this statement is not true in point of fact.

I refer to the testimony of witnesses before the Committee on Southern Railroads, showing that generally the stock in such roads was owned South.

Mr. Buford, president of the Richmond and Danville Company, testifies, on page 3, that the stock is owned in Virginia and North Carolina. Mr. Whitcomb, superintendent of the Virginia Central railroad, testifies, on page 9, that the stock is owned in Virginia. Mr. Morton, treasurer of the Richmond and North River Company, testifies, on page 15, that the stock is owned in Virginia and Maryland. Mr. Ravenel, president of the Northeastern Railroad Company, testifies, on page 25, that the stock is owned in South Carolina. Mr. Ryan, superintendent of the Charleston and Savannah railroad, testifies, on page 29, that the stock is owned in South Carolina and Georgia. Mr. McGrath, president of the South Carolina railroad, testifies, on page 34, that the stock in that road was owned principally in Charleston. Mr. Wadley, the president of the Georgia Central railroad, states, on page 39, that the stock in that road was principally owned in Louisiana and Georgia. Mr. McDonald, secretary and treasurer of the Atlantic and Gulf railroad, testifies, on page 44, that the stock in that road was owned principally in Georgia. Mr. Hazlehurst, president of the Macon and Brunswick railroad, testifies, on page 57, that the stock is owned principally in Macon. Mr. Peck, master of transportation of the Western and Atlantic railroad, testifies, on page 60, that the stock is all owned in that State. So with the Montgomery and West Point railroad.

Colonel Innes, who is the superintendent of the Nashville and Chattanooga road, on page 68, testifies that the majority of stock is owned in Tennessee; some of the heaviest stockholders are rebels of the deepest dye. V. K. Stevenson, former president, who now lives in New York, controls the largest amount of stock. Mr. Sloss, president of the Nashville and Decatur road, testifies, on page 76, that the stock is owned principally along the line of the road.

He says, on page 77, all that country was opposed to secession, but afterward they all acquiesced in the action of the State. And I will add they were as bitter rebels as the South contained. Mr. Owen, president of the Virginia and Tennessee railroad, testifies, on page 91, that the stock in that road is owned principally in Lynchburg. Mr. Callaway, president of the Tennessee and Georgia railroad, testifies, on page 96, that the stock was principally owned South, perhaps a third by Union men. Mr. Tate, president of the Memphis and Charleston road, testifies, on page 146, that the great bulk of the stock is held in the South. Mr. West, president of the Mississippi Central railroad, testifies, on page 110, that the stock is principally owned in the southern States. Mr. Branner, president of the East Tennessee and Virginia railroad, testifies, on page 115, that four fifths of the stock is owned in East Tennessee.

The published statement of the New Orleans and Opelousas Company submitted to Congress is as follows:

The total payments on stock are:	
City of New Orleans	$1,500,000
State of Louisiana	650,000
Parishes or counties	430,000
Individuals South and North	675,000
Total	$3,255,000

The city of New Orleans and the State, therefore, own about two thirds of this stock.

Three fourths of this stock is held in the South and only one fourth in the North. It will be found that such is the case with reference to the stock of all these railroads, and that the most of it is in rebel hands.

Mr. Speaker, the plan which the gentleman from Michigan [Mr. BLAIR] and other gentlemen now propose for the purpose of development of the country, reconstruction, and reconciliation is a new one. It is to carry on a war four years against the rebels of the South, to expend vast sums of money out of the Treasury

and to burden ourselves with heavy taxes, to sacrifice the lives of half a million men, and then to turn round after crushing the rebellion and give bounties and largesses to those who were the leaders in it and the originators of their "lost cause." It seems a very singular policy to me, indeed. If I must give the people's money to rebels I should prefer to give it to the private soldiers, to the rank and file, and not to such generals as Beauregard, Bragg, or Dick Taylor, or Meminger, or Frazier, or Stevenson, or any of the capitalists of the South, or to the gold-gamblers of Wall street, who dealt in the precious blood of Union men during the war. I would rather give it to the poor crippled rebel soldier than to the men who inaugurated the rebellion. I have no sympathy with that kind of men. If, when we were attempting to raise volunteers, it had been told the soldiers at the recruiting stations that when they conquered the rebels, when they snatched from the grasp of Jefferson Davis and his myrmidons these railroads, they would be turned over to their former rebel owners, you would have found few men to volunteer.

Mr. Speaker, as a specimen of the animus of these southern railroad corporations I desire to call the attention of the House to the petition of the people of Louisiana to this Congress in relation to the New Orleans, Opelousas, and Great Western railroad. It is a road which was intended to be two hundred and fifty-eight miles in length. The grant of 1856 gave them six sections to the mile, which would make in all nine hundred and ninety thousand acres. In the year 1857 they completed eighty miles of the railroad. Not one inch of road has been made since that year. They had four years before the war broke out in which to work, and yet they had scarcely begun the road, with nine hundred and ninety thousand acres of land to assist them! And now, after eleven years of idleness, they come and ask an extension for eight years longer. That would make sixteen miles a year to be completed by this corporation. In addition to that they come and ask for a settlement with the Government for carrying mails, troops, supplies, and munitions of war. They do not submit the account to us; they do not tell us what they want exactly or how much is due; they do not show us how many dollars worth of assets they have or what ability they have to go on and complete their road. Instead of coming here and submitting their case as business men, showing that they are solvent and able to complete the road, what do they do but simply come and ask us to extend their grant eight years.

Sir, a fact like this deserves notice. They have been too slow. They have laid still, as I said before, since 1857. This company is composed in a great part of unrepentant, unreconstructed rebels; is composed of the ruined State of Louisiana and the ruined city of New Orleans, the ruined parish and county organizations and rebel citizens recently in arms. They are the men who opposed General Sheridan in New Orleans; they are the men who murdered the members of the constitutional convention of Louisiana. They are at this moment the right arm of the opposition to the great measures of reconstruction that we have inaugurated and are attempting to carry through. Where is the seat of influence now in this mighty struggle? I answer, in the State of Louisiana, where General Hancock, incited and instigated by these very men who are impudently demanding that we give them an extension of eight years to make this road for which they have received nine hundred and ninety thousand acres of land, is pursuing a career of insane opposition to the laws which we have solemnly enacted and which we intend, by the help of God, to enforce.

We have no assurance that these men can go on and make this road. Rebels that they are, judging from the past, I believe they never will do it. If we are to give these lands to anybody for this purpose let us give them to capitalists who will come here and submit a proposition to this Congress showing that they have the ability to carry on the work to completion. If I must I would give these lands to such men as will abide by the Government, obey its laws, honor its institutions, perpetuate its freedom. I would give them to men who have common sense enough to know that rebellion cannot be successful, who are practical business men enough to know that treason is unprofitable, that confederate bonds and cotton loans never were and never would be worth the paper wasted in their printing, even if they have no other regard for the interests of their country. I very much admire the shrewdness and business capacity of a German friend who, when Bragg was marching on Louisville, went there and invested largely in real estate. His common sense amounted to a sublime faith in the Government, and ran parallel with that old Roman's who, with a keen eye to business, when Hannibal with his victorious army was beleaguering the city, gave a double price for the very field upon which the proud Carthagenian was encamped.

I would give these lands to men who have faith in the Government, who have stood by it in its darkest hours. I never will be found voting away the land of the people to men whose knees trembled during the war, or who had not the courage and manliness to stand up in favor of the Union. But to go the length of gentlemen opposed to this bill and put this vast estate in the hands of traitors seems incredible. To give the capitalists of the South, the men who fitted out the Alabama and Shenandoah, this additional fortune seems monstrous. I am in favor of giving it, if I give it at all, to those, and to those only, who cannot only show that they have capital and ability to make these roads, but can show that their record is clear and that they are Union men. No others deserve largesses and bounties or assistance of any kind from us or from the people. I would rather give it to the widow and children of him who fell with McPherson at Atlanta, to him who left his right arm at Vicksburg, to him whose eyes were scorched out on the blazing heights of Mission Ridge, or to him who left everything but his loyal, living heart on the quaking breastworks of Richmond. I would give it to such as these, and not to the recreants and apostates who have wrapped the land in fire and made the rivers run blood.

Mr. Speaker, I am not here to controvert the argument gentlemen have submitted that it is important that these railroads should be constructed for the benefit of the country. I concede their importance; but I do not believe that these rebels in the South are the men best calculated to develop the country. They tried the experiment during the war, and what was the result? Desolation from one end of the land to the other. Not only were their railroads destroyed and their bridges and depots burned, but every vestige of animal and vegetable life in many places annihilated, every landmark swept away, every improvement trodden down—silence, ruin, death following swiftly the development of southern Democracy. I am not willing to take the advice of those men now in the development of this country. They were unsafe counselors then and they are unfit to be trusted now. The Government had better go on and make these railroads itself. It will be cheaper in the end. We had better vote a million, or two, or three, or five, or ten million dollars to make these roads, and then open the lands to settlement or to market, than give them into the hands of rebels. We would get our money back, at least, in the growth of the country, and loyal men would then have settlements and a basis there.

It strikes me, sir, that there is something more than the mere construction of railroads involved in this measure. It is a question of encouragement or of discouragement to rebels and to Union men. If we announce it as the policy of this Congress that we are ready to vote without discrimination these large amounts of lands into the hands of anybody, no matter what their political status has been, then the Union party is no longer a power in this land. Let it be understood, on the other hand, that Union men are to be sustained, whether poor or rich, whether owning railroads or not—that we draw a broad distinction between loyalty and disloyalty—and every man throughout the length and breadth of the land will feel, with a thrill of joy, that the Union is safe.

Sir, I cannot forget the New Orleans riot; I cannot forget the rejection of Sheridan; I cannot forget the continued and persevering disloyalty of these refractory men, and I would not strengthen them at the expense of the loyal and patriotic.

What was the great inspiring idea during the war that drove our soldiers to the front and caused victory to perch upon our banner? Was it the hope and desire of mere conquest of the South, and that the day would come when every rebel in arms would be stricken down, and every hostile fortification surrendered? No, sir; that was not the inspiring idea. It was that when the arms should be stricken from the hands of the rebels and the power of the confederacy overthrown, the great difficulty would be settled upon a proper basis, upon right and fair and just principles, and the power taken from those men ever again to lift a parricidal hand against the Government; that henceforth and forever there should be a wide distinction between the loyal and the disloyal; that proper legislation upon generous and comprehensive principles would reëstablish, on better foundations, our grand Government. That was the great inspiring idea. You could not have obtained volunteers to go out against the people of the South in order merely to whip them. It was not a question of strength. It was not a question between two bruisers or prize-fighters, or between two branches of a great nation as to which was the more courageous and the stronger; but the great underlying principle was, that the Union should be preserved, the rebellion put down, and the principles of the Constitution vindicated and enforced. And, sir, it is the first element in reconstruction that power shall be taken from the hands of rebels and placed in those of loyal men.

The gentleman from Ohio across the way, [Mr. CARY,] in talking about his vote upon the Iowa railroad bill, said that if it had been a bill to make a grant of land in the first instance he would not have voted for it. I tell the gentleman that he cannot avoid the responsibility in that way. He voted to give away the land in that case just as much as if he had voted for a bill making the grant in the first instance. The title to that land had been forfeited and was no longer in the railroad company, and by voting for that bill he was voting to give away the land just as much as if the original bill had never been passed.

Nor can the responsibility be avoided in this bill, for the lands here involved are absolutely the property of the nation now, and must be given away afresh as if they had never been granted. By voting against this bill do you donate this land to the poor Union soldier, or even to the poor white man of the South who may have been forced to fight in the rebel army? Not so. You are reserving it to such men as Beauregard and Joe Johnston, who are the presidents of some of these railroad companies—to a set of men who were leaders in the rebellion. You are voting this land to men who have torn the flag of our Union from its proud position in these eleven States and trampled it in the dust.

Mr. MULLINS. Attempted to trample it in the dust.

Mr. COBURN. They did trample it in the dust for three or four years, to my certain knowledge. This is the time to do this work; we should not put it off. And I will give you my reason why we should not defer this matter. Some gentlemen say, Wait until these States are reconstructed. Sir, what assurance have those gentlemen that these States are to be reconstructed in a week, or a month, or in a year

even, with the executive power in the hands of the present incumbent, with all the departments of the Government against us? I say that gentlemen need not console themselves with the idea that these States will certainly be reconstructed very soon. Even when they do apply here for readmission, it is a question for Congress to determine whether they are properly reconstructed. We are not prepared at a jump to vote for any of these States to be readmitted into the Union the very moment they appear here and make application to be allowed to do so. These States may not soon be reconstructed. A fearful struggle is in progress. Loyal men must be sustained; the disloyal must be put down. We should not leave these lands as a prize for which rebels and traitors may contend in future elections. Let them be placed where the poor man can get them and find a home; where the widow may rest her weary head, where the down-trodden may find shelter and hope. Let them be placed there at once, and let the work of reconstruction go on.

In the mean time, these lands being taken from the hands in which they are now tied up can be opened for settlement. And if hereafter it be the policy of the Government to make new grants for railroad purposes, let us at once declare these lands forfeited. Then let the capitalists of the North, and the capitalists of the South who are Union men, come here with their propositions to complete these roads; let them as business men submit to us a statement of their means to do so, and then we can, if we deem it proper, vote these lands to them. It strikes me that is the only true policy for us to adopt, the only safe course for us to pursue.

Let this railroad system of the South be cut off from all entangling alliances. Do not compel the Union man who wishes to assist in constructing these roads to sit down cheek-by-jowl with those who led off in the rebellion, and who are to-day stained all over with treason.

If their stock becomes worthless and their corporations go down, let them do so; they cannot go down too quickly. Then let other and better men come up in their stead and take hold of these corporations. That is the only true basis for safe reconstruction. The first step to be made is that which takes from rebel hands, rebel corporators, from Democratic hands, and Democratic corporators, this great power which they have through their capital in controlling elections, in wielding the votes of the people of the South, white and black.

Why, sir, the evidence taken before the Committee on Southern Railroads shows that the company whose road runs from Lynchburg—the Manassas road—has been using its power against us in the last Virginia election, shipping the poor ignorant negroes, on false pretenses, many miles away from the places at which they were entitled to vote, and then refusing to carry them back, thus disfranchising them.

Sir, these great corporations may be so conducted as to prove a very dangerous power in the affairs of the country. All the guards which we can throw around them may be insufficient to control them properly. The power of the Illinois Central railroad and of the Camden and Amboy railroad is proverbial throughout the country. Everywhere we see the importance and the necessity of hedging in these great moneyed corporations. Yet we are now called upon to put financial power in the hands of these very corporations who will use all their influence and energy to obstruct the reconstruction measures of Congress. Sir, let us wipe the slate clean and begin anew. Let us give to loyal men whatever we may have to give. Let us put power into the hands of our friends, not in the hands of our enemies.

One word in relation to this policy of making land grants for railroads. If I had been a member of Congress when these grants were originally proposed I would never have voted for any one of them except upon two conditions. I would have insisted, in the first place, that the maximum price of the land should be fixed at two or three dollars an acre, and that, in the second place, a limitation should be prescribed as to the time when the land should be brought into market. These powerful corporations hold on to these lands with an iron grasp, withholding them from market until the settlements all around them have largely enhanced their value. They wait until the poor laboring men of the country have opened and cultivated the adjacent lands, thus raising the price of the vacant track belonging to these corporations in many cases to ten dollars an acre. I know such instances in the State of Michigan. I know a remarkable instance in which the company engaged in constructing the Sault Ste. Marie canal, a powerful moneyed corporation, controlling seven hundred and fifty thousand acres of land located in the copper mine region, have been able to withhold that land from settlement and keep it a wilderness.

Mr. PRUYN. Will the gentleman yield to me a moment?

Mr. COBURN. I cannot yield.

Mr. DRIGGS. I trust that the gentleman will allow me a few moments when he gets through.

Mr. COBURN. I know it to be a fact that that region of country is almost a total wilderness on account of the grasping policy pursued by that powerful corporation and the Portage Lake Canal Company and some railroad companies whose charters we have extended here this winter.

Not one of these corporations should ever have received a grant of land without fixing the maximum price of the land and the time at which every acre should be thrown into market. And I say now that I shall oppose every extension of these chartered rights and every renewal of these grants unless some restrictions of this kind be imposed. I believe that the people of the country will demand this at our hands.

In conclusion, I will only reiterate what I stated when I began—that in my view this bill is right in principle, is expedient as a great public measure, and is not introduced at an inappropriate time. It has not been brought into this House one moment too soon, but rather many months too late.

I now yield to the gentleman from Wisconsin, [Mr. SAWYER.]

POST ROADS, ETC.

Mr. SAWYER, by unanimous consent, introduced a bill (H. R. No. 593) to amend an act entitled "An act to authorize the construction of certain bridges and to establish them as post roads;" which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

A. G. SNYDER.

Mr. SAWYER, from the Committee on Commerce, reported back the petition of A. G. Snyder, asking compensation for his invention of a bullet machine now used in the ordnance department, and moved that it be referred to the Committee on Claims; which motion was agreed to.

TEN-FORTY BONDS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury relative to the amount of United States ten-forty bonds issued or disposed of by the Treasury Department since October 1, 1867; which was referred to the Committee of Ways and Means, and ordered to be printed.

PORT CLINTON HARBOR.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting a report of the chief of engineers respecting the survey of the harbor of Port Clinton, Ohio; which was referred to the Committee on Commerce, and ordered to be printed.

SOUTHERN LAND GRANTS—AGAIN.

Mr. COBURN resumed the floor.

Mr. MAYNARD. I will, with the gentleman's permission, limit the statement he made in respect to the railroads in Virginia. If I understand the facts in connection with these roads, all the small lines of road from the Atlantic ocean to the Tennessee line have been recently so far united that they have been placed under the presidency and management of the same individual—an individual who was a general in the rebel army, whose united salaries as they are paid to him now amount to over thirty thousand dollars a year, more than the salary of the President of the United States. I thought it proper to qualify the gentleman's remarks by this additional statement.

Mr. COBURN's time expired, and then the floor was assigned to Mr. KELLEY.

CAPTAIN GEORGE FUERST.

Mr. WASHBURN, of Indiana, by unanimous consent, from the Committee on Military Affairs, reported back the petition of Captain George Fuerst for allowance for travel and transportation to Washington Territory, and moved that it be referred to the Committee of Claims; which motion was agreed to.

ISSUE OF LEGAL-TENDER NOTES.

Mr. WILLIAMS, of Indiana. I ask unanimous consent to introduce a joint resolution authorizing the issue of $125,000,000 in legal-tender notes, to replace a vacuum in the currency caused by the cancellation of compound-interest notes, and to redeem such as may be matured.

Mr. BROOMALL. I object.

METERS.

Mr. SCHENCK. I move to take from the Speaker's table the amendments of the Senate to House bill No. 140, to provide for a commission to examine and report on meters for distilled spirits.

Mr. ELDRIDGE. I object; there is no quorum present.

Mr. SCHENCK. I move to go to the business upon the Speaker's table.

The House divided; and there were—ayes 50, noes 18; no quorum voting.

Mr. DRIGGS moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of Christopher Cunningham, late teamster in the Mexican war, for increase of pension.

Also, the petition of Catherine Hoog, mother of Jacob Hoog, deceased, late company B, twenty-fifth Indiana volunteers, for back pension.

By Mr. BURLEIGH: A memorial of the Legislative Assembly of the Territory of Dakota, praying for an appropriation to construct a wagon road from Fort Abercrombie down the Red river of the North.

Also, a memorial relative to the survey of public lands on and near the Red river of the North.

Also, a memorial relative to a United States land office in the Red river valley.

Also, a memorial praying for the establishment of a mail route from Fort Totten to St. Joseph via Dakota Territory.

By Mr. HOPKINS: A memorial of De Lorma Brooks, asking the consideration and action of Congress in regard to decisions of the district court of the United States for the district of Wisconsin, and of the Supreme Court of the United States, which are charged to be

in utter contempt of the pleadings and proofs in the case and in palpable violation of law and justice.

Also, a memorial of manufacturers of Wisconsin, in favor of the reduction of taxation on articles of necessity.

Also, a memorial of manufacturers of Wisconsin, for a change in the manner of appointing civil officers of the Government.

By Mr. JUDD: The petition of Henry H. Cuppy and wife, for a pension.

By Mr. KELSEY: The petition of Fagin & Co., and others, citizens of Newark, New Jersey, asking Congress to make an appropriation to improve the Passaic.

By Mr. KNOTT: The petition for the relief of George W. Sweeney, late major of the thirteenth regiment Kentucky volunteer cavalry.

By Mr. McCARTHY: The petition of several citizens of the town of Willetts, for establishing a post road from Marathon to Smithville Flats, New York.

By Mr. MOORE: The petition of Israel S. Adams, collector of the port of Great Egg Harbor, New Jersey, for increase of salary.

By Mr. SCHENCK: Proceedings of a meeting and resolutions adopted by citizens of Dayton, Ohio, in relation to the rights of American citizens abroad.

By Mr. SELYE: A memorial of soap and candle manufacturers of the city of Rochester, New York, asking a modifiation of the revenue law in respect to those articles.

IN SENATE.

THURSDAY, *January* 30, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The bill (H. R. No. 344) to incorporate the Washington Target-Shooting Association, in the District of Columbia, was read twice by its title, and referred to the Committee on the District of Columbia.

The bill (H. R. No. 450) to regulate the deposits of the public moneys was read twice by its title, and referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of freedmen of Shelby county, Alabama, praying a removal of the civil disabilities imposed upon N. B. Mardis by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of freedmen of Shelby county, Alabama, praying the removal of the civil disabilities imposed upon Amos M. Elliot; which was referred to the Committee on the Judiciary.

He also presented a petition of freedmen of Shelby county, Alabama, praying the removal of the civil disabilities imposed upon Samuel Leeper and James T. Leeper by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Massachusetts, praying that a pension be granted to Jacob Weed, a soldier in the war of 1812; which was referred to the Committee on Pensions.

He also presented papers relating to the claim of James H. Viser, for services rendered as keeper of the records and files of the Pontotoc land office in Mississippi; which were referred to the Committee on Public Lands.

Mr. NYE presented five petitions of citizens of Colorado, praying the admission of that Territory into the Union as a State; which were referred to the Committee on Territories.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWARD, it was

Ordered, That the petition of Mrs. N. V. Hewlitt be taken from the files of the Senate and be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the memorial of Margaret A. Laurie, praying compensation for property destroyed by the United States forces in the District of Columbia, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William J. Blackistone, praying compensation for services rendered under an appointment of a special agent of the Treasury as board of trade for all that part of St. Mary's county, Maryland, north of the parallel of Great Mills, from January 1, 1863, to April 15, 1865, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Frances S. Richardson, widow of Major General I. B. Richardson, praying compensation for property stolen from her husband by the Apache Indians while he was stationed at Fort Webster, New Mexico, submitted a report accompanied by a bill (S. No. 302) for the relief of the heirs of the late Major General I. B. Richardson, deceased.

The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the memorial of Robert P. Parrott, asking increased compensation for an iron light-house constructed at Cape Canaveral, Florida, under a contract made in December, 1860, the work thereon having been suspended at the request of the Government, reported a bill (S. No. 303) for the relief of R. P. Parrott; which was read and passed to a second reading.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the petition of Milton B. Duffield, praying to be compensated for expenses incurred in the discharge of his duties as United States marshal in the Territory of Arizona, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of officers and privates of the twenty-first New York cavalry, praying for extra compensation for the reason that they were mustered out of service in Utah, and were compelled to travel near two thousand miles, and for transportation and subsistence to their homes had received but eighty-four dollars, submitted an adverse report; which was ordered to be printed.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 296) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a post road, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 132) in regard to the construction of section ten of the act approved March 2, 1867, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes," reported it with an amendment.

Mr. WILLIAMS, from the Committee on Public Lands, to whom was referred the bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon road from the navigable waters of Coos bay to Roseburg, in said State, reported it with amendments.

DISTRICT BUSINESS.

Mr. HARLAN. I offer the following resolution, and ask for its present consideration:

Resolved, That the Senate will to-morrow, after the expiration of the morning hour, proceed to the consideration of bills upon the Calendar relating to the District of Columbia.

Mr. EDMUNDS. I must object to the present consideration of the resolution. My friend from New Hampshire, [Mr. PATTERSON,] from the Committee on Retrenchment, has an important bill, which he desires to get up. It has been reported some days.

The PRESIDENT *pro tempore*. Objection being made to the consideration of the resolution, it goes over under the rule.

Mr. HARLAN subsequently said: The Senator who objected to the consideration of the resolution offered by me acted under a misapprehension. I therefore move that it be taken up for consideration now.

The PRESIDENT *pro tempore*. The resolution offered by the Senator from Iowa will be taken up, if there be no objection.

Mr. EDMUNDS. I understand the resolution is to fix to-morrow for District business instead of to-day. I have no objection to it if that be the case.

The resolution was agreed to.

JUSTICES OF THE PEACE IN WASHINGTON.

Mr. WILLEY. I offer the following resolution:

Resolved, That the President of the United States be respectfully requested to inform the Senate how many justices of the peace are now in commission in each ward respectively of the city of Washington.

Mr. GRIMES. I do not suppose the President of the United States knows how they are distributed around over the city. They are not appointed by wards.

The resolution was considered, and agreed to.

BOUNDARY OF COLORADO.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Committee on Territories be instructed to consider the propriety of reporting a bill changing the northern boundary of Colorado Territory from the forty-first degree of latitude to the forty-second degree of latitude, adding one degree to the limits of said Territory.

BILLS INTRODUCED.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 304) to provide for holding terms of the United States district court for the western district of Missouri at St. Joseph, in said State; which was read twice by its title, and referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 305) granting aid in the construction of a railroad and telegraph line from the Union Pacific railroad to Idaho, Portland, (Oregon,) Montana, and Puget's Sound; which was read twice by its title, referred to the Committee on the Pacific railroad, and ordered to be printed.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 306) for the protection in certain cases of persons making disclosure as parties or testifying as witnesses; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

GOVERNMENT AGENTS.

On motion of Mr. PATTERSON, of New Hampshire, the bill (S. No. 269) in addition to an act entitled "An act regulating the tenure of certain civil offices" was read a second time, and considered as in Committee of the Whole.

Mr. PATTERSON, of New Hampshire. I am instructed by the Committee on Retrenchment to move to strike out all after the enacting clause of this bill and insert as a substitute what I send to the Chair.

The Secretary read the proposed substitute, as follows:

Be it enacted by the Senate, &c., That the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, is hereby so extended that after ten days from the passage of this act no general or special agent, by whatever name or designation he may be known, of the President, or of any of the departments, bureaus, or branches of the Government, nor any inspector of internal revenue authorized by the act of June 30, 1864, shall be appointed, commissioned, employed, or continued in office, except such as are duly authorized by statutes specifying the character and salaries of the agents so authorized to be employed.

SEC. 2. *And be it further enacted*, That the term of office of all such general and special agents and inspectors now authorized as aforesaid, lawfully employed at the time of the passage of this act, shall expire ten days after such passage. And hereafter every such agent shall be appointed by the President, with the advice and consent of the Senate; but such agency or employment may be discontinued at the pleasure of the President.

SEC. 3. *And be it further enacted*, That there may be appointed in the manner aforesaid in the Treasury Department, as occasion may require, general and special agents of the customs, not exceeding twenty-five in number, who shall receive a com-

pensation not exceeding six dollars a day, together with a suitable allowance for traveling expenses by way of mileage or reimbursement of actual expenditures in the performance of the specific duties legitimately pertaining to such agencies.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury shall have power to appoint agents, as now provided by law and for which an appropriation has been made, not exceeding thirty in number, whose duty it shall be to aid in the prevention and detection of the counterfeiting of currency notes and bonds of the United States; and that the Postmaster General shall have power to appoint agents not exceeding twenty, as now provided by law and for which an appropriation has been made, whose duty it shall be to promote the efficiency and prevent abuse in the postal service of the United States. It shall be the duty of the Secretary of the Treasury and of the Postmaster General to report to Congress, at the beginning of each session, the number of such agents employed, the expense, locality, nature, and amount of their services. They shall be paid out of money specifically appropriated for this purpose.

SEC. 5. *And be it further enacted*, That the penalties provided in said act regulating the tenure of certain civil offices shall be inforced in case of any violation of this act, so far as they may be applicable.

Mr. PATTERSON, of New Hampshire. I have no desire to take up the time of the Senate in any discussion of this bill. I will say simply that the first section dispenses with the services of all that class of agents who are appointed without any act specifying the character and salaries of the agents. They are appointed, first, under the sixth section of the act of May 8, 1792, which reads as follows:

"That the Secretary of the Treasury shall direct the superintendence of the collection of the duties on imports and tonnage as he shall judge best."

And, also, the twenty-first section of the act of March 2, 1799, which reads as follows:

"And shall at all times submit their books, papers, and accounts to the inspection of such persons as may be appointed for that purpose; and the said collectors shall, at all times, pay to the order of the officer who shall be authorized to direct the payment thereof the whole of the moneys which they may respectively receive by virtue of this act."

And also the act of 1846. These acts have been construed as giving the Secretary of the Treasury the authority without limit to appoint agents. It is thought that the service may dispense with all this class of officers without detriment, and a large amount be saved to the Treasury.

The second section provides that all that class of officers who are appointed by statute specifying the character and salary of the agents shall be dispensed with, but that their places may be filled by the consent of the Senate.

The third section provides for the appointment of twenty-five general and special agents of the customs, who, it is thought, will be needed to look after that branch of the public service.

The fourth section provides for the appointment of thirty agents, whose duty it shall be to aid in the prevention and detection of the counterfeiting of currency, notes, and bonds of the United States; and also gives permission to the Postmaster General to appoint a number of agents not exceeding twenty, whose duty it shall be to promote the efficiency and prevent abuse in the postal service of the United States, and these are to be paid by appropriations made specifically for this purpose.

The number of agents who have been appointed under the acts of 1792, 1799, and 1846, is very indefinite. At one time the number has been quite limited; at another time it has been very large. As near as I can ascertain at the Department, the passage of this bill will save directly to the Treasury between three and four hundred thousand dollars annually. How much it will save indirectly it is impossible to say. If all the charges which have been brought against this class of officers are true the amount saved to the country will extend to millions. It would seem that these men have been appointed simply to gratify political or personal friends in many instances, having but very little or nothing to do for the Government; and it is charged by many that those appointed under the internal revenue laws have become rather the agents of the whisky trade than agents of the Government; that instead of saving money to the country they are taking money out of the Government and out of the people of the country. There is now under arrest at Chicago one of these agents, who collected $10,000 in the way of black mail upon a citizen of Chicago; and a gentleman whose relations to the internal revenue are such as to entitle his opinion to great weight told me that that man had made between thirty-five and fifty thousand dollars within twenty-six days in this way. Another of these agents secured $10,000 within five days after his appointment, collecting it as black mail upon persons who were required to pay internal tax. But, sir, I have no desire to extend the discussion.

Mr. HARLAN. I observe in the bill no provision for special agencies for the internal department. I would suggest to my friend from New Hampshire that it would be exceedingly difficult for the Secretary of the Interior to perform some of the duties that are imposed on him by law without authority to appoint agents. Take the service connected with the Pension Office for example; agents are appointed now to prevent frauds, and by means of them frauds are prevented and money saved to the Treasury. The General Land Office is compelled occasionally to have agents to prevent depredations on timber. This duty is usually performed, I believe, by the register and receiver of the proper land office or by the surveyor general, but nevertheless they are appointed as agents of the Department to attend to that duty.

Mr. FESSENDEN. Do they have extra pay?

Mr. HARLAN. They are paid extra for the extra service under some provision of law. The Commissioner of Indian Affairs is occasionally compelled to appoint special agents to perform duties imposed on him by law. I think that defect in the bill ought to be provided for. I sympathize in the object of the bill, but I prefer that the consideration of it should go over one day in order that that defect may be provided for.

Mr. MORRILL, of Vermont. I am satisfied that this bill is designed to correct and will correct a very great abuse; but it is a kind of bill that ought to receive the most careful consideration. It will be utterly impossible for the Secretary of the Treasury to efficiently perform his duties and look after the revenue in all parts of the country, both from customs and internal taxes, with the number of officers that are here allowed. I know quite a number of the officers that are entrusted with this duty who are certainly men of character, and are performing their duties to the acceptance not only of the Department but of the public. It is very important that these officers should not be generally known where they are performing their duties for the moment. Where they are known they are watched; and it is extremely difficult for them to be successful in ferreting out any frauds. It is so in the case of the Post Office Department. It is necessary that there should be some secret agents.

Mr. TRUMBULL. The bill provides for twenty.

Mr. MORRILL, of Vermont. I think the number allowed for the internal revenue and for the customs is too small. I understand, however, there is an amendment that remedies to some extent the defect to which I allude.

Mr. CONKLING. To what number does the Senator refer?

Mr. MORRILL, of Vermont. Twenty-five, as I read it here.

Mr. CONKLING. In which section?

Mr. MORRILL, of Vermont. Section three.

Mr. PATTERSON, of New Hampshire. The number there is simply for the customs.

Mr. MORRILL, of Vermont. There is another objection I have that some of these agents are now receiving but four dollars a day and their traveling expenses, but this raises their compensation to six dollars. Some of them, I believe, are receiving a higher compensation, but there are some engaged in the internal revenue department who are only receiving four dollars a day and traveling expenses.

Mr. RAMSEY. I should like to inquire of the Senator from New Hampshire how many agents he allows to the Post Office Department; I perceive there is a blank there.

Mr. PATTERSON, of New Hampshire. Not exceeding twenty. I will say I have seen the Postmaster General this morning, and he told me that last year they employed only sixteen; they have been obliged to increase them during the present year some; but twenty, I think, will be ample to cover all the wants of that Department. I will say to the Senator from Vermont that the second section does not limit the number of the agents who may be employed by the Treasury Department; it only requires that they should be confirmed by the Senate, so that such rascals as have been sometimes employed hereafter may not leap through into the service of Government. That is the only design of the bill.

Mr. WILLIAMS. I would inquire of the Senator who has charge of this bill if there is any statement accessible showing the number of the agents now employed by the Treasury Department and the amount of compensation which they receive, and which will be removed by the operation of this bill if it becomes a law. I suppose that the object of this bill must be to save the expenditure of the public money, and I am not advised as to the facts about it, and should like to hear what they are.

Mr. PATTERSON, of New Hampshire. Under the twentieth section of the act of March 3, 1863, it is provided that the Secretary of the Treasury may appoint not exceeding three revenue agents, and under section four of the act of March 3, 1865, ten revenue agents are provided for. Under section five of the act of July 13, 1866, an indefinite number of inspectors of revenue is provided for. The number has been various. The greatest number employed between any two dates is three hundred and sixteen.

Mr. SUMNER. I should like to inquire of the Senator if he has taken into consideration the habit of our Government since the administration of Washington to employ agents of the State Department who are not particularly described in any statute, and who are paid out of the contingent fund.

Mr. PATTERSON, of New Hampshire. We have taken into account the agents of that character employed by all the Departments, and we have thought it a general and crying evil, because the number employed has been very great, and perhaps in nine cases out of ten they have had little or nothing to do but to draw their salary and attend to politics, and they have been made political agents rather than agents of the Government for any useful purpose. There is no reason why, if such agents are necessary for the service of the Government, they should not be appointed by some specific statute, limiting the number and determining their duties and salary.

Mr. SUMNER. I think that if the Senator inquires into the practice of the Government he will find that such agents have been very often appointed summarily from the necessity of the case.

Mr. GRIMES. What to do?

Mr. SUMNER. To have conference with foreign Governments, to hold communication with foreign Governments.

Mr. MORRILL, of Vermont. Bishop Hughes and Mr. Everett and Thurlow Weed were sent abroad.

Mr. CHANDLER. And McCracken.

Mr. SUMNER. Gentlemen refer to certain individuals. By way of answering their inquiry I will send to the desk a letter which I have received from the Secretary of State on this subject. I received it yesterday, and it is an answer, I think, to the inquiry. I should like to have it read.

The Secretary read as follows:

DEPARTMENT OF STATE,
WASHINGTON, *January* 28, 1868.

SIR: It is to be hoped that the bill which, it is understood, has been introduced into the Senate, prohibiting the appointment of special agents and terminating the functions of such agents as may now be employed, is not intended to apply to agents of that character in connection with foreign affairs. If it were to embrace them it would not only create

great embarrassment in the management of those affairs, but would often make the transaction of important public business impracticable. Special agents for foreign affairs have been, more or less, employed by every Administration from that of Washington to the present time. Washington himself sent Governeur Morris to London as a special agent. The occasion for such agents cannot be anticipated. They often depend upon emergencies which may suddenly arise, and require an appointment not only prompt but one where the fact of the appointment and the name of the person appointed must not, if success is to be expected, be made public. Special agents in connection with foreign affairs are usually regarded as officers, under the law of nations. They are employed by all Governments. Though not expressly authorized by any act of Congress, their employment has always been indirectly sanctioned, for from the formation of the Government there has been an annual appropriation for the contingent expenses of foreign intercourse, from which appropriation the compensation and expenses of such agents are paid, without, it is believed, material objection. There is special legislation by Congress upon the subject of the accounts for this appropriation, evidently in contemplation of the employment of special agents.

Some of the most important treaties of the United States have been concluded by special agents, and could not easily have been negotiated by any other officer.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. CHARLES SUMNER, *Chairman of the Committee on Foreign Relations, United States Senate.*

Mr. SUMNER. That letter, I think, is an answer to the inquiry which has been addressed to me. When I read this bill it occurred to me that, while in its general provisions it was well founded, possibly the committee had not taken into consideration the usage of the Government in the conduct of our foreign affairs. Therefore I hope the Senator from New Hampshire will excuse me if I propose an amendment to come in at the end of the first section as a proviso:

Provided, That this shall not interfere with persons employed by the Department of State, and paid out of the contingent fund of the Department.

The Senator from Vermont [Mr. EDMUNDS] asks if the amendment should not speak of "the secret service fund." It does not go in the statutes under the name of "the secret service fund." It is described as "the contingent fund."

Mr. PATTERSON, of New Hampshire. I think it would be desirable to limit the number.

Mr. SUMNER. I think the Senator will see that it is limited by the contingent fund. There must be an appropriation in order to sustain any such agency, and such appropriations have been made from the beginning of the Government.

Mr. PATTERSON, of New Hampshire. What is the amount of that contingent fund generally?

Mr. SUMNER. I think in the last bill it was $50,000. During the war it was more, and the Senate is aware that there were a great many agents abroad during the war who were paid out of that contingent fund. I sympathize entirely with the object of this bill, but I am anxious that a standing practice of the Government, sustained by the best precedents under the best administration, should not be interfered with without full consideration. If Congress is determined to cut off the contingent expenses of the State Department, and thereby practically to say that there shall be no agents employed abroad except those who have already been nominated by the President and confirmed by the Senate—if you are ready to take that ground—that is another question; but the Senator from New Hampshire makes no such proposition. I think, therefore, that the proviso which I move will not interfere with the general principle of the bill.

Mr. HOWARD. It is natural that the Senator from Massachusetts should be very careful of the foreign department of the Government of the United States; and I should like to inquire of him and ascertain whether he can give me the information about how many secret agents of the State Department there have been in circulation on the face of the globe during the last four or five years?

Mr. SUMNER. I wish I could answer the inquiry of the Senator, but I say frankly I cannot. I have no information on the subject.

Mr. HOWARD. According to my apprehension, they have been very numerous, and in many cases very mischievous also, and I do not feel, for one, extremely liberal at present in reference to the employment of secret agents of the State Department. I do not know who they are or how numerous they may have been. I have been told that they have been very numerous, and that our own body has not been deprived of the honor of furnishing one, at least, of those secret agents to foreign Governments. There seems to be a darkness hovering over the whole subject, into which I should be glad to see some little light poured by the honorable Senator the chairman of the Committee on Foreign Relations, if he is able to do it.

Mr. SUMNER. The Senator, when he characterizes them as "secret agents," practically answers his own inquiry. How can we disclose the name of a secret agent? The very fact that the agency is conducted in secrecy must necessarily prevent the disclosure of the name. The Senate is perfectly aware that there is a system of accounts at the Treasury Department by which all the expenditures under this head are thoroughly vouched. It is known there how every dollar goes, but those accounts are not disclosed to the world, and I doubt whether the Senate is at this moment disposed to take the step of requiring that all secret agents of the Government shall have their names published to the world and all their accounts disclosed.

A Senator near me inquires whether one McCracken has his name on this list. I wish I could answer that question. After all the inquiry that has been made on both sides of the Atlantic down to this day, "Who is McCracken?" I have seen as yet no answer. I believe that he is a mythical character.

Mr. CONKLING. Was he not sent abroad under this power as it stands now?

Mr. SUMNER. I wish I could answer that. I cannot; but when I say that I think he is a mythical character, perhaps that is an answer. I doubt whether he ever existed.

Mr. GRIMES. Does the Senator believe that the letter purporting to come from McCracken was a forgery?

Mr. SUMNER. Well, I know nothing about it. I have always supposed that it was something akin to a forgery; if not a positive forgery, that it came from——well, I know not. There is something inexplicable about it.

Mr. GRIMES. Can the Senator inform us who put the letter afloat?

Mr. SUMNER. The letter was communicated to the Senate by the President of the United States. It was put afloat by the head of this Government, and acting on it he tried to discredit before the world one of the most distinguished citizens of this Republic.

Mr. CONKLING. If I may be allowed to make a suggestion, I will say that the apprehension which this statement gives rise to in my mind is that under this power as it stands not only real persons, but myths, fictitious, fabulous persons, ghosts, as the Senator from Michigan [Mr. HOWARD] suggests, are sent abroad. If that be so, it ought at least to be so limited that there will be only persons in flesh and blood who go; persons who have "a local habitation and a name."

Mr. SUMNER. I will accept the Senator's amendment if he will reduce it to legible shape.

Mr. ANTHONY. I think I can furnish some information on this subject, although it is information in the possession of all other Senators, but they seem to have forgotten it. The whole amount of secret service money appropriated was only $20,000.

Mr. EDMUNDS. The Senator from Massachusetts says $50,000.

Mr. ANTHONY. No; it was cut down to $20,000 at the last session by a vote of the Senate.

Mr. SUMNER. We cut it down to $20,000, but I think it was finally left at $50,000.

Mr. GRIMES. It was cut down in the Senate to $20,000, but it was restored in the committee of conference to $50,000.

Mr. ANTHONY. And very properly, I think, for I cannot conceive of a Government as large as this going on with less than $50,000 of a secret service fund.

Mr. JOHNSON. If it is the intention of the Senate to prevent what we may consider a mischievous practice on the part of the State Department, the true way is to do away with the secret fund altogether; but I think the Senate would doubt a great while before they would come to that conclusion. It seems to me, as proved by the history of the United States and proved by the history of every other Government, that it is necessary at certain periods that there should be what are called secret agents abroad—agents whose names are not to be known except to the Government which sends them out. It is very easy to imagine reasons for such a practice; and the United States have from the beginning of the Government to the present hour observed that practice, and very beneficially at times. Whether the present Secretary of State or the present Administration has abused it in certain instances is a matter which in no manner, as I think, interferes with the question whether it is not true policy that there should be a power in the Government to have the services of such agents. I should, therefore, very much regret to have a law enacted requiring that these agents shall be nominated by the President, by and with the advice and consent of the Senate, for if so no one of them could be abroad without the nations to which they were sent knowing that they stood in an official relation to the Government of the United States.

Mr. CAMERON. Mr. President, I think it would be much better to dispense altogether with this system of secret agencies and spies. I cannot imagine what they are sent abroad for. This Government has no secrets from the world in any of its diplomacy. We are supposed to send our most intelligent men abroad to negotiate with foreign Governments, and we are in the habit of requiring all their correspondence to be laid before the public. It seems to me that this secret-service fund is merely a little patronage for somebody who may happen to be in the State Department and who may have a love for small intrigues.

We are carrying this system all over our Government. During the war you could hardly move without having a spy beside you, and it is so now. I think one of the great errors of our revenue system is that you trust the interests of the Government to a parcel of men who have no reputation, who have no character, and who are unknown to the public. They do what they please and commit all sorts of offenses.

This practice of sending spies to other Governments commenced, I believe, in the barbarism of the middle ages. It was common in the time of the Charles, Elizabeth, and Henrys of England. In the beginning of our Government I know public opinion was against it, and all of our statesmen, Mr. Jefferson especially, were opposed to the system, and I should like to see it disposed of now. I will never vote, if I know it, for any appropriation for that purpose. I should like to get rid of the whole thing.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to the amendment to add the following proviso:

Provided, That this shall not interfere with persons employed by the Department of State and paid out of the contingent fund of the Department.

Mr. HENDRICKS. I want to look into this bill. My attention was not directed to it until yesterday. I move that it be postponed until to-morrow.

The PRESIDENT *pro tempore*. It will be postponed without a motion, the hour having arrived for the consideration of the order of the day.

Mr. PATTERSON, of New Hampshire. I give notice that I shall ask a vote on this bill to-morrow.

Mr. HENDRICKS. I suppose the amendment ought to be printed.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

ORDER OF BUSINESS.

Mr. SUMNER. I should like, with the consent of my friend from New Hampshire, [Mr. CRAGIN,] who has the floor, to appeal to the Senate to take a vote on the resolution reported unanimously from the Committee on Foreign Relations the other day. I do not desire to say a word upon it. It has been read and discussed. I merely wish to discharge my duty to the committee and to the Senate and bring the matter to a close. I do not wish to say a word about it. I merely ask that the Senate will vote upon it.

Mr. CRAGIN. If it can be acted upon without giving rise to debate I have no personal objection.

Mr. SUMNER. I do not wish to say a word upon it. It is Senate joint resolution No. 89, providing for the representation of the United States at the international maritime exhibition to be held at Havre.

The PRESIDENT *pro tempore*. By common consent it can be taken up; not otherwise.

Mr. SPRAGUE. I object.

The PRESIDENT *pro tempore*. Objection being made, the order of the day is before the Senate.

LAND CLAIM IN FLORIDA.

Mr. SPRAGUE. With the indulgence of the Senator from New Hampshire I wish to present a petition.

Mr. SUMNER. Let me pass this resolution first.

The PRESIDENT *pro tempore*. There is nothing before the Senate but the order of the day.

Mr. SPRAGUE. The Senator from New Hampshire permits me to present the petition of Ethan Ray Clarke and Samuel Ward Clarke, praying for the confirmation of the title to certain lands on Black Creek, in the State of Florida, purchased of John Underwood by their grandfather, under a grant from the Spanish Government. I ask the attention of the Committee on Private Land Claims for just one moment——

The PRESIDENT *pro tempore*. It cannot be done. The Senator is not in order.

Mr. SPRAGUE. I simply ask the indulgence of the Senate for one or two words in reference to this petition.

The PRESIDENT *pro tempore*. If there is no objection the Senator can proceed; but there is another matter before the Senate.

Mr. SUMNER. I will not object.

Mr. SPRAGUE. I have the floor, and there is no objection, I understand.

The PRESIDENT *pro tempore*. The order of the day is before the Senate without a motion at one o'clock.

Mr. SPRAGUE. The Senator from New Hampshire gave way to enable me to present this petition, and I have the floor, as I understand it. I appeal to the Senate. If not sustained by the Senate of course I will take my seat.

The PRESIDENT *pro tempore*. What is the motion of the Senator?

Mr. SPRAGUE. I have a petition in my hand that I desire to present, and I simply ask the attention of the chairman of the Committee on Private Land Claims for one word in transmitting it to you, sir. And now I simply ask that I may deliver three or four words in transmitting the petition that I have in my hand.

The PRESIDENT *pro tempore*. The Chair must maintain the rule of the Senate unless the Senate will pass it by common consent and permit the Senator to make his speech. The Senator asks that he be permitted to make his remarks on this petition. Is there any objection? No objection being made the Senator may go on.

Mr. SPRAGUE. This petition was before the Committee on Private Land Claims at the last session, and a bill was reported from that committee by Judge Harris, which passed this body. The papers upon which that bill was founded were sent to the Committee on the Judiciary of the House and the bill was sent to the Committee on Private Land Claims, and the attention of the House was therefore lost so far as the bill was concerned. I have asked with this persistence the attention of the committee to this subject now, because the people that I represent are poor and cannot represent themselves. I move the reference of the petition to the Committee on Private Land Claims.

The motion was agreed to.

MARITIME EXHIBITION AT HAVRE.

Mr. SUMNER. Now I make an appeal again to my friend from New Hampshire to allow the vote to be taken, without a word being said, on the joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

The PRESIDENT *pro tempore*. Will the Senate pass over the order of the day for the purpose of taking up the resolution mentioned by the Senator from Massachusetts?

Mr. CRAGIN. If it leads to debate I cannot yield.

Mr. SUMNER. That is right. If it leads to debate I shall not press it.

The PRESIDENT *pro tempore*. No objection being made, the joint resolution mentioned by the Senator from Massachusetts is before the Senate, the pending question being on the amendment to add at the end of the resolution the following proviso:

Provided, That no expenditure shall accrue therefrom to the Treasury, nor shall additional compensation be paid to such persons as may be designated under the authority of this resolution.

Mr. GRIMES. Let the resolution be read as it will stand if amended.

The Secretary read as follows:

Resolved, &c., That the Secretary of the Navy be authorized to detail one or more officers of the Navy, as he shall think best, to be present at the international maritime exhibition, to be held at Havre, under the auspices of the French Government, from the 1st of June to the 31st of October of the present year, there to represent the United States, and otherwise to promote the interests of exhibitors from our own country: *Provided*, That no expenditure shall accrue therefrom to the Treasury, nor shall additional compensation be paid to such persons as may be designated under the authority of this resolution.

Mr. GRIMES. I do not rise to debate the resolution, because I am in favor of it, but I simply wish to suggest to some of my friends on the floor that there is a propriety in being a little consistent in regard to these resolutions. A few days ago there was a resolution reported from the Committee on Naval Affairs authorizing, under certain circumstances, the President to detail officers of the Navy to perform consular duties, and the Committee on Commerce imagined that it was trenching upon their jurisdiction, and insisted that it should be referred to that committee. Now, here comes a resolution from the chairman of the Committee on Foreign Relations, who, if I am not mistaken, sympathized with the Committee on Commerce on that occasion, proposing to detail certain naval officers to perform the duties of commissioners and inspectors at a commercial-marine exhibition to be held in France. I suggest to my friend, the chairman of the Committee on Commerce, [Mr. CHANDLER,] and to my friend from Maine, [Mr. MORRILL,] that they ought to vindicate their jurisdiction and not allow a resolution of this kind to be passed upon the recommendation of the Committee on Foreign Relations.

Mr. MORRILL, of Vermont. I ask for the yeas and nays on this resolution. After the discussion the other day we certainly ought to have the yeas and nays upon it.

Mr. HENDRICKS. I insist on the order of business.

The PRESIDENT *pro tempore*. The order of the day is before the Senate, on which the Senator from New Hampshire [Mr. CRAGIN] has the floor.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill with instructions to the Committee on the Judiciary.

Mr. CRAGIN. Mr. President, when the question of the life or death of the Republic was presented to the loyal people of this land they bravely and patriotically resolved to accept war and all its direful consequences rather than that the Union should perish.

After four years of toil and sacrifices of life and treasure such as no other nation ever suffered, victory perched upon the banners of the Union Army, and a wicked and causeless rebellion was put down, and the question now is, whether the fruits of victory shall be lost, and those who did their utmost to destroy the Union and the hopes of the world in free government shall dictate the terms of reconstruction and come back into full fellowship, filled with rebel hate and arrogance and with increased political power, or whether those who saved the Union shall rebuild it upon foundations cemented with the eternal principles of truth, justice, and equality. The former question is involved in, and must result from, the final success of the President's "policy" and the plan of the Democratic party; the latter will surely follow the complete triumph of the congressional and Republican plan of reconstruction.

At the beginning of the rebellion the rebels destroyed the loyal State governments in eleven States and set up new governments hostile to the United States. They absolved their officers and citizens from their oaths of allegiance to the United States, and compelled them to take new oaths of allegiance to the southern confederacy as a new and independent nation. When the rebellion was suppressed and conquered traitors were compelled to lay down their arms, and the national authority became reasserted over the territory formerly occupied by the insurgents, those hostile State governments disappeared and no State organizations remained. The rebels knew, and all the world knew, that they had been engaged in a most nefarious business, a most wicked and atrocious crime, for which they deserved to die, and they were ready to cry out "What can we do to be saved?" Such was the condition when Mr. Johnson was made President by the cruel assassination of Mr. Lincoln.

Now, by the express language of the Constitution, the President is authorized to call an extra session of Congress on "extraordinary occasions." What occasion could be more "extraordinary" than the sudden and shocking death of a dearly-beloved President and the suppression of a gigantic and bloody rebellion? But the President, overlooking this new and unparalleled era in our history, when so much of the unfinished work of his predecessor lay before him, purposely neglected to call such session of Congress, and took the work of reconstruction into his own unaided hands. Was this mere boldness and self-reliance or was it assumption? Whatever name you may give it, the sequel has proved it to be a grave and almost irreparable error.

The President's business is to execute, not to make, laws. In undertaking therefore this work he undoubtedly usurped the legislative functions of Congress, and invaded the prerogative of a coördinate branch of the Government. He appointed provisional governors without authority of law, and defined their duties. He prescribed the qualifications of voters, and declared who should not vote in the rebel States. He authorized the calling of conventions, and dictated the provisions of future constitutions. He established military rule a hundred times more despotic than that which now exists in those States. None but rebels were elected to these conventions or permitted to fill offices, and he was, in consequence of this condonation policy, compelled to send on pardons by wholesale, even by telegraph, before

the conventions could proceed to their work or the State officers enter upon their duties.

The members of the conventions were elected by only a small fraction of the people, and their constitutions were in no case submitted to the people for adoption or rejection.

The business was rushed through in hot haste, and the rebels took courage and even spoke of their rights. The Legislatures which followed were of the some stripe, composed almost entirely of rebels and prominent men who had served in the rebel army. They elected rebel Senators, including the vice president of the so-called southern confederacy. Men were elected as members of the House of Representatives whose hands were still red with the blood of Union soldiers. Union white men who had remained true to the flag through the dark and bloody trial, and the freedmen released from cruel bondage, who had prayed for Union victories and lent their humble assistance in whatever way they could to our arms, were proscribed, persecuted, insulted, and even murdered by these haughty and unrepentant rebels. A single extract from a letter to the Daily News, from Georgia will show how completely the Legislature chosen under the President's "policy" was in the hands of rebels:

"It is a remarkable fact that no man who systematically opposed the South in her late struggle has been honored with any office of importance since the failure of the confederacy. The reason for this is plain: it is impossible for a man holding to Massachusetts ideas of government to represent the people of Georgia. Such men will always be defeated, and they ought to be."

In the Georgia Legislature Thomas Hardeman, late colonel of the forty-fifth regiment in the confederate army, was chosen speaker of the House, and William Gibson, late colonel twentieth regiment in same army, was chosen president of the Senate. Two other rebel colonels were chosen clerk of the House and secretary of the Senate. This is but a sample of the whole, and shows that the rebels had complete control.

In the summer and fall of 1865 Mr. Johnson told us that his policy was only experimental and temporary, and intimated that the whole matter would be referred to Congress at its regular session. But in the meantime the serpent of treason had whispered in his ear and promised him that he should be elected President in 1868 if he would only hold fast to his own plan as an executive measure and foil the wishes of the loyal people by bringing in these States "rebel end foremost." Yielding to this temptation, "he betrayed and deserted the party that elected him and joined in full communion the rebels." The business went on. The President claimed that his action was a finality and that those States were reconstructed; that their Representatives were entitled to seats in the national Legislature, and that Congress had nothing to do about the matter but to swear in the members from those loyal States. At the same time the cry of distress, of outrage, and murder was wafted from all parts of the South. Rebel supremacy, domination, and tyranny were everywhere felt. They insulted the flag, gloried in their treason, spit out their hate against the United States, proscribed and banished Union white men, robbed and murdered the freedmen indiscriminately and with entire impunity, and, not yet satisfied, compassed plans for reducing them to a bondage worse than that from which they had escaped. Treason was made honorable and loyalty odious in those States. Rebellion seemed likely after all to be a success, and that the gray would finally conquer the blue. Congress hesitated. The cry of murder, anguish, and rebel outrage sounded in these Halls for one whole year before decisive action was taken. At last justice—blind, slow-footed, but unerring justice—prevailed, and it solemnly resolved that these States should be reconstructed, once and forever, upon a loyal basis. Rebel supremacy had then flourished long enough. The sovereignty of the nation had been so long defied with success that it had ceased to have any meaning, and was now but the shadow of a dishonored principle. The time had come when loyal supremacy must step in and reërect the pillars of republican government or else abandon those communities to the hazards of an unregulated polity, oscillating between license and despotism.

Then it was that Congress, in the proper exercise of its legislative powers, passed acts of reconstruction inviting these people, white and black, to take part in the great work. A few prominent rebels only were told to take "back seats." The work has commenced, and is now going on successfully. The people have called conventions, by a large vote, in nine of the ten States, and Texas will soon follow. Thus far, the work has been well done, and it will surely be completed. There is to be no delay—no working on short time, but in regular order; and one after another these States will soon be restored to their "practical relations" to the Union. The workmen employed in this noble task must be constructive, not destructive, builders. They must not be the same men who sought to destroy the beautiful structure erected by our fathers, for both justice and consistency alike forbid it; but they must be men in whose hearts the love of liberty and union is a living, energizing principle, and who recognize the inherent and God-given rights of man as the moving spirit of all free government.

I say it, sir; this work will go on, and no earthly power can prevent its completion. The Republican party is doing its best to organize the southern States on a truly loyal and democratic basis, and the ex-rebels of those States and their friends of the North are doing their very utmost to impede and prevent reconstruction, and thus protract the military rule which they affect to find so harsh, despotic, and degrading. The Republicans are anxious to complete this work as soon as possible, in order that the Union may be restored, and the military machinery, Freedmen's Bureau, &c., may be swept away as a mere scaffolding that has accomplished its purpose. I, for one, shall be glad to see truly loyal representatives from all those States occupying seats here within the next three months.

The Conservatives and Democrats, North and South, are resisting this conclusion with all their might. They want an aristocratic restoration which will place the loyal majority, white and black, under the feet of the rebel minority, or they will have no restoration at all. They are marshaling their forces to defeat any constitution that may be submitted in Virginia, North Carolina, and the other States, even before the constitutions are made. They complain of military rule, but rather than accept any constitution, however good, made by the conventions, they prefer that that rule should continue, in order to have some complaint around which to rally a disaffected minority. Rather than that all rights for all men should be the fundamental law they prefer to submit to "military despotism."

We, sir, seek to implant impartial justice, equal laws, and a fair chance for all in the frame-work of these future constitutions. We build upon the broad, old-fashioned, genuine democratic foundation of exact and equal justice and rights for all men; especially do we aim to protect the weak and lowly against the arrogant and strong, for Governments have no other final course than this, and, let me add, none higher.

There are many objections urged against the plan of Congress and the loyal people by those who are opposed to reconstruction unless the rebel element can rule and dictate terms. I shall not speak of the constitutional objections nor of the want of power on the part of Congress. That question was argued and settled by my distinguished friend, the Senator from Indiana, on last Friday, in a speech which has rarely been equaled in this Chamber. His argument demonstrated with logical certainty that the President had no authority to reconstruct those States, and that it was not only the right but the duty of Congress to do it, and to do it on a loyal basis. That speech was a most masterly and complete vindication of Congress, and will live beside the best efforts of Daniel Webster.

Much as the country owed before in aid and counsel to that Senator for his great and untiring services during the great struggle for national existence, the debt is vastly increased now. One other Governor, among many other good ones, stood out preëminent for his heroic fortitude, ability, and considerate tenderness during the terrible struggle; but his eloquent voice is hushed in death, and he now watches with the immortal Lincoln and hosts of others who died for their country over the work we are now doing, and, I doubt not, intercedes with Him who shapes the destinies of men and nations that the work may not fail. The other Governor, whose star shone with equal brilliancy in the West, is still laboring with his great head and heart, but with health impaired, for that country for which so many good men have given their lives. His seat is vacant today. May he live to see the great consummation so devoutly desired by all patriotic hearts, and the renewed and increased glory of a united country, and a happy and prosperous people.

The President in his annual message charges Congress with having passed the reconstruction acts for the purpose of establishing "negro supremacy" in ten States; and the whole Democratic party are now chiming in to the same tune. A charge more groundless or more destitute of truth was never made. In passing those laws we had no thought of "negro supremacy" or "negro domination," and have not now any thought or wish of that kind. We thought only of loyal supremacy in those States. The people had endured rebel supremacy long enough, and had heard enough of rebel cruelty and murder of white and black men because they had loyal hearts. Finding that the spirit of rebellion was rife and fierce in these Johnson-reconstructed States as when they were in actual rebellion and that they would not regard the rights of Union men, but that in every way they despitefully used them and trampled them under foot in haughty arrogance, Congress determined to raise up a loyal element which, joined with white Unionists, should reconstruct those States in the interests of loyalty and true democracy. Every Senator in this Chamber knew then, and knows now, if the question of Union or disunion, slavery or freedom, were left to the white vote alone in those States, and they could safely so act, that the Union would be dissolved and slavery again restored.

The ballot was given to the black man first because he was a citizen and a freeman, and as incident to and an inhering right of citizenship; but specially that he might have a weapon for self-protection and with which to insure the adoption of loyal democratic State governments. It was given for his own protection and the protection of those principles of union founded "in the just consent of the governed," which the Declaration of Independence declares to be the original source of all government.

We gave him no other protection than this, and less we could not do; for how could we legislate for the superstructure of a government before we had laid its foundations upon the "just consent of the governed." We must either submit to rebel supremacy or adopt this policy to insure "loyal supremacy." Congress chose the latter course, and every day's experience is verifying the wisdom of this policy. But what, sir, are the facts in relation to "negro supremacy" in the South? In only two States, South Carolina and Mississippi, does the colored population constitute a majority of the people. The registration of voters under the reconstruction acts shows a majority of white voters in five of the disorganized States, namely, Virginia, North Carolina, Georgia, Arkansas, and Texas, and in the five other States the colored voters are a majority. This, except in South Carolina and Mississippi, results from the fact that many of the white men refused or neglected to register themselves as voters. Is

Congress to blame for this? If a man sleep upon his rights shall he complain if he lose them? If all the white men entitled to vote under the acts of Congress had registered the colored men would have had a majority only in the two States before named.

The following official figures show the number of each class registered in each State and the vote cast for and against conventions:

	White.	*Colored.*	*For.*	*Against.*
Virginia	116,000	104,000	107,342	61,887
North Carolina	103,060	71,657	93,266	32,961
South Carolina	45,751	79,585	67,799	2,226
Georgia	95,214	93,458	102,283	4,127
Mississippi	48,926	88,925	69,739	6,277
Louisiana	44,732	82,907	75,083	4,006
Florida	11,100	15,357	14,337	139
Texas	56,666	47,430	Not voted.	
Arkansas (total)	66,805	-	27,576	13,558

It is well known that a majority of registered voters in Arkansas are white, but the exact number of each is not known here.

Let us look at some of those States in the light of these figures. The actual white population of Virginia is nearly double that of the colored and they have twelve thousand majority of the registered voters, notwithstanding tens of thousands of white men from bitterness and pride refused or neglected to register. With all this advantage the convention was actually carried by forty-five thousand four hundred and fifty-five majority of those voting. The truth is that large numbers of white men voted for the convention. Is there any "negro supremacy" in this? Not a bit of it. I hope, sir, a million white men in Virginia do not acknowledge themselves whipped by half that number of black men. At the beginning of the rebellion they claimed that one Virginian could whip and put to flight five Yankees, and now one poor despised colored man can whip two of these proud knights. This is the pitiable and flimsy argument of the Senator from Wisconsin and of the leaders of the Democratic party. If this be true, how art thou fallen, oh, Virginia!

Look at North Carolina. She has over thirty-one thousand majority of registered white voters, and yet the convention was carried there by over sixty thousand majority. There were twenty two thousand more votes cast for a convention than there are colored registered voters. Here, too, is "negro supremacy," one man, who the Senator from Wisconsin says is not fit to vote, putting three white men to flight! O nonsense most humiliating!

Look at Georgia. The number of registered white voters there is two thousand more than the colored, and yet the convention was carried in that State by over ninety-eight thousand majority. About thirty-five thousand white men voted for the convention, or more than one third of the whole number of registered white voters. Here, again, is "negro supremacy!" I ask the Senator from Wisconsin to look at it. He claims that the negro is not fit to vote, and yet we find a less number of them in Virginia, North Carolina, and Georgia beating a greater number of white men, with their acknowledged superiority, at the polls. Sir, a white man ought to be ashamed of this argument. If it prove anything it proves too much for our opponents. It proves that the colored man is qualified to vote.

I commend to the Senator from Wisconsin and all others who are so terrified about "negro supremacy" an extract from a recent speech of ex-Governor Brown, of Georgia. Governor Brown was one of the first southern Governors who saw the hopelessness of the rebellion and the tyranny of Jeff. Davis; and he sees now the false and humiliating pretenses by which reconstruction is sought to be delayed. He says:

"The people North have been told lately that the acts of Congress establish negro supremacy and white subordination in the South. The charge is false. It was the perverse obstinacy of the white race refusing to take control that gave the negroes power in the convention. There is fifteen thousand white majority in Georgia. With this majority and the boasted superiority of the race in intellect, education, experience, and wealth, it is a libel on the white men to say that negroes can rule intellect and capital and control numbers everywhere. The charge that General Pope gerrymandered the State to give negroes power is false. He adopted the districts as left by the Johnson convention without alteration. With absolute power to set aside every officer in Georgia and fill their places with test-oath men, not one in fifty had been disturbed, and not one who did not obstruct reconstruction. Not a single citizen of Georgia has been tried by military commission, when Pope had power to set aside the courts to try every officer by commission."

It is a well-known fact that after the passage of the reconstruction acts the rebels expected to control the negro vote and went to work for that purpose. The colored people were told that the rebels had always been their friends, and that they were then their best friends. They called them fellow-citizens, and admitted that they had been too long deprived of their rights.

They failed to control the colored vote, and here is the rub. The negro was too intelligent, loved liberty too well, to be used by those who for years held him in cruel bondage, and who only released their grasp when they were compelled by superior force. The instinct of that moral nature bestowed upon all men, and which is the finger of God, guiding the human heart, pointed them in the way of sure deliverance.

But, sir, I say again, here is the rub! If they had voted as the rebels wished to have them we should never have heard a word about "negro supremacy." And the Senator from Wisconsin would have hailed them to-day as "friends" and "fellow-citizens."

I have some testimony from southern men and the southern press which shows that some men there do not fear "negro supremacy."

Ex-Governor Foote, in a letter to Hon. A. O. P. Nicholson, of Tennessee, writes as follows:

"We must, in order to be free ourselves, agree never hereafter to interfere with the freedom of others. We must, in order to assure our own return to liberty and happiness, not only recognize the colored citizens of the South as now free, but we must allow them the same means of preserving their freedom that we ourselves desire to possess. They must be freemen in fact as well as in name. We must consent to their being invested with the elective franchise."

General Beauregard, in a letter to the New Orleans Times, dated March 23, 1867, says:

"With regard to the suffrage of the freedmen, however objectionable it may be at present, it is an element of strength for the future. If properly handled and directed we shall defeat our adversaries with their own weapons. The negro is southern born; with a little education and some property qualifications he can be made to take sufficient interest in the affairs and prosperity of the South to insure an intelligent vote on his part."

General Buckner is reported as follows:

"On the question of negro suffrage the general said the South must cheerfully accept it and use the negroes at the polls, teaching them that their interests are identical with those of the whites."

Wade Hampton, in a letter to D. W. Ray and others, dated August 7, 1867, says:

"On a late public occasion, when many of you were present, I expressed my perfect willingness to see impartial suffrage established at the South, and I believe that this opinion is entertained not only by a large majority of the intelligent and reflecting whites, but also by the same class among the blacks."

* * * * * * * * *

"We have recognized the freedom of the blacks, and have placed this fact beyond all probability of doubt, denial, or recall. Let us recognize in the same frank manner and as fully their political rights also. For myself, I confess that I am willing to see a constitution adopted by our State conferring the elective franchise on the negro on precisely the same terms as it is to be exercised by the white man, guarding against the abuse of this privilege by establishing a slight educational and property qualification for all classes."

The New Orleans Picayune says:

"We have urged our people to no longer indulge in any false squeamishness about accepting the negro, as with themselves, a voter, and to indulge in no hesitancy as to his competency and qualifications. It is ridiculous for any one to pretend that he is lowered or disgraced by going to the polls with a negro when he crowds at the general delivery with him to get a letter at the post office."

The Daily News, of New York, an ultra Democratic paper, says:

"The right to vote belongs to each male citizen of twenty-one years of age. It is his by birth; and he, by operation of law, becomes a citizen of the United States, and entitled to all rights, privileges, and immunities through the relation of his native State to the national Union. The elective franchise is his inherent right; the exercise alone is subject to State regulation. Heretofore nothing stood between the blacks and full citizenship but their condition of involuntary servitude; that impediment is gone through the actual operation of the war, and the liberated black stands himself a citizen in his own proper person. Then, if the abstract right to vote inheres in every citizen, why not in the native black man? What rule of law denies him that right? Is it not his absolute personal right, now that he is liberated?"

The Boston Post, alluding to Judge Reagan's letter to Governor Throckmorton, urging that suffrage be given to the negroes on the same terms as it is given to the whites, says:

"This is wise, just, politic. Impartial suffrage we have always advocated. The Massachusetts system we think a good one; and if every State would adopt it the result would prove its great security to the peace and prosperity of the country."

The Senator from Wisconsin may say this is substantially his amendment. I am not sure that the Senator intends to vote for his own amendment. I presume he would not vote for the bill if his amendment could be adopted. He simply wants to make an issue. But granting that Congress has the right to pass his amendment into law, and he concedes the whole power, if we have the right to say that negroes who have served in the Union Army, or who can read and write and own a little property, can vote in these States, then we can say that all may vote. It is only a question of policy how far we will go when the power is conceded.

I am for suffrage on the broad-gauge principle. I do not believe in property qualifications or any other qualifications except what God has given to every sane, honest male citizen. I will not consent to any disqualification except it be the commission of crime. I regard the ballot as a great educator, and I am for manhood suffrage. The Constitution of New Hampshire lately contained a provision requiring that every member of the House of Representatives should have "an estate of the value of £100, one half of which to be freehold." The other half, or $250, might be personal property. In 1850 this provision was stricken out, though it was a dead letter long before. In the convention of that year was a farmer from the county of Grafton, where I reside, and this question being under discussion, he said:

"Under this requirement a man, to be eligible to a seat in the House, must own $500, and one half may be personal property. He may have a jackass he values at $250, and $250 in real estate. He is then eligible and takes his seat. The jackass is taken sick and dies—the owner is then made ineligible." 'Now,' said he, 'I want to know who represents the town—the man or the jackass?'"

The Senator from Wisconsin pretends to be in favor of reconstruction on this basis. I am not. Suppose the man who owns a freehold worth $250 finds himself deprived of the right to vote because his house was burned down and left him worth less than $250. I would like to inquire whether the man or the house votes? Then, by the Senator's amendment, if a man's wife owns $250 in freehold the man may vote. There may be philosophy in this, but I would suggest that he go for female suffrage in that case.

Negro suffrage is no new thing at the South. It is a well-known fact that free negroes voted in all the States at the time of the adoption of the Constitution, with the exception of South Carolina, Delaware, and possibly Georgia. I assert here to-day that free negroes voted for the Constitution in 1789 in Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina. I assert also, that they voted for General Washington as first President of the United States in the same States. There is reason to believe that they voted in all the original "thirteen" States at the time of the adoption of the Declaration of Independence. They continued to vote in Virginia, North Carolina, and Tennessee as late as 1830. It is an undisputed fact that some of the ablest men in Congress were elected by negro votes. Cave Johnson, once Postmaster General, was elected to Congress for the first time from Tennessee by the votes of free negroes, as he himself declared. I once heard John Bell,

when a member of the Senate from Tennessee, say that he was once elected a member of the other House of Congress by free negro votes. I have heard it stated that Willie P. Mangum, of North Carolina, was once elected in the same way, but of this fact I am not sure. In Virginia free negroes voted side by side with white men until 1830. I could give much evidence upon this point, but my time will not allow it. They are all free now, and for their own protection and the salvation of the Union we say they may vote. We say they may vote because they are loyal to their country; because they are freemen and native-born citizens.

But the Senator from Wisconsin says they are "ignorant and half-civilized Africans," and but a few generations removed from "cannibals," and to allow them to vote would degrade the ballot. Ignorance is not the worst disqualification; disloyalty and treason are more dangerous. But who made them ignorant? The very men with whom the Senator now coöperates. They were bound in cruel bonds and denied the means of education. To accuse them now is to add insult to injury.

They are learning fast, and the time is not far distant when they will compare favorably with, if they do not outstrip, the mass of white people South in point of intelligence, as I believe they do now in moral worth.

General Swayne, in his report to General Howard, Commissioner of the Freedmen's Bureau, says:

"A distinguished officer of the third military district declares that the marvelous progress made by the freed people in education and knowledge finds no parallel in history."

He adds:

"If continued, and the masses of the white people exhibit the same indisposition to be educated that they now do, five years will have transferred intelligence and education, so far as the masses are concerned, to the colored people of the district."

General Howard himself says:

"As a people they are making rapid progress in education, in mechanic arts, and all branches of industry which conduce to their comfort and respectability."

The assistant commissioner for Georgia says:

"Their anxiety to learn is unabated, and every available means which may aid them in the pursuit of knowledge is eagerly resorted to. Laborers on plantations are learning from each other, while in the cities parents are being taught by their children; and so tens of thousands who do not enjoy the benefits of regular schooling are being educated in elementary branches."

General Robinson, in North Carolina, says:

"Gratifying testimony is offered concerning the fidelity and general disposition of the freed people. The assistant commissioner doubts if there ever was a community suddenly transferred from a condition of slavery to one of freedom more industrious sober, and law-abiding than are the colored people of North Carolina."

General Scott, in South Carolina, says:

"Enfranchisement has given birth to a healthful sentiment. Laborers are more ambitious in the field and workshop, as well as at the night school."

And yet the Senator from Wisconsin calls these people "half-civilized Africans;" but if they keep on they may become civilized even in the estimation of the Senator. I am tempted to compare the language of General Jackson, addressed to the colored troops at New Orleans, with that of the Senator from Wisconsin. Addressing them after that glorious battle, he said:

"Fellow-citizens and soldiers: I invited you to share in the perils and to divide the glory of your white countrymen. I expected much from you, for I was not uninformed of those qualities which must render you so formidable to an invading foe. I knew that you could endure hunger and thirst and all the hardships of war. I knew that you loved the land of your nativity, and that, like ourselves, you had to defend all that is most dear to man; but you surpass my hopes. I have found in you, united to those qualities, that noble enthusiasm which impels to great deeds.

"Soldiers: The President of the United States shall be informed of your conduct on the present occasion, and the voice of the representatives of the American nation shall applaud your valor, as your General now praises your ardor."

This language sounds a little different to me from that of the Senator from Wisconsin. I will not, however, presume to say that General Jackson was much of a Democrat as compared with the Senator. He did very well for those old-fashioned times; but Democracy has made wonderful progress since his day. Democracy was then a generous sentiment, embracing all the people in one common brotherhood of justice, humanity, and equal rights. The Democratic party long ago drifted away from its old land-marks, and has now become the advocate and apologist for slavery and aristocracy.

One thousand colored soldiers aided General Jackson in that trying hour, and he sounded their praises and told them that the "representatives of the American nation would applaud their valor." More than three hundred thousand aided General Grant in a more trying hour, when the life of the nation and liberty itself was in imminent danger, and the Senator from Wisconsin has no voice with which to applaud their valor. But, sir, the American people have applauded their valor, and, with the blessing of God, will protect and defend them. They exhibted "that noble enthusiasm which impels to great deeds," but the Senator sees it not. He only sees ten million white men crushed by four million degraded, ignorant, "half-civilized Africans."

I see these men taking their stand upon the field of battle and going down before rebel bullets into a common grave with their white fellow-soldiers of the Union Army. I see them on the plantations and around the rebel prison-pens, where brutal murder and cruel starvation carried off fifty thousand of our brave men, the only ministering angels of mercy and sympathy. I see them, when our brave and starving men escaped from Andersonville, concealing them by day and with ample food piloting them by night toward the Union lines. God only knows how much these people did for our cause and how great a debt we owe them. Yet the Senator from Wisconsin calls them rebels. Sir, I pity a heart that cannot appreciate a noble action and whose sympathies go out only for the proud and wicked traitors. He pleads for pardon and forgiveness for rebels, saying "they have been punished enough." I am not panting for puninshment or revenge—none at all. But before high Heaven I dare not forgive the red-handed rebel, unless at the same time I am just to the colored man and give him the means of self-defense. The nation owes him a vast debt of gratitude, and God would never prosper the Republic if we suffered this despised race to be again recast into slavery.

The Senator from Wisconsin talks about a "war of races," and says that the action of Congress is calculated to produce it. It is the course of the Senator and his party that is calculated to produce such a result, and nothing else will do it. The colored men, under all circumstances, are peaceable, industrious, and law-abiding, and there will be no "war of races" unless white rebels drive them to desperation by cruelty and rank injustice long continued. They are a patient people, and will bear persecution, outrage, and even death before they will resort to violent measures. If there is ever such a war it will be provoked and commenced by the white rebels and entered upon by the colored men in self-defense, and only when they can no longer endure the oppression and injustice heaped upon them. If such shall ever be the case I have no doubt God will defend the right. But I have no fears of such a calamity if we do our duty and secure and protect the rights of all.

Much is said here and elsewhere about white men being disfranchised by the reconstruction acts, and unscrupulous partisans seek to exaggerate the number. I am satisfied that the Senator from Indiana placed the number high enough when he estimated it at fifty thousand in the ten States.

And here I do not forget that yesterday the Senator from Pennsylvania, [Mr. BUCKALEW,] for whose judgment and fairness I have great respect, told us that the number of men disfranchised under the reconstruction acts was three hundred thousand. Never was a greater mistake made. Sir, let us look for one moment at the States of Virginia and North Carolina. The registered white vote in Virginia is 116,982. The total vote given for President in Virginia proper, as it now is, in 1860 was 115,257, less than the present registered white vote. In North Carolina the registered white vote is 103,060, and the total vote for President in 1860 was 96.230. The total vote in 1860 for President of the United States, not including South Carolina, where the electors were chosen by the Legislature, was 659,113. The Senator from Pennsylvania would have us believe that one half or nearly one half of these voters are disfranchised under the reconstruction acts. The reconstruction acts disfranchise only those who took an official oath to support the Constitution of the United States and afterward engaged in the rebellion. The main classes included in that are the former members of Congress; members of the Legislatures in those States prior to 1860; officers of the Army and Navy who deserted the flag of the Union and went over to the rebels; deputy postmasters, judicial officers, and a few others in those States. It is impossible to ascertain the exact number, but I fully believe fifty thousand is a high estimate—five thousand on an average in each State. There is a much larger number in the State of Virginia, undoubtedly; but on an average I believe five thousand to be a large estimate for each State.

I can tell the Senate that the Democratic party in New Hampshire, with John G. Sinclair as a leader, tried to disfranchise a greater number of white men in that State—*all* the Union soldiers, absent from the State and fighting for their country. We ask that only a few of the leaders who caused the war and fought against their country shall for a brief time take "back seats."

The design of Congress was to exclude the leading rebels and no others. General terms were used. This was thought to be a better way than to go into a long enumeration of individuals or classes. Of course it included some who were not actual leaders in the rebellion, but it did include only those who had added treason to perjury. I should have been satisfied if a much less number had been disfranchised, though many more deserved it. There was good reason why those who had taken a solemn oath to support the Constitution and then sought to destroy it by armed rebellion should not take part in reconstructing the fabric they had partially destroyed. The time will soon come, I trust, when this disability can safely be removed, and when all will rejoice in a restored Government and the return of national prosperity.

The work thus far has been well done, in spite of the opposition of the President and the Democratic party, who have done all in their power, directly and indirectly, to defeat it. The rebel spirit was at once curbed in the presence of military power, and the wail over unpunished barbarities and murder that filled this Chamber one year ago has almost entirely ceased. We do not hear of one murder now where we heard of hundreds then.

General Howard, in his report, says:

"The general effect of the reconstruction acts of Congress will more fully appear from the State reports herein embodied. There is abundant evidence that these measures have checked the defiant spirit of disloyal men, raised the hopes of freedmen, and greatly promoted good order and peace."

General Schofield, in his report to the Commissioner, says:

"Since the passage of the laws referred to regulating the readmission into the Union of the rebel States a favorable change in the condition of the freedmen has occurred apparently throughout the whole State of Virginia. Complaints of private outrages and the injustice of civil tribunals, the assistant commissioner remarks, have been in number at least fifty per cent. less than during the months preceding the assembling of Congress.

"General Swayne, in common with other assistant commissioners, notes the improvement in the treatment of freedmen consequent upon the recent action of Congress."

Much more interesting matter might be given from the report of General Howard, showing

the improved condition of the freedmen and their industrious and law-abiding conduct, and also their shameful and outrageous treatment in some States, especially in Texas and Kentucky; but enough has been given for my purpose.

What will be the consequences if the reconstruction measures of Congress should fail, and the rebels and their sympathizers gain the control of the Government? In such a result I foresee repudiation, general ruin, a probable war of races, engendered by an attempt to reduce four million people to slavery, or a serfdom and peonage worse than slavery, and the establishment of rebel rule, with a large increase of their political power. During the war the copperhead party of the North was the north wing of the rebel army. Now the rebels are the south wing of the Democratic party. The Pendleton Democracy of the North and the Conservative squad are coöperating with the Davis Democracy of the South to defeat reconstruction. Their positions and principles are identical. The northern wing declared the war a failure in 1864, and they wish now to make it so by taking away the fruits of victory and restoring the rebel States on the action of traitors and giving them more power in Congress and the nation than they had the day they rebelled. I charge the Democratic party with designing to absolve the rebels from all guilt for treason. I charge the same party with a determined purpose to defeat reconstruction, unless it can be done in the interests of rebels, and the cry of "military despotism," "arbitrary power," "violation of the Constitution," &c., are the means they employ for this end. I charge them with greatly exaggerating the expense of reconstruction and the Freedmen's Bureau, when the southern wing, aided by their northern friends, created this expense and untold amounts besides by their rebellion. Having made these expenses and laid grievous burdens upon the people, they now have the effrontery to charge the Republicans with increasing the taxes.

I contend that the practical results of the triumph of the elements of the Democratic party would be repudiation of the national debt, or the payment of the rebel debt, as also indemnity for emancipated slaves, which would produce repudiation.

I charge the Democratic party with seeking to give undue political power to the rebel States by increasing their representation in Congress and their electoral votes for President; by attempting to make one white rebel in South Carolina equal to three white loyal men in New Hampshire. Such will be the result if the reconstruction measures are defeated, and the colored men not allowed to vote. The Constitution as it now is, unless you admit that the amendment known as the fourteenth article has been ratified, bases representation in Congress upon free persons, and upon "three fifths of all others." Slavery has ceased to exist, and now there are no "others" than free persons; therefore the States that had slavery, in fixing their share of power in the Government in the future, will count every negro, not as three fifths of a man, but as a whole man, and then to vote for him as being unfit to vote for himself. The Democrats demand that when these States are reconstructed on their plan the vote of Wade Hampton, of South Carolina, shall have the power of the votes of Governor Harriman, Judge Perley, and John G. Sinclair, of New Hampshire, all put together. President Johnson makes this demand, and the Democrats insist upon it.

The negro population in the ten disorganized States and Kentucky will give the rebels twenty-eight members of Congress and the same number of electoral votes. The emancipation of the slaves, resulting from the rebellion, will give to eight of the worst rebel States nine additional members of Congress, and take from the old free States thirteen members of Congress, and a like number of electoral votes—making a gain to the rebel States of twenty-two members. The old free States have now one hundred and fifty-eight members of the House, and the former slave States eighty-five. By a new apportionment, under the altered condition, the old free States will have one hundred and forty-five, and the former slave States ninety-four. I have prepared with great care and accuracy the following table, showing the population, white and colored, and the totals in each State in 1860, the number of Representatives under the present apportionment, and the number to be under the new, and the loss and gain in certain States:

States.	White.	Colored.	Total.	Present representation.	New Apportionment.	Gain.	Loss.
Alabama	526,431	437,770	964,201	6	7	1	-
Arkansas	324,191	111,259	435,450	3	3	-	-
California	361,353	4,086	365,439	3	3	-	-
Connecticut	451,520	8,627	460,147	4	4	-	-
Delaware	90,589	21,627	112,216	1	1	-	-
Florida	77,748	62,677	140,425	1	1	-	-
Georgia	591,588	465,698	1,057,286	7	8	1	-
Illinois	1,704,323	7,628	1,711,955	14*	13	-	1
Indiana	1,339,000	11,428	1,350,428	11	10	-	1
Iowa	673,844	1,069	674,913	6*	5	-	1
Kansas	106,579	625	107,206	1	1	-	-
Kentucky	919,517	236,167	1,155,684	9*	9	-	-
Louisiana	357,629	350,373	708,002	5	6	1	-
Maine	626,952	1,327	628,279	5	5	-	-
Maryland	515,918	171,131	687,049	5	5	-	-
Massachusetts	1,221,464	9,602	1,231,066	10	9	-	1
Michigan	742,314	6,799	749,113	6	6	-	-
Minnesota	171,864	259	172,123	2*	1	-	1
Mississippi	353,901	437,404	791,305	5	6	1	-
Missouri	1,063,509	118,503	1,182,612	9	9	-	-
Nebraska	-	-	-	1	1	-	-
Nevada	-	-	-	1	1	-	-
New Hampshire	325,579	494	326,073	3	2	-	1
New Jersey	646,699	25,336	672,035	5	5	-	-
New York	3,831,730	49,005	3,880,735	31	29	-	2
North Carolina	631,100	361,522	992,622	7	8	1	-
Ohio	2,302,858	36,673	2,339,511	19*	18	-	1
Oregon	52,337	128	52,465	1	1	-	-
Pennsylvania	2,849,266	56,849	2,906,115	24	22	-	2
Rhode Island	170,668	3,952	174,620	2*	1	-	1
South Carolina	291,388	412,320	703,708	4	6	2	-
Tennessee	826,782	283,019	1,109,801	8	8	-	-
Texas	421,294	182,921	604,215	4	5	1	-
Vermont	314,389	709	315,098	3*	2	-	1
Virginia	1,047,411	548,907	1,596,318	11	12	1	-
West Virginia*	-	-	-	-	-	-	-
Wisconsin	774,710	1,171	775,881	6	6	-	-
				243	239	9	13

The original apportionment was one less to each of the States marked by a star, the whole number being two hundred and thirty-three, but the fractions being large Congress, by law of March 4, 1862, increased them one each.

West Virginia has three Representatives, but as this State has been created out of Virginia since the census of 1860 and the apportionment, and as its population was then included in Virginia no account of it is made in this calculation. If it is allowed three Representatives under a new apportionment Virginia would probably have three less.

This table shows that it requires only 48,564 white inhabitants in South Carolina for a Representative, whereas it takes 108,527 in New Hampshire; that it takes only 58,983 in Mississippi, but requires 124,450 in California; that it takes only 59,605 in Louisiana, but requires 134,768 in Iowa; and that it takes only 74,948 of the same class in Georgia, but requires 132,129 in New York. In South Carolina there was by the last census 291,388 white inhabitants, and in New Hampshire 325,579. But South Carolina had 412,320 colored people, who are not fit to vote or hardly live, and she will have six Representatives, while New Hampshire, with 35,000 more white inhabitants, will have only two. I cannot see the equality here; but perhaps South Carolina, in the estimation of the Senator from Wisconsin, has behaved so remarkably well during the past six years, and cost us so little money and life, that she is entitled to this consideration and superiority. It may be that one man in that State, with all his treason, is equal to three in New Hampshire; but I think the people will fail to see it.

We offered these States in the constitutional amendments the alternative to allow the negroes to vote or have the colored population taken from their representative basis. They would not do either, but, under the lead of Mr. Johnson and the Democratic party, rejected the proposition with scorn. They have the insolence, and the Democratic party say they are right, to claim a gain and advantage on account of their treason. If the negroes can be allowed to vote this matter will be all right and they should have the increase, for it is then based on voters, and the loyal and liberty-loving blacks will in part, at least, neutralize the disloyal votes, and the members of Congress from that section will not be all rebel sympathizers. We hear much said about this being a "white man's Government." I am for equal rights for all; for "a Government of the people, for the people, and by the people." But if we are to have a white man's Government I shall most emphatically insist upon equality among white men. I am not for having white men in the rebel States with black shadows by their sides made equal to two or three good men in the other States.

I charge the south wing of the Democratic party with being the prime movers in the rebellion, and the northern wing with giving them aid and comfort. I charge the Democratic party generally with having caused the war and brought all the expense, suffering, woe, and death upon the country. I charge that every man who opposed the recruitment of our armies during the war, who denounced the draft, who encouraged desertions, and who in any way aided the rebellion, is now a supporter of the Democratic party and opposed to loyal supremacy. I charge that all the fossils, who had no sympathy and no money for our own suffering soldiers and whose bloodless hearts, during the long struggle for national existence, were never animated by one pulsation of love and commiseration for our imperiled country, are supporters of the Democratic party and opposed to loyal reconstruction. I charge that all the rebels, who tried to destroy the Republic, who murdered our wounded soldiers on the battle-field and starved our brave men in prison-pens, who sought to poison the water we drank, who sought to introduce the germs of yellow-fever pestilence among our people, and tried to burn peaceful and defenseless cities, are supporters of the Democratic party and opposed to loyal reconstruction.

Andrew Johnson made a speech at Louisville, Kentucky, just prior to the last presidential election, from which the following is an extract:

"The pseudo Democratic party is the rebel party of the United States, composed in major part of the rebels and lurking traitors in our midst, who are as much engaged in the attempted overthrow of the Government as the traitors under Jeff. Davis. The

point of its leaders and ruling members is power, and their intention is to give aid and comfort to Jeff. Davis & Co. and their armies. They are the allies and friends of Jeff. Davis, giving him all possible aid and comfort in keeping up the rebellion, in resisting the supremacy of the Constitution and laws over the entire United States."

The once honored and patriotic Democratic party has fallen from its proud position. After abandoning the principles of Democracy and becoming the advocate and supporter of human slavery, it took sides with traitors and sympathized with those who fought against the Republic. It now demands that rebels shall have all the rights of loyal citizens and be restored to place and power and that loyal citizens shall be proscribed and denied the right of suffrage.

This party, in its organized political action, is the inveterate foe of moral and social progress and elevation. It seeks always to use the prejudices and vices of men, but not to cure them. It appeals to the appetites and the passions, because it can make them minister to its advantage. In its political action its impulses have been alien to the spirit of freedom. It sympathizes with the oppressors of the colored race rather than with the oppressed. It has no voice for humanity, no hand to lift up the lowly and downtrodden.

Governor MORTON, now Senator, in an address warning generous and ambitious young men not to connect themselves with a dishonored party, indelibly stained with treason, said:

"The Democratic party has committed a crime for which history has no pardon and the memories of men no forgetfulness, whose colors grow darker from age to age, and for which the execrations of mankind become more bitter from generation to generation."

The Republican party carried the country triumphantly through the war brought upon it by wicked and ambitious traitors, and preserved the Union and all its precious legacies handed down to us from our fathers. It was true to its obligations to country and to mankind. It struck the fetters from the limbs and darkness and despondency from the souls of four million slaves and made sure their freedom. No member of this party ever fired upon the flag of his country or murdered one of its defenders. Its principles are humane, democratic, and God-like, and its record is glorious and immortal. It now demands that victory over treason shall be victory legalized and perpetuated; that loyalty shall be honored and loyal men protected; that slavery once abolished shall forever remain abolished; and that the freedmen shall be secured and protected in their civil rights and elevated into the full and consummate enjoyment of a Christian civilization. It demands that the burdens now resting so heavily upon the people shall be lightened and made equal and that property of all kinds shall pay its just proportion of the taxes.

The Republican party, sir, is the people's party. It is the hope of the country and the anchor of its freedom. It is the representative of the true democratic sentiment of the country. It bears aloft the banner of liberty and pleads for those rights of human nature which God has given to man. It swears by the Declaration of Independence and acknowledges the manhood of the whole human race. It teaches the great Christian democratic doctrine that "all things, whatsoever ye would that men should do unto you, do ye even so unto them." It knows no baseness, cowers at no danger, oppresses no weakness. Generous and humane, it rebukes the arrogant, cherishes honor, and sympathizes with the humble. It asks nothing but what it concedes, and concedes nothing but what it demands. Destructive only to despotism and treason, it is the sole conservator of liberty, labor, and property. It cherishes the sentiment of universal freedom, of equal rights, and equal obligations. It sides with the weak and the downtrodden and sympathizes with every effort to elevate the people and better their condition. A true republican, while claiming an equality with the best, scorns any political immunities not accorded to the humblest of his fellows. The ark of our national salvation rests upon the shoulders of the men composing this party. I pray that they may be patient and strong, bold and prudent, patriotic and just, devout and self-sacrificing, and resolute and mighty, that we may transmit to uncounted millions and unborn generations the blessings of free, democratic government.

Mr. HENDRICKS. Mr. President, the policy and measures of Congress in relation to the South are maintained in this debate upon two propositions: first, that at the end of the war there were no governments of any kind existing in those States; and second, that in such case Congress has the power under the clause of the Constitution which declares that the "United States shall guaranty to every State in this Union a republican form of government," to reconstruct the State governments, or, in plainer words, to make new State governments. These propositions I deny. First, I deny that at the close of the war there were no State governments in the southern States. What was the exact fact in regard to that matter? No one disputes that at the commencement of the war there were legal State governments in the ten States now excluded from representation. Those governments were organized under constitutions which the people had adopted. I submit to Senators, then, as a question of law, what became of the constitutions of the States in force at the commencement of the war?

A State constitution is the bond of its organization; not only the bond of political organization in the State but to some extent the bond that holds it to the Federal Union. I do not very clearly understand how a State can be in the Union without a State government. I do understand that if a State should cease to have a government (if I may so express what seems to be a paradox) that the people would still be under the law and authority of the Federal Government to the extent of the jurisdiction of that Government. But, sir, a State to be a State in the Union must have a political organization. The people of the Territories owe obedience to the laws of the United States; but the Territories are not organized States, and form no part as States of the Federal Union.

Then, sir, when a State constitution is once formed and the State under that constitution is admitted into the Union, that State organization is not a separate and independent thing, but in its organization becomes a part of the Federal Union. The constitution of the State, when the State has been thus admitted, becomes a part of the national Union and compact, and I deny that the people of that State have a right to destroy their State government and thus cease to be within the Union. I deny that a convention of the people, that the Legislature of the State, or any assemblage of the people whatever can voluntarily terminate the existence of a State government and thus cut off their connection with the Federal Union. That, in my judgment, can only be accomplished with the consent of all the States. Take the case of Louisiana. The people formed her State government; under that government and constitution she was admitted into the Union. Is that constitution of hers (subject, of course, to her amendment and her modification) not a part of the Federal system when she is thus admitted; and is it possible that that bond of society, that means of political organization can cease to exist so that there is no longer any State of Louisiana?

Sir, if the State government ceased to exist in any State of the South, if the constitution of any State ceased to be a constitution, I want to know by what act it occurred. Was it the ordinance of secession? Every Senator will say "No;" that no ordinance of secession could destroy the State constitution, because the ordinance itself, in law and in the eye of the Constitution, is a nullity. Was it the war? War was not made upon the organization of the States; war was not made upon the constitution and laws of any State; but only for the purpose of holding those States, under their organization, in the Federal Union and the people of the States in obedience to the laws of the United States.

Then, sir, I deny that any act of any State or of the people thereof, intended to separate that State from the Federal Union, had any force or validity whatever. I maintain that during all the years of the rebellion every single act of a southern State intended to promote the cause of the rebellion was void; that it had no effect to destroy State institutions. I deny that any act of the State could have the effect to disturb, as a question of law, the relation of the State to the Federal Union.

Practically the relations were disturbed; practically the State was not in harmony with the Federal Government; but its existence as a State, its organization as a State, its constitution, which was the bond of its organization, continued all the way through the war; and when peace came it found the State with its constitution and laws unrepealed and in full force, holding that State to the Federal Union, except all laws enacted in aid of the rebellion.

Mr. President, I regret that my colleague [Mr. MORTON] is not in his seat, as I shall have occasion to refer to some of his arguments so ably presented in the Senate, and to some views that he has heretofore expressed on this and some other of the questions that I intend to discuss. The opinion that I have just now expressed I think was the opinion two years ago of my colleague, and I will refer to his views as then expressed in a carefully prepared speech. Speaking of the different propositions and opinions held in regard to the relations of the States to the Union at the close of the war my colleague said:

"There is another plan, and that is the theory which regards these States as being out of the Union and holding them as conquered provinces, subject to the jurisdiction of Congress like unorganized territory; saying that Congress has the power to provide for calling conventions in these States just as in the Territory of Dakota, and may prescribe the right of suffrage and determine who shall vote in electing delegates to these conventions, just as in the Territory of Dakota; that it may then determine whether it will accept the constitution offered, as might be determined in the case of any other Territory."

That is the statement of opinion which my colleague then attributed to certain politicians, the very opinion which he so ably maintained in this debate the other day. Now see, Mr. President, how well he answers it himself:

"I will not stop to argue this question at length, but I will say this, that from the beginning of the war up to the present time every message of the President, every proclamation, every State paper, and every act of Congress has proceeded upon the hypothesis that no State could secede from the Union; that once in the Union always in the Union. Mr. Lincoln in every proclamation went on the principle that this was an insurrection, a rebellion against the Constitution and laws of the United States; not a rebellion of States, but a rebellion of the individuals, the people of the several southern States, and every man who went into it was personally and individually responsible for his acts and could not shield himself under the action or authority of his State. He went on the principle that every ordinance of secession, every act of the Legislatures of the rebel States in that direction was a nullity, unconstitutional and void, having no legal force or effect whatever, and that as these States were, according to law, in the Union, their standing could not be affected by the action of the people; that the people of these States were personally responsible for their conduct, just as a man is responsible who violates the statute in regard to the commission of murder, and to be treated as criminals just as the authorities thought proper; that the people of a State can forfeit their rights, but that so far as their action is concerned, in a legal point of view, they had no power to affect the condition of the State in the Union. Every proclamation and every act of Congress have proceeded upon this hypothesis."

Mr. JOHNSON. What is the date of the speech from which the Senator reads?

Mr. HENDRICKS. The 29th day of September, 1865. He then goes on to say that Mr. Buchanan had held the opposite doctrine, and that it was not sound to hold that the rebellion was a rebellion of States, and that the States as such could not be subjugated. Then he goes on to say:

"This was our answer to Mr. Buchanan. Upon this hypothesis we have just put down the rebellion. But it is now proposed by some that we shall practically admit that the southern States did secede; that they did go out of the Union; that the work of

secession was perfect, was accomplished; that the States are out of the Union, that a government *de facto* was established, and that we now hold these States as conquered provinces, just as we should hold Canada if we were to invade it and take possession of it."

He closes upon this point by using this emphatic language:

"That is what this doctrine leads to. It leads to a thousand other evils and pernicious things never contemplated in the nature of our Government."

Upon this subject I will read from the debates in this body four years ago and before the close of the war the argument of the Senator who now presides over this body, who is now the second officer of the Government. That debate was before this new idea was thought of, that under the guarantee clause of the Constitution Congress could do in regard to the southern States whatever it chose to do—a doctrine all-absorbing and as dangerous as the most despotic sentiment that governs any country in the world. Pending the debate on what was known as the Winter-Davis bill, Mr. WADE used the following language:

"It has been contended in the House of Representatives, it has been contended upon this floor, that the States may lose their organizations, may lose their rights as States, may lose their corporate capacity by rebellion. I utterly deny that doctrine. I hold that once a State of this Union always a State; that you cannot by wrong and violence displace the rights of anybody or disorganize the State. It would be a most hazardous principle to assert that. No, sir; the framers of your Constitution intended no such thing."—*Thirty-Eighth Congress*, p. 3450.

And how gentlemen, with this principle of the Constitution staring them in the face, can fancy that States can lose their rights because more or less of the people have gone off into rebellion is marvelous to me.

Four years ago that Senator, then holding high position in this body, holding high position in the Republican party of the United States, declared that a State could not lose its organization; that once a State always a State, and a State under its organization. Now, however, to maintain the policy that has been adopted, you declare these States to be without governments; that in some way it has resulted that the State governments have ceased to exist.

Now, Mr. President, I wish briefly to consider the clause of the Constitution, which has been referred to so frequently, making it the duty of the Government of the United States to guaranty to every State in this Union a republican form of government. I think this is the right construction: it is an obligation and a duty imposed upon the Government, and I agree with my colleague when he says that the legislative department is not the Government; the executive department is not separately the Government; nor is the judiciary the Government; but the whole taken together, in the proper exercise of the powers conferred by the Constitution, makes the Government of the United States. When a duty is imposed upon the Government of the United States that duty must be discharged by the appropriate department of the Government. If the act which must be done in the discharge of a duty imposed by the Constitution is a judicial act, then the duty is upon the judiciary. If it be a legislative act the duty is upon the legislative department; and if it be an executive act the duty then rests upon the Executive, and must be discharged by that department of the Government.

So, sir, I hold that this clause of the Constitution is addressed to each department of the government. This clause contemplates an existing State government republican in form. It speaks of State governments as in existence. If Senators will observe the language of the section itself, they will find that after the words which I have quoted, imposing on this Government the duty of guarantying to every State a republican form of government, the provision goes on "and shall protect each State against invasion, and on application of the Legislature or of the Executive, (when the Legislature cannot be convened,) against domestic violence." The section speaks of an organized State government, a government with an executive and a legislative department, and imposes upon the Government of the United States duties to be discharged when called upon by the executive or the legislative department of the State; so that the very clause itself contemplates an existing State government republican in form, and simply imposes upon the Government of the United States the duty to protect, maintain, and defend that republican form of government. This word "guarantee" does not confer an original power, either in its legal sense or common meaning. It means to maintain or assure that which is already in existence. And this was the view taken by the fathers who had much to do in the formation of the Constitution. Madison, Hamilton, and Story have all said that this clause contemplates a preëxisting State government republican in form, and that it simply confers upon the General Government the power and imposes the duty of protecting that republican form of government to the State.

In the nature of the provision itself, in the scope, force, and meaning of the language used, and according to contemporaneous construction, it confers upon the General Government no power to make a State or to control the people in that work. It is the high prerogative and business of the people to make State governments. No State governments can come into existence at the will and nod of the Congress of the United States. It is not within your power. The Constitution has not said you might do it; and the whole practice of our Government is to recognize State governments when they have been made by the people.

Mr. President, frequent reference has been made to the case of Luther *vs.* Borden, in 7 Howard, an important case decided by the Supreme Court of the United States, and my colleague felt himself justified, instead of stating what was the force and meaning of the decision, in reading the dictum of one of the judges. Instead of that opinion, as read by my colleague, giving the decision of the Supreme Court, that court decided in that case a very different proposition. Instead of deciding that Congress had the power to reorganize a State government the court decided that the recognition of a State government by the Executive was controlling upon the judiciary. That was the celebrated case of Rhode Island. The question before the court was this: had an office under the charter government of Rhode Island the power to execute a mandate issued pursuant to martial law in that State? and it raised the question whether the charter government or what was known as the Dorr government was the legitimate and valid government of Rhode Island. The court in deciding that question did not hold that the charter government was the government of Rhode Island because Congress had recognized it, for Congress had not interposed. The court expressly say that the question did not come before Congress, for the reason that the Dorr government never sent Representatives to the House and Senators to this body, and therefore Congress was not called upon to act under any power which it possessed.

But, sir, the charter government of Rhode Island, through its Executive, did call upon the President of the United States to aid in putting down what was regarded as an insurrection in the State by interposing military power against the Dorr government, and the President of the United States recognized the charter government of Rhode Island in responding to that call. Although troops were not called out, yet the President did respond to that call, and recognized by that response the charter government of Rhode Island; and the Supreme Court of the United States say that that action of the Executive, in connection with the decision of the highest court of Rhode Island, was conclusive upon the judicial department of the United States; yes, sir, conclusive upon the question whether the charter government was the legitimate and valid government of Rhode Island. Then the case of Luther *vs.* Borden establishes this proposition: that the Executive of the United States having recognized a State government, the State having once been in the Union, that recognition is binding upon the judiciary.

In 4 Wallace, *ex parte* Milligan, the court reviews the case of Luther *vs.* Borden, and holds the following language:

"This court held that a State may use its military power to put down an armed insurrection too strong to be controlled by the civil authority; and if the Legislature of Rhode Island thought the peril so great as to require the use of its military forces and the declaration of martial law there was no ground on which this court could question its authority; and as Borden acted under military orders of the charter government, which had been recognized by the political power of the country, and was upheld by the State judiciary, he was justified in breaking into and entering Luther's house. This is the extent of the decision."

This is the extent of the decision—that the ruling of the judiciary of Rhode Island, in connection with the recognition of that State government by the Executive of the United States, was conclusive upon the judiciary of the United States on the question as to whether it was a State government.

Now, Mr. President, I claim that Mr. Lincoln, in most express terms, in most emphatic language, in language at the time somewhat offensive to some members of his own party, held the same doctrine; and I call the attention of Senators to the proclamation to which I refer. In the first place, Mr. Lincoln, on the 8th of December, 1863, issued a proclamation, first, of general amnesty to those who would take a prescribed oath, and then assuring them that if the people of these States would reorganize State governments, loyal in their character, the Executive would respect and, under this clause of the Constitution, would guaranty those governments. Here is his language—not calling upon Congress as the source of power for the action of the people, but appealing directly to the people independently of Congress. He says that if they will reorganize their State governments—

"Such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government,'" &c.

In this connection it is proper for me to say that Mr. Lincoln declared in that proclamation that the Executive recognition of the State government would not be binding upon Congress on the single question of the admission of Senators and Representatives, for the reason that to judge of their qualifications was, by the Constitution, left expressly to each branch of Congress.

But, sir, I now come to the most emphatic declaration that Mr. Lincoln has made on this subject, and after which you ought not to have elected him President, if your laws now stand upon the true construction of the Constitution. The Winter Davis bill passed on the last day or two of the first session of the Thirty-Eighth Congress. It provided a legislative mode of reorganization, a legislative policy, and Mr. Lincoln put that bill in his pocket. Instead of acting under that bill, he threw it back in the face of Congress and said that Congress should not tie his hands to any particular mode of reorganization. Here is his proclamation, dated on the 8th day of July, 1864, after you had renominated him but before you had reëlected him. Mr. Lincoln recites, in the first place, the passage of the Winter Davis bill, and in his proclamation he says that the proposed mode was agreeable to him; that he liked the plan well enough; but he goes on to say:

"Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that, while I am (as I was in December last, when by proclamation I propounded a plan for restoration) unprepared by a formal approval of this bill, to be inflexibly committed to any single plan of restoration."

Because he was not willing to be bound to any plan therefore he would not approve the congressional plan by signing the bill; and he further declared that if the people would act according to the plan proposed by Congress he would recognize their action, not because

Congress had proposed it, but because he, as the Executive of the United States, judging for himself under the Constitution, had a right to prescribe the plan of restoration; and so he held that Congress should not do it; that his hands should not be tied by any act of Congress.

After Mr. Lincoln had declared this doctrine in this proclamation he was reëlected President of the United States. Now, I ask Senators, when your party elected him President was there any more important question before the country than the question of reconstruction, as you call it; of restoration, as Mr. Lincoln called it? You claimed that the war was about to close, and the great question of the nation, the great question of the age, was how shall these States be brought into harmony and into practical relations with the Government of the United States? He declared that Congress should not fix a plan; that he intended to be left free until the close of the war to adopt whatever plan, according to his judgment, might seem to be right; and after he proclaimed that to you and to this nation you reëlected him President and said it was right. Now you say State governments do not exist in the South. He did not use the term "reconstruction;" he said "restoration." He recognized these States as existing with valid forms of government, and the simple question was, in his own language, their restoration in their practical relations to the Government of United States.

But, Mr. President, Congress is concluded upon this question. You say that rebellion, that secession, that war put an end to State governments in the South, and that there is no power to restore State governments except in Congress. That is your doctrine to-day as proclaimed in your legislation. Let us see what you did, and see if you have stood consistently upon that doctrine. In the month of December, 1864, the executive committee of Middle Tennessee issued a call to the people of Tennessee for a State convention "to take steps as wisdom may direct to restore the State of Tennessee to its once honored status in the great national Union." That was the purpose of the call. It is signed by Tillman, Spence, Bryan, Lasselle, and Fowler, I believe the distinguished Senator who is now of our body. These gentlemen did not undertake to call the convention under any authority of law, but as an executive political committee they called the people together, to meet at Nashville, to consider what steps ought to be taken to restore Tennessee to her proper relations to the Government of the United States. Mark you, Mr. President, that was after Tennessee had passed an ordinance of secession; that was after she had sent her regiments into the southern army. After she had done every act that a State could do, or the people of a State could do, in hostility to the Government of the United States, and before Congress had authorized any restoration, this executive committee called a convention to meet at Nashville. That convention did meet at Nashville in January or February, 1865, and they adopted certain amendments to the constitution of the State of Tennessee. They did not undertake to make a new constitution. They recognized the old constitution as still in force. Tennessee had a constitution which held her to this Union when she went into the war; and when that convention met at Nashville—a political convention, if you please—it resolved itself into a constitutional State convention, and did not undertake to make a new constitution, but recognizing the old constitution as valid and binding, still they added amendments to it. The amendments were abolishing slavery and some other provisions. The amendments, not the Constitution, were submitted to the people of Tennessee, and they voted upon them, not by any congressional authority, but by virtue of the sovereignty that lies in the people of a State to amend their own constitution. They amended the constitution. What has Congress said upon that subject? Did you say to Tennessee, "Your government has gone out like a candle that is burnt out?" Did you say to Tennessee that at the close of the war she had no constitution and nothing to amend? Did you say to the State of Tennessee, "War has destroyed your State government; you are without any organization, and we will not recognize your action; you must get your power and authority from the great source of authority—the Congress of the United States?" No, sir; you did not say that to Tennessee; but then, without reference to party politics, you were casting a vote which your judgments and your consciences approved; and what did you say? Representation in this state of the case was allowed to Tennessee by the joint resolution approved July 24, 1866, not two years ago; and in the preamble you gave the reasons why you admitted Tennessee. Reasons come up to trouble people sometimes, and these reasons come up to meet you in the face of this legislation which undertakes to base the power of Congress upon the proposition that the southern States ceased to have governments at the close of the war. Here is what you say in the preamble. After reciting that this amendment to the constitution of Tennessee abolishing slavery was adopted by a large popular vote, you say:

"And whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore."

There, sir, you recognized the old constitution of Tennessee—that constitution which had come through the din and smoke of the war as her political organization. You recognized that as the people in the most informal manner had amended it; and you said that because of that State government they had the right to be represented here. You had not conferred the power. You say now that the people do not possess it, that the Executive does not possess it, and that you must confer the power because there are no governments in the South; and yet you have admitted Senators from Tennessee upon the doctrine that the people, independent of Congress, could amend the constitution, and that, thus amended, the old constitution, the bond of Union which, as a ligament, held the State to the United States, made that State government valid.

Aye, sir, you went further. You say in the preamble that the State government in Tennessee, long before any congressional recognition, did the highest and most important and solemn act that a State government can perform; that it ratified an amendment to the Constitution of the United States. That power which is conferred upon the State Legislatures by the Constitution of the United States you say Tennessee exercised, after she had made flagrant war against the United States, and before Congress had recognized her; that she had exercised this power successfully, and therefore she had a valid, legitimate, legal State government. But you say a State Legislature can ratify a constitutional amendment, but it cannot legally choose Senators to sit here. That will not do, Senators. Everybody knows that will not do.

It is my duty to notice, as I am passing along, to use the language of the President, the reference that my colleague made to a vote given by the distinguished Senator from Wisconsin; and, as I voted with the Senator from Wisconsin, I think my name is kept back simply with a view of bringing that up in judgment against me. Senators will recollect that my colleague read from the Journal the action of the Senate on what was known as the Winter-Davis bill. When that bill came into this body Mr. Brown, then a Senator from Missouri, offered an amendment changing it very much. I was opposed to both bills; first, to the House bill, because I then held, as I now hold, that the Congress of the United States cannot clothe the people of a State with the power to make a State government. That authority is with the people themselves after the State has been once admitted into the Union. Mr. Brown offered an amendment, and the question with me and the Senator from Wisconsin was the ordinary question of deciding between the original proposition which you are opposed to and an amendment which you also oppose. So I voted for the amendment, as the Senator from Wisconsin and many others voted for it, and it carried. Now, sir, I want to show you what the Senator from Ohio, [Mr. WADE,] then having the charge of that bill, said about the amendment. I was voting against the bill, voting against the Senator. He said:

"I say again, if the gentleman is opposed to this bill in principle, let him not vote for it; but let him not vote for this miserable dodge, this negation, this amendment that asserts no principle, as a substitute for the bill."

That "miserable dodge," "that negation," is what I voted for. I would vote to dodge any such bill as that which came from the House of Representatives, and so might the Senator from Wisconsin; and when the bill was thus amended it would have been proper for us to vote for the amendment as a measure antagonistic to the measure from the House, being opposed to the House bill.

Then, Mr. President, I assume that the power and duty of guarantying to the States republican forms of government is with and rests upon the Executive in any and every case where the Executive is called upon to deal with the question, and that when the war closed the President was called upon to deal with the question, for it became his duty to see that the laws of the United States were executed in the southern States, and that they were in proper practical relations with the United States.

What, then, was the condition of the South? Was order so far restored and did the people yield such obedience to the law and respect to the authority of the Government as justified the President in withdrawing the military power that the civil authority might once more prevail?

In his testimony, given in July last, before the Impeachment Committee of the House, General Grant said:

"I know that immediately after the close of the rebellion there was a very fine feeling manifested in the South, and I thought we ought to take advantage of it as soon as possible."

And he adds:

"But since that time there has been an evident change there."

In his letter to the President of the 18th of December, 1865, many months after the close of the war, many months after Mr. Johnson had adopted his policy, General Grant said:

"Both in traveling and while stopping I saw much and conversed freely with the citizens of those States, as well as with officers of the Army who have been among them. The following are the conclusions come to by me:

"I am satisfied that the mass of thinking men of the South accept the present situation of affairs in good faith. The questions which have heretofore divided the sentiments of the people of the two sections—slavery and State rights, or the right of a State to secede from the Union—they regard as having been settled forever by the highest tribunal—arms—that man can resort to. I was pleased to learn from the leading men whom I met that they not only accepted the decision arrived at as final, but that now the smoke of battle has cleared away and time has been given for reflection, that this decision has been a fortunate one for the whole country, they receiving the like benefits from it with those who opposed them in the field and in the cause."

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"My observations lead me to the conclusion that the citizens of the southern States are anxious to return to self-government within the Union as soon as possible; that while reconstructing, they want and require protection from the Government; that they are in earnest in wishing to do what they think is required by the Government, not humiliating to them as citizens, and that if such a course was pointed out they would pursue it in good faith. It is to be regretted that there cannot be a greater commingling at this time between the citizens of the two sections, and particularly of those intrusted with the law-making power."

That is the description of the condition of the South given by General Grant at the very time the President of the United States was welcoming these States back again in all their practical relations to the United States.

Now, sir, upon this subject I beg leave to read the testimony of my distinguished colleague given at about the same time, at the

close of the month of September, in the speech to which I have already referred. My colleague says:

"I desire, in the first place, to remark that to me the general condition of the country is most promising and favorable."

Mark you, this is the testimony of my colleague when Mr. Johnson had almost consummated his policy of restoration.

"I know there are those who take gloomy views of what is called the work of reconstruction, but to me the prospect seems highly encouraging. The war terminated suddenly, and the submission on the part of the people of the southern States has been more complete and sudden than I had expected."

Here, Mr. President, is the testimony of my colleague, who had intimate relations with the South as the Governor of the State of Indiana; testimony given at the time that the people had acquiesced in the result of the war, that their condition of obedience to the law in respect to the Government was more encouraging than he had expected. What a strange contrast does this testimony of my colleague, given at the time, bear to the remarkable speech to which we have just listened from the Senator from New Hampshire, [Mr. CRAGIN.] If it were courteous and in senatorial language I would say that scarcely any of the statements of fact contained in that speech are entitled to the credit and the confidence of the country. Since this world began no community has been so misrepresented, so uniformly and foully belied as the men of the South who have sought, under Mr. Johnson's policy, to bring the States again into practical and harmonious relations with the Government of the United States.

Then, Mr. President, this is the evidence of what was the condition of southern society at the close of the war. The war had done its work. The South was conquered, to use the language of the majority; subjugated, if you please. They yielded obedience to law; they acquiesced in the authority of the Government; and General Grant said that he felt that it was our duty to take advantage of this favorable condition of the popular mind of the South. To take advantage of it for what purpose? To get these people back again, to place the States once more in harmonious and practical relations with the Government. Finding this favorable condition of the country, Mr. Johnson, as President of the United States, proceeded to his work of restoration. He issued his proclamation of May 29, 1865, to which I now call the attention of the Senate. He does not assume to possess the power of making State Governments. He, as military governor of Tennessee, had issued his proclamation declaring that the people, by virtue of their inherent right and power, had amended the constitution of that State; and upon that very doctrine of the right and power of the people to amend their constitutions he issued his proclamation of May 29, 1865. In the first place, I will state that he directed each of the Departments to extend its operations into the southern States. Then he goes on with the work of providing for restoration; and what propositions does he lay down? First, he recognizes the old State government of North Carolina, just as he had done in Tennessee, just as Congress did in admitting Tennessee with the recitals in the preamble; for, after appointing a provisional governor and giving him instructions, he says:

"A convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof."

Not for the purpose of making a new State government, not for the purpose of making a new constitution, but of altering or amending that constitution which had come down through the war, that constitution which as a ligament, as I said before, held the State of North Carolina as an organized political community to the Union. Next, he recognizes the authority of the people:

"And with authority to exercise within the limits of said State, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government."

Not to place it in a shape where Congress might restore these practical relations, but to enable the people themselves to do this great work. Two years ago—and I then had the assent to my proposition by the nod of the distinguished Senator from Ohio, [Mr. WADE]—I expressed as my opinion, which I hold yet, that by virtue of this constitutional obligation to guaranty a republican form of government, it is competent for the United States through the proper department to do what will enable the people to exercise their sovereignty of amending their constitution, and bringing it into practical relations to the United States. The President proclaimed that when the people themselves have thus amended their constitution and placed it in harmony with the Government of the United States it will be recognized by the executive department.

His purpose then was to aid the people, to give them the support of an organization, just as Congress, without any constitutional provision on the subject, gives the people of a Territory an enabling act, not because Congress has the power as an original thing to establish a territorial government, but because Congress has the power to admit new States into the Union, Congress may do that which will enable the people to form State governments. So the Executive in this case, in my judgment, very properly did that which would enable the people to bring their State into practical relations with the Government.

My colleague and others have said that Mr. Johnson regarded this government which was to be established in North Carolina as provisional. There is a mistake right here, and a very serious one. The President in his proclamation, and everywhere, recognizes the authority of Governor Holden as provisional, as temporary; that his power was to be but for a time; but until what time? Until the time that the people, exercising their original sovereignty, could act and place their State government in proper shape. That government that the people were to reorganize was not to be provisional. It was to be as enduring as the people could make any government. He did not contemplate that it was to be provisional. He contemplated that it should be perpetual. He authorized the Governor to aid the people in amending their constitution, and when the amendment should be adopted, what was the effect of it? Did he contemplate that an amendment of the organic law of a State was but temporary? Does any Senator attribute such folly to the President? No, sir; the government that was provisional in North Carolina was the authority of the Governor. As soon as the people acted and amended their State constitution, then the work was done; the provisional governor ceased to have any authority; and firmly fixed, the State was once more in practical relations with the Federal Government.

Mr. President, I cannot understand why Senators have made such war against Mr. Johnson because he did this. I do not understand it. I take it Senators are just; that they bring no railing accusation against the President. I have heretofore said, and I now repeat, that I am no partisan defender of the President; but I defend the President when I think he is right, because I claim to be a just man. I want to know of Senators, after Mr. Lincoln had issued his proclamation of the 8th of December, 1863, in which he placed this power in the Executive, and after you elected him upon that doctrine, how can you say that Mr. Johnson is wrong in doing the same thing? After the proclamation of the 8th of December, 1863, and after the proclamation of July, 1864, when he threw back into your faces the congressional plan of restoration, and said he would be bound by no such policy, but that his hands should be free to the close of the war to aid the people in bringing themselves into relations with the Government upon such plan as he thought was best—after all that you elected Mr. Lincoln President, and you—I speak with respect to the majority of this body—you said to your supporters at home that that policy was right. You cannot vote it and then come into the Senate and denounce it. If it was right in Mr. Lincoln to do it, it is not wrong for Mr. Johnson; and, as a just man, although I did not help to elect either, I shall say that consistency is not to be condemned by the men that participated in it throughout.

Mr. President, Mr. Johnson adopted simply Mr. Lincoln's plan. I am going to settle that point beyond all question, and first I shall do it by the authority of my colleague, which, in in my judgment, is quite sufficient authority, inasmuch as his speech has been recognized on all sides as the proper and able exposition of the policy of the party in power. My colleague said—and this, you will recollect, was after the conventions had been called; I believe after they had been in session, or while they were in session in these southern States—when Mr. Johnson's work of reconstruction was going on:

"It is one of my purposes here this evening to show that, so far as his policy of amnesty and reconstruction is concerned, he has absolutely presented nothing new, but that he has simply presented, and is simply continuing, the policy which Mr. Lincoln presented to the nation on the 8th of December, 1863."

These are plain words. This was said by the then Governor of the State of Indiana, by my present honored colleague, that Mr. Johnson in that policy which was then being consummated was simply carrying out that which the President whom you all indorse had inaugurated.

Now, sir, I will read from my colleague's message—a carefully prepared document—to the Legislature of Indiana, of November 14, 1865. I presume North Carolina had then passed her constitutional amendments, and perhaps some of the other States:

"The conditions which have been imposed upon these States by the President are not only reasonable and legitimate but are dictated by justice and a wise foresight for the future of the Republic; and although they may not be accepted this year, or even the next, yet that they ultimately will be I have no doubt."

On this particular point I will read again from the testimony of General Grant. In his examination before the Committee of Impeachment in July last he was asked by Mr. WOODBRIDGE, a member of the committee—

"*Question.* I want to know whether the plan adopted by Mr. Johnson was substantially the plan which had been inaugurated by Mr. Lincoln as the basis for his future action?

"*Answer.* Yes, sir; substantially. I do not know but that it was *verbatim* the same.

"*Question.* I suppose the very paper of Mr. Lincoln was the one acted on?

"*Answer.* I should think so. I think that the very paper which I heard read twice while Mr. Lincoln was President was the one which was carried right through."

And yet you bring your accusations against Mr. Johnson because he received from Mr. Lincoln, as a part of his political inheritance, the North Carolina proclamation, in his own handwriting perhaps, at least the proclamation which President Lincoln had twice presented to the Cabinet, the very same paper.

Now, sir, under this proclamation and the other proclamations of similar import new constitutions were not adopted by the southern States. They stood upon the idea which you stood upon in admitting Tennessee, that the constitutions which held these States to the Union came through the war and were valid, existing law at the close of the war; and so in all of the States of the South they simply amended their constitutions. These amendments in the case of North Carolina were submitted to the people. My colleague said that none had been submitted. In the State of North Carolina the important amendments, the one abolishing slavery and some others, were submitted to the people.

But, sir, I am not going to discuss that question. It has been too long the established law and custom of this country that a constitutional convention may adopt a constitution without submission to be now questioned. As was

stated by the Senator from Pennsylvania yesterday, that great Commonwealth is now an organized State under a constitution that never was submitted to the people, and became the supreme law of that State by the will of the convention. This is the law, though I think the practice better to submit amendments to the people.

Now, Mr. President, what were the amendments to the State constitutions in the South? First, they abolished slavery. Do Senators object to that? Second, secession was, in express terms, repudiated, and the right to secede denounced. Third, the rebel debt was repudiated, and it was declared that it should never be paid. These were the material amendments. Do you, Senators, say that these amendments destroyed the republican character of those constitutions? Were they not republican in character before the war? Were not the constitutions of North Carolina, of South Carolina, and of Georgia at the time they helped to form the Federal Union republican in form? And were not the constitutions under which Mississippi, Louisiana, Alabama, Florida, Arkansas, and Texas were admitted into this Union republican in form? That is settled; I will not discuss it.

Then, sir, these constitutions that were republican in form before the war came down through the war, and by the people were amended, simply adding that slavery should no longer exist; that secession was not the true doctrine of State relation to the Federal Government; and that the rebel debt should never be paid. I want to know if these provisions of amendment destroyed the republican form and character of the constitutions of these southern States?

Such, Mr. President, was the condition of this business when my colleague, in the speech from which I have read, said that the prospect of reconstruction appeared "highly encouraging;" and he added in that speech:

"I am very glad to see that many of the southern States are making commendable progress in the matter of the abolition of slavery."

If these States had not legal State governments in 1865, I want to understand how it is that they could abolish slavery; I want to know how they could assent to an amendment of the Federal Constitution abolishing slavery all over the United States? If they were then and are invalid, illegal governments, how could they do the most solemn act to which a State can assent? My colleague, then, not having been educated by the progress of events, declared, to use his own language—

"I am very glad to see that many of the southern States are making commendable progress in the matter of the abolition of slavery."

My colleague now denies the authority of those conventions to amend the constitutions of their States, while at the time, when they were in session, he recognized their proceedings!

I should like to know upon this question of constitutional law how it is that my colleague can be so "educated." Upon questions of policy and propriety men may be educated by passing events; we may change our minds and not be "milestones standing by a deserted highway," as he expressed it. We may change our opinions in regard to questions of policy and propriety according to the changing scenes that are passing before us; but so far as the law of the country is concerned, especially the highest law of the land, the Constitution itself, how are we so readily to change our opinions? Events do not change that. We are not allowed to be "educated" by passing events in regard to the proper meaning of the Constitution of the United States. We gather that from the letter and from the contemporaneous history and construction.

Now, sir, I wish to ask Senators a question which I think they will have to answer to the people at home. What objection have you to the constitutions of the southern States as amended by the people? For two years you have made war against this policy; for two years you have kept these States out of the Union so far as representation was concerned; for two years you have kept this country disturbed and distracted; trade, commerce, and business have been uncertain and shivering; industry has been fearful to put forth its hand or capital to trust to any enterprise; the spirit of harmony and of union has been passing away from both sections of the country, because of the strife that you have thus kept up. For what have you done it? What end have you attained? What good has come? Was the constitution as amended in North Carolina not right? Our fathers said it was right when they formed the Union with North Carolina as one of the original thirteen; they said it was a republican form of government, and they lived with North Carolina contented and well until this rebellion came on; and then, when the State had come through the war with her constitution still in force as a legal document, and the people amended it only in three or four particulars, (those three particulars that I mentioned being the material and important ones, namely, abolishing slavery, declaring secession a vicious doctrine, and declaring that the rebel debt should never be paid,) I want to know why, then, you made war upon it? When these amendments were thus made what was there in the constitution of North Carolina that your judgments and your consciences condemned? If North Carolina came with her old constitution and abolished slavery and adopted these other amendments why did you not let her in?

You cannot say to me that you did not intend traitors to come here and sit with you, because you had passed a law in 1862 saying that no man who had given aid to the rebellion should sit here. You claim that law to be valid and constitutional, and that it keeps out of these Chambers and from every Federal office every man that participated in the rebellion or gave it aid or comfort. Then why have you kept this country distracted, its business disturbed, the hopes of the people depressed, for two years, when these constitutions with these provisions came to you, and there was nothing to do but to admit the States to representation? Answer that question to the judgment of the country, and your policy of reconstruction will stand better in popular judgment.

What has been done since? What have you accomplished by this delay? You can lay your hand of logic upon but one thing. You have not abolished slavery, because that was done before you commenced by a constitution that the people of each State in the South were satisfied with. What have you done to make it any better than the Johnson policy made it? You have excluded from the right of voting a portion of the white people, and you have given the right to vote to the negroes. If you can tell me of any other thing that you have done by this controversy and strife, this disturbance of the country, this rejection of constitutions agreed to by the people—if you can tell me of anything else you have accomplished, I should like to know what it is. You have taken the robes of political power off the shoulders of white men and you have put them upon the shoulders of negroes.

Gentlemen may moralize in solemn tones, as if they came from the tomb, about the gallantry and distinguished services of the negroes in the war. I can tell you that with all the political and party ambition you have, with all the party power you have, you have not power to take the garlands from the brows of the white soldiers and put them on the heads of the negroes. You cannot do it. What is right will stand. And I can tell you that all over this land, in every neighborhood, there are the soldiers that have returned home who will vindicate and defend their own honor against this effort to appropriate the glory of the white "boys" to the negroes. There is not a battle in the war that was won by the negroes. There is not a point that was carried by them. That they did their duty I am not going now to question; but it was the courage and the high qualities of the white troops of the North that carried our flag in triumph from the Potomac to the Gulf.

Then, sir, to return to the question, why have you pursued this course? The commanding General of the Army said that the public sentiment at the close of the war was in a most healthy condition. My colleague bore testimony of like character. That was the judgment of all men in the country. The condition of the country was auspicious, and the popular mind was in a proper condition for free government then, and we ought to have taken advantage of it. And the President and the people did take advantage of it, and amendments to the State constitutions were adopted that you say to-day were right. Now, I want to know why it is that these States have been kept out; that loyal representatives have been denied admission; that controversy has been kept up over the country, and strife instead of peace and quiet? I have my opinion about it. It was necessary for party ends.

But, Mr. President, if I concede all that you claim, that you have the power under the clause of the Constitution which has been so frequently referred to, to reorganize the States, have you exercised it? You claim that your power, your duty is to guaranty to the States republican forms of government. Have you done it? I will barely refer to the principles you have established. What is a republican form of government?

Now, sir, I think a republican form of government is a form of government in which the people make their own laws through legislators selected by themselves; execute their laws through an executive department chosen by themselves, and administer their laws through their own courts. Is not that as near a republican form of government as you can have? That was the state of things when the congressional policy sent five armies into the southern States, when ten Governors were deposed by the paramount authority of the military power. That was the state of society there; the judiciary, the legislative, and the executive departments of their governments were in the exercise of their ordinary and legitimate authority and power in each State. In that state of society where the laws are made by the men whom the people select, where they are administered by the courts that have the confidence of the people, and where the laws are executed by an executive department selected by the people, there is peace, happiness, and prosperity. You have broken that down, and in its stead you have done—what?

1. You have made ten States subject to military authority.

2. You have made the civil tribunals subject to military rule.

3. The lives, liberty, and persons of the people are subject to military authority.

4. Juries are abolished.

5. *Habeas corpus* is abolished. I mean, of course, at the pleasure of the military commanders.

6. You have clothed conventions with authority to fix their own salaries and levy taxes from the people for their payment.

7. You have empowered the commanders to displace Governors, judges, and legislators, and fill their places, thus making them dependent on the will of the commanders. What a spectacle we behold, sir. The judge taken from the bench and the lieutenant placed in his stead! Legislators driven out and others appointed by the military to make the laws which the people must obey!

Sir, what were the causes of complaint which the Colonies made against the British Crown? Speaking of the king of Great Britain, our fathers declared—

"He has made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries.

"He has kept among us in times of peace standing armies without the consent of our Legislatures.

"He has affected to render the military independent of and superior to the civil power.

"For imposing taxes on us without our consent.
"For depriving us in many cases of the benefits of trial by jury."

You were kind enough in the law to say that if the military commanders thought it good policy they might continue the civil courts and try criminals in the civil courts; but if they thought best, they might organize military commissions; but they should not take any man's life without a reference of the case first to the President, and that limitation was put on only after a great deal of controversy.

So, sir, the property, the life, and the liberty of this people are placed at the control of the military authority; and this is a policy that is called a policy of reconstruction, of restoration, and this you claim to be done under the guarantee clause which directs this Government to guarantee to each State a republican form of government! You find no other point in the Constitution where you can stand. There is not a rock in the Constitution large enough for your feet to stand upon except this one, that it is your duty to guaranty a republican form of government to these States; and in the exercise of that power, in the discharge of that duty, you establish a military rule and despotism which is defined in the language of the Declaration of Independence declaring the offenses of the British Crown toward the Colonies

This is all under the pretext of the guarantee clause. I had some respect for it when it was claimed as under the military authority of the President, because when you say it is a military necessity, I do not know any argument in answer to that. Military necessity has no reply except obedience; but to say to an intelligent people—to a people who have sense enough to know when they are hungry—that you are guarantying a republican form of government to States when you are subjecting them and all the legitimate and rightful authority of their State governments to military rule, is, in my humble judgment, an insult to an intelligent people.

I know the answer to this very well: that your establishment in the southern States is only provisional; that it is only to last for a little time: and that out of its ruins there will "spring up, phœnix-like, to Jove," republican forms of government. You lay the foundations of free institutions on the solid rock of despotism, and expect it to grow up to a beautiful structure! I do not believe in the doctrine that you can do wrong and expect good to follow. I believe in the doctrine that good is the result of good; that from a pure fountain you may expect pure waters; from a foul and poisonous fountain you may expect impure waters. And when you sow the seeds of despotism in any country I expect the fruit to correspond with the seed. You need not tell me that when you establish military governments and despotisms the result will be free institutions and a happy people.

Sir, in this debate I observe that many able Senators attempt to answer the Senator from Wisconsin [Mr. DOOLITTLE.] I rather envy the Senator from Wisconsin. He is the most honored man I have seen. No single Senator will admit that he has been answered. Each one that comes up to the work undertakes to answer him as if he had not been answered at all before. Really, sir, I envy the honorable position of the Senator from Wisconsin. When Senators get done answering his speech, they will then have overcome the foundation doctrines of our Government.

The Senator from Massachusetts [Mr. WILSON] characterized Toombs the other day, and the instant that he had closed the sentence he turned round to the Senator from Wisconsin and said that his speech was unpatriotic and wicked. Who clothed the Senator from Massachusetts with the garments of Robert Toombs? Who has found in any of the chambers surrounding this Senate Hall the robes of office that Toombs threw off, and brought them that the Senator from Massachusetts might wear them? Sir, denunciation will not serve gentlemen. There are not many of us in the minority here, but, few as we are, we feel that we are standing in the Thermopylæ of our country's history, and I believe there will not one flee from the combat.

I have been gratified by one thing in the debate. Each Senator apologizes for the disfranchisement of the whites, and each speech is an effort to make the number disfranchised as low as possible. I have discarded all estimates. When we were induced—no; when you, I will not say "we," because I had no part or lot in the business—when you were induced to vote for these laws, it was under the assurance of the gentleman having charge of the propositions that they disfranchised six to ten thousand. Now, you admit a disfranchisement of about fifty thousand, and I expect that my friend from Pennsylvania is nearer the truth than either estimate. But I do not think you are authorized to ask me to credit many more estimates; your mistakes are too large. Have you stopped to consider the number of men that are disfranchised under your bill? If it applied only to the men who held office at the breaking out of the war, the number would not be very large. If it applied only to the men who held office during the war, the number would not be so very large. But, sweeping the whole country, you exclude not only all men who took an oath to support the Constitution of the United States, but all men who held office at any time during their lives. You exclude all these from the right of voting. That extends to every neighborhood, a sweeping thing, picking here a man and there a man, until the number is very large. I am glad to hear Senators say that they regret that it is so large. That is an admission that you know it is wrong. I think I hear the Senator from California say in his seat that we do not all admit that it is wrong.

Mr. CONNESS. I said we do not all share in that regret.

Mr. HENDRICKS. The Senator says all do not share in that regret. My opinion is that in all probability the Senator from California would have liked to see the entire white blood stricken down politically and all the political power put in the hands of the negroes. I am against it, sir.

Mr. President, I say that when Senators try to make the disfranchisement the smallest number possible it is an apology for what is felt to be wrong. My colleague said that President Johnson's proclamation excluded two hundred and fifty thousand or three hundred thousand white men. When Mr. Johnson's proclamation did that he left the political power of the South in the hands of the balance of the white people; he did not strike down a part of the white population and then enfranchise all the negroes.

A great effort and strain is made in this debate to show that you have not established negro supremacy over the white people of the South, and when you make that argument it is an apology for your act. Now, sir, figures show the fact in all the States of the South. Taking all the registered voters there are forty-five thousand nine hundred and seventy-seven more negroes registered than there are white people. That is the aggregate, excluding Texas, from which the returns are not yet full. There are about forty-six thousand more negroes registered than white people.

Another apology is made for your measures that you feel are not right. It is that the white people would not be registered. My opinion about it is, from all the evidence I have on the subject, that in very many localities registration was a most disgusting fraud; and for the purpose of carrying the States negroes were registered over and over again in different names and white men were denied a registration. This was a serious complaint. But to-day I saw an account of one of the Louisiana parishes in which the registration was a disgrace if the statement be correct; but I do not claim any force now to that statement, because it is simply upon newspaper report; it may be true or it may not.

This is the fact as we now stand before the country—that under your law a majority of negroes are allowed to vote in the southern States, and in five of the States there is a decided negro majority, and they can control the States at any time. And in Georgia there is but a few hundred difference between the two, and with the white men who, for the sake of office and to control the entire negro vote, will go with them they can carry Georgia.

Mr. President, by what authority do you control suffrage? I want to read my colleague's statement on this subject, as he is defending this reconstruction policy. He said in his argument in the Senate the other day that if it becomes necessary for Congress to enfranchise a new class of voters it is proper to do so, the whole matter depending upon the necessity for it in the judgment of Congress. Now, sir, I will read what he said in his message to the Legislature of Indiana in 1865, in the month of November, upon that subject, while the reconstruction policy of Mr. Johnson was being carried on. He then said:

"The subject of suffrage is, by the national Constitution, expressly referred to the determination of the several States, and it cannot be taken from them without a violation of the letter and spirit of that instrument. It is a fact so manifest that it should not be called in question by any that a people who are just emerging from the barbarism of slavery are not qualified to become a part of our political system, and take part not only in the government of themselves and their neighbors, but of the whole United States. So far from believing that negro suffrage is a remedy for all our national ills, I doubt whether it is a remedy for any, and rather believe that its enforcement by Congress would be more likely to subject the negro to a merciless persecution than to confer upon him any substantial benefit."

Mr. President, negro governments have been established in the southern States so far as the congressional policy has thus far extended. Inasmuch as my colleague defends this policy I will now read from his speech, from which I before quoted, in 1865, in which, on that subject, he said:

"I submit, then, however clearly and strongly we may admit the natural rights of the negro—I submit it to the intelligence of the people—that colored State governments are not desirable; that they will bring about results that are not to be hoped for; that finally they would threaten to bring about, and I believe would result in, a war of races."

We have been rebuked here because of a suggestion that a war of races might possibly result from a policy such as you have established. My colleague said in that ably prepared speech two years ago that this very policy was likely to bring on a war of races, and we have some evidence on this subject which is threatening. I see in the Chicago Republican of the 12th of last month an account of organized resistance to authority in one of the southern States, which I will read:

"PEROTE, ALABAMA, *December* 1, 1867.

"DEAR SIR: The citizens of this place held a meeting on yesterday for the purpose of memorializing General Swayne in relation to certain things which have transpired here, and which have given just cause for alarm to the citizens. Owing to our former acquaintance and your acquaintance with General Swayne, they have requested me to address you also, and endeavor to get assistance in having the memorial presented and the request of the people granted.

"For the last several days the people have been kept in a state of alarm, growing out of the resistance of the negroes in this community to the execution of a civil process issued by Judge McCall. The negroes, it seems, belonging to the league at this place, through the instructions of certain leaders among them, and I understand some of them from your city, determined to form a code of laws to govern the negro population, and actually opened a court, officered and organized, and have been arresting by night all negroes that are opposed to and speak anything against their unlawful doings, and carried the matter of punishment so far that one or two appealed to the civil authorities for protection.

"A warrant was issued by Judge McCall last week, and the deputy sheriff came over to arrest the parties on Thursday, and did arrest that evening the sheriff and one of his deputies and put them under guard. He went the next morning to Dr. Dawson's plantation, a mile or two from town, to arrest others. When he had done so a party of some forty negroes made their appearance and defied him to take them off; cursed him and the white people, and told him that they would meet him and them in the open field and test the matter as to who should be masters and rulers. Under these circumstances the sheriff came back and summoned the citizens to his aid.

"As many as could be collected soon joined him and went in pursuit. The negroes made their way toward the Springs, saying they would get the league there

and at Chunnennuggy Ridge to join them, and their intention was to subdue the whites and take possession of the country."

A few days since, as late as the 9th of this month, I see that in North Carolina there have been similar organizations of negroes under the influence and control of these leagues, dangerous to the peace and quiet of society.

"RALEIGH, *January* 9, 1868.—Intelligence has just been received here of the capture of a gang of negro desperadoes, who have for some time past infested the eastern portion of the State, committing nightly murders and outrages to such an extent that the people were completely terror-stricken. About the latter part of December the people of Green county were thrown into the utmost excitement and alarm by the presence of a gang of negro robbers, who were armed and in the neighborhood for the purposes of murder, arson, and incendiarism. Their capture was effected on information furnished by two negroes, respectively named John Dixon and Hardy Coward, who, with a number of both whites and blacks, combined to effect the arrest of the banditti. After careful reconnoissance and considerable strategy, Needham Speight, *alias* Needham Evans, John Dunn, *alias* Custis, *alias* John Miller, were surrounded and captured They were found to be armed with three double-barreled guns, two pistols, and one dirk. They had also three sacks of clothes, a large quantity of fine dresses for ladies, ladies' underclothing, and a quantity of old peach brandy.

"The day after the camping place they had occupied previously was discovered, and here were found the notes, bonds, and bank stock of Willis Brierly, the man whom I have hitherto reported murdered in the presence of his wife; and who was also robbed of a trunk containing a large amount of specie and State money. The desperadoes confessed to the above murder; also that they robbed and beat a Mr. Taylor; that they shot a Mr. C. M. A. Griffin, and that it was then their intention, before arrested, to pillage and destroy the stores and residences at Fountain Hill, a village close by, as well as a Mr. Pittman's residence, about a mile from where they were arrested."

This came over the telegraph from North Carolina within a few days. This is a large organization disturbing the peace and quiet of society and dangerous to the lives and property of the people. On the subject of this strife that may come, as my colleague said in his speech of 1865, between the two races I have just this to say: that that strife when it comes is likely to come from such sources as I have read, and is likely to be accompanied with scenes of barbarism and cruelty such as we cannot contemplate without horror. Very recently I had occasion to express my feelings in regard to that, and I did it in this language:

"Whatever may have been the sympathies of the North on the question of freedom from slavery, you need not think they will be with the negro in this horrible contest now imminent; for when the northern man sees the mother and children escaping from the burning home that has sheltered and protected them; when he hears the scream of beauty and innocence in the flight from pursuing lust, if ever he venerated a mother, or loved a sister or wife, his heart and hand will be for the pale-faced woman and child of his own race. Whatever may have been the sympathies of the North for the negro in the claim made on his behalf for civil rights, just and generous men will turn with horror from the congressional policy that places the white race under the power and government of the negroes, and seeks to establish ten negro States in the Union."

Frequent references in the course of this debate have been made to supposed outrages and cruelties upon Union men in the southern States. On that point I beg to refer to Report No. 23, of the Thirty-Ninth Congress, in the House of Representatives. In the minority report the following statement of the evidence is made:

"It is true that they [Generals Thomas, Sickles, Wood, and Baird] mention, in general terms, that Union men, Federal soldiers, and freedmen were not safe in their departments, but when asked to specify the number of cases, and the localities where they have occurred, and the names of the parties injured within the last twelve months, they could only mention one case in the State of Tennessee, at Nashville; one in the State of Mississippi, at Granada; one in the State of Louisiana, on the road between Alexandria and Monroe; and not a single case in the State of Virginia, except the Watson case, and no case in North Carolina, Georgia, Florida, or Alabama.

"General Thomas proves that the accused in the case at Nashville was promptly arrested and held for trial.

"General Wood states that in the case of the murder at Granada, 'the civil authorities did exert themselves to have the murderer arrested, and that it was not their fault that he was not arrested.'

"General Baird says, in regard to the murder of the officer of the Freedmen's Bureau, on the road between Alexandria and Monroe, 'that we never succeeded in finding out the parties who did it.'

"General Scofield testifies: 'I have not seen any disposition manifested to interfere with soldiers of the United States, so far as committing assaults on them, and I know of no instance in which there has been anything like an unprovoked attack upon them;' and as to the freedmen, he says: 'When negroes are arrested under any criminal accusation, I think they are dealt with rather leniently than severely. I do not think that there is a disposition to persecute them, or to be unnecessarily harsh to them. In fact, the general feeling of the respectable people of Virginia is that of pity toward the freedmen.' They all testify in the most explicit manner 'that they have no fault to find with the Governors of the respective States, or the high officials, or the judges of the superior courts, or the intelligent and well-informed citizens; that they have always manifested an earnest desire to assist them whenever called upon so to do.'"

Now, sir, when I have noticed a very few points made by my colleague upon matters not exactly connected with the issue before the Senate, I shall have closed what I felt it to be my duty to say to the Senate. He says that gentleman spoke but for himself when he said your reconstruction measures were outside of the Constitution. I suppose my colleague refers to Mr. STEVENS, of the House. Here is what Mr. STEVENS said upon that subject. I read from his letter of the 26th of August, 1867:

"Some of the members of the Senate"—

some of the majority, of course, he refers to—

"seemed to doubt their power under the Constitution which they had just repudiated, and wholly outside of which all agreed that we were acting, else our whole work of reconstruction was usurpation."

He does not speak for himself alone; he says all agreed. I wonder where you did agree to it. I know there were frequent caucuses, and I was not admitted to the secrets of those caucuses, and of course I cannot state what was agreed upon. But he says all agreed that this policy of yours and these laws of yours are outside of the Constitution, and if they are inside the Constitution they are acts of usurpation. My colleague very summarily disposes of him. Why, sir, who is Mr. STEVENS? He is no obscure man. He was the chairman, as I understand, of the Committee on Reconstruction, and is the very author of your bills. From his brain they sprung; from his brain they received their support in the House of Representatives. I believe he is still the chairman in the House of Representatives of the Committee on Reconstruction. He is authorized to speak much more than my colleague, who was not, when the first bill was passed, a member of this body. Then, Mr. STEVENS being chairman of the committee, and being conversant with your councils and secrets, says all agreed that this policy was outside of the Constitution; and if it was outside it was a clear case of usurpation.

Mr. FESSENDEN. I do not know what the honorable member of the House referred to may have said, but if he used these words and referred to the Committee on Reconstruction, I can only say that he spoke without any authority from the chairman of that committee on the part of the Senate. I never heard the sentiment expressed there by any member of the committee.

Mr. HENDRICKS. Will the Senator be pleased to say whether Mr. STEVENS was chairman of the committee on the part of the House?

Mr. FESSENDEN. Yes, sir; he was.

Mr. HENDRICKS. Then I am right in that regard, and he is chairman yet, I believe. This letter is not disputed; my extract is correct as I have read it. It was published all over Pennsylvania and all over the country, and it has never been disputed by Mr. STEVENS. Of course this is the letter referred to by my colleague in his speech the other day.

Mr. FESSENDEN. He only spoke for himself.

Mr. HENDRICKS. I do not say that his remark included the Senator, but he included somebody; I do not know who. He said we all knew this—all knew it was outside the Constitution. I thought I did without any information from him on that subject.

Mr. FESSENDEN. It sometimes happens, as the Senator is aware, that when a gentleman agrees with himself he thinks everybody else agrees with him.

Mr. HENDRICKS. I thought the Senator from Maine interrupted me a moment ago for a proper purpose and I cheerfully yielded for it; but when he stoops from the high position that he holds in this body and in the country to give a slur instead of a statement of fact, I do not admit his right to do it without my permission.

Mr. FESSENDEN. Will the Senator allow me? Does the Senator understand me as giving a slur at him?

Mr. HENDRICKS. Yes, sir.

Mr. FESSENDEN. I beg to say that I had not the slighest reference to the Senator in the remark I made.

Mr. HENDRICKS. Then the only purpose of the Senator could have been to interrupt the line of argument.

Mr. FESSENDEN. No, sir.

Mr. HENDRICKS. The Senator has a right to disclaim that he is spoken of by Mr. Stevens in this letter, and that far I yield him the floor; but not for the purpose of breaking the line of my argument.

Mr. FESSENDEN. I had no such purpose, Mr. President. The Senator is too skillful a debater to be troubled in that way by a single remark, and if I had any such purpose I should not try it upon him of all men. I beg to disclaim any such purpose. I had no reference to him in any way whatever. I have heard much consequence attached to this remark which is said to have been made in a letter of the gentleman referred to; I do not know that I ever saw it. My object in rising was simply to say for myself, and so far as I know for the other members of the Committee on Reconstruction, that no such idea was admitted there. I never heard it there, never heard it mentioned there. My additional remark did not refer to the Senator but to some peculiar men—I think the Senator might guess who they are—opinionated men who are apt to think that if they agree with themselves everybody else agrees with them. In that remark I did not refer to the Senator.

Mr. HENDRICKS. When the Senator disclaims the application of his remarks to me, it is satisfactory, except in one regard; it was throwing in an interruption without my permission. When the Senator from Maine interrupts me to throw in a sentence that simply serves to disturb the line of thought, that I think he has no right to do; but as he disclaims the application of the offensive language to me of course it is satisfactory.

Mr. HOWARD. Allow me to interrupt the Senator from Indiana for a moment; I entertain no such purpose, as I think he will admit, in interrupting him as he seems to impute. I simply desire to say that I was a member of the joint Committee on Reconstruction as it is called, and I think I met with the committee on almost every occasion, and I am here now to declare for myself, and so far as I know the sentiments of any other member of that committee, the committee entertained no such opinion as seems to have been imputed to them by Mr. STEVENS in the letter which the honorable Senator has read. I never entertained any such opinion, nor do I believe that any other member of that committee ever entertained that opinion, so that the remarks, so far as it is applicable to that committee, it strikes me is gratuitous.

Mr. HENDRICKS. Mr. President——

Mr. CONKLING. If the Senator will allow me one moment I will say that I have heard this statement of Mr. STEVENS repeated over and over again and I never knew what it meant; and I will say further that there never was, to my knowledge, on the part of the Reconstruction Committee speaking at large, or the branch of that committee which belonged to the House of Representatives, any foundation whatever for the assertion that they supposed they were acting outside of the Constitution, or in derogation of the Constitution. I am sure no such thing ever occurred when I was present.

Mr. HENDRICKS. Mr. President, I think the majority ought to keep a close record. My colleague spoke of the process of education

that has been going on for two years. Two or three years ago the Senator from Massachusetts [Mr. SUMNER] stood in this body and Mr. STEVENS in the House of Representatives alone when they proclaimed that the southern States were in the condition of Territories, to be legislated for at the pleasure of Congress; and I recollect in the course of the debates the burning words uttered by the Senator from Maine [Mr. FESSENDEN]—I cannot give the words—and the fierce attack of the Senator from Ohio [Mr. SHERMAN] upon the Senator from Massachusetts, charging that he stood alone. Where did he stand then, Mr. President? He stood just where the preamble to this legislation to-day makes you all stand. He stood there then. His party in this House and in the country did not stand with him upon the doctrine that these States were so subjugated, their governments so lost and destroyed that Congress had absolute control and dominion over them.

That was the doctrine of the Senator from Massachusetts and of the leader in the House of Representatives, and I believe that the Senator claimed it under this very clause now resorted to, the obligation of the Government to guaranty to each State a republican form of government. Now, when these learned gentlemen and grave and able Senators have come to the Senator from Massachusetts, have come to the distinguished and bold leader of the House of Representatives, and stand by him upon a doctrine that they repudiated two years ago, I think he is the most reliable authority upon the doctrine of the party to be found next to the Senator from Massachusetts. They are together. He says that this is outside of the Constitution, and he says that we all knew it. You gentlemen disclaim it. Be it so; but somebody is with him.

Mr. SUMNER. Will the Senator allow me to interrupt him?

Mr. HENDRICKS. I ask to be excused. I know just where that will run to.

Mr. SUMNER. I do not mean that it shall run long.

Mr. HENDRICKS. I know it will; the Senator will excuse me. Mr. President, this leader, champion, bold, defiant, able, says that it is a clear case of legislation outside of the Constitution.

Mr. SUMNER. I hope my friend will allow me to say that I never did agree with that distinguished authority on that point. I have always insisted that all the reconstruction measures were positively within the Constitution of the United States.

Mr. HENDRICKS. Now, Mr. President, if I had attributed the sentiment to the Senator from Massachusetts, of course he ought to have explained; but I did not say that he stood logically with the distinguished leader of the House. I understood as I said, that the Senator from Massachusetts two years ago stood upon this guarantee clause.

Mr. SUMNER. So I did.

Mr. HENDRICKS. Certainly you did; and you were told by the distinguished Senator who introduced this legislation last session that you stood alone in that. Somebody has come to you; who is it?

Mr. FESSENDEN. Mr. President, if the Senator will persist in these statements in the face of the Senate and the country, he must expect to be interrupted and have them denied. The doctrine of the Senator from Massachusetts upon which I made that remark was found in the resolutions which he offered on the very first day, I think, of the last Congress; and the doctrine which he there laid down was that these States had ceased to be States in fact and had become Territories. That was the doctrine to which I alluded; it was a single remark of mine, and it went no further than that—simply that I believed that the Senator stood alone. I will not commit the offense of saying that I think he stands alone to-day upon that doctrine; but I have heard nobody in the Senate express the same opinion. The Senator from Indiana says that the legislation we have since agreed to brings us to that doctrine. That is an inference, an argument of his. If he can make it out to his own satisfaction I have no objection; but I repel the idea so far as I am concerned.

Mr. HENDRICKS. Mr. President, if Senators will now allow me I will go on, and not again refer to any of these sensitive subjects that are likely to excite discord among the gentlemen of the majority.

Mr. FESSENDEN. There will be no sensitiveness so long as the Senator confines himself to the facts.

Mr. HENDRICKS. What fact did I not state? Has not the Senator from Massachusetts nodded his head in approval to what I stated? I did not state what position the Senator from Maine occupied. I said the Senator from Massachusetts occupied the ground that under this guarantee clause Congress had power of legislation over these States.

Mr. SUMNER. The Senator from Indiana is right; I founded my position on the guarantee clause.

Mr. HENDRICKS. Now, Mr. President, I will not prosecute this matter further. There can be a special caucus held to settle this particular question. It is a fight between Mr. STEVENS and his brethren. If he has placed any of them in the wrong in the church they can call him to account. It is none of my business. He says it is outside of the Constitution. He is a bold man. I believe he is right; and I invoke his great power as a leader of the House in support of my statement now made, that I regard this entire legislation as outside of the Constitution of the United States.

But, sir, my colleague remarked that the arch traitor of the southern rebellion was at large, and not hung. Why so? If you have power to send military commissions down into the southern States and hang men, why have you not hung Jeff. Davis long go? What is in the way of hanging him if he must be hung? Simply this: that there is a court over which Chief Justice Chase presides; and there is another court over which a Mr. Underwood presides; and there is a certain Horace Greeley that stands in the way as bailsman. What have I to do with all this? What has the President to do with it? If you can send a military commission, which the Supreme Court says has no authority to try a man except in time of war and for a military offense; if you can send a military commission down South, and try men without authority of law and against the Constitution, there is no use in going through any forms and ceremonies; but you can just as well pass a law at once that Jeff. Davis shall be hung. There is no difficulty about it. It can be done. If his presence as the arch traitor is in the way of establishing a republican form of government under the guarantee clause hang him! There is no trouble about it in the world! It is one of the class of powers clearly defined.

Now, Mr. President, I have but very little to say about this particular bill which is before the Senate. It is a bill which upon its face admits that the constitutional question is against the majority, for it says that the executive department and the judicial department of the Government shall not recognize the southern State governments as State governments. You say to the judiciary, "These States shall not be recognized." The Constitution of the United States says that the judicial proceedings of the several States shall be respected in all the other States. That is a constitutional provision; and yet here you say that the judicial department of the Government shall not recognize these States at all; and therefore the Supreme Court, you think, cannot try any questions that are likely to arise on your reconstruction policy.

And this brings me to consider for a minute the remarkable bill requiring two thirds of the Supreme Court to concur before an act of Congress can be decided unconstitutional. What is the effect of that? In the first place, it gives an unconstitutional law two thirds of a majority over the Constitution itself. The question is whether an act of Congress is the law or whether the Constitution is the law, and on that question you propose to give the Constitution one chance and the unconstitutional act of Congress two chances. Then, if my rights in a case in the Supreme Court depend upon the Constitution and your rights depend upon an act of Congress, three judges can give you a decision, while I must have six to carry my case. As has been expressed, a two-pound weight is put in one end of the scale of justice and a one-pound weight in the other; and you expect this country to approve that, do you? You expect honest men who are fit to sit on juries to say that such legislation as that is right? For a thousand years the courts have come down with our race on the doctrine that a majority shall decide; and now, for political and partisan purposes, because you dare not trust your legislation to go before that tribunal which the fathers and the Constitution established to settle it, you attempt to strip that court of the authority and the power with which the fathers clothed it. It is an admission bold and patent before the world that your legislation is vicious.

I do not know how far this process of education of which my colleague speaks is to go. I speak of the education that has carried the majority up to my friend from Massachusetts. I shall not refer to that further, for I shall be interrupted if I do; but the process of education is going on. I said in the Senate, a year or two ago, that the course of things is this: the Senator from Massachusetts steps out boldly, declares his doctrine, and then he is approached, and finally he governs. Believing that he is in the right—I concede that belief to him as a Senator—his place in this body and before this country to-day is a very proud one. He was told somewhat sneeringly two years ago that among his party friends he stood alone, and to-day they all stand upon his position. This is a compliment and indorsement of sagacity and intelligence that but few men receive in the course of a public life. But how far is this education to go? We hear the crack of the whip. The threat is that "if the southern people do not acquiesce in this we will give them a still more terrible penalty." Where is it to come from? That argument has no weight with me. A threat to carry this into a still greater wrong shall not deter me from standing where my conscience requires me to stand. If you say that, in case the southern States do not agree to your propositions you will go beyond them and still further outrage the right, the responsibility in all history will be with the majority that now governs the legislation of this country. On every side you chide the southern States because they did not indorse the proposed fourteenth amendment to the Constitution. If they have no constitutional governments what do you chide them for? If they have no legal State governments and no legal Legislatures what railing accusation is this you bring against them, for they cannot ratify a constitutional amendment if they have no legal existence.

My colleague in the course of his speech referred to a statement made by him in a speech recently delivered in this city, that the Democrats stood upon the policy of paying for the slaves of the South. In party warfare, Mr. President, I concede always to the opposite party the right to define their own positions, and I take them as truthfully defining their positions, and I do not ever attribute to the opposite party political opinions which they disclaim for themselves. I have no right to do it, and I say my colleague has no right to attribute to the great Democracy of this country—a grand party, a party whose power and intelligence have had a mighty influence in the past, and is to wield a great influence in the future of this country—doctrines and purposes which that party disclaims for itself. We have a right to stand where we define our own platform. I think it is a most remarkable thing that any Republican gentleman should say that the Democracy are in favor of paying for man-

umitted slaves. There are only two cases where such a measure has been seriously urged before Congress, and upon that point I ask the attention of the Senate for a single minute.

In 1862 Mr. Lincoln sent a special message to Congress proposing that they should adopt a joint resolution, which he drew and sent down to Congress, to buy up the slaves of the loyal people. My distinguished friend from New York [Mr. CONKLING] was then a member of the House of Representatives, and he was the honored mouthpiece of the Administration in favor of this policy on that occasion. He introduced into the House the resolution sent down by Mr. Lincoln; and here it is; I will read it:

"*Resolved by the Senate and House of Representatives of the United States in Congress assembled*, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State in its discretion, to compensate for the inconveniences, public and private, produced by such change of system."

Are Democrats to be charged now with being in favor of buying up negroes? What was the answer made by Indiana on the day that resolution was introduced in the House of Representatives? Mr. Voorhees, then a Representative from Indiana, said:

"If there is any border slave State man here who is in doubt whether he wants his State to sell its slaves to this Government or not, I represent a people that is in no doubt as to whether they want to become the purchasers. It takes two to make a bargain; and I repudiate, once and forever, for the people whom I represent on this floor, any part or parcel in such a contract."

And he went on to argue against the proposition.

But, Mr. President, who is it that brings the charge against us of wanting to pay for negroes? There is only one case in the history of this Government where money has been taken out of the national Treasury to pay for negroes, and that was to buy up the negroes of the District of Columbia at $300 a head; and the party in the majority passed that law and it was approved by Mr. Lincoln. Then who has the right to charge against the Democracy of this country a purpose to pay for slave property? The Democracy have never recognized such property in negroes as required or authorized the Government to pay money out of the national Treasury for them?

Mr. President, my colleague has spoken of a column—the column of congressional reconstruction—and has said that "it is not hewn of a single stone, but is composed of many blocks." Sir, I think he is right. Its foundation is the hard flint-stone of military rule, brought from the quarries of Austria, and upon that foundation rests the block from Africa, and it is thence carried to its topmost point with fragments of our broken institutions. That column will not stand. It will fall, and its architects will be crushed beneath its ruins. In its stead the people will uphold thirty-seven stately and beautiful columns, pure and white as Parian marble, upon which shall rest forever the grand structure of the American Union.

Mr. HOWE. Mr. President——

Mr. POMEROY. Will the Senator from Wisconsin yield to a motion to adjourn?

Mr. HOWE. Yes, sir; I will give way for that purpose.

Mr. POMEROY. I move that the Senate do now adjourn.

Mr. MORGAN. I hope the Senator will withdraw that motion to enable me to make a report from a committee of conference.

Mr. POMEROY. Certainly.

COTTON TAX.

Mr. MORGAN. I am instructed by the committee of conference on the disagreeing votes of the two Houses upon the bill in regard to the cotton tax to submit a report.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments to the bill of the House and agree to the same, with an amendment as follows: add to the bill the following words, "and cotton imported from foreign countries on and after November 1, 1868, shall be exempt from duty;" and the House agree to the same.

E. D. MORGAN,
JOHN CONNESS,
C. R. BUCKALEW,
Managers on the part of the Senate.

WILLIAM B. ALLISON,
J. G. BLAINE,
L. S. TRIMBLE,
Managers on the part of the House.

Mr. SHERMAN. I have nothing to say in regard to the report of the committee of conference; I have no doubt it will be agreed to; but I desire to make a correction in what I said the other day. The Speaker of the House of Representatives thinks I did him injustice in a remark I made in regard to the appointment of the former committee of conference on this bill, and as I certainly would not do any injustice to a gentleman whom I esteem so highly, not only as an admirable officer but as an old friend and associate, I desire to make a correction. In quoting him I stated his language stronger than I was justified by the facts. He spoke of the instruction of the Senate to a former committee of conference as being contrary to the usual practice of legislative bodies. In quoting his remarks I stated that he declared "that we had instructed the committee of conference to adhere to our proposition." He did not make that statement. In that I was incorrect, and I am very glad to make this explanation.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 136) to provide for the sale of ironclads, and to the joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits.

Mr. POMEROY. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 30, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

WAR CLAIM OF IOWA.

Mr. SPALDING, by unanimous consent, from the Committee on Appropriations, reported back a communication from the Secretary of War *ad interim*, respecting the claim of the State of Iowa for supplies furnished during the rebellion, and moved that the same be referred to the Committee on Military Affairs; which motion was agreed to.

INCOME TAX.

Mr. SELYE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to report to this House, at his earliest convenience, the number of persons paying an income tax in each State, with the aggregate amount so paid, by States; also the number of manufacturers in each State paying revenue tax, with the aggregate amount so paid in each State,

NATIONAL RAILROAD COMPANY.

Mr. EGGLESTON, by unanimous consent, from the Committee on Commerce, reported back House bill No. 224, to charter the Washington and Cincinnati National Railroad Company, and moved that it be ordered to be printed and recommitted.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PASS À L'OUTRE.

Mr. EGGLESTON, by unanimous consent, introduced a bill (H. R. No. 594) to take possession of the bar known as Pass à L'Outre at the entrance of the Mississippi river, and to construct a canal without any expense to the Government; which was read a first and second time, and referred to the Committee on Commerce.

PERSONAL EXPLANATION.

Mr. MARSHALL. I ask unanimous consent to make a brief personal explanation.

The SPEAKER. For how long?

Mr. MARSHALL. I cannot say.

The SPEAKER. Then the gentleman will have an hour, if there be no objection.

There was no objection, and it was ordered accordingly.

Mr. MARSHALL. I shall not detain the House at any great length of time. In some unpremeditated remarks made by myself some ten days ago on a bill then pending before the House it seems by the report that I made some allusions not of a very complimentary nature to what was characterized as the "military Jeffreys of Kentucky." Major General Burbridge, it seems, thinks the picture drawn is of such a character that it can apply to no one but himself, and, after some eight or ten days' "nursing his wrath to keep it warm," he has thought proper to appear before the people in vindication of himself by a card, which has been brought to my attention, appearing in the Chronicle of this morning. I ask to have it read at the Clerk's desk.

The Clerk read as follows:

CARD FROM MAJOR GENERAL BURBRIDGE.

To the Editor of the Chronicle:

I have seen an extract of a speech delivered in the House of Representatives of the Congress of the United States by one S. S. MARSHALL, of Illinois, that demands a notice at my hands. This reckless and vindictive man, true to his perverse nature, proceeded to characterize me as the military Jeffreys of Kentucky, and "who was so fortunate in arresting and massacring non-combatants and peaceful citizens, and imprisoning women and children, placed under his jurisdiction." He is deeply pained that his confederates were arrested in Kentucky and tried by a court-martial composed of honorable officers of the national Army for crimes of murder and gross outrages against the laws of war, and were convicted upon indisputable evidence and executed under my administration. His statement that these men were "non-combatants" and "peaceful citizens" is perhaps as near the truth as such a nature is capable of making. These "peaceful citizens" were outlaws against society and criminals against human nature itself; murdering, robbing, and plundering without regard to age, sex, or condition. They were men whom no faith would bind and no circumstances of life appease. They made every community they entered living witnesses of their ferocious crimes. It will sound strange to the citizens and good-thinking people of this country to hear from the Halls of Congress a court composed of honorable soldiers who had sustained the burdens of many a bloody battle-field charged with the crime of massacring "non-combatants and peaceful citizens." To say nothing of my own sense of justice and honor, I apprehend there is not a heart so debased, unless it be among this man's faithful friends and confederates, as to believe such a statement, and not another tongue so false as to utter it.

It is again stated that I imprisoned some women and children placed under my protection. The truth is, that some women of notoriously treasonable character, for aiding and abetting the enemies of the country, and who sought to compass the destruction of our troops, were ordered out of the State of Kentucky by me, acting under a general order from General Sherman, far more rigorous, but not the less just, than my own. No woman was ever "imprisoned," no child was ever "imprisoned," by me. Thus this charge is as willfully and perversely false as the other.

For the discharge of my duty to my country in the most humane manner compatible with the public safety I have been maligned and traduced by the whole pack of traitors, North and South. That duty was performed faithfully and earnestly. If the times ever demanded it, which may God avert, it shall be done again, earnestly, promptly, and effectually. It is to be regretted that the hand of justice fell so heavily only upon the misguided, but none the less criminal, traitors of the South. If those in the North who inspired this crime had possessed their courage, justice would have been more equally distributed. Their shield was their cowardice, not their patriotism or their virtue. If I am to be proscribed for my services to my country let the truth be known. I shall not tamely submit to have my character aspersed by men so regardless of truth and honor, and so wantonly malignant toward the soldiers of this Union, as this Representative of treason in the Congress of the nation. I have no excuse to give and no apology to make for my presence in Washington. I presume that even a Federal soldier may visit the capital of

the country he has fought to sustain whenever he may think proper. It is but little moment to me who thinks to the contrary, and least of all those whose records are blackened by disloyalty.

S. G. BURBRIDGE,
(late) Major General United States Army.
WASHINGTON, *January* 25, 1868.

Mr. MARSHALL. This card demands some little notice at my hands. Whether General Burbridge has resorted to the proper means to vindicate himself, if injustice was done him, I leave to himself and his friends to determine. I have had it read at the desk for a double purpose. In the first place, as General Burbridge thinks that injustice was done him, I think it but fair to let his statement in his own language appear upon the record. He has certainly let the matter rest a long time before appearing before the public, and I take it for granted that he at least has acted in this mattter with sufficient deliberation. If he had confined himself to vindicating his own record and character I should have given the matter no further notice. If in the heat of debate at any time I should do injustice to any one, soldier or citizen, when I am apprised of that fact and made conscious that I have done injustice, it would be the highest gratification of my life to repair the injury done. Whether the course taken by General Burbridge is the one that should have been adopted I leave to the public to determine. What I propose to say now is merely in justification of myself, and would be of the same character if the card read had been anonymous.

Our late civil war, like all great wars, developed many of the highest virtues and some of the worst vices of human nature. To the honor of our Army and our nation be it said, the great mass of American officers and soldiers, by their conduct in the field and in camp everywhere, showed that they were actuated by true, loyal, and manly principle. They were as regardful of the rights of the citizen and of their duty to unprotected non-combatants as they were brave and gallant in the deadly conflict. But, sir, in our own, as in all, wars, it is unfortunately true that there were often men in the uniform of our armies who were not governed by these generous principles, and who, when they succeeded in obtaining a place of power, developed some of the very worst features of human nature. These remarks are intended to be general, and not to be applied at this time to any particular individual.

It is the duty of every good citizen to denounce these crimes, even if they are perpetrated under the garb of a uniform which the wearer disgraces; or if they were perpetrated, as was too often the case, by camp-followers, contractors, and others, who, under the garb and in the name of loyalty, undertook to rule the people and to trample upon their dearest rights and liberties. The history of the late war, as of all wars, proves that all that class of men, whenever any charge is made against them, too often attempt to screen themselves from investigation and inquiry by turning upon those who bring their misconduct to the notice of the public, and charging them with being in sympathy with the enemies of their country. Whether such is the purpose of General Burbridge in the course he has taken I will not undertake to determine.

But I wish to say that if it is intended in this card to fix a charge of sympathy with the rebels or with their cause upon me, it is utterly and wholly false; and if General Burbridge had been acquainted with the facts, he would have known that the charge or insinuation is without any foundation whatever.

I could, if necessary, bring forward facts from publications made by myself and abundant evidence to show the position which I occupied at all times during that fearful conflict through which we have passed; but I shall not enter upon a vindication here or elsewhere until my record is assailed by some one else than the gentleman whose card has been read. He has had charges of the gravest character publicly preferred against him at his own home by gentlemen, as I am informed, of the highest position, personal, social, and official. If these charges are unjust I certainly hope that their injustice will be made manifest to the public, and that he may be fully vindicated from aspersions that tend to fix such a stain upon his reputation. But I must say that they have been made with such gravity and precision, and by citizens whose names are given to the public, and General Burbridge has so long rested under them without demanding an investigation into his conduct and administration, that they have made an impression on my mind approaching a conviction of their truth.

If I am in error in this it has not been the result of any desire to do him injustice. If he has any just cause of complaint it is against those who have thus publicly and in their own names, professing to know and be able to establish the facts, made these charges. And until he meets them in some proper way at his own home, and in response to the men who upon their personal responsibility make the charges and who profess to know the facts, there cannot possibly be any issue between him and myself in regard to this or, indeed, any other subject. I should, however, always, in justice to myself and to my own reputation, be not only willing but anxious to make a correction when convinced that I had by any means been led to do injustice to any one. If in any discussion I should have occasion to refer to General Burbridge, or to these charges, I should do so as to any other historical facts that seemed to be authenticated, and which had not to my knowledge been properly met or controverted. It would certainly not be from any malice or ill-will against General Burbridge, whom I do not know personally, and am not likely to know.

I repeat, Mr. Speaker, that I should exceedingly regret to be instrumental in doing injustice to or in wounding in any way the sensibilities of any true and loyal and manly soldier, and it would afford me a most sincere pleasure to be able to make reparation for the injury, if inadvertently done. It is possible that injustice has been done to General Burbridge in the grave charges that have been preferred against him, and for the sake of the reputation of the country and of the uniform he wore I wish I could now say that I am satisfied that such is the case. There is no use attempting to disguise the fact, Mr. Speaker, that there were men in the Union Army who disgraced the uniform they wore by acts of gross outrage, barbarity, and cruelty, not upon disloyalists merely, but upon Union men and defenseless women and children. And the admitted fact that there were cruel barbarities perpetrated by those who were in arms against the Government furnishes no excuse whatever for such enormities. And it is due to the great body of Union officers and soldiers, who were true and loyal to the principles of justice and humanity, that the conduct of the men who brought reproach upon the Army should be exposed.

It is only in this way that the noble and generous soldier can be freed from the stain that would otherwise tend to tarnish the reputation of the whole body and the responsibility be fixed where it properly belongs. The luster that gathers around the name of the soldier who is humane and just to the defenseless and is generous and magnanimous in the flush of victory as he is bold and daring in the hour of danger, cannot be dimmed permanently by detraction, but will grow brighter and brighter as it goes down the pathway of history. But it should never be forgotten that it is by men of arms alone that the liberties of our country can ever be menaced or destroyed. It is by military leaders distinguished in the profession of arms that the people have been trodden under foot in all ages. It is the Cæsars, the Cromwells, and Napoleons, who have mounted to power over the liberties and laws of their country. While, therefore, we should embalm in our hearts the true soldier who is governed by principles of honor and justice and is observant of the laws and institutions of his country, we should hold to a strict accountability those who, taking advantage of their power and position, have trampled the laws of their country under foot and committed crimes against humanity and civilization. Such men cannot escape the verdict of history. The clouds of error and misrepresentation will finally be dispersed, and they stand naked and exposed in their own undisguised deformity. The only way for such men to escape public scorn is to retire from public observation, and they should pray for a speedy arrival of that oblivion which will be their only refuge from infamy. Whether General Burbridge belongs to the first or latter class I shall for the present leave to others to determine.

SUPREME COURT.

Mr. SCOFIELD. I ask unanimous consent to offer the following preamble and resolution:

Whereas it is editorially stated in the Evening Express, a newspaper published in this city, on the afternoon of Wednesday, January 29, as follows:

"At a private gathering of gentlemen of both political parties, one of the justices of the Supreme Court spoke very freely concerning the reconstruction measures of Congress, and declared in the most positive terms that all those laws were unconstitutional, and that the court would be sure to pronounce them so. Some of his friends near him suggested that it was quite indiscreet to speak so positively; when he at once repeated his views in a more emphatic manner:" and whereas several cases under said reconstruction measures are now pending in the Supreme Court: Therefore,

Be it resolved, That the Committee on the Judiciary be directed to inquire into the truth of the declarations therein contained, and report whether the facts as ascertained constitute such a misdemeanor in office as to require this House to present to the Senate articles of impeachment against said justice of the Supreme Court; and that the committee have power to send for persons and papers, and have leave to report at any time.

The SPEAKER. Is there objection to the reception and consideration of the preamble and resolution at this time?

Mr. PRUYN. Mr. Speaker——

The SPEAKER. Does the gentleman from New York [Mr. PRUYN] object to the introduction of the resolution?

Mr. PRUYN. I do not object, but I desire to make an inquiry.

The SPEAKER. Is there any objection? There being none the resolution is before the House.

Mr. PRUYN. I desire to ask the gentleman from Pennsylvania [Mr. SCOFIELD] if he himself assumes the responsibility of declaring here that that statement is true; or whether it is based simply upon an anonymous newspaper article?

Mr. SCOFIELD. Of course I do not take the responsibility of declaring that the allegation is true.

Mr. ELDRIDGE. Then I object to the resolution.

Mr. FARNSWORTH. The objection is too late.

Mr. SCOFIELD. I hope to learn by the investigation——

Mr. HOLMAN. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. HOLMAN. My point of order is that objection was distinctly made to the introduction of the resolution before the Speaker announced that it was before the House.

Mr. FARNSWORTH. By whom?

Mr. HOLMAN. By gentlemen on this side of the House.

The SPEAKER. The gentleman from New York [Mr. PRUYN] was the only gentleman who rose at the time the preamble and resolution were read. The Chair asked him if he made objection, and he said he did not, but wanted to make an inquiry. The Chair again asked if there was objection, and no response was made. The Chair then said that the resolution was before the House.

Mr. HOLMAN. I think objection was made by the gentleman from California, [Mr. JOHNSON.]

The SPEAKER. The Chair saw the gentleman from California [Mr. JOHNSON] rise

after the inquiry of the gentleman from New York, and after the Chair had asked for objections without receiving any response.

Mr. BOYER. The gentleman from California, I think, rose in his seat to make objection before the Speaker had decided.

Mr. JOHNSON. Mr. Speaker——

The SPEAKER. The gentleman from California desires to explain. The Chair will hear the gentleman.

Mr. JOHNSON. Mr. Speaker, I distinctly said in my seat, "I object."

The SPEAKER. An objection cannot be recognized unless a gentleman rises in his seat and objects.

Mr. JOHNSON. I rose immediately after making that objection and endeavored to catch the eye of the Speaker. I wanted to say that if the resolution would designate by name the justice to which it referred I would have no objection to the resolution, and I thought no other gentleman on the floor would object. I rose for the purpose of making an objection.

The SPEAKER. The gentleman did not make a formal objection. When gentlemen object in their seats the Chair cannot recognize the objection unless he happens to hear it. The Chair did not hear the gentleman from California object.

Mr. ELDRIDGE. I desire to say one word in regard to this resolution.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. SCOFIELD] yield to the gentleman from Wisconsin, [Mr. ELDRIDGE?]

Mr. SCOFIELD. I do not yield.

Mr. ELDRIDGE. I rise to a point of order as to whether the resolution is before the House. I rose for the purpose of objecting to the resolution; but supposing that the gentleman from New York [Mr. PRUYN] was making an objection I did not then object. I understood his inquiry to be in the nature of an objection. The moment the question put by the gentleman was answered I did make the objection.

The SPEAKER. According to the statement of the gentleman from Wisconsin he did not make the objection in time. When the gentleman from New York [Mr. PRUYN] rose the Chair asked him distinctly whether he objected. He stated that he wished to propound an inquiry to the gentleman from Pennsylvania, [Mr. SCOFIELD.] The Chair then asked: "Is there objection?" There was none; and the Chair then said: "The resolution is before the House." The Chair then asked the gentleman from Pennsylvania whether he yielded to the gentleman from New York, and he did so. The gentleman from Wisconsin, according to his own statement, did not object in time, although he may have intended to do so.

Mr. ELDRIDGE. I rose to object while the gentleman from New York was speaking.

Mr. PRUYN. I supposed, when making my inquiry of the gentleman from Pennsylvania, that the Chair understood the right to object was reserved.

The SPEAKER. In regard to this transaction, which has taken place in the presence of the whole House, the Chair has stated his understanding of what occurred. If the gentleman from Wisconsin and the gentleman from New York are not satisfied with the decision, the Chair will be gratified if they will take an appeal.

Mr. BLAINE. As a great deal has been said on the other side as to whether objection was made in time, I wish to say that it was the opinion all around where I stood that the Chair allowed an unusual amount of time for objection to be made, and none was made. And gentlemen who wished to object, or who intended to object, or who would have objected if they had not supposed that somebody else would object, have no right to come in here with any such plea.

Mr. ELDRIDGE. I suppose that is the law.

Mr. BLAINE. Yes, sir; that is the law of the House.

Mr. SCOFIELD. I wish now to answer the question propounded to me by the gentleman from New York. He inquired whether I myself alleged that a justice of the Supreme Court had been so open in the expression of his judicial opinion regarding legislation of Congress. I wish to say to the gentlemen that I have no knowledge in regard to this matter except what I gather from this paper. I believe, however, that the same statement is made in a Baltimore paper of this morning, the name of the judge being there mentioned. I have chosen to take, as the basis of the resolution, the article published in this city, because the name of the judge is not given.

On the question whether this resolution should be adopted, I take it for granted that every gentleman on this floor would like to see a judge of the Supreme Court vindicated from these aspersions of this journal, if they are untrue. I supposed that was the reason nobody objected to the introduction of the resolution. The resolution makes it the duty of the Judiciary Committee of this House to inquire into the truth of the allegation, so that if they find it false their report may vindicate the character of the judge, and if they find it true they may report what action, in their opinion, ought to be taken.

I am quite sure the gentleman from California, [Mr. JOHNSON,] who says he intended to object, on reflection will be glad to have it introduced and go before the Judiciary Committee. I heard, before I saw this, that in a responsible paper of the city rumors were afloat that judges were coming down from the bench and going sometimes into places we thought beneath them, and telling, in advance, what they intended to do. I never believed it; but when I saw it published in print in a paper so respectable I thought it was time some inquiry should be made; and I am quite sure my friends on the other side of the House will agree with me, on reflection, an inquiry should be made.

Mr. PRUYN. When so serious a charge as this is made against any judge of the Supreme Court, or against all the judges as it now stands, I think the gentleman presenting the charge should satisfy himself, after thorough personal inquiry, there was ground for the resolution.

Mr. GARFIELD. This is not a charge.

Mr. SCOFIELD. I suppose the gentleman from New York will have more confidence in the authority I refer to in the resolution than I would.

Mr. PRUYN. I do not know the authority. I never heard of the charge before in any manner, shape, or form.

Mr. SCOFIELD. The preamble states what paper made the allegation. It is a Washington paper.

Mr. PRUYN. It does not matter. One word more. Another objection I have to introducing this resolution in this way is that it casts aspersion upon the whole court. By refusing to point out the individual to whom reference is made the committee itself cannot investigate this matter understandingly, and by direction of the House it goes out as an imputation on the whole court.

Mr. SCOFIELD. So far from casting an aspersion upon the judges or any member of that court, I hope to vindicate them. I have still some hope there is one department of the Government that may differ politically with this House and Senate and still will not be guilty of the charge preferred against them in a journal supposed to be in political sympathy with them.

Mr. PRUYN. Some hope!

Mr. SCOFIELD. Yes, I have some hope.

Mr. PRUYN. Does the gentleman mean to say he expects this report will prove this charge to be untrue?

Mr. SCOFIELD. If the charge is true it is bad enough. I now yield to my colleague, [Mr. BOYER.]

Mr. BOYER. Mr. Speaker, I do not understand any gentleman on this side of the House would have objected to any inquiry if it had been based on anything which appeared to be authentic.

Mr. SCOFIELD. Let me ask my colleague just there if he means to say the Washington newspaper to which I refer in the resolution is not "anything authentic," that it is no authority with him?

Mr. BOYER. I do not refer to any particular newspaper, but I do say a mere newspaper article, I care not in what newspaper it may be contained, is hardly sufficient to be the basis for grave investigation on the part of this House. I presume, if the charge is true, scarcely any member of this House but would admit the declarations alleged to have been made by this judge was indiscreet, and under the circumstances improper and unjustifiable; and if the gentleman had any information of his own knowledge, something more authentic than a mere newspaper assertion to base his resolution upon, I presume nobody on this side of the House, at least, would have thought of interposing objection.

Mr. SCOFIELD. I yield to the gentleman from Maine.

Mr. BLAINE. I desire to state the same charge is repeated this morning in the Baltimore Gazette, and, as gentlemen seem very anxious the whole court should not be reflected on, I will say the Gazette names Stephen J. Field, of California.

Mr. JOHNSON. Will the gentleman now yield?

Mr. SCOFIELD. I will for a moment.

Mr. JOHNSON. I thank the gentleman for his courtesy. I wish to say, if this is a blow at Judge Field, I want the name of that district judge placed in the resolution. I do not want the Judiciary Committee of this House to be turned into a band of scouts and spies, hunting after the judges of the United States courts to see whether they can find sufficient grounds for preferring charges of corruption against them. I desire the name of Judge Field placed in the resolution, because this is the foundation of proceedings in impeachment. If gentlemen on the other side desire to impeach that judge because he is as spotless in character as the robes of the goddess of justice, let them give us a fair proceeding. I am willing the resolution shall be passed if his name is inserted. I am willing he shall come before the bar of the House or be brought before the bar of the Senate to answer any charge.

But, sir, I wish to say further, if he has gone upon the street and denounced the reconstruction bill passed by this House, even in the bitterest terms, characterizing it as unconstitutional and disgraceful to the country, that is no ground for impeachment. It is merely a political question, as gentlemen on the other side of the House have repeatedly asserted. It does not involve the rights of property, but is a mere political question, upon which the judges of the Supreme Court have as much right to express their views, either in the streets or in private conversation, as members of Congress have. Members of Congress have to vote upon those propositions, and is it not customary for them to give their views before the vote is taken? Is that sufficient ground upon which to base a charge of corruption? I contend that it is no ground upon which to bring a charge against a judge of the Supreme Court that he has denounced this measure as unconstitutional, and I believe the court of which he is a member will so decide.

Mr. PHELPS. Will the gentleman from Pennsylvania yield?

Mr. SCOFIELD. Not just now. The gentleman from California thinks I ought to have inserted the name of Judge Field. I took the article from the newspaper as I found it. There is no name there. That paper is a respectable journal, barring its politics, and is edited by a man of ability and character. I take the charge as made in that paper. Now, if the gentleman from California, [Mr. JOHNSON,] who is more in sympathy, I suppose, with that

paper than I am, supposes that Judge Field is the one alluded to by the editor, I will give way to him before calling the previous question to move to insert the name of that judge. [Laughter.] Then we can have a vote of the House as to whether it will become responsible for making a charge against an individual when this paper has not made it. All I am asking in this resolution is simply an investigation which may relieve all the judges of the Supreme Court from this aspersion if they are innocent, or, if any one of them is guilty, fasten the charge upon the proper party. I now yield to the gentleman from Maryland, [Mr. PHELPS,] not for debate, because the House is evidently unwilling to have this discussion run on.

Mr. PHELPS. Mr. Speaker, as has been well said this morning by the gentleman from Illinois, [Mr. MARSHALL,] in speaking on another subject, if one of the results of the late war has been to develop some of the highest virtues, it has at the same time called into play many of the worst traits of human nature. One of the basest of these, in my judgment, has been a system of espionage which has been introduced into almost every department of the Government, the executive and the legislative. Spies and informers are abroad in every State and congressional district in this country. And the Congress of the United States has already condescended, through one of its most important committees, to be the channel or sluice-way for personal gossip and slanders, calculated to defame, degrade, and asperse the private character of the President of the United States.

Mr. SCOFIELD. I shall not yield for the gentleman to make a speech on general politics. He is consuming all the time in maligning, as I understand, the detectives that the President has sent out all over the country to spy out the political character of postmasters and other inferior officers. I wish not to open the door to allow these general charges to be made against this Administration. I will now yield to the gentleman from California if he wishes to offer his amendment.

Mr. PHELPS. I am very much obliged to the gentleman from Pennsylvania for his courtesy.

Mr. SCOFIELD. If the gentleman from California wishes to offer an amendment I yield to him.

Mr. JOHNSON. I have to thank the gentleman for his courtesy.

Mr. SCOFIELD. I have twice yielded to the gentleman for debate. If he will offer that amendment I will yield for it, but if not I will move the previous question.

Mr. JOHNSON. I want only half a minute for explanation. When the gentleman sent up his resolution it was general in its terms and the investigation would have to be general affecting the whole court. The gentleman from Maine, [Mr. BLAINE,] however, stated that an article in another newspaper uses the name of Judge Field as the party alluded to. It was upon that that I founded my remark. I do not want Judge Field's name put in there.

Mr. BLAINE. With the leave of the gentleman from Pennsylvania, [Mr. SCOFIELD,] I desire to interrupt the gentleman from California to say that he stated that if the name were put in he would vote for the resolution, and he made that statement before I repeated what was in the Baltimore paper.

Mr. JOHNSON. I said I would not object to it, and I will not now.

Mr. BLAINE. The gentleman, then, must not base his change of ground on the fact that I made a certain announcement, because he took that position before I had the floor.

Mr. JOHNSON. I have made no change of position.

Mr. SCOFIELD. Everybody now seems to be in favor of the resolution, and, therefore, I call the previous question. [Laughter.]

Mr. MUNGEN. I would like to offer an amendment to the preamble.

Mr. SCOFIELD. I cannot yield for that.

Mr. ELDRIDGE. I ask the gentleman to yield to me for a minute or two?

Mr. SCOFIELD. I think we have had debate enough.

Mr. ELDRIDGE. I hope the gentleman will not undertake to press this resolution through under the previous question. It is a matter of grave importance, and should not be acted upon but with deliberation. It is calculated to cast reproach on the Supreme Court itself as well as the individual judges. I hope that the resolution will not be rushed through in this laughing, frivolous, and seemingly trifling manner. Such action is dishonorable to ourselves; it is undignified, unbecoming, and disgraceful to this House to pass with a laugh, a sneer, and a jeer a resolution which casts an imputation of this kind upon the Supreme Court of the United States. The character of that high tribunal should not thus be trifled with. I hope the gentleman will not press it under the operation of the previous question.

Mr. SCOFIELD. I suppose the gentleman from Wisconsin has said all he wished to say, and I yield now for a moment to the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. I suppose it is proper that I should say a word upon this resolution. I learn from what has been said here that Judge Field is the judge to whom this resolution refers. I have been intimately acquainted with Judge Field during all the years of the rebellion, and I would say, in vindication of his career through our late troubles, that there was no truer man to the Union, none more ardent and more desirous that the rebellion should be suppressed. I do not propose to say anything with reference to his judicial course, one way or the other; nor have I anything to say with reference to the groundwork of this resolution. But I will say that after what has been said in the House this morning, in connection with the newspaper article referred to, this resolution ought to pass, and such an investigation as it proposes should be made. What has transpired here in this matter is a publication to the whole nation, and investigation should be desired by every member of the bench if his character is pure, that it may be rid of even the suspicion of taint of impurity. I therefore favor the resolution, and in my support of it there is no evidence of want of personal friendship for Judge Field. I think it is due to him that it should be adopted for his vindication from the charge implied in the debate this morning.

Mr. SCOFIELD. Allow me to say that neither I nor any gentleman upon this floor that I have noticed has preferred any charge against Judge Field. The charge alleged against him is from a newspaper. I wish the gentleman from Wisconsin [Mr. ELDRIDGE] to know that I am not making the allegation. It is from a paper that, I believe, is in political sympathy with himself that the allegation is taken, and from which I am in hopes by this resolution to vindicate Justice Field or any other member of the Supreme Court to whom that paper refers. If the paper is correct in this statement we ought to know it. If it has made a mistake and thrown out charges or insinuations against a judge of the Supreme Court then the papef ought to know it, and undoubtedly would be willing to take it back.

Mr. ELDRIDGE. Let me say a word in reply. If the honorable gentleman from Pennsylvania, [Mr. SCOFIELD,] upon his responsibility as a member of this House and upon his own knowledge of facts, had preferred charges I might then vote for his resolution; but it is because this resolution is based only upon these irresponsible statements which are so often made in the public newspapers, based only upon mere rumor or conjecture, or invented for the purpose of creating a sensation or making up an item, that I say it is discreditable to this House, I care not what the political sympathies of the paper are. It may sympathize with the gentleman's party or with mine. It is only one of the thousand rumors that constantly find their way into, if not their origin in, the newspapers. At all events, there is no evidence that this statement referred to in the resolution is true, or that it is more likely to be true than they are. It is not entitled to this consideration from this House. It is unworthy of ourselves to act upon such rumors. We have seen here this morning a charge made in a public newspaper against one of our associates upon this floor, which he pronounces to be false, which would disgrace him if it were true; and yet would this House deem it proper or expedient that we should, upon that newspaper statement, proceed to appoint a committee to investigate the charges contained in that article against the gentleman from Illinois, [Mr. MARSHALL,] and take steps to expel him from this body therefor? Why, sir, we should have our hands constantly filled if we were to investigate all the charges made in the public newspapers not only against members of this House, but against all the public officers of the Government.

I say it is unfit, unbecoming our own self-respect that we should act upon such statements as these in so grave and important a matter as the impeachment of the judges of the Supreme Court. There ought to be something more, something more generally reliable and relied upon, to warrant such action. If the honorable gentleman from Pennsylvania [Mr. SCOFIELD] has knowledge sufficient to justify him in making charges let him make them on his own responsibility and not ask us to act upon the idle rumors set afloat by the correspondents of newspapers, which are so often traceable to no responsible party or source.

Mr. SCOFIELD. If I now understand the gentleman from Wisconsin [Mr. ELDRIDGE] he means to say that the paper from which I have extracted this allegation is so insignificant in its character and influence in the country that nothing which it may say is worthy of regard or notice.

Mr. ELDRIDGE. Oh, no; I refer to all newspapers.

Mr. SCOFIELD. I look upon the matter somewhat differently. If it had been a newspaper distant from the capital, although it might have had a very large circulation, I would not have noticed the statement. But these judges sit here; the breath of this court when uttered is the law of the land. This newspaper is published here. The conversations and sayings of these judges are open not only to editors of newspapers, but to reporters for newspapers and to everybody else here.

This charge is made here in the very neighborhood where these judges live. It will go abroad all over the country. To-morrow probably more than one hundred newspapers will have this same item in them. And I wish it to be followed by the announcement that the House of Representatives are taking steps to vindicate the reputation of their judges if they are innocent, and to fix it upon the proper persons if they are guilty. I now call the previous question.

Mr. BAKER. Will the gentleman yield to me for a moment?

Mr. SCOFIELD. I am asked by gentlemen all about me to yield, and I do not think I can yield to all.

Mr. BAKER. I want to say a word.

Mr. SCOFIELD. Very well; say it, then.

Mr. BAKER. I desire to say this, first, if a judge of the Supreme Court, in advance of a case pending before the court, or to come before the court, shall deliberately and expressly declare what his opinion will be upon the question so pending or to be brought before the court, of course, in the opinion of every right-minded person, such conduct would be highly censurable at the least.

I desire to say, secondly, that the moving of a resolution involving an inquiry touching impeachment before the American Congress, draws in question before the nation and before the world the character of the man thus inquired of.

I desire to say, thirdly, that in my opinion a proposition that such an inquest as that now

proposed, drawing in question the standing of a judge of the Supreme Court, should be entered upon without anything in the nature of an affidavit, without anything in the nature of a personal statement that it is true, upon which to base it, is a proposition that may stand at the cross-roads but will not stand in reason. I shall vote against the resolution.

Mr. SCOFIELD. I call for the previous question.

The previous question was seconded; there being—ayes 91, noes 39.

The main question was ordered, which was upon agreeing to the preamble and resolution.

Mr. ROBINSON. I move that the preamble and resolution be laid on the table.

The motion was not agreed to.

Mr. ROSS. I rise to a question of order. One clause of the resolution provides that the committee shall have leave to report at any time. That, as I understand, involves a suspension of the rules.

The SPEAKER. The resolution came in by unanimous consent, which suspended all rules standing in the way of the adoption of the resolution.

The question recurred on agreeing to the preamble and resolution.

Mr. ELDRIDGE and Mr. JOHNSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 57, not voting 34; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Bailey, Baldwin, Banks, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Ferriss, Ferry, Fields, Garfield, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, William Lawrence, Lincoln, Loan, Logan, Lynch, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Morrell, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Plants, Polsley, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Selye, Shanks, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and Windom—97.

NAYS—Messrs. Adams, Archer, Axtell, Baker, Barnes, Beck, Boyer, Cary, Chanler, Eldridge, Eliot, Farnsworth, Getz, Glossbrenner, Golladay, Grover, Haight, Harding, Hawkins, Holman, Hotchkiss, Asahel W. Hubbard, Humphrey, Jenckes, Johnson, Jones, Knott, Laflin, Loughridge, Marshall, McCormick, Moorhead, Morgan, Morrissey, Mungen, Niblack, Nicholson, Phelps, Poland, Pruyn, Randall, Robinson, Ross, Sitgreaves, Smith, Spalding, Stewart, Stone, Taber, Taylor, Lawrence S. Trimble, Van Auken, Van Trump, Elihu B. Washburne, James F. Wilson, Woodbridge, and Woodward—57.

NOT VOTING—Messrs. Ames, James M. Ashley, Barnum, Benton, Bromwell, Brooks, Burr, Butler, Dawes, Dixon, Finney, Fox, Gravely, Griswold, Halsey, Hill, Richard D. Hubbard, Hulburd, Kerr, Ketcham, George V. Lawrence, Mallory, McCullough, Miller, Newcomb, Pike, Pile, Robertson, Shellabarger, Stokes, Thomas, John T. Wilson, Stephen F. Wilson, and Wood—34.

So the preamble and resolution were adopted.

Mr. SCOFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS, of Pennsylvania, reported from the Committee on Appropriations, a bill (H. R. No. 595) making appropriations for the legislative, executive, and judicial expense of the Government for the year ending the 30th of June, 1869; which was read a first and second time, and on motion of Mr. STEVENS, of Pennsylvania, recommitted and ordered to be printed.

PRINTING INTERNAL REVENUE REPORTS.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That there be printed six thousand extra copies of the annual report of the Commissioner of Internal Revenue, two thousand for the use of the House of Representatives, and four thousand for the use of the office of internal revenue.

METERS FOR DISTILLED SPIRITS.

Mr. SCHENCK. I move to take from the Speaker's table, and consider at the present time, the amendment of the Senate to joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits.

The motion was agreed to.

The amendments of the Senate were read as follows:

On page 1, after the word "be" in line three, insert "in connection with the existing commission of the Academy of Science;" so as to read:

That a commission to consist of five persons, to be appointed by the Secretary of the Treasury, is hereby created, whose duty it shall be, in connection with the existing commission of the Academy of Science, to carefully examine all meters, &c.

On the same page, strike out the words "fifteenth of February" in line eighteen, and insert in lieu thereof "first of March."

On page 2, insert after the word "of" in line thirteen, the words "such of."

On page 2, before the word "commissioners," in line thirteen, insert "said."

On page 2, strike out in lines thirteen and fourteen, the words "who may be thereunder appointed" and insert in lieu the words "as are not now officers of the United States or members of the said Academy; so that the section will read:

SEC. 3. *And be it further resolved*, That the Secretary of the Treasury is hereby authorized and directed to pay out of any money in the Treasury not otherwise appropriated the expenses incident to the carrying out of this joint resolution, and also a reasonable compensation for the services of such of the said commissioners as are not now officers of the United States or members of the said Academy.

Mr. SCHENCK. I move that the House concur in the amendments of the Senate. There are but two amendments which can be considered at all material. One proposes to change to the 1st of March the limit of time within which this duty is to be performed. That became necessary on account of the delay in the Senate.

The other is, instead of making a commission of five alone, this commission of five shall act in connection with the two members of the national Academy who have been already investigating this matter. There is some saving of expense, that those in the employ of the Government shall not be paid anything. I move to concur.

The amendments of the Senate were concurred in.

Mr. SCHENCK moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEPARTMENT CLERKS, ETC.

Mr. MUNGEN. I ask unanimous consent to submit the following resolution:

Resolved by the House of Representatives, That the President of the United States be requested to report to this House at his earliest convenience the number and names of the persons employed in the several Departments of the Government at Washington city, District of Columbia, as follows: Departments of State, Treasury, Interior, Post Office, War, and Navy, and also in the Government Printing Office; stating in what capacity they are so employed, the State and congressional district from which they come and to which they are accredited on the appointment-books of the several Departments.

Mr. WASHBURNE, of Illinois. I object. That information is contained in the Blue Book.

Mr. MUNGEN. The gentleman is mistaken. The Blue Book does not state the appointments by congressional districts; and that is what I want.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER stated the first business in order in the morning hour was the consideration of House bill No. 584, concerning the rights of American citizens in foreign States, on which the gentleman from Massachusetts [Mr. BANKS] was entitled to thirty minutes.

Mr. BANKS. Mr. Speaker, the Committee on Foreign Affairs have instructed me to report several amendments to the bill suggested in the debate yesterday.

In the first section, line nine, before the word "principles" insert "foregoing." In line ten, same section, strike out the words 'insisted upon and maintained" and insert "heretofore asserted." In line sixteen, same section, after the word "State" insert "or from any military or naval conscription that shall have been actually ordered by such State." In line twenty-one, same section, after the word "years" insert "and shall fail to make report of his property for taxation as herein provided." So the section will then read:

That all naturalized citizens of the United States while in foreign States shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances. And the President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the foregoing principles of public law which have been heretofore asserted by the Government of the United States in regard to the rights of naturalized citizens: *Provided always*, That no citizen of the United States who is guilty of crime against the laws of any foreign State committed within its jurisdiction; or of desertion from actual service in the army or navy of such State, or from any military or naval conscription that shall have been actually ordered by such State; or who shall have acquired naturalization by misrepresentation or fraud in regard to residence or otherwise; or who by treason or other crime against the United States shall have forfeited, or who shall have renounced, his rights as a citizen; or who shall establish a continuous residence beyond the limits of the United States for a term exceeding five years, and shall fail to make report of his property for taxation as herein provided, shall be entitled to the protection contemplated by this act.

In section three, line six, strike out the words "in the United States;" so it will read as follows:

SEC. 3. *And be it further enacted*, That if any naturalized citizen of the United States shall return to his native country with intent to resume his domicile therein; or if any citizen shall leave the United States with the intention of permanent residence in any foreign State; or shall fail to make annual return of his property for taxation to the assessor of internal revenue for the district of the United States in which said citizen last resided; or shall engage as army or navy belligerent in any foreign war or service, such citizen shall not be entitled to the interposition of the Government in his behalf under the provisions of this act.

The SPEAKER. If there be no objection the bill will be modified as the gentleman has stated.

There was no objection, and it was ordered accordingly.

Mr. BANKS. I now move to recommit the bill.

The Chair has informed me that I have thirty minutes of my time remaining, but I do not propose to trespass further at this time. I yield ten minutes to the gentleman from Minnesota, [Mr. DONNELLY,] and twenty minutes to the gentleman from Pennsylvania, [Mr. WOODWARD.]

Mr. WARD. I ask the chairman to explain what he means by the words "that the President is empowered to employ all the resources of the Government."

Mr. BANKS. That is not a question. It will require a speech to explain.

Mr. WARD. No, sir; I do not propose to make a speech.

Mr. BANKS. I say it will require from me a speech.

Mr. WARD. I simply desire an explanation of the meaning of that portion of the bill. It seems to me it confers very great power upon the President—the power to declare war.

Mr. BANKS. No, sir, it does not; he has never that power.

Mr. JUDD. I desire to propound a question to the chairman of the committee.

Mr. DONNELLY. I have but ten minutes, and I must decline to yield. It is difficult to condense in ten minutes what I desire to say in favor of this bill. The importance of the measure has already been referred to by the chairman of the committee, as demonstrated by the fact that it involves the legal status of three fifths of the entire population of the United States, the status of twenty-one million people indirectly, and indirectly the status of over six million foreign-born citizens of the United States.

Its necessity is demonstrated by the agitation which now prevails in our country and in western Europe upon this subject. It is demonstrated further by the arrests which are almost daily taking place of American citizens in the British islands. In a late instance three Amer-

ican native-born citizens were arrested upon the deck of the vessel which had brought them to British shores.

Some such measure as this, Mr. Speaker, is necessary, not alone to define the rights of American citizens abroad, native born and naturalized, but to arrest and resist the arrogant pretensions of the monarchical Governments of Europe upon this question. There is no doubt that it has always been the disposition of those Governments to treat republican Governments, and especially our own nation, with contempt. And in this connection I desire to quote from the London Times of the date of the 20th of May, 1814, an extract which is significant as demonstrating the real ulterior purposes for which the war of 1812–14 was waged against this country. This was published within three days after the conclusion of peace between France and England:

"The British negotiators will not, we hope, discuss the impudent nonsense called an American doctrine about impressment and native allegiance, but will demand the safe and undivided possession of the great lakes, the abandonment of the Newfoundland fisheries, and the restoration of Louisiana and the usurped Territory of Florida."

The British Government sent out its armies and navy to enforce the doctrines and purposes of which we have here the key-note, and but for the disasters which overtook the British fleet in Lake Champlain from the guns of Commodore McDonough; but for the defeat of the British forces at New Orleans shortly afterward by the heroic Jackson; but for the power which this nation then developed, that doctrine in all its atrocity would have been enforced by the British nation. And, sir, to-day every right we possess and exercise as a republican nation is exercised in the face of the contempt of these monarchical Governments; is possessed and exercised only by virtue of our power as the greatest nation of the earth.

Mr. Speaker, the decision of the question at stake in the late rebellion involved more than the condition of the people of the United States. The destiny of all mankind was wrapped up in that struggle, and the agitation which now pervades western Europe is but the reflex of the mighty results of our own great struggle.

There is, Mr. Speaker, an "irrepressible conflict," not alone between slavery and liberty, but between republicanism and monarchy; and as Mr. Lincoln once said of slavery, that "the contest must continue until this nation shall be all free or all slave," so this contest must go on until the entire civilized world is either all republican or all monarchical—until it is, in the language of the prophecy of Napoleon at St. Helena, either "all republican or all Cossack."

Now, sir, we who maintained a constant crusade against slavery in this land did so because of the inhumanity and injustice involved in that institution. The same impulses must carry us still further, and our sympathy as a party—nay as a people—must be on the side of liberty and against oppression in all the lands of this earth; against inhumanity, injustice, and cruelty everywhere.

There is one feature of this bill which, however, I cannot commend. It is that which has been referred to by the distinguished gentleman from Ohio, [Mr. SPALDING,] in reference to making reprisals upon British subjects as a penalty for the misconduct of the British Government. With all deference to the distinguished committee who have presented this bill, I cannot but think that such a rule would be severe and barbarous. I know of no parallel except that established by the great Napoleon in 1803, when, calling his generals to his council chamber at midnight, he issued orders to seize during that night every Englishman, traveler, merchant, or scientific man, who might be found within the limits of France and cast them into prison—an act of barbarism which disgraced the name of that great man and which contributed not a little to form the public opinion of the world against him. Upon this point I would ask the Clerk to read from the sixth volume of Alison's History of England, page 198, the passage which I have marked.

The Clerk read as follows:

"This declaration of war was immediately followed by an act as unnecessary as it was barbarous, and which contributed more, perhaps, than any other circumstance to produce that strong feeling of animosity against Napoleon which pervaded all classes in England during the remainder of the contest. Two French vessels had been captured, and the First Consul made that a pretense for ordering the arrest of all the English then traveling in France between the ages of eighteen and sixty years. Under this savage decree, unprecedented in the annals of modern warfare, above ten thousand innocent individuals, who had repaired to France in the pursuit of business, science, or amusement under the faith of the law of nations, which never extends hostilities to persons in such circumstances, were at once thrown into prison, from whence great numbers of them were never liberated until the invasion of the allies in 1814."

Mr. DONNELLY. I have only to add that our true remedy for this injustice which is practiced upon our citizens is, as was suggested by the gentleman from Ohio, [Mr. SPALDING,] to declare that such an act shall be "just ground for war." It comes to that. No nation can permit its citizens to be imprisoned in our land without declaring war against us; and it is better to have the war at once, if it must come, rather than to accompany it during all its course by the imprisonment of innocent persons who may not sympathize with their native land in the causes which produced the war.

[Here the hammer fell.]

Mr. WOODWARD. I yield three minutes to the gentleman from New York, [Mr. WARD.]

Mr. WARD. Mr. Speaker, I sympathize fully with the purposes and objects of this bill; and there is no man in this House who will go further than I will in favor of a measure that will accomplish those purposes. But, sir, I find a provision in this bill—

That the President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the principles of public law, &c.

Now, I think that that is vesting a very extraordinary power in the Executive of this country. It is, in fact, conferring upon him, as Commander-in-Chief of the Army and Navy, power to involve us in war at any time with any other Government. It is well known that the leading European nations, and I believe, indeed, all of them, take the position that "once a subject always a subject," and if the President, in dealing with this question, chooses under this power in the bill to commence hostilities, will he not feel that he is protected by this provision in so doing? I think that that provision should be stricken from the bill. It will then be complete enough. It will empower the President to make all necessary investigations and to report the matter to Congress for its decision. I think that that is the condition in which the law should be placed. The executive department should report to Congress the facts, with such recommendations as the President may see proper, and then Congress, as the war-making power of the Government, can declare war, if necessary and proper. Now, sir, unless that provision is stricken from the bill I cannot support it; and I hope those having charge of the measure will give me an opportunity, at the proper time, to move to strike out those words.

Mr. BANKS. I now yield the remainder of my time to the gentleman from Pennsylvania, [Mr. WOODWARD.]

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor for eighteen minutes.

Mr. WOODWARD. Mr. Speaker, first of all I wish to thank the chairman of the Committee on Foreign Affairs [Mr. BANKS] for an opportunity to say a few words upon this subject; and I also thank the committee, not only for the bill which they have brought forward, but for the very satisfactory report with which it is accompanied, and from which I have derived very considerable instruction.

I am in favor of the bill as to its main features, though I shall have an amendment to propose, which I do not mean to press unless the chairman of the Committee on Foreign Affairs shall approve it. All just Governments are founded in the consent of the governed. Out of this principle result allegiance and protection; and, according to English law, that allegiance is perpetual and indefeasible. The courts of England deny the capacity of the subject of the British Government ever to denude himself of his allegiance to the Crown of Great Britain. It attends him wherever he goes and in whatever circumstances he may be placed, and for all time, down at least to the second generation of his descendants. Our courts in this country have generally followed this doctrine of perpetual allegiance because we have had no declaratory statute on the subject of expatriation. The prevalent judicial opinion with us is that a citizen cannot renounce his allegiance to the United States without permission of the Government, to be declared by law. In the absence of such a statute the rule of common law prevails.

Now, sir, the only defect which I see in this bill is that it fails to supply to the judiciary of the United States any rule for their decisions upon this subject. The bill does not in any of its sections provide for the expatriation of the American citizen. I submit to the chairman of the Committee on Foreign Affairs [Mr. BANKS] that when we are asking foreign Governments to make provision in our behalf for the expatriation of their citizens, it is quite indispensable that we should begin by providing for the expatriation of our own citizens. To meet this deficiency in the bill I have drawn up a section by way of amendment, which, however, I will not press unless it has the approbation of the chairman of the committee. I ask the Clerk to read it.

The Clerk read as follows:

SEC. 3. *And be it further enacted*, That whenever any citizen of the United States, whether native-born or naturalized, shall remove his domicile to a foreign country in good faith, and with the intention of becoming a citizen or subject thereof, and shall become naturalized under the laws of said foreign country, he shall be considered as having abjured his allegiance to the Government of the United States, with the consent of the said Government, and all claims of the said Government upon the allegiance of said citizen shall forever cease and determine.

Mr. WOODWARD. My friend from New York [Mr. PRUYN] has just laid before me an amendment which in its purport corresponds with mine, but the phraseology of which I prefer; and if I move either amendment I shall probably move his, unless he should offer it himself.

Mr. BANKS. Will the gentleman allow me to say one word?

Mr. WOODWARD. Certainly.

Mr. BANKS. I will say to the gentleman from Pennsylvania [Mr. WOODWARD] what I said yesterday, that should the Committee on Foreign Affairs adopt the provision he has suggested it will debar any naturalized citizen of the United States up to this date from claiming the protection in foreign States which it is the purpose of this bill to accord to him. It is impossible to legislate upon this subject and give now the right of expatriation to American citizens without by that very act enabling foreign Governments to say to us that up to this date our citizens had no right to expatriate themselves. And, as the gentleman from Pennsylvania has already said, we cannot claim of other nations that which we deny ourselves. In every instance when this subject has been presented Congress has evaded legislation upon this particular point, because the right of expatriation is inherent and intrinsic in the citizen under the Government of the United States.

Mr. WOODWARD. I think the difficulty suggested by the gentleman is imaginary, but if it is not, a proviso saving the rights of all naturalized citizens from the effects of this legislation would obviate the objection. I have been speaking thus far of the judicial department. I say that while the judiciary of the United States have not in terms expressly decided that there is no such thing as the right of the American citizen to expatriate himself, they have by inference and necessary intendment adopted

that conclusion. And that conclusion rests upon the fact that we have no declaratory statute upon the subject. The judicial method of reasoning on this subject is very short and very satisfactory. The common law prevails until displaced by a statute. At common law allegiance is indefeasible and perpetual. The legislative department of our Government having provided no declaratory statute, the judicial conclusion is that indefeasible allegiance attaches to the American citizen.

Now, sir, it is to meet just that condition of the law of this country that I propose my amendment. I agree that, so far as the executive and the legislative departments of the Government are concerned, the doctrine of expatriation has been and is abundantly recognized. Our whole system of naturalization is founded upon this doctrine. Our Declaration of American Independence was the first grand naturalization act adopted by this country. The war of 1812 was a recognition of the same doctrine. Every President of the United States down to our present Chief Executive, who has referred to the subject in his late message, has urged this doctrine upon the attention of the country. I believe the people of the country understand and receive this doctrine. But, sir, the judiciary of the United States do not receive it; and when the judiciary of Great Britain have occasion to deal with this question they rest themselves upon the conclusion of the judicial mind of the United States, and the judicial mind of the United States rests upon the absence of any such legislative provision as that which I propose.

I think, therefore, it would be wise if the friends of this bill would incorporate in it a declaration that the American citizen may expatriate himself. If he chooses to go to Great Britain, or to Germany, or to France, or to any other foreign country, let him go. If it be thought proper that the declaration of his intention to expatriate himself be made in this country, so that we may see that his debts are paid, that all his obligations to the Government are discharged, let him be required to file that declaration of intention with some officer of the Government. I care nothing about the detailed manner in which the expatriation may take place. I am simply maintaining that we can never expect foreign Governments to recognize our doctrine of expatriation as practiced by our executive departments unless we adopt a declaratory statute upon this subject.

Now, sir, this doctrine which our executive department and the people of this country have recognized throughout our whole history is nowhere better stated than in some of those extracts from publicists which the chairman of the Committee on Foreign Affairs has laid before us in his report:

"Where the liberty of removal hath been promiscuously allowed and the subject settles himself and his effects under the protection of a foreign State, the Commonwealth which he left hath no longer any authority over him."—*Puffendorf, B. 8, ch. 11.*

"It is a right inherent in all free people to have the liberty of removal if they think proper. When a person becomes a member of a State he does not thereby renounce the care of himself and his affairs. He may seek the necessaries and conveniences of life elsewhere. The subjects of a State cannot be denied the liberty of settling elsewhere in order to procure those advantages which they do not enjoy in their native country."—*Burlemaqui.*

These are sufficient statements of the general principle upon which this Government, with the exception of the judicial department, has treated the subject of expatriation.

In the case of Respublica *vs.* Chapman, (1 Dallas, 53) Chief Justice McKean, speaking of an exchange of Governments, said:

"All the writers agree that none are subjects of the adopted Government who have not freely assented to it."

In Alesberry *vs.* Hawkins, (9 Dana's Reports, Kentucky court of appeals,) in 1839, expatriation was considered a practical and fundamental American doctrine, and it was declared that in the absence of a statute a citizen may in good faith abjure his country, and that the assent of the Government was to be presumed and he deemed denationalized.

There, sir, is an instance of a judicial opinion taking the ground that in the absence of an enabling statute an American citizen may denationalize himself. But such is not the general current of the judicial opinions of the country.

Mr. Speaker, not only has our Government recognized the right of expatriation but the English Government, and, indeed, all foreign Governments have acted upon the same general principle of law. During our colonial dependency they discouraged emigration; and one of the counts in Mr. Jefferson's indictment of George III was that he has—

"Endeavored to prevent the population of these States; for that purpose obstructing the laws for the naturalization of foreigners, refusing to pass others to encourage immigration hither, and raising the conditions of new appropriations of lands."

These were among the acts that "defined the tyrant."

But, sir, since our independence the English Government has interposed no obstacle to emigration. She might have done so. The judicial writ of *ne exeat regno* and the army and navy were quite competent to keep her subjects at home. But they have not. British ships bring two or three hundred thousand annually to our shores, principally Irish and Germans, some Welsh, Norwegians, and Swedes; but the great contributions to our population have been from Ireland and Germany, until the descendants of these emigrants form more than half of all our population.

Mr. BANKS. Between three hundred and forty and three hundred and fifty thousand last year.

Mr. WOODWARD. And this emigration in all probability will increase.

These emigrants, as shown by the report of the committee, come in the most part in British ships; so the British Government instead of hindering them coming here, encourages them to do so, thus acting upon the principles of public law to which I have alluded; for the Government of Great Britain knows as well as the emigrant does when he comes to this country he comes under our naturalization laws. They know he is to swear he will renounce all allegiance to all foreign princes, potentates, and Powers whatsoever, and especially to "her majesty the queen of Great Britain." They bring them here by thousands to take that oath. They allow them to become citizens of the United States, and when that is accomplished the judiciary of Great Britain fall back upon this doctrine of inalienable allegiance, and cite judicial decisions of the United States in support of their imprisonment and execution of American citizens.

That is the manner in which the British act against this subject of expatriation. We desire to induce them—we cannot compel them—we desire to induce them to recognize the doctrine of expatriation as they have practiced it and as the executive department of our Government has always recognized it. We have no chance to induce them to do so unless we set them the example of expatriating our own citizens.

Lord Stanley declared on a recent occasion that "Ireland was never so prosperous as now, nor was she ever more disaffected." That she never was more disaffected is probably true, but it is not true that she is prosperous. Belfast is the only city in Ireland whose population is as large as it was twenty years ago. My friend from New York [Mr. ROBINSON] will correct me if I am wrong. Ireland has run down from a population of 8,000,000 to 5,764,000, by the census of 1861, and is probably still less to-day than in 1861. There are more Irishmen in America than in Ireland. They would come in throngs if they were not too poor to come. Nothing but poverty detains them at home.

[Here the hammer fell.]

Mr. HIGBY obtained the floor, but yielded for ten minutes to Mr. WILSON, of Iowa.

Mr. WILSON, of Iowa. Mr. Speaker, I have read with interest and profit the elaborate report of the Committee on Foreign Affairs, which accompanied the presentation of this bill to the House. The subject of which it treats is one of great gravity and high public concern. It involves issues of mighty consequence to the Republic and its citizens, and we should be careful not to evade, avoid, or becloud them by our present action. The report and bill confront us not only with a grave question but also with a very delicate one, which, while we treat it with firmness, we must at the same time handle with care. We should neither deceive ourselves as to the nature of the ground upon which we place our action nor mislead those citizens whose demands for a redress of asserted wrongs have commanded the presence of the bill before us. We are not now dealing with a mere question of elections, nor playing a pleasing game for the votes of naturalized citizens. Whoever views the present occasion through such glasses will greatly mistake the magnitude of the proportions of the subject with which we are dealing. The stern fact that we are breasting the current and immemorial doctrine of most of the nations of the earth respecting the right of expatriation should place us on a higher plane of statesmanship than that which consults merely the present and transient effects of its action. We cannot play with this question without assuming risks for ourselves and imposing danger on the nation. The former would be folly, and the latter would be, in a certain sense, a crime. Our steps, therefore, should be taken with caution, deliberation, firmness, and a perfect appreciation of the consequences which attend them. We may not injudiciously rush upon the bosses of the bucklers of other nations without encountering the dangers of war. We may not trifle with the expectations of our naturalized citizens without exciting a restless discontent which may make of them an uncomfortably disturbing element in the internal policies and affairs of the nation. Between these two positive and antagonistic facts we cannot safely play a rôle of dissimulation. We must deal evenhandedly with both, with a perfect understanding that danger lies on either hand. A straight forward dealing with any state of facts which may confront us is statesmanship; a dissimulating manipulation of them is diplomacy. With the latter we have nothing to do, for we are legislators. It is our business to declare what the law and the policy of this nation shall be, and to do it in terms which may mislead no one, whether foreign nation or naturalized citizen.

The great question before us is the right of expatriation. Does the bill which we are considering deal fairly with this question and in a way not calculated to mislead those of our citizens who are most directly interested in its provisions? I am sorry to say that, in my judgment, it does not, and hence it is that I desire to direct the attention of the House to its leading and controlling section.

The first section of the bill provides—

That all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

Thus far the section is direct and positive, and challenges the attention and practice of every nation from which we have drawn the foreign element of our population. It is affirmative, aggressive, and boldly American, and in these regards commands respect and admiration. Let this be declared as the policy of this country, and no one can mistake it. It is a grand assault on the miserable feudal doctrine of non-expatriation. It sounds like the deep swelling tones of a nation whose origin and growth rest upon the right of expatriation. It is the voice of potential America riving the policies which assert the perpetual allegiance of a man to the place of his birth. It breathes the breath of life into that clause of the Constitution which declares that "the Congress shall have power to establish a uniform rule of naturalization." It gives vitality to this constitutional power and elevates our naturalization laws above the level of cheats

and snares. If it stopped here we might reverently worship its directness, boldness, and justness, and welcome it to its appropriate place among the statutes of the nation; but it is destroyed by the next succeeding declaration of the section, which provides that—

The President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the principles of public law which have been insisted upon and maintained by the Government of the United States in regard to the rights of naturalized citizens.

This is a complete negation and demolition of the preceding declaration of the section, and destroys the affirmative and aggressive character of the bill. Pass it in this form and we leave the nation in its present tracks in every respect. It will have no more effect on the doctrine of expatriation than the gentlest wave of the ocean would produce on this continent. It is no more than a tub thrown to the angry and spouting whale to arrest his attention and draw him away from his point of attack. It is diplomacy, not legislation. Enact this section and you do not change the law or the practice of this nation in the remotest degree. It will be a mere declaration that the "principles of public law which have been insisted upon and maintained by the Government of the United States in regard to the rights of naturalized citizens" shall continue as a rule of conduct of this Republic.

This involves the very complaint made and urged by our naturalized citizens upon the attention of the Government, but it does not change the law nor the remedy. It leaves them just where they are now; for this Government has not "insisted upon and maintained" the right of expatriation. If we are to do no more than this we leave the naturalized citizen who may place himself within the jurisdiction of his native country in the same position in which he finds himself now when so circumstanced. We leave to him all of his present risks and assume no new responsibilities ourselves. The pending bill may mislead him; it certainly will not accomplish more than this; and it is to be hoped that he may escape this result. The complications attending the condition of citizenship by naturalization are abundant now, and I pray you not to multiply them by enacting the provisions of the first section of this bill without amendment.

The English doctrine of allegiance is thus stated by Blackstone:

"Natural allegiance is such as is due from all men born within the sovereign dominions immediately upon their birth; for, immediately upon their birth, they are under the protection of the Crown, at a time, too, when (during infancy) they are incapable of protecting themselves. Natural allegiance is, therefore, a debt of gratitude which cannot be forfeited, cancelled, or altered by any change of time, place, or circumstance, nor by anything but the united concurrence of the legislature. An Englishman who removes to France or to China owes the same allegiance to the king of England there as at home, and twenty years hence as well as now; for it is a principle of universal law that the natural-born subject of one prince cannot by any act of his own—no, not by swearing allegiance to another put off or discharge his natural allegiance to the former; for this natural allegiance was intrinsic and primitive and antecedent to the other, and cannot be divested without the concurrent act of that prince to whom it was first due."—*Vol.* I, page 368.

This doctrine is unjust, unreasonable, and at war with the spirit of the present age. But, notwithstanding this is its character, this Government has not "insisted on and maintained" an opposite doctrine. There is not to be found among all of our statutes a single affirmative challenge to this old feudalism of England. The implied negation sought to be drawn from our naturalization laws has no substantial foundation upon which to rest; for England has a system of naturalization, also. Our judicial department of Government has in no case asserted a different rule; and the executive department has not advanced beyond an attempt by negotiation to induce foreign States to consent to the adoption of a new rule of public or international law in this regard. If we turn to American text writers—to Story, Kent, Rawle, and others—we are rewarded by a harvest of the same barren results. Hence, sir, it is not a matter of surprise to me that the English Government should quote against us our own practice and precedents; and hence it is that I object to the first section of this bill. If it be not amended its enactment will not change a shade of the coloring which our action and non-action have given to the great question with which we are dealing. The section as it now stands can have nothing but deceptive fruit, which will turn to bitter ashes on the lips of our naturalized citizens, and I am sure that no member of this House desires to reach so disastrous a result.

I feel confident that the Committee on Foreign Affairs, through whose chairman this bill has been reported, have been actuated by a totally different purpose. They undoubtedly mean to assert in its broadest sense the right of expatriation; and I am assured that they will cheerfully assent to an amendment of the first section, which will eliminate from it every vestige of our past observance of the indefensible feudal doctrine of indefeasible allegiance. Indeed, they have already proposed such a modification of this bill. Those persons who come to our jurisdiction from foreign States and, complying with our laws, acquire citizenship should find the shield of this Republic as firmly held for their defense as it is for those who are born upon our soil; and, sir, I do not doubt that this great and just doctrine is the exact objective point at which the Committee on Foreign Affairs are aiming. The Englishman, Irishman, Frenchman, German, Swede, Dane, Russian, or member of any other nationality who, by naturalization in pursuance of our laws, becomes an American citizen should feel and know, by force of our positive law, that the act of naturalization is equivalent to an American birth; and that wherever he may thereafter go the flag of the Republic envelops him as completely as it does the person of him who first saw the light of heaven in an American home. This is the result which I desire to reach, and I will not willingly assent to anything which stops short of it. It ought to be declared as the American doctrine, and good faith and honor command us to assert it.

The past shortcomings of our Government should nerve us to the high demands of the present occasion. If we have been remiss in the past we should cause the present to compensate the future for the remissness of governmental action. With whatever faults the past conduct of this Government may be charged, let us by our present action make full atonement. It is high time that feudalism were driven from our shores and eliminated from our law, and now is the time to declare it.

Mr. Speaker, I regret that the rules of the House under which we are now acting will not allow me to enter upon a more elaborate discussion of the questions with which this bill treats. An enforcement of my views by a review of the legislative, executive, and judicial departments of this Government would have been agreeable to me, however unprofitable it may have been to the House. I accept the situation and close my remarks with an expression of a hope that our action upon the momentous questions involved in this bill may be such as will result in a thorough reversal of the past action of our Government and in a legislative declaration which cannot be misunderstood by foreign Governments or misinterpreted by that portion of our population who have become citizens by naturalization.

Mr. HIGBY. I now yield to the gentleman from Missouri ten minutes.

Mr. PILE. Mr. Speaker, I had hoped from the length of time that the Committee on Foreign Affairs was engaged in preparing this bill and bringing it before the House that we would have had a well-considered and carefully-prepared measure, setting forth clearly in a declaratory statute the American doctrine of the right of expatriation, and providing adequate remedies for the evils complained of so justly by our naturalized citizens. I am sorry to confess my disappointment. I fear that the bill, as it now stands, will simply—

"Keep the word of promise to our ear,
And break it to our hope."

I fear that, as was eloquently and forcibly stated by the gentleman from Iowa, [Mr. WILSON,] it will be destitute of any practical effect in changing the policy and action of our Government, and will only subject us to the derision and contempt of the Governments of Europe.

I cannot in the brief time allowed me discuss the general principles that I think are involved in this question of the rights of naturalized citizens and the doctrine of expatriation. In fact a discussion of the right of expatriation would hardly be in order, because no such doctrine is contained in the bill except by inference and indirection. I hope the bill will be recommitted to the committee with instructions, or that the previous question will be voted down, so that it may be open to amendment. I agree with what the gentleman from Iowa [Mr. WILSON] has said with regard to the extreme delicacy as well as great importance of this measure. No measure has ever been before this or any other Congress in the history of this country that has been looked for with more solicitation and anxiety than this. As was well said by the chairman of the committee, more than three fifths of the population of this country are interested directly or remotely in the question of expatriation and the rights of naturalized citizens.

We are a nation of immigrants; we or our ancestors have all come from the older countries of Europe, and this question involves the interests of almost every family, every household, and every individual throughout the length and breadth of the land; and I am certain that this anxiety and solicitude will be satisfied with nothing less than a distinct statutory declaration of the right of any citizen of this or any other Government to remove from the territory and renounce his allegiance to the Government where he was born; nor do I think they ought to be satisfied with anything less than this. We cannot ask European Governments to concede this right in the case of their citizens who come to this country and acquire naturalization unless we in explicit terms concede the same right to citizens born in this country. It is not sufficient to say that the Government has practically made this concession by failing to attempt the enforcement of the opposite doctrine. Other Governments have failed for years to enforce the doctrine of perpetual allegiance, because their interest did not demand it; yet when their interest did demand it—as in the case of Prussia in her late war—they have asserted this doctrine and arrested and impressed citizens of this country into their military service. Then, as was clearly stated by the gentleman from Pennsylvania, [Mr. WOODWARD,] we need just such a declaratory statute to guide and control the decisions of our own courts who have been holding to the old feudal doctrine because we have no such statute, notwithstanding the occasional assertion of the right of expatriation by the executive department of the Government.

I think, sir, the time has come for the settlement at once and forever of this whole question. If we set forth explicitly this doctrine of the right of expatriation, and apply it to our own as well as all other countries, and use due efforts and diligence through the proper channel to secure its recognition by the Governments of Europe, we shall soon have this vexed question removed from our diplomatic correspondence and our relations to foreign Governments. This can be done in no other way. The question is squarely before us, and we cannot evade it by any such half-way measure as this bill. If we meet it fully and fairly, and secure its adjustment upon the exalted principle that governments are made for man and not man for the governments—that the rights of the citizen are paramount and governments are only useful when they protect and foster these rights, thus reversing the old dogma of monarchical governments—human-

ity will be indebted to modern progressive American republicanism for the establishment in the practice of all governments of this transcendently important doctrine. If we fail to seize the opportune moment we shall lose an opportunity seldom if ever afforded to any nation in the history of the race.

But the chairman of the committee says the Government of the United States has at no period in its history, by legislative act, declared the right of expatriation; and if to-day we should make any such declaration recognizing the right of expatriation on the part of the people of the United States, it would be interpreted by the Governments of Europe as a declaration that from the date of the act only we recognize the right of expatriation, and that would effectually cut off all the claims of the naturalized citizens of this country up to this day for protection while in foreign States. No such interpretation could be maintained. A declaratory act setting forth what the law is does not invalidate rights acquired under the principle so declared previous to such declaration. A statute changing the law by explicit enactment cannot confer rights anterior to its enactment, but a declaration in statutory form of a legal principle often asserted by the Government through the executive department cannot be held to invalidate rights acquired under the law previous to such declaration. The objection of the honorable gentleman to a declaratory statute was not well taken. It will not hold good either in fact or in law. A declaration of what the principle of public law is, as held by this Government, will not, as I understand it—and I have consulted the authorities as well as men who are better lawyers than myself—work a forfeiture of the rights of naturalized citizens acquired previous to that declaratory statute; and if the bill is pressed to a passage in its present form I desire to offer an amendment upon this point, which I will send to the Clerk to be read. I think it is more specific and direct than the one offered by the gentleman from Pennsylvania, [Mr. WOODWARD.] But I wish to say upon that point that I will cheerfully support any one of the amendments already offered that specifically sets forth the doctrine of the right of expatriation as asserted by this Government with reference to its naturalized citizens, and contains, also, a specific assertion of that doctrine as applied to persons born within the jurisdiction of the United States.

The Clerk read as follows:

Amend by prefixing the following section:

Be it enacted, &c., That it is hereby declared a principle of public law, held and insisted upon by the Government of the United States, that a citizen of any Government has the right to remove from the territory of and renounce his allegiance to the Government under which he was born or may have acquired citizenship. That this right is conceded to persons born within the jurisdiction of the United States, and claimed for and in behalf of all persons born within the jurisdiction of any foreign Government who have acquired or may hereafter acquire citizenship within the United States by naturalization.

Mr. PILE. I only give notice that if the bill is pressed to a passage in its present form I shall endeavor to have the previous question voted down, so that I may offer this amendment or allow the gentleman from Pennsylvania an opportunity to offer his.

I wish to call attention to another provision of the first section of the bill as modified this morning. The effect of this amendment, as I understand it, will be to leave four fifths of the German naturalized citizens of this country subject to arrest and imprisonment if they return to Prussia either on business or pleasure. It excepts from the protection provided for persons owing service in the army or navy of any foreign Government under any ordered conscription. The service in the army or navy of Prussia referred to in that amendment is provided for by law, and any citizen who emigrates from that country before he has served out a legal term as set forth in that law and again returns will, under the provisions of that amendment, be subject to impressment into the service of the Prussian army or navy. I want to know if this House is ready to pass this bill with an amendment that practically takes out of it all beneficial results as regards the most numerous class, and, I may say, as worthy a one as any class of naturalized citizens in this country.

I also desire to call attention to the provision in the third section of the bill that authorizes the President of the United States to arrest and detain in custody citizens of any foreign Government which shall unlawfully arrest or detain any naturalized citizen of this country. I think that it is not only unwise, but barbarous and inhuman, to provide for such a remedy as this. When the citizen of a foreign Government flees that Government, in consequence of persecution and tyranny and oppression, and comes to this land of freedom, this

"Land of the free and home of the brave,"

is he to be subjected to arrest and imprisonment for the illegal and unwarrantable action of the Government from which he has fled?

The SPEAKER. The gentleman's ten minutes have expired, but the gentleman from California [Mr. HIGBY] yields him five minutes longer, when the morning hour will expire.

Mr. PILE. I shall not occupy five minutes. I hold the floor by the courtesy of the gentleman from California. I was proceeding to say that I believe this provision to be not only unwise, but unjust and inhuman. I prefer, sir, that we take the responsibility of declaring war upon that Government, that we suspend commercial relations with that Government, that we blockade its ports, that we do anything rather than impose this injustice and inhumanity upon men who come here to escape the tyranny of other Governments, and who may not have been within our limits a sufficient length of time to become citizens in accordance with the naturalization laws of the land. I think there are abundant remedies within the power of the United States without resorting to such a remedy as this, and that at least we ought to try other remedies before resorting to this one. I desire to give notice of an amendment, that I shall endeavor to offer at the proper time, to that section if the bill is pressed to its passage in its present form, which I will ask the Clerk to read.

The Clerk read as follows:

Amend second section of the bill by striking out all between the words "empowered to," in line ten, and the words "and the," in line thirteen, and insert as follows:

"Suspend wholly or in part commercial relations with such foreign Government, blockade its ports, or, in case no other means of redress can be employed, order the arrest and detention of any of its subjects or citizens who may be found within the jurisdiction of the Government of the United States."

Mr. PILE. If this amendment is adopted it will provide first other methods of redress and only resort to the arrest of innocent parties when no other means can be employed. I regret that this bill could not be made a special order and ample time given for a discussion of all its provisions. I think that there has been no measure before this House that more imperiously demands that full and ample time should be allowed to deliberate calmly, dispassionately, and earnestly upon the subject before voting upon the bill.

I cannot in the time allowed me enter upon a discussion of the general principles involved in this doctrine of the right of expatriation or say much that I intended to say. I yield the remaining three minutes of my time to the gentleman from Pennsylvania, [Mr. MYERS,] only adding that I shall vote for the bill in its present form if I can get nothing better, but earnestly hope the House will vote down the previous question and allow the bill to be amended.

Mr. MYERS. Mr. Speaker, I do not intend in the few minutes kindly yielded to me to discuss the general principles of the bill, but rise merely to state that the criticisms from the gentleman from Iowa [Mr. WILSON] are groundless, as the committee has already amended the bill in the respect to which he alludes. I agree very fully with his propositions, or rather, as it seems to me, he agrees with the committee. It is true, we have not hitherto maintained the doctrines of the bill; they have, however, been constantly asserted, and are now insisted on in the form of law. The gentleman from Missouri [Mr. PILE] is correct in his proposition. It is one I intended to make. The exemption from our protection of those deserting from a conscription "actually ordered" is not broad enough. The laws of Prussia and some other countries may be construed into a standing order of conscription, and we should guard against the inference that emigration from those countries is to be considered desertion. After all, the objections to this measure seem principally in order to protect and enforce it more effectually upon its main provisions—certainly as to its first section. I think the House will be united and enact into law a doctrine which utters the sentiments of the American people.

The SPEAKER. The morning hour has now expired, and this bill goes over until the morning hour of Tuesday next, when the gentleman from California [Mr. HIGBY] will be entitled to the floor upon it for thirty minutes.

CHOCTAW BOUNDARY.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs relative to a survey of the eastern boundary of the Choctaw Indian country, together with an estimate of the same; which was referred to the Committee on Indian Affairs, and ordered to be printed.

CHEROKEE NEUTRAL LANDS IN KANSAS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in reply to a resolution of the House of the 28th instant, relative to the Cherokee neutral lands in Kansas.

Mr. JULIAN. That subject is now before the Committee on Public Lands. I therefore move that this communication be referred to that committee, and that it be printed.

The motion was agreed to.

SALE OF IRON-CLADS.

Mr. PIKE. I ask unanimous consent to take from the Speaker's table for consideration at this time the amendments of the Senate to the joint resolution of the House No. 136, providing for the sale of iron-clads.

No objection was made.

The amendments of the Senate were then read, as follows:

In line three, after the words "iron-clad vessels" insert the words "except those of the Dictator, Kalamazoo, Monadnock, and Passaic classes."

In line ten, after the word "sold" insert the words: "*Provided*, That after such appraisal public notice shall be given that proposals will be received for thirty days for the purchase of said vessels, and that the highest price so proposed, being not less than the appraisal, shall be accepted. And."

In line ten, after the word "*Provided*" insert the word "further."

The joint resolution as proposed to be amended was as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to dispose of such iron-clad vessels, except those of the Dictator, Kalamazoo, Monadnock, and Passaic classes, as in his judgment are not required by the interests of the service, at a price to be determined by appraisal to be made by a board of not less than five naval officers, two of whom shall be engineers, and report shall be made to Congress as fast as said vessels are sold, of the amounts realized from such sales and the parties to whom sold: *Provided*, That after such appraisal public notice shall be given that proposals will be received for thirty days for the purchase of said vessels, and that the highest price so proposed, being not less than the appraisal, shall be accepted: *And provided further*, That the proceeds of all such sales shall be paid into the Treasury of the United States.

Mr. PIKE. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. PIKE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SOUTHERN LAND GRANTS.

The House then resumed the consideration of the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, and Florida, and for other purposes; upon which Mr. KELLEY was entitled to the floor.

Mr. DRIGGS. Will the gentleman from Pennsylvania [Mr. KELLEY] yield to me for five minutes?

Mr. KELLEY. I will do so.

Mr. DRIGGS. I wish merely to call the attention of the House to some remarks that fell from the gentleman from Indiana [Mr. COBURN] yesterday, in reference to certain land grants for railroads, &c., in the upper peninsula of my State. After various reflections upon the policy of granting public lands to aid in the construction of railroads and other improvements, he said, in relation to certain grants made to the State of Michigan—

"I know a remarkable instance in which the company engaged in constructing the Sault Ste. Marie canal, a powerful moneyed corporation, controlling seven hundred and fifty thousand acres of land located in the copper mine region, have been able to withhold that land from settlement and keep it a wilderness."

The gentleman also said that the Portage Lake Ship-Canal Company had taken from the market a large body of lands, which they were withholding from settlement and cultivation.

Now, Mr. Speaker, when the gentleman remarked that the grant for the construction of the Sault Ste. Marie canal had resulted in keeping that country a wilderness, I think he spoke without proper reflection or without a sufficient acquaintance with the facts. Sir, the first steamer that ever disturbed the waters of Lake Superior passed from the lower lake beyond the rapids of the Sault Ste. Marie's river to that lake by means of a railway built for that purpose in 1850, before which time only two or three small schooners constituted the entire fleet of vessels on that immense inland sea. But, insignificant as they were, they were ample for all the demands of trade and commerce carried on before the canal was built. After the completion of this great national work, built, as before stated, at a cost of $1,250,000, emigration commenced flowing into that comparatively unknown region, till now it is a common thing to see seventy or eighty steam and sailing vessels lying at the port of Marquette alone, waiting their turn to load with iron-ore. From this place nearly half a million tons of this valuable national production are shipped annually, and lines of splendid steamers are running regularly to the different ports of this lake from Buffalo, Cleveland, Detroit, Chicago, and Milwaukee.

This is the kind of wilderness this grant has created in northern Michigan—a wilderness of business and energy unparalleled anywhere. Nearly one hundred millions of capital are invested in the production of copper, (which, however, will be ruined without protection,) and yet the gentleman tells the House and the country that this grant—the best in its results ever made by this or any other country—has kept the upper peninsula of Michigan a wilderness. And he tells you that he knows this company has kept the lands out of market and from settlement and cultivation. Now, Mr. Speaker, let me tell the gentleman that he speaks, to say the least of it, very carelessly. The lands never have been kept out of market since the company has had the right to sell them. They have always been anxious to sell, and if the gentleman or any one else wants to purchase any of these lands, and there are any left undisposed of, I am confident he will find the gentlemanly agent, Mr. George Frost, of Detroit, anxious to accommodate him. Did the gentleman not know that this company put up all the remaining unsold lands at auction three years ago and disposed of them to the highest bidder? If he does not I will tell him it is true. I will tell him more; that had it not been for this very grant, and some others less important, Lake Superior region would have been a real wilderness instead of what it is. In 1850 a grant of seven hundred and fifty thousand acres of land was made to aid that enterprise. The gentleman says that that land was selected in the Lake Superior mining region. In this statement the gentleman is also incorrect. Only a small portion of that land was selected in the upper peninsula of Michigan; much the larger portion of it was selected in the lower peninsula.

Mr. Speaker, the upper peninsula now has a population of about forty thousand. Prior to the passage of the act making that grant the population was less than five thousand. Hence the gentleman from Indiana is under a great misapprehension when he says that that land grant has resulted in keeping that country a wilderness. It was a wilderness before the grant was made, and would have been so still but for the grant. The gentleman, I suppose, will acknowledge that I should know something as to the effects of those grants on that country. There are already in that region three towns, each containing about five thousand inhabitants. The people of the upper peninsula are asking to have that portion of Michigan erected into a separate State. This request is in consequence of the rapid increase of population secured by these improvements. I would like to speak at greater length on this subject; but I will not encroach further upon the courtesy of the gentleman from Pennsylvania.

Mr. KELLEY. Mr. Speaker, we now resume the consideration of the bill to declare the forfeiture of certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida. I rise to sustain that bill, and to express at the same time, not only a willingness that it should be amended, but the hope that it will be amended as proposed by the gentleman from Tennessee [Mr. ARNELL] and the gentleman from Missouri, [Mr. PILE.] In other words, I trust that the bill will pass the House, but that the grants made in aid of the Nashville and Decatur road and the Alabama and Tennessee river road will be excepted from its operation.

I believe, sir, that this bill proposes a well-advised measure for promoting the material reconstruction of the South by opening up nearly five million acres of its choicest lands, which are now sequestered and unavailable to the Government or the people of those States or of the country at large. The opponents of the bill find, I think, the best and most concise expression of their views in the language of the gentleman from California, [Mr. AXTELL.] He says:

"This bill is one of confiscation, of pains and penalities, though under the specious plea that these lands are necessary for the freedmen of the South—for the poor loyal men of the South."

Between these views and those which I hold there is a world-wide difference; and I think I can demonstrate that mine are correct.

That gentlemen on the other side of the House should hold the views expressed by the gentleman from California and vote as he proposes to does not surprise me; but that gentlemen on this side of the House should accept and proclaim the same doctrine and vote to keep these fertile lands from use and occupation is to me a matter of profound astonishment.

In whom is the title to these lands? The gentleman calls the bill a bill of "confiscation." Confiscation is the appropriation of private property in punishment of offenses, and no clause of this bill proposes anything of that kind.

The title to this land in question is to-day and now in the United States Government, by forfeiture incurred by the efflux of time, by the lapse of ten years in which the railroads in aid of which it was granted were to be constructed. This was the condition upon which it was granted to the States for the use of certain railroad companies, and it has been forfeited by the failure to comply with this condition. The Government cannot confiscate that which is its own, and no gentleman on this floor can assert the theory that the title to any part of these lands is anywhere else than in the Government. It is, therefore, not a subject for confiscation. The railroad companies to whose use it was conditionally set apart have no right nor shadow of right to a single acre thereof. They must obtain a new grant before they can use any part of it. It is simply so much of the public domain of the country. It is sequestered and useless, because in respect to a conditional grant it was not subjected to the homestead law while the condition might possibly be complied with. So careful has Congress been of these conditional rights that it has refrained from opening these lands to settlement until the full ten years should have passed. And this bill, instead of confiscating property and inflicting pains and penalties, simply proposes to declare a forfeiture which has occurred, and to open the forfeited lands to actual settlers, and delay in its passage will do nothing but prevent the use for corporate, individual, or State advantage of the choicest unseated lands of four of the largest States.

The gentleman from Maine, [Mr. BLAINE,] in assigning the reasons why he would deny freedmen or poor white men of Louisiana, Alabama, Florida, or Mississippi of the advantage of our homestead law, said:

"There is no hope for the growth of cotton and grains down South on the part of the loyal men there unless we furnish them with the magnificent facilities for transportation to market afforded by these very lines of railroad. It is, therefore, a ruinous policy to strip these railroads at this time. The interest of the country demands their speedy completion."

The gentleman speaks as though these companies had organized and been engaged in constructing roads. It is not so. The original grantees did not mean to build roads. The time for building roads through these lands had not come when the grants were made. This magnificent grant was made to corporators who did not expect to construct roads, but meant to hold the grants for seven, eight, or nine years during which the lands would, by the energy and enterprise of others, increase in value immensely, and then to sell them to those who would construct the roads provided for in the act. This remark does not apply to the roads named in the amendments of the gentlemen from Tennessee and Missouri; but as to all the rest it is true.

The grants were made in 1856. The grantees were the leading rebels of the several States, and the grants were obtained when they were preparing to dismember the Union if a Republican President should be elected; and if Frémont had been declared elected the war of 1861 would have been the war of 1857. The shrewd men who then represented the South contrived this arrangement that they, in their corporate capacity, might possess the magnificent heritage to which this bill refers. Five million of the choicest acres in the Gulf States is indeed a broad and goodly heritage. Sir, railroads are not the preëminent need of those States at this time. Their through lines are completed and there is no business to sustain or maintain them. What they need is population and fields made productive by the requited labor of man to give patronage to railroads. In May last I traveled through Alabama, Mississippi, and Louisiana, three of the States named in this bill, always in mail and express trains, and found that two cars were always a superabundance. Two cars made each train, one for white and one for colored passengers, and I think that over four fifths, I might say nine tenths, of the space I traveled, the whole number of passengers, if put into one car, would not have averaged more than one passenger to a seat. What these States want is, I repeat, people—people who will own the land, build homes, and cultivate the fields. The people in those States are in no condition to construct new roads, even were Congress really to renew these forfeited grants.

The contest over this bill is a struggle between rebel land speculators and the loyal people of the South, white and black, who beg

Congress to give them land upon which they may gather their families and build homes under the law and the flag of the country for which they have been ready to die. It is a question again, Mr. Speaker, between labor and capital; and if we pass this bill we will complete the enfranchisement of the laboring people of the South and open broad, fertile, and sunny fields to the laborers of the North. And if we fail to pass it every laboring man in the North will have the right to say to the majority in this House: "You, Republicans, who claim to be the friends of equal rights, in our hour of suffering, when thousands of the most industrious of us are without employment, shut us out from five million acres of fertile land available for homesteads and give it to the wealthiest rebels of the South." If gentlemen feel that they can bear this reproach, honestly, truly, and fairly made against them, let them vote to refuse to apply the southern homestead law to those five million acres.

Mr. BLAINE. Will the gentleman allow me a word of interruption?

Mr. KELLEY. Yes, sir.

Mr. BLAINE. I think they will stand it as long as there are forty-six million acres open for homestead settlement in the same States.

Mr. KELLEY. The gentleman is throwing sand, not dust, in the eyes of the people.

Mr. BLAINE. Not sand, but shot. [Laughter.]

Mr. KELLEY. The gentleman has not traveled in Florida. Lord Bacon had a maxim that "sand has always its roots in clay; and there be no veins of sand in great depth within the earth." But he had not seen Florida; he was as ignorant of its formation as is the gentleman from Maine. The seventeen million acres open to settlement in Florida do not contain a forty-acre homestead of arable land. It is sand, sand, sand, deep as the bottom of the ocean, proving that there is an exception to Bacon's maxim as there is to every general rule. Peninsular Florida is a mere bed of sand washed out by the ocean and left there, and the gentleman, with his hardy eastern energy, could not pluck from forty acres of it enough to maintain his little family. Were he to attempt to live there he would be driven to the semi-barbarous means of support—the rifle and the fishing line.

Mr. MUNGEN. Will the gentleman allow a single question?

Mr. KELLEY. Yes, sir.

Mr. MUNGEN. If the State of Florida be the arid region the gentleman portrays it, was it not very unkind in General Howard to try to persuade some of the freedmen to go and settle there?

Mr. KELLEY. He did not attempt to induce them to settle in that American-Arabian desert. Along the banks of the river, in the neighborhood of St. Augustine, and at Key West, and some few other points, there are small districts of orange and cotton land. Again, in northern Florida there are the piney-woods, unfit for culture, but which northern energy will some day bring into use in building up American commerce; but the great peninsula of Florida, wherein lie the seventeen million acres, the freedom to settle which the gentleman from Maine [Mr. BLAINE] flaunts in the eyes of northern laborers, are incapable of cultivation; and to these General Howard has invited the attention of no settler. When I suggested to Governor Marvin, within a week past, that they resembled the scrub-pine lands of New Jersey and that marl and muck would bring them into use, he said:

"No, there is clay under New Jersey, and the marl and muck find their way to that, and by deep plowing render the soil productive; but in Florida there is no substratum. No well can be dug or made. It must and will, through countless centuries, remain an arid waste."

Sir, that part of Florida is not the place for a workingman to go to, hoping to find a productive homestead. The land-grabbers of Florida knew this in 1856, and took all the arable land of the State under the act to which this bill refers.

Mr. ELIOT. Will the gentleman yield for a moment?

Mr. KELLEY. Yes, sir.

Mr. ELIOT. I was induced to ask my friend to yield for the purpose of saying in this connection a word in reference to these lands, suggested by the remark made yesterday by the gentleman from Michigan, [Mr. BLAIR,] to whose speech I listened with a great deal of pleasure. The same point was also made by the gentleman from Maine, [Mr. BLAINE,] to wit, that there are millions of acres of land which are now open to homestead settlement, and therefore this bill is not needed. Reference was also just now made to it by the gentleman who interrupted my friend to call his attention to the recommendation which came at one time from General Howard. Now, in that connection I want to say that it has been found impossible for the freedmen to obtain the rights which they believed they were entitled to as regards the land in Florida, to which I suppose allusion was made. I have in my hand a letter which was referred to me some little time ago, calling attention to the fact that in 1866 or 1867 more than one hundred entries were made of homesteads at Pilatka, in the State of Florida, in behalf of freedmen, upon lands which belonged, as it was believed, to the Government. Entries were made, proper certificates were taken, and upon application made by the landowners there to the Department here in Washington, orders were sent to the register there to prevent any further entries; the consequence of which was not only that the freedmen were refused permission to avail themselves of the law which we had passed, but those freedmen for whom entries had been made and who were in possession were driven from their lands and are now waiting for the passage of this or some such law to enable them to find homes wherein to plant themselves and their families.

Mr. KELLEY resumed the floor.

Mr. BENJAMIN. Will the gentleman allow me a moment?

Mr. KELLEY. I do not care to give my whole hour away. It is made up of moments.

Mr. BENJAMIN. I only want a moment.

Mr. KELLEY. For a question?

Mr. BENJAMIN. For a remark in connection with what the gentleman from Massachusetts [Mr. ELIOT] has said.

Mr. KELLEY. I shall come to that by and by, I guess, myself. I am ready to yield for a question only.

When interrupted, Mr. Speaker, I was discussing another point, but will recur to the condition of the southern railroads. At the time of my visit to the South the fare for through tickets from Memphis to the Gulf was at the rate of eight cents per mile and way passengers were paying ten and twelve cents per mile. The gentleman from California told us that "railroads were the poor man's roads, the railroad car the poor man's carriage." I agree with him; as a general rule it is so; in all well governed and fully populated countries it is so. But the condition of the South was peculiar; its controlling institution was peculiar; and general laws do not apply to the condition of the southern people. Sir, I find, for instance, in the Public Ledger, of Philadelphia, of yesday, which is not a sensational paper, not one given to radicalism, this announcement:

"The wages of farm labor are not extravagant in the South at the present time. At Petersburg, Virginia, the highest rate of wages does not exceed eight dollars per month, while in South Carolina it ranges from five to six dollars. Any number of laborers may be had at these prices, and they are glad to accept the offer."

I ask whether laborers receiving the munificent reward of five dollars a month can travel much in "the poor man's carriage" at the rate of ten or twelve cents a mile? No, sir; railroad cars have not been and are not the poor man's carriages in the South. They are aristocratic institutions for the privileged classes. But if you will open these lands to settlement, if you will convert each forty acres into a farm, owned and occupied by a freeman and his family, you will so improve the condition of the poor men of the South that they may travel and give such business to existing railroads as will enable their managers to bring the rates of fare within the means of the mass of the people.

But, Mr. Speaker, let me show how these lands will be used if granted anew—not if not taken from, but if granted anew—to these speculative corporators? I ask the Clerk to read the resolutions of a convention of the planters of Louisiana recently held at Cheneyville, in that State. They show exactly how the poor men of the South are to be enabled to enjoy the poor man's carriage—the railroad car. I ask the special attention of gentlemen to those resolutions, which I find in the New Orleans Tribune, and to remark that they have the sanction of the Christian church of Louisiana.

The Clerk read as follows:

Resolutions adopted at the great convention of planters at Cheneyville.

The following preamble and resolutions were reported by the committee, Messrs. R. L. Tanner, E. Bennett, T. P. Frith, G. B. Marshall, W. M. Ewell, J. H. Marsh, and Andrew Jackson, and unanimously adopted by the meeting:

Whereas practical experience has taught us that it is imperatively necessary to change the systems promiscuously adopted heretofore in the hiring of labor for planting, and to act upon some uniform rule; whereas heavy wages, light crops, reduced prices of our productions, enhanced value of supplies for planting purposes, and onerous taxation, have exhausted our available funds and impaired our credit; and whereas we find it impracticable to manage and control the labor of freedmen in such manner as to make the employment of them profitable or remunerative: Therefore,

1. *Be it resolved*, That we deprecate the plan by some adopted of hiring laborers by giving them any share whatever in the crops, and that we will not do it.

2. *Resolved*, That we disapprove also of the system of paying them their full monthly dues (when hired by the month) at the end of each month, and that as the employers are compelled to wait until the crops are gathered and sold for the fruits and rewards of their year's toil, expense, and risk, we believe the laborer should be required to do the same. We think a small advance for clothing, medicines, &c., all that can reasonably be demanded or safely made.

3. *Resolved*, That the price of labor should and must be regulated by the value of the staple production; that, as cotton is depreciated in value, the price of labor must be correspondingly reduced.

4. *Resolved*, That we will employ no laborer for any planting purposes after the expiration of this year nor for the coming year who does not exhibit a certificate of good conduct from his former employer, showing that he had complied with his contract of hire, &c., and that where laborers merit such a certificate we pledge ourselves to give it unasked.

5. *Resolved*, That as many of the freedmen have organized themselves in political clubs, and by their general demeanor on the plantation and at the ballot-box discover a manifest opposition to the peace of society and the quiet enjoyment of our rights of property, advocating the confiscation of our lands while they are employed by us, we will not henceforth hire such as we know to have been guilty of such inimical conduct nor rent them our lands on any terms.

6. *Resolved*, That we will equally refrain from renting them to white persons who will hire such persons, our object being to offer a reward to such freedmen as are well disposed to the good order of society, and to purge the county of such as by their conduct exhibit a hostile purpose to our interest and seem bent on engendering strife among us.

7. *Resolved*, That we view the organization of the colored population in political clubs as being entirely inimical to our interests, peace, and agricultural prosperity, inasmuch as it calls the laborers from the discharge of their duties, incites insubordination to the reasonable and necessary authority of employers, thus causing the crops to be neglected, while expenses continue to run.

8. *Resolved*, That as the present labor of the country cannot be relied on for prosperous agricultural purposes, and consequently can promise no development of wealth, we are in favor of encouraging foreign emigration by all the means at our command. That we will lease husbandmen our lands for a period of ——— years at very moderate rates, and that the sober, honest laboring classes of Europe be, and they are hereby, invited to come and occupy them.

9. *Resolved*, That this invitation be advertised in two daily papers in New Orleans, two in Philadelphia, and two in New York city for a period of two months.

Resolved, That the editors of the Louisiana Democrat and the Marksville Villager be, and they are hereby, requested to publish these proceedings.

Resolved, That this convention be adjourned to Monday, 18th of the present month; and that it be convened on that day in this place.

Resolved, That the thanks of the convention be

tendered to the minister of the Christian church in Cheneyville for his kindness in permitting us to deliberate in it.

MONTFORT WELLS, *President.*
WM. H. WINN, *Vice President.*

ADOLPH LAFARGUE, } *Secretaries.*
W. W. WHITTINGTON, }

Mr. KELLEY. Mr. Speaker, I find that while I agree with all the principles enunciated by the gentleman from California [Mr. AXTELL] I fail to agree with him in their application. He said:

"There are too many western men on this floor to be told that eighty or one hundred and sixty acres of land in an unbroken wilderness without roads is any home for the poor."

I bring that remark to the attention of the gentleman from Maine, [Mr. BLAINE.] These forty million acres there in Alabama and Mississippi are an unbroken wilderness, without settlements or roads. They surely are not in a condition to be reached or occupied by people whose sole reward for their labor is "a small advance for clothing, medicine," &c.

The forty million acres of land, except the wide field of sand of which I have spoken, are away from water courses, distant from settlements, and where no man would find a home or a market for his productions, and where no school or church could be erected for want of population. All the habitable lands in Alabama, Mississippi, Louisiana, and Florida—which are near centers of population or border on navigable water-courses—were covered by the grants of 1856, which have been forfeited by the undisputed default of the grantees.

If, therefore, we wish to give the poor whites and the freedmen of the South homes which the gentleman from California [Mr. AXTELL] would recognize as homes, we must bring them to these lands. Such as may not be occupied under the homestead law can be regranted when loyal men, under the new constitutions of those States, shall represent them in Congress. And if, in the meanwhile, they have been made populous, and by the labor of actual settlers been made to blossom and bloom like a garden, if villages and towns have sprung up on them, who will say they will not be more valuable to railroad companies than they will be five years hence, if during that time Congress shall have withheld them from occupation and settlement, by the landless people of the South or the enterprising laborer of the North who may seek a farm in that fertile and beautiful region.

The gentleman from Michigan [Mr. BLAIR] surprised me no little by treating the possession of a homestead as a thing of small value, and asserting that no man in this country who was worthy to have land need be poor for the want of it. Sir, men laboring for five dollars a month cannot save much with which to buy even cheap lands or to stock and prepare a new homestead. Many of the railroad corporations of the South, within three months past, have simultaneously reduced the wages of all their colored laborers and added a large percentage to the wages of their white employés. In North Carolina and in other States, on the same day, there was made a reduction of the poor wages with which the toil of the colored men was requited, and an increase of the wages of all the white men in their employ. It is not the purpose of the old oligarchy of the South to allow colored citizens to acquire land, for they know that he who in a country like ours cannot acquire lands is but half a freeman, and must labor at the mercy of his employer. The rights of every laborer in the country are involved to some extent in the fate of this bill.

The gentleman from Michigan [Mr. BLAIR] says that the freedman must be taught to take care of himself, to look out for his family. Sir, did you ever hear of a boy learning to swim who was carefully kept away from the water? We receive the poor and ignorant, and often thriftless emigrant, from every land, and throw upon him the responsibility of caring for himself and his family; but by our homestead law we put under him land upon which he may stand the proudest of all landlords, an American landowner, with a title to his land derived from the Government of the United States.

If, sir, we will give to the poor whites of the South, whose condition, certainly that of millions of them, is as deplorable as that of the freedmen, and to the freedmen the same inspiring and sustaining privilege, we will find that, being allowed to go to the water, they will soon learn to swim. The way to teach them to take care of their families is to enable them to do it. Their seeming lack of ability to take care of themselves in the past was produced by oppression. The Government of the United States, as administered by the Democratic party, has oppressed and depressed them, and crushed out every hope and aspiration that rose within them.

It is for the Republican party to reverse that policy. Let us undo this worst feature of the legislation of a Democratic Congress in 1856, and see how instantly and grandly the freedmen and poor whites of the South will prove that under free institutions, with a free church, a free system of public schools, and lands for the landless, even the poor colored man and long oppressed sand-hiller will disclose the noblest attributes of humanity, and become exemplars to the oppressors of the Old World, and convince them that by withholding liberty and oppressing labor they enfeeble their Government and destroy their people.

Said the gentleman from Michigan [Mr. BLAIR] in opposition to this bill:

"There is this unfortunate condition of freedmen in question, but the freedman must make it his first duty to take care of himself. That is the great object of all our legislation, to remove his bonds and to make him free, and to give him the opportunity and the means to take care of himself."

While we withhold land from or let it be withheld from him we fail to remove the freedman's bonds and make him free.

He who owns a farm can take care of himself. But he whose wages may be regulated by conventions of planters, who has not a foot of real estate that he may call his own and who has no hope of getting any, is asked to take care of himself under very hard conditions prescribed by his professed friends—conditions that are crushing millions of the so-called superior race in every country of Europe, and ought not to be imposed on any in a land whose boast is that all its people are free and politically equal.

But, sir, my time draws to a close; and I have promised to yield a portion of it, if possible, to another. I come back to consider very hastily the provisions of the bill before us. It takes no acre of land from any human being or any artificial or corporate being. The companies in whose behalf this grant was made to the several States have not begun their work. During the last seven years they have made no demonstration of good faith or of a desire to execute the purpose for which the grant was made. There is not adequate business to maintain the roads, if they were built; nor would there be if they could be created by magic between this and the setting of the sun. Those companies profess to hope to induce emigration to the South to create that business. They cannot do it unless Congress will adopt the policy proposed by this bill and give the laborer a chance for independence. Will laborers from Europe or the East go to the South to bring up their children in the midst of an impoverished, degraded, and ignorant laboring population?

Will the free laborer of the North go to the South to have his wages regulated by conventions of planters or other employés in the several States—to labor where there is an agreement from one end of the State to the other that the laborer who has once made an engagement shall not receive employment from any other unless he produces a recommendation from his former employer? No, sir; the only way to induce immigration into that country is to offer to the people of the world the same advantages in the Gulf States that they enjoy in the Lake States—free homesteads on fertile land, near to settlements, water-courses, and artificial lines of transit. The lands in question offer all these conditions. And there is no other way in which we can offer these advantages in the States of Alabama, Mississippi, Louisiana, and Florida, than by opening the land covered by these grants to actual settlement under the southern homestead law. If we do this, in three years that country may be fit for the investment of capital and labor in the construction of railroads. And if we fail in this the curses of the laboring people of the world will light upon us, and we will hereafter reproach ourselves and be reproached by posterity with having enriched those who, having sought to murder our Government, are now ready to murder our friends who go to dwell among them. For the grants of 1856 were made to those who plotted the rebellion and are now resisting reconstruction; generosity to such men is a crime against the nation.

Mr. Speaker, I yield the remainder of my time to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. The bill under consideration is one of such vital importance that I am unwilling to let this occasion pass without saying a few words in its favor. It affects interests, both individual and national, to an extent rarely equaled by any one measure in Congress. I am not surprised, therefore, to find that it has given rise to a somewhat protracted debate; but it has met with a resistance and opposition beyond my expectation. To understand properly the scope and purpose of the bill it is necessary to go back a few years in our history.

By acts of Congress of May 17, June 3, and August 11, 1856, provision was made for grants of lands owned by the national Government to the States of Florida, Alabama, Louisiana, and Mississippi to aid in the construction of railroads in those States. (11 Statutes-at-Large, 16, 17, 18, 31.)

By two acts of March 3, 1857, provision is made for granting lands for other railroads in Alabama. (11 Statutes-at-Large, 194–200.) All these acts contain a provision that—

"If any of said roads is not completed within ten years no further sales shall be made, and the lands unsold shall revert to the United States."

These railroads are owned by stockholders most of whom engaged in the rebellion, and the roads so far as completed were employed in the effort to destroy the Government, whose subsidy they had so liberally shared. They are now owned and managed by men hostile to any system of reconstruction which will not proscribe loyal citizens and restore to and retain in power and place the men who rebelled against the national authority. The immense power and patronage of the companies owning these roads is wielded to give office, position, and employment to rebels, to the general exclusion of loyal citizens.

The owners and managers of these roads having engaged in the rebellion, most of the roads are not completed. The ten years limited in the acts of Congress referred to have expired, and five million acres of unsold lands have, by the express terms of these laws, reverted to the United States. That these millions of acres have thus reverted is not denied by any gentleman either as matter of fact or of law.

The grants were made to the States, and now there is no lawful State government in any of these States either to ask or receive a release of the forfeiture or a new grant of the lands. The railroad companies to which the lands were granted by the States are asking us to revive the grants; but the convention now in session in Alabama charged with the duty of organizing a lawful civil government, by a vote of 56 to 23, voted down a proposition to ask Congress to revive these grants, and they thereby asked us to open up these lands to homestead entry and settlement.

In the late rebel States there are four millions of freedmen, nearly all of whom are land-

less and homeless, as poor almost as when born into the world, rich in nothing save only in loyalty to the Republic, in the heritage of freedom, and, as a general rule, in love to God and man. A large proportion of the white population of these States, and especially that portion of it loyal to the nation, is equally landless and destitute. Through privation and peril many of them stood by the flag, and they now implore us to open up to them homes where by honest industry they may find the means of subsistence.

An act of Congress, approved June 21, 1866, authorizes every head of a family or person of twenty-one years of age, or any person having served in the Army or Navy, to enter, occupy, and receive a patent for eighty acres of the public lands, without pay, in the States of Alabama, Mississippi, Louisiana, and Florida. (United States Laws, p. 67.)

And now, Mr. Speaker, with these facts before us, and in this condition of things, the bill we are now considering declares, first—

"That all the public lands in the States of Alabama, Mississippi, Louisiana, and Florida, which were granted to said States in the year 1856 to aid them in the construction of railroads therein, and which have not been lawfully disposed of by the United States, said grants, having now expired by limitation, are hereby declared forfeited to the United States;"

And, second, That said lands so reverting, about five million acres—

"Shall henceforward be subject to homestead entry and settlement under the act of Congress approved June 21, 1866, for the disposal of the public lands for homestead actual settlement in said States precisely as are other public lands therein under said act,"

Mr. Speaker, I need not discuss at any considerable length the question whether these lands have reverted to the United States. A reference to the laws in connection with the undisputed fact of the failure to complete the railroads is all that is necessary.

And now, sir, the legal and moral right of the nation to the absolute ownership and entire control of these undisposed of lands is perfect and beyond dispute.

That they are to be disposed of in some form by national authority is agreed on all hands, and I suppose only three modes are contemplated. The lands may be either made subject to homestead entry and settlement or by reviving the original grant they may be restored to the States or railroad companies, or they may be made subject to private entry and sale at the price fixed by law.

The time was when the sale of the public lands was looked to as a source of revenue. To some extent this policy yet prevails, though it has been interfered with by grants in aid of railroads, by issuing State agricultural college scrip, and by the wise, humane, and just policy of our homestead laws. But the Committee on Public Lands propose soon to report a bill which, if passed into a law, will withdraw from sale all the public lands and leave them open to entry without cost to actual settlers under the homestead laws. This will prevent the further monopoly by private persons of the public domain. It will secure free homesteads to every citizen coming within the law. It will arrest that monopoly which enables the capitalist to realize large prices and heavy profits from actual settlers—a system by which he taxes their industry for years, and diverts the products of their labor from the improvement of homesteads, to enhance accumulated wealth. It will encourage the settlement of the public lands and remove honest laborers from the position of dependent employés or lessees to that of independent farmers, secure in the possession and happiness of homes.

It will give new employment to architects, artisans, and mechanics, and make new demands for every product of industry. It will add to the resources of the country and bring upon the tax-list new wealth, increasing our revenues a hundred fold more than the paltry revenues arising from the sales of lands. It will relieve labor of unjust exactions. It will encourage and multiply marriages by giving homes to the energetic young men of the land. It will increase our population, add to their social and material comforts, give strength and durability to the nation, contentment, happiness, and virtue, in every form, to the people. It will abandon a policy which is robbery, as every system is which denies "to the children of men" the right to occupy and live upon the virgin soil. We are told, upon high authority, that—

"The heaven, even the heavens, are the Lord's; but the earth hath he given to the children of men."—*Psalms*, chapter 115, v. 16.

But, whether such a bill as that to which I have referred shall be enacted into a law or not, the lands covered by expired railroad grants will never again be opened for sale by the nation. They will either be granted to existing or newly created railroad companies or be made subject to homestead entries or be disposed of for both these purposes.

If compelled to choose between these modes I cannot hesitate as to what is duty, expediency, or right. The homestead policy is one founded on the immutable laws of justice, and is productive of incalculable benefits to the whole people, to morality, and to the nation. It needs no eulogy, no defense. Nations may have the physical power to deprive their citizens of the privilege of locating homes on the unoccupied and uncultivated public domain, but I deny the moral right to do so.

When the Almighty gave life to His children He gave them the inherent right to possess enough of unoccupied earth to secure the means of preserving it. When He ordained that man should earn his bread by the sweat of his brow He enacted that nations should not exclude the "children of men" from that privilege. The nation that does so robs God's poor of a heritage He created for them.

But independently of the question of absolute right, of duty, which is the first and highest consideration, the interest of the nation and of all our citizens demands of us to open these lands to homestead entry and settlement.

A large proportion of the people of the South, white and black, are landless, homeless, poor, with no means of living but their strong arms; and in their present condition they are incapable of contributing to the public Treasury or of aiding public or private enterprises of any character. They must either be secured in homes or doomed to the condition of dependent laborers or of lessees, giving their sweat and toil to landlords, who may be humane or exacting, as their inclination or interest may dictate.

Sir, I have none of that narrow prejudice which sometimes prevails against those who "provide for their own households." It is a duty by honest industry to acquire the means of being useful. And it is because I would place it within the power of all men to do this that I favor this bill. I would open up to the honest and industrious poor of the South not merely the opportunity to labor or become lessees, but also the privilege to acquire homes. The great curse of the South has been the unequal distribution of wealth, and especially the monopoly of lands, in the hands of a few, to the exclusion of the many. If the public lands of the southern States remain open to sale or are granted to railroad companies they will continue to be monopolized by the wealthy few. Six million people, white and black, and their posterity, will be doomed to eternal servitude and poverty.

The fate of Ireland and her struggling and downtrodden people will be written all over our own southern States. If we adopt this policy we may expect to witness in the future more than a Fenian revolt, for justice will not sleep in quiet repose while wrong and outrage are abroad among the millions. The only road to prosperity and peace is in universal justice.

The gentleman from Indiana [Mr. JULIAN] during this debate presented to the House a letter from an intelligent and reliable gentleman in the South who describes the difficulties under which the poor men of that region are now laboring. He says:

"It is the northern capitalist as well as the southern planter that the poor freedman has to contend against now. Under the present contract system he is in a worse condition, in many instances, than when in slavery. He gets fifteen dollars a month and one ration of five pounds of pork and one peck of meal per week. The planter sells him the food for his family, and at the end of the year the freedman is in debt. And I assure you it is not only the rebel planter that does this but also the pretended Republican that comes here and rents the plantation. Working under the auspices of the Bureau of Refugees, Freedmen, and Abandoned Lands, (but without pay,) I have spent a year's time and about three thousand dollars in efforts to get freedmen upon homesteads. I am free to say that the greatest and most effective opposition that I have met with has been in part from professed Union men and those interested, directly or indirectly, in the plantation interests, politicians," &c.

One of the departments in the recent Paris Exposition was allotted

"For the exhibition of whatever was intended to illustrate the present status of the laboring classes of the different countries represented."

Among the deliberate conclusions arrived at by collating the evidence thus procured are, that

"The productiveness of labor increases everywhere in the exact measure of the amelioration of the circumstances of the laborers. Property is attained everywhere by the same means. For some years capital and labor have entered into more and more intimate relations, and the result is a prosperity resting on the surest foundation, namely, the perfect harmony of the two agents that bring it about. The evidence before us establishes in the clearest manner the truth that the pecuniary success of an industrial enterprise is in the exact ratio of the participation of the working people in its profits. The more the latter are interested in the profits of his labor the greater is the relative production and gain."

If this be true in the relation of employer and employé, of landlord and tenant, it is equally true, and has greater force, in its application to productive industry when the laborer tills his own soil and reaps all the rewards of his own industry.

Adopt the policy of this bill and our land will be blessed with a population of whom it may be truly said—

"Industrious habits in each bosom reign,
And industry begets a love of gain."

And every citizen secure in the enjoyment of a home will learn

"To venerate himself as man."

Our policy should be to take care of the interests of labor and of men.

"Ill fares the land, to hastening ills a prey,
Where wealth accumulates and men decay;
Princes and lords may flourish or may fade;
A breath can make them, as a breath has made;
But [the laboring men,] their country's pride,
When once destroyed, can never be supplied."

It was because I favored the interests of the laborer, and would elevate and honor him, that I advocated the wisdom of the "eight hour law," and voted for a bill to establish it.

But the gentleman from Tennessee [Mr. ARNELL] has caused to be read a statement of the Commissioner of the General Land Office that on the 30th of June last the

"Public land remaining undisposed of and subject to homestead entry in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida was as follows, namely: in Alabama, 6,915,000 acres; Mississippi, 4,930,000 acres; Louisiana, 6,582,000 acres; Arkansas, 11,757,000 acres; and Florida, 17,540,000 acres. There are no public lands of the United States in Texas."

The inference he would have us draw from this is that there is now an abundance of public lands subject to homestead entry to meet all demands, and that it is not therefore necessary to open up any more.

Sir, it seems to me, the answer to this is both plain and conclusive.

The well-informed chairman of the Committee on Public Lands [Mr. JULIAN] tells us that nearly all of the public domain in these States now subject to homestead entry is either barren mountains or so inaccessible to settlements as to be undesirable for present occupancy. The lands covered by these railroad grants are generally of a superior quality in the vicinity of streams, and in every way desirable for homesteads.

The gentleman from Indiana [Mr. JULIAN] has caused to be read a statement relative to the grant to the New Orleans, Opelousas, and Great Western railroad and the lands in Louisiana, which says:

"Of the three million acres of Government lands in this State about nine hundred thousand acres are held by this grant, and I think I can safely say that there are not one hundred thousand acres of Government land fit for cultivation outside of this grant."

And this, sir, is, as I learn from the chairman of the Committee on Public Lands, substantially true of the other States.

The amount of lands subject to entry, according to the statement of the Commissioner of the General Land Office, which has been read, is less than forty-eight million acres. The homestead act of June 21, 1866, gives a homestead of eighty acres. A million of men in the South now need homesteads, requiring eighty million acres. This proves that these railroad grants are necessary to satisfy the demand.

The great West, of whose Representatives I have the honor to be one, is interested in having this demand satisfied. It will secure homes to the loyal freedmen who otherwise will be driven to emigrate to the North and take up their abodes there. Our interest is to have them engage in producing cotton and sugar and rice in the South to increase our export trade to foreign countries, and make a demand for the agricultural products of the West and for all the products of the people of the North. If settled on homesteads of their own they will produce more and demand more of our western and northern products than if employed only as laborers or lessees.

Mr. Speaker, I can conceive of no reason for withholding these lands from homestead entries unless the nation is under some legal or moral obligation to revive the railroad grants, or unless the public interest requires this at our hands.

I think it has been sufficiently shown that no one of these reasons exists; but if it be true that there is an abundance of lands in these States, as it is alleged by some, then out of that abundance let the railroads receive grants, if it shall be deemed proper to make or revive them in their favor. As between railroads and homesteads, it is my deliberate judgment that actual settlers are entitled to the greater favor. Where settlers go railroads will go. Make homesteads and homesteads will make railroads. Let the landless poor be first supplied with homesteads, and then we can consider the claims of railroad companies.

I have no hostility to railroads, even though the late rebel States shall share their benefits. It would be a narrow and an unwise policy to withhold benefits simply because they may be participated in by those who were rebels. I would withhold nothing that would secure the good of all men. But before we revive land grants we may well inquire whether they should not be in favor of corporations organized and controlled by loyal men. We may well inquire whether it is wise to vote away millions of acres of lands to be held for high prices and to tax the labor and energies of purchasers for a generation to come. And whatever may be our decision, if I ever vote for any land grant to aid in the construction of a railroad, it will only be on condition that the company receiving it shall be required to sell agricultural lands to actual settlers at a fixed price so low as to bring them within the reach of all.

Mr. Speaker, we are told that northern capitalists are interested in some of these southern railroad companies as owners of stock or as holders of bonds. If this be so we have no evidence that their investments will not be profitable. However this may be, their investments were made with a knowledge of the law and their rights accrued subject to the fortunes of war. They are not the only men who have suffered by similar calamities. Let us take care of those who are unable either to own stocks or bonds, and in due time the wilderness will be made to blossom as the rose. The five million acres of lands which this bill will open to homestead entries will make more than sixty thousand homes and bring happiness to three hundred thousand people.

Mr. ELDRIDGE obtained the floor.

Mr. BENJAMIN. I ask the gentleman from Wisconsin [Mr. ELDRIDGE] to yield to me a short time, that I may briefly reply to some remarks of the gentleman from Pennsylvania [Mr. KELLEY] and the gentleman from Massachusetts, [Mr. ELIOT.]

Mr. ELDRIDGE. I will yield to the gentleman five minutes.

Mr. BENJAMIN. Mr. Speaker, I have not been able to convince myself that it is my duty to support this bill. I have not been able to satisfy myself that it is either necessary or expedient that it should be passed; but I arose for the purpose merely of correcting an error into which I think the gentleman from Pennsylvania [Mr. KELLEY] and the gentleman from Massachusetts [Mr. ELIOT] have fallen in regard to the character of the public lands in the South which are open to homestead settlement. Gentlemen who have advocated the passage of this bill have, in almost every instance, based their support of it on the ground that it is necessary to open to homestead settlement the lands embraced in these grants, as the public lands of the South are inferior in quality and not suited to purposes of tillage. Now, I wish to remind gentlemen that in the case of every land grant to which this bill has reference there was reserved by the Government a quantity of land equal to that granted. It will not do to say those lands are not equal in every respect to the lands embraced in these grants. They lie side by side with them; they are alternate sections, and are equal in every respect to those you seek to have revert to the Government under the provisions of this bill.

By an act we passed here in 1866 we threw those alternate sections open to settlement, and they are there to-day open to settlement. Every freedman, the head of a family, can settle upon them as upon other public lands. And it will not do to say these lands are necessary for that purpose when there is an equal amount of lands in every respect equal to them in quality open to homestead settlement.

Mr. PAINE. Will the gentleman yield for a question?

Mr. BENJAMIN. Certainly.

Mr. PAINE. Is it not true that every single acre of these reserved sections is held at $2 50 per acre, even though the settlers desired to settle upon them as homesteads?

Mr. BENJAMIN. It is true these reserved sections are held subject to private entry at $2 50 per acre, but your homestead law provides that homestead settlements may be made on them; that is, that each head of a family may take eighty acres of them under the provisions of the homestead law.

Mr. PAINE. Do I understand the gentleman to say the people of the South can enter upon those reserved sections for a homestead without paying $2 50 per acre for them?

Mr. BENJAMIN. I say that every head of a family can locate upon eighty acres under the provisions of the homestead law.

Mr. PAINE. I will not, of course, consume the time of the gentleman to explain this now, but I hope to have an opportunity hereafter to show the gentleman is entirely mistaken on that point.

Mr. BENJAMIN. If the gentleman will consult the law, I think he will find I am correct in the statement I make, that every section reserved under the provisions of these grants has been thrown open to homestead settlement, and every head of a family desiring to locate a homestead settlement, is entitled to eighty acres lying side by side with those granted for railroad purposes.

Mr. ELDRIDGE. Mr. Speaker, in regard to my taking the floor at this time, I will say it was expected that the gentleman from Indiana [Mr. KERR] should speak next, but as he is confined to his house by illness, and as my name came next, I suppose for that reason the floor has been assigned to me. But I do not desire to occupy the floor this evening, and take it for the purpose of following the practice that has prevailed to a great extent in this House by gentlemen who are privileged to get the floor at any time, that is, "to farm" it out among my loyal friends. And I yield first for ten minutes to my loyal friend from Illinois, [Mr. BURR.] [Laughter.]

Mr. BURR. Mr. Speaker, I am happy to have one gentleman vouch for my loyalty, and if the voucher should himself be of questionable character for loyalty in the estimation of any member of the House I hope that will not be charged to me. [Laughter.]

Now, sir, whatever may be our opinions in regard to land grants as an original proposition, we are committed to it by law of Congress. In 1856 grants were made to the four designated States of Alabama, Mississippi, Louisiana, and Florida, for the purpose of aiding in the construction of railroads. I shall speak with more freedom on this subject, for the reason that the State of Illinois, which I have the honor in part to represent, has experienced the results of a munificent grant for similar purposes, made in 1849 or 1850, which grant has resulted in opening up to market and bringing into successful cultivation some of the most fertile parts of that State, thereby enhancing the value of property in the State as well as aiding in the payment of taxes for the maintenance of the Union.

Gentlemen assume in the argument of this question it is a grant to a company or to companies for the aggrandizement of individuals and the upbuilding of financial corporations to the detriment of the people; but, sir, if the recitals of the bill before us are correct, such are not the facts existing, and such were not the purposes of the grant. It was made, not to individuals nor companies, but to States.

What are the provisions of the bill? The first section provides:

That all the public lands in the States of Alabama, Mississippi, Louisiana, and Florida, which were granted to said States in the year 1856 to aid them in the construction of railroads therein, and which have not been lawfully disposed of by the United States, said grants having now expired by limitation, are hereby declared forfeited to the United States.

It was, then, a grant to the several States enumerated, and not to any company existing within the borders of any or all of them. Now, sir, whatever may be our views or wishes in the direction of punishing any class of people for attempted revolution or rebellion, let us remember that these grants were based upon a principle which was designed to develop the the resources of the nation, in whatever direction these resources might be found. I hold that to-day it is as much the duty of this Congress to develop the resources of the State of Alabama as of the State of Massachusetts. It is not for the benefit of an individual or set of men, but of the nation at large, that these grants were made.

But, sir, it is said that these grants have already, by limitation of time, reverted to the United States. If that be so why pass this act providing that these lands shall be withdrawn and shall vest again in the General Government? If lapse of time has divested these States of title, why by special act attempt to take it away from them? Let the courts determine whether by failure of the terms of the original grant a forfeiture has been wrought and the titles to those lands reverted to the General Government.

But, again, a day or two ago we were discussing the provisions of a bill which proposed to forbid the various Departments of the Government from adjudicating cases where claims were presented from certain States for injuries received during the war, and members from the border States particularly appealed to the House not to pass that bill, for the reason, as they alleged, that, while you might punish a few rebels, many Union men would suffer by the provisions of that bill. Is not that true,

sir, in regard to the bill now pending? You propose to divest these States of title to land granted by the act of 1856 for a specific purpose. Let me ask gentlemen who hold that the States of Alabama, Mississippi, Louisiana, and Florida are out of the Union this question: do you expect these States to be restored to their proper relations to the Union until they are what you are pleased to term loyal in their reorganization? And if loyal in their reorganization, are they any longer in that condition of disunion? Are they not reconstructed loyal States, entitled to enjoy the same privileges and benefits that have been extended by special legislation during this very session to the States of Iowa, Wisconsin, Minnesota, and others, which have asked relief of this same kind? But if, on the other hand, they are not to become loyal States at all, and are not now States of the Union, and the lapse of time has divested them of the existing title, why the necessity of passing any bill at all?

But, sir, I place these States—for they are such—upon the same footing precisely as other States which have been asking an extension of these grants. Grants were made to Iowa for the same purpose, to Wisconsin with a like view, and to Minnesota for the same object, and the lapse of time had carried by the period within which, by contemplation of the original act, these roads were to have been in successful operation. When these northwestern States came here and said that by reason of the war they had been prevented from accumulating sufficient capital to construct their roads, and asked an extension of time, I have invariably responded to that appeal by voting to grant their request. I propose to regulate my action as a Representative here by the same principle in reference to these southern States. I hold that I am not voting for the benefit of any rebel corporation or any other rebels, but for the benefit of the Union people of the South, for the freedmen of the South, for the interest of the whole nation, for the development of the wealth of the nation, by developing the resources of the South, which can only be done by increasing their facilities and bringing their products nearer to market.

Sir, let me refer again briefly to the case of Illinois. It was suggested a few days ago by the "Father of the House," as he is designated from his long term of service in days gone by, [Mr. WASHBURNE,] a man whom I honor, respect, and revere, that the grant made to the State of Illinois was a curse to that State. I deny it. I wish to suggest that when that grant was made some of the richest portions of the State of Illinois were comparatively a wilderness, without settlements, without affording homes to the laboring classes, but wild, uncultivated plains. The result of that grant has been to develop the resources of the State and make Illinois hardly second to any State in the Union for its productive resources and for the actual products which it is bringing daily into the markets of the country.

[Here the hammer fell.]

Mr. ELDRIDGE. I will allow the gentleman five minutes more.

Mr. BURR. It was said a moment ago by the gentleman from Pennsylvania, [Mr. KELLEY,] in his argument in support of the provisions of this bill, that if you will constitute settlements railroads will follow. Is it not equally true that if you will establish railroads and build them up settlements will follow the line of those roads; and in this connection let me remark that gentlemen seem to me to be begging the question by assuming as a fact that these railroad grants are coming in collision with or rather in competition with the policy of Congress, which is the true policy of granting lands to actual settlers.

Sir, if you will show me that we have in our public domain but one million acres of land, and that citizens of the United States require that million acres to constitute domiciles, and that all the combined railroad interests of the land require it for their advancement, I will say give it to the citizens in preference to the corporations. But when the statistics show, when the report of the members of this Committee on Public Lands shows, that we have eight times as much of the public domain remaining in these four States unoccupied and undisturbed as has been by the act of 1865 vested in these various States—when it is true that the public domain there is not occupied by actual settlers, that the virgin soil remains unbroken, the wilderness uncultivated—then I say that gentlemen are attempting to beg the question when they say that the claims of railroad corporations are coming in conflict with the rights of actual settlers. Let the settlers take advantage of the law as it now exists and occupy the broad acres in the South and in the West; let them make the most of the advantages which are to-day extended to them; and whenever they shall say themselves or by their representatives that the land is exhausted, the public domain under cultivation, we lack homes, I will vote those men homes, be they black or white, native or foreign born, so long as the homestead law in its present form remains in force. Until that time shall come, sir, let us develop the resources of the South as well as of the North, of the West as well as of the East, and let us bring to the support of the tax-payers of the country increased wealth and increased ability from that great region of our country which to-day seems to be under a ban so far as legislation is concerned.

Mr. ELDRIDGE resumed the floor.

Mr. PAINE. Will my colleague yield to me for a moment?

Mr. ELDRIDGE. Certainly.

Mr. PAINE. I asked the gentleman from Missouri [Mr. BENJAMIN] whether it was not true that though this land was nominally open to settlement as homesteads—that is to say, the even-numbered sections in the southern States in cases covered by these railroad land grants—they were nevertheless kept closed from such entry and settlement by instructions from the General Land Office. The information which I had received was to that effect. I was perfectly aware that by the provision of the law those lands would be open to settlement as homesteads. But I had been informed that under instructions and regulations issued by the Commissioner of the General Land Office they were not opened to homestead settlement. I have since been informed that upon that point I was mistaken, and therefore desire to make this correction.

Mr. ELDRIDGE. I had noted the error in that respect into which my colleague had fallen, and had prepared myself to correct it. As he has made the correction himself there is no necessity for me to do so now.

Mr. BINGHAM. Will the gentleman from Wisconsin now yield to me?

Mr. ELDRIDGE. I will yield to the gentleman from Ohio for the purpose which I understand he has in view, of moving that the House adjourn, although I do not quite consider that during this last Congress he comes within the description of the gentlemen to whom I intended to yield—my loyal friends. [Laughter.]

Mr. BINGHAM. I move that the House adjourn.

Mr. JULIAN. Before the question is taken upon that motion I desire to give notice to the House that on to-morrow at four o'clock p. m. I propose to call the previous question on this bill and pending amendments.

Mr. HOLMAN. Will the gentleman from Ohio [Mr. BINGHAM] withdraw his motion to adjourn for a moment?

Mr. BINGHAM. Certainly.

MARY A. DAVIS.

Mr. HOLMAN, by unanimous consent, introduced a bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the eighteenth regiment of Indiana volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SOUTHERN LAND GRANTS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a supplemental report of the Quartermaster General, relative to lands granted by Congress to aid railroads in Mississippi, Alabama, Louisiana, and Arkansas; which was referred to the Committee on Public Lands, and ordered to be printed.

ENGINEER CONTRACTS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with the act of April 21, 1808, a list of contracts made by officers of the engineer department during the year 1867; which was laid upon the table, and ordered to be printed.

LEAVE OF ABSENCE.

The SPEAKER also asked and obtained leave of absence for Mr. HILL and Mr. McCARTHY.

ENROLLED JOINT RESOLUTIONS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 136) providing for the sale of iron-clads; and

Joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits.

THREE MONTHS' EXTRA PAY.

Mr. MYERS, by unanimous consent, introduced a bill (H. R. No. 597) supplementary to an act approved March 3, 1865, and a supplemental act, approved July 13, 1866, extending the grant of three months' extra pay to all volunteer officers below the rank of brigadier, who were mustered into the service of the United States before April 26, 1865, and honorably mustered out thereafter; which was read a first and second time, and, together with the petition of Colonel Jacob M. Davis and forty other officers of Pennsylvania regiments for the passage of a bill of like character, was referred to the Committee on Military Affairs.

EEL RIVER, CALIFORNIA.

Mr. HIGBY, by unanimous consent, presented resolutions of the Legislature of the State of California, asking an appropriation for the survey of the mouth of Eel river, California; which was referred to the Committee on Appropriations, and ordered to be printed.

FIRE-EXTINGUISHER.

Mr. STEWART. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the Secretary of the Navy be directed to inform the House whether he has caused any investigations to be made of the value of a "portable self-acting fire-extinguisher," submitted for inspection and test by the United States Fire-Extinguishing Company, and to communicate the results of such investigations, together with a copy of the report of Captain Balch and Chief Engineer Shock on the subject of said fire-extinguishers.

Mr. SPALDING. I object.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. DODGE, by unanimous consent, presented resolutions of the board of supervisors of Polk county, Iowa, in reference to the rights of American citizens abroad; which were referred to the Committee on Foreign Affairs.

And then, on motion of Mr. BINGHAM, (at four o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COOK: A memorial of Jearem Atkins, for an extension of patent on rakes to grain-harvesters.

By Mr. HOTCHKISS: The petition and resolution of the mayor, aldermen, and common

council of the city of New Haven, asking that protection be guarantied to citizens in any foreign country.

By Mr. KNOTT: The petition of certain citizens of Freestone county, Texas, praying for the establishment of a post route from Cotton Gin, Freestone county, to Owensville, Robinson county, Texas.

By Mr. MARVIN: A memorial of Ira Brockett and others, citizens of the town of Galway, Saratoga county, New York, praying for the passage of an act granting a pension to Hannah Fitzgerald, widow of Thomas Fitzgerald, late private company K, one hundred and thirty-first New York volunteers.

By Mr. MORRELL: The petition of 202 citizens, residing within the seventeenth congressional district of Pennsylvania, praying for such legislation as will define the status of the naturalized citizens of the Republic in foreign countries.

Also, resolutions of mass meetings of citizens of Dudley, Huntingdon county, Pennsylvania, asking the immediate action of Congress on the rights of American citizens abroad, and condemning the imprisonment of our citizens by the British Government, &c.

Also, the petition of 38 citizens of McVeytown, Mifflin county, Pennsylvania, praying Congress to pass a law requiring the prepayment of postage on all printed matter as a means of increasing the revenue of the Post Office Department.

By Mr. ORTH: The petition and papers of John Doffin, of Indiana, for payment of property taken by the United States during the late war.

By Mr. SCHENCK: The petition of Mahlon Wright, and 42 others, citizens of Warren county, Ohio, praying Congress to investigate the atrocities at the hands of the United States troops upon the Indians, and to provide for their relief and better protection.

Also, a memorial of William H. Squires, late lieutenent colonel twenty-sixth Ohio volunteer infantry, praying for the allowance of a year's pension prior to the time when his present pension commenced.

By Mr. THOMAS: The petition of 149 citizens of Alleghany county, Maryland, asking Congress to define the status of naturalized citizens of the United States.

By Mr. VAN WYCK: A memorial of William J. Clowes, claiming that by the Constitution Congress has exclusive control over all subjects connected with excise.

By Mr. WILLIAMS, of Indiana: A memorial for relief of William Greene.

IN SENATE.

FRIDAY, *January* 31, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating a report from the Commissioner of Indian Affairs relative to the survey of the eastern boundary of the Choctaw Indian country, together with an estimate of appropriations required for such survey; also, a report from the Indian Bureau, dated 29th June, 1867, on the same subject; which were referred to the Committee on Indian Affairs.

He also presented a report of the Secretary of War, communicating, in obedience to law, a list of the contracts made by the officers of the corps of engineers and others on engineer duty during the year 1867; which was ordered to lie on the table.

He also laid before the Senate a letter from the Secretary of the Interior, communicating a copy of a letter addressed to Hon. THADDEUS STEVENS, chairman of the Committee on Appropriations of the House of Representatives, relative to a claim of the Choctaw nation of Indians; which was referred to the Committee on Indian Affairs.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 136) providing for the sale of iron-clads, and the enrolled joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits; and they were signed by the President *pro tempore*.

THE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* presented the following resolutions of the Legislature of the State of Ohio, which were read:

[H. J. R. No. 1.]

Relating to withdrawing the assent of the State of Ohio from the proposed fourteenth constitutional amendment.

Rescinding resolution passed January 11, A. D. 1867, relative to amending the Constitution of the United States, and withdrawing the assent of the State of Ohio to the proposed fourteenth constitutional amendment.

Whereas on the 11th day of January, A. D. 1867, the following joint resolution was adopted by the General Assembly of the State of Ohio, to wit:

"Whereas the General Assembly has received official notification of the passage by both Houses of the Thirty-Ninth Congress of the United States, at its first session, of the following proposition to amend the Constitution of the United States, by a constitutional majority of two thirds thereof, in the words following, to wit:"

[The words of the fourteenth constitutional amendment are recited at length.]

"Whereas three fourths of the Legislatures of the States comprising the United States are required to give assent to the said proposed amendment to the Constitution of the United States before it becomes a part thereof: Therefore,

"*Resolved by the General Assembly of the State of Ohio*, That we hereby ratify, on behalf of the State of Ohio, the above-recited proposed amendment to the Constitution of the United States.

"*Resolved*, That certified copies of the foregoing preamble and resolution be forwarded by the Governor of Ohio to the President of the United States, to the Presiding Officer of the United States Senate, and the Speaker of the United States House of Representatives."

And whereas no amendment to the Constitution of the United States is valid until duly ratified by three fourths of all the States composing the United States, and until such ratification is completed, any State has a right to withdraw her assent to any proposed amendment;

And whereas several distinct propositions are combined in the same proposed amendment, several of which are already fully provided for in the Constitution of the United States, and to which no person or party objects: Therefore,

Be it resolved by the General Assembly of the State of Ohio, That the above-recited resolution be, and the same is hereby, rescinded, and the ratification on behalf of the State of Ohio of the above-recited proposed amendment to the Constitution of the United States is hereby withdrawn and refused.

Resolved, That copies of the foregoing preamble and resolution, certified to by the Speaker of the House of Representatives and the President of the Senate, be forwarded to the President of the United States, to each of our Senators and Representatives in Congress, and to each of the Governors of the respective States.

Resolved, That the President of the United States be respectfully requested to cause to be forwarded to the Governor of Ohio any and all papers on file in the executive department at Washington, certifying the ratification by the General Assembly of Ohio of said proposed constitutional amendment, and that the Presiding Officer of the United States Senate and the Speaker of the United States House of Representatives be requested to return to the same officer any certificate that may have been filed with them, or either of them, on the subject of said ratification.

JOHN F. FOLLETT,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

January 15, A. D. 1868.

Mr. SHERMAN. Mr. President, I cannot allow these resolutions to be entered upon the Journal of the Senate without making some remarks upon them. They do not speak the voice of the people of Ohio. Of that I am entirely convinced. The people of Ohio, a little more than one year ago, passed on the amendment of the Constitution of the United States proposed by the Thirty-Ninth Congress, and adopted it by a popular majority of about forty-three thousand, electing fifteen Republican members to Congress out of nineteen. In the canvass there was a unanimity of sentiment in regard to the constitutional amendment that scarcely ever occurs on a political question. The people of Ohio have never reconsidered that judgment. The resolutions now read are the voice of a partisan majority in the General Assembly of Ohio, elected by a minority of the people of Ohio, on an issue totally different and disconnected from the constitutional amendment. Their proceeding is in violation of the expressed wish of the people of Ohio, who do not desire to rescind their assent to the amendment. These resolutions may not be a usurpation of authority, perhaps, but they are contrary to the only vote ever cast in Ohio when the subject was discussed or considered.

Mr. President, you and I know that the Legislative Assembly now sitting in Ohio was elected upon a collateral issue, upon an issue, however, that was presented by the Republican party, and only affecting our State constitution. There was no question presented affecting the national Constitution, and no substantial difference of opinion exists among the great mass of the people of Ohio in regard to the merits of the constitutional amendment proposed by the Thirty-Ninth Congress. Each of the clauses of that amendment has been separately considered, and would now be voted for, I believe, by a very large majority of the people of Ohio. The idea that the Legislative Assembly elected last fall would ever tamper with or withdraw the assent of the people of Ohio to that amendment did not enter into the mind of our people, and was not stated by any one as an issue in that whole canvass. I know, sir, and you who canvassed the State know, that it was conceded on all hands that the constitutional amendment had passed beyond the consideration of the people, had been approved and sanctioned by all or nearly all the loyal States, and the whole issue on both sides was conducted upon the collateral question as to the amendment of the constitution of the State of Ohio.

After the reconstruction acts of the last session of Congress had been adopted the Legislature of Ohio felt that they ought to place the constitution of Ohio in harmony with the general reconstruction acts, and they therefore submitted to the people of Ohio an amendment to their State constitution by which they proposed to strike out the word "white" from the State constitution and allow all male citizens of the proper age, native and naturalized, to vote in that State. Unfortunately, the General Assembly connected with that proposition a provision affecting disfranchised deserters and other classes of the people of Ohio. These two propositions were together in the same amendment, and were thus submitted to the people. The following was the proposition:

A resolution relative to an amendment of the Constitution providing for the extension of the elective franchise:

Resolved, By the General Assembly of the State of Ohio, three fifths of the members elected to each House agreeing thereto, that it be, and is hereby, proposed to the electors of this State to vote at the next annual October election upon the approval or rejection of the following amendment as a substitute for the first section of the fifth article of the constitution of this State, to wit: Every male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward in which he resides such time as may be provided by law, except such persons as have borne arms in support of any insurrection or rebellion against the Government of the United States, or have fled from their places of residence to avoid being drafted into the military service thereof, or have deserted the military or naval service of said Government in time of war, and have not subsequently been honorably discharged from the same, shall have the qualifications of an elector, and be entitled to vote at all elections.

ED. A. PARROTT,
Speaker of the House of Representatives.
ANDREW G. BURNEY,
President of the Senate.

Passed April 6, 1867.

The canvass that followed was earnest and active. The Republican party maintained the affirmative of the proposition. We took the ground openly and boldly that we ought not in fairness to require the people of the southern States to adopt negro suffrage without ourselves setting the example. The State Republican convention, which met in the summer, passed resolutions approving the State consti-

tutional amendment, and the leading organs of the Republican party advocated its adoption. It was voted for by two hundred and seventeen thousand voters of Ohio, a larger vote than was ever cast for a similar proposition. You, sir, and I, and all engaged in public life in Ohio, anticipated some defection when we presented this rugged issue to the people of Ohio. Many anticipated defeat; but I regard it as an honorable and manly act that the party to which we belong were willing in a great principle like this to run the risk of defeat. I do not regret that we took the issue broadly as it was presented in favor of equal and impartial suffrage to all men, without respect to color or condition.

But, sir, this proposition was voted down. It was an unpopular issue. It was an issue upon which all the prejudices of the people could be rallied against us. Our political adversaries eagerly seized upon that clause of the proposed amendment which disfranchised deserters, and connected with it the fact that a large number of the soldiers of Ohio, after having served gallantly to the end of the war, believing the duration of their term of service to be out, had gone home, and though technically deserters, were not really deserters, and thus created the impression in the public mind that this clause of the constitutional amendment would disfranchise a great mass of patriotic citizens. With this issue they went before the people of Ohio, and by a minority of the votes cast elected a majority of the Legislative Assembly. For, sir, it must be remembered that though largely defeated on the amendment, yet the Republican party, stronger in the confidence of the people than they were in the issue they presented, elected General Hayes and the entire State ticket, and the members of the Legislative Assembly sending us these resolutions were themselves elected by the minority of the people of Ohio. The existing legislative apportionment gave them this advantage. And when they undertake to speak for the people of Ohio on a matter not involved in their election I challenge their right to do so. They now by their election may exercise all legislative authority in Ohio, but they do not and cannot speak for the majority of the people of Ohio on this question.

The State constitutional amendment was voted down by a majority of over forty thousand. From that judgment we can only appeal to our constituents at some future period when the great principle of impartial suffrage will not be weighed down by disfranchising clauses, when, as we hope, a sense of justice will enable all men to share equally in political rights. Sir, you and I did all we could to secure a different result. I did hope that Ohio would maintain her lead in maintaining Republican principles, and regret that all others of our party did not agree with us. Still justice to them demands that I vindicate them from intentionally causing the result of their act in the adoption of these resolutions. They voted against the amendment to our State constitution; they were thus made to vote against the amendment to the national Constitution. And it must be remembered that other objections were made during the canvass to the then adoption of the State amendment. By the constitution of the State that instrument would necessarily be revised in 1871. It was urged that it would be much wiser to postpone this question until that time; that the question was thrust in at an inopportune time, when there was no necessity for it, the number of the people to be affected by it not being very large, and their rights not being in jeopardy. Many persons objected to the manner in which it was presented, to the time in which it was presented, and also to its connection with the proposition to disfranchise a portion of our white citizens.

For these reasons, as well as from the prejudice of race, it was voted down; but no man, either Democrat or Republican, dreamed that the Legislative Assembly elected under this issue would seize the political power intrusted to them for the time being to recall the assent of Ohio to the constitutional amendment proposed by Congress. It never entered into the canvass; and, sir, I am willing now to take an appeal from the partisan majority of the General Assembly of Ohio, elected as I say by a minority of our people, to the people of Ohio. I am willing to try this question over again; and the time for so doing will be opportune when, at the next election, the people of Ohio will, in common with the whole country, be called upon finally to decide whether the rebel States shall have increased political power, to be wielded wholly by those who have waged a desperate warfare against the nation, and to the utter exclusion and eventual servitude or extermination of the loyal men in those States, both white and black. Our adversaries again present this issue by these resolutions, and I cheerfully accept it in the name not only of the two hundred and seventeen thousand voters for impartial suffrage in Ohio, but in the name of thousands of others who are utterly opposed to rebel rule in this country.

And, sir, while I am up allow me to correct a misapprehension so often stated, that the election in Ohio was caused by opposition to the reconstruction acts of Congress. So far as I know these were almost universally approved by the Republican party in Ohio. That issue was avoided by our political adversaries. They preferred one on which they could arouse the old prejudices of race, and for the first time mourned the fate of the brave soldiers whom they said we disfranchised to enfranchise negroes. The necessity of reorganizing society in the South upon a loyal basis was evaded. They have succeeded in postponing for years an act of justice to a few thousand voters and loyal citizens of Ohio. We will see whether they will succeed as well in traveling backward on the vital questions involved in the fourteenth amendment to the Constitution of the United States. Their action will rally again the party that during the war overthrew the rebellion, abolished slavery, and placed the nation, at home and abroad, on the highest plane among the nations of the earth. We have recently had in Ohio a cheering indication of public sentiment, and, sir, we will show in the future as well as in the past our ability to secure the loyal people of this country, white and black, from the restoration of an overthrown rebellion.

Mr. President, these resolutions were not only adopted in defiance of the public sentiment of the people of Ohio, but they were adopted by a party caucus and were rushed through without debate. I hold in my hand and desire to present to this body the remonstrance of the Republican Senators of Ohio against these resolutions and the manner in which they were forced through the Legislative Assembly. A similar protest was presented by the members of the House. I will ask them to go with the resolutions to the Committee on the Judiciary, and I take an appeal to the people of Ohio with entire confidence that in due time they will repudiate this unauthorized and uncalled-for action of her Legislative Assembly. The protest is as follows:

"*Protest of Union Senators.*

"Mr. Griswold, of Lorain, in behalf of the Republican members of the Senate, presented the following protest in relation to the rescinding of the resolutions ratifying the fourteenth amendment of the Constitution of the United States:

"PROTEST.

"The undersigned, Union Senators of the State of Ohio, desire to record their protest against the unprecedented course pursued by the majority of this body during yesterday's proceedings upon the occasion of rescinding the resolutions by which the General Assembly of Ohio ratified the fourteenth amendment to the Constitutions of the United States for the following reasons:

"1. The necessity and justice of the proposed amendment. Its provisions are so manifestly right and fair, and of such vital importance to the future welfare of our common country, that they believe no good argument can be offered against its incorporation into the Constitution of the United States.

"2. It was fully canvassed throughout the State previous to the election of 1866 and received the hearty indorsement of the people. The largest majority save one ever given at a congressional election in Ohio fully attests the will of the voters of the Commonwealth upon this important proposition; and that decision remains unreversed and in full force.

"3. The manner in which this measure was forced through the Senate under the operation of the 'previous question' seems to them extraordinary and objectionable. They believe the previous question is universally acknowledged to be the *dernier resort* in parliamentary practice for the sole purpose of closing a protracted debate. It is never resorted to in the Senate of the United States, never has been by the Senate of Ohio during the service of the oldest member now in this body, and its use can only be justified in large bodies where there is no other way of ending discussion. The use of it made on yesterday to prevent debate entirely they believe to be without a precedent. This action is liable to still more serious objection from the fact that the minority asked only a few hours' delay, which was refused.

"4. Finally, when they consider the transcendent solemnity and importance of those acts of the General Assembly which relate to changes in the fundamental laws and contrast them with ordinary legislation, which is always subject to amendment or repeal, they the more earnestly deprecate the hasty and arbitrary disposition of this question and feel that they owe it to their dignity as men and Senators and to the constituents they represent to record this, their earnest protest."

This protest is signed by all the Republican members of the Senate of Ohio, and I ask that it go with the resolutions of the Legislature.

The present Legislative Assembly of Ohio ask us to return the papers formerly sent to us. That is impossible, I suppose; but the matter ought to be referred to the Committee on the Judiciary, and I make that motion.

Mr. SUMNER. The resolutions from the Legislature of Ohio are so important in character, and so without any precedent I believe in our history, that I think they justify remark even by a Senator who has not the honor of any special association with the State.

It seems to me very clear that the authors of these resolutions have accomplished nothing except to exhibit their own blind prejudices. By the Constitution of the United States a State may give its assent to a constitutional amendment. There is no provision for any withdrawal of such assent when once given. The assent of the State once given is final. A State, I do not hesitate to say, can no more withdraw such assent than it can withdraw from the Union; and on the latter proposition I believe there is now a universal accord.

But happily, sir, this extraordinary effort of an accidental Legislature is absolutely impotent. The amendment in question is already a part of the Constitution of the United States and in full vigor, even without the assent of Ohio. By a report from the Secretary of State it appears that there is official evidence of the assent of the Legislatures of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Illinois, West Virginia, Kansas, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, and Nebraska, being twenty in all without Ohio. To these now we may add Iowa, which has given its assent very recently, and also Maine, which has notoriously given its assent, although I understand it was not officially communicated to the Department of State, making, therefore, twenty-two States even without Ohio. Twenty-two States are more than three fourths of the loyal States, or, in other words, of those States that at this moment have Legislatures. The full requirement of the Constitution is therefore met.

This amendment was originally proposed by a vote of two thirds of Congress, composed of the representatives of the loyal States. It has now been ratified by the Legislatures of three fourths of the loyal States, being the same States which originally proposed it, through their representatives in Congress. The States that are competent to propose a constitutional amendment are competent to adopt it. Both things have been done. The required majority in Congress have proposed it; the required majority of States have adopted it. Therefore I say this resolution of the Legislature of Ohio is *brutum fulmen*—impotent as words without force. It can have no practical effect except to disclose the character of its authors. As

such it may be dismissed to the limbo of things lost on earth.

Mr. JOHNSON. Mr. President, if the honorable member from Massachusetts is right in saying that the amendment has been adopted by the necessary number of States, it will, of course, result in the proposition that no one State which has assented to it can withdraw that assent. The honorable member is not now to be for the first time informed that that is a question about which there are differences of opinion; and whether the opinion which he pronounces is right or wrong depends upon the proposition which has been more or less discussed in the present debate whether the ten southern States are not now States, and have not been States, throughout the war. If they are States within the meaning of the Constitution, then the amendment has not been adopted.

Now, upon the other question, supposing the amendment not to have been adopted, I state, subject to be corrected if I am in error, what my present impression is. The Constitution provides that propositions for amendments of it may be submitted to the States, and that when they are assented to by three fourths of the States they shall become a part of the Constitution. Now, whether before the assent of three fourths it is not in the power of any one of the States or all of the States assenting to withdraw that assent, is a question upon which I am not to be understood as now expressing any decided opinion: but my impression is that they can withdraw: for, if not, it would remain forever binding upon the States assenting, and when the proposition should be renewed at any subsequent period, or when the States who had not assented, eight or ten or fifteen years after the time, when there was an absence of that assent necessary to give validity to the amendment, they would have no right to reconsider their action.

As I say, that is my first impression. Now, I look upon what the States do preliminary to a decision of a majority which, when made, makes the amendment proposed a part of the Constitution as a mere promise or undertaking that each will assent when the others are ready to assent, but that the day after the assent is given, or at any period subsequent to the giving of the assent, if the State assenting thinks that it has made a mistake, and that the Constitution should not be amended in the way proposed, it may withdraw its assent. But that is a question which will be considered by the Judiciary Committee; and my mind, although I have stated my impression, will be open to the better judgment of those who may be better informed upon the subject; and if I am satisfied that my impression is erroneous I shall, of course, concur in the opinion of the committee.

Mr. SUMNER. Mr. President, I wish to remind the Senator from Maryland of the exact words of the Constitution, which were not, it seems to me, in his mind when he spoke. An amendment, when proposed, "shall be valid to all intents and purposes as part of this Constitution when ratified by the Legislatures of three fourths of the several States." It does not say "when ratified by three fourths of the several States," but "by the 'Legislatures' of three fourths of the several States." Now, if there are States without Legislatures, they can have no voice in the ratification. Apply this practically. Three fourths of the actual Legislatures of this Union have ratified the proposed amendment, and I insist, on the text of the Constitution and also on the reason of the case, that such ratification is complete. But I am unwilling that this argument should stand merely on my words. I introduce here the authority of the best living text-writer on the jurisprudence of our country, who has treated this very point in a manner which leaves no opportunity for reply. I refer to the book of Mr. Bishop on Criminal Law, who, in one of his notes, considers whether the amendment of the Constitution abolishing slavery had been at the time he wrote adopted in a constitutional manner. Of course the very question which we are now discussing with reference to the fourteenth amendment arises also on the amendment prohibiting slavery. They are both in the same predicament. If the fourteenth amendment is not now a part of the Constitution of the United States then the amendment prohibiting slavery is not a part of the Constitution of the United States. They both stand on the same bottom; they were both proposed by Congress in the same way, that is, by a vote of two thirds of the representatives of the loyal States; and they have both been ratified by the votes of three fourths of the States having Legislatures. I send to the Chair the work of Mr. Bishop, and I ask the Secretary to be good enough to read what I have marked.

The Secretary read as follows:

"The article of the Constitution providing for amendments recognizes several ways in which they may be made; but the method adopted in this case is laid down in the following language: 'The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution' * * * * 'which' * * * * * 'shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States.' (Constitution of the United States, article five.) At the time when this proposed amendment was submitted to the State Legislatures there were several of the States which, within the meaning of the Constitution, had no Legislatures, and which, as we have seen, (*ante* section one hundred and thirty-one,) were forbidden by other clauses of the Constitution to put forth any legislative act whatever. Are these States to be counted in estimating the three fourths?

"If the matter were one relating to any other subject than slavery no legal person would ever doubt that when there are States with Legislatures and States without Legislatures, and the Constitution submits a question to the determination of 'the Legislatures of three fourths of the several States,' the meaning is three fourths of the States which have Legislatures. In fact, it does not require legal wisdom or legal acumen to see this, provided we look at the point disconnected from the peculiar subject of slavery. If I say to you 'I will give you this pen on your being appointed to receive it by the legal voters of your village, the voters in each house to act on the matter separately; to wit, the appointment shall be valid when ratified by the voters of three fourths of the several houses,' and it turns out, on examination, that one third of the houses have no legal voters in them, does it therefore become impossible to make the appointment? In this case, since the vote of each house is to be taken, it would be absurd to count the houses in which there were no voters. The vote in a house without voters, if, contrary to any possible fact, we might suppose it taken, could amount only to a cypher, which every boy perceives counts nothing in addition. No man would count such a house any more than he would a building finished for a house but not inhabited.

"Whenever the law submits anything to persons or bodies in general terms it submits it those particular persons or bodies that have legal power to act. Thus, in the case before us, the section of the Constitution allowing the proposal of amendments provides that 'the Congress, whenever two thirds of both Houses shall deem it necessary, shall,' &c. Here a full Congress consists, in one way of reckoning, of all the members to which the States are collectively entitled; just, as in one way of reckoning, 'the several States' include those which have not Legislatures as well as those which have. But in legal construction the expression 'two thirds of both Houses' means two thirds of those members who are actually in their seats and voting. It does not include members who exist only in theory of law; neither does it include actual members who are absent from the legislative halls, because only in the legislative halls does the law allow them to act. And this is the practical construction put by Congress upon the words 'two thirds of both Houses,' in this place. By the same course of reasoning, therefore, it follows that when there are States which have no Legislatures—States which, as we have seen, are even forbid by the Constitution to put forth any legislative act—and there is a call, in general terms, upon 'the Legislatures of three fourths of the several States,' those States which cannot legally respond to the call, to whom, therefore, the call cannot be constitutionally addressed, those States which have no Legislatures and no power of legislative action are not to be taken into the account."—*Bishop on Criminal Law*, note to section 776.

Mr. JOHNSON. I am surprised that my friend from Massachusetts should have thought it necessary to confirm the authority of his own opinion by referring to Mr. Bishop's work. I never heard until he stated it that it was a work of admitted authority. I think the Senator will agree with me that, however right he may be in the result, the manner in which he seeks to arrive at it, the reasoning which leads him to the conclusion, is not such as is exactly suited to a work of that description.

The Senator is aware that there are on this floor and outside of Congress a great many men who, perhaps, are as able as Mr. Bishop to write a book upon that subject, who entertain a very different opinion. I do not know when that particular edition was published; but I am sure that Mr. Bishop has not been convinced by the argument of the honorable member from Massachusetts, and that he may not be considered as merely indorsing the doctrine of the member from Massachusetts. With the knowledge I now have, with the lights which are now afforded me, I would rather—and I say it with no purpose of disparaging Mr. Bishop, for that cannot be done by such comparison—much rather yield, if I am to yield to authority, to the authority of the honorable member than to the author of that book.

The resolutions were referred to the Committee on the Judiciary.

GOVERNMENT AGENTS.

Mr. PATTERSON, of New Hampshire. I move to postpone all other business and take up the unfinished business of the morning hour of yesterday, being Senate bill No. 269.

Mr. RAMSEY. I hope that may not be done. There are petitions and reports to be presented which legitimately belong to the morning hour.

Mr. PATTERSON, of New Hampshire. I think we can dispose of this bill in a very few minutes. I presume it will not lead to discussion.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 269) in addition to an act entitled "An act regulating the tenure of certain civil offices," the pending question being, on the motion of Mr. SUMNER, to amend the amendment of Mr. PATTERSON, of New Hampshire, by adding to the second section of the latter amendment the following proviso:

Provided, That this shall not interfere with persons employed by the Department of State and paid out of the contingent fund of the Department.

Mr. PATTERSON, of New Hampshire. I move to amend that amendment——

The PRESIDENT *pro tempore*. It is not amendable.

Mr. SUMNER. I will inquire what it is my friend proposes; perhaps I may accept it.

Mr. PATTERSON, of New Hampshire. I will read what I have drawn up in lieu of the amendment of the Senator from Massachusetts:

Provided, That the Secretary of State shall have power to appoint special agents, not exceeding five in number, who shall be paid out of the contingent fund.

Mr. SUMNER. I do not like the limitation to five in number, and I will simply state to my friend why. I do not know the number of agents that the business of the Department may require. If I had information on the subject that would enable me to speak as confidently, perhaps, as he does, I would yield to him; but I have no such information.

Mr. PATTERSON, of New Hampshire. Of course I have no knowledge as to the private business of the State Department, and therefore cannot determine what number of agents may be necessary to perform its work. I simply know this: that we have thirty-five diplomatic representatives or ministers in different parts of the world, with their various secretaries and *attachés*, and I know that we are entitled to some seven hundred and sixty consuls in different parts of the world. Now, it seems to me that the business of that Department could very well be done by the agents whom the Department is authorized to employ by law, and I should suppose that in addition to them five special agents would be a sufficient number to perform all the secret service which the State Department may require. That will give one certainly for each of the four points of the compass and an extra agent. I can hardly conceive that the Secretary of State can have more than five hammers on the anvil at any one time. If he has I should suppose he might call in some of the clerks of the Land Office Bureau, who possibly would be willing

to leave their *otium cum dignitate* here and go forth and risk the hazards of earthquakes and volcanoes for the sake of securing some one of the lately discovered islands of the sea. I should suppose our thirty-five ministers, with their secretaries and *attachés*, and our seven hundred and sixty consuls could perform this work, with five or six secret agents in addition.

Mr. SUMNER. And still I think my friend will admit that he proposes to legislate in the dark. He does not know whether the five that he proposes to allow will be enough or not. I have no reason to suppose that he has inquired at the State Department to know how many agents perhaps at this moment are in the service, how many such have been employed during the last year. I have not the information. Since I received the letter which was read at the desk yesterday I have had no opportunity of conferring with the Secretary of State. If I had I should have tried to ascertain from him the information which it seems to me my friend ought to have before he pushes his proposition.

I agree with my friend so entirely in his main purposes; I am so entirely anxious with him to root out the system of employing agents merely by way of political reward or for the sake of putting money in their purses, that I wish to accept his bill as it comes from his hands; but still, while doing that, I am unwilling to go forward and legislate in the dark on a matter with regard to which, if we have a little time we can obtain precise information. I think, therefore, the Senator had better let his bill lie over until Monday, and he can easily ascertain in the meantime from the State Department whether the amendment which he proposes will be consistent with the public interests. If it is so, it will have my support most cheerfully. Indeed, I should like to have the number reduced still more if consistent with the public interest.

Mr. ANTHONY. Mr. President, diplomacy is in its very nature secret and confidential, and I do not think we ought to undertake to carry on the foreign affairs of the country with a restriction of this kind when we have a sufficient restriction in the amount of the contingent fund placed at the disposal of the Secretary of State. It makes no difference to the country whether he appoints five agents at a certain salary, or ten agents at half that salary; he cannot exceed a certain amount, and that amount, I understand from the chairman of the Committee on Foreign Relations, is confidentially vouched for at the Treasury Department.

I hope the amendment suggested by the Senator from New Hampshire will not prevail. It may hamper us in very important matters and at very critical emergencies. There are times when the President of the United States must have power to employ confidential agents—when the highest interests of the country demand it—and he ought to be able to select for such services men who are competent to perform them; and the small sum that is placed at his disposal for this purpose certainly cannot lead to any very great corruption.

Mr. GRIMES. There is not a single argument that has been urged by the Senator from Rhode Island and by the Senator from Massachusetts as applicable to the State Department which cannot be applied with equal force to every other Department of the Government; and if you allow that Department to have unlimited sway to appoint as many agents as it chooses, why not allow the other Departments to do the same? Sir, this argument of allowing a Department to control the legislation of Congress I think has reached its culmination. During the war we allowed, and I think we were justified under the circumstances under which we found ourselves placed in giving, extraordinary powers to the Departments and being controlled in our legislation a good deal by the men who were compelled to administer the Government; but I trust that the time has come when Congress will resume its proper powers and not be content to confer such unlimited sway upon the Executive Departments of the Government. I hope, therefore, that the amendment of the Senator from Massachusetts will be voted down, and that then we shall adopt the amendment proposed by the Senator from New Hampshire.

Mr. CONNESS. Although the speeches of my friend from Iowa are always in good time and well made, I think if he had waited a little while he would have found, probably, as we progressed further with the consideration of this measure, that the chairmen of the different committees would in their order rise and move to except the Department which they stand related to, following the example laid down to us by the honorable chairman of the Committee on Foreign Relations, who tells us that he is willing that every other part of the bill shall be passed and applied, but that, although there are hundreds of agents selected to do the business connected with the State Department, there should be no limit placed upon them.

Mr. GRIMES. The Senator will please except the chairman of one committee from his general statement. The chairman of the committee to which I allude is not going to make any such proposition.

Mr. CONNESS. The honorable Senator from Iowa has only justified the compliment that I found pleasure in paying him in what I have said. I did not anticipate that each chairman would follow, because I did not think that the lead—the Senator from Massachusetts will pardon me for saying so—was fit to be followed. If there are abuses connected with any of these Departments it becomes our duty to correct them. We are told that it is no matter what the head of a Department may do with a contingent fund; we appropriate it, and as a matter of course it is spent, whether it be $20,000, $50,000, or $100,000. Well, sir, it is about time that these roving commissions were stopped to some extent.

I do not know that I can add anything further, and the morning hour is very valuable. I hope that the honorable Senator from New Hampshire will press his bill, and that such amendments as that of the Senator from Massachusetts will be voted down.

Mr. CAMERON. I desire to offer an amendment to the amendment of the Senator from New Hampshire, if that proposition is pending; and it is that the Secretary of State be directed to report to Congress at its first meeting after any such employment of agents the names of the persons employed and the sums of money paid to them.

The PRESIDENT *pro tempore*. That is not now in order.

Mr. CAMERON. Then I prefer to vote down the original amendment of the Senator from Massachusetts, for the reason that I believe all these agencies are useless, if not worse than useless, and sometimes dangerous to the interests of the country. I can imagine no reason why the Secretary of State should be allowed to send his favorites all over the world at the expense of the public. Surely we have enough authorized agents abroad to do the public business. As the Senator from New Hampshire has said, we have thirty-five ministers and several hundred consuls. At every little Government, no matter how small it is, we have a minister accredited and paid. Sir, in this country of ours there is no governmental business that the people should not know all about it and how it is transacted.

This system grew up directly after the Revolution as part of the old system of diplomacy, of which the doctrine was that nothing could be done openly. I believe it was Talleyrand who said that a diplomat should be able to use such language as to hide his thoughts. That was part of the system, and at the time when it was in vogue the Governments of Europe sent people generally of bad character, often bad women, to the different courts to pick up secrets in a very bad way. There is no necessity for that sort of diplomacy at this period of the history of the world. We have presses which publish everything, and everybody reads, and everybody wishes to understand the manner in which the business of the Government is conducted.

I can see no use in this system of sending secret agents, except simply that it allows the Secretary of State—I mean no personal disrespect to the gentleman how holding that place—to send his friends about the world, wandering up and down to make speculations for themselves at the cost of the Government. If we had had no agent in this business we should not have paid Russia $7,500,000 for the territory we have bought from her, but I dare say we could have got it for a million or two millions. They offered it to us at our own price, and in the plenitude of our bounty and liberality we gave them three or four times as many millions as we ought to have done. So this place down here in the West Indies, St. Thomas, which, I believe, has been partly destroyed by an earthquake, is to be bought; and then a part of San Domingo is to be bought at the present time, and perhaps Cuba directly. All these places will come to us in proper time; they are gravitating now toward the United States; and it will be their interest very soon and their policy to become a part of us; but that would not suit the ambition of a Secretary of State who wants to connect his name every day with every part of the world. What can he do now with twenty or thirty agents traveling through Europe? Certainly the country can derive no benefit from them.

I prefer, therefore, that we vote down the whole proposition of allowing secret service to any portion of the Government. The Senator from Iowa said properly that there is just as much necessity for it in the other Departments as there is in the State Department. If we cannot vote down the amendment now pending, I shall then move to add to it the proposition I have suggested, to have the names of the persons employed and the amounts paid to them published.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion to refer the bill to the Committee on the Judiciary with instructions, on which motion the Senator from Wisconsin [Mr. HOWE] is entitled to the floor.

Mr. HARLAN. Yesterday the Senate was kind enough to adopt a resolution setting apart to-day for the transaction of the business connected with the District of Columbia. I had expected to call up that business immediately after the expiration of the morning hour in pursuance of that resolution; but I learn that the Senator from Wisconsin expects to go on to-day, and did not notice the passage of that resolution during the morning hour yesterday, and it would be some inconvenience to him to defer the delivery of the remarks he wishes to make. I will not, therefore, insist on taking up that business until the conclusion of his speech.

Mr. PATTERSON, of New Hampshire. I trust the Senator from Wisconsin will give way until we come to a vote on the bill which has been under discussion.

Mr. SUMNER. I suggest to my friend that he had better let the bill go over until Monday, so that we may communicate with the Department of State in the meantime.

Mr. PATTERSON, of New Hampshire. I will state to the Senator from Massachusetts that the committee who reported the bill regard it as very important that it should pass at once.

Mr. SUMNER. The bill is an important bill, but, as I said to the Senator, he is legislating in the dark on one branch of it.

Mr. PATTERSON, of New Hampshire. And on a very dark subject, upon which it seems impossible to get any light—the secret service of the State Department.

The PRESIDENT *pro tempore*. This con-

versation is out of order. House bill No. 439 is before the Senate. The Senator from New Hampshire can move to postpone it if he sees fit.

Mr. HOWE. If my friend from New Hampshire will indulge me, I will explain how I am circumstanced. I am only a tenant of the floor by sufferance: I own it by permission of my friend from Iowa, the chairman of the Committee on the District of Columbia. Of right, I suppose, it belongs to him, and it is given to me for a specific purpose; and I cannot, in justice to him and to the committee here present, give it up without his consent.

Mr. PATTERSON, of New Hampshire. Will the Senator from Iowa give his consent to let us go on with this bill until we can complete it?

Mr. HARLAN. I would most gladly oblige the Senator; but his bill, in my opinion, cannot pass in a few minutes. I desire to submit an amendment to it myself, and I feel that the bills under the charge of the Committee on the District of Columbia are quite as important as this one. Under other circumstances I would be very happy to accommodate the Senator.

The PRESIDENT *pro tempore*. There is no motion before the Senate. The Senator from Wisconsin is entitled to the floor.

PETITIONS AND MEMORIALS.

Mr. HOWE. I will give way for a few minutes to the morning business.

Mr. MORGAN presented resolutions of the common council of the city of Rochester, New York, in favor of protecting and defending citizens of the United States, both native and naturalized, which were referred to the Committee on Foreign Relations.

He also presented a petition of Jeremiah Carhart, praying an extension of his patent for certain improvements in reed musical instruments, such as melodeons, seraphinas, parlor organs, &c., and that Congress confirm the reissued patent of August 18, 1857; which was referred to the Committee on Patents and the Patent Office.

Mr. THAYER presented a petition of citizens of the District of Columbia, praying equal rights with other citizens of the United States, and that they be allowed a representative or delegate in Congress, and that all officers be elected by ballot of the legal voters of the District; which was referred to the Committee on the District of Columbia.

He also presented a petition of citizens of Nebraska, praying the establishment of a mail route from Brownsville to Lincoln City in that State; which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the bill (S. No. 159) relating to the Western Pacific railroad, reported it with an amendment.

Mr. GRIMES, from the Committee on Naval Affairs, to whom the subject was referred, reported a bill (S. No. 307) for the relief of certain Government contractors; which was read, and passed to a second reading.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (H. R. No. 104) authorizing the transmission through the mails, free of postage, of certain certificates by the adjutant general of New Hampshire, reported it with an amendment.

HEIRS OF D. L. CLINCH.

Mr. DAVIS, from the Committee on Claims, to whom the papers in the case were referred, reported a bill (S. No. 308) for the relief of the heirs of the late General Duncan L. Clinch, deceased.

Mr. FESSENDEN. I hope that bill will be taken up at once.

Mr. DAVIS. I desire very much to have it considered.

Mr. FESSENDEN. I think there will be no dispute about it. It is unanimously reported by the Committee on Claims, and it is very important to the parties interested that it should be taken up and acted upon. It will take but a moment, and I hope my friend from Wisconsin, who is the chairman of the Committee on Claims, will make no objection.

The PRESIDENT *pro tempore*. Nothing can be done except by unanimous consent, inasmuch as there is other business pending. If there be no objection the bill may be considered.

Mr. POMEROY. I did not understand who reported the bill.

Mr. FESSENDEN. It is reported from the Committee on Claims, a unanimous report.

The bill was read three times and passed. It proposes to appropriate $15,000 to Major General Anderson, in trust for Mrs. Eliza B. Anderson, daughter and heir-at-law of the late General Duncan L. Clinch, being in liquidation and full satisfaction of all claims upon the United States for the use and occupation of lands and premises of General Clinch by the Government and the destruction of his property by Indians and troops, in the State of Florida, during the period of the Seminole war in 1835 and 1836.

ADJOURNMENT TO MONDAY.

On motion of Mr. MORRILL, of Maine, it was

Ordered, That when the Senate adjourn to-day, it be to meet on Monday next.

SENATOR FROM MARYLAND.

Mr. JOHNSON. With the consent of the Senator from Wisconsin, who is entitled to the floor, I rise to give notice that I will ask the Senate on Monday next to take up the case of my colleague-elect; and I hope they will agree that the debate which is now going on shall be suspended until that case is disposed of.

RELATIONS WITH BRITISH AMERICA.

Mr. RAMSEY submitted the following resolution, to be substituted for one submitted by him on the 9th of December, 1867; which was ordered to lie on the table, and be printed:

Resolved, That the Committee on Foreign Relations is hereby directed to inquire into the expediency of a treaty between the United States and the Dominion of Canada, which shall contain the following provisions:

First. That a duty of five per cent. *ad valorem* shall be imposed upon all importations from Canada to the United States, or from the United States to Canada, being the exclusive production or manufacture of the respective countries.

Second. That the excise duties of the United States and of Canada shall be assimilated by concurrent legislation.

Third. That the navigation of the great lakes and of the canals and channel of the St. Lawrence river and its tributaries shall be forever free and open to citizens of the United States and Canada.

Fourth. That Canadian vessels in American ports shall be entitled to all the privileges of American vessels in Canadian ports.

Fifth. That the fisheries of the Atlantic coast shall be free to the citizens of both countries.

Sixth. That a common system of laws regulating copyrights, patent-rights, and rates of postage, shall be extended over both countries.

Seventh. That Canada, with the consent of Great Britain, shall cede to the United States the districts of North America west of longitude 90° on conditions following, namely:

1. The United States will pay $6,000,000 to the Hudson Bay Company in full discharge of all possessory rights and of all claims to territory or jurisdiction in North America, whether founded on the charter of the company or any law, treaty, or usage.

2. The United States will assume the public debt of British Columbia, not exceeding the sum of $2,000,000.

3. To aid the construction of a railroad from the western extremity of Lake Superior to Puget sound the United States, in addition to the grant of land heretofore made, will guaranty dividends of five per cent. upon the stock of the Northern Pacific Railroad Company: *Provided*, That the amount of stock guaranteed as aforesaid shall not exceed $20,000 per mile, and Congress shall regulate the securities for advances on account thereof.

4. The northwest territory shall be divided and organized into Territories of the United States not less than three in number, with all rights and privileges of the citizens and government of Montana Territory, so far as the same can be made applicable.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary, to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE to refer the bill with instructions to the Committee on the Judiciary.

Mr. HOWE. Mr. President, I do not rise to pursue this debate under the conviction that there is more that need to be said or done. I do not feel that the Republican cause or the Republican party needs other defense than it has already received; nor do I feel that the foe by which we are confronted really needs further pursuit or further punishment. When the great chiefs of the Republican party who have preceded me in this debate have sheathed their swords there may be found indeed dead bodies to hack; Falstaff found such on the plain near Shrewsbury, I believe; but there is not likely to be found any living enemy to strike.

It is not my fault that I appear so late in the field. I would have been glad to have been here earlier, and I have been half inclined to feel aggrieved that the reserves were kept back so long. It will be remembered that the gage of battle has been thrown down here by one who is my colleague. In some sort and to some extent he and myself are wont to represent the same constituency, and when our voices are heard outside of the Senate Chamber they are more apt to be listened to by the same constituency, and in some sort I have felt as though I had a special property in him. What little political character I have I fancy I have achieved to a great extent by being unlike him and by going the way he did not. On the political seas he has been a sort of beacon light, telling me that where he stood there were shifting currents and dangerous shoals; and I am not sure but that I have acquired some credit for sagacity in avoiding those neighborhoods. But since my friend from Indiana, [Mr. MORTON,] and my friend from New Jersey, [Mr. FRELINGHUYSEN,] and the other friends who have preceded me in this debate, have dropped their plummets into every foot of the surrounding waters, and have published an accurate chart of his surroundings, I do not see any further credit that I can get in that direction. Nevertheless, I think the door ought not to be shut against me by those who have got to the feast earlier than I. I am not really selfish. I shall not begrudge my friends a taste of the dainty for which they evidently have so keen a relish if they will give me a chance now, because, really, since this gage of battle has been dropped by my colleague, there are a large number of people in the State he and I represent who would not easily forgive me if I did not offer to pick it up.

And so, Mr. President, I shall proceed to examine, perhaps at some length, the manifesto he has issued on this occasion; and I am inclined to think I shall confine my remarks mainly to that paper, notwithstanding the invitation which the honorable Senator from Indiana [Mr. HENDRICKS] gave us yesterday to divert our attention for a time from my colleague to himself. There are good reasons, I think, why we should not accept the invitation. In the first place, the issues they all argue are the same. There are but two points that any one of them dares to make against the Republican party. The one is that we offer suffrage to men who are not exactly white; the other is, that in doing this we violate either the Constitution or, what is worse in their estimation, the "Lincoln and Johnson policy." All that the honorable Senator from Indiana has said or can say upon these questions we have been in the habit of meeting and replying to year after year for years. In the issue between ourselves and that portion of the American people which he represents we have already secured verdict after verdict. Why pursue the controversy further with him or with them? Here is a new recruit appearing in the field, not a private manifestly, but a generalissimo of the allied armies. He sounds the advance; he opens the engagement; he leads the forces; and it becomes a matter of considerable interest to see what this new apostle has to say of

these matters, since he makes these things the pretext for deserting the party with which he has done duty for years, and going over to that party which he has opposed for years.

Mr. President, the very opening of my colleague's remarks was startling. He said:

"Mr. President, there is more involved in this measure than in any other, all others, perhaps. I see in it a complete overthrow of the Constitution in ten States of the Union. I see in it a practical dissolution of the Union. I see a republic in form, at least, still remaining north of the Potomac. I see an empire rising south of it. I see in it the realization of the wildest dream of Calhoun—a dual Executive—a President to execute the laws in the Republic of the North; a military dictator, independent of the President, to make as well as execute laws in the negro empire of the South."

Considered in the light of a parliamentary attack, I do not know of anything more direct or fiercer than that, except the one which is attributed, I believe, to Sir Boyle Roche in the Irish Parliament. "Mr. Speaker," said he, "I smell a rat: I see him floating in the air; but, by the blessing of God, I will nip him in the bud." [Laughter.] "I see in this bill a complete overthrow of the Constitution in ten States," says my colleague; "a practical dissolution of the Union; a republic on one side of the Potomac and an empire on the other; a dual Executive, and Calhoun's wildest dream." If, in addition to all this, my colleague had discovered the yellow fever and the Asiatic cholera in the bill I should have been inclined to think it objectionable. [Laughter.]

Sir, I have not discovered any of these things in this piece of paper. I have not discovered anything much that I like, but I have not discovered anything that is as bad as my colleague represents. I see in it an act; I have read it through; I am inclined to think that it is either a wise or an unwise one, and that it will be, if passed, either valid or invalid; and whether it fills one of these descriptions or the other, whether it answers to one of these characteristics or the other, it is not the first one of the kind, for Congress has passed bills both wise and unwise, and has enacted bills which were valid and bills which were invalid. It is not an original thing; whether it be an enormity or not, it is not the first one of its species which has passed through these Houses.

Mr. President, I ask my friends of the opposition to meet this and all measures upon their merits. If we propose measures which are unwise or invalid let them tell us so and let them point it out; but I do not see or concede the propriety of their standing here and obstructing, or attempting to obstruct, legislation simply by giving bad and odious names to the bills which are brought here.

But these illusions which my colleague seems to suffer under, are not only variegated but they seem to be shifting. In a few sentences after those I have quoted he presents the question in this form:

"Mr. President, the question presented in the instructions proposed by me is whether Congress is still resolved to subject the white people of the southern States to the domination of the negro race at the point of the bayonet, or whether Congress, in deference to the recently expressed will of the American people, will now so far modify their policy as to leave the governments in those States in the hands of the white race and of the more civilized portion of the blacks?"

And almost in the same breath he states the question thus:

"Strip it of all useless verbiage and specious arguments about sustaining loyal men and punishing rebels, it is nothing more or less than this: shall the General of the Army put the negro in power over the white race in all the States of the South and keep him there."

This last idea is repeated over and over again throughout that long speech. The one thing he seemed to be certain of was that we were aiming to establish the domination of the black race over the white race. Again he says:

"But if Congress will insist upon its suicidal measures, if Congress is still determined to establish those governments upon negro supremacy, then chaos comes again; a war of races is inevitable at the South."

Again he says:

"But, sir, why press this negro supremacy over the whites?"

And again:

"But, sir, suppose the statement be true that the negroes are loyal and the whites disloyal in heart, have we even then the right to degrade the whites in vassalage to the negroes?"

Mr. President, an assertion affirmed so often should have some foundation in fact. I am sorry my colleague is not here, for I dislike very much to comment upon his remarks in his absence, but he knew that I intended to address the Senate this afternoon. I know of no public speaker anywhere who appeals more frequently or with more apparent earnestness to his Creator to attest the sincerity of his utterances than my colleague; and yet, if he were here, I should like to ask him if he expects his Creator or his created fellows to credit his sincerity when he stands here to tell the Senate that their effort is to subject the white race to the domination of the blacks? Has any divinity informed my colleague that the blood which courses in our veins is not as pure as that which flows in his? Does he know that its tides do not visit our hearts as often or come to the surface with as healthy a throb? Sir, when my colleague stands here to iterate and reiterate a charge as offensive to us as it is to truth; when, because we will not prove false to the plainest dictates of an honest humanity, he charges us with the foul crime of treason to our race; when he stands here to vaunt himself the champion of the Caucasian race, I want to see his commission. I must remind him that it remains to be seen whether the Caucasian race will accept him either as its champion or its servitor.

But, sir, how is the fact? What do we propose? Simply to invest with the right of suffrage the colored men in those southern communities who have so lately been in rebellion against the authority of the United States.

"The very head and front of our offending
Hath this extent, no more."

Are our friends in the Opposition prepared to explain to us now just how putting the ballot into the hands of both white and black is going to subjugate the white to the authority of the black—reduce the white to vassalage? If by this commandment we clothed a larger number of colored men with suffrage than there were of the whites, and if the colored men were ambitious of reducing their white fellow-citizens to vassalage to them, were actuated by any such bad and damnable ambition as has filled the breasts of their white fellow-citizens, then there might be a danger that this domination would be the result of our legislation; but neither the one thing nor the other is true. Have you ever heard of a purpose on the part of any colored people God ever permitted to stand on this footstool to reduce to vassalage any other people? Do you know of any colored man who asks for anything but the right to exist and to work, and such political privileges as will secure those rights to him?

But whatever may be their desires, their appetites, or their ambitions, we do not propose to put the ballot into the hands of a colored race numerically greater than the whites by whom they are surrounded. There were in those ten States, so called, in 1860, a white population of 4,622,281 and a colored population of 3,346,861. Perhaps, if we were addressing the constituency of Mr. Nasby, we might explain how the ballot in the hands of three million and a quarter would reduce to vassalage four and a half millions; but since we are talking to the Senate I suppose that effort will not be ventured upon.

But it is said that this showing of the population in 1860 does not represent truly the condition of parties there now. It is said that the returns of the boards of registration actually show a majority, not in each one, but an aggregate majority of colored voters in those ten communities. The fact is so; there is no denying it. It results from one of two causes: not because the colored population is greater than the white population there, for it is not; but it happens either because we have excluded from the right of registration so large a percentage of the white population as to reduce it to a minority, or because, having the right still to register, they refuse to register. That we have excluded some from the right of registration is undeniable. That many who have the right to register refuse to register, I take it no man here will deny. How much the one or the other cause has operated to produce the existing state of things shown by the returns of the board of registration I will not undertake to say; but I will furnish to the Senate a few data from which, I think, a pretty correct conclusion can be drawn.

In the States of Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, Virginia, and North Carolina the boards of registration returned 550,088 white voters. In the same States, in 1860, 657,038 white men voted. The number of whites registered in 1867 was more than 100,000 less than the number who voted in 1860. How will you explain it? They have had a war there which has resulted in the destruction of some life; we do not know how much; and some now living have been excluded from registration. That is conceded. But, sir, both these causes have operated equally upon the population of each one of those States. Now, I wish to compare the State of North Carolina, where we understand the hostility to this registration is less violent and bitter than in either of the other communities, with the exhibit made by the other communities. The number of whites registered in North Carolina was 103,000. The number who voted in North Carolina in 1860 was 96,230. Taking North Carolina from the other States, and you find that there were 447,088 only registered in the other States in 1867 and 560,808 voted in 1860. In other words, the number of whites registered in North Carolina in 1867 was a little more than seven per cent. greater than the number of whites who voted in 1860. The number of whites registered in the other States in 1867 was a little less than twenty-three per cent. less than the number who voted in those States in 1860. If North Carolina, therefore, be a true indication of what is the real result both of the war and of your exclusion from registration, then it shows that in these other States there are fully thirty per cent. of the population who refuse to register. Nobody registered in North Carolina who is dead or who is excluded from registration. There is no immigration into North Carolina that I have heard of exceeding that into the other States; indeed, my understanding is that there has been much less to North Carolina than to the other States; and I know of no single cause which would have operated to produce a more favorable exhibit in North Carolina than we had a right to expect from the other communities.

Mr. President, I conclude that the reason why we have a majority of colored voters registered in those communities is not because we have denied the right of registration there, but because so large a portion of their population have refused to register; and under such teachings as I am about to submit to you do you wonder that men have refused to register? I desire to read a couple of extracts from a Vicksburg newspaper. It is a high authority, because I understand it is edited by the identical Mr. McCardle who has come forward to vindicate the Constitution of the United States in the courts of the nation. One of these extracts was issued just before a recent election, and the other just after. The first is headed—

"*Stay away from the polls.*

"We again urge every decent white man, every honorable gentleman of the Caucasian race"—

He has heard something about the Caucasian race—

"to avoid General Ord's election as he would avoid pestilence and a prison. As this advice does not apply to and is not intended for the white snakes of the Loyal League, we shall expect the last-named despicable vermin out in all their strength."

And more to the same effect. The next extract is headed—

"*The Immortal Fight.*

"We are gratified to be able to announce to the readers of the Times that at the court-house yester-

day, the only place open to the whole people, there were cast the votes of eight people only! We tried to get the names of the interesting sneaks who voted, but failed, though the Times office was and is ready to pay a dollar for the name of each voter. We shall publish the names of these voters if we can obtain them, and some day we shall; but if we do not we shall with pride chronicle the fact in the heroic city of Vicksburg, the gallant Saragossa of the South, there were only eight cowards, dogs, and scoundrels of the Maygatt and McKee stripe."

Mr. President, when such sentiments as those are published through organs which sell to the people and are read by the people, it is not surprising that you find the number of your registered voters largely reduced.

Sir, we have done nothing, we propose to do nothing, to secure the domination of the black race over the white. I have confessed that we propose to confer suffrage upon the black people there. Why do we seek to confer suffrage upon them? My colleague has assigned of himself three reasons for this proposition of ours, and he has proceeded to answer them. I shall notice his effort at their refutation, not because he has assigned, in my judgment, the true reasons, but I want to see how an American Senator answers the reasons that he sets up himself. He assigns these reasons to be as follows:

"*First.* Because the States of the South rejected the constitutional amendment submitted by Congress;

"*Second.* Because the negroes are loyal and the whites disloyal; and,

"*Third.* Because it will secure party ascendency."

Proceeding to refute the first reason, he argues that we ought not to have expected or to have asked those southern constituencies to accept the constitutional amendment. He urges this upon several grounds. I shall cite but one of them, and that simply to show what beautiful sentiments my colleague can issue from his lips and how remorselessly he can crucify them in his life. He says they ought not to have accepted that constitutional amendment, because it disfranchised so large a portion of their people. His language is as follows:

"I can understand how one may say in argument that the leaders should be disfranchised. But how any man of common sense or common manhood could ever suppose it possible for the people of the South to vote to disfranchise men esteemed by them as equal to, if not better than, themselves, for an offense of which they themselves were equally guilty, is beyond my comprehension. You ask the southern people to betray the men whom they trust." * * * *

"You ask them to strike with a serpent's tooth the bosom of a friend. But until human nature shall cease to be what God has made it, honorable men, to save themselves, to save even their lives, would not incur the guilt of such unnatural treachery by voting for such a provision."

Sir, need I tell the Senate or the Senator these two things: first, that that constitutional amendment, which he says they ought not to have adopted because it disfranchises some of their friends, did not disfranchise nor propose to disfranchise anybody. It proposed to exclude a small portion of the people of those States—just those whom my colleague, I suppose, would include within the designation of "radicals," and, of course, the most offensive men that could be found there—from the right to hold office, and not from the right to vote. And if it had proposed to exclude them from the franchise would my colleague have been justified in saying that honorable men could not, to save their lives, vote for it? He says we asked them to strike with a serpent's fang the bosoms of their friends. What is my colleague doing here? These men to whom we offer the suffrage—to whom we will give it, or we will prosecute the effort to the end of our lives—these men are his friends, or they were during the struggle. It is into their bosoms he is asked to strike with what he calls a serpent's tooth; and I never saw him exhibit greater alacrity to do a particular thing than he has exhibited to do that. How could we tell that those southern gentlemen were so much more honorable than he shows himself to be? How could we know that they would not, to save their lives and to reinstate their people in the prerogatives of States, vote to disfranchise a few of their friends as readily as my colleague will vote and struggle to disfranchise all who were his friends in the South?

He proceeds to refute the second reason, like the first assigned by himself. The second reason which he puts in our mouths is that the negroes were loyal and the whites disloyal. Now, how do you suppose he undertakes to refute that? By pleading the general issue to both statements; by denying both the loyalty of the blacks and the disloyalty of the whites. He stands here in the Senate Chamber, with the commission of an American Senator in his pocket, to prosecute those black men upon a charge of disloyalty and high treason. And who were they? Chattels, in the eye of the law; things; property; who never had known from their youth up any more a will of their own than the horses and the mules by whose sides they were worked; men who from their childhood had known but one law, and that was the law which compelled them to obey their masters and their owners. They are the men whom my colleague stands here to prosecute upon the charge of high treason; and at the same time he denies the disloyalty of the white race about them.

He asserts that the majority of them were loyal. I will not read his language; but he argues that they were dragooned into the cause of the rebellion by the minority; the "Radicals," I suppose, he would have it. He finds it quite within the reach of his charity to blot out the offense of that proud Caucasian majority in the South, because of the force brought to bear upon them by the "Radical" minority; he finds that the Caucasian majority were overawed and overcome, and they cannot be held guilty of disloyalty; but that these chattels, these things, these black men, who never knew any other duty but to obey, must be held to the full responsibility of men for the first time in their lives for doing just what all the laws they had ever heard of commanded them to do! That is the logic of the Senator, not dropped in the heat of unconsidered debate; it was considered; it was deliberated upon; it was uttered here to the Senate as the result of his deliberate convictions in a speech which was heralded to the press as to be the greatest of his life.

But, speaking to this same point, my colleague says further that if the whites were disloyal we ought to forgive them. He recounts their losses, their sufferings, in the prosecution of that great crime which they had committed. He cites us to historical examples. He becomes classical. He recounts to us the story of Latium and its revolt. As I thought it the finest passage in his speech, altogether creditable to the oratory of the State from which we both come, I shall ask the indulgence of the Senate to reproduce it:

"When Latium, one of the Roman provinces, revolted, and the revolt was put down by arms, the question arose in the Roman Senate, what shall be done with Latium and the people of Latium? There were some then who cried, 'disfranchise them;' others said, 'confiscate their property.' There were none who said, 'subject them in vassalage to their slaves.'"

Good for Latium.

"But old Camillus, in that speech which revealed his greatness and made his name immortal, said: 'Senators, make them your fellow-citizens, and thus add to the power and glory of Rome.' In this high place, in this Senate of the great Republic of the world, outgrowth of the civilization of all the ages, cannot we, Senators, rise to the height of that great argument?"

Need I tell the Senate that we attained the height of that great argument long ago? All that is passed. The men who revolted against the power and authority of the Republic are made our fellow-citizens; their lives are given to them freely; their estates are restored to them on the asking. There they are, enjoying every privilege that every other citizen of the United States enjoys, with the exception of the few who were included in the terms of these laws known as the reconstruction laws, and who are prohibited from voting at two elections. Mr. President, we stand here and are judged, not because we will not make fellow-citizens of those who revolted against the authority of the Republic, but we are judged because we seek to make those our fellow-citizens who did not revolt against the Republic. That is what we are to be condemned for, if we are to be condemned; that is what we are denounced for from one side of the country to the other daily.

The third reason assigned by my colleague why we seek to offer suffrage to the colored men is, that it will secure party ascendency, and the Senator from Indiana [Mr. HENDRICKS] and the Senator from Pennsylvania [Mr. BUCKALEW] have echoed in terms the same sentiment. So, then, we are struggling to confer this boon upon the negroes in the South to strengthen the Republican party! I do not honor the head, or the heart either, of any man who can ascribe such a purpose to such an act. I suppose if you found us visiting a poor-house by parity of reasoning you would charge us with a purpose of kidnapping the paupers to add to the wealth and the strength of our own households. We are trying to give suffrage to the negroes to strengthen the Republican organization, are we? Sir, if we had felt at liberty to strengthen the Republican organization at the expense of God's justice and right, do you not think we knew how to do it just as well as those who now oppose us? Do you not think we knew who were strong in those communities and who were so weak that they could not stand alone, much less offer any support to a great and triumphant political party? Did we not know who had held political power down there from the time when first political power existed? Did we not know they needed, or at least desired, the countenance and support which the Republican party alone could afford anybody?

If we had desired to strengthen our political organization, what was there to prevent our saying to the white people of those communities, to the Caucasian race, "Come into the councils of the nation, we will restore you to your old place in the Government." Do you suppose they had such a hungering after fellowship with their old Democratic friends that they would have looked to them for any support that they could have received from us? What had the Democratic party to do for them, or to give them? The Democratic party were poorer than the defeated rebels themselves. Whatever they might have promised, they had nothing to pay with. If we had been as false to the President whom we elected as the President was to us who elected him, what was there to prevent the Congress of the United States from turning on him in the winter of 1866 as he turned upon us, and telling him that he had dethroned the governments of ten States without authority of law; telling him that those provisional governments which he had set up there must go out as he had sent their predecessors; and that the old governments must be restored? What was there to prevent us receiving the representatives from those governments and having them here in close communion and fellowship with the Republican majority? If we were willing to serve the devil for party purposes and party gains, here was the devil as open to our service as he was to theirs.

Sir, I have spent too much time upon this sort of reasoning. Remember these are the Senator's answers to reasons which he assigned himself. You remember how the knight of the Rueful Countenance, in some of his wanderings, discovered a windmill, and he set his lance in rest and spurred his charger upon it; and you recollect the result of the encounter; and the world has not done laughing over it yet. Well, sir, I have laughed with the world; but I have always thought if Don Quixote had had the privilege of making his own windmill he would have been more successful in his engagement. [Laughter.] But here is a knight who sets up a windmill of his own manufacture, pitches into it at his own pleasure, and you see the result.

Mr. President, let me state one reason why we seek to give suffrage to the colored race in these communities, and I will give my colleague

the balance of his natural life to refute it. We seek to give suffrage to them because there is no other way given under heaven or among men whereby the life of that race can be made tolerable or endurable. That is the fact. I assert it, whoever denies it. Let the issue be upon the question of fact, and we will try it before the American people.

Sir, we tried to avoid this enterprise. The world knows it. We tried every conceivable expedient; and we tried some expedients that I never should have conceived of myself. We tried the experiment of colonization under the lead of my colleague himself, who told us that these people never could live here in peace. When we decreed the emancipation of the slaves in the District of Columbia, we appropriated I think $100,000 to embark in the experiment of colonizing the freedmen in Hayti or some other place. The President of the United States, under that act, entered into a contract with parties in the State of New York, I think, to take a colony down there. They did so. The effort failed utterly; the colony returned; and to-day these Halls are besieged by those contractors to secure compensation for the damages they sustained in endeavoring to realize the favorite idea of my collegue. We found that these people could not be colonized outside of the territory of the United States. My colleague himself, I take it, was satisfied with the experiment. I do not know that he has renewed the effort to secure further appropriations for that purpose from that time to this.

When the Congress of the United States came here in December, 1865, and found the rebellion at an end, the governments which had exercised civil authority in the ten rebellious States dispersed by executive proclamation, new governments set up in their places built upon a model designed by the President himself, the question arose whether those governments which the President had made were actuated by those sentiments of justice and of fair dealing which would warrant us in committing to their keeping the men whom we had made free and the men who had always been free, but who had been loyal to the flag during the great struggle. I say Congress stopped to consider upon that question. A committee of both Houses went on to examine witnesses and spent weeks and months in taking testimony upon that point. They finally came to the conclusion that it would not be safe to commit these two populations, the loyal white men and the freedmen of those communities to the keeping of those governments unless some further restrictions were placed upon the authority of the State governments than were placed by the Constitution as it then stood. And so Congress submitted to the several States the question whether they would agree to remit to the Government of the United States the power to protect classes against class legislation. That is really what the constitutional amendment meant. Most of the States agreed to it. Those governments which the President had built speaking for their States, refused to consent to it, and we found that we could neither get the freedmen out from under those governments nor would they consent to an amendment of the Federal Constitution which would authorize the national Government to furnish protection for them.

We then, and not till then, came to the deliberate conclusion that if these people were to be compelled to abide there, subject to the control of those local governments they should be represented in those local governments; that they should be heard in them. That is the reason why we have attempted this enterprise, and there is no other. I am glad to remember that from the beginning I could see no other way but this, and I am glad to remember that I sought no other way; and I am glad to know that whoever falters I am bound to pursue this way to the end. If there be any man in our organization so frightened that he would avoid this responsibility to avoid a party defeat, let me tell him for one that I happen to know party defeats cannot be avoided in any such way. This duty is committed to us. It is the duty of our day; and we must be true to it or we must be pronounced untrue to all duty and unfit to be charged with any duty.

Now, sir, what objection is there to our doing this thing? What objection is there to our putting the ballot in the hands of the black man? Do you say he is safe without it; that it is needless; that justice will be done to him by the governments of the white men down there? Who dares say that and risk his reputation for veracity upon the statement? Did they ever do justice to them? While they were deprived of the ballot, and while they were subjected to governments representing just such feeling and just such men as the existing civil governments do down there, you know they were made chattels of, slaves of. How do you know they would not do it again but for the prohibition which you have placed in the Constitution of the United States? But because they cannot reduce them to chattelism again do you know that they would do justice to them? Is there no way of oppressing men but by making slaves of them? Why, Mr. President, look about you! Listen to what you hear right here on the floor of the Senate! You see a northern man, and a Senator, stand up here and charge these freedmen with the crime of treason and attempt to prove it. Do you think when men at this distance can practice such enormous injustice to them that they are likely to receive justice at the hands of those who live with them? Nay, sir, every day and almost every hour you are told by the men who oppose us—what? You are told that if you dare to confer suffrage upon the black man it will lead to a war of races and they will be exterminated. Do Senators mean to tell us that men who would massacre the blacks because they are allowed to vote will do justice to them when they do not vote? Is that the logic that is to sway the action of the American Senate?

Sir, we have not acted upon any rash assumptions. I said a committee of this body took testimony; nay, we saw those governments actually at work; we saw the legislation they were contriving for the government of these people; we saw two military officers, one commanding in Virginia and another in South Carolina, by a military order, set aside and annul two whole codes enacted by those two States for the government of this portion of their people because of their inhumanity to man.

Sir, I have another piece of testimony. Stop where you are; accede to the demand made upon you by your opponents; remit those people to the control of those civil governments now existing there; and what do you suppose will happen? I do not know precisely myself; but what they contemplate I will show you by reading an extract from a letter which I recently found in the papers from Mr. James M. Mason, written to a friend of his by the name of Graham, who had urged him to take up his residence in Jamaica. Mr. Mason remonstrates. I am not going to read the letter at length. He suggests to his friend that there is a probability that this Republican party will be overthrown, and that another party will be installed, and then that they will get possession of their governments. He says:

"In such case I should rely upon the intelligence, wisdom, and, more than all, the experience of our people in regard to the negroes, would enable them to devise some system of legislation by which, without again reducing them to slavery, they could be made to discharge the incumbent duties of a laboring class, a hope now much encouraged by the apparent tone of the North, as evinced in the late elections. I am satisfied that nothing but such exclusive control can save our people from the alternative of exterminating the blacks or of abandoning the country to them."

That is the purpose, as you are officially notified; and, with that notification addressed to you you are asked to surrender these people to the control of those governments.

What is another objection? It is said that these people are not qualified for the suffrage. That is true; they are not qualified. Who of us are qualified to fill the high office of an American elector? They are not qualified. How happens it that they are not qualified? Because the ballot has been denied them always and has been confined to the hands of the white race; because you have had there and over them none but a white man's government. That is the reason why they are not qualified. I do not ask that the freedmen should be allowed to participate in the elective franchise because they are qualified for it. I demand that they should be allowed to participate in it because I know, and you know, sir, they never will be qualified for it until they are allowed to participate in it.

Another objection is, that it is unconstitutional; that you have no right to control suffrage in those States. That is a fair argument; that is manly. I always greet an objection of that kind, let it come from whom it will, or when it will. I care not that the Constitution has been held up as the shield of so many great crimes that it seems to be almost criminal to quote the Constitution at all. That is not the fault of the Constitution; it is the fault of the foul perversion of it which we have known for years. I propose to occupy the time of the Senate for a moment in considering the question whether we have this authority; whether we have under the Constitution the right to confer suffrage upon the colored population in those communities. I insist that we have authority to exercise any legislative power in South Carolina or in Alabama that we can exercise in New Mexico or Utah.

Sir, if Morse had lived when Moses did and had telegraphed from the foot of Sinai to the fire-worshiping cities of Chaldea that they should have no other gods but the Lord; or if he had telegraphed to the idol-crammed cities of Memphis and Thebes that they should not make any graven image; or if he had telegraphed to the cities of Canaan, filled with every manner of violence and crime as they were, that the people of those cities should not kill, or steal, or commit adultery, I am afraid Moses would have been denounced by the people of that generation as a radical. I do not wonder that Luther, when Rome was trying to build up St. Peter's by the sale of indulgences, should have been denounced as a heretic when he dared to post up on the church-door of Wittenberg his bold denial of the power of the Church to issue indulgences or to grant them. I do not wonder that he was denounced as a fanatic for such conduct at such a time. When John Hampden stood up before the British people to deny the authority of the Crown to levy taxes of its own will and without the consent of Parliament, I do not wonder that John Hampden was denounced as a revolutionist. And I shall not be surprised, and I shall not complain, if I earn one or all of these epithets when I stand here in the Senate to say that the American Congress has deposed the governments which once existed in those ten States for which we are now legislating, taken from them all right to legislate at all.

Now, sir, the question is: has Congress authority to depose the government of a State? I do not claim that authority outside of the Constitution. I do not charge myself with any obligation to serve the country in any way not warranted by the Constitution. And if this authority is not given to Congress by the Constitution then I concede Congress does not possess it. But if we do not possess it, then I want to say that the Constitution of the United States is not the supreme law of the land, and several of its commands cannot be enforced. We will not have any dispute about the facts. I concede that the Congress of the United States once clothed each one of these communities with the authority and the prerogatives of a State. When those prerogatives were committed to those States they were committed unconditionally and in perpetuity or they were not. If they were committed unconditionally, then they were indefeasible; they could not be lost; they could not be reclaimed; they could

not be forfeited; they were theirs always, at all times, and under all circumstances. I want to see the Senator who will stand up on this floor and say that such is the case; that ever since the first act was enacted making Louisiana, for instance, a State of the Union, Louisiana has been in the enjoyment, or has been entitled to enjoy, all the rights which that act conferred upon it. We have no dispute as to what the rights of a State are. Have those rights been continued in those communities from the day of their creation to this? There is no Senator who will assert that. There is no Senator who will assert that during the rebellion South Carolina, Louisiana, and Mississippi had the right to send Senators here and Representatives to the other House. But if they had not that right, then why had they not? I have listened from the time this debate first commenced years ago for some one in the Opposition to explain to me how it was that they had not the right to send Senators here during the war if the prerogatives once conferred upon them had always continued to them. The Senator from Indiana yesterday, arguing upon this point, while he asserted in the most positive terms that these rights had always continued, that the character of the State was never lost, yet he did concede that their relations with the General Government practically were destroyed.

Mr. HENDRICKS. Disturbed.

Mr. HOWE. He said:

"Practically the relations were disturbed, practically the State was not in harmony with the Federal Government; but its existence as a State, its organization as a State, its Constitution, which was the bond of its organization, continued all the way through the war; and when peace came it found the State with its constitution and laws unrepealed and in full force, holding that State to the Federal Union."

The Senator from Indiana is a lawyer, an acute and an able one, and when he talks to us about the State still existing, but its practical relations being disturbed, he means something by it, and I would have been glad if he had explained to my comprehension just what he meant, how and why these practical relations were disturbed. I know they did not let our mails go there. That is one relation that was disturbed practically. The rebellion did that. I know they did not send Senators and Representatives here. That is another relation that was disturbed. But why did not they send Senators and Representatives here, or if they had sent them here, what answer should we have made to their demand for seats? Should we have told them "our practical relations are disturbed, and therefore you cannot come in?" But they would have read the Constitution to you and said, "You say we are a State; our rights are not gone, and cannot be; here is the Constitution which says that every State shall have two Senators here; are you going to exclude us because our practical relations are disturbed?" What answer would you have made? You must have received them into the Chamber, or you must have shown some authority in the Constitution for keeping them out of the Chamber. Where is the authority in the Constitution for excluding Senators duly elected by a State? Would you have excluded them upon the ground of disloyalty? But suppose they did not happen to be disloyal, or suppose you could not prove their disloyalty; suppose they had done no overt acts; how would you have kept them out of the Chamber? I have been anxious to have these questions answered, and I cannot conceive the answer to them.

The fact that war existed there would not have been urged as a reason for keeping Senators out. War raged in Kentucky; war raged for a time in Maryland; war even made its way into Pennsylvania. You never thought of sending the Senators from those States home because war was in their neighborhoods. Then war itself is no reason for excluding the representation of a State. The historical fact is that the Senators and Representatives from the rebel States were away from here because they chose to go; but the question to which I wish Senators to address themselves is, suppose they had not chosen to go away, how would you have got them away? Suppose they had chosen to come back, how would you have kept them from taking their seats?

Some time since I saw a correspondence which interested me very much, between Mr. Henry A. Wise, of Virginia, and Mr. FERNANDO WOOD, of New York. Mr. Wise addressed Mr. WOOD at the close of the rebellion, and he made one declaration which interested me. He said to Mr. WOOD:

"You know my position before the war: 'To fight in the Union, under the express letter of the Constitution—to take up arms by the sovereign authority of States—to repel invasion and to suppress insurrection.'"

Suppose Virginia and all those States had listened to the advice of Mr. Wise; suppose by the authority of their State governments they had formed the confederacy, and yet their Legislatures had sent Senators and their people had sent Representatives here to help make our laws, they fighting, according to Mr. Wise's programme, within the Union and within their interpretation of the Constitution, what should we have said to their Senators on the theory of Senator from Indiana? As I cannot conceive of any answer to be given of course I cannot conceive what answer he would give. For myself, I know of no answer we could have made but for Congress to say, "Your people are in rebellion against the authority of the Government of the United States; your governments are in flagrant disobedience to the express command of the Constitution; we deny the authority of your governments, and we revoke the license which we once gave you to have governments;" and our authority for saying this I shall cite to you presently.

Mr. President, the revolt of a State is not the only reason we could assign for deposing the government of a State. Suppose South Carolina had never raised a soldier or set a regiment in the field; suppose South Carolina had contented herself, as I believe Virginia did for years content herself, with refusing to have the officers of her local government take the oath to support the Constitution of the United States, which the Constitution commands that every officer of a State, executive, legislative, and judicial, shall take; suppose you had known that every officer in the government of that State had refused to take such an oath, and on the contrary had taken an oath to support some other Government, the Government of Great Britain or the Government of Mexico, some alien Government, how would you correct that wrong? The Constitution says that every one of these officers shall be under an oath to support the Constitution of the United States. How will you enforce that command except you can remove the government which disobeys it?

Such a case is possible; and you must be able to furnish the correction, or your Constitution is not the supreme law. You cannot correct it by the military power. You would not send an army upon the Governor and Legislature of South Carolina because they had not taken the right oath. You would not order out the Army of the United States to administer an oath to a State officer. You cannot correct it by a suit at law. Doubtless you might make a law to punish particular officers for omitting to take the proper oath; but what law could you make to compel the people of South Carolina to elect men who would take it? To take such an oath is a plain duty enjoined by the Constitution, and yet you have no court of chancery to enforce specific performance of it.

The framers of the Constitution knew that it was of vital importance to the Union that the government of every State should be in the hands of those only who would at all times support the national authority. For that reason they required that every officer participating in the government of a State should take an oath to support the Constitution. So long as the people of a State are loyal they will enforce this duty upon their own officers, for they will elect none to office who will not cheerfully take the oath. But if the people become alienated or hostile, as the people of those revolting States did, they will elect no officers who will take the oath. If, then, they are still allowed to choose their own officers the government of such State is in hostile hands and the Constitution is trampled under foot. It ceases to be the supreme law. But if you admit that it is the supreme law, then it is the duty of the President to see that it is enforced; and yet how can he enforce it unless Congress shall supply the proper enactments? So long as your laws declare that Louisiana is a State the President cannot prevent her people from appointing such men to office as they please. If he attempt to do so he offends against the law himself. While your law declares Louisiana to be a State the President must respect her rights as a State, and so long as he respects her rights as a State her people will select such men for officers as they choose.

Before the President can rightfully remove the government of a State which refuses to obey the Constitution Congress must by law authorize him to do so. But can Congress authorize the President to remove such a government? The last clause of the eighth section of the first article of the Constitution authorizes Congress—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Whenever, then, the President finds the government of a State in the hands of men who refuse to take the oath which the Constitution commands them to take, and when the people of that State refuse to choose officers who will take such an oath, I maintain the clause first cited confers upon Congress full power to authorize the President to remove such government and to forbid such people from choosing governments.

If this be not so, here is one command of the Constitution which cannot be enforced. And so in this particular the Constitution is not the "supreme law."

Mr. President, I will put you another case: suppose the government of Vermont enters into a compact with the Government of Canada, by which they stipulate that in the emergency of war they will furnish their whole military contingent to the use of Canada? Suppose the government of Texas makes such a stipulation with Mexico?

The Constitution declares that—

"No State shall, without consent of Congress," * * * * "enter into agreement or compact with another State or with a foreign Power."

But suppose a State does make such a compact, how shall the President correct such an abuse of power?

The judicial power cannot reach such a compact so long as the parties are content with it. Manifestly the military power cannot reach it. How, then, are you to prevent the authority which belongs to a State from being wielded by a government which is under this compact in open defiance of an express command of the Constitution? It ought to be corrected, ought it not? If it cannot be corrected the Constitution is not the supreme law; the Constitution is violated, and you cannot help yourselves. You ask the President to enforce this command; he says: "How shall I enforce it; I have only marshals and major generals at my disposal, and neither a marshal nor a major general can reach this difficulty—can cure this disease." But if the two House of Congress—if the law-making power will, under this clause which I have read, put a law upon the statute-book saying that such government shall no longer exist in Vermont, shall no longer exist in Texas, then the President can displace such a government as easily as he displaced the governments existing in the rebel States at the close of the war, and then the national authority is called upon to do just what

it does in every case where it finds a community of people within the jurisdiction of the United States, but without the jurisdiction of a State government; it provides a government—a provisional government—until the people are prepared to accept and discharge the obligations of a State government.

It will be seen, Mr. President, that I do not claim the authority to depose such a government under that clause of the Constitution which calls upon us to guaranty republican governments to States. But suppose a State absolutely refuses to maintain a government which is republican; suppose the whole local authority in Mississippi should be one of these days vested in Mr. Davis, or the whole authority in Missouri in my friend, [Mr. DRAKE,] for I will not test this question with reference to those disorganized communities alone; suppose the local authority should happen to be vested by the written law of Missouri in my friend here; he becomes the Governor, or the prince, or the grand duke, according to their local law, with the right to appoint men to make laws, the right to appoint judges to execute laws, the right to appoint Senators and Representatives to come up here; suppose that happens to be one of these days the reading of the constitution of Missouri and such a form of government exists there. That is not republican; but how shall we correct it? They do not arm a soldier; they do not raise an army; they allow our mails to go there; they let our courts exist there; they offer no resistence to the authority of the United States; but every power which under the Constitution belongs to a State is vested in a single individual, and in him, in perpetuity, a government as anti-republican as it is possible to conceive of. But how shall it be corrected? If the people of Missouri acquiesce in such a form of government one of two things is certain: either there must be in the national Government authority to remove my friend from power or the people of Missouri must remain under a State government anti-republican in form.

I know, Mr. President, that the executive authority did remove ten governments existing in the ten rebel States at the close of the war in 1865. He founded his right to do so upon the averment that those governments were not republican. He claimed to be acting under the authority of the fourth section of the fourth article of the Constitution, which declares that—

"The United States shall guaranty to every State in this Union a republican form of government."

But, in my judgment, the President made three mistakes: first, in supposing that he was the "United States;" second, in supposing that the governments he deposed were not as much republican as they ever had been; and, thirdly, in supposing the governments by which he replaced those deposed were republican at all. I never complain of those mistakes, because I thought those governments ought to have been removed; not because they were anti-republican, but because they were disloyal. But before he removed them for either or for any cause I think he should have had the authority of an act of Congress for doing so. When the Governor of New York commits high treason against the United States, undoubtedly the President may cause him to be arrested and tried for his crime; but unless he arrests him he cannot create a vacany in the office; and if he does create a vacancy in that office the people of New York must fill it, and not the President.

Mr. President, I have spent all the time that I ought to devote to the argument of this question and all the strength I have to spend upon it; but I cannot close without noticing some other incidents of the debate. The Senator from Indiana, [Mr. HENDRICKS,] who is usually very fair, and who yesterday gave us an admirable precept for the conduct of public debate, I thought violated his own precept in a remarkable manner. He claimed of his political opponents fair treatment, candid appeals to truth, reason, and right. How did he treat his political opponents? He told us this:

"You have taken the robes of political power off the shoulders of white men and you have put them upon the shoulders of negroes.

"Gentlemen may moralize in solemn tones, as if they came from the tomb, about the gallantry and distinguished services of the negroes in the war. I can tell you that with all the political and party ambition you have, with all the party power you have, you have not power to take the garlands from the brows of the white soldiers and put them on the heads of the negroes. You cannot do it."

Mr. President, did the Senator from Indiana mean to be understood that we desire to do that; that we are trying to take the garlands from the brows of our white soldiers and to bind them on the heads of the negroes? Did he mean to risk his reputation for veracity upon a statement or a suggestion of that kind? Sir, how long is it since the Senator from Indiana felt himself authorized to sing the praises of our soldiers, white or black? When before yesterday did he ever exhibit any special sensitiveness about the measure of fame that should be meted out to our soldiers, white or black? I cannot speak for his personal opinions or his personal votes or his personal acts; but while he and those with whom he acted stand here to-day denouncing us because we propose for a short time to take from a few rebels the elective franchise, I know that if he did not, the men with whom he acted in the State where I live and in other States, resisted to the utmost the efforts of the Republican party to continue suffrage to our own soldiers. The party with which he acted made their fiercest effort to disfranchise the soldiers of the Union Army. The disfranchisement which they complain of us for imposing upon a handful of men whose hands are too bloody to handle white paper any way, that very disfranchisement his political friends tried to enforce upon the soldiers who went from Wisconsin and who went from other States to fight the battles of the nation.

Mr. President, I do not believe the white soldiers of the Union Army have ever commissioned the Senator from Indiana to take care of their fame or to select their place in history. I do not think they care particularly to intrust that duty to his vigilance or to his eloquence. When they want their praises spoken or their eulogies pronounced I think they can find other men in other political organizations to whom they would as soon intrust that duty.

Sir, all of those who have preceded me on the other side of the Chamber have closed their harangues with terrible threats. All of them have pointed to the elections in November next, and assured us with great earnestness that a terrible overthrow awaits us there. It may be so. Political parties have been overthrown before, and defeat may await us in November next; but we know what we are striving to do, and we know that what we fail to accomplish in November next will be accomplished afterward. It is the simplest justice in the world that we propose to execute, the plainest right, and in the end justice and right will prevail, unless the Democratic party shall tread down not only the African race and the American Constitution but the Almighty himself. The Republican party simply demands that since the freedmen are here upon our hands some way shall be opened to their elevation in the scale of social life. You may say what you please of this purpose and of its propriety, put on before your fellow-men what airs and assume what attitudes you may, there is not a man of you on this side or the other, there is no man anywhere, who dares to go into his closet and shut his door and bow himself in prayer before his Creator and not pray for just what we vote for—the redemption, the elevation, the enfranchisement of the world, without distinction of race or color. And I am not afraid to go to the polls in November next with the American people, or alone, and vote for that which Christ died for and all Christendom has made intercession for for eighteen centuries.

Sir, if the issues in November next were to be decided between two individuals possibly the American people might hesitate; but the issue is to be between two parties. The history of both those parties the nation is already familiar with. The one is that known as Republican. It is the party which met the shock of the rebellion in 1861, which organized those great armies whose mailed tread shook the continent, and whose prowess disarmed the last foe that could be found in arms against the authority of the nation, and at the same time a party which has done as much to advance the material development of the country as has ever been done by any preceding party in the same period of time. You have done as much to add to the growth, the prosperity, and the wealth of the nation; you have built as many railroads, you have added as many miles of telegraph wire, you have put a commercial fleet on the Atlantic plying between New York and South America, you have put another fleet on the Pacific between San Francisco and the ports of Asia. I was told the other day by a gentleman largely interested in telegraphs that in the single district north of the Ohio, and between the Mississippi and the western line of Pennsylvania, more than thirty-six hundred miles of new telegraph line will be required the coming year to accommodate railroad lines that have been constructed in a single year.

The whole number of miles of railway constructed in the whole decade prior to 1860 was about twenty-two thousand. In addition to this, in the very agony of this struggle, you started a railroad toward the Pacific, and already the iron has reached the very summit of the Rocky mountain range.

This is what one party has done. What can be said of the other? I leave to its disciples to tell of its deeds; but I am here to speak of one deed. I am here to say that upon that party, to whose support my colleague has given himself, rests the full responsibility of the late war; rests the full responsibility, whether they designed it or not, of every life that has been sacrificed, of every drop of blood that has been spilled, of every dollar that has been spent. I say they are responsible for the war, because they were in a position where they might have prevented it.

When this war was inaugurated you know that that party had possession of every department of Government. The President was a Democrat; the Legislature was Democratic; the courts were made up of Democrats; and behind that Government made up of Democrats stood all the resources, all the material of the same people out of which were gathered the forces that did put down the rebellion after it was fully organized and fully equipped. But, instead of employing those resources to crush the rebellion while it was weak and immature, that Government of Democrats allowed the national Treasury to be exhausted and the national credit to be destroyed; they allowed your Army to be almost dissipated and your Navy to be dispersed; and then, when they had seemingly squandered every national resource, they retired from power and left the national life to the protection of the naked patriotism of the people. But that naked and unaided patriotism proved sufficient. The moment the guns opened upon the flag on Sumter that moment the nation sprang to arms, and from the moment the nation armed the rebellion began to retire.

During the struggle which ensued, and which the Democratic Government might have saved us from, I admit, many Democrats went into the Army and fought well. But, with few exceptions, when a Democrat went to the Army he left the Democratic party. Their ballots and their bayonets were given to the same cause. But I speak of the party organization, and I ask them to tell the country the occasion on which that organization ever lifted an ounce in the way of carrying the burden which rested upon the nation, or ever inspired an effort by any prayer or any word or any smile of theirs.

Mr. President, between these two parties I do not believe the American people are likely

to hesitate in November next. But, sir, I do not challenge the approval of the American people or their confidence simply by reason of what the Republican party has heretofore done; I do not ask it so much from their gratitude as from their hopes. Not alone because we have done well heretofore do I ask their continued faith and trust, but because of what we will do hereafter. Sir, if that trust is not withdrawn from us I think I can venture to promise, in behalf of the Republican party, that we will hereafter perfect the "Union" by crucifying the last and foulest prejudice which distracts it; that we will "establish justice" by enabling all to partake of it; that we will "insure the domestic tranquillity" by destroying the last form of oppression which can disturb it; that we will "promote the general welfare" by opening every part of the whole country to the quickening energies of free, requited, and contented labor. And when we can convince the world that the American people do not hearken to the insidious voices of those who would debauch the national honor and abjure the national faith we shall exchange our debt which now bears an interest of six per cent. and sells for seventy-two per cent. in the European markets for a debt bearing an interest of four per cent., and which will command one hundred per cent. in Frankfort. With the proceeds of those bonds the holders may build three lines of railway between the Mississippi and the Pacific coast; and from those lines of railway may derive an interest not of four but of ten per cent. We will open the mineral fields of the West to the labor of the world. From the barren hills we will gather the tribute which shall discharge the public debt; we will quadruple our fleet on the Pacific, pour the trade of Asia into San Francisco and New York, and we will show to the world a renewed and regenerated Union, no longer swaggering with the contemptible boast that it is the Government of white men or of black, but resounding everywhere with the exultant shout that it is and it forever shall be "the home of the free and the asylum of the oppressed."

Mr. FERRY. Mr. President——

Mr. HARLAN. If the Senator from Connecticut will give way I will move that the further consideration of this bill be postponed until to-morrow, with a view of proceeding to the consideration of the business of the District of Columbia.

Mr. FERRY. I give way for that purpose.

The motion to postpone was agreed to.

COTTON TAX.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the report of the committee of conference on the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled bill (H. R. No. 207) to provide for the exemption of cotton from internal tax; and it was signed by the President *pro tempore*.

CORPORATIONS IN THE DISTRICT.

On motion of Mr. HARLAN, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 102) providing for the formation of corporations and regulating the same in the District of Columbia, the pending question being upon the amendment reported by the Committee on the District of Columbia to insert, as section fifty-five, the following:

And be it further enacted, That the stockholders and also the directors of any corporation formed under this act may hold any meeting for the transaction of the business of the corporation, including meetings for purposes of organization, and may keep their principal office in any State or Territory of the United States. But no meeting shall be held out of the District of Columbia without the assent of persons holding a majority of the shares of stock of the corporation, nor without reasonable notice. Any such corporation, having its principal office outside of the District of Columbia shall, within thirty days after its organization, appoint by power of attorney duly executed, some person permanently residing within the District of Columbia, to accept service of any warrant, process, or notice.

Mr. HARLAN. I move to amend this amendment by striking out in line five the words "and may keep their principal office," and by inserting at the end of that sentence, after the words "United States," in line six, the words "and their principal office shall be kept in the District of Columbia," so as to make the section read:

That the stockholders, and also the directors of any corporation formed under this act may hold any meeting for the transaction of the business, including meetings for purposes of organization in any State or Territory of the United States, but their principal office shall be kept in the District of Columbia.

Mr. JOHNSON. I do not know by what authority Congress can provide that an organization with a charter in this District shall have a right to have an office and hold meetings in any of the States. The amendment does not provide that they may do it with the consent of the States, but gives them the right to do it absolutely. I suppose the object of the provision is that they may, if they desire it, virtually have the corporation itself for the transaction of business in a State without the consent of the State. In the case of Cohen *vs.* Virginia, which involved the right to sell lottery tickets under a lottery grant authorized by Congress, I think it was held that there was no authority to sell those tickets in Virginia without her consent; and if it had not been so adjudged, if there was no decision on the subject, I should suppose it to be very clear that that is a matter within the exclusive jurisdiction of the States. Most of the States have by legislation provided that foreign corporations chartered by other States—and the rule applies equally to corporations chartered by Congress in the District of Columbia—may have offices in their limits on paying a tax or license fee, or something of that sort; but I am not aware that it has ever been held anywhere that, as against the will of the State, Congress, under the power to legislate in the District of Columbia, has authority by such legislation to locate a corporation in any State of the Union.

Mr. WILLEY. I think the honorable Senator from Maryland totally misconceives the meaning of this section. For myself, however, I will state that I doubted at first the propriety of this amendment to the original bill. It is an amendment which was drawn up by myself under instructions from that committee, and I think the Senator from Maryland misconceives the purpose of the amendment itself. However impolitic and improper it may be in his view when rightly interpreted, I think he does not get the idea intended to be comprehended in the amendment. It is not that these corporations shall operate outside of the District. That is not the purpose. The whole scope of the bill was constructed so as to confine the corporations in their operations and in their working exclusively to the District of Columbia. It is proposed to make that purpose effective by an amendment to the first section, but obviously the intent of this section, as it now stands, is not to authorize companies to work outside of the District; that is, to carry on their business outside of the District, but to enable them to hold meetings outside of the District for the purpose of consulting in regard to their business, through their boards of directors or whatever other way they may see proper to consult about the business, to be carried on within the limits of the District. It is not intended at all to authorize these companies to have any operation of their business carried on outside of the District, but only to authorize the stockholders and directors who may be appointed under the provisions of this act to hold their business meetings outside of the District, wherein they may see proper to regulate their business within the limits of the District of Columbia.

As I said just now, I somewhat doubt the propriety of authorizing them to have their principal offices outside of the District of Columbia; but certainly the objection which the Senator from Maryland makes cannot lie to this section, because it does not propose to authorize them to operate outside of the District, but only to have meetings of their stockholders and of their directors outside of the District, to consult as to the proper mode and manner of carrying on the business of the corporation within the District. The reason for this can be very readily stated. Persons holding capital in Baltimore, for example, the principal city of the State from which the honorable Senator comes, may desire to employ their capital in the District of Columbia for the promotion of its interests in the way of manufactures or otherwise. They may see proper to organize a company to operate within the limits of the District of Columbia; but to persons owning that stock residing in the city of Baltimore, it may be much more convenient to them to hold meetings of the stockholders for organization, and then of the directors for the management of the business, in the city of Baltimore, where they reside, than it would be for them to come to the District of Columbia to do so. It is not that they shall operate within the State of Maryland; their operations must be confined wholly to the District of Columbia; but that they may regulate the manner and mode of doing their business in their meetings in Baltimore. I am indifferent about the incorporation of this section into the bill, and have some doubt about its propriety myself. Hence I have thought it necessary to make this explanation.

Mr. JOHNSON. I do not think I misapprehend the meaning of the proposed amendment. It is not that they are to meet outside of the District of Columbia merely for the purpose of organization, though that, I think, would be objectionable, but it is that they may meet outside for the transaction of business as well as for the organization. The transaction of business, I suppose, necessarily includes the doing of some acts in connection with the object of the incorporation. Whatever business they are authorized to transact here, under their charter, they will be authorized, if they are permitted to go outside of the District of Columbia for the transaction of business, to do there; so that, in my opinion, it is virtually giving them authority to establish offices in all the States for the transaction of the business of the corporations without their first obtaining the assent of the States.

Mr. HARLAN. However pertinent the remarks of the Senator from Maryland may be to the amendment as originally proposed by the committee, I think he will perceive that they have no application to the amendment which I have proposed to the amendment.

This will limit the scope of the amendment proposed by the committee by confining the companies to the District of Columbia, at least for the location of their principal office. He therefore can have no objection, I think, to the amendment to the amendment which I have proposed.

Mr. JOHNSON. I have no objection to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. HARLAN. I now move to further amend the amendment by striking out all after the word "notice," in line nine, to the end of the section.

The words proposed to be stricken out were read, as follows:

Any such corporation having its principal office outside of the District of Columbia shall, within thirty days of its organization, appoint, by power of attorney duly executed, some person permanently residing within the District of Columbia to accept service of any warrant, process, or notice.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

Mr. JOHNSON. I ask that it be read as it now stands.

The Secretary read the amendment as

amended, which was to insert as section fifty-five the following:

And be it further enacted, That the stockholders and also the directors of any corporation formed under this act may hold any meeting for the transaction of the business of the corporation, including meetings for purposes of organization, in any State or Territory of the United States; but their principal office shall be kept in the District of Columbia. But no meeting shall be held out of the District of Columbia without the assent of persons holding a majority of the shares of stock of the corporation, nor without reasonable notice.

Mr. JOHNSON. I do not desire to debate the question; but it is obvious that that gives them authority to establish offices in any State of the Union without the consent of the State.

The amendment, as amended, was agreed to.

The next amendment of the Committee on the District of Columbia was to insert the following as section fifty-six:

And be it further enacted, That the stockholders of any corporation now existing in the District of Columbia, being of a character of any such corporation as is authorized to be created by the first section of this act, may, by resolution in general meeting, accept and adopt the provisions of this act, and thereupon a copy of the said resolution shall be filed with the Secretary of State, together with a statement showing the name by which the corporation had theretofore been known, and the name, whether it be the same or a different one, by which it is intended it should be known thereafter; the nature and character of the business to be carried on; the place where said business is to be carried on, and where the principal office of said corporation is to be kept; the time when said corporation is to expire; the amount of the whole capital stock, and the amount of capital actually paid in; the amount to which it is intended to reserve the privilege of increasing the same; and the par value of each share; which copy and statement shall be certified by the president of said corporation under his hand and the seal of said corporation. And the Secretary of State shall thereupon issue a certificate of incorporation under his hand and the seal of his office, reciting the said resolution and statement, and declaring the said corporation to be thereafter, until the time mentioned in the said statement for the expiration thereof, a corporation by the name which it is intended it should thereafter be known, and for the purposes and business therein set forth, unless sooner dissolved according to law. Certificates of incorporation issued pursuant to this section shall be received in all courts and places as legal evidence of the existence of the corporation as therein declared; and all corporations organized under this section shall no longer be under their former charter or act of incorporation, but shall have all the rights, privileges, and powers conferred by this act, and shall be subject to the liabilities, restrictions, and regulations prescribed and required by this act: *Provided*, That no debt, contract, right, or liability existing, or any warrant, proceeding, motion, suit, or process then pending, shall be affected or impaired by anything which may be done under this section.

Mr. MORRILL, of Vermont. I do not rise particularly to oppose this amendment. I have no doubt the bill is gotten up for the purpose of relieving the Committee on the District of Columbia from further labor, and I think if it passes it will certainly accomplish that object, and possibly a good deal more. I think it will relieve Congress of a very large amount of labor in relation to the District of Columbia, and possibly the Legislatures throughout the entire Union of the necessity of passing acts of incorporation.

The bill proposes that anybody may organize a corporation in this District; that even existing corporations may abandon their old charters and come in under this act, and if they find its provisions more favorable than the charters or acts of incorporation under which they now act, they certainly will avail themselves of that privilege. It is certainly an omnibus kind of a bill. It allows any kind of banks, except banks of issue or circulation, to be established here. It allows gas-works to be established here. I do not know that I would object to having a new gas company established in order to cheapen the price of gas or to furnish a better article than we now get; but I certainly conceive that it ought to be subject to the consideration of Congress in the particular instance whether such an act of incorporation should be granted or not. Then it authorizes the incorporation of all sorts of institutions of learning. I do not apprehend a great amount of danger even from that source; but I do not think the Committee on the District of Columbia ought to so far shirk their duties as to avoid wholly any supervision over these subjects. I am not for such a kind of labor-saving machine as this bill is or proposes to be by any means.

There are many provisions throughout the bill that I do not think will commend themselves to the favor of gentlemen if they will examine them. It is possible that this bill may pass here without anybody paying attention to it, as there do not seem to be many Senators present; but I am very sure that when it undergoes the scrutiny of a majority of either branch of Congress a vote cannot be obtained to pass it.

Mr. HARLAN. I think the reflection of the Senator from Vermont is not entirely justifiable. I do not think the passage of general incorporation laws is to be objected to. I remember that in the State which I have the honor in part to represent, we have a provision in the constitution inhibiting the Legislature from passing special charters for corporate privileges, and requiring the Legislature to throw the whole subject open to the people at large and permit any individuals to associate themselves together under a general incorporation law, and this is becoming the policy of all the States of the Union. It is favorable to liberty to make it general; it is favorable to monopoly to make it special; and the committee desire merely to conform the legislation of this District in this respect to the spirit of the legislation of the States of the Union.

Besides, if the Senator will take the trouble to read the bill he will find that in the last section of the bill jurisdiction is reserved over the whole subject. That section provides—

That the right is reserved to Congress to alter or amend, by general laws, at its pleasure, this act, or any certificate of incorporation issued under the same.

So that the committee do not seek to shirk responsibility, nor do they propose to tie up the hands of Congress or to confer monopolies on individual associations or organizations that cannot hereafter be controlled by the national Legislature.

I would prefer, however, if Senators do not propose themselves to aid in perfecting the bill, that they would permit the committee to do so, and then present their objections to the bill after we have made it as perfect as we can. If it should not then be the pleasure of the Senate to pass the bill, of course the committee will abide the judgment of the majority.

Mr. JOHNSON. The honorable member will permit me to ask him if it is provided that the stockholders are to be individually responsible.

Mr. HARLAN. I hold in my hand an amendment which I intend to propose on that subject.

Mr. WILLEY. I hope the suggestion of the Senator from Iowa will be accepted, and that the general merits of the bill will not be discussed until it is made as perfect as the committee can make it, or propose to make it, at any rate; but since suggestions have been made I desire to reply to them.

The object of this bill is to get rid, on the part of the committee and on the part of the Senate, of a great deal of what the committee consider unnecessary trouble. When a bill is introduced for a single corporation, if the committee on the District of Columbia does its duty, and if the Senate does its duty, they will see that every provision guarding the rights of the stockholders and the rights of the public, and regulating the working of that corporation in all its machinery and all its relations, is incorporated in that individual bill or act of incorporation. What an immense amount of labor would not this impose upon the Committee on the District of Columbia and upon the Senate!

Now, what is the experience of the committee, and what is the experience of the Senate on this subject? A company wishes to be incorporated to carry on a given kind of business; the individuals wishing to be incorporated send us a bill here to be introduced containing three or four or five or half a dozen or ten sections, crudely, imperfectly, and untechnically drawn, without any sufficient guarantee for the proper working of the company itself, without any sufficient protection for the public if the company does irresponsibly organize, as it may possibly do, and encroach on the rights of the community or perpetrate frauds on the community.

There are before the Committee on the District of Columbia at this time, I suppose, a dozen bills of this character; and is the Senate, whenever one of these bills comes up for consideration, to arrest the general legislation of the country, to take it into consideration, to discuss it thoroughly, to see if it have all the necessary guarantees and protections and provisions in it that will secure the proper operations of the company itself, and insure the public against fraud and imposition? The object in drawing this bill was to collect together and make applicable to all these private companies such a set of rules and regulations as would compel the companies to work properly and secure the public against imposition and fraud.

Now, sir, that this bill embraces too many objects is no reason why it should not be passed. If there is any object distasteful to the Senator from Vermont; if it embraces too many propositions, too many kinds of work, too many kinds of business, it is the easiest matter in the world to refer to the first section and strike that particular business to which he objects out of the bill.

But, sir, we have abundance of precedents for it. I have now in my hand the statute of the State of Iowa to which the Senator from Iowa alluded; and here is the only provision for the incorporation of private companies in that State, so far at least as refers to the kinds of business for which companies may be incorporated:

"Any number of persons may associate themselves and become incorporated for the transaction of any lawful business, including the establishment of ferries, the construction of canals, railways, bridges, or other works of public improvement; but such corporations shall confer no power or privilege not possessed by natural persons, except as hereinafter provided."

That includes everything, not only the objects named in this bill, but every other object for which men may lawfully engage in business; and I understand from the Senator from Iowa that the operation of that law is beneficial in that State. I have had occasion, also, to refer to the statutes of New York. Indeed, I may say that this bill is principally based upon the statutes of New York. I find there successive acts of incorporation, suggested, doubtless, by experience. Even in the Revised Statutes of that State, without referring to the acts of the Legislature of New York since that time, I find laws of incorporation for railroad companies, for turnpikes, for plank-roads, for gas-light companies, for manufacturing companies, for mining companies, for mechanical companies, for chemical companies, for bridge companies, for charitable, scientific, benevolent, and missionary societies—a list almost as great as this. But the only answer to the argument of the Senator from Vermont in this respect is, that if there be any business included within the first section of this bill for which there should be no general act of incorporation, let it be stricken out; let it be modified in that respect to suit the views of the Senator and of all the Senate. But, sir, I do hope that the Committee on the District of Columbia will be relieved from these everlasting applications for private bills, that we shall not be put to the necessity of bestowing as much time upon every private bill as will be necessary to perfect this bill, because, in my estimation, there is not a provision in this general bill which ought not to be included in any act of incorporation for any distinct and individual bill.

If you look into the bills passed by Congress for corporations in this District, any lawyer, at any rate, will be amazed to see how crude and undigested they are, and how insecure and unsafe are all the provisions incorporating private companies here; how insecure the public is, how insecure the stockholders are, how in-

secure the interests of the community are under the operation of those bills without guarantees, without protection, without any regular *modus operandi* whatever.

It was to obviate these defects and to get rid of these difficulties and these delays in the transaction of business in the Senate that this bill was drawn up. Now, if there be any provision in the bill that is improper it will give me great pleasure indeed to have the benefit of the superior wisdom of the Senate to correct the error. All I ask is that the Senate will give its attention to this bill, and enable the committee to perfect some bill that will relieve the committee and the Senate of such an immense amount of labor, and afford some kind of security to the community in the District of Columbia for the operation of these private companies.

Mr. MORRILL, of Vermont. I think that the catalogue in this bill of the kinds of projects for which associations may be incorporated here, is altogether too large. If the bill was confined merely to associations for manufacturing purposes and insurances and cemeteries, and some things of that sort, which would relieve the Committee on the District of Columbia, I should make no objection; but it goes much further and takes in almost everything. It provides for incorporations for "universities, colleges, academies, seminaries, schools, or institutes for the purpose of teaching any branch or branches of useful information or learning, or promoting religion, morality, military sciences and discipline, or the diffusion of knowledge, including library companies," &c. Many of these ought certainly to be excluded; but my main objection is that it not only relieves the Committee on the District of Columbia from further work in these matters, but it is to relieve the Legislatures of all the States, for I do not perceive why persons may not come here and under this act incorporate themselves, and then do business anywhere throughout the whole country. They are specially relieved even from having their principal office here if they choose to have it elsewhere.

Mr. WILLEY. With the leave of the Senator, I beg him to remember that the committee, to meet that objection upon the part of Senators made the other day, intend proposing an amendment to the bill to make it more explicit in that respect, so as to confine the operations of companies incorporated under this bill entirely and distinctly to the District of Columbia.

Mr. MORRILL, of Vermont. Still I do not think that the amendment proposed will reach the object to which I have alluded; it will still be within the power of the companies to organize here and do their business elsewhere; and if so, then, if this act is more favorable than the State Legislatures provide, of course parties will come here and avail themselves of it. I think myself that the bill will prove to be a very vicious one.

Mr. CONKLING. Mr. President, I sympathize entirely with the disposition manifested by the Senator from West Virginia to relieve the Committee on the District of Columbia of all these subjects of detail; and I hardly sympathize with what in that respect has fallen from the Senator from Vermont. I agree, too, with the criticism (although not made in the spirit of criticism) of the Senator from Iowa, who says that the better way is for us to lend a helping hand toward the perfection of the bill rather than to object to it as it stands; and I would not make the few remarks which I propose to make at this time if I saw any possibility of perfecting the bill in Committee of the Whole Senate so as to divest it of what seems to me grave objections.

Now, Mr. President, as I understand it, not only the objections indicated by the Senator from Vermont apply to the general scope of the bill, but, in detail, inwrought with the machinery and proceedings permitted here, are objections which it seems to me no Senator who will give it his attention will be inclined to overlook. I have no idea, however, that it will receive much attention. There is not a quorum or half a quorum of this body present now. I will not say that any of those present are not giving the bill the strictest attention, but if all who are here are attending to it I doubt whether the solid judgment of the Senate can be obtained upon it. But now, sir, let us briefly look at this bill.

The proposition is to incorporate companies to do business in the District of Columbia. What is that? A territory now much less than ten miles square, having no railroads, in the ordinary sense, to build, no mines to be developed, no great extent of country to be subdued; none of the things, in short, to be done which enter into the economy of the great States, particularly the new States of this Union. That being the theater of operations to which gentlemen say they are going to restrict the bill—and if they do, they must recast, I think at least half of all its sections, because the whole genius of the bill is to go beyond that—that being the theater of operations, corporations are to be chartered to do things the specific enumeration of some of which the Senator from Vermont need not have read because much broader opportunities are embraced in these words: "And for any other purpose or business useful to the public for which a firm or copartnership may be lawfully formed in the District of Columbia." There are to that but four exceptions, only four in all the whole range of human enterprise. These exceptions are: first, that this "shall not be construed to authorize the incorporation of a bank of circulation"—any other kind of a bank may be incorporated—or, second—"a company for the construction of any works of internal improvement;" or, third, "of any church or religious denomination;" or, fourth, "of any company, the object or one of the objects of which may be to purchase lands and resell the same for profit." As to the last exception, a subsequent section, I think, neutralizes that; but concede that there are four exceptions to what these corporations may do; every other known thing they may do. That is a matter which, as the Senator from Iowa truly suggests, with a little clerical labor upon the bill, could be reduced and defined. But now come to the way in which all this is to be done.

In the first place, no stockholder, by any provision of this bill that I can find and understand, is obliged to pay one farthing in cash for his stock. There is a provision that before the thing starts ten per cent. is to be paid, but how it is to be paid is left entirely open.

Mr. HARLAN. Will the Senator pardon me for a suggestion?

Mr. CONKLING. Certainly.

Mr. HARLAN. I will remind the Senator that he referred to these supposed defects in the bill a few days since, and I have prepared amendments which I think will obviate them; and that induces me to suggest to him again that I think the better way would be to allow those who have had the bill in charge to make it as near perfect as they can, and if then it is to be rejected, so be it.

Mr. CONKLING. Very well, sir. I was about to make a few remarks, but I will discontinue them in a moment. If that is to be corrected, then I wish to suggest to the Senate two or three other things.

According to the provisions of the bill any number fixed by the stockholders may be a quorum of stockholders; and one, two, or any number may constitute a quorum of the directors, just as they please. There is no provision here that a director shall be a stockholder. He may be anybody—a man who does not purport to own a shilling in the corporation. Then there are all sorts of provisions about preferred stock and about diminishing stock. In short, to put it in a word, it enables any man who chooses to put up a shadow, a veil, to be called a corporation just as he pleases, as the *nom de plume* or *nom de guerre* under which he fights his private enterprises.

Now, sir, if there is anything which, as far as I understand them, the corporation statutes of the various States, and which such statutes, wherever they are found in the jurisprudence of the world, tend to guard against, it is such a condition of things as will make a corporation a resort, a handle, a convenience for doing without personal responsibility and by indirect ways what the particular parties may not choose to do in the open way of competition.

It seems to me not only that the scope of this proposed statute is altogether too great, but that running through its details there is a laxity, a want of safeguard, a want of those requirements that experience has demonstrated to be necessary, the like of which I have never seen in any statute. I will speak with great diffidence of the statutes of every State except the State from which I come; but I undertake to affirm that the fellow of this bill cannot be found even by approximation in all the legislation of that State, being an empire containing four million people, engaged as they are in all the multiplied and diversified pursuits which human enterprise has suggested; and even if it were there the idea of applying it, because found in the jurisprudence of such a community, to the District of Columbia, would, it seems to me, be going a great way for an argument and a parallel.

However, sir, I do not wish to continue any criticism upon the bill. I shall be very glad to vote with the Senators to perfect it in any way; but my belief is that to obviate these difficulties and to make it symmetrical it will require very different treatment from that which it is to receive here in Committee of the Whole Senate.

The amendment was agreed to.

Mr. HARLAN. I now offer the following amendment, to come in as an additional section after the amendment just offered:

And be it further enacted, That the private property of every stockholder in any corporation organized or existing under the provisions of this act, except those enumerated in classes four and five in the first section, shall be liable for its debts and liabilities to the extent of the par value of his stock.

The amendment was agreed to.

Mr. HARLAN. I move to amend the bill further by striking out in line eleven of section four the words, "county of ——, or at ——, in the city of ——, " and inserting "District of Columbia," so as to read "which corporation shall keep its principal office or place of business at ——, in the District of Columbia."

The amendment was agreed to.

Mr. HARLAN. In section six, after the word "paid" in line four, I move to insert the words "in lawful money of the United States;" so as to make the section read:

That no person shall be included as a corporator in any such agreement, by reason of any stock subscribed for by him, unless he has, in good faith, paid in lawful money of the United States to the person who may have been appointed or agreed upon to receive the same for the intended corporation, at least ten per cent. of the par value of the said stock.

The amendment was agreed to.

Mr. HARLAN. In line eleven of section seven, after the words "paid in," I move to insert "lawful money of the United States;" so as to make the clause read:

The affidavits of at least two of the corporators named in the agreement shall be annexed thereto, to the effect that the amount therein stated to be paid on the capital has been in good faith paid in lawful money of the United States for the purposes and business of the intended corporation, without any intention or understanding that the same shall be withdrawn therefrom before the expiration or dissolution of the corporation.

The amendment was agreed to.

Mr. HARLAN. I move to add at the end of section fifteen:

And all payments for balances due on stock shall be made in lawful money of the United States.

Mr. JOHNSON. What balances does that amendment apply to?

Mr. HARLAN. The bill provides that the stockholders may pay in at the organization of the company a percentage on the stock they subscribe and afterward may pay up as may be agreed on among the stockholders. I suggested this amendment to obviate a difficulty men-

tioned by the Senator from New York, that they might receive the stocks of other companies or might receive lands in payment of original stock. This is to require the balance to be paid in lawful money.

The amendment was agreed to.

Mr. HARLAN. In section sixteen, line seven, I move to strike out the words "shares exceeding one hundred" and insert "additional shares of $100 each," so as to read:

One vote for every share of stock not exceeding $100, and one vote for every four additional shares of $100 each.

The amendment was agreed to.

Mr. HARLAN. In section nineteen, line ten, I move to strike out the words "if there be no such by-law" and insert the word "provided," so as to make the provision requiring a majority of the stockholders to be present, personally or by proxy, to constitute a meeting, to come in as a proviso to the first sentence of the section.

The amendment was agreed to.

Mr. HARLAN. In section twenty-two, line six, after the word "number" I move to insert "not less than three;" so as to make the clause read:

The stockholders may in general meeting, by a by-law, prescribe the number, not less than three, of which the board shall consist.

The amendment was agreed to.

Mr. HARLAN. In line ten of the same section, after the word "and" I move to insert "each director must be;" so as to make the clause read:

But, if it be not otherwise provided, every director must be a resident of the District of Columbia, and each director must be a stockholder.

Mr. WILLEY. Is that necessary? It now reads "if it be not otherwise provided, every director must be a resident of the District of Columbia and a stockholder." Why should you insert the direction twice? I noticed, when the Senator from New York was criticising the bill a while ago, he said that the bill did not require that a director should be a stockholder. Here is a provision that, if not otherwise provided, every director shall be a stockholder, according to the bill as it stands.

Mr. CONKLING. Where is that provision?

Mr. HARLAN. I will remark, with the consent of the Senator from West Virginia, that I listened closely to the criticism of the Senator from New York, and believing him to be candid, and that he was misled by the language used, I thought it was better to obviate the objection by inserting specific words.

Mr. CONKLING. I was not misled at all in what I said, and I will repeat it. What I said was that as the bill stood any number of stockholders, however small, even one only, might be made a quorum, and any number of directors, however small, might be made a quorum, and that there was nothing in the bill requiring a director to be a stockholder. I repeat that.

Mr. HARLAN. Will this amendment obviate that difficulty?

Mr. CONKLING. Very likely; but I am answering the Senator from West Virginia. The bill expressly recognizes the right of this quorum of directors, however small it may be, as provided by a by-law, to say that a director need not be a stockholder. Therefore I say the bill does not provide that he shall be.

Mr. MORRILL, of Vermont. The amendment will not obviate the difficulty unless you strike out the words "if it be not otherwise provided," because they may provide that one shall be a director, if not a stockholder or if not a resident of the District.

Mr. CONKLING. I was not attending to the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. HARLAN. In section twenty-two, lines seventeen and eighteen, I move to strike out the words "unless it be otherwise provided in the by-laws," so as to read "a majority of the board shall constitute a quorum."

The amendment was agreed to.

Mr. HARLAN. I believe these are all the amendments that I have noted.

Mr. WILLEY. I do not understand whether the chairman of the committee has had the blank in section three filled. In that section there is a provision that the capital stock of any of the corporations shall not exceed —— dollars.

Mr. HENDRICKS. Before this bill is voted upon I wish to ask the Senator from West Virginia whether it provides for any subject except that of the organization of corporations within the District of Columbia. I have been unable to read the whole bill.

Mr. WILLEY. That is the intention of the bill; and certainly I think it is limited in its operation to the District of Columbia.

Mr. HENDRICKS. A general law for the organization of corporations, so that there shall be no more special acts of incorporation?

Mr. WILLEY. Yes, sir; to operate within the District of Columbia.

Mr. HENDRICKS. I am in favor of that principle of legislation; and if the bill is confined to that I shall vote for it.

Mr. HARLAN. I should like to be guided by the judgment of those of more experience than myself in proposing an amendment to the section where the blank is. It now reads "that the capital of a corporation under this act shall not exceed —— dollars." I suggest that the blank be filled with $500,000.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to fill the blank in section three with $500,000. The question is on that amendment.

The amendment was agreed to.

Mr. POMEROY. I have wanted ever since I have been here some general act of incorporation for the District of Columbia. I do not know whether this bill is precisely what is needed or not. I have not been able to give it the attention to enable me to decide that question. But I notice that the Senator from Iowa has incorporated in the bill some very important amendments, and one that I listened to required that each stockholder should in his private capacity and by his private property, if required, respond to the debts of the company not only for his stock but for an amount equal to it, besides the amount that he subscribed for. In other words, it makes his personal property holden for the amount he subscribed. I know that is done under the laws of some States. A man subscribes so many shares in a corporation and he pays for them and gets his stock, and then in case the corporation becomes insolvent the State undertakes to hold him for an equal amount, to be collected out of his private property, in addition to what he subscribed; that is, that he shall not lose, by being a member of that corporation, more than the amount of his stock at its par value, and the same amount of money besides.

That may be a good provision; it looks toward the safety of the community, I admit; but I never would invest a dollar in any such corporation. I do not believe any man who has any property would ever subscribe a dollar to a corporation where he was holden for anything that he did not subscribe for. If I subscribe to a corporation I am holden to pay my stock, of course, and the reason why I prefer to invest in a corporation is because I am not holden beyond that. If we are partners in common, if we are all going into a partnership, then make every man responsible to pay his proportion of all the debts. I believe the very amendment to which I have referred will defeat the organization of any corporation under this bill. If I were in such a corporation I should not know whether I had any property or not, and I do not now see how any man would ever know whether he had any property or not if he was liable for something more than he subscribed for. He would not know but that he might be called on any day to pay two dollars for one. It seems to me that that amendment, although it looks to the safety of the community, looks in the right direction, yet, as it holds a man for double the amount of his stock, will prevent men taking stock. I do not know of any corporation where I would agree to run that risk, where, on taking a dollar's worth of stock, I should be required to pay beyond what I subscribed. If, however, it is the judgment of the Senate that corporations can be organized in this District with any such provision as that in the charter they will pass the bill.

Every Senator, I suppose, has been asked to assist in passing some special act of incorporation for this District; and I have always uniformly said that I wished we had a general act, so that all persons who wanted to do a legitimate business might organize under it; but I do not believe you can organize any companies with a provision in your law that a man's private property shall be holden for anything more than he subscribes for, and that is the par value of his stock. My opinion is that that provision will defeat any legitimate organization in the District. Men may subscribe who want to do some illegitimate business, who think they can afford to run risks of that character; but prudent and honest men are not apt to run these risks, and any other kind of men ought not to have an incorporation.

Mr. WILLEY. I concur very much with what the Senator from Kansas has said, and doubt whether we shall have any corporation under this act with that clause in it to which he referred. It is customary sometimes to make stockholders responsible until the entire amount of their stock is paid in, and afterward only to hold them responsible to the extent of their stock. The amendment, however, has been incorporated in the bill, and I cannot help it.

While I am on the floor I move to amend the bill in section seven, line six, by striking out the word "another" and inserting "any." This is a mere verbal correction.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BUCKALEW. I ask for the yeas and nays on the passage of the bill.

Mr. JOHNSON. I do not know that I am opposed to this bill, though I think I am. It contains provisions which seem to me to be dangerous, looking to the rights and the interests of the States. I submit, therefore, to my friend from Iowa, who has the bill in charge, whether it is advisable to press a bill of this kind to its passage when the Senate is so thin.

Mr. HARLAN. I have no objection to taking an order to have the bill printed with the amendments that have been adopted, and then permitting it to go over until it can be reëxamined and acted upon.

Mr. JOHNSON. I think that is the better course.

Mr. HARLAN. I make that motion, then, that the bill be postponed until to-morrow, and be printed with the amendments that have been adopted.

The motion was agreed to.

WASHINGTON CITY OFFICERS.

Mr. SUMNER. I move that the Senate proceed to the consideration of House bill No. 143, which was reported from the Committee on the District of Columbia on the 18th of December last.

Several SENATORS. What is the bill?

The SECRETARY. "A bill regulating the selection of officers in the city of Washington, and for other purposes."

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. SUMNER. I hope not; let us pass this bill.

Mr. HENDRICKS. We cannot possibly do it.

Mr. SUMNER. The people of Washington are crying out for it.

Mr. HENDRICKS. I insist on my motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 31, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

FRAUDS UPON THE REVENUE, ETC.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to report to this House what measures have been adopted under the provisions of the act of March 3, 1863, entitled "An act to prevent and punish frauds upon the revenue," &c., what amount of property has been seized for fraudulent entry since the passage of said act; what amount of money has been realized from such action; the number and condition of the suits now pending for the forfeiture of property so seized; whether unusual difficulties and delays have occurred in the prosecution of such suits to judgment; and if so, what are the causes thereof, with such correspondence between the Treasury Department and the officers of the revenue as relates to such seizures and to measures for the prevention and punishment of frauds upon the customs revenue; what has been the effect of such measures upon the increase of the revenue and the suppression of frauds; what has been the extent of the frauds committed, and their effect upon the financial, commercial, and manufacturing interests of the country, with his opinion as to what, if any, further legislation is necessary for the suppression of such frauds.

Mr. BLAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. PIKE. Mr. Speaker, I was seeking the floor just now to offer an amendment to the resolution of my colleague, [Mr. BLAINE.]

The SPEAKER. The amendment will be read, and if there be no objection it will be considered as a part of the resolution just adopted.

The Clerk read as follows:

And that the Secretary of the Treasury be instructed to report to this House the reason why no reply has been made to a resolution adopted by this House, November 21, 1867, relative to the employment of detectives, and special agents, and special inspectors, and that the Secretary be instructed to report at once the information called for in said resolution, and also to state in said reply the sums paid to each of the persons termed "detectives," "special agents" or "special inspectors," and "informers," during the time specified in said resolution, and by what officers said amounts were paid.

Mr. HOLMAN. I object, because sufficient time has not yet been allowed for furnishing the information called for. The Secretary of the Treasury, I think, will undoubtedly furnish the information as soon as possible.

The SPEAKER. There being objection, the proposition of the gentleman from Maine [Mr. PIKE] is not before the House.

CONTINUANCE OF FREEDMEN'S BUREAU.

Mr. ELIOT, by unanimous consent, reported from the Committee on Freedmen's Affairs a bill (H. R. No. 598) to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes; which was read a first and second time, and, on motion of Mr. ELIOT, ordered to be printed and recommitted.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted: and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

Mr. EGGLESTON. Mr. Speaker, I have an unpleasant duty to perform this morning in presenting a joint resolution of the Legislature of Ohio. I ask that it be read.

The SPEAKER. Resolutions of State Legislatures are always ordered to be printed; they are not generally read, except by unanimous consent.

Mr. EGGLESTON. I hope there will be no objection to the reading of the resolution.

Mr. WASHBURNE, of Illinois. I hope the resolution will be read. I believe it is customary to have such documents read when the reading is called for.

The SPEAKER. The general usage is to order them to be printed without being read. If there is no objection, however, the resolution will be read in full.

There was no objection.

The Clerk read as follows:

H. J. R. No. 1.

Relating to withdrawing the assent of the State of Ohio from the proposed fourteenth constitutional amendment.

Rescinding resolution passed January 11, A. D. 1867, relative to amending the Constitution of the United States, and withdrawing the assent of the State of Ohio to the proposed fourteenth constitutional amendment.

Whereas on the 11th day of January, A. D. 1867, the following joint resolution was adopted by the General Assembly of the State of Ohio, to wit:

"Whereas the General Assembly has received official notification of the passage by both Houses of the Thirty-Ninth Congress of the United States, at its first session, of the following proposition to amend the Constitution of the United States by a constitutional majority of two thirds thereof, in the words following, to wit:

"'*Joint Resolution proposing an amendment to the Constitution of the United States.*

"'That the following article be proposed by the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as a part of the Constitution, namely:

"'ARTICLE XIV.

"'SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"'SEC. 2. Representatives shall be 'apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"'SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

"'SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

"'SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.'

"And whereas three fourths of the Legislatures of the States comprising the United States are required to give assent to the said proposed amendment to the Constitution of the United States before it becomes a part thereof: Therefore,

"*Resolved by the General Assembly of the State of Ohio*, That we hereby ratify on behalf of the State of Ohio the above-recited proposed amendment to the Constitution of the United States.

"*Resolved*, That certified copies of the foregoing preamble and resolution be forwarded by the Governor of Ohio to the President of the United States, to the Presiding Officer of the United States Senate, and the Speaker of the United States House of Representatives."

And whereas no amendment to the Constitution of the United States is valid until duly ratified by three fourths of all the States composing the United States, and until such ratification is completed any State has a right to withdraw her assent to any proposed amendment; and whereas several distinct propositions are combined in the said proposed amendment, several of which are already fully provided for in the Constitution of the United States, and to which no person or party objects: Therefore,

Be it resolved by the General Assembly of the State of Ohio, That the above-recited resolution be, and the same is hereby rescinded, and the ratification on behalf of the State of Ohio of the above-recited proposed amendment to the Constitution of the United States is hereby withdrawn and refused.

Resolved, That copies of the foregoing preamble and resolutions, certified to by the Speaker of the House of Representatives and the President of the Senate, be forwarded to the President of the United States, to each of our Senators and Representatives in Congress, and to each of the Governors of the respective States.

Resolved, That the President of the United States be respectfully requested to cause to be forwarded to the Governor of Ohio any and all papers on file in the executive department at Washington certifying the ratification by the General Assembly of Ohio of said proposed constitutional amendment and that the Presiding Officer of the United States Senate and the Speaker of the United States House of Representatives be requested to return to the same officer any certificate that may have been filed with them, or either of them, on the subject of said ratification.

JOHN F. FOLLETT,
Speaker of the House of Representatives.
J. C. LEE,
President of the Senate.

January 15, A. D. 1868.

UNITED STATES OF AMERICA, OHIO,
SECRETARY OF STATE'S OFFICE.

I, John Russell, secretary of state of the State of Ohio, do hereby certify that the annexed is a true copy of a joint resolution of the General Assembly of the State of Ohio, "relating to withdrawing the assent of the State of Ohio from the proposed fourteenth constitutional amendment," adopted January 15, 1868, as taken from the original rolls on file in this office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of this office, at [L. S.] Columbus, the 22d day of January, A. D. 1868.

JOHN RUSSELL,
Secretary of State.

Mr. EGGLESTON. I move that communication or memorial be referred to the Committee on the Judiciary, as it calls for papers about which it is doubtful whether the parties called on have the right to send to the Governor of Ohio. And in this connection I wish to say that the Legislature of Ohio, in passing a resolution of this character, have gone against the wishes of the people of that State; and in proof of that I have only to refer——

Mr. ELDRIDGE. Is this question debatable?

Mr. EGGLESTON. I was about to refer to the election which has recently taken place in one of the congressional districts of Ohio. This iniquity was then presented before the people of that State, and the result of that election is in part due to this action of the Legislature in passing this resolution. I know I ought not to discuss the question now, and I therefore demand the previous question.

Mr. VAN TRUMP. I ask my colleague to yield to me.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Ohio that he add to his motion instructions that the Committee on the Judiciary report on the question of law as to whether the State has the right to withdraw its assent.

Mr. EGGLESTON. I will modify my motion in that respect, that the committee be instructed to report immediately on the law of the case.

The SPEAKER. Leave to report immediately will require unanimous consent.

Mr. EGGLESTON. Then as soon as may be.

Mr. HOLMAN. I object to giving the committee leave to report at any time.

Mr. EGGLESTON. I move, then, that it be ordered to be printed and referred to the Committee on the Judiciary to report on the law of the case.

Mr. VAN TRUMP. I ask my colleague to yield to me.

Mr. EGGLESTON. I will yield after the previous question has been seconded.

The SPEAKER. The gentleman can only hold the floor after the previous question has been seconded, when he reports a proposition.

Mr. EGGLESTON. I demand the previous question. I cannot yield. The resolution speaks for itself.

Mr. STEVENS, of Pennsylvania. I rise to a question of order. I desire to know whether it is too late to object to the reception of this paper?

The SPEAKER. It is too late. It was not

only received by unanimous consent, but the reading was ordered by unanimous consent.

The House divided; and there were—ayes 78, noes 27.

So the previous question was seconded.

The main question was then ordered to be put.

The SPEAKER. The Chair understands the motion to be as follows: that the paper be referred to the Committee on the Judiciary, with instructions to report on the legal questions involved therein.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 34, not voting 44; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Beaman, Benjamin, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Harding, Hawkins, Higby, Hopkins, Asahel W. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laflin, William Lawrence, Lincoln, Loan, Loughridge, Lynch, Mallory, Marvin, McClurg, Mercur, Moore, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Price, Raum, Sawyer, Scofield, Selye, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, John Trimble, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—110.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Johnson, Knott, McCormick, McCullough, Morgan, Mungen, Niblack, Nicholson, Phelps, Pruyn, Robinson, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—34.

NOT VOTING—Messrs. Baldwin, Banks, Barnum, Benton, Bromwell, Butler, Cake, Dixon, Ela, Finney, Fox, Glossbrenner, Griswold, Halsey, Hill, Hooper, Chester D. Hubbard, Richard D. Hubbard, Jones, Kerr, Koontz, George V. Lawrence, Logan, Marshall, Maynard, McCarthy, Miller, Moorhead, Morrell, Morrissey, Pile, Pomeroy, Randall, Robertson, Ross, Schenck Shellabarger, Stewart, Stokes, Stone, Trowbridge, Robert T. Van Horn, John T. Wilson, and Wood—44.

So the motion was agreed to.

During the roll-call,

Mr. NIBLACK stated that his colleague [Mr. KERR] was detained from his seat to-day by ill health.

The vote having been announced as above recorded,

Mr. WARD moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DAWES rose and called up the contested-election case of Samuel E. Smith *vs.* John Young Brown, from the second congressional district in Kentucky; but yielded to Mr. WASHBURNE, of Illinois, to make a report from the Committee on Appropriations.

MILITARY ACADEMY APPROPRIATION.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending the 30th of June, 1869, and moved that it be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for Monday next after the morning hour.

Mr. DAWES. I object to its being made the special order for Monday unless it shall follow the consideration of the election case.

Mr. WASHBURNE, of Illinois. It goes to the Committee of the Whole.

The SPEAKER. It can only be reached by a majority of the House voting to go into the Committee of the Whole.

The bill was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for Monday next after the morning hour, and from day to day thereafter until disposed of.

Mr. FARNSWORTH. I desire to make the point of order upon any improper legislation there may be contained in this appropriation bill.

The SPEAKER. That right will be reserved in the Committee of the Whole.

MARY SULLIVAN.

Mr. CULLOM, by unanimous consent, introduced a joint resolution (H. R. No. 187) providing for the payment of the amount due Mrs. Mary Sullivan for property wrongfully seized by order of the provost marshal of Washington and used in the medical department of the United States Army; which was read a first and second time, and referred to the Committee of Claims.

RIGHTS OF AMERICAN CITIZENS.

Mr. SELYE, by unanimous consent, submitted joint resolutions of the common council of the city of Rochester, New York, in regard to the rights of American citizens in foreign countries; which were ordered to be printed and referred to the Committee on Foreign Affairs.

RAILROAD GRANTS IN DAKOTA.

Mr. BURLEIGH, by unanimous consent, submitted the memorial of the Legislative Assembly of the Territory of Dakota, praying for a grant of land to the Minnesota and Missouri River Railroad Company to aid in the construction of a railroad from the Minnesota State line to the Missouri river, at Yankton, Dakota Territory; which was ordered to be printed, and referred to the Committee on Public Lands.

Mr. BURLEIGH also submitted the memorial of the same Legislative Assembly, praying for a grant of land to aid in the construction of a railroad from Sioux City, Iowa, to the mouth of the Big Cheyenne river, Dakota Territory; which was ordered to be printed, and referred to the same committee.

The SPEAKER. The Chair will state that the same were introduced by him several days since, ordered to be printed, and referred.

POST ROUTE.

Mr. BENJAMIN, by unanimous consent, introduced a bill (H. R. No. 600) establishing a post route from Macon city to Clifton, in the State of Missouri; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LAWRENCE MASSACRE.

Mr. CLARKE, of Kansas, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be directed to inquire into the expediency of placing the widows and children of the men killed at the massacre at Lawrence, Kansas, on the 21st of August, 1863, in the same relation to the pension laws as the widows and children of soldiers killed in the service of the United States.

ELECTION CONTEST—SMITH VS. BROWN.

Mr. DAWES, from the Committee of Elections, called up the report in the contested-election case of Samuel E. Smith *vs.* John Young Brown, each claiming to have been duly elected as a Representative from the second congressional district in Kentucky. The report concludes with the following resolutions, which were read:

Resolved, That John Young Brown, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky, or to hold a seat therein as such Representative.

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

Resolved, That the Speaker be directed to notify the Governor of Kentucky that a vacancy exists in the representation in this House from the second congressional district of Kentucky.

Mr. CHANLER. I rise for the purpose of suggesting that this matter be postponed for the present until my colleague on the Committee of Elections from Indiana, [Mr. KERR,] who is detained at his room by sickness, shall have time to reach the House.

Mr. DAWES. I suggest to the gentleman from New York that the gentleman from Indiana [Mr. KERR] has sent word that he will be here in a few moments. If he is unable to attend to the discussion of the case of course I shall not press it.

I desire now to move that both the claimants to the seat be permitted to address the House, if they desire it, under the rules of the House, on the merits of the case.

The motion was agreed to.

Mr. DAWES. Mr. Speaker, as these several resolutions depend, not upon each other, but upon distinct and independent grounds, it is my intention, if the House permit, to confine the discussion, in the first instance, to the first resolution, although this report must be considered as a whole unless I have the consent of the House to that effect. If I can have the consent of the House I propose that we discuss the first resolution without regard to the other two, until it shall be disposed of, and then take up the other two. The House will see at a moment's glance that they are of such character that that will be the best way to discuss them.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the resolutions shall be taken up separately and discussed separately.

Mr. COBURN. I object.

Mr. DAWES. I think the gentleman from Indiana will see in a moment that nobody's rights are compromised by this arrangement, and that the object which he probably desires to attain will be better attained by following my suggestion. If, however, he persists in the objection I will throw myself upon the indulgence of the majority of the House and shall confine whatever suggestions I may make to the first resolution, and then I shall call the previous question on that resolution alone.

Mr. COBURN. I withdraw the objection.

The SPEAKER. Is there further objection to the proposition that the debate shall be confined to the first resolution and the resolutions taken up separately, debated separately, and acted on separately?

Mr. CHANLER. I would ask the chairman of the committee if that will not preclude subsequent debate on the other resolutions?

Mr. DAWES. Certainly not.

Mr. CHANLER. There will be no effort made to move the previous question and exclude debate on the other resolutions?

Mr. DAWES. Certainly not. It will facilitate discussion, and the questions involved in all the resolutions may be discussed.

The SPEAKER. The Chair hears no objection to the proposition of the gentleman from Massachusetts, and the first resolution is therefore before the House.

Mr. DAWES. I will ask the Clerk to read the first resolution.

The Clerk read the resolution, as follows:

Resolved, That John Young Brown, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky, or to hold a seat therein as such Representative.

Mr. DAWES. This proceeding, Mr. Speaker, is not only unusual but it is without precedent in the history of the Government. John Young Brown, more than twenty-five years of age, a native-born citizen of the United States, and at the time a resident of the State of Kentucky, with a majority of more than six thousand votes cast for him in conformity to the laws of Kentucky, with the certificate of the Governor of Kentucky in due form of law, presents himself at the bar of the House and offers to take the oath prescribed by the Constitution and laws of the United States, that he may enter upon the duties of a Representative. The resolution submitted by the committee is that he be excluded from taking this oath and from the seat which under the circumstances he claims.

It is a matter in which, I think, Mr. Speaker, I shall find the whole House agreeing with me, of such grave moment that, whatever may be our own views respecting it, those who shall come after us, in looking back upon the proceeding, will put their fingers upon the action of the House and will call upon us to show good cause for the adoption of the resolution recommended by the committee.

The committee, Mr. Speaker, charge, as the reason and ground upon which they ask the adoption of this resolution, that John Young Brown voluntarily gave "aid, countenance, counsel, and encouragement" to those in armed hostility against the United States.

It is one of the marvels of these disturbed and distempered times that such an issue is to be tried at the bar of this House; that instead of a trial in the ordinary courts of justice in the land, a man against whom there is any reason for making such a charge shall not only go unrestrained of his liberty, but shall come here backed by an overwhelming majority of the legal voters of a congressional district, and shall claim a right to participate in the legislation of that Government the attempt to overthrow which he is charged with having aided.

The committee, however, and the House, upon the report of the committee, are compelled to try this issue here. They have felt that it is their duty to try it with as much deliberation and with all the legal safeguards that would attend a trial in a tribunal constituted for that purpose. The House have instructed the committee to investigate this charge at the place where it is alleged the offenses were committed; they have done so; they have been to Kentucky, and have heard all the witnesses, both in support and in refutation of this charge, that any person has desired to offer. They have, at the Capitol of the nation, heard the gentleman, both by counsel and in person, with such considerations in defense as he has felt it his duty or privilege or desired to offer. They have, to some extent, taken his own testimony from his own lips in extenuation or refutation of the charge made against him.

I think I speak for the whole committee when I say that it is with great reluctance that they have been compelled to make the report which is now submitted to the House. They ask for its consideration no other weight than that which the evidence itself shall commend to each man's judgment and conviction of duty. They have felt that the charge is supported by the confession of Mr. Brown himself. That confession is contained in a letter which he admits was written by him, and which is found upon the second page of the report of the committee. I take it for granted that each member of the House has read that report; but for the better connecting it with such views as I may be disposed to submit, I ask the Clerk to read that letter.

The Clerk read as follows:

[From the Louisville Courier, May 15, 1861.]

ELIZABETHTOWN, *April* 18, 1861.

Editors Louisville Courier:

My attention has been called to the following paragraph which appeared in your paper of this date:

"JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South:

"'*I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks.*'"

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the *government of the confederate States!* What I did say was this:

"Not one man or one dollar will Kentucky furnish *Lincoln* to aid *him* in his *unholy war against the South.* If this *northern army* shall attempt to cross our borders *we will resist it until the death;* and if one man shall be found in our Commonwealth to volunteer to join them, *he ought,* and I believe will, be *shot down before he leaves the State.*"

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than *I frequently uttered publicly and privately* prior to my debate with him.

Respectfully,

JOHN YOUNG BROWN.

Mr. DAWES. Mr. Speaker, it was admitted by Mr. Brown that he wrote that letter at the time of its date, and caused it to be published, as appears, upon the 15th day of May, 1861. I believe I understood him correctly to admit that the ordinary and natural interpretation of the words of this letter would bring him within the provision of the statute of Congress of July 2, 1862, and which will be found on the first page of the report of the committee. I ask the Clerk to read that provision.

The Clerk read as follows:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation:

"I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: so help me God."

Mr. DAWES. Mr. Speaker, admitting that the natural import of the language used by him would be to give "aid, countenance, counsel, and encouragement" to men "engaged in armed hostility to the United States," Mr. Brown asked permission to set up in extenuation or explanation of that letter this defense: that at the time the letter was written Kentucky had assumed a position of neutrality between the Government of the United States and those engaged in armed hostility thereto; that the very best Union men of Kentucky had assumed that ground and sought to bring the State into that position as the very best means of saving it from being drawn into the vortex of the rebellion; and that, inasmuch as the anxiety in Kentucky was lest the armies of the United States rather than those of the rebellion should "invade," as they called it, the State of Kentucky, it was necessary for him and those acting with him, as he claimed, in aid of the Union, to quiet the public mind in Kentucky by an assurance that they would resist the Government of the United States in any "attempt," as they called it, "to invade the State of Kentucky;" and as there was no alarm or apprehension lest the confederate government should invade the State of Kentucky, there was no occasion for him to attempt to quiet the public mind in that regard; and that he published this letter for that purpose and to that end. And he asked the committee to consider in connection with this statement the surrounding circumstances under which the letter was published, and certain documents which will be found appended to this report, namely: the proceedings of a public meeting in Louisville, Kentucky, upon the very day on which this letter was written; also a card published by him, dated May 13, 1861, announcing himself as a candidate for reëlection to Congress, and the comments of two Union papers of Louisville upon the card on the day of its publication. Mr. Brown also asks us to consider the fact that no act of hostility to the Union except the one now under consideration has been proved against him.

The committee are willing, and, indeed, feel it right to interpret this letter in the light of those circumstances and that surrounding evidence; and they have given to those circumstances and that evidence all the weight to which in their opinion they are entitled. Yet they are unable to come to the conclusion that they or this House will be justified in putting upon this letter any other than the natural construction which its language suggests. In justice to Mr. Brown, as well as to the committee, I desire to ask the House to consider with me those circumstances.

First, was this a letter that would possibly, under any circumstances, aid that "neutrality" which, strange as it appears to us at this day, any Union man in Kentucky could seek to assume in behalf of his State? I am not going to detain the House in discussing the question of Kentucky "neutrality." Nor will I question the statement that very many who were honest and true Union men in Kentucky at that time assumed that position, or that they had cause to assume it. I am disposed to concede this for the purpose of the present argument, although that "neutrality" was in itself treason, although as a practical matter it was an impossibility, as was demonstrated in Kentucky in a very short time, every man having then no alternative but to support that cause to which his sympathies inclined. Yet assuming that position to have been taken in Kentucky in 1861, and to have had among its advocates men who have since proved themselves true Union men, I say that, by no fair, honest construction, either of the letter itself or of any evidence presented by Mr. Brown in support of his position or in explanation of that letter, does it seem to the committee possible for Mr. Brown to place himself in any other position than that in which he is placed by that letter as it appears upon its face.

In that letter we have a confession that in April, 1861, six days after Sumter had been fired upon, three days after President Lincoln had called upon Kentucky, as well as every other State, to contribute its proportion of seventy-five thousand volunteers to suppress rebellion and defend the Government—immediately after the then Governor of Kentucky had sent back a treasonable response to President Lincoln that "Kentucky would furnish no volunteers in this war of subjugation upon her sister States"—this gentleman, going back from the Halls of Congress to his constituents, declared publicly and privately to those constituents that—

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders, we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them, he ought, and I believe will be, shot down before he leaves the State."

Mr. Speaker, what is it Mr. Brown asks us to consider to lead us to believe this was in aid of neutrality? He says, in the first place, that, upon the very day this letter bears date, he addressed a Union meeting in Louisville, where this letter was written, and it could not be possible, if this letter were hostile to the Union, in aid of armed hostility to the Union, that he could have sat down and penned there, in the midst of the community where he made this speech, any such letter as this. And, sir, there is some force in the suggestion were there any facts to back it up.

He appeals to an account of this Union meeting, published in a Louisville paper next morning, in support of this claim; and to that account, if the gentlemen who trouble themselves to listen to me will turn to the appendix to the report, they will see there is not a word reported there that Mr. Brown uttered on the occasion. The meeting is described as having been a glorious Union meeting, and the speech of Senator DIXON is reported on that occasion; but the editors of that paper, instead of furnishing what John Young Brown said, content themselves with assuring the people of Kentucky of his rhetorical achievements, without giving one word of what he said. They leave us just there. They do say, however, without giving us in so many words what was said, some things which I ask the House to listen to:

"Hon. John Young Brown followed in a speech unsurpassed in power and brilliancy. The gifted young orator rehearsed the history of the last Congress, the efforts for compromise, the surrender by the Republicans of the fundamental idea of the Chicago platform, the positive non-extension of slavery in the formation of the new Territories.

"He held his audience spell-bound, as it were, for more than an hour, as he poured out burning words

of indignation upon those who have brought the country into its present unfortunate condition, or depicted the horrors of civil war. He earnestly urged the neutrality of Kentucky in the present crisis as the best and most practicable position for Kentucky to maintain her integrity in the Union and to meditate between the antagonistic sections."

Sir, who were the authors of these calamities upon whom he poured out his indignation is a matter left entirely uncertain. He had come from a session of Congress where the traitors had held forth long and loud in their denunciations of these measures in almost the very words this paper says he used. He had heard Keitt and McQueen and their associates declare that the authors of all these calamities were the men of the North, that the men of the North were bringing the horrors of civil war upon this land, and he went back to Kentucky and indulged in the same thing.

I am not saying that this evidence at all shows that John Young Brown urged any such doctrine on the people of Kentucky. I am only saying it leaves us in doubt, and therefore does not at all relieve John Young Brown from the construction which the very words themselves put upon his letter. It is necessary for him to bring something positive, and not negative, to alter that. He then appeals to a card published on the 13th day of May following announcing himself as a candidate for reëlection. Now, look at this card. In that card there is not a word about the Union; and instead of that relieving him of the charge in this letter it is to my mind strong evidence against him that in that heated atmosphere, in the excited state of public feeling in Kentucky at that time, a Union man coming from Congress, in which the destruction of the Union had been plotted, and announcing himself as a candidate for reëlection, any man with any feeling of Unionism could have maintained silence on that vital subject.

He says in this card:

"My opinions are the same as heretofore expressed in public speeches made in seven counties of the district. I have seen no reason to change them, and I have not changed them."

The only evidence in reference to the speeches he made in those seven counties is the letter read at the Clerk's desk, and that is as follows:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will, be shot down before he leaves the State."

That is what he says in this letter. He appeals to his public speeches made all over his district for his opinions. Those were his opinions at the time he published this card. How can he say, therefore, that this card relieves the letter from the interpretation which the language of the letter itself calls for?

He appeals also to the comments upon this card published in the Union paper of Louisville on the morning in which he published it. To those comments we will turn. There is not one word in them that relieves Mr. Brown of any of the accusations he confesses in this letter.

The mistake into which he has fallen in his defense is this: if he is able to show anything which of itself does not commit him, he has claimed that that should go further and explain his positive acts. Nobody could ask him to be convicted of treason or of aid to those in armed hostility to the Union upon those papers presented; but he asks us to go further and say that those papers show that the true meaning of this letter is something that does not appear upon the face of it. And when he is told that he must show something positive, some direct act or word or speech on his part, that will throw some light upon or give some other interpretation to this letter, it is not enough for him to say: here are speeches, here are comments of the newspapers with respect to me, in none of which do you find any treasonable expressions or any opinion of mine in hostility to the Government. That does not alter at all what stands unrefuted, unexplained, but left to its full force.

Mr. Brown asks us also to consider that if he were a traitor, then, if he were disposed to give aid to the enemies of his country, how is it that they have not been able to find since 1861, during all the history of the war, any single treasonable act of his in addition to this one. The most that can be said of such an argument is this: that it is no reply to this charge to say that they have not shown that he has committed other offenses. It throws no light upon this charge one way or the other that it is shown that it is the only act in which he has been hostile to the United States.

So that, Mr. Speaker, having heard all that Mr. Brown has offered, and all the statements he has desired himself to make, the committee are left to look upon this paper unexplained and to judge of Mr. Brown as he asks to be judged; to consider the time at which he published this letter, the purpose for which the letter was published, and the end to which it contributed. And, sir, it hardly admits of argument here in support of the proposition that such a letter as this contains the evidence that at a peculiar crisis in our affairs this man must have contributed largely not only to the encouragement of the rebellion itself but to an incitement, a stimulating, of those worst features of that rebellion which have blackened the page of its history in Kentucky and in the Southwest.

Why, sir, what is it? It is a statement that at the outbreak of the rebellion, after the assault upon Fort Sumter, after the President had called for seventy-five thousand men as volunteers, and after the Governor of Kentucky had treasonably set his face against that State responding in men or in money to aid the cause of the Union, this gentleman, one of the most influential and gifted of her young orators, of great popularity in that State, went home from the halls of Congress and proclaimed in public speeches to his constituents that Kentucky should not furnish a dollar or a man, and that any man in that Commonwealth who should join the Union Army ought to be, and would be, shot down before he left the State.

But that is not all. He confesses in this letter that he went about privately making these assurances. It appears in the testimony that at the very time he published this letter there were agents of the confederacy secretly obtaining recruits in Kentucky for the confederate army; and while they were doing so John Young Brown confesses that he also secretly and privately went about whispering in their ears that if any man joined the Union Army in Kentucky he ought to be, and he believed he would be, shot down before he left the State. Can there be any doubt in any man's mind that that was giving aid, counsel, and countenance to men in armed hostility to the Government of the United States? It was not only an open, public act of war upon the United States, but it was allying himself to, and making himself a party to, that guerrilla warfare which by all the laws of war any one found guilty of would be executed as outside the pale of humanity. There can be no question upon the facts in this case, as it strikes my mind, and as I think it struck the committee. This was no obscure individual, without influence, without power among his fellow-men in Kentucky. It was no ignorant man whose opinions upon public affairs might pass without weight. He was one of her public men, coming from a high public trust back to Kentucky to report what had been done and what was being done, and what was his conclusion, not only as to his own duty, but as to that of his fellow-citizens of Kentucky, at a time when the Union demanded of every man that he should do his duty. And it was at that time that John Young Brown not only publicly proclaimed open war upon the Government of the United States, but set himself to the discouragement of enlistment in her Army within the borders of the State of Kentucky, and undertook to increase the fears and the peril of any man who took sides with the Government, and was willing to give it the aid of his strength and his presence in the army. He proclaimed to the people of Kentucky that within her own borders and at his own fireside he who should be prompted to join her Army must take his life in his hand and not only take care of himself with the enemies in front, but take care of the secret midnight assassin in his rear. Sir, I can conceive of no more infamous and outrageous scheme instituted in warfare than that foreshadowed in this letter. I do not know whether Mr. Brown has the honor of having originated that cruel system of warfare which ran through the southwestern States, where at midnight, in their own homes, peaceable citizens were murdered by bands of ruthless marauders and ruthless guerrillas or not; but I do say that if he was the inventor of it he could not have based his claim to that infamous position upon more irrefragable ground than by confessing before the public, as he does in this letter, that as early as the 18th day of April, 1861, he had inaugurated it as the policy in his own congressional district, and had set it on foot among the private homes of the Union men there dwelling.

Sir, I have not commented very much upon the preposterous position taken by the gentleman, that this was a neutral letter. The committee have submitted their views upon it in their report. There is, permit me to say, no word in it of condemnation of any southern army. The letter was called out by the apprehension in his mind, as he says in the letter itself, that some would construe his remark as applying to the confederate army. He comes out in this letter to satisfy the people of Kentucky that he did not occupy any neutral or ambiguous position. That is what he says. That is the very reason he gives for coming out in this letter. It was because, he says:

"Some have construed my remark as applicable to the confederate army, and I will set it right."

Here is his precise language:

"My attention has been called to the following paragraph which appeared in your paper of this date:

"'JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South"—

"'I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks.'"

This, he says, some one has imputed to him. And what is his objection to it?

"This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States."

It is "ambiguous" because it may be applied to the confederate States, and some, he has understood, have put that construction upon it.

"Now," he says in substance, "to do away with all doubt, to make it perfectly clear that I do not intend to say that any man who enters the confederate army ought to be or will be shot down, I will tell what I did say. I am not going to stand before my constituents in the position of saying that anybody who enters the confederate army should be shot down; I am not going to stand in the position of using language that may be applied to the one or the other; any language that is ambiguous in this regard I will not submit to. No, I will make it so clear that nobody can apply it anywhere except where I meant it; what I did say was this," and here I give his exact words:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South."

"I am now," says Mr. Brown, "going to use words, fellow-citizens, that are not ambiguous; I am now going to use language that nobody can apply to the confederate army; what I did say was this." I give again his precise words:

"If this northern army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them"—

Remember, Mr. Brown is now referring to the "northern" army—

"if one man shall be found in our Commonwealth to volunteer to join them, he ought, and I believe will, be shot down before he leaves the State."

"Now," says Mr. Brown, "there is my letter, and I hope hereafter there will be no doubt about my position."

But, sir, the claim that Mr. Brown was a Union man was settled at his own home. He wrote this letter on the 18th of April. On the 13th of May he came out in a card announcing himself a candidate for reëlection to Congress in a district that up to that time and afterward sent nobody but avowed Union men to the Congress of the United States. On the 18th of May he published his card of candidacy. On the 15th day of May, two days afterward, the editors of the Louisville Courier, a secession newspaper, who had this letter in their possession, brought it out and published it to show that he was no Union man. Although when he had published his card of candidacy a Union paper had proclaimed to the people that he would be elected by acclamation, that no man would ever run against him, yet upon the publication two days afterward by the Louisville Courier of this letter of his he disappeared from the canvass and was not heard of afterward in it. Another man was elected from that district as a Union man, who came here and occupied a seat in this House; with what credit to the cause of his party or to his own reputation it is not worth while for us to consider, for it is not in issue here.

Sir, believing that I have satisfied the House that this man has given aid, countenance, and support to the cause of the rebellion, as he has confessed in his letter, it may be necessary, if I have time, for me to inquire what power we have to exclude him therefor from the Halls of Congress. I would inquire of the Chair how much time I have left.

The SPEAKER. The gentleman has ten minutes of his hour now remaining.

Mr. DAWES. Perhaps I cannot better employ those ten minutes than in submitting some views in reference to the power of this Congress to exclude a man from this Hall who is convicted of having sought to overthrow the very Government in whose councils he seeks to participate by taking a seat in this Hall.

Sir, I have already stated that John Young Brown came here, is more than twenty-five years of age, a citizen of the United States, and a resident of Kentucky, with a majority of the legal voters of his district. It may be well asked, have we any power to go further and behind these qualifications?

I admit that it is not easy for any one to define in words the power which I think every man must feel exists in this body to exclude from these Halls any man known to have been engaged in a hostile war against the very Government itself. There is a feeling, I doubt not, in every man's breast, a conviction in every man's sense of duty and of obligation, that he has the power somewhere, and that it is his duty to exercise that power, to exclude from the Halls of Congress a man who comes here covered with evidences of guilt in having attempted to overthrow this Government.

Sir, I admit for myself—every other gentleman, of course, may come to any other conclusion that he finds the Constitution to authorize him in coming to—I admit that there is no express authority in this Government under the Constitution to exclude from Congress a man for the offense here charged. The Constitution has given this House sole power to decide upon the election, returns, and qualifications of its members. All that it has said upon the subject of the qualifications of the members of the House of Representatives is to be found in these words:

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not when elected be an inhabitant of that State in which he shall be chosen."

Mr. Speaker, I ask the attention of the House to the peculiar phraseology of this provision of the Constitution. It does not say that no qualifications beyond these shall be required. It simply says that "no person shall be a Representative who shall not have attained the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen." I submit to the House the question whether this does not mean that no man shall serve as a Representative who has not, at least, these qualifications? Why was this particular form of phraseology selected? Was it not left by the framers of the Constitution in this form, in view of the possibility that the exigencies of the Government at some period of its history might demand that some other qualifications should be required of a person presenting himself for admission as a Representative, than simply that he should be twenty-five years of age, a citizen of the United States for seven years preceding, and a resident of the State from which he might present himself? I know it has been adjudicated that no qualification can be added to the qualifications stated in the Constitution. Those adjudications may have been simply to the effect that so far as these three elements are concerned, they are defined in this clause of the Constitution——

Mr. PAINE. I desire to ask the gentleman whether he has ever found any decision to the effect that it was not competent for the Federal Government to require any other qualifications; whether the decisions go further than to hold that the States have not the power to prescribe other qualifications?

Mr. DAWES. In the line of remarks which I propose to submit I shall probably answer, so far as I am able, the suggestion of the gentleman.

I do not know, Mr. Speaker, that the Federal Government has ever attempted—I think so far as my examination, which has not been very thorough, has extended, the Federal Government has never attempted—to impose any other qualifications. The States have, from time to time, attempted to do so; and it has universally been adjudicated in this and the other branch of Congress that it was beyond the power of the States to add to the qualifications defined in the Constitution.

I was submitting a moment ago the query whether, after all, the inhibition did not pertain to these three particulars, namely, that so far as age is concerned it must be twenty-five years; that so far as citizenship is concerned the person presenting himself as a Representative must have been a citizen of the United States for seven years; and that so far as residence is concerned he must at the time of his election be a resident of the State which he seeks to represent.

But, Mr. Speaker, this case does not in my view involve necessarily the question whether the Government of the United States can prescribe additional qualifications; for I believe it to be inherently implied in every constitutional provision under which this House of Representatives has its existence—an implied condition underlying the very foundation of the Government itself—that no man shall be qualified to sit as a member of this House who has not the indispensable qualification of loyalty to the Government. While it was not deemed necessary by the framers of the Constitution to express that requirement, yet it exists as a matter of necessity; and among the considerations touching the right of a man to a seat there stands out this paramount consideration, whether the applicant has that indispensable qualification of loyalty to the Government. I do not choose to attempt to define in words (for I should doubtless fail to define what the framers of the Constitution did not deem it wise, or found it from the nature of the case impossible to define) the character which a Representative must have in order to entitle him, by the judgment of the House, regardful of its own life and perpetuity——

[Here the hammer fell.]

Mr. CHANLER obtained the floor, and said: I trust that the chairman of the Committee of Elections [Mr. DAWES] will be allowed time to finish his remarks. I make that motion.

The SPEAKER. How much time does the gentleman from Massachusetts [Mr. DAWES] desire?

Mr. DAWES. I cannot say. I would like to finish the line of argument which I was just pursuing.

The SPEAKER. If there is no objection the time of the gentleman from Massachusetts will be extended for one hour.

There was no objection.

Mr. DAWES. But, Mr. Speaker, there is a further consideration underlying this matter, and that is this: the Government of the United States is bound to preserve itself. It is clothed with the power, and in the absence of any inhibition of means, it is authorized to avail itself of all means necessary or proper contributing to the end to preserve itself. I think these are propositions which do not admit of doubt. When the Government is once established, and does not limit its own duration, and does not limit its own means of self-preservation, it is authorized by all the laws of human society and government to resort to all means whatever they are that will contribute to that end.

Mr. Speaker, this was the view of the framers of the Constitution themselves. This was the view of Hamilton, the greatest of all those who discussed the powers and participated in the framing of the Constitution, and I beg the House to do me the honor to listen to the views of Mr. Hamilton on this point.

I read from the twenty-third number of the Federalist:

"The circumstances that endanger the safety of nations are infinite; and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils which are appointed to preside over the common defense.

"This is one of those truths which, to a correct and unprejudiced mind, carries its own evidence along with it, and may be obscured but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal; the means ought to be proportionate to the end. The persons from whose agency the attainment of any end is expected ought to possess the means by which it is to be obtained.

"Whether there ought to be a Federal Government intrusted with the care of the common defense is a question, in the first instance, open to discussion; but the moment it is decided in the affirmative it will follow that that Government ought to be clothed with all the powers requisite to the complete execution of its trust. And unless it can be shown that the circumstances which may affect the public safety are reducible within certain determinate limits—unless the contrary of this position can be fairly and rationally disputed, it must be admitted as a necessary consequence that there can be no limitation of that authority which is to provide for the defense and protection of the community in any matter essential to its efficacy."

And Mr. Madison, taking up the same subject, in the forty-first number of the Federalist, says:

"The means of security can only be regulated by the means and the danger of attack. They will, in fact, be ever determined by these rules, and by no others. It is in vain to oppose constitutional barriers to the impulse of self-preservation."

Therefore, Mr. Speaker, in the absence of any constitutional inhibition of any means necessary for the preservation of the Government, the Government itself, by the innate principle of self-defense, is clothed with the power and the duty is enjoined upon it to use every means conducing to that end.

And, sir, the greatest of the judges of the Supreme Court, Chief Justice Marshall, after one generation of exercise of the functions of this Government and experience of it, in that great case of McCulloch *vs.* State of Maryland, where he expounded better than ever since the powers of this Government—at the fountain of whose opinions have been drawn all the doctrines in relation to the sovereignty and powers of this Government which statesmen since have given out so copiously—has taken up this subject and declared:

"The Government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception."

And further on he says:

"Let the end be legitimate, let it be within the

scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

Now, Mr. Speaker, when the Constitution of the United States has clothed this House with power to be the "sole judge of the election returns and qualifications of its members," and when it is declared also that this Congress shall have all power necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof, and when it is apparent, as it was in 1862, when the statute under which we are acting now was enacted, that right there, at that avenue of approach more than at any other, because less guarded and less protected, was the very citadel of the existence of this Government exposed to the assaults of the enemy, can it be doubted the Government itself had not only the power, but it was its duty, to select those means most efficient, best adapted to the very end, and that was to close the avenue itself to the enemies of the Government?

The Constitution of the United States has enjoined, but has not prescribed, an oath of office for every man that comes to these Halls. I say it has not prescribed the oath, though it has enjoined it. The first Congress prescribed the oath which was adopted and used by all the subsequent Congresses until 1862. Yet, when it came to be seen that had the enemy not been blind in 1861, had not the arch traitors themselves who sat in this and the other Hall been given over to blindness, as they were to treason, they had it in their power by remaining in their seats in this and the other branch to have blocked all legislation for the defense of the country and paralyzed the very arm of the Government lifted in its defense—when it was seen that by going out of this and the other Hall they had left open the door which it was the duty of this Government, if it had imposed upon it any duty of self-protection, to close forever, Congress then passed the law of 1862. To say that it had the right to do it is no more than to say that it had the right first to prescribe the oath that was prescribed by the first Congress. The Constitution says that members shall take an oath to support the Constitution; but what should be the form of that oath, what should be the necessity that required any particular form of oath, was left with Congress to decide. And Congress accordingly did prescribe an oath which was used until the exigencies of the rebellion were deemed sufficient, when it made another.

In the case of McCulloch *vs.* The State of Maryland, to which I have referred, Chief Justice Marshall thus speaks of that law in discussing the various powers of the Government, and the necessity in emergencies of availing ourselves of that power:

"The powers vested in Congress may certainly be carried into execution without prescribing an oath of office. The power to exact this security for the faithful performance of duty is not given, nor is it indispensably necessary. The different departments may be established, taxes may be imposed and collected, armies and navies may be raised and maintained, and money may be borrowed, without requiring an oath of office. It might be argued with as much plausibility as other incidental powers have been assailed that the convention was not unmindful of this subject. The oath which might be exacted—that of fidelity to the Constitution—is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the Legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest."

Therefore, it was for the Congress of 1862 to pass upon the question. It was for the wisdom of that Congress to suggest whether there was to be required, growing out of the exigencies and perils of the hour, anything to be superadded to the oath already upon the statute-book, and accordingly it wisely superadded the oath which has been read at the Clerk's desk. We now administer an oath to every member before he can take his seat in this body, whose duty it is to protect and perpetuate its own life, that he has not been engaged in armed hostility against the United States. That law having been passed, and that oath being required, it is for us to say whether the time has already come when it shall be consistent with the safety and perpetuity of this Government to admit into our midst as councilors and legislators gentlemen who sought to overthrow the Government they swore to support. Upon that question I have no apprehension what will be the judgment of the House. I therefore leave it for the present.

Mr. TRIMBLE, of Kentucky. I desire to propound a question to the chairman of the Committee of Elections. If I understood his argument, Congress has full power and authority to make a test-oath before a member can be admitted to a seat on this floor. If I am correct in that, what is to prevent a future Congress from making such a test-oath as will prevent a majority of members from taking their seats because they cannot take the oath?

Mr. DAWES. What I meant to say is this: that Congress had full power of self-preservation; that it had the right, subject to such limitations as the Constitution imposes, to resort to any means conducing to that end, and that the Congress of 1862 believed, and all the current history justified that belief, that it was not consistent with its safety and perpetuity to admit into its Halls men whose purpose was, by actually joining the enemy, to overthrow the Government. Now, that another Congress may judge other means necessary I do not doubt. But to the judgment of the country and of mankind the gentleman from Kentucky and myself must submit our acts in this as in past Congresses, or in any other position in which we shall find ourselves hereafter. It is the safety of the Government, and that is why this Government, if it is true to its duty to-day, will so close up every avenue of approach by enemies of the country that there shall be no opportunity hereafter for anybody in the name of the Government to attempt its destruction.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing vote of the two Houses upon the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax.

REPEAL OF COTTON TAX.

Mr. ALLISON. I rise to a privileged question. I submit a report from the committee of conference on the disagreeing vote of the two Houses on the bill repealing the tax on cotton.

The Clerk read the report, as follows:

The committee of conference on the disagreeing vote of the two Houses on the bill (H. R. No. 207) to provide for the exemption of cotton from internal tax, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendment to the bill of the House and agree to the same, with an amendment, as follows:

Add to the bill the words "and cotton imported from foreign countries on and after November 30, 1868, shall be exempt from duty."

And the House agree to the same.

WILLIAM B. ALLISON,
JAMES G. BLAINE,
L. S. TRIMBLE,
Managers on the part of the House.
E. D. MORGAN,
JOHN CONNESS,
C. R. BUCKALEW,
Managers on the part of the Senate.

Mr. ALLISON. Mr. Speaker, this is a third report of a committee of conference on this subject of the cotton tax, three committees having been appointed and the first having failed to agree. It is necessary, perhaps, to a proper understanding of this question, that I should detail briefly the circumstances under which this bill was first brought into the House and the circumstances under which it passed the Senate.

The House believed that it was necessary to repeal this internal tax upon cotton in order to encourage the growth of that product during the present year. It was not believed by the House to be proper to exempt the crop grown in the year 1867 because of the difficulty in discriminating between that which had already paid the tax and that which would be subsequently brought into market. The bill, therefore, was made to apply only to the crop of 1868.

The Senate refused to concur in the House bill, and sent to us a substitute for it suspending the tax for the year 1868, and also suspending the tariff duty for the same period, the duty being now three cents per pound and the internal tax being two and a half cents per pound. Gentlemen will see that under the existing law there is a discrimination in terms in favor of the American producer of half of one cent per pound in addition to the premium on gold, making really a discrimination or protection, if I may use that term, of about a cent and a half per pound.

The argument presented to us in favor of the repeal of this cotton tax was that the competition in foreign countries induced by the high price of cotton made it necessary that we should encourage its growth in this country by a repeal of the tax; in other words, that the American producer could not compete with the cheap labor of India and other foreign countries in the production of cotton as the law now stands.

The House non-concurred in the amendment of the Senate, and a committee of conference was appointed. The first committee of conference failed to agree. A second committee was appointed, and that committee united in recommending to both Houses a proposition repealing the existing tax upon cotton grown in 1868 and afterward, and also repealing the tariff duty upon cotton from the 1st day of July, 1868.

The House objected to this report, as it did to the original amendment of the Senate, because it involved in a simple repeal of a provision in the tax bill also an adjustment of the tariff bill.

A third committee of conference was appointed, and that committee, after holding two sessions, reported what has been read at the Clerk's desk. I desire now to say to the House that the managers of the conference on the part of the House did not feel that they could take the responsibility of destroying this bill, and therefore agreed to the proposition which we have now presented; because it was palpably evident that three committees having been appointed on this subject, unless this committee could agree no further conference could be had upon the question. I think my colleagues on the committee will concur with me in saying that this was the very best proposition that we could procure. I will say that it only postpones the time for the repeal of the tariff duty on cotton from the 1st of July to the 1st of November, 1868, thus placing the American producer of cotton during the year 1868 upon a par with the foreign producers of cotton during the same period.

I regret to say that this bill, should it become a law, will have the effect of allowing cotton to come into this country at a less rate relatively than it now comes in. In other words, the American producer of cotton will not have that protection that he has under existing laws.

But it was deemed by the committee of so much importance that this tax should be removed from cotton, in order to encourage its growth in 1868, that this report was agreed to, with the understanding, of course, upon our part that when the question of tariff comes to be adjusted, if it is adjusted at all during this session, this whole subject can then be again reviewed by the House and by the Senate. We were compelled reluctantly to assent to a proposition here to which I think many members will object; that it is now within the province of this House and of the Senate to unite an internal tax bill in the same law with a tariff bill, so that the two questions can be, and in the future perhaps will be considered together. I do not know that I have any further explanation to make.

Mr. BROOKS. I desire to ask the gentle-

man from Iowa, if I understand him correctly, as saying that it was this bill or nothing?

Mr. ALLISON. I so stated to the House. I believe that if we do not agree to this conference report (and this is the report of the third conference committee that has been appointed) the Senate will not concur in the appointment of another committee of conference.

Mr. BROOKS. Then I think we would hardly be justified before the country in refusing to adopt this report.

Mr. ALLISON. I now yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I ask the Clerk to read the title of the bill which is the subject of this report.

The Clerk read the title, as follows?

A bill to provide for the exemption of cotton from internal tax.

Mr. SCHENCK. Exactly; that is the title of the bill; that is the title which has been agreed upon by both Houses; a title which is now past change, which it is beyond the power of the House to change, except by unanimous consent, having along with it the unanimous consent of the Senate also.

Sir, that title tells the whole story. We introduced a bill to repeal the internal tax on cotton, which we passed and sent to the Senate for their concurrence. The Senate it seems are determined to tack to that bill something which relates to a totally different subject, that is, the duty on cotton, and to stand out against the House with a purpose that nothing shall be done for the grower of American cotton, unless at the same time some legislation is had for the benefit of certain American manufacturers.

Now, sir, when the last committee of conference made their report, and after the House by an emphatic vote had refused to concur in the recommendation of the committee, I made what appears to have been an unlucky remark. I suggested that if the House would but be decided and firm in a matter where it supposed it was right I knew of no body more likely to recede than the Senate of the United States; and this gave offense to some in the Senate. I believe it is not generally considered parliamentary for members of one House to undertake to answer the speeches and remarks of members made in the other House. Yet that remark of mine was commented upon and was found fault with.

I now desire to make an apology to the Senate. When I made that remark I thought that where the House persisted in what it considered to be right, and the Senate was brought to a sober second-thought, had time for reflection and for reconsideration, the Senate might recede from the ground which we believed it had wrongly taken. It seems I was mistaken; I retract now the remark, and admit that the Senate is just as mulish and obstinate as it claims to be.

The SPEAKER. The Chair would say to the gentleman from Ohio that his last remark is scarcely in order.

Mr. SCHENCK. Then I retract that remark, for I wish to give no offense to our superiors in the other end of the Capitol.

The SPEAKER. The rules require that each body shall refer to the other in a parliamentary manner.

Mr. SCHENCK. I only mean to say that the Senate, like the court, understands itself, and is more decided than I supposed it would be when an opportunity for reconsideration has been furnished to it.

What is the question really before us? Cotton is taxed for the purposes of internal revenue two cents and a half on the pound. We propose, in order to relieve from great depression this important interest, to remove that tax. We know this measure to be essential for the safety of that interest, which has now fallen so low that the present price of cotton is in no way remunerative to those who devote their labor to its production. The Senate say, "If you adopt that measure then you shall also, as a condition of our agreeing with you, do another thing: you shall couple with this measure legislation for the benefit of certain American manufactures." An impression prevails that, by removing the tax, we in some way legislate against the American manufacturer; but this is not true. If the bill as passed by the House becomes a law it leaves these manufacturers precisely where the bill found them. Who are the manufacturers who, it is feared, may be in some way injured by the bill of the House? As I understand, two or three little establishments which sprung up during the war are engaged in manufacturing a low-priced cotton brought from Surat into grain-bags and other articles of like coarse fabric; and it is thought important to build up that interest.

What is the condition of the interest at present, in the absence of any legislation such as we propose? This manufacture has sprung up while there has been a tariff of three cents per pound on cotton, and if we leave this tariff still in force this manufacture will be left in just the same condition as it has been. We propose no legislation against it. We propose to let it alone. We propose not to mix up the question of tariff with the question of tax; we propose not to legislate on this subject at all. But with this the men engaged in that branch of manufactures are not satisfied. They have been enabled, as I have remarked, to establish this manufacture while there has been a tariff of three cents per pound on cotton. With gold at an average premium of forty cents on the dollar, this tariff of three cents per pound is equivalent to four and one fifth cents per pound. In other words, they have been able, paying a tariff of four and one fifth cents per pound, to establish this manufacture and carry it on thus far without difficulty. But they now say, "If you relieve the American producer of cotton by taking from him a tax of two and one half cents per pound in currency we claim that you shall also do something for us, although our case is in no way connected with his. Unless you do that we will not agree that you shall relieve the American producer. Unless while relieving the cotton-grower of a tax of two and one half cents per pound in currency you at the same time relieve us from a tariff of four and one fifth cents in currency, under which we have been able to build up and prosperously carry on our establishments, we shall not be content with your legislation."

We are not proposing to legislate against them; we have simply declined to legislate for them; and they say that we must legislate for them or they will not agree to our legislation for the benefit of anybody else. That is the length and breadth of the entire matter.

Why, Mr. Speaker, of what are they afraid? They now buy Surat cotton, and can afford to buy it, paying on it a tariff of four and one fifth cents per pound in currency. Under this tariff their business has grown up and flourished; and now they seem to be afraid that if, by legislation, we should make American cotton cheap, they may be tempted to buy some American cotton, and they do not want to be so tempted! [Laughter.] What else can be their idea? If the tariff continues they will get Surat cotton as cheaply as they have got it heretofore; but if we take the tax off the domestic product they may get that a little cheaper. Their objection, then, if it has any substance whatever, is, that they are afraid of being tempted to buy the American article by our bringing it down so that it will enter into competition with the foreign article which they have been using.

Now, sir, I have given to this subject considerable reflection since the report of the last committee of conference, and the more I turn the matter over in my mind the more clearly the question seems to me to resolve itself into the form I have stated, and the more preposterous appears the assumption that we must not legislate for the American producer of cotton unless we at the same time change our tariff law for the benefit of some three or four manufacturers along the sea-board who have been able to prosper under the law as it stands.

Now, sir, if I vote to concur with the Senate at all on the report which has now been made, I will do it only upon the ground upon which my colleague on the committee from New York [Mr. BROOKS] places it, for the sake of getting the cotton interest of the United States relieved from a burden it cannot bear; and even yet I do not know I feel fully justified in going so far. I did it when a former report of the committee of conference came in, and the more I have thought of it since the more I am inclined to think I was wrong then. This very Senate, which never recedes and is never wrong, this very Senate has given up four months since that time; that is, in the report of the committee of conference before they agreed to tack to the end of the House bill a provision that the tariff should be taken off after the 1st of July, 1868, and now they have gone four months further off in the future and say they will be content to take it off after the 1st of November, 1868. That is the only difference between the two reports.

One word on this subject of a more general character. I maintain, at all times, that we should, in raising our revenue from import duties, so regulate those duties and so distribute them as to give every reasonable protection we can to American products, either of the soil or of our manufacture. In other words, sir, I am a tariff man. I am a protectionist in what I claim is the true principle of such distribution so as to afford protection; and among the articles to be protected I know nothing that has stronger claims than any product of our soil which furnishes a raw material for our own manufacturing interests to make use of. How, then, if I believe we ought to protect, by a discriminating tariff, flax and flaxseed, and hemp, and hides, and cotton, and wheat, and corn, and barley, how can I, with any countenance, take from among these cotton, and leave that to go without any such discriminating protection under this bill, and with the same countenance claim protection for the rest of these raw materials? There is no consistency in this, and there can be none; and I warn gentlemen on the seaboard, at least those engaged in manufactures, to take care lest they open a little sluice-way here which may produce consequences they themselves do not intend shall be admitted into our legislation. If you open up this question in regard to cotton, in regard to these raw materials produced by the interior of the country and in the South, you must not be surprised if hereafter just the same degree of favor which you extend to our products shall be measured out to you, if we are going to be fair and equal all round.

Now, sir, if we can get nothing else from the Senate, perhaps it is our duty to agree to this report of the committee of conference. I am not quite sure it is better on that point. If we can get nothing else from the Senate it will be at least a great thing to relieve from this heavy burden the present cotton interest of the country by taking the tax off. If the House and Senate should not agree on this bill the time is not far distant, I trust not a great many days, when we shall be able to report to this House a general bill for the revision of the internal tax of the country, and we may introduce into that a remission of the tax upon cotton for the future. If we do, and they should attempt to ingraft such provisions as this upon that bill, gentlemen will only open the door to the introduction into the bill of various other matters connected with the tariff, not with the internal tax, and they themselves do not know how far this may go before our work will be through.

The ground of the committee is simply what I have stated here. We do not propose to legislate at all—God forbid—against these little manufactories which have sprung up. We propose to let them alone to prosper as well under a three-cent tariff laid on cotton as they have prospered heretofore; but, dissatisfied with that, those who advocate the Senate amendment claim they will do nothing for the

producer of cotton unless in the same breath you do something, which has not been asked for in any general or public way, for a little lot of manufactories, who want to get even more benefit than the cotton producer in America gets. They claim that when you relieve them from two and a half cents, which has been universally asked for and emphatically done by the vote of this House, you shall go a step further or your whole legislation shall fail to relieve them from four and one fifth cents, which nobody has asked for.

Mr. ALLISON. I now yield to my colleague on the committee, [Mr. BLAINE.]

Mr. BLAINE. Mr. Speaker, I hope the House will not lose sight of one very pregnant fact connected with this controversy between the Senate and this branch, namely: that whereas the House, by a very large majority, is in favor of removing this tax, the Senate is in favor of it by a very close majority. And I wish to state another fact which I do not think has yet been presented to the House, that this proposition was carried finally by the votes of Senators from the Pacific States, who have got a little manufacturing interest growing up on that coast. They get cotton from Mexico, and they make the specific point that they must have their cotton free from that country, because they do not get any cotton from the Atlantic shore, and cannot, of course, transport it from this side to San Francisco with advantage. Now, there are five or six Senators who are controlled by that interest, and if we do not allow the bill to go through in its present shape it cannot go through the Senate at all. They stand right at the gateway; they have the power to prevent its passage. It is not for me to criticise their conduct. I am only stating the fact that they positively refuse to yield, and having the balance of power they are able to prevent the passage of this bill unless we agree to it in the present form.

Therefore the question comes back to the House to consider whether we will now submit to what we regard as an injustice, and trust to the future revision of the tariff to reinstate what we ought not now to give way to except under compulsion, or whether we will be as deliberate as the Senate, and let the whole bill die between the two Houses. For myself, opposed as I am to repealing the tariff on cotton, I consider the question of repealing the internal revenue tax to be of much graver and more immediate consequence. Therefore, finding the Senate thus minded, and finding it absolutely under the control of this local Pacific interest, I have united with my colleagues on the committee in yielding that point, though it is against the expressed wishes of the majority of the House. And I think we acted wisely in so doing.

I do not think the gentleman from Ohio [Mr. SCHENCK] is exactly justified in attributing this opposition to eastern interest. I do not apprehend there is any eastern interest involved in the case, or that there is anything like unanimity of opinion among eastern men in regard to the tariff on cotton; and I am sure I come from a State that is pretty far east.

Mr. SCHENCK. Mr. Speaker, the gentleman appeals to me, and I shall be very glad to explain. I always thought he came from so far east as to be almost west. I knew the liberality of his views in regard to matters of this kind, but the reason of my reference to the east was that, until the gentleman spoke just now, I never heard of this Mexican cotton. The Surat cotton had been rung in my ears by Senators who talked to me privately on this subject and who are active in this war at the other end of the Capitol, and it has been suggested also that gentlemen of this House represent interests of that kind. That is the only explanation I have heard till just now.

Mr. BLAINE. I am admonished by the chairman of the committee that I must be short. I think I have stated an important fact in regard to Mexican cotton. I know it controls the State on this subject, and, therefore, as I do not wish to occupy the time of the House, I close by saying that I am sure if we disagree to the report of the committee of conference this bill is dead.

Mr. ALLISON. I am appealed to by several gentlemen to yield. I intend to do so, but briefly. I now yield a few minutes to my colleague on the committee, [Mr. TRIMBLE, of Kentucky.]

Mr. TRIMBLE, of Kentucky. Mr. Speaker, I think if anything is done by this Congress to encourage the growth of cotton in the South it ought to be done at once; for within thirty days from this time the arrangements will be made for planting whatever crops will be grown in the South in 1868. While I reluctantly consented to this report and would have been glad to have the tariff remain as it stands and such incidental protection given to the cultivators of cotton for a few years, still rather than see this bill fail and this act of justice to a large portion of the agricultural interests of the country fail, I have consented to take half a loaf rather than have no bread at all, and I hope that every friend of the culture of cotton will vote for this report of the committee of conference, for I believe that if we do not accept it nothing will be yielded to us by the Senate.

Mr. ALLISON. I now yield three minutes to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. Mr. Speaker, I merely wish to say that I hope the House will stand upon its dignity and adhere to its vote. The gentlemen of the committee of conference have assured us that if it does so adhere the bill will fail. That will be a most excellent result. Then, sir, this question of the taxation of cotton will go where it ought to go—into the general bill assessing taxes upon all the other employments and productions of the country. There are other employments, I am very sorry to say, that do not pay after being levied upon by the heavy taxation of this country, more important, in my judgment, than the production of cotton, and I hope that no employment will have opportunity to be heard and that no special legislation in favor of cotton or any one single interest will absorb the attention of this House to the exclusion of others. And I say to the chairman of the Committee of Ways and Means [Mr. SCHENCK] that I represent a district oppressed as much by customs taxation as his district or, perhaps, any other district represented in this House; and so far as any threats may be given out by him or anybody else here, in the line of free trade, I say to him that I do not fear free trade to its utmost extent if it shall be established as the policy of this country; but that on the question of taxation, either by tariff or internal tax, all I ask, as one Representative, is a fair hearing, a fair levy of taxation, and a fair consideration of all the industrial interests of the country.

Mr. ALLISON. I yield now to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. I do not propose to reargue this question.

Mr. SCHENCK. Will the gentleman allow me a moment?

Mr. MAYNARD. Certainly.

Mr. SCHENCK. I am reluctant to occupy the attention of the House a moment longer, but the gentleman from Maine [Mr. PIKE] does me great injustice. I made no threats of free trade. I gave them warning of what would be the consequence of opening the door for such legislation.

Mr. PIKE. Was not that an implied threat in the line of free trade?

Mr. SCHENCK. It was an implied threat of consequences neither you nor I want to bring on the country.

Mr. PIKE. If it was not a threat in the line of free trade, then my remark does not apply.

Mr. SCHENCK. I leave the House to say whether I illustrated it when I showed that in this case those who maintain the Senate measure are simply claiming you shall not let the American producer have the benefit of relief to the extent of two cents and a half per pound unless at the same time you give us the benefit of four cents and one fifth in currency.

Mr. MAYNARD. The view that I take of this question, and which I attempted to express to the House the other day, is that an attempt to fasten this condition upon the repeal of the internal cotton tax is so unjust, is such an attempt to obtain an advantage by hampering legislation that the whole country demands, by a concession which nobody but a few interested persons demand, that I cannot give my consent to buy the measure by any such concession.

As to the argument urged by the gentleman from Kentucky, [Mr. TRIMBLE,] and that seems to operate upon the minds of others as well, that we must take this proposition or get nothing, I understood the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee of Ways and Means, to say that very soon a general bill would be reported revising the internal tax system throughout, and that this matter would be incorporated into that bill and presented to the Senate in such shape that they would not be able to hold this rod over us.

Mr. BLAINE. Why not on that bill as well as on this bill? I would like the gentleman to tell us why the Senate cannot play the same game precisely on the bill to which the gentleman from Ohio refers.

Mr. MAYNARD. When this bill was introduced I favored its early passage in order that the effect of it might operate upon cotton-growing for the present year. But so much time has now elapsed that that great purpose has been substantially defeated. I confess that the argument for the adoption of this report has made but little impression upon my mind.

Mr. COVODE. I ask the gentleman from Iowa [Mr. ALLISON] to yield to me for a minute or two.

Mr. ALLISON. Very well.

Mr. COVODE. Mr. Speaker, I have become satisfied from this discussion that this is not the time to pass upon this measure. I have always observed, during my services in this House, that when any measure is brought forward in regard to the propriety of passing which there is so much doubt as there seems to be about adopting this report, it is better to postpone it for a time.

With regard to this cotton tariff and tax, this measure proposes, as it were, a double bonus to a certain class of manufacturers in this country. It proposes, first, to take the tax of two and a half cents per pound off domestic cotton, which must operate to the advantage of those engaged in cotton manufacture. And when I speak of that I claim to speak as one having some experience upon the subject, being myself a purchaser and manufacturer of cotton.

In connection with removing the internal tax of two and a half cents per pound, it is also proposed to take the tariff entirely off the Surat and other cottons now imported into this country. It is true that this Surat cotton is used by only a small number of manufacturers at present. But we cannot tell how long that will continue to be the case. We can look back but a few years when the shoddy manufacturing business had but a very small beginning, when no one seemed to fear the manufacture of shoddy. But at the present time numerous orders have been sent out to Europe for machinery with which to manufacture shoddy in this country. And, in my opinion, the same result will happen in the manufactures of cotton, if we offer such strong inducements for the introduction of this cheap and inferior foreign cotton to displace the superior cotton grown in this country.

Sir, I am satisfied we should not act upon this particular interest until we come to pass upon the subject of internal taxes in a general bill, which will soon be brought before the House for its consideration.

Mr. ALLISON. I now yield for a short time to the gentleman from New Hampshire, [Mr. ELA.]

Mr. ELA. I desire to say but a word or two. There is a class of cotton goods manufactured in the eastern States which weigh about two and a half pounds to the square yard. Those goods are used mainly for export

to Asia, taking the place of gold in exchange for products which we get from there. The Surat cotton, which is worth about two thirds as much per pound as our American cotton, enters largely into the manufacture of those goods.

Now, if we refuse to take the duty off that class of cotton, and refuse to enable our manufacturers to import it for the purpose of making that class of heavy goods, we will simply deprive this country of the use of so much of its labor which may be employed in the manufacture of goods to be sent abroad and take the place of gold in our exchanges with foreign countries, and we will send that share of business exclusively to the English market. We will cut off American labor and also American shipping from the benefits which are to be derived from this branch of manufactures. Not only that; we will compel the export of gold instead of exporting a portion of American cotton mixed with a portion of this eastern cotton. That is about all that is involved in this bill.

Mr. ALLISON. I now yield three minutes to the gentleman from Tennessee, [Mr. MULLINS.]

Mr. MULLINS. I can give in a very few words my opinion concerning the question now at issue before this House. That question is whether we shall or shall not concur with the report of the committee of conference in reference to the bill now pending.

Now, coming from Tennessee, I claim to know something concerning the business of raising cotton. I think I know the condition to-day of the people of that section of country, after the suffering and trials they have passed through during the last few years. I feel, as I think all feel, that it was right for this House to attempt to remove the present tax from cotton; yet when we come to the passage of a bill for that purpose we find ourselves stopped by the Senate, in a legitimate manner, it is true, for that body is a component part of Congress as well as is this House.

We cannot reach a settlement of this question except by compromise. That is the way all difficulties of this kind must be settled. While I earnestly advocate the interests of the cotton-growers of the South, I am disposed to consent to a compromise on this question, although I must be permitted to say that this measure as now before us seems to me to involve a gross violation of principle on the part of the other branch of Congress—a departure from that principle which is as old as the Government itself, and which should never be discarded—the principle of protecting the industrial interests of our own people against the competition of the pauperhordes of Europe, whose labor commands but a dime or a penny a day. Why should we open the gateway for the free ingress of one of the great staples controlling the markets of the world? Yet, sir, we are faced by a lion standing in our path and saying, "Take this or nothing." With all my devotion to the true interests of the people of the South I feel constrained to say, "We will accept what you give us." We will fight out this question hereafter. The day is coming when we shall assert and maintain our rights with regard to this matter of protection.

Mr. ALLISON. I now yield three minutes to the gentleman from Pennsylvania, [Mr. MOORHEAD.]

Mr. MOORHEAD. Mr. Speaker, I rise for the purpose merely of calling the attention of the House to the position of this question.

In its action for the removal of the tax upon cotton this House was very unanimous. Our object was to promote the growth of cotton in the southern States. We passed a simple bill of but a few words, designed to accomplish that object. Our bill proposed simply to relieve cotton from internal tax. The Senate amended that bill by adding a clause which, I think, is not germane at all, embracing a subject which should not have been mixed up with this measure. When that amendment came here for our action we refused to concur, adhering to our opinion as expressed in the bill originally adopted. A committee of conference was appointed, and that committee failed to agree. A second committee of conference was appointed. Two of the members of that committee on the part of the House yielded. I, as one member of the committee, refused to sign the report; nor would I be willing to sign any such report now.

The House declined to adopt the report of the committee. It refused to agree to the compromise proposed. While anxious that the internal tax should be removed from cotton, this House was not willing to crush the culture at home by taking the tariff off foreign cotton. The same question is now presented to us for the third time. Are we going to yield? I hope not. I for one shall vote against yielding. I hope the House will adhere to the position it has heretofore taken on this subject. As has been very properly said by the chairman of the committee, [Mr. SCHENCK,] when we shall hereafter come to consider the tariff bill we can attend to the question of the tariff upon cotton. We can then take off the duty or continue it as may at that time appear proper. I repeat that I hope the House will firmly adhere to the position it has heretofore taken on this subject.

Mr. ALLISON. I now yield three minutes to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. Mr. Speaker, I avail myself of those three minutes to refer to a point which has not been brought to the attention of the House and which illustrates the importance of the question now under consideration.

From 1850 to 1860 the importation of cotton was steadily at about one hundred and fifty thousand pounds annually. In 1860 it increased toward the close of the year and reached during that year about eight hundred thousand pounds. During the war it reached thirty-six million pounds annually. It is now rapidly falling; and this year it will probably not exceed four hundred thousand pounds.

I think the action of the Senate on this subject is very injudicious. But so important do I deem the repeal of the cotton tax at this time, when men are determining whether or not they will plant for the coming year, that I am constrained to yield my most decided convictions, and in view of the imperative demand of the Senate vote for the adoption of the report of the committee of conference.

Mr. MAYNARD. Will the gentleman allow me to make a suggestion? The duty on cotton is now three cents per pound in gold. If that duty is taken off what does the gentleman think the importation will be?

Mr. KELLEY. Why, since the failure of the Royal Bank of Liverpool, which let the bottom out of the cotton market, it will be less than it has been. If they could bring in eight hundred thousand pounds of cotton at from thirty to forty cents per pound they would not be able to bring in one hundred and fifty thousand pounds of cotton at its present price.

Mr. BARNES. One word. With other members upon this floor I voted against the previous report of the committee of conference. We have referred this matter now for the third time, and the committee report unless we take this we shall not be able to take the tax off cotton grown in the United States. Therefore, sir, for that reason, I will vote for it, and hope my friends will also do so.

Mr. ALLISON. Mr. Speaker, I will say a single word in reply to some remarks made on this report, and then call for the previous question and leave the matter to the House.

I fear from the points made by the honorable chairman of the Committee of Ways and Means [Mr. SCHENCK] that I may be misunderstood in supporting this report. There are some features of the report and of the adherence of the Senate I like. One is the principle, which I regard as involved in this matter, to wit: the principle that when we reduce the tax upon American products in order to cheapen their price we should correspondingly reduce duties on foreign imports. That seems to be one principle insisted on by the Senate, and to that principle I do not object.

The only reason why I believed we should have a small duty on cotton was that from that source we should derive some revenue.

Now, sir, we are told by gentlemen who have investigated this subject of cotton that the foreign producer is now able to come into competition with the American producer; that cotton in this country is no longer king. Believing that, I will vote to repeal the excise duty on cotton, intending also, when the opportunity shall occur, to vote for a small duty on imported cotton, for the purpose of compelling cotton which shall come into competition with our own cotton interest to pay some revenue into the coffers of the Government. But this is a question which can be settled hereafter, as has been already said. When the next tariff bill comes up we can, if we choose, insist upon a duty of a half cent per pound on imported cotton. I do not think it will bear more than a half cent per pound. We can bring in a bill of that kind, but it must take the way of all bills and receive the concurrence of the Senate, for this is a Congress composed of two bodies, and both must concur to pass a bill into law. And, inasmuch as this duty will not be removed until November, 1868, if we stay here long enough we will have another opportunity to test the question. I assent, therefore, to the report of the committee, for the reason that, if this should fail, then the repeal of the tax on cotton will fail—a tax which it is of the utmost importance to the cotton-producing interest of the country should be removed during the present year, and before planting time has commenced. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. WARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 43, not voting 40; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, James M. Ashley, Axtell, Baker, Baldwin, Banks, Barnes, Barnum, Beaman, Beck, Bingham, Blaine, Boutwell, Boyer, Brooks, Buckland, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Cullom, Dawes, Dixon, Dodge, Eckley, Ela, Eliot, Getz, Golladay, Grover, Haight, Halsey, Hawkins, Higby, Hooper, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Jones, Judd, Kelley, Kerr, Ketcham, Knott, Laflin, Lincoln, Logan, Mallory, Marshall, Marvin, McCormick, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Paine, Perham, Phelps, Pile, Plants, Poland, Price, Randall, Raum, Robertson, Robinson, Ross, Scofield, Shanks, Sitgreaves, Starkweather, Stewart, Stone, Taber, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Upson, Van Auken, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodward—106.

NAYS—Messrs. Delos R. Ashley, Benjamin, Benton, Blair, Cake, Cary, Cobb, Coburn, Covode, Donnelly, Driggs, Ferriss, Ferry, Fields, Harding, Holman, Hopkins, Kelsey, Koontz, William Lawrence, Loan, Loughridge, Lynch, Maynard, McClurg, Mercur, Moore, Moorhead, Morrell, Pike, Polsley, Pomeroy, Sawyer, Schenck, Selye, Aaron F. Stevens, Taffe, Trowbridge, Van Aernam, Ward, Welker, Thomas Williams, and Stephen F. Wilson—43.

NOT VOTING—Messrs. Bailey, Bromwell, Broomall, Burr, Butler, Churchill, Cornell, Eggleston, Eldridge, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Hill, Asahel W. Hubbard, Richard D. Hubbard, Julian, Kitchen, George V. Lawrence, McCarthy, McCullough, Miller, Morgan, Morrissey, Orth, Peters, Pruyn, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stokes, Twichell, Van Trump, Van Wyck, Wood, and Woodbridge—40.

So the report was agreed to.

During the roll-call,

Mr. HUMPHREYS stated that his colleague, Mr. PRUYN, was absent from the House on account of sickness. If he were here he would have voted in the affirmative.

Mr. CULLOM stated that his colleague, Mr. BROMWELL, was detained from the House by indisposition.

The vote having been announced as above recorded,

Mr. UPSON moved to reconsider the vote by which the report was agreed to; and also

moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 207) to provide for the exemption of cotton from internal tax; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 308) for the relief of the heirs of the late General Duncan S. Clinch, deceased, in which the concurrence of the House was requested.

LEAVE OF ABSENCE.

Mr. MAYNARD. Mr. Speaker, my colleague, Mr. STOKES, obtained leave of absence some time ago which expires to-day. He is unable to return; I desire to have his leave extended.

The leave of absence was accordingly extended.

SOLDIERS AND SAILORS IN THE NAVY-YARD.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of the 28th instant, relative to alleged abolition of discriminations in favor of soldiers and sailors by the Navy Department; which was ordered to be printed, and referred to the Committee on Naval Affairs.

DISMAL SWAMP CANAL.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Treasury, transmitting an opinion by the Attorney General relative to a proposed sale of stock held by the United States in the Dismal Swamp canal.

On motion of Mr. WOODWARD, the communication was ordered to be printed, and referred to the Committee on Naval Affairs.

AFFAIRS IN TEXAS.

The SPEAKER, by unanimous consent, also laid before the House letters from Governor Pease, of Texas, and Hon. C. Caldwell, one of its supreme judges, in regard to the affairs of that State; which were ordered to be printed, and referred to the Committee on Reconstruction.

NAVAL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported a bill (H. R., No. 601) making appropriations for the naval service for the year ending June 30, 1869; which was read a first and second time, ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for the 18th of February, after the morning hour, and from day to day thereafter until disposed of.

Mr. SCOFIELD and Mr. HOLMAN reserved the point of order as to any improper appropriations.

CONSULAR AND DIPLOMATIC APPROPRIATIONS.

Mr. WASHBURNE, of Illinois, from the same committee, also reported a bill (H. R. No. 602) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1869, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted to the committee.

Mr. HOLMAN reserved the point of order as to any improper appropriations.

SOLDIERS OF THE WAR OF 1812.

Mr. LOAN, from the Committee on Revolutionary Pensions and of the War of 1812, by unanimous consent, reported a bill (H. R. No. 603) granting pensions to soldiers and sailors of the war of 1812; which was read a first and second time, ordered to be printed, and recommitted to the committee.

Mr. UPSON moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POST ROUTE IN MISSOURI.

Mr. NEWCOMB, by unanimous consent, introduced a bill (H. R. No. 604) establishing a post route from Rolla, Missouri, to Jefferson City, Missouri; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ELECTION CONTEST—SMITH VS. BROWN.

The House then resumed the consideration of the report of the Committee of Elections, upon which Mr. CHANLER was entitled to the floor, but yielded to

Mr. KERR, who said: Mr. Speaker, I presented a minority report from the Committee of Elections the other day and gave notice that at the proper time I would introduce certain resolutions as a substitute for those adopted by the majority. I now offer the following resolutions:

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

Resolved, That John Young Brown, not having voluntarily given aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States, and having received a majority of the votes cast in the second district of Kentucky for Representative in this House, is entitled to admission, and to take the oath of office as a Representative from said district.

The SPEAKER. The Chair will state that during the gentleman's absence the House by unanimous consent resolved that the first resolution only should be before it for consideration. The gentleman therefore moves the second resolution as a substitute for the first reported by the majority of the committee. They are to be acted upon separately.

Mr. DAWES. The gentleman from New York has kindly yielded to me for a moment. The House is well aware that the Committee of Elections has been deprived of the services of one of its members, the gentleman from Ohio, [Mr. SHELLABARGER,] on account of ill health. It became necessary during the investigation of this question to obtain the views of that gentleman, and he has kindly furnished those views in writing. It is due to him as well as to the committee that they be read, and I ask the consent of the House that these views, so far as they relate to the case of John Young Brown, shall be read. So far as they relate to the claim of Mr. Smith to the seat I will reserve them.

The SPEAKER. Does the gentleman from New York [Mr. CHANLER] yield for that purpose?

Mr. CHANLER. Certainly, sir.

The Clerk then read the views of Mr. SHELLABARGER, as follows:

HOME, SPRINGFIELD, OHIO, *December* 25, 1867.

To the Committee of Elections of House of Representatives:

GENTLEMEN: I have just received the communication of the committee, through its clerk, asking that I should communicate to the committee my views as to the right of Mr. Smith and also of Mr. Brown to a seat in the House of Representatives, as shown by the evidence in the case now pending before the committee, of Smith *vs.* Brown, from Kentucky.

This I proceed very cheerfully to do, regretting that I am deprived of consultations with the committee. In regard to the right of Mr. Brown to this seat I now state briefly my vote and reasons.

I understand that Mr. Brown's right to this seat depends upon the determination of one or more of three questions. First, may a law such as that prescribing the test-oath be constitutionally passed and enforced, either as to any officer or as to a member of Congress? Is Mr. Brown excluded from this seat by a just construction of the "test-oath?" I shall, of course, not discuss the constitutionality of the law prescribing this oath and qualification, but assume that to be settled as constitutional. To hold that the oath of office required to be taken by Representatives and other officers named in the sixth article and first section of the Constitution excludes them from being required by law to take any further obligation, is, as seems to me, not only in violation of the express terms of the Constitution, but is in the face of both the reason and the practice which construes this section. Such construction is against the text itself of the Constitution, because that prescribes the thing which shall not be required as a qualification for office, to wit, "religious tests." Now, surely, if the prescribing of one thing, which each member should be required to do and swear, was in this case meant to exclude all other requirements, then it was not only useless but calculated to mislead and deceive, to go on and give one and only one qualification as the one which Congress might not require the officer to have. Surely the prescribing of one test as one that may not be required as much proves that any other test may be established as the fixing of one test as being required excludes others from being required.

The plain sense, therefore, of this clause is to name one quality which, at least every member shall have, and one which, at least, shall not be required, and to leave the other qualifications to be regulated by the laws of the Government which the Constitution established. If this is not so, and if this clause excludes any officer named in the clause from being required to take any further obligation, by his oath of office, than that one named in the Constitution, then no State officer named in the same clause could be required to swear to support his State constitution; and no officer, State or Federal, could be required by law to take an oath to discharge well the duties of his office. Plainly this clause is not meant to exclude all other qualifications for Federal office as unconstitutional.

Exactly the same remarks apply to all other clauses touching the qualification, &c., of officers and members. None of them can be construed to prohibit Congress from excluding from office an open and avowed traitor to his country any more than they can be construed to deny Congress the right to exclude the convicted felon or the insane from such offices. Congress, then, may by law exclude traiters from the offices of the Government, and "each House," if not bound by such law as a law, may and ought at least to adopt such "law" as a "rule," not to be departed from, as to the qualification of its members. I therefore hold that the House would do against its dignity, its purity, its patriotism, and fitness to make laws an act most monstrous, if not one absolutely fatal, did it not, with unremitting rigor and sleepless vigilance, enforce this great act for the exclusion of the Government's enemies from the control of the Government's life. And of course this law, which should have to each House at least the force of an inflexible "rule," should be applied alike in each House.

The only other question, then, is, whether Mr. Brown can properly be admitted to take this oath and seat?

In answering this, the principal inquiry in the case, and the one which I think will be of vital importance in the future, as it is in the present, I will first of all state what I deem the rule of exclusion from office which this law establishes.

That the act which shall exclude the party from being permitted to take the oath and the office need not be treason technically, I think, cannot be fairly questioned. The law was passed with the utmost familiarity on the part of every member making it with the technical terms in which the Constitution defined treason. They adopted these constitutional words in this "test-oath," and then added to them the other words, "countenance," "encouragement," "counsel," &c. Plainly, then, other acts against the Government than treason proper were meant to exclude from the Government's offices. To find what is to be the safe, wise, and practicable rule of exclusion from office under this important law, to have it adopted by both Houses of Congress and by all departments of the Government, and to make it of perpetual force, is the thing of incalculable importance in the present case—a case probably to become a precedent for all the future.

I shall attempt no more than to state my view of what that rule of exclusion ought to be, and I state it thus:

Whenever the person demanding the office shall appear by proper evidence to have been guilty of an act or speech which was of such a character and was done or uttered under such circumstances as to tend to forward the cause of rebellion against the United States, and as to fairly show that the author of such act or speech meant that it should so aid or countenance the rebellion, then he should not be permitted to assume such office. And so far as this rule involves matters of "tendency," "presumption," or of "intent," these are to be determined from the nature of the act proved, and this upon the principles of the common law.

Any practicable rule of exclusion interpreting and enforcing the exclusions declared by this important act of Congress must base such exclusion from office upon acts capable of proof and not upon mere "sentiments," "purposes," or other mental conditions of the person demanding the office. The rule I state has these elements, to wit:

1. The exclusion must be rested upon overt acts or speech.

2. The nature and surrounding circumstance of the act must be such as to fairly show that its author designed to aid the rebellion, and that his act tended to forward the rebellion.

I think it impossible to adopt any interpretation of this act of Congress which will exclude from office any one whose guilt comes short of actual treason and which is more favorable to the disloyal than the above rule. I sincerely hope the House will not render ineffectual this important law by admitting into its own body the very authors of this recent and immense crime against the nation's life, whose guilt, though not technical treason, was that it planned, urged on, and to its fearful end stimulated in its work of murder that treason. How strange that the great Legislature of this injured nation should be expected or invited to admit to the making of its laws those who so recently contrived the nation's

destruction and who profess no regrets except for the loss of "the lost cause."

Does any act established by the proofs in this case of Mr. Brown bring him within the rule I state? I shall not allude to any other acts shown by the evidence than the ones established by the following letter, which most clearly excludes its author from the seat he demands:

ELIZABETHTOWN, *April* 18, 1861.

Editor Louisville Courier:

My attention has been called to the following paragraph, which appeared in your paper of this date:

"*John Young Brown's Position.* This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South: 'I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks.'"

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States. What I did say was this:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death, and if one man shall be found in our Commonwealth to volunteer to join them, he ought, and I believe will be, shot down before he leaves the State."

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered publicly and privately prior to my debate with him.

Respectfully, JOHN YOUNG BROWN.

Notice the bad qualities of this act:

1. The evidence shows that when it was written the United States was striving for troops in Kentucky to aid in the rescue of the national existence, and that the rebel government was then also recruiting for its army in Kentucky.

2. It was written to show that the author was "misunderstood" when he was understood to apply the language that those who "volunteered should be shot down in their tracks" to the recruits for the "confederate government." He did not mean that any of them should be shot.

3. It was written to show that what he did say and hope was that "if any man should be found in our Commonwealth to volunteer to join" Lincoln's army "he ought to be, and he believed would be, shot down before he left the State."

4. It boasts that he had "frequently uttered publicly" and privately these detestable and traitorous speeches.

5. It shows that its author was so intent upon having every Lincoln soldier "shot" and in having it known that he would not shoot any recruit for the army of the "government of the confederate States" that he is not content with "frequently" uttering this speech "publicly," but scatters through a rebel journal his treasonous exhortations to all the people of Kentucky and of the entire nation.

6. I know of no evidence that this infamous act, or rather series of acts and speeches, were ever regretted or disavowed by their author.

7. And these acts and speeches were done and said not only by one who was in fact a recognized leader of the public mind in Kentucky and a member of the preceding Congress, but by one whose speeches were uttered avowedly for the purpose of leading and controlling that mind, and who did greatly control it.

These acts may not have been technical treason. A court and jury which would so find might possibly not be corrupt; but if not treason they and those of similar speakers were acts at that time of far more aid to the rebellion than all the rebel guns then in Kentucky.

These acts are apologized for by saying that they were only parts of the then neutrality of Kentucky, and were, like the acts of Mr. Crittenden and Speed and others, done in support of that neutrality! If Mr. Crittenden and Speed did such acts of neutrality as this, then it is all the worse for Mr. Crittenden and Speed; and heaven preserve our country from such. It was a kind of neutrality which disclosed its impartiality by shooting down the United States soldiers, and in sparing every recruit for the "confederate government!"

It was a neutrality whose virtue was in inciting all the people of a great State to acts, not merely of war and treason, against the United States, but to acts of private assassination and of murder, in defiance of the laws of war, and which would disgrace and shock the savage. I doubt whether these public speeches, boasted to have been "frequently" made in "public," fall short of technical treason. They were "acts"—they were "overt," ("public")—they were by one whose mind is shown by his speeches to have been probably leagued in "common design" with those who were then levying war in Kentucky against the United States, and whose speeches must have been, from their character, meant and were calculated to prevent recruiting in the Union Army and to encourage and secure rebel enlistments, which the proofs show were then and there also going on. These were, in fact, recruiting speeches for the rebel army and anti-recruiting ones for the Union Army. And I doubt whether this is not treason, and a treason asserting itself by inculcating such private assassinations of the recruits of the United States as would by public law have subjected their author to have been shot as not only the enemy of his country, but of his race. The disclosures of human tribunals can never show how many of those patriots of Kentucky who started to the rescue of their imperiled country, and who were "shot down before they left the State" by the guerrilla and by the private assassin, were so murdered because John Young Brown had "frequently," "in public and private," exhorted the people that they "ought to be so shot." But, whether any were so murdered by the direct procurement of John Young Brown or not, he "frequently" and "publicly," in a time of war against the United States, and at a place where the United States were procuring such recruits, urged and incited to such murder; and upon the principle of common law and common sense, which holds that every man meant to do what his acts were fairly adapted to produce, John Young Brown is guilty of the murder of those who, under his advice, were "shot down before they left the State."

I deem the acts proved upon John Young Brown both treason and barbarism, and on the question whether he shall be permitted to swear that he has never given aid or countenance to the rebellion and to take a seat in the American Congress I desire to be recorded in the journals of the committee as voting—No.

Mr. CHANLER. Mr. Speaker, I look upon this question as purely a local question in its bearing, relating to the condition of society in Kentucky and the influence which certain leading minds in Kentucky had upon public opinion. It is a matter of opinion, a matter of sentiment, and should be treated as such, and should be presented to this House by those who were present in Kentucky and were aware of the condition of things there, not only at the time of the recent election of Mr. John Young Brown, but who were present and knew the state of sentiment in Kentucky under the influence of Mr. Crittenden. I do not pretend, sir, to fathom the depths of human motives, as has been done here to-day, and exercising the arts and powers of imagination to brand a Representative of the people for acting upon the same motives which made Mr. Crittenden the hero of a compromise which has fixed his name in history as the leading mind on this floor at the opening of the rebellion. I say, sir, I do not brand the representative of these sentiments, the youth of the next generation to Crittenden, who is sent here by the constituency of Crittenden to represent the people of Kentucky, nor will anything fall from me which will tend to hamper the opinion of the House by personal expressions of opinion. I prefer to yield the floor to a Representative from Kentucky, who knows what he shall say here to be true; who will exercise no arts or powers of imagination to delude this House or the country; who, in speaking here, speaks as the representative of fixed principles in his section of the country, and who is entitled to his honest opinions and free discussion on this floor. Without, therefore, entering into the debate, I yield the floor to the gentleman from Kentucky, [Mr. BECK,] and, owing to the lateness of the hour, I will ask the House, when he shall have secured the floor, to consent to an adjournment, so that he may present the case to the House before a larger number than are present now.

Mr. BECK obtained the floor.

Mr. GRAVELY. If the gentleman from Kentucky will yield to me I will move an adjournment.

Mr. BECK. I yield for that purpose.

Mr. WASHBURNE, of Illinois. I desire to ask the chairman of the Committee of Elections how far this debate is probably to run? I will state that it is the desire of the Committee on Appropriations to go into the consideration of the appropriation bills next week, on Monday, and I hope there will be such an understanding that this case may be brought to a close before that time. I will say further that the Committee on Appropriations have been very much delayed in the preparation of the appropriation bills by the reason that they have given to them a great deal of labor, and they are a long way behind. It is necessary for the House to take action upon them at an early period if we expect to bring this session to a close by the middle of the summer.

Mr. DAWES. I will say, in reply to the gentleman from Illinois, that there is a very large amount of business before the Committee of Elections, and they are desirous of pressing these questions just as far as the patience of the House will permit.

Therefore I say that the committee will go along with these cases as far as the House will go with them. We will proceed with the discussion to-morrow, or we will leave to-morrow for general debate, as the House may desire. I have myself no desire but to press these cases as far as the rights of parties will permit and justify.

Mr. ELDRIDGE. I desire to inquire of the gentleman from Massachusetts [Mr. DAWES] if this case does not present a question different from any question that has been presented by any other contested-election case? Is not this one of the most momentous questions that has ever been presented to a Congress of this country? Ought it not to have accorded to it a discussion commensurate with the importance of the question itself? I would also ask the gentleman whether we ought under any circumstances to follow the suggestion of the gentleman from Illinois, [Mr. WASHBURNE,] and force the House to vote upon this important question under the operation of the previous question?

Mr. DAWES. I regret that the gentleman from Wisconsin [Mr. ELDRIDGE] did not hear the remarks with which I commenced the discussion to-day, in which I endeavored to impress upon the House the great importance of the question involved in this case.

Mr. ELDRIDGE. The gentleman from Massachusetts is always so impressive in his remarks that I thought it was only the ordinary expression of his views.

Mr. DAWES. I regret to differ with the gentleman from Wisconsin. I felt exceedingly impressed with the importance of this case when I commenced my remarks this morning, and desired that the House should address itself seriously to its consideration. I ventured to state that there was no precedent for this case, and that it demanded the serious consideration of this House, and that I trusted it would receive it.

Having said that, I leave it with the House, merely adding that so far as I am concerned and the debate is legitimate, I do not intend to cut off any one from a fair and proper expression of his views upon this case, which will establish a precedent, for it is unlike any other that ever came before Congress. Indeed, in my opinion, the principle involved in this case lies at the foundation of the perpetuity of our institutions.

Mr. ELDRIDGE. I regret very much that I did not pay attention to the remarks of the gentleman from Massachusetts. I can only say, by way of apology for myself, that he spoke with his ordinarily impressive tone of voice, and I thought it was one of those cases, in his opinion, which he brings before the House whenever he has that sort of feeling; that it was one of those cases which always impress the gentleman from Massachusetts with their importance. If I had supposed that his tone of voice and his serious manner indicated so important a subject as I think is involved in this case I certainly should have listened to him with more attention.

Mr. DAWES. I am sorry the importance of the case has occurred to my friend from Wisconsin at so late a day.

Mr. ELDRIDGE. All I have to say in excuse for myself is, that the gentleman is always so impressive, always so interesting, that I supposed it was only an ordinary case.

Mr. WASHBURNE, of Illinois. If this matter be so important as the gentleman from Massachusetts [Mr. DAWES] and the gentleman from Wisconsin [Mr. ELDRIDGE] claim that it is I think we should go on and discuss it and give our attention to it now. It is too early for the House to adjourn. Let the gentleman from Kentucky [Mr. BECK] proceed with his remarks; let the House meet to-morrow and devote that day to the consideration of this case. For myself, representing as I do to some extent the Committee on Appropriations, I shall on Monday, by instruction of that committee, attempt to get up one of the appropriation bills.

Mr. BECK. I have no objection to going on now. I yielded to a motion to adjourn at the request of others.

Mr. GRAVELY. I move that the House do now adjourn, because an hour's speech at this time will protract our sitting much later than the usual time for adjournment.

The question was then taken on the motion to adjourn, and upon a division there were—ayes 58, noes 46.

Before the result of the vote was announced, Mr. HUBBARD, of West Virginia, called for tellers.

Tellers were ordered; and Mr. WASHBURNE of Illinois and Mr. GRAVELY were appointed.

The House again divided; and the tellers reported that there were—ayes 60, noes 27.

Before the result of this vote was announced, Mr. WASHBURNE, of Illinois, said: I ask for the yeas and nays on the motion to adjourn. I want it to appear on the record who are in favor of going on with this question now and who are not.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 17, noes 80.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

So the motion of Mr. GRAVELY was agreed to, and accordingly (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of Julia A. Barton, widow of William Barton, deceased, late private company I, seventh regiment Kentucky infantry, for a pension.

By Mr. BARNUM: The petition of Colonel and Brevet Brigadier General G. Loomis, with accompanying documents, praying for relief from paying the sum of $313 50.

By Mr. BURLEIGH: Memorials of the Legislative Assembly of Dakota Territory, as follows: relative to a United States land office in the Red river valley; relative to the survey of public lands on and near the Red river of the North; relative to the removal of the Pembina band of Chippewa Indians; praying for the establishment of a mail route from Fort Totten to St. Joseph; and praying for an appropriation to construct a wagon road from Fort Abercrombie down the Red river of the North.

By Mr. CORNELL: The petition of Cornelius D. D. Freer, praying that a pension be granted to the minor children of Garret W. Freer, deceased.

Also, the petition of Ethan Dunham, praying that a pension be allowed the widow and minor children of Henry Taife, deceased.

Also, a memorial of Mary E. Lord, praying for compensation for services of her late husband, Lieutenant George P. Lord, United States Navy.

By Mr. ELIOT: The petition of citizens of Barnstable, Massachusetts, praying for investigation of wrongs committed against the Indians and for legislation for their protection.

By Mr. GROVER: The petition of E. A. Brown and others, of Lewis county, in favor of the establishment of a post route between Louisville and Rodman.

By Mr. DRIGGS: The petition of L. W. Abbott and 150 others, praying Congress to grant an appropriation to improve the mouth of the Menomonee river, in the State of Michigan.

Also, the petition of E. S. Ingals and 25 others, for same object.

Also, the petition of John Gridley, of Birch Run, Saginaw county, Michigan, and 40 citizens, praying Congress to grant a pension for the loss of an arm while in discharge of his duty as a soldier in the Union Army.

By Mr. FERRY: A memorial of the Land and Labor Reform Union, No. 9, of the city of Grand Rapids, Michigan, praying for such legislation as shall secure the public domain to actual settlers.

By Mr. JENCKES: A memorial of Willard Sayles and others, late officers in the Army, relative to compensation for officers' servants.

By Mr. ORTH: The petitions from sundry citizens of Indiana, in reference to appointments to and removals from office in the revenue service of the Government.

Also, the petition from sundry citizens of Indiana, in favor of a radical change in our system of taxation.

By Mr. PHELPS: A communication from George B. Coale, of Baltimore, Maryland, offering to the United States an original portrait, by Sully, of Charles Carroll of Carrollton.

By Mr. POLAND: The petition of Captain John Bisbee, late second lieutenant of the eighth Vermont volunteers, praying to be allowed pay as a second lieutenant from July, 1863, to March, 1864.

Also, the petition of John Dean, second lieutenant forty-seventh Wisconsin volunteers, praying to be allowed three months' extra pay.

By Mr. RANDALL: Resolutions of a meeting of citizens of Philadelphia, asking such legislation as will secure the rights of American citizens traveling and sojourning in Europe.

By Mr. WASHBURNE, of Illinois: The petition of sundry citizens of Philadelphia and Montgomery counties, Pennsylvania, that Congress cause to be published a statement of the number of acres of the public lands that have been granted to States, corporations, societies, or individuals from 1830 to 1867 inclusive, for education, hospitals, churches, railroads, telegraphs, canals, harbors, levees, or other proper improvements, &c.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 1, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

SIOUX INDIAN RESERVATION, MINNESOTA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the House of the 22d ultimo, a report by the Commissioner of the General Land Office relative to the sale of the Sioux Indian reservation in Minnesota; which was referred to the Committee on Indian Affairs, and ordered to be printed.

CLAIM OF THE CHOCTAW NATION.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, relative to a claim by the Choctaw nation of Indians against the United States growing out of treaty stipulations; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The first business in order is the consideration of the resolutions reported from the Committee of Elections upon the contested-election case from the second congressional district of Kentucky. On this question the gentleman from Kentucky [Mr. BECK] is entitled to the floor for fifty-five minutes.

Mr. KELSEY. I ask the gentleman from Kentucky to yield to me for a few moments that I may offer a resolution.

Mr. BECK. If it does not come out of my time I will yield with pleasure.

The SPEAKER. It will not come out of the gentleman's time.

POST OFFICE AT PENN YAN, NEW YORK.

Mr. KELSEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to inform this House whether he has appointed any person special agent to take charge of the post office at Penn Yan, New York, and whether the person appointed was, prior to such appointment, nominated by the President as postmaster at that place and rejected by the Senate; and also by authority of what law such special agent was appointed, if he has been appointed.

ORDER OF BUSINESS.

Mr. JOHNSON. I now ask the gentleman from Kentucky [Mr. BECK] to yield to me for a few moments.

Mr. WASHBURNE, of Illinois. I am obliged to insist on the regular order. I do not do this capriciously, but it seems to me necessary that we should get through with this contested-election case as soon as possible in order to get at the appropriation bills.

Mr. JOHNSON. My object was to speak upon what I deem a question of privilege; but I do not want to encroach upon the time of the gentleman from Kentucky.

Mr. WASHBURNE, of Illinois. If the gentleman from Kentucky yields a portion of his time to the gentleman from California [Mr. JOHNSON] I have no objection.

Mr. JOHNSON. If the time which I might occupy must come out of the time of the gentleman from Kentucky I do not insist on the request.

ELECTION CONTEST—SMITH VS. BROWN.

The SPEAKER. The House resumes, as the regular order, the consideration of the resolutions reported by the Committee of Elections upon the contested election from the second district of Kentucky. It having been ordered yesterday by unanimous consent that the resolutions should be considered and acted on separately, the first resolution is now before the House, on which the gentleman from Kentucky [Mr. BECK] is entitled to the floor for fifty-five minutes.

The resolutions are as follows:

Resolved, That John Young Brown having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky, or to hold a seat therein as such Representative.

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

Resolved, That the Speaker be directed to notify the Governor of Kentucky that a vacancy exists in the representation in this House from the second congressional district of Kentucky.

Mr. BECK. The sickness of the gentleman from Indiana, [Mr. KERR,] who prepared and presented the minority report and the resolution for the admission of Mr. Brown based thereon, and the politeness of his colleague, Mr. CHANDLER, who has kindly given me his time because of the greater familiarity I necessarily have with the local questions that bear so prominently on the charges against my colleague, is my excuse for presenting my views in support of the position taken by the minority in advance of the members of the committee. In doing so I will not be able for want of time to follow, answer, and controvert in detail the positions of law and fact assumed by the majority; that I know will be ably done hereafter by the distinguished member of the committee, [Mr. KERR.] I will simply give an outline of the principles which I contend ought to govern the case, and of the facts on which I rely to show that Mr. Brown is entitled to his seat. As I said the Committee of Elections having been unable to agree as to the right of my colleague [Mr. Brown] to his seat in this body because of his personal disqualification, and having determined unanimously that the contestant [Mr. Smith] is not entitled to it, I shall confine my argument to the controverted question, and endeavor to show that the minority report is in all respect correct. While the conclusions to which the majority have arrived, and the deductions they have drawn from his letter of April 18, 1861, which contains the only ground for his exclusion, (as both reports admit,) are wholly unsustained by any unbiased or rational interpretation of it. Mr. Smith, beaten as he was by over 6,000 majority, at an election fairly held, at which he fails to show that a single illegal vote was cast, or a single officer at any precinct failed to do his whole duty, presents himself in a position sufficiently humiliating to shield him from any exposure beyond what he has seen

fit to make. I will leave that branch of the case with this quotation from the report of the majority:

The will of the majority, expressed in conformity with established law, is the very basis on which rests the foundation of our institutions, and any attempt to substitute therefor the will of a minority is an attack upon the fundamental principles of the Government, and if successful will prove their overthrow. The committee shrink from this attack, and therefore they recommend the adoption of the following resolutions:

Resolved, That Samuel E. Smith, not having received a majority of the votes cast for Representative in this House from the second congressional district of Kentucky, is not entitled to a seat therein as such Representative.

While I feel a deep interest in the cause of my colleague, arising from a thorough and I think well-founded conviction that he is entitled to his seat here, under any rule that this House has yet recognized, especially under the rule established by the committee in their report on the other Kentucky cases, I feel an equal, if not greater, anxiety that this House shall not establish a precedent which strikes down the right, either of the people of the second congressional district in Kentucky, or of any other district or State, to select the men of their choice to represent them, to cast their votes and urge their views on the floor of this House upon terms of perfect equality with the Representatives of each and all the other States in the Union.

Free and equal representation in this Hall, as the committee very properly urge, cannot be too sacredly maintained. It is the very essence of republican liberty and law, and when this Congress considers that the precedent now being established may be the guide for other Congresses perhaps centuries in the future, its members, if they are wise, will be slow to establish any principle—merely for the sake of temporary party advantage—which will not stand the test of unbiased scrutiny when tested by the principles of the Constitution.

What Hallam, in his History of the Middle Ages, says of innovations in all Governments is emphatically true of a great Republic like this:

"As we find in the history of all usurping Governments, time changes anomaly into system and injury into right; examples beget custom and custom ripens into law, and the doubtful precedents of one generation become the fundamental maxims of another."

This House should not only shrink from any attacks, but, as faithful sentinels on the watch-towers of liberty, ought to see that no encroachments are made and no means resorted to which tend, even remotely, to subvert the bulwarks of the Constitution—the great palladium of the people's rights, the only safeguard of their liberties. The party in power to-day may before many months need its protection to guard their rights and the rights of their constituents to representation in this Hall as much as the Democratic party now do. In a free elective republic no man and no party has a lease on power or place. The majority here to-day may be—yes, will be—the minority in the next Congress. The persecutor now may be the persecuted then. History often repeats itself, and by its teachings we know that the men who in the time of Charles I of England maintained all the high prerogatives of the crown as undoubted rights when only their adversaries were the sufferers, and those who in the bloody days of the French Revolution remorselessly sacrificed the lives of their enemies on the guillotine themselves fell victims to the tortures their own ingenuity devised, and their wails and supplications were none the less earnest because they invented the instruments of torture or taught their enemies how to use them. Men feel the misfortunes of their enemies, personal and political, with one sort of sensibility, and their own with a very different sort. I assume that whenever, from any cause or to promote any end however desirable, the guarantees and requirements of the Constitution are set aside or disregarded, the country and all the men and all the parties in it are on a trackless sea, without a compass and without a rudder, the sport of every wind and of every shifting current.

I know that every danger appears trivial in the eyes of an exasperated faction when compared to the ascendency of the adversary they hate and fear; still the fact remains that the principle or precedent, call it what you will, which this Congress may establish in this case may and will—I had almost said ought—to regulate and control the action of the Opposition when in the majority, especially when the cases of the present members of the present majority come to be acted on hereafter. We have the highest authority known to the Christian world for the assertion that "with what judgment ye judge, ye shall be judged; and with what measure ye mete, it shall it be measured unto you." Assuming, as is done here, the power of Congress not only to exact the present test-oath as a condition-precedent to the right to be a Representative on this floor, but the further right in this body to deny his right to take it, even when the Representative is willing to do so, and what is the logical consequence? Retaliation. In what form I cannot predict; but that it will come, and come with crushing weight, is as certain as that effect follows cause. It may possibly assume some such form as this. The Democratic party and the unprejudiced men of all parties generally throughout the country believe that the recent so-called reconstruction acts are plain, palpable, obvious violations of the Federal Constitution, and that no man who reads that instrument and the recent decisions of the Supreme Court, its official expounders, can doubt it. An addition may be made by act, or even resolution, to the test-oath, that no man shall take his seat as a Representative who has knowingly violated the Constitution he has sworn to support; and when the cases of Republican members, who voted for these measures, are referred to, and reported on, by a Democratic committee before the member-elect is allowed to be sworn, although he may be willing to take the oath and swear that he had not violated that obligation, could not the committee, with the Constitution and the decisions before them, demonstrate from their stand-point in a report far less strained than the report here, that he had, and reject him? That is only one form in which it might arise. A thousand others might be suggested. It may arise, perhaps, in some of the forms suggested by the Supreme Court, in Cummins and Garland's cases, 4 Wallace. My object is simply to show that all that class of party legislation is subversive of the plainest and most important principles in our fundamental law.

This House has never yet established this precedent, though many cases have been, as I think, wrongfully referred, and I hope and trust it never will. In the language of the minority report, "intentionally waiving the expression of any opinion touching the validity of the oath itself," and for the purposes of this argument admitting its constitutionality, I contend that there is nothing in its provisions by which the member-elect can be deprived of his right to take it and take his seat as a member. If in the opinion of this House he takes it wrongfully the House has the power to expel him, provided two thirds of the members concur in doing so. It never was intended even by that oath to make the right of a Representative to his place depend upon the will of a mere party majority. That was a device resorted to for the first time by the last Congress, so far as I am aware of the action of this House.

Mr. UPSON. I would like to ask the gentleman a question right here. If, as the gentleman admits, a well-sustained charge of disloyalty would justify this House in expelling a member, does not such a charge, when properly supported, justify the rejection of a person presenting himself for admission as a member?

Mr. BECK. No, sir; because the man has a right to demand that on a trial as a member of this House he shall be convicted, if at all, by not less than two thirds of the members of the House. That is the very question I propose to argue. I intend briefly to present my reasons for assuming that ground before I proceed to prove, as I can to any unbiased mind, that Mr. Brown is entitled, from the facts in this case, to take his seat, being not only willing but able, conscientiously and honestly, to take the prescribed oath, having done no act inconsistent with the spirit, true intent, and meaning thereof. In passing I will endeavor to point out the errors and false reasoning of the majority report. They will certainly appear as the true state of the case is developed. But first, as to Mr. Brown's right to take the oath.

The Constitution of the United States was formed by thirteen free, sovereign, and independent States, or by the people thereof, I care not which for the purposes of my argument. They granted to the Federal Government, as the common agent of all, the powers therein specified, and the means necessary and proper to carry out and enforce the powers so granted. All else was reserved to the States respectively or to the people. Their right of representation in both branches of Congress was carefully and sacredly guarded. As all the people could not attend in person, they reserved the right to be heard and to vote on all questions through the men of their choice, pledging themselves each to the other only to these propositions:

1. That no person should, in any State, have the right to vote for a member of Congress from such State unless such person should have all the qualifications requisite for an elector of the most numerous branch of the State Legislature. What the qualifications of such electors should be was a question solely for the States themselves. One State might allow negroes, women, unnaturalized foreigners, or any other persons the Legislature of the State saw fit to be such electors. Another might exclude all except white male citizens who were freeholders or affix any other limitations it saw fit, and in every case the persons so qualified as electors for the most numerous branch of the State Legislature are qualified by the Constitution as electors for Representatives of their respective States in Congress, and neither Congress nor any other State shall question the right of such electors to vote.

2. The States further agreed with each other that no State should elect any person as their Representative in Congress who should not have attained twenty-five years of age and have been seven years a citizen of the United States, and who should not be when elected an inhabitant of that State in which he shall be chosen.

Power was given by the Constitution to each House to judge of the election, returns, and qualifications of its own members. Judge how? Like all other courts under the Constitution; and each House, with the concurrence of two thirds, can expel a member. Subject, however, to these limitations, the right and power of the States over their Representatives in Congress is complete and exclusive. Congress can only determine whether the Representative chosen is twenty-five years of age; whether he has been a citizen of the United States for seven years, and whether he resided, when elected, in the State from which he was chosen. If he possesses all these qualifications Congress, if it adheres to the Constitution and acknowledges it as the supreme and controlling law of the land, is bound to pronounce him qualified. If the electors who voted for him possessed at the time all the qualifications requisite for electors for the most numerous branch of the State Legislature of the State in which they reside, and the officers of the election were qualified to conduct it, and they and the boards of examiners properly attested the facts relative thereto, Congress is bound, constitutionally, to declare that the election and the returns thereof are regular and proper; and that exhausts the power of Congress.

The attempt by the act of Congress of July 2, 1862, to impose additional qualifications—if that is to be the construction put upon it—is in direct conflict with the terms of the original compact, and the attempt thereby to impose additional limitations on the rights of the States and their Representatives not being

among the powers granted is unconstitutional and void. To state it even more simply and avoid the word unconstitutional, which seems to grate harshly on the ears of members when applied to their favorite measures, this House, sitting as a court of justice to determine the right of a Representative to his seat, finds two laws bearing upon the question—one in the Constitution and the other in an act of Congress. They conflict; the Constitution saying he shall be entitled to his seat, if he has the qualifications therein set forth; the other saying he shall not unless he has other qualifications. Shall the Constitution yield to the act of Congress, and its provisions be modified to suit the act, or shall the conflicting act be disregarded? Which is the highest authority? I suppose no man in this House, if he was sitting as a judge with Chief Justice Marshall's opinion in Marbury *vs.* Madison before him, and no party bias to swerve him, would hesitate for a moment in the decision that the law of the Constitution must prevail.

But I contend that there is no power given, even by the statute of July 2, 1862, to Congress to examine and inquire whether a Representative can properly take the oath he proposes to take: that is a question for him to determine. Congress cannot try him for any offense. The time, place, and mode of trial for all the offenses specified in that oath are clearly set forth in the Constitution. He commits no offense under that law till he takes the oath.

The power to expel a member, two thirds voting therefor, is the only protection (and that is ample) against improper persons, under that law, holding seats in this body. While the right of a Representative to hold the position to which he has been chosen by his people, unless two thirds of this House expel him therefrom, is equally clear. No man will dare to deny that each Representative comes here upon terms of perfect equality with every other member. If the States should all elect their Representatives before the term for which the election is held begins the Representatives who first assemble and organize the House are, upon the credentials sent to the Clerk by the proper officers of the several States, sworn in as members, and none can object to the swearing in of any others, no matter how objectionable they may be considered; and once sworn in they can only be expelled by a vote of two thirds. Can the accidental fact that one or more States hold their elections after the term has commenced, or the fact that Congress happens to meet earlier than usual, alter or in anywise impair the rights of the Representatives from such States, or give to their fellow-Representatives from other States rights and powers over them which it must be admitted they would not have had if they had been elected a month or a week earlier, and had been present when the House was organized and had presented their credentials then? Can the mere fact that one appears on the first day of the session entitle him to be sworn in and hold his seat till expelled by two thirds, while another, with precisely the same qualifications, and subject to precisely the same objections as the other who appears and claims his seat the next morning, offering to comply with all the obligations required of the other, shall be kept out of his place and excluded from it altogether by the vote of a bare majority? Does any sane man for a moment suppose—I will not say believe— that the framers of the Constitution contemplated any such thing? The absurdity of such a proposition, when applied to the great fundmental principle of State representation, is demonstrated by the very statement of it. It is a palpable, flagrant denial of the equal rights and privileges of coequal representation, so glaring that it is amazing that this House should have entertained it for a moment. Yet that is the rule sought to be applied to my colleague, [Mr. Brown.]

But if this House overrules all these considerations, and determines to deprive my colleague and his constituents of all these rights and privileges, and to proceed by a bare majority to say whether or not he shall hold the position to which he has been chosen—I say position, because since the dismissal of the impeachment against Senator Blount, of Tennessee, himself one of the signers of the Constitution, by the Senate of the United States, upon the sole ground that a member of Congress was not an officer of the United States, but one placed in this Hall by the people of his State or district as their agent and representative, no man and no authority has ever treated a member of Congress as an officer of the United States, though some have caviled at the decision of the Senate in that case—I contend, and shall now proceed to show, that my colleague has neither said nor done anything which prevents him from properly taking the oath prescribed. More than six months time was given by this House to investigate the charges brought against Mr. Brown. An active opponent, who resided in his district and was contesting his right to his seat with all the zeal that love of gain and thirst for place could inspire, was busily engaged during all that time, and for months before, among his friends and his enemies, white and black, in hunting up evidence against him. The Committee of Elections were instructed by this House to aid in the search for proof; power to send for persons and papers was given them; a sub-committee of five of their number visited Kentucky so as to make a full investigation of the facts. Mr. Smith, the contestant, was before them conducting the prosecution, and yet I am sustained by both the majority and minority reports of the committee and by the record now in the hands of the members of this House in the assertion that there was not a single word or act proved against him which even approached making out a case, except his letter of April 18, 1861, the authorship of which he always admitted, stating always at the same time the position he then occupied and the motives that induced him to write it. The whole question is, therefore, narrowed down to the effect the writing of that letter shall be allowed to have in determining his right to a seat in this body.

The true intent and meaning of the expressions therein contained must be ascertained and tested by the light of all the surrounding circumstances. The then condition of the country, the legislation, State and Federal, the attitude of parties, the position of the political organization to which Mr. Brown then belonged, the views of its leaders, and his own position, acts, and expressions at and about the time this letter was written, must all be considered and duly weighed before the true meaning, spirit, and intent of the paper can be fully understood or properly appreciated. To do this in the short time allotted to me is no easy task, and I will have to group together the more prominent facts, relying upon the knowledge of members to fill up the minuter details.

The letter is as follows:

ELIZABETHTOWN, April 18, 1861.

Editor Louisville Courier:

My attention has been called to the following paragraph, which appeared in your paper of this date:

"JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South—

"'I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks.'"

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States! What I did say was this:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them, he ought to, and I believe will be, shot down before he leaves the State."

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered publicly and privately prior to my debate with him.

Respectfully, JOHN YOUNG BROWN.

The first inquiry is, Who was Mr. Brown, and what were his politics at the time this letter was written?

"Hon. Robert Mallory sworn and examined.

"To Mr. Brown:

"I live in Lagrange, Kentucky. I have known Mr. Brown a good many years; my intimate acquaintance with him commenced during the last Congress of Mr. Buchanan's administration, when we were colleagues together in the House of Representatives; Mr. Brown was elected to that Congress before he was twenty-five years old, and he did not take his seat until the second session, by which time he had attained his twenty-fifth year. In all our intercourse, during that session, when the question of secession was so much mooted, he was unequivocally opposed to it, and took issue with some of his colleagues in Congress at that time, as I did. He was, with me, a Union man, against the secession of the southern States, and a total disbeliever—as he said to me on many occasions—in the doctrine of secession as a constitutional right.

"*Question.* Please to state my political status in the spring and summer of 1861?

"*Answer.* I recollect having frequent conversations with Mr. Brown in the spring and summer of 1861, in Kentucky, when that question was rife here. He was a Union man then. I remember a speech he made in Louisville in May, 1861, at the convention, when Mr. Guthrie made what I thought to be a rather wild and rabid speech, of which, I may say, I did not approve. Mr. Brown avowed himself a Union man then, and opposed secession.

"*Question.* Did not the Louisville Democrat and the Louisville Journal, after the 18th of May, 1861, indorse me as the Union candidate for Congress in the fifth congressional district of Kentucky?

"*Answer.* Yes; my recollection is very clear that they did. A convention was held, and Mr. Wickliffe was nominated."

John R. Reno, a witness for the prosecution, said:

"To Mr. Brown:

"If I can recollect properly your speech at Greenville, your remark was, that at that time you were a Union candidate, and that Governor Helm was then advocating the cause of secession, and that you had written this letter under those circumstances.

"*Question.* Did I or not make reference to the position of the Union party of Kentucky, as evidenced by its party platform and the resolution of the two State conventions, and quote the position of Senator GUTHRIE, Attorney General Speed, General Rousseau, Senator DAVIS, and cite extracts from the Louisville Democrat and Louisville Journal, going to show that the whole State was committed to the doctrine of neutrality, and that my position was in strict accord with that of the whole Union party in Kentucky?

"*Answer.* You made reference to those conventions and stated that those men approved of your action at that time. That was my understanding. You made it appear from your speech that those men approved of your position."

Finis H. Little, another witness for the prosecution says:

"By Mr. Brown;

"*Question.* Did I not in that speech cite the position of Mr. Prentice of the Louisville Journal, Mr. Harney of the Louisville Democrat, Mr. GUTHRIE, United States Senator, General Rousseau, late United States Congressman, and Mr. Speed, Attorney General in Lincoln's Cabinet, and cite the address of the Union Central Committee to show that the sentiments expressed in my letter were the same as those held by the entire Union party of Kentucky?

"*Answer.* Yes.

"*Question.* Did I not state that at the time I wrote the letter I was a Union man?

"*Answer.* Yes.

"*Question.* Did I not state that at the time I wrote the letter, and at any time during the war, I would have been willing to give my life to restore the country to what it once was?

"*Answer.* I think you did.

"By Mr. Smith:

"*Question.* Was or was not Mr. Brown's attention called to the fact that Mr. Speed, Mr. GUTHRIE, Mr. Prentice, and the other gentlemen to whom he referred, had retracted their remarks of 1861, while he declined doing so?

"*Answer.* I think there was something of that sort said in your speech.

"By Mr. Brown

"*Question.* Did I not state that at the time I wrote the letter Kentucky was by the resolutions of her Union convention committed to the doctrine of neutrality, and that in the expression that volunteers should be shot down I referred strictly and only to those who would violate Kentucky's neutrality?

"*Answer.* I think you said that it was with that idea in view you wrote the letter."

Colonel W. R. Kinney, an officer in the Federal Army during the war, proved that Brown was an assistant elector on the Douglas ticket and opposed to secession. Colonel Philip Lee, a confederate officer, says that in 1861 Brown was so much opposed to the southern men and their movements that they determined to bring out a candidate of their own against him, as he was so much opposed to their views of matters that they could not vote for him. He contended that it was a duty the young men of

the State owed to the State to remain in it; that Kentucky would act as a peace-maker, and that it was the duty of the young men not to go into the southern army, yet in the face of all this evidence, sustained as it is by the testimony of all the witnesses in the case, uncontradicted and unimpeached, the majority of the committee in their report say, and it is a fair specimen of the way in which they treated the facts throughout:

"The committee cannot avoid the force of another consideration in this connection. Mr. Brown himself, so far as is shown, never till the hearing before this committee put upon this letter the construction now claimed for it. As late as during the canvass for the seat now claimed, in April last, it was publicly charged upon him as a treasonable document, and nowhere as far as the committee can learn, did he disavow the plain import of the words or claim for them any other interpretation, but on the other hand received the plaudits of rebel sympathizers upon his announcement that the letter still expressed his sentiments.

"The committee have not been able to find, either in the letter itself or in anything said or done by Mr. Brown at the time or since, evidence that leads or tends to any other conclusion than that the letter was a promise of impunity to those who would support the rebel cause, and a threat of death to those who espoused the cause of the Union."

I assert that every conclusion arrived at by the majority of the committee, in the sentences above-quoted, is not only not sustained by the evidence, but is flatly contradicted by it.

Mr. Brown was not only a Union man, but he had been a warm advocate for the election of Judge Douglas, and a firm believer in the wisdom, patriotism, and sagacity of that distinguished statesman, to whose political fortunes he had attached himself in opposition to a large majority of the Democratic party in Kentucky. He was, therefore, fully persuaded that any line of policy variant from that advocated by his great leader was detrimental in the highest degree to the best interests of the country. What Judge Douglas's views were are fully set forth in the great speech made by him in the Senate of the United States on the 15th day of March, 1861, and they were taken up and maintained by his political friends all over the country as the only true line of policy to be pursued. The following extracts therefrom will show what these views were:

"But we are told that the President is going to enforce the laws in the seceded States. How? By calling out the militia and using the Army and Navy? These terms are used as freely and as flippantly as if we were in a military Government, where martial law was the only rule of action, and the will of the monarch was the only law to the subject. Sir, the President cannot use the Army or the Navy or the militia for any purpose not authorized by law; and then he must do it in the manner, and only in the manner, prescribed by law. What is that? If there be an insurrection in any State against the laws and authorities thereof, the President can use the military to put it down only when called upon by the State Legislature, if it be in session, or, if it cannot be convened, by the Governor. He cannot interfere except when requested. If, on the contrary, the insurrection be against the laws of the United States instead of a State, then the President can use the military only as a *posse comitatus* in aid of the marshal in such cases as are so extreme that judicial authority and the powers of the marshal cannot put down the obstruction. The military cannot be used in any case whatever except in aid of civil process to assist the marshal to execute a writ. I shall not quote the laws upon this subject; but if gentlemen will refer to the acts of 1795 and 1807 they will find that under the act of 1795 the militia only could be called out to aid in the enforcement of the laws when resisted to such an extent that the marshal could not overcome the obstruction. By the act of 1807 the President is authorized to use the Army and Navy to aid in enforcing the laws in all cases where it was before lawful to use the militia. Hence the military power, no matter whether Navy, regulars, volunteers, or militia, can be used only in aid of the civil authorities."

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"Where is your judge in the seceded States? Where is your marshal? You have no civil authorities there, and the President, in his inaugural, tells you he does not intend to appoint any." * * * * *

"Then, sir, what cause is there for apprehension that the President of the United States is going to pursue a war policy unless he shall call Congress for the purpose of conferring the power and providing the means? I presume no Senator will pretend that he has any authority under the existing law to do anything in the premises except what I have stated and in the manner I have stated. If I am mistaken in regard to these laws I shall be obliged to any Senator who will correct me. I have examined them carefully, and I think I have stated them accurately; but if not, I should like to be corrected."

* * * * * * * * * *

"I say they knew they had the power to pass these measures in both Houses of Congress. They consulted and conversed about some of these measures; approached this side of the Chamber. They knew that they had the power to pass the bills if they brought them in." * * * * "No Senator from that side has ventured to affirm that the President's policy is not peace. No one has ventured to assert that he means what is called the coercive policy; and I apprehend that no one of them is authorized to say so. No one being authorized to contradict me on these points, and no one being able to deny from the language of the inaugural that I put the correct interpretation upon it, I find no other response than silence." * * * * *

"We certainly cannot justify the holding of forts there, much less the recapturing of those that have been taken, unless we intend to reduce those States themselves into subjection. I take it for granted no man will deny the proposition that whoever permanently holds Charleston and South Carolina is entitled to the possession of Fort Sumter. Whoever permanently holds Pensacola and Florida is entitled to the possession of Fort Pickens. Whoever holds the States in whose limits those forts are placed is entitled to the forts themselves, unless there is something peculiar in the location of some particular fort that makes it important for us to hold it for the general defense of the whole country, its commerce, and interests, instead of being useful only for the defense of a particular city or locality." * * * *

"I repeat, it is time that the line of policy was adopted and that the country knew it. In my opinion, we must choose, and that promptly, between one of three lines of policy:

"1. The restoration and preservation of the Union by such amendments to the Constitution as will insure the domestic tranquillity, safety, and equality of all the States, and thus restore peace, unity, and fraternity to the whole country.

"2. A peaceful dissolution of the Union, by recognizing the independence of such States as refuse to remain in the Union without such constitutional amendments, and the establishment of a liberal system of commercial and social intercourse with them by treaties of commerce and amity.

"3. War with a view to the subjugation and military occupation of those States which have seceded or may secede from the Union."

* * * * * * * * * *

"In my opinion the first proposition is the best, and the last the worst. Why cannot we arrive at some amicable adjustment of the questions in dispute? The President of the United States has told us clearly and distinctly the causes which have produced these difficulties. I think he has stated them truly, frankly. He says these troubles all arise from the absence of an express provision of the Constitution defining the power of Congress over the question of slavery. If it be true that the troubles arise from the absence of such a provision it necessarily follows that the true remedy is the supplying of such a provision. Hence the President has marked out clearly the path to be pursued to arrive at an amicable solution. The exercise of doubtful power—power derived from inference and construction on the question of slavery—has led to these troubles."

* * * * * * * * * *

"At all events, sir, I am in favor of such amendments to the Constitution as will take that question out of Congress, and restore peace to the country. That may be done by non-intervention—by popular sovereignty, as it is called, or by the Crittenden amendment, making an equitable partition of the territory between the two sections, with a self-executing clause prohibiting it on one side and protecting it on the other. It may be done on the basis of the peace commission. It may be done in various ways. I prefer such an amicable settlement to peaceable disunion; and I prefer it a thousand times to civil war." * * * * * * * *

"I repeat, whatever guarantees will satisfy Maryland and the border States (the States now in the Union) will create a Union party in the seceded States that will bring them back by the voluntary action of their own people. You can restore and preserve the Union in that mode. You can do it in no other.

"War is disunion. War is final, eternal separation. Hence, disguise it as you may, every Union man in America must advocate such amendments to the Constitution as will preserve peace and restore the Union; while every disunionist, whether openly or secretly plotting its destruction, is the advocate of peaceful secession or of war as the surest means of rendering reunion and reconstruction impossible. I have too much respect for any man that has standing enough to be elected a Senator to believe that he is for war as a means of preserving the Union. I have too much respect for his intellect to believe for one moment that there is a man for war who is not a disunionist *per se*. Hence, I do not mean, if I can prevent it, that the enemies of the Union—men plotting to destroy it—shall drag this country into war, under the pretext of protecting the public property, and enforcing the laws, and collecting revenue, when their object is disunion, and war the means of accomplishing a cherished purpose.

"The disunionists, therefore, are divided into two classes: the one open, the other secret disunionists. The one is in favor of peaceful secession and a recognition of independence; the other is in favor of war as the surest means of accomplishing the object and of making the separation final and eternal. I am a Union man, and hence against war; but if the Union must be temporarily broken by revolution, and the establishment of a *de facto* government by some of the States, let no act be done that will prevent restoration and future preservation. Peace is the only policy that can lead to that result.

"But we are told, and we hear it repeated everywhere, that we must find out whether we have got a Government. 'Have we a Government?' is the question; and we are told that we must test that question by using the military power to put down all discontented spirits. Sir, this question, 'Have we a Government?' has been propounded by every tyrant who has tried to keep his feet on the necks of the people since the world began. When the barons demanded Magna Charta from King John at Runnymede he exclaimed, 'Have we a Government?' and called for his army to put down the discontented barons. When Charles I attempted to collect the ship money, in violation of the constitution of England, and in disregard of the rights of the people, and was resisted by them, he exclaimed, 'Have we a Government? We cannot treat with rebels; put down the traitors; we must show that we have a Government.' When James II was driven from the throne of England for trampling on the liberties of the people he called for his army, and exclaimed, 'Let us show that we have a Government!' When George III called upon his army to put down the rebellion in America Lord North cried lustily, 'No compromise with traitors; let us demonstrate that we have a Government.' When, in 1848, the people rose upon their tyrants all over Europe and demanded guarantees for their rights, every crowned head exclaimed, 'Have we a Government?' and appealed to the army to vindicate their authority and to enforce the law.

"Sir, the history of the world does not fail to condemn the folly, weakness, and wickedness of that Government which drew its sword upon its own people when they demanded guarantees for their rights. This cry that we must have a Government is merely following the example of the besotted Bourbon, who never learned anything by misfortune, never forgave an injury, never forgot an affront. Must we demonstrate that we have got a Government and coerce obedience without reference to the justice or injustice of the complaints? Sir, whenever ten million people proclaim to you with one unanimous voice that they apprehend their rights, their firesides, and their family altars are in danger, it becomes a wise Government to listen to the appeal and to remove the apprehension. History does not record an example where any human Government has been strong enough to crush ten million people into subjection when they believed their rights and liberties were imperiled without first converting the Government itself into a despotism and destroying the last vestige of freedom.

"The people of the South believe they are in danger. They believe that you meditate an invasion of their constitutional rights. They believe that you intend to stir up servile insurrection and stimulate their slaves to cut the throats of their masters and their wives and children. Believing this, they will act upon that belief, unless you will remove all cause of apprehension. If this apprehension be ill-founded, if there is no cause for it, you are bound to remove it. If it be well-founded you have no right to refuse to redress their grievances."—*Congressional Globe, second session Thirty-Sixth Congress*, pages 1458 to 1461.

If the great statesman of Illinois had been arraigned at the bar of this House, and his seat as a Representative of his people withheld from him because of the utterance of these sentiments, could not a case have been made out showing that it gave more aid, countenance, and comfort to those engaged in the rebellion than anything my colleague ever uttered? A Senator in his place, after seven States had seceded, announcing that South Carolina was entitled to Sumter; that Mr. Lincoln had no power to call out the militia except to aid the civil authorities when called upon by them to do so; that war was disunion; that the party favoring it were traitors to their country; that their pretense of right was the rallying cry of tyrants, in a speech read by or to every man in the country, North and South, who could either read or listen. In its effect the letter of my colleague, written by a man not in place or power, to a newspaper in a provincial town where, perhaps, no armed rebel ever saw it, in a State where no rebel organization then existed, would pale into insignificance. Would any man in this House have dared so to arraign Judge Douglas? No. He would rather that his right hand should wither, and his tongue cleave to the roof of his mouth, than to have faced the storm of public malediction and the terrible invective which would have been poured on his devoted head. Sir, the denunciations of Cicero against Verres, and of Burke, Fox, and Sheridan against Hastings, would have been feeble echoes compared with the thunders of the western giant against such an attack on civil liberty and free representative government. I can imagine him once more in the Hall his presence adorned, and hear him exclaim in a voice that would awake its echoes "from turret to foundation-stone:"

"What, darest you then,
To beard the lion in his den,
The Douglas in his Hall?
And hopest you hence unscathed to go?
No, by Saint Bride of Bothwell, no."

But the men and the ideas of the generation to which Douglas belonged, and among whom he was not the greatest, have passed away. The giant oaks and towering elms of the primeval forest have fallen; an inferior second growth now occupy their places; pigmies are in the castles of the giants; party behests override constitutional obligations, and the rallying cry of faction supersedes and annuls all the cardinal principles of the fundamental law.

As I said, my colleague was a follower of Douglas; all these views and sentiments were fully known to him long before April 18, 1861. He had been in his place in this House till March 4, 1861. Seven States had seceded while he was here, and the Republican party in Congress not only did not attempt to make war upon them or to coerce them into submission, but although they knew that Mr. Lincoln would be inaugurated on the 4th of March, 1861, they had refused to put that power into his hands, and left him trammeled by the laws of 1795 and 1807, which limited his power to cases therein provided for, and pointed out the mode in which, and in which only, the power thereby conferred should be exercised, though, as stated in the speech of Judge Douglas above cited, they had the power, at any time for six weeks prior to March 4, to have conferred upon him all the authority they desired. The time of that Congress had been spent in efforts to compromise, and, by amendments to the Constitution, restore harmony and prevent conflicts in the future. The extreme southern States, with a folly that staggered and amazed the border States, had passed their ordinances of secession, and had withdrawn their Representatives from the Halls of Congress. Still, when Mr. Lincoln was inaugurated his address was claimed to mean peace and acquiescence in their withdrawal. The border States almost unanimously opposed coercion.

Mr. Lincoln did not summon the Thirty-Seventh Congress to meet till the 4th of July. Compromise was still in every man's mouth and when suddenly the policy seemed to be changed, and war, which was regarded by many of the most devoted friends of the Union as *per se* disunion, seemed to be determined on, Mr. Brown denounced the policy and the men in Kentucky who would volunteer to carry it out, not because he desired thereby to aid the rebellion, but because he regarded it as a death-blow to all the hopes of restoration which he cherished so fondly, that, to use his own expression at the time, as proved, he would willingly lay down his life to preserve the Union. Mr. Brown was not only a Union man and a Douglas Democrat, but he was a Kentuckian, and the party to which he belonged in his State had determined if war should ensue to remain neutral in the strife, hoping thus to be able to mediate and make peace between the warring sections. The position, the institutions, the relationship by blood, by commerce, and by political and geographical affinity, made Kentucky sympathize with the southern States, much as she deplored their course, while the certainty that her soil would be the theater of the conflict, if one should ensue; made her more anxious than perhaps any other State to preserve peace and restore harmony and fraternal affection. The great mass of her people of all shades of political opinions united on this idea, and when Sumter fell and Mr. Lincoln issued his proclamation for seventy-five thousand militia without the sanction of Congress the people of Kentucky were more than ever determined that the State should not thus be dragged into a war the end of which no man could foresee. This was no hurried conclusion, but the result of calm, deliberate action on the part of the leading men in the State. As early as January 8, 1861, the Union party and the Douglas Democracy met in State convention at Louisville, and the following, among other resolutions, were unanimously adopted by men the loyalty of many of whom then, ever since, and now, is as undoubted, even according to the Radical idea of it, as that of any man on this floor:

"*Resolutions adopted by the Union State Convention held in Louisville on the 8th of January*, 1861.

"The following resolutions were reported to the Union Democratic State convention by a committee composed of the following gentlemen, to wit: Governor Dixon, W. G. Thompson, Judge Barkee, J. P. Barbour, Alexander Lusk, J. F. Bullitt, John Jackson, V. B. Young, T. L. Jones; and to the Union State convention by the following committee, to wit: Hon. Garrett Davis, Hon. Joshua F. Bell, J. L. Shackelford, W. L. Underwood, John W. Crocket, Z. Wheat, Thomas W. Riley, W. C. Goodloe, P. B. Muir, J. B. Huston, Orlando Brown, James Taylor, were unanimously adopted by both meetings:

"*Resolved*, That if this anti-slavery party should increase in strength, and be able to carry out its purposes in the use of the Federal Government, the South has ample means of resistance, and is fully able, at any time, to resist unconstitutional aggressions; and we have, therefore, no need to adopt hastily this last resort.

"*Resolved*, That the claim set up by a majority of the free States to all the territory, and the assumption of the right to restrict the South from the occupancy of any of the common Territories with their institutions, is unjust and unconstitutional, and will not be submitted to by a free people jealous of their rights.

"*Resolved*, That we hereby recommend the adoption of the proposition of our distinguished Senator, John J. Crittenden, as a fair and honorable adjustment of the difficulties which divide and distract the people of our beloved country."

After setting forth at length the Crittenden amendments, they

"*Resolved*, That we recommend to the Legislature of the State to put these amendments in form, and submit them to the other States; and that, if the disorganization of the present Union is not arrested, that the States agreeing to these amendments of the Federal Constitution shall form a separate confederacy, with power to admit new States under our glorious Constitution thus amended.

"*Resolved*, That it is expedient to call a convention of the border free and slave States, and such other States as may see fit to unite with them, to consider the best mode of settlement of the questions which now agitate and threaten to destroy the union of these States.

"*Resolved*, That we deplore the existence of a Union to be held together by the sword, with laws to be enforced by standing armies; it is not such a Union as our fathers intended, and not worth preserving.

"*Resolved*, That if the State of Kentucky be represented in any convention of the States, such representation should be chosen by the people themselves."

The names of the gentlemen composing those committees will be recognized by the members who are at all familiar with Kentucky or her people as among the most prominent and influential of the Union men of the State, embracing men who have been or are governors, senators, judges, and leading representative men in their various professions—men whose loyalty never has been and cannot be questioned. On the 15th day of April, 1861, the Secretary of War sent the following telegram to the Governor of Kentucky:

WASHINGTON, *April* 15.

To His Excellency BERIAH MAGOFFIN:

Call made on you by to-night's mail for four regiments of militia for immediate service.

SIMON CAMERON, *Secretary of War.*

To which the Governor replied:

EXECUTIVE OFFICE,
FRANKFORT, *April* 15, 1861.

To Hon. SIMON CAMERON, *Secretary of War, Washington city:*

Your dispatch is received. In answer I say, *emphatically*, that Kentucky will furnish no troops for the wicked purpose of subduing her sister southern States. B. MAGOFFIN, *Governor of Kentucky.*

And the Legislature of Kentucky, which assembled in May, 1861, by an almost unanimous vote in the lower House passed the following resolutions:

"*Resolved by the House of Representatives*, That this State and the citizens thereof should take no part in the civil war now being waged except as mediators and friends to the belligerent parties; and that Kentucky should, during the contest, occupy the position of strict neutrality; and your committee unanimously recommend the adoption of the following resolution:

"*Resolved*, That the act of the Governor in refusing to furnish troops or military force upon the call of the executive authority of the United States, under existing circumstances is approved."

Among the names of the members voting for those resolutions are Oscar H. Burbridge, brother of the general; Curtis F. Burnan, afterward the Republican candidate for United States Senator; Milton J. Cook, now Radical senator in Kentucky; W. L. Neale, Republican candidate for State treasurer in 1865; and many others whose loyalty would, from the Republican stand-point, compare favorably with the majority of the members on the other side of this House. (See Journal for May 16, 1861.)

The Union men and the Union press of the State everywhere denounced the proclamation of the President as illegal, impolitic, and calculated to bring about the very state of case they were all striving to avoid.

The Louisville Journal, speaking of the President's proclamation calling for seventy-five thousand men, says:

"The policy announced in the proclamation deserves the unqualified condemnation of every American citizen. It is unworthy not merely of a statesman but of a man. It is a policy utterly hairbrained and ruinous. If Mr. Lincoln contemplated this policy in the inaugural address he is a guilty dissembler; if he has conceived it under the excitement raised by the seizure of Fort Sumter he is a guilty Hotspur. In either case he is miserably unfit for the exalted position in which the enemies of the country have placed him."

Again, the Journal says—this was written in May, 1861:

"In our judgment, the people of Kentucky have answered this question in advance; and the answer, expressed in every conceivable form of popular expression, and finally clinched by the glorious vote of Saturday, is: arm Kentucky, efficiently, but rightfully and fairly, with the clear declaration that the arming is not for offense against either the Government or the seceding States, but purely for defense against whatever power sets hostile foot upon the actual soil of the Commonwealth. In other words, the Legislature, according to the manifest will of the people, should declare the neutrality of Kentucky in this unnatural and accursed war of brothers, and equip the State for the successful maintenance of her position at all hazards."

The Louisville Democrat, another leading Union paper, in its issue of April 19, 1861, said:

"Let Kentucky preserve her neutrality, and she at once becomes the rallying point for patriots from all portions of the land. Western Virginia, southern Ohio, southern Indiana, and southern Illinois will stand by her to a man, and we are very much mistaken if Tennessee will not heartily coöperate.

"Conservative men from all parts, both North and South, will join her standard to stay the fratricidal hand which is now being raised in anger and fury."

Neutrality, armed neutrality, respect for which should be enforced against either side, was the rallying cry of the Union men of Kentucky. The South, they contended, had been guilty of a great wrong in seceding and precipitating hostilities. Mr. Lincoln and his advisers had, as they assumed, been equally guilty in attempting to inaugurate a war policy without the authority of Congress; and while patriotic men everywhere, by State and individual action, were seeking to avert it by conciliation and compromise. By a joint resolution approved on the 2d day of March, 1861, both Houses of Congress had, by a vote of over two thirds, submitted for ratification by the State Legislatures the following, as the thirteenth amendment to the Constitution:

"No amendment shall be made to the Constitution which shall authorize or give to Congress the power to abolish or interfere within any State with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State."—*United States Statutes*, volume 12, page 251.

The indications all were that it would be adopted, and that its adoption would either bring back the southern States or develop such a Union sentiment there that the secessionists would have to yield. Any policy which defeated that and brought on collision was therefore deprecated and denounced by all who desired restoration in terms only limited by the capacity of language. Mr. Lincoln himself, up to April 18, 1861, had not assumed that war or rebellion existed. His proclamation of April 15 called it an obstruction to the execution of the laws by combinations too powerful to be suppressed by the ordinary course of judicial proceedings. He appealed to, but did not order, all loyal citizens to aid him. He called on the several States for seventy-five thousand militia for three months, and ordered—

"The persons composing the combinations aforesaid to disperse and retire peaceably to their respective abodes within twenty days from that date."

Every man in the country who had the sense of a mouse knew that if the policy of the Administration was peace and restoration through the proposed or any other amendments to the Constitution, the course marked out by the proclamation effectually destroyed the last vestige of hope for its consummation. If the policy was to be war the President had no right to make it without the authority of Congress, and the means resorted to in that proclamation were too puerile to command the respect of any sensible man.

Mr. Brown understood and fully appreciated the situation. He was, as the proof shows, canvassing the State in behalf of the Union cause against Governor Helm, who was on the extreme southern side. While so canvassing, an article appeared in the Louisville Courier, Governor Helm's organ, or rather the organ of his party, charging, in substance, that Brown's neutrality was a fraud, and that all he was pledged to was, that not a man should aid the confederate government, and those who volunteered should be shot down. This, it was said, was dragged out of him in reply to some searching interrogatories put to him by Governor Helm. The publication was obviously made by some one who, like Colonel Lee, was secretly enlisting young men to go South, and was intended to make them believe that Brown and his party were going to take possession of Kentucky with a Federal army, &c.; that once done, their chances to go South or aid that cause would be at an end. Can any gentleman imagine any other reason for such a publication in the Courier? There could be no other. That was beyond question the true one.

Brown knew the natural impulse of the young men of the State was to take part with the South, especially after the proclamation of April 15, which the Governor of Kentucky said, in his reply to the call, and everybody else knew, meant war and subjugation; and he knew that such a publication as that in a leading, influential paper like the Courier would confirm the belief that the whole Union party, and Mr. Lincoln at their head, were, in fact, bent on a war of subjugation. Unless that idea was dispelled the Union cause in Kentucky was lost. Mr. Brown knew it, and hence his letter denying that any statements he had ever made could be tortured so as to bear such a construction. The South then had no desire or design, so far as intimated, to invade Kentucky. She asked to be let alone. Mr. Lincoln's proclamation of the 15th, and the course to be pursued in view of it, was the subject of controversy. The Governor had assumed that the troops were required for the purpose of subjugating the southern States, and he refused them. Mr. Brown and the Union party indorsed the refusal. The Courier of April 18 charged that he did not, and that Helm had made him admit that it was only the men who took the part of the South that should be shot down. The moment Brown saw it, as his letter shows, knowing the object and effect of it, he wrote the letter, stating that it was Lincoln's proclamation and the men who should volunteer to disturb the peace and violate the neutrality of Kentucky that he had said, publicly and privately, should be shot. He knew that for every one that did so volunteer another would volunteer on the other side; brother would be against brother and father against son; Kentucky would be once more the dark and bloody ground, drenched in the blood of her own sons, slain by those nearest and dearest to them, before the strife began. Hence the urgency for prompt action; hence the hasty letter and, if you please, the ill-considered language used. The Courier knew the effect Brown's explanation would have on the young men of the State; recruiting for the South would cease, as many would be reassured by the prompt, decided, unequivocal denial of the charges, and refused to publish it for nearly a month.

The whole Union party of the State was fully alive to the importance of assuring the people of the State that they did not indorse and would not sustain the proclamation of the President, and endeavored, as Mr. Brown did, to prevent the men who were seeking to take advantage of it for the purpose of sustaining the South from doing so.

Accordingly on the 17th day of April, 1861, the State Union central committee published an address, in which, after setting forth the substance of the President's proclamation, they say:

Kentucky, through her Executive, has already, we understand, responded to this appeal. She has refused to comply with it. And in this refusal she has acted as became her. We approve the response of the Executive of the Commonwealth. One other appeal now demands a response from Kentucky.

The Government of the Union has appealed to her to furnish men to suppress the revolutionary combinations in the cotton States. She has refused. She has most wisely and justly refused. Seditious leaders in the midst of us now appeal to her to furnish men to uphold these combinations against the Government of the Union. Will she comply with this appeal? Ought she to comply with it? We answer with emphasis, no! * * * * * *

What the future duty of Kentucky may be we, of course, cannot with certainty foresee; but if the enterprise announced in the proclamation of the President should at any time hereafter assume the aspect of a war for the overrunning and subjugation of the seceding States through the full assertion therein of the national jurisdiction by a standing military force, we do not hesitate to say that Kentucky should promptly unsheath her sword in behalf of what will then have become the common cause. Such an event, if it should occur, of which we confess there does not appear to us to be a rational probability, could have but one meaning—a meaning which a people jealous of their liberty would be keen to detect, and which a people worthy of liberty would be prompt and fearless to resist. When Kentucky detects this meaning in the action of the Government she ought, without counting the cost, to take up arms at once against the Government. Until she does detect this meaning she ought to hold herself independent of both sides, and compel both sides to respect the inviolability of her soil. The portentous meaning in question is not discernible at this time, and we believe it never will become discernible. We, however, have deemed it fit, in consideration of all the extraordinary features of the time, to anticipate this possibe contingency.

JOHN H. HARNEY,
GEO. D. PRENTICE,
CHARLES RIPLEY,
PHILIP TOMPPERT,
NAT. WOLFE,
WM. F. BULLOCK,
JAMES SPEED,
WM. P. BOONE,
HAMILTON POPE,
L. E. HARVIE.

The loyalty of these gentlemen will not, I presume, be questioned here or elsewhere. One of them was Mr. Lincoln's Attorney General. Two of the others were editors of the leading Union papers in Kentucky, and the others were equally true to the cause of the Union. Still further, to allay public apprehension, and prevent the neutrality of the State from being interfered with, a mass meeting was called to meet at Louisville, on the 18th of April. It was held, and my colleague took a prominent part in it. The Democrat of the 19th, thus notices it:

Great meeting—Kentucky to stand neutral in the Union—Hands off on both sides—Five thousand Union men—Eloquent speeches by Hon. James Guthrie, ex-Senator Dixon, Hon. John Young Brown, and Judge Bullock—Resolutions worthy of Kentucky.

"One of the grandest and largest public meetings ever held in Louisville filled the great east hall of the court house last night, in response to a call for a sober expression as to the proper position for Kentucky to assume in the present crisis. It was a splendid meeting, both as regards numbers and material. It was a closely attentive and understanding assemblage, of the best intelligence of the city, and its effect must be wide and wholesome. If the warring sections will but respect Kentucky's position and her advice, all may yet be well, civil war averted, and peace restored. We were more than gratified with the meeting and its works. The stars and stripes were on both sides of the speaker's stand, and were frequently cheered as allusions to the national banner were made."

Hon. JAMES GUTHRIE addressed the meeting. He said:

"Now, in the action of the southern confederacy and that of Mr. Lincoln the friends of both parties find excuses for them; but when it was the peace of the country and the saving it from war and bloodshed, then there should have been no interference of etiquette to prevent such a dreadful calamity. Kentucky spoke as her statesmen have always spoken, of conciliation, peace, harmony, and a final settlement. But war has been inaugurated. Fort Sumter has fallen. The President has issued a proclamation calling for seventy-five thousand men; but he has not told us what he is going to do with them. Is he going to retake Fort Sumter? Is he going to defend Fort Pickens? If so, why does he congregate them at Washington?" * * * * * * *

"I want Kentucky to take her stand for peace, and appeal to that still, small voice in the North crying for peace. There are religious men from habit, education, and from profession, whose hearts, when Kentucky calls for peace, will be reached, and whose voice will reach the powers that be, and we will have peace." * * * * * * * *

"We have asked the South to stay their hands, for we had a great stake in this Government, and they have not. We pled with Lincoln for peace, and have not been hearkened to. Shall we be hearkened to in the din of arms? There will be a time when Kentucky's voice, if she stands firm on her own soil, fighting with neither section, will be heard by millions of people of the free States who will hearken to us and say, 'Why should there be strife between us and you?'

"Let us stand boldly and fearlessly, as is characteristic of Kentuckians, and cry peace! Hold fast to that we know to be good, and let those men who want to make the experiment of secession go as individual amateurs, and find congenial spirits for their work."

* * * * * * * * * *

"If the North comes to ravage our land we will meet them as Kentuckians always meet their foes. We will meet them as Kentuckians should meet them, so long as there is a tree for a fortification or a foot of land for a freeman to stand upon."

The eloquent speech of Governor Dixon is printed with the report of the committee. I refer the House to it:

"Judge Nicholas made a beautiful, eloquent, and patriotic speech, which was greatly applauded, and closed by offering a series of resolutions, the last of which, as follows, was adopted, the balance being withdrawn:

"*Resolved*, That we hail in Major Robert Anderson the gallant defender of Fort Sumter, against overwhelming odds, a worthy Kentuckian, the worthy son of a patriot sire, who has given so heroic an example of what ought always to be the conduct of a patriot soldier in the presence of the armed assailants of his country's flag; that he, his officers, and men have well earned the admiration and gratitude of the nation.

"Judge Bullock was generally called for, and responded in a clear, forcible, and logical speech, indorsing the spirit of the preamble and resolutions adopted, and urging Kentucky to pursue the course laid down in them as the safest, wisest, and most noble for the first born of the Union. His speech was characterized by that eloquence of diction so well known as an attribute of Judge Bullock's oratorical efforts. He was frequently interrupted in the course of his remarks by cheers and applause.

"Hon. John Young Brown followed in a speech unsurpassed in power and brilliancy. The gifted young orator rehearsed the history of the last Congress, the efforts for compromise, the surrender by the Republicans of the fundamental idea of the Chicago platform, the positive non-extension of slavery in the formation of the new territories.

"He held his audience spell-bound, as it were, for more than an hour, as he poured out burning words of indignation upon those who have brought the country into its present unfortunate condition or depicted the horrors of civil war. He earnestly urged the neutrality of Kentucky in the present crisis, as the best and most practicable position for Kentucky to maintain her integrity in the Union and to mediate between the antagonistic sections.

"The meeting, which was entirely orderly, adjourned after giving rounds of cheers for the Union and for the American flag.

"The lateness of the hour prevents us from giving more than a report of two of the speeches."

At this meeting—

"Hon. Nat. Wolfe moved the appointment of a committee on resolutions, and the following gentlemen were accordingly appointed to draft resolutions expressive of the sentiments and sense of the meeting: Nat. Wolfe, Lovel Rousseau, James Speed, G. A. Houghton, J. H. Harney, and Judge Bullock.

"Hon. Nat. Wolfe, from the committee on resolutions, reported the following preamble and resolutions, which were adopted with hardly a dissenting voice:" * * * * * * * *

"4. That secession is a remedy for no evils, real or imaginary, but an aggravation and complication of existing difficulties.

"5. That the memories of the past, the interests of the present, and the solemn convictions of the future duty and usefulness in the hope of mediation, prevent Kentucky from taking part with the seceding States against the General Government.

"6. That 'the present duty of Kentucky is to maintain her present independent position, taking sides, not with the Administration nor with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, to make the declaration good with her strong right arm.'

"7. That to the end Kentucky may be fully prepared for any contingency, 'we would have her arm herself thoroughly at the earliest practicable moment' by regular legal action.

"8. That we look to the young men of the Kentucky State Guard as the bulwarks of the safety of our Commonwealth, and that we conjure them to remember that they are pledged equally to fidelity to the United States and Kentucky."

I might go on to show that the address of the border State convention to the people of the United States on the 3d day of June, 1861, signed by Hon. John J. Crittenden, Governor

Robinson of Kentucky, Hon. JOHN B. HENDERSON, now United States Senator from Missouri, Governor Gamble, and others equally loyal and distinguished, as well as the address to the people of Kentucky by that convention, were each as decided in their determination to resist the Federal Government, if the neutrality of the State was invaded, as any of the resolutions I have read, or as anything that my colleague ever uttered, and also to show by the letters of Senator DAVIS and Hon. W. L. Underwood, afterward consul to Glasgow, that Mr. Lincoln acquiesced in, if he did not indorse, Kentucky's position of neutrality. For example, Mr. Underwood uses this language:

"In reference to Kentucky, Mr. Lincoln told me he hoped Kentucky would stand by the Government in the present difficulties, but if she would not do that, let her stand still and take no hostile part against it, and that no hostile step should tread her soil."

This was written May 1, 1861.

But time would fail me if I should attempt it. I have often before defended men charged with offenses. I never appeared in a case as important in its consequences as this; but I feel that I ought not to trespass on the time of this House one moment longer than is absolutely necessary to present the defense of my colleague, though the House has with great kindness unanimously consented to extend my time. I contend that I am sustained by the facts in the assertion that there is nothing in the letter written by my colleague more disloyal, according to the view taken by the majority of the committee, than the speeches, resolutions, and addresses to which I have referred. Yet who has ever dared to question the loyalty of the distinguished gentlemen who uttered and published them? Who has ever suspected that they, by so doing, either gave or intended to give countenance, counsel, aid or comfort to the rebellion? Why, then, apply a rule to Mr. Brown which no body of men would dare to apply to his coadjutors? If their motives were patriotic, so were his; if their object was to secure the peace of the State and restore concord between the contending parties, so was his; if their position was either recognized or acquiesced in by the President, he was on the same plank with them, and they must sink or swim together.

Apply to this case the rule laid down by the committee in the other Kentucky cases, to wit:

"But while the committee entertained no doubt that it is the right and duty of this House to turn back from its very threshold every one seeking to enter who has been engaged in armed hostility to the Government of the United States or has given aid and comfort to its enemies during the late rebellion, yet we believe that in our Government the right of representation is so sacred that no man who has been duly elected by the legal voters of his district should be refused his seat upon the ground of his personal disloyalty, unless it is proven that he has been guilty of such open acts of disloyalty that he cannot honestly and truly take the oath prescribed by the act of July 2, 1862; and further, that the commission of such acts of disloyalty to the Government should not be suspected merely, but should be proven by clear and satisfactory testimony; and that while mere want of active support of the Government or a passive sympathy with the rebellion are not sufficient to exclude a person regularly elected from taking his seat in the House, yet whenever it is shown by proof that the claimant has by act or speech given aid or countenance to the rebellion he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public and must have been done or said under such circumstances as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion."

And who can say that it is proved by clear and satisfactory testimony that Mr. Brown's letter was written under such circumstances as fairly to show that it was either actually designed to, or in its nature intended to, forward the cause of the rebellion?

When this House undertakes to act judicially it will, of course, conform to the rules and be governed by the principles which control and govern judicial tribunals, one of the plainest and most obvious of which is that the act inquired into and the motives which prompted it shall be judged by the light of all the surroundings. Indeed, the whole object in the admission of evidence as to the acts and declarations of the man on trial and those associated with him, at and about the time of the act inquired of, is to enable the court to place itself as nearly as possible in the position occupied by him, and from that stand-point, in the light of his past history and line of conduct and his acts and declarations at and about the time to which the inquiry is directed, determine the true intent, meaning, and *animus* of the act.

Give Mr. Brown the benefit of these obviously just principles, even if you deny him the benefit of the presumption of innocence which the law in its benevolence throws around the meanest and most abandoned culprit until every link in the change of evidence necessary to fasten guilt upon him is proved by his prosecutor beyond a reasonable doubt, and I have no fear of the result before any body of impartial men.

How is it proved that Mr. Brown wrote the letter in question? Alone by his own admission. No proof *aliunde* was offered, and I assert, with the record before the House, that he never admitted the authorship of that letter without coupling the admission with the explanation that he did it from a desire to maintain in good faith the neutrality of Kentucky; that he was a Union man in full accord with the Union party in the State; and that Mr. Guthrie, Mr. Speed, General Rousseau, and other distinguished Union men occupied the same position, and used language as objectionable as any used by him, and that the whole Union party in the State maintained the same views. The testimony I have already read, as well as that incorporated into the minority report, verifies the assertion. It is one of the plainest principles of law and justice, that if the prosecution undertake to rely on the admissions of the accused the whole admission must be taken together, and whatever qualifications or explanations are made by him at the time of the admission relied on are to be considered as evidence in the cause. If a defendant even in a civil suit admits that he borrowed money from the plaintiff, but says at the same time that he had paid it back, can judgment go against him on the admission that he had borrowed it, to the exclusion of the statement that he had paid it back? Surely not.

A man admits that he committed a homicide, but says at the same time that the man he slew had waylaid him and was then and there about to take his life, and that his only means of saving it was to slay his assailant, as he did. Could he be convicted on the admission of the first stated fact to the exclusion of the statement as to the motives which influenced his conduct? Most assuredly not. The whole must be taken together. So in this case, Mr. Brown's statements as to his position and the motives that operated on him, and which at the time, according to his judgment, warranted him as a Union man in writing it, must all be considered and taken as part of the admission relied on, and unless they are contradicted, either by other evidence or by established facts wholly inconsistent with their truth, the statements made by Mr. Brown as to his position and motives must be taken as true; and if so, that settles the question.

Events which transpired months and years afterward cannot be relied on either to qualify or explain the nature or character of the act. It is very easy now for the committee, after the lapse of seven years, to pronounce Kentucky neutrality as "alike an anomaly and an impossibility." It subsequently proved to be so, if you please. But on the 18th day of April, 1861, there was nothing in the past history of the country or in the action of political parties that even indicated such a result. There had been rebellions and threats of secession and resistance to Federal authority before—Shay's rebellion in Massachusetts, the whisky rebellion in Pennsylvania, the discontents growing out of the purchase of Louisiana, the Hartford Convention, the South Carolina nullification; each and all had been settled by statesmanship, when war or coercion might have produced very different results, and a similar solution was hoped for and believed in, in the early part of 1861, by the best and wisest men in the country. The committee say:

"It soon passed away, leaving all who professed it to unmasked support of the cause most in accord with their sympathies."

Test Mr. Brown by that rule and he stands guiltless. From the 18th of April, 1861, to the close of the war all the testimony shows that he bore true faith and allegiance to the Federal Government.

I here defy any man to point to the word or act that militates against that statement. If he had been seeking to aid the rebellion so earnestly and his hostility to the Union had been so deadly that he was threatening assassination to every one in the State that should go to its support, as the majority of the committee charge, would he have pursued that course? Young, gallant, chivalrous, as all his acquaintances know him to be, if he had entertained such sentiments he would have been the first to shoulder his musket and take the field. I dare not allow myself to speak of the charge made especially by the gentleman from Ohio [Mr. SHELLABARGER] that he was at heart an assassin. The loathing and contempt which he, in common with all Kentucky gentlemen, has for such a character is part of the public history of the country. Robbed, despoiled, insulted, and her people murdered by those who ought to have been her protectors, who has ever heard of the assassination of the perpetrators of the outrages by any Kentuckian? They may have too much of the headstrong, unreasoning desperation of Othello; they can at least respect it. But they have only unutterable loathing, scorn, and contempt for "honest Iago." That character flourishes elsewhere than in Kentucky. But I am digressing and time is precious. My construction of this letter is sustained not only by the subsequent conduct of Mr. Brown but by the fact, not heretofore noticed, that on the 13th day of May, 1861, he announced himself as a candidate before the Union party for Congress by publishing the following card in the Union newspapers in Louisville:

To the Voters of the Fifth Congressional District.

ELIZABETHTOWN, *May* 13, 1861.

FELLOW-CITIZENS: In compliance with the wishes of my friends throughout the fifth congressional district, I announce myself as a candidate for reëlection to Congress. My opinions are the same as heretofore expressed in public speeches made in seven counties of the district. I have seen no reason to change them, and I have not changed them.

Kentucky's present position should be maintained. With coolness and firmness and courage let her brave and patriotic sons struggle hopefully and unpausingly to preserve her present proper and commanding attitude. By her recent unparalleled vote our State has sent up from the depths of her great heart a prayer for peace, and given a pledge of her noble conservatism. As she is free from the guilt of the unhappy troubles of the nation let us shield her, if we can, from their harmful consequences.

At an early day I will make appointments and canvass the district, so far as I am able.

Very respectfully, your obedient servant,

JOHN YOUNG BROWN.

The Journal thus notices it:

"HON. JOHN YOUNG BROWN.—We take great pleasure in publishing the address of Hon. John Young Brown to the voters of the fifth congressional district. The address is brief, yet full, and to every patriot it must be satisfactory.

"We know that Mr. Brown had no wish to be a candidate for reëlection to Congress, and consented only after much earnest persuasion from the friends of the Union. He is emphatically a man for the times—brave, bold, eloquent, patriotic, firm, and incorruptible. Moreover, his intellectual ability is very extraordinary, and the extent of his political knowledge remarkable. Young as he is, he can grapple with the strongest men of the nation as their peer. If his life be spared he will, no matter what political revolution may occur, be one of the master-spirits of our land, for such power as his must in any condition of things make itself felt.

"There are other noble Union spirits in the fifth congressional district, but we have no doubt that our friends in that district will, by common consent, hail John Young Brown as their champion in the congressional canvass."

The Democrat says:

"We publish below the card of John Young Brown announcing himself a candidate for reëlection in the fifth congressional district of Kentucky. It affords us

real pleasure to know that it is the general wish of the people of his district and of the State that he should make the canvass. One of the most able debaters in the State and of matchless eloquence, it is proper he should be the standard-bearer in this hour of peril. We all feel and know that in his hands the district's and the State's interests will be safely guarded. We suppose from the universal sentiment in his favor that he will be chosen by acclamation."

Will this House assume that all the men and all the parties in Kentucky were fools in April, 1861: that the Union men and the Union press who heard all his speeches and indorsed his course (for mark you, the letter says that he had publicly taken that position) were such idiots as not to see that Brown was promising "impunity to those who would support the rebel cause, and was threatening death to those who espoused the cause of the Union;" that he was animated by a deadly hostility to the Union, and was threatening assassination to all who should go to its support, and at the same time all the rebels, as Colonel Lee testifies, who heard his speeches, were so much opposed to him because of his determined opposition to them that they could not support him; that he was urging the young men not to go into the southern army, but to stay at home and aid Kentucky in her efforts to be a peace-maker between the warring sections? The proposition will not bear discussion. The men of Kentucky then knew far better than any committee of strangers, looking at it seven years afterward, when the whole situation was so changed that hardly the land marks remained, could possibly do what Mr. Brown's position, conduct, and motives were. Their evidence is before the House, and I hope will control its action.

Why, sir, if he had meant what the committee assume and been actuated by the motives they attribute to him, would he, would any sane man, on the same day and in the same city in which the Louisville Courier, a paper opposed to him and his politics, was published, have furnished that paper a letter which he had every reason to believe would appear simultaneously with the report of his speech, contradicting and repudiating every sentiment contained in the speech he made that day to five thousand Union men—to have the plaudits of the day before turned into curses and denunciation the next morning? No man can believe it. It is at variance with all the rules governing the conduct of men, at war with all Mr. Brown's declarations as to his motives and in utter violation of every man's idea of common sense.

Sir, truth is always consistent with itself. When it is on your side every link in the chain of evidence will be in accord with every other and produce a harmonious whole. It is just the reverse with error; discord prevails, and the escape from one dilemma only precipitates you upon another.

My theory of Mr. Brown's position and his motives, his object in writing the letter in controversy, is in perfect harmony with his general course, as proved by Mr. Mallory, in 1860 and 1861; with his canvass as the advocate of the Union against Governor Helm, the secession candidate; with the views entertained and acted on by the secessionists, as proved by Colonel Lee; with his Louisville speech made on the day he wrote the letter; with the full indorsement of him by the Union party and its press before, at, and after that time in every variety of form, while the theory of the majority of the committee is at war not only with every presumption but with every fact proved in the case. It will be remembered that by agreement all the acts and statements of the public men and of the press at the time were to be considered, and are as much a part of the record of this case as if specially incorporated into it. Something is sought to be made out of his sympathy with the South afterward. For his sympathies he is answerable only to his God. Obeying all the laws, notwithstanding his sympathies, only proves him the better man and the better citizen.

The attempt of the majority of the committee to intimate that Mr. Brown's speech at the mass-meeting on the 18th of April may, for aught that appears, have been a disloyal speech, and the intimation that its non-publication is suspicious, only proves that "drowning men will catch at straws." The Democrat of the 19th says that the lateness of the hour prevented the publication of any of the speeches in full except Mr. GUTHRIE'S and Governor Dixon's: and the men who were at the meeting and the Union press that reported the proceedings indorsed Mr. Brown's position as fully as those taken by any other gentleman. Mr. Mallory swears that he heard it, and that Mr. Brown avowed himself a Union man then and opposed secession. That, I think, ought to have been satisfactory to any committee seven years afterward.

Again, the committee think his card announcing himself as a candidate on the 13th of May is not as distinct as it ought to have been, or if it means anything it means that he was on the rebel side. Both the Journal and Democrat thought otherwise, and he did not send it to the Courier. They had certainly more perfect means of obtaining correct information than this committee, who, as the evidence shows, did not have a single witness before them on either side who did not swear that in April, 1861, Brown was considered by all parties as a Union man. That fact is uncontradicted, and was never doubted till the majority of the committee thought they discovered, since the meeting of this Congress in December, that the fact was otherwise.

But my time is short and I will not weary the House by further elaboration. I believe I have maintained all the propositions I asserted—that Mr. Brown was in April, 1861, a Union man in good faith, and in full accord with the Union party in Kentucky, their most eloquent and ardent advocate; that his party in the Legislature, in convention, in their public addresses, and by their speeches, maintained and urged neutrality and resistance to either side that should attempt to violate it; that the expressions of the leading Union men at that time were as objectionable as anything Mr. Brown ever uttered; that the letter of April 18, 1861, when properly considered in view of the facts proved, especially when his explanation of his motives, views, and position at the time he wrote it are considered, as they must be, as part of the fact itself, meant nothing more, and was neither intended nor understood to mean anything more, than the determination of the writer, in common with the whole Union party, to maintain an honest neutrality on both sides.

In view of all the facts, I am wholly unable to see a shadow of a pretext on which to exclude him from his seat. As I said before, had precedents often become fixed principles. The majority to-day may be the minority to-morrow. The poisoned chalice may return to their own lips. I know it makes a great difference before some tribunals whose ox is gored, but I would like to hear gentlemen on the other side, who, without hesitation, division, or reference to a committee, admitted Mr. STOKES, of Tennessee, to his seat a few weeks ago, with his letter before them, acknowledged to be genuine, give some good reason for his admission and for the exclusion of Mr. Brown on his. Read them both and let any man assert, if he can, before the country and the world that Mr. STOKES's letter is not in every regard more disloyal than that of Mr. Brown. It reads thus:

LIBERTY, *May* 10, 1861.

DEAR SIR: I have just learned from a friend that there is some gross misrepresentations going the rounds of your section in regard to my position in this trying crisis, and for the benefit of yourself and others I write this,

I have been a zealous advocate of the Union up to the time of Lincoln's call for seventy-five thousand troops; that being in violation of law, and for the subjugation of the South. I commend Governor Harris for his course, and for arming the State and resisting Lincoln to the point of the bayonet, and have enrolled my name as a volunteer to resist his usurpation. I have, in Congress and out, opposed coercion and all forced measures, believing that it was better to recognize the independence of the "southern confederacy" than to attempt to coerce them back.

I have always opposed secession, but claim the right of revolution, and the right to resist the oppression of the Federal Government, and to throw off their allegiance to the same when that oppression becomes intolerable. That time has now come. I have been, and am now, for standing by the border slave States, for they are to be the great sufferers during the conflict. I am opposed to being tacked on to the southern confederacy at present, (except as a military league.) But when peace is restored, if the two nations cannot live in peace, let all the fifteen slave States elect delegates, meet in convention, frame their constitution, and submit it to the people for their ratification.

The South ought to be a unit during the war, by all means. I had announced myself as a candidate for reëlection, but on seeing Lincoln's proclamation for troops abandoned the canvass at once, and I am no candidate. I claim to have done my duty in trying to heal our difficulties and restore peace. That having failed I shall now march forward in the discharge of my duty in resisting Lincoln, regardless of false charges, or what not, by those who are trying to put me down. Time will tell where we all stand, and who have been faithful.

Hoping to hear from you soon, I remain, yours truly, WILLIAM B. STOKES.

Mr. JOHN DUNCAN, *McMinnville.*

I will not comment on the contents of that letter nor draw a comparison between it and the letter of Mr. Brown. The man who cannot see that it is infinitely more obnoxious to the charge of giving countenance, aid, and comfort to the rebellion than anything in the letter of my colleague must shut his eyes against light and knowledge. It was written, too, on the 10th day of May, 1861, after the seven seceded States were declared to be in a state of insurrection, which was first done on the 19th of April, and after Mr. Lincoln gave notice of the blockade, which he did on the 27th of April, and after he had issued the call for forty-two thousand volunteers to serve in the Army and Navy for three years, which he did on the 3d of May. In short, it was written after the rebellion was recognized as flagrant, and avowed preparations for hostilities had commenced on what was then considered a gigantic scale, and both sides were actively preparing for the conflict, consequently when countenance, aid, and comfort could be given. It was written, too, in a State where armed organizations existed in opposition to the Government of the United States; and in one of which the writer had enrolled his name as a volunteer to resist the usurpations of Lincoln at the point of the bayonet. When Mr. Brown wrote his letter on the 18th of April none of the events I have stated had occurred. There was no rebel organization in Kentucky, though men were secretly arranging to leave the State and join the South; but there was no hostile force in the State. He did not encourage anybody to organize or join any such; he did not express any intention to do so himself. There was no order for enlistments and no call for volunteers, therefore there could be no discouragement of either. The Governor alone could order out the militia on the call of the President. He had refused to do so, and no man in the State was under any obligation to join the regular Army, or volunteer, and there was no request by the President that he should. There was no army, so far as appears, preparing to march into or through Kentucky; nobody was influenced by it to take any steps against the Government; indeed, the reverse was its intention and effect.

There is no comparison between the case of Mr. STOKES and Mr. Brown, and men will hereafter look in amazement at the fact, if it should prove to be one, that Mr. STOKES should be admitted and Mr. Brown rejected with these letters in each case written under these circumstances as the sole ground of the action of the same House. I do not make the contrast with a view of indicating that the House did wrong in admitting Mr. STOKES. I contend that he had a right to his seat so far as qualification is concerned, and so has his colleague, Mr. BUTLER; but I use it to show that under the decision in that case there can be no question as to the right of Mr. Brown, if both are to be tested by the same rule.

I know gentlemen say—indeed, it was argued

on this floor—that, as Mr. STOKES had afterward joined the Federal Army and rendered gallant service there, he had brought forth fruit meet for repentance, and his sins should be forgiven. Who invested this House with the pardoning power? What law authorizes us to inquire into the politics of a member and admit or reject him according as he is likely to agree or disagree with the majority? If Mr. STOKES's acts, as shown by that letter, were such as to give aid or comfort to the rebels, no subsequent conduct on his part can alter that fact. If a man commit a homicide and the fact is fully established he may fast and pray for the remainder of his life—the fact remains unchanged. I understand the House only claims the right to inquire into the existence of the fact; and as Mr. STOKES was admitted with great unanimity I assume that in his case the House determined that the fact did not exist, that being all they could inquire into; and that his letter and the facts therein set forth and admitted to be true did not make out a case for exclusion. Tested by anything like the same rules and Mr. Brown cannot be excluded.

Senator PATTERSON'S case was infinitely stronger against his admission than that of Mr. Brown. Indeed, it can only stand upon what I consider the true principle under the law of 1862, that the Senate had no right to prevent him from taking his seat.

One clause of the oath is:

"That I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States."

Senator PATTERSON was for a time a judge under the confederate government, and took the oath as such to support it, as was admitted in the Senate, yet he is in his place now in that body, and no man doubts that he is rightfully so. The whole system of test-oaths, especially retrospective oaths, and still more especially *ex post facto* oaths, as this is, in its application to Mr. Brown—the law requiring it not having been passed for more than a year after the doing of the act inquired into—is so repugnant to all the ideas of statesmen that among all that were ever invented or applied in the worst days of English tyranny none ever applied to anything but the present and future position and conduct of the man; and as I said at first I repeat now, as this House has never acted upon the right it claims under it, I hope and trust, for the sake of all parties now and hereafter, it never will. This House must not understand that my colleague is here as a supplicant. I do not plead his cause as such. He would not accept his seat here on any terms except as his right and the right of his constituents. He is a young man of marked ability, as many of you know, the peer of the proudest on this floor. He preferred that his colleagues should present his case, and in my feeble way I have attempted to lay the facts before the House. My colleague [Mr. KNOTT] will discuss the law. Mr. Brown is the representative of as noble and generous a constituency as can be found in America. On his and their behalf I ask but for justice, which is his and their undoubted right.

Mr. BECK'S time having expired before he had concluded his speech, on motion of Mr. DAWES he was, by unanimous consent, allowed to proceed to the end.

Mr. COOK obtained the floor.

Mr. JOHNSON. I ask the gentleman from Illinois to yield to me for a personal explanation. I will occupy not more than three minutes.

Mr. COOK. I do not want the pending subject interrupted, and must therefore decline to yield.

Mr. JOHNSON. I will seek another opportunity.

Mr. COOK. Mr. Speaker, the safety of the Republic was imperiled at the commencement of the rebellion by the fact that in the Halls of Congress and in the Cabinet of the President were men who earnestly desired and labored for the destruction of the Government, using the power intrusted to them by the people to support and defend the Constitution for the purpose of overthrowing and destroying it. The history of those days has demonstrated two things: first, that the qualifications named in the Constitution for members of Congress were not of themselves sufficient to exclude from these Halls traitors to the Government and the country. Men were here who possessed the necessary residence, citizenship, and age, and who had taken an oath to support the Constitution of the United States, and yet who were here using every effort to distract and confound the counsels of loyal men and to paralyze their efforts to defend the country from the assault of traitors. And second, that if there be no means of guarding the Halls of legislation from the presence of disloyal men except the requirement that each person elected to a seat shall take an oath to support the Constitution of the United States, that the Constitution has in itself a fatal weakness and defect which deprives it of all power of self-protection, which leaves our Government the weakest of any Government upon the earth, so far as the power of defending itself against domestic treason is concerned—a defect which may, and in all probability will, be the cause of the overthrow and dismemberment of the Republic.

If the doctrine contended for be true that no qualification except those expressly named in the Constitution may be required, but every man having the necessary age, residence, and citizenship, who will take an oath to support the Constitution of the United States, may, if elected, take a seat in this House, then no reason exists why John C. Breckinridge, if elected from the State of Kentucky, (and he would most certainly be elected if he was a candidate,) or any other man who has been fighting against the Government, might not take a seat among us. Our right and duty to maintain the Constitution forbid us to accept such a construction of its provisions as would result in its overthrow and destruction. It is sometimes said that although we are obliged to admit to his seat in the first instance every person of the requisite age and citizenship who will take an oath to support the Constitution of the United States, and yet if he has been guilty of disloyalty we may expel him after he has been admitted. This position I regard as wholly untenable and unsound. If a man has a right to take the seat he has a right to hold it. If we have a right to say that he shall not hold a seat to-day, we had the same right when he offered to take the seat. If we had no right to say that Mr. Brown has no right to take a seat in this House to-day by reason of his disloyalty, we shall have no right to-morrow to say that he is not entitled to the seat on account of the same disloyalty. It is said, also, that no man is disqualified by reason of disloyalty until he shall have been convicted of some disloyal act in a court of law. It is entirely manifest that no man could be convicted of a criminal offense against the Government when tried by the very men who would elect him to Congress because he was disloyal. According to this doctrine Jeff. Davis might take his seat in Congress.

We have seen the result of the efforts to convict him of treason, though his treason has been so monstrous and palpable as to endanger the very existence of the Government and to cover the whole land with lamentation and sorrow.

Loyal men who mean to preserve this Government from the hands of traitors, and who do not mean to see the experiment repeated of allowing traitors to make laws for the Government and to direct its councils for the very purpose of insuring its destruction, have been compelled to fix upon some rule which will hereafter protect the nation from the presence of disloyal men in Congress, and accordingly the "oath of office" now required of us was enacted. But men have very different ideas upon the question of what acts constitute aid, counsel, and encouragement to persons in arms against the Government, and men may be ready to take the oath of office who have been guilty of acts which, in the judgment of the House, should disqualify them from holding seats, and which ought to prevent their taking the oath of office. In order to meet this precise question, the House adopted a resolution on the 8th day of July, 1867, referring to the Committee of Elections the credentials of Lawrence S. Trimble, John Young Brown, J. Proctor Knott, A. P. Grover, Thomas L. Jones, James B. Beck, and John D. Young, seven of the persons who claim to have been elected Representatives from the State of Kentucky in the Fortieth Congress of the United States, with instructions to report whether they or either of them are disqualified from sitting as members of this House, on account of their having been guilty of acts of disloyalty to the Government of the United States, or having given aid and comfort to its enemies. That committee reported on December 3, 1867, as follows:

"The committee are of opinion that no person who has been engaged in armed hostility to the Government of the United States, or has given aid and comfort to its enemies during the late rebellion, ought to be permitted to be sworn as a member of this House, and that any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a member of this House ought to be investigated and reported upon before such person is permitted to take the seat."

The House adopted and affirmed the action of the committee by requiring the committee to take proof whether either of the persons named had been guilty of such acts of disloyalty. I send to the Clerk to have read a further extract from the report of the committee, made December 3, 1867, in relation to the same subject:

"Whether at some future time provisions should be made by law by which those persons who have been at one time guilty of acts of disloyalty, but have by their subsequent conduct given conclusive evidence of loyalty, attachment to the Government, and obedience to the Constitution and laws, should be permitted to take seats in this House, is a matter which addresses itself to the considerate judgment of Congress, but upon which the committee is not now called upon to express an opinion. But while the committee entertained no doubt that it is the right and duty of this House to turn back from its very threshold every one seeking to enter who has been engaged in armed hostility to the Government of the United States, or has given aid and comfort to its enemies during the late rebellion, yet we believe that in our Government the right of representation is so sacred that no man who has been duly elected by the legal voters of his district should be refused his seat upon the ground of his personal disloyalty, unless it is proven that he has been guilty of such open acts of disloyalty that he cannot honestly and truly take the oath prescribed by the act of July 2, 1862; and further, that the commission of such acts of disloyalty to the Government should not be suspected merely, but should be proven by clear and satisfactory testimony, and that while mere want of active support of the Government or a passive sympathy with the rebellion are not sufficient to exclude a person regularly elected from taking his seat in the House, yet whenever it is shown by proof that the claimant has by act or speech given aid or countenance to the rebellion, he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public, and must have been done or said under such circumstances as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion."

Mr. COOK. Mr. Speaker, the propriety of this rule adopted by the committee has been challenged in the House this morning. I regret exceedingly that I could not hear distinctly the argument made by the distinguished gentleman from Kentucky [Mr. BECK] on this subject or the authorities cited by him. The point which I understood him to make was, that no qualifications except those named in the Constitution of the United States could be required of a person claiming a seat in this House. I propose to examine very briefly, upon the authorities, that proposition.

I regret that I did not catch the authority which was quoted by the gentleman. But, sir, it is not a new question. The very men who framed the Constitution, the men who understood its provisions, if anybody understood them, did not so understand that question. They did not understand that the qualifications named in the Constitution were

exclusive; for in the Congress of 1793 an act was passed which added to the qualifications required as follows:

"*And be it further enacted*, That if any person shall directly or indirectly give any sum or sums of money or any other bribe, present, or reward, or any promise, contract, obligation, or security for the payment or delivery of any money, present, or reward, or any other thing to obtain or procure the opinion, judgment, or decree of any judge or judges of the United States in any suit, controversy, matter, or cause depending before him or them, and shall be thereof convicted, such person or persons so giving, promising, contracting, or securing to be given, paid, or delivered, any sum or sums of money, present, reward, or other bribe as aforesaid, and the judge or judges who shall in any wise accept or receive the same, on conviction thereof, shall be fined and imprisoned at the discretion of the court; and shall forever be disqualified to hold any office of honor, trust, or profit under the United States."

That was the judgment of the men who made the Constitution in 1793 when passing upon this question. They embodied in the solemn form of an enactment a disqualification not named in the Constitution of the United States.

Again, in 1853, the Congress of the United States made another disqualifiation. In section six, chapter eighty-one, it is provided that if any member of Congress shall be convicted of accepting or receiving any reward or promise of reward, direct or indirect, or obligation for the delivery of money, goods, or right in action to influence his conduct as a member of Congress, such person so convicted shall forever be disqualified to hold any office of honor, trust, or profit under the United States.

At least twice, therefore, in the legislation of this country, before the oath of office was adopted in 1862, has Congress added qualifications to that named in the Constitution of the United States.

In the case which was referred to yesterday, not in my hearing, but which I took the pains to look up this morning, (I refer to the case of McCulloch *vs.* The State of Maryland, decided in 1819,) that principle which limited the power of Congress in carrying out any provision of the Constitution to the express means pointed out by the Constitution was enunciated, and in giving the opinion in the case Chief Justice Marshall said:

"The powers vested in Congress may certainly be carried into execution without prescribing an oath of office. The power to exact this security for the faithful performance of duty is not given, nor is it indispensably necessary. The different departments may be established, taxes may be imposed and collected, armies and navies may be raised and maintained, and money may be borrowed, without requiring an oath of office. It might be argued with as much plausibility as other incidental powers have been assailed that the convention was not unmindful of this subject. The oath which might be exacted—that of fidelity to the Constitution—is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the Legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest."

I desire to say here to my friend from Kentucky who last addressed the House [Mr. BECK] that these are words of Chief Justice Marshall and not mine; so that no personal offense may be taken.

It is said, however—and I desire to notice it in passing—that this is an *ex post facto* punishment—punishing a man for an act which has been committed before the law was passed making the act punishable. But, Mr. Speaker, an *ex post facto* law is one which creates a crime, which was not so before, or which operates upon acts previously committed so as to increase the punishment. That is an *ex post facto* law. The punishment of disloyalty in this country in giving aid and comfort to the enemy is death. This disqualification from holding office is not an increase of the penalty. I admit that when a man is executed he probably cannot hold a seat in Congress. But, sir, it is manifest that these laws add no increase to the punishment provided by law for these offenses.

I propose now to inquire whether the acts proven against Mr. Brown do come within the rule laid down by the committee. The letter which is referred to was written about six days after the attack upon Fort Sumter, three days after the President had called upon the loyal States to furnish volunteers to defend the life of the nation, and when the utmost efforts were being made to influence the minds of the citizens of Kentucky and to induce them to take sides both for and against the Government, at a time when it was the duty of loyal men to have aided the Government in putting down armed rebellion, and when, if every man who now claims to be loyal and to have been a good Union man during the war had been faithful to his duty to the Government and aided in suppressing the rebellion then inaugurated by the traitors at Montgomery, there would not have been as many months of war as there were years consumed in the terrible strife that followed.

For all the blood and treasure lost, for all the suffering and sorrow endured, the responsibility rests upon those who now, claiming to have been always "Union men," in that hour of the nation's agony did nothing but assail with bitterness those who were endeavoring to protect the nation's life, and to misrepresent and denounce every act which tended to such a result.

I beg leave now to call the especial attention of the House to the fact that at the time that the sentiments contained in this letter were publicly avowed by Mr. Brown in a speech at Hebbardsville, in the beginning of April, 1861, a rebel agent was recruiting among the audience for the confederate army. It is fair to presume that there were in that audience young men whose minds were undetermined whether they should join the rebel army or whether they should rally round the old flag of the country, and while thus considering such a young man hears from Mr. Brown, who was then a member of the Congress of the United States, who had then resting upon him a solemn oath to support the Constitution of the United States, these words:

"Not one man or dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South; if this northern army shall attempt to cross our border we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe he will, be shot down before he leaves the State."

What would be the effect of such a speech upon the mind of a young man deliberating upon the question whether he should join the loyal or the rebel army, these words coming from an honored and trusted leader of public sentiment? The young man heard this counsel, "join the loyal army and you ought, and I believe you will, be shot before you leave the State." Was this no discouragement to the enlistment in the forces of the United States? He heard the words "we ought to band together to resist the northern army unto death if it shall cross our border." Was this no encouragement of rebellion? There is but one construction that can be put upon this language by candid men. These speeches, repeatedly made, were overt and public acts done under such circumstances as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion. These speeches were not made in aid of Kentucky neutrality. It is manifest from the letter itself that it could not have been so written. It is said now that all his speeches were made and this letter was written in aid of Kentucky neutrality. I want to examine that proposition for a little while. There is surely nothing in the letter itself which looks like neutrality; let us look at it as a whole:

ELIZABETHTOWN, *April* 18, 1861.

Editors Louisville Courier:

My attention has been called to the following paragraph which appeared in your paper of this date:

"JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South:

"'I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks.'"

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States! What I did say was this:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern Army shall attempt to cross our borders we will resist it until the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State."

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered publicly and privately prior to my debate with him.

Respectfully, JOHN YOUNG BROWN.

He does say that those who join the Union Army should be shot down before they left the State. He does not say that those who join the rebel army should be shot down before they left the State. He says the northern Army should be resisted to the death; but he does not say that the rebel army should be resisted at all. On the contrary, he does expressly affirm the ambiguous report of his remarks has been misunderstood by some who construe his language to apply to the government of the confederate States. This is a misunderstanding; it does not apply to the "government of the confederate States;" it applies only to Lincoln and his unholy war. The very terms used in speaking of the national Government and the rebel confederacy show the *animus* of the writer.

It is said that Mr. Brown occupied the same position with Speed, Rousseau, GUTHRIE, and other men in Kentucky, who were striving to maintain the Union. I freely admit that there were men who, from different stand-points, advocated the doctrine of Kentucky neutrality. There were men who advocated the doctrine of Kentucky neutrality for the purpose of withholding the State of Kentucky from joining the confederacy or withholding the young men of Kentucky from joining the rebel army; and there were men who advocated Kentucky neutrality for the purpose of preventing the State of Kentucky from aiding the Republic in putting down the rebellion. At one time there were men, I believe, acting under these different notions, wide apart as the poles, engaged in something like the same course of action; but I affirm that it cannot be shown that any man who afterward, by his acts, proved his Unionism, his patriotism, and his love of country ever took the ground that this man, John Young Brown, took before his audiences of young men in 1861.

If gentlemen will take the trouble to look at the citations made in the report of the minority of those important speeches of Mr. Speed and others of that period, they will see that they read something like this:

"That the present duty of Kentucky is to maintain her present independent position, taking sides, not with the Administration nor with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, to make the declaration good with her strong right arm."

There was no declaration made by men who afterward proved themselves to be loyal Union men in the State of Kentucky to the effect that the State of Kentucky ought to resist the northern Army exclusively, or to shoot down any man in the State who should dare to volunteer to join the Army of his country. I venture the assertion that no one of those men ever gave utterance to a sentiment like this sentiment of John Young Brown, when he says that he should be misunderstood if it was supposed that he was for applying the same rule to the confederate army that he applied to the Army of the United States. What did he say? When it was published that John Young Brown had used these words—"I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks"—he took occasion to publish in the secession paper, the Louisville-Nashville journal, that followed the armies of the rebellion everywhere they went, the following explanation:

"This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States."

When men held and believed that John

Young Brown had advocated a neutrality applying as well to the army of the confederate States as to the northern Army, they misunderstood him, he himself being witness to that effect.

"What I did say was this:

"'Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern Army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State.'"

How can that be neutrality when he says that men who may join the Union Army ought to be shot down? He himself objects to that remark being applied to the confederate army. How did the young men who were in that audience and heard those words apply them? What is the reasonable and fair construction of the language?

But it is said that John Young Brown was a Union man and made Union speeches; and that the expressions in this letter are to be construed with his Union record. I deny that it is in proof that he was a Union man; I admit that there are some witnesses who testify that they consider him a Union man. Mr. Mallory so testifies, but a majority of the witnesses in this case testify that they hold him to be a disunion man.

Samuel W. Langley, the first witness sworn in that case, testifies of Mr. John Young Brown:

"He was universally considered by Union men as belonging to the disloyal party and as being a disloyal man."

One of the men who swear that Mr. Brown was a Union man swears that he (the witness) did not consider this letter a disloyal letter. Another witness, H. S. Park, testifies that "in the second congressional district of Kentucky all Union men looked upon him as belonging to the disloyal party." Another witness, John R. Reno, testifies that they "got the general idea that Mr. Brown belonged to the rebel party, and that he was in sympathy with the rebellion during the war." Such is the tenor of the evidence taken by the committee. I will not take time to quote it.

The course of Mr. Brown is compared with that of Mr. STOKES, now a member of this House from Tennessee; and the letter written by the latter gentleman is compared with that which is in evidence before the House in this case. But the gentleman who made this comparison did not contrast the subsequent career of Mr. STOKES with that of Mr. Brown. Mr. STOKES, all during the war, was enrolled in the armies of the Union; he risked his life, not once or twice, but many times, for the nation; he lost his property, confiscated by rebels, because he was an uncompromising Union man, and he came here after years of earnest, useful, brilliant military service in the cause of the country. But I affirm that, after the most diligent scrutiny, not one loyal act in support of this Government has been proved to have been performed during the war by Mr. Brown. The most that can be said in his favor is that he kept quiet. The Union speech which he is alleged to have made, referred to in the Louisville Journal, was what? A speech denouncing the Administration, denouncing the Congress of the United States, denouncing the efforts made by loyal men to carry on the war and preserve the Government, not a speech encouraging men to aid the Government or discouraging these from aiding the rebels.

I repeat, sir, with the fullest sense of the justice of the accusation, that upon these men who now claim that they were at that time Union men and loyal to the Government rest the responsibility of not arresting this war at the commencement, as they might have done had they rallied to the support of the Government, had they been Union men in truth and fact, not merely in name.

I want to say one word in relation to the quotation which was made by the gentleman from Kentucky from the remarks of the late Stephen A. Douglas, formerly a Senator from my own State. I was surprised to hear that gentleman's name cited in defense of the doctrines contained in this letter of Mr. Brown. I could not distinctly hear the language that was quoted by the gentleman from Kentucky from the speech of Mr. Douglas. I do, however, recollect the words of Douglas—noble, burning words in defense of the country, and urging the duty of defending the national life—words uttered about the same time that John Young Brown wrote this letter—uttered between the time of the writing of the letter and its publication. If any gentleman claims the indorsement of Mr. Douglas for such sentiments as are expressed in this letter I repel the charge. It is not true. In order that the House may understand what Mr. Douglas did say on the occasion to which I refer, I ask the Clerk to read from a speech made by Mr. Douglas at a time when John Young Brown was writing the letter to which reference has been made.

The Clerk read as follows:

"*Douglas's Farewell Words, in Chicago, May* 1, 1861.—The election of Mr. Lincoln is a mere pretext. The present secession movement is the result of an enormous conspiracy formed more than a year since—formed by leaders in the southern confederacy more than twelve months ago. They used the slavery question as a means to aid the accomplishment of their ends. They desired the election of a northern candidate by a sectional vote in order to show that the two sections cannot live together.

"When the history of the two years from the Lecompton question down to the presidential election shall be written it will be shown that the scheme was deliberately made to break up this Union. They desired a northern Republican to be elected by a purely northern vote, and then assign this fact as a reason why the sections cannot live together. If the disunion candidate in the late presidential contest had carried the united South their scheme was, the northern candidate successful, to seize the capital last spring, and by a united South and divided North hold it. Their scheme was defeated in the defeat of the disunion candidates in several of the southern States.

"But this is no time for a detail of causes. The conspiracy is now known; armies have been raised; war is levied to accomplish it. There are only two sides to the question. Every man must be for the United States or against it. There can be no neutrals in this war; only patriots or traitors."

Mr. COOK. Mr. Speaker, since the name of Mr. Douglas has been appealed to in this discussion, I accept his definition, and I affirm there could be none but patriots or traitors. And, sir, I affirm, the man who, in the supreme hour of the nation's agony, could write that letter written by John Young Brown was not a patriot. The minority of the committee say in their report, "That letter, when closely scrutinized, cannot be justified as an expression of proper sentiments by any one;" and this is the only word of condemnation which the minority of the committee have for this encouragement to shoot down every citizen of Kentucky and to resist to the death every northern man who, in obedience to the duty which he owed to his country, had rallied to put down the most causeless and wicked rebellion against a legal and just Government ever recorded in the world's history. I beg these gentlemen to restrain themselves lest hereafter, in expressing their indignation, they may conclude the starving of our prisoners at Andersonville, when closely scrutinized, was an act of impoliteness. They have no other word of condemnation for this letter than "it cannot be justified as an expression of proper sentiment." I suppose it "cannot be justified" in view of the late "unpleasantness" which has existed in the country. Now, sir, I am disposed to look on that document with far other feelings. I believe it tended to induce a feeling in Kentucky which resulted in organizing bands which did resist the Armies of the Republic in marching to enforce the Constitution and laws. It did tend to excite a public feeling in Kentucky which made it unsafe, actually unsafe, for any man in Kentucky to defend the "old flag."

Mr. Speaker, my voice is so broken I am not able to continue this discussion, and I am disposed to submit it here with this single remark: this man who seeks admission into the Halls of Congress did advise, counsel, urge, and encourage men in Kentucky to resist unto death the men from my State who went down there, in obedience to duty on the call of the country, to put down a most unholy and wicked rebellion. Many of those men from Illinois came no more back from that field of blood, others came back crippled and scarred and maimed, and by my vote any man who encouraged and urged on those who gave them those wounds shall never sit here to make laws for loyal men.

Mr. KERR. I wish, Mr. Speaker, to say to the House the condition of my health is such that it is a duty to myself, if not to this cause, to ask the indulgence of the House that the further consideration of this subject be postponed until Monday. I ask it simply on the ground that, in my judgment, it cannot interfere with any public business, and the condition of my health is such I cannot do justice either to myself or the pending cause to-day. I therefore submit it to the House that the further consideration of the subject shall be postponed until Monday.

The SPEAKER *pro tempore*, (Mr. WASHBURN, of Wisconsin, in the chair.) Does the gentleman submit the motion?

Mr. KERR. I make the request, and the Chair may put it in the form of a motion.

Mr. DAWES. Of course, no one can ask the gentleman from Indiana to go on if his health is such as not to justify it; but I suggest, after the intimation of the gentleman from Illinois, [Mr. WASHBURNE,] whether this discussion had not better proceed to-day, reserving to him the privilege of speaking on Monday. I only submit that suggestion to him. The House will not ask the gentleman from Indiana to proceed in ill-health, nor will the House, I dare say, undertake to cut him off from being heard, representing, as he does, the minority of the committee.

Mr. KERR. I can make no objection to the suggestion of the gentleman from Massachusetts. If the House agrees to it, it will not be unsatisfactory to me.

Mr. DAWES. I did hope to close this discussion to day, but after what the gentleman from Indiana has stated it does not become me to ask that. And I desired to close it to-day, not because I think discussion would not be profitable, but because the discussion may arise in another shape at another time. But I leave it to the House.

Mr. WASHBURNE, of Illinois. I desire to know when it is proposed to resume the consideration of this case. If there are no other gentlemen who desire to speak to-day——

Mr. DAWES. The suggestion is that the discussion continue to-day, so that others who are ready and desire to speak may submit their views now.

The SPEAKER *pro tempore*. The Chair understands there are other gentlemen who desire to speak.

Mr. WASHBURNE, of Illinois. I desire the chairman of the committee to state when he proposes to bring this matter to a close.

Mr. DAWES. I suggested a moment ago that it was my intention to have closed the case to-day. Nothing stands in the way of it except the suggestion of the gentleman from Indiana [Mr. KERR] that his health is such that he cannot proceed. After such a statement as that it does not become me to insist upon a vote to-day. But I suggest that all the rest of us try to finish up the discussion, reserving the close of the case till Monday.

Mr. WASHBURNE, of Illinois. If it should be the understanding on account of the ill health of the gentleman from Indiana that he should not be compelled to go on to-day, I hope it will be further understood that all discussion is to be closed with the exception of the speech of the gentleman from Indiana and the chairman of the committee at the close.

Mr. DAWES. I leave that entirely with the House. I will not myself insist that everybody else shall be precluded. So far as I myself am concerned, I did desire and intend to have the question entirely closed and call for a vote this afternoon. But under the circumstances I think the gentleman from Indiana ought to be permitted to address the House on

Monday. The gentleman from Kentucky [Mr. KNOTT] is now ready to proceed.

Mr. KERR. Before the gentleman from Kentucky proceeds, I desire to submit a suggestion in response to what has been said by the chairman of the committee. I hope the House will come to no determination to-day to close debate on Monday with such remarks as I may desire to make, or as the chairman of the committee may desire. I hope on the contrary that it will only be determined to-day that the debate shall be closed at some hour on Monday, leaving it open for the House to determine as the discussion shall proceed who shall speak. I think some gentlemen here desire to speak briefly—ten or fifteen minutes perhaps—and I think it will not be consistent with the importance of this case to shut off debate in this way, especially when it is remembered that the claimant to this seat is on trial on the exceedingly grave charge of treason.

Mr. PETERS. I would inquire of the chairman of the committee whether he proposes to close debate on all the resolutions, or on the first one?

Mr. DAWES. The gentleman is aware that by unanimous agreement of the House the first resolution is to be disposed of before the other is taken up. Of course I do not intend to have a vote on the last resolution until the first is disposed of.

Mr. KNOTT. Mr. Speaker, as was remarked by the chairman of the Committee of Elections yesterday, my colleague (Mr. Brown) presents himself at this bar with the credentials of the Commonwealth of Kentucky, with a majority over the gentleman who contests his right to a seat here of 6,106 votes, with all the qualifications prescribed by the Constitution of the United States for a member of Congress, and with a perfect willingness to take upon himself the oath prescribed by the act of July 2, 1862. Under all these circumstances, I imagine that gentlemen who value as they ought the sacred right of representation, and duly appreciate its paramount importance to themselves and their constituents will not exclude him from his seat, and thereby establish a precedent which may tell upon the welfare of this country for all time to come, unless their right to do so is clear beyond dispute. Let us, then, lay aside the asperities of party passions and prejudices, and examine this question in the calm, clear light of reason and law. It is contended, sir, that my colleague should not be admitted to his seat because he cannot conscientiously take the oath prescribed by the act of July 2, 1862. That act provides that—

"Every person who shall be elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof," &c.

It will be observed that a member of Congress is nowhere mentioned *eo nomine* in this act, and from this I might argue that even under the terms of this law the oath cannot be rightfully required of my colleague, for it has been held, and conclusively to my mind, that there is a broad distinction between a member of Congress and an officer, and that the former is not embraced in the definition of the latter at all.

But, sir, granting that a member of Congress is an officer under the Government of the United States, and consequently within the provisions of this act, which I can by no means admit, I maintain on still stronger grounds that this House has no constitutional right to require my colleague (Mr. Brown) to take the oath therein prescribed; no right to inquire whether he can conscientiously take it or not, and no right to deprive him of his seat even if he should peremptorily refuse to do so.

There are certain great, fundamental principles of natural justice which lie at the very foundation of every correct system of government which that government cannot disregard without becoming itself the engine of tyranny, oppression, and wrong. Among these are the rights which every citizen in the community has of being notified beforehand of the laws he is required to obey and the punishment he may expect as the penalty of his disobedience; of being apprised of the nature, time, place, and circumstances of any violation of law of which he may be accused; of having that accusation tried by the impartial judgment of his peers according to the laws of the land; of standing before his judges face to face with his accusers, clothed in the chain-mail of presumed innocence and honor until stripped of that panoply by undoubted proofs of guilt; and finally of having the sovereign power of the State, in the plenitude of its majesty, present in the hour of his extremity, not as the stern, inexorable Nemesis of the violated law, but as the angel of mercy ready, if necessary, to interpose the protecting ægis of pardon between him and the avenging sword of justice. These, sir, are the crown jewels of civil liberty, the birthright of every freeman, and many of them the sacred heir-looms of our Anglo-Saxon ancestors, from the period where the dim outlines of authentic history fade away in the uncertain twilight of antiquity.

They are a heritage, sir, which no free people, who are true to themselves and to their posterity will ever fail to cherish with the most sedulous care or to defend with their lives, their fortunes, and their sacred honor. They are enshrined in our Constitution; and the bulwarks which have been erected in times gone by for their protection stand along the vale of our ancestral history, from the formation of our Government back to the days of Magna Charta, imperishable monuments to the wisdom, the courage, and the patriotism of that proud profession of which I see so many brilliant ornaments around me. To guard these inestimable rights of the citizen forever from the aggressions of power, the founders of our Government provided in the Constitution which authorizes us to set here that "no bill of attainder or *ex post facto* law shall be passed;" that "no person shall be held to answer for any capital or otherwise infamous crime, unless on presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger;" that the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State or district wherein the crime shall have been committed; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; "that he shall not be compelled to be a witness against himself, nor be deprived of life, liberty, or property without due process of law." Yet, sir, this statute, as I shall undertake to show, would, like the resistless sweep of the hurricane, hurl from their foundations every solitary one of these ramparts which our ancestors sought to throw around the security of the citizen.

Now, sir, I suppose that no one will deny that up to the passage of the act of July 2, 1862, any man who had attained the age of twenty-five years, been a citizen of the United States for seven years, and an inhabitant of the State from which he might have been elected, would have had a perfect right to his seat and the salary and emoluments of a member of Congress, no matter what crime he might have been guilty of before that time. There can be no question of this, because there was no law to the contrary, either in the Constitution or elsewhere. His right to a seat and the salary and emoluments of a member of Congress would have been as perfect as yours is to hold and acquire property. And it will be admitted that but for this statute his right would be as perfect now. But this statute was passed, and for what purpose? Manifestly to exclude from office, and, as some suppose, from Congress, those who had been, or might be, guilty of any of the acts mentioned in the oath. But why are such parties to be excluded? As a part, at least, of the penalty of his guilt. What is the mode prescribed to ascertain his guilt or innocence? The oath. He is presumed to be guilty, and excluded, until that presumption is removed, which is done by his swearing to his innocence. If he refuse to take it his silence is taken as conclusive evidence of his guilt, and he is deprived of a right which he would otherwise be permitted to enjoy. Here, then, all the objects of a trial for any of the offenses mentioned in the oath are effected, namely, the ascertainment of the guilt or innocence of the party and the infliction of the penalty upon him or not, as he may be convicted or acquitted by standing mute or swearing to his innocence.

Yes, sir, the citizen is informed by the Constitution of his country that he may aspire to a seat in Congress; he possesses all the qualifications prescribed in that instrument; he has been elected by the unanimous voice of his constituents; he comes forward to your desk to take upon himself—the oath required by the Constitution? No, sir; to answer a charge of treason—not upon a presentment or indictment of a grand jury, notifying him specifically of the time and place of the overt act of which he is charged, and which might have enabled him to repel the charge by proof, but an accusation made by the sweeping terms of this act, which brands him with the mark of infamy until his innocence is established. There he must be tried—not by an impartial jury of his peers, who may interpose even a legal doubt in his favor, but by his own conscience, when an error in his judgment must either stain his soul with the infamous crime of perjury or punish him without guilt; there he meets no witness face to face, but his innocence must be established by his own oath or his guilt conclusively presumed from his silence; and finally, sir, if he is an honorable man, his punishment, if he cannot truthfully purge himself by his own oath, comes with the celerity of lightning and the certainty of death; while, if he be a scoundrel, willing to lay perjury upon his soul, he acquits himself, and the law is cheated.

Now, sir, what do these provisions of the bill of rights mean? Have they any signification at all? If they mean anything is it not that no citizen shall be deemed guilty of any crime or suffer the punishment due to violated law until his guilt shall be judicially ascertained by his peers, upon an open and public examination of all the circumstances, after he has been allowed the fullest opportunity of preparing for his own vindication? If they do not mean this they are but empty declamation, specious and deceptive platitudes, the words of promise held out to the ear and broken to the hope. Yet, sir, under this act, I repeat, that punishment for a supposed violation of law is inflicted upon the citizen, without indictment, without the benefit of the sympathy of his peers, without the privilege of introducing a witness for his own exculpation, but upon his own testimony, or, what is worse, by having his silence construed into conclusive evidence of his guilt. It is idle, sir, to pretend that an exclusion from office or a seat on this floor, because of the inability of a party to take the oath prescribed, is not a punishment. To a sensitive mind, actuated by the high aspirations of a laudable ambition, I submit that an ingenuity of the most diabolical fertility could not possibly contrive a torture more exquisite or a species of punishment that would affect society more generally or more disastrously.

Then, sir, if the exclusion from office of any party because of his inability or refusal to take the oath prescribed by this act is in effect the infliction of punishment for an actual or supposed violation of law, without the mode of trial prescribed in the Constitution, but in pursuance of a sweeping legislative conviction which includes every age, sex, rank, and con-

dition in society, as I maintain it is beyond all controversy, the act under which that punishment is inflicted is to all intents and purposes a bill of pains and penalties and clearly within the constitutional inhibition against the passage of bills of attainder. And further, sir, inasmuch as that punishment may be, and is in fact denounced for acts committed or supposed to have been committed long before the passage of this act, it comes clearly within the definition of the still more odious class of enactments prohibited by the Constitution as *ex post facto* laws. Even in the absence of any adjudication of these points by the the courts of our own country, I assume, sir, that no lawyer of ordinary intelligence who is disposed to be guided by the analogies of the English law, upon which our institutions are confessedly founded, will attempt to controvert either of these propositions for a solitary moment.

But fortunately we are not compelled to resort to the immense mass of English authorities which has been accumulating and maturing through a succession of ages for lights by which to determine the true character of this act, requiring an expurgatory test-oath to be taken as a condition precedent to admission to office and as some suppose to a seat in this House. That has already been done by the department of our Government whose peculiar duty it is to expound the nature and scope of every law enacted here. The Supreme Court of the United States, the highest judicial authority known to the Constitution, has in two cases analyzed the questions which can grow out of this act in a most masterly manner, and have declared in the most emphatic and unequivocal language that in so far as it requires this expurgatory oath to be taken, it is unconstitutional and void, and in doing so they proceed upon the very grounds I have assumed. I allude to the cases of the State of Missouri against Cummings, and the case *ex parte* Garland, decided at the December term, 1866, and reported in 4 Wallace Supreme Court Reports. In the case of Cummings the court enters into an elaborate discussion of the whole philosophy of bills of attainder and *ex post facto* laws, and in an argument which for profoundness of learning, clearness of expression, and depth of reasoning, I do not hesitate to pronounce inferior to nothing that ever emanated from that distinguished source, have shown beyond the possibility of successful controversion that this act comes clearly within the constitutional inhibition against both of these obnoxious species of legislation.

But, sir, as I have not time to advert particularly to both of them now, I call the attention of gentlemen especially to the case of Garland, because in that case the court had under consideration precisely the same oath, word for word, which the majority of the committee assume should be demanded of every member of Congress, and which they say my colleague cannot take, and that oath the court in this case decide in the most positive terms to be unconstitutional. Congress by an act, approved January 24, 1865, provided that all lawyers should take the oath prescribed by the act of July, 1862, as a condition precedent to their being allowed to practice in the courts of the United States. Garland, who had been a member of the House of Representatives, and subsequently a senator in the congress of the so-called confederate States of America, and consequently could not take the oath prescribed, petitioned the Supreme Court for the privilege of practicing in the United States courts without taking the oath, and upon that application the validity of the act of Congress prescribing the oath came in question, and the court declared that portion of it requiring the expurgatory oath to be unconstitutional and void. They say, in their opinion, after having separated the oath into clauses:

"The statute is directed against parties who have offended in any of the particulars embraced by these clauses; and its object is to exclude them from the profession of the law, or at least from its practice in the courts of the United States. As the oath cannot be taken by these parties, the act, as against them, operates as a legislative decree of perpetual exclusion; and exclusion from any of the ordinary avocations of life for past conduct can be regarded in no other light than as punishment for such conduct. The exaction of the oath is the mode provided for ascertaining the parties upon whom the act is intended to operate, and instead of lessening, increases its objectionable character. All enactments of this kind partake of the nature of bills of pains and penalties, and are subject to the constitutional inhibition against the passage of bills of attainder, under which general designation they are included. In the exclusion which the statute adjudges it imposes a punishment for some of the acts specified which were not punishable at the time they were committed; and for others of the acts it adds a new punishment to that before prescribed, and is thus brought within the further inhibition of the Constitution against the passage of an *ex post facto* law."

Now, sir, gentlemen may affect to treat the opinions of the Supreme Court with as much contempt as they please, but the people of these States understand them to be entitled to the highest consideration, both here and elsewhere. They understand, as I do, that the judiciary is a coördinate branch of this Government, to whose vigilance and fidelity the purity of the law and the sanctity of the Constitution are especially committed. They are the priests who minister in the temple of justice and guard the altars of constitutional liberty from profanation and sacrilege. It is their duty to expound the laws enacted in this department, and as it is incumbent upon every good citizen to yield a cheerful obedience to every law passed by Congress in pursuance of the Constitution, so it is equally his duty to bow in humble acquiescence to the decrees of the judiciary declaring an act unconstitutional, until that decision is reversed. That this is the true principle I could stand here and cite authorities to prove not only till nightfall but until the stars fade from the firmament; but it would be an insult to the intelligence of the legal gentlemen of this House to elaborate a doctrine so well established; and this rule we are bound to observe by every obligation that honor, morality, patriotism and religion can impose, for to establish any other would be to make every man his own judge, destroy all sense of subordination to law, upturn the very foundations of society, and plunge the community into the wildest anarchy and confusion.

It may be said, however, that this is the decision of a majority of the court; nevertheless it must be regarded as the correct rule of law until reversed. There it stands, sir, a pyramid of adamant. Founded upon the eternal principles of truth and justice, no sophistry can overthrow, no fanaticism can destroy it. Its deductions are so impregnable, its great leading principles are so obvious, that they commend themselves at once to the common instincts of truth and right which pervade even the meanest capacity, and the lover of human liberty in future ages will advert to it with the same veneration as we now do to Magna Charta and the Bill of Rights. And now, sir, if these solemn adjudications of the highest tribunal known to our Constitution, declaring that this oath is nothing more nor less than an engine of unlimited and unbridled tyranny, that the law which prescribes it is not only a bill of attainder but that it fills the definition of that other and still more odious agency of despotism, an *ex post facto* law, and is therefore unconstitutional and void—if these solemn adjudications of the Supreme Court are entitled to as much respect on this floor as "an old wife's fable," how, I ask, can my colleague be constitutionally excluded from his seat?

If this oath is so obnoxious to the Constitution that even an attorney may not be compelled to take it in order to practice his profession how shall we justify ourselves under the act which prescribes it in striking down the inestimable right of the people of an entire district to a representation on this floor, and sending their chosen representative from these Halls with the brand of infamy upon his brow?

But, sir, this law makes no provision for the restorative power of pardon which is vested by the Constitution in the President; it makes no exception in favor of any who may be the recipients of that grace. It is, therefore, a palpable infringement upon that power, and in that particular is in violation of the Constitution. Pardon me, sir, for adverting again to the opinion of the court in the case of Garland. Upon this point they say:

"A pardon reaches both the punishment prescribed for the offense and the guilt of the offender; and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction it prevents any of the penalties consequent upon conviction from attaching; if granted after conviction it removes the penalties and disabilities and restores him to all his civil rights; it makes him as it were a new man and gives him a new credit and capacity."

And further down:

"So far as that offense is concerned he is thus placed beyond the reach of punishment of any kind. But to exclude him by reason of that offense from continuing in the enjoyment of a previously acquired right is to enforce a punishment for that offense notwithstanding the pardon. If such exclusion can be effected by the exaction of an expurgatory oath covering the offense the pardon may be avoided, and that accomplished indirectly which cannot be reached by direct legislation. It is not within the constitutional power of Congress thus to inflict punishment beyond the reach of executive clemency."

Sir, I have read of the racks and the engines of torture which attest the barbarism of other climes and other ages, but if there are anywhere in the annals of our race the evidences of a more remorseless disregard of the plainest rights of justice and humanity they are to be found in this act. I have never seen them. It not only brands the citizen with the presumption of guilt for acts not criminal when committed, condemns him without notice, without witnesses, and without a trial, and compels him to be his own accuser and his own executioner, but, not content with this, it pursues him to the last sanctuary of constitutional security and strips him of the protection of executive clemency while clinging to the mercy seat.

But, sir, there is another view in which, to my judgment, this act is plainly violative of the Constitution. "*Expressio unius exclusio alterius*" is a canon of legal construction too familliar to require either argument or illustration. When a party deliberately reduces to writing his intentions as to any particular thing, the conclusive presumption is, that he has said in writing all he intends to say on that subject. Hence, in the ordinary transactions of life between man and man, where parties have reduced their contract to writing, the law will allow neither party to add to, take from, or in anywise to alter the import of their written agreement by oral testimony; and so where a legislative act says that a certain thing shall be done and there stops, it is not within the power of those who have it in charge to see that law executed, to say that not only the thing required shall be done, but more besides. I suppose these plain and obvious principles of legal interpretation which suggest themselves at once, even to the commonest capacity, will not be disputed. But if it is admitted that they are true, then it must follow as inevitably as that day and night must succeed each other that the law of Congress prescribing this oath is without constitutional authority, and is consequently void; because the Constitution itself prescribes the substance of the oath to be taken by members of Congress, and all executive and judicial officers, and no where either in terms or by any just implication authorizes Congress to add to, or take from, that provision. The third clause of the sixth article of the Constitution provides that—

"The Senators and Representatives before mentioned, and the members of the several State Legislatures and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

There the framers of the Constitution prescribe what a member of Congress shall be required to swear to. Did they intend that he should be required to swear to anything further? If so, why did they not state it? If they intended to invest Congress with the power to add to the substance of that oath, why did they not say so? But arguing this proposition

is like trying to prove that the whole is equal to the sum of all its parts, or any other self-evident truth. It is too plain to admit of elucidation. The framers of the Constitution were not willing to intrust Congress with the power of prescribing the nature of the oath of office, and hence they limited the extent and defined the character of that oath in the Constitution itself, thereby saying to Congress, "Thus far shalt thou go, and no farther."

And, sir, they had the soundest reasons for doing so. They appreciated the great fundamental fact that the allegiance of the citizen was due to the Constitution, the expressed will of the sovereign power, and not to any man, or set of men who might be selected to administer the Government formed by that Constitution. They knew, too, that those who might get possession of the Government at any time, no matter what might be their political views or party affiliations, would be but men, possessing all the frailties common to humanity, and liable to all the seductive influences of place and power. They knew how loth all men are to part with power when once in their possession, and that an overwhelming faction in possession of the legislative department of the Government might, unless restrained by Constitutional inhibition, exact an oath of all applicants for office, or position of any kind, binding them to support their peculiar policy, or to sustain some particular man or party. They knew, too, that such a requirement would be subversive of our form of Government and destructive of the liberties of the people; that the whole duty of the citizen was comprised in fidelity to the Constitution; that born to an inheritance of freedom he owed fealty to no man or set of men, and hence they provided the simple and comprehensive oath "to support the Constitution," and gave no authority to Congress or any other power upon earth to add one jot or one tittle to that requirement. They doubtless had before them the long catalogue of strange oaths required in preceding ages in other countries, all devised and designed to restrict the liberty of the citizen rather than to restrain the powers of the government, of which no free people ever can be too jealous. They intended that the people of this country should never be subject to such outrages upon their natural and inalienable rights, and that no oath should be demanded of them except the plain, simple requirement to support the Constitution, which embraces their entire duty as citizens. But, sir, compare the oath prescribed by this statute with the test oaths of other countries, and you will find it without a parallel in the annals of any other civilized government upon earth. The Supreme Court, in their opinion in the case of the State of Missouri against Cummings, to which I have already alluded, make use of the following language, which expresses my idea with far more force and perspicuity than I can myself, and I will therefore be pardoned for reading it. They say:

"The oath thus required is for its severity without any precedent that we can discover. In the first place it is retrospective; it embraces all the past from this; and if taken years hence it will cover all the intervening period. In its retrospective feature we believe it is peculiar to this country. In England and France there have been test-oaths, but they were always limited to an affirmation of present belief or present disposition toward the Government, and were never exacted with reference to particular instances of past conduct."

I do not pretend to be familiar with the history of the French law in this regard, but I have examined all the various test oaths required from time to time by the British Parliament, and I assert that not a solitary one of them contains a retrospective requisition. They are merely expressive of the juror's present belief and promissory of future conformity to the requirements of the Government, without any reference to the party's past conduct whatever. The oath of allegiance, as administered for a period of six hundred years and down to the accession of William III, simply promised—

"To be true and faithful to the king and his heirs, and truth and faith to bear of life and limb and terrene honor, and not to know or hear of any ill or damage intended him without defending him therefrom."

Upon which Sir Matthew Hale, in his Pleas of the Crown, makes this remark, which I would especially commend to the careful attention of gentlemen on this floor:

"That it was short and plain, not entangled with long or intricate clauses or declarations, and yet is comprehensive of the whole duty of the subject to his sovereign."

Yet, sir, even this oath was considered by the English people as binding them too closely to a particular dynasty, instead of their general allegiance to the constitution of their country which limited the power even of the king, and consequently at the revolution the convention Parliament changed it so as to contain simply a promise "to be faithful and bear true allegiance to the king," without mentioning his heirs.

And so, sir, of the oath of supremacy required by the statute 1 Elizabeth, chapter one, and the oath of abjuration introduced in the thirteenth year of the reign of William III, with all their various modifications subsequently made. They are simply promissory of future fidelity, and expressive of present opinion and belief, without any reference to past conduct whatever. These oaths were, however, test oaths. They restrained the liberty of the subject and restricted his opinions at least so far as the future was concerned. They bound him to the king in a certain sense, whether the king observed the constitution or not, and committed him to a certain set of opinions and principles, political and religious, which should govern his future conduct, whether in conformity with his better informed judgment and existing exigencies or not, and hence were to be deprecated; and with a view to forever avoid the occurrence of any such restrictions upon the freedom of the citizen of this Government, the framers of the Constitution prescribed the short, simple, and comprehensive oath "to support the Constitution;" and by doing so they, according to the plainest rules of legal construction, excluded every other. Congress, it is true, may prescribe the form and manner in which that oath may be tendered and taken; but it has no power to add one iota to its substance.

There is, however, one other consideration from which I argue the utter unconstitutionality of this act, which it seems to my mind must be conclusive of the whole question. I have reserved it till the last because of its paramount dignity and importance. It lies at the very foundation of our Government. It is the corner-stone upon which our wondrous fabric of constitutional liberty is established. It is this, sir, that Congress has no power to add to, take from, or in any manner alter the qualifications of its members, as limited and defined in the Constitution.

Blackstone says, in speaking of the British House of Commons:

"In a free State every man who is supposed a free agent ought to be in some measure his own governor; and therefore a branch, at least, of the legislative power should reside in the whole body of the people. And this power, when the territories of the State are small, and its citizens easily known, should be exercised by the people in their aggregate or collective capacity as was wisely ordained in the petty republics of Greece, and the first rudiments of the Roman State. But this would be highly inconvenient where the public territory is extended to any considerable degree and the number of citizens increased. In so large a State as ours, it is, therefore, very wisely contrived that the people should do that by their representatives which it is impracticable to perform in person."

This, sir, is the whole theory of a representative republican form of government, and in the absence of any restriction in the constitution of that government, the right of the people as free agents in choosing their representatives would be absolutely without limit. They would have a right to select any person to that position irrespective of age, sex, color, or condition in life, and without regard to mental or moral qualifications. Every departure from this principle, every restriction upon this otherwise unlimited right of choice is an abridgement of the natural liberty of the citizen, which should never be done except where the welfare of the State absolutely demands it. The framers of our Constitution understood this, and hence they curtailed this right by the fewest number of limitations consistent with the safety and well-being of the community. They provided in the second section of the first article of the Constitution that—

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not when elected be an inhabitant of that State in which he shall be chosen"—

thereby leaving the people entirely free to select any person they might see proper, provided only that he should possess these three qualifications. Now, the question is, did the people intend when they adopted this Constitution to surrender any more of their natural rights than are therein mentioned? Did they intend that any further limitation should be placed upon their right to choose their own representative, which no thinking man will deny to be the very soul and essence of civil liberty? I maintain they did not, because to have done so would have been to surrender the very liberty for which they had just fought through a long and bloody war. And besides, if such had been the intention it would have been so expressed in the Constitution. I have already adverted to the obvious and universally admitted rule of legal interpretation, "*Expressio unius exclusio alterius*," but it applies with peculiar force in the consideration of this question. For it is fair to presume that when the people of this country determined to establish a Government which would form a more perfect union between the States, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, they selected none for the accomplishment of a work so important but those who were distinguished for their learning, their wisdom, their prudence and foresight.

It is fair to presume, too, that those who were thus selected were impressed with a deep and solemn conviction of the magnitude and importance of the work intrusted to them, and of the obligations they were under to those who had selected them to make that work as perfect in every particular as human wisdom, prudence, patience, and labor could make it. Conscious that they were called upon to lay the foundation for a superstructure such as the world had never seen before—a gorgeous temple of constitutional liberty—destined to span a continent from shore to shore, within whose sacred precincts the weary and oppressed of every clime and every coming age might find refuge and protection, whose grandeur should challenge the admiration of mankind through all future time and upon whose broad pedament their own names should be inscribed in characters of imperishable renown; the mighty architects of the stupendous edifice brought to the work the utmost extent of their gigantic powers.

Their deliberations lasted for over four months, during which every provision, sentence, every line and word in the Constitution was subjected again and again to the combined test of their giant intellects. I maintain, therefore, that in this instance, independent of the established rule of construction, the presumption is inevitable that the mention of these three qualifications as necessary for a Representative in Congress—age, citizenship for seven years, and residence in the State—excludes the requirement of any other. The very nature of the work in which they were engaged, the formation of a government in which the citizen should have the largest possible liberty consistent with the welfare of the State, precludes any other hypothesis. The whole idea is expressed with far more perspicuity and force than I am master of by the distinguished gentleman from Ohio [Mr. BINGHAM] in a report

made by him in behalf of the Committee of Elections in the Thirty-Fourth Congress, in the cases of Trumey *vs.* Marshall and Fouke *vs.* Trumbull, and which was sustained by the House. He says:

"The qualifications of a Representative, under the Constitution, are that he shall have attained the age of twenty-five years, shall have been seven years a citizen of the United States, and when elected, an inhabitant of the State in which he shall be chosen. It is a fair presumption that when the Constitution prescribes these qualifications as necessary to a Representative in Congress it was meant to exclude all others."

Now, sir, I repeat the inquiry, if these three qualifications are all that are prescribed in the Constitution, and all the people intended for a Representative in Congress, has Congress the power to require any other? If so, where does it get that power? It is conceded on all hands that unless it is delegated to us in the Constitution we do not possess it at all. The tenth amendment provides that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

Now, I assert, without fear of successful contradiction, that the power to prescribe additional qualifications for a member of Congress is nowhere delegated by the Constitution to the United States nor prohibited in express terms to the several States, and that from this amendment it might be plausibly argued that the States do possess that right. But it has been expressedly decided by the House in three cases that they do not, and solely upon the ground that the qualifications of a member of Congress having been prescribed in the Constitution, all others are excluded. The first case was that of Barney against McCreery from Maryland, at the first session of the Tenth Congress, and the other two are the cases from Illinois, to which I have just alluded. And as the report of the committee on the two latter cases is distinguished for its ability and precision I will be pardoned for quoting from it again. The learned author of the report [Mr. BINGHAM] says:

"And to your committee it is equally clear that a State of the Union has not the power to superadd qualifications to those prescribed by the Constitution for Representatives, to take away from the people of the several States the right given them by the Constitution to choose every second year as their Representative in Congress any person who has the required age, citizenship, and residence."

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"By the Constitution the people have a right to choose as Representative any person having only the qualifications therein mentioned without superadding thereto any additional qualification whatever. A power to add new qualifications is certainly equivalent to a power to vary or change them. An additional qualification imposed by State authority would necessarily disqualify any person who had only the qualifications prescribed by the Federal Constitution."

But, sir, if a State has no such power *a fortiori* Congress has not. The argument against the former applies with tenfold force to the latter, because the powers of Congress are all delegated while those of the States are original. In one case we inquire whether the power is granted; in the other, has it been taken away by the Constitution? We find nowhere in the Constitution any such grant to Congress or any such prohibition upon the States. Yet it has been held, and I think justly, that by fair implication no State can superadd a qualification for representation to those prescribed by the Constitution, and by the same rule Congress cannot. Yet that this act does prescribe new qualifications for a member of Congress no candid man will deny. Put the two together and the sum is simply this:

"No person shall be a Representative who shall not have attained the age of twenty-five years and been seven years a citizen of the United States, and who shall not when elected be an inhabitant of the State in which he shall be chosen; nor shall any person be a Representative who shall have at any time since he has been a citizen of the United States voluntarily borne arms against the United States, or who shall have voluntarily given aid, comfort, counsel, or encouragement to persons engaged in armed hostility thereto," &c.

One of these causes of disqualification is just as effectual as the other in excluding a member from his seat if Congress had the constitutional power to make the law. It is in fact, and no man can successfully deny it, in effect an addition to the Constitution, and is, therefore, null and void, because although it may have passed by two thirds of both Houses of Congress, it has never received the sanction of the Legislatures of three fourths of all the States, as required by article fifth of the Constitution, which alone prescribes the manner in which the Constitution may be amended.

But, sir, we are told that "each House shall be the judge of the elections, returns, and qualifications of its own members," and that Congress has power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof," and that, therefore, Congress has power to require these new qualifications of its members. Such was the argument, and the only argument of the distinguished chairman of the Committee of Elections in support of the constitutionality of this attempt to exclude my colleague from his seat, and I must confess, sir, I was astounded to hear a gentleman of his acknowledged learning and ability assume such a position. I was pained as well as startled to hear a gentleman of his reputation resort to such a justification of one of the most alarming usurpations of power by this House that my poor imagination can conceive.

But let us examine this position a little. It is true, the fifth section of the first article of the Constitution provides—

"That each House shall be the judge of the elections, returns, and qualifications of its own members."

But what does this mean? Does this provision say that Congress may create as well as judge of the qualifications of its members? Not at all, sir. Each House is made the judge of the qualifications of its own members. In exercising the power conferred by this section of the Constitution the House sits in a judicial, and not in a legislative capacity. The House is the judge; but will gentlemen say that any enlightened system of jurisprudence under the sun ever conferred upon the judge the power of prescribing the law by which his judgment is determined? There can be no difficulty in in this question, it seems to me, when the whole of this article is construed together. The second section prescribes what the qualifications of the Representative shall be; section fifth simply constitutes the House the tribunal to determine whether he possesses them or not. The House, under this latter section, have power to hear and decide these questions and no more: has the applicant for a seat been elected? are the returns of his election in conformity to law? is he twenty-five years of age? has he been seven years a citizen of the United States? was he an inhabitant of the State in which he was elected? If the power of judging embraces the power of prescribing the qualifications of the member, then under the Constitution this House can create new qualifications for its members without even the concurrence of the Senate, for by the terms of this section each House is made the judge. Will gentlemen say that? Yet they must say it to be consistent, for it is the ultimate logic of their position who place this wonderful construction upon the power of the House to judge of the qualifications of its members.

Mr. DAWES. If the gentleman understood me to say that under that clause of the Constitution which he has cited I thought this House could in any way change the existing qualifications for members of Congress he certainly misunderstood me, and if I said any such thing I was very unfortunate in my language, for I not only did not intend to say any such thing but I do not believe any such thing; and if he will turn to the very report of the committee before him he will find the very words which he is putting into his speech as his own sentiments uttered by me in that report. With the gentleman's permission I will read from that report so that there may be no misunderstanding between him and me. On the ninth page of the report are these words:

"This House can only be the judge of the election, return, and qualifications of its members,' that is, can judge whether each member has been elected according to the laws of his State and possesses the qualifications fixed by the Constitution. Here its power begins and ends."

Mr. KNOTT. I thank the gentleman for the suggestion. That is precisely my argument.

Mr. DAWES. So I thought.

Mr. KNOTT. Precisely my argument. But I am maintaining that in the prescription of this oath you do in fact add an additional qualification to members in this House, because when a man comes here twenty-five years old, seven years a citizen of the United States, and a resident of the State from which he is elected, you meet him at that door and say to him, "You have to stay out of the House unless you can truthfully take this oath." If he cannot take the oath he is disqualified. An indispensable qualification under this law is that he must be able to take this oath, and it is as much a disqualification as if he were not twenty-five years of age. That is my proposition.

[Here the hammer fell.]

Mr. MULLINS obtained the floor.

Mr. DAWES. As the gentleman from Kentucky has been interrupted by me I hope he will be allowed to go on.

Mr. MULLINS. How much time does the gentleman want?

Mr. KNOTT. A very few moments.

Mr. MULLINS. I yield to the gentleman for ten or fifteen minutes.

Mr. KNOTT. But gentlemen will say that Congress has the power to make all laws necessary and proper for carrying into execution this power of judging. Certainly it has, sir. There can be no disputing that. They have power to pass laws to enable them to determine correctly whether a member has been elected or not; whether the returns are regular or not, and whether the member is twenty-five years old; whether he has been a citizen of the United States for seven years, and whether he was an inhabitant of the State in which he was elected. And I submit, sir, that Congress exercised that power long ago when the statute regulating proceedings in contested elections was passed. But will gentlemen contend that in order to enable Congress to judge correctly of qualifications already prescribed they should have power to create new qualifications? Cannot this House ascertain and determine whether a man is twenty-five years old; whether he has been a citizen of the United States for seven years; whether he is the inhabitant of a particular State, or whether he has been elected without the power to say he shall not have his seat unless he takes a certain oath? Is this test-oath either necessary or proper to enable the House to determine any of these questions correctly?

But, sir, the arguments against the conclusions of those on the other side which may be drawn *ab inconvenienti* are absolutely overwhelming. For where is this power to stop? If the Congress in 1862 could prescribe one additional qualification this Congress may add another, and the next another, and so on, until the right of the people freely to choose their own representatives will be absolutely frittered away and none but a privileged few ever allowed to enter these Halls. A power to add a new qualification, as the distinguished gentleman from Ohio [Mr. BINGHAM] very justly observes in the report in the case of Fouke and Trumbull, from which I have already read, is equivalent to the power to alter those already prescribed; and if we admit the principle at all we admit that the control of this House over the will of the people is absolute, and the limitations which the framers of the Constitution sought to throw around the powers of Congress are mere shreds of gossamer, to be blown away at any moment by the sheer breath of the faction temporarily in power.

The logical consequence of the position assumed by the majority of the committee is that the same power which authorized Congress to prescribe this test-oath would authorize them to prescribe others; that there are in effect no limits to this power except the discretion of Congress, and that in its exercise Congress might destroy the Government itself. What! Are we to be told that the framers of our Constitution devised a Government with power to commit political suicide—to cut its own throat? Did the authors of our Constitution, intended to secure the "blessings of liberty to themselves and their posterity," create a Government with power to rob the people of their great palladium, the right to choose their own representatives, and rivet the handcuffs of despotic power upon them, under the pretext of prescribing additional qualifications for members of Congress? What is the excuse for this oath? That no man may be permitted to participate in the Government who has heretofore sought to destroy it. But why do you wish to keep them out of Congress? Because they may seek to destroy it again. Yet you admit that the very means by which you would keep them out empowers those who are in to subvert and destroy it at any moment.

But we are asked shall traitors be permitted to contaminate these Halls with their presence? Have we no power to keep them out of Congress? Could you keep out a horse-thief, a highwayman, an assassin, a felon fresh from the purlieus of crime, reeking with infamy, if his people should see proper to send him here? Sir, there is but one way of reaching either case, and that is by an amendment to the Constitution, passed in the manner prescribed by the fifth article, by a vote of two thirds of each House, ratified by the Legislatures of three fourths of all the States. Congress has already admitted this by proposing the third section of the fourteenth proposed amendment to the Constitution, as follows:

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

Why the necessity of this amendment if Congress has the power to effect the same thing by this expurgatory act? The simple answer to the whole question is that Congress has no power to prescribe, directly or indirectly, any qualification or disqualification of a member other than those mentioned in the Constitution.

But, sir, the errors of to-day become the precedents of to-morrow. Carry out the doctrine against my colleague contended for by the majority report, and where will it end? Let me ask gentlemen to be warned by this solemn—I had almost said prophetic—language of the Supreme Court in the case of Cummings, from which I have already quoted:

"Suppose that in the progress of events persons now in the minority in the State should obtain the ascendancy and secure the control of the government, nothing could prevent, if the constitutional prohibition can be evaded, the enactment of a provision requiring every person, as a condition of holding any position of honor or trust or of pursuing any avocation in the State, to take an oath that he had never advocated or advised or supported the imposition of the present expurgatory oath. Under this class of legislation the most flagrant invasions of private rights in periods of excitements may be enacted, and individuals and even whole classes may be deprived of political and civil rights."

Sir, the specious cry of "loyalty" will not justify us in assuming this tremendous and dangerous power. The standard of loyalty next year may be very different from what it is to-day. The watchword "The nation's life is in danger" may in a few years be taken up, as the rallying cry of party, to exclude gentlemen now on this floor from their seats. Establish this dangerous precedent by excluding my colleague now, and should that condition of things hereafter arise you will appeal in vain to the Constitution as the charter upon which you claim your seat. However pure may be your present motives, (which I am the last man to impugn,) they will point to the record of this hour, and with the bitter, taunting sarcasm of Shylock, when gloating over the ruin of Antonio, hiss into your ears:

"The villainy you teach me I will execute."

IMPROVEMENT OF THE MISSOURI RIVER.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the chief of engineers enclosing a report respecting the improvement of the Missouri river; which was referred to the Committee on Commerce, and ordered to be printed.

ELECTION CONTEST—SMITH VS. BROWN.

The House then resumed the consideration of the report of the Committee of Elections.

Mr. MULLINS. Mr. Speaker, I propose, as one very humble in my pretensions, to entertain you for a few moments—say half an hour—touching a question that lies at the very foundation of our Government. I must say in advance that such is the magnitude of the subject which it now falls to my lot to discuss that I feel my inability to do justice to it before the Congress of a mighty people.

This, sir, if you will allow me to say so, is of all the questions that can possibly engage our attention one of the most ponderous and of the greatest magnitude. It lies at the very foundation, upon the radical root, so to speak, of this Government, shaping its destinies in its incipient stages and in its growth. I repeat, we have to deal with a question lying at the foundation of a Government whose people are as the stars of the firmament (some of them, I grieve to say, wandering stars) and whose march of empire is carrying the nation westward as a burning meteor from the arch of the sky—a people that have been under the benign influence of God, who holds this country in His eternal fist of power, and who has been pleased to let us flee from the empire of despots and come forth into a land which I pronounce to be the predicted New Jerusalem come down from God out of heaven. [Laughter.] I reiterate the assertions and go back and read your divine revelation. Could I be permitted to lift you up by my voice one or two thousand years from to-day you would tell me whether I have spoken rashly or not. Otherwise there is no entering wedge to break the gloom of darkness that held spell-bound the empires of earth for six thousand years and to bring on a millennium. What was more glorious in the events of time than the birth of the American Government? Coming forth like the sun in the morning and chaining the empires of the world to the wheels of her car she broke through the gloom in 1776, and she set up her standard in the darkness and said, "Come, look at this brazen serpent which we raise!" But enough of that. [Laughter.]

Now, sir, I am going, as far as my humble abilities will enable me, to present this question to the understanding of the people represented here by men intrusted with the care and keeping of the covenant, the liberties bequeathed by their fathers; then to define the position which we occupy as a nation, so that it may be comprehended by all, and I want all to understand it. Let me say that the principle of Government rests upon a little older substratum than absolute government itself. Where does it rest? It rests in the individual, in each and every one who goes to make up the constituent elements of government. There is the starting point. Where do you, as an individual, rest? You rest under law, in the original creation, subject to law, and by that law bound to the Giver of all that you have, even your life.

Then, when you have derived a knowledge of that fact and ascertained the principles upon which you stand and which relate to the Divine Being, what authority have you to maintain and perpetuate your life? Why, sir, the Good Book has declared that all that a man hath he will give in exchange for his life. Make the term broader than that if you can. Then tell me whether He who has made you under the law has by that law said that you should not do everything in your power necessary to preserve your life? There is no place in the whole broad Book of God that declares that a man shall not preserve his own life at the sacrifice, if necessary, of everything else. And on this hang the law and the prophets—the great, primary right of self-preservation.

Now, let us see how we can apply to government this individual right of self preservation, guarantied to you and to me by Him who erreth not. It belongs to all animal life, sublimely so to all the human race, each and every individual possessing it for himself. They congregate and form society. Society being formed, this fundamental law of self-protection enters into its organic arrangement and becomes the very substratum of its political existence; the foundation of government, of all government, your own not excepted, let conservatism say what it may.

Then who would insist that you are to be restricted in the use of any and all means in your power to protect yourself against any and all who are seeking not only your property but your life? There is no stopping place prescribed either by the Constitution or by God himself short of complete security. You may pursue your adversary until you yourself are out of danger, and should death result from any encounter still you will be held justifiable. This is the law as written on the hearts of mankind.

As authority for the right of self-preservation I refer to section ten hundred and nineteen of Wharton's American Criminal Law, as follows:

"*General nature of right.*—A man may repel force by force in the defense of his person, habitation, or property, against one or many, who manifestly intend and endeavor by violence or surprise to commit a known felony on either. In such a case he is not obliged to retreat, but may pursue his adversary till he find himself out of danger; and if in a conflict between them he happen to kill, such killing is justifiable. The right of self-defense in cases of this kind is founded on a law of nature; and is not nor can be superseded by any law of society. Where a known felony is attempted upon the person, be it to rob or murder, the person assaulted may repel force by force, and even his servant attendant on him, or any other person present, may interpose for preventing mischief; and, if death ensue, the party so interposing will be justified.

"Where, in an affray, A knocked down B, and C, a bystander, believing the life of B to be in danger, B having retreated as far as he could with safety, gave B a knife to defend himself and prevent further mischief, it was held that C was justified in giving B the knife."

Now, will this principle apply to government; does it apply to government? Consider a moment, as I said before, that when the mass of mankind congregate in political bodies, then enters into that society as the very substratum of it the principle of defending individual life. Sir, it is nonsense to argue so plain a proposition. And I will not take up your time by going back to quote ancient historians to show the right of government to protect also the nation's life. Grotius has asserted this principle in the treatise on war and peace and the laws of nature and of nations; and it has been repeated by Vattel, and in our own land and time by Bouvier and Halleck. It is a prerogative that no legislative body, no conventional body can take away from you, any constitution or law to the contrary. Time immemorial has established the maxim that you cannot by any form of political action take away the natural right of self-protection.

I ask, again: is this right of national self-protection not even greater in the Government than the right of personal self-protection in the individual? Is it restricted within the same narrow and perilous limits of apparent necessity? Let us see. I, as an individual being assailed, have the right only to defend against the assault. When I have done that and am safe I must stop; the law will not justify me in going an inch further.

How far can the Government go when its life is in peril? It can go to the extent of

taking captive every man resisting its authority and swinging him by the neck, the just retribution of all traitors. A man, when he becomes a traitor, has but three rights: first, the right to be tried; second, the right to be hanged; and third, the right to be damned by a just God, if he is a sinner; and I guess he is a sinner when he is a traitor. [Laughter.] Much do I regret this conclusion; but truth and justice are irresistible.

The Government, then, is not estopped from exercising this right of self-defense and self-preservation. Having overtaken the enemy, it has the right to take all he has and do—what besides? Compensate those who have suffered damage from that enemy. It has the right to require "indemnity for the past and security for the future;" and failing to exercise this right I fear the consequences. Man as an individual cannot go quite so far when he slays his adversary. But Governments can do this, as illustrated everywhere in the history of the world. I defy any gentleman to show the reverse.

This Government is now called upon to defend itself against one of the mightiest and one of the most wily enemies that have ever assaulted the body-politic—an enemy that, vanquished by the sword in the field, is now attempting in disguise to intrude into the very sanctuary of liberty. It is like the wild olive branch attempting to ingraft itself upon the old and uncorrupted olive tree. Oh, let all such stand in awe and trembling before seeking to climb into the sheepfold by the way of the thief.

We are here as the representatives of the people; they have placed the sword in our hands, and we must wield it as the sword was wielded in the days when rebellion first lifted its head upon the earth, when the first rebels broke the covenant between themselves and Him who made them. What an example was set then for you who would now open the door to those who have been waging war against us and seeking the lifeblood of our country! For the benefit of such, let me for one moment draw a picture.

The assassin enters your house at night with a dark lantern in his hand. He comes to the bedside of the father and the mother, those who hold the keys of the chest containing the household treasures. He raises his gleaming blade to strike at the life of the head of the family. Will you say that there is no right to interpose and strike him down ere the deadly dagger pierces the heart at which it is aimed? And, sir, if we now open this sheepfold and let in these devouring wolves what will be said by the people who have put us in charge to stand here upon the watch-towers of the Republic? They will say, "You saw the wolf coming and you raised not your voice; you saw the destroying sword uplifted, and you did not warn the people. To your charge we lay the precious blood that you have allowed to to be spilled." The people have intrusted us with the sword of their majesty and power; they have placed us here as watchmen. Now the thief is coming and we must not betray our trust.

I say that we have the right to defend the Government against all hostile combinations of whatever character. I will show that this doctrine rests upon the broad basis of the Constitution. Would to God that all the citizens of this country had lived up to its precepts and obeyed its obligations! Had those who now demand the privileges that should be accorded only to loyal men been faithful in the hour of our trial we should have been able to crush the rebellion before it could prick through the shell. [Laughter.] But instead of that I am afraid, dreadfully afraid, that this man Brown absolutely put the warm bath on. He, sir, raised it in this hot-bed that it might break the shell prematurely. This being so, for one I will stand and say by my vote, "Drive him outside of the garden: let him earn his bread in the sweat of his face." That is honorable, to earn bread in the sweat of the face, and I will not deprive him of that.

Now, Mr. Speaker, let us see whether the Constitution justifies this Congress in standing and holding this sword of self-protection or not; and when I am talking this way I want you to understand I am speaking as a man of the Union, not of Tennessee. Now, my conservative friends, you will pardon me, who want to conserve and administer the Government on the opinions of Jeff. Davis—not in this House; you do not want to do it here—I exculpate you from that—what is the practical result to which you tend? You who want to carry out the will of Jeff. Davis and his cohorts come with me and let us see what the Constitution says; you who croak so dreadfully about the Constitution and say we cannot go a single inch or step forward to protect the nation against her enemies without encroaching upon the Constitution. Great God! if I may use the expression, what did we see, beginning in 1861, when the first step was taken in the rebellion, when you said, through your prototype, George Buchanan, [laughter,] that there was no constitutional power to coerce a sovereign State! that the father, the head of the family, had not the power to chastise the wild and wayward child! Now that is beautiful doctrine.

Mr. PETERS. Will the gentleman allow me to interrupt him with a question before he goes further?

Mr. MULLINS. Not a bit of it. [Laughter.] Oh, yes, yes, [looking round at Mr. PETERS who stood behind him;] you may. [Laughter.]

Mr. PETERS. In alluding to James Buchanan the gentleman called him George. I wish to know if he means to intimate that ex-President Buchanan has any characteristics in common with the father of his country, George Washington?

Mr. MULLINS. Well, unless, as Milton says, burning and freezing are equal in point of pain, there is no similarity. [Great laughter.] What did the fathers say about it? The first thing they declared stands as a frontispiece, meets you at the threshold of the Government. What did they declare to you? For God's sake do not say we are off the track, unless you first look at the sign-board of the Constitution. Do not talk to us about doing what is unconstitutional, you who have never kept inside of that instrument. [Laughter.] I will read the first indication that stands as the caption of the Constitution:

"We, the people of the United States, in order to form a more perfect Union."

That is the change from the confederation to the present Union. "Establish justice." I ask the sword of justice to lie still in its sheath while I discuss this present matter. [Laughter.] But I will say these conservative gentlemen should take warning of the awful fate of those who went down in death and desolation for their rebellion against this beneficent Government. "Establish justice, insure domestic tranquillity." Can we insure justice, or will domestic tranquillity prevail, if we let the life of the nation be stabbed at and make no defense? No. "Provide for the common defense." Now, it is supposed that this relates to a foreign enemy. I hold that it relates to both foreign and domestic enemies, and the Constitution will bear me out. You are to guard yourself against a foreign enemy; and have you not the same right of self-preservation against a domestic enemy? It is your right to protect your life against whomsoever may assail it, be it a foreign or domestic enemy. "Promote the general welfare and secure the blessings"—of what? Of conservatism? [Laughter.] Oh, no! The first rebel of whom we have any record was Beelzebub; and he, like some in our own day, would not stand the idea of a nationality, but wanted to build up for himself a petty little kingdom, preferring to rule in that to serving in another. [Laughter.] He has been a slave ever since, and so has every rebel from that day to this, and so will the rebels here be until their sin is removed by what is called by the gentleman from Kentucky [Mr. KNOTT] this "expurgatory oath." Yes, sir, we are going to put them into that state of purgatory. [Laughter.] I take it that it is right, when they have dug the last ditch and fallen into it, to let them lie there for a season; but I am willing to set up a pier on this side the chasm, and so give an opportunity to them to get out when they repent and show their repentance by works meet for repentance. It is for them to build the bridge and for us to approve of it.

I come back to my text, the introductory words of the Constitution:

"Provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

This was what the fathers declared were the objects of the Government. "Promote the general welfare," the public weal, the health and sound condition of the body-politic, by keeping away pestilence and infection, cutting off dead and diseased matter, and giving effect to all healing influences. "Secure the blessings of liberty to ourselves and our posterity," freedom from all oppression and misrule, whether by the sway of bad rulers or by the pride of class, race, and social rank; to ourselves, not merely the loyal and true, but to the returning and repentant rebel, every one, in short, who is willing to allow to others the same measure of toleration which he asks for himself and our posterity in all the coming future, including every child born on American soil, irrespective of parentage or any other accidents of birth and what is commonly called fortune, not forgetting or omitting any of any land or clime who seek among us a refuge from tyranny and a better hope for themselves and their children. It was for objects like these that our venerated, I had almost said adored, Constitution was ordained or established; and shall we hesitate to preserve it from the destructive violence of treason and the insidious wiles of baffled rebellion upon the miserable pretext that, being sworn to support it, we cannot without violating our oaths use any means to prevent others from destroying it? The war of the Revolution was the first stroke of the lyre and the harp with a thousand tunes for all time for the American people. These self-evident truths, the inalienable rights, the equality of men, government by the people, these are the notes of the pealing anthem, the swelling and solemn grand march of humanity. If you and I beat time to that music and keep ourselves in tune we will stand on the side of the chairman of the committee. [Laughter.] We do not intend to pull out a key or put in any discordant note, but will have it as our fathers made it, so that our younger ones may strike the key-note for all coming time. We intend to keep it in tune, to accompany the universal song of happiness, peace, and quietude to the world, and especially to the continent of America.

Then do not say I have no right here to vindicate myself or my Government. My Government is stronger than I am. Thank God, while one drop of blood remains within this heart of mine, which has beat for over sixty years, I have not got to come down and truckle to those who have sought to undermine the Government, to overthrow it and cast it at the feet of despots. We broke the British yoke nearly a century ago. It is too late now for the Republican party to submit to the despotic yoke of the South with a nabob at one end and a slave at the other, [laughter;] and so we are for putting away the slave-yoke for all time to come. We have broken that yoke in two; we have reared a temple with its glorious dome reaching to heaven, and we intend to maintain and perpetuate the great citadel of liberty.

Now, sir, this great declaration of rights at the outset of the Constitution bears me out. What, then, have we a right to do? To keep it so? Yes, sir. "All legislative power," the Constitution says, in the first article, "herein granted shall be vested in the Congress of the United States." That is the power created by these people in convention assembled who held the original right to guaranty—what? That you and I, as

her sentinels, should keep safe the gateway; that you and I, who for the moment constitute the Congress and are clothed with all the legislative power of this Government, should see that her liberties and these principles of justice should never be so invaded as to jeopardize the Union again.

You say we have no right to legislate upon oaths of office. I will make you sick before I get done with this. [Laughter.] With this power and right of Congress the Representatives of the mighty American people, whose fathers have bled and died for liberty, and to whose descendants you and I stand covenanted and pledged, not only on earth but in heaven, to perpetuate the great charter of liberty, will assert and maintain that right to legislate upon oaths.

"Each House shall be the judge of elections, returns, and qualifications of its own members."

That is the Constitution. Can any one be mistaken? Can the wayfaring man, though a fool, err therein? Can the blind not see it? It is too plain to be mistaken. Having, then, this right to judge of the elections, of whom do we judge? We, who come here having the right in the first instance by having received the votes of the majority of the people, have the right to look into the elections. And in doing that we inquire first who voted for you. The qualified voters of the State have authority to vote for you under the Constitution and laws of the United States. That makes the qualified voter. Then, were you yourself qualified to be a representative as elected? If unqualified, due notice being given to the people of your district, every vote given for you was a nullity. And you being ineligible, how in the name of God could the vote given for you purge you of your ineligibility? It is morally impossible; it needs no argument. He that undertakes to argue that question only gets deeper and deeper in the mire. [Laughter.]

Then we judge of you, and what do we find? We find that when your country was in peril, when the notes of war were heard, you took sides against it. And not only that, but long after the first gun was fired on Fort Sumter, when the clangor of arms was heard, when the trumpet of war sounded like the trump of Gabriel, when the battle raged, and the land was deluged in blood and draped in mourning for the fallen, you spurned the flag of your country. It was the flag that is the ensign of hope for the down-trodden and oppressed of the world that you fired upon; the flag that was set upon the rock of American independence and watered by the blood of our fathers; the ensign of hope and prosperity, and of liberty, and freedom of thought and of action, a symbol everywhere and always of the great fundamental principle that lies at the foundation of our cherished republican institutions. Where in that dark hour were these gentlemen who claim that we must admit my friend, Mr. Brown? When that gun which bore forth the dreadful tidings of death and mourning to the land was fired against the flag which had been unfurled by the United States authorities, to do what? To protect the seas of the South from the piratical vessels of bad men and bad governments, like the watch-dog which the farmer places at his door to protect his property lest the thief enter in the night—when that gun was fired and our flag insulted, I ask where was young Mr. Brown, of Kentucky? Young man that he is, was he found in the ranks of death, doing battle for his country? Ah! no. Did he hear the trumpet-call of the nation and the thrilling battle-cry of freedom, inviting him to glorious deeds in defense of the outraged and imperiled flag? He heard the very earliest note, and how did he reply? Standing there and declaring that if Abraham Lincoln, who had then issued his call for troops, attempted to raise troops in the loyal State of Kentucky, and if any man in that State was truckling and low-lived enough to enlist and obey the call of his Government, that man ought to be shot down, and would be shot down, before he ever left the State of Kentucky, unless he was on the double-quick to get away! And now we are to let in such men as this; and are we to understand that there is no power under the Constitution to keep them out! God forbid! No rational man, speaking with an eye single to the good of the country and the protection and safe keeping thereof, could for one moment's time admit the idea that you must open your gates for the reception of those who are in deadly hostility against our republican form of Government and who are seeking to take the nation's life. It is impossible.

What further do I find—what further constitutional authority to guard this sanctuary?

I had just finished reading and commenting to some extent upon this fifth section of the first article of the Constitution which gives to the Congress of the United States the right to "judge of the election"—and what next? It does not stop there. It is an awful lion standing in the way and looking fearfully and dreadfully in our faces. It says: "Approach me no further." Why? "You are bringing this man in here thinking he has on wedding garments; go dress him over again." [Laughter.] Sir, we cannot let him pass this gateway; we are sworn to stand here and judge of his qualifications. Is he qualified? Who is to enter the kingdom above? Who do you admit into your church membership? They who have passed from death unto life. How shall you know that they have passed from death unto life? Because they love the brethren. [Laughter.] Do you love us? What is the next thing by which we judge if you are a clean sheep? When the shepherds are here do you cry out? [Laughter.] Do you know their voice? No, but you follow the voice of the stranger. [Laughter.] Then you are not of my flock. You must learn to purge yourself, [laughter,] and when you are once purged of sin do not do like the old sow, go and wallow in the mire again, or, worse than that, (I am sorry to be obliged to use this term,) like the dog, return to his vomit. [Great laughter.]

We must judge, then, of the qualifications of this man. Can we open the door to any man who would thus brand the Government with infamy, and by whom the declaration was made that if any son of Kentucky should respond to the call of Abraham Lincoln, who as President of the United States was sworn to enforce the laws, he should be shot down, and shot down before he could leave the State?

God knows I make with grief and sorrow to this House one of the most dreadful enunciations which could be made by civilized man who has lived for sixty years in the light of a civilized Government. What is it? That declaration of Brown was made too certain and too sure in Kentucky. Sir, to-day her soil is not yet dry because of the blood of her loyal men which has been shed in carrying out that declaration of one who now comes here and asks to be admitted to a seat, as if he was entirely pure and untarnished with crime.

Sir, would you think me a sane man if my people had raised a crop and had placed me as overseer in charge of it, all fenced in in good style, and then before it is gathered I should give way to another overseer who should tear down all the fences and let the stock in to destroy the entire crop? Would you think me a sane man if I did that? You, as men having the right to provide for yourselves and your families—and unless you have done that you have denied the faith—would say to me, "Go away, you unworthy servant; you have opened up the crop placed in your charge to all the thieves and robbers and destroyers generally, and you are not worthy to be received among us."

We cannot permit it, gentlemen; we must judge of your qualifications. Instead of planting the corn you have dug it up; instead of cultivating cotton you have cultivated weeds; instead of cultivating the true vine you have cultivated a wild and worthless vine. You have tried to carry the ark of the covenant into the camp of the Philistines. We have followed you up to the camp of the enemy, recovered it, and brought it back in triumph. And you on the other side cannot come in now until you have made apology for your crime—until you have brought forth fruits meet for repentance. Let me see you coming up to this political Mecca with your hands and knees bruised and bloody by the penances you have suffered for the crimes you have committed against your Government before you ask to be received again into the true fold. This cannot be unreasonable. It is only a decent respect for the memory of our common fathers, who left the blood from their naked feet upon the frozen clods of the northern winter and their bones to whiten the southern fields where they perished, that we their children might enjoy the inheritance of which you in your madness and wickedness tried to deprive us.

I trust I may be permitted to say to our Conservative friends here, if they want to convince people who have transgressed our laws and deserve six feet of rope, that we must be just at the same time we are merciful. I do not want to kill these individuals until they have had time to repent, though I am afraid they have committed the unpardonable sin against the political Holy Ghost. If they are weary and sick of their crimes let them bring forth fruits meet for repentance, and then they may expect to be saved by the same power that saved Judas, if the Almighty did save him. I must be allowed to say that the case of Judas presented in many respects more palliating features than does the case of these gentlemen. Judas betrayed his Master for thirty pieces of silver. These gentlemen betrayed their master for a few negroes and a little cotton, and that, too, entirely in anticipation. What is the next feature in the case of Judas? He had conscience enough remaining in his bosom to lead him to go out from among his followers with deep humiliation and grief for the crime he had committed, when his bowels gushed out. Has any of your bowels gushed out? [Laughter.]

I am prepared to judge of the tree only by its fruits. And I say to these gentlemen when your fruits justify it God knows I yearn to have you in with us again. But until I am assured that you are properly prepared I cannot vote to admit you. I do not care how "Brown" you are or how "Young" you may be.

I think we have the constitutional right to judge of the qualifications of this man; and having the right to judge of them we are justified in determining that he who would pull down and destroy is not the man to sit here to preserve and build up.

But we find in the Constitution still more touching this subject. I now turn to section eight, defining the powers of Congress. Every section of this instrument is a grand declaration of fundamental principles and powers, making together a mighty bulwark to defend the Republic against all assailants, to protect her sanctuary against every traitorous invader. Section eight declares the power of Congress to "provide for the common defense and general welfare of the United States." Here we see the Republic spreading herself in the majesty and grandeur of her power. Who shall set a limit to her dominion? Here is the charter of the vast power with which we are intrusted by the people. The people expect us to exercise this power in behalf of the best interests of the Republic. They never abandon those who do their duty; and those who fail to do their duty should be abandoned by the people. By this Constitution Congress has the power "to provide for the common defense and general welfare of the United States." Under this power we must protect the Government against its enemies by excluding from seats in this Hall all who cannot present unquestionable evidence of their loyalty.

But I turn to another provision of the Constitution. In the same section we find enumerated among the powers of Congress the following:

"To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations."

Was it not an offense against the law of nations to seek to prevent men, by force or intimidation, from joining the Federal Army called out to save the life of the Government? But it is said that in the case of this man from Kentucky the offense was committed under "very peculiar circumstances." I will admit that the circumstances were "peculiar." Kentucky is to-day as a State in "very peculiar circumstances;" and she has been from the beginning of the war. How long she is to remain in these "very peculiar circumstances" it is for this Congress to declare. If you desire my opinion as to what should be done, I say that Congress, under its power to "guaranty to each State a republican form of government," as provided in the fourth article and fourth section of the Constitution, should require of that State to make her government republican in form, under the alternative of being remitted to the condition of a Territory, subject, in all respects, to the legislation of Congress.

But, sir, we are asked to intrust the management of this Government to the hands of those who, during the recent rebellion, have sympathized with or actively aided the rebels. Why, sir, who would intrust the sick child to the care of the nurse that has attempted to poison it?

But, sir, I go on in the examination of the powers of Congress, and I find that it is authorized to "provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." Do you want broader power than that? It is broad enough to justify us before the people in all measures that may be necessary for vindicating the authority of the Republic. Let no man who is an enemy of the Government, who has given aid and comfort to those engaged in armed rebellion, come here to take a seat as a member of this House. If any man cannot swallow the test-oath which Congress has prescribed, that is not my fault; I did not arrange his political throat; he has done that himself. I say "Amen" to the dose; it is his business if he cannot swallow it. I do not think this test-oath is any too searching, though it searches the very soul. Andrew Johnson, the great prototype of our friends on the other side, was in favor of administering the dose in just this shape. Andrew Johnson said:

"If you hear a man croaking about the Constitution, spot him, for he is a traitor."

He said to the rebels:

"If you kill one Union man we will take the lives of four of the best of the rebels."

I do not go as far as that. Life for life would do me very well.

We have the right to call forth the militia to execute the laws of the Union. We exacted that right to prevent you destroying the life of the nation. You say that the rebellion did not go far enough to take you out of the Union. It did not go far enough to take out the territory of the rebel States, but it did take them out politically. You severed all connection with the Government of the United States; you seceded and went out of the Union; you cut off every ship that floated the stars and stripes from entrance to the southern ports; you seized every navy-yard, arsenal, armory, and every ship belonging to the Government that was within your power. You even went upon the high seas and captured every merchant ship that was engaged in peaceful commerce under our flag. Even when to feed our hungry soldiers we sent down ships laden with bread, you fired upon them. You went into this unholy rebellion, and we conquered you after a bloody war. We had the right to protect ourselves here or elsewhere. We did protect ourselves, and we will secure that protection by proper laws.

Now, I come down to page 13 of the Constitution, article one, section eight. What do I find there?

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Yet gentlemen say there is no authority in the Constitution to prevent any man coming here from taking the oath if he offers and is willing to take it; that I must be satisfied he is a worthy Representative, even though I know that he has imbrued his hands in the blood of his brethren! I will stand here, like Abel's blood, and cry aloud and spare not. I never will permit any such men to come into these Halls.

You say the prodigal son is a beautiful lesson for us to follow. Your prodigal is the reverse of the one there referred to. He repented and came back and asked a servant's place. Your prodigals have never come back and repented. They say that they have never sinned when they are stained black with crime; when from North to South they have furrowed the land with graves. And from these little hillocks go up the daily prayers of unnumbered widows and orphans beseeching protection against the smothered wrath of these same clamorous and graceless prodigals. If the sword of justice were allowed to sweep down upon them they would be sent where the first rebels have gone and be now lying in chains and amid the blackness of despair. Then do not come here and ask to be admitted to the brotherhood of loyal men. Come not here to touch the ark of the covenant in garments dyed with brother's blood. Oh, sir, can I make the picture black enough!

I think I have fully satisfied you of our power. There are two ways: we have the republican highway, along which every signboard says, "Well done, thou good and faithful servant." What does that on the other say? "Oh, you of little faith; to be sure, I stretched out my hand, and you went like the foolish man who had one talent; you have buried it; and when you return it to me I will give it to those who will improve it." If that is wrong blot it out of the Scriptures, or do not believe in them.

Then you say we ought not to punish you. That is what is the matter now. If we had made the punishment coextensive with the crime all that would have been troublesome or offensive now would be the smell. [Laughter.] Thousands of those who were not in their hearts guilty were drawn in by the paraphernalia of secession and the beat of the drums of treason, but more by whisky, the right bower of the Democracy. [Laughter.] The negro is their left bower, but we are about to take both away from you. [Laughter.] That will make you mourn like Rachel for her children. [Laughter.]

Now, I have shown the power in the Constitution. I come now to page 14 of the Blue Book. You see I take it page by page. [Laughter.] I do not like to skip here and there. I never saw a man in my life who was heterodox but what would take a little here and a little yonder to prove his case, leaving out a great deal between. But when I come before you I bring you face to face with the whole Constitution and smother you with it. [Laughter.] I have given you some very heavy doses, gentlemen. I know the remedies I have given you are desperate; but remember you are diseased from the sole of your foot to the crown of your head. Desperate diseases require desperate remedies. I am afraid many of you never will stand the operation. [Laughter.] The effect of it will be to produce mortification, I fear, [laughter;] but we had better have you sloughed off than have you slough off the Government. [Laughter.] So come up here as quick as you can and take the dose I am going to give you. [Laughter.] You have declared that all this apothecary stuff was good; now I am going to deal it out to you. [Laughter.]

"No State shall enter into any treaty, alliance, or confederation."

And yet you say they perpetrated no treason against this Constitution. You in Kentucky were so loyal in your conduct, and humane in your feelings, and national in your views, that you stood between the mighty forces of the Union on the one side and of the confederacy on the other, that undertook to destroy the Union. You said to the Army of the Union, "Do not invade the sacred, patriotic soil of Kentucky, for she stands neutral." She, in her majesty, was going to stand as a breakwater between the contending elements. You say she committed no offense when she said if a solitary soldier of that State whose citizens are the descendants of royal pioneers who felled the dismal forest and made the wildcats and Indians vanish before them—if a solitary soldier of that State enlisted in the Union Army he should be shot before he left the State.

[Here the hammer fell.]

Mr. KERR. I move that the gentleman's time be extended.

A MEMBER. Say ten minutes.

Mr. MULLINS. Ten minutes' time will be enough.

The SPEAKER. Is there objection to extending the gentleman's time ten minutes? The Chair hears none.

Mr. PRUYN. I would like to hear the gentleman explain the last clause in reference to the oath of office in the Constitution.

Mr. MULLINS. Yes, sir; I am coming to that, and it will be a dreadful time when I come to it. [Laughter.] As the gentleman seems now quietly disposed, I will take the patient in hand. I think he may be able to stand the dreadful administration of the dose without a dreadful struggle. [Laughter.]

"Before entering on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States."

Now, sir, can you put your hand on your heart—you who defend men in high places—and solemnly say before your country and your God that this oath has been lived up to by Buchanan and others? Can you swear or affirm it, though the world were put in one balance and your soul in the other. They give silence; they feel it. [Laughter.]

I will now quote from page 20 of the Manual. I read also from the Constitution:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

Does that apply to this case under consideration? Is there a man here who, before God and his country, will say that this man did not give "aid and comfort" to the enemies of the United States? Can you do it? Upon this question I tell you you must stand or fall, for this is the trying point in the case. Did he give them aid and comfort or counsel and encouragement when he stood up and said that those who enlisted in the Federal Army, if they lived in Kentucky, would have to get away immediately or be shot down? And that was done and has been done from that day to this?

But we are told that the peculiar condition of affairs in Kentucky justified him in saying what he did. Who can justify a son in the prime of his age who stands by and sees the murderer come and take the life of his mother, and say he was loyal to his mother? Better for him that a millstone were hung around his neck and he were cast into the depths of the sea!

I go on still a little further in the Constitution. [Laughter.] I will now read from page 23, article sixth, of the Constitution, the latter clause, and here comes another oath, "Why, it is not possible, MULLINS," I can hear some conservative gentlemen say, "that you have found another oath in the Constitution? We have never believed there was more than one." Gentlemen, it is a solemn fact. [Laughter.] I am ashamed to admit that you ever believed there was even one from your practices. I beg pardon. With all due respect, I always exclude the crowd present. [Renewed laughter.] But here it is:

"The Senators and Representatives before mentioned and the members of the several State Legislatures and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

There is another oath; and we have a right under the powers granted in this Constitution to impose a thousand others if it be necessary to preserve the life of the nation.

It is not necessary, gentlemen, that I should go on further with this, for I have gone now within one article of the last in the Constitution. [Laughter.] If you do not think that I have fully put on the armor and the panoply that is granted to this mighty Republican party that stand here in Congress with the sword of justice in their hands, but are yet holding it in mercy, to guard this gateway and prevent the entrance of the enemy within our fold, tell me what is lacking? I have gone through the Constitution from the first page down to within two of the last, and through the whole entire range of it there is not an article nor a section but what guaranties the right of the Government to self-protection. It is our duty to stand here and see that enemies do not come in. By this Constitution every civil and every political officer is required to take an oath, and we have a right to prescribe that oath. And when men come here whom the proof shows to have been guilty in every sense of rebellion, can you allow such men, with perjury on their consciences, to come up here and take the oath, even though their throats may be hard enough and broad enough to swallow it, and admit them within our fold and give them full fellowship upon this floor? If you can the people will hold you responsible when you go home as men who have proved unworthy, and you will be, like the ancient empires, swept out of place for the incoming of better and more faithful men.

How was it in ancient times? The hopes of the world were all suspended upon one grand result in reference to the blessings that were to come down from Heaven for mankind. I think before I have done I will quote a historian, which you will all allow to be a proper and legitimate authority. A man had an only son, who was the idol of his heart. Great promises had been made to him through the child for the nation. Time rolled on in that age of the world until that man was directed by high law that he must take his only child and murder him. Great God! was not that enough to shock the heart of humanity? And yet it was commanded to be done. He carried the young boy, only seventeen years old, out with him in the morning. The boy looked up to him with joyful, playful eyes. How could he doubt for a moment that his father was leading him by the side of still waters and out among blossoming gardens! He went out with his father trustingly. Said his father, "Gather up an armful of fagots, my son." He gathered them up in obedience to the command of his father. "Make an altar here, my son." The little boy made up the altar, still full of hope and faith in his father. "Cross your hands, my son." Obedient still, he crossed his hands, and his father took him and bound him and laid him on the altar. Then he drew from his bosom a dreadful sacrificial knife and raised it up to sacrifice his son. But from the Throne of Mercy there came a voice, saying, "Hold thy hand, Abraham." And in the thicket was found a lamb, who was offered up as a sacrifice, instead of his only son, Isaac. Sir, we must lead our son to the altar and be ready to offer him up as a sacrifice until one is provided in his stead. If we fail in our duty, we will be recreant to the trust reposed in us and disobedient to the command of the great God of Heaven.

Mr. KERR obtained the floor.

Mr. DAWES. If the gentleman from Indiana will give way I will move that the House now adjourn.

Mr. KERR. I will yield for that purpose.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. Before the motion to adjourn is made I ask unanimous consent to report from the Committee on Appropriations a bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1869.

No objection was made; and the bill was received, and read a first and second time.

Mr. WASHBURNE, of Illinois. I move that the bill be referred to the Committee of the Whole on the state of the Union, and made the special order for Monday next after the morning hour, and printed.

Mr. HOLMAN. I have no objection to that, but I desire to reserve any point of order that can properly be made upon the bill.

Mr. WASHBURNE, of Illinois. The gentleman can reserve any point of order he pleases.

Mr. HOLMAN. I do it, so that we may avoid having the bill read at length in the House, in order to make points of order upon it. I do not know what the bill contains, and I do not desire to have it referred to the Committee of the Whole without reserving any points of order that can be made upon it.

The SPEAKER *pro tempore*, (Mr. BOUTWELL in the chair.) All points of order will be reserved. No objection having been made, the bill will be referred to the Committee of the Whole on the state of the Union, made the special order for Monday next after the morning hour, and ordered to be printed.

Mr. ELDRIDGE. I object.

Mr. WASHBURNE, of Illinois. To what does the gentleman object?

Mr. ELDRIDGE. To what the Chair said there was no objection.

Mr. WASHBURNE, of Illinois. Then the gentleman is too late with his objection, for the Chair has already announced that none was made in time.

And then, on motion of Mr. DAWES, (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: The petition of Cary Clark and others, American citizens of African descent, of the city of Detroit, volunteers in the one hundred and second regiment United States colored troops, praying for bounty proportionate to their respective terms of service.

By Mr. CLARKE, of Kansas: A memorial of P. T. Kelley and 175 others, citizens of Wyandotte, Kansas, praying for the adoption of a law for the protection of American citizens traveling in foreign countries.

Also, the petition of George Geiger, John H. Edwards, and 200 others, in relation to location of Union Pacific railway, eastern division, through New Mexico via Santa Fé to the Pacific ocean.

By Mr. DRIGGS: The petition of L. C. Patterson and 175 others, of Lake Superior, asking Congress to save the copper interest of the county from ruin by foreign competition by a suitable protection.

Also, the petition of Rogers & Sheppard and 68 others, of Lake Superior, on the same subject.

Also, the proceedings of the board of supervision of Antonagon, Lake Superior, praying Congress on the same subject.

By Mr. MERCUR: The petition of officers and soldiers of Berwick, Pennsylvania, late of the Union Army, having pay for services due them, which the Court of Claims has adjudged ought to be paid, protesting against the passage of any law prohibiting their payment.

By Mr. PAINE: The petition of George Esterly and others, citizens of Wisconsin, for a modification of the internal revenue laws.

Also, the petition of D. R. Johnson and others, citizens of Wisconsin, for a modification of the internal revenue laws.

By Mr. WASHBURN, of Massachusetts: The petition of 142 citizens of the town of Leominster, in the ninth district of Massachusetts, praying that the rights of naturalized citizens may be protected against the unlawful acts of foreign Powers, and that Great Britain may be compelled to recognize their rights as American citizens.

IN SENATE.

MONDAY, *February* 3, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the Legislature of Wisconsin, in favor of an appropriation for the completion of the harbor at the mouth of the Manitowoc river in that State; which was referred to the Committee on Commerce.

He also presented the memorial of the Legislature of Wisconsin, in favor of granting an additional pension to Richard D. Dunphey; which was referred to the Committee on Pensions.

Mr. MORGAN presented the petition of the Roosevelt Hospital, by its trustees, for the passage of an act to confirm their title and more effectually to insure a full consummation of the charitable intent of James H. Roosevelt, deceased; which was referred to the Committee on Finance.

Mr. WILLEY. I offer a memorial of one hundred and thirty-three officers of the United States Army, who represent that they are honorably discharged officers of the late Army raised to suppress the rebellion, and that while in service as such officers there became due them, as a part of their compensation, pay for servants kept by them, at the rate of sixteen dollars per month from and after the 1st day of May, 1864, by virtue of the act of Congress, approved June 20, 1864, increasing the pay of the private soldiers of the Army. They further represent that at the time the pay of soldiers was increased to sixteen dollars per month, a question arose as to whether officers' allowance for servants should be commuted at that rate; several of the heads of Departments, among them the then acting Paymaster General, General Andrews, and other officers, upon examination of the matter, reported that they were entitled to this allowance, and accordingly an act of Congress was passed, approved March 3, 1865, which they represent meant to explain previous legislation in that respect, so as to entitle them to the pay they claimed; that is, the difference between sixteen dollars per month and eleven dollars per month, the pay which private soldiers have been receiving. They represent that notwithstanding this they have never received any such pay, and taking counsel they filed their claim before the Court of Claims, who unanimously decided that they were entitled to such pay; that the soliciter of that court in order to have the decision of the highest judicial tribunal in the land, has carried the matter to the Supreme Court of the United States, where it is now pending. They represent that on Monday, the 20th of January last, a bill was introduced into the Senate of the United States, which was designed to prohibit the payment to these petitioners of any portion of this claim. They think it is unjust, and they make a respectful appeal to Congress to take the matter into consideration, and not to pass the bill, and they offer their remonstrance to that effect. I move that it be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. FESSENDEN. I wish to present two petitions on the same subject from officers of the late Army residing in the State of Maine. Under the circumstances stated by the honorable Senator from West Virginia I move that they be referred to the same committee.

The motion was agreed to.

Mr. FESSENDEN presented a resolution of the Legislature of Maine, in favor of an amendment of the law providing for the taxation of the stock in national banks, so as to allow the several States to provide for the taxation of the same in the municipalities in which the stock is owned; which was laid on the table, and ordered to be printed.

He also presented a resolution of the Legis-

lature of Maine, in relation to the protection of naturalized citizens of the United States; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. HOWE presented resolutions of the Legislature of Wisconsin in relation to the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

Mr. CAMERON presented a petition of citizens of Pennsylvania, praying that the status of naturalized citizens may be defined before the world, and that the Government of Great Britain may be compelled to do justice to citizens she has imprisoned and now holds in durance, contrary to their rights as American citizens; which was referred to the Committee on Foreign Relations.

He also presented a petition of citizens of Pennsylvania, praying such legislation as will protect American labor and industry; which was referred to the Committee on Finance.

He also presented additional papers in relation to the claim of Caroline M. Purviance and Francis Wyeth, for compensation for property used and destroyed by military forces of the United States at St. Joseph, Missouri; which were referred to the Committee on Claims.

Mr. POMEROY presented a resolution of the Legislature of Kansas, in favor of the ratification of a treaty between the United States and the Shawnee Indians, for the sale of the unselected portion of the land known as the Shawnee Indian reservation, and the protection of settlers thereon; which was referred to the Committee on Indian Affairs.

He also presented resolutions of the Legislature of Kansas, in favor of the extinguishment of the Indian title to the Osage reservation, lying north and west of the Arkansas river, and that the same may be made subject to the homestead and preëmption laws; which were referred to the Committee on Indian Affairs.

He also presented a resolution of the Legislature, of Kansas in favor of restoring to the public land system the lands along the line of the Pacific Railroad, so that the same may be opened to the preëmption and homestead laws; which was referred to the Committee on Public Lands.

Mr. WILSON. I present the petition of John Beeson, chairman, and Annie Denton Bridge, secretary, in behalf of the Universal Peace Society, asking the appointment of commissioners to go to Alaska to look into the condition of the Indians there, in order to prevent the same policy being adopted toward those Indians which has been adopted in other Territories and which has led to war and their extermination. I move its reference to the Committee on Indian Affairs.

The motion was agreed to.

He also presented a petition of ordnance sergeants of the Army, praying that their designation may be changed to that of "fort wardens," and that their pay and rations may be increased; which was referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented a letter of the Secretary of the Treasury addressed to the chairman of the Committee on Finance, in relation to the reorganization of the Treasury Department; which was referred to the Committee on Finance, and ordered to be printed.

Mr. THAYER. I desire to present the proceedings and resolutions of a large public meeting held at Omaha in Nebraska, to give expression to their views on the subject of the rights of American citizens, and especially the unwarrantable seizure and imprisonment by the British Government of American citizens, both native and naturalized. In presenting these proceedings I desire to remark that they, together with the memorials which are presented here from day to day on the same subject, only demonstrate the universal interest felt by our people in this great question; and it seems to me the time has arrived when some action should be taken by the Government, for that Government which does not cause the rights of its citizens, both native and naturalized, to be respected in foreign countries certainly will not long itself be respected. If the executive department of this Government would devote as much time and energy to the protection of our citizens while abroad as it does to the purchase of earthquakes and tornadoes, it would more effectually subserve the rights and interests of the American people. I move that these proceedings be referred to the Committee on Foreign Relations.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILLEY, it was

Ordered, That the memorial of James C. Pickett be withdrawn from the files of the Senate, and referred to the Committee on Foreign Relations.

On motion of Mr. WILLEY, it was

Ordered, That J. F. Caldwell have leave to withdraw his petition from the files of the Senate.

On motion of Mr. CHANDLER, it was

Ordered, That Janes, Fowler, Kirtland & Co. have leave to withdraw their memorial from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 173) for the relief of Ann M. Robas y Robaldo, widow of Francisco Robaldo, deceased, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 272) for the relief of Captain McMahon, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

TAXING OF NATIONAL BANK SHARES.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 512) in relation to taxing shares in national banks, to report it without amendment.

Mr. EDMUNDS. Why not put it right through?

Mr. SHERMAN. I have no objection. If you want to do so you can ask it.

Mr. MORRILL, of Vermont. I hope the chairman of the Committee on Finance will ask to have that bill put on its passage. I presume there is not a member of the Senate who will object to it.

Mr. SHERMAN. If it is the pleasure of the Senate, as the bill is short and presents but a single point, we may as well pass it now. I do not like to ask it if anybody objects; but if there is no objection I should like to have it considered.

Mr. SUMNER. What is the bill?

The SECRETARY. A bill (H. R. No. 512) in relation to taxing shares in national banks.

Mr. CONKLING. Let the bill itself be read. It is very short.

The Secretary read the bill, as follows:

Be it enacted, &c., That the words "place where the bank is located, and not elsewhere," in section forty-one of the act to provide a national currency, approved June 3, 1864, shall be construed and held to mean the State within which the bank is located; and the Legislature of each State may determine and direct the manner and place of taxing all the shares of national banks located within said State, subject to the restriction that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State: *And provided always*, That the shares of any national bank owned by non-residents of any State shall be taxed in the city or town where said bank is located, and not elsewhere.

The PRESIDENT *pro tempore*. The Senator from Ohio asks for the present consideration of this bill. It requires unanimous consent. The Chair hears no objection, and the bill is before the Senate as in Committee of the Whole.

Mr. NYE. My attention was called away for a moment, and I did not hear the first provision of that bill. I ask that it be read again.

The Secretary again read the bill.

Mr. SHERMAN. Perhaps I ought to explain to the Senate very briefly the point the House propose to accomplish by this bill. Under the forty-first section of the banking law, as it stands, all national bank shares are subject to State taxation, but only at the place where the bank is located. Take the case of Maine, for instance; the bank is located at Portland, and the tax can only be assessed at Portland, while the stockholder may live elsewhere. This bill will authorize the State at its pleasure to tax the shareholder at the place of his residence, not the place where the bank is located. I believe that is the only point.

Mr. CAMERON. I did not hear the bill read very distinctly, and I should like to ask the chairman of the Committee on Finance whether such a case as this is provided for: a bank is established in the city of Columbus, Ohio, and the shareholder lives in the State of Pennsylvania: does it provide for collecting the tax from that shareholder at the bank?

Mr. SHERMAN. Under the law as it now stands a non-resident stockholder may be taxed at the place where the bank is located, and this bill does not change the law in that particular. The last clause provides that where the shareholder does not reside within the State then that the stock may be taxed at the place where the bank is located.

Mr. EDMUNDS. It is all right.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 309) to promote the efficiency of the Indian department; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 310) to incorporate the Georgetown and Washington Canal and Sewerage Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 311) to provide for a gradual reduction of the military forces and to discontinue certain unnecessary grades therein; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 312) granting lands to aid in the construction of a railroad and telegraph line from Fort Scott, Kansas, to Sante Fé, New Mexico; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 313) requiring persons applying to Congress for the extension or renewal of patents to give public notice thereof; which was read twice by its title, referred to the Committee on Patents and the Patent Office, and ordered to be printed.

PROTECTION OF IMMIGRANTS.

Mr. COLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate whether any, and if any what, further legislation is necessary to secure to immigrants from foreign countries a greater degree of safety, comfort, health, protection in morals, and better treatment generally, than is provided by existing laws.

Also, to what extent and in what particulars the necessary provisions of law can be and should be made applicable alike to sailing vessels and to vessels propelled in whole or part by steam.

Also, to what extent and in what particulars those provisions of law can be made and should be made applicable to vessels owned altogether by citizens of foreign countries.

Also, to what extent and in what particulars those laws should apply to immigrants from ports other than European ports.

Also, whether the existing laws apply equally to steerage passengers both to and from the United States; and if not, what additional legislation is advisable in this respect.

CUSTOM-HOUSE STORES IN NEW YORK.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and is hereby, requested to report to the Senate the amount paid for rent of the public stores in the city of New York; and also whether, in his judgment, a more suitable location or locations in respect to safety and convenience for customs warehouses may not be obtained, and at a large saving of expense.

MISSOURI TROOPS.

Mr. WILSON. I appeal to the Senate to take up a joint resolution of some nine lines which is in my charge. I shall necessarily be absent from the Senate for some days after to-day, and I am very much pressed to have this resolution acted on. I move to take up the joint resolution (S. R. No. 81) placing certain troops of Missouri on an equal footing with others as to bounties.

The motion was agreed to; and the joint resolution was read the second time and considered as in Committee of the Whole. It provides that the troops recognized in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, shall be considered as placed on an equal footing with volunteers as to bounties, and that all laws relating to bounties be applicable to them as to other volunteers.

Mr. WILSON. I will simply say that this joint resolution passed both Houses without opposition at the last session of Congress, and by accident was not sent to the President in time to be signed. The Senator from Kansas, who is a member of the Committee on Enrolled Bills, [Mr. Ross,] happening to mislay it, the resolution was lost. I hope there will be no opposition to putting it on its passage now.

Mr. HENDRICKS. I will ask the Senator having charge of this measure why these soldiers did not get their bounty.

Mr. WILSON. I will simply say, in reply, that we authorized by special act the raising of ten thousand troops in the State of Missouri at a critical time, when there was great danger that that State would be lost to us, and they were raised as local troops, but were immediately put into the service and went into Arkansas and other parts of the country, fought through the whole war, served three years, and stand on the same footing in regard to service with all other troops, and in no sense of the word can they properly be considered as local troops. They were cut off from bounty on account of their having been raised originally as local troops. The measure was unanimously reported from the Military Committee last year and passed both Houses without opposition, and failed to become a law simply by reason of an accident.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had, on the 31st of January, approved and signed the joint resolution (S. R. No. 75) limiting contracts for stationery and other supplies in the Executive Departments to one year.

MICHIGAN AND WISCONSIN LAND GRANTS.

Mr. POMEROY. I move that the Senate proceed to the consideration of House joint resolution No. 91. It is merely a joint resolution extending the time for the completion of a certain railroad, so that the company shall not forfeit its rights.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin.

Mr. POMEROY. The bill was under consideration one morning and went over at the close of the morning hour. It is in the Senate, and the question is on ordering it to a third reading.

Mr. EDMUNDS. I desire to move an amendment, and I should like to have the joint resolution read in the first place, so that the Senate may understand it.

The Secretary read the joint resolution as follows:

Be it resolved, &c., That a failure to grade twenty miles of the roads within two years from the passage of the act entitled "An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin," approved on the 3d day of March, A. D. 1865, and twenty miles additional thereof in each year thereafter, as required by said act, shall not cause any forfeiture or reversion to the United States of any lands granted to the said States, or either of them, to aid in the construction of the railroads described: *Provided*, That said companies, or either of them, shall fully complete their said railroads in the manner required by law on or before the 31st December, A. D. 1872, at which time a failure shall forfeit the lands to the United States.

SEC. 2. *And be it further resolved*, That the Commissioner of the General Land Office be, and he hereby is, authorized and directed to cause a patent, in due form of law, to be issued to the Chicago and Northwestern Railway Company, in pursuance of a resolution passed by Congress granting the same to the State of Wisconsin, approved April 25, A. D. 1862, and an act of the Legislature of Wisconsin, approved June 16, A. D. 1862, granting the same to said company for eighty acres of land of the Fort Howard military reserve, as the same was surveyed and approved by said Commissioner on the 11th June, A. D. 1864.

Mr. EDMUNDS. I move to amend the first section by adding to it the following proviso:

Provided, That the provisions of this section shall apply only to the chartered and projected line of railway from the city of Green Bay, in the State of Wisconsin, northerly to Escanaba, in the State of Michigan, and the chartered and projected line of railway from Marquette, in the State of Michigan, westwardly to Ontonagon, in the same State.

Mr. HOWE. I wish my friend would not urge that amendment, for several reasons. First, I do not want the joint resolution amended at all, unless it is necessary to amend it, because an amendment sends it back to the House of Representatives. Besides, I think my friend will concede that, if some amendment ought to be adopted, it should not be in this language, because there is really no line of railway organized from Green Bay to the Menomonee river. The line is from Fond du Lac to the State line; that is, the line of railway which was endowed by the act of Congress making this grant. The road, it is true, has been built from Fond du Lac to Green Bay, or to the mouth of Fox river, opposite Green Bay, and the only part of the line to be completed is from that on to Escanaba; but the line from Fond du Lac to Escanaba and the line from Marquette westward are, I think my friend will concede, the only lines which are included in the section as it stands. If he thinks otherwise I should like to know why he thinks so; for I am very confident that the resolution was not intended to cover any other lines, and that it does not. I have looked at the act to which it refers with some care with reference to that point, and that was the conclusion I came to.

Mr. EDMUNDS. If the amendment that I propose does not describe the line to which it is intended to apply in a manner satisfactory to my friend I will change "Green Bay" to "Fond Du Lac," if that will satisfy him, and I will modify the amendment according to his suggestion by striking out "Green Bay" and inserting "Fond Du Lac." That will obviate that objection.

Then the question is, whether it is desirable to insert this proviso at all. The resolution, as it comes from the House of Representatives, is a very general one; it refers to previous legislation which contains grants to half a dozen lines of railroad all over the State of Michigan, and I do not know but all over the State of Wisconsin. I do not know what the condition of those lines is; I do not know whether they have been completed or not. I do not know but that they have justly perfected the grants that were given to them years ago; I presume many of them have. Now, it is said by the friends of this measure—I do not allude to my friend from Wisconsin, because he is candor itself—it is said by the gentlemen who want this measure passed that all they want is the simple privilege of extending the time for them to build the road from Green Bay, in the State of Wisconsin, to Escanaba, in the State of Michigan, northward a distance of fifty, sixty, or one hundred miles. On consideration I withdrew any objection I had to the time being extended for them. Although it is not a very strong case on which it is sought to extend it, I was willing to concede that much. Then they say it is a necessary part of the success of that line that the road from Marquette, on Lake Superior, westward to Ontonagon should also be built. That line, confessedly, has been abandoned by the company to whom the State of Michigan chartered it in the first place, but the gentlemen interested in the line through Wisconsin to Marquette, by way of Escanaba, desire to have it revived and to get hold of it to extend their line further west. I was willing to go that far and put that in, but I do not desire the general language of this section to be lifted up by and by by somebody who gets hold of some other dead grant, and to have it contended that the generality of this language, applying to these former statutes where there were so many grants, opens up anything else.

Therefore, I have named in explicit terms the exact lines of railway projected to which it is intended this relief shall apply; and if these gentlemen are sincere—and I suppose they are; I know my friend is—there can be no possible objection to it. I have examined these statutes, and I do not agree with my friend from Wisconsin in supposing that it is at all clear that this resolution as it stands will not apply to anything besides the lines named in my amendment. I am rather inclined to the opinion that it will; and if I had not supposed that the gentleman who drew up this resolution, whoever he was, was a very candid and ingenuous man, I should have supposed it was an ingenious effort, by using confused and involved language referring to these old acts, to revive sundry grants that do not appear upon the surface; but of course that is not to be supposed. But to save all possible question and to make our legislation clear, so that we shall know without dispute where we stand and what we are doing, it is necessary, in my judgment, to adopt this amendment.

Mr. HOWE. If it was necessary I would consent to it at once. I do not want to provide for any roads except those which the Senator says he is willing to provide for. Let any lawyer look at the acts and see whether the amendment is necessary or not. The section that I ask the Senate to adopt, the section which the House has agreed to, provides:

That a failure to grade twenty miles of the roads within two years from the passage of the act entitled "An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin," approved on the 3d day of March, A. D. 1865, and twenty miles additional thereof in each year thereafter, as required by said act, shall not cause any forfeiture or reversion to the United States of any lands granted to the said States or either of them.

Now, what are these certain roads which are provided for in that act of 1865? They are these:

"That there be, and hereby is, granted to the State of Michigan, for the purpose of aiding in the construction of a railroad from Marquette, on Lake Superior, to the Wisconsin State line, at or near the mouth of the Menomonee river"—

That is, where it joins with the road from Fond du Lac north to the State line; that is a part of what is now known as the Northwestern railroad—

"for the benefit and use of the Chicago and Northwestern Railway Company, a corporation of the States of Michigan, Illinois, Wisconsin, and from Marquette to Ontonagon"—

The first road running south from the Menomonee river, and from Marquette to Ontonagon running west—

"for the use and benefit of the Marquette and

Ontonagon Railroad Company, a corporation of the State of Michigan, and for twenty miles westerly from Marquette of the Bay de Noquet and Marquette railroad, for the benefit and use of the Bay de Noquet and Marquette Railroad Company, four alternate sections of land, per mile"—

That is, four sections in addition to what had been granted—

"to that already granted by act of Congress approved June 3, A. D. 1856, and joint resolution supplementary thereto, to be selected upon the same conditions, restrictions, and limitations," &c.

The land is to be selected from the alternate sections.

"That the time for the completion of the railroad from Fond du Lac, on Lake Winnebago, to the Wisconsin State line, at or near the mouth of the Menomonee river, shall be, and hereby is, extended for the period of five years from and after the 3d day of June, 1866. That each of said companies"—

What companies? Why those, I take it, to whose benefit this act inures, and those companies are named in the first section. One is the Chicago and Northwestern Railway Company, another is the Marquette and Ontonagon Railroad Company, and the other is the Bay de Noquet and Marquette Railroad Company—

"T at each of said companies shall grade, in a good and substantial manner, ready for the ties, twenty miles of its road within two years, and twenty miles additional thereof in each year hereafter: *Provided*, That if said companies, or either of them, shall neglect or fail to do so, or to complete its road within the time herein specified, the land granted to such company shall revert to the United States."

It is to get rid of that forfeiture, to save them from the necessity of grading twenty miles of road each year, and especially the next season, that we ask for the passage of this resolution. It releases these companies from that obligation.

Mr. CONKLING. Will the Senator permit me to ask him a question?

Mr. HOWE. Yes, sir.

Mr. CONKLING. I should like to know whether the amendment proposed by the Senator from Vermont does sufficiently point out and adequately include these two roads?

Mr. HOWE. I have not seen the proviso offered by the Senator from Vermont.

Mr. CONKLING. If it does include what the Senator from Wisconsin deems essential then I should like to know what the objection to it is.

Mr. HOWE. It would send the resolution back to the other House; that is the objection. I have no other objection in the world. I should like to have the amendment read.

Mr. HENDRICKS. When this measure was up before I called attention to its provisions, and thought it not certain as to the roads that it described, and on my motion its further consideration was postponed. Since then I have examined it with the Senator from Wisconsin, and I think it really includes only the roads that he mentions, the one extending from Green Bay to Marquette, and thence westerly to Ontonagon. If it did include some other roads I should not vote for it; but as I think it includes only the roads that he refers to I do not think the amendment proposed by the Senator from Vermont is important. If, however, the proper construction of the resolution should be that it includes other roads in the States of Michigan and Wisconsin then I think the amendment is important. But as I think the resolution as it is now framed only includes the roads the Senator from Wisconsin claims it to include I shall vote against the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont.

Mr. MORTON. I should like to hear the amendment reported.

The Secretary read the amendment, which was to add at the end of the first section the following proviso:

Provided, That the provisions of this section shall apply only to the chartered and projected line of railway from the city of Fond du Lac, in the State of Wisconsin, northerly to Escanaba, in the State of Michigan; and the chartered and projected line of railway from Marquette, in the State of Michigan, westwardly to Ontonagon, in the same State.

Mr. HOWE. Now, in answer to the inquiry put by the Senator from New York, I will say that it is noticeable that the proviso confines the operation of this section to two lines of railway, while this grant was made for the protection of three distinct companies mentioned in the act. One is the Chicago and Northwestern, another is the Marquette and Ontonagon, and the other is the Bay de Noquet and Marquette road. I know very well what the chartered rights of the Chicago and Northwestern Company are, but I do not know how these franchises are divided between the Marquette and Ontonagon Company and the Bay de Noquet and Marquette Company; so that I really cannot tell whether the language employed by my friend from Vermont, which covers the line from Marquette to Ontonagon, covers the franchise belonging to both these companies or not.

Mr. EDMUNDS. Will my friend allow me to make a suggestion to him?

Mr. HOWE. Yes, sir.

Mr. EDMUNDS. I do not wish to claim to be wiser than my friend, living so far off as I do, but with all modesty I will suggest to him that I suspect I know a little more about this than he does himself. The friend of my friend who lives at Green Bay, whose name I have forgotten, certainly a very honorable and intelligent man, came to see me on the subject, and explained the whole matter to me. I asked him if all that he wanted was to cover this gap of unbuilt road between Green Bay and Escanaba and to gather up the now forfeited grant from Marquette to Ontonagon? He said it was; that it was not intended to apply to anything else; it was all he wanted, and his only objection to the amendment was that made by friend, that he really did not think it was necessary; that it was not intended to cover anything more; and it would require a day or two more to get the thing back and have the amendment agreed to by the House. The railway mentioned as the Little Bay de Noquet and Marquette railway is already built and completed, running, and has been for years, and has become invested with all the rights and grants that the act of Congress and the acts of Michigan have given to it; so that that is built and done and has been running. I know that personally, for I have been over it myself since it was built. Therefore, there is no question as to the fact that the proviso that I desire to have added to this resolution for certainty and security covers all that the Chicago and Northwestern Railway Company, represented by this intelligent and, I am bound to say, perfectly candid man who came to see me about it, desire to have it done. The only point, therefore, is, whether it is desirable to make this certain in connection with these old acts of 1856, which are referred to in the act of 1865, and are jumbled into the act of 1865 again, or not. I would not propose this amendment, because I have no objection to this resolution, if I did not believe from the examination I have made of it that it is necessary to secure any possible misconstruction. It is not with a view to embarrass the resolution.

Mr. HOWE. Now, Mr. President, I am not at all sure that my friend does not know more about this matter than I do, but I am sure he has not told anything more than I know. I know that a road has been built from Bay de Noquet to Marquette; but I know another thing, and that is, that the franchise from Marquette to Ontonagon is divided between the Bay de Noquet and Marquette Company and the Marquette and Ontonagon Company; so that, while the Bay de Noquet and Marquette Company have built a road between those two points, they have not built all the road which their charter authorizes them to build; for, as I understand it, it includes a part of the way between Marquette and Ontonagon; that is, running from the junction at a place called Negunee, they go on west toward Ontonagon, but I do not know how far, and I do not know whether they have completed that part of the way or not. But I know just as well as my friend does that those who drafted this resolution do not want to cover anything more than the rights secured to those three companies under that act, and I must insist that, inasmuch as those three companies are expressly named here in this section, and as this resolution only saves the rights which are secured to the companies named here, there cannot be the slightest necessity for this amendment. There is a serious objection to sending the resolution back to the House of Representatives because it will take time, and it opens the thing to the accidents which attend legislation in that House. I should be very sorry to have it go back unless there is some substantial right to be protected.

Mr. POMEROY. I think the Senate had better adopt this amendment and let us pass the resolution, as the morning hour is about expiring, and it has been up once or twice before. The amendment of the Senator from Vermont is certainly a safe one. There can be no objection to it on the score of safety, and I think we had better take a vote upon it.

The PRESIDENT *pro tempore*. The morning hour having expired, the bill of the House relating to reconstruction is before the Senate, on which question the Senator from Connecticut [Mr. FERRY] has the floor.

Mr. DOOLITTLE. As I understand the Senate is ready to vote on this resolution, I ask the honorable Senator from Connecticut whether he will not consent to allow the special order to be passed over informally for the purpose of taking a vote?

Mr. FERRY. Certainly, if a vote can be taken without debate.

The PRESIDENT *pro tempore*. By unanimous consent the vote can be taken on the matter under consideration. The Chair hears no objection, and the question is on the amendment offered by the Senator from Vermont.

Mr. MORTON. For one I am not satisfied with the face of this resolution. I shall vote for the amendment of the Senator from Vermont; but, sir, I know of no reason why a very important resolution of this kind should not describe the railroads on which these lands are to be conferred, and the failure to construct which in the time fixed is not to work a forfeiture. There is a general reference here to another act. There may be several acts of perhaps very nearly the same title. I am sure there are very few Senators on this floor who know just exactly what they are doing in voting for this measure.

Mr. HOWE. Will my friend from Indiana allow me——

The PRESIDENT *pro tempore*. As debate is going on, the joint resolution must be laid aside. The permission of the Senate was to lay aside the special order in order to take the vote on this matter, not to continue debate upon it.

Mr. HOWE. I rose to propose that it should lie over, so that my friend from Indiana may examine it.

Mr. HOWARD. I hope it will lie over until to-morrow.

The PRESIDENT *pro tempore*. It goes over of course, the special order being before the Senate.

SENATOR FROM MARYLAND.

Mr. JOHNSON. I gave notice on Friday that I would ask the Senate to take up to-day the case of my colleague; but, on reflection, I think it is desirable that the debate upon the measure now before the Senate should be concluded, and I will therefore postpone the calling up of his case until that shall happen.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill with instructions to the Committee on the Judiciary.

Mr. FERRY. Mr. President, it will perhaps be well to recur for a moment to the origin of this debate in order to obtain a clear apprehension of the issue which is now under consideration. A few days ago a bill came from the House of Representatives additional and supplementary to the acts ordinarily called the reconstruction laws, and upon the usual motion to refer the Senator from Wisconsin [Mr. DOOLITTLE] moved certain instructions to the Judiciary Committee which in effect would so far modify the existing laws as to destroy their efficacy and entirely subvert the intention of Congress in their passage. The object of those laws, as I have hitherto understood them, was originally so to reorganize southern society that the control of that society should pass forever out of the hands of the oligarchy which had plunged the ten States whose condition we are considering into rebellion and civil war, and remit that control to loyal hands. The necessary effect of the instructions moved by the Senator from Wisconsin, if carried into effect by legislation, will be to restore to that oligarchy the dominion of southern society indefinitely in the future, and to hazard, therefore, the return of the evils which we have so recently experienced.

I suppose, indeed, that in moving these instructions the Senator from Wisconsin was but carrying out the policy of the President of the United States, in whose annual message the repeal of the whole system of reconstruction adopted by Congress was recommended. The instructions, therefore, moved by the Senator from Wisconsin and the recommendations of the President in his annual message upon this subject of reconstruction are identical in spirit and effect. But it will be borne in mind that from the very close of the war the President has had a policy of his own, and of that policy the Senator has been one of the most earnest and able supporters. He is so to-day; and that policy, from the beginning down to the present time, has had its constitutional foundation upon that portion of the organic law of the Republic commonly called the guarantee clause. It was cited by the President in the first enunciation of his policy. It is the foundation upon which the instructions proposed by the Senator from Wisconsin himself must rest; and the Senator from Indiana [Mr. MORTON] in his very able speech accepted the premises thus laid down by the President and by the Senator from Wisconsin, and thence proceeded to demonstrate that the reconstruction laws were not only valid but expedient and necessary to the national safety. That argument upon those premises is as yet unanswered, and is, in my judgment, unanswerable.

And it appeared to me in the progress of the debate that it was so regarded by the Senator from Maryland [Mr. JOHNSON] and by the Senator from Pennsylvania, [Mr. BUCKALEW,] for both those distinguished gentlemen began their remarks with repudiating the premises proposed by the President in the original enunciation of his policy, and accepted as the basis the argument by the Senator from Indiana. Let me read a few words from the speech of each of the Senators to whom I have referred. The Senator from Maryland said:

"The honorable member from Indiana, however he may be able to involve in inconsistency the President of the United States or those who may have maintained the constitutionality of his policy in relation to this particular question, cannot so involve me."

The Senator from Pennsylvania said:

"I am perfectly aware of the argument which is made against the President of the United States in connection with reconstruction under his proclamation. It is not material to me to enter upon that debate and to vindicate him in all respects."

And both Senators thereupon proceed to deny the applicability of the guarantee clause of the Constitution to the present condition of the unreconstructed States and to assert that the system of reconstruction adopted by Congress is without warrant in the Constitution, and therefore at once invalid and oppressive. It would seem, therefore, that a new issue is thus presented to the Senate, an issue based upon the general denial of the agreement of the system of reconstruction hitherto adopted by Congress with the organic law of the Republic; and it is that issue which I accept.

I ought to remark, in the outset, that Senators who insist that these laws are unconstitutional and therefore ought to be repealed have upon them the burden of proof. The reconstruction system adopted by Congress is the law of the land. It is as valid, as binding upon the conscience and action of every citizen of the Republic as if it had received the approval of the President and had been sanctioned by the judiciary. Nor is this all. It is not only the law of the land but experience has proved that it is beneficent in its operation. Before the adoption of the system anarchy was the law of the unreconstructed States, property was insecure, life unsafe, disorder reigned everywhere. Under the operation of this system life and property have become secure, disorder is repressed, and society is again returning to its normal condition; and therefore Senators who demand of us the repeal of these laws upon the alleged ground of unconstitutionality take upon themselves the burden of proof.

It is insisted that the laws are unconstitutional because they infringe, first, the rights of the States; secondly, the rights of individuals; and the point of the objection is the same which has divided parties in this Government for half a century, the denial of the true nationality of the American people.

It becomes necessary, therefore, to establish a proposition which at the first utterance may seem to be too plain to need argument, that the people of the United States of America are one nation, that the political state they constitute is one Republic, and that there exists within it one true and complete sovereignty.

It is true, sir, that in the early history of the Republic the framers of the Constitution in the Convention of 1787 shrank from an explicit utterance upon this question. There were jealousies, timidities, suspicions among the public men of the different States to which so much had to be yielded by the fathers of the Republic, and their action, therefore, left open to some extent the question of nationality. During the administration of Washington the respect felt for the character of that great man and for his eminent services, and the universal confidence in his sagacity and patriotism, kept the subject in abeyance; but in the exciting contests which grew up during the administration of the elder Adams the question once more arose to the surface, and in the Kentucky resolutions of 1799 Mr. Jefferson, then the leader of the party in opposition, promulgated doctrines subversive of the national idea. A contest more or less vehement, and more or less embittered, of sixty years' duration ensued—a contest for that period intellectual in character, but culminating at last in a conflict of arms and the miseries of civil war. And now, sir, after these conflicts are over the country has accepted the determination that the question is at an end, and that in law and in fact the people of the United States, from the foundation of the Government to the present hour have been, and from the present hour all through the future of the Republic are to be, one nation.

When the contest began what did the people go to war for? When the guns were fired on Sumter and the old flag floated from every hill-top of the North, and your young men flew to arms from the Atlantic to the Mississippi, what was the watchword on their lips? They were going out to defend the Union. And what was the Union? A mere confederation of sovereignties? Why, sir, there have been such unions which were not worth preserving, but underneath our word "Union" was hidden the reality of American nationality. It was that which your armies went forth to sustain; at the end, when the strife was over, the people of this country throughout its widest extent, accepted its decision, and thenceforth the word "national" gives character to the acts of your Legislature, is written on the face of your currency, is on your lips in daily utterance, and gives life and meaning to the unity of the Republic.

As I said, the war has decided not only that we are a nation but that we have been a nation from the beginning; and, I add, a nation in which there is a complete and entire sovereignty, which has proclaimed itself in the preamble to the Constitution: "We the people of the United States of America do ordain and establish this Constitution." It is the language of a sovereign demanding for the people supreme authority of the nation which they constitute.

Thus far I perhaps may seem to have been arguing only truisms. I now go a step further and assert that this sovereignty is exercised primarily through the suffrage; that the right of suffrage in the individual man is derived from his participation in the sovereignty of the Republic; that if that participation is lost, with it the suffrage and all that flows from it are also lost. The sovereignty is exercised secondarily by representation, not simply in the Federal Legislature or Government, but it is thus exercised both in the Federal and State governments and in all branches thereof. The sovereignty of the people is that of each individual over all and of all over each. It is exercised confessedly through the Federal Government in its various branches, but ordinarily not conceived to be exercised in its national character through the governments of the different States; but it is the same sovereignty that is exercised in the one as in the other. Establish the principle that this people are and ever have been a nation, that the sovereignty of that nation rests in the people themselves, and all municipal and State organizations revolve around the great central orb, the nation. It is not, as suggested by the Senator from Pennsylvania, that State governments and State organizations are the ligaments which bind the States to the Federal Union; it is the national sovereignty that binds the States to the Union, and the object of its exercise alike in the Federal and State systems is the security and happiness of the whole American people.

The Senator from Pennsylvania told us that to the action of the people of the South in their State organizations we were aliens and foreigners. Sir, it is not so. There is no citizen of any State that is an alien and a foreigner to me. There is no State whose governmental action is alien and foreign to the citizens of any other State. The States exercise their respective powers, not simply for local benefit, but in harmony with the action of the Federal Government itself for the welfare of the whole; and it is only because in the formation of this Government the fathers acquiesced in the existing State system when they constituted this people one nation, because under our democratic system local self-government is best calculated to insure the safety of the State and the happiness of the people, that the State governments exercise the functions or the portions of the functions of national sovereignty which they do.

The people of the ten States whose condition is now under consideration were, until the occurrence of the events to which I am about to allude, coproprietors in this national sovereignty—coproprietors with all the rest of the people, each over all and all over each. But upon the election of Mr. Lincoln, in the autumn of 1860, their Legislatures convened and called upon the people to assemble in convention for the purpose of considering the propriety of withdrawing from obedience to the sovereignty of the Republic. The people elected delegates to those conventions, and made their first step in the downward road to ruin. The conventions adopted ordinances throwing off their allegiance and renouncing their obedience to the national authority, and the people, either at the ballot-box or by acquiescence in every one of these ten States, adopted and ratified the action of the conventions. And here, sir, lest I should be misapprehended, let me say that when, in this connection, I use the words "the people," I

accept the definition given by the Senator from Pennsylvania, [Mr. BUCKALEW,]—"the qualified electors of these States under their then existing laws and constitutions," either by their votes or by subsequent acquiescence, ratified the action of their conventions.

Now, what was this act? It was the act not simply of a Legislature, not simply of a convention. It was the act of the people of these ten States, coproprietors in the sovereignty of the Republic; and by this act they abdicated that sovereignty, voluntarily, openly, in the face of the nation; not only abdicated their share in that sovereignty, but abdicated thereby every function which flows out of it. Abdicating sovereignty, they abdicated its exercise by the suffrage and by representation; and that not only in the Federal system, but equally in the State organizations.

But whatever effect that abdication might have upon their position, it in nowise affected the sovereignty of the remaining people of the Republic, in whom thenceforth the whole authority of the nation centered until they should again consent to participate in it with those who had thus voluntarily abdicated it. The nation continued to act in accordance with its just authority. Occupying the military posts throughout these States, the symbols of its power were still displayed, and therefore the people who had abdicated their share in the national sovereignty proceeded from that abdication to revolt. The revolt drew after it the whole population of those communities with a unanimity rarely known in history, and speedily attained the magnitude of a civil war, with all the incidents of the latter as known and recognized by the law of nations. That what I have to say hereafter on this subject may be clearly understood, I beg permission to read a few passages from Vattel illustrating the real character of the relations between the parties which now ensued:

"In order clearly to discover what conduct the sovereign ought to pursue toward revolted subjects," * * * * "we must distinguish the nature and degree of the different disorders which may disturb the State, and oblige the sovereign to take up arms, or substitute forcible measures instead of the milder influence of authority."—*Vattel's Law of Nations*, section 287.

"The name of rebels is given to all subjects who unjustly take up arms against the ruler of the society, whether their view be to deprive him of the supreme authority or to resist his commands in some particular instance and to impose conditions on him."—*Ibid.*, section 288.

"When a party is formed in a State who no longer obey the sovereign, and are possessed of sufficient strength to oppose him; or when, in a republic, the nation is divided into two opposite factions, and both sides take up arms; this is called a civil war." * * * * "The sovereign, indeed, never fails to bestow the appellation of rebels on all such of his subjects as openly resist him; but when the latter have acquired sufficient strength to give him effectual opposition and to oblige him to carry on the war against them according to the established rules, he must necessarily submit to the use of the term 'civil war.'"—*Ibid.*, section 292.

"A civil war breaks bands of society and government, or at least suspends their force and effect. It produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge." * * * * "They stand, therefore, in precisely the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms."—*Ibid.*, section 293.

Thus the people of the ten States under consideration abdicated first their participation in the sovereignty of the Republic, from that abdication proceeded to open revolt against that sovereignty, magnified that revolt to the dimensions of civil war, and the result of that war was the triumph of the national arms. Hardly in history is there an instance of a civil convulsion of such appalling magnitude as that through which we have recently passed, in which the subjugation of the insurgents was so absolute and complete.

We are brought now to the inquiry: what were the relations of the victor and the vanquished when the war reached its close? Here we are met by the theory common to the Democratic party, to the President, and to the Senator from Wisconsin—the averment of the fallacy contained under the expressions "once a State always a State," "incapacity of a State to go out of the Union or to be expelled from the Union"—expressions in a sense every one of them true, but which, as used by those in whose mouths they are most familiar, contain a dangerous fallacy.

Sir, at the close of the war the relative position of the parties was that of victor and vanquished; the national sovereignty was in the hands of that portion of the people who had never abdicated its possession; the vanquished were men who had abdicated that sovereignty and all of its resulting functions. The geographical areas of the States, of course, remained, and they were subject to the jurisdiction of the Union, as they ever have been. The dwellers upon those geographical areas remained, and they owed allegiance and obedience to the Union, as they ever had done. And if this is what Senators mean when they speak of "once a State always a State," and aver the incapacity of a State to get or to be driven out of the Union, they assert the truth. But, sir, they mean more than that; they mean to assert, and often in terms do assert, that these dwellers upon these geographical areas who thus voluntarily abdicated their share in the sovereignty of the Republic and assaulted its national life, immediately when their conquest by that sovereignty was complete had the right to resume the sovereignty which they had abdicated and take up and exercise all its functions. If this, indeed, be the law of the nation we are without a Government which is worth the name.

Sir, the situation is, indeed, without precedent in the history of this country, but there are analogies elsewhere. There was once a sovereign who by flight from his kingdom abdicated the English throne. But the statesmen of England never held that he possessed the capacity at his will to resume the authority which he had abdicated and exercise the functions from which he had fled. So now to assert that the people who have yielded up, for purposes hostile to the national life, their share in the national authority can at their own pleasure resume their abdicated functions is a proclamation of anarchy. In the condition in which the country found itself at the close of the war it has ever seemed to me that there was but one true theory upon which the nation could act, and that is to adopt the rule prescribed by the law of nations as to the relations between the victorious and vanquished in civil war; and under that theory and by that law, recognized by name in the Constitution of the United States and embraced in its general provisions or reserved in the tenth amendment to the people, what are the actual rights of a victorious sovereign and vanquished insurgents at the termination of the conflict? Why, sir, the Senator from Maine, [Mr. FESSENDEN,] in a casual remark made in the Senate a few weeks since, comprehended the whole of the rights of the vanquished party in a single word, and that word is "clemency." It is the only right they retain; rebels though they be against the lawful sovereign, assailants of the national life, yet humanity and the dictates of the Christian religion have made clemency not simply the duty of the victors, but the right of the vanquished. And what are the rights of the victor? To make peace, to establish justice, and to secure the national safety; and all these must be exercised by him with clemency; and whether these reconstruction laws, which are now so violently attacked both in and out of Congress, are in accordance with the provisions of the Constitution, and with the provisions of the law of nations imbedded in that Constitution, and equally with it a part of the organic law of the Republic, depends upon whether they are in accordance with the principles I have laid down. It is by this criterion that they are to be tried.

Are they, then, clement? Has the sovereignty in the Republic shown clemency in its treatment of vanquished rebels in the laws which are to-day upon your statute-book? Sir, I defy gentlemen to search the records of history and find an instance of such unparalleled clemency as this people by these very laws has exercised toward its vanquished enemies.

I will not go back to the dark ages; I will not go back to even the wars of the Roses or the campaigns of Alva, or any other of those civil conflicts which make us shudder as we peruse the history of former times; but, sir, look at the conduct of nations of the Old World in this very century. There have been revolts against Russia within the last generation; and go look at the burning ruins of Warsaw and the corpses of her children lying amid them. There have been revolts in France; go see Frenchmen dying of lingering horrors on the shores of South America. There have been revolts within twenty years against England; go to Australia and see the best blood of Ireland banished there by English tribunals for rebellion against an English sovereign. And then, sir, when you have searched the records of history and the annals of other nations, come back to these shores and see what this great republican sovereignty of America has done when rebels have striven to take its life. No man has been punished for treason, no man's property is taken away, no man's person is imprisoned, no one is exiled. And that is not all; to every one except those who fomented this most unholy rebellion this Government has not only left life, liberty, and property secure, but it has taken the vanquished rebel and made him a coequal sovereign with the defenders of the Republic. Speak of disfranchisement! I shall have something to say of that by and by.

Sir, the vanquished have been accorded their rights, and now how has the victorious sovereignty exercised its rights? To secure peace, to establish justice, and to guaranty the national safety; these were both its rights and its duties. The mode which it has adopted in these reconstruction laws is deemed by Senators upon the other side and by the President as being contrary to the principles which I have laid down in four particulars.

1. It is said the laws are to be enforced by military power, and are thus oppressive.

2. It is said they are unjust because they disfranchise a portion of the citizens of the revolted States.

3. They are said to be unjust again because they give political control to a class.

4. They are said to be dangerous because they admit an unqualified class to political functions.

These four particulars, I think, embrace the four chief objections to the exercise of the rights of a victorious sovereignty according to the mode pursued in the reconstruction laws; and I proceed to consider them in their order.

These laws are said to be oppressive because enforced by military power. How should they be enforced? It was the duty of the sovereign to establish justice, to secure peace, to guaranty the national safety; and the untaught oligarchy which had instigated this rebellion was struggling against every effort made by the sovereign to perform these duties, and it was demonstrated by its action in the summers of 1865 and 1866 that if left to itself it would defeat each and every one of them. What was the victorious sovereignty to do in the transition from war to peace and stable order? Give over the control of the revolted region to those whose every effort and whose whole *animus* was hostility to the exercise of the rights of the sovereign? Sir, it had but one duty; it must work out these results, and it must work them out through the executive arm with such military power as the Executive saw fit to wield.

Is it oppressive? It is controlled by the very President who shrinks so earnestly from the exercise of military despotism! I ought to say, indeed, in justice to the Senator from Maryland, that his argument was directed against bills upon our table for which future action may be required rather than against the past legislation. But the details of his argument were reiterated by the Senator from Pennsylvania, and are reiterated by the Democratic press of the country, as valid and sufficient against the laws now upon our statute-books.

What is this military force? Why, sir, a handful of those citizens who six years ago flew to arms for the salvation of the national life. There is no State in which there is a fourth part as many of them as there were constables before the war, according to the calculation of the Senator from Pennsylvania. But what are they there for? They are there to protect society in its transition state from anarchy and rebellion to peace and stable order, and that is all. Was there no necessity for their being sent there? Was any Union man's life safe till they were sent? Was the class that our legislation had emancipated safe? Were not tumult and murder and arson the characteristics of society, if it may be called society there? What should the Government do? A vanquished people prostrate at their feet and anarchy brooding over them! What was the Government to do? Oh, you must not send troops there; you must not keep a regiment there, because it will be a military despotism! Sir, of all the pretenses against a beneficent and paternal Government which have ever been started since the morning stars sang together there is none more fallacious than this.

But it is averred that your reconstruction laws are an offense against the rights of the American people because they disfranchise an extensive class in the revolted States, sometimes estimated at fifty thousand in numbers. Now, sir, in reply to this charge of disfranchisement, I meet it with a flat denial. The reconstruction laws disfranchise nobody. What is the condition of things? I think I have shown that the people—to wit, those who were, according to the definition of the Senator from Pennsylvania, the qualified electors in those States at the opening of the war—had, by their acts of acquiescence in and sanction of an attempted secession, abdicated their share in the sovereignty of the Republic, and with that abdication abdicated also every right which depended thereon—their right to exercise the suffrage, their right to elect State authorities, and their right to share in the Federal power. The right to the suffrage and the right to elect State authorities and their share in the Federal power were abdicated by the seceding, revolting, rebelling citizens of the southern States. It is no disfranchisement which has left them where they placed themselves.

Sir, we have disfranchised nobody; but instead of that what have we done? We have not simply enfranchised the black men. There were not only black men there without the right of suffrage when this war closed, but there were six hundred thousand white men without that right, for they had voluntarily abdicated it. What have we done? We have enfranchised almost all those white men, and we have left the remaining few where they placed themselves, because they added to their voluntary abdication the guilt of revolt and the crime of perjury. Nor was that all; in addition to these crimes these were the men, this was the class, who dragged off those southern communities into war upon the national life. We left them life, we left them liberty, we left them property, we left them with regard to the suffrage where they were, where they had placed themselves, reserving at the same time a power and a mode in ourselves by which, according to their good behavior, they should be remitted even back to that.

Have we done wrong? Is there any injustice in all this? I beg American Senators, before they cast dishonor upon the good name of this American Republic, before they send forth broadcast to all the nations of the earth these imputations upon the only democracy the world ever saw, that they will pay a little heed to the lessons of history and learn how monarchies and aristocracies treat their rebellious subjects.

But it is said, again, that these laws are unjust because they give the control of the southern States to a class. I am not going to enter much into those considerations which grow out of the names "negro" and "white man." Sir, when I look at a human being I look at him as a man. When I look at an American citizen I look at him to accord to him the rights which God and the laws of his country have given him. If it be true that to any class as such, black or white, the reconstruction laws have given a political supremacy in the southern States then let those laws be repealed. But, sir, the fact is not so. Senators harp upon the words "negro supremacy." The President repeats them again and again in his message. I will impute nothing unkind to them. I will not imitate the Senator from Pennsylvania or the Senator from Indiana, who last addressed the Senate upon this subject, [Mr. HENDRICKS,] who imputed to us on this side of the Chamber that for the sake of gaining a party supremacy we were dishonestly endeavoring to oppress our fellow-citizens of the southern States. I impute nothing like that to these gentlemen. I believe they are honest; I believe they are sincere; I believe they are patriotic. I believe that they think that in these reconstruction laws they see the seeds of danger, and that patriotically they are raising the voice of warning. I think they are mistaken, and I argue against them as mistaken; but I will not follow their example and impute to them dishonesty and corruption of motive.

Have we given the control to a class? After the argument of the Senator from Wisconsin near me [Mr. HOWE] on Friday last it is idle for me to go over the statistics of that subject. If any fact can be demonstrated with mathematical accuracy he did demonstrate that these laws do not confer the supremacy over southern society upon the class to which allusion is made. If his estimates, based upon statistics at this distance from the scene of action, are considered to be unreliable, I call witnesses right from the spot; I call witnesses to whom neither the Senator from Maryland nor the Senator from Pennsylvania will object. What is the language of Governor Brown, of Georgia? He is a reliable witness, elevated by the people of that community to the chief magistracy of the State, active in the opening of the war in behalf of the rebellion, but accepting the decision of the contest and patriotically endeavoring to restore society there to its normal condition and bring back harmonious relations with the entire Republic. He comes forward as a witness, and let me read what he says:

"The people of the North have been told lately that the acts of Congress establish negro supremacy and white subordination in the South. The charge is false. It was the perverse obstinacy of the white race refusing to take control that gave the negroes power in the convention."

Does he not know? He lives there; he votes there; these scenes are all passing before his eyes:

"There is fifteen thousand white majority in Georgia. With this majority, and the boasted superiority of the race in intellect, education, experience, and wealth, it is a libel on the white men to say that negroes can rule intellect and capital and control numbers."

No wonder, sir, that the ex-Governor of Georgia repels the foul calumny upon the white men of his State which is hurled at them by the Senator from Pennsylvania and the Senator from Indiana who spoke last, [Mr. HENDRICKS.] To the same effect—I will not read it—is the testimony of Governor Orr, of South Carolina, a State in which the negroes have the numerical majority; but he has no fear that that numerical majority is to give the negroes of that State the political supremacy there. Sir, you know him; he served in the other House of Congress while you have been here. He has seen the progress of events for the last five years; and if the Senator from Indiana [Mr. HENDRICKS] cannot learn anything from the logic of events, the Governor of South Carolina has learned.

But the fourth objection to the modes provided in the reconstruction laws is the one which after all is in the eyes of their opponents the great offense. It is averred that the sovereignty of the Republic expresses itself in those laws dangerously to the future safety of the nation, and therefore departs from its duty, because it admits unqualified citizens to the suffrage. Sir, the Senator from Indiana, who on the Republican side [Mr. MORTON] followed the Senator from Wisconsin in this debate, has demonstrated the necessity of the admission of this class to the suffrage in the ten States under consideration, because it is, without that admission, impossible to build up loyal State governments there. The Senator from Wisconsin who spoke on Friday last, [Mr. HOWE,] has demonstrated that it is impossible for the sovereignty of the Republic to establish justice without the admission of that class to the suffrage. And now, sir, I assert, and I believe it capable of demonstration, that there is no safety to the Republic itself, there is no safety to democratic institutions unless this class be admitted to the suffrage, as they are admitted by the reconstruction laws.

When a great nation goes to war, whether that be a foreign or civil war, and when that war comes to its close, the one chief duty of the sovereign is to see that, if possible, the cause out of which the war sprang shall be removed and removed forever from the body politic. We have been through a great war. It has come to its close. It had a cause, and that cause should be cast out of the body-politic and removed forever. What was it? We are accustomed to say that it was slavery. Sir, it was not because black men were slaves that this country got into war. It was because white men were oligarchs. It was because slavery fed and supported oligarchy. I use the word oligarchy advisedly in contradistinction from aristocracy, for aristocracy is in theory the government of the best, while oligarchy is the government of the few without reference to qualifications. Inevitably, out of the system of slavery existing before the war rose up an oligarchy predominant in a section, bound together by community of interest, on account of such predominance and unity capable of throwing its whole political force into the scale of either of the contending parties of the other section of the country and thus controlling the policy and action of the Government itself.

What had this oligarchy done? In the communities where it was predominant it had stricken down the democratic life of society; it had destroyed liberty of speech and freedom of the press. It had stricken down the sovereignty of this Republic, for no man could vote in that section except as the oligarchy dictated. In 1856 I visited nearly every section of my own State, urging the election of a Republican candidate for the Presidency. I could not have gone to one of these ten States and asked the people to vote for that candidate without endangering my own life; and if any one of them had dared to follow the advice I gave the oligarchy would have taken his life.

But that was not all. Not only had it thus stricken down the democratic life of its own section, but allying itself with one or the other of the great parties of the other section it dominated over the Government of the country, and aimed at the destruction of the democratic spirit in the nation itself. It robbed the mails; it came boldly here into the halls of Congress and told the sovereign people that they should not send their petitions here upon a particular subject. It demanded the spread of the system upon which it throve all over the unoccupied Territories of the Republic. It debauched the legislation of the nation. And now, sir, while this was going on, in the other great section of the Republic the democratic spirit which lies at the foundation of our institutions nevertheless prevailed. It extended civilization and the arts of civilized life from the Atlantic sea-board to the Mississippi and the Pacific; and it was inevitable that in the progress of events, the democracy of the North and the oligarchy of the South would come into collision. They did so, and the oligarchy fell, and where it fell there it should lie forever.

But the proposition to repeal these reconstruction laws, emanating from the President of the United States, and the modification of these laws proposed by the Senator from Wisconsin are adapted intentionally or unintentionally to reconstruct that oligarchy over the whole South. Sir, an institution does not cease to be an institution because its basis is changed. The oligarchy of the old time, the oligarchy that stood upon the Potomac and kept back northern civilization with the bowie knife and the revolver, the oligarchy which debauched and demoralized the once noble Democratic party of this country, was an oligarchy based on the servitude of labor; and now that it has brought this unparalleled woe upon this Republic; now that our sons and our brothers in uncounted thousands lie in untimely graves on a hundred battle-fields; now that $4,000,000,000 of our treasure have been annihilated in the smoke of gunpowder and the crash of shot and shell—now, to-day, these gentlemen come here and ask us again to build up an oligarchy based on the disfranchisement of labor. Sir, whatever of reaction and ebb and flow of the tide of public opinion there may be, I, for one, feel certain that the people of this Republic, after the experience of the last sixty years and the blood and misery of the past six years, are not going to consent to this. Will you change its character because you change its basis? The Senator from Wisconsin may deny the argument, for he may deny the intention. But what is the fact? Modify your reconstruction laws so as to give the control of the ballot-boxes substantially to that very oligarchy, and you know they will vote down the enfranchisement of the class which those laws enfranchise; you know that they will reduce that class to the condition of pariahs and serfs, for they declare it in their every act of legislation, in their every public speech, in their every newspaper press.

Sir, an oligarchy dies hard, and to-day the effort which is made in these communities is to rebuild it; and I sometimes am almost afraid that our Democratic friends, remembering their long lease of power by their alliance with the old oligarchy, are willing to build up the new, that thereby another unholy alliance may give them another lease.

But, sir, this is not all. I have said that I did not believe the people of this country would consent to the reconstruction of an oligarchy based upon the disfranchisement instead of the servitude of labor. Sir, they cannot consent. The Senator from Indiana [Mr. HENDRICKS] does not understand the logic of events. I commend him to history. Go back, sir, to the settlement of this country and see what has been from the beginning the law of its life. When two hundred and fifty years ago the first European settlers, English, Scotch, Irish, French, Spanish, Swedish, dotted our Atlantic coast with their settlements, they left behind them the feudalism of the Old World, although they brought with them something, indeed, of the reverence for Old World institutions in which they had been nurtured; but, arrived here, they stood between the wild ocean on the one hand and the primeval forest on the other; arrived here, they wrought out in their contests with that primeval nature the knowledge of the worth of individual manhood. Here among our American forests, here in the wild recesses of nature, democracy was born—not the spurious, bastard issue of the modern day, but that democracy which found its grandest expression in modern ages in the Declaration of Independence. For one hundred and fifty years God trained our fathers to be fit for that Declaration; and in this country, although you do not quote it in your laws, although you do not recite it in your Constitution, it is to-day more potent over the national life than all constitutions and laws put together.

What has it wrought out? What was the condition of American society when that instrument was promulgated? The Senator from Maryland said the other day that suffrage was not universal at the formation of the Constitution in any State. It was not. When that instrument was promulgated there were States in which the old aristocratic system of church and State survived. Mine was one of them. There were States in which property qualifications were demanded to admit a man to the exercise of simple political right inherent in his manhood. There were States in which the laws of primogeniture still kept up the old aristocratic condition of society. But the declaration went out among them, and one after the other, church and State, primogeniture and qualified suffrage went down before the spirit of a true democracy. Its last conflict was with slavery. You know the result.

The declaration has made this nation what it is. And has it not done its work well? Go wherever it has found its fullest and its truest expression: there you will find law and order most secure; there you will find most churches and most school-houses; there you will find most happy villages and hear most of the busy hum of industry. And that power in this country is omnipotent yet. It has been withstood by this oligarchical system based upon slavery. It is withstood to-day by the same oligarchy seeking a new basis upon the disfranchisement of labor; but the latter shall fall before it as did the former. Sir, if this Republic is to survive, if our posterity are to inherit any of the blessings which we enjoy, you must have a homogeneous Republic, and a homogeneous people, with homogeneous institutions from the lakes to the gulf, and from the Atlantic to the Pacific; and the progress, the history, and the tendencies of the American life demonstrate that that homogeneity must be upon the true democratic basis of the Declaration of Independence. Hence the action of Congress in the enactment of the reconstruction laws has been not only necessary to the national safety and just to the enfranchised classes, but an inevitable result of the tendencies of American society and our American system.

In reply to all this it is argued that the negro is unfit to vote. Sir, I will not repeat the argument which has been made here as to who made him so, for after all, that is not an answer to the declaration of his unfitness. But first, in reference to the scope which is given to the charge of unfitness, I deny it. Since the emancipation proclamation of 1863 vast numbers of the negroes of this country have been educated more rapidly than any people were ever educated before. I have seen them, just escaped from the enemy's lines, flocking to our camps, and by the flickering light of the camp-fire learning their spelling book or stumbling over their first words in the New Testament. They had learned that there the grand principle was taught that the poor and despised are neighbor to the rich and the haughty. They built school-houses. True, my Democratic friends have burned them down over their heads; but they have not despaired. There never was a people so eagerly crowding the avenues to knowledge as these people are to-day. Sir, are you going to teach men to swim by keeping them sprawling upon the banks of the stream? How shall these men be made fit? Will you give them fitness by excluding them from the ballot?

The argument of unfitness which the Senator from Wisconsin [Mr. DOOLITTLE] made against this race, although it may have been original, was not new. Go back only two or three years to the debates in the British Parliament upon the last reform bill; take up the speech of Mr. Lowe, of the London Times, the advocate of the English aristocracy, against the English laboring white man, and you will find there every argument that the Senator from Wisconsin advanced against the negro. The arguments of oligarchy are the same the world over.

I say, therefore, for a great portion of these newly enfranchised citizens it is not true that they are unfit, and for the other portion it is true that the shortest, readiest way to make them fit is to give them the ballot. Sir, you want society safe; you want peace and good order to prevail in your communities. Will you succeed in doing so by keeping there a pariah class in degradation, sullen and discontented, seeing above them rights and privileges which their God-given instincts teach them belong to them, but seeing themselves excluded from them only because another race is paler-faced than their own? No, sir; peace and safety, the duty of the victorious sovereign at the close of the civil conflict, can only be attained by the means which are provided in reference to this class of American citizens by the acts of reconstruction.

Now, sir, to recapitulate: I have shown that the issue presented here by the Senators from Maryland and Pennsylvania is based upon their allegation that the reconstruction laws are unconstitutional; and that underneath that allegation lies the denial of American nationality. I have shown that the people of this Republic are one nation; that the sovereignty of that nation is by the preamble to the Constitution proclaimed to be in the people themselves; that the people, that is, the qualified electors of the ten States for which we are legislating, by their acts of secession and sanction of or acquiescence in those acts, abdicated their portion of sovereignty, and with it every political right and function dependent thereupon; that at the close of the war the right and the only right which they could claim of the victor was clemency; that both the right and the duty of the victor was to secure peace, to establish justice, and to guaranty the national safety; that the reconstruction acts must be tried by these criterions; that they exhibit a clemency unparalleled in the history of the world; that they have proved a wise, just, and permanent mode of establishing justice, securing peace, and guarantying the national safety; that the objections urged against them are either unfounded in principle or in fact; that their repeal or their modification in the modes presented by the Senator from Wisconsin would be to rebuild upon a new basis the old oligarchy and endanger another civil convulsion within a quarter of a century. I have shown that the efforts made to fix odium upon them because of their admission of a class hitherto deprived of the suffrage to that right are unjust and unfounded.

And now, sir, if these things are so why cannot we have peace? Why is it that the Democratic party, or rather the leaders thereof, are instigating the two millions of their followers all over this country to strike down a system of laws which is bringing back to the Republic civil harmony and good order, and will soon bring back, if left alone, fraternal affection? Why is it that the Senator from Wisconsin wishes us to modify those laws so as to restore to their potency the very evils from which we sought to liberate ourselves by the war? And more than all, sir, why is it that the Senator from Maryland lends the weight of his great name and extensive influence to the enemies of this system? It is true, as I said, that his argument was not addressed in terms against the system of the past, but the bills which have been laid before us by the House for our future action: but his argument, after all, is of the tenor and effect of the arguments of the Senator from Pennsylvania and the Senator from Indiana, [Mr. HENDRICKS.] Why is it that the Senator from Maryland should be writing pamphlets and distributing them to the people and sending them to the members of this body, declaring that the dangerous condition of this country grows out of the legislation of Congress?

Sir, I came into this Chamber on the night of the 2d of March last as a Senator-elect. The galleries were crowded. The floors were thronged with the members of the other House. A solemnity reigned over the Chamber. The great reconstruction debate was drawing to a close. I saw the Senator from Maryland rise in his place. I heard him declare that for the sake of his bleeding country he should give those measures his vote; and I thanked God in my heart that there had come down to us from the palmy days of the Republic one Sen-

ator who would place country above party and give his vote accordingly.

Mr. JOHNSON. Will the honorable member permit me to interrupt him for a moment?

Mr. FERRY. Certainly.

Mr. JOHNSON. It is true, Mr. President, that I gave the vote to which the honorable member refers. It is true that I did it from a conviction that the measure for which I voted was calculated sooner than any other that I thought was likely to be introduced to heal the troubles of the country and bring peace to the South. It is equally true that never for one moment, from the time I gave that vote to the present hour, have I regretted it, and under the same circumstances I should vote as I did then. But, sir, it is also true that in the remarks to which the honorable member has so kindly referred I stated, in substance, that I believed the measure itself for which I voted was inconsistent with the Constitution of the United States. I yielded my opinion in order to heal the troubles in which the country was placed, and I did it under a belief—which I thought I was justified in entertaining from what had been said on this floor—that that measure would be a final one upon the part of Congress. I thought then, and I think now, that a Senator of the United States who really believes that his country is in danger unless its condition is changed for the better has no right to stand upon his own convictions of constitutional duty in times of admitted peril to the country when he finds that he differs with many gentlemen of acknowledged ability and whose sincerity he had no right to question.

My feelings at that time were the feelings which I entertain now. I want the country to be restored to its former healthy, peaceful, and happy condition, and there is nothing that I would not do now, as there was nothing that I would not have done then, to bring about that result. If the honorable member thinks that there is any inconsistency between the vote which I gave then and the vote which I propose to give now it is an opinion upon his part which, however much I may regret, does not change my own conviction of what my duty was then or what it is now.

The country is not at peace. The measure for which I voted has not proved a finality. Those who at that time declared that it was intended to be so have been mistaken. They have either found, as they suppose, that the South would not accept it or that it was necessary, for some other purpose, to adopt other measures still more objectionable, in my opinion, than the measure for which I voted, and still, if possible, more absolutely in conflict with the Constitution. But notwithstanding this, if I could be morally convinced that the South would in a short time, if the proposed measures are adopted, be restored to the condition in which she was before the war commenced—that such measures would terminate what I believe to be (however honest) persecution by Congress of the South, I would vote for the measures now; but I do not feel now as I did then.

It is, too, a matter of gratification to me and not of surprise, Mr. President, that for the vote referred to by the honorable member I was not only not censured by the leading men of the South, and among them many of those who periled their lives in the effort to establish for her a separate independence, but commended. And in vindication of my course upon that occasion I am willing to rest upon the short speeches I then made in support of it.

Mr. FERRY. Mr. President, the argument upon which I was proceeding was simply this: the Senator from Maryland voted for the original reconstruction acts, yielding his own convictions of constitutional law for the sake of a suffering country; but now, when nothing really new has as yet been adopted, when the principle of those acts still remains, when all that has been done is merely explanatory of their true character, the Senator from Maryland, both through the public press and by the tenor of his arguments here in debate, allies himself with the enemies of the reconstruction system, and the weight of his name and his influence goes out to the country on that side. For, sir, be it remarked, in reply to the allusion which the Senator has made to the measures which are now pending before the Senate of the United States, they are not measures adopted. The Republican party and the Congress of the United States have been too often and too widely condemned for measures proposed but never adopted. When we have enacted the laws to which the Senator refers into statutes, and placed them upon our statute-book let the country condemn us for them if it chooses. But so long as they only remain proposed, so long as their adoption is yet a matter of the future, upon which this body has not decided, and upon which its decision may be adverse to the propriety of their enactment, it is unwise and unjust to condemn either the Republican party or the Congress because a proposition to enact a law has been made.

But, sir, the Senator from Maryland now says in his explanation that the acts to which he gave his sanction last spring have not restored the South. Did he expect it to be done in a day? Did he expect the machinery of registration, of an election to a convention, of the drafting of a constitution, of the election of State legislators and members of Congress, was to be accomplished in a month or six months? Sir, he expected no such thing. The machinery of those laws simply required an adequate time to carry them into execution to bring back every one of these southern States to their functions in the Union. Sir, has not that work been going on well from the day that those laws were passed? We gave the control subsequently to the President by giving him the appointment of the military commanders, who were to appoint registers and supervise the registration. I make no charge, no railing accusation against the President or any military commander. Sir, we live in times too grave, the issues before the Senate and the country are too solemn, for me, at any rate, to indulge in epithets or vituperation; but I do say that, considering all the circumstances in which the country has been placed, considering all the difficulties under which those statutes have gone into operation, that operation has been more beneficent and more perfect than their fondest advocates could have anticipated. Nine of those States have substantially declared by a majority of their popular vote that they are ready as soon as the forms of law can be gone through with to come back into the Union as loyal members of the national sovereignty. The tenth will do so in a few weeks to come. They are adopting constitutions. But a single one has yet been returned to us; yet I defy the logislation of the world to point to a wiser, freer, better, purer organic law than the despised convention of Alabama has sent up to the Congress of the United States.

Have the laws not worked well? And if they have done well, why add to this popular clamor against Congress? Why teach the people to distrust the exponents of their own will? What are we here? What is Congress? Sir, we are the mouthpiece of the sovereignty of this Republic, and nothing else. We utter the will of that sovereignty as expressed at its latest authoritative declaration. If that will should change before another congressional election shall take place our successors will obey it. It is for us to obey the will expressed to us, and that will, above all, was just what the Senator from Maryland said, "Bring back the South." I echo it from his lips—"Bring back the South." Aye, come and help us. Come, Maryland and Pennsylvania; come, Kentucky and Tennessee; come, Delaware and Wisconsin; come and help us to bring back the South. Our hearts are longing for the old Union. Our blood beats high for the restoration of the old fraternity which once distinguished the people of these States. But, sir, we feel that, returning, they should return in the spirit of American liberty. We feel that, returning thus, they will help us to establish the edifice of State upon foundations which shall never be moved.

And, sir, the South is coming back—coming back, not now encumbered by slavery and darkened by secession, but clothed in the garments of freedom and with the sunshine of loyalty illuminating her brows; coming back to take her place in the councils of the nation and the hearts of the people. And the North is going forth and will go forth to her. Our ships shall go, not now to block up her commerce and bombard her cities, but to open the channels of that commerce and carry her products to the remotest nations of the globe, and bring back to her their varied wealth. Our capital shall go, not now to spread devastation and be annihilated in gunpowder and the crash of shot and shell, but it shall go to build up her ruined cities, to whiten her fields once more with the harvest, to make her mountain streams vocal with the hum of the spindle and the loom. Our men shall go there, not now in battle array and with the panoply of war, but with the implements of peace to till her deserted fields and to make her waste places to bud and blossom as the rose. Sir, all these results are not to be accomplished at once; perhaps this generation may pass away before the asperities and the heart-burnings that have been engendered by years of controversy and other years of civil war shall disappear; but the time is coming when our children, at least, from the North to the South, and from the Atlantic to the Pacific, shall be in unity, one in sentiment, one in character, one in institutions; and then the voice of the people shall once more be indeed as the voice of God.

Mr. STEWART obtained the floor.

Mr. BUCKALEW. Will the Senator permit me to say one word in explanation?

Mr. STEWART. Certainly.

Mr. BUCKALEW. I did not wish to interrupt the Senator from Connecticut in the course of his remarks for the purpose of correcting a reference which he made to an observation in my speech of the 29th instant. The Senator observed that I had declared that we were aliens to the people of the South, that we were not concerned in the action which they might adopt for themselves with reference to this subject of reconstruction. Now what I said was as follows. I will read it as the language was uttered:

"You who are foreign to them, who are aliens so far as their local policies are concerned, make their fundamental laws."

The Senator omitted to observe that my remark was accompanied by a limitation as to those matters of policy which were local or municipal in the southern States; that it had no reference whatever to any of those great questions in which all the States of the Union are concerned in common, those relations which are founded and grow out of the Constitution of the United States and arise under the Government which it has established. Perhaps the term "aliens" was rather stronger than was necessary to convey my thought. The thought simply was that with reference to matters purely local in the southern country we had no concern and no business; that our relations with them were confined only to those matters which were contained in the Constitution of the United States.

Mr. STEWART. Mr. President, I understand the question before the Senate to be the resolution of instruction offered by the Senator from Wisconsin, [Mr. DOOLITTLE.] I call for the reading of that resolution.

The Secretary read it, as follows:

Resolved, That the bill of the House be referred to the Committee on the Judiciary with the following instructions:

And that said committee be instructed in said bill or in any other bill which may be reported by them having reference to the question of reconstruction, so called, in any of the States not represented in the present Congress to insert the following proviso:

Provided, nevertheless, That upon an election for the ratification of any constitution, or of officers under the same, previous to its adoption in any State, no person not having the qualifications of an elector under the constitution and laws of such State pre-

vious to the late rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, namely:

1. He shall have served as a soldier in the Federal Army for one year or more;

2. He shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or,

3. He shall be seized in his own right, or in the right of his wife, of a freehold of the value of $250.

Mr. STEWART. This somewhat remarkable proposition is evidently taken from the dispatch of the President to the provisional governor of Mississippi on the 15th day of August, 1865, which I ask the Secretary to read.

The Secretary read as follows:

EXECUTIVE OFFICE,
WASHINGTON, D. C., *August* 15, 1865.

Governor W. L. SHARKEY, *Jackson, Mississippi:*

I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your State constitution—abolishing slavery and denying to all future Legislatures the power to legislate that there is property in man; also, that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than $250 and pay taxes thereon, you would completely disarm the adversary and set an example the other States will follow. This you can do with perfect safety, and you thus place the southern States in reference to free persons of color upon the same basis with the free States. I hope and trust your convention will do this, and, as a consequence, the Radicals, who are wild upon negro franchise, will be completely foiled in their attempt to keep the southern States from renewing their relations to the Union by not accepting their Senators and Representatives.

ANDREW JOHNSON,
President of the United States.

Mr. STEWART. I quote this dispatch because I desire to call the attention of the Senate and of the country to the fact that the President and his southern friends had some common "adversary" at that early date whom he proposed to "disarm." And this adversary he designates as the "Radicals, wild upon negro franchise." They are by him to be completely foiled in their attempt to keep the southern States from renewing their relations to the Union by not accepting their Senators and Representatives; and this, he ventures to assure the South, can be done with safety. Safety to what? What is to be endangered? Rebel rule? I challenge any man to give it any other construction. And yet this was four months before the assembling of the first Congress after the fall of the rebellion, and while the leaders of the party by which he was elected were treating him as one of themselves and attributing to him motives all patriotic. Mark the date: the 15th day of August, 1865. Is it not remarkable that there was so much confidence in the President existing among leading Republicans, that he would stand by the country and the party which elected him that they defended his motives for months after this extraordinary telegram was written? This document furnishes material for a speech.

But I shall dismiss it and follow the example of others in discussing the general questions involved in this debate.

Mr. President, in the remarks which I propose to submit I desire to state fairly the positions of the two parties now contending for the control of the destinies of this country. The position which each party occupies is the logical result of the issues presented at the breaking out of the rebellion. At that time there was a Democratic President, a Democratic Cabinet, a Democratic Supreme Court; and the rebel States all had Democratic Governors and Legislatures. These rebel States and those who openly espoused their cause contended that the Constitution authorized secession. The peace Democracy of the North did not fully indorse this doctrine, but contended that while the Constitution did not affirmatively authorize secession no authority was delegated to the General Government to coerce a State into obedience to the laws of the United States. The only difference between the doctrine of the secessionists and the peace Democrats of the North was a mere abstraction. The former said secession was right; but the latter, while denying the abstract right of secession, also denied that it was a wrong for which the Constitution provided a remedy. This construction was satisfactory to the secessionists, for all they demanded was "to be let alone." What difference did it make to the confederates whether the General Government admitted the right of secession or not provided the power to prevent it was denied?

The position of the Democratic party upon this vital question was stated at the time by the party press, by Pendleton, Vallandigham, and hundreds of others, and is still fresh in the memory of the whole country. But inasmuch as Mr. Buchanan not only spoke for the Democratic party but for the last Democratic Administration at the time secession was inaugurated, I call the attention of the Senate to the language of his annual message to Congress on the 3d December, 1860. After discussing the situation at length he says:

"The course of events is so rapidly hastening forward that the emergency may soon arise when you may be called upon to decide the momentous question whether you possess the power by force of arms to compel a State to remain in the Union. I should feel myself recreant to my duty were I not to express an opinion on this important subject.

"The question fairly stated is: has the Constitution delegated to Congress the power to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the Confederacy? If answered in the affirmative, it must be on the principle that the power has been conferred upon Congress to declare and to make war against a State.

"After much serious reflection I have arrived at the conclusion that no such power has been delegated to Congress or to any other department of the Federal Government."

Will it be denied that if this doctrine had been acquiesced in by the people of the loyal States that secession would have been an accomplished fact—the Union dissolved, the nation dishonored, and the Constitution destroyed? But the Republican party construed the Constitution differently. They contended that the people had ordained and established a Constitution of government, and that the United States possed the necessary and inherent right to maintain unimpaired the national authority and to enforce the laws. Here was the point of departure. One great party denied the power of the Government to maintain its own existence; the other asserting and obeying the fundamental principle upon which the Government was organized, that it should be perpetual.

If the Union party was right, and the Constitution and Union were ordained to be preserved, then the power to perpetuate them was conferred upon the Government by the express language of the Constitution. For the Constitution provides that—

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any Department or officer thereof."

If those who sustained the Union were right in their theory that the Constitution authorized the suppression of the rebellion then the language of the Constitution itself plainly authorized Congress to pass all necessary laws to carry into execution that power. Chief Justice Marshall, in the great case of McCulloch *vs.* The State of Maryland, (4 Wheaton,) in discussing the meaning of the word necessary in the clause of the Constitution above quoted, says:

"This word, then, like others, is used in various senses; and in its construction the subject, the context, the intention of the person using it, are all to be taken into view. Let this be done in the case under consideration. The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers to insure, as far as human prudence could insure, their beneficial execution. This could not be done by confining the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end.

"This provision is made in a Constitution intended to endure for ages to come; and, consequently, to be adapted to the various crises of human affairs. To have prescribed the means by which Government should, in all future time, execute its powers would have been to change entirely the character of the instrument and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared that the best means shall not be used, but those alone without which the power given would be nugatory, would have been to deprive the Legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances."

But the Democratic party, both the secessionists of the South and the peace Democrats of the North, concurring in the doctrine that it was unconstitutional to maintain the Union by force of arms, questioned the constitutionality of every law and every act of the Government designed for the suppression of the rebellion. It was unconstitutional to enforce the laws in the rebel States; it was unconstitutional to defend the forts and other property of the United States in the late confederacy; it was unconstitutional to return the fire of the rebels fighting against the flag of their country; it was unconstitutional to emancipate slaves of rebel masters, although those slaves were used for the destruction of the Union and the Constitution; it was unconstitutional to protect men in the South who were still loyal to the Government. This was the position of the Democratic party during the war. When the rebellion had fallen it was unconstitutional to prescribe the terms of settlement or to demand security for the future. This is and was the logical position of that party who did and do contend that this Government is but a rope of sand. And if they were right in the beginning they are right now—if wrong then they are wrong now. Why is it that the rebels pretend to defend the Constitution? Is it because it perpetuates the Union and authorizes the Government to execute the laws and guaranty to each State a republican form of government; or is it because they have been educated to believe and do believe that it authorizes secession and denies the right of the United States to protect all classes of citizens and maintain free government? Why is it that the peace Democrats of the North constantly appeal to the Constitution? Is it because it authorized the suppression of rebellion and the preservation of the Union; or is it because they believe it denies the power of self-preservation to the Government and vindicates the theory of the modern Democracy to "let the erring sisters depart in peace?"

It would be idle to attempt to convince a rebel or a peace Democrat that the reconstruction measures of Congress are constitutional. They have contended from the first that every war measure was unconstitutional and their position is consistent and well understood. But those who maintained that it was constitutional to suppress the rebellion will find it difficult to question the constitutionality of the laws necessary for the restoration of the rebel States. The rebels overthrew the State governments and established rebel organizations. Those who admit the right of the Government to suppress the rebellion will scarcely contend that these rebel organizations were entitled to all the rights and privileges of States in the Union, including the right to be represented in the councils of the nation and to participate in the conduct of the war. But the United States overthrew these rebel organizations, leaving neither rebel nor loyal organizations existing in these States. The fact that no civil governments of any kind existed in the late confederacy after the suppression of the rebellion is as well established as any fact of history. President Johnson so declared in his proclamation of May 29, 1865, and no one has ever questioned the truth of that declaration.

If no civil governments existed it will not be denied that it was necessary to organize State governments before any could exist. But States are organized by the people. Neither Congress nor the President nor the Supreme Court nor all three departments combined can organize a State. State governments must emanate from the people. But some power in the Government must determine whether State organizations are properly made and whether they are republican in form, and that power is Congress. Congress may prescribe in an enabling act the

necessary conditions upon which a State government would be acceptable, as it has done in regard to most of the new States; or it may wait and admit or reject a proposed constitution. The enabling act for Nevada required several conditions-precedent to be incorporated in the proposed constitution of the new State, namely, slavery must be prohibited, religious toleration must be secured, all claim to the public lands must be renounced, non-residents must not be taxed more than residents, and lands of the United States must not be taxed. Similar provisions may be found in every enabling act passed by Congress. It was never supposed that stating these terms in advance interfered with the right of the people to organize their own State governments.

They might accept the conditions or not, as they pleased. If the people of the proposed State should omit them Congress could not insert them in the Constitution, but would be forced either to waive the conditions or make their adoption a condition of admission or reject the proposed State. In either case Congress would be supported by precedents. Missouri presented a constitution which contained a provision denying the right of free colored persons to enter the State, and Congress admitted the State upon condition that the Legislature would pass a resolution agreeing not to enforce that provision of her constitution.

Nebraska was admitted about a year ago upon condition that the Legislature would extend impartial suffrage without regard to color.

In the enabling acts known as the reconstruction measures, Congress exercised the same powers that it did in the enabling act for Nevada and other States. It prescribed certain principles that must be incorporated in the constitution and determined the qualification of voters in organizing a State. All this was done in the enabling act for Nevada.

The Senator from Pennsylvania [Mr. BUCKALEW] could not have examined these enabling acts when he ventured the assertion that Congress was organizing State governments in the South. The determination of the question of what shall be required in the constitution of a new State must be left to that department of the Government which the Constitution authorizes to admit new States. The language of the Constitution is, "new States may be admitted by the Congress into the Union." The admission of new States is not an executive or a judicial act, but a legislative act. If the proclamation of the President by which he authorized the formation of a State government in North Carolina, issued on the 29th day of May, 1865, is to be regarded in the light of an enabling act by which Congress and the Supreme Court are to be bound, it was an act of unqualified usurpation. It was the performance of an act delegated in express terms to Congress. For, if the people of North Carolina had been deprived by the rebellion of all civil government as declared in that proclamation, and a necessity had been created for a new State organization, an enabling act under which the people might organize such new government could only be passed by Congress. On an examination of this proclamation and the various amendatory proclamations and conditions that were prescribed by the President, it will be seen that the qualification of voters was fixed arbitrarily, excluding some rebels and allowing others to vote, and excluding the entire colored population, so as to allow governments to be organized by a minority of the people, and this minority intensely disloyal. He also prescribed what should be contained in the new constitutions—slavery should be prohibited and the rebel debt repudiated. I say, again, if this proclamation was to be enforced upon the other departments of the Government as a law, it was usurpation. But if it was only intended as a provisional exercise of military power, subject to the supervision of Congress, it was wise or unwise, depending upon the merits of the plan proposed. An assurance was given to the country that no other construction would be claimed for those proclamations in a dispatch to the provisional Governor of Florida, dated September 12, 1865, in the following words:

DEPARTMENT OF STATE,
WASHINGTON, *September* 12, 1865.

SIR: Your Excellency's letter of the 29th ultimo, with the accompanying proclamation, has been received and submitted to the President.

The steps to which it refers, toward reorganizing the government of Florida, seem to be in the main judicious, and good results from them may be hoped for. The presumption to which the proclamation refers, however, in favor of insurgents who may wish to vote, and who may have applied for, but not received, their pardons, is not entirely approved. All applications for pardons will be duly considered, and will be disposed of as soon as may be practicable. *It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.*

I have the honor to be your Excellency's obedient servant, WILLIAM H. SEWARD.

His Excellency WILLIAM MARVIN.

But the subsequent conduct of the President in attempting to maintain this proclamation as the paramount law, which Congress could neither disregard, repeal, or modify, must be admitted by all impartial men as unwarranted usurpation of power delegated to another department.

But it is said that the Congress invokes the military in aid of reconstruction. It certainly does provide military protection in order that the people may act freely and voluntarily. The President did the same, only in a more harsh and arbitrary manner, governing the whole people by martial law, while a favored class were organizing governments to oppress the majority. Why is it that neither the rebels nor peace Democrats make complaint against these Johnson organizations? Why are they treated as constitutional? Is it because they find authority in that instrument to justify them? Is it because they construe the Constitution to authorize the Executive to admit new States, or to guaranty to each State a republican form of government? Or is it because these organizations are rebel and subserve the purposes of the peace Democracy better than loyal organizations would or could? Why do they want these provisional governments to stand and be recognized as States? Is it devotion to the Constitution or to party?

The Senator from Pennsylvania contended that this Congress did not represent the people. First, because there had been Democratic gains in several State elections since the last congressional election; and second, because New England and the far West were allowed to take part in the councils of the nation. As to the first reason it is sufficient to say that local causes, prejudices, and official corruption in the administration of the revenue laws occasioned dissatisfaction, as indicated in the fall elections. But the recent congressional election in Ohio, to fill the vacancy occasioned by the death of Mr. Hamilton, indicates that the people of that State still adhere to the congressional plan. But what right has he to say that a Congress elected by the overwhelming votes of the people have no right to speak for their constituents? As to the right of New England to full representation upon this floor, what patriot dares question it? To New England the nation owes a debt of gratitude beyond its capacity to pay. To New England civil liberty, science, and civilization owes more than to any other region of three times its extent upon which the sun has ever shown. It is the spirit of New England that gives life, energy, and stability to the whole nation. The sons of New England are found everywhere, in every State, in every neighborhood where free schools, free churches, and free speech are tolerated and protected, and where enterprise and prosperity find a home. Who is not proud of New England, and who would deprive her of her full share and responsibility in maintaining free government in the United States?

As to Nevada and the sparsely-settled States of the West, the time is not far distant when they will be sufficient in numbers and influence to command respect. The natural advantages of that great country west of the Rocky mountains are being rapidly developed by an enterprising and liberty-loving people. Nevada can afford to endure the sneers of that party who would place this country under rebel rule. She is loyal; she is rich in natural resources; she is contributing annually to the wealth of the world twenty millions of the precious metals; her mines are extensive and inexhaustible; and although she has deserts and wastes she has more fertile lands than some of the large and populous States. Before another census is taken her population will far exceed the requirements of the Senator from Pennsylvania for the organization of a new State. At the time of her admission her population exceeded that of many of the new States when admitted; and her registered vote to-day exceeds the registered white vote in one, at least, of the ten rebel States, which the Senator is anxious to receive on a white, rebel basis, and which for twenty years was represented by two Senators on this floor. I deny that the Republican party in admitting new States have departed from the rule that the Democrats adopted. Nevada, admitted by the Republican party, had a population at the time of her admission equal to the population of Oregon when she was admitted by the Democrats. The population of Nebraska exceeded that of Florida or Arkansas.

But what do the Democratic party propose? The party that denied the right of the Government to suppress the rebellion; that obstructed the draft; that voted against supplies for the Army; that declared the war a failure; that declared the emancipation of the slaves unconstitutional? How do they propose to gain political power from the results of the war? Do they propose to increase their power by fair means? Examine their programme. Is there nothing in it dictated by partisan zeal?

While slavery existed five slaves were counted equal to three American citizens in the basis of representation. But the rebellion, which destroyed slavery and made four million new citizens, changed the basis of representation, and with the present apportionment increased the representation of the rebel States from fifteen to twenty members. But on the Democratic theory the four million colored persons in the South are first to be denominated brutes and denied all rights of representation or self-protection; and second, the rebels are to have representation in the Halls of Congress for these four million men. In other words, on all the days in the year save one the negro is set off as one of the beasts of the field; but on the day the census taker makes his appearance he is set up on his hind legs and called a man. According to the showing of the Senator from Pennsylvania the South would be indebted for nearly one half of her representation to her colored population. The State of South Carolina would have more representation on account of her colored than her white population.

The Republican party maintain that the power of the rebels to control this Government ought not to be increased because they attempted to destroy it; that it is unsafe to reward rebellion by this vast increase of political power, and that a white man in Massachusetts or Ohio is as good as a white man in South Carolina or Florida, and entitled to equal representation. But the Democratic theory is that although the black man is unfit to vote, still he is fit to be represented by rebels, and to make a stand-off against a loyal white man of the North. I do not pretend to deny the fact that the Union party desires to continue in power, and the same is true of the Democratic party, and the same has been true of all parties from the foundation of the Government.

But the real question is, how is the power of this Government to be used—for good or evil? What are the purposes of these two great parties? Who are their leaders and who will control their destinies? The record of the great mass of the Democratic party is either the record of rebels or peace Democrats. The party, with all its discordant elements, has been true in its opposition to every effort made by the Government to enforce the laws and

preserve the Union. The southern wing of the party inaugurated the rebellion while the northern wing denied the right of the Government to suppress it. Can any important law, act, or proclamation for the preservation of this Government be shown that has not been assailed alike by rebels and peace Democrats as unconstitutional? And, on the other hand, has the constitutionality of the rebellion, or any act of secession been violently assailed by either wing of the Democracy? What does this Democratic party, reënforced by the Senator from Wisconsin [Mr. DOOLITTLE] and his executive master, propose to do if they attain power? They are all violently opposed to the fourteenth article of the Constitution proposed by the Thirty-Ninth Congress. Why are they opposed to it? Is it not fair to presume that they want to do the thing which it prohibits? And we have only to examine its provisions and see what it does prohibit to understand what the Democratic party with its new recruits propose to do.

The first section declares that all men born in the United States are citizens, and secures to every citizen of the United States the protection of the laws in his civil rights. Why do the conservators of rebellion oppose this provision if they intend that slavery shall be abolished and all men protected in person and property? Does not the opposition they made to the civil rights bill indicate that they mean wrong and oppression and some form of slavery under another name? Why has there been such a contest over the question of civil rights if the opposition were willing to grant them? The country has not forgotten the veto message of the President, nor his war upon the constitutional amendment, nor the fact that the rebels refused to execute the law, nor the fact that the Johnson governments in the South passed inhuman and cruel laws against the colored man, nor the fact that those organizations refused to ratify the constitutional amendment. The loyal people see in all this violent opposition to extending civil rights the fixed purpose of every wing and faction of the obstructionists to reduce the negro to a degraded peon, more wretched than a slave.

The second section of the constitutional amendment provides that if the negro does not vote he shall not be counted in the basis of representation. But the violent opposition that this section has received shows a desperate determination on the part of the rebels to offset four million negroes without political rights against four million educated, intelligent white men in the North.

The third section of the constitutional amendment provides that the national obligations incurred in the suppression of the rebellion shall not be repudiated, and that the loyal North shall neither be taxed to pay the rebel debt nor to compensate the rebels for emancipated slaves. Why object to this unless the Democratic party intend either to repudiate the Federal debt, pay the rebel debt, or compensate the late slaveholders for emancipation? They are willing to put provisions of this kind in State laws and perhaps in State constitutions, all of which can be altered or amended by themselves. Is not the fact that they will not agree to place this section in the Constitution suspicious, to say the least, and is there anything in the history of their past conduct to allay that suspicion or guaranty good faith in the future?

The fourth section provides that those who previous to the rebellion held any office which required them to take an oath to support the Constitution of the United States, and subsequently participated in the rebellion, shall not hold office until Congress by a two thirds vote removes the disability. What objection can the Democratic party have to this unless they want the leading rebels to hold office. It deprives no man of voting or of any civil rights, but simply excludes leading rebels from office. It applies to but a very small class. The young men are all exempt from any disability whatever. The provision is not applicable to any person under twenty-nine years of age. For to have held office previous to 1860 a man must have been at that time at least twenty-one years old, and it is now 1868, making the youngest man to whom the disqualification can apply at present twenty-nine. The Senator from Pennsylvania estimates the number excluded from office at about three hundred thousand, but the basis of his calculation will scarcely bear investigation. He takes the census report of 1860 of the white males over twenty-one and subtracts from that number the whites who have registered under the reconstruction acts and makes the difference about three hundred thousand. But he omits from the calculation those who were killed in the war, those who have left the South, and those who have refused to register.

Mr. BUCKALEW. The Senator is in error in that particular. What I referred to was the census of 1860 and then a percentage for the white and black populations respectively, and so worked out the result that the white disfranchisement was three hundred thousand. I did not come at it by such a process as the Senator supposes.

Mr. STEWART. I understood that to be the process. The fact is that there are not more than twenty or thirty thousand deprived of holding office in the whole South, and most of them would be at once relieved if they would cease rebellion against the lawful authorities of the Government. This number is not large—not half as many as the nation lost by starvation in rebel prisons under the inhuman management of the constituted authorities of the late confederacy.

Tennessee ratified this amendment and Congress ratified and gave legitimacy to her State organization. The balance of the rebel States, being under the absolute control of those organizations formed under the President's proscriptive policy, refused to comply with any terms. At the commencement of the session a year ago each of the ten rebel provisional governments occupied a defiant attitude against the authority of this Government. Only those of the South were allowed to speak who would speak the sentiments of the military dictator who had usurped the whole power of the Government in all the late confederacy except Tennessee. He told them to demand representation for themselves based upon the whole population, over half of which was disfranchised, and they obeyed; he told them to demand office and place for leading rebels, and they obeyed; he told them by his acts to reduce the negro by legislation to a peon, and they obeyed; he told them to remain uncommitted in any irrevocable way either to the payment of the national debt or the repudiation of the rebel debt, and they obeyed. He tolerated their persecution of loyal men and refrained from the execution of the law, and allowed wrong and oppression and assassination to go unpunished. Loyalty was truly odious in the South. What was to be done? Was there any power in this Government to organize those communities upon a loyal basis? If there was who shall say that it was not the duty of the last Congress to make the effort?

But it is self-evident that a loyal republican government cannot be established without a loyal constituency. Five sixths of the white population were disloyal, and consequently any government based upon white votes alone must necessarily be hostile to the United States, so that only three things were possible. First, let the rebels dictate terms and let loyalty be made odious and treason honorable. This Congress dare not do. The second was to place the South under permanent military rule. This was regarded as expensive and dangerous to our free institutions. The third was to give all the citizens of the United States, black and white, a fair chance to organize loyal republican governments, excluding only a small number that were regarded as dangerous to the public peace. This was done, and the military were required to protect all the people while they were engaged in the organization of these governments. Did the Government possess the constitutional power to do this?

Upon the question of the constitutional power of Congress to pass these laws so much has been said, and so well said, that further comment would seem unnecessary; but, inasmuch as the labors of the Opposition are all directed to the great purpose of destroying confidence in Congress by showing that we disregard the Constitution, I will pursue the subject further and ask the Clerk to read from Story on the Constitution, showing both the views of Judge Story and Mr. Madison, for the larger portion of what I desire to have read is a quotation from the Federalist:

"SEC. 1813. The fourth section of the fourth article is as follows: 'The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive when the Legislature cannot be convened, against domestic violence.'

"SEC. 1814. The want of a provision of this nature was felt as a capital defect in the plan of the confederation, as it might, in its consequences, endanger if not overthrow the Union. Without a guarantee the assistance to be derived from the national Government in repelling domestic dangers which might threaten the existence of the State constitutions could not be demanded as a right from the national Government. Usurpation might raise its standard and trample upon the liberties of the people while the national Government could legally do nothing more than behold the encroachments with indignation and regret. A successful faction might erect a tyranny on the ruins of order and law while no succor could be constitutionally afforded by the Union to the friends and supporters of the Government. But this is not all. The destruction of the national Government itself, or of neighboring States, might result from a successful rebellion in a single State. Who can determine what would have been the issue if the insurrection in Massachusetts in 1787 had been successful, and the malcontents had been headed by a Cæsar or a Cromwell? If a despotic or monarchical government were established in one State it would bring on the ruin of the whole Republic. Montesquieu has acutely remarked that confederated governments should be formed only between States whose form of government is not only similar but also republican.

"SEC. 1815. The Federalist has spoken with so much force and propriety upon this subject that it supersedes all further reasoning. 'In a confederacy,' says that work, 'founded on republican principles and composed of republican members the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government under which the compact was entered into should be substantially maintained.'"

The Opposition say that this guarantee has no application to the rebel States, but fail to inform us in what case the guarantee should be executed. Their arguments, so far as I am able to understand them, treat this provision of the Constitution as a nullity; for if the Government can only exercise its sovereign power to guaranty to a State a republican form of government which already has one in full operation and needs no assistance, the grant of power is useless and can never be exercised. But we believe that every part of the Constitution has some meaning, and that the framers of that instrument intended something when they said the United States should guaranty to every State in the Union a republican form of government.

It seems to have been regarded as possible by the convention that a State might be overthrown and its republican system destroyed; and that in such a case it might need aid from the central authority to maintain republican government.

This might occur in various ways. The people might elect a king; they might limit the franchise to an aristocracy of nobles; they might destroy all government and create anarchy.

These were some of the dangers suggested at the time as a reason for the grant of power.

The learned and able Senator from Maryland [Mr. JOHNSON] contended that the rebel States did not furnish a proper case for the exercise of this power, but failed to tell us when and how the United States should interfere to secure republican government to a State having no government. He appeared to regard it in the same light that Buchanan

regarded secession—a wrong without a remedy—*damnum absque injuria*.

First, he said that the meaning of the Constitution was to guaranty an existing State government, but he failed to inform us what was to be done in the case under consideration, where there was no civil government and the people on account of public enemies were unable to form a government republican in form. I think, on reflection, that he will be bound to admit that if anarchy exists in any State of the Union from whatever cause, that the United States is bound to guaranty to the people order and civil government, and to protect them in reorganizing a republican form of government. The learned Senator found it also necessary to deny that loyalty was inherent in a State organization, and to deny that each State was to be guarantied not only a republican form of government, but a government loyal to the United States. Does he mean to be understood to contend that the United States should not interfere to prevent the organization of a State government hostile to the Union? This was the whole cause of the war. The rebels organized hostile governments and made war upon the United States. Will it be pretended by the Senator who voted for the prosecution of the war that the Government had no right to suppress these hostile organizations and overthrow them, and that it now has no right to prevent the creation of new organizations hostile to the United States? But in every argument made by the Opposition it has been contended that we had no power to enfranchise the negro; that he was not a voter before the war, and but few negroes were voters at the adoption of the Constitution. The answer is plain: he was not then a citizen. Show me a State at the adoption of the Constitution which had a majority, or even a respectable minority, of its citizens disfranchised and I can see the force of the argument. But when by emancipation the negro became a citizen, if he had been left without political rights it would have presented an anomaly unknown to the fathers of the Republic.

But it is held by some that "the authority extends no further than to a guarantee of a republican form of government which supposes a preëxisting government of the form which is to be guarantied." I regard this as a narrow view of the question, and do not concur; but, tried by this test, has Congress exceeded its powers in extending suffrage to the negro? Before the war every male citizen over twenty-one years of age, of sound mind, not guilty of crime, was allowed to vote in all the rebel States. Congress has not included any but citizens. It is true that there is a new class of citizens; but that did not result from the reconstruction acts of Congress, but from the war, the emancipation proclamation, and the constitutional amendment abolishing slavery.

That amendment, I believe, is now treated as a part of the Constitution, and we follow the Constitution. Only white men were citizens before the war in the rebel States, and consequently only white men voted. Now all men are citizens and all men vote. In each case all citizens over twenty-one vote, and the reason why more men vote under the rule allowing citizens to vote is simply because there are more citizens; so that, so far as voting is concerned, it is based upon citizenship, the same as it was before the war. It cannot be said that we have changed the form of government, because more men have become citizens; for if such was the fact every addition to the number of citizens, from whatever cause, would change the form of a republican government. Do those who have argued that we must not change the form of government of South Carolina mean that we must guaranty them slavery and all their institutions as they existed before the war?

This cannot be done without a change of the Constitution of the United States. What, then, is to be done? Will it be said that because we cannot give them slavery we cannot guaranty to them republican government. But why not guarantee a government on a white basis to the exclusion of all colored citizens? That would be radically different from any government South Carolina ever had. She never had a government in which any large class of her citizens were disfranchised. It is difficult to define exactly what was meant by a republican government by the framers of the Constitution; but we have abundant evidence that they regarded it as essential to such a government that it should derive its powers from the great body of the citizens—that the exclusion from political rights of any considerable number of citizens would be anti-republican. The following passage in the Federalist, from the pen of Mr. Madison, indicates what was then understood as essential to a republican form of government:

"If we resort for a criterion to the different principles on which different forms of government are established we may define a republic to be, or at least may bestow that name on, a government which derives all its power directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic."

But the power to guaranty a republican government having been granted to the United States, and which power can only be exercised in pursuance of a law of Congress, Congress must determine in what case and in what manner the power is to be exercised. The same discretion in the use of means must be allowed as is constantly exercised in the execution of all the great powers conferred upon the United States.

To say it was unconstitutional not to execute the power because some other department thought it would have been wise to have executed it differently, or not to have executed it at all unless all the world were agreed as to the policy, would deprive Congress of passing any law to which any objection could be made on the ground of policy. When the power is given Congress alone must judge of the policy. But if it is contended that a majority of the citizens of any of the rebel States are barbarians and too ignorant to be intrusted with the ballot, a very unfortunate situation is presented. Congress must guaranty a republican form of government, and has no power to guaranty or permit any other to exist in a State; but it would be absurd to say a government of the minority was a republic within the meaning of the Constitution. It is the majority that must govern in a republic; but if that majority is uncivilized and incapable of governing it simply proves that the people are not prepared for self-government. In that case we have the territory and an uncivilized people, which we must govern ourselves until they are educated sufficiently to organize their own governments. It is our duty to guaranty republican governments in the South; but if those who formerly controlled the institutions of that region have so far neglected their duty as to allow a majority of the people to grow up as barbarians it would be unwise for us, if we had the power, to allow a minority, who had so utterly failed in the discharge of their obligations to society as to permit such a state of affairs to exist, to continue in exclusive control.

It is to be hoped, therefore, that the case is overstated by our opponents, and that it is not true that a majority of the people in any State are barbarians. My own opinion is that the colored man whom we are urged to treat as a beast (except when the rebels want him regarded as a man) is quite as likely to vote right as a traitor. If the majority, on the basis of manhood suffrage, are really barbarians, as the opposition contend is the case, it may be remembered by some Senators on this floor that the civilization of the present rebel minority who formed the majority on the old white basis was not always the most enlightened, refined, or humane. The arguments of the Opposition based upon the alleged uncivilized condition of the majority of the people of any State have no tendency to prove that we ought to tolerate rebel rule. They tend the rather to establish the fact that the majority are unfit to govern. In that case it would be our duty to govern them by the military and save republican institutions from the reproach of such mockery as that would be which would call the rule of a rebel minority a republican form of government.

But the Senator from Maryland [Mr. JOHNSON] contends that we have one constitution for ourselves and another for the rebel States. In this he has mistaken our intentions. We have always been anxious that they should share with us the blessings of the Constitution and of free government. But they would not. They sought to destroy the Constitution, but failed. Did we then punish them for treason? No. Did we deprive them of their lands, of their liberty, of the right of suffrage, of the protection of the law? No. We proposed a constitutional amendment for them and for us—an offer more generous and more magnanimous than was ever before extended to a fallen foe—but they rejected it. They refused to do justice and receive mercy. Justice and the safety of this Republic required the passage of the reconstruction measures and their rigid enforcement. If there is any cause of complaint against these acts it cannot be said we did it. The responsibility must rest with those who made every other course impossible. The responsibility must rest with the rebels who inaugurated the war—with the President and the Democratic party who advised them to refuse the congressional plan.

But the Senator from Indiana [Mr. HENDRICKS] contends that the people of a State cannot destroy their constitution, and appears to regard the constitution as the State organization. If he means by this that it is impossible for the people to collect all the existing copies of their constitution and burn them he may or may not be correct, depending very much upon circumstances. But if he means that they have no power to change their constitution or substitute one constitution for another he is not well informed of the history of the States. Some of them have done this half a dozen times, and I believe all the older States have done it as much as once. But if he means that no State has a legal right to withdraw from the Union I fully concur. But it by no means follow from that admission that I am forced to the conclusion that the people of a State cannot overthrow a State government and create anarchy and confusion, or organize in the place of an existing State government a government hostile to the United States. For if I were to deny this the Senate would conclude that I was ignorant of the history of the late rebellion. But there is no necessity of refinement of reasoning when the facts are obvious and universally admitted.

The Senator from Indiana [Mr. HENDRICKS] admitted everything necessary for my purpose when he said that the practical relations of the States to the Federal Government were disturbed. By the practical relations, I suppose, may be understood the exercise of those functions which a State of this Union is permitted or required to perform under the Constitution—such as representation in Congress, the right to sue in the courts, the right to participate in the election of President and Vice President, &c. Now, if these States, from any cause, were placed in a condition where they could not perform these functions, it seems to follow that that condition must be changed before the practical relations can be restored. If the people of these States were able and competent to change that condition so as to restore the practical relations they are the proper parties to do it. But even then the legislative department of the Government must determine when that change has taken place, and whether it is the act of the people before it can determine the identity of the State.

But suppose the State is filled with public

enemies and persons who have usurped power and organized governments hostile to the United States, which are still hostile, making their hostility to the Government the passport to place and power. Suppose those public enemies have and exercise sufficient power—as in the case of the South—to prevent the formation of republican governments friendly to the Union and capable of exercising the functions of States in the Union. Is there no power in this Government to restrain these public enemies and suppress their power over loyal citizens, and give the loyal people an opportunity to reorganize their State governments? If there is no such power the practical relations can never be restored so long as rebels are rebels, for a hostile State, whether in arms or not against the Government, can have no practical relations to this Union.

But the Senator contends that Mr. Lincoln's plan was to amend the old constitutions and patch up the old State governments. That may be so. Many republicans may have indulged the idea that that was possible, but experience has shown that it was not; that the patching-up process was a failure. The President and the rebels made that plan impossible. And we were further educated by the course of events to understand that rebels could not be trusted with the destinies of those States or the control of the lives and property of loyal men. The Senator from Indiana, [Mr. HENDRICKS,] however, regarded what was said by Mr. Lincoln and other Republicans in reference to the practicability of restoring these States by slight amendments to their State constitutions as the declaration of a principle which could not be changed and a subject upon which the people could not be educated. In other words, we are to be bound to the repetition of experiments which have already failed; Congress is to be prohibited from devising new measures for the restoration of the Union, and we are exultingly told—you have failed. We have tried a great many experiments with the rebels, which we do not propose to repeat. We do not propose to establish any more Missouri compromise lines, nor to allow slavery to be extended into the Territories, nor to allow it to exist in the States, nor allow rebels to set up State governments, nor allow them to deny civil rights to any citizen of the United States, nor allow them to commit any more New Orleans massacres, nor to make loyalty odious or treason honorable; and whenever we find that we have not adopted the right means to restrain their destructive propensities we shall devise others. In the language of Mr. Lincoln, "we shall adopt new views whenever they appear to be true views."

We do not expect that our measures will be satisfactory to unrepentant rebels or their sympathizers. And we acknowledge no obligations to submit to them the question of the constitutionality of our legislation. But the Senator from Indiana [Mr. HENDRICKS] claimed the right for the Democratic party to speak for themselves and denied the right of Republicans to attribute to them any purposes which they do not avow. The Senator when he made this demand had forgotten the golden rule; for he attributed to the Republican party purposes and designs which they deny, and but for his well known character for candor it would be difficult to suppose he himself believed them.

He said that our legislation was to secure partisan power and not the welfare of the country. This we deny. He maintained that our purpose was to establish in the rebel States negro supremacy, which we deny, but contend our only object is to secure republican governments and protection for all men in life, liberty, and the pursuit of happiness. Is it possible that the Senator, after laboring two hours and a half to show that the Republican party was seeking to destroy the Government, establish a dictatorship, and perform a thousand atrocities equally repugnant to the Constitution and to the laws of justice and humanity, did really believe that he attributed to us no purposes or designs which we ourselves do not profess? I attribute to the Democratic party many evil purposes which no Senator on this floor dare avow, and which that party, with all its audacity, dare not avow. Was it a plank in their platform that they would resist the draft, encourage desertions, recognize the independence of the southern confederacy, or deny the truth of reported Federal victories? Do they now openly proclaim that their purpose is to place these rebel States in disloyal hands, and admit Davis and Breckinridge to seats upon this floor? Yet who does not know that the programme which they advocate can have no other result, as I believe it has no other aim? Shall we not warn the country of the result of their policy, and say they are for rebel rule—rebel tyranny and peonage in the South—when they advocate the admission of organizations in these rebel States constructed of the charred timbers of the confederacy, which we thought had been consumed in the fires of the war?

But it is said that we should conciliate the South. This has been said from the beginning. On the 18th day of January, 1861, George H. Pendleton, whose nomination by the Democratic party for the Presidency seems probable, if indeed it is not already conceded, said:

"I beg you, gentlemen, who, with me represent the northwest, you who with me represent the State of Ohio, you who with me represent the city of Cincinnati—I beg you, gentlemen, to hear that voice. If you will not, if you find conciliation impossible, if your differences are so great that you cannot or will not reconcile them, then, gentlemen, let the seceding sisters depart in peace; let them establish their government and empire and work out their destiny according to the wisdom which God has given them."

In the same speech he further said:

"Mr. Chairman, I say again, that my constituents are in favor of conciliation; they are in favor of peace. They love the Union beyond all things; but, if dissolution is inevitable, they want it in peace. Peace may preserve this Government; peace may reconstruct this Union; peace will preserve friendship, and give us an opportunity for acts of reciprocal kindness and good will. If these southern States cannot be conciliated, and if you, gentlemen, cannot find it in your hearts to grant their demands, if they must leave the family mansion, I would signalize their departure by tokens of love; I would bid them farewell so tenderly that they would forever be touched by the recollection of it; and if, in the vicissitudes of their separate existence, they should desire to come together with us again in one common government, there should be no pride to be humiliated, there should be no wound inflicted from my hand to be healed. They should come, and be welcome to the place they now occupy."

Again we are appealed to to conciliate the South. What further concessions are we called upon to make? Have we not tried conciliation from the foundation of the Government? Have we not sacrificed justice and humanity to appease the vile passions, prejudice, and tyranny of slaveholders long enough? Are not our statute-books black with enactments to rivet the bonds of the slave? Are not the reports of the highest judicial tribunal disfigured with elaborate defenses of slaveholders' pretensions? Have we not submitted long enough to be slave-catchers for the South? Have we not bowed low enough in the dust in vain attempts to allay their royal displeasure? And after all this were we not required to make a sacrifice of life and property unparalleled in modern history to restrain the wrath of these haughty rebels, engendered only by the election of Abraham Lincoln as President of the United States? When I reflect upon the crimes committed because of his first election, and when I reflect upon the manner of his death because of his second election, and the fearful results that have followed the commission of that crime, I sometimes feel that the power of conciliation was then exhausted.

But we did not stop at the death of Abraham Lincoln—we tried further measures of conciliation, and offered oblivion for the past and a full restoration to the Union on terms so liberal and magnanimous as to astonish the civilized world, and were again repulsed and defied. And still the Democratic party ask us to conciliate their rebel friends. They say it is impossible to harmonize the conflicting opinions in this country without conciliation. Let loyalty then be conciliated. Let something be done to soothe the bereaved and sorrow-stricken in the North. The passions of the human heart are not monopolized by those who sought to destroy the Government. Let the rebels make some atonement for the barbarities of Andersonville and Libby prison! Let them, at least, give a pledge in the shape of a constitutional amendment that the widows and orphans of those who have fallen shall not be robbed of their pensions by repudiation of the Federal debt through the instrumentality of rebel votes! Let the world see by their conduct and bearing that they were not victorious in the war and do not propose to humiliate our soldiers or make loyalty odious. Let the rebel press cease to discharge its venom in vile abuse of everything sacred to justice or honor. When force is agitated let the strong be conciliated. When the President betrays his party and, as he tells us, "deliberates much upon the very serious and important question" of resistance to the laws for the restoration of the Union, let the scarred veterans of Grant, Sherman, and Sheridan be conciliated. Let those conservatives who cry "keep the peace" conciliate an insulted and outraged people. Those who suppressed the rebellion will secure the fruits of victory—peaceably if they can—forcibly if they must. Let those who believe the people are actuated only by prejudice of race against race reëcho the rebel war cry of "negro equality," "negro supremacy," and bend the pregnant hinges of the knee to haughty rebels for office and power; but let them take warning that they will fall where Buchanan fell, that they will not only merit but receive the contempt of mankind.

Disguise it as you will, there are but two sides to this question—the unrepentant rebel and the loyal. The former are resolved either to destroy this Government or make it subservient to their purposes; the latter to maintain the Union and the Constitution upon the broad principles of justice and humanity. Let the timid and time-serving politician and the selfish and sordid slave of Mammon, who have no principle, upon whom the appeals of justice and humanity are lost, consult their interest and aid the side they think is most likely to be successful at the end of the contest, although it be continued for ages. For if traitors can transmit to their posterity their hatred to the Government, coming generations will demonstrate that loyalty, too, may be hereditary. If they think the cause of rebellion is yet to be triumphant and a loyal people are to be punished for their sacrifices to sustain this Government, let them count the cost of subjugating the victorious veterans whose honor is involved when loyalty is insulted in the person of the humblest Union man that loves his country.

Mr. President, I have no fears for the future. I believe that there is more good than evil in man. I believe that a kind Providence is guarding the destinies of America; that the Republic is to live, not only in name but in fact, the palladium of justice, humanity, and universal liberty.

Mr. WILLIAMS. Mr. President——

Mr. HENDRICKS. I suppose the Senator from Oregon would prefer to submit his argument to the Senate to-morrow, as it is now quite late. I move, therefore, that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 3, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions for reference to appropriate committees, not to be brought back by a motion to reconsider. Under this call resolutions of

the Legislature of a State or Territory may be presented.

EXPENDITURE OF APPROPRIATIONS.

Mr. BLAINE introduced a bill (H. R. No. 606) to limit and control the expenditure of certain appropriations; which was read a first and second time, and referred to the Committee on Appropriations.

PROMOTIONS IN THE NAVY.

Mr. BLAINE also introduced a bill (H. R. No. 607) to amend the act of July 25, 1866, relating to promotions in the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

TAXING STOCK OF NATIONAL BANKS.

Mr. PETERS presented resolutions of the Legislature of the State of Maine in regard to the law of the United States providing for the taxation of the stock of national banks; which were referred to the Committee on Banking and Currency, and ordered to be printed.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. PETERS also presented resolutions of the Legislature of the State of Maine in relation to the rights of naturalized citizens of the United States in foreign countries; which were read a first and second time, and referred to the Committee on Foreign Affairs.

CONTRACTS PAYABLE IN COIN.

Mr. POLAND introduced a bill (H. R. No. 608) for the enforcement of contracts payable in coin; which was read a first and second time.

Mr. POLAND. I ask that this bill be read at length.

The bill, which was read, provides that in every suit or proceeding for the enforcement of any obligation or contract in writing, made after the passage of this act, for the payment of any sum in gold or silver coin, when judgment shall be rendered for the plaintiff or complainant therein the judgment shall be that the sum found due shall be paid in gold and silver coin; and the execution or other final process to enforce such judgment shall direct the collection thereof to be made in gold and silver coin; and the officer to whom such execution or other final process shall be committed for collection shall collect the same in such gold and silver coin.

Mr. POLAND. This is apparently rather a financial than a judicial measure; but as there is some question in reference to our power in this case, I move the reference of the bill to the Committee on the Judiciary.

The motion was agreed to.

THE PUBLIC DEBT.

Mr. BOUTWELL introduced a bill (H. R. No. 609) relating to the public debt and the payment of interest thereon; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

DEPARTMENT OF JUSTICE.

Mr. JENCKES introduced a bill (H. R. No. 610) to establish a department of justice; which was read a first and second time, referred to the Committee on Retrenchment, and ordered to be printed.

PROTECTION OF AMERICAN CITIZENS ABROAD.

Mr. JENCKES also introduced a bill (H. R. No. 611) concerning American citizenship and the protection due to American citizens in foreign States; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

WILLIAM CHAMBERLAIN.

Mr. VAN AERNAM introduced a bill (H. R. No. 612) granting a pension to William Chamberlain, a soldier of the war of 1812; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

DUNKIRK HARBOR, NEW YORK.

Mr. VAN AERNAM also introduced a bill (H. R. No. 613) making an appropriation for the completion of the improvements of the harbor at Dunkirk, New York; which was read a first and second time, and referred to the Committee on Commerce.

RAILROAD FROM WASHINGTON TO NEW YORK.

Mr. KELSEY introduced a bill (H. R. No. 621) to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York; which was read a first and second time.

Mr. KELSEY. I move the reference of this bill to a select committee of five.

Mr. SPALDING. I move to amend so as to refer the bill to the Committee on Roads and Canals.

Mr. WASHBURNE, of Illinois. If the Committee on Roads and Canals have a proposition of that kind before them now I must object to the motion for a special committee.

Mr. KELSEY. I hope it will be referred to a special committee.

Mr. WINDOM. I suggest to the gentleman from New York to modify his motion so as to increase the committee to nine.

Mr. KELSEY. I accept that as a modification of my motion.

The SPEAKER. Under the rules the first question will be on reference to the standing committee.

Mr. HOLMAN. Let us know what we are voting on.

Mr. KELSEY. It is substantially the same proposition passed in the Thirty-Ninth Congress. There are a few amendments. I think every member will favor the object in view.

The House divided on the question of reference to the Committee on Roads and Canals, and there were—ayes 42, noes 26; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. KELSEY and Mr. SPALDING.

The House again divided; and the tellers reported—ayes 57, noes 38.

Mr. KELSEY demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. HOLMAN. Is it in order to move to lay the bill on the table?

The SPEAKER. It is not, as during the morning hour on Monday bills and resolutions can only be introduced for reference.

So the bill was referred to the Committee on Roads and Canals.

MRS. ALICE DRYER.

Mr. FERRISS introduced a bill (H. R. No. 614) for the relief of Mrs. Alice Dryer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

NATURALIZATION.

Mr. ROBINSON introduced a bill (H. R. No. 615) to establish a uniform rule on naturalization; which was read a first and second time.

The bill was read by unanimous consent. It provides that any alien may be admitted to become a citizen of the United States on application to any common law court of record in any one of the States or Territories thereof on making proof to the satisfaction of said court that he is a person of good character, and that it is his intention permanently to reside in the United States, and taking the oath or affirmation prescribed by law to support the Constitution of the United States, which oath or affirmation said court shall administer; and the clerk of said court shall record such application and the proceedings thereon, and thereupon such person shall be considered as a citizen of the United States.

The second section provides that all laws inconsistent herewith are hereby repealed.

The bill was referred to the Committee on Foreign Affairs, and ordered to be printed.

NATURALIZATION OF SAILORS AND MARINES.

Mr. MILLER introduced a bill (H. R. No. 616) extending the provisions of the act of July 17, 1862, relating to the naturalization of soldiers, to those who enlisted in the naval and marine service of the United States; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHRISTINE KINSEL.

Mr. MILLER also introduced a bill (H. R No. 617) granting a pension to Christine Kinsel, widow of Erastus Kinsel, deceased, late private company A, one hundred and twenty-fifth regiment Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GENERAL WARD H. BURNETT.

Mr. MILLER also introduced a bill (H. R. No. 618) for the relief of Ward H. Burnett; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JACOB GATES.

Mr. MORRELL introduced a bill (H. R. No. 619) granting an invalid pension to Jacob Gates; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

DREDGING POTOMAC RIVER.

Mr. KOONTZ introduced a bill (H. R. No. 620) providing for dredging a part of the channel of the Potomac river by convict labor; which was read a first and second time, and referred to the Committee for the District of Columbia.

REGISTERING OF VESSELS.

Mr. BUCKLAND introduced a bill (H. R. No. 622) to repeal section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792; which was read a first and second time, and referred to the Committee on Commerce.

NATIONAL CURRENCY.

Mr. BUCKLAND also introduced a bill (H. R. No. 623) to regulate the national currency, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

PRIVATE BUILDINGS IN WASHINGTON.

Mr. WELKER introduced a bill (H. R. No. 624) to regulate the construction of private buildings in the city of Washington, District of Columbia, and for other purposes; which was read a first and second time, and referred to the Committee for the District of Columbia.

DAVID WRIGHT.

Mr. EGGLESTON introduced a bill (H. R. No. 625) for the relief of David Wright, late captain of company E, fifty-second regiment Indiana volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

MAIL ROUTES IN OHIO.

Mr. BINGHAM introduced a bill (H. R. No. 626) to establish a mail route from Cumberland to Caldwell, in the State of Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. MUNGEN introduced a bill (H. R. No. 627) to abolish the post from Pequia, Ohio, to New Bremen, Ohio, and to establish a post route from New Bremen to Anna Station, via the Dayton and Michigan railroad; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ISSUE OF LEGAL TENDERS.

Mr. WILLIAMS, of Indiana, introduced a joint resolution (H. R. No. 188) to authorize the issue of $140,000,000 legal-tender notes, to supply the deficiency in the currency caused by the canceling of legal-tender and compound-interest notes; which was read a first and second time.

Mr. WILLIAMS, of Indiana. I ask to have it referred to the Committee of Ways and Means.

Mr. SPALDING. I move to lay it on the table.

The SPEAKER. That cannot be done during the morning hour of Monday.

Mr. BARNES. I submit that it ought to be referred to the Committee on Banking and Currency.

Mr. WILLIAMS, of Indiana. I decline to accept the amendment.

Mr. BARNES. I move it as an amendment.

The question being taken on the amendment, it was disagreed to.

Mr. HOLMAN. Is it in order to move to increase the amount specified to $200,000,000?

The SPEAKER. It is not.

The joint resolution was referred to the Committee of Ways and means.

LOSSES OF LOYAL CHOCTAWS AND OTHERS.

Mr. SHANKS introduced a joint resolution (H. R. No. 189) for the appointment of a commission to ascertain the losses of loyal Choctaws and Chickasaws, and other loyal persons; which was read a first and second time, and referred to the Committee on Indian Affairs.

SOLDIERS' PAY AND BOUNTY.

Mr. CULLOM introduced a joint resolution (H. R. No. 190) in relation to the pay and bounty of soldiers enlisting for specified terms of service and honorably discharged before the expiration of their term of service, their discharges stating that they were discharged at the expiration of their term of service; which was read a first and second time, and referred to the Committee on Military Affairs.

MAIL ROUTE IN TEXAS.

Mr. BURR introduced a bill (H. R. No. 628) to establish a mail route in the State of Texas; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CONFIRMATION OF LAND ENTRIES.

Mr. McCLURG introduced a bill (H. R. No. 629) to confirm certain entries of public lands made at the land office at Boonville, Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

POST ROUTE IN MISSOURI.

Mr. GRAVELY introduced a bill (H. R. No. 630) to declare a certain road in Missouri a post route; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CAPTAIN J. A. NEUSTAEDTER.

Mr. PILE introduced a joint resolution (H. R. No. 191) for the relief of Captain J. A. Neustaedter, of St. Louis; which was read a first and second time, and referred to the Committee on Military Affairs.

BRIDGES ACROSS THE MISSISSIPPI RIVER.

Mr. PILE also introduced a bill (H. R. No. 631) amendatory of act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges, and to establish them as post routes;" which was read a first and second time, and referred to the Committee on Commerce.

POST ROUTE IN MISSOURI.

Mr. NEWCOMB introduced a bill (H. R. No. 632) to establish a post route from Morrison's station, in the State of Missouri, to Fredericksburg, in the same State; which was read a first and second time, and, with an accompanying memorial, referred to the Committee on the Post Office and Post Roads.

REMOVAL OF THE CAPITAL.

Mr. NEWCOMB also introduced a bill (H. R. No. 633) providing for removing the national capital to St. Louis county, in the State of Missouri; which was read a first and second time, and referred to the Committee of Ways and Means.

WALTER H. TINKER AND JOHN P. M'ELROY.

Mr. ANDERSON introduced a bill (H. R. No. 634) granting a pension to Walter H. Tinker and John P. McElroy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CLAIMS OF COLORED SOLDIERS.

Mr. ANDERSON also introduced a bill (H. R. No. 635) in relation to the claims of colored soldiers; which was read a first and second time, and referred to the Committee on Military Affairs.

HARBORS IN MICHIGAN.

Mr. FERRY introduced a bill (H. R. No. 636) making appropriations for certain harbors in the State of Michigan; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN H. ELLGOOD.

Mr. PERHAM introduced a bill (H. R. No. 637) granting a pension to John H. Ellgood; which was read a first and second time, and referred to the Committee on Invalid Pensions.

COMPENSATION OF EXPRESS COMPANIES.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 638) to regulate the charges and compensation of express companies; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TAXATION OF UNITED STATES NOTES, ETC.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 639) in relation to the taxation of the United States notes, Treasury notes, national currency, and fractional notes for State and municipal purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

POST ROUTES IN IOWA.

Mr. LOUHHRIDGE also introduced a bill (H. R. No. 640) to establish a post route from Ottumwa, Iowa, to Sigourney, Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. HUBBARD, of Iowa, introduced a bill (H. R. No. 641) to establish a mail route in the States of Iowa and Minnesota; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

IMPROVEMENT OF MANITOWOC HARBOR.

Mr. SAWYER presented the memorial of the Legislature of Wisconsin, asking for an appropriation to complete the harbor improvements at Manitowoc; which was referred to the Committee on Commerce, and ordered to be printed.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. HOPKINS presented joint resolutions of the Legislature of the State of Wisconsin, declaring it to be the duty of the General Government to protect American citizens in the enjoyment of all their rights as such while sojourning in foreign countries; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

RICHARD E. DUNPHEY.

Mr. COBB presented the memorial of the Legislature of the State of Wisconsin, in relation to an increase of the pension of Richard E. Dunphey; which was referred to the Committee on Invalid Pensions, and ordered to be printed.

COMMERCIAL MARINE, ETC.

Mr. JOHNSON introduced a bill (H. R. No. 642) to promote the efficiency of the American commercial marine, to provide for the orphans of soldiers and sailors killed in battle or deceased in the service of the United States, and to enlarge the asylum for disabled veterans; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

MINNESOTA AND ALABAMA LAND GRANTS.

Mr. WINDOM introduced a bill (H. R. No. 643) additional to an act making a grant of land to the Territory of Minnesota in alternate sections, to aid in the construction of certain railroads in said Territory, and to an act granting public lands in alternate sections to the State of Alabama to aid in the construction of a certain railroad in said State; which was read a first and second time, and referred to the Committee on Public Lands.

WINNEBAGO INDIANS.

Mr. WINDOM also introduced a bill (H. R. No. 644) for the relief of the Winnebago Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

FORT SCOTT AND SANTA FÉ RAILROAD.

Mr. CLARKE, of Kansas, introduced a bill (H. R. No. 645) granting lands to aid in the construction of a railroad and telegraph line from Fort Scott, Kansas, to Santa Fé, New Mexico; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

CLAIMS FOR INDIAN DEPREDATIONS.

Mr. CLARKE, of Kansas, also introduced a joint resolution (H. R. No. 192) relating to claims arising from Indian depredations and to restrict the jurisdiction of the Court of Claims; which was read a first and second time, and referred to the Committee of Claims.

PREËMPTION AND HOMESTEAD LAWS.

Mr. CLARKE, of Kansas, also introduced a joint resolution (H. R. No. 646) to extend the preëmption and homestead laws of the United States over certain lands, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

NEW MEXICO.

Mr. CLEVER introduced a bill (H. R. No. 647) to provide for the unorganized settlements in the Territory of New Mexico, and for other purposes; which was read a first and second time, and referred to the Committee on Territories.

NEW MEXICAN PRIVATE LAND CLAIMS.

Mr. CLEVER also introduced a bill (H. R. No. 648) to provide for the confirmation of private land claims in New Mexico; which was read a first and second time, and referred to the Committee on Private Land Claims.

WAR DEBT OF NEW MEXICO.

Mr. CLEVER also introduced a bill (H. R. No. 649) to provide for the settlement of the war debt of New Mexico incurred in aid of the United States in suppressing the rebellion and Indian hostilities in New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

WAGON ROADS IN DAKOTA.

Mr. BURLEIGH introduced a bill (H. R. No. 650) to amend the act of March 3, 1865, providing for the construction of certain wagon roads in Dakota Territory; which was read a first and second time, and referred to the Committee on Roads and Canals.

RAILROAD IN DAKOTA.

Mr. BURLEIGH also introduced a bill (H. R. No. 651) granting lands to aid in the construction of a railroad and telegraph line in the Territory of Dakota; which was read a first and second time, and referred to the Committee on Public Lands.

REGISTERS, ETC., IN IDAHO.

Mr. HOLBROOK introduced a bill (H. R. No. 652) to increase the compensation of registers and receivers in the Territory of Idaho; which was read a first and second time, and referred to the Committee on Public Lands.

FELIX A. SALTER.

Mr. KELLEY introduced a bill (H. R. No. 653) for the relief of Felix A. Salter; which was read a first and second time, and referred to the Committee on Military Affairs.

WEIGHTS IN DISTRICT OF COLUMBIA.

Mr. INGERSOLL introduced a bill (H. R. No. 654) in relation to weights in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

MAIL ROUTE IN ILLINOIS.

Mr. HARDING introduced a bill (H. R. No. 655) for a mail route from Rock Island to Galesburg, in Illinois; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ORDER OF BUSINESS.

The SPEAKER. The call of the States and Territories for the introduction of bills and joint resolutions being concluded, the next business in order during the remainder of the morning hour is the call of States and Territories for the introduction of House resolutions. The call commences with the State of West Virginia, where it was arrested at the expiration of the morning hour on the 27th of January.

AUTHORITY OF THE SECRETARY OF WAR.

Mr. HUBBARD, of West Virginia, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to transmit to this House copies of all correspondence between him and the Executive limiting his authority as Secretary of War to issue orders; and all correspondence between him and the General-in-Chief on the same subject, and copies in full of all correspondence which may have been furnished him between the President and the General-in-Chief relating to the disobeying by the General of any order of the War Department.

Mr. HUBBARD, of West Virginia, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PEONAGE, ETC., IN NEW MEXICO.

Mr. CLEVER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any additional legislation is necessary to eradicate the system of peonage and Indian slavery in the Territory of New Mexico; and to report by bill or otherwise.

EXPLORATION OF COLORADO RIVER.

Mr. HOOPER, of Utah, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the Colorado river is estimated to be at least one thousand five hundred miles in length, draining a country equaled only in extent by that drained by the Mississippi and the Missouri; and whereas a river of such length, bounding on or meandering through six States or Territories should no longer remain in doubt as to its capacity for navigation: Therefore,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of causing an exploration of said river, commencing at a point known as Callwell and extending to the mouth of Green river, with a view to navigation, and to report by bill or otherwise.

ORDERS OF SOUTHERN DISTRICT COMMANDERS.

The SPEAKER. The next business in order is the consideration of resolutions calling for executive information which have been laid over under the rule. The first is a resolution offered on the 12th of December last by the gentleman from New York, [Mr. BROOKS.] The resolution will be read.

The Clerk read as follows:

Resolved, That the Secretary of War be requested to furnish the House with copies of all general orders which have been promulgated by the several commanders of the five military districts or pentarchies at the South, and of all special orders, or parts thereof, issued either by said commanders or by any of their subordinate officers for the execution of the reconstruction laws or in anywise relating thereto.

Mr. BROOKS. I suppose there will be no objection to this resolution. I call for the previous question.

The previous question was seconded.

Mr. BLAINE. It seems to me this resolution is not respectful in its language. I move that it be laid on the table.

Mr. BROOKS. Upon that motion I demand the yeas and nays.

Mr. BLAINE. If the gentleman will strike out the word "pentarchies" we will support his resolution. That is all we object to.

Mr. BROOKS. The gentleman from Maine [Mr. BLAINE] says that if I strike out the word "pentarchies" it will remove all objections to the resolution.

Mr. SPALDING. No, it will not.

Mr. BROOKS. That word "pentarchies" is a rather hard word; and I will not insist upon it.

The SPEAKER. The previous question having been seconded the resolution cannot be modified except by unanimous consent.

Mr. SPALDING. I object to the modification.

Mr. BLAINE. As the gentleman from New York [Mr. BROOKS] is willing to modify his resolution I withdraw the motion to lay on the table, and move to reconsider the vote by which the previous question was seconded.

The motion to reconsider was agreed to.

Mr. BROOKS. I withdraw the demand for the previous question, and modify my resolution by striking out the words "or pentarchies." I now renew the demand for the previous question.

Mr. ELDRIDGE. Is it any worse to have it in the resolution than to have it in the country?

Mr. PIKE. The usual word is "directed," and I hope it will be inserted.

Mr. BROOKS. I accept that modification. All I want is information.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BROOKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRIP OF THE MIANTONOMOH.

The SPEAKER stated the next business in order to be the following resolution, submitted by Mr. LAWRENCE, of Ohio, December 12, 1867, and laid over under the rule:

Resolved, That the Secretary of the Navy be directed to furnish to this House the entire expense of the late trip to Europe of the iron-clad Miantonomoh, which shall embrace in detail all the items and out of what fund the said expense has been paid.

Mr. LAWRENCE, of Ohio, demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SWAMP LANDS IN SOUTHERN STATES.

The next business in order was the following resolution, submitted by Mr. JULIAN December 12, 1867, and laid over under the rule:

Resolved, That the Secretary of War be directed to report to this House the information called for by its resolution of July last respecting the disposition of the swamp lands in the southern States, which information has not yet been communicated.

Mr. JULIAN. That has been answered; and I therefore move the resolution be laid on the table.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed House bill No. 521, in relation to taxing shares in national banks, without amendment.

It further announced that that body had passed a joint resolution (S. R. No. 81) placing certain troops of Missouri on an equal footing with others as to bounties, in which it requested the concurrence of the House.

CHANGE OF BANK SECURITIES.

The SPEAKER stated the next business in order to be the following resolution, submitted by Mr. PILE December 16, 1867, and laid over under the rule:

Resolved, That the Secretary of the Treasury be directed to report to the House whether, since the 1st day of July last past, any national banks have changed their securities held in the Treasury to secure their circulation and Government deposits; and if so, what banks have so changed their securities, what changes have been made, the date, amount, and kinds of such changes specifically; and that he be required to make no further changes in the funded securities of the United States by payment or otherwise, except of interest, until further order or legislation of Congress thereon.

Mr. BLAINE. That will prevent the funding of any seven-thirty notes.

Mr. PILE. I yield to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. Mr. Speaker, I trust the House will understand the purport of the resolution, and that it will be passed. There is now going on a process of funding seven-thirties into five-twenties, so as to increase the interest paid by the United States, so we are losing quite an amount in interest by this process of funding. Again, the Secretary of the Treasury is allowing a change of ten-forty bonds for five-twenties, and thus that loan is being got out, so as to bind us to gold payment before the House can take any action on the question. To stop this discretionary power in the Secretary of the Treasury in thus dealing with the bonds and the currency the resolution ought to be passed. If the morning hour were not about to expire I would go further into this important question.

Mr. BLAINE. I hope the gentleman will let me ask him a question.

Mr. BUTLER. I will if it does not allow the morning hour to expire.

Mr. BLAINE. Every holder of seven-thirties has the guarantee of law that they shall be exchangeable for five-twenties, and yet the gentleman from Massachusetts and the gentleman from Missouri, separately and jointly, propose by this resolution, and put through under the thumb-screw of the previous question in two minutes and a half, to negative that contract on the part of the United States.

Mr. BUTLER. To that I answer that we do not propose to negative that practice when done according to law; we only propose that it shall not be gagged through upon us while we are endeavoring to find a remedy for this depressed state of the business of the country, a remedy for the burden of taxation that the Secretary is continuing in the interest of the bondholder, of the banker, of the Jew, of the sharper. I move the previous question.

Mr. BLAINE. In the interest of common honesty. He is merely following the law. I hope the previous question will not be seconded.

The question being taken, the previous question was not seconded—ayes 32, noes 82.

Mr. HOLMAN. I move to lay the resolution on the table for the purpose of testing the sense of the House.

Mr. BLAINE. Mr. Speaker, what becomes of the resolution under the rule?

The SPEAKER. If a majority of the House shall vote in favor of the pending motion it will be laid on the table.

Mr. HIGBY. I ask the gentleman to withdraw the motion for a moment.

Mr. HOLMAN. I will withdraw the motion to lay the resolution on the table and move to refer it to the Committee on Banking and Currency.

The SPEAKER. The morning hour has expired, and the resolution goes over. The next business in order is the consideration of the contested-election case, upon which the gentleman from Indiana [Mr. KERR] is entitled to the floor.

SUSPENDING THE RULES.

Mr. ROBINSON. I rise to a question of order. Is it now in order to move, for the purpose of introducing any subject, to suspend the rules? I wish to introduce a resolution.

The SPEAKER. That is not a question of order; it is a parliamentary inquiry, which could not take the gentleman from Indiana off the floor except by his consent, and except, also, by a postponement of the election case.

Mr. KERR. I do not consent.

Mr. ROBINSON. I had risen before the gentleman did.

The SPEAKER. That may be, but yet the Chair would be bound to recognize the prior right of the gentleman from Indiana to the floor.

Mr. ROBINSON. When will it be in order to move to suspend the rules?

The SPEAKER. When there is no business before the House, after the morning hour of Monday.

MESSAGE FROM THE PRESIDENT.

Mr. W. G. MOORE, Private Secretary of the President of the United States, presented several messages in writing from the President, and also announced that the President had approved and signed bill and joint resolutions of the following titles:

An act (H. R. No. 207) to provide for the exemption of cotton from internal tax;

A joint resolution (H. R. No. 136) providing for the sale of iron-clads;

A joint resolution (H. R. No. 140) to provide for a commission to examine and report on meters for distilled spirits; and

A joint resolution (H. R. No. 171) for the relief of destitute persons in the South.

ELECTION CONTEST—SMITH VS. BROWN.

The House resumed, as the regular order, the consideration of the resolution reported by the Committee of Elections upon the contested election from the second district of Kentucky, Mr. KERR being entitled to the floor.

The pending question was on the resolution offered by Mr. KERR as an amendment to that offered by the committee.

Mr. KERR. Mr. Speaker, the great importance of the question now pending before the House entitles it to the most serious consideration of every gentleman on this floor. I desire in the outset of my argument to invite the attention of honorable gentlemen to the fact that, although they ordinarily sit here and discharge their duties in the capacity of legislators, though they ordinarily act in that capacity in which there may be mixed with their motives and actions somewhat of the spirit of the politician, yet in this case it is due to every gentleman, it is due to the parties involved, it is due to the State of Kentucky, it is due to the conscience of this House, that every man shall remember that he sits here now, in the adjudication of this case, as a judge and not as a legislator. He sits here acting in a judicial capacity under the solemn obligations of an oath that he will fairly and faithfully try this case, and, if you please, true verdict render according to the law and the evidence. No gentleman can rid himself of the obligation which rests upon his conscience of meeting this great duty, as it becomes a judge to meet it, with a mind impartial, unprepossessed, and unprejudiced, and upon the law and the evidence.

Now, Mr. Speaker, I ask the attention of gentlemen for one moment to what it is that the claimant for this seat, Mr. Brown, is required to do before he shall be entitled to take that seat. Is he required to possess an additional qualification? It may be that by a mere play upon words he may be held not to be so required. But if it be not an additional qualification it is certainly a condition-precedent which is just as bad, and its legal result works precisely the same end. What is that condition-precedent? That he shall be able to swear at the bar of this House that he has never committed the crime of treason against his country; that is, that he shall take a test-oath, a retrospective, expurgatory oath, which in its very terms is so ambiguous as to admit of different interpretations by changing party majorities, and can be made a most dangerous engine of tyranny.

Now, some gentlemen may question that proposition, and in order to make it clear I invite their attention to the language of the oath itself. I will not read all of it, but so much only as is new, so much as is peculiar to the act of 1862. It is in these words:

"I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto."

Now, I submit to every lawyer upon this floor that that language admits of but one definition; it has but one purpose, but one intent, and its scope embraces but one single idea, and that is, that if the man who offers with uplifted hand to take it has committed the crime of treason he shall not be allowed to take it. What is treason? Fortunately for us, fortunately for the people of this country and the security of human liberty, we have in our fundamental law prescribed for us a definition of the crime of treason. What is it?

"Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort."

Is there a single idea in this oath that is not embraced in that definition of treason? Is it not giving them "aid and comfort" to bear arms against the United States? Is it not giving "aid and comfort" to give them countenance, counsel, or encouragement to persons engaged in armed hostility thereto? Is it not giving "aid and comfort" to seek or to accept any office under any treasonable government? Is it not giving "aid and comfort" to yield a voluntary support to any such government?

Now, Mr. Speaker, we have here a definition of treason, and gentlemen in the arguments that have been made upon the other side of this great question wholly ignore the fact that we have in this country a definition of the crime of treason which is itself the supreme law of this land. Can a man be punished here for anything less than treason? Can a man be punished here for anything which would simply constitute constructive treason? No; all the authorities of the country declare that there can be in this country under our Constitution no constructive treason. Fortunately for us it has been exorcised from the very fundamental law of the country, and can never exist except as the offspring of tyranny and usurpation. What is constructive treason? It is anything that any body of men—law makers or not—shall attempt to declare to be treason, but which is not by the Constitution defined to be treason. Let me give an illustration or two as to what in the past experience of mankind has been held to be constructive treason. In the time of Edward IV, on one occasion the king went hunting and by accident or design he killed the favorite buck of one of his subjects; that subject in his anger said that he wished the king had the buck, horns and all, in his belly; whereupon the subject was prosecuted for treason, and the judge before whom it was attempted to convict him said that it was no treason, it was at most mere constructive treason, and that he would not pronounce judgment upon him. Yet by another he was sentenced and executed. The tyrant Dionysius, when one of his subjects whispered to a neighbor that on the night before he had dreamed that he had killed the king, prosecuted the subject for treason, saying that to dream that he had killed the king evidenced the fact that in his waking hours he must have thought of killing the king, and therefore he was guilty of treason. He, too, was executed. The bloody pathway of the past is everywhere marked and deformed by such crimes against reason, justice, and liberty. This doctrine of constructive treason has left indelible evidences of its inherent viciousness and dangers upon the pages of nearly all European history. I assume without fear of contradiction from a single respectable authority in this or any other country that a man's mere unwritten words can never constitute the crime of treason. It is so laid down in every respectable text-book in the country. It is the established and accepted law of this land to-day. I also assume that mere written words—written words alone—cannot constitute the crime of treason; they cannot constitute that overt act of treason which the Constitution intends.

I do not mean to say that written words in connection with acts, with circumstances, with the conduct of the party, as illustrated by the ten thousand surroundings which have accompanied and prompted and given form and life and being to the written words, may not constitute treason. I simply say that written words alone cannot do it.

Now, in this case it has been conceded by the honorable gentleman who is chairman of the Committee of Elections that Mr. Brown has been proven to have been guilty of no single overt act of treason, unless this letter constitutes such an act; and whether he or any other gentleman upon this floor concedes that or not, I say, and I have the proof before me, that there is no evidence to the contrary; not one act of treason is proven; no, not one, and I challenge the proof.

We have in this case, then, precisely what it is against which the wisdom of our forefathers attempted to protect the people of this country—a mere charge of constructive treason, upon which it is proposed that this House shall convict Mr. Brown of a crime and punish him for its commission; not by taking his life or depriving him of his liberty, but by taking from him a now vested right of office conferred upon him by the people of Kentucky, to be exercised by him for his own and their advantage, and by thus casting odium and infamy, as far as this House can do it, upon him and all who are near and dear to him.

Mr. UPSON. I would like to ask the gentleman a question.

Mr. KERR. I will yield, but only for a question.

Mr. UPSON. I desire to ask the gentleman whether the President of the United States has not, in public messages to this House, twice asserted the right of this House to refuse to admit men here on account of disloyalty?

Mr. KERR. Will the honorable gentleman tell me what I have to do with that or what that has to do with this case? I am talking about this case. The gentleman, as well as myself, is sitting here as a judge and trier of the fact under the judicial obligation which rests upon us. Do not tell me that the President or ten thousand Presidents have indorsed such a doctrine as this. We are to be governed here by the law and the evidence.

Mr. UPSON. Will the gentleman allow me to ask another question?

Mr. KERR. Certainly.

Mr. UPSON. I desire to inquire of the gentleman if he considers this a judicial question, and whether it is not trying the same fact that would be tried on an issue for expulsion for disloyalty?

Mr. KERR. I consider it beyond all controversy a judicial question, and I have said so several times at least during my remarks to-day. So would any attempt to expel a member be a judicial question, pure and simple, just as much as would be the trial of an impeachment by the Senate.

Mr. UPSON. There is where I think the gentleman is mistaken.

Mr. KERR. It is a judicial proceeding, and nothing else. It is certainly not a legislative proceeding. It is precisely the same in legal character as any trial of any contested-election case, or any trial of an officer of this House for an alleged contempt of the House, which might result in his arrest and punishment.

Mr. UPSON. Will the gentleman be satisfied with Kentucky authority on that subject?

Mr. KERR. I will be satisfied with nothing but the law and the evidence in this case. And I do not desire to be interrupted for the purpose of having the gentleman read from Kentucky authority.

Mr. UPSON. I only wish to give the gentleman the opinion of Senator DAVIS on that subject.

Mr. KERR. I desire to be allowed to go on without further interruption of that kind. I have said that this proceeding indicates a purpose on the part of the majority of this

House to enforce against Mr. Brown a mere charge of constructive treason, in violation of the Constitution of the country, in violation of every principle of law, of justice, and of safety. If this great wrong be committed it will constitute a most dangerous precedent, and may come back to plague the inventors. It will violate not alone the spirit and language of the Constitution, but the very traditions of American liberty.

Montesquieu said, hundreds of years ago, that he looked upon this question of the definition of treason being settled in the fundamental law of the country as being so important, so vital to the well-being and safety of society and of liberty, that he said:

"If the crime of treason be indeterminate, that alone is sufficient to make any Government degenerate into arbitrary power."

And Justice Story, in repeating the teachings of all the past, has used this language, that—

"It was under the influence of these admonitions, furnished by history and human experience, that the convention deemed it necessary to interpose an impassable barrier against arbitrary construction either by the court or by Congress upon the crime of treason."

Now, before I proceed to analyze this case as I understand it, I beg leave for a short time to refer to the speeches made last Friday and Saturday by the gentleman from Massachusetts, [Mr. DAWES] and the gentleman from Illinois, [Mr. COOK,] my colleagues on the Committee of Elections. The gentleman from Massachusetts, in the course of his remarks, deemed it consistent with his duty as a member of the Committee of Elections, as a member of this House in a judicial capacity, as a member attempting to advise the conscience of this House as to its high and solemn duty in this case, to use this language in regard to Mr. Brown and his conduct at the date of his letter of April 18, 1861.

"But," continues the gentleman from Massachusetts, "that is not all. He (Mr. Brown) confesses in this letter that he went about privately making these assurances." "Went about privately!" Now, I know not whether to characterize that as adroitness or maladroitness in torturing, if you please, the evidence that is brought here and upon which it is sought to convict Mr. Brown:

"It appears in the testimony that at the very time he published this letter there were agents of the confederacy secretly obtaining recruits in Kentucky for the confederate army."

Mr. DAWES. Mr. Speaker——

Mr. KERR. If the gentleman will wait a moment I will yield.

"And while they were doing so John Young Brown confesses that he also secretly and privately went about whispering in their ears that if any man joined the Union Army in Kentucky he ought to be, and he believed he would be, shot down before he left the State."

Now, Mr. Speaker, is it justifiable, is it right, for a gentleman in this sort of a case, acting in this solemn capacity, thus to challenge his imagination to come to the aid of his facts, and to interpolate into this record what there is not one solitary particle of evidence to prove? Mr. Speaker, if the gentleman from Massachusetts [Mr. DAWES] thinks I have misquoted his language, I am ready to be corrected.

Mr. DAWES. Mr. Speaker, I have not before me the report of my language, but I have here Mr. Brown's confession; and that is this——

Mr. KERR. I do not yield for the reading of that confession.

Mr. DAWES. Very well.

Mr. KERR. I will read it myself in the course of my own remarks, and then, if the gentleman please, I will consent to be interrupted by him.

Mr. DAWES. I do not care for the privilege of an interruption, if the moment I reach the point I am compelled to stop. I can take care of myself when I have the floor.

Mr. KERR. I am glad to hear it; and I hope the honorable gentleman will take better care of his duty in this case than he did in his argument last Friday. I also will attempt to take care of myself.

Mr. DAWES. If the gentleman will not permit me to read John Young Brown's confession let him not say anything more about my "misrepresentations."

Mr. KERR. I will read it at the proper time, and the gentleman shall have the benefit of it. No; I will read it now for the accommodation of my honorable friend from Massachusetts. Now, what is the language of John Young Brown? He says himself:

"What I did say was this: 'Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy way against the South. If this northern army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State.'

"This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered, publicly and privately, prior to my debate with him."

Now, what does the honorable gentleman from Massachusetts say? He says Mr. Brown "confesses that he also secretly" (where did he say that?) "and privately went about whispering" into the ears of the young men of Kentucky treasonable sentiments. There is no such thing in the record; and it is to that I call the attention of the gentleman and of this House. Why drag in that kind of interpretation when in this record there is nothing to justify it?

But I read again from the honorable gentleman's speech, and I invite his attention to it:

"I do not know whether Mr. Brown has the honor of having originated that cruel system of warfare which ran through the southwestern States, where at midnight, in their own homes, peaceable citizens were murdered by bands of ruthless marauders and ruthless guerrillas or not; but I do say that if he was the inventor of it he could not have based his claim to that infamous position upon more irrefragable ground than by confessing before the public, as he does in this letter, that as early as the 18th day of April, 1861, he had inaugurated it as the policy in his own congressional district, and had set it on foot among the private homes of the Union men there dwelling."

Mr. Speaker, I should like to know where the honorable gentleman finds evidence which justifies him in the assertion of that proposition. Where did Mr. Brown confess that he, in 1861, in his own district or anywhere, had "inaugurated the infernal system of guerrilla warfare among Union men dwelling there?" Can you find it? Not one word; not one syllable. The record shows the very contrary of all such declarations. The whole record shows, from the very inception of this trouble until this present hour, Mr. Brown, among his neighbors, whether they were Union men or secessionists, assumed the office of peace-maker and did nothing inconsistent therewith. That is what the record shows. That is what the evidence shows. That is what the witnesses produced both by Mr. Smith and Mr. Brown swear. Then why indulge in this kind of stuff to control the action, to control and prejudice the conscience, of this House against its plain duty in this important cause?

Mr. Speaker, I have not yet done with my honorable friend, the chairman of this committee. I now invite the attention of this House and his attention to some of the authorities which it was his pleasure to present before the House on Friday for the purpose of maintaining or supporting the proposition of constitutional law he then laid down: that Congress by means of such test-oaths, such retrospective and expurgatory oaths as the one required now for admission to this House, may exclude members duly elected and having all the qualifications prescribed by the Constitution. He admits there is no express authority to do such an act. He undertook to inform this House that it possesses the constitutional right to exclude whom it pleases if the public safety requires it. Yet he laid down the broad doctrine, not in terms but in legal effect, that the guide which this House must follow in the adjudication of this case must be its own will. It has but to consider what the public welfare requires, what the public safety requires, what the public interests demand, and then to do it; and in order to sustain that startling proposition, unquestionably revolutionary, he cited two or three authorities.

Now, Mr. Speaker, I invite the attention of the gentleman to the authorities which he read, and I trust every gentleman in this House will give me his attention while I read again the authority quoted by the honorable gentleman on Friday. He read from the twenty-third number of the "Federalist," of which Mr. Hamilton was the author. Here is his language:

"The circumstances that endanger the safety of nations are infinite; and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils which are appointed to preside over the common defense.

"This is one of those truths which, to a correct and unprejudiced mind, carries its own evidence along with it, and may be obscured but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal; the means ought to be proportionate to the end. The persons from whose agency the attainment of any end is expected ought to possess the means by which it is to be obtained.

"Whether there ought to be a Federal Government intrusted with the care of the common defense is a question, in the first instance, open to discussion; but the moment it is decided in the affirmative it will follow that that Government ought to be clothed with all the powers requisite to the complete execution of its trust. And unless it can be shown that the circumstances which may affect the public safety are reducible within certain determinate limits—unless the contrary of this position can be fairly and rationally disputed, it must be admitted as a necessary consequence that there can be no limitation of that authority which is to provide for the defense and protection of the community in any matter essential to its efficacy."

Mr. Speaker, if that language, by any possible torture, or any possible effort of argument or construction, or interpretation, could be made to apply to the subject now before the House, then I would admit its force and its weight, and would seek either to avoid it in some other way or not avoid it at all. But what does this language relate to? What did the honorable gentleman know when he read it and have then necessarily and unavoidably before his eyes? Did he not, was it possible for him not to know at the time that it had not and was not intended to have any application whatever to the subject he was discussing, the proposition he was attempting to maintain? The title of No. 23 of the "Federalist" is as follows: "The necessity of a Government at least equally energetic with the one proposed," referring to the then pending but yet unratified Federal Constitution. The subject of this letter is the war power of the Federal Government. I will read what immediately precedes what was read by the honorable gentleman and has been read by me, because that furnishes the key, the definition, the application of those words as intended by their author, but was not read by the gentleman from Massachusetts:

"To raise armies; to build and equip fleets; to prescribe rules for the government of both; to direct their operations; to provide for their support, these powers ought to exist without limitation."

The war powers of this country ought to exist without limitation, and they do exist without limitation. Who questions the propriety of that existence?

"These powers ought to exist without limitation, because it is impossible to foresee or to define the extent and variety of national exigency, and the correspondent extent and variety of the means which may be necessary to satisfy them."

Then comes the extract quoted by the gentleman from Massachusetts and reread by me. And now I submit that I have shown by the very language of this article itself that the part quoted by the gentleman from Massachusetts has not one solitary particle, and by its very nature cannot have one particle of application to the question now before the House. If he had given the context, that which was necessary to show what the other was intended to mean, the House would have seen in an instant that what he did read had no possible application, and gave no particle of support to his proposition. Why did he not read the context?

But I am not yet done. I invite attention

now to the words which conclude the very paragraph read by the honorable gentleman, and which I have just now repeated. Instead of reading through the paragraph he stops at the point where I have stopped in reading, and then he makes a period. In the text there is no period there. Mr. Hamilton does not stop at that point at all, but with only a semicolon intervening, says:

"That is, in any matter essential to the formation, direction, or support of the national forces."

There is the period.

Now, Mr. Speaker, I ask every intelligent gentleman on this floor, every fair-minded lawyer in this House or this country, if it is fair, if it is just in this way and by this means to undertake to control the judgment of a court and jury of which the gentleman who uses this language in this way is a member and a part? It is, perhaps, pardonable for lawyers, pleading before courts and juries, where the court and the jury alone are charged with judicial functions and duties, and other lawyers are watching to catch and expose their tricks and errors, to indulge in this kind of argument, this kind of arts, to give unjust support to untenable propositions; but is it pardonable, is it justifiable in circumstances like those which surround us to-day?

Mr. Speaker, I have still another issue to settle with the gentleman from Massachusetts and this House. I read his own quotation from Mr. Madison, in the forty-first number of the Federalist:

"The means of security can only be regulated by the means and the danger of attack. They will, in fact, be ever determined by these rules, and by no others. It is in vain to oppose constitutional barriers to the impulse of self-preservation."

Now, I concede that if that language was intended by its author to have any application to the case pending here it might have some force as an argument in favor of the power of Congress to exclude this gentleman upon the grounds made in this record, especially when viewed from the stand-point of the majority of this House. But here, too—I beg pardon and mean no offense—we find a resort to the arts of the special pleader, an attempt to torture from its rightful place in the language of Mr. Madison, and excluding from this House the context showing that the language bears no such interpretation as that which is given to it. I invite the attention of the House now to the language of Mr. Madison. On page 252 of the Federalist the article may be found from which the gentleman from Massachusetts has quoted. The subject of that article is "security against foreign danger." The war power is the subject of his dissertation, not the power of Congress to sit in judgment upon its own members or the people of this country, and to exclude from these Halls men as much entitled to sit here as any gentleman who now sits here. Mr. Madison says:

"Security against foreign danger is one of the primitive objects of civil society. It is an avowed and essential object of the American Union. The powers requisite for attaining it must be effectually confided to the Federal councils.

"Is the power of declaring war necessary? No man will answer this question in the negative. It would be superfluous, therefore, to enter into a proof of the affirmative. The existing confederation establishes this power in the most ample form.

"Is the power of raising armies and equipping fleets necessary? This is involved in the foregoing power. It is involved in the power of self-defense.

"But was it necessary to give an indefinite power of raising troops as well as providing fleets, and of maintaining both in peace as well as in war?

"The answer to these questions has been too far anticipated in another place to admit an extensive discussion of them in this place. The answer, indeed, seems to be so obvious and conclusive as scarcely to justify such a discussion in any place. With what color of propriety could the force necessary for defense be limited by those who cannot limit the force of offense? If a Federal Constitution could chain the ambition or set bounds to the exertions of all other nations, then, indeed, might it prudently chain the discretion of its own Government and set bounds to the exertions for its own safety.

"How could a readiness for war in time of peace be safely prohibited unless we could prohibit in like manner the preparations and establishments of every hostile nation?"

And then follow the words quoted by the honorable gentleman from Massachusetts. Thus it appears again that the context of what he read takes from his quotation the last particle of support. It not only does that but it conclusively shows that his proposition is utterly untenable.

Mr. Speaker, he and every other gentleman is entitled to all that can be made before an intelligent court and jury out of that kind of authority, out of that kind of special pleading or argument. It is fashionable on the other side of the House to drag in here in this kind of discussion the great names of Hamilton, and Madison, and Washington, and Jefferson, and Jackson, and other great patriots of the early history of our country, and to attempt by them to give weight and character to the otherwise characterless proceedings of this day, and in many cases, I am sorry to say, that attempt is about as futile and about as vain as it has been in this case. Mr. Madison says, speaking then of these war powers, that it would be vain to interpose constitutional barriers against the war power, and therefore no constitutional barriers are interposed. But are they not interposed against the power now attempted to be exercised by this House? Do they not stand before us to-day in this tribunal and confront us at every stage of our progress and say to us thus far shalt thou go and no farther without treading upon the sacred charter of our liberties? There is a limitation upon the power this House possesses in such cases. The Constitution must be its guide. No will or judgment or caprice of this House can override it or annul its provisions under the specious and most dangerous pretense that the "will of the nation" demands it. The Constitution is the will of the nation. There can be no other except that and the laws made in pursuance thereof.

But I am not yet done. The honorable gentleman further invited the attention of the House to a citation or two from another of the great luminaries of our early laws and Constitution and history, John Marshall, and from his opinion in the case of McCulloch *vs.* The State of Maryland he undertakes to find comfort, to find support, to find some sort of justification for what is proposed to be done here.

Mr. Speaker, I say without fear of contradiction—I say it to every lawyer upon this floor, I say it to the honorable gentleman himself, and I say it with the utmost confidence—that there cannot be found in that great opinion one solitary line of authority, one single syllable of countenance or encouragement even for this kind of doctrine; not one. What did that opinion decide? It decided these three points: that the National Bank of the United States, organized in 1841, I believe, involved a constitutional exercise of the power of Congress; that that bank had a right to organize a branch in the State of Maryland; and that the State of Maryland had no right to tax that branch. That is what that case decided, and that is all that the case decided; and the Chief Justice laid down in that case a rule of decision, a rule of law, a canon of constitutional interpretation from which this House ought never to seek to protect itself and which ought never to be forgotten. What was that rule? It was not that reckless and dangerous and revolutionary proposition asserted by the honorable gentleman on Friday, but it was this in substance, that whenever Congress is invested by an express grant with the power and duty to do an act there follows, as a necessary part of that grant, every incidental power necessary and proper to carry into execution the expressly granted power. That is what Chief Justice Marshall decided. That is what every court in this country says; that is what Justice Story says; that is what Chief Justice Taney says, and that is what every other judge, whether of a Federal or State court, whose opinions are worthy to be cited anywhere ever since the organization of our Government, have said.

Now, let us see what will be the effect of following the honorable gentleman and taking his own proposition as the law of the House. He says:

"The Government which has a right to do an act, and has imposed on it a duty in performing that act, must, according to the dictates of reason, be allowed to select the means."

It is attempted to apply this language of the court to the power of Congress over the admission of members to seats on this floor, and to deduce from it the conclusion that the power of this House is only limited or controlled by its own judgment. It may, therefore, impose conditions precedent which amount to additional qualifications to those prescribed in the Constitution, or it may require test-oaths to be taken, or prescribe any other conditions it pleases. That is what it means. Congress is thus to be made the sole judge and interpreter of its own powers, and if Congress, in the exercise of the despotism of a majority thinks that the public interests require that the gentleman from Illinois, [Mr. COOK,] or the gentleman from Massachusetts, [Mr. DAWES,] or you, Mr. Speaker, or I should be expelled from this House, they have just the same power to expel them under that citation that you have to expel Mr. Brown or deny him his seat. If this grant of power or assumed grant of power is good for the one purpose it is good for any purpose that the sovereign will of the majority of this House may esteem necessary.

Mr. Speaker, I would desire the attention of the honorable gentleman from Illinois, [Mr. COOK,] for he, too, seems to have forgotten that in this case he, too, is a judge and a juror. I regret that he is not now in his seat. In the course of his remarks on Saturday last he used these words:

"I beg leave now to call the especial attention of the House to the fact that at the time that the sentiments contained in this letter were publicly avowed by Mr. Brown in a speech at Hebbardsville, in the beginning of April, 1861, a rebel agent was recruiting among the audience for the confederate army."

Now, I desire to say that in this entire record, or out of the record, nowhere upon God's earth does the fact exist, or can the fact be proven, that Mr. Brown in 1861 at any time made a speech in Hebbardsville; he never opened his lips there; that he was not in that county, but on the contrary he was in the county of Bullitt, where, I believe, he lived at that time, and in the district which he had represented in Congress. After that time he removed to the county of Henderson, where he now lives. Then what becomes of that kind of assumption? It indicates a singular, if not inexcusable, neglect to study the facts of this case.

It is to me a matter of profound surprise, a matter of wonder, that intelligent gentlemen will undertake in this way to relieve their consciences of a solemn duty like that now resting upon us all. The truth is, however, that early in April, 1861, Mr. Brown made a speech in another place. It is perhaps by a misrecollection of names and of places, a fault of memory, that my colleague from Illinois [Mr. COOK] referred to this as having occurred at Hebbardsville, when in truth there was no meeting there. But early in 1861 there was a meeting in Shepperdsville, in Bullitt county, Kentucky, and if gentlemen want to find the evidence upon the subject they will find it on pages 101 and 102 of Miscellaneous Document No. 47, being the testimony in the cases of the Kentucky elections.

I now invite the attention of the House to what it is that Mr. Brown is proven to have said in his speech at Shepperdsville, in Bullitt county, early in April, 1861. I read from the evidence of the only witness whose lips have been opened upon this subject, from whom has escaped the only words that have been spoken in relation to that question. The testimony I will read will be the only testimony that there will be in this case upon this point. It is the testimony of Colonel Phillip Lee, who said:

"I live in Louisville, Kentucky; I have known Mr. Brown since 1855; I was in the confederate army from the summer of 1861 to 1865. I heard Mr. Brown make a speech at Shepardsville, Bullet county, at

the end of March or beginning of April, 1861. He was then our member of Congress, and we looked forward to his speech with great interest, and to the positions which he would take. I remember that I was very greatly disappointed, and I opposed him as a candidate for Congress. He took the ground that Kentucky ought to maintain a neutral position. In his speech he opposed the doctrine of secession. I thought his speech calculated to discourage enlistments in the confederate army, and I was engaged in that business at the time. Therefore I and the other southern men opposed Mr. Brown, and determined to bring out a candidate of our own, thinking that Mr. Brown was too much opposed to us. My recollection is that he took ground against the war on either side; he was opposed to coercion; said that it was a duty which the young men of the State owed to the State to remain in it."

I ask the attention of gentlemen to this testimony, because it is a triumphant answer to the assertion of the gentleman from Illinois that Mr. Brown encouraged the young men of Kentucky to enlist in the rebellion. It establishes that what Mr. Brown advised was precisely the contrary. He told the people, young and old—

"That it was a duty which the young men of the State owed to the State to remain in it; that Kentucky would act as a peacemaker, and that it was the duty of young men not to go into the southern army. There was no one, I think, at that time engaged in enlisting men in this State for the Federal Army. I was attempting to raise men for the southern army; I had not commenced to do so openly, but was enlisting men privately. I went off in June, 1861. We generally regarded Mr. Brown as opposed to our views of matters and in favor of neutrality to such an extent that we could not vote for him."

Now, gentlemen can read that testimony through, every part and particle of it, and they will find in it no sentiment or word inconsistent with what I have said. That, therefore, is the whole case so far as this point is concerned. Then what becomes of the foundation of this grave and most damaging charge against Mr. Brown? It falls to the ground; it is simply a gratuitous assumption. Taking the evidence alone and giving to it a fair and just legal interpretation, and it seems to me entirely clear that the judgment of the House must be in favor of Mr. Brown.

Mr. Speaker, before I proceed further to express my own views of this case, I must invite attention to another position assumed by the honorable gentleman from Illinois. He read, as did also the gentleman from Massachusetts, another passage from the decision in the case of McCulloch *vs.* The State of Maryland, in which Chief Justice Marshall uses this language speaking of the power of Congress to require an oath of office in addition to the oath prescribed in the Constitution:

"It might be argued with as much plausibility as other incidental powers have been assailed that the convention was not unmindful of this subject. The oath which might be exacted—that of fidelity to the Constitution—is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the Legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest."

It is attempted by this citation from that same great opinion to justify to the conscience of this House this arbitrary exercise of power in the enactment of test-oaths of that sort—odious, expurgatory test-oaths, which in all times, ever since freedom had a foothold on earth, freemen have detested and denounced above all other attempts of wicked rulers to override and destroy the rights of the people. Does Chief Justice Marshall justify any such assumption? Does his language even squint (if the expression may be pardoned) toward any such conclusion? It simply asserts that Congress has the power, as a power incidental to those expressly granted in the Constitution, to impose other oaths than those specified in the Constitution itself. But what kind of oaths must they be? They must be "oaths of office"—not retroactive, not expurgatory, not test-oaths, but simple, honest, fair, legal oaths of office. Suppose the honorable gentleman from Massachusetts is appointed collector of the customs at some port in his district; the Chief Justice simply says that Congress may require him to take not only the constitutional oath, but also an oath of office—an oath that he will faithfully and honestly discharge the duties of that office according to law. Another man is appointed a mail agent; another is appointed, if you please, Sergeant-at-Arms of this House; another is appointed Chief Justice of this District. They are all public officers and may be required to take an oath of office—an oath that they will respectively discharge, according to law and to the best of their ability, the duties pertaining to their respective offices. That is all there is in it, and to that poor extent it is a mere dictum.

But follow this kind of reasoning to its logical results, and see where we shall arrive. If under this kind of reasoning Congress may impose other oaths than those to which I have referred, it becomes perfectly apparent that this power is absolutely unlimited, because its own discretion becomes its law, and no law outside of that can restrain it in a single particular. But the language of the Chief Justice is that Congress may prescribe other oaths of office. He is not speaking of members of Congress; he is speaking of officers of the Federal Government, acting by appointment of the Federal Government and under its authority, not of members of Congress. It has, therefore, no application.

[Here the hammer fell.]

Mr. DAWES obtained the floor and said: I hope the gentleman from Indiana [Mr. KERR] will be permitted to conclude his remarks.

The SPEAKER. How much longer time does the gentleman from Indiana desire?

Mr. KERR. I am not able to indicate precisely; but I will not trespass beyond a reasonable time. I certainly shall not occupy an hour.

The SPEAKER. If there is no objection the time of the gentleman from Indiana will be extended.

There was no objection.

Mr. KERR. I thank the gentleman from Massachusetts [Mr. DAWES] for his courtesy in suggesting that I may be permitted to continue my remarks.

The gentleman from Illinois, [Mr. COOK,] in the further progress of his argument on Saturday last, undertook to show by a very remarkable kind of reasoning that it is not without precedent in this country for Congress to prescribe this kind of qualifying oaths; and he undertook to tell us that there are two instances upon the statute-book of this country which justify the conclusion to which he arrives, that Congress possesses the power claimed in this case, and may by law create additional qualifications to admission to Congress.

I invite attention to the points he makes. He refers to the act of Congress of 1790 and the act of Congress of 1853, both of which are penal laws, laws defining what shall constitute crimes against the Federal Government and how those crimes shall be punished. Let that be remembered, because that fact alone utterly destroys the force of all the gentleman has said in reference to the application of these two laws to the case before the House. What do those laws prescribe? One says:

"*And be it further enacted*, That if any person shall directly or indirectly give any sum or sums of money or any other bribe, present, or reward, or any promise, contract, obligation, or security for the payment or delivery of any money, present, or reward, or any other thing to obtain or procure the opinion, judgment, or decree of any judge or judges of the United States in any suit, controversy, matter, or cause depending before him or them, *and shall be thereof convicted*, such person or persons so giving, promising, contracting, or securing to be given, paid, or delivered, any sum or sums of money, present, reward, or other bribe as aforesaid, and the judge or judges who shall in any wise accept or receive the same, on conviction thereof shall be fined and imprisoned at the discretion of the court; and shall forever be disqualified to hold any office of honor, trust, or profit under the United States."

The other act is very similar in terms and relates to and prescribes punishment for bribery of any member of Congress.

The language of both these laws is that those who attempt to bribe a judge or member of Congress, by any means, directly or indirectly, shall be disqualified thereafter, among other things, from holding any office of honor, trust, or profit under the United States. Now, what are offices under the United States? Do we hold office here under the United States? Does the gentleman before me hold an office under the United States? Does any gentleman in the other end of the Capitol hold an office under the United States? Does any gentleman on that side of the House contend or admit that he sits here as an officer of the Federal Government, as holding an office under the Federal Government? If he does, he thereby ignores one of the fundamental principles which lie at the very basis of our republican institutions, a principle which regulates and secures the freedom and independence of the representatives of the people of this country. We come here delegated by the people; we come here as the officers, servants, representatives of the people; we come here to represent the people. We do not get our power, we do not get our offices under the Government of the United States at all. We hold no commissions from the Federal Government, but from the people who elect us. We are a part of the Government of the United States because the people are. Need I tell learned gentlemen on this floor this is now the accepted and settled law of this country? Need I ask them to refer to a full review of this subject by Justice Story from sections seven hundred and eighty-eight to seven hundred and ninety-five inclusive, of his Commentaries on the Constitution? Need I tell them in neither one of these acts of Congress is there a solitary word of authority for test-oaths, or oaths intended to create conditions-precedent not required in the Constitution, and yet required to be taken by Representatives before they shall be permitted to take their seats? I confess myself wholly unable to see the manner in which my excellent colleague expected to maintain his "iron-clad" oath by the citation of these acts. I am willing to take him on his chosen ground, and to agree that the penalty denounced in these laws against those who violate them shall, as to disqualification to hold office, be visited upon Mr. Brown as soon as he shall have been convicted of the crime of treason according to the laws of the country. Under neither of those acts can the disqualification attach for the crime therein forbidden until the offender "shall be thereof convicted."

The gentleman from Illinois [Mr. COOK] and the House will pardon me in this connection for inviting attention to an opinion of Justice Story on the power of Congress to add new qualifications to membership in this House. It is from section six hundred and twenty-five of his Commentaries on the Constitution. It is free from the objection urged against opinions of the present Supreme Court on these great questions, that they partake of the pervading excitement of the times. It is an expression of the judgment of the legal mind of the country many years ago. He says:

"It would seem but fair reasoning upon the plainest principles of interpretation, that when the Constitution established certain qualifications as necessary for office it meant to exclude all others as prerequisites. From the very nature of such a provision, the affirmation of these qualifications would seem to imply a negative of all others. A power to add new qualifications is certainly equivalent to a power to vary them. It adds to the aggregate what changes the nature of the former requisites."

So do all these test-oaths. So does this iron-clad oath of 1862.

Mr. Speaker, I come now to express briefly, I trust very briefly, my views of this case upon its merits as contained in the evidence. I hope that honorable gentlemen have found time to read the report of the minority of this committee. If they have it will relieve me of much that would be otherwise my duty to say on this occasion. And, as the first suggestion that, in the consideration of this case, arises in the mind of every fair and impartial man, I beg leave to say that if Mr. Brown is guilty of treason at all that guilt must be shown by proof beyond a reasonable doubt, because he stands before the bar of this House panoplied in the guarantied security of presumed innocence, and

that presumption must stand until by the power of evidence it is overcome and broken down, and then he may stand here as a convicted criminal waiting the punishment that is due to his crime. It becomes the duty of the House, then, in the consideration of this case to take the evidence, the law, the current history of the times, the circumstances under which this remarkable letter was written, the purpose and intent with which it was written, the motives, the impulse, all the surroundings that must be presumed to have prompted its writing, and from them deduce, if you can, a conclusion either of innocence or guilt. And certain it is your decision should have no less broad and comprehensive foundation than that.

What, then, does the evidence show? Treason I have already defined. Our forefathers were not content with guarding the liberties of this country by a mere definition of treason, and they deemed it their imperative duty to go a step further and define what shall be the evidence of treason. And what is it?

"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court."

Does this case disclose such evidence? Is there a scintilla of evidence here that Mr. Brown ever wrote this letter except his own confession out of court? He does not deny it anywhere out of court. Is it confessed in court? I confess it for him in court, but without his confession the record makes no case against him upon that letter, admitting that it can be even held to be an act of treason. It is established by his own confession. Now what follows? Why, that when his confession is to be taken we must take his whole confession. We must take all he says, not the confession that he wrote this letter and then stop; that would be doing violence to the very fundamental principles of common sense as well as common justice and common law.

We must take all he said; and what is all he said? Why, he says it first, he says it last; he said it in the beginning, and has said it ever since; he says it privately and he says it publicly; he says it in speeches, on the stump, in the forum, before the committee, and everywhere, that when he wrote this letter he was a Union man and that he wrote it as a Union man. Taking, then, all this statement together, I confess for him, if you please, in open court. I do not make this confession by any authority from him, for I have had no conference with him and know not what his views or desires are as to the line of argument. I simply say, taking all these facts and considerations as the record against Mr. Brown, and he must go quit of any guilt.

Mr. DRIGGS. Will the gentleman yield for a question?

Mr. KERR. Yes, sir.

Mr. DRIGGS. I understood him to say at the commencement of his speech that no words spoken or written can constitute treason. I desire to ask him how it happens that Major André was hung for having written words hid in his boot when he was captured.

Mr. KERR. Mr. Speaker, I am happy in having a most easy answer at hand. I am afraid my friend has forgotten a little of the history of this country or it would have suggested itself to his mind and saved him the trouble of the question. The answer is, André was a British subject and soldier, and his country and our original Colonies were engaged in war, and he attempted as a spy to invade our lines and obtain information for our enemy, and was caught, tried, convicted, and executed as a spy, and the right that was exercised upon him was a right of war. And further, I say to the gentleman, the Constitution of the United States did not then exist.

Mr. DRIGGS. Will the gentleman allow me to finish the sentence? I know Major André was not executed for treason. But had Arnold been captured would not his written dispatches giving information how the fortification might be taken have been regarded as treason in the highest degree?

Mr. KERR. That leads me simply to add this: that the crime of Andre was that of a spy. He invaded our lines in disguise and obtained and betrayed the secrets of our commanders, with the plans of the operations of our army, to the enemy, and was captured and convicted as a spy. The crime of Arnold was that of infidelity of a military officer to his country in the midst of war and of desertion to the enemy, for which he might have been shot down in the very act, or arrested, tried by court-martial, and shot or hung.

Now, Mr. Speaker, I return to the question about which I was speaking before. Mr. Brown wrote this letter. I have read the material part of the letter in the hearing of this House, and will not read it again. It bears date the 18th of April, 1861. What did Mr. Brown do on that day? Did he commit any act of treason? Did he commit any act of rebellion? Did he give any aid and comfort to the enemy of his country? The record which is before the House shows that on that same day—it may be at the same hour he was penning that letter—he was voting for a series of resolutions then being adopted by a great Union mass meeting in the city of Louisville, which resolutions were in writing, and were just as much his writing as was this letter—just as much his act as is any act done by this House, the act of the gentleman who votes for it.

Now, what do those resolutions say? I will read two of them:

"3. That as we oppose the call of the President for volunteers for the purpose of coercing the seceded States, so we oppose the raising of troops in this State to coöperate with the southern confederacy."

* * * * * * * * * * *

"4. That the present duty of Kentucky is to maintain her present independent position, taking sides not with the Administration nor with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, to make the declaration good with her strong right arm."

The gentleman from Massachusetts says that letter was written for the purpose of giving aid and encouragement to young men to go into the confederate army and to stay out of the Federal army.

Let it be remembered that these two acts had birth at the same instant of time. Let it be remembered that they came from just the same source and expressed the thoughts and purposes and meaning and spirit of the same person. How, then, can you undertake by distorting the one to make it express the intent and meaning of the man and deny him the benefit of the other? He said to the same men—to the young men and the old men of Kentucky—he said to the world that he was opposed to giving aid to either side, and wanted Kentucky to maintain her position of neutrality.

"With the Union against them both!" Was that telling the young men to go into the confederate ranks and shun the Federal ranks?

Now those resolutions expressed at the very same time this letter was written what was the intention, the meaning, and the purpose of Mr. Brown, and they must be construed together; they must be taken as a part of the same act. What else did he do? He stood before five thousand Union men in the city of Louisville, Kentucky, and in terms of fervid and burning eloquence he protested against despoiling that glorious flag under which he stood of any of its stars. He protested against the disruption of this Union, alike against secession and coercion. And who stood by his side? Did he stand in the midst of rebels? Did he stand in the midst of men who have since gone into the rebellion? He stood by the side of the stalwart form of JAMES GUTHRIE, one of the greatest and purest and best men in this country, and now a Senator at the other end of the Capitol. If, therefore, John Young Brown was at that time a traitor, if what he did there was an act of rebellion, giving aid and comfort to the enemies of the country, so also did the acts of JAMES GUTHRIE and James Speed and Judge Bullock and men of that class, every one Union men, every one true and tried and faithful defenders of the Union against her enemies, both North and South.

Ah, but gentlemen say, and particularly the gentleman from Ohio, [Mr. SHELLABARGER,] who I regret is detained from his seat by illness, if those gentlemen did say so, if they did talk in that way, it is the worse for them; in other words, if they talked in that way, they, too, were traitors, they, too, were rebels, they, too, were enemies of their country.

Mr. Speaker, without saying anything for personal offense—for I protest that I mean no such thing—it is not improper for me to refer to the famous Duncan letter written by the gentleman from Tennessee, [Mr. STOKES,] who now has a seat upon this floor. It is not improper for me also to refer to my loyal friend from Missouri, [Mr. ANDERSON,] whom I esteem to be just as loyal as any gentleman upon this floor, and to say of those gentlemen that they expressed just as vicious sentiments on this subject as did John Young Brown. Mr. ANDERSON was chairman of a meeting held at Louisiana, Pike county, Missouri, on the 25th day of April, 1861, which was seven days after the date of the Union meting at Louisville and seven days after the date of the letter of John Young Brown. That meeting was called to indorse the action of Mr. HENDERSON, now a Senator in Congress from the State of Missouri.

Mr. ANDERSON. Will the gentleman give way to me for a moment?

Mr. KERR. Certainly.

Mr. ANDERSON. I desire to say, in reference to the meeting to which the gentleman from Indiana alludes, that the resolutions adopted at that meeting were similar, I believe, to those adopted at Louisville, Kentucky. They were understood at the time to be the resolutions of Mr. Crittenden and Mr. GUTHRIE, of Kentucky. It is true that we in Missouri were adopting a line of policy similar to that adopted by the Union men of Kentucky, and we intended to interpret it as Mr. Crittenden, of Kentucky, interpreted it. We, the loyal men, interpreted it in this way: arms for Union men and neutrality for rebels. John Young Brown, it seems, interpreted it arms for rebels and neutrality for Union men. And when the gentleman undertakes to say that the case of Mr. Brown is parallel to my own, for the reason that I presided at that meeting, it seems to me that he is wide of the mark.

Mr. KERR. Mr. Speaker, I said when I made this reference that I intended no reflection upon those gentlemen. I hope my friend from Missouri [Mr. ANDERSON] will not suffer himself to become sensitive over it.

Mr. ANDERSON. Will the gentleman yield to me for an inquiry?

Mr. KERR. I will yield for a question only.

Mr. ANDERSON. I desire to know if this proceeding, in which I am involved, is intended in any manner to affect my contest before this House for a seat?

Mr. KERR. It gives me very great pleasure to say that, so far as the gentleman is concerned, it is not with any desire or purpose, or in any way the intention on my part, to prejudice him. And I say further to him that I do not understand this question involves his case at all, or I should not have referred to it. And I say further that if his case were involved in it, and his right to a seat here was based upon the record to which I have referred, I should vote for his admission. I hope the gentleman is satisfied on that point. I meant him no injustice.

Now, it is true, nevertheless, that these gentlemen stood side by side—seven days apart, Mr. HENDERSON and the gentleman from Missouri [Mr. ANDERSON] seven days later than the gentlemen from Kentucky—and expressed the same sentiments. These sentiments must be construed by this House according to the fair and legal import and effect, and when the gentleman from Missouri [Mr. ANDERSON] undertakes to say that Mr. Brown put upon these words one meaning and he another he will pardon me for saying that in my judgment he does Mr. Brown and himself injustice.

Mr. GRAVELY. Will the gentleman from Indiana [Mr. KERR] yield for an inquiry?

Mr. KERR. I will yield for an inquiry.

Mr. GRAVELY. I would inquire of the gentleman whether, in speaking of the proceedings of that meeting, he intends to say to this House that the position taken by the Hon. JOHN B. HENDERSON was similar to that taken by Mr. Brown?

Mr. KERR. The same, word for word. I have the resolutions here upon the record.

Mr. GRAVELY. I would like the gentleman to read them.

Mr. KERR. I will do so; I shall be happy to accommodate the gentleman in that respect. If the gentleman has any such record he may compare it as I read it. Mr. J. B. HENDERSON, on the 12th of March, 1861, in the constitutional convention of the State of Missouri, said this:

"I am not afraid, sir, to announce the proposition that if the doctrines of Wendell Phillips and Lloyd Garrison are to be the doctrines of this country, and the slave population of the southern States should be turned loose by Federal enactments, I do not hesitate to say, nor do I suppose the people of the State of Missouri would hesitate a moment to say, that in that case it would be better to resort to the revolutionary right—the last resort of injured men—and right themselves at the point of the bayonet."

Mr. GRAVELY. And now will the gentleman allow me to say a word?

Mr. KERR. Not now.

Mr. GRAVELY. I desire to ask the gentleman a question.

Mr. KERR. I cannot yield now; I will before long. The gentleman has challenged not only the position of Mr. HENDERSON, and of others. I will read the resolutions of the Missouri meeting, corresponding with the Kentucky resolutions I have read:

"That as we oppose the call of the President for volunteers for the purpose of coercing the seceding States, so we oppose the raising of troops in this State to coöperate with the southern confederacy."

Also, the following:

"That the present duty of Missouri is to maintain her present independent position, taking sides not with the Administration and not with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and if necessary to make the declaration good with her strong right arm."

Mr. GRAVELY. Will the gentleman yield to me?

Mr. KERR. If the gentleman wants to put another question to me upon this same subject I will hear it. I do not desire to be interrupted upon any other point just now.

Mr. GRAVELY. As the gentleman has charged that Hon. JOHN D. HENDERSON and others whom he has named took the same position that was taken by this man Brown, I ask the gentleman now to read the language of Mr. Brown. Let the House see——

Mr. KERR. Mr. Speaker, I resume the floor.

I have already read the letter of John Young Brown, and I do not propose to spend time rereading it, to the neglect of my argument. Now, Mr. Speaker, if John Young Brown, by reason of the acts to which I have referred, is to be held by this House, under all the circumstances of this case, to be a traitor, so also should the Senate hold these other gentlemen, who, however, I say, are not traitors, have not been guilty of treason.

But I shall probably be told that Mr. HENDERSON and Mr. GUTHRIE and Mr. Speed and the gentleman from Tennessee [Mr. STOKES] and sundry other gentlemen, after they had made these solemn declarations of their sentiments and purposes, took another course and became open and avowed Union men. Suppose they did; if they had once committed an act of treason could they expiate it, could they wipe it out, could they, by any subsequent act of theirs, cease to be guilty of that crime? If the gentleman from Tennessee was ever guilty he is guilty still. If John Young Brown ever committed treason I say he is guilty still, unless he has had an exercise, for his benefit, of executive clemency, or has been tried and suffered the penalty of the law.

I also in this connection invite attention to the fact that this oath is not prospective. Every word that is incorporated in this oath beyond what the Constitution requires is a retrospective declaration, designed to test the conscience of the man who is required to take the oath. If, therefore, a man has been guilty of any acts there recited, then, although he may since have fought upon a hundred fields, although he may have shed his blood and lost his limbs in defense of the country, yet he cannot raise his hand and swear before God that he never did the acts specified in this oath.

Now, I have not time to refer in detail to the testimony in this case. I have already stated that there is no testimony which fastens upon Mr. Brown a single overt act of treason; and so far as this letter is concerned it must, upon every consideration of fairness and legal interpretation, be construed according to the circumstances under which it was written. The letter, in my judgment, in the light of all the circumstances, owes its existence to the mere impulses which pervaded the entire popular mind of Kentucky, which controlled the hearts and the judgment and the conduct of the men of Kentucky, both high and low, which controlled every organ of public opinion in Kentucky, every loyal press of Kentucky, the Legislature of Kentucky, the Governor, all the public men at that day and hour. On the 18th of April, 1861, there was not to be found in Kentucky one single public man of note or controlling influence who was not in favor of this much-abused doctrine of "neutrality."

Gentlemen ask me whether I mean to indorse the doctrine of "neutrality" as being defensible in law. I answer no, certainly not; the doctrine is indefensible; it indicates an anomalous condition of affairs; it has no place in the law. But are we to condemn and denounce everything that is not in precise harmony with the law, administration of criminal law? Are we to make no allowances for the weakness of men, for the circumstances under which they act, for the motives which control them, for their impulses and ideas, the influences of their education and surroundings, or any other of those circumstances which surround us all at every step of our progress through life, and more or less determine our conduct, not only in private but in public affairs.

Every principle of law and justice requires, in determining this case, we should give due weight and consideration to these things.

My distinguished friend and colleague on the committee from Illinois [Mr. COOK] had the kindness to say here on Saturday he did not believe it was right for him to suffer men to come upon this floor to make laws for loyal men who would not obey the Constitution of the country. I ask honorable gentlemen here if there sits upon this floor now no man who is willing, not only to declare publicly, but to proclaim that in his high office here he acts "outside of the Constitution," notwithstanding his oath of office? If gentlemen are to bring the House down to these rigid, to these unbending and merciless, rules of law, then, in God's name, I ask them to bring them home to themselves and their own consciences and to their own conduct, and by that measure I am willing Mr. Brown shall be judged.

Now I invite the attention of every gentleman upon this floor to the fact that the minority of this committee have stated in their report the following:

"That letter, when closely scrutinized, cannot be justified as an expression of proper sentiments by any one; but common justice, and every rule of interpretation forbid us to forget that, when it was written, Mr. Brown, who had just been engaged in a popular discussion as an avowed Union man with Governor Helm, who was an equally avowed advocate of secession, was charged by certain parties with being opposed to impartial neutrality on the part of Kentucky, and in favor only of partial neutrality as against the South, and that to repel that charge the letter was written. He had been just before declaring day by day to the people of the State that they must not surrender the Union, and that in the then pending struggle they could best maintain their position in it by assuming and maintaining an attitude of neutrality, and on the very day of its date he made an eloquent speech of the same import in Louisville to five thousand Union men. He must have been understood by all intelligent men in Kentucky as then in favor of impartial neutrality. But for some evil purpose he was misrepresented by certain persons on that subject, and it was intimated that he was in favor of northern intervention or invasion. It was this intimation that he wrote that letter to repel or contradict. He seems to have assumed that his public addresses had left no doubt on the public mind that he was in favor of impartial neutrality."

I refer gentlemen now to the testimony of every witness produced here by the prosecutor or by Mr. Brown; and I say again that in most of these depositions it is stated by the witnesses that Mr. Brown, during the entire war, was a most quiet and orderly citizen, doing all his duties as a member of society, taking no part in the strife on the one side or the other, excepting that among his neighbors and friends he always protested against the young men of Kentucky going into the cause of rebellion. He said that the State of Kentucky had assumed the position of neutrality, and it was their duty to stand by her. There he stood then and there he stands now.

In all those depositions there will be found statements to the effect that Mr. Brown, during the entire war, was a member of the Democratic party, and in the political parlance of Kentucky is sometimes called a member of the rebel party; but when the witnesses were inquired of as to what they meant when they said he was a member of the rebel party they said they meant simply that he was a member of the Democratic party. This thing dwindles simply into this: Mr. Brown during the entire struggle through which our country has passed was opposed to this Administration, opposed to the party now in power in this House and in the country; that his judgment of the duty of the State and the practice and associations of his life had arrayed him against the policy and principles of that party, and therefore he deemed it to be his duty and his right as a man and citizen of Kentucky to avow those principles and doctrines which he did. He did it sometimes in terms of intemperance, of harshness, sometimes without just discrimination. He did it as men often do in the active politics of the day when they get upon the "stump" before the people—he did it in the heat of passion. He may have said many things which were not wise and that gave a higher coloring to his own sentiments than in calmer moments he would either tolerate or admit.

Mr. MILLER. Will the gentleman permit me to ask a question?

Mr. KERR. Yes, sir.

Mr. MILLER. I wish to inquire whether he considers a man loyal who utters language attributed to Mr. Brown, namely, that "not one man or one dollar will Kentucky furnish"——

Mr. KERR. I do not yield for the reading of that. I have read it already and commented upon it.

Mr. MILLER. Then I ask the gentleman if he considers a man who utters the language attributed to Mr. Brown to be a loyal man and one who ought to be admitted as a member upon this floor?

Mr. KERR. In reply to that question I will say without hesitation and with the earnest sincerity of deep conviction that in my judgment Mr. Brown was then, has been ever since, and is now in every just and legal sense a loyal man, notwithstanding he wrote that letter. Yet at the same time I admit that it was foolish, it was imprudent, it was passionate to write that letter—to put his words in such a form. But I want it to be understood that in doing so he did no more than ten thousand other men have done all over the country who are just as loyal as any gentlemen in this country, and are so recognized by us all, and yet no more loyal than Mr. Brown.

Mr. MILLER. The gentleman, I understand, says that Mr. Brown wrote this in a state of excitement. Would it not, then, be better to allow it to cool off before he is admitted to a seat on this floor?

Mr. KERR. My answer to that is, if it takes him as long to cool off from the excite-

ment, passion, animosity, hatred, and malignancy, engendered by the late war among so many of the majority in this House, as it has taken them, then I fear he could never become cool enough to be entitled to a seat here. But I think, nevertheless, that he is cool. I think he has become cool and self-possessed, and if admitted here will do his duty to the country and the Constitution as faithfully as the honorable gentleman who addressed the inquiry, and I know he will do it just as faithfully as any man in the world according to his ability.

Mr. VAN HORN, of Missouri. Will the gentleman allow me to put a question?

Mr. KERR. A question merely.

Mr. VAN HORN, of Missouri. I understand the gentleman to claim that Mr. Brown is a loyal man. I wish to know if he would have considered him a loyal man if he had carried the sentiment of that letter into execution and shot one of the soldiers? Would that have been a loyal act?

Mr. KERR. If the gentleman had carried that threat into execution—which he did not, nor did he pretend to do it—then he would have been guilty of one of two crimes—either murder or treason—and the circumstances under which he did the act would determine its legal character. Mr. Brown did not commit or attempt to commit any act indicated in that letter, but, on the contrary, every subsequent act of his life clearly proves that he never intended to do any such thing.

And now, that the gentleman has put to me an inquiry, I will ask him to answer me a question: suppose the gentlemen in his own State who passed the resolutions I have just read had carried out their determination, would they have been guilty of treason or not?

Mr. VAN HORN, of Missouri. In answer to that I will say that they have placed their own interpretation on the resolutions by entering the Union Army and fighting rebels three or four years.

Mr. KERR. That is a mere evasion. Now, sir, let it be remembered that when Mr. Brown wrote that letter he was just as peaceable, orderly, and quiet a citizen as was any gentleman on this floor. He was not going about the country making inflammatory or declamatory speeches to the people to induce them to go into the rebellion. He was appealing to them to remain calm and self-possessed, to observe the laws of the State of Kentucky, to avoid doing violence. It is, therefore, in vain, and worse than in vain, it is cruel and wicked for gentlemen here to undertake to say that when this letter was written Mr. Brown was about to do any of the things mentioned in it. He did nothing of the kind. Every witness bears testimony to his good conduct, his orderly demeanor, his peace-making disposition as a citizen of the town of Henderson during the war. No man can allege against him one solitary fact—not one. Where is it? Where is the proof of it? Why is it not produced here? A man may utter in the heat of debate or of party feeling things that he may not himself believe in his calmer moments, or things which he would not repeat upon reflection. Why, sir, I have heard gentlemen upon this floor say, within the last three months, that if the Executive of the United States should undertake to do certain things he would find another Brutus; that the Speaker would possibly himself become the savior of his country by taking the life of her Chief Executive. We have heard threats of all kinds here; we have heard them from gentlemen now occupying seats upon this floor made outside of this House. Did they mean what they said? They were made in the heat of party feeling and in the accustomed license of partisan declamation.

It is my opinion, Mr. Speaker, that had it been the good fortune of Mr. Brown, after that letter had been written, and after the war was over, to become a member of the Union party, "so called," as my friend from Illinois [Mr. Ross] suggests, and had been elected as such to this House, he would have had no trouble in gaining admission to a seat here, notwithstanding that letter.

Mr. Speaker, I beg to apologize to the House for having occupied as much time as I have in this case, and to thank the gentlemen who have given me their attention for their courtesy; and to say in conclusion that the opinions which I have expressed, the conclusions which I have reached, are, if I know my own heart, the fair, honest, and simple expression of my own feelings and the convictions of my own judgment. I do not make them in any party spirit. I do not seek any party triumph. I do not ask the admission of Mr. Brown because he is a Democrat. I would not ask the exclusion of any gentleman from a seat here because he was not a Democrat. That has not been my conduct during this Congress, and I trust it never will be.

Mr. PRICE. I desire to ask the gentleman a question before he sits down. I understood the gentleman to say—and I wish him to say if I understood him correctly—that during the last three months gentlemen upon this floor have said that in case Andrew Johnson did certain things then he would find another Brutus. Did I understand him correctly?

Mr. KERR. I said substantially that. I did not undertake to give the precise words.

Mr. PRICE. Well, I understood him to say so.

Mr. KERR. I did say so.

Mr. PRICE. And I understand the gentleman now to reiterate it. It is entirely new to me that any gentleman upon either side of this House has said at any time during this Congress or any other Congress that if Andrew Johnson were to do anything he would find another Brutus; and I wish to correct that statement here and now, as a part and parcel of this House, and to say that no man upon this side of the House at least has ever given utterance to such a sentiment. If I am mistaken I ask the gentleman from Indiana to give their names.

Mr. KERR. Well, Mr. Speaker, the gentleman knows very well that it is impossible to carry in one's memory all the speeches that gentleman make here, and it would be still more unprofitable to do so. I assert this from memory. I assert what I believe to be true. I reassert it, notwithstanding the gentleman's memory is inconsistent with mine. I do not undertake to say that the precise words which I have uttered fell from the lips of any gentleman, but I simply express the idea; that is all. I do not undertake to repeat any gentleman's words unless I have them before me.

Mr. PRICE. In reply to that assertion—and I give the gentleman from Indiana credit for a great deal of candor and honesty—I say here and now, as emphatically and positively as it is possible for me to express myself, that no man upon this side of the House has during this session of Congress or any other session, in this House as a member of Congress, or as a member of Congress out of the House, made use of any such expression; and I wish it to go to the country that the Republican party of these United States do not think enough of Andrew Johnson and so little of themselves as to bring themselves down to a point where they would under any circumstances furnish him with a Brutus.

Mr. KERR. Without meaning to make any invidious or offensive personal allusion, I may say, in reply, that there has been said outside of this House, by a very justly distinguished member of it, that the time might come when the President might find himself, after the convening of this Congress, suspended between heaven and earth.

Mr. WELKER. I desire to inquire of the gentleman whether, in the reference he has just now made, he refers to the newspaper statement published in the political papers of the country, that the Presiding Officer of this House, in a public speech in Wooster, Ohio, made such a declaration as that?

Mr. KERR. I do not.

Mr. WELKER. I beg leave to say——

Mr. KERR. I have answered the gentleman's question; I say I do not.

Mr. WELKER. I hope the gentleman will allow me to say——

Mr. KERR. I do not yield for any further interruptions; I yield the floor entirely.

Mr. DAWES obtained the floor.

Mr. WELKER. Will the gentleman yield to me for a few moments?

Mr. DAWES. Certainly.

Mr. WELKER. I desire, in justice to the gentleman who has the honor to preside over this House, to correct a statement that I have seen frequently published in the Democratic newspapers throughout the country, alluding to a speech that the Speaker of this House made in the town of Wooster, Ohio, during the campaign last fall. These papers asserted that the Speaker used language in reference to President Johnson similar to that to which the gentleman from Indiana [Mr. KERR] has just referred. I was myself present on that occasion and had a good opportunity to hear the remarks made by the Speaker, and I assert here that he made no such declaration as that alluded to here. He spoke of a newspaper report that the President of the United States would not allow the Fortieth Congress to assemble in pursuance of its adjournment, and the articles in the Washington city papers on that subject; or that the military power might be used in an adjoining State to prevent their coming together, and which rumors were then prevalent. In reference to these reports and rumors the Speaker said that if the President, or any one in the General Government, or a State government, should by revolutionary force destroy or attempt to destroy the law-making power of the nation, that person, whoever he might be, if we had a country left, would be tried as a traitor, convicted as a traitor, and suffer the doom of a traitor. He also said that he did not believe that it would be attempted. He made no threat against any one, but only stated what he believed would be the result if Congress by military force was overthrown.

No remark which could be construed into a threat against the President of the United States was made by the distinguished gentleman upon that occasion. I heard every word that was said there, and I say that the statement which has been made in the Democratic newspapers and published all over the land is not a correct statement but a gross misrepresentation of what was said on that occasion. I have stated what the Speaker did say in very nearly the exact words used by him in that speech.

Mr. KERR. It is not necessary, Mr. Speaker, for me to repeat my disclaimer.

Mr. DAWES resumed the floor.

CLERKS IN STATE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which was read, referred to the Committee on Appropriations, and ordered to be printed.

To the Senate and House of Representatives:

I transmit to Congress a report from the Secretary of State suggesting the necessity for a further appropriation toward defraying the expense of employing copying clerks, with a view to enable his Department seasonably to answer certain calls for information.

ANDREW JOHNSON.

WASHINGTON, *February* 3, 1868.

CONTINGENT FUND OF STATE DEPARTMENT, ETC.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting statements of the disbursement of the contingent fund, of balances on hand, &c., in compliance with the act of August 26, 1842.

Mr. ARNELL. I move that that communication be referred to the Committee on Expenditures in the State Department, and that it be printed.

The motion was agreed to.

DETECTIVES, ETC., OF TREASURY DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication

from the Secretary of the Treasury, in response to resolutions of the House of November 26 and 27, relative to special agents and detectives employed in that Department since June 1, 1866.

Mr. ROBINSON. I move that this communication be referred to the Committee on the Expenditures of the Treasury Department, a standing committee of this House, to which all these things properly belong.

Mr. BENJAMIN. I move that the communication be referred to the Committee on Retrenchment, as that committee already has this subject in charge.

Mr. ROBINSON. I believe, Mr. Speaker, that my motion takes precedence, as it proposes the reference of the matter to a standing committee, to which the subject appropriately belongs.

The SPEAKER. The motion to refer to a standing committee has precedence of the motion to refer to a select committee.

Mr. LOGAN. I desire to move that the communication be referred to the Committee of Ways and Means. As that committee now has under consideration a revenue bill having reference to these officers it seems to me to be the appropriate committee. The Committee on Retrenchment certainly has nothing to do with the question of reducing the number of these revenue officers, who are called "detectives," but they are in fact nothing more than inspectors. There are now traversing this country over two hundred of these officers, appointed by the Secretary of the Treasury under a provision of the revenue law authorizing him to appoint inspectors. The Committee of Ways and Means is preparing a bill making provision with regard to these officers—cutting them off, I believe; and I think this communication should appropriately be referred to that committee.

Mr. BENJAMIN. If the gentleman will examine the resolution under which the Committee on Retrenchment was raised he will see that this committee is specially charged with the investigation of matters of this kind. It has special cognizance of the subject of public offices and officers. The information embraced in this communication is especially desirable to that committee to enable it to complete the investigation in which it is engaged. I trust the communication will be referred to that committee. We all know that the committees on the expenditures of the various Departments are merely committees in name; at least such has been my experience. At the last session I was a member of one of those committees. They have never attempted, so far as I know, to investigate the expenses of the Departments. During the whole Thirty-Ninth Congress the Committee on the Expenditures of the Interior Department never so much as had a meeting for the purpose of investigating the expenses of that Department or any other purpose; and I presume the same may be said of the committees raised to investigate the expenditures of the other Departments.

The SPEAKER. If this communication gives rise to extended debate the Chair will be compelled to withdraw it, as it is postponing the remarks of the gentleman from Massachusetts [Mr. DAWES] on the contested-election case.

Mr. LOGAN. I desire to say to the gentleman from Missouri [Mr. BENJAMIN] that I can furnish the Committee on Retrenchment with the information they desire on this subject. There is no necessity for referring this communication to that committee. These officers are called inspectors, not detectives; and if the gentleman will examine the report of the Commissioner of Internal Revenue he will find that there are about two hundred and thirty of these inspectors, and they are paid four dollars a day. I have investigated this subject, and can furnish the Committee on Retrenchment with all the information they desire with reference to the matter. I hope this communication will be referred to the Committee of Ways and Means, because that committee is preparing a revenue bill that will affect these very officers and will dispose of the question.

Mr. BENJAMIN. In reply to the gentleman from Illinois, [Mr. LOGAN,] I will say that the Committee on Retrenchment is preparing a bill having reference not only to the Treasury Department but to all the Departments of the Government, making an entire change in the mode of appointment, &c.

Mr. ROBINSON. This Committee on Retrenchment not only seeks to take cognizance of everything relating to the various Departments, but is engaged in examining into the lottery business of the country and almost every other subject. The rules of the House provide that matters of this kind shall be referred to the standing committees having jurisdiction of the subjects. This communication should be referred to the Committee on the Expenditures of the Treasury Department, otherwise we might as well abolish that committee.

Mr. BOUTWELL. I hope that subject will be referred to the Committee of Ways and Means, for it is a question of public policy in respect to the future, and there is no committee can tell whether it is right in respect to the future which does not know what has been done in the past.

Mr. ROBINSON. If it goes to the Committee of Ways and Means it will never again be heard of.

The question recurred on the reference to the Committee on Expenditures in the Treasury Department.

The House divided; and there were—ayes 18, noes 78.

So the motion was disagreed to.

The question next recurred on the reference to the Committee of Ways and Means.

The House divided; and there were—ayes 72, noes 35.

So the communication was referred to the Committee of Ways and Means, and ordered to be printed.

"CHAMPAGNE CASES."

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Treasury, in response to a resolution of the House, relating to certain suits pending in New York city, known as the "champagne cases," and the expense of certain agents of the Department; which, on motion of Mr. HULBURD, was referred to the Committee on Public Expenditures, and ordered to be printed.

UNITED STATES STEAMSHIP VANDERBILT.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Navy, in response to a resolution of the House, relative to the United States steamship Vanderbilt, where stationed, present condition, &c.; which, on motion of Mr. TABER, was referred to the Committee on Naval Affairs.

RICE PLANTERS OF NORTH CAROLINA.

Mr. STEVENS, of Pennsylvania, by unanimous consent, presented a memorial of rice planters of Cape Fear river, New Hanover county, North Carolina; which was referred to the Committee on Appropriations.

HEIRS OF GENERAL D. L. CLINCH.

Mr. BINGHAM, by unanimous consent, moved to take from the Speaker's table Senate bill No. 308, for the relief of the heirs of the late General Duncan L. Clinch, deceased, and to refer it to the Committee of Claims.

The motion was agreed to.

RIGHTS OF ADOPTED CITIZENS.

Mr. ROBINSON. I ask unanimous consent to introduce a resolution in respect to the rights of adopted citizens.

Several MEMBERS called for the regular order of business.

Mr. ROBINSON. Mr. Speaker, American citizens are rotting in jail, and we can get in everything but their claims.

ELECTION CONTEST—SMITH VS. BROWN.

Mr. TRIMBLE, of Kentucky. Mr. Speaker, I desire to make the motion that the further consideration of this case be postponed for one week. The importance of the question, without a parallel and without a precedent in the history of the country, I trust, will be a sufficient apology for my making that motion. I have no doubt it is the desire of every gentleman on this floor to calmly and deliberately consider the question upon which we are called to vote, and that is the establishment of a precedent as to the right of a Representative to a seat upon this floor. I have no idea it is the wish of gentlemen to establish a precedent here that in calm and cool moments they would regret they had established. They are prepared and willing, I presume, to hear anything that may be said on the question before this House. While my colleague [Mr. Brown] was entirely willing this House should pass upon his case before he had been heard before your able Committee of Elections, still the gentlemen from Kentucky here to-day feel they owe it to themselves and to Mr. Brown to ask this case be postponed until he can be here and heard in favor of his right to a seat upon this floor. There can be no necessity for pressing this question now.

I am asked to state the reason why Mr. Brown is not here. I learn his family have been indisposed, and that is one of the reasons why he has not been here. If it should be the pleasure of the House, and I have no doubt it will, to extend the time so as to give Mr. Brown an opportunity to vindicate himself here and before the country, I should be exceedingly gratified. I should be glad to be heard on the question myself before the previous question is demanded. I move now that the further consideration of the subject be postponed until to-morrow week, in order that Mr. Brown may have an opportunity to be heard.

Mr. DAWES. I wish to say I hardly feel like refusing the gentleman the opportunity to make his motion. I am here in some nature as the organ of the committee to make the motion to close debate at this time, and I do it in view of the fact, or what I supposed was the fact, that Mr. Brown was going to leave the case to his colleague, and that the case had been debated as far as the patience of the House would permit.

Mr. TRIMBLE, of Kentucky, rose.

Mr. DAWES. I decline to yield at this time. I do not desire to shut the gentleman off from making his motion, nor do I desire to oppose it. I leave it entirely with the House. If the House is disposed to carry out the intention of the committee, and thinks it ought to proceed with the case and close it to-day, it will vote against the motion; but if, under the circumstances, the House thinks the case should be postponed, it will vote for the motion. I will therefore yield and allow the motion to be made, so as to take the sense of the House upon it.

Mr. UPSON. I would ask the chairman of the committee whether it is not understood, from a letter of Mr. Brown to the chairman or to another member of the committee, that he has expressed the opinion that he should not be here unless his case was reported upon favorably.

Mr. DAWES. I have all along understood that to be the fact.

Mr. TRIMBLE, of Kentucky. I desire to state, in connection with that remark, that at the time Mr. Brown may have expressed an opinion of that kind, he did not know what course would be pursued in relation to his case here. Occurrences that have taken place since that time could not have been foreseen. For instance, I understand it to be asserted and made an argument against him to his prejudice that he has absented himself and abandoned his case. Now, it is proper to state that Mr. Brown is a poor man and has not the means of remaining at this Capitol all this time, and that is one of the reasons that have kept him away. I trust

the House, in view especially of the fact that his absence has been urged as evidence of his guilt, will give him an opportunity to come here and show that he is willing and ready to meet these charges, as he has done before the committee and elsewhere.

Mr. LAWRENCE, of Ohio. Will the gentleman from Kentucky inform the House whether Mr. Brown has made any such request as that he should be heard before the House? Is he prepared to say whether Mr. Brown desires this privilege, and that he will avail himself of it if the House grants the request made on his behalf? Has the gentleman had any communication with Mr. Brown on the subject?

Mr. TRIMBLE, of Kentucky. I have no doubt that it is the desire of Mr. Brown to-day that he should be heard on this question.

Mr. LAWRENCE, of Ohio. Has the gentleman learned anything from Mr. Brown on the subject?

Mr. TRIMBLE, of Kentucky. Well, I will state this: all I have learned from him on the question is that some of his family were unwell, and he was willing to trust his cause in the hands of his colleagues. But his colleagues at this time believe that his presence is necessary for the proper vindication of himself.

I will state further that he informed me if I would telegraph him at any time he would be here if his presence was necessary. Now, if the time is extended we will telegraph him and have him here. I therefore submit the motion that the further consideration be postponed one week from to-day.

Mr. COVODE. I think, Mr. Speaker, we have had enough discussion on this matter, and I call the previous question on the motion to postpone.

The previous question was seconded and the main question ordered; and under the operation thereof the further consideration of the subject was postponed for one week from to-day after the morning hour—ayes 90, noes 30.

Mr. TRIMBLE, of Kentucky, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table

The latter motion was agreed to.

The SPEAKER. Under the vote just taken the other resolution will be regarded as being postponed also. The next business in order is the consideration of the bill in regard to southern railroad land grants, on which the gentleman from Wisconsin [Mr. ELDRIDGE] is entitled to the floor for forty minutes.

Mr. ELDRIDGE. I yield to the gentleman from New York, [Mr. ROBINSON.]

RIGHTS OF AMERICAN CITIZENS.

Mr. ROBINSON. I ask leave to offer the following preamble and resolutions:

Whereas Stephen J. Meany, claiming to be an American citizen, was tried in Dublin in February last; and whereas the British attorney general on that trial, as reported in the Dublin Irishman of February 23, 1867, claimed his conviction for acts done in New York; and whereas Baron Fitzgerald stated the point on his trial to be that Mr. Meany had been a member of a Fenian society in America similar to a society existing in Ireland, but proved no acts of the person himself done in Ireland, or even that he was in Ireland during any part of the period that the associations were shown to exist either in America or Ireland; and whereas said Meany was convicted and sentenced to fifteen years' imprisonment; and whereas Colonel John Warren, a citizen of the United States, tried in Dublin October 30 and 31 and November 1, 1867, claimed upon said trial a mixed jury, as provided by British law, and challenged the array of the jury, which challenge was denied on the ground distinctly declared by Chief Justice Pigott, that a person born in the United Kingdom owes his allegiance to England forever, no matter where he might be; and whereas General Halpin, Augustus Costello, and other American citizens were denied the jury allowed by British law to every person exempt from allegiance to the British Crown; and whereas William J. Nagle, a native-American citizen, was on the 1st day of June, 1867, arrested with Colonel Warren and has been, without trial or conviction, held in prison for eight months, his application to be admitted to bail being refused and a speedy trial denied him; and whereas the said Colonel John Warren and William J. Nagle have petitioned this House to take such measures as may be just and necessary in their behalf: Therefore,

Be it resolved by this House, That the President of the United States be, and he hereby is, requested to institute an immediate examination into the facts alleged in the preamble hereto, and if found true to demand the immediate release of any and all American citizens charged or convicted before or by any British court for words or deeds spoken or done in the United States; to demand an immediate new trial or liberty for any American citizen denied his challenge to the array of the jury on the ground of perpetual allegiance; and to demand the immediate release of William J. Nagle, who, on the 16th of November last, in open court, both before and after trial of said Warren, after nearly six months' imprisonment, demanded and was refused a trial on the charges preferred against him; and in case of such demand being refused the President is hereby requested to order the arrest of and detain in custody any subjects or citizens of Great Britain who may be found within the jurisdiction of the United States, and to withdraw all intercourse of the United States with Great Britain.

Mr. BINGHAM. I shall object unless the gentleman from New York will change in some respects the language of the resolution. In the first place it authorizes the arrest and detention of citizens of England, or subjects, if you please, of the British Government, in direct violation of the law of nations, which we are not at liberty ourselves under any circumstances whatever to violate. The gentleman must know that the persons of embassadors, by the universal judgment of mankind, are under the protection of the law, and no national exigency whatever will justify a violation of the protection of their persons.

The SPEAKER. The Chair understands that this is an objection, though at some length, and if so, the resolution is not before the House and is not subject to debate.

Mr. BINGHAM. I object unless the gentleman will modify it.

Mr. ROBINSON. I am willing to modify it in any way so as to suit the tone and sentiment, which I know to be sound, of this House. I am not particular about the language. I had no intention of arresting embassadors.

Mr. BINGHAM. It should not include ministers, consuls, or embassadors.

Mr. ROBINSON. I am willing to exclude them, or to modify it in any way so as to suit the proper, healthy tone of sentiment in the House.

The SPEAKER. Is there objection to the resolution as modified?

Mr. MAYNARD. I wish to say that in its present form it recites certain facts which I am not prepared to vote to assert.

The SPEAKER. Objection is made.

Mr. ROBINSON. I move to suspend the rules to enable me to offer the resolution.

Mr. BANKS. I desire permission of the House to make a single remark.

Mr. ROBINSON. I trust if the chairman of the Committee on Foreign Affairs is allowed to make remarks I shall be allowed to say a few words.

The SPEAKER. The gentleman from New York objects.

Mr. ROBINSON. Oh, no; I withdraw the objection.

Mr. BANKS. I merely rise to say that there is no official information upon which we can predicate this resolution or justify its passage. We have been informed by the State Department that the papers in these cases are voluminous, and that with the utmost expedition they will be prepared for the use of the House. They may be received any day. I will not ask the gentleman to delay action upon his proposition a very long time, but if we can have the official papers within a week, as I think is quite probable, I think it would be better for the persons interested and for the gentleman himself to wait for that information, and I hope he will be willing to delay his proposition for that time.

Mr. ROBINSON. May I be allowed a word or two?

No objection was made.

Mr. ROBINSON. I shall not trespass more than a minute or two on the courtesy of the House. The reason why I urge immediate action upon this resolution is that we may have something done for these men against some of whom no criminal charge has been made, but who are lingering and rotting in British dungeons, with the worst punishment inflicted on them which could be inflicted on convicted criminals.

I wish to have immediate action taken, and not to have the delay which the chairman of the Committee on Foreign Affairs [Mr. BANKS] suggests. This resolution is so worded that it requests the President to inquire whether these alleged facts are true; whether there are men now in British prisons on account of words spoken in the city of New York; and whether insult has not been flung into the face of the American nation by the British attorney general in declaring on the trial that he would make this case a warning to others similarly situated.

I have been struggling, Mr. Speaker, as the members of this House will bear testimony, to bring this question before the House. I want it considered before we consider the bill reported from the Committee on Foreign Affairs, to which I agree so far as it goes. I want this nation to say to England, upon the very threshold of this discussion, that the time is past when the British lion can trample upon American citizens with impunity. I want to tell her now that if we can get the President, the Secretary of State, and the mind of the American nation roused from the lethargy in which they now appear to slumber while our citizens are rotting in British dungeons, not for another day shall our minister remain at the Court of St. James, and no minister of England shall be received here while that Government tramples in this way upon the rights of our citizens.

I ask immediate action upon this resolution. I have modified it, at the suggestion of gentlemen here, so as to leave it to the discretion of the President and his advisers—and no one will say they have acted unwisely in this matter—to say whether American citizens have been taken and, without any crime being alleged against them, held for twelve months in prison, in the case of one of whom it was said by the attorney general that he would ask the court to convict him on evidence of acts done here; and though that court hesitated, the outrage was finally accomplished.

I ask this House not to sleep one night upon this matter. I say they will be unworthy of being American citizens if they will stand by and see the flag of the Union made the foot-rug of Europe, and our proud bird, which should soar aloft, cast into the gutter under the ignoble feet that would trample upon it.

I want this question brought to an issue now. The resolution has been modified so as to leave to the President and the Secretary of State to say whether the facts justify the proposed action. I move that the rules be suspended, in order that the resolution may be submitted and acted upon at this time.

Mr. ALLISON. I ask that the portion of the resolution which has been modified be now read.

That portion of the resolution was read, as follows:

And in case of such demand being refused, the President is hereby requested to report the facts to Congress without delay.

The question was upon suspending the rules; and being taken, upon a division there were—ayes 60, noes 36.

Before the result of the vote was announced, Mr. ROBINSON called for the yeas and nays.

The yeas and nays were ordered.

The question was again taken; and it was decided in the affirmative—yeas 97, nays 30, not voting 61; as follows:

YEAS—Messrs. Adams, Allison, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baker, Barnes, Barnum, Benton, Boutwell, Boyer, Brooks, Buckland, Butler, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Driggs, Eckley, Ela, Eldridge, Ferriss, Ferry, Fields, Fox, Getz, Golladay, Gravely, Grover, Haight, Harding, Higby, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Johnson, Jones, Judd, Knott, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marshall, Marvin, McClurg, McCullough, Mercur, Miller, Moore, Mungen, Myers, Newcomb, Niblack, O'Neill, Orth, Paine, Pile, Polsley, Price, Pruyn, Randall, Robinson, Ross, Sawyer, Sco-

field, Sitgreaves, Smith, Starkweather, Taber, Taylor, Lawrence S. Trimble, Twichell, Van Auken, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, William Williams, Stephen F. Wilson, and Woodward—97.

NAYS—Messrs. Arnell, Banks, Beaman, Bingham, Blair, Broomall, Covode, Dixon, Eliot, Farnsworth, Asahel W. Hubbard, Jenckes, Julian, Mallory, Maynard, Morrell, Mullins, Perham, Peters, Pike, Spalding, Taffe, John Trimble, Trowbridge, Upson, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, and Windom—30.

NOT VOTING—Messrs. Ames, Bailey, Baldwin, Beck, Benjamin, Blaine, Bromwell, Burr, Cake, Chanler, Reader W. Clarke, Dawes, Dodge, Donnelly, Eggleston, Finney, Garfield, Glossbrenner, Griswold, Halsey, Hawkins, Hill, Hooper, Richard D. Hubbard, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Laflin, McCarthy, McCormick, Moorhead, Morgan, Morrissey, Nicholson, Nunn, Phelps, Plants, Poland, Pomeroy, Raum, Robertson, Schenck, Selye, Shanks, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, Thomas, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, James F. Wilson, John T. Wilson, Wood, and Woodbridge—61.

So, two thirds voting in the affirmative, the rules were suspended, and the preamble and resolution were received.

During the roll-call the following announcements were made:

Mr. NIBLACK. I desire to state that the gentleman from Delaware [Mr. NICHOLSON] is detained at his home by sickness.

Mr. LAWRENCE, of Ohio. My colleague, Mr. CLARKE, who never dodged a vote and never voted wrong, is detained at his home by indisposition.

The result of the vote was announced as above stated.

The SPEAKER. The gentleman from New York [Mr. ROBINSON] is entitled to the floor.

Mr. ROBINSON. I yield ten minutes to the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. Mr. Speaker, I do not desire to abuse the courtesy which the gentleman has extended to me; but I wish to make a suggestion to the House.

This question touches, in the first place, the peace of nations, and in the next place the dignity of the American Republic; and it does seem to me that this House owes it to itself as well as to the people it represents and to those citizens whose rights are invaded, according to the recital in the preamble of this resolution, to refer the resolution to the Committee on Foreign Affairs, with leave to report at any time; or, if the House chooses, to fix a special day on which the committee shall report I have no objection. But I beg leave to say to the gentleman from New York that the end he has in view can be best accomplished by having this resolution reported in such a form as will give it efficiency.

As the matter stands now it strikes me that the resolution upon its face puts the issues of peace and war in the hands of the President of the United States. We, the Congress of the United States, acting here under our oaths, cannot consistently with the Constitution transfer that power to any man upon earth. It is a power which the people, in their written Constitution, have confided to their representatives in Congress assembled; and it can be exercised by no other Department or officer of the Government. It is incapable of transfer. Therefore, I beg, with the leave of the gentleman from New York, [Mr. ROBINSON,] to interpose the motion that this resolution be referred to the Committee on Foreign Affairs, with leave to report at any time.

Mr. ROBINSON. I did not yield the floor for any such purpose.

Mr. BINGHAM. I am aware of that; and, as I stated in the outset of my remarks, I do not desire to take any improper advantage of the gentleman's courtesy; but I desired to make this statement to the House. I do not intend to enter upon any formal discussion of this matter at the present time; but, sir, this resolution directs the President to demand unconditionally from Great Britain the immediate release of certain persons. Now, every man knows that by the universal law of nations, recognized by every civilized Power upon the face of the earth, it is the privilege of every sovereignty upon the globe to hold every man, of whatever nationality or whatever allegiance, to answer before its tribunals of justice for the violation of its own laws within its own jurisdiction; and for one, sir, while I am willing to vindicate the sovereignty of the American people as one of the Powers of the earth, I am not willing that the President of the United States shall be invested with this general authority to demand the immediate and unconditional release of American citizens charged with crime before the tribunals of another nationality.

There is not a man on this floor, not even the mover of the resolution, who is able to say upon his oath as a Representative of the people that the persons named in the resolution are not held to answer for crime committed within the jurisdiction of Great Britain. If they are so held they must continue to be so held. For my own part, I am willing to interpose the whole power of the nation, according to international laws and usages, to shield citizens of the Republic from being held to answer for crime, either before an English tribunal or before the tribunal of any other sovereignty upon the globe, when it is made apparent that the crime for which they are arraigned has not been committed within the jurisdiction where they are held to answer. But I repeat there is not a man here who can rise in his place and say a single one of the persons named is not held to answer for crime committed within the realm and for which he is responsible alone to the laws of England.

I trust the gentleman will see the importance of referring this question. There is much in the bill already reported from the Committee on Foreign Affairs to indicate the spirit and purpose of that committee, and the gentleman ought to be willing to intrust it with this delicate question, accompanied with the instruction of the House they shall report at any time—that is, as soon as they may be able to make up a good judgment on the subject, and report the matter back to the House. It is a matter which touches the peace of the Republic, and it is a matter which touches what is more important than the peace of the Republic—it touches the honor of the Commonwealth. I therefore ask leave to introduce my motion, and let it be considered before the House.

The SPEAKER. Does the gentleman yield for that purpose?

Mr. ROBINSON. No, sir.

Mr. WILLIAMS, of Pennsylvania. Let me ask whether the preamble does not involve a statement of facts on which this resolution is predicated, in regard to which this House absolutely knows nothing?

Mr. BINGHAM. Assuredly it does; and that is precisely what I wish the House to understand. My friend from Pennsylvania will notice I said before there is not a man on this floor who is able to stand here in the presence of the nation and assert a single person mentioned in that resolution is not accused of crime committed within the exclusive jurisdiction of England. Are we going to set up here, by resolution of this sort, the miserable precedent that any subject of England, or any subject of France, or any subject of any Power upon the face of the earth, is to commit crime with impunity within our own jurisdiction and in the presence of our own laws? For myself, sir, I claim as an American citizen whoever, from any quarter of the world, violates our law within our own jurisdiction shall be held to answer for it before our own tribunals of justice. What I claim for my own country I concede to England, the elder branch of our own house, and I concede it also as well to every other Power on the face of the earth; and because this resolution necessarily involves this inquiry I ask it be referred to the Committee on Foreign Affairs.

I say again to the House, which honors me with its attention, this resolution in its text, without stopping to inquire, directs the President of the United States shall immediately demand the unconditional release of certain persons convicted in the courts of England. I am not ready, sir, to pass any such resolution. When it shall be made to appear to this House a person charged with no crime within the realm of England has been before her bar, and that is made apparent, who was not at the time a subject of England, but a citizen of the Republic, I am ready to go as far as he who goes the farthest in this path to vindicate the rights of citizens, whether they are natural born or naturalized. But, sir, I can see at the prime beginning the fact that in the very first Congress of the United States, under the administration of Washington, we did provide by solemn enactment, which remains unrepealed and unchallenged to this hour, that a citizen of the United States offending against the sovereignty of the United States, whether within our own jurisdiction or elsewhere—I use the very words of the act of 1792—or elsewhere, in whatever zone of the earth, against the sovereignty of this country, in levying war against it, should be held to answer at the bar of the courts of the Republic. And England, following our example under the present Government of Queen Victoria, has, by more than one enactment, declared any subject of Great Britain who shall commit offense against the sovereignty of England or the rights of England in any quarter of the world shall be held to answer before the tribunals of English justice. I agree England had the right to so enact touching her own subjects, and I claim America had the right so to enact touching her own citizens. Having conceded this much, I claim for myself as a citizen of the United States that the Government of the United States has the right to secure a citizen of the United States, naturalized as well as natural born, against British justice or any other form of foreign justice for any alleged offense committed not within her jurisdiction.

So far I am in accord with the gentleman from New York. But I would have this matter so presented as not in any manner to compromise the dignity or the honor or rights of the Republic. I beg the gentleman to consider that the citizen, as compared with the State, has no rights in a controversy like this, for the reason that the citizen at best is but for to-day, while the commonwealth is for all time. I therefore present my motion that the question be referred to the Committee on Foreign Affairs, with leave to report at any time.

The SPEAKER. The Chair will state that on Monday, by a two thirds vote, the committee can be authorized to report at any time. On any other day it requires unanimous consent.

Mr. ROBINSON. I desire to say one word more in response to the gentleman from Ohio, [Mr. BINGHAM,] and then, as I have been asked by the chairman of the committee [Mr. BANKS] to allow him to make a few observations, I shall yield to him.

For a long time, Mr. Speaker, this litigated question has been pending between Great Britain and the United States. The last time we had any diplomatic correspondence before the breaking out of this Fenian business was about the imprisonment of a gentleman from Cincinnati, whose name was Ryan, and another from from Connecticut by the name of Bergen. Upon that occasion Lord Palmerston said to George Bancroft, then the American minister at the Court of St. James, that the British court had authorized the issuing of an order to the police authorities in Ireland to arrest all Americans found on the soil of Ireland. And when Mr. Bancroft remonstrated against it the insolent reply of the British minister was that they would take care of their own concerns; that they were accountable for what they did and held themselves responsible in any way the United States chose to take it up. Mr. Bancroft then slunk into silence, and nothing has been done in regard to the matter since. That order was made, that without crime an American citizen, whether native or adopted, traveling in Ireland, should be arrested and thrown into prison; and several American citizens.

without being even charged with crime, were so thrown into prison.

Now, I want to answer the gentleman from Ohio, [Mr. BINGHAM.] He asks me is there any one imprisoned or detained in Ireland now unless for something done within British jurisdiction? I say, yes; and I quote in the preamble to this resolution the minutes of the judge who tried the case, showing that Stephen J. Meany, who claimed that he was a citizen of the United States, was tried and convicted for words spoken and acts done in the United States, and for being connected with an association which was not shown nor attempted to be shown to exist, either in Ireland or the United States, at the time he visited Great Britain; and the attorney general declared that he intended to make this case an example to show that the British lion would put his paw upon the American eagle when and where he pleased, and without any excuse of any transgression of British law; and these insolent British officials seemed to calculate that men would be found here to delay the vindication of the rights of American citizens until eternity's bell should ring.

Mr. BANKS. Will the gentleman yield to me?

Mr. ROBINSON. For a minute or two.

Mr. BANKS. I only desire the gentleman to consider that he cannot know at all, without an authentic copy of the record, what the judge said on that trial. I have no doubt the gentleman has the newspaper information, but it must occur to a gentleman of his intelligence that it ought not to be trusted on a question of this sort. As to what was the claim of the Crown, we know nothing, sir.

Mr. ROBINSON. I do know that the facts recited in the preamble and resolution are substantially true. I have given the authority on which the fact is stated. It is taken from a paper published in the city where the trial was held and never contradicted, as far as any reader of the public press knows. And for fear any cavil should be made I have gone further and provided that the President of the United States should be requested to inquire into the trial of these men, and then, after having taken what steps he can as President of the United States, I have, at the instance of my colleague, [Mr. PRUYN,] concluded my resolution by saying that the facts should be reported to the House.

Now, I am not willing to refer the resolution to a committee and have it sleep there. What has been our conduct here? I called for this information in March last, within a few hours after our assembling here. But what has been done since? How long, sir, must an American citizen pine in chains and in dungeons? How long must they be kept in British prisons before we can reach some department that will listen to their cry or shed a tear of pity over the clanking of their chains? Six, nine, ten, twelve months have elapsed and these prisoners still rot in jail. One hundred American citizens, equal in intellect to the average of the men listening to me, American soldiers, without one solitary fact being alleged against some or proved against any, lie prostrate and helpless this day beneath the foot of this toothless, fangless British lion, and we cannot get a vote to look into the matter and see where the responsibility should be laid.

Mr. HIGBY. Allow me to say that I voted with others to suspend the rules so that the gentleman from New York could introduce this resolution, not, however, for the purpose of acting upon it now, for I do not think this House can resolve itself into an investigating committee of this kind. I did it in order that the resolution might go to the proper committee so that the House may have proper information before it on which to act. The preamble to the resolution contains several important statements which the House is called to act upon and say whether they are true or not when we have nothing more than the statements of the gentleman from New York. This is a matter of great importance, and I hope the House will refer it to the proper committee and let them report upon it.

Mr. ROBINSON. Now, Mr. Speaker, I want to say further to my friend from Ohio [Mr. BINGHAM] that I do not know what he meant by saying that we have no right to interfere with the proceedings of the courts in Great Britain. I know—and the fact is too lamentable—that we cannot change the laws of Great Britain, but we can have decent self-respect. I know that this resolution, even if the President makes the demand, cannot empty the British jails; but we can cut ourselves off from all communion with that nation that assails our rights; we can withdraw our minister there and ask their new minister coming here not to present his credentials, but to withhold them so long as his Government is inflicting these iniquities and injuries upon us. I know that we cannot alter the British law; but I have quoted the words of Baron Fitzgerald himself in making up the minute which was taken in one of these cases from the court below to the court above, that there was no proof of any act done except coming to Ireland and having been said some months or years before to be connected with what they call the Fenian organization, and if this be true I do say here that the President and the Secretary of State and our minister in England and this Congress and this House would be derelict in their duty if, believing these facts to be true, they do not make just such a peremptory demand as I ask for here. I only ask that the proper persons inquire into the facts. I allege these facts, and I quote the paper with the date of it, which sustains them. The resolution merely asks the President to inquire into the truth of those facts, and if they are found to be true to demand the release of these men and then report to this House for such action as it pleases. The resolution has been modified in that way by my friend and colleague from the Albany district, [Mr. PRUYN.] Now, is there any harm in that?

I yield now to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. Mr. Speaker, I have not taken part in the discussion of any of these questions, not because I did not take a deep interest in the questions themselves, but it does seem to me that we have been delaying action long enough. I have expected, like the gentleman from New York, [Mr. ROBINSON,] that the committee having this matter in charge would have reported something or other before this time which should seem to meet the case which we have in hand.

I cannot, sir, see anything in the argument which the gentleman from Ohio [Mr. BINGHAM] has made. It is true he has talked well, as he always talks; he has spoken eloquently, as he always speaks; but what point has he made on this subject? This seems to me simply a resolution of inquiry. The President is delaying action for some authority, as I understand, from this Congress to act upon this subject. Why shall we not authorize him to inquire; and when it is provided, as I understand it now is in the resolution, that a report shall be made to this House of the facts of the case, can we not, then, provide for just such action as is desired upon the case and upon the report?

It is very true that we will hold British or any other subjects responsible to our laws when they commit crimes within our jurisdiction. But that, I understand, is not the case before the House.

Mr. BINGHAM. The resolution not only authorizes the President to inquire into the facts but to demand the immediate release of these persons.

Mr. ELDRIDGE. I understand that the resolution is so modified that when the inquiry has been made the facts are to be reported to Congress.

Mr. BINGHAM. The resolution contains an express provision that the President may not only inquire as to the facts but may demand the unconditional release of these parties.

Mr. ELDRIDGE. The gentleman from Ohio [Mr. BINGHAM] differs in his construction of the resolution from the gentleman from New York. [Mr. ROBINSON.]

In conclusion I will say that if a hundred American citizens are pining in British prisons and suffering all the indignities and cruelties which the gentleman from New York [Mr. ROBINSON] describes—and I have no doubt that such is the fact—it is time for American citizens at home to act. We have delayed long enough; let us at all events remonstrate, and I think this is a proper resolution by which to remonstrate.

Mr. ROBINSON resumed the floor.

CHEROKEE INDIANS, NORTH CAROLINA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, relative to the payment of interest to the Cherokee Indians of North Carolina, under treaty stipulations; which was referred to the Committee on Appropriations, and ordered to be printed.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 512) in relation to taxing shares in national banks.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The House resumed the consideration of the preamble and resolution concerning American citizens abroad, upon which Mr. ROBINSON was entitled to the floor.

Mr. ROBINSON. I yield to my colleague from the Albany district, [Mr. PRUYN.]

Mr. PRUYN. With the consent of the gentleman from New York, [Mr. ROBINSON,] who introduced this resolution, and to meet the objection which the gentleman from Ohio [Mr. BINGHAM] has made, I have prepared and handed to the Clerk an amendment which the mover of the resolution has accepted; that is, if the President find the facts in the case of Mr. Nagle to be as stated he shall demand his release. It is not now a positive statement of fact.

Mr. BINGHAM. I ask that that amendment may be read.

The Clerk read the modification of the resolution, as follows:

Before the words "the immediate release" insert the words "if he finds the facts to be as alleged;" so that it will read: "And to demand, if he find the facts to be as alleged, the immediate release of William J. Nagle," &c.

Mr. BINGHAM. That is the same thing.

Mr. PRUYN. I wish simply to say, in regard to this matter that I had no knowledge of the resolution of my colleague until it was offered by him in his place here. In order to meet the objection made to it by the gentleman from Ohio [Mr. BINGHAM] and other gentlemen on this floor I prepared very hastily a modification of it in one very important particular, which modification was accepted by my colleague. That modification was to strike out the latter portion of the resolution authorizing the President to make reprisals by seizing and imprisoning British citizens found in this country, and to insert a clause requesting him to report the facts to Congress without delay.

In regard to the merits of this resolution, I think it rests upon a very different footing from that upon which it is placed by the gentleman from Ohio—that is, on the right of expatriation. I expressed my views upon that question in a public way a few weeks ago. I think there is a misunderstanding on the part of the gentleman from Ohio in regard to the scope and object of this resolution. If the doctrine of expatriation had been admitted—and I think it will now be admitted by Great Britain almost as readily as by us—the cases referred to in the resolution would not have arisen, nor would the trials have taken place to which reference is there made.

But the subject is too large and important for me to enter into it in this hurried way and on this short notice. I trust that this whole matter will receive the deliberate consideration and action of the House, and that we shall do nothing hastily, nothing that is not becoming the dignity of the House and the great importance of the subject.

Mr. ROBINSON. Mr. Speaker, I do not wish to press this subject upon the House improperly, nor to have this body take any action that is not well considered. It has been suggested to me that I should now yield for a motion to adjourn. I do not wish this question to pass from the possession of the House till some final disposition is made of it, and I therefore desire to make this inquiry of the Chair: if I should now yield for a motion to adjourn, and that motion should be carried, when would this question again come up?

The SPEAKER. If the House should adjourn now this resolution would be the first question before the House after the reading of the Journal to-morrow morning, and the gentleman from New York [Mr. ROBINSON] would be entitled to the thirty minutes remaining of his hour.

Mr. WASHBURNE, of Illinois. I hope the House will not adjourn now. Let us settle this question now; otherwise it may take the whole day to-morrow.

Mr. ROBINSON. Well, Mr. Speaker, I desire to propound a question to the gentleman from Ohio, [Mr. BINGHAM.] He objects to the President of the United States being authorized to make this demand. Now, suppose the gentleman from Ohio were the President of the United States—and there might be a worse one [laughter;] suppose an American citizen, without reference to his birth, (for on this floor we acknowledge no difference between the native born and the naturalized citizen,) had been seized by the British authorities, that seizure being openly proclaimed; suppose that this citizen should be so held in custody for six months or a year; would the gentleman or would he not demand the release of that citizen?

Mr. BINGHAM. I will answer the gentleman. I cannot suppose such a contingency as that I should be the President of the United States. [Laughter.] I can only say that where it is clear to the executive department of this Government that a citizen of the United States is held by any foreign Power to answer for an offense not committed within its jurisdiction, I am perfectly clear in the conviction that it is the duty of the Executive to interpose his authority, and so far as may be within his power shield such citizen from the penalty imposed by the laws of that foreign sovereignty for the alleged crime. But, sir, I answer the gentleman further, that if by the intervention of the President the peace of the two nations is likely to be disturbed, it is the sworn obligation of the President to lay the question before the people's Representatives in Congress assembled, to whom alone belongs the determination of the great issues of peace and war; and let them decide the question. And I answer the gentleman further, that in such a case it would be becoming on the part of the people's Representatives to refer the question to their duly constituted organ to inquire into the facts and report them intelligibly to the House.

Mr. ROBINSON. Mr. Speaker, what the gentleman from Ohio [Mr. BINGHAM] says he would do in the case supposed is exactly what we propose shall be done by the President in this case—the same that was done in the case of George Francis Train. When Mr. Train was arrested the President of the United States, represented by our minister at the Court of St. James, demanded his immediate release; and the demand was effectual.

Mr. BANKS. I ask the gentleman from New York [Mr. ROBINSON] to yield to me for a few moments.

Mr. ROBINSON. I yield the gentleman five minutes.

Mr. BANKS. Mr. Speaker, it is perfectly manifest from the terms of this resolution that the gentleman from New York does not intend that we shall act upon the subject now. The resolution involves a mere evasion of responsibility and duty. It alleges that American citizens in England are arrested, tried, and convicted, contrary to all right and justice; and it proposes to instruct somebody else to inquire into the facts; and if that somebody else shall find them to be as stated or think them to be so, then he is to make a demand for the release of those citizens; otherwise he is to make no demand.

Now, sir, that is not the business of this House. If there is an American citizen deprived of his liberty by a foreign Government, and we undertake to defend the rights of that citizen, we are bound to ascertain the facts ourselves, and when we have determined what they are to give instructions to the executive department of the Government to execute our will. But to assume certain facts on newspaper report to instruct an officer of the Government to inquire into them, and if he finds the statement to be correct to take certain action, or not to take that action if he does not deem it sufficiently important, is the merest invasion of our duty and our responsibility which can possibly be suggested. And I am sure the gentleman from New York does not mean to do any such thing. Here Congress is to call upon the President of the United States to inquire into this case and to report to this House what he finds to be the fact. If the President under such order shall delay or refuse to execute his duty then we should proceed against him. And it is not right for this House under any circumstances to delegate this power and duty, to throw upon any officer of the Government the responsibility and duty which belong to us and which we ought to execute.

Mr. BINGHAM. I wish to suggest to the gentleman from Massachusetts if reference be made to the Committee on Foreign Affairs, which I have suggested, would it not be perfectly competent for that committee to inquire at once as the organ of the House, of the executive department, and report on the facts.

Mr. BANKS. Certainly; and more than that, the inquiry has already been made, and the Secretary of State has assured us solemnly he is lending his utmost exertions to bring this information to the House. It may come to us in the session of to-morrow morning. I should be glad to be able to say when it will come, but it will not be delayed long. And when we get that information we will not be required to evade the responsibility of defending American citizens, a responsibility which belongs to us, but to assume it and give the President such instructions as he has the right to demand from us.

Mr. ROBINSON. I now resume the floor, and move to adjourn.

The SPEAKER. The gentleman has twenty-two minutes left.

The House refused to adjourn.

Mr. ROBINSON. Mr. Speaker, I have consumed more time than I intended, and will not trouble the House much further. I understand some gentlemen desire to speak, and I will yield for ten minutes to the gentleman from Illinois, [Mr. LOGAN,] who wishes to be heard.

Mr. LOGAN did not take the floor.

Mr. ROBINSON. If my friend does not wish to go on I will say a few words in reply to what has been said. The gentleman from Massachusetts, [Mr. BANKS,] chairman of the Committee on Foreign Affairs, has said that we want time to consult the Secretary of State. There is no man on this floor who respects the Secretary of State more than I do. I shall not go into any eulogy or dispraise of him. I am not here to attack him. I yield to none in my respect for the State Department; nor do I intend to bring railing accusations against any department of this Government. But I do say, Mr. Speaker, there has been delay, ten thousand times too long, in dealing with the subject of the treatment American citizens are now receiving from the arrogant British Government. Sir, citizens whose blood has deepened the red in the stripes of our flag, and whose valor is dancing like sunbeams in the glory of our stars.

Mr. BANKS. I do not want to shift that delay to other shoulders. I want to meet it here.

Mr. ROBINSON. I want no delay; no shifting of responsibility.

Mr. BANKS. The gentleman's proposition is to shift it from our shoulders and to put it upon those of other men.

Mr. ROBINSON. The gentleman will pardon me I say.—I mean no reflection upon him; I believe him to be honest and sound upon this question and anxious to discharge his duty fully and faithfully to the country—I say, sir, there is a bundle of dusty red tape which I want to cut in order to get at something immediately practical and effectual. If we wait for the Secretary of State I tell you he may not send us these documents for six months to come; and even when they do come they will not be more reliable than the Dublin Irishman from which I have quoted. We have document upon document from every department, precept upon precept, petitions from every section of the Union, proceedings of public meetings in New York, Boston, Brooklyn, Philadelphia, Chicago, Cleveland, Cincinnati, and almost every city and State in the Union—all demanding instant action, and that action I want this Government to take and this House to take it now.

The chains are on the limbs of American citizens; the iron of the British despot is resting on the bones of sovereigns superior to their sovereign—with more brain, more intellect, each one of them than their sovereign has. And while we adjourn from day to day from our comfortable seats to our plentiful meals and our soft, downy beds, these American citizens, soldiers, heroes, are insulted in every quarter of Great Britain. Hundreds of them are incarcerated, and to their cries and groans no answer is made but the gibes of the official turnkey, who insults Americans in every way he can, and who thinks that the greatest insult he can fling upon them is to call them Americans.

I say, while I give the gentleman from Massachusetts and the other gentlemen on the committee with myself full credit for a faithful, just, and honest desire to do something in this case, yet I must say we seem to be rolling a stone all the time up the hill, and before we get it two steps up we are ten steps down again. [Laughter.] So that we would do better in our diplomacy with that cunning Power if we should back up against her and try her in that way.

I want something done and I want it done now. If you refuse to adjourn let us meet this question now and put it in the power of the President to act. Let us ask him to demand the immediate release of these men. It has been done in the case of George Francis Train; why is it not done in the case of William J. Nagle and other men who deserve as prompt redress as he has received? It will do no wrong to press the matter now. The greatest difficulty is delay. We have already delayed unreasonably.

Mr. BANKS. Will the gentleman allow me to say that it is the President who delays us, and if he refuses to answer our call in the first instance will he do any less in the second? We have not called upon the Secretary of State, but upon the President to inquire and report upon the facts. What is the use of instructing him again if he will not answer our first call? And how can the gentleman justify us in shifting the responsibility from our shoulders to his under these circumstances? I trust the gentleman will allow it to go to the committee and we will give it consideration.

Mr. ROBINSON. With all respect to the chairman of the committee, while I still give him credit for good intentions, I cannot yield to allow that motion. I say even if we have asked the President to act and he has not acted,

is it any great insult to ask him again to act? I do not know how it is that gentlemen on the other side seem to be so much afraid of him, that having asked him to do a thing once they are loth to ask him again. He believes this thing should be done; he has said so in his message. He wants more power. Now if this is only surplusage, something like what we have done or said already, can it do any harm to ask him again. Sir, we are all comfortable; we are eating and drinking and faring sumptuously, and swinging round the circles of fashionable frivolity, but do not seem to appreciate the fact that one hundred American citizens, unconvicted and charged with no crime, are to-day pining in cold, damp British jails, badly fed and poorly clothed, while no man is raising a hand to liberate them, or a voice to comfort them, or a cup of consolation to their quivering lips.

Sir, I want to show that we are in earnest; and I intend, God giving me strength, to press this subject in every way and without cessation. If I do not succeed now you will hear from me again, unless my voice or my health fail me, as they have almost failed me to-day. At the risk of both, however, I have advocated and will continue to demand prompt and energetic action; and now, as it seems the general desire, move the previous question.

Mr. BINGHAM. I rise to a parliamentary inquiry. If the previous question is rejected by the House will it not be in order then to enter the motion to refer this matter to the Committee on Foreign Affairs with instructions to report at any time?

The SPEAKER. It will. The gentleman from Massachusetts [Mr. BANKS] has signified his intention to offer that motion in case the previous question is not seconded.

Mr. WARD. I move that the House adjourn.

The motion was not agreed to.

The question was put on seconding the demand for the previous question; and there were—ayes 30, noes 83.

Mr. ROBINSON. I demand tellers.

Tellers were ordered; and Messrs. BANKS and ROBINSON were appointed.

The House divided; and the tellers reported —ayes twenty-nine, noes not counted.

So the House refused to second the demand for the previous question.

Mr. BANKS. I move that the resolution be referred to the Committee on Foreign Affairs, and on that motion I move the previous question.

Mr. ROBINSON. I consider this death to the whole thing, and I ask the yeas and nays on the motion to refer.

Mr. MAYNARD. I desire to put a parliamentary question to the Chair. It is this: whether it will not be in the power of the Committee on Foreign Affairs, if after investigation they think the facts justify it, to bring in a proposition declaring war against Great Britain?

The SPEAKER. That is not a parliamentary question.

Mr. ROBINSON. Let me say one word. [Cries of "Order," "Order."]

The SPEAKER. Debate is not in order.

The previous question was seconded and the main question ordered.

Mr. ROBINSON. I have demanded the yeas and nays on the motion to refer.

Mr. ELDRIDGE. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. ELDRIDGE and CULLOM were appointed.

The House divided; and the tellers reported —ayes 27, noes 91.

So, one fifth voting therefor, the yeas and nays were ordered.

Mr. HOLMAN. I move that the House do now adjourn.

The question was put; and the House refused to adjourn.

The question was then taken on Mr. BANKS's motion; and it was decided in the affirmative—yeas 80, nays 39, not voting 69; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Baker, Banks, Beaman, Benton, Bingham, Blair, Boutwell, Broomall, Cake, Churchill, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Farnsworth, Ferriss, Fields, Garfield, Griswold, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Jenckes, Julian, Kelley, Koontz, Laflin, George V. Lawrence, Loan, Logan Lynch, Mallory, Marvin, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, O'Neill, Orth, Paine, Perham, Peters, Pike, Polsley, Price, Sawyer, Scofield, Spalding, Starkweather, Taffe, Taylor, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, and James F. Wilson—80.

NAYS—Messrs. Archer, Beck, Boyer, Brooks, Butler, Sidney Clarke, Cobb, Cornell, Eldridge, Fox, Getz, Golladay, Gravely, Haight, Holman, Humphrey, Hunter, Johnson, Jones, Judd, Kerr, William Lawrence, Mungen, Newcomb, Niblack, Phelps, Pile, Pruyn, Randall, Robinson, Shanks, Smith, Stone, Taber, Lawrence S. Trimble, Van Auken, Robert T. Van Horn, Ward, and Stephen F. Wilson—39.

NOT VOTING—Messrs. Adams, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Barnes, Barnum, Benjamin, Blaine, Bromwell, Buckland, Burr, Cary, Chandler, Reader W. Clarke, Donnelly, Eckley, Eggleston, Ela, Eliot, Ferry, Finney, Glossbrenner, Grover, Halsey, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Kelsey, Ketcham, Kitchen, Knott, Lincoln, Loughridge, Marshall, McCarthy, McCormick, McCullough, Morgan, Morrissey, Nicholson, Nunn, Plants, Poland, Pomeroy, Raum, Robertson, Ross, Schenck, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Thomas, Van Trump, Van Wyck, Welker, John T. Wilson, Windom, Wood, Woodbridge, and Woodward—69.

So the resolution was referred to the Committee on Foreign Affairs.

Mr. BANKS moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. PILE, (at five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of James Galliher and 25 others, citizens of Schuylkill county, Pennsylvania, in favor of protection to American labor and industry.

By Mr. BEAMAN: The claim of the estate of H. K. Saugee, deceased, and also of H. P. Saugee, against the United States.

By Mr. BECK: The memorial and petition of 17 senators and 43 representatives in the Legislature of Kentucky, praying Congress for such modification of the present law in regard to such reduction of the tax on distilled spirits as will best protect the interest of western farmers and distillers.

By Mr. BURR: A memorial of 500 voters of Jerseyville, Illinois, asking more efficient legislation for the protection of American citizens abroad.

By Mr. CAKE: The petition of citizens of Schuylkill county, Pennsylvania, entreating Congress to pass a tariff bill that will give such protection to the various branches of industry as will enable us to compete with foreign rivals until our industry is built up to a point where these disadvantages will become more equalized, when duties may be lowered again to meet the progress in manufactures without injury to American labor.

By Mr. COOK: The petition of naturalized citizens of the United States, of foreign birth, residents of St. Ann's, Kankakee county, Illinois, asking for the passage of a law to protect the rights of naturalized citizens of the United States of foreign birth.

Also, the petitition of naturalized citizens of the United States resident in Kankakee county, Illinois, asking for the passage of an act to declare and protect the rights of naturalized citizens of the United States in foreign countries.

By Mr. DRIGGS: A memorial of Parvin Wright, Luke Woodward, R. W. Hadson, and Enoch Hoag, of the Society of Friends, asking Congress to withhold money annuities to the Indians, and in lieu thereof to give them agricultural implements, to educate them, &c.

By Mr. GARFIELD: A memorial of citizens of Youngstown, Ohio, for a change in the internal revenue system.

Also, a memorial of citizens of Youngstown, Ohio, for a change in the system of appointment and removal of public officers who collect and disburse the revenue of the United States.

By Mr. HOOPER, of Massachusetts: A memorial adopted by New England convention of manufacturers, January 22, 1868, signed by manufacturers engaged in the different branches of industry, praying: 1. An entire revision of the internal revenue laws and a reorganization of the internal revenue department; 2. A reduction of all expenditures to the limit required by a just and careful economy; and 3. A repeal of all taxes on raw materials and manufactures, except articles of luxury.

Also, petition numerously signed by citizens of the fourth congressional district of Massachusetts, praying for legislative action for the protection of American citizens against unjust acts, of whatever foreign Power.

By Mr. HARDING: The petition to establish United States courts at Quincy, Illinois.

Also, the petition for a pension to Augustus Butell, of Illinois.

By Mr. HOLBROOK: The petition of citizens of Granite Creek, Idaho Territory, on the rights of naturalized citizens.

By Mr. HOPKINS: The proceedings of a large and enthusiastic meeting of the citizens of Madison, Wisconsin, held January 25, 1868, protesting against the treatment of our naturalized citizens by the English Government, and asking Congress to afford the same protection to naturalized citizens which native-born citizens enjoy.

By Mr. LAWRENCE, of Pennsylvania: Three petitions for certain mail routes in Greene county, Pennsylvania.

Also, two petitions from citizens of Lawrence county, Pennsylvania, for change of revenue laws and for the selection of a better class of men to collect the revenues.

Also, the petition of James A. Anderson, for increase of pension.

Also, the petition of Hampton Thompson, of Beaver county, Pennsylvania, for a pension.

By Mr. LYNCH: The petition of citizens of Portland, Maine, asking protection for naturalized American citizens in foreign countries.

Also, the petition of citizens of Saco, Maine, asking that the tax on manufactures be repealed.

Also, the petition of citizens of Biddeford, Maine, for same.

Also, the petition of citizens of Portland, Maine, for same.

Also, the petition of citizens of Lewiston, for same.

Also, the petition of late officers of volunteer forces, from the State of Maine, in reference to commutation for servants' hire.

By Mr. MARVIN: The petition of M. Mullarkey, and 425 others, citizens of Montgomery county, New York, praying for congressional action in reference to the treatment of naturalized American citizens in the kingdom of Great Britain.

By Mr. MILLER: A memorial of sundry citizens of the county of Blair, Pennsylvania, asking that a pension be granted to Mrs. Christine Kinsel, widow of Erastus Kinsel, deceased, late a private of company A, one hundred and twenty-fifth regiment Pennsylvania volunteers.

By Mr. MULLINS: The petition of A. J. Steele, a citizen of Franklin county, Tennessee, praying for remuneration for quartermaster and commissary supplies taken and used by the United States Army in 1863.

By Mr. MYERS: The petition of Philadelphia manufacturers, for repeal of the tax on manufactures of oil cloths and window shades.

By Mr. ORTH: The petition of John Webster, for payment of materials furnished to Botanic Garden.

By Mr. PERHAM: A memorial of John H. Ellegood, for pension.

By Mr. PETERS: The petition of George C. Sewall and others, Fenians of Oldtown,

Maine, in relation to the treatment of American naturalized citizens abroad.

By Mr. PIKE: The petition of Calvin Billings and 23 others, for repeal of laws requiring license for fishing.

Also, the petition of Abner Coburn and others, of Maine, for repeal of St. John and St. Croix river bills.

Also, the petition of S. H. Talbot and 15 others, of East Machias, Maine, for same object.

Also, the petition of B. W. Taner and 25 others, of Machias, Maine, for same object.

Also, the petition of G. W. Hayford and 30 others, of Cherryfield, Maine, for same object.

Also, the petition of G. R. Campbell and 29 others, of Cherryfield, Maine, for same object.

By Mr. PRICE: The petition of citizens of Clinton, asking that the city of Clinton, Iowa, be created a port of entry.

By Mr. STEVENS, of New Hampshire: The resolutions of a public meeting of adopted citizens at Nashua, New Hampshire, in relation to the rights of naturalized citizens abroad.

By Mr. WARD: A large number of petitions from the State of New York, asking a repeal of the taxes on manufactures and productions, except luxuries.

By Mr. WILSON, of Iowa: The petition of Joseph Montgomery, of Crawfordsville, Iowa, and late a private in company F, fifteenth regiment Iowa volunteer infantry, praying for the passage of an act granting him a pension.

By Mr. WILSON, of Pennsylvania: The petition and accompanying affidavits of Daniel Fuller, of Potter county, Pennsylvania, asking for increase of pension.

PAPERS WITHDRAWN AND REFERRED.

The following papers were withdrawn from the files of the House, and referred to the appropriate committee:

By Mr. ARCHER: Papers relating to the claim of George Armstrong.

IN SENATE.

TUESDAY, *February* 4, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, communicating, in compliance with a resolution of the Senate of January 24, 1868, further information in relation to the effect of the issue of the circular letter discharging the officers and agents of the bureau on the 15th of February; which was referred to the Committee on Military Affairs and the Militia.

He also laid before the Senate a letter from the Secretary of the Interior, communicating correspondence in relation to the payment of interest to Cherokee Indians in North Carolina under the act of July 29, 1848, and calling the attention of Congress to the transfer of the duty imposed by that act from the Treasury to the Interior Department; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a message of the President of the United States, transmitting a report from the Secretary of State as to the necessity for a further appropriation toward defraying the expense of employing copying clerks with a view to enable his Department seasonably to answer certain calls for information.

Mr. SUMNER. I move that that communication be referred to the Committee on Foreign Relations.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a letter of C. H. Howard, assistant commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands, in relation to the opinion of Attorney General Jones, of the State of Maryland, pronouncing void the decision of the Chief Justice of the Supreme Court of the United States releasing apprentices bound under the laws of Maryland; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also presented a resolution of the select and common councils of the city of Philadelphia, tendering the thanks of the city of Philadelphia to the Senate of the United States for restoring Hon. E. M. Stanton to the position of Secretary of War; which was ordered to lie on the table.

Mr. CRAGIN presented resolutions adopted at a meeting of adopted citizens of Nashua, New Hampshire, December 23, 1867, in relation to the naturalization laws of the United States as expounded by the judicial authorities of Great Britain, and the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

Mr. CRAGIN. I also present the petition of William J. Hardin, Lewis H. Douglass, Frederick Douglass, jr., and about one hundred other colored citizens of the Territory of Colorado, asking for the admission of that Territory into the Union as a State. This petition is very brief, and I beg leave to read it:

To the Honorable Senate and House of Representatives of the United States in Congress assembled:

Your petitioners, colored citizens of the Territory of Colorado, would respectfully represent that since the passage of the law of Congress enfranchising our people in the Territories, we have fully and freely and without molestation exercised the elective franchise in this Territory; and we have full confidence that if the State of Colorado be admitted into the Union under the bill now pending before Congress imposing the condition of impartial suffrage as a part of the act of admission, that said condition would be faithfully observed and our rights secured.

That we believe the cause of equal rights, the interest of the people of this Territory and the General Government, would be subserved by the immediate admission of the State of Colorado into the Union; and therefore we respectfully ask for the passage of said bill, and, as in duty bound, we will ever pray.

As the Committee on Territories have reported a bill upon this subject, I move that the petition lie on the table.

The motion was agreed to.

Mr. FRELINGHUYSEN presented a petition of citizens of Alabama, praying the removal of the civil disabilities imposed on Benjamin Gardner by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. MORTON presented a petition of mechanics and other laboring men of Boston, Massachusetts, Ovid, Michigan, Portsmouth navy-yard, New Hampshire, McGregor, Iowa, and Hartford, Connecticut, praying the passage of a law making eight hours a day's work in all Government workshops; which was referred to the Committee on Finance.

Mr. HENDERSON presented resolutions adopted at a meeting in St. Louis concerning prisoners executed at Manchester, England; which were referred to the Committee on Foreign Relations.

Mr. CONNESS presented resolutions of the Legislature of California, in favor of the survey of the mouth of Eel river in that State; which were referred to the Committee on Commerce.

Mr. JOHNSON presented a petition of Caroline E. Thomas, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. NYE presented a memorial of John Golding and W. W. Vanderbilt, praying the passage of a law making it obligatory on vessels to carry a reasonable number of mattresses known as "Golding's life-saving mattress and raft;" which was referred to the Committee on Commerce.

He also presented resolutions adopted at a meeting of citizens of the District of Columbia on the 10th of January in relation to the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations.

Mr. HARLAN presented a memorial of the Society of Friends of Ohio, Indiana, and Iowa, praying a liberal and humane policy toward the Indians; which was referred to the Committee on Indian Affairs.

Mr. HENDERSON presented a letter of A. Alderson, addressed to himself, in relation to the destitution of a portion of the people of the State of Mississippi; which was referred to the Committee on Appropriations.

Mr. POMEROY presented a petition of Willard W. Glazier, praying that he may be allowed the difference of pay between a second lieutenant and a sergeant from the 17th day of August, 1863, to the 9th day of January, 1865; which was referred to the Committee on Military Affairs and the Militia.

IMPROVEMENT OF NEW YORK HARBOR.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate an estimate of the expense of removing the three reefs known as Battery reef, Diamond reef, and Coenties reef, in the East river, New York harbor.

BILLS INTRODUCED.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 98) for the promotion of certain commodores on the retired list to rear admirals on the retired list of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. HENDERSON, from the Committee on Finance, to whom was referred the petition of William C. Anderson, of Missouri, praying the passage of an act authorizing the settlement on principles of equity of the accounts of William C. Anderson, sr., deceased, late pension agent at St. Louis, Missouri, asked to be discharged from its further consideration and that it be referred to the Committee on Pensions; which was agreed to.

PROTECTION OF PARTIES AND WITNESSES.

Mr. FRELINGHUYSEN. The Committee on the Judiciary, to whom was referred the bill (S. No. 306) for the protection in certain cases of persons making disclosures as parties or testifying as witnesses, have had the same under consideration, and directed me to report it back and recommend its passage. I ask unanimous consent for its present consideration. I think it will give rise to no debate.

By unanimous consent the bill was considered as in Committee of the Whole. It provides that no answer or pleading of any party, and no discovery or evidence obtained by means of any judicial proceeding from any party or witness in this or any foreign country, shall be given in evidence, or in any manner used against such party or witness, or his property or estate, in any court of the United States, or in any proceeding by or before any officer of the United States, in respect to any crime, or for the enforcement of any penalty or forfeiture by reason of any act or omission of such party or witness. This is not to be construed to exempt any party or witness from prosecution and punishment for perjury committed by him in discovering or testifying. The act is to take effect from its passage, and to apply to all pending proceedings, as well as to those hereafter instituted.

Mr. FRELINGHUYSEN. The object of the bill is to relieve parties in making disclosures and witnesses in testifying from subjecting themselves to forfeitures and penalties. The Government find it necessary that some such bill should be passed, as where they seek to have a disclosure parties plead the fact that it will subject them to forfeitures and penalties, and so the Government are deprived from getting such evidence as it is essential for them to have. It only applies to the courts of the United States.

The bill was reported to the Senate without amendment.

Mr. HENDERSON. Perhaps I do not understand the bill as it was read at the desk, but it strikes me as being a bill of some little im-

portance, and I am hardly willing that it should be passed on the explanation given by the Senator from New Jersey.

Mr. TRUMBULL. The bill is printed on the Senator's table.

Mr. HENDERSON. I should like to have it reported again.

The Secretary read the bill.

Mr. HENDERSON. I should like to hear some further explanation. Has the bill been reported from the Committee on the Judiciary?

Mr. FRELINGHUYSEN. It has been.

Mr. HENDERSON. I should like to have some little further explanation, if the Senator has no objection, in regard to the necessity of the measure. It is a matter of very considerable importance.

Mr. FRELINGHUYSEN. It has been discovered in some suits of the United States, where they have sought a disclosure from parties, that they have interposed the plea that making such disclosures in answer—for instance, to a bill of discovery—would subject them to forfeitures and penalties, and the courts have recognized that plea as a sufficient defense against making the discovery. To obviate that difficulty and in order that the Government may get such information as is necessary, this bill has been requested on the part of the Government and approved by the Judiciary Committee.

Mr. HOWARD. Let me ask the honorable Senator from New Jersey whether this bill takes away from a party thus circumstanced the privilege of remaining silent and refusing to answer?

Mr. FRELINGHUYSEN. No.

Mr. HOWARD. Then what good will the bill do? The party is called upon to make a disclosure which may criminate him or work forfeiture of his property; he has a right to remain silent and refuse to answer the bill of discovery. I do not understand that this bill takes away from him the privilege which he already possesses, nor do I understand that this bill requires him to make an answer in such a case as that. He may still avail himself of his privilege, as it seems to me. Perhaps I do not understand the bill perfectly.

Mr. FRELINGHUYSEN. The court protects a party or a witness on the ground that his disclosure or his testimony will subject him to penalties and forfeitures. This bill, of course, takes away that ground of protection from the party, so that the court cannot extend him that benefit.

Mr. HOWARD. It is the privilege and right of the party to refuse to answer, and he must be the judge, if I understand the rule, whether the question put to him criminates him or not, or has a tendency to criminate him.

Mr. TRUMBULL. I understand courts of chancery may compel a discovery from a party. They have that authority under their general chancery powers. That being so, a party comes in and gives as a reason why the court should not compel the discovery that the discovery, if made, would subject him to pains and penalties. Now we propose—that is the object of the bill, and the Committee on the Judiciary saw no objection to it; it is the law now in some of the States, and we have a similar law in regard to testimony before the committees of Congress compelling parties to testify—this bill proposes that he shall not be excused from testifying on the ground that the answer might be used against him in a penal proceeding or in a criminal proceeding. Of course, the court would then compel him to answer if it was a proper case. That is the purport and effect of the bill.

Mr. DAVIS. I understand the bill is placed upon the old common law principle, that no man should be compelled to give evidence against himself in criminal and penal cases. I hold that that is the foundation upon which this bill has been introduced. I understand that the immunity which it gives to an individual is this: that where he is compelled to make a disclosure in giving evidence, or in written pleadings, where he is compelled by the law and the words of proceeding in courts to give evidence involuntarily, any disclosures he makes shall not be used against him in any criminal or penal prosecution or any suit that is *quasi* penal.

Mr. TRUMBULL. That is the object of it.

Mr. DAVIS. That is a correct principle; it is one that has been embodied in the laws of Kentucky, with which I am familiar for a great many years, and I think the provision of this bill is a very proper one.

Mr. HENDERSON. I understand that the bill goes something further than the Senator from Kentucky intimates. If I understand it, it is that "no answer or other pleading" shall be used against the party, no matter how that answer may have been filed, whether voluntarily or not. The Senator from Kentucky assumes that the bill only extends this protection to cases where a discovery is forced from the party. Perhaps it might be well enough in a case of that sort; but the provision is that no answer or other pleading filed by a party shall be used against him afterward.

Mr. TRUMBULL. In a criminal or penal proceeding, not in civil proceeding. The Senator will observe that the provision only applies to criminal and penal proceedings.

Mr. DAVIS. A party defendant is required to answer, and if he stands out and does not answer he is in contempt to the court. He may be compelled to answer, and when he is compelled to answer, and in his answer discloses facts that would operate prejudicially to him in a penal or *quosi* penal prosecution, those disclosures are not to be used as testimony against him. That is the whole of it, and I take it it is a very proper exemption.

The bill was ordered to be engrossed for a third reading, and was read a third time, and passed.

INSTRUCTIONS TO GENERALS POPE AND MEADE.

Mr. PATTERSON, of New Hampshire. I move that the Senate again take up for consideration the bill (S. No. 269) in addition to an act entitled "An act to regulate the tenure of certain civil offices."

Mr. SUMNER. I hope the Senator will allow us to get through the morning business. I have a resolution which I wish to offer.

Mr. PATTERSON, of New Hampshire. Let the bill be taken up, and then I will give way.

The motion was agreed to.

Mr. HOWARD. I very respectfully request the honorable Senator from New Hampshire to give way while I call up a resolution, which I presented several days since, calling upon the President of the United States to communicate to the Senate any instructions which he may have given to General Pope and General Meade with regard to the fourth military district.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent.

Mr. HOWARD. I do not think the resolution will lead to any discussion.

The PRESIDENT *pro tempore*. Is there any objection to the motion made by the Senator from Michigan? If there be none the resolution will be taken up.

The Secretary read the following resolution, submitted by Mr. HOWARD on the 23d of January:

Resolved, That the President be respectfully requested to communicate to the Senate any and all instructions given to General Pope on his being assigned to the command of the fourth military district under the reconstruction acts or at any time while in command thereof; also, any and all instructions given to General Meade on his being assigned to the same command; also, copies of any and all minutes of the discussions, opinions, and votes in Cabinet meetings respecting the construction of said acts.

Mr. BUCKALEW. I move to amend by striking out the latter clause of the resolution all after the word "command."

The PRESIDENT *pro tempore*. The pending question is on a motion of the Senator from Pennsylvania, to reconsider the vote by which this resolution was adopted.

Mr. BUCKALEW. I had forgotten that. I will state that my motive in moving the reconsideration is to submit the amendment which I have stated.

The motion to reconsider was agreed to.

Mr. BUCKALEW. I now submit my amendment to strike out the words "also copies of any and all minutes of the discussions, opinions, and votes in Cabinet meetings respecting the construction of said acts."

Mr. HOWARD. I hope the amendment will not be agreed to.

Mr. SHERMAN. I ask my friend from Michigan if it is not an unusual proceeding to call for votes and speeches made in the Cabinet council of the President. Is there any example of it?

Mr. HOWARD. I believe it is not entirely unusual.

Mr. SHERMAN. Is there any precedent for it? If there is I should like to be informed of it.

Mr. HOWARD. I am not able to say whether there be any particular precedent for such a proceeding, but I am prepared to say that this is by no means a privileged communication, and that the proceedings referred to in the last clause are not entitled to be considered as privileged or secret. According to the information which I have, if the resolution is answered, it will bring before the Senate information which it is very material for them to have at the present time.

Mr. BUCKALEW. Mr. President——

Mr. PATTERSON, of New Hampshire. It seems this resolution is to lead to discussion. I must, therefore, object to its further consideration, and insist upon going on with the bill which has been taken up on my motion.

Mr. BUCKALEW. I was just going to observe that I do not intend to speak on my amendment. It is one of those things that are understood on being stated. I do not wish to delay the resolution calling for information which has been submitted by the Senator from Michigan. I simply call attention to this latter clause, and move the amendment to get a vote of the Senate upon it.

The amendment was agreed to—ayes eighteen, noes not counted.

The resolution, as amended, was agreed to.

GOVERNMENT AGENTS.

Mr. MORTON. Mr. President——

Mr. PATTERSON, of New Hampshire. I must object to the introduction of any further business until we consider the bill which is before the Senate.

The PRESIDENT *pro tempore*. The bill referred to is before the Senate; and nothing else can be considered except by unanimous consent.

Mr. SUMNER. I wish to offer a resolution.

Mr. PATTERSON, of New Hampshire. This bill has gone over for two mornings, and I must insist on its now being proceeded with.

Mr. SUMNER. Other bills have shared the same fate. Here is a bill I reported before the Senator reported his bill, which has been up two or three mornings——

Mr. PATTERSON, of New Hampshire. The gentleman had the misfortune not to get his bill up before I did mine.

The PRESIDENT *pro tempore*. The bill (S. No. 269) in addition to an act entitled "An act to regulate the tenure of certain civil offices" is before the Senate as in Committee of the Whole, and the pending question is on the amendment of the Senator from Massachusetts [Mr. SUMNER] to the amendment of the Senator from New Hampshire, [Mr. PATTERSON.]

The Secretary read the amendment to the amendment, which was to add to the first section of the amendment of Mr. PATTERSON, of New Hampshire, the following proviso:

Provided, That this shall not interfere with persons employed by the Department of State and paid out of the contingent fund of the Department.

Mr. SUMNER. When this bill was under discussion before there was a question in regard to the number of agents in the employ of the Department of State. I promised then

that if the bill was laid over I would try to obtain information on the subject. I have in my hand a letter from the Secretary of State making a full statement with regard to the agents in his service and the necessity of the continuance of what is known as the secret-service fund. I will send it to the Chair and ask that it be read; and the Senate will find in the letter the names of the agents who have been employed for several years past and also the sums paid annually to all of them.

The Secretary read the following letter:

DEPARTMENT OF STATE,
WASHINGTON, *February* 1, 1868.

SIR: I have received your note of this date and I hasten to give you the information desired. Since the 4th of March, 1861, there have been employed by this Department in foreign countries, on special emergencies and for short periods, twenty-two special agents in all.

The countries to which they were sent, or in which they were employed, were Canada, Mexico, Great Britain, especially London and Liverpool, the Sandwich Islands, Holland and Belgium, France, Rome, Italy, Greece, Egypt, Turkey, Prussia, Colombia, the West Indies, and Syria.

The names of the agents were George Ashmun, Esq.; Edward L. Plumb, Esq.; Commander William M. Walker, now deceased; Bishop C. P. McIlvaine; Archbishop John Hughes; Thurlow Weed, Esq.; Major General Guisseppi Garibaldi; Ayorib Trabulske; George Harrington, Esq.; Samuel B. Ruggles, Esq.; Aristarchus Azarian; Alexander H. Schultz, Esq., now deceased; J. Bancroft Davis, Esq.; Colonel James B. McKean; Colonel Spalding; Major General Daniel E. Sickles; Major General Schofield; Brigadier General George H. Sharpe; Rev. Charles Hawley; R. Van Valkenburg; H. J. Hastings; Rev. W. H. Bidwell.

The expenses of these special agencies in the year

1861 was	$22,854 66
1862	1,866 65
1863	1,833 85
1864	1,960 00
1865	6,828 75
1866	2,360 10
1867	3,489 40

The aggregate expenses for seven years were $41,193 41.

In regard to a limitation of the number of such agents in future, I can only say that I am not now anticipating an emergency calling for even a single appointment. In the conduct of the international affairs, however, extended throughout the world, as ours are, emergencies may occur in which a limitation would prove inconvenient.

Recurring to the dark period of 1861, I think that if the Government could have sent to England and France at the beginning of the year the same five persons who were sent at a later period in the same year, the machinations by which the rebels obtained are cognition of belligerent rights, and thereby obtained equal advantages with the United States, might probably have been defeated. It is impossible to estimate the injury which the United States sustained by that recognition.

I should do violence to the most generous sentiments of my nature if I did not, on this occasion, pay a tribute of sincere thanks to the several agents, as well the living as the dead, whom I have named. In looking back to the transactions in which those agents were concerned, I find reason to believe that, making due and just allowance to all others who participated in the defense of the great cause, yet the national life might have been lost but for the services which were rendered by these individuals in the emergencies in which they were employed. It is due to all of them also to say that I believe that not one of these agents saved a dollar to himself out of the money paid, which was simply an indemnity for the expenses actually incurred.

In the list I have given you I have supposed that your inquiry does not embrace the case of lawyers who have been from time to time employed in foreign tribunals in litigations involving the rights of the Government or the rights or liberties of citizens of the United States.

If those lawyers were deemed special agents the catalogue and the expenditure herein given would be largely increased.

I do not think that the employment of executive agents for special emergencies can be wisely limited to members of the legal profession either at home or abroad. The people of the United States are justly sensitive upon the point of having protection extended over them by their Government in their travels and commerce in foreign countries. Rumored injustice or violence suffered by any one of the citizens of the United States abroad always properly awakens a deep concern throughout the whole American people. Naturalized and native-born citizens are continually diffusing themselves throughout the civilized States of America and Europe, and the semi-barbarian and pagan nations of the East. This Department is continually receiving and investigating their complaints of denial or violation of their just rights and privileges as citizens of the United States. In seasons of war or revolution in civilized nations citizens of the United States complain that their neutrality and nationality are violated by arbitrary duress by revolutionary tribunals, by illegal taxes and conscriptions and oppressive laws. Ruin and distress overtake enterprising Americans in many places, and they present urgent appeals for sympathy and aid. Merchant vessels driven on the coasts of Formosa and Corea in distress are destroyed and their passengers and crews, citizens of the United States, are murdered by savages. National protection is often required in such emergencies when regular diplomatic or consular agents are absent or temporarily disabled by sickness, or when no such agencies are constituted or maintained by law. Missionaries from the United States penetrate all foreign countries, exposing their lives with no other guarantee of safety than the prestige of the executive authority of the United States. The danger awakens deep sensibility among all classes of our Christian country, and they resort at once to the Executive for redress.

For these reasons I am of opinion that any abridgement of the executive functions or authority in foreign countries would be now more than ever inconvenient and injurious to the public welfare.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. CHARLES SUMNER.

Mr. SUMNER. In addition to the statements of that letter I desire to call attention to the pecular circumstances that have existed during the last year or two arising from the trials of persons known as Fenians. Agents, I understand from the State Department, have been employed at the expense of this very fund which is now in question to defend persons in those trials. Such trials have occurred, as the Senate well knows, in Canada, and also latterly in Ireland and in England, and the State Department, I believe, has undertaken to defend in those cases. The fees at times have been very considerable, beyond what was anticipated, reminding one of the phrases in the early history of the English law, where the receipts of the profession are spoken of as "flowing fees." I understand they have been very large, and those have been defrayed out of this very fund.

Besides that, sir, during the war there were professional agents, some of them very eminent, employed to visit England particularly to look after the interests of our people there and to prevent the issue of the rams from the ports of England. Among the gentlemen thus employed was Mr. Evarts. None of those gentlemen received any considerable compensation, but I believe they were paid their necessary expenses.

But besides that there is a constant incident to the administration of our foreign affairs in the distribution of our dispatches. There is a series of agents to which the Secretary has not referred in that letter, to which I now beg to call attention from a document that I hold in my hand. It is entitled, "Disbursements of the Contingent Fund of the State Department—Letter from the acting Secretary of State, transmitting a statement of disbursements of the contingent fund of the State Department, for the year ending June 30, 1865;" and here is a list of persons employed in different ways as agents. I may say that there is a dispatch agent in London, to whom all the dispatches of the United States in the first place are addressed, and he receives the dispatch bag, opens it, and then distributes the dispatches to their respective addresses, it may be to Paris, or Madrid, or Rome, or Vienna, or Petersburg; also to the minor places, as to consuls. Then at home there are other dispatch agents, one in Boston, and one or more in New York.

Now, to come to the document to which I have called attention I find these names:

Oscar Irving, dispatch agent	$1,365
Jonathan Emory, dispatch agent	575

Mr. FESSENDEN. Does it state the places where they are located?

Mr. SUMNER. No; but I can supply that information. Mr. Irving is of New York, and Mr. Emory of Boston. Then comes Thomas Taylor, dispatch agent; I do not know where he is, but my friend [Mr. NYE] says of New York. Then, again, Edgar Irving, dispatch agent. I presume that he is at New York also.

Mr. FESSENDEN. Perhaps these different persons have been employed at different times during the year.

Mr. SUMNER. That does not appear. They are in the same list, in the list for the year. Then there is J. C. Derby, dispatch agent. He also is in New York. A Senator asks me if he is not a Buffalo man. He was originally, I believe, of Buffalo, and then afterward a clerk in the Department of State, but latterly a dispatch agent situated in New York. I find Mr. Derby's name also a second time, and Mr. Emory's name a second time on the list.

Now, we come to the practical question whether there is any evidence before the Senate which will lead them to change the standing usage on this subject. I confess that I have not found it. The letter of the Secretary of State, so far as it goes, is very full. Then we have these additional names which I have now introduced, all showing that there is occasion for the services of agents in connection with our foreign relations, and I am unwilling under the circumstances at this time to cut this off. I do not see the necessity for doing so, and I think my friend from New Hampshire, who has this bill in charge, would do better—he will excuse me for making the suggestion—if he confined the operation of his bill to home agents, those who are to act here as the agents of Departments in the administration of the home affairs of the Government. I believe that in undertaking to interfere with these foreign agencies you will make a mistake. You will deprive the Department of a power that it now has which I believe has always been used beneficently, so far as we know anything about it, from the beginning of the Government.

Mr. PATTERSON, of New Hampshire. I ask the Senator if he will not allow us to take a vote on this matter. He has made an impressive speech, and I am willing to leave the question to the vote of the Senate.

Mr. SUMNER. The Senator makes a peculiar appeal to me. I did not intend to intrude upon the Senate or the Senator.

Mr. PATTERSON, of New Hampshire. I simply make the remark because the morning hour has nearly expired.

Mr. SUMNER. I hope the Senator will pardon me. I felt that it was my duty to make the plain statement that I have. If I have impressed my friend that will be so much clear gain, for I did not expect to do it.

Mr. CONNESS. The effect of the Senator's speech on my own mind is, that there are altogether too many agents at New York to take care of the dispatch bag, and I think the bill ought to be passed as it stands.

Mr. BUCKALEW. I desire to make a single remark without going into the argument; and it is this: our remedy for any abuse by the Department of State is to limit our appropriations. Last year we cut down the appropriation for miscellaneous purposes of that Department very largely. When we confine the Department within a small appropriation, I think we ought to leave the ordinary discretion which has been exercised by that Department in reference to the appointment of these agents.

Mr. PATTERSON, of New Hampshire. I wish simply to say that I have had put in my hand this morning a statement that the agencies of the foreign office of the British Government have all been set aside. I can state also that one of the agents of whom the Senator from Massachusetts has spoken, who was sent abroad by the State Department during the war, charged $10,000 for his services, which the Secretary of State refused to pay, and there was quite a contest between him and the Secretary as to his remuneration.

Mr. SUMNER. Give his name. Who was he?

Mr. PATTERSON, of New Hampshire. I prefer not to do so.

Mr. JOHNSON. How much was he paid?

Mr. PATTERSON, of New Hampshire. I do not know; but I know there was quite a controversy as to how much he should receive. He charged $10,000 for his services.

Mr. ANTHONY. But I understand that the Secretary of State in his communication says that no part of the money has been paid for their services, but only to indemnify them for their actual expenses.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Sen-

ator from Massachusetts to the amendment of the Senator from New Hampshire.

Mr. FESSENDEN. I should like to make an inquiry, and that is, how it happens that so much money (for it seems there has been a very large amount) has been expended in the employment of counsel? I should like to know whether it is the practice of the State Department, whenever a person who is one of our citizens is indicted for an offense against the laws of another country, to impose upon this Government the expense of employing counsel to defend him. I have known several cases in which the friends of persons indicted for offenses abroad have raised money and employed counsel to defend them. I did not know before that it had got to be a practice—if so, it is a very pernicious one, and I do not see why it should be imposed upon the Government—to employ counsel to defend persons who may happen to be indicted for crime in a foreign country, offenses against the laws of that country; and I do not know how far this is carried. I cannot make a distinction between one crime and another. If we leave a person who is a citizen of the United States, who has committed one kind of crime, to be tried by the courts of a foreign country for an offense against its laws, I do not see why we should not carry it out in all cases, or why we should make a distinction between one case and another. But I should like to know how far this has gone or is going, because, if that is the practice, it is certainly one which we cannot sanction, that the Government is to be at the expense of defending everybody who goes abroad and commits an offense against the laws of a foreign country. If that is the case I should think it quite necessary to limit the matter in some way.

As to these dispatch agents, as there are no more of them employed than are necessary to conduct the business the result is, of course, there must be some of them left, because that business is a very great saving as at present conducted. Otherwise we should have to send a special courier across the Atlantic with every important communication, whereas now it is done at very trifling expense by having agents at different points to see that dispatches are properly sent.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is before the Senate, upon which the Senator from Oregon [Mr. WILLIAMS] is entitled to the floor.

Mr. PATTERSON, of New Hampshire. I ask the gentleman from Oregon if he will not give way to allow us to come to a vote on this bill?

Mr. SUMNER. There must be some debate on it.

Mr. CAMERON. I should like to say a few words on this subject. I have some names that I desire to present to the Senate.

Mr. WILLIAMS. It is very evident that a vote cannot be reached without a protracted discussion, and after I am through the bill can be called up again.

The PRESIDENT *pro tempore*. It can only be considered now by common consent.

Mr. PATTERSON, of New Hampshire. I move that this bill be postponed until after the Senator from Oregon makes his speech.

The PRESIDENT *pro tempore*. It is already postponed. It will have to be called up again before a motion can be submitted in regard to it.

Mr. PATTERSON, of New Hampshire. I move that it be taken up at that time.

The PRESIDENT *pro tempore*. That motion cannot be made because the bill is not now pending before the Senate.

Mr. CONNESS. The Senator from Oregon surely will give way for such a motion.

Mr. WILLIAMS. Certainly.

Mr. CONNESS. Now, with the consent of the Senator from Oregon, I move to take up for consideration the bill that has just been considered for the purpose of fixing a time for its consideration.

The PRESIDENT *pro tempore*. The Chair will entertain that motion.

The motion was agreed to.

Mr. CONNESS. Now, I move that it be made the special order after the Senator from Oregon shall have concluded his speech.

Mr. SUMNER. I will inquire simply whether that motion is in order. I do not undertake to say whether it is or not; but certainly it is sufficiently doubtful in my mind to justify the inquiry.

The PRESIDENT *pro tempore*. To make a special order requires a vote of two thirds of the Senate under the rule.

Mr. CONNESS. Nearly all of the business of this body is done by consent. The honorable Senator from Massachusetts is making a contest against this bill, which is not consistent with the claims that he frequently makes as a Senator upon the indulgence of the body. Unless he desires to invite on other occasions just such proceedings as he is now taking I think they had better be desisted from, and let us proceed according to what is the common practice of the Senate.

Mr. SUMNER. It was because I thought the motion of the Senator was not according to the common practice of the Senate that I felt it my duty to make the inquiry that I did. I believe that a bill may be made a special order at a particular time, but I believe unfinished business is always in order unless there should be a special order made for a particular time, and then I am not sure that the unfinished business would not continue against it. I am not aware that a bill can be made a special order limited upon the speech of a Senator. It may be that it can be. I simply make the inquiry in order to understand the rules of the Senate. I have no desire to postpone the consideration of the measure. I am ready to vote upon it now. If I can have a minute or two to remark on something that fell from the Senator from New Hampshire that is all I ask. I do not wish further time.

Mr. CONKLING. I should like to suggest to the Senator from California to modify his motion in this wise: to postpone this bill until after the Senator from Oregon shall have concluded his remarks.

Mr. CONNESS. That was my motion.

Mr. CONKLING. Not to make it a special order, but to postpone simply.

The PRESIDENT *pro tempore*. On reflection, the Chair will state that the motion is not in order. The rules of order fix times definite or indefinite, but not depending on such contingencies as a speech. It would be in order to move to postpone it until to-morrow.

Mr. CONNESS. I will now change my motion, and move to make it the order for three o'clock.

Mr. SUMNER. I have no objection to that. I wish the Senator from California to understand me. I have no objection to any such motion, and in making the inquiry I did I was governed simply by a desire that the rules of the Senate should not be departed from.

Mr. CONNESS. We know that the Senator always keeps that in view.

Mr. FESSENDEN. I suggest to my friend, as there seems to be a general understanding among Senators that it is desirable to finish this bill, that it is probable that any other gentleman who gets the floor after my friend from Oregon has finished will give way and consent to speak in the morning and let this bill be brought up at that time.

Mr. CONNESS. That can be accommodated, even if this motion be adopted. There will be no trouble about that.

Mr. FESSENDEN. The motion itself requires a vote of two thirds.

The PRESIDENT *pro tempore*. The question before the Senate is on postponing the bill until three o'clock.

The motion was agreed to.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary, with instructions.

Mr. WILLIAMS. Mr. President, on the 4th day of last February I introduced into the Senate the so-called military reconstruction bill, and although I had charge of the bill while it was pending here I did not say one word in favor of its passage, because expeditious action by Congress at that time was deemed necessary. I hope, therefore, that I may be pardoned if I now tax the patience of the Senate with a brief discussion of the constitutionality of the reconstruction acts of Congress.

People everywhere are divided upon this question. Some denounce these acts as wholly unwarranted by the Constitution, while others claim with equal confidence and zeal that they are necessary and rightful legislation. No argument unfavorable to the validity of these acts can be derived from this difference of opinion, for it is a difference that has existed as to all the measures of Congress for the suppression of the rebellion from the beginning of the war down to the present time. When the rebellion was organized there was a large number of persons in the country who took the ground that the General Government had no constitutional power to coerce a State into submission to its authority, and they filled the land with a clamor to that effect. Buchanan's Attorney General advised the Administration to which he belonged that the Constitution conferred upon Congress no power to coerce a State; and the same distinguished individual is now conspicuous in advising the executive and judicial departments of the Government that the reconstruction acts of Congress are unconstitutional. The popular clamor, therefore, that is poured into our ears as to the unconstitutionality of the reconstruction acts, proves no more than the same sort of clamor did as to the unconstitutionality of these acts that were adopted for the suppression of the rebellion. Indeed, sir, the present is but a continuation of the clamor that was raised when the rebel guns were turned upon Fort Sumter, and with some exceptions it is made by identically the same men. The men whose opinions, if they had been adopted, would confessedly have proved the destruction of this nation, as it seems to me, are not now very safe guides to follow.

I assume, what I suppose no Senator will controvert, that the Constitution confers upon Congress the power to suppress a rebellion, and that it also confers upon Congress the right to use those means that are necessary and proper to execute that power. When eleven of the slaveholding States combined to divide and destroy the Union they certainly did constitute a rebellion. To give that rebellion success each one of these States formed a government independent of the Constitution of the United States, and over these they placed a confederate government in open hostility to the Government of the Union. Is it not perfectly clear that the purpose of these States was to create within the original jurisdiction of the United States a nationality as foreign to and distinct from the American Union as France is distinct from the empire of Great Britain?

What were the purposes of the General Government? One was to overthrow and remove these rebel State governments, and the other was to replace them with governments that were in harmony with and in subordination to the Constitution of the United States. Both of these objects were equally necessary to insure complete success to the Government of the Union, and both were equally constitutional. War accomplished the one purpose; war demolished and removed the rebel State governments; and the object of the reconstruction acts of Congress is to put in the place of the rebel governments so removed governments that are loyal to the Union and republican in

form. I affirm that it was the constitutional and inevitable effect of the success of the Union cause in the late struggle to reduce those States that were arrayed in hostility to the Federal Union to the condition of conquered States, and that in such condition they had no claims whatever, constitutional or otherwise, that did not appeal to the magnanimity and moderation of the conquerors.

Let it not be forgotten, Mr. President, that this rebellion was no combination of individuals, each one acting upon his own responsibility; it was no unlawful assembly of maddened and excited men; no mere mob; but it was a combination of States. When this nation was convulsed from its center to its circumference by the convulsions of civil war it was because great political bodies were in motion, shot madly from their spheres, and came together in armed collision. Sir, these rebel communities went into the rebellion as States, they fought as States, they were defeated as States, and as States they became and are prostrate and powerless in the hands of those by whom they were conquered; and the only claims which they have are upon the clemency and kindness of those who triumphed in that struggle. When discussion arose at the breaking out of the rebellion it was objected by Buchanan's Administration that the Federal Government had no power to act because States were arrayed against the Federal Government; but now it suits the convenience and purposes of the same individuals to claim that this gigantic rebellion was a conflict between individuals, to be followed by no other consequences, political or legal, except that each person concerned may be brought before a court of justice and prosecuted and punished as an individual criminal. To show that this view of the subject is sustained by authority I invite the attention of the Senate to the decision of the Supreme Court made in the case of the Brilliante, reported in the second volume of Black's Reports, page 672, in which the court say:

"Hence, in organizing this rebellion they have acted as States, claiming to be sovereign over all persons and property within their respective limits, and asserting their right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State."

So that the Supreme Court of the United States have affirmed the doctrine which I maintain and declared that the South went into the late struggle as States. Independent of any precedents or authorities, it would seem to be the dictate of common sense that when a State repudiates the Constitution and denies its jurisdiction and obligations, such a State could not at the same time claim the privileges and benefits conferred by the Constitution. Taking the ground of the ultra States rights men, that the Constitution is a mere compact between sovereign States, and according to the admitted principles of law it would follow that if one State violated the compact it thereby forfeits all claim to the advantage or benefit under the broken and rejected compact. Is it not unreasonable to say that the State of South Carolina, after it had declared itself absolved from all allegiance to the Constitution of the United States and expended its utmost energies to maintain that declaration, has precisely the same rights under the Constitution that the State of New York has, that not only maintained its allegiance but poured out its blood and treasure like water to maintain the rightful jurisdiction of the Union? Sir, is there any law of God or man that sanctions such an absurdity?

Much bitter denunciation is heaped upon the reconstruction acts of Congress, because, as it is alleged, they ignore the constitutional rights of the revolted States, and because, as it is said, they assume that those States are not entitled to the great rights of Magna Charta, to the right of trial by jury, and the privilege of the writ of *habeas corpus*.

Numerous acts of Congress may be cited to show that the legislative department of the Government assumed at the beginning of the rebellion and since that time has adhered to the assumption that, in consequence of the war waged upon the Federal Union by the rebel States, they lost or forfeited their constitutional rights. Sir, to send an army into those States to devastate the country, to destroy property, and to kill the people is an act which utterly ignores their right to any protection of life, liberty, or property under the Constitution of the United States. Take the confiscation act as an example. A law is enacted by which the property of a certain class of individuals is subjected to seizure by the public authorities without any right of trial by jury; and of course that law proceeds upon the ground that those upon whom it is to operate have no right to protection under the Constitution. I refer upon this question to the deliberate judgment of the Senate, as indicated by a resolution to which the Senator from Indiana referred the other day, and I will read that resolution and the vote upon it. On the 1st day of July, 1864, the Senate of the United States adopted this resolution:

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President by force and virtue of the act entitled 'An act further to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, they shall be, and are hereby, declared to be incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress hereafter to be passed, authorizing the same."

And all the Senators, including the Senator from Indiana [Mr. HENDRICKS] and the Senator from Wisconsin, [Mr. DOOLITTLE,] voted in favor of the passage of that resolution. There were only three nays recorded against its passage.

Now, sir, this resolution declares that these States at that day had no right of representation in Congress. I desire to ask the honorable Senator from Indiana what constitutional rights, in his judgment, these States had when he voted to declare that they had no right of representation in Congress? I ask what constitutional rights, in his judgment, these States had when he voted not only that they had no right of representation in Congress, but that they could not exercise any such right in consequence of their rebellion until Congress should pass a law to that effect? The honorable Senator the other day made a very remarkable representation in reference to the passage of this resolution. I will read what he said upon the subject:

"It is my duty to notice as I am passing along, to use the language of the President, the reference that my colleague made to a vote given by the distinguished Senator from Wisconsin; and as I voted with the Senator from Wisconsin I think my name is kept back simply with a view of bringing that up in judgment against me. Senators will recollect that my colleague read from the Journal the action of the Senate on what was known as the Winter Davis bill. When that bill came into this body Mr. Brown, then a Senator from Missouri, offered an amendment changing it very much. I was opposed to both bills; first, to the House bill, because I then held, as I now hold, that the Congress of the United States cannot clothe the people of a State with the power to make a State government. That authority is with the people themselves after the State has been once admitted into the Union. Mr. Brown offered an amendment, and the question with me and the Senator from Wisconsin was the ordinary question of deciding between the original proposition, which you are opposed to, and an amendment which you also oppose. So I voted for the amendment, as the Senator from Wisconsin and many others voted for it, and it carried."

The statement which the honorable Senator made is altogether true; but he did not state the whole history of that proposition; and I beg to read to the Senate what occurred at the time that resolution was passed. True, when the amendment was proposed by the Senator from Missouri, Mr. Brown, the honorable Senator from Indiana did vote for the amendment, and the Senate was about equally divided upon its adoption, seventeen voting for it and sixteen against it; but, sir, after the amendment was adopted the following occurred in the Senate:

"So the amendment was concurred in.

"The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

"Mr. TRUMBULL. I desire to have the yeas and nays on the passage of the bill. I want to have a distinct vote on the proposition itself, not antagonized with anything else, and see what the sense of the Senate is on the proposition.

"Mr. BROWN. We have just had it on the same proposition.

"Mr. TRUMBULL. Then it was antagonized to the original bill as an amendment. I want it by itself to see what the sense of the Senate is in reference to the measure, and not as a substitute for anything else. I ask for the yeas and nays.

"The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 3; as follows:

"YEAS—Messrs. Brown, Chandler, Conness, Doolittle, Grimes, Hale, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—26.

"NAYS—Messrs. Davis, Powell, and Saulsbury—3."

Mr. HENDRICKS. As the Senator is making a statement of the position I assumed on that question, I desire to call his attention to the fact that he omits a part of the view I took the other day. I not only said that while the measure was antagonized by the amendment of the Senator from Missouri (Mr. Brown) to the bill of the House, I had the right, although not in favor of the amendment, to vote for it as an antagonistic measure to the bill that I opposed, but also when the amendment should be adopted by the Senate we would have had a right strictly to vote for the amendment as agreed to by the Senate as still a measure in antagonism to the bill of the House; and I will read what I said. After quoting the language of the Senator from Ohio [Mr. WADE] on that occasion, I said:

"That 'miserable dodge,' 'that negation,' is what I voted for. I would vote to dodge any such bill as that which came from the House of Representatives, and so might the Senator from Wisconsin; and when the bill was thus amended it would have been proper for us to vote for the amendment as a measure antagonistic to the measure from the House, being opposed to the House bill."

I will say to the Senator that if he will look further into this record he will see that when the amendment of the Senate went to the House of Representatives the House disagreed to the Senate amendment, and then it came back into this body, and I voted with the Senate still. He will find my vote affirmatively to stand by the amendment of the Senate as opposed to the House bill, because I regarded it as antagonistic.

Mr. WILLIAMS. When an amendment is proposed in the Senate, it seems to me that a Senator can choose between the proposed amendment and the original bill without committing himself as to the question involved; but when the amendment is adopted and the bill is put upon its final passage I suppose that the record of the yeas exhibits the opinion of those who are in favor of the passage of the bill. That is the ordinary construction of such a record, and that is the way in which it will be understood by people not acquainted with the tactics of parliamentary proceeding. But, sir, I beg to invite the attention of the Senate to another record which is not susceptible of misconstruction. On the 8th day of February, 1865, the Congress of the United States adopted the following resolution:

"Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississipi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such condition on the 8th day of November, 1864, that no valid election for electors of President and Vice President of the United States, according to the Constitution and laws thereof, was held therein on said day: Therefore,

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the States mentioned in the preamble to this joint resolution are not entitled to representation in the Electoral College for the choice of President and Vice President of the United States for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for said term of office."

I find, by referring to page 595 of Part I. of The Congressional Globe of the second session

of the Thirty-Eighth Congress, that upon the adoption of that joint resolution the vote stood as follows:

"YEAS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Collamer, Conness, Davis, Dixon, Farwell, Foster, Grimes, Hale, Harlan, Henderson, Hendricks, Howard, Johnson, Morgan, Morrill, Nye, Powell, Ramsey, Sherman, Trumbull, Wade, and Wright—21.

"NAYS—Messrs. Cowan, Doolittle, Harris, Howe, Lane of Kansas, Nesmith, Saulsbury, Ten Eyck, Van Winkle, and Willey—10."

On the 8th day of February, 1865, near the termination of hostilities in this country, the honorable Senator from Indiana and the honorable Senator from Pennsylvania both voted that those States had no right of representation in the Electoral College. Now, I ask the honorable Senator from Indiana what constitutional rights in his judgment those States had when he voted that they were not entitled under the Constitution to any representation in the Electoral College? Sir, does not the Constitution in express terms confer the right upon every State to vote for President and Vice President of the United States? If in consequence of this rebellion those States forfeited that right, I will ask if they did not necessarily forfeit other express and implied rights under the Constitution?

The honorable Senator from Indiana the other day, in commenting upon the speech of his colleague, [Mr. MORTON,] inquired, referring to what he had said upon the education of the people, how can the people of the country be educated upon a constitutional question? What is constitutional, said he, at one time is constitutional at another; what was constitutional last year is constitutional at this time. Now, sir, as a legal proposition, these States either had or had not a right to representation in the Electoral College. If they had that right under the Constitution then that vote was unconstitutional; but if they had not that right, then they had forfeited it by rebellion, and the Republican party is only claiming that to be constitutional now as to those States which the Senator in the most solemn manner affirmed was constitutional in 1865.

Mr. BUCKALEW. I should like to say a word on this point, with the Senator's permission.

Mr. WILLIAMS. Certainly.

Mr. BUCKALEW. The resolution to which the Senator refers was passed as a declaratory act. It was intended to give direction to the proceedings of the two Houses of Congress when convened in joint convention for the purpose of counting the votes for President and Vice President of the United States. I and others voted for that resolution with the design of preserving the order of that assembly, establishing beforehand the opinion which ought to prevail in that body when it came to perform its appropriate duty. I voted for what that measure declared, namely, that at that time the States in question were in such condition that electoral votes for President and Vice President from them ought not to be counted and received in order to influence the result of the presidential election; and that was all. The measure itself did not express any opinion upon the abstract right of the States; it simply expressed an opinion upon the fact which existed at that time. If the Senator will go back to that debate he will find the reason which influenced me and others. It was that we were indisposed to count the electoral votes from those imperfect State organizations set up by Mr. Lincoln in Louisiana, in Arkansas, and in Tennessee. One was attempted also in Virginia, and there was an immature attempt in Florida. I was opposed throughout to the counting of the electoral votes that were taken under the authority of governments which I think, so far as this question was concerned, were bogus. That was all. There was no expression of opinion at that time as to the right of a State to participate in the proceedings of the Federal Government, but simply a declaration of opinion that under the circumstances which then existed electoral votes from those States could not be received.

Mr. MORTON. With the permission of the Senator from Oregon I should like to make one suggestion to the Senator from Pennsylvania. That resolution contained a distinct recognition that at that time those States were not entitled to representation in Congress; and it would have been well for the Senator to show at what time since, by what act since, they have come into possession of that right.

Mr. BUCKALEW. The Senator simply restates the very point which I intended to explain; and that was that the resolution did not declare an unqualified absence of right in those States, but that under the circumstances which then existed they should not exercise it.

Mr. WILLIAMS. Mr. President, I am not concerned with the reasons which influence Senators when they vote upon a proposition to interpret or construe the Constitution of the United States. I shall proceed in due time to apply the argument which I derive from the adoption of this resolution to the position which those honorable Senators have taken that the State governments of the rebel States continued to exist during the war, that their constitutions and laws were unaffected by the rebellion, and that they were and have been all the time perfect States in the Union. Does not the Senator say that the right of a State to representation does not depend upon the Constitution, but a certain state of facts, the political or social condition of the State? Now, sir, in my judgment the condition of the rebel States at this time is such as not to entitle them to representation in Congress, but does that satisfy the honorable Senator from Pennsylvania? Does he not maintain that by such a vote I violate the Constitution because I have no right so to decide upon the facts? When I show a record here which proves that he asserted the jurisdictional power of Congress to exclude the rebel States from representation, and show, too, that he voted two or three years ago to exercise that power as to the electoral votes of those States, he undertakes to evade the force of this record by giving his peculiar reasons for the vote which he gave. Now, sir, I am willing to let that record stand and speak for itself. I say that these States, if they had a constitutional right to representation, could not be deprived of that right by any resolution of Congress, and if they had no such constitutional right it was because they had been in rebellion against the Federal Government, and so had lost it; and from the vote of the two Senators the latter must have been their position, a position which they now say is a clear violation of the Constitution, but which the Union men of this country now as then consistently occupy.

Congress at various times enacted laws declaring the revolted States in a state of insurrection against the Federal Government. Congress unquestionably has jurisdiction over that question, for it is expressly conferred by the Constitution of the United States; and when Congress declared by a law, which has not since been modified or repealed, that these States were in a state of insurrection, I will ask if the legal status of those States is not defined; and has the President or any court power to change such legal status contrary to an existing law of Congress? Suppose the President should be of opinion that those States were not in insurrection when they were declared so to be by a law of Congress; is his opinion of any more consequence upon the subject than the opinion of a private citizen? Suppose the Supreme Court should differ with Congress upon the question of fact as to whether these States were or were not in insurrection; has the Supreme Court a right to say that Congress was mistaken as to the fact, and, therefore, the law was invalid and without any effect? Congress has decided that these States were in insurrection, and has never modified or reversed that decision except as to the State of Tennessee when her Senators and Representatives were admitted to Congress; and I affirm that the legal status of those States, from the day these laws were enacted up to this time, is fixed by law, and neither President nor court has the right to say that the condition of those States is otherwise than it is declared to be by the law of the land.

Sir, if this position be correct, and Congress upon declaring these States in insurrection had a right to proceed and adopt measures for the suppression of the rebellion, then I say that Congress has a right to continue the exercise of this power, until in its own good judgment the peace and safety of this country demand or permit a change of that declaration, and a change in the legal status of the rebel States.

I justify, therefore, upon this ground, the legislation of Congress which commenced as soon as the rebellion broke out and has been continued down to this day. Sir, it does not follow that because the organized armies of the confederacy have been overcome and dispersed that the insurrection is ended, because there may be such a combination of individuals in those States, there may be such a disposition to disorder, violence, and crime, to disobedience of law and disregard of public authority, as to make it just as necessary now for the future peace of the country to hold that the insurrection continues as it was necessary to hold that it existed when Lee was in the field at the head of his army.

I submit, sir, that I have proved that, in the judgment of the legislative department of the country, the rebel States, in consequence of the rebellion, have forfeited their constitutional rights. Now, sir, what is the opinion of the judicial department upon that subject. In the case of the Brilliante, to which I have before referred, the Supreme Court say:

"When the party in rebellion occupy and hold in a hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against their former sovereign, the world acknowledges them as belligerents."

I call attention to this—

"The world acknowledges them as belligerents and the contest a war."—2 *Black*, pages 666–667.

Again, the court say—

"All persons residing within this territory whose property may be used to increase the revenues of the hostile power are, in this contest, liable to be treated as enemies, though not foreigners. They have cast off their allegiance and made war on their Government, and are none the less enemies because they are traitors."—*Ibid.*, page 674.

Now, sir, I ask the honorable Senator from Pennsylvania or the honorable Senator from Indiana what constitutional rights had the people of these States when they were held to be public enemies of the nation; when it was solemnly adjudicated by the Supreme Court that any person within the insurrectionary region, no matter what might be his personal views or inclinations, was liable to be treated as an enemy of the Government, that his property was subject to seizure and confiscation without trial by judge or jury? Talk about the constitutional rights of the enemies of the country!

More than this, the Supreme Court decided that the parties to the war, notwithstanding it is usually called a civil war, were belligerents. I think that many men fall into a mistake in considering this question, because they only look at these people as traitors and do not regard them as belligerents. The United States of America in this war occupied one ground, maintained one side of the struggle. The so-called confederate States of America occupied the other ground and maintained the struggle on the other side, and they were pronounced by the Supreme Court as belligerent Powers and were so recognized in Europe. If they were belligerent Powers, what were the rights of the belligerent party which triumphed in the struggle? Is there any doubt upon any law applicable to the case, that when one belligerent party conquers the other, there is no limitation whatever upon the power of the conqueror but those laws of humanity and moderation that govern all civilized and Christian nations?

Take the decision of the Supreme Court as authority, and it is demonstrably clear that the United States, when they succeeded in this

struggle, had an unlimited right to dictate the terms upon which peace should be made, without any restrictions by the Constitution or law of any country. No one will question that the executive department of the Government was in harmony with the legislative and judiciary upon this question. That was indicated in the numerous proclamations of the President, and particularly in his proclamation of emancipation. Slavery was protected in the southern States before the rebellion by the Constitution, but in consequence of the revolt of the slaveholding States against the Government their constitutional right to slaves surceased and the sovereign right of the nation was interposed to take and destroy the property of its enemies as the exigencies of its threatened and imperiled existence might demand. When Lee surrendered to Grant did not both parties recognize the absolute right of the commander of the victorious army to dictate terms of peace? Did Lee pretend that he or his men or the rebel States had any constitutional rights to be considered in that adjustment? When the arrangement was made between Sherman and Johnston, in which there was some sort of recognition of right in the rebel States, that arrangement was promptly repudiated by the Administration, and it was held that no rights of rebel States or rebels were to be recognized at all, but they were to be regarded as wholly dependent on the clemency and kindness of the victors.

I have, therefore, Mr. President, I think, proved beyond all controversy that in the judgment of the executive, legislative, and judicial departments of the Government the effect of the rebellion was to deprive these States of their constitutitional rights. I care not what phraseology you may employ. One form of expression seems to suit one class of persons, another form another class; but the solid, immovable fact is, as was once agreed to by all Departments of the Government and all loyal people, that the rebellion had deprived the States rebelling of their constitutional rights.

When the winter was over and the spring time of 1865 came, with its birds and its flowers, there was a change in our national affairs. God in his goodness gave us the victory, and our brave soldiers returned to receive the congratulations of a grateful country, and the rebel soldiery dispersed to their unhappy homes; and the noisy, smoky field of battle gave place to the silent bivouac of the dead. The war had accomplished its purpose. The rebel State governments had been overthrown and removed, and now the duty of the civil authorities arose. Now it became the duty of the civil authorities to replace the rebel governments by others that were loyal to the Constitution and the Union. When organized hostilities ceased everywhere in the insurrectionary districts there was a political void. Like the world in the beginning, that whole country was without form and void. This may be proved by a very brief argument.

Rebel State governments supplanted those loyal governments that existed before the breaking out of the war, and then these rebel State governments in turn were overthrown and destroyed by the armies of the United States, and so there were no governments in that region. If two and two make four that argument proves that Andrew Johnson was correct, and Congress, too, in concurring with him, that the rebellion destroyed all civil government in the rebel States. All the Departments of the Government, so far as I know, acquiesced in that position. President Johnson in his proclamation appointing a provisional Governor for the State of North Carolina uses this language:

"And whereas the rebellion which has been waged by a portion of the people of the United States against the properly-constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and revolting forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of the State of North Carolina of all civil government."

That was the position assumed by President Johnson, and Congress occupied at that time and now occupies the same position. To stop all controversy upon this point, it may be proper to say that the honorable Senator from Indiana [Mr. HENDRICKS] in his speech the other day indorsed the proceedings of President Johnson from the beginning to the end, and therefore indorsed the position which he then took, that the rebellion had deprived these States of all civil government; and the Democratic conventions which have lately been held in the States of Indiana, Ohio, and Connecticut all concur in indorsing and eulogizing the policy of Andrew Johnson. That policy could not exist unless it proceeded upon the ground that the rebellion had destroyed all civil government in the South, and the Democratic party, if they have made any record as to any question, have made a record that irrevocably commits them to that position.

I assume then, Mr. President, to start with the argument, that all departments of the Government and all political parties in this nation are committed to the doctrine that the rebellion destroyed all civil government in the rebel States. I inquire now whose prerogative was it under the Constitution to inaugurate civil government in these States? President Johnson and his supporters claim that it was the exclusive right of the Executive of the United States to organize civil governments in those insurrectionary States, and that Congress had no right to say or do anything in reference to the matter. Congress, on the other hand, claims that by the Constitution the power to organize governments is in its nature a legislative act, and therefore belongs to Congress. This is the issue between the executive and the legislative departments of the nation, and out of that issue has grown this great controversy, with all its unhappy consequences. Let us look for one moment to the position which President Johnson and his supporters occupy as to the constitutional rights of the rebel States.

President Johnson appointed a provisional governor for the State of North Carolina. Could President Johnson appoint a provisional governor for the State of New Jersey? Will anybody pretend that he could? If not, why not? Clearly because the State of New Jersey has the constitutional right to regulate its own affairs, while that right as to North Carolina had been lost by the rebellion. President Johnson orders a convention to make a constitution or to alter and amend the existing constitution in the State of North Carolina. Could he order a convention in the State of New Jersey? Will anybody pretend that he has any such power? If not, why not? Because New Jersey has her constitutional rights and North Carolina has none, President Johnson defined the eligibility of members to the convention and regulated the elective franchise in the State of North Carolina. Can President Johnson issue a proclamation and say who shall be eligible to a convention in the State of New Jersey, or who shall exercise the elective franchise in that State? Nobody will pretend that he has any such power. The difference certainly grows out of something; and it cannot grow out of any other fact than that the constitutional rights of New Jersey in this Union have remained unimpaired, and the constitutional rights of North Carolina have been paralyzed or destroyed by the rebellion.

President Johnson dictated what they should put into their constitutions, and he declared that he would not consent to recognize the rebel States unless they made constitutions to suit his wishes. Recognize the State! What did Johnson mean when he said he would not recognize the State? Did he mean to say that the States were out of the Union, and that he would not recognize them as in the Union until they made a constitution in conformity with his dictation? Did he mean to say that he would not recognize their right to representation in Congress until they made such a constitution as should suit him? What did he mean? Those who support Johnson in his policy denounce Congress because it refuses to recognize these States unless they adopt the terms and conditions prescribed by law, and at the same time they approve of Johnson's policy in which he declared that he would not recognize these States unless they acted in accordance with his individual wishes!

This exercise of extraordinary power, legislative, judicial, and executive, by the President, has been affirmed and reaffirmed by Democratic presses, speakers, and conventions, and the Ajax and Achilles of the Democratic party in the Senate advocate and support his policy. Let it be remembered, sir, and recorded that the Democratic party has affirmed the right of Andrew Johnson to set up and put in operation State governments in ten States of this Union, independent of the power or control of Congress, and they must proceed upon the ground that these States had no constitutional right to make their own governments, unless they claim that Johnson in every one of the thirty-seven States can make a constitution and establish a government irrespective of the will of Congress or of the wishes of the people.

President Johnson in his proclamations disfranchised hundreds of thousands of men, and the honorable Senators acquiesce in and approve of that policy; but Congress, on the other hand, enfranchises hundreds of thousands of men, and it is claimed that it is usurpation for the legislative department of the country to extend the elective franchise while it is perfectly proper for the executive department to disfranchise by one fiat hundreds of thousands of American citizens.

Sir, there never was a proposition more unfounded in law than that the power which Johnson has exercised as to the rebel States constitutionally belongs to the executive department of the Government. The Executive was created to execute and not to make law. Johnson has no power to make or unmake a statute; and the sheriff of a court might as well undertake to reverse the judgment of the tribunal of which he is a ministerial officer as for Andrew Johnson, as President, to undertake to exercise this extraordinary and purely legislative authority.

Let us look at this subject in the light of other provisions of the Constitution. Take, for instance, the admission of Territories into the Union as new States. When the people of a Territory form a constitution, that constitution is submitted to Congress, and Congress approves it and admits the State, or Congress rejects the constitution and the State is not made. Congress has the exclusive jurisdiction over that question, and the President has nothing more to do with it than a private citizen.

I beg here to notice the argument that was made by the Senator from Indiana, and I think the same course of reasoning was pursued by the Senator from Pennsylvania, that Congress has no power over a State constitution, and that the jurisdiction of the people of the State is absolute and exclusive on that question even in the admission of Territories as States. For what purpose is the constitution of a State seeking admission submitted to Congress if not for its approval or rejection? Is Congress to exercise no judgment over the provisions of a constitution submitted to it to determine whether its features are or are not objectionable, whether its provisions are or are not acceptable? Suppose the people of the Territory of Utah should form a State constitution making polygamy in that State lawful and constitutional, and should submit that constitution to the Senate, would the Senator from Pennsylvania vote to admit Utah with polygamy established in her constitution, upon the principle that the people of a Territory have an absolute right to form their own constitution?

I cannot imagine for what purpose new States submit their constitutions to Congress, unless it is for the purpose of examination; and if a provision is found to be objectionable, has not Congress a right to say that it will not approve that provision, but that when the people of the Territory remove it the constitution will be approved?

If you look at the other provisions of the Constitution it will appear that whatever control there is in the Federal Government over a State is vested in Congress. Take, if you please, section ten of article one. According to that section any State may lay any imposts or duties on imports or exports with the consent and not without the consent of Congress. Any State may lay any duty of tonnage, keep troops or ships of war in time of peace, with but not without the consent of Congress. Any State may enter into an agreement or compact with another State or with a foreign Power, or engage in war, with but not without the consent of Congress.

I do not claim that these provisions show that Congress has the constitutional right to legislate for these rebel States; but I argue from all the analogies of the Constitution that whatever control the Federal Government has over any State or Territory is vested in Congress.

To make this position wholly impregnable, I beg leave to refer to the decision of the Supreme Court in the celebrated case of Luther *vs.* Borden, (7 Howard, page 1.) I wish to ask the honorable Senator from Indiana what impression he intended to convey to the country about that decision when he used this language:

"Mr. President, frequent reference has been made to the case of Luther *vs.* Borden, in 7 Howard, an important case decided by the Supreme Court of the United States, and my colleague felt himself justified, instead of stating what was the force and meaning of the decision, in reading the dictum of one of the judges."

One would suppose that some judge in delivering an individual or dissenting opinion had said what was cited by the Senator from Indiana, [Mr. MORTON,] when, in point of fact, what he read was the deliberate judgment of eight judges, delivered by Chief Justice Taney, Justice Woodbury alone dissenting, and it was upon the identical question involved in that case as to the right of the Federal Government to interfere in the affairs of a State.

Mr. CONKLING. Will the Senator allow me just here to remark that Mr. Justice Woodbury in dissenting said expressly that the only point upon which he dissented was a question with regard to martial law, which did not touch the point the Senator is discussing at all, so that the decision in that respect was the unanimous judgment of the court.

Mr. WILLIAMS. I am much obliged to the Senator; I believe that is entirely a correct view of the dissenting opinion. Now, I wish to read what the Supreme Court said upon this question. It would be regarded as a little disrespectful for Republicans or Radicals to assail a decision of the Supreme Court in that sort of way, to characterize the deliberate opinion of the court as a dictum of one of the judges. That is as bad as anything that was ever said by the Republicans about the Dred Scott decision. Chief Justice Taney—and he ought to be good authority with Senators on the other side upon constitutional questions—said, in giving the opinion of the court in Luther *vs.* Borden:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and on the application of the Legislature or of the executive (when the Legislature cannot be convened) against domestic violence.

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guaranty to each State a republican government, Congress must necessarily decide which government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal."

In that decision the jurisdiction of Congress over this question as to whether a State has or has not a republican form of government is recognized; and it is also decided that when Congress pronounces its judgment upon that question Presidents and courts, all tribunals and every private citizen in the land, are concluded.

I think, therefore, Mr. President, that the arguments which I have adduced and the authorities which I have cited show, or ought to show, to every reasonable man that the exclusive control of this reconstruction question is in the hands of Congress. If this be so, the next inquiry is, how does Congress derive the power under the Constitution to enact the laws now in question? I have already indicated the ground which I occupy, that the legal status of these States once defined by Congress continues until Congress in its judgment shall otherwise declare; and I maintain that Congress has to-day as much constitutional right to enact a reconstruction law as it had to enact a law to provide for raising and supplying armies in order to put down the rebellion. The power may be derived, too, under the guarantee clause of the Constitution, and I desire to invite the attention of the Senate and particularly of the Senator from Indiana [Mr. HENDRICKS] to what I have to say about his argument upon that question. Among the first things uttered by that Senator in his argument was this:

"First, I deny that at the close of the war there were no State governments in the southern States."

That declaration does not consist very well with his vote that these States had no right of representation in the Electoral College. If they had State governments, why had they not a right to choose electors of President and Vice President and have them vote in the Electoral College? He further says:

"I maintain that during all the years of the rebellion every single act of a southern State intended to promote the cause of the rebellion was void; that it had no effect to destroy State institutions."

* * * * * * *

"Practically the relations were disturbed; practically the State was not in harmony with the Federal Government; but its existence as a State, its organization as a State, its constitution, which was the bond of its organization, continued all the way through the war; and when peace came it found the State with its constitution and laws unrepealed and in full force, holding that State to the Federal Union, except all laws enacted in aid of the rebellion."

Now, the Senator from Indiana affirms that the State organization of each of these rebel States was perfect throughout the war, that each of them had a State government, that its constitution and laws were unaffected by the rebellion, and yet he deliberately voted to deny to those States, perfect States in the Union, any right of representation in the Electoral College. It was necessary for the Senator from Indiana to take that position in order to assail the reconstruction acts of Congress. All the effect which he intends to give to that part of his argument is that no case has arisen in the rebel States where it is necessary to execute the guarantee clause of the Constitution, and therefore the legislation of Congress is unnecessary and unconstitutional. Congress, he says in effect, is claiming to guaranty by the reconstruction acts State governments to States that had perfect State organizations, constitutions, and laws at the time they were enacted. When it becomes necessary for the honorable Senator from Indiana to advocate the policy of Johnson, as it is the duty of every good Democrat to do, he changes his base of operations, and then it is essential, in order to justify the policy of the President, to assume that a case has arisen in the rebel States where it is necessary to execute the guarantee clause of the Constitution, and that the President of the United States is the only department of the Government that can do it. He says further:

"Then, Mr. President, I assume that the power and duty of guarantying to the States republican forms of government is with and rests upon the Executive in any and every case where the Executive is called upon to deal with the question, and that when the war closed the President was called upon to deal with the question, for it became his duty to see that the laws of the United States were executed in the southern States, and that they were in proper practical relations with the United States."

Here he affirms that it was the duty of the President at the close of the war to execute this guarantee, because the question was presented to him, namely, that these States had not republican forms of government as required by the Constitution.

He says, again:

"Two years ago—and I then had the assent to my proposition by the nod of the distinguished Senator from Ohio, [Mr. WADE]—I expressed as my opinion, which I hold yet, that by virtue of this constitutional obligation to guaranty a republican form of government, it is competent for the United States through the proper department to do what will enable the people to exercise their sovereignty of amending their constitution, and bringing it into practical relations to the United States. The President proclaimed that when the people themselves have thus amended their constitution and placed it in harmony with the Government of the United States it will be recognized by the executive department.

"His purpose, then, was to aid the people, to give them the support of an organization, just as Congress, without any constitutional provision on the subject, gives the people of a Territory an enabling act, not because Congress has the power as an original thing to establish a territorial government, but because Congress has the power to admit new States into the Union, Congress may do that which will enable the people to form State governments. So the Executive in this case, in my judgment, very properly did that which would enable the people to bring their State into practical relations with the Government."

Now, when it becomes necessary for the Senator to support the policy of the Administration he affirms that the circumstances of the rebel States demand the execution of this guarantee at the hands of the Executive, and he assimilates the proclamation of the President to an enabling act of Congress. He says that as Congress enacts enabling acts for the Territories so the President by proclamation may proceed to enable these States to resume their practical relations to the Union. The Senator has affirmed more than once that the object of the President in providing these conventions was to enable the people to alter and amend their constitutions; but the President himself said in his proclamations that the primary object of the proclamations was to enable those people "to form State governments." I give his exact language:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said State to organize a State government," &c.

The Senator from Indiana upon this subject, it seemed to me, made some very fine distinctions. He justified Johnson because his proclamation, as he says, only empowered the conventions to alter and amend the old constitutions, and he condemned Congress because the laws of Congress authorized the people to form new constitutions. Does not the Senator know that the power in a convention to alter and amend a constitution is equivalent to a power to make a new constitution? Every provision and feature of the old constitution may be abolished and new ones put in their places and so the change may be completely made; and yet according to the Senator's argument it is constitutional and proper for the President to provide for such a convention by proclamation, but it is usurpation and tyranny for Congress to provide by law for a convention to form a State constitution.

I maintain that under the guarantee clause of the Constitution these reconstruction acts can be fully vindicated. Congress is required to execute a certain power described in the Constitution; and the Senator will not deny that Congress may employ all the means necessary and proper to execute that particular power. May not Congress use the military arm of the United States to execute that power if in its judgment such means are necessary? Cannot Congress enforce any law which it may enact by the use of the military power of the country? Suppose a combination of persons should resist the collection of the customs at New York, could not the military power of the United States be employed to enforce the laws? Nobody, it seems to me, can controvert that position; and so, for the purpose of executing this power, Congress may employ the military force of the United States. That is one of the objects for which this war was prosecuted, as I think I can very readily show. I

refer to the twelfth volume of the United States Statutes-at-Large, page 731, where will be found an act entitled "An act for enrolling and calling out the national forces, and for other purposes." The preamble of that act is as follows:

"Whereas there now exists in the United States an insurrection and rebellion against the authority thereof, and it is, under the Constitution of the United States, the duty of the Government to suppress insurrection and rebellion, to guaranty to each State a republican form of government, and to preserve the public tranquillity; and whereas for these high purposes a military force is indispensable, to raise and support which all persons ought willingly to contribute; and whereas no service can be more praiseworthy and honorable than that which is rendered for the maintenance of the Constitution and Union and the consequent preservation of free government."

In March, 1863, in the act providing for enrolling and calling out the national forces of the United States, it was declared that one purpose of raising a military force was to guaranty to each one of these States a republican form of government. Armies were to be raised not only to suppress the rebellion but to follow up that act by guarantying to each of the rebel States a republican form of government; and so at that early day Congress made this declaration and committed itself to this policy, and to-day Congress, in using the military power of the country to execute that provision of the Constitution, is only following out the plan which it adopted at an early day in the war.

I ought, perhaps, to proceed and show what President Johnson has done to indicate that these reconstruction acts of Congress are only organizing by law a military power that was exercised in these States up to the day these laws were enacted, at the will and pleasure of President Johnson. Has anybody forgotten that when under the laws of the Johnson governments Monroe was elected mayor of New Orleans the President arbitrarily ejected him from office? Has anybody forgotten that when Semmes was elected judge in Mobile Andrew Johnson summarily and arbitrarily ejected him from office? Has anybody forgotten the military orders of the executive department that were issued and put in force in the rebel States long after it was pretended that the States were fully organized under the Johnson governments? The President, as Commander-in-Chief, is responsible for these orders, and they show that the pretended civil governments which Johnson had set up in the rebel States were subordinate to and controlled by the military decrees of the President. I will read them:

[General Order, No. 3.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON *January* 12, 1866.

To protect persons against improper civil suits and penalties in late rebellious States:

Military division and department commanders whose commands embrace or are composed of any of the late rebellious States, and who have not already done so, will at once issue and enforce orders protecting from prosecution or suits in the State or municipal courts of such State all officers and soldiers of the armies of the United States and all persons thereto attached, or in any wise thereto belonging, subject to military authority, charged with offenses for acts done in their military capacity or pursuant to orders from proper military authority; and to protect from suit or prosecution all loyal citizens or persons charged with offenses done against the rebel forces, directly or indirectly, during the existence of the rebellion; and all persons, their agents and employés, charged with the occupancy of abandoned lands or plantations or the possession or custody of any kind of property whatever who occupied, used, possessed, or controlled the same pursuant to the order of the President or any of the civil or military departments of the Government, and to protect them from any penalties or damages that may have been or may be pronounced or adjudged in said courts in any of such cases; and also protecting colored persons from prosecutions in any of said States charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

By command of Lieutenant General Grant:
E. D. TOWNSEND,
Assistant Adjutant General.

As late as July, 1866, this order was issued:

[General Orders, No. 44.]

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *July* 16, 1866.

Department, district, and post commanders in the States lately in rebellion are hereby directed to arrest all persons who have been or may hereafter be charged with the commission of crimes and offenses against officers, agents, citizens, and inhabitants of the United States, irrespective of color, in cases where the civil authorities have failed, neglected, or are unable to arrest and bring such parties to trial, and to detain them in military confinement until such time as a proper judicial tribunal may be ready and willing to try them.

A strict and prompt enforcement of this order is required.

By command of Lieutenant General Grant:
E. D. TOWNSEND,
Assistant Adjutant General.

But, sir, besides all this, President Johnson expressly revoked the suspension of the writ of *habeas corpus* in the loyal States of the Union; but he has never made any proclamation expressly revoking the suspension of the writ of *habeas corpus* in the rebellious States. True, he has issued proclamations of peace, which he has flourished before the world; but while he esteemed it necessary expressly to revoke the suspension of the writ of *habeas corpus* in the loyal States, he has been careful to issue no such proclamation as to the rebel States. When he issued his proclamation of peace a letter was addressed to him asking him if that restored the writ of *habeas corpus* in the southern States, and the answer was that it did not have that effect.

Much has been said as to the meaning of the guarantee clause of the Constitution. I shall not undertake upon this occasion elaborately to define the meaning of that clause. Common men know in common parlance what it means to guaranty the payment of a debt. It means that if the debtor does not pay, the guarantor will, and this clause of the Constitution simply means that if the people of a State do not establish and maintain a republican form of government, the United States will do it. There are two ideas prominent in this clause. One is that the State government must be in subordination to the Constitution of the United States, and the other that it must be such as to give the people of the State substantial representation in and control over the State government. Can a State government be republican in form according to the meaning of the Constitution and not be subordinate to and in harmony with the Constitution? No matter how perfect the forms of government in the rebel States, if they were in open hostility to the Constitution and laws of the country they were not republican in form in the sense of the Constitution, and it therefore became the duty of the United States to execute the guarantee and make those governments what the framers of the Constitution intended they should be—integral and inseparable parts of the Federal Union.

These State governments, too, must be such as entitle the people to full and fair representation in them. I know there is no absolute standard by which to determine what is or is not a republican form of government. All we can do is to consult history, particularly the history of our own Government, and then, according to our best judgment, determine whether the government of a State is or is not republican in form. I will not undertake to say that a State government which tolerates slavery is not republican in form, for such governments were recognized by the fathers of the Republic; but I undertake to say that history does not produce a case where one half, or a majority, or even one third of the free male citizens of a State have been excluded from all political power under a republican form of government.

The question in the rebel States is not as to the rights of slaves, but it is as to the rights of free male citizens of the United States. Tell me, if you can, of a single example in history where a great proportion of the free male citizens of a State have been excluded from all political power under a republican form of government. Judging from history we should be justified in interfering with the governments in the rebel States, because in some of them one half of the male citizens and in the others more than a third are excluded from the right of suffrage and from any representation in the government. I cannot see how any government founded upon that basis is consistent with just ideas of a republican form of government.

Congress must decide this question. I know it may be said that Congress may abuse the power, but the same argument applies to any power conferred upon Congress. Congress has power to declare war. That power may be abused; Congress may plunge the nation into a wanton and fruitless war and imperil the life and property of every man, woman, and child in the nation; but is that any argument to prove that the power does not exist? The United States are to guaranty to each State a republican form of government, and Congress has the unlimited power to say what is or what is not a republican form of government under its responsibility to the people. The Supreme Court of the United States has affirmed that doctrine. Take what the court says in reference to a possible government in Rhode Island. In Luther *vs.* Borden Chief Justice Taney says:

"Unquestionably a military government established as the permanent government of the State would not be a republican government, and it would be the duty of Congress to overthrow it."

The right of Congress to enter a State and overthrow a government which the people have adopted is clearly recognized in this decision. In the twelfth volume of Wheaton's Reports, in the case of Marton *vs.* Mott, the Supreme Court, in discussing a kindred question, said:

"Whenever a statute gives discretionary power to any person, to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts."

Congress is required by the Constitution to determine the fact—it may be a mixed question of law and of fact—whether the State of Louisiana, for example, has or has not a republican form of government, and Congress being invested with that power its judgment is conclusive. Congress is made the sole and exclusive judge of the fact. It is not necessary to assume that these States are out of the Union in order to justify the exercise of this power on the part of Congress. Have Senators noticed the phraseology of the guarantee clause of the Constitution?

"The United States shall guaranty to every State in this Union a republican form of government."

Does not the Constitution clearly recognize the right of Congress to control in this respect the government of a State in the Union? Nothing is said about the power of Congress as to a State out of the Union. The great argument of the Democratic party on this question is that the Republicans assume, by the exercise of these powers, that these States are out of the Union. I never heard any man who belonged to that party say that these States were out of the Union, notwithstanding those opposed to us continually reiterate that accusation. I say—and so far as I know those with whom I act all say—that those States are in the Union, and that the United States has a right to exercise this power upon them as States in the Union.

Mr. President, I did propose to say more, but the time allotted to me by the vote of the Senate is about exhausted. ["Go on."] I shall not undertake to argue the necessity of this legislation or its expediency at this time. If it be necessary to organize governments that will give equal protection to the poor and weak as to the rich and the strong—if it be necessary to organize and maintain governments that will countenance obedience to law and loyalty to the Government and frown upon disloyalty, treason, and crime—then I say there is a necessity for this legislation. Sir, if it be expedient to do right and be just, then it is expedient to enact these laws.

I will simply say, in conclusion, that in my judgment it is not within the constitutional power of the executive or judicial departments of the Government to determine when an insurrection does or does not exist contrary to the decision of Congress; that it is the exclusive right of the legislative department of the

Government to decide upon the form of a State government and its relations to the Federal Union, and that under all the circumstances the course adopted by Congress for the rehabilitation of the rebel States is the only efficient and practicable one to restore general tranquillity, to maintain justice, to protect the Constitution, and perpetuate the Union.

Mr. MORRILL, of Maine. Mr. President——

Mr. FESSENDEN. I suppose my colleague is not anxious to proceed at this hour.

Mr. PATTERSON, of New Hampshire. If the Senator will give way I propose that we take up the bill which was under consideration during the morning hour.

Mr. MORRILL, of Maine. I have no objection, but I would ask whether this business, being the regular order, will be displaced by taking up that other matter?

The PRESIDENT *pro tempore*. It will be by the interposition of other business if that other business be left as the unfinished business.

Mr. MORRILL, of Maine. Then I move that the further consideration of this subject be postponed until to-morrow at one o'clock.

The motion was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 512) in relation to taxing shares in national banks, and it was signed by the President *pro tempore*.

GOVERNMENT AGENTS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 269) in addition to an act entitled "An act regulating the tenure of certain civil offices," the pending question being on the amendment of Mr. SUMNER to the amendment of Mr. PATTERSON, of New Hampshire.

Mr. SUMNER. I hope that I shall not seem pertinacious when I ask the Senate to consider carefully before they vote down the proposition. Of course, if they think best, they will do so; but I submit that there is no evidence now before the Senate of a satisfactory character to lead us to undertake to make a change in the practice of the State Department. Had the expenditure been large, was the number of agents large, had not the necessity for their employment been very considerable, then I could conceive an occasion for the change, but on the evidence before the Senate I can see no such occasion. Therefore I most respectfully submit to the Senate that it is not expedient at this moment to make it.

Mr. ANTHONY. I agree with the Senator from Massachusetts. It seems to me that after the statement of the Secretary of State which has been read to-day, showing how the money has been expended, who have been appointed as agents, and the very important services they have rendered, the Senate will not vote to take from the head of that Department or any other Department the disbursement of its own contingent fund. It seems to me that if we desire to put any restraint upon the use of this contingent fund we should put that restraint on the amount of the appropriation and not in the form of a direction as to the objects for which it shall be expended; and if Senators cannot place confidence in the head of the Department I should think at least they would in the chairman of the Committee on Foreign Relations, who has thoroughly informed himself upon this subject, and whose judgment, I think, ought to control those of us who have not given very particular attention to it ourselves.

Mr. HENDRICKS. I think every reason that would apply to the State Department would apply to any of the Departments of the Government. I am not sure that this bill ought to pass; but if it passes in respect to the other Departments I think it should also in respect to the Department which manages our foreign affairs. I am not a believer in the doctrine that the affairs between States ought to be conducted with secrecy or with special art, or in any mode calculated to entrap any foreign Power. I believe that the transaction of business between this and any other Government should be conducted upon the same principles on which two honest men would negotiate their private affairs, and I have never been able to see why the Government of the United States needs a secret service at all. If we have affairs to settle with foreign countries I think we ought to settle those openly by recognized agents known to the whole world. Nor do I believe in the policy of keeping spies in foreign countries in a secret way to inform our Government about their conduct. We have a recognized corps of representatives abroad. If they are not competent men it is the business of the Executive and of the Senate to correct the wrong. If they are competent men to manage our business I am in favor of leaving the business in their hands. We have enough, I think, quite a sufficient number, to attend to all the affairs that we have with foreign countries.

There are some reasons that I can appreciate why the Post Office Department should have a secret service, but I believe the evils attendant upon that system are greater than the benefits to be derived. It is claimed that the Treasury Department ought to have a secret service. I do not believe in that. I believe that the laws ought to be executed through the instrumentality of officers known to everybody; and one of the curses now inflicted upon the people by the policy that has been adopted within a few years is the secret service that is supposed to exist, and the policy of giving the informer a part of the results of proceedings under penal statutes. I think that is odious and hurtful, and I shall vote for any proposition to abolish it.

I am much reconciled to this bill by the fact that it will tend to wipe out that system of espionage upon the business of the people through the instrumentality of persons in the secret service of the Government. When any man goes to see about the business of the people, whether they are transacting their business honestly, he ought to go with an open commission known to everybody. I have no idea that the Government should become a spy upon the business of the people. It is disgusting to me, and I think the whole service of that sort ought to be abolished. I am not sure that I shall vote for this bill because of one provision. I do not think the Constitution contemplates that an office of such inferior grade as the agent of a Department should come before the Senate for confirmation. I think the Secretary ought to be left to select such necessary agents as the business of the Department may require without sending their names to the Senate, though that is not of much consequence. I have not a very great objection to it, yet I think it is going beyond the point contemplated by the Constitution. I shall vote, for the present, against the amendment proposed by the Senator from Massachusetts.

Mr. CAMERON. Mr. President, I can see no reason whatever for putting into the hands of the Secretary of State, or anybody else, a sum of money to be used entirely at his own option. Hardly one man in a million would use such a sum of money as has been placed at the disposal of the gentleman now at the head of the State Department wisely or properly, or without doing a great deal of wrong. I find, on looking over an imperfect list, that there has been expended from one fund during the last seven years in this way the sum of $41,193 41. But the Secretary of State does not limit himself to that one appropriation. With his fertility of genius, he has not only embarked in the real estate business, but he has established a bureau of reporting. In the case of Surratt the undertook to publish a report of that trial. He employed reporters, and the source of their compensation may astonish the Senate. He paid one reporter $2,250, which he took from an appropriation made by Congress for "bringing home prisoners from foreign countries!" In this way the specific appropriations made by Congress are expended. In that same case and from that same appropriation he paid $5,000 to one counsel and $3,000 to another. In the printing of the report of that trial he could defy competition by individual publishers, for—perhaps as departmental printing—he caused it to be done at the Government Printing Office out of funds appropriated for Government printing.

To show that we cannot place implicit reliance on this list of agents sent abroad and paid for out of the secret service fund, I learn that from another source Mr. William M. Evarts was paid $6,010 86 for services and expenses in England. To understand it thoroughly, we should have a return of all the sums paid from the various sources that have been made to contribute to such expenditures. I do not pretend to say that he has done these things with any improper motive; but I do not like to trust unnumbered dollars in the hands of anybody; and therefore I am opposed to this whole secret service fund. It may be proper for me to say, also, that since the introduction of steam in our ocean navigation we get across the ocean in eight or ten days, and the telegraph will send a message in a few minutes, certainly in an hour at any time; and if ever such expenditures were necessary to transmit dispatches they are not necessary now. I shall vote for the amendment of the Senator from New Hampshire first, because that is a reform, and then I shall offer an amendment which I think will correct some of these evils.

Look through the list of names of these persons who have been so employed. We have not got one twentieth of them; but here are a few of the names which the Secretary has been kind enough to furnish us. A year or two ago he sent Hugh J. Hastings, of Albany, New York, the editor of the Albany Knickerbocker, abroad. Then he sent George Ashmun. Then he sent Edward L. Plumb, whom he has now got in Mexico, buying land, I presume. Then a Mr. William M. Walker, a commander in the Navy, was sent abroad. Then Bishop McIlvaine, a good and pure man as he is, and Archbishop Hughes, and Thurlow Weed, and General Garibaldi. Who would ever believe that General Garibaldi, an officer of the Italian army, was employed by us as a secret spy to go and attend to the interests of this country under the pay of this country, when he is supposed to be a patriot in Italy warring only for the rights of man? Then George Harrington was sent abroad. He was Assistant Secretary of the Treasury, got sick, and obtained leave of absence from the Treasury Department to recover his health, and he was paid as a private agent by the State Department. Then there is Alexander H. Schultz, a worn-out steamboat captain—a man who was never fit for a diplomat, I guess.

Mr. SUMNER. I think that Mr. Schultz carried one of our treaties across the Atlantic.

Mr. CAMERON. Three or four of them.

Mr. SUMNER. One is enough.

Mr. CAMERON. But why send a treaty by an agent?

Mr. SUMNER. A treaty cannot be sent by mail.

Mr. CAMERON. Why not?

Mr. SUMNER. It has not been the usage of nations to communicate in that way.

Mr. CAMERON. Why cannot the usage be changed?

Mr. SUMNER. The mail might be robbed.

Mr. CAMERON. And so might the carrier be murdered on the road. [Laughter.]

Then a Mr. J. Bancroft Davis was sent abroad. I never trust these people who begin their names with a J or an I and then put a large name between. [Laughter.] Then I find that Colonel James B. McKean, a member of Congress from New York, was sent abroad. General Sickles, who is a very good fellow, got permission to go abroad to recover his health, and he is paid as a private agent.

Mr. SUMNER. Was not General Sickles sent to Mexico?

Mr. CAMERON. I do not know. Then General Schofield was sent abroad to recover

his health, as it was thought, and he is paid from this same fund. I find here also the name of Rev. Charles Hawley. He lives at Auburn, and is a pious and good man I have no doubt. Then a man by the name of R. B. Van Valkenburg, who resides at some place in New York, was sent abroad; and a Mr. Bidwell, a preacher also, and God knows how many more. These gentlemen got among them $41,193 41. Now, what was that for? It was simply a kind of gratuity from the Secretary of State, they being intimate friends of his; and, by the way, you will find that every one of these clergymen belonged to the Church of England. There was not a Presbyterian or a Methodist among them. [Laughter.]

Mr. CONKLING. That is a mistake.

Mr. CAMERON. Tell us one who is not?

Mr. SUMNER. Is Mr. Hawley a Church of England man?

Mr. CONKLING. My impression is that Mr. Hawley is a Methodist.

Mr. CAMERON. If the Senator from New York says he knows he is a Methodist, of course I believe him; but if he only thinks so I should doubt it very much. I do not think Mr. Seward ever sent a Methodist or Presbyterian abroad or anywhere else if he could help it.

But, sir, my objection is to this whole system. I would strike it all off. There is no necessity for sending these people abroad. I remember in the time of John Quincy Adams, when I was a Democrat, we broke down his Administration just because he wasted money in sending bearers of dispatches across the ocean; and from the time of John Quincy Adams we never sent a bearer of dispatches. This is a system which has grown up out of that. There must be some way of rewarding favorites; and if you put money at the disposal of the Departments, giving them sole control over it, without any exposure of the expenditures to the public, you may be sure it will be used improperly. I shall, therefore, vote with the Senator from New Hampshire first, and then I shall offer an amendment, if we cannot destroy the whole system, to make them show to the public whom they employ and how much they pay them.

Mr. THAYER. I desire to inquire of the Senator from Pennsylvania to what church Mr. McCracken, who was one of the agents Mr. Seward sent over to Europe, belonged? [Laughter.]

Mr. CAMERON. I do not know. I never found out who McCracken was; but if the Secretary had not had this fund to dip into we should have had no McCracken. I dare say he is a Mormon. [Laughter.]

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from New Hampshire.

The amendment to the amendment was rejected.

Mr. SHERMAN. Is there an amendment pending?

The PRESIDENT *pro tempore*. There is; the amendment offered by the Senator from New Hampshire.

Mr. RAMSEY. I should like to know what the amendment is.

The PRESIDENT *pro tempore*. It is the printed amendment offered as a substitute for the whole bill.

Mr. RAMSEY. Then I call on the Senator from New Hampshire to modify his amendment in the eighth line of the fourth section, so as to make the number of agents who may be appointed by the Postmaster General twenty-five instead of twenty. I learn in that Department that twenty is not a sufficient number.

Mr. FESSENDEN. I should like to suggest to the Senator while we are on that subject, that in looking at this bill it strikes me that it will cover all the route agents who are employed throughout the country. They are all to go out of office in ten days under this bill, and then if there are any more appointed they must be sent in to the Senate for confirmation, and they must be confirmed by the advice and consent of the Senate. I think that utterly impracticable. They cannot be taken off the lines.

Mr. EDMUNDS. It is not intended to cover them, and I have prepared an amendment that will obviate that difficulty.

Mr. FESSENDEN. Then there is another. This first section makes an exception of all agents who are authorized by existing laws and whose salaries are specified. Now, take the agents that are appointed by the Comptroller of the Currency. He has occasion to employ, temporarily, certain persons to go and examine banks. He must have them. He must employ them. The salary is not fixed by law. He would have no authority under this bill to appoint one, and if he has any to be appointed it must be a regular appointment sent to the Senate, and confirmed by the Senate as an officer, when in fact it is a mere employment for a short period of time. There are, I think, other duties where the power to designate persons to perform them must exist in the several Departments.

So far as the Treasury Department is concerned I think twenty-five of the special agents which they have been in the habit of appointing under some construction of the old laws would be enough; and so far as the bill applies to that Department it is all very well. I do not know that any are needed there other than those twenty-five. I am inclined to think there are not, except it may be the agents of the national currency bureau which I speak of, and which are mere temporary appointments. They must be provided for; their salaries are not fixed by law, and they are not the kind of officers whose names ought to be sent to the Senate. You want a man for a particular period for something or other of that description, and the Comptroller finds him where he can a good man to perform this duty. I am very much in favor of the principle of the bill, as I think there has been an abuse; but I am afraid that in its effect it will lead to difficulties which the committee have not perhaps quite sufficiently considered. I suggest these things in order that they may avoid these difficulties.

Mr. RAMSEY. I suppose the Senator from New Hampshire, in the provision of the fourth section relating to the Post Office Department, had reference to what are called special mail agents. They are limited in number, and are in every sense secret agents of the Department. There are probably twenty or thirty of them. Their pay is not very great. But still twenty would not be a sufficient number for that class of agents, and the Postmaster General and his assistants inform me that less than twenty-five would not enable them to get along with the increasing business of the Department, especially as they contemplate placing special agents upon the mail steamers across the Atlantic, so as to make up the mails as they approach our coast. Instead of the English mail, the French mail, and the German mail lying over a day in New York, in order to be assorted for Milwaukee and Chicago and St. Louis, it is proposed to have the mail for Chicago, the mail for Milwaukee, and the mail for St. Louis made up on board the steamer before it lands. This will increase that service, and less than twenty-five will not enable us to get along.

So far as the route agents are concerned, if it is expected that their names are to be sent here and confirmed by the Senate, it will throw an amount of business upon us which I imagine we are not prepared for. The offices of route agents are small in compensation and in character. I do not suppose the Senate would desire to be troubled with the consideration of that class of appointments.

Mr. JOHNSON. Has not the Department secret agents with a view to discover frauds?

Mr. RAMSEY. The twenty spoken of in the fourth section, I imagine, are intended to provide for that secret agency. I ask an increase of that number to twenty-five.

Mr. JOHNSON. Twenty-five are not too many, certainly.

Mr. RAMSEY. Not by any means. I suggest to the Senator from New Hampshire to make that modification.

Mr. PATTERSON, of New Hampshire. I do not object to that amendment. I saw the Postmaster General on this subject, and he told me that until the present year he had never employed more than sixteen of those agents. I supposed, therefore, that twenty would be ample to supply all the wants of the Department; but if the chairman of the Committee on Post Offices and Post Roads thinks that twenty-five is better I do not object to that.

Mr. RAMSEY. There must have been a misunderstanding between the Senator from New Hampshire and the Postmaster General. They employ nearly thirty.

Mr. PATTERSON, of New Hampshire. He said until the present year they had employed only the number I stated; this year they employ more.

Mr. RAMSEY. This subject is not immediately in charge of the Postmaster General, but rather of the Second Assistant Postmaster General, and through him I learn that there are nearly thirty of these agents employed. They are always limited by the amount of appropriation for that special purpose.

Mr. PATTERSON, of New Hampshire. I do not object to that modification.

Mr. RAMSEY. Then I understand the Senator from New Hampshire to so modify his amendment in the eighth line of the fourth section as to make "twenty" read "twenty-five." It is for the Senate to consider whether they are prepared to take upon themselves the sifting of the character of all the route agents in the United States, many hundreds in number, all suddenly thrown out of office under the operation of this bill.

Mr. PATTERSON, of New Hampshire. I do not wish to extend the discussion and I shall occupy very little time. I had supposed when this bill was introduced that it would pass without very much discussion in the Senate. There is a desire all over the country that the expenses of the Government should be retrenched. Our expenses were very much increased, necessarily and properly, during the war. We have a multitude of officers now in service who were not in existence when the war broke out. As a consequence of this the expenses of the Government have vastly increased. There is a desire to have the expenses retrenched, and I had supposed that the Senate were favorable to retrenchment. I have been somewhat amused, however, at my own verdancy in this matter. I find that it is almost, if not quite, impossible to retrench the expenses of the Government when such a bill comes into the Senate, and for the simple reason that every Department has some one who is its special friend and defender, and every man who is in office, it matters not whether he has anything to do other than to draw his salary or not, seems to have some one to defend him. So that I hardly expect we shall ever be able to retrench the expenses of the Government.

Now, in relation to these route agents, it is contended that their confirmation should not come before the Senate. It is said that they will be turned out of office in ten days if this bill passes. I would say that in my State they are being turned out of office, and before ten days pass they will all be out of office and a different class of men will supply their places. For my part, I think it is somewhat important that we should keep the right men in these places, and that the Senate, if they cannot secure that end otherwise, should take it into their own hands and have men appointed who will represent the party that placed this Administration in power. If the spoils are to belong to the victors let the victors be that party that brought this Administration into power, and not the man who is taking or attempting to take victory out of our hands.

But, sir, I do not suppose it would take ten minutes a week to confirm the nominations of

route agents. It is not a matter of such great work as gentlemen would seem to indicate, and if the President or the Postmaster General is not disposed to send us proper men for confirmation, perhaps we shall have to take such men as they can get; but the revision of the Senate will be some check and afford some protection.

The PRESIDENT *pro tempore*. The Chair understands that the amendment of the Senator from New Hampshire was modified by the consent of the mover in accordance with the suggestion of the Senator from Minnesota. The question is on the amendment, as modified, as a substitute for the original bill.

Mr. SHERMAN. I desire to offer an amendment which I have submitted to the Senator from New Hampshire. Under the forty-seventh section of the national banking act the Comptroller of the Currency is authorized to appoint special agents to examine particular banks in case of alleged insolvency. The provisions of this bill undoubtedly embrace those special agents, and as they are really paid by the banks themselves their salary is not fixed; they ought to be excluded from the bill. I therefore move to add to the end of the second section the proviso I send to the Chair.

Mr. EDMUNDS. If the Senator will allow me I have an amendment to cover that and the suggestion made by the Senator from Maine, which is already prepared.

The PRESIDENT *pro tempore*. Does the Senator from Ohio withdraw his amendment?

Mr. SHERMAN. I will do so in order to hear that of the Senator from Vermont, to see if that is better.

Mr. EDMUNDS. I propose this amendment, which will obviate the difficulty experienced by the Senator from Maine as to the construction of the second section applied to the class of officers named in the first; and I will read it in my place for the information of the Senate, and the Secretary will be better able to report it afterward. It is to insert after the word "aforesaid" in line three, section two, page 2, these words:

And not embraced within the exception of section one of this act, and excepting regular route agents of the Post Office Department and such persons as may be temporarily employed by the Comptroller of the Currency for the examination of banks.

Mr. FESSENDEN. I should like to ask how this bill would operate upon the agents of the internal revenue.

Mr. EDMUNDS. They come within the provision which authorizes the Secretary of the Treasury to emply as many as he is permitted by the bill. The inspectors are reserved in express terms.

Mr. CAMERON. I can see no benefit to be derived from the amendment proposed by the Senator from Vermont. To my mind there is no difficulty about sending the names of agents appointed to investigate the affairs of the banks to the Senate for confirmation. My objection to all this system is the secrecy with which men are employed here. One favorite is picked up to-day to go and examine a bank; next month some other favorite is selected. Some particular fellow who can be bought over to join a political party will get to be made a bank agent. I should like to have all these names sent to the Senate for confirmation, and let everybody know who are to be the agents of the Government. In that way we should get the best men in the country.

So, too, with route agents; why should not those men be sent here for confirmation, just the same as the names of second lieutenants in the Army are sent here? We have no trouble in confirming a whole host of Army appointments, and there would be less trouble in these mail agents. It would be but the work of a few minutes in executive session to run over the whole of them, and then we should know who they were. Besides that, we should have a check upon them and a guard thrown around their integrity. They would feel themselves responsible to the public. The public, knowing them, would have confidence in them, and they would behave themselves well, and public opinion would drive them out of place if they did not conduct themselves properly. In this Government of ours, I repeat, nothing should be done in the dark. Everybody should be allowed to see and hear of every official's acts and doings.

I think the Senator from New Hampshire has bestowed great thought and time upon this bill; he seems to have matured it well; and I would not interfere with it, because we here at a moment have no time to reflect. He has devoted hours to it. We get up on the impulse of the moment and make what seems to us a wise suggestion, and yet it may be very foolish; and it would appear so to ourselves probably if we had time to think about it. When you trust a grave affair to the chairman of a committee it is always better to give your full confidence to him. Therefore, I am in favor of standing by the proposition as it comes from the committee.

Mr. EDMUNDS. The observation of the Senator from Pennsylvania is undoubtedly correct, that we can confirm route agents just as we do postmasters; and I believe myself with him, that putting them upon the same basis that we do postmasters, confirming the most important ones, whose salaries, for instance, are $1,000 a year or upward, whatever the rule as regards postmasters may be, would be a very proper one. But I do not see any ground upon which we should leave to the Postmaster General the power of appointing the small postmasters in the country and not leave to him the power of appointing the unimportant regular route agents, who are in reality nothing else but postmasters who are moving all the time from place to place. They are exactly of the same character of office. They perform substantially the same sort of duties. I should prefer myself to have this bill contain a provision which should make route agents confirmable by the Senate whose salaries were the same as those of postmasters, who are required to be confirmed by the Senate. I do not think there would be any difficulty in that.

But the bill was framed, in the first place, and reported upon the theory that we would cut out these special agencies that all the Departments were employing, generally under some political pressure or personal pressure here and there—I will not say from what sources, probably from all sources. I confess that when I thought the public interest required it, and when I thought I knew of a good man to be appointed, as the law permitted, I have asked heads of Departments to appoint him; and I dare say other gentleman have done the same thing. This has gone so far that it has become the subject of grave abuses; and we are all more or less responsible, undoubtedly, for the fact that the thing exists as it does. The object of the bill, therefore, was to cut up root and branch this irresponsible appointment of special and temporary agents and persons for the performance of such duties as the various Departments might think it requisite to perform.

I do not think the bill was intended (at least I did not so understand it) to apply to the regularly appointed route agents of the United States, whose character and whose salaries by a certain grade are already fixed by law; and I therefore understood these regular route agents, as distinguished from the special agents that my friend from Minnesota alludes to, were embraced in the first section of the bill; but that they were embraced in the exception to the first section, which provides that those officers and agents whose character and salaries are authorized and fixed by statutes shall not be operated upon by that section. Now, then, in order to avoid the effect of an additional provision in the second section, it may be necessary to insert—and if there is any doubt about it it is always better to insert—the explanatory words that I have named, to except those named in the exception to section one of the bill.

Mr. FESSENDEN. I will suggest to my friend whether, by a little change of the bill in the location of the sections, we cannot accomplish his purpose without any difficulty. Take the first section, and it stands well enough by itself. There is no objection to that. The difficulty is, the second section of the bill comes in immediately and says that "all such agents," which includes every one that is authorized by law of every kind and discription, shall go out of office at the end of ten days, and then shall be sent to the Senate for confirmation. That is not probably what the committee meant. Now, if they would let the first section stand they and then provide in the second the number choose to allow of these special agents for the Treasury Department, and so of the Post Office Department, and all the other Departments, and then put in the second section that the agents herein authorized to be appointed by the second, third, and fourth sections shall be appointed by the President by and with the advice and consent of the Senate, that would cover the whole thing.

Mr. EDMUNDS. With all respect to my friend from Maine, I think he is a little mistaken in supposing that would cover the whole thing, because, although it would cover all those we now provide for, there must still be a sweeping clause which shall discontinue the employment of every one of those whose employment we do not intend to continue. Therefore I think the object is clearly reached by the amendment I have proposed, which excepts from the operation of the second section those embraced within the exception of the first; so that it leaves the bill by the first section to operate upon all this class, general and special agents, as they are called, of these Departments, except those which are authorized by statute, specifying the character and salaries of agents, and then excepting by name, to avoid any misconstruction, the regular post route agents and those named by the Senator from Ohio.

Mr. FESSENDEN. If the Senator's amendment accomplishes the object that is all I wish.

Mr. EDMUNDS. There can be no misunderstanding if my amendment be adopted. The only doubt I have about my own amendment is that it leaves the appointment of all regular post route agents, without respect to the amount of their salaries, where the law now leaves it, in the Postmaster General. I should prefer myself to put that at $1,000, which I believe is the rule with postmasters, and have all receiving that amount of salary confirmed.

Mr. RAMSEY. I think there are no route agents who receive salaries in excess of $1,000.

Mr. FESSENDEN. I do not think there is any above that, and it depends altogether on their service on different routes, as I suppose; that is, you might at one time want an agent for a particular service, and he would be allowed a large sum on a particular route, and not at another time; but in the mean time his services might be required on some different route. That would be difficult to provide for by any such provision as the Senator speaks of.

Mr. CONNESS. I should like to inquire of the chairman of the Finance Committee, and the same question also I should like to have answered, if he can answer it better or give any information upon it, by the honorable Senator from Maine, as to how often agents are necessary to be employed in connection with the examination of national banks; to what extent has it been done, so far as either of the Senators know; and how necessary is it to make this exception? I have been thinking the matter over since I had a few words of conversation a few moments ago with the honorable Senator from Maine on this point, and it has occurred to me that these examinations would nearly always, if not always, be directed by the Comptroller of the Currency or the Secretary of the Treasury to be performed by some officer of the Treasury Department already receiving and drawing a salary—persons competent within the Department, holding high place there, and understanding just what they should have to do—and that during the deputizing of those persons for short periods to

examine a bank where some difficulty was apprehended or known to exist the regular salary of the officer thus deputed would go on; and it has appeared to me on reflection that there would be no necessity for making this exception. I submit the suggestion to the Senators, who ought to be more conversant with the practical point in question than myself.

Mr. SHERMAN. I gave way to the Senator from Vermont. I did not understand the scope of his amendment, nor would I be willing to vote for it, because I desire to see this bill passed without being very much modified. If I understand the bill, the first section provides for cutting off all officers whose appointments are not authorized by law. It being alleged that many appointments have been made not authorized by law or where the character and services of the agents are not designated by law, this section proposes to cut all those off.

The second section proposes that the residue, that is, those authorized by law, shall be sent to the Senate for confirmation. That, as a general principle, is right; but there are certain exceptions to that which are manifest to every one. For instance, take the class of cases of officers whose salary is below five hundred or one thousand dollars. It is scarcely worth while to cumber our records with their confirmation. So, take the class of cases I have referred to; no Senator would desire them to be sent here. There are two classes of banks examined. Agents are appointed to make the regular examinations from time to time, and their names might properly be sent here; there is no objection to that. But the forty-seventh section of the banking act authorizes special agents to be selected to make the investigation of a particular bank. I cannot say how many, but probably twenty, thirty, forty, or fifty cases may occur in a year. Allegations are made to the Comptroller that a certain bank has not complied with the law, or he becomes suspicious, from the returns made by the bank, that things are not going on right. He designates a special agent, the expense of which must be paid by the bank, and he is sent promptly with very arbitrary authority to examine the bank, perhaps seize upon it and declare its rights forfeited—quite a summary proceeding. The idea of sending the names of those special agents to the Senate would simply defeat the object of the appointment, because they must be sent immediately. They would usually be selected from among the most experienced in the region of country where the bank is located, perhaps. All that power might properly be left to the Comptroller of the Currency without objection.

It is scarcely worth while to send the names of that class of officers here, and they might be excepted. The amendment that I propose would simply except them from being sent to the Senate. Their appointment is now authorized by law. Their compensation is fixed by the Comptroller and paid by the bank, so that the Government have no interest specially, except that their work should be done promptly and well. Their names ought not to be sent here. I trust, therefore, that the amendment of the Senator from Vermont will not prevail, but that we may simply except this class of business officers from having their names sent here. I do not think of any other special agents now whose names might not properly be sent here, except those whose compensation is very small or whose appointment is merely for a temporary period, say thirty or forty days.

Mr. EDMUNDS. I think the Senator from Ohio misapprehends the scope of the bill entirely when he supposes the first section is only intended to operate against illegal appointments, and to require all legal appointments to be sent here for confirmation. That certainly, I do not think, can be derived from the section itself. The object of this first section is to cut off all employment which these Departments have made of special and general agents, which we understand in the main to be authorized by statutes. Take, for instance, the appointment of special agents in the Treasury Department. The act of 1795, or certainly before 1800—I may not correctly quote the date of its passage—authorized the Secretary of the Treasury to cause examinations to be made into the state of the operations in his Department, the doings of collectors of customs at distant points, and so on. Acting under that statute, in the performance of that duty, for a good many years, at any rate—I will not undertake to say how far back it has gone, but a great many years—and without any abuse, so far as I ever heard, the Secretary of the Treasury has appointed what are called special agents and supervising special agents and a variety of officers of that description to make these examinations, to have this oversight and superintendence of the collection of the revenue, to examine the books of collectors of customs to see that the entries are properly made therein, to see that no frauds are covered up in the operations of the Department, a necessary and proper function to be done by somebody.

That illustrates the character of the offices which we desire shall be discontinued under any general authority, and shall be limited, as the subsequent sections provide, to a certain definite number of persons. Certainly the bill cannot be construed fairly, as it appears to me, to be understood as proceeding upon the idea that we are only legislating against illegal employments, and then providing that the Senate should be consulted in the appointment of every officer that the law authorized to be appointed or designated or employed by any particular Department. The scope of the bill, therefore, is to sweep out all the general authority which the heads of the Departments—and I have mentioned the Treasury Department for illustration—have for the appointment of general or special agents to perform the classes of duties that I have named respecting each Department, but to except from that those definite and well-known agents the character of whose duty and the salary of the officer filling the same is already provided by law.

Then we proceed to provide by the second section that the term of office of all such officers—and that was intended to apply to these general and special agents, and the confusion has arisen from the introduction of the inspectors of internal revenue afterward—shall terminate at a particular time, and that in lieu of them there shall be twenty-five or thirty for the Treasury Department and so many for the others.

Now, if I am right in my construction of what the proper scope of the bill is, then very clearly the suggestions of the Senator from Ohio ought not to have weight in oversetting my amendment, which would, being adopted, leave the second section of the bill open to the objection made by the Senator from Maine, that we should cut off every species of route agent, and every species of other agent, even those included in the exception to the first section, which we have expressly declared, certainly by our intention in using that language, shall not come within the operation of the act. This is all I have to say.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment offered by the Senator from Vermont.

Mr. CAMERON called for the yeas and nays, and they were ordered.

Mr. CONKLING. It seems to me that the Senator from Vermont, the author of this amendment, will on reflection agree with me that if it is right in fact it puts this bill in a very unfortunate form. It will be very redundant, very full of apparent provisions, when in reality it will mean but very little.

I take the scope of the bill to be, in the first place, to cut up, as a general proposition, the practice of appointing undefined and special agents. Then follow limitations supposed to be sufficient, and if they are not, they should be made sufficient to constitute the exceptions. If I understand the proposition of the Senator from Vermont, it is relating to these words:

Except such as are duly authorized by statutes specifying the character and salaries of the agents so authorized—

to provide, in short, that the bill shall take no effect upon them. Assuming that this is all we mean to do, why not simplify the first section and all the sections by providing that there shall be no special agents appointed hereafter except those now authorized by law and those hereinafter in this bill authorized?

Mr. EDMUNDS. That will leave everybody in that is in now, because everybody that is in now is authorized by law.

Mr. CONKLING. Not at all, if the Senator takes my suggestion. Why not provide that hereafter there shall be no special agents appointed except those, in the language of this bill, whose character and salaries are now fixed by statute and whose appointment is authorized, and excepting also those hereinafter described.

Mr. EDMUNDS. That leaves in office all those who are now lawfully holding. You have to provide some means for terminating the functions of the army that are now roving over the country under existing law.

Mr. CONKLING. To what class does the Senator refer now—those who are expressly authorized by statute and are officers in that sense, or those who are created in the discretion of the Departments?

Mr. EDMUNDS. I refer to those mentioned in the first part of the first section general and special agents in general, if I may use such a term, and inspectors of internal revenue, for illustration.

Mr. CONKLING. Upon the Senator's construction I do not see but that his amendment defeats not only the general object of the bill but his own view, if I apprehend him aright; but I take it for granted I do not. I think I am right on this: that the first section sets out with the idea of terminating the tenure of office of certain classes of men, and those are all the men belonging to the general description there used, excepting those embraced in the last two lines of the first section, where these words are employed:

Except such as are duly authorized by statutes specifying the character and salaries of the agents so authorized to be employed.

The offices of these persons by the first section are not terminated at all. Now, the Senator by his amendment proposes to provide that all persons shall cease to be such agents except those. I ask him why he does not turn it around for the sake of brevity and making it intelligible, and provide simply that those shall cease to be officers whom he does refer to. I do not know but that I may be very obscure in comprehending this, but I am afraid others may be equally obscure.

Mr. EDMUNDS. I am quite ready to confess that the honorable Senator from New York would have made a much more perfect amendment, and I suppose it is only owing to his indisposition and to the fact that he did not get waked up in season, that he did not do it. He will allow me to say that the difficulty which arises under the first section is the application of the first branch of the second section to the exception in the first. It does not take any great amount of observation to detect that, I suppose, because the second section goes on to say "that the term of office of all such general and special agents and inspectors now authorized as aforesaid." Among those "authorized as aforesaid" are those named in the exception to the first section, and described as those "duly authorized by statutes specifying the character and salaries of the agents authorized to be employed." Therefore the Senator from New York will perceive that the second section as it stands now—and I am indebted to him for the suggestion of the very point—would terminate the functions of those officers who are excepted from the operation of the first section, being those whose character and salary are already ascertained by law, because all those have to be appointed in the regular way, and they go into the Blue Book and all that. Now, in order to avoid the repeal of the

exception in the first section, if it is a desirable exception, you must make use of the language I have proposed or some similar language, or reframe the whole bill, to which I certainly shall have no objection, if the Senate prefers that.

Mr. CONKLING. I accept, of course, as lucid the explanation made by the Senator from Vermont, and yet I must be permitted to say that if the object was to darken council by words the attempt would be very felicitous. I do not know that a man must be able to calculate an eclipse in order to understand what would then be intended; but I think he must be gifted with something more than ordinary powers of observation. It is said that he who sticks in the letter sticks in the bark; and my criticism, I know, is somewhat in violation of that principle. I object to the amendment of the Senator from Vermont, however, upon essential grounds. I do not believe in it at all, and I will tell you why.

There are troubles, no doubt, both ways in fixing this matter. It is said that if we do what the honorable Senator from New Hampshire intended we shall leave the heads of Departments destitute of authority which in certain contingencies may be useful. That is always the infelicity of limiting power. The best measure of power, if you could only be certain that it would be discreetly, wisely, and justly exercised, would be to make it absolute. The more power the better, if you are only sure of its use. If, on the contrary, you are insecure in that respect it often happens that there is no remedy except to take it away altogether.

The honorable Senator from Ohio has singled out and pointed us to one class of officers whose destruction he thinks may be injurious. Well, sir, I confess I am not so sure even of that. There is a large number of national banks, and it may happen that in every year several of those banks will be suspected, from time to time, of violations of their charter and of acts of insolvency; but I doubt very much whether a fair deduction from that is that it will be wise or economical to nominate some person of experience in the locality where the bank is located, adopting the phrase of the Senator, to investigate its affairs. We all know—at all events all the professional men in this body know—what the philosophy of that sort of discretion is.

A bank somewhere is suspected; a cashier is suspected; two parties at once arise, those who seek to protect him and to carry on the bank, and the shareholders and the adverse party, who seek a scrutiny. If the Secretary of the Treasury, no matter how good his intentions may be and how deserving he may be, is to act here in selecting an agent in the remote locality, the chances, I think, are greatly more than even that the person he selects will be in the interest of one party or the other; whereas if he sends some one of the experts with whom his Department abounds—I cannot doubt that there are enough there now to investigate all the lame and disabled banks and all the banks that are not disabled that exist in this country—if the law required him to send some one of these multitudinous persons to make the investigation I am inclined to think, in the long run, it would turn out that even in that particular this bill has not been too sweeping. However, sir, I defer to the better judgment of the Senator from Ohio in that respect, and I propose to make my remarks apply to the general aspects of the bill.

It has been said that the Post Office Department should be left in the possession of more power than it will possess if this bill should pass; that twenty-five agents will not be enough, and that others had better not be sent here for confirmation. I differ from that statement. I think they had better be sent here. I think that in that way, and in that way only, can we put an end to the lawless exercise of power by that Department as well as by others that goes on all the time. Let me illustrate by referring to an incident with which my colleague is acquainted. It happened very recently, not in vacation, so that the tenure-of-office bill could be pleaded as an excuse, but during this session, and I believe since the holidays, that the name of a person was sent to the Senate as a nominee for a post office, an important post office in the State of New York. He was a person exceptional to a great number of the citizens of that post office district, who sent here their protest, and in accordance with whose representations, upon the recommendation of the Post Office Committee, this nominee was rejected by the Senate; the only person who had been nominated to fill the office since the death of the previous incumbent, and he had been promptly nominated. What do you think the Post Office Department did under this elastic power which they find in some act, or some other act, or no act at all? They took this very man, decorated with the rejection of the Senate, and put him into that very office, denominating him a special agent; and there he is to-day a postmaster in fact, in an important office, which position the law says shall be filled by the appointment of the President by and with the advice and consent of the Senate; and the plea is that the Post Office Department, under a right to appoint agents to go where they choose, into the heavens above, or the earth beneath, or the waters under the earth, have sent him there.

Now, I say that I believe the only way to put an end to this manifest abuse of a discretion is to declare once for all that the system shall be cut up root and branch, and that when an Indian agent is rejected by the Senate he shall not be sent post haste to the city of New York to perform the most important duties of the Indian Bureau, upon the pretext that the Secretary of the Interior has a right to appoint a special agent; and when the nomination of a postmaster is rejected that he shall not be taken up in defiance of law and the action of the Senate and put into that very office, only being baptized by another name.

I do not believe there is any cure for it except a radical cure. The distinguished Senator from New Hampshire in his meditations has given us that cure, and he provides that all these agents, in one way and another, shall be cut off, except those whom he distinguishes by description or by number, and that when agents are to be appointed hereafter their names shall come to the Senate for confirmation, as the Senator from Pennsylvania well said even second lieutenants do, and an army of others whose functions, if they had functions, as many of them have not, are of quite as little importance, to say the least, as the functions of those whom we are considering. I am ready for one to vote for the bill as it is, although it may be that in some particulars a possible criticism may be made. I think it is as near right as we are likely to get it.

Mr. FESSENDEN. I am willing to vote and shall be glad to vote for the principle which my friend from Vermont states, and which I understood my friend from New Hampshire to state was the principle of this bill, and that is to put an end to the discretionary authority which is unlimited with regard to the number, and in many cases with regard to the compensation of agents; but I really must say that I think the bill as it stands, for which my friend from New York professes himself ready to vote, is not a bill easily comprehended, or which can be executed, in my judgment, without embarrassment to the public service. For instance, I should like to know—the suggestion is not original with me—what the first part of the first section means? Do you extend to all persons whatever, whoever they may be, all agents or employés of every kind and description authorized by law, the provisions of the "act to regulate the tenure of certain civil offices?" If you do, they have all to be appointed, without exception, by and with the advice and consent of the Senate. Is that the object? Do you mean that every officer of every kind and description, every agent, every employé in all the Departments of the Government, is to be appointed only by and with the advice and consent of the Senate? If you do, you are taking upon yourselves an amount of occupation which you will find it very difficult to perform; and you are to meet with certain difficulties. For instance, take the bank agents, whose case my friend from Ohio has suggested. They are appointed for a special purpose, and they are to proceed on the instant. The Comptroller of the Currency hears that a certain bank needs investigation—charges are made against it—and he wants to dispatch a man by the next train to examine into the condition of the affairs of that bank. As this bill stands he cannot send anybody to look into the affairs of that bank until he has picked out a man, suggested his name to the President, and the President has communicated it to the Senate, and he has been confirmed by the Senate. Take another case: a certain route agent dies or resigns, a man in charge of the mail—a postmaster, in point of fact, as my friend from Minnesota says—his place must be supplied at once. The mail cannot be suffered to go under the charge of nobody; there must be a man to attend to it. According to this bill before anybody can be sent and be paid—for men will not go without pay—the President must send the name of a person to the Senate, and he must be confirmed, and you know how things lag along here in executive session.

Now, while I am not only willing but desirous to do everything that can be done with propriety with regard to limiting discretionary power in the Departments, I am not willing to go so far that the proper business of the Departments cannot be looked after, owing to the delay that must necessarily arise. Consequently, in all these little questions of employment, for they are nothing more than employments, it has always been understood that they must be left to the heads of the Departments necessarily, because the action must be immediate, and they are really too trifling to come here.

The Senator from Pennsylvania spoke of second lieutenants in the Army. Second lieutenants in the Army are appointed for life; commissions in the Army are very different from appointments that may last three months, or one month, or ten days, or a week. They are not of the same nature or the same character.

Gentlemen, in their anxiety to limit power, I am afraid, may go too far, and go so far as in fact to embarrass the operations of business in the several Departments, and if they do that we shall lose very much more than we shall gain. Undoubtedly this power may be abused; possibly, and perhaps probably, in some instances it has been abused; but if you have officers of Government you must to a certain extent give them power; you must rely upon the character of the men and the responsibilities that they assume and the desire that they have to administer the affairs intrusted to them well. You must place confidence in somebody. Because you happen to get an officer at a particular time in some department of the Government whom you distrust, and who you think is abusing his power, the remedy is not to embarrass whoever may happen to fill that department so that he cannot possibly do the business of the department well. There is the trouble about this thing and about these small employés, men who are employed from time to time, and must be employed upon the instant.

Mr. PATTERSON, of New Hampshire. I should like to ask the Senator where he finds the word "employés." Does he suppose that the term "general and special agents" would cover clerks in the Departments?

Mr. FESSENDEN. They do not cover clerks, but they cover everybody that is appointed by any head of a Department to do any portion of the public business. I know the word "employés" is not used in the bill. I used it as designating the business of some of these agents. It covers everybody; it makes no exception.

Mr. PATTERSON, of New Hampshire. An agent and a regularly appointed officer are employés; they have employments, but the word "agent" does not necessarily cover all employés.

Mr. FESSENDEN. I know that. It does not necessarily cover them, but I am using the term "employés" as designating the business which some of these persons called agents have to do. Whether I use it correctly or not is not very material.

I do not agree with my friend from New Hampshire that in legislating upon business of this kind we are to consider anything about the spoils one way or the other. I think we have legislated quite enough in that direction, quite enough on that principle, and I do not want, so far as I am concerned, ever to use the word or hear it used in reference to legislation with regard to officers. We have something better to do.

Mr. PATTERSON, of New Hampshire. Allow me to say to the Senator that he misunderstood me on that point. I did not say that I adopted that theory. My remark was simply that a good deal was said about giving the spoils to the victors, and if that policy is to be adopted then let us give them to the victors, and not to the man who is attempting to take victory out of our hands.

Mr. FESSENDEN. I agree with the Senator about that, if that is as far as he goes.

Mr. PATTERSON, of New Hampshire. That was all I said before.

Mr. FESSENDEN. I am very glad that I misunderstood the Senator on that point, and I am happy to be corrected. We are in a peculiar position just now in reference to all these matters. We think we are suffering, and perhaps we may be to a certain extent, politically from the unfortunate difference that exists between the President and the party which elected him; but when we come to legislate we must legislate upon general principles and with reference to the state of things hereafter, unless we calculate in a very short time to repeal all our legislation and say that it was for a mere temporary purpose. I wish to avoid that as far as possible; and while I am willing to go to the extent of cutting off just as much of this discretionary power in all the heads of Departments as can be dispensed with, having due regard to the public interest, I must call the attention of the Senate to what I believe to be the fact, that to a certain extent, you must leave discretionary power with regard to the employment of agents in the heads of Departments.

I think, with great deference to the committee who reported this bill, that it has got into such condition, it is so indefinite in its terms, that it would be very much better, instead of trying to patch it up in the Senate here and making amendments to it, to recommit it to the committee and let them report it in a new draft. In my judgment we shall be in very great danger of making it worse by attempting to amend it in the Senate, as amendments may strike different Senators to be necessary. The difficulty is that while the committee were intending to accomplish one purpose and have accomplished it in this bill, they will, if the bill passes in this shape, accomplish a great deal more than they intended, and a great deal more than it will be safe to do.

With a view to obviate these objections, as the bill is important in its character and we all desire that it should pass in some shape, and to accomplish the purpose which has been specified I would suggest to the committee—I do not wish to make the motion myself—whether it would not be better to take the bill back again and redraft it. My friend from New Hampshire can do it a great deal better himself, after all the suggestions that have been made, than anybody else can do it, or than it can be done here by members in open Senate. I hope he will not have any feeling about it, this suggestion of mine, because it is really an important bill and aims to accomplish something that we all very much desire.

Mr. PATTERSON, of New Hampshire. I have no special feeling about the matter, but I think it will be utterly impossible for me, or for any other man to draft a bill that will meet the wishes and views of Senators as they have been expressed here this afternoon on this subject. The bill, in my view of it, goes very directly to the point which I for one had in view when it was drafted, and that seems to be its difficulty—not its indirection but its direction. That is the trouble with the bill in the minds of some gentlemen; it expresses precisely what was intended to be expressed by the bill. In the first place, in the first section it provides that all that class of officers who are appointed under the acts of 1792, 1799, and 1846 shall be dispensed with.

Mr. FESSENDEN. Why not specify those?

Mr. PATTERSON, of New Hampshire. They are specified in the first part of the bill by the words which are general, and then the exception is of "such as are duly authorized by statutes specifying the character and salaries of the agents so authorized to be employed."

Mr. FESSENDEN. Why not name the statutes?

Mr. PATTERSON, of New Hampshire. Those persons are appointed under the twentieth section of the act of March 3, 1863, which authorized the appointment of three agents. Section four of the act of March 5, 1865, authorized the appointment of ten agents. The fifth section of the act of July 13, 1866, authorized the appointment of an indefinite number of inspectors or revenue agents and special agents. Now, the bill provides that all that class of officers whose character and salary are not designated specifically by law shall be dispensed with, and these general and special agents, not "officers"—the word is not found in the bill—not clerks, not all employés, but just simply special and general agents who are appointed under these sections of the revenue acts, shall be sent here to be confirmed by the Senate, and it has been construed to cover the route agents who are appointed by the Postmaster General. If it does include them I am very glad of it; for I think if there is any Department where there is an abuse in appointments of this kind it is in that Department.

Here I will say something which I had not designed to say upon this bill. In my own State, route-agents against whose character not one word can be brought, men who have fulfilled their duties faithfully and to the satisfaction of everybody, men, too, who during the late struggle were officers in our Army, have been removed for no reason on earth except that they were not of the right political stripe in the estimation of the Department, and men appointed in their places who are unfitted for such positions; and in one instance, a man has been appointed whom I refused to recommend to the Postmaster General because I could not conscientiously do so. I will say furthermore that the appointment of general agents under these laws has become the great receptacle into which men who have been rejected by the Senate have fallen by the appointment either of the Executive or of the heads of Departments. One person, a Mr. A. B. Sloanaker, who was three times rejected by the Senate on account of his infamous character, has recently been appointed special agent in Texas, and is now manipulating and engineering the convention which has been called there to defeat our reconstruction laws.

Mr. RAMSEY. Special agent of what?

Mr. PATTERSON, of New Hampshire. Special agent of the Treasury Department; and so it is all over the country, men who have been rejected by the Senate are perambulating the country from one end to the other under commissions as agents of different Departments, and their principal business is to smell out the politics of men who are now filling office, and then to bring their names here for removal. Why, sir, a person has been appointed by the Navy Department in the Portsmouth navy-yard as a general agent who has no earthly duties in that yard; but it is an exceptional appointment, and the only function which he fulfills is to secure the removal of good and true men in that yard.

My object is to cover just such cases, and I think the bill goes in the most direct manner to that end, and the objection to the bill is that it does not meet the wishes and the exceptional cases of Senators. I go for the bill just as it stands. I do not expect to better it if it is sent back to the committee. If anybody else can do so, I have no objection. The bill was introduced to secure a retrenchment of expenses. This retrenchment is called for from one end of the country to the other, and called for by our political friends, and yet when the first measure for retrenchment comes into the Senate it is trampled under our feet because it hits some friend here or there or elsewhere. If this is the way such measures are to be treated we shall never retrench the expenses of this Government; we shall never get back to the peace basis. I have no doubt it will strike some of my political friends; indeed I know it will, but that makes no difference to me; let them go. It is more important that we should reduce the expenses of this Government than that my friends should remain in office.

Mr. THAYER. Mr. President, I apprehend that if the Senator from New Hampshire could have foreseen what kind of reception this bill would meet, he would have hesitated about bringing it in. When the Senator from Iowa [Mr. GRIMES] indicated that he did wish to except the Department with which his committee has official relations—I mean the Navy Department—I was surprised. I looked for an exception from that quarter; I expected that that Department should be exempted from the operation of this bill, but he disappointed me. I was still further disappointed to find the honorable chairman of the Committee on Foreign Relations asking that the Department with which his committee have official relations should be excepted from the operation of the bill, and I could not help recalling to mind a fact which that distinguished Senator by persevering effort brought before the gaze of the eyes of the world—the mode and manner in which Mr. Motley's removal from office had been procured. The name of McCracken came up from the past to my mind, one of the special agents sent over to Europe by Mr. Seward and Mr. Johnson to smell out whether something had not been said by some of our ministers abroad prejudicial to Mr. Johnson's "policy."

Mr. BUCKALEW. I hope the Senator will allow me to interrupt him. He is entirely mistaken. It was a voluntary communication from that gentleman to the State Department.

Mr. THAYER. He was not an agent of the Department.

Mr. JOHNSON. Pardon me for interrupting the honorable Senator; I do it in all kindness; but I rather think he is referring to matters which transpired in secret session. It is only necessary for the honorable Senator to be reminded of the fact.

Mr. THAYER. I certainly thank my honorable friend from Maryland——

Mr. SUMNER. Will my friend from Nebraska allow me to add a word there?

Mr. THAYER. Certainly.

Mr. SUMNER. Mr. Seward told me last Saturday that at the time the President handed that communication to him signed "G. W. McCracken," he had no idea who he was; he knew nothing about it; that since then he had seen one man who said he had seen McCracken; and that was all he knew about him.

Mr. NYE. Where?

Mr. SUMNER. He did not say where; he could not remember that; and I really had my doubts, I confess, whether the case was proved, whether the man really had seen him. I thought there was a doubt about it; I think it was probably some other person; but I mention these circumstances. I believe that the State Department at the time was imposed upon, and I am sure that it had no relations with this person.

Mr. HOWE. Mr. President——

Mr. THAYER. I will yield presently.

thank my honorable friend from Maryland for the kind suggestion which he has made; but I had reference only to what has appeared in the newspapers of the country. I made no allusion to anything which occurred in executive session. I certainly was under the impression that Mr. McCracken had been directed to scan into the position of our ministers abroad. If I am mistaken, of course I admit it frankly. The Senator from Massachusetts states to the Senate that Mr. Seward informed him recently that he did not know who McCracken was. So much the worse for the Secretary of State, for he admitted that he acted upon the representation of Mr. McCracken in recalling Mr. Motley, or rather into forcing him to tender his resignation. It is no excuse for the Secretary of State whether he knew him or not; he used the information that McCracken gave to the State Department. Whether there was such a man as Mr. McCracken I do not know. It seems there is only one individual who has yet been found who ever knew him or can testify to his existence; but it is proved that the Secretary of State and the President were governed by his information in forcing Mr. Motley, out of self-respect, to tender his resignation. That cannot be denied; and hence my surprise that the distinguished Senator from Massachusetts should ask that this restriction be not put upon the State Department.

Again, I was surprised that the honorable chairman of the Committee on Post Offices and Post Roads should ask that his particular Department be excepted from the operation of this bill.

Mr. RAMSEY. I desire to set the honorable Senator from Nebraska right on that subject. The chairman of the Committee on Retrenchment, who reported this bill, conceded twenty special agents to the Post Office Department, and I simply asked that the number be increased five. That is no very great offense, it seems to me. Besides that, I merely called the attention of the Senate to the fact that there are four or five hundred route agents; and if they pass this bill as it is, it will require the Senate to act on that many confirmations, and I asked them to contemplate that state of things. I did not appeal to them to reject the bill on that account.

Mr. THAYER. It occurs to me that I promised to yield to my friend from Wisconsin, which I do now.

Mr. HOWE. The occasion has almost passed. I rose to suggest to my friend that he could not be so much mistaken as Senators about me seem to suppose. He may be mistaken in supposing that this Mr. McCracken at the time he was corresponding with the State Department——

Mr. SUMNER. His letter was addressed to the President.

Mr. HOWE. My friend from Nebraska may be mistaken in supposing that at the time he wrote to the President he was acting under instructions from the State Department or from the President; but this fact remains: that the President and the Secretary of State accepted the information that they derived from him, and addressed to Mr. Motley the letter which drew from him the indignant tender of a surrender of the employment he held at that time under the Government; and that months afterward, while the Administration were trying to dragoon the Senate into the confirmation of some such man as we would not consent to, and when they had found nobody to take his place, and after they had abundant opportunity to know whether Mr. McCracken was a dead man or a living man, or a fact or a myth, they ordered Mr. Motley to leave Vienna, and to leave the post he then held and surrender the duties of that office to a *chargé d'affaires*.

Mr. SUMNER. All of which was very bad.

Mr. HOWE. All of which was very bad, and goes very far to satisfy me that my friend from Massachusetts is mistaken in supposing that the State Department was imposed upon. That Department had no right to be imposed upon, because there was abundant opportunity afforded it to act upon full information and act intelligently.

Mr. THAYER. It will be recollected that Mr. Seward addressed a communication to Mr. Motley, setting forth that such and such things were charged against him, and that resulted in Mr. Motley tendering his resignation. The communication was so offensive that he could not remain. The chairman of the Committee on Foreign Relations introduced a resolution, which passed, calling upon the Secretary of State for the source of information on which that communication to Mr. Motley was based. The Secretary replied by sending the letter of Mr. McCracken, so that, although he may not have known him, he based his official action on his letter.

So much for that point; but I was coming to the route agents. To my knowledge some of them have been nothing more nor less than exponents of "my policy," traveling over the country at the public expense. I am for cutting them off, or at least making their appointments subject to the confirmation of the Senate. Then the chairman of the Committee on Finance asks that a certain portion of the special agents in the Treasury Department be excepted. I can tell him that the appointment of those agents is a subject of abuse, or, at least, agents are guilty of abuse. I know of one instance where a bank agent went into a city in the West to examine the condition of a small bank with a capital of less than one hundred thousand dollars, the whole affairs of which he could have investigated in one day, and he stayed there ten days, proclaiming to the world that the financial distress in the country was the result of the legislation of Congress, not devoting his time to an examination of the affairs of the bank.

The knowledge of these facts is coming up to us from all sections of the country, and yet Republican Senators, chairmen of committees, rise in their places and ask that their respective branches of the public service be excepted from the operation of this proposed law. I am with the Senator from New Hampshire. I am for cutting down the tree instead of cutting off some of the branches.

Mr. STEWART. I do not believe that it is within human power to reach this evil except in one way; and that is, by passing a bill which will cut it all off—stop these special agencies, stop this discretion. I do not believe in it. I believe that it is in the power of Congress to name all the offices that are necessary and to prescribe the duties of their incumbents. If we cut off this discretion on the part of the Departments we shall very soon know what officers are necessary; we shall very soon ascertain what they deem to be necessary. If you leave them with this wide discretion you will have illustrations which are disgraceful to the Government and to the Congress which permits them. You will find adventurers coming to Washington without occupation and without character, pretending that they can be of great service to the existing Administration, if they can have a fat place. You will see men sent out all over the country so long as this discretion exists who are really unfit for any service. They will impose upon the Departments. Some politician will say that they may be useful in some political way, and the first thing you know they will be appointed.

It seems to me that it is within the power of Congress to name all the necessary offices and define their duties, and let the people know who may be officers, how many there may be, and what they are to do. I believe if you pass this bill and cut off these special agents you will soon ascertain what is necessary. If the bill is passed it will be very easy to get permanent relief for any of the Departments who need it. Here is the chairman of each committee that seems to have special relations with a Department, and through those chairmen the Departments can get through any law that is necessary to accommodate them permanently, while it is very hard to get a law through to cut anything off.

I hardly think this bill is definite enough; but I understand that it allows a month before it goes into full operation, and within that time we shall find whether it is necessary to create any more offices. If that is not a provision of the bill I would put it a month ahead, and in the meantime we can learn what offices it is necessary to create and define their duties.

I do not believe so much in secrecy in this Government. I do not believe in secret service. The service which secret agents were sent out to perform had better be public; it had better be known. All the agents of this Government should have duties and responsibilities of which the people should be aware. I believe the people are more likely to be influenced by what they do if the country understands what they are doing. If they are to go secretly into a neighborhood, nobody knows what they are doing, and it is very easy for them to collude with rascally officers; but if it is known that they are agents of the Government the people can watch them, and investigations can be made better when they are open, when the people know what is going on. This Government is not so much of a mystery, nor is the discharge of the duties of the various offices. I think the bill should cut off all those who are not specifically included and defined, and then if you have not created enough offices and defined their duties it will be time enough to do it. Put off the operation of the bill for thirty or sixty days, if necessary, and you will see in the meantime what is necessary to do. If it is recommitted to the committee, and an attempt is made to patch it up, each Department will claim to have its officers exempt, and you will do nothing, and you will see the same disgraceful scenes perpetrated for years to come.

Mr. BUCKALEW. I am in favor of referring this bill to the Committee on Retrenchment, which reported it. As it happened I was not present in the committee when this bill was considered, and I think it is important enough to undergo reconsideration after the debate which has now taken place in the Senate upon it and in view of the several propositions of amendment which have been made. If the bill were without further debate recommitted to the Committee on Retrenchment, I suppose that committee might meet to-night or to-morrow morning and report it back to the Senate promptly.

It is not my idea, it is not my desire, to delay action on this bill, or to defeat it. What I desire is that we shall introduce a safe and salutary reform with reference to these extraordinary appointments. I agree with gentlemen that with reference to one or two classes of appointees it is very proper that there should be some legal rule established, some reform instituted and put into the form of law. I think the extraordinary officers, agents of the Treasury Department, ought to be appointed entirely upon the recommendation of persons connected with the Treasury Department itself, and that the recommendations of persons outside, of men in Congress, and of politicians out of Congress, ought not to be listened to. I have discovered some details with regard to the action of the Government in this respect, to which I should like to call the attention of the committee, and I should like to confer with my colleagues on the committee with reference to the form of this bill, and I shall cheerfully unite with them in shaping the bill so that it shall be effective, but at the same time that it shall be confined to those points at which we ought to strike, without introducing confusion or inconvenience generally into the administration of the Government.

With these views I make the motion to recommit the bill to the Committee on Retrenchment.

Mr. CONKLING. I confess that for one I concur with the Senator from Pennsylvania, and I hope the Senator from New Hampshire will allow the bill now, without objection, to be recommitted, and he can report it at his early convenience.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The motion to recommit takes precedence of the pending amendment, and is in order.

Mr. HENDRICKS. I shall vote for the motion to recommit; but before the vote is taken I wish to say just a word or two. I was surprised that the Senator from New Hampshire should carry this debate down from the consideration of the interests of the Treasury to considerations altogether of a party sort. His last speech was addressed to the Senate upon party considerations, the uses that were made of these offices for party purposes. I am with him on this proposition to limit and control the Departments in making these appointments. I am not with him on the question of requiring the names of these little officers to come before the Senate. I think, however, that he is in no position as a party man to criticise the Administration upon questions of this sort. His party to-day has nine-tenths of the offices of this country. I undertake to say that of the two thousand clerks in the Treasury Department I expect there are nearly that many; I do not know how many there are; but looking at them as they pour out of the Department at four o'clock I should suppose there were two regiments, there is not one-tenth of that number who do not support the party in power in Congress.

In one office that I heard of there are but three that are against the Senator where there are one hundred and seventy or one hundred and eighty clerks. In one office that I heard of there was just one man left, finally, that supported the President and his administration, and he was appointed at my request—the only clerk holding office in Washington city, within my knowledge, upon my request. I asked his appointment because he had risen from the ranks in an Indiana regiment to be the lieutenant colonel of the regiment. He was wounded in battle. I took an interest in him because he was a pleasant gentleman, and he wrote me a letter that assured me he would make a good clerk. I had never seen him in my life, and after a good deal of trouble I secured his appointment.

A day or two ago he was turned out that a man might take his place who had been clerk to a sutler in the service. When things of that sort have taken place is it not surprising to hear gentlemen in the Senate talk about the use of these small offices for partisan purposes? I confess to the infinite disgust I felt when I was told that the young man had been turned out. I felt a pride in him because he is seeking to be a lawyer. He does not waste his hours after four o'clock, but he attends the law lectures, and is a promising young man. I wanted to see him through with it. He has no money to go on; he made no money in the war, but he lost blood. He has been turned out within four days, and a man takes his place who was a clerk to a sutler.

Mr. HOWARD. What are the politics of the latter?

Mr. HENDRICKS. In reply to the Senator from Michigan, I will say that the young man whom I had appointed——

Mr. HOWARD. My inquiry was as to the politics of the person appointed in his place.

Mr. HENDRICKS. He is a supporter of Congress; he believes the President is wrong.

Mr. CONKLING. Who appointed him?

Mr. HENDRICKS. I am not going to give any names about this transaction, and I would not have referred to it except for the references that have been made to the partisan uses of these little offices. He is the only clerk in Washington city that I know of who obtained his position upon any recommendation from me. I may have signed recommendations for others, but I do not know of any one in another Department holding his place through any influence I have exerted.

Now, if the Senator from New Hampshire wishes to retrench public expenditures I am with him; but if he wishes to put it upon partisan grounds I say that he has no cause of complaint, that the President of the United States and the heads of the Departments have left men in office month after month who have used their influence in every way they could to break down the Administration, in a political point of view, and that right here in Washington. Then why are these accusations made? Why is it sought to carry through a bill here that ought to stand upon its merits, professing to come from a Committee on Retrenchment; why is it sought to carry it through on accusations of a political sort which, I think, are not sustained by the fact? I was astonished that the Senator from New Hampshire, for whom I have so much respect, whose whole bearing in this body inspires all of us with the highest degree of respect, should have departed from what I think is the legitimate line of debate in support of a measure like this, to invoke partisan considerations.

The PRESIDING OFFICER. The question is on the motion to recommit the bill.

Mr. PATTERSON, of New Hampshire. I understand that the disposition seems to be very general to have this bill recommitted; I suppose I shall have to yield to that disposition. I wish to say, however, that if my friend from Indiana is disposed to support the bill as a bill looking to retrenchment I hope he will support it entirely on that ground. He has no reason to suppose that my remarks, which he thinks were of a political character, did not look entirely to his misfortune. I fully sympathize with my friend in his great misfortune; but he must remember that these removals from office have arisen since the controversy for the Presidency sprang up, and I think the candidates ought not to be aggrieved if they suffer in this way. [Laughter.]

I accept the proposition to recommit the bill, but I shall really despair of drafting a bill which shall except every Department of the Government and yet dispense with any of the officers now employed. However, if the bill is to be recommitted, I wish to have the opportunity of reporting it again to-morrow morning.

The motion to recommit was agreed to.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I think we had better adjourn.

Mr. TRUMBULL. There is some executive business that ought to be disposed of; but the Senate will do as it pleases.

Mr. SUMNER. I think the Senate had better adjourn, and I make that motion.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 4, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ROCK ISLAND BRIDGE.

Mr. PILE. I desire to introduce a joint resolution which has been agreed upon between the War Department and the railroad company referred to, and which will not be objected to, I think, by anybody.

The SPEAKER. For action or for reference?

Mr. PILE. For action at the present time. The joint resolution has been before the Committee on Military Affairs, and they have instructed me to report it to the House and ask unanimous consent that it be acted on now. It will not, I think, lead to any debate. It is a joint resolution in regard to the Rock Island bridge.

Mr. HOLMAN. I ask that the whole joint resolution be read.

The joint resolution was read. The first section provides that the act of Congress making appropriations for the service of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, be, and the same is hereby, so amended as to authorize and direct the Secretary of War to order the commencement of work on the bridge over the Mississippi river at Rock Island; provided that the ownership of said bridge shall be and remain in the United States; and the Chicago, Rock Island, and Pacific Railroad Company shall have the right of way over said bridge for all purposes of transit across the island and river, upon condition that the said railroad company shall pay to the United States, first, half of the cost of the superstructure of the bridge over the main channel, and half the cost of keeping the same in repair; and shall also build at its own cost the bridge over that part of the river which is on the east side of the island of Rock Island; and also the railroad on and across said island of Rock Island; and upon a full compliance with these conditions said railroad company shall have the use of said bridge for the purposes of free transit, but without any claim to the ownership thereof; and said railroad company shall, within six months after said new bridge is ready for use, remove their old bridge from the river and their railroad track from its present location on the island of Rock Island; and provided further, that the Government may permit any other road or roads wishing to cross on said bridge to do so by paying to the parties then in interest the proportionate cost of said bridge; but no such permission to other roads shall impair the right hereby granted to the Chicago, Rock Island, and Pacific Railroad Company; and provided further, that the total cost of said bridge shall not exceed the estimate made by the commissions appointed under the act above referred to.

The second section provides that in case the Rock Island and Pacific Railroad Company shall neglect or fail for sixty days after the passage of this joint resolution to make and guaranty the agreement specified in the act of appropriation aforesaid, approved March 2, 1867, then the Secretary of War shall be, and is hereby, authorized and required to direct the removal of the existing bridge, and to direct the construction of the bridge aforesaid, and expend the money appropriated for that purpose in said act; and the said Rock Island and Pacific Railroad Company shall not have, acquire, or enjoy any right of way or privilege thereon, or the use of said bridge, until the agreement aforesaid shall be made and guarantied according to the terms and conditions of said act of appropriation; and all acts and parts of acts inconsistent with this joint resolution are hereby repealed.

The SPEAKER. The question is upon giving leave to report this joint resolution for consideration at this time.

Mr. SPALDING. I object.

Mr. HOLMAN. I think the joint resolution is so important that it should be carefully considered.

The SPEAKER. Objection being made, the joint resolution is not before the House.

Mr. PILE. Then I ask unanimous consent to report the joint resolution and have it ordered to be printed and recommitted.

No objection was made.

The joint resolution (H. R. No. 193) was then received, and read a first and second time.

Mr. PILE. I move that the joint resolution be printed, and recommitted to the Committee on Military Affairs.

The motion was agreed to.

ST. GEORGE AND BOOTHBAY, MAINE.

Mr. BLAINE, by unanimous consent, introduced a bill (H. R. No. 656) to make St. George and Boothbay ports of delivery, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

WALTER PLOWDEN.

Mr. LOGAN, by unanimous consent, introduced a bill (H. R. No. 657) providing payment to Walter Plowden for services done the Government of the United States during the

late war; which was read a first and second time, and referred to the Committee of Claims.

APPOINTMENTS OF CADETS.

Mr. LOGAN. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting a bill providing for the distribution of cadets hereafter appointed to West Point among such colleges of the different States as may in said bill be designated, with the provision that they shall receive the same position and rank in the Army as those graduating at the West Point Academy.

Mr. HOLMAN. I object.

CUSTODY, ETC., OF PUBLIC MONEYS.

Mr. BUTLER reported back from the Committee on Appropriations the bill (H. R. No. 500) for the better regulation of the custody and expenditures of public moneys; which was ordered to be printed, and recommitted.

SUPPRESSION OF INDIAN HOSTILITIES.

Mr. MALLORY, by unanimous consent, introduced a joint resolution (H. R. No. 194) extending the provision of an act entitled "An act to provide for the payment of expenses incurred in the suppression of Indian hostilities in the Territories of Oregon and Washington in the years 1855 and 1856," approved March 2, 1861, so as to include certain claims not now included; which was read a first and second time, and referred to the Committee of Claims.

IMPROVEMENT OF NEW JERSEY COAST.

Mr. HAIGHT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the necessity of opening an inlet on the New Jersey coast from the Atlantic ocean to a point near the head of Barnegat bay, below the mouth of Metetecunk river, to facilitate the passage of vessels, to prevent the destruction of life on the coast, to promote commerce, and to protect Government property; and also to inquire if the objects aforesaid will be promoted by the opening and maintaining of an inlet at that point, the amount necessary to be expended, and whether an appropriation should be made by Congress for that purpose, and report by bill or otherwise.

SOUTHERN LAND GRANTS.

Mr. JULIAN. I desire to announce that if the House should resume this morning the consideration of the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes, it is my purpose to call the previous question at three o'clock to-day.

OUTRAGES ON TENNESSEE UNIONISTS.

Mr. ARNELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas armed organizations known as the "Ku-clux Klan" are committing brutal outrages and murders upon white and colored Unionists within the counties of Maury, Giles, and Montgomery, in the State of Tennessee; and whereas a state of great terror and uncertainty prevails therein:

Resolved, That the Committee on Freedmen's Affairs be, and are hereby, instructed to inquire into these outrages and the best means for their immediate suppression, and to report to this House by bill or otherwise.

RELEASE OF COLONEL HALPIN, ETC.

Mr. EGGLESTON, by unanimous consent, presented resolutions of Lincoln Encampment, Post No. 159, Grand Army of the Republic, Department of Ohio, passed at Cincinnati, Ohio, on the 23d of January, 1868, requesting the release of Colonel Halpin and Lieutenant James Smith from a British prison, where they are now confined for expressing loyal sentiments to the Government of the United States, of which they are citizens; which were referred to the Committee on Foreign Affairs.

TREATY REGULATION OF IMPORT DUTIES, ETC.

Mr. MAYNARD. I ask unanimous consent to submit the following resolution for reference to the Committee of Ways and Means:

Resolved, That it is the sense of this House that it is inexpedient and of doubtful authority to attempt by treaty to regulate the duties on imports, or otherwise to interfere with the revenues arising therefrom as established by statute.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. The regular order during the morning hour is the bill (H. R. No. 584) concerning the rights of American citizens in foreign States.

Mr. MAYNARD. I merely desire the reference of this resolution.

Mr. WASHBURNE, of Illinois. I will state my reason for demanding the regular order of business. The bill reported from the Committee on Foreign Affairs will remain before the House until it is disposed of. Until that bill is out of the way no other committee can be called. If the whole morning hour be consumed in miscellaneous business this bill may be continued from day to day indefinitely. I merely state this for the benefit of the committees that are behind the Committee on Foreign Affairs. The Committee on Commerce is behind. It has a great deal of business to report. But I do not interpose any objection to the reference of the resolution of the gentleman from Tennessee.

The SPEAKER. The question now is whether there is any objection to the reference of the resolution of the gentleman from Tennessee [Mr. MAYNARD] to the Committee of Ways and Means?

Mr. HIGBY. I object to its reference.

The SPEAKER. Then it is not before the House.

TAX ON BONDS.

Mr. LOGAN. I ask unanimous consent to introduce a joint resolution providing for the payment of internal tax on bonds for reference. It provides that from and after the 1st day of June, 1868, all United States bonds shall pay an internal tax of two per cent. semi-annually, to be collected by deducting said percentage from the coupon when presented to the Treasury of the United States for payment. I ask that it be referred to the Committee of Ways and Means.

Mr. MILLER. I object.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. HIGBY. I will now yield the floor to the gentleman from New York [Mr. BAILEY] for ten minutes.

Mr. BAILEY. Mr. Speaker, the gentleman from California [Mr. HIGBY] has kindly given me ten minutes of his time. I have sought the floor to indicate some amendments which I think should be made to this bill. I trust that I may be permitted to premise that I heartily approve the principle it embodies, and will cheerfully take my full share of the responsibility of placing this Government in the attitude proposed. Beyond all question, the bill enunciates the will and declares the purpose of the people of this country. This being so, it is imperative upon Congress to give that will and purpose this official expression. It is due also to foreign States that they should distinctly understand not only the wishes, but the determination also, of the Government of the United States upon this subject. They should be respectfully told once for all that the argument is closed and our decision made. When that is done they will not need to be further told that a deliberate violation of the rights here proclaimed will be at the hazard of war. And that hazard, I venture to predict, will never be incurred by any foreign State. Neither we nor our children will ever see a war in defense of the slavish feudal doctrine of perpetual allegiance. So long as foreign States can make this a diplomatic question so long they will refuse to recognize the rights here asserted. But no foreign State will resist the argument contained in this bill. The just and righteous position here taken, and which is hereafter to be maintained, will insure to every American citizen, no matter what his origin or how humble he may be, the freedom of the world. Then, and not till then, this Government will have performed one of its most important duties. And then, too, the heart of the naturalized citizen will warm to the flag which everywhere protects him with a boundless enthusiasm and loyalty.

Such, in brief, is my estimate of the object of this bill. But I think, as others do, that it should be materially amended. I understand, from the report of the committee, and from the speech of its distinguished chairman, that it is designed mainly to be a declaration of principle. That declaration is contained in the first paragraph of the first section, and is as follows:

"All naturalized citizens of the United States while in foreign States shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances."

With all deference to the committee, I do not think the language used well expresses the thing meant. It impliedly concedes that the protection accorded by this Government to native-born citizens has not been heretofore accorded to naturalized citizens. Even if this were true, we should not embody such a concession in this statute. But it is not true.

Again, sir, there is an indefiniteness in the protection promised which should not be found in such a declaration. Naturalized citizens are here told that they shall have the same protection in foreign States that is accorded to the native born in the same situation. What is that protection?

Instead of this "glittering generality," why not declare that they shall receive when in foreign States adequate protection of life, liberty, and property? That is just what they need, and that would be a definite, tangible pledge.

Again, I respectfully submit that this declaration should by its terms embrace every American citizen, native born as well as naturalized, so that the paragraph would read:

"All citizens of the United States, while in foreign States, shall be entitled to and shall receive from this Government adequate protection of life, liberty, and property."

I earnestly protest against the next paragraph, empowering the President—

"To employ all the resources of the Government to secure the recognition of the principles of public law heretofore asserted by the Government in regard to the right of naturalized citizens."

The Constitution provides that Congress alone shall declare war, and Congress cannot, if it would, delegate this power. "All the resources of the Government" certainly include the Army and Navy. Whatever glossing the committee may put upon the language, such would be the understanding of foreign States.

Again, this language is undignified in such a bill. We undoubtedly intend to defend this principle at all hazards; but it is not therefore necessary for the nation to assume a swaggering air in its congressional enactments or in its intercourse with other countries.

But another and an insuperable objection to this provision is, that it reopens the debate upon the old question of perpetual allegiance. We have been trying our logical powers upon this subject ever since we had a national existence, and we are to-day just where we began. The country insists that this debate shall end. I am for ending it, so far as the United States are concerned, now and forever. I therefore protest against the renewal of this discussion, and I especially protest against this proposed mode of doing it, namely, with a brief in one hand and a musket in the other. Besides, this disposition of the matter completely neutralizes the preceding sentence, as was said by the gentleman from Iowa, [Mr. WILSON,] and changes that noble and emphatic declaration into a mere empty vaunt. Again, sir, in my judgment the exceptions stated in this and subsequent sections had better be stricken from the bill altogether.

Where a general rule is stated with certain specified exceptions, the rule covers all matters coming within its terms not so specifically excepted. But there are many exceptions that should be added to this list if we are to have such an enumeration at all. I have no time to specify. But I think that the bill had better be confined to the simple declaration

of right, and the announcement of our determination to maintain it. It will, then, necessarily be held not to include the cases here enumerated, or which might be enumerated. We can safely leave that matter to the judgment and discretion of the Executive.

The hammer is ready to drop; I can therefore only add that I would suggest something like the following as a substitute for the bill, namely:

Joint resolution declaratory of the rights of American citizens in foreign States.

Whereas all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and owe allegiance to the Government of the United States, and to no foreign State or Power whatever. And whereas certain foreign States have claimed the allegiance of certain of said citizens, and have violated the rights, privileges, and immunities of said citizens when within the jurisdiction of said foreign States: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all citizens of the United States, when in foreign States, are entitled to, and shall receive from, this Government adequate protection of life, liberty, and property.

Mr. HIGBY. Before proceeding to speak to the question I desire to make a proposition to the House. This is a question entirely new to us as a matter of legislation, and not only is it one of very great importance to the nation, but it is one upon which we have got to get the consent of foreign nations as well as our own. Our morning hour is so crowded with reports of committees that I propose that the House take a recess to-day from half past four o'clock till half past seven, the evening session to be devoted entirely to debate upon this bill, and that speeches be limited to twenty minutes each. A dozen or more have been to me and requested a little portion of my time. This is one of those questions that should receive the deliberate consideration of the House.

Mr. JUDD objected.

Mr. HIGBY. I do not propose to have a vote.

The SPEAKER. The gentleman from Illinois [Mr. JUDD] objects.

Mr. BUTLER. The gentleman from California [Mr. HIGBY] has consented to yield to allow me to have read a substitute for this bill, which I send to the Clerk's desk.

The Clerk read as follows:

Whereas the Government of the United States, framed by a people made up wholly of colonists and emigrants from other nations, by the very theory of its composition declares the indefeasible right of all men, when untainted by crime against the municipal laws of their country at the time of their departure, to expatriate themselves and to form new relations of citizenship in other lands at will: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That under the Government and by the laws of the United States it is declared a settled rule of public law that every citizen of any country not a fugitive from its justice, has an indefeasible right at will to expatriate himself and absolve his allegiance to the country of his birth; and when, under the laws of the United States, any such citizen of a foreign country has become a citizen of the United States he is entitled to have all the protection at home and abroad which the Government can afford to any citizen thereof; and it shall be given to every citizen until, by removal from its territory with that purpose by a like solemn act, he shall have renounced his allegiance to this Government.

SEC. 2. Whenever a citizen of the United States shall be deprived of his liberty or despoiled of his property in any foreign country by the act of the Government thereof, he not being held for trial for, or convicted of, a crime against the municipal laws of such country for acts done therein, his release or reparation for the spoliation shall be demanded by the President, and upon failure of compliance with such demand by said Government, or reasons given therefor satisfactory to the President, all diplomatic and commercial intercourse between such country and the United States shall thereupon cease until such citizen be released or reparation tendered; and the President shall as early as possible communicate all the facts in relation to the deprivation of liberty or spoliation of property of such citizen by such Government and the reasons therefor to the Congress of the United States for its action.

Mr. JENCKES. Mr. Speaker, I give notice that at the proper time I shall move the following as a substitute for the pending bill:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of expatriation, and also the right of naturalization under the conditions imposed by law be, and they hereby are, declared to be and to have been a part of the public law of the United States, and the executive department of the Government shall insist upon the recognition of these rights by the Governments of all other nations; and if such rights shall in any case or in any manner be contravened by the Government of any foreign State, contrary to the intent and purposes of this act, it shall be the duty of the Executive to give information of the same to Congress without delay, in order that means may be taken with effect for the protection of any citizens of the United States in any rights which may have been interfered with or denied by such foreign Governments.

SEC. 2. *And be it further enacted*, That any citizen of the United States may lose his national character, first, by becoming naturalized in any foreign country; second, by undertaking, without the permission of this Government, the performance of public duties under a foreign Government; third, by making his domicile in any foreign country without intent to return. But no residence for the purpose of commerce shall be considered as made without intent to return.

SEC. 3. *And be it further enacted*, That citizens of the United States in every part of the world, while engaged upon lawful business, shall be entitled to and shall receive such protection as this Government has the power to afford to their persons and property, and the executive department of the Government shall see that such protection is given, and that the rights of American citizens shall be recognized in every foreign State; but such protection shall not be accorded to the following classes of persons, and the Executive shall not interfere in their behalf after their quality shall have been ascertained:

First. Those who have renounced their citizenship in either of the modes described in the preceding section.

Second. Those who may be guilty of any crime against the laws of any foreign State, committed within its jurisdiction.

Third. Those who, by treason or any other crime against the United States, shall have forfeited their rights as citizens of the United States.

Fourth. Those who shall have been absent from the United States for more than five years continuously, and who shall have failed to make return of their income and property for taxation, and shall have paid taxes in the district and State within the United States where they have each had their last domicile during each year of such absence, in the manner required by the laws of the United States and of such State.

Fifth. Those who shall engage in the service of any foreign belligerent, contrary to the provisions of the neutrality laws of the United States.

Sixth. Those who may connect themselves with any association in any foreign country, whose organization requires citizenship of such country as a qualification for membership thereof.

Seventh. Those naturalized citizens who shall return to the country of their birth with intent to resume a domicile therein, which intent shall be presumed from five years' continuous residence in the native country of any such naturalized citizen, or from the establishment of any business therein which requires his personal attention, and which denotes an intention of remaining a permanent resident.

Eighth. Those persons who have procured the evidence of naturalization by misrepresentation or fraud in regard to residence or otherwise.

Ninth. Those who have deserted from actual service in the army or navy of any foreign State, or who, owing military service to their native country, have left it to avoid a conscription actually ordered.

"SEC. 4. *And be it further enacted*, That any citizen of the United States who shall have lost or renounced his citizenship in either of the modes hereinbefore set forth, may again become entitled to the same by resuming his permanent residence in any State or Territory thereof, and by making declaration of his intent to resume his citizenship in the clerk's office of any court of the United States.

Mr. HIGBY. Mr. Speaker, how much time have I left?

The SPEAKER. Ten minutes.

Mr. HIGBY. Mr. Speaker, up to this time in the history of our country there has been no legislation on the question now before the House, and we are now about to enter upon a policy of deciding who is a citizen of the United States, and how far the power of this Government shall go to defend him as such, and the law which shall be passed by the Congress of the United States is not one that addresses itself to the citizens thereof alone, but it must be so well founded in justice, must be so clearly defined, that it will address itself to the good sense and the common sentiment of all the civilized nations of the earth. For that reason, sir, it becomes us to be deliberate in its consideration, and to know we have settled upon a policy which shall be one so righteous that we can plant our feet upon it and pledge the whole power of the nation to its defense. The bill as it was reported from the Committee on Foreign Affairs is very good in part, yet exceptions are taken, and I think properly taken, to it. Propositions have been offered in connection with that bill, and among them all I have no doubt we can sift out a policy which will be right and just.

Sir, the war of 1812 arose out of the very principles involved in this bill. Yet, after three years of war we failed to settle that important question. In the treaty of peace not one word was said in reference to it; and to-day we are just as much at sea as we were when that war commenced. That same Power across the ocean that was so aggressive upon the rights of this nation when its strength was only a tithe of what it now is is as aggressive to-day as it was then. And so, sir, it will continue to be, saying nothing of other nations in the rights they assert, until this Government has a settled policy upon this question, and we are of one heart and one arm in its defense.

I have deemed this question of more importance and one deserving of more consideration by this House, as it is one that addresses itself to no class of our citizens, to no sect, to no political party, but addresses itself to every citizen of this nation who has its welfare at heart. I hope the Committee on Foreign Affairs will leave this question open from day to day before the House, so that every part of this bill shall be thoroughly and impartially examined and criticised until we can get it so perfect that every member of the House can give it his support.

It is of special importance, also, for this reason: the nation whose conduct now calls for our prompt action should have an expression of the popular branch of this Government, which comes so fresh from the people, that will show to that nation how unanimous is the sentiment upon this question; and if such should be the action of this House we may find that it will cause a saving of expense not only to our own Government, but to other Governments across the Atlantic, and subserve the interests of peace among all nations from which international law commands respect; for I believe there is no question that can come before the American people that will secure such unanimity as this one. Then if the conduct of Great Britain should be such that this nation should feel it incumbent upon it to go to war for the sake of saving its honor that nation would feel such a power knocking at its gates as it never yet has felt, and would find this nation a unit in the great struggle. Therefore, I say, when we are expressing ourselves in this Hall upon this question we should have the proposition so framed and presented that we can be united upon it, and let our expression go forth as unanimous.

I will here say, Mr. Speaker, that the proposition submitted yesterday in the shape of a bill by the member from Rhode Island [Mr. JENCKES] has, in my opinion, less defects in it than the bill as presented by the Committee on Foreign Affairs; and yet, sir, whether that should be adopted by the House as a substitute for this bill I am not prepared to say. If any gentleman should find some defects in the bill let them be suggested; let us sift it and criticise it until we get the best possible bill that can be framed; and when we have done so let us then act together without regard to political differences with reference to our internal national affairs.

Mr. JUDD. Mr. Speaker, my reason for objecting to the proposition of the honorable member from California, [Mr. HIGBY,] to postpone this discussion until four o'clock and then take a recess and hold an evening session to be devoted exclusively to debate upon this question, was that I regard the proposition now before the House as of sufficient importance to command the attention of the entire House, and my experience and observation have been that evening sessions are rather devoted to preparing matter for home use than occasions for seeking information from each other and comparing views for the purpose of actual legislation and business. For that reason, and with no idea of limiting this debate, did I make the objection.

When this question of the protection of the rights of naturalized citizens was first presented

to the House by the honorable member from New York, [Mr. ROBINSON,] I took occasion to express to the House, in some remarks that I then made, some of the real and serious wrongs inflicted upon our naturalized citizens abroad; and I undertook to show to the House that the policy of this Government, as indicated by the action of the Executive, was neither "fish nor flesh." The legislative branch of the Government having never acted upon this question, I did believe, and I do believe now, that it is the duty of this Congress to declare in plain terms the principle that lie at the foundation of the Republic of the United States and to fix and determine a policy for the Executive and see that that policy is enforced. I had the honor to address this House on the 2d of December last; two months have gone by and nothing accomplished, not even the information from the State Department to enable us to act understandingly. During these two months the people have been speaking in no doubtful tone, by public meetings, municipal organizations, organized societies, and through the press.

The comments which I shall make at this time will be confined to the law and the bill reported from the Committee on Foreign Affairs, leaving my views upon the general question of how our citizens have been treated and how the Executive of this nation has acted upon the questions as they were presented in the remarks that I made upon a former occasion.

Mr. Speaker, the importance of the question involved in this bill need not be urged upon the attention of this House. To the individuals whom we have invited to our shores and given the rank of citizenship, and to those who are now seeking our country, it is of vital importance to know whether, when they assume the duties of citizenship, they obtain at the same time the protection that every Government is bound to give to its citizens. To the nation it is important as a question of duty, dignity, and power. What member of this House would like to record his vote in favor of a declaration that this nation dare not and could not protect its citizens? And I desire this House to consider well the course that it intends to pursue, because, when once entered upon, if our demands are met with refusal and resistance, we must be prepared if need be to carry out our declarations to the "last arbitrament of nations." With freedom now guarantied to all in human form within our boundaries, will this nation suffer our citizens in foreign lands to be treated with contumely and contempt, impressed into military service, imprisoned for no offense, punished without crime, and when charged with crime denied in the administration of laws the privileges accorded to every other nationality?

The protection of personal liberty is to me, Mr. Speaker, superior to the protection of property. It is idle for us to talk of our nationality if our citizens cannot be protected in their rights as citizens of the United States when abroad. We have fought for a principle more than once. Our origin as a nation was in defense of a principle. The second war was in defense of a principle; and our civil contest just closed, so far as the conflict of arms is concerned, was for a principle. In all these contests success has crowned the right. The question of the rights of naturalized citizens has now reached a point requiring the action of Congress—a declaration of the rights of American citizenship, and preparation to maintain them.

The report and bill now before the House remit again to the delusive devices of diplomats and paper-pellets the dearest rights of American citizens. There is in this bill neither the assertion of an unconditional principle nor any effective provisions for the redress of wrongs in case our declarations are not regarded. Before calling the attention of the House to the detailed and specific objections to this bill, I propose to refer to some rules of law and the practice of nations, so that we may understand what we are about to do.

All the civilized nations of the earth have laws providing for the naturalization of foreigners, and this action on the part of the various nations is practically a complete answer to the claim of "perpetual allegiance" or the doctrine "once a subject always a subject." Each of those nations, by the act of admitting foreign-born persons to citizenship, override, in more or less degree, by their legislation, the pretended principle of "perpetual allegiance."

From the earliest times the right of expatriation has been acknowledged. Cicero, the earliest and most distinguished *juris consult* of antiquity, declares—

"That it is one of the firmest foundations of Roman liberty that the Roman citizen had the privilege to stay or remove his residence in the State at pleasure."

And although some Governments, especially Great Britain and some of the German States, in modern times have labored to restrict and limit the right, yet it is maintained by the most enlightened jurist in all countries.

"It is believed that every State in Christendom accords to foreigners, with more or less restrictions, the right of naturalization, and that each has some positive law or mode of its own for naturalizing the native-born subjects of other States without reference to the consent of the latter for the release or transfer of the allegiance of such subjects. It seems, therefore, that, so far as the practice of nations is concerned, the right of naturalization is universally claimed and exercised without any regard to the municipal laws of the States whose subjects are so naturalized. It may also be remarked that this right, as a general proposition, is admitted and affirmed by most writers of acknowledged authority on international law. From the generality and extent of this right of naturalization it has been inferred that the right of expatriation is equally broad and comprehensive."—*Halleck on International Law*, p. 692.

The honorable gentleman from Pennsylvania [Mr. WOODWARD] concedes all that is claimed by the advocates of "divine right" and "perpetual allegiance." Starting with the proposition that perpetual allegiance is the doctrine of the common law, and that by adopting the common law the United States sanctioned that principle, he arrives at the conclusion that without congressional legislation that rule still prevails in the United States. Is that true, Mr. Speaker? I do not now ask the question whether Kent and Story may not have assented to the doctrine, nor whether some of our courts may not have "produced the conceit" in the law lectures known popularly as judicial opinions. The history of jurisprudence is full of discarded extra judicial notions and doctrines that have crept into the books by constant reiteration, but which, as soon as tested by the application of right reason and an issue, disappear, and the *dicta* in this matter belong to that class. The United States have never adopted the English common law as a rule or code for itself. The judiciary act of 1789 declares:

"That the laws of the several States, except where the Constitution, treaties, or statutes of the Union otherwise require, shall be recognized as rules of decision in trials at common law in the courts of the United States in cases where they apply."

The rules of decision, then, are derived from the laws of the several States in all cases except such as involve the Constitution, treaties, and statutes of the United States. Kent says:

"That the common law, so far as it is applicable to our situation and form of government, has been recognized and adopted as one entire system." * * * * "It has been assumed by the courts of justice or declared by statute with the like modifications as the law of the land in nearly every State."

We thus see that the English common law was not adopted even in the States except so far as applicable to our situation and our form of government. Mr. Justice Breese, of the State of Illinois, discussing the extent of the application of the rules of common law, says:

"We have, like most other States of the Union, adopted the common law by legislative act, but it must be understood only in cases where the law is applicable to the habits and condition of our society and in harmony with the genius, spirit, and objects of our institutions."

The very origin and nature of our institutions utterly forbid the idea that the doctrine of "perpetual allegiance" is consistent with our institutions.

Having shown that the common law of England, as adopted by the several States, was restricted by the consideration that the rulers should be in "harmony with the genius, spirit, and object of our institutions," it seems to me that argument is not necessary to demonstrate that this rule is entirely contrary to the genius and spirit of our institutions. The right of expatriation is clearly implied as inalienable in the enumeration of rights in the Declaration of Independence, and its obstruction was one of the wrongs charged by the colonies against the English crown. The Constitution vested in Congress the power to regulate naturalization by uniform rule. Among the earliest legislation of the United States was that providing for the naturalization of foreigners. As early as 1795, in order to become citizens of the United States, we demanded of them that they abjure absolutely all allegiance to any foreign Power, thus declaring to all the world the right of expatriation. Is it to be solemnly argued that the rule that we apply to other nations is not a rule with us? Chief Justice Robertson, of Kentucky, says:

"Whatever may be the speculative or practical doctrine of feudal governments or ages, allegiance in these United States, whether local or national, is, in our judgment, altogether conventional, and may be repudiated by the native as well as adopted citizen, with the presumed concurrence of the Government, without its formal or express sanction. Expatriation may be considered a practical and fundamental doctrine of America. American history, American institutions, and American legislation, all recognize it. It has grown with our growth and strengthened with our strength."

Allow me now to discuss in detail the provisions of this bill and see whether, if adopted, we would be any further advanced in the direction of protecting our citizens than at the present time, or whether, on the contrary, this bill does not hamper, restrict, and deny rights to our naturalized citizens that never before were questioned, and impose conditions more oppressive than are claimed by any sovereign Power of Europe except the Czar of Russia. The gentleman from Iowa, [Mr. WILSON,] in my judgment, gives the key-note to the entire provision of this bill. One declaration of principle is neutralized by restrictions incompatible with that declaration. Says the member from Iowa:

"It is diplomacy, not legislation. Enact this bill and you do not change the laws or practice of this nation in the remotest degree."

I differ with him in one respect. This bill increases the difficulties of naturalized citizens and makes a broad distinction between him and the native born. The inmates of British dungeons may stay there and rot without any movement by the Executive of our Government if this bill is to be the propelling power. The German citizens visiting the homes of their fathers may be forced into the army and compelled to fight for the sovereigns of Europe, even against the country of their adoption. The first clause of the first section of the bill says:

"That all naturalized citizens of the United States while in foreign States shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances."

Had the bill stopped here it would have had the merit, at least, of affirming a just and true principle. But the bill proceeds by saying that—

The President is empowered to use all the resources of the Government in just efforts to secure the recognition by other Governments of the foregoing principles of public law which have been heretofore asserted by the Government of the United States in regard to the rights of naturalized citizens.

Pausing here, let me ask what efforts to secure recognition by other Governments would be just, and who is to determine that justice? Is the President or foreign Governments to be the judge of their justness? It is plain that in this bill the whole matter is left to executive discretion, as it has heretofore been, and the oppressed may still languish in prison indefinitely while the State Department is still making "efforts." But this is not all. The recognition required of other Governments is of the foregoing principles of public law that have

been "heretofore asserted." And what principles have been "heretofore asserted?" Except by the naturalization laws, the law-making power has never asserted any principles upon this subject. The judiciary, upon a direct case, has never decided this question, and if the words "heretofore asserted" have any significance they relate only to executive action. The gentleman from Iowa [Mr. WILSON] shows so conclusively that the last clause neutralized the declarations of the first that I will not repeat the argument further than to ask what "principles of public law have been heretofore asserted" by the executive department of this Government? Mr. Everett, Secretary of State, in a dispatch of July 14, 1853, says of a German who had returned to his native land, and sought protection against incorporation into the army of Prussia:

"His departure is of the nature of an escape from her laws; and if at any subsequent period he is indiscreet enough to return to his native country he can not complain if those laws are executed to his disadvantage."

General Cass as Secretary of State, in 1859, in writing of a similar case to that of Mr. Everett, says:

"The moment a foreigner becomes naturalized his allegiance to his native country is severed forever. He experiences a new political birth; a broad and impassable line separates him from his native country. He is no more responsible for anything he may say or do, or omit to say or do, after assuming his new character, than if he had been born in the United States. Should he return to his native country he returns as an American citizen, and in no other character."

Here are two conflicting principles "heretofore asserted" by the executive department of this Government. Will the chairman of the Committee on Foreign Relations [Mr. BANKS] inform the House to which of these principles his bill refers? The bill itself does not say. He could not have intended to insist upon both. The power conferred by this clause upon the President is not to enforce the first declaration, but only those principles which have been "heretofore asserted," and what those are I have shown by these quotations. All the vigor in the bill having been exhausted in these portions of the first section, restrictions, limitations, and provisos begin which are in conflict with the principle declared at the commencement of the bill; as though the matter was not weak enough, it must still be further neutralized. The bill refuses protection to naturalized citizens under certain circumstances: first, "that no citizen of the United States who is guilty of any crime against the laws of any foreign State committed within its jurisdiction."

There is no occasion for this proviso. The law and comity of nations determine this question beyond dispute. Every sovereignty has this power, and it never has been questioned by this or any other civilized country. Why, then, force it into this bill? I pass over the entire failure to define what shall constitute the crime for which our protection is withdrawn from the citizen—a very important feature if this proviso is to be enacted into a law. England may declare that it is a crime for a naturalized citizen to land on her shores, or attach criminality to any other act of a naturalized citizen, right in itself. Should she do so, then, under the provisions of this bill, all protection to our citizens is destroyed.

Mr. Speaker, this proviso goes further. From the language of it the United States is forbidden to see that foreign laws are justly administered when a citizen is charged with crime in a foreign land. Can it be that we are to pass a bill justifying Great Britain in her recent refusal to allow to our citizens the benefit of the laws as they stand upon her statute-book?

[The morning hour having expired, Mr. JUDD yielded the floor till to-morrow.]

ORDER OF BUSINESS.

The SPEAKER. The morning hour having expired, the House resumes the consideration of the bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes; upon which the gentleman from Wisconsin [Mr. ELDRIDGE] is entitled to the floor for forty minutes.

Mr. JUDD. I ask unanimous consent to be allowed to finish my remarks. I only want about twenty minutes.

Mr. HOLMAN. I have no objection to that if it is the understanding that the vote on the southern land-grant bill is not to be taken to-day.

The SPEAKER. The gentleman from Indiana [Mr. JULIAN] has given notice that he will ask for a vote on that bill at three o'clock to-day.

Mr. JULIAN. So many members are interested in this matter beside myself that I feel compelled to object to the request of the gentleman from Illinois, [Mr. JUDD.]

Mr. HOLMAN. I hope the gentleman will not object, and that he will agree not to call the previous question on his bill until to-morrow.

Mr. JULIAN. Several gentlemen are objecting to the postponement of that bill until to-morrow, and I must yield to the pressure, although I would be very glad to accommodate the gentleman from Illinois.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. JUDD] that it is very unusual to extend the morning hour.

Mr. JUDD. Very well; I withdraw my application.

The SPEAKER. The gentleman will be entitled to the floor to-morrow.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 306) for the protection in certain cases of persons making disclosures as parties or testifying as witnesses, in which he was directed to ask the concurrence of the House.

DESTITUTION IN THE DISTRICT OF COLUMBIA.

On motion of Mr. KOONTZ, by unamimous consent, the bill (S. No. 270) for the temporary relief of destitute people in the District of Columbia was taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

Mr. HOLMAN moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

UNION PACIFIC RAILROAD.

Mr. WASHBURN, of Wisconsin, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform this House if the Union Pacific railroad and other railroads named in an act approved July 1, 1862, entitled "An act to aid in the construction of a railroad," &c., have complied with section twenty of said act and made the reports required by the same, and if so, to furnish this House with copies of said reports.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SOUTHERN LAND GRANTS.

The House then resumed the consideration of the bill in relation to southern land grants, upon which Mr. ELDRIDGE was entitled to the floor.

Mr. ELDRIDGE. When I took the floor upon this bill I announced that my purpose was to "farm out" the most of my hour among my loyal friends on this side of the House. I therefore gave the first five minutes to the gentleman from Missouri [Mr. BENJAMIN] and the next fifteen minutes to my sensitive friend from Illinois, [Mr. BURR.]

Mr. BURR. Did the gentleman say "sensible?"

Mr. ELDRIDGE. Well, I will say "sensible" if the gentleman prefers that word. He seems to be a little afraid that I yielded to him under such circumstances as would give his speech an unfavorable reception in this House. But I suppose he did not reflect that his loyalty was guarantied not only by my yielding to him, but by the fact that I yielded first to the immaculately loyal gentleman from Missouri [Mr. BENJAMIN] and next in order to him, and that, of course, I did not expect my friend from Illinois [Mr. BURR] to come quite up to his standard. Still he seems to be so sensitive upon that subject that I have thought I would occupy a few minutes of my time myself and not yield it all to my friends, for fear that some other one should feel that my vouching for him might spoil his speech. Upon this bill I remark, first, that in my judgment there is no legislation so vicious as that which originates in passion; as that which is to resent some injury or to revenge some wrong. There are some men who never forget or forgive an injury, and in general they are those who themselves most need forgiveness. Those who are most intolerant are the least inclined to toleration. The brave man is generally the generous man. The coward and the bigot are cruel and uncharitable. Charity flows from the divinity of our humanity. This bill and all its kindred measures are originated by the passions and feelings evoked by the war. It springs out of that spite, that feeling of ill-will and revenge, which the conflict of blood aroused. It rests upon no principle of international or constitutional law. It is not warranted by the external or internal polity of the nation. It has no foundation in sound policy or Christian statesmanship. It has no tendency to effectuate pacification or bring about the legitimate and avowed objects of the war; but it is calculated to rekindle the fierce fires of war and perpetuate the malignant hatreds and bitter animosities which war always engenders.

The terms of the bill, the language used, are in clear and unmistakable violation of the express provisions of the Constitution. It provides for the forfeiture of lands heretofore granted to these States and that the forfeiture is to be declared by act of Congress. Where is the constitutional warrant for Congress to declare the rights and interests of States forfeited by this bill? I care not what the interest of the States is—whether it is great or small, whether it is of much or insignificant value, whether it is vested, absolute, or contingent—it is the same in principle. The right to forfeit or declare these interests and rights forfeited by act of Congress I most solemnly and positively deny. That these States have some rights or interest in these lands is clearly if not expressly admitted by the bill. The term "forfeiture" itself implies something to forfeit, something of which the States are to be deprived, some interest to be taken away. If they have no interest, if they have already been divested by lapse of time, by operation of law, as some gentlemen have seemed to intimate, what is, what can be, the necessity or object of declaring the lands forfeited to the United States? Why declare forfeit what has been already forfeited? Sir, this is a bill of attainder; it is nothing less in substance or effect; and a bill of attainder, too, against these States, States of this Union. All those who have advocated it on this floor have advocated it as such, have advocated it as a measure for the punishment of the people of those States.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me to interrupt him for a moment?

Mr. ELDRIDGE. For a question, yes.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman from Wisconsin [Mr. ELDRIDGE] undertake to say, as a lawyer—and I know he is a good one—that an entry for a condition broken is in the nature of a penalty?

Mr. ELDRIDGE. I deny that this bill is any such thing. It declares a forfeiture to the United States. It is not a mere entry for a condition broken; not a taking possession, but the declaration of the forfeiture of some interest, of the interest granted to those States.

Mr. WILLIAMS, of Pennsylvania. The gentleman says this is mere declaration of a forfeiture which has already taken place.

Mr. ELDRIDGE. I beg the gentleman's pardon. I did not say that. I do not so understand it.

Mr. WILLIAMS, of Pennsylvania. Has the gentleman looked at the language of the acts of Congress? If so, will he state whether the estates conferred by those acts have not expired by their own limitation?

Mr. ELDRIDGE. That may be the gentleman's opinion; but it is not the opinion of the gentleman who introduced this bill, [Mr. JULIAN,] as advocated and urged upon the House by him, nor is it mine. He introduces it and advocates it for the purpose of forfeiting something—the grants made to these States or the interests so granted—and, taken in the sense and for the purpose which it is urged, it is most unquestionably one of those bills intended to be inhibited by the Constitution—"No bill of attainder or *ex post facto* law shall be passed."

The real intention and object is to punish States or the people of the States—men who were supposed to be disloyal during the war. Disguise it as you may, the real, yea, the avowed, purpose is to punish for disloyalty—disloyalty during the war. It is to inflict a punishment by the bill not provided for by law when the act was committed. It is not because the time for completing the railroads, the condition of the grants, has elapsed—that is scarcely the pretense. It has never been the practice or policy of the Government to take advantage of this condition or insist upon strict performance in regard to time. All its practice, all the precedents, are against it. At every session of Congress we have passed acts to extend the time for building these land-grant roads, and other bills are now pending for that purpose.

The moving motive is to punish rebels, and to punish them for past acts, for past conduct, by act of Congress. This is the very thing the Constitution is intended to prohibit. It is upon this ground alone that gentlemen are able to make a distinction between the South and the West—to find a reason for extending the time for completing the roads in the one locality, and insist upon strict performance and forfeiture in the other. In regard to the West, they follow the long-established practice of the Government and extend the time, but they would punish the South by declaring their rights forfeited by act of Congress.

But what good is expected to flow from these measures, what good purpose are they to subserve? Are they expected to bring peace, prosperity, and happiness to the nation, to restore that feeling of amity and good will which has ever been, and must ever form, the true bond of union among the people of this country?

Sir, the people of the North and South have been alienated and embittered toward each other by war, and these and all such measures are calculated to continue and perpetuate the same state of things. The greatest want, the greatest necessity of the country, the all-absorbing cry and prayer of all patriotic men, are for peace and fraternity again in this land; the famishing and starving thousands, the crippled and burdened interests, the confused and embarrassed finances, can never be relieved but by the full and complete restoration of peace and friendship between the sections. This bill is calculated to have just the opposite effect. In and of itself, so far as the value of the material interests it is calculated directly to affect is concerned, it is of little consequence. But its moral consequences are far greater. It speaks to the already down-trodden and broken-spirited people of those States, in a voice not to be mistaken, the malignant feeling, the revengeful passion cherished toward them. It tells them the war is not over; that the conqueror is not yet satisfied; that submission has not brought peace; that they have only bowed their necks to the foot of the oppressor; that victory was not all that was sought; that it is not restoration; that more blood is demanded; that submission was destruction; and restoration is the overthrow of civil government and the establishment of military despotism.

Sir, it is not that these lands are needed for homesteads that the States are to be deprived of them. Lands are of no consequence, of no value, in the South without peace. Plantations and farms with large improvements and once of great value can be bought there for a song almost. They can be rented and cultivated for the taxes alone. Millions of acres are now subject to the homestead law. Good lands as there are in the world can be had almost for nothing—for the occupation. This bill is the carrying out of a plan, a systematic and determined policy of ruin and destruction to the white people of the southern States. It is the execution of a purpose to overthrow and break down the material and property interests of the white men, and subject them and all the vast interests of those States and people to the supremacy and domination of the African. The Devil himself could scarcely be more infernally energetic and ingenious or more successful in inventing the means of torture in his own dominions than are those who are now administering upon the estates and interests of these States in seeking their humiliation and debasement. Everything is done to destroy, nothing to build up; everything to alienate and embitter, nothing to soften asperities or restore amity and fraternity.

But, Mr. Speaker, the great object which this Government has had heretofore in making these grants to railroads is entirely ignored by the gentlemen who have argued in favor of this bill. The object and purpose of granting lands to railroads was never to enrich corporators or to enrich individuals, but it was to open up the vast unsettled regions to the people of this country. It was not to help any one man or set of men, but for the purpose of increasing the settlement and occupation of those regions, and increasing the resources of the country.

Gentlemen talk about enriching rebel corporators! Now, I ask those gentlemen if they know of an instance where the corporators of a railroad, loyal or disloyal, were ever made rich by a land grant? I have been somewhat acquainted with railroad operations, but I have never known an instance where men, individuals, were ever enriched by the grant of lands to their corporations. Those grants are generally made to corporations that are extending their enterprises into unsettled regions of country; and it is for that purpose that they are granted.

The gentlemen do not agree among themselves in their advocacy of this bill. The gentleman from Pennsylvania [Mr. KELLEY] argues in favor of the bill on the ground that there is no population in that country. He says that what those States want, "what they need is population, and fields made productive by the requisite labor of men to give patronage to railroads." He repeats the statement that what they need is population, "is people."

The gentleman from Minnesota [Mr. DONNELLY] tells us, in endeavoring to show a distinction between the South and the West, and to give a reason why we should refuse to continue these grants to the South, and at the same time should continue similar grants to the Northwest—he tells us that in the South there is already a large population, only one fourteenth of whom possess any part of the soil. He tells us that great cities have grown up there. "The soil, therefore, is the one thing needed, not population." I might offset the gentleman from Pennsylvania [Mr. KELLEY] with the gentleman from Minnesota, [Mr. DONNELLY,] and leave their arguments to answer each other. I certainly cannot reconcile them. They seem to answer themselves.

The gentleman from Minnesota [Mr. DONNELLY] further argues that we ought to continue the grants which have been made to Minnesota and the other States of the West, on the ground that that country is unsettled, and by continuing the grants we should open up that unsettled country to the occupation of the people. If this is good for the West, is it not for the South? If it is good policy in the settlement and development of the great West, is it not equally so with reference to the great South?

The gentleman from Pennsylvania argues that we should not continue the grants to the South because they have not a large population. The gentleman from Minnesota claims that these land grants are now in the hands of rebel owners or rebel corporations, and that we should declare them forfeited for the purpose of placing them hereafter in the hands of loyal men in the southern States. Well, now, who are the "loyal men" of the gentleman from Minnesota? The gentleman says:

"Loyalty in the South is now laboring under contempt. The loyal man is the poor man; in most cases the black man, and heretofore necessarily the ignorant man and the despised man. We must make loyalty respectable in that country."

Well, then, the gentleman of course expects to make ignorance respectable in that country; he expects to make the black man respectable in that country; and he expects to do it, I suppose, by this act of Congress.

But, Mr. Speaker, the gentleman from Minnesota and the gentleman from Indiana [Mr. JULIAN] do not insist that these lands shall never be given for the purpose of railroads to the southern people; but they would have them forfeited now to the United States with a view of granting them hereafter for the same purpose.

They would, then, place them in the hands of "loyal men," these "poor men," these "black men," these "ignorant men." Now, I ask you whether any such men were ever known to build a railroad? Did such men ever carry on the enterprises of this country? Did they ever extend a railroad into the vast unsettled regions of this country? Can any such thing be expected? The gentleman cannot be sincere in urging that we should withdraw these grants from the corporations which he says have means and money and intelligence and ability and enterprise, and place them in the hands of men who are ignorant, who have no means, who have no intelligence, no influence, and no enterprise, merely because they are black men and laboring to-day, as he says, "under contempt." Certainly he cannot expect such men to build railroads.

Mr. Speaker, I did not intend to argue this bill at any great length; I have already said more than I intended. Let me say, however, in conclusion, that in the part which I may take in the legislation of this country I have no vengeance to inflict upon anybody. I have no wrongs to avenge, no wrongs which by my acts here I am to repair by committing some wrong or inflicting some punishment upon some persons in the South. If those people have been guilty of wrongs the place to punish them is in our courts. This Congress is not a court of justice. It has neither the right nor the power to inflict penalties upon a people for the violation of law. Legislation of this most atrocious description is occupying most of the time of this Congress. Gentlemen ought to stop and consider that our courts were created for the purpose of punishing the violation of law. The function of this Congress is to enact laws, not to punish their violations. Yet the whole burden of the argument advanced by the gentlemen who have advocated this bill has been that we ought to inflict some penalty, some punishment, upon the people of the South for the part which they took in the war. I have no such work to perform. I feel no such duty devolved upon me. I would so legislate as to bring these people back, not to drive them further away; I would forget the past and endeavor to win again their hearts and affections; I would give them aid in all their enterprises calculated to restore to them again prosperity and happiness; I would help them build their railroads and bind together every portion of this country by bands of iron and of steel, and thereby again reunite those bonds of mutual interest and affection which are stronger than bands of steel, and which alone can restore to our unhappy country peace, prosperity, and happiness. It is time this discriminating and hostile legislation was ended. It is time we should begin by some

act of ours to show that we are willing here in the North to forgive and forget the past.

Mr. Speaker, I now yield ten minutes to the gentleman from Ohio, [Mr. MUNGEN,] and after that the remainder of my time to the gentleman from Indiana. [Mr. NIBLACK.]

Mr. MUNGEN. Mr. Speaker, the bill under consideration is one of vast importance to the people of this country as a question of principle, and in its bearings very important upon our material interests and future destiny. This bill, so carefully gotten up, is but the entering wedge to general confiscation of the lands of southern men. It is not the few acres of land remaining unsold or undisposed of in the grants to those southern States which the gentlemen on the other side of the House care for; but it is the precedent which the passage of this bill will establish under the specious pretext of "lands for the landless and homes for the homeless" that is sought for. This bill once passed, the way is clear for a general distribution of the estates of the South among the "loyal" men, the "men and brothers," the "intelligent contrabands" of that portion of our country.

Why, sir, to have listened to the picture drawn by the honorable gentleman from Pennsylvania [Mr. KELLEY] heretofore in regard to the loyal negroes of the South who own not a square inch of "God's footstool," was enough to cause a man of tender sensibilities to sell all that he has and give it to the poor; yes, to cause him to turn his own wife and children out on the cold charities of the world and give deeds for his property in fee-simple to the negroes in Dixie.

How many of the gentleman's constituents in the city of Philadelphia own any portion of "God's footstool?" How many of them own land enough to bury them? How many thousands of them are crammed into tenement houses and other perhaps more miserable hovels? How many of them are naked and cold and hungry and dying of starvation even now?

Mr. KELLEY. Will the gentleman permit me to answer those questions?

Mr. MUNGEN. It is not worth while. The gentleman does not know how many, and he would not be able to answer.

Mr. KELLEY. In the city of Philadelphia, with its eight hundred thousand people, there is not a tenement house——

Mr. MUNGEN. I have but ten minutes, and I cannot yield.

Mr. KELLEY. The gentleman should not ask me questions if he does not wish to have them answered.

Mr. MUNGEN. The gentleman has no care, no thought, no word for those near home. It is said that distance lends enchantment to the view; and perhaps the hundreds of miles intervening between this Capitol and the city of Mobile casts a halo of beauty and glory over the spires and turrets of that city which the gentleman failed to discover or, discovering, failed to appreciate when he was there some time since. Why not pass a bill making the State of Pennsylvania give back to Congress the immense sums Congress has given her by way of tariffs and protection on her labor and capital, in order that the "landless and homeless" poor of that State may be provided for? When the ironmongers of that State raise their periodical howl for an increased tariff we will have a chapter on the woes and miseries of workmen out of employment, furnaces standing idle, and all the concomitants belonging to such affairs. The cry will then be, like that of the horse-leech and other things spoken of in the Scripture, Give! give! give! But the "homeless and landless" will not be the recipients. It will be the wealthy capitalist. It will not be the white laborer of that State, who has toiled all his life for a mere subsistence, for enough to keep body and soul together, who will reap the benefits.

This argument of gentlemen who favor the passage of the bill that it is to open up the lands to actual settlement has been fully met by others. I will only say that if there were no other public lands on which to settle the argument might amount to something. We find by the statement of the Commissioner of the General Land Office that, exclusive of the lands sought to be confiscated, if I may use the term, there are some thirty-seven million five hundred and twenty odd acres of Government land. There is nothing in our preëmption laws forbidding negroes any more than whites from settling on those lands. The assertions made that this public land is mostly worthless is mere nonsense. When the gentleman from Pennsylvania [Mr. KELLEY] was using some such argument yesterday he was interrupted by the gentleman from Maine, [Mr. BLAINE,] and he thereupon struck off in strains very denunciatory of Florida; calling it the great American Desert of Sahara or a sand-bank or something to that effect, and gave us quite an amount of information about clay and sand, &c., which, for the agricultural interests of the country, I am glad to see in the Globe a few days ago. When, by his courtesy, I was permitted to ask him a question touching the unkindness and barbarity of General Howard, who had proposed, as the head of the Freedmen's Bureau, to give lands and homes to the freedmen who would settle thereon in Florida, the honorable gentleman said that General Howard had not proposed to settle them on the poor lands, but on lands about St. Augustine and other choice parts of that State. So much the worse for his argument. Every one who has ever been at St. Augustine will admit that there is a no more healthy place nor better and more delightful climate to be found on the American continent than there; that there is no more productive soil than in that vicinity. Yet the gentleman says the negroes were offered homes there; and facts and history show that they refused to take them, although offered for nothing.

It is said that they all want "forty acres of land and a mule," and lay claim to a promise to that effect; but how long would they keep these things if they had them? When John Randolph manumitted his slaves he sent them to a very rich and fertile portion of Ohio, within the limits of my district; gave them teams, cattle, farming utensils, provisions, and money, and there is not a Randolph negro on any of those lands; they were too lazy; they abandoned the lands and flocked to the towns and cities. His scheme, though philanthropic, was a failure. The negro always has been a failure, so far as progress is concerned, and always will be a failure when thrown entirely on his own resources.

But, says the gentleman from Pennsylvania, [Mr. KELLEY,] the cause of the ignorance and degradation of the negro is to be found in the fact that Democracy ruled this country for so long a time. He proposes to remodel the Government. He is not in favor of the Government of our fathers. He is, perhaps, like that celebrated gentleman who wanted an anti-slavery Constitution, an anti-slavery Bible, and an anti-slavery God. Our statesmen of to-day are much wiser and purer and better than were the fathers of the Republic. Let me call attention to the fact, however, that by the terms of the Constitution the slave trade was authorized from that time (1789) up to 1808; that nearly all of the men who helped to frame it were owners of slaves; that the slave trade was continued so as to give employment to the vessels owned in the New England States and elsewhere; that every State then in the Union, except Massachusetts, owned slaves, and she had owned them shortly before; that the foundations of the colossal fortunes, or many of the fortunes, and much of the wealth of some eastern men were laid in the misery, agony, the cruelty and horrors of "the middle passage;" that many men who are excessively loyal and boast of being lineal descendants of the Puritans, if they will follow back a little over half a century, will find that the title to some of their paternal acres was acquired by the sale or traffic in negroes. Yes, the price of flesh and blood, as a beginning, enables the descendants of some of those Puritans to roll in wealth and luxury and idleness to-day. Slave labor was more profitable in the South than in the North, and the Puritans sold their slaves at good prices and went into "the middle passage" business.

Now, the descendants of these "hardy mariners," these "enterprising Puritans," with supercilious sneers, scoff at men who held property in slaves since the Puritans did. Democratic rule degraded the negro, did it? Democratic rule for nearly four score years made this country great and glorious, powerful, prosperous, and happy. God in His inscrutable providence made the negro what he is, always has been, and always will be—inferior to the white man; just as he made the vulture inferior to the eagle. Charges like this against the Democratic party may do for circulation in New Hampshire, or elsewhere, just before an election—for which purpose, I presume, they are intended—but the history of this country and the history of the world hurls back the aspersion in the face of whoever may assert it.

I am not of those who think that because Washington and Jefferson and their compeers owned slaves, therefore they are forever shut out of heaven and banished from the presence of the Almighty. Nor do I think that those enterprising New Englanders who engaged in the slave traffic are all consigned to endless perdition. I only allude to these things to refresh gentlemen's recollection. For my own part, I never was a pro-slavery man and never held or owned a slave; but many good men have.

But the honorable gentleman from Indiana [Mr. JULIAN] seems to dwell pretty strongly on the great advantages to be derived from the opening of those lands to actual settlers, white and black, along the line of the New Orleans, Opelousas, and Great Western railroad. He talks about a strip of land some twenty miles wide which the grant of Congress covers as being remarkably fertile. Part of it is fertile. Having traveled over that road several times, I can state that so far as it is finished, that is, from New Orleans to Berwick city, on Berwick bay—nearly all the lands worth entering or fit to live upon have long since been settled and improved; perhaps nearly all of them long before the road was built or the grant of land given by Congress. The country about Bayou La Fourche and Thibodeaux was settled by the French in the last century. The railroad company, therefore, got nothing so far, or comparatively nothing, except alternate sections of land—if it can be called land, or if it was surveyed at all—in those wide marshes through which the road runs on trestle-work for miles of the distance. These marshes, whether opened for entry and settlement or not, will be in the same condition they now are as long as time lasts, or until some convulsion of the earth raises them above their present level.

That road was designed, and is an absolute necessity, to enable the people of western Louisiana and eastern Texas to get their products to a market. Without it their grain, sugar, cattle, or whatever they raise or produce, are almost worthless. There are good lands along the proposed line of the road west of Berwick bay, but the road will never be built without them, and they will never be settled up to any considerable extent without the road. The grant does not reach Texas, for in that State the Government holds no public lands.

There are thousands, yes, millions, of acres of land open for preëmption and settlement in other places in the West and South. The honorable gentleman from Pennsylvania, notwithstanding the disparaging account he gave of the sands of Florida, admitted that what he called the "piney woods" of northern Florida would shortly blossom as the rose by reason of American energy. Rest assured it never will by reason of African energy. But I am willing to give the Africans lands for homes without money or price if they will accept them, settle on and improve them.

My colleague from Ohio [Mr. LAWRENCE] said yesterday, in supporting the passage of this bill, that the fate of Ireland, as to her people and their oppressions and suffering, will be written in the South. I certainly see slavery, chains, degradation, oppression, and injustice there now more terrible and more damning than ever England resorted to in the whole seven centuries of her cruelty toward Ireland. But he will say, perhaps, they are rebels; be it so; it is England's plea that Irishmen are rebels. But he may add it is a just punishment for treason. I ask when is this punishment of women and children for the sins of their husbands and fathers to cease?

The world is looking on while we are making history; and it will applaud or censure according to circumstances. Persons in Europe, if you please, or in this country, who bought the bonds of these roads in good faith, relying to considerable extent on the grants of land as collateral securities, will be astonished to find our Government, through its Congress, repudiating those grants. The people of Europe, with no very clear idea of our system of Government, look upon us as one nation, without noting the difference many times between the actions of States in their capacity and the General Government in its sphere. Is it just to deprive these men of their securities? Is it not a step in the direction of repudiation?

The war stopped railroads in the North as well as in the South. We have granted time for northern companies to complete their roads, when, it may be, there were some rebel stockholders in them. The South is utterly prostrated and helpless. Her people owe large amounts of money to our northern merchants. Let us be magnanimous and legislate so as to restore her material prosperity; if we must still punish her citizens politically. Whatever aids the South, in this sense at least, aids the North, the West, and the East. Our whole country requires everything possible to be done; for the people all over our land are suffering in all their material and financial interests.

[Here the hammer fell.]

Mr. ELDRIDGE. I now yield the remaining minutes of my hour to the gentleman from Indiana.

Mr. NIBLACK. Mr. Speaker, I have not sought the floor to argue the principles involved in the pending measure. I am not here either as an advocate of railroad grants, that is, in the general sense of the term. If this were an original question, and we were called upon to vote as to whether we should grant lands, as these have been, or not, I am not prepared to say at all I would vote for such a measure; for, sir, I am rather a strict constructionist on questions of this character. But, sir, I desire simply to say I regard this as a peculiarly inopportune time to pass a measure of this sort. There is no urgency for it that I am aware of. Certainly no sufficient reason has been assigned in my hearing since this debate has commenced. There are sufficient lands already open to settlement for all practical purposes in the States affected by it.

My colleague, [Mr. JULIAN,] who introduced this bill, has stated to us during this debate that these States will soon be represented upon this floor; that they will be here by their Representatives within a few weeks—by loyal Representatives, too, as he is pleased to predict. Then, in Heaven's name, if they are to be here so soon, and we are to have the satisfaction of hearing from them on this floor on this as well as on other questions affecting their interests, why is it not sufficient reason that we should wait until we can hear from them—until both sides are heard on it. That remark of my colleague, [Mr. JULIAN,] I believe, is one of the strongest reasons for some delay; and I say that without going into the merits of the case at all, as I have intimated I would not.

Mr. Speaker, this is a matter by which the people of all classes in the States interested are to be affected. It does not apply to any class particularly, but to whole communities; and it is a question in which all sections of the country have an interest. The railroads of the North are interested in the prosperity of the railroads of the South, and *vice versa*. The object of building railroads in sections remote from the great centers of commerce and trade in the present condition of the country is to afford railroad connections, and, at least, to build up tributaries to the present lines of communication. Hence it is not a matter which affects the southern people alone, but affects the people of all sections of the country and involves the interest of northern capital to a very great extent. Looking, therefore, on this, not in any sectional sense, but in a general sense—the sense in which we should consider questions of this kind, aside from mere individual interest—I think there is no good reason why we should have such a measure urged on the House at this time, and I shall vote against it with reference to this consideration alone, waiving for the present the legal questions and other high questions of justice and expediency which have entered into this discussion.

Mr. HOPKINS was assigned the floor, and yielded for five minutes to

Mr. KELLEY, who said: Mr. Speaker, I requested five minutes that I might respond to the question put to me by the gentleman from Ohio, [Mr. MUNGEN,] but which he declined to permit me to answer. His argument, as I understood it—for I came into the Hall while he was speaking—was that slavery was better than freedom, and that the landless were more fortunate than those who owned the homes in which they dwelt. And in demonstration of his theory he pointed to the results of free labor as it prevails in Philadelphia. He told us of the beggary and want now overtaking her people, and of the tenement houses in which they dwelt. He asked me to indorse it all by my silence, and I refused to do so. Sir, I present the city of Philadelphia as the best example, perhaps, this world affords of the benefit to the whole community of fair wages for honest labor. I say that in no other community on this side of the Atlantic or the other are there so many families who dwell upon land and sleep beneath a roof that is owned by them. It is a prominent characteristic of that city that the laboring people own their homes, and that in their little homes are to be found what are called "all the modern conveniences"—gas, bath-room, hot and cold water, &c.

When in Alabama, I may remark, as the gentleman referred to my visit to that State, I pointed proudly to these facts when addressing the old master class, and many of them admitted that no wealth could procure for them in the midst of slavery the comforts and advantages enjoyed by Philadelphia workingmen. Nor will they be able to procure them while they degrade labor and keep a large landless class in their midst.

The gentleman from Ohio [Mr. MUNGEN] said that want and hunger abound among the laboring people of Philadelphia. He knows but little of their condition. On the 18th of last month, referring to the laboring classes of Philadelphia, in the course of some general remarks, I called the gentleman's attention, in common with that of other members of the House, to the fact that during the month of December last fifteen hundred and ninety-six of them had been able, in the midst of the stagnation and idleness which excessive internal taxation and the contraction of the currency had produced, to fall back upon their deposits in one savings bank.

Sir, freedom never cursed a people. No people can ever be impoverished by enabling them to own and cultivate their own farms as our homestead law does; and if the gentleman would fructify the South, if he would make the freedom given by Lincoln's proclamation, the civil rights bill, and our recent legislation, beneficial to the Government and the people, he must unite with us in opening the only fertile land available for present settlement in the four Gulf States named in the pending bill to the people. He sneers at the idea that peninsula Florida is barren sand. Sir, he could not from a hundred acres of it draw enough sustenance for himself alone. I will give him the aid of a family, and yet with their joint labor he shall hunger if confined to the produce of that quantity taken out of the bulk of the seventeen million acres of public land in that State. They are all, as I said the other day, sand, sand, sand, deep as the ocean.

I thank the gentleman from Wisconsin for his kindness in yielding to me that I might make a brief response to the pointed questions of the gentleman from Ohio, which without reply would have been regarded as undisputed assertions.

Mr. HOPKINS. Mr. Speaker, the bill under discussion has been so long before the House and so much has been said in favor and against it, that I do not intend to spend but a very few minutes in discussing it.

I desire to say at the outset that I am in favor of it, not because I am prejudiced against any portion of the people of the South. I have no prejudice to govern my action in regard to a measure of this kind, I would not discriminate for or against the white man or the black man, the loyal or the disloyal man in this measure. I will not be governed by any prejudice in dealing with the material interest of any portion of the people of this country.

I have been surprised in the argument of this case to find that it has been charged by all of those who have opposed the passage of this bill that Congress has made a precedent by which we are almost compelled to defeat its passage, because we have extended the time for the completion of similar enterprises in the northern States. I wish to say to the gentlemen who oppose this bill upon that ground that no case of the kind has ever been presented to this House from any one of the northern States. These lands have absolutely been forfeited, and forfeited, too, by the terms of the act which granted them. No such case as this has ever been before this Congress, asking that the time may be extended. These lands were forfeited nearly two years ago, and we are met now with a new interest in determining this case. These lands having been forfeited by the terms of the act have been settled upon to some extent. The Committee on Public Lands have information that many of them are occupied by actual settlers who have been advised that they had a right to settle upon them, and that Congress would at the proper time, and that soon, declare them to be the lands of the United States. And now these people come here and ask this House to declare those lands forfeited so that they may thereby acquire title to their homesteads and their improvements.

I wish to say to the House that no such case as this has ever been presented in behalf of any of the people of the North as against the passage of a bill to extend the time for the completion of the work upon a public improvement.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. HOPKINS. Certainly, I yield to my colleague.

Mr. ELDRIDGE. I do not know that I differ very materially with what my colleague has said, but I ask him this question: if we seek to take advantage of a forfeiture of a grant, is it not necessarily a judicial act and not a legislative one?

Mr. HOPKINS. I will state in reply to my colleague that I understand that the lands granted to these States to aid in the construction of railroads are to-day absolutely forfeited, and it is only because of a rule adopted by the land department of this Government that they are not to-day open to private entry and public sale.

Mr. ELDRIDGE. Then I ask my colleague what is the necessity of this act?

Mr. HOPKINS. Simply because the land department of this Government have a rule that requires that a law shall be passed declar-

ing lands forfeited before they offer them again in market.

Mr. ELDRIDGE. But the gentleman will bear in mind that he has not answered my question, whether the taking advantage of a condition broken, by which a thing may be forfeit, is not of itself a judicial act and not a legislative act?

Mr. HOPKINS. I will say in answer to my friend that these lands have been forfeited by the operation of law. The acts which made the grants declared them forfeited in case the trusts were not fulfilled in accordance with the acts which made them.

Mr. PILE. Will the gentleman yield to me for a moment?

Mr. HOPKINS. Certainly.

Mr. PILE. I understand the gentleman to state that the Committee on Public Lands had information that a large number of landless men, heads of families, settled upon portions of these lands with the expectation that Congress would declare them forfeited and open them up for homestead settlement. I want to ask the gentleman if he can give us an approximate statement of the number of such cases? I freely admit that, if it be the fact that any large number of persons have so settled on this class of lands, it is a fact which ought to be understood, and we ought to know how many of those cases there are before voting on this bill.

Mr. HOPKINS. I am unable to state the number of those cases, but I do state that the committee had facts before them and information which satisfied them that a large portion of these lands, forfeited nearly two years ago, had been settled upon in good faith; and that to-day those lands were in the possession of men who had built valuable improvements upon them, and unless this law passes those improvements are lost and they cannot acquire a title to the lands.

I say, Mr. Speaker, that this presents a case unlike any application of the kind ever presented to this House for an extension of time for the completion of any public work. I do not propose to stand here and exhibit prejudice against these great works of public improvement. I would not throw a straw in the way of their being completed either in the North or in the South. I am proud of the magnificent railroad system of the United States. I am proud of the energy of the men who have carried them on to such a great degree of perfection and completed so many miles of railroad as we have in this country to-day. But, sir, when I look upon this case and find hundreds upon hundreds of men who have made homes upon these lands which had been forfeited I am bound to consider their rights as against those of the corporations or States which demand of us an extension of time.

I might say, perhaps, that there is another difference between these corporations in the South which ask at our hands that these grants may be continued to them for the benefit of their improvements and corporations in the North that have asked the same privilege from Congress. There is a little difference between them. Perhaps my colleague, [Mr. ELDRIDGE,] who has spoken against this bill, cannot discriminate and does not discriminate between those northern enterprises and southern enterprises, but I can and I believe this House can.

Now, although I am not going to be governed by prejudice, still I do think it is proper for this House to consider that these northern States which come here and ask relief at the hands of this Congress by way of legislation extending the time for the completion of their enterprises present a very different case from that of the gentlemen coming here from the South for a similar purpose. The northern enterprises are the innocent sufferers of this war. They turned out to help the Government and to assist in saving it. The other men from the South were during the war to be found in the front rank fighting the very Government which had given these lands to them, and using their roads and machinery as engines of war against the United States.

Sir, the men of the North who were interested in the railroads there gave of their means to assist in saving the Government and to strengthen its hands. The men who dug the trenches, who used the spades and picks in building these northern roads, were called away from those enterprises to enter the ranks of the Union Army, while the men who were working in the South on these railroads were in the rebel armies and fighting against the Government of the United States.

Now, in coming to this Congress for relief they present a very different case from that of the northern roads. The northern enterprises were the innocent victims of this war; the men controlling the southern railroads are the criminals who brought on and waged this war against the Government of the United States.

I do not know that it is absolutely true that these lands are to-day necessary for settlement and cultivation by the people of the South. But those lands which have actually been settled upon, which have been actually occupied by men for their homes, ought to be placed in such a situation that those men can acquire titles to the land upon which they now live; and without the passage of a law of Congress declaring these lands forfeited, as I have already said here, those people will be helpless, and will have no possible chance to acquire a title to the homes they now occupy along these railroads in the South.

There is another feature of this case which has not been presented here: several of these roads have never been commenced at all. Ten or twelve years have elapsed since these grants were made; and yet not a single stroke of work has been done upon several of the roads for the construction of which these lands were given. I am satisfied, upon an investigation of the subject, that in regard to a large proportion of these roads, at least one half of them, they will not be completed for twenty years to come, even if we should continue these grants in their hands.

Then I say it is doing absolute injustice to these people to continue these grants in the hands of corporations that show no disposition or ability to carry out the trust they have accepted and agreed to fulfill. If we declare the lands forfeited we strike down these enterprises, which are unmeritorious in themselves, and allow the people, when they come to be represented again upon this floor, to have their interests properly represented here. I trust that at no distant day in the future they will be represented here, though I am not so anxious to have them represented that I would wish to see rebels come back and occupy these vacant seats. I trust, when they come to take their seats here as the Representatives of the people of those States that they will have the ability to represent the interests of the people faithfully and well. And, above all, I hold that loyalty to the Government of the United States should be a prerequisite to occupying a seat in this House or the other branch of Congress. Until the people of the South conclude to accept in good faith the results of the war, and choose as their Representatives in Congress men of undoubted loyalty to the Government, I trust they will remain unrepresented. I say this not in a spirit of vengeance or with a vindictive feeling toward the people of that portion of our country, but because I feel that the safety and welfare of our country demands it. That they are not represented here to-day is not our fault, but theirs. They left these Halls seven years ago voluntarily, without cause, without provocation, with treason on their lips and murder in their hearts, and attempted for four long years of bloody war to destroy our Government; but, thanks to the loyalty and patriotism of our people, they failed in their unholy work. While I feel no desire to urge the passage of this bill in the absence of the Representatives from those States, as a measure of punishment for their crimes, I nevertheless feel that there should be no delay in its passage on account of their absence. I regard this bill a just one, intended to benefit and not to injure the people of the South, and as such I cordially support it. Millions of acres of land in those States are withdrawn from the market, unsettled and unproductive, and in their present situation are a positive injury to the prosperity of the country. Many of them are in the control of corporations which have never even commenced the construction of the roads they were granted to aid in the construction of. The sooner they are restored to market and made available for homesteads and settlement the better for the people.

I have not the tabular statement before me, but I have examined it thoroughly; and I can state from recollection that at least one third, and I am not sure but one half, of these roads for which lands were granted in 1856 have never been commenced at all. I want to ask the gentlemen of this House whether they wish to continue these lands in the hands of those corporations, to the detriment of the settlement of that country, when it is a matter of fact that those companies during twelve years have never struck a blow toward building the roads or attempted to carry out the objects of the grant and the trusts which they have accepted. At least one half of the lands now held by those southern companies are held by corporations that have shown neither the ability nor the disposition to build the roads.

Mr. Speaker, I shall cheerfully vote for the amendments which have been proposed here in behalf of the Alabama and Tennessee river railroad and the Decatur and Nashville railroad. I believe that those are meritorious enterprises, and are now in the hands of men who are going on in good faith to complete the roads. But this bill, with those amendments, ought to pass, in order to restore to market the lands which are in the hands of corporations that have not the ability themselves to complete their roads, and whose enterprises are so unmeritorious that capital will never be found to aid in the completion of the roads if the grants be left in the hands of those companies.

The gentleman from Maine [Mr. BLAINE] has said in the argument of this case that the idea of proposing in the first place to declare these grants forfeited, and then to allow these men to come here and ask for the renewal of these grants when they shall be represented on this floor, seems like pushing a house over in order to rebuild it the next day. I admit that there is a great deal of force in that way of stating the case. But the gentleman must recollect that other interests have intervened, and those interests ought to be protected. We are called upon to protect the interests of thousands of men who are to-day actual settlers upon these railroad lands which have absolutely become forfeited by the lapse of time.

There is another feature of this case which is a little peculiar. It is urged that those States have no representation upon this floor, and cannot speak through their Representatives here. But those corporations have active men, men of talent and ability, who usually look faithfully after their interests; of the twenty-seven corporations at which this act strikes only three have entered any appearance here at all or remonstrated against the passage of this law. Two of them have come here through their agents, and one of them has sent a memorial, in the shape of a pamphlet, remonstrating against the passage of this bill. Twenty-four of them have paid no attention to it whatever, although the papers of this country have for three months given them notice that Congress was about to pass a bill of this character. I do not know but that those gentlemen hold that this is an unconstitutional body, and that our acts are illegal and void. But if they do thus believe I would like to see them undertake to set aside our acts, and, if for no other reason, I would like to see this bill passed to test that question. It is a little singular that these men, so active in their own interest, so wide awake in everything pertaining to the interests of

their special corporations, have paid no attention to this bill, have not shown the least disposition to remonstrate against its passage. I do not know but that they concede, as they ought to do, that it is an act of justice.

My colleague [Mr. ELDRIDGE] has stated that this bill is but an announcement of confiscation; that it is a part and parcel of that system of vindictive and cruel legislation which the majority in this House are, as he contends, practicing upon the unfortunate people of the South. I have no doubt that this remark truly indicates the feelings of my colleague. I have no doubt he feels a deep sympathy for those men in the South. But I ask him what punishment have they received for the enormity of their crimes against the Government of the United States? Where or how have they received any punishment? Has this Congress confiscated their property? Has it punished a single individual? Have the courts of this country taken cognizance of their crimes and punished them? What cruelty have we practiced upon these southern people? Why should my colleague consider their interests or rights invaded by this bill, which simply declares the fact that they have forfeited all title to the lands heretofore granted to them for railroad purposes, so that the same may be occupied by actual settlers, thereby promoting the prosperity of the people?

Mr. Speaker, I now yield the floor to the gentleman from Tennessee [Mr. ARNELL] for twenty minutes.

Mr. ARNELL. I thank the gentleman for his courtesy, and shall say a word or two upon this bill, not so much in the way of controverting arguments against it as of giving my views and of saying something in favor of the amendment that I gave notice I should offer at the proper time. My own immediate constituents and the State of Tennessee at large are vitally interested in the Tennessee and Alabama Central railroad; therefore, it is proper that I should make a statement, at least, of facts respecting this road.

By act of June 3, 1856, section six, a grant of land was made to the State of Alabama to aid in the construction of this road, subject to these restrictions:

"*Provided further*, That the lands hereby granted for and on account of said road, severally, shall be exclusively applied in the construction of that road for and on account of which such lands are hereby granted, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatsoever.

"SEC. 2. *And be it further enacted*, That the sections and parts of sections of land which, by such grant, shall remain to the United States, within six miles on each side of said roads, shall not be sold for less than double the minimum price of the public lands when sold, nor shall any of said lands become subject to private entry until the same have been first offered at public sale at the increased price.

"SEC. 3. *And be it further enacted*, That the said lands hereby granted to the said State shall be subject to the disposal of the Legislature thereof, for the purposes aforesaid, and no other; and the said railroads shall be and remain public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States.

"SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of by said State only in manner following, that is to say, that a quantity of land not exceeding one hundred and twenty sections for each of said roads, and included within a continuous length of twenty miles of each of said roads, may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that any twenty continuous miles of any of said roads is completed, then another quantity of land hereby granted, not to exceed one hundred and twenty sections for each of said roads having twenty continuous miles completed as aforesaid, and included within a continuous length of twenty miles of each of such roads, may be sold; and so from time to time until said roads are completed; and if any of said roads is not completed within ten years no further sale shall be made, and the lands unsold shall revert to the United States.

"SEC. 5. *And be it further enacted*, That the United States mail shall be transported over said roads, under the direction of the Post Office Department, at such price as Congress may by law direct: *Provided*, That until such price is fixed by law the Postmaster General shall have the power to determine the same."

All of these conditions and restrictions, I understand, have been faithfully observed by the company.

By act of March 3, 1857, the name of the company was changed to that of the "Tennessee and Alabama Central railroad." The Legislature accepted this grant February 8, 1858.

A consolidation of this road was afterward made with the Tennessee roads, under the name of Nashville and Decatur, carrying out an original purpose, to make a short line route from the lakes to Pensacola, the best harbor on the Gulf, of unlimited capacity and great depth, and a line almost two hundred miles nearer than by any other route. The lands granted to the Tennessee and Alabama Central railroad are coal and iron lands, as may be seen by this map which I hold in my hand, and are unfit for farming purposes. Forty-seven miles of this road were completed and in running order prior to the war, with an additional twenty miles graded. One hundred miles yet remain to be built. These are about the main facts connected with the work done and the grant of lands made to this road; and, as I said in the outset, my own immediate constituents and the State of Tennessee at large are greatly concerned in this matter.

This line drains the richest agricultural portion of middle Tennessee, the counties of Davidson, Williamson, Maury, and Giles. Moreover, the road is largely indebted to the State of Tennessee, (about two million five hundred thousand dollars,) and in addition to this is owing the Government of the United States $294,927. To declare the forfeiture of these lands and open them for homesteads would be to take away from the Nashville and Decatur road their basis of credit and prevent the construction of the remaining one hundred miles yet to be built, frustrate the original intention of a line from the lakes to the Gulf, cause the Government of the United States and the State of Tennessee to lose their large indebtedness, the payment of which depends upon the completion of the road, and deprive her citizens of a great and necessary highway. In the second place, these lands are not fit for homesteads. The gentleman from Indiana was right when he said that they contained vast coal and iron beds. They are mountainous lands, about four hundred and twenty-six thousand acres, that cannot be developed without this road. Allowed an extension, the company will be able, perhaps in two years, to pour its treasures either into Chicago or Pensacola.

Mr. WILLIAMS, of Pennsylvania. I ask the gentleman from Tennessee to yield to me for a moment.

Mr. ARNELL. I can only yield for a moment, as I occupy the floor by the courtesy of the gentleman from Wisconsin.

Mr. WILLIAMS, of Pennsylvania. I wish to know how many loyal stockholders there are connected with this road? I can refer the gentleman to authorities I have on that point. One of the roads, I believe, was captured by our Army during the war, it having been engaged in the interest of the rebellion.

Mr. ARNELL. Which one?

Mr. WILLIAMS, of Pennsylvania. The Tennessee and Alabama railroad. I find in a report made to this House by one of its committees the following:

"In the case of the Tennessee and Alabama railroad, on a reference to Hon. J. A. Fletcher, secretary of state, for his opinion as to the loyalty of fifteen directors named for that company, he makes the following answer:

"'I. S. Claybrook, Frank Boardman, Samuel Henderson, M. G. L. Clairborne, and William Parke are good and loyal men. Thomas F. Perkins, R. H. Bradley, John M. Gavock, John B. McEwen, William P. Cannon, and B. B. Toon have all been more or less in sympathy with the rebellion, but are regarded as honorable men, and will probably discharge their duties loyally. C. W. Hance, Absolom Thompson, James Andrews, and A. C. Mayberry are all liable to the objection of disloyalty. Thompson is the only one of them whose fidelity has been indorsed to me by acquaintance. Mayberry fled South in 1862 and only returned after Johnson's surrender. This is a bad sign, but it is said he ran to save his negroes. On the whole, the board is about as good as it can be made out of the material to be had. It is said every prominent loyalist among the stockholders is on the board, and the least objectionable of the rebel stockholders were chosen.'"

Mr. ARNELL. I am coming to that point, the loyalty of these roads. I stand not here or anywhere the apologist of corporations that aided in that ghastliest of all crimes—the rebellion. God forbid.

Mr. WILLIAMS, of Pennsylvania. I find the statement authoritatively made in regard to the direction of the road that in the selection of directors, composed as they are of about fifteen men, five were certified to be loyal men, six were declared to be of doubtful loyalty, and the remaining four were admitted to be rebels. The reason assigned for selecting rebels was that there were no loyal men to be had among the directors.

Mr. ARNELL. That is not correct as regards what is now known as the Nashville and Decatur railroad.

Mr. WILLIAMS, of Pennsylvania. It is so stated here.

Mr. ARNELL. Let me explain. The Nashville and Decatur road is composed of three lines. I understand the gentleman from Pennsylvania to ask how many loyal directors there are in that road, and I am glad he has made the inquiry, because I desire to mention the names of some gentlemen who were directors of that road who are and have been as loyal as any gentleman upon this floor.

I am glad to have their names go upon the records, that they may be read hereafter. Frank Hardiman, of Williamson county, the present secretary of the Nashville and Decatur railroad, and John Baird, the former treasurer and secretary of the road from Columbia, Tennessee, to the State line, are both gentlemen of unflinching loyalty and unimpeachable integrity and of influence on this road. Further than this, the Nashville end of the road was voluntarily handed over to General Buell when he entered Tennessee with his army on his way to Shiloh, not captured, and upon account kept by his superintendent of military railroads more than five hundred thousand dollars is due this company, not one cent of which has been paid, as was agreed upon. Again, after the surrender of the rebel armies, that company bought from the United States Government $400,000 worth of rolling stock, and have paid more than one hundred and fifteen thousand dollars of the principal and the interest in monthly installments. And, again, I know that this company have steadily refused to enter into railroad combinations against the General Government, and stands in this respect without a parallel case in my knowledge throughout the entire South. I think that this road ought to be excepted and President Sloss sustained, and rebel roads taught that fair dealing and honesty and loyalty is, after all the best policy in its settlements with the Government. In this connection I desire to have read a private letter from General Thomas, commanding the district of Tennessee, written with no intention to be made public, yet I think I violate no faith in its publication.

Mr. TRIMBLE, of Kentucky. Will the gentleman yield for a question?

Mr. ARNELL. Yes, sir.

Mr. TRIMBLE, of Kentucky. I ask the gentleman whether it is not the fact that the stockholders in all those roads have really no interest in those roads except after the payment of the mortgage or liens that exist upon them; and whether these liens are not sufficient to absorb the entire value of the road; and, further, whether the mortgages are not held by parties who live at the North and are loyal to the Government of the United States.

Mr. ARNELL. In reply, I will say that to a certain extent what the gentleman states is undoubtedly true. As I have stated, the State of Tennessee has a mortgage of $2,500,000 on this road, and the Government of the United States $300,000.

But to return to the letter of General Thomas. Here, in this letter, are the opinions of one entirely conversant with this whole matter; one whose judgment—I need not say is to be relied upon, that would be unseemly ostentation on my part—but of whom I will say, an almost peerless soldier, whose name is forever embalmed in the nation's gratitude and the world's history.

I ask the Clerk to read a letter from General Thomas.

The Clerk read as follows:

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
LOUISVILLE, KENTUCKY, *January* 22, 1868.

DEAR SIR: I cheerfully give you my opinion on the merits of the grant of land to the Tennessee and Alabama railroad. From all I can learn, the Tennessee and Alabama Railroad Company was in good working condition before the war, and was endeavoring to carry out the requirements of the bill granting lands to aid in constructing their road. Work on the road was broken up by the war, and the unsettled and disastrous condition of the people interested in the success of the road has operated to prevent them from resuming the work. The road will be of great benefit in developing that section of country; and, as the grants seem to have been made to encourage internal improvement, I should favor the continuance of it were I a member of Congress.

Very respectfully,

GEORGE H. THOMAS,
Major General United States Army.

HON. SAMUEL M. ARNELL, *Washington, D. C.*

A word upon the general merits of the bill. The first point is:

HOMES FOR THE HOMELESS.

I sympathize with the desire of my friend from Indiana—a noble and patriotic desire—to give to the homeless, landless millions of the South a little spot of earth, a home! it is the dearest spot this side of Paradise, and the humbler, generally, the happier—home, the source of national life and blessing. I say, such a desire as I know actuates my friend commands my admiration and sympathy and shall receive my support. But I submit to the gentleman and to the House if he does not defeat by the sweeping provisions of his bill the very object that he proposes. I think his bill, as it stands amended, is too broad. The building of public highways, as I read in history, is only another method of building homes—a time-honored and noble policy, fully justified by our experience. I ask, what is a bit of barren land worth in an unpeopled wilderness, and who is going to people it unless there is a way to get to and from it? Our experience is only reiterating what has been said everywhere upon the American continent, and teaches that to lay down a railroad is the speediest and best means of settling and developing it. A buzzing, humming swarm of the children of toil take immediate possession of the land. As a friend of the colored man, as one of his immediate Representatives upon this floor, I join hands with the gentleman from Indiana or any one else, and will cordially go with him that goes furthest in giving lands to these homeless, faithful, loyal children of the Republic. Their cry is not for bread, but for "land," "land to work"—an importunate, agonizing cry! But forty acres of land wild as Africa do not constitute a home. Many within my knowledge are now kept from occupying public land because it is in a wilderness, away from everywhere. I would give the poor white man and the poor black man not only forty acres of land, but a church and a school-house and a newspaper—necessities to every home and to every citizen of a free and living Republic; necessities that spring up in the track of a railroad as inevitably, as surely, as grass and flowers follow in the track of spring. The fact that forty-seven million acres of land are now open in these four States for homesteads is of great weight to my mind. But these are poor "sand deserts," says the gentleman from Pennsylvania, [Mr. KELLEY.] Not so poor that they will not be made richer by a railroad. These vast bodies of land cannot remain unopened entirely; and I know of no better way to open them for settlements than by railroads. To abridge the system of internal improvements is to infringe upon homesteads. I would have both walk hand in hand, *par nobile fratrum.*

REBEL CORPORATIONS.

But it is said that these are rebel corporations. This is undoubtedly true of the most of these roads. I have but little confidence in the loyalty of any railroad. Nor am I a believer in that false, maudlin philosophy, called "conciliation," set forth by the gentleman from Wisconsin, [Mr. ELDRIDGE.] One hair's strength of practical force is worth all the conciliation that you can pile between this and the moon. "Conciliation," as we know it down South, is a cheat. I wish it was nothing worse. Alas! it is a winding-sheet, and an unknown grave to many of your loyal brethren. I would declare the forfeiture of these lands, save in clear cases that ought to be made exceptions, in order to divest these rebel corporations of their power—power that they are using to-day with such terrible effect against the Government of the United States, against reconstruction, and against freedom, and leave these lands to be regranted for railroad purposes or common schools in such a manner as to secure the rights of loyal men.

THE FUTURE.

I think that we should not be narrow or circumscribed in our views where the future is to be largely consulted. Each of us represent upon this floor not merely a local constituency—a single district of one of the thirty-seven States of this Union—but we are the Representatives of the American nation, solemnly bound to forward the general interests. "The whole boundless continent is ours"—ours to develop, ours to make fairer, grander, and happier.

It is well to remind ourselves that one generation does not constitute a State. Looking down the far future, I see other generations peopling these "dead, lifeless States" spoken of by the gentleman from Indiana, [Mr. JULIAN.] The architects of the nation's woes have passed away, the dark clouds have been withdrawn, and a brighter day floods the land of the orange and the magnolia. A generation, like an individual, tarries on earth but a day, or, as Cicero has it, "Tarries over night."

We but make room for posterity. Is it not, therefore, the true path of wisdom to follow up the ignorance and the darkness and the wickedness of the rebellion with a new and a better civilization, with other men and other habits and forms of life? To this end, and for this purpose, I would plow up these rebellious States with new lines of railroads, that after all are only new lines of thought and intelligence, till what are now waste places, "sand deserts," shall blossom with new and better life. The food of the old gods, we are told, was ambrosia. The true "bread from heaven" to-day is the divine and more select influences of knowledge and our Christian civilization. Give us fuller and larger measures from every quarter.

Mr. HOPKINS. I now yield to the gentleman from Indiana, [Mr. SHANKS.]

Mr. SHANKS. Mr. Speaker, I wish to call the attention of the House to a remark made by the gentleman from California [Mr. AXTELL] on the 29th of last month touching this bill. He spoke against its passage, and with a great deal of feeling; and alluding to the fact that these lands were settled by white people, he said:

"These poor white men of the South have lived upon these lands for generations without any restraint."

Thus the enemies of the bill admit that these lands are settled by poor white people who would be ousted by this corporation, and they and their families left without homes.

If it be the fact, as stated by gentlemen on this floor, that white men and freed people have lived on these lands for generations, then there comes to this House proof of this fact: that the original transaction by which these lands were passed to these railroads was a fraud upon the settlers of that country who had made their homes upon them.

It is well known to the members of the House that there was a considerable length of time employed by these companies in selecting these lands from the public lands. There is a a very large amount of public land in these States belonging to the General Government that remains unsold; but it is an undeniable fact that the larger portion of those lands are valueless. Hence the necessity for the time that was required by these corporations to procure the best quality of land; and in doing that they selected that portion which had been settled by white men, the colored people then being slaves, and not permitted to purchase homes. And now the gentleman from California tells us that for generations—which must be at least fifty years, as a generation is generally estimated at about twenty-five years—white men have lived upon these lands; and he asks us now, although they are forfeited to the Government by a failure of the corporation under the law that granted them, to set aside that forfeiture and restore them to the irresponsible corporations to which they were granted for the purposes named in the conveyance.

If these corporations had gone on and sold these lands and constructed the roads as they agreed to do they would in that act have driven these settlers from their homes and turned them and their families out of the home to which they were entitled under our laws. And now we are asked to do a second time what was once done under bad advisement, to carry out what was undertaken to be done years ago by law procured through fraud by these corporations, and dispossess these settlers of their homes made by their own toil.

I want to call attention to another fact stated by the gentleman from California, [Mr. AXTELL.] He said:

"There are too many western men on this floor to be told that eighty or one hundred and sixty acres of land in an unbroken wilderness without roads is any home for the poor."

Now, sir, I assert it as a fact that the great mass of the settlers in the West live on small farms, and they hold in their hands the destiny of this nation to-day. If that country had been settled by a few men who held the great mass subject to their will and renters upon their soil, there would to-day have been no Government of the United States. It would have gone down under the system organized in the southern States, where slavery and serfdom was the policy; and a dearth of schools, corrupted morals, squalid poverty, an exhausted soil, with treason and murder as a necessary result.

But, sir, it was because of these farms of forty, eighty, and one hundred and sixty acres in the West, owned by men of industry and consequent independence, men of nerve, men who knew how to labor and how to fight the enemies of their country; as they felled the timber of the forest to make their farms so they felled the enemies of their country to make way for liberty and right. It was by the strong arm of the mechanic, laborer, and small farmer, who labor with their own hands, that the Government of this country was saved. It is the settlers on the small tracts, each acting for himself and providing and defending a home for his family, that give power to the Government and protect it in the hour of its peril. From these small farms come the men of energy; they produce the mechanic, the tradesman, the day laborer, the men of muscle and nerve, who formed a living wall that in battle became a wall of fire around the Republic, defending its honor, its soil, its Government, and its religion, and rendered in very truth the declaration that all men are born free and sacredly endowed with equal rights before the laws of God and man.

But, Mr. Speaker, it is said that these States are not represented here, and we are called upon to wait until they are represented. Permit me to ask under what authority that representation left? Who drove that representation from this Hall? Was it the poor people of this country? Was it the men who own the small farms? No; they left this Hall of their own free will, and they only now stay out because they refuse to be loyal and send men here who are worthy to occupy these seats. This war has been carried on not only without them but in spite of them. It was the baseness of those who controlled these lands, and such as they who withdrew their delegations and that now refuse to return loyal ones, and who refuse homes to the people of whom fourteen out of fifteen have none.

Now, Mr. Speaker, in the brief time allowed me I want to call the attention of the House to the fact that there has never been a time before at which four million poor people have been turned out on society. There has never been a time before when four million people, men, women, and children, by a single act, have become outcasts on the country. Prior to this time these people were unable to own lands, because the accursed doctrine of slaveholders is that all property of the slave, as he himself, belongs to the master. They have only been for the short space of two years entitled to buy and own land at all. Here are four million people seeking homes and asking them at the hands of the Government, and it is of the utmost importance that we keep open the avenues by which they may procure them for themselves. Every human being should have a home. It is a cold, bleak, desolate thing to say "I have no home." Every nation is weakened when its citizens have no homes.

But is said that there are twenty-four million acres of land in these States subject to entry. Be it so. That is another reason why we should throw these corporations back and not turn these poor people off the lands upon which they have settled. If there is so much public land there let these corporations go under subsequent laws and take it, and let us protect these people in their homes. When you take away from men their households, their homes, you disorganize society and weaken the power of the Government to defend and protect itself.

Mr. JULIAN obtained the floor.

Mr. HOLMAN. Will my colleague yield to me for five minutes?

Mr. JULIAN. I yield to my colleague five minutes.

Mr. BINGHAM. I would inquire of the gentleman from Indiana when he proposes to close this debate?

Mr. JULIAN. This evening, after a few concluding remarks—before four o'clock.

CONTRACTS FOR ORDNANCE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with the act of April 21, 1808, a statement of contracts and purchases made by the ordnance department during 1867, &c.; which was laid on the table, and ordered to be printed.

JOHN S. COX.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the Adjutant General respecting the military services of John S. Cox, late quartermaster first regiment Indian home guards; which was referred to the Committee on Military Affairs, and ordered to be printed.

INSTRUCTIONS TO TAX COMMISSIONERS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the House of the 28th ultimo, an official copy of the instructions issued by President Lincoln to the tax commissioners in South Carolina on September 16, 1863; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

THE WAR DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting the correspondence between the President and General Grant in relation to the Secretary of War, called for by the House of Representatives.

Mr. WILSON, of Iowa. I move that that communication be referred to the Committee on the Judiciary and printed, and I ask for the reading of the papers.

Mr. STEVENS, of Pennsylvania. I move that it be referred to the Committee on Reconstruction.

Mr. WILSON, of Iowa. I will modify my motion so as to refer it to the Committee on Reconstruction.

The Clerk then read the communications, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, *February* 4, 1868.

SIR: In answer to the resolution of the House of Representatives of the 3d instant I transmit herewith copies furnished me by General Grant of correspondence between him and the President relating to the Secretary of War, and which he reports to be all the correspondence he has had with the President on the subject.

I have had no correspondence with the President since the 12th of August last. After the action of the Senate on his alleged reason for my suspension from the office of Secretary of War I resumed the duties of that office as required by the act of Congress, and have continued to discharge them without any personal or written communication with the President. No orders have been issued from this Department in the name of the President with my knowledge, and I have received no orders from him.

The correspondence sent herewith embraces all the correspondence known to me on the subject referred to in the resolution of the House of Representatives.

I have the honor to be, sir, with great respect, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

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HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, *January* 24, 1868.

SIR: I have the honor very respectfully to request to have in writing the order which the President gave me verbally on Sunday, the 19th instant, to disregard the orders of Hon. E. M. Stanton as Secretary of War until I knew from the President himself that they were his orders.

I have the honor to be, very respectfully, your obedient servant, U. S. GRANT, *General.*

His Excellency A. JOHNSON,
President of the United States.

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As requested in this communication, General Grant is instructed in writing not to obey any order from the War Department assumed to be issued by the direction of the President unless such order is known by the General commanding the Armies of the United States to have been authorized by the Executive.

ANDREW JOHNSON.

January 29, 1868.

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HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, D. C., *January* 28, 1868.

SIR: On the 24th instant I requested you to give me in writing the instructions which you had previously given me verbally not to obey any order from Hon. E. M. Stanton, Secretary of War, unless I knew that it came from yourself. To this written request I received a message that has left doubt in my mind of your intentions. To prevent any possible misunderstanding, therefore, I renew the request that you will give me written instructions, and till they are received will suspend action on your verbal ones.

I am compelled to ask these instructions in writing in consequence of the many and gross misrepresentations, affecting my personal honor, circulated through the press for the last fortnight, purporting to come from the President, of conversations which occurred either with the President privately in his office or in Cabinet meeting. What is written admits of no misunderstanding.

In view of the misrepresentations referred to it will be well to state the facts in the case.

Some time after I assumed the duties of Secretary of War *ad interim* the President asked me my views as to the course Mr. Stanton would have to pursue, in case the Senate should not concur in his suspension, to obtain possession of his office. My reply was, in substance, that Mr. Stanton would have to appeal to the courts to reinstate him, illustrating my position by citing the ground I had taken in the case of the Baltimore police commissioners.

In that case I did not doubt the technical right of Governor Swann to remove the old commissioners and to appoint their successors. As the old commissioners refused to give up, however, I contended that no resource was left but to appeal to the courts.

Finding that the President was desirous of keeping Mr. Stanton out of office, whether sustained in the suspension or not, I stated that I had not looked particularly into the "tenure-of-office bill," but that what I had stated was a general principle, and if I should change my mind in this particular case I would inform him of the fact.

Subsequently, on r ading the "tenure-of-office bill" closely, I found that I could not, without violation of the law, refuse to vacate the office of Secretary of War the moment Mr. Stanton was reinstated by the Senate, even though the President should order me to retain it, which he never did.

Taking this view of the subject, and learning on Saturday, the 11th instant, that the Senate had taken up the subject of Mr. Stanton's suspension, after some conversation with Lieutenant General Sherman and some members of my staff, in which I stated that the law left me no discretion as to my action should Mr. Stanton be reinstated, and that I intended to inform the President, I went to the President for the sole purpose of making this decision known, and did so make it known. In doing this I fulfilled the promise made in our last preceding conversation on the subject.

The President, however, instead of accepting my view of the requirements of the "tenure-of-office bill," contended that he had suspended Mr. Stanton under the authority given by the Constitution, and that the same authority did not preclude him from reporting, as an act of courtesy, his reasons for the suspension to the Senate; that, having appointed me under the authority given by the Constitution, and not under any act of Congress, I could not be governed by the act. I stated that the law was binding on me, constitutional or not, until set aside by the proper tribunal.

An hour or more was consumed, each reiterating his views on this subject, until getting late, the President said he would see me again.

I did not agree to call again on Monday nor at any other definite time, nor was I sent for by the President until the following Tuesday.

From the 11th to the Cabinet meeting on the 14th instant a doubt never entered my mind about the President's fully understanding my position, namely, that if the Senate refused to concur in the suspension of Mr. Stanton my powers as Secretary of War *ad interim* would cease, and Mr. Stanton's right to resume at once the functions of his office would under the law be indisputable; and I acted accordingly. With Mr. Stanton I had no communication, direct nor indirect, on the subject of his reinstatement during his suspension.

I knew it had been recommended to the President to send in the name of Governor Cox, of Ohio, for Secretary of War, and thus save all embarrassment—a proposition that I sincerely hoped he would entertain favorably—General Sherman seeing the President at my particular request to urge this on the 13th instant.

On Tuesday (the day Mr. Stanton reëntered the office of the Secretary of War) General Comstock, who had carried my official letter announcing that with Mr. Stanton's reinstatement by the Senate I had ceased to be Secretary of War *ad interim*, and who saw the President open and read the communication, brought back to me from the President a message that he wanted to see me that day at the Cabinet meeting, after I had made known the fact that I was no longer Secretary of War *ad interim*.

At this meeting, after opening it as though I were a member of the Cabinet, when reminded of the notification already given him that I was no longer Secretary of War *ad interim*, the President gave a version of the conversations alluded to already. In this statement it was asserted that in both conversations I had agreed to hold on to the office of Secretary of War until displaced by the courts, or resign, so as to place the President where he would have been had I never accepted the office. After hearing the President through I stated our conversations substantially as given in this letter. I will add that my conversation before the Cabinet embraced other matter not pertinent here, and is therefore left out.

I in nowise admitted the correctness of the President's statement of our conversations, though to soften the evident contradiction my statement gave I said (alluding to our first conversation on the subject) the President might have understood me the way he said, namely, that I had promised to resign if I did not resist the reinstatement. I made no such promise.

I have the honor to be, very respectfully, your obedient servant,

U. S. GRANT, *General.*

His Excellency, A. JOHNSON,
President of the United States.

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HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, *January* 30, 1868.

SIR: I have the honor to acknowledge the return of my note of the 24th instant with your indorsement thereon that I am not to obey any order from the War Department, assumed to be issued by the direction of the President, unless such order is known by me to have been authorized by the Executive; and in reply thereto to say that I am informed by the Secretary of War that he has not received from the Executive any order or instructions limiting or impairing his authority to issue orders to the Army as has heretofore been his practice under the law and the customs of the Department. While this authority to the War Department is not countermanded, it will be satisfactory evidence to me that any orders issued from the War Department by direction of the President are authorized by the Executive.

I have the honor to be, very respectfully, your obedient servant,

U. S. GRANT, *General.*

His Excellency A. JOHNSON,
President of the United States.

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EXECUTIVE MANSION, *January* 31, 1868.

GENERAL: I have received your communication of the 28th instant renewing your request of the 24th, that I should repeat in a written form my verbal instructions of the 19th instant, namely, that you obey no order from Hon. Edwin M. Stanton as Secretary of War, unless you have information that it was issued by the President's direction.

In submitting this request (with which I complied on the 29th instant) you take occasion to allude to recent publications in reference to the circumstances connected with the vacation by yourself of the office of Secretary of War *ad interim*, and, with the view of correcting statements which you term "gross misrepresentations," give at length your own recollection of the facts under which, without the sanction of the President, from whom you had received and accepted the appointment, you yielded the Department of War to the present incumbent.

As stated in your communication, some time after you had assumed the duties of Secretary of War *ad interim* we interchanged views respecting the course that should be pursued in the event of non-concurrence by the Senate in the suspension from office of Mr. Stanton. I sought that interview, calling myself

at the War Department. My sole object in then bringing the subject to your attention was to ascertain definitely what would be your own action should such an attempt be made for his restoration to the War Department. That object was accomplished; for the interview terminated with the distinct understanding that if, upon reflection, you should prefer not to become a party to the controversy, or should conclude that it would be your duty to surrender the Department to Mr. Stanton upon action in his favor by the Senate, you were to return the office to me prior to a decision by the Senate, in order that, if I desired to do so, I might designate some one to succeed you. It must have been apparent to you that, had not this understanding been reached, it was my purpose to relieve you from the further discharge of the duties of Secretary of War *ad interim* and to appoint some other person in that capacity.

Other conversations upon this subject ensued, all of them having, on my part, the same object, and leading to the same conclusion as the first. It is not necessary, however, to refer to any of them, excepting that of Saturday, the 11th instant, mentioned in your communication. As it was then known that the Senate had proceeded to consider the case of Mr. Stanton, I was anxious to learn your determination. After a protracted interview, during which the provisions of the "tenure-of-office bill" were freely discussed, you said that, as had been agreed upon in our first conference, you would either return the office to my possession in time to enable me to appoint a successor before final action by the Senate upon Mr. Stanton's suspension, or would remain as its head, awaiting a decision of the question by judicial proceedings. It was then understood that there would be a further conference on Monday, by which time, I supposed, you would be prepared to inform me of your final decision. You failed, however, to fulfill the engagement, and on Tuesday notified me, in writing, of the receipt by you of official notification of the action of the Senate in the case of Mr. Stanton, and at the same time informed me that, "according to the act regulating the tenure of certain civil offices, your functions as Secretary of War *ad interim* ceased from the moment of the receipt of the notice." You thus, in disregard of the understanding between us, vacated the office without having given me notice of your intention to do so. It is but just, however, to say that in your communication you claim that you did inform me of your purpose, and thus "fulfilled the promise made in our last preceding conversation on this subject." The fact that such a promise existed is evidence of an arrangement of the kind I have mentioned. You had found in our first conference "that the President was desirous of keeping Mr. Stanton out of office, whether sustained in the suspension or not." You knew what reasons had induced the President to ask from you a promise. You also knew that, in case your views of duty did not accord with his own convictions, it was his purpose to fill your place by another appointment. Even ignoring the existence of a positive understanding between us, these conclusions were plainly deducible from our various conversations. It is certain, however, that even under these circumstances you did not offer to return the place to my possession; but, according to your own statement, placed yourself in a position where, could I have anticipated your action, I would have been compelled to ask of you, as I was compelled to ask of your predecessor in the War Department, a letter of resignation, or else to resort to the more disagreeable expedient of suspending you by a successor.

As stated in your letter, the nomination of Governor Cox, of Ohio, for the office of Secretary of War, was suggested to me. His appointment as Mr. Stanton's successor was urged in your name, and it was said that his selection would save further embarrassment. I did not think that in the selection of a Cabinet officer I should be trammeled by such considerations. I was prepared to take the responsibility of deciding the question in accordance with my ideas of constitutional duty, and, having determined upon a course which I deemed right and proper, was anxious to learn the steps you would take should the possession of the War Department be demanded by Mr. Stanton. Had your action been in conformity to the understanding between us, I do not believe that the embarrassment would have attained its present proportions or that the probability of its repetition would have been so great.

I know that, with a view to an early termination of a state of affairs so detrimental to the public interests, you voluntarily offered both on Wednesday, the 15th instant, and on the succeeding Sunday, to call upon Mr. Stanton and urge upon him that the good of the service required his resignation. I confess that I considered your proposal as a sort of reparation for the failure on your part to act in accordance with an understanding more than once repeated, which I thought had received your full assent and under which you could have returned to me the office which I had conferred upon you, thus saving yourself from embarrassment and leaving the responsibility where it properly belonged, with the President, who is accountable for the faithful execution of the laws.

I have not yet been informed by you whether, as twice proposed by yourself, you have called upon Mr. Stanton and made an effort to induce him voluntarily to retire from the War Department.

You conclude your communication with a reference to our conversation at the meeting of the Cabinet held on Tuesday, the 14th inst. In your account of what then occurred you say that after the President had given his version of our previous conversations you stated them substantially, as given in your letter that you in no wise admitted the correctness of his statement of them, "though, to soften the evident contradiction my statement gave, I said (alluding to our first conversation on the subject) the President might have understood in the way he said, namely, that I had promised to resign if I did not resist the reinstatement. I made no such promise."

My recollection of what then transpired is diametrically the reverse of your narration. In the presence of the Cabinet I asked you:

First. If, in a conversation which took place shortly after your appointment as Secretary of War *ad interim*, you did not agree either to remain at the head of the War Department and abide any judicial proceedings that might follow non-concurrence by the Senate in Mr. Stanton's suspension; or, should you wish not to become involved in such a controversy, to put me in the same position with respect to the office as I occupied previous to your appointment, by returning it to me in time to anticipate such action by the Senate.

This you admitted.

Second. I then asked you if, at our conference on the preceding Saturday, I had not, to avoid misunderstanding, requested you to state what you intended to do; and further, if, in reply to that inquiry, you had not referred to our former conversation, saying that from them I understood your position, and that your action would be consistent with the understanding which had been reached.

To these questions you also replied in the affirmative.

Third. I next asked if, at the conclusion of our interview on Saturday, it was not understood that we were to have another conference on Monday, before final action by the Senate in the case of Mr. Stanton.

You replied that such was the understanding, but that you did not suppose the Senate would act so soon; that on Monday you had been engaged in a conference with General Sherman, and were occupied with "many little matters," and asked if General Sherman had not called on that day. What relevancy General Sherman's visit to me on Monday had with the purpose for which you were then to have called I am at a loss to perceive, as he certainly did not inform me whether you had determined to retain possession of the office or to afford me an opportunity to appoint a successor, in advance of any attempted reinstatement of Mr. Stanton.

This account of what passed between us at the Cabinet meeting on the 14th instant widely differs from that contained in your communication, for it shows that, instead of having "stated our conversations as given in the letter" which has made this reply necessary, you admitted that my recital of them was entirely accurate. Sincerely anxious, however, to be correct in my statements, I have to-day made this narration of what occurred on the 14th instant to the members of the Cabinet who were then present. They, without exception, agree in its accuracy.

It is only necessary to add that on Wednesday morning, the 15th, you called on me, in company with Lieutenant General Sherman. After some preliminary conversation, you remarked that an article in the National Intelligencer of that date did you much injustice. I replied that I had not read the Intelligencer of that morning. You then first told me that it was your intention to urge Mr. Stanton to resign his office.

After you had withdrawn I carefully read the article of which you had spoken and found that its statements of the understanding between us were substantially correct. On the 17th I caused it to be read to four of the five members of the Cabinet who were present at our conference on the 14th, and they concurred in the general accuracy of its statements respecting our conversation upon that occasion.

In reply to your communication I have deemed it proper, in order to prevent further misunderstanding, to make this simple recital of facts.

Very respectfully, yours,

ANDREW JOHNSON.

General U. S. GRANT,
Commanding United States Armies.

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, D. C., *February* 3, 1868.

SIR: I have the honor to acknowledge the receipt of your communication of the 31st ultimo in answer to mine of the 28th ultimo. After a careful reading and comparison of it with the article in the National Intelligencer of the 15th ultimo, and the article over the initials "J. B. S." in the New York World of the 27th ultimo, purporting to be based upon your statement and that of the members of your Cabinet therein named, I find it to be but a reiteration—only somewhat more in detail—of the "many and gross misrepresentations" contained in these articles, and which my statement of the facts set forth in my letter of the 28th ultimo was intended to correct; and I here reassert the correctness of my statements in that letter, anything in yours in reply to it to the contrary notwithstanding.

I confess my surprise that the Cabinet officers referred to should so greatly misapprehend the facts in the matter of admissions alleged to have been made by me at the Cabinet meeting of the 14th ultimo as to suffer their names to be made the basis of the charges in the newspaper article referred to, or agree in the accuracy, as you affirm they do, of your account of what occurred at that meeting.

You know that we parted on Saturday, the 11th ultimo, without any promise on my part, either express or implied, to the effect that I would hold on to the office of Secretary of War *ad interim* against the action of the Senate, or, declining to do so myself, would surrender it to you before such action was had, or that I would see you again at any fixed time on the subject.

The performance of the promises alleged by you to have been made by me would have involved a resistance to law and an inconsistency with the whole history of my connection with the suspension of Mr. Stanton.

From our conversations and my written protest of August 1, 1867, against the removal of Mr. Stanton, you must have known that my greatest objection to his removal or suspension was the fear that some one would be appointed in his stead who would, by opposition to the laws relating to the restoration of the southern States to their proper relations to the Government, embarrass the Army in the performance of duties especially imposed upon it by these laws; and it was to prevent such an appointment that I accepted the office of Secretary of War *ad interim*, and not for the purpose of enabling you to get rid of Mr. Stanton by my withholding it from him in opposition to law, or not doing so myself, surrendering it to one who would, as the statement and assumptions in your communication plainly indicate was sought.

And it was to avoid this same danger, as well as to relieve you from the personal embarrassment in which Mr. Stanton's reinstatement would place you, that I urged the appointment of Governor Cox, believing that it would be agreeable to you and also to Mr. Stanton, satisfied as I was that it was the good of the country and not the office, the latter desired.

On the 15th ultimo, in presence of General Sherman, I stated to you that I thought Mr. Stanton would resign, but did not say that I would advise him to do so. On the 18th I did agree with General Sherman to go and advise him to that course, and on the 19th I had an interview alone with Mr. Stanton, which led me to the conclusion that any advice to him of the kind would be useless, and I so informed General Sherman.

Before I consented to advise Mr. Stanton to resign I understood from him in a conversation on the subject immediately after his reinstatement that it was his opinion that the act of Congress entitled "An act temporarily to supply vacancies in the Executive Departments in certain cases," approved February 20, 1863, was repealed by subsequent legislation, which materially influenced my action. Previous to this time I had had no doubt that the law of 1863 was still in force, and, notwithstanding my action, a fuller examination of the law leaves a question in my mind whether it is or is not repealed; this being the case, I could not now advise his resignation lest the same danger I apprehended on his first removal might follow.

The course you would have it understood I agreed to pursue was in violation of law and without orders from you, while the course I did pursue, and which I never doubted you fully understood, was in accordance with law, and not in disobedience of any orders of my superior.

And now, Mr. President, where my honor as a soldier and integrity as a man have been so violently assailed, pardon me for saying that I can but regard this whole matter, from the beginning to the end, as an attempt to involve me in the resistance of law for which you hesitated to assume the responsibility in orders, and thus to destroy my character before the country. I am, in a measure, confirmed in this conclusion by your recent orders directing me to disobey orders from the Secretary of War—my superior and your subordinate—without having countermanded his authority to issue the orders I am to disobey.

With assurance, Mr. President, that nothing less than a vindication of my personal honor and character could have induced this correspondence on my part, I have the honor to be, very respectfully, your obedient servant,

U. S. GRANT,
General.

His Excellency, A. JOHNSON,
President of the United States.

The question was upon the motion of Mr. WILSON, of Iowa, that the communication and accompanying papers be referred to the Committee on Reconstruction, and printed.

Mr. WILSON, of Iowa. On that motion I call for the previous question.

Mr. COVODE. I would inquire of the Chair if it would be in order, in view of his straightforward, manly course, to move a vote of thanks to General Grant?

The SPEAKER. That would not be in order pending the call for the previous question.

Mr. MARSHALL. I appeal to the gentleman from Iowa [Mr. WILSON] to add to his motion instructions to the committee to take testimony on this subject.

The SPEAKER. Debate is not in order.

Mr. MARSHALL. I am not debating; I only make a suggestion.

The SPEAKER. Suggestions are in the nature of debate.

Mr. MARSHALL. I ask the gentleman to withdraw the call for the previous question.

Mr. WILSON, of Iowa. I must decline to do so.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer and print was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROBERT M. PATTON.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to have taken from the

Speaker's table Senate bill No. 246, to remove political disabilities from Robert M. Patton, of Alabama, for reference to the Committee on Reconstruction.

No objection was made.

The bill was accordingly taken from the Speaker's table, read a first and second time, and referred to the Committee on Reconstruction.

ERIE EXTENSION CANAL COMPANY.

Mr. SCOFIELD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be hereby instructed to inquire into the propriety of giving to the Erie Extension Canal Company a portion of the public lands to enable said company to enlarge their canal, making a ship-canal from the Ohio river to the harbor of Erie, on Lake Erie.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I call for the regular order.

The SPEAKER. When the proceedings were interrupted by the reading of the communication from the War Department the House was engaged in the consideration of the bill of the House No. 267, to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes; upon which the gentleman from Indiana [Mr. JULIAN] is entitled to the floor.

Mr. WASHBURNE, of Illinois. I desire to state that if the gentleman from Indiana does not close the debate to-day I will to-morrow, after the morning hour, move to go into Committee of the Whole upon the appropriation bills.

Mr. JULIAN. It is so late now that I have consented to yield to a motion to adjourn.

Mr. WASHBURNE, of Illinois. I will say that if the motion to adjourn is made and voted down, then I shall move to postpone this subject to some future day.

Mr. JULIAN. I give notice to the House that I shall oppose that motion, and shall ask that this bill be proceeded with to-morrow.

Mr. BINGHAM, (at four o'clock p. m.) I move that the House now adjourn.

The question was taken; and upon a division there were—ayes 61, noes 66.

Before the result of the vote was announced,

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. BURR and Mr. HOPKINS were appointed.

The House again divided; and the tellers reported that there were—ayes 60, noes 78.

So the motion to adjourn was not agreed to.

SOUTHERN LAND GRANTS.

The House then resumed the consideration of the bill declaring forfeited certain grants of public lands to the southern States, upon which Mr. JULIAN was entitled to the floor.

Mr. HOLMAN. I trust my colleague will yield to me, according to our understanding some minutes since.

Mr. JULIAN. I admit that I agreed to do so; but I am sorry that I made the agreement. Still, if the gentleman insists upon it, of course I am bound by the agreement.

Mr. HOLMAN. I think I shall have to insist upon the agreement.

Mr. JULIAN. Very well; go on.

Mr. HOLMAN then addressed the House. His remarks will be foundd in the Appendix.

Mr. JULIAN (after making some remarks which will be published in the Appendix) called the previous question upon the motion to reconsider the vote by which the bill was recommitted.

Mr. ARNELL and Mr. PILE addressed the Chair.

Mr. JULIAN. I have agreed to allow two amendments to be offered.

The SPEAKER. At the present time the bill is not in a position to be amended.

Mr. JULIAN. I mean to say that at the proper time I will yield to permit those amendments to be offered.

Mr. GRISWOLD. I desire, Mr. Speaker, to make a parliamentary inquiry as to the condition of this bill. Would a motion to recommit it be now in order?

The SPEAKER. The bill was reported from the Committee on Public Lands and ordered to be recommitted. The gentleman from Indiana [Mr. JULIAN] moved to reconsider the vote by which it had been recommitted; and upon that question the debate has proceeded. The gentleman from Indiana now demands the previous question on the motion to reconsider.

Mr. GRISWOLD. What would be the effect of a motion to lay on the table the motion to reconsider?

The SPEAKER. As the gentleman from Indiana has indicated in his closing remarks, the effect of that motion, if adopted, would be to reaffirm the former vote recommitting the bill.

Mr. GRISWOLD. Would the motion I have stated be in order now?

The SPEAKER. It would be.

Mr. GRISWOLD. I move, then, to lay on the table the motion to reconsider the vote by which the bill was recommitted.

On the motion there were—ayes 62, noes 64.

Mr. BLAINE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 80, not voting 45; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Bailey, Barnes, Barnum, Beck, Blaine, Blair, Boyer, Brooks, Burr, Dawes, Dixon, Dodge, Eldridge, Ferriss, Fox, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Hawkins, Hill, Hotchkiss, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kerr, Knott, Laflin, Mallory, Marshall, Marvin, Maynard, Mungen, Niblack, Nunn, Peters, Phelps, Pile, Pruyn, Randall, Robinson, Ross, Sitgreaves, Smith, Stewart, Stone, Taber, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Auken, William B. Washburn, Windom, Woodbridge, and Woodward—63.

NAYS—Messrs. Anderson, Arnell, Baker, Beaman, Benton, Boutwell, Broomall, Cake, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Donnelly, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Gravely, Halsey, Harding, Higby, Holman, Hopkins, Hunter, Judd, Julian, Kelley, Kelsey, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, McClurg, McCormick, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Polsley, Price, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—80.

NOT VOTING—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Benjamin, Bingham, Bromwell, Buckland, Butler, Chanler, Reader W. Clarke, Driggs, Finney, Garfield, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Ketcham, Kitchen, Lincoln, Lynch, McCarthy, McCullough, Morgan, Morrissey, Nicholson, Plants, Poland, Pomeroy, Raum, Robertson, Selye, Shellabarger, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taffe, Van Trump, Van Wyck, and Wood—45.

So the House refused to lay on the table the motion to reconsider the vote by which the bill was recommitted.

During the roll-call the following announcements were made:

Mr. WOODBRIDGE. My colleague, Mr. POLAND, who, if he were here, would vote ay on this motion, is paired with the gentleman from Ohio, [Mr. SPALDING.]

Mr. NIBLACK. I desire to state that the gentleman from Delaware [Mr. NICHOLSON] is still confined to his room by sickness.

Mr. LAWRENCE, of Ohio. My colleague, Mr. SPALDING, who is in favor of this bill, is paired with the gentleman from Vermont, [Mr. POLAND.]

The result of the vote was announced as above stated.

The question then recurred on seconding the demand for the previous question.

The previous question was seconded and the main question ordered.

The question then recurred on reconsidering the vote by which the bill had been recommitted to the Committee on Public Lands.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to.

Mr. JULIAN. I withdraw the motion to recommit, which brings the bill before the House; and yield to the gentleman from Tennessee [Mr. ARNELL] and the gentleman from Missouri [Mr. PILE] to offer their amendments.

Mr. ARNELL submitted the following amendment:

Provided, This forfeiture shall not apply to the grant of lands made by the United States to the State of Alabama for the Tennessee and Alabama Central railroad, which is now known as the Nashville and Decatur railroad.

Mr. PILE. I submit the following amendment:

Provided further, That this act shall not apply to lands granted by the United States to the State of Alabama to aid in the construction of certain railroads in said State by act of Congress, approved June 30, 1856, which lands were granted by the State of Alabama to the Alabama and Tennessee River Railroad Company.

Mr. JULIAN. I now demand the previous question.

Mr. HOLMAN. I hope the gentleman will let me move an amendment.

Mr. BLAINE. I ask to submit an amendment.

Mr. JULIAN. I demand the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

Mr. BLAINE. Let my amendment be read.

Objection was made.

Mr. INGERSOLL. I move to reconsider the vote by which the main question was ordered, so the amendment may be read.

Mr. BLAINE. And I desire to make a personal statement.

Mr. UPSON. I move that the motion to reconsider be laid on the table.

Mr. BLAINE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ROSS moved that the House adjourn.

The motion was agreed to; and thereupon (at five o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: The petition of Moses W. Field and others, of Detroit, Michigan, praying for a reduction of taxation.

Also, the petition of Buchanan & Carrol and others, of Detroit, Michigan, praying for the reduction of taxes, the reduction of the Army and Navy, and the sum asked for the civil service.

By Mr. CAKE: The petition of Benjamin Bannan and others, of Pottsville, Pennsylvania, in favor of a protective tariff, setting forth that the domestic industry of the country cannot be developed and sustained with labor in England about one half and on the continent about one third the wages now paid in this country, (wages that cannot be lowered while the prices of the common necessaries of life rule as high as at present, and wages that will never be as low as before the rebellion,) unless we impose duties on foreign fabrics equal to the difference in their production at home and abroad.

By Mr. CARY: The resolutions of a public meeting of citizens of the District of Columbia, at Carroll Hall, on the 10th of January, asserting the rights of American citizens in foreign lands.

By Mr. CHURCHILL: The petition of Selden P. Clark, for pay and allowances of captain of infantry from October 31 to December 20, 1861.

Also, the petition of Anthony Bucher, for payment of Treasury note destroyed by fire.

Also, the petition of John M. Larmouth, for repayment of commutation money.

By Mr. CORNELL: The memorial of Kate Wright Adams, widow of late Lieutenant Commander La Rue Adams, United States Navy, for a pension.

Also, a memorial of 1,000 citizens of Ulster and Green counties, New York, that the rights of naturalized citizens of America be

recognized in foreign countries, especially in Great Britain.

By Mr. FARNSWORTH: The petition of a large number of officers and soldiers of Aurora, Illinois, against any legislation by Congress which shall hinder or prevent the payment to the soldiers and officers of the Union Army of all dues promised them by the Government.

By Mr. HOPKINS: The petition of the citizens of Janesville, Wisconsin, for the repeal of the internal taxes on manufactures and productions except luxuries.

By Mr. KELLEY: The petition of John E. Trudeau, of the parish of Jefferson, Louisiana, praying Congress to restore him to all the rights, privileges, and immunities of a citizen of the United States.

By Mr. McCLURG: The petition for relief of Mrs. Julia Ann Fisher, widow of Martin Fisher, deceased, of Missouri.

Also, the petition for pension for Mrs. Henrietta Bruns, widow of Dr. Bernard Bruns, deceased, of Missouri.

Also, the petition of Rial Newland, esq., for relief against the Mobile and Ohio Railroad Company.

By Mr. NUNN: The petition of Robert and Isaac Quinn, of Mississippi, for compensation for war damages.

Also, the petition of W. K. Hall, of Kentucky, for similar compensation.

Also, the petition of freedmen of Mississippi, for compensation for services rendered in Army hospitals.

By Mr. PAINE: The petition of S. Clark and others, citizens of Whitewater, Wisconsin, for a repeal of the internal tax on manufactures.

By Mr. SAWYER: The petition of Moore, Brothers & Co., of Neenah, Wisconsin, for repeal of the internal tax on manufactures.

By Mr. VAN HORN, of New York: The petition of 25 citizens of Niagara county, New York, asking an appropriation to improve the harbor at Wilson, in said county.

By Mr. WILLIAMS, of Indiana: The petition of Alfred L. Stoney, praying for difference of second lieutenant and first sergeant's pay.

IN SENATE.

WEDNESDAY, *February* 5, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War communicating, in obedience to law, a statement showing the contracts and purchases made by the ordnance department during the year ending December 31, 1867; which was ordered to lie on the table and be printed.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of December 17, 1867, copies of papers in the case of the steamer Ocean Belle; which was referred to the Committee on Finance, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating a copy of a letter of the Commissioner of Indian Affairs and copies of the papers relative to the petition of the Iowa Indians, praying that the sum provided for in the tenth article of the treaty of March 6, 1861, with the Sacs, Foxes, and Iowas, to be expended in the construction of a toll-bridge across the Great Nemaha river at or near Roy's Ferry, for the use of the Iowa Indians, may be applied to the purchase of oxen, agricultural implements, &c., for the use of those Indians; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a report of the Second Auditor of the Treasury, communicating, in obedience to law, copies of all accounts received at that office from persons charged or intrusted with the disbursement or application of moneys, goods, or effects of any kind for the benefit of the Indians, from July 1, 1866, to June 30, 1867, together with a list of the names of all persons to whom moneys, goods, or effects have been delivered within that year for the benefit of the Indians; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of contracts made by the quartermaster's department from the 1st to the 31st of December, 1867; which was referred to the Committee on Military Affairs and the Militia.

PETITIONS AND MEMORIALS.

Mr. CRAGIN presented a petition of citizens of Mississippi, praying the removal of civil disabilities imposed upon John L. Henley, of that State, by the reconstruction acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of John L. Henley, of Mississippi, praying to be relieved from the civil disabilities imposed on him by the reconstruction acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CHANDLER presented a petition of citizens of Pennsylvania, praying such legislation as will give protection to American labor and industry; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of citizens of Chicago, Illinois, praying immediate legislation to secure to women the right of suffrage in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. TIPTON presented a petition of citizens of Nebraska, praying the establishment of a mail route from Lincoln to the mouth of Douglas creek, in Butler county, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. EDMUNDS. I present the memorial of S. A. De Pitti Ferrandi, the consul of the Haytien people at New York, praying the appropriation of a subsidy from the United States Treasury for the establishment of a line of steamers between the United States and the island of Hayti. He proceeds to set forth the relations of trade that exists and might be further cultivated between the United States and that island, and the great advantage that it would be both to his people and to the commerce and trade of the United States to have a more direct and speedy and regular communication. He asks that provision may be made by law for that purpose. I move that the memorial be referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. HENDERSON. I desire to present the memorial and resolutions of St. Louis Board of Trade, praying Congress to grant the same subsidy to the Union Pacific railroad, eastern division, as is now granted to the Union Pacific Railroad Company, on the ground:

1. That it would prove of the highest economy to the Government in the transportation of supplies to new Territories.
2. That it is the best route to the Pacific.
3. That it would develop a country rich in minerals.
4. That it would add to the national revenues.
5. That it would tend to the civilization of the Indians and prevent Indian wars.
6. That the road is not only demanded by the wants of the Government and essential to the protection of settlements, but it would prove invaluable as a means of cementing distant Territories by the mutual interests of trade and commerce.

I move that the memorial be referred to the Committee on the Pacific Railroad.

The motion was agreed to.

Mr. MORTON presented the memorial of William Chinn, a freedman, of Prince William county, Virginia, praying compensation for property taken and used by troops of the United States; which was referred to the Committee on Claims.

Mr. DRAKE presented a petition of contractors for the construction of vessels of war and steam machinery, praying the passage of a bill authorizing the Court of Claims to consider the claims of all the contractors entitled to relief, including those to whom awards in part payment of their claims have been made; which was referred to the Committee on Naval Affairs.

Mr. NORTON presented a petition of citizens of Minnesota, praying such legislation as will define the status of naturalized citizens of this Republic before the world, and to compel Great Britain to recognize the validity of the naturalization of those citizens whom she holds in durance and to reinstate them to the liberties of which they have been deprived; which was referred to the Committee on Foreign Relations.

Mr. HENDRICKS. I ask leave to present the petition of mechanics and other laboring men, signed by thousands of persons in the State of New York, and also a petition very largely signed by the same class of persons in the State of Kentucky, asking the enactment of a law fixing eight hours as a day's work in all Government workshops. I move their reference to the committee having charge of the bill on that subject which came from the House of Representatives. I desire to say that these petitions were sent originally to a member of the House of Representatives, but as the House had acted upon the subject they were handed to me; and it gives me very great pleasure to present them to the Senate and ask their consideration by the committee having charge of the House bill.

The PRESIDENT *pro tempore*. The bill referred to lies on the table.

Mr. HENDRICKS. Very well.

The petitions were ordered to lie on the table.

Mr. ROSS presented a petition of William R. Mason, praying compensation for property taken, used, and destroyed by United States troops in 1861; which was referred to the Committee on Claims.

He also presented resolutions of the Legislature of the State of Kansas in favor of the extinguishment of the Indian title to all that portion of the Osage reservation lying north and east of the Arkansas river; which were referred to the Committee on Indian Affairs.

He also presented resolutions of the Legislature of the State of Kansas, in relation to the rights of American citizens in foreign countries; which were referred to the Committee on Foreign Relations, and ordered to be printed.

He also presented resolutions of the Legislature of the State of Kansas, in favor of a change of the jurisdiction of the United States courts pertaining to the Indian country south of Kansas, from the State or Territory of Arkansas to the State of Kansas; which were referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE. The Committee on Pensions, to whom were referred resolutions of the Legislature of Wisconsin in favor of granting a pension to Calvin Ely, on account of the military services and death of his only son, Lieutenant Colonel John H. Ely, of the tenth regiment Wisconsin volunteers, ask to be discharged from their further consideration; and as these resolutions proceed from the Legislature of one of the States of the Union I desire to say that these resolutions do not set forth that this father was dependent upon his son at or previous to his death, and that if that fact was set forth and proved he would be entitled to receive a pension on application at the Pension Office.

The report was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of George T. Brien, submitted a report, accompanied by a bill (S. No. 314) for the relief of George T. Brien. The bill was read and passed

to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Marquis D. L. Mitchell, submitted a report, accompanied by a bill (S. No. 315) granting a pension to Marquis D. L. Mitchell, of the Creek nation of Indians. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Rebecca V. Senor, submitted a report accompanied by a bill (S. No. 316) for the relief of Rebecca V. Senor, mother of James H. Senor, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Sylvanus Blodget, submitted a report, accompanied by a bill (S. No. 317) granting an increase of pension to Sylvanus Blodget, of Jericho, Chittenden county, Vermont. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charlotte Posey, submitted a report accompanied by a bill (S. No. 318) for the relief of Charlotte Posey, widow of Sebastian R. Posey. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Bridget W. McGrorty, submitted a report, accompanied by a bill (S. No. 319) granting a pension to Bridget W. McGrorty and the minor children of William B. McGrorty, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of George Lynch, submitted a report, accompanied by a bill (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Mary Gaither, submitted a report accompanied by a bill (S. No. 321) for the relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Sherman H. Cowles, submitted a report, accompanied by a bill (S. No. 322) granting a pension to Sherman H. Cowles. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Michael Kelley, submitted a report, accompanied by a bill (S. No. 323) granting a pension to Michael Kelley. The bill was read and passed to a second reading, and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 324) for the relief of Thomas Swan; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 325) to constitute San Antonio, within the collection district of Saluria, Texas, a port of delivery; which was read twice by its title, and referred to the Committee on Commerce.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 326) amending an act entitled "An act for the removal of the Winnebago Indians and for the sale of their reservation in Minnesota for their benefit;" which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 327) to extend the preëmption and homestead laws of the United States over certain lands therein named, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 328) amendatory of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

METROPOLITAN COMPANY'S CARS.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to inquire whether any, and if so what, legislation is necessary to secure safety and convenience to those who ride in the street cars of the Metropolitan Railroad Company in the city of Washington, and to report by bill or otherwise.

VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. FESSENDEN submitted the following resolution; which was considered, by unanimous consent, and agreed to:

***Resolved*, That the Committee on the Judiciary be directed to inquire into the expediency of repealing or modifying the act temporarily to supply vacancies in the Executive Departments in certain cases, approved February 20, 1863.**

MURDER OF AMERICANS AT FORMOSA.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if compatible with the public interest, a copy of any official correspondence upon the subject of the murder, by inhabitants of Formosa, of the ship's company of the American bark "Rover," wrecked upon the coast of that island; and also relative to any measures which may have been adopted for the purpose of obtaining redress for the outrage.

COUNSEL IN RECONSTRUCTION CASES.

Mr. HOWARD. I ask leave to introduce a joint resolution, and I ask the present action of the Senate upon it.

By unanimous consent leave was granted to introduce a joint resolution (S. R. No. 99) to authorize the Secretary of War to employ counsel in certain cases; which was read twice by its title.

Mr. POMEROY. I should like to have the resolution read and acted upon now. I know what it is. I have seen the Secretary of War, and he wants immediate action.

The Secretary read the resolution, which proposes to authorize the Secretary of War to employ counsel for the defense of the General of the Army, Major General George G. Meade, and Brevet Brigadier General Thomas H. Ruger, provisional governor of Georgia, and any other officer or person intrusted with the enforcement of the reconstruction acts, or either of them, against any suit or proceeding in any court in relation to their official acts.

The PRESIDENT *pro tempore*. The Senator from Michigan asks for the present consideration of the joint resolution. It requires unanimous consent. Is there any objection?

Mr. HENDRICKS. I wish to inquire of the Senator from Michigan what necessity there is for this resolution, inasmuch as it is a well known fact that the Departments, including the War Department, are in the habit of employing counsel in cases where, in the opinion of the heads of Departments, it becomes necessary.

The PRESIDENT *pro tempore*. Does the Senator object to the present consideration of the joint resolution? If he does it must go over.

Mr. HENDRICKS. I shall not object if it be necessary; but I wish to make an inquiry, not to debate it. I desire to inquire why it is necessary to pass this resolution, in view of the fact that the Departments, including the War Department, have been in the habit of employing counsel at their discretion?

The PRESIDENT *pro tempore*. No objection being made to the present consideration of the resolution it is before the Senate as in Committee of the Whole.

Mr. HOWARD. The best explanation that can be made is found in a letter from the Secretary of War, which I beg leave to send to the Chair.

Mr. POMEROY. The Secretary of War thinks there is no authority of law authorizing him to employ counsel. Heads of Departments have sometimes employed counsel, but it has been objected to, and he regards the authority as somewhat doubtful.

Mr. HOWARD. I send the letter to the Chair, and ask that it be read.

The Secretary read the following letter:

WAR DEPARTMENT,
WASHINGTON CITY, *February* 5, 1868.

SIR: General Meade and General Ruger, in Georgia, have applied to this Department to defend them in a suit about to be prosecuted in the Supreme Court of the United States by the late Governor Jenkins against them for an injunction against their official acts under the reconstruction acts of Congress. I would respectfully recommend the immediate passage of a joint resolution authorizing the Secretary of War to employ counsel for the purpose indicated. The power might be exercised, perhaps, without such special authority; but it might be well for Congress to indicate its view for their indemnification.

Yours, truly,

E. M. STANTON, *Secretary of War.*

Hon. HENRY WILSON, *Chairman of Military Committee of the Senate.*

Mr. JOHNSON. I have no objection to the passage of the resolution if it be necessary; but without knowing what are the questions which are involved in the case which it is supposed is about to be brought into the Supreme Court of the United States I cannot imagine why the Attorney General of the United States cannot appear.

Mr. SHERMAN. My friend from Maryland is not aware, perhaps, that the Attorney General is placed in a very awkward position; he has expressed an opinion, I understand, that the laws are unconstitutional, and hence has declined to appear.

Mr. JOHNSON. The honorable member does not understand me. I said that without knowing what were the questions which are to be brought before the Supreme Court I should be unwilling to authorize the Secretary of War or any other Secretary to employ counsel to defend the United States or any officer acting under the authority of the United States in the Supreme Court. If the questions which it is supposed will be involved in the case which it is apprehended will be brought against General Meade and General Ruger involve the inquiry as to the constitutionality of these laws, that is another question.

Mr. SHERMAN. It is confined to that.

Mr. JOHNSON. Is it confined to that?

Mr. SHERMAN. The resolution is confined to cases growing up under the reconstruction acts.

Mr. JOHNSON. I did not hear it in that way. Let it be read again.

The Secretary again read the joint resolution.

Mr. HOWARD. It is notorious that the Attorney General of the United States, whose duty it would be ordinarily to appear as counsel for the War Department of the Government, and whose duty it is by the law of the land so to appear, has, upon a very important occasion, declined to appear for that Department in the Supreme Court. He has refused to discharge his duty, because it seems that he has solemnly prejudged the whole case itself. He has come to the conclusion that our whole system of reconstruction acts is unconstitutional and void; and therefore his professional conscience, for which I suppose we ought to entertain a very high respect, does not permit him to appear as counsel for the authorities of the United States

who are engaged in the enforcement of those laws. It is, therefore, incumbent upon Congress to provide in some form, it seems to me, for the assistance of officers who are engaged in carrying out our reconstruction laws, and to enable them to employ counsel; and that is the object of this resolution.

It appears to me, Mr. President, to be, to say the least of it, a very singular state of things that the law officer of the Government has for some reason put himself in such an attitude in reference to the legislation of Congress that he has refused to go into the Supreme Court to defend that legislation. If we cannot have the counsel that we are entitled to we are necessarily driven to the necessity of employing other counsel. It seems to me strange, sir, that an officer of that high grade and of that solemn responsibility should, under any circumstances, before a judgment has been pronounced by the Supreme Court of the United States, have entertained and expressed the opinion that the legislation of Congress was unconstitutional and void. It only shows, in my judgment, to what great lengths the spirit of partisanism may drive a man, even unconsciously to himself.

Mr. SHERMAN. The propriety of the passage of this resolution is sufficiently stated, but at the same time I do not think the Attorney General ought to be called upon in any case to act where he has openly committed himself to the opinion that the law which he is defending is unconstitutional. I am not disposed to cast stones at the Attorney General for this opinion, because he was required, in performing the highest duty of his office, in giving advice to the President of the United States, to pass semi judicially upon these laws. He undoubtedly gave the opinion to the President of the United States in pursuance of law that the principal, main, and leading provisions of the reconstruction acts are unconstitutional. I have no doubt that the Attorney General was honest in that opinion; he gave it after examination; but Congress was not bound by his opinion, and Congress passed these laws over, you may say, the veto of the Attorney General, over the opinion of the Attorney General. Having done so, it is scarcely right for us either to call in question the sincerity or honesty of his opinions, or to call upon him to reverse his opinion and to defend the opposite view before the Supreme Court of the United States. In either view, it is very proper that this joint resolution should be passed, and at the same time it should be remembered that the opinion expressed by the Attorney General of the unconstitutionality of these acts was given by him in the discharge of his duty in pursuance of the high duty imposed upon him by the law creating his office in advising the President of the United States. He having given that opinion and come to that conclusion, as a matter of course it is improper for Congress to call upon him to contend for the constitutionality of the very acts which he has pronounced unconstitutional.

Mr. JOHNSON. I am glad that the honorable member from Ohio (though not surprised at it) should have said what he has in relation to the Attorney General; and although I am sure the honorable member from Michigan does not design to do injustice to that officer, yet, as I think, he has done very great injustice to him. Under the act constituting the office of Attorney General the President or any head of an executive department has a right to call upon the Attorney General for his opinion upon all questions which may be before them. The President, therefore, had a right to call upon that officer to give him his opinion upon the constitutionality of this legislation of ours. He could not refuse to give that opinion. That was given in advance of the final passage of the laws; it was given to enable the President to act understandingly upon the question of law which those measures would involve; and in the discharge of that duty I am sure the Attorney General acted most conscientiously. Whether he is mistaken or not is immaterial to this inquiry. I have the charity to believe—indeed I know, from the character of the man—that he acted with perfect propriety, and that the opinion to which he came upon the subject was one which he sincerely entertained. That opinion was given in writing. It is a reasoning opinion, supported by argument. Now, suppose that he was to appear in the Supreme Court of the United States in a case which must be decided the one way or the other, as those laws may be held to be constitutional or otherwise, and his own opinion, if he attempted there to show that they were constitutional, was cited against him, what answer could he make? Could he say that he had changed that opinion? Certainly not, unless he had changed; but I assume now that he entertains the same opinion. It would, therefore, in my view, have been very improper in him to appear in the Supreme Court in these cases, because it would not be doing justice to the controversy, to the legislation of Congress. It is much better that the laws, if their constitutionality is involved in any case in the Supreme Court, shall be vindicated by counsel who have not only not given any opinion to the contrary, but who entertain an opinion in consonance with the views of Congress.

I do not know what the honorable member from Michigan would have done in such a case as that. Certainly the only reason I have to doubt that he would have pursued the same course with the Attorney General is that he has commented with some unkindness upon the course of that officer. But I think I know the honorable member so well as to be justified in saying that if he had in his official capacity given an opinion in favor of the laws, as he has done in the Senate of the United States, he would not have consented to be employed by any person who alleged the laws to be unconstitutional and appear in the Supreme Court of the United States to maintain that view. That I am certain of; and I am certain, speaking for myself, that if I had given such an opinion as Attorney General, one way or the other, or if I had expressed it in debate in this Chamber one way or the other, I would not have consented to appear before the Supreme Court and maintain an opposite opinion to the one which I had expressed. It would involve counsel very seriously, I think, in point of character. The judges would say at once, "What confidence can we have in the opinion of counsel who to-day express one and to-morrow express another?"

It seems to me, therefore, that, in order to a correct presentation of the case before the Supreme Court of the United States, there should be some counsel who really entertain the doctrine maintained by the honorable member from Michigan and by a majority of Congress, that these laws are constitutional.

Mr. HOWARD. Mr. President, in what I said in reference to the Attorney General, I intended nothing personally unkind to him; nor do I think it can be justly said of me that in my remarks I did him any injustice. I took the liberty merely to state a fact perfectly notorious, that he had declined to appear in the Supreme Court in a certain very important case in which the constitutionality of the reconstruction acts was drawn in question, and that I supposed he had thus declined because he did not hold those acts to be constitutional. Now, sir, there is a very easy and a very simple remedy for all this. If the Attorney General of the United States, whose sworn duty it is to assist in the enforcement of the laws and to appear for the various heads of Departments in that court, declines to do so on account of conscientious or constitutional scruples, the remedy is within his immediate reach. The Congress of the United States, the law-making power, certainly would not attempt to exercise any hardship upon his conscience, or to constrain him to go into court and argue contrary to his own convictions; and I do not believe that any regrets would be uttered if he should resort to the simplest remedy in his power, and resign his place and give that place to some individual who would be willing to perform his sworn duty.

It is no very hard task, sir, even for the Attorney General, I fancy, to resign his place, if it has become so uncomfortable to him as to distress his conscience, especially if he is in such an attitude, by his own course of conduct and the formation of his own opinions, that he finds it impossible conscientiously to perform the duties imposed upon him by law. The remedy is simple and easy. I bring no charge of insincerity against the Attorney General; I express my regret, however, that that high law officer of the Government should find himself in an attitude which, conscientiously, as he and his friends here would have it, forbids and prohibits him to appear in court and discharge his duty there.

Mr. DAVIS. Mr. President, I think myself that this resolution should pass; I therefore make no opposition to it; but I do not understand the statement of the honorable Senator from Michigan, that the Attorney General had refused to do his duty, to be entirely correct. A motion was made in the State of Mississippi by Mr. Cardle for a writ of *habeas corpus* on the ground that he was illegally imprisoned by the military authorities in that State, against the Constitution of the United States and its provisions. If I understand aright, this motion was made in the name of the United States. Whenever a citizen of the United States is imprisoned illegally, or thinks himself imprisoned illegally, by the authorities of the United States, a motion for a writ of *habeas corpus* to bring his body up before a court for the investigation of that question is made in the name of the United States. I was present in the Supreme Court and heard the Attorney General state the ground upon which he had decided not to appear in opposition to that motion, coming up as it did by appeal from the order of the district court in Mississippi, and he placed it upon two grounds. In the first place, he said he had been called upon officially by the President of the United States to give his opinion in relation to the validity and the constitutionality of the reconstruction acts, and he had given his opinion deliberately, upon mature examination, to the President that they were unconstitutional; he therefore declined to appear, in resistance to the application of Mr. Cardle for a writ of *habeas corpus*, on that ground. But he stated another ground: that the motion itself ran in the name of the United States of America; and therefore, according to form and according to principle, if he appeared on any side whatever it was in favor of the United States of America, inquiring by what authority one of its citizens was held, as he charged, in illegal imprisonment. I think, sir, that the Attorney General has shown no dereliction in the performance of his duty in this matter.

Mr. HENDRICKS. I will add but one word to the suggestions already made in regard to the Attorney General, and that is in reply to a remark of the Senator from Michigan. I think his opinion in regard to the duty of an attorney, whether he represents the Government or a private citizen, does not agree with my own. I do not think it is the duty—more than that, I do not think it is the privilege—of an attorney-at-law, whether he represents a Government or a citizen, to represent the law to the court or the facts to the jury otherwise than in his judgment he believes them to be. And if the Attorney General is of the opinion that certain enactments by Congress are not consistent with the Constitution of the United States it is not his right, much less his duty, to make an argument against his convictions. When a case comes before the Supreme Court depending upon the question whether the Constitution is the law or an act of Congress is the law, the Attorney General must speak the truth, whether he addresses the President in Cabinet or the court in trying a case. Does the Senator say otherwise? Does the Senator from Michigan say that it is the duty of the attorney for the Government in any cause

whatever to maintain before the Cabinet or to maintain before the court that an act of Congress is the law when indeed he believes the Constitution to be the law?

Mr. HOWARD. If the Senator will allow me, I will state what my view is on that subject; I supposed I had done so already. The Senate will pardon me for going into it again. I suppose the facts of this case to be just these: that the Attorney General was consulted by the President as to the constitutionality of some one of our reconstruction bills before the bill had become a law according to the forms of the Constitution, and that, on being so consulted, he gave the President his professional opinion that the bill was unconstitutional. I take it that is the fact; is it not? It was an opinion given when the bill was before the President for signature, for approval. It was not an opinion, if I understand it, given after the two-thirds vote of both Houses had been cast, finally passing the bill; and it seems to me that, without much stretch of the professional conscience, and without any very severe blow upon the sensibilities of the Attorney General or anybody else, he might safely have taken for granted, after a vote of two thirds of both Houses had been taken and the bill passed, that the bill was the law of the land until the Supreme Court, in a proper case involving it distinctly and directly, had determined that the law itself thus passed was unconstitutional. I do not believe even in the right of the Attorney General *in limine*, before a bill has become a law, to set up his opinion against the validity of the bill after it shall have become a law. It is going, in my judgment, entirely too far. Some deference, I think, ought to be shown to the opinion of the two Houses of Congress and the two-thirds vote, and I do not, therefore, believe that it would be any violation of professional delicacy on the part of the Attorney General to go into court after the bill has become a law and insist upon its constitutionality, quoting, of course, as his indorsers, the two Houses of Congress, who are as good judges as he.

Mr. HENDRICKS. I submit to the Senator from Michigan whether the vote of two thirds of Congress makes a law constitutional?

Mr. HOWARD. *Prima facie*, I think it does.

Mr. HENDRICKS. I am glad the Senator has come right to that proposition, because he had to stand there if he could make any criticism upon the conduct of the Attorney General. The Constitution declares itself to be the supreme law of the land, and an act of Congress is not supreme as above the Constitution. If the act of Congress be not consistent with the Constitution it is simply no law; if it be in accordance with the Constitution it is a law. The Senator knows very well, because the President has so declared in his message, that in regard to these reconstruction acts the President and his law adviser, as a matter of course, after Congress had enacted them, in the discharge of executive duties, recognized them as laws. In that respect they did all that the Senator could ask. As executive officers of the Government they did not dispute the constitutionality of the laws, but saw to their execution.

But, sir, the question of the constitutionality of the laws comes before the Supreme Court, brought there not by the Attorney General but by a citizen, who says that his rights stand upon the Constitution, and that his rights, based upon the Constitution, are violated by the acts of Congress, and he asks the judgment of the highest court in the land in regard to his rights as protected by the Constitution. Then does the Senator say that when the judiciary is called upon to pass on this question whether the Constitution shall stand as the law or the act of Congress, it is the duty of the Attorney General to go before that court and to make an argument that he does not believe? I wish I had before me the statutes of the State of Indiana, which define in plain words the duty of an attorney. First, above all, that code declares that the attorney shall be true to the court in an argument of a question of law and true to the jury in an argument of a question of fact. Then I deny the right of any Senator to criticise the conduct of the Attorney General when the Attorney General stands upon his judgment in that court. The question before the court is not an executive one, but legitimately and properly it comes before that court to say whether the Constitution in this case is the law or the act of Congress; and in giving advice to that court and urging an argument to that court the Attorney General or any other attorney, whether employed by the Government or otherwise, must speak what he believes to be the law.

But, Mr. President, I am not able to see why this resolution should be pressed. It is known to us, it is known to all the country that the Departments have been in the habit of employing attorneys and paying them. Why, sir, we have a distinguished case here in this city of attorneys employed to prosecute a man. I have observed in the State of Indiana over and over again that attorneys are employed at the public expense to defend criminals that are unable to employ counsel themselves; but the extraordinary spectacle has been presented of hired attorneys paid by the Government, without any express authority of Congress such as is sought here, many thousands of dollars, I believe, to prosecute a man when the attorney appointed according to law was in the court at the time. Then why does the War Department come here now and ask this special permission? In my opinion, it is simply to make a parade of the matter before Congress and the country.

Why, sir, it is asked to employ counsel before a case is brought into the court at all. It seems from the letter that the Senator from Michigan has caused to be read that the case has not yet been instituted, but there is a fear that a case will be brought. I do not know whether the Departments have acted pursuant to law; but it has been a uniform practice of late years to employ attorneys in particular cases. I believe it to be right in some cases. I never heard it questioned that they might employ counsel in proper cases. It seems to have been recognized in several Administrations and not disputed. Now, sir, if there is a proper case in the courts for the Department to employ counsel, it seems, according to the practice, they have the authority to do it. It seems to me that this is simply a parade of the matter for some purpose beyond the mere necessity of obtaining congressional permission to do the thing asked, because that Department and other Departments have exercised the right without this special permission.

Mr. CONNESS. Mr. President——

The PRESIDENT *pro tempore*. The morning hour having expired, House bill No. 439, known as the supplementary reconstruction bill, is before the Senate, the pending question being on the motion to refer the bill with instructions to the Committee on the Judiciary, on which question the Senator from Maine [Mr. MORRILL] has the floor.

Mr. HOWARD. May I ask the Senator from Maine to let that be laid aside informally for a moment? I think we can come to a vote on this resolution without any further discussion. I think the Senate is prepared to vote upon it.

The PRESIDENT *pro tempore*. It can be done by unanimous consent. Is there any objection to continuing the consideration of this joint resolution?

Mr. BUCKALEW. I object.

The PRESIDENT *pro tempore*. Being objected to, it goes over.

Mr. CONNESS. A vote of the Senate will lay over the special order, will it not?

The PRESIDENT *pro tempore*. It will, of course, if such a motion is made.

Mr. CONNESS. I move to postpone its consideration for twenty minutes, in which time this resolution will be disposed of, undoubtedly.

Mr. POMEROY. If the Senator would not limit the time we should arrive at the vote quicker.

The PRESIDENT *pro tempore*. The postponement will have to be limited by the rules.

Mr. CONNESS. That is the decision of the Chair, and I make the motion accordingly.

The motion was agreed to.

Mr. CONNESS. I will only occupy a moment of time in stating——

Mr. EDMUNDS. The joint resolution has gone over and will have to be called up again. It has been displaced by the special order.

Mr. CONNESS. I move that the Senate resume the consideration of the joint resolution which was superseded a few moments ago by the order of the day.

The motion was agreed to; and the consideration of Senate joint resolution No. 99 was resumed as in Committee of the Whole.

Mr. CONNESS. I rise, not to consume time, but merely to say that I think there is an aspect of this case, which may be stated in a few moments, to which the honorable Senator from Indiana has not paid attention. I think he will remember a case in which the honorable Attorney General appeared, that of a proceeding in the Supreme Court for an injunction in a certain case from Mississippi, in which that officer, for the time being, waived any opinions individual to him that he might have, and made what was pronounced by the best judgment of the country a very able argument, so able that the court were convinced that they had no jurisdiction in the case and dismissed the proceeding. The first time after that proceeding by the Attorney General that I have any recollection of when he appeared to have arrived at a contrary opinion was at a certain political celebration that occurred in this city on the evening of the 8th of January, where, for the first time, he developed, not before a court, but before a set of politicians organizing for the political control of the country, his conscientious scruples to further appear as an attorney in behalf of the United States where questions involving the acts of reconstruction were involved; in fact, where he formally and explicitly, as I think, pronounced them unconstitutional and void, and went much further. That was not done before a court.

The honorable Senator from Indiana denies the right of any Senator here, as I understood him, to discuss the question of whether the Attorney General shall stand before a court and plead in such a case as is comprehended by this resolution. I wish the honorable Senator had drawn into his consideration the propriety of the appearance of the Attorney General at that party of political persons where he brought into question the constitutionality of acts of Congress, and for the first time declared his inability to appear as their legal advocate hereafter. I understand that now, of course, he is forced to the position when he appears in court of not appearing in behalf of the United States or the persons who are sued in the name of the United States.

This is an aspect of the case that must have failed to strike the attention or be retained in the memory of my honorable friend from Indiana. In my humble judgment, if the honorable Senator will permit me to venture an opinion here, as he has questioned our right to discuss the Attorney General in this connection, I think it would have become the Attorney General, the day and the hour that he could not appear in behalf of laws passed by the Congress of the United States and for their vindication in the courts of the country, to lay down his commission and retire to private practice. That is my opinion upon that point. I hope, sir, that the resolution will be adopted.

Mr. BUCKALEW. Mr. President, the Attorney General appeared in the Mississippi case, not to argue the reconstruction laws upon their merits at all, nor upon the question of power involved in their enactment. He appeared there to discuss simply and singly the question of the jurisdiction of the court; and his argument was satisfactory to the court, and they did not assume jurisdiction and did not proceed to act upon the question of the validity of the laws brought into this debate. That

answers, as I suppose, the Senator from California in regard to his charge of inconsistent conduct by the Attorney General.

Now, sir, as to the speech or remark of that officer at some political meeting, I do not see that it deserves the prominence in this debate which has been given it. I suppose that the Attorney General, like the Senator from California and myself outside of the Senate, has outside of the office of Attorney General a perfect right to address the people of this country so long as it is done in a civil and gentlemanly manner upon any public question whatever; that there is no impropriety in doing it; and that neither one of the individuals supposed renders himself obnoxious to public censure or condemnation. The Attorney General did not attempt on the occasion to which the Senator refers to do what he alleges, that is, to pronounce a judgment upon these laws. He simply did what he had done before in his communication to the President and openly in the Supreme Court when giving his reasons for not appearing in a particular case.

Mr. CONNESS. That was subsequently.

Mr. BUCKALEW. Subsequently. He simply expressed his opinion as an individual and as a member of the legal profession upon those laws.

But, Mr. President, passing from these personal aspects of the debate, I will say a word or two upon the resolution. This resolution is very sweeping. It confers, or is intended to confer, power upon the Secretary of War to employ counsel without limit in all possible cases that may arise in all parts of the country, and, as I understand it, in all sorts of courts; and it will authorize him, as I suppose, to make any bargains he pleases. He may give such magnificent fees as were given to the associate counsel in the Surratt trial here, the little bit of a fee of $5,000 for sitting down and assisting the regular law officer of the Government whose duty it was to conduct the prosecution. Whether this is to be administered in a way to produce favoritism or to lead to favoritism I do not know. Whether his patronage is to be distributed to members of Congress or to be confined to professional gentlemen outside of it I do not know. One fact, however, does appear before us and is undisputed, and that is that no case has arisen for the interposition of the Secretary of War; no single case, such as is contemplated by this resolution, has arisen in the Supreme Court here or in any of the district or circuit courts of the United States. I think it will be time enough for Congress, by a grave resolution, to authorize the Secretary of War to employ counsel for the defense of his Department or of military officers connected with his Department or subject to its orders when the case has arisen and when Congress knows what it is.

I think the better plan would be to leave this question of the employment of counsel upon the footing on which it has heretofore stood. Let the Secretary of War go on and employ counsel, if a clearly proper case arises, and Congress will not object to vote an appropriation to pay them, provided the fee is a moderate and reasonable one. We ought not to be called upon to act on this subject at all except in the way of making some small appropriation hereafter on the recommendation of the Secretary of War; and if in that manner we vote the public funds to this object we shall be very certain they will not be squandered, but only a necessary and proper amount will be applied to this particular purpose. If, however, the Senate is disposed to enact this measure I shall not care to ask a formal division upon it; but I thought it proper to express my dissent from the propriety and necessity of the enactment of this resolution.

Mr. DAVIS. I happened to be present when the Attorney General made his argument against the motion to enjoin the President in executing the acts of Congress. The Attorney General stated distinctly in that argument that he did not base his resistance to the motion upon the validity of the acts. On the contrary, he said distinctly that he entertained no doubt of the unconstitutionality of the acts; and if his course was to be regulated by that consideration he would range himself with the counsel who moved for the injunction; but he assumed the ground that the President of the United States was not suable; and in conse quence of his not being suable the Supreme Court had no jurisdiction over the subject. As an humble member of the profession, I dissented wholly from that position of the Attorney General. I believed that the President was suable. I believed that the President and every officer of the Government who transcended his duty, who acted outside of the law and without any authority of the law, was a trespasser, and was as much a trespasser as any private citizen, and that he was as much subject to a suit or any other legal proceeding as any private citizen is. I make this statement in relation to the ground that the Attorney General assumed because of what is due to him; but, at the same time, the position which he assumed in the case in resisting the motion for an injunction I myself totally dissent from.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed. A message was subsequently received from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announcing its passage by that body.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary, with the instructions proposed by him.

Mr. MORRILL, of Maine, addressed the Senate. His speech will be published in the Appendix.

Mr. DRAKE. Mr. President——

Mr. SHERMAN. If the Senator will give way I will move an executive session.

Mr. DRAKE. I do not wish that any business shall interpose to prevent the consideration of this subject to-morrow. ["Oh, no."]

The PRESIDENT *pro tempore*. If this motion be agreed to it will leave the Senator entitled to the floor at one o'clock to-morrow.

Mr. DRAKE. Of course I do not expect to address the Senate at this late hour in the afternoon, and I will give way to the motion of the Senator from Ohio.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. JOHNSON. Will the honorable member withdraw that motion to enable me to say a single word?

Mr. SHERMAN. Certainly.

Mr. JOHNSON. I only rise for the purpose of saying that at the proper time I shall endeavor to vindicate my State from the charge made against it by the honorable member from Maine, [Mr. MORRILL,] and I think I shall be able to show that her government is republican in point of form within the meaning of the Constitution, and that what she has done and is doing now is what she has the constitutional right to do.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes, in which it requested the concurrence of the Senate.

GOVERNMENT AGENTS.

Mr. PATTERSON, of New Hampshire. I am directed by the Committee on Retrenchment, to whom was recommitted the bill (S. No. 269) in addition to an act entitled "An act to regulate the tenure of certain civil officers," to report it back with an amendment. I report it now, that the amendment may be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 267) to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes, was read twice by its title, and referred to the Committee on Public Lands.

ADMISSION OF COLORADO.

Mr. RAMSEY submitted an amendment intended to be proposed by him to the bill (S. No. 11) to admit the State of Colorado into the Union; which was received informally, and ordered to be printed.

EXECUTIVE SESSION.

Mr. SHERMAN. I renew my motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 5, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

MEMBER-ELECT SWORN.

Hon. JOHN BEATTY, member-elect from the eighth congressional district of Ohio, appeared at the bar and was duly qualified.

ROCK ISLAND BRIDGE.

Mr. HOLMAN. I rise to a privileged question, and move to reconsider the vote by which joint resolution No. 193, relative to the Rock Island bridge, was referred to the Committee on Military Affairs, and also move that that motion be laid on the table. It was the understanding of the House that it should not be brought before the House except by regular report.

The SPEAKER. The gentleman from Michigan [Mr. DRIGGS] submitted a motion to reconsider the various votes which had been taken, and that motion was laid on the table. That covered, the Chair thinks, the joint resolution to which the gentleman refers.

Mr. HOLMAN. Then I withdraw my motion.

ROAD FROM WASHINGTON TO PENNSYLVANIA.

Mr. COOK, by unanimous consent, from the Committee on Roads and Canals, reported back a bill (H. R. No. 470) to authorize the building of a railroad from Washington city, District of Columbia, to connect with the Northern Central railroad at or near the State line between the States of Pennsylvania and Maryland, and moved that it be printed and recommitted.

The motion was agreed to.

PROTECTION OF WITNESSES.

Mr. WILSON, of Iowa, by unanimous consent, moved to take from the Speaker's table a bill (S. No. 306) for the protection in certain cases of persons making disclosures as parties or testifying as witnesses, and that it be referred to the Committee on the Judiciary.

The motion was agreed to.

SOUTHERN LAND GRANTS.

Mr. WASHBURNE, of Illinois. I demand the regular order of business.

The SPEAKER. The regular order of business is the unfinished business of last evening, the pending motion being to lay upon the table the motion to reconsider the vote by which the main question was ordered on House bill No. 267, to declare forfeited to the United States certain lands granted to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes, and the pending amendments.

Mr. EGGLESTON. I hope the gentleman from Illinois will withdraw his demand for the regular order of business.

Mr. WASHBURNE, of Illinois. I want the morning hour to commence.

The SPEAKER. It will not commence until this business is disposed of.

Mr. WASHBURNE, of Illinois. If gentlemen will agree that the morning hour shall not be called then I will not object.

Mr. PIKE. Oh, no.

The SPEAKER. The gentleman from Illinois [Mr. JUDD] is on the floor in the morning hour on the bill reported from the Committee on Foreign Affairs. The question before the House is on the motion of the gentleman from Michigan, [Mr. UPSON,] to lay on the table the motion to reconsider the vote by which the main question was ordered on the bill and amendments, on which motion the yeas and nays have been ordered.

Mr. HARDING. Mr. Speaker, what will be the effect of this vote if carried?

The SPEAKER. The effect will be to proceed immediately to vote upon the amendments and upon the bill.

The question was taken; and it was decided in the affirmative—yeas 68, nays 59, not voting 62; as follows:

YEAS—Messrs. Anderson, Arnell, James M. Ashley, Bailey, Beaman, Broomall, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Fields, Harding, Higby, Holman, Hooper, Hopkins, Asahel W. Hubbard, Hunter, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Mallory, McClurg, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Polsley, Price, Scofield, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, John Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, William Williams, and James F. Wilson—68.

NAYS—Messrs. Axtell, Baker, Baldwin, Barnes, Beck, Benjamin, Bingham, Blaine, Blair, Brooks, Burr, Chanler, Cook, Cullom, Dawes, Dixon, Dodge, Ela, Eldridge, Ferry, Fox, Getz, Golladay, Gravely, Griswold, Grover, Haight, Hill, Hotchkiss, Humphrey, Jenckes, Johnson, Kerr, Knott, Marvin, Maynard, McCullough, Morgan, Niblack, Nicholson, Peters, Phelps, Poland, Raum, Ross, Schenck, Sitgreaves, Starkweather, Stewart, Taber, Thomas, Lawrence S. Trimble, Twichell, Van Trump, Elihu B. Washburne, William B. Washburn, John T. Wilson, Woodbridge, and Woodward—59.

NOT VOTING—Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Banks, Barnum, Beatty, Benton, Boutwell, Boyer, Bromwell, Buckland, Finney, Garfield, Glossbrenner, Halsey, Hawkins, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Ingersoll, Jones, Ketcham, Kitchen, Laflin, George V. Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Marshall, McCarthy, McCormick, Mercur, Morrell, Morrissey, Mungen, Nunn, Pile, Plants, Pomeroy, Pruyn, Randall, Robertson, Robinson, Sawyer, Selye, Shanks, Shellabarger, Smith, Stone, Taffe, Van Auken, Robert T. Van Horn, Van Wyck, Ward, Welker, Stephen F. Wilson, Windom, and Wood—62.

So the motion to reconsider was laid on the table.

The question then recurred on the amendment offered by Mr. ARNELL, as follows:

Provided, This forfeiture shall not apply to the grant of lands made by the United States to the State of Alabama for the Tennessee and Alabama Central railroad, which is now known as the Nashville and Decatur railroad.

The question being put on agreeing to the amendment, there were—ayes 69, noes 38.

Mr. HOLMAN. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 58, not voting 44; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Bailey, Baldwin, Beaman, Benjamin, Bingham, Blair, Broomall, Butler, Cake, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Garfield, Gravely, Harding, Higby, Hill, Hopkins, Asahel W. Hubbard, Hunter, Judd, Julian, Kelley, Kitchen, Koontz, Loughridge, Lynch, Maynard, McClurg, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, Nunn, O'Neill, Paine, Pike, Pile, Polsley, Price, Sawyer, Schenck, Scofield, Shanks, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, William Williams, and James F. Wilson—87.

NAYS—Messrs. Archer, Axtell, Baker, Barnum, Beck, Blaine, Boyer, Brooks, Burr, Chanler, Reader W. Clarke, Dixon, Eldridge, Ferriss, Fox, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Holman, Hotchkiss, Jenckes, Johnson, Jones, Kelsey, Kerr, Knott, William Lawrence, Mallory, Marvin, McCullough, Morgan, Mullins, Mungen, Niblack, Nicholson, Orth, Perham, Peters, Poland, Pruyn, Randall, Raum, Ross, Sitgreaves, Smith, Stone, Taber, Taylor, Lawrence S. Trimble, Van Trump, Ward, Elihu B. Washburne, Thomas Williams, Woodbridge, and Woodward—58.

NOT VOTING—Messrs. Adams, Delos R. Ashley, Banks, Barnes, Beatty, Benton, Boutwell, Bromwell, Buckland, Finney, Halsey, Hawkins, Hooper, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Ketcham, Laflin, George V. Lawrence, Lincoln, Loan, Logan, Marshall, McCarthy, McCormick, Mercur, Morrissey, Phelps, Plants, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Van Auken, Robert T. Van Horn, Van Wyck, Welker, John T. Wilson, Stephen F. Wilson, Windom, and Wood—44.

So the amendment was agreed to.

Mr. HOLMAN. I now move to lay the bill and pending amendment on the table. The adoption of the amendment of the gentleman from Tennessee [Mr. ARNELL] defeats the object of the bill.

Mr. WASHBURNE, of Illinois. I appeal to the gentleman to withdraw that motion.

Mr. PILE. Withdraw it, and allow a vote on the amendment.

Mr. HOLMAN. I withdraw it until the amendment is voted upon.

Mr. TABER. I renew it.

Mr. PILE. I appeal to the gentleman to wait till we take the vote on the amendment.

Mr. TABER. I do not withdraw it.

The question being put on laying the bill and pending amendment on the table, there were—ayes 59, noes 62.

Mr. HOLMAN. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 68, nays 85, not voting 36; as follows:

YEAS—Messrs. Adams, Allison, Archer, Axtell, Barnes, Barnum, Beck, Benjamin, Blaine, Blair, Boyer, Brooks, Burr, Chanler, Dawes, Dixon, Eldridge, Ferriss, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kerr, Kitchen, Knott, Laflin, Mallory, Marshall, Marvin, McCormick, McCullough, Morgan, Mungen, Niblack, Nicholson, Nunn, Peters, Phelps, Poland, Pruyn, Randall, Raum, Ross, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, Stewart, Stone, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Van Trump, William B. Washburn, Thomas Williams, Woodbridge, and Woodward—68.

NAYS—Messrs. Anderson, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Bingham, Boutwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Donnelly, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Gravely, Harding, Higby, Hill, Hopkins, Asahel W. Hubbard, Hunter, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Loughridge, Lynch, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neil, Orth, Paine, Perham, Pike, Polsley, Price, Sawyer, Schenck, Scofield, Shanks, Spalding, Aaron F. Stevens, Stokes, Taylor, John Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, and William Williams—85.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Banks, Benton, Bromwell, Dodge, Driggs, Finney, Garfield, Griswold, Halsey, Hawkins Hooper, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Ketcham, George V. Lawrence, Lincoln, Loan, McCarthy, Morrissey, Pile, Plants, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Van Auken, Van Wyck, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Wood—36.

So the House refused to lay the bill on the table.

The question recurred upon agreeing to the amendment offered by Mr. PILE, which is as follows:

Add the following proviso:

Provided further, That this act shall not apply to lands granted by the United States to the State of Alabama to aid in the construction of certain railroads in said State by act of Congress approved June 3, 1856, which lands were granted by the State of Alabama to the Alabama and Tennessee River Railroad Company.

Mr. PILE. I call for the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The amendment was disagreed to—ayes 44, noes 65.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JULIAN. I demand the previous question on the passage of the bill.

Mr. PILE. I move to lay the bill on the table.

Mr. HOLMAN. I demand the yeas and nays on that motion.

Mr. MULLINS. I would inquire of the Chair if this same motion was not made and defeated but a few minutes back?

The SPEAKER. That was at a different stage of the bill.

Mr. PILE. I withdraw the motion, and will ask the yeas and nays on the passage of the bill.

Mr. CHANLER. Have the yeas and nays been ordered on the passage of the bill?

The SPEAKER. Not yet.

Mr. CHANLER. I call for them.

The previous question was seconded, and the main question ordered.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 73, not voting 30; as follows:

YEAS—Messrs. Anderson, Arnell, James M. Ashley, Baker, Beaman, Beatty, Benton, Bingham, Boutwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Donnelly, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Garfield, Harding, Higby, Holman, Hopkins, Hunter, Judd, Julian, Kelley, Kelsey, Koontz, William Lawrence, Logan, Loughridge, Lynch, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Polsley, Price, Raum, Sawyer, Schenck, Scofield, Shanks, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, John Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, and John T. Wilson—86.

NAYS—Messrs. Adams, Allison, Archer, Axtell, Bailey, Baldwin, Barnes, Barnum, Beck, Benjamin, Blaine, Blair, Boyer, Brooks, Burr, Chanler, Dixon, Dodge, Driggs, Eldridge, Ferriss, Fox, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Hill, Hooper, Hotchkiss, Hulburd, Humphrey, Jenckes, Johnson, Jones, Kerr, Kitchen, Knott, Laflin, Mallory, Marshall, Marvin, McCormick, McCullough, Morgan, Mullins, Mungen, Niblack, Nicholson, Nunn, Peters, Phelps, Pile, Poland, Pruyn, Randall, Ross, Sitgreaves, Smith, Starkweather, Stewart, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Van Trump, William B. Washburn, Thomas Williams, Woodbridge, and Woodward—73.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Banks, Bromwell, Dawes, Finney, Halsey, Hawkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Ketcham, George V. Lawrence, Lincoln, Loan, McCarthy, Morrissey, Plants, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Stone, Van Auken, Van Wyck, Stephen F. Wilson, Windom, and Wood—30.

So the bill was passed.

During the roll-call,

Mr. BARNES stated that his colleague, Mr. ROBINSON, was detained from his seat by sickness, and that if present he would have voted "No."

The result of the vote was announced as above recorded.

Mr. JULIAN. I move to reconsider the vote by which the bill was passed; and to lay the motion to reconsider on the table.

The question was put on the latter motion, and there were—ayes 86, noes 73.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 75, not voting 31; as follows:

YEAS—Messrs. Anderson, Arnell, James M. Ashley, Baker, Baldwin, Beaman, Beatty, Benton, Boutwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferry, Fields, Garfield, Halsey, Harding, Higby, Holman, Hopkins, Hunter, Judd, Julian, Kelley, Kelsey, Kitchen, Koontz, William Lawrence, Loan, Logan, Loughridge, Lynch, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Polsley, Price, Sawyer, Schenck, Scofield, Shanks, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, John Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, William Williams, and John T. Wilson—83.

NAYS—Messrs. Adams, Archer, Axtell, Bailey,

Barnes, Barnum, Beck, Benjamin, Blaine, Blair, Boyer, Brooks, Burr, Chanler, Dawes, Dixon, Dodge, Driggs, Eldridge, Ferriss, Fox, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Hawkins, Hill, Hotchkiss, Hulburd, Humphrey, Jenckes, Johnson, Jones, Kerr, Knott, Laflin, Mallory, Marshall, Marvin, McCormick, McCullough, Morgan, Mullins, Mungen, Niblack, Nicholson, Nunn, Peters, Phelps, Pile, Poland, Pruyn, Randall, Raum, Ross, Sitgreaves, Smith, Starkweather, Stewart, Stone, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Van Auken, Van Trump, William B. Washburn, Thomas Williams, James F. Wilson, Woodbridge, and Woodward—75.

NOT VOTING—Messrs. Allison, Ames, Delos R. Ashley, Banks, Bingham, Bromwell, Cary, Covode, Donnelly, Finney, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Ketcham, George V. Lawrence, Lincoln, McCarthy, Morrissey, Plants, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Van Wyck, Elihu B. Washburne, Stephen F. Wilson, Windom, and Wood—31.

So the motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Colonel WILLIAM G. MOORE, his Secretary, who also informed the House that a bill (H. R. No. 213) entitled "An act to suspend further reduction of the currency" having been presented to the President on the 23d day of January, 1868, and not having been returned by him within ten days, (Sundays excepted,) has become a law under the Constitution of the United States.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER. The morning hour has now commenced, and the House resumes the consideration of House bill No. 584, concerning the rights of American citizens abroad, upon which the gentleman from Illinois [Mr. JUDD] is entitled to the floor for thirty-one minutes.

Mr. LOGAN. I ask my colleague [Mr. JUDD] to yield to me for a few minutes.

Mr. JUDD. I am willing to do so if it does not come out of my time.

The SPEAKER. It will not, unless the regular order is insisted on.

Mr. WASHBURNE, of Illinois. Will it come out of the morning hour?

The SPEAKER. It will come out of the morning hour.

Mr. LOGAN. I rise to a privileged question.

The SPEAKER. A member cannot be taken from the floor by a privileged question without his consent.

Mr. BURR. I call for the regular order.

The SPEAKER. The regular order having been called for, the member from Illinois [Mr. JUDD] must proceed or surrender the floor entirely.

Mr. JUDD. Mr. Speaker, at the close of the morning hour yesterday I had commenced some criticisms upon the bill now under consideration. Before I proceed with those criticisms this morning I desire to read a short extract from a letter which I received this morning from one of the most prominent Germans in the Northwest in relation to this bill. He writes:

"Much better kill it [the bill] if you can get no better one. The whole German press is in a rage; they are pitching in right and left. Why does he make distinctions between native and adopted citizens?"

With that statement I propose to proceed with the criticisms upon that bill which I had prepared before the receipt of that letter. I had passed over so much of the bill as is contained in the first and second clauses of the first section, and had endeavored to demonstrate that they were in conflict with each other. I now propose to criticise the proviso accompanying the first section, and I call the attention of honorable members to the language used in that proviso.

The second clause in the proviso reads as follows:

Or of desertion from actual service in the Army or Navy of such State or from any military or naval conscription that shall have been actually ordered by such State.

Mr. Speaker, one of the grievous wrongs now complained of is the impressment of citizens of the United States into the military service of some of the German Powers. The language of this bill actually withdraws from such citizens all protection until they have actually performed military service to the Government under which they were born, no matter how long they may have been citizens of the United States. The laws of Prussia make every man liable to serve in the army. He is a conscript from his birth, and at the age of twenty years must render himself for service. This bill positively withdraws all protection from any person born in Prussia until he has performed military duty under her laws, and, practically, no one leaving Prussia before he is twenty-three years old can claim protection from the United States. The next proviso in relation to not protecting a person who has obtained naturalization by fraud is singular, when we recollect the rule of law that fraud vitiates all contracts, even records; and the claim for protection is no exception to this rule. The United States never has and never will knowingly give protection to a person claiming it under a fraudulent certificate of naturalization. So in the proviso relating to treason. No legislator can believe that it is necessary to enact a law saying that traitors should not have protection. Why, Mr. Speaker, traitors are outlaws. It is rather amusing to think that this Congress is compelled to enact that an outlaw wandering in foreign lands, Breckinridge-like, should not receive protection. So, also, as to the proviso that no protection shall be given to one who has renounced his citizenship. There can be no pretense for such an enactment. By the renunciation the person ceases to be a citizen of the United States, and all right or claim to protection vanishes with it. The final proviso in the first section denies protection to the citizen—

Who shall establish a continuous residence for a term not exceeding five years, and shall fail to make report of his property for taxation as herein provided.

The return for taxation required by the third section is an—

Annual return of his property for taxation to the assessor of internal revenue for the district of the United States in which said citizen last resided.

In plain terms, therefore, the naturalized citizen is disowned by the Government of the United States, and forfeits its protection against any foreign prince or potentate if he remains continuously beyond the limits of the United States for five years and fails to make return to the tax assessor of his district. Can anything analogous to such a condition be found in the laws of any nation on the globe? Even in Russia national protection is lost by disappearance for the term of ten years from the place of domicile. It is to be observed that an intention to emigrate or change domicile forms no part of the condition. Emigration to another country to seek a permanent home, or an intentional change of domicile, may equally deprive a naturalized or native-born citizen of protection by the Government from which he emigrated, for they are cases of voluntary expatriation and renunciation of that Government; but this bill renounces the naturalized citizen who goes abroad and remains five years, with no intention to emigrate or change his domicile, but in the pursuit of health, study, pleasure, or business, and with the intention to return and retain his domicile in the United States. Such a forfeiture of citizenship in the native-born citizen would in this age shock the feelings and the understanding of every one. It is in direct conflict with the principle asserted in the commencement of the bill, chaining the naturalized citizen to the soil with a five years' tether and the thumb-screw of taxation A more ingenious expedient for the torment of naturalized citizens and the check of emigration to the United States could not be devised by the most ingenious foreign diplomacy. The native-born citizen is not and cannot be subjected to such a condition, and if applied to the naturalized citizens what becomes of your boasted equality?

But, Mr. Speaker, the proposed redress for the wrongs perpetrated toward our naturalized citizens is the most remarkable provision in this very singular bill. Section two provides "that if any Government shall arrest any naturalized citizen, and unreasonably delay or refuse to release him, the President is empowered to order the arrest and detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States," and report his action to Congress. If we were not engaged in a matter that does not permit of trifling such an enactment might cause a smile. As a means of redressing a wrong the proposition is a farce, and as a mode of punishment it is barbarism. The remedy proposed is at variance with all the principles recognized by modern civilized Governments in their dealings with one another. It does not propose to relieve the suffering party or punish the wrong doer, but to inflict suffering upon any innocent, helpless, private person who may have come within our territory in the most innocent and peaceful pursuits. It presents the Government of the United States in the attitude of shirking its national obligations, and instead of protecting its citizens in a manner becoming a great Power, making reprisals upon a helpless private individual. No one can believe that any European Government would fail to make such a seizure a cause for immediate war.

The United States would not have the same excuse that King Theodore of Abyssinia has. He says those Englishmen were conspirators. It is to be observed that this power given to the President may involve us in war. In the existing state of things he may at any moment bring on war with any and all the European nations. The power of seizure is left to his will, and thus he would have under his control every foreigner who touched our shores, any one of whom might be selected for his victim. The objections already considered render any detailed examination of the other sections almost superfluous. The third section, it will be observed, deprives of protection any naturalized citizen who shall return to his native country with intent to resume his domicile therein, waiving any controversy as to the justness of this provision had it stood alone. Its manifest hardship and injustice is exhibited by the fourth section, which defines domicile to mean continuous residence for more than five years in his native country or establishing himself in any business.

The fourth section says that the naturalized citizen shall not be entitled to the protection of the Government if, among other things, "he shall fail to make annual return of his property for taxation to the assessor of internal revenue for the district of the United States in which said citizen last resided." This condition is more stringent and obnoxious than the provision in second section already remarked upon. For any failure to make the specified return for taxation forfeits the protection of the United States. Such are the plain terms of the bill. Would any legislator apply that to the native-born citizen? If not, why apply it to the naturalized citizen? Is this the boasted equality of rights between citizens?

Again, this section further forfeits protection if any naturalized citizen "shall engage as an army or navy belligerent in any foreign war or service." Does the author of this bill mean this?

Engagement as a belligerent may justly forfeit protection as against the parties at war with each other, but as to all other nations the right of protection still remains. If in the existing war between Great Britain and the Emperor of Abyssinia a naturalized citizen should join either party, he would by his own act become subject to the laws and fortunes of war; but on what principle can it be claimed that his belligerency in that war subjects him to the duty of military service to the Emperor of Austria or the King of Prussia, and why should he not have the same protection as against them that would be afforded to a native-born citizen? By the express terms of the

section the forfeiture of protection is limited to naturalized citizens.

Mr. Speaker, I have thus far commented upon the provisions in this bill and have not attempted to criticise its peculiar phraseology. There is one general remark that I wish to make, or rather question to put, to the friends of this or any similar measure. Why is it that as soon as the rights of naturalized citizens are spoken of there seems to be a desire to hunt up disabilities, imaginary or supposed difficulties, notify foreign Governments what points might be made against such naturalized citizens, and thus furnishing food for controversy at their expense? Is it not possible to declare what our principles are and leave it to those who resist their application to find the exception that shall take any particular case out of the operations of the rules that we lay down? It is sufficient for us to declare our principles and leave the special pleading against our case to the other side. If I have listened aright to some other propositions that have been presented to this House, the evil genius of this bill upon these particular points seems to have influenced some of those propositions.

This bill remits to diplomacy again the question that diplomacy has thus far failed to settle. If this bill had been drafted in a diplomatic bureau for the express purpose of leaving open and multiplying questions for that hair-splitting correspondence that never ends, and this paltering in a double sense, from which vigorous action rarely springs, it could not have been more ingeniously prepared. Taking it together, you do not advance one step toward a practical remedy for the grievances of naturalized citizens, some of which are described in the report that accompanies this bill, as follows:

"The correspondence transmitted to Congress shows that naturalized citizens of the United States, being present in Great Britain, without the commission of any offense, have been arrested, tried, convicted, sentenced, and punished as criminals, upon the ground that they were natural-born subjects of the crown; that their allegiance was perpetual and indefeasible except by its consent; and that they were therefore subject to its laws and liable to punishment not only for offenses committed within its jurisdiction but for words spoken and acts performed in the United States. They claim the protection of their adopted country, which has made them citizens and conferred upon them the same rights, both at home and abroad, which are enjoyed by native-born Americans. The Government is in duty bound to listen to their appeal and to protect them in their rights. The President called the especial attention of Congress to this subject in his last annual message."

Mr. Speaker, this is not my language but that of the report; from my stand-point the remedy should take an entirely different form; instead of a bill it should be a declaration of principles with instructions to the Executive to act.

Notwithstanding the failure to obtain the information called for by the resolution of the House some time since, which would have enabled the country to see in all their deformity the enormous wrongs perpetrated by the British Government against our naturalized fellow-citizens, yet enough light appears in the report of the chairman of the Committee on Foreign Relations to enable us to see the urgent necessity for immediate action on the part of our Government for their relief and the prompt vindication of our national duty and authority, and that we can no longer stand by and witness the oppression of military impressments, mock trials, cruel imprisonment, inflicted upon citizens of the United States by foreign Government. In conclusion, I submit the following propositions, as embodying, in my judgment, the rights of naturalized citizens and the obligations of protection due to them from the Government of the United States:

1. The Government of the United States was established on the principle that every individual man has an inalienable right to life, liberty, and the pursuit of happiness, and that governments were instituted among men to secure those rights; and as a means necessary to secure them the express power to establish a uniform rule of naturalization was vested in Congress by the first article of the Constitution of the United States.

2. That since 1790 this constitutional power has been exercised by Congress and for more than three quarters of a century, during which period many millions of people from foreign lands have abjured allegiance to the governments under which they were born, and relying upon the naturalization laws of the United States and the faith of the Government for their protection, have become citizens of the United States, contributing by their industry, intelligence, and patriotism to the national prosperity, national security, and national honor.

3. That by the Constitution and laws of the United States no distinction is made between the rights of citizenship belonging to native-born citizens and to naturalized citizens of the United States born in other countries or in the protection due to them from the Government; both classes, subject to the same national duties of citizenship, are justly entitled to the same national protection, the solitary distinction being that the President must be native-born.

4. That the naturalization laws of the United States made pursuant to the Constitution, and in force since 1802, required foreign-born persons, as a condition of becoming naturalized citizens of the United States, to abjure all allegiance and fidelity to any other Government, "to absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty whatever," and particularly by name the Power, potentate, State, or sovereignty whereof he was before a citizen or subject; and hence the principles and doctrines of the English common law and all other conflicting doctrines and principles of the systems of jurisprudence respecting the rights and duties of foreign-born citizens of the United States were abolished within the jurisdiction and territory of the United States.

5. The obligations of a Government to protect and defend its native-born citizens at all times and in all countries is conceded in all civilized States and sovereignties; and naturalized citizens having the same rights as native born under the Constitution and laws of the United States, they are entitled to the same protection, and hence against any exaction of military or other service or duty which it would be the duty of the United States Government to protect its native-born citizens from it is equally bound to afford protection, assistance, and redress in behalf of its naturalized citizens.

6. That the naturalization laws of the United States form a part of its national and political system, in force for nearly three quarters of a century, and all foreign Governments whose citizens have heretofore become naturalized are chargeable with notice and acquiescence therein, which cannot now be controverted with due regard to the rights and dignity of the United States Government.

7. The war with Great Britain in 1812 was in a great measure brought on by the violation of the rights of naturalized citizens of the United States, and since that time the impressment of seamen because of their alleged native allegiance to the crown has been in practice abandoned by the British Government.

8. That Congress has the power to declare and vindicate the rights of naturalized citizens and their present condition and treatment in foreign countries shows that their protection cannot safely be intrusted exclusively to the executive department, but should be enforced by imperative laws.

9. That naturalized citizens charged with crime in a foreign land are entitled to the protection of the United States to the extent that it shall see that the laws of such country are fairly and impartially administered without prejudice or perversion.

10. That the United States are in duty bound to see that no citizen of the United States is tried or punished within a foreign jurisdiction for acts done or words uttered within the United States or any other country except that wherein the prosecution is instituted.

11. That it is the duty of the Government of the United States to demand the immediate discharge and release of all citizens restrained of their liberty in violation of the principles herein declared and just reparation for the wrong any citizen may have suffered.

Resolved, That the executive department be instructed to carry out the doctrines and enforce the rights herein enunciated, and to report to Congress any refusal or neglect on the part of any foreign Government to recognize the demand so made.

I have promised to yield the remainder of my time to my colleague, [Mr. LOGAN.] I will ask the Chair to inform me how much time I have left.

The SPEAKER. The gentleman has seven minutes of his time remaining.

Mr. PRUYN. Before the gentleman yields I would like to call his attention to the first two propositions which he has submitted to the House, and to ask whether it is desirable for the House to act on propositions to reaffirm truths so fundamental and so broad that they have been recognized by our Government from its origin down to the present time?

As I understand the first proposition, it is intended to declare that when a person is naturalized he is at once placed on an equal footing with native-born citizens wherever he goes, and that no distinction is to be made between them.

Mr. JUDD. In reply to the interrogatory of my friend, I will state the necessity for the adoption of these principles is recorded upon the diplomatic history of the United States of America. We have never, from the beginning of our Government up to this time, enforced those doctrines in the spirit that every other nationality enforces the doctrine proclaiming protection to its citizens. I desire, in pressing these abstract principles, as my friend from New York [Mr. PRUYN] calls them, to let the executive branch of the Government know what the legislative branch thinks on this subject, that it shall conform its action to the resolves of Congress. I do not want to leave any longer to the philosophy of the Secretary of State, the discretion of the Executive, or the nice learning of any subordinate in the Department of State these great questions of international law in regard to the rights and protection of our citizens, which every one on this floor say ought to be asserted. That is the reason I am for having this Congress say, before it closes this question, such and such rights exist; that they are not further debatable, but shall be observed by all nations with whom we have relations.

I yield now to my colleague from Illinois, [Mr. LOGAN.]

PERSONAL EXPLANATION.

Mr. LOGAN. Mr. Speaker, I rise to a privileged question, and I think I have a right to the floor.

I desire to call the attention of the House—I believe my colleague [Mr. MARSHALL] is within the bar—to some remarks that appeared in the Globe of the 24th ultimo; and I wish to state, for the benefit of those who may read the Globe and understand the debates of this Congress, that on the 9th of January a debate took place in this House——

Mr. ROSS. Wait until my colleague comes in.

Mr. LOGAN. He is in the Hall; I saw him here. During that debate the chairman of the Committee of Ways and Means yielded to me, and I occupied his time in the general discussion in the House. The gentleman from Illinois [Mr. MARSHALL] obtained the floor by permission of the chairman of the Committee of Ways and Means, or else obtained a part of the time of the gentleman from Missouri, [Mr. PILE.] I believe he was permitted to occupy the time of the House for five minutes. I think that is correct. During the discussion on the 9th of January, in reference to the resolution concerning meters, I believe he obtained the floor for five minutes from the chairman of the Committee of Ways and Means to respond to some remarks I had made——

Mr. MARSHALL. My colleague is entirely mistaken in his statement.

Mr. LOGAN. What was it? From whom did you get the floor?

Mr. MARSHALL. From the gentleman from New York, [Mr. VAN WYCK.]

Mr. LOGAN. For how long?

Mr. MARSHALL. It came out of his time, between forty and fifty minutes. But I do not see the materiality of my colleague's statement.

Mr. LOGAN. It is immaterial from whom he obtained the floor. I may be mistaken. The Globe is mistaken if I am. How long he occupied the floor I cannot say, but it was for a short time, for I sat here and listened to him. On the 24th of January his remarks appeared in the Globe and occupied four columns and a quarter of the Globe. I have this to say: this speech in the Globe appears to be an answer to remarks I had made at that time, together with a general attack upon the Republican party. I do state from my seat these remarks in the Globe, these figures and statements, filling these four columns and a quarter, were not made upon this floor. The gentleman may have had permission to revise his remarks; I do not know about that; but I do not understand permission given by this House to revise remarks authorizes any gentleman to publish a speech which has never been uttered in this House. I revise no remarks I make, and all I desire is to call the attention of the House to the fact that a speech appears in the Globe of the 24th of January to go to the people of Illinois or elsewhere which was never delivered in

this House. And I protest against any such proceeding in this House. If any gentleman desires to answer me on this floor I want him to do it in legitimate debate or else ask permission to print his remarks, and not stick them in the Globe seventeen or eighteen days afterward, when no permission has been given.

Mr. NIBLACK. I rise to a question of order, that this is not a privileged question.

Mr. MARSHALL. I hope my colleague will not be interrupted in what he says.

Mr. NIBLACK. I withdraw the point of order.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. LOGAN] that the time of his colleague [Mr. JUDD] has expired. But if there is no objection he will continue his remarks.

Mr. CHANLER. I do not wish to object to the gentleman from Illinois [Mr LOGAN] continuing his remarks, as this appears to be a personal matter. But if the discussion upon this point is to continue I would like to know what will be the effect upon the bill before the House?

The SPEAKER. The gentleman from Illinois [Mr. LOGAN] was occupying the remainder of the hour of his colleague, [Mr. JUDD,] which expired a moment or two since.

Mr. CHANLER. Will the discussion on this point interfere with the bill which has been under discussion?

The SPEAKER. It will not interfere with the hour of the gentleman from New York [Mr. CHANLER] when he obtains the floor.

Mr. CHANLER. I wish to inquire whether the bill under consideration will continue to be debated in the House within the morning hour, notwithstanding this interruption?

The SPEAKER. Unless unanimous consent is obtained for a personal explanation, a single objection would arrest this discussion, in which case the debate must be confined to the bill reported from the Committee on Foreign Affairs. No gentleman has raised the point except the gentleman from Indiana, [Mr. NIBLACK,] and he has withdrawn it.

Mr. ELDRIDGE. I will not raise the point of order on the gentleman from Illinois [Mr. LOGAN] if the gentleman's colleague [Mr. MARSHALL] be allowed the privilege of replying.

Mr. LOGAN. Have I ever denied any gentleman the privilege of replying to me?

Mr. ELDRIDGE. I do not suppose the gentleman has denied the privilege; but the House may do so. He is not the House.

Mr. LOGAN. Ah, indeed!

The SPEAKER. Is there objection to allowing the gentleman from Illinois [Mr. LOGAN] to proceed, although the time of his colleague who yielded to him has expired? The Chair hears no objection.

Mr. LOGAN. Mr. Speaker, I have no personal attacks to make upon my colleague or anybody else. I did not rise for that purpose, but to enter my protest against this method of conducting the debates in this House. I have no objection to a gentleman revising his speech; that is, correcting the language, making it softer or smoother. That is what I understand to be the revision of a speech in the proper sense; and to that I have no objection. But I do solemnly protest against any gentleman publishing in the Globe remarks purporting to have been made in this House in answer to another gentleman, but never actually delivered.

Now, in the four columns and a quarter of my colleague's speech there are undoubtedly many things that he did say; there is no question about that; but as to his delivering on the 9th day of January, in the little colloquy that took place on this floor, a speech four columns and a quarter long. every gentleman who was present on that occasion knows. that it is not the fact. True, I find in this speech many things which I recognize as having been said here by my colleague. For instance, I find here a beautiful piece of poetry which was quoted by him, and which shows him to be a gentleman of erudition and one who has dealt much in the classics of the language. It is this:

"A little thieving is a dangerous art,
But thieving largely is a noble part;
'Tis vile to rob a hen-roost of a hen;
But stealing largely makes us gentlemen."

The gentleman did say that. He might have added:

"A little nonsense now and then
Is relished by——many men."

[Laughter.]

About three fourths or a little more of the first column I recognize as what the gentleman did say, although it is somewhat "dressed up." This part includes the question which I put to him, and which he occupied about a minute in answering. That ended the discussion. But after that there follow in the published speech three columns or more which I never heard, and I listened to the whole debate.

Now, if this is the rule here, I have nought to say; but I for one shall never adopt it. That is all I desire to say—just to call my colleague's attention to the fact that I object to this manner of doing things in this House.

Mr. MARSHALL. Mr. Speaker, I am utterly amazed at the course my colleague has seen fit to take this morning. It was by the merest accident that I happened to come into the Hall while he was making this personal attack upon myself. A gentleman came up the aisle and notified me that he was making some remarks that affected me personally, or I should have known nothing about it.

Mr. LOGAN. If the gentleman will allow me, I will state that I told him this morning in his seat that I had—I do not remember the word, but it may have been "a quarrel" with him. It was playfully made, and the gentleman will recollect that he looked around. I saw him sitting just before he rose. I am not the man to make attacks upon gentlemen in their absence, and he need not cast that at me.

Mr. MARSHALL. The gentleman from Wisconsin [Mr. ELDRIDGE] came up the aisle and notified me, while I was engaged in conversation with an honorable Senator, that my colleague was making some remarks affecting me personally. Thereupon I came in during the progress of his remarks. I did hear my colleague say this morning across the aisle that he was going to pitch into somebody or say something. I looked around and my colleague laughed, and I supposed, of course, that the remark was made in jest. It passed out of my mind, and I had not the slightest idea that he intended to make remarks affecting me in any way.

My colleague's wit is just about as bright as his memory is accurate. As I came in he was in the act of stating that I had the floor for five minutes, by the courtesy of the gentleman from Missouri [Mr. PILE], or some other member. Now, every one who was in the House at the time I made the remarks published in the Globe will remember that I spoke at length. There were various interrogatories put to me, and I occupied the floor for a considerable length of time—I will not undertake now to say precisely how long. The gentleman from New York [Mr. VAN WYCK] kindly yielded to me after making a few remarks, and at the conclusion of my remarks I yielded the rest of the time, which was ten minutes, to the gentleman from Missouri, [Mr. PILE,] who will remember all the facts.

My colleague is certainly a man of most excellent education, and I know that a man of his accuracy in language and perfect self-possession does not find it necessary to look over the minutes taken by the reporters. His classical education and his beauty of diction are so remarkably fine that it is not necessary for him, as it is for most members of the House, to apply to the reporters to ascertain whether the report of his language is just such as he desires to go to the country.

The remarks I made on that occasion were entirely extemporaneous. I had not the slightest idea of occupying the floor until my colleague had spoken some time. I was engaged in writing, and my attention was called to some remarkable language he was using upon that occasion and some statements which I thought required an answer at the hands of some gentleman on this floor. I sought and obtained the floor, and in the course of my remarks I traveled somewhat out of the subject before the House, as my colleague had done, and entered into the discussion of partisan politics. The same was true of different members of the House on that occasion. I admit, as is admitted in the published speech that appears in the Globe, that some of my remarks were not entirely germane to the question before the House.

During the same afternoon and the next day the gentleman from Missouri [Mr. PILE] answered my remarks at length, as did also the gentleman from Vermont, [Mr. WOODBRIDGE,] and perhaps some others, and while the gentleman from Missouri [Mr. PILE] was engaged in making corrections of his remarks, as reported, made in reply to me, he remarked to me that he intended to have it published in pamphlet for distribution, and would not have it inserted in the Globe of next day, and asked, as I remember, if there was any objection to holding it up and modifying or correcting the report of his remarks made on the occasion. I said no, as a matter of course; that it was customary, as I understood, with nearly all the members when remarks were made *extempore*. I said I conceived that every member had that privilege, and that it was never denied; that I expected to do so myself, as a number of my friends in the House had asked me to look over my remarks and correct the report with some care, as they desired to have it published for distribution, or words to that effect.

The gentleman from Missouri [Mr. PILE] will recollect that. Now I state that the speech as published in the Globe is the speech as delivered by me upon that occasion, with some modifications and amplifications, I admit, and with the addition of some tables which are published therein. There is not one sentiment or one idea in that speech inconsistent with the remarks that I made upon that occasion, and if any gentleman asserts the contrary he asserts what is not true.

I admit some slight additions and amplifications in carrying out the ideas which I hurriedly expressed on that occasion, and that I understand to be the uniform custom of members of this House. If it is not I ask honorable members on the other side of the House to rise and correct me now. If there is any gentleman who is acquainted with the practice of members and custom of debate here in the House when extemporaneous debate is entered into, of members availing themselves of the privilege of looking over the report taken by the reporters, modifying the language, amplifying it, if you please, so that it does not change the substance and the context of the matter actually delivered upon the occasion; if that is not the universal custom of members on both sides of the House, let some gentleman on the other side of the House rise and say so.

Mr. SCHENCK. That appeal is so direct to members, and especially on this side of the House, that I for one propose to respond to it. I am not in the habit of ever looking at the report of my remarks—perhaps it would be better for all of us to do so—but once in a while, an exceptional instance, when an opportunity has been afforded me, or I have thought it necessary to ask it, I have looked merely to verbal corrections; and I here enter my protest against such words as "amplification" and "modification" of the remarks which gentlemen make upon this floor. The one is a very broad word and the other a very pliable word, and I am afraid we should not have the reports of this House go to the country as they should, indicating outside what is done here, if so much latitude as that were allowed. This remark I make in response simply to the appeal of the gentleman from Illinois, because for one I am not willing to sit still and acquiesce in the broad doctrine laid down by the gentle-

man in regard to the reports as made by the phonographic writers here; and I say this without any reference to the matter now under discussion, for I do not know what its merits are.

Mr. MARSHALL resumed the floor.

Mr. PILE. Will the gentleman yield to me for a moment?

Mr. MARSHALL. I will in a moment. In the confusion that often prevails in this Hall the report as made by the reporters is often necessarily exceedingly imperfect and inaccurate, and it is certainly the better practice to look over and correct the report before it goes to press. If the gentleman from Ohio [Mr. SCHENCK] does not look over the notes of the reporters he is the exception, and it is unquestionably the general rule to do so and the general practice of members upon this floor.

In regard to the use of the word "amplification," I certainly do not intend to use it in its broadest sense. It may be proper to make this explanation: I am never in the habit of adding anything to the remarks which I have made and modifying and qualifying the language so as to change the sense in any particular; but upon this particular occasion I was called to the floor unexpectedly, and as we went beyond the subject before the House and engaged in the debate of partisan politics, and I made some charges against the dominant party, I stated before taking my seat that I should wish to add some tables and additions in the published speech and no objection was made. Several gentlemen near me remember that well, as they now inform me. Before yielding the floor to the gentleman from Missouri, [Mr. PILE,] who had appealed to me to yield him ten minutes of my time—which he will remember I did—I made the statement that I should want to add some tables and explanations of the charges that I had made in my remarks. I will yield now to the gentleman from Missouri, as I have referred to him and to the brief colloquy which took place between us on that occasion.

One word, however, before I do so in regard to the time that the notes were withheld. Many gentlemen here will remember the fact that at the time I delivered those remarks I was quite unwell. The report of my remarks was not brought to me until eleven o'clock that evening, when I was retiring to my bed. I sent word back to the Globe office that I could not possibly correct them that night for publication, and consequently retained the manuscript in my possession.

It laid by me several days before I could turn my attention to it or even look into it. I finally got time to compile the tables I desired to make, corrected the report, put in the tables I desired, and sent the report as corrected to the Globe office for publication. That is the course I pursued and all that I did in the matter. I repeat there is not one idea in the published report otherwise than as here stated that was not delivered orally in the House at that time. I now yield to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. I do not intend to participate in this discussion any further than to say that the statement of the gentleman from Illinois, [Mr. MARSHALL,] that he yielded the floor to me for ten minutes, and that I held the floor that evening for ten minutes by his courtesy, is true. In reference to my asking his permission to withhold my remarks made the following morning for the purpose of modification and change——

Mr. MARSHALL. I did not regard it as asking my permission, but as a mere remark to me as I was passing by.

Mr. PILE. I did say to the gentleman, in regard to the remarks I made the next morning, that I might withhold them from the Globe for one day for the purpose of revision; and that if I concluded to do so I asked him if I should also withhold the remarks which he had made, and which had been projected in the center of my remarks. It will be remembered by the House that I yielded to the gentleman from Illinois, and that he occupied five minutes in the remarks which I made the following morning, and I did not wish to withhold them without his permission. I proposed to withhold my own remarks for revision; I only used the word "revision." After the report was sent to my desk by the reporters of the Globe I looked over them, made one or two alterations, and sent them to the Globe for publication. I do not wish it understood that I desired to withhold my remarks for modification and amplification.

Mr. MARSHALL. The statement of the gentleman from Missouri [Mr. PILE] is, I believe, entirely accurate. I do not intend to be understood as stating that there was any arrangement between us. I made the statement as to what did occur merely to show that my colleague [Mr. LOGAN] was wholly and entirely in error in regard to the manner in which I obtained the floor, the time during which I occupied it, and all the circumstances in regard to it.

Mr. LOGAN. If the gentleman has concluded his remarks——

Mr. MARSHALL. I will yield to my colleague for such explanation as he may wish to make.

Mr. LOGAN. If the gentleman is through I desire to reply to a remark or two he has made.

Mr. MARSHALL. If the gentleman will not accept the courtesy at my hands, I can but interpret it that after I have yielded the floor absolutely he expects to obtain some advantage by getting the last word on this occasion. I shall rely with confidence upon the courtesy of the House to be allowed to say what may be necessary in justice to myself.

Mr. BURR. I have heard from both of my colleagues [Mr. LOGAN and Mr. MARSHALL] on this personal question. That, I think, is enough, and therefore I now demand the regular order of business.

Mr. LOGAN. That, I think, would be an act of discourtesy.

Mr. MARSHALL. I am on the floor, I believe.

The SPEAKER. The gentleman is entitled to the floor by unanimous consent.

Mr. MARSHALL. I do not wish to cut off my colleague at all; but if he does not wish to accept a courtesy at my hands he may ask it of the House.

Mr. LOGAN. I shall certainly be willing to have the gentleman reply to anything I may say.

Mr. MARSHALL. I will conclude by merely adding that an altercation of this kind is to me, with my ideas and instincts of propriety, exceedingly unpleasant. I am conscious that I have done nothing not sanctioned by the practice and usages of the House, and I am willing to take the sense not of the House merely but of the gentlemen of the opposite side, who are not in sympathy with me politically. I will have no hesitation in leaving it to them to determine whether what I have now stated here is not in perfect and strict accordance with the fact.

My colleague was entirely mistaken in his recollection in regard to the fact—with regard to the time when I obtained the floor, the time that I occupied the floor, and almost everything in reference to the matter. And I deem it most extraordinary that, in my absence from my seat, he should have sought the floor to make the remarks that he has made this morning in regard to the question now before the House. It would, at least, be well for him to improve his memory and make sure of his facts before making another raid of this character.

Now, sir, I do not admit the right of my colleague, from any position that he occupies here or before the country, to become my censor in regard to anything here or elsewhere. I occupy a position as a gentleman and as a man of honor that is not to be affected by any remarks that may be made by my colleague now or upon any other occasion.

Mr. LOGAN. Mr. Speaker ——

The SPEAKER. Is there objection to the gentleman from Illinois continuing this discussion?

Mr. LOGAN. I desire just a few moments.

Mr. CHANLER. If the gentleman will limit himself to five minutes I will not object.

Mr. LOGAN. I prefer to be governed by the sense of the House, not by the gentleman from New York, [Mr. CHANLER.]

Mr. CHANLER. Then if the gentleman will not accept the courtesy of gentlemen on this side I object.

The SPEAKER. The gentleman from New York objects.

Mr. LOGAN. I only ask the House to extend to me the courtesy that has always been extended to other gentlemen. I do not see why it is that I for some few days have not been allowed by gentlemen here the same courtesies that other gentlemen are always allowed. I claim now only a few moments to reply to some remarks of my colleague which certainly call for a replication at my hands.

The SPEAKER. Does the gentleman from New York withdraw his objection?

Mr. CHANLER. I do not unless the gentleman consents to limit himself to five minutes.

Mr. LOGAN. The House can put any limitation upon me that it may think proper.

Mr. CHANLER. Then I object.

Mr. LOGAN. Well, I will consent under duress to the limitation of five minutes insisted on by the gentleman from New York.

Mr. MARSHALL. I hope that the gentleman from New York will withdraw his objection.

Mr. CHANLER. At the request of the gentleman from Illinois [Mr. MARSHALL] I withdraw my objection.

The SPEAKER. Objection being withdrawn, the gentleman from Illinois [Mr. LOGAN] is entitled to the floor unconditionally. The Chair will, however, state that the morning hour will expire in five minutes.

Mr. LOGAN. In regard to what my colleague has said about his being a gentleman, I have nothing to say; nor have I anything to say in reply to his remarks about my affecting his standing as a gentleman. I do not desire to affect it. I do not desire to reply to insinuations made in such bitterness and coming from the lips of a gentleman so highly cultivated that he can insinuate here that I am an illiterate man. I desire not to say anything to affect the honesty, the moral integrity, or the personal standing of any gentleman who stands so high that he can cast an insinuation of that kind upon a colleague in this House. True it is, I was not educated in any of the higher colleges, nor was my colleague. I was educated, however, in a town that had church-steeples. Whether my colleague can say as much is for him to answer. I do not claim that I am one of the highly-educated gentlemen of this House; I claim no such thing. But I will say to my colleague that he, with his own knowledge of his own abilities and erudition, should be the last man to insinuate anything against the education or abilities of any man on this floor.

Mr. MARSHALL. I do not desire to carry this any further. My colleague is mistaken. I made no reference to his education. I do not know whether he is educated or not. [Laughter.] It is a matter of no importance to me.

Mr. LOGAN. I am sure of that. The gentleman suggests there never is any necessity for me to revise my remarks on account of my extraordinary education. He knows, every one knows, the meaning of those terms. But I care nothing about that. We both live in the same county, both represent the same constituency; and I am willing for them to determine who stands higher or has character or reputation to be tarnished by the other.

Now, I say this, sir, so far as the charge against my colleague is concerned of interpolating remarks that he did not make, when he says that charge is unfounded he pettifogs. Being a lawyer and having practiced many times, as I have myself, before a justice of the

peace, he understands pettifogging. He is an excellent pettifogger, as are many of the gentlemen from Illinois. [Laughter.]

He says I was mistaken about the five minutes. Is that the point at issue between us? He says I was mistaken about ten minutes. I make no question as to the time the gentleman occupied the floor, but, sir, I do say here to his face, and he knows it, that there are at least three columns in this Globe that he never uttered upon this floor. He knows it, and everybody else knows it. They are answers to what I said, and I do say he never did utter them upon this floor. There are figures and statements here that he never referred to. The time he occupied upon this floor would not have made more than one column of the Globe. The whole debate of that day makes only ten columns of the Globe. The chairman of the committee occupied an hour. I occupied forty minutes myself. The whole debate published next morning makes only ten columns, while the gentleman's few remarks fill four columns and a quarter. And yet he asserts upon this floor there is nothing published but what he said. I say the facts are contrary to what he states.

I care nothing about this any further except to this extent: I notify gentlemen upon this floor if they engage in debate with me and reply to me, and inject a speech into the Globe which was never uttered in this House, I shall call the attention of the country to it. I shall call attention to it every time they do it. I do not intend to let any such thing pass unnoticed.

I assert again, sir, there in this published speech of his, on the 24th day of January, at least three columns of matter, figures, and statements that he never made upon this floor; and he knows it. The question so far as honor is concerned makes no difference to me. The country can determine in reference to it, but I care nothing about it except to let him know he cannot publish a speech he did not make in answer to me without attention being called to it on this floor.

The SPEAKER. The morning hour has expired. If no motion is made to go into committee the Chair will not arrest this debate.

Mr. LOGAN. I wish to say that I do not charge this upon the gentleman, but only in regard to his reflection to what I said. If, as he says, it is the custom of the House to inject in the Globe speeches never made in this House, that custom ought to be abolished this very day, for it is infamous that the people should be taxed dollar after dollar to pay for speeches that are written by lawyers in this city, handed to a member, and published in the Globe. Sir, there is no parallel for this except when two gentlemen from Ohio read the same speech, one a few days after the other, probably written for both by the same person. [Laughter.]

Now, sir, I desire to say that the cost of the publication of this speech which was not made in the House is $8 50 for each column in the Daily Globe, and $8 50 more for going into the Congressional Globe, making seventeen dollars a column for aspeech of four columns and a quarter, or almost eighty dollars. The country has to pay over seventy dollars for the publication of a speech only about one column of which was made, and that speech is made upon the enormity of the expenditures of the Republican party.

Mr. WELKER. I desire to ask whether the two gentlemen from Ohio that he states made the same speech are members of this Congress?

Mr. LOGAN. No, sir. I think it was the Thirty-Seventh Congress. I think they have both been left at home since, and such may be the case with other gentlemen who publish speeches they do not make.

I say, while the speech of the gentleman, as published, is an attack upon the Republican party for spending millions of dollars which they have no right to do, here is an expense of seventy dollars for the publication of his speech which was not made. Now, whether I am an educated man or not, if it is allowable to publish anything in the Globe without its being spoken in the House, I can hire two or three clerks to get up a speech on every question that comes up and have them published at the expense of the Government, and see how you will like that.

Mr. COVODE. Will the gentleman yield to allow me to offer a resolution?

Mr. LOGAN. Yes, sir.

Mr. COVODE. I offer the following resolution, and ask unanimous consent to have it acted upon now:

Resolved, That no member of the House in revising his remarks for publication in the Globe shall add a sentence to or withdraw a sentence from the report as taken down by the reporter without asking permission of the House.

The SPEAKER. Is there objection to the consideration of the resolution at this time?

Mr. DAWES. I object.

Mr. LOGAN. Mr. Speaker, I have said all I desire to say.

Mr. MARSHALL. I ask consent for a few minutes to reply.

Mr. WASHBURNE, of Illinois. How long?

Mr. MARSHALL. Probably not over five minutes.

Mr. LOGAN. Then I shall ask for five minutes myself, too.

The SPEAKER. If there is no limit the Chair rules that the gentleman is entitled to one hour.

Mr. MARSHALL. I only want five minutes.

Mr. LOGAN. I ask the House to allow me five minutes, too.

The SPEAKER. Does the gentleman from Illinois [Mr. LOGAN] object?

Mr. LOGAN. No, sir.

Mr. MARSHALL. Mr. Speaker, this bandying about of remarks between my colleague and myself, as I before said, is not pleasant to me. I have made the statement that the speech published is the speech delivered by me on that occasion with the additions which I have explained, and which I referred to at the time, before taking my seat, and there are several gentlemen around me who remember the fact. If my colleague expects to make any reputation by the display he has made here this morning he is entirely welcome to all he can gain thereby. I know my colleague is at times very irritable, and sometimes troubled with what may, metaphorically at least, be called flatulency, [laughter,] and I imagine this was as good an occasion as he could obtain to let off a little extra wind that has been disturbing him.

The SPEAKER. The Chair does not think these remarks are parliamentary.

Mr. MARSHALL. What remarks?

The SPEAKER. The remark of the gentleman in regard to flatulency [laughter] and what followed.

Mr. MARSHALL. I take it back. I withdraw the flatulency, [laughter.] I would commend to my friend hereafter when he is disturbed by feelings such as have disturbed him this morning to procure a bottle of Mrs. Winslow's Soothing Syrup, or perhaps Jayne's Carminative Balsam would be better to relieve him from such pains as have been agitating him this morning. If that does not produce the desired effect, if he will get a bottle of good, strong vermifuge he will most unquestionably be relieved from the pains which have been weighing him down. [Laughter.]

I shall not, sir, bandy epithets with my colleague. I have stated that the speech which was published in the Globe was substantially, in every particular, with the additions that I referred to at the time, the speech which I made on that occasion. It will not make it any stronger for me to use harsh epithets toward my colleague, and I shall refrain from doing so.

I shall leave this matter, as it is now, in the hands of the House and in the presence of the country. I claim no superiority for myself in any respect over my colleague, but I do claim, as I said before, to occupy a position as a man and a gentleman that cannot be affected here or elsewhere by any attack that my colleague has made or may be able to make.

Mr. LOGAN. But one word, and it is this: I will say to the gentleman and to this House that I am too much a gentleman to reply to any indecent language such as has been used by my colleague who claims to be a gentleman; whether he is or not has never been determined by a jury. [Laughter.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced to the House that the Senate had passed a joint resolution (S. R. No. 99) to authorize the Secretary of War to employ counsel in certain cases, in which the concurrence of the House was requested.

FAMINE IN SWEDEN AND NORWAY.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith a report from the Secretary of State in answer to the resolution of the House of Representatives of the 28th of January.

ANDREW JOHNSON.

WASHINGTON, *February* 3, 1868.

The SPEAKER. The report of the Secretary of State is in regard to the famine in Sweden and Norway.

Mr. HARDING. I move that the message and the accompanying report be referred to the Committee on Naval Affairs, and printed.

The motion was agreed to.

TRIAL OF JOHN H. SURRATT.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 27th ultimo, directing the Secretary of State to furnish information in regard to the trial of John H. Surratt, I transmit a report from the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, *February* 3, 1868.

Mr. WILSON, of Iowa. I move that the message and the accompanying report be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

IOWA INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs relative to the petition of the Iowa Indians to have certain funds diverted.

Mr. WINDOM. I move that the communication be referred to the Committee on Indian Affairs, and printed.

The motion was agreed to.

RECONSTRUCTION LITIGATION.

Mr. GARFIELD. I ask unanimous consent to take from the Speaker's table joint resolution (S. R. No. 99) to authorize the Secretary of War to employ counsel in certain cases.

Mr. BROOKS. In what cases?

The SPEAKER. The joint resolution will be read, and then the Chair will ask for objections.

The joint resolution was read. It authorizes the Secretary of War to employ counsel for the defense of the General of the Army, Major General George G. Meade, Brevet Brigadier General Thomas H. Ruger, provisional governor of Georgia, and any other officer or person intrusted with the enforcement of the reconstruction acts or either of them against any suit or proceeding in any court in relation to their official acts.

Mr. RANDALL. I desire to know how that resolution comes before the House?

The SPEAKER. It is a Senate joint resolution.

Mr. RANDALL Then I suggest that it have the usual reference.

The SPEAKER. It is not yet before the House. Does the gentleman object?

Mr. RANDALL. I do, unless it is for reference; and I desire to state my reasons.

The SPEAKER. The joint resolution is not before the House.

Mr. RANDALL. I call for the regular order.

Mr. GARFIELD. I move to proceed to the business on the Speaker's table.

The motion was agreed to.

SMITH AND WESSON.

The first business upon the Speaker's table was Senate bill No. 229, for the relief of Horace Smith and D. B. Wesson, or their assigns; which was taken up, and read a first and second time.

Mr. JENCKES. I ask that this bill be now put upon its passage. The Committee on Patents have had this case under consideration, and are in favor of the passage of this bill. It is merely to correct a mistake. I ask action on it at the present time.

The bill was read at length. It provides that Horace Smith and D. B. Wesson, or their assigns, shall have leave to make application to the Commissioner of Patents for an extension of letters patent for improvement in repeating fire-arms issued to said Smith & Wesson on February 14, 1854, for the term of fourteen years, and reissued on the 10th of October of the same year, in the same manner as if the petition for said extension had been filed at least ninety days prior to the expiration of said patent; and that the Commissioner of Patents be authorized to consider and determine said application in the same manner as if it had been filed ninety days before the expiration of said patent.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Rhode Island [Mr. JENCKES] will not insist upon putting this bill on its passage now.

Mr. JENCKES. It is to correct an error.

Mr. WASHBURNE, of Illinois. I think the bill should be referred.

Mr. JENCKES. Very well; let it be referred to the Committee on Patents.

The motion to refer was agreed to.

TOWNS, ETC., ON PUBLIC LANDS.

The next business upon the Speaker's table was Senate bill No. 188, to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867; which was taken up, and read a first and second time.

Mr. GARFIELD. I move that the bill be referred to the Committee on Public Lands.

The motion to refer was agreed to.

SPANISH STEAMER NUESTRA SENORA.

The next business upon the Speaker's table was the Senate joint resolution No. 90, to provide for the payment of the proceeds of the sale of the Spanish steamer Nuestra Senora de la Regla; which was taken up, and read a first and second time.

Mr. PIKE moved that the bill be referred to the Committee on Foreign Affairs.

The motion was agreed to.

SURVEY NO. 3217.

The next business upon the Speaker's table was the bill of the Senate (No. 166) for the relief of the owners of land within the United States survey No. 3217, in the State of Missouri; which was taken up, and read a first and second time.

Mr. JULIAN. I move that the bill be referred to the Committee on Public Lands.

The motion to refer was agreed to.

NATIONAL CURRENCY, ETC.

The next business upon the Speaker's table was Senate bill No. 283, to further amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; which was taken up, and read a first and second time.

Mr. HUBBARD, of West Virginia. I move that the bill be referred to the Committee on Banking and Currency.

The motion to refer was agreed to.

MISSOURI TROOPS.

The next business upon the Speaker's table was Senate joint resolution No. 81, placing certain troops of Missouri on an equal footing with others; which was taken up, and read a first and second time.

Mr. McCLURG. I desire that this joint resolution shall be put on its passage now.

Mr. HOLMAN. I think the resolution ought to be referred to the Committee on Military Affairs.

The joint resolution, which was read, provides that the troops recognized in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, shall be considered as placed on an equal footing with other volunteers as to bounties, and that all laws relating to bounties be applicable to them as to other volunteers.

Mr. WASHBURNE, of Illinois. I move that this bill be referred to the Committee on Military Affairs.

The SPEAKER. The gentleman from Illinois cannot make that motion. The gentleman from Missouri [Mr. McCLURG] is entitled to the floor.

Mr. McCLURG. I desire to make a brief statement; and I am satisfied that if gentlemen will give me their attention neither the gentleman from Illinois nor any other member will ask the reference of this bill to a committee.

This question has already been fully considered by this House. An enactment similar to this has already been passed by the House three times during this and the Thirty-Ninth Congress. This joint resolution has, virtually, been twice passed during the present Congress. The Committee on Military Affairs of the Thirty-Ninth Congress considered this subject; and this House put into a bounty bill which was passed during that Congress the very language of this joint resolution. That bill went to the Senate, where it was not considered. During last March, soon after the opening of the Fortieth Congress, a joint resolution in the identical words of the present resolution was introduced and passed in this House. That resolution went to the Senate, where it was passed. It was duly enrolled, and was signed by the Presiding Officers of the two Houses; but through an oversight of the chairman of the Senate Committee on Enrolled Bills it remained in his desk until after Congress had taken its recess; so that it did not reach the President till after the commencement of that recess. The President considered the recess to be such an adjournment as prevented him from signing the joint resolution. He indorsed upon it, not his objections to it, but the reasons why he did not feel able to sign it, and filed it in the office of the Secretary of State.

At the session last July an attempt was made to revive the joint resolution. A concurrent resolution was adopted by this House directing that the bill be reënrolled and again signed by the Presiding Officers of the two Houses. That concurrent resolution was not acted upon by the Senate, because that body had resolved to take up no business relating to any other subject than reconstruction, and also because Senators differed upon the question whether the adoption of that resolution would revive the bill.

At the present session the Senate has acted upon this subject, and has passed a joint resolution which is a precise copy of that which has already several times passed this House. This joint resolution has just been read at the Clerk's desk. The House is now merely asked to reaffirm the action it has already taken three several times. I will simply add that the chairman of the Committee on Military Affairs has no desire that this subject shall be referred to that committee.

I now call the previous question.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I would inquire whether in a case involving a million dollars or more no debate is to be allowed?

The SPEAKER. The gentleman from Missouri [Mr. McCLURG] has demanded the previous question, and debate is not in order.

Mr. WASHBURNE, of Illinois. I appeal to the House not to sustain the previous question.

On seconding the demand for the previous question there were—ayes 46, noes 54.

Mr. McCLURG. I call for tellers.

Tellers were ordered; and Mr. McCLURG and Mr. WASHBURNE of Illinois were appointed.

Mr. WASHBURNE, of Illinois. Would it be in order, before the vote is taken, to have read the laws which this joint resolution proposes to repeal?

The SPEAKER. That would be in the nature of debate, and debate is not in order pending the demand for the previous question.

The House divided; and the tellers reported—ayes thirty-five, noes not counted.

So the previous question was not seconded.

Mr. WASHBURNE, of Illinois. I move that it be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EMPLOYMENT OF COUNSEL.

The next business upon the Speaker's table was Senate joint resolution No. 99, to authorize the Secretary of War to employ counsel in certain cases; which was read a first and second time.

The joint resolution authorizes the Secretary of War to employ counsel for the defense of the General of the Army, Major General George G. Meade, and Brevet Brigadier General Thomas H. Ruger, provisional governor of Georgia, or any other officer or person intrusted with the enforcement of the reconstruction acts, or either of them, against any suit or proceeding in any court in relation to their official acts.

Mr. GARFIELD. Mr. Speaker, in explanation of the purpose of the joint resolution I send up the letter of the Secretary of War, and ask that it be read.

The Clerk read as follows:

WAR DEPARTMENT,
WASHINGTON CITY, *February* 5, 1868.

SIR: General Meade and General Ruger, in Georgia, have applied to this Department to defend them in a suit about to be prosecuted in the Supreme Court of the United States by the late Governor Jenkins against them for an injunction against their official acts under the reconstruction acts of Congress. I would respectfully recommend the immediate passage of a joint resolution authorizing the Secretary of War to employ counsel for the purpose indicated. The power might be exercised, perhaps, without such special authority; but it might be well for Congress to indicate its view for their indemnification.

Yours truly,

E. M. STANTON, *Secretary of War.*

Hon. HENRY WILSON,
Chairman of Military Committee of the Senate.

Mr. SCOFIELD. I wish to put a question to the gentleman from Ohio. I thought we had an Attorney General, whom we paid a high salary, to perform this duty; and I want to ask the gentleman what has become of him, and why he is not on hand to plead the cause of the country before our courts?

Mr. GARFIELD. The question is well put, and the only answer I can give, so far as I know, is that the Attorney General whom we pay is employing a large portion of his time in writing vetoes of reconstruction bills and making speeches to Democratic meetings, and I suppose he is so fully employed that he cannot give his attention to a matter of this sort. [Laughter.]

General Meade has removed the late acting Governor of Georgia because he was an obstruction to the administration of the laws. Now that Governor has brought a suit against General Meade and against the officers who are aiding in reconstruction. The Secretary of War, therefore, asks us to empower him to employ some one to defend General Meade or any officer of the Army engaged in carrying out the

reconstruction acts in any suit before the courts. It seems to me to be a proper request.

Mr. RANDALL. I wish to explain why I shall oppose the passage of this joint resolution.

Mr. GARFIELD. I yield for a moment.

Mr. RANDALL. A few minutes since, Mr. Speaker, I objected to taking up and considering this resolution at this time, for the reason—and it is one disconnected altogether with the matter proposed — that this question of employing additional counsel has grown into one of the greatest abuses under this Government. If the Treasury Department wants to favor a legal gentleman they employ him and send him to the Supreme Court to argue cases like the "cotton cases." It has been testified before the Committee on Retrenchment that as high as $5,000 have been paid for performing legal duties in the Supreme Court which, in my judgment, belongs to the Attorney General of the United States to discharge.

Mr. UPSON. Let me ask the gentleman a question. Has not the Attorney General declined in open court to defend these cases?

Mr. RANDALL. I am not speaking about the merits of this case. I think we should have a thorough argument on it, and that there ought to be some limitation of the power to employ additional counsel. If five or ten thousand dollars are to be expended in this manner let us say so. I do not think anybody will object to the employment of counsel if proper limitation be made.

Mr. GARFIELD. There will certainly be no improper allowances. The only reason why this joint resolution is necessary is because the Attorney General has gone over to the gentleman's party and is declaring in open court that he declines to act for the Government in cases of this sort. He declined to act in the McArdle case on the ground that he had written an official opinion against the constitutionality of the law under which the case came up.

Mr. RANDALL. Just one word there about his turning over to our party. We welcome him and hope——

Mr. GARFIELD. I demand the previous question.

Mr. HIGBY. Will the gentleman yield for a question?

Mr. GARFIELD. I decline.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was read the third time.

Mr. BOYER. I call the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 115, nays 37, not voting 37; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Bingham, Blair, Boutwell, Broomall, Buckland, Cake, Cary, Churchill, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Halsey, Hawkins, Higby, Hill, Hopkins, Asahel W. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kitchen, Koontz, Laflin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Polsley, Price, Raum, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taffe, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, and Woodbridge—115.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Boyer, Brooks, Burr, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Harding, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Niblack, Nicholson, Pruyn, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, and Woodward—37.

NOT VOTING—Messrs. Banks, Benton, Blaine, Bromwell, Butler, Chanler, Reader W. Clarke, Sidney Clarke, Finney, Hooper, Chester D. Hubbard, Richard D. Hubbard, Kelsey, Ketcham, George V. Lawrence, Lynch, McCarthy, McCullough, Morgan, Morrissey, Mungen, Myers, Phelps, Plants, Poland, Pomeroy, Robertson, Robinson, Selye, Shellabarger, Thaddeus Stevens, Taylor, John Trimble, Van Trump, Van Wyck, Stephen F. Wilson, and Wood—37.

So the joint resolution was passed.

Mr. HARDING. I suggest an amendment to the title of the joint resolution—that it read, "a joint resolution to supply executive deficiencies without impeachment." [Laughter.]

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPROPRIATION BILLS.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up House bill No. 599, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869; and also House bill No. 605, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869.

I will, however, state that I do not think the first one will challenge any debate; therefore, if there be no objection, it will be a convenience and a saving of time to have it considered in the House the same as in Committee of the Whole.

Mr. BROOKS objected, unless both bills should be so considered.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. Then I renew the motion that the House resolve itself into the Committee of the Whole.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and proceeded to the consideration of the special order, being House bill No. 599, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869.

Mr. HOLMAN. I ask that the bill be reported in full.

Mr. WASHBURNE, of Illinois. Does the gentleman insist upon it?

Mr. HOLMAN. Yes, sir.

The Clerk read the bill at length.

Mr. WASHBURNE, of Illinois. I desire to state that every item in the bill as it now stands is to carry out an existing law. The committee have reduced the estimates very largely and have put in nothing at all for new works except on page 3, "for breast-high walls of water battery, $5,000"—a work that has been commenced. Information has come to the committee that unless it is completed there will be a great deal of damage done. We have provided, however, "that the same shall complete the work." There is another item for rebuilding the north wharf, $5,000. The report is that the present wharf, upon which everything that goes to West Point is landed, is in such a dilapidated condition that it cannot stand for another year, and the committee, therefore, deemed it necessary to put in this appropriation. The other appropriations asked for the purpose of new buildings the committee declined to put in the bill, believing that the public interests would not suffer any detriment by their going over.

I will state that the appropriations last year for this West Point Academy amounted to $368,906, and this bill appropriates $283,500, including a small amendment which I shall offer. That is all there is, except a proviso, which I shall offer at the proper time.

Mr. BROOKS. I am very happy to hear from the gentleman from Illinois that he is in favor of economy and of a reduction of all the expenses of the Government, and I have no doubt of his sincerity, though I must doubt his good judgment and his fidelity to his principles after the vote which I have heard from him to-day on another appropriation bill, opening a door by which at least a million of dollars can be expended for the employment of counsel in military cases, without any limit whatever to that expenditure. However much, therefore, I respect his principles, I can but little respect his judgment when, after making declarations in favor of economy, he finds it necessary to give a vote which thus opens the door in the most profligate Department of the Government, as administered by the present Secretary of War, to a wild and boundless expenditure for lawyers in all parts of this country, not alone for the defense of the General-in-Chief and of General Meade and of General Ruger, but of every United States officer everywhere in any case in which the Secretary may choose to employ lawyers.

Mr. WASHBURNE, of Illinois. I rise to a question of order. It is that this bill is a special order, and the gentleman from New York is not confining his remarks to the bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BROOKS. The gentleman is right in the point of order, but when we come to the appropriations for the War Department he will hear from me.

Mr. WASHBURNE, of Illinois. Very well. I now move that the committee rise for the purpose of closing debate.

Mr. LOGAN. I desire to ask the gentleman a question?

Mr. WASHBURNE, of Illinois. You can do that after the general debate is closed.

The question was taken on Mr. WASHBURNE'S motion, and it was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had had under consideration the State of the Union generally, and particularly the special order, being bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869, and had come to no conclusion thereon.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the special order, and pending that motion I move that all debate in Committee of the Whole on the state of the Union on the special order close in two minutes after the committee shall resume the consideration of the same.

The question was taken on the motion to close debate, and it was agreed to.

The question was then taken on the motion to go into Committee of the Whole on the state of the Union, and it was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the special order, being the Military Academy appropriation bill.

The Clerk proceeded to read the bill by paragraghs for amendment.

Mr. MAYNARD. I would like the member of the Committee on Appropriations who has this bill in charge to inform us why the committee have reduced the appropriation for current and ordinary expenses from $72,805 to $66,805. I observe that the estimates submitted to us have been generally followed in preparing this bill, but this item has been reduced.

Mr. WASHBURNE, of Illinois. Does the gentleman offer an amendment?

Mr. MAYNARD. For the purpose of obtaining that information I move to amend in lines fifteen and sixteen by striking out "$66,805" and inserting "$72,805" in lieu thereof; so that it will read:

For current and ordinary expenses, $72,805.

The Department have submitted to us an estimate of what is regarded by them as necessary to meet the current expenses of an establishment which I suppose there is no disposition to curtail or embarrass. If there be any reason why we should not follow the estimate submitted and this is not a mere arbitrary

reduction, I will withdraw my amendment; otherwise I shall insist on it.

Mr. WASHBURNE, of Illinois. I rise to oppose the amendment of the gentleman from Tennessee, [Mr. MAYNARD.] I will state to him and to this committee that in this instance, and in a great many other instances, the Committee on Appropriations have not followed the estimates which have been sent to them from the Department. Had they done so, then, instead of getting along with appropriations of, I trust, less than $300,000,000, we should have the extravagant sum of $372,000,000 called for by the estimates. The committee have, in regard to this bill, as I believe they have in regard to every other bill, scrutinized carefully every item; and when they thought from their examination that they could cut down an item without detriment to the public service they have done so.

In regard to the item in reference to which the amendment of the gentleman from Tennessee applies, I will say that the estimate is, "for current and ordinary expenses, $72,000." The committee did not see why it was necessary to increase the appropriation from $66,805, the sum appropriated last year, to the sum of $72,000, called for by the estimate of this year. Hence they cut down that item, and provided in this bill that the same sum, which was sufficient for the current fiscal year, should be appropriated for the next fiscal year.

Mr. PRUYN. Will the gentleman allow me to ask a question?

Mr. WASHBURNE, of Illinois. In a moment; not now. The Committee on Appropriations had before them General Schriver, who had charge of all this matter, and asked him if he did not think they could get along with the sum named in this bill; and he said he thought they could.

Mr. PRUYN. I now desire to ask the gentleman if the Secretary of War and the General-in-Chief did not recommend a larger sum than the committee have allowed?

Mr. WASHBURNE, of Illinois. In the estimates, as stated by the gentleman from Tennessee, the sum called for was $72,000; but we concluded that we could cut down the amount for the next fiscal year to what it is for the present fiscal year. As I have said, the officer who has charge of all these matters in the engineer department expressed himself satisfied with the amount here named, and the committee thought they could get along with it.

[Here the hammer fell.]

Mr. LOGAN. I move to amend the paragraph "for pay of officers, instructors, cadets, and musicians" by striking out "eighty-two" and inserting "fifty."

The CHAIRMAN. That amendment is out of order, as the committee have already passed that paragraph.

Mr. LOGAN. I have been trying ever since the committee began to consider this bill to get the floor for the purpose of asking a question.

The CHAIRMAN. If there is no objection to going back to that paragraph the gentleman can move his amendment.

No objection was made.

Mr. LOGAN. I now move the amendment I indicated, and want the gentleman from Illinois [Mr. WASHBURNE] to answer my question.

Mr. WASHBURNE, of Illinois. What is the question?

Mr. LOGAN. I want to know if the officers at West Point who are acting as instructors receive any more pay under this appropriation bill than they do as officers of the Army, according to their regular grade?

Mr. WASHBURNE, of Illinois. I understand that they do not.

Mr. BLAINE. Not at all.

Mr. WASHBURNE, of Illinois. We have employed in this bill the same language in this respect that has been used in every Military Academy appropriation bill that I recollect. I know of no law that entitles those officers to receive any additional pay because they act as instructors at West Point.

Mr. LOGAN. Then I will ask this question: whether, in the estimates made in reference to the amount paid the number of cadets at West Point now and the officers and others there, the amount was more or less than that provided for in this bill?

Mr. WASHBURNE, of Illinois. It is intended to be enough to cover all those expenses and charges.

Mr. LOGAN. I know it is intended to be enough; but the question I ask is whether or not the calculation has been made as to the salaries of these officers and the amounts paid to cadets, because that is all that is embraced here, and whether the appropriation does just cover the amount to which they are entitled by law or whether it is not more.

Mr. WASHBURNE, of Illinois. I understand it is to be just the amount.

Mr. LOGAN. If it is just the amount I have not a word to say. My understanding was that it was more.

Mr. WASHBURNE, of Illinois. I will state to my colleague that when General Shriver was before us this very question was put to him, and he answered as I have stated.

Mr. LOGAN. What I desire to know is, whether or not the committee made an estimate independently of what General Shriver said. There is a law giving the cadets a certain amount and the officers a certain amount. I desire to know whether an estimate has been made in compliance with that law, so as to appropriate no more than the law allows.

Mr. WASHBURNE, of Illinois. I can state to my colleague that the committee substantially made an estimate. They had before them the laws and also the figures as made out by General Shriver. There may have been some miscalculation, but the committee took his estimate as correct.

Mr. BLAINE. I do not see how there could be any miscalculation about it.

The CHAIRMAN. Debate is exhausted on this amendment. Does the gentleman from Illinois [Mr. LOGAN] insist on the amendment?

Mr. LOGAN. No, sir; I withdraw it.

Mr. HOLMAN. I renew the amendment for the purpose of putting an inquiry to the gentleman from Illinois, [Mr. WASHBURNE.]

I believe, Mr. Chairman, that the compensation of the cadet has not been increased for a number of years, and as to the compensation of the professors——

Mr. BLAINE. The compensation of all has been increased.

Mr. HOLMAN. Not within the last six or seven years.

Mr. BLAINE and Mr. WASHBURNE, of Illinois. Oh, yes.

Mr. HOLMAN. The compensation of the cadets is, I believe, $600, as it was before.

Mr. BLAINE. It was never $600.

Mr. HOLMAN. I believe it was just $600 at one time.

Mr. BLAINE. It is precisely $500. The pay of a cadet at West Point and that of a midshipman at the Naval Academy were equalized during, I think, the time the gentleman from Indiana [Mr. HOLMAN] has been in Congress. The pay of both is now $500, no more and no less.

Mr. HOLMAN. The gentleman is correct as to the amount. I recollect now that it is $500. Years ago that was the compensation of the cadets; but the compensation of pupils at the Naval Academy, which was formerly less, has within the last five or six years been increased to correspond with the pay of the cadets. But I understand that within the last six or seven years there has been no actual increase in the pay of either the cadets or the professors at West Point. If there has been a law making any such increase it certainly has escaped the recollection of most of us.

I find that the appropriation made to cover these items of expenditures in 1861, at the second session of the Thirty-Sixth Congress, was $117,176, while the amount proposed to be appropriated by this bill for the same purpose is $182,747 50—an increase of nearly seventy thousand dollars. If there has been an increase of the compensation of these cadets and professors that may account for this extraordinary difference.

Mr. BALDWIN. There has been an increase from three hundred and fifty to five hundred dollars.

Mr. HOLMAN. I think the gentleman is mistaken as to the time when that increase took place. The compensation of the midshipmen at the Naval School was not increased at the same time as that of the cadets at West Point. My recollection is that the cadet had $500 prior to the Thirty-Sixth Congress. I know that since that time the pay of the midshipmen has been increased to the pay of the cadets in the Military School. If, then, the gentleman is not able to show there has been an actual increase in this class of officers since the session I refer to in 1861, I shall assume that the charge is probably correct that this bill is based simply upon the estimates of the officers having this institution in charge, no further investigation being had; and that, sir, considering the endless struggle for increased expenditure, would account for the extraordinary difference in the expenditure of this institution in 1861 and 1868.

Mr. WASHBURNE, of Illinois. Mr. Chairman, I simply desire to say in reply that the compensation of all officers, instructors, cadets, and musicians have been increased since the time to which the gentleman alludes. It is known to every gentleman who has been in Congress for the last five or six years we have been continually increasing these salaries, against my consent; and if the gentleman from Indiana had been here I know he would have helped me. They have been increased, and this is put here to pay these men according to the salaries we have fixed.

The CHAIRMAN. Does the gentleman insist on his amendment?

Mr. HOLMAN. I do not.

The CHAIRMAN. The question, then, recurs on Mr. MAYNARD'S amendment.

Mr. SCHENCK. I ask to go back.

Mr. WASHBURNE, of Illinois. I object.

Mr. SCHENCK. Unanimous consent has already been given. The gentleman from Tennessee offered an amendment; pending that amendment of his, on application of the gentleman from Illinois, [Mr. LOGAN,] the House agreed to go back to the first clause. He offered an amendment to that clause, and the gentleman from Indiana offered an amendment to the amendment. The gentleman from Illinois [Mr. WASHBURNE] opposed it, and I rose to offer another amendment while that clause was under consideration, the House having gone back to it.

The CHAIRMAN. The gentleman states the fact correctly up to the point where the committee again commenced the consideration of the amendment offered by the gentleman from Tennessee.

Mr. SCHENCK. I was trying to get the attention of the Chair before the gentleman from Tennessee rose.

The CHAIRMAN. Is there objection to returning to the first paragraph of the bill?

There was no objection.

Mr. SCHENCK. I move to strike out the words "pay of officers, instructors," and insert "for additional pay of officers and instructors, and for pay of;" so it will read:

For additional pay of officers and instructors, and for pay of cadets and musicians, $182,747 50.

Mr. WASHBURNE, of Illinois. I rise to a point of order. The gentleman's amendment is not in order, as it changes the existing law.

Mr. SCHENCK. I am going to show it is precisely in accordance with existing law, and that the gentleman from Illinois has misapprehended what the law is. That is my very purpose in moving the amendment.

Mr. WASHBURNE, of Illinois. I desire my point of order settled. I insist on it because it is a good one.

The CHAIRMAN. The gentleman from Ohio proposes to show that it is not new legislation.

Mr. WASHBURNE, of Illinois. Let him produce the books.

Mr. SCHENCK. I will produce the books. Now, every officer assigned to duty at West Point gets an addition to his pay, and what is included in this appropriation bill is that addition to the pay of these gentlemen as officers of the Army. If an instructor is a captain in the Army, his pay as such is provided for in the general Army bill. But if he is sent to West Point he receives the pay of a colonel, and they make an estimate for the addition to his pay, and that makes up one part of the one hundred and eighty odd thousand dollars.

Mr. BLAINE. That only applies to superintendents.

Mr. SCHENCK. It applies to every officer. The very first line of the appropriation bill for last year or the year before, is "Superintendent of the Military Academy, (colonel,) in addition to pay as captain of engineers," and the total allowance of pay is $1,078 50; that is the addition to his pay as Army officer.

Mr. WASHBURNE, of Illinois. I rise to a point of order. I desire to have this point settled.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WASHBURNE, of Illinois. Then let the gentleman go ahead.

Mr. SCHENCK. Then looking a little further down I find the additional pay of a lieutenant on duty. Here is "assistant professor of ethics in addition to his pay as lieutenant of artillery," and it is carried out, $240. That is, every lieutenant who stays there gets twenty dollars a month in addition to his pay now. In the general Army bill you pay him as lieutenant or captain. I say this Military Academy bill, as an appropriation for West Point, is all wrong. It is not an appropriation of his pay as lieutenant or as captain, but an appropriation of the additional sum which he gets by reason of being detailed on duty there. I propose, therefore, to correct the bill so that it shall appropriate the additional pay to these officers. I do not propose to alter the amount, but to show what it is.

[Here the hammer fell.]

Mr. PIKE. I would like to ask a question of the gentleman about the pay of cadets. I desire information.

Mr. ELDRIDGE. I rise to a point of order. There is so much confusion that we cannot hear what is going on.

The CHAIRMAN. The point is well taken.

Mr. PIKE. I wish to make an inquiry of the gentleman from Ohio, [Mr. SCHENCK.]

The CHAIRMAN. The time of the gentleman from Ohio [Mr. SCHENCK] has expired.

Mr. PIKE. I understand the pay of cadets is $600—the same as at the Naval Academy.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. BLAINE. I move to strike out the last word for the purpose of making a statement.

Mr. SCHENCK. I have submitted a *bona fide* amendment, not a *pro forma* one.

Mr. ELDRIDGE. I rise to a question of order.

The CHAIRMAN. The gentleman from Maine [Mr. BLAINE] will suspend his remarks for the point of order.

Mr. ELDRIDGE. I desire to know if it is in order for more than one member to be speaking at the same time. There are six or seven gentlemen on the other side of the Hall speaking together, and we on this side would like to know what some of them say.

The CHAIRMAN. The gentleman's point is well taken. The gentleman from Maine [Mr. BLAINE] will proceed in order.

Mr. BLAINE. I propose to proceed in order if I am allowed to. [Laughter.] I hold in my hand the appropriation bill for West Point for last year, and in it I find this section:

"*And be it further enacted*, That the cadets of the Military Academy be entitled to the rations now received by the acting midshipmen at the Naval Academy, commencing at the date of the approval of the act authorizing the same."

That amounts to $108 50 in addition to their direct pay. Now, the point made by my friend from Ohio [Mr. SCHENCK] is simply on the wording of the bill, as I understand it. If these officers get twenty dollars a month additional they get it in pursuance of law—not by any usage, but by a law authorizing the payment. If the gentleman from Ohio wants that to appear in the bill I for one have not the slightest objection.

Mr. LOGAN. Will the gentleman allow me a question?

Mr. BLAINE. Yes, sir.

Mr. LOGAN. As I understand it, the officers are paid on the pay-rolls by the paymaster, and the superintendent or any other officer in charge at West Point receives his pay in the same way. Now, all you appropriate to any officer of the Army at West Point in the appropriation bill is in excess of the pay that he receives on his pay-roll.

Mr. BLAINE. Precisely.

Mr. LOGAN. The point is this: the clause reads, "for pay of officers, instructors," &c. Now, by using the word "officers" there, do you not appropriate money to pay officers who draw their pay on their pay-rolls every pay day?

Mr. BLAINE. No; you do not do any such thing. You appropriate the money here to pay the extra compensation allowed them for performing particular service. A first lieutenant of artillery, if on duty at West Point, is paid his regular pay out of the general appropriation for the pay of the Army. If he is entitled to twenty dollars a month extra for duty as professor of Spanish, or what not, he is paid out of this appropriation.

Mr. LOGAN. Then, I ask, what becomes of your law in reference to the organization of the Army, which declares that a lieutenant or a brigadier general or a colonel shall receive so much pay and no more per month?

Mr. BLAINE. Why, just this: the same law which says that says also that a lieutenant, if ordered to a particular duty at West Point, shall have twenty dollars a month.

Mr. LOGAN. No, sir.

Mr. BLAINE. That is the whole of it.

Mr. LOGAN. No, sir; not any such thing.

[Here the hammer fell.]

Mr. BUTLER. I desire only to call the attention of the House to the law, and in order to get at it I will do by indirection what I ought to be able to do directly. I move to strike out the first word in the third line.

Mr. WASHBURNE, of Illinois. I hope my friend and colleague on the Committee on Appropriations will move only substantial amendments, for the reason that if members of the committee move *pro forma* amendments we shall never get through with the appropriation bills.

Mr. BUTLER. Well, then, I will move to add to the tenth line the words "in accordance with the salaries established by law." That is a substantial amendment. I desire simply to call the attention of the House to the law.

The CHAIRMAN. The gentleman has not offered an amendment to the pending amendment. He proposes to amend a different part of the paragraph.

Mr. BUTLER. I understand that the gentleman from Ohio [Mr. SCHENCK] has moved to amend the paragraph in lines eight, nine, and ten.

The CHAIRMAN. The gentleman from Ohio moves to strike out the words "pay of officers, instructors," and to insert in lieu thereof "additional pay of officers and instructors and pay of."

Mr. BUTLER. I move, then, to strike out of the amendment of the gentleman from Ohio the words "additional pay of."

The whole matter of the pay of these officers is regulated by law in this way—and I have the law before me: an officer of the Army is sent to West Point upon duty, and then he has a local rank greater than his Army rank, and he receives the pay and allowances——

Mr. BLAINE. Not always.

Mr. BUTLER. Excuse me; perhaps now I am right and you are wrong.

Mr. BLAINE. Perhaps you are wrong and I am right.

Mr. BUTLER. I say again that they have a certain rank at a certain pay and certain other duties. Now, I read the law of June 12, 1858:

"That the Superintendent of the Military Academy, while serving as such by appointment of the President, shall have the local rank, pay, and allowances of a colonel of engineers; that the commandant of the corps of cadets at the Military Academy, while serving as such by appointment of the President, shall have the local rank, pay, and allowances of a lieutenant colonel of engineers, and besides his other duties shall be charged with the duties of instructor in tactics of the three arms to said command; and that the senior assistant instructor in each of the arms of the service, namely, of artillery, cavalry, and infantry, shall severally receive the pay and allowances of the assistant professor of mathematics."

Charged with another duty and with a higher pay; and it is to meet this pay—the Army pay and the increased pay—that this appropriation is made, as I understand it.

Mr. ALLISON. I want to ask the gentleman from Massachusetts whether this includes the regular pay of the officers, or whether it only includes the additional pay?

Mr. BLAINE. Only the additional.

Mr. BUTLER. In answer to the gentleman from Iowa [Mr. ALLISON] I will say that I understand this item includes the pay of officers who are acting as instructors, the pay of instructors who are not officers, and the pay of cadets. I will repeat my answer: it includes the pay of officers as instructors, and the pay of instructors who are not officers, if there are any such; it does not include the Army pay of the officers who are acting as instructors.

Mr. WASHBURNE, of Illinois. I am opposed to the amendment to the amendment moved by my colleague on the Committee on Appropriations, [Mr. BUTLER.]

Mr. BUTLER. I withdraw the amendment to the amendment.

The question recurred upon the amendment of Mr. SCHENCK.

Mr. WASHBURNE, of Illinois. I do not know that I shall object to that amendment being incorporated in the bill. I think I was mistaken; I was misled, I may say, partially by a remark of the gentleman from Maine, [Mr. BLAINE,] who is familiar with this subject. I will agree to the amendment.

Mr. PAINE. I move to strike out the last word of the amendment of the gentleman from Ohio, [Mr. SCHENCK,] and I ask him to listen to me for one moment.

Mr. WASHBURNE, of Illinois. I ask that the amendment to the amendment be read, for I propose to hold the gentleman from Wisconsin [Mr. PAINE] strictly to his amendment.

The Clerk read the amendment of Mr. PAINE, which was to strike out the last word, "of."

Mr. PAINE. I desire to say to the gentleman from Ohio [Mr. SCHENCK] that he will probably accomplish all he desires by confining his amendment to the word "officers" alone. The gentleman must remember that there are instructors at West Point who are not officers of the Army, and the only pay they have is their pay proper as instructors, without any additional pay. Having no additional pay, all the pay they receive is to be provided by this bill. This remark of mine applies not to those instructors who at the same time are also officers of the Army, but to that large number of instructors who happen not to be officers of the Army. I will vote for his amendment if he will so frame it as not to cut off the pay of those instructors who are not officers of the Army. But it should be so modified as to provide for their pay, and also for the additional pay of those instructors who are officers of the Army.

Mr. BLAINE. The gentleman from Illinois [Mr. WASHBURNE] says he was misled by a remark that I made in reply to the gentleman from Illinois [Mr. LOGAN] across the way. He propounded the question, whether when an officer was ordered on duty at West Point he received additional pay; and I answered

that he did not. I still answer that he does not, unless he is authorized to perform the duties of one of five positions, and of five only; superintendent, commandant, or assistant instructor in artillery, cavalry, or infantry tactics. I suppose that there are thirty or forty officers of the Army on duty at a time at West Point, only five of whom receive any additional pay by reason of being ordered on duty there. I answered generally in reply to that question, and in that view my answer was correct.

Mr. PAINE. I withdraw my amendment to the amendment.

The question recurred upon the amendment of Mr. SCHENCK.

Mr. SCHENCK. I will modify my amendment in accordance with the suggestion of the gentleman from Wisconsin, [Mr. PAINE,] so that it will read:

For additional pay of officers, and for pay of instructors, cadets, and musicians, $182,747 50.

And if it be not a sin to know what the law is, I will still insist upon having members here understand what they are about.

I say that the gentleman from Maine [Mr. BLAINE] is mistaken in his last explanation; and if the gentlemen of the committee had read with any care the estimates upon which they base their appropriation bill, (as I am bound to presume they did, and therefore I must attribute their mistakes to forgetfulness,) they would have found even in the estimates themselves everything just as I have stated it. The first item is, "Superintendent of the Military Academy, (colonel,)"—for that is the rank he takes by reason of *being* sent there—"in addition to pay as captain of engineers," so much. It amounts in the aggregate to $1,078 50; that is, in addition to his pay as a regular Army officer. His pay as a regular Army officer is provided for in the Army bill; and the West Point bill is only intended to make appropriation for these additions to his pay.

But the gentleman from Maine says that there are only some five officers in that condition. Either he is mistaken in regard to the law on the subject, or the estimates are all wrong, because among the officers enumerated in the estimates I find the following:

"Assistant professor of ethics, in addition to pay as first lieutenant of artillery.

"Assistant professor of chemistry, geology, and mineralogy, in addition to pay as first lieutenant of artillery.

"Assistant professor of French, in addition to pay as first lieutenant of artillery.

"Assistant professor of Spanish, in addition to pay as first lieutenant of artillery.

"Assistant professor of drawing, in addition to pay as first lieutenant of artillery.

"Commandant of the corps of cadets, (lieutenant colonel,) in addition to pay as captain of infantry.

"Adjutant of the Military Academy, in addition to pay as first lieutenant of artillery.

"Assistant instructor of cavalry tactics, in addition to pay as lieutenant of cavalry.

"Assistant instructor of artillery tactics, in addition to pay as first lieutenant of artillery."

And so on to the end.

Mr. BLAINE. Where do you find that?

Mr. SCHENCK. On page 213 of the estimates on which you drew up the bill.

I do not know whether or not I am wrong in bringing this matter to the attention of the House; but I aver that the Army bill makes appropriations for the pay of these officers as officers of the Army. This West Point bill ought not to be deceptive in its provisions. It onght to be understood that this is intended to appropriate only such sums as are given, in addition to the regular pay of these Army officers, for the service which they are performing at West Point. My object was to make the bill tell a true tale and show that this appropriation for West Point does not include the pay of Army officers as such, which is provided for in the general Army bill. In the West Point bill we make appropriations to pay the cadets, to pay the musicians, to pay those professors and instructors who are not at the same time officers of the Army, and to pay the additional compensation of the Army officers who are on duty there as superintendent, commandant, instructors, &c. Many of the professors—all the assistant professors, I believe—are at the same time Army officers.

Mr. BLAINE. Mr. Chairman, the gentleman from Ohio [Mr. SCHENCK] is very well posted about military matters; and I am in the habit of deferring to his judgment on such subjects. But in this case I think I am right, as I believe his candor will acknowledge when I have explained the matter further.

The gentleman reads, "assistant professor of ethics, in addition to pay as first lieutenant of artillery." Why, sir, the professor of ethics is the chaplain of the post, and the law says that he shall have the pay of a first lieutenant of artillery. Then it is provided that he shall have so much in addition to the pay of a first lieutenant of artillery.

Mr. SCHENCK. I appeal now to the candor of my friend from Maine. I did not speak of the professor of ethics, who, I know, is chaplain. I was talking about the assistant professor of ethics, who is a first lieutenant of artillery, and in addition to his pay as such gets twenty dollars per month or $240 per year.

Mr. BLAINE. It by no means follows that whoever gets that position, whether in the Army or out of it, would get the pay established by law as being that of a first lieutenant.

Mr. WASHBURNE, of Illinois. I will have to move that the committee rise for the purpose of closing the debate on this paragraph, unless we have unanimous consent to go on with the bill without further debate on the paragraph.

Mr. ROSS. I object.

Mr. SCHENCK's amendment was rejected.

Mr. MAYNARD. I move to reduce the amount one dollar, and I do it for the purpose of calling the attention of the committee to the letter of General Pitcher, superintendent of the West Point Military Academy, in which he explains, under "current and ordinary expenses," why the estimate for the coming year is a little larger than for the preceding year. I ask the Clerk to read an extract from his letter.

The Clerk read as follows:

"1. *Current and ordinary expenses.*—The amount asked for for these purposes exceeds the amount appropriated for the present year by the sum of $6,338, and this amount is required to meet the greatly increased value of lumber, hardware, and building materials necessary for repairs, as well as to provide a salary for an experienced engineer to take charge of the new steam-heating apparatus for warming the public buildings. The difficulty in enlisting competent mechanics compels me to hire skilled workmen to aid in carrying on the necessary repairs and improvements, whose services are also to be paid from this fund. The increase thus referred to will further permit the salaries of the disbursing clerk, the adjutant's and treasurer's clerks, to be raised, should the recommendations so urgently pressed heretofore meet with approval."

Mr. MAYNARD. I believe in economy of expense, and I appeal to gentlemen that I have manifested that in all my service here. But there is a kind of economy that saves at the spigot while gallons are going out at the bung-hole. If the gentleman will bring in a general system of reduction of expenditures so as to be felt in the general financial affairs of the country he will find no one who will support him more earnestly than I will. But here the superintendent of the Military Academy at West Point asks for an additional amount of $6,000, which he asserts officially to be absolutely necessary on account of the increased price of materials, and to deny it, to scrimp in a little matter of that kind, seems to be unworthy of the House. I am opposed to that kind of economy, which is parsimony, and not one which Governments or private individuals should indulge in. Unless the gentleman from Illinois has something to contravene this statement made by this officer of the school, I hope the House will give the appropriation asked for in consequence of the increased price of materials.

Mr. BLAINE. He asks for an increase of appropriation of $6,000, because, as is alleged, of the increased value of lumber and all other building materials. Now, every one knows that the prices in this country, instead of going up, have been steadily going down. Lumber and other materials have been continually falling in price. Therefore the reason he assigns is one that should cause us to reduce the appropriation $6,000 instead of increasing it that sum.

Mr. MAYNARD, by unanimous consent, withdrew his amendment to the amendment.

The pending amendment was then rejected.

The Clerk proceeded with the reading of the bill.

Mr. INGERSOLL. I move to strike out "four" and insert "one" in line nineteen; so it will read:

For expenses of Board of Visitors, $1,000.

If there is any reason why there should be $4,000 for expenses attending the visit of a board of examiners at West Point I would like to hear the gentleman in charge of the bill give the items which make up those expenses.

Mr. BLAINE. I will give the items at once.

Mr. INGERSOLL. I addressed my remarks to the gentleman in charge of the bill, [Mr. WASHBURNE, of Illinois.]

Mr. WASHBURNE, of Illinois. If the gentleman will consent I will ask the gentleman from Maine, [Mr. BLAINE,] who has been a visitor there and knows all about the matter, to explain it. So far as I am concerned I am willing to strike out the whole of it.

Mr. INGERSOLL. So am I. Now I will hear the gentleman from Maine on that question.

Mr. BLAINE. It is almost entirely made up of the ten cents a mile allowed to visitors each way, coming and going, which is the Army allowance for transportation, with an allowance for hotel bills at West Point; which was two weeks in my own case.

Mr. INGERSOLL. And champagne. [Laughter.]

Mr. BLAINE. No champagne, nor even ale—not a single thing to drink.

Mr. PIKE. The pay of visitors to the Annapolis Academy was $2,000 last year. By the present bill I see it is reduced to $1,500. I do not know why.

Mr. WASHBURNE, of Illinois. Because the visitors were officers of the Navy residing in the neighborhood.

Mr. INGERSOLL. In my opinion $1,000 is a sufficient sum to be appropriated for the payment of the expenses of a board that will go there and waste no time in the examination. I insist upon the amendment. If that does not pay their bills let the visitors pay them themselves.

Mr. BLAINE. I am of the opinion that sending a board of examiners to West Point and to the Naval Academy both is one of the cherished humbugs of this country. They do not do a particle of good in one instance out of a dozen. But the law requires they should be sent and allows them to be paid ten cents a mile. If a member of the board happens to come from Oregon he draws mileage all the way and back by the nearest mail route. In that case the $1,000 to which the gentleman proposes to reduce the sum would fall $200 short of paying that man.

Mr. INGERSOLL. Then he need not go. [Laughter.]

Mr. BLAINE. We have reported this to meet existing law, and we are not authorized, nor is the gentleman himself or any one else authorized, to change that law in this appropriation bill.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. SCHENCK. I move *pro forma* to amend by increasing the amount $1,000. The pay of visitors at West Point is nothing in the world except their mileage and the actual certified bill of the hotel for their board while there. By construction of the law they have cut out of that, as I know full well, everything like liquid, unless it is tea and coffee. I had the honor of being one of the visitors, and

I think it cost me about one hundred dollars over and above what the Government allowed me. They paid my mileage.

Mr. SCOFIELD. How did you spend the $100? [Laughter.]

Mr. SCHENCK. Going down to New York and back. It makes no difference, however. And yet, although it is no money-making affair, it being in some sense a pleasant summer visit, so anxious have been members of Congress that they and their friends should in turn enjoy it that I think the funniest law on the statute-book is that regarding this matter at West Point. They have provided in the law that the Board of Visitors each year shall be equal in number to half the number of States. As the United States are thus to be divided, and as there are thirty-seven States now, I suppose there must be one year eighteen and another nineteen States represented in the board.

Then, again, it is provided that the States shall alternate, so that if Ohio has it this year it cannot have it next year, but must wait two years.

Then, again, some member of Congress, anxious for himself or his friends, has had a provision inserted in the old law, which was not passed in our time, that no appointment shall be made from the same congressional district until all the other districts in the State have had it. This has been found to be impracticable, because every ten years, the districts being changed, the large States do not get all round until the districts are mixed again: but such is the law providing for this Board of Visitors.

Now, I do not agree with the gentleman from Maine, [Mr. BLAINE,] that this is a humbug. I think a Board of Visitors to go to the Academy at West Point as well as to the Naval Academy is a good thing. What I have always objected to is, that this visitation takes place at a particular time of year, at the close of their examinations, and they always arrange for it, and everything is brushed up and put in the best possible condition for show, whereas if you had a Board of Visitors provided for by law that would visit perhaps more than once a year, and go upon them suddenly when they have not their holiday clothes on and things are going on in the ordinary manner, there might be more benefit from it. But if you cannot have that, it is at least well that these examinations should be attended, and that the condition of the Academy should be inspected and a report made upon the subject, which is referred to Congress.

I know the practice has generally been for Congress never to do anything that is recommended by the Board of Visitors; but yet there have been some exceptions, and I flatter myself that some three years ago we were more than usually successful when we got some three or four or five of the recommendations made by the Board of Visitors adopted by law of Congress.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I am opposed to the amendment of the gentleman from Ohio, and I desire a vote upon it. I will merely say that the Committee on Appropriations have reported the sum necessary to carry out the existing law. If the committee do not desire to carry out the law let them adopt the amendment of my colleague from Illinois, [Mr. INGERSOLL,] or strike out the whole appropriation. I ask a vote.

Mr. SCHENCK. I withdraw my amendment to the amendment.

Mr. GARFIELD. I renew it; and I do it for the purpose of saying to my friend from Illinois, [Mr. INGERSOLL,] as well as to the gentleman who has charge of this bill, that a bill is now pending before the Committee on Military Affairs that in some degree remodels the existing law in reference to the West Point Academy, and one of the sections in it entirely changes the present law in reference to the Board of Visitors, reducing the number very considerably, and, I presume, making a reduction which would almost reduce the appropriation to what the gentleman proposes. But as that is not a law, and may not become a law, it seems to me that we ought to let this appropriation stand according to the law as it now is.

I hope and believe that before it shall be necessary to expend this appropriation a bill may be brought in here and become a law which will obviate the necessity of expending the whole amount; but it seems to me that we cannot fairly go back on the law, and that we should make the appropriation in accordance with the provisions of the present law.

Mr. BUTLER. I desire to say a word only upon the law. The gentleman from Maine [Mr. BLAINE] is usually very accurate, but the law is that the allowance for traveling shall be eight cents a mile backward and forward and not ten cents. There is a special provision that there shall be no compensation to any visitor except his board and lodging while at the Academy and eight cents a mile for travel; and the number of the board shall "never exceed" half the number of the States, so that my usually accurate friend from Ohio [Mr. SCHENCK] need not be afraid any one man will have to be divided in order to get the number exactly. [Laughter.]

Mr. GARFIELD. I withdraw the amendment to the amendment.

The question was taken on Mr. INGERSOLL's amendment, and it was disagreed to.

Mr. MAYNARD. I move now to strike out the whole paragraph, as follows:

For expenses of Board of Visitors, $4,000.

I call the attention of the committee to this view of the case. We have already made an appropriation to pay the visitors who will go there this coming summer. When the bill comes in from the Committee on Military Affairs they can include in it an appropriation for such sum as they may think necessary. It is not necessary that we should make the appropriation now, and inasmuch as it is contemplated to change the law, I propose that we simply pass the matter over.

I hold that we may as well have this school visited free of cost, as are all the other great schools of the country. There are plenty of men—men of the very highest order of culture—that would esteem it an honor and a privilege to go there and visit the school without the paltry pay of ten cents a mile and the amount of their hotel bills. It is an expense that is wholly unnecessary, and those who seek the appointment for the sake of having a pleasure trip at the expense of the Government are just the men who should not go there, for they are men who will be of no sort of benefit or service to the Government. I agree with the gentleman from Illinois [Mr. WASHBURNE] that we should economize where we can do so without detriment to the public service; and it is no detriment to the public service to refuse to pay men when it is not necessary.

Mr. INGERSOLL. I move to amend the amendment by striking out the last word, for the purpose of saying that I believe we ought to adopt the amendment of the gentleman from Tennessee, [Mr. MAYNARD,] especially in view of the remarks made by the chairman of the Committee on Military Affairs, [Mr. GARFIELD,] who says that they have under consideration a bill to remodel——

Mr. WASHBURNE, of Illinois. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WASHBURNE, of Illinois. My point of order is that my colleague [Mr. INGERSOLL] shall confine his remarks to his amendment.

The CHAIRMAN. The Chair sustains the point of order. The gentleman from Illinois [Mr. INGERSOLL] will therefore proceed in order.

Mr. INGERSOLL. Very well; I should have been through long ago if I had not been interrupted. I hope that, in view of what has been said by the gentleman from Ohio, [Mr. GARFIELD,] we will strike out this whole paragraph. I now withdraw my amendment to the amendment.

The question recurred upon the amendment of Mr. MAYNARD to strike out the clause:

For expenses of Board of Visitors, $4,000.

The amendment was agreed to.

The Clerk resumed the reading of the bill. The following clause having been read:

For materials for quarters for subaltern officers, $3,000—

Mr. MAYNARD said: I move to amend that clause by making the sum appropriated $5,000, according to the estimate, as we have heard nothing urged to the contrary. That is the amount recommended by the Superintendent of the Military Academy, and unless there is some good reason to the contrary I think we should allow it.

Mr. WASHBURNE, of Illinois. The reason for decreasing the estimate was that the committee thought they could get along with that amount, and there was no necessity for any more.

Mr. MAYNARD. If the committee understand the matter better than the superintendent does, then let it go.

The amendment of Mr. MAYNARD was not agreed to.

Mr. ELDRIDGE. I move that the committee now rise.

The question was taken; and upon a division there were—ayes 15, noes 45; no quorum voting.

Tellers were ordered, and Mr. ELDRIDGE and Mr. BLAINE were appointed.

The committee again divided; and the tellers reported that there were—ayes 30, noes 67.

So the committee refused to rise.

The Clerk resumed the reading of the bill. The following paragraph having been read:

For purchase of fuel for cadets' mess-hall, $3,000—

Mr. MAYNARD said: I move to amend by inserting the following:

For fire proof building for public offices, $15,000.

I base that upon the following, from the communication of General Pitcher:

"*Five-proof building for public offices.*—The sum appropriated last year is inadequate to erect a building bearing such relationship as exists among the public buildings near which it must stand. A stone edifice in keeping with the surrounding ones will require an additional $15,000, and being made fire-proof in its construction, will relieve us from all anxiety in regard to the destruction, a second time, by fire of our valuable archives and public treasure."

The building, which has already been commenced, ought to be carried forward until it is completed.

Mr. BLAINE. It has not been commenced.

Mr. MAYNARD. The character of the building is sufficiently indicated by the extract I have just read. It ought to be commenced with an appropriation sufficient to carry it forward to completion. I need not state the importance of fire-proof buildings for the preservation of the archives, &c. The sum of $15,000 has already been appropriated, and in the opinion of those who certainly ought to know better than gentlemen who have no better means of information than I have, for instance, it is just one half of the sum necessary to complete the building. This is a sort of economy of which I think the less we have the better off we will be.

Mr. WASHBURNE, of Illinois. Of the $15,000 appropriated last year not one dollar has yet been used, and the Committee on Appropriations did not think it necessary to charge the Treasury with another $15,000 at this time for that purpose.

The West Point Academy has got along without any building of this kind from the foundation of the Government down to the present hour, and the committee did not believe this a proper time to incur an expenditure of $15,000 which was not absolutely necessary.

Mr. MAYNARD. Will the gentleman tell us how much the fire referred to in the communication of General Pitcher cost the Government?

Mr. WASHBURNE, of Illinois. I do not know anything about that.

Mr. MAYNARD. I suppose not.

Mr. WASHBURNE, of Illinois. It is not material to this matter.

The amendment was not agreed to.

The Clerk resumed the reading of the bill.

Mr. FARNSWORTH. I move to strike out the following:

For breast-high walls of water battery, $5,000: *Provided*, That the same shall complete the work.

I desire to inquire of the Committee on Appropriations whether there was not last year an appropriation of $5,000 for this same object?

Mr. WASHBURNE, of Illinois. There was.

Mr. FARNSWORTH. Then I wish to know how it is that when the Department estimated $5,000 last year for constructing this wall we are called upon now to appropriate an additional $5,000.

Mr. WASHBURNE, of Illinois. On that point my colleague must inquire of the Department, and I hope he will get some satisfactory information. I am utterly opposed to the practice pursued by the Departments of sending in their estimates and then exceeding them.

Mr. FARNSWORTH. The Department estimated last year for $5,000 for completing this wall, not commencing it. We gave them that. I suppose they may have got the wall up knee-high. They now want $5,000 more. The proviso that this appropriation shall complete the work will amount to nothing. They will expend this appropriation, and next year will come in and ask for more. That is the universal practice.

The amendment was not agreed to.

The Clerk resumed the reading of the bill.

Mr. CORNELL. I move to strike out the following:

For rebuilding north wharf, $5,000.

There is already a good wharf at West Point, the wharf at which the steamboats land. This north wharf is used solely for landing lumber, &c. I think that when we are endeavoring to cut down our expenses wherever practicable the rebuilding of that wharf can very well be deferred for a year or two.

Mr. WASHBURNE, of Illinois. The gentleman who moves this amendment represents, I believe, the district in which the West Point Academy is located; and if he thinks this appropriation should be stricken out I will interpose no objection. But I will read the statement which induced the committee to insert the appropriation.

"*Rebuilding north wharf.*—The north wharf is much required to receive all our stores of fuel, forage, lumber, ordnance, &c. The present one was constructed nearly thirty years ago, and is so much decayed as to be unsafe—so much so that I deemed it inexpedient to erect upon it the permanent derrick authorized this year."

If the gentleman has information which enables him to state to the committee that the rebuilding of this wharf is not necessary I shall be very glad to have the appropriation stricken out.

Mr. CORNELL. I believe from my personal knowledge that the present wharf will answer very well for several years.

Mr. WASHBURNE, of Illinois. I hope, then, that the gentleman's amendment will be agreed to.

The amendment was adopted.

The Clerk resumed and concluded the reading of the bill.

Mr. WASHBURNE, of Illinois. I am authorized by the Committee on Appropriations to offer the following amendment, embracing a provision which was inadvertently omitted:

Add at the end of the bill the following:

For contingencies for the Superintendent of the Academy, $500.

The amendment was adopted.

Mr. WASHBURNE, of Illinois. I now move to amend by adding at the end of the bill the following:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862; *and provided further*, That no part of the moneys appropriated by this act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1868, until such State shall have returned to its original relation to the Union.

Mr. MAYNARD. I hope the gentleman will allow me a moment. Does this contemplate all the cadets there shall be required to keep themselves within the purview of the act of July, 1862? Is it intended to operate upon the cadets?

Mr. WASHBURNE, of Illinois. It is intended to operate upon the cadets hereafter to be appointed; that no one shall be appointed unless he takes the test-oath.

Mr. BLAINE. I differ entirely with the committee in the last part of the proviso. I opposed it last year. I do not believe in punishing children in the rebel States. When this war began the persons eligible to be appointed were nine, ten, or eleven years of age, and I do not propose to punish them for the faults of their fathers.

Mr. WASHBURNE, of Illinois. It punishes no children, but merely provides that no rebel shall be admitted into West Point.

Mr. BLAINE. I am opposed to keeping up this imaginary line. We are told that Alabama will be represented upon this floor in six weeks hence. When she comes in her Representatives may appoint cadets. To adopt this now will accomplish nothing. I call for a division of the amendment. I am opposed to the last clause of the amendment.

Mr. MAYNARD. I move to strike out the last word; and, in reply to the gentleman from Maine, let me say, as a measure of public policy, I insist on it that every inducement shall be held out to these States to aid in the work of reconstruction. We ought to hold out to them all the advantages of education, both military and naval. We all know there is an element there opposing reconstruction, resisting it, using all means, moral and otherwise, to prevent it. This is one of many other inducements I will hold out, especially to loyal people, to work earnestly and actively to bring their States into harmonious relations with the Government. I think the amendment is wise, and ought to be adopted. I withdraw my amendment.

Mr. INGERSOLL. I am satisfied this bill cannot be passed to-night, and I therefore move the committee rise.

The committee divided; and there were—ayes 28, noes 52; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. INGERSOLL and Mr. WASHBURNE, of Illinois.

Mr. WASHBURNE, of Illinois. There will be a vote on the amendment in the House, and I do not see any objection to our reporting the bill now.

Mr. INGERSOLL. I withdraw my motion.

Mr. BLAINE. I withdraw my call for a division of the amendment on condition I shall have that opportunity in the House.

The amendment of Mr. WASHBURNE, of Illinois, was agreed to.

Mr. ELDRIDGE. I move to insert the word "white" before the word "cadet."

Mr. BLAINE. Is the gentleman afraid he would appoint a colored cadet?

Mr. ELDRIDGE. I am afraid the gentleman from Maine might.

The committee divided; and there were—ayes 17, noes 56; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. ELDRIDGE and Mr. UPSON.

The committee again divided; and the tellers reported—ayes 16, noes 70; no quorum voting.

The roll was then called, and the following members failed to answer to their names:

Messrs. Adams, Archer, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beck, Benjamin, Benton, Bingham, Boyer, Bromwell, Brooks, Buckland, Burr, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Covode, Cullom, Dixon, Dodge, Donnelly, Eckley, Eggleston, Eliot, Ferry, Fields, Finney, Garfield, Glossbrenner, Gotladay, Griswold, Harding, Hawkins, Hill, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Judd, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Knott, George V. Lawrence, Lincoln, Loan, Loughridge, Lynch, Marshall, Marvin, McCarthy, McCullough, Mercur, Moorhead, Morgan, Morrissey, Newcomb, Nicholson, Orth, Peters, Phelps, Pike, Plants, Poland, Polsley, Pomeroy, Price, Robertson, Robinson, Ross, Sawyer, Selye, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stokes, Stone, Taylor, Thomas, John Trimble, Trowbridge, Van Aernam, Van Auken, Van Trump, Van Wyck, Ward, Henry D. Washburn, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward.

The committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the State of the Union had, according to order, had under consideration the special order, being the Military Academy appropriation bill, and finding itself without a quorum, had caused the roll to be called, and directed him to report the names of the absentees to the House.

ENROLLED JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. No. 99) to authorize the Secretary of War to employ counsel in certain cases; when the Speaker signed the same.

And then, on motion of Mr. FARNSWORTH, (at five o'clock and ten minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BALDWIN: The petitions of A. G. Sumner and others, of Milford, Massachusetts, for the adoption of some measure to improve the character of appointments to the civil service.

Also, similar petitions of A. B. Vant and others, of Milford, Massachusetts; B. A. Corbin & Son and others, of Webster, Massachusetts; and of John Hart and others, of Southboro', Massachusetts.

Also, petition of G. S. Granger and others, of Southboro', Massachusetts; O. Underwood and others, of Milford, Massachusetts; William S. Batchelder and others, of Holiston, Massachusetts; A. G. Sumner and others, of Milford, Massachusetts, and B. A. Corbin & Son and others, of Webster, Massachusetts, for a reduction of the internal taxes.

By Mr. CAKE: The petition of citizens of Schuylkill county, Pennsylvania, in favor of protection to American labor, setting forth that our republican form of government was instituted for the benefit of the masses, and depends upon the intelligence and independence of the people for its preservation, and that these requisite qualities for citizenship cannot be secured to the masses without protecting the wages of their labor—which is their capital—from the low labor of Europe, where the workingman occupies a much less responsible position than he does in this country.

By Mr. CARY: A memorial of Colonel R. M. Moore and 600 others, officers, soldiers, and marines of the late war, residents of Cincinnati, Ohio, asking for legislation to equalize bounties and expedite the payment of the same.

By Mr. COOK: The petition of citizens of Grundy county, Illinois, for the extension of the patent for Atkins's raker.

By Mr. DRIGGS: The petition of Hon. George C. Jones and 200 others, of Ontonagon, Lake Superior, Michigan, praying Congress to save the copper interest of the country from ruin by the immediate imposition of an increased duty on imported foreign copper.

By Mr. ELA: The petition of John L. Platts, of Dover, New Hampshire, and 208 others, engaged in the manufacture of shoes and leather, for removal of tax.

Also, the petition of John M. Brackett, of Wolfboro', New Hampshire, and 36 others, in same business, and for same purpose.

Also, the petition of E. O. Curtis, of Farmington, New Hampshire, and 16 others, manufacturers of shoes, for same purpose.

Also, the petition of Charles C. Mooney, of

Alton, New Hampshire, and 49 others, manufacturers of shoes and leather, for same purpose.

By Mr. ELIOT: The petition of John L. Bullard, of Massachusetts, for relief from certain disallowances in his account as commissary of subsistence.

By Mr. HOOPER, of Massachusetts: Seventeen copies of a memorial adopted by the national convention of manufacturers, assembled at Cleveland, Ohio, December 18, 1867, most numerously signed by shoe and leather manufacturers of Boston, Natick, and South Danver, Massachusetts, representing that the belief has become universal throughout the United States that the interests of this country demand a great and decided change in the mode of appointments and removals and in the qualifications of all officers who are selected to execute the laws for the collection or for the disbursement of the moneys belonging to the United States; that the evils of the present system are so potent and so gross that the Secretary of the Treasury and the Commissioner of Internal Revenue both admit the impossibility of conducting the revenues and Treasury of the country creditably or satisfactorily with officers appointed under the present imperfect plan.

By Mr. KELLEY: A memorial of the Philadelphia Board of Trade, asking that the duties imposed by the present tariff upon raw or unmanufactured jute be materially or wholly removed.

By Mr. LYNCH: A memorial of national convention of manufacturers, assembled at Cleveland. asking change of revenue laws.

Also, a memorial of national convention of manufacturers assembled at Cleveland, asking a change in mode of appointing officers for collecting and disbursing moneys belonging to the United States.

By Mr. MAYNARD: The petition of Polly W. Cotton, widow of Wayne W. Cotton, deceased, late of Scott county, Tennessee, and captain seventh Tennessee infantry, praying for arrears of pay and pension.

By Mr. MOORE: The petition of D. W. Belisle, for pension to Martin Belisle, one of our heroes of the war of 1812.

By Mr. MOORHEAD: The petition of Hall Patterson and Samuel Green, praying that compensation be paid to the heirs of Lieutenant Cook, for services in accordance with his rank.

By Mr. MULLINS: The petition of William Spence, a citizen of Tennessee, praying remuneration for property taken and destroyed by the United States armies during the late rebellion.

By Mr. PERHAM: The petition of Charles Jenkins, for arrears of pension.

By Mr. PETERS: The petition of citizens of Washington, for improved sidewalks and walks in pleasure grounds.

Also, a remonstrance of ex-Army officers of Maine, against the measure relative to commutation for servants' pay.

By Mr. SCHENCK: The petition of W. M. Glendy and H. G. Purviance, commodores on the retired list of the Navy, praying Congress to allow them the rank of rear admiral on the retired list without any increase of pay.

By Mr. SPALDING: The petition of J. F. Ryder and others, citizens of Cleveland, Ohio, for relief from taxation as photographers.

By Mr. TAFFE: The proceedings of a meeting of the citizens of Omaha, Nebraska, at which resolutions were adopted, urging an immediate demand by Congress for the unconditional release of all American citizens now imprisoned by British authority who have committed no offense within the territorial limits and jurisdiction of Great Britain.

By Mr. THOMAS: The petition of Mrs. E. M. Nicholas, claiming rent for house.

By Mr. TWICHELL: The petition of Fogg, Houghton & Coolidge and 68 others, shoe and leather manufacturers of Boston, Massachusetts, praying for a change in the mode of appointment, removal, qualification, &c., of revenue officers.

Also, the petition of Webster & Co. and 51 others, of similar import.

Also, the petition of Frederick Jones and 202 others, of similar import.

Also, the petition of E. & M. H. Batchelder & Co. and 160 others, shoe and leather manufacturers of Boston, Massachusetts, praying for a change of internal revenue taxes.

Also, the petition of Alexander Moseley and 37 others, of similar import.

Also, the petition of Atherton, Stetson & Co. and 65 others, of similar import.

By Mr. WASHBURN, of Indiana: The petition of E. B. Allen, for pay allowance for services as captain company B, seventy-first regiment Indiana volunteers.

By Mr. WASHBURN, of Massachusetts: The petition of Milton Boher and 108 others, shoe and leather manufacturers, of Athol, in ninth Massachusetts district, in favor of a change in the manner of the administration of the revenue laws.

Also, the petition of Albert Thorp and 35 others, and C. M. Lee and 34 others, shoe and leather manufacturers of the said town of Athol, for same purpose.

IN SENATE.

THURSDAY, *February* 6, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of members of the constitutional convention of Arkansas, praying that the reconstruction conventions in the several States be empowered by act of Congress to organize a provisional State government, authorize the creation, appointment, and removal of such offices and officers as may be deemed expedient and necessary to aid in the early adoption of a constitution in those States; which was referred to the Committee on the Judiciary.

Mr. CAMERON presented five petitions of citizens of Lancaster county, Pennsylvania, praying for the establishment of a mail route between Lancaster city and Liberty Square, in that county; which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of Pennsylvania, praying for legislation for the protection of American labor and industry; which was referred to the Committee on Finance.

He also presented a memorial of the Philadelphia Board of Trade, praying for a reduction or removal of the duty on jute; which was referred to the Committee on Finance.

He also presented two memorials of citizens of Pennsylvania, remonstrating against any change in the national banking system; which were referred to the Committee on Finance.

He also presented a petition of manufacturers of saddlery and harness of the city of Philadelphia, praying for the repeal of the internal revenue tax on such goods as are made by the trade; which was referred to the Committee on Finance.

Mr. RAMSEY presented a petition of P. Cudmore and three hundred and sixty citizens of the State of Minnesota, asking that a land warrant of one hundred and sixty acres of land be issued to each of the enlisted men of the volunteer force engaged in suppressing the late rebellion; which was referred to the Committee on Military Affairs.

Mr. CHANDLER. I present a memorial of citizens of Detroit, in the State of Michigan, asking for a reduction of taxation; and as they are somewhat specific I will read a few of their demands:

"We ask that the Navy be reduced from one hundred and three vessels now in commission to thirty or less. We demand that the great naval pageant now on exhibition in Europe be ordered home and laid up. We are not willing to be taxed for the sake of sustaining this royal mimicry. We demand the reduction of the Army to twenty thousand men. We demand the reduction of the sum asked for civil service to $20,000,000; that the Navy appropriations be reduced to $12,000,000, and the war appropriations to $35,000,000, or less. Our northern forts can be taken care of by the disabled soldiers; the laid-up ships by the maimed sailors. We need no soldiers in the North. We want the fifty thousand able-bodied men now living in idle uselessness in the Navy and the Army relieved, so that they may aid us in the development of the nation's wealth. We need no naval or military parade to convince the world of our power. That is fully understood. Insult or injury to our nation will bring millions of braves to defend the honor of our flag. We want the useless steam revenue-cutters at sea and on the lakes laid up, and their wasteful exposnes stopped. We want no large standing Army or Navy to exhaust our substance during peace."

I move the reference of this memorial to the Committee on Finance.

The motion was agreed to.

Mr. HOWE. I present two petitions of a large number of citizens of Green Bay, in the State of Wisconsin, asking that some of the money saved by the prayer of the petition just offered may be appropriated to building a harbor at the mouth of the Menomonee river. I move their reference to the Committee on Commerce.

The motion was agreed to.

Mr. TIPTON presented the petition of Mary Atkinson, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of John Fitzgerald, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. NYE presented the petition of Mrs. George B. Simpson, praying for compensation for the use by the Government of the invention of her husband known as the submarine telegraph cable; which was referred to the Committee on Patents and the Patent Office.

Mr. CONKLING. I present the petition of a large number of citizens of the county of Oswego, State of New York, referring to a bill pending before the Thirty-Ninth Congress for the relief of soldiers of 1812, and for granting them pensions. The petition prays that that bill or some similar bill may be taken up and passed. In presenting this petition I desire to say that I do it with great pleasure, feeling that some attention at least is due to the multiplied petitions of this sort which are now before the two Houses asking relief or consideration for the veterans of the war of 1812, but few of whom are left, and many of them in circumstances which appeal very strongly to the considerate attention of Congress. I move the reference of this petition to the Committee on Pensions.

The motion was agreed to.

Mr. SHERMAN. I present the petition of Armistead T. Monroe, of Texas, praying to be relieved from civil disabilities imposed on him by the reconstruction acts of Congress. It is accompanied by a number of papers, which, in my opinion, make a proper case for relief by Congress. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. TIPTON presented a memorial of the American Board of Immigration, praying that it be granted a charter and means with which to commence work; which was referred to the Committee on Public Lands.

Mr. TRUMBULL. I desire to present a petition signed by Charles Snyder and perhaps fifty or one hundred others, colored persons in North Carolina, setting forth that they are poor and distressed; that they have never received anything from the Government; that they find it very difficult to live where they are; that the landholders of North Carolina are not willing that they should acquire title to lands; that their wages are not sufficient to support them; that everything they have to purchase of the landholders they are charged extravagantly for, and expressing a desire to go to Liberia under the auspices of the Colonization Society. The petition is a very touching one. It concludes with the statement that:

"We have not had one dollar from the Government in this world, no rations, no clothing or books, no teachers; and we do not know how to send to you. Please forgive our ignorance."

It is then signed by these parties, who rep-

resent themselves as heads of families, and ask Congress to make an appropriation to the Colonization Society to enable that society to assist them in removing from this country to Africa. I scarcely know to what committee this petition should be referred; but I will move to refer it to the Committee on Finance as perhaps the most appropriate.

The motion was agreed to.

Mr. HENDRICKS presented two memorials of honorably discharged officers in the late Army, protesting against the passage of the bill prohibiting the payment of the difference between eleven and sixteen dollars per month in the pay of officers' servants from May 1, 1864, to March 3, 1865; which were referred to the Committee on Military Affairs and the Militia.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, to report it back to the Senate with an amendment in the nature of a substitute. I give notice now that as soon as the debate on reconstruction shall end I will ask the attention of the Senate to this bill.

Mr. HENDERSON, from the Committee on Finance, reported a bill (S. No. 329) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; which was read a first time by its title, and passed to a second reading.

Mr. HENDERSON. I give notice that at the earliest day practicable, as soon as the funding bill just reported by the chairman of the committee shall have been acted on, I shall call this bill up for the action of the Senate.

Mr. STEWART, from the Committee on Public Lands, to whom was referred the bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada, reported it with an amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a petition of citizens of Louisiana, praying for relief for the New Orleans, Opelousas, and Great Western Railroad Company, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the petition of John A. Ragan, of Hinds county, Mississippi, asked to be discharged from its further consideration; which was agreed to.

Mr. CRAGIN, from the Committee on Territories, to whom was referred the bill (S. No. 265) to increase the salaries of the judges of Utah Territory, reported it without amendment.

Mr. CORBETT, from the Committee on Commerce, to whom was referred the bill (S. No. 247) to amend an act entitled "An act to provide for the greater security of the lives of passengers on board of vessels propelled in whole or in part by steam," and for other purposes, reported it with amendments.

ORDER OF BUSINESS.

Mr. HOWARD. I move that the Senate take up for consideration the bill (S. No. 256) relating to the central branch Union Pacific Railroad Company.

Mr. THAYER. I desire to inquire of the Senator from Michigan if that bill is likely to occupy any time, because there is morning business which the consideration of bills crowds out of the way. I should be glad to unite with the Senator in taking up that bill after we dispose of the morning business.

Mr. HOWARD. Suppose we take it up, and then, if there is anything pressing, I will give way to its introduction.

The motion of Mr. HOWARD was agreed to.

MICHIGAN AND WISCONSIN LAND GRANTS.

Mr. HOWE. Now I appeal to the Senator and to the Senate to give me leave unanimously to take up the joint resolution which was under discussion here the other day on the amendment moved by the Senator from Vermont, [Mr. EDMUNDS,] just to take action on that. There will be no debate. I will consent to the amendment. I hope the Senator and the Senate will allow me to take those votes.

Mr. HOWARD. If it leads to no debate I will yield.

Mr. HOWE. It will lead to no debate. If it does it shall be withdrawn at once.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks the unanimous consent of the Senate to proceed with the consideration of the joint resolution indicated by him.

There being no objection, the Senate resumed the consideration of the joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin, the pending question being, on the amendment of Mr. EDMUNDS, to add at the end of the first section the following proviso:

Provided, That the provisions of this section shall apply only to the chartered and projected line of railway from the city of Fond du Lac, in the State of Wisconsin, northerly to Escanaba, in the State of Michigan; and the chartered and projected line of railway from Marquette, in the State of Michigan, westwardly to Ontonagon, in the same State.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time. It was read a third time.

Mr. MORTON. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 3; as follows:

YEAS—Messrs. Anthony, Chandler, Conkling, Corbett, Cragin, Doolittle, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Howard, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ramsey, Ross, Sherman, Sumner, Thayer, Trumbull, Wade, Willey, and Williams—31.

NAYS—Messrs. Cole, Davis, and Morton—3.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Conness, Dixon, Fowler, Grimes, Guthrie, Norton, Patterson of New Hampshire, Patterson of Tennessee, Saulsbury, Sprague, Stewart, Tipton, Van Winkle, Wilson, and Yates—19.

So the joint resolution was passed.

BILL INTRODUCED.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 330) for the relief of David T. Stevenson; which was read twice by its title, and referred to the Committee on Pensions.

GASLIGHT IN WASHINGTON.

Mr. THAYER. I submit the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire whether the Washington Gaslight Company have forfeited their charter by a failure to comply with any of its provisions or on account of the inferior quality of gas furnished by them, and what further legislation is necessary to secure to the city the means of lighting it in a proper and suitable manner.

There being no objection, the Senate proceeded to consider the resolution.

Mr. THAYER. I desire to say that I presume all present have felt the annoyance resulting from the present gas furnished by this company for lighting the city. I have been told by persons in the city that whenever a proposition has been made by any individuals to organize a company for the purpose of providing other means for lighting the city a good quality of gas has been furnished by this company; but when the proposition has ended in accomplishing nothing then this company returns to the kind of gas which is now furnished for lighting the city, which I denounce as a swindle upon the people of the city, and I desire to see whether they cannot be reached—whether a remedy cannot be furnished.

The resolution was agreed to.

VESSELS FOR WAR DEPARTMENT.

Mr. DAVIS. Some days since I offered a series of resolutions. I have now an additional resolution, asking for another class of information, which I submit and desire to have adopted:

Resolved, That, in addition to the information heretofore asked of the Secretary of War by resolution passed by the Senate, he also inform the Senate the rate per centum or other amount of compensation paid to the agent or agents, brokers, or persons, with their names, employed by the War Department for each and every vessel purchased, chartered, employed, or taken into the service of the War Department, and the aggregate amount which has been paid to each and every agent, broker, or person for said purchasing, chartering, hiring, or employing of such vessels from the 4th March, 1861, to the present time, the amount paid, and dates of each payment.

Mr. HOWARD. I object to that; let it lie over.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

Mr. DAVIS. Will the honorable Senator permit me to make a single statement?

Mr. HOWARD. The Senator from Kentucky will excuse me. I am anxious to see that resolution in print, so that I may judge of its contents; and if it lies over it can be called up hereafter. I hope we shall proceed to the consideration of the bill I mentioned before, Senate bill No. 256.

EXPENSES IN ARIZONA AND NEW MEXICO.

Mr. ROSS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate a statement, actual or approximate, of the annual expense during the last three years of maintaining the military establishment in the Territories of New Mexico and Arizona, including also the cost of transportation of soldiers and supplies to and from those Territories; and that the Secretary of the Interior be requested to communicate a similar statement of the annual expenses connected with the Indian department in New Mexico and Arizona during the same period.

NAVAL POWDER MAGAZINES.

Mr. FRELINGHUYSEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas it is deemed desirable by the Navy Department that localities for powder magazines of the Government which will be safer than those now used in the neighborhood of Jersey City and New York should be obtained: Therefore,

Resolved, That it be referred to the Committee on Naval Affairs to consider and report what legislation, if any, is requisite in relation to the subject.

ENROLLED RESOLUTION SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 99) to authorize the Secretary of War to employ counsel in certain cases; and it was thereupon signed by the President *pro tempore* of the Senate.

CENTRAL BRANCH PACIFIC RAILROAD.

The PRESIDENT *pro tempore*. The bill called up by the Senator from Michigan will now be proceeded with.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company. It provides that nothing contained in the act of Congress approved July 3, 1866, relating to the Union Pacific railway, eastern division, shall deprive the Central Branch Union Pacific Railroad Company, assignee of the Hannibal and St. Joseph Railroad Company, of its right to continue its road and telegraph line westerly from the termination of the one hundred miles mentioned in the act of Congress incorporating the Union Pacific Railroad Company, approved July 1, 1862, to a connection with the Union Pacific Railroad Company, as one of the branches thereof; but the Central Branch Union Pacific Railroad Company shall continue its road westerly from the termination of the one hundred miles aforesaid to a connection with the Union Pacific railroad at the hundredth meridian of west longitude, upon the same terms and conditions, in all respects, as are now provided

by law for the construction of the Union Pacific railroad. And in case the Central Branch company shall deem it desirable, it may construct its road so as to connect with the Omaha branch of the Union Pacific railroad at any nearer point east of that meridian. But no subsidy in United States bonds is to be allowed to the Central Branch company for any greater length of road than one hundred and fifty miles from the termination of the one hundred miles on which bonds are already authorized to be issued.

Mr. SHERMAN. This bill is a much more important affair than probably Senators are aware of. It is with a good deal of reluctance that I say anything about it. I am opposed to the passage of the bill, and will simply state the reasons why I could not vote for it in committee, and why I shall not be able to vote for it in the Senate, although, as a large majority of the Committee on the Pacific Railroad agreed to report it, I cannot expect that anything I shall say will prevent the passage of the bill.

The bill proposes to grant a subsidy to the central branch of the Union Pacific railroad amounting to $2,400,000. The limit is one hundred and fifty miles at $16,000 a mile.

Mr. HOWARD. That is the maximum.

Mr. SHERMAN. This subsidy is claimed on the ground that by the original act incorporating the Pacific railroad, the act of July 1, 1862, three branches were authorized to be constructed from the Missouri river, reaching to and connecting with each other at the one hundredth meridian of longitude—the Omaha branch, called the Union Pacific railroad proper, the St. Joseph or Atchison branch, and the Leavenworth branch. I do not give the technical names, but I give the names by which they are most known. The one along the valley of the Platte was to reach the one hundredth meridian in the Platte valley; the Leavenworth branch was authorized to continue a road organized by the State of Kansas westwardly and northwestwardly along the Republican fork of the river until it also made a connection with the Union Pacific at one hundredth meridian; and the central branch was provided for by authorizing the St. Joseph line to extend the road westwardly one hundred miles to reach number two; that is, the Leavenworth branch; and then to make the connection with the main road at the one hundredth meridian; but the amount of subsidy to this road was limited to one hundred miles or $1,600,000. Subsequently, in 1866, Congress, by an act, authorized the Leavenworth branch to divert its road southward so as to reach the main road west of Denver, thus preventing the central branch from making a connection with the Union Pacific road east of the one hundredth meridian. Undoubtedly this gives the central branch some equitable claim; and I should be very willing to satisfy that equitable claim by granting them lands and every facility necessary to extend their road westward so as to reach the main branch this side of the one hundredth meridian; but the question for the Senate now to determine is whether it is willing to extend the system of subsidies beyond the amount already authorized by law. No other railroads received subsidies except the Pacific railroads. It was a new feature in our railroad laws. All former railroads in the West were built by the aid of the Government in land grants; but it was believed that the overriding necessity which rested upon us to construct a Pacific railroad authorized and justified the United States in extending money facilities to those roads, and it was done. I voted for the bill, and have never had cause to regret it. I think the construction of the road is a matter of the highest importance; but the question now is whether we shall extend these subsidies further than is provided for under existing laws. For one I am opposed to it in the present condition of the finances.

I do not think we ought to extend these subsidies at present. I have no doubt what is called the Union Pacific railroad, eastern division, will eventually be extended westward to New Mexico, and under a more favorable condition of our finances, when we are settled again on a specie basis or near a specie basis, I might feel disposed to grant a subsidy to this road to extend it to New Mexico; but at present it does seem to me we ought not to extend this system of subsidies to any other road or to any road.

The claim now made by the Central Pacific road is based upon this equity: that by an act of Congress we prevented them from making their connection with the main Pacific railroad, as contemplated by the original act of 1862. On this ground it claims relief, and many gentlemen who are connected with the road, some of them of high character and whom I esteem personally, say that unless some relief is given to them they will be ruined, broken up, by trusting to the provisions of the original act of Congress, which were changed and diverted by the act of 1866. To the extent of giving lands, perhaps more than the usual grant of lands, I am willing to extend them relief; but I am not now willing to issue more bonds to any railroads unless there is a clear right under existing laws to demand those bonds. That there is not such a clear right is shown by the fact that this bill is introduced; it is shown by the fact that the Secretary of the Interior, who has examined this question, reports that under existing laws he cannot issue these bonds to the central branch; it is shown also, I believe, by the report of the committee itself that under existing laws no bonds can be granted to the Central Pacific except ~~for one hundred miles.~~ They have already been issued or will soon be issued under existing laws. This bill proposes to give them an additional grant of bonds for the extension of the road beyond the one hundred miles to a point this side of the one hundredth meridian, intersecting the main trunk of the Union Pacific road. I am not prepared, in the present condition of our finances, to give this vote. At the same time I acknowledge the equity of the claim for some relief; I acknowledge the importance of this road, the necessity to give to all the country represented by the central branch a connection with the Union Pacific road. I acknowledge the value and importance of this branch; but I am not now prepared to vote any additional subsidy not specifically required by law. This is not required by law, and without law it will not be granted.

Mr. FESSENDEN. I should like some gentleman connected with the committee to explain a little more specifically how this equity arises. I understand by the original law a subsidy was granted for one hundred miles, and the company received it. Now they ask to have a subsidy for one hundred and fifty miles more, or about that. I want to understand more definitely how the claim arises on the Government to give this additional subsidy, upon what particular equity it is founded.

Mr. HOWARD. The Committee on the Pacific Railroad had this subject under consideration at several of their meetings, and they gave it, I think, very careful attention, actuated as they were by the desire to do perfect justice to this line of road. The committee on presenting the bill to the Senate accompanied it with a written report, No. 11, in which the statutory provisions bearing on this subject are all set forth, I think, with sufficient clearness, and they came to the conclusion that in equity and in fairness the central branch was entitled to this additional subsidy. I will state how it arises, and I will endeavor to make myself as clear as practicable.

Under former acts of legislation, what is now the central branch had a right to form a junction with the eastern division, so called, which is the main Kansas branch. That eastern division was required to form a junction with the Union Pacific railroad proper on the hundredth degree of longitude. It was bound to construct its line to that point, or nearly to that point. At all events, it was under a legal obligation to form a junction with the main stem, that is, the Union Pacific proper. That necessitated the construction of its line from its point of commencement in a northwestern direction up what is known as the Republican fork, reaching the Union Pacific railroad proper, and it received a subsidy of lands and bonds like the other branches of the Union Pacific railroad. In 1866, however, on the application of the eastern division, Congress passed an act allowing that division to diverge from its then route toward the hundredth degree of longitude, and to go off westwardly up to what is known as the Smoky Hill fork, toward Denver, and it was permitted by the act of 1866 to proceed westwardly to some point not more than fifty miles west of the city of Denver, in Colorado, and there it was required to form its junction with the main stem of the Union Pacific railroad. But under the former legislation the Central Pacific road had the right to unite itself with the eastern division on its way toward the hundredth degree of longitude; it had a right to form a connection with that line; and of course it had a right to all the advantages which would naturally in the course of business arise from that connection; but the act of 1866 rendered that junction of the central branch with the eastern division in its northwestern course entirely impracticable, and the result has been that, although the central branch has constructed its road for one hundred miles, it finds it impossible to form a junction with the eastern division in consequence of the diversion of which I have spoken, and, to use a common phrase, finds itself left out in the cold. It can go no further by means of subsidies from the Government.

The conclusions to which the committee came are very briefly stated in the report, and with the indulgence of the Senate I will read them:

"The Secretary of the Interior does not recognize this claim"—

This company claimed its right to lands and bonds, and asked to have the bonds issued by the Secretary of the Interior; but he refused, and I think for very good legal reasons—

"The Secretary of the Interior does not recognize this claim, but holds that the divergence of the eastern division, inasmuch as it was permitted by the act of 1866, did not constitute a default in the sense of the act of 1864.

"If his view of the construction of that act is correct, then the act of 1866 left the central branch to stand upon the ground it would have occupied if those clauses of the sixteenth section of the act of 1864 had not been passed.

"What was that ground? By the thirteenth section of the act of 1862, above referred to, this central branch could receive neither bonds nor lands to aid in the construction for more than one hundred miles. The same prohibition is repeated in section nine of the act of 1864. The result is that this branch had, and still has, the right to the subsidy and lands for one hundred miles, but no further; though by the ninth section it has the right to construct its road to the 'initial point,' or to a point of connection still further west, without the subsidy or the lands beyond the end of the one hundred miles.

"It is now completed for the one hundred miles west of Atchison, in Kansas, and the company ask for the same aid in lands and bonds as the eastern division would have been entitled to had they not diverged up the Smoky Hill river on their way toward Denver.

"From the point where the central branch now terminates to the old route of the eastern division, on the Republican fork, is in a direct line about fifty miles; but the Central Branch Company have not filed a map of their route over this intervening space.

"The provisions relating to the central branch were enacted by Congress under the expectation that the eastern division would pass up the valley of the Republican fork, and form a junction with the main trunk at or near the one hundredth degree of longitude; and that the central branch would unite and connect with it at some point on the route."

That was plainly the intention of Congress. In other words, it was the purpose of Congress to have a continuous line from about the one hundredth degree on the main stem down to Atchison. That is plainly the spirit and intention of the legislation—

"It was also authorized to unite with the main trunk either on or east or west of the initial point, but in no event was it to receive bonds or lands for a greater distance than one hundred miles.

"The diversion of the line of the eastern division, under the act of July 3, 1866, renders a junction with it practically impossible; and the only question now before Congress is whether they will grant bonds and

lands, or either, to aid the central branch to finish its road and connect with the main trunk.

"The committee think this company had good ground to expect that Congress would not deprive them of the valuable right to connect with the eastern division on its way to the initial point. But as the act of 1866 had this practical effect, the committee herewith report a bill, giving this branch the usual aid in lands and bonds to form a connection with the main trunk."

Such, very briefly, are the views taken on this subject by the committee, and I think they are correct, for undoubtedly this central branch, under our former legislation, had good grounds to suppose that they would be enabled to connect their line with the eastern division on its way up the Smoky Hill fork; which was a very great and valuable advantage to that company. As the law now stands—I refer to the law of 1866—they no longer have this privilege; but they are left with the road upon their hands running one hundred miles from the Missouri river out into Kansas, and there it is stopped unless they see fit to take money out of their own pockets solely for the prosecution of the enterprise. I think in equity and fairness the central branch is entitled to this new subsidy. It will be observed by the bill that the company are not entitled to this subsidy for more than one hundred and fifty miles. That is the maximum length along which they have a right to ask for a subsidy, and the maximum amount of bonds which may be issued under this bill, should it become a law, is only $2,400,000, as has been stated by the Senator from Ohio.

Mr. MORRILL, of Vermont. After having examined this bill I am very clear that the Senate ought not to pass it unless more cogent reasons shall be presented than have yet appeared. Notwithstanding the equity of the case, as presented by the Senator from Ohio and the Senator from Michigan, I think that a plain, common-sense man, upon reading the documents, and even the arguments and opinions of attorneys which have been paid for, in this case, will be satisfied that the ground of equity here urged is utterly baseless. What is the position of the United States Government in relation to this railroad company? In the first place, they came here years ago and got a grant of land and a subsidy of bonds, amounting to $1,600,000, for one hundred miles of railroad. Afterward, at their own request, I suppose, we allowed them to divert the road in a southerly direction——

Mr. HOWARD. The Senator from Vermont will allow me to correct him there. This is not the line which was allowed to divert in a southerly direction.

Mr. MORRILL, of Vermont. I think, Mr. President——

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call up the unfinished business of yesterday.

Mr. CONKLING. I rise not to propose the continuation of this bill, but that the Senator from Vermont be allowed to conclude his remarks. He has had the floor but a moment, and wishes only a few minutes, I understand.

The PRESIDENT *pro tempore*. By unanimous consent the Senator from Vermont can proceed with his remarks. Is there any objection to the Senator concluding the remarks he is making? None being made, the Senator will proceed.

Mr. MORRILL, of Vermont. Mr. President, I think that any Senator may well be excused for not quite understanding every law that has been passed in relation to this road. The statutes are all shingled over for the last half dozen years—this being the third or fourth act on the subject—and it would certainly puzzle a Philadelphia lawyer to understand them after he had read them. But I am not aware that we are much in the habit here of changing any charter for a railroad without the assent of the parties interested, and I have yet to see any evidence that we acted in this case without the assent or the importunities of the parties directly concerned or supposed to be most in interest. We have authorized this road to be diverged in a southerly direction and carried it to a point where they find, perhaps, that they have made a mistake, and I should not be at all surprised if they should come here at no remote period for assistance to carry on even that branch. They are sure, with only very slight encouragement, to come for another subsidy. But now they come here, and as a matter of equity or damages they claim that we shall make them a subsidy for one hundred and fifty miles because we have diverted a grant which gave them a subsidy for one hundred miles. Originally we gave them, beside lands, a subsidy of $1,600,000, and now they claim that, not having been able to make this available, they should have in the shape of equity damages to the extent of fifty per cent. more than the original subsidy, or $2,400,000.

The original grant to the Pacific railroad was all very well. We wanted a main trunk road to the Pacific. Congress was exceedingly liberal and made grants not only for the road, but for several branches at each end. Now, if this company can make out a case of equity and justice for a connection between the southern and northern roads, there will be a dozen instances where it will be as essential to the local interests of the inhabitants along the roads to the Pacific as important to trade, and perhaps quite as equitable as this, to allow other branches to go from one road to the other.

But, Mr. President, the condition of the Treasury is not such as to warrant us in carrying on this gigantic system of subsidies. Our recent experience shows also that we paid altogether too large a subsidy at the outset, or much more than was necessary to build the road; for, if I am not grossly misinformed, the amount of dividends received by parties who have taken stock in these roads has for the last year been more than one hundred per cent. upon the amount of money they actually paid in as stockholders. If that be so, it shows that Congress erred in the amount of the original subsidy; and, whether we did or not, we are certainly not now in a condition to continue this kind of extravagance.

There is another matter in relation to these roads which I think it much more important that Congress should legislate upon; and that is in relation to the rates of freight, the tolls for passengers, and the price to be paid for carrying the mail. At the present time there are five hundred and fifteen miles of road built at this end, where we are paying $150 a mile for carrying the mail, and ninety-four miles on the other side, just out of Sacramento, where we are paying $300 per mile. I consider these extravagant rates. If we are to make the Pacific railroad a great thoroughfare across the continent freights ought to be cheap, and something less than ten cents a mile—the price now charged—for passengers ought to be demanded on their part. I am for making a great, cheap, and valuable road to the whole country, one that will be used; but if these extortionate prices are maintained for passengers and for freight and for carrying the mail it is not to be a cheap and useful road, but a great monopoly.

But, Mr. President, under any circumstances of the case, I defy any one to make it appear that there is a particle of equity in this application; and so believing, I am opposed to the bill. Certainly I think our policy should be, at this time, emphatically against increasing the public indebtedness.

Mr. JOHNSON. Mr. President——

The PRESIDENT *pro tempore*. House bill No. 439 is now regularly before the Senate according to the rules.

Mr. JOHNSON. I have no special desire to discuss this particular bill, and perhaps it had better go over until morning.

SUPPLEMENTARY RECONSTRUCTION BILL.

The Senate resumed the consideration of the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto, the pending question being on the motion of Mr. DOOLITTLE, to refer the bill to the Committee on the Judiciary with the instructions proposed by him.

Mr. DRAKE. Mr. President, it may be questioned whether the Senate has ever witnessed a debate involving more deeply great American principles, reaching down nearer to the very foundations of American institutions, stretching further ahead into the unveiled future of American destiny, or more pregnant of vital results to the American nation, than that in which we are now engaged.

It is not without design that in the first sentence of the remarks I would submit to the Senate on this occasion I use that word American repeatedly. It has to me a world of noble and glorious meaning. It speaks all I ever knew, all I expect to know, of faith and hope in human freedom. It embodies, to my view, the highest development of humanity under the influence of regulated liberty. In it is a history grander than has been written of any other nation, and, if the people be true, to be more resplendent, ennobling, and instructive in the future than in the past. It is a name honored and revered everywhere on earth but where it should be most. Within the great Republic itself are its only embittered foes in the wide world. The American nation, respected, feared, praised, and looked up to by all other nations, finds its nationality questioned, its authority denied, its magnanimity contemned, its flag despised, its past glory unrecognized, and its hopes assailed by a part of its own people. Over a wide extent of its domain the soil is trod by avowed and blood-stained traitors. Millions of hearts beat there with but one throb, felt by day and by night, shaking the land—the throb of hate and revenge. And that throb is answered back from millions of other hearts, not of avowed and blood-stained traitors, but of their affiliated and sympathizing friends, who have seized the name of Democrat that they may the more surely betray, and linked their fortunes with those of traitors that they may more certainly reach the goal of political power from which they have been so long debarred.

This, sir, is the grand muster-roll of the party, North and South, with which loyal Americans are now struggling. For seven long and gloomy years that struggle has convulsed this nation. A second period of seven years is entered upon; and, without assuming the gift of prophecy, I may be permitted to doubt whether it will see restored harmony or even quiet. I may not live to see its end; it is of little public import whether I do or not; but unimportant as I am or am likely to be, my steady and resolved purpose is, in this Chamber and out of it, to contest every inch of ground with the foes of my country's prosperity and glory, whether they be open-faced rebels or half-masked Democrats. With both I have had for years an intimate acquaintance, and I have found them about equally entitled to the respect of loyal men. In spirit, if not in act, I believe them to be one and the same; and so believing, "my voice is still for war" against them. It is vain to cry peace, peace! Between them and patriots there is no peace; there can be, there ought to be, no peace till the power of rebellion and Democracy is overthrown and dead, and that of loyalty and nationality is exalted supreme.

Sir, for forty years the South has labored to undermine and cast down American nationality and to exalt the individual States. For forty years men, women, and children in the South have been educated to despise the oneness of united America, and to glorify their States. For nearly forty years Democracy has warmed and petted this venomous heresy. It never halted or faltered in this wicked work till the thunders of war for State rights and slavery started the nation to its feet and armed it for its nationality and its life. During the greater part of the bloody years that followed Democracy crept out of sight into its holes and caverns. Once while the war raged it came to the light, and with fetid breath hissed into the nation's face those words, fit only for ears

infernal, "Four years of failure to restore the Union by the experiment of war." The aroused and wrathful nation planted its heel upon the serpent's head, and Democracy crept back to its holes and caverns. Now, however, warmed into life again by the treachery of him whom the nation then honored with its confidence, Democracy comes forth once more, and rebels and Democrats mingle in fraternal columns for the final onslaught upon the nation that wound up its "four years of failure in the experiment of war" with crushing them and breaking their power. And their cry is still the same—the Constitution! the Constitution! the Constitution! They claim to be *par excellence* the defenders and friends of the Constitution. Whatever patriotism would do to sustain nationality they denounce as unauthorized by the Constitution. Whatever the people that saved the Constitution would do to uphold it they hold up as overthrowing it. Whatever the defenders of the Union, covered with the scars or weeping for the slain of a hundred battle-fields, would do to rebuild, strengthen, and perpetuate the Union, they cry down as unconstitutional. On the other hand, nothing that tends to weaken loyal power and strengthen disloyal resistance to it; nothing that would serve to sap the base of nationality and give the country over to disintegration and chaos; nothing that, once done, would so wound the vitality of the nation that the idea of nationality would go halt and lame forever after, till at last it would be struck down and obliterated, but finds ample warrant in that Constitution, and is a hallelujah in the throats of rebels and Democrats all over the land.

Mr. President, this would be splendidly laughable if it were not wretchedly false and wicked. Think, sir, of rebels appealing to the Constitution they spent four years in endeavoring to destroy, and would destroy now if they could, and then recall the devil's quoting Scripture to the Saviour to tempt him to his fall. Never was parallel more complete. And what difference is there between rebels and Democrats in this transaction? Just the difference between rebelism South and rebelism North, that is all: a mere question of latitude. The northern Democrat who backs up the rebels, is only another variety of the same animal. They hunt together in couples; they search for the small things of the Constitution through the same microscope; they sing always in chorus; they love and hate alike; they swear by each other, and when the day of their triumph comes, if it ever should, will they not pluck the national goose together? But, sir, I will not consume further time upon this Damon and Pythias of political filibusterism, but pass to other and higher topics.

Sir, the American people are a nation or they are not. I really thought that matter settled affirmatively on the battle-field, but I find it practically disputed and denied in the Halls of Congress nearly two years after the roar of the last battle-field of the rebellion had died away. The battle of nationality is to be fought over again, here and before the people. Errors and heresies which I thought dissolved in air with the smoke of the last rebel gun fired against the Union are gathering again in compact and thunder-laden clouds over the national Capitol, and from day to day are flashed across our vision, not blindingly as of old, but still vividly enough to demand attention. Were we still enveloped, as in former times, with the black robe of slavery, the flashes would be more blinding, but, thanks to brave hearts and strong hands, dry powder and Divine Providence, that pall has been lifted from us, and we stand in the undimmed light of a blood-bought freedom. And now as the mariner takes his noon-time observations of the sun that he may tell where on the broad sea he is, let us look where we as a nation are, what we know of the chart we have to sail by, and where the harbor is in which we are to find rest.

Sir, that harbor is in nationality. We are a nation. We are one people. We are not thirty-seven different peoples. For nearly ninety-four years we have been one people; by our own act one people; by the fiat of the Almighty one people. As one people we have a Union formed by our fathers, inherited by us their sons, and to be bequeathed to our children, I pray and trust, to remotest generations. The questions which now agitate this nation all grow out of mad and wicked attempts to destroy that Union, first in war, by burning its bonds, now, in peace, by weakening them till they will no more hold the great fabric together. The motive power of those attempts was and is the same—State sovereignty. The support then and now was and is the doctrines and dogmas of the Virginia resolutions of '98 and the Kentucky resolutions of '99, which I had hoped were riven in twain like old Virginia herself, but which are summoned up in this day to do their work over, as if they were entitled to the respect of any man who knew what a nation is or could grasp the grand idea of nationality.

But, sir, not to wander after antediluvian relics, I reiterate that the questions now agitating this nation all grow out of mad and wicked attempts to destroy our noble Union, either by war or by weakening the faith of the people in it, or by making them believe it something it is not or misleading them to think it is not what it is. Under such circumstances I hold it well to endeavor to bring out in clear and strong light the nature of the Union, by way of exhibiting and illustrating the power of the nation over all its component parts. I am one of those that believe a nation must, to exist, have national power over all its people; and my object is to show that this nation has such a power, unlimited in its exercise by anything but its Constitution, and that there is no limit there which ties its hands in dealing with the reconstruction of the rebel States.

Mr. President, there are millions in this land who have heard of the Union all their lives, and who cannot intelligently answer the simple question, What is the Union? Other millions there are who have from the cradle been taught to regard it as anything but what it is, and will answer that it is a confederacy. I hear it libelled some times on this floor by being so called. Others there are who hold the Union to be the offspring of the Constitution, and so verify the old and homely saying of putting the cart before the horse. Is it not timely, sir, to strike another blow at these and kindred heresies? Shall we not repel them when they are thus untimely thrust before us? For, sir, he who denies the power of the nation over the reconstruction of the rebel States, and claims for those States the right of self-reconstruction, does not, in my opinion, know what the Union is, or what its Constitution is, or what the inherent power of the nation, unnamed in the Constitution, is; and needs to acquire the very rudiments of political knowledge in regard to the institutions of his country.

Sir, there is much more than might strike the unreflecting mind at first thought in the question. What is the Union? Does it occur to men generally that there never was its like before in the history of the human race? I do not mean its like in organic structure so much as in the way it came into being. When before in human history was a nation formed by the voluntary flowing together of thirteen separate communities, each having a distinct governmental organization, and almost every one differing in important particulars of individual character and social structure from almost every other? Reflect for a moment upon that word, voluntary. Nations have been constructed by conquest, by the consolidated power of kings and warriors, absorbing neighboring communities by treaty transfers and other compulsion or pressure; but when ever before did three million people, scattered in separate communities over a space of a thousand miles, each existing apart, with defined limits, with distinct systems, laws, customs, and industries, and with diverse interests, prejudices, and antagonisms, unshackling themselves from every trammel and weight, and of their own unforced will, come together as one people? If such a sight was ever before seen on earth when and where was it? You know, sir, we all know, that it was a phenomenon in human annals, having no predecessor, no like, as it can have no rival. Was it not the fulfillment of the idea which found expression in human language nowhere till it was written by inspiration in the word of God, of a nation born in a day? Sir, it was born in a day; and it is, therefore, the world's miracle to this day, and will be to the last day.

I confess, sir, nothing in the records of humanity so moves my whole nature as the contemplation of that national birth. I see the hand of God in it, holding men and races to that path which shall glorify Him and spread over the earth the knowledge of His name. I see in it, too, the loftiest and most animated manifestation of human magnanimity, truth, and bravery that the world ever beheld. I see in it the point of departure of a great people on a career of unequaled grandeur and glory; and I see in it the birth-time of liberty that is not license, of association of people, not a mob; of popular government based upon the lawfully expressed will of the mass; of a nation governing itself without a king, and going forth on a mission as sublime as the march of the stars, and by its mere existence liberating other peoples, overturning thrones, stripping crowns from unworthy brows, beaming radiance into all the habitations of cruelty over the whole earth. Sir, I stand in reverential and loving awe of that birth-time of this then weak and toddling, now great and powerful, nation, and of the Union which brought it into being, to bless in the course of time so many countless millions of the human race—to curse never one creature of earth but him who would lift a sacrilegious hand to destroy it.

Sir, had there been no separate colonial organizations of the British inhabitants of North America there would have been no separate States in the new nation which came into existence here nearly a hundred years ago; and had there been no States there would have been no such assaults as we have lived to see upon American nationality. That feature of our internal organism as a people has had the singular fate of having been at once our strength and our weakness, our citadel and our vulnerable point. But for it there would have been no centers around which State pride, insubordination, and lust of power could have gathered to attack that nationality. But for it the national idea would have reigned with undisputed and ever-enlarging sway over our whole people, past, present, and to come. I refer to it, not as questioning its value to the nation—for it is, in my judgment, of priceless and enduring value—but as pointing to the only antagonist that has ever existed to the glorious idea and ennobling feeling of nationality. There never was a time when the nation would assail the constitutional rights of the States, but, on the other hand, there never was a time since the adoption of the Constitution when there was not a party in the southern States nibbling and caviling at and finally resisting the idea of nationality in its broad and comprehensive scope, and setting up the States as individually superior to the nation. That party plunged into war to establish its heresies, and the nation plunged it and its heresies together into a pit from which neither will ever emerge. State rights and the rebellion went down together, and nationality stands victor, not for this brief day or decade or century, but forever. The first centenary of the American Union, now near at hand, will see a nation in the full blaze of a better understood and more deeply cherished nationality; and State rights will be remembered only as the instigator of a war as causeless as it was atrocious, and as barren of favorable results to its fomentors as it was fruitful of ultimate and lasting good to their conquerors.

Sir, it is on this high plane of nationality that I propose to consider the questions now before the Senate and the nation. Here alone can we reach "the height of this great argument." Down among the graves of State

rights and the pitfalls of Democracy, where pestilential malaria, chilling fogs, and bewildering jack-a-lanterns are bred, we cannot see truth. We must ascend to the region of unclouded nationality before we can behold it in its radiance. In that wonder of allegories of John Bunyan's it is related that Christiana was taken "into a room where was a man that could look no way but downward, with a muck-rake in his hand; and there stood also one over his head with a celestial crown in his hand, and proffered him that crown for his muck-rake; but the man did neither look up nor regard, but raked to himself the straws, the small sticks, and dust of the floor." That scene is before us here. The Democrat with his muck-rake raking to himself the straws, the small sticks, and the dust of State rights, and refusing to look up to the crown of nationality held over his head. Let him look down; I will look up. Let him rake together his straws and sticks and dust; I will take the crown.

Mr. President, let us briefly view this subject in the light of history. The Union dates, not from the Constitution, nor from the Articles of Confederation, nor from the Declaration of Independence, but antedates them all. Its birthday was the 5th of September, 1774—a day yet to be fitly commemorated, I hope, by this nation—when was assembled that noble band of patriots which constituted the grand old Continental Congress. They were the representatives, not of the chartered organizations known as the Colonies, but of the people thereof, receiving their appointments either from the popular or representative branch of the Colonial Legislatures or from conventions of the people of the Colonies, styling themselves in their more formal acts "the delegates appointed by the good people of these Colonies." In them the people of the Colonies were together, and their acts were the acts of the people, before any State had an existence. From the day they came together till this hour the American people, first as colonists and British subjects, and then as American citizens, have been a united people.

On the 4th of July, 1776, they formally declared that they were "one people," and their representatives claimed to act, and acting "in the name and by the authority of the good people of these Colonies," put forth that Declaration of Independence which announced a new birth into the family of nations. Though the Union had existed for nearly two years, here was the point at which the nation stepped into the arena of the world. It could not, while in a condition of colonial dependence, call itself a nation; but when it renounced dependence and proclaimed itself free and independent then it entered upon its career of nationality, assuming the responsibilities, acknowledging the obligations, wielding the powers, and accepting the destiny, for weal or for woe, of a nation.

Now, Mr. President, here is the point at which to look at the subject of nationality in its original, inherent, and naked verity. The people of thirteen separate chartered organizations voluntarily come together as people, make themselves one people instead of thirteen peoples, declare themselves to the world a nation, and "for the support of this declaration mutually pledge to each other their lives, their fortunes, and their sacred honor." And that there may be no mistake as to their Union and their unity, they call the new nation, not America, not the American League, not the American Republic, not the Confederate States of America, but the *United* States of America, a name which itself tells the whole story of American nationality.

But what did nationality mean in that day? That was the time when it stood forth in its native and unclothed proportions, before any garments in the shape of articles of confederation or constitution had been tried on it, and we must look to that time to understand what it was. I affirm, as confidently as I would my own existence, that nationality meant then the entire and absolute sovereignty of the nation over every matter which, in the judgment of the nation, was of national import. The infant nation may not, in all cases, have asserted its sovereignty, it may have failed in some things or many things to exercise it, but still the sovereignty was there or it was nowhere. Who will say that it was nowhere? Who will say that it was not there? It was there, and nowhere else. The very act of organizing the nation declared that the nation had full power over every national interest, measure, and agency. In that morning twilight of the Republic it may have been that what was national was not at once clearly seen, but when seen there was no dispute as to the nation's power over it. Had there been room for such dispute it was as impossible for the nation to have lived as for the human body to perform its functions, with arms and hands and legs and feet disputing the supremacy of the brain, and each going its own way, and that a contrary way to the rest.

The simple and comprehensive truth, sir, covering the whole case and the whole time from then till now, and to cover the whole time from now till the end of this Republic is, that the nation in the absence of any self-imposed restrictions is, by the mere fact of its existence as a nation necessarily and absolutely sovereign over everything which, in its own judgment, attaches to, bears upon, or affects its nationality or its national interests. Upon this principle I base my whole argument. A principle it is, sir, not an assumption, a dogma, a flourish, or a figure of speech. And as the world in the long run is swayed by right principles—as all who oppose such principles must, sooner or later, go down before them—as whatever conflicts with them must, however in the ascendant for a time, at last shrivel up, decay, and disappear; so, to save this nation, all opposing doctrines must be overpowered and cast out by the steady and resistless advance through all its parts of the imperishable principle of national sovereignty over every national affair or concern, inhering in the very fact of the existence of nationality, and needing no written assertion of itself in article, constitution, or statute, to give it vitality.

Pursuing the course of historical review, let us come to the periods when the infant nation began to clothe itself with a form of government. It will be found that it has never yielded the principle I contend for. Even in the Articles of Confederation, which created rather a semblance than a reality of Government, the nation asserted its sovereignty over every matter of national concern by expressly denying any State interference in at least nine distinctly mentioned subjects, and excluding it in many others by declaring the sole and exclusive right of the nation, through its Congress, over them. This form of government, however, was so hampered by restrictions that it could not survive a single decade of years. The principle of national sovereignty struggled to throw off the trammels which bound it under that imbecile confederation. And though it was declared in the Articles of Confederation that they should be inviolably observed by every State, and that no alteration should at any time thereafter be made in any of them unless such alteration should be agreed to in a Congress of the United States, and be afterward confirmed by the Legislatures of every State, yet before the end of ten years they were cast aside by the nation, and the national sovereignty asserted itself in the Constitution under which the country has ever since been governed.

And now, sir, I insist that that Constitution was made for no other reason than that the inherent sovereignty of the nation was so restricted by the Articles of Confederation as to be almost smothered. Under those articles the States preponderated to such a degree that the nation was in imminent peril of losing its foundation of nationality. Read the history of those times, and come to any other conclusion, if you can, than that the Constitution was demanded by the sovereignty of the nation, for the sake of the nation's life. The nation felt itself no nation when its sovereignty was shorn of its power and manacled in its weakness by the States that composed it. The principle of national sovereignty, inherent in the national existence, could not be so repressed. It had to be liberated or the nation must expire. Like all great principles it rose from the dust of its prostration and overthrew its opponents. And mark how it triumphed. Though, as stated just now, the States had so fortified the Articles of Confederation for perpetuity as to require for their alteration, first, the assent of Congress, and secondly, that of the Legislatures of every State—requirements apparently unattainable—yet so imperative and unyielding was the demand of the principle of national sovereignty for recognition and scope and freedom to act, that the Constitution was, by its terms, to be enforced in the States adopting it, whenever nine of the thirteen States should ratify it, and was so enforced before all the States had yielded their ratifications.

Sir, that Constitution was not based upon the idea of guarding the rights of the States from the aggressions of the nation, but upon the principle of protecting the nation from the aggressions the States had made upon the national sovereignty, threatening the overthrow of all nationality. It was, in its simplest definition, the form and expression of the principle of national sovereignty. Under it the States have no powers but what it confers or concedes, and can exercise none which it denies. It declares the right of the nation over all its parts and all its citizens, except as it allows authority to the States; and it provides the means of enforcing the nation's power over all, without any State action, and against adverse State action. View it as you may; separate its parts as you please; put them together in any form you can devise, and still you meet at every turn the pronounced and resolute assertion of the principle of national sovereignty by the nation, for the nation, throughout the nation. And that principle, so asserted there, is the same that inhered in the very existence of American nationality, and found in that Constitution, for the first time, its fit embodiment, its appropriate utterance, and its just sway.

Mr. President, unless we interpret the Constitution through this great principle, we see it as through a reversed telescope, distant and dwindled. It is revealed to us in its grand proportions and luminous beneficence only when we enlarge our field of vision and draw it nearer to us. There is in it not one word which should alienate one truly American heart, though there are many which are repugnant to the devotees of State rights. Sir, this is no time to pay the least respect to their shriveling notions. They are the Philistines who would bind this American Samson. They have already cost this nation a thousand times more than they could repay by a century's repentant devotion to the nationality they wickedly attempted to destroy. This, the day of our victory over their treason, demands that we push on to a final victory over their false doctrines and pernicious principles. With those doctrines and principles I make no peace, hold no parley, nor for them have I any forbearance. They are as directly at war with every attribute and hope of American nationality as were the armies of Lee and Johnston; and now is the time to move upon them till they surrender; now is the time for the Constitution to assert and establish its right to be interpreted in the spirit of comprehensive and unyielding nationality. Interpreted in that spirit, it is consistent and shapely throughout; otherwise it is deformed and conflicting in its every member. In the one case it moves smooth and noiseless as the spheres; in the other jarring and tumultuous as the stormy sea. You cannot set it to keep guard over State rights without leading to conflicts which must end in blood; but while it stands sentinel over nationality no new insurrection is possible. But, let us go further and

so uphold its nationality that it shall not only repress new revolt but obliterate the heresies of opinion and belief which brought the recent rebellion into existence.

Mr. President, should any one wonder at my devoting so much space to the presentation of the idea of nationality I still urge that in that idea alone, carried into all our acts, all our views of the Constitution, and all our appeals to the people, is the sheet-anchor of our national safety. True, it has been upheld by arms, but victories of arms may be turned into defeats in the conflict of ideas. Ideas go where bullets do not—into the ballot-box. There is where nationality is to win or lose; and there is where rebel ideas may reach the vitals of this nation, as bullets could not. It is, therefore, in my view, indispensable that we should implant in our own minds and in the popular mind those ideas of nationality and national sovereignty which shall leave no room for State rights heresies to germinate from now till the end of time. Under this conviction I will proceed to scan this subject in the light of the Constitution.

Has Congress the constitutional power to reconstruct the governments of the rebel States is the question. And what are the facts, stated as briefly and pointedly as possible? Why, as follows:

The governments which those States had before the rebellion are gone.

They were the only State governments there which the nation had ever recognized.

They are not there now, because they were overthrown by the rebels when they inaugurated their rebellion.

In lieu of them other State governments were erected there to aid the rebellion, and they were a part of the confederacy which made war upon the Union.

The rebellion was suppressed, leaving those States with governments alien and hostile to the United States, which the United States had never recognized, and which had no legal validity under the Constitution.

The people of those States were, therefore, at the downfall of the rebellion without any lawful State governments whatever.

This, sir, is the simple state of the facts, as everybody knows. In such a condition, I believe, there is not a Senator on this floor nor a man in the nation who would venture to claim a right in the rebels, independent of the nation, to make new State governments there, if there were no question of political ascendancy in the national Government involved in it. I lay at the door of Democratic thirst for power all the controversy over this subject. Those ten States were Democratic before the war, they were Democratic when they went into the war, and they would be Democratic, now that the war is over, if left to reconstruct themselves. And they would give some sixty-seven electoral votes for President and Vice President of the United States, all for any Democratic candidate that might be presented; a pretty fair stock-in-trade for the resuscitated Democracy to start with.

But there is another and hardly less patent reason why the rebels and Democrats insist on the right in those States of self-reconstruction. Slavery was there the household god of the rebels and the pet of the Democracy. The nation remorselessly slew that god; but his former negro victims are still there, an eyesore, in freedom, to their former masters, who, with fiendish ingenuity, when the rebellion ended, schemed to reduce them, though nominally free, to a practical slavery worse than that from which the nation had delivered them; for it would have made slaves in fact of them, without a right in the negro to invoke the protection he once could rightfully claim from his master. And to this scheme of rapacity, cruelty, and oppression the virtuous Democracy, by their acts if not by voice, through all their ranks, cry Amen!

These, sir, briefly stated, are, so far as I can see, the ruling motives impelling the combined forces of rebels and Democrats in their resistance of congressional reconstruction and their adherence to the right in the rebel States of self-reconstruction. If ever in the world's history political action was based on motives lower down in the scale of "man's inhumanity to man" I am happily ignorant of it.

And, sir, in this continued game of rebelism, injustice, and iniquity, they demand to be let alone. The Senator from Kentucky, [Mr. DAVIS,] in the elaborately prepared speech which he delivered here last month, used this language:

"If the honorable Senator's friends, political and social, and the governing power in Congress, had just let the South alone after the surrender of the armies of Lee and Johnston, and let the white people and the negro population there have worked out their own salvation, to use an old phrase, and to have established social and industrial interests between themselves, the country would have been delivered a year or eighteen months or two years ago."

"Had just let the South alone!" Had just let them alone to reconstruct their States on rebel principles as a refuge for rebels; had just let them alone to make those States too hot for loyal men to live in; had just let them alone as nurseries of disloyalty and treason; had just let them alone to oppress, crush down, and reënslave the negro under "white-man governments;" had just let them alone to do all this, to the disgrace of this nation and the shame of humanity, all would have been well! Sir, the Senator from Kentucky was not original in his sentiments or in the mode of expressing them. Another man, of the Senator's own name, was ahead of him. The phrase which the Senator uses now on behalf of the South was the same with which Jefferson Davis ushered the rebel confederacy before the world nearly seven years ago. "All we ask is to be let alone!" cried he then; and now comes the distant but full-toned echo from Kentucky, "Just let the South alone!"

But, sir, the phrase is not original either with the arch-fiend of the rebellion; the devil used it nearly two thousand years before him, and sacred history has made a record of it. The scene was in Capernaum, of which the Son of God portrayed the character and pronounced the doom in these awful words:

"And thou Capernaum, which art exalted unto heaven, shall be brought down to hell, for if the mighty works which have been done in thee had been done in Sodom, it would have remained until this day. But I say unto you, that it shall be more tolerable for the land of Sodom in the day of judgment than for thee."

That, sir, was Capernaum in Galilee. It might be asked, is there no Capernaum in America? But we will not stop to ask it now. In a synagogue in Galilean Capernaum it is written, there was a man with an unclean spirit, and he cried out:

"Let us alone; what have we to do with thee, thou Jesus of Nazareth? art thou come to destroy us?"

Verily, sir, history repeats itself. Verily Solomon knew what he was about when he said:

"The thing that hath been, it is that which shall be; and that which is done is that which shall be done; and there is no new thing under the sun."

This concurrence of the devil, Jeff. Davis, and the Senator from Kentucky, proves that three thousand years ago Solomon was a wise man.

"Just let the South alone." Sir! Yes, when the South lets alone its schemes of rebelism, wrong, and oppression; when it lets alone its grasp after disloyal power; when it lets alone the citizens of the United States whom it would trampel under its feet; when it lets alone its assaults upon the Constitution; or when the nation has compelled it to let all these alone and to return to its allegiance under loyal State governments, then we will "just let the South alone;" never, I trust, before.

But let us return to the argument. This claim of right in those States to reconstruct themselves could not possibly have foundation in any recognized principle of public law. Those States were merely people, and they were a conquered, subjugated people. They had no rights except such as their conquerors chose to give them. Least of all had they the privilege to invoke, as a people, the Constitution they had renounced and abjured to support any claim to political rights. If they were ever to enjoy such rights again it could only be by the favor of the nation that had subjugated them. Can any other doctrine be true? Can it be that men may rebel and plunder and ravage and kill to-day, and to-morrow stand up and claim every right they had before? And may they repeat this time and again, and always with the same result? If once, why not a hundred times? Sir, it cannot be. The only doctrine in such a case is that they are, by their own act, stripped of every political attribute, and left at the mercy of the nation.

And here, sir, reappears national sovereignty inherent in our nationality. The nation, by the mere fact of its existence as such, and independent and outside of any written Constitution, has the right to protect itself against insurrection. If it has that right it has also the right, when insurrection is suppressed, to prescribe terms to the conquered rebels. In doing so it may say whether they shall again constitute a State or States or not. And if it may do this it may say how, by whom, and on what foundation and what principles such State or States shall be reëstablished. But, above and beyond all this, it may obliterate from the map of the country every State that rebelled and hold in its own hands the government of the whole rebel population. If it cannot do this where is its sovereignty? Is it anything but an empty name?

Now, sir, if such power inheres in sovereignty, independent of written constitutions, the question arises whether such inherent power is restrained by the written Constitution adopted by this nation for its own government? If the nation has, in fact, trammeled its own sovereignty let it stay trammeled, and let rebels have the benefit of its helplessness. But, sir, it has not. It is not true that the Constitution fetters the national sovereignty in this regard. As I said before, that Constitution is but the form and expression of national sovereignty coeval with and abiding in the national existence. The two are one and inseparable. You cannot conceive of one without the other.

In examining the Constitution in this connection I shall refrain from discussing that clause of it which requires that "the United States shall guaranty to every State in this Union a republican form of government;" for others have, with great ability, discussed that provision, and I myself treated it at some length, some three months since, in a published letter addressed to the honorable Senator from Maryland, [Mr. JOHNSON,] in which I endeavored to show that in that clause is direct authority for all that Congress has done. I will not now reproduce the views I then and there expressed, but will treat the subject on the plane of nationality upon which I have endeavored to base my whole argument. It is the higher ground where, perhaps, may be found some "higher law" controlling the case.

Mr. President, the great vice of the Articles of Confederation, compelling the nation to get rid of them that the national sovereignty might be untrammeled, was in the second article in these words:

"Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this Confederation expressly delegated to the United States in Congress assembled."

That was the full embodiment of State rights, fettering the national Government in perpetual imbecility. The nation revolted at such a hideous anomaly and shook it off. In the Constitution positions were reversed, and all power over national matters was given by the nationality to its Government, except such as was expressly forbidden or reserved. I repeat all power was given with that exception. There is not a power necessary to the free and full exercise of the national sovereignty in national affairs that is not there in direct terms or by just and necessary implication. The South has labored for many years to fasten upon the Constitution constructively what the Articles of Confederation declared expressly in the

words just quoted. The statesmen and politicians of that region have held up the Constitution as a mere power of attorney, to be as strictly construed according to its very terms, as a court of law would construe a power from A to B to sell a horse, when the instrument itself, with marked distinctness, demands the opposite rule of construction. No man of enlarged and comprehensive views can read it without seeing this. It is throughout, from the first word to the last, an assertion of the sovereignty of the nation. With restrictions, not upon the sovereignty itself, but upon the officers and bodies to whom the exercise of the powers of sovereignty should be committed. I do not forget that tenth amendment to the Constitution which says—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

But where is the power necessary to the exercise of the national sovereignty in any national exigency, internal or external, that is not delegated to the United States? He who relies upon that amendment as fettering the national sovereignty must show what power of that description it clips or ties up. My position is that it has no such operation or effect, for the simple and manifest reason that all necessary powers over national subjects are delegated by the Constitution to the United States, as I will now endeavor to show.

In an instrument of such solemnity as a national Constitution no word is to be regarded as superfluous or meaningless, but every one must be held to have a clear and intended significancy. And its meaning is to be ascertained so as to make it in harmony with and promotive of the declared objects of the instrument itself. And each word is to be construed in its plain, natural, and ordinary sense, and, unlimited by other words, is to be allowed the widest scope of which it is capable. No man may restrict the scope of words which the instrument itself does not restrict. These are simple and universally understood principles of interpretation of all written laws, whether in the form of legislative acts or of constitutions. They are, therefore, in all their simplicity to be applied in every attempt to construe the Constitution of the United States. Let us so apply them now.

In the eighth section of the first article of the Constitution is a long enumeration of the specific powers of Congress, and at its close is a general and comprehensive grant of power which, conjoined with the first words of the section, reads as follows:

"The Congress shall have power" * * * * "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

Mr. President, were those words, with a view to test the impression they would make, placed before the wisest man in the world, whose mind had never been influenced by any bias which could deflect his vision from the truth, what would he say of them? I think his first comment would be, that it were hard to put words on paper that would express, as to the object in view, more than they do. And the longer he would regard and the more critically he would scan them the stronger would be his conviction that they were designed for a great office in the Constitution. And should he proceed to analyze the sentence that conviction would be deepened. It would then appear as the loadstone of the Constitution, drawing to itself and infusing its magnetic force into every other power, expressed or implied, embraced in that great instrument, or necessary to the nationality it was designed to uphold and perpetuate. He would find, too, that in authorizing Congress to make "all laws which shall be necessary and proper" for the designated end, it constituted Congress the sole and final judge as to what laws are necessary and proper for that end. And there he would read the mandate of the national sovereignty speaking in the calm, clear tones of unquestioned right, and overbearing all opposition, whether of men or States.

Let us now look for the powers through which that stream of magnetic force flows—I mean not the specifically granted powers over particular subjects of legislation appertaining to the mere affairs of the country, but the great and vital powers connected with the national objects to be attained by and through the Constitution. They are to be found, sir, where they should be, in the foreground of that instrument. Its framers were not so dull as not to know the necessity of its proclaiming the great purpose and object of its creation. They did so in its very first sentence, its ordaining clause, not, as is often said, its preamble. Its preamble, sir, was unwritten save in the ten years' history of the emasculated and impotent confederation which it replaced. Let us consider that ordaining clause as it stands written there in these words:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Grand and mighty words, sir, worthy of the nationality and of the national sovereignty! Simple but all-embracing, wide as the nation in being or to be, "a foundation of gold and precious stones" fit for the great edifice of republican government and constitutional liberty which the disenthralled nation was erecting for that day and for all time! Sublime proclamation to all the world, that here, at last, in the untamed wilds of a new continent, the oppressed of every land might find a home in the bosom of a nation which bore upon its frontlet the pledge of its whole national power to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to all who should become a part of it and to their posterity forever! Sir, there is not one word of that Constitution which was not written by the sovereignty of this nation with the direct purpose of carrying out, to the farthest possible limit, every one of those objects. To hold any other view is to stultify the men who framed the Constitution and the nation that adopted it. Who will believe that they would lay a foundation so broad and deep merely to build upon it a pigmy superstructure which should invite aggression and attack from State rights theorists at home and the enemies abroad of all republicanism and all freedom? Who would believe that it was even dreamed that a single word of that Constitution was to receive such a construction as would impede the effectuation by the nationality of those national objects? Sir, from my soul I pity the man who, through false education, has imbibed such a belief; but I have a very different feeling for him who has had the opportunity to know better, and yet embraces so deadly a heresy.

Mr. President, if those were the objects which the people of the United States aimed at in their Constitution, how were they to be attained? Means must be used to effectuate them. What means? Those provided in the Constitution, all of them, each to be used as circumstances should require. By whom should those means be employed? By those designated in the Constitution for that purpose. Who are they? This Congress, sir. This is the body that is to make the laws for this nation. Here resides its delegated sovereignty, supreme over States, people, President, and courts in every matter which belongs to the nationality, except only in those points, few and inconsiderable, in which the nationality itself has imposed a limit. Upon this body is laid the duty of securing those objects; has it not all power necessary to that end? If justice is to be established, domestic tranquillity insured, the common defense provided for, the general welfare promoted, and the blessings of liberty secured, is there not a power somewhere to do all that noble work? If it is not in Congress where is it? Is it in the President? Why, sir, what is he but the minister of Congress, set to do the will of the nation as expressed in the Constitution and in the laws enacted here? Is it in the courts? What are they but administrators of the law, fundamental and enacted? Is it in the Army or the Navy? What are they but the hands of Congress, moving by its behest, as expressed in its laws? Sir, here, and here alone, is the power to provide for securing those objects; and if so, is not that as much a power "vested by the Constitution" in this body as the power to levy a tax on whisky or tobacco? Sir, it is folly, if not wickedness, to deny to Congress the power to make all laws necessary and proper "to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." To those ends I say, sir, it may make all laws; for those ends it may use all means; for those ends it was called into being; and for them it wields the sovereignty of this nation.

Now, sir, apply all this to the matter of reconstruction. Ten rebellious States were subjugated, and came again under the nation's power stripped of the constitutions which had been theirs in the days of their allegiance, and bringing back constitutions which they had formed in their disallegiance as a part of the enginery of their revolt. Could the rebellion be put down and those constitutions be permitted to remain? Who will say that? Should the rebels turn from the battle-fields to the ballot-box and resume the rights and functions of citizens with fingers all dripping in loyal blood and tongues blistered—or which ought to have been—with the oath renouncing allegiance to the Union and swearing it to the confederacy? Is it within the range of human perverseness to say yea to that? Were the four years of their diabolical war upon their country but years of innocence? Why, sir, you inflict political disabilities upon men for theft, and shall none be visited upon that band of robbers whose deeds shocked the civilized world? You imprison and debar from the privileges of citizenship the burner of your houses and the slayer of your neighbor, and shall those rebel hordes burn and slay for years and lose not one jot or tittle of their political rights? Away, sir, with such insult to justice, such mockery of right, such heaping up of iniquity and wrong, such rewarding of crime, such violence to every instinct of nature, such overthrow of every political truth that ever moved men or nations!

Sir, those State governments were once a part of this nation, as much as the people under them. Every portion of the nation was concerned in their preservation; and so was the national Government. They had their part to perform in securing all the great objects of the creation of this Constitution. They were necessary to the more perfect Union which the Constitution was to form. Their agency was needed to aid in establishing justice, insuring domestic tranquillity, and promoting the general welfare. They were capable of a great work in assisting to secure the blessings of liberty to the nation. All this they were designed to take part in as a portion of the nation, and every other portion of that nation had a right to hold them to take their share in the daily work of its life. Was it then no national concern to restore loyal State governments there? Had the national sovereignty no right to speak or act among them to that end? Had it only to countermarch its armies, lay up its ships, bury its patriot dead, wash off the dust and blood of the conflict, shake hands with the rebels, and tell them to go ahead like good fellows and fix up their State governments again to suit themselves, always being sure to make them white man governments? Certainly; by all means; why not? says the Democracy; and for that I say, down with the Democracy!

Mr. President, the part I assigned to myself in this debate is performed; not as I wish it had been, but according to such ability as I could command. There are many other points in connection with this great subject which I

might have discussed, but have not even mentioned, because others, better qualified than myself, have discussed them fully, or will before the close of this debate. My object has been to bring into better view the national sovereignty of the American people inhering in their nationality, independent of and anterior to all leagues, confederations, or constitutions, and in the very nature of things peering high above all State rights not conceded by itself, and overthrowing all State antagonisms as essentially and necessarily at war with the nationality which protects us all and inspires every hope we cherish of the future welfare, stability, and glory of the American nation. I thought it necessary to do this, for everywhere the Democracy is again flaunting abroad the banner of State rights. Here, and before the people, the principles and spirit of the rebellion are warring against nationality, and here and there must nationality charge home upon them again. The contest of 1864, in every essential feature, is the contest of 1868. The people look to us to meet it here, and we were recreant to our trust if we failed to meet it. Already the spirit manifested in the Halls of Congress has reanimated the patriots of the land. They are as they have ever been, in terrible earnest. They have, through all these seven years, been in advance, in intensity of feeling, of their servants here.

They see the portentous issue in its full proportions, and are ready to meet it. What they want is brave and resolute leaders who will do the bold, right thing at the right time, now, and grapple like men with rebelism and disloyalty in all their forms, North and South. They watch for the signal to the charge; they wait for the voice of the Capitol. Let them wait no longer. Let them hear that voice resounding through their habitations; quickly hear it; hear it in clear, brave, heart-cheering words; hear it in deeds which shall ring in their ears like the stroke of ponderous hammers on the anvil in the stillness of the night; and from North and South and East and West will come back, even before we expect it, the loyal and exultant echo from a patriot people of every word spoken here, and their welcome plaudit of every act done by us to uphold the principles, ennoble the character, and perpetuate the existence of our glorious nationality.

Mr. HARLAN. Mr. President, before this subject passes from the consideration of the Senate I desire to submit a few remarks in a plain way, and it is not material with me whether I proceed now or at a subsequent period.

Mr. HOWARD. If the Senator from Iowa is not prepared to go on to-day I should like very much to have the Senate take up the bill which was under consideration this morning; and if he will give way I will move to take it up.

Mr. HARLAN. I give way for that purpose.

Mr. HOWARD. I move, then, to postpone the subject under consideration until to-morrow at one o'clock.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869, in which the concurrence of the Senate was requested.

ORDER OF BUSINESS.

Mr. HOWARD. I now move to take up the bill (S. No. 256) relating to the Central Branch Union Pacific Railroad Company.

Mr. HENDRICKS. I do not think a bill of this importance ought to be taken up unexpectedly when the Senate is not full. It involves the Treasury to the extent of two and a quarter or two and a half million dollars. When this bill is considered I think it ought to be at such an hour in the day as Senators expect it, an important bill not only to the railroad company, but to the Treasury of the country, and I do not think it ought to be taken up now. It is obvious to every Senator that the Senate is but little more than half full.

The question being put, a division was called for.

Mr. HOWARD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SAULSBURY. I wish to remark, before the yeas and nays are called on this question, that I have agreed to pair off on all questions with the Senator from Massachusetts who is absent, [Mr. WILSON.] I do not know how he would vote on this subject if he were here, but I make this explanation to state why my name will not appear on the call of the roll.

The question being taken by the yeas and nays, resulted—yeas 16, nays 13; as follows:

YEAS—Messrs. Chandler, Conness, Davis, Drake, Ferry, Harlan, Howard, Pomeroy, Ross, Sumner, Thayer, Tipton, Trumbull, Wade, Willey, and Williams—16.

NAYS—Messrs. Buckalew, Cattell, Cole, Conkling, Dixon, Fessenden, Frelinghuysen, Hendricks, Howe, Morgan, Morrill of Vermont, Sherman, and Van Winkle—13.

ABSENT—Messrs. Anthony, Bayard, Cameron, Corbett, Cragin, Doolittle, Edmunds, Fowler, Grimes, Guthrie, Henderson, Johnson, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Saulsbury, Sprague, Stewart, Wilson, and Yates—24.

So the motion of Mr. HOWARD was agreed to.

Mr. FESSENDEN. The Senator from Maryland [Mr. JOHNSON] had the floor on this bill when the time arrived for the special order, and he said he would defer his remarks until to-morrow. He is not now in, and I understand there is executive business on the table to be disposed of. I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. SUMNER. There is a bill that was under consideration——

The PRESIDENT *pro tempore*. There is a bill under consideration now.

Mr. SUMNER. I know, but I say there is another bill that was under consideration some days ago, reported from the Committee on Foreign Relations, on which I wish to get the vote of the Senate, so that it may be out of the way. I do not wish to discuss it; but I hope, rather than go into executive session, if the Senate is not disposed to proceed with the bill of my friend from Michigan, it will dispose of the measure to which I refer.

The PRESIDENT *pro tempore*. A bill has been taken up by vote of the Senate, and is now before the body. Pending that, the Senator from Maine moves that the Senate proceed to the consideration of executive business. The question is on that motion.

Mr. SHERMAN. There is a bill here that affects the interests of one or two of my constituents, which I think it is important to pass, and which will not give rise to debate. It is a bill reported from the Committee on Public Lands, and I should like to have it taken up.

Mr. FESSENDEN. I will not object to this other business being done unless the Senator from Michigan fears that his bill will be displaced by it. I do not think the Senate can go on with his bill, the Senator from Maryland being absent.

Mr. SUMNER. I think there is reason for the motion of the Senator from Maine, but I simply appeal to the Senate to take a vote on the joint resolution which was called up the other day providing for the representation of the United States at the international maritime exhibition. Let us vote on that and dispose of it one way or the other. That is all I ask.

The PRESIDENT *pro tempore*. Does the Senator from Maine persist in his motion?

Mr. FESSENDEN. The Senator from Michigan seems to think that I ought to persist in this motion, as his bill is pending, and the taking up of other business would displace it. I must, therefore, insist on the motion.

Mr. CONNESS. I rise simply to say that I think the Senate had better not adopt that motion at this time. The bill in the charge of the honorable Senator from Michigan is one of considerable importance, as has been stated. It cannot be expected to be voted upon in the Senate until it is thoroughly discussed, but I do not see why we should not discuss it now for an hour.

Mr. FESSENDEN. I have stated the reasons. The Senator from Maryland has the floor on the bill, and remarked that he would say what he had to say to-morrow morning.

Mr. CONNESS. That would make no difference. Other Senators may speak to the bill now, and the Senator from Maryland may speak to it when he comes into the Senate. I think it would be wise to go on with the discussion of the measure.

Mr. FESSENDEN. I think it is usual not to call up a matter under those circumstances when it was understood that it would go over.

Mr. CONNESS. That is rather a formal view of the case.

Mr. CONKLING. I was among those who voted against taking up the bill on the motion of the Senator from Michigan. I did so, without regard to the merits of the measure, for the reason assigned by the Senator from Indiana, that the Senate is so very thin. I am inclined to think the same objection applies to the motion now made by the Senator from Maine. It will be remembered that the condition of executive business is such that a full Senate, when next we proceed to its consideration, will be desirable, and if this motion prevails and we are to go into executive session with a view to vote the same difficulty will arise, that many Senators have left the Chamber under the impression that the debate in which the Senator from Missouri took part would continue for the rest of the day. Therefore, as between the two propositions, I should prefer to go on and consider the bill, assuming that it is not to be pressed to a vote this afternoon, rather than go into executive session.

Mr. FESSENDEN. Several Senators suggest to me that there is other business that can be done this afternoon, allowing this bill to go over. Under these circumstances I will withdraw my motion.

The PRESIDENT *pro tempore*. The Senator from Maine withdraws his motion; and the Senate bill No 256 is before the Senate.

Mr. SUMNER. I now move to postpone all pending orders and take up for consideration Senate joint resolution No. 89.

Mr. CONNESS. I suggest to the Senator from Massachusetts that he propose to lay over the bill of the Senator from Michigan informally, and then go on with his measure without making a formal motion to postpone. That course will not displace the bill of the Senator from Michigan.

Mr. SUMNER. I am willing to do that. I merely wish to get a decision on this joint resolution.

Mr. CONNESS. Let the form of doing it be that which I have suggested.

The PRESIDENT *pro tempore*. That may be done by unanimous consent.

Mr. HENDRICKS. What is the measure which it is proposed to take up?

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks the Senate to take up the joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

Mr. CONKLING. Does the Senator want a vote on that resolution?

Mr. SUMNER. Yes, sir.

Mr. CONKLING. I am sorry the honorable Senator does not say "no" rather than "yes." He knows, as I do, that many Senators are opposed to it, and the Senate is now so thin that a vote on it certainly would not be an expression of the judgment of the Senate.

Mr. SUMNER. I was not aware that many Senators were opposed to it. It was reported with the unanimous recommendation of the Committee on Foreign Relations, and I am free to say that I did not anticipate any opposition to it.

Mr. CONKLING. If the honorable Senator will excuse me, I beg to say to him that I think the fact that it is reported and that it has

his own sanction imparts to it the only strength it has. I am inclined to think that if the measure were here alone without that recommendation and that support its chances would be very slim.

Mr. SUMNER. Very well; let us vote on it. I do not wish to say anything.

Mr. CONKLING. I shall be glad to vote for it at any time when those are here by whom the votes are to be given.

Mr. SUMNER. There is a quorum here.

Mr. CONKLING. There may be a quorum, but it is a very meager one.

Mr. SUMNER. Oh, let us act upon it.

Mr. CONKLING. What is the motion?

The PRESIDENT *pro tempore*. To postpone the pending bill, which is Senate bill No. 256, that was taken up on the motion of the Senator from Michigan, for the purpose of taking up the joint resolution indicated by the Senator from Massachusetts.

Mr. CONKLING. I should like to inquire of the Senator from Massachusetts whether the purpose will not be answered by calling up his resolution at any time within a day or two when Senators have not left the Chamber under the impression that votes were not to be taken?

Mr. SUMNER. I am very much obliged to the Senator for his inquiry; but if the Senator looks at the resolution he will see that it was reported from the Committee on Foreign Relations January 15, and to that I desire to add that I have sought to move this resolution every legislative day since. I am always in my seat, and I have made constant efforts to get this resolution before the Senate for action. It is very immaterial to me what the final action may be; but as I am responsible for the conduct of it I desire to acquit myself and bring the subject to a close. Senators can vote, of course, against it or for it, as they see fit.

Mr. CONKLING. Nobody can fail to appreciate and sympathize with the feeling which the Senator having this measure in charge expresses, to do his duty toward it and have it disposed of. Of course, nobody will criticise that; and yet I submit to him, with great deference, that even a matter of this sort, which the debate has demonstrated is the subject of diverse opinion here, should not be voted upon at a time selected, even by accident selected, when a large number of Senators have gone, under the impression that no votes were to be taken. That is obviously the fact. I am opposed myself to this resolution for reasons which apply to it and to all such measures. I think that men enough, distinguished and undistinguished, have made the tour of the continent of Europe at the public expense. I have other reasons for objecting to the resolution, so that I should be very glad to have the vote taken when the Senate is full.

Mr. HENDERSON. I will renew the motion of the Senator from Maine that the Senate proceed to the consideration of executive business. There is some business we can do there.

Mr. SUMNER. I hope the Senate will dispose of this resolution. If they vote this resolution down, they may; but here the Senator from New York announces his opposition. What is the resolution? It is simply that the Secretary of the Navy be authorized to detail one or more officers of the Navy, as he shall think best, to be present at the international maritime exhibition to be held at Havre under the auspices of the French Government from the 1st of June to the 31st of October of the present year; that is all. There is no appropriation of money in it; there is nothing looking to any future expenditure beyond what is implied in the detail of officers of the Navy. All that is apparent on the face of the resolution. Then you have the practical question whether an international maritime exhibition, organized as this is, according to the papers which are on our table, to which our presence has been invited by a communication from the French Government, shall be neglected. I submit that, being a great commercial people as we are, we ought not to turn away from this invitation. I do not propose, as I say, any appropriation, but I desire, and that was the desire of the committee and their recommendation that there should be some person at this exhibition who should look after the exhibitors from the United States, who should inform them of what was there, and try in some way to profit by it; in short, that we, a great commercial people, should have a small representation there in order to gather commercial information that we may in some way hereafter use for the benefit of commerce. The whole object is very simple, and as I have said again and again, there is no expenditure in it beyond what is implied in the detailing of these naval officers.

Mr. HENDERSON. I should like to ask the Senator, if the proposition requires no appropriation whatever, why the Secretary of the Navy cannot detail these officers without an act of Congress?

Mr. SUMNER. I do not venture to say that he may not detail them, but the probability is that he would not feel himself authorized to do it unless by virtue of special legislation. The Senator is aware that when on former occasions commissions have been sent abroad there has always been some special authorization from Congress. I do not venture to say that the Secretary of the Navy might not detail naval officers to visit any part of the world without a ship; but an act of Congress would give to the proceeding more character and it would be a direct association of our country with this international maritime exhibition. I cannot understand why Senators are so sensitive on that point; why they hesitate in that association. It seems to me that our course is plain, simple, and I do not see, further, how, as a great commercial people, we can properly avoid it.

Mr. BUCKALEW. We have had this resolution up, I believe, on two occasions——

The PRESIDENT *pro tempore*. The question is on going into executive session. [Laughter.]

Mr. BUCKALEW. I am aware that the debate has turned upon an alternative proposition. I say we have had the question of this resolution before us on two occasions, and a decision has been prevented by the expiration of the morning hour. At my instance, on a former occasion, the Senator from Massachusetts modified his resolution. He struck off all that part of it against which any objection, in my opinion, could reasonably be made, and in its present form it is a proposition perfectly innocent; and I think the best thing we can do is to take it up and dispose of it. In its present form I do not see how any Senator can object to it. It is simply an authority to the Secretary of the Navy to detail naval officers for this purpose without an appropriation of the public money. We shall economize time by voting against going into executive session and disposing of this resolution at this time.

Mr. HENDRICKS. With the permission of the Senate, I wish to assure the Senator from Massachusetts that, with the Senator from New York, [Mr. CONKLING,] I sympathize with him in his efforts to pass this resolution. I know it is an important resolution, because the Senator assures us he has given nearly all of his attention since the meeting of Congress to it. [Laughter.] I do not know what is going to be done when the naval officer gets over to Europe, nor how it is to be done, nor how long he is to stay, nor what is to be accomplished for the country; but it certainly is an important resolution. We all concede that. It is not necessary to pass the resolution in order to enable the Department to send an officer there; and so the effect of passing the resolution will simply be to put upon the band of the officer's cap, instead of "detailed," an act of Congress saying that he goes there by virtue of an act of Congress.

Mr. FESSENDEN. I should like to ask my friend whether he thinks the Secretary of the Navy has any right or power to detail an officer to attend an exhibition unless it is one properly within the naval Department itself?

Mr. HENDRICKS. I have not examined that point, but the Senator from Massachusetts, who has given this subject so much attention, would not question that. He conceded that; and he has cultivated the whole ground, and there is nothing more to be examined into.

Mr. FESSENDEN. I think it will turn out that an act of Congress is necessary.

Mr. HENDRICKS. I am surprised, to use the suggestion of a brother Senator, that the Senator from Maine should raise a doubt upon that point, inasmuch as the Senator from Massachusetts is satisfied that there is now the power in the Department. I would not venture to raise it. Then the Senator from Massachusetts is fortified by my friend from Pennsylvania. This union of opposite sides upon one common proposition is conclusive upon my judgment. [Laughter.] I have no particular objection to the resolution, and rather than have any further agony on the subject I would vote for it. I do not think it is necessary; I do not think it is ornamental or useful, either; but still, rather than give the Senator from Massachusetts any more trouble about it, I believe I will appeal to my friend from New York to say "let it go;" and then, perhaps, inasmuch as that main question will have been disposed of, the Senate can give some attention to some other subject. [Laughter.]

Mr. ANTHONY. I intend to follow the Senator from Massachusetts, as I always do, upon foreign affairs; but there seems to be such a difference of opinion as to what shall be taken up that I wish to propose, as a compromise between the contending parties, that a resolution laid over the other day on account of a point of order, the objection to which has been removed, may be taken up and passed. I think there will be no objection to it. If there is I withdraw the proposition.

Mr. SUMNER. I hope the Senate will take action on this resolution.

Mr. ANTHONY. The resolution to which I allude is the resolution to print additional copies of the reports in the case of the Secretary of War.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of executive business; and that must be disposed of before anything else can be done except talking. [Laughter.]

Mr. CONNESS. I move that the Senate do now adjourn.

Mr. ANTHONY. I rise to a point of order. I have not yielded the floor to the Senator from California. If this question can be taken up——

Mr. SUMNER. Why cannot the Senate vote now under the impression of the speech of the Senator from Indiana, who has made a powerful effort to-day in behalf of this resolution? [Laughter.]

Mr. ANTHONY. I hope that by unanimous consent the resolution I have indicated may be taken up and passed, and then we will all go for the resolution of the Senator from Massachusetts. It is a resolution to which I believe there was no objection except that the injunction of secrecy was not removed from the President's message, and that injunction having now been removed, I believe it was the desire of the Senate——

Mr. CONKLING. Is the motion to adjourn debatable?

Mr. ANTHONY. There is no such motion pending.

The PRESIDENT *pro tempore*. There is no motion to adjourn before the Senate. The Senator from Rhode Island declined to yield the floor to enable the Senator from California to make the motion. I wish he had yielded. [Laughter.]

Mr. CONNESS. I believe the Senator from Rhode Island has now yielded the floor, and to gratify the Chair I move that the Senate do now adjourn.

Mr. SUMNER. I hope not.

The motion to adjourn was not agreed to; there being on a division—ayes 14, noes 20.

Mr. SUMNER. Now I hope that the Senate will vote on this resolution. That is all I ask.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of executive business.

Mr. SUMNER. I hope that motion will be voted down in order that the Senate may dispose of this resolution. We are full now, full enough to satisfy my friend from New York.

Mr. HENDERSON. I am satisfied that it is my duty to withdraw the motion to go into executive session, and I now do so.

The PRESIDENT *pro tempore*. That motion being withdrawn, the question recurs on taking up the resolution mentioned by the Senator from Massachusetts.

Mr. HOWARD. What is the status of my bill?

The PRESIDENT *pro tempore*. Your bill is before the Senate on a motion to postpone it and consider another subject.

Mr. HOWARD. I understood it to be laid aside informally by common consent for the purpose of enabling the Senator from Massachusetts to make a motion.

The PRESIDENT *pro tempore*. That proposition was made, but evidently it could not be acceded to, and therefore a motion was resorted to, which motion is in order and is the motion now before the Senate. The question is on the motion of the Senator from Massachusetts to postpone the present and all prior orders for the purpose of taking up the joint resolution mentioned by him.

The motion was agreed to.

INTERNATIONAL MARITIME EXHIBITION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 89) providing for the representation of the United States at the international maritime exhibition to be held at Havre.

Mr. SUMNER. I ask a vote upon it; that is all.

The PRESIDENT *pro tempore*. The resolution will be read for the information of the Senate.

The Secretary read it, as follows:

Resolved, &c., That the Secretary of the Navy be authorized to detail one or more officers of the Navy, as he shall think best, to be present at the international maritime exhibition, to be held at Havre, under the auspices of the French Government, from the 1st of June to 31st of October of the present year, there to represent the United States and otherwise to promote the interests of exhibitors from our country.

The PRESIDENT *pro tempore*. There is an amendment pending, offered by the Senator from California, [Mr. CONNESS,] which will be read.

The Secretary read the amendment, which was to add the following proviso:

Provided, That no expenditure shall accrue therefrom to the Treasury, nor shall any additional compensation be paid to such persons as may be designated under authority of this resolution.

Mr. SUMNER. The Senator from Pennsylvania [Mr. BUCKALEW] suggested that we should strike out the words "there to represent the United States, and otherwise to promote the interests of exhibitors from our country," and I understood—I may be mistaken—that when that suggestion was adopted the Senator from California expressed himself as satisfied with the state of the resolution then, and did not propose to press his amendment. I do not know whether I recollect aright.

Mr. CONNESS. I think the adoption of the amendment I have offered will make the resolution entirely acceptable to the Senate, and we can get a vote immediately upon it and pass it, and therefore I hope it will be voted upon. That will be the shortest way to pass the resolution.

Mr. MORRILL, of Vermont. I desire to submit an inquiry to the Senator from Massachusetts, and very much will depend upon his answer as to my vote. I understand that this is merely a local affair at Havre. Now I believe we are going to have a horse show at Springfield next year. I should like to know of the Senator whether, if we give an invitation to foreign countries, they will be likely to respond and bring forward their horses and exhibit them there at Springfield. I should like to see a sort of reciprocity about this thing and not make us cross the Atlantic all the time and have no return.

Mr. SUMNER. I answer the Senator frankly. If the horse show at Springfield, in regard to which the Senator has information, were in any way under the direction of the Government of the United States or, at least, if that Government so far interested itself in it as, through its minister in France, to invite the association of the French Government and the French people on that occasion I think the invitation would be received courteously. I do not know whether the French would send horses across the sea or not, but the Senator knows very well that the illustration is not complete. He knows very well that the exhibition at Havre is one for the advantage of commerce, in which our people are particularly interested, and also that being a commercial port it is easily accessible to our people. It is not as if horses were to be carried across the sea. There can be no objection to this resolution, and I have been urging it so because I speak for the interests of commerce, which have somewhat suffered latterly——

Mr. HOWARD. I beg to inquire of the Senator from Massachusetts whether the Government of France has given us any invitation to this naval exhibition at Havre?

Mr. SUMNER. Certainly.

Mr. HOWARD. What is the source of it? What is the nature of the exhibition called in the resolution "international?" That, of course, implies more nations than one; indeed, all nations. I should like to know the extent and scope of this invitation and the nature of the exhibition. We are to be represented there, it seems, according to the resolution. The interests of American exhibitors are to be protected and looked after by agents. Now, what is all this? I do not understand it. If we are invited simply to attend an exhibition, a mere show, that is one thing; I should know how to meet it; but if it is of such a nature as to furnish any benefit to the people of the United States it will present a very different consideration. I do not know what it means.

Mr. SUMNER. My friend evidently has not read the somewhat lengthy document published by the Senate, reported from the committee, containing all the correspondence and other papers relating to this proposed international exhibition. Had he read it he would have found there a letter from the French minister at Washington, addressed to the Secretary of State, in which he gives notice to him of this proposed exhibition, and says:

"In giving notice of this projected exposition to your excellency, I have the honor to inform you, at the same time, of the value which the committee would attach to seeing the Federal Government appoint commissioners who would place themselves in relations with it.

"The work it is in view to carry out, in fact, is interesting to all maritime nations; and in this respect the United States are called upon to take therein so considerable a part that the expectation cannot but be believed to be well founded that they will give a favorable reception to the earnest wishes the expression whereof I am instructed by my Government to transmit to you."

That is the French minister.

Mr. HOWARD. I do not understand the exhibition to be a governmental matter after all. It seems to have been inaugurated by some committee of private persons.

Mr. SUMNER. The exhibition has been inaugurated by the local authorities in the great commercial port of Havre. The Government of France, however, have accepted, according to the language employed, the patronage of the exhibition, and now through their minister here in Washington invite the presence and association of our Government. Then our consul at Havre sets forth at length in two or three different letters the condition of things. He alludes to the number of nations that have already promised to appear there by commissioners. Sweden, Norway, and Denmark, he says, have already appointed commissioners. Austria has already appointed a special commissioner. Prussia has appointed a commissioner. Even the secondary States of Germany, like Bavaria and the Grand Duchy of Baden, he says, will appoint commissioners. Spain and Portugal have each appointed a commissioner. Brazil has already appointed a commissioner, and from Brazil there are already some thirty private exhibitors. The Government of the Sandwich Islands has appointed a commissioner, and so has Greece; and now the question is, whether the United States will appoint a commissioner in the person of a naval officer to be detailed for that purpose by the Navy Department. I will take no more time about it. The case seems to me too plain.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from California.

Mr. SUMNER. I should like to have that amendment read again that I may understand it.

The PRESIDENT *pro tempore*. It is not at the desk. The Senator from California is modifying it.

Mr. CHANDLER. We have had a little experience in these exhibitions. I remember that about a year ago, or more, the chairman of the Committee on Foreign Relations recommended the appointment of a commission to the Exposition at Paris, and the first statement was that there would be no expense, or very little. In process of time we were asked to appoint some commissioners—ten I think; afterward to appropriate a ship to convey the articles that were to be sent there, and finally a proposition came in here and passed, that we should build a house in which to hold them all.

Mr. CONNESS. That was the first appropriation.

Mr. CHANDLER. The first appropriation was to be nothing, the second very little, the third included commissioners and a ship, and the fourth to build a house. I once spent a couple of weeks in the southern part of Illinois, making stump speeches. They have there what they call basket parties, where every man carries his own refreshments, and they generally have a very good time. Every man brings his basket and his provisions, and is entirely welcome to the feast, inasmuch as he provides his own provisions. [Laughter.] But I never heard of a man attending one of those basket parties being asked to put up a house. It is supposed that if he attends and brings his provisions and furnishes his company and his friends he will be welcome. But this proposition of the Senator last year first was that it should cost nothing, or very little; next, that we should pay for ten or twenty commissioners; then furnish a ship to carry out the materials and pay the expenses of taking them to Paris, and thirdly or fourthly and lastly, that we should build a house to hold them.

Sir, I have had enough of this sort of thing. I am opposed to this resolution. The Senator says it is in the interest of commerce. If that be so, I think it had better go to the Committee on Commerce, so that we may see whether the interest of commerce will be promoted by it before we decide to send any commissioners to this proposed exhibition. I have very serious doubts whether the interests of commerce will be promoted by it. However, I do not make that motion. I am against the whole proposition. I do not want any more roving commissions on the continent of Europe. I agree with the Senator from New York, that we have sent men enough in a public and private capacity to travel over the continent of Europe at the expense of this Government; and I am utterly opposed to sending a naval officer or any other officer of the Government in that capacity.

Mr. SUMNER. I agree with my friend; I am against any more roving commissions. All that I want is one or more naval officers to be

detailed to be present at an international exhibition at Havre, that is all—no roving commission. I agree with him on that.

Then as to the great exhibition to which the Senator has referred, where the United States was represented at some considerable expense, I do not think that this is the occasion to discuss it. For one I am not sorry that the United States were represented there, even at the considerable expense. I believe that our country gained on that occasion. Our arts were there made manifest, and there were American citizens who carried away great triumphs. I do not regret those victories. They are among the victories of peace.

However, I will not be led aside to discuss that question. That belongs to the past. Suffice it to say that at present nothing is proposed like that to which the Senator calls attention. I have said again and again that there is no expenditure, there is nothing that I see possible, certainly to my mind now there is nothing prospective.

The PRESIDENT *pro tempore*. The amendment of the Senator from California, as modified by him, will be reported.

The Secretary read the amendment as modified, which was to add at the end of the resolution the following proviso:

Provided, That no expenditure shall accrue therefrom to the Treasury, or to any public funds, nor shall additional compensation be paid to such persons as may be designated under authority of this resolution.

Mr. SUMNER. I accept that amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOWARD. I do not think this resolution ought to pass. It seems that a commission at the seaport of Havre have constituted themselves under the patronage of a French Senator, according to the dispatch of the French minister, for the purpose of getting up an exhibition at that port. It appears to be in its inception, and will probably turn out to be in its operation, a mere private concern. The object of this resolution, if I understand it rightly, and I think I do, is merely display, and nothing else. I do not think the Congress of the United States is consulting its own dignity in passing a formal, solemn statute authorizing the Secretary of the Navy of the United States to send a naval officer to attend this private naval display at the port of Havre. I think it is not becoming the dignity of the Government itself. We have had about enough of these displays to swell and brighten the *éclat* of the emperor of the French and the prince imperial, who also appears to be associated with this naval display. I think we may dispense with all such small attentions to the present emperor of the French and the prince imperial. We can get along without it. We ask no favors of that sovereign, and he deserves none at our hands. He has been from the beginning our secret and bitter enemy in the moment of our greatest and most pressing need. When the very existence of this Government was at stake in our terrible civil war that sovereign was engaged in secret intrigues to favor the cause of the rebels and to break us up, and the whole world knows it; and I will do nothing by vote or otherwise to give him or his prince imperial, or the persons submitting to his Government, any further *éclat*. They shall not acquire any further reputation for shows by my vote.

Mr. SUMNER. The Senator introduces another topic. He reminds us of the course of the French Government toward ourselves during our recent troubles. Sir, when he makes that allusion he touches a sympathetic chord in my bosom. No one felt more keenly than I did the course of France, as also the course of England, toward us during our terrible trials; but, sir, this is not the occasion for us to consider that question. The proposition is too simple to open any such great inquiry. Not on such a proposition as this should we undertake to arraign the Government of France. There may be some other proposition on which that question may properly be discussed. On this it is entirely out of the question. This proposition, I say, is too simple. When we are asked to stay away from an international maritime exhibition we are asked to deprive ourselves and our country of opportunities of information and advantage. I see in it no question of homage to the Government of France. I see in it nothing but the means of doing good to the commerce and to the commercial interests of my own country.

Mr. CAMERON. The difficulty in my mind now is in voting for the resolution as it has been amended. I do not see that we have any authority or any right to send officers of the Navy over to this exhibition at Havre without paying them. The Secretary of the Navy certainly under no law of Congress can order a naval officer to go there and remain a month or two, as he probably would have to do, at his own expense; nor do I think it would be dignified for this country to send messengers over there or agents or representatives—I suppose that is the word—representatives of our people, or, if not of our people, of our commerce, our commercial people—and give them no compensation, not allow them to live as other gentlemen desire to live there. To send officers in that condition certainly would tend to dishonor the country.

Mr. SUMNER. The Senator will allow me to remind him that they have their pay, I presume, under the resolution, even as amended by the Senator from California, as naval officers; but it is provided by the resolution that there shall be no additional pay.

Mr. CAMERON. They will have the pay that they would have at home; but naturally they must incur much greater expense in going abroad, and especially in going to attend an exhibition like this. Really I do not see, under all the circumstances, that any good can come to the country from it. How is commerce to be benefited by the exhibition at the city of Havre, great seaport as it is, of a few vessels in the neighborhood there? Havre, with all its commerce, is not equal in its ships and the variety of its sea-going vessels to the city of New York; nor have the ship architects of France proven themselves to be anything so skillful as the shipwrights of this country. Therefore, we can receive no benefit from the knowledge these officers may bring home of that kind. There is to be no commercial exhibition at Havre, as I understand it. It is to be a mere display of the cast-off articles of the Paris exhibition.

Mr. SUMNER. Oh, no; not at all.

Mr. CAMERON. Something of that kind.

Mr. SUMNER. Oh, no.

Mr. CAMERON. At all events, it seems so to me. The argument against it, in my mind, is that it is sending one or more naval officers there without any means of living as the representatives of the Government should do when they go abroad. I do not want any representatives sent; but when they do go abroad I want them to live and act as gentlemen should do, worthy of men representing this great country of ours. I should be very sorry, indeed, if I happened to be at Havre next summer, to see representatives of other Governments there living in a style befitting the most respected and dignified gentlemen, and our naval officer living somewhere in narrow quarters, somewhere on the quay, living on his bread and cheese, as they say the Senators did in Massachusetts a great many years ago. [Laughter.] I do not want that at all. I think, therefore, the best thing we can do with this measure will be to vote it down. I should have voted for it before, I think, if the officer was to be paid, but I think the better way now is to vote it down.

Mr. MORRILL, of Vermont. I see that the Senate is not much in the mood of doing business, and we may as well discuss this question, perhaps, as any other. I certainly am very much surprised to find the tenacity with which the Senator from Massachusetts clings to this proposition. This exhibition certainly appears to me to be a very petty affair. It is certainly not an exhibition that is gotten up by the nation of France. It is small compared with the exposition that was held in Paris last year; and, happening to be there, I know the pain with which Americans looked upon the exhibition made by the United States—not that it was not a respectable one so far as it went, but it was very meager in proportion to the capacities of this country.

Mr. SUMNER. Undoubtedly.

Mr. MORRILL, of Vermont. We could not compare even with very inferior Governments. I know that if we authorize this to go on in this manner we shall be held responsible for doing the best that we are able to do, and yet that no such result will follow. We go there knowing beforehand that we shall be eclipsed by more than half a dozen Powers of not a fifth part of our commercial marine. It is a very great responsibility to impose upon any portion of our commerce. Can an individual afford to take his ship from Maine and go to Havre for the mere chance of competing with all these other nations who have their means close at hand? The idea to me seems utterly absurd. I am not for engaging in it; and if I were I would, like my friend from Pennsylvania, be in favor of appropriating a liberal sum, so that we might come out with something of an air of triumph.

Mr. President, one of the earliest lessons imposed upon me by my father, when a lad, was to keep out of any and all sprees, but if I got into one to pay my part.

Mr. SUMNER. I hesitate to say another word. The Senator from Vermont is astonished at what he pleases to call the tenacity of the Senator from Massachusetts. He seems to forget that I am performing one of the humblest services that a Senator can. I am acting as the representative of the committee having this matter in charge, and I was unanimously instructed by them to report this resolution. What would the Senator have me do? Leave it on the Calendar and not press it on the attention of Congress? I know that Senator does not conduct public business in that way; I know that he devotes himself sedulously, or, according to his own language, tenaciously, to the matters which he has in charge; and in following up this measure now I am simply discharging my duty as the representative of the committee on this floor. The Senate may dispose of the matter as it sees fit; I shall have done my duty in asking them to act.

Then, again, there is another topic introduced by the Senator from Vermont. He suggests that we shall be represented inadequately there—that we shall gain no laurels. Well, I do not know whether we shall gain laurels there or not; but I do believe that the exhibition will be a source of information and instruction which will be advantageous to our country.

Mr. CONKLING. Mr. President, I dislike very much to persevere in an opposition which seems to be distasteful to the honorable Senator from Massachusetts, but yet, as we are likely to do nothing this afternoon except to dispose of this proposition, I beg to submit a remark before the vote shall be taken.

I believe this proposition to be derogatory to the dignity of this country, and to be worse than a useless expenditure of money. The Senator from California has offered an amendment, which apparently, and as far as he could make it effectual, will prevent the expenditure of money in reference to this mission. Everybody knows, however, that if an officer goes his expenses are to be defrayed.

I assume, therefore, that the proposition in brief is this: to send one or more, nobody knows how many, naval officers, at the public expense, at this time to attend a municipal exhibition to which neither this Government nor any human being in this country has ever been invited by the French Government or any French authority. I have heard the honorable Senator from Massachusetts read what he terms the invitation: but I repeat that no invi-

tation from the French Government or from any person speaking for the French Government has been read by the Senator or produced to this body. What is it? The municipal authorities of Havre propose to exhibit from one day to another day certain things, and the emperor and the prince imperial have consented to accept the patronage of that exhibition, and it is to take place under the tuition and management of a general committee, which committee sent some notice to Mr. Berthemy, the French minister here, by whom it is transmitted to the State Department, and in transmitting it he says, in substance, that he hopes the earnest wishes expressed—expressed by the committee, as anybody will see who looks at it—may be favorably regarded; and that he is instructed by his Government to transmit that wish or that notice of this committee, whatever it may be called, to us.

If that is an invitation in form or substance from the Government of France to the Government of the United States to participate in this municipal exhibition I am unable so to understand it, and I think anybody who looks at it will be equally unable.

There is, then, an exhibition to take place under the auspices of a municipal government in Europe who have appointed for that purpose a general committee, just as such committees are appointed at every fair and by every instituted exhibition held in every town and every city in this country, without going to horse fairs and cattle shows or any of the more conspicuous exhibitions: and thereupon the proposition is that the Secretary of the Navy shall be authorized to detail just as many officers as he pleases, to do what? Go there, and, as the Italians say, "peacock" themselves in their uniforms. That is all there is of it.

Sir, we have a fleet afloat in foreign waters now, and a sea king floating with it; and if any man feels emulous that his country should make a parade upon the water and in the maritime world that parade in a higher and better sense is being made now. As to maritime exhibitions, we have had a maritime exhibition for four years in our own waters of more consequence and of more instruction at one point of time than a windrow of such exhibitions as this will be.

Now, sir, what is the object of this? The honorable Senator says these emissaries are to bring back a tribute of observation and discovery. Sir, I wonder whether anybody believes that if anything is on exhibition in Havre for two or three months the sea-faring and sea-going and sea-interested men of this country will not know all about it. I wonder if any Senator believes that they will not be there in their own way, with eyes to see and ears to hear, not only dispensing with the necessity of naval officers but themselves much more reliable for purposes of utility than any such agency will be. I say again that I regard it as an undignified act on the part of this Government, a useless act, and an act which will certainly lead to the expenditure of money.

Now, one other word and I have done. I should be glad to find that subject which is of the right size and the right shape in all respects to constitute a commencement of retrenchment. A question arises about stationery, and it is too small to deal with. A question arises about subsidies for one hundred and fifty miles of railroad, and it is too large to encounter. A question of this sort arises, and it is a mere bagatelle. The Senator says, as I heard a distinguished gentleman in the other House say in reference to our participation in the Paris Exhibition, that it is to cost nothing, is a mere picayune affair, a trifle; and although he says it sincerely, and although, if he could control it, it might be so, we understand perfectly well that it involves expense, more or less. I submit that if we mean what we say with regard to cutting down at once taxes and appropriations we had better begin somewhere, and I have seen nothing lately which seems to me better to begin with than this. It has not utility, it has not a consideration of respect or courtesy due from us to a foreign Government connected with it; and it is nothing, as I submit, except a superfluous proposition to expend money and in a way which will not redound to the credit of this Government or of its citizens. I beg to demand the yeas and nays on its passage at the proper time.

Mr. CHANDLER. I desire to ask the chairman of the Committee on Foreign Relations if he can inform the body how many American exhibitors have already entered for exhibition at this show?

Mr. SUMNER. "The United States up to the present time"—I read from the letter of the consul—"figure for thirty-three exhibitors;" that was of the date of December 14, 1867.

Mr. CHANDLER. I read from the same document:

"The number of French exhibitors already inscribed is no less than two thousand.

"Belgium and Italy will likewise exhibit those articles pertaining to their marine which figured at the grand Exposition, and have appointed special commissioners to reside at Havre.

"The number of Belgian private exhibitors is seventy-five; that of Italian exhibitors ninety."

We have thirty-three, I think the Senator said:

"Great Britain has promised to appoint a commissioner, and no less than seven hundred and thirty-three English exhibitors are now inscribed.

"Sweden, Norway, and Denmark have already appointed commissioners, and their Governments have promised to send all the objects exhibited by their marine departments at the Paris Exhibition. The number of Swedish, Danish, and Norwegian exhibitors is forty-seven.

"Austria has already furnished thirty-five exhibitors, and, it is thought, will shortly appoint a special commissioner."

A little further on, if the Senator will look, he will find something rather worse than building a house. You know last year, after we had made all the appropriations that were required to enable us to be represented at the Paris Exhibition, we were then asked to make, and did actually make, an appropriation to build a house; but they are not going to ask us now to build a house at Havre. No, sir; they have a much better speculation on hand. Instead of this time asking us to build a house, as they did last year, they say:

"A moderate charge will be made to exhibitors to cover the expenses of the building, keeping, insuring, &c. The rates are fixed as follows."

For a superficial square yard in-doors, twenty-five francs—five dollars in gold; for superficial half yard, fifteen francs—three dollars in gold. They do not require us to build a building. They can better afford to do it themselves; perhaps they have some old ones they want to use. For a superficial quarter yard on the inside wall they charge twenty francs, or two dollars in coin. Now we come to the out-of-door department. It seems we can have out of doors the whole of France on these terms: "per superficial yard," for all out of doors the price is five francs—very cheap! only one dollar for a square yard out of doors! It is the most stupendous speculation ever gotten up! They do not require us to build a building; they will not call on us for an appropriation for that purpose because they are willing to let us have all out of doors at five francs per yard!

Mr. CONKLING. The Senator does not suppose that they expect to lease all out of doors at that rate, does he?

Mr. CHANDLER. I presume they will lease all the United States want out of doors at these rates; but we are not to build a house; that is $25,000 saved; but how much will it cost to buy all out of doors at five francs per square yard? Undoubtedly, if we really set ourselves at it, we could buy all in-doors at twenty-five francs a yard and buy all out of doors, too, at five francs. It is all for sale.

Now, Mr. President, I agree with my friend from New York that this is a most stupendous private humbug, that it is beneath the dignity of this Government even to discuss it; but, if we are to send a commissioner, look at the miserable show we shall make at this private exhibition, where they rent all the space in-doors at twenty-five francs per square yard, or five dollars in gold, and all out of doors for five francs a square yard, or one dollar in gold. If we do send a representative of this Government there I hope we shall make him the most liberal provision, financially, that was ever made for any representative of this Government, for God knows he will need it. [Laughter.] I am more opposed to this measure now, when we do not pay, than I was before, for all we shall have to show will be the exposition he can make of himself, and God knows it ought to be a large one. [Laughter.] I hope the Senator will move to fix his pay at least at $25,000. That would be a very small compensation, if that is all the show we can make. I am more opposed to this proposition now than I was before. Let us not disgrace ourselves by sending a commissioner where we are not represented, or substantially not, to a private exhibition, and then not even pay our own commissioner.

Mr. SUMNER. There is now another argument. My friend from Michigan objects to this exhibition because the parties having it in charge exact certain fees, being so much per yard for the space occupied by the articles exhibited. Is not that customary, I would ask my friend, on such occasions?

Mr. CHANDLER. Not in international matters, that I have ever heard of. They do not even do it in State or county fairs. I never heard of an individual charged in the United States for an article put on exhibition at any State, national, or other fair.

Mr. SUMNER. Does the Senator remember the exhibition in New York called the World's Fair in a glass palace?

Mr. CHANDLER. I do not know anything about that; but I remember it.

Mr. SUMNER. Did not every exhibitor there pay something for the space that he occupied?

Mr. CHANDLER. I cannot tell.

Mr. SUMNER. I think he did; but at any rate, whether he did or not, the proposition on the part of the persons holding this exhibition is simply that the exhibitors shall pay. We are not to pay. Our Government pays nothing.

Mr. CHANDLER. Our people do, if they are there.

Mr. SUMNER. Our people, if they are there, will pay for the space that they occupy.

Mr. CHANDLER. Certainly.

Mr. SUMNER. In that respect they will be on an equality with the people of other nations. The Frenchman must pay the same; the two thousand French exhibitors to whom the Senator has reference must pay the same; the Englishman must pay the same; the Prussian and the Russian, and all the other different nationalities must pay the same. We are on an equality in that respect, and therefore I come back again to the simple question, whether, all things considered, it is expedient that in this very inexpensive, if not to say humble way, we shall participate in this exhibition.

Now I meet still another objection from my friend. He uses very disrespectful language in speaking of it. I do not complain of anything he has said of myself; of course not; but I say he uses very disrespectful language in speaking of the exhibition. He characterizes it by a word which I will not repeat after him, and then he says it is a private affair entirely. Now, sir, this whole matter comes before the Senate through a communication from the Department of State, addressed to myself, as chairman of the Committee on Foreign Relations of the Senate, from which I will read a brief passage:

"The note of Mr. Berthemy, under the instructions of his Government"—

Mark that, if you please—

"The note of Mr. Berthemy, under the instructions of his Government, conveys to that of the United States an invitation to participate in this exhibition, and a request that commissioners may be appointed on the part of this Government to perfect the arrangements necessary for a representation; and it also conveys a request that the printed papers may be published in this country for the information of our citizens.

"In the absence of legal authority for adopting any of the measures above suggested, it is left for Congress to signify its decision as to the acceptance of the courteous invitation thus officially communicated and as to the other measures involved in such acceptance."

That is all I shall read, and I will add nothing more.

Mr. CONNESS. When the amendment which I had the honor to offer was adopted, protecting the Treasury of the United States against encroachment from this projected exhibition, I was satisfied, for one, that it should pass, but more satisfied in deference to the honorable chairman of the Committee on Foreign Relations, who has taken it upon himself, at the instance of the State Department, to present this joint resolution, than from any other cause.

Mr. SUMNER. I beg the Senator's pardon. I have not taken it upon myself; I was instructed by the Committee on Foreign Relations to report this resolution to the Senate.

Mr. CONNESS. Without any disrespect to the other members of the committee, I had really begun to believe that the honorable Senator was the committee.

Mr. SUMNER. Oh, no; not at all.

Mr. CONNESS. And I so spoke of him.

Mr. SUMNER. I am not at all.

Mr. CONNESS. Perhaps not. That is immaterial, however. It was consideration for the honorable chairman of that committee that inclined me to vote for it when the Treasury was protected against expenditure from it. This is to be but one of those great exhibitions that are gotten up in succession by that sagacious, far-seeing, able, and bad man, the emperor of France, that greatest and worst enemy of the rights of man on this globe. Ably and sagaciously he is engaged in endeavoring to transmit the power and the grasp that he holds on Europe, and upon the throat of France particularly, to his son: and this exhibition is, we are told, to be under the patronage jointly of the emperor and the prince imperial of France, a boy ten years old. The emperor, the empress, and the prince imperial, we are told in another paragraph, are to offer rewards or prizes, in specie or otherwise, for distribution to the exhibitors. Well, sir, the father of the boy, a few years ago, was not very well able to give prizes to anybody. I have no doubt that he is to-day; but how the boy legitimately comes with the means of giving them I do not know, though I have a guess about it. They do things in that country without much formality, and the treasury containing the collections that are made from the people of France is more easily gotten at than it is in this country of ours, and I suppose, that being the case, they are each of them able to give these prizes.

But I say, as I before mentioned, that this is but a step in the general direction of that astute man in his own behalf. He is making the capital of the world; so he thinks, so he says, and so it is. We are contributing to it now more largely, ten thousand times more largely, and I was almost going to say ten thousand times ten thousand, than we did to the great exhibition at Paris, the expenses of which, on our part, will foot up to among the hundreds of thousands of dollars. How? Our people are going to that capital, patronizing the ships that are put out by the French people upon the waters, and the English lines also. The American people make up the great body of travelers that cross the Atlantic, that go and come; and they all go to the great capital of France, to Paris, which this astute civil and military governor has been engaged in decorating with great assiduity and ability for many years. The people of France, so far as they have anything to say about the matter, seem to make no particular objection now; but it is anticipated by some that as the body, the corporeal part of this astute and bad governor, shall pass away, as it must in the course of time, this young scion is to be gradually introduced and raised up to take his place, to perpetuate the tyrannies of his father over the French people; perhaps again, as has been suggested, in our greatest need, if a need shall ever occur again, to undertake to organize the Latin race on the Continent of America, and undertake to restrain the advance of republican institutions, as carried forward by the United States.

I do not know that we have much reason to object to all this, certainly only in the way of an expression of opinion, as long as the French people consent to it, but I apprehend that that consent will be withdrawn one day. If God is just, and I believe He is, it will be so withdrawn. These exhibitions and the building of great cities by one autocratic mind and hand will have their end; civil government and civil liberty will be redeemed from the thrall that has been imposed upon it by this bad governor.

I have no particular objection, however, as it seems to be gratifying to the honorable Senator who is the chairman of this committee, as he feels it to be in the line of his duty to his own country, the proper performance of his duties, that this resolution shall pass, provided we contribute nothing from the Treasury at this time to pay for it. But, sir, there is in the few words that I have said some food for thought; and the time will come when some of the prophecies hinted at will be realized and justice will prevail, and this and like exhibitions, if carried on, will be carried on by the people of France under a more enlightened and better Government.

Mr. JOHNSON. Mr. President, as the chairman of the committee has stated, the resolution on the table received the unanimous sanction of the Committee on Foreign Relations. We supposed—at least I for one supposed, and I imagine the rest of the committee were of the same opinion—that it might be of service to have a commission of this sort sent to the proposed exhibition; that it could do no possible harm, and it would involve us in no extraordinary expense. My own impression, however, at the time, was that the invitation came virtually from the French Government, but now I understand from the honorable member from New York that the invitation is not one from the Government, but from some of the persons who constitute the committee to superintend this exhibition.

Mr. SUMNER. Will my friend allow me to explain? The French Government, as I understand it, have instructed their minister here at Washington to invite the presence and participation of the United States.

Mr. CONKLING. I do not so understand it, and I have read the documents.

Mr. JOHNSON. That was my impression; and if the honorable chairman of the committee, with the papers in his hand, is under that impression now, I shall certainly vote for the resolution. But, sir, I rose merely for the purpose of saying for myself individually that the occasion is one on which it is not altogether courteous to the French minister to assail his Government. We are at peace with France. Diplomatic relations exist between the two Governments, and no matter what the French Government may have done during the civil war there is now no disposition of which I am aware on the part of that Government to injure the United States in any way.

I should, therefore, have wished, with all due deference to my friend from California, that he had abstained—I know his motives are patriotic—from casting reflections upon that Government. Whatever may be the character of Napoleon, and however just it may be to denounce him, if hereafter we should get into a state of hostilities or a state of war or threatened war with that Government, it seems to me that now, when we are at peace, with no prospect whatever of a war between the two nations, it is better to speak, if we speak at all, in kind and in conciliating tones, rather than in tones which may possibly, if they come to the ear of that Government, involve us in some difficulty, either now or at some time hereafter. Napoleon certainly—at least I believe so—would at one time have been very glad to see the Union broken up. I think that is to be collected from his dispatches relative to his military expedition to Mexico. But I imagine he has abandoned that. He resolved, as I think, to withdraw his forces from Mexico, because he became convinced that he had engaged in a hopeless enterprise; and I rather imagine, if he be the far-seeing man my friend from California says he is, and as I suppose he is, he never will again renew it. If he does not we shall remain at peace with France; and if we are to be at peace with France it is better that it should be a real peace rather than one which may be construed to authorize either Government or those in authority in either Government to speak unkindly of the other.

Mr. CONNESS. I merely wish to say that of course it cannot be taken that I have spoken the words of this Government. I occupy no executive position in it; I have not the honor to be a member of the Committee on Foreign Relations; but being a Senator here and a citizen and loving republicanism I could not have said less than I did on the occasion.

Mr. HOWARD. Mr. President, the Senator from Maryland in very grave and very proper terms utters an implied rebuke at least of the language which has been used by Senators in reference to the emperor of the French. I do not find any fault with that; it is a matter of taste. Still, the Senator should not forget that this is a hall of free discussion, where Senators and others who speak are allowed to utter their sentiments freely and without incurring any responsibility to the Senator from Maryland or others, and much less to the emperor of the French or any other Government in the world.

The matter now comes before us in the shape, as it is construed by the Senator from Massachusetts, of an invitation from the Government of France, that is from the emperor of the French, to this Government to participate in the exhibition which is about to take place. When an invitation is presented to a gentleman by another person, the person invited at least has a right to take into consideration the character and standing of the inviter, and as this is held to be an invitation from the emperor of the French, I hold it to be my right to speak of the political, public character of this distinguished gentleman in such terms as I think becoming to myself as a Senator of the United States; and I say again, as I said before, that I will not give a vote nor do an act as an American Senator the tendency of which shall be to encourage by flattery or compliment or otherwise the towering ambition of that most distinguished of modern tyrants. I have not forgotten, I do not feel at liberty to forget, the injury which he has attempted to do to my country; and whether he or his minister likes it or not is a matter entirely immaterial to me. I do not feel disposed to extend this compliment to the emperor of the French, nor to the prince imperial.

The joint resolution was reported to the Senate as amended; and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

Mr. CONKLING. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 19; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Cole, Conness, Dixon, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Johnson, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Sumner, Van Winkle, and Williams—21.

NAYS—Messrs. Cameron, Chandler, Conkling, Corbett, Cragin, Edmunds, Howard, Howe, Morgan, Morrill of Vermont, Ramsey, Ross, Sherman, Stewart, Thayer, Tipton, Trumbull, Wade, and Willey—19.

ABSENT—Messrs. Bayard, Davis, Doolittle, Fowler, Grimes, Guthrie, Morrill of Maine, Morton, Norton, Saulsbury, Sprague, Wilson, and Yates—13.

So the resolution was passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 599) making appropriations for the support of the Military Academy

for the fiscal year ending June 30, 1869, was read twice by its title, and referred to the Committee on Appropriations.

On motion of Mr. BUCKALEW, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 6, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ELIZA ANN UPRIGHT.

Mr. FARNSWORTH. I ask the consent of the House to introduce a bill.

The SPEAKER. For action or reference?

Mr. FARNSWORTH. I would like to have action now if I can. If I cannot I ask to have it read.

The bill was read. It directs the Commissioner of Pensions to inscribe on the rolls the name of Eliza Ann Upright, of Winnebago county, Illinois, who had ten sons in the Union Army in the late war, two of whom were killed, a third died from sickness in the service, and others of whom were wounded, and to pay her at the rate of twenty dollars per month, to commence from the date of the passage of this act.

Mr. BOUTWELL and Mr. UPSON objected to the consideration of the bill.

Mr. FARNSWORTH. Will the gentlemen allow me to explain it one moment?

Mr. BOUTWELL. I do not withdraw the objection.

Mr. FARNSWORTH. Then I withdraw the bill, and will ask to introduce it on Monday next. A woman who has had ten sons in the Army ought to have a pension.

Mr. ORTH called for the regular order.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER. The morning hour has now commenced, and the House resumes the consideration of House bill No. 584, concerning the rights of American citizens abroad, upon which the gentleman from New York [Mr. CHANLER] is entitled to the floor.

Mr. CHANLER. Mr. Speaker, before I proceed with my remarks I ask the Clerk to read a joint resolution which I shall propose at the proper time as a substitute for the pending bill.

The Clerk read as follows:

Joint Resolution calling for executive information.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order that prompt means may be taken with effect to protect American citizens in their rights the President of the United States be, and hereby is, requested, if not incompatible with the public interest, to communicate to this House at an early day all the correspondence and documents which may give full and satisfactory information with regard to all treaties, or any treaty theretofore made or now being made by this Government with foreign nations in regard to the rights of American citizens abroad, especially in regard to the right of expatriation and the right of naturalization; also, if such rights have been contravened by the Government of any foreign State contrary to the intent and purpose of the public law as established by the Supreme Court of the United States and as enunciated by the United States executive department in the cases of John S. Thrasher and Martin Kozsta, together with the name of the citizen whose rights and the nation by whom such rights have been interfered with; also, such facts and dates as may to the President seem necessary in the premises.

Mr. CHANLER. The subject-matter of this bill is an international question, and rightly belongs to the executive branch of this Government. The evils which we propose to remedy have arisen in foreign countries, where an act of Congress has no weight whatever; and the remedy is only to be reached—

1. By an appeal to those foreign Governments through our diplomatic agents.

2. By special treaty with each foreign nation where the trouble has arisen.

3. By remodeling of the existing law of nations in an international congress assembled for that specific purpose in Europe or America.

The call for such an international congress should certainly come from this Government, as the first democratic representative Government of the world. The principles of the international law regulating expatriation, as interpreted by European Governments, have been for many years practically and theoretically opposed by this Government through our leading statesmen, and with great justice, although thus far in vain. The position of the people of every nation in regard to their allegiance to their Governments; the rapid and easy intercourse among mankind; the necessity of emigration as a moral, a sanitary, an economical, and a political question, to promote the welfare of the people and preserve the integrity of Governments—all combine to bring this subject in bold relief before the world at this time as something demanded by the development of Christian civilization in the nineteenth century.

Since our fathers left Europe and founded this land of refuge of their race, for the people of Europe, against what are called the feudal customs and privileges of the aristocracy, the democracy of Europe has indeed risen to assert its rights and has been able to make those rights respected. But the people of every European State are at the mercy of their standing armies. No reform in international law in Europe is possible in the interest of the subject; the initiative must come from this Government. The right of expatriation, however justifiable by the spirit and philosophy of the law of nations, can never be asserted by any people with success. It is a question of Governments among themselves. We, therefore, being the strongest and most independent of the democratic Governments, should take the lead in changing the law of nations, either practically, specially, and by treaty, or thoroughly by amending the law itself. This seems to me to be part of the mission of this Government among the nations. The ties of blood which bind us to the masses in Europe, the pride of race which seeks to perfect our own welfare by improving in every way the condition of kindred men, the law of self-preservation, urges on a popular Government like ours to strengthen the citizen in his claim to this right of expatriation. Nor can we ever forget the gratitude which the people of this Union owe to those of the masses of Europe who shed their blood in our cause and who sympathized with the Union in her struggle not only against rebels at home, but against the evil machinations and mischievous plottings of European statesmen of the reactionary school. But our own destiny demands prompt action from this Government. Ours is a nation of progress, or it is nothing. We must advance, ever advance, at the head of the column of progress among the nations or perish; and the rights of expatriation, immigration, and American citizenship are synonymous. If our people are unwilling to live under our system of laws they are empowered to change them. No man need live among us against his will. Such should be the universal law.

A young and prosperous nation like this, blessed by unprecedented progress within a century not yet completed, the recipient of the material, literary, moral, and religious advantages which Europe has brought forth in our day, or which she perfected in the course of her past civilization, we act with a bad grace if we turn our backs upon the immigrant asking for our sympathy or on the naturalized citizen claiming our protection.

The people of this Union is made up of emigrants from Europe, Asia, Africa, and the isles of the sea, or of the descendants of such emigrants. It would be ignoble and unmanly to refuse to future emigrants the rights we and our ancestors have so long enjoyed.

Mr. Speaker, there always remains to a brave people the right to maintain the right. History, ancient and modern, is built up from its foundation on that principle. Every nation of Europe individually, and the coalition of those nations from time to time, have made their conviction of what was right the rule of their conduct. The most recent instance, perhaps, is the coalition against Russia in the Crimea. Prussia, who claims many of our citizens as her subjects; Austria, who has done so; England, who refuses to relinquish her claims over her citizens, notwithstanding the starving condition of her poor, who die at home and are too miserable to enjoy the boasted rights of a Briton; France, who threatened every nation with the terrors of a French republic—all have made and unmade the public law at will; and America can also, if we are victorious, decide the question, just as Napoleon the Great, by his European continental wars, established the Code Napoleon as a part of the international law of Europe. It is held as international law by nearly all, if not all the Latin races of Europe.

The treaties by which Napoleon established his code are part of the history of his dynasty. Those treaties were forced on Europe by war. So with regard to the international law established by treaties at different periods of European history anterior to Napoleon, as in the treaty of Westphalia, of Utrecht, and of Paris in 1763:

"The peace of Westphalia inaugurated the authority of international law by proclaiming so close a community of interest between the nations of Europe as to justify, and even necessitate, common counsels; and it recognized the power of an European congress to adjust national claims according to an understood system of national rights, which was then the public law of Europe. The negotiations of Utrecht went further. The questions then discussed were not so much questions of right as of interest. They declared the existence of an European balance of power not dependent upon dynastic rights, no feudal constructions, but regulated by the exigencies of great national interests."—*Trescott's History of American Diplomacy*, page 12.

Thus these European States have since the Treaty of Utrecht up to the present made international law for themselves in defining their interests and balance of power among themselves. Certainly, if that system of European international law is irksome to our people, unjust and oppressive, we are justifiable in every way in an effort to reform that law by peaceable means if we can calmly and deliberately as a wise and civilized nation, but these failing, then a war is inevitable.

NEED OF INTERNATIONAL CONGRESS.

The representatives of the American people should not forget the origin and causes of our national independence. It sprung from the struggle between a colonial people claiming certain inalienable rights and the power of the mother country based upon the privileges of her aristocracy. The same grievances, modified in form, exist in all European colonies to-day. Those aristocratic privileges which harassed and overtaxed the people of Europe in 1776, though alleviated by wise laws, still press heavily upon the people. We have escaped from the burden, and the Spanish republics of South America have escaped from their oppressive allegiance to Spain. They have all common cause with us, the people of Europe, the colonies of Europe, and the Spanish republic of America. We had a memorable instance of the last in the late invasion of Mexico by Maximilian of Austria as the champion of the aristocracy of Europe. He struck a last and desperate blow in behalf of monarchy at the behoof of his peers. In that conflict the secret and subtle sympathy which binds two free peoples together united this Government with the sister republic, and we joined hands in the struggle, although our own existence was in peril. The necessity of emigration from Europe in the republics of America is another cause of common interest; and as the other colonies of Europe achieve their independence they will feel the same necessity. They will see the need of changing the interpretation now given to the law regulating the right of expatriation.

And European Powers will be naturally and inevitably invited to accept that control over the destinies of other nations in other continents which shall be accorded to them by common consent of their peers among the new nations. They will not be then, as they are now, the arbiters of international law. Nor is this period remote, under the influence of the same laws of progress which within the last fifty years have developed this country, Can-

ada, and Australia. If the democratic principle of the right to expatriate ones self prevails it will become the interests of aristocratic and kingly Governments to rule in the interests of their people, that they may be satisfied and remain at home. Dissatisfaction on the part of the people of Ireland under the tyranny of the British Government and the prejudiced legislation of the English aristocracy drove that brave and independent race into exile. The narrow and worn-out policy of the Governments of Germany, England, Scotland, and Sweden have forced their people to emigrate. On the other hand, the facility afforded to emigration has relieved those Governments from the dangers of revolution, pestilence, and famine to a very remarkable degree. The difficulties that surrounded emigration or expatriation has made Poland a curse to her conquerors, and it may be reasonably asserted that a fear of an emigration from the Russian empire to some more congenial country of the former serfs of Russia had a large influence upon the mind of those who advocated their liberation. Emigration and expatriation are practical declarations of independence of the individual citizen, and when developed into colonial power naturally produce national independence. Such is the philosophy of our own history, as illustrated by the rapid formation of new States within this Union upon this same great principle of the right of expatriation and emigration which led to the Declaration of Independence in 1776.

In advocating the right of expatriation we are perfecting the law of our own national existence. It is, I repeat, our destiny, our duty, and our glory. To give a clear, practical effect of this great law on our national development I annex a statistical statement of the increase of population in this country since 1790. The accuracy and weight of these figures are guarantied by a gentleman—an American citizen—of high attainment in the public affairs of both Europe and America. The force of his deductions from these figures all militate against this bill, and were communicated to me in reference to the manifest injustice done by drawing an invidious distinction between native and naturalized citizens:

"*Statistics of foreign population of the United States since* 1790.

"The United States present the remarkable spectacle of a nation settled and civilized by unindigenous races, the population amounting—

In 1790 to	3,929,827
In 1800 to	5,305,937
In 1810 to	7,239,814
In 1820 to	9,638,191
In 1830 to	12,866,020
In 1840 to	17,069,453
In 1850 to	23,191,876
In 1860 to	31,445,080

all of European descent, with the exception of about 4,000,000 African and about 1,000,000 of aboriginal North American and of South American races. The above figures of the population from 1790 to 1860 are taken from the census. No record seems to have been kept of the foreigners arriving in this country from 1790 to 1820; but from 1820 to 1860 the census report indicates the arrival of about 5,000,000, of whom 2,700,000 are from the British dominion, 1,500,000 from Germany, and 800,000 from other foreign countries. Five million in addition to this number are foreigners; 2,000,000 who arrived between 1790 and 1820—aggregate 7,000,000 foreigners arrived between 1790 and 1860—or equal to the total population of the United States in 1810, and to about one fifth of the approximate population in 1868, and near double the amount of the population of the United States in 1790. Estimating the total population of the United States in 1868 at 35,000,000, which is rather an under than an over-estimate, their origin may be described as follows:

Irish, Scotch, English, Welsh	15,000,000
German, Scandinavian, Dutch	10,000,000
Latin races (*i. e.*, Spanish, French, &c.)	5,000,000
African	4,000,000
Aboriginal North American Indians, South American, and other races	1,000,000
	35,000,000

"Thirty million inhabitants of the United States in 1868, these being of European parentage, about only 3,000,000 of whom existed in 1790, the question as to the chronological procedure of this population, and the ratio of the reporting increase of the various nationalities of which it is composed, might form a proper theme of investigation."

AMERICAN INTERNATIONAL LAW.

The subject of expatriation has received grave consideration from our jurists, and examples enough have arisen to make our way plain before us in treating this subject in any future case which may arise. A brief review of the discussion given to this subject by Mr. Webster, Mr. Marcy, and Mr. Wheaton will bring us to a just conclusion of our duty in the matter now before the House.

AMERICAN LAW ON EXPATRIATION.

Nor are we without proper land-marks to guide us in our course:

"The general rule of the public law is that every person of full age has a right to change his domicile; and it follows that when he removes to another place with the intention to make that place his permanent residence or his residence for an indefinite period, it becomes instantly his place of domicile; and this is so notwithstanding he may entertain a floating intention of returning to his original residence or citizenship at some future period."—*Mr. Secretary Webster in the case of John S. Thrasher*, December, 1857.

The Supreme Court of the United States has decided—

"That a person who removes to a foreign country, settles himself there, and engages in the trade of the country, furnishes by these acts such evidences of an intention permanently to reside in that country as to stamp him with its national character."—*Wheaton*, part 2, chapter II, page 123, foot note.

But as has been already said of every foreign born, Mr. Wheaton, in his learned work on international law, declares—part eleven, chapter eleven, page 122, under the head of "naturalization:"

"The right of every independent sovereign State to naturalize foreigners and to confer upon them the privileges of their acquired domicile."

In foot note (a) he elucidates this assertion by quoting Mr. Secretary Marcy's famous letter in the Kozsta case above referred to, on page 28 of same work, to this effect:

"There is great diversity and much confusion of opinion as to the nature and obligations of allegiance. By some it is held to be an indestructible political tie, and though resulting from the mere accident of birth, yet forever binding the subject to the sovereign; by others it is considered a political connection in the nature of a civil contract, dissoluble by mutual consent, but not so at the option of either party. The sounder and more prevalent doctrine, however, is, that the citizen or subject, having faithfully performed the past and present duties resulting from his relation to the sovereign power, may at any time release himself from the obligation of allegiance, freely quit the land of his birth or adoption, seek through all countries a home, and select anywhere that which offers him the fairest prospect of happiness for himself and his posterity. When the sovereign power, wheresoever it may be placed, does not answer the ends for which it is bestowed, when it is not exerted for the general welfare of the people, or has become oppressive to individuals, this right to withdraw rests on as firm a basis, and is similar in principle to the right which legitimates resistance to tyranny.

"The conflicting laws on the subject of allegiance are of a municipal character, and have no controling operation beyond the territorial limits of the countries enacting them. All uncertainty as well as confusion on this subject is avoided by giving due consideration to the fact, that the parties to the question now under consideration are two independent nations, and that neither has the right to appeal to its own municipal laws for the rules to settle the matter in dispute, which occurred within the jurisdiction of a third independent power."

On the right of protection in foreign countries Mr. Webster, in December, 1851, then Secretary of State, in a communication to this House, said:

"It is undoubtedly true that an American citizen who goes into a foreign country, although he owes local and temporary allegiance to that country, is yet—if he performs no other act changing his condition—entitled to the protection of his own Government; and if, without the violation of any municipal law, he should be treated unjustly, he would have a right to claim that protection; and the interposition of the American Government in his favor would be considered as a justifiable interposition. But, as has been already said, every foreigner born, residing in a country owes to that country allegiance and obedience to its laws so long as he remains in it, as a duty imposed upon him by the mere fact of his residence and the temporary protection which he enjoys, and is as much bound to obey its laws as native subjects or citizens. This is the universal understanding in all civilized States, and nowhere a more established doctrine than in this country.

"As the national character, according to the law of nations, depends upon the domicile, it remains as long as the domicile is retained, and is changed with it. Kozsta was therefore vested with the nationality of an American citizen at Smyrna, if he in contemplation of law had a domicile in the United States. To lose a domicile when once obtained the domiciled person must leave the country of his residence with the intention to abandon that residence, and must acquire a domicile in another. Both of these facts are necessary to effect a change of domicile; but neither of them exists in Kozsta's case. The facts show that he was only temporarily absent from this country on private business, with no intention of remaining permanently in Turkey, but on the contrary, was at the time of his seizure awaiting an opportunity to return to the United States. Whenever, by the operation of the law of nations, an individual becomes clothed with our national character, be he a native-born or naturalized citizen, an exile driven from his early home by political oppression, or an emigrant enticed from it by the hopes of a better fortune for himself and his posterity, he can claim the protection of this Government, and it may respond to that claim without being obliged to explain its conduct to any foreign Power, for it is its duty to make its nationality respected by other nations, and respectable in every quarter of the globe."—*Wheaton's Elements of International Law*, page 133.

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"By the consent and procurement of the emperor of Austria Kosta had been sent into perpetual banishment. The emperor was a party to the expulsion of the Hungarian refugees from Turkey. The sovereign, by such an act, deprives his subjects to whom it is applied of all their rights under his Government. He places them where he could not, if he would, afford them protection. By such an act he releases the subjects thus banished from the bond of allegiance. Any other result would make the political connection between the subject and the sovereign a state of unmitigated vassalage, in which all the duties and no rights would be on one side and all the rights and no duties on the other."—*Wheaton's Elements of International Law*, page 130.

From all the foregoing remarks but one conclusion can be justly drawn, and is summed up in Mr. Marcy's own words in the Kosta case:

"The establishment of his domicile here invested him with the national character of this country, and with that character he acquired the right to claim protection from the United States, and they had the right to extend it to him as long as that character continued."

Now, a naturalized citizen and a native citizen are identical before the law of this country. The right of each to protection from this Government is inalienable so long as our laws are obeyed by them. If domicile can give the right of protection from the Government, so clearly shown by the dispatches of Mr. Webster and Mr. Marcy in the two cases just shown, how much stronger claim on our protection have our adopted citizens fully naturalized and now in foreign prisons?

Mr. Wheaton, on page 138, part eleven, chapter eleven, of his International Law, does not deny the truth of the conclusion that adopted American citizens have every right to protection from our Government so long as they obey the laws. But he certainly adroitly, if not justly, removes the practical value of that protection to our adopted citizens abroad by his opinion upon the case of J. P. Knocke, July 24, 1840, MS. dispatches, in which he asserts that Mr. Knocke, being a Prussian, and having returned to the country of his birth, "his native domicile and character revert;" in other words, a

naturalized citizen is debarred, by this opinion of Mr. Wheaton, from visiting the country of his birth.

Such an opinion, notwithstanding the high authority which declares it, is to my mind unjust and not sustained by the opinions before cited of Mr. Webster and Mr. Marcy, nor can it be held as consistent with the spirit of the age or the progress of civilization. The weight of authority and prestige of the practice among Asiatic and European nations may be, and undoubtedly is, construed in favor of Mr. Wheaton. As a great publicist he obeyed the "*stare decisis*" rule of the court over which he was one of the presiding judges. International law may in its letter, but not in its spirit, sustain the Governments of Europe in their exercise of a despotic power over their subject-citizens. By that law, strictly interpreted, thousands of American citizens are deserters to-day, and, if deserters, criminals liable to severe pains and penalties. And, indeed, any European-born who emigrates to and becomes a citizen of this country, and then goes abroad, is liable to arrest the moment he visits the land of his birth, should the municipal laws of his native State be enforced upon him, under any of the numerous enactments which fix the relations of sovereign and subject. Mr. Webster distinctly says in his dispatch on the Thrasher case, (Wheaton, page 125, part eleven, chapter eleven:)

"No man can carry the ægis of his national American liberty into a foreign country and expect to hold it up for his exemption from the dominion and authority of the laws and the sovereign power of that country unless he be authorized so to do by treaty stipulations."

At first sight this might seem to confirm Mr. Wheaton's opinion in the case of Mr. Knocke in 1840. But Mr. Webster was expressing his views of the rights of a citizen who had abandoned his citizenship in the United States and by making his domicile in, not visiting, a foreign country, lost thereby the protection "of the ægis of his national American liberty."

Mr. Wheaton informed Knocke that "had you remained in the United States or visited any other foreign country (except Prussia) on your lawful business, you would have been protected by the American authorities at home and abroad."

From all the foregoing facts it seems to me clear and incontrovertible that there is an established principle in American diplomacy in regard to the rights of our citizens abroad.

The issue has been distinctly made and manfully maintained by two of the greatest statesmen this country has produced since the Revolution. The insurmountable difficulty in the settlement of the conflict of laws between the United States and the States of Europe is that by the ruling of international jurists the "territorial principle," as it is called, limits the force of the law of naturalization. So that a naturalized citizen of this country is not absolved from his allegiance to his original or native State by any law of the country of his adoption.

Treaty stipulations alone can absolve the European subject from the claims of his sovereign or State.

Now, have such treaties ever been made by this Government with any of the European Governments? If so, where and what are they? By whom made? With whom made? If none have been yet made, why have they not been made? If they have been made, why are they not published? Not to have made such treaties with European Powers is a gross abandonment of our citizens to continual risk and insult.

To the attainment of the proper information I shall at the proper time present to the House for its consideration a resolution calling for executive information on this subject.

DON PACIFICO CASE.

The naturalization of foreigners in European countries is so insignificant that it is hardly worth while to refer to the laws prevalent on the subject, excepting to show that a naturalized British subject is commended by the British Government to the protection of foreign Powers with the same solicitude and energy as a native-born British subject; and Lord Palmerston gave orders for the bombardment of Athens on account of the alleged violation of the rights of a naturalized British subject, Mr. Pacifico, who was not a resident even in the United Kingdom proper, but of the British dependency of Gibraltar.

The gentleman from Massachusetts [Mr. BANKS] thus states the claims made on American citizens by European Powers:

"Now, European law holds all these people to the second and third generation, even 'perhaps for all time,' according to Mr. Westlake's authority as to English law, to the obligation of subjects of those European Governments."

The magnitude of this question, as far as America is concerned as compared to Europe, is so much greater that the European regulations and enactments and practices on the subject hardly deserve our special attention. The fact is that the omission in failing to make treaty stipulations with all foreign Powers by which naturalized American citizens are placed precisely and in every respect on the same footing in foreign countries as native-born American citizens, has assumed in course of time gigantic proportions commensurate with the increase of European population from three millions in 1790 to thirty millions in 1868. If any foreign Government were to set up a claim against any one of these thirty millions on account of a claim upon their parents and grand and grand-grand-parents which emigrated from European countries, the American war of independence would be reduced to a myth, and instead of having, as in the colonial era, the King of England for our master, we would be actually held in bondage by all the emperors, kings, popes, and sultans of Europe, from whose Governments these devices were to be put forth.

NECESSITY OF TREATY STIPULATIONS ON THE SUBJECT.

In the absence of treaty stipulations no one can tell that such claims may not be urged. Preposterous as they would be, the fact that no provision is made against the possibility of their being made is still more preposterous. Fortunately that most of the Africans are born in this country; otherwise they would come within the same category, and the President of the United States would be beset with all the chieftains of African tribes, claiming to exercise sovereignty over the original descendants of their country. As it is, we have to deal only with the thirty million Americans of European parentage, and though as far as the principle involved is concerned, there is little difference whether the pretensions upon their allegiance by foreign Governments are derived from claims upon these Americans themselves, upon their parents or grand-parents, the present question, narrowed to the class of citizens known to the law as naturalized citizens, and to their protection against each and all the claims, excepting, of course, for criminal causes that are and may be made upon them by the foreign Governments, whose allegiance they foreswore on being admitted to American citizenship.

But this question, narrowed as it thus is, still retains colossal proportions, if it is considered that the number of naturalized citizens, now amounting to seven millions, may reach within the next generation to twenty millions.

THE FAULT LAYS AT OUR OWN DOOR.

The fault lays at our own door. We made a grievous mistake in not boldly providing for this state of things, growing out of our European parentage, and prevailing upon foreign Governments to recognize the principle in international law by special treaty provisions that American citizenship is one and indivisible, that native or naturalized citizens are equals, united nationally and in every respect.

DUTY OF THIS GOVERNMENT.

Supposing that, in the absence of any known treaty with any European or Asiatic State for the protection of American citizens, this Government is either blind to its true duty or afraid to urge an obnoxious subject on foreign States, it becomes the evident duty of the legislative branch, especially this House of Representatives, to insist upon such prompt action as shall protect our people abroad.

It does not properly belong, perhaps, to this branch of the Government to mar the harmony which may exist between the Secretary of State and our foreign relations. But if the Representatives of a free and brave nation do not use every means in their power to redress the wrongs done by the oppressor of American citizens at home or abroad the curse of that nation will justly rest upon their memory. The brand of sloth and neglect will be stamped on our names in history when the inevitable consequence of the long list of grievances under which the naturalized citizen has lived in this country since the Revolution, shall culminate in universal Fenianism, involving this Government in a labyrinth of discords complicated by disgrace.

The destinies and rights of many million emigrants from Europe to this country are in our hands. A new epoch has been made in the law of nations by the power of steam. The lateen-sails which wooed the breeze to waft the Asiatic races along the shores of Indian and Chinese seas now flap idly on their reedy masts as the swift steamer rides the deep, laden with the adventurous freight of human beings departing from Asia to seek labor in the Western World or coming from Europe to seek their fortunes in Australasia. The barriers built by Confucius are battered down by progress and Christian civilization. The Chinese wall of exclusiveness and despotism is crumbling at the sound of the steam whistle, more terrible to barbarians than an army with banners.

The ponderous systems of old European Governments are now becoming as curious to the student of justice and human progress as the ruins of the Pantheon, the Coliseum, or the Catacombs. Emperors are now democratic—kings rule by the vote of their people and act with the advice and consent of an enlightened senate. The suffrage by ballot and extended right of suffrage are both loosening the fetters of prejudice and class. The aristocratic dispensers of patronage and monopolists of power, who held control of the society of Europe and dictated laws to her colonies, now recognize the influence and seek the support of the middle and lower classes as partners in Government, and not as mere payers of taxes. Emigration is but the exercise of a natural right to seek liberty and happiness, in due observance of law. Emigration is but the use of the divine right of way among nations. Once a sturdy and wise old burggrave of ancient Nuremberg announced this as a divine right when he said:

"God made heaven for Himself and His saints, and He gave the earth to men, to the end that she might be of benefit alike to rich and poor. The highways are for their use, and God has not put any tax upon them."

The highways of God are the broad seas which encompass the round world, and the great rivers and open plains are for the use of all who dwell upon the earth, that they may move over the face of their great inheritance free, content, and happy. Such is the higher law of creation and of common sense. The great steps which man has made to fulfill this law within the last fifty years have revolutionized his race and changed the structure of society. The relations between continents are now more intimate than any which existed between cities of the last century. Governments are no longer the solemn, stately engines of power which framed the pragmatic sanction, the treaty of Utrecht, or the Holy Alliance. Governments to-day are practical and must move with the wants of the people, or the people quit the Government and abandon the homes of their fatherland. Hence American emigration from Europe during the last fifty years.

The laws which regulate the intercourse between the citizens of this country and Europe are out of fashion, illogical, and troublesome. They must be molded to suit the humor of the people and the spirit of the age, or the people

of both continents will conspire together against the tyranny and absurdity of the laws and overthrow them. The progress of our civilization is onward, upward, and invincible. How much wiser is it, then, for us—

"Out of this nettle, danger, to pluck the flower, safety."

Let a diplomatic congress be convened which shall, like similar congresses in European history, remodel the international law in regard to expatriation.

CONCERNING THE RIGHTS OF AMERICAN CITIZENS IN FOREIGN STATES—THE BILL OF MR. BANKS.

This bill is really a bill defining the rights of adopted citizens in contradistinction to naturalized citizens, and is a declaration to foreign States how far this Government intends to go in defense of its citizens abroad.

The practical effect of the bill is to influence immigration to this country and eventually to control its direction and character or stop it altogether. By this bill we inaugurate a new legislative system by defining the policy of this Government toward its adopted citizens. Should this bill pass new and heavy responsibilities will arise to be borne by Congress. They have heretofore been left to diplomacy. The laws which we may hereafter pass on this subject must eventually control immigration. We are, in fact, just beginning to take on us responsibilities which we all along owed to the adopted citizens of this Government to undertake, for no foreigner will hereafter be likely, in face of legislative enactments defining our policy and fixing his claims on us, to adopt this country as his home unless our laws protect him in his rights as a citizen of the United States. Expatriation under the existing laws of Europe carries with it too many risks to justify the hope that any number of subjects of any European State will sincerely forswear allegiance to their sovereign and adopt this as their future country without full and reliable guarantee of protection from this Government against the former sovereign.

With regard to the duties and rights of native-born citizens exclusively abroad, as alluded to in this bill, I am firmly of the opinion that there is no protection in their behalf pressingly called for at this time, and the adding those provisions which refer to absentees or criminals or traitors, in section one, page 2, lines eighteen to twenty-one, is merely to conceal the true nature of the case or cater to the political feelings of the day without committing the Republican party or this Administration to any responsible, earnest line of policy in the matter in behalf of real sufferers.

The origin of this bill is to be traced to a very grave necessity, arising from the imprisonment by European Governments of American citizens of native and of foreign birth. Some seventy or a hundred petitions, resolutions, and bills on this subject have been sent by this House to their Committee on Foreign Affairs. The list of grievances detailed in those documents are now a part of the diplomatic history of the world.

Theoretically this bill proposes to extend the protection of this Government to all American citizens abroad, but, in fact, it exposes those of them who have been naturalized to new danger by solemnly enacting the unwillingness of the Government to protect persons liable to enlistment, as in the first section.

Taken as a whole and from the stand-point of the existing necessity for some speedy and sure remedy for a crying evil this bill seems weak, frivolous, illogical, and contemptible, unless it prove treacherous—as I have intimated above in regard to persons liable to enlistment—or unless it be a mask to some subtle foreign policy of this Administration not yet made known, and, like the smile of Cardinal Richelieu, conceal a deadly purpose or a crafty scheme.

If this bill is to pass as a declaratory act of the future policy of this Government in regard to our citizens abroad, it certainly ought to define who are citizens and who are not. Further, it should declare explicitly that there is no distinction between natives and naturalized citizens. All American citizens are equal before the law everywhere so long as they behave themselves properly. Again, it is necessary to define in the bill the term "expatriation," and to determine the absolute inherent right to dissolve the allegiance to his former country, to emigrate, and to become an adopted citizen of another country.

RIGHTS OF AMERICAN CITIZENS IN FOREIGN STATES.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

At home or abroad no distinction exists among American citizens according to all established declarations of this Government. There can be no just distinction in law or fact made between citizens of the same Government, and certainly no act of Congress should establish such distinction; to do so is at once unjust and absurd unless they be guilty of some violation of law. Certainly it is no crime to be born out of the United States of America, although it may be a great misfortune. I am not aware that a man is less liable to break the laws of his country because he was born in one latitude or another. A contrary view, however, to the one just expressed seems to be put forth by Mr. Adams. In his correspondence to Mr. Seward, April 12, 1866, page 103, he speaks of Mr. John A. Commenfor, an American citizen, in his interview with Lord Clarendon, as an Irish naturalized citizen. Mr. Seward, April 30, 1866, to Mr. Adams, page 113, speaks of American citizens native and naturalized. Mr. Adams to Mr. Seward, page 137, (June 14, 1866,) "the native Americans so far as known have been relieved," &c., and "I still continue to relieve all, &c., either as native or naturalized citizens."

"This more particularly related to the distinction made between the native and naturalized Americans in regard to the degree of Mr. West's right of access to them. I then read to him the substance of your dispatch No. 1717, of the 22d of March. His lordship then went into some reasoning to prove that the Government could not, consistently with their theory of allegiance, recognize any right on the part of Mr. West to visit the naturalized Irishmen. Here he repeated much of what he had said in our earlier conversation. I then pointed out to him the inexpediency of raising that when there seemed little necessity for it. The distinction made in these cases was purely invidious and embarrassing to my Government, without doing any good to them. It appeared that Mr. West might visit native Americans, but he was not allowed to do the same in the case of Irish-born naturalized citizens."

* * * * * * * * * * *

"I then called his attention to the case of John A. Commerford, embraced in your dispatch No. 1723, of the 26th March. This person had been held to be an Irish naturalized citizen, at Dublin. Such was the reply to Mr. West's representation in his case. I said I might have made it the subject of a note in form, but I preferred on the whole not to take that course, at least, before I had mentioned the matter to his lordship. The papers connected with the dispatch seemed to me pretty well to establish the fact that Mr. Commerford was a native American, and that he was innocent of all evil intention. In which case I strongly hoped that he might be released."

REMARKS ON THE BILL.

Provided always, That no citizen of the United States who is guilty of crime, &c., or of desertion from actual service in the Army and Navy of any foreign State, &c., shall be entitled to the protection contemplated by this act,

This portion of the bill affects a very large number of fellow-citizens, and is likely to work a great deal of injustice. In Prussia and the North German confederacy as well as in the southern German States an able-bodied man is considered a soldier in actual service from his twentieth to about his fortieth year of age. He serves first in the line and then for the rest of that time in the "landwehr."

In some of these States a man is regarded as belonging to the army from the day of his birth. Therefore there have been cases where such a person having left the country in which he owed military service according to this rule as an infant, was afterward—his name still being carried on the books and he not being present when called for—was published as a deserter. (*Vide* recent correspondence between Mr. Emile Kahn, of Cincinnati, and Mr. Seward.)

To show how far this bill may, if passed, injure American citizens visiting European countries under the proviso just quoted, I have made reference to the recent work of Mr. Hozier on the "Seven Weeks' War," which contains the most recent information on the organization and rules of military service in Germany and Italy. In France the new law regulating the organization of the army has, as far as I can learn, not yet passed, and from the determination of the French Government to prevent immigration from France the difficulty is not likely to be very great in that country.

As an illustration of the present policy of France and the troubles which constantly arise from the rigid enforcement of the European view of the right of expatriation, I refer to the diplomatic correspondence of Mr. Bigelow with Mr. Seward. (volume one, page 287, No. 299, 1866–67,) from which an apparent fear of French Fenianism seems to exist in the mind of that Government. Mr. Bigelow writes:

"I think the recent political reaction of the emigrant population from Ireland against the mother country has had its influence in determining this Government to guard itself against a similar inconvenience. I the more incline to this opinion from the gratuitous rigor with which naturalized Americans of French origin, in repeated instances, have been treated by the authorities here under the pretext that they are liable to military service."

The evil which this bill is called on to redress seems almost universal in Europe. No American is safe if a public official chooses to show his zeal to his Government by arresting Americans to discourage emigration.

Annexed are the extracts from the laws of the different German States and Italy in regard to military service in those countries. They are introduced here to furnish the House and the country with the basis on which the proviso in the first section of this bill rests as a protection to American citizens abroad. To my mind there is no protection given and new risk to our citizen created by our attempting to define by limitation and proviso an already established right:

The military service in Prussia.

"Every Prussian, no matter of what rank or distinction, is bound to do military service, the king's own sons not excepted. On becoming twenty years of age, the young man is called on to enter upon the performance of his military duty, and will remain connected with the same until he shall be forty-nine years old, when it ceases. The organization of 1859 (King William's while Regent) is now in power as follows: a recruit who joins the Prussian service serves for three years in the regular army, then for five years in the reserve, liable to be called out at any moment, and afterward for eleven years as a landwehrmann, to do in time of peace two weeks' service every second year, to attend roll-call every third month, and in time of war to obey the summons of his country without delay.

"In fact, the military organization of the whole country is such that every man connected with the army knows during peace what will be his post and what will be his duty the moment the decree for the mobilization is issued. (2.) The landsurms consist of all able-bodied men from sixteen to fifty years. The laws of Prussia consider every one a deserter who has failed to perform all or one of the above-named military duties. Thus a man who has filled his time in the regular army and emigrates without having obtained the consent of the Government is considered a deserter, because he has failed to obey the summons for the landswehr-drill. (The rule that young men of education and who have the means to procure their own sustenance, are in time of peace discharged from the first service in the regular army after one year, is immaterial here.) The States forming the German Union have most all adopted the Prussian system, while from those recently connected to the Prussian crown large numbers of young men have left their country to escape the military rule. All of these will be considered deserters by the Prussian Government, and under existing laws nothing can save them from trouble should they ever be found on Prussian soil before reaching the age of forty years."

The military service in Austria.

"Since the late war the Government of Austria has decided upon a total reorganization of its military system. Up to then the time for each young man—beginning with his twenty-first year—was ten years, of which the last two were spent in the reserve. Substitutes, however, were allowed. In the infantry the recruit was kept from one to three years with the colors; in the cavalry seven or eight years; in the engineer or artillery three years. He was, after his period of actual presence with his corps expired, dismissed to his home on furlough and called out annually for military exercise till he had accomplished eight years' service, when he was transferred to the reserve. In case of war the men on furlough were

called in to fill up the ranks of the army of operation, the men of the reserve to join the depot and garrison corps."—*Seven Weeks' War*, by H. M. Hozier, vol. 1, pages 84, 88, 130, 131, and 135.

The military service in Bavaria.

"In Bavaria the time of military service is six years. It is allowed to find substitutes for the service. The time of actual presence with the colors is twelve months in the first year, eight in the second, three in the third, and fourteen days in the fourth. Except for this time the soldier is sent home on furlough."

Military service in Würtemberg.

"The time of service in Würtemberg is twelve years; recruiting conducted by conscription, but substitutes allowed. Six of these twelve years are passed in the line, six in the landwehr. It must, however, be observed that the time of actual presence with the standards is about eighteen months; furloughs are granted for the rest."—*Seven Weeks' War*, by H. M. Hozier, vol. 1, pages 138, 139.

Military service in Italy.

"The recruiting of the Italian army is conducted by conscription; substitutes are, however, allowed. About fifty thousand recruits were levied annually before the war. These were divided into two portions proportionately to the vacancies in the ranks. The recruits of the first portion served for eleven years, of which the first five were spent under the standards; those of the second portion were called out and then dismissed, but were liable to military service for a period of five years. Besides the regular army, a national guard exists in Italy. This is of the character of a burgher guard, and exists for the most part only upon paper. It is intended, however, in future to form, in case of war, a mobilized national guard of two hundred and twenty battalions, mustering about one hundred and ten thousand men, to act as garrison troops. There exists also a corps of carabineers who do the duty of a gendarmerie, and number over twenty thousand men, but these would rarely be ever available against an internal enemy, as to them is intrusted all the police duties of the peninsula.

"At the beginning of the war the Italian forces were strengthened by the formation of volunteer corps to serve under General Garibaldi; of these there were forty-two battalions. As with all irregular troops, it is extremely difficult to discover what number these corps mustered, but they may apparently be safely calculated as thirty-five thousand men."—*Seven Weeks' War*, by H. M. Hozier, vol. 1, pages 147 and 148.

Reprisals.

"Or, if any citizen shall have been arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and the President shall, without unreasonable delay, give information to Congress of any such proceedings under this act."

The power to make reprisals is now exercised by the Executive in all needful cases. It is supererogatory to make any such declaration in this matter. As an instance of the exercise of this power, in retaliation for arrest of American citizens abroad, I refer to the case of the desertion of two men from the Cuzco, a British bark in the harbor of Valparaiso. See Diplomatic Correspondence, 1865–66, vol. 1., page 38, No. 1191, in which Mr. Seward says:

It is not supposed that her Majesty's Government expects from us any different measure of justice than that which they made to the United States.

Sections three and four of this bill provides—

That no citizen who shall establish a continuous residence beyond the limits of the United States for a term exceeding five years, shall be entitled to the protection.

Further, sections three and four—

That if any naturalized citizen of the United States shall return to his native country with intent to resume his domicile therein, etc., such citizen shall not be entitled to the interposition of the Government in his behalf. That the term domicile shall be construed to mean a continuous residence of more than one year in the native country.

The republic of Switzerland protects her citizens abroad without any limitation of time, and finds great benefit in this system, so far as her commercial interests are favored and increased by her citizens abroad, who, for instance, live in Brazil and other commercial countries longer than fifteen or twenty years, always as republican as Switzerland. The law in Prussia provides that her subjects abroad, by a continuous absence of ten years, lose the right of citizenship though their obligations continue in force.

The clause in regard to "domicile" will give rise to much trouble to naturalized citizens; they will be in danger to have no protection at all, either from the native nor the adopted country. So long as a citizen does not expressly dissolve his allegiance and does not swear allegiance to another country his citizenship remains in *statu quo*, unaltered and unimpaired. This is a very simple, natural, and true doctrine. The presumption above mentioned in regard to domicile is of no value at all, and will certainly be a source of disturbance; further, the limitation of five years is obnoxious, because we have naturalized citizens who have business establishments in New York, Philadelphia, Baltimore, and other places, and besides branches in Europe, established so that their partners, though American citizens, live in Europe controlling their branch business. Many Americans live in Alexandria, Egypt, for several years as merchants, and claim the protection as American citizens from the American consul there.

What! this bill. One portion of your fellow-citizens ask for protection and you threaten others with expatriation. The first section is a lively instance of the character of the whole bill. I am in favor of bold, prompt, practical, and really efficient action by this Government in relief of our citizens who have petitioned us for relief abroad; also, in favor of some action by this House at this time. But any action in regard to the principles involved in this bill, so far as protecting and defining the rights and duties of American citizens is concerned, and the responsibility of inaugurating a course of policy in this matter, will be assumed and monopolized by the party in power here. So far as the chairman of the Committee on Foreign Affairs is an exponent of the policy of his party and of this Administration, through the medium of this bill, I think it now generally admitted, by the tenor of debate, to be a failure.

What is particularly obnoxious as well as weak in this bill is the first line: "That all naturalized citizens of the United States while in foreign States shall," &c. Is this all that remains to the white race in this Union, Mr. Speaker? After all that has been done by this Congress and its two immediate predecessors to establish the constitutional amendment and its adjuncts, which declare that there shall be no distinction of color among American citizens at home or abroad, have we come to such "base uses at last," "to such lame and impotent conclusion," that a distinction is to be made between American citizens of different birth? The title, when taken together with the bill, is one of the most rare specimens of American statesmanship. The title is only surpassed in the grandeur of tone and mightiness of its swell by the roar of our national wonder, the cataract of Niagara. This bill, sir, is the fall, and a "great fall." If it ever passes this House it will fill this country and Europe with laughter and become the wonder of two hemispheres.

A splendid effort is made, a heroic promise given, in the first seven lines. And then the balance of the section goes on to undo all that this promise hints at.

The second section is a weak remedy and a wicked plan. It relieves no sufferer, but creates new victims; it liberates no one now in prison abroad, but threatens to fill all our prisons at home with subjects of foreign Governments in the way of reprisals. This punishes the innocent for the guilty. This is exactly what King Theodore of Abyssinia has done recently. The trick is stale and rank and smacks of African barbarity. England accepts his challenge and proposes to make reprisals by taking possession of him and his kingdom. But this bill pretends to resist the feudal law regulating the relations of sovereign and subject, or at least of ameliorating the severities of that systems of laws in this particular instance.

GENERAL VIEW.

The question naturally arises, in debating this bill, can any act of Congress really protect citizens of the United States abroad unless enforced by war or guarantied by treaty with each foreign State? If I understand the law of nations and limitation put upon laws enacted by one nation to protect her citizens against the encroachment of other Powers, certainly not. Comity among nations recognizes the customs and laws of each nation only so far as there is no conflict between the existing laws of those nations. But the moment one nation sets up a principle in direct hostility to the known and established law of another people or Power, the question of difference can only be settled by treaty or by war, generally, however, ending by treaty. To reach the harmony desired without resort to the *ultima ratio* of war diplomacy was established as a system. In other words, this is a diplomatic question belonging to the executive department, and can only be brought to a successful issue through a treaty. Legislation on such a subject as this does very well to open up the public mind preparatory to executive action, but no act of Congress can change the fixed principle of European Governments with regard to the right of expatriation, which lies at the very root of the civil compact between a State and its citizens.

Now, Mr. Speaker, while I do not propose to enlarge upon the subject of expatriation at this time, I assert that it does lie at the bottom of this bill, and is the only real, vital question in the bill. The petitions for relief and release from imprisonment presented to this House by our citizens at home and abroad are now a matter of history. Our duty calls on us to act; act boldly, decisively; to act at once, in vindication of the rights of American citizens in prison. In prison in Ireland, in prison in England, in prison in Germany, it matters not where or under what pretext or by whom; it is enough that the facts are now well established to be true and laid before this House, and touch the honor, safety, and liberty of our citizens. We cannot hesitate; we must not falter, waver, and prevaricate. We must liberate these men. The action of this House should be to redress, so far as we can, the existing wrong done or being done to our people, irrespective of birth. We are not called on to legislate at this particular time on the duties of native citizens abroad, nor on the duties of adopted citizens abroad; but simply to protect American citizens everywhere. This is our simple duty, our whole duty, and our imperative duty at this time. Not to do it now is to court insult in the future and record our own shame before the world. This bill does not meet the issue before the country in regard to the rights of American citizens either at home or abroad. Mr. BANKS says:

"There is no privilege for one that the other may not claim, and it is the first and highest duty of the American Government to accord its protection to the naturalized citizen in exactly the same degree that it does to the native-born citizen. And this bill proposes to establish that principle. It is the first time that it has been proposed in the form of a legislative declaration."

Although the chairman of the Committee on Foreign Relations says that this bill proposes to establish for the first time the principle of equality between the native and naturalized citizens in exactly the same degree as claimants for protection, still I am warranted in asserting that this bill actually establishes no new fundamental principle of foreign policy on the part of this Government. It shrinks, on the contrary, with almost craven caution from the avowed and reiterated policy of this Government, practiced or professed, from the utterance of the famous "Monroe doctrine," down to the present demand on Great Britain for the payment of our just claims for the Alabama piracies. This bill relieves no class of citizens, protects no class, native born or foreign.

The chairman of the Committee on Foreign Affairs proposes to reënact in the nineteenth century the brutalities of the Middle Ages by organizing a wholesale system of reprisals. Besides, the Executive has already this power and uses it.

The third section is an utter failure to protect those who have petitioned this Congress for relief, and ignores all obligations to existing claimants on our aid and protection.

It solemnly avows a brave determination to do certain things to certain delinquents hereafter, and will no doubt receive ready assistance from every foreign Government in doing all possible injury to American citizens who come within the proscribed list named in this section.

But whom does this bill protect or release from prison or shield from insult? No one; not one of your petitioners.

HISTORICAL VIEW OF CLAIMS OF OUR CITIZENS FOR PROTECTION.

With regard to the history of this subject, as well as with regard to the real character of this bill as developed in this debate, I will quote the remarks of the chairman of the committee who introduced this measure, and proceed to trace what seems to me a fair and logical conclusion to be drawn from his bill and speech in its support:

"The legislative departments, and especially the executive departments of this Government, have denied the interpretation of the rights of Governments in regard to allegiance which has been maintained by the European States, a doctrine founded on feudal ideas of society, and contrary, in spirit, in terms, and in effect, to the doctrines of all democratic political associations." * * * * * * *

"The Government of the United States has at no period in its history made such a declaration by legislative act, and if to-day we should make any such declaration recognizing the right of expatriation on the part of the people of the United States it would be interpreted by the Governments of Europe as a declaration that from the date of the act only we recognize the right of expatriation, and that would effectually cut off all the claims of the naturalized citizens of this country up to this day for protection while in foreign States. It is for this reason that whenever the question has been presented, and such a proposition has been made, without acting affirmatively or negatively, the Congress of the United States has always dismissed it as being unnecessary and inconsistent with the required and established rights of American citizens."

The claims set up by our Government through its executive department, are here fully admitted by the gentleman who introduced this bill, and are reiterated and supported by his subsequent argument:

"In 1812 the Government of the United States declared war against Great Britain, because Great Britain had invaded our territory, had stopped our ships, and taken from the service of the United States, from beneath the American flag, those whom they claimed to be English subjects.

"In 1842 Mr. Webster made very earnest efforts, very earnest appeals to the British Government to surrender this claim, but his request was rejected, or at least declined. Therefore up to this day the right of Great Britain, as maintained by her Government, has never been surrendered.

"The interest of the United States in this matter is now stronger than it was then. There were then in this country but 1,20,000 emigrants from European States; there are now 6,640,000, and they and their descendants amount to three fifths of the entire population of this country at this time. According to a report from the Bureau of Statistics, the persons who have emigrated to this country from foreign States since the organization of this Government, with their descendants, number 21,750,000. Now, European law holds all these people to the second and third generation, even 'perhaps for all time' according to Mr. Westlake's authority as to English law, to the obligation of subjects of those European Governments."

From these extracts from the gentleman's remarks it is justifiable to conclude that this bill refers not very remotely to this historical policy of our Government in regard to the rights of American citizens. I think it clear that those rights are incontrovertibly involved in the issue made between this country and Great Britain in 1812. It was not simply a question of the rights of native-born American citizens, but of the descendants of all British subjects as well of the British subject who had emigrated to this country. And, a little further on in his remarks, the gentleman says:

"I do not mean to speak extravagantly on this subject, but I will venture this remark, that this claim which, maintained by the European States, especially by Great Britain, affecting, directly or indirectly, so large a proportion of the people of the United States, this Government can never peacefully recognize.

"We go one step further than did the Government of 1812."

These are "brave words" in view of the fact that the Government of 1812 drew the sword and launched an American fleet at great cost to support our claims. But how does all this mighty valor evaporate in the bagman's declaration of the inalienable right to travel? Move on, says the policeman. Move on, you have the inalienable right to travel.

"Since then our population has increased till we number thirty-five millions. Three fifths of them are interested in one way or another with the claims made by the European States. The greatest punishment that can be inflicted upon any man or any nation is the denial of the right of locomotion or of travel.

"Americans must have, as other nations have, the right to travel in civilized States, committing no crime against the laws of those States and charged with no intent or purpose of wrong. Yet if this assumption of European States is submitted to, that privilege accorded in all periods to the people of every civilized nation is in a great degree impaired, if not destroyed. To this we as a nation cannot submit."

But, say our poor fellows in prison, like Sterns's starling, "We can't get out." Still, says the honorable gentleman from Massachusetts, "The greatest punishment that can be inflicted on any man or any nation is the denial of the right of locomotion or of travel." "Americans must have, as other nations have, the right to travel in civilized States, committing no crime against the laws of those States, and charged with no intent or purpose of wrong."

Mr. Speaker, is not this remarkably liberal of the honorable gentleman? He not only brings in "a bill concerning the rights of American citizens in foreign States," but he undertakes to protect those States against our citizens. He does not assume the championship of the wrongs of our imprisoned people, now cast into foreign dungeons under unjust charges, but he volunteers to punish or withdraw our protection from all American travelers who hereafter shall be charged with intent or purpose of wrong. Instead of being "a bill concerning the rights of American citizens" it seems practically to be a bill "to redress the wrongs of foreign States," and may have been drawn in the chancellery of some European consul so far as the redress of the wrongs of American citizens is concerned. On the topic of "locomotion" the gentleman is very explicit and daring, but on the release of our prisoners and payment of the Alabama claims he is very silent. This is not a question, as the gentleman styles it, simply of the right to travel; but the question is, have the American people the pluck to fight for the right to travel.

I now yield the remainder of my time to the gentleman from Pennsylvania, [Mr. BOYER.]

Mr. BOYER. It is hardly worth while to begin a speech which is to be limited to four minutes, for I should not be able even to state one of the many and various objections which I have to this bill, although I am earnestly in favor of the immediate adoption of some efficient and resolute policy to protect the rights of American citizens abroad. I shall not avail myself even of the poor privilege of asking permission to print my remarks, trusting that hereafter the limitations to this debate may be somewhat removed, so that I may have an opportunity before the question is finally decided to say something on this question. I yield whatever time I have left to my colleague, [Mr. WOODWARD.]

Mr. WOODWARD. Mr. Speaker, when I had the floor the other day on this question I was cut off by the inevitable hammer from finishing my remarks. I would like extremely to finish them now, but I understand I have not time. I therefore ask the privilege of printing the residue of the remarks which I intended to make and which I commenced last Thursday.

No objection was made.

Mr. WOODWARD. Mr. Speaker, when my remarks were cut off by the fall of your inevitable hammer last Thursday I was examining Lord Stanley's declaration that "Ireland was never so prosperous as now, nor was she ever more disaffected." You know, sir, that Lord Stanley is not only the son of Lord Derby, the present Premier of England, but is himself the Secretary of Foreign Affairs and speaks as one having authority. His assertion that Ireland was never so prosperous is sufficiently refuted by the recent declarations of Mr. Gladstone and Lord John Russell, to the effect that Parliament must take efficient measures very soon for the relief of the well-grounded complaints of Ireland. It is refuted also by the declining population of the island to which I alluded on Thursday. The two great facts to which the discontents of Ireland are referable are the church rates and the land monopolies. These are the forces that are driving them to our shores by hundreds of thousands. The established church, to support which Irish labor is taxed, is not the choice of probably more than one twelfth, perhaps one fifteenth of the Irish people. The mass of the people are Roman Catholics. That is the church of their choice and their affections, and to that their votive offerings are cheerfully given. But, in addition to the contributions which affection and piety dictate, there are the church rates, the poor rates, and all the public taxes which the Government imposes to eat up the earnings of the Irish peasant. When to these there is added the land rent, equal to about seven dollars and fifty cents of our money per acre, is it strange that Ireland is disaffected?—strange that Irishmen should seek our more happy country where all church contributions are voluntary, and where cheap land can be found?

The other source of discontent, the land monopoly, is a sore evil to Ireland. I learned last summer from a very intelligent Englishman whom I met in Ireland several interesting facts, a note of which I made at the time and on the spot; and as they bear upon the question under consideration I beg the attention of the House to them.

According to my informant there are twenty million acres of land in Ireland, of which six millions are under cultivation and nine millions in grass. There are six hundred thousand farmers, of whom four hundred thousand hold farms of thirty acres or less. About twenty thousand men own the six hundred thousand farms, and receive therefrom an annual rental of from fourteen to fifteen million pounds, equal to about seventy million dollars of our money. Irish landlords do not expend more than one-half per cent. per annum in improving their estates. The rest of their large incomes go into the funds or into improvements of the home farms, the parks, the game, the hounds, the horses, houses, equipage, &c. I was surprised to learn that leases for terms of years are almost unknown in Ireland. The tenantry are tenants at will, and liable to be turned out at the caprice of either the landlord or his steward. The consequence of this is that when a farmer, compelled by his growing family to cultivate every rood of ground within his little farm, clears out hedge-rows or reclaims bogs, and thus adds a few acres of new land to exhausted fields that have been cropped a thousand years, some new bidder is ready to offer the steward a shilling an acre more rent, and the tenant who has done the work must pay the increased rent or turn out. He has no lease to protect him. Thus is he punished for his extra labor.

Another reason for not giving leases is political. All these small farmers who pay a rental of ten pounds per annum are voters, and when they go to the polling places, where they vote *viva voce*, the steward is there with his book to register each vote, and woe betide the tenant who presumes to vote contrary to the wishes of his landlord or his landlord's steward. Having no lease to protect him he must vote as he is commanded or give up his cottage which, however poor, is the only shelter for his wife and children.

Is it strange, sir, that a brave and generous people should flee from a tyranny more refined than ever the feudal system was? And in view of these facts is it not unjust and ungenerous in an English statesman to represent Ireland as prosperous and her people as unreasonably disaffected? A shilling a day, twenty-five cents of our money, is the utmost the ordinary Irish laborer can earn, and his employment even at this rate is casual and precarious. Prosperous! No doubt the resident and the absentee landlords are prosperous, but the people are poor beyond all description; and as the rich are growing richer, the poor are growing poorer, Ireland, sir, as she is governed, cannot support her population. This is the truth of the matter.

Now, sir, it is a general principle of public law that when a Government is unable to find homes and employment for its redundant population it is bound to concede to them the right

of expatriation. Men have a natural right to go from places where they must starve to places where their labor can procure a comfortable subsistence. The British Government has maintained for centuries a system of intestacy and of land taxation that has made it impossible for laboring men to retain land titles, and have condensed the lands of the three kingdoms into the hands of comparatively a few millionaires and nobles—a small, select, but enormously rich aristocracy—and it is in the interest of this class that Ireland is governed. The soil, naturally good, has been much exhausted by long culture; very little is done to restore it, and failures of crops from these causes or from adverse weather are frequent, and always entail extensive and exquisite suffering upon the laboring classes. Social disorders ensue from these causes, which only the mailed arm of the Government can suppress. How unjust and cruel for an English statesman to charge a people so oppressed with disaffection in the midst of prosperity! Let him rather lift off Church rates and compel landlords to give their tenantry some interest in the lands they cultivate; let him give labor a chance to earn daily bread before he charges a whole people with unreasonable discontent.

But if these things cannot be done—if no relief can be derived for down-trodden Ireland—if the Government must continue to be administered only for the benefit of the privileged classes, in the name of all that is just and decent let the emigrant enjoy the rights of citizenship he has earned in a more hospitable country. When he goes back to the Green Isle, to revisit the graves of his ancestors and friends, let him not be told that he is still a British subject, that his oath of naturalization was a farce, and that American citizenship means nothing in an English court. "This is the unkindest cut of all."

Sir, we owe it to our adopted citizens and to our own dignity to vindicate the citizenship we confer. By naturalization the foreigner becomes an American citizen, except for one or two purposes, as truly as if he was "native to the manor born." And when he returns to his native country, either for business or pleasure, he is entitled to the same measure of protection that any American citizen has a right to claim. The British Government have no more right to seize him and deal with him as a rebellious Fenian subject or a deserter from his native allegiance than they would have to treat you or me as their subject. If their laws are violated let the offender be punished, but let him be punished for transgressions of law within their jurisdiction, not for words uttered and acts done within our jurisdiction. The proceedings of some British judges lately in dealing with suspected Fenians are gross outrages upon our rights of citizenship and demand the instant interposition of our Executive. Ere long, I trust, the British lion will be made to respect the American eagle. We taught England by the war of 1812 that our seamen could not be impressed into her service, and, if necessary, we can repeat the lesson in behalf of our naturalized citizens. But war ought not to be necessary to vindicate so plain a right, and I trust this bill will peacefully accomplish the reform that is demanded by circumstances.

France and the German States are more liberal in their policy than Great Britain and Russia, but none of the European Governments have in form recognized the right of expatriation as we insist upon maintaining it. They have no love for us, but they have learned to respect our power. One of the few good results of our late civil war was to impress foreign nations with a sense of our military power. They saw a war waged here, not of such puny proportions as that of the Roses in England, but which outstripped the grandest martial displays of Napoleon, Cæsar, or Alexander—a contest that shook the whole earth; and if now we could present to them the spectacle of a fraternal union between the belligerent sections they would be careful not to provoke a blow from united forces which were so formidable in division. They would yield to their fears what they might not to their sense of justice, and would respect our naturalization of their subjects whom they could not detain at home. Thus, underlying this great question, as all other public questions of our day, is the policy of union; speedy, cordial, indissoluble union. That is all we want to commend the principles of this bill to the nations of the earth. Let us heal our breaches, restore the dissevered States, stop the clamor about southern rebels and loyal negroes, bind around all the States the bands of the old time Union, and then we shall see not only millions of the wronged and down-trodden peasantry of the Old World hastening to our shores, but we shall see their native Governments acknowledging the right of expatriation and respecting the citizenship we confer.

The foreign population in the country have a right to demand these measures from us. The State which I have the honor in part to represent is largely indebted for her prosperity to German and Irish immigrants. William Penn found very early in his infant colony that the staid and industrious habits of the German fitted him to be a better colonist than the Englishman, and accordingly he encouraged German families to settle in Pennsylvania. Their descendants to this day constitute the bulk of the population of our most populous counties in the eastern part of the State. And nowhere, not even in England, Germany, or Belgium, will you find better farms or better farmers than in these counties. They have built up substantial homes for themselves, and have lent their wealth and influence to the internal improvements of the State. They have furnished us a long succession of Governors and many distinguished legislators and public men in every department of the Government, and the German emigrant of our day is all the sooner Americanized for being brought into contact with such descendants of the fatherland. If a better population can be found on the face of the whole earth than the Pennsylvania Germans I know not where it is to be looked for.

And the Irishmen have contributed largely to our material wealth; they have built canals and railroads for us, and have done very much of our mining and farming. It is not true that they are a turbulent or disaffected population when they have a chance to gain a livelihood by labor. It is only when they are denied this opportunity that they become disorderly.

The development of the resources of our mining States and the wide and fertile lands of the West afford ample fields for the labor of all the Irish and German emigrants. Let them come and be naturalized and assimilate, the faster the better, with our nationalities, and when they go abroad under our passports let us see that all nations, great and small, respect and treat them as American citizens.

If this bill, or the substitute now offered for it by the honorable gentleman from Rhode Island, [Mr. JENCKES,] shall accomplish this end, it will not be more than we owe to our millions of adopted citizens, and we may feel after we shall have passed it that we have today done the State some service.

Mr. BOYER. I ask to have read by the Clerk a substitute which I propose for the pending bill.

The Clerk read as follows:

Be it resolved by the Senate and House of Representatives, &c., That all naturalized citizens of the United States while in foreign States are entitled to and shall receive from this Government the same protection of person and property that is accorded to native-born citizens in like situation and circumstances. And the President is requested to inquire and report to Congress at the earliest practicable day whether any, and if any, how many and who, of the citizens of the United States, whether naturalized or native-born, are deprived of their liberty in any foreign country, in contravention of their rights as citizens entitled to the protection of this Government.

The SPEAKER. The morning hour has expired, and the bill goes over until Tuesday next after the morning hour.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, announced that the Senate had passed the joint resolution of the House (H. R No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin, with an amendment, in which he was directed to ask the concurrence of the House.

ARMY APPROPRIATION BILL.

Mr. BLAINE, from the Committee on Appropriations, reported a bill (H. R., No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes; which was read a first and second time.

Mr. BLAINE. In submitting the Army appropriation bill at this time, Mr. Speaker, for reference to the Committee of the Whole, I desire to call the attention of the House to the total amount comprised in it, which is $33,082,093. This is deemed by the Secretary of War and by General Grant sufficient for all the expenses of the military establishment so far as they can be foreseen or foretold at this time. Nothing but the outbreak of hostilities in some quarter can increase the amount now appropriated. The adjustment of our Indian troubles, which produced the necessity of extra expenditure the past year, leaves no room for any apprehension of deficiencies to be met by future appropriation.

General Grant's estimates for military expenditures have been made with the greatest exactness and with a degree of economy wholly unknown to the Army on its peace establishment preceding the war. I find, by the official statement of the Secretary of the Treasury, which I hold in my hand, that the total expenses of the Army for the four years of Mr. Buchanan's Administration were $86,307,575 55, making an average of well nigh twenty-two millions a year in gold. The Army at that time was composed of nineteen regiments in all; so that each regiment cost considerably over a million dollars per annum in gold. The Army is at present composed of sixty regiments, and the total appropriations required by General Grant are but $33,000,000 a year in paper money, making little more than half a million dollars to each regiment. In other words, the Army, under the peace establishment immediately preceding the war, cost per regiment more than double in gold what the Army now costs per regiment in paper under the peace establishment as administered by General Grant. With the gradual reduction of the Army, as proposed in this bill, it is easy to see that in the course of a year or two our military expenses will be lessened to such a degree as no longer to be felt as a burden to the tax-payer.

Thus much in regard to the Army. The work of the Committee on Appropriations is so far advanced and made public that I am at liberty to present in this connection a brief recapitulation showing what our total expenses will be for the ensuing fiscal year. For the Navy we have reported $18,096,045—an ample sum if the House shall sustain my friend from Illinois [Mr. WASHBURNE] in making the valuable retrenchments and reforms which are incorporated in the bill. The naval expenses for the four years of Mr. Buchanan's Administration were $52,645,998 89, showing an average of more than thirteen millions per annum in gold. With a very much larger Navy, and with the disadvantage of paper money and high prices, our appropriations this year are but a trifle over eighteen millions for the entire service.

The remainder of the ordinary expenses of the Government are embraced under the following heads, and will not materially differ from the figures I give, namely:

Executive, legislative, and judicial, embracing all the salaries and expenses in the various Departments	$17,119,478 32
Post Office Department	4,050,000 00
Consular and diplomatic	1,261,434 00
Indian Department	3,000,000 00
West Point Military Academy	303,000 00
Miscellaneous expenses of all kinds, embracing both annual and permanent appropriations	14,000,000 00

Mr. HOLMAN. How does this subject come up at this time?

The SPEAKER. The gentleman from Maine is reporting from the Committee on Appropriations the Army appropriation bill.

Mr. HOLMAN. It is very unusual to discuss the bill at this stage.

Mr. BLAINE. I am about to move that the bill be referred to the Committee of the Whole on the state of the Union, and printed.

The SPEAKER. That motion opens the question for debate.

Mr. HOLMAN. I dislike to interrupt the gentleman, but I must make a point of order upon him. It is manifest that this is a consideration of the bill, and under the rules it must have its first consideration in Committee of the Whole.

The SPEAKER. The Chair overrules the point of order. Under the rules the Committee on Appropriations have a right to report at any time, and the motion to refer to the Committee of the Whole on the state of the Union and print, opens up the question to debate.

Mr. BLAINE. If the gentleman will allow me I shall be through in a few moments.

Mr. HOLMAN. Very well; I withdraw the point of order.

Mr. BLAINE. These several items, in addition to the Army and Navy appropriations, whose amounts I have already given, show a grand aggregate of $90,912,047 32, constituting what are known as the "ordinary expenses" of Government. This aggregate does not present any very large increase over the expenditures of a similar kind preceding the war. I find by reference to official documents that during the first year of Mr. Buchanan's Administration the "ordinary expenses," under precisely the same headings which I have included above, exceeded $70,000,000 in gold. And I submit that $70,000,000 in gold in 1857–58 was a much larger amount, relatively considered, than $90,000,000 in paper in 1868–69. And it must be borne in mind that with these $90,000,000 in paper we are maintaining a much larger Army and Navy than were supported ten years ago.

Our extraordinary expenditures are those which result directly from the war. We shall appropriate $30,330,000 for pensions, and I presume no one will propose to withhold or reduce this amount a single dollar. We shall likewise be called upon to appropriate $25,000,000 in carrying into effect the bounty laws of 1866–67; and this will not be objected to by any one who remembers that it goes to the men who risked their lives and maimed their bodies in the service of our common country. We shall also expend $130,000,000 in paying off the interest on our public debt; and this item can only be reduced by repudiating the obligations which were solemnly incurred in the name of the nation and for the preservation of the nation's life.

Adding these three large items of pensions, bounties, and interest to the "ordinary expenditures" which I have already cited, and we find the grand total of expenditure for the year 1868–9 will amount to $275,912,047 32. The item of $25,000,000 for bounties is of course temporary and not to be counted among our regular expenditures. Deducting it from the sum total just named for the fiscal year 1868–9 and the amount would be a trifle over $250,000,000. With the bounty paid and our Army and Navy reduced, as we propose to reduce them, our total annual expenditure in future years will not exceed two hundred and twenty-five to two hundred and thirty million dollars; and I have no doubt the Committee of Ways and Means will be able to show us that this amount can be raised without any oppressive burden upon the industry and enterprise of the country, and with a vast reduction in our present system of internal taxes.

I now move that the bill be referred to the Committee of the Whole on the state of the Union and printed, and that it be made the special order for Thursday, February 18, and from day to day until disposed of; and on that motion I move the previous question.

Mr. ROSS. Will the gentleman yield to allow me to ask him a question?

Mr. BLAINE. For a simple question, I will.

Mr. ROSS. I want to know why these expenses could not have been reduced three years ago, and why it has been postponed until the election is near at hand and they seek a new lease of power?

Mr. BLAINE. I do not care to go into the discussion now. There will be time enough when the bill comes up in Committee of the Whole on the state of the Union. I now insist on the previous question.

Mr. HOLMAN. I shall call for the reading of the bill unless it is understood that all points of order are reserved.

Mr. BLAINE. Certainly; reserve them all.

Mr. WASHBURNE, of Illinois. That is in the line of extravagance, reserving points of order.

Mr. HOLMAN. We want to see whether the speech is sustained by the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof Mr. BLAINE's motion was agreed to.

REVENUE-CUTTER SERVICE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting estimates of the expenses of the revenue-cutter service for the fiscal years 1868 and 1869; which was referred to the Committee on Appropriations, and ordered to be printed.

SURVEY OF CONNECTICUT RIVER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with the act of March 2, 1867, a communication from the chief of engineers, inclosing a report of Colonel Houston on the survey of the Connecticut river; which was referred to the Committee on Commerce, and ordered to be printed.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the Military Academy bill; and pending that motion I move that all debate on the bill terminate in one minute after the committee shall resume its consideration.

Mr. HOLMAN. All general debate?

The SPEAKER. All general debate has been closed already.

Mr. WASHBURNE, of Illinois. General debate has been already closed by order of the House.

Mr. HOLMAN. Does the gentleman propose to cut off the five-minutes debate?

The SPEAKER. That is the motion, and if agreed to amendments can be offered without debate.

The question was then taken on the motion to close debate, and it was agreed to.

The question then recurred upon the motion to suspend the rules for the purpose of going into Committee of the Whole on the Military Academy appropriation bill, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and proceeded to the consideration of the special order, being House bill No. 599, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869.

The CHAIRMAN. When the committee rose yesterday it had found itself without a quorum in the vote upon the amendment of the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I desire to modify my amendment, so as to read:

And provided further, That no part of the money appropriated by this act shall be paid or applied to the pay or subsistence of any but white cadets.

The CHAIRMAN. Tellers were appointed yesterday. They will resume their places, and the vote will be again taken on the amendment.

The committee again divided; and the tellers [Messrs. UPSON and ELDRIDGE] reported that there were—ayes 28, noes 71.

So the amendment was not agreed to.

Mr. TRIMBLE, of Kentucky. I move to amend this bill by adding the following:

Provided, That no part of said appropriation shall be paid to any cadet appointed from a State in which he is not a *bona fide* citizen.

Mr. WASHBURNE, of Illinois. That is the law now.

Mr. TRIMBLE, of Kentucky. The object I have in view in offering this amendment——

The CHAIRMAN. Debate is not in order, it having been closed on the entire bill by order of the House.

The question was taken upon the amendment; and upon a division there were—ayes 25, noes 62; no quorum voting.

Tellers were ordered; and Mr. TRIMBLE, of Kentucky, and Mr. SCOFIELD were appointed.

The committee again divided; and the tellers reported that there were—ayes 42, noes 56.

So the amendment was not agreed to.

Mr. LOGAN. I move to amend the bill by adding thereto the following:

And provided further, That all laws allowing officers of the Army, except superintendent and commandant, assigned to duty at West Point a higher grade of rank or additional pay because of such assignment on duty at the Academy, be, and the same are hereby, repealed.

Mr. WASHBURNE, of Illinois. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WASHBURNE, of Illinois. My point of order is that this amendment proposes to change the existing law in regard to this subject which has existed since 1802, and therefore it is not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LOGAN. I desire to say——

The CHAIRMAN. Debate is not in order.

Mr. LOGAN. I know it is not debatable. All I can say is that a great many changes in the laws have been made by just such amendments.

Mr. HOLMAN. I think I can suggest to the gentleman a way to accomplish his purpose, at least in part.

Mr. LOGAN. I will thank the gentleman to do so.

Mr. HOLMAN. The gentleman can confine his amendment to this appropriation.

Mr. LOGAN. I will do so. I move to amend the bill by adding these words:

Provided, That no part of the money appropriated by this act shall be applied to the payment of extra allowance to officers assigned to duty at West Point except the superintendent and commandant.

The question was taken; and upon a division there were—ayes 31, noes 41; no quorum voting.

Tellers were ordered; and Mr. HOLMAN and Mr. SPALDING were appointed.

The committee again divided; and the tellers reported that there were—ayes 52, noes 46.

So the amendment was agreed to.

No further amendment was offered to the bill.

Mr. WASHBURNE, of Illinois. I move that this bill and the amendments thereto be laid aside, to be reported to the House.

The motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the committee now proceed to the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The motion was agreed to.

The CHAIRMAN. If there be no objection, the first reading of the bill will be dispensed with.

Mr. MAYNARD. I object.

The Clerk proceeded to read the bill.

When the reading had proceeded for some time,

Mr. LAFLIN said: I ask that the further reading of this bill be dispensed with, that we may begin at once the reading for amendment.

The CHAIRMAN. Is there objection to dispensing with the first reading of the bill?

Mr. HOLMAN. I object. This is a very important bill; and it seems to me it ought to be read through for information before the reading for amendment.

The Clerk continued and concluded the reading of the bill.

The CHAIRMAN. The first reading of the bill being concluded, the Clerk will now report it by paragraphs for amendment.

Mr. WASHBURNE, of Illinois. For the purpose of limiting debate on this bill, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869, and had directed him to report the same back with sundry amendments, and recommend that the same be concurred in.

He also reported that the Committee of the Whole on the state of the Union having had under consideration, as a special order, the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869, had come to no resolution thereon.

Mr. WASHBURNE, of Illinois. I rise for the purpose of moving that the House again resolve itself into the Committee of the Whole on the state of the Union; but, pending that motion, I desire to move that the House limit debate in Committee of the Whole.

Mr. MAYNARD. I suggest to the gentleman that we had better dispose of the Military Academy bill before going again into Committee of the Whole.

The SPEAKER. That bill will go to the Speaker's table unless it be acted on now.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I accept the suggestion that we take up now and pass the bill (H. R. No. 599) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1869. I call the previous question upon the bill and amendments.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. Before the Clerk proceeds to read the amendments reported from the Committee of the Whole I desire to call for a separate vote upon two of those amendments—one that striking out the appropriation for the pay of the visitors of the Military Academy, and the other the proviso at the end of the bill. If the House will indulge me for one moment, I will make a brief statement.

Mr. ELDRIDGE. I desire to ask the gentleman from Illinois whether he has any objection to having a vote taken in the House on the amendment which I offered?

Mr. WASHBURNE, of Illinois. I have. I would not object, however, to a vote in the House on the amendment in the form in which the gentleman first offered it, proposing that the white cadets from the southern States should be required to take the test-oath, letting in the colored cadets without taking any oath.

Mr. ELDRIDGE. That was not the proposition which I made.

Mr. WASHBURNE, of Illinois. Well, Mr. Speaker, I cannot be interrupted by the gentleman.

Mr. ELDRIDGE. I would like to compromise with the gentleman, and take a vote on both propositions.

Mr. WASHBURNE, of Illinois. I shall occupy, Mr. Speaker, but a few minutes of the hour allowed by the rule to the member reporting a bill to close the debate. I wish to make a brief statement in regard to the amendment of my colleague, [Mr. INGERSOLL.]

I say again, as I have said heretofore, that I welcome any amendment which will diminish the amount of our appropriations without conflicting with existing laws or with the public interests. I trust that with every appropriation bill which may come before the House we shall have such amendments. The Committee on Appropriations challenge the closest scrutiny for the bills which they report; and whenever any member can point out an appropriation that may properly be cut down I hope he will do it.

And I said yesterday, Mr. Speaker, in regard to the amendment of my colleague, [Mr. INGERSOLL], that perhaps this appropriation might as well be stricken out. I was, of course, bound to leave it to the gentlemen of the committee. But, sir, upon further reflection, and again looking at the matter, I think the House should decline to concur in the recommendation of the committee, and I will briefly state the reasons why.

Now, sir, this West Point Military Academy has always been the cause of a good deal of jealousy. It has been held up to the country as an aristocratic institution and that the people had no control over it—that it was a sort of outside concern, the operations of which were in a degree concealed from the people and from Congress. I do not, as my colleague on the committee [Mr. BLAINE] said he did, consider this "an ancient humbug." Congress, in 1846, feeling the weight of those suggestions, I think very properly, passed a law from which I will read a sentence:

"That the President be authorized to appoint a Board of Visitors to attend the annual examination of the Military Academy, whose duty it shall be to report to the Secretary of War, for the information of Congress, at the commencement of the next succeeding session, the actual state of discipline, instruction, police administration, fiscal affairs, and other concerns of that institution."

This was a provision of law to enable Congress to know what was going on at this Military Academy, that we might know what legislation was necessary. It was in order to let us know the operations of that institution and what abuses, if any, existed there, so that they might be abated by proper legislation. Before that time there was no control over this matter by Congress at all. Hence, I think, with great wisdom and great justice, we provided there should be a Board of Visitors appointed which should examine into this whole matter.

We also provided the manner in which they should be appointed. And, sir, I do not think Congress was governed by the ignoble motives which the gentleman from Ohio [Mr. SCHENCK] seemed to ascribe to them. Now, sir, it is known in the organization of the West Point Military Academy it was provided that every portion of the country should have its representatives. Every congressional district is entitled to be represented in that Academy on the appointment of its members of Congress, thus popularizing the institution as far as possible.

Following the provision I have read, the same act provides, and I think very justly, as follows:

"And the whole number of visitors shall not exceed half the number of States in the Union, and they shall be selected alternately from every second State, each member being a resident citizen of the State from which he shall be appointed; and not less than six members shall be taken from among the officers actually serving in the militia; and a second member shall not be taken from any congressional district until every other district in the State shall have supplied a member."

Now, sir, there can be no more just provision than that in order to have every section of the country represented alternately in this Board of Visitors. That seems to have been the intention of the Congress which passed the act, and I say it was a wise and just one, to enable the House to have all the information necessary to govern us in legislating in reference to this Military Academy.

The gentleman from Ohio, [Mr. SCHENCK,] who was a visitor, and obtained, when there, all that detailed information which he gave to the House yesterday with so much gusto and to my discomfiture, I have no doubt, as he thought, as president of the Board of Visitors, brought into this House some of the most important amendments which we have ever adopted here in regard to this Military Academy. We have had the benefit of the investigations of the Board of Visitors, and we have acted on them in furtherance of the public interest; and, sir, I do not intend, so far as I am concerned, to yield up what we now have—to yield up this power of sending visitors to West Point in order to examine, as the statute provides, "into the discipline, instruction, police administration, fiscal affairs, and other concerns of that institution."

Mr. MAYNARD. Will the gentleman allow me to interrupt him a moment?

Mr. WASHBURNE, of Illinois. For what purpose?

Mr. MAYNARD. To suggest that the Military Committees of the two Houses might as well go to West Point as the Naval Committees to Annapolis.

Mr. WASHBURNE, of Illinois. That is not the law, and all the Committee on Appropriations have to do is to carry out the provisions of existing law.

Mr. MAYNARD. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. MAYNARD. The question of order is, that the gentleman has no right on a bill that comes reported from the Committee of the Whole to occupy an hour after the main question has been ordered.

The SPEAKER. The Chair overrules the point of order on two grounds: first, it was not made in time; and second, it would not have been good if made in time. A member having reported a bill has a right, after the previous question is seconded, to occupy an hour at each stage of the bill. The object of the rule is obvious. If it were not the rule a majority of the House by seconding the previous question would be able to prevent the gentleman in charge of it from explaining it.

Mr. MAYNARD. I do not wish to debate it, but I understood a different rule prevails in regard to a bill coming from the Committee of the Whole.

The SPEAKER. The gentleman cannot debate a rule of order.

Mr. MAYNARD. No, sir; I do not understand that I can.

Mr. WASHBURNE, of Illinois. I supposed the question of order suggested by the gentleman could be settled in short order.

Mr. MAYNARD. If the gentleman does not wish to have a question asked he has the power to prevent it.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations reported that clause in the Military Academy bill to carry out an existing law. Whether the appropriation is made or not the President has to appoint commissioners, and they are entitled to pay. Now, how much is the expense of sending this board to West Point to get all the information we want to act upon if we wish to sustain that institution? What is the pay they get? It has been well said that they get no pay. The Secretary of War nominates individuals, as prescribed by the Constitution, and they get only eight cents a mile for traveling each way and their actual expenses.

The appropriation for this year has already been made. Now, shall we say that the Board of Visitors which shall be appointed by the present Administration shall be paid, but take away from the incoming Administration, which we believe will be on the side of loyalty to the country, the power to send these visitors to West Point to obtain the information in regard

to that institution which is necessary for our action?

That is all I desire to say in relation to that matter. In relation to the amendment of my colleague, [Mr. LOGAN,] there is the same objection to it, in a measure, that there is to the other. It is a law which has existed from the earliest time that these lieutenants and others stationed there should have this additional pay. It is no great sum. It amounts, taking out the exception which my colleague has made in his amendment, to some twenty-five hundred dollars. I say it is the law, and these lieutenants are entitled to pay under the law; but by the amendment which the Committee of the Whole has adopted, while it is the law, we refuse to make the appropriation. We are thus in the attitude of making war upon the law. We are striking at a few lieutenants, highly educated, meritorious, and gallant young men, at West Point, sent there as instructors, and who, as I said, have been——

Mr. LOGAN. Will the gentleman allow me right here to interrupt him? I desire to state that there is no intention on my part of striking at any of the lieutenants. I do not like the sott impeachment that is intended for me. I will say that there are plenty of lieutenants on the plains to-day being shot at by Indians, and these lieutenants are willing to be required to perform that duty without any extra pay. I do not mean to strike at anybody. My object was to put them on an equality.

Mr. WASHBURNE, of Illinois. Mr. Speaker, the law exists, and let my colleague bring in his bill to repeal the existing provision. While he proposes not to make the appropriation he has brought in no bill to repeal the law. I say I think it is unbecoming in us to refuse the appropriation. I will go as far, I think, as the man who goes farthest in regard to retrenchment; but I do not propose to strike at these men at West Point. I do not propose to strike at the gallant soldiers who have been fighting Indians who may be ordered to West Point; but if they are ordered to West Point, when they get there, in consideration of the gallant services they have rendered, I would be the last man to refuse them a hundred or two hundred dollars additional. My colleague does not mean to strike at West Point; I know that. I know there has been a hostility to West Point, and I have participated in it myself; but I believe that West Point in the last six years has been vindicated, and that the name of the Military Academy will live in this country as long as the names of Grant and Sheridan and Sherman and Thomas and a host of others will live. Sir, it is an institution which should be cherished by the American people in gratitude for the services which the graduates of that Academy have rendered to the country.

Mr. ELDRIDGE. I wish to ask the gentleman a question.

Mr. WASHBURNE, of Illinois. Well, what is the question?

Mr. ELDRIDGE. I will state the question. I wish to know this of the gentleman, whether it has been the custom to appoint cadets from northern States to fill vacancies caused by the absence of the members from the southern States and their failure to make appointments? And then I wish to know further, whether there is any law authorizing appointments to be made in that way?

Mr. WASHBURNE, of Illinois. As to the first part of the gentleman's question, he may go to the Department and get the information. I have no particular information to give him on that subject. And in relation to the law, he is not making a speech, and he can hunt it up a great deal better than I can.

Mr. ELDRIDGE. That is a satisfactory answer.

Mr. LOGAN. My colleague will allow me one remark just here. From the tenor of his remarks it would seem as though there was some thrust made at West Point.

Mr. WASHBURNE, of Illinois. Not at all.

Mr. LOGAN. Now, I merely desire to make one remark. It is this: so far as the vindication of West Point is concerned, I have naught to say. I am willing to accord the highest honor to every man who has imperiled his life for his country, whether he be a graduate of West Point or not. I am willing to accord the greatest credit to General Grant, General Thomas, General Sherman, and to all the other generals whom the gentleman mentioned, though I cannot see that that has anything to do with this bill. But I will remind the gentleman of one thing while he is injecting a stump speech here in favor of West Point, and it is this: while we accord credit and honor and glory to those who have vindicated themselves and their country who have graduated at West Point, sir, I tell you that West Point has been a nest that has produced the leaders of all the treason in this land, and my colleague knows it; I will inject that into his speech; the Lees, the Beauregards, the Stuarts, and all of those rebel leaders were educated at West Point.

Mr. WASHBURNE, of Illinois. I agree to what my colleague says, and if I had left that branch of the subject and gone on to the volunteer officers I would have paid my colleague a compliment which would have made him blush. [Laughter.]

Mr. LOGAN. No: you need not do that; I am not fishing for compliments; but I will say that I do not propose to make speeches here to bring in the names of men here and eulogize them when they have nothing to do with the bill. I propose to let every law stand or fall on its own merits.

Mr. WASHBURNE, of Illinois. Precisely.

Mr. LOGAN. And the merits of no man ought to thrust a bill through this House because he is a graduate of West Point.

Mr. WASHBURNE, of Illinois. Well, I presume the House is able and competent to judge for itself.

Mr. LOGAN. Certainly it is.

Mr. INGERSOLL. I do not see that there is any hurry for the House to appropriate this $4,000 asked for the payment of this Board of Visitors. If it shall appear to be necessary hereafter for the good administration of that Academy it can be brought forward in two or three months hence in the supplemental bill.

Mr. WASHBURNE, of Illinois. No, sir.

Mr. INGERSOLL. I know that it can; I take issue with my colleague on that point.

Mr. WASHBURNE, of Illinois. Will my colleague tell me what supplemental bill we have?

Mr. INGERSOLL. I know you have none now, but you will have before the close of the session.

Mr. WASHBURNE, of Illinois. We have none at this time.

Mr. INGERSOLL. You will have a miscellaneous appropriation bill, which we will be called upon to vote for before we adjourn this session; and in that miscellaneous bill this can be brought forward if necessary, if it is left out of this bill. In view of the fact that the Committee on Military Affairs have at this time under consideration the question of repealing the law which provides for this Board of Visitors is it not well for the House to concur in the amendment of the Committee of the Whole and leave this appropriation out of the bill for the present?

Mr. WASHBURNE, of Illinois. Very well; we can try what the House thinks about it.

The first amendment reported from the Committee of the Whole was to the first item, to strike out the words "pay of officers" and insert the words "additional pay of officers, and for pay of;" so that the clause will read:

For additional pay of officers, and for pay of instructors, cadets, and musicians, $182,747 50.

The amendment was agreed to.

The next amendment reported from the Committee of the Whole was to strike out "for expenses of Board of Visitors, $4,000."

The question was taken upon agreeing to the amendment; and upon a division there were—ayes 24, noes 76.

So the amendment was not agreed to.

The next amendment reported from the Committee of the Whole was to strike out "for rebuilding north wharf, $5,000."

The amendment was agreed to.

The next amendment reported from the Committee of the Whole was to insert "for contingencies for the superintendent of the Academy, $500."

The amendment was agreed to.

The next amendment reported from the Committee of the Whole was to add to the bill the following:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862: *And provided further*, That no part of the moneys appropriated by this act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1868, until such State shall have returned to its original relation to the Union.

Mr. HOLMAN. Is that amendment divisible?

The SPEAKER. An amendment of the Committee of the Whole is not divisible unless so agreed upon in Committee of the Whole.

Mr. WASHBURNE, of Illinois. It is proper that I should state I agreed in Committee of the Whole that this amendment should be divided when it came up in the House.

The SPEAKER. Then the first question will be upon the first clause of the amendment.

The first clause of the amendment was read, as follows:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

The question was taken, and the first clause of the amendment was agreed to.

The next question was upon the second clause of the amendment, as follows:

And provided further, That no part of the moneys appropriated by this act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1868, until such State shall have returned to its original relation to the Union.

Mr. BLAINE. I hope that will be voted down.

The question was taken; and upon a division there were—ayes 70, noes 27.

Before the result of the vote was announced,

Mr. TRIMBLE, of Kentucky, called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes eighteen; not one fifth of the last vote.

Before the result of the vote was announced,

Mr. TRIMBLE, of Kentucky; called for tellers on ordering the yeas and nays.

The question was taken; and upon a division there were—ayes sixteen.

So (one fifth of a quorum not voting in the affirmative) tellers were not ordered.

The yeas and nays were not ordered.

The amendment was accordingly agreed to.

The last amendment reported from the Committee of the Whole was to add to the bill the following:

And provided further, That no part of the money appropriated by this act shall be applied to the payment of extra allowance to officers assigned to duty at West Point, except the superintendent and commandant.

The question was taken; and upon a division there were—ayes 42, noes 54.

Before the result of the vote was announced,

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 71, nays 75, not voting 43; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Axtell, Bailey, Baker, Baldwin, Beatty, Benjamin, Buckland, Burr, Cake, Cary, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Ela, Farns-

worth, Ferriss, Fox, Golladay, Gravely, Grover, Haight, Halsey, Harding, Hill, Holman, Hopkins, Hunter, Johnson, Kitchen, Knott, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Mallory, Marshall, Maynard, McClurg, McCormick, Mercur, Moore, Mullins, Mungen, Myers, Nunn, O'Neill, Pile, Polsley, Price, Ross, Scofield, Shanks, Sitgreaves, Aaron F. Stevens, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Van Aernam, Ward, Welker, William Williams, and John T. Wilson—71.

NAYS—Messrs. Adams, Archer, James M. Ashley, Barnes, Barnum, Beaman, Blaine, Blair, Boutwell, Boyer, Brooks, Broomall, Chanler, Churchill, Covode, Dawes, Dixon, Driggs, Eldridge, Eliot, Ferry, Fields, Garfield, Getz, Glossbrenner, Griswold, Higby, Hooper, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Julian, Kerr, Ketcham, Laflin, Lincoln, Marvin, McCullough, Miller, Moorhead, Morrell, Niblack, Nicholson, Paine, Perham, Poland, Pruyn, Randall, Raum, Robinson, Sawyer, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, John Trimble, Twichell, Upson, Van Auken, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, James F. Wilson, Windom, Woodbridge, and Woodward—75.

NOT VOTING—Messrs. Ames, Delos R. Ashley, Banks, Beck, Benton, Bingham, Bromwell, Butler, Cullom, Dodge, Donnelly, Eckley, Eggleston, Finney, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Jones, Judd, Kelley, Kelsey, Lynch, McCarthy, Morgan, Morrissey, Newcomb, Orth, Peters, Phelps, Pike, Plants, Pomeroy, Robertson, Schenck, Selye, Shellabarger, Taber, Thomas, Van Trump, Van Wyck, William B. Washburn, Stephen F. Wilson, and Wood—43.

So the amendment was not agreed to.

During the roll-call,

Mr. GRAVELY said: I desire to state that my colleague [Mr. NEWCOMB] is absent on account of sickness.

The result of the vote was announced as above stated.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I rise to move that the House resolve into the Committee of the Whole on the state of the Union upon the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

Mr. STEVENS, of Pennsylvania. Before the gentleman makes that motion, I desire, with his consent, to move the printing of a rather long amendment which I desire to offer to this bill at a proper opportunity. It is an amendment proposing to authorize the Freedmen's Bureau to loan to the city of Wilmington, North Carolina, $100,000 on security of freehold and corporate liens, to be repaid within one year, said amount to be reloaned to destitute rice-planters and growers.

The SPEAKER. If there is no objection, the proposed amendment of the gentleman from Pennsylvania will be ordered to be printed.

There was no objection.

Mr. WASHBURNE, of Illinois. I move that when the House shall again resolve itself into the Committee of the Whole on this bill all general debate terminate in ten minutes.

The motion was agreed to.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union upon the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869

Mr. WASHBURNE, of Illinois. This bill, sometimes called the "compensation bill," is, as gentlemen will see, a long bill of some forty-eight pages. This has generally been considered one of the most tedious bills to get through with; and I shall ask the kind indulgence of the committee in its consideration. I hope that gentlemen will be good enough to give their attention to it, and vote, so that business may not be delayed for the want of a quorum voting.

I will submit for the information of the committee a table exhibiting the various branches of the public service for which the appropriations embraced in this bill are designed, together with the amount we propose to appropriate for each, as well as the amounts appropriated by the bill of last year for the present fiscal year, and the amounts estimated for the next fiscal year, to which the appropriations in this bill apply:

Departments, &c.	Amount appropriated for the present fiscal year ending June 30, 1868.	Amount estimated for the fiscal year ending June 30, 1869.	Amounts appropriated by this bill for year ending June 30, 1869.
Legislative	$2,407,725 80	$2,719,482 80	$2,262,974 67
Public printing	1,652,775 00	1,517,692 65	1,271,721 79
Library of Congress	40,590 96	42,990 96	40,990 96
Court of Claims	1,042,300 00	530,800 00	139,800 00
Executive	50,300 00	52,922 22	50,922 22
State Department	160,700 00	211,700 00	189,700 00
Treasury	3,201,810 00	3,476,346 00	2,830,146 00
Internal Revenue	6,000,000 00	9,200,000 00	6,000,000 00
Department of the Interior	662,260 00	802,060 00	720,220 00
Surveyor General and clerks	95,809 00	87,402 72	71,500 00
War Department	1,275,120 00	922,940 00	581,280 00
Navy Department	214,762 00	221,172 00	157,698 00
Post Office Department	371,300 00	417,490 00	376,680 00
Department of Agriculture	179,020 00	287,285 00	156,793 00
United States Mint and branches	657,367 73	660,702 68	522,407 68
Independent Treasury	718,105 00	661,255 00	200,200 00
Territorial governments	281,000 00	282,400 00	259,500 00
Judiciary	1,565,950 00	1,767,000 00	1,294,800 00
Total	$20,682,835 49	$23,870,032 03	$17,217,484 32

It thus appears that the amount appropriated by the bill of last year for the present fiscal year ending June 30, 1868, was $20,682,835. The estimates for these same purposes sent in this year by the Democratic Departments of this Government amount to $23,870,032. That is the amount of expenditure proposed in the estimates of the present Democratic Administration.

Mr. PRUYN. I should like to know what ground he has for that?

Mr. WASHBURNE, of Illinois. Those are the estimates of the Democratic Departments upon which they requested we should make appropriations in this bill.

Mr. PRUYN. I should like to know whether we are to have an opportunity to propose amendments to this bill as well as to vote on those the gentleman offers?

Mr. WASHBURNE, of Illinois. I am unfortunate enough not to be able to hear the gentleman from New York.

Mr. PRUYN. Will we have an opportunity to offer amendments?

Mr. WASHBURNE, of Illinois. That is provided for by the rules.

Now, sir, the Committee on Appropriations have reported in this bill, for the purpose of carrying out the objects I have specified, $17,217,484, a reduction on the appropriations for the fiscal year of nearly thirty-five hundred thousand dollars, and on the estimates of $6,000,000. We have not increased the appropriations over those of the fiscal year ending 30th June, 1868, in any instance, but have reduced them in every instance; and I will say to the committee that there are many things upon which there may be a reduction, and if it can be properly made, I hope it will be done. I hope every reduction will be made that can be properly, in order to carry out the system of economy in public expenditures that the country demands. I trust that this House will resist, too, every proposition for an increase of appropriation.

Now, Mr. Chairman, a word in regard to the business before this House, so far as these appropriation bills are concerned, which, in point of fact, are the great business of the session. We have to consider the bill before the committee—the legislative appropriation bill. Then we have the Army appropriation bill, the Navy appropriation bill, the pension appropriation bill, the Post Office appropriation bill, the sundry civil appropriation bill, the Indian appropriation bill, the consular and diplomatic appropriation bill, and the deficiency appropriation bill. The miscellaneous appropriation bill is also called the sundry civil appropriation bill. The Committee on Appropriations will have all these bills ready to be reported as soon as the House can possibly reach them; and I think if we are diligent we can, before the 1st day of April next, send every one of these bills to the Senate, and by sending them there at that early period I see no reason why we may not get through all of our business and adjourn at the furthest by the middle of May. Yes, as some gentlemen say, in time for the Chicago convention. [Laughter.]

The Clerk then proceeded to read the bill by paragraphs for amendment, as follows:

Senate:

For compensation and mileage of Senators, $430,000

Mr. PAINE. I move to strike out "30" and insert "14," so it will then read "$414,000;" and, Mr. Chairman, I will state to the committee the reasons for this amendment. The Committee on Appropriations have undertaken in this portion of the bill which relates to appropriations for the Senate to save to the Government the sum of $16,000. That is all well enough, and I am pleased with that evidence of economy on the part of the committee, but I am not satisfied with the mode they have undertaken to accomplish this. At the same time the compensation of Senators and Representatives was raised the law gave to the officers named on pages 2 and 3 of this bill $16,000 more compensation than is allowed in this bill. The committee have reduced that by $16,000. I propose to carry out the principle of economy in a different way. I propose to subtract it from the compensation and mileage of Senators, who are well able to bear the subtraction, and leave to the employés of the Senate the twenty per cent. they are allowed by law now in force.

The gentleman from Illinois has told the committee again and again, in answer to objections raised when the last bill was before the committee, that we were bound to carry out positive provisions of law. Yet this Committee on Appropriations have come in here with this bill, and in the first provision they have subtracted the twenty per cent. for the pay of clerks under the law. I propose it shall be subtracted from the pay and mileage of Senators.

By the same bill they propose to give to fifty-four Senators more than five times as much as they give to sixty employés of the Senate. The fifty-four Senators have $430,000 by this bill, and the sixty employés of the Senate have only $84,744. I think this economical provision is made in the wrong place. I think these Senators who have five times the compensation of their employés are better able to bear the subtraction, and I therefore propose to make the subtraction from their appropriation and not from the employés' pay.

Mr. SPALDING. I ask my friend to make

the same deduction when he comes to the members of the House.

Mr. PAINE. I propose, when the time comes, to make the same motion respecting the compensation and mileage of members of this House. And further, I propose to restore the twenty per cent. to the clerks and employés of both the Senate and the House which has been subtracted by this bill reported from the Committee on Appropriations. I know of no reason why these subordinates, who are entitled to that compensation under our law, should submit to a subtraction from their inadequate pay while men who receive five times the amount of pay get it all.

More than that, I think it will come with a bad grace from us to enact a law like this. I should be ashamed to say to my constituents that I have voted to subtract twenty per cent. from the pay of the subordinates employed about this House and in the other end of the Capitol, but have insisted upon taking the entire amount of pay allowed by precisely the same law which gave them the twenty per cent.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. Mr. Chairman, my friend from Wisconsin has made a speech, it seems to me, on a very different subject from that of his amendment. I think the House will not be at a loss to understand precisely how this matter stands. The estimate in the book which I have before me for the mileage and compensation of Senators is $700,000, as against $414,000 last year. The committee could not make out how this increase should be so great. They could see, however, how the $414,000 could be used up, and then they took into consideration that since this estimate was made, or since the passage of the appropriation last year, two additional Senators have come to Congress whose compensation and mileage will amount very nearly to a sum sufficient to make out $430,000. That is the way this increase is accounted for. We have had two Senators added who are eutitled to this compensation and mileage.

I am surprised that the gentleman from Wisconsin should talk about our giving this amount to those Senators and subtracting from the pay of the employés of the House. Why, does not the gentleman know that the pay and mileage of Senators are fixed by law, and they can have no more and no less than the law allows? We may appropriate $700,000 or $430,000 or $700,000,000, but they can get no more than the amount fixed by law.

Mr. PAINE. Will the gentleman allow me to ask a question?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. PAINE. Why can you not as well deduct from the amount allowed to Senators by law as to employés by law?

Mr. WASHBURNE, of Illinois. I will come to that when we reach that part of the bill in relation to employés. There I will meet the gentleman and others on this question, that while we are refusing the twenty per cent. to all the other employés of this Government we are paying our own employés twenty per cent. additional, and paying ourselves, if you please, in full. I will argue that question when we come to it. I am quite willing to meet it both here and at home.

Mr. PIKE. A single question. There seems to be a difficulty between the gentleman from Wisconsin [Mr. PAINE] and the gentleman from Illinois [Mr. WASHBURNE] in regard to the discrepancy between the pay of members and of employés. Now, suppose the pay of members is reduced, say down to $4,000 salary and ten cents a mile for traveling, how will that suit the gentleman from Illinois?

Mr. WASHBURNE, of Illinois. It will suit me first rate. [Laughter.] How will it suit the gentleman from Maine?

Mr. PIKE. First rate. [Laughter.]

Mr. BLAINE. I move that they both be allowed to draw that amount. [Laughter.]

Mr. WASHBURNE, of Illinois. I have stated why the committee put this amount, $430,000, in the bill. It has nothing to do with the extra compensation of employés. If gentlemen see fit to strike it out I am agreed. It will make so much the less in the aggregate.

Mr. LOGAN. I propose an amendment to the amendment by adding one dollar. I am opposed to the amendment of the gentleman from Wisconsin. I am opposed to striking off any of the pay of members of Congress, and I am not afraid to say so before this country. I am opposed to any reduction, because I think my services are worth just what the law allows me. If others think theirs are not they can take less. They have the right to do it.

I am opposed, also, to striking out anything that the law allows to the employés of the House and Senate, and I will meet the gentleman on his own statement. I moved an amendment yesterday providing that no part of the appropriation in reference to West Point should be applied to the increase of the compensation of the officers of that institution. The gentleman opposed it, and in this language. He said, "Why has not my colleague brought in a bill to amend the law? The law is so and so, and the appropriation must be made in accordance with law." Now, sir, I say that the law is that twenty per cent. shall be added to the amount allowed to these clerks and employés, and it so stands upon the statute-book. Why does not my colleague bring in a bill to repeal the law? Here is the law:

"*And be it further enacted*, That there be allowed and paid to the officers, clerks, messengers"——

Mr. WASHBURNE, of Illinois. I do not wish to make a point of order on my colleague, and will not do so, but hereafter I will make the point of order that every member shall be confined to his amendment. Now, my colleague is not talking to his amendment; he is talking to the question of extra pay.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. WASHBURNE, of Illinois. I do not on my colleague, but I will hereafter.

The CHAIRMAN. Then the gentleman is out of order.

Mr. LOGAN. I was reading the law when the gentleman interrupted me for his information and the information of others who perhaps have not read it. It provides "that there shall be allowed and paid to the officers, clerks, messengers, and all other employés of the Senate and House of Representatives, Globe reporters," &c., "an addition of twenty per cent. on their present pay, to commence with the present Congress, and the amount necessary to pay this allowance is hereby appropriated," &c. That is the law, and the amount necessary for that purpose is included in the estimates of the Secretary of the Treasury of the appropriations needed for the pay of Senators, members of Congress, clerks, employés, &c. The Committee on Appropriations, in reporting this bill, have reduced the estimates the twenty per cent. on the pay of all the clerks and employés of this House and of the Senate, under this law, that was passed in 1866.

That law gives them the twenty per cent., and the estimates have been made in compliance with its provisions. The committee, however, propose in this bill to reduce the estimate and leave off the twenty per cent. Now, if the rule which my colleague applied to one is good in the one instance it is good in the other. And if you undertake to reduce salaries I say that these clerks and employés of the Senate—for this clause to which the amendment is offered relates to the Senate alone—are as much entitled to the increase of pay as members of Congress were entitled to an increase of their pay from three thousand to five thousand dollars a year. They voted themselves that increase because they thought themselves worthy of that compensation. I think so now. And so far as retrenchment and reform is concerned, it may be a very good idea to humbug the people of this country with retrenchment and reform by reducing the pay of the clerks and employés of the Senate and House twenty per cent., and you may reduce your own pay and go before the country and say, "Oh, we have reduced our salaries." But what do the people care about it? They will only say, "You were fools for doing it; if you were not worth that much you ought not to have gone to Congress." [Laughter.] They will tell you that an independent, bold, fearless man, who is willing to meet the people and believes that he is worth this amount, is not going to vote to reduce his pay. If you want reduction reduce the taxes on the people and not the salaries of these officers.

[Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I have but one word to say in reply to my colleague, and I shall not get into any passion about it either.

Mr. LOGAN. Well, I am in no passion, as far as that is concerned.

Mr. WASHBURNE, of Illinois. It is a matter for the committee and the House to determine what they will do in relation to this twenty per cent., and when we get to that part of the bill I am willing to meet the question.

I do not think it is necessary for gentlemen, in their eagerness, to advance so far and fast upon this matter in its infancy. If the gentleman had looked a little further into the bill he would have found that I was not quite so inconsistent as he supposed. What I said this morning was that where there was a law we are bound to make an appropriation to carry it out, unless we repeal that law. Now, in this very bill, in which we neglect to make this appropriation, we provide that the law shall be repealed. That is my answer to the gentleman.

Mr. LOGAN. I tried to get the other law repealed in the same way.

The CHAIRMAN. Debate is closed upon this amendment.

Mr. LOGAN. I withdraw my amendment to the amendment.

Mr. INGERSOLL. I renew the amendment to the amendment. I know from the evidence I have seen that both sides of the House are attempting each to outbid the other.

Mr. WASHBURNE, of Illinois. May I inquire of the Chair what is the amendment to the amendment?

The CHAIRMAN. The Clerk will read the amendment.

The Clerk read the amendment to the amendment, as follows:

Strike out "$14,000" and insert "$14,001," so that it will read:

For compensation and mileage of Senators, $414,001.

Mr. WASHBURNE, of Illinois. I insist that my colleague [Mr. INGERSOLL] shall confine his remarks to his amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. INGERSOLL] will speak in order.

Mr. INGERSOLL. Very well. If I understand it, this question of economy in the administration of public affairs opens up rather a wide field for debate. And I do not believe the ingenuity of my colleague [Mr. WASHBURNE, of Illinois] can confine me and other members here to some feeble form of expression in our discussion of that matter. I understand that the country demands an economical administration of public affairs. But I deny that the country demands that we shall show our patriotism and our appreciation of the condition of the country by making an example of the clerks and employés of Congress and of the Departments.

Mr. WASHBURNE, of Illinois. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WASHBURNE, of Illinois. My colleague [Mr. INGERSOLL] is not speaking to his amendment.

Mr. INGERSOLL. I think I am.

The CHAIRMAN. The gentleman will confine himself to his amendment.

Mr. INGERSOLL. I understand the question to be upon the reduction of the compensation and mileage of Senators. Upon that I

am speaking of the question of economy in the administration of the Government. As I have but three or four minutes I hope my colleague will not interrupt me again.

Mr. WASHBURNE, of Illinois. Then speak in order.

Mr. INGERSOLL. For one, I am against cutting down the appropriation for the pay of these employés, who have a hard time any way to live in Washington.

Mr. WASHBURNE, of Illinois. I rise again to a point of order. My colleague is speaking of the matter of twenty per cent. additional compensation to clerks.

The CHAIRMAN. The gentleman from Illinois [Mr. INGERSOLL] will confine his remarks to the pending amendment.

Mr. INGERSOLL. I am opposed to a prodigal expenditure of the public money; but I am in favor of beginning about economical reforms in some other manner than this. I am in favor of the line of policy indicated by my colleague, [Mr. WASHBURNE, of Illinois,] of decreasing the appropriation for the compensation of Senators and members. That, I take it, is in order. [Laughter.] And when we have set the example of reducing our own pay it will be full time to talk about reducing the pay of twelve hundred dollar clerks, and not before. Is that in order? [Renewed laughter.]

I am in favor of this amendment, and I am speaking to it in good faith. If there is any necessity for economy in this matter I am in favor of our going back to $3,000 a year salary. If we do that there is not an employé of the House who will ask an appropriation of twenty per cent. additional. If that line of policy is to be pursued I am in favor of the amendment.

Mr. WASHBURNE, of Illinois. I have only one word to say in reply to my colleague, [Mr. INGERSOLL.] He seems to be in favor of all appropriations——

Mr. ROSS. Mr. Chairman, to what amendment is my colleague [Mr. WASHBURNE, of Illinois] speaking?

The CHAIRMAN. The amendment offered by his colleague, [Mr. INGERSOLL.]

Mr. ROSS. I insist that he shall confine himself to the question.

Mr. WASHBURNE, of Illinois. I will not go outside of the line I have laid down for other gentlemen. I will confine myself strictly to the amendment. I oppose it, and ask for a vote.

The CHAIRMAN. Debate is exhausted on the amendment to the amendment.

The amendment to the amendment was not agreed to.

Mr. MAYNARD. I move as an amendment to the amendment to reduce the amount two dollars. I make this motion, not for the purpose of debating the question of twenty per cent., but to call the attention of the gentleman who has charge of this bill and of the committee to the fact that for the present year we have appropriated for the compensation and mileage of Senators only $414,000, and for our own compensation and mileage $1,100,000. This bill proposes to appropriate for next year for our compensation and mileage the same amount that has been appropriated for the present year. I see no reason (and the explanation which has been given fails to satisfy me) why more will be needed next year for the compensation and mileage of Senators than is needed for the present year. Those two Senators of whom the gentleman has spoken are to be paid this year; and so far as we know there will be no greater number of Senators next year. If there should be an increase we can provide for it in another way. I trust that the appropriation for the coming year will be permitted to stand the same as the appropriation for the present year, $314,000. I now withdraw my amendment to the amendment.

Mr. HUBBARD, of West Virginia. I move to amend by striking out in the tenth and eleventh lines the words "four hundred and thirty," and inserting in lieu thereof "three hundred and forty-four;" so that the paragraph will read:

For compensation and mileage of Senators, $344,000.

I make this motion for the purpose of inquiring of the gentleman from Illinois, who has charge of this bill, whether there has not been before the Committee on Appropriations a joint resolution fixing the compensation of members of Congress, which would have reduced that compensation to about the amount proposed in my amendment?

Mr. WASHBURNE, of Illinois. The gentleman from West Virginia is not confining himself to his amendment. I cannot answer his question under the rule, which I am endeavoring to enforce in the discussion of this bill.

Mr. HUBBARD, of West Virginia. I propose to reduce this appropriation by the deduction of $86,000, or twenty per cent. on the gross amount. The effect of the joint resolution to which I have referred would be to reduce the compensation of members of Congress twenty per cent., that is, from $5,000 to $4,000, while the mileage would be reduced about fifty per cent. If the gentleman from Illinois [Mr. WASHBURNE] favors that proposition, as I understood him to say he did, in reply to the gentleman from Maine, [Mr. PIKE,] I would like to know from him why he has not reported that measure?

Mr. WASHBURNE, of Illinois. I rise to a question of order. I submit that the gentleman is not speaking to his amendment.

The CHAIRMAN. The gentleman from West Virginia, as the Chair understands, is addressing himself to the question of the compensation of Senators, which is involved in the pending paragraph.

Mr. WASHBURNE, of Illinois. No, sir; the gentleman is addressing himself to me as to what was done in the Committee on Appropriations, which he has no right to know.

Mr. HUBBARD, of West Virginia. My question was why we might not have been permitted to at least test the sense of the House upon this reduction. After ascertaining the sense of the House on this question, the Committee on Appropriations could have reported these items for compensation of members of Congress understandingly. If we are to make a reduction of expenditures, I say that this reduction, like charity, ought to "begin at home;" that we ought to set an example to the country by reducing our own compensation. From such action on our part, the country would draw hope and encouragement. I hope we shall not suffer this question to pass by without at least obtaining an expression of the voice of this Congress in regard to the subject.

Mr. WINDOM. Is an amendment in order?

The CHAIRMAN. It is not. An amendment to the amendment is pending.

The question was then taken on the amendment of Mr. HUBBARD, of West Virginia, to the amendment, and it was disagreed to.

Mr. WINDOM. I move in the tenth and eleventh lines to strike out "four" and insert "three," so it will read "$330,000" instead of "$430,000;" and I do this for the purpose of obtaining information from the Committee on Appropriations. I believe the law which provides for the pay and mileage of Senators provides also for the pay and mileage of members of the House, and that in both instances they are precisely the same. Now, we appropriate under this bill an average of $5,555—$5,000 for pay and $555 for mileage—for the members of the House, and we appropriate $7,962—$5,000 for pay and $2,962 for mileage—for Senators. I know there have been instances of Senators who live further from the capital than members, but I do not think they average quite as much further as that. The difference between the two appropriations could be taken from that for the Senate, and then the average would be made the same in regard to both Houses. I think there is a mistake somewhere, but I do not know where.

Mr. BLAINE. I will answer the gentleman from Minnesota. He calls the attention of the committee to a discrepancy. The compensation for Senators is calculated upon the basis that in the next fiscal year all the States will be represented. That, for seventy-four Senators at $5,000 a piece, would make $370,000, and the average mileage would bring it to $430,000. I am quite free to admit that the same calculation has not been made in reference to the pay and mileage of members of the House, and the amount put in here for the members of the House will only cover the expenses of the House as it now exists, and not as it will be when all the States are represented.

Mr. ELDRIDGE. Why is it necessary to appropriate for Senators not here any more than for members not here?

Mr. BLAINE. The gentleman who has the management of the bill will explain that when we come to that appropriation. I am now up to explain this discrepancy. If the House wish to provide for a full Senate, then they will vote down the amendment. When we come to the appropriation for the employés, it will then be time enough to enter into that matter.

Mr. HIGBY. Let me ask a question. Will there not be members here from the other States as well as in the Senate?

Mr. BLAINE. If the gentleman had listened he would have heard my explanation.

Mr. HIGBY. There was too much noise to hear.

Mr. BLAINE. I cannot be answerable for all the noisy gentlemen on that side. [Laughter.]

Mr. MAYNARD. I see that the estimates as submitted to the House on page 14 ask for $700,000. I supposed that was intended to provide for the anticipated possibility of a full Senate. In this bill the appropriation, however, is only for $430,000.

Mr. BLAINE. If the gentleman from Tennessee will take seventy-four Senators at $5,000 he will find it makes $370,000, and the pay for mileage will make it run up to $430,000. Sixty thousand is allowed for mileage.

Mr. MAYNARD. Why is it more than for the current year, which is $414,000?

Mr. BLAINE. Because we make it in the anticipation that during the next fiscal year the Senate will be full, all the States being represented.

Mr. MAYNARD. Then why do we have $700,000 in the estimates?

Mr. BLAINE. Seven hundred thousand is not required; only $430,000 is required. That $700,000 is a gross blunder on the part of the Department.

Mr. WINDOM. I understand the gentleman from Illinois to say the increase from $414,000 to $430,000, is because there are two new Senators. Now, the gentleman from Maine says it is because there is to be a full Senate.

Mr. BLAINE. The gentleman from Illinois will settle that with the gentleman if it is agreeable to him.

Mr. WINDOM. I should like to have it settled now.

The amendment to the amendment was disagreed to.

Mr. PIKE. I rise to move a substantial amendment to the bill. Instead of $430,000, I move to make it $300,000. I suggest that by way of reconciling the difference between the gentleman from Wisconsin [Mr. PAINE] and the gentleman from Illinois [Mr. WASHBURNE] in relation to raising the compensation of members and not raising the compensation of our employés, or rather to the diminution of the compensation of our employés and the non-diminution of the pay of members, I propose to equalize by the reduction of the pay of members.

I know that gentlemen say our services are worth more than this sum. The employés here may say the same thing, that their services are worth more. Gentlemen will recollect that we discussed the question of paying the clerks in the Departments twenty per cent. additional on the same ground, and it is quite true that that class of services is ill paid under this Government. Indeed, there is hardly any class of services that is well paid.